PUBLICATION NO: 2575

REEL NO: 177

TITLE: FEDERAL REGISTER

VOLUME: 37 DATE: November 1972

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VOL 37

211

federal register

WEDNESDAY, NOVEMBER 1, 1972

WASHINGTON, D.C.

Volume 37 ■ Number 211

Pages 23235–23308

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Order from: Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402

FEDERAL REGISTER
Area Code 202 Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 13]

PART 725—FLUE-CURED TOBACCO

Subpart—Flue-Cured Tobacco, 1970-71 and Subsequent Marketing Years

MISCELLANEOUS AMENDMENTS

Basis and purpose. This amendment is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281, et seq.).

The main purpose of this amendment is to provide for obtaining a producer report of production of unmarketed tobacco at end of season. The regulations have provided for many years for obtaining a producer report of production and disposition of tobacco on MQ-108. This amendment provides for a report of unmarketed tobacco on MQ-108-1 which

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is really an abbreviated MQ–108. Other amendments are included.

The changes in the regulations to incorporate this amendment are as follows:

1. Section 725.69 is completely rewritten to provide language uniformly adopted for all commodity allotments, bases, and quotas relative to establishing new farm allotments.

2. In § 725.72, paragraph (s) is amended to permit transfers from federally owned land where the land is leased back with uninterrupted possession to the former owner after acquisition under the right of eminent domain.

3. Section 725.73 is amended to include failed acreage and acreage prevented from being planted because of a natural disaster when determining tobacco history acreage and to delete other provisions that are no longer applicable.

4. In § 725.98, paragraph (d) is deleted because the provision is included in revised § 725.69 and paragraph (g) is amended to provide for obtaining a report of unmarketed tobacco from farm operators.

5. In § 725.100, subparagraph (1) of paragraph (d) is amended to clarify that tobacco dealers and buyers are required to furnish the warehouseman an adjustment invoice or buyers settlement sheet on a daily sales basis.

6. In § 725.102, the last sentence of paragraph (b) is amended to provide that reports of truckers, persons redrying, prizing, or stemming tobacco and storage firms are to be furnished to the State ASCS office of the State in which the business is located.

Tobacco farmers are now in the process of marketing their 1972 crop of Flue-cured tobacco covered by these regulations and need to know the provisions of the amendments herein. Hence, it is essential that the amendments contained herein be made effective at the earliest possible date. Accordingly, it is hereby found and determined that compliance with the notice, public procedure and 30-day effective date provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest. The amendments contained herein shall become effective upon the date of filing this document with the Director, Office of the Federal Register.

The amendments are as follows:

1. Section 725.69 is amended to read as follows:

§ 725.69 Determination of acreage allotments for new farms.

The acreage allotment, other than an allotment made under § 725.68, for a new farm shall be that acreage which the county committee, with approval of the State committee, determines is fair and reasonable for the farm, taking into consideration the past tobacco experience of the farm operator, the land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco: *Provided*, That the acreage allotment so determined shall not exceed 50 percent of the average of the acreage allotments established for two or more but not more than five old farms which are similar with respect to land, labor, and equipment available for the production of tobacco, crop rotation practices, and the soil and other physical factors affecting the production of tobacco: *And provided further*, That, if an acreage is not planted to tobacco on a new tobacco farm, such allotment shall be automatically reduced to zero.

(a) *Written application.* The farm operator must file an application for a new farm allotment at the office of the county committee where the farm is administratively located on or before February 15 of the year for which the new farm allotment is requested.

(b) *Eligibility requirements for operator.* A new farm allotment may be established if each of the following conditions is met:

(1) *Owner and operator of the farm.* The operator shall be the sole owner of the farm. For the purpose of applying this subparagraph (1) a person who owns only part of a farm cannot be considered the owner of the farm except that both husband and wife shall be considered the owner and operator of a farm which they jointly own.

(2) *Interest in another farm.* The farm operator shall not own or operate any other farm in the United States for which a tobacco allotment or quota for any kind of tobacco is established for the current year.

(3) *Availability of equipment and facilities.* The operator must own, or have readily available, adequate equipment and any other facilities of production necessary to the production of tobacco on the farm.

(4) *Income requirement.* The operator must expect to obtain during the current year more than 50 percent of his income from the production of agricultural commodities or products.

(i) *Computing operator's income.* The following shall be considered in computing operator's income.

(a) *Income from farming.* Income from farming shall include the estimated return from home gardens, livestock and livestock products, poultry, or other agricultural products produced for home consumption or other use on the farm. The estimated return from the production of the requested new farm allotment shall not be included.

(b) *Income from nonfarming.* Nonfarming income shall include but shall not be limited to salaries, commissions, pensions, social security payments, and unemployment compensations.

(c) *Spouse's income.* The spouse's farm and nonfarm income shall be used in the computation.

(ii) *Operator a partnership.* If the operator is a partnership, each partner must expect to obtain more than 50 percent of his current year income from farming.

(iii) *Operator a corporation.* If the operator is a corporation, it must have no other major corporate purpose other than ownership or operation of the farm. Farming must provide its officers and general manager with more than 50 percent of their expected income. Salaries and dividends from the corporation shall be considered as income from farming.

(iv) *Special provision for low-income farmers.* The county committee may waive the income provisions in this section provided they determine that the farm operator's income, from both farm and nonfarm sources, is so low that it will not provide a reasonable standard of living for the operator and his family, and a State committee representative approves such action. In waiving the income provisions the county committee must exercise good judgment to see that their determination is reasonable in the light of all pertinent factors, and that this special provision is made applicable only to those who qualify. In making their determination, the county committee shall consider such factors as size and type of farming operations, estimated net worth, estimated gross family income, estimated family off-farm income, number of dependents, and other factors affecting the individual's ability to provide a reasonable standard of living for himself and his family.

(5) *Experience.* Operator must have had experience in producing, harvesting, and marketing the kind of tobacco requested. Such experience must have been gained by being a sharecropper, tenant, or farm operator (bona fide tobacco production experience gained by a person as a member of a partnership shall be accepted as experience gained in meeting this requirement) during at least two of the 5 years immediately preceding the year for which the new farm allotment is requested. If the operator was in the armed services during the 5-year period, the period shall be extended 1 year for each year of military service during the 5 years. The experience must have been gained on a farm having a tobacco allotment for such years for the kind of tobacco requested in the application.

(c) *Eligibility requirements for the farm.* A new farm allotment may be established if each of the following conditions is met:

(1) *Current allotment or quota.* The farm must not have on the date of approval of a new farm acreage allotment an allotment or quota for any kind of tobacco.

(2) *Available land, type of soil, and topography.* The available land, type of soil, and topography of the land on the farm must be suitable for tobacco production. Also continuous production of tobacco must not result in an undue erosion hazard.

(3) *Entire allotment designated by owner where farm reconstituted.* A farm which includes land which has no tobacco allotment because the owner did not designate a tobacco allotment for such land when the parent farm was reconstituted pursuant to Part 719 of this chapter shall not be eligible for a new farm tobacco allotment for a period of 5 years beginning with the year in which the reconstitution became effective.

(4) *Eminent domain acquisition.* A farm which includes land acquired by an agency having the right of eminent domain for which the entire tobacco allotment was pooled pursuant to Part 719 of this chapter, which is subsequently returned to agricultural production, shall not be eligible for a new farm allotment for a period of 5 years from the date the former owner was displaced.

(5) *Downward adjustment.* The acreage allotments established as provided in this section for each kind of tobacco shall be subject to such downward adjustment as is necessary to bring such allotments in line with the total acreage available for allotment to all new farms.

(6) *False information.* Any new farm acreage allotment which was determined by the county committee on the basis of incomplete or inaccurate information knowingly furnished by the applicant shall be canceled by the county committee as of the date the allotment was established. When incomplete or inaccurate information was unknowingly furnished by the applicant, the allotment shall be canceled effective for the current crop year except where the provisions of § 725.70(d) apply.

2. In § 725.72, paragraph (s) is amended to read as follows:

§ 725.72 Lease and transfer of tobacco marketing quotas.

* * * * *

(s) *Allotment and marketing quota on land under restrictive lease.* No transfer under this section shall be made from any land owned by the United States, or any agency or instrumentality wholly owned by the United States, except that the transfer may be approved in cases where the land is leased back with uninterrupted possession to the former owner after acquisition under right of eminent domain. For such transfers, the Government agency or instrumentality is not required to sign the record of transfer.

3. Section 725.73 is amended to read as follows:

§ 725.73 Determining tobacco history acreages.

Tobacco history acreage shall be determined for each farm for which a tobacco farm acreage allotment has been established for the current year.

(a) *Farm acreage allotment fully preserved.* The farm acreage allotment is fully preserved as tobacco history acreage for the current year if:

(1) In the current year or either of the 2 preceding years (i) the sum of (*a*) the final tobacco acreage (including failed acreage and acreage prevented from being planted because of a natural disaster) as determined under Part 718 of this chapter, (*b*) the acreage computed for pounds leased and transferred from the farm under lease and transfer provisions, and (*c*) the acreage regarded as planted to tobacco under the conservation programs and practices determined pursuant to Part 719 of this chapter, was as much as 75 per centum of the farm's history allotment (basic allotment minus acreage reduced for (1) overmarketings and (2) violation of marketing quota regulations), or (ii) the farm acreage allotment is or was in the eminent domain allotment pool; or

(2) The farm consists of federally owned land for which a restrictive lease is in effect prohibiting the production of tobacco.

(b) *Computed history acreage.* If the farm acreage allotment is not fully preserved as tobacco history acreage under paragraph (a) of this section, the tobacco history acreage shall be the sum of the acreage (not to exceed the farm acreage allotment) as follows:

(1) Final tobacco acreage (including failed acreage and acreage prevented from being planted because of a natural disaster) as determined under Part 718 of this chapter.

(2) Acreage computed for pounds leased and transferred from the farm.

(3) Acreage regarded as planted to tobacco under the conservation programs and practices.

4. In § 725.98, paragraph (d) is deleted and paragraph (g) is amended to read as follows:

§ 725.98 Producer's records and reports.

* * * * *

(d) [Deleted]

* * * * *

(g) *Report of production and disposition.* In addition to any other reports which may be required by this subpart, the operator on each farm or any producer on the farm (even though the harvested acreage does not exceed the acreage allotment or even though no allotment was established for the farm) shall, upon written request by certified mail from the State executive director, within 15 days after deposit of such request in the U.S. mail, addressed to such person at his last known address, furnish the Secretary on MQ–108, Report of Production and Disposition, a written report of the acreage, production and disposition of all tobacco produced on the farm by sending the same to the State ASCS office showing, as to the farm at the time of filing such report: (1) The number of fields (patches or areas) from which tobacco was harvested from the farm, (2) the total pounds of tobacco produced, (3) the amount of tobacco on hand and its location, (4) as to each lot of tobacco marketed, the name and address of the warehouseman, dealer, or other person to or through whom such tobacco was marketed and the number of pounds marketed, the gross price paid and the date of the marketings, and (5) the complete details as to any tobacco disposed of other than by sale. The operator on each farm or any producer on the farm (even though the harvested acreage does not exceed the acreage allotment or even though no allotment was established for the farm) shall, upon written request on Form MQ–108–1 from the county committee, within the 15 days after deposit of such request in the U.S. mail, addressed to such person at his last known address, furnish the Secretary on MQ–108–1 a written report of the amount of tobacco produced on the farm which is unmarketed at the end of the marketing season and its location, and the amount of tobacco produced on any other farm which is unmarketed at the end of the marketing season and which is stored on the farm and its location. Failure to file the MQ–108 or MQ–108–1 as requested, the filing of an MQ–108 or MQ–108–1 which is found by the State committee (county committee in the case of MQ–108–1) to be incomplete or incorrect shall, to the extent that it involves tobacco produced on the farm constitute failure of the producer to account for disposition of tobacco produced on the farm and the quota next established for such farm shall be reduced, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county and State committee (county committee in the case of MQ–108–1) that (i) failure to furnish such proof of disposition was unintentional and no producer on such farm could reasonably have been expected to furnish such proof of disposition: *Provided*, That such failure will be construed as intentional unless such proof of disposition is furnished and payment of all additional penalty is made, or (ii) no person connected with such farm for the year for which the quota is being established caused, aided, or acquiesced in the failure to furnish such proof.

5. In § 725.100, subparagraph (1) of paragraph (d) is amended to read as follows:

§ 725.100 Dealer's records and reports.

* * * * *

(d) *Daily report to warehouseman for buyers corrections account.* * * *

(1) Any dealer, buyer, or any other person receiving tobacco from or through a warehouseman at an auction sale or otherwise, which is not invoiced to him or which is incorrectly invoiced to him by the warehouseman, shall furnish to the warehouseman on a daily sales basis an adjustment invoice or buyers settlement sheet.

6. In § 725.102, the last sentence of paragraph (b) is amended to read as follows:

§ 725.102 Records and reports of truckers, persons redrying, prizing, or stemming tobacco, and storage firms.

* * * * *

(b) * * * Any such person shall report this information to the State ASCS office of the State in which the business is located within 15 days of the end of the marketing year, except for tobacco handled for an association operating the price support program and tobacco purchased by him at auction or for which he had previously reported on Form MQ–79.

(Secs. 314, 316, 317, 373, 375, 52 Stat. 48, as amended, 75 Stat. 469, as amended, 79 Stat. 66, as amended, 52 Stat. 65, as amended, 66, as amended; 7 U.S.C. 1314, 1314b, 1314c, 1373, 1375)

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Effective date: Date of filing this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on October 24, 1972.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-18597 Filed 10-31-72;8:47 am]

[Amdt. 2]

PART 726—BURLEY TOBACCO

Burley Tobacco, 1971–72 and Subsequent Marketing Years

On pages 18218 through 18222 of the FEDERAL REGISTER of September 8, 1972, there was published a notice of proposed rule making to issue regulations for establishing farm marketing quotas, the collection and refund of penalties, and records and reports incident thereto for burley tobacco for the 1971–72 and subsequent marketing years.

Interested persons were given 15 days after publication of such notice in which to submit written data, views, and recommendations with respect to the proposed regulations. The data, views, and recommendations which were submitted pursuant to the notice were duly considered within the limits of the Agricultural Adjustment Act of 1938, as amended.

One comment received in response to the proposed regulations on use of DDT and TDE on tobacco stated that the proposed rules assumes the continuing legality of the use of DDT and TDE on tobacco and pointed out that there are no valid registrations for the use of these pesticides on tobacco. The regulation does not condone the use of DDT or TDE on tobacco. It is addressed solely to enabling the Department to determine whether DDT or TDE has been used on tobacco in order to enforce the provisions of the price support regulations (7 CFR Part 1464) prohibiting price support on tobacco on which these pesticides have been used. The proposed regulations were adopted with the following changes and additions:

1. Section 726.65(b)(2) has been changed to make it clear that tobacco allotment or quota applies to a tobacco allotment or quota for any kind of tobacco.

2. Section 726.68(j) is revised to permit transfers of burley tobacco quotas by lease from federally owned land in those cases where the land was leased back with uninterrupted possession to the former owner after it was acquired under the eminent domain provision.

3. Section 726.92(e) is changed to provide that the operator on each farm or any producer on the farm shall, upon written request on Form MQ-108-1 from the county committee, furnish a written report of the amount of tobacco produced on the farm which is unmarketed at the end of the marketing season and its location and the amount of tobacco produced on any other farm which is unmarketed at the end of the marketing season and which is stored on the farm and its location. The new Form MQ-108-1 is an abbreviated MQ-108 which has been a provision in the regulations for many years.

4. Section 726.93(a)(4) is changed to provide that tobacco sales bills be sorted and filed in an orderly manner by sale days, numerical or alphabetical order.

5. Section 726.93(a)(7)(i) and (ii) is changed to clarify that dealers and warehouses are to enter name, address, and identification number on tobacco sale bills for each resale of tobacco.

6. Section 726.96 is changed to clarify that each person engaged in the business of redrying, prizing, or stemming tobacco and storage firms handling tobacco shall report required information to the State ASCS office in which the business is located.

7. Other editorial changes are made as appropriate.

8. Authority provision has been added.

Since farmers are now harvesting their tobacco crop in preparation for market it is essential that these regulations be made effective at the earliest possible date. Accordingly, this document is being made effective upon date of its publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on October 24, 1972.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

1. Section 726.51(x) is amended to read as follows:

§ 726.51 Definitions.

* * * * *

(x) *Planted or considered planted.* Credit assigned in the current year for a farm with an established farm marketing quota when:

(1) Burley tobacco is planted on the farm (including failed acreage and acreage prevented from being planted because of a natural disaster), or

(2) Quota is: (i) Leased and transferred from the farm, (ii) in the eminent domain pool, or (iii) preserved under conservation programs or practices as provided in Part 719 of this chapter, or

(3) The farm consists of federally owned land.

* * * * *

2. In § 726.62(b), the first sentence is amended to read as follows:

§ 726.62 Correction of errors and adjusting inequities in marketing quotas for old farms.

* * * * *

(b) *Basis for adjustment.* Increases to adjust inequities in quotas shall be made on the basis of the past acreages and yields of tobacco, making due allowances for failed acreage and acreage prevented from being planted because of a natural disaster; land, labor, and equipment, available for the production of tobacco, crop rotation practices; and the soil and other physical factors affecting the production of tobacco. * * *

* * * * *

3. In § 726.64, the first and second sentences of paragraph (d) are amended and a new paragraph (e) is added to read as follows:

§ 726.64 Marketing quotas and yields for farms acquired under right of eminent domain.

* * * * *

(d) *Release and reapportionment.* The displaced owner of a farm may, not later than the final release date established by the State committee for the current year, release in writing to the county committee for the current year all or part of the quota for the farm in a pool under Part 719 of this chapter for reapportionment for the current year by the county committee to other farms in the county having quotas for burley tobacco. The county committee may reapportion, not later than the final date established by the State committee for requesting reapportioned acreage for the current year, the released quota or any part of it to other farms in the county on the basis of past production of tobacco, land, labor, and equipment, available for the production of tobacco, crop rotation practices, and soil and other physical factors affecting the production of tobacco. * * *

(e) *Closing dates for release and reapportionment.* The State committee shall establish a final date for releasing quota to the county committee for reapportionment to other farms in the county having quotas for burley tobacco and a final date for filing a request to receive reapportioned acreage from the county committee for the current year. Such date(s) shall be for the entire State or for areas consisting of one or more counties in the State taking into consideration normal planting dates within the State. The dates will be determined and announced by regulations in this subpart or amendment thereto.

4. Section 726.65 is revised to read as follows:

§ 726.65 Determination of marketing quotas for new farms.

The marketing quota, other than a quota under § 726.64, for a new farm shall be that marketing quota which the county committee, with approval of the State committee, determines is fair and reasonable for the farm taking into consideration the past tobacco experience of the farm operator, the land, labor, and equipment, available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco: *Provided*, That the marketing quota so determined shall not exceed 50 percent of the average of the marketing quotas established for two or more but no more than five old tobacco farms which are similar with respect to land, labor, and equipment, available for the production of tobacco, crop rotation practices, and the soil and other physical factors affecting the production of tobacco.

(a) *Written application.* The farm operator must file an application for a new farm marketing quota at the office of the county committee where the farm is administratively located on or before February 15 of the year for which the new farm marketing quota is requested.

(b) *Eligibility requirements for operator.* A new farm marketing quota may be established if each of the following conditions are met:

(1) *Owner and operator of the farm.* The operator must be the sole owner of the farm. For the purpose of applying this subparagraph (1), a person who owns only a part of a farm cannot be considered the owner of the farm except that both husband and wife shall be considered the owner and operator of a farm which they own jointly.

(2) *Interest in another farm.* The farm operator shall not own or operate any other farm in the United States for which a tobacco allotment or quota for any kind of tobacco is established for the current year.

(3) *Availability of equipment and facilities.* The operator must own, or have readily available, adequate equipment and any other facilities of production necessary to the production of burley tobacco on the farm.

(4) *Income requirement.* The operator must expect to obtain during the current year more than 50 percent of his income from the production of agricultural commodities or products.

(i) *Computing operator's income.* The following shall be considered in computing operator's income.

(a) *Income from farming.* Income from farming shall include the estimated return from home gardens, livestock, and livestock products, poultry, or other agricultural products, produced for home consumption or other use on the farm(s). The estimated return from the production of any requested new farm marketing quota shall not be included.

(b) *Income from nonfarming.* Nonfarming income shall include, but shall not be limited to, salaries, commissions, pensions, social security payments, and unemployment compensation.

(c) *Spouse's income.* The spouse's farm and nonfarm income shall be used in the computation.

(ii) *Operator a partnership.* If the operator is a partnership, each partner must expect to obtain more than 50 percent of his current year income from farming.

(iii) *Operator a corporation.* If the operator is a corporation, it must have no other major corporate purpose other than ownership or operation of the farm(s). Farming must provide its officers and general manager with more than 50 percent of their expected income. Salaries and dividends from the corporation shall be considered as income from farming.

(iv) *Special provision for low-income farmers.* The county committee may waive the income provisions in this section provided they determine that the farm operator's income, from both farm and nonfarm sources, is so low that it will not provide a reasonable standard of living for the operator and his family, and a State committee representative approves such action. In waiving the income provisions the county committee must exercise good judgment to see that their determination is reasonable in the light of all pertinent factors, and that this special provision is made applicable only to those who qualify. In making their determination, the county committee shall consider such factors as size and type of farming operations, estimated net worth, estimated gross family farm income, estimated family off-farm income, number of dependents, and other factors affecting the individual's ability to provide a reasonable standard of living for himself and his family.

(5) *Experience.* Operator must have had experience in producing, harvesting, and marketing of burley tobacco. Such experience must have been gained:

(i) By being a sharecropper, tenant, or farm operator. (Bona fide tobacco production experience gained by a person as a member of a partnership shall be accepted as experience gained in meeting this requirement.)

(ii) During at least two of the 5 years immediately preceding the year for which the new farm quota is requested. If the operator was in the armed services during the 5-year period, extend the period 1 year for each year of military service during the 5 years.

(iii) On a farm having a burley tobacco allotment or quota for such years.

(c) *Eligibility requirements for the farm.* A new farm marketing quota may be established if each of the following conditions is met:

(1) *Current allotment or quota.* The farm must not have on the date of approval of a new farm marketing quota an allotment or quota for any kind of tobacco.

(2) *Available land, type of soil, and topography.* The available land, type of soil, and topography of the land on the farm must be suitable for tobacco production. Also, continuous production of tobacco must not result in an undue erosion hazard.

(3) *Entire quota designated by owner where farm reconstituted.* A farm which includes land which has no tobacco quota because the owner did not designate a quota for such land when the parent farm was reconstituted pursuant to Part 719 of this chapter shall not be eligible for a new farm marketing quota for a period of 5 years beginning with the year in which the reconstitution became effective.

(4) *Eminent domain acquisition.* A farm which includes land acquired by an agency having the right of eminent domain for which the entire tobacco allotment or quota was pooled pursuant to Part 719 of this chapter, which is subsequently returned to agricultural production, shall not be eligible for a new farm marketing quota for a period of 5 years from the date the former owner was displaced.

(5) *Downward adjustment.* New farm marketing quotas established as provided in this section shall be subject to such downward adjustment as is necessary to bring the total of such quotas within the total pounds available for quotas to all new farms.

(6) *Failure to plant.* A new farm marketing quota shall be reduced to zero if no tobacco is planted on the farm the first year.

(7) *False information.* Any new farm marketing quota which was determined by the county committee on the basis of incomplete or inaccurate information knowingly furnished by the applicant, shall be canceled by the county committee as of the date the quota was established. When incomplete or inaccurate information was unknowingly furnished by the applicant, the quota shall be canceled effective for the current crop year except where the provisions of § 726.66 (d) applies.

(8) *New farm yields.* A farm yield shall be established for each new farm for which a farm marketing quota is established under this section. Such yield shall be appraised by the county committee based on farm yields established for similar farms in the area.

5. Section 726.68(j) is amended to read as follows:

§ 726.68 Transfer of burley tobacco farm marketing quotas by lease or by owner.

* * * * *

(j) *Quotas on federally owned land.* No transfer under this section shall be made from any land owned by the United States, or any agency or instrumentality wholly owned by the United States, except that the transfer may be approved in cases where the land is leased back with uninterrupted possession to the former owner after acquisition under right of eminent domain. For such transfers, the Government agency or instrumentality is not required to sign the record of transfer.

* * * * *

6. Section 726.80 is revised to read as follows:

§ 726.80 Identification of kinds of tobacco.

Any tobacco that has the same characteristics and corresponding qualities, colors, and lengths of burley tobacco shall be considered burley tobacco without regard to any factors of historical or geographical nature which cannot be determined by examination of the tobacco. The term "tobacco" with respect to any farm located in an area in which burley tobacco as classified in Service and Regulatory Announcement No. 118 (Part 30 of this title) of the former Bureau of Agricultural Economics of the U.S. Department of Agriculture, is normally produced shall include all tobacco, excluding other kinds subject to marketing quotas, produced on a farm unless the county committee with the approval of the State committee determines from satisfactory proof furnished by the operator of the farm that a part or all of

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such tobacco is certified by the Agricultural Marketing Service, U.S. Department of Agriculture, under the Tobacco Inspection Act (7 U.S.C. 511), and regulations issued pursuant thereto, as a kind of tobacco not subject to marketing quotas.

7. Section 726.81 is amended by revoking subparagraph (5) of paragraph (f) and by adding paragraphs (g) and (h) to read as follows:

§ 726.81 Issuance of marketing cards.

• • • • • •

(f) *Farm quota data entered on marketing card and supplemental card.* • • •

(5) [Revoked]

(g) *Lease only marketing card.* A marketing card for lease only may be issued in the name of the farm operator for a farm where there is no tobacco available for marketing in the current year if the farm is otherwise eligible to lease marketing quota.

(h) *Other data entered on marketing cards and supplemental card.* Other data specified in instructions issued by the Deputy Administrator shall be entered on the marketing card.

8. In § 726.85, paragraphs (a) and (e)(3) are amended to read as follows:

§ 726.85 Identification of markетings.

(a) *Identification of producer markетings.* Each auction and nonauction marketing of tobacco from a farm in a quota area in the current year shall be identified by a marketing card, Form MQ–76, issued for the farm unless an AMS certification shows it to be nonquota tobacco. The reverse side of the marketing card shall show in pounds (1) 110 percent of quota, (2) balance of 110 percent of quota after each sale, and (3) date of each sale. Each producer sale at auction shall be recorded on a Form MQ–72–1, Report of Tobacco Auction Sale, and each producer sale at nonauction shall be recorded on Form MQ–72–2, Report of Tobacco Nonauction Purchase. For producer sales at nonauction, the dealer purchaser shall execute Form MQ–72–2 and shall enter the data on MQ–76. For producer sales at auction, Form MQ–72–1 and Form MQ–76 shall be executed only by the ASCS marketing recorder.

• • • • • •

(e) *Separate display on auction warehouse floor.* • • •

(3) Make and keep records that will insure a separate accounting and reporting of each of such kinds of tobacco (quota and nonquota) sold at auction over the warehouse floor.

• • • • • •

9. Paragraph (c) of § 726.86 is amended by adding 1971–72 average market price data in subparagraph (1) and 1972–73 rate of penalty data in subparagraph (2) to read as follows:

§ 726.86 Rate of penalty.

• • • • • •

(c)(1) *Average market price.* • • •

AVERAGE MARKET PRICE

Marketing year:	Cent per pound
1970–71	72.2
1971–72	80.9

(2) *Rate of penalty per pound.* • • •

RATE OF PENALTY

Marketing year:	Cent per Pound
1971–72	54
1972–73	61

10. Section 726.88 is amended by revising the last sentence of paragraph (c) to read as follows:

§ 726.88 Penalties considered to be due from warehousemen, dealers, buyers, and others excluding the producer.

• • • • • •

(c) *Leaf account tobacco.* • • • The actual quantity of floor sweepings which the State executive director determines has been properly identified as floor sweepings and sold and reported as such by the warehouseman shall be considered acceptable proof that such marketings are not marketings of excess tobacco if the amount thereof for the warehouse does not exceed the maximum allowable floor sweepings for the season determined by multiplying the limitation set forth in § 726.51(n) by total first sales of tobacco at auction.

• • • • • •

11. Paragraph (e) of § 726.92 is amended to read as follows:

§ 726.92 Producers' records and reports.

• • • • • •

(c) *Report of production and disposition.* In addition to any other reports which may be required by this subpart, the operator on each farm or any producer on the farm (even though no allotment and quota was established for the farm) shall, upon written request by certified mail from the State executive director, within 15 days after deposit of such request in the U.S. mail, addressed to such person at his last known address, furnish the Secretary on MQ–108, Report of Production and Disposition, a written report on the production and disposition of all tobacco produced on the farm by sending the same to the State ASCS office showing, as to the farm at the time of filing such report, (1) the total pounds of tobacco produced, (2) the amount of tobacco on hand and its location, (3) as to each lot of tobacco marketed, the name and address of the warehouseman, dealer, or other person to or through whom such tobacco was marketed and the number of pounds marketed, the gross price paid and the date of marketings, and (4) the complete details as to any tobacco disposed of other than by sale. The operator on each farm or any producer on the farm (even though no allotment and quota was established for the farm) shall, upon written request on Form MQ–108–1 from the county committee, within 15 days after deposit of such request in the U.S. mail, addressed to such person at his last known address, furnish the Secretary on MQ–108–1 a written report of the amount of tobacco produced on the farm which is unmarketed at the end of the marketing season and its location, and the amount of tobacco produced on any other farm which is unmarketed at the end of the marketing season and which is stored on the farm and its location. Failure to file the MQ–108 or MQ–108–1 as requested, the filing of an MQ–108 or MQ–108–1, which is found by the State committee (county committee in the case of MQ–108–1) to be incomplete or incorrect shall, to the extent that it involves tobacco produced on the farm, constitute failure of the producer to account for disposition of tobacco produced on the farm and the allotment and quota next established for such farm shall be reduced, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county and State committee (county committee in the case of MQ–108–1) that (i) failure to furnish such proof of disposition was unintentional and no producer on such farm could reasonably have been expected to furnish such proof of disposition: *Provided,* That such failure will be construed as intentional unless such proof of disposition is furnished and payment of all additional penalty is made, or (ii) no person connected with such farm for the year for which the quota is being established caused, aided, or acquiesced in the failure to furnish such proof.

• • • • • •

12. Section 726.93 is amended by revising the first sentence of the section, the first sentence of subparagraph (1) of paragraph (a), subparagraph (3) of paragraph (a), the second and succeeding sentences of subparagraph (4) of paragraph (a), subparagraphs (7) and (8) of paragraph (a), the first sentence of paragraph (c) and subparagraph (14) of paragraph (g), and paragraph (l) to read as follows:

§ 726.93 Warehouseman's records and reports.

Each warehouse shall keep the records and make the reports separately for each kind of tobacco (quota and nonquota) as provided in this section.

(a) *Record of marketing*—(1) *Auction sale.* Each warehouseman shall keep such records as will enable him to furnish the State office with respect to each auction sale of tobacco made at his warehouse the following information. • • •

• • • • • •

(3) *Buyers corrections account.* Each warehouseman shall keep such records including negative adjustment invoices as will enable him to furnish a weekly report on Form MQ–71 to the State ASCS office showing the total pounds of the debits (for returned baskets, short baskets, and short weights of tobacco) and credits (for long baskets, and long weights of tobacco) to the buyers corrections account. Where the warehouseman returns to the seller tobacco debited to the buyers corrections account, the warehouseman shall prepare an adjustment invoice to the seller. This invoice shall be the basis for a credit entry for the warehouse in the buyers corrections account and a corresponding purchase (debit entry) in the case of a dealer on his MQ–79, Dealers Record. Any balancing figure reflected on the warehouseman's summary of bill-outs shall not be included in the buyers corrections account.

(4) *Tobacco sale bill and daily warehouse sales summary.* • • • The warehouseman shall not weigh in any tobacco for sale unless a marketing card (MQ–76 for producers, MQ–79–2 for dealers) is furnished the weighman or the tobacco is represented to be a nonquota kind which is required to be displayed in a separate area on the warehouse floor under § 726.85(e) of these regulations. The buyer and grade space on the tobacco sale bill shall show nonauction purchases by the warehouse, tobacco grade for tobacco consigned to price support, and the symbol for tobacco bought by private buyers. At the end of each sale day, the tobacco sale bills shall be sorted and filed in an orderly manner by sale days, numerical or alphabetical order, and basket tickets shall be filed in an orderly manner by sale dates or by numerical order. A copy of the executed Form MQ–80, Daily Warehouse Sales Summary, shall be furnished to the marketing recorder for the Kansas City Data Processing Center (KCDPC).

• • • • • •

(7) *Labeling tobacco sale bill for resale tobacco.* In the case of resales, each sale bill shall show resale and: (i) For dealers, the name, address, and identification number of the dealer making each resale; and (ii) for the warehouse, the name, address, and identification number of the warehouse and either "floor sweepings" or "leaf account" tobacco.

(8) *Nonquota tobacco or quota tobacco of a different kind.* Should tobacco be presented for sale that is represented to be nonquota tobacco or there is question as to what kind of quota tobacco is being offered, an inspection shall be obtained from the Agricultural Marketing Service of this Department (AMS) after the tobacco is weighed and in line for sale. If an AMS inspection shows that a basket or lot of tobacco is of a different kind than that identified by the basket ticket after it is weighed in and a sale bill prepared, such tobacco shall be deleted from the original sale bill and a revised sale bill prepared.

• • • • • •

(c) *Marketing card.* Each marketing of tobacco from a farm in the burley tobacco producing area shall be identified by a marketing card issued for the farm on which the tobacco was produced (unless prior to the marketing of such tobacco an AMS inspection certificate is obtained showing that the tobacco offered for sale is a kind of tobacco not subject to marketing quotas).

• • • • • •

(g) *Daily warehouse sales summary.* • • •

(14) At the end of the season, each warehouseman shall: (i) Report on his final MQ–80 for the season the quantities of leaf account tobacco and floor sweepings, if any, on hand and its location, (ii) permit its inspection by a representative of ASCS, and (iii) provide for the weighing of such tobacco (to be witnessed by ASCS) and furnish to ASCS at that time a certification as to the actual weight of such tobacco. After the weight of such tobacco has been obtained as provided in subdivision (iii) of this subparagraph, it shall be considered as the official weight for comparing purchases and resales for the purpose of determining the amount of penalty, if penalty is due.

• • • • • •

(l) *Maintaining copies of bill-out invoices to purchaser or daily summary journal sheet to reflect daily transactions.* For each marketing year, the warehouseman shall maintain copies of the bill-out invoices to the purchaser by grades showing the pounds purchased and identification references to such basic warehouse records as basket ticket or sale bill. In lieu of this requirement, the warehouseman may prepare and maintain for each sale day on a current basis a daily summary journal sheet to reflect for each purchaser (including warehouse leaf account or other similar account) pounds and dollar amounts for:

(1) Tobacco originally billed to the purchaser.

(2) Mathematical billing errors and corrections (added and deducted) from purchaser's adjustment invoices.

(3) Short (deducted) and long (added) weights from purchaser's adjustment invoices.

(4) Short (deducted) and long (added) baskets from purchaser's adjustment invoices.

(5) Net tobacco received and paid for by purchaser.

13. Section 726.94 is amended by revising the general statement at the beginning of the section, the first sentence of paragraph (b)(1)(i), subparagraph (4) of paragraph (c), and paragraph (d), to read as follows:

§ 726.94 Dealer's records and reports.

Each dealer, except as provided in § 726.95, shall keep the records and make the reports separately for each kind (quota and nonquota) of tobacco as provided by this section. Adjustment invoices, including the adjustment invoices for any sale day for which there is no adjustment to be made, required to be furnished to an auction warehouse shall be identified by the warehouse identification number and the reporting dealer's identification number as well as the names of the warehouse and dealers involved in the transaction.

• • • • • •

(b) *Nonauction sale (country purchase) to a dealer.* (1)(i) Each purchase of tobacco from a producer from a burley tobacco producing area shall be identified by a marketing card issued for the farm on which the tobacco was produced unless prior to purchase an AMS inspection certificate is obtained showing that the tobacco offered for sale is of a kind of tobacco not subject to marketing quotas. • • •

• • • • • •

(c) *Record and report of purchases and resales.* • • •

(4) At the end of the dealer's marketing operation, but not later than April 1, he shall for each kind of tobacco: (i) Show the word "final" on his final report, MQ–79, for the season, (ii) report on such final MQ–79 for the season the quantity of tobacco on hand and its location, (iii) permit its inspection by a representative of ASCS, and (iv) provide for weighing of such tobacco (to be witnessed by ASCS) and furnish to ASCS at that time a certification as to the actual weight of such tobacco. After the weight of such tobacco has been determined as provided in subdivision (iv) of this subparagraph, it shall be considered as the official weight for comparing purchases and resales for the purpose of determining the amount of penalty, if penalty is due.

• • • • • •

(d) *Daily report to warehouseman for buyers corrections account.* Notwithstanding the provisions of § 726.95, reports shall be made as follows:

(1) Any dealer, buyer, or any other person receiving tobacco from or through a warehouseman at an auction sale or otherwise, which is not invoiced to him or which is incorrectly invoiced to him by the warehouseman, shall furnish to the warehouseman on a daily sales basis an adjustment invoice or buyers settlement sheet.

(2) Each dealer who purchases tobacco on a warehouse floor for any sale day in which there is no adjustment required in the account as shown on the warehouse bill-out invoice for that sale day, shall file a negative report with the warehouseman for that sale day.

(3) Such reports as required under subparagraphs (1) and (2) of this paragraph shall be furnished daily, if practicable (otherwise, they shall be furnished at the end of each week), and shall show the identification number of the purchasing dealer and the identification number of the warehouse where the purchase was made.

• • • • • •

14. Section 726.95 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 726.95 Dealers exempt from regular records and reports on MQ–79; and season report for exempted dealers.

(a) Any dealer or buyer who acquires tobacco only at auction sale and resells, in the form in which tobacco ordinarily is sold by farmers, 5 percent or less of any such tobacco shall not be subject to the requirements of § 726.94, except as provided in paragraph (d) of § 726.94. • • •

• • • • • •

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15. Section 726.96 is amended by revising the last sentence of paragraph (b) to read as follows:

§ 726.96 Records and reports of truckers, persons redrying, prizing, or stemming tobacco and storage firms.

• • • • •

(b) • • • Any such person shall report this information to the State ASCS office of the State in which the business is located within 15 days of the end of the marketing year, except for tobacco handled for an association operating the price support program, and tobacco purchased by him at auction or for which he has previously reported on Form MQ–79.

• • • • •

§ 726.101 [Amended]

16. Section 726.101 is amended by adding the language "warehouse bill-out invoices or daily summary journal sheet, the tissue copy of Form MQ–72–1, Report of Tobacco Auction Sale," immediately following the language "documents,".

17. Section 726.104 is amended by revising paragraphs (d) through (f) and adding new paragraphs (g) through (i).

§ 726.104 Determination of use of DDT and TDE.

• • • • •

(d) *Producers right to recertify.* Any producer on a farm shall have the right to recertify on MQ–38 to the use or nonuse of DDT or TDE if the recertification is filed with the county committee prior to the time any tobacco has been marketed from the farm or a request has been made to collect a sample of cured leaves.

(e) *Collection of samples for chemical analysis.* Samples shall be collected from selected producer tobacco crops during weigh-in at the auction warehouse. Samples shall also be collected on any farm where the county committee has reason to believe the producer used DDT or TDE on the tobacco and the producer certified to nonuse of DDT or TDE on the crop.

(f) *Producer refusal to permit sampling.* If a producer or producer representative refuses to permit the sampling of a tobacco crop, all tobacco of such crop produced on the farm shall be considered by the county committee to have been treated with DDT or TDE.

(g) *Chemical analyzation of samples.* Each sample shall be analyzed for residues of DDT, TDE, and their metabolites.

(h) *Notice to farm operator.* A written notice shall be furnished to the operator of each farm where the county committee determines that tobacco, after being transplanted in the field or after being harvested from the farm, was treated with DDT or TDE. Such determination by the county committee shall be based on (1) the certification on MQ–38, or (2) failure to file MQ–38, or (3) refusal to permit sampling, or (4) chemical analysis showing total DDT–TDE residue to be greater than or equal to 3 parts per million. The notice to the farm operator shall constitute notice to all persons who as owner, operator, landlord, tenant, or sharecropper, are interested in the tobacco being grown on the farm.

(i) *Producer's right to appeal.* Any producer on a farm who believes that the DDT–TDE determination for the farm by the county committee is not correct may file an appeal with the county committee asking for reconsideration of such determination. The request for appeal and facts constituting a basis for such reconsideration must be submitted in writing and postmarked or delivered to the county committee within 7 days after the date of mailing of the notice of such determination. The request for appeal must be signed by the person making the appeal. If the appellant believes that the county committee's determination of such appeal is not correct, he may appeal to the State committee within 7 days after the date of mailing of the notice of the decision of the county committee. The decision of the State committee shall be final.

(Secs. 314, 318, 319, 373, 375, 378, 52 Stat. 48, as amended, 81 Stat. 120, as amended, 85 Stat. 23, 52 Stat. 65, as amended, 66, as amended, 72 Stat. 995, as amended; 7 U.S.C. 1314, 1314d, 1314e, 1373, 1375, 1378)

Effective date: Date of publication in the FEDERAL REGISTER (11–1–72).

[FR Doc.72–18596 Filed 10–31–72;8:47 am]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 929—CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

Expenses and Rate of Assessment

On October 12, 1972, notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 21538) regarding proposed expenses and the related rate of assessment for the fiscal period September 1, 1972, through August 31, 1973, pursuant to the marketing agreement, as amended, and Order No. 929, as amended (7 CFR Part 929), regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. This regulatory program is effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The notice afforded 10 days for interested persons to submit written data, views, or arguments in connection with said proposals. None were received.

After consideration of all relevant matter presented, including the proposals which were submitted by the Cranberry Marketing Committee (established pursuant to the amended marketing agreement and order) and set forth in the aforesaid notice, it is hereby found and determined that:

§ 929.213 Expenses and rate of assessment.

(a) *Expenses.* The expenses that are reasonable and likely to be incurred by the Cranberry Marketing Committee during the fiscal period September 1, 1972, through August 31, 1973, will amount to $56,404.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 929.41, is fixed at $0.03 per barrel of cranberries, or equivalent quantity of cranberries.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of cranberries are now being made, (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable cranberries handled during the aforesaid period, and (3) such period began on September 1, 1972, and said rate of assessment will automatically apply to all such cranberries beginning with such date.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 26, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72–18601 Filed 10–31–72;8:47 am]

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIF.

Establishment of Free and Restricted Percentages and Withholding Factors for 1972–73 Crop Year

The California Date Administrative Committee unanimously recommended establishment, for the 1972–73 crop year, of free and restricted percentages and withholding factors of 100 percent, 0 percent, and 0 percent, respectively, for Deglet Noor, Zahidi, Halawy, and Khadrawy varieties of domestic dates. The crop year began October 1, 1972. The establishment of such percentages and withholding factors is pursuant to the relevant provisions of the marketing agreement, as amended, and Order No. 987, as amended (7 CFR Part 987). The amended marketing agreement and order regulate the handling of domestic dates produced or packed in Riverside County, Calif., and are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The free percentages, restricted percentages, and withholding factors, for the 1972–73 crop year, applicable to marketable dates are pursuant to §§ 987.44 and 987.45. These percentages and factors are based on California Date Administrative Committee estimates of supply and trade demand, adjusted for handler carryover. Trade demand means the aggregate quantity of whole or pitted dates which the trade will acquire from all handlers during the crop year for distribution in the continental United States, Canada, and such other countries the Committee finds will acquire dates at prices reasonably comparable with prices received in the continental United States.

With respect to dates of the Deglet Noor variety, the total available supply of marketable dates subject to regulation is estimated at 29.1 million pounds and total trade requirements are estimated at 27.0 million pounds. It is expected that grade and size regulations effective during the 1972–73 crop year will cause a portion of the marketable supply to be sold in the form of products and export outlets. This quantity is expected to be more than the apparent excess of 2.1 million pounds. For dates of the Zahidi variety, the total available supply of marketable dates subject to regulation is estimated at 1.9 million pounds, and total trade requirements are estimated at 2.2 million pounds or 0.3 million pounds more than estimated supplies. The total available 1972–73 marketable supply of Halawys and Khadrawys is estimated at 0.7 million pounds, which approximates estimated total trade requirements.

After consideration of all relevant matter presented, the information and recommendations submitted by the Committee, and other available information, it is found that to establish free percentages, restricted percentages, and withholding factors, as hereinafter set forth, will tend to effectuate the declared policy of the act.

Therefore, the free percentages, restricted percentages, and withholding factors, for the 1972–73 crop year are established as follows:

§ 987.220 Free and restricted percentages, and withholding factors.[1]

The various free percentages, restricted percentages, and withholding factors applicable to marketable dates of each variety shall be, for the crop year beginning October 1, 1972, and ending September 30, 1973, as follows: (a) Deglet Noor variety dates: Free percentage, 100 percent; restricted percentage, 0 percent; and withholding factor, 0 percent; (b) Zahidi variety dates: Free percentage, 100 percent; restricted percentage, 0 percent; and withholding factor, 0 percent; (c) Halawy variety dates: Free percentage, 100 percent; restricted percentage, 0 percent; and withholding factor, 0 percent; (d) Khadrawy variety dates: Free percentage, 100 percent; restricted percentage, 0 percent; and withholding factor, 0 percent.

It is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in public rule making procedure, and that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) This action relieves current restrictions on date handlers and must be taken promptly to achieve its purpose; (2) the relevant provisions of said marketing agreement and this part require that (a) free and restricted percentages and withholding factors established for a particular crop year shall be applicable during the entire crop year to all marketable dates, and (b) the withholding obligations based on the continued regulations from the preceding crop year shall be adjusted to the newly established percentages upon their establishment; (3) the percentages and withholding factors established herein for the current 1972–73 crop year (which began October 1, 1972), will apply, and adjustment thereto of handlers' withholding obligations are required, automatically, with respect to all such dates; and (4) handlers are aware of the Committee's recommendation that all dates be free of volume regulation and need no additional time to comply therewith.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 25, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72–18600 Filed 10–31–72;8:47 am]

[1] The California Date Administrative Committee included no countries other than the continental United States and Canada in its determination of trade demand.

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Regs. D and J]

PART 204—RESERVES OF MEMBER BANKS

PART 210—COLLECTION OF CHECKS AND OTHER ITEMS BY FEDERAL RESERVE BANKS

Computation and Requirements and Payment of Cash Items Upon Presentment; Effective Dates

As a result of the Temporary Restraining Order entered September 19, 1972, by the U.S. District Court for the District of Columbia upon petition filed by the Independent Bankers Association of America and the Western Independent Bankers, the effective dates for amendments to the Board's Regulation D (12 CFR Part 204) as set forth in the FEDERAL REGISTER of June 28, 1972 (37 F.R. 12713), and for amendments to the Board's Regulation J (12 CFR Part 210) as set forth in the FEDERAL REGISTER of June 28, 1972 (37 F.R. 12714), were postponed by the Board of Governors on September 20, 1972, pending judicial determination and subsequent action by the Board.

On October 19, 1972, the U.S. District Court for the District of Columbia denied a motion for a preliminary injunction sought by the plaintiffs on the ground that plaintiffs had failed to carry the burden of establishing (1) that they would be irreparably injured if the amendments to Regulation J were put into effect, and (2) that they would be likely to succeed on the merits of the case after full trial. The decision of the U.S. District Court for the District of Columbia was consistent with the decision rendered on October 10, 1972, by the U.S. District Court for the Central District of California in an action brought by a group of California banks seeking to enjoin full implementation of the Board's Regulation J; this court's decision on a motion for preliminary injunction was also based on these same grounds.

As a result of these court determinations, the Board has decided to implement the amendments to Regulations D and J.

The amendments to Regulation J, which were scheduled to become effective on September 21, 1972, are effective November 9, 1972.

The amendments to Regulation D, which were scheduled to become effective September 21, 1972, are effective November 9, 1972. The amendments to Regulation D, which were scheduled to be effective for the period September 21, 1972, to September 27, 1972, are effective for the period November 9, 1972, to November 15, 1972. The amendments to Regulation D, which were scheduled to become effective on September 28, 1972, are effective November 16, 1972. It should be noted that the date "September 21, 1972" appearing in § 204.5(a)(1)(iii) of Regulation D—in the amendments previously scheduled to become effective for the period September 21, 1972, to September 27, 1972—should now read "November 9, 1972".

By order of the Board of Governors, October 24, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72–18587 Filed 10–31–72;8:50 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 72–SW–61]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the San Antonio, Tex., transition area.

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On September 13, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 18565) stating the Federal Aviation Administration proposed to alter the San Antonio, Tex., transition area by enlarging the area to the northwest.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t. January 4, 1973, as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the San Antonio, Tex., transition area is amended to read:

SAN ANTONIO, TEX.

That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 29°22'30" N., longitude 97°47'00" W.; thence west via latitude 29°22'30" N. to and clockwise along the arc of a 23-mile radius circle centered at latitude 29°31'50" N., longitude 98°28'12" W., to latitude 29°13'15" N., longitude 98°20'00" W.; thence southeast to latitude 29°05'30" N., longitude 98°14'30" W.; thence southwest to latitude 29°01'40" N., longitude 98°21'40" W.; thence northwest to latitude 29°06'30" N., longitude 98°34'10" W.; thence north to the 23-mile radius circle at latitude 29°12'00" N., longitude 98°32'40" W.; thence clockwise along the arc of the 23-mile radius circle to latitude 29°38'00" N., longitude 98°50'15" W.; thence northwest to latitude 29°43'30" N., longitude 98°57'00" W.; thence northeast to latitude 29°53'00" N., longitude 98°50'30" W.; thence southeast to the 23-mile radius circle at latitude 29°47'30" N., longitude 98°42'40" W.; thence clockwise along the arc of the 23-mile radius circle to latitude 29°46'30" N., longitude 98°12'30" W.; thence to latitude 29°43'00" N., longitude 98°01'30" W.; thence to point of beginning and within 5 miles northeast and 8 miles southwest of the La Vernia VOR 149° radial extending from the VOR to 12 miles southeast.

(Sec. 307(a), Federal Aviation Act of 1959, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Fort Worth, Tex., on October 20, 1972.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.72-18582 Filed 10-31-72;8:48 am]

[Airspace Docket No. 72-AL-30]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Redescription of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to redescribe, in part, the Soldotna 700-foot floor transition area to eliminate dual designation of airspace and thereby clarify charting.

Airspace Docket 72-AL-14, effective December 7, 1972, designates the Kenai 700-foot floor transition area as extending within a portion of the existing Soldotna transition area. The Soldotna 700-foot floor transition area is redescribed herein to eliminate this dual designation.

Since this amendment involves a change only in the identity of controlled airspace and imposes no additional burden on any person, notice and public procedure hereon are unnecessary. However, in order to allow sufficient time to make appropriate changes to aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 7, 1972, as hereinafter set forth.

In § 71.181 (37 F.R. 2143) Soldotna, Alaska, is amended to read as follows:

SOLDOTNA, ALASKA

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Soldotna Airport (latitude 60°28'25" N., longitude 151°02'20" W.), excluding the portion within the Kenai 700-foot floor transition area.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Anchorage, Alaska, on October 20, 1972.

THOMAS J. CRESWELL,
Director, Alaskan Region.

[FR Doc.72-18583 Filed 10-31-72;8:49 am]

[Airspace Docket No. 72-WA-35]

PART 73—SPECIAL USE AIRSPACE

Designation of Restricted Area

On July 28, 1972, a notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER (37 F.R. 15171) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 73 of the Federal Aviation Regulations that would designate a restricted area at Whidbey Island, Wash.

Subsequent to publication of the notice, it was noted that elements of the description were omitted. Accordingly, on August 30, 1972, a supplemental notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 17564) deleting the description contained in the original notice and providing a substitute therefor.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments, but no comments were received.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 4, 1973, as hereinafter set forth.

In § 73.67 (37 F.R. 2377) the following restricted area is added:

R-6713, WHIDBEY ISLAND, WASH.

Boundaries.

Beginning at lat. 48°25'00" N., long. 123°05'00" W.; to lat. 48°23'00" N., long. 123°06'00" W.; to lat. 48°16'30" N., long. 123°03'00" W.; to lat. 48°16'30" N., long. 122°55'30" W.; to lat. 48°18'20" N., long. 122°50'30" W.; to lat. 48°25'00" N., long. 122°53'30" W.; to point of beginning, excluding that area within one-quarter mile of Smith Island located at lat. 48°19'10" N., long. 122°50'30" W.

Designated altitudes: Surface to 3,500 feet MSL.

Time of designation: Continuous.

Controlling agency: NAS Whidbey Approach Control.

Using agency: Commander, Fleet Air Whidbey, NAS Whidbey Island, Wash.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 25, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-18581 Filed 10-31-72;8:48 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER D—SPECIAL REGULATIONS

[Reg. SPR-61]

PART 372a—TRAVEL GROUP CHARTERS

Correction

In F.R. Doc. 72-16841, appearing at page 20808, in the issue of Wednesday, October 4, 1972, the following changes should be made:

1. In the second column on page 20809, in the first complete paragraph directly after the third line, insert, "we shall institute in due course a rule".

2. On page 20812, in the first column, in the 16th line, the word "turn" should read "return".

3. In Appendix C, on page 20822, the word "compute" in the second line of paragraph 3a., should read "computed".

Title 15—COMMERCE AND FOREIGN TRADE

Chapter I—Bureau of the Census, Department of Commerce

PART 30—FOREIGN TRADE STATISTICS

Elimination of Requirements for Authentication of Shipper's Export Declarations

The following amendment is made to the regulations published in the FEDERAL REGISTER on August 27, 1966 (31 F.R. 11367) (15 CFR Part 30). In accordance with administrative procedure 5 U.S.C. 553, notice and hearing on these amendments and postponement of the effective date thereof are unnecessary because the amendment grants and recognizes exemptions and relieves restrictions.

These regulations are issued under the authority of title 13, United States Code, section 302; and 5 U.S.C. 301; Reorganization Plan No. 5 of 1950, Department of Commerce Organization Order No. 35-4A, January 1, 1972, 37 F.R. 3461.

Effective date. This amendent to the Foreign Trade Statistics Regulations is effective on the date of publication in the FEDERAL REGISTER (11-1-72).

§ 30.2 [Amended]

1. Footnote 2 to § 30.2 is amended to read as follows:

[2] See also the Export Control Regulations of the Office of Export Control, which may be purchased from the Government Printing Office or Department of Commerce field offices.

2. Section 30.5 is amended to read as follows:

§ 30.5 Number of copies of Shipper's Export Declaration required.

(a) Except as provided elsewhere in these regulations the Shipper's Export Declaration shall be delivered to the carrier or postmasters, as specified in §§ 30.12 and 30.15, in the following number of copies:

(1) In duplicate for shipments, except by mail, destined to all foreign countries except Canada.

(2) One copy only for shipments to Canada and nonforeign areas.

(3) One copy only for mail shipments to all destinations.

(b) In addition to the standard requirements set forth in paragraph (a) of this section, additional copies of Shipper's Export Declarations may be required for export control purposes by the regulations of the Office of Export Control or other Government agencies or in particular circumstances by the Customs Director or by the postmaster.

3. The first parenthetical sentence and footnote 4 of paragraph (h) of § 30.7 are amended to read as follows:

§ 30.7 Information required on Shipper's Export Declarations.

• • • • • •

(a) • • • (See § 30.20(c) for definition of port of exportation.) • • •

• • • • • •

[4] See Export Control Regulations. (See footnote 2 above.)

• • • • • •

4. Section 30.12 is amended to read as follows:

§ 30.12 Time and place Shipper's Export Declarations required to be presented.

For shipments by mail, the Shipper's Export Declaration as required in § 30.1 shall be presented to the postmaster with the packages at the time of mailing. For shipments other than by mail, except as otherwise provided, the Shipper's Export Declaration in the number of copies required by § 30.5 shall be delivered to the exporting carrier prior to exportation. It is the duty of the exporter (or his agent) to deliver the required number of copies of the Shipper's Export Declaration to the exporting carrier prior to exportation; failure of the exporter (or his agent) to do so constitutes a violation of the provisions of these regulations, and renders such exporter (or his agent) subject to the penalties provided for in § 30.95. For shipments by pipeline, the Shipper's Export Declaration is not required to be presented prior to exportation, and exportation will be permitted upon the understanding that the exporter or his agent, within 4 working days after the end of each calendar month, will file with the Customs Director having jurisdiction for the pipeline, a Shipper's Export Declaration in the number of copies specified in § 30.5 to cover exports to each consignee during the calendar month.

§ 30.12 [Amended]

5. Footnote 7 to § 30.12 is deleted in its entirety.

§ 30.13 [Deleted]

6. Section 30.13 is deleted in its entirety.

§ 30.14 [Deleted]

7. Section 30.14 is deleted in its entirety.

8. Section 30.15 is amended to read as follows:

§ 30.15 Procedure for presentation of declarations covering shipments from an interior point.

For shipments from an interior point, the Shipper's Export Declaration in the number of copies required in § 30.5 may be prepared and delivered by the exporter or his agent to the inland carrier to accompany the merchandise to the exporting carrier at the seaport, airport, or border port of exportation, or it may be otherwise delivered directly to the exporting carrier. In either case, the Shipper's Export Declaration must be in the exporting carriers' possession prior to exportation. (See § 30.6 for requirements for a separate set of Shipper's Export Declarations for each car, truck, or other vehicle, covering only the merchandise exported in that car, truck, or vehicle.)

9. The existing paragraph of § 30.20 is lettered (a) and new paragraphs (b) and (c) are added reading as follows:

§ 30.20 General statement of requirement for the filing of manifests and Shipper's Export Declarations by carriers.

• • • • • •

(b) Except as otherwise specifically provided, declarations should not be filed at the place where the shipment originates if it is to be transshipped within the U.S. area before being dispatched to a foreign country or to its final destination in a nonfarm area. This applies to shipments originating in Puerto Rico or the Virgin Islands of the United States being forwarded to the United States for transshipment to another destination, and to shipments originating in the United States and being forwarded to Puerto Rico or the Virgin Islands of the United States for transshipment, as well as to merchandise being transshipped in Customs Districts within the States of the United States. In such cases, the declarations should be filed only with the Customs Director at the actual port of exportation.

(c) For purposes of these regulations, the port of exportation is defined as the Customs port at which or nearest to which the land surface carrier transporting the merchandise crosses the border of the United States into foreign territory, or, in the case of exportation by vessel or air, the Customs port where the merchandise is loaded on the vessel or aircraft which is to carry the merchandise to a foreign country or to a nonforeign area of ultimate destination.

§ 30.21 [Amended]

10. Section 30.21 is amended as follows:

a. The fourth sentence of paragraph (a) is amended to read as follows:

(a) • • • There shall also be shown for each item of cargo the bill of lading number shown on the declaration covering the item, except that bill of lading numbers are not required on manifests covering cargo destined for Canada or a nonforeign area. • • •

• • • • • •

b. The fifth sentence of paragraph (b) beginning "In such cases" is amended to read as follows:

(b) • • • In such cases the air waybill numbers of such declarations shall be listed on the cargo manifest in the column for air waybill numbers, and the statement "Cargo as per Export Declarations Attached" noted on the manifest. • • •

c. In the second sentence of paragraph (b) delete figure "8" and delete footnote 8 explanation at bottom of column.

§ 30.22 [Amended]

Section 30.22 is amended as follows:

a. The last sentence of paragraph (a) is deleted.

b. Paragraph (b) is deleted in entirety.

c. Paragraph (c) is relettered (b) and amended to read as follows:

(b) The exporting carrier shall be responsible for the accuracy of the following items of information (where required) on the declaration: Name of carrier (including flag, if vessel carrier), foreign port of unloading, and the bill of lading or air waybill number.

d. Paragraph (d) is relettered (c), the last sentence thereof is deleted, and the statement immediately preceding the last sentence is amended to read as follows:

(c) • • • These commodities or technical data were included, but not shipped, on a Shipper's Export Declaration filed at ---------- on ----------.
(Port) (Date)

e. Paragraph (e) is relettered paragraph (d).

§ 30.23 [Amended]

12. Except for the first sentence thereof, § 30.23 is deleted in its entirety.

§ 30.34 [Amended]

13. Section 30.34 is amended as follows:

a. The last sentence of paragraph (a) is amended to delete the words "Customs

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authentication number of" and to substitute therefor the words "bill of lading numbers shown on.";

b. The last sentence of paragraph (b) is deleted in its entirety.

§ 30.36 [Deleted]

14. Section 30.36 is deleted and reserved for future use.

15. Section 30.41(b) is amended to read as follows:

§ 30.41 "Split shipments" by air.

• • • • • • •

(b) On each subsequent manifest covering a flight on which any part of a split shipment is exported, a prominent notation "Split Shipment" will be made adjacent to the item on the manifest for ready identification. For the last shipment the notation will read "Split Shipment, Final".

Each subsequent manifest covering a part of a split shipment shall also show in the "number of packages" column only the merchandise carried on that particular flight and a reference to the total amount originally declared for export, e.g., 5 of 11, or 5/11; and immediately following the line showing the portion of the split shipment carried on that flight, a notation will be made showing the air waybill number shown on the original Shipper's Export Declaration and the portions of the originally declared total carried on each previous flight together with the number and date of each such previous flight, e.g., original Shipper's Export Declaration AWB 123; 2 of 11 flight 36A, June 6; 4 of 11, flight 40X, June 10.

• • • • • • •

§§ 30.42 and 30.43 [Deleted]

16. Sections 30.42 and 30.43 are hereby deleted and reserved for future use.

17. Paragraphs (b) and (d) of § 30.91 are amended as follows:

§ 30.91 Confidential information, Shipper's Export Declarations.

• • • • • • •

(b) • • • possession for official purposes, except for (1) the bill of lading number on the declaration, (2) information on the declaration which is identical with bills of lading or other sources of information available to the carrier, and (3) items of information which are required by export control regulations to be identical or consistent on both documents.

• • • • • • •

(d) *Limitations on issuance and reproduction of copies.* Consistent with the policy stated in paragraph (c) of this section, and with the confidential status of the document generally, the following limitations are placed upon the issuance of copies to exporters or their agents:

(1) A copy of a Shipper's Export Declaration may be supplied to exporters or their agents only when such a copy is needed by the exporter to comply with: (i) Official requirements for presentation of a copy as authorization for export, (ii) export control requirements, or (iii) U.S. Department of Agriculture requirements for proof of export in connection with subsidy payments. Copies issued to exporters or their agents under subdivisions (ii) or (iii) of this subparagraph will be stamped as follows by the Customs Director:

Certified pursuant to the export control regulations or to fulfill the requirements of a Federal agency and not for any other purpose. May not be reproduced in any form.

(2) Use of copies of the Shipper's Export Declaration in connection with claims for exemption from internal revenue taxes or State taxes is not permitted. Bureau of Customs Circular Letter EXP-4-MC, September 25, 1953 (CL-2861), provides for a proof of export form which may be certified by Customs officers for these purposes.

• • • • • • •

GEORGE H. BROWN,
Director,
Bureau of the Census.

I concur: October 11, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-18608 Filed 10-31-72;8:46 am]

Title 20—EMPLOYEES' BENEFITS

Chapter III—Social Security Administration, Department of Health, Education, and Welfare

[Reg. 1, further amended]

PART 401—DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION

Disclosure of Certain Information to Department of the Army, Department of Defense, for Purpose of Administration of Civilian Health and Medical Program of the Uniformed Services

On March 17, 1972, there was published in the FEDERAL REGISTER (37 F.R. 5636) a notice of proposed rule making with a proposed amendment to paragraph (u) of § 401.3 of Regulation No. 1. The proposed amendment to the regulation provides that the Social Security Administration may disclose to the Department of the Army, Department of Defense, certain medicare information for use in administering the Civilian Health and Medical Program of the Uniformed Services. Interested persons were given the opportunity to submit within 30 days data, views, or arguments with regard to the proposed amendment.

In accordance with a suggestion from the Department of the Army, the words "Department of Defense" were added after "Department of the Army." This change is appropriate since the Department of the Army is a component organization of the Department of Defense and since the Civilian Health and Medical Program of the Uniformed Services operates under the policy guidance of the Department of Defense.

A suggestion has also been made that Social Security Administration fiscal intermediaries and carriers be permitted to authorize the release of medicare information to the Department of the Army, pursuant to the proposed amendment to the regulation. This suggestion has not been adopted. Authorization by the Social Security Administration is desirable for the purpose of achieving uniform application of disclosure practices among intermediaries and carriers. This will also enable the Social Security Administration to systematically evaluate and analyze trends in requests for data and costs involved in responding to such requests. Such authorizations can be obtained promptly from officials in the Bureau of Health Insurance regional offices.

No other comments, except for one which was favorable to the proposed amendment, were received. Accordingly, the amendment as proposed is hereby adopted, subject to the addition of the words "Department of Defense" as noted above.

(Secs. 1102, 1106, and 1871, 49 Stat. 647, as amended, 53 Stat. 1398, as amended, 79 Stat. 331; 42 U.S.C. 1302, 1306, and 1395hh)

Effective date. This amendment shall be effective upon publication in the FEDERAL REGISTER (11-1-72).

Dated: October 5, 1972.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: October 26, 1972.

JOHN G. VENEMAN,
Acting Secretary of Health, Education, and Welfare.

Regulation No. 1 of the Social Security Administration (20 CFR 401.1 et seq.) is further amended as set forth below:

Section 401.3 is amended by revising paragraph (u) to read as follows:

§ 401.3 Information which may be disclosed and to whom.

Disclosure of any such file, record, report, or other paper, or information, is hereby authorized in the following cases and for the following purposes:

• • • • • • •

(u) To any officer or employee of an agency of the Federal or a State government lawfully charged with the administration of a program receiving grants-in-aid under titles V and XIX of the Social Security Act for the purpose of administration of such titles, or to any officer or employee of the Department of the Army, Department of Defense, solely for the administration of its Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), the following information, except that the release of such information shall not be authorized by a fiscal intermediary or carrier:

(1) Information, including the identification number, concerning charges made by physicians, other practitioners, or suppliers, and amounts paid under title XVIII of the Act for services furnished to beneficiaries by such physicians, other practitioners, or suppliers, to enable the agency to determine the proper amount of benefits payable for medical services performed in accordance with such programs; or

(2) Information as to physicians or other practitioners that has been disclosed under paragraph (i) (l) or (q) of this section; or

(3) Information relating to the qualifications and certification status of hospitals and other health care facilities obtained in the process of determining whether, and certifying as to whether, institutions or agencies meet or continue to meet the conditions of participation of providers of services or whether other entities meet or continue to meet the conditions for coverage of services they furnish; or

(4) Information concerning costs of operation and other pertinent information from the financial reports and other records of providers furnishing services pursuant to title XVIII of the Act.

[FR Doc.72-18628 Filed 10-31-72;8:50 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER A—GENERAL

PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

Nonsterile Devices Shipped in Interstate Commerce for Sterilization

In the FEDERAL REGISTER of January 25, 1972 (37 F.R. 1115), a notice was published in which the Commissioner of Food and Drugs proposed that Part 1 be amended by adding a new paragraph (l) to § 1.107 which, under certain conditions, would sanction the practice by which a device that is manufactured and/or assembled, packed, and labeled as sterile in one establishment is shipped or otherwise delivered to another establishment for sterilization. It was proposed, insofar as sterility of the product is concerned, to exempt devices which meet certain conditions from compliance with sections 501(c) and 502(a) of the Federal Food, Drug, and Cosmetic Act during introduction into and shipment in interstate commerce and while they are being held for sterilization following such shipment in interstate commerce.

Interested persons were invited to submit comments on the proposal within 60 days.

Comments were received from four manufacturers and/or distributors of sterile devices, one law firm on behalf of a manufacturer, one contract sterilizer, and one comment was received from an interested individual.

Several comments suggested that § 1.107(l) be clarified and expanded to include those cases involving shipment in interstate commerce of devices for sterilization at a separate facility or establishment owned and operated by the manufacturer. The Commissioner concludes that this comment is valid and the final order has been changed accordingly.

One comment suggested that an agreement should not be required where the manufacturer and the sterilizer share the same ownership but are physically separated. The Commissioner concludes that the same conditions exist for exemption from sections 501(c) and 502(a) of the Federal Food, Drug, and Cosmetic Act, as provided for in § 1.107(l), regardless of whether sterilization is performed by a contract sterilizer or at an establishment owned and operated by the manufacturer; therefore, this comment is rejected.

A comment was submitted urging that each article or device be labeled "nonsterile" either with a label which could be easily torn or cut off after sterilization or by means of a color code or writing which would be removed by the sterilization process. The Commissioner concludes that such procedures are not necessary to assure absolute sterility of a device and that such procedures may impart an additional element of risk which may contribute to compromising the integrity of the device.

A comment was submitted suggesting that, after sterilization of the device and prior to release from quarantine, each pallet, carton, or other designated unit be conspicuously marked "sterilized-awaiting test results" or an equivalent designation until such time as it is established that the device is sterile. This comment is considered valid and an appropriate revision has been made to reflect the need for conspicuously indicating that a device which has been sterilized and not released from quarantine is awaiting test results.

Therefore, pursuant to provision of the Federal Food, Drug, and Cosmetic Act (sections 501(c), 502(a), 701(a), 52 Stat. 1049, 1050, 1055; 21 U.S.C. 351(c), 352(a), 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 1 is amended by adding a new paragraph (l) to § 1.107 as follows:

§ 1.107 Drugs and devices; exemptions.

• • • • • • •

(l) As it is a common industry practice to manufacture and/or assemble, package, and fully label a device as sterile at one establishment and then ship such device in interstate commerce to another establishment or to a contract sterilizer for sterilization, the Food and Drug Administration will initiate no regulatory action against the device as misbranded or adulterated when the nonsterile device is labeled sterile, provided all the following conditions are met:

(1) There is in effect a written agreement which:

(i) Contains the names and post office addresses of the firms involved and is signed by the person authorizing such shipment and the operator or person in charge of the establishment receiving the devices for sterilization.

(ii) Provides instructions for maintaining proper records or otherwise accounting for the number of units in each shipment to insure that the number of units shipped is the same as the number received and sterilized.

(iii) Acknowledges that the device is nonsterile and is being shipped for further processing, and

(iv) States in detail the sterilization process, the gaseous mixture or other media, the equipment, and the testing method or quality controls to be used by the contract sterilizer to assure that the device will be brought into full compliance with the Federal Food, Drug, and Cosmetic Act.

(2) Each pallet, carton, or other designated unit is conspicuously marked to show its nonsterile nature when it is introduced into and is moving in interstate commerce, and while it is being held prior to sterilization. Following sterilization, and until such time as it is established that the device is sterile and can be released from quarantine, each pallet, carton, or other designated unit is conspicuously marked to show that it has not been released from quarantine, e.g. "sterilized-awaiting test results" or an equivalent designation.

Effective date. This order shall become effective 30 days after date of publication in the FEDERAL REGISTER.

(Secs. 501(c), 502(a), 701(a), 52 Stat. 1049 1050, 1055; 21 U.S.C. 351(c), 352(a), 371(a))

Dated: October 25, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-18571 Filed 10-31-72;8:47 am]

SUBCHAPTER C—DRUGS

SODIUM OXACILLIN MONOGRAPHS

Recodification and Technical Revisions

In a notice of proposed rule making published in the FEDERAL REGISTER of June 23, 1972 (37 F.R. 12398) and a correction of July 4, 1972 (37 F.R. 13182), the Commissioner of Food and Drugs proposed that the antibiotic drug regulations be amended by revising Parts 141a, 146, and 146a and by establishing a new Part 149e to provide for the recodification and technical revisions of the sodium oxacillin monographs. Interested persons were invited to submit their comments in response to the notice of proposed rule making within 30 days. No

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comments were received. Accordingly, the Commissioner of Food and Drugs concludes that the antibiotic drug regulations should be amended as set forth below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 141a, 146, and 146a are amended and a new Part 149e is added as follows:

PART 141a—PENICILLIN AND PENICILLIN-CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

§§ 141a.104, 141a.105, 141a.106, 141a.110, and 141a.117 [Revoked]

1. In Part 141a by revoking §§ 141a.104, 141a.105, 141a.106, 141a.110, and 141a.117 and by reserving them for future use.

PART 146—ANTIBIOTIC DRUGS; PROCEDURAL AND INTERPRETATIVE REGULATIONS

2. In Part 146, § 146.2 is amended by adding a new sentence to the end of paragraph (c) (8) (iii) to read as follows:

§ 146.2 Requests for certification, check tests and assays, and working standards; information and samples required.

* * * * * * *

(c) * * *

(8) * * *

(iii) In the case of drugs packaged for repacking or for use in the manufacture of another drug, the sample must be representative of the batch. Such samples may be taken from a composite composed of portions taken from a representative number of bulk containers, the composite consisting of no more than 10 times the amount required for conducting the required tests and assays. Such samples are not required if they have been previously submitted.

* * * * * *

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

§§ 146a.8, 146a.12, 146a.13, 146a.14, and 146a.113 [Revoked]

3. In Part 146a by revoking §§ 146a.8, 146a.12, 146a.13, 146a.14, and 146a.113 and by reserving them for future use.

PART 149e—OXACILLIN

4. By adding a new Part 149e consisting at this time of five sections, as follows:

Sec.
149e.1 Sodium oxacillin.
149e.2 Sterile sodium oxacillin.
149e.3–149e.10 [Reserved]
149e.11 Sodium oxacillin capsules.
149e.12 Sodium oxacillin for oral solution.
149e.13 Sodium oxacillin for injection.

AUTHORITY: The provisions of this Part 149e issued under sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357.

§ 149e.1 Sodium oxacillin.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Sodium oxacillin is the monohydrated sodium salt of 5-methyl-3-phenyl-4-isoxazolyl penicillin. It is so purified and dried that:

(i) It contains not less than 815 and not more than 950 micrograms of oxacillin per milligram.

(ii) It passes the safety test.

(iii) Its moisture content is not less than 3.5 and not more than 5.0 percent.

(iv) Its pH in an aqueous solution containing 30 milligrams per milliliter is not less than 4.5 and not more than 7.5.

(v) Its sodium oxacillin content is not less than 90 percent and not more than 105 percent.

(vi) It is crystalline.

(vii) It gives a positive identity test for the oxacillin moiety.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, moisture, pH, sodium oxacillin content, crystallinity, and identity.

(ii) Samples required: 10 packages, each containing approximately 300 milligrams.

(b) *Tests and methods of assay*—(1) *Potency.* Assay for potency by any of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed portion of the sample in sufficient 1.0 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with solution 1 to the reference concentration of 5.0 micrograms of oxacillin per milliliter (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 141.506 of this chapter.

(iii) *Hydroxylamine colorimetric assay.* Proceed as directed in § 141.507 of this chapter.

(2) *Safety.* Proceed as directed in § 141.5 of this chapter.

(3) *Moisture.* Proceed as directed in § 141.502 of this chapter.

(4) *pH.* Proceed as directed in § 141.503 of this chapter, using a solution containing 30 milligrams per milliliter.

(5) *Sodium oxacillin content.* Place approximately 60 milligrams of sample, accurately weighed, into a 100-milliliter volumetric flask. Dissolve and fill to volume with distilled water. Pipette a 5.0-milliliter aliquot of the sample solution into a 22- by 200-milliliter test tube, and add 5 milliliters of 10*N* NaOH. Mix the solution, and place the tube in a boiling water bath for 60 minutes. Cool the tube, carefully add 10 milliliters of 6*N* HCl, mix, and replace the tube in the boiling water bath for 10 minutes. Position the tube in the bath so that the liquid level in the tube is the same as the liquid level in the bath. After heating, remove the tube from the bath, carefully agitate the contents of the tube, and cool to room temperature. Quantitatively transfer the contents of the tube to a 250-milliliter volumetric flask. Add approximately 200 milliliters of freshly boiled and cooled distilled water, then 4.0 milliliters of 7.5*N* NH_4OH, and dilute to volume with freshly boiled and cooled distilled water. Treat a sample of the oxacillin working standard in the same manner. Determine the absorbance of the sample and working standard solutions on a suitable spectrophotometer at 235 nanometers against a reagent blank, and calculate as follows:

$$\text{Percent sodium oxacillin} = \frac{\text{Absorbance of sample} \times \text{Weight in milligrams of standard} \times \text{Sodium oxacillin content of standard in percent}}{\text{Absorbance of standard} \times \text{Weight in milligrams of sample}}$$

(6) *Crystallinity.* Proceed as directed in § 141.504(a) of this chapter.

(7) *Identity.* Use the sample solution prepared as described in subparagraph (5) of this paragraph and record the ultraviolet spectrum between 230 nanometers and 260 nanometers. It should be basically identical to that of the standard similarly treated.

§ 149e.2 Sterile sodium oxacillin.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Sterile sodium oxacillin is the monohydrated sodium salt of 5-methyl-3-phenyl-4-isoxazolyl penicillin. It is so purified and dried that:

(i) It contains not less than 815 and not more than 950 micrograms of oxacillin per milligram.

(ii) It is sterile.

(iii) It is nonpyrogenic.

(iv) It passes the safety test.

(v) Its moisture content is not less than 3.5 and not more than 5.0 percent.

(vi) Its pH in an aqueous solution containing 30 milligrams per milliliter is not less than 4.5 and not more than 7.5.

(vii) Its sodium oxacillin content is not less than 90 percent and not more than 105 percent.

(viii) It is crystalline.

(ix) It gives a positive identity test for the oxacillin moiety.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, sterility, pyrogens, safety, moisture, pH, sodium oxacillin content, crystallinity, and identity.

(ii) Samples required:

(a) For all tests except sterility: 10 packages, each containing approximately 300 milligrams, plus one package containing approximately 2 grams.

(b) For sterility testing: 20 packages, each containing approximately 600 milligrams.

(b) *Tests and methods of assay*—(1) *Potency.* Assay for potency by any of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed portion of the sample in sufficient 1.0 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with solution 1 to the reference concentration of 5.0 micrograms of oxacillin per milliliter (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 141.506 of this chapter.

(iii) *Hydroxylamine colorimetric assay.* Proceed as directed in § 141.507 of this chapter.

(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 141.4(a) of this chapter, using a solution containing 20 milligrams of oxacillin per milliliter.

(4) *Safety.* Proceed as directed in § 141.5 of this chapter.

(5) *Moisture.* Proceed as directed in § 141.502 of this chapter.

(6) *pH.* Proceed as directed in § 141.503 of this chapter, using a solution containing 30 milligrams per milliliter.

(7) *Sodium oxacillin content.* Proceed as directed in § 149e.1(b)(5).

(8) *Crystallinity.* Proceed as directed in § 141.504(a) of this chapter.

(9) *Identity.* Proceed as directed in § 149e.1(b)(7).

§ 149e.11 Sodium oxacillin capsules.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Sodium oxacillin capsules are composed of sodium oxacillin with or without one or more diluents and lubricants, enclosed in a gelatin capsule. Each capsule contains sodium oxacillin equivalent to 125, 250, or 500 milligrams of oxacillin. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of oxacillin that it is represented to contain. Its moisture content is not more than 6.0 percent. The sodium oxacillin used conforms to the standards prescribed by § 149e.1(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(a) The sodium oxacillin used in making the batch for potency, safety, moisture, pH, sodium oxacillin content, crystallinity, and identity.

(b) The batch for potency and moisture.

(ii) Samples required:

(a) The sodium oxacillin used in making the batch: 10 packages, each containing approximately 300 milligrams.

(b) The batch: A minimum of 30 capsules.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Sample preparation.* Place a representative number of capsules into a high-speed glass blender jar containing sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a stock solution of convenient concentration. Blend for 3 to 5 minutes.

(ii) *Assay procedures.* Use either of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(a) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this chapter; diluting an aliquot of the stock solution with solution 1 to the reference concentration of 5 micrograms of oxacillin per milliliter (estimated).

(b) *Iodometric assay.* Proceed as directed in § 141.506 of this chapter, diluting an aliquot of the stock solution with solution 1 to the prescribed concentration.

(2) *Moisture.* Proceed as directed in § 141.502 of this chapter.

(3) *pH.* Proceed as directed in § 141.503 of this chapter, using a solution containing 30 milligrams per milliliter (estimated).

(4) *Safety.* Proceed as directed in § 141.5 of this chapter.

(5) *Moisture.* Proceed as directed in § 141.502 of this chapter.

(6) *pH.* Proceed as directed in § 141.503 of this chapter, using a solution containing 30 milligrams per milliliter.

(7) *Sodium oxacillin content.* Proceed as directed in § 149e.1(b)(5).

(8) *Crystallinity.* Proceed as directed in § 141.504(a) of this chapter.

(9) *Identity.* Proceed as directed in § 149e.1(b)(7).

§ 149e.12 Sodium oxacillin for oral solution.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Sodium oxacillin for oral solution is a mixture of sodium oxacillin with one or more suitable colorings, flavorings, buffer substances, stabilizers, and preservatives. When reconstituted as directed in the labeling, each milliliter contains sodium oxacillin equivalent to either 25 or 50 milligrams of oxacillin. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of oxacillin that it is represented to contain. Its moisture content is not more than 1.0 percent. When reconstituted as directed in its labeling, the pH of the solution is not less than 5.0 and not more than 7.5. The sodium oxacillin used conforms to the standards prescribed by § 149e.1(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(a) The sodium oxacillin used in making the batch for potency, safety, moisture, pH, sodium oxacillin content, crystallinity, and identity.

(b) The batch for potency, moisture, and pH.

(ii) Samples required:

(a) The sodium oxacillin used in making the batch: 10 packages, each containing approximately 300 milligrams.

(b) The batch: A minimum of six immediate containers.

(b) *Tests and methods of assay*—(1) *potency*—(i) *Sample preparation.* Reconstitute as directed in the labeling. Place an accurately measured representative aliquot of the sample into an appropriate-sized volumetric flask with sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a stock solution of convenient concentration.

(ii) *Assay procedures.* Use either of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(a) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this chapter, diluting an aliquot of the stock solution with solution 1 to the reference concentration of 5 micrograms of oxacillin per milliliter (estimated).

(b) *Iodometric assay.* Proceed as directed in § 141.506 of this chapter, diluting an aliquot of the stock solution with solution 1 to the prescribed concentration.

(2) *Moisture.* Proceed as directed in § 141.502 of this chapter.

(3) *pH.* Proceed as directed in § 141.503 of this chapter using the drug reconstituted as directed in the labeling.

§ 149e.13 Sodium oxacillin for injection.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Sodium oxacillin for injection is a dry mixture of sodium oxacillin and one or more buffer substances, with or without trisodium ethylenediamine tetraacetic acid, and with or without one or more suitable and harmless preservatives. Its potency is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of oxacillin that it is represented to contain. It is sterile. It is nonpyrogenic. It passes the safety test. Its moisture content is not more than 6.0 percent. Its pH in an aqueous solution containing 30 milligrams per milliliter is not less than 6.0 and not more than 8.5. The sodium oxacillin used conforms to the standards prescribed by § 149e.2(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(a) The sodium oxacillin used in making the batch for potency, moisture, pH, sodium oxacillin content, crystallinity, and identity.

(b) The batch for potency, sterility, pyrogens, safety, moisture, and pH.

(ii) Samples required:

(a) The sodium oxacillin used in making the batch: 10 packages, each containing approximately 300 milligrams.

(b) The batch:

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(f) For all tests except sterility: A minimum of 10 immediate containers.

(2) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation, or 40 immediate containers if each contains less than 600 milligrams.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Sample preparation.* Reconstitute as directed in the labeling. Then using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single dose container, or if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Dilute with 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a stock solution of convenient concentration.

(ii) *Assay procedures.* Use either of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(a) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this chapter, diluting an aliquot of the stock solution with solution 1 to the reference concentration of 5 micrograms of oxacillin per milliliter (estimated).

(b) *Iodometric assay.* Proceed as directed in § 141.506 of this chapter, diluting an aliquot of the stock solution with solution 1 to the prescribed concentration.

(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 141.4(a) of this chapter, using a solution containing 20 milligrams of oxacillin per milliliter.

(4) *Safety.* Proceed as directed in § 141.5 of this chapter.

(5) *Moisture.* Proceed as directed in § 141.502 of this chapter.

(6) *pH.* Proceed as directed in § 141.503 of this chapter, using an aqueous solution containing 30 milligrams per milliliter.

Effective date. This order shall become effective 30 days after its date of publication in the FEDERAL REGISTER.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: October 26, 1972.

MARY A. MCENIRY,
Assistant to the Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc.72-18572 Filed 10-31-72;8:47 am]

Title 22—FOREIGN RELATIONS

Chapter VI—United States Arms Control and Disarmament Agency

PART 605—NATIONAL SECURITY INFORMATION REGULATIONS

Effective on the date of its publication in the FEDERAL REGISTER (11-1-72), a new Part 605 is added to Title 22 of the Code of Federal Regulations to implement Executive Order 11652 (37 F.R. 5209, March 10, 1972), and the National Security Council Directive of May 17, 1972 (37 F.R. 10053, May 19, 1972) pertaining to classification and declassification of national security information.

The regulations in this part have been approved by the Interagency Classification Review Committee as required by Executive Order 11652 and the National Security Council Directive of May 17, 1972.

GERARD SMITH,
Director, U.S. Arms Control and Disarmament Agency.

OCTOBER 20, 1972.

Sec.
605.1 Basis.
605.2 Classification assignment.
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605.4 Declassification and change of classification.
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605.7 Loss or possible compromise of classified information.
605.8 Data index system and systematic reviews of classified material.

AUTHORITY: The provisions of this Part 605 are issued under Executive Order 11652 (37 F.R. 5209, March 10, 1972) and National Security Council Directive of May 17, 1972 (37 F.R. 10053, May 19, 1972).

§ 605.1 Basis.

These regulations, taken together with the National Security Council Directive of May 17, 1972 "Governing the Classification, Downgrading, Declassification and Safeguarding of National Security Information" (37 F.R. 10053, May 19, 1972), provide the basis for the ACDA security classification program implementing Executive Order 11652, "Classification and Declassification of National Security Information and Material" (37 F.R. 5209, March 10, 1972).

§ 605.2 Classification assignment.

(a) *Security classification categories.* (1) Official information or material which requires protection against unauthorized disclosure in the interest of the national defense or foreign relations of the United States (hereinafter collectively termed "national security") shall be classified in one of three categories, namely, Top Secret, Secret, or Confidential, depending upon the degree of its significance to national security. No other categories shall be used to identify official information or material as requiring protection in the interest of national security, except as otherwise expressly provided by statute.

(2) As defined in section 1 of Executive Order 11652, security classification categories are:

(i) *Top Secret.* "Top Secret" refers to that national security information or material which requires the highest degree of protection. The test for assigning "Top Secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause "exceptionally grave damage" to the national security. Examples of "exceptionally grave damage" include armed hostilities against the United States or its allies; disruption of foreign relations vitally affecting the national security; the compromise of vital national defense plans or complex cryptologic and communications intelligence systems; the revelation of sensitive intelligence operations; and the disclosure of scientific or technological developments vital to national security. This classification shall be used with the utmost restraint.

(ii) *Secret.* "Secret" refers to that national security information or material which requires a substantial degree of protection. The test for assigning "Secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause "serious damage" to the national security. Examples of "serious damage" include disruption of foreign relations significantly affecting the national security; significant impairment of a program or policy directly related to the national security; revelation of significant military plans or intelligence operations; and compromise of significant scientific or technological developments relating to national security. The classification "Secret" shall be sparingly used.

(iii) *Confidential.* "Confidential" refers to that national security information or material which requires protection. The test for assigning "Confidential" classification shall be whether its unauthorized disclosure could reasonably be expected to cause "damage" to the national security.

(b) *Authority to classify.* (1) Each person possessing classifying authority shall be held accountable for the propriety of the classifications attributed to him. Both unnecessary classification and overclassification shall be avoided. Classification shall be solely on the basis of national security considerations. In no case shall information be classified in order to conceal inefficiency or administrative error, to prevent embarrassment to a person or Department, to restrain competition or independent initiative, or to prevent for any other reason the release of information which does not require protection in the interest of national security. (The term "Department" includes ACDA or any other governmental agency or unit.)

(2) The following ACDA officials have authority to originally classify information or material in each of the three categories under which they are shown below:

(i) *Top Secret.*

Director
Deputy Director
Assistant Directors (4)
Chairman, General Advisory Committee
Such other senior principal deputies and assistants as the Director may specifically designate in writing.

(ii) *Secret.*

Officials having Top Secret classification authority
Deputy Assistant Directors
Special Assistant to the Director

Counselor
Special Assistant to the Deputy Director
Intelligence Adviser
Classification Adviser
Executive Director
Deputy Executive Director
Contracting Officer
Security Officer
Chief, Communications and Reference Service Center
General Counsel
Deputy General Counsel
Assistant General Counsel (Congressional Relations)
Public Affairs Adviser
Deputy Public Affairs Adviser
Division Chiefs
Staff Director, General Advisory Committee
Officials specifically designated in writing by the Director, including project officers for external research projects classified Secret and above.

(iii) *Confidential.*

Officials having Top Secret or Secret classification authority
Officials specifically designated in writing by Bureau and Office Heads.

(3) The authority to originally classify vests only to the officials designated and may not be delegated. In the absence of any one of the officials named, the officer duly designated in writing to act in his place may exercise this authority.

(4) Separate listings by name of officials who have been designated in writing as having Top Secret, Secret, and Confidential classification authority will be maintained on a current basis by the Chief, Communications and Reference Service Center, and submitted quarterly to the Chairman of the Interagency Classification Review Committee.

§ 605.3 Classification responsibilities and identification of documents.

(a) *Classification responsibilities.* (1) Each officer of the agency who signs, authenticates or otherwise produces a document is responsible for determining that it is properly classified and marked. If in doubt, the officer should consult the ACDA Classification Adviser. Any substantial doubts on questions of proper classification or as to whether the material should be classified at all should be resolved in favor of the less restrictive treatment.

(2) A holder of classified information or material shall observe and respect the security classification category assigned by the originator, particularly when incorporating such information or material in new documents. In these cases, the previously assigned classification shall be reflected on the new documents together with the identity of the classifier, and, to help where needed to establish such identity, the document from which the information or material was derived.

(3) Where material requires initial classification for reasons other than those specified in subparagraph (2) of this paragraph, it constitutes originally classified material. The responsibility in subparagraph (1) of this paragraph includes responsibility for determining whether the document contains any originally classified material. Where the document contains any originally classified material, the classification must be authorized by one of the officials indicated in § 605.2(b)(2).

(4) In classifying information or material, as a first effort an individual is required to apply a date or event earlier than provided by the General Declassification Schedule for downgrading and declassification of national security information. If he is unable to specify an earlier date or event he will indicate that the General Declassification Schedule applies. Even if the information or material is determined to be exempt from the General Declassification Schedule, unless impossible the exempted information or material shall be assigned and clearly marked with a date or event upon which downgrading and declassification shall occur.

(5) If a holder of classified information believes that there is unnecessary classification, that the assigned classification is improper, or that the document is subject to declassification under Executive Order 11652 and these regulations, he shall follow the procedures described in § 605.4(a).

(b) *Identifying classified documents.* Each classified document shall show on its face the following:

(1) Its classification category;

(2) Whether it is exempt from the General Declassification Schedule, and if exempt, the appropriate exemption category (see § 605.4(b)(2));

(3) Office of origin;

(4) Date of preparation and classification;

(5) Control number in the case of Top Secret documents;

(6) Whenever possible, a specific date or event upon which downgrading and declassification shall occur; and

(7) The identity of the person at the highest level authorizing the classification and exemption, where applicable (see also paragraph (a)(2) of this section). Where the individual who signs or otherwise authenticates a document or items has also authorized the classification, no further annotation as to his identity is required.

(c) *Information or material furnished by a foreign government or international organization.* Classified information or material furnished to the United States by a foreign government or international organization shall either retain its original classification or be assigned a U.S. classification. In either case, the classification shall assure a degree of protection equivalent to that required by the government or international organization which furnished the information or material.

§ 605.4 Declassification and change of classification.

(a) *General.* If a holder of classified information or material believes that there is unnecessary classification, that the assigned classification is improper, or that the document is subject to declassification under Executive Order 11652, he shall refer the document to the responsible bureau or office within ACDA for review and appropriate action. Similarly, if the holder of unclassified information or material has reason to believe that it should be classified, or that the security classification category given to particular classified information or material does not insure adequate protection, he shall safeguard it in accordance with the security classification category deemed appropriate, and submit his recommendation to the original classifier. The ACDA Classification Adviser is available to provide guidance and advice in such cases. Where the document or material was not originally classified within the agency, it will be referred to the Classification Adviser for coordination with the responsible agency (e.g., DOD, AEC), if declassification or downgrading appears to be warranted.

(b) *Downgrading and declassification.* (1) The objective of the ACDA downgrading and declassification program is to assure that information will be downgraded or declassified when the existing classification is no longer required in the interest of national security. To emphasize its importance in achieving this objective, the General Declassification Schedule as set forth in section 5(A) of Executive Order 11652 (37 F.R. 10053) is repeated below:

(i) *Top Secret.* Information and material originally classified "Top Secret" shall become automatically downgraded to "Secret" at the end of the second full calendar year following the year in which it was originated, downgraded to "Confidential" at the end of the second full calendar year following the year in which it was originated, downgraded to "Confidential" at the end of the fourth full calendar year following the year in which it was originated, and declassified at the end of the tenth full calendar year following the year in which it was originated.

(ii) *Secret.* Information and material originally classified "Secret" shall become automatically downgraded to "Confidential" at the end of the second full calendar year following the year in which it was originated, and declassified at the end of the eighth full calendar year following the year in which it was originated.

(iii) *Confidential.* Information and material originally classified "Confidential" shall become automatically declassified at the end of the sixth full calendar year following the year in which it was originated.

(2) Only an official authorized to originally classify information or material "Top Secret" may exempt from the General Declassification Schedule any level of classified information or material originated by him or under his supervision. The use of the exemption authority shall be kept to the absolute minimum consistent with national security requirements and shall be restricted to the following categories:

(i) Classified information or material furnished by foreign governments or international organizations and held by

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the United States on the understanding that it be kept in confidence.

(ii) Classified information or material specifically covered by statute, or pertaining to cryptography, or disclosing intelligence sources or methods.

(iii) Classified information or material disclosing a system, plan, installation, project, or specific foreign relations matter; the continuing protection of which is essential to the national security.

(iv) Classified information or material the disclosure of which would place a person in immediate jeopardy.

(3) If the originator of a classified document determines that it may be downgraded or declassified on or after the occurrence of a specified event he will note on the front of the document if this will occur earlier than the first automatic downgrading or declassification scheduled to take place under the General Declassification Schedule.

(4) If the person exempting a classified document determines that it may be appropriately placed under the General Declassification Schedule on or after a given date or after the occurrence of a specified event, he will so note on the front of the document. In such cases, the dates of automatic downgrading and declassification shall be governed by the date of the document or the date of placement under the General Declassification Schedule, whichever permits the earlier actions.

(5) The custodian of a classified document or other material which is not otherwise exempted from the General Declassification Schedule shall either downgrade or declassify the document or other material at the end of the periods specified in the General Declassification Schedule in subparagraph (1) of this paragraph, or assure that the document or other material will be so downgraded or declassified when next thereafter it is withdrawn from the files.

(6) The Chief, Communications and Reference Service Center, is responsible for monitoring and implementing all automatic downgrading and declassification procedures within ACDA and also for insuring that material or documents classified before the effective date of Executive Order 11652 and which are assigned to Group 4 under previous regulations, are subjected to the General Declassification Schedule.

(c) *Authority to change classification.* (1) Information or material may be downgraded or declassified by the official originally authorizing the classification, by a successor in capacity, by a supervisory official of either of the above, or by an official specifically designated by the Director. Any ACDA official specifically designated by the Director to have downgrading and declassifying authority must obtain the concurrence of the ACDA bureau or office originating or having substantive responsibility before taking final downgrading or declassification action on any classified information or material. This concurrence may cover classes or categories of documents as well as specific documents. Where there is disagreement involving the action to be taken, the matter will be referred to the Director or Deputy Director for decision.

(2) The authority to upgrade is restricted to (i) the official who originally classified the document or his successor or supervisor provided any of these has authority to classify at the higher level, or (ii) an official having Top Secret original classification authority (see § 605.2(b)(2)(i)).

§ 605.5 Public access to classified information and material.

(a) *Request for records.* All requests from the public for ACDA records (books, papers, maps, photographs, documentary materials, etc.) must be referred for action to the Chief, Communications and Reference Service Center (CRSC), U.S. Arms Control and Disarmament Agency, Washington, D.C. 20451. In responding to such requests, the Chief, CRSC, will follow the procedures outlined in Part 602 of this chapter (as amended by 37 F.R. 6665), which are based on the Freedom of Information Act, 81 Stat. 54; 5 U.S.C. 552. In determining that requested records, if they contain classified or administratively controlled information may be withheld under exemptions listed in § 602.40 of this chapter, the Chief, CRSC, may in his judgment arrange for a prompt review for possible declassification or decontrol by the responsible ACDA office or bureau. Sections 602.45 through 602.51 of this chapter provide for an administrative review of a decision by the Chief, CRSC, to withhold a record.

(b) *Mandatory review of exempted records over 10 years old.* (1) All classified information and material originated after June 1, 1972, which is exempted under § 605.4(b)(2) from the General Declassification Schedule shall be subject to a classification review at any time after the expiration of 10 years from the date of origin, provided:

(i) A department or member of the public requests a review;

(ii) The request describes the record with sufficient particularity to enable the Agency to identify it;

(iii) The record can be obtained with only a reasonable amount of effort.

(2) Information or material which no longer qualifies for exemption under § 605.4(b)(2) of this chapter shall be declassified. Information or material continuing to qualify under § 605.4(b)(2) shall be so marked, and, unless impossible, a date for automatic declassification shall be set.

(3) Members of the public or a department may direct requests for mandatory review of material described above to the Chief, Communications and Reference Service Center (CRSC), U.S. Arms Control and Disarmament Agency, Washington, D.C. 20451. The Chief, CRSC, will determine that the provisions of subparagraph (1) of this paragraph are met, and immediately acknowledge receipt of the request in writing unless a response containing a decision on the request can be made within 4 days. If the request is deficient in its description of the record sought, the Chief, CRSC, will ask the requester to provide additional information whenever possible. Before denying a request on the ground that it is unduly burdensome, the Chief, CRSC, will ask the requester to limit his request to records that are reasonably obtainable. If nonetheless the requester does not describe the records sought with sufficient particularity, or the record requested cannot be obtained with a reasonable amount of effort, the requester will be notified by the Chief, CRSC, of the reasons why no action will be taken and of his right to appeal such decision.

(4) If the request can be acted upon, the Chief, CRSC, will refer the request to the responsible bureau or office within ACDA for appropriate action.

(5) All information or material classified before June 1, 1972, which has been excluded from the General Declassification Schedule by Executive Order 11652, at any time after the expiration of 10 years from the date of origin shall be subject to a mandatory classification review under the same conditions described under subparagraph (3) of this paragraph.

(6) If the request requires the rendering of services for which fair and equitable fees should be charged pursuant to the Freedom of Information Act and Part 602 of this chapter, as amended by 37 F.R. 6665, the requester shall be so notified.

(7) The office which has been assigned action shall thereafter make a determination within 30 days of receipt or shall explain the reasons why further time is necessary.

(8) If at the end of 60 days from receipt of the request for review no determination has been made, the requester may apply to the ACDA Classification Review Committee for determination (see § 605.6(b)(4)).

(9) Should the office assigned action on a request for review for exemption determine that under the criteria set forth in § 605.4(b)(2) continued classification is required, the requester shall be promptly notified by the Chief, CRSC, and whenever possible, provided with a brief statement as to why the requested information or material cannot be declassified. (It should be borne in mind that the burden of proof is on the Agency to show that continued classification is warranted.) The requester may appeal any such determination to the ACDA Classification Review Committee, and the notice of determination shall advise him of his right (see § 605.6(b)(4)).

(10) If it is determined that the requested information or material no longer warrants classification it shall be declassified and made promptly available to the requester if not otherwise exempt from disclosure under the Freedom of Information Act or other provision of law, such as the Atomic Energy Act of 1954.

(11) The Chief, CRSC, is responsible for insuring that the procedures outlined in this paragraph are followed.

(c) *Declassification of classified information or material after 30 years.* All classified information or material, other than Restricted Data and Formerly Restricted Data, which is 30 years old or more, whether originating before or after June 1, 1972, shall be declassified under the following conditions:

(1) All information and material classified after June 1, 1972, shall, whether or not declassification has been requested, become automatically declassified at the end of 30 full calendar years after the date of its original classification except for such information or material which the Director, ACDA, specifically determines in writing at that time to require continued protection because such continued protection is essential to the national security, or disclosure would place a person in immediate peopardy. In such case, the Director, ACDA, will also specify the period of continued classification.

(2) All information and material classified before June 1, 1972, and more than 30 years old will be systematically reviewed for declassification by the Archivist of the United States by the end of the 30th full calendar year following the year in which it was originated. In his review, the Archivist will separate and keep protected only such information or material as is specifically identified by the Director, ACDA, in accordance with subparagraph (1) of this paragraph. In such case, the Director, ACDA, will also specify the period of continued classification.

(3) A request by a member of the public or by a Department under section 5 (C) or (D) of Executive Order 11652 (37 F.R. 5209) to review for declassification documents more than 30 years old shall be referred directly to the Archivist of the United States, if the information or material has not been transferred to the General Services Administration for accession into the Archives and is still in the custody of ACDA. The Archivist shall, together with the Director of ACDA, have the requested documents reviewed for declassification. Classification shall be continued in either case only where the Director of ACDA makes at that time the personal determination required by section 5(E)(1) of Executive Order 11652. The Archivist shall promptly notify the requester of such determination and of his right to appeal the denial to the Interagency Classification Review Committee.

(d) *Access by historical researchers.* (1) Persons outside the executive branch engaged in historical research projects may be authorized access to classified information or material originated within the Agency provided that the Director determines that:

(i) The project and access sought conform to the requirements of section 12 of Executive Order 11652 (37 F.R. 5209);

(ii) The information or material requested is reasonably accessible and can be located and compiled with a reasonable amount of effort;

(iii) The historical researcher agrees to safeguard the information or material in a manner consistent with Executive Order 11652 and implementing NSC directives or Agency regulations;

(iv) The historical researcher agrees to authorize a review of his notes and manuscript for the sole purpose of determining that no classified information or material is contained therein;

(v) The security requirements of the Arms Control and Disarmament Act (Sec. 45, 75 Stat. 631; 22 U.S.C. 2585) are adhered to.

(2) An authorization for access shall be valid for the period required but no longer than 2 years from the date of issuance unless a renewed authorization is approved by the Director.

(e) *Access by former presidential appointees.* Persons who previously accepted policy-making positions to which they were appointed by the President, other than those referred to in section 11 of Executive Order 11652 (37 F.R. 5209), may be authorized access to classified information or material which they originated, reviewed, signed or received while in public office. Upon the request of any such former official, such information and material as he may identify shall be reviewed for declassification in accordance with the provisions of section 5 of Executive Order 11652.

(f) *Dissemination of sensitive intelligence information.* Information or material bearing the notation "Warning Notice—Sensitive Sources and Intelligence Methods Involved," and such information or material known to be intelligence but not bearing the notation, shall not be disseminated in any manner outside authorized channels without the permission of the originating Department and an assessment by the Intelligence Adviser as to the potential risk to the national security and to the intelligence sources and methods involved.

§ 605.6 ACDA Classification Review Committee.

(a) *Membership.* The ACDA Classification Review Committee, established pursuant to section 7(B) of Executive Order 11652, is composed of the following members:

Executive Director, Chairman.
Special Assistant to the Director and Executive Secretary of ACDA.
Deputy Assistant Director for International Relations.
Deputy Assistant Director for Science and Technology.
Deputy Assistant Director for Weapons Evaluation and Control.
Deputy Assistant Director for Economic Affairs.
Deputy General Counsel.
Deputy Public Affairs Adviser.
ACDA Classification Adviser.

(b) *Functions.* The Committee shall:

(1) Have authority to act on all suggestions and complaints with respect to the administration of Executive Order 11652 and the application of NSC directives and ACDA regulations which implement the Executive order within ACDA. Such suggestions and complaints will include those regarding overclassification, failure to classify, or delay in declassifying not otherwise resolved.

(2) Review all appeals of requests for records under the Freedom of Information Act (81 Stat. 54; 5 U.S.C. 552) when the proposed denial is predicated on continued classification under Executive Order 11652.

(3) Consider cases involving repeated abuse of the classification process. Where it finds that unnecessary classification or overclassification has occurred or in cases of repeated abuse or violations of any provision of Executive Order 11652 or implementing NSC Directives, the Committee will make a report to the Director with recommendations as to corrective steps or disciplinary action to be taken. Such steps or disciplinary action may include notifications by warning letter, formal reprimand, and to the extent permitted by law, suspension without pay and removal.

(4) Review and act within 30 days upon all applications and appeals regarding requests for declassification provided the requester has first followed the procedures outlined in § 605.5(b)(3). The Director, acting through the Committee, is authorized to over-rule previous determinations in whole or in part when, in its judgment, continued protection is not longer required. If the Committee determines that continued classification is required under the criteria of section 5(B) of Executive Order 11652 (dealing with exempting from the General Declassification Schedule) it shall promptly so notify the requester and advise him that he may appeal the denial to the Interagency Classification Review Committee.

(c) *Chairman.* In addition to chairing the ACDA Classification Review Committee, the Chairman has specific responsibility for:

(1) Insuring within the Agency effective compliance with and implementation of Executive Order 11652, NSC directives issued pursuant to section 5 of the order, and ACDA regulations;

(2) Carrying out decisions of the Director on recommendations submitted by the Committee under paragraphs (b)(3) and (4) of this section;

(3) Submitting to the Chairman of the Interagency Classification Review Committee:

(i) Copies of listings by name of the officials who have been designated in writing to have Top Secret, Secret, and Confidential classification authority. Such lists will be submitted quarterly and maintained on a current basis by the Chief, CRSC;

(ii) Quarterly reports of ACDA Classification Review Committee actions on classification review requests, classification abuses and unauthorized disclosures;

(iii) Progress reports on information accumulated in the Agency's data index system; and

(iv) Such other reports as the Chairman of the Interagency Classification

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Review Committee may find necessary for the Committee to carry out its responsibilities.

§ 605.7 Loss or possible compromise of classified information.

Any person who has knowledge of the loss or possible compromise of classified information shall immediately report the circumstances to the ACDA Security Officer. The Security Officer will take appropriate action on such cases, including initiation of an immediate inquiry into the matter and notification to any other interested Departments.

§ 605.8 Data index system and systematic reviews of Classified Material.

(a) *Establishment.* A computer supported data index system within the Communications and Reference Service Center will be established no later than July 1, 1973, for Top Secret, Secret, and Confidential information in selected categories approved by the Intergency Classification Review Committee as having sufficient historical or other value appropriate for preservation. The data index system shall index such selected categories produced and classified after December 31, 1972, and for each document indexed will contain the data specified by the NSC Directive of May 17, 1972 (37 F.R. 10053, May 19, 1972). In addition to indexing classified information and material in approved categories, the data index system will also provide current accountability records as prescribed by the Director.

(b) *Systematic reviews.* All information and material in the data index system which has been originally classified within ACDA after June 1, 1972, shall be systematically reviewed by the Communications and Reference Service Center at least once each year for the purpose of making such information and material publicly available in accordance with the determination regarding declassification made by the classifier pursuant to § 605.3(a). All such information and material becoming declassified at or prior to the end of each calendar year shall be identified. Upon request the information will be made available to the public in accord with the provisions of the Freedom of Information Act.

[FR Doc.72-18607 Filed 10-31-72;8:45 am]

Title 24—HOUSING AND URBAN DEVELOPMENT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development

[Docket No. R-72-216]

PART 0—STANDARDS OF CONDUCT

Miscellaneous Amendments

These amendments to Part 0 of Subtitle A of Title 24 of the Code of Federal Regulations are made to effect certain minor changes and clarifications and to update the appendix so as to reflect the current organization of the Department.

Since these amendments relate to Department management and personnel, notice and public procedure and a deferred effective date are unnecessary.

1. Section 0.735-101 is amended by adding new third and fifth sentences so that the section reads as follows:

§ 0.735-101 Purpose.

The maintenance of unusually high standards of honesty, integrity, impartiality, and conduct by Government employees and special Government employees is essential to assure the proper performance of the Government business and the maintenance of confidence by citizens in their Government. The avoidance of misconduct and conflicts of interest on the part of Government employees and special Government employees through informed judgment is indispensable to the maintenance of these standards. At the same time, the Department fully supports maximum participation by its employees in voluntary activities not in conflict with these standards. To accord with these concepts, this part sets forth the Department's regulations prescribing standards of conduct and responsibilites, and governing statements of employment and financial interests for employees and special Government employees. To insure a uniform application of these regulations, any questions or requests for interpretations shall be directed to the Department Counselor or a deputy counselor.

2. In § 0.735-105, paragraphs (a), (b), and (c) are amended to clarify the language, as follows:

§ 0.735-105 Reviewing statements and reporting conflicts of interest.

(a) Subpart D of this part and the appendix to this part identify the categories of positions and, as necessary, the specific positions the incumbents of which are required to submit statements of employment and financial interests.

(b) When a statement submitted under Subpart D of this part and the appendix to this part or information from other sources indicates a conflict between the interests of an employee or special Government employee and the performance of his services for the Government the employee or special Government employee concerned shall be provided an opportunity to explain the conflict or appearance of conflict.

(c) When the conflict or appearance of conflict is not resolved by the Department Counselor, he shall report the information concerning the conflict or appearance of conflict to the Secretary.

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3. Section 0.735-204(a) is amended (i) by substituting the word "activities" for the word "employment" in subparagraph (2); (ii) by inserting the word "Outside" before the word "activities" in subparagraph (3); (iii) by substituting the words "outside activities" for the first word, "Employment" in subparagraphs (5) and (7); and (iv) by adding the word "development" and rearranging the language in subparagraph (7) so that they read as follows:

§ 0.735-204 Outside employment and other activity.

(a) • • •

(2) Outside activities which tend to impair his mental or physical capacity to perform his Government duties and responsibilities in an acceptable manner;

(3) Outside activities that may be construed by the public to be the official acts of the Department;

• • • • • •

(5) Outside activities that may involve the use of information secured as a result of employment in the Department to the detriment of the Department or the public interest, or that may give preferential treatment to any person, corporation, public agency, or group;

• • • • • •

(7) Outside activities related to or similar to the substantive programs conducted by any part of the Department. This includes, but is not limited to, the broad fields of real estate, mortgage lending, property insurance, construction, construction financing, land planning, and real estate development.

• • • • • •

4. In § 0.735-205, paragraph (a)(3) is amended, a new paragraph (c) is added [which includes the text of § 0.735-406 which is being deleted], and present last paragraph (c) is redesignated as paragraph (d) as follows:

§ 0.735-205 Financial interests.

(a) • • •

(3) Acquire securities issued by the Federal National Mortgage Association or guaranteed by the Government National Mortgage Association or the Community Development Corporation.

• • • • • •

(c) The interest of a spouse, minor child, or other member of an employee's immediate household is considered to be an interest of the employee. For the purpose of this section, "member of an employee's immediate household" means those blood relations who are residents of the employee's household.

• • • • • •

5. The introductory text of § 0.735-213 is amended to read as follows:

§ 0.735-213 Prohibited activities by former employees.

A former officer or employee or former special Government employee of the Department shall not:

• • • • • •

6. Section 0.735-214(p) is amended by deleting "608" so that the paragraph reads as follows:

§ 0.735-214 Miscellaneous statutory provisions.

• • • • • •

(p) The prohibitions against political activities in Subchapter III of Chapter 73 of title 5, United States Code, and 18 U.S.C. 602, 603, and 607.

• • • • • •

7. Section 0.735-214 is amended by adding a new paragraph (r) to read as follows:

§ 0.735-214 Miscellaneous statutory provisions.

• • • • • •

(r) The prohibition against the employment of an individual convicted of felonious rioting or related offenses (5 U.S.C. 7313).

8. Section 0.735-401 is amended by revising the last sentence in paragraph (d) so that paragraph (d) reads as follows:

§ 0.735-401 Employees required to submit statements.

• • • • • •

(d) Employees classified below GS-13 who are in positions which otherwise meet the criteria in paragraph (b) or (c) of this section. These positions have been approved by the Civil Service Commission as exceptions that are essential to protect the integrity of the Government and avoid employee involvement in a possible conflict-of-interest situation. These positions are included among those identified by footnote 1 in the appendix to this part.

§ 0.735-406 [Deleted]

9. Section 0.735-406 is deleted.

10. The appendix is revised to read as follows:

APPENDIX—LIST OF POSITIONS SUBJECT TO SUBPART D

Officers and employees in the following positions are subject to the provisions of Subpart D of this part:

OFFICE OF THE SECRETARY

Executive Assistant to the Secretary.
Administrative Officer.
Special Assistants to the Secretary.
Assistant to the Secretary for Labor Relations.
General Assistant Secretary.
Assistant to the Secretary for Congressional Relations.
Director, Office of Public Affairs.
Director, Office of International Affairs.
Assistant to the Secretary for Programs for the Elderly and the Handicapped.

OFFICE OF THE UNDER SECRETARY

Under Secretary.
Deputy Under Secretary for Policy Analysis and Program Evaluation.
Special Assistants to the Under Secretary.

OFFICE OF THE GENERAL COUNSEL

General Counsel.
Deputy General Counsel.
Special Assistants to the General Counsel.
Associate General Counsels.
Assistant General Counsels.
Regional Counsels.
Area Counsels.

ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND MANAGEMENT

Assistant Secretary.
Deputy Assistant Secretary for Community Planning and Management.
Director, Office of Administration.
Director, Budget Division.
Director, Management and Administrative Services Division.
Director, Program Statistics Division.
Director, Intergovernmental Relations Division.
Director, Office of Policy Planning.
Deputy Director, Office of Policy Planning.
Director, Urban Growth Policy Division.
Director, Evaluation Division.
Director, Program Policy Division.
Director, Office of Planning and Management Assistance.
Deputy Director, Office of Planning and Management Assistance.
Director, Program Regulations Division.
Director, Field Support Division.
Director, Office of Community and Environmental Standards.
Deputy Director, Office of Community and Environmental Standards.
Director, Environmental and Land Use Planning Division.
Director, Program Requirements Division.
Director, Office of New Communities Development.
Deputy Director, Office of New Communities Development.
Director, Application Review Division.
Chief, Physical and Social Planning Branch.
Chief, Financial Planning Branch.
Director, Project Management Division.
Assistant Director, Financial Management.
Assistant Director, Planning Review.
Assistant Director, Supplementary Grants.

ASSISTANT SECRETARY FOR EQUAL OPPORTUNITY

Assistant Secretary.
Deputy Assistant Secretary for Equal Opportunity.
Special Assistants to Assistant Secretary.
Director, Office of Voluntary Compliance.
Director, Housing and Community Development Division.
Director, Manpower and Business Opportunities Division.
Director, Office of Civil Rights Compliance and Enforcement.
Director, Compliance Procedures Division.
Director, Field Assistance Division.
Director, Hearings Division.
Director, Office of Program Standards and Analysis.
Director, Program Standards Division.
Director, Data Analysis Division.
Director, Office of Management and Field Coordination.
Director, Budget and Management Division.
Director, Field Coordination and Equal Opportunity Operations Evaluation Division.

ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT AND FEDERAL HOUSING COMMISSIONER

Assistant Secretary.
Deputy Assistant Secretary for Housing Production and Mortgage Credit and Deputy Federal Housing Commissioner.
Executive Assistant.
Director, Office of Field Support.
Director, Office of Technical and Credit Standards.
Director, Office of Policy and Program Evaluation and Development.
Director, Office of Subsidized Housing Programs.
Director, Office of Unsubsidized Insured Housing Programs.
Director, Office of Administration.
Deputy Director, Office of Technical and Credit Standards.
Deputy Director, Office of Policy and Program Evaluation and Development.
Director, Subsidized Mortgage Insurance Division.
Director, Publicly Financed Housing Division.
Director, Rehabilitation Housing Division.
Director, Multifamily Division.
Director, Single Family and Land Development Division.
Director, Property Improvement Division.
Participation Control Officer.
Management Analysis Officer—GS-343-15.
Supervisory Appraisers.[1]
Appraisers.[1 2]

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

President.
Executive Vice President.
Vice President—Fiscal Management.
Secretary-Treasurer.
Controller.

ASSISTANT SECRETARY FOR COMMUNITY DEVELOPMENT

Assistant Secretary.
Deputy Assistant Secretary for Community Development.
Executive Assistant.
Special Assistant to the Assistant Secretary.
Director, Office of Management.
Director, Program Budgeting Division.
Director, Local Finance and Administrative Practices Division.
Director, Administrative Services Division.
Director, Office of Program Policy.
Deputy Director, Office of Program Policy.
Director, Policy Development Division.
Director, Evaluation Division.
Director, Interagency Resources Division.
Director, Office of Program Services.
Deputy Director, Office of Program Services.
Director, Program Regulations and Assistant Division.
Director, Technical Services Division.
Director, ADP and Statistics Division.
Director, Office of Field Support.
Deputy Director, Office of Field Support.

ASSISTANT SECRETARY FOR HOUSING MANAGEMENT

Assistant Secretary.
Deputy Assistant Secretary for Housing Management.
Executive Assistant to the Assistant Secretary.
Special Assistants to the Assistant Secretary.
Director, Project Financing Staff.
Director, Emergency Preparedness Staff.
Director, Field Support Staff.
Director, Program Evaluation and Management Staff.
Director, Office of Housing Programs.
Director, Office of Loan Management.
Director, Office of Property Disposition.
Director, Office of Administrative and Program Services.
Director, Administrative Division, Office of Administrative and Program Services.
Chief, Budget Branch, Administrative Division, Office of Administrative and Program Services.
Director, Local Agency Services Staff, Office of Administrative and Program Services.
Program Assistant, Local Agency Services Staff, Office of Administrative and Program Services.
Supervisory Supply Management Officer, Maintenance and Utilities Branch, Programs Services Division, Office of Housing Programs.
Director, Reconditioning and Contracting Staff, Office of Property Disposition.
Contracting Officers, Reconditioning and Contracting Staff, Office of Property Disposition.

ASSISTANT SECRETARY FOR RESEARCH AND TECHNOLOGY

Assistant Secretary.
Deputy Assistant Secretary.
Director, Office of Administration, Program Planning and Control.
Director, Division of Administration.
Director, Division of Project Planning and Evaluation.

[1] See § 0.735-401(d).

[2] All personnel performing appraisal functions to be included.

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Director, Division of Budget and Contracts.
Director, Division of Community Planning Development and Conservation.
Director, Division of Community Management Systems (USAC).
Director, Division of Community Environment and Utilities Technology.
Director, Division of Housing Assistance and Economic Research.
Director, Division of Housing Management Research.
Director, Office of Operation Breakthrough.
Deputy Director, Office of Operation Breakthrough.
Director, Division of Market Aggregation.
Director, Division of Site and Land Planning.
Director, Division of Site Relation and Negotiations.
Director, Division of Building Technology and Site Operations.
Special Assistant.

ASSISTANT SECRETARY FOR ADMINISTRATION

Assistant Secretary.
Deputy Assistant Secretary.
Special Assistant to the Assistant Secretary.
Director, Office of Financial Systems and Services.
Deputy Director, Office of Financial Systems and Services.
Director, Office of Budget.
Deputy Director, Office of Budget.
Director, Office of General Services.
Deputy Director, Office of General Services.
Director, Contracts and Agreements Division.
Deputy Director, Contracts and Agreements Division.
Director, Supply and Facilities Management Division.
Director, Office of Management and Organization.
Director, Office of ADP Systems Management and Operations.
Deputy Director, Office of ADP Systems and Management and Operations.
Director, Office of Personnel.
Deputy Director, Office of Personnel.
Director, Office of Regional Liaison.
Comptroller.

FEDERAL INSURANCE ADMINISTRATION

Federal Insurance Administrator.
Assistant Administrator for Program Development.
Assistant Administrator for Special Programs.
Assistant Administrator (Flood Insurance).
Assistant Administrator (Urban Property Insurance).
Assistant Administrator (Crime Insurance).
Chief Actuary.
Director, Flood Plain Management Division.
Director, Engineering and Hydrology Division.
Director, Review and Compliance Division.
Director, Riot Reinsurance Division.
Director, Flood Insurance Operations Division.

OFFICE OF INTERSTATE LAND SALES REGISTRATION

Deputy Administrator, Office of Interstate Land Sales Registration.
Director, Administrative Proceedings Division.
Director, Examination Division.

OFFICE OF INSPECTOR GENERAL

Inspector General.
Assistant Inspector General for Audit.
Director of Audit Operations.
Assistant Directors of Audit Operations.
Regional Inspectors General for Audit.
Assistant Inspector General for Investigation.
Director of Investigative Operations.
Assistant Directors of Investigative Operations.
Regional Inspectors General for Investigation.
Assistant Inspector General for Security.
Assistant Inspector General for Administration.
Assistant Inspector General for Washington Operations and Special Projects.
Auditors (GS–13 and above).
Investigators (GS–13 and above).
Security Personnel (GS–13 and above).

REGIONAL OFFICES

Regional Administrator.
Deputy Regional Administrator.
Director, Program Planning Staff.
Regional Breakthrough Director.
Assistant Regional Administrator for Community Planning and Management.
Assistant Regional Administrator for Community Development.
Assistant Regional Administrator for Housing Production and Mortgage Credit.
Production Coordinator.
Assistant Regional Administrator for Housing Management.
Loan and Contract Servicing Officer.
Assistant Regional Administrator for Equal Opportunity.
Director, Contract Compliance and Employment Opportunity.
Director, Housing Opportunity.
Business and Manpower Development Officer.
Supervisory Appraisers.[1]
Appraisers.[1] [2]

AREA OFFICES

Area Director.
Deputy Area Director.
Director, Operations Division.
Deputy Director, Operations Division.
Assistant Director for Technical Services.
Assistant Director for Single Family Mortgage Insurance.
Assistant Director for Planning and Relocation.
Director, Housing Management Division.
Director, Housing Programs Management Branch.
Director, Loan Management and Property Disposition Branch.
Director, Equal Opportunity Division.
Supervisory Appraisers.[1]
Appraisers.[1] [2]

INSURING OFFICES

Director.
Deputy Director.
Assistant Director.[1]
Assistant to Director.[1]
Chief Underwriter.[1]
Supervisory Appraisers.[1]
Appraisers.[1] [2]

(18 U.S.C. 201 through 209; E.O. 11222 of May 8, 1965; 30 F.R. 6469; 3 CFR 1965 Supp.; 5 CFR 735.104)

These amendments were approved by the Civil Service Commission on September 12, 1972.

Effective date. The amendments are effective upon publication in the FEDERAL REGISTER. (11–1–72).

GEORGE ROMNEY,
Secretary of Housing and Urban Development.

[FR Doc.72–18652 Filed 10–31–72;8:52 am]

[1] See § 0.735–401(d).

[2] All personnel performing appraisal functions to be included.

Title 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

SUBCHAPTER A—PROCEDURES; PRACTICE

PART 5—RESERVATION ACCELERATION PROGRAM (RAP)

This notice is published in exercise of rule making authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32 F.R. 13938).

On page 12326 of the June 22, 1972, FEDERAL REGISTER (37 F.R. 12326), there was published a notice of proposed rule making to add a new Part 5 to Subchapter A, Chapter I, Title 25 of the Code of Federal Regulations. The regulations establish the Reservation Acceleration Program (RAP) to give federally recognized Indian tribes the opportunity to consult with Bureau of Indian Affairs line officials on restructuring Bureau services to provide maximum support for the tribes' comprehensive development plans. The regulations were proposed pursuant to 5 U.S.C. 301.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed regulations.

No objections have been received and the proposed regulations are hereby adopted as set forth below with the following correction:

1. In § 5.4(c), the word "Commission" is changed to read "Commissioner."

The new Part 5 shall become effective 30 days after the date of publication in the FEDERAL REGISTER.

LOUIS R. BRUCE,
Commissioner.

Sec.
5.1 Purpose.
5.2 Applicant eligibility.
5.3 Application submission and acceptance.
5.4 Implementation procedures.

AUTHORITY: The provisions of this Part 5 issued under 5 U.S.C. 301.

§ 5.1 Purpose.

The regulations in this part govern the procedures by which Indian or Native Alaska communities may negotiate with the Bureau of Indian Affairs to restructure the Bureau's programs.

§ 5.2 Applicant eligibility.

Applicant must be an Indian or Native Alaska community currently receiving services from the Bureau of Indian Affairs or an intertribal organization representing a group of such communities.

§ 5.3 Application submission and acceptance.

(a) The governing body of the community or the intertribal organization making application must support participation in the Reservation Acceleration Program by a formal resolution. The resolution requesting participation in the program may be submitted at any time to the Commissioner of Indian Affairs.

(b) If the applicant is a community or communities served by a single Bureau of Indian Affairs Agency which serves no other communities, the Commissioner of Indian Affairs will, within 30 days after the date the application is received, inform the applicant of the date when negotiations may begin. In other cases, the Commissioner will direct members of his staff to meet with the applicant to develop special procedures that are acceptable both to the Commissioner and to the applicant. As soon as such procedures are accepted, a date for the start of negotiations will be announced.

§ 5.4 Implementation procedures.

(a) Leaders of communities selected to participate in the program will meet with the staff of the Bureau of Indian Affairs Agency that serves their communities to familiarize themselves with all aspects of the current Bureau program in their locality. The governing body will then prepare recommendations for changes in the Bureau program that it feels will support the comprehensive development plans of the community. These recommendations will be discussed with the Agency staff to determine if the Superintendent has the authority to implement them. When agreement is reached on those recommendations which are within the Superintendent's authority, he will implement them providing the changes proposed will not adversely affect services to other communities. All RAP recommendations will be forwarded to the area office.

(b) The same procedures described for negotiations at the Agency level will also apply at the area office level. In addition, when a community indicates it would be willing to exchange Bureau funds or staff in a single activity for funds or staff of another activity, the Area Director will be responsible for contacting other communities within his service area to inform them of the offer. When such an exchange is agreed to by all parties, the Area Director will implement it. Other recommendations that are within his authority and on which agreement is reached will also be implemented immediately by the Area Director.

(c) All RAP recommendations will then be forwarded to the Central Office where the negotiation process will be repeated. The Commissioner will be responsible for contacting other area offices to facilitate program exchanges that could not be made within a single area.

(d) Upon completion of the Central Office negotiations, the agreement will be signed by the tribal leader, the Superintendent, the Area Director and the Commissioner of Indian Affairs.

(e) The Area Director will be responsible for making any changes in the staffing or program of the area office that are necessary to implement the agreement.

[FR Doc.72–18610 Filed 10–31–72;8:45 am]

Title 29—LABOR

Chapter XVII—Occupational Safety and Health Administration, Department of Labor

PART 1923—SAFETY AND HEALTH PROVISIONS FOR FEDERAL AGENCIES

Deletion

Under authority in section 33 of the Federal Employees' Compensation Act, as amended (5 U.S.C. 7902(b)–(e)); Executive Order No. 11612 (36 F.R. 13891); and Secretary of Labor's Order No. 12–71 (36 F.R. 8754), Part 1923 of Chapter XVII of Title 29, Code of Federal Regulations, is hereby deleted.

It is the intention of the Secretary of Labor to replace the regulations in this Part 1923 with safety and health provisions for Federal agencies pursuant to section 19 of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1609, 29 U.S.C. 668; and Executive Order No. 11612 (36 F.R. 13891)).

Signed at Washington, D.C., this 26th day of October 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72–18605 Filed 10–31–72;8:46 am]

PART 1951—GRANTS FOR IMPLEMENTING APPROVED STATE PLANS

On August 5, 1972, notice of proposed rule making setting the requirements and procedures for awarding grants to the several States for the purpose of implementing section 23(g) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1590), was published in the FEDERAL REGISTER (37 F.R. 15880). After consideration of all such relevant matter as was presented by interested persons, the new part is hereby adopted, subject to the following changes:

1. In paragraph (b) of § 1951.11, the words "with 10 copies" are changed to read "with two copies."

2. In paragraph (b) of § 1951.25, the period is removed after the last word in the paragraph and insert after the word "therefor" the words "together with the effective date."

3. In paragraph (a) of § 1951.42, the words "Department's Property Handbook for Occupational Safety and Health Administration For Grantees" are changed to read "Occupational Safety and Health Administration Property Administration Guide."[1]

4. Add footnote "3" to the bottom of page after footnote "2" for paragraph (a) of § 1951.42 to read as set forth below.

5. In paragraph (b) of § 1951.42, the words "Department's Property Handbook for Occupational Safety and Health Administration For Grantees" are changed to read "Occupational Safety and Health Administration Property Administration Guide"

Effective date. This new Part 1951 shall be effective upon publication in the FEDERAL REGISTER (11–1–72).

Signed at Washington, D.C., this 26th day of October 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

Subpart A—Applicability and Definitions

Sec.
1951.1 Purpose and scope.
1951.2 Definitions.

Subpart B—Applications

1951.10 Eligibility.
1951.11 Manner of submitting application.
1951.12 Action upon application.

Subpart C—Award and Termination

1951.20 Grant awards.
1951.21 Delegation of authority.
1951.22 Amount of award.
1951.23 Payments.
1951.24 Federal share; matching requirements.
1951.25 Termination.

Subpart D—Special Grant Conditions

1951.30 Political activity.
1951.31 Nondiscrimination.
1951.32 Procurement standards.
1951.33 Travel.

Subpart E—Grantee Accountability

1951.40 Date of final accounting.
1951.41 Accounting for grant award payments.
1951.42 Accounting for equipment.
1951.43 Program income.
1951.44 Final settlement.
1951.45 Disputes.
1951.46 Copyrights and patents.
1951.47 Retention and custody of records.

AUTHORITY: The provisions of this Part 1951 issued under secs. 8(g), 23, 84 Stat. 1600, 1613.

Subpart A—Applicability and Definitions

§ 1951.1 Purpose and scope.

(a) This part contains the procedures for making grants to the several States for the purposes listed in section 23(g) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1590).

(b) Under section 23(g) of the Act, the Assistant Secretary is authorized to make grants to the States to assist them in administering and enforcing programs for occupational safety and health contained in State plans approved by the Assistant Secretary pursuant to section 18 of the Act and Part 1902 of this chapter.

§ 1951.2 Definitions.

As used in this part and in grant instruments entered into pursuant to this part:

(a) The terms "State," "Assistant Secretary," and "Act" are defined as provided in paragraphs (a), (b), and (c) respectively, of § 1950.2 of this chapter.

(b) "State plan" means a plan submitted by a State to the Assistant Secretary for approval as set out in Part 1902 of this chapter.

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(c) "Approved State plan" means a State plan which the Assistant Secretary has approved.

Subpart B—Applications

§ 1951.10 Eligibility.

Grants under this part may be awarded only to a State agency, designated by the Governor of a State, which has had its State plan approved by the Assistant Secretary and which has submitted an application for a grant under this part. Such an application may be funded by a grant under this part for an amount not to exceed 50 per centum of the total cost to the State of implementing the State plan for the period covered by the grant application. The grant application must contain proposed costs which are allowable (i.e., directly allocable to implementing the approved plan, reasonable, and not otherwise barred by law, regulation, or policy). In addition, the State agency must be able to demonstrate that it can and will maintain such fiscal records and file with the Assistant Secretary such fiscal reports as are necessary to ensure the appropriate recordation of costs during the period of any grant awarded under this part.

§ 1951.11 Manner of submitting application.

(a) An application for a grant under this part shall be submitted in such manner and at such time as the Assistant Secretary may prescribe.[1] The application shall contain a budget and sufficient cost detail with which to associate estimated cost elements with specific activities under the State plan, as more particularly described in the instructions for a grant application.[1]

(b) An application with two copies must be submitted by a State agency, designated by the Governor of a State, to the appropriate Regional Administrator of the Occupational Safety and Health Administration, U.S. Department of Labor.

(c) The application shall be executed by an individual authorized to act for the applicant State agency and to assume on behalf of the State agency those obligations imposed by the terms and conditions of any award, including the regulations of this part.

(d) The application must contain assurances satisfactory to the Assistant Secretary that the State agency has available to it sufficient funds and other resources with which it will match the Federal share of the cost of implementing the approved State plan.

(e) The application must bind the applicant to accept the grant conditions and other requirements of this part.

§ 1951.12 Action upon application.

(a) The Assistant Secretary shall proceed to pass upon each application for a grant within a reasonable time following its receipt. In passing upon each application, the Assistant Secretary shall consult with a representative of the Secretary of Health, Education, and Welfare designated to establish liaison with the Assistant Secretary for the purpose of assisting the latter's evaluation of grant applications. In so doing, he may act through such officers and employees and such experts or consultants engaged for this purpose as he determines are specially qualified to evaluate the particular grant application. Any recommendations of such representative as to approval or disapproval of an application shall be reduced to writing, and due regard shall be given to any such recommendations.

(b) The State agency shall be notified of action taken on its application. In the event of either a deferral (for further clarification, for final approval of the State plan, for lack of funds, or, otherwise, for further evaluation) or a disapproval, the notice shall be accompanied by a brief statement of the grounds for such deferral or disapproval, except where there is an affirmation of a previous disapproval. Any deferral or disapproval of an application shall not preclude its reconsideration or a reapplication within a reasonable time. Such request for reconsideration by or a reapplication to the Assistant Secretary shall be in writing. In his discretion, the Assistant Secretary may afford the applicant an opportunity for informal oral presentation concerning the request for reconsideration or reapplication.

(c) It is the policy of the Secretary of Labor to encourage the submission of applications for grants to fund approved State plans. To the extent practicable, the Assistant Secretary shall provide technical assistance to any State agency in the preparation of an application and in the correction of any defective application.

(d) If a grant is made, the initial award shall set forth the amount of funds granted and shall specify the period for which the grant is contemplated. The grant may provide that additional funds will be added at a later time, provided that grant performance is satisfactory and appropriations are available. Grantees will be required to make separate application for continued support beyond the expiration of the period covered by any grant under this part.

Subpart C—Award and Termination

§ 1951.20 Grant awards.

Within the limits of funds available for such purpose, the Assistant Secretary shall approve grant applications and make awards, in writing, for grants under this part, which grants shall specify the period covered by the award and the terms and conditions with which the grantee must comply in incurring costs in implementing the approved State plan, provided further, that the regulations in this part shall be incorporated by reference into and become a part of any grant awarded hereunder.

§ 1951.21 Delegation of authority.

The Assistant Secretary was delegated under Secretary of Labor Order 12–71, effective April 28, 1971 (36 F.R. 8754) and Secretary of Labor Order 19–71, effective June 18, 1971, the general authority of the Secretary to review applications for grants and make awards under section 23 of the Act and was empowered to subdelegate that authority to such officers and employees as he deems appropriate. The delegation to the Assistant Secretary, therefore, includes the power to issue, amend, and repeal rules under this part and to provide any policy, regulations, or guidelines by which this part is implemented. He may, with respect to any grant award, impose additional conditions prior to or at the time of any award when, in his judgment, such conditions are necessary to assure safe and healthful working conditions for working men and women, to assure or protect advancement of the approved State plan, or to promote the conservation of grant funds.

§ 1951.22 Amount of award.

(a) The amount of any award shall be determined by the Assistant Secretary on the basis of his estimate of the sum necessary for all of the direct costs of implementing the approved State plan plus an additional amount for indirect costs, if any, which will be calculated by the Assistant Secretary either: On the basis of his estimate of the actual indirect costs reasonably related to the plan; or on the basis of a percentage of all of the estimated direct costs of the project when there are reasonable assurances that the use of such percentage will not exceed the approximate actual indirect costs. Such award may include an estimated provisional amount for indirect costs or for designated direct costs subject to upward (within the limits of available funds) as well as downward adjustments to actual costs when the amount properly expended by the grantee for provisional items has been determined by the Assistant Secretary: *Provided, however,* That no grant shall be made for an amount in excess of 50 percentum of the total cost as found necessary by the Assistant Secretary for the carrying out of the plan. In determining the grantee's share of the costs of implementing the approved State plan for the period to be covered by the grant, the grantee may not include (1) costs for which Federal grants from other sources have been or may be claimed or received, or (2) costs used to match other Federal grants, or (3) costs to be met from the Federal share of grant related income.

(b) All amounts awarded, whether provisional or otherwise, remain subject to accountability as provided under Subpart E of this part.

(c) To be an allowable cost under any grant awarded under this part, the cost that is paid or incurred by the grantee must be, in the opinion of the Assistant Secretary:

(1) *Allocable.* A cost must be necessary to implement the approved State plan and expended in accordance with this part and those conditions imposed in the grant instrument.

(2) *Reasonable.* A cost must be reasonable in amount.

(3) *Timely.* A cost must have been incurred after the effective date of the grant and prior to its expiration or termination.

(4) *Documented.* A cost must be supported by satisfactory evidence.

(d) Except as may otherwise be provided by this part, the identification of direct and indirect costs will be consistent with the generally accepted and established accounting practices that the grantee applies to its own activities provided it is in conformance with the applicable principles set forth in Chapter 29 and Subpart 1–15.7 of Chapter 1 of Title 41, Code of Federal Regulations.

(e) While §§ 1–15.712–2 and –3 provide respectively that expenditures which may increase the value of or useful life of facilities and capital assets shall be allowable only with the prior approval of the grantor agency, nevertheless, such costs will not be approved for grants awarded under this part unless the application clearly and convincingly establishes that the State agency cannot implement the approved State plan unless such expenditures are allowed.

(f) Any grant awarded under this part shall not commit or obligate the United States in any way to make any additional or supplemental or other award or continuation with respect to implementing that portion of the approved State plan covered by the proposed grant. However, the Assistant Secretary may, from time to time, within the period of time covered by the grant under this part, amend upward the initial grant award with respect to the implementation of an approved State plan, without any change in the plan or the period covered by the grant, where he finds, on the basis of such progress and accounting reports as he may require, that the amount of any prior award was less than the amount necessary to implement the approved State plan within the period covered by the grant and that the State will match such increase.

§ 1951.23 Payments.

The Assistant Secretary shall from time to time make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement for expenses to be incurred or incurred in the project period, to the extent he determines such payments necessary to promote prompt initiation and advancement of the implementation of that portion of the approved State plan covered by the period for which the grant is given. Payments will be made in a manner, monthly or otherwise, that will closely approximate the grantee's rate of expenditure, except that no partial Federal payment may be made in an amount that would bring the aggregate amount of all partial payments to an amount in excess of the total non-Federal or matching State share which the State has available at the time of such partial payment. All such payments shall be recorded by the grantee in accounting records which will disclose the financial results of a grant award, such as authorizations, program income, obligations, assets, liabilities, and disbursements, in terms of the Federal and State shares. Amounts paid shall be available for expenditure by the grantee in accordance with the regulations of this part throughout the grant period subject to such limitations as are contained in this part and in the grant instrument.

§ 1951.24 Federal share; matching requirements.

(a) Federal funds will be granted on the basis of grant applications and may be used to meet not more than 50 percentum of the cost of implementing the approved State plan.

(b) The non-Federal or matching participation by the State may be derived from a variety of sources, including:

(1) *Cash contributions.* Cash contributions represent the grantee's cash outlay, including the outlay of money contributed to the grantee by other public (other-than-Federal) agencies and institutions and private organizations and individuals, except that funds originating from another Federal source or funds provided by a State as its matching share under another Federal grant may not be counted as part of a State's matching share for grants awarded under this part.

(2) *In-kind contributions.* In-kind contributions represent the value of non-cash contributions provided from any of the sources in subparagraph (1) of this paragraph and are creditable as part of the State's matching share to the extent cash contributions from the same source would have been.

§ 1951.25 Termination.

(a) *Discontinuance by agreement.* Whenever, in the judgment of the Assistant Secretary and the designated State agency, the continuation of the performance of the grant by the grantee would produce results of no value in furthering the purposes of either the Act or the approved State plan, the parties shall enter into a written agreement terminating the grant.

(b) *Termination by the Assistant Secretary for default.* Any grant awarded under this part may be revoked or terminated, in whole or in part, by the Assistant Secretary at any time within the period of the grant, whenever he finds that in his judgment the grantee has failed in a material respect to comply with the terms and conditions of the grant or the regulations of this part. The grantee shall be promptly notified of such finding in writing and given the reasons therefor, together with the effective date.

(c) *Constructive termination by the Assistant Secretary.* If, under the procedures of section 18(f) of the Act, including notice and an opportunity for a hearing, the Assistant Secretary notifies the State agency of his withdrawal of approval of a previously approved State plan, such notice shall operate constructively as notice of termination of any grant awarded under this part.

(d) *Termination by the grantee.* A grantee may at any time terminate or cancel its performance of an approved grant by notifying the Assistant Secretary in writing setting forth the reasons for such termination.

(e) *Accounting.* Upon any termination, the grantee shall render an accounting pursuant to Subpart E of this part. Credit shall be allowed to the grantee as a cost under the grant of the amount required to settle, at minimum cost, any noncancelable obligations properly incurred by the grantee prior to receipt of notice of termination.

Subpart D—Special Grant Conditions

§ 1951.30 Political activity.

Under the provisions of the Federal Hatch Act (Political Activities Act of August 2, 1939, as amended; 5 U.S.C. 1501ff), all State or local agency officers and employees whose principal employment is in connection with activities financed by any grant under this part, irrespective of whether they are under the merit system, are prohibited, with certain exceptions, from:

(a) Using official authority or influence for the purpose of interfering with an election or a nomination for office, or affecting the result thereof.

(b) Directly or indirectly coercing, attempting to coerce, commanding, or advising any other State or local officer or employee to pay, lend, or contribute any part of his salary or compensation or anything else of value to any party, committee, organization, agency, or person for political purposes.

(c) Actively participating in political management or in political campaigns.

§ 1951.31 Nondiscrimination.

(a) The State shall comply with the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) which provides that no person in the United States shall on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance and shall comply with the implementing rules issued by the Secretary of Labor with the approval of the President (29 CFR Part 31).

(b) The State shall comply with E.O. 11246 dated September 24, 1965, as amended, with regard to equal employment opportunities, and all rules, regulations, and procedures prescribed pursuant thereto.

§ 1951.32 Procurement standards.

Grantees, when procuring property and services, shall use their own procurement standards and procedures which are based upon their laws, rules, or regulations, which as a minimum shall provide that:

(a) All proposed procurement actions shall be reviewed selectively by grantee

[1] Instructions may be obtained from the Regional Administrators of the Occupational Safety and Health Administration.

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officials to avoid purchasing unnecessary or duplicative items. Where appropriate, lease versus purchase considerations shall be given and documented.

(b) All procurements, advertised or negotiated, shall be accomplished by obtaining adequate and effective competition to the maximum practicable extent, unless restricted by the nature and complexity of the material or services being procured. Where sealed bids are obtained by formal advertisement, the awards will be made to the lowest responsible bidder whose bid is responsive to the invitation for bids and is the most advantageous.

(c) Single source procurement and sole source procurements shall be adequately documented to support the selection of vendors and the prices accepted. Procurement by brand names shall be limited to sole source procurements.

(d) The type of contracts or purchase orders used (i.e., fixed price, cost reimbursable, etc.) shall be appropriate for the particular procurement and for promoting the best interest of the grant program involved. A "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

(e) Solicitation for bids or quotations shall contain a clear and accurate description of the technical requirements for the material, product, or service to be procured and exclude any features which restrict competition.

(f) All procurements shall be conducted so as to avoid any possibility or appearance of collusion or conflict of interest.

(g) A system of contract administration shall be maintained to assure:

(1) Contractor conformance with the terms, conditions, and specifications of the contract or purchase order;

(2) Adequate expediting and timely followup of all purchases.

(h) All contracts awarded by grantees, exclusive of purchase orders, shall provide for unilateral termination by the grantee. In addition, such contracts shall provide for conditions of default and those situations where the contract cannot be completed through no fault of the contractor, i.e., termination for the convenience of the grantee.

§ 1951.33 Travel.

To the extent the grantee has not established rules or policies which it uniformly applies regardless of source of funds in determining the amounts and types of reimbursable travel expenses, the Standardized Government Travel Regulations (OMB Circular No. A–7) [1] shall be applied in determining the amount of grant funds chargeable for travel expenses.

Subpart E—Grantee Accountability

§ 1951.40 Date of final accounting.

In addition to such other accounting as the Assistant Secretary may require, a grantee shall render, with respect to each grant, a full accounting as provided herein, as of a date which shall be either (a) the end of the period covered by the grant or as that date may have have been extended by mutual agreement or (b) the date of termination as provided in §1951.25, whichever first occurs.

§ 1951.41 Accounting for grant award payments.

With respect to each approved grant, the grantee shall account for the sum total of all amounts paid by presenting or otherwise making available vouchers or any other evidence satisfactory to the Assistant Secretary of expenditures for direct or indirect costs meeting the requirements of § 1951.22: *Provided, however,* That where the amount awarded for indirect cost was based on a predetermined fixed-percentage of estimated direct costs, the amount allowed for indirect costs shall be computed on the basis of such predetermined fixed-percentage rates applied to the total, or a selected element thereof, of the reimbursable direct costs incurred.

§ 1951.42 Accounting for equipment.

(a) As used in this section the term "equipment" means an article of property procured or fabricated, in whole or in part with grant funds, which is complete in itself, is of a durable nature, and has an expected, service life of more than 1 year. Equipment on hand as of the date established in § 1951.40 for which accounting is required in accordance with the procedures set forth in the "Occupational Safety and Health Administration Property Administration Guide" [2] shall be identified and reported by the grantee in accordance with such procedures, and, accounted for by one or a combination of the following methods, as determined by the Assistant Secretary:

(1) *Retention of equipment for other occupational safety and health projects.* Equipment may be used, without adjustment of accounts, on other grants within the scope of the Act or other activities, by the grantee, which the Assistant Secretary determines in writing, fall within the objectives of the Act, and no other accounting for such equipment shall be required: *Provided, however,* (i) That during such period of use no charge for depreciation, amortization, or for other use of the equipment shall be made against any existing or future Federal grant or contract, and (ii) if, within the period of its useful life, the equipment is transferred by sale or otherwise for use outside the scope of the Act, the Federal portion of the fair market value at the time of transfer shall be refunded to the Federal Government.

(2) *Sale or other disposition of equipment, crediting of proceeds or value.* The equipment may be sold by the grantee and the net proceeds of the sale credited to the grant account for project use, or they may be used or disposed of in any manner by the grantee by crediting to the grant account the Federal share of the fair market value on the termination date. To the extent equipment purchased from grant funds is used for credit or "trade-in" on the purchase of new equipment, the accounting obligation shall apply to the same extent to such new equipment.

(3) *Return or transfer of equipment.* The equipment may be returned to the Federal Government by the grantee or may be transferred to another grantee for the purpose of pursuing an objective within the scope of the Act.

(b) The grantee can be relieved of accountability for equipment by request, to the Assistant Secretary, in accordance with instructions in the "Occupational Safety and Health Administration Property Administration Guide" when the erty is:

(1) Excess to the grantee's needs;

(2) Discovered to be missing from inventory or is destroyed or damaged;

(3) Desired by the grantee for cannibalization;

(4) Desired by the grantee for use in a "trade-in" transaction;

(5) Requested for return by the Department; and

(6) Disposed of as required in grant closeout procedures.

§ 1951.43 Program income.

All program income (i.e., licenses, fees for inspection and otherwise, levies, royalties, etc.) except that income excluded below, earned during the grant period shall be retained by the grantee and, in accordance with the grant agreement, shall be deducted from the total project cost for the purpose of determining the net cost on which the Federal share will be based. The income in the two exceptions listed below may be retained by the State without credit to the cost of any grant awarded under this part. The two exceptions are:

(a) All interest income earned by a State government (including State agencies and instrumentalities) on deposits or investments of advance Federal payments of the Federal share of grants awarded under this part, except that interest or other income earned by a local unit of government (e.g., county, municipality, city, town, or school, or any agency or instrumentality of such local unit of government) shall be returned in its entirety to the Department for deposit in the U.S. Treasury.

(b) All revenue from fines and/or penalties.

[1] The Office of Management and Budget Circular No. A–7 instructions are available for inspection at the Regional Administrative Office of the Assistant Secretary for Administration and Management, Department of Labor.

[2] Information concerning the "Guide" may be obtained from the Regional Administrators of the Occupational Safety and Health Administration.

§ 1951.44 Final settlement.

There shall be payable to the Federal Government as final settlement, with respect to each approved grant, the total sum of:

(a) Any amount not accounted for pursuant to this subpart;

(b) Any credits for equipment as provided in § 1951.42;

(c) Any credits for residual material of a consummable nature, title to which has not been previously waived by the Assistant Secretary;

(d) Any credits for earned income as provided in § 1951.43(a); and

(e) Any other settlements required pursuant to § 1951.43.

Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assignees by set off or other action as provided by law.

§ 1951.45 Disputes.

Any disputes, concerning a question of fact arising as the result of the State agency's performance of any grant awarded under this part, shall be resolved by applying the disputes and appellate procedures and related clauses contained in §§ 1–1.318 and 1–7.101–12 of Chapter 1 and § 29–1.318 and Part 29–60 of Chapter 29 of Title 41, Code of Federal Regulations, except that:

(a) The word "contract" shall mean grant awarded under this part;

(b) The word "contractor" shall mean grantee;

(c) The term "contracting officer" shall mean the Assistant Secretary or his designee;

(d) The requirements in this section in no way alter, diminish, or in any way affect the responsibilities of the Assistant Secretary under section 18(f) of the Act with regard to a State's failure to comply substantially with any provision of the State plan or the State's remedies, as provided in section 18(g) of the Act, concerning a decision of the Assistant Secretary, under section 18(f), for which decision the State wishes to obtain judicial review.

§ 1951.46 Copyrights and patents.

(a) Any application for a grant award under this part shall constitute the consent of the grantee to give the Federal Government, its officers, agents, and employees, acting within the scope of their official duties, a royalty-free, nonexclusive and irrevocable license throughout the world to publish, translate, reproduce, deliver, perform, dispose of and sublicense such subject data or inventions, whether copyrighted or patented, any "subject data" (including writing, sound recordings, pictorial reproduction, drawings, or other graphical representatives and works of any similar nature) or invention, originated in or arising out of activities financed by this grant, whether or not within the scope of the approved State plan.

(b) Laboratory notes, related technical data and information pertaining to inventions or discoveries shall be maintained for such periods, and filed with or otherwise made available to the Assistant Secretary or those he may designate at such times and in such manner as he may determine necessary to carry out such Departmental regulations.

(c) Except as may otherwise be provided under the terms and conditions of the award, the grantee may copyright without prior approval any publications, films, or similar materials developed or resulting from implementation of a State plan supported by a grant under this part, subject, however, to a royalty-free, nonexclusive license or right in the Federal Government to reproduce, translate, publish, use, disseminate, and dispose of such materials and to authorize others to do so.

(d) Appropriate measures shall be taken by the grantee and by the Assistant Secretary to assure that no contracts, assignments, or other arrangements inconsistent with this grant obligation are continued or entered into and that all personnel involved in the supported activity are aware of and comply with such obligation.

§ 1951.47 Retention and custody of records.

(a) Record retention requirements, for the designated State agencies, established by the State governments receiving grants under this part are deemed adequate except that financial records, supporting documents, statistical records, and all other records pertinent to a grant program shall be retained for a period of 3 years, with the following qualifications:

(1) The records shall be retained beyond the 3-year period if audit findings have not been resolved.

(2) Records for nonexpendable property which was acquired with Federal grant funds shall be retained for 3 years after final disposition of the property.

(3) When grant records are transferred to or maintained by the Department, the 3-year retention requirement is not applicable to the grantee.

(b) The retention period starts from the date of the submission of the final expenditure report or, for grants which are renewed annually, from the date of the submission of the annual expenditure report.

(c) State agencies are authorized, if they so desire, to substitute microfilm copies in lieu of original records.

(d) The Assistant Secretary shall request transfer of certain records to his custody from State governments when he determines that the records possess long-term retention value. However, in order to avoid duplicate recordkeeping, he may make arrangements with State governments concerning the retention of any records which are continuously needed for joint use.

(e) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the State governments and their subgrantees or subcontractors which are pertinent to a specific grant program for the purpose of making audit, examination, evaluation, excerpts and transcripts. As used in this subsection, political subdivisions, e.g., counties, cities, towns, etc., are, to the extent their relationship to the designated State agency is applicable, considered to be subgrantees or subcontractors. The substance of this subsection shall be inserted in any subgrant or subcontract entered into by the designated State agency under any grant awarded under this part.

(f) No restriction is placed on State agencies which limits public access to the State governments' records except when records must remain confidential for the following reasons:

(1) To prevent a clearly unwarranted invasion of personal privacy.

(2) To specifically comply with a Federal Executive order or statute requiring the record to be kept secret.

(3) To protect commercial or financial information obtained from a person or firm on a privileged or confidential basis.

(4) To avoid the disclosure of any other information which can be exploited for the purpose of personal gains.

[FR Doc.72–18606 Filed 10–31–72;8:46 am]

Title 32—NATIONAL DEFENSE

Chapter XII—Defense Supply Agency

SUBCHAPTER B—MISCELLANEOUS

[DSA Reg. 5500.7]

PART 1281—HEARING RULES FOR SANCTION PROCEEDINGS, EXECUTIVE ORDER 11246

OCTOBER 13, 1972.

Part 1281 is added to Title 32 of the Code of Federal Regulations, reading as follows:

Sec.
1281.1 Purpose and scope.
1281.2 Definitions.
1281.3 Background.
1281.4 Responsibilities.
1281.5 Procedures.

AUTHORITY: The provisions of this Part 1281 are issued pursuant to sections 205, 208, 209, 301, 302(b), and 303(a) of Executive Order 11248, as amended, 30 F.R. 12319; 32 F.R. 14303; 41 CFR 60–1.26; Department of Defense Directive 1100.11.

§ 1281.1 Purpose and scope.

To outline responsibilities to govern the practice and procedure for proceedings conducted, and decisions made, by the Agency precedent to the imposition of sanctions under section 209(a) (5) and (6) of Executive Order (EO) 11246, for violations of EO 11246, and rules, regulations, and orders thereunder. This part is applicable to HQ DSA and the Defense Contract Administration Services Regions.

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§ 1281.2 Definitions.

(a) *Agency.* The Defense Supply Agency (DSA).

(b) *Agency Counsel.* Counsel of the DSA primary field activity assigned to represent the Agency.

(c) *Director.* Director of DSA.

(d) *Hearing Examiner.* The hearing officer designated by the Director pursuant to section 208(b) of EO 11246, as amended, and 41 CFR 60–1.26(b) to conduct hearings under section 209 of the EO.

(e) *Notice.* Notice of hearing.

(f) *Party.* A respondent; the Director, DSA; and any person or organization participating in a proceeding pursuant to this regulation.

(g) *Respondent.* A person or organization against whom sanctions are proposed because of alleged violations of EO 11246, and rules, regulations, and orders thereunder.

§ 1281.3 Background.

(a) *Applicability of rules.* These rules of procedure supplement the provisions of 41 CFR 60–1.26(b). The rules govern the practice and procedure for hearings conducted by the Director, DSA, with respect to the impositions of sanctions under sections 208(b), 209(a) (5) and (6) of EO 11246, as amended, and DOD Directive 1100.11.

(b) *Waiver, modification.* Upon notice to all parties, the hearing examiner or the Director may, with respect to matters pending before him, modify or waive any rule herein upon determination that no party will be prejudiced and that the ends of justice will be served thereby.

(c) *Computation of time.* In computing any period of time under these rules or in an order issued hereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday, in which event it includes the next following business day.

(d) *Form and filing of documents and pleadings*—(1) *Form.* Documents and pleadings filed pursuant to a proceeding herein shall be dated, the original signed in ink, shall show the docket description and title of the proceeding, and shall show the title, if any, and address of the signatory. Copies need not be signed, but the name of the person signing the original shall be reproduced.

(2) *Filing; service*—(i) *Manner of service.* Service upon any party shall be made by the party filing the document or pleading by delivering a copy or mailing a copy to the last known address; *Provided, however,* That the notice of hearing shall be sent by registered mail, return receipt requested, pursuant to 41 CFR 60–1.26(b)(1).

(ii) *Upon whom served.* All papers shall be served upon counsel of record and upon parties not represented by counsel; and upon the Agency Counsel or his designate.

(iii) *Proof of service.* A certificate of the person serving the pleading or other document by personal delivery or by mailing, setting forth the manner of said service shall be proof of the service.

(iv) *Number of copies.* An original and three copies of all documents and pleadings shall be filed.

§ 1281.4 Responsibilities.

(a) The Director, DSA will:

(1) Designate a hearing examiner for each proceeding.

(2) Make a decision in each proceeding on the basis of the record before him.

(b) The Agency Counsel will represent the Agency in all aspects of the hearing proceeding.

(c) The Office of Counsel, HQ DSA (DSAH–G) will:

(1) Provide technical assistance to DSA activities on matters pertinent to this Part 1281.

(2) Maintain this Part 1281 in a current status and review it annually.

§ 1281.5 Procedures.

(a) *Prehearing procedures*—(1) *Notice of proposed cancellation, termination or ineligibility.* Actions shall be commenced under these rules and 41 CFR 60–1.26(b)(2) by service of a written notice signed by the Director, on the contractor or subcontractor against whom the Director seeks the imposition of sanctions. The notice shall indicate whether the Director proposes to cancel or terminate, or cause to be canceled or terminated, in whole or in part, any one or more contracts or subcontracts, or to declare the prime contractor or subcontractor ineligible for further contracts or subcontracts under Section 209 of the order. The notice shall contain a concise jurisdictional statement, a short and plain statement of the matters furnishing a basis for the imposition of sanctions, an enumeration of the sanctions being proposed, and a citation of the provisions of the order and regulations pursuant to which the requested action may be taken.

(2) *Answer*—(i) *Filing and service.* Within 14 days after receipt of the notice of proposed cancellation, termination or ineligibility, Respondent shall file an answer and a hearing request with the hearing examiner or the Director.

(ii) *Contents; failure to file.* The answer shall admit or deny specifically, and in detail, matters set forth in each allegation of the notice unless Respondent is without knowledge, in which case the answer shall so state, and the statement shall be deemed a denial. Matters not specifically denied shall be deemed admitted. Matters alleged as affirmative defenses shall be separately stated and numbered. Failure to file an answer shall constitute an admission of all facts recited in the notice.

(iii) *Hearing request.* The request for a hearing shall be included as a separate paragraph of the answer.

(3) *Amendments.* The Director may amend the notice once as a matter of course before an answer is filed, and Respondent may amend its answer once as a matter of course not later than 10 days after the filing of the original answer. Other amendments of the notice or of the answer to the notice shall be made only by leave of the hearing examiner. An amended notice shall be answered within 7 days of its service, or within the time for filing an answer to the original notice, whichever period is longer unless the hearing examiner orders otherwise.

(4) *Notice of hearing.* In response to Respondent's request for a hearing, a notice of hearing shall be served on the Respondent pursuant to 41 CFR 60–1.26(b)(1). Such notice shall contain the time, place, and nature of the hearing and the legal authority under which the proceedings are to be held.

(5) *Motions; disposition of motions*—(i) *Motions.* Motions shall state the relief sought, the authority relied upon and the facts alleged, and shall be filed with the hearing examiner. If made before or after the hearing itself, these matters shall be in writing. If made at the hearing, they may be stated orally; but the hearing examiner may require that they be reduced to writing and filed and served on all parties in the same manner as a formal motion. Within 7 days after a written motion is served, or such other time period as may be fixed, any party may file a response to a motion.

(ii) *Disposition of motions.* The hearing examiner, or Director, may not grant a written motion prior to expiration of the time for filing response thereto, except upon consent of the parties or following a hearing thereon, but may overrule or deny such motion without awaiting response; *Provided, however,* That prehearing conferences, hearings, and decisions need not be delayed pending disposition of motions. Rulings by the hearing examiner shall not be appealed prior to the transfer of the case to the Director, but shall be considered by the Director when the case is transferred to him for decision.

(6) *Participation by interested persons.* (i) To the extent that proceedings hereunder involve employment of persons covered by a collective bargaining agreement, and compliance may necessitate a revision of such agreement, any labor organization which is a signatory to the agreement shall have the right to participate as a party.

(ii) Other persons or organizations shall have the right to participate as parties if the final decision of the Director could adversely affect them or the class they represent, and such participation may contribute materially to the proper disposition of the proceedings.

(iii) Any person or organization wishing to participate as a party under this paragraph shall file and serve upon the hearing examiner, and all parties a petition within 7 days after the commencement of the action. Such petition shall concisely state (*a*) the petitioner's interest in the proceedings, (*b*) who will appear for petitioner, (*c*) the issues on which petitioner wishes to participate, and (*d*) whether petitioner intends to present witnesses.

(iv) The hearing examiner shall determine whether each petitioner has the requisite interest in the proceedings and shall permit or deny participation accordingly. Where petitions to participate as parties are made by individuals or groups with common interest, the hearing examiner may request all such petitioners to designate a single representative to represent all such petitioners; provided that the representative of a labor organization qualifying to participate under subparagraph a above must be permitted to participate in the proceeding. The hearing examiner shall give each petitioner written notice of the decision on his petition; and if the petition is denied, he shall briefly state the grounds for denial and shall then treat the petition as a request for participation as amicus curiae. The hearing examiner shall give written notice to each party of each petition granted.

(v) Any other interested person or organization wishing to participate as amicus curiae shall file a petition before the commencement of the final hearing with the hearing examiner. Such petition shall concisely state (*a*) the petitioner's interest in the hearing, (*b*) who will represent the petitioner, and (*c*) the issues on which petitioner intends to present argument. The hearing examiner may grant the petition if he finds that the petitioner has a legitimate interest in the proceedings, and that such participation may contribute materially to the proper disposition of the issues. An amicus curiae is not a party but may participate as provided in this paragraph.

(vi) An amicus curiae may present a brief oral statement at the hearing, at the point in the proceedings specified by the hearing examiner. He may submit a written statement of position to the hearing examiner prior to the beginning of a hearing, and shall serve a copy on each party. He may also submit a brief or written statement at such time as the parties submit briefs and exceptions, and shall serve a copy on each party.

(7) *Admissions as to facts and documents.* Not later than 14 days prior to the date of the hearing, except for good cause shown, or not later than 14 days prior to such earlier date as the hearing examiner may order, any party may serve upon an opposing party a written request for the admission of the genuineness and authenticity of any relevant documents described in, and exhibited with, the request, or for the admission of the truth of any relevant matters of fact stated in the request. Each of the matters as to which an admission is requested shall be deemed admitted, unless within a period designated in the request (not less than 7 days, and not more than 10 days, after service thereof) the party to whom the request is directed serves upon the requesting party a sworn statement either (i) denying specifically the matters as to which an admission is requested, or (ii) setting forth in detail the reasons why he cannot truthfully either admit or deny such matters.

(8) *Production of documents and things and entry upon land for inspection and other purposes.* (i) After commencement of the action, any party may serve on any other party a request to produce and/or permit the party, or someone acting on his behalf, to inspect and copy any unprivileged documents, phonorecords, and other compilations which contain or may lead to relevant information and which are in the possession, custody, or control of the party upon whom the request is served. If necessary, translation of data compilations shall be done by the party furnishing the information.

(ii) After commencement of the action, any party may serve on any other party a request to permit entry upon designated property which may be relevant to the issues in the proceeding and which is in the possession or control of the party upon whom the request is served for the purpose of inspection, measuring, surveying or photographing, testing, or sampling the property or any designated object or area.

(iii) Each request shall set forth with reasonable particularity the items to be inspected and shall specify a reasonable time and place for making the inspection and performing the related acts.

(iv) The party upon whom the request is served shall respond within 7 days after the service of the request. The response shall state, with respect to each item, that inspection and related activities will be permitted as requested, unless there are objections, in which case the reasons for each objection shall be stated. The party submitting the request may move for an order with respect to any objection or to other failure to respond.

(9) *Depositions upon oral examination*—(i) *Deposition; notice of examination.* After commencement of the action, any party may take the testimony of any person, including a party, having personal or expert knowledge of the matters in issue, by deposition upon oral examination for the purposes of discovery and the perpetuation of testimony. A party desiring to take a deposition shall give reasonable notice in writing to every other party to the proceeding. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. The notice shall also set forth the categories of documents the witness is to bring with him to the deposition, if any. A copy of the notice shall be furnished to the person to be examined unless his name is unknown.

(ii) *Production of witnesses; obligation of parties; objections.* It shall be the obligation of each party to produce for examination any person, along with such documents as may be requested, at the time and place, and on the date set forth in the notice, if that party has control over such person. Each party shall be deemed to have control over its officers, agents, employees, and members. Depositions shall be held within the county in which the witness resides or works. The party or prospective witness may file with the hearing examiner, an objection within 3 days after the identity of such witness first becomes known, stating with particularity the reasons why the party cannot or ought not to produce a requested witness. The party serving the notice may move for an order with respect to such objection or failure to produce a witness. All errors or irregularities in compliance with the provisions of this section shall be deemed waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is or, with due diligence, might have been ascertained.

(iii) *Before whom taken; scope of examination; failure to answer.* Depositions may be taken before any officer authorized to administer oaths by the law of the United States or of the place where the deposition is held. At the time and place specified in the notice, the officer designated to take the deposition shall permit each party to examine and cross-examine the witness under oath upon any unprivileged matter which is relevant to the subject matter of the proceeding, or which is reasonably calculated to lead to the production of relevant and otherwise admissible evidence. All objections to questions, except as to the form thereof, and all objections to evidence are reserved until the hearing. A refusal or failure on the part of any person under the control of a party to answer a question shall operate to create an irrebuttable presumption that the answer, if given, would be unfavorable to the controlling party, unless the question is subsequently ruled improper by the hearing examiner. *Provided,* That the examining party shall note on the record during the deposition the question which the deponent has failed, or refused to answer, and state his intention to invoke the presumption if no answer is forthcoming.

(iv) *Subscription; certification; filing.* The testimony shall be reduced to typewriting by the officer taking the deposition or under his direction, and shall be subscribed by the witness in the presence of the officer who shall attach his certificate stating that the witness was duly sworn by him, and that the deposition is a true record of the testimony and exhibits given by the witness, and that said officer is not of counsel or attorney to any of the parties nor interested in the proceeding. If the deposition is not signed by the witness because he is ill, dead, cannot be found, or refuses to sign it, such fact shall be noted in the certificate of the officer and the deposition may then be used as fully as though signed. The officer shall immediately deliver any original copy of the transcript, together with his certificate, in person or by mail to the hearing examiner. Copies of the transcript and certificate shall be furnished to all persons desiring them, upon payment of reasonable charges therefor, unless distribution is restricted by order of the hearing examiner for good cause shown.

(v) *Rulings on admissibility; use of deposition.* Subject to the provisions of

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this section, objection may be made at the hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying. Any part or all of a deposition, so far as admissible in the discretion of the hearing examiner, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice thereof, in accordance with the following provisions:

(a) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of the deponent as a witness.

(b) The deposition of a party or of anyone who at the time of taking the deposition was an officer, director, or managing agent, or was designated to testify on behalf of a public or private corporation, partnership, association, or governmental agency which is a party may be used by the adverse party for any purpose.

(c) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the hearing examiner finds: (1) That the witness is dead; or (2) that the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or (3) that the party offering the deposition has been unable to procure the attendance of the witness by notice; or (4) upon application and notice, that such exceptional circumstances exist as to make it desirable to allow the deposition to be used.

(d) If only part of a deposition is introduced in evidence by a party, any party may introduce any other parts by way of rebuttal and otherwise.

(vi) *Stipulations.* If the parties so stipulate in writing, depositions may be taken before any person at any time or place, upon any notice and in any manner, and when so taken may be used like other depositions.

(10) *Prehearing conferences.* (i) Within 14 days after the answer has been filed, the hearing examiner shall establish a date for the prehearing conference to include all parties and petitioners for status as a party whose petition has not yet been ruled on. Written notice of the prehearing conference shall be sent to all participants in the conference. At the prehearing conference the following matters shall be considered:

(a) Simplification and delineation of the issues to be heard;

(b) Stipulations, admissions of fact, and of contents and authenticity of documents;

(c) Limitation of number of witnesses, particularly the avoidance of duplicate expert witnesses, and exchange of expert witness lists;

(d) Scheduling dates for the exchange of witness lists (except as provided in (c) of this subdivision) and exhibits;

(e) Offers of settlement;

(f) Scheduling of such additional prehearing conferences as may be considered necessary; and

(g) Such other matters as may tend to expedite the disposition of the proceedings.

(ii) The record shall show the matters disposed of by order and by agreement in the prehearing conference. The subsequent course of the proceeding shall be controlled by such action.

(b) *Designation and responsibilities of hearing examiner*—(1) *Designation.* Hearings shall be held before a hearing examiner designated by the Director. After service of an order designating a hearing examiner to preside, and until such examiner makes his decision, motions and petitions shall be submitted to him. In the case of the death, illness, disqualification, or unavailability of the designated hearing examiner, another hearing examiner may be designated to take his place.

(2) *Authority and responsibilities.* The hearing examiner shall propose findings and conclusions to the Director on the basis of the record before him. In order to do so, he shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, and to maintain order. He shall have all powers necessary to those ends, including, but not limited to, the power to:

(i) Hold conferences to settle, simplify, or fix the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding by consent of the parties or upon his own motion;

(ii) Require parties to state their position with respect to the various issues in the proceeding;

(iii) Require parties to produce for examination those relevant witnesses and documents under their control;

(iv) Administer oaths;

(v) Rule on motions, and other procedural items on matters pending before him;

(vi) Regulate the course of the hearing and conduct of participants therein;

(vii) Examine and cross-examine witnesses, and introduce into the record documentary or other evidence;

(viii) Receive, rule on, exclude, or limit evidence, and limit lines of questioning or testimony which are irrelevant, immaterial or unduly repetitious;

(ix) Fix time limits for submission of written documents in matters before him, and extend any time limits established by this part upon a determination that no party will be prejudiced and that the ends of justice will be served thereby;

(x) Impose appropriate sanctions against any party or person failing to obey an order under these rules which may include:

(a) Refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting him from introducing designated matters in evidence;

(b) Excluding all testimony of an unresponsive or evasive witness, or determining that the answer of such witness, if given, would be unfavorable to the party having control over him; and

(c) Expelling any party or person from further participation in the hearing.

(xi) Take official notice of any material fact not appearing in evidence in the record, which is among the traditional matters of judicial notice.

(xii) Recommend whether the Respondent is in current violation of Executive Order 11246, as amended, and applicable rules, regulations and orders, as well as the nature of whatever corrective action may be necessary to bring the Respondent into compliance with the equal employment opportunity clause;

(xiii) Recommend to the Director the adoption of a consent order agreed to by the parties in settlement of the issues in a proceeding; and

(xiv) Take any action authorized by these rules.

(c) *Hearings and related matters*—(1) *Appearances*—(i) *Representation.* The parties or other persons or organizations participating pursuant to these rules have the right to be represented by Counsel.

(ii) *Failure to appear.* In the event that a party appears at the hearing and no party appears for the opposing side, the party who is present shall have an election to present his evidence in whole or such portion thereof sufficient to make a prima facie case before the hearing examiner. Failure to appear at the hearing shall not be deemed to be a waiver of the right to be served with a copy of the hearing examiner's recommended decision and to file exceptions to it.

(iii) *Appearance of witnesses.* (a) A party wishing to procure the appearance at the hearing of any person having personal or expert knowledge of the matters in issue shall serve on the prospective witness a notice setting forth the time, date and place at which he is to appear for the purpose of giving testimony. The notice shall also set forth the categories of documents the witness is to bring with him to the hearing, if any. A copy of the notice shall be filed with the hearing examiner and additional copies shall be served upon the opposing parties.

(b) It shall be the obligation of each party to produce for examination any person, along with such documents as may be requested, at the time and place, and on the date set forth in the notice, if that party has control over such person. Each party shall be deemed to have control over its officers, agents, employees, and members. Due regard shall be given to the convenience of witnesses in scheduling their testimony so that they will be detained no longer than reasonably necessary.

(c) The party or prospective witness may file an objection within 3 days after the identity of such witness first becomes known, stating with particularity the reasons why the party cannot produce a requested witness. The party serving the notice may move for an order with respect to such objection or failure to produce a witness.

(2) *Evidence; testimony.* Formal rules of evidence shall not apply, but rules or

principles designed to assure production of the most probative evidence available shall be applied, as the hearing examiner directs. Testimony shall be given orally by the witnesses at the hearing, but may, in the discretion of the hearing examiner, be prepared in writing and served on all parties within 10 days prior to the hearing. A witness shall be available for cross-examination, and, at the discretion of the hearing examiner, may be cross-examined without regard to the scope of direct examination as to any matter which is relevant and material to the proceeding. The hearing examiner may exclude evidence which is immaterial, irrelevant, or unduly repetitious.

(3) *Objections; exceptions*—(i) *Objections.* If a party objects to the admission or rejection of any evidence or to the limitation of the scope of any examination or cross-examination or the failure to limit such scope, he shall state briefly the grounds for such objection. Rulings on all objections shall appear in the record. Only objections made before the hearing examiner may be relied upon subsequently in the proceedings.

(ii) *Exceptions.* Formal exception to adverse ruling is not required. Rulings by the hearing examiner shall not be appealed prior to the transfer of the case to the Director, but shall be considered by the Director upon filing exceptions to the hearing examiner's recommendations and conclusions.

(4) *Offer of proof.* An offer of proof made in connection with an objection taken to any ruling of the hearing examiner excluding proffered oral testimony shall consist of a statement of the substance of the evidence which counsel contends would be adduced by such testimony; and, if the excluded evidence consists of evidence in written form or consists of reference to documents, a copy of such evidence shall be marked for identification and shall accompany the record as the offer of proof.

(5) *Public documents.* Whenever a party offers a public document, or part thereof, in evidence, and such document, or part thereof, has been shown by the offeror to be reasonably available to the public, such documents need not be produced or marked for identification, but may be offered for official notice as a public document item by specifying the document or relevant part thereof.

(6) *Ex parte communications.* The hearing examiner shall not consult any person, or party, on any fact in issue unless upon notice and opportunity for all parties to participate. No employee or agent of the Federal Government engaged in the investigation and prosecution of this case shall participate or advise in the rendering of the recommended or final decision, except as witness or counsel in the proceeding.

(7) *Oral argument.* Any party shall be entitled upon request to a reasonable period between the close of evidence and termination of the hearing for oral argument. Oral arguments shall be included in the official transcript of the hearing.

(8) *Official transcript.* The agency will designate the official reporter for all hearings. The official transcripts of testimony taken, together with any exhibits, briefs, or memoranda of law filed therewith, shall be filed with the hearing examiner. Transcripts of testimony may be obtained from the official reporter by the parties and the public at rates not to exceed the applicable rates fixed by the contract between the agency and the reporter unless distribution is limited by order of the hearing examiner for good cause shown. Upon notice to all parties, the hearing examiner may authorize such corrections to the transcript as are necessary to reflect accurately the testimony.

(9) *Summary judgment*—(i) *For agency.* At any time after the expiration of 14 days from the commencement of the action or after service of a motion for summary judgment by the respondent, the agency counsel may move the hearing examiner with or without supporting affidavits for summary judgment in his favor upon all claims or any part thereof.

(ii) *For respondent.* The respondent may, at any time after commencement of the action, move the hearing examiner with or without supporting affidavits for a summary judgment in his favor as to all claims or any part thereof.

(iii) *Other parties.* Any other party to a formal proceeding under this part may support or oppose motions for summary judgment made by the agency or respondent, in accordance with this section, but may not move for a summary judgment in his own behalf.

(10) *Motion and proceedings thereon.* The motion shall be served upon all parties and the hearing examiner at least 15 days before the time fixed for the hearing on the motion. The adverse party or parties may serve opposing affidavits prior to the day of hearing. The judgment sought shall be rendered forthwith if the notice and answer, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment rendered for or against the agency or the respondent shall constitute the hearing examiner's findings and recommendations to the Director on the issues involved. Hearings on motions made under this section shall be scheduled by the hearing examiner and may be postponed until the date established in the notice for the final hearing on the merits.

(11) *Case not fully adjudicated on motion.* If on motion under this section judgment is not rendered upon the whole case or for all the relief asked and a final hearing is necessary, the hearing examiner at the hearing of the motion, by examining the notice and answer and the evidence before him and by interrogating counsel, shall, if practicable, ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. He shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which relief is not in controversy, and directing such further proceedings as are just. At the hearing on the merits, the facts so specified shall be deemed established, and the final hearing shall be conducted accordingly.

(12) *Form of affidavits; further testimony; defense required.* Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The hearing examiner may permit affidavits to be supplemented or opposed by depositions or further affidavits. When a motion for summary judgment is made and supported as provided in this section, an adverse party may not rest upon the mere allegations or denials in his notice or answer, but his response, by affidavit or as otherwise provided in this section, must set forth specific facts showing there is a genuine issue for final hearing. If he does not so respond, summary judgment, if appropriate, shall be rendered against him.

(13) *When affidavits are unavailable.* Should it appear from the affidavits of a party opposing the motion that he cannot for the reasons stated present by affidavit facts essential to justify his opposition, the hearing examiner may refuse the application for summary judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or make such other orders as are just.

(14) *Affidavits made in bad faith.* Should it appear to the satisfaction of the hearing examiner at any time that any of the affidavits presented pursuant to this section are presented in bad faith or solely for the purpose of delay, the hearing examiner may make such orders and impose such sanctions as may be appropriate against the offending party.

(d) *Posthearing Procedures*—(1) *Proposed findings of fact and conclusions.* Within 20 days after receipt of the transcript of the testimony, each party and amicus may file a brief with the hearing examiner. Such briefs shall be served simultaneously on all parties and amici, and a certificate of service shall be furnished to the hearing examiner. Requests for additional time in which to file a brief shall be made to the hearing examiner, in writing, and copies shall be served simultaneously on the other parties. Requests for extensions shall be received not later than 3 days before the date such briefs are due. No reply brief may be filed except by special permission of the hearing examiner.

(2) *Record for recommended decisions.* The transcript of testimony, exhibits, and all papers, documents, and requests filed in the proceedings, including briefs, but excepting the correspondence section of the docket, shall constitute the record for decision.

(3) *Recommended decision.* Within 20 days after the filing of briefs, or, if the parties elect not to file such documents,

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not more than 20 days after the close of the hearing, the hearing examiner shall recommend findings, conclusions, and a decision. These recommendations shall be certified, together with the record to the Director for his decisions. The recommended findings, conclusions, and decisions shall be served on all parties and amici to the proceeding.

(4) *Exceptions to recommended decision.* Within 14 days after receipt of the hearing examiner's recommended findings, conclusions, and decision, any party may submit exceptions to said recommendation. These exceptions may be responded to by other parties within 10 days of their receipt by said parties. All exceptions and responses shall be filed with the Director. Service of such briefs and exceptions and responses thereto shall be made simultaneously on all parties to the proceeding, and a certificate of service shall be furnished to the Director. Requests to the Director for additional time in which to file exceptions and responses thereto shall be in writing and copies thereof shall be served simultaneously on other parties. Requests for extensions must be received no later than 3 days before the exceptions are due.

(5) *Record.* After expiration of the time for filing briefs and exceptions, the Director shall make a decision on the basis of the record before him. The record shall consist of the record for decision, the rulings, the recommended findings, conclusions, and decision of the hearing examiner, and the exceptions and briefs filed subsequent to the hearing examiner's decision.

(6) *Final decision.* The Director may affirm, modify, or set aside in whole or in part, the recommended findings, conclusions, and decision of the hearing examiner. The decision of the Director shall not be final without the approval of the Assistant Secretary of Defense (Manpower and Reserve Affairs) and the approval of the Director, Office of Federal Contract Compliance, Department of Labor.

By order of the Director, Defense Supply Agency.

GEORGE W. JOHNSON, JR.,
Colonel, U.S. Air Force, Deputy Staff Director, Administration.

[FR Doc.72-18604 Filed 10-31-72;8:46 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 3—Department of Health, Education, and Welfare

PART 3-1—GENERAL

Subpart 3-1.4—Procurement Responsibility and Authority

RATIFICATION PROCEDURE

Chapter 3, Title 41, Code of Federal Regulations, is amended as follows. The purpose of this amendment is to reflect current authorizations for the ratification of unauthorized contractural commitments.

It is the general policy of the Department of Health, Education, and Welfare to allow time for interested parties to take part in the rule making process. However, the amendment herein involves an internal administrative procedure. Therefore, the public rule making process is deemed unnecessary in this instance.

Section 3-1.405-50 is revised to read as follows:

§ 3-1.405-50 Ratification procedure.

Requests received by contracting officers for ratification of commitments made by personnel lacking contracting authority shall be procesed as follows:

(a) The individual who made the unauthorized contractual commitment shall furnish the contracting officer all records and documents concerning the commitment and a complete, written statement of facts, including, but not limited to, a statement as to why the procurement office was not utilized, why the proposed contractor was selected and a list of other sources considered, description of work to be performed or products to be furnished, estimated or agreed contract price, citation of appropriation available, and a statement of whether the contractor has commenced performance.

(b) The contracting officer will review the file and forward it to the head of the procuring activity or the Deputy Assistant Secretary for Administration (see § 3-1.405(b)) with any comments or information which should be considered in evaluation of the request for ratification. If legal review is desirable, the head of the procuring activity or the Deputy Assistant Secretary for Administration will coordinate the request for ratification with the Office of General Counsel, OS (GBA).

(c) If ratification is authorized by the head of the procuring activity or Deputy Assistant Secretary for Administration, the file will be returned to the contracting officer for issuance of a purchase order or contract as appropriate.

(d) Heads of the procuring activities or their designees, the Director, Office of Administrative Services, OS, and Director, Office of Regional and Community Development, or their designees, will report quarterly number and dollar value of (1) requests for ratifications received and (2) ratifications authorized during each calendar quarter. Reports shall be submitted in an original and one copy to the Director of Procurement and Material Management, OASAM, to arrive no later than 30 calendar days after the close of each reporting period. Negative reports, where applicable, are required.

(5 U.S.C. 301, 40 U.S.C. 486(c))

Effective date. This amendment shall be effective upon publication in the FEDERAL REGISTER (11-1-72).

Dated: October 25, 1972.

N. B. HOUSTON,
Deputy Assistant Secretary for Administration.

[FR Doc.72-18627 Filed 10-31-72;8:50 am]

Title 49—TRANSPORTATION

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 72-5; Notice 2]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Lamps, Reflective Devices, and Associated Equipment

This notice amends 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, reflective devices, and associated equipment* to specify stop and turn signal lens area requirements that are identical for all motor vehicles less than 80 inches in overall width.

As the NHTSA explained in its proposal published April 8, 1972 (37 F.R. 7107), Standard No. 108 requires (table III) passenger cars, multipurpose passenger vehicles, trucks, and buses to be equipped with "Class A" turn signal lamps. Class A lamps prior to Standard No. 108 were generally found only on vehicles whose overall width is 80 inches or more. Class A lamps differ from Class B lamps in having a minimum effective projected illuminated area of 12 square inches rather than 3½ square inches. Paragraph S4.1.1.7 of Standard No. 108, however, permits passenger cars to meet Class A photometrics through an effective projected illuminated area not less than that of a Class B lamp (3½ square inches). The NHTSA, in response to a petition from Jeep Corp., proposed that this exception be provided for all vehicles less than 80 inches in overall width, instead of being limited to passenger cars, and that stop lamps be included as well.

The comments received supported the proposal. Recommendations were also made as to standardization of lens area, and identification of lamps providing Class A photometric values. These will be treated as suggestions for future rulemaking since they were beyond the scope of the proposal.

In consideration of the foregoing the first sentence of paragraph S4.1.1.7 of 49 CFR 571.108, Standard No. 108, is revised to read:

Turn signal lamps and stop lamps on each multipurpose passenger vehicle, truck, trailer, and bus less than 80 inches in overall width and on each passenger car shall meet the photometric minimum candlepower requirements for Class A turn signal lamps, and shall have effective projected illuminated areas not less than those of Class B Lamps as specified in SAE Standard J588d, "Turn Signal Lamps," June 1966.

Effective date: January 1, 1973. Because the amendment relaxes a requirement and creates no additional burden, it is found for good cause shown that an effective date earlier than 180 days after issuance is in the public interest.

(Secs. 103, 119, National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1392, 1407, delegation of authority, 49 CFR 1.51)

Issued on October 26, 1972.

CHARLES H. HARTMAN,
Acting Administrator.

[FR Doc.72-18626 Filed 10-31-72;8:50 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1106, Amdt. 1]

PART 1033—CAR SERVICE

Baltimore and Ohio Railroad Co.; Authorization To Operate Over Tracks of Penn Central Transportation Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 24th day of October 1972.

Upon further consideration of Service Order No. 1106 (37 F.R. 15307), and good cause appearing therefor:

It is ordered, That: § 1033.1106 *Service Order No. 1106* (The Baltimore and Ohio Railroad Co. authorized to operate over tracks of Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, Trustees) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 31, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., October 31, 1972.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-18647 Filed 10-31-72;8:52 am]

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Proposed Rule Making

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Parts 212, 299]

DETERMINATION THAT PROSPECTIVE IMMIGRANT IS AN INVESTOR

Documentary Requirements

Pursuant to section 553 of title 5 of the United States Code (80 Stat. 383), notice is hereby given of the proposed issuance of the following rules pertaining to exemptions of aliens from the labor certification requirement. In accordance with section 553, interested persons may submit to the Commissioner of Immigration and Naturalization, Room 757, 119 D Street NE., Washington, DC 20536, written data, views, or arguments, in duplicate, relative to the proposed rules. Such representations may not be presented orally in any manner. All relevant material received within 20 days following the date of publication of this notice will be considered.

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

In § 212.8(b), subparagraph (4) is amended to read as follows:

§ 212.8 Certification requirement of section 212(a)(14).

* * * * *

(b) *Aliens not required to obtain labor certifications.* * * * (4) an alien who establishes on Form I-526 that he is seeking to enter the United States for the purpose of engaging in a commercial or agricultural enterprise which may reasonably be expected to be of prospective benefit to the economy of the United States and not intended solely to provide a livelihood for the investor and his family, and in which he has invested, or is actively in the process of investing, his own capital, totaling at least $25,000 exclusive of goodwill or personal skills. * * *

PART 299—IMMIGRATION FORMS

The list of forms in § 299.1 *Prescribed forms* is amended by adding the following form and reference thereto in alphabetical and numerical sequence:

§ 299.1 Prescribed forms.

* * * * *

Form No.	*Title and description*
I-526	Request for Determination that Prospective Immigrant is an Investor.

* * * * *

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

Dated: October 27, 1972.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[FR Doc.72-18633 Filed 10-31-72;8:51 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 47]

REVISION OF THE MEMBERSHIP ROLL OF EASTERN BAND OF CHEROKEE INDIANS, NORTH CAROLINA

Eliminating Time Limits for Filing Applications

OCTOBER 27, 1972.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32 F.R. 13938).

Notice is hereby given that it is proposed to revise Part 47, Subchapter F, Chapter I, of Title 25 of the Code of Federal Regulations. This revision is proposed pursuant to Resolution 110 passed by the Tribal Council of the Eastern Band of Cherokee Indians of North Carolina on February 16, 1972, and section 2 of the Act of August 21, 1957 (71 Stat. 374).

The purpose of the revision is to remove the time limit for filing applications, change the terms of office of the members of the Enrollment Committee, define Tribal Enrollment Office as used in the revision, and delete certain eligibility requirements for persons born after August 21, 1957, which no longer apply. With the revision of Part 47 the present definition in § 47.1(e) "Persons who are in the Armed Forces of the United States" is no longer applicable. Therefore, in the revision § 47.1(e) defines "Tribal Enrollment Office."

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed revision to the Superintendent, Cherokee Agency, Cherokee, N.C. 28719, within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

The table of contents for Part 47 of Chapter I, Title 25 of the Code of Federal Regulations is revised to read as follows:

PART 47—REVISION OF THE MEMBERSHIP ROLL OF THE EASTERN BAND OF CHEROKEE INDIANS, NORTH CAROLINA

Sec.
47.1 Definitions.
47.2 Purpose.
47.3 Announcement of revision of roll.
47.4 Basic membership roll.
47.5 Removal of deceased persons from the roll.
47.6 Additions to the roll.
47.7 Applications for enrollment.
47.8 Applications for minors and incompetents.
47.9 Application form.
47.10 Where application forms may be obtained.
47.11 Proof of relationship.
47.12 Enrollment Committee.
47.13 Tenure of Enrollment Committee.
47.14 Appeals.
47.15 Current membership roll.
47.16 Eligibility for enrollment of persons born after August 21, 1957.
47.17 Relinquishment of membership.

AUTHORITY: The provisions of this Part 47 issued under sec. 2, 71 Stat. 374.

1. Section 47.1 (e), (f), and (g) are revised to read as follows:

§ 47.1 Definitions.

As used in this part:

* * * * *

(e) "Tribal Enrollment Office" means the Tribal Enrollment Clerk working in concert with the Enrollment Committee.

(f) "Tribal Enrollment Clerk" means the individual working in the Tribal Enrollment Office.

(g) "Enrollment Committee" means the three individuals appointed by the Tribal Council in accordance with Section 47.12.

* * * * *

2. Sections 47.5 and 47.6–47.15 are revised to read as follows:

§ 47.5 Removal of deceased persons from the roll.

The name of any person who was not alive as of midnight August 21, 1957, shall be stricken from the basic membership roll by the Tribal Enrollment Office upon receipt of a death certificate or other evidence of death acceptable to the Tribal Enrollment Office.

§ 47.7 Applications for enrollment.

Each adult person who believes he meets the requirements for enrollment established herein may submit to the Tribal Enrollment Office an application for enrollment as a member of the Eastern Band of Cherokee Indians.

§ 47.8 Applications for minors and incompetents.

Applications for enrollment of minors may be filed by the parent, next of kin, recognized guardian, or other person responsible for their care. Applications for enrollment of persons known to be in mental or penal institutions may be filed by the Principal Chief of the Eastern Band of Cherokee.

§ 47.9 Application form.

The form of application for enrollment will be prepared by the Tribal Enrollment Office and, in addition to whatever information the Enrollment Committee may deem necessary, shall contain the following:

(a) The name and address of the applicant. If the application is filed on behalf of a minor, the name and address of the person filing the application and his relationship to the minor.

(b) The name, relationship, tribe and roll number of the ancestor or ancestors through whom enrollment rights are claimed, and whether applicant is enrolled with another tribe.

(c) The date of death of such ancestor, if deceased.

§ 47.10 Where application forms may be obtained.

Application forms will be supplied by the Tribal Enrollment Office of the Eastern Band of Cherokee Indians, Council House, Cherokee, N.C. 28719, upon request, either in person or by mail.

§ 47.11 Proof of relationship.

If the applicant's parents or other Eastern Cherokee ancestors through whom the applicant claims enrollment rights are unknown to the Tribal Enrollment Office, the Tribal Enrollment Office may request the applicant to furnish such additional information and evidence as it may deem necessary to determine the applicant's eligibility for enrollment. Failure of the applicant to furnish the information requested may be deemed sufficient cause for rejection.

§ 47.12 Enrollment Committee.

The Tribal Council shall appoint either from within or without the membership of the Council, but not from without the membership of the Band, a committee of three (3) persons to serve as the Enrollment Committee. The Enrollment Committee shall review all applications for enrollment filed in accordance with the existing regulations, and shall determine the qualifications of the applicant for enrollment with the Band. The Enrollment Committee may perform such other functions relating to the enrollment and membership in the Band as the Tribal Council may from time to time direct.

§ 47.13 Tenure of Enrollment Committee.

The members of the Enrollment Committee shall be appointed to serve a term of office of 2 years by each newly elected Tribal Council.

§ 47.14 Appeals.

Any person whose application for enrollment has been rejected by the Enrollment Committee shall have the right to appeal to the Tribal Council from the determination made by the Enrollment Committee: *Provided*, That such appeal shall be made in writing and shall be filed in the office of the Principal Chief for presentation to the Tribal Council within sixty (60) days from the date on which the Enrollment Committee issues notice to the applicant of his rejection. The applicant may submit with his appeal any additional data to support his claim to enrollment not previously furnished. The decision of the Tribal Council as to whether the applicant meets the requirements for enrollment set forth in this part shall be final. The Tribal Council shall review no applications for enrollment except in those cases where the rejected applicant appeals to the Council in writing from the determination made by the Enrollment Committee.

§ 47.15 Current membership roll.

The membership roll of the Eastern Band of Cherokee Indians shall be kept current by striking therefrom the names of persons who have relinquished their membership in the Band as provided in § 47.17 and of deceased persons upon receipt of a death certificate or other evidence of death acceptable to the Tribal Enrollment Office, and by adding thereto the names of individuals who meet the qualifications and are accepted for membership in the Band as set forth in this part.

3. Section 47.16 (a), (b), and (c) are revised to read as follows:

§ 47.16 Eligibility for enrollment of persons born after August 21, 1957.

(a) Persons possessing one-sixteenth or more degree Eastern Cherokee Indian blood and born after August 21, 1957, may be enrolled in either of the following manners:

(1) An application to have the person enrolled must be filed by or on behalf of the person by the parent or recognized guardian or person responsible for his care, which application shall be accompanied by the applicant's birth certificate or by other evidence of eligibility of the applicant for enrollment that the Tribal Enrollment Office may require.

(2) In the absence of such application within 6 months after a person's birth, the Tribal Enrollment Office shall be authorized and encouraged to obtain evidence relating to the eligibility of the person for enrollment in the Eastern Band, and present an application in his behalf to the Enrollment Committee which may proceed to enroll the person if the evidence submitted meets the criteria.

(b) A person adopted in accordance with applicable laws by either tribal members or nonmembers, shall be considered for enrollment as a tribal member if the person otherwise meets the requirements for enrollment.

(c) A person born to an enrolled member of the Band and an enrolled member of another Tribe, and said person is enrolled in the other Tribe, may be transferred from the rolls of the other and added to the rolls of the Eastern Band if he meets the general requirements for enrollment and, in addition:

(1) A death certificate or other acceptable evidence of the death of the parent enrolled in the other Tribe is received and the surviving parent who is a member of the Eastern Band makes application for enrollment by way of transfer.

(2) Upon receipt of divorce documents in the Tribal Enrollment Office, there is evidence of custody of the minors being awarded to the parent who is a member of the Band and the parent awarded custody makes application for enrollment of the minors with the Eastern Band by way of transfer.

* * * * *

No further changes are made in the text of Part 47.

JOHN O. CROW,
Deputy Commissioner.

[FR Doc.72-18619 Filed 10-31-72;8:46 am]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[9 CFR Part 82]

INTERSTATE MOVEMENT OF BIRDS

Proposed Relief of Restriction

Notice is hereby given in accordance with the administrative procedure provisions of 5 U.S.C. 553, that pursuant to the provisions of sections 1, 2, 3, and 4 of the Act of March 3, 1905, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, sections 4, 5, 6, and 7 of the Act of May 29, 1884, as amended, and sections 3 and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 112, 113, 115, 117, 120, 123, 124, 125, 126, 134b, 134f), consideration is being given to amending § 82.4 of Part 82, Title 9, Code of Federal Regulations, as follows:

In § 82.4, paragraph (c) would be redesignated as paragraph (d), and a new paragraph (c) would be added to read:

§ 82.4 Restrictions on interstate movement from quarantined areas.

* * * * *

(c) A lot consisting of no more than two psittacine or mynah birds or birds of any other species, which are not known to be affected with or exposed to any communicable disease of poultry, which are caged and are personal pets may be moved interstate by the owner thereof from any quarantined area, if (1) prior to such movement, the owner of such birds signs and furnishes to a Federal inspector in the State of origin of the movement [1] a notarized declaration under oath or affirmation stating that the birds have been in his possession for a minimum of 90 days preceding the interstate movement, that such birds have not shown any signs of illness during that period, and that such birds have not been in contact with poultry or other

[1] Information as to the location of such inspectors can be obtained from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

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birds (including association with any other birds at exhibitions or in aviaries) in the quarantined area during that period; (2) prior to such movement, the owner signs an agreement[2] on a form obtainable from a Federal inspector in the State of origin of the movement[1] stating that the birds will be maintained in his personal possession separate and apart from all poultry or other birds, in a place approved by the Deputy Administrator, at destination, for a minimum of 30 days following such interstate movement and until released by a Federal or State inspector of the State of destination[3]; that the birds will be made available for health inspection by a Federal or State inspector, or both, upon request until so released, and that Federal or State officials of the State of destination[3] will be immediately notified if any signs of disease are noted in any of the birds or any of the birds die during that period; and (3) there is compliance with the terms of such agreement.

* * * * *

The proposed amendments would permit the interstate movement of not more than two personal pet birds from quarantined areas under conditions specified to prevent the spread of poultry disease, including the requirement of no contact with poultry or other birds for 90 days preceding movement interstate and the requirement of isolation for 30 days following such movement.

Any person who wishes to submit written data, views, or arguments concerning the proposed amendments may do so by filing them with the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, MD 20782, within 20 days after publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Center Building, 6505 Belcrest Road, Room 370, Hyattsville, MD 20782, during regular business hours in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 26th day of October 1972.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-18648 Filed 10-31-72;8:52 am]

[1] Information as to the location of such inspectors can be obtained from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

[2] Owners will be provided a copy of the agreement containing the name and address of the appropriate Federal and State officials of the State of destination. Animal Health officials in States of destination of pet birds to be moved from a quarantined area will be immediately notified by the Federal official in the originating State when such movement into the particular State is made under a declaration furnished to such Federal official.

[9 CFR Part 101]

VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS

Definitions

Notice is hereby given in accordance with the provisions contained in section 553(b) of title 5, United States Code (1966), that it is proposed to amend certain of the regulations relating to viruses, serums, toxins, and analogous products in Part 101 of Title 9, Code of Federal Regulations, issued pursuant to the provisions of the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151–158).

This proposed revision of Part 101 would change the title to "Definitions"; would amend § 101.1 to state the purpose of words and phrases defined in six sections to be added to Part 101; would revoke obsolete words and phrases defined in § 101.1; would recodify words and phrases in § 101.1 in the new sections which are considered accurately defined; would recodify and also redefine some words and phrases for clarity; and would add new definitions to be used in the interpretation of regulations in Parts 101 through 117 of this subchapter.

1. Part 101 is amended to read:

PART 101—DEFINITIONS

Sec.
101.1 Applicability.
101.2 Administrative terminology.
101.3 Biological products and related terms.
101.4 Labeling terminology.
101.5 Testing terminology.
101.6 Cell cultures.
101.7 Seed virus.

AUTHORITY: The provisions of this Part 101 issued under 37 Stat. 832–833; 21 U.S.C. 151–158.

§ 101.1 Applicability.

When used in Parts 101 through 117 of this subchapter, the meaning of the words and phrases listed shall be as defined in this part.

§ 101.2 Administrative terminology.

The following administrative words and phrases shall mean:

(a) *Virus-Serum-Toxin Act.* The virus, serum, toxin, and analogous products provisions of the Act of Congress of March 4, 1913, 37 Stat. 832–833, 21 U.S.C. 151–158.

(b) *Regulations.* The provisions in Parts 101 through 117 of this subchapter.

(c) *Domestic animals.* All animals, other than man, including poultry.

(d) *Department.* The U.S. Department of Agriculture.

(e) *Secretary.* The Secretary of Agriculture of the United States or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(f) *Veterinary Services.* Veterinary Services unit of Animal and Plant Health Inspection Service of the Department.

(g) *Deputy Administrator.* The Deputy Administrator for Veterinary Services or any officer or employee of Veterinary Services to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(h) *Inspector.* Any officer or employee of Veterinary Services who is authorized by the Deputy Administrator to do inspection work.

(i) *Inspection.* An examination made by an inspector to determine the fitness of animals, establishments, facilities, and procedures used in connection with the preparation, testing, and distribution of biological products and the examination or testing of biological products.

(j) *Person.* Any individual, firm, partnership, corporation, company, association, educational institution, State or local governmental agency, or other organized group of any of the foregoing, or any agent, officer, or employee of any thereof.

(k) *Subsidiary.* A corporation in which a corporate licensee owns in excess of 50 percent of the voting stock.

(l) *Distributor.* A person who sells, distributes, or otherwise places in channels of trade, one or more biological products he does not produce or import.

(m) *Licensee.* A person to whom an establishment license and at least one product license or special license has been issued.

(n) *Permittee.* A person who resides in the United States or operates a business establishment within the United States, to whom a permit to import biological products has been issued.

(o) *Research investigator or research sponsor.* A person who has requested authorization to make interstate movements of an experimental biological product for the purpose of evaluating such product as provided for in Part 103 of this subchapter or has been granted such authorization.

(p) *Premises.* All buildings, appurtenances, and equipment used to produce and store biological products located within a particular land area shown on building plans or drawings furnished by the applicant or the licensee and designated by an address adequate for identification.

(q) *Establishment.* One or more premises designated on the establishment license.

(r) *U.S. Veterinary Biologics Establishment License.* A document, sometimes referred to as an establishment license, which is issued pursuant to Part 102 of this subchapter, authorizing the use of designated premises for production of biological products specified in one or more unexpired, unsuspended, and unrevoked product license(s) or special license(s).

(s) *Licensed establishment.* An establishment operated by a person holding an unexpired, unsuspended, and unrevoked U.S. Veterinary Biologics Establishment License.

(t) *U.S. Veterinary Biological Product License.* A document, sometimes referred to as a product license, which is issued pursuant to Part 102 of this subchapter to the holder of an establishment license, as a part of and ancillary to the establishment license, and which authorizes production of a specified biological product in the designated licensed establishment.

(u) *U.S. Veterinary Biological Product License (Special).* A document, sometimes referred to as a special license, which is issued pursuant to Part 102 of this subchapter to the holder of an establishment license as a part of and ancillary to the establishment license and which authorizes production of a specified biological product in the licensed establishment subject to such restrictive production, distribution, or use of the product as indicated on the license.

(v) *U.S. Veterinary Biological Product Permit.* A document, sometimes referred to as a permit, issued to a person authorizing the importation of specified biological products subject to restrictions and controls as provided in the regulations.

(w) *Biological products.* The term biological products, sometimes referred to as biologics, biologicals, or products, shall mean all viruses, serums, toxins, and analogous products of natural or synthetic origin, such as allergens, antitoxins, vaccines, tuberculins, live microorganisms, killed micro-organisms, and the antigenic or immunizing components of micro-organisms, intended for use in the diagnosis, treatment, or prevention of diseases of animals.

(x) *Microorganisms.* Minute organisms, which are sometimes referred to as organisms, which may introduce or disseminate disease of animals.

§ 101.3 Biological products and related terms.

When used in conjunction with or in reference to a biological product, the following terms shall mean:

(a) *Licensed biological product.* A biological product prepared within a licensed establishment by a person holding an unexpired, unsuspended, and unrevoked product license or special license for such product.

(b) *Experimental biological product.* A biological product which is being evaluated to substantiate an application for a product license, special license, or permit.

(c) *Completed product.* A biological product in bulk or final container produced in compliance with the regulations to final form and composition.

(d) *Finished product.* A completed product which has been bottled, sealed, packaged, and labeled as required by the regulations.

(e) *Released product.* A finished product released for marketing after all requirements have been satisfactorily complied with.

(f) *Fraction.* A specific antigen, its antibodies, or its antitoxin which constitutes a component of a biological product.

(g) *Diluent.* A liquid used to rehydrate a desiccated product, *Provided*, That, when used in a test procedure, diluent may mean a liquid used to dilute another liquid.

(h) *Serial.* The total quantity of biological product in final composition which has been thoroughly mixed in a single container and identified by letters and/or numbers: *Provided*, That, when all or part of a serial of liquid biological product is packaged as diluent for all or part of a serial of desiccated product, the resulting combination packages shall be considered a serial of the multiple fraction product.

(i) *Subserial.* Each of two or more properly identified portions of a serial which are further processed at different times or under different conditions such as, but not limited to, being desiccated in different size final containers and/or at different times.

(j) *Outline of production.* A detailed protocol of methods of manufacture to be followed in the preparation of a biological product and which may sometimes be referred to as an outline.

(k) *Product Code Number.* A number assigned by Veterinary Services to each type of licensed biological product.

§ 101.4 Labeling terminology.

Terms pertaining to identification and packaging of biological products shall mean:

(a) *Label.* All written, graphic, or printed matter:

(1) Upon or attached to a final container of a biological product;

(2) Appearing upon any immediate carton or box used to package such final container; and

(3) Appearing on any accompanying leaflets, inserts, or circulars, on which required information or directions as to the use of the biological product shall be found.

(b) *Labeling.* All labels and other written, printed, or graphic matter accompanying the final container.

(c) *Final container.* The unit, bottle, vial, ampule, tube, or other receptacle in which any biological product is marketed for distribution and sale.

(d) *True name.* The name entered on the product license, special license, or permit at the time of issuance to differentiate the biological product from others: *Provided*, That, the principal part of such name shall be emphasized on such license or permit by being more prominently lettered than descriptive terms which may be necessary to complete the differentiation.

(e) *Serial number.* Letter(s) and/or number(s) used to identify and distinguish one serial from others.

(f) *Expiration date.* A date designating the end of the period during which a biological product, when properly stored and handled, can be expected with reasonable certainty, to be efficacious.

(g) *Label number.* A number assigned to each label or sketch when submitted for review to Veterinary Services.

§ 101.5 Testing terminology.

Terms used when evaluating biological products shall mean:

(a) *Standard requirement.* Test methods, procedures, and criteria established by Veterinary Services for evaluating biological products to be pure, safe, potent, and efficacious, and not to be worthless, contaminated, dangerous, or harmful under the Act.

(b) *Supplemental Assay Methods or SAM's.* Guidelines issued by Veterinary Services to aid in conducting tests prescribed in Standard Requirements.

(c) *Pure or purity.* Quality of a biological product prepared from pure cultures to a final form relatively free of extraneous micro-organisms (living or dead) and extraneous material (organic or inorganic) and free of extraneous micro-organisms or material which in the opinion of the Deputy Administrator may adversely affect the safety, potency, or efficacy of such product.

(d) *Safe or safety.* Freedom from properties causing undue local or systemic reactions when used as recommended or suggested by the manufacturer.

(e) *Sterile or sterility.* Freedom from viable contaminating microorganisms as demonstrated by procedures prescribed in Part 113 of this subchapter, Standard Requirements, and outlines.

(f) *Potent or potency.* Relative strength of a biological product as determined by test methods or procedures as established by Veterinary Services.

(g) *Efficacious or efficacy.* Specific ability or capacity of the biological product to effect the result for which it is offered when used under the conditions recommended by the manufacturer.

(h) *Dose.* The amount of a biological product recommended on the label to be given to one animal at one time.

(i) *Vaccinate.* An animal which has been inoculated, injected, or otherwise administered a biological product being evaluated.

(j) *Control animal.* An animal, which may be referred to as a control, used in a test procedure for purposes of comparison or to add validity to the results.

(k) *Day.* Time elapsing between any regular working hour of one day and any regular working hour of the following day.

§ 101.6 Cell cultures.

When used in conjunction with or in reference to cell cultures, which may be referred to as tissue cultures, the following terms shall mean:

(a) *Batch of primary cells.* A pool of original explanted cells derived from normal tissue including up to the 10th subculture.

(b) *Cell line.* A pool of explanted cells which are 11 or more subcultures from the tissue of origin.

(c) *Subculture.* Each flask to flask transfer or passage regardless of the number of cell replications.

(d) *Master Cell Stock (MCS).* The supply of cells of a specific passage level

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from which cells for production of a vaccine originate.

§ 101.7 Seed virus.

When used in conjunction with or in reference to seed virus, the following terms shall mean:

(a) *Master Seed Virus.* The passage level of virus, sometimes referred to as MSV, which has been selected and permanently stored by the licensee from which all other seed virus is derived within permitted passage levels.

(b) *Working Seed Virus.* Any passage level of virus, sometimes referred to as WSV, between the Master Seed Virus and production virus.

(c) *Production Seed Virus.* That passage of virus, sometimes referred to as PSV, which is used directly without further propagation for inoculation of the embryos or cell cultures used for preparation of a production lot of vaccine.

Interested persons are invited to submit written data, views, or arguments regarding the proposed regulations to Biologics Staff, Veterinary Services, Federal Center Building, Hyattsville, Md. 20782, within 60 days after date of publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27 (b)).

Done at Washington, D.C., this 27th day of October 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-18650 Filed 10-31-72;8:52 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 148v]

CANDICIDIN

Proposed Change in Potency Assay Method

The Commissioner of Food and Drugs has evaluated a request to amend the antibiotic drug regulations by revising the potency assay method for both candicidin vaginal ointment and candicidin vaginal capsules to provide for the addition of 0.1 percent butylated hydroxyanisole to both the *n*-hexane and the dimethylsulfoxide used in the extration of candicidin. The Commissioner concludes that the proposed method is less time-consuming and yields more accurate results.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner (21 CFR 2.120), it is proposed that Part 148v be amended as follows:

1. By revising § 148v.3 in paragraph (b) (1) to read as follows:

§ 148v.3 Candicidin vaginal ointment.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 141.111 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of *n*-hexane (containing 0.1 percent butylated hydroxyanisole). Shake the sample and *n*-hexane until homogeneous. Add 15 milliliters of dimethylsulfoxide (containing 0.1 percent butylated hydroxyanisole) and shake well. Allow the layers to separate. Remove the bottom layer and repeat the extraction procedure with a second 15-milliliter portion of dimethylsulfoxide (containing 0.1 percent butylated hydroxyanisole). Combine the extractives in a suitable volumetric flask and fill to volume with sterile distilled water. Further dilute an aliquot with sterile distilled water to the reference concentration of 0.06 microgram of candicidin per milliliter (estimated).

* * * * *

2. By revising § 148v.4 in paragraph (b) (1) to read as follows:

§ 148v.4 Candicidin vaginal capsules.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 141.111 of this chapter, preparing the sample for assay as follows: Remove the tips from two capsules and express the ointment from each capsule into a separatory funnel containing approximately 50 milliliters of *n*-hexane (containing 0.1 percent butylated hydroxyanisole). Shake the sample and *n*-hexane until homogeneous. Add 15 milliliters of dimethylsulfoxide (containing 0.1 percent butylated hydroxyanisole) and shake well. Allow the layers to separate. Remove the bottom layer and repeat the extraction procedure with a second 15-milliliter portion of dimethylsulfoxide (containing 0.1 percent butylated hydroxyanisole). Combine the extractives in a suitable volumetric flask and fill to volume with sterile distilled water. Further dilute an aliquot with sterile distilled water to the reference concentration of 0.06 microgram of candicidin per milliliter (estimated).

* * * * *

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: October 26, 1972.

MARY A. MCENIRY,
Assistant to the Director of Regulatory Affairs, Bureau of Drugs.

[FR Doc.72-18570 Filed 10-31-72;8:47 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-SW-71]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a 700-foot transition area at Ada, Okla.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Forth Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the following transition area is added:

ADA, OKLA.

That airspace extending upward from 700 feet AGL within a 5-mile radius of the Ada Municipal Airport (latitude 34°48'20" N., longitude 96°40'15" W.) and within 3.5 miles each side of the 139° bearing from the Ada RBN (latitude 34°48'30" N., longitude 96°40'23" W.) extending from the 5-mile radius area to 8.5 miles southeast of the RBN.

The proposed transition area will provide controlled airspace for aircraft executing approach/departure procedures proposed at the Ada, Okla., Municipal Airport.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Tex., on October 20, 1972.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.72-18580 Filed 10-31-72;8:49 am]

[14 CFR Part 71]

[Airspace Docket No. 72-RM-15]

VOR FEDERAL AIRWAY

Proposed Extension

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would extend VOR Federal airway No. 134 from Grand Junction, Colo., to Denver, Colo., including a south alternate.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Rocky Mountain Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Park Hill Station, Post Office Box 7213, Denver, CO 80207.

All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket also will be available for examination at the Office of the Regional Air Traffic Division Chief.

The proposed amendment would extend V-134 from Grand Junction to Denver, including a south alternate via INT Kremmling 121° M (135° T) and Denver 219° M (232° T) radials. The extension of V-134 from Grand Junction to Glenwood Springs Intersection would have the same alignment and floors as the existing portion of V-8S. Between Glenwood Springs and Denver the airway floor would be 1200' AGL.

The portion of this proposed route between Glenwood Springs and Denver is presently published as a direct route in Part 95 of the Federal Aviation Regulations. However, approximately 25 daily flights en route to/from Aspen, Colo., are expected to operate thereon during the winter season, and a charted airway with bearings and minimum en route altitudes would provide convenience and additional safety for these flights over mountainous terrain.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on October 25, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-18579 Filed 10-31-72;8:49 am]

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Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. I-4410]

IDAHO

Notice of Proposed Withdrawal and Reservation of Lands

OCTOBER 6, 1972.

The Department of Agriculture has filed an application, Serial No. I-4410, for the withdrawal of lands described below from all location and entry under the mining laws but not the mineral leasing laws, subject to valid existing rights.

The applicant desires the land for public purposes as the Musselshell Camas Historic Site in the Clearwater National Forest.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Room 398 Federal Building, 550 West Fort Street, Post Office Box 042, Boise, ID 83702.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the Department of Agriculture. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record. If circumstances warrant it, a public hearing will be held at a convenient time and place which will be announced.

The lands involved in the application are:

CLEARWATER NATIONAL FOREST

MUSSELSHELL CAMAS HISTORIC SITE

BOISE MERIDIAN

T. 35 N., R. 6 E.,
Sec. 19, E½SW¼SE¼SW¼, E½SE¼SW¼, S½SE¼;
Sec. 20, SW¼SW¼;
Sec. 29, NW¼NW¼;
Sec. 30, NE¼NW¼NE¼NW¼, N½NE¼NE¼NW¼, N½N½NW¼NE¼, NE¼NE¼.

The area described aggregates 242.5 acres in Clearwater County, Idaho.

VINCENT S. STROBEL,
Chief, Branch of L&M Operations.

[FR Doc.72-18578 Filed 10-31-72;8:49 am]

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

[Notice 67]

GRAPES GROWN IN NEW YORK

Extension of Closing Date for Filing of Applications for 1973 Crop Year

Pursuant to the authority contained in § 411.3 of Title 7 of the Code of Federal Regulations, and pursuant to paragraph 1 of the resolution adopted by the Board of Directors of the Federal Crop Insurance Corporation on March 19, 1954, the time for filing applications for grape crop insurance for the 1973 crop year in all counties in New York where such insurance is otherwise authorized to be offered is hereby extended until the close of business on December 1, 1972. Such applications received during this period will be accepted only after it is determined that no adverse selectivity will result.

[SEAL] RICHARD H. ASLAKSON,
Manager.

[FR Doc.72-18649 Filed 10-31-72;8:52 am]

Office of the Secretary

KAIBAB-PAIUTE INDIANS IN MOHAVE AND COCONINO COUNTIES, ARIZ.

Feed Grain Donations

Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427), and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Kaibab-Paiute Indian Tribe located on Indian lands in Arizona, has been materially increased and become acute because of severe drought during the 1971, and 1972, growing seasons creating a serious shortage of livestock feeds. These lands are reservation or other lands designated for Indian use and are utilized by members of the Indian tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation for livestock feed for such needy members of the tribes will not displace or interfere with normal marketing of agricultural commodities.

Based on the above determinations, I hereby declare the reservation and grazing land of this tribe to be acute distress areas and authorize the donation of feed grain owned by the Commodity Credit Corp. to livestockmen who are determined by the Bureau of Indian Affairs, Department of the Interior, to be needy members of the tribe utilizing such lands. These donations by the Commodity Credit Corp. may commence upon signature of this notice and shall be made available through the duration of the existing emergency or to such other time as may be stated in a notice issued by the Department of Agriculture.

Signed at Washington, D.C., on October 13, 1972.

RICHARD E. LYNG,
Acting Secretary.

[FR Doc.72-18598 Filed 10-31-72;8:48 am]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[File No. 23(72)-4]

LESLIE WEBB & CO., LTD.

Order Denying Export Privileges for an Indefinite Period

In the matter of Leslie Webb & Co., Ltd., Blackford House, Sutton, Surrey, England, respondent.

The Director, Compliance Division, Office of Export Control, Bureau of International Commerce, U.S. Department of Commerce, has applied for an order denying to the above named respondent all U.S. export privileges for an indefinite period because the said respondent, without good cause being shown, failed to furnish answers to interrogatories and failed to furnish certain records and other writings specifically requested. This application was made pursuant to § 388.15 of the Export Control Regulations (Title 15, Chapter III, Subchapter B, Code of Federal Regulations).

In accordance with the usual practice, the application for an indefinite denial order was referred to the Hearing Commissioner, Bureau of International Commerce, who, after consideration of the evidence, has recommended that the application be granted. The report of the Hearing Commissioner and the evidence in support of the application have been considered.

The evidence presented shows the following: The respondent, Leslie Webb & Co., Ltd., is a trader and exporter of machinery with a place of business in Sutton, Surrey, England; in February 1970 the respondent placed an order

with a supplier in the United Kingdom for 80 U.S.-origin pumps of particular design, having a total value in excess of $7,300; the United Kingdom supplier ordered and received said pumps from the United States and sold and delivered them to respondent; the respondent knew or had reason to know that the pumps were of U.S. origin; the respondent reexported said pumps from the United Kingdom and there is reason to believe that the destination was Cuba or another destination that would not have been authorized by the Office of Export Control.

The Compliance Division is conducting an investigation into the above transaction to ascertain what disposition the respondent made of the pumps in question, and whether there were violations of the Export Control regulations.

It is impracticable to subpena the respondent, and relevant and material interrogatories regarding its disposition of the pumps in question were served on it pursuant to § 388.15 of the Export Control regulations. The respondent also, pursuant to said section, was requested to furnish certain specific documents relating to said transaction. The respondent has failed to furnish answers to said interrogatories or to furnish the documents requested, and it has not shown good cause for such failure. I find that an order denying export privileges to said respondent for an indefinite period may properly be entered under § 388.15 of the Export Control regulations and that such an order is reasonably necessary to protect the public interest and to achieve effective enforcement of the Export Administration Act of 1969, as amended.

Accordingly, it is hereby ordered:

I. All outstanding validated export licenses in which respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Bureau of International Commerce for cancellation.

II. The respondent is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States, in whole or in part, or to be exported, or which are otherwise subject to the Export Control regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any validated export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or any document to be submitted therewith; (c) in the obtaining or using of any validated or general export license, or other export control document; (d) in the carrying on of negotiations with erspect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data in whole or in part, exported or to be exported from the United States; and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondent, but also to its agents, employees, representatives, and partners, and to any other person, firm, corporation, or business organization with which the respondent now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith.

IV. This order shall remain in effect until the respondent provides responsive answers, written information and documents in response to the interrogatories heretofore served upon it or gives adequate reasons for failure to do so, except insofar as this order may be amended or modified hereafter in accordance with the Export Control regulations.

V. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of International Commerce, shall do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondent or any related party, or whereby the respondent or related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, shipper's export declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for any such respondent or related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

VI. A copy of this order shall be served on respondent.

VII. In accordance with the provisions of § 388.15 of the Export Control regulations, the respondent may move at any time to vacate or modify this indefinite denial order by filing with the Hearing Commissioner, Bureau of International Commerce, U.S. Department of Commerce, Washington, D.C. 20230, an appropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which if requested, shall be held before the Hearing Commissioner, at Washington, D.C., at the earliest convenient date.

Dated: October 24, 1972.

This order shall become effective on October 31, 1972.

RAUER H. MEYER,
Director,
Office of Export Control.

[FR Doc.72-18741 Filed 10-31-72;8:52 am]

Maritime Administration

[Docket No. S-296]

COLONIAL TANKERS CORP., AND NATIONAL TRANSPORT CORP.

Notice of Multiple Applications

Notice is hereby given that applications have been filed under the Merchant Marine Act of 1936, as amended, for operating-differential subsidy with respect to bulk cargo carrying service in the U.S. foreign trade, principally between the United States and the Union of Soviet Socialist Republics, to expire on June 30, 1973 (unless extended only for subsidized voyages in progress on that date). Inasmuch as the below listed applicants, and/or related persons or firms, employ ships in the domestic, intercoastal or coastwise service, written permission of the Maritime Administration under section 805(a) of the Merchant Marine Act, 1936, as amended, will be required for each such applicant if its application for operating-differential subsidy is granted.

The following applicants have requested permission involving the domestic, intercoastal, or coastwise services described below:

Name of applicant: Colonial Tankers Corp. (Colonial).

Description of domestic service and vessels: On January 10, 1962, a related company of the applicant, American Export Lines, Inc. (Export), was granted written permission for SS *Orion Hunter*, now the SS *Western Hunter*, to be operated by a company related to Export, for the carriage of petroleum and/or petroleum products, in bulk, in the domestic, coastwise, or intercoastal commerce of the United States as an adjunct to worldwide operation of such vessels. The authority was not extended beyond the economic life of the vessel or expiration of Export's subsidy contract, whichever shall first occur.

Written permission is now required by the applicant (Colonial) notwithstanding the previous grant to a related company (Export) or the fact that a voyage in the proposed service for which subsidy is sought would not be eligible for subsidy if the vessel carried domestic commerce of the United States on that voyage.

Name of applicant: National Transport Corp. (National).

Description of domestic service and vessels: The same as for Colonial Tankers Corp.

Written permission is required by this applicant (National) as a related company to Colonial Tankers Corp.

Interested parties may inspect these applications in the Office of The Secretary, Maritime Subsidy Board, Maritime Administration, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20235.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in any application and

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desiring to be heard on issues pertinent to section 805(a) or desiring to submit comments or views concerning the application must, by close of business on November 8, 1972, file same with the Maritime Subsidy Board/Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board/Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled for 10 a.m., November 10, 1972, in Room 4896, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20235. The purpose of the hearing will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal services, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

Dated: October 30, 1972.

By order of the Maritime Subsidy Board/Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.72-18744 Filed 10-31-72;8:53 am]

[Docket No. S-295]

NATIONAL TRANSPORT CORP. AND COLONIAL TANK CORP.

Notice of Multiple Applications

Notice is hereby given that the following corporations have filed application for an operating-differential subsidy contract to carry bulk cargoes to expire on June 30, 1973 (unless extended only for subsidized voyages in progress on that date). The bulk cargo carrying vessels proposed to be subsidized and the trades in which each purposes to engage are presented also.

Operators' names:
National Transport Corp., 26 Broadway, New York, NY 10004.
Colonial Tankers Corp., 26 Broadway, New York, NY 10004.

Vessel names and vessel description

s.t. National Defender, tanker.
s.t. Western Hunter, tanker.

The foregoing applications may be inspected in the Office of the Secretary, Maritime Subsidy Board, Maritime Administration, U.S. Department of Commerce, Washington, D.C., during regular working hours.

These vessels are to engage in the carriage of export bulk raw and processed agricultural commodities in the foreign commerce of the United States (U.S.) from ports in the United States to ports in the Union of Soviet Socialist Republics (U.S.S.R.), or other permissible ports of discharge. Liquid and dry bulk cargoes may be carried from U.S.S.R. and other foreign ports inbound to U.S. ports during voyages subsidized for carriage of export bulk raw and processed agricultural commodities to the U.S.S.R.

Full details concerning the U.S.-U.S.S.R. export bulk raw and processed agricultural commodities subsidy program, including terms, conditions, and restrictions upon both the subsidized operators and vessels, appear in the regulations published in the FEDERAL REGISTER on October 21, 1972 (37 F.R. 22747).

For purposes of section 605(c), Merchant Marine Act, 1936, as amended (Act), it should be assumed that each vessel named will engage in the trades described on a full-time basis through June 30, 1973 (with extension to termination of approved subsidized voyages in progress on that date). Each voyage must be approved for subsidy before commencement of the voyage. The Maritime Subsidy Board (Board) will act on each request for a subsidized voyage as an administrative matter under the terms of the individual operating-differential subsidy contract for which there is no requirement for further notices under section 605(c) of the Act.

Any person having an interest in the granting of one or any of such applications and who would contest a finding of the Board that the service now provided by vessels of U.S. registry for the carriage of cargoes as previously specified is inadequate, must, on or before November 8, 1972, notify the Board's Secretary, in writing, of his interest and of his position, and file a petition for leave to intervene in accordance with the Board's rules of practice and procedure (46 CFR Part 201). Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Act and with as much specificity as possible the facts that the intervenor would undertake to prove at such hearing. Further, each such statement shall identify the applicant or applicants against which the intervention is lodged.

In the event a hearing under section 605(c) of the Act is ordered to be held with respect to any application(s), the purpose of such hearing will be to receive evidence relevant to (1) whether the application(s) hereinabove described is one with respect to vessels to be operated in an essential service, served by citizens of the United States which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of U.S. registry is inadequate and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such action as may be deemed appropriate.

Dated: October 30, 1972.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.72-18745 Filed 10-31-72;8:53 am]

Office of Import Programs

ARIZONA STATE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897), and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00424-70-54600. Applicant: Arizona State University, Tempe, Ariz. 85281. Article: Optical diffractometer (with U.S. laser). Manufacturer: Polaron Instruments, Ltd., United Kingdom. Intended use of article: The article is intended to be used in research involving analysis and optical processing of electron micrographs. The experiments to be conducted will be the evaluation of biological material images to test electron optical systems for imaging defects such as defocus, astigmatism, etc., and reconstruction of the images to emphasize and examine periodic components in the presence of optical noise. The article will also be used for instruction of graduate students in advanced concepts and research methods.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The article has basic usefulness for the applicant's purposes in that it operates in the manner of an optical analog computing device. We are advised by the Department of Health, Education, and Welfare (HEW) that the characteristics of the article described above are pertinent to the applicant's intended purposes. HEW further advises that it knows of no comparable domestic instrument of equivalent scientific value to the article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-18612 Filed 10-31-72;8:45 am]

JOHNS HOPKINS UNIVERSITY AND UNIVERSITY OF GEORGIA

Notice of Consolidated Decision on Applications for Duty-Free Entry of Batch Microcalorimeters

The following is a consolidated decision on applications for duty-free entry of batch microcalorimeters pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.). (See especially § 701.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00623-01-07520. Applicant: The Johns Hopkins University, Purchasing Department, Charles and 34th Streets, Baltimore, Md. 21218. Article: LKB batch microcalorimeter. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to investigate the chemical thermodynamics of muscle proteins and larger functional fragments of muscle. Specific experiments include the thermal effects of the reaction of the muscle protein myosin with its substrate adenosine triphosphate, the reaction of glycerinated myofibrillar suspensions and actomyosin with adenosine triphosphate, and the reaction of calcium ions with sarcoplasm and muscle proteins. Application received by Commissioner of Customs: June 19, 1972. Advice submitted by Department of Health, Education, and Welfare on: October 6, 1972.

Docket No. 72-00624-01-07520. Applicant: University of Georgia, Department of Biochemistry, Boyd Research Center, Athens, Ga. 30601. Article: LKB batch microcalorimeter. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for measurement of enthalpies of ligand binding to proteins: Magnesium, salts, and substrates to yeast enolase, sodium dodecysulfate to ovalbumin, anilinonapthalene sulfonic acid to bovine serum albumin, and AT to formyltetrahydrofolate synethetase. This is to correlate these data with data obtained previously by other methods to get a better understanding of how proteins bind ligands, and what effect ligand binding have on proteins. Application received by Commissioner of Customs: June 19, 1972. Advice submitted by Department of Health, Education, and Welfare on: October 6, 1972.

Comments: No comments have been received in regard to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, is being manufactured in the United States. Reasons: Each foreign article has a sensitivity of 1 microcalorie. We are advised by the Department of Health, Education, and Welfare (HEW) in its respectively cited memoranda that the sensitivity of each article is pertinent to the purposes for which it is intended to be used. HEW further advises that it knows of no domestically manufactured instrument which is scientifically equivalent to any of the articles cited above for each applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-18613 Filed 10-31-72;8:45 am]

NATIONAL INSTITUTE OF DENTAL RESEARCH

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00617-00-46040. Applicant: National Institute of Dental Research, Building 30, Bethesda, Md. 20014. Article: Universal camera with magazines and counting drive. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is intended to be used for studies concerned with the examination of various tissues and synthetic materials to determine the following: (1) Changes in the functional state of secretory cells following exposure to various experimental procedures; (2) intercellular junctions in vertebrate and nonvertebrate tissues; and (3) the chemical nature and morphology of the various mineral phases in bones and teeth.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to compatible accessories for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes.

The Department of Commerce knows of no similar accessories being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-18614 Filed 10-31-72;8:45 am]

STATE OF ALASKA, DEPARTMENT OF FISH AND GAME

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00611-90-29900. Applicant: State of Alaska, Department of Fish and Game, Subpart Building, Juneau, Alaska 99801. Article: Pluralis filter, Model FA-HCF-P-6. Manufacturer: R. E. Flatow and Co., Inc., Canada. Intended use of article: The article is intended to be used in studies involving the rearing and genetic manipulations of fishes. It will provide a filtered water supply which will not clog and impede water flow through small interspaces. The most critical aspect is to efficiently, without failure or interruption, remove all living matter above 15 microns in size. This allows the associated ultraviolet ray treatment to destroy the remaining organisms and provide sterile water to carry large numbers of eggs and fish in an extremely crowded environment without the otherwise inevitable introduction of diseases from the water supply.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: For its intended purposes the applicant institution

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requires a complete water filtration system designed to provide a hatchery with a controlled environment and disease-free water. The foreign article is a complete system which satisfies the applicant's requirements by providing in-service backwash of individual filtration units and utilizing filter elements designed to avoid contamination of the filtrate while assuring optimum filtration results. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated October 6, 1972, that the characteristics of the article described above are pertinent to the applicant's research studies. HEW further advises that it knows of no comparable domestic instrument of equivalent scientific valtue to the article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-18615 Filed 10-31-72;8:46 am]

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 73-00037-75-27000. Applicant: University of California, Lawrence Berkeley Laboratory, Calif. 94720. Article: Two (2) electron tubes type TH-515. Manufacturer Compagnie Generale de Telegraphie, France. Intended use of article: The article is intended to be used as spares to identical tubes now in service in a proton-deuteron accelerator complex (the Bevatron) to furnish power at approximately 200 MHz for the second of three stages of acceleration, a 50 MeV linear accelerator.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The applicant's use for experiments in high energy physics using a proton-deuteron accelerator requires replacement components with the same mechanical specifications for physical replacement and the same electrical specifications for the operation of the accelerator as the article. We are advised by the National Bureau of Standards (NBS) in its memorandum dated October 4, 1972, that the characteristics described above are pertinent to the purposes for which the article is intended to be used. NBS also advises that it knows of no domestically manufactured instrument which is scientifically equivalent to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-18616 Filed 10-31-72;8:46 am]

YALE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 73-00084-98-34040. Applicant: Yale University, Purchasing Department, 260 Whitney Avenue, New Haven, CT 06520. Article: "Carcinotron" Millimeter Backward Wave Oscillator, Model CO-40-B. Manufacturer: Compagnie Generale de Telegraphic Sans Fil, France. Intended use of article: The article is intended to be used to operate an existing polarized proton target at less than 0.5° K. The target is to be used in an experiment involving measurement of the resultant asymmetries in the scattering of K^+, K^- mesons and antiprotons upon polarized protons when the direction of polarization is reversed.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a wide-band continuous power source in the 70 gigahertz (GHz) frequency range. We are advised by the National Bureau of Standards (NBS) in its memorandum dated October 3, 1972, that the capability described above is pertinent to the applicant's intended use. NBS also advises that it knows of no domestically manufactured instrument which is scientifically equivalent to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-18617 Filed 10-31-72;8:46 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-474; NADA 6-588V]

SALSBURY LABORATORIES

Salsbury's Sulfaquinoxaline; Order Vacating Notice of Withdrawal; Notice of Opportunity for Hearing

A notice withdrawing approval of new animal drug application (NADA) No. 6-588V, Salsbury's Sulfaquinoxaline; by Salsbury Laboratories, Charles City, Iowa 50616, was published in the FEDERAL REGISTER of September 8, 1972 (37 F.R. 18230).

Counsel for Salsbury Laboratories objected to said notice on the grounds that proper procedure was not followed in withdrawing the above-named NADA in that no opportunity for hearing was published. The Commissioner of Food and Drugs finds that no opportunity for hearing has been published. Therefore, said notice of withdrawal is hereby vacated insofar as the above-named product is concerned and an opportunity for a hearing is provided for by this notice.

Salsbury Laboratories submitted for review by the National Academy of Sciences-National Research Council, Drug Efficacy Study Group labeling on Sulquin Soluble Powder and associated this drug on their NAS/NRC Form A submission with NADA No. 6-588V. The Academy's review of this product was the subject of an announcement published in the FEDERAL REGISTER of July 9, 1970 (35 F.R. 11069, DESI 6391V). Administration records, including a Salsbury Laboratorie's letter of January 25, 1972, reveal that NADA No. 7-285V provides for the product, Sulquin Soluble Powder and that NADA No. 6-588V provides for the product, Salsbury's Sulfaquinoxaline.

Regulations published in the FEDERAL REGISTER of September 14, 1971 (36 F.R. 18375) (21 CFR 135.35), required that each applicant for whom a new animal drug application or supplement for a drug for use in animals became effective or was approved at any time prior to June 20, 1963, shall submit in duplicate certain specified information for each dosage form within 90 days from the effective date of said regulations (October 14, 1971). The referenced regulation (§ 135.35) states that if reports show that a new animal drug is not marketed or has been discontinued a notice may be published in the FEDERAL REGISTER proposing to withdraw approval of such application, on any of the grounds specified in section 512 of the Act (21 U.S.C. 360b). Salsbury Laboratories by letter of January 4, 1972, responded by advising the Commissioner that the above-named drug, Salsbury's Sulfaquinoxaline, is not now marketed.

Salsbury Laboratories did not submit efficacy data for Salsbury's Sulfaquinoxaline as required by the notice regarding drug effectiveness which was published in the FEDERAL REGISTER of July 9, 1966 (31 F.R. 9426). In addition, Salsbury Laboratories has failed to submit information on this product in response to the statements of policy and interpretation regarding animal drugs and medicated feeds (§ 135.102) published in the FEDERAL REGISTER of October 23, 1970 (35 F.R. 16538).

Information available to the Commissioner fails to establish that the drug is effective or that there would be no residue of this product in food derived from treated animals when the drug is administered in accordance with the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, in accordance with the provisions of section 512 of the act (21 U.S.C. 360b), the Commissioner hereby gives the applicant, and any interested person who would be adversely affected by an order withdrawing such approval an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of the above-named NADA should not be withdrawn.

Within 30 days after the date of publication hereof in the FEDERAL REGISTER, such persons are requested to file with the Hearing Clerk, Department of Health, Education, and Welfare, Food and Drug Administration, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner, without further notice, will enter a final order withdrawing approval of NADA No. 6-588V.

Failure of such persons to file a written appearance of election within said 30 days will be construed as an election by said persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this order will be open to the public except that any portion of the hearing concerning a method or process which the Commissioner finds is entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file a written appearance requesting the hearing and giving the reasons why approval of the new animal drug application should not be withdrawn together with a well-organized and full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition to the grounds for this notice. A request for a hearing may not rest upon mere allegations or denials but must set forth the specific fact showing that there is a genuine and substantial issue of fact requiring a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the withdrawal of approval of the applications, the Commissioner will enter an order stating his findings and conclusions on such data. If the hearing is requested and justified by the response to this notice, the issues will be defined, an administrative law judge will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

Responses to this notice will be available for public inspection in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under the authority delegated to the Commissioner (21 CFR 2.120).

Dated: October 26, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-18567 Filed 10-31-72;8:45 am]

[Docket No. FDC-D-474; NADA 6-588V, etc.]

SALSBURY LABORATORIES, ET AL.

Certain New Animal Drug Applications; Order Vacating Notice of Withdrawals; Notice of Opportunity for Hearing

In announcements in the FEDERAL REGISTER of October 17, 1969 (34 F.R. 16635 DESI 11036V), July 9, 1970 (35 F.R. 11069, DESI 6391V), July 9, 1970 (35 F.R. 11071, DESI 7055V), July 21, 1970 (35 F.R. 11645, DESI 9695V), August 6, 1970 (35 F.R. 12565, DESI 12409V), August 22, 1970 (35 F.R. 13490, DESI 10285V), and September 4, 1970 (35 F.R. 14103, DESI 7779V), the Commissioner of Food and Drugs announced the conclusions of the Food and Drug Administration following evaluation of reports received from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group, on the following drugs:

1. Enheptin Soluble, NADA (new animal drug application) No. 7-982V; by American Cyanamid Co., Post Office Box 400, Princeton, NJ 08540.

2. Triple Sulfa Solution, NADA No. 7-055V; by Jensen-Salsbury Laboratories, 520 West 21st Street, Kansas City, MO 64141.

3. Sulfabrom, NADA No. 12-409V; by Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Rahway, NJ 07065.

4. Purina Hepzide Blackhead Control, NADA No. 11-179V; by Ralston Purina Co., Checkerboard Square, St. Louis, MO 63188.

5. Kaobiotic Suspension, NADA No. 9-695V; by the Upjohn Co., Kalamazoo, MI 49001.

6. (a) SQS (Sulfaquinoxaline), NADA No. 6-895V; (b) Histosep-S, NADA No. 7-779V; and (c) Histocarb Soluble, NADA No. 11-501V; by Whitmoyer Laboratories, Inc., 19 North Railroad Street, Myerstown, PA 17067.

A notice withdrawing the approvals for the above new animal drug applications was published in the FEDERAL REGISTER of September 8, 1972 (37 F.R. 18230).

The Commissioner finds that no opportunity for hearing was published prior to the notice of withdrawal of these applications. Therefore said withdrawal notice is vacated and a notice of opportunity for hearing is hereby provided to the holders of the above listed NADA's.

The cited initial announcements invited the holders of said new animal drug applications and any other interested persons to submit pertinent data on the drugs' effectiveness. Jensen-Salsbery Laboratories responded to the announcement of July 9, 1970 (35 F.R. 11071, DESI 7055V) and the statements of policy and interpretation regarding animal drugs and medicated feeds October 23, 1970 (35 F.R. 16539) by submitting revised labeling for Triple Sulfa Solution. Their submission was found to be inadequate in that (1) The labeling lacked proper directions for the intravenous route of administration; (2) no data were presented to indicate that 72 hours (6 milkings) after the latest treatment would provide milk free of drug residues; (3) the "caution" statement was not identical to that published in the statement of policy (21 CFR 135.-102); and (4) the manufacturing and control portions of the application were not updated. No other data were submitted in response to said announcements and available information fails to provide substantial evidence that these drugs will have the effect they purport to have when administered in accordance with the conditions of use prescribed, recommended, or suggested in their labeling.

In accordance with the provisions of section 512 of the act (21 U.S.C. 360b), the Commissioner hereby gives the applicants, and any interested person who would be adversely affected by an order withdrawing such approval an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of the above-named new animal drug applications should not be withdrawn.

Within 30 days after the date of publication hereof in the FEDERAL REGISTER, such persons are requested to file with the Hearing Clerk, Department of Health, Education, and Welfare, Food and Drug Administration, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

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2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner, without further notice, will enter a final order withdrawing approval of the new animal drug applications.

Failure of such persons to file a written appearance of election within said 30 days will be construed as an election by said persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this order will be open to the public except that any portion of the hearing concerning a method or process which the Commissioner finds is entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file a written appearance requesting the hearing and giving the reasons why approval of the new animal drug application should not be withdrawn together with a well-organized and full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition to the grounds for this notice. A request for a hearing may not rest upon mere allegations or denials but must set forth the specific fact showing that there is a genuine and substantial issue of fact requiring a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the withdrawal of approval of the applications, the Commissioner will enter an order stating his findings and conclusions on such data. If the hearing is requested and justified by the response to this notice, the issues will be defined, an administrative law judge will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

Responses to this notice will be available for public inspection in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343–51; 21 U.S.C. 360b) and under the authority delegated to the Commissioner (21 CFR 2.120).

Dated: October 26, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-18569 Filed 10-31-72;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Government National Mortgage Association

[Docket No. N-72-125]

MORTGAGE-BACKED SECURITIES PROGRAM

Notice of Meeting

Notice is hereby given that members appointed by the Secretary to the Government National Mortgage Association Advisory Board, as well as individuals (within the limitations of conference room facilities) who are interested in a discussion of certain technical aspects of the GNMA Mortgage-Backed Securities Program, are invited to a meeting to be held at the Departmental Conference Room of the Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC, at 10 a.m., November 3, 1972.

WOODWARD KINGMAN,
President, Government National Mortgage Association.

[FR Doc.72-18786 Filed 10-31-72;8:50 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-390; 50-391]

TENNESSEE VALLEY AUTHORITY

Order Scheduling Prehearing Conference and Evidentiary Hearing

In the matter of Tennessee Valley Authority (Watts Bar Nuclear Plant, Units 1 and 2), Dockets Nos. 50-390 and 50-391.

Notice is hereby given that a prehearing conference in the captioned proceeding will be held on November 6, 1972, at 11 a.m. local time, Rhea County Courthouse, Dayton, Tenn. 37321.

The purpose of the prehearing conference is as follows:

1. Simplification, clarification, and specification of the issues;
2. The necessity or desirability of amending the pleadings;
3. The obtaining of stipulations and admissions of fact and of the contents and authenticity of documents to avoid unnecessary proof;
4. Identification of witnesses and the limitation of the number of expert witnesses, and other steps to expedite the presentation of evidence;
5. The setting of a hearing schedule; and
6. Such other matters as may aid in the orderly disposition of the proceeding.

The evidentiary hearing on environmental issues will be held on November 29, 1972, at 11 a.m. local time, in the same courtroom. The time and place for the evidentiary hearing on radiation and safety issues will be set later by a second public notice.

All members of the public are entitled to attend the prehearing conference as well as the subsequent evidentiary sessions of the hearing.

Issued at Washington, D.C., this 27th day of October 1972.

By the Atomic Safety and Licensing Board.

ELIZABETH S. BOWERS,
Chairman.

[FR Doc 72-18674 Filed 10-31-72;8:53 am]

[Docket No. 50-271]

VERMONT YANKEE NUCLEAR POWER CORP.

Order Designating Location of Hearing

In the matter of Vermont Yankee Nuclear Power Corp. (Vermont Yankee Nuclear Power Station).

At a session of evidentiary hearings held on October 26, 1972, in Brattleboro, Vt., the Regulatory Staff of the Commission stated that one of their witnesses was unable to attend hearings in Brattleboro but could be available in Washington, D.C. With the consent of attorneys for the parties, a session of evidentiary hearings was scheduled for November 9, 1972, at a location to be designated in Washington, D.C. It is contemplated that this further session will be the last of evidentiary hearings in this proceeding.

Wherefore, it is ordered, In accordance with the Atomic Energy Act, as amended, and the rules of practice of the Commission, that an evidentiary session of hearings shall convene at 10 a.m. on Thursday, November 9, 1972, in Room 111, Lafayette Building, 811 Vermont Avenue NW., Washington, DC.

Issued: October 30, 1972, Germantown, Md.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[FR Doc.72-18753 Filed 10-31-72;8:52 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23333; Order 72-10-76]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority October 20, 1972.

Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreements name additional specific commodity rates, as set forth in the attachment hereto,[1] and reflect reductions from the otherwise applicable general cargo rates. The agreements, which have been assigned the above-designated CAB agreement numbers, were adopted pursuant to unprotested notices to the carriers and promulgated in IATA letters dated October 16, 1972, and October 13, 1972, respectively.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the subject agreements are adverse to the public interest or in violation of the Act; *Provided,* That approval is subject to the condition hereinafter ordered.

Accordingly, it is ordered, That:

Agreements CAB 23338 and 23339, R-1 through R-3, be and hereby are approved: *Provided,* That approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications: *Provided further,* That tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-18637 Filed 10-31-72;8:51 am]

[1] Filed as part of the original document.

ENVIRONMENTAL PROTECTION AGENCY

[Docket No. 145 etc.]

ALDRIN AND DIELDRIN

Cancellation of Registration of Pesticides; Notice of Objection and Request for Hearing

Notice is hereby given, pursuant to § 164.20 of the rules of practice (37 F.R. 9476) issued pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 135–135k), that objections and requests for a public hearing were filed by the Shell Chemical Co., the manufacturer of the pesticides aldrin and dieldrin, 40 other registrants and a representative of users thereof in connection with cancellations of registrations of pesticides containing aldrin and dieldrin. These 42 proceedings have been consolidated for hearing.

For information concerning the issues involved and other details of these proceedings, interested persons are referred to the dockets of these proceedings on file with the Hearing Clerk, Environmental Protection Agency, Room 3902-A, Waterside Mall, 401 M Street SW., Washington, DC.

WILLIAM D. RUCKELSHAUS,
Administrator.

OCTOBER 26, 1972.

[FR Doc.72-18634 Filed 10-31-72;8:51 am]

O,O-DIETHYL S-[2-(ETHYLTHIO ETHYL] PHOSPHORODITHIOATE

Notice of Establishment of Temporary Tolerances

In response to a request from South Dakota State University, Brookings, S. Dak. 57006, temporary tolerances are established for residues of the insecticide O,O-diethyl *S*-[2-(ethylthio)ethyl] phosphorodithioate in or on rye straw at 5 parts per million and rye grain at 0.3 part per million.

It has been determined that temporary tolerances for residues of the insecticide in or on rye straw and rye grain, at the above levels, will protect the public health. These temporary tolerances are established on condition that the insecticide will be used in accordance with the temporary permit which is being issued concurrently.

These temporary tolerances expire December 31, 1972.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038).

Dated: October 19, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-18586 Filed 10-31-72;8:46 am]

FEDERAL COMMUNICATIONS COMMISSION

INSTRUCTIONAL TELEVISION FIXED SERVICE COMMITTEE

Notice of Fall Meeting

OCTOBER 24, 1972.

FCC Commissioner H. Rex Lee has announced that the 1972 meeting of the National Committee for the Instructional Television Fixed Service (ITFS) will be held at 4 p.m. on November 1 in Las Vegas during the annual convention of the National Association of Educational Broadcasters, scheduled to be held at the Las Vegas Hilton Hotel. Information concerning the room location will be announced at the NAEB convention. As always, the meeting will be open to all interested observers.

In announcing the meeting, Commissioner Lee stated: "Many of the original purposes in setting up this committee have been achieved. The field of instructional communications is expanding so that ITFS, as all other media, can no longer stand alone. Cable and satellites both are likely to play significant roles in any educational technology system, including those in which ITFS may now be the dominant or sole factor. Questions have legitimately been raised whether the ITFS Committee should be phased out or whether it should be expanded to include these other areas of instructional communications."

Accordingly, the main agenda topic for the meeting will be the future of the committee. Views of educators in addition to committee members will be welcomed on this subject. Other matters to be discussed are the relationship of ITFS to the new cable television rules, and the allocation of the 2500 MHz band by the World Administrative Radio Conference for educational uses.

The National Committee for the Instructional Television Fixed Service is made up of FCC, other Federal agency representatives, and members of the educational community. Its current 46 members represent all educational levels,

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users, and geographical areas. It was formed in October 1965 to assist in planning for efficient use of ITFS frequencies in local areas. It provides information and acts as liaison between the Commission and educators with ITFS interests. Commissioner Lee is Chairman of the Committee. Dr. Robert L. Hilliard, Chief of the FCC Educational Broadcasting Branch, is Executive Vice Chairman.

Instructional Television Fixed Service (ITFS) was established by the FCC on an experimental bnsis in 1963 and on a regular basis in 1971 to provide multiple frequencies in the 2500 MHz band for in-school educational television use. It is not a broadcast service. A single ITFS system can provide up to four simultaneous channels for in-school service, plus response systems. About 140 systems with some 400 channels were on the air in September 1972 and about 40 systems with some 120 channels had outstanding construction permits. ITFS is currently serving about 8,000 schools with about 5 million students. ITFS is now being used in several areas as a means for distributing materials for continuing education, for educational data exchange, improving communication among various governmental entities, and as a two-way communication service providing instantaneous feedback from students to instructors.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-18624 Filed 10-31-72;8:50 am]

INTERDEPARTMENT RADIO ADVISORY COMMITTEE

Use of Guidelines

OCTOBER 11, 1972.

FCC Chairman Dean Burch has informed Clay T. Whitehead, Director, Office of Telecommunications Policy (OTP), that the Commission has no objections to the use of guidelines developed by the Interdepartment Radio Advisory Committee (IRAC) for determining when common carriers are required to obtain Commission radio authorization even though Government frequencies are to be used.

(On February 3, 1971, the Commission adopted a public notice stating that common carriers, which provide service to the U.S. Government, are subject to titles II and III of the Communications Act to the same extent as when such services are provided to any other customer. Because of the uncertainty which developed among carriers and various Federal agencies as to when a radio station qualifies as a Government station under section 305(a) of the Act, IRAC developed its guidelines to assist Federal agencies in making the determination.)

The following is the text of the letter to Dr. Whitehead:

This is in response to the letter of June 14, 1972, from Mr. W. Dean, Jr., to Mr. Raymond E. Spence, concerning the use of Government frequencies by common carriers and requesting the Commission's views with regard to guidelines for such use developed by the Interdepartment Radio Advisory Committee (IRAC) in response to the Commission's public notice of February 4, 1971 (FCC 71-106).

These guidelines read:

"The following guidelines are to assist in the determination of whether or not a station belongs to and is operated by the United States as specified in section 305(a) of the Communications Act of 1934, As Amended:

"a. The department or agency concerned should be able to exercise effective control over the radio equipment and its operation; and

"b. The department or agency concerned assumes responsibility for contractor compliance with Executive Branch, departmental, or agency instructions and limitations regarding use of the equipment and ensures that such instructions and limitations are met when operating under the authority of an Executive Branch frequency authorization to the department or agency; and

"c. The station should be operated by an employee of the department or agency or by a person who operates under the control of the department or agency on a contractual or cooperative agreement basis, and who is under supervision of the department or agency sufficient to ensure that Executive Branch, departmental, or agency instructions and limitations are met.

"It is recognized that a Government agency may make a contract arrangement for maintenance or operation of a radio station under its control without diminishing the effective control of, or responsibility for, such station, provided the appropriate limitations or requirements are specified.

"Since the foregoing may not cover every case, or where there may be doubt, the determination will be made by the department or agency concerned after consultation with the OTP/FCC as appropriate."

The Commission has no objections to the use of these guidelines in appropriate cases.

Action by the Commission October 5, 1972.[1]

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-18625 Filed 10-31-72;8:50 am]

PANEL 6 OF TECHNICAL ADVISORY COMMITTEE

Meeting Scheduled

OCTOBER 26, 1972.

Panel 6 (Technical Operations) of the Cable Television Technical Advisory Committee will hold an open meeting on November 6, 1972, at 10 a.m. The meeting will be held in Room 847S of the main FCC building, 1919 M Street NW., Washington, DC.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-18623 Filed 10-31-72;8:50 am]

[1] Commissioners Burch (Chairman), Robert E. Lee, H. Rex Lee, Wiley, and Hooks, with Commissioner Johnson dissenting.

PANEL 8 OF CABLE TECHNICAL ADVISORY COMMITTEE

Membership Solicited

OCTOBER 26, 1972.

FCC Chairman Dean Burch has announced the appointment of Panel Chairmen for the Cable Television Technical Advisory Committee (C-TAC). The committee was established to formulate technical standards for carrying television broadcast signals, cable-originated programs, return (two-way) communication, and various miscellaneous cable services.

The following is a listing of the nine C-TAC panels and their chairmen:

Panel 1: Measurement Methods & Instrumentation, Mr. Kenneth A. Simons, Jerroid Electronics Corp.

Panel 2: Subjective Evaluation of Picture Quality, Mr. Archer S. Taylor, Malarkey, Taylor & Associates.

Panel 3: TV Receivers for Cable TV, Mr. Bernard D. Loughlin, Hazeltine Corp.

Panel 4: Class II Cable Television Channels, Mr. Larry Janes, Capitol Cablevision Corp.

Panel 5: Cable Frequency Assignments, Mr. Henry M. Diambra, Westinghouse Broadcasting, Inc.

Panel 6: Technical Operations, Mr. Herbert Michels, Time-Life Broadcast, Inc.

Panel 7: Interface Compatibility, Mr. James W. McNabb, MCI Communications Corp.

Panel 8: Television System Coordination, Mr. Howard T. Head, A. D. Ring & Associates.

Panel 9: Class III and IV Channels (Bidirectional), Mr. Joseph A. Stern, Goldmark Communications Corp.

The work of the various panels is handled by engineers from the cable television and related industries who have volunteered their services on the panels. Industry engineers have not yet had an opportunity to volunteer for service on Panel 8, however, since it was the most recently formed.

The task of Panel 8 is the identification of the technical characteristics of the overall television system where picture quality may be affected by the combined characteristics of more than one portion of the system. The panel is charged with describing the technical operating environment involved in the formulation of cable standards and will conduct such actual testing as may be needed to accomplish its objectives.

Any individual wishing to volunteer his services on Panel 8 should inform either the Commission, or the Panel Chairman at the following address:

Howard T. Head, A. D. Ring & Associates, 1771 N Street NW., Washington, DC 20036, Telephone: 202-296-2315

Chairman Burch heads C-TAC. Cable TV Bureau Chief Sol Schildhause is Vice Chairman.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-18622 Filed 10-31-72;8:50 am]

STANDARD BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

Notice is hereby given, pursuant to § 1.571(c) of the Commission's rules, that on December 7, 1972, the following standard broadcast application will be considered as ready and available for processing:

BP-19265 NEW, Agana, Guam, Magof, Inc., Req.: 570 kHz, 5 kw., U.

Pursuant to §§ 1.227(b)(1) and 1.591 (b) of the Commission's rules, an application, in order to be considered with this application or with any other application on file by the close of business December 6, 1972, which involves a conflict necessitating a hearing with this application, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business December 6, 1972.

The attention of any party in interest desiring to file pleadings concerning any pending standard broadcast application pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for provisions governing the time of filing and other requirements relating to such pleadings.

Adopted: October 24, 1972.

Released: October 26, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-18621 Filed 10-31-72;8:50 am]

FEDERAL HOME LOAN BANK BOARD

[H.C. 139]

UNITED FINANCIAL CORPORATION OF CALIFORNIA

Notice of Receipt of Application for Approval of Acquisition of Control of Citizens Savings and Loan Association

OCTOBER 27, 1972.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from the United Financial Corporation of California, Los Angeles, Calif., a unitary savings and loan holding company, for approval of acquisition of control of the Citizens Savings and Loan Association, San Francisco, Calif., an insured institution under the provisions of section 408 (e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and § 584.4 of the regulations for savings and loan holding companies, said acquisition to be effected by an exchange of stock between Citizens Savings and Loan Association and United Financial Corporation of California. Prior to said acquisition, it is proposed that Dollar Savings and Loan Association, San Bruno, Calif., an insured institution, which is controlled by Citizens Savings and Loan Association through its service corporation, Citizens Auxiliary Corporation, be liquidated or merged into Citizens. Following said acquisition, it is proposed that the United Savings and Loan Association of California, an insured subsidiary of United Financial Corporation of California, be merged into Citizens Savings and Loan Association. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date this notice appears in the FEDERAL REGISTER.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary,
Federal Home Loan Bank Board.

[FR Doc.72-18651 Filed 10-31-72;8:52 am]

FEDERAL MARITIME COMMISSION

JAPAN-ATLANTIC AND GULF FREIGHT CONFERENCE AND TRANS-PACIFIC FREIGHT CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Charles F. Warren, Esq., 1100 Connecticut Avenue NW., Washington, DC 20036.

Agreement No. 8600-2 is a modification of the joint agreement between the Japan-Atlantic and Gulf Freight Conference and the Trans-Pacific Freight Conference authorizing committees of each conference to meet together on a working basis. As stated by the conferences' counsel's letter of transmittal: "The purpose of the agreement is explicitly to authorize committees of each conference sitting in Tokyo to confer, discuss, consider, and investigate matters of mutual interest within the scopes of their respective conference agreements, and to authorize such committees to submit separate or joint recommendations upon such matters subject to the right of independent action. In addition, in respect to such matters, authority is sought to enable the common conference Chairman to issue joint circulars, and as the need may arise, to conduct joint studies. The latter authority is requested in order to reduce the now not inconsiderable cost and time burden placed upon the conferences' administrative machinery."

The working committees mentioned above are to be distinguished from the policy meetings at the owners level otherwise authorized by Agreement No. 8600.

Dated: October 27, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-18629 Filed 10-31-72;8:50 am]

TRANS-PACIFIC PASSENGER CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set

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forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. Ronald C. Lord, General Manager, Trans-Pacific Passenger Conference, 311 California Street, San Francisco, CA 94104.

Agreement No. 131–256, filed by the Trans-Pacific Passenger Conference, modifies Article E–2, which is concerned with the promulgation and filing with the Federal Maritime Commission of any new rule or document, or modification of a rule or document, concerning travel agents. The second paragraph of Article E–2 presently reads as follows:

Within the notice period, the Commission shall cause to be published in the Federal Register notice of receipt of the filings and shall afford affected persons 10 days time from the date of publication within which they may comment, protest, or request hearing with respect to the matter filed.

Agreement No. 131–256 modifies the second paragraph of Article E–2 to read as follows:

Within the notice period, the Commission shall cause to be published in the Federal Register notice of receipt of the filings and shall afford affected persons opportunity to comment, protest, or request hearing with respect to the matter filed.

Dated: October 27, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-18630 Filed 10-31-72;8:51 am]

JADRANSKA LINIJSKA PLOVIDBA-RIJEKA

Notice of Application for Casualty Certificate

Security for the protection of the public; financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages.

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provsions of section 2, Public Law 89–777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Jadranska Linijska Plovidba-Rijeka ("Jadrolinija"), Rijeka, Palace "Jadran", Rijeka, Yugoslavia.

Dated: October 27, 1972.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-18631 Filed 10-31-72;8:51 am]

JADRANSKA LINIJSKA PLOVIDBA-RIJEKA

Notice of Application for Performance Certificate

Security for the protection of the public; indemnification of passengers for nonperformance of transportation.

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89–777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Jadranska Linijska Plovidba-Rijeka ("Jadrolinija"), Rijeka, Palace "Jadran", Rijeka, Yugoslavia.

Dated: October 27, 1972.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-18632 Filed 10-31-72;8:51 am]

FEDERAL POWER COMMISSION

[Docket No. CI73-285]

BELCO PETROLEUM CORP.

Notice of Application

OCTOBER 27, 1972.

Take notice that on October 20, 1972, Belco Petroleum Corp., Agent (applicant), 630 Third Avenue, New York, NY 10017, filed in Docket No. CI73–285 an application, pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to United Gas Pipe Line Co. (United) from the Glendale Area, Trinity County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization pursuant to § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70) for a sale of natural gas to United from the Glendale Area for 1 year at 35 cents per Mcf at 14.65 p.s.i.a. Applicant proposes to initiate such sales for 1 year commencing with the expiration of deliveries of gas to United from the subject leases for a period of 60 days pursuant to § 157.29 of the Commission's regulations under the Natural Gas Act (18 CFR 157.29).

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 7, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18563 Filed 10-31-72;8:49 am]

[Docket No. E-7784]

BOSTON EDISON CO.

Notice of Proposed Rates and Conditions

OCTOBER 27, 1972.

Take notice that Boston Edison Co. (Edison) on October 3, 1972, tendered for filing Exhibits B–PR and C–PR to its general service for resale tariff. Edison states that the sole purpose of the new exhibits is to provide generally applicable rates and conditions for partial requirements services for Edison's wholesale for resale customers seeking such services. Edison claims that the filing makes no change in the availability, rates, or conditions for all requirements service provided under Edison's general service for resale tariff, the new rates for which are the subject of Docket No. E–7738. The proposed rates described in the company's transmittal letter is summarized as follows:

Edison states that the rates for transmission services, installed reserve capacity service, and operating reserve capacity service are initial rates for new services. Edison contends that the concept of firm base, firm intermediate, and firm peaking load power is also new, but that all requirements customers are entitled to receive firm partial requirements power under S rates until these partial requirements rates become effective under the Federal Power Act.

Edison says that the partial requirements rates submitted herewith are based upon the same revenue requirements as Edison's Rate S–2 which has been suspended for 5 months and will become effective January 1, 1973. Edison also claims that it will refund from the initial date of service under the partial requirements rates filed herewith, any amounts for firm base, intermediate or peaking load power which would be or may be found excessive if the revenue requirements in Edison's cost of service are found to be excessive by the Federal Power Commission in the S–2 case. According to Edison, if such revenue requirements are found to be excessive, the partial requirements rates for firm load power can easily be recomputed under the methods set forth in Exhibit C–PR which was submitted with this proposal and appropriate refunds made with interest. Also, the company says that if any change in methods for use in determining the partial requirements rates for firm load power should be found appropriate resulting in a finding that the rates filed herewith are excessive, refunds similarly would be made.

Edison contends that it cannot provide any estimate as to its likely revenues under the rates for partial requirements services since it does not have any firm requests for any of the services and the commercial operation dates of three atomic units are not known. Edison says that No.—— (BE–503), however, establishes the fact that the firm load power revenues under the partial requirements tariff match those under Rate S–2, so that what is involved under this filing is actually a reduction in Edison's revenues when a customer buys its power elsewhere.

No description of special facilities is submitted because Edison says it is unaware at this time of any facilities which need to be installed or modified to provide the partial requirements services.

Because Edison has a special contract rate for partial requirements service to the town of Braintree which was entered into on March 25, 1969, and the firm power rate in that special contract was based upon an Edison 1965 cost of service study, Edison argues that the rate is clearly no longer compensatory. Upon the expiration of that special contract, it is Edison's position that its partial requirements tariff will be applicable to Braintree, as well as all other customers taking the services provided for in the tariff.

Edison proposes to make these rates effective 30 days after this submission for filing or as soon thereafter as partial requirements services are provided. Edison says it is not in a position to state precisely when any of the services will be required.

Unless the partial requirements rates are effective when these units come on the line, Edison contends that it will have no applicable rate available covering transmission services or installed or operating reserve services.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 10, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18566 Filed 10-31-72;8:49 am]

[Docket No. E-7780]

IDAHO POWER CO.

Notice of Application

OCTOBER 25, 1972.

Take notice that on October 2, 1972, Idaho Power Co. (applicant), a corporation organized under the laws of the State of Maine and qualified to transact business in the States of Idaho, Oregon, Nevada, and Wyoming, with its principal business office at Boise, Idaho, filed an application with the Federal Power Commission, pursuant to section 204 of the Federal Power Act, seeking an order authorizing the issuance of not to exceed $100 million in principal amount at any one time outstanding of unsecured promissory notes in the form of: (1) Short-term borrowings obtained from banks and evidenced by unsecured notes ($79 million); and (2) in the form of commercial paper ($21 million).

(1) Notes in the sum of not to exceed $79 million in an aggregate amount would be issued as bank loans, evidenced by and not to exceed 1 year after date thereof. Such bank loans would be made at the "prime rate" applicable in New York, N.Y., for commercial banks loans will provide character. Applicant anticipates that said bank loans will provide that the interest rate will change within the period of said loans, so that they remain constant with the prime rate applicable in New York. Applicant also requests that the authorization include the right to renew such of said short-term notes as expire prior to 1 year from the date of such authorization; and that the principal amount of such renewals, if made, either of notes issued under the authorization herein or of notes issued under the exemptions set forth in 204(e) of the Federal Power Act, shall not be considered as replying against, or a reduction of, the $84,136,400 authorization herein requested.

(2) Unsecured promissory notes in an aggregate principal amount of not to exceed $21 million at any one time outstanding would be issued and sold by applicant to one or more commercial paper dealers. Each note issued as commercial paper would be dated the date of issuance, have a maturity of not more than 270 days from the date thereof and be discounted at the rate prevailing at the time of issuance for commercial paper of comparable quality and maturity.

Proceeds from the borrowing will be used in the further financing of applicant's construction expenditures for 1973, now estimated at approximately $127,793,000. The balance of funds required for construction is expected to be undertaken early in 1973, but the amounts and types of securities and the exact timing of the issuance has not yet been determined.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 3, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petition to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules of practice and procedure. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18577 Filed 10-31-72;8:49 am]

[Docket No. E-7789]

IOWA POWER & LIGHT CO.

Notice of Application

OCTOBER 25, 1972.

Take notice that on October 16, 1972, Iowa Power & Light Co. (applicant) of Des Moines, Iowa, filed an application seeking authority pursuant to section 204 of the Federal Power Act to enter into a guaranty agreement with the trustee of pollution control revenue bonds to be issued by the city of Council Bluffs, Iowa, in the amount of $4 million, which bonds will be sold by the city as soon as possible after obtaining approval of this guaranty.

Applicant is incorporated under the laws of the State of Iowa with its principal business office at Des Moines, Iowa, and is engaged in the electric and gas utility businesses within the State of Iowa.

The bonds of the city will be sold to purchase air pollution abatement equipment at Iowa Power & Light Co.'s Council Bluffs Steam Electric Generating Station at Council Bluffs, Iowa, which installation is expected to be completed in the fall of 1974. Said equipment will be leased by the city to the applicant and payments under said lease will be sufficient to pay principal, premium, if any, and interest due on said bonds. The bonds will not be issued by the applicant. The rate of interest will be negotiated at a

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private sale of the bonds between the city and the underwriters.

The authorization sought is for applicant to issue an independent guaranty to the trustee and holders of the bonds of payment of principal, premium, if any, and interest on said bonds. No payments will be required under the guaranty if all payments are made pursuant to the lease.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 17, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 72-18576 Filed 10-31-72; 8:49 am]

[Docket No. E-7777]

PACIFIC GAS & ELECTRIC CO.

Notice of Extension of Time

OCTOBER 25, 1972.

On October 20, 1972, the California cities of Alameda, Healdsburg, Lodi, Lompoc, Ukiah, Palo Alto, and Santa Clara, filed a request for an extension of time within which to file petitions to intervene or protests in the above-designated proceeding. A notice of proposed changes in rates and charges was issued October 16, 1972.[1]

Upon consideration, notice is hereby given that the time is extended to and including November 10, 1972, within which petitions to intervene or protests may be filed.

KENNETH F. PLUMB,
Secretary.

[FR Doc 72-18573 Filed 10-31-72;8:49 am]

[Docket No. RP73-55]

SOUTHERN NATURAL GAS CO.

Notice of Proposed Changes in Rates and Charges

OCTOBER 25, 1972.

Take notice that Southern Natural Gas Co. (Southern), on October 16, 1972, tendered for filing revised tariff sheets to its FPC Gas Tariff, Original Volume No. 1, proposing increased rates and charges in the amount of $14,346,887 annually, to become effective November 16, 1972, or in the event the proposed rate increase of Southern's gas supplier, Sea Robin Pipeline Co. (Sea Robin) is suspended in Docket No. RP73-47, to become effective on the day Sea Robin's rates are made effective.

Southern states that the proposed increase in rates is occasioned solely by and will compensate it only for the jurisdictional portion of the increase in its cost of purchased gas and cost of transportation resulting from Sea Robin's rate increase filing in Docket No. RP73-47. Southern states that the instant filing reflects the effect of the increased rates filed by Sea Robin on the rates included in the "Proposed Tariff Sheets" filed by Southern on September 29, 1972, in Docket No. RP73-46, to become effective November 1, 1972, upon which the Commission has not yet acted. Southern states that in the event that tariff sheets other than the "Proposed Tariff Sheets" in Docket No. RP73-46 are in effect prior to the effective date of the tariff sheets tendered herein it will file appropriate substitute tariff sheets reflecting the Sea Robin increase.

Southern states that other than the costs filed for herein all other items of cost included in this filing are identical to those in the rate increase filings in Dockets Nos. RP72-91, et al.

Copies of the filing have been served upon Southern's jurisdictional customers and interested State commissions.

Any person desiring to be heard or to protest said application should file a protest, or if not previously granted intervention in Dockets Nos. RP72-91, et al., file a petition to intervene with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, and 1.10). All such petitions or protests should be filed on or before November 7, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18574 Filed 10-31-72;8:49 am]

[Docket No. RP73-48]

NORTHERN NATURAL GAS CO.

Notice of Proposed Changes in FPC Gas Tariff

OCTOBER 27, 1972.

Take notice that Northern Natural Gas Co. (Northern) on September 27, 1972, tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 4. The proposed changes would incorporate in Northern's tariff a purchased gas adjustment (PGA) clause applicable to its jurisdictional sales made in Texas, Oklahoma, and New Mexico on a system operated independently of the main pipeline system. Concurrently, Northern filed a purchased gas increase to cover the increase from 17.0 cents per Mcf to 21.73 cents per Mcf to be made effective by Colorado Interstate Gas Co. (CIG), the system's sole supplier, on October 1, 1972. Northern requests waiver of section 154.22 and any other applicable sections of the Commission's regulations under the Natural Gas Act to allow the PGA clause to become effective as of October 11, 1972, and the rate increase thereunder to take effect on October 12, 1972, or on such later dates as the Commission may order.

Copies of the filing were served upon Northern's affected jurisdictional customers and the State commissions of New Mexico and Oklahoma.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 10, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the application are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18681 Filed 10-31-72;8:53 am]

FEDERAL RESERVE SYSTEM

CONSOLIDATED BANKSHARES OF FLORIDA, INC.

Order Approving Acquisition of Bank

Consolidated Bankshares of Florida, Inc., Fort Lauderdale, Fla., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Union Trust National Bank of St. Petersburg, St. Petersburg, Fla. (Union Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls seven banks with aggregate deposits of approximately $306 million, representing 1.9 percent of total deposits in commercial banks in Florida and is the 12th largest banking organization and bank holding company in the State. (All banking data are as of December 31, 1971, adjusted to reflect holding company formations and acquisitions approved by the Board through September 15, 1972.) The acquisition of Union Bank ($156 million deposits) would increase Applicant's share of State deposits by 1 percentage point, and Applicant would become the eighth largest banking organization in Florida.

The Board has on two previous occasions denied applications for the acquisition of Union Bank (55 Bulletin 615, and 48 Bulletin 480). In both cases the Board found that the proposed acquisitions would foreclose significant potential competition. In one case, the Applicant was the leading organization in the adjoining market, and in the other, was one of the States leading banking organizations which simultaneously received approval to acquire a smaller bank in St. Petersburg. In the instant case Applicant's operations are concentrated in the Fort Lauderdale area and its closest banking subsidiary is located 150 miles from the St. Petersburg area. No present competition exists between Union Bank and any of Applicant's present subsidiary banks. It further appears unlikely that any significant competition would develop between Applicant's present subsidiaries and Union Bank in the future due to the wide separation of the banking offices, the number of banks in the intervening area, and State laws restricting branching. It is true, as in the earlier applications, that the proposal will eliminate Union Bank as a potential lead bank of a new holding company. However, Union Bank has demonstrated no inclination to organize a bank holding company, and as this is its third proposed affiliation with an existing holding company it appears unlikely that Union Bank is willing to serve as a lead bank. Consummation of the proposed acquisition would have no adverse effects on existing or potential competition, nor would it have any adverse effects on any competing banks in the area.

Union Bank serves St. Petersburg banking market (approximated by the southern portion of Pinellas County) as the second largest of 25 banks, controlling approximately 15.6 percent of market deposits. There are 12 banking organizations represented in the market. The largest market bank holds deposits of $176 million, and seven banks smaller than Union Bank control deposits ranging from $94 million to $39 million.

The financial condition and managerial resources of Applicant and its present subsidiaries are satisfactory and future prospects of each appear favorable. The financial condition and managerial resources of Union Bank, as supplemented by Applicant, will also be satisfactory. Prospects for Union Bank appear favorable. Considerations relating to banking factors are consistent with approval of the application.

The present ownership and management of Union Bank are desirous of selling the bank and have shown a reluctance to expand or improve its services. Applicant proposes to increase the lending limit and correspondent banking services of Union Bank, to expand its drive-in facilities, to develop an efficient data processing department, and to furnish capital for future expansion. Considerations relating to the convenience and needs of the communities to be served are consistent with and lend some support to approval of the application. It is the Board's judgment that consummation of the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] effective October 20, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-18590 Filed 10-31-72;8:47 am]

FIRST NATIONAL CITY CORP.

Acquisition of Bank

First National City Corp., New York, N.Y., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The Central Valley National Bank, Central Valley, N.Y., to be named Citibank (Mid-Hudson). The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

First National City Corp. is also engaged in the following nonbank activities: mortgage banking; reinsurance with regard to life insurance policies and group accident and health certificates in conjunction with mortgage loans; commercial factoring; commercial financing; leasing; real estate consulting; general management consulting; travel services and travelers checks; data processing; real estate held for community development projects; freight deconsolidation; investment management; community development projects; and ownership of an apartment building. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 21, 1972.

Board of Governors of the Federal Reserve System, October 25, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18588 Filed 10-31-72;8:47 am]

FIRST TENNESSEE NATIONAL CORP.

Order Approving Acquisition of Bank

First Tennessee National Corp., Memphis, Tenn., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of the successor by merger to First Bank and Trust Co., Dyersburg, Tenn. (Bank). The bank into which Bank is to be merged has no significance except as a means to acquire all the shares of Bank. Accordingly, the proposed acquisition of the shares of the successor organization is treated herein as the proposed acquisition of shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is the largest banking organization in Tennessee, controlling five banks with aggregate deposits of $1.0 billion, representing 11.6 percent of total banking deposits in the State of Tennessee. (Banking data are as of December 31, 1971, adjusted to reflect holding company formations and acquisitions approved by the Board through September 30, 1972.) The acquisition of Bank ($17.4 million deposits) would increase applicant's share of State deposits by 0.20 percentage points and would not result in a significant increase in the concentration of banking resources in the State.

Bank, located in Dyersburg, Tenn., is one of four banks having offices in a market area which includes all of Dyer County. It holds 24.4 percent of total market deposits as the second largest bank; whereas the largest bank controls 58.9 percent, and the third and fourth largest hold 11.0 and 5.8 percent, respectively. It appears that consummation of the proposal would have no adverse effect on any competing bank.

Applicant's nearest subsidiary banking office is located in a separate market area, approximately 70 miles from Dyersburg. There is no meaningful present competition between any of applicant's offices and Bank. In view of the distances involved and restrictions placed on branching by Tennessee laws,

[1] Published at 37 F.R. 22411, Oct. 19, 1972.

[1] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Sheehan, and Bucher. Absent and not voting: Chairman Burns and Governor Brimmer.

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there appears to be little likelihood for the development of any significant amount of future competition between these institutions.

The Department of Justice has commented that, in its view, the proposed acquisition is likely to have an adverse effect on potential competition. The Department expressed the opinion that the Dyersburg area is potentially attractive for de novo entry by applicant because of the "population growth" and attractive economic outlook" for that area and emphasized the presence of two significantly smaller banks in Dyer County, either of which might possibly serve as a vehicle for such entry with less serious competitive consequences than the proposed acquisition. It also voiced concern about possible increases in statewide concentration of banking resources in Tennessee which it anticipates may result from continuing expansion by that State's large multibank organizations through the acquisition of banks with significant or leading positions in local markets.

It appears to the Board that the market served by Bank would not be particularly attractive for de novo entry by applicant or for its acquisition of a foothold bank. Population per banking organization is 7,607 in Dyer County, as compared with a statewide average of 13,125. Moreover, while the town of Dyersburg has experienced satisfactory population growth, reflecting a shift of population from the rural areas of the county to the town as a result of the increasing industrialization of this predominantly agricultural area, the population growth of Dyer County as a whole (only 3 percent in the decade of the 1960's) has lagged behind that of the State (10 percent during the same period).

In the Board's judgment, size or locational disadvantages preclude the two smallest banks in Dyer County from having comparable attraction to applicant as vehicles for entry into that market. Both such banks have their head offices in outlying villages, and although the larger of the two banks also has two branches in Dyersburg, it has total deposits of only $7.9 million.

The Board has concluded that competitive considerations are consistent with approval of the application.

In view of applicant's plans to improve the capital position of one of its subsidiary banks, it appears that applicant, its group of banks, and Bank are in generally satisfactory financial condition; their managements are capable, and prospects for each appear favorable. Banking factors are consistent with approval of the application. Although the major banking needs of Dyer County residents are being served at the present time, the proposed affiliation would extend the range of services presently offered by Bank, especially in the areas of trust, investment management, and automated customer services, would place Bank in a better position to compete for larger commercial accounts, and should enable Bank to compete more effectively with its substantially larger competitor, First Citizens National Bank of Dyersburg. Considerations relating to the convenience and needs of the communities to be served are consistent with and lend some support to approval of the application. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated: (a) Before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of St. Louis pursuant to delegated authority.

By order of the Board of Governors,[1] effective October 24, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72 18595 Filed 10-31-72;8:48 am]

FIRST VIRGINIA BANKSHARES CORP.

Proposed Acquisition of Company Engaged in Certain Consumer Lending and Insurance Sales Activities

First Virginia Bankshares Corp., Falls Church, Va., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of the successor by merger to Benson Investment Corp., Birmingham, Ala., and indirectly thereby the shares of National Management Co., Atlantic Finance Co., Allied Finance Company of Albany, Inc., Augusta Loan and Finance Co., Delta Loan and Finance Company of Columbia, and Atlanta Finance Company of Louisiana, Inc. Benson Investment Corp. operates various offices in Alabama, Florida, Georgia, Louisiana, and South Carolina under the names "Allied Finance Co.", "Atlantic Finance Co.", "Delta Loan Co.", "B.I.C. Financial Services", "Benson Financial Services", "Delta Finance Co.", and "Acme Finance Co." Notices of the application were published on August 9, 10, 11, 12, 13, or 24, 1972, in various newspapers circulated in the 20 communities in Alabama, Florida, Georgia, Louisiana, and South Carolina where Benson Investment Corp. or its subsidiaries maintain offices.

Applicant states that the proposed subsidiary would engage in the activities of making personal loans, consumer sales financing, and mortgage lending. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b). Applicant also states that the proposed subsidiary would engage in the sale of credit life, health, and accident insurance and property insurance on household goods and automobiles serving as collateral for its extensions of credit, such insurance being sold exclusively to its debtors. Under certain conditions described in 12 CFR 225.128, such insurance sales activities have been specified in § 225.4(a) of Regulation Y as permissible for bank holding companies.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 21, 1972.

Board of Governors of the Federal Reserve System, October 25, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc. 72-18611 Filed 10-31-72;8:45 am]

ROBLES, INC.

Order Approving Formation of Bank Holding Company and Retention of Insurance Agency Activities

Robles, Inc., Oberlin, Kans., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of an additional 58.6 percent of the voting shares of State Bank of Herndon, Herndon, Kans. (Bank). Applicant at present owns 24 percent of the voting shares of Bank.

At the same time, Applicant has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y to retain its insurance agency, Herndon Insurance Agency, Herndon, Kans. (Agency), a general insurance agency in a community of less than 5,000 persons.

Notice of receipt of the applications has been given in accordance with sections 3 and 4 of the Act, and the time for filing comments and views has expired. The Board has considered the applications and all comments received in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)), and the considerations specified in section 4(c)(3) of the Act (12 U.S.C. 1843(c)(8)) and finds that:

Applicant presently owns 120 shares of Bank and proposes to acquire an additional 293 shares of Bank from its own principal shareholders (including 137 shares purchased from minority shareholders in 1971). Bank, with deposits of $2.3 million, controls 11.7 percent of commercial bank deposits in Rawlins County and is the fourth smallest of five banks in the county. (All banking data are as of December 31, 1971.) Since the transaction essentially involves only a change from individual to corporate ownership, consummation of the proposal will have no significant adverse effects on existing or potential competition.

Considerations relating to the financial and managerial resources and prospects of Applicant and Bank appear to be satisfactory and consistent with approval. In this connection, the Board has determined that the previous purchase of the 137 shares from minority shareholders was done on a basis which was substantially equivalent to the present offer. Considerations relating to the convenience and needs of the communities to be served are consistent with approval of the application. It is the Board's judgment that consummation of the transaction would be in the public interest and that the acquisition of Bank should be approved.

Applicant acquired Agency in 1966 and operates Agency from bank premises. Agency is the only general insurance agency in Herndon, a community of less than 5,000 persons. The Board has previously determined by regulation that the operation of such an agency is closely related to banking (12 CFR 225.4(a)(9)(iii)).

There is no evidence in the record indicating that consummation of the proposal would result in any undue concentration of resources, unfair competition, conflicts of interest, or unsound banking practices. Approval of the application would enable Applicant to continue to provide a convenient source of insurance agency services for Herndon and nearby areas. Based on the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors that the Board is required to consider regarding the acquisition of Agency under section 4(c)(8) is favorable and that the application should be approved.

On the basis of the record, the applications are approved for the reasons summarized above. The acquisition of bank shares shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority. The determination as to Agency's activities is subject to the Board's authority to require reports by, and make examinations of, holding companies and their subsidiaries and to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Govenors,[1] effective October 24, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-18594 Filed 10-31-72;8:48 am]

SOUTHWEST BANCSHARES, INC.

Acquisition of Bank

Southwest Bancshares, Inc., Houston, Tex., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Gulf Coast National Bank, Houston, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 21, 1972.

Board of Governors of the Federal Reserve System, October 25, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18589 Filed 10-31-72;8:47 am]

U.N. BANCSHARES, INC.

Order Approving Acquisition of Bank

U.N. Bancshares, Inc., Springfield, Mo., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of Pulaski County Bank, Richland, Mo. (Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the 12th largest banking organization and 11th largest bank holding company in the State, controls two banks with aggregate deposits of $113.6 million, representing 0.9 percent of the total commercial bank deposits in Missouri. (All banking data are as of December 31, 1971, adjusted to reflect bank holding company formations and acquisitions approved by the Board through September 30, 1972.) Consummation of the proposal herein would increase applicant's share of commercial bank deposits in the State by only 0.05 percent and would not result in a significant increase in the concentration of banking resources in the State.

Bank ($6.7 million in deposits) is the second largest of three banks in the Richland banking market with control of approximately 37 percent of area deposits. There is no significant existing competition between any of applicant's subsidiary banks and Bank, nor is there a reasonable probability of competition developing in the future in view of the distances between Bank and applicant's banking subsidiaries (the closest banking subsidiary is located about 80 miles from Richland), the low population per banking office (considerably below the statewide average), and Missouri's restrictive branching laws. It appears, therefore, that consummation of the proposal herein would not likely have any adverse effects on existing or potential competition.

The financial and managerial resources and future prospects of applicant and its subsidiaries are regarded as satisfactory and consistent with approval. The financial resources of Bank are satisfactory; its future prospects are favorable; and its management is regarded as generally satisfactory. Considerations relating to convenience and needs lend weight toward approval of the application as affiliation with applicant would allow Bank to introduce more specialized services into the market, and better enable Bank to meet the anticipated increasing demands for real estate and commercial loans as the area develops. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest, and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of St. Louis pursuant to delegated authority.

[1] Voting for this action: Chairman Burns and Governors Mitchell, Brimmer, Sheehan, Bucher. Absent and not voting: Governors Robertson and Daane.

[1] Voting for this action: Chairman Burns and Governors Mitchell, Brimmer, Sheehan, and Bucher. Absent and not voting: Governors Robertson and Daane.

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By order of the Board of Governors,[1] effective October 24, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-18592 Filed 10-31-72;8:48 am]

UNITED CAROLINA BANCSHARES CORP.

Order Approving Acquisition of Bank

United Carolina Bancshares Corp., Whiteville, N.C., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 49 percent of the voting shares of Capitol National Bank, Raleigh, N.C. (Bank), a proposed new bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls three banks with aggregate deposits of approximately $222 million, representing 2.7 percent of the total commercial bank deposits in the State, and is the ninth largest banking organization in North Carolina. (All banking data are as of December 31, 1971, unless otherwise noted, adjusted to reflect bank holding company formations and acquisitions approved by the Board through September 30, 1972.) Since Bank is a proposed new bank, no existing competition would be eliminated by consummation of the proposal nor would concentration be increased in any relevant area. The proposed site of Bank is in the heart of downtown Raleigh, the capital of North Carolina, and a rapidly growing urban area. The relevant banking market is Wake County and Bank would compete in this market with 13 banks, including five of the six largest banks in North Carolina, which control approximately 91 percent of the total commercial bank deposits in the market (as of June 30, 1970).

The financial and managerial resources of applicant and its subsidiary banks are deemed satisfactory in view of applicant's commitment to provide additional capital for its two largest subsidiary banks, and projected growth and earnings for the group appear favorable. Bank, as a proposed new bank, has no financial or operating history; however, its prospects under applicant's group are consistent with approval of the application. It appears that the major banking needs of the area are being adequately served at the present time. However, Bank would provide an additional source of convenient banking services to the area. Considerations under convenience and needs aspects of the proposal are consistent with approval. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after that date, and (c) Capitol National Bank, Raleigh, N.C., shall be opened for business not later than 6 months after the effective date of this order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Board of Governors,[1] effective October 24, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-18593 Filed 10-31-72;8:48 am]

[1] Voting for this action: Governors Mitchell, Daane, Brimmer, and Sheehan. Absent and not voting: Chairman Burns and Governors Robertson and Bucher.

VALLEY FALLS INSURANCE, INC.

Order Approving Formation of Bank Holding Company and Retention of Insurance Agency

Valley Falls Insurance, Inc., Valley Falls, Kans., has applied for the Board's approval under section 3(a)(1) of the Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through retention of 51 percent of the voting shares of Kendall State Bank, Valley Falls, Kans. (Bank), and the acquisition of an additional 37 percent of the voting shares of said Bank.

At the same time, applicant has applied for the Board's approval under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of Regulation Y to continue to engage in certain permissible insurance agency activities through the retention of Valley Falls Insurance, Inc., Valley Falls, Kans. (Agency).

Notice of receipt of these applications was published in the FEDERAL REGISTER on May 2, 1972 (37 F.R. 8915), and the time for filing comments and views has expired. The Board has considered the applications and all comments received in light of the factors set forth in section 3(c) of the Act, and the considerations specified in section 4(c)(8) of the Act.

Applicant was organized in January 1971 and on February 1, 1971, acquired a majority of the shares of Bank without the prior approval of the Board. Applicant commenced its insurance agency activity de novo shortly thereafter. On June 22, 1971, the Board, in order to avoid the imposition of unnecessary hardships, issued an order which provided that any company which acquired a bank between December 31, 1970, and that date, without securing prior Board approval because the company lacked knowledge of the Bank Holding Company Act Amendments of 1970, might file an application to retain the Bank and, thus, cure its violation of the Act. In this connection, however, the Board provided that the standards to be applied to applications to retain shares would be the same as those normally applied to applications for prior approval. Applicant apparently acted without knowledge of the Act and the application has been considered on that basis.

Bank ($6.7 million in deposits as of December 31, 1971) is the only bank in Valley Falls, a rural community of about 1,200. Agency conducts a general insurance business from the premises of Bank. Since the transaction involves only a change from individual to corporate ownership, consummation of the proposal will have no adverse effects on existing or potential competition.

The financial and managerial resources and future prospects of applicant, Bank and Agency are consistent with approval. It is noted that Bank's satisfactory condition was reached only after it came under applicant's control. Additionally, the Board regards the offer to be made to minority shareholders as being substantially equivalent to the price paid for the shares of majority shareholders. Although applicant will incur considerable debt in acquiring Bank, its income from Bank and Agency will provide sufficient revenue to adequately service the debt. Furthermore, applicant's acquisition of Bank will assure continued operation of the only bank in Valley Falls. Accordingly, considerations relating to the convenience and needs of the community to be served, with respect to the acquisition of Bank, lend weight toward approval. It is the Board's judgment that consummation of the transaction would be in the public interest and that the application to acquire Bank should be approved.

Agency was commenced de novo and is one of three insurance agencies in Valley Falls. The operation by a bank holding company of a general insurance agency in a community with a population of less than 5,000 is an activity that the Board has previously determined to be closely related to banking (12 CFR 225.4(a)(9)(iii)).

There is no evidence in the record indicating consummation of the proposal would result in any undue concentration of resources, unfair competition, conflicts of interest, unsound banking practices or other adverse effects on the public interest. On the basis of the foregoing and other facts reflected in the record, the Board has determined that the considerations affecting the competitive factors under section 3(c) of the Act and the balance of the public interest factors the Board must consider under section 4(c)(8) in permitting a holding company to engage in an activity on the basis that it is closely related to banking both favor approval of the applicant's proposal.

Accordingly, the applications are approved for the reasons summarized above. The acquisition of Bank shall not be consummated (a) before the 30th calendar day following the effective date of this order, or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Kansas City pursuant to delegated authority. The determination as to Agency's activities is subject to the Board's authority to require reports by, and make examinations of, holding companies and their subsidiaries and to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[1] effective October 24, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-18591 Filed 10-31-72;8:48 am]

[1] Voting for this action: Chairman Burns and Governors Mitchell, Brimmer, Sheehan, and Bucher. Absent and not voting: Governors Robertson and Daane.

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. E-21, Supp. 1]

DISCREPANCIES IN SHIPMENTS

Revised Policy on Reporting

To heads of Federal agencies.

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation E-21.

2. *Effective date.* This regulation is effective upon publication in the FEDERAL REGISTER (11-1-72).

3. *Expiration date.* This regulation expires April 30, 1973, unless sooner superseded or canceled.

4. *Revised date.* The expiration date shown in paragraph 3 of FPMR Temporary Regulation E-21 is extended to April 30, 1973. This extension is to provide agencies more time to gain experience in using the revised procedures for reporting discrepancies in shipments prior to their incorporation into the permanent regulations of GSA.

Dated: October 30, 1972.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

[FR Doc.72-18794 Filed 10-31-72;9:52 am]

[Federal Property Management Regs.; Temporary Reg. F-160]

SECRETARY OF DEFENSE

Revocation of Delegations of Authority

1. *Purpose.* This regulation revokes delegations of authority to represent the Federal Government in proceedings which have been terminated.

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date:* This regulation expires October 31, 1972.

4. *Revocation.* This revocation identifies those delegations which are no longer in force due to completion of the proceedings for which they were issued. Accordingly, the following FPMR temporary regulations are hereby revoked:

Number, date, and subject
Number F-75; October 15, 1970; Delegation of Authority to Secretary of Defense—Regulatory Proceeding.
Number F-91; March 15, 1971; Delegation of Authority to Secretary of Defense—Regulatory Proceeding.
Number F-145; April 10, 1972; Delegation of Authority to Secretary of Defense—Regulatory Proceeding.

Dated: October 30, 1972.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

[FR Doc.72-18703 Filed 10-31-72;9:52 am]

OFFICE OF ECONOMIC OPPORTUNITY

[B3B-5429]

MATERNAL AND INFANT NUTRITION PROJECT

Research on Alleviating Malnutrition; Award of Contract

Pursuant to section 606 of the Economic Opportunity Act of 1964, as amended, 42 U.S.C. 2946, this agency announces the award of contract B3B-5429 to St. Jude Children's Research Hospital, Memphis, Tenn., for a research and demonstration project entitled, "Maternal and Infant Nutrition Project." The purpose of this contract is to explore ways of alleviating malnutrition among infants from low-income families in Memphis, Tenn., by providing adequate food and comprehensive health care to the mother and infant.

The estimated cost of this contract is $399,677 and the intended completion date is October 1, 1973.

WESLEY L. HJORNEVIK,
Deputy Director.

[FR Doc.72-18584 Filed 10-31-72;8:48 am]

[B3B-5423]

MATERNAL AND INFANT NUTRITION PROJECT

Research on Impact of Special Formula Feeding on Infants; Award of Contract

Pursuant to section 606 of the Economic Opportunity Act of 1964, as amended, 42 U.S.C. 2946, this agency announces the award of contract B3B-5423 to Johns Hopkins University, Baltimore, Md., for a research and demonstration project entitled "Maternal and Infant Nutrition Project." The purpose of this project is to determine the biological, dietary, and educational impact on infants through the distribution of iron-fortified infant formula to a population of high risk infants in urban and rural settings in the State of Maryland.

The estimated cost of this contract is $277,991, and the intended completion date is September 29, 1974.

WESLEY L. HJORNEVIK,
Deputy Director.

[FR Doc.72-18585 Filed 10-31-72;8:48 am]

SELECTIVE SERVICE SYSTEM

REGISTRANTS PROCESSING MANUAL

The Registrants Processing Manual is an internal manual of the Selective Service System. The following portions of that manual are considered to be of sufficient interest to warrant publication in the FEDERAL REGISTER. Therefore these materials are set forth in full as follows:

[Temporary Instruction 631-3]

EXTENDED PRIORITY SELECTION GROUP REPORTING

OCTOBER 18, 1972.

1. It is desired to have an RSN breakdown of registrants who are expected to be in the Extended Priority Selection Group in 1973. This information is to be submitted with the Availability of Registrants (SSS Form 117) for the months of October 1972 through March 1973.

2. The Extended Priority Selection Group will be reported in two parts on the attached form, Availability of Extended Priority Selection Group—Classes 1-A and 1-A-O (SSS Form 117-A), as follows:

a. *Part 1.* For the October, November, and December 1972 reports, Part 1 will consist of those registrants who are expected to enter the Extended Priority Selection Group on January 1, 1973, from the 1972 First Priority Selection Group (RSN 1 through 95). For the January, February, and March 1973 reports, Part 1 will consist of registrants who actually entered the Extended Priority Selection Group on January 1, 1973, from the 1972 First Priority Selection Group (RSN 1 through 95).

b. *Part 2.* All registrants actually in the Extended Priority Selection Group other than those specified in paragraph 2a of this instruction will be reported in Part 2 each month (October through March).

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3. A registrant reported in Part 1 shall not be reported in Part 2 and vice versa. Column entries will be made in the same manner as on the SSS Form 117. The totals in Item 21 are the sum of Items 1 through 20. Such totals should agree with the entry in Item 2 of the SSS Form 117.

4. The SSS Form 117-A is to be reproduced locally.

5. This temporary instruction terminates upon submission of the March 1973 SSS Form 117-A.[1]

CHAPTER 617—THE REGISTRATION CERTIFICATE

SECTION 617.1 *Effect of date of birth that appears on registration card (SSS Form 1).* The date of birth of the registrant that appears on his Registration Card (SSS Form 1) on the day before the lottery is conducted to establish his random sequence number will be conclusive as to his date of birth in all matters pertaining to his relations with the Selective Service System.

SEC. 617.2 *Issuing of duplicate registration certificate.* 1. A duplicate SSS Form 2 shall be issued to a registrant by the local board with which he is registered upon receipt of his request made by letter or SSS Form 6 and the presentation of satisfactory proof to the local board that the SSS Form 2 of the registrant has been lost, destroyed, mislaid, or stolen.

2. A registrant may complete and file a request for a duplicate Registration Certificate (SSS Form 2) made on a Request for Duplicate Registration Certificate or Notice of Classification (SSS Form 6) at his own or any other local board. When he makes such request by letter he may file it only at his own local board. If the registrant files a request made on Request for Duplicate Registration Certificate or Notice of Classification (SSS Form 6) at any local board other than the local board with which he is registered and the registrant's own local board or the place of residence of the registrant at the time of registration is within its State, the local board with which the request is filed shall immediately mail the request to the local board having jurisdiction of the registrant. If the local board with which the request is filed has any doubt as to which other local board in its State has jurisdiction or if the registrant's own local board or his place of residence at the time of registration is not within its State, it shall mail the request to its State director for transmission to the proper local board. Upon receipt of the request, the local board with which the registrant is registered shall issue a duplicate Registration Certificate (SSS Form 2) to the registrant. If the registrant has appeared in person at his local board to file the request, the local board shall deliver the duplicate Registration Certificate (SSS Form 2) to him. If the registrant has filed the request through another local board or by letter, the duplicate Registration Certificate (SSS Form 2) shall be mailed to him at his mailing address. A sample letter for this purpose is Attachment 617-1 which shall be used when issuing duplicates of SSS Form 2 and/or SSS Form 110 to inform the registrant of his duty to return any previous issuances.

SEC. 617.3 *Changes to registration certificate when Selective Service Number remains unchanged.* The local board shall record changes in registration information which do not affect the selective service number by issuing a corrected SSS Form 2. It shall mark the "Change" block of the form. (See Procedural Directive of SSS Form 2 for distribution.) Such changes shall include name change, day or month of birth change, social security number change, date of registration change, or place of birth change. Changes in descriptive information, other than those resulting from registration errors, shall not be included. No cancellation action shall be taken when any of the above changes are made.

(Local Board Stamp)

DEAR SIR: Attached is your:

☐ duplicate Registration Certificate (SSS Form 2).
☐ duplicate Notice of Classification (SSS Form 110).

If any such certificate previously issued to you is in your possession or you later regain possession of any such certificate previously issued, it is your duty to immediately return to this local board the previously issued certificate. However, any SSS Form 110 which does not reflect your current classification need not be returned and should be destroyed.

Authorized Signature

Sections 613.3 and 613.5 were revised on November 1, 1972, to read as follows:

SEC. 613.3 *Use of the Tally Sheet (SSS Form 4) and preparation of the Registration Card (SSS Form 1).* 1. At the option of local board, the Tally Sheet (SSS Form 4) may be used as a temporary work sheet of registrants' names and selective service numbers, prior to entries being made in the Classification Record (SSS Form 102). The use of the tally sheet is not mandatory.

2. The Registration Card (SSS Form 1) shall be completed. The registrar will prepare the registration card or provide such assistance as the registrant requires in order for him to prepare it. It shall be typewritten or clearly printed in ink.

SEC. 613.5 *Preparation and issuance of registration certificate, registration questionnaire and notice of classification.* 1. When a man has completed the SSS Form 1 at his own local board within the prescribed time for registration and his identity and address have been verified, use the following procedure:

a. Assign his selective service number from the SSS Form 102, administratively assign him to 1-H and complete and issue SSS Forms 2 and 110.

b. The SSS Form 100 should be completed at time of registration or issued to the registrant with instructions to complete the SSS Form 100 and return within 10 days.

c. If it is more efficient to do so, the local board may delay the action in (a) and (b) and mail the SSS Form 2 and SSS Form 110 within 10 working days. The SSS Form 100, if not completed at time of registration, shall be mailed with instructions to return the Form within 10 days.

2. A registrant who registered at his own local board after the prescribed time, but prior to the day the lottery is conducted to establish his random sequence number, and who has presented proper identification and verification of his address, will be issued or mailed his forms in accordance with the provisions of paragraph 1.

3. A registrant who registered at his own local board without any verification of his address, shall not be issued his SSS Form 2 and SSS Form 110. The forms will be completed and mailed to him within 10 working days. The SSS Form 100 may be completed at time of registration or mailed to him with instructions to return the form within 10 days.

4. A registrant who registered at his own local board on or after the day the lottery is conducted to establish his random sequence number, shall not be issued or mailed an SSS Form 2 and SSS Form 110 until satisfactory evidence of date of birth has been received. The registrant shall be instructed to furnish such evidence within 10 days. If the evidence has not been received within 10 days, the local board will endeavor to secure evidence of date of birth. The local board should contact county or State bureau of vital statistics or other sources that may be available. If the local board does not receive satisfactory evidence of date of birth within 30 days, the file shall be forwarded to the State director.

5. When registration is accomplished at a local board other than registrant's local board of jurisdiction only completion of SSS Form 1 (except for SSN) is required. If possible, the SSS Form 100 may be completed and signed at that time. The registrant shall be advised that his SSS Form 1 will be forwarded to his local board of jurisdiction which will mail him his SSS Forms 2 and 110, and SSS Form 100 if it was not completed at the time of registration. The registrar should also advise any registrant who registered on or after the day the lottery is conducted to establish his RSN and who did not present satisfactory evidence as to his date of birth, that the evidence will be required by his local board of jurisdiction prior to issuing his SSS Forms 2 and 110.

6. When the registration has been accomplished at a place other than a local board, the registrar shall inform the registrant that the SSS Forms 2 and 110 will be mailed to him by his local board. At the close of business each day, the registrar shall forward the SSS Form 1 and any SSS Form 100 which may have been completed to the local board which appointed the registrar. If the registrar is in a foreign country, the registrar shall deliver the completed SSS Form 1 to the chief registrar of the embassy or consular office which appointed him, for transmittal to the Director of Selective Service.

7. When registration has been accomplished at a local board other than the registrant's local board of jurisdiction, the registrar shall forward the SSS Form 1 (and SSS Form 100, if completed) at the close of business that day to the local board having jurisdiction over the registrant's place of residence, if known. Otherwise, it shall be forwarded to the State director of selective service concerned, for transmittal to the proper local board.

[Temporary Instruction 632-11]

INDUCTION OF CERTAIN REGISTRANTS DURING THE PERIOD DECEMBER 12 THROUGH DECEMBER 19, AND DECEMBER 26 THROUGH DECEMBER 28, 1972.

OCTOBER 18, 1972.

Registrants in the following categories may be forwarded for induction during the periods shown above:

1. Postponed registrants whose postponements terminate in December.

2. Volunteers for induction.

3. Violators who are willing to submit to induction.

Arrangements for such inductions should be coordinated with the AFEES commanders. Registrants other than those mentioned above will not be scheduled for induction during the period December 12 through December 29, 1972.

This temporary instruction terminates on December 30, 1972.

BYRON V. PEPITONE,
Acting Director.

[FR Doc.72-18618 Filed 10-31-72;8:45 am]

[1] Filed as part of the original document.

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 427; Class B]

SHELLFISH FROM COASTAL AREAS IN MAINE, MASSACHUSETTS, AND NEW HAMPSHIRE

Products Disaster Declaration

Whereas, many small businesses situated in coastal areas of the States of Maine, Massachusetts, and New Hampshire are engaged in harvesting and shipping soft-shell clams, hard-shell clams and mussels; and

Whereas, the action of local authorities in banning the sale of clams and mussels contaminated by toxic red tide algae, has resulted in substantial economic injury to many small businesses; and

Whereas, the Food and Drug Administration has recalled shucked, fresh, and frozen hard- and soft-shell clams, and mussels; and

Whereas, it has been determined that red tide algae is a natural phenomenon caused by unknown factors and that it has resulted in toxicity in clams and mussels,

Now, therefore, as Administrator of the Small Business Administration, I hereby declare that the foregoing circumstances constitute a disaster within the meaning of section 7(b)(4) (Public Law 88-64) of the Small Business Act, as amended. Applications will be received from individuals and small business concerns which have suffered economic injury as a result thereof. Financial assistance, if found to be necessary or appropriate, will be extended to small business concerns determined by the Small Business Administration to have suffered economic injury as a result of this disaster. No applications under this declaration shall be accepted subsequent to December 31, 1972.

Dated: September 22, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-18609 Filed 10-31-72;8:45 am]

TARIFF COMMISSION

[AA1921-109]

KANEKALON WIGS FROM HONG KONG

Notice of Investigation and Hearing

Having received advice from the Treasury Department on September 29, 1972, that kanekalon wigs from Hong Kong are being, or are likely to be, sold at less than fair value, the U.S. Tariff Commission has instituted investigation No. AA1921-109 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Hearing. A public hearing in connection with the investigations will be held in the Tariff Commission's Hearing Room, Tariff Commission Building, 8th and E Streets NW., Washington, D.C., beginning at 10 a.m., e.s.t., on November 17, 1972. All parties will be given an opportunity to be present, to produce evidence, and to be heard at such hearing. Requests to appear at the public hearing should be received by the Secretary of the Tariff Commission, in writing, at its offices in Washington, D.C., not later than noon, Tuesday, November 14, 1972.

Issued: October 27, 1972.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-18653 Filed 10-31-72;8:52 am]

TENNESSEE VALLEY AUTHORITY

LAND BETWEEN THE LAKES

Notice of Establishment of Concurrent Criminal Jurisdiction Over a Portion of Stewart County, Tenn.

The United States of America has obtained concurrent criminal jurisdiction for the purposes of section 13 of Title 18 of the United States Code (Assimilative Crimes Statute) and enforcement proceedings pursuant thereto over the portion of Stewart County, Tenn., within the boundaries of Land Between the Lakes by virtue of the following:

Chapter 552, Tennessee Public Acts, 1972, p. 307.

AN ACT ceding to the United States concurrent jurisdiction over that portion of Stewart County within the boundaries of the Land Between the Lakes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

Section 1. Concurrent criminal jurisdiction is hereby ceded by Tennessee to the United States, solely for the purposes of section 13 of Title 18 of the United States Code and enforcement proceedings pursuant thereto, over the portion of Stewart County that lies within the boundaries of the Tennessee portion of the Land Between the Lakes and is more specifically described as follows:

Beginning at a point in the Tennessee River at Tennessee River mile 49.2, such being the point where the Tennessee-Kentucky state line turns in an easterly direction along the boundary between Stewart County, Tennessee, and Trigg County, Kentucky; thence with the Tennessee-Kentucky state line as it meanders in an easterly direction for a distance of approximately 8.6 miles to a point where the Tennessee-Kentucky state line intersects the 378-foot contour on the west shore of Lake Barkley; thence with the 378-foot contour as it meanders southward for a distance of approximately 62 miles to a point, said point being N. 84 degrees 01 foot W., 27 feet from U.S.E.D. Corner 6822-1 (Coordinates: N. 777,559; E. 1,448,835); thence N. 84 degrees 01 foot W., 2,869 feet to a set stone; thence N. 83 degrees 55 feet W., 1,879 feet to an angle iron; thence N. 1 degree 30 feet W., 4 feet to an angle iron; thence N. 81 degrees 12 feet W., 373 feet to a post oak tree; thence N. 5 degrees 25 feet W., 621 feet to an oak stump; thence N. 2 degrees 21 feet W., 1,151 feet to an angle iron; thence S. 84 degrees 17 feet W., 787 feet to an angle iron; thence S. 84 degrees 17 feet W., 266 feet to a point in the centerline of a road; thence with the centerline of the road approximately along the following bearings and distances: S. 5 degrees 52 feet E., 23 feet and S. 2 degrees 28 feet E., 422 feet to a point; thence with the centerline of the road approximately along a bearing and distance of S. 0 degree 34 feet E., 50 feet to an iron pin; thence, leaving the road, N. 85 degrees 14 feet W., 158 feet to a concrete monument (U.S.E.D. Corner 6605-6606-41); thence S. 6 degrees 37 feet W., 497 feet to a concrete monument (U.S.E.D. Corner 6605-6606-37); thence N. 88 degrees 5 feet W., 420 feet to an iron pin; thence N. 85 degrees 19 feet W., 664 feet to a concrete monument (U.S.E.D. Corner 6607-30); thence S. 7 degrees 33 feet W., 519 feet to a concrete monument (U.S.E.D. Corner 6607-26); thence N. 83 degrees 39 feet W., 319 feet to a buggy axle; thence N. 82 degrees 14 feet W., 2,024 feet to an angle iron; thence S. 6 degrees 45 feet W., 1,097 feet to an angle iron and three set stones; thence S. 5 degrees 16 feet W., 721 feet to an angle iron; thence N. 81 degrees 50 feet W., 1,375 feet to a 10-inch hickory tree; thence N. 80 degrees 25 feet W., 378 feet to a stake; thence N. 84 degrees 21 feet W., 314 feet to a 16-inch ash tree; thence S. 59 degrees 28 feet W., 347 feet to a 6-inch hackberry tree; thence S. 1 degree 46 feet W., 201 feet to an 18-inch walnut tree; thence N. 87 degrees 8 feet W., 595 feet to a stake; thence S. 12 degrees 1 foot W., 849 feet to a 30-inch hickory tree; thence S. 12 degrees 36 feet W., 511 feet to an angle iron; thence S. 70 degrees 36 feet E., 87 feet to an angle iron; thence S. 4 degrees 31 feet W., 282 feet to a stone; thence N. 85 degrees 28 feet W., 799 feet to a point in the centerline of a road; thence with the centerline of the road as it meanders in a westerly direction approximately along the following bearings and distances: S. 63 degrees 5 feet W., 322 feet, S. 72 degrees 7 feet W., 399 feet, S. 86 degrees 51 feet W., 485 feet, and S. 85 degrees 39 feet W., 177 feet to a point; thence, leaving the road, S. 20 degrees 12 feet W. 671 feet passing a 24-inch red oak tree at 27 feet to a 6-inch post oak tree; thence S. 35 degrees 39 feet E., 1,080 feet to a stump hole; thence S. 1 degree 4 feet W., 114 feet to a 10-inch white oak tree; thence S. 8 degrees 26 feet W., 1,540 feet to an angle iron; thence S. 59 degrees 44 feet W., 1,380 feet to an angle iron at a stone pile; thence S. 16 degrees 32 feet W., 1,044 feet to an angle iron at a rock pile; thence N. 51 degrees 47 feet W., 783 feet to an angle iron; thence N. 27 degrees 44 feet W., 651 feet to an angle iron at a stone pile; thence S. 41 degrees 36 feet W., 703 feet to an angle iron in a fence line; thence S. 29 degrees 21 feet W., 978 feet to an 18-inch white oak tree; thence S. 14 degrees 46 feet E., 671 feet to an 18-inch red oak tree; thence S. 8 degrees 19 feet W., 1,391 feet to a stump; thence S. 83 degrees 27 feet E., 425 feet to a stump; thence S. 5 degrees 59 feet W., 1,084 feet to a 14-inch black gum tree; thence S. 74 degrees 2 feet W., 470 feet to a 24-inch white oak tree; thence S. 33 degrees 31 feet W., 422 feet to an oak stump; thence N. 82 degrees 21 feet W., 500 feet to a stone pile; thence S. 33 degrees 33 feet E., 692 feet to a point in the centerline of the relocated U.S. Highway 79 at survey station 340+64 on said highway at or near Bear Creek; thence

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with said centerline as it meanders in a westerly direction 2.55 miles to survey station 205+66.6; thence leaving the centerline of the highway S. 18 degrees 22 feet E., 209 feet to a 16-inch red oak tree; thence S. 35 degrees 16 feet W., 2,315 feet to a stake; thence N. 82 degrees 12 feet W., 1,424 feet to a stone; thence N. 7 degrees 38 feet E., 619 feet to a point in the centerline of relocated U.S. Highway 79; thence with the said centerline as it meanders in a westerly direction approximately 4.1 miles to a point where the centerline of U.S. Highway 79 intersects the Stewart County-Henry County line at Tennessee River mile 66.3 at the Scott Fitzhugh Bridge; thence with said county line as it meanders in a northerly direction approximately 3.8 miles to a point at or near Tennesee River mile 62.5 where said county line abuts the Tennessee-Kentucky state line; thence with the Tennessee-Kentucky state line and the county line between Stewart County, Tennessee, and Calloway County, Kentucky, approximately 13.3 miles to the point of beginning. Nothing in this Section shall be construed as ceding to the United States any existing legislative or other regulatory jurisdiction of the State of Tennessee.

SEC. 2. This Act shall take effect, subject to due acceptance of the cession herein contained on behalf of the United States, from and after its passage, the public welfare requiring it.

Passed March 16, 1972.

JAMES R. MCKINNEY,
Speaker of the House of Representatives.
JOHN S. WILDER,
Speaker of the Senate.

Approved: March 22, 1972.

WINFIELD DUNN,
Governor.

RESOLUTION BY THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY ADOPTED JUNE 22, 1972

Whereas the General Assembly of the State of Tennessee, by act approved March 22, 1972 (Chapter No. 552, Tennessee Public Acts, 1972, p. 307), has ceded to the United States concurrent criminal jurisdiction over the portion of Stewart County, Tenn., lying within the boundaries of the Land Between the Lakes; and

Whereas section 355 of the Revised Statutes of the United States, as amended (40 U.S.C. sec. 255), authorizes acceptance of such cession on behalf of the United States by an authorized officer of any independent agency of the United States having immediate custody and control of the lands or interests therein affected by such cession; and

Whereas the Director of Land Between the Lakes and the General Counsel deem it desirable in the interest of facilitating administration of Land Between the Lakes that such cession be accepted in accordance with the terms of the United States statute cited in the preceding clause, and have recommended to the General Manager, who in turn has recommended to the Board, that the Director of Land Between the Lakes be authorized and directed to accept such cession on behalf of the United States; and

Whereas the Board finds that such acceptance is desirable in the interest of facilitating administration of the Land Between the Lakes;

Be it resolved, That the Director of Land Between the Lakes be and he is hereby authorized and directed to accept on behalf of the United States, in the form filed with the records of the Board as Exhibit 6–22–72s, the aforesaid cession by the General Assembly of the State of Tennessee of concurrent criminal jurisdiction over the portion of Stewart County, Tenn., lying within the boundaries of the Land Between the Lakes and to notify the Governor of the State of Tennessee of such acceptance.

NOTICE OF ACCEPTANCE OF JURISDICTION BY THE UNITED STATES OF AMERICA

To: The Honorable Winfield Dunn, Governor of the State of Tennessee.

The Governor of the State of Tennessee is hereby respectfully notified, pursuant to the provisions of section 355 of the Revised Statutes of the United States, as amended (40 U.S.C. 255), that the undersigned Director of Land Between the Lakes, under the authority of the U.S. statute cited above and a resolution adopted June 22, 1972, by the Board of Directors of the Tennessee Valley Authority, a certified copy of which resolution is attached hereto, hereby accepts, on behalf of the United States, cession to the United States of concurrent criminal jurisdiction over that portion of Stewart County, Tenn., within the boundaries of the Land Between the Lakes as made and effected by the Act of the General Assembly of the State of Tennessee approved March 22, 1972 (Chapter No. 552, Tennessee Public Acts, 1972, p. 307), for the purposes and subject to all the terms and conditions stated in such Act, effective upon the Governor's receipt of this notice.

Done at Knoxville, Tenn., this, the 23d day of June, 1972.

ROBERT M. HOWES,
Director, Land Between the Lakes.

CERTIFICATE OF ACKNOWLEDGMENT

I hereby certify that the original of the foregoing "Notice of Acceptance of Jurisdiction by the United States of America" was received at Nashville, Tenn., on the 28th day of June, 1972.

WINFIELD DUNN,
Governor of the State of Tennessee.

Approved as to legality, this the 27th day of June, 1972.

DAVID M. PACK,
Attorney General.

Filed, this the 29th day of June, 1972.

JOE C. CARR,
Secretary of State.

The foregoing notice and documents are published for the purpose of informing the general public and persons more particularly interested of the new jurisdictional status of this area.

Dated: October 24, 1972.

LYNN SEEBER,
General Manager.

[FR Doc.72-18602 Filed 10-31-72;8:46 am]

INTERSTATE COMMERCE COMMISSION

[Notice 106]

ASSIGNMENT OF HEARINGS

OCTOBER 27, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC-C-7668, Georgia-Florida-Alabama Transportation Co., and Bay Transportation, Inc.—Investigation and Revocation of Certificates, now assigned November 9, 1972, at Birmingham, Ala., hearing is cancelled.

MC 72243 Sub 28, The Aetna Freight Lines, Inc., now assigned December 7, 1972, at Birmingham, Ala., is cancelled and the application is dismissed.

MC-56679 Sub 41, 48, 50, and 63, Brown Transport Corp., is continued to November 27, 1972, at Albert Pick Motor Inn, 1152 Spring Street NW., Atlanta, GA.

MC 129823 Sub 2, Easton Motor Lines, Inc., doing business as Marshall's Express, now assigned October 30, 1972, at Washington, D.C., is postponed indefinitely.

I & S 8787, Freight, all kinds, between Illinois and New Jersey, now being assigned hearing January 9, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. 35664, The Department of Defense v. Aberdeen and Rockfish Railroad Co., et al., now being assigned for prehearing conference on January 10, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

Ex Parte No. 270 Sub 1A, Investigation of Railroad Freight Rate Structure Export-Import Rates and Charges, now being assigned continued hearing November 13, 1972, in Room E-139, King County Courthouse, Third and James Streets, Seattle, Wash.

MC 120646 Sub 9, Bradley Freight Lines, Inc., now assigned November 30, 1972, at Washington, D.C., is advanced to November 27, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-C-7849, Idaho Cedar Sales Co., Inc.—Investigation of Operations—now being assigned January 15, 1973 (2 days), at Billings, Mont., in a hearing room to be later designated.

MC 26396 Sub 51, Popelka Trucking Co., doing business as The Waggoners, now being assigned January 17, 1973 (3 days), at Billings, Mont., in a hearing room to be later designated.

MC 115826 Sub 244, W. J. Digby, Inc., now being assigned hearing January 22, 1973, at Denver, Colo., in a hearing room to be later designated.

MC-F-11275, Navajo Freight Lines, Inc.—Control—Joe Hodges Transportation Corp., now being assigned January 29, 1973 (1 week), at Denver, Colo., in a hearing room to be later designated.

I & S M-25952, Household Goods, Increased Rates Nationwide, now assigned November 13, 1972, at Washington, D.C., postponed to November 27, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. 35585, Akron Canton & Youngstown Railroad Co. et al. v. Aberdeen and Rockfish Railroad Co. et al., No. 35585 Sub 1, Burlington Northern, Inc. et al. v. Aberdeen and Rockfish Railroad Co. et al. No. 32055, Louisville and Nashville Railroad Co. et al. v. Akron, Canton & Youngstown Railroad Co. et al., and No. 34275, Cincinnati, New Orleans & Texas Pacific Railway Co. et al. v. Akron, Canton & Youngstown Railroad Co. et al., now assigned for continued prehearing conference on November 1, 1972, at Washington, D.C., postponed to December 5, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-18646 Filed 10-31-72;8:52 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 26, 1972.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42555—*Beet or cane sugar from North Atlantic ports of the United States.* Filed by Traffic Executive Association-Eastern Railroads, agent (E.R. No. 3026), for interested rail carriers. Rates on sugar, beet or cane, other than raw, dry, in bulk in covered hopper cars, as described in the application, from North Atlantic Ports of Albany, N.Y., Baltimore, Md., Boston, Mass., New York, N.Y., Norfolk, Va., Philadelphia, Pa., and Richmond, Va., to points in official territory.

Grounds for relief—Rate relationship.

Tariff—Supplement 61 to Traffic Executive Association-Eastern Railroads, agent, tariff ICC C-729. Rates are published to become effective on December 2, 1972.

FSA No. 42556—*Lime from Eden, Wis.* Filed by Southwestern Freight Bureau, agent (No. B-355), for interested rail carriers. Rates on lime (calcium), viz: Common lime, in carloads, as described in the application, from Eden, Wis., to points in Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 43 to Southwestern Freight Bureau, agent, tariff ICC 4919. Rates are published to become effective on December 4, 1972.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-18643 Filed 10-31-72;8:51 am]

[Notice 88]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

OCTOBER 27, 1972.

The following publications are governed by the new Special Rule 1100.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.[1]

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 29120 (Sub-No. 138) (Republication), filed March 2, 1972, published in the FEDERAL REGISTER issues of March 30 and June 8, 1972 (as amended), and republished this issue. Applicant: ALL-AMERICAN TRANSPORT, INC., 1500 Industrial Avenue, Post Office Box 769, Sioux City, SD 57101. Applicant's rereseantative: Mead Bailey (same address as applicant). An order of the Commission, Operating Rights Board, dated October 3, 1972, and served October 17, 1972, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of meats, meat products, meat byproducts, dairy products, and articles distributed by meat packinghouses, as defined by sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Wilson Certified Foods, Inc., at Marshall, Mo., to points in Illinois, Indiana, Kentucky, Michigan, Ohio, and Wisconsin, restricted to the transportation of traffic originating at Marshall, Mo., and destined to points in the named States; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted in this order will be published in the FEDERAL REGISTER and issuance of a certificate herein will be withheld for a period of 30 days from the date of such republication, during which period any proper party in interest may file an appropriate petition for leave to intervene in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

NOTICES FOR FILING OF PETITIONS

No. MC 42487 (Sub-No. 578) (Notice of Filing of Petition for Modification of Certificate), filed August 17, 1972. Petitioner: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, Menlo Park, Calif. Petitioner's representative: Eugene T. Liipfert, 1660 L Street NW., Suite 1100, Washington, DC 20036. Petitioner presently holds a certificate in MC 42487 (Sub-No. 578), authorizing, as pertinent, operation as a common carrier by motor vehicle, over regular routes with certain restrictions. The following restriction applies to a portion of the motor cargo rights: Restriction: All of the operating authority in (Part 2) of (A) above shall be subject to the limitation that no shipments shall be transported over routes described thereunder between any two points, both of which are west of the Illinois-Indiana State line, except that shipments may be transported from Minneapolis and St. Paul, Minn., to Chicago, Ill., and points in Illinois within the Chicago, Ill., commercial zone as defined above. The authority in (Part 2) of section (A) of the Sub-578 certificate authorized operations over a route network extending generally from Anoka, Minn., and Des Moines, Iowa, on the west, through Wisconsin, Illinois, Indiana, and Ohio to Youngstown, Ohio, and Sharon, Pa., on the east. (Generally the restricted routes connect on an end-to-end basis with other motor cargo routes to the eastern seaboard.) Alternate routes covering the same general territory are set forth in (Part 10) and (Part 11) of section (A) of the Sub-578 certificate, and these alternate routes are similarly restricted. By the instant petition, petitioner seeks to have the language of each of these restrictions modified by striking the words "west of the Illinois-Indiana State line" and substituting therefor the words "located in the area comprised of the States of Iowa, Minnesota, Wisconsin, and Illinois." As modified, the restriction in (Part 2) of section (A) would read: Restriction: All of the operating authority in (Part 2) of (A) above shall be subject to the limitation that no shipments shall be transported over routes

[1] Except as otherwise specifically noted, each applicant (on applications filed after Mar. 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

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described thereunder between any two points, both of which are located in the area comprised of the States of Iowa, Minnesota, Wisconsin, and Illinois, except that shipments may be transported from Minneapolis and St. Paul, Minn., to Chicago, Ill., and points in Illinois within the Chicago, Ill., commercial zone as defined above. Similar changes would be made in the restrictions governing the alternate routes. Any interested person desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 127355 (Correction), filed September 13, 1972, and published in the FEDERAL REGISTER issue of September 27, 1972, republished in part, as corrected, this issue. Petitioner: M & N GRAIN COMPANY, a Corporation, 804 East Hickory, Nevada, MO 64772. Petitioner's representative: Donald J. Quinn, 1012 Baltimore, Suite 900, Kansas City, MO 64105.

NOTE: The purpose of this partial republication is to correctly classify the previous publication as a Notice of Filing of Petition for Modification of Permit. The rest of the petition remains as previously published.

No. MC 134477 (Sub-No. 13) (Notice of Filing of Petition for Modification of Certificate), filed October 13, 1972. Petitioner: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Petitioner's representative: Paul Schanno (same address as above). Petitioner presently holds a certificate in No. MC 13447 (Sub-No. 13), authorizing operation as a common carrier by motor vehicle, over irregular routes, of *cooked, cured, or preserved meats*, in vehicles equipped with mechanical refrigeration, from the plantsite of Peters Meat Products, Inc., at St. Paul, Minn., to Laurens and Sioux City, Iowa, with no transportation for compensation on return except as otherwise authorized. Restriction: Restricted to the transportation of traffic originating at the above-named plantsite and destined to the above-named destination points. By the instant petition, petitioner seeks modification of its certificate to read as follows: "from the plantsite of Schweigert Meat Co. at Minneapolis, Minn., in lieu of the present wording "from the plantsite of Peters Meat Products, Inc., at St. Paul, Minn." Any interested person desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATION FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 60014 (Sub-No. 32), filed October 16, 1972. Applicant: AERO TRUCKING, INC., Post Office Box 308, Monroeville, PA 15146. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value), classes A and B explosives, household goods as defined by the Commission, and commodities in bulk, between points in Connecticut. NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. This application is a matter directly related to MC-F-11693, published in the FEDERAL REGISTER issue of October 26, 1972. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-11696. Authority sought for merger by CHIPPEWA MOTOR FREIGHT, INC., 2645 Harlem Street, Eau Claire, WI 54701, of the operating rights and property of McCLAIN DRAY LINE, INC., 404 Railroad Avenue, Marion, IN 46952, and for acquisition by FRANK BABBITT, also of Eau Claire, WI 54701, of control of such rights and property through the transaction. Applicants' attorney: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Operating rights sought to be merged: *General commodities*, with exceptions, as a *common carrier* over regular routes, between Connersville, Ind., and College Corner, Ohio, serving all intermediate points and the off-route point of Brownsville, Ind., between Cincinnati, Ohio, and College Corner, Ohio, serving all intermediate points, with restriction; between Cincinnati and Hamilton, Ohio, serving no intermediate points, between Hamilton and Millville, Ohio, serving all intermediate points, with restriction; between Hamilton and Oxford, Ohio, serving all intermediate points, between junction Ohio Highway 177 and unnumbered highway (formerly Ohio Highway 130) over unnumbered highway to McGonigle, and return over the same route, between Oxford, Ohio, and Richmond, Ind., serving all intermediate points, and the off-route points of Boston and Kitchell, Ind., between Marion, Ind., and Chicago, Ill., serving the intermediate points of Converse, Peru, Plymouth, and Kokomo, Ind., between Marion and Anderson, Ind., serving the intermediate point of Alexandria, Ind., and the off-route points of Gas City, Hartford City, and Jonesboro, Ind., between Marion and Muncie, Ind., serving the intermediate points of Alexandria, Anderson, Chesterfield, Daleville, and Yorktown, Ind., between Marion and Muncie, Ind., serving no intermediate points, but serving the off-route points of Alexandria, Gas City, Hartford City, and Jonesboro, Ind., between Marion and Muncie, Ind., serving the intermediate points of Gas City and Hartford City, Ind., and the off-route points of Alexandria and Jonesboro, Ind., between Richmond and Muncie, Ind., serving no intermediate points, between Muncie and Connersville, Ind., between New Castle and Richmond, Ind., serving all intermediate points, between Chicago, Ill., and junction Indiana Highway 49 and U.S. Highway 30, between Marion and Hartford City, Ind., between Anderson, Ind., and junction Indiana Highways 9 and 109, serving no intermediate points, between Hagerstown and Richmond, Ind., serving no intermediate points, in connection with said carrier's regular operations authorized herein between Richmond and Muncie, Ind., and between New Castle and Richmond, Ind., serving various intermediate and off-route points; over one alternate route for operating convenience only; *building materials and supplies, and iron and steel articles*, over irregular routes, between Oxford, Ohio, and points within 25 miles thereof, on the one hand, and, on the other, points in Ohio, and that part of Indiana south of U.S. Highway 24 and east of U.S. Highway 41, including points on the indicated portions of the highways specified; *prepared roofing and roofing material*, from Joliet, Ill., to Marion, Ind., with restriction; *general commodities*, with exceptions, between points in Ohio and Indiana within 40 miles of Oxford, Ohio, between Oxford, Ohio, on the one hand, and, on the other, points in Ohio within a radius of 50 miles of Oxford; *iron and steel articles*, from the plantsite of Jones & Laughlin Steel Corp. located in Putnam County, Ill., to points in Indiana and Ohio; *materials, equipment, and supplies* used in the manufacture and processing of iron and steel articles, from points in Indiana and Ohio, to the plantsite of Jones & Laughlin Steel Corp., located in Putnam County, Ill., with restriction. CHIPPEWA MOTOR FREIGHT, INC., is authorized to operate as a common carrier in Wisconsin, Minnesota, Illinois, Indiana, and Iowa. Application has not been filed for temporary authority under section 210a(b).

NOTE: Pursuant to order dated September 29, 1970, in No. MC-F-10835, transferee acquired control of transferor.

No. MC-11697. Authority sought for purchase by GERSON TRANSPORTATION, 475 Burlington Avenue, Bridgeton, NJ 08302, of a portion of the operating rights of WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, FL 33801, and for acquisition by MOTOR CARGO TRANSPORT CORP., and in turn by, THOMAS R. ROCAP, both of 21 D'shibe Terrace, Vineland, NJ 08360, of control of such rights through the purchase applicants' attorney: Charles Ephraim, 1250 Connecticut Avenue, NW., Washington, DC 20036. Operating rights sought to be transferred: *Glass containers*, as a *common carrier* over irregular routes, from Bridgeton and Salem, N.J., to points in Connecticut, Delaware, Maryland, Massachusetts, New York, Pennsylvania, Rhode Island, Virginia, and the District of Columbia, from Millville, N.J., to Relay, Md.; *glassware*, from points in Cumberland County, N.J., to Tuckahoe, N.Y., and Relay, Md.; *used pallets, used platforms, used skids, and damaged glassware and glass containers*, from points in Connecticut, Delaware, Maryland, Massachusetts, New York, Pennsylvania, Rhode Island, Virginia, and the District of Columbia, to Bridgeton and Salem, N.J., from Tuckahoe, N.Y., and Relay, Md., to points in Cumberland County, N.J.; *glassware and glass containers*, from Salem, N.J., to certain specified points in Maine, and Manchester, N.H. Vendee is authorized to operate as a *common carrier* in Pennsylvania, and New Jersey. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11699. Authority sought for control by OLD DOMINION FREIGHT LINE, Post Office Drawer 2006, High Point, NC 27261, of STAR TRANSPORT CO., INC., 4710 Hollins Ferry Road, Baltimore, MD 21227, and for acquisition by L. C. CROWDER, E. E. DONGDON, both of Post Office Box 1189, High Point, NC 27261, and J. R. CONGDON, Post Office Box 4265, Richmond, VA 23224, of control of STAR TRANSPORT CO., INC., through the acquisition by OLD DOMINION FREIGHT LINE. Applicants' attorney: Francis W. McInerny, 1000 16th Street NW., Washington, DC 20036. Operating rights sought to be controlled: *General commodities*, excepting among others, classes A and B explosives, household goods, and commodities in bulk, as a *common carrier*, over regular routes, between Winchester, Va., and Frostburg, Md., serving all intermediate points; and off-route points within a territory bounded by a line beginning at the West Virginia-Virginia State line and extending along U.S. Highway 50 to certain specified points in Virginia, Maryland, and the District of Columbia; *general commodities*, excepting among others, classes A and B explosives, household goods, and commodities in bulk, over irregular routes, between points in Cumberland and Salem Counties, N.J., on the one hand, and, on the other, Providence, R.I., Corning, N.Y., and certain specified points in Pennsylvania, New York, Massachusetts, and Connecticut, between points in New Jersey, on the one hand, and, on the other, Baltimore, Md., between points in the Philadelphia, Pa., commercial zone as defined by the Commission; *flour*, in bulk, from Muirkirk, Md., to Baltimore, Md., and Washington, D.C.; *wool* imported from any foreign country, *wool tops and noils, and wool waste* (carded, spun, woven, or knitted), from North Chelmsford, Boston, East Weymouth, West Millbury, and Lawrence, Mass., to Baltimore, Md. Old Dominion Freight Line, is authorized to operate as a *common carrier*, in Virginia, North Carolina, South Carolina, Georgia, Tennessee, Indiana, Michigan, Ohio, Maryland, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Florida, Alabama, Mississippi, Missouri, Delaware, New Mexico, Texas, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

MOTOR CARRIER PASSENGER

No. MC-F-11695. Authority sought for control by LAIDLAW MOTORWAYS LIMITED (noncarrier), 65 Guise Street, Hamilton 21, Ontario, Canada, of GREY GOOSE BUS LINES LIMITED, 405-491 Portage Avenue, Winnipeg, Canada, and for acquisition by MICHAEL G. DEGROOTE, also of Hamilton 21, Ontario, Canada, of control of Grey Goose Bus Lines, Limited, through the acquisition by Laidlaw Motorways Limited. Applicants' attorney: David A. Sutherlund, 2001 Massachusetts Avenue NW., Washington, DC 20036. Operating rights sought to be controlled: Passengers and their baggage,, and express and newspapers in the same vehicle with passengers, as a common carrier over regular routes, between Warroad and Baudette, Minn., between Warroad, Minn., and the United States-Canada boundary line, near Longworth, Minn., serving all intermediate points; passengers and their baggage, in round trip charter operations, over irregular routes, from points on the United States-Canada boundary line through ports of entry in North Dakota, Montana, and Minnesota, to points in the United States (except points in Alaska), and return. Laidlaw Motorways Limited holds no authority from this Commission. However, it is affiliated with Laidlaw Transport Limited, which is authorized to operate as a *common carrier* in New York, Illinois, Indiana, Ohio, Pennsylvania, Michigan, New Jersey, Maryland, and Delaware. Application has not been filed for temporary authority under section 210a(b).

MOTOR CARRIER PASSENGER

No. MC-F-11698. Authority sought for merger into QUEEN CITY COACH COMPANY, of the operating rights and property of (B) SMOKY MOUNTAIN STAGES, INCORPORATED, (BB) CAROLINA SCENIC STAGES, AND (BBB) COASTAL STAGES CORPORATION, all of 417 West Fifth Street, Charlotte, NC 28201. Applicants are commonly controlled. Applicants' attorneys: D. Paul Stafford, 315 Continental Avenue, Dallas, TX 75207, and John Ray, 417 West Fifth Street, Charlotte, NC 28201. Operating rights sought to be merged: (B) Passengers and their baggage and etc., as a common carrier over regular routes, between Asheville, N.C., and Atlanta, Ga., between Chattanooga, Tenn., and Ranger, N.C., between Sylva, N.C., and Commerce, Ga., between Atlanta, Ga., and Anderson, S.C., between Carnesville, and Augusta, Ga., between Sevierville, and Greenville, Tenn., between Clarksville, and Atlanta, Ga., between Waynesville, N.C., and the junction of U.S. Highway 19 and U.S. Highway 19A, between Dellwood, N.C., and Knoxville, Tenn., between Cherokee, N.C., and junction Tennessee Highway 71 and Tennessee Highway 73, between Jefferson and Athens, Ga., between Clarksville, and Royston, Ga., between Hiawassee, Ga., and Hayesville, N.C., between Elberton, Ga., and Anderson, S.C., between Fontana, and Deals Gap, N.C., between Maryville, and Knoxville, Tenn., between Asheville, N.C., and Anderson, S.C., between Rosman, and Franklin, N.C., between junction U.S. Highway 64 and North Carolina Highway 294 and Ducktown, Tenn., between Sylva, N.C., and Greenville, S.C., between junction U.S. Highway 23 and unnumbered Georgia Highway near Dillard, Ga., and Highlands, N.C., between Canton, N.C., and Waynesville, N.C., between Lauada and Franklin, N.C., between Asheville and Enka, N.C., between junction Tennessee Highway 71 and Tennessee Highway 73 (near Gatlinburg, Tenn.) and Elkmont, Tenn., between Topton, N.C., and Maryville, Tenn., between Madisonville and Sweetwater, Tenn., between Franklin, N.C., and Madisonville, Tenn., between Fair Play, S.C., and Hiawassee, Ga., between Fair Play, S.C., and junction of South Carolina Highways 59 and 24, between Newport, Tenn., and Dellwood, N.C., between Gollywood and Toccoa, Ga., between Abbeville, S.C., and Lincolnton, Ga., between junction of Georgia Highway 104 and Clarks Hill Dam Road and Clarks Hill Dam, Ga., between Asheville, and Avery Creek, N.C., between Cleveland, Ga., and junction U.S. Highway 19 and Georgia Highway 141 north of Cummings, Ga.; (BB), commodity and route description as shown in (B), between Charlotte, N.C., and Augusta, Ga., between Batesburg, and Anderson, S.C., between Blacksburg, and Anderson, S.C., between Asheville, N.C., and Savannah, Ga., between Camden and Columbia, S.C., between Newberry and Johnston, S.C., between Clinton and Saluda, S.C., between Marion, N.C., and Greenwood, S.C., between Chimney Rock, N.C., and Spartanburg, S.C., between Salem Crossroads, and Winnsboro, S.C., between Rockton and Bookman, S.C., between Tryon and Ruthefordton, N.C., between Shelby, N.C., and North Carolina-South Carolina State line, between Shelby, N.C., and Gaffney, S.C., between Shelby, N.C., and junction North Carolina Highway 18 and unnumbered highway, between Winnsboro, S.C., and junction South Carolina Highway 200 and U.S. Highway 21, between points in North Carolina, serving all intermediate points, between Enoree and Union, S.C., between Union, S.C., and junction unnumbered highway and

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South Carolina Highway 9, between Fort Lawn and Lancaster, S.C., between Chester and Nitrolee, S.C., between Great Falls, S.C., and junction South Carolina Highway 99 and South Carolina Highway 9, between Walhalla, and Anderson, S.C., between Honea Path and Whitmire, S.C., between Honea Path and junction of South Carolina Highway 52 with U.S. Highway 76 (near Laurens, S.C.), between Donalds and Greenwood, S.C., between Pelzer, S.C., and junction unnumbered Anderson County highway with South Carolina Highway 20, between Greenville, S.C., and junction of South Carolina Highway 296 with Interstate Highway 26, between junction South Carolina Highways 101 and 296 and Woodruff, S.C., between junction unnumbered county highway and South Carolina Highway 296 and junction of South Carolina Highways 290 and 296, between Landrum and Greer, S.C., between junction U.S. Highway 1 and South Carolina Highway 97 (near Camden, S.C.), and junction South Carolina Highway 97 and U.S. Highway 21, between Columbia, and St. Matthews, S.C., between junction South Carolina Highway 34 and unnumbered highway approximately 3 miles west of Winnsboro and Chester, S.C., between Hilton Head Island and the junction of South Carolina Highways 46 and 170; (BBB), commodity and route description as shown in (B), between Camden and Sumter, S.C., between Andrews and Myrtle Beach, S.C., between St. Matthews and Moncks Corner, S.C., between junction U.S. Highways 601 and 176 (2 miles south of St. Matthews) and junction of U.S. 176 and alternate U.S. 17 (12 miles south of Moncks Corner), between junction South Carolina Highways 6 and 33 and Orangeburg, between Charleston and Moncks Corner, S.C., between Moncks Corner, S.C., and junction Alternate U.S. Highway 17 with U.S. Highway 521, between Andrews and Sumter, S.C., between junction U.S. Highway 521 and South Carolina Highway 261 and junction South Carolina Highway 377 and U.S. Highway 521, between junction U.S. Highway 601 and South Carolina Highway 267 and junction South Carolina Highway 33 with South Carolina Highway 6, between Sumter and Andrews, S.C., between Andrews, S.C., and junction South Carolina Highway 41 and Alternate U.S. Highway 17, between junction Alternate U.S. Highway 17 and U.S. Highway 176 and Ten Mile Hill, S.C. (at the junction U.S. Highway 52 and Airport Road), between Eutawville and Holly Hill, S.C., between Sumter and Manning, S.C. Queen City Coach Company, is authorized to operate as a common carrier in Tennessee, North Carolina, South Carolina, and Georgia. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc 72-18641 Filed 10-31-72;8:51 am]

[Notice 149]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73873. By order entered October 17, 1972, the Motor Carrier Board approved the transfer to Rubber City Express, Inc., Akron, Ohio, of the operating rights set forth in Permit No. MC-76297, issued August 30, 1971, to Richard Dean Wendelken, doing business as Rubber City Express, authorizing the transportation of: Such commodities as are manufactured, processed and/or dealt in by rubber manufacturers and steel product manufacturers, and equipment, materials, and supplies used in the conduct of such businesses, from Akron, Ohio, to points in Rhode Island, Massachusetts, Connecticut, New York, and New Jersey; tire fabric, from Fall River and New Bedford, Mass., to Akron, Ohio; chemicals, from Naugatuck, Conn., to Akron, Ohio; and scrap tires and tubes, from Boston, Cambridge, New Bedford, Pittsfield, Fall River, and Springfield, Mass., Hartford, Conn., Newark, N.J., and Albany and New York, N.Y., and points on Long Island, N.Y., to Akron, Ohio. Paul F. Beery, 88 East Broad Street, Columbus, OH 43215, attorney for applicants.

No. MC-FC-73947. By order of October 18, 1972, the Motor Carrier Board approved the transfer to Gollott & Sons Transfer & Storage, Inc., Biloxi, Miss., of Certificate of Registration No. MC-120472 (Sub-No. 1), issued October 13, 1964, to C. W. Gandy, Jr., and H. C. Gollot, a partnership, doing business as G & G Moving and Storage, Biloxi, Miss., evidencing a right to engage in transportation in interstate commerce corresponding in scope to Common Carrier Certificate No. 3039, dated June 11, 1958, issued by the Mississippi Public Service Commission. Donald B. Morrison, 717 Deposit Guaranty Bank Building, Post Office Box 22628, Jackson, MS 39205, attorney for applicants.

No. MC-FC-73990. By order of October 24, 1972, the Motor Carrier Board approved the transfer to George H. Germann, doing business as Germann Trucking Co., Mt. Vernon, Ill., of Certificates No. MC-117647 and subs thereunder issued April 24, 1959, November 19, 1963, August 13, 1964, and August 15, 1972, to James R. Noles and Mildred Noles, doing business as Noles Trucking, Terre Haute, Ind., authorizing the transportation of: Creosoted ties, piling, poles, structural timbers, etc., between points in Indiana, Illinois, Kentucky, Michigan, Ohio, Wisconsin, and Iowa. Robert W. Loser II, attorney, 1009 Chamber of Commerce, Indianapolis, Ind. 46204.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-18644 Filed 10-31-72;8:52 am]

[Notice 141]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 24, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 127840 (Sub-No. 32 TA), filed October 5, 1972. Applicant: MONTGOMERY TANK LINES, INC., 612 Maple, William Springs, IL 60480. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hog mucosa*, in bulk, in tank vehicles, from St. Louis, Mo., to North Chicago, Ill., for 180 days. Supporting shipper: Abbott Laboratories, 1400 Sheridan Road, North Chicago, IL 60064. Send protests to: District Supervisor Robert G. Anderson, Interstate

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 128375 (Sub-No. 82 TA), filed October 3, 1972. Applicant: CRETE CARRIER CORPORATION, Box 249, 1444 Main, Crete, NE 68333. Applicant's representative: Ken Adams (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automotive replacement parts, automotive accessories, and equipment, materials, and supplies* used in the manufacture of the above-described commodities (except in bulk), between Saco, Maine, on the one hand, and, on the other, points in Alabama, Georgia, Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin, under continuing contract with the Maremont Corp., for 180 days. Supporting shipper: Edward A. Coxhead, Traffic Manager, Maremont Corp., 168 North Michigan Avenue, Chicago, IL 60601. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 320 Federal Building and Courthouse, Lincoln, NE 68508.

No. MC 135871 (Sub-No. 11 TA), filed October 4, 1972. Applicant: H. G. M. TRANSPORT COMPANY, 1079 West Side Avenue, Jersey City, NJ 07306. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by department stores and *supplies and equipment* used in the conduct of such business, for the account of S. E. Nichols, Inc., between Jersey City, N.J., on the one hand, and, on the other, Wilson, N.C., for 180 days. Supporting shipper: S. E. Nichols, Inc., 599 Eighth Avenue, New York, NY 10018. Send protests to: District Supervisor Robert E. Johnston, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 136159 (Sub-No. 9 TA), filed October 5, 1972. Applicant: AVIS HIGGINS, doing business as A. B. S. MOVERS, 824 Valley View Drive, Richland Center, WI 53581. Applicant's representative: Michael J. Wyngaard, 125 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Signs, sign parts, sign poles, sign pole parts, and accessories*, from Portage, Wis., to points in Alabama, Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming, for 180 days. Supporting shipper: General Indicator Corp. (GIC), 413 South Main Street, Pardeeville, WI 53954. Send protests to: Barney L. Hardin, District Superivsor, Interstate Commerce Commission, Bureau of Operations, 139 West Wilson Street, Room 206, Madison, WI 53703.

No. MC 136220 (Sub-No. 3 TA), filed September 29, 1972. Applicant: ROY SULLIVAN, doing business as SULLIVAN TRUCKING CO., 1705 Northeast Woodland, Ponca City, OK 74601. Applicant's representative: Roy Sullivan (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from the mining facilities of Buckhorn Coal Co., Ltd., Prairie View, Ark., to Coffeyville, Kans., and Bartlesville, Okla., for 180 days. Supporting shippers: John S. Van Aken, Manager National Zinc Co., Inc., Bartlesville, Okla. 74003; Wayne Livington, Purchasing Agent, Sherwin-Williams Chemicals, Post Office Box 855, Coffeyville, KS 67337. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 136228 (Sub-No. 5 TA), filed October 2, 1972. Applicant: LUISI TRUCK LINES, INC., Post Office Box 606, New Walla Walla Highway No. 11, Milton-Freewater, OR 97862. Applicant's representative: Eugene Luisi (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and/or frozen meat*, from Wallula, Wash., to Seattle, Wash., for subsequent movement by water, for 180 days. Supporting shipper: Cudahy Co., Wallula, Wash. 99363. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 136711 (Sub-No. 3 TA), filed October 5, 1972. Applicant: DAVID G. McCORKLE, doing business as McCORKLE TRUCK LINE, 616 South Western Avenue, Oklahoma City, OK 73125. Applicant's representative: David G. McCorkle (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from the mining facilities of Western Continental of Oklahoma, Inc., at or near Quinton, Okla., to the loading facilities of Sierra Coal Co., Inc., located on the Arkansas River at or near Webbers Falls, Okla., for 180 days. Supporting shipper: Harold Passmore, General Manager, Western Continental of Oklahoma, Inc., Denver, Colo. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 136950 (Sub-No. 1 TA), filed September 29, 1972. Applicant: FROSTY TRANSPORTATION, INC., Box 184, Douglassville, PA 19518. Applicant's representative: Jay Rhoads (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits and berries*, from points in Michigan, to Pottstown, Morgantown, Philadelphia, and York, Pa., Portsmouth, Va., and Silver Spring, Md., for 180 days. Supporting Shipper: Victor D. Rosso, Transportation Manager, Mrs. Smith's Pie Co., Box 298, Pottstown, PA 19464. Send protests to: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 138000 (Sub-No. 2 TA), filed October 11, 1972. Applicant: ARTHUR H. FULTON, R.F.D., Stephens City, Va. 22655. Applicant's representative: Charles E. Creager, Suite 523, 816 Easley Street, Silver Spring, MD 20910. Authority to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Newark, N.J., Winston-Salem, N.C., Cumberland, Md., Cleveland, Ohio, Philadelphia and Norristown, Pa., to points in Morgan, Berkeley, and Jefferson Counties, W. Va., for 180 days. Supporting shipper: Martin Distributing Co., Inc., 1182 Winchester Avenue, Martinsburg, W. Va. Send protests to: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th and Constitution Avenue NW., Washington, D.C. 20436.

No. MC 138050 (Sub-No. 1 TA), filed October 3, 1972. Applicant: STILWELL CANNING COMPANY, INC., Post Office Box 432, Stilwell, OK 74960. Applicant's representative: William P. Parker, Suite 280, National Foundation Life Center, 3535 Northwest 58th, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from points in Indiana, Michigan, and Wisconsin to Arkansas City, and Wichita, Kans., and Enid, Okla., for 180 days. Supporting shipper: The Ranney-Davis Mercantile Co., Arkansas City, Kans. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capital, Little Rock, AR 72201.

No. MC 138076 (Sub-No. 1 TA), filed September 28, 1972. Applicant: HEAVY HAULING, INC., 1100 West Grand, Salina, KS 67401. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Reciprocal engines, reciprocal engine parts, turbine engines, turbine engine parts, castings, steel plates, and shafting*, between shop, plant and/or warehouse facilities of Exline, Inc., located approximately 1½ miles east of Salina, Kans., on the one hand, and, on the other, points in Alabama, Arkansas, Colorado, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, New Mexico, Nebraska, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Wisconsin, and Wyoming, for 180 days. NOTE: Applicant does not intend to tack the authority

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here applied for to other authority which may be obtained by it, or to interline with other carriers. Supporting shipper: Exline, Inc., Post Office Box 1267, Salina, KS 67401. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 234 Federal Building, Topeka, Kans. 66603.

No. MC 138083 TA, filed October 2, 1972. Applicant: ABBOT MOVING & STORAGE, INC., 2136 Northwest 24th Avenue, Miami, FL 33152. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Florida, restricted to the transportation of traffic having a prior or subsequent movement, in containers and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, for 180 days. Supporting shippers: Door to Door International, Inc., 308 Northeast 72d Street, Seattle, WA 98115; Kingpak, Inc., Post Office Box 18298, Wichita, KS 67218; Northwest Consolidators, Inc., Post Office Box 55010, North City Station, Seattle, WA 98155; Swift Home-Wrap, Inc., 839 Northeast Northgate Way, Seattle, WA 98125. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, 5720 Southwest 17th Street, Room 105, Miami, FL 33155.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-18642 Filed 10-31-72;8:51 am]

[Notice 142]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 26, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 30844 (Sub-No. 431 TA), filed October 11, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Post Office Box 5000, 50704, Waterloo, IA 50702. Applicant's representative: Larry L. Strickler (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such articles* as are dealt in by retail discount stores (except foodstuffs and commodities in bulk), from New York, N.Y., and commercial zone to Minneapolis-St. Paul, Minn., and commercial zone and Duluth, Minn., restricted to shipments originating at or destined to the facilities of Target Stores, Inc., for 180 days. Supporting shipper: Target Stores, Inc., 7120 Highway 65 NE., Fridley, MN 55432. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 52110 (Sub-No. 126 TA), filed October 6, 1972. Applicant: BRADY MOTORFRATE, INC., 2150 Grand Avenue, Des Moines, IA 50312. Applicant's representative: Cecil L. Goettsch, 11th Floor, Des Moines Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier certificates*, 61 M.C.C. 209 and 766, except hides and commodities in bulk, from the plantsite of Dubuque Packing Co. at Mankato, Kans., to points in Indiana, Ohio, Michigan, Pennsylvania, Maryland, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Delaware, Washington, D.C., and Louisville, Ky., for 150 days. Supporting shipper: Dubuque Packing Co., 1410 East 21st Street, Wichita, KS 67214. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 59531 (Sub-No. 95 TA), filed October 2, 1972. Applicant: AUTO CONVOY CO., a partnership doing business as, ESTATE OF HARRY E. STEWART, PETER P. STEWART, HENRY EXALL, JR., PETER STEWART TRUST A-E, WALDO E. STEWART TRUST I-5 and Ian, Inc., 3020 South Haskell Avenue, Dallas, TX 75223. Applicant's representative: Henry Exall, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles, trucks and buses*, as described in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Dallas, Tex., to points in Colorado, for 180 days. NOTE: Carrier does not intend to tack authority. Supporting shipper: Saab-Scania of America, Inc., Southwestern Region, 3400 Avenue E, East, Arlington, TX 76010. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 9A27, Dallas, TX 75202.

No. MC 68860 (Sub-No. 15 TA) (Correction), filed October 2, 1972, published in the FEDERAL REGISTER issue of October 20, 1972, corrected and republished in part as corrected this issue. Applicant: RUSSELL TRANSFER INCORPORATED, 444 Glenmore Drive, Salem, VA 24153. NOTE: The purpose of this partial republication is to include the State of West Virginia as a destination point, and to delete the State of Virginia, and to include John W. Hancock, Jr., Inc., Post Office Box 1400, Salem, VA 24153 as a supporting shipper. The rest of the notice remains the same.

No. MC 107496 (Sub-No. 862 TA), filed October 10, 1972. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, Post Office Box 855, 50304, Des Moines, IA 50309. Applicant's representative: E. Check (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paint and paint products*, in bulk, in tank vehicles, from Fort Madison, Iowa, to points in Alabama, Louisiana, and Texas, for 180 days. Supporting shipper: E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 109599 (Sub-No. 5 TA), filed October 6, 1972. Applicant: HOMER BENNETT TRUCKING CO., INC., 800 Allen Street, Post Office Box 543, Clovis, NM 88101. Applicant's representative: Larry L. Lamb, 500 Second Street, Albuquerque, NM 87101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Houses and buildings*, excluding trailers designed to be drawn by automobiles, and building in sections mounted on wheel undercarriages equipped with hitch-ball connectors, between various points in the State of New Mexico and various points on the Navajo and Hopi Indian Reservations, for 180 days. NOTE: Applicant states that it does intend to tack with the authority in MC 109599. Supporting shipper: Banes Co., Inc., 4322 Second Street NW., Albuquerque, NM 87107. Send protests to: William R. Murdoch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque, NM 87101.

No. MC 109637 (Sub-No. 388 TA), filed October 10, 1972. Applicant: SOUTHERN TANK LINES, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Applicant's representative: John Nelson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry synthetic rubber*, in bulk, from Dowling, Tex., to Clinton, Iowa, for 180 days. Supporting shipper: George W. Fillingame, Manager Truck & Air Transportation Section, Traffic Department, E. I. du Pont de Nemours & Co., 1007 Market Street, Wilmington, DE 19898. Send protests to: Ross A. Davis, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 111170 (Sub-No. 196 TA), filed October 4, 1972. Applicant: WHEELING PIPE LINE, INC., 2811 North West Avenue, Post Office Box 1718, El Dorado, AR 71730. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Phosphatic feed ingredients*, in bulk and in bags, from Van Buren, Ark., to points in Arkansas, Oklahoma, Kansas, Missouri, Colorado, Nebraska, Mississippi, and Louisiana, for 180 days. Supporting shipper: Occidental Chemical Co., Post Office Box 1185, Houston, TX 77001. Send protests to: District Supervisor William H. Land, Jr., Bureau of Operations, Interstate Commerce Commission, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 112801 (Sub-No. 136 TA), filed October 6, 1972. Applicant: TRANSPORT SERVICE CO., Post Office Box 50272, 5100 West 41st Street, Chicago, IL 60650. Applicant's representative: Albert A. Andrin. 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean solubles*, liquid, in bulk, from Remington, Ind., to Monence, Rockford, and Minonk, Ill., and Juneau, Wis., for 180 days. Supporting shipper: Griffith Laboratories, 1415 West 37th Street, Chicago, IL. Send protests to: District Supervisor Robert G. Anderson, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 115331 (Sub-No. 333 TA), filed October 11, 1972. Applicant: TRUCK TRANSPORT, INCORPORATED, 1931 North Geyer Road, St. Louis, MO 63131. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paint and paint products*, in bulk, from Fort Madison, Iowa, to points in Alabama, Louisiana, and Texas, for 180 days. Supporting shipper: E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898. Send protests to: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

No. MC 117940 (Sub-No. 81 TA), filed October 10, 1972. Applicant: NATIONWIDE CARRIERS, INC., Post Office Box 104, Maple Plain, MN 55359. Applicant's representative: M. James Levitus (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Phonograph records and tapes, phonograph and tape players and recorders, radio and television receivers, musical instruments, and wire and wooden racks*, from Somerset, Mass., Mountainside and Pitman, N.J., Gloversville, Hauppauge, New York, and Oceanside, N.Y., and Allentown, Pa., to warehouse sites of Heilicher Bros., at Minneapolis, Minn., restricted to traffic originating at named origins and destined to the named destinations, for 180 days. Supporting shipper: Heilicher Bros., Inc., 7600 Wayzata Boulevard, Minneapolis, MN 55426. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building, and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 123885 (Sub-No. 8 TA), filed October 10, 1972. Applicant: C AND R TRANSFER CO., 1315 West Blackhawk Street, Sioux Falls, SD 57104. Applicant's representative: James W. Olson, 506 West Boulevard, Rapid City, SD 57701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bags and in bulk, from Sioux Falls, S. Dak., to Bloomfield, Newcastle, Plainview, Wisner, Tekamah, and Newman Grove, Nebr., Everly, Larchwood, Akron, and Rock Valley, Iowa; Worthington, Adrian, Currie, Leota, Chandler, Ballaton, Pipestone, and Ghent, Minn., for 180 days. Supporting shipper: South Dakota Cement Plant, Rapid City, S. Dak. 57701, John E. Doane, Director of Transportation and Terminals. Send protests to: J. L. Hammond, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 124793 (Sub-No. 1 TA), filed October 5, 1972. Applicant: LOU'S TRANSPORT CO., LTD., 610 Dixon Road, Rexdale, ON, Canada. Applicant's representative: David C. Laub, 1410 Liberty Bank Building, Buffalo, N.Y. 14202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mined zinc concentrate*, in bulk, in dump vehicles, from Kingston, Ontario, Canada, to Edwards and Balmat, N.Y., for 180 days. Supporting shipper: Lynx-Canada Explorations Ltd., Suite 1513, 25 Adelaide Street East, Toronto, ON, Canada. Send protests to: District Supervisor George M. Parker, Interstate Commerce Commission, Bureau of Operations, 612 Federal Office Building, 111 West Huron Street, Buffalo, NY 14202.

No. MC 126489 (Sub-No. 17 TA), filed October 3, 1972. Applicant: GASTON FEED TRANSPORTS, INC., Post Office Box 1066, 1203 West Fourth Street, Hutchinson, KS 67501. Applicant's representative: John E. Jandera, 641 Harrison, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry phosphatic feed ingredients*, from Van Buren, Ark., to points in Arkansas, Oklahoma, Kansas, Missouri, Colorado, Nebraska, Mississippi, Louisiana, Texas, New Mexico, Iowa, and South Dakota, for 150 days. Supporting shippers: Occidental Chemical Co., Post Office Box 1185, Houston, TX 77001; International Minerals & Chemical Corp., IMC Plaza, Libertyville, Ill. 60048. Send protests to: M. E. Taylor, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 127196 (Sub-No. 12 TA), filed October 10, 1972. Applicant: KLINE TRUCKING, INC., Rural Delivery No. 1, Millville, Pa. 17846. Applicant's representative: S. Berne Smith, 100 Pine Street, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Artificial Christmas trees and component parts of artificial Christmas trees*, from the facilities and warehouses of Marathon Carey-McFalls Co., at Avis, Montgomery, and Philadelphia, Pa., to points in Alabama, Arkansas, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, Wyoming, and the District of Columbia, with no transportation for compensation on return except as otherwise authorized, for 180 days. Supporting shipper: Marathon Carey-McFall Co., Montoursville, Pa. 17754. Send protests to: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 128075 (Sub-No. 24 TA), filed October 11, 1972. Applicant: LEON JOHNSRUD, Highway 9 West, Post Office Box 447, Cresco, IA 52136. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Butter and agricultural commodities* which are otherwise exempt under section 203(b)(6) of the Interstate Commerce Act, when transported with butter, from New Ulm, Minn., and Mason City, Iowa, to points in Pennsylvania, New York, Massachusetts, Connecticut, New Jersey, Rhode Island, and Ohio, for 180 days. Supporting shipper: Associated Milk Producers, Inc., Post Office Box 61, Mason City, IA 50401. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 128217 (Sub-No. 5 TA), filed October 10, 1972. Applicant: REINHART MAYER, doing business as MAYER TRUCK LINE, 1203 South Riverside Drive, Jamestown, ND 58401. Applicant's representative: James B. Hovland, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* for the account of Clark Equipment Co., Melroe Division, Gwinner, N. Dak., from points in the Chicago, Ill., and Minneapolis, Minn., commercial zones to Cooperstown and Gwinner, N. Dak., for 180 days. Supporting shipper: Clark Equipment Co., Gwinner, N. Dak.

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

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58040. Send protests to: J. H. Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Post Office Box 2340, Fargo, ND 58102.

No. MC 133984 (Sub-No. 3 TA), filed October 4, 1972. Applicant: M. A. POPPERT, doing business as POPPERT TRUCKING COMPANY, City of Industry, Calif. 91744, Post Office Box 1142, Elmoute, CA 91734. Applicant's representative: Gerold Von Pahlen-Fedoroff, 9401 Wilshire Boulevard, Beverly Hills, CA 90212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial, institutional, or store fixtures and equipment, and parts thereof*, from points in Los Angeles County, Calif., to points in Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Utah, Washington, and Wyoming, for 180 days. Supporting shipper: Merchandising Equipment Group, Inc., 1683 Blake Avenue, Los Angeles, CA 90031. Send protests to: John E. Nance, Officer in Charge, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 135276 (Sub-No. 2 TA) (Correction), filed October 2, 1972, published in the FEDERAL REGISTER issue of October 20, 1972, and republished as corrected this issue. Applicant: GENE ROMSBURG ENTERPRISES, INC., South Water Street, Frederick, MD 21701. Applicant's representative: Francis J. Ortman, 110—17th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, in bulk, in dump trucks, from Warfordsburg, Pa., to the plantside of Frederick Asphalt Products Co., at or near Frederick, Md., and the plantsite of the Kline Paving Co., near Boonsboro, Md., for 180 days. Supporting shippers: Frederick Asphalt Products, Inc., and the Kline Paving Co., Post Office Box 665, Frederick, MD 21701. Send protests to: Robert D. Caldwell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. 20436. NOTE: The purpose of this republication is to show that the application is also supported by the Kline Paving Co.

No. MC 135936 (Sub-No. 8 TA), filed October 10, 1972. Applicant: LIEBMANN TRANSPORTATION CO., INC., Off.: Highway 65 North, Post Office Box 1022, Iowa Falls, IA 50126. Applicant's representative: C. H. Rogers (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 207 and 766, except hides and commodities in bulk, from Denison and Iowa Falls, Iowa, to New York, N.Y., and Boston, Mass., for 180 days. Supporting shipper: Farmland Foods, Inc., Post Office Box 918, Iowa Falls, IA 50126. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 135936 (Sub-No. 9 TA), filed October 10, 1972. Applicant: LIEBMANN TRANSPORTATION CO., INC., Off.: Highway 65 North, Post Office Box 1022, Iowa Falls, IA 50126. Applicant's representative: C. H. Rogers (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Veterinary supplies* for use in or on livestock, in containers, from Louisville, Ky., Ashland, Ohio, Chicago, Ill., commercial zone, Van Buren, Ark., and Hannibal, St. Joseph, Lee Summit, and Kansas City, Mo., to Iowa Falls, Sioux City, and Cedar Rapids, Iowa, and Mankato, Minn., for 180 days. Supporting shipper: Iowa Veterinary Supply Co., Post Office Box 820, Iowa Falls, IA 50126. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 138077 TA, filed October 2, 1972. Applicant: PEP TRUCKING CO., INC., 386 Henderson Street, Jersey City, NJ 07302. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk in pneumatic type equipment, from Clifton and Jersey City, N.J., and Brooklyn Eastern District Terminal, Brooklyn, N.Y., to Elmont, N.Y., for 180 days. Supporting shipper: Andrew Sapienza Bakery, Inc., 553 Meacham Avenue, Elmont, L.I., N.Y. Send protests to: District Supervisor Robert E. Johnston, Interstate Commerce Commission, Bureau of Operations, 970 Broad Street, Newark, N.J. 07102.

No. MC 138098 TA, filed October 10, 1972. Applicant: JACK E. BRAZIL, doing business as BRAZIL VAN & STORAGE, 1427-D West Park Avenue, Redlands, CA 92373. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, as defined by the Commission, restricted to the transportation of traffic having a prior or subsequent movement beyond said points in containers and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, between points in the Counties of Imperial, San Diego, Kern, Riverside, San Bernardino, Orange, Los Angeles, Ventura, Santa Barbara, and San Luis Obispo, Calif., for 180 days. Supporting shipper: Astron Forwarding Co., Post Office Box 161, Oakland, CA 94604. Send protests to: John E. Nance, Officer in Charge, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 138099 TA, filed October 10, 1972. Applicant: EDWARD LOWRANCE, doing business as LOWRANCE MOVING & STORAGE, 735 West Commercial, Lebanon, MO 65535. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, as defined by the Commission, restricted to the transportation of traffic having a prior or subsequent movement beyond said points in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, between points in Camden, Christian, Dallas, Dent, Douglas, Greene, Howell, Laclede, Maries, Miller, Oregon, Ozars, Phelphs, Polk, Pulaski, Shannon, Stone, Taney, Texas, Webster, and Wright Counties, Mo., for 180 days. Supporting shippers: Karevan, Inc., Post Office Box 9240, Queen Anne Station, Seattle, WA 98109; Pyramid Van Lines, Inc., 479 South Airport Boulevard, South San Francisco, CA 94080. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-18645 Filed 10-31-72;8:52 am]

[Ex Parte MC-19; Sub-No. 18]

MOTOR COMMON CARRIERS OF HOUSEHOLD GOODS

Released Rates; Filing of Petition for Institution of Rule Making Proceeding; Extension of Time

OCTOBER 25, 1972.

Household Goods Carriers' Bureau declaratory order—Certain procedures with respect to releasing the value of household goods shipments (49 CFR 1307.201(a)).

At the request of Mr. Allen J. O'Brien, attorney for Aerospace Industries Association of America, Inc., the time for filing representations has been extended from October 30, 1972, to November 13, 1972.[1]

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-18640 Filed 10-31-72;8:51 am]

[1] Previous notice in this matter was published at 37 F.R. 20207, September 27, 1972.

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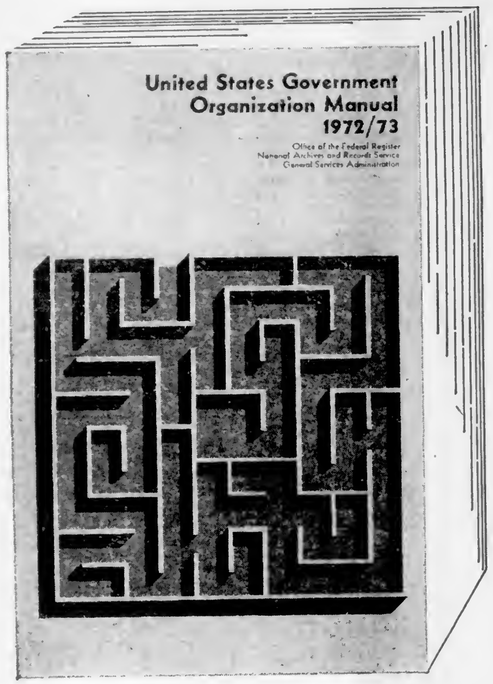

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federal register

THURSDAY, NOVEMBER 2, 1972

WASHINGTON, D.C.

Volume 37 ■ Number 212

Pages 23309–23406

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Area Code 202 Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

[Docket No. 72-573]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined and Released

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, in paragraph (e)(1) relating to the State of Georgia, subdivision (i) relating to Dade County is deleted.

2. In § 76.2, in paragraph (e)(8) relating to the State of Tennessee, subdivision (i) relating to Bedford County is deleted.

3. In § 76.2, a new subparagraph (3) relating to the State of Texas is added to read:

(e) * * *

(3) *Texas.* That portion of Dallas County bounded by a line beginning at the junction of the Dallas-Tarrant County line and Dallas-Fort Worth Turnpike; thence, following Dallas-Fort Worth Turnpike in an easterly direction to Interstate Highway 20; thence, following Interstate Highway 20 in a generally easterly direction to the Dallas-Kaufman County line; thence, following the Dallas-Kaufman County line in a southerly, then westerly direction to the junction of the Dallas-Kaufman-Ellis County lines; thence, following the Dallas-Ellis County line in a westerly direction to the junction of the Dallas-Ellis-Tarrant County lines; thence, following the DallasTarrant County line in a northerly direction to its junction with Dallas-Fort Worth Turnpike.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132, 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended, 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments quarantine a portion of Dallas County in Texas because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined area.

The amendments exclude all of Dade County in Georgia and a portion of Bedford County in Tennessee from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas contained in 9 CFR Part 76, as amended, do not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 apply to the excluded areas.

Insofar as the amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera, they must be made effective immediately to accomplish their purpose in the public interest. Insofar as the amendments relieve restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera, they should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 27th day of October 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-18768 Filed 11-1-72;8:54 am]

[Docket No. 72-571]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to the provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, paragraph (e) is amended and paragraphs (f) and (g) are reissued to read:

§ 76.2 Notice relating to existence of the contagion of hog cholera and other swine diseases; prohibition of movement of any hog cholera virus, exceptions; spread of disease through raw garbage; regulations; quarantines; Eradication States; Free States.

* * * * *

(e) *Notice of quarantine.* Notice is hereby given that because of the existence of the contagion of hog cholera and the nature and extent of such contagion, the following areas are quarantined:

(1) *Georgia.* (i) That portion of the State of Georgia comprised of all of Dade County.

(ii) The adjacent portions of Johnson, Washington, and Jefferson Counties bounded by a line beginning at the junction of State Highway 231 and State Highway 15 in Washington County; thence, following State Highway 15 in a southeasterly direction to Secondary Road 2124 in Johnson County; thence, following Secondary Road 2124 in a southeasterly direction to Secondary Road 1474; thence, following Secondary Road 1474 in a southeasterly direction to Secondary Road 2124; thence, following Secondary Road 2124 in a southeasterly direction to the Johnson-Emanuel County line; thence, following the Johnson-Emanuel County line in a generally northeasterly direction to the junction of the Johnson-Emanuel-Jefferson County lines; thence, following the Jefferson-Emanuel County line in a generally northeasterly direction to U.S. Highway 1, State Highway 4 in Jefferson County; thence, following U.S. Highway 1, State Highway 4, in a northerly direction to U.S. Highway 319, State Highway 78; thence, following U.S. Highway 319, State Highway 78, in a northwesterly direction to U.S. Highway 221, State

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Highway 171; thence, following U.S. Highway 221, State Highway 171 in a southwesterly direction to State Highway 242; thence, following State Highway 242 in a northwesterly direction to State Highway 231 in Washington County; thence, following State Highway 231 in a generally southwesterly direction to its junction with State Highway 15 in Washington County.

(2) *Indiana.* That portion of Carroll County bounded by a line beginning at the junction of the Carroll-Tippecanoe County line and the east bank of the Wabash River; thence, following the east bank of the Wabash River in a generally northeasterly direction to the Carroll-Cass County line; thence, following the Carroll-Cass County line in a southerly, then easterly, then southerly direction to the junction of the Carroll-Cass-Howard County lines; thence, following the Carroll-Howard County line in a southerly direction to Division Road; thence, following Division Road in a westerly direction to State Highway 18; thence, following State Highway 18 in a westerly direction to the Monroe-Carrollton Township line; thence, following the Monroe-Carrollton Township line in a southerly direction to the junction of the Monroe-Carrollton Burlington Township lines; thence, following the Monroe-Burlington Township line in a southerly direction to the junction of the Monroe-Burlington-Democrat Township lines; thence, following the Democrat-Burlington Township line in a southerly direction to State Highway 600S; thence, following State Highway 600S in a westerly direction to the Democrat-Clay Township line; thence, following the Democrat-Clay Township line in a northerly direction to the junction of the Democrat-Clay-Madison Township lines; thence, following the Clay-Madison Township line in a westerly direction to U.S. Highway 421; thence, following U.S. Highway 421 in a northerly, then northwesterly direction to Division Road; thence, following Division Road in a westerly direction to the Carroll-Tippecanoe County line; thence, following the Carroll-Tippecanoe County line in a northerly direction to its junction with the east bank of the Wabash River.

(3) *Kansas.* That portion of Osborne County bounded by a line beginning at the junction of the Osborne-Smith County line and the dividing line between Range 14 west and Range 13 west; thence, following the dividing line between Range 14 west and Range 13 west in a southerly direction to U.S. Highway 24; thence, following U.S. Highway 24 in a southeasterly, then easterly direction to U.S. Highway 281; thence, following U.S. Highway 281 in a southerly direction to Secondary Road 517; thence, following Secondary Road 517 in an easterly direction to the dividing line between Range 12 west and Range 11 west; thence, following the dividing line between Range 12 west and Range 11 west in a northerly direction to the Osborne-Smith County line; thence, following the Osborne-Smith County line in a westerly direction to its junction with the dividing line between Range 14 west and Range 13 west.

(4) *Kentucky.* The adjacent portions of Breckinridge, Hardin, and Meade Counties comprised of all of the city of Garfield in Breckinridge County and the adjacent portions of Breckinridge, Hardin, and Meade Counties bounded by a line beginning at the junction of U.S. Highway 60 and State Highway 333 in Breckinridge County; thence, following U.S. Highway 60 in a generally southwesterly direction to the eastern boundary of the city of Garfield; thence, following the eastern boundary of the city of Garfield in a southerly direction to Locust Hill Road; thence, following Locust Hill Road in a southeasterly, then southwesterly direction to State Highway 1073; thence, following State Highway 1073 in a southeasterly direction to Fairfield Road; thence, following Fairfield Road in a southeasterly direction to State Highway 690; thence, following State Highway 690 in a northeasterly direction to Constantine Road; thence, following Constantine Road in a generally easterly direction to State Highway 401; thence, following State Highway 401 in a northeasterly direction to State Highway 86; thence, following State Highway 86 in a northeasterly direction to Grandview Church Road in Hardin County; thence, following Grandview Church Road in a northeasterly direction to State Highway 1073 in Breckinridge County; thence, following State Highway 1073 in a northeasterly direction to the junction of the Breckinridge-Hardin-Meade County lines; thence, following the Meade-Hardin County line in a northeasterly direction to State Highway 64 in Meade County; thence, following State Highway 64 in a northwesterly direction to State Highway 448; thence, following State Highway 448 in a northwesterly direction to State Highway 64; thence, following State Highway 64 in a generally northwesterly direction to State Highway 448; thence, following State Highway 448 in a southwesterly direction to the Meade-Breckinridge County line; thence, following the Meade-Breckinridge County line in a southeasterly direction to State Highway 1238 in Breckinridge County; thence, following State Highway 1238 in a southwesterly direction to State Highway 333; thence, following State Highway 333 in a southwesterly, then northwesterly direction to its junction with U.S. Highway 60.

(5) *Mississippi.* The adjacent portions of Kemper and Lauderdale Counties bounded by a line beginning at the junction of State Highway 16 and State Highway 39 in Kemper County; thence, following State Highway 39 in a generally southerly direction to Lizelia-Lauderdale Road in Lauderdale County; thence, following Lizelia-Lauderdale Road in a generally easterly direction to U.S. Highway 45; thence, following U.S. Highway 45 in a northeasterly, then northerly direction to State Highway 16 in Kemper County; thence, following State Highway 16 in a southwesterly direction to its junction with State Highway 39 in Kemper County.

(6) *North Carolina.* (i) That portion of Halifax County bounded by a line beginning at the junction of the Seaboard Coast Line Railroad and Interstate Highway 95; thence, following Interstate Highway 95 in a southwesterly direction to Secondary Road 1001; thence, following Secondary Road 1001 in a northwesterly direction to State Highway 48; thence, following State Highway 48 in a northerly direction to Secondary Road 1415; thence, following Secondary Road 1415 in a southwesterly direction to Secondary Road 1414; thence, following Secondary Road 1414 in a generally northwesterly direction to the east bank of the Deep Creek; thence, following the east bank of the Deep Creek in a generally northeasterly direction to the Seaboard Coast Line Railroad; thence, following the Seaboard Coast Line Railroad in a southeasterly direction to its junction with Interstate Highway 95.

(ii) The adjacent portions of Johnston, Harnett, Cumberland, and Sampson Counties bounded by a line beginning at the junction of U.S. Highway 301 and Secondary Road 1343 in Johnston County; thence following Secondary Road 1343 in a southwesterly direction to Secondary Road 1342; thence, following Secondary Road 1342 in a northwesterly direction to Secondary Road 1341; thence, following Secondary Road 1341 in a northwesterly direction to Secondary Road 1162; thence, following Secondary Road 1162 in a northwesterly direction to Secondary Road 1501; thence, following Secondary Road 1501 in a northwesterly direction to Secondary Road 1010; thence, following Secondary Road 1010 in a southwesterly direction to Secondary Road 1525; thence, following Secondary Road 1525 in a southeasterly, then southwesterly direction to Secondary Road 1524; thence, following Secondary Road 1524 in a southwesterly direction to State Highway 50; thence, following State Highway 50 in a northwesterly direction to State Highway 42; thence, following State Highway 42 in a southwesterly direction to the Johnston-Wake County line; thence, following the Johnston-Wake County line in a southeasterly direction to Secondary Road 1006; thence, following Secondary Road 1006 in a southeasterly direction to State Highway 55 in Harnett County; thence, following State Highway 55 in a southeasterly direction to Secondary Road 2006; thence, following Secondary Road 2006 in a southeasterly direction to Secondary Road 1769; thence, following Secondary Road 1769 in a northwesterly direction to the east bank of Thorntons Creek; thence, following the east bank of Thorntons Creek in a generally southeasterly direction to the north bank of Cape Fear River; thence, following the north bank of Cape Fear River in a generally southeasterly direction to dirt road extension of Secondary Road 1709; thence, following dirt road extension of Secondary Road 1709 in a northeasterly direction to Secondary Road 1709;

Thence, following Secondary Road 1709 in a northeasterly direction to Secondary Road 1802; thence, following Secondary Road 1802 in a southeasterly direction to U.S. Highway 301; thence, following U.S. Highway 301 in a southeasterly direction to U.S. Highway 13; thence, following U.S. Highway 13 in a northeasterly direction to Secondary Road 1818; thence, following Secondary Road 1818 in a southeasterly direction to Secondary Road 1826; thence, following Secondary Road 1826 in a generally southeasterly direction to Secondary Road 1848; thence, following Secondary Road 1848 in a northeasterly direction to Secondary Road 1851; thence, following Secondary Road 1851 in a northeasterly direction to Secondary Road 1426 in Sampson County; thence, following Secondary Road 1426 in a northeasterly direction to Secondary Road 1424; thence, following Secondary Road 1424 in a northwesterly direction to Secondary Road 1427; thence, following Secondary Road 1427 in a northeasterly direction to Secondary Road 1425; thence, following Secondary Road 1425 in a northeasterly direction to Secondary Road 1428; thence, following Secondary Road 1428 in a northeasterly direction to Secondary Road 1430; thence, following Secondary Road 1430 in a generally northeasterly direction to Secondary Road 1414; thence, following Secondary Road 1414 in a generally northeasterly direction to Secondary Road 1326; thence, following Secondary Road 1326 in a northeasterly direction to State Highway 242; thence, following State Highway 242 in a northwesterly direction to Secondary Road 1006; thence, following Secondary Road 1006 in a northeasterly direction to Secondary Road 1332; thence, following Secondary Road 1332 in a northeasterly direction to Secondary Road 1325; thence, following Secondary Road 1325 in a generally northwesterly direction to Secondary Road 1338;

Thence, following Secondary Road 1338 in a northeasterly direction to U.S. Highway 421; thence, following U.S. Highway 421 in a southwesterly direction to Secondary Road 1809; thence, following Secondary Road 1809 in a northwesterly direction to Secondary Road 1636; thence, following Secondary Road 1636 in a northeasterly direction to Secondary Road 1703; thence, following Secondary Road 1703 in a northwesterly direction to Secondary Road 1647; thence, following Secondary Road 1647 in a northwesterly direction to State Highway 50; thence, following State Highway 50 in a northwesterly direction to Secondary Road 1122 in Johnston County; thence, following Secondary Road 1122 in a northwesterly direction to Secondary Road 1132; thence, following Secondary Road 1132 in a southwesterly direction to Secondary Road 1133; thence, following Secondary Road 1133 in a northwesterly direction to Secondary Road 1116; thence, following Secondary Road 1116 in a northerly direction to Secondary Road 1138; thence, following Secondary Road 1138 in a northwesterly direction to Secondary Road 1136; thence, following Secondary Road 1136 in a southwesterly direction to Secondary Road 1139; thence, following Secondary Road 1139 in a northwesterly direction to Secondary Road 1140; thence, following Secondary Road 1140 in a northwesterly direction to Secondary Road 1144; thence, following Secondary Road 1144 in a northeasterly direction to Secondary Road 1145; thence, following Secondary Road 1145 in a northwesterly direction to Secondary Road 1146; thence, following Secondary Road 1146 in a northeasterly, then northwesterly direction to Secondary Road 1148; thence, following Secondary Road 1148 in a generally northeasterly direction to U.S. Highway 701; thence, following U.S. Highway 701 in a northwesterly direction to U.S. Highway 301; thence, following U.S. Highway 301 in a northwesterly direction to its junction with Secondary Road 1343 in Johnston County.

(7) *Ohio.* (i) That portion of Clark County bounded by a line beginning at the junction of County Road 235 and New Carlisle Pike, County Road 314; thence, following New Carlisle Pike, County Road 314 in an easterly, then southeasterly direction to U.S. Highway 40; thence, following U.S. Highway 40 in a generally easterly direction to U.S. Highway 68; thence, following U.S. Highway 68 in a southwesterly direction to the Clark-Greene County line; thence, following the Clark-Greene County line in a westerly, then northerly, then westerly direction to the junction of the Clark-Greene-Montgomery County lines; thence, following the Clark-Montgomery County line in a northerly direction to County Road 235; thence, following County Road 235 in a northerly, then northeasterly direction to its junction with New Carlisle Pike, County Road 314.

(ii) The adjacent portions of Fayette, Highland, and Clinton Counties bounded by a line beginning at the junction of U.S. Highway 22, State Highway 3 and the west bank of the Sugar Creek in Fayette County; thence, following the west bank of the Sugar Creek in a generally northwesterly direction to the junction of the Union-Jasper-Jefferson Township lines; thence, following the Union-Jefferson Township line in a northeasterly direction to the junction of the Union-Jefferson-Paint Township lines; thence, following the Union-Paint Township line in a northeasterly direction to State Highway 238; thence, following State Highway 238 in a southeasterly direction to U.S. Highway 22; thence, following U.S. Highway 22 in a southwesterly direction to County Road 142; thence, following County Road 142 in a generally southwesterly direction to State Highway 753; thence, following State Highway 753 in a southeasterly, then southwesterly direction to Township Road 156; thence, following Township Road 156 in a generally westerly direction to Township Road 163; thence, following Township Road 163 in a southerly direction to Township Road 371 in Highland County; thence, following Township Road 371 in a southerly direction to State Highway 28; thence, following State Highway 28 in a westerly direction to State Highway 41; thence, following State Highway 41 in a northwesterly direction to State Highway 729 in Clinton County; thence, following State Highway 729 in a northeasterly, then northwesterly direction to U.S. Highway 22, State Highway 3; thence, following U.S. Highway 22, State Highway 3 in a northeasterly direction to its junction with the west bank of the Sugar Creek in Fayette County.

(iii) That portion of Madison County bounded by a line beginning at the junction of County Road 109 and the Madison-Clark County line; thence, following County Road 109 in a northeasterly, then southeasterly direction to Township Road 111; thence, following Township Road 111 in a northeasterly direction to County Road 110; thence, following County Road 110 in a southeasterly direction to State Highway 38; thence, following State Highway 38 in a southwesterly direction to Interstate Highway 70, U.S. Highway 40; thence, following Interstate Highway 70, U.S. Highway 40 in a northeasterly direction to County Road 70; thence, following County Road 70 in a southeasterly direction to State Highway 142; thence, following State Highway 142 in a southwesterly direction to County Road 70; thence, following County Road 70 in a southeasterly, then southwesterly direction to County Road 4; thence, following County Road 4 in a southwesterly direction to Township Road 100; thence, following Township Road 100 in a southeasterly direction to the north bank of the Oak Run Creek; thence, following the north bank of the Oak Run Creek in a northwesterly direction to the junction of the Oak Run Creek and the Walnut Run Creek; thence, crossing the Oak Run Creek to the north bank of the Walnut Run Creek; thence, following the north bank of the Walnut Run Creek in a generally westerly direction to the Union-Paint Township line; thence, following the Union-Paint Township line in a northwesterly direction to the Madison-Clark County line; thence, following the Madison-Clark County line in a northeasterly direction to its junction with County Road 109.

(8) *Tennessee.* (i) That portion of Bedford County bounded by a line beginning at the junction of Horse Mountain Road and the Louisville and Nashville Railroad; thence, following the Louisville and Nashville Railroad in a generally southeasterly direction to the Bedford-Coffee County line; thence, following the Bedford-Coffee County line in a southerly, then southwesterly direction to the junction of the Bedford-Coffee-Moore County lines; thence, following the Bedford-Moore County line in a southwesterly direction to State Highway 82; thence, following State

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Highway 82 in a northwesterly direction to the eastern boundary of the Shelbyville City limits; thence, following the eastern boundary of the Shelbyville City limits in a generally northeasterly direction to Horse Mountain Road; thence, following Horse Mountain Road in a northeasterly, then easterly direction to its junction with the Louisville and Nashville Railroad.

(ii) The adjacent portions of Cumberland and Fentress Counties bounded by a line beginning at the junction of the Fentress-Overton County line and State Highway 85 in Fentress County; thence, following the Fentress-Overton County line in a southeasterly, then southwesterly direction to the junction of the Fentress-Overton-Putnam County lines; thence, following the Fentress-Putnam County line in a southeasterly direction to the junction of the Fentress-Putnam-Cumberland County lines; thence, following the Cumberland-Putnam County line in a southwesterly, then westerly direction to U.S. Highway 70N, State Highway 24 in Cumberland County; thence, following U.S. Highway 70N, State Highway 24 in a generally southeasterly direction to U.S. Highway 127, State Highway 28; thence, following U.S. Highway 127, State Highway 28 in a northwesterly direction to Secondary Road 4252; thence, following Secondary Road 4252 in a northeasterly direction to the southern boundary of the Catoosa Wildlife Management Area; thence, following the southern boundary of the Catoosa Wildlife Management Area in a generally northeasterly direction to the Cumberland-Morgan County line; thence, following the Cumberland-Morgan County line in a generally northwesterly direction to the junction of the Cumberland-Morgan-Fentress County lines; thence, following the Fentress-Morgan County line in a generally northerly direction to Secondary Road 4242 in Fentress County; thence, following Secondary Road 4242 in a generally northwesterly direction to U.S. Highway 127, State Highway 28; thence, following U.S. Highway 127, State Highway 28 in a southwesterly direction to State Highway 85; thence, following State Highway 85 in a generally northwesterly direction to its junction with the Fentress-Overton County line.

(iii) That portion of Knox County bounded by a line beginning at the junction of the Knox-Anderson County line and U.S. Highway 25W, State Highway 9; thence, following U.S. Highway 25W, State Highway 9 in a generally southeasterly direction to State Highway 33; thence, following State Highway 33 in a southerly, then southeasterly direction to the north bank of the Tennessee River; thence, following the north bank of the Tennessee River in a generally southwesterly direction to the north bank of the Fort Loudoun Lake; thence, following the north bank of the Fort Loudoun Lake in a generally northwesterly direction to Secondary Road 2405; thence, following Secondary Road 2405 in a northeasterly, then northwesterly direction to Lovell Road; thence, following Lovell Road in a northwesterly direction to Secondary Road 2519; thence, following Secondary Road 2519 in a northwesterly direction to the Knox-Anderson County line; thence, following the Knox-Anderson County line in a southeasterly, then northeasterly direction to its junction with U.S. Highway 25W, State Highway 9.

(iv) That portion of Roane County bounded by a line beginning at the junction of Interstate Highway 40 and the south bank of the Clinch River; thence, following the south bank of the Clinch River in a generally northeasterly direction to the western boundary of the Oak Ridge area; thence, following the western boundary of the Oak Ridge area in a southeasterly, then northeasterly, then southeasterly direction to State Highway 58; thence, following State Highway 58 in a southwesterly direction to Interstate Highway 40; thence, following Interstate Highway 40 in a generally northwesterly direction to its junction with the south bank of the Clinch River.

(9) *Puerto Rico.* The entire Commonwealth.

(f) Notice is hereby given that systematic procedures have been in effect for at least 3 months in the States listed below to detect and eradicate the disease of hog cholera; that a period of more than 3 months has passed since there has been clinical evidence that the contagion of the disease exists within such States; and that such States are hereby designated as hog cholera eradication States. Once designated as a hog cholera eradication State, the State will retain such status so long as there is no clinical evidence that the contagion of hog cholera exists within such State, other than in primary unrelated instances where the infected herd is promptly depopulated, or until such State is listed in paragraph (g) of this section. Any State which is removed from listing in paragraph (f) because of this secondary spread of the contagion of hog cholera within such State may requalify for such listing when systematic procedures to detect and eradicate the disease have been in effect for 3 consecutive months following herd depopulation of the last positive case, and no clinical evidence of the contagion of the disease has been detected within such State. The following States are classified as eradication States:

New Jersey	Commonwealth of
South Carolina	Puerto Rico

(g) Notice is hereby given that systematic procedures have been in effect for at least 1 year in the States listed below to detect and eradicate the disease of hog cholera; that a period of more than 1 year has passed since there has been clinical evidence that the contagion of the disease exists within such States; and that such States are hereby designated as hog cholera Free States. Once designated as a hog cholera Free State, the State will retain such status so long as there is no clinical evidence that the contagion of hog cholera exists with such State, other than in primary unrelated instances where the infected herd is promptly depopulated. A State removed from listing in this paragraph because of secondary spread of the contagion of hog cholera within such State may requalify for listing when systematic procedures to detect and eradicate the disease have been in effect for 6 consecutive months following herd depopulation of the last positive case, and no clinical evidence of the contagion of the disease has been detected. The following States are hereby classified as hog cholera Free States:

Alabama.	Missouri
Alaska.	Montana
Arizona.	Nevada
Arkansas.	New Hampshire
California.	New Mexico
Colorado.	New York
Connecticut.	North Dakota
Delaware.	Oklahoma
Florida.	Oregon
Hawaii.	Pennsylvania
Idaho.	Rhode Island
Illinois.	South Dakota
Iowa.	Utah
Kansas.	Vermont
Louisiana.	Virginia
Maine.	Washington
Maryland	West Virginia
Massachusetts	Wisconsin
Michigan	Wyoming
Minnesota	District of Columbia
Mississippi	

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended; 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505.)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment quarantines a portion of Halifax County in North Carolina because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined area.

No other changes are made in §§ 76.2 (e), (f), and (g), but all presently effective provisions of §§ 76.2 (e), (f), and (g) are set forth above for convenient reference.

The amendment imposes certain further restrictions necessary to prevent the interstate spread of hog cholera, and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable, unnecessary and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 27th day of October 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-18767 Filed 11-1-72;8:54 am]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

Miscellaneous Amendments

Notice is hereby given of the amendment of the Atomic Energy Commission's "Standards for Protection Against Radiation," 10 CFR Part 20.

The amendments of Appendix B correct a number of the "Concentrations in Air and Water Above Natural Background" to conform with recommendations of the National Council on Radiation Protection and Measurements (NCRP). The corrections of Appendix B change the following listings: soluble manganese-54 in Table II, Column 1, from 1×10^{-9} to 1×10^{-8}; insoluble americium-241 in Table II, Column 2, from 2×10^{-5} to 3×10^{-5}; insoluble curium-242 in Table II, Column 2 from 3×10^{-5} to 2×10^{-5}; and all of the listings for californium-252.

The amendments of Appendix B also add listings for platinum-193, thorium-227, and thorium-231. Permissible concentration values for these radionuclides are set forth in both NBS Handbook 69 (NCRP) and the "Report of International Commission on Radiological Protection Committee II (1959)" and were derived in the same manner as the other listings set forth in those documents and implemented in Appendix B.

Section 20.5(c) also is amended to change the number of disintegrations per second from the uranium-235 associated with one curie of natural uranium from 9×10^{8} to 1.7×10^{9}. This change is made to conform with the value listed in Addendum I to NBS Handbook 69 (NCRP).

Because these amendments relate solely to corrections and minor matters, the Commission has found that good cause exists for omitting notice of proposed rule making, and public procedure thereon, as unnecessary, and for making the amendments effective upon publication in the FEDERAL REGISTER (11–2–72).

The Commission has determined, pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 and the guidelines of the Council on Environmental Quality, that these amendments do not require the preparation of an environmental statement pursuant to that statute.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 20, are published as a document subject to codification, to be effective upon publication in the FEDERAL REGISTER.

1. Appendix B, Concentrations in Air and Water Above Natural Background, is amended to read as follows:

Element (atomic number)	Isotope [1]		Table I, Column 1 Air (μc/ml)	Table I, Column 2 Water (μc/ml)	Table II, Column 1 Air (μc/ml)	Table II, Column 2 Water (μc/ml)
• • •	• • •	•	• • •	• • •	• • •	• • •
Americium (95)	Am 241	I	1×10^{-10}	8×10^{-4}	4×10^{-12}	3×10^{-8}
• • •	• • •	•	• • •	• • •	• • •	• • •
Californium (98)	Cf 252	S	6×10^{-12}	2×10^{-4}	2×10^{-13}	7×10^{-9}
		I	3×10^{-11}	2×10^{-4}	1×10^{-12}	7×10^{-9}
• • •	• • •	•	• • •	• • •	• • •	• • •
Curium (96)	Cm 242	I	2×10^{-10}	7×10^{-4}	6×10^{-12}	2×10^{-8}
• • •	• • •	•	• • •	• • •	• • •	• • •
Manganese (25)	Mn 54	S	4×10^{-7}	4×10^{-3}	1×10^{-8}	1×10^{-4}
• • •	• • •	•	• • •	• • •	• • •	• • •
Platinum (78)	Pt 193	S	1×10^{-6}	3×10^{-3}	4×10^{-8}	9×10^{-5}
		I	3×10^{-7}	8×10^{-3}	1×10^{-8}	2×10^{-3}
• • •	• • •	•	• • •	• • •	• • •	• • •
Thorium (90)	Th 227	S	3×10^{-10}	5×10^{-4}	1×10^{-11}	2×10^{-5}
		I	2×10^{-10}	5×10^{-4}	6×10^{-12}	2×10^{-5}
• • •	• • •	•	• • •	• • •	• • •	• • •
	Th 231	S	1×10^{-6}	7×10^{-3}	5×10^{-8}	2×10^{-4}
		I	1×10^{-6}	7×10^{-3}	4×10^{-8}	2×10^{-4}

2. The first sentence of § 20.5(c)(1) is amended to read as follows:

(c) *Natural uranium and natural thorium.* (1) For purposes of the regulations in this part, one curie of natural uranium (U-natural in Appendix B or C) means the sum of 3.7×10^{10} disintegrations per second from U^{238} plus 3.7×10^{10} dis/sec from U^{234} plus 1.7×10^{9} dis/sec from U^{235}.

• • • • • •

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Germantown, Md., this 17th day of October 1972.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.72-18568 Filed 11-1-72;8:45 am]

Title 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

PART 221—OPERATION AND MAINTENANCE

Tribal and Trust Patent Indian Lands of the San Carlos Indian Irrigation Project, Ariz.

On page 19379 of the FEDERAL REGISTER of September 20, 1972, there was published a notice of proposal to revise § 221.110 of Title 25, Code of Federal Regulations. Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed amendment. No comments, suggestions, nor objections have been received, and the proposed amendment is hereby adopted without change as set forth below.

§ 221.110 **Basic charge.**

Pursuant to the provisions of section 10 of the Act of March 3, 1905 (33 Stat. 1081), as amended and supplemented by the Acts of August 24, 1912 (37 Stat. 522), August 1, 1914 (38 Stat. 583, 25 U.S.C. 385), section 5 of the Act of June 7, 1924 (43 Stat. 476) March 7, 1928 (45 Stat. 210, title 25 U.S.C. 387), and the Act of August 9, 1937 (50 Stat. 577), as amended by the Act of May 9, 1938 (52 Stat. 291–305), and in accordance with the public notice issued on December 1, 1932, operation and maintenance charges are assessable against the 50,000 acres of tribal lands and trust patent Indian lands of the San Carlos Indian Irrigation Project within the boundaries of the Gila River Indian Reservation, Ariz., and the basic rate assessed for the calendar year 1973 and the subsequent years unless changed by further order, is hereby fixed at $11. Such rate shall entitle each acre of land to have delivered for use thereon two (2) acre-feet of water per acre or its proportionate share of the available water supply. The assessment for the 50,000 acres of Indian land will be payable as provided in §§ 221.111–221.116, inclusive.

DALE M. BELCHER,
Acting Assistant Area Director.

[FR Doc.72-18721 Filed 11-1-72;8:51 am]

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Title 32—NATIONAL DEFENSE

Chapter XVI—Selective Service System

PART 1622—CLASSIFICATION RULES AND PRINCIPLES

PART 1632—DELIVERY AND INDUCTION

Miscellaneous Amendments

Whereas, on September 29, 1972, the Director of Selective Service published a notice of proposed amendments to Selective Service regulations (37 F.R. 20335) of September 29, 1972; and

Whereas such publication complied with the publication requirement of section 13(b) of the Military Selective Service Act (50 App. U.S.C. sections 451 et seq.) in that more than 30 days have elapsed subsequent to such publication during which period comments from the public have been received and considered; and I certify that I have requested the views of officials named in section 2(a) of Executive Order 11623 and none of them has timely requested that the matter be referred to the President for decision.

Now therefore by virtue of the authority vested in me by the Military Selective Service Act, as amended (50 App. U.S.C. sections 451 et seq.) and Executive Order 11623 of October 12, 1971, the Selective Service regulations, constituting a portion of Chapter XVI of Title 32 of the Code of Federal Regulations, are hereby amended, effective 11:59 p.m. e.s.t. on November 4, 1972, as follows:

Section 1622.22(a) is amended to read as follows:

§ 1622.22 Class 2–A-Registrant deferred because of civilian occupation (except agriculture) or nondegree study.

(a) In Class 2–A shall be placed any registrant whose continued service is found to be necessary to the maintenance of the national health, safety, or interest in an activity identified as essential by the Director of Selective Service upon the advice of the National Security Council: *Provided*, That any request for classification in Class 2–A submitted to a local board prior to April 23, 1970, shall be considered on the basis of the provisions of this paragraph in effect prior to such date: *Provided further*, That any registrant classified in Class 2–A under the provisions of this paragraph in effect prior to April 23, 1970, may be retained in such class so long as he occupies the same position and qualifies under those provisions.

* * * * * * *

Section 1632.2(e) is amended to read as follows:

§ 1632.2 Postponement of induction; general.

* * * * *

(e) A postponement authorized in paragraph (b) or (c) of this section in excess of 60 days or without limit may be terminated when the issuing authority so directs and upon not less than 30 days nor more than 60 days notice to the registrant. The registrant shall then report for induction at such time and place as may be fixed by the local board.

* * * * *

BYRON V. PEPITONE,
Acting Director.

OCTOBER 30, 1972.

[FR Doc.72-18776 Filed 11-1-72;8:55 am]

Title 6—ECONOMIC STABILIZATION

Chapter III—Price Commission

PART 301—RENT STABILIZATION

Elimination of Certain Capital Improvements From 8-Percent Ceiling on Certain Rent Increases; Correction

The document amending § 301.208 of the rent stabilization regulations of the Price Commission published in the FEDERAL REGISTER on September 21, 1972 (37 F.R. 19619), is corrected by changing "before" to "after" in the first sentence of the preamble, and by changing "including" to "excluding" in the amendment to the first sentence of the flush paragraph appearing after subparagraph (2) of § 301.208(a).

(Economic Stabilization Act of 1970, as amended, Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92-210; Executive Order No. 11640, 37 F.R. 1213, January 27, 1972; Cost of Living Council Order No. 4, 36 F.R. 20202, October 16, 1971)

Issued in Washington, D.C., on October 31, 1972.

By direction of the Commission.

JAMES B. MINOR,
General Counsel,
Price Commission.

[FR Doc.72-18854 Filed 11-1-72;8:49 am]

Rulings—Internal Revenue Service, Department of the Treasury

[Price Commission Ruling 1972-269]

RENT-ALLOWABLE COSTS-NEW RENTAL UNITS

Price Commission Ruling

Facts. In 1968 L purchased 30 acres of real estate and constructed a complex of garden apartments X, on part of the land. During 1971, the real estate taxes were assessed on the apartments and entire tract of land. During 1971, additional garden apartments Y were constructed on the remaining part of the land. Construction was completed and the Y apartments were first offered for rent after August 15, 1971. The real estate taxes for 1972 were assessed on all of the apartments (i.e. X+Y) and the land.

Issue. To what extent may L increase the rent for the X apartments due to the increase in real estate taxes?

Ruling. Section 301.101(a)(2) provides that a lessor may add a properly allocated increase in allowable cost to the base rent of a residence. Economic Stabilization Regulations, § 301.101(a)(2), 37 F.R. 13226 (1972). Section 301.2 defines allowable costs to include real estate taxes. Economic Stabilization Regulations, § 301.2, 37 F.R. 13226 (1972). Section 301.101(b) which provides a method for determining the amount of rent adjustments allowable to a particular residence indicates that the allowable costs which relate to a particular residence may be used only to justify rent increases for that residence. Economic Stabilization Regulations, § 301.101(b), 37 F.R. 13226 (1972). This provision incorporates in the regulations the principles set forth in Price Commission Ruling 1972-159, 37 F.R. 9352 (1972). Thus, an increase in the real estate taxes on an apartment development due to the construction of a new apartment building represents an increase in taxes upon unrelated residences.

In the present case, to the extent that the increase in taxes are attributable to X and its portion of the land, the increased taxes qualify as allowable cost and after proper allocation, may be passed through to the tenants in X. On the other hand, to the extent that the increase in taxes are attributable to Y and its portion of the land, the increased taxes do not qualify as allowable costs. Thus, they may not be passed through under § 301.101 to the tenants in apartment X. However, since the Y apartments are exempt as rental units on which construction was completed, and which were first offered for rent after August 15, 1971, under 6 CFR 301.33(a)(2)(ii) (1972) of the Economic Stabilization Regulations, L may charge the tenants in Y a rent which covers the increase in taxes attributable to Y.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: October 26, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: October 26, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-18693 Filed 11-1-72;8:46 am]

[Price Commission Ruling 1972-268]

VOLATILE PRICING RULE

Price Commission Ruling

Facts. Firm A purchases cocoa beans and uses them in the manufacture of chocolate. A typically carries a 2-month inventory of beans. The price of cocoa beans has recently increased and A wishes to increase the price of its chocolate under the volatile pricing rule in Economic Stabilization Regulations, 6 CFR 300.51(f) (1972). A has been granted such authority by the Price Commission. A has customarily used a LIFO system of inventory accounting. A is a prenotification firm.

Issue. May A increase the price of its chocolate to reflect an increase in the market price of cocoa beans prior to the purchase of beans at the higher price?

Ruling. No. A may increase the price of chocolate only to reflect a dollar-for-dollar passthrough of increased costs of cocoa beans which have actually been incurred.

The volatile pricing rule under § 300.51(f) of the regulations is an exception to the general requirement that prenotification firms must receive Price Commission approval before effecting price increases. A manufacturing firm with volatile pricing authority may increase prices without prenotifying. But that firm is still subject to the general rule in Economic Stabilization Regulations, 6 CFR 300.12 (1972) that it "may charge a price in excess of the base price only to reflect increases in allowable costs that it incurred since the last price increase in the item concerned or that it incurred after January 1, 1971, whichever was later * * *." An allowable cost is not "incurred" until a person becomes subject to or liable for that increased cost. No price increase can thus be made until the seller is subject to or liable for an increased cost. See Price Commission Ruling 1972-108, 37 F.R. 5648 (1972).

In this case, A may increase the price of its chocolate without prenotification only to recover the dollar increase in the price of cocoa which is purchased and used in the production of that chocolate. Price Commission Ruling 1972-15, 37 F.R. 765 (1972). To the extent that inventory levels are held constant, the LIFO inventory accounting system may permit the allowable increases to closely approximate changes in the current market price level. However, this results from the sale of chocolate manufactured after higher priced beans were purchased and not merely the adjustment in the price of chocolate based on the market or replacement cost of the raw material used.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: October 26, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: October 26, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-18694 Filed 11-1-72;8:46 am]

[Price Commission Ruling 1972-270]

NEW HOSPITAL

Price Commission Ruling

Facts. Hospital A has recently opened a new facility and has abandoned its former location. The new hospital has a greater capacity and offers intensive care services and rehabilitation services in addition to the services provided in the old hospital. While most of the equipment is new, it merely replaces and is not an improvement over the equipment used in the former facility.

In order to qualify as new property or service under Economic Stabilization Regulation, 6 CFR 300.409 (1972) the property or service must be either: (1) Substantially different from other property or service in purpose, function, quality, or technology, or the use of the property or service must effect a substantially different result; or (2) not previously offered for sale or lease by the person during the 1-year period immediately preceding the date on which he is offering the property or service.

Issue. Is Hospital A providing new services under § 300.409?

Ruling. Hospital A must consider each service that it offers separately to determine whether the particular service qualifies as new under § 300.409. To be considered as new, the service itself must be substantially different. That the building is new is not sufficient to deem the services new. Similarly, new equipment is not sufficient to deem the services new unless that equipment is substantially different in purpose, function, quality, or technology than the old equipment. However, if the new equipment or facilities enable the hospital to offer services not previously provided by the old equipment, those additional services qualify as new. The intensive care and rehabilitation units qualify as new services under this section, but the remainder of the hospital's services are the same as those previously offered in the old facility. Hospital A must therefore use its former base prices for the services it previously provided. Any price increase must be made in accordance with Economic Stabilization Regulation, 6 CFR 300.18 (1972).

This ruling has been approved by the General Counsel of the Price Commission.

Dated: October 27, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: October 27, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-18695 Filed 11-1-72;8:46 am]

[Price Commission Ruling 1972-271]

AGGREGATE ANNUAL REVENUES OF INSTITUTIONAL PROVIDERS OF HEALTH SERVICES

Price Commission Ruling

Facts. Hospital A, an institutional provider of health services, has always customarily charged different prices to different classes of patients (such as private pay patients, Medicare patients, and patients covered by Blue Cross) for the same services. Each of these classes of patients constitutes a specific class of purchasers as defined in Economic Stabilization Regulations, 6 CFR 300.5 (1972). Hospital A has increased no prices since June 30, 1971, but it has incurred allowable cost increases since that date, and wishes to increase its prices to reflect these cost increases. In its fiscal year ending on June 30, 1972, hospital A had aggregate annual revenues (as defined in Economic Stabilization Regulations, § 300.18(a), 37 F.R. 14312 (1972)) of $10 million. During its fiscal year just ended, hospital A's revenues from its private pay patients were $1 million. Hospital A intends to increase the private pay patient prices more than it increases those charged to other classes of purchasers. This increase will reflect allowable cost increases allocable to the services provided to private pay patients. When annualized and adjusted for volume differences, hospital A's price increases will increase its revenues flowing from private pay patients by $70,000 (or 7 percent more than in its June 30, 1972, fiscal year). However, the effect of all its price increases to all classes of purchasers, when annualized and adjusted for volume differences, will increase its fiscal 1972 revenues $580,000, or 5.8 percent more than its fiscal 1972 revenues.

No institutional provider of health services may charge a price in excess of the base price, if the effect of the increase, together with any other price changes made by it under the authority of the Economic Stabilization Regulations, is to increase its aggregate annual revenues adjusted for volume differences at an annualized rate of more than 6 percent over the amount of its aggregate annual revenues for its most recently completed fiscal year unless the provider has received an exception from the Price Commission, after filing a request therefore with the District Director of Internal Revenue for the district in which the provider is located. Economic Stabilization Regulations, § 300.18(c), 37 F.R. 14312 (1972).

Issue. Must hospital A request an exception before it puts its proposed price increases into effect?

Ruling. No. Aggregate annual revenues include the sum of all patient service revenues and all other operating revenues from services, sales, and activities, minus deductions for charity, courtesy, and contractual discounts and allowances for

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bad debts. Economic Stabilization Regulations, 6 CFR 300.18(a), 37 F.R. 14312 (1972). "Aggregate annual revenues" are not computed separately for each class of purchaser. The 6 percent limitation in § 300.18(c) is not applied separately to the revenues flowing from a price increase to one of several specific classes of purchasers of the institution's services. Therefore, a price increase that, when annualized, will increase the revenues flowing from one class of purchaser by more than 6 percent does not require an exception from the Price Commission if the effect of the increase, together with other annualized price changes, will not increase the provider's aggregate annual revenues adjusted for volume differences more than 6 percent over the aggregate annual revenues of the most recently completed fiscal year. Therefore, hospital A's 7 percent increase to private pay patients will not require an exception.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: October 27, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: October 27, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-18696 Filed 11-1-72;8:46 am]

Title 7—AGRICULTURE

Chapter II—Food and Nutrition Service, Department of Agriculture

[Amdts. 8, 11, 3]

NATIONAL SCHOOL BREAKFAST AND LUNCH PROGRAMS

Pursuant to Public Law 92-433, approved September 26, 1972, the regulations governing the National School Lunch Program, the School Breakfast and Nonfood Assistance Programs and State Administrative Expenses, and the regulations for Determining Eligibility for Free and Reduced Price Lunches are hereby amended to provide that: (1) The statewide average reimbursement rate for general cash-for-food assistance for all eligible lunches served shall be not less than 8 cents; (2) the section 4, general cash-for-food, State revenues matching requirements shall be based on the preceding fiscal year; (3) participation in the School Breakfast Program shall be available to all schools; (4) a new formula shall be used for apportioning 50 percent of the appropriated Nonfood Assistance funds for needy schools and a new formula shall be used for apportioning 50 percent of such funds for needy schools without a food service; (5) the 25 percent matching requirement for Nonfood Assistance funds paid to nonprofit private schools may be based on an average of such funds received by all such schools within a State; (6) a State agency or Regional Office may waive the 25 percent matching requirement in the case of any especially needy school without a food service program; (7) all children from families whose income is at or below the family income guidelines prescribed by the State agencies or Food and Nutritton Service Regional Offices shall be served free meals; (8) the standards for determining eligibility for free or reduced price meals shall be based on family size and income only; (9) State agencies or Food and Nutrition Service Regional Offices shall establish family-size income standards for schools under their jurisdictions at levels which are not less than those prescribed by the Secretary and, in the case of free meals, are not more than 25 percent above the Secretary's poverty scale and, in the case of reduced price meals, are not more than 50 percent above such poverty scale.

Since these changes in the regulations are largely nondiscretionary being principally required by Public Law 92-433, the Department does not believe that the proposed rule making and public participation procedure are necessary. Furthermore, since these changes are effective for the entire fiscal year 1973, State agencies and schools must know of the changes as soon as possible so as to give them adequate time to come into conformance with the new rules. It is expected that a notice of proposed rule making will be issued in the near future with respect to other amendments to the regulations required as a result of Public Law 92-433, or otherwise determined to be appropriate.

The amendments are as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. In § 210.4, paragraph (f) is revised to read:

§ 210.4 Apportionment of funds to States.

* * * * *

(f) Any section 32 funds made available for general cash-for-food assistance during the fiscal year ending June 30, 1973, shall be distributed to State agencies, and to FNSRO's where applicable, in the amount of 8 cents for each Type A lunch served during such fiscal year in participating schools within the State which is in excess of the number of Type A lunches which can be financed at an average rate of 8 cents for such fiscal year from the general cash-for-food assistance funds made available to the State agencies, or FNSRO's where applicable, under the provisions of paragraphs (a) and (c) of this section.

* * * * *

§ 210.6 [Amended]

In § 210.6, paragraph (b) is amended by inserting the words "for the preceding year" after the words "matching requirement" wherever they occur.

PART 220—SCHOOL BREAKFAST AND NONFOOD ASSISTANCE PROGRAMS STATE ADMINISTRATIVE EXPENSES

3. In § 220.7, paragraphs (b) and (c) are revised to read as follows:

§ 220.7 Requirements for participation.

* * * * *

(b) Applications shall include the name and address of the school food authority and of each school in which the school breakfast program will be operated, and the following information with respect to each such school: (1) The planned beginning date of breakfast service under the program; (2) the estimated average daily enrollment; (3) the full breakfast price to be charged and the reduced price to be charged children eligible for reduced price breakfasts; and (4) if the school is not participating in the National School Lunch Program, the estimated number of children in such school who will be eligible for free and reduced price breakfasts under the eligibility standards proposed in the free and reduced price policy statement submitted in accordance with Part 245 of this chapter.

(c) Within the funds available to them, State agencies, or FNSRO's where applicable, shall approve for participation in the School Breakfast Program any school making application and agreeing to carry out the program in accordance with this part. State agencies, or FNSRO's where applicable, have a positive obligation, however, to extend the benefits of the School Breakfast Program to children attending schools in areas where poor economic conditions exist.

* * * * *

4. In § 220.12, paragraph (a) is revised, paragraph (a–1) is added, and paragraphs (b) and (c) are revised as follows:

§ 220.12 Apportionment of funds to States.

(a) Fifty per centum of any Federal funds appropriated for nonfood assistance under section 5 of the Act shall be apportioned among the States during each fiscal year on the basis of the ratio that the number of lunches, meeting the meal requirements set forth in § 210.10 of this part, served in each State in the preceding fiscal year for which the Secretary determines data are available at the time such funds are apportioned bears to the total number of such lunches served in all States in such preceding fiscal year. The remaining 50 per centum of Federal funds appropriated for nonfood assistance shall be apportioned to schools without a food service in accordance with paragraph (a–1) of this section.

(a–1) Fifty per centum of the funds appropriated for nonfood assistance under section 5 of the Act shall be apportioned to each State on the basis of the ratio of the number of children enrolled in schools without a food service in such State for the latest fiscal year for which the Secretary determines data are available at the time such funds are apportioned to the number of children enrolled in schools without a food service in all States in such fiscal year. All funds apportioned under this paragraph shall be used exclusively for schools without a food service.

(b) If any State agency cannot use all the funds apportioned to it under paragraph (a) or (a–1) of this section, it shall release such funds to the Department for reapportionment among the remaining States, in the manner and for the purposes of the respective initial apportionments: *Provided, however,* That no further apportionment shall be made if the Department determines that the amount of such funds is too small to make a further apportionment.

(c) A share of the Nonfood Assistance Program funds apportioned to any State in accordance with paragraphs (a) and (a–1) of this section shall be withheld by FNS for the nonprofit private schools of that State if the State agency is prohibited by law from administering the Nonfood Assistance Program with respect to such schools. The amount withheld from the funds apportioned under paragraph (a) shall bear the same ratio to such apportioned funds as the number of lunches meeting the requirements of § 210.10 served in nonprofit private schools in such State in the latest preceding year for which the Secretary determines data are available at the time such funds are withheld bears to the total number of such lunches served in all schools within such State in such preceding fiscal year. The amount withheld under paragraph (a–1) of this section shall bear the same ratio to such funds as the number of children enrolled in nonprofit private schools without a food service in such State for the latest fiscal year for which the Secretary determines data are available at the time such funds are withheld bears to the total number of children enrolled in all schools without a food service in such State in such fiscal year.

5. In § 220.14, paragraph (a) is revised to read as follows:

§ 220.14 Matching of funds.

(a) During any fiscal year, payments made by FNS to each State agency and payments made by FNSRO to the school food authorities of any nonprofit private school shall be upon the condition that at least one-fourth of the costs of the equipment furnished shall be borne from sources within the State: *Provided, however,* That funds used to assist schools without a food service which are determined by the State agency or FNSRO to be especially needy need not be so matched. Payments made by FNS to State agencies may be matched either by the recipient school food authority or from other State or local sources and payments by FNSRO to nonprofit private school food authorities may be matched either by the recipient school food authorities or from other funds available to nonprofit private schools within the State.

* * * * *

§ 220.16 [Amended]

6. In § 220.16 paragraph (b) is amended to delete the proviso at the end thereof and subparagraph (4) of paragraph (c) is revoked.

7. Section 220.17 is revised to read as follows:

§ 220.17 Reimbursement payments.

The amount of reimbursement payment made to any school food authority shall not exceed the total cost of the equipment acquired, including transportation and installation charges. The total amount of the reimbursement payments made to all school food authorities in each State, except school food authorities of schools without a food service which are determined to be especially needy, shall not exceed three-fourths of the total cost of the equipment acquired, including transportation and installation charges.

PART 245—DETERMINING ELIGIBILITY FOR FREE OR REDUCED PRICE MEALS

8. The heading of Part 245 is revised to read as set forth above.

9. In § 245.3, paragraphs (a) and (b) are revised and a new paragraph (c) is added as follows:

§ 245.3 Eligibility standards for free and reduced price meals.

(a) Each State agency, or FNSRO where applicable, shall at the beginning of each fiscal year announce family-size income standards to be used by school food authorities of schools under the jurisdiction of such State agency, or FNSRO where applicable, in making eligibility determinations for free or reduced price meals. Such family-size income standards for free meals shall in no event be set at less than the income poverty guidelines prescribed by the Secretary for such fiscal year, and shall not be more than 25 per centum above such income poverty guidelines. Such family-size income standards for reduced price meals shall not be set at more than 50 per centum above such income poverty guidelines. Within these limits, the State agency, or FNSRO where applicable, may prescribe a single set of family-size income standards or it may prescribe a range of income standards.

(b) Each school food authority shall establish standards of eligibility for free meals, and, if the school food authority elects to serve reduced-price meals, it shall establish standards of eligibility for reduced price meals. The school food authority's standards of eligibility shall be in conformity with the family-size income standards prescribed by the State agency, or FNSRO where applicable, under paragraph (a) of this section: *Provided, however,* That any school food authority which had in effect standards of eligibility for free or reduced price meals prior to July 1, 1972, which are more liberal than the standards of eligibility so determined, may use such more liberal standards for the fiscal year ending June 30, 1973. Each school food authority shall serve free meals to all children eligible therefor under its standards of eligibility.

(c) The school food authority's standards of eligibility shall be a part of the policy statement required under § 245.10, and shall be publicly announced in accordance with the provisions of § 245.5. Such standards shall: (1) Specify the family-size income criteria to be used for free meals, and for reduced price meals if appropriate; (2) be applicable to all schools participating in the National School Lunch Program or the School Breakfast Program and to commodity only schools under the jurisdiction of the school food authority; and (3) provide that all children from a family meeting the eligibility standards and attending any schools under the jurisdiction of the school food authority shall be provided the same benefits. For schools which participate in both the National School Lunch Program under Part 210 of this chapter and the School Breakfast Program under Part 220 of this chapter, the same set of criteria shall be applied so that the children who are eligible for a free lunch shall be eligible for a free breakfast and children who are eligible for a reduced price lunch shall be eligible for a reduced price breakfast.

Effective date. These amendments shall be effective upon publication (11–2–72), except that State educational agencies, or FNSROs where applicable, and school food authorities under their jurisdiction shall, to the maximum extent practicable, conform to the provisions of § 245.3 at the earliest possible date, but in no event later than January 1, 1973.

Dated: October 30, 1972.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.72-18788 Filed 11-1-72;8:46 am]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Navel Orange Reg. 273]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.573 Navel Orange Regulation 273.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel

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Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on October 31, 1972.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period November 3, 1972, through November 9, 1972, are hereby fixed as follows:

(i) District 1: 752,000 cartons;

(ii) District 2: Unlimited;

(iii) District 3: 48,000 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 1, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-18915 Filed 11-1-72;11:30 am]

[Valencia Orange Reg. 416]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 908.716 Valencia Orange Regulation 416.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on October 31, 1972.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period November 3 through November 9, 1972, are hereby fixed as follows:

(i) District 1: 280,000 cartons;

(ii) District 2: 220,000 cartons;

(iii) District 3: Unlimited.

(2) As used in this section, "handler," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 31, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-18916 Filed 11-1-72;11:30 am]

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIF.

Administrative Rules; Grade and Size Regulations

Notice was published in the September 27, 1972, issue of the FEDERAL REGISTER (37 F.R. 20178) regarding a proposal to revise Subpart—Administrative Rules and Regulations (7 CFR 987.100–987.174; 37 F.R. 1159, 5282, 6566, 6729, 7873, and 10067), Subpart—Grade and Size Regulations (7 CFR 987.202–987.219; 36 F.R. 23894; 37 F.R. 4900, 5282, 6729, 7874, and 10067), and Subpart—Market Development (7 CFR 987.401). The subparts are operative pursuant to the marketing agreement, as amended, and Order No. 987, as amended (7 CFR Part 987), regulating the handling of domestic dates produced or packed in Riverside County, Calif. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was based on a unanimous recommendation of the California Date Administrative Committee.

The notice afforded interested persons an opportunity to submit written data, views, or arguments with respect to the proposal. One such submission was received from the California Date Administrative Committee in which it suggested minor changes to correct editorial references and for clarification purposes.

Section 987.145(d) would prescribe a procedure for transferring the quantity of marketable dates disposed of by a handler in excess of his withholding obligation of a crop year to another handler for credit against that handler's withholding obligation for that crop year. Such transfers were authorized by the August 12, 1971, amendment of the marketing agreement and order. In addition, it would increase the quantity of such excess disposition which a handler may carry over into the succeeding crop year for credit against his withholding obligation in that crop year.

Date movement in the United States and to Canada during the months preceding Christmas (i.e., October–December) is mostly of packaged whole or pitted dates. When volume regulations are in effect during a crop year, handlers incur withholding obligations based on the quantities of dates they have inspected and certified for such movement. Under the order, disposition of dates in export and product outlets are credited against handlers' withholding obligations. However, most exports occur in August and September, and the bulk of product quality date sales occur after Christmas. Hence, early season withholding obligations could prevent handlers from taking full advantage of holiday packaged demand. Increasing the quantity of excess disposition which handlers may carry over into the succeeding crop year for credit against their withholding obligations in that crop year would allow them to ship dates freely during the months preceding Christmas and to take full advantage of the active holiday market.

Procedures on the use of field-run and graded dates in deferring handlers' withholding obligations would be prescribed in § 987.145 (a)(5) and (e). Section 987.45(e) of the order authorizes deferment of the withholding obligation by setting aside graded dates. Section 987.45 (f) authorizes handlers to meet any part or all of their withholding obligations by setting aside field-run dates or by disposing of field-run dates in outlets for utility and cull dates. The prescribed procedures would provide for deferral of handlers' withholding obligations by setting aside field-run dates until: (1) Handlers have the set-aside field-run dates inspected and certified as marketable dates for withholding or disposition; or (2) handlers can purchase credits for excess disposition from other handlers.

Section 987.152(b)(2) would authorize donations of restricted and other marketable dates by handlers to needy persons, prisoners, or Indians on reservations, and such dispositions would be used in meeting handlers' withholding obligations. Such donations would be under safeguards required by the committee to assure consumption in such outlets.

Section 987.402 would authorize utility dates to be exported to Mexico and to be disposed of by handlers for use, or used by them, in the production of products for human consumption in the form of rings, chunks, pieces, butter, paste, macerated dates, and table syrup. This authorization replaces a similar authorization which, except for the use of utility dates in the production of table syrup, terminated September 30, 1972. Current date supply estimates indicate that the marketable supply of dates for products for human consumption and for export to Mexico will not be adequate for sales needs during the 1972–73 crop year, especially in view of very favorable demand in domestic and export outlets. Hence, the use of utility dates in products for human consumption in addition to table syrup and for export to Mexico should be continued.

Other provision changes involve simplification of identification and marking requirements for containers; clarifying the reporting requirements on sales of products dates between handlers; increasing the outlets for dates for further processing; updating surplus pool provisions; and removal of the requirement that exports must move directly from the handler to the country of destination.

After consideration of all relevant matter presented, including that in the notice, the recommendation of the committee and the written comment received from it pursuant to this notice, and other available information, it is hereby found that the revision of Subpart—Administrative Rules and Regulations (7 CFR 987.100–987.174; 37 F.R. 1159, 5282, 6566, 6729, 7873, and 10067), Subpart—Grade and Size Regulations (7 CFR 987.202–987.219; 36 F.R. 23894; 37 F.R. 4900, 5282, 6729, 7874, and 10067), and Subpart—Market Development (7 CFR 987.401) as proposed in the September 27, 1972, issue of the FEDERAL REGISTER (37 F.R. 20178) will tend to effectuate the declared policy of the act.

Therefore, the revision of said subparts as proposed in said notice is hereby adopted, subject to the following changes:

1. In § 987.141, paragraph "§ 987.202 (c)" is changed to "§ 987.202(d)".

2. In the last sentence of subparagraph (1) of § 987.145(a), the word "its" is changed to "their".

3. The third and fourth sentences of § 987.145(a)(4) are deleted and the following sentence is substituted in lieu thereof: "Utility dates permitted to be used in products shall be similarly stored and marked, and the word 'Utility' in lieu of 'Products' shall be marked on containers of utility dates shipped outside the area of production."

4. In the first sentence of § 987.145(c), the words "upon demand" are deleted, and insert "Such" at the beginning of the third sentence thereof.

5. In § 987.145(d), the proviso is revised to read as follows: "*Provided*, That the excess disposition exceeds 199 pounds, but in no event shall the quantity credited exceed 40 percent of the handler's withholding obligation of the crop year in which the excess disposition occurred and 100 percent of the withholding obligation incurred by him during October through December of the crop year following the crop year in which such excess disposition occurred."

6. In the last sentence of § 987.145(d), the words "such crediting or" are added immediately after the word "All".

7. In the last sentence of § 987.145(e), paragraph "§ 987.202(c)" is changed to "§ 987.202(d)".

8. In § 987.147(a), the word "differ" is changed to "differs".

9. In § 987.147(b), item No. (6) is changed to read as follows: "if the delivery is directly to a buyer's truck, the driver, truck, and buyer."

10. In §987.402(a), a comma is inserted between the words "butter" and "paste".

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) and for making this action effective at the time hereinafter provided in that: (1) This action revises various subparts operative pursuant to the marketing agreement and order for California dates, and such revision are more reflective of current industry practices; (2) the revision of such subparts is to facilitate operations under, administration of, and compliance with, said marketing agreement and order program; (3) the 1972–73 crop year began October 1, 1972; (4) the revised subparts should be applicable to as much of the 1972–73 operations as possible, and therefore should become effective promptly; (5) this action provides for use of utility dates for products and export requirements, and handlers have indicated the need to use utility dates in such outlets during the 1972–73 crop year; and (6) this action should become effective promptly in order to enable handlers to use utility dates in such outlets as soon as possible.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated October 27, 1972, to become effective November 3, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

Subpart—Administrative Rules

DEFINITIONS

§ 987.101 Lot.

"Lot" means the aggregate quantity of dates of the same variety, style, type and grade in like containers with like identification either (a) packed as a continuous production segment, or (b) offered for inspection as a shipping, storage, or other unit.

§ 987.102 Lot number.

"Lot number" is synonymous with code and means a combination of letters or numbers, or both, acceptable to the Committee, showing at least the date of packing, the variety, and the outlet category of the dates. The combination of letters or numbers, or both, imprinted on the containers shall differ from those of any other lot coded within a 3-year period.

§ 987.103 Utility dates.

The term "utility dates" is synonymous with the term "substandard dates" and means dates of a grade lower than any category of restricted dates but higher than cull dates.

INSPECTION

§ 987.141 Inspection and certification.

(a) Each handler shall furnish, or cause the inspection service to furnish, to the

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committee a copy of the inspection certificate issued to him on each lot of dates handled, exported, or used in products, and such certificate shall contain at least the following information: (1) The date of inspection; (2) the name of the handler; (3) a lot number and the applicable outlet category set forth in § 987.145; (4) the variety and weight of the dates in the lot; (5) the number and type of containers in the lot; and (6) if the dates (i) are other than field-run dates, a certification as to the grade of the dates and whether they meet the grade and size regulations prescribed for the outlet, or (ii) are field-run dates, a certification showing the percentage, by weight, of sound dates in the lot, as prescribed in § 987.202(d).

VOLUME REGULATION

§ 987.145 Volume regulation.

(a) *Identification of dates.* (1) *General.* Prior to applying the markings required by this paragraph, each handler shall remove or delete from each container all former identifying marks which conflict with those applicable to the dates currently in the container. Dates of each outlet category shall be held, stored, or shipped in a manner to preserve their identity.

(2) *Free dates.* Prior to or at the time of inspecting free dates (i.e., dates packed for handling or dates for further processing) each handler shall mark all shipping and storage containers (not including subcontainers) with his name or that of the distributor for whom the handler is packing, and the lot number. These markings shall be legible and not less than five-sixteenths (5/16) inch in height on containers exceeding 5 pounds net weight and not less than one-eighth (1/8) inch in height on smaller containers. If the dates are certified as dates packed for handling, the handler shall mark, under the supervision of the inspection service, each container with the date of inspection, the name or insignia of the inspection service, and the letters "DAC." If the dates are certified as dates for further processing and are to be removed from the place of inspection, each container shall be marked with the letters "FP." If the dates certified for further processing are to be stored at the place where inspected, they shall be stored separate from all other outlet categories of dates.

(3) *Restricted and other marketable dates for export.* Prior to or at the time of inspecting restricted and other marketable dates for export, each handler shall mark all shipping and storage containers (not including subcontainers) with his name or that of the exporting firm, and the lot number. Such markings shall be legible and not less than five-sixteenths (5/16) inch in height on containers exceeding 5 pounds net weight and not less than one-eighth (1/8) inch in height on smaller containers. If the dates are certified as meeting the grade and size requirements for export to approved countries other than Mexico (including field-run dates with cull dates removed and dates for further processing), the dates shall be marked "EXPORT." If the dates have been packed for export to Mexico, inspected and certified as meeting the grade and size requirements for export to Mexico, the dates shall be marked "Export MEXICO." However, the words "EXPORT MEXICO" shall be in letters not less than three-fourths (3/4) inch in height on containers exceeding 5 pounds net weight and not less than one-eighth (1/8) inch in height on smaller containers. Dates certified as dates packed for handling and marked "DAC," and dates certified for further processing and marked "FP," may be exported without change of marking.

(4) *Products.* Dates inspected and certified as meeting the grade and size requirements for products shall be stored as a unit marked "RESTRICTED." In addition, each container in such unit shall be marked with the lot number, and if for shipment outside the area of production with the word "PRODUCTS," in letter size not less than five-sixteenths (5/16) inch in height on containers exceeding 5 pounds net weight and not less than one-eighth (1/8) inch in height on smaller containers. Utility dates permitted to be used in products shall be similarly stored and marked, and the word "Utility" in lieu of "Products" shall be marked on containers of utility dates shipped outside the area of production. The Committee may waive the marking of individual containers whenever a handler, or an approved date product manufacturer, establishes and utilizes a procedure that maintains the identity of the lot and assures that the dates certified for products are used in products.

(5) *Dates for deferment of withholding.* A handler may defer his certification and disposition of restricted dates and pledge graded or field-run dates against a future satisfaction of withholding in accordance with paragraph (e) of this section: *Provided*, That he stores the pledged dates as a unit in a specific location and identifies the unit as "RESTRICTED" and as "GRADED" or "FIELD-RUN" and as to the number of containers, the date of setaside, and whether the dates have been inspected.

(b) *Change of outlet.* A handler may change the outlet category for any lot of certified dates: *Provided*, That prior to such change, the handler files a completed CDAC Form No. 1(a) and a new inspection certificate with the Committee. If the grade and size requirements of the new outlet category are the same as or below the requirements of the outlet category previously intended, only a condition inspection is required. If the grade and size requirements of the new outlet category are greater, a complete inspection is required and the handler shall change the marking on the containers to conform with the identification requirements prescribed in paragraph (a) of this section for the new outlet.

(c) *Free dates for further processing.* In accordance with § 987.45(c), withholding and assessment obligations on free dates certified for further processing shall be met on the basis of the quantity of such dates inspected and certified as meeting the applicable grade and size requirements. However, if such dates are subsequently processed and packed within the area of production, the withholding and assessment obligations shall be adjusted to reflect any increase in weight. Such free dates certified for further processing shall not be shipped out of the area of production except to persons in the United States capable of processing and packing the dates and having them certified as dates packed for handling, or to such specialty outlets as the Committee may exempt from any further required processing pursuant to § 987.52.

(d) *Satisfying the withholding obligation.* For any variety of dates for which free and restricted percentages have been established, the Committee shall credit the quantity of that variety a handler has certified as EXPORT, EXPORT MEXICO, or PRODUCTS, including DAC or FP dates recertified for disposition in such outlet categories, against his withholding obligation for such variety, but not in excess of such obligation. Disposition of marketable dates in restricted outlets in excess of a handler's withholding obligation may be: (1) Transferred pursuant to § 987.45 upon such handler filing a completed CDAC Form No. 14 with the Committee, or (2) credited to the handler's withholding obligation of the following crop year: *Provided*, That the excess disposition exceeds 199 pounds, but in no event shall the quantity credited exceed 40 percent of the handler's withholding obligation of the crop year in which the excess disposition occurred and 100 percent of the withholding obligation incurred by him during October through December of the crop year following the crop year in which such excess disposition occurred. All such crediting or accumulation shall be contingent upon the Committee receiving, in due course, confirmation that the dates were disposed of in eligible restricted outlets.

(e) *Deferring the withholding obligation.* Any handler may defer any amount of his certification and withholding or disposition of restricted dates by setting aside and pledging a comparable volume of graded or field-run dates as a surety that he will meet this withholding obligation. Such deferment shall not be effective until the handler files with the Committee its CDAC Form No. 12 to set aside graded dates or CDAC Form No. 13 to set aside field-run dates (whereby he agrees to the conditions set forth in § 987.45) and until he has set aside and identified the dates as required by subparagraph (5) of paragraph (a) of this section. In the event a handler sets aside field-run dates or disposes of them in outlets prescribed in or pursuant to § 987.56 to obtain withholding credit for the sound date portion, the field-run dates shall meet the requirements prescribed in § 987.202(d) for eligible field-run dates, as determined by the inspection service.

(f) *Whole equivalent of pitted dates.* When pitted dates are certified or appear in sales reports or inventories, their whole date equivalent weight shall be determined by dividing the weight of the pitted dates by 0.875.

SURPLUS

§ 987.147 Surplus.

(a) *General.* Surplus dates delivered to the Committee pursuant to § 987.47 shall be pooled for sale to livestock feeders, distillers, or manufacturers of inedible products: *Provided*, That if any portion of the deliveries differs sufficiently to require separate handling, and earn a different average return, such portion shall be handled as a separate pool. The income from sale of surplus, after deduction of committee expenses, shall be paid to the respective equity holders in the pool or pools, or to their assignees, on the basis of the weight of dates each delivered.

(b) *Delivery.* The Committee may refuse delivery of any surplus dates which it determines are excessively sour, fermented, or adulterated by palm debris, rocks, paper, wood, plastic liners, or other foreign material. If the Committee refuses delivery, the deliverer shall be permitted to clean such dates sufficiently to make them acceptable to the Committee. The weight of each accepted delivery shall be that determined by a public weightmaster or, in the absence of such weight, that determined by the Committee on the basis of the number and size of the containers used in the delivery. Upon delivery of surplus dates to the Committee, the deliverer, or a designee of the Committee shall execute CDAC Form SP-1, Delivery Manifest, showing: (1) The person to receive payment of the net proceeds for the surplus, (2) the date and place of loading, (3) if field surplus, the location and owner of the garden, (4) the type and number of containers loaded or dumped, (5) the net weight of the load, and (6) if the delivery is directly to a buyer's truck, the driver, truck and buyer.

QUALIFICATION TO REGULATION

§ 987.151 Interhandler transfers.

When any handler transfers dates, other than dates certified for products, to another handler, the selling handler shall promptly notify the Committee by filing with it a completed CDAC Form No. 1 and shall show the name and address of the transferring or selling handler and of the receiving or buying handler, the variety and processed category or classification of the dates, the lot number and inspection certificate number on any lot of packed and certified dates, the number and type of containers, the net weight of the transferred dates, and if applicable, the transferring handler's statement on assuming the withholding and assessment obligation. A transfer of products dates between handlers shall be reported as a disposition by the selling handler filing with the Committee a completed CDAC Form No. 8.

§ 987.152 Exemption from regulations.

(a) *Producer exemption.* The Committee may permit any producer to sell dates of his own production free of the requirements of §§ 987.41, 987.45, 987.48, and 987.72 when sold directly to consumers through a roadside stand or date shop owned or operated by him within 25 miles of the city limits of Indio, Calif., or through shipments by parcel post or express. Permission to so sell dates shall be granted only upon the producer filing with the Committee a completed CDAC Form No. 9 wherein the producer describes how he plans to sell and agrees to sell only dates of free date quality of his own production in his direct sales and to report his sales. If the producer fails to comply with his agreement the Committee may revoke any or all exemptions granted the producer.

(b) *Handler exemptions.* (1) *Specialty sales.* The Committee may permit any handler to sell to health food stores or health food outlets, dates which meet the minimum grade requirements for free dates except for moisture. It may permit any handler to sell to a candy manufacturer hand-pitted dates which meet the minimum grade requirements for free dates except for size or damage due to cutting and pitting. Also, it may permit any handler to sell hand-layered dates in tin, wood, plastic, or other type of container exempt from §§ 987.41(a) and 987.48, or to make shipments by common carrier of up to 150 pounds to any one purchaser in any one day exempt from the provisions of § 987.41 (a): *Provided*, That the hand-layered dates or the shipment to a single purchaser in any one day have been packed from dates certified as meeting the minimum grade requirements for free dates and have not been commingled with other dates. Permission to use these exemptions shall be granted only upon the handler filing with the Committee its CDAC Form No. 10 wherein he describes how he plans to sell, and agrees to sell only specific dates and to report such sales.

(2) *Donations.* Except as provided in §§ 987.54 and 987.55, the Committee may permit any handler to dispose of restricted or other marketable dates by donation to needy persons, prisoners, or Indians on reservations, but such donations shall be under such safeguards as the Committee may require to assure consumption in these outlets.

(3) *Sales not exempt.* Except as provided in this section, no exemption shall be granted on sales by producers or handlers to truckers, dealers, retail stores, or other persons or firms engaged in buying dates for resale.

DISPOSITION OF OTHER THAN FREE DATES

§ 987.155 Outlets for restricted and other marketable dates.

(a) *General.* Except as provided in § 987.156, no person shall ship out of the area of production any dates which are not free dates except that restricted and other marketable dates meeting the grade and size requirements for their outlet may be shipped into export, or to an exporting firm committed to export the dates, or to a person on the Committee's list of approved date product manufacturers who is acquiring such dates solely for use in an eligible product(s).

(b) *Export.* All countries other than Canada are approved as countries to which restricted and other marketable dates may be exported. However, no such dates shall be exported until they have been inspected and certified as meeting either the effective grade and size requirements for dates packed for handling (DAC's), or the applicable grade, size, or container requirements prescribed for export of specific categories of dates to specified countries, and until the shipping containers in each lot have been identified as prescribed in § 987.145 (a) and (b). Withholding credit for such exports shall be granted upon the Committee receiving notification thereof from the inspection service. Such credit shall be contingent upon the committee receiving in due course a copy of the on-board bill of lading or other documentary evidence satisfactory to the Committee. Furthermore, no dates shall be exported to Mexico until the handler obtains from the importer or trucker of each lot a certification to the Committee and the U.S. Department of Agriculture, on CDAC Form No. 11(a) which shall be submitted to the Committee, that such dates will not reenter the United States or be shipped to Canada. The form shall show the identity of the handler, the trucker, the importer, the destination of the dates, and the location of the border crossing station. One copy of the form shall be surrendered to the U.S. Customs Service at the border crossing station.

(c) *Products.* Restricted and other marketable dates which have been inspected and certified as meeting not less than the minimum requirements for restricted dates for products, may be used by a handler in such products as rings, chunks, pieces, butter, paste, camerated dates, table syrup, or other products which the Committee finds will be appropriate and permit the consumption of dates in other than their whole or pitted form. In lieu of the handler using such dates in products, he may sell them for use by any person or firm on the Committee's list of approved date product manufacturers.

§ 987.156 Utility and cull dates.

(a) *Utility dates.* Utility dates may be disposed of without inspection in any crop year in which they are surplus pursuant to § 987.47. However, if use of such dates is authorized in products for human consumption or export, they shall be inspected and certified in accordance with § 987.56 prior to such usage as being of utility grade.

(b) *Cull dates.* All cull dates are surplus and shall be disposed of pursuant to § 987.47.

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(c) *Deteriorated dates.* Any marketable dates which have deteriorated in quality so that they are either utility dates or cull dates may be disposed of only in the applicable outlets for such dates unless they are reconditioned to marketable quality and the lot, or a portion thereof, is recertified as marketable dates.

(d) *Unidentified dates.* If a handler loses the identity of any lot of dates previously inspected and certified as marketable dates, the certification as to such quality is void.

§ 987.157 Approved Date Product Manufacturers.

Any date handler or other person with facilities for converting dates into products may apply to the Committee, by filing CDAC Form No. 3, for listing as an approved date product manufacturer. The applicant shall indicate on such form the products he intends to make, the quantity of dates he may use, and the location of his facilities. In addition, as a condition of approval, the applicant shall agree on such form not to use any of the products dates for sale as whole or pitted dates, to file a report of the disposition of each lot on the Committee's Form No. 8, and to file an annual usage and inventory report on CDAC Form No. 4. The Committee shall approve or disapprove each such application on the basis of the information furnished or its own investigation, and may revoke any approval for cause. The name and address of all approved manufacturers shall be placed on a list and made available to interested persons.

§ 987.159 Substitution.

Any handler may, under the direction and supervision of the Committee or the inspection service, substitute for any quantity of restricted dates held by him a like quantity of dates of the same or more recent year's production which have been certified and identified as being of the same restricted outlet category.

REPORTS AND RECORDS

§ 987.161 Handler carryover.

Each handler shall file with the Committee, as required in § 987.61, a report of his carryover on CDAC Form No. 5. This report shall show, by variety, (a) the quantity of dates certified DAC and held within and outside the area, and (b) the quantity of dates held within the area certified for further processing, withheld to satisfy or defer a withholding obligation, graded but not certified, and as field-run dates, segregated as to outlet category.

§ 987.162 Handler acquisition and disposition.

Each handler shall file with the Committee by the 10th of each month, on CDAC Form No. 6, a report for the preceding month of his field-run acquisitions, his free date shipments, his purchases from other handlers of free, graded and field-run dates, and his dispositions in each outlet category.

§ 987.164 Disposition of products dates or utility dates.

Each handler shall file with the Committee a completed CDAC Form No. 8 showing the disposition of each lot of dates certified as products dates or utility dates. The report shall identify the lot, show the outlet, the number of containers, and the net weight of the dates. If such dates are sold to an approved date product manufacturer, a copy of the completed form shall be signed and dated by the manufacturer and returned to the Committee. If the lot was certified as products dates and exported to Mexico, the handler shall obtain a completed CDAC Form No. 11(a) from the buyer and submit this form, together with the completed CDAC Form No. 8, to the Committee.

§ 987.165 Other reports.

(a) *Exempt sales.* Each handler shall file with the Committee, a completed CDAC Form No. 2 showing the quantity and variety of dates sold under exemption during the crop year. The report shall be filed upon the completion of such sales or promptly after the end of the crop year.

(b) *Products.* Each approved date product manufacturer shall file with the Committee a completed CBAC Form No. 4 showing his beginning and ending inventories of dates for products, the quantity received during the crop year, the quantity used, the type and quantity of products manufactured, and his year-end inventory of products. This report shall be filed promptly after the end of each crop year.

§ 987.168 Handler records.

Each handler shall establish and maintain for not less than 2 years after the end of the crop year of record, the following records:

(a) For grower deliveries of dates, the name of each grower, the varieties delivered and the net weight of each variety;

(b) For shipments of dates, the variety, type of pack, net weight and destination or name and address of the person to whom each shipment was sent;

(c) If different from shipments, the variety, type of pack, net weight and purchaser of each quantity of dates sold; and

(d) Manifests, invoices, weight certificates, inventory tabulations, or any other documents necessary to prepare, file, or substantiate the reports required to be filed with the Committee.

Subpart—Grade and Size Regulations

§ 987.202 Other minimum standards.

(a) *General.* In lieu of the minimum standards of quality prescribed in § 987.39, the minimum standards for all whole or pitted dates handled shall be the requirements of U.S. Grade C or, if for further processing, U.S. Grade C (dry) of the effective U.S. Standards for Grades of Dates (§§ 52.1001–52.1011 of this title), except that mashing and mechanical injury not affecting eating quality shall not be considered in determining the defect factor.

(b) *Free dates.* The minimum standards prescribed in paragraph (a) of this section shall be applicable to all varieties of whole or pitted dates handled to meet the trade demand of the United States and Canada unless and until superseded by any additional grade regulations prescribed in § 987.203(a).

(c) *Other marketable dates.* The minimum standards prescribed in paragraph (a) of this section shall be applicable to all dates withheld to meet a withholding obligation or for disposition as restricted or other marketable dates pursuant to § 987.55 as either EXPORT, EXPORT MEXICO, or PRODUCTS unless and until superseded by any additional grade regulations prescribed in § 987.203(b).

(d) *Field-run dates.* For the purpose of deferring or meeting any part or all of a withholding obligation pursuant to § 987.45(f), the field-run dates set aside shall consist of at least 70 percent, by weight, of sound dates but may contain 10 percent, by weight of cull dates of which not more than 5 percent may be hidden culls—i.e., dates with internal defects including souring, mold, fermentation, insect infestation, or foreign material. Whenever field-run dates of any variety are authorized for export to any country, each lot shall consist of at least 85 percent, by weight, of sound dates. "Sound dates" means individual dates which are at least U.S. Grade C in character and are free of the defects—other than those removable by washing—scored to determine the point requirement applicable to their intended destination.

§ 987.203 Additional grade regulations.

(a) *Free dates.* All varieties of whole and pitted dates, other than dates for further processing, handled to meet the trade demand of the United States and Canada shall meet the requirements of U.S. Grade B, except that up to 25 percent, by weight, of the dates may possess semidry or dry calyx ends but not more than 5 percent, by weight, of the dates may possess dry calyx ends. If the dates are for further processing, the requirements of U.S. Grade B (dry) shall apply.

(b) *Export dates.* Restricted and other marketable dates of all varieties for export pursuant to §§ 987.55 and 987.155 to countries other than Mexico and identified as EXPORT, shall meet the requirements of U.S. Grade C, and dates for further processing for export pursuant to § 987.403, shall except for defects removable by washing, meet the requirements of U.S. Grade C (dry): *Provided,* That Deglet Noor dates shall score not less than 31 points for character and 24 points for absence of defects but up to 40 percent, by weight, of the dates may be damaged by broken skin.

§ 987.204 Size regulations.

(a) *Free dates.* Whole dates of the Deglet Noor variety shall not be handled to meet the trade demand of the United States and Canada unless the individual dates in the samples from the lot weigh at least 6.5 grams but up to 10 percent, by weight, may weigh less than 6.5 grams. Pitted Deglet Noor dates shall not be handled to meet such trade demand unless the individual dates weigh at least 5.6 grams but up to 10 percent, by weight, may weigh less.

(b) *Uniformity of size.* The requirements of this section are in addition to, and do not supersede, the requirements as to uniformity of size of the grade standards prescribed by this part.

SUBPART—MARKET DETERMINATIONS

§ 987.401 Major marketing promotion.

A major marketing promotion program is one requiring the expenditure of more than $500 of Committee funds.

§ 987.402 Utility date outlets.

(a) *Specified product outlets.* Utility dates of any variety inspected and certified in accordance with § 987.56 may be disposed of by handlers for use, or used by them, in the production of table syrup, rings, chunks, pieces, butter, paste, or macerated dates.

(b) *Specified export outlets.* Utility dates of any variety inspected and certified in accordance with § 987.56 may be exported to Mexico.

§ 987.403 Further processing exports.

Restricted and other marketable dates certified as meeting the then current grade requirements in § 987.203(b) for dates for further processing, may be exported (a) to the following designated date producing and processing countries of North Africa: Morocco, Algeria, Tunisia, Libya, Egypt, and Sudan, and (b) to the following designated date processing and consuming countries north of the Mediterranean Sea: Spain, France, Belgium, West Germany, Italy, and Greece. Such additional date producing and processing and date processing and consuming countries may from time to time be similarly designated, after which such certified dates may be exported to such countries.

[FR Doc.72-18701 Filed 11-1-72;8:46 am]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

Salaries of Federal Reserve Bank Officers

In order to delegate to the Federal Reserve Banks authority to set salaries of certain Federal Reserve Bank officers, within certain ranges and guidelines, the Board of Governors amends § 265.2(f) of its Rules Regarding Delegation of Authority as follows: The introductory text of paragraph (f) is revised and a new subparagraph (25) is added to paragraph (f):

§ 265.2 Specific functions delegated to Board employees and Federal Reserve Banks.

* * * * *

(f) Each Federal Reserve Bank is authorized, as to member banks or other indicated organizations headquartered in its district, or under subparagraph (25) of this paragraph, as to its officers:

* * * * *

(25) To set the salaries of its officers below the level of Senior Vice Presidents (Salary Group A), excluding the General Auditor, within officer salary ranges approved and guidelines subsequently issued by the Board of Governors.

* * * * *

The provisions of section 553 of title 5, United States Code, relating to notice and public participation, were not followed in connection with the adoption of this amendment because the rules contained therein are procedural in nature and accordingly do not constitute substantive rules subject to the requirements of such section.

Effective date. This amendment is effective January 1, 1973.

By order of the Board of Governors, October 18, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18713 Filed 11-1-72;8:50 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 72-SW-59]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

Correction

In F.R. Doc. 72-18034 appearing on page 22729 of the issue for Saturday, October 21, 1972, the latitude designation in the seventh line from the end of the description of the transition area, now reading "29°21'31'", should read "29°21'35'".

[Airspace Docket No. 72-GL-38]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airway Segments

On August 29, 1972, a notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER (37 F.R. 17493) stating that the Federal Aviation Administration (FAA) was considering amendments to Part 71 of the Federal Aviation Regulations that would alter V-100 between Rockford, Ill., and Northbrook, Ill., to overlie Woodstock Intersection and V-9 southwest of Milwaukee, Wis., to realine this airway approximately 4 miles to the west of its present location.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 4, 1973, as hereinafter set forth.

Section 71.123 (37 F.R. 2009) is amended as follows:

a. In V-9 "Naperville, Ill.; INT Naperville 317° and Milwaukee, Wis., 198° radials;" is deleted and "Naperville, Ill.; INT Naperville 317° and Milwaukee, Wis., 205° radials;" is substitued therefor.

b. In V-100 "Rockford, Ill.; INT Rockford 093° and Northbrook, Ill., 270° radials;" is deleted and "Rockford, Ill.; INT Rockford 079° and Northbrook, Ill., 292° radials;" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 26, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-18666 Filed 11-1-72;8:48 am]

[Airspace Docket No. 72-WA-53]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration to "Federal Register" Document

On September 15, 1972, "Federal Register" Document No. 72-15722 was published in the FEDERAL REGISTER (37 F.R. 18715) which amends parts 71 and 75 of the Federal Aviation Regulations, effective 0901 G.m.t., November 9, 1972, by redesignating VOR Federal airways and Jet Route segments effected by the relocation of the Austin, Tex., VORTAC. An additional 1-degree alinement change in both V-17W and V-76S segments, however, would permit air traffic controllers to apply a nonradar separation procedure between IFR flights operating

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on V–17 and V–17W, or between flights on V–76 and V–76S.

The purpose of this amendment is to make these 1-degree realinement changes. Since this amendment is minor in nature, no substantive change in the regulations is involved, and the effect on the operation of aircraft will be beneficial, notice and public procedure thereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, "Federal Register" Document No. 72–15722 (37 F.R. 18715) is amended, effective 0901 G.m.t., December 7, 1972, as hereinafter set forth.

In VOR Federal airway No. 17, "Austin 243°" is deleted and "Austin 244°" is substituted therefor.

In VOR Federal airway No. 76, "Austin 280°" is deleted and "Austin 279°" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 26, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-18667 Filed 11-1-72;8:48 am]

[Airspace Docket No. 72-SO-94]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to change the Controlling Agency for Restricted Area R–3003 from the Jacksonville ARTC Center to the Augusta, Ga., ATC Tower.

Redesignation of the Controlling Agency will identify the facility that actually controls traffic in R–3003 when the area is released by the Using Agency. The redesignation is minor in nature and effects no substantive change in the regulation; therefore, notice and public procedure thereon are deemed unnecessary and good cause exists to make this amendment effective without regard to the 30-day period preceding effectiveness.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective upon publication in the FEDERAL REGISTER (11–2–72), as hereinafter set forth.

Section 73.30 (37 F.R. 2348 and 7311) is amended as follows:

In R–3003 Fort Gordon, Ga., after Controlling Agency, "Federal Aviation Administration, Jacksonville ARTC Center." is deleted and "Federal Aviation Administration, Augusta, Ga., ATC Tower." is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 26, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-18664 Filed 11-1-72;8:47 am]

[Airspace Docket No. 72-WA-36]

PART 73—SPECIAL USE AIRSPACE

Designation of Restricted Area

On July 27, 1972, a notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER (37 F.R. 15003) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 73 of the Federal Aviation Regulations that would designate a restricted area on the Strait of Juan de Fuca along the United States and Canadian boundary.

Subsequent to publication of the notice, it was noted that elements of the description were omitted. Accordingly, on August 30, 1972, a supplemental notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 17564) deleting the description contained in the original notice and providing a substitute therefor.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments, but no comments were received.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 4, 1973, as hereinafter set forth.

In § 73.67 (37 F.R. 2377), the following restricted area is added:

R–6705 STRAIT OF JUAN DE FUCA, WASH.

Boundaries: beginning at latitude 48°14'30" N., longitude 123°42'00" W.; to latitude 48°10'30" N., longitude 123°42'00" W.; thence one-half mile north of and parallel to the north coast of Washington to latitude 48°18'35" N., longitude 124°25'00" W.; to latitude 48°24'30" N., longitude 124°25'00" W.; thence along the United States-Canadian border to the point of beginning.

Designated altitudes: Surface to 2,000 feet MSL.

Time of designation: Continuous.

Controlling agency: FAA, Seattle Flight Service Station.

Using agency: Commander, Fleet Air Whidbey, NAS Whidbey Island, Wash.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 26, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-18665 Filed 11-1-72;8:47 am]

[Airspace Docket No. 71-WA-3B]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Area High Routes

On March 4, 1971, a notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER (36 F.R. 4299) which proposed an amendment to Part 75 of the Federal Aviation Regulations that would designate 20 area high routes in the western and southwestern United States.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No adverse comments were received on the routes designated herein.

Ten of the proposed routes have previously been designated. Eight additional routes (J900R, J905R, J906R, J908R, J913R, J916R, J919R, and J920R) have been successfully flight inspected and are being designated in this rule. Two of the routes (J910R and J915R) described in the NPRM are hereby withdrawn to permit further evaluation. These routes may be modified and proposed in subsequent airspace dockets. Thus, deletion of these two routes, previous designation of 10 other routes, and designation of the eight remaining routes as accomplished herein, completes action on Airspace Docket No. 71–WA–3.

Some route alinements and waypoint descriptions designated herein may differ slightly from those proposed in the NPRM. Waypoints have been added to the description of J900R, J905R, J908R, J919R, and J920R to improve navigational guidance without affecting the route alinement. In J900R, J905R, and J908R, three waypoints (one in each route) have been moved to coincide with waypoints previously established. The description of three waypoints in J913R have been refined to more accurately describe their locations. Subsequent to the publication of the NPRM, it was found that one of the proposed waypoints supporting J906R was not required and is eliminated from the description of the route herein to reduce chart clutter.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 4, 1973, as hereinafter set forth.

In § 75.400 (37 F.R. 2400) the following area high routes are added:

Waypoint name	N. latitude/W. longitude (In degrees, minutes, and seconds)	Reference facility
J900R San Francisco, Calif., to Seattle, Wash.:		
Napa, Calif.	38°10'46"/122°22'10"	Ukiah, Calif.
Hill, Calif.	40°06'58"/122°21'35"	Redbluff, Calif.
Hyatt, Oreg.	42°27'23"/122°20'36"	Medford, Oreg.
Yacolt, Wash.	45°44'50"/122°19'12"	Portland, Oreg.
Sumner, Wash.	47°11'08"/122°18'30"	Do.
J905R Las Vegas, Nev., to Tucson, Ariz.:		
Boulder City, Nev.	35°59'45"/114°51'46"	Boulder City, Nev.
Sycamore, Ariz.	34°37'25"/112°55'26"	Needles, Calif.
Ventana, Ariz.	33°32'05"/111°44'33"	Phoenix, Ariz.
Tucson, Ariz.	32°07'21"/110°49'12"	Tucson, Ariz.
J906R Los Angeles, Calif., to Salt Lake City, Utah:		
Hector, Calif.	34°47'49"/116°27'43"	Boulder City, Nev.
Adamsville, Nev.	37°40'22"/113°31'53"	Wilson Creek, Nev.
Fairfield, Utah.	40°16'30"/111°56'23"	Delta, Utah.
J908R San Francisco, Calif., to Denver, Colo.:		
Mina, Nev.	38°33'55"/118°01'55"	Coaldale, Nev.
Wheeler, Nev.	38°56'43"/114°29'58"	Wilson Creek, Nev.
Greenwood, Utah.	39°06'52"/112°28'54"	Delta, Utah.
Ferron, Utah.	39°13'44"/110°46'44"	Hanksville, Utah.
Rullson, Colo.	39°22'03"/107°52'58"	Meeker, Colo.
Toner, Colo.	39°23'34"/107°04'58"	Gunnison, Colo.
Shawnee, Colo.	39°25'38"/105°27'51"	Denver, Colo.
J913R Portland, Oreg., to Salt Lake City, Utah:		
Sherwood, Oreg.	45°21'05"/122°59'00"	Portland, Oreg.
Tauline, Oreg.	44°17'49"/119°57'47"	Kimberly, Oreg.
Oreana, Idaho.	43°00'38"/116°40'30"	Boise, Idaho.
Lake Shore, Utah.	41°05'58"/113°06'27"	Malad City, Utah.
Corrington, Utah.	41°04'07"/112°18'49"	Do.
J916R San Antonio, Tex., to Houston, Tex.:		
San Antonio, Tex.	29°38'38"/98°27'40"	Austin, Tex.
Humble, Tex.	29°57'24"/95°20'44"	Houston, Tex.
J919R El Paso, Tex., to San Antonio, Tex.:		
El Paso, Tex.	31°48'57"/106°16'53"	El Paso, Tex.
Fort Stockton, Tex.	30°57'07"/102°58'31"	Wink, Tex.
Telegraph, Tex.	30°06'45"/100°00'31"	Junction, Tex.
San Antonio, Tex.	29°35'38"/98°27'40"	Austin, Tex.
J920R Great Falls, Mont., to Salt Lake City, Utah:		
Milligan, Mont.	47°02'01"/111°24'11"	Lewiston, Mont.
Jeffers, Mont.	45°11'50"/111°38'35"	Dillon, Mont.
Chester, Idaho.	44°03'49"/111°46'44"	Dubois, Idaho.
Ogden, Utah.	41°13'27"/112°05'51"	Malad City, Idaho.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 26, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-18668 Filed 11-1-72;8:48 am]

[Docket No. 12333, Amdt. 836]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAP's) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAP's for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260–3, 8260–4, or 8260–5, and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97–696 (35 F.R. 5609).

SIAP's are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAP's may be purchased from the FAA Public Document Inspection Facility, HQ–405, 800 Independence Avenue SW., Washington, DC 20591, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by establishing, revising, or canceling the following VOR–VOR/DME SIAP's, effective December 14, 1972:

Benton, Ark.—Saline County Airport; VOR–A, Amdt. 2; Revised.
Burlington, Iowa—Burlington Municipal Airport; VOR Runway 30, Amdt. 4; Revised.
Detroit Lakes, Minn.—Detroit Lakes Airport; VOR Runway 13, Amdt. 1; Revised.
Dixon, Ill.—Dixon Municipal-Charles R. Walgreen Field; VOR–A, Amdt. 3; Revised.
Evansville, Ind.—Evansville Dress Regional Airport; VOR–A, Amdt. 5; Revised.
Fayetteville, Ark.—Drake Field; VOR–A, Amdt. 11; Revised.
Kansas City, Kans.—Fairfax Municipal Airport; VOR–A, Amdt. 1; Revised.
Kansas City, Kans.—Fairfax Municipal Airport; VOR Runway 17, Amdt. 6; Revised.
Kenai, Alaska—Kenai Municipal Airport; VOR Runway 19, Amdt. 7; Revised.
Kenai, Alaska—Kenai Municipal Airport; VOR/DME Runway 1, Original; Established.
Las Vegas, Nev.—McCarran International Airport; VOR–A, Amdt. 2; Revised.
Las Vegas, Nev.—McCarran International Airport; VOR Runway 25, Amdt. 6; Revised.
Peoria, Ill.—Greater Peoria Airport; VOR Runway 12, Amdt. 12; Revised.
Muncie, Ind.—Delaware County-Johnson Field; VOR Runway 20, Amdt. 2; Revised.
Soldotna, Alaska—Soldotna Airport; VOR–A, Amdt. 2; Revised.
Temple, Tex.—Draughon-Miller Municipal Airport; VOR Runway 15, Amdt. 9; Revised.
Washington, D.C.—Washington National Airport; VOR/DME Runway 18, Amdt. 2; Revised.
Watertown, S. Dak.—Watertown Municipal Airport; VOR Runway 17, Amdt. 9; Revised.
Watertown, S. Dak.—Watertown Municipal Airport; VOR/DME Runway 35, Amdt. 4; Revised.
Willmar, Minn.—Willmar Municipal Airport; VOR Runway 11, Amdt. 4; Revised.

2. Section 97.23 is amended by establishing, revising, or canceling the following VOR–VOR/DME SIAP's, effective October 24, 1972:

Duluth, Minn.—Duluth International Airport; VOR Runway 3, Amdt. 10; Revised.
Duluth, Minn.—Duluth International Airport; VOR/DME Runway 21, Amdt. 5; Revised.

3. Section 97.23 is amended by establishing, revising, or canceling the following VOR–VOR/DME SIAP's, effective October 19, 1972:

Galveston, Tex.—Scholes Field; VOR Runway 13, Amdt. 9; Revised.

4. Section 97.25 is amended by establishing, revising, or canceling the following SDF–LOC–LDA SIAP's effective December 14, 1972:

Kalamazoo, Mich.—Kalamazoo Municipal Airport; LOC (BC) Runway 17, Amdt. 7; Revised.
Oklahoma City, Okla.—Will Rogers World Airport; LOC (BC) Runway 17L, Amdt. 4; Revised.
Temple, Tex.—Draughon-Miller Municipal Airport; LOC (BC) Runway 33, Amdt. 1; Revised.

5. Section 97.25 is amended by establishing, revising, or canceling the following SDF–LOC–LDA SIAP's effective October 26, 1972.

Eau Claire, Wis.—Eau Claire Municipal Airport; LOC/DME (BC) Runway 4, Amdt. 1; Revised.

6. Section 97.25 is amended by establishing, revising, or canceling the following SDF–LOC–LDA SIAP's effective October 24, 1972.

Duluth, Minn.—Duluth International Airport; LOC (BC) Runway 27, Amdt. 6; Revised.

7. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's, effective December 14, 1972.

Cherokee Village, Ark.—Cherokee Village Airport; NDB Runway 4, Amdt. 1; Revised.
Crawfordsville, Ind.—Crawfordsville Municipal Airport; NDB Runway 4, Original; Established.
Evansville, Ind.—Evansville Dress Regional Airport; NDB Runway 21, Amdt. 6; Revised.
Kansas City, Kans.—Fairfax Municipal Airport; NDB–1, Amdt. 7; Revised.
Oklahoma City, Okla.—Will Rogers World Airport; NDB Runway 17L, R, Amdt. 15; Revised.
Oklahoma City, Okla.—Will Rogers World Airport; NDB Runway 35L, R, Amdt. 3; Revised.
Olney-Noble, Ill.—Olney-Noble Airport; NDB Runway 3, Amdt. 2; Revised.
Rockford, Ill.—Greater Rockford Airport; NDB Runway 36, Amdt. 14; Revised.

8. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's, effective November 2, 1972.

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Gulfport, Miss.—Gulfport Municipal Airport; NDB Runway 13, Amdt. 2; Revised.

9. Section 97.27 is amended by establishing, revising, or canceling the following NDB ADF SIAP's, effective October 26, 1972.

Eau Claire, Wis.—Eau Claire Municipal Airport; NDB Runway 22, Amdt. 1; Revised.

10. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's, effective October 24, 1972.

Duluth, Minn.—Duluth International Airport; NDB Runway 3, Amdt. 13. Revised.

11. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's, effective December 14, 1972:

Denver, Colo.—Stapleton International Airport; ILS Runway 26L, Amdt. 34; Revised.
Evansville, Ind.—Evansville Dress Regional Airport; ILS Runway 21, Amdt. 14; Revised.
Kalamazoo, Mich.—Kalamazoo Municipal Airport; ILS Runway 35, Amdt. 9; Revised.
Kansas City, Kans.—Fairfax Municipal Airport; ILS-A, Amdt. 10; Revised.
Las Vegas, Nev.—McCarran International Airport; ILS Runway 25, Amdt. 4; Revised.
Pasco, Wash.—Tri-Cities Airport; ILS Runway 20R, Amdt. 2; Revised.
Rockford, Ill.—Greater Rockford Airport; ILS Runway 36, Amdt. 16; Revised.
Temple, Tex.—Draughon-Miller Municipal Airport; ILS Runway 15, Amdt. 1; Revised.

12. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's, effective November 2, 1972:

Gulfport, Miss.—Gulfport Municipal Airport; ILS Runway 13, Amdt. 1; Revised.

13. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's, effective October 26, 1972:

Colorado Spring, Colo.—Peterson Field; ILS Runway 35, Amdt. 26; Revised.
Eau Claire, Wis.—Eau Claire Municipal Airport; ILS Runway 22, Amdt. 1; Revised.

14. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's, effective October 24, 1972:

Duluth, Minn.—Duluth International Airport; ILS Runway 9, Amdt. 7; Revised.

15. Section 97.31 is amended by establishing, revising, or canceling the following Radar SIAP's, effective December 14, 1972:

Denver, Colo.—Stapleton International Airport; Radar-1, Amdt. 10; Revised.
Las Vegas, Nev.—McCarran International Airport; Radar-1, Amdt. 6; Revised.
Oklahoma City, Okla.—Will Rogers World Airport; Radar-1, Amdt. 13; Revised.

16. Section 97.31 is amended by establishing, revising, or canceling the following Radar SIAP's, effective October 24, 1972:

Duluth, Minn.—Duluth International Airport; Radar-1, Amdt. 7; Revised.

17. Section 97.33 is amended by establishing, revising, or canceling the following RNAV SIAP's, effective December 14, 1972:

Evansville, Ind.—Evansville Dress Regional Airport; RNAV Runway 3, Original; Established.
Hutchinson, Kans.—Hutchinson Municipal Airport; RNAV Runway 31, Amdt. 1; Revised.
Joliet, Ill.—Joliet Municipal Airport; RNAV Runway 13, Amdt. 2; Revised.
Kansas City, Kans.—Fairfax Municipal Airport; RNAV-A, Amdt. 1; Revised.
Kirksville, Mo.—Clarence Cannon Memorial Airport; RNAV Runway 17, Amdt. 1; Revised.
Kirksville, Mo.—Clarence Cannon Memorial Airport; RNAV Runway 35, Amdt. 1; Revised.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c) and 5 U.S.C. 552(a)(1))

Issued in Washington, D.C., on October 26, 1972.

JAMES F. RANDOLPH,
Director, Flight Standards Service.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 F.R. 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.72-18662 Filed 11-1-72;8:47 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER B—PROCEDURAL REGULATIONS

[Reg. PR-131, Amdt. 15]

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDING

Rates, Fares, and Charges

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of October 1972.

By Public Law 92-259, March 22, 1972 (86 Stat. 95), the Federal Aviation Act was amended by adding, inter alia, a new section 1002(j), which expands the power of the Board to regulate rates and practices in foreign air transportation and confers a new power to suspend such rates. Accordingly, we are amending Subpart E of our procedural regulations to provide for the filing of complaints requesting tariff suspensions pursuant to section 1002(j) and so as to make the regulations otherwise consistent with the new legislation.

First, § 302.505(a), which requires that certain information be included in complaints seeking suspension of tariffs, is being amended to apply to rates for foreign air transportation as well as to rates for interstate or overseas air transportation.

Second, § 302.505(b), which requires that complaints seeking suspension be filed at least 18 days prior to the effective date of the tariff (or, if the tariff has a posting date, within 12 days after such date), is being limited to complaints against tariffs containing rates for interstate or overseas transportation only, since other tariffs involve special considerations which require another rule, as discussed below.

Third, a new § 302.505(c)[1] will require that complaints requesting suspension of tariffs containing new rates, fares, or charges for foreign air transportation be filed no later than 25 days before the effective date of the tariff.[2] The rule will also provide that such complaints seeking suspension of a tariff bearing a posting date must be filed within 12 days after the posting date, but in no event later than 25 days prior to the effective date of the tariff.[3] There are two reasons for the relatively short period for requesting suspension. Under the new section 801(b) of the Act the Board must submit its suspension orders pursuant to section 1002(j) to the President, who may disapprove any such order within 10 days following its submission. Further, the United States and many foreign governments are parties to bilateral air transport agreements which provide that if one of the contracting parties is dissatisfied with any rate proposed by an airline of either party for services between their territories, it may notify the other more than 15 days before the effective date of the tariff. Since, the tariffs need be filed only 30 days prior to their effective date the necessity of the Board's reaching a tentative determination within these time-frames requires that we establish the rather limited period (generally 5 calendar days) for the filing of these complaints.

Next, a new § 302.505(d) will permit complaints seeking suspension of tariffs containing existing rates, fares, or charges in foreign air transportation to be filed at any time. However, the rule will require that a complaint requesting suspension of such tariffs filed after the effective date of this regulation must make a convincing showing of the reasons for not filing the complaint in timely fashion pursuant to the provisions of new § 302.505(c), governing complaints requesting suspension of newly filed tariffs.

In addition, current § 302.505(d), which requires that answers to complaints be filed within 6 days of the filing of the complaint, is being renumbered as § 302.505(f) and amended by adding the requirement that answers to complaints seeking suspension of tariffs in foreign air transportation must be filed within 5 calendar days of the filing of the complaint. This will provide the same amount of time for filing answers as for filing complaints in cases where the time for Board action is narrowly circumscribed.

Finally, we are deleting Rule 507, which provides for informal requests to the Board to prevent tariffs of foreign air carriers from taking effect. These provisions are now superfluous in view of the Board's new authority to suspend tariffs in foreign air transportation.

Since this rule is wholly procedural in nature, the Board finds that notice and public procedure hereon are unnecessary and the amendments may be made effective immediately.

Accordingly, the Civil Aeronautics Board hereby amends Part 302 of its procedural regulations (14 CFR Part 302), effective October 27, 1972, as follows:

1. Amend the table of contents by deleting and reserving § 302.507, the table as amended to read in pertinent part as follows:

Sec.
302.507 [Reserved]

2. Amend § 302.505 to read as follows:

§ 302.505 Complaints requesting suspension of tariffs—answers to such complaints.

(a) Formal complaints seeking suspension of tariffs pursuant to section 1002(g) or 1002(j) of the Act shall fully identify the tariff and include reference to the name of the publishing carrier or agent, to the CAB number, and to specific items or particular provisions protested or complained against. The complaint should indicate in what respect the tariff is considered to be unlawful, and state what complainant suggests by way of substitution.

(b) A complaint requesting suspension, pursuant to section 1002(g) of the Act, of a tariff for interstate or overseas air transportation ordinarily will not be considered unless made in conformity with this section and filed at least eighteen (18) days before the effective date of the tariff, or, in the event a posting date is printed on the tariff, unless the complaint is filed within twelve (12) days after said posting date.

(c) A complaint requesting suspension, pursuant to section 1002(j) of the Act, of a new tariff in foreign air transportation ordinarily will not be considered unless made in conformity with this section and filed at least twenty-five (25) days before the effective date of the tariff, or, in the event a posting date is printed on the tariff, unless the complaint is filed within twelve (12) days after said posting date but in no event later than twenty-five (25) days before the effective date.

(d) A complaint requesting suspension, pursuant to section 1002(j) of the Act, of an existing tariff for foreign air transportation may be filed at any time. However, a complaint requesting suspension, under this subsection of the regulations, of an existing tariff filed on or after October 27, 1972, must be accompanied by a statement setting forth compelling reasons for not having requested suspension within the time limitations provided in paragraph (c) of this section.

(e) In an emergency satisfactorily shown by complainant, and within the time limits herein provided, a telegraphic complaint may be sent to the Board and to the publishing carrier or agent stating the grounds relied upon, but such a telegraphic complaint must immediately be confirmed by complaint filed and served in accordance with this section.

(f) Answers to complaints shall be filed within six (6) days after the complaint is filed: *Provided, however,* That answers to complaints seeking suspension of a tariff pursuant to section 1002(j) of the Act shall be filed within five (5) calendar days after the complaint is filed.[1]

§ 302.507 [Reserved]

3. Delete and reserve § 302.507.

(Secs. 204(a), 1002, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 788, as amended; 49 U.S.C. 1324, 1482)

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc. 72-18771 Filed 11-1-72;8:55 am]

SUBCHAPTER F—POLICY STATEMENTS

[Reg. PS-49, Amdt. 28]

PART 399—STATEMENTS OF GENERAL POLICY

Processing of Tariff Publications for Foreign Air Transportation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of October 1972.

By this amendment the Board is revising § 399.36 of its Policy Statements to establish a policy of the Board with respect to the advance issuance of orders suspending tariffs for foreign air transportation which are filed with us 45 days or more prior to their effective date and bear a posting date as provided for in Part 221 of our Economic Regulations. This revision is being made in light of our new power to suspend rates in foreign air transportation (Public Law 92-259, March 22, 1972; 86 Stat. 95).

Under § 399.36, it has been the Board's policy to issue orders suspending tariffs at least 15 days in advance of the effective date of the tariffs, if the tariff posting date is at least 45 days prior to the effective date, and to notify the filing carrier or its agent 15 days before the effective date if Board action on the tariff cannot be taken within the specified time. Prior to the enactment of the new legislation expanding our authority to regulate rates and practices in foreign air transportation, this policy had practical application only in the case of tariffs for interstate or overseas air transportation. However, the new suspension power involves problems which require somewhat different policies and procedures.

Thus, contemporaneously with this amendment of our Policy Statements, the Board is amending Subpart E of our Procedural Regulations by prescribing time limitations for the filing of complaints and answers to complaints seeking suspension of tariffs for foreign air transportation.[1] As set forth in those regulations, these time constraints are necessarily shorter than their counterparts where interstate or overseas transportation is involved, since in the case of foreign air transportation (1) Board suspension orders must be submitted to the President and are subject to his disapproval and (2) the United States and many foreign governments are parties to bilateral agreements which provide for advance notice of dissatisfaction by a contracting party with any rate proposed by an airline of either party for services between their territories.

The considerations which moved us to establish rather narrow time periods for the filing of complaints and answers involving suspension of tariffs for foreign air transportation also lead us to adopt a policy providing for a shorter lead time between the issuance of orders and the effective date of such posted tariffs than we have provided where interstate or overseas tariffs are involved. Under the amendment, it will be the Board's general policy to issue suspension orders governing tariffs in foreign air transportation at least 7 days before such tariffs are to become effective if the tariffs are filed with a posting date 45 days or more in advance of their effective date. This will give the filing carrier adequate advance notice of the suspension in the light of the special constraints upon the Board in these cases, while complainants and the Board will have more opportunity to analyze and consider the broader and far-reaching problems frequently encountered in those cases where the posting rules are used.

Since this rule is a statement of policy, notice and public procedure hereon are unnecessary and the amendment may be made effective immediately.

Accordingly, the Civil Aeronautics Board hereby amends Part 399 of its Policy Statements (14 CFR Part 399), effective October 27, 1972, to read as follows:

§ 399.36 Processing of tariff publications filed on notice of 45 days or longer.

When a tariff is filed with the Board 45 days or more in advance of its effective date and bears a posting date as provided in § 221.31(a)(10) of this chapter, it is the policy of the Board to issue an order, if any, suspending the tariff and ordering an investigation at least fifteen (15) days before such tariff is to become effective in the case of tariffs containing rates, fares or charges solely for interstate or overseas air transportation, or at least seven (7) days before such tariff is to become effective in the case of tariffs containing rates, fares or charges for foreign air transportation. In the event the Board, for any reason, cannot take action on a tariff within the time specified herein, the Board will notify the filing carrier or its agent of this fact at least fifteen (15)

[1] If the date for filing such complaints falls on a weekend or legal holiday for the Board, the complaint may be filed on the next succeeding business day.

[2] Contemporaneously with this amendment of Part 302, and for similar reasons, the Board is amending Part 399, its policy statements, by revising § 399.36 to set forth the policy that where tariffs for foreign air transportation are filed with a posting date 45 or more days in advance of their effective date any suspension order will be issued at least 7 days prior to such effective date.

[1] Former § 302.505(c), providing for emergency telegraphic complaints, is being retained and renumbered as § 302.505(e).

[1] Note that § 302.16 should be used in computing the time for filing answers to complaints seeking suspension of tariffs containing rates for interstate or overseas transportation only.

[1] PR 131, October 27, 1972.

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days before the effective date of the tariff in the case of tariffs containing rates, fares, or charges solely for interstate or overseas air transportation, or at least seven (7) days before the effective date of the tariff in the case of tariffs containing rates, fares, or charges for foreign air transportation. However, this policy statement should not be interpreted as limiting the Board's power under section 1002 of the Act to suspend a tariff for interstate or overseas air transportation at any time prior to its effective date and to suspend a tariff for foreign air transportation at any time.

(Secs. 204(a), 1002, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 788, as amended; 49 U.S.C. 1324, 1482).

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.72-18772 Filed 11-1-72;8:55 am]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Mesa Verde National Park, Colo.; Operation of Commercial Passenger-Carrying Motor Vehicles

Pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3) section 4 of the Act of April 25, 1928 (45 Stat. 459, 16 U.S.C. 117c), 245 DM1 (27 F.R. 6395), as amended, National Park Service Order No. 66 (36 F.R. 21218), as amended, and Midwest Region (Order No. 5 (37 F.R. 6324)), § 7.39 of Title 36 of the Code of Federal Regulations is hereby amended as set forth below.

The purpose of the amendment is to eliminate a phrase from paragraph (c) of § 7.39 pertaining to operation of commercial passenger-carrying vehicles in Mesa Verde National Park. The phrase "at or outside the park" has been deleted from the last sentence of paragraph (c) as misleading and unnecessary, since no such services outside the park are provided pursuant to a contract with the Secretary of the Interior.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule making process. However, since this amendment is technical in nature and does not serve to further restrict the public, comment thereon is deemed unnecessary and not in the public interest. The amendment will take effect immediately on publication in the FEDERAL REGISTER (11-2-72).

(5 U.S.C. 553, 39 Stat. 535 as amended; 16 U.S.C. 3)

Section 7.39(c) of Title 36 of the Code of Federal Regulations is hereby amended to read as follows.

§ 7.39 Mesa Verde National Park.

* * * * * * *

(c) *Commercial automobiles and buses.* The prohibition against the admission of commercial automobiles and buses to Mesa Verde National Park, contained in § 5.4 of this chapter shall be subject to the following exceptions: Motor vehicles operated on an infrequent and nonscheduled tour on which the visit to the park is an incident to such tour, carrying only round trip passengers traveling from the point of origin of the tour, will be accorded admission to the park upon establishing to the satisfaction of the Superintendent that the tour originated from such place and in such manner as not to provide, in effect, a regular and duplicating service conflicting with, or in competition with, the services provided for the public pursuant to contract authorization with the Secretary.

MEREDITH M. GUILLET,
Superintendent,
Mesa Verde National Park.

[FR Doc.72-18723 Filed 11-1-72;8:51 am]

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

SUBCHAPTER E—PESTICIDES PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Diuron

A notice (PP 1E1164) was published by the Environmental Protection Agency in the FEDERAL REGISTER of September 7, 1972 (37 F.R. 18084), proposing establishment of a tolerance for residues of the herbicide diuron (3-(3,4-dichlorophenyl)-1,1-dimethylurea) in or on papayas at 0.5 parts per million. No comments or requests for referral to an advisory committee were received.

It is concluded that the proposal should be adopted.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), § 180.106 is amended by inserting a new paragraph after the paragraph "1 part per million * * *," as follows:

§ 180.106 Diuron; tolerances for residues.

* * * * * * *

0.5 part per million in or on papayas.

* * * * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (11-2-72).

(Sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e))

Dated: October 24, 1972.

LOWELL MILLER,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-18709 Filed 11-1-72;8:50 am]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

O,O-Diethyl O-[p-(Methylsulfinyl) Phenyl] Phosphorothioate

A petition (PP 2F1260) was filed by Chemagro Corp., Post Office Box 4913, Kansas City, MO 64120, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of a tolerance for residues of the insecticide and nematocide *O,O*-diethyl *O*-[*p*-(methylsulfinyl) phenyl]phosphorothioate in or on the raw agricultural commodity sweetpotatoes at 0.05 part per million.

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The pesticide is useful for the purpose for which the tolerance is being established.

2. There is no reasonable expectation of residues in milk, and § 180.6(a)(3) applies. Residues (if any) in meat will not exceed the established tolerance of 0.02 part per million on meat, fat, and meat byproducts of cattle, goats, and sheep. There is no reasonable expectation of residues in poultry and eggs.

3. The tolerance established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (36 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), § 180.234 is amended by revising the paragraph "0.05 parts per million * * *," as follows:

§ 180.234 *O,O*-Diethyl *O*-[*p*-methylsulfinyl)phenyl]phosphorothioate; tolerances for residues.

* * * * * * *

0.05 parts per million in or on peanuts, pineapple forage, pineapples, sugar beets, sugar beet tops, and sweet potatoes.

* * * * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (11-2-72).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: October 24, 1972.

LOWELL MILLER,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-18708 Filed 11-1-72;8:50 am]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

3-(4-Bromo-3-Chlorophenyl)-1-Methoxy-1-Methylurea

A petition (PP 2F1196) was filed by Ciba Agrochemical Co. (now CIBA-GEIGY Corp.), Ardsley, N.Y. 10502, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of tolerances for negligible residues of the herbicide 3-(4-bromo-3-chlorophenyl)-1-methoxy-1-methylurea and its metabolites containing the 4-bromo-3-chloroaniline moiety in or on the raw agricultural commodities carrots and wheat grain and straw at 0.2 part per million.

Subsequently, the petitioner amended the petition by withdrawing the requested tolerance on carrots.

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The herbicide is useful for the purpose for which the tolerances are being established.

2. The proposed use is not reasonably expected to result in the combined residues of the herbicide and its metabolites in eggs and milk and § 180.6(a)(3) applies.

3. The proposed use is not expected to result in the combined residues of the herbicide and its metabolites exceeding the established tolerances on meat and poultry.

4. The tolerances established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), § 180.279 is amended by revising the paragraph "0.2 part per million * * *," to read as follows:

§ 180.279 3-(4-Bromo-3-chlorophenyl)-1-methoxy-1-methylurea; tolerances for residues.

* * * * * * *

0.2 part per million (negligible residue) in or on corn fodder and forage, corn grain, fresh corn including sweet corn (kernels plus cob with husk removed), potatoes, soybean forage, soybeans, wheat grain, and wheat straw.

* * * * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (11-2-72).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: October 24, 1972.

LOWELL MILLER,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc. 72-18710 Filed 11-1-72;8:50 am]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Benomyl

A notice (PP 2E1239) was published by the Environmental Protection Agency in the FEDERAL REGISTER of September 9, 1972 (37 F.R. 18401), proposing establishment of a tolerance for residues of the fungicide benomyl (methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate) in or on mushrooms at 10 parts per million. No comments or requests for referral to an advisory committee were received.

It is concluded that the proposal should be adopted.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), § 180.294 is amended by inserting a new paragraph after the paragraph "15 parts per million * * *," as follows:

§ 180.294 Benomyl; tolerances for residues.

* * * * * * *

10 parts per million in or on mushrooms.

* * * * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (11-2-72).

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(Sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e))

Dated: October 24, 1972.

LOWELL MILLER,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc. 72-18707 Filed 11-1-72;8:50 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 72-946]

PART 0—COMMISSION ORGANIZATION

Memorandum Opinion and Order

1. Requests for the extension of time in which to file briefs, comments, pleadings, and all other papers relating to broadcast matters which have not been designated for hearing are ordinarily noncontroversial and require prompt action, which can most appropriately and efficiently be taken by the Bureau Chief rather than the Commission. This is true with regard to matters such as rule making, forfeitures, or applications for review, which will be acted upon by the Commission, as well as with regard to matters which will be acted upon by the Bureau Chief. Accordingly, we are amending § 0.281 to make it clear that Chief, Broadcast Bureau, has full authority to act on all such requests.

2. In proceedings which are before the Chief, Common Carrier Bureau, for preparation of a recommended decision, it is appropriate for the Bureau Chief to act on requests for the extension of time to file pleadings. Accordingly, we are amending § 0.303 to reflect such authority.

3. The amendments to the rules are set out below. Authority for these amendments is contained in sections 4(i), 5(d), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 155(d), and 303(r). Because the amendments are procedural in nature and relate to matters of internal organization, the prior notice and effective date provisions of 5 U.S.C. 553 are inapplicable.

4. In view of the foregoing, *it is ordered*, Effective November 7, 1972, that §§ 0.281 and 0.303 of the rules and regulations are amended as set out below.

(Secs. 4, 5, 303, 43 Stat., as amended, 1066, 1068, 1082, 47 U.S.C. 154, 155, 303)

Adopted: October 26, 1972.

Released: October 31, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[1] Commissioner Johnson dissenting.

Part 0 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 0.281(d)(8) is revised to read as follows:

§ 0.281 Authority delegated.

• • • • • •

(d) • • •

(8) For the extension of time in which to file briefs, comments, pleadings, and all other papers, including papers relating to matters which are to be decided by the Commission, such as applications for review of actions taken by the Chief, Broadcast Bureau, and including situations in which the filing date was initially specified by the Commission.

• • • • • •

2. Section 0.303(h) is added to read as follows:

§ 0.303 Authority concerning extension of time and waivers.

• • • • • •

(h) For the extension of time in which proposed findings, briefs, and pleadings may be filed in proceedings which are before the Chief, Common Carrier Bureau, for preparation of a recommended decision.

[FR Doc.72-18778 Filed 11-1-72;8:55 am]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1089, Amdt. 3]

PART 1033—CAR SERVICE

New York Dock Railway Authorized To Operate Over Trackage Abandoned by Bush Terminal Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 24th day of October 1972.

Upon further consideration of Service Order No. 1089 (37 F.R. 2677, 9118, and 15930), and good cause appearing therefor:

It is ordered, That: § 1033.1089 *Service Order No. 1089* (New York Dock Railway authorized to operate over trackage abandoned by Bush Terminal Railroad Company) Service Order No. 1089 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1972, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., October 31, 1972.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

It is further ordered, That copies of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-18780 Filed 11-1-72;8:55 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Merritt Island National Wildlife Refuge, Fla.; Correction

In F.R. Doc. 72-17801, appearing on page 22379 of the issue for Thursday, October 19, 1972, under § 32.12, subparagraph (11) under special conditions should read as follows:

(11) A refuge permit is required of all hunters in hunt areas 1 and 2 on Thanksgiving Day, Saturdays, and Sundays. No permits are required for hunt areas 3 and 4 at any time or for hunt areas 1 and 2 on Tuesdays and Thursdays (except Thanksgiving Day). Hunters desiring to hunt in area 1 on Tuesdays and Thursdays must draw for a blind and pay the $3 blind fee at Refuge Headquarters prior to taking the field.

JACK E. HEMPHILL,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

OCTOBER 24, 1972.

[FR Doc.72-18659 Filed 11-1-72;8:47 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 1—Federal Procurement Regulations

PART 1–1—GENERAL

Subpart 1–1.6—Debarred, Suspended, and Ineligible Bidders

CHANGED BASES FOR DEBARMENT

This amendment of the Federal Procurement Regulations prescribes revised policies and procedures pertaining to matters involving debarred and suspended bidders. Prior material precluding award to bidders on the Department of Labor "List of Persons and Firms Ineligible to Receive Award of Contracts Under the Walsh-Healey Public Contracts Act" is omitted because the list has been eliminated by the Department of Labor. All references to ineligibility on such grounds are deleted. Another change arises out of the passage of the Organized Crime Control Act of 1970. Concerns which have been infiltrated by organized crime are of doubtful responsibility, and, accordingly, an additional basis for debarment or suspension due to violation of the Organized Crime Control Act of 1970 or conviction of certain other offenses is added. In addition, the sections dealing with ineligibility because of violations of the Equal Opportunity clause are updated and revised. Specific reference is made to the Office of Federal Contract Compliance Contract Ineligibility List.

The table of contents for Part 1–1 is amended to include a revised entry, as follows:

Sec.
1–1.602–1 Bases for entry on the debarred, suspended, and ineligible bidders list.

1. Section 1–1.600 is revised to read as follows:

§ 1–1.600 Scope of subpart.

This subpart prescribes policies and procedures relating to: (a) The debarment of bidders for cause, (b) the suspension of bidders for cause under prescribed conditions, and (c) the placement of bidders in ineligibility status for violations of the provisions of the Equal Opportunity clause. It is directly applicable to the advertised and negotiated purchases and contracts of executive agencies, including contracts for construction, repair, alteration, destruction, or dismantlement of public works or buildings. Other Federal agencies are requested to comply therewith in conducting their purchasing and contracting operations.

2. Section 1–1.601–1 is revised to read as follows:

§ 1–1.601–1 Definitions.

(a) "Debarment" means, in general, an exclusion from Government contracting and subcontracting for a reasonable, specified period of time commensurate with the seriousness of the offense or failure or the inadequacy of performance. However, in connection with Executive Order 11246 of September 24, 1965, as implemented by the rules, regulations, and relevant orders of the Secretary of Labor in 41 CFR Part 60, the term "debarment" also means an exclusion by reason of ineligibility under the Secretary's rules from Government contracting or subcontracting for an indefinite period of time pending the elimination of the circumstances for which the exclusion was imposed.

(b) "Suspension" means a disqualification from Government contracting and subcontracting for a temporary period of time because a concern or individual is suspected upon adequate evidence (see § 1–1.605) of engaging in criminal, fraudulent, or seriously improper conduct.

(c) A "debarment list" or "debarred bidders list" means a list of names of concerns or individuals against whom any or all of the measures referred to in this section have been invoked.

(d) "Bidders" means, wherever the term is used in this subpart, any offerors bidding pursuant to an invitation for bids or a request for proposals.

(e) "Affiliates" means business concerns which are affiliates of each other when either directly or indirectly one concern or individual controls or has the power to control another, or when a third party controls or has the power to control both.

3. Section 1–1.602–1 is amended to revise the caption, to revise paragraph (e), and to delete paragraph (h). As amended, the section reads as follows:

§ 1–1.602–1 Bases for entry on the debarred, suspended, and ineligible bidders list.

• • • • • •

(e) Those listed by the Director of the Office of Federal Contract Compliance of the Department of Labor on the Contract Ineligibility List, which gives the names of prime contractors and subcontractors that have been declared ineligible to participate in Government contracting or subcontracting by reason of noncompliance with the Equal Opportunity clause.

(h) [Deleted]

• • • • • •

4. Section 1–1.603 is revised to read as follows:

§ 1–1.603 Treatment to be accorded firms or individuals in debarred, suspended, or ineligible status.

Firms or individuals listed by the agency as debarred, suspended, or ineligible shall be treated as follows:

(a) *Total restrictions.* A contract shall not be awarded to a concern or individual that is listed on the basis of §1–1.602–1 (a), (b), (d), or (e), or to any concern, corporation, partnership, or association in which the listed concern or individual has actual control or a controlling interest; nor shall bids or proposals be solicited therefrom. However, when it is determined essential in the public interest by the head of an agency or his designee, an exception may be made with respect to a particular procurement action when a concern or individual is listed as debarred on the basis of § 1–1.602–1(d).

(b) *Restrictions under statutes designated in the regulations of the Secretary of Labor.* A contractor listed on the basis of § 1–1.602–1(c), or any concern, corporation, partnership, or association in which that contractor has actual control or a controlling interest, shall be ineligible for a period of 3 years (from the date of publication by the Comptroller General) to receive any contracts subject to any of the statutes listed in § 1–1.602–1(c).

(c) *Buy American Act restrictions.* As specified in the Buy American Act (41 U.S.C. 10b(b)), contracts shall not be awarded for construction, alteration, or repair of public buildings or public works in the continental United States or elsewhere to concerns or their affiliates or individuals listed on the basis of § 1–1.602–1(g); nor shall bids or proposals therefor be solicited therefrom. However, firms or individuals listed on this basis may be awarded contracts and may be solicited for bids or proposals for other than construction, alteration, or repair of public buildings or public works in the continental United States or elsewhere.

(d) *Restrictions for noncompliance with the Equal Opportunity clause.* A concern or individual debarred for noncompliance with the Equal Opportunity clause shall not be awarded a Government contract.

(e) *Restrictions on subcontracting.* If a concern or individual listed on the debarred bidders list is proposed as a subcontractor, the contracting officer shall decline to approve subcontracting with that firm or individual in any instance in which consent is required of the Government before the subcontract is made, unless it is determined by the agency to be in the best interest of the Government to grant approval.

5. Section 1–1.604 is amended to add a new paragraph (a)(2), and to renumber the present paragraph (a)(2), (3), (4), and (5) as paragraph (a)(3), (4), (5), and (6), respectively, and to correct references in paragraph (b), and paragraph (c) is revised; as amended, § 1–1.604 reads as follows:

§ 1–1.604 Causes and conditions applicable to determination of debarment by an executive agency.

• • • • • •

(a) • • •

(2) Conviction under the Organized Crime Control Act of 1970, or conviction of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which seriously and directly affects the question of present responsibility as a Government contractor.

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(3) Conviction under the Federal Antitrust Statutes arising out of the submission of bids or proposals.

(4) Violation of contract provisions, as set forth below, of a character which is regarded by the agency involved to be so serious as to justify debarment action:

(i) Willful failure to perform in accordance with the specifications or within the time limit provided in the contract.

(ii) A record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts: *Provided*, That such failure or unsatisfactory performance has occurred within a reasonable period of time preceding the determination to debar. Failure to perform or unsatisfactory performance caused by acts beyond the control of the firm or individual as a contractor shall not be considered to be a basis for debarment.

(iii) Violation of the contractural provision against contingent fees.

(iv) Acceptance of a contingent fee, which is paid in violation of contractual provisions against contingent fees.

(5) Any other cause affecting responsibility as a Government contractor of such serious and compelling nature as may be determined by the head of the agency to warrant debarment.

(6) Debarment by some other executive agency.

(b) *Conditions.* • • •

• • • • •

(3) The existence of a cause set forth in (a) (1), (2) and (3) of this § 1–1.604 shall be established by criminal conviction by a court of competent jurisdiction. In the event that an appeal taken from such conviction results in a reversal of the conviction, the debarment shall be removed upon the request of the bidder (unless other cause for debarment exists).

(4) The existence of a cause set forth in (a) (4) and (5) of this § 1–1.604 shall be established by evidence which the executive agency determines to be clear and convincing in nature.

(5) Debarment for the cause set forth in (a)(6) of this § 1–1.604 (debarment by another agency) shall be proper provided that one of the causes for debarment set forth in (a) (1) through (5) of this § 1–1.604 was the basis for debarment by the original debarring agency. Such debarment may be based entirely on the record of facts obtained by the original debarring agency, or upon a combination of such facts and additional facts.

(c) *Period of debarment.* (1) Debarment of a firm or individual for causes other than failure to comply with the provisions of the Equal Opportunity clause (see § 1–1.602–1(e)) shall be for a reasonable, definitely stated period of time commensurate with the seriousness of the offense or the failure or inadequacy of performance. As a general rule, a period of debarment shall not exceed 3 years. However, when debarment for an additional period is deemed necessary, notice of the proposed additional debarment shall be furnished to that concern or individual in accordance with § 1–1.604–1. Except as precluded by statute, a debarment may be removed or the period thereof may be reduced by the head of the agency or by his authorized representative, upon the submission of an application, supported by documentary evidence, setting forth appropriate grounds for the granting of relief; such as newly discovered material evidence, reversal of a conviction, bona fide change of ownership or management, or the elimination of the causes for which the debarment was imposed.

(2) Debarment of a firm or individual for failure to comply with the provisions of the Equal Opportunity clause generally shall continue until removed by the Director of the Office of Federal Contract Compliance, Department of Labor, or by the agency itself with the concurrence of the Director of the Office of Federal Contract Compliance.

6. Section 1–1.605–1 is amended to revise paragraph (a)(1)(iii) to read as follows:

§ 1–1.605–1 Causes and conditions under which executive agencies may suspend contractors.

(a) • • •

(1) • • •

(iii) An act in violation of the Organized Crime Control Act of 1970, or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which seriously and directly affects the question of present responsibility as a Government contractor; or

• • • • •

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective November 1, 1972.

Dated: October 31, 1972.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

[FR Doc.72-18904 Filed 11-1-72;10:41 am]

Chapter 105—General Services Administration

PART 105–735—STANDARDS OF CONDUCT

Subpart 105–735.2—Standards of Conduct for Employees

PURCHASE OF GOVERNMENT PROPERTY

Section 105–735.215 is revised to allow GSA employees and members of their immediate households to purchase property being sold by agencies other than GSA and to prohibit them from purchasing any property being sold by GSA.

The table of contents for Part 105–735 is amended as follows:

Sec.
105–735.215 Purchase of Government property.

Section 105–735.215 is revised as follows:

§ 105–735.215 Purchase of Government property.

An employee shall not purchase for himself or for any other person, either directly or indirectly, any Government property, personal or real, being sold by GSA. This prohibition also applies to any member of his immediate household.

(E.O. 11222, 3 CFR 1964–1965 Comp.; 5 CFR 735.104)

This regulation was approved by the Civil Service Commission on October 27, 1972.

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER (11–2–72).

Dated: October 31, 1972.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

[FR Doc.72–18903 Filed 11–1–72;10:41 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[26 CFR Part 240]

WINE

Materials Authorized for Treatment of Wine

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Director, Bureau of Alcohol, Tobacco and Firearms, with the approval of the Secretary of the Treasury or his delegate. Prior to final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Director within the 30-day period. In such a case, a public hearing will be held and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms.

Approved: October 26, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary for Enforcement, Tariff and Trade Affairs, and Operations.

In order to make 26 CFR Part 240, Wine, consistent with 21 CFR Part 121, GRAS and Food Additive Status, with respect to materials authorized for treatment of wine, and to provide for continuing consistency between these parts, the regulations in 26 CFR Part 240 are amended as follows:

Section 240.1051 is amended by: (a) Adding a sentence to the introductory paragraph to provide for removal from the list of materials authorized for treatment of wine, those materials which are removed by the Commissioner of Food and Drugs from the GRAS listing; (b) adding ammonium phosphate (monobasic and dibasic) to the list of approved materials; (c) deleting diammonium phosphate; (d) deleting glycine (amino acetic acid); (e) deleting diethyl pyrocarbonate; and (f) deleting the parenthetical statement under "Reference or limitation" for the material "Phosphates". As amended § 240.1051 reads as follows:

§ 240.1051 Materials authorized for treatment of wine.

The materials listed below are approved, as being consistent with good commercial practice, for use by proprietors of bonded wine cellars in the production, cellar treatment, or finishing of wine (including distilling material), within the general limitations of § 240.524, or the specific limitations shown in the table, or given in the sections referred to: *Provided*, That when any approved material on this list is removed from the Food and Drug Administration list of products generally recognized as safe, the Director may cancel its approval for use in the production, cellar treatment, or finishing of wine (including distilling material).

Materials	Use	Reference or limitation
• • •	• • •	• • •
Ammonium Phosphate (monobasic and dibasic).	Yeast food in distilling material and wine production.	As a yeast food in distilling material, the amount shall not exceed 10 pounds per 1,000 gallons. In wine production, the amount shall not exceed 1.7 pounds per 1,000 gallons. 21 CFR 121.101(d)(8).
• • •	• • •	• • •
Defoaming agents (polyoxyethylene40-monostearate and silicon dioxide) (sorbic acid, carboxy methyl cellulose, dimethyl polysiloxane, polyoxyethylene (40) monostearate, and sorbitan monostearate).	Defoaming agent	Defoaming agents which are 100 percent active may be used in amounts not exceeding 0.15 pound per 1,000 gallons of wine. Defoaming agents which are 30 percent active may be used in amounts not exceeding 0.5 pound per 1,000 gallons of wine. Silicon dioxide shall be completely removed by filtration. 21 CFR 121.1099, 121.101(d)(2), 121.101(d)(8).
Eggs (Albumen or yolks)	To clarify wine	GRAS.
• • •	• • •	• • •
Gelatin	To clarify wine	GRAS.
Granular cork	To treat wines stored in redwood and concrete tanks.	The amount used shall not exceed 10 pounds per 1,000 gallons of wine. GRAS.
• • •	• • •	• • •
Phosphates	To start secondary fermentation in manufacturing champagne and sparkling wines.	Small quantity only shall be used. GRAS.
• • •	• • •	• • •

(72 Stat. 1383; 26 U.S.C. 5382)

[FR Doc.72–18697 Filed 11–1–72;8:46 am]

DEPARTMENT OF THE ARMY

Corps of Engineers

[36 CFR Parts 311, 326, 327]

PUBLIC USE OF WATER RESOURCE DEVELOPMENT PROJECTS ADMINISTERED BY CHIEF OF ENGINEERS

Notice of Extension of Time for Comments

On September 21, 1972 (37 F.R. 19632), there appeared as a notice of proposed rule making, with a 45-day limitation for comments, a proposed regulation Part 327, Chapter III, Title 36, CFR, to supersede Parts 311 and 326.

Due to receipt of numerous comments and a continuing interest in the proposed regulation the time limitation for comment, suggestion, or objections is hereby extended until January 3, 1973.

E. W. GANNON,
Lieutenant Colonel, U.S. Army, Chief, Plans Office, TAGO.

OCTOBER 26, 1972.

[FR Doc.72–18702 Filed 11–1–72;8:49 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 298]

[Docket No. 24871; EDR–235]

CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

Proposed Modification of Registration Requirement

OCTOBER 27, 1972.

Notice is hereby given that the Civil Aeronautics Board has under consideration modification of the registration requirement for air taxi operators in Part

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298 of the economic regulations (14 CFR Part 298). The principal features of the proposed amendment are described in the attached explanatory statement and the proposed amendment is set forth in the attached proposed rule. The amendment is proposed under the authority of sections 204(a), 407, and 416 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 766, and 771; 49 U.S.C. 1324, 1377, and 1386).

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant matter received on, or before December 18, 1972, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

EXPLANATORY STATEMENT

Part 298 of the Board's economic regulations (14 CFR Part 298) provides for the classification and exemption of air taxi operators, i.e., persons engaged in air transportation by operating small aircraft. As a condition to their exemption authority, air taxi operators are required by the Board's regulations to establish and maintain liability insurance coverage in accordance with the provisions of Subpart D of said part. The regulations also require each air taxi operator to register with the Board within 30 days after commencement of air taxi operations, and to reregister annually thereafter, by filing a registration statement in the form specified therein (CAB Form 298–A),[1] along with a currently valid certificate of insurance.[2] A stamped copy of the filed registration form is returned to the carrier, acknowledging compliance with said registration requirement. This registration procedure is designed to facilitate enforcement of the liability insurance requirement and to provide a vehicle for the gathering of basic information as to the number of air taxi operators and their locations.[3]

Over the past several years the staff has experienced considerable difficulty in assuring compliance with the registration and liability insurance requirements. For example, there are presently about 3,200 holders of an air taxi/commercial operator's certificate (ATCO) issued by the Federal Aviation Administration under its safety regulations,[4] but only about 2,600 air taxis (including commuter air carrier) are currently registered with the Board. While it may well be that some of the 600 ATCO holders who have not registered with the Board are, in fact, outside the Board's jurisdiction (e.g., because they are not operating as common carriers or their operations are wholly intrastate) there are grounds to suspect that a sizable number of these unregistered ATCO holders are engaged in "air transportation" and, as such, are subject to the Board's regulatory scheme for air taxi operators.

We are inclined to believe that the failure of air taxi operators to register with the Board is attributable, at least in part, to the fact that under our existing regulations, compliance with the aforementioned registration procedure is not a condition precedent to the air taxi operator's exemption to operate under Part 298. Thus, although failure to register, as prescribed in Part 298, presently constitutes a violation of a Board regulation, an air taxi operator may feel less deterred from operating in violation of a regulation requiring him to register (and reregister) with the Board than if his very authority to operate were expressly conditioned upon adherence to such requirement. Moreover, since our regulations now permit a carrier to register 30 days after he has begun to operate, it has not been practicable for the Board to determine whether the registrant is in compliance with the liability insurance requirements on the date he commences operations.

In light of the foregoing, we are of the tentative view that compliance with the Part 298 registration requirement should be established as a condition precedent to an air taxi operator's exemption to engage in air transportation, and the amendments hereinbelow discussed are intended to accomplish this purpose. Under the proposed rule, an air taxi operator would be required to register and reregister with the Board in order to qualify for and retain his exemption to operate under Part 298. We also propose to eliminate the provision allowing a carrier to register with the Board within 30 days after commencement of air taxi operations, and to require instead that a person who contemplates engaging in operations subject to Part 298 shall register with the Board, not less than 30 days prior to the commencement of such operations.[5]

As indicated, present regulations require an air taxi operator to submit, with his registration form, a currently effective certificate of liability insurance. As provided in subpart D of Part 298,[6] such certificate must evidence issuance, by one or more insurers, of one or more currently effective policies of aircraft liability insurance in compliance with the requirements prescribed therein. It is unlikely that a person who files for initial registration as an air taxi operator, in accordance with the proposed rule, will have a policy of aircraft liability insurance in effect on the date of such filing. Nor do we wish to impose, on prospective air taxi operators, a requirement to purchase insurance coverage which they do not need. Accordingly, we propose to modify § 298.41(b) to provide that where the certificate of insurance accompanies a filing for initial registration as an air taxi operator, the insurance policy or policies named in the certificate shall become effective no later than the date when the applicant proposes to commence operations (which date shall not be earlier than 30 days after the date on which the application is filed) as shown in the carrier's registration form.

Moreover, in order to insure that the applicant's registration does not become effective before the effective date of his aircraft liability insurance, we propose to add a provision to the rule stating that the initial registration required by § 298.50 will not become effective before the effective date of the insurance policy or policies named in the certificate of insurance which accompanies the carrier's filed registration statement.[7]

We have also taken this occasion to propose several changes to the standard registration statement (CAB Form 298–A)[8] so as to require more detailed information from carriers filing for registration and reregistration under Part 298. As hereinbelow described, these modifications are designed to facilitate staff processing of air taxi registrations and to implement the recent changes to Part 298 made by the Board in the Part 298 Weight Limitation Investigation, Docket 21761:[9]

1. The registrant will be required to list his telephone number and area code.

2. As presently cast, Form 298–A[8] requires disclosure of the serial and model numbers of each aircraft operated by an air taxi which has a maximum passenger capacity of more than 20 seats or a maximum payload capacity of more than 5,000 pounds. We propose to delete this requirement and instead require the disclosure of all aircraft types which the registrant operates (or, if the carrier is filing for initial registration, which he proposes to operate), and the FAA registration number and passenger capacity of each such aircraft type.

3. A Part 298 registrant will also be required to disclose the "maximum payload capacity," as defined in § 298.2, of each reported aircraft type which has a maximum payload capacity of between 5,000 and 7,500 pounds; and also to furnish, with the registration form, a statement which sets forth the calculations which the registrant used to compute the maximum payload capacity of each such aircraft.

This latter requirement is designed to implement the Board's action on reconsideration[10] of the Weight Limitation case wherein the Board determined to clarify the general definition of "maximum payload capacity" adopted in ER–748,[10] by providing a more detailed formula for computing an aircraft's payload capacity for the purposes of Part 298. The statement of calculations will enable the Board to determine whether that formula is being properly applied by carriers who operate or who propose to operate aircraft within the abovementioned limitations.

It is proposed to amend Part 298 of the economic regulations (14 CFR Part 298) as follows:

1. Amend § 298.3(a) by adding a new subparagraph (5), to read as follows:

§ 298.3 Classification.

(a) There is hereby established a classification of air carriers, designated "air taxi operators" which engage in the direct air transportation of passengers and/or property, and/or in the transportation within the 48 contiguous States, Alaska or Hawaii of mail by aircraft and which:

. . . . . .

(5) Have registered initially, and reregistered annually thereafter, with the Board in accordance with Subpart E of this part.

. . . . . .

2. Amend paragraph (b) of § 298.41, the paragraph as amended to read as follows:

§ 298.41 Basic requirements.

. . . . . .

(b) "Certificate of insurance," as used herein, means one or more certificates, evidencing the following: Issuance by one or more insurers of one or more currently effective policies of aircraft liability insurance in compliance with this subpart and properly endorsed, which alone or in combination provide the minimum coverage prescribed in § 298.42: *Provided,* That, where the certificate of insurance accompanies a filing for initial registration as an air taxi operator in accordance with § 298.50 of this part, the insurance policy or policies named in such certificate shall become effective no later than the proposed date of commencement of air taxi operations as shown in the carrier's registration form. When more than one insurer is involved in providing the minimum coverage prescribed herein, the limits and types of liability assumed by each insurer shall be clearly stated in the certificate of insurance. The certificate of insurance shall also state whether the policy of insurance provides coverage for liability for bodily injury to, or death of, aircraft passengers. In addition, the certificate of insurance shall list the types or classes of aircraft, or the specific aircraft by Federal Aviation Administration (FAA) registration number, with respect to which the policy of insurance applies and shall set forth the area or areas of operation as found in the operations specifications issued by the FAA in conjunction with the applicable ATCO certificate: *Provided, however,* That if one or more of the 48 contiguous States or the District of Columbia is listed in such operations specifications, then all 48 contiguous States and the District of Columbia must be included in the coverage of insurance. Each certificate of insurance, and each endorsement limiting the permitted exclusions, shall be signed in ink by an authorized officer or agent of the insurer and shall be on forms prescribed and furnished by the Board.

. . . . . .

3. Amend § 298.50 by revising paragraphs (a), (b), and (c), and adding a new paragraph (d), the section as amended to read as follows:

§ 298.50 Filing for registration by air taxi operators.

(a) Every air taxi operator (whether or not he is also a commuter air carrier as defined in this part) who plans to commence operations under this part shall, not later than 30 days prior to the commencement of such operations, register with the Board.

(b) Every air taxi operator (whether or not he is also a computer air carrier as defined in this part) shall reregister with the Board annually on or before July 1 of each year.

(c) Registration and reregistration shall be accomplished by filing, with the Board's Bureau of Operating Rights a "Registration and Reregistration for Exemption as an Air Taxi Operator" (CAB Form 298–A, revised ------) executed in duplicate. This form shall be certified by a responsible official of such carrier and shall include the following information:

(1) Where the carrier is filing for initial registration as an air taxi operator: (i) Name of the carrier (name must be the same as that in which the FAA certificate, if any, is issued); (ii) the carrier's FAA certificate number, if any; (iii) the name in which the insurance policy is issued; (iv) address of its principal place of business and its mailing address; (v) the proposed date of commencement of air taxi operations; (vi) whether the carrier intends to perform at least 5 round trips per week pursuant to published schedules; (vii) a list of the aircraft types which the carrier intends to employ in air taxi operations, and the FAA registration number and passenger capacity of each such aircraft type; (viii) the "maximum payload capacity," as defined in § 298.2, of each aircraft reported pursuant to clause (vii) above, which has a maximum payload capacity of between 5,000 and 7,500 pounds, and a statement showing the calculations used by the carrier to compute the maximum payload capacity of each such aircraft; (ix) whether the carrier has insurance effective on the date of commencement or air taxi operations which complies with Subpart D of this part; and (x) whether the carrier intends to perform passenger, cargo and/or mail service; or

(1a) Where the carrier is filing for reregistration as an air taxi operator: (i) Name in which the FAA certificate is issued; (ii) the carrier's FAA certificate number; (iii) the name in which the insurance policy is issued; (iv) address of its principal place of business and its mailing address; (v) whether the carrier is currently performing at least 5 round trips per week pursuant to published schedules; (vi) a list of the aircraft types operated by the carrier, and the FAA registration number and passenger capacity of each such aircraft type; (vii) the "maximum payload capacity," as defined in § 298.2, of each aircraft reported pursuant to clause (vi) above, which has a maximum payload capacity of between 5,000 and 7,500 pounds, and a statement showing the calculations used by the carrier to compute the maximum payload capacity of each such aircraft; (viii) whether the carrier has currently effective insurance which complies with Subpart D of this part; (ix) whether the carrier is performing passenger, cargo and/or mail service; and (x) whether the carrier has performed passenger service between a point in the United States and a point outside thereof during the past 12 months.

(1–1) Every registered air taxi operator who acquires for use in his air taxi operations an aircraft whose maximum payload capacity is within the limitations enumerated in clause (viii) of subparagraph (1) hereinabove shall file with the Board, within 30 days of such aircraft acquisition an amended Form 298–A, reflecting the fact of such acquisition.

(2) A certificate of insurance which is currently effective (or, in case of initial registration, is to become effective), as defined in § 298.41(b),

(3) A ten-dollar ($10) registration or reregistration fee, as the case may be. This shall be in the form of a check, draft, or postal money order, payable to the Civil Aeronautics Board.

(d) The effective date of the registration required by paragraph (a) of this

[1] A copy of Form 298–A is filed as part of the original document.
[2] Sections 298.50, 298.51.
[3] ER–574, July 1, 1969.

[4] The scope of the FAA's regulatory authority over the operators of aircraft is broader than the Board's authority, since the FAA's jurisdiction to prescribe safety regulations extends to all operations which come within the definition of "air commerce" in section 101(4) of the Act, whereas the Board's jurisdiction is limited to those operations which involve "air transportation" as defined in section 101(10) of the Act.

[5] As shown in Exhibit A, filed as part of the original document, CAB Form 298–A has been retitled "Registration and Reregistration under Part 298 of the Economic Regulations," and includes the format for both initial registration and reregistration.
[6] Specifically, § 298.41(b).
[7] The copy of such statement which is returned to the registrant will bear the effective date of his registration.
[8] Order 72–7–61, July 18, 1972, and Order 72–9–62, September 15, 1972.

[9] Order 72–9–62, supra.
[10] July 18, 1972, 37 F.R. 14692.

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section shall not be earlier than the effective date of the insurance policy or policies named in the certificate of insurance attached to the registration statement filed pursuant to paragraph (c)(1) of this section.

[FR Doc.72-18773 Filed 11-1-72;8:55 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1036]

[Docket No. AO179-A37]

MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Notice is hereby given of a public hearing to be held December 6 at Holiday Inn-Airport-West, 16501 Brookpark Road, Cleveland, OH, beginning at 10 a.m. with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Associated Milk Producers, Inc.; Central Ohio Co-op Milk Prod., Inc.; Milk, Inc.; and Tri-County Producers' Cooperative:

A. Proposal No. 1. Immediately following § 1036.78, add a new centerhead and new §§ 1036.110 through 1036.122 as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1036.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds, made available pursuant to § 1036.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1036.111 Composition of the Agency.

Each cooperative association or combination of cooperative associations as provided for under § 1036.113(b) with 1½ percent or more of the total participating producers (producers who have not requested refunds for the most recent quarter) is authorized one Agency representative plus one additional Agency representative for each additional full 5 percent of the participating member producers it represents. Cooperative associations with less than 1½ percent of the total participating producers that have elected not to combine pursuant to §1036.113(b), and participating producers who are not members of cooperatives are authorized to select from such group, in total, one Agency representative for each additional full 5 percent that such producers constitute of the total participating producers. For the purpose of the Agency's initial organization, all persons defined as producers shall be considered as participating producers.

§ 1036.112 Term of office.

The term of office of each member of the Agency shall be 1 year or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1036.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative association authorized one or more representatives to the Agency shall notify the market adminstrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating membership and, if the combined total of participating producers of such cooperatives is 1½ percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of §.1036.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required 1½ percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for Agency membership and shall conduct a referendum among the individual producers eligible to vote. Election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1036.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1036.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1036.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With the approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1036.110 and 1036.117.

§ 1036.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1036.110 and 1036.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings, and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1036.117 Advertising, research, education, and promotion program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1036.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1036.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1036.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1036.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

(d) A producer, located in a State which has a State advertising and promotion program in which producers are required to participate unless they are participating in an advertising and promotion program under a Federal order, may (in lieu of a refund request) authorize the market administrator to pay to the State the amount of his required participation not in excess of 5 cents per hundredweight.

§ 1036.121 Duties of the market administrator.

Except as specified in § 1036.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1036.113(c);

(b) Set aside the amount subtracted under § 1036.61(b)(1) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraph (3) of this paragraph; payments, if any, to producers pursuant to subparagraph (2) of this paragraph; and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amount of mandatory checkoff for advertising and promotion programs required under authority of state law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1036.61(b)(1).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1036.120 or make payment to any State on behalf of any producer for which specific authorization has been received pursuant to § 1036.120(d). Such refund or payment, as the case may be, shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1036.61(b)(1) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to a new producer, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1036.110 through 1036.122).

(d) Audit the Agency's records of receipts and disbursements.

§ 1036.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1036.73.

§ 1036.62 [Amended]

(B) *Proposal No. 2.* Revise § 1036.62(b)(5) as follows: Add the phrase "plus 5 cents" after the words "subtract its value at the weighted average price applicable at such location."

§ 1036.61 [Amended]

(C) *Proposal No. 3.* In § 1036.61 add a new paragraph (b)(1) as follows:

(1) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

§ 1036.74 [Amended]

(D) *Proposal No. 4.* Revise § 1036.74(b)(2) as follows:

Add the phrase "plus 5 cents" after the words "at the location of the plants from which received."

Proposed by the Dairy Division, Agricultural Marketing Service:

(E) *Proposal No. 5.* Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, Cleo C. Taylor, Post Office Box 29066, Cleveland, OH 44129, or from the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

Signed at Washington, D.C., on October 30, 1972.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.72-18766 Filed 11-1-72;8:54 am]

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Commodity Exchange Authority

[17 CFR Part 1]

CONTRACT MARKET RULES AND FILING OF COPIES

Extension of Time Allowed for Evaluation of Rule Changes

A proposal was published at 37 F.R. 20257 to revise § 1.41 of the general regulations under the Commodity Exchange Act (17 CFR 1.41) to allow the Commodity Exchange Authority a 3-week period for evaluation of certain proposed contract market rules changes. Interested persons were given an opportunity to make written submissions within a 30-day period after September 28, 1972. Notice is hereby given that the period for making such written submissions is extended to the 30th day after publication of this notice in the FEDERAL REGISTER.

Issued October 30, 1972.

ALEX C. CALDWELL,
Administrator,
Commodity Exchange Authority.

[FR Doc. 72-18769 Filed 11-1 72;8:55 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 50]

FROZEN PEAS

Request for Comments on a Recommended International Standard and a Petition

Correction

In F.R. Doc. 72-16645, appearing at page 21106, in the issue of Thursday, October 5, 1972, the following changes should be made:

1. On page 21106, in the seventh line of the second paragraph, the word "Commission" should read "Commissioner".

2. In the second column on page 21107, directly above the heading "Recommended International Standard for Quick Frozen Peas", insert:

[CAC/RS 41-1970]

3. On page 21108, in the second line of 6.1 *The name of the food.*, delete the leaders.

4. On page 21108, in the second column, the first word of footnote 2 reading "ef", should read "Ref.".

5. Directly above paragraph (a), in the first column on page 21109, insert:

§ 50.1 Frozen peas; identity; label statement of optional ingredients.

6. The tables on pages 21110 and 21111 should read as follows:

Items of comparison	Proposal	Codex standard
1. Certain optional ingredients	MSG and glutamic acid salts. Organic acids, antioxidants, stabilizers. Sauces, including concentrated sauces. Sufficient vitamins to restore vitamin content to the level of raw peas.	Not provided for.
2. Name of the food:	Garnishes	
(a) Sweet-pea varieties	"Green peas," "sweet green peas," "wrinkled peas," "garden peas," or "sweet peas."	"Garden peas" or an equivalent designation used in the country in which the product is intended to be sold.
(b) Smooth-skin pea varieties	"Early peas," "June peas," or "early June peas."	"Peas."
3. Label statement of ingredients	In boldface type of minimum size specified in Part 1 of Title 21 CFR, but not less than 1/16 inch in height; entire statement on one panel of the label and in lines parallel to the base of the container.	Clear, prominent, readily legible by the consumer under normal conditions of purchase and use.

DIAMETER OF CIRCULAR OPENINGS OF SIEVE

4. Size Designation:	Will not pass through		Will pass through		Codex standard
	Inches [1]	mm.	Inches [1]	mm.	
Extra small			19/64	7.5	For peas up to 7.5 mm.
Very small	19/64	7.5	21/64	8.2	For peas up to 8.2 mm.
Small	21/64	8.2	24/64	8.75	For peas up to 8.75 mm.
Medium	24/64	8.75	29/64	10.2	For peas up to 10.2 mm.
Large	29/64	10.2			For peas over 10.2 mm.
	The size designations may precede or follow the name of the food. Or the words "petite" or "tiny" may be used for sweet peas up to 22/64-inch diameter and for smooth-skin peas up to 21/64-inch in diameter.				Where a statement of size is made either the sieve size or one of the above-verbal designations, as appropriate, shall be stated. If size graded the product shall contain no peas larger than the next 2 larger sizes nor more than 20 percent either by number or mass of peas of the next 2 larger sizes, if such there be. Nor more than 1/4 of these peas whether by number or mass, shall belong to the larger of the next 2 sizes.
5. Definitions of defects	Not defined				Included in item 6.
6. Defect tolerances maximum per 500 g.	When any defect listed below exceeds the tolerance the sample unit fails to meet the standard of quality. There is no sampling plan for lot acceptance quality.				Any sample unit shall be regarded as defective when any of the defects listed below are present in more than twice the amount of the specified tolerance for the individual defect or if the total percentage defects found exceeds 15 percent by weight.
	"Seriously spotted or otherwise materially blemished" 0.3 oz. (8.5 g.), 1.7 percent by weight.				"Seriously blemished peas" are hard, shriveled, spotted, discolored, or otherwise blemished to an extent that the appearance or eating quality is seriously affected, 1 percent by weight. "Blemished peas" are slightly stained or spotted, 5 percent by weight.
	"Yellow, overly mature" 0.5 oz. (14.2 g.), 2.8 percent by weight.				Overly mature peas not provided for.
	Blond peas are usually removed during processing.				"Blond Peas" are yellow or white and edible, 2 percent by weight.
	"Pieces of peas and loose skins", maximum 2.5 oz., (71.0 g.), 11.2 percent by weight.				"Pea fragments" are portions of peas, separated or individual cotyledons, crushed, partial or broken cotyledons, and loose skins, but does not include entire intact peas with skins detached, maximum 12 percent by weight.
7. Maturity	Not more than 15 percent by 100-count per container of sweet peas shall sink in a 16 percent by weight of salt solution at 20° C.				Brine flotation test not provided for
8. Units of measurement:					
(a) Identity standard	Inches as well as millimeters				Millimeters.
(b) Quality standard	Ounces as well as grams				Grams.

[1] Nearest 64th-inch equivalent to Codex designation shown in millimeters.

[21 CFR Part 174]

COSMETIC PRODUCT EXPERIENCE

Proposed Voluntary Filing

Notice is given that a petition has been filed by the Cosmetic, Toiletry, and Fragrance Association, Inc., 1625 Eye Street NW., Washington, D.C. 20006, proposing the issuance of regulations to establish a procedure for the voluntary filing of cosmetic product experience to the extent that such experience involves any allergic reaction or other bodily injury caused by exposure to a cosmetic product.

The Association states that it is a nonprofit membership corporation, incorporated under the laws of the District of Columbia, and that its membership includes approximately 200 companies who produce more than 85 percent of the Nation's total production of cosmetic products. The grounds given in support of the proposed regulations include the following:

The Association is submitting this petition to request the Food and Drug Administration to promulgate, by regulation, a procedure for the voluntary filing of cosmetic product experience. Under section 601(a) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act), a cosmetic is deemed to be adulterated if it bears or contains any poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in the labeling or under customary or usual conditions of use. The Association believes that it is reasonable for the Food and Drug Administration to have available to it information on the experience resulting from use of cosmetic products.

Such information should include (1) reliable baseline information against which to assess or evaluate products or their ingredients, and (b) prompt information where specific public health questions may be presented. The petition proposes the voluntary submission of both kinds of information.

Baseline information must be both reliable and cover a sufficient time period so as to provide a perspective. As is reflected in other reporting programs, yearly reports provide perspective that is not biased by special promotions, introductions or other marketing factors.

Even more important than perspective is the need for reliability of information. The reports to be submitted would be those for which there is a reasonable factual basis for concluding that the alleged reaction or injury actually occurred (putting wholly to one side the issue of causality). Despite the best efforts of manufacturers and distributors, prompted often by product liability concerns, many assertions of adverse experience remain unconfirmed, at best speculative, and at worst spurious. Without more to go on than an obscure complaint, the "experience" hardly provides any baseline for evaluating product performance.

For this reason, and to avoid the resulting biased view of "complaints," the petition limits reports to those allegations of injury whose factual basis has been investigated by the reporter or is found in a physician's report. Even so, the reporting may contain biases against products where reactions or other experience are reported despite the absence, or inability to obtain, causality information.

The reporting of unexpected experience within 15 working days of receipt of such information will provide FDA with data that can assist it and the industry in evaluating the potential for specific public health problems. Such reports can be compared within FDA with baseline data for the product category or related products, so that a scientific judgment can be reached on the significance of the unexpected information.

The information included in Cosmetic Product Experience Reports will in many instances include trade secrets and other confidential and privileged proprietary information that would not be released by a company to competitors or the public and that could not be publicly divulged without substantial harm to the company. The regulation proposed therefore protects the confidentiality of this information by obligating the Food and Drug Administration not to disclose it. This proposal conforms to that of FDA of May 5, 1972, dealing with voluntarily submitted information.

Section 701(a) of the FD&C Act authorizes the Food and Drug Administration to promulgate regulations for the efficient enforcement of the Act. Under this provision, many statements of general policy or interpretation and other general regulations have been promulgated by the Food and Drug Administration. The Association believes that the general regulation-making authority in section 701(a) is sufficient to promulgate the proposed regulations set out below, providing for the voluntary filing of cosmetic product experience. "The Association believes that voluntary filing of cosmetic product experience, as set out below, would lead to more efficient enforcement of the FD&C Act and would be in the public interest.

The proposed Part 174 prepared by the Cosmetic, Toiletry, and Fragrance Association, Inc., reads as follows:

§ 174.1 Definitions.

(a) "Commercial distribution" of a cosmetic product means annual gross sales in excess of $1,000 for that product.

(b) "Cosmetic product" means a finished cosmetic the manufacture of which has been completed.

(c) "Reportable experience" means any allergic reaction or bodily injury, verified by the manufacturer or distributor or reflected in a physician's report, alleged to be the result of an ingredient or ingredients in a cosmetic product as a result of any human use under the conditions of use prescribed in the labeling of the product or under such conditions of use as are customary or usual for the product.

(d) The definitions and interpretations contained in sections 201 and 601 of the Federal Food, Drug, and Cosmetic Act shall be applicable to such terms when used in the regulations in this part.

§ 174.2 Who should file.

Either the manufacturer or distributor of a cosmetic product is requested to file a Cosmetic Product Experience Report or a Cosmetic Product Unexpected Experience Report with respect to each cosmetic product in commercial distribution, whether or not the cosmetic product enters interstate commerce. No filing fee is required.

§ 174.3 Time for filing.

(a) Except as provided in paragraph (b) of this section, reportable experience should be submitted yearly, by filing a Cosmetic Product Experience Report for each calendar year, prior to March 31 of the following year.

(b) Unexpected reportable experience should be submitted as soon as possible, and in any event within 15 working days of its receipt by the manufacturer or distributor, by filing a Cosmetic Product Unexpected Experience Report. As used in this part, "unexpected" means reportable experience which by kind, severity or incidence differs significantly from that reported by the manufacturer or distributor for like cosmetics of that manufacturer or distributor in the same product category as defined in § 172.5(c) of this chapter.

§ 174.4 How and where to file.

Form FD-_____ (Cosmetic Product Experience Report) and Form FD-_____ (Cosmetic Product Unexpected Experience Report) are obtainable on request from the Food and Drug Administration, Department of Health, Education, and Welfare, Washington, D.C. 20204, or at any Food and Drug Administration district office. The completed form should be mailed or delivered to: Cosmetic Product Experience Report, Food and Drug Administration, Department of Health, Education, and Welfare, Washington, D.C. 20204.

§ 174.5 Information requested.

(a) Form FD-_____ (Cosmetic Product Experience Report) requests information on:

(1) The name, street address, and city (also country, if other than U.S.A.) including post office ZIP code of the person (manufacturer or distributor) designated on the label of the product.

(2) The cosmetic product establishment registration number or numbers assigned under § 170.7 of this chapter to the establishment or establishments where the product is manufactured and packaged.

(3) The brand name or names of the cosmetic product.

(4) The cosmetic product ingredient statement number assigned to the product under § 172.8 of this chapter.

(5) The cosmetic product category or categories, as set out in § 172.5(c) of this chapter.

(6) The time period covered by the report.

(7) The reportable experience alleged to be the result of the product broken down into the types of experience alleged in accordance with the categories specified in Form FD-_____.

(8) The reportable experience rate (e.g., number of reportable incidents per million product units estimated to be distributed to consumers) during this time period, and cumulatively during this and prior time periods, overall and broken down into the type of experience alleged in accordance with the categories specified in Form FD-_____.

(9) Such evaluation of the experience or other pertinent data or information as the person filing may wish to provide.

(b) Form FD-_____ (Cosmetic Product Unexpected Experience Report) requests information on:

(1) The name, street address, and city (also country, if other than U.S.A.) including post office ZIP code of the person (manufacturer or distributor) designated on the label of the product.

(2) The cosmetic product establishment registration number or numbers assigned under § 170.7 of this chapter to the establishment or establishments where the product is manufactured and packaged.

(3) The brand name or names of the cosmetic product.

(4) The cosmetic product ingredient statement number assigned to the product under § 172.8 of this chapter.

(5) The cosmetic product category or categories, as set out in § 172.5(c) of this chapter.

(6) The unexpected experience alleged to be the result of the product, together with any evaluation thereof, and any other pertinent data or information as the person filing may wish to provide.

(c) The person filing a Form FD-_____ or FD-_____ should:

(1) Provide the information requested in paragraph (a) or (b) of this section.

(2) Have it signed by an authorized individual.

(d) The information requested should be given separately for each cosmetic product, except that a single Cosmetic

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Product Experience Report may be filed for two or more shades, flavors, or fragrances of a cosmetic product where only the proportions of the ingredients are varied, and such product is covered by a single cosmetic product ingredient statement under § 172.5(e) of this chapter.

§ 174.6 Additions or amendments to reports.

Additions or amendments to any Cosmetic Product Experience Report should be submitted by filing an amended Form FD-_____ or Form FD-_____.

§ 174.7 Notification to person submitting experience reports.

The Commissioner of Food and Drugs will acknowledge receipt of product experience reports (Form FD-_____ and FD-_____) to the person submitting the report by return of a receipted copy bearing an FDA reference number. This receipted copy will be sent only to the individual signing the form, at the location shown. On the basis of a review of individual reports or patterns of reportable experience disclosed in a number of reports, the Commissioner may request additional information from persons submitting reports with respect to particular kinds or incidence of alleged injury.

§ 174.8 Confidentiality of reports.

The information contained in, attached to, or included with any Cosmetic Product Experience Report, additions, and amendments, and any compilation thereof, constitutes trade secrets and other privileged and confidential commercial information that will be held as confidential under the provisions of section 301(j) of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 331(j)), and section 3(c)(4) of the Administrative Procedure Act, as amended (5 U.S.C. 552(b)(4)); except that information contained in, attached to, or included with any such report may be disclosed in the course of testimony by a Food and Drug Administration employee in a court action brought by the Food and Drug Administration to enforce the Federal Food, Drug, and Cosmetic Act with respect to that product where the information is relevant to the violation charged, only as such information is disclosed as is necessary under the circumstances, and the Food and Drug Administration offers to disclose the information in camera. Information voluntarily filed pursuant to this part under the foregoing obligation of confidentiality shall be destroyed or returned to the individual signing the form at the location shown if it is subsequently determined that this obligation cannot or should not be honored, unless that person or another authorized individual waives such return or destruction.

§ 174.9 Misbranding by reference to filing; filing does not constitute an admission.

(a) The filing of a Cosmetic Product Experience Report does not in any way denote approval of the firm or product. Any representation or labeling or advertising that creates an impression of official approval because of such filing will be considered misleading.

(b) The filing of a Cosmetic Product Experience Report does not in any way constitute an admission by the person filing that the alleged experience was the result of an ingredient or ingredients in the cosmetic product, or of any other fact.

The Commissioner of Food and Drugs has considered the petition and other relevant information, and has concluded that reasonable grounds have been furnished to warrant publishing the proposed new Part 174. However, in order to make this proposed voluntary procedure more immediately responsive to the actual needs of the Food and Drug Administration in protecting the public health and safety, the Commissioner, on his own initiative, proposes that in addition an alternative to the Cosmetic, Toiletry, and Fragrance Association, Inc.'s proposed regulation be considered for comment by all interested persons.

The Commissioner proposes the following changes in the Association's proposal:

1. In § 174.1:

a. Paragraph (a) is amended to expand the coverage of the cosmetic products that should be included in the program.

b. In paragraph (c) the definition of "reportable experience" is expanded to include all reports received by manufacturers, distributors, or dealers.

c. Paragraph (d) is redesignated as paragraph (f), a new paragraph (d) is added to define "unusual reportable experience," and a new paragraph (e) is added to define "verified."

2. Section 174.2 is redrafted to expand the participants in the program and to emphasize that participation under the voluntary regulatiqns of Parts 170 and 172 is not a prerequisite to participation in this program.

3. In § 174.3:

a. In paragraph (a) the time period is shortened to 90 days instead of the annual basis proposed by the Association.

b. In paragraph (b) the term "unexpected reportable experience" is changed to "unusual reportable experience" as defined in § 174.1(d) of the Commissioner's proposal.

c. A new paragraph (c) is added to provide for negative reports to be submitted annually.

4. Section 174.4 is edited for consistency, with the addition of two new sentences regarding the filing of reports.

5. In § 174.5:

a. In paragraph (a) subparagraphs (2) through (9) are redesignated as subparagraphs (3) through (10) and a new subparagraph (2) is added to request the listing of the names and addresses of the persons who suffered the adverse experience. This is to alleviate the multiple recording of product experience reports of the same incident that are submitted to the Food and Drug Administration from several different sources. The names and addresses of these persons will not be subject to public disclosure.

b. In paragraph (a) under redesignated subparagraphs (3) and (5), sentences are added to cover "pending" registration and ingredient statement numbers and the case of a person who has not participated in the other voluntary cosmetic programs.

c. In paragraph (a) a sentence is added in redesignated subparagraph (8) to provide for correlating each reportable experience with the individual who suffered the adverse experience.

d. In paragraph (a) a sentence is changed in redesignated subparagraph (10) to request all information the person is "able to provide" rather than "may wish to provide."

e. Paragraph (b) is redrafted to be consistent with paragraph (a).

f. Paragraphs (c) and (d) are redesignated as paragraphs (d) and (e), redesignated paragraph (d) has been edited for consistency and a sentence has been added requesting the name and address of the firm submitting the report, and a new paragraph (c) is added to provide for negative reports.

g. A new paragraph (f) is added to relocate the last sentence of the Association's § 174.7 and clarify how much additional information the Commissioner may request.

6. In § 174.6 wording has been added to specify when additions or amendments should be submitted.

7. In § 174.8 regarding the confidentiality of reports, the final wording for this section will be consistent with, or make reference to, the final order ruling on the public information notice of proposed rule making, published in the FEDERAL REGISTER of May 5, 1972 (37 F.R. 9128).

The regulations proposed by the Commissioner of Food and Drugs are as follows:

§ 174.1 Definitions.

(a) "Commercial distribution" of a cosmetic product means any distribution outside the establishment manufacturing the product whether for sale, to promote future sales (including free samples of the product), or to gage consumer acceptance through market testing.

(b) "Cosmetic product" means a finished cosmetic, the manufacture of which has been completed.

(c) "Reportable experience" means any allergic reaction, or other bodily injury, alleged to be the result of an ingredient or ingredients in a cosmetic product as a result of any human use under the conditions of use prescribed in the labeling of the product, or under such conditions of use or handling as are customary or reasonably foreseeable for the product (including accidental misuse by children), that has been reported to the manufacturer, distributor, or dealer of the product by the affected person or any other person having factual knowledge of the incident.

(d) "Unusual reportable experience" means any injury, toxicity, or sensitivity reaction, or other unexpected adverse reaction resulting from the use or handling (whether or not accidental) of a cosmetic product that has been reported to the manufacturer, distributor, or dealer of the product, by the affected person, or any other person having factual knowledge of the incident, and which by kind, severity, incidence, or frequency of incidence, differs significantly from previous experience, or from the norm reported by the cosmetic industry for like cosmetics in the same product category, as defined in § 172.5(c) of this chapter.

(e) "Verified" means that the manufacturer, distributor, or dealer has determined by investigation, or as reflected in a physician's report, that there is a reasonable factual basis for concluding that the alleged reaction or injury occurred, without regard to the issue of causality.

(f) The definitions and interpretations contained in sections 201 and 601 of the Federal Food, Drug, and Cosmetic Act shall be applicable to such terms when used in the regulations in this part.

§ 174.2 Who should file.

Every person who is a manufacturer, distributor, or dealer of a cosmetic product is requested to file a "Cosmetic Product Experience Report" or a "Cosmetic Product Unusual Experience Report" with respect to each "reportable experience" or "unusual reportable experience" which has been reported to him concerning any of his cosmetic products in commercial distribution, regardless of whether he is a participant in the voluntary program to register cosmetic product establishments pursuant to Part 170 of this chapter, or to file cosmetic ingredient and raw material composition statements pursuant to Part 172 of this chapter. Every person who is a manufacturer or distributor of a cosmetic product, and who has not received any information concerning a reportable experience or unusual reportable experience in regard to any of the cosmetic products he has manufactured or distributed, is requested to file a "Cosmetic Product Negative Experience Report." No filing fee is required.

§ 174.3 Time for filing.

(a) A "reportable experience" should be reported to the Food and Drug Administration (FDA) as soon as possible after receipt of the information, but in any event within 90 days of its receipt, by filing a "Cosmetic Product Experience Report."

(b) An "unusual reportable experience" should be reported to the FDA immediately upon receipt of the information, and in any event within 15 working days of its receipt by the manufacturer, distributor, or dealer, by filing a "Cosmetic Product Unusual Experience Report."

(c) A negative report should be submitted annually.

§ 174.4 How and where to file.

Form FD-_____ (Cosmetic Product Experience Report), Form FD-_____ (Cosmetic Product Unusual Exerience Report), and Form FD-_____ (Cosmetic Product Negative Experience Report) are obtainable on request from the Bureau of Foods, Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, or from any Food and Drug Administration district office. The completed form should be mailed or delivered to: Cosmetic Product Experience Report, Bureau of Foods, Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204. In the case of an unusual experience report, the envelope should be conspicuously flagged "Unusual Experience Report." In the case of a negative experience report, the envelope should be conspicuously flagged "Negative Report."

§ 174.5 Information requested.

(a) Form FD-_____ (Cosmetic Product Experience Report) requests information on:

(1) The name and address (include country, if other than the United States), including post office ZIP code of the person (manufacturer or distributor) designated on the label of the product.

(2) The names and addresses of the individuals who suffered the adverse experience(s).

(3) The cosmetic product establishment registration number or numbers assigned, under § 170.7 of this chapter, to the establishment or establishments where the product is manufactured and packaged. In the case where a number is pending, but has not been assigned, the firm should so indicate. A firm that has not voluntarily registered the establishment pursuant to Part 170 of this chapter should so indicate.

(4) The brand name or names of the cosmetic product.

(5) The cosmetic product ingredient statement number or reference number assigned to the product under § 172.8 of this chapter. In the case where a number is pending, but has not been assigned, the firm should so indicate. A firm that has not voluntarily filed a cosmetic product ingredient statement pursuant to Part 172 of this chapter should so indicate.

(6) The cosmetic product category or categories, as set out in § 172.5(c) of this chapter.

(7) The time period covered by the report.

(8) The reportable experiences alleged to be the result of exposure to the product, broken down into the types of alleged experience, in accordance with the categories specified in Form FD-_____ (Cosmetic Product Experience Report). Each experience should be identified with the name and address of the individual(s) who suffered the adverse experience, and the experience should be classed as verified or not verified as appropriate.

(9) The reportable experience rate, e.g., number of reportable incidents per million product units estimated to be distributed to consumers, during this time period, and cumulatively during this and prior time periods, overall and broken down into the types of alleged experience, in accordance with the categories specified in Form FD-_____ (Cosmetic Product Experience Report).

(10) Such evaluation of each experience, including in the case of an unverified reportable experience, a report of the investigation made to verify the experience and all other pertinent data or information as the person filing is able to provide.

(b) Form FD-_____ (Cosmetic Product Unusual Experience Report) requests information on:

(1) The name and address (include country, if other than the United States), including post office ZIP code of the person (manufacturer or distributor) designated on the label of the product.

(2) The names and addresses of the individuals who suffered the adverse experiences.

(3) The cosmetic product establishment registration number or numbers assigned, under § 170.7 of this chapter, to the establishment or establishments where the product is manufactured and packaged. In the case where the registration number is pending, but has not been assigned, the firm should so indicate. A firm that has not voluntarily registered its establishment pursuant to Part 170 of this chapter, should so indicate.

(4) The brand name or names of the cosmetic product.

(5) The cosmetic product ingredient statement number or reference number assigned to the product under § 172.8 of this chapter. In the case where the number is pending, but has not been assigned, the firm should so indicate. A firm that has not voluntarily filed a cosmetic product ingredient statement pursuant to Part 172 of this chapter should so indicate.

(6) The cosmetic product category or categories, as set out in § 172.5(c) of this chapter.

(7) The unusual reportable experiences alleged to be the result of exposure to the product, broken down into the types of alleged experience, in accordance with the categories specified in Form FD-_____ (Cosmetic Product Unusual Experience Report). Each experience should be identified with the name and address of the individuals who suffered the adverse experience, and the experience should be classed as verified or not verified as appropriate.

(8) The unusual reportable experience rate, e.g., number of similar incidents per million product units estimated to have been distributed to consumers during prior 3-month period, prior year, and cumulatively during marketing history of product, overall and broken down into the types of alleged experience, in accordance with the categories specified in Form FD-_____ (Cosmetic Product Unusual Experience Report).

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(9) Such evaluation of each experience including, in the case of an unverified unusual reportable experience, a report of the investigation made to verify the experience, and all other pertinent data or information as the person filing is able to provide.

(c) Form FD-_____ (Cosmetic Product Negative Experience Report) requests information on:

(1) The name and address (include country, if other than the United States), including post office ZIP code of the person (manufacturer or distributor) designated on the label of the product.

(2) The cosmetic product establishment registration number or numbers assigned, under § 170.7 of this chapter, to the establishment or establishments where the product is manufactured and packaged. In the case where a number is pending, but has not been assigned, the firm should so indicate. A firm that has not voluntarily registered the establishment pursuant to Part 170 of this chapter should so indicate.

(3) The brand name or names of the cosmetic product.

(4) The cosmetic product ingredient statement number or reference number assigned to the product under § 172.8 of this chapter. In the case where a number is pending, but has not been assigned, the firm should so indicate. A firm that has not voluntarily filed a cosmetic product ingredient statement pursuant to Part 172 of this chapter should so indicate.

(5) The cosmetic product category or categories, as set out in § 172.5(c) of this chapter.

(6) The time period covered by the report.

(d) The person filing a Form FD-_____ (Cosmetic Product Experience Report), FD-_____ (Cosmetic Product Unusual Experience Report), or Form FD-_____ (Cosmetic Product Negative Experience Report) should:

(1) Provide the information requested in paragraphs (a), (b), or (c) of this section as appropriate.

(2) Have it signed by an authorized individual. Include the name and address of firm submitting the report.

(e) The information requested should be filed separately for each cosmetic product, except that a single report may be filed for two or more shades, flavors, or fragrances of a cosmetic product where only the proportions of the ingredients are varied, and such product is covered by a single cosmetic product ingredient statement under § 172.5(e) of this chapter.

(f) On the basis of a review of individual reports or patterns of experience disclosed in a number of reports, the Commissioner of Food and Drugs may request as much additional information from persons submitting reports as the Commissioner deems appropriate.

§ 174.6 Additions or amendments to reports.

Additions or amendments to any experience report should be submitted by filing an amended Form FD-_____ (Cosmetic Product Experience Report), Form FD-_____ (Cosmetic Product Unusual Experience Report) or Form FD-_____ (Cosmetic Product Negative Experience Report), as soon as the need for such additions or amendments becomes apparent to the person who submitted the original report.

§ 174.7 Notification to person submitting experience reports.

The Commissioner of Food and Drugs will acknowledge receipt of each report by returning to the person submitting the report, a receipted copy bearing a Food and Drug Administration reference number. This receipted copy will be sent only to the individual signing the form, at the location indicated.

§ 174.8 Confidentiality of reports.

A notice of proposed rule making, public information, was published in the FEDERAL REGISTER on May 5, 1972 (37 F.R. 9128). This proposal sets out in detail the proposed rules applicable to public disclosure of information by the Food and Drug Administration. After the final order is published by the Commissioner of Food and Drugs under 21 CFR 4.26, all data and information, which are submitted voluntarily to the Food and Drug Administration will be handled in accordance with the final order.

§ 174.9 Misbranding by reference to filing; filing does not constitute an admission.

(a) The filing of an experience report does not in any way denote approval of the firm or product. Any representation in labeling or advertising that creates an impression of official approval because of such filing will be considered misleading.

(b) The filing of an experience report does not in any way constitute an admission by the person filing the report that the alleged experience was the result of an ingredient or ingredients in the cosmetic product.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 601, 602, 701(a), 52 Stat. 1054–1055, as amended by 74 Stat. 398, 84 Stat. 1673; 21 U.S.C. 361, 362, 371(a)), and in accordance with authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), interested persons are invited to submit comments in writing (preferably in quintuplicate) regarding these two proposals within 60 days after the date of publication in the FEDERAL REGISTER. Such views and comments should be addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852, and may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: October 20, 1972.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.72-18564 Filed 11-1-72;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-SO-106]

CONTROL ZONE

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Mobile, Ala. (Aerospace Airport), control zone.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Mobile (Aerospace Airport) control zone would be designated as:

Within a 5-mile radius of Mobile Aerospace Airport (latitude 30°37'08.5" N., longitude 88°03'57.2" W.); within 3.5 miles each side of Brookley VORTAC 150° radial, extending from the 5-mile-radius zone to 10 miles southeast of the VORTAC. This control zone is effective from 0800 to 1900 hours, local time, daily.

The proposed designation is required to provide controlled airspace protection for IFR operations at Mobile Aerospace Airport in climb to 700 feet above the surface and in descent from 1,000 feet above the surface.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on October 20, 1972.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.72-18669 Filed 11-1-72;8:48 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

MANEB AND ZINEB

Proposed Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

In connection with Pesticide Petition 2E1266, which resulted in reduction of established tolerances (40 CFR Part 180) for residues of the fungicides maneb and zineb, Dr. C. C. Compton, Coordinator, Interregional Research Project No. 4, State Agricultural Experiment Station, Rutgers University, New Brunswick, N.J. 08903, has further proposed that the established tolerance for residues of the fungicide maneb on sweet corn (kernels plus cob with husk removed) be reduced from 7 to 5 parts per million and that the tolerance of 5 parts per million for zineb on corn fodder and forage be changed to 5 parts per million on sweet corn (kernels plus cob with husk removed).

Also, in the order establishing reduced tolerances for residues of zineb on certain raw agricultural commodities (37 F.R. 19134; September 19, 1972) the parenthetic word "(escarole)" should have been deleted from the paragraph "25 parts per million • • •" and inserted in the paragraph "10 parts per million • • •".

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that the proposed tolerances will better protect the public health than the tolerances they would replace.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), it is proposed that Part 180 be amended as follows:

1. In § 180.110, by deleting the words "sweet corn (kernels plus cob with husks removed)" from the paragraph "7 parts per million • • •" and by revising the paragraph "5 parts per million • • •" to read as follows:

§ 180.110 Maneb; tolerances for residues.

• • • • •

5 parts in or on celery and sweet corn (kernels plus cob with husk removed).

• • • • •

2. In § 180.115, by revising the paragraphs "25 parts per million • • •," "10 parts per million • • •," and "5 parts per million • • •," to read as follows:

§ 180.115 Zineb; tolerances for residues.

• • • • •

25 parts per million in or on beet tops, Chinese cabbage, collards, romaine, and Swiss chard.

• • • • •

10 parts per million in or on endive (escarole), kale, lettuce, mustard greens, and spinach.

• • • • •

5 parts per million in or on celery and sweet corn (kernels plus cob with husk removed).

• • • • •

Any person who has registered or submitted an application for the registration of an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act containing any of the ingredients listed herein may request, within 30 days after publication hereof in the FEDERAL REGISTER, that this proposal be referred to an advisory committee in accordance with section 408(e) of the act.

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20460, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. All written submissions made pursuant to this proposal will be made available for public inspection at the office of the Hearing Clerk.

Dated: OCTOBER 24, 1972.

LOWELL MILLER,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-18712 Filed 11-1-72;8:50 am]

[40 CFR Part 180]

α-NAPHTHALENEACETIC ACID

Proposed Tolerance for Pesticide Chemicals in or on Raw Agricultural Commodities

Dr. C. C. Compton, Coordinator, Interregional Research Project No. 4, State Agricultural Experiment Station, Rutgers University, New Brunswick, N.J. 08903, on behalf of the State Agricultural Experiment Station of California, the California Olive Association, and the Olive Advisory Board submitted a petition (PP 1E1099), proposing establishment of a tolerance for negligible residues of the plant regulator α-naphthaleneacetic acid in or on the raw agricultural commodity olives at 0.1 part per million.

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The plant regulator is useful for the purpose for which the tolerance is proposed.

2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

3. The proposed tolerance will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), it is proposed that § 180.155 be amended by inserting a new paragraph after the paragraph "1 part per million • • •," as follows:

§ 180.155 α-Naphthaleneacetic acid: tolerances for residues.

• • • • •

0.1 part per million (negligible residue) in or on olives.

• • • • •

Any person who has registered or submitted an application for the registration of an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act containing any of the ingredients listed herein may request, within 30 days after publication hereof in the FEDERAL REGISTER, that this proposal be referred to an advisory committee in accordance with section 408(e) of the act.

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20460, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: October 24, 1972.

LOWELL MILLER,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-18703 Filed 11-1-72;8:49 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19622; FCC 72-957]

PRIME TIME ACCESS RULE

Notice of Inquiry and Notice of Proposed Rule Making

In the matter of consideration of the operation of, and possible changes in, the "prime time access rule," § 73.658(k) of the Commission's rules.

Petitions of: National Broadcasting Co., Inc. (NBC); Midland Television Corp. (KMTC, Springfield, Missouri);

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Kingstip Communications, Inc. (KHFI–TV, Austin, Tex.), for deletion of the rule; MCA, Inc. (to permit use of "off-network" material plus 25 percent new material); RM–1967, RM–1935, RM–1940, and RM–1929.

I. INTRODUCTION AND DISCUSSION

A. *Introduction.* 1. In this proceeding, the Commission seeks information as to the effect and operation of § 73.658(k) of its rules—the "prime time access rule"—and invites comments on changes in that regulation which may be appropriate for the future. The categories of information sought, and possible changes, are discussed at some length below. One matter should be clarified at the outset: While "possible changes" include repeal of the rule, the institution of this proceeding does not represent a Commission view at this time that the rule should be repealed, now or later. See paragraph 15, below.

2. Section 73.658(k) was adopted in the report and order in Docket 12782, May 1970 (23 FCC 2d 382, 18 R.R. 2d 1825). It was affirmed generally on reconsideration in August 1970 (25 FCC 2d 318, 19 R.R. 2d 1869). In general, it provides that after October 1, 1971, network-affiliated stations in the "top 50 markets" may present, during the 4 hours of "prime time" each evening, no more than 3 hours of material from the three national networks, ABC, CBS, and NBC. Effective October 1, 1972, paragraph (k) (3) of the rule provides that the time thus cleared of network programs (i.e., 1 hour a night, generally the hour from 7 to 8 p.m., e.t. and P.t., 6 p.m., c.t. and m.t.) may not be filled with "off-network" material (program which have appeared on one of the three networks) or feature films which have been shown by a station in the market within the past 2 years. Thus, in effect, 1 hour of prime time each night must be devoted to material which is neither network programing nor in one of these other categories.[1] The basic purpose of the adoption of the rule was set forth as follows (23 FCC 2d 395–396, par. 23, 18 R.R. 2d 1844):

We believe this modest action will provide a healthy impetus to the development of independent program sources, with concomitant benefits in an increased supply of programs for independent (and, indeed affiliated) stations. The entire development of UHF should be benefitted * * * It may also be hoped that diversity of program ideas maybe encouraged by removing the three-network funnel for this half hour of programing. In light of the unequal competitive situation now obtaining, we do not believe this action can fairly be considered "anti-competitive" where the market is being opened through a limitation upon supply by three dominant companies * * *

3. Among the matters to be considered herein are the various petitions listed above.[2] We shall describe briefly the petitions and oppositions thereto, and then set forth the Commission's purposes in this proceeding, dealing with the prime time access rule and the "access peridd."[3]

4. Another pending petition to limit use of TV "re-runs" generally. This proceeding does not directly involve the subject-matter of another recently filed petition, that by Mr. Bernard Balmuth and a group called STOP (Save Television Original Programing), asking for a general rule limiting use of prime-time repeat material on network-owned or network-affiliated stations to 25 percent of the broadcast year (RM–1977). This petition, which has drawn substantial support and opposition, will be considered by the Commission in the near future. It is not to be considered in the present proceeding, as such, but the two are clearly related to a degree; for example, the feasibility of developing and producing a given nonnetwork series could vary depending on whether the supplier must furnish 39 individual programs (75 percent of 52 weeks) or may get by with as few as 26 (50 percent) or perhaps even less. We merely call attention here to the pendency of this petition, and to the fact that it may be appropriate to give this subject consideration in rule making. Parties may wish to prepare their comments herein with this in mind.

B. *The petitions for rule making.* 5. As mentioned, three of the above-captioned petitions for rule making—those of NBC and two UHF stations in comparatively small "intermixed" markets—seek repeal of the rule, the two individual petitions both apparently asking it for this coming year, 1972–73, and NBC envisioning it in time for the 1973–74 season. NBC asks the Commission to initiate forthwith a notice of proposed rule making broad enough to include rescission of the rule, to develop on an expedited basis the facts as to how the rule is operating, and to convene a conference among members of the staff and all interested parties, to devise methods to obtain this material promptly and completely. NBC's argument relates largely to the asserted decline in the television audience in the 7:30–8 p.m. (e.t.) period, compared to what it has been when network programs were presented then, assertedly 7 percent in the top 50 markets and 6 percent elsewhere, compared to no change or some increase for the remainder of prime time (and also an increase for Tuesdays, when the networks have begun their programing at 7:30 following the waiver to ABC).[4] While NBC recognizes that part of the audience change has been a shift to independent stations from network affiliates, it asserts that, as the above figures show:

> * * * the preference for network programing is so strong that millions of viewers would rather not watch television at all than watch nonnetwork programing.

Therefore, it is claimed, as shown by the other two petitions, stations are adversely affected, particularly those in small markets which always have had narrower margins. NBC also claims that the rule has not been and will not yield benefits in terms of an expanded production of quality first-run material, or of increased diversity of programing. It is claimed that there are very few new producers, and that many, and the most successful, "first-run" programs are those which are continuations or revivals of network prime-time or daytime material ("Hee Haw," "Lawrence Welk," "Wild Kingdom," "Let's Make a Deal," "To Tell the Truth," "Truth or Consequences," "What's My Line" and "Juvenile Jury" are cited as examples). A

[1] At the same time as the "prime time access rule", the Commission also adopted other restrictions on the three networks, contained in § 73.658(j) and sometimes called the "syndication" and "financial interest" rules. These sharply restrict the extent to which these organizations may engage in the nonnetwork distribution of TV programs, or "syndication", or acquire interests in TV programs other than the right to network exhibition. These rules are not directly involved in the present proceeding. The "prime time access rule" applies by its terms only to the top 50 markets. However, the networks decided that, as a matter of business judgment, they could not continue to present more than 3 hours of prime-time programs for the rest of the country if barred from access to their affiliated stations in the top 50 markets for more than that amount of prime time. Therefore, network prime-time schedules have been cut back to 3 hours a night across the board, generally a half-hour less than had previously been programed by them.

[2] Three of the petitions seek, in effect, repeal of the rule—those of NBC and the two individual stations listed, both UHF stations in comparatively small "intermixed" markets. These three petitions have been supported by some individual station licensees (not all of them identified); the NBC petition has been opposed by Westinghouse Broadcasting Co., Inc. (Westinghouse, a large station owner and supplier of nonnetwork-program material, and long one of the chief proponents of the rule) and by American Broadcasting Cos., Inc. (ABC) insofar as NBC seeks rule making looking toward early repeal of the rule. Hughes Sports Network also opposed the two UHF petitions.

[3] The term "access period" is used herein to refer to the portion of prime time which is generally cleared of network programs in the top 50 markets, as the rule operates. For the 1971–72 season, this has included all nights from 7 to 7:30 p.m., e.t. and P.t. (6–6:30 p.m., c.t.); 7:30–8 p.m., e.t (6:30–7 p.m., c.t.) except for all networks' affiliates on Tuesday nights and CBS and NBC affiliates on Sunday nights; and 10:30–11 p.m., e.t. (9:30–10 p.m., c.t.) for CBS and NBC affiliates on Tuesdays, ABC affiliates on Wednesdays, NBC stations on Fridays, and CBS affiliates on Sundays. There are a number of exceptions to this general pattern.

For 1972–73, the "access period" will be more uniform as far as nights of the week are concerned, being 7–8 p.m., e.t. and P.t. (6–7 p.m., c.t.) on all nights for ABC stations and all but Sundays on CBS and NBC; and, on Sundays, 7–7:30 p.m. and 10:30–11 p.m. for CBS and NBC affiliates.

[4] Other sources discussing this subject, including Westinghouse Broadcasting Co. in opposing the petition, claim lesser audience-loss figures, such as 4 percent or 2 percent overall for the 7:30–8 p.m. period. It appears unquestionable that, in markets where there are independent stations as well as network affiliates, there has been a shift in viewing during this period away from the affiliates to the independents.

study by an advertising agency of November 1971 nonnetwork programing (7:30–8 p.m. e.t.) is cited, giving for the top 10 programs in audience two off-network series, five continuations of network series, two revivals, and only one entirely new series (Primus), with only one of them reaching an audience as large as the 10th-rated 7:30–8 p.m. network program of the previous year, "High Chaparral."

6. Westinghouse Broadcasting Co., Inc. (Westinghouse), which is both a large multiple TV and radio owner and an extensive supplier of syndicated material, vigorously opposes the NBC petition, as premature and unsupported. It is urged that as far as gathering information is concerned, a new proceeding is unnecessary; Docket 12782, which was not closed out, can be reopened for this purpose; and that adoption of the proposal will have a most discouraging effect on the development of nonnetwork material, and in fact will "make a mockery" of the full and fair test which the rule is supposed to have this coming year, adding to the uncertainty which already unfortunately prevails and which has a depressing effect on the program-production activity. Westinghouse asserts that despite NBC's criticism of the course of nonnetwork program development, it lists 32 new first-run series, of which several are properly regarded as truly innovative (cited are Westinghouse's "Doctor in the House," "David Frost Revue," and "Norman Corwin Presents," "Primus" from Metromedia, and "Story Theatre" and "Rollin' on the River" from Winters-Rosen). Westinghouse claims that this is a good record particularly in view of the adverse circumstances which prevailed (the uncertainty as to the rule itself until it was affirmed on appeal in May 1971, which gave producers little time before the fall season, and the exemption to permit use of "off-network" material) and the industry's traditional preference for proven and successful program ideas. ABC's arguments in opposition to a rule making (though not to the gathering of information) are much the same as those of Westinghouse; it is said that development of a viable first-run syndicated programing market may well require innovation, and that "Innovation typically follows from experimentation; and experimentation requires time." In short, it will be several years before a really sound judgment can be reached as to the success of the rule, or lack of it; and that meanwhile the Commission can best maximize the chances for success by going on record to the effect that the rule will be given a reasonable opportunity—not "1 year of full effectiveness under the 'gun' of a repeal proceeding."[5]

7. In reply, NBC added somewhat to some of its earlier arguments. It stated that 1972–73 is as good a "test" year as any, and that the pendency of a rule making proceeding can have no adverse effect on the results of such a test, since the programing which is available will already have been planned and largely produced, before the fall season begins.

8. The petitions by the two UHF stations mentioned, essentially similar to each other, emphasize the "economic injury" argument urged by NBC, particularly with respect to their own situations as UHF stations in intermixed markets, at a competitive disadvantage vis-a-vis the VHF stations in the same markets (two in Springfield, Mo., one in Austin, Tex.). They claim that they are able to survive as long as they have the exclusive right to present a full line :p of one of the three networks in their areas; but with the "access rule" cutback, they are seriously injured, through loss of the network revenues which they formerly received for the time involved and through having to pay the costs of programing the time themselves. It is said that, with the lower audience which is obtainable for the nonnetwork material (particularly with the greater problems in tuning UHF to begin with), the small revenues they obtain from selling the time on a nonnetwork basis do not begin to compensate for these increased costs. The point is also made that, with nonnetwork material being extremely costly, they cannot compete for desirable "access time" programs with their VHF competitors. Hughes Sports Network opposed these filings.

9. The MCA, Inc. petition. The petition of MCA, Inc. (RM–1929) looked toward the adoption of rules (in time for the 1972–73 season) under which material would comply with the "off-network" restrictions of the rule if it consisted of "off-network" material plus about 25 percent new material (four programs out of 13, seven out of 26, etc.). MCA urged this as a measure to permit more production of new nonnetwork material of quality, by eliminating some of the tremendous costs and risks involved in an entire new series. It was claimed that this would mean more good-quality material, at lower cost and thus more easily available to stations, particularly those in small markets and UHF stations in intermixed markets, which often have limited resources. MCA has long been a vigorous opponent of the rule, and expressed here its doubts as to its merits; but it stated that this is one small step which the Commission can, and should take quickly to ease part of the problem. The Commission denied this petition in April 1972 (petition of MCA, Inc., 34 FCC 2d 825, 24 R.R. 2d 1771).[6] The chief basis of decision was that the petition—which sought a change in time for the 1972–73 year—was premature.

C. *The reasons for this proceeding and the Commission's views on it.* 10. There is clearly a need for a proceeding dealing with the prime time access rule. First, there is the need to gather information about how the rule is working, both as compared to no rule and as compared to how it would work with various changes discussed herein. As to the propriety of gathering such information at this time, there appears little room for argument, and, indeed, no party really contests this. This Commission has some degree of obligation to conduct a continuing examination into the effect of any of its rules; and this is particularly true where, as here, the rule represents a breakthrough into a new area of regulation, previously not subject to rules or restrictions. It is especially true here because of the degree of controversy which surrounded the rule both before and since its adoption. Also, we expressed in our decision in Docket 12782 the belief that the rule should and would be examined from time to time, to see what changes, if any, should be made in it. Therefore some gathering of information is clearly in order. This could be done in Docket 12782; but that proceeding is over 10 years old and a great volume of material has been accumulated in it. We believe it preferable, from the standpoint of reaching prompt decisions herein, to call for the submission of the new, current material in a new proceeding. However, Docket 12782 has not been closed out, and the material therein is rather readily available; we will accept comments referring to it just as if the material were resubmitted herein.

[5] ABC asserts that the lower audience mentioned by NBC may reflect largely the presentation of "off-network" material during the access period—naturally, people prefer present network programing to former network programing.

Hughes Sports Network, opposing the two UHF petitions although not that of NBC, briefly urged some of the same arguments as Westinghouse and ABC, including the assertedly "premature" nature of any proceeding at this time.

[6] In its present rule-making petition, NBC mentions the MCA petition and asserts that, if the Commission is going to give consideration to this type of change in the rule, it might well give consideration also to letting new network material back into the cleared time, rather than older "off-network" programing.

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11. Also, as far as the information-gathering may be "premature," we recognize that information for the 1972–73 year, which is what basically will be involved here, may not be as favorable to the rule as that for some later period, when more of the necessary adjustments and developments involved have occurred. However, we believe that, if allowance is made for further developments, as commenting parties are urged to outline in as much detail as is now possible, a fairly accurate idea of the rule's prospects can be obtained at this point. We will make such allowances in reaching any decision herein.

12. There is a second clear basis for this proceeding: The apparent need for certain changes in the rule if it is to operate in the public interest to the maximum extent. These include some of a more or less mechanical nature, to ease the burden on affected parties and the Commission, and others of a more substantial nature. The need for changes, as outlined herein, does not need much elaboration. The rule in its application and administration has given rise to a very large number of waiver requests, which have been a burden to the parties involved and to us. It is, obviously, highly desirable to eliminate the need for many of these, by adopting general rules which more nearly fit the range of situations which are involved. The sports area is one example of situations where a general rule would appear feasible and much preferable to present practice. Probably of more basic significance are areas such as the "off-network" situations, where it is questionable whether the rule if literally applied would serve the public interest, and where, at the same time, any deviation from it on an ad hoc basis appears to give problems. Moreover, apart from the specific problems in various areas which have arisen, there is a more general consideration. No "new rule," such as this one, can be expected to be 100 percent sound and correct when it is first adopted. After a year's experience under it, it is appropriate to see how it is working and make those changes which appear appropriate.

13. Thus, in view of the above considerations, an overall proceeding is warranted at this time. We have decided to include in that proceeding the question of whether the rule should be retained or rescinded. Three of the petitions before us, listed above, have raised this question, and in our view these can best be disposed of in the context of this proceeding, and particularly in light of the information gleaned through it. In any overview such as this, we should have flexibility to take any and all actions which the record may show to be in the public interest. Moreover, we see no adverse consequence from proceeding in this fashion. The programing for the 1972–73 season will not be affected because, as NBC points out, it is already "set," or virtually so. As to the effect on the future, particularly the 1973–74 season, the short answer is that we plan to gather the data and dispose of the basic issues raised by the petitions on a prompt basis—in early 1973, and before there can be too much of an untoward effect on the 1973–74 season.

14. Indeed, from the point of view of the proponents of the rule, this approach should be advantageous, because—if the review is favorable to the rule—it will remove any cloud over it, not only for the next year but quite likely for several years to come. To put it otherwise, there must be an overview, in light of the nature of the rule and need for at least some changes in it, and, that being so, it is better to effect the overview at this point and "get this matter behind us." As to the timing of this examination, the "off-network" and "feature film" provisions of § 73.658(k)(3) will now be in effect, and we should be able to get a good indication of the rule's prospects. As stated, we will make due allowance for the fact that the rule is still fairly new, so that perhaps it has not yet reached its full potential. Parties are urged to comment, in as much specific detail as possible, on what significance should be attached to the fact that the rule is still rather new, and any related uncertainties.

15. We make one final point—although it should be unnecessary. The Commission has not adopted any decision or view, even of a tentative nature, as to the desirability of rescinding the rule. It would be wholly wrong for us to do so, when the 1972–73 year is just getting under way and there is no data before us as to the efficacy of the rule under full conditions, i.e., with § 73.658(k)(3) in effect. Indeed, we stress that the presumption is the other way: The Commission has a rule which is now going into full effect, and there is thus a clear and considerable burden upon the opponents to demonstrate that, in actual operation, the rule will not serve the public interest, particularly in light of the purposes set forth in paragraph 2, above. This proceeding gives interested parties an opportunity to make showings on this critical issue, and thus facilitate an informed Commission decision. In light of the petitions and other circumstances, nothing less would be appropriate, but nothing more is to be inferred from what is simply a sound and fair way to proceed to the disposition of significant pending petitions.

II. Specific Information Requested and Subjects Involved

A. *Information sought.* 16. As mentioned, one of the most important purposes of this proceeding is to gather information about the operation of the prime time access rule, both in relation to the changes proposed herein (including rescission of the rule), and generally for the Commission's guidance as to the future. What is sought is information as to effect and impact—from the operation of the rule as compared to operation without it, and from the various modifications considered herein (and past waiver actions) as compared to operation under the rule as now in effect. The effect on future development is also highly important. The specific points covered below are all subsidiary to that general objective. The information sought falls into two general areas: Programing information and economic information, the latter involving three aspects—the impact on stations, the economics of program production and distribution, and the effect on the program production business. In both areas, the Commission expects to rely partly on data other than that submitted in comments, as discussed below; but unquestionably commenting parties can be of considerable assistance if their information is specific and complete.

17. *Programing data.* With respect to programing, the Commission intends to rely partly on data contained in TV Guide for the various parts of the country, and also American Research Bureau (ARB) audience survey material, which lists the programs presented by stations covered (e.g., May 1972). However, this data is not always completely informative as to the nature of the program; we hope that as many TV station licensees as possible will present information in this area (including the networks, both as networks and as station licensees). As mentioned, the primary objective is to obtain information as to the effect and impact of the rule or possible changes in it (or waivers of it).[7] The specific information sought is as follows:

(a) The programs that the station has been presenting in the "access periods" during 1971–72, will present in 1972–73, and will present further in the future as far as it can be projected: (1) Under the rule basically as it now stands; (2) if there were no "prime time access rule";[8] (3) with various changes in the rule, including adoption of a "21 hours a week" standard, possible relaxation to permit some use of "off-network" material as part of regular program series or for individual programs or short series, and others mentioned herein. We hope licensees will submit enough information to give an idea of the nature of the program as well as its title, in particular (except for network programs and the better-known syndicated programs) whether it is locally originated or syndicated, and the program type. The three networks are expected to indicate, as best they can at this point, what programs they would be presenting as network material in 1972–73 and later years, during the "access periods", if this time were available to them.

(b) What has been and would be the effect, in terms of the presentation of and demand for new syndicated or local

[7] While this investigation relates largely to "top 50 markets" network-affiliated stations, other stations are invited to comment, since the rule in practice has had an effect "across the board."

[8] If there is no other information indicating what would be the station's practice in the absence of the rule, it may show its programing for the 1970–71 season, the last before the rule became effective.

programing (and on the incentive to produce such material) of one or more of the following:

(1) Grant of waiver to stations in the top 50 markets to carry network news at the beginning of prime time without having it count toward the permissible 3 hours, if preceded by a full hour of local news.

(2) Grant of waiver to the networks to present one-time news and public affairs programs without counting in the permissible 3 hours; on a more general exemption for programing of these types.[9]

(3) Change to a "21 hours a week" standard instead of 3 hours a night, either completely or partly, such as allowing a small amount of occasional deviation to "make up" network programs lost through preemption, or to clear a 1-hour segment between news and network programs, or permitting flexibility within the 21-hour framework provided at least a half-hour of nonnetwork material is presented each night.

(4) Permitting generally (or refusing to permit) sports "runover" waivers, for example games in the late afternoon running somewhat past 7 p.m. e.t.; or permitting presentation without limit of a small number of important events such as the Olympic games.[10]

(5) Changes in § 73.658(k)(3), including: (1) Relaxing the "off-network" restrictions with respect to individual "special" programs or short series, or generally permitting as much as 25 percent of a series to be old material, or a considerably higher percentage such as urged by MCA, Inc. in RM–1929; and changes in the "feature film" provisions as mentioned in paragraph 41, below.[11]

(6) Providing that, as far as the mountain and Pacific time zones are concerned, a program schedule will meet the rule if it complies with the 3-hour restriction in the eastern and central time zones.

(c) What nonnetwork programing (syndicated or local), intended for carriage during the "access periods," will be available to stations during the 1972–73 season? We hope that program producers and syndicators, and station licensees as as to local material, will give full and reasonably specific information in this respect.

(d) To the extent the basic concept of the rule—limitation to 3 hours of prime-time network programing, and thus promotion of independent program sources—is not working in optimum fashion to further the public interest, how would the situation be either improved or worsened by substantial liberalization of the "off-network" restrictions, for example as urged by MCA, Inc., in RM–1929?

18. Possible criteria for evaluating program "diversity" and similar matters. One of the primary purposes of the rule was to promote diversity of program sources and ideas (see paragraph 2, above). We therefore seek information on this subject, particularly how the rule works in practice in this respect. In addition to its general meaning—the extent to which material is different from other material presented in the market currently or in the recent past—this concept could have a number of different particular aspects:

(a) Programing which is of a different type from most other programing fare, for example, the factual-fictional distinction made in the "Wild Kingdom" and "Lassie" decisions;

(b) The number of times, if any, that the exact same program has been presented in the market, at least in recent years, for example only once earlier on the network as opposed to two or more times;

(c) The length of time since its last presentation, for example, the "two years" test for feature films; and

(d) the extent to which the material, while never itself shown before, is simply a continuation of a series which has already run in the market (on a network or nonnetwork basis) to the extent of hundreds of generally similar episodes. There are doubtless other specific aspects.

19. Another related but much more difficult matter is being advanced—that of "program quality". For instance, MCA Inc. in its petition asserts that the nonnetwork material being presented in the access period is "of shoddy and inferior quality."[12] The Commission has traditionally, and wisely, eschewed the role of being a judge of the "quality" of programing. We therefore have great difficulty in evaluating this aspect of the present matter. Interested parties are of course free to submit—and if they treat this subject at all, we hope that they will submit—showings making objective points in this regard. We ourselves have not formulated any objective standards for making "quality" judgments, and do not now perceive the basis for doing so. Thus, factors such as ratings, comparative production costs, and critical favor (or lack of it), while obviously relevant to the issue, have never been regarded as reliably and objectively determinative of the issue of "quality" or what is "superior" or "inferior" program material. As indicated, parties advancing arguments along these lines are urged to do so on some kind of objective basis.

20. Economic data: effect on stations.[13] As indicated above, one of the chief lines of argument against the rule is the asserted adverse economic effects on stations, perhaps particularly small-market stations and UHF stations (e.g., the two petitioners mentioned here. In intermixed markets). Initially, we stress that "economic injury" considerations are pertinent only where they have consequences significantly impairing licensees' ability to operate in the public interest. The Act does not guarantee any level of profitability.

21. There are certain problems inherent in attempting to get this type of information in public comments. First, to be of probative value, either economic data concerning impact on stations must include data for all stations—the "universe"—or it must include data from a representative and scientifically valid sample of that universe. There is no assurance that comments in themselves will provide either of these. Second, there is sometimes, and might be here, an understandable reluctance on the part of the licensees to "bleed in public," even if substantially impacted economically. Therefore, it is necessary to take steps to assure that the material in this area on which decision is reached is complete and valid, even if it means going beyond what is publicly filed. Also, of course, it is desirable to set forth certain guidelines with respect to material which is filed publicly, to make sure that it is complete and probative.[14]

[9] This question is regarded as particularly important because the availability of such material is an essential ingredient of broadcasting in the public interest, and at the same time diversity of viewpoints is also highly significant. Commenting parties are asked to indicate how much such material is available from nonnetwork sources, or is likely to be in the future, and how this would be affected by our action here.

[10] We are particularly interested in what effect an occasional "runover," to the extent of 10 minutes or so, actually has on what the station presents in the following hour—whether it presents the same nonnetwork programs it would have otherwise but simply "clips" them, or whether it substitutes other material, and if so what.

[11] See paragraph 48 below, concerning four recent decisions in the "off-network" area as to which parties may wish to comment.

[12] Obviously, what is generally involved here is comparative quality, nonnetwork "access period" material vis-a-vis the same nonnetwork material which would be shown then in the absence of the rule. This raises the question of what network programing should be used as a basis of comparison (for example, a good deal of it does not last as long as one season).

[13] The stations referred to here are not only, or even primarily, the stations in the top 50 markets which are literally covered by the rule. With the cutback in network schedules across the board, stations in other markets are affected also.

[14] An example of the type of problem which may arise in this connection is the petition by the Springfield, Mo., UHF licensee (RM–1935). This party set forth figures as to what it has lost in network compensation through the cutback ($112.50 weekly); and the costs for the nonnetwork programing it has to buy instead ($172.50 in expenditures, plus $55 freight charge, plus $300 in commercial positions given for "barter" programs). On this basis, it estimated that the rule was costing it $640 a week, or over $33,000 a year. However, it did not state what revenue it receives from the sale of its nonnetwork time during the access period, simply asserting that it has had a 26 percent audience loss for the 6:30–7 p.m. (c.t.) period, and that its revenues from the sale of this time on a nonnetwork basis did not amount to recovery of the increased costs. Obviously, the material in the petition does not give a complete picture. This material was supplemented by petitioner and counsel after a Commission staff inquiry.

In general, commercial time given in "barter" programs is not properly includable as a cost item in this analysis, since it is reflected in the reduced revenue received for a nonnetwork program when only part of the commercial time in it is available to the station to sell. However, stations may make a showing in this respect if they wish, since, if a substantial amount of the commercial time in a program must often be given to the program supplier, it represents an inherent limitation on the return which the station can expect from the program.

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22. The following provisions indicate what is expected of parties filing herein concerning the economic impact of the rule on their stations, and what may be required in addition to the comment material:

(a) Comments by licensees claiming adverse economic impact on their stations, if they wish to have their claims given serious consideration, must make a complete showing therein as to the "access periods," i.e., those periods when they presented nonnetwork programs but would have presented network material if the networks had continued their 1970–71 prime time pattern: This shall include exact data as to revenues from network programing and nonnetwork programs, and the costs of the latter (including outright costs, and transportation or other charges, if any), for the 9-month period from October 1, 1971, through June 30, 1972. If effect on the value of "adjacencies" is claimed, this must be accompanied by data as to how much was so received in 1970–71, and how much was in fact received, for the same 9-month period.

(b) Parties filing comments raising "economic injury" arguments need not necessarily show in their comments the complete picture as to the station's revenues, expenses, and profit or loss; but they must be prepared to file immediately after their comments, if it is requested, an FCC Form 324 giving this data for the 9-month period mentioned above. This will be handled subject to the usual provisions as to confidentiality governing Forms 324.

(c) At some point, it may be necessary to inquire of all commercial television licensees, or at least all of those which are network affiliates in markets having at least three stations, as to data concerning the financial effect of the rule on them. This inquiry, which would require clearance by the Office of Management and Budget, is not being instituted at this time, but may later be instituted this year if it appears necessary on the basis of the comments filed.

23. Economic data: the economics of program production and distribution. One of the most common lines of argument against the rule is that, with networking being a very efficient mechanism and much the cheapest way of distributing programing and supplying advertising support for it, any alternative method of program supply entails more money for distribution and less for production, and, therefore, lower quality, particularly because of the very high and increasing costs of such production. Related is the argument that, with these high costs and with the risks involved in the nonacceptance of programs by the public and station customers, the networks are among the very few parties who can afford the risks involved in production of good-quality material. These arguments were, of course, considered at length in the Docket 12782 proceeding which led to adoption and affirmance of the rule. We have no intention of instituting a new or long and exhaustive re-exploration of the subject. On the other hand, we would certainly welcome and take into account new data in this area, if offered within the time frame of this proceeding as indicated below.

24. We seek data on subjects like the following: (a) What actually is the cost of producing "good-quality" programing, both network and nonnetwork (syndicated or local) either per episode or total? (Figures in the previous record in Docket 12782 have contained a rather wide variety of figures.)

(b) To what extent is program quality related to production cost, and, specifically, how (higher salaries for better people, more processing and therefore more technicians, etc.)?

(c) What are the comparative costs of distribution of network programing and nonnetwork syndicated material, and, with the latter, of securing advertising support for it?

(d) To what extent is it realistic to assume that there is a fixed sum of money available for the whole program-supply process, so that if more goes into distribution, less is available for production?

(e) To what extent do the higher costs and risks involved in nonnetwork production and distribution (if they are higher) mean that prime time programing is going to be of a type cheaper to produce, such as so-called "game shows," rather than the material which has previously characterized prime time?

25. Economic data: effect on the program production industry and employment therein. As indicated in paragraph 2, above, a main purpose of the rule was to provide a healthy production industry, able to supply independent programing. One of the arguments against the rule is the assertedly depressing effect on the U.S. program-production industry. While the factual basis of such arguments is not always completely clear, it appears to consist chiefly of two actual or potential lines of development: (1) The substantial extent to which, to keep costs down, "access period" nonnetwork material consists of material originating, or at least produced, outside the U.S.; and (2) the extent to which access-period nonnetwork material is of a sort sometimes called "game shows"—relatively inexpensive material similar to (often a continuation of) programs which have appeared on daytime television—rather than the sort of material which is characteristic of network prime time television. Comments on this subject are invited.

B. *Specific proposals on which comments are invited.* 26. In the following paragraphs, comments are invited on specific proposals; under each topic, the proposals are set forth first, followed by a brief discussion of the pertinent considerations. Usually, they are on a "one or more" basis, i.e., one, or more than one, of the suggestions might be adopted if it appears in the public interest.

27. Initially, one point should be stressed. Putting forth a proposal for comment herein does not mean that the Commission necessarily has a view, even tentatively, that it should be adopted. It simply indicates our view that the proposal should be considered in light of the comments and data received in the proceeding. Further, on some of the matters, study may indicate the need for further, perhaps more specific, proposals; this is one reason why this is a "Notice of Inquiry." However, we have given notice herein of the "subjects and matters at issue," and therefore all interested parties are specifically advised that the Commission has the flexibility and discretion to adopt rule changes in the following areas if it finds that the public interest would be served thereby (with the exceptions footnoted below).[15]

28. Effective dates of changes. If rule changes are adopted, there is then the question of when they should be made effective, for example: (1) The usual 30 days or so after publication in the FEDERAL REGISTER, or (2) for the next season, starting October 1, 1973, or perhaps even thereafter. As to some minor changes, the first approach might well be appropriate; it appears obvious that major changes, or rescission, could not well be adopted before the next season (these would probably include matters such as a flat "21 hours a week" standard and modification of the "off-network" restrictions to or approaching the extent urged by MCA, Inc.). Comments on the appropriate dates of changes are invited.

29. Changes in the direction of a total or partial "21 hours a week" standard. Comments are invited on the question of adopting one or more of the first three following proposals, or, in the alternative, adopting the fourth proposal listed, going to a flat "21 hours a week" standard.

(a) Leaving the basic 3-hours-per-night formulation, but providing that stations may exceed that amount on one or two nights a month to the extent of a half-hour or an hour, provided they reduce network prime-time material a corresponding amount within the next 14 days.

(b) Leaving the basic 3-hour restriction, but providing that stations may deviate from it (following notification to the Commission) where they regularly present some news at the beginning of prime time and desire to clear a following 1-hour segment regularly for an hour-long local or syndicated program, and the only way they can do this and continue to carry desired network material is to exceed the 3-hour limit on another night.[16] (See Hubbard Broadcasting, Inc. (KSTP–TV), 32 FCC 2d 594 (October 1971).) The "21 hours a week" standard would apply in these cases.

(c) Providing that stations may adhere to a "21 hours a week" standard, but must continue to present at least a half-hour during prime time each night of material which is not network, off-network, nor recently shown feature film.

(d) A flat "21 hours a week" standard. If this is to be adopted at all, it will not be before October 1, 1973.

30. The "21 hours a week" argument was one raised by several stations in waiver requests in 1971, in support of requests for waiver to exceed the permissible 3 hours on one night a week, accompanied by a reduction on another night. In general, this was rejected, although it was one of the considerations in grant of waiver in the Hubbard Broadcasting case cited. We similarly rejected the concept, for the future, in denying ABC's request for continuation of its waiver for Tuesday nights (American Broadcasting Companies, Inc., 33 FCC 2d 1038, March 1972). The reasons have been a belief that time should be available to nonnetwork program sources on a regular basis, the same period each night or at least not varying from week to week, in order to encourage the development of such material, for example programing suitable for "stripping" in early prime time. Also, there was some thought that stations might simply fulfill their obligations under such a relaxed restriction on one "junk night," presenting all of their nonnetwork material then and programing the remaining evenings with 3½ hours or more of network material.

31. Nevertheless, there appear to be some considerations supporting this type of relaxation. First, it would increase licensee flexibility; as noted in the Hubbard decision, this appears to be the only way stations can clear time for a 1-hour nonnetwork program if they carry news after the beginning of prime time, and continue to carry desired network material. Also, it could be that adherence to a strict 3-hour standard tends to discourage occasional preemptions of network programs for desirable local material, if the station is faced with the complete loss of the network program and perhaps even carriage of it by a competing station in the market (whereas, under a "21 hours a week" standard, the station could "make up" the program preempted on another evening).[17] These are the thoughts behind the first two proposals above. Another consideration is that it might not be a bad thing for some of the cleared "access periods" to be later in the evening, since somewhat different types of programing might thus be presented and encouraged (see paragraph 57, below). Parties supporting relaxation along one or more of the lines indicated should give specific examples of situations where the present restriction is undesirable, if there are any; parties opposing such relaxation should indicate specifically why it is important to have time available on a regular basis.[18] Another pertinent question in this connection is whether, whatever may be decided as to individual stations, the networks themselves should be permitted any deviation from a 3-hour standard.

32. Other changes in computation of prime time network programing. Comments are invited on the adoption of one or both of two other changes in the method of determining the amount of permissible prime-time programing. The first change set forth below is designed to resolve automatically the situation prevailing in a few markets not observing daylight-saving time (presently Detroit, Grand Rapids, Indianapolis, and Phoenix) during the portion of the year (late April to late October) when it is observed in the United States generally. This change is believed self-explanatory. The two changes are as follows:

(a) Providing that, automatically as a matter of rule, in the case of "top 50" markets which do not observe daylight-saving time, during the "daylight-saving time" part of the year (late April to late October) prime time will be moved back 1 hour, e.g., to 6–10 p.m. e.t. instead of 7–11 e.t., for these stations, corresponding to the local time at which network material is actually received in these places.

(b) Providing that, with respect to prime time network programing (or possibly other evening material also) any arrangement which complies with the rule in the eastern and central time zones will also be acceptable for stations in the mountain time zone, and possibly also the Pacific time zone.

33. The second change above is based on a suggestion by NBC in the recent proceeding (Docket 19475) in which we changed the "prime time" programing for the mountain time zone to 6–10 p.m., m.t. NBC's suggestion was that stations in the top 50 markets in the mountain zone be permitted to carry more than 3 hours of prime-time network material if the schedule of such programs in the eastern, central, and Pacific zones meet the standards of the rule, so that the excess occurs only in the mountain zone. This was adopted only in part in the report and order in Docket 19475 (24 R.R. 2d 1972, FCC 72–578, 37 F.R. 13622), with respect to situations where the network material that evening is live and simultaneous, such as a sports event, and where the station in the mountain zone broadcasts no other network material during prime time (including "pre-game shows") the same evening. The Phoenix NBC affiliate, supported by NBC, has recently sought reconsideration of our refusal to adopt the entire NBC proposal.

34. While the change in "prime hours" to 6–10 p.m. m.t. will eliminate many of the problems which have arisen this past year (such as sports or movie "runovers" which occur after 11 p.m. e.t.), and others will be taken care of by the NBC proposal as adopted, it may be that further extension along these lines will be appropriate. Comments are invited on whether the note to § 73.658(k) adopted recently should be extended to include complete sports events where there has been a "pre-game show", or "runovers" of events which are not live, simultaneous material, such as movies. Comments are also invited on whether this principle should also extend to additional programing presented by networks on the same evening in the east before the particular event but which mountain zone stations wish to present after the event.[19] Comments are also invited on whether the same principle should be extended to the top 50 markets in the Pacific zone, not so much in connection with "runovers" (which are not a problem since the sports event occurs quite early) but for network programing presented before the game in the east but which these stations may wish to present after the game in the West (or material programed especially for the West).[20] The Commission does not have any views at this time as to whether changes along these lines should be adopted: we have recognized before the problems which stations in these time zones face in integrating "simultaneous" material into the usual pattern of delayed broadcasting which prevails there. One important consideration, here

[15] The foregoing discussion applies to the proposals set forth in this subsection B, which are, for the most part, in the direction of relaxations of the rule. As to other matters set forth below in subsection C, extensions of the rule in various respects or "exemptions" for certain types of programs other than news and public affairs, this is an inquiry proceeding only. See also paragraph 49 in this subsection B.

[16] This is probably more of a problem in the central and mountain zones, where prime time begins at 6 p.m. rather than 7, than elsewhere. According to ARB February–March 1972 audience survey data, about two-thirds of the "top 50 market" stations in those zones carry news in the early part of prime time, compared to only about one-third of the rest of the United States.

[17] This has come up largely in connection with local sports events, such as basketball, in which cases the station is probably going to go for the preemption, whether it can "make up" the network program later or must forego it entirely. However, there could be desirable local material for which the choice would not be so clear.

[18] One problem with adopting a flat "21 hours a week" standard is that there are a number of stations which regularly present less network prime-time material than that, most often where they preempt a network movie, or other network material on one evening, to present their own local movie. If these stations were permitted to apply this noncarriage to the whole week, it could result in their keeping very little time open for new nonnetwork material. Comments on this type of situation are invited.

[19] See KOOL–TV (Phoenix, Ariz.), FCC 72–735 (Aug. 16, 1972).

[20] See Academy Award and Miss America programs, 33 FCC 2d 743, 23 R.R. 2d 987 (Feb. 1972); and the waiver granted NBC affiliates on Aug. 29, 1972 (FCC 72–782).

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and elsewhere, is to what extent relaxation along these lines actually will impinge on the availability of prime time on these stations to non-network sources. Comments on this point are solicited. These are examples of changes that will be made at an early date if it appears that the public interest will be served thereby.

35. Rules designed to deal with sports event situations. One of the most common subject of waiver requests, and Commission consideration of them, has been in connection with sports events. The following rules are proposed to deal with these situations for the future; the first three below are alternatives, and the fourth, involving a somewhat different concept, is a separate matter which may be adopted with or without one of the others.

(a) With respect to "runovers" into prime time of late-afternoon events (and possibly also some events scheduled for prime time) putting the burden of accommodating the "runover" on the networks and stations in the carriage of network programing, by providing that if a late-afternoon event runs over into prime time (i.e., after 7 p.m. e.t., or 6 p.m. c.t.), network evening programs must simply start that much later, so as to leave a full hour for nonnetwork material at the beginning of prime time (e.g., if the event runs until 7:10, the network's evening material could not start until 8:10).[23]

(b) Providing by rule that it is assumed that sports events will last no more than a certain time, and ignoring runovers beyond that time. (Comments are invited on what are appropriate time allotments for various types of events; it presently appears that 3 hours for baseball and football, and $2\frac{1}{4}$ hours for basketball, should be sufficient, at least in the absence of a "pre-game show" or post-game material.) Comments are also invited on the matter of pre-game shows and post-game shows generally; to what should any assumed fixed period for sports telecasts permit these? We are presently of the view that it should be only in connection with games of unusual importance—playoffs or championship games—and not regular season contests, and not for more than 15 minutes (see our action of August 29, 1972, FCC 72-782, 25 R.R. 2d 228, granting waiver to NBC affiliates).

(c) Providing that if an event runs more than a few minutes over the allotted period—say more than 5 minutes, or more than 10 minutes—the network or its affiliate will have to "give back" a half-hour of time on some evening during the following few days.

(d) Designating by rule a certain number of unusually important sports events, which, along with related material, may be presented without observing the § 73.658(k) limitations. These might include the summer and winter Olympics, the World Series, New Year's Day and other year-end bowl games, the Super Bowl, and possibly a few others; but we are certainly of the view that it should not extend beyond a small number of events.

36. Considering that sports events involving possible prime-time problems occur on only a limited number of days of the year—probably no more than 50 for each network—it appears that this subject may have aroused more concern, and required more action, than it is worth. It appears eminently desirable to adopt a definite rule, or at least an overall policy, in this area. Comments are particularly desired on what actually is the impact from a relatively small and occasional "runover" on the availability of prime time to nonnetwork sources. In other words, what do stations do if the event runs until 7:10 p.m. e.t.? Do they simply carry the same material they would have carried if the event had ended at 7, "clipping" it slightly, or do they substitute other, shorter material, and, if so, what? One thing which should be borne in mind, also, is that while the networks often put their requests in terms of being able to carry the event to completion, this is not usually true. Rather, it is a question of whether, if they do, they may still carry their full complement of evening material.[24]

37. Relaxation of the "off-network" restrictions of the rule. Comment is invited on the following changes in the "off-network" restrictions of the rule, contained in § 73.658(k)(3). One or more of the first four changes in the "off-network" restrictions set forth below may be adopted, with or without the fifth, which is really a somewhat different concept. The possible changes are as follows:

(a) Providing that the "off-network" restrictions do not apply to material which was not part of a regular network program series, i.e., an individual "special" program or a small series of material, say no more than six programs; [25] or providing that while the rule imposes a general restriction on all material, stations in the top 50 markets may present up to ------ hours per year of off-network material coming in the above categories (comments are invited on what this figure should be).

(b) Providing that a "package" of material may be presented including some, but no more than 25 percent, or some smaller percentage, of off-network material (e.g., special Christmas programs in the "Lassie" or other series).

(c) Providing that stations may present without restriction (or up to ------ hours a year) of "off-network" material, provided the material itself was not shown on a network within a certain number of years (e.g., 5) and the series of which the particular material is a part has not been on the network for a less number of years (e.g., 2).

(d) Continuing the 1972 arrangement of considering waivers of this restriction, on an ad hoc basis, but providing for more orderly treatment, including public notice of such waiver requests, and more or less simultaneous consideration of all such requests well in advance of the year for which waiver is sought (e.g., requests would have to be in by March 1, 1973 for the 1973-74 season, and decision would be reached by May 1). Comments are invited on whether, if such an approach is to be adopted, a certain total number of hours of off-network material should be permitted, and if so, what that figure should be.[26]

(e) Adoption of a rule looking toward the type of relaxation urged by MCA, Inc. in RM-1929, permitting any off-network material to be presented as part of a package of which at least 25 percent is new material. We also raise the question of whether, assuming such a relaxation is to be made, a higher percentage of new material, e.g. 50 percent, should be required.

38. The "off-network" restriction is potentially one of the most troublesome areas of the rule. It represents, not the objective of the rule to lessen network control of television programing (which is taken care of by the basic "three-hour" limitation plus the "syndication" and "financial interest" rules) but, rather, that of protecting the newly "cleared" portion of prime time for access by nonnetwork sources of program material. As such, it obviously serves a needed purpose; but, at the same time, it is also a significant restriction, including in its present form a bar on the presentation of some highly worthwhile material, sometimes—as with "one-time" material, and probably short program series—material which if presented during prime time would not have a very substantial impact on the availability of time to nonnetwork sources. The latter was one of our chief reasons for the grant of waiver to the six-program "Six Wives of Henry VIII" series (Time-Life Films, 35 FCC 2d 773). For this reason, we raise the issue of whether relaxation should be considered along the lines of the first two approaches set forth above, or, alternatively, approaches (c) or (d), which

[23] This type of scheduling, while unusual, is certainly not unknown, for example following Presidential messages early in prime time. It may be that this is the simplest way of dealing with the matter, particularly if the incidence of sports event "overruns" is as small as the networks say it is.

[24] The discussion here, except for the fourth proposal mentioned above, relates largely to the late-afternoon situations. Sports events actually scheduled for prime time do not raise any great number of problems, and it appears that these may be handled by adjustments in time-computation along the lines mentioned in pars. 32-34, above.

[25] The rule as adopted in May 1970 actually read in terms of excluding only material which was "off-network syndicated series programs." The change to restrict off-network material generally was made in the August 1970 decision on reconsideration.

[26] Parties may wish to comment on this subject in light of the four decisions referred to in paragraph 48 below, concerning "off-network" material, and on the matter of objective standards which might be appropriate in this connection (see paragraph 40).

would probably mean more relaxation. As elsewhere herein, parties opposing relaxation are urged to discuss the impact and effect of any such relaxation, by rule or waiver, on the availability of prime time to non-network sources of new material, with specific examples of actual or potential preclusion.

39. Item (e), above, inviting comments essentially on the MCA request or a modification of it, represents a somewhat different concept: whether, in view of the very high cost of and asserted risk involved in producing new material, it might not be desirable to permit a "mix" of new and off-network programs in a package, and, if so, what percentage of new material should be required. Parties supporting such a change should discuss in detail the impact it would have on station purchase and presentation of truly new material.

40. In connection with this subject generally, and particularly the approach set forth as item (d), above, comments should discuss to what extent the judgments involved here can appropriately reflect program quality determinations, and, if they can or must, what objective standards can be formulated in this connection so as to avoid subjective judgments. With respect to items (a) and (b), above, comments are invited on whether this type of exemption should be granted only in the news and public affairs area, and what is the availability of this highly important type of material from nonnetwork sources.

41. *Feature film.* Section 73.658(k)(3) also contains restrictions on the use of movies during the cleared portion of prime time; as the rule reads, there is an ambiguity as to whether a film previously shown as a network program is thereafter "an off-network" program, permanently barred from these hours, or is a "feature film" which can be used in them after 2 years from its previous showing. It appears that other changes may also be appropriate. Comments are invited on one or more of the following changes:

(a) Clarification of whether a movie previously shown on a network is an "off-network program" or a "feature film" for purposes of § 73.658(k)(3), and which of these two alternative constructions would most serve the public interest.[27]

(b) Whether, in this respect, there should be any difference between movies originally made primarily for theatre exhibition, and those primarily made for television (e.g., treating the former as "feature films" but the latter as "off-network" programs); and if there is to be a difference, what test should be applied if there is any question (e.g., where the film first appeared).

[27] If network-shown movies are to be treated liberally, comments are invited on a matter which has been raised: how can "feature film" be defined so as to prevent a high percentage of network entertainment programs being classified as "feature film" so as to get this more liberal treatment?

(c) Whether it is really in the public interest and consistent with the basic objectives of the rule to permit during "cleared" time the use of feature films shown in the market as recently as 2 years ago, or whether instead this period of prohibition should be longer, such as 5 years, or perhaps permanently with respect to a previous showing on the station itself.

(d) Whether, on the other hand, in view of the economic structure of the film-buying business, the "two year" period should be shortened, say to 1 year, at least as to feature films bought by the station up to mid-October 1972 (this is essentially what is urged in a pending request by a Salt Lake City station).

42. Aside from the obvious desirability of removing the ambiguity mentioned, this subject presents some more basic considerations. As far as the presentation of an individual film is concerned, it probably makes little difference to the viewer if it appeared previously in the market as a network program or a locally shown film, or whether it was created for theater showing or especially for television. From this standpoint a fairly liberal approach might not be inappropriate.

43. But there is also another consideration. The use of "feature films" during early evening hours by network stations in the top 50 markets has not up to now been great, averaging only about 1 hour per week per market of prime time according to ARB audience survey data for February-March 1972. However, there are some indications that this may increase, particularly if the Commission adopts a rather liberal view, so that stations in these markets will devote a considerably larger amount of time to such material. This would, of course, have an impact on the availability of prime time to other kinds of nonnetwork material (local or syndicated). While the rule was not designed to promote any particular type or form of programing, it was certainly intended to promote new nonnetwork material; and presentation of movies already shown looks in the other direction. Comments on this point are invited.

44. The same general considerations might also indicate a lengthening of the "2-year" period for any film, and particularly where the previous showing was on the station itself—a situation in which, normally, there should be no problem in determining whether or not a given movie was or was not run in the past, even years ago. This was the reason for limiting the period to 2 years on reconsideration in August 1970. Comments are invited on whether it would be appropriate to bar permanently from the cleared hours feature films previously run on the same station, as well as on the desirability of lengthening the period generally. On the other hand, the point has been urged recently that the usual basis on which films are bought—such as "5 years and five runs" at a very high price—almost automatically requires that more than one of the runs be in prime time, if the station is to be able to recover its investment. It is urged that therefore a lesser restriction should be adopted, as to the station's reuse of its own material. Comments are invited.

45. Exemption for regular network news following an hour of local news, and for one-time (or other) network news and public affairs programs. Comments are invited on adoption of one or more of the following, as a matter of rule or at least of fixed policy:

(a) Continuing for the future (and putting into the rule) the policy adopted for 1971-72, and recently for 1972-73, concerning a waiver for network news at the beginning of prime time where it follows a full hour of local news (e.g., from 6-7 e.t.). Under this policy, such network news does not count against the permissible 3 hours.

(b) Continuing, for 1973-74 and later years, the waiver or exemption granted for one-time network news and public affairs programs (documentaries).

(c) Affording an exemption, for 1973-74 and later, for network news and public affairs programs generally.

46. As to the first matter mentioned, we have favored this policy. As we have noted, the broadcast of in-depth coverage of local news and problems, in major cities, is to be encouraged as definitely in the public interest; and, as a practical matter, stations can avoid the impact of the rule anyhow by splitting their news, so as to present a half-hour of local first, then network (e.g., at 6:30 p.m. e.t.), and then local again at the beginning of prime time. There appears no reason to require this "bracketing" form of scheduling as a matter of rule, although 19 stations in the top 50 markets do it (25 operate under the waiver). On the other hand, this does represent a substantial impingement into the availability of prime time to nonnetwork sources; and comments should be invited at this time on whether this policy should be made permanent.

47. The second matter is perhaps more difficult. The rule contains an exemption for "special news programs dealing with fast-breaking news events, on-the-spot coverage of news events," etc., but not for news or public affairs "documentaries," although when the rule was adopted there was some thought that the exemption should be broader to include them. (See concurring statement of Commissioner H. Rex Lee in FCC 70-466, 23 FCC 2d 428.) There is, obviously, a high degree of importance to the presentation of such material in quantity, for the better information of the audience, and, at the same time, diversity of viewpoints and sources is probably more important here than it is with entertainment programing which is the main thrust of the rule. There is also a practical consideration: A number of programs presented by the networks during 1971-72 year have involved partly "on-the-spot coverage of fast-breaking events," etc., but partly background material of a documentary nature; and

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without the waiver, network staffs, and the Commission, might be faced with a fairly knotty problem of what is "on-the-spot coverage," what are "fast-breaking events," etc.[36] Existence of the waiver does serve in this respect to make life simpler. Comments on whether this exemption should be made permanent are invited, including, particularly, the matter of to what extent such material is available from nonnetwork sources. Item (c) above requires little elaboration. As noted, the matter of a general exemption for this type of network material was considered at the time the rule was adopted, and has been raised again; in this general overview parties are free to comment on it.

48. *Comment on waiver actions.* Parties are invited to discuss certain waiver actions of the past year, including, particularly, the four involving "off-network" material (Wild Kingdom, Lassie, National Geographic, and Six Wives of Henry VIII[1], the ABC Summer Olympics decision, and the decision granting CBS waiver for one-time network news and public affairs material, or documentaries. We do not expect, nor require, that comment will be made separately on these matters; but rather that parties will discuss them in connection with specific changes in the rule, set forth above. They are set forth separately simply to call attention to them as problems which have arisen with the rule in its present form. Inviting comment on them does not represent a Commission view that they were wrong, but, rather, that to some extent they were reached on the basis of rather limited information, early or at least fairly early in the administration and application of the rule; and comment should be entertained before we decide whether the policies involved in these decisions (or the reverse of these policies, as some may argue) should be adopted as a permanent matter.[37]

49. *Repeal of the rule.* Repeal or rescission of the rule will be considered herein, for the reasons and subject to the limitations set forth in paragraphs 13–15, above. Parties may also wish to discuss—if they urge such rescission—alternative approaches to the problem of network control over television programing. As to the latter, obviously this is an inquiry proceeding only.

50. *The cumulative impact of the relaxations mentioned above.* We have set forth above possible relaxations of the rule in a number of different areas. It is realized that the various changes, if made in the different areas, might have a cumulative impact on the availability of prime time to nonnetwork sources, even though the impact from some of them individually might not be significant. Comments on this aspect of the matter are invited, along with views as to which are the particular "problem" areas from this standpoint.

C. *Inquiry into other possible changes in the rule* (extensions of its scope, etc.).

51. This portion of the notice—an inquiry only, with changes along these lines to be adopted, if at all, only after further rulemaking proceedings—is designed to invite comments on some changes in the rule of a more fundamental nature than those mentioned in subsection B, above. As discussed in the following paragraphs, these include: (1) Extensions of the scope of the rule, either as to time or as to markets covered; and possibly extending the "off-network" and "feature film" provisions of the rule to independent stations at least in some circumstances; (2) imposing certain requirements on stations as to use of the "access period," e.g., for local programing, children's or "minority group" programs, etc.; (3) exemptions from the rule to encourage the presentation of certain types of material on either a network or "off-network" basis (children's programs, etc.)[38] and (4) changing the form of the rule so as to specify a definite hour as the "access period," which might be a later hour than the first hour of prime time which is now generally "cleared" under the rule as it operates in practice. Setting these concepts forth, and inviting comments on them, does not by any means represent a Commission view that they should be adopted, now or ultimately, and in fact some Commissioners have doubts as to whether some of them are either realistically feasible or otherwise desirable; but they have been suggested and appear to have enough relationship to public-interest objectives to warrant opportunity for exploration in this overall proceeding. One other matter should be pointed out: As indicated elsewhere, we regard expeditious resolution of the present proceeding as highly important; and if the time frame established does not permit thorough exploration of the various concepts set forth in this subsection, that will have to wait until later, to the extent it is appropriate.

52. The following are the concepts on which comment is invited:

(a) Possible extensions of the scope of the rule. (1) Limiting network prime-time programing to 2½ rather than 3 hours per night, so as to clear 1½ hours for nonnetwork use (or at least providing for this in the case of stations presenting local or network news at the beginning of prime time, so that they would have a full hour cleared for other nonnetwork material).

(2) Extending the coverage of the rule to markets beyond the top 50, possibly to all markets having three or more network affiliated stations.

(3) Having the "off-network" and "feature film" restrictions apply to independent stations (or at least independent VHF stations), to the extent of 1 hour at least per night.

(b) Required local uses of the access period. A requirement that some (or conceivably all) of the cleared "access period" time be devoted by affiliated stations covered by the rule to certain types of nonnetwork material; including:

(i) Local "live" programing (comments are invited on whether this should be required to be actually "live" or could include filmed material treated as live under the Commission's rules).

(ii) Programing designed for particular groups, such as minority groups (for example, the four specified in § 73.680 of the rules, and other "ethnic" groups), or children.

(iii) Programing specifically designed to deal with the important problems in the station's community and coverage area as indicated by the licensee's survey to ascertain the needs, interest, and problems of its community and area (generally this would be local material, but conceivably it could include syndicated programing of certain types).

(c) Encouraging, by way of exemption from the rule's restrictions on network and "off-network" material, the presentation of the same general types of material mentioned in (b), above (similar to the general exemption for network news and public affairs material covered under subsection B, above). Under such an approach, network or "off-network" material falling into these categories would not be counted for the purpose of computing the permissible amount of such material.

(d) Specifying a particular hour as the "access period," for example the third hour of prime time (9–10 p.m., e.t. and P.t., 8–9 p.m., c.t. and m.t.).

53. The first two matters mentioned above—extensions of the rule either as to time or as to markets covered—has been suggested by various persons largely on the basis that if "cleared time" in major markets is a good thing, why is not more such time in more markets even better? As to the matter of time, this of course would mean more prime-time availability to alternative program sources; in particular, for the stations which present news at the beginning of prime time—about half of those in the top 50 markets—it would mean a full hour of nonnetwork programs. As to the matter of geographic extension, one specific suggestion has been made as follows: While access to major markets is almost indispensable to the success of syndicated material; general access is also significant. One index of the success of a syndicated program is a percentage figure, shown in ARB and Nielsen reports: The percentage of the Nation's TV homes which are in the "areas of dominant influence" (ADI's) of stations carrying the program. It is said that, as a very rough rule of thumb, a program producer is justified in spending $1,000 per episode on the production of a program, for every percentage point the program has, or is expected to have. It is asserted that extending the "prime time access rule" would tend to increase this percentage figure somewhat, with respect to clearance in the smaller markets, and therefore would mean more production expenditure and—perhaps, to some extent—better programs.

54. As to independent stations, it is sometimes claimed that it is unfair for independent stations in the top 50 markets to be free of all restrictions under the rule, for example being able to present "off-network" material during prime time in unlimited quantity. This argument is particularly made as to VHF independents, most of which in the top 50 markets are profitable, and sometimes highly so. Comments are invited on whether the "off-network" restrictions should be extended to such stations, for example so as to require an hour of prime time each night to be devoted to material which is neither network, off-network, nor feature film recently shown in the market. Comments are also invited on whether such an extension, if adopted, should be only to VHF stations, recognizing the particular problems which UHF stations still have.[39]

55. The second general area of inquiry is whether the public interest would be better served by requiring certain uses to be made by stations of the nonnetwork portion of prime time, for example local programing, children's programing, or programing of particular significance to minority groups or meeting important local problems. To a degree, perhaps, this represents a shift in emphasis away from the matters stressed in the report and order adopting the rule, particularly insofar as this would encourage local rather than nonnetwork syndicated material. A number of parties have expressed the view that this would be a good idea, more in accord with long-standing Commission objectives. It warrants exploration here, for one reason because of assertions (by the rule's critics such as NBC in its petition) that the rule in its present form produces mostly continuations and revivals of network series, often daytime material such as "game shows", whose proliferation does not necessarily warrant encouragement. Comments on these concepts are invited.

56. The same general type of consideration is the basis for the third general area—whether the presentation of certain types of programs should be encouraged, from network or "off-network sources," by granting them exemption from the 3-hour limitation.

57. The last matter mentioned above—changing the rule so as to provide a definite, and probably later, cleared portion of prime time—is one which has been suggested by certain syndicator parties. The argument is that, as the rule now works, the "cleared" portion of prime time is generally the first hour, 7–8 p.m. e.t., a time when the audience is somewhat smaller than it is later, and also when many children are watching. It is said that if the time were made later, such as 9–10 p.m., the audience would be larger, and, also, it would be more entirely an adult audience. The latter, it is said, would permit more "innovative" programing than that appropriate earlier, when a substantial part of the audience is young people. Comments are invited on whether such a change would be appropriate, and, if so, what form of rule could be devised to reach this result.

III. SUMMARY

58. In view of the considerations set forth above, comments are solicited on the various matters mentioned, which in summary are the following:

(a) *Gathering information as to the effect and impact of the rule and possible changes in it*, particularly on the programing being and to be presented, and the economic consequences on stations (particularly in small markets) and the TV production industry, and the economics of program production and distribution. See paragraphs 16–25 above.

(b) *To what extent*—in practice as well as in theory—the rule promotes real diversity in program sources, program ideas, and programing itself. See paragraph 18 above.

(c) *Possible adoption of a "21 hours a week" standard, or some partial move in that direction.* See paragraphs 29–31 above.

(d) *Other possible changes in computation of permissible programing during prime time*—a change to take care of the few "nondaylight saving time" markets, and a possible change to increase the extent to which programing arrangements acceptable for eastern and central time zone stations will be acceptable for mountain and possibly Pacific, zone stations. See paragraphs 32–34 above.

(e) *Rules to deal with sports events*, in particular late-afternoon "runover" situations and "pregame" shows; and also a possible rule listing a few important events (the Olympics, the World Series, etc.) which might be suitable for presentation without regard to the basic limitation of the rule. See paragraphs 35–36, above.

(f) *Relaxation of the "off-network" restrictions; and modification of the "feature film" restrictions*, in § 73.658(k) (3), in the former respect to permit a limited amount of off-network material and, possibly, a rule to permit generally the use of off-network and new material in a "package," along the lines urged by MCA, Inc. Clarification of the "feature film" provision, as to feature films shown as network material and feature films produced primarily for TV rather than theatre exhibition, is also proposed. See paragraphs 37–44 above.

(g) *Continuation of waiver or exemption with respect to news and public affairs programs*, after October 1, 1973: The waiver for network news following a full hour of local news, and for "one-time" network news or public affairs programs, or documentaries, or a more general exemption for this type of network material. See paragraphs 45–47 above.

(h) *Repeal of the rule.*

(i) *The possible cumulative effect of relaxation* in various areas mentioned (paragraph 50, above).

(j) *Possible extensions of the rule or further exemptions*, as to which this is an inquiry proceeding only. See paragraphs 51–57 above.

59. This inquiry and rule making proceeding is instituted pursuant to authority contained in section 403 and sections 4(i) and 303 (b), (g), (f), (l), and (r); 307(d); 308(b); 309(a); 313, 314, and 315 of the Communications Act of 1934, as amended.

60. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before December 22, 1972, and reply comments on or before January 29, 1973. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken herewith. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice. For reasons stated in paragraphs 13–15, above, parties are herewith notified that the above timetable, which appears adequate, will be adhered to.

61. In accordance with the provisions of § 1.419 of the rules, an original and 14 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission. Material filed will be available for public inspection during regular business hours in the Commission's Broadcast and Docket

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[36] If an exemption or waiver policy for "one-time" network programs of these types (or more generally for such network material) is not adopted, it may well be desirable to adopt more definite standards as to what are programs falling within the exemptions now specified, for "on-the-spot coverage" and "fast-breaking news events." Comments on possible standards are invited, for example a requirement that the program must contain a high percentage (e.g., 75 percent) of "live" coverage, or film shot within the last 24 hours, rather than being substantially background material.

[37] The citations to these six decisions are, respectively: Mutual Insurance Co., of Omaha, 33 FCC 2d 583 "Wild Kingdom"; Campbell Soup Co., 35 FCC 2d 758, 24 R.R. 2d 856 "Lassie"; Storer Broadcasting Co., 35 FCC 2d 889, 24 R.R. 2d 868 "National Geographic"; Time Life Films, 35 FCC 2d 773, 24 R.R. 2d 849 "Six Wives of Henry VIII"; American Broadcasting Co., Inc. 35 FCC 2d 940 and 765, 24 R.R. 2d 628 and 862 "Olympics"; and Columbia Broadcasting System, Inc., 32 FCC 2d 55 and (for 1972) FCC 72-906 (October 11, 1972).

[38] This is the same type of concept involved in the general exemption for network news and public affairs programs set forth in subsection B, above.

[39] It appears likely that such a change, if adopted, would not have any marked consequences. Probably few independent stations present off-network syndicated material for more than 3 hours of prime time, since usually a movie is inserted into the schedule somewhere during the evening. However, the movie would be subject to the "two-year" restrictions of § 73.658(k)(3), if such a change were made.

Comments are invited on whether another change mentioned in above, specifying a particular hour as the access period, should be applied to independent stations.

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Reference Room at its headquarters in Washington, D.C.

Adopted: October 26, 1972.

Released: October 30, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[30]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc 72-18777 Filed 11-1-72;8:56 am]

FEDERAL POWER COMMISSION

[18 CFR Part 2]

[Docket No. R-454]

ELECTRIC ENERGY CONVERSION AND CONSUMPTION PROCESSES IN THE CONSERVATION OF NATURAL RESOURCES

Proposed Policy Statement; Extension of Time for Comments

OCTOBER 26, 1972.

On October 24, 1972, the Edison Electric Institute and the Montana Power Co. filed requests for a 30-day extension of time within which to file comments concerning the "Notice of Proposed Policy Statement and Request for Comments" issued on September 14, 1972.[1]

Upon consideration, notice is hereby given that the time is extended to and including November 29, 1972, within which any interested person may submit data, views, comments, or suggestions, in writing, concerning all or part of the amendment proposed in the above-designated notice.

KENNETH F. PLUMB,
Secretary.

[FR Doc 72-18685 Filed 11-1-72;8:45 am]

[18 CFR Parts 2, 4]

[Docket No. R-398]

ENVIRONMENTAL IMPACT STATEMENTS

Procedures for Preparation and Submission

OCTOBER 30, 1972.

On December 4, 1970, the Commission issued Order No. 415 (35 F.R. 18958, December 15, 1970) which prescribed §§ 2.80–2.82 of its general policy and interpretations (18 CFR 2.80–2.82) and various related amendments to the Commission's regulations under the Federal Power and Natural Gas Acts. Experience in applying these regulations, as amended, and the guidelines for preparation of statements on proposed Federal actions affecting the environment (guidelines) of the Council on Environmental Quality (36 F.R. 7724) demonstrated the desirability of revising the Commission's regulations for implementation of the National Environmental Policy Act of 1969 (83 Stat. 852) (NEPA).

Accordingly, on November 19, 1971, the Commission issued Order No. 415–B, amending §§ 2.80, 2.81, 2.82 of the general rules and § 4.41 of the regulations under the Federal Power Act. (36 F.R. 22738, November 30, 1971). Because of petitions filed in this docket, Order No. 415–B was amended for clarification, and rehearing was granted for the purpose of further consideration, by order issued January 19, 1972 (37 F.R. 1162).

In Order No. 415–B, the Commission required, among other things, that certain specified applications be accompanied by an environmental impact statement prepared by applicant. Staff independently analyzed the statement, and required applicant to make any corrections necessary to meet staff's criteria. The amended statement—deemed information comparable to an agency draft statement pursuant to the guidelines of CEQ—was circulated to interested governmental bodies and to the public to solicit the comments required by NEPA.

The application, the applicant's statement, as amended, and the comments, served to delineate the environmental issues which were to be thoroughly aired at hearing.

All parties to the proceeding analyzed environmental evidence in their briefs. The Presiding Administrative Law Judge was required to do the same in his initial decision. If the Commission issued a certificate or license, its final order would contain a final detailed environmental impact statement.

On January 17, 1972, the Court of Appeals for the Second Circuit ruled directly on the validity of these procedures.[1] Having been unsuccessful in seeking a Petition for Rehearing En Banc from the Second Circuit, on June 8, 1972, the Commission filed a Petition for Writ of Certiorari with the Supreme Court. On October 10, 1972, the Supreme Court denied certiorari.[2]

The Second Circuit found, among other things, that section 102(2) of NEPA mandates a consideration of "environmental values at every stage of the (agency's) process."[3] and, even though specifically permitted to do so by the guidelines, that the Commission abdicated a significant part of its responsibility "by substituting the statement of (the applicant) for its own."[4]

The Court then said:

> • • • we deem it essential that the Commission's staff should prepare a detailed statement before the Presiding Examiner issues his initial decision. Moreover, the intervenors must have a reasonable opportunity to comment on the statement. But since the statement may well go to waste unless it is subject to the full scrutiny of the hearing process, we also believe that the intervenors must be given the opportunity to cross-examine • • • Commission witnesses in light of the statement.[5]

The practical effect of this mandate is to require circulation of a staff statement in advance of hearing, thereby establishing an affirmative duty on the part of Commission staff to collect, analyze, and prepare comprehensive environmental data in advance of the evidentiary hearing.

The Commission therefore gives notice, pursuant to 5 U.S.C. 553, that it proposes to amend §§ 2.80–2.82 of "Statement of General Policy to Implement Procedures for Compliance with the National Environmental Policy Act of 1969," and § 4.41 of the Commission's regulations under the Federal Power Act.

The revisions which are proposed result primarily from the mandate in Greene County. However, the Commission has taken this opportunity to propose several additional amendments to its regulations for the implementation of NEPA. These amendments are proposed both as the result of certain judicial interpretations of NEPA and from experience gained by staff in its work with Order Nos. 415 and 415–B. A discussion of each of the proposed changes, with its text, appears below.

Because of the vital importance of the Commission's regulatory responsibilities and the great importance and urgency of environmental problems, it is essential that the Commission finalize its amended procedures respecting compliance with NEPA as soon as possible. Therefore, the Commission has determined that the time for public comment on these proposals will be 15 days from the date this notice is published in the FEDERAL REGISTER.

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than November 17, 1972, views and comments in writing concerning all or part of the amendments proposed herein. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Washington, D.C. 20426, during regular business hours. An original and 14 conformed copies should be filed with the Secretary of the Commission. Submittals to the Commission should indicate the name, title, mailing address, and telephone number of the person to whom communications concerning the proposal should be addressed, and whether the person filing them requests a conference with the staff of the Federal Power Commission to discuss the proposed amendments. The staff, in its discretion, may grant or deny requests for conference. The Commission will consider all written submittals and responses before issuing an order in this proceeding.

The Commission proposed to establish procedures by which each applicant, in certain specified instances, must submit a detailed environmental report with its application. Commission staff will conduct an independent analysis of the filings and require applicant to make any corrections necessary to meet the applicable criteria. After corrections have been made, it will be determined whether the proposed action is a "major Federal action" within the meaning of NEPA.

Staff will then prepare and circulate for comment a draft environmental impact statement. Comments will be made within 45 days of the date the notice of availability appears in the FEDERAL REGISTER. After expiration of the time for comment, and after consideration of the comments received, staff will revise as necessary and finalize its environmental impact statement which, together with the comments received, will accompany the application through the agency review and decisionmaking process. If hearings are held on the application, the staff's environmental impact statement will be offered in evidence at that hearing.

In each contested application briefs by all parties to the proceeding taking a position on environmental matters must specifically analyze and evaluate the evidence in light of certain criteria specified in the proposed regulations. The Initial Decision of the Presiding Administrative Law Judge must include an evaluation of specified environmental factors. In all cases, contested and uncontested, the final order of the Commission, if it approves the application, shall also contain an evaluation of the environmental factors enumerated in § 2.80 and the views and comments expressed in conjunction therewith by the applicant and all those making formal comment pursuant to the provisions of these proposals.

Each proposed change is discussed below.

(1) *Section 2.80(b).* Several minor wording changes are proposed to provide clarification and more definite guidance in the preparation of statements.

An amendment is also proposed to conform to the decision in the Morton case,[6] which stated, inter alia, that not only must all reasonable alternatives to an action be considered, but also the environmental consequences of such alternative courses of action.

It is further noted that the Second Circuit, commenting on the Commission's planning function under section 10(a) of the Federal Power Act,[7] feels that the Commission cannot "disregard impending plans for future development" of a project when considering an application.[8] Therefore, it is proposed to amend § 2.80 (b) to read as set forth below.

(2) *Section 2.80(c)(i).* The Guidelines of CEQ stated, among other things, that no agency administrative action was to be taken sooner than 90 days after circulation of a draft statement or 30 days after availability of a final statement. As the Commission, under 415–B, did not issue a final statement until it issued its final order, to adopt the strict language of the Guidelines would have interfered with the integrity of the Commission's procedures. Because of this, the Commission adopted language which placed the same delay on construction of a facility after a certificate or license was granted. However, under the revised procedures herein proposed, staff's environmental impact statement will be issued prior to hearing or final Commission action. Therefore, it is proposed to amend § 2.80 (c)(i) to read as set forth below.

(3) *Sections 2.81(a) and 2.82(a).* The Commission provided, in both Orders Nos. 415 and 415–B, that notice of specified applications be sent to certain Federal, State, and local governmental entities for comment. Experience has shown that at the time this notice is sent, substantive information on the application is lacking, and consequently, there is not enough information transmitted by the notice to allow the receiving entity to offer meaningful comments. Therefore, it is proposed to amend both §§ 2.81(a) and 2.82 (a) to remove the requirement that notice of the application be circulated for comment as a part of our NEPA procedures. Notice of application pursuant to other statutory requirements will continue, however.

It is proposed to further amend § 2.81(a). Experience has shown there is no need to have applications for certain license amendments accompanied by a formal exhibit. Those applications need only be accompanied by the applicant's detailed environmental report.

It has also become apparent that certain applications for surrender of a license should be accompanied by the applicant's detailed environmental report and an amendment reflecting this fact is proposed.

Finally, Order No. 415–B specified that applications for amendment of a license which proposed construction or change in operation of the project works was to be accompanied by the applicant's detailed statement. Experience has shown the restriction imposed by the term "project works" is too narrow, therefore, we also propose to broaden this section to require any application for a change in project operation, as opposed to project works, be accompanied by the applicant's detailed environmental report.

It is proposed to amend §§ 2.81(a) and 2.82(a) to read as set forth below.

(4) *Sections 2.81(b) and 2.82(b).* It is proposed to substantially amend these sections. Briefly, staff would be required to utilize applicant's filings and its own environmental expertise to prepare and circulate for comment a staff draft environmental impact statement. Upon expiration of the time for comment, staff then would consider all comments and revise as necessary and finalize its environmental impact statement which, together with the comments, shall accompany the proposal through the agency review and decision-making process. If hearings are held, staff's environmental impact statement will be offered in evidence at that hearing.

It is proposed to amend §§ 2.81(b) and 2.82(b) to read as set forth below.

(5) *Sections 2.81(e) and 2.82(e).* It is proposed to amend these sections to require that parties taking a position on environmental matters in all contested cases analyze and evaluate the evidence in their briefs in light of the factors expressed in § 2.80. The initial decision of the Presiding Administrative Law Judge shall also include an evaluation of the same environmental factors and the views on those factors expressed by all those making formal comment. In all cases, contested and uncontested, the final order of the Commission, if it approves the application, shall contain an environmental evaluation of the action to be taken.

It is proposed to amend §§ 2.81(e) and 2.82(e) to read as set forth below.

(6) In light of the amendments proposed, §§ 2.81(f) and 2.82(f) would become superfluous. It is proposed that each of the sections be deleted.

(7) It is proposed to amend § 4.41 of the regulations under the Federal Power Act to reflect certain changes in terminology in § 2.81, to read as set forth below.

The proposed amendments to §§ 2.80, 2.81, and 2.82 of the general rules and § 4.41 of the regulations under the Federal Power Act would be issued under the authority granted the Federal Power Commission by the Federal Power Act, particularly sections 4, 10, 15, 307, 309, 311 and 312 (41 Stat. 1065, 1066, 1068, 1069, 1070; 46 Stat. 798, 49 Stat. 839, 840, 841, 842, 843, 844, 856, 857, 858, 859, 860, 61 Stat. 501, 82 Stat. 617; 16 U.S.C. 797, 803, 808, 825f, 825h, 825j, 825k), and the Natural Gas Act, particularly sections 7 and 16 (52 Stat. 824, 825, 830; 56 Stat. 83, 84; 61 Stat. 459; 15 U.S.C. 717f, 717o), and the Environmental Policy Act of 1969, Public Law 91–190, approved January 1, 1970, particularly sections 102 and 103 (83 Stat. 853, 854).

(1) The Commission proposes to amend Part 2 of Chapter 1, Title 18 of the Code of Federal Regulations by revising §§ 2.80–2.82 to read as follows:

§ 2.80 Detailed environmental statement.

(a) It shall be the general policy of the Federal Power Commission to adopt and to adhere to the objectives and aims of the National Environmental Policy

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[30] Commissioners Robert E. Lee and H. Rex Lee concurring and issuing statements; Commissioners Johnson and Hooks concurring in part and dissenting in part and issuing statements. While the statement of Commissioner Hooks will be issued at a later date, the other three statements are filed as part of this original document.

[1] Published at 37 F.R. 20045, September 23, 1972.

[1] Greene County Planning Board v. F.P.C., 455 F.2d 412 (CA2, 1972).

[2] F.P.C. v. Greene County Planning Board, No. 71-1597 (——— U.S. ———) 1972.

[3] Id. at 420.

[4] Id. at 420.

[5] Id. at 422.

[6] Natural Resources Defense Council v. Morton 458 F.2d 827 (CADC, 1972).

[7] 16 U.S.C. 803(a)

[8] Greene County at 423, 424.

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Act of 1969 (NEPA) in its regulations under the Federal Power Act and the Natural Gas Act. The National Environmental Policy Act of 1969 requires, among other things, a detailed environmental statement in all major Federal actions and in all reports and recommendations on environmental legislative proposals which will significantly affect the quality of the human environment.

(b) Therefore, in compliance with the National Environmental Policy Act of 1969, the Commission staff shall make a detailed environmental statement when the regulatory action taken by us under the Federal Power Act and Natural Gas Act will have a significant environmental impact. A "detailed statement" prepared in compliance with the requriements of §§ 2.81 through 2.82 shall fully develop the five factors listed hereinafter in the context of such considerations as the proposed activity's direct and indirect effect on the air and water environment of the project or natural gas pipeline facility; on the land, air, and water biota; on established park and recreational areas; and on sites of natural, historic, and scenic values and resources of the area. The statement shall discuss the extent of the conformity of the proposed activity with all applicable environmental standards. The statement shall also fully deal with alternative courses of action to the proposal and, to the maximum extent practicable, the environmental effects of each alternative. Further, it shall specifically discuss plans for future development related to the application under consideration. The above factors are listed to merely illustrate the kinds of values that must be considered in that statement. In no respect is this listing to be construed as covering all relevant factors. The five factors which must be specifically discussed in the detailed statement are:

(1) The environmental impact of the proposed action,

(2) Any adverse environmental effects which cannot be avoided should the proposal be implemented,

(3) Alternatives to the proposed action,

(4) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(5) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

(c) (1) To the maximum extent practicable no final administrative action is to be taken sooner than 90 days after a draft environmental statement has been circulated for comment or 30 days after the final text of an environmental statement has been made available to the Council on Environmental Quality and the public.

(2) Upon a finding that it is necessary and appropriate in the public interest the Commission may dispense with any time period specified in §§ 2.80–2.82.

§ 2.81 Compliance with the National Environmental Policy Act of 1969 under Part I of the Federal Power Act.

(a) All applications for major projects (those in excess of 2,000 horsepower) or for reservoirs only providing regulatory flows to downstream (major) hydroelectric projects under Part I of the Federal Power Act for license or relicense, shall be accompanied by Exhibit W, the applicant's detailed report of the environmental factors specified in § 2.80 and § 4.41 of this chapter. All applications for surrender or amendment of a license proposing construction, or operating change of a project shall be accompanied by the applicant's detailed report of the environmental factors specified in § 2.80. Notice of all such applications shall continue to be made as prescribed by law.

(b) The staff shall make an initial review of the applicant's report and, if necessary, require applicant to correct deficiencies in the report. If the proposed action is determined to be a major Federal action significantly affecting the quality of the human environment, the staff shall conduct a detailed independent analysis of the action and prepare a draft environmental impact statement which shall be made available to the Council on Environmental Quality, the Environmental Protection Agency, other appropriate governmental bodies, and to the public, for comment. The Secretary of the Federal Power Commission shall cause prompt publication in the FEDERAL REGISTER of notice of the availability of the staff's draft environmental statement. All comments shall be made within 45 days of the date the notice of availability appears in the FEDERAL REGISTER. All entities filing comments with the Commission shall submit ten copies of such comments to the Council on Environmental Quality. If any governmental entity, Federal, State, or local, fails to comment within the time provided, it shall be assumed, absent a request for a specific extension of time, that such entity has no comment to make. Upon expiration of the time for comment the staff shall consider all comments received and revise as necessary and finalize its environmental impact statement which, together with the comments received, shall accompany the proposal through the agency review and decisionmaking process and shall be made available to the Council on Environmental Quality and to the public. In the event the proposal is the subject of a hearing the staff's environmental statement will be offered in evidence at that hearing.

(c) All interveners taking a position on environmental matters shall file comments on the environmental impact statement with the Commission including an analysis of their environmental position, specifying any difference with the statement upon which intervener wishes to be heard and including therein a discussion of that position in the context of the factors enumerated in § 2.80, at a time specified by the Commission or the Presiding Administrative Law Judge. All interveners shall be responsible for filing ten copies of their filing with the Council on Environmental Quality, and at least one copy with the Commission and shall also supply a copy of such filing to all participants to the proceeding. Nothing hercin shall preclude an intervener from filing a detailed environmental statement. The comments of the Council on Environmental Quality, and the Environmental Protection Agency, if any, should be made in a written statement served upon the Commission Secretary and all parties of record.

(d) The applicant, staff, and all interveners taking a position on environmental matters should offer evidence for the record in support of their environmental position, filed in compliance with the provisions of this section.

(e) In the case of each contested application, the initial and reply briefs filed by the applicant, the staff and all interveners taking a position on environmental matters must specifically analyze and evaluate the evidence in the light of the environmental criteria enumerated in § 2.80. Furthermore, the Initial Decision of the Presiding Administrative Law Judge in such cases and the final order of the Commission, if it approves the application, in all cases shall include an evaluation of the environmental factors enumerated in § 2.80 and the views and comments expressed in conjunction therewith by the applicant and all those making formal comment pursuant to the provisions of this section.

§ 2.82 Compliance with the National Environmental Policy Act of 1969 under the Natural Gas Act.

(a) All certificate applications filed under section 7(c) of the Natural Gas Act (15 U.S.C. 717(c)) for the construction of pipeline facilities, except abbreviated application filed pursuant to §§ 157.7(b), (c), (d), and (e) of Commission regulations in Subchapter E of this chapter and producer applications for the sale of gas filed pursuant to §§ 157.23–29 of Commission regulations in Subchapter E of this chapter, shall be accompanied by the applicant's detailed report of the environmental factors specified in § 2.80. Notice of all such applications shall continue to be made as prescribed by law.

(b) The staff shall make an initial review of the applicant's report and, if necessary, require applicant to correct deficiencies in the report. If the proposed action is determined to be a major Federal action significantly affecting the quality of the human environment, the staff shall conduct a detailed independent analysis of the action and prepare a draft environmental impact statement which shall be made available to the Council on Environmental Quality, the Environmental Protection Agency, other

appropriate governmental bodies, and to the public, for comment. The Secretary of the Federal Power Commission shall cause prompt publication in the FEDERAL REGISTER of notice of the availability of the staff's draft environmental statement. All comments shall be made within 45 days of the date the notice of availability appears in the FEDERAL REGISTER. All entities filing comments with the Commission shall submit 10 copies of such comments to the Council on Environmental Quality. If any governmental entity, Federal, State, or local, fails to comment within the time provided, it shall be assumed, absent a request for a specific extension of time, that such entity has no comment to make. Upon expiration of the time for comment the staff shall consider all comments received and revise as necessary and finalize its environmental impact statement which, together with the comments received, shall accompany the proposal through the agency review and decisionmaking process and shall be made available to the Council on Environmental Quality and to the public. In the event the proposal is the subject of a hearing the staff's environmental statement will be offered in evidence at that hearing.

(c) All interveners taking a position on environmental matters shall file comments on the environmental impact statement with the Commission including an analysis of their environmental position, specifying any difference with the statement upon which intervenor wishes to be heard and including therein a discussion of that position in the context of the factors enumerated in § 2.80, at a time specified by the Commission or the Presiding Administrative Law Judge. All interveners shall be responsible for filing 10 copies of their filing with the Council on Environmental Quality, and at least one copy with the Environmental Protection Agency at the time they file with the Commission and shall also supply a copy of such filing to all participants to the proceeding. Nothing herein shall preclude an intervener from filing a detailed environmental statement. The comments of the Council on Environmental Quality, and the Environmental Protection Agency, if any, should be made in a written statement served upon the Commission Secretary and all parties of record.

(d) The applicant, staff, and all interveners taking a position on environmental matters should offer evidence for the record in support of their environmental position, filed in compliance with the provisions of this section.

(e) In the case of each contested application, the initial and reply briefs filed by the applicant, the staff, and all interveners taking a position on environmental matters must specifically analyze and evaluate the evidence in the light of the environmental criteria enumerated in § 2.80. Furthermore, the Initial Decision of the Presiding Administrative Law Judge in such cases and the final order of the Commission, if it approves the application, in all cases shall include an evaluation of the environmental factors enumerated in § 2.80 and the views and comments expressed in conjunction therewith by the applicant and all those making formal comment pursuant to the provisions of this section.

(2) The Commission further proposes to amend § 4.41, *Required Exhibits* in Part 4, Subchapter B, Regulations under the Federal Power Act, Chapter 1, Title 18 of the Code of Federal Regulations as follows:

§ 4.41 Required exhibits.

Exhibit W. Applications covered by § 2.81 (a) of this chapter shall be accompanied by an applicant's environmental report. Such report shall comply with the detailed requirements set down in §§ 2.80–2.81 of this chapter, and shall include a one-page summary of the report. Furthermore, such report with its supporting papers shall be self-contained.

The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-18158 Filed 11-1-72;8:54 am]

[18 CFR Parts 101, 104, 201, 204]

[Docket No. R-456]

UNIFORM SYSTEM OF ACCOUNTS

Specialized Training Costs; Extension of Time

OCTOBER 27, 1972.

On October 12, 1972, the American Gas Association filed a request for an extension of time within which to file comments covering the notice of proposed rule making issued October 2, 1972 (37 F.R. 21181), in the above-designated matter.

Upon consideration, notice is hereby given that the time is extended to and including February 14, 1973, within which any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, data, views, comments or suggestions in writing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-18759 Filed 11-1-72;8:54 am]

[18 CFR Parts 154, 201, 260]

[Docket No. R-411]

ACCOUNTING AND RATE TREATMENT OF ADVANCE PAYMENTS FOR GAS DEVELOPMENT AND PRODUCTION

Notice of Comment Period on Summary of Responses To Renotice

OCTOBER 24, 1972.

On July 3, 1972, the Commission issued a renotice of its proposed rule making and request for comments in Docket No. R-411 (37 F.R. 13559, July 11, 1972) proposing to amend its regulations under the Natural Gas Act so as to change its provisions for accounting and rate treatment of advance payments made to producers by pipelines for gas to be delivered at a future date. Pursuant to the renotice, the Commission staff sent out questionnaires to all pipeline companies that had filed advance payment agreements with the Commission with responses due by September 15, 1972.

All of the responses to the questionnaires have been summarized and the summary is now in a public file and available for inspection in the Commission's Office of Public Information. Comments on or suggested modifications of the Commission's proposed rule making based on review of the summary of responses should be filed on or before November 3, 1972.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-18657 Filed 11-1-72;8:47 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 434]

DETERGENTS

Availability of Public Record for Comments Regarding Labeling and Advertising

The public record in this matter will again be open and will remain open until further notice for the receipt and filing of any additional information or data developed by other government agencies and concerned groups regarding the role of phosphate in eutrophication and the particular bodies of water, if any, where phosphate in detergents may have an adverse effect.

All comments regarding above proposed trade regulation rule received from interested parties to date and not already on the public record will now be placed on such record which is available for public inspection in Room 130 of the Division of Legal and Public Records, Federal Trade Commission, Washington, D.C.

Approved: October 17, 1972.

By direction of the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-18673 Filed 11-1-72;8:48 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 18]

MILK AND CREAM

Proposed Standards of Identity; Extension of Time for Filing Comments

In the matter of revising existing standards and establishing new identity

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standards for milk and cream (21 CFR Part 18):

A notice of proposed rule making in the above-identified matter published in the FEDERAL REGISTER of September 9, 1972 (37 F.R. 18392), provided for the filing of comments within 60 days following its publication date.

The Commissioner of Food and Drugs has received a request for extension of such time and, good reason therefor appearing, the time for filing comments in this matter is extended to February 6, 1973.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: November 1, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-18922 Filed 11-1-72;11:55 am]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

CARD CLOTHING FROM THE UNITED KINGDOM

Notice of Tentative Negative Determination

Information was received on January 24, 1972, that card clothing from the United Kingdom was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in the notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of March 15, 1972, on page 5397.

I hereby make a tentative determination that card clothing from the United Kingdom is not being, nor is likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

Statement of reasons on which this tentative determination is based. The investigation revealed that the proper basis of comparison for fair value purposes is between exporter's sales price and the adjusted home market price of such or similar merchandise.

Exporter's sales price was calculated by deducting from the resale price to unrelated purchasers in the United States, ocean freight and insurance, U.S. duty, U.S. inland freight and delivery charges, cash discount, selling commission, and foreign inland freight, and f.o.b. charges, as appropriate.

Adjusted home market price was calculated by deducting from the ex-factory price, applicable cash and quantity discounts. Where applicable, adjustments were made for differences in the merchandise and packing.

Comparison of exporter's sales price with the adjusted home market price indicated that adjusted home market price was not higher than exporter's sales price.

In accordance with § 153.33(b), Customs Regulations (19 CFR 153.33(b)), interested parties may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, DC 20226, in time to be received by his office not later than 10 calendar days from the date of publication of this notice in the FEDERAL REGISTER.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

This tentative determination and the statement of reasons therefor are published pursuant to § 153.33 of the Customs Regulations (19 CFR 153.33).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-18698 Filed 11-1-72;8:46 am]

RECORD CHANGERS FROM THE UNITED KINGDOM

Notice of Tentative Negative Determination

OCTOBER 27, 1972.

Information was received on March 17, 1972, that record changers from the United Kingdom were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of April 15, 1972, on page 7534.

I hereby make a tentative determination that record changers from the United Kingdom are not being, nor likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

Statement of reasons on which this tentative determination is based. The information currently before the Bureau indicates that the basis of comparison is between exporter's sales price and the adjusted home market price of such or similar merchandise.

Exporter's sales price was calculated by deducting from the landed duty paid price, the included duty, brokerage charges, ocean freight, insurance, United Kingdom inland freight, and selling and advertising expenses, as appropriate.

Adjusted home market price was based on the price delivered to customer's premises. Deductions were made from this price for cash discount, transportation, and insurance.

Comparisons between exporter's sales price and adjusted home market price revealed that exporter's sales price was not lower than adjusted home market price.

In accordance with § 153.33(b), Customs Regulations (19 CFR 153.33(b)), interested parties may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any request that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, DC 20226, in time to be received by his office not later than 10 calendar days from the date of publication of this notice in the FEDERAL REGISTER.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

This tentative determination and the statement of reasons therefor are published pursuant to § 153.33 of the Customs Regulations (19 CFR 153.33).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-18699 Filed 11-1-72;8:46 am]

DEPARTMENT OF DEFENSE

Department of the Army

ARMY ADVISORY PANEL ON ROTC AFFAIRS

Notice of Meeting

In accordance with Executive Order No. 11671, dated June 5, 1972, 37 F.R. 11307, as amended by Executive Order No. 11686, dated October 7, 1972, 37 F.R. 21421, announcement is made of the following committee meeting:

Name of committee: Army Advisory Panel on ROTC Affairs.

Date of meeting: November 9, 1972.

Place: Room 2E-687, the Pentagon.

Time: The meeting will be held from 0830-1145 hours and 1400-1630 hours.

Proposed agenda:

0830-0845—Opening remarks and introduction, Chairman.

0845-0925—Presentation of ROTC Status Report, DA Briefer.

0925-0940—Discussion of ROTC Status Report, Chairman.

0940-1145—General Discussion on selected topics, Chairman.

1145-1400—Adjournment for lunch.

1400-1630—General discussion on selected topics, Chairman.

1630—Panel adjourns.

Proposed discussion topics:

1. Appropriate academic credit for ROTC courses.

2. What can be done by college officials to provide more support for ROTC and the ROTC recruiting effort.

3. ROTC advertisement on campus; what is being done; how can it be improved.

4. Should the membership of the Army Advisory Panel on ROTC Affairs be expanded.

5. NOTE: Two brief reports will be given; one relating to a conference of Professors of Military Science held in August; the other to a conference of Military Colleges held in October.

NOTE: For the convenience of persons interested in attending the meeting, it is suggested that commercial transportation be utilized and the Pentagon be entered through

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the mail entrance. Room 2E-687 is just inside this entrance. Please note that seating space is limited.

E. W. GANNON,
Lieutenant Colonel, U.S. Army,
Chief, Plans Office, TAGO.

OCTOBER 27, 1972.

[FR Doc.72-18661 Filed 11-1-72;8:47 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Colorado 16379]

COLORADO

Notice of Proposed Withdrawal and Reservation of Lands

OCTOBER 27, 1972.

The Bureau of Land Management of the Department of the Interior has filed an application for withdrawal of the lands described below from all forms of appropriation under the public land laws, including the general mining laws but not the mineral leasing laws, subject to valid existing rights.

The applicant desires the lands for protection of the archaeological and scientific values and the natural beauty of the area.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 700 Colorado State Bank Building, 1600 Broadway, Denver, CO 80202.

The Department's regulations (43 CFR 2351.4(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing or potential demand for the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved are:

NEW MEXICO PRINCIPAL MERIDIAN

T. 36 N., R. 17 W.
Sec. 30, Lots 1, 2, 3 and 4, E½W½.
T. 36 N., R. 18 W.
Sec. 12, N½NE¼, SW¼NE¼, S½NW¼, SW¼, W½SE¼;
Sec. 13, W½E½, W½;
Sec. 14, S½SW¼, SE¼;
Sec. 15, S½SE¼;
Sec. 22, E½, E½W½;
Sec. 23, All;
Sec. 24, W½E½, W½;
Sec. 25, All;
Sec. 26, N½, N½SW¼, SE¼;
Sec. 27, E½, E½W½;
Sec. 36, N½NE¼.

The areas described aggregate approximately 4,926.24 acres.

DALE R. ANDRUS,
State Director.

[FR Doc.72-18720 Filed 11-1-72;8:51 am]

National Park Service

CAPE HATTERAS NATIONAL SEASHORE, N.C.

Notice of Intention To Negotiate Concession Contract

Pursuant to the provisions of section 5, of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Cape Hatteras Fishing Pier, Inc., authorizing it to provide concession facilities and services for the public at Cape Hatteras National Seashore, for a period of five (5) years from January 1, 1973, through December 31, 1977.

The foregoing concessioner has performed its obligations under the expiring contract to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Chief of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: October 25, 1972.

LAWRENCE C. HADLEY,
Assistant Director,
National Park Service.

[FR Doc.72-18722 Filed 11-1-72;8:51 am]

POINT REYES NATIONAL SEASHORE, CALIF.

Establishment

Notice is given pursuant to section 5 of the Act of September 13, 1962 (76 Stat. 538, 540; 16 U.S.C. 459c), of the acquisition of an acreage within the area described in section 2 of such Act that is deemed efficiently administrable to carry out the purposes of the Point Reyes National Seashore, and, therefore, such national seashore is hereby established.

The Point Reyes National Seashore, Marin County, Calif., as established, encompasses an area that, as nearly as practicable conforms to the area described in section 2 of the aforesaid Act, as amended by the Act of October 15, 1966 (16 U.S.C. 459c–11). A detailed description of the boundaries of the seashore follows:

Beginning at a point, not monumented, where the boundary line common to Rancho Punta de los Reyes (Sobrante) and Rancho Las Baulines (as said boundary line was surveyed by Oglesby, Jacobs, and Wickham, civil engineers, during the months of June through November, 1963), meets the line of average high tide of the Pacific Ocean; thence southwesterly from said point 1,320 feet offshore on a prolongation of said boundary line; thence in a northerly and westerly direction paralleling the average high tide line of the Pacific Ocean; along Drakes Bay, and around Point Reyes; thence in a northerly direction around Tomales Point, offshore a distance of 1,320 feet from the average high tide line; thence southeasterly along a line 1,320 feet offshore and parallel to the line of average high tide along the west shore of Bodega Bay and Tomales Bay to the intersection of this line with a prolongation of the most northerly tangent of the boundary of Tomales Bay State Park, as said boundary was surveyed by Timothy S. Train, licensed land surveyor in the State of California, during the months of November 1952 through April 1953 (a record of said survey being on file with the State of California, Division of Beaches and Parks); thence S. 56°41'35" W. 1,320 feet, along the prolongation of said tangent to the line of average high tide of Tomales Bay;

Thence along said boundary of Tomales Bay State Park as surveyed by Train, by bearings and distances based on the California State Plane Coordinate System, Zone Three, S. 56°41'35" W. 400 feet, more or less to a found 2-inch-diameter iron pipe monument bearing a copper tag stamped "L. S. 2457"; thence continuing along said boundary as surveyed by Train, S. 33°18'25" E. 616.12 feet, S. 26°35'35" W. 3,263.85 feet, S. 05°02'11" W. 2,664.87 feet, and S. 02°02'20" E. 300.73 feet to a 1-inch-diameter iron pipe monument bearing a copper tag stamped "RCE 3230", found on the northwesterly line of that certain parcel of land conveyed to Burton E. Mills, et ux., by deed recorded October 10, 1952, in volume 769, page 44, Official Records of Marin County, State of California; thence along the southwesterly and southerly line of said parcel convyed to Mills, S. 43°47'53" W. 105.39 feet, S. 54°53'07" E. 68.09 feet, S. 80°36'07" E. 250.13 feet, and S. 86°11'37" E. 241.67 feet to a point which bears S. 59°01'30" W. 24.43 feet from a found 2-inch-diameter galvanized iron pipe monument bearing a copper tag stamped "L.S. 2457"; thence S. 66°13'00" E. 82.95 feet to a point on the northerly right-of-way line of Pierce Point Road, as said right-of-way was conveyed to the County of Marin by deed recorded in volume 420, page 119, Marin County records; thence along said northerly right-of-way line, on a nontangent curve to the right having a radius of 219.99 feet, whose center bears S. 13°58'32" W., through an angle of 03°44'28", a distance of 14.36 feet; thence S. 72°17'00" E. 7141 feet;

Thence on a tangent curve to the left having a radius of 2,979.82, through an angle of 08°20'00", a distance of 433.23 feet; thence S. 80°37'00" E. 779.75 feet; thence on a tangent curve to the right having a radius of 269.80 feet, through an angle of 83°02'30", a distance of 391.03 feet; thence S. 02°25'30" W. 246.01 feet; thence on a tangent curve to the left having a radius of 2,979.82 feet, through an angle of 09°40'00", a distance of 502.92 feet; thence S. 07°14'30" E. 655.48 feet; thence on a tangent curve to the left having a radius of 579.75 feet, through an angle of 36°16'38", a distance of

367.10 feet; thence S. 43°31'08" E. 394.11 feet; thence on a tangent curve to the right having a radius of 519.87 feet, through an angle of 26°00'21", a distance of 235.91 feet; thence S. 17°30'47" E. 160.08 feet; thence on a tangent curve to the right having a radius of 319.84 feet, through an angle of 27°40'47", a distance of 154.46 feet; thence S. 10°10'00" W. 101.51 feet; thence on a tangent curve to the left having a radius of 255.17 feet, through an angle of 97°17'40", a distance of 433.29 feet; thence S. 87°07'40" E. 172.80 feet; thence on a tangent curve to the right having a radius of 270.26 feet, through an angle of 71°16'20", a distance of 336.17 feet; thence S. 15°51'20" E. 237.84 feet;

Thence on a tangent curve to the left having a radius of 479.97 feet, through an angle of 34°40'00", a distance of 290.43 feet; thence S. 50°31'20" E. 471.32 feet; thence on a tangent curve to the left having a radius of 979.94 feet, through an angle of 18°22'00", a distance of 313.84 feet; thence S. 68°53'20" E. 253.80 feet to a round 2-inch-diameter iron pipe monument bearing a State of California, Division of Beaches and Parks, 2-inch brass cap stamped "L.S. 2457"; thence leaving said northerly right-of-way line of Pierce Point Road, S. 00°08'06" W. 83.16 feet to a 6-inch-diameter concrete monument bearing a 2-inch brass cap stamped "USDI, NPS 1, RCE 13639", set on the southerly right-of-way line of Sir Francis Drake Boulevard; thence along said southerly right-of-way line on a curve to the right having a radius of 469.95 feet, whose center bears S. 01°26'45" W., through an angle of 20°59'55", a distance of 172.23 feet; thence S. 67°33'15" E. 79.22 feet; thence on a tangent curve to the left having a radius of 4,984.56 feet, through an angle of 04°39'30", a distance of 360.31 feet; thence S. 71°41'45" E. 147.30 feet; thence on a tangent curve to the right having a radius of 1,970.39 feet, through an angle of 09°27'10", a distance of 325.08 feet; thence S. 62°14'35" E. 169.24 feet; thence on a tangent curve to the right having a radius of 969.44 feet, through an angle of 19°50'44", a distance of 335.78 feet;

Thence S. 42°23'51" E. 224.98 feet; thence on a tangent curve to the left having a radius of 529.88 feet, through an angle of 28°39'54", a distance of 265.10 feet; thence S. 71°03'45" E. 520.51 feet; thence on a tangent curve to the left having a radius of 517.29 feet, through an angle of 21°20'40", a distance of 192.71 feet; thence N. 87°35'35" E. 171.14 feet; thence on a tangent curve to the left having a radius of 969.47 feet, through an angle of 04°40'54", a distance of 79.22 feet to a set 6-inch-diameter concrete monument bearing a 2-inch brass cap stamped "USDI, NPS 2, RCE 13639"; thence leaving said southerly right-of-way line of Sir Francis Drake Boulevard, S. 37°15'45" W. 297.04 feet, S. 17°46'39" E. 389.96 feet, and S. 207°06'21" W. 1,521.74 feet to a round 6-inch by 6-inch concrete monument accepted as concrete monument "7" referred to in that certain boundary line agreement between the O. L. Shafter Estate Co. and Julia Shafter Hamilton, recorded in book 99 of deeds, page 5, Marin County records; thence S. 05°58'10" W. 59.45 feet to a set 6-inch-diameter concrete monument bearing a 2-inch brass cap stamped "USDI, NPS 3, RCE 13639"; thence S. 18°20'04" W. 272.12 feet; thence N. 26°59'29" W. 57.00 feet; thence S. 34°07'04" W. 142.99 feet; thence on a tangent curve to the right having a radius of 164.98 feet, through an angle of 34°30'00", a distance of 99.34 feet; thence S. 68°37'04" W. 202.98 feet;

Thence on a tangent curve to the left having a radius of 229.98 feet, through an angle of 29°40'00", a distance of 119.08 feet; thence S. 20°52'56" E. 440.96 feet, N. 68°35'04" E. 94.58 feet, S. 18°20'04" W. 286.90 feet, S. 17°58'12" E. 1963.59 feet, S. 38°08'21" E. 1719.52 feet, S. 50°15'43" E. 3018.90 feet, N. 85°16'42" E. 522.92 feet, N. 74°26'59" E. 473.14 feet, S. 01°59'17" W. 176.42 feet, S. 08°24'47" W. 127.23 feet, S. 20°42'37" W. 73.59 feet, S. 34°33'57" W. 85.12 feet, S. 45°27'34" W. 121.68 feet, S. 41°23'53" W. 139.68 feet, S. 54°40'25" E. 118.79 feet, S. 07°59'15" E. 51.18 feet, S. 18°02'35" W. 64.96 feet, S. 41°29'03" W. 142.28 feet, S. 10°41'20" W. 216.04 feet, S. 40°43'54" E. 152.01 feet, S. 52°16'26" E. 106.00 feet, S. 49°12'47" E. 174.50 feet, S. 36°52'24" E. 557.23 feet, S. 62°22'55" E. 164.83 feet and N. 82°52'41" E. 243.67 feet to a 6-inch-diameter concrete monument bearing a 2-inch brass cap stamped "USDI, NPS 4, RCE 13639", set as a replacement of a found 2 inch by 2 inch redwood stake accepted as marking a point on the northerly line of that parcel of land conveyed to Gordon Onslow-Ford, et ux, by deed recorded in Book 1025, page 615, Marin County Records, said parcel being referred to as "Parcel Two" in said deed;

Thence N. 69°59'30" E. 152.27 feet, N. 62°39'09" E. 112.67 feet, N. 63°21'28" E. 99.50 feet, S. 86°16'10" E. 132.79 feet, N. 73°52'29" E. 90.55 feet, S. 86°35'59" E. 130.95 feet, S. 55°14'15" E. 1299.38 feet, N. 67°20'51" E. 65.78 feet, N. 68°38'13" E. 166.83 feet, S. 71°50'45" E. 284.98 feet, S. 38°58'56" E. 277.85 feet, S. 21°34'47" E. 221.54 feet, S. 27°04'35" E. 127.42 feet, S. 09°19'59" W. 744.40 feet, S. 12°13'19" E. 913.73 feet, S. 14°35'02" W. 1249.26 feet, and S. 15°44'06" E. 410.51 feet to a 6-inch-diameter concrete monument bearing a 2-inch brass cap stamped "USDI NPS 5, RCE 13639", set as a replacement of a found 4-inch by 6-inch wood post bearing a copper tag stamped "RCE 3230" accepted as marking a point on the easterly line of the lands conveyed to the Drakes Bay Land Co. by deed recorded March 31, 1960, in Book 1356, page 312, Marin County Records; thence N. 74°32'11" E. 209.92 feet to a found 6-inch by 6-inch concrete monument bearing a copper tag stamped "RCE 3230", accepted as concrete monument "19" referred to in that certain conveyance from Julia Shafter Hamilton to L. S. Murphy, recorded December 2, 1929, in Book 186, page 332, Marin County Records; thence S. 01°47'28" W. 60.15 feet, S. 11°06'49" W. 309.37 feet, S. 27°57'54" W. 82.52 feet, S. 24°57'56" W. 190.22 feet, S. 27°50'46" E. 242.98 feet, and S. 65°57'27" E. 92.99 feet to a found 6-inch by 6-inch concrete monument accepted as concrete monuments "12" referred to in said conveyance;

Thence S. 64°11'55" E. 261.96 feet, S. 33° 39'23" E. 177.23 feet, S. 11°26'18" E. 245.80 feet, S. 39°30'40" E. 628.10 feet, S. 74°34'23" E. 379.79 feet, S. 44°50'56" E. 109.99 feet, S. 13°37'24" E. 326.22 feet, S. 45°40'59" E. 162.64 feet, S. 40°49'45" E. 236.27 feet, S. 34°47'26" E. 211.60 feet, S. 87°10'55" E. 141.20 feet, N. 38°31'19" E. 124.61 feet, N. 82°52'48" E. 48.08 feet, S. 31°26'16" E. 123.29 feet, S. 24° 58'56" E. 314.61 feet, S. 64°53'58" E. 23.48 feet, S. 84°10'47" E. 515.52 feet, S. 83°49'52" E. 102.43 feet, S. 79°13'34" E. 156.38 feet, S. 52°10'19" E. 190.12 feet, S. 71°43'18" E. 28.48 feet, and S. 26°16'00" E. 898.26 feet to a 6-inch-diameter concrete monument bearing a 2-inch brass cap stamped "USDI, NPS 6, RCE 13639", set to mark a point on the westerly line of the lands conveyed to G. Grannucci by deed recorded in Book 202 of Deeds, page 8, Marin County Records; thence S. 05°48'24" W. 628.57 feet, to a gate post, said gate post being the "Left hand gate post" referred to in that certain conveyance from Point Reyes Land and Dairy Co. to Julia Shafter Hamilton, recorded March 8, 1906, in Book 98 of Deeds, page 264, Marin County Records; thence S. 77°02'40" E. 221.07 feet to the center of the stream which runs down Haggerty Gulch; thence along the center of said stream N. 61°52'54" E. 719.15 feet to a point in the center of said stream which bears N. 30°17'00" W. 1680.25 feet from a galvanized nail and copper tag stamped "RCE 13639" set in a rock to mark a point on the northeasterly line of the lands conveyed to Grace Hamilton Kelham by deed recorded February 28, 1949 in Book 607, page 372, Marin County Records;

Thence S. 30°17'00" E. 1680.25 feet to said nail; thence S. 62°32'00" E. 185.75 feet, S. 81°01'00" E. 135.49 feet, S. 71°29'00" E. 158.59 feet, S. 73°31'00" E. 90.59 feet, S. 68°-17'00" E. 238.17 feet, S. 29°00'00" E. 241.77 feet, S. 35°25'00" E. 196.08 feet, S. 59°21'00" E. 186.58 feet, S. 64°10'00" E. 349.58 feet, N. 84°18'00" E. 598.47 feet, S. 65°40'00" E. 1442.-37 feet, S. 80°47'00" E. 245.48 feet, N. 28°-50'00" E. 136.99 feet, S. 56°42'00" E. 369.37 feet, N. 87°13'00" E. 104.89 feet, N. 63°29'00" E. 136.49 feet, N. 31°52'00" E. 130.19 feet, N. 06°54'00" E. 128.09 feet, N. 48°03'00" E. 103.-32 feet, N. 33°32'00" E. 99.29 feet, N. 29°09'-00" E. 76.09 feet, N. 32°16'00" E. 168.78 feet, N. 41°38'00" E. 67.59 feet, S. 88°12'00" E. 86.59 feet, N. 54°05'00" E. 117.89 feet, N. 03°07'00" W. 112.89 feet, N. 25°23'00" E. 88.19 feet, N. 62°43'00" E. 56.99 feet, and N. 74°31'00" E. 155.78 feet to a 6-inch-diameter concrete monument bearing a 2-inch brass cap stamped "USDI, NPS 7, RCE 13639", set to mark a point on the northeasterly line of said lands conveyed to Kelham;

Thence N. 35°25'00" E. 67.79 feet, N. 54°19'00" W. 121.49 feet, N. 35°53'00" W. 115.39 feet, N. 39°45'00" E. 284.87 feet, N. 82°20'00" E. 172.68 feet, S. 85°01'00" E. 122.39 feet, N. 06°24'00" E. 60.19 feet, N. 38°35'00" W. 111.09 feet, N. 17°23'00" W. 61.19 feet, N. 29°41'00" W. 216.98 feet, N. 22°45'00" W. 140.19 feet, N. 09°56'00" W. 76.39 feet, N. 84°20'00" E. 181.08 feet, N. 81°52'00" E. 540.45 feet, N. 05°27'00" W. 674.94 feet, N. 06°59'00" W. 248.08 feet, N. 54°56'00" W. 273.07 feet, and N. 40°29'00" W. 574.75 feet to a 6-inch-diameter concrete monument bearing a 2-inch brass cap stamped "USDI, NPS 8, RCE 13639", set on the southerly right-of-way line of a 60-foot roadway known as "Bear Valley Road", as said road was conveyed to the county of Marin, State of California, by deed recorded April 6, 1921, in Book 224 of Deeds, page 431 Marin County Records; thence along said southerly right-of-way line N. 89°07'48" E. 197.18 feet, S. 80°10'12" E. 489.58 feet, S. 75°38'12" E. 353.90 feet, S. 84°07'12" E. 418.75 feet, S. 20°57'12" E. 367.56 feet, S. 37°00'12" E. 315.50 feet, S. 31°48'12" E. 324.21 feet, S. 26°33'12" E. 392.18 feet, S. 29°31'12" E. 289.71 feet, S. 42°43'12" E. 210.09 feet, S. 15°52'12" E. 203.87 feet, S. 52°13'12" E. 263.33 feet, S. 43°10'12" E. 296.30 feet, S. 34°43'12" E. 574.73 feet, S. 32°43'12" E. 854.58 feet, S. 17°43'12" E. 253.60 feet, S. 40°57'12" E. 375.85 feet, S. 22°03'12" E. 1190.35 feet, and S. 50°18'12" E. 200.93 feet to a set 6-inch-diameter concrete monument bearing a 2-inch brass cap stamped "USDI, NPS 9, RCE 13639";

Thence continuing along said southerly right-of-way line, S. 34°22'12" E. 446.49 feet, S. 63°38'12" E. 329.65 feet, S. 86°49'12" E. 117.93 feet, N. 58°43'48" E. 249.45 feet, S. 55°57'12" E. 655.95 feet, and N. 89°49'48" E. 80 feet to a set 6-inch-diameter concrete monument bearing a 2-inch-brass cap stamped "USDI, NPS 10, RCE 13639"; thence leaving said southerly right-of-way line due south 1,384.23 feet to a ¾-inch-diameter galvanized iron pipe bearing a cooper tag stamped "RCE 13639" set on the common boundary line of the lands of Grace Hamilton Kelham and the Vedanta Society of northern California, as said line is described in that certain boundary line agreement between Grace Hamilton Kelham and said Vedanta Society recorded November 29, 1963, in book 1754, page 443, Marin County records; thence along said line, S. 71°18'04" E.

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1,175.38 feet to a found 1-inch-diameter iron pipe bearing a cooper tag stamped "LS 2926"; thence N. 51°00'27" E. 899.85 feet to a found 2-inch-diameter iron pipe with a brass cap and punch mark; thence N. 51°00'27" E. 8 feet to a 6-inch-diameter concrete monument bearing a 2-inch-brass cap stamped "USDI, NPS 11-A, RCE 13639" set on said agreed common boundary line; thence N. 51 00'27" E. 53 feet, more or less, to a point in the center of Olema Creek;

Thence southeasterly along the centerline of said Olema Creek, S. 31°24'55" E. 38.08 feet, S. 19°58'56" E. 104.50 feet, S. 25°12'14" E. 188.08 feet, S. 35°29'31" E. 66.43 feet, S. 02°44'56" W. 118.08 feet, S. 44°37'52" E. 156.30 feet, N. 89°06'03" E. 125.74 feet, S. 49°27'34" E. 147.54 feet, S. 08°12'22" E. 301.80 feet, S. 24°50'15" E. 141.43 feet, S. 17°20'44" E. 84.09 feet, S. 42°27'31" E. 110.23 feet, S. 24°23'49" W. 439.71 feet, S. 04°56'06" E. 160.92 feet, S. 23°07'53" W. 156.75 feet, S. 08°12'36" W. 121.15 feet, S. 69°48'04" W. 117.53 feet, S. 23°57'51" W. 132.43 feet, S. 64°17'01" W. 116.61 feet, S. 06°29'13" W. 179.49 feet, S. 78°47'40" W. 142.35 feet, S. 21°35'26" W. 108.55 feet, S. 45°47'10" W. 161.72 feet, S. 21°30'59" E. 299.15 feet, S. 09°09'35" W. 189.58 feet, S. 43°44'26" E. 150.57 feet, S. 56°12'37" E. 238.37 feet, S. 39°11'14" E. 161.92 feet, S. 58°06'32" E. 298.87 feet, S. 09°13'48" E. 153.01 feet, S. 03°29'40" E. 370.83 feet, S. 49°19'04" E. 172.09 feet, S. 36°06'38" E. 250.42 feet, S. 54°31'32" W. 227.17 feet, S. 02°31'12" W. 119.11 feet, S. 70°27'05" E. 107.29 feet, S. 89°13'15" E. 172.16 feet, S. 67°09'45" E. 231.71 feet, S. 10°07'16" W. 299.99 feet, S. 09°47'17" W. 210.16 feet, S. 00°41'06" E. 187.30 feet, S. 74°31'52" E. 152.77 feet, S. 67°28'44" E. 415.29 feet, N. 79°00'34" E. 209.66 feet, S. 01°54'44" W. 236.24 feet, S. 64°01'55" E. 220.19 feet, S. 46°46'29" E. 70.07 feet, S. 25°31'26" E. 176.16 feet, S. 25°38'57" E. 141.49 feet, N. 76°24'07" E. 165.82 feet, S. 67°31'14" E. 260.31 feet, S. 40°45'53" E. 267.01 feet, S. 32°11'14" W. 66.27 feet, S. 65°24'46" W. 106.08 feet, S. 19°05'48" W. 196.97 feet, S. 40°11'55" E. 240.26 feet, S. 78°22'12" E. 283.19 feet, S. 21°07'15" E. 168.10 feet, S. 04°56'49" W. 200.22 feet, S. 35°09'03" E. 115.73 feet, S. 50°01'46" E. 424.41 feet, S. 66°18'49" E. 115.91 feet, S. 33°17'24" E. 245.40 feet, S. 80°07'06" E. 206.35 feet, S. 01°40'03" E. 286.52 feet, S. 16°59'32" E. 305.46 feet, S. 56°59'50" E. 101.22 feet, N. 75°42'52" E. 191.86 feet, S. 13°09'02" E. 203.45 feet, S. 18°03'06" W. 181.12 feet, S. 17°58'43" E. 220.22 feet, S. 68°29'27" E. 90.50 feet, N. 68°47'27" E. 405.15 feet, S. 05°40'49" E. 445.85 feet, S. 24°22'37" E. 326.37 feet, S. 37°36'24" E. 185.69 feet, S. 08°10'35" E. 321.95 feet, S. 48°07'46" E. 250.62 feet, S. 11°58'41" W. 98.95 feet, S. 10°20'57" E. 174.73 feet, S. 59°25'36" E. 208.79 feet, S. 00°16'52" E. 151.31 feet, S. 48°18'40" E. 127.26 feet, S. 62°12'13" E. 198.50 feet, S. 08°37'39" E. 160.74 feet, S. 30°27'20" E. 178.79 feet, S. 20°56'43" E. 195.56 feet, S. 41°43'15" E. 119.15 feet, S. 07°23'31" E. 236.65 feet, S. 18°36'58" E. 329.63 feet, S. 36°43'52" E. 271.07 feet, S. 39°46'04" E. 127.11 feet, S. 38°35'09" E. 250.83 feet, S. 07°35'43" E. 123.48 feet, S. 20°34'59" E. 301.07 feet, S. 56°59'15" E. 220.05 feet, S. 12°31'13" E. 139.05 feet, S. 56°31'19" E. 59.55 feet, S. 50°12'54" E. 107.36 feet, S. 45°35'55" E. 204.67 feet, S. 59°57'24" E. 100.77 feet, S. 27°58'12" E. 92.52 feet, S. 12°43'43" W. 152.31 feet, S. 47°08'43" E. 157.07 feet, S. 77°39'14" E. 218.75 feet, S. 88°21'49" E. 283.70 feet, and S. 52°23'12" E. 298.38 feet;

Thence leaving said centerline of Olema Creek, S. 08°57'29" W. 133.19 feet to a point on the westerly right-of-way line of California State Highway No. 1, as said right-of-way line was established by a survey conducted by the Division of Highways, State of California, during the months of June through August 1963 (a record of said survey being on file with said Division of Highways); thence along said westerly right-of-way line, S. 47°16'13" E. 83.26 feet and S. 34°35'52" E. 58.79 feet to a 6-inch-diameter concrete monument bearing a 2-inch-brass cap stamped "USDI, NPS 13, RCE 13639"; thence continuing along said surveyed westerly right-of-way line, in a southeasterly direction, to a 6-inch-diameter concrete monument bearing a 2-inch-brass cap stamped "USDI, NPS 17, RCE 13639", set at the point of intersection of said westerly right-of-way line with a prolongation of the boundary line common to Rancho Punta de los Reyes (Sobrante) and Rancho Las Baulines; thence leaving said westerly right-of-way line, S. 48°37'00" W. 706.78 feet, S. 47°33'57" W. 1639.33 feet, and S. 47°30'35" W. 1484.15 feet to a found 1½-inch-diameter from pipe monument with a wood plug and nail accepted as marking a point on the southerly boundary line of Rancho Punta de los Reyes (Sobrante);

Thence leaving said southerly boundary line S. 42°50'51" E. 1332.66 feet to a found 1½-inch-diameter iron pipe monument bearing a copper tag stamped "RCE 1904", accepted as marking a point on the easterly line of the lands conveyed to the Golden Rule Church Association by deed recorded August 17, 1950, in book 653, page 347, Marin County records; thence S. 42°50'51" E. 20 feet, more or less, to the center of Pine Gulch Creek; thence along the centerline of Pine Gulch Creek, in a southerly direction, 1,000 feet, more or less, to the point of intersection of said centerline with the centerline of a side creek flowing from the west known as the "Westerly Branch of Pine Gulch Creek"; thence along the centerline of said side creek, in a northwesterly direction, 3,000 feet, more or less, to a point which bears N. 47°23'53" E. 900 feet, more or less, from a 6-inch-diameter concrete monument bearing a 2-inch-brass cap stamped "USDI, NPS 18, RCE 13639", set as a replacement of a found 1½-inch-iron pipe monument bearing a copper tag stamped "L.S. 3089" accepted as marking a point on said southerly boundary line of Rancho Punta de los Reyes (Sobrante); thence S. 47°23'53" W. 900 feet, more or less, to said concrete monument; thence S. 48°00'35" W. 461.63 feet, S. 47°54'18" W. 1080.76 feet; and S. 47°55'34" W. 2158.59 feet to a 6-inch-diameter concrete monument bearing a 2-inch-brass cap stamped "USDI, NPS 19, RCE 13639" set to mark a point on said southerly boundary line of said Rancho Punta de los Reyes (Sobrante);

Thence S. 47°55'34" W. 140 feet, more or less, to the point of beginning. Also those portions of Rancho Punto de Los Reyes (Sobrante) that include the right-of-way for an access road as authorized in paragraph (a) of the Act of October 15, 1966 (Public Law 89-666), being described as follows:

PARCEL I

Beginning at a point on the boundary line of Point Reyes National Seashore (as said boundary is shown on "Record of Survey, Point Reyes National Seashore" recorded December 20, 1963, in Book 3 of Surveys at page 56, Marin County Records, California,) said point being located N. 29°41' W., 200 feet from a 2 inch by 2 inch redwood hub tagged RCE 13639, said redwood hub being known as monument N.P.S. 5-H-34 of the aforesaid boundary survey; thence in a southwesterly direction on a curve to the left having a radius of 600 feet, the initial tangent of which bears S. 88°19' W., an arc distance of 377 feet; thence S. 37°41' E., 100 feet; thence S. 52°19' W., 232 feet; thence in a westerly direction on a curve to the right having a radius of 450 feet, an arc distance of 317 feet; thence N. 87°10' W., 184.20 feet; thence in a southwesterly direction on a curve to the left having a radius of 650 feet, an arc distance of 169 feet; thence S. 77°45' W., 205 feet; thence N. 12°15' W., 65 feet; thence in a westerly and northerly direction on a curve to the right having a radius of 150 feet, the initial tangent of which bears S. 77°45' W., an arc distance of 333 feet;

Thence N. 24°41' E., 190.03 feet; thence in a northwesterly and southwesterly direction on a curve to the left having a radius of 500 feet, an arc distance of 1,404.25 feet; thence S. 43°44' W., 448.45 feet; thence in a westerly direction on a curve to the right having a radius of 150 feet, an arc distance of 126.77 feet; thence N. 87°50' W., 193.00 feet; thence in a southwesterly direction on a curve to the left having a radius of 450 feet, an arc distance of 173.16 feet; thence S. 70°08' W., 155 feet; thence along the line of lands formerly of Stockstill the following six courses, the following bearings being referred to the conveyance from the said Stockstill; N. 1°14' E., 185.99 feet; N. 3°45' W., 35 feet; N. 88°30' W., 200 feet; S. 1°34' W., 250 feet; N. 88°30' W., 495 feet; and S. 10°40' W., 52.99 feet; thence along the line of lands formerly of Stewart the following seven courses, the following bearings being referred to the conveyance from the said Stewart; N. 88°28' W., 191.87 feet; thence in a southwesterly direction on a curve to the left having a radius of 550 feet, an arc distance of 373.89 feet; thence S. 52°35' W., 100 feet; thence N. 37° 25' W., 25 feet; thence S. 52°35' W., 315 feet, more or less, to a point which bears S. 32° 30' E. from the point of intersection of the two courses "S. 29°33' W., 255.43 feet and N. 32°30' W., 1,551.70 feet" as contained in that certain deed from the Sherwood Building Co. to Frederick L. Miehle et ux recorded in Book 352, page 469, Marin County Records;

Thence N. 32°30' W., 100 feet, more or less, to the point above described; thence N. 32°30' W., 1,551.70 feet to the center of the creek in Haggerty's Gulch; thence along said creek, S. 64°15' W., 380 feet to the boundary line of the Point Reyes National Seashore as surveyed and monumented; thence in a generally southeasterly, easterly, and northeasterly direction along said boundary to the point of beginning.

PARCEL II

Beginning at the left-hand gate post as described in Book 202 of Deeds, page 8 (6- by 6-inch center post) being a point common to lands formerly of Gilchrist, the Laguna Ranch, and the Bear Valley Ranch, being also a point on the boundary of the Point Reyes National Seashore (as said boundary is shown on "Record of Survey, Point Reyes National Seashore" recorded December 20, 1963, in Book 3 of Surveys at page 56, Marin County Records, California) said point being therein referred to as N.P.S. 4-F-40; thence in a northeasterly direction along said boundary, 100.0 feet; thence in a southeasterly direction to a point on said boundary, said point being 50.0 feet southeasterly of the point of beginning; thence in a northwesterly direction along said boundary, 50.0 feet to the point of beginning.

The Point Reyes National Seashore, as described, contains a total of 64,546 acres, more or less.

The boundary herein described is depicted on a boundary map of Point Reyes National Seashore, dated June 1, 1960, and designated NS-PR-7001 and on map No. 612-30,008, dated May, 1972 (entrance road section). The boundary is also shown in greater detail on the Survey plats recorded December 20, 1963, in the Marin County Recorder's Office, in book 3 of Surveys at page 56. All such maps are available for public inspection in the Office of the Superintendent, Point Reyes National Seashore, the Western Regional Office of the National Park Service in San Francisco, Calif., and the Offices of the National Park Service, Department of the Interior, Washington, D.C.

The Seashore boundary is subject to revision if minor adjustments are necessary to cause it to follow, as nearly as practicable, the boundary described in section 2 of the said Act of September 13, 1962, as amended.

Copies of this notice and of the maps depicting the boundaries of the Point Reyes National Seashore, described herein, will be distributed, published and recorded as required under section 5(b) of the above Act of September 13, 1962.

Dated: October 20, 1972.

RICHARD S. BODMAN,
Assistant Secretary of the Interior.

[FR Doc.72-18676 Filed 11-1-72;8:48 am]

WHISKEYTOWN UNIT, WHISKEYTOWN-SHASTA-TRINITY NATIONAL RECREATION AREA, CALIF.

Establishment

The Act of November 8, 1965 (79 Stat. 1295; 16 U.S.C. 460q), provides that when sufficient lands, waters, or interest therein are owned or have been acquired by the United States within the Whiskeytown unit of the Whiskeytown-Shasta-Trinity National Recreation Area to permit efficient initial development and administration for the purposes of that Act, there shall be published in the FEDERAL REGISTER a notice to that effect and a detailed description of the boundaries of the unit.

Notice is given that the lands, waters, or interest therein owned or acquired by the United States in the Whiskeytown unit are sufficient to permit efficient initial development and administration thereof for the purposes of the aforesaid Act and, therefore, the said unit is hereby established. There follows a detailed description of the boundaries of this unit, which are shown on Map No. BOR-WST-1004, dated July 1963, and more detailed Drawing No. 611-30000A, dated December 17, 1968, and in the description of the west and southwest boundary of Whiskeytown "Reservoir" (National) Recreation Area by Hammon, Jensen, and Wallen Mapping and Forestry Service, corrected copy dated May 12, 1969:

Beginning at the west quarter corner section 8, T. 31 N., R. 6 W., Mount Diablo meridian;

Thence easterly along the south line of the NW¼ of sec. 8 to the southeast corner of the NW¼;

Thence southerly along the west line of the N½SE¼ to the southwest corner of the said N½SE¼;

Thence easterly along the south line of the N½SE¼ to the southeast corner of the N½SE¼ of said section;

Thence northerly along the east section line of section 8, to the southwest corner of sec. 4;

Thence easterly along the south section line of section 4, to the northwest corner of section 10;

Thence southerly along the west section line of section 10, to the southwest corner of the N½ of section 10;

Thence easterly along the south line of the N½ of section 10 and the south line of the N½ of section 11, to the southeast corner of the NW¼ of section 11;

Thence northerly along the east line of the NW¼ of section 11, to the northeast corner of the NW¼ of section 11;

Thence easterly along the south section line of sec. 2, to the southeast corner of sec. 2;

Thence northerly along the east section line of sec. 2, T. 31 N., R. 6 W., and secs. 35 and 26, T. 32 N., R. 6 W., to the northeast corner of the S½ of sec. 26;

Thence westerly along the north line of the S½ of sec. 26, to the southeast corner of the SW¼NE¼ of said section;

Thence northerly along the east line of the SW¼NE¼ of sec. 26, to the northeast corner of the SW¼NE¼ of said section;

Thence westerly along the north line of the SW¼NE¼ of sec. 26, to the southeast corner of the NE¼NW¼ of said section;

Thence northerly along the east line of the NE¼NW¼ of sec. 26 and the east line of the W½ of sec. 23 to the southwest corner of the N½NW¼NE¼, sec. 23;

Thence easterly along the south line of the N½NW¼NE¼ of sec. 23 to the southeast corner of the N½NW¼NE¼ of said section;

Thence northerly along the east line of the N½NW¼NE¼ of sec. 23 to the northeast corner of the N½NW¼NE¼ of said section;

Thence westerly along the north section line of sec. 23, to the southeast corner of the SW¼ of sec. 14;

Thence northerly along the east line of the SW¼ of sec. 14, to the northeast corner of the SW¼ of said section;

Thence westerly along the north line of the SW¼ of sec. 14 to the southeast corner of the NE¼ of sec. 15;

Thence northerly along the east section line of secs. 15 and 10, to the northeast corner of sec. 10;

Thence westerly along the north section line of sec. 10, to the southeast corner of sec. 4;

Thence northerly along the east section line of sec. 4, to the northeast corner of said section;

Thence westerly along the north section line of secs. 4 and 5, to the northwest corner of lot 1 of sec. 5;

Thence southerly along the west line of lot 1 of sec. 5, to the northeast corner of the SW¼NE¼ of sec. 5;

Thence westerly along the north line of the S½N½ of sec. 5 and the north line of the S½N½ of sec. 6, to the northwest corner of the S½N½ of sec. 6, T. 32 N., R. 6 W.;

Thence northerly along the east section line of sec. 1, T. 32 N., R. 7 W., to a point 660 feet north of the southeast corner of lot 1 of said section;

Thence westerly along a line 660 feet north of and parallel to the south line of lots 1, 2, 3, and 4 of sec. 1, to a point 660 feet north of the southeast corner of lot 1 of sec. 2;

Thence northerly along the east section line of sec. 2 to the northeast corner of sec. 2;

Thence westerly along the north section line of sec. 2, T. 32 N., R. 7 W., to the southeast corner of the S½SW¼ of sec. 35, T. 33 N., R. 7 W.;

Thence northerly along the east line of the S½SW¼ of sec. 35, to the northeast corner of the S½SW¼;

Thence westerly along the north line of the S½SW¼ of sec. 35, to the northeast corner of the SE¼SE¼ of sec. 34;

Thence northerly along the east section line of sec. 34, to the northeast corner of sec. 34;

Thence westerly along the north section line of sec. 34, to the northwest corner of said section;

Thence southerly along the west section line of sec. 34, T. 33 N., R. 7 W., to the northeast corner of sec. 4, T. 32 N., R. 7 W.;

Thence N. 88°33'16" W., 4,087.613 feet along the north section line of sec. 4, to the northwest corner of said section;

Thence S. 33°26'03" W., 313.431 feet to a brass monument, 2NO3A;

Thence S. 30°40'11" W., 691.385 feet to angle point 1;

Thence S. 83°08'27" W., 917.366 feet to angle point 2;

Thence S. 44°37'01" W., 977.272 feet to angle point 3;

Thence S. 62°44'41" W., 196.000 feet to angle point 4;

Thence S. 13°20'55" E., 240.130 feet to angle point 5;

Thence S. 19°42'59" W., 1,017.300 feet to angle point 6;

Thence S. 51°41'04" W., 429.010 feet to angle point 7;

Thence S. 27°30'56" W., 391.440 feet to angle point 8;

Thence S. 05°21'36" W., 579.370 feet to angle point 9;

Thence S. 55°38'26" W., 470.110 feet to angle point 10;

Thence S. 00°40'11" W., 1,016.470 feet to angle point 11;

Thence S. 27°49'27" W., 429.860 feet to angle point 12;

Thence S. 06°21'29" W., 697.290 feet to angle point 13;

Thence S. 08°19'29" E., 545.520 feet to a brass monument, 103D;

Thence S. 31°17'30" E., 517.600 feet to angle point 14;

Thence S. 41°54'47" W., 303.320 feet to angle point 15;

Thence S. 17°56'52" W., 1,595.650 feet to angle point 16;

Thence S. 57°01'59" W., 667.090 feet to angle point 17;

Thence S. 81°53'16" W., 598.670 feet to angle point 18;

Thence S. 58°41'00" W., 503.100 feet to a brass monument, 103C;

Thence N. 40°17'21" W., 337.620 feet to angle point 19;

Thence S. 28°16'13" W., 337.220 feet to angle point 20;

Thence S. 69°55'00" W., 580.460 feet to angle point 21;

Thence S. 88°57'50" W., 510.920 feet to angle point 22;

Thence N. 63°22'01" W., 497.640 feet to angle point 23;

Thence S. 77°23'34" W., 731.760 feet to angle point 24;

Thence S. 04°39'21" E., 699.270 feet to angle point 25;

Thence S. 46°28'26" W., 1,088.680 feet to angle point 26;

Thence S. 05°32'24" W., 571.950 to a brass monument, 103B;

Thence S. 75°56'29" W., 2,253.640 feet to angle point 27;

Thence S. 11°51'57" W., 853.800 feet to angle point 28;

Thence S. 16°23'41" E., 809.060 feet to angle point 29;

Thence S. 19°25'06" W., 1,349.930 feet to angle point 30;

Thence S. 40°11'24" E., 239.320 feet to angle point 31;

Thence S. 06°52'58" E., 649.520 feet to a brass monument, 103A;

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Thence S. 14°06'49" W., 1,277.360 feet to angle point 32;
Thence S. 09°49'30" E., 1,268.640 feet to angle point 33;
Thence S. 16°49'40" W., 788.820 feet to angle point 34;
Thence S. 74°47'40" E., 1,207.850 feet to angle point 35;
Thence S. 26°45'54" E., 677.100 feet to angle point 36;
Thence S. 35°41'56" W., 490.880 feet to angle point 37;
Thence S. 09°21'39" E., 1,225.440 feet to angle point 38;
Thence S. 65°21'25" E., 305.390 feet to a brass monument, 105A;
Thence S. 17°34'28" E., 261.050 feet to angle point 39;
Thence S. 04°46'56" W., 1,345.810 feet to angle point 40;
Thence S. 33°52'31" E., 793.350 feet to angle point 41;
Thence S. 01°24'01" W., 594.180 feet to angle point 42;
Thence S. 48°23'19" E., 852.730 feet to angle point 43;
Thence S. 05°49'22" W., 871.740 feet to angle point 44;
Thence S. 58°41'02" E., 441.900 feet to angle point 45;
Thence S. 01°25'07" W., 347.360 feet to a brass monument, 107A;
Thence S. 18°16'26" E., 650.470 feet to Angle Point 46;
Thence S. 18°50'50" W., 870.350 feet to angle point 47;
Thence S. 34°38'27" E., 264.730 feet to angle point 48;
Thence S. 14°08'55" E., 653.420 feet to angle point 49;
Thence S. 49°38'18" E., 957.990 feet to angle point 50;
Thence S. 37°25'13" E., 714.680 feet to angle point 51;
Thence S. 56°03'32" E., 1,002.400 feet to the west section line of sec. 32, T. 32 N., R. 7 W.;
Thence S. 01°09'08" W., 918.910 feet along the west section line of sec. 32 to the southwest corner of said section;
Thence S. 89°01'34" E., 2,562.490 feet along the south section line of sec. 32 to the south quarter corner of said section;
Thence S. 89°10'05" E., 2,545.230 feet along the south section line of sec. 32 to the southeast corner of said section;
Thence N. 05°02'09" E., 2,676.730 feet along the east section line of sec. 32 to the east quarter corner of said section;
Thence N. 05°07'02" E., 915.760 feet along the east section line of sec. 32 to a brass monument, 2S13A;
Thence N. 84°28'46" E., 1,783.830 feet to angle point 57;
Thence N. 59°52'36" E., 817.990 feet to angle point 58;
Thence S. 61°09'11" E., 459.640 feet to angle point 59;
Thence S. 28°32'49" E., 665.690 feet to angle point 60;
Thence S. 07°38'06" W., 496.760 feet to angle point 61;
Thence S. 39°49'29" E., 507.030 feet to angle point 62;
Thence S. 87°16'26" E., 1,136.230 feet to a brass monument, 2S13B;
Thence S. 42°56'24" E., 515.800 feet to the west section line of sec. 34, T. 32 N., R. 7 W.;
Thence S. 01°00'40" W., 2,019.910 feet along the west section line of sec. 34 to the southwest corner of said section;
Thence S. 89°41'12" E., 2,172.750 feet along the south section line of sec. 34;
Thence S. 14°27'17" E., 1,052.350 feet to angle point 66;
Thence S. 55°49'27" E., 690.860 feet to angle point 67;
Thence S. 28°18'26" E., 1,553.260 feet to angle point 68;
Thence N. 46°35'28" E., 201.690 feet to angle point 69;
Thence S. 76°37'12" E., 279.510 feet to angle point 70;
Thence N. 44°42'21" E., 465.840 feet to a brass monument, 3S13A;
Thence N. 44°26'11" E., 231.380 feet to angle point 71;
Thence S. 60°13'12" E., 799.970 feet to the west section line of sec. 2, T. 31 N., R. 7 W.;
Thence S. 01°46'22" W., 1,237.430 feet along the west section line of sec. 2, to the southwest corner of the NW¼SW¼ of sec. 2;
Thence S. 88°13'33" E., 2,558.070 feet to the southeast corner of the NE¼SW¼ of sec. 2;
Thence S. 88°10'47" E., 2,576.620 feet to the southeast corner of the NE¼SE¼ of sec. 2;
Thence N. 01°47'53" E., 294.510 feet along the east line of sec. 2;
Thence S. 65°26'49" E., 1,1141.660 feet to a brass monument, 4S13A;
Thence N. 88°11'05" E., 1,058.260 to angle point 77;
Thence S. 50°25'25" E., 1,037.960 feet to angle point 78;
Thence S. 72°30'00" E., 1,790.970 feet to angle point 79;
Thence N. 49°47'27" E., 584.920 feet to a brass monument, 509A;
Thence N. 46°16'06" E., 702.560 feet to angle point 80;
Thence N. 69°13'11" E., 907.810 feet to angle point 81;
Thence S. 52°52'40" E., 1,198.570 feet to angle point 82;
Thence S. 11°10'49" E., 571.850 feet to angle point 83;
Thence S. 22 39'19" E., 822.460 feet to angle point 84;
Thence S. 09°01'10" E., 842.010 feet to angle point 85;
Thence S. 72°07'55" E., 1097.040 feet to angle point 86;
Thence S. 52°40'16" E., 230.740 feet to angle point 87;
Thence S. 86°44'45" E., 790.640 feet to angle point 88;
Thence S. 41°34'34" E., 328.200 feet to the west section line of sec. 8, T. 31 N., R. 6 W.;
Thence S. 00°10'08" E., 896.280 feet along the west section line of sec. 8, to the W¼ corner of sec. 8, being the point of beginning.

Dated: October 20, 1972.

GEORGE HARTZOG, JR.,
Director, National Park Service.

[FR Doc.72-18675 Filed 11-1-72;8:48 am]

Office of the Secretary

[Order No. 2508, Amdt. 99]

COMMISSIONER OF INDIAN AFFAIRS

Delegation of Authority With Respect to Specific Legislation

Section 30 of Order 2508, as amended, is further amended by the addition under paragraph (a) of a new subparagraph to read as follows:

SEC. 30. Authority under specific acts. (a) In addition to any authority delegated elsewhere in this order, the Commissioner of Indian Affairs, except as provided in paragraph (b) of this section, is authorized to perform the functions and exercise the authority vested in the Secretary of the Interior by the following acts or portions of acts or any acts amendatory thereof:

. . . . . .

(55) The Act of December 17, 1970 (84 Stat. 1465), which authorizes the Secretary to approve an agreement entered into by the Soboba Band of Mission Indians releasing a claim against the Metropolitan Water District of Southern California, and Eastern Municipal Water District, Calif., and to provide for construction of a water distribution system and a water supply for the Soboba Indian Reservation and which authorizes long-term leases of land on the reservation except that the Secretary must approve the release agreement and the annexation and water service agreement as to form prior to signature of the agreements by the Commissioner or his designee.

MITCHELL MELICH,
Acting Secretary of the Interior.

OCTOBER 26, 1972.

[FR Doc.72-18680 Filed 11-1-72;8:46 am]

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

NATIONAL SCHOOL LUNCH PROGRAM, SCHOOL BREAKFAST PROGRAM, AND COMMODITY ONLY SCHOOLS

Income Poverty Guidelines for Determining Eligibility for Free and Reduced Price Meals

On May 18, 1972, there were published in the FEDERAL REGISTER (37 F.R. 10013) income poverty guidelines setting forth the minimum family size annual income levels to be used in determining eligibility for free and reduced price meals during the fiscal year beginning July 1, 1972. The guidelines were published pursuant to section 9 of the National School Lunch Act, as amended (42 U.S.C. 1758), and section 4(e) of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1773(e)). Subsequent to the publication of the guidelines, Public Law 92-433 (86 Stat. 724) was enacted. That Act requires schools to serve free lunches to all children from families whose income is at or below the applicable family-size income level in the income poverty guidelines prescribed by the Secretary. Public Law 92-433 also requires each State educational agency to prescribe income guidelines, for both free and reduced price meals by family size, for use by schools in the State. The State guidelines may not be less than the applicable family size income level prescribed by the Secretary, and may not exceed the Secretary's guidelines by more than 25 percent, in the case of free meals, or 50 percent, in the case of reduced price meals.

For the convenience of the State educational agencies, the Secretary's guidelines are hereby republished with the addition of tables showing the levels when increased by 25 percent and when increased by 50 percent. The increased figures represent the maximum levels to be used by State educational agencies in determining eligibility for free and reduced price meals, respectively. The Secretary's guidelines remain the minimum level; all children from families at or below such levels shall be served a free meal.

INCOME POVERTY GUIDELINES, FY 1973 (48 STATES, D.C. AND TERRITORIES)

Family size	Secretary's guidelines FY 1973	Guideline levels when increased by: 25 Percent	50 Percent
	Dollars	*Dollars*	
1	2,130	2,660	3,190
2	2,740	3,430	4,180
3	3,450	4,320	5,170
4	4,110	5,140	6,160
5	4,730	5,900	7,080
6	5,330	6,660	8,000
7	5,880	7,350	8,820
8	6,430	8,040	9,640
9	6,930	8,670	10,400
10	7,430	9,290	11,150
11	7,930	9,910	11,900
12	8,430	10,530	12,650
Each additional family member	500	620	750

INCOME POVERTY GUIDELINES, FY 1973 (ALASKA AND HAWAII)

Family size	Secretary's guidelines FY 1973	Guideline levels when increased by: 25 Percent	50 Percent
	Dollars	*Dollars*	
Alaska:			
1	2,570	3,210	3,860
2	3,370	4,210	5,060
3	4,170	5,210	6,260
4	4,970	6,210	7,460
5	5,710	7,140	8,560
6	6,440	8,050	9,660
7	7,110	8,890	10,670
8	7,780	9,730	11,670
9	8,380	10,480	12,570
10	8,980	11,230	13,470
11	9,580	11,980	14,370
12	10,180	12,730	15,270
Each additional family member	600	750	900
Hawaii:			
1	2,420	3,020	3,630
2	3,180	3,970	4,770
3	3,940	4,920	5,910
4	4,680	5,850	7,020
5	5,380	6,720	8,070
6	6,070	7,590	9,100
7	6,700	8,380	10,060
8	7,330	9,160	11,000
9	7,900	9,880	11,850
10	8,470	10,590	12,700
11	9,040	11,300	13,550
12	9,610	12,010	14,400
Each additional family member	570	710	850

The Secretary's income poverty guidelines are based on the previous year's poverty level adjusted for the year-to-year change in the Consumer Price Index. This procedure is consistent with the basic procedure used by the Bureau of the Census in updating its latest statistics on poverty levels. The Secretary's guidelines for Hawaii and Alaska are consistent with variations established by the Office of Economic Opportunity in its Income Poverty Guidelines (37 F.R. 444, January 12, 1972), with appropriate adjustments.

"Income," as the term is used in this notice, is similar to that defined in the Bureau of Census report, "Characteristics of the Low-Income Population: 1970", Consumer Income, Current Population Reports, Series P-60, No. 81, November 1971. "Income" means income before deductions for income taxes, employees' social security taxes, insurance premiums, bonds, etc. It includes the following: (1) Monetary compensation for services, including wages, salary, commission, or fees; (2) net income from nonfarm self-employment; (3) net income from farm self-employment; (4) social security; (5) dividends or interest on savings or bonds, income from estates or trusts or net rental income; (6) public assistance or welfare payments; (7) unemployment compensations; (8) Government civilian employee or military retirement, or pensions, or veterans' payments; (9) private pensions or annuities; (10) alimony or child support payments; (11) regular contributions from persons not living in the household; (12) net royalties; and (13) other cash income. Other cash income would include cash amounts received or withdrawn from any source, including savings, investments, trust accounts, and other resources, which would be available to pay the price of a child's meal.

In applying guidelines, school food authorities may consider both the income of the family during the past 12 months and the family's current rate of income to determine which is the better indicator of the need for free and reduced price meals. Any school food authority having income guidelines for free or reduced price meals which exceed those specified in this notice may continue to use such guidelines for determining eligibility until July 1, 1973, if such guidelines were established prior to July 1, 1972.

Effective date. This notice shall be effective upon publication in the FEDERAL REGISTER (11-2-72).

Dated: October 30, 1972.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.72-18787 Filed 11-1-72;8:46 am]

Office of the Secretary

EMERGENCY AND RURAL HOUSING DISASTER LOANS

Designation of Areas

It has been determined that property loss or damage or injury in certain counties in Ohio has resulted from natural disasters caused by heavy rainfall and flash flooding from July through September 1972. The following counties of Ohio are affected by such natural disasters:

Defiance. Paulding.
Henry.

It has further been determined that in the above counties of Ohio a general need for credit exists. Therefore, these counties are declared eligible for low-interest rate disaster loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, the Disaster Relief Act of 1970, title V of the Housing Act of 1949, and Public Law 92-385. Applications for such loans must be received by this Department prior to July 1, 1973, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans.

The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 27th day of October 1972.

EARL L. BUTZ,
Secretary.

[FR Doc.72-18700 Filed 11-1-72;8:46 am]

VENEZUELAN EQUINE ENCEPHALOMYELITIS

Termination of Emergency

On July 21, 1971, a notice was published in the FEDERAL REGISTER (36 F.R. 13410) declaring that an emergency arising out of the existence and spread of Venezuelan equine encephalomyelitis existed in the United States. Extensive measures were instituted to control and eradicate the disease wherever found, including immunization of susceptible animals, and extensive vector control measures. The last known case of Venezuelan equine encephalomyelitis occurred in the United States, November 7, 1971. During 1972 an extensive surveillance program involving horses, other animals, and mosquitoes has revealed no evidence of the disease in the United States. Therefore, I hereby declare that the emergency due to Venezuelan equine encephalomyelitis is terminated effective October 31, 1972.

RICHARD E. LYNG,
Acting Secretary of Agriculture.

OCTOBER 31, 1972.

[FR Doc.72-18770 Filed 11-1-72;8:55 am]

DEPARTMENT OF COMMERCE

Office of Import Programs

OHIO UNIVERSITY ET AL.

Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles; Correction

In the Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles appearing at page 21546 in the FEDERAL REGISTER of Thursday, October 12, 1972, the following docket should be deleted:

Docket No. 72-00304-33-19000. Applicant: Boston University School of Medicine, 80 East Concord Street, Boston, MA 02118. Article: Digital Precision Density Meter. Date of denial without prejudice to resubmission: June 19, 1972.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-18742 Filed 11-1-72;8:53 am]

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[FAP 3B2847]

ALLIED CHEMICAL CORP.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 3B2847) has been filed by Keller and Heckman, 1150 17th Street NW., Suite 1000, Washington, DC 20036, on behalf of Allied Chemical Corp., Post Office Box 1057R, Morristown, NJ 07960, proposing that § 121.2566 *Antioxidants and/or stabilizers for polymers* (21 CFR 121.2566) be amended to provide for the safe use of cuprous iodide as a stabilizer in the manufacture of nylon 6 resin articles intended for holding food during oven-baking or oven-cooking temperatures above 250° F.

Dated: October 19, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-18689 Filed 11-1-72;8:45 am]

[FAP 3H2838]

DOW CHEMICAL CO.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 3H2838) has been filed by The Dow Chemical Co., Bennett Building, 2030 Dow Center, Midland, MI 48640, proposing that § 121.2505 *Slimicides* (21 CFR 121.2505) be amended to provide for the safe use of 2,2-dibromo-3-nitrilopropionamide as a slimicide in the manufacture of paper and paperboard that contact food.

Dated: October 25, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-18688 Filed 11-1-72;8:45 am]

[FAP 3A2839]

PFIZER CENTRAL RESEARCH, PFIZER, INC.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 3A2839) has been filed by Pfizer Central Research, Pfizer, Inc., 235 East 42d Street, New York, NY 10017, proposing the issuance of a regulation to provide for the safe use of sorbitol modified polydextrose polymerized by the use of tartaric or citric acid in food as a bulking agent and/or for its reduced caloric value.

Dated: October 25, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-18691 Filed 11-1-72;8:45 am]

[FAP 3B2848]

UNION CARBIDE CORP.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 3B2848) has been filed by Union Carbide Corp., Tarrytown Technical Center, Old Saw Mill River Road, Tarrytown, N.Y. 10591, proposing the §121.2520 *Adhesives* (21 CFR 121.2520) be amended to provide for the safe use of poly(oxycaproyl) diols and triols as components of food packaging adhesives.

Dated: October 19, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-18690 Filed 11-1-72;8:45 am]

[FAP 3B2830]

WITCO CHEMICAL CORP.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 3B2830) has been filed by Witco Chemical Corp., Organic Division, 400 North Michigan Avenue, Chicago, IL 60611, proposing that § 121.2520 *Adhesives* (21 CFR 121.2520) be amended to provide for the safe use of 3-(aminomethyl)-3,5,5-trimethyl cyclohexylamine; 3-(triethoxysilyl) propylamine; diethylamine; and 2(2-hydroxy-3,5 di-*tert*-amyl phenyl) benzotriazole in the manufacture of food packaging adhesives.

Dated: October 19, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-18692 Filed 11-1-72;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

Notice of Public Meeting

Notice is hereby given, pursuant to Executive Order 11671, that the next meeting of the National Advisory Council on Adult Education will be held on November 9, 10, 11, 1972. On November 9, 1972, the Council meeting will be held at the Friendship International Hotel, Friendship Airport, Baltimore, Md., commencing at 11:30 a.m., and terminating at 4 p.m. On November 10–11, 1972, the Council meeting will be held in the Council offices located in Room 1144, Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. On November 10, 1972, the meeting will be held from 9 a.m. to 5 p.m. On November 11, 1972, the meeting will be held from 8:30 a.m. to 2:30 p.m.

The National Advisory Council on Adult Education is established under section 310 of the Adult Education Act (80 Stat. 1216.20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council shall be open to the public.

The proposed agenda includes:

Maryland adult/continuing education.
Legislative priorities for fiscal year 1973 bill.
Annual report format.
Research committee project on USOE. FICE report.

Records shall be kept of all Council proceedings (and shall be available for public inspection at the Office of the National Advisory Council on Adult Education located in Room 1144, Pennsylvania Building, 425 13th Street NW., Washington, DC 20004).

Signed at Washington, D.C., on October 26, 1972.

GARY A. EYRE,
Executive Director, National Advisory Council on Adult Education.

[FR Doc.72-18860 Filed 11-1-72;8:47 am]

NATIONAL ADVISORY COMMITTEE ON HANDICAPPED CHILDREN

Notice of Public Meeting

Notice is hereby given, pursuant to Executive Order 11671, that the next meeting of the National Advisory Committee on Handicapped Children will be held on November 13–15, 1972, at 9 a.m., local time, in the Plaza Room, Dupont Plaza Hotel, 1500 New Hampshire Avenue NW., Washington, DC.

The National Advisory Committee on Handicapped Children was established to review the administration and operation of programs for the handicapped in the Office of Education, and make recommendations for their improvement.

The meeting of the Committee will be open to the public. The proposed agenda includes discussion of reports of Directors of State Departments of Special Education and from interested groups. Records will be kept of all committee proceedings (and shall be available for public inspection at the office of the Associate Commissioner, Bureau of Education for the Handicapped, located in Room 2100, Regional Office Building 3, Seventh and D Streets SW., Washington, DC 20202).

Signed at Washington, D.C., on October 26, 1972.

EDWIN W. MARTIN,
Associate Commissioner, Bureau of Education for the Handicapped.

[FR Doc.72-18719 Filed 11-1-72;8:51 am]

Social and Rehabilitation Service

MEDICAL ASSISTANCE ADVISORY COMMITTEE

Notice of Meeting

The Medical Assistance Advisory Committee will hold a regular meeting on Friday, November 17, and Saturday, November 18, 1972, in Room 5169, North Building, 330 Independence Avenue SW., Washington, DC. The committee will consider a variety of topics related to the Medicaid program; health research for the poor; and a statement regarding Federal policy on health care for the poor. The meeting is open to the public.

The Council was created by section 1906 of the Social Security Act and serves to advise the Secretary of Health, Education, and Welfare, on the administration of the title XIX program (Medicaid) and related matters.

OCTOBER 26, 1972.

BARNEY SELLERS,
Staff Director.

[FR Doc.72-18672 Filed 11-1-72;8:45 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

NATIONAL MOTOR VEHICLE SAFETY ADVISORY COUNCIL

Notice of Public Meeting

On November 9 and 10, 1972, the National Motor Vehicle Safety Advisory Council will hold open meetings in the Department of Transportation Headquarters Building, 400 Seventh Street SW., Washington, DC. The Advisory Council is composed of 22 members, a majority of whom are representatives of the general public, including representatives of State and local governments, with the remainder including representatives of motor vehicle manufacturers, motor vehicle equipment manufacturers, and motor vehicle dealers. The Secretary of Transportation consults with the Advisory Council on motor vehicle safety standards promulgated under the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.).

The following meetings will be held:

The Executive Committee of the National Motor Vehicle Safety Advisory Council will meet at 9 a.m., on November 9 in room 4238, with the following agenda:

Discussion of proposed Council priorities.
Formulation of plans for future meeting with domestic automobile manufacturers.
New business.

The full Advisory Council will meet in regular session from 1:30 p.m. to 4 p.m., on November 9 in Room 4238, with the following agenda:

Report of executive committee.
Briefing on energy management structures.
New business.

Three committees of the Advisory Council will meet on November 10, as follows:

The Accident Avoidance and Operating Systems Committee will meet from 9 a.m. to 3 p.m., in Room 10234, with the following agenda:

Structure of the committee.
Review of priorities for committee.
Review of proposed direct and indirect visibility standard.
Discussion of vehicle handling program.
New business.

The Crashworthiness Committee will meet jointly with the Passive Restraint Implementation Committee from 9 a.m. to 3 p.m., in Room 10236, with the following agenda:

Discussion of crash involving air bag equipped vehicle.
Discussion of human volunteer sled tests at Holloman Air Force Base.
Discussion of air belt.
Discussion of mandatory seatbelt usage laws.
Determination of priorities for future committee activities.
New business.

This notice is given pursuant to section 13 of Executive Order 11671, June 5, 1972.

Issued on October 26, 1972.

CHARLES H. HARTMAN,
Acting Administrator.

[FR Doc.72-18658 Filed 11-1-72;8:47 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-315, 50-316]

INDIANA & MICHIGAN POWER CO. AND INDIANA & MICHIGAN ELECTRIC CO.

Order Extending Completion Dates

Indiana & Michigan Electric Co., and Indiana & Michigan Power Co., are the holders of Provisional Construction Permits issued by the Commission on March 25, 1969, for the construction of the Donald C. Cook Nuclear Plant, Units 1 and 2, two 3250 megawatt (thermal) pressurized water nuclear reactors, presently under construction at the companies' site in Lake Township, Berrien County, Mich.

On October 10, 1972, the companies requested an extension of completion dates because of construction delays due to bad weather, redesign of reactor components, labor difficulties, and the renegotiation of certain construction contracts. Good cause having been shown as required by section 185 of the Atomic Energy Act of 1954, as amended, and § 50.55 of 10 CFR Part 50 of the Commission's regulations:

It is hereby ordered, That the latest completion date for CPPR–60 (as amended) is extended from November 1, 1972, to November 1, 1974, and CPPR–61 (as amended) from January 1, 1974, to December 1, 1975.

Date of issuance: October 26, 1972.

For the Atomic Energy Commission.

A. GIAMBUSSO,
Deputy Director for Reactor Projects, Directorate of Licensing.

[FR Doc.72-18655 Filed 11-1-72;8:47 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24869; Order 72-10-91]

BAGGAGE ALLOWANCE TARIFF RULES IN OVERSEAS AND FOREIGN AIR TRANSPORTATION

Order of Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of October 1972.

By a petition filed on August 14, 1972, Donald L. Pevsner, Esq., requests the Board to order an investigation of the lawfulness of various existing tariffs which set forth the free baggage allowances and charges for excess baggage in foreign air transportation. Mr. Pevsner alleges that the existing tariff rules, which establish a free baggage allowance for first-class passengers of 30 kilograms and for economy passengers of 20 kilograms with excess weight charged at the rate of 1 percent of the first-class fare per kilogram, effectively deter passengers from exceeding the established weight limitations by virtue of the high costs of excess baggage. Further, he asserts that these charges

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provide a handsome source of additional revenue to the carriers resulting in excess profits from those passengers having excess baggage. The relief sought by Mr. Pevsner is the institution of an investigation of these allegedly unjust and unreasonable charges and practices consistent with the Board's statutory authority under Public Law 92–259 and a finding emanating from such an investigation that the charges at issue are unjust or unreasonable with the subsequent cancellation of the offending tariffs.

Responses to the Pevsner petition have been received from Pan American World Airways, Inc. (Pan American) and Trans World Airlines, Inc. (TWA). Pan American states that the petition amounts to no more than an unsupported assertion that the tariff rules are unlawful and as such the petition should be dismissed; that the existing rules can be justified on economic grounds; that in view of the large losses experienced by Pan American it can hardly be said that its revenues received for carrying passengers and baggage are unreasonable; that a Board investigation at the present time would be inappropriate and duplicative since the entire matter of baggage allowances is to be considered at the IATA conference presently being held at Torremolinos, Spain, and that the Board has evidenced a desire to have the matter dealt with, at least initially, within IATA.

The thrust of TWA's arguments for dismissal of the petition and denial of the relief requested goes to the alleged liability of the Board to either suspend or investigate the tariff provisions at issue because, it asserts, the authority of the Board under section 1002(j) was adopted as a special measure to enable the Board to deal with the chaotic type of fare situation which existed last summer. As the existing tariffs do not constitute a similar condition in that there is no immediate threat to the well-being of the public or any carrier, the Board's power under section 1002(j) cannot be invoked and a grant of the petitioner's request would be a misuse of the Board's authority.

TWA further alleges that the petition has not made a sufficient showing that the present baggage allowance rules may be unreasonable; that a liberalization of the rules would increase problems associated with aircraft capability limitations, and increase handling costs in addition to costs for extra fuel consumed associated with increased weight; and that an investigation at this time would be an inappropriate and undue burden on both the Board and the carriers in light of the consideration of this matter at the IATA conferences.

Upon consideration of the baggage charges and provisions complained against and in light of the complaint and the answers thereto and all relevant matters, the Board finds that such tariff charges and provisions applicable in foreign air transportation on behalf of the various air carriers and foreign air carriers participating therein[1] may be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful and should be investigated.

In concluding to initiate this investigation, we have considered that the present rules date back to the time when operations of aircraft were severely weight limited, that the yield from excess baggage charges is significantly greater than the yield for practically all other categories of traffic and may not be reasonably related to the costs properly associated with such transportation and, accordingly, we believe that such rules, if they are maintained, must bear the scrutiny of an investigation.

While we are aware that the issue of baggage provisions is currently being considered at the Torremolinos Traffic Conference of IATA carriers, there are no assurances that any satisfactory solution will be reached by the carriers at that conference. We are further not swayed by the carriers' attempts to justify the existing-baggage rules on the grounds that they are not making excessive profits from the carriage of passengers and their baggage. The carriers' overall profit position is the result of many factors and cannot justify an otherwise unreasonable charge for excess baggage.

We reject out of hand TWA's contention that the institution of an investigation based on the reasonableness standards under section 1002(j) is a misuse of the Board's authority. A similar argument by TWA in a different proceeding has properly been disposed of by Order 72–9–2, which states that there is nothing in the legislative history of section 1002(j) that would indicate a congressional intention to limit the section as TWA suggests. The authority Congress has granted the Board is clearly appropriate to this case, and while the Board has the authority under section 1002(j)(2) of the Federal Aviation Act to suspend the tariffs at issue, such an action is not warranted at the present time because of the possibility of resolving this issue through the IATA machinery.

The free-baggage allowance and the charges for excess baggage complained against are currently contained in IATA Resolutions 310 and 311 (Free Baggage Allowance and Baggage Excess Weight Charges) which were revalidated by a standard revalidation resolution (002) approved by the Board in Orders 72–3–104, 72–3–105, and 72–3–106 for effectiveness through March 31, 1973, Agreement CAB 22663 (R–62). The issues will therefore include the further question of whether these IATA resolutions are adverse to the public interest or in violation of the Act and, if so, what order or condition should the Board enter with respect to such resolutions pursuant to section 412 of the Act.

Accordingly, pursuant to the Federal Aviation Act of 1958 as amended and particularly sections 204(a), 404(b), 412, 414, and 1002 thereof, *It is ordered*, That:

1. An investigation is instituted to determine whether the baggage charges and provisions which establish a free baggage allowance of 30 kilograms for first-class passengers and 20 kilograms for economy-class passengers (or the equivalent of 66 and 44 pounds, respectively) with excess weight charged at the rate of 1 percent of the first-class fare per kilogram applicable to those carriers listed in Appendix B hereto,[2] and set forth in tariffs listed in Appendix A hereto,[3] including subsequent revisions and reissues thereof, and classifications, rules, regulations, and practices affecting such charges and provisions are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to take such action to prescribe the lawful charges and provisions, or remove unjust discrimination, undue preference, or prejudice, or to cancel such tariffs, and prevent the use of such charges, classifications, regulations, or practices, as may be appropriate;

2. The investigation herein will include the issue as to whether resolutions of the International Air Transport Association which establish or provide for the establishment of the free-baggage allowance and excess-baggage charges described above, are adverse to the public interest or in violation of the Act and,

3. Except to the extent granted herein, the complaint in Docket 24667 is dismissed;

4. The proceeding ordered herein be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated; and

5. Copies of this order shall be served upon the carriers named in Appendix B hereto[2] and upon Donald L. Pevsner, which are hereby made parties to this proceeding.

[1] The tariffs setting forth the free-baggage allowance for fist-class passengers of 30 kilograms per passenger, and 20 kilograms per passenger for economy passengers, with excess weight charged at the rate of 1 percent of the first-class fare per kilogram are listed in Appendix A hereto, which is filed as part of the original document. The respondent carrier parties to this investigation are set forth in Appendix B, also filed as part of the original document, and will include those carriers which participate in such rules and provisions with respect to either local or joint tariffs in foreign air transportation.

There are limited situations where the baggage tariff rules in question are applicable in overseas air transportation, and the investigation initiated herein will also encompass such tariff rules.

[2] Appendices A and B filed as part of the original document.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.72–18774 Filed 11–1–72;8:55 am]

[Docket No. 24387]

CLUB INTERNATIONAL ET AL.

Notice of Hearing Regarding Enforcement Proceeding

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on December 5, 1972, at 10 a.m. (local time), in Room 1057 of the Federal Office Building, 909 First Avenue, Seattle, WA 98124, before the undersigned Administrative Law Judge.

Dated at Washington, D.C., October 30, 1972.

[SEAL] LOUIS W. SORNSON,
Administrative Law Judge.

[FR Doc.72–18775 Filed 11–1–72;8:55 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE SOCIALIST FEDERAL REPUBLIC OF YUGOSLAVIA

Entry or Withdrawal From Warehouse for Consumption

NOVEMBER 1, 1972.

On December 18, 1971, there was published in the FEDERAL REGISTER (36 F.R. 24098), a letter dated December 13, 1971, from the Chairman, President's Cabinet Textile Advisory Committee, to the Commissioner of Customs, establishing levels of restraint applicable to certain specified categories of cotton textiles and cotton textile products produced or manufactured in the Socialist Federal Republic of Yugoslavia and exported to the United States during the 12-month period beginning January 1, 1972. As set forth in that letter the levels of restraint are subject to adjustment pursuant to paragraphs 5 and 15 of the bilateral cotton textile agreement of December 31, 1970, between the Governments of the United States and the Socialist Federal Republic of Yugoslavia which provide respectively (1) that within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than five (5) percent; and (2) for the limited carryover of shortfalls in certain categories to the following agreement year.

Accordingly, at the request of the Government of the Socialist Federal Republic of Yugoslavia and pursuant to the provisions of the bilateral agreement referred to above, there is published below a letter of November 1, 1972, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs amending the level of restraint applicable to cotton textile products in Category 49 for the 12-month period which began on January 1, 1972.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary and Director, Bureau of Resources and Trade Assistance.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

NOVEMBER 1, 1972.

DEAR MR. COMMISSIONER: On December 13, 1971, the Chairman, President's Cabinet Textile Advisory Committee, directed you to prohibit entry during the 12-month period beginning January 1, 1972, of cotton textiles and cotton textile products in certain specified categories, produced or manufactured in the Socialist Federal Republic of Yugoslavia, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to paragraphs 5 and 15 of the bilateral cotton textile agreement of December 31, 1970, between the Governments of the United States and the Socialist Federal Republic of Yugoslavia, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to amend, effective as soon as possible, the level of restraint established in the aforesaid directive of December 13, 1971, for cotton textile products in Category 49 to 31,924 dozen for the 12-month period beginning January 1, 1972.

The actions taken with respect to the Government of the Socialist Federal Republic of Yugoslavia and with respect to imports of cotton textiles and cotton textile products from the Socialist Federal Republic of Yugoslavia have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions fall within the foreign affairs exception to the rule making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary and Director, Bureau of Resources and Trade Assistance.

[FR Doc.72–18907 Filed 11–1–72;10:50 am]

[1] The term "adjustment" refers to those provisions of the bilateral cotton textile agreement of Dec. 31, 1970, between the Governments of the United States and the Socialist Federal Republic of Yugoslavia which provide in part that within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than five (5) percent; for limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements.

ENVIRONMENTAL PROTECTION AGENCY

AMCHEM PRODUCTS, INC.

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 3F1321) has been filed by Amchem Products, Inc., Ambler, Pa. 19002, proposing establishment of tolerances (40 CFR Part 180) for residues of the plant regulator ethephon ((2-chloroethyl) phosphonic acid) in or on the raw agricultural commodities cherries at 10 parts per million and tomatoes at 2 parts per million.

The analytical method proposed in the petition for determining residues of the plant regulator is a gas chromatographic procedure with a flame photometric detector for phosphorus.

Dated: October 24, 1972.

LOWELL MILLER,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72–18704 Filed 11–1–72;8:49 am]

DOW CHEMICAL CO.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 3F1306) has been filed by the Dow Chemical Co., Post Office Box 1706, Midland, MI 48640, proposing establishment of tolerances (21 CFR Part 180) for combined residues of the insecticide *O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodities fat and (on fat basis) meat and meat byproducts of cattle at 1 part per million; meat, fat, and meat byproducts of turkeys at 0.2 part per million; and field corn fodder, forage, and grain and peaches at 0.05 part per million (negligible residue).

The analytical method proposed in the petition for determining combined residues of the insecticide and its metabolite is a gas chromatographic procedure using a hydrogen flame ionization detector.

Dated: October 24, 1972.

LOWELL MILLER,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72–18705 Filed 11–1–72;8:49 am]

ROHM AND HAAS CO.

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition

V 37-212 NOV 2 72 XUM

(PP 3F1317) has been filed by Rohm and Haas Co., Independence Mall West, Philadelphia, Pa. 19105, proposing establishment of tolerances (40 CFR Part 180) for combined residues of the herbicide 3,5 - dichloro - *N* - (1,1 - dimethyl - 2 - propynyl) benzamide and its metabolites (calculated as the herbicide) in or on the raw agricultural commodities alfalfa, clover, crown vetch, sainfoin, trefoil at 15 parts per million; kidney and liver of cattle and poultry at 1 part per million; and eggs, milk, and meat, fat, and meat byproducts (except kidney and liver of cattle and poultry) of cattle, goats, hogs, horses, poultry, and sheep at 0.05 part per million (negligible residue).

The analytical method proposed in the petition for determining residues of the herbicide is a procedure in which the sample is refluxed with sulfuric acid and methanol to form the ester methyl 3,5-dichlorobenzoate. The latter is determined by electron capture gas chromatography.

Dated: October 24, 1972.

LOWELL MILLER,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-18706 Filed 11-1-72;8:49 am]

FEDERAL MARITIME COMMISSION

CONTINENTAL NORTH ATLANTIC WESTBOUND FREIGHT CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Elliott B. Nixon, Esq., Burlingham Underwood & Lord, 25 Broadway, New York, NY 10004.

Agreement No. 8210-19, among the member lines of the above named conference deletes the self-policing provisions enumerated in Article 13 of the basic agreement and incorporates by reference the self-policing provisions contained in Articles 7 through 20 of the Associated North Atlantic Freight Conferences Agreement No. 9978 pursuant to the Commission's order of March 9, 1972.

By order of the Federal Maritime Commission.

Dated: October 30, 1972.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-18751 Filed 11-1-72;8:53 am]

[Independent Ocean Freight Forwarder License]

LOH ENTERPRISES AND ACASA, INC.

Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Leo L. Loh d.b.a. Loh Enterprises, 112 Adeline Street, Oakland, CA 94607.

Acasa, Inc., 201 East 75th Street, New York, NY 10021.
Officers:
Letty A. Walshe, president.
Roberto M. Ordonez, treasurer.
Raul Alvarado, secretary/vice president.

By the Commission.

Dated: October 27, 1972.

FRANCIS C. HURNEY,
Secretary.

[FR Doc 72 18750 Filed 11-1-72;8:53 am]

JAPAN LINE, LTD., AND MATSON NAVIGATION CO.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Peter P. Wilson, Counsel, Matson Navigation Co., 100 Mission Street, San Francisco, CA 94105.

Agreement No. 10020 is an agreement between Japan Line, Ltd. and Matson Navigation Co., permitting Matson to lease Japan Line containers and container equipment used to transport cargoes moving pursuant to transshipping agreements between the parties.

Dated: October 30, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-18749 Filed 11-1-72;8:53 am]

OCEANIC SUN LINE SPECIAL SHIPPING CO., INC.

Notice of Issuance of Performance Certificate

Security for the protection of the public indemnification of passengers for nonperformance of transportation.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Oceanic Sun Line Special Shipping Co., Inc. (Sun Line), Karageorgi Servias 2, Athens, Greece.

Dated: October 30, 1972.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-18748 Filed 11-1-72;8:53 am]

OCEANIC SUN LINE SPECIAL SHIPPING CO., INC.

Notice of Issuance of Casualty Certificate

Security for the protection of the public financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Oceanic Sun Line Special Shipping Co., Inc. (Sun Line), Karageorgi Servias 2, Athens, Greece.

Dated: October 30, 1972.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-18746 Filed 11-1-72;8:53 am]

U.S. ATLANTIC AND GULF/AUSTRALIA-NEW ZEALAND CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Baldvin Einarson, Esq., Kirlin, Campbell, & Keating, 120 Broadway, New York, NY 10005.

Agreement No. 6200-17 modifies the basic agreement of the U.S. Atlantic and Gulf/Australia-New Zealand Conference by amending Article 9(a) to permit an increase in the entrance fee from five thousand dollars ($5,000) to ten thousand dollars ($10,000).

Dated: October 30, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-18747 Filed 11-1-72;8:53 am]

FEDERAL POWER COMMISSION

[Docket No. E-7792]

BOSTON EDISON CO. AND BOSTON GAS CO.

Notice of Application

OCTOBER 30, 1972.

Take notice that on October 17, 1972, Boston Edison Co. (Boston Edison) and Boston Gas Co. (Boston Gas) filed a joint application pursuant to section 203 of the Federal Power Act for approval of an authority for the purchase by Boston Edison and the sale by Boston Gas of the latter's electric distribution facilities in the Charlestown District of the city of Boston, County of Suffolk, Mass.

The applicants are incorporated under the laws of the Commonwealth of Massachusetts, Boston Edison being engaged in the electric utility business and Boston Gas being engaged in the gas utility business except that it also distributes electricity in the Charlestown district of the city of Boston.

Virtually all of the electricity so distributed by Boston Gas has for many years been purchased from Boston Edison. Boston Edison serves 40 cities and towns including the remainder of the city of Boston. The said Charlestown section of Boston is approximately 1 square mile in area and approximately 4,500 electric customers within such area are now serviced by Boston Gas.

Boston Gas and Boston Edison have entered into an agreement for purchase and sale of assets, approved by their respective stockholders and directors, under which Boston Gas will sell and Boston Edison will purchase substantially all of the assets owned by Boston Gas that are used by it solely in the distribution and sale of electricity in said Charlestown section of Boston. The purchase price will be approximately the net asset value of the assets to be sold, less $400,000. At December 31, 1971, the assets proposed to be sold had a net asset value of approximately $3,625,000. Following the purchase of such assets Boston Edison will operate said assets and continue the distribution of electricity at retail.

Applicants have filed a joint petition with the Massachusetts Department of Public Utilities for approval of such transaction in accordance with the laws of the Commonwealth of Massachusetts.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 13, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18755 Filed 11-1-72;8:53 am]

[Dockets Nos. RP66-4, RP68-1]

FLORIDA GAS TRANSMISSION CO.

Proposed Changes in Tariff

OCTOBER 27, 1972.

Florida Gas Transmission Co. (Florida Gas), on October 16, 1972, submitted proposed changes in its FPC Gas Tariff, Original Volume No. 1. The changes are contained in two separate submittals which are both made pursuant to the Commission's Opinion No. 611 and accompanying order, issued in the above-captioned proceedings on February 16, 1972.

The first submittal is a filing consisting of revisions in Florida Gas' Rate Schedule I, tendered to comply with ordering paragraph (F) of Opinion No. 611 in which Florida Gas was ordered to file a revised Rate Schedule I deleting the restrictive provisions therein discussed in the opinion, with a volume limitation on sales, and containing a revised definition of "commercial service" in accordance with the opinion. Florida Gas says that these proposed tariff revisions constitute an overall plan for operating Florida Gas' pipeline at least for the next 3 years and that they take into consideration the directives which the Commission prescribed for service limitations in Opinion No. 611 plus changes in conditions which have occurred since the record in Docket No. RP66-4, et al., was closed. Florida Gas proposes an effective date of November 15, 1972, for these revised tariff provisions.

The second submittal is a proposal consisting of pro forma tariff sheets containing two alternative zoning plans and a two-part rate proposal, including a small volume optional rate, made to comply with ordering paragraph (E) of Opinion No. 611 which required Florida Gas to file a proposal for two-part demand-commodity rates under its Rate Schedule G and a small general service rate (SGS), applicable to such zones as Florida Gas

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considers appropriate in accordance with the discussion in the opinion. The opinion provides that such rates shall not be effective until a rate filing is made upon further order of the Commission after completion of any necessary proceedings.

Copies of each of the two filings were served upon Florida Gas' customers receiving service under Original Volume 1 of its FPC Gas Tariff, all intervenors in Dockets Nos. RP66–4 and RP68–1 and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filings should file a protest or, if not previously granted intervention in Dockets Nos. RP66–4 and/or RP68–1, file a petition to intervene with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before November 6, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filings are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–18762 Filed 11–1–72;8:54 am]

[Docket No. CI73–291]

GETTY OIL CO.

Notice of Application

OCTOBER 30, 1972.

Take notice that on October 24, 1972, Getty Oil Co. (applicant), Post Office Box 1404, Houston, TX 77001, filed in Docket No. CI73–291 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Natural Gas Pipeline Company of America (Natural) from the tailgate of the Old Ocean Field Plant, Brazoria County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell up to 15,000 Mcf of gas per day at 40 cents per Mcf at 14.65 p.s.i.a. for a period commencing as of the date of authorization and acceptance, however, not prior to January 1, 1973, and ending 12 months later, all within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 10, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–18757 Filed 11–1–72;8:53 am]

[Docket No. CP73–106]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

OCTOBER 27, 1972.

Take notice that on October 18, 1972, Natural Gas Pipeline Company of America (applicant), 122 South Michigan Avenue, Chicago, IL 60603, filed in Docket No. CP73–106 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a 3,000 horsepower compressor engine in New Mexico, all as more fully set forth in the application which is on file with the Commission open to public inspection.

Applicant proposes to abandon a 3,000 horsepower compressor unit located in Lea County, N. Mex., so that it can relocate it.[1] Applicant states that this 3,000 horsepower compressor engine and a 4,000 horsepower compressor engine are used to purchase quantities of residue gas from Warren Petroleum Co. at the outlet of Warren's Bough processing plant in Lea County. Applicant further states that due to the decrease of estimated reserves, it no longer needs the 3,000 horsepower engine at this location.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 21, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–18761 Filed 11–1–72;8:54 am]

[Docket No. RP72–132]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Order Accepting for Filing, Suspending Revised Tariff Sheets, Providing for Hearing Procedures, and Permitting Interventions; Extension of Time

OCTOBER 27, 1972.

On October 10, 1972, Commission staff counsel filed a motion to amend prior motion filed September 26, 1972, for an extension of all procedural dates fixed by the Commission order issued on June 30, 1972 (37 F.R. 13579). On October 10, 1972, the administrative law judge issued an order granting staff counsel's motion filed September 26, 1972, for extensions of time. No answers to staff counsel's motion of October 10, 1972, have been filed.

Upon consideration, notice is hereby given that the procedural dates are further modified as follows:

Service staff evidence, November 14, 1972.
Service intervener evidence, November 28, 1972.
Service company rebuttal, December 18, 1972.
Prehearing conference date, December 5, 1972, 10 a.m., e.s.t.
Cross-examination commence, January 9, 1973, 10 a.m., e.s.t.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–18760 Filed 11–1–72;8:54 am]

[Project 199]

SOUTH CAROLINA PUBLIC SERVICE AUTHORITY

Non-Project Use of Project Lands and Waters

OCTOBER 30, 1972.

Public notice is hereby given that application for approval of non-project use of project lands and waters has been filed under the Federal Power Act (16 USC 791a–825r) by South Carolina Public Service Authority (Correspondence to: Mr. J. B. Thomason, General Manager, South Carolina Public Service Authority, Santee-Cooper, Moncks Corner, S.C. 29461) in Project No. 199 located on the Santee River and the Cooper River.

Applicant has requested Commission approval of a raw water intake structure in Lake Moultrie of Project No. 199 by the South Carolina Wildlife Resources Department. The intake would furnish water for operation of the Bonneau Fish Hatchery. It is estimated that 0.61 acre-feet per day or about 200,000 gallons per day would be withdrawn from and not returned to the reservoir.

Applicant states that the hatchery would have rearing ponds to raise striped bass to fingerling size.

A permit to construct the subject intake was issued by the Corps of Engineers, Charleston, S.C. on April 21, 1972. The facility has also been approved by the U.S. Forest Service, the Fish and Wildlife Service of the U.S. Department of the Interior and appropriate State and local agencies.

Any person desiring to be heard or to make protest with reference to said application should on or before December 18, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–18763 Filed 11–1–72;8:54 am]

[Docket No. CS72–1053]

TRAVIS H. DAVIS GAS ACCOUNT

Petition of Waiver of Regulations

OCTOBER 27, 1972.

Take notice that by letter filed October 10, 1972, Travis H. Davis Gas Account (Petitioner), Post Office Box 1709, Borger, TX 79007, % Roy Gurley, Esq., certificate holder in Docket No. CS72–1053, requests that the Commission waive in part paragraph (c) of § 157.40 of the regulations under the Natural Gas Act (18 CFR 157.40(c)) so as to permit the sale of natural gas under its small producer certificate from reserves acquired in place from Sun Oil Co., a large producer.

Section 157.40(c) provides in part that sales of natural gas may not be made pursuant to a small producer certificate from reserves acquired by a small producer by purchase of developed reserves in place from a large producer. Petitioner states that the lease which it has acquired from Sun, produces approximately 2,200 Mcf of natural gas per month and would like it to be covered under its small producer certificate. Petitioner further states that it will not accept a gas purchase rate in excess of the area ceiling rate. The subject lease, the Mitchell Gas Unit, Morton County, Kans., is presently covered under Sun Oil Co., FPC Gas Rate Schedule No. 236.

This letter by Petitioner is being construed as a petition for waiver of Commission regulations under paragraph (b) of § 1.7 of the Commission's rules of practice and procedure (18 CFR 1.7(b)). Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than November 27, 1972, views and comments in writing concerning the petition for waiver. An original and 14 conformed copies should be filed with the Secretary of the Commission. The Commission will consider all such written submittals before acting on the petition.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–18764 Filed 11–1–72;8:54 am]

[Docket No. RP72–103]

UNION TEXAS PETROLEUM ET AL.

Order Modifying Order on Rehearing

OCTOBER 24, 1972.

On September 28, 1972, Stephens & Cass (Respondent) filed a motion for rehearing of our order issued September 25, 1972, granting relief to Union Texas Petroleum, a Division of Allied Chemical Corp. (Complainant) and terminating this proceeding. Complainant had alleged that Respondent has violated the provisions of a gas purchase contract with Complainant by failing to deliver gas as required by the contract. The purchaser, El Paso Natural Gas Co., states that upon review of the facts, it appears that the properties remain subject to a prior dedication under Complainants' contract.

In support of its motion, Respondent correctly asserts that the Commission inadvertently failed to recognize its answer filed herein on February 22, 1972. Respondent's answer alleges that its contract with Complainant was never valid or in force, that the Complainant abandoned the leases in 1961, and urges certain contractual provisions and Complainant's alleged noncompliance with other terms of the contract in support of its position. Respondent's answer thus places in issue the validity of the contract under the laws applicable thereto.

The pleadings reflect divergent views on that issue. Complainant and El Paso Natural Gas Co. assert the validity of the contract, while Respondent urges its invalidity. It was our view, as expressed in the order of September 25, that, while the Commission has jurisdiction to ascertain the validity of the contract, it would not exercise that jurisdiction, but would defer such determination to the local courts. In taking that position, we recognized that the issue involved was not one where Federal law conflicts with or supersedes State law. Thus, the issue is one of local law and, as such, must be decided under State law. When so determined, we are then obligated to follow that State ruling. See, "Pan American Petroleum Corp., et al.", 32 FPC 966, rehearing denied, 32 FPC 1394. Respondent's answer has not altered our view on that action, and, consequently, we affirm the September 25 order in this respect.

Upon further consideration, however, we conclude that we were in error in granting relief to Complainant pending action by the local courts on these contractual issues. We shall therefore modify the September 25 order so as to allow Stephens & Cass to continue deliveries to El Paso pending determination of these questions. Such action will assure adequate protection for the position of Stephens & Cass. Complainant is adequately protected by its right to seek damages in court in the event its position is upheld by the local courts. There is thus no need to require Stephens & Cass to deliver the gas in question to Complainant.

The Commission orders:

(A) Ordering paragraphs (A) and (B) of the September 25, 1972, order in the above-entitled proceedings are rescinded.

(B) Further action in this proceeding is deferred, pending resolution of the contractual issues involved in this proceeding.

(C) Except to the extent provided in ordering paragraphs (A) and (B) above, the application for rehearing filed by Stephens & Cass is denied.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72–18656 Filed 11–1–72;8:47 am]

[1] Authorization for the installation of the relocated 3,000 horsepower unit has been requested in applicant's petition to amend filed Sept. 27, 1972, in Docket No. CP71–50.

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[Docket No. CI73-290]

W. F. COOKE, JR., ET AL.[1]

Notice of Application

OCTOBER 30, 1972.

Take notice that on October 24, 1972, W. F. Cooke, Jr., et al. (Applicants), 1 Briar Dale Court, Houston, TX 77027, filed in Docket No. CI73-290 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Trunkline Gas Co. (Trunkline) from the Goff Field Area, Wharton County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that they commenced the sale of gas within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and that they proposed to continue said sale for 1 year from December 9, 1972, the end of the 60-day emergency period, within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant's propose to sell approximately 30,000 Mcf of gas per month at 35.0 cents per Mcf at 14.65 p.s.i.a.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 10, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18756 Filed 11-1-72;8:53 am]

NATIONAL GAS SURVEY

Meeting Agenda for Distribution-Technical Advisory Task Force-General

Agenda of meeting:

Distribution-Technical Advisory Task Force-General, to be held in Conference Room 4454-A of the Federal Power Commission, 441 G Street NW., Washington, DC, November 20, 1972,[1] 10 a.m., November 21, 1972,[1] 9 a.m.

Presiding: Mr. Charles A. Gallagher, FPC survey coordinating representative and secretary.

1. Call to order and introductory remarks—Mr. Gallagher.
2. Review and discussion on initial draft of Final Report of the Task Force—Mr. Ralbern H. Murray.
3. Status of assigned work and estimated date for completion—Mr. Ralbern H. Murray.
4. Other business.
5. Date of next meeting.
6. Adjournment—Mr. Gallagher.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72 18687 Filed 11-1-72;8:49 am]

[Docket No. CP73-105]

COLUMBIA GAS TRANSMISSION CORP.

Notice of Application

OCTOBER 26, 1972.

Take notice that on October 16, 1972, Columbia Gas Transmission Corp. (applicant), 20 Montchanin Road, Wilmington, DE 19807, filed in Docket No. CP73-105 a budget-type application pursuant to section 7(c) of the Natural Gas Act as implemented by § 157.7(b) of the Commission's regulations thereunder, for a certificate of public convenience and necessity authorizing the construction during the 12-month period following issuance of the Commission's order and the operation of certain natural gas purchase facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this application is to augment its ability to act with reasonable dispatch in contracting for and connecting to its pipeline system supplies of natural gas in various producing areas generally coextensive with said system.

The cost of the proposed facilities is not to exceed $2 million with no single project to exceed $500,000. Applicant plans to finance such costs from cash on hand or through open account advances from the issuance of promissory notes and/or common stock to its parent company, the Columbia Gas System, Inc.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 20, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make that protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18686 Filed 11-1-72;8:49 am]

[Docket No. CP73-102]

NORTHERN NATURAL GAS CO.

Notice of Application

OCTOBER 26, 1972.

Take notice that on October 13, 1972, Northern Natural Gas Co. (applicant), 2223 Dodge Street, Omaha, NE 68102, filed in Docket No. CP73-102 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain minor side valve facilities and the transportation of vaporized liquefied natural gas (LNG) for Northern States Power Co. (Northern States), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization under the terms of a vaporized LNG transportation contract dated August 28, 1972, to accept and transport on a best efforts basis volumes of vaporized LNG not to exceed 1,000 Mcf per hour and 24,000 Mcf per day for Northern States during the period commencing November 27, 1972, and continuing through March 26, 1972, and thereafter for nine succeeding periods beginning November 27 and ending March 26. Pursuant to said contract, applicant will receive such vaporized LNG at a proposed point of interconnection on applicant's existing 12-inch line "A" line in Dakota County, Minn., approximately 2,600 feet north of its Rosemount TBS No. 1-A, and redeliver such gas to Northern States at applicant's St. Paul TBS No. 1-C. Applicant also seeks authorization to install minor side valve facilities on its 12-inch "A" line to effectuate such transportation.

Applicant proposes to charge Northern States a rate of 0.5 cent per Mcf for the transportation service.

Applicant states that Northern States intends to utilize the vaporized LNG as peaking service volumes during the 1972-73 heating season and desires that such service be available to its firm and small volume consumers located in and around St. Paul, Minn.

Applicant estimates the cost of the proposed side valve facilities at $15,800.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 20, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18684 Filed 11-1-72;8:49 am]

[Project No. 2101]

SACRAMENTO MUNICIPAL UTILITY DISTRICT

Notice of Application for Approval of Exhibit R for Constructed Project

OCTOBER 26, 1972.

Public notice is hereby given that application for approval of exhibit R has been filed under the regulations under the Federal Power Act (16 U.S.C. 791a-825r) by Sacramento Municipal Utility District (correspondence to: William J. Nolan, Acting General Manager, Sacramento Municipal Utility District, 6201 South Street, Box 2391, Sacramento, CA 95811), for constructed Project 2101 located on Rubicon River and tributaries, Silver Creek, and South Fork American River and tributaries, in the region of Camino and Placerville, Calif., affecting lands of the United States in the Eldorado National Forest.

According to the proposed exhibit R facilities at Loon Lake Reservoir would include a 15-acre, 40-unit campground (eight tenting, 32 trailer sites), and a 19-car trailhead parking area. At Union Valley Reservoir proposed facilities would include: (1) Four campsites containing 260 units (58 tenting, 202 trailer sites) occupying a total of 73 acres; (2) a 25-car parking area; and (3) a boat launching ramp. At Ice House Reservoir proposed facilities would include an 11-acre, 40-unit campground (eight tenting, 32 trailer sites).

Proposed facilities would utilize both project lands and National Forest lands. All construction is to be accomplished by the Forest Service and is due for completion by the summer of 1976.

Any person desiring to be heard or to make protest with reference to said application should on or before December 18, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18683 Filed 11-1-72;8:49 am]

FEDERAL RESERVE SYSTEM

BANK HOLDING COMPANIES

Grandfather Privileges

Correction

In F.R. Doc. 72-17851 appearing at page 22414 of the issue of Thursday, October 19, 1972, that portion of the table which appears on page 22414 should read as set forth below:

Bank holding company	*Activities engaged in, on, and continuously since, June 30, 1968* [1]
Alaska Bancshares, Inc., Anchorage, Alaska	Real estate development. Insurance agency operations. Mortgage financing. Commercial real estate business. Management consultant and adviser. Investment adviser.
World Airways, Inc., Oakland, Calif.	Supplemental air carrier. Lease, purchase, and sale of aircraft. Aircraft fixed base operator.
First Railroad and Banking Company of Georgia, Augusta, Ga.	Owner and lessor of railroad property and securities. Investments in small business investment company, real estate trust, housing, and real estate.
First National Bank Voting Trust, Hollywood, Fla.	None.
Estate of James Millikin, Deceased, Decatur, Ill.	Administration of the Trust of James Millikin, the nonbanking activities of which consist of owning farm and urban property and various securities.

[1] Meeting dates postponed from November 14 and 15, 1972.

FEDERAL REGISTER, VOL. 37, NO. 212—THURSDAY, NOVEMBER 2, 1972

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AFFILIATED BANK CORP.

Order Approving Acquisition of Bank

Affiliated Bank Corp., Madison, Wis., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Bank of Cambridge, Cambridge, Wis. (Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls three banks with aggregate deposits of approximately $103 million,[1] Bank ($5.3 million in deposits) is the 24th largest of 30 banking organizations operating in the Madison banking market, approximated by the Madison Standard Metropolitan Statistical Area (Dane County), and holds 0.8 percent of total deposits held by commercial banks operating in that market. Applicant's three subsidiary banks also operate in the Madison banking market, and Applicant thereby controls 15.6 percent of total deposits held by banks operating in that market, thereby ranking as the second largest banking organization in that market.

Since the closest banking subsidiary of Applicant to Bank is located approximately 25 miles west of Bank and several banks intervene, it appears that there is no significant existing competition between Applicant, its subsidiary banks, and Bank. There is little probability that Applicant would enter Bank's service area de novo because of the small population growth and the low per capita income of the area, and consummation of the proposal would foreclose no substantial potential competition. The Board concludes that competitive considerations are consistent with approval of the application.

Considerations related to the financial and managerial resources and future prospects of Applicant and its subsidiary banks are regarded as generally satisfactory and consistent with approval. Although Bank's financial resources and future prospects are satisfactory, it appears that adequate provision has not been made for succession to Bank's currently satisfactory management. Applicant would serve as a source of successor management as well as of additional capital funds should Bank's continued deposit growth require the infusion of further capital. The banking considerations therefore lend weight toward approval of the application. Considerations relating to the convenience and needs of the community lend some weight for approval, since Applicant proposes to provide, through Bank, trust services not now readily available in the area, and to enable Bank to offer leasing, credit card, computer, and other services. Although these services are presently available in the community, consummation of the proposed transaction would create another alternative source of such services.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated: (a) Before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[2] effective October 26, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-18679 Filed 11-1-72;8:48 am]

[1] All banking data are as of Dec. 31, 1971.

BANCSHARES OF NEW JERSEY

Formation of One-Bank Holding Company

Bancshares of New Jersey, Camden, N.J., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 per cent of the voting shares of The Bank of New Jersey, Camden, N.J. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Philadelphia. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than November 20, 1972.

Board of Governors of the Federal Reserve System, October 26, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18678 Filed 11-1-72;8:48 am]

CBT CORP.

Order Approving Acquisition of Lazere Financial Corp.

CBT Corp., Hartford, Conn., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to acquire not less than 80 percent of the voting shares of Lazere Financial Corp. (Lazere), New York, N.Y.

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (37 F.R. 17088). The time for filing comments and views has expired, and none has been timely received.

Applicant's banking subsidiary, The Connecticut Bank & Trust Co. (Bank), is the second largest bank in the State of Connecticut, and holds deposits of $1.1 billion representing approximately 18 percent of the total commercial bank deposits in the State.[1] Applicant also has nonbanking subsidiaries engaged principally in data processing, real estate financing, equipment leasing, and acting as a stock transfer agent.

Lazere is a commercial finance company with total assets of $9.2 million, total credits outstanding of $7.3 million, and total capital accounts of $2.1 million.[2] It operates its sole office in New York City and primarily serves the New York metropolitan area. It specializes in secured financing of accounts receivable, which in recent years has accounted for approximately 90 percent of its total credits outstanding.[3] It also finances inventory and the importation of goods, either by direct loans or confirmation of letters of credit issued by other financial institutions. Such activities are consistent with the the kinds of activities determined by the Board to be closely related to banking (12 CFR 225.4(a)(1)).

Although Bank and Lazere compete for commercial loan business in Fairfield County, Conn., consummation of the proposed acquisition would not have any significant adverse effect on existing competition. Bank's branches in Fairfield County have not engaged to any significant extent in financing accounts receivable. Only 2.3 percent of Lazere's total credits outstanding were derived from that county as of June 30, 1972. An insignificant amount of competition is therefore affected. Nor does it appear that consummation of the proposed acquisition would have any adverse effect on potential competition or on credit availability to independent finance companies in any relevant area.

There is no evidence in the record indicating that consummation of the proposed transaction would result in any undue concentration of resources, unfair competition, unsound banking practices, or other adverse effects on the public interest. It is anticipated that Lazere's affiliation with applicant will give Lazere access to the greater capital resources of applicant, will enhance its ability to provide larger loans, and will thereby enable it to compete more effectively in the highly competitive markets which it serves.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[4] effective October 26, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-18714 Filed 11-1-72;8:50 am]

[1] Data regarding Bank are as of Dec. 31, 1971.

[2] Data regarding Lazere are as of May 31, 1972, except as otherwise noted.

[3] The latest figures as of May 31, 1972, reflect that accounts receivable financing represents approximately 80 percent of total credits outstanding.

[4] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns.

EXCHANGE BANCORPORATION, INC.

Acquisition of Bank

Exchange Bancorporation, Inc., Tampa, Fla., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 49,400 of the voting shares of Exchange Bank of Dunedin, Dunedin, Fla., a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than November 22, 1972.

Board of Governors of the Federal Reserve System, October 26, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18677 Filed 11-1-72;8:48 am]

FARMERS ENTERPRISES, INC.

Order Denying Formation of Bank Holding Company and Retention of Insurance Agency

Farmers Enterprises, Inc., La Crosse, Kans., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through the acquisition of 81 percent or more of the voting shares of The Farmers State Bank, Albert, Kans. (Bank).

At the same time applicant has applied for the Board's approval under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y to engage in insurance agency activities through the retention of the insurance agency activities formerly conducted by the Albert Insurance Agency, Albert, Kans. (Agency). Agency would engage in the activities of a general insurance agency in a community of less than 300 people. The Board has previously determined such activity to be permissible for bank holding companies (12 CFR 225.4(a)(9)).

Notice of receipt of the applications has been given in accordance with sections 3 and 4 of the Act (37 F.R. 12751), and the time for filing comments and views has expired. The Board has considered the applications and all comments received in the light of the facts set forth in section 3(c) of the Act (12 U.S.C. 1842(c)), and the considerations specified in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and finds that:

Applicant was formed for the purpose of acquiring Bank and Agency, and has operated Agency since October 1971. Bank, with deposits of approximately $4.5 million, controls 4.5 percent of deposits in commercial banks in the Barton County area, and is the eighth largest of nine banks in that area.[1] The proposed president and a proposed director of Bank are executive officers of Home State Bank, La Crosse, Kans.; Bank and Home State Bank, however, are separated by more than 20 miles and neither bank appears to derive significant business from the other's banking area. Accordingly, the Board concludes that no significant existing or potential competition would be eliminated upon consummation of this proposal.

During July and August 1971, applicant's organizer and sole shareholder acquired 2,430 of 3,000 shares of Bank with the intention of transferring such shares to applicant. A majority interest in Bank was acquired from officers and directors of Bank for $250 per share. A second group of shareholders received $200 per share and a third group $135 per share. In its consideration of the public interest aspects of this application the Board finds, as it previously has in similar cases, that the failure to make an equivalent offer to all shareholders of Bank is an adverse circumstance weighing against approval of the application (e.g., 1971 Federal Reserve Bulletins 415 and 688).

The Board is also concerned with another aspect of applicant's proposal. In applications to form one-bank holding companies the Board has considered significant debt in acquiring a bank as an adverse circumstance (e.g., 1971 Federal Reserve Bulletin 1003). Significant acquisition debt may adversely affect the prospects of an applicant's ability to meet any emergency capital needs of its subsidiary bank. The amount and maturity of the debt, therefore, must be considered in relation to the ability of the holding company to service the debt, and the likelihood that Bank will need capital. The debt factor is then balanced with other considerations in determining whether the acquisition would be in the public interest.

Applicant proposes to assume debt of $325,250 which would result in a debt-to-equity ratio of 2,288 percent. Taking into account the actual growth of assets and deposits of Bank since 1967, and the range of percentage of net income to total assets for all Kansas member banks in a comparable deposit size group, it appears that, even under a reasonable projection of Bank's earnings, amortization of the debt will require applicant's total projected income from Bank and Agency for a period of approximately 18 years. During this period the projected growth of Bank could require additional capital that applicant would not likely be able to provide. Considerations relating to the financial and managerial resources of applicant therefore weigh against approval. These considerations, it should be clear, in no way reflect adversely on the financial soundness of Bank at the present time. On the contrary, the financial and managerial resources of Bank are sound and its prospects for the future favorable.

Under all of the circumstances in this case, the Board concludes that the unequal treatment of shareholders of Bank and the acquisition debt involved in this proposal present adverse circumstances bearing on the financial condition and prospects of applicant and Bank which weigh against approval of the application. Such circumstances are not outweighed by any procompetitive factors or by the convenience and needs of the communities to be served. On the basis of the record, the Board finds that approval of the section 3 application would not be in the public interest and it is accordingly denied.[2]

By order of the Board of Governors,[3] effective October 26, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-18715 Filed 11-1-72;8:50 am]

[1] All banking data are as of Dec. 31, 1971.

[2] Denial of Applicant's section 3(a)(1) application requires denial of the attendant section 4(c)(8) proposal.

[3] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns.

MERCANTILE BANKSHARES CORP.

Order Approving Acquisition of Bank

Mercantile Bankshares Corp., Baltimore, Md., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire not less than 80 percent of the voting shares of Bank of Somerset, Princess Anne, Md. (Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

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Applicant controls five banks with aggregate deposits of approximately $304 million, and is the sixth largest banking organization in Maryland, with 5.1 percent of commercial bank deposits in the State. (All banking data are as of December 31, 1971, unless otherwise indicated, and reflect bank holding company formations and acquisitions approved by the Board through September 30, 1972.) Acquisition of Bank ($18.9 million in deposits) would increase Applicant's share of statewide deposits by only 0.3 percent and its ranking in the State would remain unchanged.

Bank is the fourth largest of 11 banking organizations competing in the Somerset-Wicomico banking market, holding about 12.1 percent of market deposits (as of June 30, 1970). Applicant's office located closest to Bank is about 90 miles northwest of Bank, in Church Hill. It appears that there is no significant existing competition between Bank and Applicant's Church Hill office or any of Applicant's subsidiary banks. Moreover, it appears unlikely that such competition would develop in the future in the light of the facts of record, notably, the distances separating Bank from Applicant's present subsidiary banks, the number of banks located in intervening areas, and the declining population of Somerset County between 1960 and 1970. Affiliation with Applicant should enable Bank to compete more aggressively within its relevant market; thus, approval of this application should have a procompetitive effect on competition in the area. On the basis of the record before it, the Board concludes that consummation of the proposed acquisition would not have an adverse effect on competition in any relevant area.

The financial and managerial resources and prospects of Applicant and its subsidiary banks are regarded as satisfactory and consistent with approval of the application. Bank has experienced some management difficulties and affiliation with Applicant should enable Bank to draw upon Applicant's managerial resources to aid Bank in strengthening management and the condition of Bank. Additionally, Applicant has committed itself to increase Bank's capital by $500,000 upon acquisition of Bank. The banking factors lend weight for approval. It appears that the banking needs of the residents of Somerset and Wicomico Counties are being met; however, customers of Bank should benefit from the higher lending limits and additional services that Applicant will be able to provide. Considerations relating to the convenience and needs of the community to be served weigh in favor of approval of the application. It is the Board's judgment that the proposed transaction is in the public interest and should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated: (a) Before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Board of Governors,[1] effective October 26, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-18717 Filed 11-1-72;8:50 am]

UNITED JERSEY BANKS

Order Approving Acquisition of Gibraltar Corporation of America

United Jersey Banks, Hackensack, N.J., a bank holding company within the meaning of the Bank Holding Company Act, as amended, has applied for the Board's approval under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y to acquire 100 percent of the voting and nonvoting shares of Gibraltar Corporation of America, New York, N.Y. (Gibraltar). Notice of the application affording opportunity for interested persons to submit comments and views was duly published (37 F.R. 15534). The time for filing comments and views has expired and none have been received.

Making secured loans to businesses for various business purposes, such as accounts receivable financing, equipment financing, and dealer sales and lease financing, is an activity that the Board has previously determined to be closely related to banking or managing or controlling banks (12 CFR 225.4(a)(1)). A bank holding company may acquire a company engaged in this activity so long as the proposed acquisition is consistent with the factors specified in section 4(c)(8) of the Act. Gibraltar with total assets of approximately $22 million is a commercial finance company whose major activity is nonnotification accounts receivable financing. Gibraltar also engages to a lesser extent in the other types of commercial financing described above as being "closely related to banking." These types of commercial financing are specialized, serving high risk customers who generally cannot obtain adequate bank financing to meet their credit needs. In fact, it is understood that generally initial customer contacts of a commercial finance company derive from referrals by commercial banks, the particular customer either having exhausted, or been unable to qualify for, a line of credit from the referring bank.

Applicant is the second largest banking organization in New Jersey, controlling 15 banks with aggregate deposits of approximately $1.2 billion. (All banking data are as of December 31, 1971, and reflecting holding company formation and acquistions as of August 31, 1972.) Gibraltar, through its sole office, operates in the New York area market, and competes with over 50 suppliers of accounts receivable financing, including commercial banks located in the New York metropolitan area, certain factoring firms, and commercial finance companies. Of all of Applicant's subsidiary banks, only its lead bank, Peoples Trust of New Jersey, Hackensack, N.J. (Bank), holds a significant amount of loans outstanding secured by accounts receivable (12 loans valued at $1.7 million). Although Bank is located in the New York area market, none of its loans secured by accounts receivable are to borrowers located in Gibraltar's service area (New York City, Nassau County, and part of Suffolk County). Conversely, only five of Gibraltar's accounts receivable loans derive from Applicant's service area. The Board concludes that consummation of the proposed transaction would not have a significant adverse effect on existing competition.

Nor does it apear that consummation would have any significant adverse effect on the development of competition. The proposal in effect represents a foothold entry by applicant into the New York area accounts receivable market. Although data on that market is not available in complete form, the Board understands that the Nation's largest companies engaged in business receivables financing have offices in New York City and that the total net business receivables outstanding (all types) of the two largest such companies amounted to $780.9 million and $608 million, respectively, as of December 31, 1971. As of the same date, the third and fourth largest reported what appear to be net outstanding amounts of factored and nonnotification receivables of $479.6 million and $372.2 million, respectively. These figures compare to Gibraltar's net business receivables outstanding (all types) of $16.5 million as of December 31, 1971. The Board concludes that applicant would not acquire a substantial competitive position upon consummation of the proposal, nor would consummation result in an undue concentration of economic resources. Furthermore, although Applicant possesses the resources to enter the New York area market de novo, the market is characterized by a considerable number of competitors and by relatively low entry barriers.

Although Bank extends credit to competitors of Gibraltar, in view of the availability of credit from other sources, it is unlikely that Bank would have an incentive to terminate its lending relationship with those of its borrowers who compete with Gibraltar.

Applicant predicts that consummation of the proposed transaction will have the ultimate effect of strengthening the capital resources of Gibraltar, thereby strengthening Gibraltar's ability to compete in the New York area market and enabling Gibraltar to extend its operations into new geographic markets, particularly those presently served by applicant's subsidiary banks. Presently New Jersey firms generally are forced to fragment their demands for financial services, turning to New York or Philadelphia for the kinds of financial services that Gibraltar would provide. To the extent that such services can be conveniently provided in New Jersey (and elsewhere), the public benefits of the proposed affiliation outweigh possible adverse effects. As the Board has indicated in its order of August 22, 1972, approving applicant's application to acquire all of the voting shares of the Dover Trust Co., Dover, N.J., the Board understands that applicant will increase the equity capital of the Dover Trust Co. by $1 million and the equity capital of bank by $15 million. It appears that applicant will be able to generate sufficient income to service debt it may incur to so augment the capital accounts of its subsidiary banks and that its future ability to furnish the increased capital to Gibraltar, necessary to enable Gibraltar to geographically expand its activities, will not be significantly lessened thereby.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) favors approval of the application. Accordingly, the application is hereby approved and applicant is hereby permitted to engage in the activities now conducted by Gibraltar that are authorized by 12 CFR 225.4(a)(1). This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder or to prevent evasion thereof.

By order of the Board of Governors,[1] effective October 26, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-18716 Filed 11-1-72;8:50 am]

[1] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns.

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. F-159]

SECRETARY OF DEFENSE ET AL.

Revocation of Delegations of Authority

1. *Purpose.* This regulation revokes delegations of authority to represent the Federal Government in proceedings which have been terminated.

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation expires October 31, 1972.

4. *Revocation.* This revocation identifies those delegations which are no longer in force due to completion of the proceedings for which they were issued. Accordingly, the following FPMR temporary regulations are hereby revoked:

No.	Date	Subject
F-21	Sept. 12, 1968	Delegation of authority to Secretary of Defense—Regulatory proceeding.
F-84	Sept. 12, 1969	Do.
F-89	Sept. 26, 1969	Delegation of authority to Chairman, Atomic Energy Commission—Regulatory proceeding.
F-63	Jan. 20, 1970	Delegation of authority to Secretary of Defense—Regulatory proceeding.
F-76	Nov. 9, 1970	Do.
F-88	Feb. 17, 1971	Do.
F-99	Apr. 20, 1971	Do.
F-115	Aug. 12, 1971	Do.
F-129	Nov. 12, 1971	Do.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

OCTOBER 27, 1972.

[FR Doc.72-18718 Filed 11-1-72;8:51 am]

[1] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 72-22]

NASA APPLICATIONS COMMITTEE

Notice of Public Meeting

The NASA Applications Committee will meet on November 16, 1972, at the headquarters of the National Aeronautics and Space Administration. The meeting will be held in room 226 of Federal Office Building 10B, 600 Independence Avenue SW., Washington, DC 20546. Members of the public will be admitted to the meeting beginning at 9 a.m., the agenda for which is noted below, on a first come first served basis up to the seating capacity of the room which can accommodate about 35 persons.

The NASA Applications Committee serves in an advisory capacity only. It is concerned with the total range of applications of space-derived, space-related technology including communications, meteorology, earth resources survey (includes agriculture/forestry, cartography, geography, geology/hydrology, oceanography), earth and ocean physics, solar energy conversion, space processing, and other technology applications. The Committee is chaired by Dr. Brockway McMillan. Currently, there are 11 members, plus a recording secretary, Louis B. C. Fong, who can be contacted for further information at 202—755—8606.

The following is the approved agenda and schedule for the November 16 meeting of the Applications Committee:

Time	*Topic*
9:00 a.m.	*ERTS-1.* (Purpose: To brief the Committee on significant preliminary findings and analyses of data from the first Earth Resources Technology Satellite, ERTS-1, launched on July 23, 1972.)
10:00 a.m.	*Follow-on Nimbus Program.* (Purpose: To get the Committee's advice on the following): a. What direction should the Applications Program take in environmental quality related to the potential capability of space systems? b. To what degree should the current Meteorological Program be involved? c. What emphasis should NASA place on the Global Environmental Monitoring System? d. With what aspects of environmental quality in local and regional activities should NASA be concerned? e. Based upon the current state of the art, what new areas of remote sensing should be concentrated on by NASA?)
10:45 a.m.	*ATS C-2* (Purpose: To seek the Committee's advice on the utilization of an experimental L-band satellite for experiments in communications and position location with mobile users of the maritime and aeronautical agencies.)
11:15 a.m.	*Future Applications Technology Satellite (ATS) Missions* (Purpose: To provide the Committee with an updated report on users' requirements and experiments on the ATS family of satellites and to get the Committee's recommendations on new user experiments in the educational, industrial, and public sectors which NASA has not yet covered. This information is required to assist NASA in its planning for future ATS missions.)
1:30 p.m.	*Earth and Ocean Physics Applications Program* (Purpose: To review the proposed new Earth and Ocean Physics Applications Program Plan and to obtain the Committee's views on its content, balance, quality, and relevance.)
4:30 p.m.	Adjourn.

HOMER E. NEWELL,
Associate Administrator, National Aeronautics and Space Administration.

[FR Doc.72-18743 Filed 11-1-72;8:53 am]

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OFFICE OF ECONOMIC OPPORTUNITY

PUBLICATION OF ISSUANCES

Responsibilities and Procedures

In implementing the recently enacted section 623 of the Economic Opportunity Act of 1964, as amended (section 22 of Public Law 92-424) which requires that certain OEO directives be published in the FEDERAL REGISTER at least 30 days prior to their effective date, the Office of Economic Opportunity (OEO) has prepared, and is in the process of distributing the issuance set forth below.

While this issuance itself is not the type which would be required by section 623 to be printed in the FEDERAL REGISTER, it is nevertheless being published here on OEO's own initiative because it is considered to be of public interest.

OEO STAFF INSTRUCTION

PUBLICATION OF OEO ISSUANCES IN THE FEDERAL REGISTER

1. *Purpose.* This staff instruction advises of the requirements of section 623 of the Economic Opportunity Act which was added to the Act by section 22 of the Economic Opportunity Amendments of 1972 (Public Law 92-424). It also outlines the responsibilities and procedures for implementing the provisions of section 623 which are as follows:

All rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this Act shall be published in the FEDERAL REGISTER at least 30 days prior to their effective date.

It is not the intent of this staff instruction to prevent or inhibit the circulation of draft issuances among grantees and others for comments prior to their formal promulgation.

2. *Applicability.* This staff instruction applies to all headquarters and regional offices.

3. *Effective date.* This directive is effective immediately.

4. *Background and effect.* Prior to the enactment of the above provisions on September 19, 1972, OEO published certain documents in the FEDERAL REGISTER as a way of giving formal public notice and in keeping with the spirit of the Federal Register Act (44 U.S.C. 305; 1 CFR 11.2) and the Administrative Procedure Act (5 U.S.C. 522(a)(1)). The new section 623 imposes the additional requirement that the documents to which it pertains must be published in the FEDERAL REGISTER "at least 30 days prior to their effective date." The report of the House Committee on Education and Labor on the 1972 EOA Amendments (report No. 92-815) states with respect to section 623:

It is not intended to use this as a veto process but rather the committee seeks a systematic method to keep abreast of the programs and to keep informed of the kinds of "red tape" that the local grantees and communities are being asked to live with.

While the prepublication requirements of section 623 are broad, it is apparent, in the light of the above expression of congressional intent, that OEO staff instructions and OEO staff notices which pertain to the agency's internal administration generally would not be subject to section 623's requirements. Accordingly, such issuances will be published in the FEDERAL REGISTER only if General Counsel determines that they contain subject matter of such a nature as to necessitate FEDERAL REGISTER publication.

5. *Procedures and responsibilities for implementing section 623.* (a) Except as noted below, in each instance in which a project officer executes an OEO Form 85 requesting the issuance of a new or revised directive or publication (other than an OEO staff instruction or staff notice) he shall check the "Yes" column in item B of paragraph 5 (Relevant Data) thereby indicating that the document contains information to be inserted in the FEDERAL REGISTER. The only instances in which a notation may be inserted in the OEO Form 85 indicating that the document does not contain information to be published in the FEDERAL REGISTER shall be those in which a written opinion has been obtained from General Counsel advising that FEDERAL REGISTER publication is not required, and such opinion shall be attached to the OEO Form 85. (The legislative history of section 623 indicates that in some instances FEDERAL REGISTER prepublication will not be required because the issuance is of limited applicability or is designed to deal with an emergency situation. However, the question of whether exceptions to the requirements of section 623 may be made in specific instances is a matter which General Counsel must determine.)

(b) Each issuance which is to be published in the FEDERAL REGISTER shall specify its effective date by day, month, and year. This date will be inserted in the document by the Director (or other OEO official acting pursuant to a delegation of authority by the Director). The effective date specified in the issuance shall be at least 35 days after the document's approval by the Director (or his delegate). In any case in which other provision is not made, the Federal Register Certifying Officer is authorized to fill in the effective date as here prescribed. The document, following its certification by the Federal Register Certifying Officer, shall be promptly transmitted by him to the Office of the Federal Register, so that it may be received in sufficient time for it to be published at least 30 days before it becomes effective.

(c) Following publication of the issuance in the FEDERAL REGISTER, General Counsel shall advise the Office of Primary Responsibility of the date on which it was published in the FEDERAL REGISTER and the place of publication (i.e. FEDERAL REGISTER volume and page number(s)). The Office of Primary Responsibility prior to transmitting the issuance to the Office of Administration for printing and distribution shall note this information on the issuance.

Additional copies of the issuance will be available from:

OEO Publications and Distribution Center, 5458 Third Street NE., Washington, DC 20011

WESLEY L. HJORNEVIK,
Deputy Director.

[FR Doc.72-18765 Filed 11-1-72;8:54 am]

PRICE COMMISSION

[Order 11A]

RECLASSIFIED LUMBER FIRMS

Reports Requirements

On October 5, 1972 (37 F.R. 21019), the Price Commission published Order No. 11 relating to reclassified lumber firms. On October 13, 1972 (37 F.R. 21673), a minor correction to that order was made. Since that date, the Commission has found that certain confusion exists concerning the interpretation of the requirements of independent public accountants under the order. It was not the Commission's intent that those requirements be interpreted to be more comprehensive than those set forth in § 300.221 of the Commission's regulations, and they have therefore been revised to accord with that section. It is the purpose of this revised order to restate Order No. 11 entirely, incorporating the above changes and corrections and adding a new sentence to require the reporting of profit margin calculations for fiscal years subsequent to base period years on Form PC-51.

Pursuant to the amendments to §§ 101.13 and 101.15 of Part 101 of the regulations of the Cost of Living Council, effective October 3, 1972, each firm (other than a firm described in § 101.11) with $5 million or more in annual sales or revenues from or by the sale or brokerage of lumber, plywood, veneer, millwork, and structural wood members and associated wood products such as hardboard and particle board that is not currently classified as a Category II firm is reclassified from Category III to Category II, reporting firms. For the purposes of this order, each such firm shall be referred to as a "reclassified firm." The effect of that amendment is to place certain reporting requirements on those reclassified firms, as required in § 302.52 of the Price Commission regulations. This order establishes the time frames for these particular reporting requirements of § 300.52 and specifies certain additional reporting requirements on a one-time basis.

Section 300.52 requires that each reporting firm provide certain information to the Price Commission on prescribed forms on a quarterly basis. The base period profit margin calculation must be reported once on Form PC-50. Profit margin calculations for fiscal years subsequent to base period years must be reported on Form PC-51. Supporting documents must include audited financial statements for all years reported, if available. The current profit margin is reported quarterly on Form PC-51. Each such report must be supported by the firm's usual quarterly accounting statement. The midyear and yearend PC-51 reports must each contain a letter or report from an independent public accounting firm pursuant to § 300.221 of Price Commission regulations.

Category II manufacturers and service organizations must report quarterly, on Form PC-1, any price increases above base price. This form provides for cost justification for the price increases and must be supported by schedules, as necessary. Category II wholesalers, brokers, and retailers must initially declare their customary initial percentage markups on Form PC-10 and report compliance with those markup limitations on a quarterly basis, also on Form PC-10.

The Price Commission considers that the requirement of having audited financial statements submitted with Forms PC-50 and PC-51 may work an unnecessary hardship on newly reclassified lumber firms that do not customarily have audited statements available. The Commission has thus determined that, where audited statements are not customarily available, a certificate to that effect shall be an acceptable substitute.

Therefore, in consideration of the foregoing, and notwithstanding any provision of Part 300 of the price stabilization regulations of the Commission (6 CFR 300), it is hereby ordered as follows:

(1) Each reclassified firm shall file with the Price Commission all reports (Forms PC-1, PC-10, and PC-50 and PC-51 or both) required by or pursuant to § 300.52 of the regulations of the Commission (a) with respect to the initial reports due after October 2, 1972, within the time limits prescribed in this order, and (b) with respect to all subsequent reports, within the time limits prescribed by or pursuant to § 300.52 of the regulations of the Commission.

(2) Each reclassified firm that is a manufacturer shall, before November 6, 1972, file with the Commission a Form PC-1, together with supporting documentation, with respect to each product or service for which it charged, at any time after November 13, 1971, a price which exceeded the base price for that product or service.

(3) Each reclassified firm that is a wholesaler or a retailer shall, before November 6, 1972, file with the Commission a Form PC-10, together with supporting documentation, covering the markup base period and latest fiscal quarter ended before October 3, 1972, with respect to any product, products, service, or services for which it charged, at any time during that fiscal quarter, a price or prices which exceeded the base price for the product, products, service or services.

(4) Each reclassified firm that has, at any time after November 13, 1971, charged a price for any product or service which exceeded the base price therefore shall:

(a) Before November 20, 1972, file with the Commission Form PC-50, together with supporting documentation;

(b) Before November 20, 1972, file with the Commission Form PC-51, together with supporting documentation, with respect to the last fiscal quarter ended before October 3, 1972; and

(c) Before January 2, 1973, file with the Commission Form PC-51, together with supporting documentation, with respect to its last complete fiscal year, ended before October 3, 1972.

(5) Any firm filing a PC-50 or PC-51 with the Commission for the first time as a result of this order shall also file a letter or report in accordance with § 300.221 of the Commission's regulations.

(6) Any firm which has not customarily prepared audited financial statements may file in place thereof a certificate to the effect that no such statements are customarily prepared and that the firm has stated all financial data in a consistent manner in accordance with the regulations of the Commission.

(7) A reclassified firm that has not increased any selling price above base price may, in place of complying with this order, file a certificate of no price increase similar to that set forth in the instructions to Form PC-50.

(8) Each form, report, or other document required to be filed with the Price Commission pursuant to this order shall be addressed as follows:

Price Commission, 2000 M Street NW., Washington, DC 20508.
Lumber 72-11
Form No. PC-

(9) Each person who fails, within the time limits prescribed in this order, to file any form, report, or other document required by this order shall be subject to § 300.53 of the regulations of the Price Commission.

(Economic Stabilization Act of 1970, as amended, Public Law 91-379, 84 Stat. 799; Public Law 91-558; 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92-210; Executive Order No. 11640, 37 F.R. 1213, Jan. 27, 1972; Cost of Living Council Order No. 4, 36 F.R. 20202, Oct. 16, 1971)

Issued in Washington, D.C., on October 31, 1972.

C. JACKSON GRAYSON, JR.,
Chairman, Price Commission.

[FR Doc.72-18553 Filed 11-1-72;8:49 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

ACCURATE CALCULATOR CORP.

Order Suspending Trading

OCTOBER 26, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Accurate Calculator Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 27, 1972, through November 5, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-18735 Filed 11-1-72;8:52 am]

[File No. 500-1]

CLINTON OIL CO.

Order Suspending Trading

OCTOBER 27, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.03½ par value, and all other securities of Clinton Oil Co., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 29, 1972, through November 7, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-18731 Filed 11-1-72;8:52 am]

[File No. 500-1]

ECOLOGICAL SCIENCE CORP.

Order Suspending Trading

OCTOBER 27, 1972.

The common stock, 2 cents par value, of Ecological Science Corp., being traded on the American Stock Exchange, the Philadelphia-Baltimore-Washington Stock Exchange, and Pacific Coast Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Ecological Science Corp., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 30, 1972, through November 8, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-18730 Filed 11-1-72;8:52 am]

[File No. 500-1]

FIRST WORLD CORP.

Order Suspending Trading

OCTOBER 26, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the Class A and Class B common stocks, $0.15 par value, and all other securities of First World Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities

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otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 27, 1972, through November 5, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18734 Filed 11-1-72;8:52 am]

[File No. 500-1]

GOODWAY INC.

Order Suspending Trading

OCTOBER 27, 1972.

The common stock, $0.10 par value of Goodway Inc., being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Goodway Inc., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 30, 1972, through November 8, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18732 Filed 11-1-72;8:52 am]

[File No. 500-1]

LDS DENTAL SUPPLIES, INC.

Order Suspending Trading

OCTOBER 27, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of LDS Dental Supplies, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 28, 1972, through November 6, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18729 Filed 11-1-72;8:52 am]

[File No. 500-1]

OCEANOGRAPHY MARICULTURE INDUSTRIES, INC.

Order Suspending Trading

OCTOBER 26, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Oceanography Mariculture Industries, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 27, 1972, through November 5, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18728 Filed 11-1-72;8:51 am]

[File No. 500-1]

ROOSEVELT MARINA, INC.

Order Suspending Trading

OCTOBER 27, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, no par value, and all other securities of Roosevelt Marina, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 29, 1972, through November 7, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18733 Filed 11-1-72;8:52 am]

[811-2053]

FAIRMONT GROWTH FUND, INC.

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

OCTOBER 27, 1972.

Notice is hereby given that Fairmont Growth Fund, Inc. (Fairmont), 9777 Wilshire Boulevard, Los Angeles, CA 90212, registered under the Investment Company Act of 1940 (Act) as an open-end diversified management investment company, has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Fairmont has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein, which are summarized below.

Fairmont, which registered under the Act on March 25, 1970, represents that it has no assets or shareholders; that it has applied for the withdrawal of its registration statement filed under the Securities Act of 1933; and that it has no intention of making a public or private offering of its securities.

Section 3(c)(1) of the Act exempts from the definition of investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering of its securities.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than November 24, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Fairmont at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18727 Filed 11-1-72;8:51 am]

[File No. 500-1]

FIRST LEISURE CORP.

Order Suspending Trading

OCTOBER 27, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.10 par value and all other securities of First Leisure Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 28, 1972, through November 6, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18738 Filed 11-1-72;8:52 am]

[70-5248]

GENERAL PUBLIC UTILITIES CORP.

Notice of Proposed Issue and Sale by Holding Company of Common Stock at Competitive Bidding

OCTOBER 27, 1972.

Notice is hereby given that General Public Utilities Corp. (GPU), 80 Pine Street, New York, NY 10005, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a) and 7 of the Act and Rule 50 thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

GPU proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, 1,500,000 shares of its authorized but unissued common stock, par value $2.50 per share. The declaration represents that the issue and sale of the additional shares of common stock are not subject to the preemptive rights of GPU's present common stock shareholders. GPU proposes to use the proceeds of the sale of the common stock to make investments in its subsidiaries for construction purposes and to pay a portion of its outstanding short-term promissory notes, the proceeds of which have been used for investment in its subsidiary companies. On January 1, 1972, GPU had 34,186,131 shares of common stock outstanding.

The declaration states that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. It is stated that the fees and expenses to be incurred by GPU in connection with the proposed issue and sale of its common stock are estimated at an aggregate of $110,000, including $40,000 in printing and engraving fees, $30,000 in legal fees, and $21,000 in accountant's fees. The estimated fee of counsel for the prospective purchasers, which is to be paid by the successful bidders, will be supplied by amendment.

Notice is further given that any interested person may, not later than November 20, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18725 Filed 11-1-72;8:51 am]

[812-3284]

LOEB, RHOADES & CO., AND MITCHUM, JONES & TEMPLETON INC.

Notice of Filing of Application for an Order of Exemption

OCTOBER 27, 1972.

Notice is hereby given that Loeb, Rhodes & Co., 42 Wall Street, New York, NY 10005, and Mitchum, Jones & Templeton Inc. (Applicants), 510 South Spring Street, Los Angeles, CA 90013, prospective representatives of a group of underwriters of a proposed offering of shares of common stock of Transamerica Income Shares, Inc. (Company), a registered closed-end, diversified investment management company, have filed an application pursuant to section 6(c) of the Investment Company Act of 1940 (Act) for an order exempting applicants and their counderwriters from section 30(f) of the Act to the extent that this section adopts section 16(b) of the Securities Exchange Act of 1934 (Exchange Act) in respect of their transactions incident to the distribution of the Company's shares. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Shares of Company are to be purchased by underwriters pursuant to an underwriting agreement to be entered into between Company and the underwriters represented by Applicants. It is intended that the several underwriters will make a public offering of all the shares of Company which such underwriters are to purchase under the underwriting agreement, at the price therein specified, as soon on or after the effective date of Company's registration statement on Form S-4 (the "Form S-4") as the Applicants deem advisable, and such shares are initially to be offered to the public in accordance with the formulae for the determination of the per share public offering price, underwriting commission, and dealer concessions to be specified in the underwriting agreement, at the time the Form S-4 becomes effective under the Securities Act of 1933.

It is quite possible that Applicants and one or more other members of the underwriting group may each acquire, in accordance with the provisions of the underwriting agreement, more than 10 percent of the Company's common stock which will be outstanding at the time of the closing of the initial public offering of the shares.

Since section 30(f) of the Act subjects every person who is directly or indirectly the beneficial owner of more than 10 percent of any class of outstanding securities of the Company to the same duties and liabilities as those imposed by section 16 of the Securities Exchange Act of 1934 (Exchange Act) such underwriter or underwriters would, upon resale of the shares purchased by them to their customers, become subject to the obligations imposed by section 16(b) of the Exchange Act.

Rule 16b-2 under the Exchange Act exempts certain transactions in connection with a distribution of securities from the operation of section 16(b) of the Exchange Act. Applicants state that the purpose of the purchase by Applicants and the other underwriters is for resale in connection with the initial distribution of shares of the Company. The purchases and sales will thus be transactions effected in connection with a distribution of a substantial block of securities within the purpose and spirit of Rule 16b-2.

It is possible, however, that Applicants and certain of the counderwriters will not be exempted from section 16(b) by the operation of Rule 16b-2, as they may fail to meet the requirement stated in paragraph (a)(3) of Rule 16b-2 that the aggregate participation of persons not within the purview of section 16(b) of the Exchange Act be at least equal to the participation of persons receiving the

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exemption under Rule 16b-2. It is possible that one or more of the underwriters who, pursuant to the underwriting agreement, will purchase more than 10 percent of the shares of the Company, may be obligated to purchase more than 50 percent of such shares being offered pursuant to the underwriting agreement.

In addition to purchases from the Company and sales to customers, there may be the usual transactions of purchases or sales incident to a distribution such as stabilizing purchases, purchases to cover overallotments or other short positions created in connection with such distribution, and sales of shares purchased in stabilization.

Applicants state that to the best of their knowledge no underwriter has any inside information, that there is no possibility of using inside information and, in fact, that there is no inside information in existence. No director, officer, or employee of any underwriter is a director, officer or employee of the Company or the Company's investment adviser, Transamerica Investment Management Co.

Applicants represent that the requested exemption from the provisions of section 30(f) of the Act is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. The Applicants state that the transactions sought to be exempted cannot lend themselves to the practices to which section 16(b) of the Exchange Act was enacted to apply.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 17, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the addresses stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after such date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-18726 Filed 11-1-72;8:51 am]

[File No. 500-1]

MARKETING COMMUNICATIONS, INC.

Order Suspending Trading

OCTOBER 26, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, no par value, and all other securities of Marketing Communications, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange, be summarily suspended, this order to be effective for the period from October 27, 1972, through November 5, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-18737 Filed 11-1-72;8:52 am]

[70-5238]

NEW JERSEY POWER & LIGHT CO.

Notice of Proposed Issue and Sale of Short-Term Notes to Banks

OCTOBER 27, 1972.

Notice is hereby given that New Jersey Power & Light Co. (NJP&L), Madison Avenue at Punch Bowl Road, Morristown, N.J. 07960, an electric utility subsidiary company of General Public Utilities Corp. (GPU), a registered holding company, has filed a declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a) and 7 of the Act as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

NJP&L proposes to issue and sell, from time to time not later than December 31, 1973, unsecured notes to banks, the aggregate principal amount of which outstanding at any one time will not exceed $13,700,000. All notes will mature not later than 9 months from the respective dates of issue and may be prepaid at any time without premium. The interest rate on the notes will be the prime commercial rate in effect at the lending bank on the date of issuance. NJP&L will be required to maintain compensating balances of 10 percent of the line of credit or 20 percent of the loans outstanding, whichever is higher. NJP&L computes its effective rate of interest at 7.19 percent per annum based on a prime rate of 5¾ percent and assuming the full amount of the line of credit is borrowed. There are no commitment fees or closing costs required.

Although no commitments or agreements for such borrowings have been made, NJP&L expects that, as and to the extent that its cash needs require, borrowings will be effected, in the specified maximum amount to be outstanding at any one time, from among the following banks:

The Chase Manhattan Bank NA, New York, N.Y.	$4,000,000
Fidelity Union Trust Co., Newark, N.J.	3,000,000
American National Bank & Trust, Montclair, N.J.	1,000,000
First Merchants National Bank, Asbury Park, N.J.	600,000
First Morris Bank, Morristown, N.J.	100,000
The First National Iron Bank of New Jersey, Morristown, N.J.	1,300,000
The Hunterdon County National Bank, Lambertville, N.J.	400,000
Monmouth County National Bank, Red Bank, N.J.	500,000
The National Union Bank of New Jersey, Dover, N.J.	900,000
New Jersey National Bank, Asbury Park, N.J.	1,300,000
Somerset Hills & County National Bank, Bernardsville, N.J.	300,000
First National Bank of Northwest Jersey, Washington, N.J.	300,000
	13,700,000

NJP&L proposes to utilize the proceeds of the proposed borrowings for financing its business as a public-utility company, including provisions for construction expenditures, the repayment of other short-term borrowings, and the temporary reimbursement of its treasury for construction expenditures provided therefrom. The estimated cost of NJP&L's 1972 construction program is approximately $15,400,000.

The declaration states that on July 1, 1972, pursuant to an order of this Commission issued June 30, 1972 (Holding Company Act Release No. 17634), an operating agreement between NJP&L and its affiliate Jersey Central Power & Light Co. (JCP&L), was placed into effect providing, in essence, that the combined revenues of the two companies shall first be applied to pay the combined operating expenses, income deductions, and preferred stock dividends of both companies and that any remaining amount shall be shared each month by each company in

proportion to the respective common stock equity accounts existing on the last day of each month.

NJP&L estimates that its expenses incident to the proposed transactions will be approximately $3,000, including counsel fees of $2,500, and it states that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. However, it is also stated that approval by the Board of Public Utility Commissioners of the State of New Jersey will be required for the issue, renewal, extension, or replacement of any notes issued by NJP&L, if, as a result thereof, the loan evidenced thereby is not repaid within 12 months of the original date of the note or notes.

Notice is further given that any interested person may, not later than November 21, 1972, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective in the manner provided by Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof, or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-18724 Filed 11-1-72;8:51 am]

[812-3271]

OLD LINE LIFE INSURANCE COMPANY OF AMERICA ET AL.

Notice of Filing of Application for Order Exempting Transactions Between Affiliates Incident to Proposed Merger and for Order Permitting Transactions

OCTOBER 25, 1972.

Notice is hereby given that Life Insurance Investors, Inc. (Fund), c/o William Waller, Jr., Waller, Landsen, Dortch & Davis, 1200 American Trust Building, Nashville, Tenn. 37201, an open-end, diversified investment company registered under the Investment Company Act of 1940 (Act) and Old Line Life Insurance Company of America (Old Line), c/o Richard K. Sell, 111 East Wisconsin Avenue, Suite 2100, Milwaukee, WI 53233, have filed an application pursuant to section 17(b) of the Act for an order exempting from the provisions of section 17(a) of the Act certain transactions incident to the proposed merger of Old Line and NOL Life Insurance Company of America (NOL), a wholly owned subsidiary of USLIFE Corp. (USLIFE), through the conversion of all of the outstanding capital stock of Old Line into common stock of USLIFE.

Notice is further given that Fund, J. C. Bradford & Co., Bradford Foundation, J. C. Bradford (Bradford, Sr.), James C. Bradford (Bradford, Jr.), Raymond T. Smith, George W. Wells, Einer Nielson, Melville M. Barnes, Clarence W. Haley, David Steine, Charles H. Robinson, Eleanor Bradford, Norris Nielson, Mary T. Smart, John Steele, Herman H. Perry, Allen T. Sullivan, Harold Robinson, James Kiger, Arthur Malone, W. M. Baird, James H. Patton, and Ralph Bornheim (sometimes hereinafter referred to as "Participants") have filed an application pursuant to section 17(d) and Rule 17d-1 thereunder for an order permitting the Participants to participate in the proposed merger. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

THE PARTIES AND HOLDINGS OF OLD LINE STOCK

Old Line, a Wisconsin corporation and a life insurance company, has outstanding 1,296,000 shares of common stock with a par value of $1.33⅓ a share, of which Fund owns 104,510 shares or approximately 8.06 percent. By reason of such holdings, Old Line is an affiliated person of Fund as defined in section 2(a)(3) of the Act. The stock of Old Line is traded in the over-the-counter market.

USLIFE, a New York business corporation, engages through subsidiaries in a variety of financial activities involving the following businesses: Life, accident and health insurance, consumer finance, savings and loan, title insurance, mutual fund management and sales, and investment management. At December 31, 1971, USLIFE had outstanding 104,344 shares of $4.50 Series A Convertible Preferred Stock, 112,090 shares of $5 Series B Convertible Preferred Stock and 7,826,471 shares of common stock, which common stock is listed on the New York, Midwest, and Pacific Coast Stock Exchanges.

Four of the Participants, Bradford, Sr., Bradford, Jr., Smith, and Wells are members of Fund's board of directors which consists of five members; six of the other Participants, Einer Nielson, Eleanor Bradford, Barnes, Haley, Steine, and Charles H. Robinson, are partners of Bradford, Sr. and Bradford, Jr., in the investment banking firm of J. C. Bradford & Co. (Bradford & Co.); the remaining 11 individual Participants, Norris Nielson, Smart, Steele, Perry, Sullivan, Harold Robinson, Kiger, Malone, Baird, Patton, and Bornheim, are employees of Bardford & Co. As a result of their described relationships, Bradford, Sr., Bradford, Jr., Smith, and Wells are each an affiliated person of Fund as defined in section 2(a)(3), and each of the other individual Participants is an affiliated person of an affiliated person (Bradford, Sr. and Bradford, Jr.) of Fund.

Bradford Foundation owns 19 percent of the outstanding common stock of Life Stock Research Corp. (Adviser), the investment adviser to Fund. The remaining 81 percent of Adviser's outstanding common stock is owned by J. C. Bradford & Co., Inc., all of whose outstanding common stock is owned, in turn, by Bradford & Co. Accordingly, Adviser is an affiliated person of Fund and Bradford Foundation and Bradford & Co. are each an affiliated person of an affiliated person (Adviser) of Fund.

The number of shares of Old Line stock which the applications shows is owned by Fund and its affiliated Participants mentioned hereinabove is set forth in the following table:

	Number of Old Line shares owned	Percent of 1,296,000 shares of Old Line stock outstanding
Fund	104,510	8.06
Affiliates of Fund:		
Directors of Fund (Board of five)		
J. C. Bradford [1]	60,601	4.68
J. C. Bradford, Jr. [1]	3,892	.30
R. T. Smith	5,727	.44
G. Wells	6,051	.47
Total	76,271	5.89
Partners in Bradford & Co.[2]		
E. Bradford	[3] 3,600	.28
E. Nielson	3,220	.25
C. H. Robinson	4,300	.33
M. M. Barnes	7,200	.56
C. W. Haley	108	
D. Steine	4,968	.38
Total	23,396	1.81
Employees of Bradford & Co.:		
N. Nielson	4,600	.35
M. T. Smart	144	
J. Steele	240	
H. H. Perry	600	
A. T. Sullivan	1,200	.09
H. Robinson	14	
J. Kiger	960	.07
A. Malone	60	
W. M. Baird	144	
J. H. Patton	300	
R. Bornheim	170	
Total	8,332	.64
Bradford Foundation	600	.05
Total holdings of affiliates of fund	108,599	8.38

[1] Partner in Bradford & Co.
[2] J. C. Bradford and J. C. Bradford, Jr., are partners in Bradford & Co.
[3] Excludes 6,052 shares said to be held for daughters

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On September 8, 1972, Bradford & Co., which makes a primary market in the stock of Old Line, did not hold any stock of Old Line in its investment account but held 5,538 shares of such stock in its trading account as well as 29,301 shares in its own name for the accounts of its customers, other than those mentioned in the preceding table.

THE PROPOSED MERGER

As a result of the proposed merger, Old Line will become a wholly owned subsidiary of USLIFE.

In general, the proposed merger involves the following steps:

1. USLIFE has caused NOL to be organized with an authorized capitalization of 1,296,000 shares of capital stock, par value $1.33⅓ a share, of which only 150,000 shares are outstanding and are held by USLIFE.

2. NOL will be merged into Old Line which shall be the surviving company bearing its present name. Upon the effectiveness of the merger each outstanding share of Old Line common stock will be converted into 0.808 share of USLIFE common stock; and the 150,000 shares of NOL common stock which are held by USLIFE will be converted into 1,296,000 shares of capital stock of Old Line.

3. When the merger becomes effective, each holder of a certificate representing shares of Old Line stock will be entitled to receive a certificate representing the number of whole shares of USLIFE common stock into which his Old Line stock has been converted upon surrender of his Old Line certificate to Chemical Bank, New York (Exchange Agent). Dividends payable to holders of record of USLIFE with respect to shares represented by Old Line certificates will not be paid to the holders of such certificates until they are surrendered. No fractional shares of USLIFE common stock will be issued. Instead, holders of Old Line stock entitled to a fractional interest in USLIFE common stock shall for a specified period following the merger have the right, through the Exchange Agent, to: (1) Sell such interest; or (2) purchase any additional fractional interest required to make up a full share. After the expiration of 3 years following the effective date of the merger, any shares of USLIFE stock which have not been distributed to a shareholder of Old Line and any cash representing dividends on such stock will be retransferred and paid to USLIFE, and, thereafter, the shareholder shall look only to USLIFE for delivery of such shares of USLIFE common stock and payment of such dividends.

The merger agreements, which have already been approved by the boards of directors of Old Line and NOL, and by the board of directors of USLIFE, the sole stockholder of NOL, are to be submitted for approval by the shareholders of Old Line at a special meeting of Old Line's shareholders. The favorable vote of two-thirds of the outstanding shares of Old Line is required to approve the agreement.

Shareholders of Old Line have certain appraisal rights with respect to the proposed merger pursuant to § 180.72 of the Wisconsin Business Corporation Law.

The merger agreements provide that Forrest D. Guynn, president of Old Line, will enter into a written agreement with USLIFE providing for his employment for 5 years, as a full-time executive until his retirement and thereafter as a consultant with compensation during the entire period at the rate of his present salary of about $50,000 a year. Such agreements also provide that Franklin P. Graff and Charles S. Lewis, vice president of Old Line, will each enter into an agreement with USLIFE for his employment for 5 years at not less than his present salary of about $29,500 and $28,500, a year respectively.

Section 17(d) of the Act and Rule 17d–1 thereunder, taken together, provide as here pertinent, that it shall be unlawful for an affiliated person of a registered investment company or an affiliated person of such a person, acting as principal, to participate in or effect any transaction in connection with any joint enterprise or arrangement in which any such registered investment company is a participant unless an application regarding such enterprise or arrangement has been filed with the Commission and granted by an order of the Commission; and that in passing upon such application the Commission shall consider whether the participation of such registered investment company is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Section 17(a) of the Act provides, in pertinent part, that it is unlawful for an affiliated person of a registered investment company or an affiliated person of such a person, acting as principal, from selling to or purchasing from such registered company any securities or other property. Section 17(b) provides that the Commission, upon application, may exempt a proposed transaction from the provisions of section 17(a) if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of such investment company and the general purposes of the Act.

The application indicates that each participant intends to vote its shares of Old Line stock in favor of the merger and to receive USLIFE common stock in exchange for its shares of Old Line; and the participants request that the Commission grant the application pursuant to section 17(d) and Rule 17d–1 with respect to such proposed transaction.

The proposed merger involves the purchase and sale of securities as between Fund and its affiliate Old Line and, accordingly, must meet the requirements of section 17(b).

The application indicates that prior to the latter part of 1971 USLIFE had an interest in acquiring Old Line and states that in the latter part of 1971 it communicated with J. C. Bradford & Co., Inc., through Bradford, Sr., who informed USLIFE that he would not recommend such an acquisition at that time. The application further states that in the spring of 1972 USLIFE again consulted with J. C. Bradford & Co., Inc., with regard to a proposed acquisition of Old Line, as a result of which USLIFE submitted to Old Line on June 29, 1972, a written proposal of USLIFE to acquire Old Line on the basis of converting each share of Old Line stock into 0.8 share of USLIFE common stock. The application shows that on June 26, 1972, prior to the submission of USLIFE's proposal to Old Line, USLIFE entered into an agreement with J.C. Bradford & Co., Inc., providing that, if USLIFE acquired Old Line, the former would pay J. C. Bradford & Co., Inc., for all of its services in connection with the acquisition an amount equal to 1 percent of the fair market value of the USLIFE stock or other compensation paid in connection with such acquisition. Thereafter, according to the application, on July 12, 1972, the board of directors of Old Line approved a proposed merger in principle on the basis of 0.8 share of USLIFE for each share of Old Line; and on August 15, 1972, the board of directors of USLIFE and Old Line approved the proposed forms of agreements for a merger on such basis. In September 1972, J. C. Bradford & Co., Inc., waived the fee which USLIFE had agreed to pay to it, the exchange ratio was increased from 0.8 share of USLIFE common stock for each share of Old Line stock to 0.808 share of USLIFE common stock for each Old Line share, and the merger agreements were revised.

The application states that Bradford, Jr. was a director of Old Line on July 12, 1972, when the board of directors of Old Line agreed to a merger in principle, but that he took no part in these deliberations or the vote on the USLIFE proposal; and that he resigned as a director prior to August 15, 1972, when Old Line approved the original merger agreements.

The board of directors of Old Line did not retain any independent adviser to assist it in appraising the proposal of USLIFE or in developing an exchange ratio for a merger. The application states that the board of directors of Old Line determined not to retain an investment banker because of: "(a) The amount of information already in the board's possession, (b) the cost of an opinion from such a banker, and (c) the objection from USLIFE based on the delay attendant in obtaining such an opinion."

The application also states, that because of the detailed analysis of the proposed transaction made by it which was presented to the directors of Old Line with USLIFE's proposal, USLIFE did not deem it necessary to have a formal analysis and recommendation as to an exchange ratio by outside independent advisers.

It appears that Fund and certain of the other Participants originally acquired stock of Old Line in 1961 (Investment Company Act Release No. 4316, August 5, 1965); that subsequently some Participants, including Fund, also acquired shares of Old Line; and that some Participants have disposed of shares of Old Line. The application contains information which is represented to show purchases and sales of Old Line shares for a recent specified period by Participants and Adviser and the remaining officers, directors, and employees of Fund and Adviser; by J. C. Bradford & Co., Inc., and its remaining officers, directors, and employees; and by the remaining trustees and employees of Bradford Foundation. The application, as previously noted, requests the Commission to pass upon the proposed conversion of Old Line stock into USLIFE in connection with the proposed merger and the Participants' participation in such merger. The application does not request that the Commission pass upon any of the previous acquisitions or dispositions of Old Line stock by any of the Participants, or by Adviser or any other affiliate of Fund, and such acquisitions or dispositions are not before the Commission except insofar as they may affect the statutory determinations required to be made in connection with the application.

Notice is further given that any interested person may, not later than November 13, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Old Line Life Insurance Co. of America, c/o Richard K. Sell, Whyte, Herschboeck, Minahan, Harding & Harland, 111 East Wisconsin Avenue, Suite 2100, Milwaukee, WI 53202, and upon the Participants, c/o William Waller, Jr., Waller, Lansden, Dortch & Davis, 1200 American Trust Building, Nashville, Tenn. 37201. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be field contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18740 Filed 11-1-72;8:63 am]

[70-5237]

SOUTHERN CO. AND SOUTHERN SERVICES, INC.

Notice of Proposed Issue and Sale of Notes to Bank by Subsidiary Service Company of Holding Company

OCTOBER 26, 1972.

Notice is hereby given that the Southern Co. (Southern), a registered holding company, and its wholly owned subsidiary service company, Southern Services, Inc. (Services), Perimeter Center East, Post Office Box 720071, Atlanta, GA 30346, have filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act) designating sections 6(a), 7, 12 (b), and 12(f) of the Act and Rules 45 and 50(a)(2) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Services has under construction a new office building in Birmingham, Ala., which is expected to be substantially completed by June 30, 1973. To finance the construction costs of this new building, Services was authorized to issue its promissory notes (Construction Notes) maturing June 30, 1973, in an amount not exceeding $11,500,000 (File No. 70–5068; Holding Company Act Release No. 17440, January 31, 1972). In addition, the cost of equipment (including computers and related equipment) for installation in the new office building is being financed by Services through unsecured notes (Equipment Notes) issued and issuable to banks prior to July 1, 1973, in an amount up to $14 million, heretofore authorized by the Commission in File No. 70–5061 (Holding Company Act Release No. 17642, July 12, 1972).

Services now proposes to issue its unsecured promissory notes (New Notes) to Bankers Trust Co., New York, N.Y. (Bankers), from time to time prior to June 30, 1973, in an aggregate amount not exceeding $12 million. The proceeds from the New Notes will be applied to payment of outstanding Construction Notes at or prior to maturity and for payment of remaining construction costs of the new office building. The filing also states that of the $14 million Equipment Notes heretofore authorized in File No. 70–5061, it is now contemplated that no more than $9 million will be issued under that authorization and that issuance of the remaining $5 million will be the subject of an amendment to File No. 70–5061.

The New Notes will be issued pursuant to an agreement (Loan Agreement) between Services, Southern, and Bankers; will be dated as of the date of borrowing; and will mature on June 30, 1980, with acceleration upon the happening of certain specified acts of default. Each of the New Notes will bear interest, payable quarterly, at a rate per annum computed on the basis of the prime rate which Bankers charge from time to time on 90-day unsecured commercial loans (Current Lending Rate) as follows: On or before June 30, 1974, 114 percent of the Current Lending Rate; after June 30, 1974, and on or before June 30, 1976, one-fourth of 1 percent plus 114 percent of the Current Lending Rate; and after June 30, 1976, one-half of 1 percent plus 114 percent of the Current Lending Rate. The Loan Agreement will provide, however, that in the event the aggregate amount received by Bankers on account of interest on the New Notes to their stated maturity shall exceed the amount which would have been received had interest on the principal amount thereof outstanding from time to time been computed at the rate of 7¾ percent per annum, Bankers will pay to Services the amount of such excess, provided that Services shall not have prepaid during any prior 12-month ending on a June 30, more than $480,000 aggregate principal amount of New Notes. Services will pay a commitment fee on the unused portion of the $12 million aggregate available credit at the rate of one-half of 1 percent per annum. The New Notes will be prepayable without premium or penalty at any time, and are to be guaranteed by Southern as to principal and interest. There is no compensating balance requirement.

Services has heretofore represented it will at all times, unless the Commission shall otherwise expressly authorize, maintain the aggregate of the par value of its capital stock, surplus, and principal amount of its notes sold to Southern, at an amount equal to at least 35 percent of Services' total capitalization (Holding Company Act Release Nos. 17276 and 17642).

Fees and expenses to be paid in connection with the proposed transactions are estimated at $4,500, including counsel fees of $4,000. In addition, Services is to reimburse Bankers for its out-of-pocket expenses incurred, as to which the estimated maximum amount will be filed by amendment. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 20, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A

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copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18739 Filed 11-1-72;8:52 am]

[File No. 500-1]

TRANS-EAST AIR, INC.

Order Suspending Trading

OCTOBER 26, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.50 par value, and all other securities of Trans-East Air, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15 (c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 27, 1972, through November 5, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18736 Filed 11-1-72;8:52 am]

INTERSTATE COMMERCE COMMISSION

[Notice 107]

ASSIGNMENT OF HEARINGS

OCTOBER 30, 1972.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC-135772, Barrett Transfer & Storage Co., now assigned October 30, 1972, at Seattle, Wash., is postponed indefinitely.

MC-73165 Sub 304, Eagle Motor Lines, Inc., now assigned November 2, 1972 (1 day), is postponed to November 9, 1972 (2 days), at the Parliament House Hotel, 420 South 20th Street, Birmingham AL.

MC-73688 Sub 49, Southern Trucking Corp., now assigned November 27, 1972, at Birmingham, Ala., is canceled and the application is dismissed.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-18783 Filed 11-1-72;8:56 am]

[Ex Parte 241; Rule 19, Rev. Exemption 22]

ATCHISON, TOPEKA & SANTA FE RAILWAY CO. ET AL.

Exemption From Mandatory Car Service Rules

It appearing, that there are substantial movements of grain and grain products moving in plain, 40-foot, narrow-door boxcars between points on the following railroads:

The Atchison, Topeka & Santa Fe Railway Co.
Chicago, Rock Island & Pacific Railroad Co.
Missouri Pacific Railroad Co.
St. Louis-San Francisco Railway Co.
Union Pacific Railroad Co.

and that unlimited exchange of such cars among these railroads will increase car utilization by reductions in switching and other movements of empty cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC R.E.R. No. 385, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation XM, with inside length 44 feet 6 inches or less and equipped with doors less than 9 feet wide owned by any of the aforementioned railroads and located empty on such lines, may be loaded with grain or grain products, as defined herein, to stations located on any of the aforementioned railroads. When so loaded, such cars shall be exempt from the provisions of Car Service Rules 1 and 2.

The term grain and grain products shall comprise the commodities specifically named in lists 1, 2, 5, 6, 7, and 8 published in Western Trunk Lines Freight Tariff 330-U, ICC A-4797, issued by Fred Ofcky, supplements thereto, or consecutive issues thereof.

Chicago, Milwaukee, St. Paul & Pacific Railroad Co. eliminated.

Effective October 31, 1972.

Expires November 30, 1972.

Issued at Washington, D.C., October 26, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE, *Agent.*

[FR Doc.72-18781 Filed 11-1-72;8:55 am]

[Ex Parte 241; Rule 19, Amdt. 1, Exemption 15]

EXEMPTION FROM MANDATORY CAR SERVICE RULES

Upon further consideration of Exemption No. 15 issued July 27, 1972, and published in the FEDERAL REGISTER, Tuesday, August 8, 1972, page 15962.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 15 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby, amended to expire December 31, 1972.

This amendment shall become effective October 31, 1972.

Issued at Washington, D.C., October 26, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE, *Agent.*

[FR Doc.72-18782 Filed 11-1-72;8:55 am]

[Notice 143]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 27, 1972.

Important Notice: The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 C.F.R. 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 41406 (Sub-No. 31 TA), filed October 10, 1972. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, Post Office Box 2176, Hammond, IN 46323. Applicant's representative: William J. Walsh (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lead oxide*, dry, in bulk, in tank trailers, from Hammond, Ind., to Benton, Ky., for 180 days. Supporting shipper: Hammond Lead Products, Inc., 5231 Hohman Avenue, Post Office Box 308, Hammond, IN 46325. Send protests to: District Supervisor J. H. Gray, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne Street, Room 204, Fort Wayne, IN 46802.

No. MC 88594 (Sub-No. 24 TA), filed October 10, 1972. Applicant: CARLETON G. WHITAKER, INC., Route 17, Exit 84, Deposit, N.Y. 13754. Applicant's representatives: Werner & Alfano, 2 West 45th Street, New York, NY 10036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, in vehicles equipped with mechanical refrigeration, from North Lawrence, N.Y. to Cleveland, Ohio, for 180 days. Supporting shipper: Sealtest Foods, Division of Kraftco Corp., 605 Third Avenue, New York, NY 10016. Send protests to: Joseph M. Barnini, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 New Federal Building, Albany, N.Y. 12207.

No. MC 107002 (Sub-No. 425 TA), filed October 10, 1972. Applicant: MILLER TRANSPORTERS, INC., Post Office Box 1123, U.S. Highway 80 West, Jackson, MS 39205. Applicant's representative: John J. Borth (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gasoline*, in bulk, in tank vehicles, from Mobile, Ala., to points in Michigan, for 180 days. Supporting shipper: Chevron Oil Co., Post Office Box 1446, Louisville, KY 40201. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 212, 145 East Amite-Building, Jackson, Miss. 39201.

No. MC 112822 (Sub-No. 248 TA), filed October 16, 1972. Applicant: BRAY LINES INCORPORATED, 1401 North Little, Post Office Box 1191, Cushing, OK 74023. Applicant's representative: Donald E. Marshall (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Duluth, Minn., to points in Arkansas, Alabama, Georgia, Louisiana, Missouri, Mississippi, Kansas, Oklahoma, Texas, and Tennessee, for 180 days. Supporting shipper: Paul Nelson, GRM, Jeno's Inc., 525 Lake Avenue South, Duluth, Minn. 55801. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 123392 (Sub-No. 44 TA), filed October 16, 1972. Applicant: JACK B. KELLEY, INC., Route 1, Box 444, U.S. 66 West at Kelley Drive, Amarillo, TX 79106. Applicant's representative: Weldon M. Teague (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous hydrogen chloride*, in bulk, in tube trailers, from Wichita, Kans., to points in California and Texas, for 180 days. Supporting shipper: R. L. Mayer, Manager of Traffic, Vulcan Materials Co., Chemicals Division, Post Office Box 545, Wichita, KS 67201. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395, Herring Plaza, Amarillo, TX 79101.

No. MC 126514 (Sub-No. 37 TA), filed October 10, 1972. Applicant: SCHAEFFER TRUCKING, INC., 5200 West Bethany Home Road, Glendale, AZ 85301. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Envelopes*, from New York, N.Y., to Clinton, Tenn., Anaheim, Calif., from Clinton, Tenn., to Anaheim, Calif., for 180 days. Supporting shipper: Business Envelope Manufactures Inc., 2350 Lafayette Avenue, Bronx, NY 10473. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 3427, Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

No. MC 128075 (Sub-No. 23 TA), filed October 4, 1972. Applicant: LEON JOHNSRUD, Highway 9 West, Post Office Box 447, Cresco, IA 52136. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and agricultural commodities*, which are otherwise exempt under section 203(b)(6) of the Interstate Commerce Act, when transported with cheese, from Blair, Portage, and Madison, Wis., to points in Arizona and California, for 180 days. Supporting shipper: Associated Milk Producers, Inc., Post Office Box 61, Mason City, IA 50401. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 129516 (Sub-No. 10 TA), filed October 16, 1972. Applicant: PATTONS, INC., Ellensburg, Wash. 98926. Applicant's representative: James T. Johnson, 1610 IBM Building, 1200 Fifth Avenue, Seattle, WA 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and canned goods*, from Prosser, Wash., to points in California, for 180 days. Supporting shipper: Seneca Foods Corp., Post Office Box 71, Prosser, WA 99350. Send protests to: District Supervisor W. J. Huetig, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 134035 (Sub-No. 2 TA), filed October 17, 1972. Applicant: DOUGLAS TRUCKING COMPANY, Route 1, Post Office Box 1024, Corsicana, TX 75110. Applicant's representative: Kenneth A. Douglas (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, closures for such containers, and corrugated boxes or paper containers*, in mixed loads, with glass containers and closures for such containers, from Corsicana, Tex., to points in Arkansas, Mississippi, and New Orleans, La., for 180 days. NOTE: Carrier does not intend to tack authority. Supporting shipper: Chattanooga Glass Co., 400 West 45th Street, Chattanooga, TN 37410. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, TX 75202.

No. MC 135660 (Sub-No. 4 TA), filed October 13, 1972. Applicant: BROWNSBERGER ENTERPRISES, INC., R.F.D. 1, Box 111, Butler, MO 64730. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, plastic tubing, plastic conduit, plastic molding, valves, fittings, compounds, joint sealers, bonding cement, thinner, vinyl, and accessories*, from Linn Creek, Mo., to Denver and Colorado Springs, Colo., and Albuquerque, N. Mex., for 180 days. Supporting shipper: Central Missouri Pipe Co., Post Office Box 75, Linn Creek, MO 65052. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 136647 (Sub-No. 4 TA), filed October 10, 1972. Applicant: GREEN MOUNTAIN CARRIERS, INC., Post Office Box 1319, Albany, NY 12201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building material* (as described in 61 M.C.C. 279, Appendix VI), from Rutland, Vt., to points in Ohio; Jacksonville, Ill.; and Gastonia, N.C., for 180 days. Supporting shipper: Rutland Fire Clay Co., Rutland, Vt. 05701. Send protests to: Joseph M. Barnini, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 New Federal Building, Albany, N.Y. 12207.

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No. MC 136903 (Sub-No. 1 TA), filed October 11, 1972. Applicant: INTERMODAL TRANSPORT, INC., 900 Circle Tower, Indianapolis, Ind. 46204. Applicant's representative: Donald W. Smith (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk (except fertilizer and fertilizer ingredients), from the site of Bulk Distribution Centers, Inc., at or near Chattanooga, Tenn., to points in Alabama, Georgia, Kentucky, North Carolina, South Carolina, Virginia, and Tennessee (except Kingsport and Elizabethtown, Tenn.), restricted to traffic having an immediate prior movement by rail, for 180 days. Supporting shipper: Bulk Distribution Centers, Inc., Post Office Box 19022, Louisville, KY 40219. Send protests to: James W. Habermehl, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 802 Century Building, 36 South Penn Street, Indianapolis, IN 46204.

No. MC 138014 (Sub-No. 1 TA), filed September 29, 1972. Applicant: EDMOND L. BARNES, doing business as BLUE HEN DELIVERY CO., 50 Greenhill Avenue, Dover, DE 19901. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Crated and uncrated furniture and appliances*, from the warehouse of J. C. Penney Co., Inc., at Thorofare, N.J., to their warehouse at Dover, Del., for the account of J. C. Penney Co., Inc., for 180 days. Supporting shipper: J. C. Penney Co., Inc., Blue Hen Mall, Dover, Del. 19901. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 814–B Federal Building, Baltimore, Md. 21201.

No. MC 138079 TA, filed October 13, 1972. Applicant: BARNUM AIR FREIGHT, INC., 1885 Lowell Avenue, Lima, OH 45805. Applicant's representative: Paul F. Beery, 88 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment, between the Cox Municipal Airport, located near Dayton, Ohio, on the one hand, and, on the other, Sidney, Leipsic, and Ottawa, Ohio. Restriction: The operations authorized herein are restricted to traffic having an immediately prior or subsequent movement by aircraft, for 180 days. Supporting shippers: Allied-Egry Business Systems, subsidiary of SCM Corp., 68 Vine Street, Leipsic, OH 45856; Le Roi Division Dresser Industries, Inc., North Main Avenue, and Russell Road, Sidney, OH 45365; Monarch Machine Tool Co., Sidney, Ohio 45365. Send protests to: Keith D. Warner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

MOTOR CARRIERS OF PASSENGERS

No. MC 138024 (Sub-No. 1 TA), filed October 6, 1972. Applicant: MAYNARD ROTRUCK, Route No. 3, Box 143D, Rawlings, MD 21557. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers*, between Westernport and Cumberland, Md., serving all intermediate points, over the following routes: From Westernport over Maryland Highway 36, across the Potomac River to Piedmont, W. Va., then over West Virginia Highway 46 to Keyser, W. Va., thence over U.S. Highway 220 to Cumberland, Md., and return over the same routes, for 180 days. Supported by: Various residents in the Keyser, W. Va., area. Send protests to: Joseph A. Niggemyer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 416 Old Post Office Building, Wheeling, W. Va. 26003.

No. MC 138058 R TA, filed October 13, 1972. Applicant: JAMES C. WILSON, 10530 Carson Drive, Baton Rouge, LA 70807. Applicant's representative: Clayton Johnson, Eighth Floor, 451 Florida Boulevard, Baton Rouge, LA 70801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their luggage* in charter and special group movements, from site of Southern University, Baton Rouge, La., to points within the States of Texas, Mississippi, Tennessee, and Arkansas, and return, for 180 days. Supporting shipper: Southern University, Southern Branch Post Office, Baton Rouge, La. 70803, and student university groups. Send protests to: District Supervisor Paul D. Collins, Interstate Commerce Commission, Bureau of Operations, 701 Loyola Avenue, New Orleans, LA 70113.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.72-18784 Filed 11-1-72;8:56 am]

[Notice 150]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 C.F.R. Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–73890. By order of October 27, 1972, the Motor Carrier Board approved the transfer to Riddle Truck Lines, Inc., Springfield, Mo., of the operating rights in Permit No. MC–112972 (Sub-No. 2) issued December 15, 1965, to Hershel A. Riddle, doing business as Riddle Truck Lines, Springfield, Mo., authorizing the transportation of lime, from Springfield, Mo., to points in Kansas located within the Kansas City, Mo.-Kansas City, Kans., commercial zone, as defined by the Commission. The operations authorized above are limited to a transportation service to be performed, under a continuing contract with Ash Grove Lime & Portland Cement Co., of Kansas City, Mo.; and from Springfield, Mo., to points within 300 miles of Springfield, Mo., in Missouri (except Kansas City, Mo.), Kansas (except Kansas City, Kans.), Arkansas, and Oklahoma. Tom B. Kretsinger, 450 Professional Building, Kansas City, Mo. 64106. Attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.72-18785 Filed 11-1-72;8:56 am]

[Notice 89]

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER APPLICATIONS

OCTOBER 27, 1972.

The following applications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with § 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of § 247(d)(4) of the special rules, and shall include the certification required therein.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing: (1) That it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

No. MC 263 (Sub-No. 202), filed September 15, 1972. Applicant: GARRETT FREIGHTLINES, INC., 2055 Garrett Way, Pocatello, ID 83201. Applicant's representative: Wayne S. Green (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite and storage facilities of Missouri Beef Packers, Inc., near Boise, Idaho, as an off-route point in connection with carriers authorized regular-route operations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho.

No. MC 730 (Sub-No. 341), filed October 4, 1972. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a corporation, 1417 Clay Street, Post Office Box 958, Oakland, CA 94604. Applicant's representative: Earl J. Brooks (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of Fabricon Products, division of Eagle-Picher Industries, at or near Grabill, Ind., as an off-route point in connection with carrier's otherwise authorized regular route operations. NOTE: Common control may be involved. Applicant states that duplicating authority may exist in certificate No. MC 730 (Sub-No. 203), authorizing the transportation of *frozen foods and potato products*, not frozen, from points in specified western States to points in several midwestern States, including Indiana. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Detroit, Mich.

No. MC 989 (Sub-No. 19), filed October 9, 1972. Applicant: IDEAL TRUCK LINES, INC., 912 North State, Norton, KS 67654. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the warehouse site of Western Electric located at or near Underwood, Iowa, as an off-route point in connection with applicant's operations via Omaha, Nebr. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 7832 (Sub-No. 23), filed October 2, 1972. Applicant: SAM LOWENSTEIN AND STANLEY LOWENSTEIN, a partnership, doing business as SUPER M FOODS DELIVERY, 411A North Wood Avenue, Linden, NJ 07036. Applicant's representative: Bert Collins, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Household cleaning products* (except in bulk), from Passaic, N.J., to points in Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, Delaware, Maryland, and the District of Columbia; and (2) *materials, supplies, equipment, and returned shipments* from points in Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, Delaware, Maryland, and the District of Columbia, to Passaic, N.J. Restriction: The proposed service is to be performed under contract with J. L. Prescott Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 10472 (Sub-No. 28), filed October 4, 1972. Applicant: BYERS TRANSPORTATION COMPANY, INC., 4200 Gardner Boulevard, Kansas City, MO 64120. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the warehouse site of Western Electric Co., Inc., located at or near Underwood, Iowa, as an off-route point in connection with the applicant's operations via Omaha, Nebr. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 13250 (Sub-No. 119), filed October 2, 1972. Applicant: J. H. ROSE TRUCK LINE, INC., 5003 Jensen Drive, Post Office Box 16190, Houston, TX 77022. Applicant's representative: James M. Doherty, Suite 401, First National Life Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities*, in cargo containers and/or cargo vans; and (2) *empty cargo containers and empty cargo vans*, between Galveston, Tex., on the one hand, and, on the other, points in Kansas, Oklahoma, Texas, Louisiana, Mississippi, Arkansas, and New Mexico. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 14552 (Sub-No. 43), filed October 11, 1972. Applicant: J. V. McNICHOLAS TRANSFER CO., a corporation, 555 West Federal Street, Youngstown, OH 44501. Applicant's representative: Paul F. Berry, 88 East Broad Street, Suite 1660, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel and iron and steel articles; roofing; eaves troughs and eaves trough end caps; steel pails, cans and/or can covers, tubs, pans, and baskets; coal hods; stovepipe and stovepipe elbows and thimbles; steel stoves and steel stove shovels, conductor pipe and conductor pipe elbows, shoes, cutoffs, and funnels; and wall ties; and parts and accessories thereto*, from the plantsite of Reeves-Bowman Division, Cyclops Corp., at Dover, Ohio, to points in Delaware, Illinois, Indiana, Kentucky, Maryland, New Jersey, New York, Pennsylvania, Virginia, West Virginia, and the Lower Peninsula of Michigan, and (2) *equipment, material, and supplies used in the manufacture of commodities named in (1) above* (except commodities in bulk), from the points in the destination States in (1) above to the plantsite of Reeves-Bowman Division, Cyclops Corp., Dover, Ohio. Restriction: Parts (1) and (2) above are restricted against traffic originating at and/or destined to the named origins and destinations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

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No. MC 14702 (Sub-No. 44), filed September 27, 1972. Applicant: OHIO FAST FREIGHT, INC., Post Office Box 808, Warren, OH 44482. Applicant's representative: Paul F. Beery, 88 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building boards, building board parts, and accessories*, from Kalamazoo, Mich., to points in Virginia, West Virginia, Maryland, Delaware, New Jersey, Pennsylvania, New York, Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire, Maine, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 14702 (Sub-No. 45), filed September 27, 1972. Applicant: OHIO FAST FREIGHT, INC., Post Office Box 808, Warren, OH 44482. Applicant's representative: Paul F. Beery, 88 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating materials made of mineral wool, rock wool, slag, or glass wool*, from Huntington, Ind., to points in Virginia, West Virginia, Maryland, Delaware, New Jersey, Pennsylvania, New York, Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire, Maine, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 16544 (Sub-No. 135), filed October 4, 1972. Applicant: WILSON BROTHERS TRUCK LINE, INC., 700 East Fairview Avenue, Post Office Box 636, Carthage, MO 64836. Applicant's representative: Robert Wilson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Foodstuffs and materials and supplies used in the manufacturing of foodstuffs* (except commodities in bulk), from the plantsite and warehouse facilities of Miami Margarine Co., at or near Albert Lea, Minn., to points in Alabama, Arkansas, Colorado, Florida, Georgia, Iowa, Kansas, Louisiana, Mississippi, Missouri, Nebraska, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas, restricted to traffic originating at the plantsite and warehouse facilities of Miami Margarine Co., at or near Albert Lea, Minn., and destined to points in the above-named States, and on return from the above-named States to the plantsite and warehouse facilities of Miami Margarine Co., at or near Albert Lea, Minn., restricted to traffic originating in the above-named States and destined to the plantsite facilities of Miami Margarine Co., at or near Albert Lea, Minn. NOTE: Common control may be involved. Applicant states that duplicating authority may exist with certificate No. MC 116544 (Sub-No. 50), authorizing the transportation of *dairy products* from points in Minnesota, to points in Arkansas, Iowa, Kansas, Louisiana, Mississippi, Missouri, Nebraska, Oklahoma, Tennessee, and Texas. Applicant also states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 16550 (Sub-No. 6), filed October 2, 1972. Applicant: ROSCOE V. SMITH, Route 2, Columbia, Tenn. 38104. Applicant's representative: Robert L. Baker, 300 James Robertson Parkway, 500 Court Square Building, Nashville, TN 37201. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Automotive parts, automotive supplies, and accessories*, between Nashville, Tenn., and Beaver Dam, Ky., serving all intermediate points in Kentucky: (1) From Nashville over U.S. Highway 41 or 41A to their junction with Kentucky Highway 85, thence over Kentucky Highway 85 to its junction with Kentucky Highway 81, thence over Kentucky Highway 81 to its junction with U.S. Highway 431, thence over U.S. Highway 431 to its junction with U.S. Highway 62, thence over U.S. Highway 62 to Beaver Dam, Ky., and return over the same route; (2) from Nashville, Tenn. over U.S. Highway 41 to its junction with U.S. Highway 431, thence over U.S. Highway 431 to its junction with U.S. Highway 62, thence over U.S. Highway 62 to Beaver Dam, Ky., and return over the same route; and (4) from Nashville, Tenn. over U.S. Highway 31W or Interstate Highway 65 to their junction with U.S. Highway 231, thence over U.S. Highway 231 to Beaver Dam, Ky., and return over the same route. NOTE: Applicant seeks no duplicating authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 22195 (Sub-No. 146), filed September 28, 1972. Applicant: DAN DUGAN TRANSPORT COMPANY, a corporation, 41st and Grange Avenue, Sioux Falls, SD 57105. Applicant's representative: J. P. Everist (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from points in Morton County, N. Dak., to points in Minnesota. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Des Moines, Iowa.

No. MC 29886 (Sub-No. 288), filed October 2, 1972. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, IN 46627. Applicant's representative: Charles Pieroni (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: *Flat glass and glass glazing units*, from Clinton and Laurinburg, N.C., to points in Minnesota, Iowa, Wisconsin, Missouri, Illinois, Indiana, Kentucky, Michigan, Ohio, West Virginia, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, Vermont, and Maine. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant has a pending common carrier application of passengers under MC 136990. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Toledo, Ohio, or Washington, D.C.

No. MC 30280 (Sub-No. 63), filed September 28, 1972. Applicant: WATKINS CAROLINA EXPRESS, INC., Post Office Box 10188, Greenville, SC 29603. Applicant's representative: George W. Clapp (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass and glass glazing units*, from Clinton and Laurinburg, N.C., to points in Connecticut, Delaware, the District of Columbia, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 30844 (Sub-No. 432), filed October 4, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA 50702. Applicant's representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Marina and lake resort shelters, piers, wharfs, and flotation systems; barn equipment and farrowing halls; office partitions; vacation homes; conventional houses; and parts and accessories incidental thereto*, from Readlyn, Iowa, to points in the continental United States (except Alaska and Hawaii), and (2) *such materials and supplies* as are used in the manufacturing of the products in Part 1 from points in the continental United States (except Alaska and Hawaii), to Readlyn, Iowa. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Washington, D.C.

No. MC 31600 (Sub-No. 660), filed August 25, 1972. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham, Mass. 02154. Applicant's representative: Harry C. Ames, Jr., 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Formaldehyde*, in bulk, in tank vehicles, from Grasselli, N.J., to points in Delaware, Maryland, Pennsylvania, Virginia, West Virginia, and the District of Columbia; (2) *silica*, in bulk, in tank vehicles, from Alloy and Graham, W. Va., and Marietta, Ohio, to North Haven, Conn.; (3) *polyethylene, polypropylene, and polystyrene*, in bulk, in tank vehicles, from Farmingdale, Long Island, N.Y. to points in Connecticut, Massachusetts, Maine, New Hampshire, and Vermont; (4) *compressed hydrogen gas*, in bulk, in manifolded cylinder trailers, from East Hartford, Conn., to Utica, Apalachin, and Beacon, N.Y.; and (5) *Animal and poultry feed ingredients*, dry, in bulk, in tank vehicles, from points of entry on the international boundary line between the United States and Canada at or near Champlain and Rouses Point, N.Y., to Woburn, Mass. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass., or Washington, D.C.

No. MC 34027 (Sub-No. 4), filed September 15, 1972. Applicant: GREETINGS, INC., Post Office Box 82, Pella, IA 50219. Applicant's representative: Larry D. Knox, 910 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those requiring special equipment, those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between Pella and Des Moines, Iowa, from Pella, over Iowa Highway 163 to Des Moines, Iowa, and return over the same route, serving no intermediate points. NOTE: Applicant states that no duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 50069 (Sub-No. 455), filed September 14, 1972. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION 445 Earlwood Avenue, Oregon (Toledo), OH 43616. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, Ohio 44114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid asphalt*, in bulk, in tank vehicles, from Akron and Medina, Ohio, to points in Pennsylvania. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states no duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 52460 (Sub-No. 114), filed August 21, 1972. Applicant: HUGH BREEDING, INC., 1420 West 35th Street, Post Office Box 9515, Tulsa, OK 74107. Applicant's representative: Steve B. McComas (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry feed and feed ingredients*, from Van Buren, Ark., to points in Arkansas, Colorado, Kansas, Louisiana, Missouri, Mississippi, Nebraska, Oklahoma, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston or Dallas, Tex.

No. MC 58344 (Sub-No. 5), filed September 12, 1972. Applicant: BILL HODGES TRUCK COMPANY, INC., Route 4, Box 340, Oklahoma City, OK 73110. Applicant's representative: Rufus H. Lawson, 106 Bixler Building, Post Office Box 75124, Oklahoma City, OK 73107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precast or prestress concrete articles and accessories* used in the installation of the above-named commodities, from Tulsa, Okla., to points in Kansas, Missouri, Arkansas, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City or Tulsa, Okla.

No. MC 61592 (Sub-No. 280), filed August 29, 1972. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, IA 52722. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and forest products*, between Beardstown and Arenzville, Ill., and points in Iowa, Missouri, Kentucky, Tennessee, Wisconsin, Indiana, Arkansas, Michigan, and Nebraska. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 71459 (Sub-No. 30), filed September 29, 1972. Applicant: O. N. C. FREIGHT SYSTEMS, a corporation, 2800 West Bayshore Road, Palo Alto, CA 94303. Applicant's representative: C. J. Boddington (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Reno, Nev., and Salt Lake City, Utah, serving no intermediate points, from Reno, Nev., over U.S. Highway 40 to Salt Lake City, Utah, and return over the same route. NOTE: Common control may be involved. Applicant states that duplicating authority may be involved in application No. MC 71459 (Sub-No. 31), requesting authority between Page, Ariz., and Salt Lake City, Utah. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, or Reno, Nev.

No. MC 71459 (Sub-No. 31), filed September 29, 1972. Applicant: O. N. C. FREIGHT SYSTEMS, a corporation, 2800 West Bayshore Road, Palo Alto, CA 94303. Applicant's representative: C. J. Boddington (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Page, Ariz., and Salt Lake City, Utah, serving all intermediate points, from Page, Ariz., over U.S. Highway 89 to Salt Lake City, Utah, and return over the same route. NOTE: Common control may be involved. Applicant states that duplicating authority may be involved in application No. MC 71459 (Sub-No. 30), requesting authority between Reno, Nev., and Salt Lake City, Utah. If a hearing is deemed necessary, applicant requests it be held at Flagstaff, Ariz., or Salt Lake City, Utah.

No. MC 82492 (Sub-No. 71), filed October 9, 1972. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, Post Office Box 2853, Kalamazoo, MI 49003. Applicant's representative: William C. Harris, (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* (except commodities in bulk), from Paw Paw, St. Joseph, and Wayland, Mich., to points in North Dakota (except Fargo, N. Dak.) and the Minneapolis-St. Paul, Minn., commercial zone, as defined by the Commission. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Lansing, Mich.

No. MC 83539 (Sub-No. 354), filed October 2, 1972. Applicant: C & H TRANSPORTATION CO., INC., 1936–2010 West Commerce Street, Post Office Box 5976, Dallas, TX 75222. Applicant's representative: Thomas E. James (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *conduit, pipe and tubing and fittings therefor* (except oilfield and pipeline commodities as defined by the Commission in Mercer Extension—Oil Field Commodities, 74 MCC 459), from points in Upshur County, Tex., to points in Ari-

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zona, California, Connecticut, Delaware, the District of Columbia, Florida, Idaho, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. NOTE: Applicant states that tacking possibilities exist but indicates that it has no present intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 97699 (Sub-No. 34), filed October 9, 1972. Applicant: BARBER TRANSPORTATION CO., a corporation, Deadwood Avenue, Rapid City, S. Dak. 57701. Applicant's representative: Leslie R. Kehl, Suite 420, Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the warehouse site of Western Electric located at or near Underwood, Iowa, as an off-route point in connection with applicant's regular-route operations via Omaha, Nebr. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 100666 (Sub-No. 227), filed October 6, 1972. Applicant: MELTON TRUCK LINES, INC., Post Office Box 7666, Shreveport, LA 71107. Applicant's representative: Wilburn L. Williamson, 3535 Northwest 58th, 280 National Foundation Life Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from the plantsites of Norport Panel, Inc., at or near Norfolk, Va., and Plywood Panels, Inc., at or near Thomasville, Ga., to all points in the United States (excluding Hawaii, but including Alaska). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 103498 (Sub-No. 29), filed October 5, 1972. Applicant: W. D. SMITH TRUCK LINE, INC., Post Office Drawer C, DeQueen, AR 71832. Applicant's representative: Donald T. Jack, Jr., 1550 Tower Building, Little Rock, Ark. 72201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Preservatively treated lumber, posts, poles, and piling*, from Joplin, Mo., to points in Kansas, Iowa, Nebraska, Oklahoma, South Dakota, North Dakota, Minnesota, Arkansas, Wisconsin, Illinois, Tennessee, Kentucky, Indiana, Ohio, and Michigan. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark., or Joplin, Mo.

No. MC 105461 (Sub-No. 89), filed September 26, 1972. Applicant: HERR'S MOTOR EXPRESS, INC., Post Office Box 8, Quarryville, PA 17566. Applicant's representative: Robert R. Kerr, 406 Quarry Place, Quarryville, PA 17566. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Filters; filter parts; air cleaner cartridges; automotive parts; and tools, equipment, materials, and supplies* used in the installation, manufacture, and distribution of filters, filter parts, air cleaner cartridges, and automotive parts, between Pawtucket, East Providence, and Providence, R.I., on the one hand, and, on the other, points in Pennsylvania, New York (except New York City and Nassau and Suffolk Counties), New Jersey, Maryland, Delaware, West Virginia, Virginia, Ohio, and the District of Columbia, restricted to traffic originating at or destined to the plantsites, dealers, customers or suppliers of Fram Corp. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Providence, R.I.

No. MC 105566 (Sub-No. 73), filed October 3, 1972. Applicant: SAM TANKSLEY TRUCKING, INC., Post Office Box 1119, Cape Girardeau, MO 63701. Applicant's representative: Thomas F. Kilroy, Post Office Box 624, Springfield, VA 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared foods, foodstuffs, food products, canned goods, and toys*, from Chicago, East St. Louis, and Millstadt, Ill., to points in Texas, Colorado, New Mexico, Idaho, Montana, Washington, Oregon, Wyoming, Arizona, California, Nevada, and Utah. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Washington, D.C.

No. MC 105566 (Sub-No. 75), filed October 3, 1972. Applicant: SAM TANKSLEY TRUCKING, INC., Post Office Box 1119, Cape Girardeau, MO 63701. Applicant's representative: Thomas F. Kilroy, Post Office Box 624, Springfield, VA 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, from Detroit, Mich., to points in Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Nevada, Arizona, California, Oregon, and Washington. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 105566 (Sub-No. 76), filed October 3, 1972. Applicant: SAM TANKSLEY TRUCKING, INC., Post Office Box 1119, Cape Girardeau, MO 63701. Applicant's representative: Thomas F. Kilroy, Post Office Box 624, Springfield, VA 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, from Canton, Ohio, to points in Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Nevada, Arizona, California, Oregon, and Washington. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Canton, Ohio, or Washington, D.C.

No. MC 105566 (Sub-No. 77), filed October 3, 1972. Applicant: SAM TANKSLEY TRUCKING, INC., Post Office Box 1119, Cape Girardeau, MO 63701. Applicant's representative: Thomas F. Kilroy, Post Office Box 624, Springfield, VA 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, from Memphis, Tenn., to points in Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Nevada, Arizona, California, Oregon, and Washington. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Washington, D.C.

No. MC 105566 (Sub-No. 80), filed October 2, 1972. Applicant: SAM TANKSLEY TRUCKING, INC., Post Office Box 1119, Cape Girardeau, MO 63701. Applicant's representative: Thomas F. Kilroy, Post Office Box 624, Springfield, VA 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses* (except hides and commodities in bulk), as described in sections A and C of Appendix I to the report in *Description of Motor Carrier Certificates* 61 M.C.C. 209 and 276, from Chicago, Ill., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 106398 (Sub-No. 627), filed September 5, 1972. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, OK 74151. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particleboard*, from Temple Industries' plantsite, Thomson, Ga., to points in that part of the United States in and east of North Dakota, South Dakota, Nebraska, Colorado, and New Mexico, with no transportation for compensation on return except as otherwise authorized. NOTE: Dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston, or Dallas, Tex.

No. MC 107012 (Sub-No. 158) (Amendment), filed August 3, 1972, published in the FEDERAL REGISTER issue of September 7, 1972, and republished, in part as amended, this issue. Applicant: NORTH AMERICAN VAN LINES, INC., New Haven Avenue and Meyer Road, Post Office Box 988, Fort Wayne, IN 46801. Applicant's representative: Donald C. Lewis (same address as applicant). NOTE: The sole purpose of this partial republication is to add the following to the destination territory proposed to be served, points in Tennessee, West Virginia, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, and Mississippi. The rest of the application remains as previously published.

No. MC 108207 (Sub-No. 360), filed September 25, 1972. Applicant: FROZEN FOOD EXPRESS, 318 Cadiz Street, Post Office Box 5888, Dallas, TX 75222. Applicant's representative: J. B. Ham (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery products*, from points in California and Arizona, to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Oklahoma, Ohio, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz., or Los Angeles, Calif.

No. MC 108676 (Sub-No. 50), filed October 10, 1972. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue NE., Knoxville, TN 37917. Applicant's representative: Carl U. Hurst, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, plastic tubing, fittings for plastic pipe and plastic tubing and plastic pipe solvent*, between Sparta, Tenn., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 108937 (Sub-No. 35), filed October 10, 1972. Applicant: MURPHY MOTOR FREIGHT LINES, INC., 2323 Terminal Road, St. Paul, MN 55113. Applicant's representative: R. L. Stevens (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, serving the warehouse site of Western Electric Co., Inc., located at or near Underwood, Iowa, as an off-route point in connection with carrier's otherwise authorized regular route operations to and from Omaha, Nebr. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 110581 (Sub-No. 6), filed October 10, 1972. Applicant: G & H MOTOR FREIGHT LINES, INC., Post Office Box 239, Greenfield, IA 50849. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Des Moines, Iowa, and Corning, Iowa; (a) from Des Moines, Iowa, over Interstate Highway 80 to junction Iowa Highway 25, thence over Iowa Highway 25 to Creston, thence over U.S. Highway 34 to Corning; (b) from Des Moines over Interstate Highway 80 to junction Iowa Highway 25, thence over Iowa Highway 25 to Greenfield, thence over U.S. Highway 92 to junction Iowa Highway 148 to Corning, thence over U.S. Highway 34 to Creston; and (c) from Des Moines over Iowa Highway 28 to junction Iowa Highway 92, thence over Iowa Highway 92 to Greenfield, thence over Iowa Highway 25 to Creston, thence over U.S. Highway 34 to Corning, and return over the same routes in (a), (b), and (c) above, and serving Creston, Iowa, as an intermediate or off-route point. NOTE: If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 112617 (Sub-No. 301) (Amendment), filed August 7, 1972, published in the FEDERAL REGISTER issue of September 7, 1972, and republished, as amended this issue. Applicant: LIQUID TRANSPORTERS, INC., Post Office Box 21395, Louisville, KY 40221. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic synthetic liquids and acrylates* in bulk, in tank vehicles, from the plantsite of Rohm & Haas Co., located at or near Louisville, Ky., to points in Alabama, Arkansas, Colorado, Florida, Georgia, Indiana, Illinois, Iowa, Kansas, Louisiana, Michigan, Minnesota, Missouri, Nebraska, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin, restricted to traffic originating at said plantsite and destined to points in the above-named States. NOTE: The purpose of this republication is to amend the commodity description and to restrict the territorial scope of the authority sought herein. The rest of the application remains the same. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 113362 (Sub-No. 247), filed September 5, 1972. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Applicant's representative: Jack H. Blanshan, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery*: (1) From Covington (Tipton County), Tenn., to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Missouri, Nebraska, Oklahoma, and Texas, and (2) from Bloomingfield, N.J., to Covington, Tenn. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 113678 (Sub-No. 468), filed October 10, 1972. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Applicant's representative: Richard Peterson, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, from the production and storage facilities of Aurora Packing Co., at Aurora, Ill., to points in Nebraska, Colorado, Utah, Nevada, California, Oregon, Washington, Arizona, and New Mexico. NOTE: Applicant states that tacking possibilities exist, but indicates it has no present intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., Omaha, Nebr., or Denver, Colo.

No. MC 114273 (Sub-No. 127), filed September 25, 1972. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., Post Office Box 68, Cedar Rapids, IA 52406. Applicant's representative: Robert E. Konchar, Suite 315, Commerce Exchange Building, 2720 First Avenue NE., Cedar Rapids, IA 52402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meat and frozen meat products*, from the site and storage facilities of Kold Storage, Inc., at or near Fort Dodge, Iowa, to points in Iowa, Indiana, Kentucky, Michigan, Missouri, Nebraska, and Ohio, restricted to traffic originating at said origin and destined to the named destinations. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 115841 (Sub-No. 442), filed September 29, 1972. Applicant: COLO-

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NIAL REFRIGERATED TRANSPORTATION, INC., 1215 Bankhead Highway West, Birmingham, AL 35204. Applicant's representative: Roger M. Shaner, Post Office Box 168, Concord, TN 37720. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, from Harrodsburg, Louisville, Cynthiana, and Lexington, Ky., to points in California, Arizona, Texas, Oklahoma, New Mexico, Utah, Nevada, and Colorado. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., Cincinnati, Ohio, or Memphis, Tenn.

No. MC 119302 (Sub-No. 17), filed October 10, 1972. Applicant: MILLER TRANSFER & RIGGING CO., a corporation, Post Office Box 6077, Akron, OH 44312. Applicant's representative: A. David Millner, 744 Broad Street, Newark, NJ 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electric tools, lawn and garden equipment, and component parts*, from Hampstead, Md., to the United States-Canada boundary line at the international ports of entry at or near Ogdensburg and Wellesley Island, N.Y., and on return to Hampstead and Baltimore, Md., under a continuing contract or contracts with the Black & Decker Manufacturing Co. of Towson, Md. NOTE: Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 119767 (Sub-No. 296), filed September 6, 1972. Applicant: BEAVER TRANSPORT CO., a corporation, Post Office Box 186, Pleasant Prairie, WI 53158. Applicant's representative: Fred H. Figge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, from Milwaukee, Wis., to points in Indiana, Iowa, Michigan, and Minnesota; and (2) *empty malt beverage containers*, from the destination territory to the Miller Brewing Co. in Milwaukee, Wis. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis., or Chicago, Ill.

No. MC 119774 (Sub-No. 56), filed October 4, 1972. Applicant: EAGLE TRUCKING COMPANY, a corporation, Post Office Box 471, Kilgore, TX 75662. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel pipe and tubing*, from New Orleans, La., to points in Alabama, Arkansas, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Mississippi, Missouri, Ohio, Oklahoma, Tennessee, and Texas, restricted against the transportation of commodities as described in *Mercer Extension—Oil Field Commodities* 74 MCC 459, and also restricted to traffic originating at the plantsite of United Tube Corp. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., Shreveport, La., or Dallas, Tex.

No. MC 123407 (Sub-No. 108) (Correction), filed August 23, 1972, and published in the FEDERAL REGISTER issue of October 26, 1972, republished in part, as corrected, this issue. Applicant: SAWYER TRANSPORT, INC., 2424 Minnehaha Avenue S., Minneapolis, MN 55404. Applicant's representative: Robert W. Sawyer (same address as above). NOTE: The purpose of this partial republication is to indicate the correct docket number as No. MC 123407 (Sub-No. 108), in lieu of No. MC 123407 (Sub-No. 180), which was erroneously published. The rest of the application remains as previously published.

No. MC 124408 (Sub-No. 9), filed September 15, 1972. Applicant: THOMPSON BROS., INC., Post Office Box 457, Toronto, SD 57268. Applicant's representative: A. R. Fowler, 2288 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes*, in vehicles equipped with mechanical refrigeration, from Clark, S. Dak., to points in Alabama, Arkansas, California, Connecticut, Florida, Georgia, Illinois, Iowa, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, , Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that it holds contract carrier authority to perform identical service under Permit No. MC 129974 Sub-No. 7, and similar service under Sub 5, therefore he requests these permits be revoked when the authority requested herein is granted. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 124796 (Sub-No. 102), filed October 5, 1972. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 East Salt Lake Avenue, Post Office Box 1257, City of Industry, CA 91749. Applicant's representative: J. Max Harding, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, not frozen, from points in Chester County, Pa., to Phoenix, Ariz.; Los Angeles, Oakland, and San Francisco, Calif.; Denver, Colo.; Jacksonville, Miami, and Tampa, Fla.; Chicago and Libertyville, Ill.; Kansas City, Kans.; New Orleans, La.; Winchester, Mass.; Detroit, Mich.; Minneapolis, Minn.; St. Louis, Mo.; Raleigh, N.C.; Cleveland and Cincinnati, Ohio; Portland, Oreg.; Dallas, Tex.; Salt Lake City, Utah; and Seattle, Wash.; and (2) *returned shipments of foodstuffs*, not frozen, from the above-described destination to points in Chester County, Pa. Restriction: The operations authorized herein are restricted against the transportation of commodities in bulk and are limited to a transportation service to be performed under a continuing contract, or contracts, with the Clorox Co., its divisions and affiliates. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 125000 (Sub-No. 8), filed October 5, 1972. Applicant: LEON LEDBETTER, Post Office Box 227, Vega, TX 79092. Applicant's representative: John S. Fessenden, 618 Perpetual Building, 1111 E Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hot mix material*, in dump type vehicles, from points in Gray, Moore, and Ochiltree Counties, Tex., to points in Meade, Morton, Seward, and Stevens Counties, Kans., Beaver, Cimarron, and Texas Counties, Okla., and Union and Quay Counties, N. Mex. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Amarillo or Dallas, Tex.

No. MC 125035 (Sub-No. 26), filed September 8, 1972. Applicant: RAY E. BROWN TRUCKING, INC., Post Office Box 84, Massillon, OH 44646. Applicant's representative: Fred H. Zollinger, 800 Cleve-Tusc Building, Canton, Ohio 44702. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ice cream, ice cream confections, ice confections, and ice water confections*, in refrigerated trailers, to and from points in Ohio, Michigan, Indiana West Virginia, Pennsylvania, New York, and New Jersey, under contract with Sealtest Foods—division of Kraftco Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Akron, Pa.

No. MC 125162 (Sub-No. 3), filed October 11, 1972. Applicant: CROWN TRUCK LINE, INC., 3811 Broadway, Macon, GA 31206. Applicant's representative: Paul M. Daniell, Post Office Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete block and concrete brick*, from points in Georgia to points in Florida traversing the State of Alabama for operating convenience only. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 125279 (Sub-No. 3), filed October 10, 1972. Applicant: TERRY P. KIEFER, Star Route 3, Tionesta, PA 16353. Applicant's representative: Arthur J. Diskin, 806 Frick Building, Pittsburgh, Pa. 15219. Authority sought to operate as

a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Clarion County, Pa., to Dunkirk, N.Y. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Pittsburgh, Pa.

No. MC 125358 (Sub-No. 9), filed October 10, 1972. Applicant: MID-WEST LINES, LTD., a corporation, 1215 Fife Street, Winnipeg, MB, Canada. Applicant's representative: Joseph P. Summers, 630 Osborn Building, St. Paul, Minn. 55102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Parts, equipment, and materials* used in the manufacture, assembly and report of automotive buses, from North Lake, Ill., to a port of entry on the border between the United States and Canada located at or near Pembina, N. Dak., under contract with Motor Coach Industries. NOTE: Applicant holds common carrier authority under MC 134638, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn., or Chicago, Ill.

No. MC 133133 (Sub-No. 5), filed October 4, 1972. Applicant: FULLER MOTOR DELIVERY CO., a corporation, 802 Plum Street, Cincinnati, OH 45202. Applicant's representative: David A. Caldwell, 900 Tri-State Building, Cincinnati, Ohio 45202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boiler slag*, from Lawrenceburg, Ind., to points in Ohio and Kentucky. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant now holds contract carrier authority under its No. MC 74857 (Sub-No. 6), therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Columbus, Ohio.

No. MC 134906 (Sub-No. 7), filed October 2, 1972. Applicant: CAPE AIR FREIGHT, INC., Post Office Box 834, Elizabethtown, KY 42701. Applicant's representative: John M. Nader, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Cape Girardeau Municipal Airport, Cape Girardeau, Mo., and points in Ohio, on and east of Interstate Highway 77, Wheeling, Williamson, Parkersburg, Point Pleasant, and Valley Grove, W. Va., Bristol, Va., and points in Pennsylvania, Maryland, Delaware, New Jersey, New York, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, and the District of Columbia, restricted to traffic having a prior or subsequent movement by air. NOTE: Applicant states that it proposes to tack all existing authority with the authority sought in this application where possible, but does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Applicant further states that no duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Louisville, Ky.

No. MC 135109 (Sub-No. 3), filed October 2, 1972. Applicant: SECO, INC., 219 North Jackson, Mason City, IA 50401. Applicant's representative: Thomas F. Kilroy, Post Office Box 624, Springfield, VA 22150. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic staple fiber, synthetic fiber, synthetic fiber waste, plastic scrap, bobbins (pirns), and sleeves*, between points in Connecticut, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and West Virginia, under contract with Chevron Chemical Co., of San Francisco, Calif. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or San Francisco, Calif.

No. MC 135705 (Sub-No. 3), filed October 9, 1972. Applicant: LELAND L. MELROSE, doing business as MELROSE TRUCKING COMPANY, 6360 Raderville Route. Applicant's representative: C. S. Aspinwall, 430 East First Street, Casper, WY 82601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash*, in bulk, between undesignated points in and between Wyoming, Colorado, and Nebraska. Note: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Casper, Wyo.; Billings, Mont.; Salt Lake City, Utah, or Denver, Colo.

No. MC 136687 (Sub-No. 2), filed September 13, 1972. Applicant: ANIMAL TRANSPORTS, INC., 509 Laguna Boulevard SW., Post Office Box 7311, Albuquerque, NM 87104. Applicant's representative: Ann Wilcox Hood, 914 Bank of New Mexico Building, Albuquerque, N. Mex. 87101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Zoo and laboratory animals*, being rare, fragile, or exotic, requiring special equipment and handling (except racehorses), between points in the United States (excepting Hawaii but including Alaska). NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 136721 (Sub-No. 2), filed September 27, 1972. Applicant FREEMAN C. COREY, doing business as FREEMAN C. COREY & SON, R.F. No. 1, Washburn, Maine 04786. Applicant's representative: John M. Cleary, 914 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid potato starch*, in bulk, in tank vehicles, from the account of A. E. Staley Manufacturing Co., from the port of entry on the international boundary line between the United States and Canada at Houlton, Maine, to Houlton, Maine, on traffic having a prior movement in foreign commerce, under contract with A. E. Staley Manufacturing Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Portland, Maine, or Washington, D.C.

No. MC 136929 (Sub-No. 2), filed September 29, 1972. Applicant: R. V. TRUCKING, INC., 5200 Nowata Road, Post Office Box 3211, Bartlesville, OK 74003. Applicant's representative: D. S. Hults, Box 225, Lawrence, KS 66044. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Water heaters and wall furnaces* for installation in recreational vehicles from the plantsite and storage facilities of Atwood Vacuum Machine Co., Mobile Products Division, located at Rockford, Ill., to Coffeyville and Minneapolis, Kans., and Denver, Colo., under contract with Atwood Vacuum Machine Co.; (2) *refrigerators* for installation in recreational vehicles from the plantsite and storage facilities of Hadco Engineering, a division of A-T-O, Inc., located at Elkhart, Ind., to Coffeyville and Minneapolis, Kans., Denver, Colo., and Mason City, Forrest City, Indianola, and Carlyle, Iowa, under contract with Hadco Engineering, a division of A-T-O, Inc.; and (3) *ranges* for use in mobile homes and recreational vehicles from the plantsite and storage facilities of Premier Stove Co., at Belleville, Ill., to Coffeyville and Minneapolis, Kans., Denver and Longmont, Colo., Concordia, Sedalia, and Westphalia, Mo., and Mason City, Forrest City, Indianola, and Carlyle, Iowa, under contract with Premier Stove Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City or St. Louis, Mo.

No. MC 138002 (Sub-No. 2), filed September 18, 1972. Applicant: RED MOUNTAIN TRANSPORT, INC., 709 Sixth Avenue North, Post Office Box 10362, Birmingham, AL 35202. Applicant's representative: Richard J. Haberstroh (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Material handling equipment, parts, and accessories* for material handling equipment; *materials, parts, supplies, and equipment* used in the manufacture and repair of material handling equipment; in specialized self-loading and/or self-unloading equipment between points in the United States (including Alaska but excluding Hawaii). NOTE: Common control may be involved. If a hearing is deemed necessary, appli-

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cant requests it be held at either (1) Birmingham, Ala.; (2) Atlanta, Ga.; or (3) Mobile, Ala.

No. MC 138062, filed August 22, 1972. Applicant: EUGENE E. LANGNER, doing business as LANGNER TRUCK LINE, 4728 South Pattie, Wichita, KS 67216. Applicant's representative: Paul V. Dugan, 1400 K.S.B. & T Building, Wichita, Kans. 67202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients*, between points in the counties of Harper, Sumner, Cowley, Chautauqua, Montgomery, Pratt, Kingman, Sedgwick, Butler, Elk, Wilson, Stafford, Reno, Harvey, Greenwood, Woodson, Barton, Rice, McPherson, Marion, Chase, and Lyons, Kans., on the one hand, and, on the other, points in Oklahoma and Texas. NOTE: If a hearing is deemed necessary, applicant requests it be held at Wichita, Kans.

No. MC 138087, filed September 5, 1972. Applicant: CASHION MOVING & STORAGE, INC., 810 King Street, Sanford, NC 27330. Applicant's representative: Roy W. Cashion, 506 Sunset Drive, Sanford, NC 27330. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as described by the Commission, between points in Wake, Lee, Moore, Chatham, Cumberland, and Harnett Counties, N.C., on the one hand, and, on the other, points in South Carolina, Virginia, and Georgia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Raleigh, N.C.

No. MC 138096, filed September 18, 1972. Applicant: LEE P. WEGNER, SR., doing business as WEGNER TRUCKING CO., Route 1, Box 249, Holiday Road, Waukesha, WI 53186. Applicant's representative: David V. Purcell, 1902 Marine Plaza, Milwaukee, WI 53202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Refrigerated display coolers and freezers, refrigerated sectional walk-in cooling and freezing rooms, knocked-down, and components, accessories, parts, and supplies* therefor, from Genesee, Wis., to points in Arkansas, Connecticut, Delaware, District of Columbia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, and West Virginia; (2) *returned, rejected, and damaged shipments* of the commodities described hereinabove in the reverse direction; and (3) *materials, equipment, and supplies* used in the manufacture, production, and distribution of the commodities described hereinabove, from Illinois, Kentucky, Michigan, Minnesota, North Carolina, and Ohio, to Genesee, Wis. Restriction: The operations sought herein are limited to a transportation service to be performed under a continuing contract or contracts with Zero Zone Refrigeration Manufacturing Co., Inc., of Genesee, Wis. NOTE: If a hearing is deemed necessary, applicant requests it be held at Milwaukee or Madison, Wis.

No. MC 138108, filed October 10, 1972. Applicant: M. R. "RUDY" GRAHAM, doing business as GULF STATES HOT SHOT SERVICE, 206 Stephens Avenue, Laurel, MS 39440. Applicant's representative: Donald B. Morrison, 717 Deposit Guaranty National Bank Building, Post Office Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies, including explosives and radioactive materials, used in replacing, servicing, and repair of machinery and equipment used in, or in connection with the discovery, development, and production of natural gas and petroleum and their products and byproducts*, between points in Mississippi, on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Louisiana, and Tennessee, and (2) *machinery, equipment, materials, and supplies, including explosives and radioactive materials, used in the construction, erection and maintenance of antipollution disposal wells and related facilities*, between points in Mississippi, on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, North Carolina, South Carolina, Tennessee, and West Virginia. Restriction: Service to be performed under (1) and (2) above is restricted to shipments weighing 12,000 or less each and utilizing 1½ ton or smaller trucks. NOTE: If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss.

No. MC 138109, filed October 6, 1972. Applicant: RAY J. FORNEY, Post Office Box 257, Ashton, IL 61006. Applicant's representative: E. Stephen Heisley, Suite 805, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery stores, food processors, and institutional suppliers, and *materials, equipment, and supplies* used in or useful in the packaging, production, sale, processing, manufacture, and distribution thereof (except commodities in bulk), between the plantsites and facilities utilized by Crest Foods Co., Inc., located at or near Ashton and Forreston, Ill., on the one hand, and, on the other, points in the United States in and east of Montana, Wyoming, Utah, and Arizona, under a continuing contract or contracts with Crest Foods Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

MOTOR CARRIER OF PASSENGER

No. MC 116385 (Sub-No. 5), filed October 2, 1972. Applicant: ANTHONY S. KASPER, doing business as NIAGARA FRONTIER SCENIC TOURS, 7900 Pine Avenue Boulevard, Niagara Falls, NY 14304. Applicant's representative: Thomas F. Kilroy, Post Office Box 624, Springfield, VA 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations, in round trip sightseeing or pleasure tours, in seasonal operations between April 15, and October 1, inclusive, of each year, between ports of entry on the United States-Canada boundary line located at Niagara Falls and Lewiston, N.Y., and points in Niagara County, N.Y., within 6 miles of Niagara Falls, including Niagara Falls. NOTE: Applicant states that the purpose of this application is to remove the restrictions in its present certificate No. MC 116385 (Sub-No. 3), limiting transportation to not more than eight passengers in any one vehicle including driver thereof but not including children under 10 years of age who do not occupy seats for reasons of operating economics. Applicant's requested authority duplicates that authority granted in certificate No. MC 116385 (Sub-No. 3). If a hearing is deemed necessary, applicant requests it be held at Niagara Falls or Buffalo, N.Y., or Washington, D.C.

APPLICATION FOR FREIGHT FORWARDER

No. FF-427 (WITS, INC., Freight Forwarder Application), filed October 17, 1972. Applicant: WITS, INC., doing business as WITS AIR CARGO SERVICE, Post Office Box 3805, Seattle, WA 98124. Applicant's representative: Joseph L. Schocken (same address as applicant). Authority sought under section 410, Part IV of the Interstate Commerce Act, for a permit to institute operation as a freight forwarder, in interstate or foreign commerce, through use of the facilities of common carriers by railroad, express, water, air, or motor vehicles in the transportation of: *General commodities*, between points in the United States, restricted to shipments having a prior or subsequent movement by air.

APPLICATION FOR WATER CARRIER

No. W-1265 (BIGGE DRAYAGE CO., Contract Carrier and Exemption Applications) (Clarification), filed September 11, 1972, published in the FEDERAL REGISTER issue of September 28, 1972, and republished this issue. Applicant: BIGGE DRAYAGE CO., San Leandro, Calif. Applicant's representative: Edward J. Hegarty, 100 Bush Street, San Francisco, CA 04104. Applications of Bigge Drayage Co., filed September 11, 1972, for a permit under section 309 or exemption under section 303(e)(2), to engage in transportation in interstate or foreign commerce by water and by non-self-propelled vessels with the use of separate towing vessels, of: (1) Commodities which by reason of their inherent nature, or their requirement, for special equipment, are incapable of transportation between the points of origin and destination by either common carrier by rail or common carrier by motor vehicle; and (2) parts, materials, equipment and

supplies incidental to their operation or installation when moving with the commodities described in (1) above, between points on the inland and coastal waters of the United States, including Alaska and Hawaii. NOTE: By the instant applications, applicant seeks to obtain either contract carrier permit or exemption so that it, under its own right, will be capable of providing shippers of over-dimensional items a complete service in the movement of their commodities between all points in the United States. The purpose of this republication is to clarify the scope of the authority sought.

APPLICATION FOR A POSTAL CERTIFICATE

Interstate Commerce Commission, No. MC-137020 (Notice of Filing an Application for a Postal Certificate of Public Convenience and Necessity), filed September 25, 1972. Applicant: HARRY B. HAWKS, doing business as HAWKS EXPRESS, Route 4, Box 131, Montrose, CO 81401. By application filed September 25, 1972, applicant seeks a Postal Certificate of Public Convenience and Necessity to transport *Mail* in the following territory:

(1) Between Salida and Colorado Springs, Colo., from Salida over U.S. Highway 50 to Canon City, thence over Colorado Highway 115 to Florence, thence over Colorado Highway 120 to Penrose, and thence over Colorado Highway 115 to Colorado Springs, and return over the same routes.

(2) Between Montrose and Paradox, Colo., from Montrose over U.S. Highway 550 to junction Colorado Highway 62, thence over Colorado Highway 62 to Placerville, thence over Colorado Highway 145 to junction Colorado Highway 97, thence over Colorado Highway 97 to junction Colorado Highway 141 to Uravan, thence over Colorado Highway 141 to Vancorum, and thence over Colorado Highway 90 to Paradox, and return over the same routes.

(3) Between Denver and Montrose, Colo., from Denver over U.S. Highway 285 to junction Colorado Highway 291, thence over Colorado Highway 291 to Salida, and thence over U.S. Highway 50 to Montrose, and return over the same routes.

Appended to the application are copies of three postal contracts held by applicant which were in effect on July 1, 1971, the critical "grandfather" date: Route No. 81212, relating to service between Salida and Colorado Springs, Colo.; Route No. 81430, relating to service between Montrose and Paradox, Colo.; and Route No. 80110, relating to service between Denver and Montrose, Colo.

Any interested person desiring to oppose the application may file with the Commission an original and one copy of his written representations, views, or arguments in opposition to the application within 30 days from the date of this publication in the FEDERAL REGISTER. A copy of each such pleading should be served upon applicant.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-18639 Filed 11-1-72;8:45 am]

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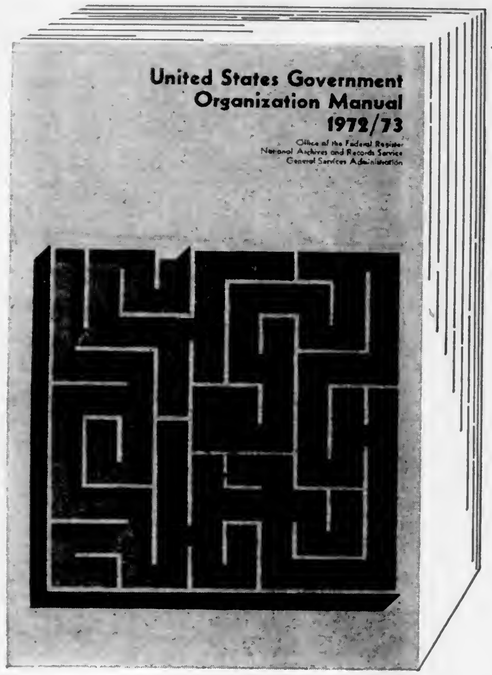

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federal register

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WASHINGTON, D.C.

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Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

Section 213.3184 is amended to show that the position of Director, Office of Investigations, Office of the Assistant Secretary for Administration, Audits and Investigations is no longer excepted under Schedule A.

Effective on publication in the FEDERAL REGISTER (11-3-72), paragraph (d) is revoked under § 213.3184.

§ 213.3184 Department of Housing and Urban Development.

• • • • •

(d) [Revoked]

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-18812 Filed 11-2-72;8:48 am]

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 1]

PART 729—PEANUTS

Subpart—Regulations for Determination of Acreage Allotments and Marketing Quotas for 1972 and Subsequent Crops of Peanuts

MISCELLANEOUS AMENDMENTS

On pages 20333 and 20334 of the FEDERAL REGISTER of September 29, 1972, there was published a notice of proposed rule making to issue an amendment relating to miscellaneous changes for determination of acreage allotments and marketing quotas for 1972 and subsequent crops of peanuts.

Interested persons were given 15 days after publication of such notice in which to submit written data, views, and recommendations with respect to the proposed rule making. The data, views, and recommendations which were submitted pursuant to the notice were duly considered within the limits of the Agricultural Adjustment Act of 1938, as amended. The proposed rule making was adopted with the following additions:

1. Section 729.43(b)(1) establishes the basic penalty rate for the 1972 crop of peanuts.

2. Section 729.47 provides that the date penalty becomes due is the date of marketing.

3. Authority provision has been added.

Since farmers are now marketing their 1972 crop of peanuts it is essential that the basic penalty rate for the 1972 crop be announced immediately. Accordingly, this document is being made effective upon the date of its publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on October 27, 1972.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

1. Subparagraph (12) of paragraph (b) of § 729.6 is revised to read as follows:

§ 729.6 Definitions.

• • • • •

(b) *Peanut program terms.* • • •

(12) *Final acreage.* The acreage, including volunteer acreage, on the farm from which peanuts are picked or threshed as determined and adjusted under Part 718 of this chapter.

• • • • •

2. Paragraph (c) of § 729.11 is revised to read as follows:

§ 729.11 Determination of farm peanut history acreage.

• • • • •

(c) *Computation of history acreage.* If, for any year, the full allotment is not preserved as peanut history acreage under paragraph (b) of this section, the farm peanut history acreage for such year shall be the sum of the following but not in excess of the farm allotment for such year:

(1) The final peanut acreage (including failed acreage and acreage prevented from being planted because of a natural disaster) as determined under Part 718 of this chapter;

(2) The acreage regarded as planted under conservation programs and conservation practices, determined under Part 718 of this chapter;

(3) The acreage transferred from the farm by lease or temporary transfer by owner (except increase for type);

(4) The acreage temporarily released to the county committee under provisions of § 729.22; and,

(5) The amount of any reduction in the current year allotment made pursuant to the provisions of § 729.21.

• • • • • •

3. Section 729.19 is revised to read as follows:

§ 729.19 Conditions of eligibility for new farm allotment.

A new farm peanut allotment may be established if each of the following conditions is met:

(a) *Written application.* The farm operator must file an application for a new farm allotment at the office of the county committee where the farm is administratively located on or before February 15 of the year for which the new farm allotment is requested.

(b) *Eligibility requirements for operator.* The eligibility requirements for the operator are as follows:

(1) *Owner and operator of the farm.* The operator shall be the sole owner of the farm. For the purpose of applying this subparagraph (1) a person who owns only part of a farm cannot be considered the owner of the farm except that both husband and wife shall be considered the owner of the farm if the farm is jointly owned by such husband and wife.

(2) *Interest in another farm.* The farm operator shall not own or operate any other farm in the United States for which a peanut allotment is established for the current year.

(3) *Availability of equipment and facilities.* The operator must own, or have readily available, adequate equipment and any other facilities of production (including irrigation water in irrigation areas) necessary to the production of peanuts on the farm.

(4) *Income requirement.* The operator must expect to obtain during the current year more than 50 percent of his income from the production of agricultural commodities or products.

(i) *Computing operator's income.* The following shall be considered in computing operator's income:

(a) *Income from farming.* Income from farming shall include the estimated return from home gardens, livestock, and livestock products, poultry, or other agricultural products produced for home consumption or other use on the farm(s). Do not include estimated return from the production of the requested new farm allotment.

(b) *Income from nonfarming.* Nonfarming income shall include but shall not be limited to salaries, commissions, pensions, social security payments, and unemployment compensations.

(c) *Spouse's income.* The spouse's farm and nonfarm income shall be used in the computation.

(ii) *Operator a partnership.* If the operator is a partnership, each partner

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must expect to obtain more than 50 percent of his current year income from farming.

(iii) *Operator a corporation.* If the operator is a corporation, it must have no other major corporate purpose other than ownership or operation of the farm(s). Farming must provide its officers and general manager with more than 50 percent of their expected income. Salaries and dividends from the corporation shall be considered as income from farming.

(iv) *Special provision for low-income farmers.* The county committee may waive the income provisions in this section provided the county committee determines that the farm operator's income, from both farm and nonfarm sources, will not provide a reasonable standard of living for the operator and his family, and a State committee representative approves such action. In waiving the income provisions the county committee must exercise good judgment to see that such determination is reasonable in the light of all pertinent factors, and that this special provision is made applicable only to those who qualify. In making such determination, the county committee shall consider such factors as size and type of farming operations, estimated net worth, estimated gross family farm income, estimated family off-farm income, number of dependents, and other factors affecting the individual's ability to provide a reasonable standard of living for himself and his family.

(5) *Experience.* Operator must have had experience in producing, harvesting, and marketing peanuts. Such experience must have been gained: (i) By being a sharecropper, tenant, or farm operator. (Bona fide peanut production experience gained by a person as a member of a partnership shall be accepted as experience gained in meeting this requirement.) (ii) During at least 2 of the 5 years immediately preceding the year for which the new farm allotment is requested. If the operator was in the armed services during the 5-year period, extend the period 1 year for each year of military service during such 5-year period. (iii) On a farm having a peanut allotment for such years. Experience in growing peanuts on a farm having a farm allotment by temporary transfer shall be given credit.

(c) *Eligibility requirements for the farm.* The eligibility requirements for the farm are as follows:

(1) *Available land, type of soil, and topography.* The available land, type of soil, and topography of the land on the farm must be suitable for peanut production. Also continuous production of peanuts must not result in an undue erosion hazard.

(2) *Entire allotment permanently transferred by sale or owner.* A farm which includes land from which the entire peanut allotment was permanently transferred by sale or owner shall not be eligible for a new farm allotment for a period of 5 years beginning with the year in which the transfer became effective.

(3) *Entire allotment permanently released.* A farm which includes land from which the entire peanut allotment was permanently released shall not be eligible for a new farm allotment for a period of (3) years beginning with the year the release was effective.

(4) *Entire allotment designated by owner for a reconstitution.* A farm which includes land which has no peanut allotment because the owner did not designate a peanut allotment for such land when the parent farm was reconstituted pursuant to Part 719 of this chapter shall not be eligible for a new farm peanut allotment for a period of (3) years beginning with the year in which the reconstitution became effective.

(5) *Eminent domain.* A farm which includes land acquired by an agency having the right of eminent domain for which the entire peanut allotment was pooled pursuant to Part 719 of this chapter, which is subsequently returned to agricultural production, shall not be eligible for a new farm allotment for a period of (3) years from the date the former owner was displaced.

4. Section 729.20 is revised to read as follows:

§ 729.20 Establishing new farm allotments for eligible applicants lacking experience.

If the total of the acreage required to establish allotments for all new farms in the State which are eligible under § 729.19, is less than the acreage available in the State reserve under § 729.16, for establishing such allotments, the balance, upon approval by the State committee, shall be available for establishing new farm allotments for farms for which a written application is filed by the farm operator at the office of the county committee on or before February 15 of the year for which the allotment is requested and the conditions of eligibility of § 729.19 are met. Such farm operators are not required to meet the peanut experience requirement of § 729.19(b)(5).

§ 729.22 [Amended]

5. The fourth sentence of paragraph (a) of § 729.22 is revoked.

6. Paragraph (a) of § 729.27 is revised to read as follows:

§ 729.27 Erroneous notice of allotment.

(a) If the county committee determines with the approval of the State executive director that (1) the official written notice of the farm acreage allotment issued by the State or county office for any farm erroneously stated the acreage allotment to be larger than the final effective allotment for the farm, and (2) the error was not so gross that the operator, relying upon such notice and acting in good faith materially changes his position to enable him to produce the allotment crop (for example obligated expenditures of funds for land preparation, additional equipment and labor), the acreage allotment shown on the erroneous notice shall be considered the effective farm allotment.

. . . . . .

§ 729.29 [Revoked]

7. Section 729.29 is revoked.

8. A new subparagraph (1) is added to paragraph (b) of § 729.43 to read as follows:

§ 729.43 Penalty rate.

. . . . . .

(b) *Future years.* . . .

(1) *1972 crop.* The basic support price for peanuts for the marketing year beginning August 1, 1972, and ending July 31, 1973, is $285 per ton or 14.25 cents per pound. Therefore, the basic penalty rate for the 1972 crop of peanuts is 10.7 cents per pound.

. . . . . .

9. Section 729.47 is revised to read as follows:

§ 729.47 Payment of penalty.

A draft, money order, or check drawn payable to the "Agricultural Stabilization and Conservation Service, USDA" may be used to pay any penalty, other indebtedness, or interest thereon, but any such draft or check shall be received subject to collection and payment at par. The person liable for payment or collection of the penalty shall be liable also for interest thereon at the rate of 6 percent per annum from the date the penalty becomes due until the date of payment of penalty. For purposes of this section penalty becomes due on the date of marketing. Interest shall begin to accrue on Monday of the third calendar week following the week in which the peanuts were marketed.

10. Section 729.69 is amended by correcting subparagraph (2) of paragraph (e); by revising paragraph (f); by revoking paragraph (l); by revising paragraph (o); and by revising paragraph (s) to read as follows:

§ 729.69 Terms and conditions applicable to transfers under section 358a of the Act.

. . . . . .

(e) *Productivity adjustments.* . . .

(2) *Downward allotment adjustment because of irrigation.* If the county committee so determines, in the event an allotment is transferred to a farm which at the time of such transfer is not irrigated, but within 5 years subsequent to such transfer is placed under irrigation, it shall make an annual downward adjustment in the allotment so transferred by multiplying the normal yield established for the farm from which the allotment is transferred by the acreage being transferred and dividing the result by the actual yield per acre for the previous year, adjusted for abnormal weather conditions, on the farm to which the allotment is transferred.

. . . . . .

(f) *Sale or lease transfers—limit on amount of acreage transferred.* The total peanut allotment transferred by sale or lease, or both, to any farm shall not exceed the smaller of:

(1) The cropland on the farm minus the peanut allotment; or

(2) Fifty acres.

The cropland on the farm for the current year for purposes of such transfers shall be the total cropland as defined in Part 719 of this chapter.

. . . . . .

(l) [Revoked]

(o) *Limitation on transfers to and from a farm.* No transfer of allotment for any year shall be made (1) from a farm receiving allotment by transfer for such year, or (2) to a farm which had allotment transferred from it for such year. Where an allotment is transferred temporarily from a farm for 1 or more years (and the transfer remains in effect) and the farm is subsequently combined with another farm that is otherwise eligible to receive allotment by transfer, such earlier temporary transfer from the parent farm shall be disregarded for the purpose of applying this provision.

. . . . . .

(s) *Federally owned land.* No transfer under section 358a of the Act shall be made from any land owned by the United States, or any agency or instrumentality wholly owned by the United States, except that the transfer may be approved in cases where the land is leased back with uninterrupted possession to the former owner after acquisition under right of eminent domain. For such transfers, the Government agency or instrumentality is not required to sign the record of transfer.

(Secs. 358, 358a, 359, 375, 55 Stat. 88, as amended, 81 Stat. 658, as amended, 55 Stat. 90, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1358, 1358a, 1359, 1375)

Effective date: Date of publication in the FEDERAL REGISTER (11-3-72).

[FR Doc.72-18878 Filed 11-2-72;8:53 am]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 984—WALNUTS GROWN IN CALIFORNIA, OREGON, AND WASHINGTON

Marketing Control Percentages for 1972–73 Marketing Year

Notice was published in the October 11, 1972, issue of the FEDERAL REGISTER (37 F.R. 21443) regarding a proposal to establish marketable and surplus percentages for walnuts during the 1972–73 marketing year. The year began August 1, 1972. The proposal was recommended by the Walnut Control Board. The establishment of such percentages is in accordance with the relevant provisions of the marketing agreement, as amended, and Order No. 984, as amended (7 CFR Part 984). The amended marketing agreement and order regulate the handling of walnuts grown in California, Oregon, and Washington, and are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons an opportunity to submit written data, views, or arguments on the proposal. None were received.

The marketable and surplus percentages are pursuant to § 984.49(b) of the walnut marketing agreement and order program. These percentages are based on Walnut Control Board estimates of supply, and inshell and shelled trade demands adjusted for handler carryover, for the 1972–73 marketing year. The total 1972–73 supply subject to regulation is estimated at 123.3 million kernelweight pounds. Inshell and shelled trade demands adjusted for handler carryover are estimated at 28.6 and 72.5 million kernelweight pounds, respectively. The estimated adjusted total demand (inshell and shelled demands) is 101.1 million kernelweight pounds. The trade demand area includes the United States, Puerto Rico, and the Canal Zone.

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the Board, and other available information, it is found that establishment of marketable and surplus percentages as hereinafter set forth will tend to effectuate the declared policy of the act.

Therefore, the marketable and surplus percentages for walnuts during the 1972–73 marketing year are established as follows:

§ 984.219 Marketable and surplus percentages for walnuts during the 1972–73 marketing year.

The marketable and surplus percentages during the marketing year beginning August 1, 1972, shall be as follows:

	California (District 1)	Oregon and Washington (District 2)
Marketable percentage	82	91
Surplus percentage	18	9

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said amended marketing agreement and this part require that marketable and surplus percentages designated for a particular marketing year shall be applicable to all walnuts handled during such year; and (2) the current 1972–73 marketing year began August 1, 1972, and the percentages established herein will automatically apply to all such walnuts beginning with such date.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 30, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-18875 Filed 11-2-72;8:52 am]

PART 984—WALNUTS GROWN IN CALIFORNIA, OREGON, AND WASHINGTON

Expenses and Rates of Assessment for 1972–73 Marketing Year

Notice was published in the October 18, 1972, issue of the FEDERAL REGISTER (37 F.R. 22000) regarding proposed expenses of the Walnut Control Board for the 1972–73 marketing year and rates of assessment for that year. This action approves such expenses and assessment rates and is pursuant to §§ 984.68 and 984.69 of the marketing agreement, as amended, and Order No. 984, as amended (7 CFR Part 984). The amended marketing agreement and order regulate the handling of walnuts grown in California, Oregon, and Washington, and are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons an opportunity to submit written data, views, or arguments on the proposal. None were received.

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the Walnut Control Board, and other available information, it is found that the expenses of the Board and rates of assessment for the 1972–73 marketing year (which began August 1, 1972, and ends July 31, 1973), shall be as follows:

§ 984.324 Expenses of the Walnut Control Board and rates of assessment for the 1972–73 marketing year.

(a) *Expenses.* Expenses in the amount of $175,000 are reasonable and likely to be incurred by the Walnut Control Board during the marketing year beginning August 1, 1972, for its maintenance and functioning, and for such purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rates of assessment.* The rates of assessment for said marketing year, payable by each handler in accordance with § 984.69, are fixed at 0.10 cent per pound for merchantable inshell walnuts and 0.25 cent per pound for merchantable shelled walnuts.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said marketing agreement and this part require that the rates of assessment fixed for a particular marketing year shall be applicable to all assessable walnuts from the beginning of such year; and (2) the 1972–73 marketing year began August 1, 1972, and the rates of assessment herein fixed will automatically apply to all such assessable walnuts beginning with that date.

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(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: October 31, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-18876 Filed 11-2-72;8:52 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

[Docket No. 72-572]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, paragraph (e)(2) relating to the State of Indiana is amended to read:

(e) • • •

(2) *Indiana.* (i) That portion of Carroll County bounded by a line beginning at the junction of the Carroll-Tippecanoe County line and the east bank of the Wabash River; thence, following the east bank of the Wabash River in a generally northeasterly direction to the Carroll-Cass County line; thence, following the Carroll-Cass County line in a southerly, then easterly, then southerly direction to the junction of the Carroll-Cass-Howard County lines; thence, following the Carroll-Howard County line in a southerly direction to Division Road; thence, following Division Road in a westerly direction to State Highway 18; thence, following State Highway 18 in a westerly direction to the Monroe-Carrollton Township line; thence, following the Monroe-Carrollton Township line in a southerly direction to the junction of the Monroe-Carrollton-Burlington Township lines; thence, following the Monroe-Burlington Township line in a southerly direction to the junction of the Monroe-Burlington-Democrat Township lines; thence, following the Democrat-Burlington Township line in a southerly direction to State Highway 600 S; thence, following State Highway 600 S in a westerly direction to the Democrat-Clay Township line; thence, following the Democrat-Clay Township line in a northerly direction to the junction of the Democrat-Clay-Madison Township lines; thence, following the Clay-Madison Township line in a westerly direction to U.S. Highway 421; thence, following U.S. Highway 421 in a northerly, then northwesterly direction to Division Road; thence, following Division Road in a westerly direction to the Carroll-Tippecanoe County line; thence, following the Carroll-Tippecanoe County line in a northerly direction to its junction with the east bank of the Wabash River.

(ii) That portion of Randolph County bounded by a line beginning at the junction of State Highway 32 and Greenville Pike; thence, following Greenville Pike in a south easterly direction to the Indiana-Ohio State line; thence, following the Indiana Ohio State line in a southerly direction to the Randolph-Wayne County line (in Indiana); thence, following the Randolph-Wayne County line (in Indiana) in a westerly direction to the West River-Washington Township line; thence, following the West River-Washington Township line in a northerly direction to the junction of the West River-Washington-White River Township lines; thence, following the White River-Washington Township line in an easterly direction to Huntsville Pike; thence, following Huntsville Pike in a northeasterly direction to State Highway 32; thence, following State Highway 32 in an easterly direction to its junction with Greenville Pike.

2. In § 76.2, paragraph (e)(3) relating to the State of Kansas is deleted.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264-1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f; 29 F.R. 16210, as amended; 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments quarantine a portion of Randolph County in Indiana because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined area.

The amendments exclude a portion of Osborne County in Kansas from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas contained in 9 CFR Part 76, as amended, do not apply to the excluded area, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 apply to the excluded area. No areas in Kansas remain under quarantine.

Insofar as the amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera, they must be made effective immediately to accomplish their purpose in the public interest. Insofar as the amendments relieve restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera, they should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 27th day of October 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-18831 Filed 11-2-72;8:49 am]

[Docket No. 72-574]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined and Released

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, in paragraph (e)(2) relating to the State of Indiana, a new subdivision (iii) relating to Delaware and Randolph Counties is added to read:

(e) • • •

(2) *Indiana.* • • •

(iii) The adjacent portions of Delaware and Randolph Counties bounded by a line beginning at the junction of the Liberty-Center Township line and State Highway 32 in Delaware County; thence, following State Highway 32 in an easterly direction to State Highway 1 in Randolph County; thence, following State Highway 1 in a southerly direction to the junction of the Stony Creek-White River-West River Township lines; thence, following the Stony Creek-West River Township line in a southerly direction to the junction of the Stony Creek-Nettle Creek-West River Township lines; thence, following the Stony Creek-Nettle Creek Township line in a westerly direction to the Randolph-Delaware County line; thence, following the Randolph-Delaware County line in a southerly direction to the junction of the Randolph-Delaware-Henry County lines; thence, following the Delaware-Henry County line in a westerly direction to County Road 200 East in Delaware County; thence, following County Road 200 East in a northerly direction to County Road 450 South; thence, following County Road 450 South in a westerly direction to County Road 150 East; thence, following County Road 150 East in a northerly direction to the Center-Monroe Township line; thence, following the Center-Monroe Township line in an easterly direction to the junction of the Center-Monroe-Perry-Liberty Township lines; thence, following the Center-Liberty Township line in a northerly direction to its junction with State Highway 32 in Delaware County.

2. In § 76.2, in paragraph (e)(6) relating to the State of North Carolina, subdivision (ii) relating to Johnston, Harnett, Cumberland, and Sampson Counties is amended to read:

(e) • • •

(6) *North Carolina.* • • •

(ii) The adjacent portions of Johnston, Harnett, Cumberland and Sampson Counties bounded by a line beginning at the junction of State Highway 50 and Secondary Road 1122 in Johnston County; thence, following State Highway 50 in a southwesterly direction to State Highway 55 in Harnett County; thence, following State Highway 55 in a southeasterly direction to Secondary Road 2006; thence, following Secondary Road 2006 in a southeasterly direction to Secondary Road 1769; thence, following Secondary Road 1769 in a northwesterly direction to the east bank of Thorntons Creek; thence, following the east bank of Thorntons Creek in a generally southeasterly direction to the north bank of Cape Fear River; thence, following the north bank of Cape Fear River in a generally southeasterly direction to dirt road extension of Secondary Road 1709; thence, following dirt road extension of Secondary Road 1709 in a northeasterly direction to Secondary Road 1709; thence, following Secondary Road 1709 in a northeasterly direction to Secondary Road 1802; thence, following Secondary Road 1802 in a southeasterly direction to U.S. Highway 301; thence, following U.S. Highway 301 in a southeasterly direction to U.S. Highway 13; thence, following U.S. Highway 13 in a northeasterly direction to Secondary Road 1818; thence, following Secondary Road 1818 in a southeasterly direction to Secondary Road 1826; thence, following Secondary Road 1826 in a generally southeasterly direction to Secondary Road 1848; thence, following Secondary Road 1848 in a northeasterly direction to Secondary Road 1851; thence, following Secondary Road 1851 in a northeasterly direction to Secondary Road 1426 in Sampson County; thence, following Secondary Road 1426 in a northeasterly direction to Secondary Road 1424; thence, following Secondary Road 1424 in a northwesterly direction to Secondary Road 1427; thence, following Secondary Road 1427 in a northeasterly direction to Secondary Road 1425; thence, following Secondary Road 1425 in a northeasterly direction to Secondary Road 1428; thence, following Secondary Road 1428 in a northeasterly direction to Secondary Road 1430; thence, following Secondary Road 1430 in a generally northeasterly direction to Secondary Road 1414; thence, following Secondary Road 1414 in a generally northeasterly direction to Secondary Road 1326; thence, following Secondary Road 1326 in a northeasterly direction to State Highway 242; thence, following State Highway 242 in a northwesterly direction to Secondary Road 1006; thence, following Secondary Road 1006 in a northeasterly direction to Secondary Road 1332; thence, following Secondary Road 1332 in a northeasterly direction to Secondary Road 1325; thence, following Secondary Road 1325 in a generally northwesterly direction to Secondary Road 1338; thence, following Secondary Road 1338 in a northeasterly direction to U.S. Highway 421; thence, following U.S. Highway 421 in a southwesterly direction to Secondary Road 1809; thence, following Secondary Road 1809 in a northwesterly direction to Secondary Road 1636; thence, following Secondary Road 1636 in a northeasterly direction to Secondary Road 1703; thence, following Secondary Road 1703 in a northwesterly direction to Secondary Road 1647; thence, following Secondary Road 1647 in a northwesterly direction to State Highway 50; thence, following State Highway 50 in a northwesterly direction to its junction with Secondary Road 1122 in Johnston County.

3. In § 76.2, paragraph (e)(4) relating to the State of Kentucky is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132, 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended, 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments quarantine a portion of Delaware County and an additional portion of Randolph County in Indiana because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined areas.

The amendments exclude a portion of Johnston County in North Carolina and portions of Breckinridge, Hardin, and Meade Counties in Kentucky from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas contained in 9 CFR Part 76, as amended, do not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 apply to the excluded areas. No area in Kentucky remains under quarantine.

Insofar as the amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera, they must be made effective immediately to accomplish their purpose in the public interest. Insofar as the amendments relieve restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera, they should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 27th day of October 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-18829 Filed 11-2-72;8:49 am]

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Release of Areas Quarantined

Pursuant to the provisions of sections 1, 2, 3, and 4 of the Act of March 3, 1905, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, sections 4, 5, 6, and 7 of the Act of May 29, 1884, as amended, and sections 3 and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 112, 113, 115, 117, 120, 123, 124, 125, 126, 134b, 134f), Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

In § 82.3, in paragraph (a)(1) relating to the State of California, in subdivision (iv) relating to Orange County, (*a*) is deleted, and subdivisions (i) relating to Ventura County and (iii) relating to Riverside and San Bernadino Counties are amended to read:

(a) • • •

(1) *California.* (i) That portion of Ventura County bounded by a line beginning at the junction of the north bank of the Santa Clara River and the Pacific Ocean; thence, following the north bank

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of the Santa Clara River in a generally northeasterly direction to the Ventura-Los Angeles County line; thence, following the Ventura-Los Angeles County line in a southeasterly, then generally southwesterly direction to its junction with U.S. Highway 101; thence, following U.S. Highway 101 in a generally northwesterly direction to its junction with the north bank of the Santa Clara River.

• • • • • •

(iii) That portion of San Bernardino and Riverside Counties bounded by a line beginning at the junction of the San Bernardino-Los Angeles County line and the dividing line between T. 2 N. and T. 1 N. of the San Bernardino base line; thence, following the dividing line between T. 2 N. and T. 1 N. in an easterly direction to the San Bernardino meridian in San Bernardino County; thence, following the San Bernardino meridian in a southerly direction to the San Bernardino-Riverside County line; thence, following the San Bernardino-Riverside County line in an easterly direction to the dividing line between R. 3 E. and R. 4 E. of the San Bernardino meridian in San Bernardino County; thence, following the dividing line between R. 3 E. and R. 4 E. in a southerly direction to the dividing line between T. 6 S. and T. 7 S. of the San Bernardino base line; thence, following the dividing line between T. 6 S. and T. 7 S. in a westerly direction to the dividing line between R. 2 W. and R. 3 W. of the San Bernardino meridian; thence, following the dividing line between R. 2 W. and R. 3 W. in a southerly direction to the dividing line between T. 7 S. and T. 8 S. of the San Bernardino base line; thence, following the dividing line between T. 7 S. and T. 8 S. in a westerly direction to the dividing line between R. 3 W. and R. 4 W. of the San Bernardino meridian; thence, following the dividing line between R. 3 W. and R. 4 W. in a northerly direction to the dividing line between T. 7 S. and T. 6 S. of the San Bernardino base line; thence, following the dividing line between T. 7 S. and T. 6 S. in an easterly direction to the western edge of U.S. Highway 395; thence, following the western edge of U.S. Highway 395 in a northwesterly direction to the Riverside-San Bernardino County line; thence, following the Riverside-San Bernardino County line in a westerly, then southwesterly direction to the junction of the Riverside-San Bernardino-Orange County lines; thence, following the San Bernardino-Orange County line in a northwesterly direction to the junction of the San Bernardino-Orange-Los Angeles County lines; thence, following the San Bernardino-Los Angeles County line in a northeasterly direction to its junction with the dividing line between T. 2 N. and T. 1 N. of the San Bernadino base line.

• • • • • •

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; sections 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 115, 117, 120, 123-126, 134b, 134f; 29 F.R. 16210, as amended; 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment excludes portions of Ventura, Riverside, Orange, and San Bernardino Counties in California from the areas quarantined because of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 82.3. Further, the provisions of the regulations relating to movements from nonquarantined areas apply with respect to the dequarantined areas.

The amendment relieves certain restrictions presently imposed but no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to this Department. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 27th day of October 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-18830 Filed 11-2-72;8:49 am]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Amdt. 1]

PART 115—SURETY BOND GUARANTEE

Fees

On September 2, 1972, there was published in the FEDERAL REGISTER (37 F.R. 17980) a notice that the Small Business Administration proposed to change the fee structure of the Surety Bond Guarantee Program by amending Part 115 of Chapter I of Title 13 of the Code of Federal Regulations, § 115.7. Interested parties were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed amendment. No objections have been received, and the proposed amendment is hereby adopted without change and is set forth below.

§ 115.7 Guarantee fees.

(a) An applicant small business concern, being required to provide a bond for performance or payment equivalent to 100 percent of the contract price shall pay to SBA a guarantee fee of 0.2 percent of the contract price upon obtaining the contract.

(b) An applicant small business concern, being required to provide a bond for performance or payment of less than 100 percent of the contract price shall pay the SBA a guarantee fee of 0.2 percent of the contract price or an amount equal to 20 percent of the premium charged by the surety, whichever is less, upon obtaining the contract.

(c) The surety company shall pay to SBA a guarantee fee of 10 percent of its bond premium.

Effective date. This amendment shall be effective as of November 1, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-18839 Filed 11-2-72;8:50 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 72-WE-8-AD; Amdt. 39-1549]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Aircraft With Volpar Tricycle Landing Gears

Beech Models C-45G, TC-45G, C-45H, TC-45H, TC-45J (SNB-5), RC-45J (SNB-5P), D18C, D18S, E18S, E18S-9700, G18S, H18, JRB-6, 3N, 3NM, and 3TM aircraft with Volpar tricycle landing gear (STC SA4-1531, STC SA111WE, STC SA1832WE or any other STC modification incorporating the provisions of this installation).

Amendment 39-1494 (37 F.R. 15421), AD 72-16-2, provides, inter alia, procedures for the inspection and modification of the Beech main landing gear cylinder and top brace assembly, P/N 404-188406, for airplanes with Volpar trigear which do not incorporate the Volpar P/N 859 strap reinforcement. After issuing Amendment 39-1494, the agency determined that inspection and modification of the main landing gear cylinder and top brace assembly can be accomplished without complete disassembly of the main landing gear shock strut. Therefore, paragraph 3 of the AD is being amended to provide procedures for the inspection and modification of the main landing gear cylinder and top brace assembly with the main landing gear shock strut assembled.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1494 (37 F.R. 15421), AD 72-16-2 is amended as follows:

Amend paragraph 3 to read:

3. Main landing gear cylinder and top brace assembly:

a. For airplanes with Volpar trigear which do not incorporate the Volpar P/N 859 strap reenforcement on Beech main landing gear cylinder and top brace assembly P/N 404-188406, inspect the cylinder and top brace assembly for cracks within 50 hours' time in service after the effective date of this amendment to AD 72-16-2, unless already accomplished. For inspection purposes accomplish the following:

(1) Support aircraft on jacks.

(2) Remove main wheel and brake assembly.

(3) Remove main landing gear shock strut assembly from aircraft.

(4) Clean surfaces and inspect the cylinder and top brace assembly for cracks using magnetic particle inspection method per MIL-I-6868 or dye penetrant inspection method "C", type II, per MIL-I-6866.

b. If cracks are found by the inspections per paragraph 3a above, repair in accordance with FAR Part 43 prior to accomplishing modification per paragraph 3c below.

NOTE: The repair is restricted to the areas shown on the attached Figure No. 2. If cracks are found in areas other than shown, disassembled shock strut and replace cylinder and top brace assembly as follows:

(1) Release air charge and remove AN 6286 valve from main landing gear shock strut.

(2) Remove the following components from shock strut:

(a) Cylinder cap assembly P/N 414-188438.

(b) Bracket P/N 709.

(c) Torque links P/N 738 and P/N 706.

(3) Drain oil from the cylinder.

(4) Remove the AN 365-820 nut from the lower end of the piston at the P/N 426 fork.

NOTE: Care must be taken to avoid shearing the roll pin installed on the E-G-H18 aircraft metering rod assembly. Use a ¾-inch socket to hold the upper end of the metering rod. On C-45 and D18 aircraft, a slotted screw driver is used to hold the metering rod.

(5) Remove the P/N 426 fork from the piston by pressing off. Heat may be used on the fork to facilitate removal. Heat to a maximum of 300° F., to 350° F.

(6) Remove the P/N 275 stud from the bottom of the piston and slide piston, metering rod, inner cylinder, and seals from the outer cylinder assembly.

(7) Reverse the above procedure for the assembly of shock strut using a cylinder and top brace assembly that has been inspected and modified in accordance with paragraph 3c below.

(8) Complete a landing gear operational check before returning the aircraft to service.

CAUTION: (a) The AN 936-816 lock washer should be installed on to the threaded portion of the metering rod between the P/N 275 stud and the base of the piston.

(b) The AN 6227-7 "O" ring should be installed in groove on metering rod before installation in the piston.

(c) The 426 fork should not be driven or pressed on to piston with the AN 365 nut. Heat should be used on the P/N 426 fork. Cool piston with ice to allow slide fit, then torque AN 365 nut in place on stud.

c. If no cracks are found by the inspections per paragraph 3a above, modify cylinder and top brace assembly with Volpar P/N 859 strap reinforcement prior to further flight in accordance with the attached figure No. 1.

NOTE: Following the installation of the reinforcement, reinspect the top brace assembly for cracks using magnetic particle inspection method per MIL-I-6868. If cracks are found, repair in accordance with FAR Part 43 prior to further flight.

This amendment becomes effective November 3, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on October 24, 1972.

WILLIAM R. KRIEGER,
Acting Director,
FAA Western Region.

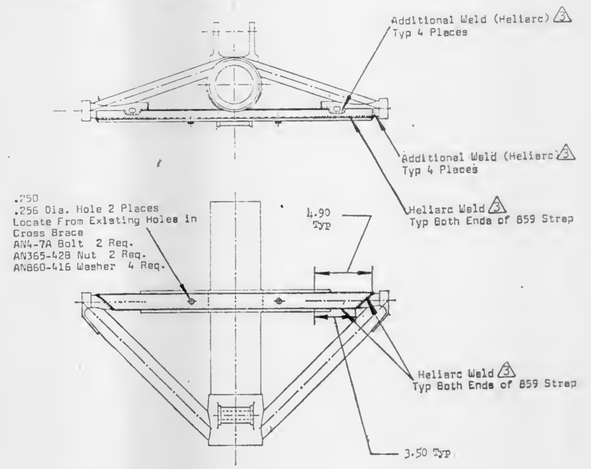

FIGURE NO. 1

5. After Welding, Paint Non-Plated Weld Areas With Zinc Chromate and then Aluminum Lacquer.
4. Heliarc Weld in accordance with the requirements of FAR 43.
3. Before Welding, Remove Cadmium Plating in Areas to be Welded.
2. Magnetic Particle Inspect 404-188406 Cylinder & Top Brace Asst Per Mil-I-6868 Before and After Welding.
1. Disassemble Beech 414-188400-1 or 404-188400-600/-601 Shock Absorber Assy to Obtain 404-188406 Cylinder Top Brace Assy.
Part of Original Airplane. Not Furnished with Kit.

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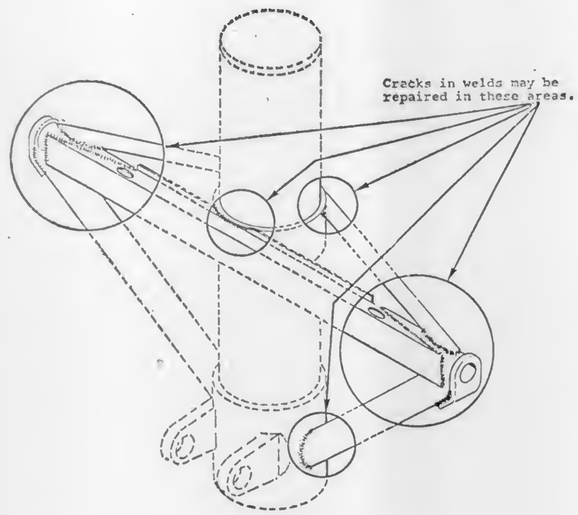

FIGURE NO. 2

[FR Doc.72-18663 Filed 11-2-72;8:45 am]

[Airspace Docket No. 72-PC-3]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone Extension

On September 12, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 18472) stating that the Federal Aviation Administration proposed an amendment to Part 71 of the Federal Aviation Regulations that would increase the Guam (NAS Agana) control zone extension.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No objections were received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 6, 1972, as hereinafter set forth.

GUAM ISLAND (NAS AGANA)

Within a 5-mile radius of NAS Agana (latitude 13°29'00" N., longitude 144°47'00" E.); within 4 miles each side of Agana VORTAC 244° R. (245° T.), extending from the 5-mile radius zone to 8 miles southwest of the VORTAC, and within 1.5 miles each side of the Guam RBN 046° T. bearing, extending from the 5-mile radius zone to 2 miles northeast of the RBN.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Honolulu, Hawaii, on October 25, 1972.

JOHN H. HILTON,
Acting Director,
Pacific-Asia Region.

[FR Doc.72-18798 Filed 11-2-72;8:46 am]

[Airspace Docket No. 72-SW-18]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Jet Route Segments

Correction

In F.R. Doc. 72-16900 appearing on page 20807 in the issue for Wednesday, October 4, 1972, the following changes should be made:

1. The sixth line of paragraph b. should be followed by a closing quotation mark.

2. The fourth line of paragraph c., now reading 'Orleans, La., via" and substitute "Hous-', should read 'Orleans, La., via" and substitute "(Hous-'.

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Sulfamethazine

The Commissioner of Food and Drugs has evaluated evaluated a supplemental new animal drug application (32-378V) filed by Norden Laboratories, Lincoln, Nebr. 68501, proposing revised labeling regarding the safe and effective use of sulfamethazine boluses by deleting reference to "sustained-release". The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), § 135c.10 *Sulfamethazine* is amended in paragraph (d) in the table under the "Limitations" column by deleting the words "sustained-release" and by inserting following the word "bolus" the word "form", and by deleting the phrase "for use by or on the order of a licensed veterinarian" and substituting therefore the phrase "Federal law restricts this drug to use by or on the order of a licensed veterinarian".

Effective date. This order shall become effective upon publication in the FEDERAL REGISTER (11-3-72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: October 27, 1972.

C. D. VAN HOUWELING,
Director, Bureau of
Veterinary Medicine.

[FR Doc.72-18821 Filed 11-2-72;8:50 am]

Chapter II—Bureau of Narcotics and Dangerous Drugs, Department of Justice

PART 308—SCHEDULES OF CONTROLLED SUBSTANCES

Exempt Chemical Preparations

A notice was published in the FEDERAL REGISTER of August 29, 1972 (37 F.R. 17478) proposing that several chemical preparations containing controlled substances be granted the exemptions provided for in § 308.24 of Title 21 of the Code of Federal Regulations. All interested persons were invited to submit objections or comments on the proposal within 30 days after publication. No objections or comments have been received. However, one entry was erroneously made and has been deleted for republication at a later date.

Therefore, under the authority vested in the Attorney General by sections 301 and 501(b) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 821 and 871(b)) and redelegated to the Director of the Bureau of Narcotics and Dangerous Drugs by § 0.100 of Title 28 of the Code of Federal Regulations, the Director hereby orders that Part 308 of Title 21 of the Code of Federal Regulations be amended as follows:

By amending § 308.24(i) by adding the following exempt chemical preparations:

§ 308.24 Exempt chemical preparations.

* * * * * *

(i) * * *

Manufacturer or supplier	Product name and supplier's catalog number	Form of product	Date of application
Corvils Laboratories	Barbital-Acetate Buffer, Powder 709-317	Package: 20 envelopes—10.65 grams per envelope.	7-27-72
Do	Counterelectrophoresis, Plates CEP I 709-304.	Package: 5 plates—18 ml. per plate.	7-27-72
Do	Counterelectrophoresis, Plates CEP II 709-305.	Package: 5 plates—18 ml. per plate.	7-27-72
Do	Counterelectrophoresis, Plates CEP III 709-306.	Package: 5 plates—18 ml. per plate.	7-27-72
Do	Counterelectrophoresis, Plates CEP IV 709-307.	Package: 5 plates—18 ml. per plate.	7-27-72
Do	Counterelectrophoresis, Plates CEP I 709-324.	Package: 10 plates—8.5 ml. per plate.	7-27-72
Do	Counterelectrophoresis, Plates CEP II 709-325.	Package: 10 plates—8.5 ml. per plate.	7-27-72
Do	Counterelectrophoresis, Plates CEP III 709-326.	Package: 10 plates—8.5 ml. per plate.	7-27-72
Do	Counterelectrophoresis, Plates CEP IV 709-327.	Package: 10 plates—8.5 ml. per plate.	7-27-72
Do	GVB[2] Buffer, 753-037	Bottle: 50 ml	7-27-72
Do	Glucose—GVB[2] Buffer, 753-036	Bottle: 50 ml	7-27-72
Do	EDTA (0.04M)—GVB Buffer, 753-034	Bottle: 5 ml	7-27-72
Do	EDTA (0.01M)—GVB Buffer, 753-031	Bottle: 5 ml	7-27-72
Do	5X Isotonic Veronal Buffer	Bottle: 1000 ml	7-27-72

Effective date. This order is effective upon the date of its publication in the FEDERAL REGISTER (11-3-72).

Dated: October 30, 1972.

JOHN E. INGERSOLL,
Director, Bureau of
Narcotics and Dangerous Drugs.

[FR Doc.72-18823 Filed 11-2-72;8:50 am]

Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 20—OCCUPATIONAL TRAINING OF UNEMPLOYED PERSONS

Effective Period of Program

Public Law 92-277 extended title II of the Manpower Development and Training Act for 1 year, from June 30, 1972, to June 30, 1973, and removed the provision which limited expenditures under title II to the 6-month period following the expiration of authority under title II. Section 20.2, Title 29, Code of Federal Regulations, is being amended to conform to Public Law 92-277, and is amended to read as follows:

§ 20.2 Effective period of program.

No commitment of funds shall be made pursuant to the authority conferred upon the Secretary under title II of the Act after June 30, 1973, unless by Act of Congress the Act is extended beyond that date.

(Sec. 207, 76 Stat. 29, 42 U.S.C. 2587)

Signed at Washington, D.C., this 26th day of October 1972.

MALCOLM R. LOVELL,
Assistant Secretary for Manpower.

[FR Doc.72-18869 Filed 11-2-72;8:52 am]

Title 32—NATIONAL DEFENSE

Chapter XVI—Selective Service System

PART 1631—ALLOCATION OF INDUCTIONS

Action of Local Board Upon Receipt of Allocation

Whereas, on September 30, 1972, the Director of Selective Service published a Notice of Proposed Amendments to Selective Service Regulations (37 F.R. 20577), of September 30, 1972; and

Whereas such publication complied with the publication requirement of section 13(b) of the Military Selective Service Act (50 App. U.S.C. sections 451 et seq.) in that more than 30 days have elapsed subsequent to such publication during which period comments from the public have been received and considered; and I certify that I have requested the views of officials named in section 2(a) of Executive Order 11623 and none of them has timely requested that the matter be referred to the President for decision.

Now therefore by virtue of the authority vested in me by the Military Selective Service Act, as amended (50 App. U.S.C. sections 451 et seq.) and Executive Order 11623 of October 12, 1971, the Selective Service Regulations, constitution a portion of Chapter XVI of Title 32 of the Code of Federal Regulations, are hereby amended, effective 11:59, e.s.t., on November 4, 1972, as follows:

Section 1631.6(c)(2)(ii) is amended to read as follows:

§ 1631.6 Action by local board upon receipt of allocation.

* * * * * *

(c) * * *

(2) * * *

(ii) *1971 and later years.* In the calendar year 1971 and each calendar year thereafter, nonvolunteers in Class 1-A, Class 1-A-O, Class 1-O or Class 1-H who prior to January of each such calendar year have attained the age of 19 years but not of 20 years and nonvolunteers who prior to January 1 of each such calendar year have attained the age of 19 but not of 26 years, who do not qualify for the Extended Priority Selection Group as defined in subparagraph (1) or a lower priority selection group as defined in subparagraph (3), and who during that year are classified into Class 1-A, Class 1-A-O, Class 1-O or Class 1-H.

* * * * * *

BYRON V. PEPITONE,
Acting Director.

OCTOBER 31, 1972.

[FR Doc.72-18851 Filed 11-2-72;8:45 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER J—BRIDGES

[CGD 72-213R]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

White River, Ark.

This amendment revokes the regulation for the Missouri and Arkansas Railroad Bridge, mile 172.2, White River, near Georgetown, Ark., because this bridge has been removed.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revoking § 117.583.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Effective date. This revision shall become effective on the date of publication in the FEDERAL REGISTER (11-3-72).

Dated: October 26, 1972.

J. D. MCCANN,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.72-18844 Filed 11-2-72;8:45 am]

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SUBCHAPTER K—SECURITY OF VESSELS

[CGD 72-194R]

PART 121—SPECIAL VALIDATION ENDORSEMENT FOR EMERGENCY SERVICE FOR MERCHANT MARINE PERSONNEL

SUBCHAPTER L—SECURITY OF WATERFRONT FACILITIES

PART 125—IDENTIFICATION CREDENTIALS FOR PERSONS REQUIRING ACCESS TO WATERFRONT FACILITIES OR VESSELS

Revocation of Standard

The amendments in this document to the security regulations revoke one of the standards that the Coast Guard uses to determine whether or not an applicant for a special validation endorsement for emergency service, or a holder of such endorsement, may be precluded from a determination that his character and habits of life are such to warrant the belief that his presence on board vessels of the United States would not be inimical to the security of the United States. This standard is contained in §§ 121.03 (e) and 125.19(e) of Title 33, Code of Federal Regulations, and concerns membership in, or affiliation or sympathetic association with any foreign or domestic organization, association, movement, group, or combination of persons designated by the Attorney General pursuant to Executive Order 10450, as amended.

In a review of its security program, the Coast Guard has determined that the standard contained in §§ 121.03(e) and 125.19(e) is stated in indefinite terms and such vagueness does not fully inform the public of the standard to be applied. This document revokes these sections as an interim measure until a more definitive delineation of the standard to be applied is proposed in the FEDERAL REGISTER.

Since the amendment in this document contains a revocation of a general statement of policy, the exception to the notice of proposed rule making contained in 5 U.S.C. 553(b)(A) applies, and the revocation may be made effective in less than 30 days, as authorized by 5 U.S.C. 553(d)(2).

In consideration of the foregoing, Chapter 1 of Title 33, Code of Federal Regulations is amended as follows:

1. By revoking paragraph (c) of § 121.03.

2. By revoking paragraph (e) of § 125.19.

(Executive Orders 10173, 10277, and 10352, 3 CFR, 1949–53 Comp., pp. 356, 778, and 873; sec. 6(b)(1), 80 Stat. 937; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Effective date. This amendment shall become effective on November 6, 1972.

Dated: October 27, 1972.

C. R. BENDER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.72-18843 Filed 11-2-72;8:45 am]

Title 39—POSTAL SERVICE

Chapter I—U.S. Postal Service

SUBCHAPTER N—PROCEDURES

PART 951—PROCEDURE GOVERNING THE ELIGIBILITY OF PERSONS TO PRACTICE BEFORE THE POSTAL SERVICE

PART 952—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO FALSE REPRESENTATION AND LOTTERY ORDERS

PART 953—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO MAILABILITY

PART 954—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO THE DENIAL, SUSPENSION OR REVOCATION OF SECOND-CLASS MAIL PRIVILEGES

PART 955—RULES OF PRACTICE BEFORE THE BOARD OF CONTRACT APPEALS

PART 957—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO DEBARMENT AND SUSPENSION FROM CONTRACTING

PART 958—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO THE REFUSAL TO RENT OR RENEW POST OFFICES BOXES AND THE CLOSING OF POST OFFICE BOXES

Change of Title of Hearing Examiners; Miscellaneous Amendments

The Judicial Officer pursuant to 39 CFR 222.2(b)(5) has amended the rules of procedure before the Judicial Officer codified in Parts 951–955, 957, and 958. The amendments reflect the change of the title "hearing examiner" to "Administrative Law Judge" in Part 930 of the Civil Service Commission's regulations (5 CFR Part 930) and amendments to the organization regulations of the Postal Service published in the daily issue of September 27, 1972 (37 F.R. 20167). An amendment to § 957.9 conforms terminology in that section to terminology used elsewhere in postal regulations.

The amendments made by the Judicial Officer are set out below and are effective upon publication in the FEDERAL REGISTER (11–3–72).

(39 U.S.C. 204, 401, 404)

ROGER P. CRAIG,
Deputy General Counsel.

ADAM G. WENCHEL,
Judicial Officer.

The rules of practice before the Judicial Officer are amended as follows:

1. Section 952.17 is amended by changing "Chief Hearing Examiner" where it appears in paragraph (a) to "Chief Administrative Law Judge".

2. Section 953.11 is amended by changing "Chief Hearing Examiner" to "Chief Administrative Law Judge."

3. Section 954.14 is amended by changing "Chief Hearing Examiner" where it appears in paragraph (a) to "Chief Administrative Law Judge."

4. Section 955.1 is amended by changing the second sentence of paragraph (b) to read: "The Board is composed of the Judicial Officer as Chairman, the Chief Administrative Law Judge and one other Administrative Law Judge designated by the Chairman."

5. Section 957.9 is amended by striking out "departmental decision" and inserting "Postal Service Decision" in lieu thereof.

6. Section 958.7 is amended by changing "Chief Hearing Examiner" to "Chief Administrative Law Judge."

7. Parts 951–954 and 958 are amended by changing "hearing examiner" and "hearing examiners" wherever those terms appear to "Administrative Law Judge" and "Administrative Law Judges", respectively.

[FR Doc.72-18852 Filed 11-2-72;8:45 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 114—Department of the Interior

PART 114–26—PROCUREMENT SOURCES AND PROGRAMS

PART 114–38—MOTOR EQUIPMENT MANAGEMENT

Miscellaneous Amendments

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301 and section 205(c), 63 Stat. 390; 40 U.S.C. 486(c), Subparts 114–26.4 and 114–38.1 of Chapter 114, Title 41 of the Code of Federal Regulations are amended as set forth below.

These amendments shall become effective on the date of publication in the FEDERAL REGISTER (11–3–72).

CHARLES G. EMILE,
Deputy Assistant
Secretary of the Interior.

OCTOBER 30, 1972.

Subpart 114–26.4—Purchase of Items From Federal Supply Schedule Contractors

The table of contents for Subpart 114–26.4 is amended by deleting the reference to § 114–26.406–6, *Notice to GSA of assignment of billing codes and billing addresses.*

Section 114-26.406–4(b) is revised to read as follows:

§ 114–26.406–4 Administrative control of credit cards.

• • • • •

(b) The head of each bureau and office shall be responsible for establishing procedures to provide for the administrative control of credit cards in accordance with the guidelines set forth in FPMR 101–26.406–4(b).

§ 114–26.406–6 [Deleted]

Section 114–26.406–6 is deleted in its entirety.

Subpart 114–38.1—Reporting Motor Vehicle Data

The table of contents for Subpart 114–38.1 is revised to provide for new entries as follows:

Sec.
114-38.100 Scope of subpart.
114-38.101 Records.
114-38.102 Preparation of Standard Form 82, Agency Report of Motor Vehicle Data.
114-38.102-1 Reporting period and submission.

Authority: The provisions of this Subpart 114-38.1 issued under 5 U.S.C. 301 and section 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 114–38.1 is revised to read as follows:

§ 114–38.100 Scope of subpart.

This subpart sets forth the responsibility of each bureau and office for maintaining inventory, cost, and operating data needed for the management and control of motor vehicles and to fulfill the reporting requirements established herein.

§ 114–38.101 Records.

(a) Accounting records. The head of each bureau and office is responsible for the development and maintenance of motor vehicle cost accounting records, and for the establishment of reporting procedures to insure compliance with the requirements of FPMR 101–38.1 and this Subpart 114–38.1.

(b) Utilization records, bureau-owned vehicles. Heads of bureaus and offices shall establish procedures to insure that:

(1) Records are maintained to reflect utilization data (miles or hours operated) on an individual motor vehicle basis.

(2) Utilization data are recorded each day a vehicle is operated. Data covering two or more short trips during a single day may be combined to record total utilization during that particular day.

(3) The utilization record of each motor vehicle is analyzed not less frequently than once each year by appropriate management officials, and

(4) Any necessary followup action is taken promptly to achieve maximum effective utilization at the minimum cost.

(c) Utilization records, interagency motor pool vehicles. Utilization records on interagency motor pool vehicles shall be recorded and reported in accordance with instructions issued by GSA regional offices and individual motor pools.

(d) Operator's record, Form DI–120, Operator's Record, may be used for recording utilization data prescribed in IPMR 114–38.103(b). This form is available on requisition from the Branch of Supply, Division of General Services, Office of Management Operations, Washington, D.C.

§ 114–38.102 Preparation of Standard Form 82, Agency Report of Motor Vehicle Data.

Each bureau and office which owns and/or rents motor vehicles shall prepare and submit a consolidated Standard Form 82, Agency Report of Motor Vehicle Data. Only the applicable portions of Standard Form 82 need to be completed if a bureau or office operates only rental vehicles. Section II is to be completed only by those bureaus having accountability for a fleet of 2,000 or more vehicles.

§ 114–38.102–1 Reporting period and submission.

Standard Form 82 shall be prepared as of June 30 of each year and submitted in triplicate, to reach the Director of Management Operations by September 1 of each year.

[FR Doc.72-18791 Filed 11-2-72;8:46 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Salt Meadow National Wildlife Refuge, Conn.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11–3–72).

§ 28.28 Special regulations; public access, use, and recreation; for individual wildlife refuge areas.

CONNECTICUT

SALT MEADOW NATIONAL WILDLIFE REFUGE

Entry onto the refuge, by foot, is permitted during daylight hours, by advanced reservation only, for the purpose of environmental education studies, hiking, and photography. Entrance permits may be obtained for specific dates, by mail, from the Refuge Manager, Great Meadows National Wildlife Refuge, 191 Sudbury Road, Concord, MA 01742. Motor vehicles are limited to the designated parking areas. Pets are not permitted on the refuge unless authorized in the entrance permit.

Information about the refuge, which comprises approximately 180 acres, is available from the Refuge Manager, Great Meadows National Wildlife Refuge, 191 Sudbury Road, Concord, MA 01742, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1972.

RICHARD E. GRIFFITH,
Regional Director, Bureau of
Sport Fisheries and Wildlife.

OCTOBER 26, 1972.

[FR Doc.72-18790 Filed 11-2-72;8:46 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7216]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Determination of Income Effectively Connected With U.S. Business of Nonresident Aliens or Foreign Corporations

On January 23, 1969, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) to conform the regulations to section 864(c) of the Internal Revenue Code of 1954, relating to rules for determining income effectively connected with the U.S. business of nonresident alien individuals or foreign corporations, as added by section 102(d) of the Foreign Investors Tax Act of 1966 (80 Stat. 1544), was published in the FEDERAL REGISTER (34 F.R. 1030). Further, on January 23, 1971, notice of proposed rule making withdrawing a portion of the proposed regulations contained in the previous notice and proposing regulations in lieu thereof was published in the FEDERAL REGISTER (36 F.R. 1149). After consideration of all relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Section 1.864–3, as set forth in paragraph 2 of the notice of proposed rule making, is changed by revising example (2) of paragraph (b) thereof and by adding a new example (3) to such paragraph. These revised and added provisions read as set forth below.

PAR. 2. Paragraph (c) of § 1.864–4, as set forth in paragraph 2 of the notice of proposed rule making, is changed by revising subdivision (ii) of subparagraph (1), by revising subdivisions (i) and (iii) (b) of subparagraph (2), by revising subdivision (i) of subparagraph (3), and by revising subdivisions (i), (ii), (iii),

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(vi), and (vii) of subparagraph (5). These revised provisions read as set forth below.

PAR. 3. Section 1.864–5, as set forth in paragraph 2 of the notice of proposed rule making, is changed by revising paragraph (a), by revising paragraph (b)(2)(i), the example in paragraph (b)(2)(ii), and paragraph (b)(3)(i), by adding a new subdivision (iii) to paragraph (b)(3), by revising paragraph (c)(1), by revising that part of paragraph (d)(2) that precedes the examples therein, and by revising paragraph (d)(3). These revised and added provisions read as follows:

PAR. 4. Section 1.864–6, as set forth in paragraph 2 of the notice of proposed rule making, is changed by revising paragraph (a), by revising paragraph (b)(1), (2), and (3)(i), and by revising paragraph (c)(1) and (2) and example (1) in paragraph (c)(3). These revised provisions read as set forth below.

PAR. 5. Section 1.864–7 is changed by revising paragraphs (c), (d)(1), (2), and (3)(i) and (ii), (e), and (f), by revising example (1) in paragraph (g), and by adding new examples (4), (5), and (6) in paragraph (g), as set forth below.

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: October 31, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

PARAGRAPH 1. Section 1.864 is amended by adding a subsection (c) to section 864 as follows and by leaving the historical note unchanged:

§ 1.864 Statutory provisions; definitions.

SEC. 864. *Definitions.* * * *

(c) *Effectively connected income, etc.*—

(1) *General rule.* For purposes of this title—

(A) In the case of a nonresident alien individual or a foreign corporation engaged in trade or business within the United States during the taxable year, the rules set forth in paragraphs (2), (3), and (4) shall apply in determining the income, gain, or loss which shall be treated as effectively connected with the conduct of a trade or business within the United States.

(B) Except as provided in section 871(d) or sections 882 (d) and (e), in the case of a nonresident alien individual or a foreign corporation not engaged in trade or business within the United States during the taxable year, no income, gain, or loss shall be treated as effectively connected with the conduct of a trade or business within the United States.

(2) *Periodical, etc., income from sources within United States—Factors.* In determining whether income from sources within the United States of the types described in section 871(a)(1) or section 881(a), or whether gain or loss from sources within the United States from the sale or exchange of capital assets, is effectively connected with the conduct of a trade or business within the United States, the factors taken into account shall include whether—

(A) The income, gain, or loss is derived from assets used in or held for use in the conduct of such trade or business, or

(B) The activities of such trade or business were a material factor in the realization of the income, gain, or loss.

In determining whether an asset is used in or held for use in the conduct of such trade or business or whether the activities of such trade or business were a material factor in realizing an item of income, gain, or loss, due regard shall be given to whether or not such asset or such income, gain, or loss was accounted for through such trade or business. In applying this paragraph and paragraph (4), interest referred to in section 861(a)(1)(A) shall be considered income from sources within the United States.

(3) *Other income from sources within United States.* All income, gain, or loss from sources within the United States (other than income, gain, or loss to which paragraph (2) applies) shall be treated as effectively connected with the conduct of a trade or business within the United States.

(4) *Income from sources without United States.*—

(A) Except as provided in subparagraphs (B) and (C), no income, gain, or loss from sources without the United States shall be treated as effectively connected with the conduct of a trade or business within the United States.

(B) Income, gain, or loss from sources without the United States shall be treated as effectively connected with the conduct of a trade or business within the United States by a nonresident alien individual or a foreign corporation if such person has an office or other fixed place of business within the United States to which such income, gain, or loss is attributable and such income, gain, or loss—

(i) Consists of rents or royalties for the use of or for the privilege of using intangible property described in section 862(a)(4) (including any gain or loss realized on the sale of such property) derived in the active conduct of such trade or business;

(ii) Consists of dividends or interest, or gain or loss from the sale or exchange of stock or notes, bonds, or other evidences of indebtedness, and either is derived in the active conduct of a banking, financing, or similar business within the United States or is received by a corporation the principal business of which is trading in stocks or securities for its own account; or

(iii) Is derived from the sale (without the United States) through such office or other fixed place of business of personal property described in section 1221(1), except that this clause shall not apply if the property is sold for use, consumption, or disposition outside the United States and an office or other fixed place of business of the taxpayer outside the United States participated materially in such sale.

(C) In the case of a foreign corporation taxable under part I of subchapter L, any income from sources without the United States which is attributable to its U.S. business shall be treated as effectively connected with the conduct of a trade or business within the United States.

(D) No income from sources without the United States shall be treated as effectively connected with the conduct of a trade or business within the United States if it either—

(i) Consists of dividends, interest, or royalties paid by a foreign corporation in which the taxpayer owns (within the meaning of section 958(a)), or is considered as owning (by applying the ownership rules of section 958(b)), more than 50 percent of the total combined voting power of all classes of stock entitled to vote, or

(ii) Is subpart F income within the meaning of section 952(a).

(5) *Rules for application of paragraph (4)(B).* For purposes of subparagraph (B) of paragraph (4)—

(A) In determining whether a nonresident alien individual or a foreign corporation has an office or other fixed place of business, an office or other fixed place of business of an agent shall be disregarded unless such agent (i) has the authority to negotiate and conclude contracts in the name of the nonresident alien individual or foreign corporation and regularly exercises that authority or has a stock of merchandise from which he regularly fills orders on behalf of such individual or foreign corporation, and (ii) is not a general commission agent, broker, or other agent of independent status acting in the ordinary course of his business.

(B) Income, gain, or loss shall not be considered as attributable to an office or other fixed place of business within the United States unless such office or fixed place of business is a material factor in the production of such income, gain, or loss and such office or fixed place of business regularly carries on activities of the type from which such income, gain, or loss is derived, and

(C) The income, gain, or loss which shall be attributable to an office or other fixed place of business within the United States shall be the income, gain, or loss property allocable thereto, but, in the case of a sale described in clause (iii) of such subparagraph, the income which shall be treated as attributable to an office or other fixed place of business within the United States shall not exceed the income which would be derived from sources within the United States if the sale were made in the United States.

PAR. 2. The following new sections are added immediately after § 1.864–2:

§ 1.864–3 Rules for determining income effectively connected with U.S. business of nonresident aliens or foreign corporations.

(a) *In general.* For purposes of the Internal Revenue Code, in the case of a nonresident alien individual or a foreign corporation that is engaged in a trade or business in the United States at any time during the taxable year, the rules set forth in §§ 1.864–4 through 1.864–7 and this section shall apply in determining whether income, gain, or loss shall be treated as effectively connected for a taxable year beginning after December 31, 1966, with the conduct of a trade or business in the United States. Except as provided in sections 871 (c) and (d) and 882 (d) and (e), and the regulations thereunder, in the case of a nonresident alien individual or a foreign corporation that is at no time during the taxable year engaged in a trade or business in the United States, no income, gain, or loss shall be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States. The general rule prescribed by the preceding sentence shall apply even though the income, gain, or loss would have been treated as effectively connected with the conduct of a trade or business in the United States if such income or gain had been received or accrued, or such loss had been sustained, in an earlier taxable year when the taxpayer was engaged in a trade or business in the United States. In applying §§ 1.864–4 through 1.864–7 and this section, the determination whether an item of income, gain, or loss is effectively connected with the conduct of a trade or business in the United States shall not be controlled by any administrative, judicial, or other interpretation made under the laws of any foreign country.

(b) *Illustrations.* The application of this section may be illustrated by the following examples:

Example (1). During 1967 foreign corporation N, which uses the calendar year as the taxable year, is engaged in the business of purchasing and selling household equipment on the installment plan. During 1967 N is engaged in business in the United States by reason of the sales activities it carries on in the United States for the purpose of selling therein some of the equipment which it has purchased. During 1967 N receives installment payments of $800,000 on sales it makes that year in the United States, and the income from sources within the United States for 1967 attributable to such payments is $200,000. By reason of section 864(c)(3) and paragraph (b) of § 1.864–4 this income of $200,000 is effectively connected for 1967 with the conduct of a trade or business in the United States by N. In December of 1967, N discontinues its efforts to make any further sales of household equipment in the United States, and at no time during 1968 is N engaged in a trade or business in the United States. During 1968 N receives installment payments of $500,000 on the sales it made in the United States during 1967, and the income from sources within the United States for 1968 attributable to such payments is $125,000. By reason of section 864(c)(1)(B) and this section, this income of $125,000 is not effectively connected for 1968 with the conduct of a trade or business in the United States by N, even though such amount, if it had been received by N during 1967, would have been effectively connected for 1967 with the conduct of a trade or business in the United States by that corporation.

Example (2). R, a foreign holding company, owns all of the voting stock in five corporations, two of which are domestic corporations. All of the subsidiary corporations are engaged in the active conduct of a trade or business. R has an office in the United States where its chief executive officer, who is also the chief executive officer of one of the domestic corporations, spends a substantial portion of the taxable year supervising R's investment in its operating subsidiaries and performing his function as chief executive officer of the domestic operating subsidiary. R is not considered to be engaged in a trade or business in the United States during the taxable year by reason of the activities carried on in the United States by its chief executive officer in the supervision of its investment in its operating subsidiary corporations. Accordingly, the dividends from sources within the United States received by R during the taxable year from its domestic subsidiary corporations are not effectively connected for that year with the conduct of a trade or business in the United States by R.

Example (3). During the months of June through December 1971, B, a nonresident alien individual who uses the calendar year as the taxable year and the cash receipts and disbursements method of accounting, is employed in the United States by domestic corporation M for a salary of $2,000 per month, payable semimonthly. During 1971, B receives from M salary payments totaling $13,000, all of which income by reason of section 864(c)(2) and paragraph (c)(6)(ii) of § 1.864–4, is effectively connected for 1971 with the conduct of a trade or business in the United States by B. On December 31, 1971, B terminates his employment with M and departs from the United States. At no time during 1972 is B engaged in a trade or business in the United States. In January of 1972, B receives from M salary of $1,000 for the last half of December 1971, and a bonus of $1,000 in consideration of the services B performed in the United States during 1971 for that corporation. By reason of section 864(c)(1)(B) and this section, the $2,000 received by B during 1972 from sources within the United States is not effectively connected for that year with the conduct of a trade or business in the United States, even though such amount, if it had been received by B during 1971, would have been effectively connected for 1971 with the conduct of a trade or business in the United States by B.

§ 1.864–4 U.S. source income effectively connected with U.S. business.

(a) *In general.* This section applies only to a nonresident alien individual or a foreign corporation that is engaged in a trade or business in the United States at some time during a taxable year beginning after December 31, 1966, and to the income, gain, or loss of such person from sources within the United States. If the income, gain, or loss of such person for the taxable year from sources within the United States consists of (1) gain or loss from the sale or exchange of capital assets or (2) fixed or determinable annual or periodical gains, profits, and income or certain other gains described in section 871(a)(1) or 881(a), certain factors must be taken into account, as prescribed by section 864(c)(2) and paragraph (c) of this section, in order to determine whether the income, gain, or loss is effectively connected for the taxable year with the conduct of a trade or business in the United States by that person. All other income, gain, or loss of such person for the taxable year from sources within the United States shall be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States by that person, as prescribed by section 864(c)(3) and paragraph (b) of this section.

(b) *Income other than fixed or determinable income and capital gains.* All income, gain, or loss for the taxable year derived by a nonresident alien individual or foreign corporation engaged in a trade or business in the United States from sources within the United States which does not consist of income, gain, or loss described in section 871(a)(1) or 881(a), or of gain or loss from the sale or exchange of capital assets, shall, for purposes of paragraph (a) of this section, be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States, whether or not the income, gain, or loss is derived from the trade or business being carried on in the United States during the taxable year. The application of this paragraph may be illustrated by the following examples:

Example (1). M, a foreign corporation which uses the calendar year as the taxable year, is engaged in the business of manufacturing machine tools in a foreign country. It establishes a branch office in the United States during 1968 which solicits orders from customers in the United States for the machine tools manufactured by that corporation. All negotiations with respect to such sales are carried on in the United States. By reason of its activity in the United States M is engaged in business in the United States during 1968. The income or loss from sources within the United States from such sales during 1968 is treated as effectively connected for that year with the conduct of a business in the United States by M. Occasionally, during 1968 the customers in the United States write directly to the home office of M, and the home office makes sales directly to such customers without routing the transactions through its branch office in the United States. The income or loss from sources within the United States for 1968 from these occasional direct sales by the home office is also treated as effectively connected for that year with the conduct of a business in the United States by M.

Example (2). The facts are the same as in example (1) except that during 1967 M was also engaged in the business of purchasing and selling office machines and that it used the installment method of accounting for the sales made in this separate business. During 1967 M was engaged in business in the United States by reason of the sales activities it carried on in the United States for the purpose of selling therein a number of the office machines which it had purchased. Although M discontinued this business activity in the United States in December of 1967, it received in 1968 some installment payments on the sales which it had made in the United States during 1967. The income of M for 1968 from sources within the United States which is attributable to such installment payments is effectively connected for 1968 with the conduct of a business in the United States, even though such income is not connected with the business carried on in the United States during 1968 through its sales office located in the United States for the solicitation of orders for the machine tools it manufactures.

Example (3). Foreign corporation S, which uses the calendar year as the taxable year, is engaged in the business of purchasing and selling electronic equipment. The home office of such corporation is also engaged in the business of purchasing and selling vintage wines. During 1968, S establishes a branch office in the United States to sell electronic equipment to customers, some of whom are located in the United States and the balance, in foreign countries. This branch office is not equipped to sell, and does not participate in sales of, wine purchased by the home office. Negotiations for the sales of the electronic equipment take place in the United States. By reason of the activity of its branch office in the United States, S is engaged in business in the United States during 1968. As a result of advertisements which the home office of S places in periodicals sold in the United States, customers in the United States frequently place orders for the purchase of wines with the home office in the foreign country, and the home office makes sales of wine in 1968 directly to such customers without routing the transactions through its branch office in the United States. The income or loss from sources within the United States for 1968 from sales of electronic equipment by the branch office, together with the income or loss from sources within the United States for that

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year from sales of wine by the home office, is treated as effectively connected for that year with the conduct of a business in the United States by S.

(c) *Fixed or determinable income and capital gains*—(1) *Principal factors to be taken into account*—(i) *In general.* In determining for purposes of paragraph (a) of this section whether any income for the taxable year from sources within the United States which is described in section 871(a)(1) or 881(a), relating to fixed or determinable annual or periodical gains, profits, and income and certain other gains, or whether gain or loss from sources within the United States for the taxable year from the sale or exchange of capital assets, is effectively connected for the taxable year with the conduct of a trade or business in the United States, the principal tests to be applied are (*a*) the asset-use test, that is, whether the income, gain, or loss is derived from assets used in, or held for use in, the conduct of the trade or business in the United States, and (*b*) the business-activities test, that is, whether the activities of the trade or business conducted in the United States were a material factor in the realization of the income, gain, or loss.

(ii) *Special rule relating to interest on certain deposits.* For purposes of determining under section 861(a)(1)(A) (relating to interest on deposits with banks, savings and loan associations, and insurance companies paid or credited before Jan. 1, 1976) whether the interest described therein is effectively connected for the taxable year with the conduct of a trade or business in the United States, such interest shall be treated as income from sources within the United States for purposes of applying this paragraph and § 1.864–5. If by reason of the application of this paragraph such interest is determined to be income which is not effectively connected for the taxable year with the conduct of a trade or business in the United States, it shall then be treated as interest from sources without the United States which is not subject to the application of § 1.864–5.

(2) *Application of the asset-use test*—(i) *In general.* For purposes of subparagraph (1) of this paragraph, the asset-use test ordinarily shall apply in making a determination with respect to income, gain, or loss of a passive type where the trade or business activities as such do not give rise directly to the realization of the income, gain, or loss. However, even in the case of such income, gain, or loss, any activities of the trade or business which materially contribute to the realization of such income, gain, or loss shall also be taken into account as a factor in determining whether the income, gain, or loss is effectively connected with the conduct of a trade or business in the United States. The asset-use test is of primary significance where, for example, interest or dividend income is derived from sources within the United States by a nonresident alien individual or foreign corporation that is engaged in the business of manufacturing or selling goods in the United States. See also subparagraph (5) of this paragraph for rules applicable to taxpayers conducting a banking, financing, or similar business in the United States.

(ii) *Cases where applicable.* Ordinarily, an asset shall be treated as used in, or held for use in, the conduct of a trade or business in the United States if the asset is—

(*a*) Held for the principal purpose of promoting the present conduct of the trade or business in the United States, as, for example, in the case of stock acquired and held to assure a constant source of supply for the trade or business, or

(*b*) Acquired and held in the ordinary course of the trade or business conducted in the United States, as, for example, in the case of an account or note receivable arising from that trade or business, or

(*c*) Otherwise held in a direct relationship to the trade or business conducted in the United States, as determined under subdivision (iii) of this subparagraph.

(iii) *Direct relationship between holding of asset and trade or business*—(*a*) *In general.* In determining whether an asset is held in a direct relationship to the trade or business conducted in the United States, principal consideration shall be given to whether the asset is needed in that trade or business. An asset shall be considered needed in a trade or business, for this purpose, only if the asset is held to meet the present needs of that trade or business and not its anticipated future needs. An asset shall be considered as needed in the trade or business conducted in the United States if, for example, the asset is held to meet the operating expenses of that trade or business. Conversely, an asset shall be considered as not needed in the trade or business conducted in the United States if, for example, the asset is held for the purpose of providing for (*1*) future diversification into a new trade or business, (*2*) expansion of trade or business activities conducted outside of the United States, (*3*) future plant replacement, or (*4*) future business contingencies.

(*b*) *Presumption of direct relationship.* Generally, an asset will be treated as held in a direct relationship to the trade or business if (*1*) the asset was acquired with funds generated by that trade or business, (*2*) the income from the asset is retained or reinvested in that trade or business, and (*3*) personnel who are present in the United States and actively involved in the conduct of that trade or business exercise significant management and control over the investment of such asset.

(iv) *Illustrations.* The application of this subparagraph may be illustrated by the following examples:

Example (1). M, a foreign corporation which uses the calendar year as the taxable year, is engaged in industrial manufacturing in a foreign country. M maintains a branch in the United States which acts as importer and distributor of the merchandise it manufactures abroad; by reason of these branch activities, M is engaged in business in the United States during 1968. The branch in the United States is required to hold a large current cash balance for business purposes, but the amount of the cash balance so required varies because of the fluctuating seasonal nature of the branch's business. During 1968 at a time when large cash balances are not required the branch invests the surplus amount in U.S. Treasury bills. Since these Treasury bills are held to meet the present needs of the business conducted in the United States they are held in a direct relationship to that business, and the interest for 1968 on these bills is effectively connected for that year with the conduct of the business in the United States by M.

Example (2). R, a foreign corporation engaged in the manufacture of goods, maintains a factory at its branch in the United States and by reason of its activities therein is engaged in business in the United States during the taxable year 1968. R engages a stock brokerage firm in the United States to manage its securities which were purchased with funds from R's general surplus reserves. The brokerage firm is engaged by the U.S. branch and is instructed to deposit all income and gains derived from the securities in the New York bank account of the U.S. branch. The funds invested in these securities are not necessary to provide for the present needs of the U.S. branch. Accordingly, the securities are not held in a direct relationship to the business conducted in the United States by R, and all such income and gains for 1968 from sources within the United States are not effectively connected for that year with the conduct of the business in the United States.

Example (3). S, a foreign corporation which uses the calendar year as the taxable year, is engaged in the manufacture of goods in a foreign country. S maintains a branch in the United States and by reason of the activities of that branch is engaged in business in the United States during 1968. S invests excess cash, which is generated by the U.S. branch but not currently needed in the business of the branch, in securities issued by domestic corporations. The securities are held in the name of S in a brokerage office in the United States, which receives and remits all income from the securities to S's home office abroad. The officers of the U.S. branch have authority to manage the securities held in the brokerage account of S. Any dividends and interest on the securities for 1968, and any gain or loss for that year resulting from the sale or exchange of the securities, are not effectively connected for 1968 with the conduct of the business in the United States by S, because the securities are not held to meet the present needs of that business and thus are not held in a direct relationship to that business.

Example (4). F, a foreign corporation which uses the calendar year as the taxable year, is engaged in business in the United States during 1968 through its manufacturing branch in the United States. The branch holds on its books stock in domestic corporation D, a wholly owned subsidiary of F. There is no relationship between the business of D and the business of F's branch in the United States, and the officers of D report to the home office of F and not to its U.S. branch. Dividends paid on the stock in D are paid to F's branch in the United States and are mingled with its general funds, but the U.S. branch has no present need in its business operations for the cash so received. Since the stock in D is not held in a direct relationship to the business conducted in the United States by F, any dividends received by F during 1968 on such stock are not effectively connected for that year with the conduct of that business.

Example (5). Foreign corporation M, which uses the calendar year as the taxable year, has a branch office in the United States where it sells to customers located in the United States various products which are manufactured by that corporation in a foreign country. By reason of this activity M is engaged in business in the United States during 1968. The U.S. branch establishes in 1968 a fund to which are periodically credited various amounts which are derived from the business carried on at such branch. The amounts in this fund are invested in various securities issued by domestic corporations by the managing officers of the U.S. branch, who have the responsibility for maintaining proper investment diversification and investment of the fund. During 1968, the branch office derives from sources within the United States dividends on these securities, and gains and losses resulting from the sale or exchange of such securities. Since the securities were acquired with amounts generated by the business conducted in the United States, the dividends are retained in that business, and the portfolio is managed by personnel actively involved in the conduct of that business, the securities are presumed under subdivision (iii)(*b*) of this subparagraph to be held in a direct relationship to that business. However, M is able to rebut this presumption by demonstrating that the fund was established to carry out a program of future expansion and not to meet the present needs of the business conducted in the United States. Consequently, the income, gains, and losses from the securities for 1968 are not effectively connected for that year with the conduct of a trade or business in the United States by M.

(3) *Application of the business-activities test*—(i) *In general.* For purposes of subparagraph (1) of this paragraph, the business-activities test shall ordinarily apply in making a determination with respect to income, gain, or loss which, even though generally of the passive type, arises directly from the active conduct of the taxpayer's trade or business in the United States. The business-activities test is of primary significance, for example, where (*a*) dividends, interest, or gain or loss are derived by a dealer in stocks or securities, or similar business, (*b*) royalties are derived in the active conduct of a business consisting of the licensing of patents or similar intangible property, or (*c*) service fees are derived in the active conduct of a servicing business. In applying the business-activities test, activities relating to the management of investment portfolios shall not be treated as activities of the trade or business conducted in the United States unless the maintenance of the investments constitutes the principal activity of that trade or business. See also subparagraph (5) of this paragraph for rules applicable to taxpayers conducting a banking, financing, or similar business in the United States.

(ii) *Illustrations.* The application of this subparagraph may be illustrated by the following examples:

Example (1). Foreign corporation S is a foreign investment company organized for the purpose of investing in stocks and securities. S is not a personal holding company or a corporation which would be a personal holding company but for section 542(c)(7) or 543(b)(1)(C). Its investment portfolios consist of common stocks issued by both foreign and domestic corporations and a substantial amount of high grade bonds. The business activity of S consists of the management of its portfolios for the purpose of investing, reinvesting, or trading in stocks and securities. During the taxable year 1968, S has its principal office in the United States within the meaning of paragraph (c)(2)(iii) of § 1.864–2 and, by reason of its trading in the United States in stocks and securities, is engaged in business in the United States. The dividends and interest derived by S during 1968 from sources within the United States, and the gains and losses from sources within the United States for such year from the sale of stocks and securities from its investment portfolios, are effectively connected for 1968 with the conduct of the business in the United States by that corporation, since its activities in connection with the management of its investment portfolios are activities of that business and such activities are a material factor in the realization of such income, gains, and losses.

Example (2). N, a foreign corporation which uses the calendar year as the taxable year, has a branch in the United States which acts as an importer and distributor of merchandise; by reason of the activities of that branch, N is engaged in business in the United States during 1968. N also carries on a business in which it licenses patents to unrelated persons in the United States for use in the United States. The businesses of the licensees in which these patents are used have no direct relationship to the business carried on in N's branch in the United States, although the merchandise marketed by the branch is similar in type to that manufactured under the patents. The negotiations and other activities leading up to the consummation of these licenses are conducted by employees of N who are not connected with the U.S. branch of that corporation, and the U.S. branch does not otherwise participate in arranging for the licenses. Royalties received by N during 1968 from these licenses are not effectively connected for that year with the conduct of its business in the United States because the activities of that business are not a material factor in the realization of such income.

(4) *Method of accounting as a factor.* In applying the asset-use test or the business-activities test described in subparagraph (1) of this paragraph, due regard shall be given to whether or not the asset, or the income, gain, or loss, is accounted for through the trade or business conducted in the United States, that is, whether or not the asset, or the income, gain, or loss, is carried on books of account separately kept for that trade or business, but this accounting test shall not by itself be controlling. In applying this subparagraph, consideration shall be given to whether the accounting treatment of an item reflects the consistent application of generally accepted accounting principles in a particular trade or business in accordance with accepted conditions or practices in that trade or business and whether there is a consistent accounting treatment of that item from year to year by the taxpayer.

(5) *Special rules relating to banking, financing, or similar business activity*—(i) *Definition of banking, financing, or similar business.* A nonresident alien individual or a foreign corporation shall be considered for purposes of this section and paragraph (b)(2) of § 1.864–5 to be engaged in the active conduct of a banking, financing, or similar business in the United States if at some time during the taxable year the taxpayer is engaged in business in the United States and the activities of such business consist of any one or more of the following activities carried on, in whole or in part, in the United States in transactions with persons situated within or without the United States:

(*a*) Receiving deposits of funds from the public,

(*b*) Making personal, mortgage, industrial, or other loans to the public,

(*c*) Purchasing, selling, discounting, or negotiating for the public on a regular basis, notes, drafts, checks, bills of exchange, acceptances, or other evidences of indebtedness,

(*d*) Issuing letters of credit to the public and negotiating drafts drawn thereunder,

(*e*) Providing trust services for the public, or

(*f*) Financing foreign exchange transactions for the public.

Although the fact that the taxpayer is subjected to the banking and credit laws of a foreign country shall be taken into account in determining whether he is engaged in the active conduct of a banking, financing, or similar business, the character of the business actually carried on during the taxable year in the United States shall determine whether the taxpayer is actively conducting a banking, financing, or similar business in the United States. A foreign corporation which acts merely as a financing vehicle for borrowing funds for its parent corporation or any other person who would be a related person within the meaning of section 954(d)(3) if such foreign corporation were a controlled foreign corporation shall not be considered to be engaged in the active conduct of a banking, financing, or similar business in the United States.

(ii) *Effective connection of income from stocks or securities with active conduct of a banking, financing, or similar business.* Notwithstanding the rules in subparagraphs (2) and (3) of this paragraph with respect to the asset-use test and the business-activities test, any dividends or interest from stocks or securities, or any gain or loss from the sale or exchange of stocks or securities which are capital assets, which is from sources within the United States and derived by a nonresident alien individual or a foreign corporation in the active conduct during the taxable year of a banking, financing, or similar business in the United States shall be treated as effectively connected for such year with the conduct of that business only if the stocks or securities giving rise to such income, gain, or loss are attributable to the U.S. office through which such business is carried on and—

(*a*) Were acquired—

(*1*) As a result of, or in the course of making loans to the public,

(*2*) In the course of distributing such stocks or securities to the public, or

(*3*) For the purpose of being used to satisfy the reserve requirements, or other

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requirements similar to reserve requirements, established by a duly constituted banking authority in the United States, or

(b) Consist of securities (as defined in subdivision (v) of this subparagraph) which are—

(1) Payable on demand or at a fixed maturity date not exceeding 1 year from the date of acquisition.

(2) Issued by the United States, or any agency or instrumentality thereof, or

(3) Not described in (a) or in (1) or (2) of this (b).

However, the amount of interest from securities described in (b)(3) of this subdivision (ii) which shall be treated as effectively connected for the taxable year with the active conduct of a banking, financing, or similar business in the United States shall be an amount (but not in excess of the entire interest for the taxable year from sources within the United States from such securities) determined by multiplying the entire interest for the taxable year from sources within the United States from such securities by a fraction the numerator of which is 10 percent and the denominator of which is the same percentage, determined on the basis of a monthly average for the taxable year, as the book value of the total of such securities held by the U.S. office through which such business is carried on bears to the book value of the total assets of such office. The amount of gain or loss, if any, for the taxable year from the sale or exchange of such securities which shall be treated as effectively connected for the taxable year with the active conduct of a banking, financing, or similar business in the United States shall be an amount (but not in excess of the entire gain or loss for the taxable year from sources within the United States from the sale or exchange of such securities) determined by multiplying the entire gain or loss for the taxable year from sources within the United States from the sale or exchange of such securities by the fraction described in the immediately preceding sentence. The percentage of the denominator of the limiting fraction for such purposes shall be the percentage obtained by separately adding the book value of such securities and such total assets held at the close of each month in the taxable year, dividing each such sum by 12, and then dividing the amount of securities so obtained by the amount of assets so obtained. This subdivision does not apply to dividends from stock owned by a foreign corporation in a domestic corporation of which more than 50 percent of the total combined voting power of all classes of stock entitled to vote is owned by such foreign corporation and which is engaged in the active conduct of a banking business in the United States. The application of this subdivision may be illustrated by the following example:

Example. Foreign corporation M, created under the laws of foreign country Y, has in the United States a branch, B, which during the taxable year is engaged in the active conduct of the banking business in the United States within the meaning of subdivision (i) of this subparagraph. During the taxable year M derives from sources within the United States through the activities carried on through B, $7,500,000 interest from securities described in subdivision (b)(3) of this subdivision (ii) and $7,500,000 gain from the sale or exchange of such securities. The monthly average, determined as of the last day of each month in the taxable year, of such securities held by B divided by the monthly average, as so determined, of the total assets held by B equals 15 percent. Under this subdivision, the amount of interest income from such securities that shall be treated as effectively connected for the taxable year with the active conduct by M of a banking business in the United States is $5 million ($7,500,000 interest × 10%/15%), and the amount of gain from the sale or exchange of such securities that shall be treated as effectively connected for such year with the active conduct of such business is $5 million ($7,500,000 gain × 10%/15%).

(iii) *Stocks or securities attributable to U.S. office*—(a) *In general.* For purposes of subdivision (ii) of this subparagraph, a stock or security shall be deemed to be attributable to a U.S. office only if—

(1) Such office actively participated in soliciting, negotiating, or performing other activities required to arrange, the acquisition of such stock or security, and

(2) Such stock or security is or was held in the United States by or for such office and recorded on its books or records as having been purchased or acquired by such office or for its account.

(b) *Exceptions.* A stock or security shall not be deemed to be attributable to a U.S. office merely because such office conducts one or more of the following activities:

(1) Collects or accounts for the dividends, interest, gain, or loss from such stock or security,

(2) Exercises general supervision over the activities of the persons directly responsible for carrying on the activities described in (a)(1) of this subdivision,

(3) Performs merely clerical functions incident to the acquisition of such stock or security, or

(4) Exercises final approval over the execution of the acquisition of such stock or security.

(iv) *Acquisitions in course of making loans to the public.* For purposes of subdivision (ii) of this subparagraph—

(a) A stock or security shall be considered to have been acquired in the course of making a loan to the public where, for example, such stock or security was acquired as additional consideration for the making of the loan,

(b) A stock or security shall be considered to have been acquired as a result of making a loan to the public if, for example, such stock or security was acquired by foreclosure upon a bona fide default of the loan and is held as an ordinary and necessary incident to the active conduct of the banking, financing, or similar business in the United States, and

(c) A stock or security acquired on a stock exchange or organized over-the-counter market shall be considered not to have been acquired as a result of, or in the course of, making loans to the public.

(v) *Security defined.* For purposes of this subparagraph, a security is any bill, note, bond, debenture, or other evidence of indebtedness, or any evidence of an interest in, or right to subscribe to or purchase, any of the foregoing items.

(vi) *Limitations on application of subparagraph*—(a) *Other business activity.* This subparagraph provides rules for determining when certain income from stocks or securities is effectively connected with the active conduct of a banking, financing, or similar business in the United States. Any dividends, interest, gain, or loss from sources within the United States which by reason of the application of subdivision (ii) of this subparagraph is not effectively connected with the active conduct by a nonresident alien individual or a foreign corporation of a banking, financing, or similar business in the United States may be effectively connected for the taxable year, under subparagraph (2) or (3) of this paragraph with the conduct by such taxpayer of another trade or business in the United States, such as, for example, the business of selling or manufacturing goods or merchandise or of trading in stocks or securities for the taxpayer's own account.

(b) *Other income.* For rules relating to income, gain, or loss from sources within the United States (other than dividends or interest from, or gain or loss from the sale or exchange of, stocks or securities referred to in subdivision (ii) of this subparagraph) derived in the active conduct of a banking, financing, or similar business in the United States, see subparagraphs (2) and (3) of this paragraph and paragraph (b) of this section.

(vii) *Illustrations.* The application of this subparagraph may be illustrated by the following examples:

Example (1). Foreign corporation F, which is created under the laws of foreign country X and engaged in the active conduct of the banking business in country X and a number of other foreign countries, has in the United States a branch, B, which during the taxable year is engaged in the active conduct of the banking business in the United States within the meaning of subdivision (i) of this subparagraph. In the course of its banking business in foreign countries, F receives at its branches located in country X and other foreign countries substantial deposits in U.S. dollars which are transferred to the accounts of B in the United States. During the taxable year, B actively participates in negotiating loans to residents of the United States, such as call loans to U.S. brokers, which are financed from the U.S. dollar deposits transferred to B by F. In addition, B actively participates in purchasing on the New York Stock Exchange and over-the-counter markets long-term bonds and notes issued by the U.S. Government, U.S. Treasury bills, and long-term interest-bearing bonds issued by domestic corporations and having a maturity date of less than 1 year from the date of acquisition, all of

which are purchased from the deposits transferred to B by F. All of the securities so acquired are held by B and recorded on its books in the United States. Pursuant to subdivision (ii) of this subparagraph, the interest received by F during the taxable year on these loans, bonds, notes, and bills is effectively connected for such year with the active conduct by F of a banking business in the United States.

Example (2). The facts are the same as in example (1) except that B also actively participates in using part of the U.S. dollar deposits, which are transferred to it by F, to purchase on the New York Stock Exchange shares of common stock issued by various domestic corporations. All of the shares so purchased are considered to be capital assets within the meaning of section 1221 and are recorded on B's books in the United States. None of the shares so purchased were acquired for the purpose of meeting reserve or other similar requirements. During the taxable year some of the shares are sold by B on the stock exchange. Pursuant to subdivision (ii) of this subparagraph, the dividends and gains received by F during the taxable year on these shares of stock are not effectively connected with the active conduct by F of a banking, financing, or similar business in the United States.

Example (3). The facts are the same as in example (1) except that B also uses part of the U.S. dollar deposits, which are transferred to it by F, to make a loan to domestic corporation M. As part of the consideration for the loan, M gives to B a number of shares of common stock issued by M. All of these shares of stock are considered to be capital assets within the meaning of section 1221 and are recorded on B's books in the United States. During the taxable year one-half of these shares of stock is sold by B on the New York Stock Exchange. Pursuant to subdivision (ii) of this subparagraph, the dividends and gains received by F during the taxable year on these shares of stock are effectively connected for such year with the active conduct by F of a banking business in the United States.

Example (4). The facts are the same as in example (1) except that during the taxable year the home office of F in country X actively participates in negotiating loans to residents of the United States, such as call loans to U.S. brokers, which are financed by the U.S. dollar deposits received at the home office and are recorded on the books of the home office. B does not participate in negotiating these loans. Pursuant to subdivision (ii) of this subparagraph the interest received by F during the taxable year on these loans made by the home office in country X is not effectively connected with the active conduct by F of a banking, financing, or similar business in the United States.

(6) *Income related to personal services of an individual*—(i) *Income, gain, or loss from assets.* Income or gains from sources within the United States described in section 871(a)(1) and derived from an asset, and gain or loss from sources within the United States from the sale or exchange of capital assets, realized by a nonresident alien individual engaged in a trade or business in the United States during the taxable year solely by reason of his performing personal services in the United States shall not be treated as income, gain, or loss which is effectively connected for the taxable year with the conduct of a trade or business in the United States, unless there is a direct economic relationship between his holding of the asset from which the income, gain, or loss results and his trade or business of performing the personal services. This direct economic relationship exists, for example, where the individual purchases stock in a domestic corporation to assure the opportunity of performing personal services in the United States for that corporation.

(ii) *Wages, salaries, and pensions.* Wages, salaries, fees, compensations, emoluments, or other remunerations, including bonuses, received by a nonresident alien individual for performing personal services in the United States which, under paragraph (a) of § 1.864–2, constitute engaging in a trade or business in the United States, and pensions and retirement pay attributable to such personal services, constitute income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual if he is engaged in a trade or business in the United States at some time during the taxable year in which such income is received.

§ 1.864–5 Foreign source income effectively connected with U.S. business.

(a) *In general.* This section applies only to a nonresident alien individual or a foreign corporation that is engaged in a trade or business in the United States at some time during a taxable year beginning after December 31, 1966, and to the income, gain, or loss of such person from sources without the United States. The income, gain, or loss of such person for the taxable year from sources without the United States which is specified in paragraph (b) of this section shall be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States, only if he also has in the United States at some time during the taxable year, but not necessarily at the time the income, gain, or loss is realized, an office or other fixed place of business, as defined in § 1.864–7, to which such income, gain, or loss is attributable in accordance with § 1.864–6. The income of such person for the taxable year from sources without the United States which is specified in paragraph (c) of this section shall be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States when derived by a foreign corporation carrying on a life insurance business in the United States. Except as provided in paragraphs (b) and (c) of this section, no income, gain, or loss of a nonresident alien individual or a foreign corporation for the taxable year from sources without the United States shall be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States by that person. Any income, gain, or loss described in paragraph (b) or (c) of this section which, if it were derived by the taxpayer from sources within the United States for the taxable year, would not be treated under § 1.864–4 as effectively connected for the taxable year with the conduct of a trade or business in the United States shall not be treated under this section as effectively connected for the taxable year with the conduct of a trade or business in the United States.

(b) *Income other than income attributable to U.S. life insurance business.* Income, gain, or loss from sources without the United States other than income described in paragraph (c) of this section shall be taken into account pursuant to paragraph (a) of this section in applying §§ 1.864–6 and 1.864–7 only if it consists of—

(1) *Rents, royalties, or gains on sales of intangible property.* (i) Rents or royalties for the use of, or for the privilege of using, intangible personal property located outside the United States or from any interest in such property, including rents or royalties for the use, or for the privilege of using, outside the United States, patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other like properties, if such rents or royalties are derived in the active conduct of the trade or business in the United States.

(ii) Gains or losses on the sale or exchange of intangible personal property located outside the United States or from any interest in such property, including gains or losses on the sale or exchange of the privilege of using, outside the United States, patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other like properties, if such gains or losses are derived in the active conduct of the trade or business in the United States.

(iii) Whether or not such an item of income, gain, or loss is derived in the active conduct of a trade or business in the United States shall be determined from the facts and circumstances of each case. The frequency with which a nonresident alien individual or a foreign corporation enters into transactions of the type from which the income, gain, or loss is derived shall not of itself determine that the income, gain, or loss is derived in the active conduct of a trade or business.

(iv) This subparagraph shall not apply to rents or royalties for the use of, or for the privilege of using, real property or tangible personal property, or to gain or loss from the sale or exchange of such property.

(2) *Dividends or interest, or gains or loss from sales of stocks or securities*—(i) *In general.* Dividends or interest from any transaction, or gains or losses on the sale or exchange of stocks or securities, realized by (a) a nonresident alien individual or a foreign corporation in the active conduct of a banking, financing, or similar business in the United States or (b) a foreign corporation engaged in business in the United States whose principal business is trading in stocks or securities for its own account. Whether the taxpayer is engaged in the active conduct of a banking, financing,

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or similar business in the United States for purposes of this subparagraph shall be determined in accordance with the principles of paragraph (c)(5)(i) of § 1.864–4.

(ii) *Incidental investment activity.* This subparagraph shall not apply to income, gain, or loss realized by a nonresident alien individual or foreign corporation on stocks or securities held, sold, or exchanged in connection with incidental investment activities carried on by that person. Thus, a foreign corporation which is primarily a holding company owning significant percentages of the stocks or securities issued by other corporations shall not be treated under this subparagraph as a corporation the principal business of which is trading in stocks or securities for its own account, solely because it engages in sporadic purchases or sales of stocks or securities to adjust its portfolio. The application of this subdivision may be illustrated by the following example:

Example. F, a foreign corporation, owns voting stock in foreign corporations M, N, and P, its holdings in such corporations constituting 15, 20, and 100 percent, respectively, of all classes of their outstanding voting stock. Each of such stock holdings by F represents approximately 20 percent of its total assets. The remaining 40 percent of F's assets consist of other investments, 20 percent being invested in securities issued by foreign governments and in stocks and bonds issued by other corporations in which F does not own a significant percentage of their outstanding voting stock, and 20 percent being invested in bonds issued by N. None of the assets of F are held primarily for sale; but, if the officers of that corporation were to decide that other investments would be preferable to its holding of such assets, F would sell the stocks and securities and reinvest the proceeds therefrom in other holdings. Any income, gain, or loss which F may derive from this investment activity is not considered to be realized by a foreign corporation described in subdivision (i) of this subparagraph.

(3) *Sale of goods or merchandise through U.S. office.* (i) Income, gain, or loss from the sale of inventory items or of property held primarily for sale to customers in the ordinary course of business, as described in section 1221(1), where the sale is outside the United States but through the office or other fixed place of business which the nonresident alien or foreign corporation has in the United States, irrespective of the destination to which such property is sent for use, consumption, or disposition.

(ii) This subparagraph shall not apply to income, gain, or loss resulting from a sales contract entered into on or before February 24, 1966. See section 102(e)(1) of the Foreign Investors Tax Act of 1966 (80 Stat. 1547). Thus, for example, the sales office in the United States of a foreign corporation enters into negotiations for the sale of 500,000 industrial bearings which the corporation produces in a foreign country for consumption in the Western Hemisphere. These negotiations culminate in a binding agreement entered into on January 1, 1966. By its terms delivery under the contract is to be made over a period of 3 years beginning in March of 1966. Payment is due upon delivery. The income from sources without the United States resulting from this sale negotiated by the U.S. sales office of the foreign corporation shall not be taken into account under this subparagraph for any taxable year.

(iii) This subparagraph shall not apply to gains or losses on the sale or exchange of intangible personal property to which subparagraph (1) of this paragraph applies or of stocks or securities to which subparagraph (2) of this paragraph applies.

(c) *Income attributable to U.S. life insurance business.* (1) All of the income for the taxable year of a foreign corporation described in subparagraph (2) of this paragraph from sources without the United States, which is attributable to its U.S. life insurance business, shall be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation. Thus, in determining its life insurance company taxable income from its U.S. business for purposes of section 802, the foreign corporation shall include all of its items of income from sources without the United States which would appropriately be taken into account in determining the life insurance company taxable income of a domestic corporation. The income to which this subparagraph applies shall be taken into account for purposes of paragraph (a) of this section without reference to §§ 1.864–6 and 1.864–7.

(2) A foreign corporation to which subparagraph (1) of this paragraph applies is a foreign corporation carrying on an insurance business in the United States during the taxable year which—

(i) Without taking into account its income not effectively connected for that year with the conduct of any trade or business in the United States, would qualify as a life insurance company under part I (section 801 and following) of subchapter L, chapter 1 of the Code, if it were a domestic corporation, and

(ii) By reason of section 842 is taxable under that part on its income which is effectively connected for that year with its conduct of any trade or business in the United States.

(d) *Excluded foreign source income.* Notwithstanding paragraphs (b) and (c) of this section, no income from sources without the United States shall be treated as effectively connected for any taxable year with the conduct of a trade or business in the United States by a nonresident alien individual or a foreign corporation if the income consists of—

(1) *Dividends, interest, or royalties paid by a related foreign corporation.* Dividends, interest, or royalties paid by a foreign corporation in which the nonresident alien individual or the foreign corporation described in paragraph (a) of this section owns, within the meaning of section 958(a), or is considered as owning, by applying the ownership rules of section 958(b), at the time such items are paid more than 50 percent of the total combined voting power of all classes of stock entitled to vote.

(2) *Subpart F income of a controlled foreign corporation.* Any income of the foreign corporation described in paragraph (a) of this section which is subpart F income for the taxable year, as determined under section 952(a), even though no part of the income is attributable to amounts which, if distributed by the foreign corporation, would be distributed with respect to its stock which is owned by shareholders who are not U.S. shareholders within the meaning of section 951(b). This subparagraph shall not apply to any income of the foreign corporation which is excluded in determining its subpart F income for the taxable year for purposes of section 952(a). Thus, for example, this subparagraph shall not apply to—

(i) Any dividends, interest, or gains from qualified investments in less developed countries which are excluded under section 954(b)(1),

(ii) Foreign base company income amounting to less than 30 percent of gross income which by reason of section 954(b)(3)(A) does not become subpart F income for the taxable year,

(iii) Any income excluded from foreign base company income under section 954(b)(4), relating to exception for foreign corporations not availed of to reduce taxes,

(iv) Any income derived in the active conduct of a trade or business which is excluded under section 954(c)(3), or

(v) Any income received from related persons which is excluded under section 954(c)(4).

This subparagraph shall apply to the foreign corporation's entire subpart F income for the taxable year determined under section 952(a), even though no amount is included in the gross income of a U.S. shareholder under section 951(a) with respect to that subpart F income because of the minimum distribution provisions of section 963(a) or because of the reduction under section 970(a) with respect to an export trade corporation. This subparagraph shall apply only to a foreign corporation which is a controlled foreign corporation within the meaning of section 957 and the regulations thereunder. The application of this subparagraph may be illustrated by the following examples:

Example (1). Controlled foreign corporation M, incorporated under the laws of foreign country X, is engaged in the business of purchasing and selling merchandise manufactured in foreign country Y by an unrelated person. M negotiates sales, through its sales office in the United States, of its merchandise for use outside of country X. These sales are made outside the United States, and the merchandise is sold for use outside the United States. No office maintained by M outside the United States participates materially in the sales made through its U.S. sales office. These activities constitute the only activities of M. During the taxable year M derives $100,000 income from these sales made through its U.S. sales office, and all of such income is foreign base company sales income by reason of section 954(d)(2) and paragraph (b) of § 1.954–3. The entire $100,000 is also subpart F income, determined under section 952(a). In addition, all of this income would, without reference to section 864(c)(4)(D)(ii) and this subparagraph, be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States by M. Through its entire taxable year 60 percent of the one class of stock of M is owned within the meaning of section 958(a) by U.S. shareholders, as defined in section 951(b), and 40 percent of its one class of stock is owned within the meaning of section 958(a) by persons who are not U.S. shareholders, as defined in section 951(b). Although only $60,000 of the subpart F income of M for the taxable year is includible in the income of the U.S. shareholders under section 951(a), the entire subpart F income of $100,000 constitutes income which, by reason of section 864(c)(4)(D)(ii) and this subparagraph, is not effectively connected for the taxable year with the conduct of a trade or business in the United States by M.

Example (2). The facts are the same as in example (1) except that the foreign base company sales income amounts to $150,000 determined in accordance with paragraph (d)(3)(i) of § 1.954–1, and that M also has gross income from sources without the United States of $50,000 from sales, through its sales office in the United States, of merchandise for use in country X. These sales are made outside the United States. All of this income would, without reference to section 864(c)(4)(D)(ii) and this subparagraph, be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States by M. Since the foreign base company income of $150,000 amounts to 75 percent of the entire gross income of $200,000, determined as provided in paragraph (d)(3)(ii) of § 1.954–1, the entire $200,000 constitutes foreign base company income under section 954(b)(3)(B). Assuming that M has no amounts to be taken into account under paragraphs (1), (2), (4), and (5) of section 954(b), the $200,000 is also subpart F income, determined under section 952(a). This subpart F income of $200,000 constitutes income which, by reason of section 864(c)(4)(D)(ii) and this subparagraph, is not effectively connected for the taxable year with the conduct of a trade or business in the United States by M.

(3) *Interest on certain deposits.* Interest which, by reason of section 861(a)(1)(A) (relating to interest on deposits with banks, savings and loan associations, and insurance companies paid or credited before January 1, 1976) and paragraph (c) of § 1.864–4, is determined to be income from sources without the United States because it is not effectively connected for the taxable year with the conduct of a trade or business in the United States by the nonresident alien individual or foreign corporation.

§ 1.864–6 Income, gain, or loss attributable to an office or other fixed place of business in the United States.

(a) *In general.* Income, gain, or loss from sources without the United States which is specified in paragraph (b) of § 1.864–5 and received by a nonresident alien individual or a foreign corporation engaged in a trade or business in the United States at some time during a taxable year beginning after December 31, 1966, shall be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States only if the income, gain, or loss is attributable under paragraphs (b) and (c) of this section to an office or other fixed place of business, as defined in § 1.864–7, which the taxpayer has in the United States at some time during the taxable year.

(b) *Material factor test—(1) In general.* For purposes of paragraph (a) of this section, income, gain, or loss is attributable to an office or other fixed place of business which a nonresident alien individual or a foreign corporation has in the United States only if such office or other fixed place of business is a material factor in the realization of the income, gain, or loss, and if the income, gain, or loss is realized in the ordinary course of the trade or business carried on through that office or other fixed place of business. For this purpose, the activities of the office or other fixed place of business shall not be considered to be a material factor in the realization of the income, gain, or loss unless they provide a significant contribution to, by being an essential economic element in, the realization of the income, gain, or loss. Thus, for example, meetings in the United States of the board of directors of a foreign corporation do not of themselves constitute a material factor in the realization of income, gain, or loss. It is not necessary that the activities of the office or other fixed place of business in the United States be a major factor in the realization of the income, gain, or loss. An office or other fixed place of business located in the United States at some time during a taxable year may be a material factor in the realization of an item of income, gain, or loss for that year even though the office or other fixed place of business is not present in the United States when the income, gain, or loss is realized.

(2) *Application of material factor test to specific classes of income.* For purposes of paragraph (a) of this section, an office or other fixed place of business which a nonresident alien individual or a foreign corporation, engaged in a trade or business in the United States at some time during the taxable year, had in the United States, shall be considered a material factor in the realization of income, gain, or loss consisting of—

(i) *Rents, royalties, or gains on sales of intangible property.* Rents, royalties, or gains or losses, from intangible personal property specified in paragraph (b)(1) of § 1.864–5, if the office or other fixed place of business either actively participates in soliciting, negotiating, or performing other activities required to arrange, the lease, license, sale, or exchange from which such income, gain, or loss is derived or performs significant services incident to such lease, license, sale, or exchange. An office or other fixed place of business in the United States shall not be considered to be a material factor in the realization of income, gain, or loss for purposes of this subdivision merely because the office or other fixed place of business conducts one or more of the following activities: (*a*) develops, creates, produces, or acquires and adds substantial value to, the property which is leased, licensed, or sold, or exchanged, (*b*) collects or accounts for the rents, royalties, gains, or losses, (*c*) exercises general supervision over the activities of the persons directly responsible for carrying on the activities or services described in the immediately preceding sentence, (*d*) performs merely clerical functions incident to the lease, license, sale, or exchange or (*e*) exercises final approval over the execution of the lease, license, sale, or exchange. The application of this subdivision may be illustrated by the following examples:

Example (1). F, a foreign corporation, is engaged in the active conduct of the business of licensing patents which it has either purchased or developed in the United States. F has a business office in the United States. Licenses for the use of such patents outside the United States are negotiated by offices of F located outside the United States, subject to approval by an officer of such corporation located in the U.S. office. All services which are rendered to F's foreign licensees are performed by employees of F's offices located outside the United States. None of the income, gain, or loss resulting from the foreign licenses so negotiated by F is attributable to its business office in the United States.

Example (2). N, a foreign corporation, is engaged in the active conduct of the business of distributing motion picture films and television programs. N does not distribute such films or programs in the United States. The foreign distribution rights to these films and programs are acquired by N's U.S. business office from the U.S. owners of these films and programs. Employees of N's offices located in various foreign countries carry on in such countries all the solicitations and negotiations for the licensing of these films and programs to licensees located in such countries and provide the necessary incidental services to the licensees. N's U.S. office collects the rentals from the foreign licensees and maintains the necessary records of income and expense. Officers of N located in the United States also maintain general supervision over the employees of the foreign offices, but the foreign employees conduct the day to day business of N outside the United States of soliciting, negotiating, or performing other activities required to arrange the foreign licenses. None of the income, gain, or loss resulting from the foreign licenses so negotiated by N is attributable to N's U.S. office.

(ii) *Dividends or interest, or gains or losses from sales of stock or securities—(a) In general.* Dividends or interest from any transaction, or gains or losses on the sale or exchange of stocks or securities, specified in paragraph (b)(2) of § 1.864–5, if the office or other fixed place of business either actively participates in soliciting, negotiating, or performing other activities required to arrange, the issue, acquisition, sale, or exchange, of the asset from which such income, gain, or loss is derived or performs significant services incident to such issue, acquisition, sale, or exchange.

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An office or other fixed place of business in the United States shall not be considered to be a material factor in the realization of income, gain, or loss for purposes of this subdivision merely because the office or other fixed place of business conducts one or more of the following activities: (*1*) collects or accounts for the dividends, interest, gains, or losses, (*2*) exercises general supervision over the activities of the persons directly responsible for carrying on the activities or services described in the immediately preceding sentence, (*3*) performs merely clerical functions incident to the issue, acquisition, sale, or exchange, or (*4*) exercises final approval over the execution of the issue, acquisition, sale, or exchange.

(*b*) *Effective connection of income from stocks or securities with active conduct of a banking, financing, or similar business.* Notwithstanding (*a*) of this subdivision (ii), the determination as to whether any dividends or interest from stocks or securities, or gain or loss from the sale or exchange of stocks or securities which are capital assets, which is from sources without the United States and derived by a nonresident alien individual or a foreign corporation in the active conduct during the taxable year of a banking, financing, or similar business in the United States, shall be treated as effectively connected for such year with the active conduct of that business shall be made by applying the principles of paragraph (c)(5)(ii) of § 1.864–4 for determining whether income, gain, or loss of such type from sources within the United States is effectively connected for such year with the active conduct of that business.

(*c*) *Security defined.* For purposes of this subdivision (ii), a security is any bill, note, bond, debenture, or other evidence of indebtedness, or any evidence of an interest in, or right to subscribe to or purchase, any of the foregoing items.

(*d*) *Limitations on application of rules on banking, financing, or similar business—(1) Trading for taxpayer's own account.* The provisions of (*b*) of this subdivision (ii) apply for purposes of determining when certain income, gain, or loss from stocks or securities is effectively connected with the active conduct of a banking, financing, or similar business in the United States. Any dividends, interest, gain, or loss from sources without the United States which by reason of the application of (*b*) of this subdivision (ii) is not effectively connected with the active conduct by a foreign corporation of a banking, financing, or similar business in the United States may be effectively connected for the taxable year, under (*a*) of this subdivision (ii), with the conduct by such taxpayer of a trade or business in the United States which consists of trading in stocks or securities for the taxpayer's own account.

(*2*) *Other income.* For rules relating to dividends or interest from sources without the United States (other than dividends or interest from, or gain or loss from the sale or exchange of, stocks or securities referred to in (*b*) of this subdivision (ii)) derived in the active conduct of a banking, financing, or similar business in the United States, see (*a*) of this subdivision (ii).

(iii) *Sale of goods or merchandise through U.S. office.* Income, gain, or loss from sales of goods or merchandise specified in paragraph (b)(3) of § 1.864–5, if the office or other fixed place of business actively participates in soliciting the order, negotiating the contract of sale, or performing other significant services necessary for the consummation of the sale which are not the subject of a separate agreement between the seller and the buyer. The office or other fixed place of business in the United States shall be considered a material factor in the realization of income, gain, or loss from a sale made as a result of a sales order received in such office or other fixed place of business except where the sales order is received unsolicited and that office or other fixed place of business is not held out to potential customers as the place to which such sales orders should be sent. The income, gain, or loss must be realized in the ordinary course of the trade or business carried on through the office or other fixed place of business in the United States. Thus, if a foreign corporation is engaged solely in a manufacturing business in the United States, the income derived by its office in the United States as a result of an occasional sale outside the United States is not attributable to the U.S. office if the sales office of the manufacturing business is located outside the United States. On the other hand, if a foreign corporation establishes a sales office in the United States to sell for consumption in the Western Hemisphere merchandise which the corporation produces in Africa, the income derived by the sales office in the United States as a result of an occasional sale made by it in Europe shall be attributable to the U.S. sales office. An office or other fixed place of business in the United States shall not be considered to be a material factor in the realization of income, gain, or loss for purposes of this subdivision merely because of one or more of the following activities: (*a*) the sale is made subject to the final approval of such office or other fixed place of business, (*b*) the property sold is held in, and distributed from, such office or other fixed place of business, (*c*) samples of the property sold are displayed (but not otherwise promoted or sold) in such office or other fixed place of business, or (*d*) such office or other fixed place of business performs merely clerical functions incident to the sale. Activities carried on by employees of an office or other fixed place of business constitute activities of that office or other fixed place of business.

(*3*) *Limitation where foreign office is a material factor in realization of income—(i) Goods or merchandise destined for foreign use, consumption, or disposition.* Notwithstanding subparagraphs (1) and (2) of this paragraph, an office or other fixed place of business which a nonresident alien individual or a foreign corporation has in the United States shall not be considered, for purposes of paragraph (a) of this section, to be a material factor in the realization of income, gain, or loss from sales of goods or merchandise specified in paragraph (b)(3) of § 1.864–5 if the property is sold for use, consumption, or disposition outside the United States and an office or other fixed place of business, as defined in § 1.864–7, which such nonresident alien individual or foreign corporation has outside the United States participates materially in the sale. For this purpose an office or other fixed place of business which the taxpayer has outside the United States shall be considered to have participated materially in a sale made through the office or other fixed place of business in the United States if the office or other fixed place of business outside the United States actively participates in soliciting the order resulting in the sale, negotiating the contract of sale, or performing other significant services necessary for the consummation of the sale which are not the subject of a separate agreement between the seller and buyer. An office or other fixed place of business which the taxpayer has outside the United States shall not be considered to have participated materially in a sale merely because of one or more of the following activities: (*a*) The sale is made subject to the final approval of such office or other fixed place of business, (*b*) the property sold is held in, and distributed from, such office or other fixed place of business, (*c*) samples of the property sold are displayed (but not otherwise promoted or sold) in such office or other fixed place of business, (*d*) such office or other fixed place of business is used for purposes of having title to the property pass outside the United States, or (*e*) such office or other fixed place of business performs merely clerical functions incident to the sale.

(ii) *Rules for determining country of use, consumption, or disposition—(a) In general.* As a general rule, personal property which is sold to an unrelated person shall be presumed for purposes of this subparagraph to have been sold for use, consumption, or disposition in the country of destination of the property sold; for such purpose, the occurrence in a country of a temporary interruption in shipment of property shall not cause that country to be considered the country of destination. However, if at the time of a sale of personal property to an unrelated person the taxpayer knew, or should have known from the facts and circumstances surrounding the transaction, that the property probably would not be used, consumed, or disposed of in the country of destination, the taxpayer must determine the country of ultimate use, consumption, or disposition of the property or the property shall be presumed to have been sold for use, consumption, or disposition in the United States. A taxpayer who sells personal property to a related person shall be presumed to have sold the property for use, consumption, or disposition in the United States unless the taxpayer establishes the use made of the property by the related person; once he has established that the related person has disposed of the property, the rules in the two immediately preceding sentences relating to sales to an unrelated person shall apply at the first stage in the chain of distribution at which a sale is made by a related person to an unrelated person. Notwithstanding the preceding provisions of this subdivision (*a*), a taxpayer who sells personal property to any person whose principal business consists of selling from inventory to retail customers at retail outlets outside the United States may assume at the time of the sale to that person that the property will be used, consumed, or disposed of outside the United States. For purposes of this (*a*), a person is related to another person if either person owns or controls directly or indirectly the other, or if any third person or persons own or control directly or indirectly both. For this purpose, the term "control" includes any kind of control, whether or not legally enforceable, and however exercised or exercisable. For illustrations of the principles of this subdivision, see paragraph (a)(3)(iv) of § 1.954–3.

(*b*) *Fungible goods.* For purposes of this subparagraph, a taxpayer who sells to a purchaser personal property which because of its fungible nature cannot reasonably be specifically traced to other purchasers and to the countries of ultimate use, consumption, or disposition shall, unless the taxpayer establishes a different disposition as being proper, treat that property as being sold, for ultimate use, consumption, or disposition in those countries, and to those other purchasers, in the same proportions in which property from the fungible mass of the first purchaser is sold in the ordinary course of business by such first purchaser. No apportionment is required to be made, however, on the basis of sporadic sales by the first purchaser. This (*b*) shall apply only in a case where the taxpayer knew, or should have known from the facts and circumstances surrounding the transaction, the manner in which the first purchaser disposes of property from the fungible mass.

(iii) *Illustration.* The application of this subparagraph may be illustrated by the following example:

Example. Foreign corporation M has a sales office in the United States during the taxable year through which it sells outside the United States for use in foreign countries industrial electrical generators which such corporation manufactures in a foreign country. M is not a controlled foreign corporation within the meaning of section 957 and the regulations thereunder, and, by reason of its activities in the United States, is engaged in business in the United States during the taxable year. The generators require specialized installation and continuous adjustment and maintenance services. M has an office in foreign country X which is the only organization qualified to perform these installation, adjustment, and maintenance services. During the taxable year M sells several generators through its U.S. office for use in foreign country Y under sales contracts which also provide for installation, adjustment, and maintenance by its office in country X. The generators are installed in country Y by employees of M's office in country X, who also are responsible for the servicing of the equipment. Since the office of M in country X performs significant services incident to these sales which are necessary for their consummation and are not the subject of a separate agreement between M and the purchaser, the U.S. office of M is not considered to be a material factor in the realization of the income from the sales and, for purposes of paragraph (a) of this section, such income is not attributable to the U.S. office of that corporation.

(c) *Amount of income, gain, or loss allocable to U.S. office—(1) In general.* If, in accordance with paragraph (b) of this section, an office or other fixed place of business which a nonresident alien individual or a foreign corporation has in the United States at some time during the taxable year is a material factor in the realization for that year of an item of income, gain, or loss specified in paragraph (b) of § 1.864–5, such item of income, gain, or loss shall be considered to be allocable in its entirety to that office or other fixed place of business. In no case may any income, gain, or loss for the taxable year from sources without the United States, or part thereof, be allocable under this paragraph to an office or other fixed place of business which a nonresident alien individual or a foreign corporation has in the United States if the taxpayer is at no time during the taxable year engaged in a trade or business in the United States.

(*2*) *Special limitation in case of sales of goods or merchandise through U.S. office.* Notwithstanding subparagraph (1) of this paragraph, in the case of a sale of goods or merchandise specified in paragraph (b)(3) of § 1.864–5, which is not a sale to which paragraph (b)(3)(i) of this section applies, the amount of income which shall be considered to be allocable to the office or other fixed place of business which the nonresident alien individual or foreign corporation has in the United States shall not exceed the amount which would be treated as income from sources within the United States if the taxpayer had sold the goods or merchandise in the United States. See, for example, section 863(b)(2) and paragraph (b) of § 1.863–3, which prescribes, as available methods for determining the income from sources within the United States, the independent factory or production price method, the gross sales and property apportionment method, and any other method regularly employed by the taxpayer which more clearly reflects taxable income from such sources than those specifically authorized.

(*3*) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). Foreign corporation M, which is not a controlled foreign corporation within the meaning of section 957 and the regulations thereunder, manufactures machinery in a foreign country and sells the machinery outside the United States through its sales office in the United States for use in foreign countries. Title to the property which is sold is transferred to the foreign purchaser outside the United States, but no office or other fixed place of business of M in a foreign country participates materially in the sale made through its U.S. office. During the taxable year M derives a total taxable income (determined as though M were a domestic corporation) of $250,000 from these sales. If the sales made through the U.S. office for the taxable year had been made in the United States and the property had been sold for use in the United States, the taxable income from sources within the United States from such sales would have been $100,000, determined as provided in section 863 and 882(c) and the regulations thereunder. The taxable income which is allocable to M's U.S. sales office pursuant to this paragraph and which is effectively connected for the taxable year with the conduct of a trade or business within the United States by that corporation is $100,000.

Example (2). Foreign corporation N, which is not a controlled foreign corporation within the meaning of section 957 and the regulations thereunder, has an office in a foreign country which purchases merchandise and sells it through its sales office in the United States for use in various foreign countries, such sales being made outside the United States and title to the property passing outside the United States. No other office of N participates materially in these sales made through its U.S. office. By reason of its sales activities in the United States, N is engaged in business in the United States during the taxable year. During the taxable year N derives taxable income (determined as though N were a domestic corporation) of $300,000 from these sales made through its U.S. sales office. If the sales made through the U.S. office for the taxable year had been made in the United States and the property had been sold for use in the United States, the taxable income from sources within the United States from such sales would also have been $300,000, determined as provided in sections 861 and 882(c) and the regulations thereunder. The taxable income which is allocable to N's U.S. sales office pursuant to this paragraph and which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation is $300,000.

Example (3). The facts are the same as in example (2), except that N has an office in a foreign country which participates materially in the sales which are made through its U.S. office. The taxable income which is allocable to N's U.S. sales office is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation.

§ 1.864–7 Definition of office or other fixed place of business.

(a) *In general.* (1) This section applies for purposes of determining whether a nonresident alien individual or a foreign corporation that is engaged in a trade or business in the United States at some time during a taxable year beginning after December 31, 1966, has an office or other fixed place of business in the United States for purposes of applying section 864(c)(4)(B) and § 1.864–6 to income, gain, or loss specified in

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paragraph (b) of § 1.864–5 from sources without the United States or has an office or other fixed place of business outside the United States for purposes of applying section 864(c)(4)(B)(iii) and paragraph (b)(3)(i) of § 1.864–6 to sales of goods or merchandise for use, consumption, or disposition outside the United States.

(2) In making a determination under this section due regard shall be given to the facts and circumstances of each case, particularly to the nature of the taxpayer's trade or business and the physical facilities actually required by the taxpayer in the ordinary course of the conduct of his trade or business.

(3) The law of a foreign country shall not be controlling in determining whether a nonresident alien individual or a foreign corporation has an office or other fixed place of business.

(b) *Fixed facilities*—(1) *In general.* As a general rule, an office or other fixed place of business is a fixed facility, that is, a place, site, structure, or other similar facility, through which a nonresident alien individual or a foreign corporation engages in a trade or business. For this purpose an office or other fixed place of business shall include, but shall not be limited to, a factory; a store or other sales outlet; a workshop; or a mine, quarry, or other place of extraction of natural resources. A fixed facility may be considered an office or other fixed place of business whether or not the facility is continuously used by a nonresident alien individual or foreign corporation.

(2) *Use of another person's office or other fixed place of business.* A nonresident alien individual or a foreign corporation shall not be considered to have an office or other fixed place of business merely because such alien individual or foreign corporation uses another person's office or other fixed place of business, whether or not the office or place of business of a related person, through which to transact a trade or business, if the trade or business activities of the alien individual or foreign corporation in that office or other fixed place of business are relatively sporadic or infrequent, taking into account the overall needs and conduct of that trade or business.

(c) *Management activity.* A foreign corporation shall not be considered to have an office or other fixed place of business merely because a person controlling that corporation has an office or other fixed place of business from which general supervision and control over the policies of the foreign corporation are exercised. The fact that top management decisions affecting the foreign corporation are made in a country shall not of itself mean that the foreign corporation has an office or other fixed place of business in that country. For example, a foreign sales corporation which is a wholly owned subsidiary of a domestic corporation shall not be considered to have an office or other fixed place of business in the United States merely because of the presence in the United States of officers of the domestic parent corporation who are generally responsible only for the policy decisions affecting the foreign sales corporation, provided that the foreign corporation has a chief executive officer, whether or not he is also an officer of the domestic parent corporation, who conducts the day-to-day trade or business of the foreign corporation from a foreign office. The result in this example would be the same even if the executive officer should (1) regularly confer with the officers of the domestic parent corporation, (2) occasionally visit the U.S. office of the domestic parent corporation, and (3) during such visits to the United States temporarily conduct the business of the foreign subsidiary corporation out of the domestic parent corporation's office in the United States.

(d) *Agent activity*—(1) *Dependent agents*—(i) *In general.* In determining whether a nonresident alien individual or a foreign corporation has an office or other fixed place of business, the office or other fixed place of business of an agent who is not an independent agent, as defined in subparagraph (3) of this paragraph, shall be disregarded unless such agent (*a*) has the authority to negotiate and conclude contracts in the name of the nonresident alien individual or foreign corporation, and regularly exercises that authority, or (*b*) has a stock of merchandise belonging to the nonresident alien individual or foreign corporation from which orders are regularly filed on behalf of such alien individual or foreign corporation. A person who purchases goods from a nonresident alien individual or a foreign corporation shall not be considered to be an agent for such alien individual or foreign corporation for purposes of this paragraph where such person is carrying on such purchasing activities in the ordinary course of its own business, even though such person is related in some manner to the nonresident alien individual or foreign corporation. For example, a wholly owned domestic subsidiary corporation of a foreign corporation shall not be treated as an agent of the foreign parent corporation merely because the subsidiary corporation purchases goods from the foreign parent corporation and resells them in its own name. However, if the domestic subsidiary corporation regularly negotiates and concludes contracts in the name of its foreign parent corporation or maintains a stock of merchandise from which it regularly fills orders on behalf of the foreign parent corporation, the office or other fixed place of business of the domestic subsidiary corporation shall be treated as the office or other fixed place of business of the foreign parent corporation unless the domestic subsidiary corporation is an independent agent within the meaning of subparagraph (3) of this paragraph.

(ii) *Authority to conclude contracts or fill orders.* For purposes of subdivision (i) of this subparagraph, an agent shall be considered regularly to exercise authority to negotiate and conclude contracts or regularly to fill orders on behalf of his foreign principal only if the authority is exercised, or the orders are filled, with some frequency over a continuous period of time. This determination shall be made on the basis of the facts and circumstances in each case, taking into account the nature of the business of the principal; but, in all cases, the frequency and continuity tests are to be applied conjunctively. Regularity shall not be evidenced by occasional or incidental activity. An agent shall not be considered regularly to negotiate and conclude contracts on behalf of his foreign principal if the agent's authority to negotiate and conclude contracts is limited only to unusual cases or such authority must be separately secured by the agent from his principal with respect to each transaction effected.

(2) *Independent agents.* The office or other fixed place of business of an independent agent, as defined in subparagraph (3) of this paragraph, shall not be treated as the office or other fixed place of business of his principal who is a nonresident alien individual or a foreign corporation, irrespective of whether such agent has authority to negotiate and conclude contracts in the name of his principal, and regularly exercises that authority, or maintains a stock of goods from which he regularly fills orders on behalf of his principal.

(3) *Definition of independent agent*—(i) *In general.* For purposes of this paragraph, the term "independent agent" means a general commission agent, broker, or other agent of an independent status acting in the ordinary course of his business in that capacity. Thus, for example, an agent who, in pursuance of his usual trade or business, and for compensation, sells goods or merchandise consigned or entrusted to his possession, management, and control for that purpose by or for the owner of such goods or merchandise is an independent agent.

(ii) *Related persons.* The determination of whether an agent is an independent agent for purposes of this paragraph shall be made without regard to facts indicating that either the agent or the principal owns or controls directly or indirectly the other or that a third person or persons own or control directly or indirectly both. For example, a wholly owned domestic subsidiary corporation of a foreign corporation which acts an an agent for the foreign parent corporation may be treated as acting in the capacity of independent agent for the foreign parent corporation. The facts and circumstances of a specific case shall determine whether the agent, while acting for his principal, is acting in pursuance of his usual trade or business and in such manner as to constitute him an independent agent in his relations with the nonresident alien individual or foreign corporation.

(iii) *Exclusive agents.* Where an agent who is otherwise an independent agent within the meaning of subdivision

(i) of this subparagraph acts in such capacity exclusively, or almost exclusively, for one principal who is a nonresident alien individual or a foreign corporation, the facts and circumstances of a particular case shall be taken into account in determining whether the agent, while acting in that capacity, may be classified as an independent agent.

(e) *Employee activity.* Ordinarily, an employee of a nonresident alien individual or a foreign corporation shall be treated as a dependent agent to whom the rules of paragraph (d)(1) of this section apply if such employer does not in and of itself have a fixed facility (as defined in paragraph (b) of this section) in the United States or outside the United States, as the case may be. However, where the employee, in the ordinary course of his duties, carries on the trade or business of his employer in or through a fixed facility of such employer which is regularly used by the employee in the course of carrying out such duties, such fixed facility shall be considered the office or other fixed place of business of the employer, irrespective of the rules of paragraph (d)(1) of this section. The application of this paragraph may be illustrated by the following example:

Example. M, a foreign corporation, opens a showroom office in the United States for the purpose of promoting its sales of merchandise which it purchases in foreign country X. The employees of the U.S. office, consisting of salesmen and general clerks, are empowered only to run the office, to arrange for the appointment of distributing agents for the merchandise offered by M, and to solicit orders generally. These employees do not have the authority to negotiate and conclude contracts in the name of M, nor do they have a stock of merchandise from which to fill orders on behalf of M. Any negotiations entered into by these employees are under M's instructions and subject to its approval as to any decision reached. The only independent authority which the employees have is in the appointment of distributors to whom M is to sell merchandise, but even this authority is subject to the right of M to approve or disapprove these buyers on receipt of information as to their business standing. Under the circumstances, this office used by a group of salesmen for sales promotion is a fixed place of business which M has in the United States.

(f) *Office or other fixed place of business of a related person.* The fact that a nonresident alien individual or a foreign corporation is related in some manner to another person who has an office or other fixed place of business shall not of itself mean that such office or other fixed place of business of the other person is the office or other fixed place of business of the nonresident alien individual or foreign corporation. Thus, for example, the U.S. office of foreign corporation M, a wholly owned subsidiary corporation of foreign corporation N, shall not be considered the office or other fixed place of business of N unless the facts and circumstances show that N is engaged in trade or business in the United States through that office or other fixed place of business. However, see paragraph (b)(2) of this section.

(g) *Illustrations.* The application of this section may be illustrated by the following examples:

Example (1). S, a foreign corporation, is engaged in the business of buying and selling tangible personal property. S is a wholly owned subsidiary of P, a domestic corporation engaged in the business of buying and selling similar property, which has an office in the United States. Officers of P are generally responsible for the policies followed by S and are directors of S, but S has an independent group of officers, none of whom are regularly employed in the United States. In addition to this group of officers, S has a chief executive officer, D, who is also an officer of P but who is permanently stationed outside the United States. The day-to-day conduct of S's business is handled by D and the other officers of such corporation, but they regularly confer with the officers of P and on occasion temporarily visit P's offices in the United States, at which time they continue to conduct the business of S. S does not have an office or other fixed place of business in the United States for purposes of this section.

Example (2). The facts are the same as in example (1) except that, on rare occasions, an employee of P receives an order which he, after consultation with officials of S and because P cannot fill the order, accepts on behalf of S rather than on behalf of P. P does not hold itself out as a person which those wishing to do business with S should contact. Assuming that orders for S are seldom handled in this manner and that they do not constitute a significant part of that corporation's business, S shall not be considered to have an office or other fixed place of business in the United States because of these activities of an employee of P.

Example (3). The facts are the same as in example (1) except that all orders received by S are subject to review by an officer of P before acceptance. S has a business office in the United States.

Example (4). S, a foreign corporation organized under the laws of Puerto Rico, is engaged in the business of manufacturing dresses in Puerto Rico and is entitled to an income tax exemption under the Puerto Rico Industrial Incentive Act of 1963. S is a wholly owned subsidiary of P, a domestic corporation engaged in the business of buying and selling dresses to customers in the United States. S sells most of the dresses it produces to P, the assumption being made that the income from these sales is derived from sources without the United States. P in turn sells these dresses in the United States in its name and through the efforts of its own employees and of distributors appointed by it. S does not have a fixed facility in the United States, and none of its employees are stationed in the United States. On occasion, employees of S visit the office of P in the United States, and executives of P visit the office of S in Puerto Rico, to discuss with one another matters of mutual business interest involving both corporations, including the strategy for marketing the dresses produced by S. These matters are also regularly discussed by such persons by telephone calls between the United States and Puerto Rico. S's employees do not otherwise participate in P's marketing activities. Officers of P are generally responsible for the policies followed by S and are directors of S, but S has a chief executive officer in Puerto Rico who, from its office therein, handles the day-to-day conduct of S's business. Based upon the facts presented, and assuming there are no other facts which would lead to a different determination, S shall not be considered to have an office or other fixed place of business in the United States for purposes of this section.

Example (5). The facts are the same as in example (4) except that the dresses are manufactured by S in styles and designs furnished by P and out of goods and raw materials purchased by P and sold to S. Based upon the facts presented, and assuming there are no other facts which would lead to a different determination, S shall not be considered to have an office or other fixed place of business in the United States for purposes of this section.

Example (6). The facts are the same as in example (5) except that, pursuant to the instructions of P, the dresses sold by P are shipped by S directly to P's customers in the United States. Based upon the facts presented, and assuming there are no other facts which would lead to a different determination, S shall not be considered to have an office or other fixed place of business in the United States for purposes of this section.

[FR Doc.72-18868 Filed 11-2-72;8:45 am]

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Proposed Rule Making

DEPARTMENT OF JUSTICE

Bureau of Narcotics and Dangerous Drugs

[21 CFR Part 308]

SCHEDULES OF CONTROLLED SUBSTANCES

Excluded Nonnarcotic Substances

The Director of the Bureau of Narcotics and Dangerous Drugs has received an application pursuant to § 308.21 of Title 21 of the Code of Federal Regulations requesting that a product, Rynal, containing a nonnarcotic controlled substance (methamphetamine) be excluded from all schedules pursuant to section 201(g)(1) of the Controlled Substances Act and § 308.21 of Title 21 of the Code of Federal Regulations. The Bureau has been informed by the Food and Drug Administration that Rynal may be sold over the counter without a prescription.

Therefore, under the authority vested in the Attorney General by sections 201(g)(1) and 501(b) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 811(g)(1) and 871(b)) and redelegated to the Director of the Bureau of Narcotics and Dangerous Drugs by § 0.100 of Title 28 of the Code of Federal Regulations, the Director hereby proposes that Part 308 of Title 21 of the Code of Federal Regulations be amended as follows:

By amending § 308.22 by adding the following product:

§ 308.22 Excluded substances.

* * * * *

Trade name of other designation	Composition	Manufacturer or supplier
* * *	* * *	* * *
Rynal	Solution for Spray: dl-Deoxyephedrine HCl 0.22%; antipyrine 0.28%; pyrilamine maleate 0.05%; methyl dodecylbenzyltrimethyl ammonium chloride 0.02%; glycerine dehydrated 1.50%.	Blaine Co.
* * *	* * *	* * *

All interested persons are invited to submit their comments and objections in writing regarding this proposal. Comments and objections should be submitted in quintuplicate to the Office of Chief Counsel, Bureau of Narcotics and Dangerous Drugs, Department of Justice, Attention: Hearing Clerk, Room 611, 1405 I Street NW., Washington, DC 20537, and must be received no later than November 30, 1972.

Dated: October 30, 1972.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[FR Doc.72-18822 Filed 11-2-72;8:50 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 971]

LETTUCE GROWN IN LOWER RIO GRANDE VALLEY IN SOUTH TEXAS

Proposed Limitation of Shipments

Consideration is being given to the issuance of a limitation of shipments regulation, hereinafter set forth, which was recommended by the South Texas Lettuce Committee. The committee has been established pursuant to Marketing Agreement No. 144 and Marketing Order No. 971 (7 CFR Part 971) which regulates the handling of lettuce grown in the Lower Rio Grande Valley in South Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

During 1971–72, a strong U.S. winter lettuce market extended from early December through mid-February. Temporary supply gaps caused by irregular weather patterns in the West resulted in sharp price advances in January and February.

Texas harvested 5,000 acres of winter lettuce in 1972, with a production of 850,000 hundredweight, for which they received a seasonal average price of $8.20 per hundredweight. The 1971 comparison was 7,200 harvested acres, 900,000 hundredweight production and a $5.12 price.

There is presently no official estimate of 1973 U.S. winter lettuce production. The committee estimates that planted acreage in the Lower Rio Grande Valley will amount to 7,000 acres compared to 3,969 acres last year.

It is not likely that the favorable combination of marketing factors that existed for south Texas lettuce during the 1972 winter season will be repeated in 1973. Their 1973 season average price is not expected to exceed parity.

This proposal is in accord with the committee's recommendations and marketing policy and reflects its appraisal of the composition of the 1972–73 crop of lettuce in the Lower Valley and marketing prospects for the season.

The south Texas lettuce industry as well as other lettuce shipping areas are accustomed to operating on a 6-day shipping week. The experience has been that a 6-day shipping week is adequate for 5 days distribution in terminal markets. Experience has shown that these "packaging holidays" on Sundays and Christmas contribute to the improvement of growers prices and are beneficial in promoting more orderly marketing.

The pack and container requirements are needed to maintain the accepted commercial practices of the south Texas lettuce industry of packing specified numbers of heads of lettuce in specific sized containers limited to those found acceptable to the trade for safe transportation of the lettuce and to avoid deceptive practices.

No purpose would be served by regulating the pack or requiring the inspection and assessment of insignificant quantities of lettuce. Therefore quantities up to two cartons of lettuce per day may be handled without regard to such requirements.

Provision with respect to special purpose shipments, including export, are designed to meet the different requirements for other than commercial channels of trade. Because of the production area's proximity to the Mexican border, Mexican buyers have been accustomed to acquiring small lots of production area lettuce for their home market; these buyers can utilize lettuce which fails to meet the domestic pack and container regulations. Inasmuch as such shipments have negligible effect on the domestic market, they should be permitted provided certain safeguard requirements are met.

All persons who desire to submit written data, views, or arguments in connection with these proposals shall file the same with the Hearing Clerk, Room 112–A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than November 8, 1972.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). The proposal is as follows:

§ 971.313 Limitation of shipments.

During the period November 15, 1972, through March 31, 1973, no person shall handle any lot of lettuce grown in the production area unless such lettuce meets the requirements of paragraphs (a), (b), (c), and (d) of this section, or unless such lettuce is handled in accordance with paragraph (e) or (f) of this section. Further, no person may package lettuce during the above period on any Sunday or on Christmas Day.

(a) [Reserved]

(b) *Pack.* (1) Lettuce heads, packed in container No. 7303, 7306, or 7313, if wrapped may be packed only 18, 20, 22, 24, or 30 heads per container; if not wrapped, only 18, 24, or 30 heads per container.

(2) Lettuce heads in container No. 85–40 may be packed only 24 or 30 heads per container.

(c) *Containers.* Containers may be only—

(1) Cartons with inside dimensions of 10 inches by 14¼ inches by 21⅝ inches (designated as carrier container No. 7303), or

(2) Cartons with inside dimensions of 9¾ inches by 14 inches by 21 inches (designated as carrier container Nos. 7306 and 7313), or

(3) Cartons with inside dimensions of 21½ by 16⅛ inches by 10¾ inches (designated as carrier container No. 85–40—flat pack).

(d) *Inspection.* (1) No handler shall handle lettuce unless such lettuce is inspected by the Texas-Federal Inspection Service and an appropriate inspection certificate has been issued with respect thereto, except when relieved of such requirement pursuant to paragraphs (e) and (f) of this section.

(2) No handler may transport, or cause the transportation of, any shipment of lettuce by motor vehicle, for which inspection is required unless each such shipment is accompanied by a copy of an appropriate inspection certificate or shipment release form (SPI–23) furnished by the inspection service verifying that such shipment meets the current grade, pack, and container requirements of this section. A copy of such inspection certificate or shipment release form shall be available and surrendered upon request to authorities designated by the committee.

(3) For administration of this part, such inspection certificate or shipment release form required by the committee as evidence of inspection is valid for only 72 hours following completion of inspection, as shown on such certificate or form.

(e) *Minimum quantity.* Any person may handle up to, but not to exceed two cartons of lettuce a day without regard to inspection, assessment, grade, and pack requirements, but must meet container requirements. This exception may not be applied to any shipment of over two cartons of lettuce.

(f) *Special purpose shipments.* Lettuce not meeting grade, pack, or container requirements of paragraphs (a), (b), or (c) of this section may be handled for any purpose listed, if handled as prescribed in subparagraphs (1) and (2) of this paragraph. Inspection and assessments are not required on such shipments. These special purpose shipments are as follows:

(1) For relief, charity, experimental purposes, or export to Mexico, if, prior to handling, the handler pursuant to §§ 971.120–971.125 obtains a Certificate of Privilege applicable thereto and reports thereon; and

(2) For export to Mexico, if the handler of such lettuce loads and transports it only in a vehicle bearing Mexican registration (license).

(g) *Definitions.* (1) "Wrapped" heads of lettuce refers to those which are enclosed individually in parchment, plastic, or other commercial film (Cf. AMS 481) and then packed in cartons or other containers.

(2) Other terms used in this section have the same meaning as when used in Marketing Agreement No. 144 and this part.

Dated: October 30, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-18826 Filed 11-2-72;8:49 am]

[7 CFR Part 989]

RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Finding That Estimated Season Average Price of Raisins for 1972–73 Is in Excess of Parity

This action is pursuant to the provisions of § 989.61 of the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989; 37 F.R. 19621, 20022), hereinafter referred to collectively as the "order," regulating the handling of raisins produced from grapes grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "act." This action will tend to effectuate the declared policy of the act and is not for the purpose of maintaining prices to farmers above the level which it is declared to be the policy of Congress to establish thereunder.

In its meeting of October 5, 1972, the Raisin Administrative Committee considered data relevant to the formulation of a marketing policy for the crop year which began September 1, 1972, and recommended that volume regulation not be applied to the handling of raisins during such crop year. The Committee estimated that 91,695 tons of natural Thompson Seedless raisins would be produced and determined that the price for that varietal type had been established between handlers and producers at $476 per ton. During the week of October 9, that price advanced to $500 per ton. At its October 5 meeting, the Committee also estimated that 1972 production of other varietal types of raisins would approximate 10,250 tons, and determined that the producer prices established for such varietal types ranged from $440 per ton to $550 per ton. The September 29, 1972, parity price for raisins was $411 per ton.

In view of the foregoing, it is hereby found that the estimated season average price to producers for raisins for the crop year which began September 1, 1972, will be in excess of the parity level specified in section 2(1) of the act. Accordingly, only the provisions of the order which apply in over-parity situations, with an exception hereinafter set forth regarding minimum grade and condition standards, will be applicable in the 1972–73 crop year. The provisions which apply only to volume regulation will not be applicable. In this regard, there was published in the FEDERAL REGISTER issue of September 23, 1972 (37 F.R. 20037; F.R. Doc. 72–16237), a proposal to designate a desirable free tonnage for natural Thompson Seedless raisins of 131,340 tons. In view of the Committee's production estimate of 91,695 tons for natural Thompson Seedless raisins, designation of a desirable free tonnage for such raisins for the 1972–73 crop year is unnecessary and would serve no purpose. Therefore, the action proposed in said notice is hereby terminated.

Section 989.61 of the order provides that the provisions of the order relating to minimum grade and condition standards and inspection requirements, within the meaning of section 2(3) of the act, and any other provisions pertaining to the administration and enforcement thereof, shall continue in effect irrespective of whether the estimated season average price to producers for raisins is in excess of the parity level specified in section 2(1) of the act. Section 2(5) of the act provides for continuance for the remainder of any marketing season or marketing year, such regulation pursuant to any order as will tend to avoid a disruption of the orderly marketing of any commodity and be in the public interest, if the regulation of such commodity under an order has been initiated during such marketing season or marketing year on the basis of its need to effectuate the policy of the act.

The minimum grade and condition standards with respect to natural condition raisins are prescribed in § 989.97 (Exhibit B); the minimum grade standards for packed raisins are prescribed in the U.S. Standards for Grades of Processed Raisins. Action published in the FEDERAL REGISTER August 31, 1972 (37 F.R. 17723), amended § 989.201 of Subpart—Supplementary Orders Regulating Handling (7 CFR §§ 989.201–989.229), effective September 1, 1972. This action made a change in the maturity requirements of the minimum grade and condition standards for natural condition Thompson Seedless raisins.

To more closely align such minimum standards with industry needs, the change reduced (from not more than 12 percent, by weight, to not more than 8 percent, by weight) the tolerance for substandard raisins permitted in incoming lots of standard natural condition Thompson Seedless raisins and deleted a requirement for a specific (not less than 45 percent, by weight) minimum proportion of mature raisins which had been required in such lots. Said action also provided for a dockage system whereby lots of such raisins containing excess quantities of substandard raisins could be received by handlers. Said action included a finding that the change, including the dockage system, will tend to effectuate the declared policy of the act.

Handlers have already acquired a substantial quantity of standard natural condition Thompson Seedless raisins on the basis of the aforesaid minimum grade and condition standards as changed by the action effective September 1, 1972. However, a large proportion of the 1972 crop of such raisins remains

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to be delivered by producers to handlers. Terminating § 989.201 for the balance of the current 1972–73 crop year would result in the application of minimum standards to raisins delivered thereafter by producers to handlers different from those standards applied earlier in such crop year. This could result in inequities among producers and handlers due to the application of different requirements for different parts of the crop year. Moreover, this would result in hardship to handlers to the extent they experience any difficulty in processing such raisins to meet the minimum grade standards for packed raisins. Therefore, it is hereby further found that to continue § 989.201 for the remainder of the 1972–73 crop year will tend to avoid a disruption of the orderly marketing of standard natural condition Thompson Seedless raisins and be in the public interest.

It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice of this action and engage in public rule making procedure, and that good cause exists for not postponing the effective time until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The estimated 1972–73 season average price to producers for raisins is above parity and this fact is well known to the raisin industry; (2) this action is applicable to operations under the order during the 1972–73 crop year, which began September 1, 1972; (3) this action will require no advance preparation by handlers; and (4) no useful purpose would be served by delaying this action.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 31, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-18877 Filed 11-2-72;8:53 am]

[7 CFR Part 1065]

[Docket No. AO–86–A27]

MILK IN NEBRASKA-WESTERN IOWA MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and to Order

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Nebraska-Western Iowa marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Omaha, Nebr., on March 21–22, 1972, pursuant to notice thereof issued on February 28, 1972 (37 F.R. 4352).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on September 5, 1972 (37 F.R. 18203), filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings, and conclusions, rulings and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein with the following modifications:

INDEX OF CHANGES

1. In the text following the centerhead "Description of Plan", the first paragraph is revised and the 22d paragraph is replaced with three new paragraphs.

2. Additional text is added to the sixth and seventh paragraphs following the centerhead "Updating of Production History Bases", and following the seventh paragraph a new paragraph is added.

3. The eighth paragraph following the centerhead "Allocation of Class I Bases" is revised.

4. The 15th paragraph following the centerhead "Base Transfers" is revised.

5. A correction is made in the reference to butterfat differential in the first paragraph following the centerhead "Uniform Prices for Base Milk and Excess Milk."

6. Two new paragraphs are added at the end of the "Findings and Conclusions."

The material issues on the record of the hearing relate to:

1. Diversion of producer milk.
2. Deletion of takeout-payback (Louisville) seasonal production incentive plan.
3. Need for emergency action with respect to issue No. 2.
4. Adoption of a Class I base plan.
5. Optional handler status for a cooperative on its deliveries of member milk to pool plants.
6. Defining milk received at a pool plant from a cooperative bulk tank handler as "producer milk" for which the plant operator would be obligated at the uniform price.
7. Miscellaneous:

(a) Adoption of more specific terminology in referring to health authorities and Grade A product.

(b) Redefining "route disposition."

(c) Computation of uniform price: Handlers' reports to be included.

(d) Adoption of appropriate terminology for partial payments, and conforming changes where necessary.

Issue No. 1 was dealt with in a decision issued June 5, 1972 (37 F.R. 11482). This decision deals with the remaining issues.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

2. *Louisville plan.* The Louisville seasonal production incentive plan should be deleted from the order.

This plan was provided originally to encourage milk producers to reduce seasonal changes in their milk production. This was to be accomplished by withholding part of the money due producers for milk deliveries in the April–June period and paying out such money to producers on deliveries of milk in September, October, and November.

For several years, however, producer organizations in the market have not favored use of the plan, and it has been rendered inoperative through suspension for the years 1970, 1971, and 1972 (37 F.R. 6491).

Even without the plan in operation, there is relatively small seasonal variation in milk production in this market. During April, May, and June 1971, production (including estimated overdiversions) was approximately 108 percent of production in the September-November period of the same year.

In these circumstances there is no need to continue the Louisville plan provisions in the order. Further, the Class I base plan as proposed to be adopted herein will provide incentive to producers to keep seasonal variation of production to a minimum. The Louisville plan provisions accordingly are deleted from the order.

3. *Emergency action for deletion of the Louisville plan.* In view of the suspension order issued March 24, 1972, previously cited, making the Louisville plan inoperative for 1972, there is sufficient time to consider under regular procedure the proposal to revoke the Louisville plan. An emergency decision therefore is not necessary.

4. *Adoption of a Class I base plan.* Producers supplying plants regulated by the Nebraska-Western Iowa Federal order should have the opportunity to decide whether the proceeds from the sale of their milk should be distributed among them by means of a Class I base plan issued in conformity with the Agricultural Act of 1970.

A witness for a cooperative organization representing a majority of the producers on the Nebraska-Western Iowa market testified that member producers generally favor the adoption of a Class I base plan. The plan is favored also by another cooperative. Producer members of the two cooperative associations comprise nearly all of the producers serving the market.

The plan, proponent stated, will allow the individual producer to adjust his production in line with a specific quantity of Class I disposition in the market allocated to him as his Class I base. He will be better able to adjust production in relation to market Class I disposition than under the present blend price system because his returns can be relatively free of the influence of excess production by other producers.

Testimony in opposition to the plan was presented by organizations that do not presently have producer members on this market. A witness for a dairy farmer's group with membership in the North Central States opposed the plan on grounds that it would impede the entry of new plants and dairy farmers into this market, limit the effectiveness of the order pricing to assure an adequate supply, and add administrative expense. A cooperative association not marketing milk under this order also opposed, in a brief, the base plan as (1) ineffectual and administratively unenforceable, and (2) a barrier to more economic and efficient milk production and distribution.

Subsequent findings explain the method by which the plan adopted herein provides opportunity for dairy farmers not now producers to qualify for participation under the plan upon becoming producers and allows for adjustment of bases to changing supply and demand conditions. The objections are considered to be substantially met by the provisions adopted.

THE PURPOSE OF THE CLASS I BASE PLAN

The purpose of the Class I base plan is to provide a method for each producer supplying the Nebraska-Western Iowa market to adjust his production individually in accordance with the Class I needs of the market without necessarily reducing his participation in the Class I sales of the market.

The Class I base assigned to each producer will represent a share of the total Class I disposition of the market. Such base assignment will be in proportion to the producer's production history during the representative period. To provide a reserve over the level of Class I disposition in the market, the total of all producers' Class I bases assigned each year will be 120 percent of Class I disposition of handlers in the preceding year.

The proposed base plan is designed also to adapt to changing supply-demand conditions. Producer's bases will be updated each year to reflect changes in the volume of Class I milk disposed of in the market and changes in the volume of milk produced by individual producers. Further, new producers will be able to come on the market and earn, over a reasonable period of time, bases comparable to those of other producers. Also, any producer already on the market who desires to increase his production and thus earn additional base may do so.

DESCRIPTION OF PLAN

A Class I base will be assigned on the effective date of the plan to each producer who is on the market on such date and for whom a production history base is computed.

Production history bases will be computed from milk deliveries to plants in a representative period. The representative period adopted herein for use in the initial determination of production history base is the 2-year period 1971 and 1972.

The proponent cooperative association requested that a 3-year period be used in the initial determination of production history. Under proponent's plan, the higher year of the first 2 years' production of each producer would be averaged with the most recent year in determining a producer's initial production history base.

Proponent's representative, in support of this procedure, stated that nearly all dairymen from time to time experience production problems on their farms, such as disease, poor quality of feed, and breeding problems, that could result in lower milk production for an extended period of time. The averaging of daily milk deliveries during the most recent year of the proposed 3-year representative period with the higher of average daily deliveries during the 2 earlier years, this witness stated, would provide opportunity to delete from production history an abnormally low production year and would tend to promote equity among producers in establishing base.

Under proponent's proposal, therefore, a certain group of producers (those in production during the first of the 3 years) would be provided alternative periods of production history for use in establishing initial production history base. Similar alternatives are not proposed for producers who were not in production during the first year of the proposed representative period but who nevertheless began production shortly thereafter and also might have experienced unusual production problems.

There is inadequate basis in the record to support the proposal that producers who were in production during the first year of a 3 year period should be treated differently in establishing initial production history base from producers who were not in production during such year but nevertheless came on the market shortly thereafter.

Situations may exist in which some producers are scaling down their production for one reason or another or are phasing out their dairy enterprises entirely. The proponent's plan would increase the likelihood of producers receiving a base in excess of their actual ability to supply the fluid market. This would not be in the best interests of producers who are continuing to supply the market and would not promote orderly marketing.

Using deliveries during 1971 and 1972 will be more representative of the level of production a producer may be expected to deliver under the plan since most producers in this market, in fact, have been increasing their production.

Consideration was given on the record also to use of a 1-year period. A single year period, as pointed out by the proponent cooperative could be a time of adverse production conditions for some producers. Such producers could claim the plan is inequitable for this reason. The 2-year period adopted herein will meet the objection of the cooperative to a 1-year period.

The production history base of a producer will be his average daily deliveries of milk during the representative period, except for producers whose delivery periods are not sufficient for determination of a full production history base. This distinction between producers with longer production history and those who have been in production for only a brief period agrees generally with the scheme proposed by the cooperative.

The cooperative proposed that dairy farmers whose production began at any time before June 1, 1972, would receive a production history base equal to their average daily deliveries during the period beginning with their first delivery through the end of the representative period. Producers beginning on or after June 1, 1972, however, would have production history bases reduced by specified percentages.

Specifically the cooperative proposed that producers beginning on or after June 1 but before September 1, 1972, would be assigned production history bases equal to 80 percent of their average daily deliveries, while those beginning on or after September 1, 1972, would be assigned production history bases equal to 50 percent of average daily deliveries. These dates, in the cooperative proposal, were related to a suggested effective date of January 1, 1973. Thus, dairy farmers whose production began as much as 7 months before the effective date would receive full credit for their average daily deliveries in computation of production history and those with lesser periods of production would have reduced bases, as indicated.

At the hearing proponent stated that February 1, 1973, would be an acceptable effective date if it would implement using calendar years for the representative period rather than a period ending with August 1972, as specified in the hearing notice.

Since a February 1, 1973, effective date will accommodate use of calendar years for production history, it is used herein as a tentative effective date. Data for the most recent calendar year would be available for computation of base effective on February 1 each year.

The computation of production histories as proposed by the cooperative is accordingly modified to fit a February 1, 1973, effective date. The same percentages (as proposed) will be applied in the calculation of production history bases for producers whose deliveries began later than 7 months before the effective date.

Equitable apportionment of bases to producers should not allow the same amount of base for production in a relatively brief period as the base allowed when earned by producers from deliveries during the full representative period. Further, producers whose entire period of deliveries is within the few months preceding the effective date will have had opportunity to gauge their operations in contemplation that a base plan will be operative. For these reasons a graduated reduction in production history bases calculated from only the most recent months preceding the effective date of the plan is necessary to preserve equity among all producers.

For a producer who was in production for 7 months before the effective date there are only 6 months of production data since monthly data are available only after several days following the month. Accordingly, 6 months of deliveries will be the minimum period for which the average daily deliveries of the producer will be his production history base. Bases assigned to producers with less than 6 production months should be reduced by multiplying the average daily deliveries by the 80-percent factor, and bases assigned to producers beginning October 1, 1972, or later should be

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the average daily deliveries multiplied by the 50 percent factor.

Milk deliveries by a dairy farmer during the representative period to both pool plants and nonpool plants will be used to compute production history base.

An interruption of 90 days or more in deliveries will cause a break in production history. As noted elsewhere in this decision, such an interruption after the effective date by a baseholding producer will cause forfeiture of his base and require a waiting period prior to the beginning of a new production history period.

Interruption of deliveries due to storm conditions also will require a modification of the computation of production history. While proponent requested that 15 days in any one calendar year be allowed as interruption for storm conditions, an allowance of 8 days of nondelivery (8 days of production) per year should be adequate for most occurrences where weather prevents milk delivery by a producer. If, under unusual circumstances, storm conditions prevent delivery by a producer for more than 8 days' production then the matter may be considered for relief under the hardship provisions. In periods of 6 months or less the allowed days of nondelivery for storm conditions will be four.

When a producer is prevented by storm conditions from delivering milk of his production, the calculation of his average daily deliveries will be modified by excluding from the divisor the allowed days of nondelivery.

Continuity of production history will be provided in the case of an intrafamily transfer of the operation of a herd. The person continuing milk production with the herd will be allowed credit for the production of the previous operator unless Class I base is transferred to a third party. This is a modification from the recommended decision, which associated transfer of production history with transfer of complete farm operations. Proponent, in exceptions filed, requested that production history be allowed to transfer with the herd.

Intrafamily transfers include transfers to husband, wife, son, daughter, father, mother, sister, brother, son-in-law, daughter-in-law, and to the estate of the baseholder.

On the effective date, the assignment of bases will be made only to those producers on the market who are eligible for such assignment. Conceivably a producer might be temporarily off the market on the effective date, without losing eligibility for base assignment if he resumes deliveries shortly thereafter. As explained previously, however, an interruption of 90 days or more in deliveries results in a break of production history.

The average daily deliveries of a producer during any specified period will be determined by dividing the quantity of milk delivered by the producer in the applicable period by the appropriate number of days. The number of days will be the days of production delivered but not less than the calendar days beginning with the first day of delivery and to the end of the period, excluding allowed days of nondelivery because of storm conditions. In this market, milk of a dairy farmer is picked up by a hauler normally on an every-other-day basis, and thus deliveries may include more days of production than the number of days in such period. The division by the number of days' production delivered will provide an equitable basis of computation for those producers whose average deliveries cover a relatively brief period.

For computations of production history bases, including those established after the plan becomes operative, it is desirable to define more generally the periods used for determination of each producer's production history base. A "production history period" is defined as the period during which milk deliveries used in the computation of production history base are made by the producer. Production history periods are designated as 1-year, 2-year or 3-year production history periods, depending on whether the deliveries of the producer are made in 1, 2, or 3 calendar years.

For purposes of base computation, average daily deliveries in a portion of a calendar year beginning on or before July 1 and through the end of the year will be given the same credit towards production history base as average deliveries of a producer who delivered the full year. As noted elsewhere, average daily deliveries of a dairy farmer starting production after July 1 are subject to a specified reduction in computation of production history base. Accordingly, a portion of any calendar year beginning on or before July 1 and continuing through December 31 will be considered to be a 1-year production history period.

Average daily deliveries of a producer during a 2- or 3-year production history period will be obtained by computing first the average daily deliveries in each calendar year (or portion of a year) and then dividing the sum of such averages by the number of periods (years or portions of years).

NEW PRODUCERS

The plan provides that after the effective date dairy farmers who enter the market as new producers may obtain an assignment of Class I base and production history base in amounts and at times related to the circumstances of entry into the market.

A dairy farmer who becomes a producer when a plant to which he delivers his milk becomes a pool plant will normally be assigned a base effective at the time he becomes a producer. His Class I and production history bases will be computed as if his deliveries prior to becoming a producer were deliveries to a pool plant. Assignment of base will not be immediate, however, if the producer had been on the market previously and had disposed of his base. In this circumstance he would not be eligible for base assignment until the 15th month after the sale of base. Also, as noted below, a producer with less than 1 year of production history would receive a later base assignment.

Another type of new producer is the dairy farmer who comes on the market as an individual and has a history of deliveries of milk to nonpool plants. If the producer has at least a 1-year production history period he will be assigned production history base and Class I base as if his deliveries to the nonpool plants had been deliveries to a pool plant, except that (1) such base assignment will be effective on the first day of the second month following the month in which the producer began deliveries to a pool plant, and (2) the production history base so computed will not exceed the average daily deliveries of such producer during the first 2 months on the market from the same production facilities from which he marketed milk during his production history period.

The Act provides that a producer entering the market under these circumstances will be assigned base effective within 90 days after becoming a producer. Proponent requested, however, that assignment of base be on the first day of the third month following the month in which the producer commenced deliveries to a pool plant. A producer beginning deliveries on June 1 would thus be assigned base on September 1 or 92 days after the first delivery. The assignment of base on the first day of the second month following the month of first delivery, as here adopted, will avoid exceeding the statutory limit of 90 days prior to assignment.

For those producers who enter the market with less than 1 year of production history a production history base will be assigned equal to 50 percent of the average daily milk deliveries of the producer during his first 2 calendar months on the market. This production history base will be effective on the first day of the second month following the month in which the producer began deliveries. If base is acquired by transfer, however, the producer's effective production history base will be the larger of (1) the computation previously described, or (2) the production history base acquired by transfer.

A dairy farmer is not entitled to add to a purchased base the base allotted to him computed from only 2 months' production. The latter base, because of the brief period from which computed, does not have similar status with bases computed from 6 months or more of deliveries in representing the ability of the producer to furnish milk to the market.

Dairy farmers who previously held base but have either forfeited or disposed of such base will be treated as new producers when they again become eligible for assignment of base computed from their own production. The provisions specify that after forfeiting or disposing of all his base 12 months must elapse before a producer's milk deliveries are considered for establishment of a new production history and Class I base. His base assignment will be effective on the first day of the second month following the first month in which he delivers milk eligible for production history. For example, if a producer forfeits his base in June 1973, his base assignment would

be made, at earliest, on September 1, 1974. The reasons for such a waiting period are discussed in connection with base rules.

A dairy farmer who has forfeited base would be entitled also to become a baseholder, without the waiting period, through purchase of base.

UPDATING OF PRODUCTION HISTORY BASES

After the plan becomes effective, adjustment will be made each year in the production history and Class I bases assigned to producers. The most recent year's production data will be used for updating on February 1 each year. Predicated on an effective date of February 1, 1973, the first updating of producer bases will occur on February 1, 1974.

At the time of the first updating, the year 1973 will be added to the production history period of each producer who has an effective base assignment. Thus, producers who on the effective date of the plan had a 2-year production history period will have a 3-year production history period on February 1, 1974. In subsequent updatings for such producers the earliest year will be dropped and the most recent year included, thus resulting in a 3-year rolling average.

Similarly, for a producer who originally had a 1-year production history period, successive years will be added until he has a 3-year production history period.

The updating process allows a producer to obtain an increase in his production history base through any increase in the level of his production over his existing base. On the other hand if his production does not increase, he can retain his existing production history base.

The updating procedure also will reflect changes in a producer's base due to purchase or disposal of Class I base. Other modifications of his Class I base because of underdelivery or hardship also will affect the updating.

Adjustment of a producer's Class I base for underdelivery is provided if his average daily milk deliveries in the preceding calendar year are less than 90 percent of the Class I base assigned to the producer on February 1 of the preceding year as adjusted for hardship and net disposal of base by transfer. The reduction of Class I base will be the difference between such average daily milk deliveries and the Class I base as so adjusted. The reduction for underdelivery will not be made, however, if during the preceding year total producer milk equalled or exceeded 135 percent of Class I dispositions described in § 1065.95(a)(1) of the Class I base provisions adopted herein.

Although in the record proponent opposed adjustment for underdelivery, it is concluded that when market supply is less than the quantity specified an adjustment of this nature is necessary if the Class I base program is to operate effectively and be in the public interest. Similar adjustments are provided under the Puget Sound and Georgia orders, the two markets which currently provide for a Class I base plan. The Class I base assigned to a producer under this program represents the extent to which reliance is placed on the producer to maintain an adequate and regular supply for the Class I market. An adjustment, therefore, is warranted that will reduce a producer's Class I base under the conditions specified to the extent that he fails to deliver a quantity equal to his allotted share of the market. A 10-percent tolerance is provided, however, so that a producer's base will not be reduced if he fails to maintain deliveries equal to his base but delivers at least 90 percent of base.

In exceptions filed, proponent requested deletion of the provisions for underdelivery but stated that if not deleted, the effect of such provisions should be limited to any year in which total producer milk is less than 135 percent of specified Class I milk dispositions. Such limitation is adopted as indicated in the foregoing findings.

The updating procedure on February 1, 1974, will apply to every producer who has at least 1 year of production history. As indicated earlier, a producer who delivered milk for the period July 1 through December 31, 1973, will be considered as having 1 year of production history.

The updating computation on February 1, 1974, will be as follows: The initial production history base assigned to the producer on the effective date of the plan, as adjusted for transfers, underdelivery or hardship, will be multiplied by two; to this will be added the average daily deliveries during 1973 and the sum will be divided by three. If the result of such computation is less than the initial production history base assigned to such producer on the effective date, adjusted for transfers, underdelivery or hardship, then such initial production history base as adjusted shall be the updated production history base.

For producers who entered the market during the first year of the plan their production history bases will be updated also on February 1, 1974, provided they have 1 year of production history.

At the second updating of bases on February 1, 1975, somewhat different calculations will be needed than in the first updating. Separate calculations will be made for producers with 1-year, 2-year and 3-year production history periods.

It will be necessary for purposes of updating to make certain adjustments in a producer's production history for previous years if he disposes of some of his base. An adjustment will be made in the producer's average daily deliveries in each year prior to such disposition of base. Such earlier production that is represented by the Class I base disposed of should not again be used in assignment of new Class I base or production history base. Sale of Class I base, therefore, is regarded as voiding an amount of previous production that had been used in the computation of the production history base that was transferred. It is necessary for this purpose to treat a base transfer in any January as if transferred in the preceding December in order that adjustment of deliveries in preceding years will be in the years preceding such December.

The average daily deliveries will be reduced also in the same manner for any downward adjustment of the producers' Class I base due to underdelivery. Such reduction of average deliveries will apply in the years preceding the year of underdelivery.

These reductions in average daily deliveries will be in proportion to the reduction in Class I base due to transfer or underdelivery.

If the entire effect of such adjustments is a reduction greater than the respective average daily deliveries, then the resulting amount after adjustment will be zero, and the period for which a zero amount is determined will not be regarded as a production history period. Only years following such period would be included in the calculation of the production history base of the producer.

Subject to these adjustments, the average daily deliveries in each of the years of a 3-year production history period will be combined and divided by three to obtain an average for the 3-year period. If the result is less than the production history base assigned to such producer on the preceding February 1 after adjustment for change in base because of transfers, underdelivery and hardship, then such previously assigned production history base, as adjusted, shall be the updated production history base.

For each producer who on February 1, 1975, has a 2-year production history period, and has not purchased base, the updating computation would require adjustment of average daily deliveries in the first year for disposal of Class I base by the producer and for underdelivery. The sum of (1) such adjusted average daily deliveries, (2) the average daily deliveries in the most recent year, and (3) the initial production history base assigned to such producer as a new producer, adjusted for transfers, underdelivery or hardship, will be divided by three. If such result is less than the production history base assigned to such producer on the preceding February 1 after adjustment for transfers, underdelivery and hardship, then such previously assigned production history base, as adjusted, shall be the updated production history base.

A producer with a 2-year production history period may have acquired base by transfer at any time during the 2-year period or before such period. Regardless of the time of acquisition of base by transfer, the computation will compare the average daily milk deliveries of the producer during the most recent year with the previously assigned production history base as adjusted for transfers, underdelivery, and hardship. The effect of the computation will be to increase the producer's base one-third of any excess of average daily deliveries in the most recent year over his existing production history base.

The updating on February 1, 1975, for each producer who has a 1-year production history period will be as follows: The initial production history base of such

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producer will be subject to adjustment for transfer, underdelivery, or hardship. The initial production history base, so adjusted, multiplied by 2, plus the average daily milk deliveries of the producer in the most recent year, will be divided by 3. If such result is less than the initial production history base as adjusted for transfers, underdelivery, and hardship, then such initial base, as adjusted shall be the updated production history base.

ALLOCATION OF CLASS I BASES

On the effective date of this base plan the market administrator will assign a "Class I base" to each producer who has a production history base. On February 1, 1974, and on February 1 of each subsequent year the market administrator will update producers' Class I bases to reflect changes in Class I sales and production history bases.

The total of Class I bases to be assigned will exceed by 20 percent Class I disposition in the market in the preceding year. Such a reserve is needed because of seasonal and daily fluctuations in milk supply and Class I disposition.

A 20-percent reserve was supported by proponent cooperative association at the hearing. In testimony proponent stated that experience in recent years indicates a reserve of 20 percent is necessary to assure that at all times base milk will be sufficient for handlers' Class I dispositions.

The following Class I dispositions in the preceding calendar year will be included in the computation.

(1) Class I producer milk pursuant to § 1065.46;

(2) The Class I milk disposition of any plant that was a nonpool plant during part of the year and held pool plant status in December preceding the effective date, or February 1 on which the bases are computed; and

(3) The Class I sales of any person who was a producer-handler if such person were a producer in December preceding such February 1, or effective date.

The total of such Class I disposition will be multiplied by 120 percent and converted to a daily average by dividing by the number of days in the year.

The ratio of total Class I bases to total production histories will be expressed as a percentage, referred to as the "Class I base percentage." A producer's production history base multiplied by the Class I base percentage will be his Class I base.

Class I bases will be assigned also to new producers at the time they are issued production history bases. The Class I base percentage determined on the preceding February (or the effective date of the plan, whichever is most recent) will be applied to the production history base of the new producer (except as explained below) to determine his Class I base.

The Class I base of any producer having a production history period of less than 3 years whose milk deliveries (to pool plants or to nonpool plants) began after the effective date of the plan will be reduced by 20 percent for a period not to exceed 36 months from the beginning of such production history period. This 20 percent reduction will apply to base exclusive of any acquired by transfer.

In view of the current and anticipated supply-demand situation in the market, there is no need to provide an incentive for entry of new producers in substantial numbers. During 1971, producer milk was about 163 percent of Class I sales of regulated handlers. Thus, the 20-percent reduction of bases for new producers, as authorized by the Act, is reasonable and will tend to facilitate operation of the base plan in this market.

BASE TRANSFERS

Proponent requested that transfer of base be permitted. Provisions for transfer of base under specified conditions are adopted.

A transfer of base will be defined to mean the disposal of Class I base and production history base by a transferor and the associated acquisition of Class I base and production history base by transferee. Disposal of base will mean disposal of Class I base and disposal of a proportionate amount of the production history base held by the transferor. Acquisition of base will mean the acquisition of Class I base and an amount of production history base, which is the quantity of Class I base acquired multiplied by the reciprocal of the Class I base percentage.

The Act specifies that bases may be transferable under terms and conditions that do not result in bases taking on an "unreasonable value."

The value of base obtainable by sale should not be such that it is an incentive for a producer to leave the market to become a producer for another market. If such incentive exists, the base plan could disrupt the regular supply for the market and promote a value of base for purposes other than supplying this market. These effects would be contrary to the purpose of the Act to promote orderly marketing, including assurance of a stable supply for the market.

For these reasons it is necessary to place limits on disposal of base by transfer. A producer will be able to dispose of his entire base if he is terminating his dairy enterprise, or transferring his base to another member of the immediate family. Transfer of the complete base will be possible also in case of death of the baseholder, or when a baseholder enters the armed services. A baseholder as an individual will be able to transfer his base to a partnership or corporation if it is established to the satisfaction of the market administrator that the transferor has a material management interest in the transferee's milk production enterprise.

Allowing an entire base to be disposed of only subject to the above restrictions will bring to a minimum any windfall gains a producer may obtain from changing his deliveries to another market.

While such restrictions on the transfer of entire bases are necessary to stabilize the operation of the program by reducing incentive for windfall gains, it is necessary also to allow relatively unrestricted transfers of base for producers desiring to adjust the scale of their operations.

As pointed out elsewhere in these findings, a specific purpose of transfer is to afford a flexibility in the operation of the plan such that producers desiring to increase or decrease their production may acquire or dispose of base to achieve the adjustment between their base and production.

For those producers desiring to decrease production, the plan should allow a producer to dispose of by transfer a portion of his base. This amount should not be so large as to give incentive for windfall gains as described previously but should be adequate to permit adjustments in scale of operations. The opportunity to dispose of as much as 30 percent of base in most circumstances will allow a reasonable adjustment for the producer wishing to scale down his operation although not intending to cease production.

For those producers desiring to increase production, base may be available to them by transfer from other producers who are leaving the dairy enterprise or who are disposing of the allowed percentage of their base. The restriction on the percentage of base transferred would apply to the quantity assigned to the producers on the preceding February 1 or later date of initial base assignment.

To the extent that bases may be acquired under these limitations, they provide an alternative to a new producer that may operate to the benefit of both such producer and other producers on the market. Instead of going through the steps of building a base from his own production, he will have opportunity to acquire base by transfer. Further, if the producer desires to aline his production closely with his Class I base he can do so from the beginning through acquisition of base. Otherwise he would go to the expense of first expanding his production to build the base and then reducing his operation in line with such base. Also, through purchase of base he will minimize the effect on other baseholders since he will not be adding to the total base on the market.

Certain features of the plan adopted herein should tend to prevent bases from taking on unreasonable value. First, the base plan allows new dairy farmers an alternative to buying base. They may establish a production history and thus earn a full base over a period of 3 years. Similarly, established producers may increase Class I base by building up a greater production history through their own production. Thus new producers and established producers are not limited to buying base.

Second, there will be a one-third lapse of transferred Class I base and the production history base associated therewith, with limited exceptions. To illustrate, a producer with a Class I base of 300 pounds and a production history base of 500 pounds may decide to transfer 150 pounds of his Class I base. The transferee producer actually will receive only 100 pounds of Class I base. The amount of production history base disposed of by transferor will be proportional to the change in his Class I base, specifically, 250 pounds. The production

history acquired by transferee is 167 pounds.

The lapse of base will tend to prevent abuse of the transfer provisions and discourage some of the arrangements that otherwise might arise. As an example, without such a provision a producer whose production is temporarily below his base could transfer a portion of his Class I base to another producer with the understanding that the base will be transferred back to him once his production has come up to his base. The producers would be thereby manipulating the ownership of base for undue financial gain at the expense of other producers. They would be also defeating a purpose of the plan that is to encourage milk deliveries from each producer in line with his own ability to supply a portion of the Class I market. The one-third lapse of base will tend to discourage such arrangements. The one-third lapse will be to the advantage of baseholding producers generally, since each transfer will leave less production history be apportioned to Class I sales in the market. On each transfer of 150 pounds of base, 50 pounds will lapse, thereby increasing the Class I base percentage.

Various other rules will apply to transfers in the interest of integrity of the plan and administrative feasibility. It is provided that a producer may transfer his base in its entirety (subject to the prescribed rules), or portions of his base, not less than 150 pounds or multiples thereof.

The transfer of an entire base may be made effective on the day on which the transfer takes place if the market administrator receives an application for such transfer within 5 days after the transaction. It is likely that an entire base will be transferred in the case of the death of a producer or of the cessation of milk production. In the latter instances, the base transfer often is accompanied by a dispersal sale at which time the herd and base are disposed of simultaneously. When the entire herd is dispersed, the base of the selling producer should be transferable on the same date. However, if application for transfer is not made within the 5-day period, the transfer will become effective on the 1st day of the following month.

Partial transfers of base, in 150-pound multiples, will be effective the 1st day of the month following that in which the application for transfer is made to the market administrator.

In the case of jointly held bases the transfer of either the entire base or a portion thereof will be recognized only if the application for transfer is signed by each of the joint holders. Insofar as the order is concerned, the executor or trustee of an estate that holds a Class I base will be able to sign an application for transfer of such base.

A base established by two or more persons operating a dairy farm as joint owners or as a partnership may be divided between the owners. Such division will be effective on the 1st day of the month following receipt of written notification by the market administrator indicating the agreed division and signed by each baseholder (joint owner, partner, heir, executor, or trustee).

The question may arise as to whether formation of a joint enterprise followed by division of the jointly held base can be used as a device for transfer while avoiding one-third lapse of any base transferred. For example, producer A who has a 1,000-pound base could join in partnership with producer B who has an 800-pound base. A short time later producer B could leave the partnership without base, thus in effect transferring his 800 pounds of Class I base to producer A.

Such a transfer should be subject to the one-third lapse, just as any other transfer, if the producer's participation in the joint enterprise is of temporary duration. In division of a jointly held base, therefore, the one-third lapse should apply to the extent that a transfer of base results.

Such one-third lapse will apply to the quantity by which an individual's share of base on leaving a joint enterprise is less than the base contributed by him to the enterprise not more than 12 months previous. This provision will discourage use of joint enterprise as a device for avoiding one-third lapse in transfers.

A base established by combining the bases of two or more producers for the purpose of joint enterprise to be operated by such producers will not be subject to the one-third lapse except as discussed above.

Proponent requested other restrictions of base transfers, specifically that a producer who transferred base would not be permitted for 3 months thereafter to receive base by transfer. Similarly, a producer who received base by transfer would not be permitted for 3 months thereafter to transfer base.

The proposed 3-month restriction on transfers is unnecessary in view of other provisions adopted. The one-third lapse of base will make frequent transfers of base uneconomical.

It is necessary however to require a 12-month waiting period after base assignment before the bases of certain producers may be transferred. This will apply to any base assigned to a dairy farmer as a new producer. Producers assigned bases during a temporary period on the market would likely sell such bases upon leaving, thus adding to the base pool and diluting the Class I utilization assignable to base of producers who remain. The 12-month waiting period thus will tend to assure that these producers are a regular part of the market supply before transfer of their bases may occur.

For instance, a group of new producers might receive bases when a plant becomes pooled because it obtains a short-term contract in this market. The producers shipping to the plant might sell their allocated bases if the plant loses pool status, thereby receiving a windfall gain—clearly not the purpose of this base plan.

In some instances, however, a dairy farmer who is delivering his milk to a plant that temporarily has pool status may have purchased base in addition to the base assigned to him when the plant became pooled. Such producer will be allowed to dispose of by transfer the quantity of Class I base which he had acquired by transfer. The 12-month waiting period would not apply to this quantity of base.

One type of new producer for whom the 12-month waiting period on transfers should apply is a producer who had been a producer-handler. Such person's status as a producer may be only temporary. As in the instance of other new producers who may have temporary status, disposal of newly assigned base should not be permitted. Particularly in the cases where the dairy farmer has still available plant facilities, he will be in a position to shift his status alternately to producer and producer-handler. Under these circumstances he should not be permitted to dispose of the base assigned to him each time he becomes a producer. Such a practice, if permitted, would add to the quantity of base on the market without a corresponding increase in Class I milk assignable to such base. It would also allow the producer-handler to profit at the expense of other dairy farmers in the market. The 12-month waiting period on transfers will substantially prevent such a practice.

ADDITIONAL BASE RULES

Besides the limitation on transfer of base, the plan requires that any producer becoming a producer-handler shall forfeit the maximum Class I base he held in the past 12 months as a producer. If a producer were free to sell his base while changing to producer-handler status, he would be diluting the Class I utilization for base-holding producers, since his Class I disposition as a producer-handler is exempt from pooling. He thus would be achieving a windfall gain at the expense of producers generally and simultaneously have exemption as a producer-handler.

To prevent such undue advantage the plan must require that a producer changing to producer-handler status shall forfeit the largest amount of Class I base held by him during the preceding 12 months. If he has disposed of his Class I base by transfer, the producer could not receive a producer-handler designation until the first day of the 12th month after disposition of his base. His alternative to such a waiting period will be to repurchase base equal to the largest amount he held in the preceding 12 months and then forfeit such base. Base forfeiture should also be required if producer-handler designation is to be issued to any member of such producer's family, any affiliate of such a producer, or any business unit of which such a producer is a part.

The definition of producer-handler should be modified to reflect the base forfeiture requirement for granting producer-handler status.

Even with the limitations previously described there may be some producers

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who seek to profit by disposition of their base while intending to reestablish base through a new dairy enterprise. The plan accordingly provides that a producer disposing of his entire base by transfer will not be eligible to receive a base as a new producer until the first day of the 15th month after the month in which such transfer was made.

Such a provision is reasonable since a dairy farmer who disposes of his entire Class I base by transfer does so with the knowledge that he is disposing of his privilege to receive returns for his milk at the minimum base price under the order. He likewise would be aware that if he establishes a new dairy enterprise he would be eligible to participate under the plan only as a new producer.

It is necessary to insure that a producer who transfers his entire base shall not evade the prescribed waiting period. It is provided, therefore, that the restrictions set forth above shall apply to a person using the same production facilities as had been used by the transferor-producer if such person is a member of the immediate family of the transferor-producer (or is the transferor-producer under a different name). In such cases, continuation of production of milk by transferee producer using the same facilities would be considered as a continuation of the operation by the transferor-producer. This restriction shall apply also to the use of any production facility to which a Class I base has not been assigned, wherever located, operated by a person in which the transferor-producer has a financial interest, if such facility commences production after the effective date of the transfer or if the transferor-producer acquired his financial interest in such person later than 3 months prior to the effective date of the transfer.

The same restrictions should apply to a base-holding producer who ceases deliveries as a producer for a period of 90 days or more and then returns to the market. The person who thus forfeits his base and resumes production at a subsequent date is not a new producer in the same sense as other nonbaseholding dairy farmers. Therefore, he need not be assigned a base in the same manner or in the same time period as other dairy farmers becoming producers.

The Class I base plan should operate to encourage a steady and reliable supply for the market. It would not serve this purpose if a producer could freely cease deliveries to the market for an extended period, and then return with the privilege of receiving payment under the plan for Class I base milk as though he had not left the market. A producer who ceases deliveries for as long as 90 days cannot be regarded as a regular supplier for the market. Therefore, the Class I base and production history of such producer will be forfeited. The same 15-month waiting period as in the case of the producer who disposed of all his base should apply in the case of forfeiture before assignment of base as a new producer.

A producer who enters the military service will be excepted from the forfeiture rule. He will be allowed to retain his Class I base and production history until 1 year after he is discharged from active military duty.

A special rule will apply to forfeiture of Class I base when a producer leaves the market because the plant to which he delivers milk loses pool status. If such a dairy farmer continues delivering to the same plant as a nonpool plant, his base will be forfeited after 90 days of such delivery. There is the possibility, however, that such plant will regain pool status and dairy farmers delivering to the plant will again be producers. Such a dairy farmer will be entitled to base assignment again without the 15-month waiting period unless he is a producer who has disposed of his base.

A further rule is necessary with respect to the dairy farmer who has lost producer status because the plant to which he delivers has lost pool plant status. Such a nonproducer will not be permitted to dispose of base since his base corresponds to a portion of total Class I disposition which is no longer pooled. If he regains producer status by delivery to another plant that is a pool plant, he will be entitled to retain his previously held base if such reentry is less than 90 days after the preceding disqualification from producer status.

Proponent cooperative requested that the order permit a producer to retain his Class I base if his milk is marketed by the cooperative to a plant which had been a pool plant but became regulated by another order. Such exception to forfeiture was supported on the basis that in these circumstances the producer is leaving the market on an involuntary basis, perhaps without his knowledge, and that such producer, as a cooperative member, would continue to receive a blend based substantially on returns of the cooperative from this market.

Whether the farmer ceases deliveries on the market voluntarily or involuntarily, his production is not part of the supply for this market. The base plan is intended to apply to dairy farmers who constitute the regular, dependable supply for the market. In the instance described, since the dairy farmer's milk will be delivered to a plant regulated by another order, it will be part of the regular supply for the other market. Accordingly, no exception to the rule of forfeiture should be made for the situation described.

The Class I base plan should exclude any dairy farmer if any of his milk is delivered during the month other than as producer milk to a nonpool plant having Class I disposition. For instance, a producer might find it advantageous to market his milk in part to a nonpool plant which has Class I disposition, thereby obtaining a higher return than under the order. In so doing, however, the producer is committing his milk in part to another fluid market and is not fully engaged as a dependable part of the supply for this market. The producer is also avoiding the intended effect of the base plan, to provide incentive for a producer to adjust his production in relation to the Class I needs of the market.

On a larger scale, a cooperative may market milk of baseholding members to a Class I outlet not regulated by the order.

This arrangement could be employed to the extent that outside Class I sales will be made only on certain days of the week, but on days when such milk is not needed by the other market it could be returned to the Nebraska-Western Iowa pool. Other producers on the market then will bear the burden of surplus of such out-of-market sales.

For these reasons the base plan should not allow a dairy farmer to retain the benefits of the plan in any month when his milk in whole or in part is marketed outside of order regulation for Class I use. The producer definition should be modified to provide that a dairy farmer is not a producer under these conditions. The effect of the provision adopted is that the dairy farmer will have no base milk in the month if any of his milk is delivered as other than producer milk to a nonpool plant that has Class I disposition. Also, his production history will be reduced because of the exclusion of his milk deliveries during the month. The corresponding number of days, however, will not be excluded in the computation of average daily deliveries. The rule of forfeiture will apply if the dairy farmer loses producer status for a period of 90 days.

PROVISIONS FOR ALLEVIATION OF HARDSHIP AND INEQUITY

The Agricultural Act of 1970 requires that provision be made for the alleviation of hardship and inequity among producers. Therefore, certain administrative guidelines should be established for review of hardship claims and the alleviation of hardship and inequities to producers under the Class I base plan adopted herein.

Certain provisions are included in the order to define circumstances for which a producer may apply for relief. A producer may apply for adjustment to alleviate hardship or inequity if he feels his production history is not representative of his level of milk production because of conditions which are beyond his control (such as acts of God, disease, pesticide residue, and condemnation of milk). Conditions over which a producer could have exerted control through prudent precautionary measures are not cause for hardship adjustment. These conditions would include, for example, inability to obtain adequate labor, or equipment failure during the representative base period.

The producer would be responsible for filing a written request for review of any hardship condition or inequity affecting him. Such request would be submitted to the market administrator for review by the hardship committee. A claimed hardship or inequity would set forth the following: (1) Conditions that caused alleged hardship or inequity; (2) extent of relief or adjustment requested; (3) basis upon which the amount of adjustment requested was determined; and (4) reasons why the relief or adjustment should be granted. Such request must be filed

within 45 days of the date on which Class I bases are issued, or of the occurrence to which it is related.

The market administrator would establish one or more "Producer Base Committees." A committee would consist of five producers appointed by the market administrator. The committee would review the requests for relief from hardship or inequity referred to it by the market administrator in a meeting called by the market administrator. The market administrator, or his designated representative, would be the recording secretary at such meeting. The committee decision must be endorsed by at least three of the five members to represent a committee quorum.

Producer Base Committee recommendations to deny any request would be final upon notification to the producer, subject only to appeal by such producer to the Director, Dairy Division within 45 days thereafter. Recommendations of the committee to grant a request, in whole or in part, would be transmitted to the Director, Dairy Division, and would become final unless vetoed by the Director within 15 days after transmitted.

The market administrator is authorized to reimburse committee members for their services at $30 per day, and for necessary travel and subsistence expenses incurred in carrying out their duties as committee members. Reimbursement to committee members would be from moneys collected under the administrative expense fund.

The moneys collected in the administrative fund are to pay for the necessary expenses incurred in the administration of the order. The statute expressly requires that provision be made for the relief of hardship and inequity among producers. It has been concluded that the review of petitions for such relief can be handled most effectively by a committee of producers. Hence, the expense associated with the operation of a Producer Base Committee is one incurred in the performance of an appropriate and necessary function of the order. Therefore, the order should provide that the necessary expenses incurred by the Producer Base Committee be paid from moneys collected pursuant to the administrative assessment.

UNIFORM PRICES FOR BASE MILK AND EXCESS MILK

Uniform prices to producers for base milk and excess milk will be computed each month. The price to producers who have no base will be the Class III price adjusted by the producer butterfat differential. The uniform price for excess milk will be the Class III price unless the quantity of excess milk (and milk of producers who have no base) exceeds the Class III producer milk. In the latter case Class II milk and then Class I milk will be assigned, in that sequence, to excess milk.

Location adjustments will apply to the price of base milk according to the location of the plant where the milk is received from producers. Since some of a producer's milk may be diverted, and thus may be subject to different location adjustment than when received at a pool plant, it will be necessary to prorate the producer's base milk to the quantities of his milk received at the various locations.

5. and 6. *Cooperative as handler for deliveries of member milk.* No change should be made in the definition of handler in the case of a cooperative association delivering milk of member producers from the farm to a pool plant in a tank truck owned or operated by, or under contract to, such cooperative association. Delivery of such milk to the plant should continue to be treated as an interhandler transfer of milk first received by the cooperative association as producer milk.

The order presently specifies that a cooperative association shall be a handler with respect to milk of its member producers delivered from the farm to a pool plant of another handler in a tank truck owned or operated by, or under contract to, such cooperative association. No evidence was presented at the hearing to modify the existing definition of handler in this respect or the interhandler nature of the transfer upon delivery to the plant. The proposals for the hearing bearing on these subjects were withdrawn by proponent at the hearing.

7. *Miscellaneous.* (a) Terminology for designation of health authority and Grade A product.

Order provisions specifying approval of plants or products by a health authority should specify such authority uniformly as "duly constituted health authority." Such term presently appears in § 1065.7 *Producer* but a different terminology ("appropriate health authority") is used in the definitions of "distributing plant" and "supply plant." The term "any health authority" is used in § 1065.12 *Pool plant.*

The term "duly constituted health authority" is commonly used in Federal milk orders in provisions where approval by a health authority of a plant or product is specified in a provision.

The term "duly constituted health authority" is sufficiently general to include any health authority empowered by Federal, State, city, or other governmental unit to approve milk for disposition for fluid consumption and dairy plants for the handling of such milk. The term "duly constituted health authority" accordingly should be used in each case in the order provisions where reference to health authority is made to eliminate possible confusion from using different terms in this regard.

Another instance of inadequate terminology, in § 1065.11 supply plant, is the phrase "for distribution in the marketing area under a Grade A label." The intent of the provision is to specify products that qualify as Grade A under health authority regulations. It is not necessary for this purpose to involve labeling requirements, if such exist. Further, the phrase cited might be interpreted as restricting approval to that given by health authorities in the marketing area. As indicated above, such restriction should not apply.

(b) Definition of "route disposition."

The order contains a definition of "route" as follows:

"Route" means any delivery (including delivery by a vendor or through a distribution point, or sale from a plant store) of a fluid milk product to retail or wholesale outlets other than a delivery (a) in bulk to a milk plant, or (b) to a food processing plant pursuant to § 1065.41(c)(4).

While the provision clearly excludes deliveries in bulk to a milk plant, it does not exclude packaged milk deliveries to a milk plant. A proposal placed in the hearing notice by the Dairy Division, Consumer and Marketing Service (now Agricultural Marketing Service) provided opportunity for interested parties to recommend changes to clarify the status of packaged milk deliveries to milk plants. Although no industry representative presented testimony on the matter, a statement by counsel in behalf of a cooperative opposed any change which would exclude packaged disposition to milk plants from the route definition. Other testimony, by a representative of the Dairy Division, served only to describe the aspect of the provision for which clarification would be desirable.

In view of the lack of substantial evidence, no change is made in the status of packaged disposition to milk plants under the route definition.

(c) Handlers' reports included in uniform price computation.

The order provides that the computation of the uniform price for each month include the value of the net pool obligation of all handlers who have: (1) Submitted reports of receipts and utilization for the month, (2) made required payments to producers and cooperatives for milk delivered in the preceding month, and (3) who have paid their obligation to the producer-settlement fund for the previous month.

Obviously, if a handler does not file a report of his receipts and utilization such data cannot be included in the current uniform price computation. Federal orders generally exclude a handler's utilization from the uniform price computation for the additional reason that the handler has failed to pay his previous month's obligation to the producer-settlement fund. If the handler reports, but has failed to pay his producer-settlement fund obligation for the preceding month, this fact is known to the market administrator prior to the time for computing a uniform price in the following month.

Except for a "de minimus" situation, it is reasonable to require that payment to the producer-settlement fund for the preceding month also be a prerequisite for including the handler's receipts and uses in the current pool. Failure to pay in the preceding month provides strong indication of the handler's intention for the current month, which could affect moneys available for payments out of the pool.

Excluding a handler's utilization from the computation of the uniform price if he has not paid producers or cooperative associations presents obvious administrative difficulties. At the time the

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uniform price is computed, the market administrator may not know whether a handler has paid producers or cooperative associations for the prior month. Audit of such payments for the preceding month normally has not been made by the date of the current uniform price computation. Whether such payments have been made could involve disputed questions of fact or arrangements between producers or cooperative associations, and handlers. The market administrator may not know, prior to the next computation of the pool, the complete facts concerning a particular incident of payment. It may not be feasible to have such questions cleared up prior to the date on which the uniform price must be computed. For this reason, the order should be amended to eliminate this prerequisite to pooling in the current month.

(d) Partial payments.

In the provisions for payments to producers the term "partial payment" should be substituted for "advance payment."

In § 1065.80(b) the order requires each handler to pay each producer before the 27th day of the month with respect to milk received from such producer during the first 15 days of the month at a rate not less than the uniform price for the preceding month. In case payments are made to a cooperative association for producers such payments are to be made to the cooperative on or before the 26th day of the month.

The order further provides that when the handler completes payment to producers or cooperative associations for all the milk received during the month, he is given credit for a payment made for milk delivered during the first 15 days of the month.

The payment made by the handler for milk received in the first 15 days of the month is a partial payment with respect to the quantity received during the entire month. The term "partial payment" is therefore more descriptive of the type of payment made than "advance payment" and the former term should be used. The order specifies that these payments shall be made only to each producer who has not discontinued shipping to such handler before the 27th day of the month. Thus the money calculated using the quantity of milk delivered during the first 15 days of the month would not in any case be as much as the handler's obligation for all the milk the producer has delivered up to the time of the payment.

In § 1065.80(d), the introductory text preceding subparagraph (1) specifies payments by a handler to a cooperative as a handler pursuant to § 1065.8 (c) or (d). The provisions in § 1065.8(c) defines a cooperative as a handler on milk it diverts to nonpool plants. The payments pursuant to § 1065.80, however, are payments by regulated handlers to producers and cooperatives and would not include any payments on milk diverted by a cooperative. The reference to § 1065.8(c) therefore is deleted.

(e) In § 1065.92(h) set forth in the tentative order accompanying the recommended decision, the text contained in subparagraph (1) is deleted and the remaining two subparagraphs are renumbered as (1) and (2), respectively. The adjustments described in the text deleted are more appropriately set forth in other provisions of the order herein adopted.

(f) Certain other minor changes have been made in the tentative order provisions for the purpose of more specifically implementing the intent of the findings and conclusions.

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RULINGS ON EXCEPTIONS

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

MARKETING AGREEMENT AND ORDER

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order amending the order regulating the handling of milk in the Nebraska-Western Iowa marketing area, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

DETERMINATION OF PRODUCER APPROVAL OF THE ORDER; REFERENDUM ORDER TO DETERMINE PRODUCER APPROVAL OF THE CLASS I BASE PLAN; DETERMINATION OF REPRESENTATIVE PERIOD; AND DESIGNATION OF REFERENDUM AGENT

September 1972 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended (except for the proposed Class I base plan) regulating the handling of milk in the Nebraska-Western Iowa marketing area is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

It is hereby further directed that a referendum, in which each individual producer has one vote, be conducted and completed on or before the 30th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300 et seq.), to determine whether the proposed order provisions constituting a Class I base plan of payment to producers, as specified in the attached order, regulating the handling of milk in the Nebraska-Western Iowa marketing area is separately approved or favored by the producers, as defined under the terms of the order, and who during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The representative period for the conduct of the referendum is hereby determined to be the month of September 1972.

The agent of the Secretary to conduct such referendum is hereby designated to be U. Grant Grayson.

Signed at Washington, D.C., on October 30, 1972.

RICHARD E. LYNG,
Acting Secretary.

Order[1] amending the order, regulating the handling of milk in the Nebraska-Western Iowa Marketing Area

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Nebraska-Western Iowa marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Nebraska-Western Iowa marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on September 5, 1972, and published in the FEDERAL REGISTER on September 8, 1972 (37 F.R. 18203), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein with the following modifications:

INDEX OF CHANGES

1. In § 1065.71(a), the text preceding paragraph (a)(1) is revised.

1a. A reference in § 1065.82(b)(1) is changed.

2. Section 1065.90(b)(3) is revised.

3. Text in § 1065.92 (a), (b), and (c) is revised for purposes of clarification.

4. In § 1065.92(h), a paragraph is deleted (see findings under "7. Miscellanous (e)").

5. In § 1065.93 (b) and (c) text is added.

6. In § 1065.94(a)(3), a proviso is added; and in paragraph (b) of this section, in the last sentence, a word is changed.

7. In § 1065.94(c), the reference "§ 1065.93" where it appears in subparagraphs (2) and (3) is changed to "§ 1065.93(c)" and in subpargraph (2) thereof, certain text is deleted.

8. Section 1065.96(d)(1) is revised.

§ 1065.7 [Amended]

1. § 1065.7 *Producer*, the period at the end of the provision is changed to a colon and the following proviso is added:

Provided, That a dairy farmer shall not be a producer in any month in which he holds a Class I base if any portion of his milk is delivered, other than as producer milk, to a nonpool plant at which there is Class I disposition.

§ 1065.9 [Amended]

2. In § 1065.9, the word "and" at the end of paragraph (b) is deleted, the period at the end of paragraph (c) is changed to a semicolon followed by the word "and", and a new paragraph (d) is added to read as follows:

(d) Has met the requirements pursuant to § 1065.97(c).

§ 1065.10 [Amended]

3. In § 1065.10 *Distributing plant*, the words "an appropriate health authority" are changed to "a duly constituted health authority."

§ 1065.11 [Amended]

4. In § 1065.11 *Supply plant*, the words "an appropriate health authority" are changed to "a duly constituted health authority"; also, the words "under a Grade A label" are changed to "as Grade A milk."

§ 1065.12 [Amended]

5. In § 1065.12 *Pool plant*, the words "any health authority" in the language preceding paragraph (a) is changed to "a duly constituted health authority."

6. Paragraph (k) of § 1065.22 is amended by revising subparagraph (2) to read as follows:

§ 1065.22 Additional duties of the market administrator.

* * * * * * *

(k) * * *

(2) The 12th day after the end of each month, the applicable uniform prices pursuant to § 1065.71 or § 1065.71a, and the butterfat differential to be paid pursuant to § 1065.72;

* * * * * * *

§ 1065.71 [Amended]

7. In § 1065.71, paragraphs (h), (i), (j), (k), and (l) are revoked and paragraph (g) is revised to read as follows:

(g) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price," and except for any month in which a Class I base plan is effective shall be the "uniform price" for milk received from producers.

8. A new § 1065.71a is added to read as follows:

§ 1065.71a Computation of uniform prices for base milk and excess milk.

For each month in which a base plan is effective the market administrator shall compute the uniform prices per hundredweight for base milk and excess milk of 3.5 percent butterfat content received from producers as follows:

(a) From the net amount computed pursuant to § 1065.71 (a) through (e) subtract the amounts specified in subparagraphs (1) through (5) of this paragraph:

(1) The amount computed by multiplying the hundredweight of milk specified in § 1065.71(f)(2) by the weighted average price for all milk;

(2) The amount obtained by multiplying by the Class III price the total hundredweight of milk delivered by all producers who have no Class I base; and

(3) The amount computed by multiplying the hundredweight of excess milk by the Class III price for 3.5 percent butterfat milk provided that the quantity of milk to which the Class III price is applied pursuant to this subparagraph plus the quantity pursuant to subparagraph (2) of this paragraph shall not exceed the quantity of producer milk in Class III;

(4) An amount computed by multiplying any remaining hundredweight of excess milk by the Class II price for 3.5 percent butterfat milk to the extent that producer milk in Class II is available for such assignment; and

(5) An amount computed by multiplying any remaining hundredweight of excess milk by the Class I price for 3.5 percent butterfat milk.

(b) Divide the net amount obtained in paragraph (a) of this section by the total hundredweight of base milk and subtract not less than 4 cents but less than 5 cents. This result shall be known as the uniform base price per hundredweight of milk of 3.5 percent butterfat content; and

(c) Divide the amount obtained in paragraphs (a) (3), (4), and (5) of this section by the hundredweight of excess milk, and subtract any fractional part of 1 cent. This result shall be known as the uniform excess price per hundredweight of milk of 3.5 percent butterfat content.

9. Section 1065.73 is amended by adding a new paragraph (d) to read as follows:

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

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§ 1065.73 Location differentials to producers and on nonpool milk.

* * * * *

(d) For any month in which a base plan is effective, the uniform price for base milk computed pursuant to § 1065.71a shall be adjusted in the same manner as specified in paragraphs (a) and (b) of this section; *Provided*, That if the milk of a producer is delivered as producer milk to plants at which different base prices apply, then for purposes of location adjustment the base milk of the producer shall be prorated to plants in proportion to deliveries of the producer's milk to such plants.

10. In § 1065.80, the introductory text preceding paragraph (a), and the introductory text of paragraph (d) preceding subparagraph (1) thereof is revised to read as follows:

§ 1065.80 Time and method of payment.

Except in each month in which § 1065.80a applies, each handler shall make payments as follows:

* * * * *

(d) To a cooperative association with respect to receipts of milk for which such cooperative association is the handler pursuant to § 1065.8(d) as follows:

* * * * *

11. A new § 1065.80a is added to read as follows:

§ 1065.80a Time and method of payment to producers and to cooperative associations.

For each month in which a base plan is effective each handler shall make payment as follows:

(a) On or before the 15th day after the end of each month during which the milk was received, to each producer for whom payment is not made pursuant to paragraphs (c) and (d) of this section, at not less than the uniform base price for the quantity of base milk received, adjusted by the butterfat differential computed pursuant to § 1065.72 and by any location adjustment applicable under § 1065.73, at not less than the uniform excess price for the quantity of excess milk received, adjusted by the butterfat differential computed pursuant to § 1065.72 and at not less than the Class III price adjusted by the butterfat differential pursuant to § 1065.72 for the quantity of milk received from producers for whom no base milk is computed, less the following amounts: (1) The payments made pursuant to paragraph (b) of this section; (2) Marketing service deductions pursuant to § 1065.85; and (3) Any proper deductions authorized by the producer: *Provided*, That if by such date such handler has not received full payment for such month pursuant to § 1065.83, he shall not be deemed to be in violation of this paragraph if he reduces uniformly for all producers his payments per hundredweight pursuant to this paragraph by a total amount not in excess of the reduction in payment from the market administrator; however, the handler shall make such balance of payment uniformly to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payments is received from the market administrator;

(b) On or before the 27th day of each month to each producer for whom payment is not received from the handler by a cooperative association pursuant to paragraph (c) or (d) of this section and who has not discontinued shipping milk to such handler, a partial payment with respect to milk received from such producer during the first 15 days of the month in an amount per hundredweight not to be less than the weighted average price for the preceding month;

(c) To a cooperative association which has filed a written request for such payment with such handler with respect to producers for whose milk the market administrator determines such cooperative association is authorized to collect payment as follows:

(1) On or before the 26th day of the month, an amount not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (b) of this section, less any deductions authorized in writing by such cooperative association;

(2) On or before the 14th day after the end of each month an amount not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a) of this section, less proper deductions authorized in writing by such cooperative association;

(d) To a cooperative association with respect to receipts of milk for which such cooperative association is the handler pursuant to § 1065.8(d) as follows:

(1) On or before the 26th day of the month, for milk received during the first 15 days of the month an amount per hundredweight equal to not less than the weighted average price for the preceding month; and

(2) On or before the 14th day after the end of each month not less than the value of such milk at the applicable class prices, less payment made pursuant to subparagraph (1) of this paragraph;

(e) In making payments to producers pursuant to paragraphs (a) and (c) of this section, each handler shall furnish each producer or cooperative association with a supporting statement, in such form that it may be retained by the producer, which shall show:

(1) The month and the identity of the handler and of the producer;

(2) The pounds per shipment, the total pounds, and the average butterfat test of milk delivered by the producer;

(3) The minimum rate or rates at which payment to the producer is required under the provisions of §§ 1065.71a, 1065.72, and 1065.73;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction claimed under paragraph (b) of this section and § 1065.85 together with a description of the respective deductions; and

(6) The net amount of payment to the producer.

§ 1065.82 [Amended]

11a. In § 1065.82, *Payments to the producer-settlement fund*, paragraph (b)(1) is revised to read:

(b)(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1065.80 or § 1065.80a; and

12. A new centerhead "Class I Base Plan" is inserted after § 1065.86 and new §§ 1065.90 through 1065.98 are added as follows:

CLASS I BASE PLAN

§ 1065.90 Production history base and Class I base.

For purposes of determination and assignment of Class I base of each producer:

(a) "Production history base" as assigned to each producer means a quantity of milk in pounds per day as computed pursuant to §§ 1065.92, 1065.93, or 1065.94.

(b) "Production history period" means the period to be used for the computation of production history base. Subject to the conditions of subparagraphs (1), (2), and (3) of this paragraph, a production history period for a producer shall be a 1-year, 2-year, or 3-year production history period depending on whether milk deliveries by the producer began on or before July 1 in the first, second, or third calendar year, respectively, preceding the February 1 on which the production history base is being determined or preceding the most recent February 1.

(1) The production history period of a producer who has forfeited his Class I base pursuant to § 1065.97(a) or has disposed of all of his Class I base shall begin on the later of the following dates:

(i) The first day of the 13th month after the month in which the producer ceased deliveries of producer milk or disposed of his Class I base, or

(ii) The first day of production delivered when the producer resumes deliveries of producer milk.

(2) Except as provided in subparagraph (1) of this paragraph, if the milk deliveries of any dairy farmer are interrupted for 90 days or more during the period prior to the effective date of this provision or prior to the dairy farmer qualifying as a producer, only the period of milk deliveries following such interruption shall be included in the producer's production history period.

(3) In the case of a producer who has acquired the herd of a member of his immediate family (either before or after the effective date of this provision) and has continued production with such herd, the deliveries made by the previous producer during the production history period shall be assumed to have been delivered by the current producer for use in computing a production history base, unless the previous owner transferred the Class I base to a third person.

(c) "Class I base" means a quantity of milk in pounds per day as computed pursuant to § 1065.95 for which a producer may receive the uniform price for base milk;

(d) "Average daily milk deliveries" of a producer in any specified period used for computing production history bases means the total pounds of milk delivered during the period by the producer to pool plants and to nonpool plants excluding milk delivered other than as a producer pursuant to the proviso of § 1065.7 divided by the greater of the number of days pursuant to subparagraphs (1) or (2) of this paragraph.

(1) The number of days' production delivered; or

(2) The calendar days from the first day of delivery through the last day of the period less the number of days' production the producer is prevented from delivering because of storm conditions: *Provided*, That the subtraction for storm conditions shall not exceed 8 days in any calendar year or exceed 4 days if a period of 6 months or less is involved.

§ 1065.91 Base milk and excess milk.

(a) "Base milk" means milk received from a producer during a month which is not in excess of his Class I base multiplied by the number of days in the month, except that if milk is received from a producer for only part of a month, base milk shall be milk received from such producer which is not in excess of his Class I base multiplied by the number of days of production of producer milk delivered during the month; and

(b) "Excess milk" means producer milk other than that defined under paragraph (a) of this section from producers delivering base milk.

§ 1065.92 Computation of production history base for each producer.

A production history base shall be determined by the market administrator pursuant to this section and § 1065.93 for each producer eligible for such base on the effective date of this provision and on February 1 of each year thereafter, respectively. Subject to the conditions of paragraph (h) of this section, a production history base for each producer on the effective date of this provision shall be determined by the market administrator as follows:

(a) The production history base for each producer who began milk deliveries not later than July 1, 1971, shall be calculated by adding the average daily milk deliveries during 1971 to the average daily milk deliveries in 1972 and dividing by two.

(b) The production history base for each producer who began delivery after July 1, 1971, but not later than July 1, 1972, shall be the average daily milk deliveries during the period beginning with the first delivery and through the end of the year 1972.

(c) The production history base for each producer not specified in paragraphs (a) and (b) of this section who began milk deliveries before October 1, 1972, shall be the average daily milk deliveries during the period beginning with the first delivery and through the end of such year multiplied by 0.80.

(d) The production history base for each producer who began milk deliveries on or after October 1, 1972, shall be computed pursuant to § 1065.93(c).

(e) For each producer who became a producer for this market before the effective date of this provision because the plant to which he regularly delivered milk became a fully regulated plant pursuant to this order, a production history base shall be determined, if possible, pursuant to paragraph (a), (b), (c), or (d) of this section, based on his deliveries of milk as if the nonpool plant(s) to which he delivered had been a pool plant(s) during the representative period;

(f) A producer not described pursuant to paragraph (e) of this paragraph who delivered milk to a nonpool plant(s) prior to becoming a producer shall be assigned a production history base if such base can be computed pursuant to paragraph (a), (b), (c), or (d) of this section from deliveries of milk from the same farm on which he is a producer at time of base assignment as if the plant(s) to which he delivered had been a pool plant(s) during the production history period.

(g) For a producer who held producer-handler status at any time subsequent to January 1, 1971, a production history base shall be calculated as described in paragraph (a), (b), (c), or (d) of this section as if the milk of his own production received at his producer-handler plant had been received at a pool plant;

(h) The determination of a production history base pursuant to this section shall be subject to the following conditions:

(1) If a producer operated more than one farm at the same time, a separate production history base shall be determined with respect to the average daily producer milk deliveries from each farm, except that only one production history base shall be determined with respect to milk production resources and facilities of a producer handler; and

(2) Only one production history base shall be allowed with respect to milk produced by one or more persons at a single location where the land, building, and equipment, are jointly used, owned, or operated.

§ 1065.93 New producers.

The market administrator shall determine a production history base for each producer for whom a production history base was not determined pursuant to § 1065.92 as follows:

(a) Any producer who delivered his milk to a nonpool plant that became a pool plant shall be assigned a production history base on the same basis as other producers under the order as though the deliveries to the nonpool plant had been deliveries to a pool plant, except that assignment of base in the case of any producer who previously forfeited base or disposed of base by transfer will be subject to the provisions of paragraph (d) of this section.

(b) A producer other than a producer pursuant to paragraph (a) of this section who delivered milk to a nonpool plant prior to becoming a producer as defined in this order and who has at least a 1-year production history period shall be assigned a production history base, effective on the first day of the second month following the month in which he began deliveries of producer milk to a pool plant, on the same basis as if he had been a producer under the order and his milk deliveries to the nonpool plant had been deliveries to a pool plant: *Provided*, That the production history base effective for such producer pursuant to this paragraph in any month before updating shall not exceed the average daily milk deliveries of such producer during the first 2 months of producer milk deliveries from the same production facilities from which milk deliveries were made during his production history period.

(c) A producer whose production history period is less than a 1-year production history period, except a producer assigned production history base pursuant to § 1065.92(c), shall be assigned a production history base on the effective date of this provision or on the first day of the second month following the month in which as a producer he began milk deliveries in an amount equal to 50 percent of his average daily milk deliveries during the immediately preceding 2-month period. Such production history base shall be effective for such producer unless a production history base is acquired by transfer, in which case the greater of the acquired or the base computed from his own production shall be the effective production history base.

(d) A producer who, after having forfeited or disposed of all his Class I base, either continues as a producer on the market or discontinues deliveries to the market and thereafter returns to the market as a producer, shall be assigned a production history base in the manner provided in paragraph (c) of this section, such assignment to be effective not earlier than the first day of the 15th month after the month in which the producer who forfeits his base ceases deliveries or a producer who disposes of all his Class I base makes such disposition. In the application of this provision, use of the same production facilities by another person (or the same person under a different name) to produce milk after the above described forfeiture or transfer of base shall be considered as a continuation of the operation by the previous operator if the new operator is a member of the immediate family of the previous operator. This provision shall be applied also to any production facility to which a Class I base has not been assigned that is operated by a person in which the producer who forfeited or transferred his base has a financial interest if such facility commences production on or after the effective date of the transfer or forfeiture, or such producer acquired his financial interest in such person later than 3 months prior to the effective date of the base transfer or forfeiture: *Provided*, That in the case of a producer who forfeited his base because he continued to deliver his milk to a plant that had been a pool plant but lost

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its pool plant qualification, assignment of base pursuant to paragraph (a) of this section will not be subject to delay to the first day of the 15th month after forfeiture, and deliveries by such producer during the period of forfeiture shall not be excluded from production history by reason of such forfeiture.

§ 1065.94 Updating of production history bases.

The production history base for each producer who has neither disposed of his entire base by transfer nor forfeited his base pursuant to § 1065.97(a), or after having disposed of his entire base by transfer or forfeiture has met the delivery requirement prescribed in § 1065.93 (d) for determination of new production histotry base, shall be determined by the market administrator on February 1, 1974, and each February 1 thereafter as follows:

(a) In updating a production history base as described in this paragraph, adjustments to a producer's previously assigned production history base and/or average daily milk deliveries in prior years shall be made as follows:

(1) The prior production history base assigned to such producer shall be changed in proportion to the change in Class I base due to adjustment for hardship or loss of Class I base because of underdelivery of base. In the case of transfer of base production history base shall be adjusted as specified in § 1065.96 (a).

(2) The average daily milk deliveries of a producer in any calendar year that is part of his production history period prior to any net disposal of Class I base by transfers since January 31 of the preceding year or any underdelivery causing reduction of Class I base, shall be reduced in proportion to the net change in Class I base. For the purpose of this subparagraph disposal of base in January shall be treated as if disposed of in the preceding December.

(3) If the average daily milk deliveries of the producer in the preceding year are less than 90 percent of the Class I base assigned to such producer in the preceding year as adjusted for hardship and less any net disposal of base by transfer, then the producer's Class I base shall be reduced by the amount of the difference between such average daily milk deliveries and such Class I base as adjusted for hardship and disposal of base by transfer, and the production history base of such producer shall be reduced in the same proportion as the reduction of Class I base: *Provided*, That this subparagraph shall not apply in any year in which total producer milk is 135 percent or more of the Class I disposition described in § 1065.95(a)(1).

(4) If the net effect of all adjustments for any period is a reduction greater than the production history base or average daily deliveries prior to adjustment, then the resulting amount shall be zero and such period shall not be a production history period.

(b) Effective February 1, 1974, the market administrator shall update the production history base of each producer who has a production history period of 1 year or more as follows: Add (1) the average daily milk deliveries of such producer during the year 1973 and (2) twice the production history base previously assigned to such producer as adjusted pursuant to paragraph (a) of this section, and divide the sum by 3. If such result is less than the production history base previously assigned to such producer as adjusted pursuant to paragraph (a) of this section, then such previous production history base as adjusted shall be the effective production history base.

(c) Effective February 1, 1975, and February 1 in each year thereafter the market administrator shall update the production history base for specified producers as follows:

(1) For each producer who has a 3-year production history period, add (i) the average daily milk deliveries during the preceding calendar year and (ii) the average daily milk deliveries during each of the second and third preceding calendar years (or portion of a year) reduced by any adjustment pursuant to paragraph (a) of this section, and divide such total by 3. If such result is less than the production history base assigned to such producer on or after February 1 of the preceding year as adjusted pursuant to paragraph (a) of this section then such previously assigned production history base, as adjusted, shall be the effective production history base.

(2) For each producer who has a 2-year production history period who did not acquire Class I base by transfer add (i) the average daily milk deliveries in the preceding year, (ii) the average daily milk deliveries in the second preceding year reduced by any adjustment pursuant to paragraph (a) of this section, and (iii) the initial production history base assigned to (or computed for) such producer pursuant to § 1065.92 (c) or (d) or § 1065.93(c) adjusted pursuant to paragraph (a) of this section, and divide the sum by 3. If such result is less than the production history base assigned to such producer on or after February 1 of the preceding year as adjusted pursuant to paragraph (a) of this section, then such previously assigned production history base, as adjusted, shall be the effective production history base.

(3) For each producer who has a 1-year production history period add (i) the average daily milk deliveries of such producer during such 1-year period and (ii) twice the initial production history base assigned to (or computed for) such producer pursuant to § 1065.93(c) adjusted pursuant to paragraph (a) of this section, and divide the sum by 3. If such result is less than the initial production history base assigned to (or computed for) such producer as adjusted pursuant to paragraph (a) of this section, then such initial production history base, as adjusted, shall be the effective production history base.

(4) For each producer who has a 2-year production history period and who has acquired Class I base by transfer, add (i) the average daily milk deliveries of such producer during the preceding year and (ii) twice the production history base assigned to such producer on or after February 1 of the preceding year adjusted pursuant to paragraph (a) of this section, and divide the sum by 3. If such result is less than the production history base previously assigned to such producer as adjusted pursuant to paragraph (a) of this section, then such previously assigned production history base, as adjusted, shall be the effective production history base.

(d) For a producer who is assigned an initial history of production pursuant to § 1065.92 (e), (f), (g) and § 1065.93 the market administrator shall update his history of production from year to year in the manner applicable to a producer delivering to a pool plant as provided in paragraphs (b) and (c) of this section.

§ 1065.95 Computation of Class I base for each producer.

On the effective date of this provision and on February 1, 1974, and February 1 of each subsequent year the market administrator shall assign a Class I base to each producer who has a production history base. Class I bases shall be assigned to producers described in § 1065.93 when they are issued production history bases. On February 1 of each year Class I bases shall be computed as follows:

(a) Compute a "Class I base percentage" as follows:

(1) Determine the sum of Class I dispositions during the preceding calendar year specified in subdivisions (i), (ii), and (iii) of this subparagraph:

(i) Class I producer milk pursuant to § 1065.46;

(ii) The Class I disposition of plants during the period when they were nonpool plants, if such plants were pool plants in the preceding December; and

(iii) The Class I disposition of a person who was a producer-handler during a portion of the year and who held producer status in the preceding December.

(2) Multiply the quantity computed pursuant to subparagraph (1) by 1.20 and divide such result by the number of days in such year.

(3) Divide the quantity computed pursuant to subparagraph (2) of this paragraph by a quantity which is the total of production history bases computed pursuant to §§ 1065.93, 1065.93, and 1065.94, whichever is applicable. The result shall be converted to a percentage by multiplying by 100 and rounding to the third decimal place. Such percentage shall be known as the "Class I base percentage."

(b) The Class I base of each producer with a production history base shall be determined by multiplying his production history base by the "Class I base percentage" and rounding the result to the nearest pound: *Provided*, That with respect to a producer with a production history period of less than 3 years beginning after the effective date of this provision, 20 percent shall be subtracted from the result of the preceding calculation, and: *Provided further*, That such 20 percent reduction shall be effective continuously with respect to a producer for a period not exceeding 36 months from the beginning of such production history period. With respect to a producer who has acquired production history base by transfer, such 20 percent reduction shall apply only to base exclusive of that acquired by transfer.

§ 1065.96 Transfer of bases.

Production history base and Class I base may be transferred pursuant to the following rules and conditions:

(a) A transfer of base means the disposal of Class I base and production history base by a transferor and the associated acquisition of Class I base and production history base by transferee. Disposal of base means disposal of Class I base and disposal of a proportionate amount of the production history base held by the transferor. Acquisition of base means the acquisition of Class I base and an amount of production history base which is the quantity of Class I base acquired multiplied by the reciprocal of the Class I base percentage. A transfer may be made only to a person who is a dairy farmer. The amount of Class I base credited to the transferee shall be two-thirds of the Class I base disposed of by the transferor: *Provided*, That such one-third reduction shall not apply to:

(1) An intrafamily transfer (including transfer to an estate and from an estate to a member of the immediate family);

(2) The division of base except as provided pursuant to paragraph (h) of this section; and

(3) The combining of bases of two or more producers for purpose of joint enterprise operated by such producers.

(b) A person receiving base by transfer must notify the market administrator in writing of the name of the producer transferring the base, the effective date of the transfer and the amount of base to be transferred. Application for transfer must be made to the market administrator on forms approved by the market administrator and signed by the transferor, his heirs, executor, or trustee and by the person to whom such base is to be transferred;

(c) Subject to paragraphs (a) and (k) of this section, transfers of an entire base or transfers other than pursuant to paragraph (d) of this section may not be made except in the case of:

(1) Death of the baseholder;

(2) Intrafamily transfers;

(3) Termination of the dairy enterprise of base holder;

(4) The baseholder entering the armed services;

(5) Transfer to a partnership or corporation in which the transferor has a material management interest; and

(6) Transfers allowed as a hardship adjustment.

(d) Subject to paragraphs (a) and (k) of this section, a producer may transfer a portion of his Class I base, in multiples of 150 pounds, as follows:

(1) Not more than the larger of 150 pounds or 30 percent of the Class I base assigned to a producer on the most recent of the effective date, February 1 of any year, or the initial assignment of base to such producer, may be disposed of by transfer prior to the February 1 following.

(2) A jointly held base may be divided among individuals engaged in a joint enterprise.

(e) Subject to paragraph (k) of this section a transfer of an entire base may be made effective on any day of the month if application for such transfer is filed with the market administrator within 5 days thereafter. Otherwise such transfer shall be effective on the first day of the month following that in which application is made;

(f) A transfer of a portion of a base shall be effective the first day of the month following that in which application for which such transfer is made to the market administrator;

(g) A base which is jointly held or in a partnership may be transferred subject to limitations otherwise provided in this section only upon application signed by each joint holder or partner, his heirs, executors, or trustee and by the person to whom such base is to be transferred;

(h) A base which has been established by two or more persons operating a dairy farm jointly or as a partnership may be divided among the joint holders or partners if written notification of the agreed division of base signed by each joint holder or partner, his heirs, executor, or trustee, is filed with the market administrator prior to the first day of the month for which such division is to be effective: *Provided*, That, however, a one-third lapse of base shall apply to base to the extent it constitutes a transfer by a person leaving a joint enterprise of base held by such person as an individual not more than 12 months prior to leaving such enterprise.

(i) It must be established to the satisfaction of the market administrator that the conveyance of base is bona fide and not for the purpose of evading any provision of this order, and comes within the remaining provisions of this section;

(j) In the case of an intrafamily transfer (including transfers to an estate and from an estate to a member of the immediate family), or any transfer not subject to the one-third lapse, all restrictions on transferring base applicable to the transferor producer shall also apply to the transferee;

(k) A producer who receives a base pursuant to § 1065.92 (c), (d), (e), (f), or (g) or § 1065.93 (a), (b), or (c) may not transfer such base, for 1 year from the date of receipt, provided, however, that such limitation shall not apply to:

(1) Intrafamily transfers; or

(2) The quantity of base such producer acquires by transfer.

(l) If a base is held by a corporation, a change in ownership of the stock which transfers control to a new person or persons other than a member of the immediate family of the person transferring such stock will be considered to result in a transfer of base and in this case compliance with all base rules affecting transfers will be required: *Provided*, That if the transferor(s) is the sole holder of the stock and transfers such stock to a member or members of the immediate family, there will be no lapse of base.

(m) A dairy farmer who has ceased deliveries of producer milk because he is delivering milk to a plant formerly a pool plant that no longer has pool plant qualification shall not be permitted to dispose of Class I base.

§ 1065.97 Miscellaneous base rules.

The following base rules shall be observed in the determination of bases.

(a) A person who discontinues delivery of producer milk for a period of 90 consecutive days after a Class I base is issued to him or fails to begin delivery of producer milk within 90 days of receipt of a Class I base by transfer shall forfeit his production history, together with any Class I base and production history base held pursuant to the provisions of this order, except that a person entering the military service may retain such production history, Class I base and production history base until 1 year after being released from active military service;

(b) As soon as production history bases and Class I bases are computed by the market administrator, notice of the amount of each producer's production history base and Class I base shall be given by the market administrator to the producer, to the handler receiving such producer's milk if the producer is not a member of a qualified cooperative association, and to the cooperative association of which the producer is a member;

(c) As a condition for designation as a producer-handler pursuant to § 1065.9, any person (including any member of the immediate family of such a person, any affiliate of such a person or any business of which such a person is a part) who has held Class I base any time during the 12-month period prior to such designation shall forfeit the maximum amount of Class I and production history base held at any time during such 12-month period; and

(d) In assigning Class I base to a producer, the market administrator shall round such base to the nearest pound.

§ 1065.98 Hardship provisions.

Requests of producers for relief from hardship or inequity arising under the provisions of §§ 1065.92 through 1065.97 will be subject to the following:

(a) After bases are first issued under this plan and after bases are issued on each succeeding February 1, a producer may request review of the following circumstances because of alleged hardship or inequity:

(1) He was not issued a Class I base;

(2) His production history base is not appropriate because of unusual conditions during the base-earning period such as loss of building, herds, or other facilities by fire, flood or storms, official quarantine, disease, pesticide residue, condemnation of milk, military service of the producer or his son;

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(3) Loss or potential loss of Class I base pursuant to § 1065.97(a);

(4) Loss or potential loss of Class I base because of underdeliveries pursuant to § 1065.94(a)(3).

(5) Inability to transfer base.

(b) The producer shall file with the market administrator a request in writing for review of hardship or inequity not later than 45 days after notice pursuant to § 1065.97(b) with respect to requests pursuant to paragraph (a) (1) or (2) of this section, or not later than 45 days after the occurrence with respect to request pursuant to paragraph (a) (3), (4), or (5) of this section, setting forth:

(1) Conditions that caused the alleged hardship or inequity;

(2) The extent of the relief or adjustment requested;

(3) The basis upon which the amount of adjustment requested was determined; and

(4) Reasons why the relief or adjustment should be granted.

(c) One or more producer base committees shall be established and function as follows:

(1) Each producer base committee shall consist of five producers appointed by the market administrator;

(2) Each committee shall review the requests for relief from hardship or inequity referred to it by the market administrator at a meeting in which the market administrator or his representative serves as recording secretary and at which the applicant may appear in person if he so requests.

(3) Recommendations with respect to each such request shall be endorsed at the meeting by at least three committee members and shall:

(i) With respect to requests pursuant to paragraph (a) (1), (3), (4), or (5) of this section, grant or adjust production history bases and average daily producer milk deliveries for prior years where it appears appropriate, delay forfeiture of Class I base, restore forfeited base or reduced average daily producer milk deliveries where appropriate, and permit transfer of base not otherwise possible under the order provisions.

(ii) With respect to requests pursuant to paragraph (a)(2) of this section, either reject the request or provide adjustment in the form of additional production history base and average daily producer milk deliveries for prior years where it appears appropriate and the effective date thereof of such adjustment. In considering such requests the loss of milk production due to the following shall not be considered a basis for hardship adjustment:

(a) Loss of milk due to mechanical failure of farm tank or other farm equipment; and

(b) Inability to obtain adequate labor to maintain milk production, except that hardship adjustment may be granted in the case of a producer or the son of a producer who entered into military service directly from employment in milk production;

(4) Recommendation of the producer base committee shall:

(i) If to deny the request, be final upon notification to the producer, subject only to appeal by the producer to the Director; Dairy Division, within 45 days after such notification; or

(ii) If to grant the request in whole or in part, be transmitted to the Director, Dairy Division, and shall become final unless vetoed by such Director within 15 days after transmitted.

(5) Committee members shall be reimbursed by the market administrator from the funds collected under § 1065.86 for their services at $30 per day or portion thereof, plus necessary travel and subsistence expense incurred in the performance of their duties as committee members.

(d) The market administrator shall maintain files of all requests for alleviation of hardship and the disposition of such requests. These files shall be open to the inspection of any interested person during the regular office hours of the market administrator.

[FR Doc.72-18827 Filed 11-2-72;8:49 am]

[7 CFR Part 1133]

[Docket No. AO 275-A25]

MILK IN INLAND EMPIRE MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and to Order

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Inland Empire marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Spokane, Wash., on September 12, 1972, pursuant to notice thereof issued on August 22, 1972 (37 F.R. 17855).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on October 6, 1972 (37 F.R. 21539), filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein.

The material issues on the record relate to:

1. Diversion of produced milk.
2. Pricing point for diverted milk.
3. Pool plant definition.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Diversion of producer milk.* The diversion provisions of the order should be revised to provide that during the months of September through March the quantity of producer milk diverted in any of these months may not exceed 50 percent of the producer milk received at pool plants (including that diverted), and that during the months April through August, such diversion may not exceed 70 percent of the producer milk received at pool plants (including that diverted). Also, the order should provide that with respect to the diversion of producer milk to nonpool plants, at least 2 days' production must be delivered to pool plants in any of the months of September through November to be eligible for diversion during such months.

Currently, the order provides seasonal limitations on the quantity of producer milk that may be diverted. The present provisions have been effective since 1968 and provide that the quantity of milk that may be diverted in any month shall not exceed 50 percent (April through August), 30 percent (December through March), and 20 percent (September through November) of the total producer milk received at pool plants in any month or diverted therefrom. The order provides also that to be eligible for diversion at least 6 days' production of each producer must be received at a pool plant in any of the months of September through November.

Diversion of milk directly from the farm to a nonpool manufacturing plant is a method by which a handler may efficiently dispose of the reserve milk that is a necessary part of his regular supply. In order to be assured of an adequate supply every day, a handler procuring his own milk supply must arrange to purchase sufficient milk to allow for variations in production and in his daily needs for fluid processing. Production of milk varies seasonally and, accordingly, producers furnishing a sufficient supply for the low production season will produce more than an adequate supply in high production months. Handlers' daily milk requirements also vary, chiefly because fluid milk packaging is not carried on all days of the week.

A cooperative association supplying the market proposed that the proportion of producer milk that may be diverted in any month be increased to 50 percent in any of the months of September through March and be unlimited in all other months. Proponent proposed also that to be eligible for diversion at least 2 days' production of each producer should be physically received at pool plants in any of the months of September through November to be eligible for diversion during such months.

Another cooperative supplying the market concurred with the proposals except to propose that for each of the months of April through August the proportion of producer milk that may be diverted should be increased to 70 percent in any of such months and should not be unlimited as proposed by proponent. In its brief, proponent concurred in this change.

No testimony was received at the hearing in opposition to increasing the percentage of producer milk that may be

diverted, or to changing the minimum delivery requirements for individual producers.

The chief reasons put forth by both associations for making the proposed changes are that (1) the present provisions no longer accommodate the orderly disposition of the reserve supplies of milk for the market, and (2) the construction of a nonfat dry milk plant in the market has resulted in larger quantities of reserve milk being handled as diverted milk rather than as transfers from pool plants to nonpool plants, as previously the case.

Proponent is a qualified cooperative association under the order. It represents 39 percent of the producers supplying the market and handles about 87 percent of the Class III disposition. It carries the major burden of handling reserve supplies of milk for the market.

The association sells milk to every handler regulated by the order. Some of the handlers buy their full supply from the association while other handlers utilize the association to balance their own supply of producer milk. During certain days of the week, months of the year, or at times when they might obtain bids to supply school or government contracts, the handlers call upon the reserve supplies of milk handled by the association.

The present order provisions concerning the diversion of producer milk to nonpool plants do not facilitate the orderly and economical disposal of milk that is in excess of the fluid needs of the market. The problems of handling excessive producer milk supplies have been such that in 1970, 1971, and currently, it has been necessary to suspend the diversion limits for the months September through November.

Annual receipts of producer milk in the market have increased steadily without a corresponding increase in the Class I utilization of such milk. Between 1970 and 1971 producer receipts increased 9.9 percent while producer milk in Class I increased 3 percent. For the months January through July 1972, producer receipts increased 6.8 percent over the same months of 1971, while Class I utilization increased 6 percent. While Class I utilization increased for the period January through July 1972, as compared with a year earlier, the problem of increased production relative to Class I utilization stems from changes in previous years and is expected to continue.

As indicated previously, proponent association assumes the responsibility of handling and disposing of its member milk that is in excess of its sales for fluid uses. During the months of seasonally high production this burden becomes greater as those handlers being supplied in part by proponent rely on their regular producer supplies for their fluid requirements. In 1971, proponent diverted 55.5 percent of its total member milk. In July of that year (the peak month for diversion) it diverted 66.6 percent of its member milk to nonpool plants. In July 1972, 73.4 percent of such milk was so diverted. This relatively large increase over the previous year results from increased production by producers regularly associated with the market, and has caused larger quantities of reserve milk to be diverted to the newly constructed nonfat dry milk plant in the market. The chronic condition of increased need to divert relative to the diversion limits provided in the order is what has encouraged review of the diversion provisions at this time. As previously indicated, a part of such need is that some milk previously transferred from pool plants to distant manufacturing plants is now being diverted to the nonpool nonfat dry milk plant at Spokane, Washington.

The order provides that two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers. In the past this has aided proponent in diverting milk within the limits provided by the order. Under current marketing conditions the provision may no longer be adequate in the near future within the limits presently provided. As indicated earlier, suspension actions have been taken in the months of low production to accommodate the necessary diversion of milk. In July 1972, diversion of milk was 49.4 percent of the combined receipts of the cooperative associations, and for the future is expected to exceed the present diversion limits provided by the order. It is evident from the data introduced into evidence that the present diversion provisions may no longer be adequate in any month of the year.

In developing order provisions to pool those milk supplies that serve the fluid markets regularly, it is necessary to include provisions that will not also pool supplies that do not serve the fluid market. The level of the percentage limits provided herein for the months of September through March will accommodate the quantity of milk that proponent must divert in handling the increasing reserve supplies of the market without jeopardizing the producer status of dairy farmers who regularly have supplied milk for the fluid needs of the market.

The higher percentage limit provided herein for the remaining months of April through August recognizes the seasonally greater production of milk and the consequent need during that period for diverting a larger proportion of the total producer milk supply. The present order provisions already reflect this to a degree but need to be revised under current marketing conditions.

The diversion limits provided herein require specific performance by each producer. He must deliver to pool plants at least 2 days' production in any of the months September through November when Class I utilization for the market is highest in relation to production. Also, the diversion privilege would continue to apply in other months only to the milk of those dairy farmers who have previously attained producer status through shipment to a pool plant. The order presently provides that to be eligible for diversion at least 6 days' production of a producer must be delivered to pool plants in any of the months of September through November. However, under present supply conditions for the market it is apparent that the present provisions may require uneconomic movements of milk to qualify producers whose milk needs to be diverted more frequently than the milk of other producers. For the most part, distributing plants in the market are located at the market center. The supply area, particularly for proponent, is located throughout most of the eastern half of the State of Washington.

Proponent regularly brings producer milk to the center of the market from farms in excess of 200 miles from Spokane. The farms are widely scattered, and under present marketing conditions of full supply it would be more economic to provide fewer days' production that individual producers must deliver milk to pool plants to have their milk qualify for diversion to nonpool plants. For example, producers whose farms are located in the Idaho panhandle (in the vicinity of Bonners Ferry) can have their milk diverted to a nonpool manufacturing plant at Sand Point, Idaho, instead of having a substantial portion of it hauled all the way to a Spokane pool plant to qualify for diversion.

The uneconomic movement of milk of producers who are regularly associated with the market then would be avoided.

In view of the aforementioned considerations, it is concluded that the diversion limits proposed herein should be adopted. Such limits will enhance orderly marketing by assuring that only milk of producers regularly supplying the market share in the proceeds of the market, but yet permitting flexibility to handle efficiently milk not needed for fluid use.

The diversion provisions of the order now provide that the operator of a pool plant may divert the milk of any producer member of a cooperative association that is commingled with milk of nonmember producers on a tank truck at the time of delivery from the farm. This provision has not been used since its inception in 1965, and it is not likely to be useful in the future because the cooperatives transport their member milk. Accordingly, the provision is not included as part of the revised diversion provisions.

2. *Pricing point on diverted milk.* The order should be amended to provide that, for purposes of pricing only, milk diverted from a pool plant to a nonpool plant, either for the account of a handler as the operator of a pool plant or for the account of a cooperative association in its capacity as a handler, shall be treated as a receipt at the plant to which diverted.

The change was requested by a cooperative association supplying the market. The representative of another cooperative association supplying the market testified at the hearing in favor of the proposal. No opposition to the proposal was expressed either at the hearing or in briefs.

Most of the producer milk in excess of Class I requirements is diverted to a non-

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pool plant in the base price zone where no location adjustment is applicable. Thus, a change in the point of pricing on this milk will not affect the pool obligation of most of the diverting handlers, or the uniform price received by most producers.

When diverted milk is priced at the plant from which diverted, there is always the incentive for association of distant milk with local plants in the market even though such milk is not needed for fluid use, is not a part of the market's regular supply, and is intended for manufacturing uses. If dairy farmers relatively distant from the market have their milk diverted to a nonpool plant near their farms and receive a uniform price based on the location of a pool plant in the marketing area, such farmers are compensated as if their milk had incurred the expense of delivery all the way to the market center.

We find no reason why milk diverted from a pool plant to a nonpool plant at any particular location under usual circumstances should draw a higher return from the market pool than milk received at a pool plant at the same location.

3. *Pool plant definition.* The introductory language to the pool plant definition should be changed to provide that if a portion of a plant is physically separated from the Grade A portion of such plan, is operated separately and is not approved by any health authority for the receiving, processing or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant.

The change was proposed by the cooperative association that is now operating a new nonfat dry milk plant in the market. The need for the provisions stems from the operation of the plant.

The plant is operated by proponent in space leased from another cooperative supplying the market and operating a distributing pool plant under the same roof. While the two operations are conducted under one roof they are entirely separated from each other by immovable partitions and walls. No milk or cream product lines extend from one plant into the other.

The manufacturing plant was built exclusively for the manufacture of nonfat dry milk. It is currently designated as a nonpool plant under the order. It is not licensed or inspected by the authority having jurisdiction over Grade A distribution in the marketing area, although all the milk processed in the plant is Grade A reserve milk for the market. The plant comes under the jurisdiction of the Washington Department of Agriculture, which is the licensing agency for plants engaged in the manufacture of nonfat dry milk and other manufactured dairy products.

By changing the order as proposed, the pool plant definition will provide explicitly that the manufacturing portion of the facility should be distinguished from the distributing pool plant portion of the facility, and should be designated separately as a nonpool plant as long as it meets the requirements of the provision. In such instance, the manufacturing portion of the plant would not be supplying the fluid milk needs of the market by means of Grade A milk sales to other handlers and would appropriately be distinguished from the distributing pool plant with which it shares, in common, land and a building and might otherwise be designated as a single plant under the order.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings, and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusion set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

No exceptions were received.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order amending the order regulating the handling of milk in the Inland Empire marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the Federal Register. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

August 1972 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Inland Empire marketing area is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on October 30, 1972.

Richard E. Lyng,
Acting Secretary.

Order[1] Amending the Order, Regulating the Handling of Milk in the Inland Empire Marketing Area

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Inland Empire marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Inland Empire marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on October 6, 1972, and published in the Federal Register on October 12, 1972 (37 F.R. 21539), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein:

1. In § 1133.8, the introductory text is revised to read as follows:

§ 1133.8 Pool plant.

"Pool plant" means any plant described in paragraph (a) or (b) of this section, other than the plant of a producer-handler or a plant with respect to which the handler is exempt pursuant to § 1133.61, which is approved by an appropriate health authority for the receiving of milk qualified for distribution as Grade A milk in the marketing area. If a portion of such plant is physically separated from the Grade A part of such plant, is operated separately, and is not approved by any health authority for the receiving, processing, or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section.

* * * * * *

2. In § 1133.12, paragraph (c) is revised to read as follows:

§ 1133.12 Producer milk.

* * * * * *

(c) With respect to diversions to nonpool plants:

(1) A cooperative association may divert for its account, under paragraph (b)(1) of this section, the milk of any member-producer eligible for diversion. The total quantity of milk so diverted may not exceed 50 percent in any of the months of September through March, and 70 percent in any of the months of April through August, of its total member milk received at all pool plants or diverted therefrom during the month. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if each association has filed in writing with the market administrator a request for such computation;

(2) A handler operating a pool plant may divert for his account under paragraph (a)(2) of this section, milk of any producer eligible for diversion, other than a member of a cooperative association which diverts milk under subparagraph (1) of this paragraph. The total quantity of milk so diverted may not exceed 50 percent in any of the months of September through March and 70 percent in any of the months of April through August, of the milk received at or diverted from such pool plant during the month from producers who are not members of a cooperative association that diverts milk under subparagraph (1) of this paragraph;

(3) Milk diverted in excess of the limits specified shall not be considered as producer milk, and the diverting handler shall specify the producers whose milk is ineligible as producer milk. If a handler fails to designate such producers, producer milk status shall be forfeited with respect to all milk diverted by the handler;

(4) Producers eligible for diversion are those whose milk has been received at the pool plant prior to diversion from such plant (but not necessarily in the current month). Producers eligible for diversion in the months of September, October, or November must in addition have at least 2 days' production received at a pool plant in the respective month; and

(5) For the purpose of location adjustments pursuant to §§ 1133.53 and 1133.81, diverted milk shall be considered to have been received at the location of the plant to which diverted.

3. In § 1133.81, paragraph (a) is revised to read as follows:

§ 1133.81 Location adjustments to producers and on nonpool milk.

(a) In making payments pursuant to § 1133.80 the market administrator shall reduce the uniform price computed pursuant to § 1133.71 by the location adjustment applicable at the plant where the milk was first physically received from producers, and the uniform price of producer milk diverted to a nonpool plant according to the location of the nonpool plant, each at the rates set forth in § 1133.53.

* * * * * *

[FR Doc.72-18828 Filed 11-2-72;8:49 am]

Agricultural Stabilization and Conservation Service

[7 CFR Part 775]

WAREHOUSE STORED RESEAL LOAN PROGRAM FOR THE 1973–74 STORAGE PERIOD

Storage Period for Various Crops of Feed Grains and Wheat

Notice is hereby given that the Secretary of Agriculture under authority of the Agricultural Act of 1949, as amended, proposes to make determinations and issue regulations relative to extending the maturity date for outstanding loans secured by various crops of feed grain such as corn, grain sorghum, barley and oats and various crops of wheat under the extended warehouse storage reseal loan program. Determinations relating to the need for such a program are based on such factors as, but not limited to, the need to isolate stocks of these commodities from the market, to stabilize, support and protect farm income and prices, assist farmers to get a fair share of the market for their commodities and to maintain a commodity reserve to meet changing world conditions.

Detailed regulations concerning commodity eligibility requirements, storage requirements and related requirements necessary to carry out this program are also being considered. Provisions of this kind under the current program may be found in the regulations governing loans, purchases, and other operations for grains and similarly handled commodities which appear in Title 7, Part 1421 of the Code of Federal Regulations.

Prior to making any of the foregoing determinations, consideration will be given to any data, views, and recommendations which are submitted in writing to the Director, Grain Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. In order to be sure of consideration, all submissions must be received by the Director not later than 15 days after publication of this notice in the Federal Register. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.).

This determination was inadvertently omitted from the notice of proposed determinations relative to the 1973 feed grain set-aside program, 1973 crop feed grain loan and purchase program, and reseal program for the 1973–74 storage period published in the Federal Register on October 7. Since this decision is important to producers in planning their operations it is considered impractical and contrary to the public interest to allow 30 days for submission of views and recommendations.

Signed at Washington, D.C., on October 30, 1972.

Glenn A. Weir,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-18879 Filed 11-2-72;8:53 am]

Commodity Credit Corporation

[7 CFR Part 1421]

WAREHOUSE STORED RESEAL LOAN PROGRAM FOR 1973–74 STORAGE PERIOD

Storage Period for Various Crops of Feed Grains and Wheat

Cross Reference: For a document pertaining to the storage period for vari-

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ous feed grain and wheat crops under the warehouse stored reseal loan program for the 1973–74 storage period, see F.R. Doc. 72–18879, Agricultural Stabilization and Conservation Service, *supra*.

[7 CFR Part 1464]

FIRE-CURED, DARK AIR-CURED, AND VIRGINIA SUN-CURED TOBACCO

Notice of Advance Grade Rates for Price Support on 1972 Crop

Correction

In F.R. Doc. 72–17535 appearing at page 21956 of the issue for Tuesday, October 17, 1972, in § 1464.17 *1972 crop—Virginia Fire-cured tobacco, Type 21—advance schedule*, the first figure in the left-hand column, now reading "A2F," should read "A1F."

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

FOOD ADDITIVES

Proposed Revocation of Use of Morpholine

An order published in the FEDERAL REGISTER of June 30, 1962 (27 F.R. 6232), provided for morpholine to be added to boiler water in the preparation of steam that will contact food. Subsequent orders were published (1) in the FEDERAL REGISTER of July 20, 1962 (28 F.R. 6878), to provide for the use of morpholine and its salts of fatty acids derived from animal or vegetable oils, as corrosion inhibitors for steel or tinplate intended for food-contact use and (2) in the FEDERAL REGISTER of November 30, 1962 (28 F.R. 11799), to provide for the use of morpholine as the salt(s) of one or more of the fatty acids meeting the requirements of § 121.1070, as a component of protective coatings applied to fruits and vegetables.

Since the establishment of the regulations cited above, questions have been raised about the safety of morpholine. It has been shown that under acid conditions, it is possible for this substance at significant levels to combine with nitrite, forming nitrosomorpholine that may be a health hazard. In view of this information, the above listed uses of morpholine and its salts, can no longer be regarded as having been shown to be safe as required by section 409 of the Federal Food, Drug, and Cosmetic Act.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 409, 701(a), 72 Stat. 1785–1788, as amended, 52 Stat. 1055; 21 U.S.C. 348, 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner of Food and Drugs proposes to amend Part 121, as follows:

1. In § 121.1088 *Boiler water additives* by deleting the item "morpholine" from the substances listed in paragraph (d).

2. By revoking § 121.1105 *Morpholine*.

3. In § 121.2551 *Corrosion inhibitors used for steel or tinplate* by deleting the item, "morpholine and its salts of fatty acids derived from animal or vegetable oils" from the "List of substances" in paragraph (b)(1).

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: November 1, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–18906 Filed 11–2–72;8:53 am]

[21 CFR Part 121]

FOOD ADDITIVES

Use of Sodium Nitrite, Sodium Nitrate, Potassium Nitrite, and Potassium Nitrate

Recent information indicates that under some conditions nitrites may react with secondary and tertiary amines, which occur naturally in many foods, to form nitrosamines in food and perhaps that nitrites may also react with such amines in man's gastrointestinal tract to form nitrosamines. Certain nitrosamines have been found to be carcinogenic in test animals, and are, therefore, potentially hazardous to human health.

Nitrite is normally present in human saliva. Nitrates occur naturally in many foods, including vegetables, meat, poultry, fish, and water and may be reduced to nitrite by harmless microorganisms present in such food and the human intestinal tract.

Nitrites and nitrates have long been used in the curing of meat and poultry, such use predating the Food Additives Amendment of 1958. Nitrites prevent red meat from turning brown and are responsible for the familiar red color of cured meats. The unique organoleptic qualities of cured meats are often the result of the use of nitrites. At the present time the use of nitrites and nitrates (insofar as nitrates are converted to nitrites) is essential in the production of certain staple foods in maintaining the characteristics of color, taste, and texture which the consumer through long exposure has come to associate with and demand of such foods. For example, without nitrite bacon is salt pork, frankfurters are bratwurst and ham is salty roast pork.

The appreciation of the critical importance of nitrites in retarding growth and toxin development of *Clostridium botulinum* has grown over the last 40 years. *C. botulinum* is a microorganism that is ordinarily quite harmless and which is naturally present in the soil, in the sea, and in the food supply. *C. botulinum* becomes a source of concern only when it grows in food because it then produces a toxin which, when ingested, causes botulism, an acute food poisoning marked by a high mortality rate. Nitrites are essential to inhibit the growth of *C. botulinum* in canned ham, bacon, and in some processed meat, poultry, and fish products.

There have been no outbreaks of botulism attributable to commercially prepared foods which have been treated with nitrites or nitrates. On the other hand, there have been a number of fatalities due to botulism associated with consumption of commercially prepared foods prior to use of nitrite as a preservative. There is need, therefore, to consider with extreme care any changes in regulations governing the use of these substances. From a public health standpoint, the choice to be made is between the risk of the possibility of a chronic illness (cancer) and a very real and more immediate hazard (botulism).

Regulations promulgated by the Food and Drug Administration permit the use of nitrites and nitrates in certain foods as follows:

An order published in the FEDERAL REGISTER of September 23, 1961 (26 F.R. 8972), permitted sodium nitrite to be used as a preservative and color fixative in canned pet food containing meat or fish (21 CFR 121.223).

An order published in the FEDERAL REGISTER of September 23, 1961 (26 F.R. 8973), permitted sodium nitrate and sodium nitrite, respectively, to be used as preservatives and color fixatives in smoked cured salmon. The regulations were amended by orders published in the FEDERAL REGISTER of (1) March 3, 1962 (27 F.R. 2090), to permit the additives to be used in meat-curing preparations for the home curing of meat and meat products, (2) July 31, 1963 (28 F.R. 7776), to permit the use of the additives in smoked cured shad, and (3) November 5, 1964 (29 F.R. 14985), to permit the use of the additives in smoked cured sablefish. The order published in the FEDERAL REGISTER of September 23, 1961 (26 F.R. 8973), also permitted sodium nitrite to be used as a color fixative in smoked cured tuna fish products (21 CFR 121.1063, 121.1064).

An order published in the FEDERAL REGISTER of July 26, 1963 (28 F.R. 7594), permitted potassium nitrate to be used as a curing agent in the processing of cod roe (21 CFR 121.1132).

An order published in the FEDERAL REGISTER of August 26, 1969 (34 F.R. 13659), permitted sodium nitrite to be used in combination with salt (NaCl) to aid in inhibiting the outgrowth and toxin formation from *Clostridium botulinum* type E in the processing of smoked chub in accordance with prescribed conditions of manufacturing and storage of the finished product. The regulation was

amended by an order published in the FEDERAL REGISTER of March 25, 1970 (35 F.R. 5034), to revise the cooling parameters after cooking (21 CFR 121.1230).

Nitrite and nitrate also have prior sanction for use as curing agents in meat and meat and poultry products. These uses were first sanctioned under the Meat Inspection Act of 1907 and the Federal Food and Drug Act of 1906 and are currently recognized under regulations of the U.S. Department of Agriculture (9 CFR 318.7, 381.147).

The Commissioner of Food and Drugs concludes that, in view of the possible health hazard of nitrosamines, the use of nitrites and nitrates in food should be limited to only those uses which are essential in inhibiting the growth of *C. botulinum* and for obtaining the essential characteristics of cured meats at this time. Thus he proposes to amend the Food Additive Regulations to delete the following non-essential uses:

1. Sodium nitrite in canned pet food containing meat or fish. These products are fully retorted and require no further preservation.

2. Sodium nitrate in smoked cured sablefish, salmon, and shad. Sodium nitrite (together with the use of salt, cooking, and refrigeration) is sufficient to control *C. botulinum*, and there is no need for the sodium nitrate as well. Although the available information indicates that there is no need for the use of sodium nitrate in smoked cured salmon, Nova Scotia salmon which is lightly salted (NaCl) may be a possible exception and the Food and Drug Administration will give careful consideration to any data or other information regarding such use that interested persons may wish to submit to the Hearing Clerk.

3. Sodium nitrite in smoked tuna fish products. The only function of the additive is to fix the color of the fish.

4. Potassium nitrate in cod roe. The additive is used as a curing agent. There are no data indicating its usefulness in inhibiting *C. botulinum*. It appears that this inhibition is accomplished by the use of a high percentage of sodium chloride in the cure.

In the FEDERAL REGISTER of August 12, 1972 (37 F.R. 1640), the Commissioner proposed to expand Subpart E under Part 121, within which would be established regulations governing all prior sanctioned direct and indirect food ingredients known to the Commissioner. As set forth below, the Commissioner proposes that two new sections, § 121.2007 *Sodium or potassium nitrite* and § 121.2008 *Sodium or potassium nitrate* be added to Subpart E of Part 121 as proposed at 37 F.R. 1640. The limitations proposed are the prior sanctions known to the Commissioner. Documented evidence of additional or different prior sanctions for these ingredients may be submitted in comments.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409, 701, 72 Stat. 1785–1788, as amended, 52 Stat. 1055; 21 U.S.C. 348, 371) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes to amend Part 121 as follows:

§ 121.223 [Revoked]

1. By revoking § 121.223 *Sodium nitrite.*

§ 121.1063 [Amended]

2. Paragraph (a) of § 121.1063 *Sodium nitrate* is amended by deleting subparagraph (1), relating to the use of sodium nitrate in smoked cured sablefish, salmon, and shad, and by deleting the words "and color fixative" from subparagraph (2).

§ 121.1064 [Amended]

3. Paragraph (a) of § 121.1064 *Sodium nitrite* is amended by deleting subparagraph (1), relating to the use of sodium nitrite in smoked tuna fish products, and by deleting the references that relate to the use of sodium nitrate in smoked cured sablefish, salmon, and shad in subparagraph (2), and by deleting the words "and color fixative" from subparagraphs (2) and (3).

§ 121.1132 [Revoked]

4. By revoking § 121.1132 *Potassium nitrate.*

5. By adding §§ 121.2007 and 121.2008 to Subpart E as follows:

§ 121.2007 Sodium or potassium nitrite.

Sodium and potassium nitrite are subject to prior sanctions for use as curing agents, with or without sodium or potassium nitrate, in meat and meat products and in poultry products in the following amounts: 2 pounds to 100 gallons of pickle at 10 percent pump level; 1 ounce to 100 pounds of meat (dry cure) or poultry product (dry cure); ¼ ounce to 100 pounds of chopped meat and/or chopped meat by product or chopped poultry meat. Sodium and potassium nitrite used in food shall comply with the specifications contained in the Food Chemicals Codex. The use of nitrites, nitrates, or any combination thereof shall not result in more than 200 parts per million of nitrite in the finished product.

§ 121.2008 Sodium or potassium nitrate.

Sodium and potassium nitrate are subject to prior sanctions for use as sources of nitrite in the production of cured meat and meat products and cured poultry products in the following amounts: 7 pounds to 100 gallons of pickle; 3½ ounces to 100 pounds of meat (dry cure) or poultry product (dry cure); 2¾ ounces to 100 pounds of chopped meat or chopped poultry meat. Sodium and potassium nitrate used in food shall comply with the specifications contained in the Food Chemicals Codex. The use of nitrites, or nitrates, or any combination thereof shall not result in more than 200 parts per million of nitrite in the finished product.

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: November 1, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–18905 Filed 11–2–72;8:53 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Part 12]

[CGD 72–204P]

CERTIFICATION OF SEAMEN

Proposed Firefighter Endorsement

The Coast Guard is considering amending its rules for the certification of seaman to add a "firefighter" endorsement.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed rule to the U.S. Coast Guard (GCMC), 400 Seventh Street SW., Washington, DC 20590. The comments should refer to this notice number CGD 72–204P and should give the reasons upon which any recommended changes are based, any specific wording recommended, and the name, address, and organization, if any, of the commenter.

All written comments received on or before December 8, 1972, will be considered before final action is taken on this proposal. The proposed rule may be changed in the light of comments received.

Copies of all written comments received will be available for examination in Room 8234, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC both before and after the closing date for receipt of written comments.

The endorsement as "firefighter" is being proposed to recognize those seamen who have attended a formal training course and to identify those seamen who have had special training in firefighting techniques. This proposal conforms to the Intergovernmental Maritime Consultative Organization resolution (A. 124(V)) dated October 25, 1967, which recommends that each member State should aim at training all its seafarers in fire prevention and firefighting to an extent appropriate to their function on board ship.

Following a disaster in the Adriatic Sea, the Greek Government has announced that after April 15, 1972, no Greek seaman will be allowed to embark in any ship flying the Greek flag unless he has taken a special course in firefighting. Although at the present time the United States does not intend to require

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all U.S. seamen to take a special firefighting course, it is known that many seamen have not had basic firefighting training. Those seamen who have not had basic firefighting training may not know the capabilities of firefighting equipment found on board ship or how to use it effectively in that many shipboard drills do not teach all the details. With the advent of reduced manning requirements due to technological advances, it is incumbent that the remaining personnel be more highly trained. By giving Coast Guard recognition with the endorsement as "firefighter," an interest in firefighting training should be stimulated which will serve to implement the recommendation of the Intergovernmental Maritime Consultative Organization.

The U.S. Maritime Administration is the agency of the Federal Government charged with the training of seamen and that agency presently has ongoing firefighting training courses given at the U.S. Navy facilities at Bayonne, N.J., and Treasure Island, Calif. If the regulation proposed in this document is adopted, the Maritime Administration has informed the Coast Guard that consideration will be given to expanding the firefighting training by offering courses at a port on the coast of the Gulf of Mexico and the Great Lakes.

In consideration of the foregoing, it is proposed to amend Part 12 of Title 46, Code of Federal Regulations by adding a new § 12.25–40 to follow § 12.25–35 to read as follows:

§ 12.25–40 Firefighter.

A holder of a Merchant Mariner's document who completes a training course after January 1, 1971, in shipboard firefighting techniques accepted by the U.S. Maritime Administration and presents an authorized certificate of completion of the course to the Coast Guard, may have the endorsement "firefighter" placed on that document.

This amendment is proposed under the authority of 46 U.S.C. 375, 416, 672; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b).

Dated: October 27, 1972.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.72-18842 Filed 11-2-72;8:45 am]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-NW-09]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Redmond, Oreg. transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Operations, Procedures and Airspace Branch, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108.

The alteration to the transition area would provide controlled airspace for the proposed VOR/DME Runway 34R approach to the City-County Airport, Madras, Oreg.

In consideration of the foregoing, the FAA proposes the following airspace action:

In § 71.181 (37 FR 2143) the description of the Redmond, Oreg. transition area is amended as follows:

In line 3, after, "• • • 5 miles south of the VORTAC," insert, "within 4 miles each side of the Redmond VORTAC 014° radial, extending from 15 miles north of the VORTAC to 35 miles north." In addition, amend by adding to the end of the description, "• • • and that airspace north of Redmond VORTAC bounded on the west by the east side of V25, and on the north by an arc of a 32 mile radius arc centered on the Redmond VORTAC, and on the northeast by the northwest edge of V536."

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Seattle, Wash., on October 24, 1972.

C. B. WALK, JR.,
Director, Northwest Region.

[FR Doc.72-18797 Filed 11-2-72;8:46 am]

[14 CFR Part 91]

[Docket No. 12326, Notice 72-28]

LARGE AND TURBINE-POWERED MULTIENGINE AIRPLANES

Charge for Certain Operations

Correction

In F.R. Doc. 72-18276, appearing at page 22798, in the issue of Wednesday, October 25, 1972, after the sixth line of the fourth paragraph, insert, "there is a lack of clarity in the rule with respect to what was intended to be in-".

[14 CFR Part 105]

[Docket No. 12336; Notice 72-29]

PARACHUTE JUMPING

Proposed Authorization

The Federal Aviation Administration is considering an amendment to Part 105 that would require any person conducting an intentional parachute jump in any controlled airspace to obtain an authorization from ATC and give prior notice to ATC before making that jump. In addition, the time during which lights are required for a parachute jump would be changed to conform with the time specified in § 91.73 of the flight rules. Other changes, nonsubstantive in nature, would be made as more fully described herein.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC–24, 800 Independence Avenue SW., Washington, DC 20591. All communications received on or before March 5, 1973, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

As defined in § 105.1, "a parachute jump" means the descent of a person to the surface from an aircraft in flight, when he intends to use, or uses, a parachute during all or part of that descent. In the case of sport parachuting or other parachute jumping operations that do not involve an inflight emergency, Part 105 requires the individual parachute jumper (or parachute jumping organization that represents a group of jumpers) to comply with the requirements of that part. These requirements include an authorization for the jump and a notice of the jump, depending upon the type of airspace or area to be used. For example, §§ 105.15, 105.19, and 105.21 now require an FAA authorization for a parachute jump conducted over or into certain congested areas or open air assemblies of persons, control zones with functioning control towers operated by the United States, or positive control areas. For the use of "other airspace," § 105.23 requires a notice to be given to ATC at least 1 hour before the jump is conducted. This notice may be given for a single jump or a "series of jumps" to be made over a specified period of time not to exceed 12 months.

The proposed § 105.19 would require an FAA authorization for the use of the airspace for a parachute jumping operation (single or series) conducted in any controlled airspace. It would no longer be limited in its application to those parachute jumping operations conducted in airspace designated as a control zone or a positive control area. This extension of the requirement of an authorization for the use of all controlled airspace is considered necessary in order for the FAA to properly provide for the safe and efficient utilization of that airspace by both the jumpers and aircraft. Accordingly, since § 105.21 would no longer be appropriate it would be deleted under this proposal.

In order to apply the foregoing requirement for an airspace authorization with a minimum burden upon the parachute jumpers and the pilots of the aircraft used for those jumps, it is also proposed that an authorization for the use of the airspace may be issued for a single jump or a series of jumps conducted over a period not to exceed 12 months. In addition, an individual, or a parachute jumping organization representing a group of jumpers would be allowed to make application for and be eligible to receive the FAA authorization. We believe these changes would provide the assurance for the use of a particular segment of the airspace that is needed for those clubs that wish to enter into long term agreements for the lease or purchase of real estate and facilities for their jumping activities.

Proposed § 105.19(b) would provide that an application for an authorization must be made in writing and submitted to the FAA not less than 15 days before the parachute jumping operation begins. Although it would be desirable for the application to be submitted to the ATC facility exercising control over the airspace in which the jumping operation is to be conducted, the rule permits the application to be submitted to any FAA facility or office which would then forward the application to the ATC facility. This will relieve the jumper or the jumping organization from the necessity of determining the appropriate ATC facility for the particular jumping operation. The proposed requirement for filing the application at least 15 days before the jumping operation is conducted is the time that the FAA considers is reasonably necessary to effect coordination between the appropriate ATC facility and the individual or organization conducting the parachute jumping operation. In appropriate cases it will also permit time for the selection of an alternate airspace site, if the one selected by the applicant cannot be authorized by ATC. In addition, the 15-day period would permit the FAA to disseminate appropriate safety information concerning the jump by means of Notices to Airmen. In the case of an authorization covering an extended period of time, information would also be published in the Airman's Information Manual and distributed for publication in aeronautical charts.

Unless otherwise authorized by ATC, the individual or organization to whom an authorization is issued to use an area in controlled airspace for a parachute jump would also be required to give notice to ATC at least 1 hour before the jump is to be made. If the authorization is for the use of controlled airspace for a series of jumps, or for an extended period of time, notice would be required to be given in accordance with the provisions of the authorization.

The proposed amendment to § 105.33 merely changes the term "night" to "the period between sunset and sunrise." This change would bring the lighting requirements for parachute jumping in conformity with the aircraft lighting requirements of § 91.73. The amendment would also take into account the special visibility conditions in the State of Alaska.

In the event that the amendments proposed herein are adopted, the title and the provisions of § 105.23 would also be amended so that the notice to ATC required by that section would only be applicable to parachute jumping operations conducted in uncontrolled airspace. This nonsubstantive amendment would clarify the applicability of that section.

The amendment to the information requirements of § 105.25 is also nonsubstantive. The introductory paragraph would be amended to include the name of the individual, club or other organization requesting an authorization for the use of controlled airspace, or submitting a notice for the use of uncontrolled airspace. For convenient reference the provisions of present paragraph (b) requiring a notice of the cancellation or postponement of a parachute jump have been incorporated in proposed §§ 105.19 and 105.23.

The proposed paragraph (b) of § 105.25 would require the applicant for an authorization to make a jump in controlled airspace to inform ATC if that jump is to be made over or onto an airport. If the jump is to be made in or into a congested area or open air assembly of persons that information must be given regardless of whether the jump is made in controlled or uncontrolled airspace.

Paragraph (b) of § 105.15 would be amended to avoid the necessity of making application to both an FAA District Office and an FAA air traffic control facility when the jump is to be conducted over a congested area or open air assembly of persons and within controlled airspace. As proposed, a single application for that jump may be made to the nearest FAA office.

It is to be noted that for a parachute jump over or onto an airport, prior approval of the airport management would still be required regardless of whether the airport is located within controlled or uncontrolled airspace.

In consideration of the foregoing, it is proposed to amend Part 105 of the Federal Aviation Regulations as follows:

1. By amending § 105.15(b) to read as follows:

§ 105.15 Jumps over or into congested areas or open air assembly of persons.

• • • • • •

(b) Unless otherwise authorized by ATC, an application for a certificate of authorization required under the provisions of paragraph (a) of this section is submitted to the nearest FAA office. It must be submitted in writing at least 15 days before the initial use of the airspace in which the parachute jump is to be made and include the information specified in § 105.25.

• • • • • •

2. By revising § 105.19 to read as follows:

§ 105.19 Jumps in or into controlled airspace.

(a) No person may make a parachute jump, and no pilot in command of an aircraft may allow a parachute jump to be made from that aircraft, in or into controlled airspace, without or in violation of an authorization issued under this section for the airspace used for that jump.

(b) Unless otherwise authorized by ATC, an application for an authorization for the use of controlled airspace for the purpose of conducting a single parachute jump, or a series of parachute jumps, is submitted to the FAA air traffic control facility exercising control over the airspace in which the parachute jumping is to be conducted, or to any other FAA office. It must be submitted in writing at least 15 days before the initial use of the airspace in which the parachute jump is to be made and include the information specified in § 105.25.

(c) Unless otherwise authorized by ATC, no person may make a parachute jump, and no pilot in command of an aircraft may allow a parachute jump to be made from that aircraft, under an authorization issued under this section, unless the ATC facility that issued the authorization is notified of the jump by telephone or radio at least 1 hour before the parachute jump is made but not more than 24 hours before the jump is completed. If the authorization is for a series of parachute jumps or for an extended period of time, the notice shall be given as specified in that authorization.

(d) Unless otherwise authorized by ATC, each applicant for, or holder of, an authorization issued under this section, shall promptly notify the FAA air traffic control facility that issued the authorization when the parachute jump or series of parachute jumps requested or authorized is canceled, postponed, or completed.

(e) An authorization issued under this section is valid for the period specified in that authorization, unless it is sooner canceled by the holder, or suspended or revoked by the Administrator.

(f) Each holder of a certificate of authorization issued under this section shall present that certificate for inspection upon request of the Administrator, or any Federal, State, or local official.

§ 105.21 [Deleted]

3. By deleting § 105.21.

4. By amending § 105.23 to read as follows:

§ 105.23 Jumps in or into uncontrolled airspace.

(a) No person may make a parachute jump, and no pilot in command may allow a parachute jump to be made from

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that aircraft, in or into uncontrolled airspace, unless the FAA Air Traffic Control facility or FAA Flight Service Station nearest to the place where the jump is to be made has been notified of that jump in accordance with the provisions of paragraph (b) of this section.

(b) The notice required by paragraph (a) of this section must be given by telephone or in writing at least 1 hour before the jump is made, but not more than 24 hours before the jump is completed, and contain the information specified in § 105.25.

(c) Each person who submitted a notice of a proposed parachute jump to an FAA Air Traffic Control facility or FAA Flight Service Station, shall promptly notify that facility or station when the proposed jump or series of jumps are canceled, postponed, or completed.

5. By amending the section heading of § 105.25, the introductory paragraph of paragraph (a) of that section, and the provisions of paragraph (b) of that section to read as follows:

§ 105.25 Information required.

(a) Each person applying for an authorization for the use of airspace under § 105.15 or § 105.19, and each person submitting a notice under § 105.23, must specify the name of the individual, club, or other organization conducting the jump and include the following information:

* * * * *

(b) Each person requesting an authorization to conduct a parachute jump over or onto an airport in controlled airspace, or over or into a congested area or open air assembly of persons located in controlled or uncontrolled airspace, shall include that information in his application or notice.

6. By amending § 105.33 to read as follows:

§ 105.33 Parachute jumps at night.

(a) No person may make a parachute jump, and no pilot in command of an aircraft may allow any person to make a parachute jump from that aircraft, during the period from sunset to sunrise (or, in Alaska during the period a prominent unlighted object cannot be seen from a distance of 3 statute miles or the sun is more than 6° below the horizon), unless that person is equipped with a means of producing a light that is visible for at least 3 miles.

(b) Each person making a parachute jump during the period specified in paragraph (a) of this section shall display the required light from the time his canopy opens until he reaches the surface.

(Secs. 307, 313, 601, Federal Aviation Act of 1958, 49 U.S.C. 1348, 1354, 1421; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 27, 1972.

C. R. MELUGIN, JR.,
Acting Director,
Flight Standards Service.

[FR Doc.72-18796 Filed 11-2-72;8:46 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 69-18; Notice 12]

LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Turn Signal and Hazard Warning Signal Flashers

The purpose of this notice is to propose an amendment to 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, reflective devices, and associated equipment*, that would amend requirements for turn signal and hazard warning signal flashers effective January 1, 1973.

The requirements proposed are those established by an amendment published on August 28, 1971 (36 F.R. 13743), and deleted on October 3, 1972 (37 F.R. 20695), pursuant to the decision of the U.S. Court of Appeals (Wagner Electric Corp. v. Volpe, No. 71-1976 (3d Cir. 1972)).

The Court stated in its opinion in that case:

> Our holding, then, is limited to setting aside the order of August 28, 1971, because it was adopted without observance of the notice procedure required by law, 5 U.S.C. section 706(2)(D), and to remanding the matter to the National Highway Traffic Safety Administration for a new rulemaking proceeding on adequate notice. In that new proceeding we urge that the Administrator make clear, if it adopts a standard which eliminates sampling provisions, whether it does so because that action is compelled by the Act, or as an informed policy judgment pursuant to 15 U.S.C. section 1392.

The action hereby proposed is based on an informed policy judgment pursuant to 15 U.S.C. section 1392. In the judgment of this agency, permissible failure rates raise difficult problems of interpretation and enforcement, and in any event are not in accordance with the need for motor vehicle safety with respect to these items of motor vehicle equipment.

In consideration of the foregoing, it is proposed that 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, be amended as follows:

1. The reference in the first sentence of paragraph S4.1.1 to "S4.1.1.16" would be changed to "S4.1.1.—."

2. A new paragraph S4.1.1.– would be added to read "In addition to the equipment required by Table I or Table III, each passenger car, multipurpose passenger vehicle, truck, and bus shall be equipped with a turn signal flasher and a hazard warning signal flasher, and each motorcycle shall be equipped with a turn signal flasher that meets the requirements of paragraph S4.6 of this standard."

3. In Tables I and III, "Turn signal flasher" and "Vehicular hazard warning signal flasher" would be deleted as items of equipment under Column 1. Corresponding deletions would be made under Columns 2, 3, and 4 of Table I, and Columns 2, 3, 4, and 5 of Table III.

4. Paragraph S4.4.2 would be deleted.

5. Paragraph "S4.6" would be renumbered "S4.5.8."

6. A new paragraph S4.6 would be adopted to read as follows:

S4.6 *Turn signal flashers; hazard warning signal flashers.* Each turn signal flasher and hazard warning signal flasher shall meet the following performance and durability requirements when tested in accordance with SAE Standard J823b, "Flasher Test Equipment," April 1968. The design load used in testing each flasher used as original motor vehicle equipment shall be the design current of the motor vehicle on which the flasher is installed. The design load used in testing each fixed-load flasher used as replacement motor vehicle equipment shall be stated by the flasher manufacturer as a single design load. The design load used in testing each variable-load flasher used as replacement motor vehicle equipment shall be stated by the flasher manufacturer as minimum and maximum design loads. The maximum design load shall be used to determine voltage drop (S4.6.1.2 and conformance to durability requirements (S4.6.2). The minimum and maximum design loads shall both be used to determine starting time (S4.6.1.1) and percent current "on" time (S4.6.1.3).

S4.6.1 *Performance requirements.*

S4.6.1.1 *Starting time.* When tested under the following conditions, the time required for closed contacts to open (on a flasher with normally closed contacts) or for open contacts to close and open again (on a flasher with normally open contacts) shall not exceed 2 seconds for a turn signal flasher, and 3 seconds for a hazard warning signal flasher.

(a) Ambient temperature is 75° F.

(b) Measurement of time starts when the voltage is initially applied.

(c) The design load is connected in the standard test circuit with the power source adjusted as specified in SAE Standard J823b.

(d) The test is run three times, each of which is separated by a cooling interval of 5 minutes, and the results are averaged to determine starting time.

S4.6.1.2 *Voltage drop.* When tested under the following conditions, the lowest voltage drop across a flasher shall not exceed 0.8 volt.

(a) Ambient temperature is 75° F.

(b) The design load is connected in the standard test circuit with the power source adjusted as specified in SAE Standard J823b.

(c) The voltage drop is measured between the input and the load terminals at the flasher and during the "on" period after the flasher has completed at least five consecutive cycles.

S4.6.1.3 *Flash rate and percent current "on" time.* The flash rate and the percent current "on" time of normally closed type flashers shall be within the unshaded portion of Figure 1 and those for normally open type flashers shall be within the entire rectangle of Figure 1, including the shaded areas.

Each flasher shall meet these requirements under the following conditions:

(a) The flash rate and percent current "on" time are measured after the flasher has been operating for five consecutive cycles, and is calculated upon an average of not less than three consecutive cycles.

(b) For turn signal flashers, the operating tolerances apply over the combinations of bulb voltages and temperatures listed below as applicable:

(i) 12.8 or 6.4 volts; 75° F.
(ii) 12.0 or 6.0 volts; 0° F.
(iii) 15.0 or 7.5 volts; 0° F.
(iv) 11.0 or 5.5 volts; 125° F.
(v) 14.0 or 7.0 volts; 125° F.

(c) For hazard warning signal flashers, the operating tolerances apply over the combinations of bulb voltages and ambient temperatures listed below as applicable:

(i) 12.8 or 6.4 volts; 75° F.
(ii) 11.0 or 5.5 volts; 0° F.
(iii) 13.0 or 6.5 volts; 0° F.
(iv) 11.0 or 5.5 volts; 125° F.
(v) 13.0 or 6.5 volts; 125° F.

S4.6.2 *Durability requirements.*

S4.6.2.1 *Turn signal flashers.* Each turn signal flasher shall operate continuously for not less than 25 hours with the design load connected in the standard test circuit with the power source adjusted to apply 14 volts or 7 volts to the input terminals of the circuit. Each flasher shall then meet the requirements of paragraphs S4.6.1.1, S4.6.1.2, and S4.6.1.3 under the conditions of S4.6.1.-3(a) and (b)(i). The ambient temperature for the durability test is 75° F.

S4.6.2.2 *Hazard warning signal flashers.* Each hazard warning signal flasher shall operate continuously for not less than 12 hours with the design load connected in the standard test circuit with the power source adjusted to apply 13 volts or 6.5 volts to the input terminals of the circuit. Each flasher shall then meet the requirements of paragraphs S4.6.1.1, S4.6.1.2, and S4.6.1.3 under the conditions of S4.6.1.3(a) and (c)(i). The ambient temperature for the durability test is 75° F.

S4.6.3 *Combination flashers.* Each combination turn signal and hazard warning signal flasher shall meet the requirements of paragraphs S4.6.1 and S4.6.2 when tested in the following sequence:

(a) For performance as a turn signal flasher pursuant to paragraph S4.6.1;

(b) For performance as a hazard warning signal flasher pursuant to paragraph S4.6.1;

(c) For durability as a turn signal flasher pursuant to paragraph S4.6.2.1; and

(d) For durability as a hazard warning signal flasher pursuant to paragraph S4.6.2.2.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on December 4, 1972, will be considered, and will be available for examination in the docket at the above address both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Administration. However, the rule making action may proceed at any time after the date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rule making. The Administration will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Proposed effective date: January 1, 1973.

This notice is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1407, and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.

Issued on October 31, 1972.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

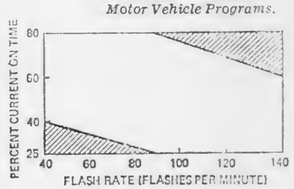

Figure 1

[FR Doc.72-18961 Filed 11-1-72;4:37 pm]

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Notices

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco, and Firearms

NOTICE OF GRANTING OF RELIEF

Notice is hereby given that pursuant to 18 U.S.C. 925(c) the following named persons have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding 1 year.

It has been established to my satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

Adams, Francis P., 509 South Mission, Wenatchee, WA, convicted on July 2, 1964, in the Superior Court of the State of Washington for Chelan County.

Blanford, Terrance J., 1309 Lyon Street, Waterloo, IA, convicted on September 26, 1958, in the Black Hawk County, Iowa, District Court.

Bleeker, Raymond A., 1846 Stafford Avenue SW., Grand Rapids, MI, convicted on July 12, 1953, in the Coconino County Superior Court, Division No. 1, Flagstaff, Ariz.; October 24, 1955, in the Superior Court of Grand Rapids, Mich.; and on September 21, 1956, in the Circuit Court of Kent County, Mich.

Brandes, Frank C., 5431 Kinston Avenue, Culver City, CA, convicted on January 27, 1950, in the Oklahoma County District Court, Oklahoma City, Okla.

Breazeal, Irma L., Post Office Box 13, Wilsonville, OR, convicted on December 19, 1951, in the Superior Court of the State of California for the County of Los Angeles.

Breeden, Melvin Ray, Route 1, Box 212-B, Orange, VA, convicted on September 25, 1957, in a general court-martial, convened at Headquarters, 82 D Airborne Division, Fort Bragg, N.C.

Breeland, Lucius J., Route 1, Box 109-A, Varnado, LA, convicted on August 26, 1966, in the U.S. District Court, Eastern Judicial District of Louisiana.

Buckley, Michael J., 3059 Island Crest Way, Mercer Island, WA, convicted on June 10, 1966, in the Superior Court of the State of California in and for the county of Sacramento.

Caramela, Theordore C., Box 531, Bentleyville, PA, convicted on March 9, 1970, in the Washington County, Pa., Court of Common Pleas.

Carlisle, Kenneth L., Rural Route 3, Box 379, Grand Rapids, MN, convicted on May 17, 1957, in the Ramsey County District Court, St. Paul, Minn.

Cassavaugh, Herbert G., 21 Lock Street, Baldwinsville, NY, convicted on December 9, 1929, in the Franklin County Court, Malone, N.Y.

Chamberlain, Herbert Leslie, 40 Madison Street, Providence, RI, convicted on May 6, 1965, in the Providence, R.I., Superior Court.

Chittenden, Curtis M., 6711 Kingswood Lane NE, Cedar Rapids, IA, convicted on January 10, 1968, in the Polke County, Iowa, District Court.

Clark, James, 174 Schenectady Avenue, Brooklyn, NY, convicted on May 18, 1936, in the Circuit Court of Southampton County, Va.

Collins, Willie D., 647 Holbrook, Detroit, MI, convicted on May 19, 1941, in the Harlan County Circuit Court, Ky.

Conrade, Hartley Edwin, 566 Walnut Drive, Milpitas, CA, convicted on or about March 29, 1963, in the Santa Clara County Superior Court, San Jose, Calif.

Cooper, Charles B., Post Office Box 725, Copalis Crossing, WA, convicted on February 26, 1971, in the Superior Court of the State of Washington in and for Grays Harbor County.

Davidson, Carl S., 1005 South Paula, Springfield, MO, convicted on December 18, 1959, in the Circuit Court of Greene County, Mo.

Dorr, Robert W., Pickens Street, Lakeville, Mass., convicted on June 9, 1967, in the Fourth District Court of Plymouth, Mass.

Ellis, David Leon, 44 La Grand Drive, Sunnyvale, CA, convicted on June 17, 1966, in the Superior Court of the State of California, County of San Diego.

Fenton, William Lee, Rural Route 1, Harrisburg, Mo., convicted on December 9, 1970, in the Missouri Circuit Court, Montgomery County, Mo.

Foister, Gerald E., 12 High Street, Brewer, ME, convicted on November 23, 1954, in a general court-martial, Fort Campbell, Ky.; and on March 29, 1957, in the Superior Court, Bangor, Maine.

German, Walter Edward, 335 B Street, Ashland, OR, convicted on September 13, 1948, in the Superior Court of California for the County of Alameda.

Giebéler, William H., 4444 Northeast 80th Avenue, Portland, OR, convicted on February 18, 1969, in the Multnomah County Circuit Court, Portland, Oreg.

Gray, Robert E., 2015 Hazelwood Street, Saginaw, MI, convicted on July 29, 1960, in the Warren County, Miss., Circuit Court.

Hale, John G., 308 South Michigan, Aberdeen, WA, convicted on February 10, 1931, and on December 5, 1933, in the Superior Court of the State of Washington, in and for the County of Pierce.

Hamilton, Levoy E., Route 1, Box 180, Kingston MI, convicted on March 17, 1969, in the Circuit Court for the County of Sanilac, Sandusky, Mich.

Hargrave, Lonnie D., 9361 Pinyon Tree Lane, Apt. 146, Dallas, TX, convicted on December 1, 1965, in the 124th Judicial District Court of Gregg County, Tex.; and on November 8, 1967, in the U.S. District Court, Northern District of Texas.

Hayes, Ronald Edward, 1009 13th Avenue, Greeley, CO, convicted on April 7, 1969, in the Linn County District Court, Cedar Rapids, Iowa.

Hensley, Charles I., 22005 Grant Avenue, Torrance, CA, convicted on February 23, 1965, in the Superior Court of the State of California for the County of Los Angeles.

Hill, Loring F., 517 Highgate Road, Norristown, Pa., convicted on February 20, 1970, in the Court of Common Pleas, West Chester, County of Chester, Pa.

Hopkinson, Richard L., 11½ Charbonneau Street, Hudson, NH, convicted on April 23, 1957, in the Middlesex County Court, Cambridge, Mass.

Jetton, Walt C., 9949 Pool Drive, St. Helen, MI, convicted on September 6, 1960, in the Circuit Court for the County of Saginaw, Mich.

Kelley, Donald J., Post Office Box 585, Newberry, FL, convicted on December 8, 1967, in the Circuit Court of Okaloosa County, Fla.; and on April 25, 1968, in the U.S. District Court for the Middle District of Alabama.

Kennison, James H., 2808 Northeast 185th Street, Seattle, WA, convicted on October 16, 1962, in the Superior Court of the State of Washington for King County.

Kleinbaum, Jack I., 1100 23d Avenue N., St. Cloud, MN, convicted on November 10, 1941, in the District Court, Fifth Judicial District of Minnesota.

Kraft, George F., 3429 Pardee, Dearborn, MI, convicted on June 29, 1938, in the Detroit Recorder's Court, Mich.

La Valley, Almer C., R.F.D. 7, Spring Road, Augusta, Maine, convicted on February 10, 1959, and on October 31, 1963, in the Kennebec County, Maine, Superior Court.

Leyden, Frederick J., 1806 Vanderbilt Avenue, Redondo Beach, CA, convicted on January 17, 1957, in the Criminal Court of Record, Dade County, Fla.

Licata, Giuseppe A., 963 East 54th Street, Brooklyn, N.Y., convicted on or about August 30, 1928, in the Brooklyn Criminal Court; and on October 21, 1931, in the District Court of Douglas County, Nebr.

Lopez, Rudy, 1397 Franklin Avenue, Bronx, N.Y., convicted on May 8, 1961, in the Columbia County Court, N.Y.

Lucas, Paul Howard, 1009 21st Street, Ogden, UT, convicted on May 18, 1970, in the District Court of the Second Judicial District, Weber County, UT.

McAlexander, William H., Route 3, Ferrum, Va., convicted on March 5, 1962, in the Patrick County Circuit Court, Stuart, Va.

McIntyre, Ralph E., State Route 414, R.D. 2, Beaver Dams, N.Y., convicted on or about June 29, 1960, in the Wayne County, Ohio, Court of Common Pleas.

Metz, Donald Frey, 3427 61st Street SW., Seattle, WA, convicted on April 11, 1961, in the King County Superior Court, State of Washington.

Molnar, Ernest Leo, 12020 Lake Avenue, Lakewood, OH, convicted on May 3, 1949, in the Cuyahoga County Court of Common Pleas, Cleveland, Ohio.

Mondor, Joseph K., 1753 Hillview Road, St. Paul, MN, convicted on November 18, 1965, in the St. Croix County Court, Hudson, Wis.

Morehart, Richard Lee, 220 Plumb Street, Milton, WI, convicted on January 22, 1945, in the Winnebago County Circuit Court, Rockford, Ill.

Paul, Dennis B., 5603 Heathdale, Warren, MI, convicted on December 31, 1963, in the Circuit Court for the County of Clare, Mich.; and on July 20, 1967, in the Circuit Court for the County of Genesee, Flint, Mich.

Peterson, Stanley A., 2502 Southwest 334th Street, Federal Way, Washington, convicted on October 14, 1949, and on February 27, 1957, in the Spokane County Superior, Court, Spokane, Wash.

Poitras, Robert Russell, 16605 123d Avenue SE., Renton, WA, convicted on May 2, 1958, in the District Court of the Third Judicial District, Ada County, Idaho; and on June 4, 1959, and January 15, 1962, in the Superior Court, King County, Wash.

Poole, George Russell, Rural Route 1, Rougemont, N.C., convicted on April 8, 1958, and on March 23, 1964, in the U.S. District Court, Durham, N.C.

Quinn, Bunyan, Route 2, Box 94, Ferrum, Va., convicted on July 1, 1946, and November 10, 1959, in the District Court for the Western Judicial District of Virginia, Roanoke, Va.; and on October 14, 1959, in the Circuit Court for Franklin County, Va., Rocky Mount, Va.

Ramirez, David J., 1507 Prasch Avenue West, Yakima, WA, convicted on June 4, 1964, in the Kilickitas County Superior Court, Goldendale, Wash.

Richardson, J. D., 413 Cypress Street, Vidalia, LA, convicted on March 30, 1970, in the U.S. District Court for the Western District of Louisiana.

Setounis, James, 151 Sturges Street, Medford, MA., convicted on October 21, 1963, in the Salem District Court, Salem, Mass.; and on October 15, 1964, in the Essex Superior Court, Salem, Mass.

Sheilman, Gene W., 1410 York Avenue, Apartment 1–C, New York, NY, convicted on or about May 12, 1931, in the Bronx County, New York, Court; and on or about November 20, 1931, in the Queens County, New York, Court.

Sherman, Morton, 197 Gardner Road, Brookline, MA, convicted on January 11, 1957, in the U.S. District Court of Massachusetts, Boston, Mass.

Siegel, Darrel J., Route 4, Box 204, Grand Rapids, MN, convicted on May 5, 1967, in the District Court, Ninth Judicial District for the county of Itasca, Grand Rapids, Minn.

Simmons, Marvin W., 4237 North Wishon, Fresno, CA, convicted on November 16, 1971, in the U.S. District Court for the Eastern District of California.

Snyder, James, 128–08 Liberty Avenue, Richmond Hill, NY, convicted on January 5, 1938, in the County Court, Queens County, N.Y.

Steinhardt, Ronald F., 69–27 53d Road, Maspeth, NY, convicted on or about October 5, 1966, in the Superior Court, Fourth Judicial District, Onslow County, Jacksonville, N.C.

Tomlinson, Earl Emery, 705 North Broadway, Riverton, WY, convicted on January 27, 1971, in the U.S. District Court for the District of Wyoming.

Turcotte, Richard P., 90 New Britain Avenue, Hartford, CT, convicted on May 19, 1961, December 3, 1965, and on June 21, 1968, in the Hartford County Superior Court.

Turner, Robert D., 2627 Byron Center Avenue SW., Grand Rapids, MI, convicted on November 11, 1935, in the U.S. District Court, Western District, Southern Division of Michigan.

Wagner, Stanley Andrew, 949 North Elmer Street, Griffith, IN, convicted on August 3, 1965, in the Criminal Court of Lake County, Ind.

Williams, Albert L., Post Office Box 124, Blacksprings, NE, convicted on August 25, 1939, in the Dallas County, Tex., District Court; and on December 4, 1945, in the Superior Court, Los Angeles County, Calif.

Wilson, Charles L., 622 South 19th Avenue, Yakima, WA, convicted on November 16, 1967, in the Superior Court of the State of Washington in and for Yakima County.

Wilson, Laverne E., Star Route, Ball Club, Minn., convicted on January 7, 1969, in the Ninth Judicial District Court, Grand Rapids, Minn.

Wooten, Dennis E., 90 Northwest 11th Court, Sherwood, OR, convicted on February 5, 1965, in the Multnomah County Circuit Court, Portland, Oreg.

Zebley, Louis E., Post Office Box 167, Mount Braddock, PA, convicted on February 7, 1968, and on February 19, 1969, in the U.S. District Court for the Western District of Pennsylvania.

Signed at Washington, D.C., this 26th day of October 1972.

[SEAL] REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc.72-18884 Filed 11-2-72;8:53 am]

Bureau of Customs

CARBON STEEL PLATES AND HIGH-STRENGTH STEEL PLATES FROM MEXICO

Notice of Countervailing Duty Proceedings

On October 4, 1972, a "Notice of Countervailing Duty Proceedings" was published in the FEDERAL REGISTER (37 F.R. 20875, F.R. Doc. 72–17096), with respect to carbon steel plates and high-strength steel plates from Mexico.

That notice is hereby amended by extending the time period from 30 days to 45 days within which written submissions of relevant data, views, or arguments with respect to the existence or nonexistence and the net amount of a bounty or grant must be received by the Commissioner of Customs.

[SEAL] LEONARD LEHMAN,
Acting Commissioner of Customs.

Approved: November 1, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-18987 Filed 11-2-72;9:25 am]

Fiscal Service

[Dept. Circ. 570, 1972 Rev., Supp. No. 6]

PROGRESSIVE MUTUAL INSURANCE COMPANY

Surety Company Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds has been issued by the Secretary of the Treasury to the following company under sections 6 to 13 of title 6 of the United States Code. An underwriting limitation of $586,000 has been established for the company.

Name of company, location of principal executive office, and State in which incorporated:

The Progressive Mutual Insurance Company
Cleveland, Ohio

Ohio

Certificates of authority expire on June 30 each year, unless sooner revoked, and new certificates are issued on July 1 so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact fidelity and surety business and other information. Copies of the circular, when issued, may be obtained from the Treasury Department, Bureau of Accounts, Audit Staff, Washington, D.C. 20226.

Dated: October 31, 1972.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[FR Doc.72-18883 Filed 11-2-72;8:53 am]

DEPARTMENT OF THE INTERIOR

Bonneville Power Administration

AREA MANAGERS

Redelegations of Authority Regarding Notices of Public Meetings

Redelegations of Authority published in the FEDERAL REGISTER on July 6, 1968 (33 F.R. 9784) and amended on September 13, 1968 (33 F.R. 12974), February 21, 1969 (34 F.R. 2508), August 9, 1969 (34 F.R. 12955), September 18, 1969 (34 F.R. 14534), May 1, 1971 (36 F.R. 8266), June 8, 1971 (36 F.R. 11047), July 24, 1971 (36 F.R. 13799), November 27, 1971 (36 F.R. 22689), May 6, 1972 (37 F.R. 9245), and July 13, 1972 (37 F.R. 13721) are further amended by adding section 10.19 as follows:

10.19 *Public meetings—paid announcements.* Area managers may authorize the publication of advertisements or notices of BPA public meetings and authorize payment therefor. (205 DM 5.1)

DONALD PAUL HODEL,
Acting Administrator.

OCTOBER 26, 1972.

[FR Doc.72-18792 Filed 11-2-72;8:46 am]

National Park Service

GREAT SMOKY MOUNTAINS NATIONAL PARK, N.C. AND TENN.

Notice of Intention to Issue Concession Permit

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Superintendent, Great Smoky Mountains National Park, proposes to issue a concession permit to Smokemont Riding Stables, Inc., authorizing it to provide horse rental service for the public in the Smokemont area, for a period of 5 years from January 1, 1973, through December 31, 1977.

V 37-213 NOV 3 72 XUM

The foregoing concessioner has performed its obligations under a prior permit to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. However, under the Act cited above, the National Park Service is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after publication date of this notice.

Interested parties should contact the Superintendent, Great Smoky Mountains National Park, Gatlinburg, Tenn. 37738, for information as to the requirements of the proposed permit.

Dated: September 26, 1972.

GILBERT W. CALHOUN,
Acting Superintendent, Great Smokey Mountains National Park.

[FR Doc.72-18832 Filed 11-2-72;8:49 am]

GREAT SMOKY MOUNTAINS NATIONAL PARK, N.C. AND TENN.

Notice of Intention To Issue Concession Permit

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Superintendent, Great Smoky Mountains National Park, proposes to issue a concession permit to Smoky Mountain Riding Stables, Inc., authorizing it to provide horse rental service for the public in the area, for a period of 5 years from January 1, 1973, through December 31, 1977. The foregoing concessioner has performed its obligations under a prior permit to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. However, under the Act cited above, the National Park Service is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after publication date of this notice.

Interested parties should contact the Superintendent, Great Smoky Mountains National Park, Gatlinburg, Tenn. 37738, for information as to the requirements of the proposed permit.

Dated: September 26, 1972.

GILBERT W. CALHOUN,
Acting Superintendent, Great Smoky Mountains National Park.

[FR Doc.72-18833 Filed 11-2-72;8:49 am]

[Order 1]

ASSISTANT SUPERINTENDENT ET AL., OLYMPIC NATIONAL PARK

Delegation of Authority Regarding Execution of Contracts for Construction, Supplies, Equipment, or Services

SECTION 1. *Assistant Superintendent.* The Assistant Superintendent may execute and approve contracts not in excess of $100,000 for construction, supplies, equipment, and services in conformity with applicable regulations and statutory authority and availability of appropriated funds.

SEC. 2. *Administrative Officer.* The Administrative Officer may execute and approve contracts not in excess of $50,000 for construction supplies, equipment, and services in conformity with applicable regulations and statutory authority and availability of appropriated funds.

SEC. 3. *Assistant Administrative Officer.* The Assistant Administrative Officer may execute and approve contracts not in excess of $50,000 for construction, supplies, equipment, and services in conformity with applicable regulations and statutory authority and availability of appropriated funds.

SEC. 4. *Supply Assistant.* The Supply Assistant may issue purchase orders not in excess of $2,000 for supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 5. *Revocation.* This order supersedes all previous delegations of authority issued by the Superintendent of Olympic National Park.

(National Park Service Order No. 66 (36 F.R. 21218) as amended; 37 F.R. 4001 dated February 25, 1972; Pacific Northwest Region Order No. 3, 37 F.R. 6325)

Dated: September 29, 1972.

ROGER W. ALLIN,
Superintendent, Olympic National Park.

[FR Doc.72-18834 Filed 11-2-72;8:49 am]

[Order 5, Amdt. 1]

TREE WORK FOREMAN

Delegation of Authority

Midwest Region Order No. 5, approved March 1, 1972, and published in the FEDERAL REGISTER of March 28, 1972 (37 F.R. 6324), set forth in section 2, Delegation of Authority.

Section 2 is hereby amended by adding paragraph (e) to read as follows:

(e) *Tree Work Foreman.* The Tree Work Foreman may issue purchase orders not in excess of $300 for supplies or equipment in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

Dated: October 12, 1972.

J. LEONARD VOLZ,
Director, Midwest Region.

[FR Doc.72-18835 Filed 11-2-72;8:49 am]

Office of the Secretary

[INT DES 72-108]

LOWER MOOVALYA RECREATIONAL DEVELOPMENT

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement on a proposed project to dredge sufficient area for a kilo speedboat racing course and to use the spoil to make 83 acres of marshy area suitable for resort, residential, and commercial development. The project is located on the Colorado River Indian Reservation and has the purpose of assisting economic growth on the reservation. Written comments are invited within 45 days of this notice. Comments may be directed to the Regional Director, Bureau of Reclamation, at the address listed below.

Copies are available for inspection at the following locations:

Office of Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, telephone 202—343-4991.
Division of Engineering Support, Technical Services Branch, E&R Center, Denver Federal Center, Denver, Colo. 80225, telephone 303—234-3007.
Office of the Regional Director, Bureau of Reclamation, Post Office Box 427, Boulder City, NV 89005, telephone 702—293-8527.

Single copies of the draft statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. In addition, copies may be purchased from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151. Please refer to the statement number above.

Dated: October 26, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-18840 Filed 11-2-72;8:56 am]

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

SALINE & QUACHITA VALLEY COMMISSION CO., ET AL.

Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. et seq.), it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on the respective dates specified below.

Facility number, name, location of stockyard, and date of posting

ARKANSAS

AR—147 Saline & Quachita Valley Commission Company, Warren, Aug. 28, 1972.

KENTUCKY

KY—157 Wayne County Feeder Pig Auction, Monticello, Sept. 19, 1972.

MISSOURI

MO—227 Potosi Livestock Market, Potosi, Oct. 21, 1972.

TEXAS

TX—297 Fort Worth Horse and Mule Commission Company, Fort Worth, Sept. 27, 1972.

TX—298 Longview Livestock Commission Company, Longview, Sept. 18, 1972.

TX—299 Tyler Livestock Marketing Company, Tyler, Sept. 9, 1972.

Done at Washington, D.C., this 30th day of October 1972.

G. H. HOPPER,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc.72-18880 Filed 11-2-72;8:53 am]

Office of the Secretary

VERMONT

Designation of Areas for Emergency Loans

It has been determined that property loss or damage or injury in certain counties in Vermont has resulted from natural disasters caused by excessive rains and flooding from April through August 1972 and cold weather during January, February, and March 1972. The following counties of Vermont are affected by such natural disasters:

Addison	Lamoille
Bennington	Orange
Caledonia	Orleans
Chittenden	Rutland
Essex	Washington
Franklin	Windham
Grand Isle	Windsor

It has further been determined that in the above counties of Vermont a general need for credit exists. Therefore, these counties are declared eligible for low-interest rate disaster loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Laws 91-606 and 92-385. Applications for such loans must be received by this Department prior to July 1, 1973, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans.

The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 30th day of October, 1972.

EARL L. BUTZ,
Secretary.

[FR Doc.72-18825 Filed 11-2-72;8:48 am]

DEPARTMENT OF COMMERCE

Maritime Administration

UNITED STATES TRUST COMPANY OF NEW YORK

Notice of Approval of Applicant as Trustee

Notice is hereby given that United States Trust Company of New York, with offices at 45 Wall Street, New York, NY, has been approved as trustee pursuant to Public Law 89-346 and 46 CFR 221.21-221.30.

Dated: October 26, 1972.

BURT KYLE,
Chief, Office of Domestic Shipping.

[FR Doc.72-18882 Filed 11-2-72;8:53 am]

National Oceanic and Atmospheric Administration

[Docket No. C-374]

BRENT BIXLER AND NANCY BIXLER

Notice of Loan Application

OCTOBER 27, 1972.

Brent Bixler and Nancy Bixler have applied for a loan from the Fisheries Loan Fund to aid in the purchase of a used wood vessel, about 54 feet in length, to engage in the fishery for tuna and bottom fish off the coasts of California, Oregon, Washington, Mexico, and Canada.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

PHILIP M. ROEDEL,
Director.

[FR Doc.72-18836 Filed 11-2-72;8:49 am]

[Docket No. C-373]

IVAN D. DAVIS AND STAN D. DAVIS

Notice of Loan Application

OCTOBER 27, 1972.

Ivan D. Davis and Stan D. Davis have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used steel vessel, about 44 feet in length, to engage in the fishery for salmon, tuna, Dungeness crab, and sablefish off the coasts of California, Oregon, Washington, and Mexico.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service. National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

PHILIP M. ROEDEL.
Director.

[FR Doc.72-18837 Filed 11-2-72;8:49 am]

[Docket No. S-590]

LOUIS D. KNORI

Notice of Loan Application

OCTOBER 27, 1972.

Louis D. Knori, 2594 Portland Street, Eugene, OR 97405, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used-wood vessel, about 36 feet in length, to engage in the fishery for salmon and albacore off the coasts of California, Oregon, and Washington.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National

V 37-213 NOV 3 72 XUM

Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

PHILIP M. ROEDEL,
Director.

[FR Doc.72-18838 Filed 11-2-72;8:50 am]

Office of Import Programs

CITY COLLEGE OF THE CITY UNIVERSITY OF NEW YORK

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00553-33-46070. Applicant: City College of the City University of New York, 138th Street and Convent Avenue, New York, N.Y. 10031. Article: Scanning electron microscope, Model S4. Manufacturer: Cambridge Scientific Instruments, Ltd., United Kingdom. Intended use of article: The article is intended to be used to examine and record (in micrographs) the surface contours of biological materials. Specific purposes include the following:

(1) Determination of morphological characteristics of a variety of fresh water and deep sea organisms;

(2) Investigation of surface features such as integument, mouth parts, and appendages of several invertebrates;

(3) Study of the specializations of parasite surfaces and host-tissue damage sites stemming from parasitic infections; and

(4) Exploration by microsurgical probing or with a laser probe of a variety of nerve cells; including cells grown in isolation, that specialize in the production of neurohormones. The teaching materials and information derived from the use of this instrument will be used in a variety of courses at the City College including: Biology of the invertebrates, cell physiology, vertebrate histology, and biological oceanography. The article may be used by other disciplines within the College of Liberal Arts and Sciences, such as the Department of Geology, and is related to their academic programs by supporting graduate students studying for the master's and doctoral degrees.

Comments: Comments dated June 28, 1972, have been received from the Advanced Metals Research Corp. (AMR) which state inter alia "the AMR Model 900 provides a domestic source for this type of instrumentation which is fully competitive, if not superior to, the foreign made instrument in the areas of scientific capability, routine performance, availability of accessories, etc."

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The Department of Health, Education, and Welfare (HEW) in its memorandum dated September 18, 1972, advises that a vacuum system utilizing separate pumps on the column and chamber is pertinent to the applicant's studies of host tissue parasite damage sites, parasite organs, and secretions of damage; also surface and probed undersurface morphology of fresh and salt water organisms. The foreign article satisfies this pertinent specification by providing a two diffusion pump system. The AMR 900 has a single diffusion pump system. In its comments, AMR pointed out that the single diffusion pump system of the AMR 900 is equipped with a manifold with two separate high vacuum valves dividing the pumping conductance such that the specimen chamber is pumped independently of the column so that either both the chamber and column, either section alone or neither section may be pumped along in full automatic operation. As to this HEW advises that the single pump system provided in the AMR Model 900 does not fully match the control provided by the system of the article. HEW cites as a precedent its prior recommendation relating to Docket No. 72-00032-36-46070 which conforms in essential particulars to this application.

For these reasons we find that the Model AMR-900 scanning electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-18848 Filed 11-2-72;8:50 am]

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, DC.

Docket No. 72-00479-33-46040. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, MA 02139. Article: Electron microscope, Model JEM 100B. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in a wide variety of investigations being conducted in the biology department. Notable among these are the investigation of the growth and development of tumor viruses, the growth of malignant human cells, and the genetic control of virus structure.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article has a specified resolving capability of 3 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated October 6, 1972, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intened to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-18847 Filed 11-2-72;8:50 am]

UNIVERSITY OF CALIFORNIA

Notice of Applications for Duty-Free Entry of Scientific Articles; Correction

In the Notice of Application for Duty-Free Entry of Scientific Articles appearing at page 20340 in the FEDERAL REGISTER of Friday, September 29, 1972, the following correction should be made.

In Docket No. 73-00143-00-46040, Intended use of article: should read as follows:

Intended use of article: The articles are components for an existing electron microscope being used for structural studies of purified bacterial viruses, intracellular viruses, and protein crystals. The article will also be used in the courses: Microbiology—Biology 233a, 233b, Electron Microscopy, Microbiology—Biology—Chemistry 599, Dissertation Research to demonstrate principles of image analysis by varying the tilt angle of the specimen and provide the possibility of specimen tilt for various dissertation research projects.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-18847 Filed 11-2-72; 8:50 am]

UNIVERSITY OF CALIFORNIA ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the February 24, 1972, issue of the FEDERAL REGISTER, prescribed the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 73-00011-00-46040. Applicant: University of California, San Francisco, 1438 South 10th Street, Richmond, CA 94804. Article: Measuring drives for Elmiskop 101 electron microscope. Manufacturer: Siemens AG, West Germany. Intended use of article: The articles are accessories to an existing electron microscope currently being used for investigation of the molecular arrangement of protein and lipids in membranes, mainly photoreceptor membranes of higher animals and bacteria. Model systems consisting of synthetic lipids and photoreceptor protein extracted from natural membranes are also used. Application received by Commissioner of Customs: July 5, 1972.

Docket No. 73-00181-90-61195. Applicant: National Bureau of Standards, B360 Building 224, Washington, D.C. 20234. Article: I.G.T. Printability Tester, Universal Model. Manufacturer: Rudolph-Meinjen's, Inc. The Netherlands. Intended use of article: The article is being used by the applicant in investigations conducted in cooperation with other laboratories to standardize the testing of the printability of printing papers by each participant and thereby provide results which can be meaningfully compared. Application received by Commissioner of Customs: October 4, 1972.

Docket No. 73-00182-01-01100. Applicant: University of Illinois, Biochemistry Department, Urbana, Ill. 61801. Article: Sequence analyzer, JAS-47K. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to sequence small peptides using the subtractive Edman-Dansyl method of detection in determining the sequential arrangement of the amino acids involved in the active binding site of these immunoglobulins. Application received by Commissioner of Customs: October 11, 1972.

B. BLANKENHEIMER,
Acting Dirccor,
Office of Import Programs.

[FR Doc.72-18850 Filed 11-2-72;8:50 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

FOOD STANDARDS FOR CERTAIN TYPES OF EDIBLE OILS

Notice of Opportunity for Review and Informal Comment on Recommended International Standards

Correction

In F.R. Doc. 72-16646, appearing at page 21123, in the issue of Thursday, October 5, 1972, the following changes should be made:

1. On page 21123, Column 2, directly above the heading "Recommended International Standard for Edible Soya Bean Oil" insert:

[CAC/RS 20-1969]

2. On page 21123, in the fifth line of 3.1 *Colours*, the word "receive" should read "deceive."

3. On page 21123, in 3.1.6, under the heading *Maximum level of use*, insert the word "Do.".

4. On page 21123, in 3.4.5, after "Phosphoric acid," insert a footnote 1 reference.

5. In the first column on page 21124, the symbol in the parenthesis in 7.4 *Determination of iodine value (I)*, should read "(I_D)."

6. In the third column on page 21124, in 3.2 *Flavours.*, the word "atoxic" in the third line, should read "a toxic."

7. Directly above the heading "Recommended International Standard for Edible Cottonseed Oil," in the first column on page 21126, insert:

[CAC/RS 22-1969]

8. In the third column on page 21126, in the paragraph directly below 7.6 *Halphen test*, insert "as" between "expressed" and "a."

9. On page 21127, under the heading "Selected Bibliography," in the seventh line, "1953," should read "1958."

10. On page 21127, in the first column, directly above the heading "Recommended International Standard for Edible Sunflowerseed Oil," insert:

[CAC/RS 23-1969]

11. On page 21127, in the first column, under the heading "Description," the Latin phrase *"Helianthus annuus,"* should read *"Helianthus annuus L."*

12. In the first column of page 21128, in 7.3 *Determination of saponification value*, in the fifth line, the symbol after the word "value" should read "(I_S)."

13. On page 21128, in the first column, in 7.6 *Determination of acid value*, in the fifth line after "II.D.", insert "1."

14. On page 21128, in the third column, directly above the heading "Recommended International Standard for Edible Rapeseed Oil," insert:

[CAC/RS 24-1969]

15. On page 21128, in the third column, in the second line of 3.2 *Flavours.*, the word "synethic." should read "synthetic."

16. In the first column of page 21129, in 4.2, under the heading *Maximum level*, the figure "0.5 percent m./m.", should read "0.05 percent m./m.".

17. In the first column of page 21129, in the second line of 6.1.1, the word "ravison," should read "ravison."

18. In the first column on page 21130, directly above the heading "Recommended International Standard for Edible Maize Oil," insert:

[CAC/RS 25-1969]

19. In the first column on page 21130, in the second line under "Description," the Latin phrase *"Zea mays,"* should read *"Zea mays L."*

20. On page 21130, in the second column, transpose "4.3 thru 4.7" above footnote 1 and transpose "5. Hygiene thru 6.2.1" above "6.2.2."

21. On page 21131, in the first column, under 7.7, the symbol "(IP)," in the first line, should read "(I_P)."

22. On page 21132, in the first column, under 7.4, in the fifth line, the reference to "II.D.7.7," should read "II.D.7.3.".

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23. On page 21132, in the first column, transpose 7.6.1 and the paragraph after it to appear directly below 7.6 *Identification of sesameseed oil.*

24. On page 21133, in the second column under 7.4 *Determination of iodine value*, the symbol directly after "value", reading "(II)," should read "(I_I)."

25. On page 21133, in the second column under 7.6 *Determination of acid value*, the symbol "(IA)," in the first and fifth lines, should read "(I_A)."

26. In the second column of page 21133, under 7.7 *Determination of peroxide value*, the symbol "(IP)" after the word "value" in the first line should read "(I_P)."

27. On page 21134, in the third column, in the paragraph below 7.2 *Determination of refractive index*, the formula in the parenthesis in the second line should read "(n_D 40° C.)."

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing Production and Mortgage Credit

[Dockets Nos. N-72-103, N-72-109, N-72-110]

SAN FRANCISCO, LOS ANGELES, AND ATLANTA AREA OFFICES AND PHOENIX AND MEMPHIS INSURING OFFICES

Notice of Extension of Experimental Change in Procedures for Application for Approval of Projects for Mortgage Insurance and Reduction of Required Fees

Notice is hereby given of extended continuation of the experimental change in procedures and reduction of fees made applicable to letters of feasibility/conditional commitments in the area offices in San Francisco, Calif., on August 9, 1971 (36 F.R. 15678, August 17, 1971), Los Angeles, Calif., on March 1, 1972 (37 F.R. 6417, March 29, 1972), and Atlanta, Ga., on March 6, 1972, and the insuring offices in Phoenix, Ariz., on February 14, 1972, and Memphis, Tenn., on March 13, 1972, and continued in effect in such offices through October 31, 1972 (37 F.R. 6417, March 29, 1972). Accordingly, such changes in procedures and fees will continue in effect through and including January 31, 1973. Comment and public procedure with respect to this temporary change have been determined to be impracticable.

Issued at Washington, D.C., October 27, 1972.

JOHN L. GANLEY,
Deputy Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner (Federal Housing Administration), Department of Housing and Urban Development.

[FR Doc.72-18867 Filed 11-2-72;8:52 am]

Office of the Secretary

[Docket No. D-72-208]

ATTESTING OFFICERS

Designation and Delegation of Authority To Cause Department Seal To Be Affixed and To Authenticate Copies of Documents

The designation and delegation of authority to affix the Department seal and authenticate documents published December 15, 1971, in the FEDERAL REGISTER (36 F.R. 23835) is amended as follows to reflect changes in position, titles and responsibilities:

(a) Revise Item 5 to read:

5. Interstate Land Sales Administrator.

(b) Revise Item 6 to read:

6. Deputy Administrator, Office of Interstate Land Sales Registration.

(c) Revise Item 7 to read:

7. Federal Insurance Administrator, Federal Insurance Administration.

(d) Revise Item 8 to read:

8. Assistant Administrator (Program Development) Federal Insurance Administration.

(e) Redesignate present Items 7 through 13 as Items 9 through 15.

(Sec. 7(d), 79 Stat. 670; 42 U.S.C. 3535(d))

Effective date. This delegation of authority is effective upon publication in the FEDERAL REGISTER (11-3-72).

GEORGE ROMNEY,
Secretary of Housing and Urban Development.

[FR Doc.72-18799 Filed 11-2-72;8:46 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-324, 50-325]

CAROLINA POWER AND LIGHT CO.

Notice of Consideration of Issuance of Facility Operating Licenses and Opportunity for Hearing; Notice of Hearing

In the matter of Carolina Power and Light Co. (Brunswick Steam Electric Plant Units 1 and 2).

The Atomic Energy Commission (the Commission) will consider the issuance of facility operating licenses to the Carolina Power and Light Co. (the applicant) which would authorize the applicant to possess, use, and operate the Brunswick Steam Electric Plant, Units 1 and 2, two boiling water nuclear reactors (the facilities), located on the Cape Fear River, near Southport, N.C. at steady-state power levels not to exceed 2,436 megawatts thermal each in accordance with the provisions of the license and the technical specifications appended thereto. The licenses would be issued upon the completion of a favorable safety evaluation of the application by the Commission's Directorate of Licensing, the completion of the environmental review required by the Commission's regulations in 10 CFR Part 50, Appendix D, the receipt of a report on the applicant's application for facility operating licenses by the Advisory Committee on Reactor Safeguards, and a finding by the Commission that the application for the facility licenses, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (Act), and the Commission's regulations in 10 CFR Chapter 1. Construction of the facilities was authorized by Construction Permit Nos. CPPR-67 and CPPR-68 issued by the Commission on February 7, 1970. Construction of Unit 2 is anticipated to be completed by December 1, 1973, and Unit 1 by December 1, 1974.

Prior to issuance of each operating license, the Commission will inspect the facility to determine whether it has been constructed in accordance with the application, as amended, and the provisions of the construction permit. In addition, the licenses will not be issued until the Commission has made the findings, reflecting its review of the application under the Act which will be set forth in the proposed licenses, and has concluded that the issuance of the licenses will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the licenses, the applicant will be required to execute an indemnity agreement as required by section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

In addition to the above, the facilities are subject to the provisions of section B of Appendix D to 10 CFR Part 50, which sets forth procedures applicable to review of environmental considerations for production and utilization facilities for which construction permits or operating licenses were issued in the period January 1, 1970–September 9, 1971. These provisions require that a hearing be held to consider whether the construction permits should be continued, modified, terminated, or appropriately conditioned to protect environmental values. With respect to this consideration, notice is hereby given, pursuant to the Act and the regulations in 10 CFR Part 2, "Rules of Practice," and Appendix D to 10 CFR Part 50, "Implementation of the National Environmental Policy Act of 1969," that a hearing will be held in the captioned proceeding by an Atomic Safety and Licensing Board (Board) at a time and place to be fixed by subsequent order of the Board to consider and make determinations on the matters set forth below.

1. In the event that this proceeding is not a contested proceeding as defined by 10 CFR 2.4(n) of the Commission's "Rules of Practice," the Board will without conducting a de novo evaluation of the application determine whether the environmental review conducted by the Commission's regulatory staff pursuant to Appendix D of 10 CFR Part 50 has been adequate.

2. In the event that this proceeding is a contested proceeding, the Board will decide any matters in controversy among the parties within the scope of Appendix D to 10 CFR Part 50, with regard to whether, in accordance with the requirements of Appendix D to 10 CFR Part 50, the construction permits should be continued, modified, terminated, or appropriately conditioned to protect environmental values:

3. Regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with section A.11 of Appendix D of 10 CFR Part 50, (a) determine whether the requirements of section 102(2) (C) and (D) of NEPA and Appendix D to 10 CFR Part 50 of the Commission's regulations have been complied with in this proceeding; (b) independently consider the final balance among conflicting factors contained in the record of the proceeding with a view toward determining the appropriate action to be taken; and (c) determine, after weighing the environmental, economic, technical, and other benefits against environmental costs and considering available alternatives, whether the construction permits should be continued, modified, terminated, or appropriately conditioned to protect environmental values.

The Board will be designated by the Atomic Energy Commission. Notice as to its membership will be published in the FEDERAL REGISTER.

Within thirty (30) days from the date of publication of this present notice in the FEDERAL REGISTER, the applicant may file a request for a hearing with respect to issuance of the facility operating licenses and any person whose interest may be affected by this proceeding may file a petition for leave to intervene (1) with respect to the issuance of the facility operating licenses; or (2) with respect to whether, considering those matters covered by Appendix D to 10 CFR Part 50, the construction permits should be continued, modified, terminated, or appropriately conditioned to protect environmental values. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice" in 10 CFR Part 2.

A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of 10 CFR 2.714. As required by 10 CFR 2.714, a petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A request for a hearing or a petition for leave to intervene must be filed with the Office of the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, DC 20545, Attention: Chief, Public Proceedings Staff, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. A petition for leave to intervene which is not timely will not be granted unless the Commission determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Commission has considered those factors specified in 10 CFR 2.714(a).

If a request for a hearing or petition for leave to intervene with respect to the issuance of facility operating licenses is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

Any person who does not wish to, or is not qualified to become a party to this proceeding concerning continuation, modification, termination, or conditioning the construction permits may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715. A person making a limited appearance may only make an oral or written statement on the record, and may not participate in the proceeding in any other way. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER.

A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above.

In the event that this proceeding concerning continuation, modification, termination, or conditioning the construction permits is not contested, the Board will convene a prehearing conference of the parties within sixty (60) days after this notice of hearing or such other time as may be appropriate, at a time and place to be set by the Board. It will also set the schedule for the evidentiary hearing. Notice of the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

In the event that this proceeding concerning continuation, modification, termination, or conditioning the construction permits becomes a contested proceeding, the Board will convene a special prehearing conference of the parties to the proceeding and persons who have filed petitions for leave to intervene, or their counsel, to be held within sixty (60) days from the date of publication of this notice in the FEDERAL REGISTER, or within such other time as may be appropriate, at a place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR 2.751a.

The Board will convene a prehearing conference of the parties, or their counsel, to be held subsequent to any special prehearing conference and within sixty (60) days after discovery has been completed, or within such other time as may be appropriate, at a place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR 2.752.

Notices of the dates and places of the special prehearing conference, the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

For further details pertinent to the matters under consideration, see the application for the facility operating licenses dated May 30, 1972, as amended, and the applicant's Environmental Report dated November 8, 1971, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Southport-Brunswick County Library, 109 West Moore Street, Southport, NC 28461. As they become available, the following documents also will be available at the above locations: (1) Safety Evaluation prepared by the Directorate of Licensing; (2) the Commission's draft detailed statement on environmental considerations pursuant to 10 CFR Part 50, Appendix D; (3) the Commission's final detailed statement on environmental considerations; (4) the report of the Advisory Committee on Reactor Safeguards on the application for facility operating licenses; (5) the proposed facility operating licenses; and (6) the proposed technical specifications, which will be attached to the proposed facility operating licenses. Copies of items (1), (3), (4), and (5) may be obtained by request to Deputy Director for Reactor Projects, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

With respect to this proceeding concerning continuation, modification, termination, or conditioning the construction permits, the Commission will delegate to the Atomic Safety and Licensing Appeal Board the authority and the review function which would otherwise be exercised and performed by the Commission. The Commission will establish the Appeal Board pursuant to 10 CFR 2.785 and will make the delegation pursuant to subparagraph (a)(1) of that section. The Appeal Board will be composed of a chairman, and two other members to be designated by the Commission. Notice as to the membership of the Appeal Board will be published in the FEDERAL REGISTER.

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Dated at Washington, D.C., this 27th day of October 1972.

UNITED STATES ATOMIC ENERGY COMMISSION,
PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.72-18754 Filed 11-2-72;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 21828; Order 72-10-98]

AMERICAN-TRANS CARIBBEAN MERGER CASE

Order on Petition and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 31st day of October, 1972.

On April 26, 1972, James Matthiesen, a former pilot of Trans Caribbean Airways, Inc., who is now employed by American Airlines, filed a petition with the Board requesting an order to compel American Airlines to arbitrate his claim for a displacement allowance pursuant to the labor protective provisions imposed by the Board in the American-Trans Caribbean Merger Case, Order 70-12-161, December 31, 1970. An answer to the petition was filed by American Airlines. Subsequently, motions for leave to file a response to American's answer were filed by the Trans Caribbean Airways Master Executive Counsel (TCA-MEC) and the petitioner. These responses are directly relevant to this proceeding and we will grant leave to file them. Similarly, we will grant the request of certain American pilots formerly employed by Trans Caribbean who have displacement allowance claims under the labor protective provisions that they be allowed to file a "statement of position" vis-a-vis American's answer. Petitioner thereafter filed a motion for expedited treatment.

Petitioner claims that for the 12 months preceding the merger of American and Trans Caribbean he earned an average of $4,015.01 per month, but that during the 10-month period immediately following the date of his displacement from a Trans Caribbean captaincy, his average monthly compensation by American Airlines was $1,751.65. For the 10-month period this amounts to a gross differential of $22,633.60. Petitioner filed a claim for a displacement allowance with American on May 25, 1971, to which the airline replied it could not directly respond. Subsequently, on July 30, 1971, purportedly acting on the advice of the Allied Pilots Association he mailed a "grievance letter" to American protesting the carrier's alleged violation of the labor protective provisions by its failure to provide the prescribed displacement allowance. On October 6, American denied the petitioner's claim, but proposed that the dispute might be presented to the AA-APA System Board of Adjustment, with a neutral referee for a fifth member of the board. On December 2, 1971, American wrote to petitioner and invited him to participate in proceedings before the System Board sitting with a neutral member which would make final and binding findings on all claims. Petitioner alleges he was offered no opportunity to participate in the selection of the neutral and that the System Board is comprised of two representatives from American, two from APA and the neutral, named by American, but that the panel does not include any representative of the former Trans Caribbean pilots. This panel was unsatisfactory to petitioner.[1] Moreover, after retention of an attorney it was determined by petitioner that the dispute under the labor protective provisions was not within the jurisdiction of the American/APA System Board because it does not arise from the terms of the American/APA collective bargaining agreement.

On February 23, 1972, petitioner's attorney wrote American and requested a written response to the displacement allowance claim and "withdrew" the "grievance" filed July 30, 1971. Petitioner alleges that subsequent communication with American's attorney was also fruitless and that the carrier was not prepared to pay the allowance absent arbitration of the matter. It is therefore urged that the Board issue an order (a) declaring that, by its delay and failure to respond to or process petitioner's claim, American has violated both the letter and spirit of the labor protective provisions; (b) directing American to respond within 10 days to an arbitration proposal previously made by petitioner, and absent acceptance of this proposal directing that the dispute may be referred by either party to an arbitrator chosen by a specifically set out procedure; (c) directing that the salary and expenses of the arbitrator so selected, together with all related expenses of arbitration, shall be borne solely and fully by American; (d) directing that the arbitrator's decision be final and binding on all parties; (e) requiring American to reimburse and make whole the petitioner for all costs and expenses, including attorneys fees and expenses, incurred in obtaining both the Board's order and the arbitration award; and (f) directing that American act promptly and process all claims filed by former Trans Caribbean employees under the labor protective provisions.

American's answer asserts that there has been, and is, no reluctance on American's part to arbitrate Captain Matthiesen's claim. Indeed, American states that the petitioner's claim was duly included in the displacement allowance claims pending before Mr. Leverett Edwards (former Chairman of the National Mediation Board) sitting as the neutral member of the American/APA System Board of Adjustment. The carrier claims that after receipt of the February 23, 1972, letter from petitioner's attorney, American proposed that Matthiesen's displacement allowance claim be included among the issues heard in the Board-ordered arbitration of the flight crew seniority list integration dispute,[2] for which the various parties had agreed that Prof. Russell Smith should act as arbitrator. Moreover, the airline asserts, it is the petitioner, acting through his attorney, who has refused to arbitrate the displacement claim as described above, but instead has attempted to withdraw unilaterally from an arbitration already agreed upon.[3]

American urges that in deciding what to do, a number of factors should be taken into account. First, it asserts that petitioner's claim is not a matter of simple mechanical calculations from known figures, for it involves a number of questions of interpretation and application of labor protective provisions in light of conditions existing at Trans Caribbean prior to the merger. Second, issues involved in petitioner's displacement allowance claim are related, and perhaps intertwined with, issues before Arbitrator Smith in the arbitration of seniority list integration. Third, fairness, consistency of result, and practical convenience to everyone point to having one arbitration covering all displacement allowance claims growing out of the American-Trans Caribbean merger.

American concludes that the Board need not issue any further order, but can rely on normal processes of accommodation to produce arbitration of petitioner's claim. It urges that, if we disagree, we should interpret our previous order directing arbitration of the seniority list dispute to include arbitration of displacement allowance claims and all other flight-crew claims that may arise out of the American-Trans Caribbean merger. It urges that there is no basis to sustain petitioner's additional requests for relief.[4]

In his reply to America's answer, petitioner rejects the carrier's suggestion that the petitioner's claim is related to or intertwined with the issues before Arbitrator Smith. To the contrary, he urges that the displacement allowance claim is separate from and unrelated to the matters which have been before the arbitrator in the seniority integration case for the past 6 months. It is urged that in contrast to the thorny issues in that proceeding, the claim here involves the difference between petitioner's average premerger earnings, and his average postmerger earnings. Moreover, the seniority integration arbitration is a prolonged, four-party proceeding, while the dispute here involves only Matthiesen and American. It is urged that, in view of these circumstances it would be unfair to the petitioner to require him to undertake the time and expense of becoming a party to the seniority list integration proceeding and to have resolution of his claim delayed until a decision is rendered in that case.

The TCA-MEC reply similarly opposes consolidation of this claim with the seniority list arbitration because it feels such action can only delay the seniority arbitration which has already been delayed too long. Further, TCA-MEC urges that while American urges that consolidation would eliminate duplication, it in reality is seeking a "free ride" and under section 13 of the labor protective provisions "would be obligated to defend rejection of these claims in any event." Also, of the parties to the Smith arbitration proceeding, only American is a party to this dispute. Finally, it urges that American's claim that a separate arbitration may be unfair to employees is undercut by the fact that numerous other employees do not wish to have their claims tied to the seniority list arbitration. The reply of American pilots formerly employed by Trans Caribbean who also have displacement allowance claims against American urges that they are presently attempting to negotiate the entire matter of their claims with American and that under no circumstances do they want to be included in the seniority list dispute.

Upon consideration, we have determined to deny both the request by American that this dispute be included in the present seniority arbitration, and the specific relief requested by the petitioner. In this connection, the Board wishes to emphasize its concern that the procedures for resolution of labor disputes by negotiation with ultimate recourse to arbitration, provided for in section 13 of the labor protective provisions, have been repeatedly frustrated by both the airlines and the employees petitioning the Board for modifications which, presumably, it is hoped would further their cause. As the Board has repeatedly stated,[5] it does not possess peculiar expertise in labor matters. It is for this reason that the arbitration provisions of the labor conditions are designed specifically to provide resolution of disputes in a fair and impartial manner without submission of the controversy to the Board. Moreover, the Board perceives no reason why carriers should delay in responding to requests for arbitration or if they do, why the employee should not resort to the more expeditious remedy of requesting a court to direct arbitration rather than directing the request to the Board (as opposed to requesting the Board to impose sanctions upon the carrier for its failure to comply with the arbitration requirement). Our recent revision in the Allegheny-Mohawk Merger (Order 72-4-31/32) of the arbitration provisions is designed to facilitate the arbitration procedures, as well as their enforcement.

With this in mind, we turn to the specific contentions of the parties in this proceeding. American argues that this dispute should be included in the pending seniority arbitration. We find no justification for such a procedure. To interject this nonpriority and largely tangential matter into the pending seniority proceeding would only serve to further complicate and delay that arbitration proceeding, which has already been delayed far too long. There has been no showing of any necessary relationship between this matter and the pending seniority list dispute.

Moreover, we are becoming increasingly concerned over the repeated failure of American to arrange for prompt presentation of these relatively minor issues to an arbitration procedure. In this connection, we wish to serve notice that we do not anticipate that further reliance on the Board will be necessary to implement the carrier's obligation to submit such disputes for impartial consideration by arbitration. In order to insure that there will be no grounds for future delay on the basis of failure of the parties to agree upon appropriate arbitration procedures, we propose to amend section 13 of the arbitration procedures applicable to the American-TCA merger to provide (but solely with respect to future arbitration proceedings (inclusive of the one at issue) and not with respect to any pending arbitration proceeding), the specific arbitration procedures adopted in the Allegheny-Mohawk Merger, Order 72-4-31/32. That provision reads as follows:

Section 13(a). In the event that any dispute or controversy (except as to matters arising under section 9) arises with respect to the protection provided herein, which cannot be settled by the parties within 20 days after the controversy arises, it may be referred by any party to an arbitrator selected from a panel of seven names furnished by the National Mediation Board for consideration and determination. The parties shall select the arbitrator from such panel by alternately striking names until only one remains, and he shall serve as arbitrator. Expedited hearings and decisions will be expected, and a decision shall be rendered within 90 days after the controversy arises, unless an extension of time is mutually agreeable to all parties. The salary and expenses of the arbitrator shall be borne equally by the carrier and (i) the organization or organizations representing the employee or employees, or (ii) if unrepresented, the employee or employees or group or groups of employees. The decision of the arbitrator shall be final and binding on the parties.

(b) The above condition shall not apply if the parties by mutual agreement determine that an alternative method for dispute settlement or an alternative procedure for selection of an arbitrator is appropriate in their particular dispute. No party shall be excused from complying with the above condition by reason of having suggested an alternative method or procedure, unless and until that alternative method or procedure shall have been agreed to by all the parties.

We also propose to provide that within 10 days of selection of the arbitrator in all future disputes arbitrated in accordance with the amended provisions, the arbitrator's identity shall be reported to the Board by American. Thereafter when final decision by an arbitrator is rendered, American shall provide the Board with copies of such decision within 10 days of its issuance.

With respect to the various specifications of relief sought by the petitioner, we again take this opportunity to express the Board's concern over the growing tendency of employee groups and individuals following mergers, to attempt to invoke the Board's limited jurisdiction[6] over labor disputes, rather than to seek relief from the courts or through an administrative enforcement proceeding. We wish to advise all carriers subject to the Board's labor protective provisions that the Board views the enforcement provisions of the statute, including the penalty provisions, as being fully applicable to a failure to comply with the arbitration provisions.

Accordingly, it is ordered:

1. That American Airlines, Inc., and any other interested person be and they hereby are directed to show cause, within 7 days after the date of this order:

(a) Why the Board should not amend section 13 of the labor protective provisions imposed in Order 70-12-161, to substitute therefor, effective upon the date of this order, section 13 of the labor protective provisions imposed by the Board in the Allegheny-Mohawk Merger Case, Order 72-4-31/32, with a proviso that the substitution shall not be deemed to affect any arbitration proceeding pending on the date of this order;

(b) Why the Board should not direct American, with respect to all future arbitrations subject to the labor protective provisions imposed by Order 70-12-161 as modified in accordance with (a) above,

(i) To file in this docket within 10 days after the selection of an arbitrator a report indicating the identity of the individual selected; and

(ii) To file two (2) copies of any arbitration decision with the Board immediately upon its issuance.

[1] There is an outstanding dispute between the APA and the former Trans Caribbean flight personnel concerning integration of seniority lists which is currently the subject of an arbitration proceeding ordered by the Board.

[2] See Order 71-5-30, served May 7, 1971, and Order 71-6-71, served June 14, 1971, both aff'd. American Airlines v. C.A.B., 445 F.2d 891 (C.A. 2, 1971), cert. denied 92 S. Ct. 681 (1972).

[3] American states that petitioner's specific proposals concerning an arbitration are unacceptable to it.

[4] American claims that the new section 13(a) of the labor protective provisions adopted by the Board in the Allegheny-Mohawk merger, Orders 72-4-31/32, in its procedure for alternately striking names contemplates only a two-party dispute. The procedure outlined is readily adaptable to a multiparty dispute, and clearly the provisions were intended to be applicable whether two or more parties are involved. Moreover, if it should be determined that a list of seven names is not sufficient to permit all the parties to participate in the selection of an arbitrator, the parties under section 13(b) may increase or decrease the number to resolve their difficulty.

[5] See, e.g., American Airlines v. C.A.B., 445 F. 2d 891 (C.A. 2, 1971), cert denied, 92 S. Ct. 681 (1972); Outland v. C.A.B., 284 F. 2d 224 (D.C. Cir., 1960).

[6] The Board has jurisdiction to enter orders to implement the labor protective conditions (Order 71-5-30) and specifically reserves jurisdiction to make such amendments, modifications and additions to the protective labor conditions as circumstances may require. See Order 70-12-161.

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2. That, except to the extent granted, the petition of James Matthiesen and all other requests herein be and they hereby are denied.

3. That this order shall be served upon American Airlines, Inc., the petitioner, the persons responding to the petition, and all labor parties in Docket 21828.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-18865 Filed 11-2-72;8:51 am]

[Docket Nos. 23424 etc.]

BRITISH OVERSEAS AIR CHARTER LTD. ET AL.

Notice of Oral Argument Regarding Air Carrier Permit Applications

British Overseas Air Charter Ltd., Docket 23424; Condor Flugdienst G.m.b.H., Docket 23404; Balair, Ltd. Air Charter Company of Switzerland, Docket 23766; Finnair oy, Docket 24167; Kar-Air oy, Docket 24168; Aviacion y Comercio, S.A., Docket 24264; Foreign Air Carrier Permit Applications.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled proceedings is assigned to be held before the Board on December 13, 1972, at 10 a.m., local time, in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC.

Dated at Washington, D.C., October 31, 1972.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.72-18866 Filed 11-2-72;8:52 am]

CIVIL SERVICE COMMISSION

COST OF LIVING COUNCIL

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Cost of Living Council to fill by noncareer executive assignment in the excepted service the position of Deputy General Counsel, Pay Board, Office of the General Counsel.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-18808 Filed 11-2-72;8:47 am]

DEPARTMENT OF THE AIR FORCE

Notice of Revocation of Authority To Make Noncareer Executive Assignments

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9120), the Civil Service Commission revokes the authority of the Department of the Air Force to fill by noncareer executive assignment in the excepted service the position of Deputy for Overseas Operations, Office, Secretary of the Air Force.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-18818 Filed 11-2-72;8:48 am]

DEPARTMENT OF THE AIR FORCE

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Air Force to fill by noncareer executive assignment in the excepted service the position of Deputy Under Secretary (International Affairs), Office, Secretary of the Air Force.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-18819 Filed 11-2-72;8:48 am]

DEPARTMENT OF THE ARMY

Notice of Title Change in Noncareer Executive Assignment

By notice of November 17, 1967, F.R. Doc. 67-13608, the Civil Service Commission authorized the departments and agencies to fill by noncareer executive assignment, certain positions removed from Schedule C of Civil Service Rule VI by 5 CFR 213.3301a on November 17, 1967. This is notice that the title of one such position so authorized to be filled by noncareer executive assignment has been changed from Director of Facilities, Office, Secretary of the Army to Deputy for Installations and Housing, Office, Secretary of the Army.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-18811 Filed 11-2-72;8:47 am]

DEPARTMENT OF COMMERCE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Deputy Director, Office of Strategic Business Studies, Assistant Secretary for Domestic and International Business.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-18804 Filed 11-2-72;8:47 am]

DEPARTMENT OF COMMERCE

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Assistant Secretary for Economic Development, Economic Development Administration, Office of the Assistant Secretary for Economic Development.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-18817 Filed 11-2-72;8:48 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Assistant to the Secretary (Executive Secretary to the Department) Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-18802 Filed 11-2-72;8:47 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Notice of Title Change in Noncareer Executive Assignment

By notice of March 9, 1972, F.R. Doc. 72-3620 the Civil Service Commission authorized the Department of Housing and Urban Development to fill by noncareer executive assignment the position of Director, Office of Community Goals and Standards, Assistant Secretary for Community Planning and Management. This is notice that the title of this position is now being changed to Director, Office of Community and Environmental Standards, Office of the Assistant Secretary for Community Planning and Management.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-18814 Filed 11-2-72;8:48 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Deputy Director, Office of New Communities Development, Office of the Assistant Secretary for Community Planning and Management.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-18815 Filed 11-2-72;8:48 am]

DEPARTMENT OF THE INTERIOR

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Associate Solicitor (Mineral Resources), Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-18806 Filed 11-2-72;8:47 am]

DEPARTMENT OF THE INTERIOR

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Associate Director, Office of Water Resources Research, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-18816 Filed 11-2-72;8:48 am]

DEPARTMENT OF THE INTERIOR

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Assistant to the Secretary, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-18801 Filed 11-2-72;8:46 am]

DEPARTMENT OF LABOR

Notice of Title Change in Noncareer Executive Assignment

By notice of August 16, 1969, F.R. Doc. 69-9704 the Civil Service Commission authorized the Department of Labor to fill by noncareer executive assignment the position of Associate Manpower Administrator, U.S. Training and Employment Service. This is notice that the title of this position is now being changed to Associate Manpower Administrator, U.S. Employment Service.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-18813 Filed 11-2-72;8:48 am]

DEPARTMENT OF LABOR

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Labor to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Assistant Secretary for Manpower, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-18820 Filed 11-2-72;8:48 am]

ENVIRONMENTAL PROTECTION AGENCY

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Environmental Protection Agency to fill by noncareer executive assignment in the excepted service the position of Director, Office of Operations Coordination, Office of the Administrator.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-18800 Filed 11-2-72;8:46 am]

FEDERAL HOME LOAN BANK BOARD

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Federal Home Loan Bank Board to fill by noncareer executive assignment in the excepted service the position of General Counsel, Office of the General Counsel.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-18807 Filed 11-2-72;8:47 am]

SMALL BUSINESS ADMINISTRATION

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Small Business Administration to fill by noncareer executive assignment in the excepted service the position of Special Assistant and Director, Office of Equal Employment Opportunity and Compliance.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-18803 Filed 11-2-72;8:47 am]

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U.S. TAX COURT

Notice of Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the U.S. Tax Court to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Chief Judge, Office of the Chief Judge.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-18805 Filed 11-2-72;8:47 am]

ASSOCIATE DIRECTOR, OFFICE OF WATER RESOURCES RESEARCH, DEPARTMENT OF THE INTERIOR

Manpower Shortage; Notice of Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission has found effective September 19, 1972, that there is a manpower shortage for the single position of Associate Director, Office of Water Resources Research, Department of the Interior. The appointee may be paid for the expense of travel and transportation to his first post of duty.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-18809 Filed 11-2-72;8:47 am]

DEPUTY DIRECTOR, NATIONAL CENTER FOR HEALTH STATISTICS, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Manpower Shortage; Notice of Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission has found effective September 11, 1972, that there is a manpower shortage for the single position of Deputy Director, National Center for Health Statistics, Health Sciences, and Mental Health Administration, Department of Health, Education, and Welfare. The appointee may be paid for the expense of travel and transportation to his first post of duty.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-18810 Filed 11-2-72;8:47 am]

TARIFF COMMISSION

[TEA-F-45 and TEA-W-160]

ARKWRIGHT MILLS

Firm and Workers' Petition for Determinations; Notice of Investigations and Hearing

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of Arkwright Mills, Spartanburg, S.C., and its former workers, the U.S. Tariff Commission, on October 27, 1972, instituted investigations under sections 301(c)(1) and 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements articles like or directly competitive with woven fabrics of cotton and of manmade fibers (of the types provided for in items 320.11–320.17, 321.11–321.17, 322.11–322.17, 327.11–327.17, 328.11–328.17, and 338.30 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause serious injury to such firm, and/or the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

A public hearing in connection with this investigation will be held beginning at 10 a.m., e.s.t., on December 1, 1972, in the Hearing Room, U.S. Tariff Commission Building, Eighth and E Streets NW., Washington, DC. Appearances at the hearing should be entered in accordance with § 201.13 of the Tariff Commission's rules of practice and procedure.

The petitions filed in this case are available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

By order of the Commission.

Issued: October 30, 1972.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-18841 Filed 11-2-72;8:45 am]

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

RESTORATION OF HISTORIC LOW FLOW DIVERSION TO ARROYO COLORADO, LOWER RIO GRANDE FLOOD CONTROL PROJECT

Notice of Completion of and Availability of Environmental Statement

Pursuant to the National Environmental Policy Act of 1969, notice is hereby given that this agency has completed a final statement which discusses environmental considerations relating to the proposed restoration of historic low flow diversion to Arroyo Colorado, Lower Rio Grande Flood Control Project, in Hidalgo and Cameron Counties, Tex. A copy of the final statement, along with copies of comments received from other agencies and interested groups, is being placed in the Office of the Country Director for Mexico, Room 3906–A, Department of State, 21st Street and Virginia Avenue NW., Washington, DC, in the office of the Project Superintendent, U.S. Section, International Boundary and Water Commission, 208 South F Street, Harlingen, TX, and in the office of the U.S. Section, Chief of Planning and Reports, 809 Southwest Center, El Paso, TX. The environmental analysis statement was prepared as a part of the study of the necessary improvements to the existing flood control project being undertaken by the United States and Mexico.

Copies of the final statement, dated October 19, 1972, along with copies of comments received from other agencies and interested groups, can be obtained from the U.S. Department of Commerce, National Technical Information Service, Springfield, Va. 22151.

Dated at El Paso, Tex., this 20th day of October 1972.

FRANK P. FULLERTON,
Special Legal Assistant.

[FR Doc.72-18789 Filed 11-2-72;8:46 am]

ENVIRONMENTAL PROTECTION AGENCY

ENVIRONMENTAL IMPACT STATEMENTS

Availability of Agency Comments

Appendix I contains a listing of draft environmental impact statements which the Environmental Protection Agency (EPA) has reviewed and commented upon in writing during the period from October 1, 1972, to October 15, 1972, as required by section 102(2)(C) of the National Environmental Policy Act of 1969 and section 309 of the Clean Air Act, as amended. The listing includes the Federal agency responsible for the statement, the number assigned by EPA to the statement, the title of the statement, the classification of the nature of EPA's comments, and the source for copies of the comments.

Appendix II contains definitions of the four classifications of EPA's comments. Copies of EPA's comments on these draft environmental impact statements are available to the public from the EPA offices noted.

Appendix III contains a listing of the addresses of the sources for copies of EPA comments listed in Appendix I.

Copies of the draft environmental impact statements are available from the Federal department or agency which prepared the draft statement or from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

Dated: October 25, 1972.

SHELDON MEYERS,
Director,
Office of Federal Activities.

APPENDIX I.—ENVIRONMENTAL IMPACT STATEMENTS FOR WHICH COMMENTS WERE ISSUED BETWEEN OCTOBER 1, 1972, AND OCTOBER 15, 1972

Responsible Federal Agency	Title and identifying number	General nature of comments	Source for copies of comments
Corps of Engineers	D-COE-35035-06: Maintenance dredging of Pawtuxet Cove, R.I.	3	B
Do	D-COE-32381-02: Beaver Brook Lake project, Keene, N.H.	3	B
Do	D-COE-50108-23: J. Percy Priest Bridge and Hobson Pike, Tenn.	2	F
Do	D-COE-32367-21: Channel from Apalachicola to Two-Mile and Break Water at Two-Mile Apalachicola Bay, Fla.	2	F
Do	D-COE-32369-29: East Fork Lake, Little Miami River, Ohio.	2	F
Do	D-COE-32380-34: Removal of log jam, Guadalupe, Tex.	1	G
Do	D-COE-30042-35: Grand Isle, La. and vicinity, hurricane protection, Louisiana.	1	G
Do	D-COE-30041-35: New Orleans to Venice, La., hurricane protection, Louisiana.	2	G
Do	D-COE-36144-00: River bank protection, Garrison Dam, Oahe Lake.	2	I
Do	D-COE-32386-46: Debris basin construction and channel improvement, Palm Springs, Calif.	2	I
Department of Agriculture	D-DOA-83050-00: Use of herbicide in eastern regions	2	A
Do	D-DOA-83051-34: Control of pocket gofer, Texas	2	G
Do	D-DOA-36159-00: Georgetown Creek Watershed Plan	1	K
Department of the Interior	D-DOI-84012-26: Fish control laboratory, La Crosse County, Wis.	2	F
Do	D-DOI-84013-26: Fishery rehabilitation—Rock River, Dane, Dredge, etc., Counties, Wis.	2	F
Do	D-DOI-60055-00: Ellis Unit—Smoky Hill division, Kans.	2	F
Do	D-DOI-61079-54: Snake River Island Wilderness Area, Wash.	1	K
Department of Transportation	D-DOT-41496-07: County Road 65C, Bridge Street, Johnsonville, N.Y.	2	C
Do	D-DOT-41492-07: Route 9A from Route 119 to Old Country Road and Ramp, N.Y.	1	C
Do	D-DOT-41491-08: Construction of drainage trunk line serving Routes 20, Freeway, and I-80, Paterson, N.J.	1	C
Do	D-DOT-41449-08: Widening of River Road from Landing Lane to I-287, Piscataway Township, Middlesex County, N.J.	4	C
Do	D-DOT-41486-16: I-95 center leg, Washington, D.C.	3	D
Do	D-DOT-41479-14: Tompkins Crossing Bridge, Kanawha County, W. Va.	1	D
Do	D-DOT-41492-11: L.R. 1003, Section 3, Erie County, Pa.	2	D
Do	D-DOT-41465-21: Florida State Road 15, Putnam County, Fla.	2	E
Do	D-DOT-41446-36: T.H. 59 and T.H. 529, Stevens County, Minn.	1	F
Do	D-DOT-41497-27: F.A. 171 Belvidere Bypass, Boone County, Ill.	1	F
Do	D-DOT-41453-29: State Route 30 (Relocation), Crawford and Richland Counties, Ohio.	1	F
Do	D-DOT-41463-31: Carlsbad Cavern National Park, proposed pollution abatement project, N. Mex.	1	G
Do	D-DOT-41507-36: Merna-Broken Bow, Custer County, Nebr.	1	H
Do	D-DOT-41502-39: Route 36, Linn County, Mo.	1	H
Do	D-DOT-41479-36: N-12 Brocksburg-Nejer Highway, Nebr.	1	H
Do	D-DOT-41483-41: Mandaree to Twin Buttes, N. Dak.	1	I
Do	D-DOT-41427-43: Highway project, Albany County, Wyo.	2	I
Do	D-DOT-51185-56: Challis Airport, Challis, Idaho	1	K
Do	D-DOT-41506-34: State Highway 71: Fayette County Line to I-10, Tex.	2	G
Federal Power Commission	D-FPC-80006-04: Holyoke Water Power Co.—Application to expand fish facilities, Massachusetts.	1	B
Department of Housing and Urban Development	D-HUD-81102-39: River Bend Apartments, St. Louis, Mo.	2	H
Do	D-HUD-85006-01: Forest Glen Apartments, Stoughton, Maine.	2	B

APPENDIX II

DEFINITION OF CODES FOR THE GENERAL NATURE OF EPA COMMENTS

(1) *General agreement/lack of objections.* The Agency generally:

(a) Has no objections to the proposed action as described in the draft impact statement;

(b) Suggests only minor changes in the proposed action or the draft impact statement; or

(c) Has no comments on the draft impact statement or the proposed action.

(2) *Inadequate information.* The Agency feels that the draft impact statement does not contain adequate information to assess fully the environmental impact of the proposed action. The Agency's comments call for more information about the potential environmental hazards addressed in the statement, or ask that a potential environmental hazard be addressed since it was not addressed in the draft statement.

(3) *Major changes necessary.* The Agency believes that the proposed action, as described in the draft impact statement, needs major revisions or major additional safeguards to adequately protect the environment.

(4) *Unsatisfactory.* The Agency believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the safeguards which might be utilized may not adequately protect the environment from the hazards arising from this action. The Agency therefore recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

APPENDIX III

SOURCES FOR COPIES OF EPA COMMENTS

A. Director, Office of Public Affairs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

B. Director of Public Affairs, Region I, Environmental Protection Agency, Room 2303, John F. Kennedy Federal Building, Boston, Mass. 02203.

C. Director of Public Affairs, Region II, Environmental Protection Agency, Room 847, 26 Federal Plaza, New York, NY 10007.

D. Director of Public Affairs, Region III, Environmental Protection Agency, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106.

E. Director of Public Affairs, Region IV, Environmental Protection Agency, Suite 300, 1421 Peachtree Street NE., Atlanta, Ga. 30309.

F. Director of Public Affairs, Region V, Environmental Protection Agency, 1 North Wacker Drive, Chicago, IL 60606.

G. Director of Public Affairs, Region VI, Environmental Protection Agency, 1600 Patterson Street, Dallas, TX 75201.

H. Director of Public Affairs, Region VII, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, MO 64108.

I. Director of Public Affairs, Region VIII, Environmental Protection Agency, Lincoln Tower, Room 916, 1860 Lincoln Street, Denver, CO 80203.

J. Director of Public Affairs, Region IX, Environmental Protection Agency, 100 California Street, San Francisco, CA 94102.

K. Director of Public Affairs, Region X, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101.

[FR Doc.72-18711 Filed 11-2-72;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CI73-283]

ANADARKO PRODUCTION CO.

Notice of Application

OCTOBER 31, 1972.

Take notice that on October 18, 1972, Anadarko Production Co. (Applicant), Post Office Box 9317, Fort Worth, TX 76107, filed in Docket No. CI73-283 an application pursuant to section 7(c) of the

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Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Panhandle Eastern Pipe Line Co. (Panhandle) in Seward County, Kans., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell Panhandle pursuant to a letter agreement dated September 25, 1972, volumes of natural gas up to 20,000 Mcf per day for a term limited of 1 year after the first day of the month following the date of initial delivery within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to charge Panhandle a rate of 35 cents per Mcf, adjusted for heat value at 14.65 p.s.i.a. for such gas.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 12, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18885 Filed 11-2-72;8:53 am]

[Docket No. CI73-299]

PERRY R. BASS

Notice of Application

OCTOBER 31, 1972.

Take notice that on October 26, 1972, Perry R. Bass, individually and as agent for Bass Enterprises Production Co. (Applicant), Fort Worth National Bank Building, Fort Worth, Tex. 76102, filed in Docket No. CI73-299 an application pursuant to section 7(c) of the Natural Gas Act for a certification of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Natural Gas Act for a certificate of public contural) from acreage in Eddy County, N. Mex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell up to 5,000 Mcf of gas per day at 35 cents per Mcf at 14.65 p.s.i.a., plus upward B.t.u. adjustment, for 12 months from the date of initial delivery under the requested authorization within the contemplation of section 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 10, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18816 Filed 11-2-72;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report 620]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

OCTOBER 30, 1972.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed below if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

[2] The above alternative cutoff rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

734-C2-P-(2)-73—Pacific Northwest Bell Telephone Co. (KOA246), for additional facilities to operate on 454.600 and 454.650 MHz at a new site described as location No. 2: Sentinel Hill, near Southwest Fairmount Boulevard, Portland, Oreg., and change the antenna system for existing facilities at location No. 1: 3035 Northwest Monte Vista Terrace, Portland, Oreg.

2684-C2-P-73—Alco Telephone Answering Service of Greenville, Miss., Inc. (New), for a new one-way station to be located at 218 Washington, Greenville, MS, to operate on 158.70 MHz.

2685-C2-P-73—Oden Communications Co. (New), for a new two-way station to be located on Highway No. 77, 1.5 miles south of Fremont, Nebr., to operate on 152.18 MHz.

2711-C2-ML-73—New England Telephone & Telegraph Co. (KA9446), to add frequencies 152.84 and 158.10 MHz for signaling only. (Developmental) (three units) in any temporary location within the States of Massachusetts, Maine, Rhode Island, New Hampshire, and Vermont.

2712-C2-MP-(4)-73—Mobilfone (KFA401), change the antenna system operating on 454.075, 454.175, 454.275, and 454.350 MHz at location No. 2: 1200 East Britton Road, Oklahoma City, OK.

2713-C2-P-(2)-73—Airsignal of California, Inc. (KMA267), replace transmitters operating on 454.200 and 454.300 MHz at location No. 3: 3 miles east of Auberry, Calif.

2714-C2-P-(4)-73—Pacific Telephone & Telegraph Co. (KMA614), replace transmitters, change the antenna system and relocate facilities operating on 152.51 and 152.63 MHz at location No. 3 to: 6.8 miles north of Chualar, Calif., and replace the transmitter and transmission line for test facilities operating on 43.38, 157.77, and 157.89 MHz at 340 Pajaro Street, Salinas, CA.

2715-C2-P-(2)-73—Mobilfone Radio System (KFA254), add standby facilities to operate on 152.21 MHz at location No. 1: First National City Bank Building, New York, N.Y., and 454.350 MHz at location No. 2: Chemical Bank Building, New York, N.Y.

2717-C2-ML-73—Pacific Telephone & Telegraph Co. (KA4328), to reduce number of mobile units from 43 to 23 and for the renewal of Developmental license expiring October 10, 1972. Terms: October 10, 1972 to October 10, 1973.

2718-C2-P-73—Chawilla, Inc. (New), for a new two-way station to be located 3.2 miles southwest of Palatka, Fla., to operate on 152.120 MHz.

2719-C2-P-73—Buckeye Communications Co. (KLF570), for additional facilities to operate on 454.250 MHz at 50 West Broad Street, Columbus, OH.

Correction

8265-C2-P-72—The Diamond State Telephone Co. (KGA471), correct to read: Additional facilities to operate on 157.73, 157.86, and 158.04 MHz test. For other particulars see FN dated September 25, 1972.

POINT-TO-POINT MICROWAVE RADIO SERVICE

2679-C1-MP-73—Nebraska Consolidated Communications Corp. (WOH62), station 4 miles southeast of Greenwood, Nebr., latitude 40°54'54" N., longitude 96°22'10" W. Modification C.P. to change azimuth toward Lincoln to 242°11'.

2680-C1-MP-73—Same (WOH63), modification C.P. to change station location to 3240 South 10th Street, Lincoln, NE, latitude 40°46'47" N., longitude 96°42'20" W. Change azimuths toward Seward and Greenwood to 295°51' and 61°58', respectively.

2681-C1-MP-73—Same (WOH64), station 0.5 mile east of Seward, Nebr., latitude 40°54'56" N., longitude 97°04'36" W. Modification C.P. to change azimuth toward Lincoln to 115°36'.

2682-C1-MP-73—Same (WOH43), station at 18th and Farnam, Omaha, Nebr., latitude 41°-15'28" N., longitude 95°56'24" W. Modification C.P. to add frequency 6226.9V toward Avoca, azimuth 194°11'.

2683-C1-MP-73—Same (WOH82), station 1.5 mile south-southeast of Avoca, Nebr., latitude 40°46'42" N., longitude 96°05'58" W. Modification C.P. to add frequency 5974.8V toward Omaha, azimuth 14°05'.

2708-C1-MP-73—Nebraska Consolidated Communications Corp. (WOH58), 4.5 miles southwest of DeKalb, Ill., latitude 41°52'44" N., longitude 88°48'31" W. M.P. to delete 6226.9H toward Elgin, Ill., and add 6226.9H toward Lily Lake, Ill., azimuth 68°54'.

2709-C1-MP-73—Same (WOH59), M.P. to change station location from Elgin, Ill., to 1.8 miles north of Lily Lake, Ill., latitude 41°58'28" N., longitude 88°28'30" W. Change azimuths of 6137.9V toward DeKalb to 249°07' and 5974.8H toward Glendale to 103°52'.

2710-C1-MP-73—Same (WOH60), 1.5 miles northwest of Glendale, Ill., latitude 41°54'24" N., longitude 88°06'39" W. M.P. to delete 6197.2V toward Elgin, Ill., and add 6197.2V toward Lily Lake, Ill., azimuth 284°07'.

2720-C1-P-73—United Video, Inc. (New), 0.5 mile north of High Ridge, Mo., latitude 38°28'21" N., longitude 90°32'18" W. C.P. for a new station on frequency 6226.9H MHz toward Labadie, Mo.; frequency 6226.9H MHz toward St. Louis, Mo.

2721-C1-P-73—Same (New), 106 West 11th, Kansas City, Mo., latitude 39°06'04" N., longitude 94°35'03" W. C.P. for a new station on frequency 11,015.0V MHz toward Rayown, Mo.

2722-C1-P-73—United Video, Inc. (New), 2 miles south of Odessa, Mo., latitude 38°58'18" N., longitude 93°57'03" W. C.P. for a new station on frequency 6945.2H MHz toward Warrensburg, Mo.; frequency 5974.8H MHz toward Rayown, Mo.

2723-C1-P-73—Same (New), 5 miles east of Warrensburg, Mo., latitude 38°45'35" N., longitude 93°37'30" W. C.P. for a new station on frequency 6226.9H MHz toward Iola, Mo.; frequency 6197.2H MHz toward Odessa, Mo.

2724-C1-P-73—Same (New), 2 miles northwest of Ionia, Iola, Mo., latitude 38°33'48" N., longitude 93°17'05" W. C.P. for a new station on frequency 6034.2H MHz toward Warsaw, Mo.; frequency 5945.2V MHz toward Warrensburg, Mo.

2725-C1-P-73—Same (New), 3 miles east of Warsaw, Mo., latitude 38°14'17" N., longitude 93°19'05" W. C.P. for a new station on frequency 6286.2V MHz toward Urbana, Mo.; frequency 6226.9V MHz toward Iola, Mo.

2726-C1-P-73—Same (New), 3 miles northwest of Urbana, Mo., latitude 37°52'16" N., longitude 93°11'25" W. C.P. for a new station on frequency 6004.5H MHz toward Lebanon, Mo.; frequency 5974.8H MHz toward Warsaw, Mo.

2727-C1-P-73—Same (New), 2 miles south of Miami, Okla., latitude 36°50'12" N., longitude 94°53'13" W. C.P. for a new station on frequency 6034.2H MHz toward Centralia, Okla.; frequency 6004.5V MHz toward Joplin, Mo.

2728-C1-P-73—Same (New), 4 miles south of Centralia, Okla., latitude 36°44'28" N., longitude 95°21'32" W. C.P. for a new station on frequency 6286.2H MHz toward Nowata, Okla.; frequency 6197.2H MHz toward Miami, Okla.

2729-C1-P-73—Same (New), 2.5 miles north of Sand Springs, Okla., latitude 36°11'16" N., longitude 96°06'06" W. C.P. for a new station on frequency 6004.5V MHz toward Avant, Okla.

2731-C1-P-73—Southern Pacific Communications Co. (New), C.P. for a new fixed station to be located on Monte Bello Ridge, 3.5 miles west-southwest of Monta Vista, Calif., latitude 37°18'25" N., longitude 122°07'40" W., for frequency 6375.2H MHz on azimuth 344°15' toward Oakland, frequency 11,665H MHz on azimuth 344°52' toward Redwood City, and frequency 11,465H on azimuth 75°57' toward San Jose.

2732-C1-P-73—Same (New), C.P. for a new fixed station to be located at Seventh and Bay Streets, Oakland, Calif., at latitude 37°48'26" N., longitude 122°18'20" W., for frequency 6123.1V MHz on azimuth 164°09' toward Monte Bello Ridge.

2736-C1-P-73—Eastern Microwave, Inc. (KYZ74), Highland Lakes, 1.6 miles west-southwest of Highland Lakes, N.J., latitude 41°10'01" N., longitude 74°30'12" W. C.P. to add frequency 6360.3V MHz toward High Knob, Pa., on azimuth 286°02'.

2737-C1-P-73—Same (KYZ75), High Knob, 1.5 miles west of Pecks Pond, Pa., latitude 41°-18'00" N., longitude 75°07'31" W. C.P. to add frequency 6108.3V MHz toward Elk Hill, Pa., on azimuth 321°49'.

2738-C1-P-73—Same (KGO27), Elk Hill, 4.35 miles north of Dundaff, Pa., latitude 41°52'54" N., longitude 75°33'42" W. C.P. to add frequency 6360.3V MHz toward Ingraham Hill, N.Y., on azimuth 320°10'.

POINT-TO-POINT MICROWAVE RADIO SERVICE—Continued

2683-C1-MP-73—Same (WOH82), station 1.5 mile south-southeast of Avoca, Nebr., latitude 40°46'42" N., longitude 96°05'58" W. Modification C.P. to add frequency 5974.8V toward Omaha, azimuth 14°05'.

2708-C1-MP-73—Nebraska Consolidated Communications Corp. (WOH58), 4.5 miles southwest of DeKalb, Ill., latitude 41°52'44" N., longitude 88°48'31" W. M.P. to delete 6226.9H toward Elgin, Ill., and add 6226.9H toward Lily Lake, Ill., azimuth 68°54'.

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2710-C1-MP-73—Same (WOH60), 1.5 miles northwest of Glendale, Ill., latitude 41°54'24" N., longitude 88°06'39" W. M.P. to delete 6197.2V toward Elgin, Ill., and add 6197.2V toward Lily Lake, Ill., azimuth 284°07'.

2720-C1-P-73—United Video, Inc. (New), 0.5 mile north of High Ridge, Mo., latitude 38°28'21" N., longitude 90°32'18" W. C.P. for a new station on frequency 6226.9H MHz toward Labadie, Mo.; frequency 6226.9H MHz toward St. Louis, Mo.

2721-C1-P-73—Same (New), 106 West 11th, Kansas City, Mo., latitude 39°06'04" N., longitude 94°35'03" W. C.P. for a new station on frequency 11,015.0V MHz toward Rayown, Mo.

2722-C1-P-73—United Video, Inc. (New), 2 miles south of Odessa, Mo., latitude 38°58'18" N., longitude 93°57'03" W. C.P. for a new station on frequency 6945.2H MHz toward Warrensburg, Mo.; frequency 5974.8H MHz toward Rayown, Mo.

2723-C1-P-73—Same (New), 5 miles east of Warrensburg, Mo., latitude 38°45'35" N., longitude 93°37'30" W. C.P. for a new station on frequency 6226.9H MHz toward Iola, Mo.; frequency 6197.2H MHz toward Odessa, Mo.

2724-C1-P-73—Same (New), 2 miles northwest of Ionia, Iola, Mo., latitude 38°33'48" N., longitude 93°17'05" W. C.P. for a new station on frequency 6034.2H MHz toward Warsaw, Mo.; frequency 5945.2V MHz toward Warrensburg, Mo.

2725-C1-P-73—Same (New), 3 miles east of Warsaw, Mo., latitude 38°14'17" N., longitude 93°19'05" W. C.P. for a new station on frequency 6286.2V MHz toward Urbana, Mo.; frequency 6226.9V MHz toward Iola, Mo.

2726-C1-P-73—Same (New), 3 miles northwest of Urbana, Mo., latitude 37°52'16" N., longitude 93°11'25" W. C.P. for a new station on frequency 6004.5H MHz toward Lebanon, Mo.; frequency 5974.8H MHz toward Warsaw, Mo.

2727-C1-P-73—Same (New), 2 miles south of Miami, Okla., latitude 36°50'12" N., longitude 94°53'13" W. C.P. for a new station on frequency 6034.2H MHz toward Centralia, Okla.; frequency 6004.5V MHz toward Joplin, Mo.

2728-C1-P-73—Same (New), 4 miles south of Centralia, Okla., latitude 36°44'28" N., longitude 95°21'32" W. C.P. for a new station on frequency 6286.2H MHz toward Nowata, Okla.; frequency 6197.2H MHz toward Miami, Okla.

2729-C1-P-73—Same (New), 2.5 miles north of Sand Springs, Okla., latitude 36°11'16" N., longitude 96°06'06" W. C.P. for a new station on frequency 6004.5V MHz toward Avant, Okla.

2731-C1-P-73—Southern Pacific Communications Co. (New), C.P. for a new fixed station to be located on Monte Bello Ridge, 3.5 miles west-southwest of Monta Vista, Calif., latitude 37°18'25" N., longitude 122°07'40" W., for frequency 6375.2H MHz on azimuth 344°15' toward Oakland, frequency 11,665H MHz on azimuth 344°52' toward Redwood City, and frequency 11,465H on azimuth 75°57' toward San Jose.

2732-C1-P-73—Same (New), C.P. for a new fixed station to be located at Seventh and Bay Streets, Oakland, Calif., at latitude 37°48'26" N., longitude 122°18'20" W., for frequency 6123.1V MHz on azimuth 164°09' toward Monte Bello Ridge.

2736-C1-P-73—Eastern Microwave, Inc. (KYZ74), Highland Lakes, 1.6 miles west-southwest of Highland Lakes, N.J., latitude 41°10'01" N., longitude 74°30'12" W. C.P. to add frequency 6360.3V MHz toward High Knob, Pa., on azimuth 286°02'.

2737-C1-P-73—Same (KYZ75), High Knob, 1.5 miles west of Pecks Pond, Pa., latitude 41°-18'00" N., longitude 75°07'31" W. C.P. to add frequency 6108.3V MHz toward Elk Hill, Pa., on azimuth 321°49'.

2738-C1-P-73—Same (KGO27), Elk Hill, 4.35 miles north of Dundaff, Pa., latitude 41°52'54" N., longitude 75°33'42" W. C.P. to add frequency 6360.3V MHz toward Ingraham Hill, N.Y., on azimuth 320°10'.

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POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

2734-C1-MP-73—Same (KFN74), King Mountain, 8 miles east of Wolf Creek, Oreg., latitude 42°41'49" N., longitude 123°13'39" W. Modification of C.P. to change transmitters and to increase power output to 3 watts on frequencies 6130.5H, 6284.7H, and 6382.6H MHz toward Grants Pass, Oreg.; frequencies 6130.5H, 6284.7H and 6382.6H MHz toward Medford, Oreg.; frequencies 6130.5H, 6284.7H, and 6382.6H MHz toward Mount Nebo, Oreg.; frequencies 6130.5V and 6011.9V MHz toward Harness Mountain, Oreg.; frequency 6284.7H MHz toward Soda Mountain, Oreg.

2735-C1-MP-73—Pacific Telutronics, Inc. (KFQ92), Harness Mountain, 19 miles south of Cottage Grove, Oreg., latitude 43°31'28" N., longitude 123°05'39" W. Modification of C.P. to change transmitters and to increase output power to 3 watts on frequencies 6412.2V and 6293.6V MHz toward Roman Nose Mountain, Oreg.; frequencies 6412.2V and 6293.6V MHz toward Blanton Heights, Oreg.

Major Amendments

Informative: Applicant, United Video, Inc., is amending previously filed applications for authority to construct new specialized common carrier stations in the States of Missouri and Oklahoma. The applications now being amended originally appeared on public notice on April 13, 1970, and March 15, 1971. Earlier amendments appeared on public notice on July 12, 1971. These amendments are submitted to enable the Commission to sever and separately process the applications covering the St. Louis-Kansas City-Tulsa segment of the proposed data system.

5768-C1-P-70—United Video, Inc. (New), St. Louis, Mo. Change proposed station location to Fourth and Pine, St. Louis, Mo., at latitude 38°37'34" N., longitude 90°11'17" W. Correct frequency and azimuth to 5974.8H MHz on azimuth 240°56' toward High Ridge, Mo. Delete frequency 6404.8V MHz on azimuth 289°44' and 6226.9H MHz on azimuth 339°06'.

4852-C1-P-71—Same (New), Labadie, Mo. Change proposed station location to 1 mile north of Gray Summit, Mo., at latitude 38°30'29" N., longitude 90°48'30" W. Correct frequencies and azimuths to 5945.2V MHz on azimuth 244°12' toward Union, Mo., and 6034.2V MHz on azimuth 89°29' and 6271.4H and 6390.0H MHz on azimuth 242°00'.

4853-C1-P-71—Same (New), Union, Mo. Change proposed station location to 6 miles west of Union, Mo., at latitude 38°23'39" N., longitude 91°06'24" W. Correct frequencies and azimuths to 6375.2V MHz on azimuth 257°53' toward Belle, Mo., and 6286.2V MHz on azimuth 64°01' toward Labadie, Mo. Delete frequencies 5960.0H and 6078.6H MHz on azimuth 61°49' and 6019.3V and 6049.0H MHz on azimuth 257°53'.

4854-C1-P-71—Same (New), Belle, Mo. Change proposed station location to 2 miles east of Belle, Mo., at latitude 38°17'33" N., longitude 91°41'54" W. Correct frequencies and azimuths to 5945.2V MHz on azimuth 191°45' toward Rolla, Mo., and 6123.1V MHz on azimuth 77°31' toward Union, Mo. Delete frequencies 6301.0V and 6360.3V MHz on azimuth 77°31' and 6271.4H and 6330.7H MHz on azimuth 191°44'.

4855-C1-P-71—Same (New), Rolla, Mo. Change proposed station location to 1 mile north of Rolla, Mo., at latitude 37°57'56" N., longitude 91°47'03" W. Correct frequencies and azimuths to 6197.2V MHz on azimuth 248°24' toward Waynesville, Mo., and 6286.2H on azimuth 11°41' toward Belle, Mo. Delete frequencies 6049.0H and 6108.3H MHz on azimuth 11°41' and 5960.0V and 6019.3V MHz on azimuth 247°19'.

4856-C1-P-71—United Video, Inc. (New), Waynesville, Mo. Change proposed station location to 2 miles east of Waynesville, Mo., at latitude 37°49'20" N., longitude 92°14'42" W. Correct frequencies and azimuths to 6226.9V MHz on azimuth 263°40' toward Lebanon, Mo., and 5945.2V MHz on azimuth 66°07' toward Rolla, Mo. Delete frequencies 6241.7V and 6360.3V MHz on azimuths 67°04' and 6271.4V and 6330.7V MHz on azimuth 254°10'.

4857-C1-P-71—Same (New), Lebanon, Mo. Change proposed station location to 2 miles northwest of Lebanon, Mo., at latitude 37°42'39" N., longitude 92°42'43" W. Correct frequencies to 6286.2V MHz on azimuth 200°44' toward Marshfield, Mo.; 6197.2H on azimuth 293°02' toward Urbana, Mo.; and 6226.9V MHz on azimuth 73°22' toward Waynesville, Mo. Delete frequencies 6049.0H and 6108.3H MHz on azimuth 73°01' and 5989.7H and 6078.6H MHz on azimuth 200°44'.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

2739-C1-P-73—Same (KEM35), Ingraham Hill, 2.3 miles south of Binghamton, N.Y., latitude 42°03'43" N., longitude 75°57'03" W. C.P. to add frequency 10,815.0H MHz toward Binghamton, N.Y., on azimuth 36°00'.

Informative: Eastern proposes to transmit CATV originated programing to CATV systems serving Binghamton, N.Y. The program material will be provided by Columbia Cable Systems, Inc. A waiver of § 21.701(l) FCC rules is requested by Eastern.

2740-C1-P-73—Racom, Inc. (KY285), Mount Washington, N.H., latitude 44°16'13" N., longitude 71°18'13" W. C.P. to add frequency 5960.0V MHz toward Norway, Maine, on azimuth 96°45'.

Informative: Racom proposes to deliver the signal of WSBK-TV of Boston, Mass., to Nor-Par Cablevision in Norway-South Paris, Maine.

2741-C1-P-73—American Television & Communications Corp. (New), Orlando, Fla., latitude 28°36'25" N., longitude 81°19'35" W. C.P. for a new station—frequencies 6256.0H MHz and 6375.2H MHz toward Orange City, Fla., on azimuth 05°50'.

2742-C1-P-73—Same (New), 1 mile northeast of Orange City, Fla., latitude 28°58'08" N., longitude 81°16'32" W. C.P. for a new station—frequencies 5945.2H MHz and 6063.8H MHz toward Daytona Beach, Fla., latitude 29°08'55" N., longitude 80°59'50" W., on azimuth 63°37'.

Informative: ATC proposes to provide the signals of WTOG-TV and WCIX-TV of Tampa and Miami, Fla., respectively, to Halifax Cable TV, Inc., in Daytona Beach, Fla. A waiver of § 21.701(l) FCC rules is requested by ATC.

2743-C1-P-73—KHC Microwave Corp. (WDD97), 2.5 miles south of Labelle, Tex., latitude 29°50'25" N., longitude 94°09'41" W. C.P. to add frequency 6315.9V MHz toward Port Neches, Tex., on azimuth 55°18'.

2744-C1-P-73—KHC Microwave Corp. (WDE80), 2 miles east-southeast of Port Neches, Tex., latitude 29°56'45" N., longitude 93°55'50" W. C.P. (a) To add frequency 6152.8V MHz toward Cameron Farms, Tex., on azimuth 73°03', and (b) to add frequencies 5974.8H MHz, 6034.2H MHz, and 6152.8H MHz toward new point of communication at Port Arthur, Tex., latitude 29°56'16" N., longitude 93°56'23" W., on azimuth 190°55'.

2745-C1-P-73—Same (WDE81), Cameron Farms, 7 miles south-southeast of Venton, La., latitude 30°05'07" N., longitude 93°31'40" W. C.P. to add frequency 6404.8H MHz toward Lake Charles, La., on azimuth 71°21'.

Informative: KHC proposes: (a) To provide the signals of KVRL, KHTV, and KUHT, all of Houston, Tex., to Port Arthur, Tex., and (b) to provide the signal of KVRL to LVO Cable, Inc., in Lake Charles, La. A waiver of § 21.701(l) FCC rules is requested by KHC.

2746-C1-P-73—American Television & Communications Corp. (New), Jackson, Miss., latitude 32°22'24" N., longitude 90°09'10" W. C.P. for a new station—frequency 5945.2H MHz toward Orange Hill, Miss., on azimuth 285°30'.

2747-C1-P-73—Same (New), 3 miles west-southwest of Orange Hill, Miss., latitude 32°27'37" N., longitude 90°31'29" W. C.P. for a new station—frequency 6286.2H MHz toward Vicksburg and Yazoo City, Miss., on azimuths 247°01' and 18°17', respectively.

Informative: ATC proposes to provide the signal of WGNO-TV, New Orleans, La., to CATV systems serving Vicksburg and Yazoo City, Miss. A waiver of § 21.701(l) FCC rules is requested by ATC.

2748-C1-P-73—Mountain Microwave Corp. (KBI24), Methodist Mountain, 5.5 miles south of Salida, Colo., latitude 38°27'25" N., longitude 106°01'02" W. C.P. to change polarity to vertical for frequencies 6260.0 MHz and 6360.0 MHz toward existing points of communication at Leadville, Salida, Monte Vista, and Alamosa, all in Colorado.

2733-C1-MP-73—Pacific Telutronics, Inc. (KFQ99), Soda Mountain, 13 miles southwest of Ashland, Oreg., latitude 42°03'54" N., longitude 122°28'39" W. Modification of C.P. to change transmitters and to increase output power to 3 watts on frequencies 6308.4H and 6412.2H MHz toward Haymaker Mountain, Oreg.; frequencies 6308.4V and 6412.2V MHz toward King Mountain, Oreg.

Major Amendments—Continued

4858-C1-P-71—Same (New), Marshville, Mo. Change proposed station location to one-fourth mile south of Marshfield, Mo., at latitude 37°19'32" N., longitude 92°53'40" W. Correct frequencies to 6034.2H MHz on azimuth 243°34' toward Springfield, Mo., and 6152.8H MHz on azimuth 20°37' toward Lebanon, Mo. Delete frequencies 6241.7H and 6301.0H MHz on azimuth 20°37' and 6271.4V and 6301.0H MHz on azimuth 243°36'.

4859-C1-P-71—Same (New), Springfield, Mo. Change proposed station location to 2½ miles south of Springfield, Mo., at latitude 37°08'57" N., longitude 93°20'08" W. Correct frequencies to 6404.8V MHz on azimuth 275°44' toward Phelps, Mo., and 6286.2H MHz on azimuth 63°18' toward Marshfield, Mo. Delete frequencies 6049.0V and 5960.0V MHz on azimuth 243°36' and 6019.3V and 6078.6V MHz on azimuth 275°43'.

4860-C1-P-71—Same (New), station location: 7 miles north of Stotts City, Mo., at latitude 37°11'43" N., longitude 93°55'39" W. Correct frequencies to 6004.5H MHz on azimuth 245°05' toward Joplin, Mo., and 6004.5V MHz on azimuth 95°23' toward Springfield, Mo. Delete frequencies 6241.7V and 6360.3V MHz on azimuth 95°21' and 6301.0V and 6390.0V MHz on azimuth 257°20'.

5783-C1-P-70—Same (New), Raytown, Mo. Change proposed station location to 2 miles east of Raytown, Mo., at latitude 39°01'46" N., longitude 94°24'19" W. Correct frequencies to 6226.9H MHz on azimuth 99°07' toward Odessa, Mo., and 11,625.0V MHz on azimuth 297°15' toward Kansas City, Mo. Delete frequencies 6226.9H MHz on azimuth 025°42' toward Smithville, Mo., and 6315.9H MHz on azimuth 208°42' toward Paola, Kans.

5790-C1-P-70—Same (New), Joplin, Mo. Change proposed station location to 6 miles southeast of Joplin, Mo., at latitude 37°00'59" N., longitude 94°24'19" W. Correct frequencies to 6197.2V MHz on azimuth 245°13' toward Miami, Okla., and 6315.9V MHz on azimuth 64°48' toward Philps, Mo. Delete frequencies 5960.0V and 6049.0V MHz on azimuth 76°57'.

5800-C1-P-70—Same (New), Nowata, Okla. Change proposed station location to 6 miles southwest of Nowata, Okla., at latitude 36°39'25" N., longitude 95°44'38" W. Correct frequencies to 6093.5V MHz on azimuth 229°49' toward Avant, Okla., and 5945.2V MHz on azimuth 74°41' toward Centralia, Okla. Delete frequencies 6093.5V MHz on azimuth 39°05' and 6123.1V MHz on azimuth 195°07'.

5801-C1-P-70—Same (New), Avant, Okla. Change proposed station location to 4 miles south of Avant, Okla., at latitude 36°26'27" N., longitude 96°03'36" W. Correct frequencies to 6345.5V MHz on azimuth 187°36' toward Sand Springs, Okla., and 6197.2V MHz on azimuth 162°36'.

4536-C1-P-70—Southern Pacific Communications Co. (New), Newhall Street and S.P. right-of-way. Delete frequencies 10,775V and 10,935V, on azimuth 164°43'. Delete Loma Prieta as a point of communication. Add frequency 11,175H on azimuth 256°05' and path length 18.8 km. toward new point of communication, Monte Bello Ridge.

4537-C1-P-70—Same (New), Marsh Road and S.P. right-of-way, Redwood, Calif. Delete frequencies 5945.2H and 6063.8H MHz on azimuth 143°09'. Delete Loma Prieta as a point of communication. Add frequency 10,975H on azimuth 164°50' and path length 19.7 km. toward new point of communication, Monte Bello Ridge.

[FR Doc.72-18779 Filed 11-2-72;8:45 am]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON MANPOWER AND EMPLOYMENT

Notice of Meeting and Agenda

The regular fall meeting of the Business Research Advisory Council's Committee on Manpower and Employment will be held on November 15, 1972, at 9:30 a.m. in Room 3560, of the New York Regional Office, 1515 Broadway, New York, NY. Agenda for the meeting follows:

1. Transfer of Manpower Administration Programs to BLS.
2. Budget.
3. Establishment Statistics Program.
4. State Manpower Projections.
5. Labor Force Topics.

For further information call: Kenneth Van Auken—Executive Secretary—BRAC 202—961-2559.

Signed at Washington, D.C., this 30th day of October 1972.

GEOFFREY H. MOORE,
Commissioner of Labor Statistics.

[FR Doc.72-18871 Filed 11-2-72;8:52 am]

Occupational Safety and Health Administration

PPG INDUSTRIES, INC.

Grant of Variance

I. *Background.* On November 5, 1971, PPG Industries, Inc., 1 Gateway Center, Pittsburgh, PA 15222, made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596) and 29 CFR 1905.11, for a variance, and for an interim order pending a decision on the application for a variance, from the national consensus standard prescribed in 29 CFR 1910.145 (a) through (e), concerning specifications for accident prevention signs and tags. Notice of the application for variance made by PPG Industries, Inc., and of the granting of an interim order pending a decision on the application, was published in the FEDERAL REGISTER on March 10, 1972 (36 F.R. 5198). The notice invited interested persons, including affected employers and employees, to submit written data, views, and arguments regarding the grant or denial of the variance requested. In addition, affected employers and employees were permitted to request a hearing on the application for a variance. One letter expressing an opinion on the matter has been received; no request for a hearing has been received.

II. *Facts.* The request for a variance is limited to the following addresses of manufacturing and research facilities which the applicant states are directly affected by the application:

GLASS DIVISION—MANUFACTURING AND FABRICATING PLANTS

AIRCRAFT AND SPECIALTY PRODUCTS

Works 22, Post Office Box 2200, Huntsville, AL 25801.
Works 23, Post Office Box 617, Creighton, PA 15030.

FABRICATING PLANTS

Works 1, Post Office Box 617, Creighton, PA 15030.
Works 25, Huff Avenue, Greensburg, PA 15601.
Works 26, Lincoln Highway, Crestline, OH 44827.
Works 27, Tipton, PA 16684.

PLATE, FLOAT, AND SPECIAL GLASS PLANTS

Works 5, 500 Third Avenue, Ford City, PA 16226.
Works 7, Post Office Box 1356, Cumberland, MD 21502.
Works 8, Post Office Box 800, Meadville, PA 16335.
Works 9, 26 Mississippi Avenue, Crystal City, MO 63019.
Works 21, 1119 North Kickapoo Street, Lincoln, IL 62656.

WINDOW GLASS PLANTS

Works 10, McLaughlin Road, Henryetta, OK 74437.
Works 11, Post Office Box 71, Mount Vernon, OH 43050.
Works 12, Post Office Box 1869, Clarksburg, WV 26301.
Works 14, Post Office Box R, Mount Zion, IL 62549.
Works 15, Post Office Box 2748, Fresno, CA 93745.

RESEARCH CENTER

Post Office Box 11472, Guys Run Road, Harmar Township, Pittsburgh, PA 15238.

ARCHITECTURAL METALS DEPARTMENT

Post Office Box 930, Kokomo, IN 46901.

DISTRIBUTION AND FABRICATION CENTERS

4841 Massachusetts Boulevard, College Park, GA 30337.
4850 South Kilbourn Avenue, Chicago, IL 60632.
1421 North Industrial Boulevard, Dallas, TX 75207.
Post Office Box 302, East Rutherford, NJ 07073.

COATINGS AND RESINS DIVISION

FACTORIES

1377 Oakleigh Drive, East Point, GA 30044.
3221 Frederick Avenue, Baltimore, MD 21229.
Post Office Box 457, Circleville, OH 43113.
3800 West 143d Street, Cleveland, OH 44111.
Pittsburgh Road, Delaware, OH 43015.
6621 Liberty Road, Post Office Box 1329, Houston, TX 77001.
235 East Pittsburgh Avenue, Milwaukee, WI 53201.
29 Riverside Avenue, Post Office Box 268, Newark, NJ 07101.
125 Colfax Street, Springdale, PA 15144.
465 Crenshaw Boulevard, Torrance, CA 90509.

RESEARCH AND DEVELOPMENT CENTER

Post Office Box 127, Springdale, PA 15144.

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CHEMICAL DIVISION

FACTORIES

Post Office Box 31, Barberton, OH 44203.
Post Office Box 4026, Corpus Christi, TX 78408.
Box 1000, Lake Charles, LA 70604.
Post Office Box 191, New Martinsville, WV 26155.

COLUMBIA CEMENT COMPANY

Post Office Box 37, Bellingham, WA 98225.
Post Office Box 1531, Zanesville, OH 43701.

HOUSTON CHEMICAL COMPANY

Post Office Box 3785, Beaumont, TX 77704.

FIBER GLASS DIVISION

FACTORIES

Works 50, 240 Elizabeth Street, Shelbyville, IN 46176.
Works 52, Route No. 4, Shelby, NC 28150.
Works 53, Post Office Box 847, Lexington, NC 27292.

PPG states that in 1968 a professionally developed accident prevention sign program for use primarily in the Company's manufacturing and research facilities was initiated. Although the accident prevention sign program was based substantially on the specifications in ANSI Z35.1–1969. Specifications for Accident Prevention Signs (substantially the source of § 1910.145 (a) through (e)), PPG determined that in some categories they could be improved.

In support of its application PPG states that in developing its accident prevention sign program it corrected alleged deficiencies in ANSI Z35.1–1969 and 29 CFR 1910.145 (a) through (e). The differences which it seeks in the variance application are related principally to the format of the signs. PPG states that the sizes of their signs and letters will be calculated according to a formula based on the viewing distance from which the sign is to be read. PPG also states that its sign program, which is set out in the PPG Corporate Sign Manual Bulletin No. 25, copyright 1970, and attached to the application as appendix A, includes such changes as the use of 100 percent color surface, the use of reflective signs, both interior and exterior, when clear legibility is needed at night, and a simpler format to improve readability and effectiveness.

In the one letter which was received, a signage designer and director of a signage and graphic design group wholeheartedly supports the request by PPG for a variance. The signage designer comments that the changes proposed by PPG will achieve a higher degree of legibility.

III. *Decision.* The primary purpose of the standard from which the variance is sought is to indicate and to define specific hazards of a nature such that failure to designate them may lead to accidental injury to workers. PPG has demonstrated, with information which is uncontroverted, credible, and, in fact, supported by a sign specialist, that the proposed sign program will satisfy this purpose at least as effectively as a sign program which complies with the standard. The technical staff of the Office of Standards, which has examined the PPG Corporate Sign Manual Bulletin No. 25, also has recommended the sign program proposed by PPG on the ground that it would result in more effective accident prevention than would the signs based on the Federal standard. The differences which PPG seeks in the variance application are necessary to permit the implementation of its proposed sign program.

Many of the changes which PPG proposes to make go beyond the specifications set out in § 1910.145 (a) through (e). For example, it proposes the use of reflective signs, both interior and exterior, when clear legibility is needed at night, while there is no such requirement in the Federal standard. PPG's proposal to use a 100-percent color surface renders the sign less cluttered than if it followed the Federal standard which requires that only 35 percent of the sign surface be color-coated. While the PPG sign program calculates its sign and letter sizes by a formula based on viewing distance, the Federal standard makes no reference to viewing distance, nor does it limit the size of the message to be printed on a particular size sign. Consequently, the PPG sign format is simpler and less confusing to read and understand.

In conclusion, it appears from the PPG application, the PPG Corporate Sign Manual Bulletin No. 25, and other supporting data, that the methods of design, format, construction, and use of the PPG accident prevention signs will provide employment and places of employment as safe and as healthful as those which would prevail if PPG were to comply with the requirements of 29 CFR 1910.145 (a) through (e). Therefore:

IV. *Order. It is ordered,* Pursuant to authority in section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 and in Secretary of Labor's Order No. 12–71 (36 F.R. 8754), that PPG Industries, Inc. be, and it is hereby authorized, to use the methods of design construction and format for accident prevention signs in accordance with the specifications set forth in its PPG Corporate Sign Manual Bulletin No. 25, attached to the application as appendix A, in lieu of the requirements set forth in § 1910.145 (a) through (e), and in accordance with the following conditions:

(1) All accident and prevention signs shall be designed, constructed, and utilized in accordance with the specifications described in the PPG Corporate Sign Manual Bulletin No. 25, copyright 1970, submitted with the application. The Bulletin will be maintained in the Office of Standards, U.S. Department of Labor, Railway Labor Building, Room 500, 400 First Street NW., Washington, DC 20210, for reference and inspection;

(2) All standard symbols, including the radiation symbol, the slow-moving vehicle emblem, and the biohazard symbol, prescribed in 29 CFR 1910.145 shall be used where required; and

(3) PPG Industries, Inc. shall give notice to affected employees of the terms of this variance by the same means required to be used to inform them of the application for the variance.

Effective date. This order shall become effective on November 2, 1972, and shall remain in effect until modified or revoked in accordance with section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970.

Signed at Washington, D.C. this 30th day of October 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-18870 Filed 11-2-72;8:52 am]

Office of the Secretary

OTTO GOEDECKE, INC.

Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under date of September 15, 1972, the U.S. Tariff Commission made a report on the results of its investigation (TEA–W–150) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) "in response to a petition for determination of eligibility to apply for adjustment assistance submitted by the Textile Workers Union of America (AFL–CIO) on behalf of workers formerly employed by Otto Goedecke, Inc., Hallettsville, Tex. In this report the Commission found that articles like or directly competitive with certain cotton yarns and plain-woven fabrics produced by Otto Goedecke, Inc. are, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause or threaten to cause unemployment of a significant number or proportion of the workers of such firm.

Upon receipt of the Tariff Commission's affirmative finding, the Department, through the Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs, instituted an investigation. Following this, the Director made a recommendation to me relating to the matter of certification (Notice of Delegation of Authority and Notice of Investigation, 34 F.R. 18342; 37 F.R. 2472; 20137). In the recommendation she noted that imports like or directly competitive with certain cotton yarns and fabrics produced by Otto Goedecke, Inc., increased substantially. As a result, the corporation cut back production. Employment levels and hours worked began to decline in early 1969 and 1970 and continued despite efforts to remain competitive. Unemployment and underemployment directly related to import competition began in March 1969 and January 1970. All production at Otto Goedecke, Inc. and its affiliates ended in April and July 1970, and the plants were closed. After due consideration, I make the following certifications:

All workers, hourly and salaried, of Otto Goedecke, Inc., Hallettsville, Tex., who were not engaged in raw cotton merchandising and who became unemployed or underemployed after January 7, 1970, and before August 5, 1970, are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1962.

All hourly and salaried workers of Otto Goedecke, Inc.'s affiliate, Lone Star Textile Cuero plant, Cuero, Tex., who became unemployed or underemployed after January 3, 1970, and before June 22, 1970, are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1962.

All hourly and salaried workers of Otto Goedecke, Inc.'s affiliate, Lone Star Textile Mexia plant, Mexia, Tex., who became unemployed or underemployed after January 3, 1970, and before July 20, 1970, are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1962.

All hourly and salaried employees of Otto Goedecke, Inc.'s affiliate, Red River Cotton Mills, Bonham plant, Bonham, Tex., who became unemployed or underemployed after March 15, 1969, and before April 27, 1970, are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1962.

Signed at Washington, D.C. this 31st day of October, 1972.

JOEL SEGALL,
Deputy Under Secretary, International Affairs.

[FR Doc.72-18872 Filed 11-2-72;8:52 am]

STATE UNEMPLOYMENT COMPENSATION LAWS

Certification of States

The unemployment compensation laws of the States listed below, having been certified pursuant to paragraph (3) of section 3303(b) of the Internal Revenue Code of 1954 (26 U.S.C. 3303(b)(3)) and each of the States so listed having been certified by me to the Secretary of the Treasury for the taxable 10-month period ending October 31, 1972, as provided in section 3304 of the Internal Revenue Code of 1954 (26 U.S.C. 3304) are hereby certified, pursuant to paragraph (1) of section 3303(b) of the Internal Revenue Code of 1954 (26 U.S.C. 3303(b)(1)), to the Secretary of the Treasury for the taxable 10-month period ending October 31, 1972.

Alabama.
Alaska.
Arizona.
Arkansas.
California.
Colorado.
Connecticut.
Delaware
District of Columbia.
Louisiana.
Maine.
Maryland.
Massachusetts.
Michigan.
Minnesota.
Mississippi.
Missouri.
Montana.
Nebraska.
Nevada.
New Hampshire.
New Jersey.
New Mexico.
New York.
North Carolina.
North Dakota.
Florida.
Georgia.
Hawaii.
Idaho.
Illinois.
Indiana.
Iowa.
Kansas.
Kentucky.
Ohio.
Oklahoma.
Oregon.
Pennsylvania.
Rhode Island.
South Carolina.
South Dakota.
Tennessee.
Texas.
Utah.
Vermont.
Virginia.
Washington.
West Virginia.
Wisconsin.
Wyoming.

J. D. HODGSON,
Secretary of Labor.

OCTOBER 31, 1972.

[FR Doc.72-18873 Filed 11-2-72;8:52 am]

STATE UNEMPLOYMENT COMPENSATION LAWS

Certification of States

Pursuant to section 3304(a) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)) the unemployment compensation laws of the following States have heretofore been approved:

Alabama.
Alaska.
Arizona.
Arkansas.
California.
Colorado.
Connecticut.
Delaware.
District of Columbia.
Florida.
Georgia.
Hawaii.
Idaho.
Illinois.
Indiana.
Iowa.
Kansas.
Kentucky.
Louisiana.
Maine.
Maryland.
Massachusetts.
Michigan.
Minnesota.
Mississippi.
Missouri.
Montana.
Nebraska.
Nevada.
New Hampshire.
New Jersey.
New Mexico.
New York.
North Carolina.
North Dakota.
Ohio.
Oklahoma.
Oregon.
Pennsylvania.
Puerto Rico.
Rhode Island.
South Carolina.
South Dakota.
Tennessee.
Texas.
Utah.
Vermont.
Virginia.
Washington.
West Virginia.
Wisconsin.
Wyoming.

In accordance with the provisions of section 3304(c) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(c)) I hereby certify the foregoing States to the Secretary of the Treasury for the taxable 10-month period ending October 31, 1972.

J. D. HODGSON,
Secretary of Labor.

OCTOBER 31, 1972.

[FR Doc.72-18874 Filed 11-2-72;8:52 am]

INTERSTATE COMMERCE COMMISSION

[Notice 108]

ASSIGNMENT OF HEARINGS

OCTOBER 31, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC-117940 Sub 66, Nationwide Carriers, Inc., MC-135873 Sub 1, KSS Transportation Corp., now being assigned hearing January 29, 1973 (1 day), at New York, N.Y., in a hearing room later to be designated.

MC-133095 Sub 33, Texas Continental Express, Inc., now beln assigned hearing January 30, 1973 (1 day), at New York, N.Y., in a hearing room later to be designated.

MC-115841 Sub 435, Colonial Refrigerated Transportation, Inc., now being assigned hearing January 31, 1973 (1 day), at New York, N.Y., in a hearing room later to be designated.

MC-113678 Sub 464, Curtis, Inc., now being assigned hearing February 1, 1973 (1 day), at New York, N.Y., in a hearing room later to be designated.

MC-C-7284, B&H Transfer, Inc., revocation of certificate, now being assigned hearing February 2, 1973 (1 day), at New York, N.Y., in a hearing room later to be designated.

MC 51146 Sub 248, Schneider Transport, Inc., now being assigned hearing January 15, 1973 (1 day), at Chicago, Ill., in a hearing room later to be designated.

MC 133922 Sub 6, William H. Nagel, doing business as Nagel Trucking, now being assigned hearing January 16, 1973 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC 126039 Sub 18, Morgan Transportation System, Inc., Intl., now being assigned hearing January 17, 1973 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC 123048 Sub 219, Diamond Transportation System, Inc., now being assigned hearing January 18, 1973 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC 136428, Evanston Bus Co., now being assigned January 22, 1973 (1 week), at Chicago, Ill., in a hearing room to be later designated.

MC 117119 Sub 448, Willis Shaw Frozen Express, Inc., MC 124211 Sub 215, Hilt Truck Line, Inc., now being assigned continued hearing January 15, 1973 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC 61231 Sub 68, Ace Lines, Inc., now being assigned hearing January 17, 1973 (3 days), at Chicago, Ill., in a hearing room to be later designated.

MC 127777 Sub 17, Mobile Home Express, Inc., now being assigned hearing January 22, 1973 (1 week), at Chicago, Ill., in a hearing room to be later designated.

MC-133095 Sub 28, Texas Continental Express, Inc., now assigned November 15, 1972, at Washington, D.C., is cancelled and application dismissed.

I & S 8762, Transit on Edible Oils in the Southwest, now assigned November 15, 1972, at Washington, D.C., hearing is cancelled.

MC 115841 Sub 411, Colonial Refrigerated Transportation, Inc., MC 117883 Sub 159, Subler Transfer, Inc., now being assigned hearing January 15, 1973 (2 weeks), at Chicago, Ill., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-18856 Filed 11-2-72;8:51 am]

[Ex Parte 241; Rule 19, Second Rev. Exemption 22]

ATCHISON, TOPEKA AND SANTA FE RAILWAY CO. ET AL.

Exemption From Mandatory Car Service Rules

It appearing, that there are substantial movements of grain and grain products moving in plain, 40-foot, narrow-door boxcars between points on the following railroads:

V 37 - 213 NOV 3 72 XUM

The Atchison, Topeka and Santa Fe Railway Co.
Chicago, Rock Island and Pacific Railroad Co.
Missouri Pacific Railroad Co.
St. Louis-San Francisco Railway Co.
Union Pacific Railroad Co.

and that unlimited exchange of such cars among these railroads will increase car utilization by reductions in switching and other movements of empty cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC R.E.R. No. 385, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation XM, with inside length 44 feet 6 inches or less and equipped with doors less than 9-feet wide owned by any of the aforementioned railroads and located empty on such lines, may be loaded with grain or grain products, as defined herein, to stations located on any of the aforementioned railroads. When so loaded, such cars shall be exempt from the provisions of Car Service Rules 1 and 2.

The term grain and grain products shall comprise the commodities specifically named in lists 1, 2, 5, 6, 7, and 8 published in Western Trunk Lines Freight Tariff 330–U, ICC A–4797, issued by Fred Ofcky, supplements thereto, or consecutive issues thereof.

Effective October 31, 1972.

Expires November 30, 1972.

Issued at Washington, D.C., October 26, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE,
Agent.

[FR Doc.72–18864 Filed 11–2–72;8:51 am]

[Ex Parte 241; Rule 19, Exemption 15, Amdt. 1]

EXEMPTION FROM MANDATORY CAR SERVICE RULES

Extension of Expiration Date

Upon further consideration of Exemption No. 15 issued July 27, 1972,[1]

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 15 to the mandatory car service rules ordered in Ex Parte No. 241, be, and it is hereby, amended to expire December 31, 1972.

This amendment shall become effective October 31, 1972.

Issued at Washington, D.C., October 26, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE,
Agent.

[FR Doc.72–18863 Filed 11–2–72;8:51 am]

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[1] Published at 37 F.R. 15962, August 8, 1972.

[Rev. S.O. 994; Rev. ICC Order 71, Amdt. 7]

RAILROADS OPERATING IN MARYLAND, DELAWARE, PENNSYLVANIA, AND NEW YORK

Rerouting or Diversion of Traffic

Upon further consideration of Revised ICC Order No. 71 (railroads operating in the States of Maryland, Delaware, Pennsylvania, and New York) and good cause appearing therefor:

It is ordered, That:

Revised ICC Order No. 71 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., November 15, 1972, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., October 31, 1972, and that this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 27, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE,
Agent.

[FR Doc.72–18862 Fiuled 11 2 72;8:51 am]

[Notice 150]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specficially noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–35451. By order of October 18, 1972, the Motor Carrier Board approved the lease to G. M. Brown & Sons, Inc., Caldwell, Idaho, of Certificate No. MC–21142 issued September 19, 1960, under a lease agreement for a period of 1 year, issued to Oliver Freel and Dale Freel, doing business as Freel Bros., Adrian, Oreg., authorizing transportation of: General commodities, with the usual exceptions, between Adrian, Oreg., and 25 miles, on the one hand, and, on the other, specified counties in Idaho. F. L. Sigloh & Associates, Post Office Box 7651, Boise, ID 83707.

No. MC–FC–73923. By order entered October 19, 1972, the Motor Carrier Board approved the transfer to City Transfer of Kent, Inc., Kent, Wash., of the operating rights set forth in Certificate No. MC–11565, issued January 22, 1953, as amended March 21, 1966, to J. M. Anderson, J. B. Anderson, N. M. Anderson, D. R. Anderson, and Betsy A. Blair, a partnership, doing business as City Transfer, Kent, Wash., authorizing the transportation of general commodities, with the usual exceptions, over specified routes, between Kent, Wash., on the one hand, and, on the other, Seattle, Wash.; household goods as defined by the Commission, between Kent, Wash., and points within 10 miles thereof, on the one hand, and, on the other, points in Oregon; and fruits and vegetables, from points in King County, Wash., to Portland, Hillsboro, and Salem, Oreg. George H. Hart, 1100 IBM Building, Seattle, Wash. 98101, attorney for applicants.

No. MC–FC–73963. By order entered October 19, 1972, the Motor Carrier Board approved the transfer to Carrollton Truck Line, Inc., Canton, Ohio, of the operating rights set forth in Certificates Nos. MC–33782 and MC–33782 (Sub-No. 1), issued December 7, 1951, and November 16, 1966, as corrected, authorizing the transportation of general commodities, with the usual exceptions, over specified routes, between specified points in Ohio. Richard H. Brandon, 79 East State Street, Columbus, OH 43215, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72–18860 Filed 11–2–72;8:51 am]

[Notice 151]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 31, 1972.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC–FC–74050. By application filed October 25, 1972, BAY STATE TRANSFER & STORAGE COMPANY, INC., 60 Haynes Circle, Chicopee, MA 01021, seeks temporary authority to lease the operating rights of J. J. SULLIVAN THE MOVER, INC., 350 Pasco Road, Indian Orchard, MA 01050, under section 210a(b). The transfer to BAY STATE TRANSFER & STORAGE COMPANY, INC., of the operating rights of J. J. SULLIVAN THE MOVER, INC., is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72–18858 Filed 11–2–72;8:51 am]

[Notice 152]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 31, 1972.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC–FC–74052. By application filed October 25, 1972, FLATT'S TRANSPORT, INC., 132 North Potter, Condon, OR 97823, seeks temporary authority to lease the operating rights of LUMBER TRANSPORT, INC., Post Office Box 5, John Day, OR 97845, under section 210a (b). The transfer to FLATT'S TRANSPORT, INC., of the operating rights of LUMBER TRANSPORT, INC., is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72–18857 Filed 11–2–72;8:51 am]

[Notice 153]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 31, 1972.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC–FC–74062. By application filed October 27, 1972, MALBA TRUCKING, INC., 9–10 38th Street, Long Island City, NY 11101, seeks temporary authority of the operating rights of STEEL HAULAGE CORPORATION, 31–35 Borden Avenue, Long Island City, NY 11101, under section 210a(b). The transfer to MALBA TRUCKING, INC., of the operating rights of STEEL HAULAGE CORPORATION, is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72–18859 Filed 11–2–72;8:51 am]

[Notice 144]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 30, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC–67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 94350 (Sub-No. 320 TA), filed October 16, 1972. Applicant: TRANSIT HOMES, INC., Post Office Box 1628, at Haywood Road and Transit Drive, Greenville, SC 29206. Applicants representative: Mitchell King, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, in sections, mounted on wheeled undercarriages with hitchball connectors, from points of manufacture, from Charlotte, N.C., to points in Virginia, West Virginia, Kentucky, Tennessee, South Carolina, Mississippi, Alabama, Georgia, and Florida, for 180 days. Supporting shipper: Modular Corporation of America, Post Office Box 2756, Charlotte, NC 28201. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 300 Columbia Building, 1200 Main Street, Columbia, SC 29201.

No. MC 111401 (Sub-No. 374 TA), filed October 3, 1972. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, Enid, OK 73701. Applicant's representative: Victor R. Comstock (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn flour*, in bulk, in tank vehicles, from Atchison, Kans., to Mapleton, Ill., for 180 days. Supporting shipper: Lincoln Grain, Inc., Box 436, Atchison, KS 66002. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 124774 (Sub-No. 57 TA), filed October 16, 1972. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 3200 Highway 75 N., Post Office Box 536, Sioux City, IA 51101. Applicant's representative: Patrick E. Quinn, 300 NSEA Building, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat by-products and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from York, Nebr., to Miami, Fla., for 180 days. Supporting shipper: Sunflower Beef Packers, Inc., York, Nebr. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 711 Federal Office Building, Omaha, Nebr. 68102.

No. MC 126291 (Sub-No. 21 TA), filed October 2, 1972. Applicant: QUIRION TRANSPORT, INC., Notre Dame, Mailing: 4516 Laval, Lac Mégantic, PQ, Canada, La Guadeloupe, Frontenac County, Quebec, Canada. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber* (veneer) from ports of entry on the international boundary lines between the United States and Canada located at New York and Michigan to Mount Clemens, Mich., restricted to traffic originating at points in Frontenac County, Quebec, for 180 days. Supporting shipper: Megantic Manufacturing Co., Lac Mégantic, Quebec. Send protests to: District Supervisor Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, 424 Federal Building, Concord, N.H. 03301.

No. MC 127962 (Sub-No. 3 TA) (Correction), filed September 11, 1972, published in the FEDERAL REGISTER issue of September 30, 1972, corrected and republished as corrected this issue. Applicant: J. W. POOLE, INC., Box 408, Wytheville, VA 24382. Applicant's representative: Howard Haynes, Washington, D.C. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal threaded screws, bolts, nuts and wire,*

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

V 37-213 NOV 3 72 XUM

from Norfolk, Va., to Elk Creek, Va., under contract with American Screw Co., for 180 days. Supporting shipper: American Screw Co., Wytheville, Va. Send protests to: Clatin M. Harmon, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 215 Campbell Avenue SW., Roanoke, VA 24011. NOTE: The purpose of this republication is to show that the destination point of Elk Creek is in the State of Virginia.

No. MC 135533 (Sub-No. 2 TA), filed October 4, 1972. Applicant: TRANSPORTES INTERNACIONALES DE BAJA CALIFORNIA, S.A., Apartado Postal 120, Mexicali, Baja California, Mexico. Applicant's representative: David P. Chritianson, 606 South Olive Street, Los Angeles, CA 90014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt products*, from points in Los Angeles County, Calif., to points of entry at the California-Mexican international boundary at or near Calexico or San Ysidro, Calif., for 150 days. Supporting shipper: Petroleos Mexiconos, Av. Marina Nacional No. 39, Mexico 17, D. F. Send protests to: John E. Nance, Officer-in-Charge, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 136904 TA, filed September 26, 1972. Applicant: WORSTER-MICHIGAN, INC., 664 54th Avenue, Mattawan, MI 49071. Applicant's representative: Joseph F. Mackrell, 23 West Tenth Street, Post Office Box 216, Erie, PA 16512. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and other commodities such as birdseed or gravel, cuttlebone, animal feed, or food, fishfood and buffing or polishing compounds* as are dealt in by the R. T. French Co., except commodities in bulk, in tank vehicles, from Springfield, Mo., to points in Florida, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin, for 180 days. Supporting shipper: The R. T. French Co., 1 Mustard Street, Rochester, NY 14609. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 225, Federal Building, Lansing, Mich. 48933.

No. MC 138075 TA, filed October 10, 1972. Applicant: ARNOLD KEMPER, doing business as KEMPER TRUCK LINE, Post Office Box 181, Melrose, MN 56352. Applicant's representative: Richard W. Greeman, 4725 Excelsior Boulevard, Minneapolis, MN 55416. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal or poultry feed and feed ingredients*, from Sheldon, Iowa, to Melrose, Minn., for 150 days. Supporting shipper: Melrose Feed Mill, Melrose, Minn. 56352. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 138075 (Sub-No. 1 TA), filed October 3, 1972. Applicant: ARNOLD KEMPER, doing business as KEMPER TRUCK LINE, Post Office Box 181, Melrose, MN 56352. Applicant's representative: Richard W. Greeman, 4725 Excelsior Boulevard, Minneapolis, MN 55416. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Milwaukee, Wis., to Melrose, Minn., for 180 days. Supporting shipper: Spaeth Distributing Co., Melrose, Minn. 56252. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building, and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 138112 TA, filed October 16, 1972. Applicant: FRANK D. CORBIN, 1313 Ambrose Drive, Bloomery Star Route, Box 32, Winchester, VA 22601. Applicant's representative: Charles E. Creager, Suite 523, 816 Easley Street, Silver Spring, MD 20910. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper, printed forms, materials, equipment and supplies* (except commodities in bulk), between Hagerstown, Md., Franklin, Pa., Chicago, Ill., and Gastonia, N.C., on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, New York, Massachusetts, Rhode Island, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, District of Columbia, North Carolina, Tennessee, Virginia, Kentucky, West Virginia, Indiana, Ohio, Michigan, Illinois, and Wisconsin, for 180 days. Supporting shipper: Arnold Graphic Industries, Inc., Hagerstown, Md. Send protests to: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th Street and Constitution Avenue NW., Washington, D.C. 20423.

No. MC 138114 TA, filed October 16, 1972. Applicant: PRICE TRANSPORT CORPORATION, 1946 Davis Street, San Leandro, CA 94577. Applicant's representative: Myron F. Tower, 1535 East 14th Street, San Leandro, CA 94577. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal store fixtures and related accessories*, from Paso Robles, Calif., to all points in the United States, for 180 days. Supporting shipper: Syndicate Glass, Inc., 3230 Riverside Avenue, Paso Robles, CA 93446. Send protests to: A. J. Rodriguez, Rate and Tariff Specialist, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, CA 94102.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-18861 Filed 11-2-72;8:51 am]

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WASHINGTON, D.C.

Volume 37 ■ Number 213

PART II

DEPARTMENT OF LABOR

Employment Standards Administration

■

Minimum Wages for Federal and Federally Assisted Construction

Area Wage Determination Decisions, Modifications, and Supersedeas Decisions

No. 213—Pt. II——1

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DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Area Wage Determination Decisions, Modifications, and Supersedeas Decisions

New determinations. There is set forth below general Area Wage Determination Decisions Nos. AP–29, AP–356, AP–440, and AP–441 of the Secretary of Labor. These decisions specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein. These decisions are applicable to Federal and federally assisted construction in the described localities in the States of Arkansas, Illinois, and Virginia.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 F.R. 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

These wage determinations are effective without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable determination together with any modifications issued subsequent to this date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and supersedeas decisions to area wage determination decisions. Modifications and supersedeas decisions to area wage determination decisions for specified localities in the States of Arizona, Arkansas, Delaware, District of Columbia, Florida, Illinois, Kentucky, Louisiana, Maryland, Montana, New York, Pennsylvania, Texas, and Virginia.

Area wage determination decisions published in the FEDERAL REGISTER on the following dates:

Decision No.	*Date*
AM–1.721	Aug. 11, 1971.
AM–451	Aug. 20, 1971.
AM–5.967; AM–5.968; AM–5.972; AM–5.973.	Dec. 17, 1971.
AM–6.710	Mar. 24, 1972
AM–11.416	Apr. 28, 1972.
AM–11.424	June 16, 1972.
AM–8.625	June 23, 1972.
AM–9.699	June 30, 1972.
AP–300	July 7, 1972.
AP–400	July 14, 1972.
AP–302; AP–303	July 28, 1972.
AP–409; AP–411	Aug. 4, 1972.
AP–8(AP–28)	Aug. 11, 1972.
AP–222; AP–311; AP–312	Aug. 18, 1972.
AP–313(AP–355); AP–314 (AP–354); AP–315(AP–353); AP–318.	Aug. 25, 1972.
AP–229; AP–230	Sept. 1, 1972.
AP–239; AP–240	Sept. 22, 1972.
AP–343; AP–350	Sept. 29, 1972.

Are hereby modified and/or superseded as set forth below. Supersedeas decision numbers are in parentheses following the number of the decision being superseded.

These modifications and/or supersedeas decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since these determinations were issued.

The determinations of prevailing rates and fringe benefits made in these modifications and/or supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 F.R. 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in the foregoing area wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

The modifications and/or supersedeas decisions are effective from their date of publication in the FEDERAL REGISTER and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule making procedures prescribed in 5 U.S.C. 553 is set forth in the document being modified.

Signed at Washington, D.C., this 27th day of October 1972.

HORACE E. MENASCO,
Administrator,
Wage and Hour Division.

NEW DECISION

STATE: Arkansas
COUNTY: Pulaski
DECISION NO.: AP-356
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Asbestos Workers	$6.25	.15				
Air Conditioning Mechanics	5.00					
Bricklayers	5.565					
Carpenters	4.59					
Carpenters' Helpers	3.32					
Cement Masons	4.525					
Electricians	5.09					
Electricians' Helpers	2.93					
Glaziers	5.41					
Glaziers' Helpers	3.00					
Ironworkers, reinforcing	3.50					
Laborers:						
Laborers	2.91					
Mason Tender	3.01					
Painters, brush	4.00					
Plumbers & Pipefitters	5.69					
Plumbers & Pipefitters' Helpers	3.50					
Roofers	4.00					
Sheet Metal Workers	4.335					
Soft Floor Layers	4.00					
Stonemasons	3.90					
Tile Setters	4.61					
Tile Setters' Helpers	2.81					
Truck Drivers	3.00					
Power Equipment Operators:						
Asphalt Finisher	4.85					
Asphalt Raker	3.265					
Backhoe	4.00					
Blade Grader	4.40					
Bulldozer	4.50					
Forklift	4.50					
Front End Loader	3.50					
Motor Patrol	4.10					
Pump	3.935					
Roller	3.50					
Scraper	4.00					
Tractor						

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NEW DECISION

STATE: Illinois
[illegible]: AP-29
Description of work: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

COUNTY: Cook
DATE: Date of Publication

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Asbestos workers	$8.25	.60	.275		.05
Bricklayers	8.35	.50	.75	2%	.01
Boilermakers' helpers	8.25	.50	.75	2%	.01
Carpenters & Soft Floor Layers	8.30	.45	.625		.08
Millwrights & Piledrivermen	8.30	.45	.625		.08
Cement Masons:					
Building	8.90	.45	.35		.01
Electricians	9.00	.41	.41	.39	.045
Elevator constructors	8.75	.195	.20	2%+a6b	.005
Elevator constructors' helpers	6.125	.195	.20	2%+a6b	.005
Elevator constructors' helpers (prob.)	50%JR				
Glaziers	7.65	.16	.25		.01
Ironworkers:					
Structural & Reinforcing	9.32	.69	.84		.05
Ornamental	9.375	.25	.325		.05
Riggers, machinery movers	6.00	.25	.275		.05
Lathers	8.39	.41	.345		
Leadburners	6.90	.30		c	.01
Line construction:					
Linemen	8.50	4%	1%+3%	7½%	½%
Linemen helpers	6.75	4%	1%+3%	7½%	½%
Marble setters	8.20	.30			
Marble setters' helpers	7.30				
Painters:					
Brush, Decorators, paperhangers	7.75	.325	.20		
Sign & pictorial helper	4.935	.20	.10	d&e	
Sign & pictorial painters	5.685	.20	.10	d&e	
Plasterers	8.395	.40	.25		.045
Pipefitters	9.00	.47	.50		.02
Plumbers	9.27	.40	.30		.05
Pointers, caulkers & cleaners	8.45	.45	.45		
Roofers:					
Composition & waterproofers	9.10	.30	.15		.02
Slate & tile	8.72	.18	.15		.02
Sheet metal workers	8.15	.35	.34		.01
Sprinkler fitters	8.70	.16	.40		.09
Survey Crew:					
Rodman	6.00	.40	.15		
Instrument man	7.15	.40	.15		
Terrazzo workers	7.50				
Terrazzo workers' helper & floor mach.	6.85				
Base machine operator	7.10				
Tile setters	8.15	.30-5/8	.42		
Tile setters' helpers	6.80	.30-5/8	.325		

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS (WHERE APPLICABLE):
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. Eight paid holidays, A through F plus Washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

d. One (1) week paid vacation after 1 year's employment; two (2) weeks after 3 years's; and 3 weeks after 10 years.

e. Holidays: A through F and the day after Thanksgiving, one-half day Christmas Eve & one-half day Good Friday.

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Classification	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Building laborers	$6.30	.47	.63		
Plasterers laborers	6.625	.47	.63		
Boiler setters Laborers	6.825	.47	.65		
Windlass, Cement gun nozzle laborers	6.65	.47	.65		
Chimney laborers (over40)	6.60	.47	.65		
Stone handlers, derrickmen	6.70	.47	.65		
Jackhammermen	6.725	.47	.65		
Caisson digger	6.85	.47	.65		
Scaffold laborers	6.60	.47	.65		
TUNNEL WORK, ROCK, CLAY & SUBWAY					
Dumpmen, top laborers	6.50	.47	.65		
Cage tenders, skinners, switchmen, truck layers	6.525	.47	.65		
Car pusher, concrete laborers, grout machine op., steel setters & tuggers grout laborers	6.625	.47	.65		
Signal men	6.65	.47	.65		
Pebble placer op., mortarmen muckers	6.725	.47	.65		
Air hoist op., bricklayers tender, cement (invert) laborer, concrete blower op., driller for blasting, dynamiters, erector ops., form men, lock tenders, miners, power knife op., jackhammermen, keyboard op.	6.85	.47	.65		
SEWER, DRAIN, WATER SERVICE:					
Common laborers, top laborers	6.50	.47	.65		
Concrete laborers & steel setters	6.625	.47	.65		
Cement carriers, cemnt mixers, mortar men, scaffoldmen, second bottom men	6.725	.47	.65		
Bottom men, bricklayers tenders, catch basin jiggers & rodders, form men, jackhammermen, pipelayers, well point system	6.85	.47	.65		
STREET PAVING, GRADE SEPARATION, PLANTING, GRADING AND LANDSCAPING:					
Laborers and helpers	6.50	.47	.65		
Form setters on pavement work, Jackhammermen (concrete)	6.775	.47	.65		
Rakers, lutemen, kettlemen, mixermen, frunmen, jackhammermen (asphlat)	6.775	.47	.65		

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Classification	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CLASS I					
Mechanic, Asphalt Plant, Asphalt Spreader, Autograde, Batch Plant, Benoto (Requires Two Engineers) Boiler & Throttle Valve, Caisson Rigs, Central Redi-Mix Plant, Combination Back Hoe Front Enloader Machine, Compressor & Throttle Valve, Concrete Breaker (Truck Mounted) Concrete Conveyor, Concrete Paver over 27E cu. ft. Concrete Paver 27E cu. ft. and under, Concrere Placer, Concrere Tower, Cranes, (all), Cranes Hammerhead, Derricks, (all), Derricks. Traveling, Grader, Elevating Grouting Machines, Highlift Shovels or Fron Endloader 2½ yd. & over, Hoists, 1,2 and 3 Drum, Hoists, 2 Tugger one floor, Hydraulic Boom Trucks, Locomotives, (all) Motor Patrol, Piledrivers & Skid Rig, Post Hole Digger, Pre-Stress Machine, Pump Cretes: squeeze cretes-screw type pumps, Gypsum Bulker & pump, Rock Drill (Self-Propelled) Rock Drill (Truck Mounted) Scoops-Tractor Drawn-Slip Form Paver, Straddle Buggies, Tournapull, Tractor w/boom, & Side Boom, Trenching Machines.	$8.65	.30	.40	.20	.02
CLASS II					
Boilers, Bulldozers, Broom, All power Propelled, Concrete Mixer (2 Bag & over) Conveyor, Portable, Forklift trucks, Greaser Engineer, Highlift Shovels or Fron Endloaders under 2½yd., Hoists, Automatic, Hoists, All Elevators, Hoists, Tugger Single Drum, Rollers, (al') Steam Generators Stone Crushers, Tractors (all) Winch Trucks with "A" Frame	7.60	.30	.40	.20	.02
CLASS III					
Air Compressor - small 125 & under (1 to 5 not to exceed a total of 300 Ft.), Air Compressor - large over 125 Combination - small equipment operator Generators - small 50w & under					

CLASS III ([illegible])					
Generators - large over 300 kw, boilers, mechanical, brush, over 25 ft to 3 not to exceed a total of 300 ft.) Pumps, well points, welding machines (2 through 5) winches, 4 small electric drill winches	$6.80	.30	.40	.20	.02
CLASS IV					
Oilers	5.75	.30	.40	.20	.02

4 & 6 wheel tandems, [illegible] (including [illegible] 4 & 6 wheel buggies, grade trucks, & dinky drivers	$5.80	a11.00	a12.50	b & c	
4 & 6 wheel trucks hauling over 20 tons, semi-trailer dump & semi flat bed	6.05	a11.00	a12.50	b & c	
Carry-alls & low boys	5.90	a11.00	a12.50	b & c	
Winch trucks, & "A" frames when used for transportation	5.70	a11.00	a12.50	b & c	
Fork lift & hoisters	6.00	a11.00	a12.50	b & c	
Power broom	5.80	a11.00	a12.50	b & c	
Driver & rear end man on slurry trucks	5.85	a11.00	a12.50	b & c	
Ready-mix concrete trucks hauling 9 yards or less	5.79	a11.00	a12.50	b & c	
Ready-mix concrete trucks hauling over 9 yards up to & including 13 yards	5.87	a11.00	a12.50	b & c	
Ready-mix concrete trucks hauling over 13 yards & ready-mix concrete semi-trailer trucks	5.92	a11.00	a12.50	b & c	

PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a-Per Week
b-One week paid vacation after one year of 1000 hours or more; two weeks paid vacation after 2 preceding consecutive years of 1,000 hours or more; three weeks paid vacation after 11 preceding consecutive years of 1000 hours or more.
c-Six (6) Paid Holidays: A-B-C-D-E&F providing employee earned a vacation the previous year with the same employer and worked the scheduled work day before and after the holiday.

NEW DECISION

STATE: Virginia — The Cities of Norfolk, Chesapeake, Portsmouth and Virginia Beach
DECISION NUMBER: AP-440 — DATE: Date of Publication
DESCRIPTION OF WORK: Building construction (excluding single family homes and garden type apartments up to and including 4 stories).

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$6.40	.30	.25			
Boilermakers	7.20	.40	.70		.01	
Bricklayers & stone masons	6.20	.20	.30		.02	
Bricklayers and stone masons on stack or chimneys 50' and over	6.45	.20	.30		.02	
Carpenters	5.65				.01	
Cement masons	4.95					
Cement masons, machine and scaffold men	5.05					
Electricians:						
Electricians	6.90	.25	1%		1%	
Cable splicers	6.15	.25	1%		1%	
Linemen	6.15	.25	1%		1%	
Elevator constructors	5.09	.145	.17	½+4%	.005	
Elevator constructors' helpers	3.55	.145	.17	½+4%	.005	
Elevator constructors' helpers (prob.)	2.545					
Glaziers	5.44	.06	.10		.01	
Ironworkers:						
Structural, ornamental, machinery movers, riggers & fence erectors and reinforcing	6.15	.30	.30		.03	
Laborers:						
Common	3.50	.10	.10		.03	
Tenders, concrete saw op., air tool, vibrator, nozzleman (gunnite & sandblasting) motorized buggy op.	3.60	.10	.10		.03	
Mortar mixers, hod carriers, pipelayer and/or caulkers	3.75	.10	.10		.03	
Burners on wrecking	3.85	.10	.10		.03	
Lathers	6.59		.25		.01	
Marble setters	5.00	.10	.20			
Marble setters' helpers	3.50	.10	.10		.03	
Millwrights	6.90					
Painters:						
Brush and roller	5.20	.25	.20			
Structural steel from ground to 74 feet	5.70	.25	.20			
Spray	5.55	.25	.20			
Any work over 74 feet from the ground	6.50	.25	.20			
Bituminous coating & hot creosote	6.85	.25	.20			
Swing stage under 40 ft.	5.45	.25	.20			
Swing stage over 40 ft. up to 74 ft.	5.70	.25	.20			
Sandblasting	5.95	.25	.20			

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Piledrivermen & dock builders	$5.15					
Plasterers	6.80				.01	
Plumbers & Steamfitters	5.85	.40	.25		.03	
Roofers:						
Composition	4.10					
Helpers	2.95					
Sheet metal workers	5.90	.20	.20			
Soft floor layers	5.65				.01	
Sprinkler fitters	7.27	.30	.50		.05	
Terrazzo workers	5.00	.10	.20			
Floor grinders	3.65	.10	.10		.03	
Base grinders	3.65	.10	.10		.03	
Terrazzo workers' helpers	3.50	.10	.10		.03	
Tile setters	5.00	.10	.20			
Tile setters' helpers	3.50	.10	.10		.03	
Truck drivers	1.75					
Welders - recieve rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit.

b. Holidays: A through F.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS:						
Mechanics	$3.90	.125			.03	
Compressors:						
Banks of 4 or more	3.90	.125			.03	
Larger than 125 cf	2.825	.125			.03	
Bulldozer	3.245	.125			.03	
Oilers	2.395	.125			.03	
Fireman	2.555	.125			.03	
Tunnel machine	3.865					
Cranes, cat or rubber mounted with or without attachments	3.90					
Derricks, piledrivers or other floating equipment, backhoe, pavers, hoist (more than 1 drum - active), welding machine, gas or diesel driven, (bank 4 or more)	3.775					
Cableways, tractors with attachments, highlifts, booms, motor patrol, motor greder, tournapulls and cobra, locomotives over 20 tons	3.32					
Pans, pupmcrete operator, trenching machine, mixer larger than 16-S	3.12					
Euclids, when manned by operators, tractor without attachments, hoist (1 drum - active), rollers asphalt, welding machine, gas or diesel driven, (1 or more, larger than 300 amps), locomotive - up to 20 tons, power plant operator, generator (1200 KW or larger) pumps (over 2 inches discharge including well points), A-frame trucks (with power driven winches) mechanics' helper	2.70					
Roller, earth	2.47					
Mixer- 16-S or smaller, bank of more than 2, deck engines	2.46					
Pumps (2 inches and under, bark or more than 4)	2.37					
Truck crane oiler	2.33					
Farm tractor	1.75					

NEW DECISION

STATE: Virginia
DECISION NUMBER: AP-441
COUNTY: Henrico County and the City of Richmond
DATE: Date of Publication
DESCRIPTION OF WORK: Building construction (excluding single family homes and garden type apartments up to and including 4 stories).

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$6.93	.20	.10		.01	
Boilermakers	7.20	.40	.70		.01	
Bricklayers & stonemasons	6.05	.25	.20			
Carpenters	5.65				.01	
Cement Masons	5.02					
Machine men & scaffold men	5.12					
Scaffolds 30' & over	5.27					
Electricians, linemen and cable splicers:						
Zone 1 within City of Richmond	6.60	5%	1%		½ of 1%	
Zone 2 within 15 miles of Richmond	6.85	5%	1%		½ of 1%	
Zone 3 beyond 15 miles of Richmond	7.10	5%	1%		½ of 1%	
Elevator constructors	6.22	.195	.20	½%+a+b	.005	
Elevator constructors' helpers	4.35	.195	.20	½%+a+b	.005	
Elevator constructors' helpers (prob.)	3.11					
Glaziers	4.31	c				
Ironworkers, structural, ornamental and reinforcing:						
Zone I-Up to 10 miles from Capital Square	6.15	.25	.15		.05	
Zone II-10 miles to 30 miles from Capital Square	6.40	.25	.15		.05	
Zone III-30 miles and beyond Capital Square	6.65	.25	.15		.05	
Laborers:						
Common	3.50	.10	.10		.03	
Tenders, concrete saw operator, air tool vibrator, nozzlemen, (gunite & sandblasting) motorized buggy op.	3.60	.10	.10		.03	
Mortar mixers, hod carriers, pipelayers and/or caulkers	3.75	.10	.10		.03	
Burners on wrecking	3.85	.10	.10		.03	
Lathers	5.90		.10		.01	
Marble setters	4.25					
Marble setters & terrazzo workers' helpers	3.50	.10	.10		.03	
Millwrights	6.90					
Painters:						
Brush	4.65					
Structural steel	4.90					
Spray	5.15					
Piledrivermen & dock builders	5.15					
Plasterers	6.70					
Plumbers	6.75	.40	.20	.15		

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Roofers:						
Composition	$4.10					
Helpers	2.95					
Sheet metal workers:						
The City of Richmond	5.70	.15	.20		.005	
The Balance of County	5.90	.15	.20		.005	
Soft floor layers	5.65				.01	
Sprinkler fitters	7.27	.30	.50		.05	
Steamfitters	6.75	.40	.20	.15		
Terrazzo workers	4.25					
Tile setters	4.25					
Tile setters' helpers	3.50	.10	.10		.03	
Truck drivers	1.60					
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employers contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Holidays: A through F.

c. Employer contributes $6.20 per month to Health and Welfare.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERAT (Cont)						
Tunnel machines	$3.34					
Cranes, cats or rubber mounted with or without attachments, derricks, pile drivers or other floating equipment, compressors, bank air (4 or more regardless of motive power), pavers, mechanics (heavy duty), welding machines (gas or diesel driven, bank for or more), shovels, distributors	3.25					
Cableways, tractors with attachments, high lifts, booms motor patrols, motor graders, turnapulls, Cobra and Euclid scrapers, locomotives (over 20 tons)	2.87					
Bulldozers, pumpcrete op., trenching machines, mixers (larger than 16-S), pans	2.67					
Compressors (air, larger than 115 cu. ft.), truck Euclids (when manned by operator), tractors without attachments, hoists (1 drum active), rollers, asphalt, welding machines (gas or diesel driven, 1 or more larger than 300 amps), locomotives (up to 20 tons), power plant op., pumps (over 2" discharge including well Points), A-frame trucks (with power driven winches)	2.30					
Rollers (earth)	2.12					
Mixers (16-S or smaller, bank or more than 2), deck engines	2.11					
Firemen	2.08					
Truck crane oilers	1.98					
Oilers	1.92					
Blade grader	2.87					
Finishing machine	2.67					

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION AP-222 - Mod. 03 (37 FR 16744 - August 18, 1972) Cochise and Pima Counties, Arizona						
Change: PLUMBERS; STEAMFITTERS						
Zone I (0-15 miles from Tucson)	$7.74	.45	.70		.06	
Zone II (15-30 miles from Tucson)	8.04	.45	.70		.06	
Zone III (30-45 miles from Tucson)	8.39	.45	.70		.06	
Zone IV (45 miles & beyond Tucson)	9.49	.45	.70		.06	
DECISION #AM-6,710 - Mod. #2 (37 FR 6124 - March 24, 1972) Pima County, Arizona						
Change: PLUMBERS; STEAMFITTERS						
Zone I (0-15 miles from Tucson)	$7.74	.45	.70		.06	
Zone II (15-30 miles from Tucson)	8.04	.45	.70		.06	
Zone III (30-45 miles from Tucson)	8.39	.45	.70		.06	
Zone IV (45 miles & beyond Tucson)	9.49	.45	.70		.06	
DECISION #AM-11,416 - Mod. #6 (37 FR 8621 - April 28, 1972) Pulaski County, Arkansas						
Change: Electricians						
Electricians	$7.65		1%		1%	
Cable Splicers	7.775		1%		1%	

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-9,099 - Mod. #4 (37 FR 13023 - June 30, 1972) Statewide, Delaware						
Add: Tanks, sandblasting and spray	$7.44	.50	.15			
DECISION #AP-409 - Mod. #7 (37 FR 13821 - August 4, 1972) Montgomery and Prince Georges Counties, Maryland; City of Alexandria, Virginia; Arlington and Fairfax Counties, Virginia and Dulles International Airport						
Change: Marble setters' helpers	$7.35					
Terrazzo & mosaic workers	8.10	e	.20			
Terrazzo workers' helpers	7.10	e	.20			
Tile setters	8.10	e	.20			
Tile setters' helpers	7.10	e	.20			
DECISION #AP-411 - Mod. #5 (37 FR 15790 - August 4, 1972) Washington, D. C.						
Change: Marble setters' helpers	$7.35					
Terrazzo & mosaic workers	8.10	e	.20			
Terrazzo workers' helpers	7.10	e	.20			
Tile setters	8.10	e	.20			
Tile setters' helpers	7.10	e	.20			
Modification #4 37 FR 15799 October 20, 1972 to read: (37 FR 15790 - August 4, 1972)						

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
DECISION #AW-[illegible] - Mod. #3 (36 FR 16367 - August 20, 1971) Brevard and Volusia Counties, Florida (Cape Kennedy, Kennedy Space Flight Center and Patrick Air Force Base only). Change: Modification #6 - 37 FR 21696 - October 13, 1972 to read Modification #7						
DECISION #AM-8,625 - Mod. #3 (37 FR 12471 - June 23, 1972) Boyd County, Kentucky Change: Modification #1 - 37 FR 21699 - October 13, 1972 to read Modification #2						

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
DECISION #AW-11,624 - Mod. #2 (37 FR 12470 - June 23, 1972) East Baton Rouge Parish, Louisiana Change: Electricians: Electricians	$7.75	.25	1% + .20		3/10%	
Cable Splicers	8.00	.25	1% + .20		3/10%	
DECISION #AP-300 - Mod. #5 (37 FR 13455 - July 7, 1972) Rapides Parish, Louisiana Change: Plasterers	$4.75				.01	
Asbestos Workers	7.325	.325	.30		.02	
DECISION #AP-302 - Mod. #5 (37 FR 15225 - July 28, 1972) Calcasieu Parish, Louisiana Change: Asbestos Workers	$7.325	.325	.30		.02	
Painters: Brush, Wood or wall	5.70					
Brush, steel; Buffer, Wood & wall	5.825					
Paperhanging; Taping & Floating	5.90					
Spray, Wood & wall; Rollers	6.045					
Steeplejacks; Sandblasting; Spider Operators; Rubberizing & pyrofleing; Steam Jennies; Spray, steel	6.185					
Bridge Work; Water Towers	7.49					
Taping & Floating Machines	11.07					
DECISION #AP-303 - Mod. #5 (37 FR 15227 - July 28, 1972) Calcasieu Parish, Louisiana Change: Asbestos Workers	$7.325	.325	.30		.02	
Painters: Brush, Wood or wall	5.70					
Brush, steel; Buffer, Wood & wall	5.825					
Paperhanging; Taping & Floating	5.90					
Spray, Wood & wall; Rollers	6.045					
Steeplejacks; Sandblasting; Spider Operators; Rubberizing & pyrofleing; Steam Jennies; Spray, steel	6.185					

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
DECISION #AP-303 (cont'd.) Painters (cont'd.): Bridge Work; Water Towers	$7.49					
Taping & Floating Machines	11.07					
DECISION #AP-311 - Mod. #4 (37 FR 16776 - August 18, 1972) Caddo & Bossier Parishes, Louisiana Change: Electricians: Electricians	$7.00	.35	1%		1%	
Cable Splicers	7.50	.35	1%		1%	
Glaziers	5.65					
Truck Drivers: Pickup Drivers; Spotters & Dumpers of dirt, gravel, asphalt & rock; Truck Helpers	4.27					
Stake Bodies; Flat Beds (all sizes)	4.35					
Single Axle Dumps & Water Trucks; Transit Mix, up to and including 3 yds.	4.60					
Tandem Axle Dumps; Batch & Water Trucks over 3 tons; Pickup Trucks with trailer	4.75					
Mississippi Wagons; Floats; Tractor Trailers; Rubber Tired Tractors and Wobble Wheels	4.90					
Euclids; Low-boys; Dempsey Dumpsters; Koering Dumps; Five Axle Trucks; Transit Mix over 3 yds.; Fuel Trucks	5.10					
Fork Lift	5.45					
DECISION #AP-318 - Mod. #3 (37 FR 17306 - August 25, 1972) Caddo & Bossier Parishes, Louisiana Change: Electricians: Electricians	$7.00	.35	1%		1%	
Cable Splicers	7.50	.35	1%		1%	
Glaziers	5.65					

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
DECISION #AP-318 (cont'd.) Truck Drivers: Pickup Drivers; Spotters & Dumpers of dirt, gravel, asphalt & rock; Truck Helpers	4.27					
Stake Bodies; Flat Beds (all sizes)	4.35					
Single Axle Dumps & Water Trucks; Transit Mix, up to and including 3 yds.	4.60					
Tandem Axle Dumps; Batch & Water Trucks over 3 tons; Pickup Trucks with trailer	4.75					
Mississippi Wagons; Floats; Tractor Trailers; Rubber Tired Tractors and Wobble Wheels	4.90					
Euclids; Low-boys; Dempsey Dumpsters; Koering Dumps; Five Axle Trucks; Transit Mix over 3 yds.; Fuel Trucks	5.10					
Fork Lift	5.45					

DECISION [illegible] - [illegible], 72
(37 FR 17750 - September 1, 1972)
Eastern Counties, [illegible]
[illegible]
Da[illegible]Hall to [illegible] Co.
Petroleum-[illegible]Sugar River-
[illegible]
Sheridan-[illegible]

MODIFICATIONS P. 7

Change:

POWER EQUIPMENT OPERATORS:

	Basic Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
CRUSHER CONVEYOR; Farm type tractor, up to & incl. 50 HP engine; Grade setter	$5.33	.45	.45		.02
CRUSHER OILER & HELPER; Field equipment serviceman helper; Hot plant oiler, 100 ton per hr. or over; Mechanic and/or welder helper on job; Oiler other than shovels & cranes; Shovel oiler, 3 cy and under; Washing and screening plant oiler	6.36	.45	.45		.02
CONCRETE BATCH PLANT OILER, UP TO & INCL. 2 MIXERS	6.39	.45	.45		.02
AIR COMPRESSOR, SINGLE; Pumpman	6.40	.45	.45		.02
FARM TYPE TRACTOR, OVER 50 HP ENGINE; Herman Nelson heater & similar types	6.41	.45	.45		.02
CRANE OILER; Oiler-driver, rubber-tired cranes	6.42	.45	.45		.02
CONVEYOR LOADER, UP TO & INCL. 42" BELT	6.45	.45	.45		.02
BORING MACHINE, JEEP, PICKUP OR FARM TRACTOR MOUNTED; Concrete mixer, 3 bags & under; Fireman; Heavy duty drills, helper; Retort op.	6.46	.45	.45		.02
BROOM, SELF-PROPELLED	6.54	.45	.45		.02
AIR COMPRESSOR, 2 OR MORE; Belt finishing machine; Conveyor loader, over 42" belt; Roller, on other than hot mix oil, paving	6.57	.45	.45		.02
RUBBER-TIRED FRONTEND LOADER, 1 CY & UNDER	6.58	.45	.45		.02

DECISION MA2-229 (cont'd)

MODIFICATIONS P. 8

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
CHAIN SAWYER [illegible]; Chip gravel spreader, self-propelled; DW 10, 15, 20 tractor pulling roller	6.59	.45	.45		.02	
CONCRETE MIXER, 4 BAGS & OVER	6.63	.45	.45		.02	
FORM GRADER; Hoist, single drum	6.64	.45	.45		.02	
CEMENT SILO	6.66	.45	.45		.02	
FORKLIFT, ON CONSTRUCTION SITE	6.68	.45	.45		.02	
CONCRETE BATCH PLANT OILER, 3 MIXERS AND OVER	6.70	.45	.45		.02	
A-FRAME TRUCK, CRANE, WINCH TRUCK AND SIMILAR	6.71	.45	.45		.02	
HYDRALIFT AND SIMILAR TYPES; Oiler, hoist house, dams; Whirley crane oiler	6.77	.45	.45		.02	
FIELD EQUIPMENT SERVICEMAN	6.79	.45	.45		.02	
AIR DOCTOR; Asphalt paving machine; Asphalt paving machine, screed; Bit grinder; Bitum, mixer paving, travel plant; Boring machine, large; Concrete batch plant, 1 and 2 mixers; Concrete finishing machine, paving; Concrete bucket dispatcher; Concrete curing machine; Concrete float and spreader; Concrete power saw, self-propelled; Concrete travel batcher; Crusher op.; Distributor; Elevating grader; Gradeall; Heavy duty drills, all types; Hoist, 2 or more drums; Hot plant op.; Hot plant fireman; Industrial locomotive, all types; Mountain logger or similar type; Mucking machine; Pavement breaker, Etnco and similar; Power auger large truck or tractor, mounted and punch; Power mixer, single or double drum; Power saw, self-propelled, multiple cut; Pumprete or grout machine; Push tractor; Refrigerator plant; Roller, on blade or hot mix oil paving; Roller, 25 ton or over; Rosa ord similar type carriers on construction site; Rubber-tired dozer;						

DECISION MA2-229 (cont'd)

MODIFICATIONS P. 9

POWER EQUIPMENT OPERATORS (cont'd):

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Rubber-tired frontend loader, over 1 cy to & incl. 3 cy; Scraper DW 15, 20, 21 & similar type if power unit is not used; Self-propelled sheepsfoot & similar type; Shovels, incl. all attachments, under 1 cy; Track-type frontend loader, up to & incl. 5 cy; Track-type tractor with or without attachments; Trenching machine; Turnhead conveyor or head tower on batch plant; Wagner roller & similar type; Water pull when used for compaction; Washing and screening plant	6.87	.45	.45		.02	
MIXERMOBILE	6.95	.45	.45		.02	
MECHANIC AND/OR WELDER ON JOB	6.97	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, OVER 3 CY TO & INCL. 5 CY	6.99	.45	.45		.02	
AUTOMATIC FINEGRADER, GURRIES AND OTHER SIMILAR TYPES; Motor patrol; Paving mixing machine; Scraper, single engine; Slip form paver	7.00	.45	.45		.02	
CRANE, UP TO & INCL. 80' BOOM WITH JIB	7.03	.45	.45		.02	
ELECTRIC OVERHEAD CRANES; Shovels, incl. all attachments, 1 cy to & incl. 3 cy; Track-type tractor, on euclid loader	7.05	.45	.45		.02	
CONCRETE BATCH PLANT, 3 AND 4 MIXERS	7.07	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, OVER 5 cy TO & INCL. 10 cy	7.09	.45	.45		.02	
SCRAPER, TWIN ENGINE; Track-type frontend loader, over 5 cy to & incl. 10 cy	7.10	.45	.45		.02	
CENTRAL MIXING PLANTS, CONCRETE DAMS & STATIONARY	7.12	.45	.45		.02	
QUAD CAT	7.17	.45	.45		.02	
CRANE, 81' TO 130' BOOM	7.18	.45	.45		.02	

DECISION MA2-229 (cont'd)

MODIFICATIONS P. 10

POWER EQUIPMENT OPERATORS (cont'd):

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
RUBBER-TIRED FRONTEND LOADER, OVER 10 CY TO & INCL. 15 CY	7.19	.45	.45		.02	
TRACK-TYPE FRONTEND LOADER, OVER 10 CY TO & INCL. 15 CY	7.20	.45	.45		.02	
CRANE, 131' TO 150' BOOM	7.23	.45	.45		.02	
SCRAPER, SINGLE OR TWIN ENGINE, PULLING BELLY DUMP TRAILER	7.25	.45	.45		.02	
CONCRETE BATCH PLANT, 5 MIXERS AND OVER	7.27	.45	.45		.02	
CRANE, 151' BOOM & OVER	7.28	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, OVER 15 CY (Factory rating not to include sideboards)	7.29	.45	.45		.02	
TRACK-TYPE FRONTEND LOADER, OVER 15 CY	7.30	.45	.45		.02	
SHOVEL, INCL. ALL ATTACHMENTS, OVER 3 CY TO & INCL. 5 CY; Stiff leg derrick and guy derrick	7.32	.45	.45		.02	
SCRAPER, TANDEM ENGINE	7.36	.45	.45		.02	
HELICOPTER HOIST	7.37	.45	.45		.02	
CABLEWAY HIGHLINE	7.38	.45	.45		.02	
WHIRLEY CRANE	7.40	.45	.45		.02	
SHOVELS, INCL. ALL ATTACHMENTS, OVER 5 cy	7.45	.45	.45		.02	

XUM

DECISION #AP-230 - Mod. 12 (effective Oct. 1, 1972)
Western Counties, Montana
[illegible]

MODIFICATIONS P. 11

POWER EQUIPMENT OPERATORS CONTD:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Power Equipment Operators: (Flathead-Lake-Lincoln-Mineral-Missoula-Ravalli-Sanders-Glacier National Park-Northern Half of Powell County)						
CRANE, CONTROL; Farm type tractor, up to & incl. 50 HP engine; Grade setter	$6.33	.45	.45		.02	
CRUSHER OILER & HELPER; Field equipment serviceman helper; Hot plant oiler, 100 ton per hr. or over; Mechanic and/or welder helper on job; Oiler other than shovels & cranes; Shovel oiler, 3 cy and under; Washing and screening plant oiler	6.36	.45	.45		.02	
CONCRETE BATCH PLANT OILER, UP TO & INCL. 2 MIXERS	6.39	.45	.45		.02	
AIR COMPRESSOR, SINGLE; Pumpman	6.40	.45	.45		.02	
FARM TYPE TRACTOR, OVER 50 HP ENGINE; Herman Nelson heater & similar types	6.41	.45	.45		.02	
CRANE OILER; Oiler-driver, rubber-tired cranes	6.44	.45	.45		.02	
CONVEYOR LOADER, UP TO & INCL. 42" BELT	6.45	.45	.45		.02	
BORING MACHINE, JEEP, PICKUP OR FARM TRACTOR MOUNTED; Concrete mixer, 3 bags & under; Fireman; Heavy duty drills, helper; Retort op.	6.46	.45	.45		.02	
BROOM, SELF-PROPELLED	6.54	.45	.45		.02	
AIR COMPRESSOR, 2 OR MORE; Belt finishing machine; Conveyor loader, over 42" belt; Roller, on other than hot mix oil, paving	6.57	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, 1 CY & UNDER	6.58	.45	.45		.02	

DECISION #AP-230 (cont'd)

MODIFICATIONS P. 12

POWER EQUIPMENT OPERATORS CONTD:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
CHAIN SAWYER LOGGING; Chip spreader, self-propelled; DW 10, 15, 20 tractor pulling roller	6.59	.45	.45		.02	
CONCRETE MIXER, 4 BAGS & OVER	6.63	.45	.45		.02	
FORM GRADER; Hoist, single drum	6.64	.45	.45		.02	
CEMENT SILO	6.66	.45	.45		.02	
FORKLIFT, ON CONSTRUCTION SITE	6.68	.45	.45		.02	
CONCRETE BATCH PLANT OILER, 3 MIXERS AND OVER	6.70	.45	.45		.02	
A-FRAME TRUCK, CRANE, WINCH TRUCK AND SIMILAR	6.71	.45	.45		.02	
HYDRALIFT AND SIMILAR TYPES; Oiler, hoist house, dams; Whirley crane oiler	6.77	.45	.45		.02	
FIELD EQUIPMENT SERVICEMAN	6.79	.45	.45		.02	
AIR DOCTOR; Asphalt paving machine; Asphalt paving machine, screed; Bit grinder; Bitum, mixer paving, travel plant; Boring machine, large; Concrete batch plant, 1 and 2 mixers; Concrete finishing machine, paving; Concrete bucket dispatcher; Concrete curing machine; Concrete float and spreader; Concrete power saw, self-propelled; Concrete travel batcher; Crusher op.; Distributor; Elevating grader; Gradeall; Heavy duty drills, all types; Hoist, 2 or more drums; Hot plant op.; Hot plant fireman; Industrial locomotive, all types; Mountain logger or similar type; Mucking machine; Pavement breaker, Emeco and similar; Power auger large truck or tractor, mounted and punch; Power mixer, single or double drum; Power saw, self-propelled, multiple cut; Pumpcrete or grout machine; Push tractor; Refrigerator plant; Roller, on Slide or hot mix oil paving; Roller, 25 ton or over; Ross and similar type carriers on construction site; Rubber-tired dozer;						

DECISION #AP-230 (cont'd)

MODIFICATIONS P. 13

POWER EQUIPMENT OPERATORS CONTD:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Rubber-tired frontend loader, over 1 cy to & incl. 3 cy; Scraper DW 15, 20, 21 & similar type if power unit is not used; Self-propelled sheeps foot & similar type; Shovels, incl. all attachments, under 1 cy; Track-type frontend loader, up to & incl. 5 cy; Track-type tractor with or without attachments; Trenching machine; Turnhead conveyor or head tower on batch plant; Wagner roller & similar type; Water pull when used for compaction; Washing and screening plant	6.87	.45	.45		.02	
MIXERMOBILE	6.95	.45	.45		.02	
MECHANIC AND/OR WELDER ON JOB	6.97	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, OVER 3 CY TO & INCL. 5 CY	6.99	.45	.45		.02	
AUTOMATIC FINEGRADER, CURBERS AND OTHER SIMILAR TYPES; Motor patrol; Paving mixing machine; Scraper, single engine; Slip form paver	7.00	.45	.45		.02	
CRANE, UP TO & INCL. 80' BOOM WITH JIB	7.03	.45	.45		.02	
ELECTRIC OVERHEAD CRANES; Shovels, incl. all attachments, 1 cy to & incl. 3 cy; Track-type tractor, on euclid loader	7.05	.45	.45		.02	
CONCRETE BATCH PLANT, 3 AND 4 MIXERS	7.07	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, OVER 5 cy TO & INCL. 10 cy	7.09	.45	.45		.02	
SCRAPER, TWIN ENGINE; Track-type frontend loader, over 5 cy to & incl. 10 cy	7.10	.45	.45		.02	
CENTRAL MIXING PLANTS, CONCRETE DAMS & STATIONARY	7.12	.45	.45		.02	
QUAD CAT	7.17	.45	.45		.02	
CRANE, 81' TO 130' BOOM	7.18	.45	.45		.02	

DECISION #AP-230 (cont'd)

MODIFICATIONS P. 14

POWER EQUIPMENT OPERATORS CONTD:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
RUBBER-TIRED FRONTEND LOADER, OVER 10 CY TO & INCL. 15 CY	7.19	.45	.45		.02	
TRACK-TYPE FRONTEND LOADER, OVER 10 CY TO & INCL. 15 CY	7.20	.45	.45		.02	
CRANE, 131' TO 150' BOOM	7.23	.45	.45		.02	
SCRAPER, SINGLE OR TWIN ENGINE, PULLING BELLY DUMP TRAILER	7.25	.45	.45		.02	
CONCRETE BATCH PLANT, 5 MIXERS AND OVER	7.27	.45	.45		.02	
CRANE, 151' BOOM & OVER	7.28	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, OVER 15 CY (Factory rating not to include sideboards)	7.29	.45	.45		.02	
TRACK-TYPE FRONTEND LOADER, OVER 15 CY	7.30	.45	.45		.02	
SHOVEL, INCL. ALL ATTACHMENTS, OVER 3 CY TO & INCL. 5 CY; Stiff leg derrick and guy derrick	7.32	.45	.45		.02	
SCRAPER, TANDEM ENGINE	7.36	.45	.45		.02	
HELICOPTER HOIST	7.37	.45	.45		.02	
CABLEWAY HIGHLINE	7.38	.45	.45		.02	
WHIRLEY CRANE	7.40	.45	.45		.02	
SHOVELS, INCL. ALL ATTACHMENTS, OVER 5 CY	7.45	.45	.45		.02	

XUM

DECISION CAP-230 (cont'd) MODIFICATIONS P. 15

(Southern Half of Powell County and the remaining Counties)

POWER EQUIPMENT OPERATORS CONTD:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
CRUSHER CONVEYOR; Farm type spreader, up to & incl. 50 HP engine; Grade setter	$6.33	.45	.45		.02	
CRUSHER OILER & HELPER; Field equipment serviceman helper; Hot plant oiler, 100 ton per hr. or over; Mechanic and/or welder helper on job; Oiler other than shovels & cranes; Shovel oiler, 3 cy and under; Washing and screening plant oiler	6.36	.45	.45		.02	
CONCRETE BATCH PLANT OILER, UP TO & INCL. 2 MIXERS	6.39	.45	.45		.02	
AIR COMPRESSOR, SINGLE; Pumpman	6.40	.45	.45		.02	
FARM TYPE TRACTOR, OVER 50 HP ENGINE; Herman Nelson heater & similar types	6.41	.45	.45		.02	
CRANE OILER; Oiler-driver, rubber-tired cranes	6.44	.45	.45		.02	
CONVEYOR LOADER, UP TO & INCL. 42" BELT	6.45	.45	.45		.02	
BORING MACHINE, JEEP, PICKUP OR FARM TRACTOR MOUNTED; Concrete mixer, 3 bags & under; Fireman; Heavy duty drills, helper; Retort op.	6.46	.45	.45		.02	
BROOM, SELF-PROPELLED	6.54	.45	.45		.02	
AIR COMPRESSOR, 2 OR MORE; Belt finishing machine; Conveyor loader, over 42" belt; Roller, on other than hot mix oil, paving	6.57	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, 1 CY & UNDER	6.58	.45	.45		.02	

DECISION CAP-230 (cont'd) MODIFICATIONS P. 16

POWER EQUIPMENT OPERATORS CONTD:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
CHAIN BUCKET LOADER; Chip gravel spreader, self-propelled; DW 10, 15, 20 tractor pulling roller	6.59	.45	.45		.02	
CONCRETE MIXER, 4 BAGS & OVER	6.63	.45	.45		.02	
FORM GRADER; Hoist, single drum	6.64	.45	.45		.02	
CEMENT SILO	6.66	.45	.45		.02	
FORKLIFT, ON CONSTRUCTION SITE	6.68	.45	.45		.02	
CONCRETE BATCH PLANT OILER, 3 MIXERS AND OVER	6.70	.45	.45		.02	
A-FRAME TRUCK, CRANE, WINCH TRUCK AND SIMILAR	6.71	.45	.45		.02	
HYDRALIFT AND SIMILAR TYPES; Oiler, hoist house, dams; Whirley crane oiler	6.77	.45	.45		.02	
FIELD EQUIPMENT SERVICEMAN	6.79	.45	.45		.02	
AIR DOCTOR; Asphalt paving machine; Asphalt paving machine, screed; Bit grinder; Bitum. mixer paving, travel plant; Boring machine, large; Concrete batch plant, 1 and 2 mixers; Concrete finishing machine, paving; Concrete bucket dispatcher; Concrete curing machine; Concrete float and spreader; Concrete power saw, self-propelled; Concrete travel batcher; Crusher op.; Distributor; Elevating grader; Gradeall; Heavy duty drills, all types; Hoist, 2 or more drums; Hot plant op.; Hot plant fireman; Industrial locomotive, all types; Mountain logger or similar type; Mucking machine; Pavement breaker, Emspo and similar; Power auger large truck or tractor, mounted and punch; Power mixer, single or double drum; Power saw, self-propelled, multiple cut; Pumpcrete or grout machine; Push tractor; Refrigerator plant; Roller, on blade or hot mix oil paving; Roller, 25 ton or over; Rose and similar type carriers on construction site; Rubber-tired dozer;						

DECISION CAP-230 (cont'd) MODIFICATIONS P. 17

POWER EQUIPMENT OPERATORS CONTD:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Rubber-tired frontend loader, over 1 cy to & incl. 3 cy; Scraper DW 10, 20, 21 & similar type if power unit is not used; Self-propelled sheeps foot & similar type; Shovels, incl. all attachments, under 1 cy; Track-type frontend loader, up to & incl. 5 cy; Track-type tractor with or without attachments; Trenching machine; Turnhead conveyor or head tower on batch plant; Wagner roller & similar type; Water pull when used for compaction; Washing and screening plant	6.87	.45	.45		.02	
MIXERMOBILE	6.95	.45	.45		.02	
MECHANIC AND/OR WELDER ON JOB	6.97	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, OVER 3 CY TO & INCL. 5 CY	6.99	.45	.45		.02	
AUTOMATIC FINEGRADER, GURRIES AND OTHER SIMILAR TYPES; Motor patrol; Paving mixing machine; Scraper, single engine; Slip form paver	7.00	.45	.45		.02	
CRANE, UP TO & INCL. 80' BOOM WITH JIB	7.03	.45	.45		.02	
ELECTRIC OVERHEAD CRANES; Shovels, incl. all attachments, 1 cy to & incl. 3 cy; Track-type tractor, on euclid loader	7.05	.45	.45		.02	
CONCRETE BATCH PLANT, 3 AND 4 MIXERS	7.07	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, OVER 5 cy TO & INCL. 10 cy	7.09	.45	.45		.02	
SCRAPER, TWIN ENGINE; Track-type frontend loader, over 5 cy to & incl. 10 cy	7.10	.45	.45		.02	
CENTRAL MIXING PLANTS, CONCRETE DAMS & STATIONARY	7.12	.45	.45		.02	
QUAD CAT	7.17	.45	.45		.02	
CRANE, 81' TO 130' BOOM	7.18	.45	.45		.02	

DECISION CAP-230 (cont'd) MODIFICATIONS P. 18

POWER EQUIPMENT OPERATORS CONTD:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
RUBBER-TIRED FRONTEND LOADER, OVER 10 CY TO & INCL. 15 CY	7.19	.45	.45		.02	
TRACK-TYPE FRONTEND LOADER, OVER 10 CY TO & INCL. 15 CY	7.20	.45	.45		.02	
CRANE, 131' TO 150' BOOM	7.23	.45	.45		.02	
SCRAPER, SINGLE OR TWIN ENGINE, PULLING BELLY DUMP TRAILER	7.25	.45	.45		.02	
CONCRETE BATCH PLANT, 5 MIXERS AND OVER	7.27	.45	.45		.02	
CRANE, 151' BOOM & OVER	7.28	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, OVER 15 CY (Factory rating not to include sideboards)	7.29	.45	.45		.02	
TRACK-TYPE FRONTEND LOADER, OVER 15 CY	7.30	.45	.45		.02	
SHOVEL, INCL. ALL ATTACHMENTS, OVER 3 CY TO & INCL. 5 CY; Stiff leg derrick and guy derrick	7.32	.45	.45		.02	
SCRAPER, TANDEM ENGINE	7.36	.45	.45		.02	
HELICOPTER HOIST	7.37	.45	.45		.02	
CABLEWAY HIGHLINE	7.38	.45	.45		.02	
WHIRLEY CRANE	7.40	.45	.45		.02	
SHOVELS, INCL. ALL ATTACHMENTS, OVER 5 CY	7.45	.45	.45		.02	

XUM

DECISION AP-239 - No. 31 (37 FR 19039 - September 22, 1972) Flathead and Missoula Counties, Montana

MODIFICATIONS P. 19

POWER EQUIPMENT OPERATORS CLASS:	Basic Hourly Rates	Fringe Benefit Payments H & W	Pensions	Vacation	App. Tr.	Other
CRUSHER OPERATOR; Farm type tractor, up to & incl. 50 HP engine; Grade setter	$6.33	.45	.45		.02	
CRUSHER OILER & HELPER; Field equipment serviceman helper; Hot plant oiler, 100 ton per hr. or over; Mechanic and/or welder helper on job; Oiler other than shovels & cranes; Shovel oiler, 3 cy and under; Washing and screening plant oiler	6.36	.45	.45		.02	
CONCRETE BATCH PLANT OILER, UP TO & INCL. 2 MIXERS	6.39	.45	.45		.02	
AIR COMPRESSOR, SINGLE; Pumpman	6.40	.45	.45		.02	
FARM TYPE TRACTOR, OVER 50 HP ENGINE; Herman Nelson heater & similar types	6.41	.45	.45		.02	
CRANE OILER; Oiler-driver, rubber-tired cranes	6.44	.45	.45		.02	
CONVEYOR LOADER, UP TO & INCL. 42" BELT	6.45	.45	.45		.02	
BORING MACHINE, JEEP, PICKUP OR FARM TRACTOR MOUNTED; Concrete mixer, 3 bags & under; Fireman; Heavy duty drills, helper; Retort op.	6.46	.45	.45		.02	
BROOM, SELF-PROPELLED	6.54	.45	.45		.02	
AIR COMPRESSOR, 2 OR MORE; Belt finishing machine; Conveyor loader, over 42" belt; Roller, on other than hot mix oil, paving	6.57	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, 1 CY & UNDER	6.58	.45	.45		.02	

DECISION AP-239 (cont'd) MODIFICATIONS P. 20

POWER EQUIPMENT OPERATORS CLASS:	Basic Hourly Rates	Fringe Benefit Payments H & W	Pensions	Vacation	App. Tr.	Other
CHAIN BUCKET LOADER; Chip gravel spreader, self-propelled; DW 10, 15, 20 tractor pulling roller	6.59	.45	.45		.02	
CONCRETE MIXER, 4 BAGS & OVER	6.63	.45	.45		.02	
FORM GRADER; Hoist, single drum	6.64	.45	.45		.02	
CEMENT SILO	6.66	.45	.45		.02	
FORKLIFT, ON CONSTRUCTION SITE	6.68	.45	.45		.02	
CONCRETE BATCH PLANT OILER, 3 MIXERS AND OVER	6.70	.45	.45		.02	
A-FRAME TRUCK, CRANE, WINCH TRUCK AND SIMILAR	6.71	.45	.45		.02	
HYDRALIFT AND SIMILAR TYPES; Oiler, hoist house, dams; Whirley crane oiler	6.77	.45	.45		.02	
FIELD EQUIPMENT SERVICEMAN	6.79	.45	.45		.02	
AIR DOCTOR; Asphalt paving machine; Asphalt paving machine, screed; Bit grinder; Bitum. mixer paving, travel plant; Boring machine, large; Concrete batch plant, 1 and 2 mixers; Concrete finishing machine, paving; Concrete bucket dispatcher; Concrete curing machine; Concrete float and spreader; Concrete power saw, self-propelled; Concrete travel batcher; Crusher op.; Distributor; Elevating grader; Gradeall; Heavy duty drills, all types; Hoist, 2 or more drums; Hot plant op.; Hot plant fireman; Industrial locomotive, all types; Mountain logger or similar type; Mucking machine; Pavement breaker, Emsco and similar; Power auger large truck or tractor, mounted and punch; Power mixer, single or double drum; Power saw, self-propelled, multiple cut; Pumpcrete or grout machine; Push tractor; Refrigerator plant; Roller, on blade or hot mix oil paving; Roller, 25 ton or over; Ross and similar type carriers on construction site; Rubber-tired dozer;						

DECISION AP-239 (cont'd) MODIFICATIONS P. 21

POWER EQUIPMENT OPERATORS CLASS:	Basic Hourly Rates	Fringe Benefit Payments H & W	Pensions	Vacation	App. Tr.	Other
Rubber-tired frontend loader, over 1 cy to & incl. 3 cy; Scraper DW 15, 20, 21 & similar type if power unit is not used; Self-propelled sheeps foot & similar type; Shovels, incl. all attachments, under 1 cy; Track-type frontend loader, up to & incl. 5 cy; Track-type tractor with or without attachments; Trenching machine; Turnhead conveyor or head tower on batch plant; Wagner roller & similar type; Water pull when used for compaction; Washing and screening plant	6.87	.45	.45		.02	
MIXERMOBILE	6.95	.45	.45		.02	
MECHANIC AND/OR WELDER ON JOB	6.97	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, OVER 3 CY TO & INCL. 5 CY	6.99	.45	.45		.02	
AUTOMATIC FINEGRADER, DOUBLES AND OTHER SIMILAR TYPES; Motor patrol; Paving mixing machine; Scraper, single engine; Slip form paver	7.00	.45	.45		.02	
CRANE, UP TO & INCL. 80' BOOM WITH JIB	7.03	.45	.45		.02	
ELECTRIC OVERHEAD CRANES; Shovels, incl. all attachments, 1 cy to & incl. 3 cy; Track-type tractor, on euclid loader	7.05	.45	.45		.02	
CONCRETE BATCH PLANT, 3 AND 4 MIXERS	7.07	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, OVER 5 cy TO & INCL. 10 cy	7.09	.45	.45		.02	
SCRAPER, TWIN ENGINE; Track-type frontend loader, over 5 cy to & incl. 10 cy	7.10	.45	.45		.02	
CENTRAL MIXING PLANTS, CONCRETE DAMS & STATIONARY	7.12	.45	.45		.02	
QUAD CAT	7.17	.45	.45		.02	
CRANE, 81' TO 130' BOOM	7.18	.45	.45		.02	

DECISION AP-239 (cont'd) MODIFICATIONS P. 22

POWER EQUIPMENT OPERATORS CLASS:	Basic Hourly Rates	Fringe Benefit Payments H & W	Pensions	Vacation	App. Tr.	Other
RUBBER-TIRED FRONTEND LOADER, OVER 10 CY TO & INCL. 15 CY	7.19	.45	.45		.02	
TRACK-TYPE FRONTEND LOADER, OVER 10 CY TO & INCL. 15 CY	7.20	.45	.45		.02	
CRANE, 131' TO 150' BOOM	7.23	.45	.45		.02	
SCRAPER, SINGLE OR TWIN ENGINE, PULLING BELLY DUMP TRAILER	7.25	.45	.45		.02	
CONCRETE BATCH PLANT, 5 MIXERS AND OVER	7.27	.45	.45		.02	
CRANE, 151' BOOM & OVER	7.28	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, OVER 15 CY (Factory rating not to include sideboards)	7.29	.45	.45		.02	
TRACK-TYPE FRONTEND LOADER, OVER 15 CY	7.30	.45	.45		.02	
SHOVEL, INCL. ALL ATTACHMENTS, OVER 3 CY TO & INCL. 5 CY; Stiff leg derrick and guy derrick	7.32	.45	.45		.02	
SCRAPER, TANDEM ENGINE	7.36	.45	.45		.02	
HELICOPTER HOIST	7.37	.45	.45		.02	
CABLEWAY HIGHLINE	7.38	.45	.45		.02	
WHIRLEY CRANE	7.40	.45	.45		.02	
SHOVELS, INCL. ALL ATTACHMENTS, OVER 5 CY	7.45	.45	.45		.02	

DECISION: AR-240 - Mod. #1 MODIFICATIONS Pg. 23
(FR 19912 - September 22, 1972)
Gallatin and Lewis & Clark
Counties, Montana

Classes	Basic Hourly Rates	Fringe Benefit Payments H & W	Pensions	Vacation	Apprentice Training	Others
CRUSHER CLASSIFIER; Farm type tractor, up to & incl. 35 HP engine; Grade setter	$6.33	.45	.45		.02	
CRUSHER OILER & HELPER; Field equipment serviceman helper; Hot plant oiler, 100 ton per hr. or over; Mechanic and/or welder helper on job; Oiler other than shovels & cranes; Shovel oiler, 3 cy and under; Washing and screening plant oiler	6.36	.45	.45		.02	
CONCRETE BATCH PLANT OILER, UP TO & INCL. 2 MIXERS	6.39	.45	.45		.02	
AIR COMPRESSOR, SINGLE; Pumpman	6.40	.45	.45		.02	
FARM TYPE TRACTOR, OVER 50 HP ENGINE; Herman Nelson heater & similar types	6.41	.45	.45		.02	
CRANE OILER; Oiler-driver, rubber-tired crane	6.44	.45	.45		.02	
CONVEYOR LOADER, UP TO & INCL. 42" BELT	6.45	.45	.45		.02	
BORING MACHINE, JEEP, PICKUP OR FARM TRACTOR MOUNTED; Concrete mixer, 3 bags & under; Fireman; Heavy duty drills, helper; Retort op.	6.46	.45	.45		.02	
BROOM, SELF-PROPELLED	6.54	.45	.45		.02	
AIR COMPRESSOR, 2 OR MORE; Belt finishing machine; Conveyor loader, over 42" belt; Roller, on other than hot mix oil, paving	6.57	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, 1 CY & UNDER	6.58	.45	.45		.02	

DECISION #AR-240 (cont'd) MODIFICATIONS Pg.

Classes	Basic Hourly Rates	Fringe Benefit Payments H & W	Pensions	Vacation	Apprentice Training	Others
CHAIN BUCKET LOADER; Chip gravel spreader, self-propelled; DW 10, 15, 20 tractor pulling roller	6.59	.45	.45		.02	
CONCRETE MIXER, 4 BAGS & OVER	6.63	.45	.45		.02	
FORM GRADER; Hoist, single drum	6.64	.45	.45		.02	
CEMENT SILO	6.66	.45	.45		.02	
FORKLIFT, ON CONSTRUCTION SITE	6.68	.45	.45		.02	
CONCRETE BATCH PLANT OILER, 3 MIXERS AND OVER	6.70	.45	.45		.02	
A-FRAME TRUCK, CRANE, WINCH TRUCK AND SIMILAR	6.71	.45	.45		.02	
HYDRALIFT AND SIMILAR TYPES; Oiler, hoist house, dams; Whirley crane oiler	6.77	.45	.45		.02	
FIELD EQUIPMENT SERVICEMAN	6.79	.45	.45		.02	
AIR DOCTOR; Asphalt paving machine; Asphalt paving machine, screed; Bit grinder; Bitum, mixer paving, travel plant; Boring machine, large; Concrete batch plant, 1 and 2 mixers; Concrete finishing machine, paving; Concrete bucket dispatcher; Concrete curing machine; Concrete float and spreader; Concrete power saw, self-propelled; Concrete travel batcher; Crusher op.; Distributor; Elevating grader; Gradeall; Heavy duty drills, all types; Hoist, 2 or more drums; Hot plant op.; Hot plant fireman; Industrial locomotive, all types; Mountain logger or similar type; Mucking machine; Pavement breaker, Essco and similar; Power auger large truck or tractor, mounted and punch; Power mixer, single or double drum; Power saw, self-propelled, multiple cut; Pumpcrete or grout machine; Push tractor; Refrigerator plant; Roller, on plain or hot mix oil paving; Roller, 25 ton or over; Ross and similar type carriers on construction site; Rubber-tired dozer;						

DECISION #AR-240 (cont'd) MODIFICATIONS Pg. 25

Classes	Basic Hourly Rates	Fringe Benefit Payments H & W	Pensions	Vacation	Apprentice Training	Others
Rubber-tired frontend loader, over 1 cy to & incl. 3 cy; Scraper DW 15, 20, 21 & similar type if power unit is not used; Self-propelled sheeps foot & similar type; Shovels, incl. all attachments, under 1 cy; Track-type frontend loader, up to & incl. 5 cy; Track-type tractor with or without attachments; Trenching machine; Turnhead conveyor or head tower on batch plant; Wagner roller & similar type; Water pull when used for compaction; Washing and screening plant	6.67	.45	.45		.02	
MIXERMOBILE	6.95	.45	.45		.02	
MECHANIC AND/OR WELDER ON JOB	6.97	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, OVER 3 CY TO & INCL. 5 CY	6.99	.45	.45		.02	
AUTOMATIC FINEGRADER, CURBERS AND OTHER SIMILAR TYPES; Motor patrol; Paving mixing machine; Scraper, single engine; Slip form paver	7.00	.45	.45		.02	
CRANE, UP TO & INCL. 80' BOOM WITH JIB	7.03	.45	.45		.02	
ELECTRIC OVERHEAD CRANES; Shovels, incl. all attachments, 1 cy to & incl. 3 cy; Track-type tractor, on euclid loader	7.05	.45	.45		.02	
CONCRETE BATCH PLANT, 3 AND 4 MIXERS	7.07	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, OVER 5 cy TO & INCL. 10 cy	7.09	.45	.45		.02	
SCRAPER, TWIN ENGINE; Track-type frontend loader, over 5 cy to & incl. 10 cy	7.10	.45	.45		.02	
CENTRAL MIXING PLANTS, CONCRETE DAMS & STATIONARY	7.12	.45	.45		.02	
QUAD CAT	7.17	.45	.45		.02	
CRANE, 81' TO 130' BOOM	7.18	.45	.45		.02	

DECISION #AR-240 (cont'd) MODIFICATIONS Pg. 26

Classes	Basic Hourly Rates	Fringe Benefit Payments H & W	Pensions	Vacation	Apprentice Training	Others
RUBBER-TIRED FRONTEND LOADER, OVER 10 CY TO & INCL. 15 CY	7.19	.45	.45		.02	
TRACK-TYPE FRONTEND LOADER; OVER 10 CY TO & INCL. 15 CY	7.20	.45	.45		.02	
CRANE, 131' TO 150' BOOM	7.23	.45	.45		.02	
SCRAPER, SINGLE OR TWIN ENGINE, PULLING BELLY DUMP TRAILER	7.25	.45	.45		.02	
CONCRETE BATCH PLANT, 5 MIXERS AND OVER	7.27	.45	.45		.02	
CRANE, 151' BOOM & OVER	7.28	.45	.45		.02	
RUBBER-TIRED FRONTEND LOADER, OVER 15 CY (factory rating not to include sideboards)	7.29	.45	.45		.02	
TRACK-TYPE FRONTEND LOADER, OVER 15 CY	7.30	.45	.45		.02	
SHOVEL, INCL. ALL ATTACHMENTS, OVER 3 CY TO & INCL. 5 CY; Stiff leg derrick and guy derrick	7.32	.45	.45		.02	
SCRAPER, TANDEM ENGINE	7.36	.45	.45		.02	
HELICOPTER HOIST	7.37	.45	.45		.02	
CABLEWAY HIGHLINE	7.38	.45	.45		.02	
WHIRLEY CRANE	7.40	.45	.45		.02	
SHOVELS, INCL. ALL ATTACHMENTS, OVER 5 CY	7.45	.45	.45		.02	

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MODIFICATIONS P. 27

DECISION #AM-1,721 - Mod. #5
(36 FR 15903 - August 11, 1971
Bronx, Kings, Queens and Richmond Counties, New York

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Change:						
Building, Heavy and Highway Construction:						
Bricklayers	$8.45	.70	2.05	.30		
Electricians & Linemen	9.43	u	1%+a	v+b		
Plasterers' helpers (Queens)	7.05	1.10		1.15		
Plasterers:						
Kings	7.55	.85		1.35	.01	
Queens	7.55	i			.01	
Bronx-NY-Richmond	7.55	.85	.60	.90	.01	
Painters:						
Structural steel	7.50	8%	11%			
Structural steel spray	8.50	8%	11%			

Footnotes:
a. Employer contributes $.86 per hour to an annuity fund.
i. Employer contributes $2.35 per hour to a combined Welfare, Pension & Vacation fund.
u. Employer contributes $.66 per hour to a combined Welfare and Pension fund.
v. Employer contribution of $.47 per hour to a vacation fund.

DECISION #AP-600 - Mod. #1
(37 FR 13913 - July 14, 1972)
Bronx, Kings, Queens and Richmond Counties, New York

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Change:						
Residential Construction:						
Bricklayers	$8.45	.70	2.05	.30		
Electricians & Linemen	9.43	u	1%+a	v+b		
Plasterers' helpers (Queens)	7.05	1.10		1.15		
Plasterers:						
Kings	7.55	.85		1.35	.01	
Queens	7.55	i			.01	
Bronx-NY-Richmond	7.55	.85	.60	.90	.01	
Painters:						
Structural steel	7.50	8%	11%			
Structural steel spray	8.50	8%	11%			

Footnotes:
a. Employer contributes $.86 per hour to an annuity fund.
i. Employer contributes $2.35 per hour to a combined Welfare, Pension & Vacation fund.
u. Employer contributes $.66 per hour to a combined Welfare and Pension fund.
v. Employer contribution of $.47 per hour to a vacation fund.

MODIFICATIONS P. 28

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-5,967 - Mod. #4 (36 FR 24027 - December 17, 1971) Bedford, Cameron, Clarion, Clinton, Elk, Forest, Fulton, Huntington, Mifflin and Potter Counties, Pennsylvania						
Change:						
Carpenters	$6.76	6%	3%			
Cement masons	7.05	.423	.705			
DECISION #AM-5,968 - Mod. #6 (36 FR 24028 - December 17, 1971) Armstrong, Blair, Crawford, Indiana, McKean, Venango, and Warren Counties, Pennsylvania						
Change:						
Carpenters by counties:						
Armstrong	7.11	6%	3%			
Blair, Crawford, Indiana, McKean, Venango and Warren	6.76	6%	3%			
Cement masons	7.05	.423	.705			
DECISION #AM-5,969 - Mod. #5 (37 FR 244 - January 7, 1972) Centre, Clearfield, Jefferson and Green Counties, Pennsylvania						
Change:						
Carpenters by counties:						
Centre, Clearfield and Jefferson	6.76	6%	3%			
Green	7.11	6%	3%			
Cement masons	7.05	.423	.705			
DECISION #AM-5,972 - Mod. #6 (36 FR 24031 - December 17, 1971) Beaver County, Pennsylvania						
Change:						
Cement masons	7.05	.423	.705			

MODIFICATIONS P. 29

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-5,973 - Mod. #4 (36 FR 24032 - December 17, 1971) Butler, Cambria, Fayette, and Somerset Counties, Pennsylvania						
Change:						
Carpenters by counties:						
Butler, Washington and Westmoreland	$7.46	6%	3%			
Cambria and Somerset	6.76	6%	3%			
Lawrence, Fayette, Mercer and Erie	7.11	6%	3%			
Cement masons	7.05	.423	.705			

MODIFICATIONS P. 30

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-312 - Mod. #7 (37 FR 16716 - August 18, 1972) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties, Texas						
Change:						
Building Construction:						
Laborers:						
Unskilled:						
Dallam, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Roberts, Sherman & Wheeler Cos.	$3.50					
Air tool operator (jackhammer, vibrator):						
Dallam, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Roberts, Sherman & Wheeler Cos.	3.65					
Mason tenders:						
Dallam, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Roberts, Sherman & Wheeler Cos.	3.65					
Mortar mixers:						
Dallam, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Roberts, Sherman & Wheeler Cos.	3.65					
Pipelayers (non-metallic):						
Dallam, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Roberts, Sherman & Wheeler Cos.	3.65					
Plasterers' tenders:						
Dallam, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Roberts, Sherman & Wheeler Cos.	3.65					

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-343 - Mod. #4 (37 FR 20488 - September 29, 1972) Bexar County, Texas						
Change: Building Construction: Plumbers - Pipefitters	97.18	.25	.30		.10	
Change Modification #2 to Read Decision #AP-343						
DECISION #AP-350 - Mod. #4 (37 FR 20506 - September 29, 1972) Harris County, Texas						
Change: Building Construction: Carpenters: Piledrivermen	6.66	.40	.30			

SUPERSEDEAS DECISION

STATE: Illinois COUNTY: Cook

DECISION NUMBER: AP-28 DATE: Date of Publication

Supersedes Decision No. AP-8 dated August 11, 1972 in 37 FR 15321

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$8.23	.40	.275		.05	
Boilermakers	8.33	.50	.75	2%	.01	
Boilermakers' helpers	8.25	.50	.75	2%	.01	
Carpenters - (Bldg., Heavy & Highway)						
Carpenters & Soft Floor Layers	8.30	.45	.625		.08	
Millwrights & Piledrivermen	8.30	.45	.625		.08	
Cement Masons:						
Building	8.90	.45	.35		.01	
Heavy & Highway	8.90	.45	.35	.10	.01	
Electricians	9.00	.41	.41	.39	.045	
Elevator constructors	8.73	.195	.20	2%+a&b	.005	
Elevator constructors' helpers	6.125	.195	.20	2%+a&b	.005	
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	7.65	.16	.25		.01	
Ironworkers:						
Structural & Reinforcing	9.32	.69	.84		.05	
Ornamental	9.375	.25	.325		.05	
Riggers, machinery movers	6.00	.25	.275		.05	
Lathers	8.39	.41	.345			
Leadburners	6.90	.30		a	.01	
Line construction:						
Linemen	8.50	4%	1%+3%	7½%	½%	
Linemen helpers	6.75	4%	1%+3%	7½%	½%	
Marble setters	8.20	.30				
Marble setters' helpers	7.30					
Painters:						
Brush, Decorators, paperhangers	7.75	.325	.20			
Sign & pictorial helper	4.935	.20	.10	d&e		
Sign & pictorial painters	5.685	.20	.10	d&e		
Plasterers	8.395	.40	.28		.045	
Pipefitters	9.00	.47	.50		.02	
Plumbers	9.27	.40	.30		.05	
Pointers, caulkers & cleaners	8.45	.45	.45			
Roofers:						
Composition & waterproofers	9.10	.30	.15		.02	
Slate & tile	8.72	.18	.15		.02	
Sheet metal workers	8.15	.35	.34		.01	
Sprinkler fitters	8.70	.16	.40		.09	
Survey Crew:						
Rodman	6.00	.40	.15			
Instrument man	7.15	.40	.15			
Terrazzo workers	7.50					
Terrazzo workers' helper & floor mach.	6.85					
Base, machine operator	7.10					
Tile setters	8.15	.30-5/8	.42			
Tile setters' helpers	6.80	.30-5/8	.325			

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS (WHERE APPLICABLE):
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. Eight paid holidays, A through F plus Washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

d. One (1) week paid vacation after 1 year's employment; two (2) weeks after 3 years's; and 3 weeks after 10 years.

e. Holidays: A through F and the day after Thanksgiving, one-half day Christmas Eve & one-half day Good Friday.

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BUILDING, HEAVY & HIGHWAY CONSTRUCTION							
Plasterers laborers	6.625	.47	.65				
Boiler setters Laborers	6.825	.47	.65				
Windlass, Cement gun nozzle laborers	6.65	.47	.65				
Chimney laborers (over 40)	6.60	.47	.65				
Stone handlers, derrickmen	6.70	.47	.65				
Jackhammermen	6.725	.47	.65				
Caisson digger	6.85	.47	.65				
Scaffold laborers	6.60	.47	.65				
TUNNEL WORK, ROCK, CLAY & SUBWAY							
Dumpmen, top laborers	6.50	.47	.65				
Cage tenders, skinners, switchmen, truck layers	6.525	.47	.65				
Car pusher, concrete laborers, grout machine op., steel setters & tuggers grout laborers	6.625	.47	.65				
Signal men	6.65	.47	.65				
Pebble placer op., mortarmen muckers	6.725	.47	.65				
Air hoist op., bricklayers tender, cement (invert) laborer, concrete blower op., driller for blasting, dynamiters, erector ops.. form men lock tenders, miners, power knife op., jackhammermen, keyboard op.	6.85	.47	.65				
SEWER, DRAIN, WATER SERVICE:							
Common laborers, top laborers	6.50	.47	.65				
Concrete laborers & steel setters	6.625	.47	.65				
Cement carriers, cemnt mixers, mortar men, scaffoldmen, second bottom men	6.725	.47	.65				
Bottom men, bricklayers tenders, catch basin jiggers & rodders, form men, jackhammermen, pipelayers, well point system	6.85	.47	.65				
STREET PAVING, GRADE SEPARATION, PLANTING, GRADING AND LANDSCAPING:							
Laborers and helpers	6.50	.47	.65				
Form setters on pavement work, Jackhammermen (concrete)	6.775	.47	.65				
Rakers, lutemen, ketclemen, mixermen, frunmen, jackhammermen (asphlat)	6.775	.47	.65				

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ILLINOIS 13-1,-LABORERS-1 9

BRICK CLEANERS	$3.10	.32	.40				
LABORERS	5.52	.32	.40				
WRECKERS	5.92	.32	.40				
STACKMAN OR HIGHMAN	6.52	.32	.40				
BURNERS, WALLMEN & JACKHAMMER MEN	6.17	.32	.40				

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CLASS I							
Mechanic, Asphalt Plant, Asphalt Spreader, Autograde, Batch Plant, Benoto (Requires Two Engineers) Boiler & Throttle Valve, Caisson Rigs, Central Redi-Mix Plant, Combination Back Hoe Front Enloader Machine, Compressor & Throttle Valve, Concrete Breaker (Truck Mounted) Concrete Conveyor, Concrete Paver over 27E cu. ft. Concrete Paver 27E cu. ft. and under, Concrere Placer, Concrere Tower, Cranes, (all), Cranes Hammerhead, Derricks, (all), Derrocks, Traveling, Grader, Elevating Grouting Machines, Highlift Shovels or Fron Endloader 2½ yd. & over, Hoists, 1,2 and 3 Drum, Hoists, 2 Tugger one floor, Hydraulic Boom Trucks, Locomotives, (all) Motor Patrol, Piledrivers & Skid Rig, Post Hole Digger, Pre-Stress Machine, Pump Cretes: squeeze cretes-screw type pumps, Gypsum Bulker & pump, Rock Drill (Self-Propelled) Rock Drill (Truck Mounted) Scoops-Tractor Drawn-Slip Form Paver, Straddle Buggies, Tournapull, Tractor w/boom, & Side Boom, Trenching Machines.	$8.65	.30	.40	.20	.02		
CLASS II							
Boilers, Bulldozers, Broom, All power Propelled, Concrete Mixer (2 Bag & over) Conveyor, Portable, Forklift trucks, Greaser Engineer, Highlift Shovels or Fron Endloaders under 2½yd., Hoists, Automatic, Hoists, All Elevators, Hoists, Tugger Single Drum, Rollers, (all) Steam Generators Stone Crushers, Tractors (all) Winch Trucks with "A" Frame	7.60	.30	.40	.20	.02		
CLASS III							
Air Compressor - small 125 & under (1 to 5 not to exceed a total of 300 Ft.), Air Compressor - large over 125 Combination - small equipment operator Generators - small 50w & under							

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CLASS III (CONTD)							
Generators - large over 50Kw, Heaters, Mechanical, Pumps, over 2" (1 to 3 not to exceed a total of 300 ft.) Pumps, Well points, Welding Machines (2 through 5) Winches, 4 small electric drill winches	$6.80	.30	.40	.20	.02		
CLASS IV							
Oilers	5.75	.30	.40	.20	.02		

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HEAVY, SEWER & TECHNICAL CONSTRUCTION:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	Pension/Annuity	Vac.	Trng.	Other
POWER EQUIPMENT OPERATORS:						
CLASS I: Asphalt plant, asphalt heater & planer combination, asphalt spreader, autograde, belt loader, caisson rigs, central redimix plant, concrete breaker (truck mounted), concrete conveyor, concrete paver over 27E cu. ft., concrete placer, concrete tube float, cranes, all attachments, cranes, Linden, Peco & machines of a like nature, derricks, all, derrick boats, derricks, traveling, dredges, euclid loader, elevating type, gradall, & machines of a like nature, grader, elevating, hoists, one, two & three drum, locomotive, all, mucking machine, 1 cu. yd. & over, mucking machine, under 1 cu. yd., pile drivers & skid rig, pre-stress machine, pump crete dual ram (requiring frequent lubrication & water), rock drill - crane type, slip form paver, straddle buggies, tractor with boom, tractaire - with attachments, trenching machines, underground boring &/or mining machines 5 ft. in diameter & over tunnel, etc, underground boring &/or mining machine under 5 ft., wheel excavator, widener (Apsco)	$9.00	.30	.40	.10	.02
CLASS II: Mechanic-welder, batch plant, bituminous mixer, bulldozer, combination backhoe front endloader machine, concrete breaker or hydro hammer, concrete grinding machine, concrete mixer or paver 7s series to & including 27 cu. ft., concrete spreader, concrete curing machine, burlap machine, belting machine & sealing machine, finishing machine - concrete, grader, motor grader, motor patrol, auto patrol, form grader, pull grader, subgrader, highlift shovels or front endloader, hydraulic boom trucks (all attachments), locomotives, dinky,						

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	Pension/Annuity	Vac.	Trng.	Other
pump crete: Squeeze crete - screw type pump Gypsum bulker & pump, rock drill (self-propelled), roto-tiller, seaman, etc., self-propelled scoops - tractor drawn, self-propelled compactor, spreader - chip - stone, etc., scraper, tank car heater, tractor, push, pulling sheeps foot, disc., compactor, etc, tug boats	8.50	.30	.40	.10	.02
CLASS III: Boilers, boiler & throttle valve, brooms, all power propelled, cement supply tender, compressor & throttle valve, concrete mixer (two bag & over) conveyor, portable, fireman on boilers, forklift trucks, greaser engineer, grouting machine, hoists, automatic, hoists, all elevators, hoists, tugger single drum, jeep diggers, pipe jacking machines, post-hole digg., power saw, concrete, power-driven, pug mills, rollers, all, steam generators, stone crushers, stump machine, winch trucks with "A" frame, work boats, tamper - form - motor driven	7.90	.30	.40	.10	.02
CLASS IV: Air compressors, all, generators, heaters, mechanical, light plants, all (1 through 5), pumps, all, pumps well points, tractaire, welding machines (2 through 6),	6.95	.30	.40	.10	.02
CLASS V: Oilers	5.95	.30	.40	.10	.02

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TRUCK DRIVERS:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	Pension/Annuity	Vac.	Trng.	Other
4 & 6 wheel tandem, single trailer (Lowboy & Flatbed), Winch trucks, 4 & 6 wheel batch, grease trucks, & dirky drivers	$5.60	a11.00	a12.50	b & c		
4 & 6 wheel trucks hauling over 20 tons, semi-trailer dump & semi flat bed	6.05	a11.00	a12.50	b & c		
Carry-alls & low boys	5.90	a11.00	a12.50	b & c		
Winch trucks, & "A" frames when used for transportation	5.70	a11.00	a12.50	b & c		
Fork lift & hoisters	6.00	a11.00	a12.50	b & c		
Power broom	5.80	a11.00	a12.50	b & c		
Driver & rear end man on slurry trucks	5.85	a11.00	a12.50	b & c		
Ready-mix concrete trucks hauling 9 yards or less	5.79	a11.00	a12.50	b & c		
Ready-mix concrete trucks hauling over 9 yards up to & including 13 yards	5.87	a11.00	a12.50	b & c		
Ready-mix concrete trucks hauling over 13 yards & ready-mix concrete semi-trailer trucks	5.92	a11.00	a12.50	b & c		

PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a-Per Week
b-One week paid vacation after one year of 1000 hours or more; two weeks paid vacation after 2 preceding consecutive years of 1000 hours or more; three weeks paid vacation after 11 preceding consecutive years of 1000 hours or more.
c-Six (6) Paid Holidays: A-B-C-D-E&F providing employee earned a vacation the previous year with the same employer and worked the scheduled work day before and after the holiday.

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TRUCK DRIVERS:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	Pension/Annuity	Vac.	Trng.	Other
4 & 6 wheel tandem, single trailer (Lowboy & Flatbed), Winch trucks, 4 & 6 wheel batch, grease trucks, supply truck driver helpers etc., blacksmith, drivers on truck cranes	$5.35	.20	.25	a + b		
Drivers on 4 & 6 wheel truck over 20 tons	5.50	.20	.25	a + b		
Drivers on semitrailer dump trucks	5.50	.20	.25	a + b		
Drivers on semi-flatbed & lowboys	5.35	.20	.25	a + b		
Drivers on winch trucks	5.15	.20	.25	a + b		
Dumpsters, track truck, Euclid, hug bottom dumps, Tournatractors, Tournapulls when pulling other than self-loading equipment:						
Under 20 tons	5.45	.20	.25	a + b		
Over 20 tons	5.60	.20	.25	a + b		
Distributors - 1 man operation	5.65	.20	.25	a + b		
Distributors - 2 man operation	5.30	.20	.25	a + b		
Liquid asphalt trucks	5.30	.20	.25	a + b		
Fork lift & hoisters	5.45	.20	.25	a + b		
Power broom	5.25	.20	.25	a + b		
"A" frame truck when used for transportation	5.15	.20	.25	a + b		
Driver & rear end man on slurry trucks	5.30	.20	.25	a + b		
Driver on grease truck	5.05	.20	.25	a + b		

Paid Holidays: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

Footnotes:

a - Holidays: A, B, C, D, E & F provided employee earned a vacation the previous year with the same employer, worked at least 1 day in the holiday week, and worked the scheduled work day before and after the holiday.

b - Any employee having worked for the same employer shall be entitled to: 1 week paid vacation after 1 year of 1000 hours; 2 weeks paid vacation after 3 consecutive years of 1000 hours or more; 3 weeks paid vacation after 12 consecutive years of 1000 hours or more.

111. - 16 - Well Drillers. - FED-2- D

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP TR.	OTHER
WELL DRILLERS:						
Drillers, Pump Installer, Welder and Mechanic	$7.70	.35	.35	a		
Tool Dresser, Helper	7.30	.35	.35	a		

FOOTNOTE:

a. Six (6) paid Holidays: New Year's Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day.

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: AP-353
Supersedes Decision No. AP-315, dated August 25, 1972, in 37 FR 17366.
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

COUNTIES: Jefferson and Orange
DATE: Date of Public Inspection

(1 - 3)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS (JEFFERSON COUNTY)	$7.02	.50	.495		.03	
ASBESTOS WORKERS (ORANGE COUNTY)	7.325	.325	.30		.02	
BOILERMAKERS	6.80	.30	.50		.02	
BRICKLAYERS; STONEMASONS	7.65	.275	.30		.04	
CARPENTERS:						
Carpenters	6.775		.30			
Millwrights	7.73					
Piledrivermen	7.105		.30			
CEMENT MASONS	6.75					
ELECTRICIANS	7.63	.28	12%+.32		1/2%	
ELEVATOR CONSTRUCTORS	4.53	.175	.20	2%+a+b		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.175	.20	2%+a+b		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
IRONWORKERS:						
Structural; Ornamental; Reinforcing	6.77	.40	.40		.05	
LABORERS:						
Common laborer; asphalt froner and raker	4.59	.25	.15		.02	
Carpenter tender	4.69	.25	.15		.02	
Cement masons tender; air tool operator (jackhammer - vibrator)	4.69	.25	.15		.02	
Mortar mixers, hod carriers & mason tender; plaster and lather tender; pipelayers, non-metallic pipe, including handling and laying; pumperate pipe	4.79	.25	.15		.02	
Sandblaster, exclusive of preparation work for painters; dumper, spotter and wagon drill; powderman-blaster; well driller	4.59	.25	.15		.02	
Machine-man and nozzleman, for gunniting 1½" and over	5.025	.25	.15		.02	
LATHERS	6.925	.20			.01	
PAINTERS:						
Southern half of Jefferson County and all of Orange County:						
Brush, wood and wall paperhanger and glazier	6.30					
Brush, steel	6.35					
Spray	6.80					
Sandblaster, power cleaning	6.55					
Brush, hot paint or creosote	6.55					
Spray, hot paint or creosote	7.05					

(2 - 3)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
PAINTERS (CONT'D):						
Southern half of Jefferson County and all of Orange County (Cont'd):						
All time spent rigging	$6.55					
Twenty-five cents (25c) per hour premium on all work from stage, chair, window jack or ledge in all classifications.						
Northern half of Jefferson County:						
Brush and glazier	6.275					
Canvas and paperhangers	6.525					
Spray	6.70					
PIPEFITTERS	7.33	.30	.52		.06	
PLASTERERS	6.625	.27	.30		.02	
PLUMBERS	7.46				.03	
ROOFERS:						
Roofers	5.93	.20	.10	.15	.03	
Kettlemen	5.00	.20	.10	.15	.03	
Helpers	3.80	.20	.10	.15	.03	
SHEET METAL WORKERS	7.57		.15		.04	
SPRINKLER FITTERS	8.35	.30	.50		.05	
TILE SETTERS	6.855	.275	.30		.04	
TRUCK DRIVERS:						
Under 1½ ton and wash, grease, tireman, fuel pump operators when used on construction	4.40					
1½ tons thru 2½ tons, dump truck less than 7 yds., town driver	4.69					
Over 2½ tons, farm tractors (when used to transport personnel or material), fork lifts (when used in warehouses, storage yards, and when used to transport material), floats, hydraulic rail gate lifts	4.85					
Euclids (not self-loading)	4.95					
Warehousemen - material checker	4.965					
WELDER - receive rate prescribed for craft performing operation to which welding is incidental.						

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AP-353 P. 3 (3 - 3)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
FOOTNOTES: a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate. b - Paid Holidays - A through F.						
PAID HOLIDAYS: A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.						

AP-353 P. 4

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS						
HEAVY EQUIPMENT OPERATORS Heavy Duty Mechanic; Blade Grader, Self-propelled; Bull Clam; Back Filler, Derrick-Power Operated, all types; Draglines; Push Cat Operator; Bull Dozer and all type of Cat Tractors; Cable-Way; Back-Hoe; Shovel; Crane-Power operated, all types; Elevating Grader, Self-propelled; Hoist-motor driven, two drums or more; Mix Mobile; Winch Truck; Locomotive Crane; Mixer, 14 cu. ft. or more; Paving Mixer, all sizes; Piledrivers; Scraper - heavy type, over 3 cu. yds.; Trench Machine, all sizes; Gradall; High-Lift; Foundation Boring Machines; Gasoline or Diesel driven welding machines - 7 to 12 machines; Pumpcrete Machine; Drill Operator - Water Well; [illegible]; Tournapulls; Asphalt Plants; Crushing Machines and Batch-Plants; Scoopmobiles; Fingerlift Operator	$7.135		.25		
LIGHT EQUIPMENT OPERATORS Air Compressor; Blade Grade - Towed; Flex Plane; Form Grader; Mixer - less than 14 cu. ft.; Pump; Pulsometer; Truck Crane Driver; Gasoline or Diesel Driven Welding machines, 3 to 6 machines; Hoist - Single Drum; Scraper, 3 cu. yds. or less; Conveyors - power operated	6.30		.25		
FIREMAN	5.84		.25		
OILER	5.69		.25		

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: AP-354
Supersedes Decision No. AP-314, dated August 25, 1972, in 37 FR 17366.
DESCRIPTION OF WORK: Building Construction, (including single family homes and garden type apartments up to and including 4 stories).

COUNTIES: Jefferson and Orange
DATE: Date of Publication

(1 - 3)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS (JEFFERSON COUNTY)	$7.02	.50	.495		.03	
ASBESTOS WORKERS (ORANGE COUNTY)	7.325	.325	.30		.02	
BOILERMAKERS	6.80	.30	.50		.02	
BRICKLAYERS; STONEMASONS	7.65	.275	.30		.04	
CARPENTERS:						
Carpenters	6.925		.30		.05	
Millwrights	7.73					
Piledrivermen	7.105		.30			
CEMENT MASONS	6.75					
ELECTRICIANS	7.63	.28	1%+.32		1/2%	
ELEVATOR CONSTRUCTORS	4.53	.175	.20	2%+a+b		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.175	.20	2%+a+b		
ELEVATOR CONSTRUCTORS' HELPERS(PROB.)	50%JR					
IRONWORKERS:						
Structural; Ornamental; Reinforcing	6.77	.60	.30		.05	
LABORERS:						
Common laborer; asphalt troner and raker	4.59	.25	.15		.02	
Carpenter tender	4.69	.25	.15		.02	
Cement masons tender; air tool operator (jackhammer - vibrator)	4.69	.25	.15		.02	
Mortar mixers, hod carriers & mason tender; plaster and lather tender; pipelayers, non-metallic pipe, including handling and laying pumpcrete pipe	4.79	.25	.15		.02	
Sandblaster, exclusive of preparation work for painters; dumper, spotter and wagon drill; powdermanblaster; Well driller	4.59	.25	.15		.02	
Machine man and nozzleman for gunniting 1½" and over	5.025	.25	.15		.02	
LATHERS	6.925	.20			.01	
PAINTERS:						
Southern half of Jefferson County and all of Orange County:						
Brush, wood and wall paperhanger and glazier	6.65					
Brush, steel	6.70					
Spray	7.15					

AP-354 P. 2 (2 - 3)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
PAINTERS (CONT'D):						
Southern half of Jefferson County and all of Orange County (Cont'd):						
Sandblaster, power cleaning	$6.975					
Brush, hot paint or creosote	6.975					
Spray, hot paint or creosote	7.40					
All time spent rigging	6.975					
Twenty-five cents (25c) per hour premium on all work from stage, chair, window jack or ledge in all classifications.						
Northern half of Jefferson County:						
Brush and glaziers	6.525					
Canvas and paperhangers	6.775					
Brush, steel	6.70					
Spray	6.95					
PIPEFITTERS	7.33	.30	.52		.06	
PLASTERERS	6.825	.27	.30		.02	
PLUMBERS	7.46				.03	
ROOFERS:						
Roofers	5.93	.20	.10	.15	.03	
Kettlemen	5.00	.20	.10	.15	.03	
Helpers	3.80	.20	.10	.15	.03	
SHEET METAL WORKERS	7.57		.15		.04	
SPRINKLER FITTERS	8.35	.30	.50		.05	
TILE SETTERS	6.855	.275	.30		.04	
TRUCK DRIVERS:						
Under 1½ ton and wash, grease, firemen, fuel pump operators when used on construction	4.40					
1½ tons thru 2½ tons, dump truck less than 7 yds., town driver	4.69					
Over 2½ tons, farm tractors (when used to transport personnel or material), fork lifts (when used in warehouses, storage yards, and when used to transport material), floats, hydraulic tail gate lifts	4.85					
Euclids (not self-loading)	4.95					
Warehousemen - material checker	4.965					
WELDER - receive rate prescribed for craft performing operation to which welding is incidental.						

XUM

AP-334 Pg 3 (3 - 3)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate.
b - Paid Holidays - A through F.

PAID HOLIDAYS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

3 - Texas - LC - 1

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LINE CONSTRUCTION:						
Lineman	$7.915	.28	1%		1/2%	
Groundman	73%JR	.28	1%		1/2%	

AP-334 Pg 4 17 - Texas - HCO - 1 k

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS						
HEAVY EQUIPMENT OPERATORS Heavy Duty Mechanic; Blade Grader, Self-propelled; Bull Clam; Back Filler, Derrick-Power Operated, all types; Draglines; Push Cat Operator; Bull Dozer and all type of Cat Tractors; Cable-Way; Back-Hoe; Shovel; Crane-Power operated, all types; Elevating Grader, Self-propelled; Hoist-motor driven, two drums or more; Mix Mobile; Winch Truck; Locomotive Crane; Mixer, 14 cu. ft. or more; Paving Mixer, all sizes; Piledrivers; Scraper - heavy type, over 3 cu. yds.; Trench Machine, all sizes; Gradall; High-Lift; Foundation Boring Machines; Gasoline or Diesel driven welding machines - 7 to 12 machines; Pump-crete Machine; Drill Operator - Water Well; DW-10 Euclid; Tournapulls; Asphalt Plants, Crushing Machines and Batch-plants; Scoopmobiles; Fingerlift Operator	$7.155		.25		
LIGHT EQUIPMENT OPERATORS Air Compressor; Blade Grade - Towed; Flex Plane; Form Grader; Mixer - less than 14 cu. ft.; Pump; Pulsometer; Truck Crane Driver; Gasoline or Diesel Driven Welding machines, 3 to 6 machines; Hoist - Single Drum; Scraper, 3 cu. yds. or less; Conveyors - power operated	6.30		.25		
FIREMAN	5.84		.25		
OILER	5.69		.25		

SUPERSEDEAS DECISION:

STATE: Texas COUNTY: Lubbock
POSITION NO.: AP-355 DATE: Date of Publication
Supersedes Decision No. AP-313, dated August 25, 1972, in 37 FR 17761.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

(1 - 2)

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS	$7.25	.30	.25		.02	
BOILERMAKERS	6.80	.30	.50		.02	
BRICKLAYERS; STONEMASONS	6.50					
CARPENTERS	6.00	.20	.05		.01	
CEMENT MASONS	4.75					
ELECTRICIANS:						
Electricians	6.35	.25	1%			
Cable splicers	6.60	.25	1%			
ELEVATOR CONSTRUCTORS	3.54	.175	.20	2%+a+b		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.175	.20	2%+a+b		
ELEVATOR CONSTRUCTORS' HELPERS(PROB.)	50%JR					
IRONWORKERS:						
Structural; Ornamental; Reinforcing	6.075	.40	.40		.10	
All ironworkers on jobs (30) miles or more from the City of Lubbock	6.20	.40	.40		.10	
LABORERS:						
Construction laborers, including excavation, pouring concrete, carpenter tenders, reinforcing, shoring, digging, loading and unloading materials, wrecking buildings and all structures and all construction laborers except those named below	3.60					
Air tool operator (jackhammer, vibrator, tamper, brush hammer, chipping hammer, air or electric), power buggy man, pipelayer (concrete and clay and all non-metallic pipe); handling, laying and cleaning pumpcrete pipe	3.875					
Mortar mixers, mason tenders, plasterer tenders, cement finisher tenders, lather tenders, asphalt rakers, tampers and spreaders; pot men and kettlemen, well drillers, bell hole men, dumpers and spotters	3.80					
Wagon drill	3.95					
Blasterers and powder make-up men	4.20					
LATHERS	6.50	.20			.01	

AP-355 P. 2 (2. - 2)

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
PAINTERS:						
Brush	$5.00					
Spray	5.55					
PLASTERERS	5.75					
PLUMBERS - STEAMFITTERS	6.35		.30		.02	
SHEET METAL WORKERS	7.22					
SOFT FLOOR LAYERS	5.00					
SPRINKLER FITTERS	8.35	.30	.50		.05	
TRUCK DRIVERS	3.00					
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.						

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rates.
b - Paid Holidays - A through F.

PAID HOLIDAYS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

AP-355 P. 3 — 38 - Texas - FFO - 1 L

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS						
HEAVY EQUIPMENT OPERATORS: Drilling machine (all types); Scoopmobile; Hoists, two drums or more; Winch truck; six wheel truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixers, 14 cubic feet or over; Blade graders, self-propelled; Cableways; Cranes - power operated to 100 feet; Fordson type backhoe; Derricks, power operated (all types); Gradall; Hy-ho; Hop-to; Paving mixers (all types); Piledrivers; Mobile concrete mixers, over 14 cubic feet; Bulldozers, Loaders, Tractovators; Scrapers and pulls; Welders; Trenching machines; Roller, ten tons or over; Air compressors, three; Air compressor & one pump; Pump, three or more: Air compressor & air tugger; Boilers, two or more fired by one man; Heavy duty mechanic	$6.00	.30	.50		.10	
LIGHT EQUIPMENT OPERATORS: Air compressor (1); Pump (1); Pulsometer; Conveyor; Throttle valves; Wagon drill; Elevators building; Form graders; Hoist, single drum; Mixers, less than 14 cubic feet; Screening plants; Welding machines, gas & diesel (2 or more); Crushing plants; Fork lifts (short, under 25 feet); Concrete pumps (all types); Bobcat type equipment; Ford tractor or like with any attachment (except backhoe)	5.60	.30	.50		.10	
OILERS (ALL TYPES)	4.70	.30	.50		.10	

AP-355 P. 4 — 24 - Texas - 3 g (1 - 2)

INCIDENTAL PAVING & UTILITIES	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Air Tool Man	$2.60					
Asphalt Hestorman	2.65					
Asphalt Raker	2.75					
Asphalt Shoveler	2.15					
Batching Plant Scaleman	2.95					
Carpenter	3.50					
Carpenter Helper	3.25					
Concrete Finisher (Paving)	3.50					
Concrete Finisher (Structures)	3.35					
Concrete Finisher Helper (Structures)	3.00					
Form Builder (Structures)	3.25					
Form Builder Helper (Structures)	2.50					
Form Setter (Paving and Curb)	2.35					
Form Setter (Structures)	3.75					
Form Setter Helper (Structures)	2.50					
Laborer, Common	2.00					
Laborer, Utility Man	2.50					
Mechanic	3.05					
Oiler	2.80					
Serviceman	3.00					
Powderman	2.75					
Powderman Helper	2.50					
Spreader Box Man	2.80					
Sweeper	2.50					
Power Equipment Operators: Asphalt Distributor	2.60					
Asphalt Paving Machine	3.00					
Broom or Sweeper Operator	2.10					
Bulldozer, 150 H.P. and Less	3.00					
Bulldozer, over 150 H.P.	3.50					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1¼ C.Y.)	3.40					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1¼ C.Y. and Over)	3.75					
Crusher or Screening Plant Operator	3.00					
Foundation Drill Operator (Truck Mounted)	3.75					
Front End Loader (2½ C.Y. and Less)	3.00					
Front End Loader (Over 2½ C.Y.)	3.10					
Motor Grader Operator, Fine Grade	4.10					

AP-355 P. 5 — 24 - Texas - 3 g (2 - 2)

INCIDENTAL PAVING & UTILITIES	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators (Cont'd): Motor Grader Operator	$3.50					
Roller, Steel Wheel (Plant-Mix Pavements)	2.50					
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	2.60					
Roller, Pneumatic (Self-Propelled)	2.30					
Scrapers (17 C.Y. and Less)	3.00					
Scrapers (Over 17 C.Y.)	3.25					
Tractor (Crawler Type) 150 H.P. and Less	2.85					
Tractor (Crawler Type) over 150 H.P.	3.00					
Tractor (Pneumatic) 80 H.P. and Less	2.50					
Tractor (Pneumatic) over 80 H.P.	2.65					
Wagon Drill, Boring Machine or Post Hole Driller Operator	2.75					
Truck Drivers: Single Axle, Light	2.00					
Single Axle, Heavy	2.50					
Tandem Axle or Semitrailer	2.25					
Winch	2.60					
Weighman (Truck Scales)	2.30					
Welder	4.35					

6 - Texas - LC h

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
LINE CONSTRUCTION: Lineman	$6.35	.25	1%			
Operators	5.45	.25	1%			
Groundmen (more than 1 year experience)	5.20	.25	1%			
Groundmen (less than 1 year experience)	4.70	.25	1%			
Flat bed truck operator	4.45	.25	1%			

[FR Doc.72-18620 Filed 11-2-72;8:45 am]

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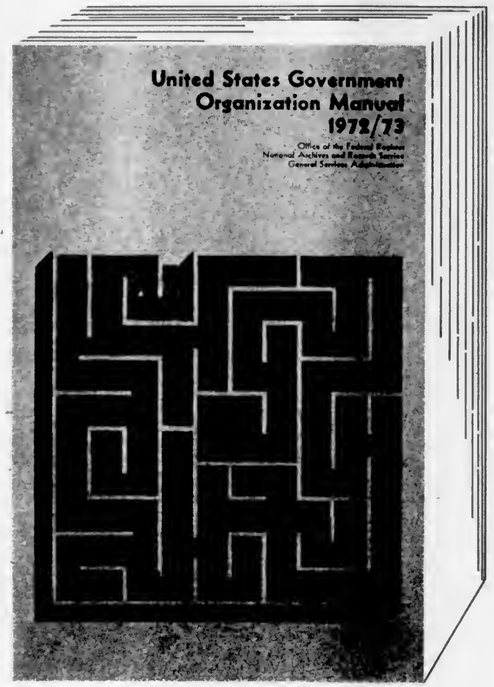

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federal register

SATURDAY, NOVEMBER 4, 1972

WASHINGTON, D.C.

Volume 37 ■ Number 214

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Title 5—ADMINISTRATIVE PERSONNEL

Chapter XI—U.S. Soldiers' and Airmen's Home

CHANGE IN TITLE

By action of the Secretary of Defense, copy enclosed,[1] the title of the U.S. Soldiers' Home has been changed to "United States Soldiers' and Airmen's Home," effective September 7, 1972. To effect this change the chapter heading is amended to read as set forth above, and wherever in the regulations the term "United States Soldiers' Home," appears the term "United States Soldiers' and Airmen's Home" should be inserted.

CHARLES F. DUPONT,
Lt. Colonel, USAF (Ret.), Secretary, Board of Commissioners, United States Soldiers' and Airmen's Home.

[FR Doc.72-18946 Filed 11-3-72;8:47 am]

Title 6—ECONOMIC STABILIZATION

Chapter III—Price Commission

PART 300—PRICE STABILIZATION

Acquisition and Divestitures of Entities; Correction

The document amending Part 300 of the regulations of the Price Commission and captioned "Acquisition and Divestitures of Entities," published in the FEDERAL REGISTER on October 4, 1972 (37 F.R. 20828) is corrected by substituting the words "including adjustment" for the words "or to allow a restatement" in § 300.355(a), and by substituting the words "legal person" for the words "legal entity" in § 300.375(a)(4).

(Economic Stabilization Act of 1970, as amended, Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92-210; Executive Order No. 11640, 37 F.R. 1213, January 27, 1972; Cost of Living Council Order No. 4, 36 F.R. 20202, October 16, 1971)

By direction of the Commission.

Issued in Washington, D.C., on November 2, 1972.

JAMES B. MINOR,
General Counsel, Price Commission.

[FR Doc.72-19038 Filed 11-3-72;8:53 am]

[1] Filed as part of the original document.

PART 305—PROCEDURAL REGULATIONS

Miscellaneous Amendments

The purpose of these amendments to §§ 305.37 and 305.38 of the regulations of the Price Commission is to provide needed procedural flexibility to set a hearing date for a reconsideration by the Commission and for the submission of a report of that hearing to the Commission, and to expand the applicability of § 305.38 to include requests for modification or rescission.

Since these amendments involve procedural rules of the Commission, further notice and public procedure thereon are unnecessary, and they may be adopted in less than 30 days after publication in the FEDERAL REGISTER.

(Economic Stabilization Act of 1970, as amended, Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92-210; Executive Order No. 11640, 37 F.R. 1213, January 27, 1972; Cost of Living Council Order No. 4, 36 F.R. 20202, October 16, 1971)

In consideration of the foregoing, Part 305 of Title 6 of the Code of Federal Regulations is amended as set forth below, effective November 2, 1972.

Issued in Washington, D.C., on November 2, 1972.

By direction of the Commission.

JAMES B. MINOR,
General Counsel, Price Commission.

1. Paragraph (a) of § 305.37 is amended by substituting the words "as expeditiously as possible after" for the words "within 10 days of" appearing in that paragraph.

2. Paragraph (d) of § 305.37 is amended by substituting the words "Where administratively feasible, within 10 days" for the words "Within 10 days" appearing at the beginning of that paragraph.

3. Section 305.38 is amended by adding the words "modification, or rescission," immediately after the word "reconsideration," appearing in the introductory clause of that section.

[FR Doc.72-19008 Filed 11-3-72;8:53 am]

Rulings—Internal Revenue Service, Department of the Treasury

[Price Commission Ruling 1972-272]

DETERMINING BASE RENT WHERE RENT PAYMENTS ARE FORGIVEN

Price Commission Ruling

Facts. On July 1, 1971, a tenant signs a 12-month lease for $100 per month. Possession is given on July 1, 1971, however, in consideration for having signed the lease, the $100 payments do not begin until September 1, 1971. On August 1, 1972, the landlord wishes to enter into a new lease on the residence for $100. Except for the 2½-percent authorized increase, no rent adjustments are authorized under Economic Stabilization Regulations, § 301.101, 37 F.R. 13226 (1972). The landlord does not intend to forgive the first month's rent; the payments begin on August 1, 1972.

Issue. May the landlord charge $100 under the new lease?

Ruling. No. Base rent is $85.71. Economic Stabilization Regulations, § 301.201, 37 F.R. 13226 (1972) indicates that base rent is the rent charged (converted to a monthly basis) in the most recent rent payment interval before August 15, 1971. Economic Stabilization Regulations, § 301.3, 37 F.R. 13226 (1972), relating to discounts in the case of forgiveness of any rent payment, gives the method for converting rent to a monthly basis. Under § 301.3 monthly rent so converted is $85.71

$$\frac{(12\times\$100)}{14}.$$

Thus, the rent charged in the most recent rent payment interval before August 15, 1971, is $85.71, and any increase beyond 2½ percent of base rent is unauthorized under the regulations.

This ruling has been approved by the General Counsel of the Price Commission.

LEE H. HENKEL, JR.,
Chief Counsel, Internal Revenue Service.

Approved: October 30, 1972.

SAMUEL R. PIERCE, JR.,
General Counsel, Department of the Treasury.

[FR Doc.72-18956 Filed 11-3-72;8:52 am]

[Price Commission Ruling 1972-273]

LOW PROFIT FIRM—SERVICE ORGANIZATION

Price Commission Ruling

Facts. P is a service organization. P also owns 100 percent interest in S and R. S is a service organization. R is a retailer. P, S, and R maintain consolidated financial statements on a calendar year basis. P produced revenues of $1 million in 1971. In the same year S produced revenues of $7 million and R produced $2 million. During its most recently ended fiscal year, S had a profit margin of less than 1 percent.

Issue. May the entity S or the group of entities P, S, and R, qualify for the

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service organization low-profit firm provisions of the Economic Stabilization Regulations?

Ruling. No. For the purposes of the low-profit provisions, the firm is considered to include the entities P, S, and R, and not the entity S standing alone.

Section 300.32(a) provides in part that "low profit firm" means any service organization which during its most recently ended fiscal year, obtained at least 90 percent of its revenues from the furnishing of services. Economic Stabilization Regulations, § 300.32(a), 37 F.R. 10943 (1972). Firm means any entity however organized, and includes any entity that is part of or is directly or indirectly controlled by the firm. Economic Stabilization Regulations, 6 CFR 101.2 (1972). In the present case, the firm is considered to include entities P, S, and R. Consequently, S may not qualify for low-profit treatment because it is not considered to be the firm. During the firm's most recently completed fiscal year only 80 percent of its revenues was obtained from furnishing services. Consequently, the firm does not qualify as a low-profit firm because it failed to obtain more than 90 percent of its revenues from services. However, a firm which does not qualify under § 300.31 or 300.32, but believes that its situation nevertheless warrants relief may apply for an exception.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: October 31, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: October 31, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-18957 Filed 11-3-72;8:53 am]

[Price Commission Ruling 1972-274]

EFFECT OF PARENT FIRM'S FAILURE TO PRENOTIFY A PRICE INCREASE BY A CONTROLLED SUBSIDIARY

Price Commission Ruling

Facts. Corporation A, a prenotification firm, is a manufacturer which controls two manufacturing subsidiaries, B and C. On June 1, 1972, Corporation A properly requested approval of the Price Commission to increase the prices of certain of the products manufactured and sold by subsidiary B. The Commission approved the request on June 15, 1972, but on July 1, 1972, before the approved price increases were put into effect, subsidiary C improperly increased prices without prenotification in violation of Economic Stabilization Regulations, 6 CFR 300.51(a) (1972).

Issue. Can subsidiary B increase its prices after July 1, 1972, pursuant to the Commission's approval of June 15, 1972?

Ruling. No. Economic Stabilization Regulations, § 300.53, 37 F.R. 13716 (1972) provides, among other things, that a person which fails to file a report or other document required by Economic Stabilization Regulations, 6 CFR 300.51 (1972) "may not implement any further price increases until he has complied with that reporting requirement and has obtained the specific approval of the Price Commission." Since the "person" which failed to prenotify the Commission, with respect to subsidiary C's price increases, was corporation A, it is the "person" to which § 300.53 applies and under that section, neither corporation A nor any of its subsidiaries may implement any further price increases until subsidiary C's increase has been properly prenotified and approved by the Commission and the Commission has approved other increases by the corporation. Further price increases are not authorized under § 300.53(a), until Commission approval is granted, even if they were previously approved by the Commission, but not yet instituted.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: November 1, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: November 1, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-18958 Filed 11-3-72;8:53 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 75—COMMUNICABLE DISEASES IN HORSES, ASSES, MULES, AND ZEBRAS

Release of Area Quarantined and Deletion of Provisions Relating to Venezuelan Equine Encephalomyelitis

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, and the Act of March 3, 1905, as amended (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126), Part 75, Title 9, Code of Federal Regulations, restricting the interstate movement of horses, asses, mules, and zebras, is hereby amended in the following respects:

In Part 75 the center heading "Venezuelan Equine Encephalomyelitis" and § 75.4 are deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126; 29 F.R. 16210, as amended, 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505)

Effective date. The foregoing amendment shall become effective upon issuance. However, this action does not affect any violation that occurred, liability that was incurred or right that accrued prior to said date.

The amendment excludes Texas from the areas quarantined because of Venezuelan equine encephalomyelitis, and terminates the notice relating to the existence of Venezuelan equine encephalomyelitis and/or the vector of said disease and the other provisions in § 75.4 providing for quarantine and restrictions upon the interstate movement of horses, asses, mules, and zebras from quarantined areas. No area in the United States remains under quarantine.

The amendment relieves certain restrictions presently imposed but no longer deemed necessary to prevent the spread of Venezuelan equine encephalomyelitis, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional information available to the Department. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 31st day of October 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-18969 Filed 11-3-72;8:52 am]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

Bank Acquisitions by Holding Companies

By order dated August 19, 1971, the Board delegated to the Reserve Banks authority to approve applications for the formation of one-bank holding companies, retaining exclusive authority to deny such applications. On August 20, 1971, by letter to the Reserve Banks, the Board established certain guidelines for the use of those Banks in exercising the authority delegated to them by the Board's order of August 19, 1971.

Thereafter, the Board received comments from various persons to the effect that the guidelines were being applied in a manner more restrictive than desirable and that the guidelines were having an undue adverse effect upon the transferability of bank stock. In order to explore these questions, the Board, by order of May 26, 1972, ordered that an oral presentation before available members of the Board be held on June 28, 1972. Upon consideration of material presented orally at that proceeding and through written submissions, the Board has decided to revise the guidelines and to incorporate them into the Board's rules regarding delegation of authority.

In adopting these guidelines, the Board emphasized that they are intended to expedite one-bank holding company formations by establishing general standards as set forth therein that will be used by a Reserve Bank under delegated authority to approve such applications. Applications not meeting such standards will be forwarded to the Board for further consideration. The Board noted that the standards as adopted are to be subject to continuing analysis and review. Amendments may be made if experience indicates that such changes are necessary or appropriate.

To accomplish this delegation, § 265.2 (f)(22) of the Board's rules regarding delegation of authority is amended to read as follows:

§ 265.2 Specific functions delegated to Board employees and Federal Reserve Banks.

* * * * *

(f) Each Federal Reserve Bank is authorized, as to member banks or other indicated organizations headquartered in its district:

* * * * *

(22) Under the provisions of section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842), to approve the acquisition by a company of a controlling interest in the voting shares of one bank, if all of the following conditions are met:

(i) No objection to the proposed acquisition has been made by the bank's supervisory authority,

(ii) No significant policy issue is raised by the proposal as to which the Board has not expressed its views,

(iii) Neither the holding company nor any of its subsidiaries or affiliates is engaged in any activities other than those specifically permissible for bank holding companies by either the Act or Part 225 of this chapter (Regulation Y),

(iv) Any offer to acquire shares of the bank will be extended to all shareholders of the same class on a substantially equal basis,[2]

(v) In the event any debt is incurred by the holding company to purchase shares of the bank: (*a*) The amount of the loan does not exceed 75 percent of the purchase price of the shares of the proposed subsidiary bank; (*b*) an agreed plan for amortization of the debt within a reasonable time exists, such period normally not exceeding 12 years; (*c*) the interest rate on any loan to purchase the bank shares will be comparable with other stock collateral loans by the lender to persons of comparable credit standing; (*d*) no compensating balances, specifically attributable to the loan, will be deposited in the lending institution and the amount of any correspondent account which the proposed subsidiary bank will maintain with the lending institution should not exceed the amount necessary to compensate the lending bank for correspondent services rendered by it to the proposed subsidiary bank; (*e*) the Reserve Bank determines that the managerial and financial resources including the equity capital accounts[3] of the proposed subsidiary bank are adequate, or will be adequate within a reasonable period of time after the bank is acquired, and any debt service requirements to which the proposed holding company may be subject are such as to enable it to maintain the capital adequacy of the proposed subsidiary bank in the foreseeable future.[4]

* * * * *

Effective date. This amendment is effective with respect to applications received by the Reserve Banks after the date of this order.

By order of the Board of Governors, October 30, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-18936 Filed 11-3-72;8:51 am]

[2] Less than all of the outstanding shares of the bank may be acquired provided that where a greater number of shares are tendered than are proposed to be purchased, the offeror will purchase the shares tendered on a pro rata basis (except for fractional interests) according to the number of shares tendered by each shareholder. Where an offer is not identical to all shareholders, the burden is on the applicant to demonstrate the substantial equivalence of the offers extended.

[3] The term "equity capital accounts" means capital stock, surplus, undivided profits, and reserves for contingencies, and other capital reserves.

[4] This delegation includes authority to approve (a) a merger transaction under the provisions of section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) and (b) an application, under section 9 of the Federal Reserve Act (12 U.S.C. 321), for membership in the Federal Reserve System that are incidental to an application to become a one-bank holding company.

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 72-CE-33-AD; Amdt. 39-1551]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna Models 336 and 337 Airplanes

AD 72-3-3 applicable to certain models of Cessna airplanes is an airworthiness directive which provides for modification of the flap actuator system and requires repetitive inspections and certain maintenance of the actuator jack screw until said modification is accomplished. This modification, which consists of an improved flap system developed by the manufacturer, eliminates any possibility of sudden flap retraction due to actuator malfunction and insures proper functioning of the electrical wing flap actuator. AD 72-3-3 is not applicable to Cessna Models 336 and 337 airplanes. It has now been determined that these airplanes have the same or similar unmodified flap system utilizing the same components as those airplanes to which AD 72-3-3 is applicable. Accordingly, in the interest of safety a new AD is being issued, applicable to Cessna Models 336 and 337 airplanes, which will require modification of the flap actuator system on or before April 1, 1973, in accordance with applicable manufacturer's service instructions and will impose repetitive inspection and maintenance requirements with respect to the actuator jack screw until the modification has been accomplished.

Since a situation exists which requires expeditious adoption of the amendment, notice and public procedure hereon are impracticable and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator 14 CFR 11.89 (31 F.R. 13697), § 39.13 of the Federal Aviation Regulations is amended by adding the following new AD.

CESSNA. Applies to Models 336 (Serial Nos. 336–0001 through 336–0195) and 337 (Serial Nos. 337–0001 through 337–0239) airplanes.

Compliance: Required as indicated, unless already accomplished.

To prevent inadvertent retraction of wing flap and to insure positive operation of the electrical wing flap actuators, accomplish the following:

A. On all aircraft with more than 100 hours' time in service, within the next 25 hours' time in service after the effective date of this AD, unless already accomplished within the previous 75 hours' time in service, and thereafter at intervals not to exceed 100 hours' time in service, visually inspect the actuator jack screw for condition of lubricant and presence of contamination and scale in accordance with the procedure described in Cessna Service Letter SE70-16, Supplement 1, dated July 10, 1970, or later FAA-approved revision. If any of the conditions prescribed in the inspection criteria are noted, prior to further flight, remove, clean and relubricate the actuator jack screw in accordance with Cessna Service Letter SE70-16, dated June 12, 1970, or later FAA-approved revision, or any equivalent procedure approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

B. On all aircraft with more than 500 hours' time in service, within the next 25 hours' time in service after the effective date of this AD, unless already accomplished within the previous 75 hours' time in service, remove, clean and relubricate the actuator jack screw in accordance with the procedure described in Cessna Service Letter SE70-16

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dated June 12, 1970, or later FAA-approved revision, or any equivalent procedure approved by Chief, Engineering and Manufacturing Branch, FAA, Central Region.

C In addition, on all aircraft at each annual inspection, or at intervals not to exceed 12 months, whichever occurs first, remove, clean and relubricate the actuator jack screw in accordance with the procedure described in Cessna Service Letter SE70-16, dated June 12, 1970, or later FAA-approved revision or any equivalent procedure approved by Chief, Engineering and Manufacturing Branch, FAA, Central Region.

NOTE: Cessna Servcie Letter SE70-16, Supplement 2, dated August 28, 1970, specified some brand names of Molybdenum Disulfide Grease.

D On or before April 1, 1973, modify the aircraft in accordance with Cessna Service Letter ME72-19, dated October 6, 1972, or later revisions. Equivalent methods of compliance with this paragraph must be approved by Chief, Engineering and Manufacturing Branch, FAA Central Region.

E Upon compliance with paragraph D, the requirements of paragraphs A, B, and C are no longer applicable.

NOTE: The agency recommends that the procedures for maintaining the flap system as specified in applicable Cessna Service Manuals be followed.

This amendment becomes effective November 10, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421 and 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on October 27, 1972.

JOHN M. CYROCKI,
Director, Central Region.

[FR Doc.72-18897 Filed 11-3-72;8:47 am]

[Docket No. 72-EA-108; Amdt. 39-1550]

PART 39—AIRWORTHINESS DIRECTIVES

Lycoming Aircraft Engines

The Federal Aviation Administration is amending § 39.13 of the Federal Aviation Regulations so as to amend AD 71-5-2 applicable to Lycoming IO-360-A type aircraft engines.

In the process of revising AD 71-5-2 by Amendment 39-1537, a reference to -C series engines was inadvertently omitted from the applicability statement. This reference had been in the original AD.

Since the foregoing amendment will merely correct an obvious omission, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697) § 39.13 of the Federal Aviation Regulations is amended so as to amend AD 71-5-2 as follows:

1. In the applicability statement after the figures "IO-360-A" add the following "and -C".

This amendment is effective upon publication in the FEDERAL REGISTER (11-4-72).

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on October 27, 1972.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.72-18896 Filed 11-3-72;8:46 am]

[Airspace Docket No. 72-NW-08]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On August 23, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 16979) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Walla Walla, Wash., transition area.

Interested persons were given 30 days in which to submit written comments. No objections to the proposed amendment were received.

In consideration of the foregoing, the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective at 0901 G.m.t., January 4, 1973.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Seattle, Wash., on October 25, 1972.

C. B. WALK, JR.,
Director, Northwest Region.

In § 71.181 (37 F.R. 2143) the description of the Walla Walla, Wash., Transition Area is amended as follows:

In the first line of the text, between the phrase, "* * * 700 feet above the surface * * *", and the phrase, "* * * within 5 miles southeast * * *", insert the following: within 4 miles each side of the Walla Walla VOR 036° radial, extending from the VOR to 16 miles northeast;"

[FR Doc.72-18898 Filed 11-3-72;8:47 am]

[Airspace Docket No. 72-RM-13]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

On September 23, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 20040) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the descriptions of the Brookings, S. Dak., Control Zone and Transition Area.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendments are hereby adopted without change.

Effective date. These amendments shall be effective 0901 G.m.t., January 4, 1973.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Aurora, Colo., on October 27, 1972.

M. M. MARTIN,
Director, Rocky Mountain Region.

In § 71.171 (37 F.R. 2056) the description of the Brookings, S. Dak., control zone is amended to read:

BROOKINGS, S. DAK.

That airspace within a 5-mile radius of Brookings, S. Dak., Municipal Airport (latitude 44°18'12" N., longitude 96°48'40" W.); within 2.5 miles each side of the Brookings VOR 316° radial extending from the 5-mile-radius zone to 7 miles northwest of the VOR and within 2.5 miles each side of the Brookings VOR 118° radial extending from the 5-mile-radius zone to 8.5 miles southeast of the VOR. This control zone is effective during the specific dates and times established in advance by a notice to airmen. The effective dates and times will thereafter be continuously published in the Airman's Information Manual.

In § 71.181 (37 F.R. 2143) the description of the Brookings, S. Dak., transition area is amended to read:

BROOKINGS, S. DAK.

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the Brookings, S. Dak., Municipal Airport (latitude 44°18'12" N., longitude 96°48'40" W.); within 4.5 miles northeast and 9.5 miles southwest of the Brookings VOR 316° radial extending from the 9.5-mile-radius area to 18.5 miles northwest of the VOR; within 9.5 miles southwest of the Brookings VOR 300° radial extending from the 9.5-mile-radius area to 18.5 miles northwest of the VOR and that airspace extending upward from 1,200 feet above the surface within 4.5 miles southwest and 9.5 miles northeast of the Brookings VOR 118° radial extending from the 9.5-mile-radius area to 18.5 miles southeast of the VOR.

[FR Doc.72-18899 Filed 11-3-72;8:47 am]

Title 49—TRANSPORTATION

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 71-23; Notice No. 2]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

New Pneumatic Tires; Labeling Requirements

The purpose of this notice is to amend Motor Vehicle Safety Standard No. 109, "New Pneumatic Tires," to require safety labeling information to be placed on the tire between the maximum section width and the bead, in order that this information can be retained on the casing if the tire is retreaded. A notice of proposed rule making regarding this subject was issued on December 21, 1971 (36 F.R. 24824).

A majority of the comments received in response to the notice agreed with the intent of the proposed amendment. However, objections were raised to the proposed requirement that the labeling information be located between the maximum section width and the bead on both sidewalls. The comments indicated that the use of whitewall designs limited the area between the section width and the bead, and that as a consequence certain labeling information is placed between the maximum section width and the shoulder area to comply with the labeling requirements of Standard No. 109. Placing the information between maximum section width and bead on both sidewalls would evidently require the redesigning both of molds and lines of tires.

The agency has concluded after review of the information submitted to the docket that all labeling information should be located on both sidewalls of the tires as presently required by Standard No. 109. However, in response to the objections to the proposed requirements, only one sidewall is required to have the labeling information between the maximum section width and the bead. This will still allow information to be retained on casings so that retreaders need not relabel tires in meeting the requirements of Standard No. 117 (49 CFR 571.117).

In light of the above, Paragraph S4.3 of Motor Vehicle Safety Standard No. 109, "New Pneumatic Tires," § 571.109 of Title 49, Code of Federal Regulations, is amended to read as follows:

S4.3 *Labeling requirements.* Except as provided in S4.3.1 and S4.3.2, each tire shall have permanently molded into or onto both sidewalls, in letters and numerals not less than three thirty-seconds of an inch high, the information shown below in (a) through (g). On at least one sidewall, the information shall be positioned in an area between the maximum section width and bead of the tire. However, in no case shall the information be positioned on the tire so that it is obstructed by the flange of any rim designated for use with that tire in Standard Nos. 109 and 110 (sections 571.109 and 571.110 of this part).

(a) One size designation, except that equivalent inch and metric size designations may be used;

(b) Maximum permissible inflation pressure;

(c) Maximum load rating;

(d) The generic name of each cord material used in the plies (both sidewall and tread area) of the tire;

(e) Actual number of plies in the sidewall, and the actual number of plies in the tread area if different;

(f) The words "tubeless" or "tube type" as applicable; and

(g) The word "radial" if the tire is a radial ply tire.

Effective date: July 1, 1973.

(Secs. 103, 112, 113, 114, 119, 201, National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1401, 1402, 1403, 1407, 1421, and the delegation of authority at 49 CFR 1.51)

Issued on October 31, 1972.

CHARLES H. HARTMAN,
Acting Administrator.

[FR Doc.72-18962 Filed 11-2-72;8:45 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER A—GENERAL

PART 3—STATEMENT OF GENERAL POLICY OR INTERPRETATION

Hexachlorophene as a Component in Drug and Cosmetic Products for Human Use

In the FEDERAL REGISTER of September 27, 1972 (37 F.R. 20160), the Commissioner of Food and Drugs published a statement of general policy or interpretation § 3.91 *Hexachlorophene, as a component of drug and cosmetic products.*

Paragraph (f) of § 3.91 states that the "* * * Quantitative declaration of hexachlorophene content on the labeling of products, where required, shall be on a w/w basis. For aerosol products, the declaration will be independent of the propellent."

At the request of some manufacturers of aerosol products containing hexachlorophene this paragraph was reconsidered. Since it has been shown that the amount of hexachlorophene delivered to the skin depends upon the content of hexachlorophene when considered on a total weight-in-weight basis and that no more hexachlorophene will be delivered to the body by an aerosol product than by any other topical product of equivalent hexachlorophene content when their respective directions for use are followed, the Commissioner concludes that the method of determining the amount of active ingredient in aerosol products should be on a total weight-in-weight basis including the propellent.

At the request of representatives of several consumer interest groups, the provisions of § 3.91 allowing continued limited use of hexachlorophene as a preservative at levels not to exceed 0.1 percent in drug and cosmetic products packaged in aerosol containers were also reconsidered. The Commissioner concludes, based upon current benefit to risk ratio, that hexachlorophene is not necessary as a preservative in any drug and/or cosmetic products, which in normal use may be applied to mucous membranes or which are intended to be used on mucous membranes, e.g., chapsticks, feminine hygiene sprays, rectal ointments, and that § 3.91 should be revised as set forth below to exclude further continued use of hexachlorophene as a preservative in such products.

Accordingly, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 502 (a), (f), (j), 503(b), 505, 601(a), 602 (a), (c), 701(a), 52 Stat. 1041, 1050–1055 as amended; 21 U.S.C. 321(n), 352 (a), (f), (j), 353(b), 355, 361(a), 362 (a), (c), 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), § 3.91 is amended by revising subparagraph (5) of paragraph (c), the first sentence of paragraphs (d) and (e) and paragraph (f) to read as follows:

§ 3.91 Hexachlorophene, as a component of drug and cosmetic products.

* * * * * *

(c) *Prescription drugs.* * * *

(5) Prescription drug products may contain hexachlorophene only as part of an effective preservative system under the conditions and limitations provided for under paragraph (d) of this section.

(d) *Over-the-counter (OTC) drugs.* Over-the-counter drug products, other than those which in normal use may be applied to mucous membranes or which are intended to be used on mucous membranes, may contain hexachlorophene only as part of an effective preservative system, at a level that is no higher than necessary to achieve the intended preservative function, and in no event higher than 0.1 percent. * * *

(e) *Cosmetics.* Hexachlorophene may be used as a preservative in cosmetic products other than those which in normal use may be applied to mucous membranes or which are intended to be used on mucous membranes, at a level that is no higher than necessary to achieve the intended preservative function, and in no event higher than 0.1 percent. * * *

(f) *Content statement.* All reference to hexachlorophene limit in this order is on a weight-in-weight (w/w) basis. Quantitative declaration of hexachlorophene content on the labeling of the products, where required, shall be on a w/w basis.

* * * * * *

Effective date. This order shall become effective upon publication in the FEDERAL REGISTER (11-4-72).

(Secs. 201(n), 502(a), (f), (j), 503(b), 505, 601(a), 602(a), (c), 701(a), 52 Stat. 1041, 1050-1055 as amended; 21 U.S.C. 321(n), 352 (a), (f), (j), 353(b), 355, 361(a), 362 (a), (c), 371(a))

Dated: October 31, 1972.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.72-18855 Filed 11-3-72;8:49 am]

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SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

ADHESIVES

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 2B2776) filed by E. I. du Pont de Nemours & Co., 1007 Market Street, Wilmington, DE 19898, and other relevant material, concludes that the food additive regulations should be amended, as set forth below, to provide for use of fumaratochromium (III) nitrate as a component of food packaging adhesives.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner, 21 CFR 2.120, § 121.2520(c)(5) is amended by alphabetically inserting in the list of substances a new item, as follows:

§ 121.2520 Adhesives.

* * * * * * *

(c) * * *

(5) * * *

COMPONENTS OF ADHESIVES

Substances	*Limitations*
* * *	* * *
Fumaratochromium (III) nitrate	
* * *	* * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (11-4-72).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: October 30, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-18909 Filed 11-3-72;8:47 am]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

TEXTILES AND TEXTILE FIBERS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 2B2730) filed by Celanese Fibers Marketing Co., c/o TRW/Hazleton Laboratories, 9200 Leesburg Turnpike, Vienna, VA 22180, and other relevant material, concludes that the food additive regulations should be amended as set forth below to provide for the safe use of polyethylene terephthalate fibers and of 4-ethyl-4-hexadecyl morpholinium ethyl sulfate as a lubricant in the manufacture of polyethylene terephthalate textile and textile fibers used as articles or components of articles intended for use in contact with food.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2535(d)(5) (i) and (ii) are amended by alphabetically inserting the following new items:

§ 121.2535 Textiles and textile fibers.

* * * * * *

(d) * * *

(5) * * *

List of substances	*Limitations*
(i) fibers:	
* * *	* * *
Polyethylene terephthalate complying in composition with the provisions of § 121.2524(d)(4)(i).	For use only in the manufacture of items for repeated use.
* * *	* * *
(ii) Adjuvant substances:	
* * *	* * *
4-Ethyl-4-hexadecyl morpholinium ethyl sulfate.	For use only as a lubricant in the manufacture of polyethylene terephthalate fibers specified in subdivision (i) above at a level not to exceed 0.03 percent by weight of the finished fibers.
* * *	* * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (11-4-72).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: October 30, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-18908 Filed 11-3-72;8:47 am]

SUBCHAPTER C—DRUGS

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Combination Antibiotic Drugs Used in Animal Feeds No Longer Sanctioned; Stay of Effective Date

An order was published in the FEDERAL REGISTER of October 7, 1972 (37 F.R. 21279), establishing a new section, § 135e.1000 *Combination antibiotic drugs in animal feeds no longer sanctioned.* The order became effective upon publication on October 7, 1972.

The Commissioner of Food and Drugs has been informed that there appears to be errors in the drug listing under § 135e.1000(c) and has received a request to allow 30 days for interested parties to report errors to the Food and Drug Administration.

Accordingly, good reason therefor appearing, the Commissioner is staying the order of October 7, 1972, and inviting interested parties who find what they believe to be errors in the listing to submit such in written comment to the Bureau of Veterinary Medicine (VM-100), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852, within 30 days after date of publication of this order in the FEDERAL REGISTER.

The effective date of the October 7, 1972 order is hereby stayed until Monday, December 4, 1972.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-351; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: October 30, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-18910 Filed 11-3-72;8:47 am]

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter X—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

In the entry to the table in 24 CFR 1914.4 which was published in the FEDERAL REGISTER on October 17, 1972, at 37 F.R. 21937, the unincorporated areas of Montgomery County, Md., were listed as eligible for the sale of flood insurance under the National Flood Insurance Program effective October 13, 1972. The entry was incomplete in that it did not list other communities in Montgomery County, Md., which also became eligible for the sale of flood insurance on October 13, 1972. Hereinbelow is the complete entry for Montgomery County, Md., as it should have appeared in the October 17, 1972, entry. The complete entry reads as follows:

§ 1914.4 Status of participating communities.

* * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Maryland	Montgomery	Takoma Park, Brookville, Chevy Chase Village, Garrett Park, Glen Echo, Kensington, Somerset, Village of Chevy Chase Section IV, and unincorporated areas.				Oct. 13, 1972, Emergency.
* * *	* * *	* * *	* * *	* * *	* * *	* * *

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: October 31, 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.72-18977 Filed 11-3-72;8:52 am]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

Communities With Special Hazard Areas

In the entry to the table in 24 CFR 1915.3 which was published in the FEDERAL REGISTER on October 17, 1972, at 37 F.R. 21938, the unincorporated areas of Montgomery County, Md., were designated as a flood plain area having special flood hazards effective October 13, 1972. The entry was incomplete in that it did not list the other communities in Montgomery County, Md., which were also designated as flood plain areas having special flood hazards on October 13, 1972. Hereinbelow is the complete entry for Montgomery County, Md., as it should have appeared in the October 17, 1972, entry. The complete entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Maryland	Montgomery	Takoma Park, Brookville, Chevy Chase Village, Garrett Park, Glen Echo, Kensington, Somerset, Village of Chevy Chase Section IV, and unincorporated areas.				Oct. 13, 1972.
* * *	* * *	* * *	* * *	* * *	* * *	* * *

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: October 31, 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.72-18978 Filed 11-3-72;8:52 am]

V37-214 NOV 4 72 XUM

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

[CGD 72-96 R]

PART 92—ANCHORAGE AND NAVIGATION REGULATIONS; ST. MARYS RIVER, MICH.

Speed Limits for Vessels of 50 Gross Tons or Over

This amendment establishes permanent speed limits for the St. Marys River in Part 92 of Title 33 of the Code of Federal Regulations.

This amendment is based on a notice of proposed rule making published in the Wednesday, June 7, 1972, issue of the FEDERAL REGISTER (37 F.R. 11342), and public hearings held at Cleveland, Ohio, on July 6, 1972, and at Sault Ste. Marie, Mich., on July 12, 1972.

At the public hearing held in Cleveland, Ohio, on July 6, 1972, five (5) persons attended. Comments were received from a representative of the Lake Carriers' Association to the effect that the establishment of permanent speed regulations as proposed would not accrue the intended results; would unwarrantably restrict the navigation of commercial vessels; and under adverse conditions may jeopardize the safety of such vessels with possible adverse environmental impact on the adjacent surroundings. It was further stated that the Lake Carriers' Association believes that this further abridgement of reasonable access by users of the waterway is not warranted and urged that the present method of flexibility in the adjustment of speed regulations on the St. Marys River be continued. It was recommended by the representative of the Lake Carriers' Association that an unbiased organization be commissioned to study the problem.

A representative of the Great Lakes and Rivers District Masters, Mates and Pilots supported the stand taken by the Lake Carriers' Association.

The proposed regulations authorizes the Commander, Ninth Coast Guard District to establish, raise, lower, or otherwise amend the speed regulations. In exercising this authority, the District Commander will consider all interests affected by the speed of vessels, including the mariner as well as the protection of the property of riparian owners.

At the public hearing held in Sault Ste. Marie, Mich., on July 12, 1972, approximately 100 persons attended. Representatives of the marine transportation industry objected to making the lower temporary speeds permanent feeling that they would be permanently penalized since the reduced speeds were established as a result of high water which history indicates is of a temporary nature. The high water has existed for the past few years and it has been necessary to impose temporary speed limits in an effort to reduce damage to littoral property. The safe navigation of large commercial vessels transiting areas of changing river currents as well as the efficient utilization of the waterway were considered. The proposed regulations provide that the Commander, Ninth Coast Guard District may establish, raise, or lower the speed limits on the St. Marys River should future needs require such change.

All of the property owners who testified recommended that the proposed speed limits be adopted, and in some instances, recommended a lower-speed limit.

Several pilot organizations commented that the regulations should contain a provision to the effect that when conditions of good seamanship indicate, a departure from the prescribed speed limits is authorized. These recommendations were not adopted. The Coast Guard, in processing violation cases, takes into consideration all aspects of each case including unusual conditions and circumstances which might require a pilot to exceed the speed limit on occasion to maintain control of his vessel. The Coast Guard has the authority to close such cases without action and remit or mitigate any penalties involved.

Three comments were submitted to the effect that the $200 penalty assessment for violation of the speed limits was ineffective and should be substantially increased. This suggestion cannot be adopted as the $200 penalty is prescribed by statute and not by regulation.

Eight comments were submitted recommending that the speed limits apply to pleasure craft as well as vessels of 50 gross tons or over. Since this proposal was not contained in the original notice of proposed rule making, the Coast Guard will consider this amendment by separate rule making action.

The notice of proposed rule making recommended that various speed limits be established for the entire St. Marys River from Point Iroquois to Point De Tour.

Based on comments received at the public hearings and observations by Coast Guard personnel, some of the areas in the original proposal have been deleted as no erosion problems exist in these areas. These include the areas in Lake Munuscong between Point Aux Frenes and Buoy Lt 9 off Winter Point and between Point Aux Frenes and Buoy R–8. Also deleted was the proposed speed limit between Sweets Island and Round Island. Additionally, the proposed speed limit has been terminated at Point Louise instead of Point Iroquois.

The representative of the upper Great Lakes pilots objected to the proposed speed limit of 14 m.p.h. between Round Island and Lake Munuscong Lighted Bell Buoy. He pointed out that this was an area of relative open water which is an ideal place for vessels to pass.

In view of these comments, the proposal has been amended so that the 14-m.p.h. speed limit will apply only between Round Island and Point Aux Frenes.

The Upper Great Lakes pilots representative further objected to the fact that, under the proposal, a vessel would be required to reduce speed from 12 m.p.h. to 10 m.p.h. at Light 33 Downbound just when a vessel is maneuvering for a left turn into the narrower and swifter waters of Rock Cut. At the public hearing the residents of the shore in this area, as well as residents along the shore from Nine-Mile Point to Light 33 complained of the wake damage caused by passing vessels.

In view of these comments the amendment has been changed from the proposal so that the 10 m.p.h. speed limit in the Downbound channel will apply from Nine-Mile Point to West Neebish Channel Light 10 off Winter Point.

An additional comment was made by the Upper Great Lakes pilots representative regarding the establishment of a 10 m.p.h. speed limit between Nine-Mile Point and Six-Mile Point. It is pointed out that the temporary speed limit in this area is presently 10 m.p.h. imposed because of the extreme high water and the resulting wake damage along the shoreline based on comments received and observations made by the Coast Guard.

A 15 m.p.h. speed limit was proposed between Buoy R–2 in Lake Munuscong and Everens Point and a 9 m.p.h. speed limit between Everens Point and Johnson Point. In accordance with comments received, the amendment has been changed from the proposal to establish a 12 m.p.h. speed limit between Buoy R–8 and Everens Point to allow vessels to slow down prior to entering the 9 m.p.h. speed zone at Everens Point. This will decrease the chances of wake damage in this area.

In consideration of the foregoing, §§ 92.49 and 92.53 of Part 92 of Title 33 of the Code of Federal Regulations are amended to read as follows:

§ 92.49 Speed limits for vessels of 50 gross tons or over.

(a) The speed limits in paragraphs (b), (c), and (d) of this section are in statute miles per hour over the ground. The speed limits may not be exceeded by any upbound or downbound vessel of 50 gross tons or over.

(b) Detour Reef Light to Point Aux Frenes: The speed limit between—

(1) Detour Reef Light and Sweets Point is 17 miles per hour; and

(2) Round Island Light and Point Aux Frenes is 14 miles per hour.

(c) Munuscong Channel Lighted Buoy 8 to Lake Nicolet Light 80: The speed limit between—

(1) Munuscong Channel Buoy 8 and Munuscong Channel Buoy 14 is 12 miles per hour;

(2) Munuscong Channel Buoy 14 and Munuscong Channel Buoy 26 is 9 miles per hour;

(3) Munuscong Channel Buoy 26 and Lake Nicolet Lighted Buoy 62 is 10 miles per hour; and

(4) Lake Nicolet Lighted Buoy 62 and Lake Nicolet Light 80 is 12 miles per hour.

(d) Lake Nicolet Light 80 and West Neebish Channel Light 10: The speed limit between Lake Nicolet Light 80 and West Neebish Channel Light 10 is 10 miles per hour;

(e) Lake Nicolet Light 80 to Point Louise: The speed limit between—

(1) Lake Nicolet Light 80 and Six-Mile Point Range Rear Light is 10 miles per hour;

(2) Six-Mile Point Range Rear Light and the lower limit of the St. Marys Falls Canal is 8 miles per hour for upbound vessels and 10 miles per hour for downbound vessels; and

(3) The upper limit of the St. Marys Falls Canal and Point Louise is 12 miles per hour.

(f) The Commander, Ninth Coast Guard District may establish, raise, lower, or otherwise amend speed limit regulations on the St. Marys River. In exercising this authority, the District Commander considers all interests affected by the speed of vessels in the river, including the protection of the property of riparian owners. The regulations issued by the Commander, Ninth Coast Guard District are published in the FEDERAL REGISTER and in the Notice to Mariners.

§ 92.53 [Deleted]

(Secs. 1–3, 29 Stat. 54, as amended, sec. 6(b), 80 Stat. 937; 33 U.S.C. 474, 49 U.S.C. 1655(b); 49 CFR 1.46(b))

Effective date: This amendment becomes effective on December 1, 1972.

Dated: November 1, 1972.

C. R. BENDER,
Admiral, U.S. Coast Guard, Commandant.

[FR Doc.72-18959 Filed 11-3-72;8:51 am]

[CGD 72 217R]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Three Mile Creek, Ala.

This amendment adds regulations for the Southern Railway drawbridge across Three Mile Creek, mile 1.1 to permit the draw to remain closed to the passage of vessels from November 15, 1972, through January 13, 1973. The draw is presently required to open if at least 5-days notice has been given. This closure is required to permit necessary repairs.

This rule is issued without notice of proposed rule making. The Coast Guard has found that good cause exists for taking this action on the basis that it would be contrary to the public interest to delay this work.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding a subparagraph (i) to subparagraph (20) of paragraph (i) of § 117.245 to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(i) * * *

(20) * * *

(i) From November 15, 1972, through January 13, 1973, the draw need not open for the passage of vessels.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Effective date. This revision shall become effective from November 15, 1972, through January 13, 1973.

Dated: November 1, 1972.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.72-18960 Filed 11-3-72;8:50 am]

Title 40—PROTECTION OF THE ENVIRONMENT

Chapter I—Environmental Protection Agency

[EPA Order 1360.1]

PART 11—SECURITY CLASSIFICATION REGULATIONS PURSUANT TO EXECUTIVE ORDER 11652

A new Part 11 is added to Title 40 of the Code of Federal Regulations to implement Executive Order 11652 (37 F.R. 5209, March 10, 1972) and the National Security Council Directive of May 17, 1972 (37 F.R. 10053, May 19, 1972), pertaining to classification and declassification of national security information and material. This part establishes procedures for employees of the Environmental Protection Agency.

These regulations have been approved by the Interagency Classification Review Committee as required by Executive Order 11652 and National Security Council Directive of May 17, 1972. The regulations as set forth below, are effective June 1, 1972, in compliance with Executive Order 11652.

WILLIAM D. RUCKELSHAUS,
Administrator.

OCTOBER 30, 1972.

Sec.
11.1 Purpose.
11.2 Background.
11.3 Responsibilities.
11.4 Definitions.
11.5 Procedures.
11.6 Access by Historical Researchers and Former Government Officials.

AUTHORITY: The provisions of this Part 11 issued pursuant to Executive Order 11652 (37 F.R. 5209, March 10, 1972) and the National Security Directive of May 17, 1972 (37 F.R. 10053, May 19, 1972).

§ 11.1 Purpose.

These regulations establish policy and procedures governing the classification and declassification of national security information. They apply also to information or material designated under the Atomic Energy Act of 1954, as amended, as "Restricted Data," or "Formerly Restricted Data" which, additionally, is subject to the provisions of the Act and regulations of the Atomic Energy Commission.

§ 11.2 Background.

While the Environmental Protection Agency does not have the authority to originally classify information or material in the interest of the national security, it may under certain circumstances downgrade or declassify previously classified material or generate documents incorporating classified information properly originated by other agencies of the Federal Government which must be safeguarded. Agency policy and procedures must conform to applicable provisions of Executive Order 11652, and the National Security Council Directive of May 17, 1972, governing the safeguarding of national security information.

§ 11.3 Responsibilities.

(a) Classification and Declassification Committee: This committee, appointed by the Administrator, has the authority to act on all suggestions and complaints with respect to EPA's administration of this order. It shall establish procedures to review and act within 30 days upon all applications and appeals regarding requests for declassification. The Administrator, acting through the committee, shall be authorized to overrule previous determinations in whole or in part when, in its judgment, continued protection is no longer required. If the committee determines that continued classification is required under section 5(B) of Executive Order 11652, it shall promptly so notify the requester and advise him that he may appeal the denial to the Interagency Classification Review Committee.

(b) Director, Security and Inspection Division, Office of Administration: The Director, Security and Inspection Division, is responsible for the overall management and direction of a program designed to assure the proper handling and protection of classified information, and that classified information in the

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Agency's possession bears the appropriate classification markings. He also will assure that the program operates in accordance with the policy established herein, and will serve as Secretary of the Classification and Declassification Committee.

(c) Assistant Administrators, Regional Administrators, Heads of Staff Offices, Directors of National Environmental Research Centers are responsible for designating an official within their respective areas who shall be responsible for:

(1) Serving as that area's liaison with the Director, Security and Inspection Division, for questions or suggestions concerning security classification matters.

(2) Reviewing and approving, as the representative of the contracting offices, the DD Form 254, Contract Security Classification Specification, issued to contractors.

(d) Employees:

(1) Those employees generating documents incorporating classified information properly originated by other agencies of the Federal Government are responsible for assuring that the documents are marked in a manner consistent with security classification assignments.

(2) Those employees preparing information for public release are responsible for assuring that such information is reviewed to eliminate classified information.

(3) All employees are responsible for bringing to the attention of the Director, Security and Inspection Division, any security classification problems needing resolution.

§ 11.4 Definitions.

(a) *Classified information.* Official information which has been assigned a security classification category in the interest of the national defense or foreign relations of the United States.

(b) *Classified material.* Any document, apparatus, model, film, recording, or any other physical object from which classified information can be derived by study, analysis, observation, or use of the material involved.

(c) *Marking.* The act of physically indicating the classification assignment on classified material.

(d) *National security information.* As used in this order this term is synonymous with "classified information." It is any information which must be protected against unauthorized disclosure in the interest of the national defense or foreign relations of the United States.

(e) *Security classification assignment.* The prescription of a specific security classification for a particular area or item of information. The information involved constitutes the sole basis for determining the degree of classification assigned.

(f) *Security classification category.* The specific degree of classification (Top Secret, Secret or Confidential) assigned to classified information to indicate the degree of protection required.

(1) *Top Secret.* Top Secret refers to national security information or material which requires the highest degree of protection. The test for assigning Top Secret classification shall be whether its unauthorized disclosure could reasonably be expected to cause exceptionally grave damage to the national security. Examples of "exceptionally grave damage" include armed hostilities against the United States or its allies; disruption of foreign relations vitally affecting the national security; the compromise of vital national defense plans or complex cryptologic and communications intelligence systems; the revelation of sensitive intelligence operations; and the disclosure of scientific or technological developments vital to national security. This classification shall be used with the utmost restraint.

(2) *Secret.* Secret refers to that national security information or material which requires a substantial degree of protection. The test for assigning Secret classification shall be whether its unauthorized disclosure could reasonably be expected to cause serious damage to the national security. Examples of "serious damage" include disruption of foreign relations significantly affecting the national security; significant impairment of a program or policy directly related to the national security; revelation of significant military plans or intelligence operations; and compromise of scientific or technological developments relating to national security. The classification Secret shall be sparingly used.

(3) *Confidential.* Confidential refers to that national security information or material which requires protection. The test for assigning Confidential classification shall be whether its unauthorized disclosure could reasonably be expected to cause damage to the national security.

§ 11.5 Procedures.

(a) *General.* Agency instructions on access, marking, safekeeping, accountability, transmission, disposition, and destruction of classification information and material will be found in the EPA Security Manual for Safeguarding Classified Material. These instructions shall conform with the National Security Council Directive of May 17, 1972, governing the classification, downgrading, declassification, and safeguarding of National Security Information.

(b) *Classification.* (1) When information or material is originated within EPA and it is believed to require classification, the person or persons responsible for its origination shall protect it in the manner prescribed for protection of classified information. The information will then be transmitted under appropriate safeguards to the Director, Security and Inspection Division, who will forward it to the department having primary interest in it with a request that a classification determination be made.

(2) A holder of information or material which incorporates classified information properly originated by other agencies of the Federal Government shall observe and respect the classification assigned by the originator.

(3) If a holder believes there is unnecessary classification, that the assigned classification is improper, or that the document is subject to declassification, he shall so advise the Director, Security and Inspection Division, who will be responsible for obtaining a resolution.

(c) *Downgrading and declassification.* Classified information and material officially transferred to the Agency during its establishment, pursuant to Reorganization Plan No. 3 of 1970, shall be declassified in accordance with procedures set forth below. Also, the same procedures will apply to the declassification of any information in the Agency's possession which originated in departments or agencies which no longer exist, except that no declassification will occur in such cases until other departments having an interest in the subject matter have been consulted. Other classified information in the Agency's possession may be downgraded or declassified by the official authorizing its classification, by a successor in capacity, or by a supervisory official of either.

(1) *General Declassification Schedule*—(i) *Top Secret.* Information or material originally classified Top Secret shall become automatically downgraded to Secret at the end of the second full calendar year following the year in which it was originated, downgraded to Confidential at the end of the fourth full calendar year following the year in which it was originated, and declassified at the end of the 10th full calendar year following the year in which it was originated.

(ii) *Secret.* Information and material originally classified Secret shall become automatically downgraded to Confidential at the end of the second full calendar year following the year in which it was originated, and declassified at the end of the eighth full calendar year following the year in which it was originated.

(iii) *Confidential.* Information and material originally classified Confidential shall become automatically declassified at the end of the sixth full calendar year following the year in which it was originated.

(2) *Exemption from the General Declassification Schedule.* Information or material classified before June 1, 1972, assigned to Group 4 under Executive Order No. 10501, as amended, shall be subject to the General Declassification Schedule. All other information or material classified before June 1, 1972, whether or not assigned to Groups 1, 2, or 3, of Executive Order No. 10501, as amended, shall be excluded from the General Declassification Schedule. However, at any time after the expiration of 10 years after the date of origin it shall be subject to a mandatory classification review and disposition in accordance with the following criteria and conditions:

(i) It shall be declassified unless it falls within one of the following criteria:

(a) Classified information or material furnished by foreign governments or international organizations and held by the United States on the understanding that it be kept in confidence.

(b) Classified information or material specifically covered by statute, or pertaining to cryptography, or disclosing intelligence sources or methods.

(c) Classified information or material disclosing a system, plan, installation, project, or specific foreign relations matter, the continuing protection of which is essential to the national security.

(d) Classified information or material the disclosure of which would place a person in immediate jeopardy.

(ii) *Mandatory review of exempted material.* All classified information and material originated after June 1, 1972, which is exempted under any of the above criteria shall be subject to a classification review by the originating department at any time after the expiration of 10 years from the date of origin provided:

(a) A department or member of the public requests a review;

(b) The request describes the document or record with sufficient particularity to enable the department to identify it; and

(c) The record can be obtained with a reasonable amount of effort.

(d) Information or material which no longer qualifies for exemption under any of the above criteria shall be declassified. Information or material which continues to qualify under any of the above criteria shall be so marked, and, unless impossible, a date for automatic declassification shall be set.

(iii) All requests for "mandatory review" shall be directed to:

Director, Security and Inspection Division, Environmental Protection Agency, Washington, D.C. 20460.

The Director, Security and Inspection Division shall promptly notify the action office of the request, and the action office shall immediately acknowledge receipt of the request in writing.

(iv) *Burden of proof for administrative determinations.* The burden of proof is on the originating Agency to show that continued classification is warranted within the terms of this subparagraph (2).

(v) *Availability of declassified material.* Upon a determination under subdivision (ii) of this subparagraph, that the requested material no longer warrants classification, it shall be declassified and made promptly available to the requester, if not otherwise exempt from disclosure under section 552(b) of title 5 U.S.C. (Freedom of Information Act) or other provision of law.

(vi) *Classification review requests.* As required by subdivision (ii) of this subparagraph of this order, a request for classification review must describe the document with sufficient particularity to enable the Department or Agency to identify it and obtain it with a reasonable amount of effort. Whenever a request is deficient in its description of the record sought, the requester should be asked to provide additional identifying information whenever possible. Before denying a request on the ground that it is unduly burdensome, the requester should be asked to limit his request to records that are reasonably obtainable. If nonetheless the requester does not describe the records sought with sufficient particularity, or the record requested cannot be obtained with a reasonable amount of effort, the requester shall be notified of the reasons why no action will be taken and of his right to appeal such decision.

§ 11.6 Access by historical researchers and former Government officials.

(a) Access to classified information or material may be granted to historical researchers or to persons who formerly occupied policymaking positions to which they were appointed by the President: *Provided, however,* That in each case the head of the originating Department shall:

(1) Determine that access is clearly consistent with the interests of the national security; and

(2) Take appropriate steps to assure that classified information or material is not published or otherwise compromised.

(b) Access granted a person by reason of his having previously occupied a policymaking position shall be limited to those papers which the former official originated, reviewed, signed, or received while in public office, except as related to the "Declassification of Presidential Papers," which shall be treated as follows:

(1) *Declassification of Presidential Papers.* The Archivist of the United States shall have authority to review and declassify information and material which has been classified by a President, his White House Staff or special committee or commission appointed by him and which the Archivist has in his custody at any archival depository, including a Presidential library. Such declassification shall only be undertaken in accord with:

(i) The terms of the donor's deed of gift;

(ii) Consultations with the Departments having a primary subject-matter interest; and

(iii) The provisions of § 11.5(c).

[FR Doc.72-18902 Filed 11-3-72;8:45 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 1—Federal Procurement Regulations

PART 1-3—PROCUREMENT BY NEGOTIATION

Subpart 1-3.9—Subcontracting Policies and Procedures

MAKE-OR-BUY PROGRAMS

This amendment of the Federal Procurement Regulations changes Subpart 1-3.9—Subcontracting Policies and Procedures, by revising § 1-3.902-1 *Review of program,* to provide procedures whereby the Small Business Administration (SBA) representative may appeal a decision regarding a "make-or-buy" program.

Section 1-3.902-1 is amended to read as follows:

§ 1-3.902-1 Review of program.

* * * * *

(g) Before agreeing to a "make-or-buy" program (or consenting to any change therein which, in the opinion of the contracting officer, would reduce the anticipated participation of small business), the procuring activity shall invite the advice and counsel of the SBA by permitting SBA representatives (regularly assigned to the activity) to review all pertinent facts and make recommendations thereon. Such review by SBA should be concurrent with the review by the procuring activity (or, in the case of changes, the contracting officer). Where urgent circumstances do not permit such a concurrent review, or where SBA fails to respond on a timely basis, the contracting officer shall include an explanatory statement in the contract file and shall transmit a copy to the SBA representative. Where the SBA review results in a disagreement between the procuring activity (or, in the case of changes, the contracting officer) and the SBA representatives regarding a "make-or-buy" program decision, SBA may appeal such decision to the head of the procuring activity, or other appropriate level above the contracting officer in accordance with agency procedures. Decisions by the procuring activity shall be final.

* * * * * *

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective December 29, 1972, but may be observed earlier.

Dated: October 31, 1972.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

[FR Doc.72-19035 Filed 11-3-72;8:53 am]

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[Federal Procurement Regs., Temporary Reg. 27, Supplement 2]

PART 1–3—PROCUREMENT BY NEGOTIATION

Subpart 1–3.12—Cost Accounting Standards

1. *Purpose.* This regulation supplements the interim policies and procedures prescribed in FPR Temporary Regulation 27 to implement the Cost Accounting Standards Board (CASB) rules and regulations with respect to certain negotiated defense contracts and negotiated nondefense contracts in excess of $100,000.

2. *Effective date.* This regulation is effective upon November 1, 1972.

3. *Expiration date.* This regulation will continue in effect until canceled.

4. *Background.* Public Law 91–379, 50 U.S.C. 2168, authorized the establishment of the Cost Accounting Standards Board to prescribe cost accounting standards applicable to negotiated defense contracts as provided by the act. The initial regulations prescribed by the Board appeared in the FEDERAL REGISTER February 29, 1972 (37 F.R. 4139). FPR Temporary Regulation 27 implemented the CASB regulations for negotiated defense contracts.

The CASB regulations also have been made applicable to negotiated nondefense contracts in excess of $100,000 (subject to specified exceptions) by FPR Temporary Regulation 27, Supplement 1 to that regulation postponed the effective date for the application of the CASB regulations to negotiated nondefense contracts from October 1, 1972, to November 1, 1972.

With respect to the Government, extension of the Board's regulations to negotiated nondefense contracts provides for a substantial degree of Government-wide uniformity in its procurement policies and procedures. The effect will be greater uniformity and consistency in the cost accounting practices of contractors and subcontractors.

5. *Agency implementation.* Based on information provided after the issuance of FPR Temporary Regulation 27, it has been deemed desirable to modify the implementation instructions in paragraphs 5a and 7c. Paragraph 5a of that regulation is modified to read:

5. *Agency implementation.* a. Pending the issuance of a permanent amendment to the Federal Procurement Regulations, agencies shall proceed as follows:

(1) In the award of negotiated defense contracts, agencies shall follow the policies and procedures set forth in the FPR (41 CFR 1–1.000 et seq.), except as they may be inconsistent with the promulgations of the Cost Accounting Standards Board (such as 4 CFR 331 et seq.). This regulation does not apply:

(a) To certain small business contracts exempted by the Cost Accounting Standards Board's regulations (see 37 F.R. 10454, May 23, 1972, and 37 F.R. 12784, June 29, 1972);

(b) To contracts where the price is based on established catalog or market prices of commercial items sold in substantial quantities to the general public; or

(c) To contracts where prices are set by law or regulation.

(2) In the award of negotiated nondefense contracts, agencies shall follow the policies and procedures in the FPR (41 CFR 1–1.000 et seq.), the promulgations of the Cost Accounting Standards Board in 4 CFR 331 et seq., 37 F.R. 4139, February 29, 1972, and such additional promulgations of the Cost Accounting Standards Board as are hereafter implemented by the Federal Procurement Regulations. This regulation does not apply:

(a) To certain small business contracts exempted by the Cost Accounting Standards Board's regulations (see 37 F.R. 10454, May 23, 1972, and 37 F.R. 12784, June 29, 1972);

(b) To contracts where the price is based on established catalog or market prices of commercial items sold in substantial quantities to the general public;

(c) To contracts where prices are set by law or regulation;

(d) To contracts with educational institutions subject to FPR 1–15.3 (41 CFR 1–15.3);

(e) To contracts with State and local governments subject to FPR 1–15.7 (41 CFR 1–15.7);

(f) To contracts with hospitals; or

(g) For a period of 120 days from the date hereof, where a firm fixed-price contract is to be awarded after receiving offers from at least two firms not associated with each other: *Providing*, That (1) the solicitation to all competing firms is identical; (2) price is the only consideration in selecting the contractor from among the competing firms solicited; and (3) the lowest offer received in compliance with the solicitation from among those solicited is accepted.

Paragraph 7c is modified as set forth below.

1. Section 1–3.1203 (41 CFR 1–3.1203) is amended by adding the following introductory paragraph:

§ 1–3.1203 Prime contractor disclosure statement.

The notice entitled Disclosure Statement—Cost Accounting Practices and Certification set forth in Attachment A shall be inserted in all solicitations which are likely to result in negotiated contracts exceeding $100,000, except contracts which are exempt under the provisions of paragraph 5 of this regulation.

* * * * *

2. Section 1–3.1204 (41 CFR 1–3.1204) is revised to read as follows:

§ 1–3.1204 Contract clause.

The Cost Accounting Standards clause set forth in Attachment B shall be inserted in all solicitations which are likely to result in negotiated contracts exceeding $100,000, except contracts which are exempt under the provisions of paragraph 5 of this regulation.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

OCTOBER 31, 1972.

[FR Doc.72–19036 Filed 11–3–72;8:53 am]

Chapter 5A—Federal Supply Service, General Services Administration

PART 5A–60—CONTRACT APPEALS

PART 5A–73—FEDERAL SUPPLY SCHEDULE PROGRAM

Miscellaneous Amendments

The following amendments are made in chapter 5A:

Subpart 5A–60.2—Rules of the Federal Supply Service on Contract Appeals

Section 5A–60.201(b) is amended to read as follows:

§ 5A–60.201 Notice of appeal.

* * * * *

(b) An appeal must be mailed or otherwise furnished by the contractor within 30 days from the date the decision of the contracting officer is received. Any request for an extension of the 30-day appeal period shall be denied by the contracting officer.

Subpart 5A–73.1—Production and Maintenance

Section 5A–73.119–1(c) is revised and § 5A–73.123–6 is amended, as follows:

§ 5A–73.119–1 Progressive awards.

* * * * *

(c) Progressive awards must not be confused with multiple awards.

§ 5A–73.123–6 Federal supply schedules selected for source inspection.

* * * * *

(b) The contracting officer, prior to preparation of solicitations, shall coordinate with the Office of Standards and Quality Control, Central Office (FMQP), as follows:

(1) To determine whether Federal supply schedule solicitations (other than multiple award) for schedules which are not listed in § 5A–76.317 will contain the source inspection provision in (c), below, and

(2) To advise of any proposed significant changes in Federal supply schedules selected for source inspection now set forth in § 5A–76.317, such as cancellations, splitting, or consolidation of schedules, or transfer of items from one schedule to another.

(c) Contracting officers involved shall include the following clause in each Federal supply schedule solicitation selected for source inspection, quality control, and assigned field contract administration assistance.

SOURCE INSPECTION

(a) Clause 5(a) of GSA Form 1424 is applicable to this solicitation, and the following sentence is added at the end of paragraph 5(a)(1): Notwithstanding the foregoing, the Government may perform any or all tests contained in the contract specifications at a Government facility without prior written notice by the Contracting Officer before release of the supplies for shipment.

(b) Offerors shall complete the following spaces to indicate where supplies will be available for inspection.

Item No.	Name of manufacturing plant or other facility	Address (including county)
.....	.....	.....
.....	.....	.....
.....	.....	.....

(End of Clause)

(d) Promptly after the award of each Federal supply schedule contract containing the source inspection provision, the contracting officer shall furnish:

(1) Each regional Director, Quality Control Division, having cognizance under the contract, with two sets of contract information for each inspection point. Each set consisting of (i) two copies of the solicitation and (ii) two copies of GSA Form 1535 (front page only), Request for Approval of Awards, and pertinent pages of the contract which contain information necessary for source inspection. Where the inspection point(s) is different than the production point, the contracting officer shall include such information on the front page of the GSA Form 1535.

(2) The Quality Control Division, Central Office, with one set only of contract information as described in (1), above.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 5–1.101(c))

Effective date. This regulation is effective 30 days from the date shown below.

Dated: October 20, 1972.

M. S. MEEKER,
Commissioner, Federal Supply Service.

[FR Doc.72–18938 Filed 11–3–72;8:51 am]

Title 7—AGRICULTURE

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

[Sugar Reg. 811, Amdt. 12]

PART 811—CONTINENTAL SUGAR REQUIREMENTS AND AREA QUOTAS

Requirements, Quotas and Quota Deficits for 1972

Basis and purpose and bases and considerations. This amendment is issued pursuant to the authority vested in the Secretary of Agriculture by the Sugar Act of 1948, as amended (61 Stat. 922, as amended; 7 U.S.C. 1101) hereinafter referred to as the "Act." The purpose of this amendment to Sugar Regulation 811, as amended, is to determine and prorate or allocate the deficits in quotas established pursuant to the Act.

Section 204(a) of the Sugar Act of 1948, as amended, provides in part that "The Secretary shall, at the time he makes his determination of requirements of consumers for each calendar year and on December 15 preceding each calendar year, and as often thereafter as the facts are ascertainable by him but in any event not less frequently than each 60 days after the beginning of each calendar year, determine whether, * * * any area or country will not market the quota for such area or country."

The Government of Haiti has informed the Department that they will be able to supply only 22,522 short tons, raw value, of sugar to the United States under its quota for the calendar year 1972. On the basis of this information a deficit of 478 short tons, raw value, is hereby declared for Haiti. Since the Republic of the Philippines and several Western Hemishere countries have notified the Department that they will be unable to supply sugar in addition to their currently established quotas, the entire deficit is herein prorated to Western Hemisphere countries able to supply additional sugar.

It is hereby determined that deficits previously declared and that declared herein constitute all known deficits on which data are currently ascertainable by the Department.

By virtue of the authority vested in the Secretary of Agriculture by the Act, Part 811 of this chapter is hereby amended by amending §§ 811.12 and 811.13 as follows:

1. Section 811.12 is amended by amending paragraph (a) to read as follows:

§ 811.12 Proration and allocation of deficits in quotas.

(a) The total deficits determined in quotas established under section 202 of the Act in short tons, raw value, are as follows: Domestic Beet Sugar Area 292,000; Puerto Rico 680,000; Bahamas 23,667; Bolivia 5,659; Haiti 4,721; and Uganda 15,252. The deficits for the domestic areas and Western Hemisphere countries totaling 1,006,047 tons are reallocated by allocating 275,741 tons to the Republic of the Philippines (the maximum quantity which it can supply in 1972), providing a special allocation of 21,507, 17,950, and 4,415 tons to Costa Rica, Guatemala and Honduras, respectively, and prorating the remainder to Western Hemisphere quota countries on the basis of quotas determined under section 202 of the Act, except such prorotions to the West Indies, Panama, Honduras, Bahamas, and Bolivia are limited so that total quotas for each country will not exceed 206,788, 43,500, 17,495, 61, and 54 tons, respectively. The deficit in the quota for Uganda of 15,252 tons is reallocated by allocating 30.08 percent to the Republic of the Philippines and prorating the remainder on the basis of quotas determined under section 202 of the Act to Eastern Hemisphere quota countries, except Ireland.

* * * * *

2. Section 811.13 is amended by amending paragraph (c) to read as follows:

§ 811.13 Quotas for foreign countries.

(c) For the calendar year 1972, the prorations to individual foreign countries other than the Republic of the Philippines, pursuant to section 202 of the Act, are shown in columns (1) and (2) of the following table. Deficit prorations previously established in this Sugar Regulation 811 are shown in column (3). New deficit prorations established herein are shown in column (4). Total quotas and prorations are shown in column (5).

Countries	Basic quotas	Temporary quotas and prorations pursuant to Sec. 202(d)[1]	Previous deficits and deficit prorations	New deficit prorations	Total quotas and prorations
	(1)	(2)	(3)	(4)	(5)
	(Short tons, raw value)				
Dominican Republic	420,738	141,713	154,422	112	716,985
Mexico	372,090	125,328	136,567	99	634,084
Brazil	362,887	122,228	133,180	97	618,101
Peru	250,674	87,463	95,307	69	442,513
West Indies	135,425	45,614	25,749	0	206,788
Ecuador	53,578	18,046	19,665	14	91,303
Argentina	50,291	16,940	18,458	14	85,703
Costa Rica	45,361	15,278	38,561	13	99,213
Colombia	44,703	15,057	16,408	12	76,180
Panama	27,940	9,411	6,149	0	43,500
Nicaragua	42,403	14,281	15,662	12	72,358
Venezuela	40,430	13,617	14,840	11	68,898
Guatemala	38,787	13,064	32,277	10	84,138
El Salvador	28,268	9,522	10,441	8	48,239
British Honduras	22,352	7,529	8,204	6	38,091
Haiti	20,379	6,864	−4,213	−478	22,532
Bahamas	17,750	5,978	−23,667	0	61
Honduras	7,889	2,657	6,949	0	17,495
Bolivia	4,273	1,440	−5,659	0	54
Paraguay	4,273	1,440	1,568	1	7,282
Australia	165,098	41,932	3,857	0	210,787
Republic of China	66,699	17,458	1,606	0	85,763
India	66,099	16,790	1,514	0	84,403
South Africa	46,676	11,861	1,091	0	59,628
Fiji Islands	36,157	9,188	845	0	46,190
Mauritius	24,324	6,181	569	0	31,074
Swaziland	24,324	6,181	569	0	31,074
Thailand	18,120	3,843	353	0	10,316
Uganda	12,162	3,090	−15,252	0	0
Malagasy Republic	9,861	2,506	230	0	12,597
Ireland	5,351	0	0	0	5,351
Total	2,473,242	792,500	696,259	0	3,962,001

[1] Proration of the quotas withheld from Cuba and Southern Rhodesia.

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(Secs. 204 and 403; 61 Stat. 925 as amended, and 932; and 7 U.S.C. 1114 and 1153)

Effective date. In order to promote orderly marketing, it is essential that this amendment be effective immediately so that all persons selling and purchasing sugar for consumption in the continental United States can promptly plan and market under the changed marketing opportunities. Therefore, it is hereby determined and found that compliance with the notice, procedure, and effective date requirements of 5 U.S.C. 553 is unnecessary, impracticable and contrary to the public interest and this amendment shall be effective when filed for public inspection in the Office of the Federal Register.

Signed at Washington, D.C., on October 31, 1972.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-18970 Filed 11-3-72;8:52 am]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 906—ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

Expense and Rate of Assessment

On October 17, 1972, notice of rule making was published in the FEDERAL REGISTER (37 F.R. 21947) regarding proposed expenses and the related rate of assessment for the period August 1, 1972, through July 31, 1973, pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. This notice allowed interested persons 10 days during which they could submit written data, views, or arguments pertaining to these proposals. None were submitted. This regulatory program is effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Texas Valley Citrus Committee (established pursuant to said amended marketing agreement and order), it is hereby found and determined that:

§ 906.212 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Texas Valley Citrus Committee during the period August 1, 1972, through July 31, 1973, will amount to $825,000.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 906.34, is fixed at $0.045 per 7/10 bushel carton, or an equivalent quantity of oranges and grapefruit.

It is hereby found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) Shipments of oranges and grapefruit are now being made; (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment fixed for a particular fiscal period shall be applicable to all assessable fruit from the beginning of such period; and (3) the current fiscal period began on August 1, 1972, and the rate of assessment herein fixed will automatically apply to all assessable oranges and grapefruit beginning with such date.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 31, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-18920 Filed 11-3-72;8:45 am]

[Valencia Orange Reg. 415, Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Valencia oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b)(1) (i), and (ii) of § 908.715 (Valencia Orange Regulation 415, 37 F.R. 22874), during the period October 27, through November 2, 1972, are hereby amended to read as follows:

§ 908.715 Valencia Orange Regulation 415.

* * * * *

(b) *Order.* (1) * * *

(i) District 1: 344,000 cartons;

(ii) District 2: 281,000 cartons;

* * * * *

(Sec. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 1, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-18917 Filed 11-3-72;8:45 am]

[Lemon Reg. 558]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.858 Lemon Regulation 558.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 36 F.R. 9061), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are

identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on October 31, 1972.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period November 5 through November 11, 1972, is hereby fixed at 200,000 cartons.

(2) As used in this section, "handled," and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 4 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 2, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-19014 Filed 11-3-72;8:53 am]

[Grapefruit Reg. 86]

PART 912—GRAPEFRUIT GROWN IN THE INDIAN RIVER DISTRICT IN FLORIDA

Limitation of Handling

§ 912.386 Grapefruit Regulation 86.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912, 37 F.R. 21308), regulating the handling of grapefruit grown in the Indian River District in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Indian River Grapefruit Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for the regulation stems from the current market situation which reflects a weakness in prices for Florida Indian River grapefruit and a strong threat that, in the absence of regulation, shipments during next week will be in excess of the market demand. Such excess shipments would, most likely, further depress prices for Florida Indian River grapefruit. The need for the regulation is also based on the prospective marketing conditions. The present market is slow and there are no indications of an improvement in the demand. It is estimated by the committee that after the week ended October 29, 1972, 14,289 carlots of Indian River grapefruit are remaining for interstate shipment. Thus, a regulation is needed to prevent excessive shipments during the week of November 6 through November 12, 1972.

(3) There is not sufficient time to give preliminary notice and engage in public rule-making procedure because (i) determinations as to the need for, and extent of, regulation of volume shipments of such grapefruit must await the availability of information on the demand for such fruit, (ii) information on the current and prospective market conditions during the period November 6 through November 12, 1972, could not be fully evaluated before November 2, 1972, and (iii) shipments likely to be made in the absence of regulation, and the amount of grapefruit needed to satisfy the market demand for the period November 6 through November 12, 1972, could not be anticipated at an earlier date.

(4) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Indian River grapefruit, and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time; are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Indian River grapefruit; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 2, 1972.

(b) *Order.* (1) The quantity of grapefruit grown in the Indian River District which may be handled during the period November 6, 1972, through November 12, 1972, is hereby fixed at 100,000 standard packed boxes.

(2) As used in this section, "handled," "Indian River District," "grapefruit," and "standard packed box" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 2, 1972.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-19072 Filed 11-3-72;8:53 am]

[Grapefruit Reg. 52]

PART 913—GRAPEFRUIT GROWN IN THE INTERIOR DISTRICT IN FLORIDA

Limitation of Handling

§ 913.352 Grapefruit Regulation 52.

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 913 as amended (7 CFR Part 913), regulating the handling of grapefruit grown in the Interior District in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation and information submitted by the Interior Grapefruit Marketing Committee, established under the said marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for the regulation stems from the current market situation which reflects a weakness in prices for Florida Interior grapefruit, and a strong threat that shipments during next week, in the absence of regulation, would be in excess of the market demand. Such excess shipments would most likely further depress prices for Florida Interior grapefruit. The need for the regulation is also based on the prospective marketing conditions. The present market is slow and there are no indications of an improvement in the demand. It is estimated by the committee that after the week ended October 29, 1972, 9,759 carlots of Interior grapefruit are remaining for interstate shipment. Thus, a regulation is needed to prevent excessive shipments during the week of November 6 through November 12, 1972.

(3) There is not sufficient time to give preliminary notice and engage in public rule-making procedure because: (1) Determinations as to the need for, and extent of, regulation of volume shipments of such grapefruit must await the availability of information on the demand for such fruit, (2) information on the current and prospective market conditions during the period November 6 through November 12, 1972, could not be fully evaluated before October 31, 1972, and (3) shipments likely to be made in the absence of regulation, and the amount of grapefruit needed to satisfy the market

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demand for the period November 6 through November 12, 1972, could not be anticipated at an earlier date.

(4) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Interior grapefruit and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Interior grapefruit; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on October 31, 1972.

Order. (a) The quantity of grapefruit grown in the Interior District which may be handled during the period November 6 through November 12, 1972, is hereby fixed at 250,000 standard packed boxes.

(b) As used in this section, "handled," "Interior District," "grapefruit," and "standard packed box" have the same meaning as when used in said marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 2, 1972.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-19073 Filed 11-3-72;8:53 am]

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIF.

Expenses and Rate of Assessment for Crop Year 1972–73

Notice was published in the October 19, 1972, issue of the FEDERAL REGISTER (37 F.R. 22387) regarding proposed expenses of the California Date Administrative Committee for the 1972–73 crop year and rate of assessment for that crop year. This action approves such expenses and assessment rate, and is pursuant to §§ 987.71 and 987.72 of the marketing agreement, as amended, and Order No. 987, as amended (7 CFR Part 987). The amended marketing agreement and order regulate the handling of domestic dates produced or packed in Riverside County, Calif., and are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons an opportunity to submit written data, views, or agruments on the proposal. None were received.

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the California Date Administrative Committee, and other available information, it is found that the expenses of the California Date Administrative Committee and the rate of assessment for the 1972–73 crop year (which began October 1, 1972, and ends September 30, 1973), shall be as follows:

§ 987.317 **Expenses of the California Date Administrative Committee and rate of assessment for the 1972–73 crop year.**

(a) *Expenses.* Expenses in the amount of $29,899 are reasonable and likely to be incurred by the California Date Administrative Committee during the 1972–73 crop year beginning October 1, 1972, for its maintenance and functioning, and for such other purposes as the Secretary may, pursuant to the applicable provisions of this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for that crop year which each handler is required, pursuant to § 987.72, to pay to the California Date Administrative Committee as his pro rata share of the expenses is fixed at 10 cents per hundredweight on all assessable dates. Assessable dates are dates which the handler has certified during the crop year as meeting the requirements for marketable dates, including the eligible portion of any fieldrun dates certified and set aside or disposed of pursuant to § 987.45(f).

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said marketing agreement and this part require that the rate of assessment fixed for a particular crop year shall be applicable to all dates certified during that crop year as meeting the requirements for marketable dates, including the eligible portion of certain fieldrun dates; and (2) the current crop year began October 1, 1972, and the rate of assessment herein fixed will automatically apply to all such dates beginning with that date.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 1, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-18972 Filed 11-3-72;8:50 am]

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Expenses and Rate of Assessment Crop Year 1972–73

Notice was published in the October 20, 1972, issue of the FEDERAL REGISTER (37 F.R. 22625) regarding proposed expenses of the Raisin Administrative Committee for the 1972–73 crop year and rate of assessment for that crop year, pursuant to §§ 989.79 and 989.80 of the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989; 37 F.R. 19621, 20022), regulating the handling of raisins produced from grapes grown in California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons opportunity to submit written data, views, or arguments with respect to the proposal. None were received during the prescribed time.

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the Raisin Administrative Committee, and other available information, it is found that the expenses of the Raisin Administrative Committee and the rate of assessment for the crop year beginning September 1, 1972, shall be as follows:

§ 989.323 **Expenses of the Raisin Administrative Committee and rate of assessment for the 1972–73 crop year.**

(a) *Expenses.* Expenses (other than those specified in § 989.82) in the amount of $193,700 are reasonable and likely to be incurred by the Raisin Administrative Committee during the crop year beginning September 1, 1972, for the maintenance and functioning of the committee and the Raisin Advisory Board and for such purposes as the Secretary may, in accordance with § 989.79, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for that crop year which each handler is required, pursuant to § 989.80, to pay to the Raisin Administrative Committee as his pro rata share of the expenses is fixed at $1.90 per ton applicable to each of the following:

(1) Free tonnage raisins acquired by the handler during the crop year, exclusive of such quantity thereof as represents the assessable portions of other handlers' raisins pursuant to subparagraph (3) of this paragraph;

(2) Reserve tonnage raisins released or sold to the handler for use as free tonnage during the crop year; and

(3) Standard raisins (which he does not acquire) recovered by the handler by the reconditioning of off-grade raisins but only to the extent of the aggregate quantity of the free tonnage portions of these standard raisins that are acquired by other handlers during the crop year.

It is further found that good cause exists for the not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said amended marketing agreement and order require that the rate of assessment fixed for a particular crop year which handlers are required to pay shall be applicable to all free tonnage raisins of the crop year and to all reserve tonnage raisins released or sold to handlers for use as free tonnage during the crop year; and (2) the current crop year began on September 1, 1972, and the rate of assessment fixed herein will automatically apply to all such raisins beginning with that date.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 1, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-18973 Filed 11-3-72;8:50 am]

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Proposed Rule Making

FEDERAL POWER COMMISSION

[18 CFR Part 260]

[Docket No. R-308]

GAS PIPELINE COMPANIES

Annual Report of Total Gas Supply; Proposed Form

OCTOBER 31, 1972.

Notice is hereby given pursuant to section 553 of title 5 of the United States Code and sections 10, 14, and 16 of the Natural Gas Act (52 Stat. 826, 15 U.S.C. 717i; 52 Stat. 828, 15 U.S.C. 717m; and 52 Stat. 830, 15 U.S.C. 717o) that the Commission proposes to amend paragraph (a) of § 260.7 of Part 260—Statements and Reports (Schedules); Subchapter G—Approved Forms, Natural Gas Act; Chapter I, Title 18 of the Code of Federal Regulations to prescribe a revised FPC Form No. 15, Annual Report of Total Gas Supply, for the reporting year 1971 and thereafter.

In the proceeding in Docket No. R-239 the Commission proposed to require the filing, as part of the then-proposed Form No. 15, of certain detailed reservoir reserve estimate, contractual, and deliverability data. These data were to be submitted on electric accounting punch cards, electric data processing magnetic tape, or paper tape. By Order No. 279, issued March 31, 1964 (31 FPC 750), the Commission promulgated § 260.7 of its statements and reports (Schedules) prescribing Form No. 15 which did not include the detailed reservoir reserve estimate, contractual, and deliverability data to be filed in automatic data processing (ADP) media. The then-prescribed report was designated as the first phase and further consideration of the requirements for filing the additional detailed data was deferred as the second phase.

By notice issued in the instant proceeding on September 22, 1966 (31 F.R. 12729, September 29, 1966), the Commission proposed to require the filing of first phase data in ADP media. By Order No. 337 issued February 16, 1967 (37 FPC 326) the Commission deferred requiring the submission of Form No. 15 in ADP media and revised § 260.7 by requiring the filing of a revised Form No. 15 with minor changes. The instant proceeding was continued by said order.

By notice issued in the instant proceeding on November 11, 1968 (33 F.R. 17195, November 20, 1968), the Commission proposed both substantial and minor revisions in Form No. 15. By Order No. 399 issued April 27, 1970 (43 FPC 563), the Commission amended § 260.7 by requiring the filing of revised Form No. 15 with minor changes. The instant proceeding was continued by said order.

Since the issuance of Order Nos. 337 and 399, it has become evident to the Commission that it should have the second phase reservoir data in order to establish criteria to check the reasonableness of the data filed by any single company and to evaluate independently the data filed by parties to Commission proceedings. This will also permit the Commission through ADP methods to have an instant check on the current Form No. 15 deliverability status of each interstate natural gas pipeline company. Accordingly, it was proposed to amend Form No. 15 by the addition of new Schedule Nos. 4 and 5 for the collection of reservoir data and flow test data for nonassociated gas completions, respectively. The second phase contractual data are presently being collected as part of independent producer rate schedule filings.

In addition to the new schedules, the Commission proposed to revise the instructions to Form No. 15 by permitting the filing of all schedules in ADP media. A magnetic tape prepared for the electronic computer, accompanied by a verified, attested electronic computer printout, will be the preferred form for filing the report. The Commission recognizes that all companies may not have the resources or their modes of operation do not include the use of the electronic computer and, therefore, filing of the report in ADP media will be optional. It is the Commission's plan, however, eventually to require all companies to report in ADP media.

The amendment proposed herein would be made under authority granted to the Federal Power Commission by the Natural Gas Act, as amended, particularly sections 10, 14, and 16 thereof (52 Stat. 826, 15 U.S.C. 717i; 52 Stat. 828, 15 U.S.C. 717m; and 52 Stat. 830, 15 U.S.C. 717o).

Accordingly, it is proposed to amend paragraph (a) of § 260.7 of Part 260—Statements and Reports (Schedules); Subchapter G—Approved Forms, Natural Gas Act; Chapter I, Title 18 of the Code of Federal Regulations, to read as follows:

§ 260.7 Form No. 15, annual report of gas supply for certain natural gas companies.

(a) A revised form of Annual Report of Total Gas Supply, designated FPC Form 15, is prescribed for the reporting year 1971 and thereafter to be used by natural gas companies as provided by and in accordance with paragraph (b) of this section.

* * * * *

It was further proposed to revise Form No. 15 by adding new Schedule Nos. 4 and 5 and by permitting the filing of all schedules in ADP media.

It is herein proposed to revise Form No. 15 by substituting three schedules to replace the previously proposed five schedules and adding a fourth special schedule for gas not directly related to wells, reservoirs and fields, all as set forth in Appendix A hereto.[1]

It is further proposed that the newly proposed Schedule No. 4 be used to replace Form No. 15–A. Companies which formerly filed Form No. 15–A under these regulations need file only Schedule No. 4 of this revised Form No. 15 and the Table of Contents and Page No. 47, which is the Synopsis of Pipeline Company Gas Supply with Attestations. Such companies would not be required to file Schedule Nos. 1, 2, and 3 of this revised Form No. 15.

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than November 27, 1972, data, views, comments, or suggestions in writing concerning the amended regulation and revised form. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Washington, D.C., during regular business hours. The Commission will consider all such written submittals before acting on the matters herein proposed. An original and 14 conformed copies should be filed with the Secretary of the Commission. In addition, interested persons wishing to have their comments considered in the clearance of the revised report form under the provisions of the Federal Reports Act of 1042, 44 U.S.C. 3501–3511, may at the same time submit a conformed copy of their comments directly to the Clearance Officer, Office of Statistical Policy, Office of Management and Budget, Washington, D.C. 20503. Submittals to the Commission should indicate the name, title, mailing address, and telephone number of the person to whom communications concerning the proposals should be addressed and whether the person filing them requests a conference with the staff of the Federal Power Commission to discuss the proposed amendment and revision. The staff, in its discretion, may grant or deny requests for conference.

The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18950 Filed 11-3-72;8:49 am]

[1] Filed as part of the original document.

[18 CFR Part 260]

[Docket No. R-455]

STATEMENTS AND REPORTS (SCHEDULES)

Imputed Rate of Return on Jurisdictional Rate Base; Correction

OCTOBER 12, 1972.

Revisions to FPC Annual Report Form No. 2 to obtain allocation of costs between jurisdictional and nonjurisdictional pipeline operations to determine the imputed rate of return on jurisdictional rate base, Docket No. R-455.

In the notice of proposed rule making, issued September 21, 1972, and published in the FEDERAL REGISTER September 28, 1972, 37 F.R. 20260, and corrected at 37 F.R. 21544, October 12, 1972, paragraph 6, line 8, change the word "Publicly" to read "Privately."

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18949 Filed 11-3-72;8:49 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 239]

[Docket No. 24510, EDR-234A]

FREIGHT LOSS AND DAMAGE CLAIMS BY CERTAIN AIR CARRIERS AND FOREIGN ROUTE AIR CARRIERS

Proposed Reporting Data; Extension of Time for Comments

NOVEMBER 1, 1972.

By circulation of notice of rule making EDR-234, dated September 29, 1972, and published at 37 F.R. 21175 (October 6, 1972), the Board gave notice that it had under consideration proposed amendments to Part 239 of its regulations (14 CFR Part 239). These proposals would modify certain definitions of terms used in the part and other provisions thereof. Interested persons were invited to file comments with the Board on or before November 7, 1972.

On October 25, 1972, certain carrier members of Air Transport Association of America (ATA) and Airlift International, Inc., requested an extension of 30 days for the filing of comments.

It is maintained that 12 days of the time within which to prepare comments was lost since the Board's notice was not issued until October 10, although dated September 29, 1972, and that the additional time requested is needed to study the proposed rule and to prepare and file meaningful comments.

The above allegation that 12 days of the time to prepare comments was lost because the notice was not issued until October 10th, although dated September 29th, is not factually accurate. The notice was published in the FEDERAL REGISTER on October 6, 1972 (37 F.R. 21175) and the 30 days intended to be allowed for the filing of comments was computed from such date. Considering that the proposed rule making does not involve novel issues but rather relates to refinements of existing regulations and that the carriers are familiar with the issues raised, and in the interest of completing this rule making proceeding in sufficient time to enable the new requirements, if any, to become effective as of January 1, 1973, the undersigned finds that an extension of time of more than 15 days would not be warranted.

Accordingly, pursuant to the authority delegated in § 385.20(d) of the Board's Organization Regulations, the undersigned hereby extends the time for submitting comments to November 22, 1972.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324)

[SEAL] ARTHUR H. SIMMS,
Associate General Counsel, Rules and Rates.

[FR Doc.72-18966 Filed 11-3-72;8:52 am]

DEPARTMENT OF JUSTICE

Bureau of Narcotics and Dangerous Drugs

[21 CFR Part 308]

SCHEDULES OF CONTROLLED SUBSTANCES

Exempt Chemical Preparations

The Director of the Bureau of Narcotics and Dangerous Drugs has received applications pursuant to § 308.23 of Title 21 of the Code of Federal Regulations requesting that several chemical preparations containing controlled substances be granted the exemptions provided for in § 308.24 of Title 21 of the Code of Federal Regulations.

Therefore, under the authority vested in the Attorney General by sections 301 and 501(b) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 821 and 871(b)) and redelegated to the Director of the Bureau of Narcotics and Dangerous Drugs by § 0.100 of Title 28 of the Code of Federal Regulations, the Director hereby proposes that Part 308 of Title 21 of the Code of Federal Regulations be amended as follows:

a. By amending § 308.24(i) by adding the following chemical preparations:

(i) * * *

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b. By amending § 308.24(i) by deleting the following chemical preparations:
(i) • • •

Manufacturer or supplier	Product name and supplier's catalog number	Form of product	Date of application
Abbott Laboratories	A/Sect CEP Barbital Acetate Buffer, No. 9625-02.	Plastic bag 2½" x 3¾".	8-21-72
Do	CEP Aqueous Plates, No. 9623-01 and 9623-02.	Foil pouch: 4½" x 4" and 6½"x4¼".	8-21-72
Do	CEP Aqueous Plates (For Research Studies Only), No. 9623-03 and 9623-04.	Foil pouch: 4½" x 1" and 6½"x1¼".	8-21-72
Do	Diffusion CEP Barbital Acetate Buffer, No. 9625-00.	Plastic bag, 6" x 13".	8-21-72
Do	Tetrastrip-125 T-4 Diagnostic Kit, No. 7735.	Vial: 11 ml.	8-21-72
Do	Ireserb-50 Diagnostic Kit, No. 6504.	Vial: 10 ml.	8-21-72
	• • •	• • •	• • •
American Hospital Supply Corp. (Hartleco Division).	Barbital-Sodium Buffer Salt, No. 4170.	Vial: 250 ml.	6-6-72
Do	Barbital-Acid Buffer Salt, No. 4173.	Vial: 250 ml.	6-6-72
	• • •	• • •	• • •
Amersham Searle	Amobarbital-2-C14, No. CFA-408.	Ampule: 130 mm. x 13 mm. or Vial: 38-40 mm. x 11 mm.	9-11-72
	• • •	• • •	• • •
Do	Pentothal—S35 Sodium Salt, No. 53-77.	Ampule: 110 mm. x 13 mm. or Vial: 38-40 mm. x 11 mm.	9-11-72
	• • •	• • •	• • •
Becton, Dickinson and Co. (Spectra Biological Division).	HepaScreen CEP Barbital Buffer, No. K-751.	Envelope: 3.5" x 5.5"	8-11-72
Do	HepaScreen CEP Plates, Nos. K-742 and K-743.	Plate: 3.5" x 3.5".	8-11-72
	• • •	• • •	• • •
Do	Serpacrom Drug System, No. 3610.	Chambers: 6 cm. x 9 cm.	9-6-72
	• • •	• • •	• • •
General Diagnostics	fas TP, No. 30603	Vial: 10.5 cm. x 1.2 cm.	8-25-72
	• • •	• • •	• • •
Hyland Division, Travenol Laboratories, Inc.	Partial Thromboplastin, Dried, No. 3411.	Vial: 1 ml. and 5 ml.	8-31-72
	• • •	• • •	• • •
MCI Biomedical	IEP Buffer; pH 8.2; 0.04 Ionic Strength.	Package 6.310 grams	8-28-72
	• • •	• • •	• • •
MEAD Diagnostics	T-3 Test fas T, No. 10602.	Vial: 3/4" x 1 1/16".	5-30-72
Do	T-4 Test fas T4, No. 10605.	Vial: 1½" x 1 1/16".	5-30-72
	• • •	• • •	• • •
Schering Corp	Hepamilk	Vial: 9 dram and plate	7-10-72
SYVA Co	Fat Butyroyl Fragoline Calibrator	Vial: 1 ml.	9-13-72
Do	Fat Methadone Calibrator	do	Do.
Do	Fat Opiate Calibrator	do	Do.
Do	Fat Phencyclidine Calibrator	do	Do.
Do	Fat Barbiturate Calibrator	do	Do.
	• • •	• • •	• • •
TLC Corp	Chromat/o Screen Kit for Amphetamines, No. JJ-175.	Vial: 1.9 cm. X 1.6 cm.	7-6-72
Do	Chromat/o Screen Kit for Alkaloids, No. JJ-158.	Vial: 1.9 cm. X 1.6 cm.	Do.
Do	Chromat/o Screen Kit for Barbiturates, No. JJ-177.	Vial: 1.9 cm. X 1.6 cm.	Do.
	• • •	• • •	• • •
Travenol Laboratories	Agar Gel Plates, No. 8734	Plate: 25 ml.	8-1-72
Do	Buffer, No. 8735	Vial: 250 ml.	8-1-72
	• • •	• • •	• • •

c. By amending § 308.24(i) by revising the listing of two chemical preparations to read as follows:
(i) • • •

Manufacturer or supplier	Product name and supplier's catalog number	Form of product	Date of application
American Hospital Supply Corp. (Hartleco Division).	Buffer, Barbital, pH 8.6, No. 9604	Vial: 1.51 grams per 15 mm. x 45 mm. vial	9-15-71
	• • •	• • •	• • •
Hyland Division, Travenol Laboratories, Inc.	Agar Gel Plates No. 3010.	Package, 10 plates-25 ml. per plate.	8-31-71
	• • •	• • •	• • •

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 966]

[Amdt. 1]

TOMATOES GROWN IN FLORIDA

Proposed Limitation of Shipments

Consideration is being given to the issuance of an amendment to the limitation of shipments regulation, as hereinafter set forth. This proposal was recommended by the Florida Tomato Committee, established pursuant to Marketing Agreement No. 125 and Marketing Order No. 966, both as amended (7 CFR Part 966), regulating the handling of tomatoes grown in the Florida production area. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

All persons who desire to submit data, views, or arguments with respect to this proposal may file the same with the Hearing Clerk, Room 112, U.S. Department of Agriculture, Washington, D.C. 20250, not later than November 10, 1972. Written submissions received pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendment would reduce the minimum and maximum diameters of each size classification presently in effect by one thirty-second of an inch to become effective on or about November 15, 1972. This reduction would result in the Florida tomato industry's size classifications becoming closer to those used in other tomato production areas while still remaining within the size arrangements set forth in § 51.1860 of the U.S. Standards for Grades of Tomatoes, but without its overlap between sizes.

Regulation, as proposed to be amended. In § 966.310 (37 F.R. 21423), the size classification paragraphs are amended to read as follows:

§ 966.310 Limitation of shipments.

• • • • • •

(a) • • •
(1) • • •

Size classification:	*Diameter (inches)*
7 by 8	2 3/32 and smaller.
7 by 7	Over 2 3/32 to 2 9/32, inclusive.
6 by 7	Over 2 9/32 to 2 17/32, inclusive.
6 by 6	Over 2 17/32 to 2 27/32, inclusive.
5 by 6 and larger	Over 2 27/32.

Measurement of diameters shall be in accordance with the methods prescribed in the U.S. Standards for Grades of Fresh Tomatoes (§§ 51.1855 to 51.1877 of this title).

(2) Tomatoes of designated sizes may not be commingled unless they are over 2 17/32 inches in diameter and each container shall be marked to indicate the designated size.

(3) To allow for variations incident to proper sizing, not more than a total of ten (10) percent, by count, of the tomatoes in any lot may be smaller than the specified minimum diameter or larger than the maximum diameter.

• • • • • •

Dated: October 31, 1972.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-18919 Filed 11-3-72;8:45 am]

DEPARTMENT OF AGRICULTURE

Food and Drug Administration

[21 CFR Part 1308]

SCHEDULES OF CONTROLLED SUBSTANCES

Proposed Addition of Certain Substances

All interested persons are invited to submit their comments and objections in writing regarding this proposal. Comments and objections should be submitted in quintuplicate to the Office of Chief Counsel, Attention: Hearing Clerk, Bureau of Narcotics and Dangerous Drugs, Department of Justice, Room 611, 1405 I Street NW., Washington, DC 20537, and must be received no later than November 30, 1972.

Dated: October 30, 1972.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[FR Doc.72-18824 Filed 11-3-72;8:45 am]

[7 CFR Part 1050]

MILK IN THE CENTRAL ILLINOIS MARKETING AREA

Notice of Proposed Suspension of Certain Provisions of the Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of certain provisions of the order regulating the handling of milk in the central Illinois marketing area is being considered for the month of November 1972.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 3 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be in quadruplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provisions proposed to be suspended are as follows: In § 1050.14, paragraphs (c) (2) and (3).

STATEMENT OF CONSIDERATION

The proposed suspension would remove for the month of November 1972 the limitations on the proportion of each producer's monthly milk production that may be diverted as producer milk from a pool plant to a nonpool plant. A similar suspension was in effect for the month of October 1972.

Associated Milk Producers, Inc., requests this suspension for another month in order to enable a large number of its member producers to maintain producer status under the order for November and thereby continue receiving the uniform price for their milk, pursuant to the order.

On October 4, 1972, a large distributing plant to which many of this association's member producers shipped their milk ceased all receiving and processing operations. Since that time the cooperative association has been attempting to find alternative outlets for the milk of these producers.

The association states that the milk of some of these producers has been accommodated on another market via shipment through a reload station at McConnell, Illinois. It is claimed, however, that the remaining volume of milk cannot be brought through this reload point due to the distance involved, or can it be economically assembled in the small trucking equipment and transported long distances to other markets. According to the association there are not sufficient reload points in the area to accommodate this problem.

While an arrangement has been made with another handler in the market to receive this remaining volume of milk for 1 day in the month, this handler cannot receive this milk on a regular basis. The cooperative claims that more time is required to find satisfactory outlets for the milk.

This suspension of diversion limits will afford the cooperative an opportunity to divert the milk of these member producers, thereby maintaining their producer status under the order, and provide the association the needed time to obtain other marketing arrangements with respect to the milk of these producers who have supplied the market for many years.

Signed at Washington, D.C., on November 1, 1972.

E. L. PETERSON,
Administrator, Agricultural Marketing Service.

[FR Doc.72-18971 Filed 11-3-72;8:50 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Part 1270]

[Docket No. R-72-218]

LOW-RENT HOUSING HOMEOWNERSHIP OPPORTUNITIES

Notice of Proposed Rule Making

Notice is hereby given that the Department of Housing and Urban Development proposes to amend Title 24 of the Code of Federal Regulations by adding a new Chapter XII. Chapter XI and Parts 1200 through 1269 and 1271 through 1299 are reserved. A notice of availability of material relating to public housing homeownership opportunity programs was published in the FEDERAL REGISTER on September 3, 1971. The following proposed amendment, which sets forth the essential elements of the HUD Homeownership Opportunities Program for Low-Income Families (Turnkey III), is a substantial revision of the material made available on September 3, 1971, and is therefore being published at this time for comment.

A significant revision is in the method of determining the purchase price of a home buyer's home. In order to bring the purchase price of the home more in line with that of comparable privately built homes, relocation costs, costs of counseling and training, and the cost of any community buildings are not included in the estimated development cost used in computing the purchase price. To enable computation of a firm purchase price when occupancy begins, the price will be determined from the estimated cost based on the development cost budget, rather than actual development cost, and the home buyer will be

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furnished a purchase price (i.e. amortization) schedule based on this estimate.

To provide greater assurance that a homeowner will be able to meet the obligations of homeownership, the eligibility limit for continued occupancy with the aid of HUD annual contributions is being set at the level at which 20 (instead of 25) percent of adjusted monthly income equals or exceeds the home-buyer's monthly housing cost.

The following forms and guides are being provided: Annual contributions contract—special provisions for Turnkey III homeownership opportunity project; home-buyers ownership opportunity agreement (Turnkey III); Articles of Incorporation and Bylaws of Home Buyers Association; recognition agreement between local housing authority and Home Buyers Association; promissory note for payment upon resale by home buyer at profit; and content guide for counseling and training program.

To provide for greater local flexibility, specific guidelines are not offered with respect to citizens participation committees.

Interested parties are invited to submit written comments, suggestions, or objections regarding the proposed amendment, by December 5, 1972, addressed to the Rules Docket Clerk, Office of the General Counsel, Room 10256, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. All relevant material will be considered before adoption of a final rule. A copy of each communication will be available for public inspection during regular business hours at the above address.

The proposed rule is issued pursuant to 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Issued at Washington, D.C., October 31, 1972.

GEORGE ROMNEY,
Secretary of Housing and Urban Development.

PART 1270—LOW-RENT HOUSING HOMEOWNERSHIP OPPORTUNITIES

Subpart A—Introduction to Low-Rent Housing Homeownership Opportunity Program

Sec.
1270.1–1270.100 [Reserved]

Subpart B—Turnkey III Program Description

1270.101 Introduction.
1270.102 Definitions.
1270.103 Project development.
1270.104 Eligibility and selection of home buyers.
1270.105 Counseling of home buyers.
1270.106 Home Buyers Association (HBA).
1270.107 Responsibilities of home buyer.
1270.108 Break-even amount.
1270.109 Monthly operating expense.
1270.110 Earned Home Payments Account (EHPA).
1270.111 Nonroutine maintenance reserve.
1270.112 Operating reserve.
1270.113 Application of funds upon vacating of dwelling.
1270.114 Achievement of ownership by initial occupant.
1270.115 Payment upon resale at profit.
1270.116 Achievement of ownership by subsequent occupants.
1270.117 Transfer of title to home buyer.
1270.118 Responsibilities of home buyer after acquisition of ownership.
1270.119 Homeowners Association—Planned Unit Development (PUD).
1270.120 Homeowners Association—Condominium.
1270.121 Relationship of Homeowners Association to HBA.
1270.122 Use of appendices.

APPENDIX I—Annual contribution contract—"Special provisions for Turnkey III homeownership opportunity project."
APPENDIX II—Home buyers ownership opportunity agreement (Turnkey III).
APPENDIX III—Certificate of acknowledgment of home buyer's right to purchase home.
APPENDIX IV—Promissory note for payment upon resale by home buyer at profit.

Subpart C—Homeownership Counseling and Training

Sec.
1270.201 Purpose.
1270.202 Objectives.
1270.203 Planning.
1270.204 General requirements and information.
1270.205 Training methodology.
1270.206 Funding.
1270.207 Use of appendix.

APPENDIX I—Content guide for counseling and training program.

Subpart D—Home Buyers Association (HBA)

1270.301 Purpose.
1270.302 Membership.
1270.303 Organizing the HBA.
1270.304 Functions of the HBA.
1270.305 Funding.
1270.306 Performing management services.
1270.307 Alternative to HBA.
1270.308 Relationship with Homeowners Association.
1270.309 Use of appendices.

APPENDIX I—Articles of incorporation and bylaws of Home Buyers Association.
APPENDIX II—Recognition agreement between local housing authority and Home Buyers Association.

AUTHORITY: The provisions of this Part 1270 issued under sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Subpart A—Introduction to Low-Rent Housing Homeownership Opportunity Program

§§ 1270.1–1270.100 [Reserved]

Subpart B—Turnkey III Program Description

§ 1270.101 Introduction.

(a) *Purpose.* This subpart sets forth the essential elements of the HUD homeownership opportunities program for low-income families (Turnkey III). It is intended to enable local housing authorities to develop homeownership programs to provide low-income families with an opportunity to become homeowners through Federal assistance in the form of annual contributions to the local housing authority. In the early planning stages, such local authorities should consult with the appropriate HUD area office so as to develop a homeownership project best suited to their own particular needs. A local housing authority may develop or acquire dwelling units for this program through any low-rent public housing program production method (except leasing).

(b) *Applicability.* This subpart shall be applicable to all Turnkey III projects, including projects under development or in operation as follows:

(1) With respect to projects under development pursuant to an executed annual contributions contract (ACC) where no home-buyers ownership agreements have been signed, the ACC shall be amended: (i) To include the "Special Provisions for Turnkey III Homeownership Opportunity Project" as set forth in Appendix I; (ii) to extend its term to 30 years; and (iii) to reduce its maximum contribution percentage to a rate that will amortize the debt in 30 years at the minimum loan interest rate specified in the ACC. Further development and operation of the project shall be in accordance with this subpart including use of the form of home-buyers ownership opportunity agreement set forth in Appendix II.

(2) With respect to projects under development or in operation where home-buyers ownership agreements have been signed, the following steps shall be taken:

(i) The annual contributions contract shall be amended to include the "Special Provisions for Turnkey III Homeownership Project No. ------" as set forth in Appendix I and further development and operation of the project shall be in accordance with this subpart.

(ii) The LHA shall offer all qualified home buyers in the project a new home-buyers ownership opportunity agreement as set forth in Appendix II with an amendment to section 14(a) to refer to "the latest approved Development Cost Budget, or Actual Development Cost Certificate if issued," in lieu of "the Development Cost Budget in effect upon award of the Main Construction Contract or execution of the Contract of Sale," and an amendment to section 14(b) to refer to a term of 25 years, instead of 30, for the purchase price schedule. Each purchase price shall commence with the first day of the month following the effective date of the former home-buyers ownership agreement. No home buyer shall be required to accept the new agreement.

(iii) For each home buyer who has not accepted the new home-buyers ownership opportunity agreement, the LHA shall provide a purchase price schedule showing the amortization of the development cost attributable to

the home as the monthly declining purchase price in accordance with the provisions of § 1270.114 except: (*a*) A 25-year amortization period shall be used; (*b*) the development cost for each home shall be computed on the basis of the latest approved development cost budget, or the actual development cost certificate if issued.

§ 1270.102 Definitions.

(a) The term "HUD" means the Department of Housing and Urban Development which provides the LHA's with financial assistance through loans and annual contributions and technical assistance in the development and operation of the project.

(b) The term "LHA" means the local housing authority which acquires or develops a low-rent housing development with financial assistance from HUD, owns all the homes until titles are transferred to the home buyers, and is responsible for the management of the homeownership program.

(c) The term "home buyers" means low-income families who have entered into Home Buyers Ownership Opportunity Agreements with the LHA.

(d) The term "home buyers association" (HBA) means an association comprised of home buyers whom it represents in dealings with the LHA and others.

(e) The term "homeowners" means home buyers who have acquired title to their homes.

(f) The term "homeowners association" means an association comprised of homeowners, having responsibilities with respect to common property of the project, including condominium associations.

(g) The term "Community Participation Committee" (CPC) means a voluntary group, made up of representatives of the low-income population primarily and representatives of community service organizations, which may be utilized by the LHA to assist in the development and ongoing support of a homeownership program.

§ 1270.103 Project development.

(a) *Financial framework.* The LHA shall finance development or acquisition of the project by sale of its notes (bond financing shall not be used). The principal amount of these notes shall be the capital debt of the project. Payment of the debt service is assured by HUD commitment to provide debt service annual contributions to the LHA based on a 30-year amortization period.

(b) *Contractual framework.* Underlying this arrangement are three basic contracts:

(1) An annual contributions contract containing "Special Provisions For Turnkey III Homeownership Opportunity Project," Form HUD–53010C (see appendix I);

(2) A Home Buyers Ownership Opportunity Agreement (see appendix II), which sets forth the respective rights and obligations of the low-income occupants and the LHA, including conditions for achieving homeownership; and

(3) A Recognition Agreement (see appendix II of Subpart C of this part) between the LHA and HBA under which the LHA agrees to recognize the HBA as the established representative of the homebuyers.

(c) *Community Participation Committee (CPC).* In the necessary development of citizens participation and understanding, the LHA should consider formation and use of a CPC, made up of interested citizens, to promote the project.

§ 1270.104 Eligibility and selection of home buyers.

(a) *Eligibility.* Home buyers shall be low-income families as determined in accordance with the income definitions and limits established by the LHA for the program and approved by HUD. The LHA shall determine the eligibility of each applicant as to income and shall select home buyers from among the list of eligible applicants.

(b) *Standards for Admission.* The HUD-approved standards for admission to low-rent housing, including the LHA's established priorities and preferences, and the requirements for administration of low-rent housing under title VI of the Civil Rights Act of 1964 (Public Law 88–352, 78 Stat. 241, 42 U.S.C. 2000a), shall be applicable except for the plan for selection of applicants as provided in §------ of this chapter. The LHA shall use the procedures set forth in paragraph (c) of this section for home buyer selection under the Turnkey III homeownership program. In carrying out these procedures the aim of the LHA shall be to provide for equal housing opportunity in such a way as to prevent segregation or other discrimination on the basis of race, creed, color, or national origin, in accordance with the Civil Rights Acts of 1964 (Public Law 88–352, 78 Stat. 241, 42 U.S.C. 2000a) and 1968 (Public Law 90–284, 82 Stat. 73, 18 U.S.C. 245);

(c) *Selection of home buyers.* Fair and objective procedures for home buyer selection shall be established as follows:

(1) *Availability of housing.* The availability of housing under the homeownership program shall be announced to the community at large.

(2) *List of applicants.* A separate list of applicants for the homeownership program shall be maintained, consisting of families who specifically apply for admission to such housing.

(3) *Dating of applications.* All applications for the homeownership program, including those from families on the waiting list for conventional housing and families in occupancy in such housing shall be dated as received.

(4) *Effect on applicant status.* The filing of an application for the homeownership program by a family which is an applicant for rental public housing or an occupant of such housing shall in no way affect its status with regard to rental public housing. Such applicants shall not lose their place on the rental public housing waiting list until they are accepted for the homeownership program, and such occupants shall not receive any different treatment or consideration than other occupants because of their having applied for the homeownership program.

(5) *Selection process.* (i) The LHA shall determine the eligibility of the family in respect to the income limits for the development. The LHA shall then assign each applicant his appropriate place on a waiting list for the development, in sequence based upon the date and time his application is received, suitable type or size of unit, and factors affecting preference or priority established by the LHA's regulations. Selection shall be made from the resulting list of eligible applicants by the LHA or a recommending committee. If a recommending committee is used it shall be composed of representatives of the CPC (if any), the LHA, and the HBA after it is formed. Where such a committee is utilized, it shall establish the criteria for selection and shall recommend qualified applicants to the LHA which shall make the final determination of acceptability. The LHA shall submit to the committee prompt written justification of any rejection, stating grounds, the reasonableness of which shall be in accord with HUD regulations and the LHA's HUD-approved regulations.

(ii) The selection criteria and procedures whether established by the LHA or the recommending committee shall insure the following:

(*a*) Selection of those applicants who have the greatest potential for homeownership;

(*b*) Protection of the applicant's constitutional rights, and selection on a basis that does not automatically deny admission to a particular class and that does insure selection on a nondiscriminatory basis;

(*c*) Achievement of an average monthly payment for the project, including consideration of the availability of the Special Family Subsidy, which is at least 10 percent more than the break-even amount (see § 1270.108); and

(*d*) Priority in selection to homebuyer families who have at least one member gainfully employed or who has potential for gainful employment.

(6) *Selection of lower income families.* If there are applicants who have a potential for homeownership but whose required monthly payment under the LHA's rent schedule would be less than the break-even amount (see § 1270.108), the LHA may select them as homebuyers. However, in any event, the initial and subsequent selection of homebuyers by the LHA shall result in an average monthly payment, including consideration of the availability of the Special Family Subsidy for the project, which is at least 10 percent more than the break-even amount. Such an average monthly payment may be achieved by selecting some low-income families who can afford to make required monthly payments substantially above the break-even amount.

(7) *Notification to applicants.* (i) Applicants who are determined to be eligible for admission to the development shall be notified of the approximate date of

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occupancy insofar as such date can reasonably be determined.

(ii) Applicants who are not selected for a specific homeownership development shall be so notified in accordance with HUD-approved procedure. The notice shall state the reason for the applicant's rejection (including a nonrecommendation by the recommending committee unless the applicant has previously been so notified by the committee), and provide the applicant, upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination regardless of the reason for the rejection.

(d) *Eligibility for continued occupancy.* (1) The home buyer shall cease to be eligible for continued occupancy with the aid of HUD annual contributions when the LHA determines that his adjusted monthly income has reached the level, and is likely to continue at such level, at which 20 percent thereof equals or exceeds the monthly housing cost (see subparagraph (2) of this paragraph). In such event, if the LHA determines, with HUD approval, that suitable financing (such as a subsidized or unsubsidized HUD insured mortgage, or a VA-guaranteed loan) is available, the LHA shall notify the home buyer that he shall either: (i) Purchase the home or (ii) move from the project; *Provided, however*, That if the LHA determines that, due to special circumstances, the homebuyer is unable to find decent, safe, and sanitary housing within his financial reach although making every reasonable effort to do so, the home buyer may be permitted to remain for the duration of such a situation if he pays an increased rent consistent with his increased income. This rent shall not, however, exceed the greater of the sum of the monthly breakeven amount plus the monthly debt service amount shown on the purchase price schedule for the home, or the rent for comparable unsubsidized housing in the locality. Such an increased rent shall also be payable by the home buyer if he continues in occupancy without purchasing the home because suitable financing is not available.

(2) The term "monthly housing cost," as used in this paragraph, means the sum of: (i) The monthly debt service amount shown on the Purchase Price Schedule (except where the home buyer can purchase the home by the method described in § 1270.114(c)(1) of this subpart); (ii) one-twelfth of the annual real property taxes which the home buyer will be required to pay as a homeowner; (iii) the current monthly per unit amount budgeted for routine maintenance (EHPA), Nonroutine Maintenance Reserve, and routine maintenance-common property; and (iv) the current LHA and HUD approved monthly allowance for utilities paid for directly by the home buyer plus the monthly cost of utilities supplied by the LHA.

§ 1270.105 Counseling of home buyers.

The LHA shall provide counseling and training as provided in Subpart C of this part. It shall be funded as provided in § 1270.206 of this part. Applicants for admission to the project shall be advised of the nature of the counseling and training program available to them and the application for admission shall include a statement by the applicant that he and his family shall participate and cooperate fully in all official preoccupancy and postoccupancy training activities. Failure to participate as agreed may result in the family not being selected or retained as a home buyer.

§ 1270.106 Home buyers Association (HBA).

A Home-Buyer Association (HBA) is an incorporated organization composed of all the families who have entered into Home-Buyers Ownership Opportunity Agreements. It is formed and organized for the purposes set forth in § 1270.304. The HBA shall be funded as provided in § 1270.305.

§ 1270.107 Responsibilities of homebuyer.

(a) *Repair, maintenance, and use of home.* Each homebuyer shall be responsible for the routine maintenance of his dwelling and grounds to the satisfaction of the HBA and the LHA. This routine maintenance includes the work (labor and materials) of keeping the dwelling structure, grounds, and equipment in good repair, condition, and appearance so that they may be utilized continually at their designed capacities and at the satisfactory level of efficiency for their intended purposes, and in conformity with the requirements of local housing codes and applicable regulations and guidelines of HUD. It includes repairs (labor and materials) to the dwelling structure, plumbing fixtures, dwelling equipment (such as range and refrigerator), shades and screens, water heater, heating equipment, and other component parts of the dwelling. It also includes all interior painting and the maintenance of grounds (lot) on which the dwelling is located. It does not include maintenance and replacements provided for by the Nonroutine Maintenance Reserve described in § 1270.111.

(b) *Repair of damage.* In addition to his obligation for routine maintenance, each homebuyer shall be responsible for repair of any damage caused by him or members of his family.

(c) *Care of home.* A homebuyer shall keep his dwelling in a sanitary condition; cooperate with the LHA and HBA in keeping and maintaining the common area and property, including fixtures and equipment, in good condition and appearance; and follow all rules of the LHA and of the HBA concerning the use and care of the dwellings and the common areas and property.

(d) *Inspections.* A homebuyer shall agree to permit officials, employees, or agents of the LHA and of the HBA to inspect his home at reasonable hours and intervals in accordance with rules established by the LHA and the HBA.

(e) *Use of home.* A homebuyer shall not: (1) Sublet his home without the prior written approval of the LHA and HUD, (2) use or occupy his home for any unlawful purpose nor for any purpose deemed hazardous by insurance companies on account of fire or other risks, or (3) provide accommodations (unless approved by the HBA and the LHA) to boarders or lodgers. Each homebuyer shall agree to use the home only as a place to live for himself and his family (as identified in his initial application or by subsequent amendment with the approval of the LHA), for children thereafter born to or adopted by members of such family, and for aged or widowed parents of the homebuyer or his spouse who may join the household.

(f) *Structural changes.* A homebuyer shall not make any structural changes in or additions to his home without first obtaining the written consent of the HBA and the LHA.

(g) *Charges.* The LHA shall agree to accept monthly payments without regard to any charges otherwise owed by the homebuyer to the LHA, and without regard to other rights and remedies applicable with respect to such other charges.

(h) *Statement of condition and repair.* When each homebuyer moves in, the LHA shall inspect the home and shall give the homebuyer a written statement, to be signed by the LHA and the homebuyer, of the condition of the home and the equipment in it. Should the homebuyer vacate the home, the LHA shall inspect it and give the homebuyer a written statement of the repairs and other work, if any, required to put the home in good condition for the next occupant (see § 1270.113). The homebuyer and/or his representative may join in any such inspections with the LHA and the HBA.

(i) *Maintenance of common property.* The home buyer may participate in nonroutine maintenance of his home and in maintenance of common property as discussed in § 1270.110(d) and § 1270.111(c).

(j) *Home buyer's required monthly payment.* (1) The term "required monthly payment" as used herein means the monthly payment the home buyer is required to pay to the LHA on or before the first day of each month. Except as otherwise provided in subparagraph (2) of this paragraph, the required monthly payment shall be an amount equal to 20 to 25 percent of the home buyer's adjusted monthly income (depending on the LHA's established rent schedule), less a monthly allowance for those utilities which the home buyer pays for directly.

(2) Notwithstanding the above, the required monthly payment, plus the monthly allowance for utilities supplied by the home buyer, shall not exceed 25 percent of the family's adjusted monthly income as defined by HUD in accordance with the Act.

(3) The required monthly payment may be adjusted as a result of the LHA's regular scheduled or specially scheduled reexamination of the home buyer's income and family composition. Interim changes may be made in accordance with the LHA's policy on reexaminations. If a homebuyer requests a rent adjustment based on circumstances not covered by the LHA's policy, an adjustment may be made if both the LHA and the HBA agree that the circumstances warrant it.

(4) The required monthly payment may also be adjusted by changes in the required percentage of income due to changes in operating expenses as described in § 1270.109 and also to reflect changes made in the amount of the utility allowance to reflect current utility costs.

(k) *Assignment and survivorship.* Until such time as the home buyer acquires ownership of his home it shall be used only to house a family of low income. Therefore:

(1) A home buyer shall not assign any right or interest in his home or under his Home Buyers Ownership Opportunity Agreement without the prior written approval of the LHA and HUD;

(2) At the time of execution of his Home Buyers Ownership Opportunity Agreement, the home buyer shall designate a relative or household member who shall be his successor as a home buyer in the event of the home buyer's death, mental incapacity, or abandonment of family. The designee shall succeed the home buyer upon the occurrence of such an event unless the designee is then determined by the LHA and HUD to be no longer qualified.

(l) *Termination of occupancy.* (1) Should a home buyer breach his Home Buyers Ownership Opportunity Agreement, by failure to make his monthly payment or otherwise (including but not limited to misrepresentation or withholding of information in applying for admission or in connection with any subsequent reexamination of income and family composition), the agreement may be terminated by the LHA, after consulting the appropriate officers of the HBA. The LHA should provide the home buyer with an opportunity for special counseling designed to help him with his particular problem in fulfilling his agreement. The home buyer shall be given 30 days' written notice and shall be informed by a representative of the LHA of the reason for the termination. The home buyer shall be given a reasonable period of time to reply to the same representative of the LHA, and, if he wishes, to another representative, or other representatives of the LHA. The home buyer shall have the right to be accompanied by a representative of the HBA when he presents his reply or replies.

(2) The home buyer may terminate his agreement by giving the LHA 30 days' notice in writing of his intention to terminate and vacate his home. In the event that the home buyer abandons his home, or vacates it without notice to the LHA, the agreement shall be automatically terminated and the LHA may dispose of, in any manner deemed suitable by it, any items of personal property abandoned by the home buyer in the home.

§ 1270.108 Break-even amount.

(a) *Definition.* The term "break-even amount" as used herein means the minimum monthly amount required to provide funds for:

(1) Payment of monthly operating expense, including provision for operating reserve (see § 1270.109);

(2) The monthly amount to be credited to the earned home payments account for the home buyer (see § 1270.110); and

(3) The monthly amount to be credited to the nonroutine maintenance reserve for the home (see § 1270.111).

Illustration. The following is an illustration of the computation of the break-even amount:

(1) *Operating Expense (see § 1270.109):*		
Administration	$8.50	----
Homebuyer services	2.00	----
Project supplied utilities	3.00	----
Routine maintenance-common property	3.00	----
Protective services	2.00	----
General expense	4.50	----
Provision for operating reserve	2.00	$25.00
(2) Earned home payments account (see § 1270.110)		12.00
(3) Nonroutine maintenance reserve (see § 1270.111)		7.50
Break-even amount		44.50

The break-even amount shown above does not include the monthly allowance for utilities which the home buyer pays for directly.

(b) *Excess over break-even.* When the home buyer's required monthly payment (see § 1270.107(j)) exceeds the break-even amount, the excess shall be used to supplement that portion of the required monthly payment designated for operating expense (i.e., project income): *Provided*, That such excess shall not be used to pay operating expense in excess of the HUD approved operating budget.

(c) *Deficit in monthly payment.* When the home buyer's required monthly payment is less than the break-even amount, the deficit shall be applied as a reduction of that portion of the monthly payment designated for operating expense (i.e., as a reduction of project income). In all such cases, the earned home payments account and the nonroutine maintenance reserve account shall be credited with the amount included in the break-even amount for these accounts.

§ 1270.109 Monthly operating expense.

(a) *Definition and categories of monthly operating expense.* The term "monthly operating expense" means the monthly amount needed to pay operating expense of the project including the provision for operating reserve. The monthly operating expense shall consist of the following categories of expense and provision for operating reserve:

(1) *Administration.* Administrative salaries, travel, legal expenses, office supplies, postage, telephone, and telegraph, ect.;

(2) *Home buyer services.* LHA expenses in the achievement of social goals, including costs such as salaries, publications, payments to the HBA to assist its operation, contract, and other costs;

(3) *Utilities.* Those utilities (such as water), if any, to be furnished by the LHA as part of operating expense;

(4) *Routine maintenance common-property.* For community building, grounds, and other common areas, if any. The amount required for routine maintenance of common property depends upon the type of common property included in the development and the extent of the LHA's responsibility for maintenance (see also § 1270.109(c));

(5) *Protective services.* The cost of supplemental protective services paid by the LHA for the protection of persons and property;

(6) *General expense.* Premiums for fire and other insurance, payments in lieu of taxes to the local taxing body, collection losses, payroll taxes, etc.;

(7) *Operating reserve.* Extraordinary maintenance of equipment applicable to the community building and grounds, and unanticipated items for both dwelling and nondwelling structures (see § 1270.112).

(b) *Monthly operating expense rate.* The monthly operating expense rate for each fiscal year shall be established on the basis of the LHA's HUD-approved operating budget for each such fiscal year. If it is subsequently determined that the actual operating expense for a fiscal year was more or less than the amount provided by the monthly operating expense established for such fiscal year, the rate of monthly operating expense to be established for the next fiscal year may be adjusted to account for the difference (see § 1270.112(b)). For the possible effect of such adjustment on the required monthly payment, see § 1270.107(j)(2).

(c) *Investment of excess.* When the aggregate amount of all EHPA balances exceeds the estimated reserve requirements for 90 days, the LHA shall notify the HBA and shall invest the excess in federally insured savings accounts, federally insured credit unions, and/or securities approved by HUD and in accordance with any recommendations made by the HBA. If the HBA wishes to participate in the investment program, it should submit periodically to the LHA a list of HUD approved securities, bonds, or obligations which the association recommends for investment by the LHA of the funds in the EHPA's. Interest earned on the investment of such funds shall be prorated and credited to each home buyer's EHPA in proportion to the amount in each such reserve account. Periodically, but not less often than semiannually, the LHA shall prepare a statement showing: (1) The aggregate amount of all EHPA balances; (2) the aggregate amount of investments (savings accounts and/or securities) held for the account of all the home buyers' EHPA's, and (3) the aggregate uninvested balance of all the home buyers' EHPA's. This statement shall be made available to any authorized representative of the HBA.

(f) *Voluntary equity payments.* To enable the home buyer to acquire title to his home within a shorter period, he may either periodically or in a lump

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sum voluntarily make payments over and above his required monthly payments. Such voluntary payments shall be deposited to his credit in his EHPA.

(g) *Delinquent monthly payments.* Under exceptional circumstances as determined by the HBA and the LHA, a home buyer's EHPA may be used to pay his delinquent required monthly payments, provided the amount used for this purpose does not seriously deplete the account and provided that the home buyer agrees to cooperate in such counseling as may be made available by the LHA or the HBA.

(c) *Provision for common property maintenance.* During the period the LHA is responsible for the maintenance of common property, the annual operating budget and the monthly operating expense rate shall include the amount required for routine maintenance of all common property in the project, even though ownership of a number of the homes may have been acquired by home buyers. During such period, this amount shall be computed on the basis of the total numbers of homes in the project (i.e., the annual amount budgeted for routine maintenance of common property shall be divided by the number of homes in the project, resulting in the annual amount for each home; the figure shall in turn be divided by 12 to determine the monthly amount to be included in the monthly operating expense (and in the break-even amount) for routine maintenance of common property. After the homeowners association assumes responsibility for maintenance of common property, the monthly operating expense (and break-even amount) shall include an amount equal to the monthly assessment by the homeowners association for the remaining homes owned by the LHA. See § 1270.112 for nonroutine maintenance of common property.

(d) *Posting of monthly operating expense statement.* A statement showing the budgeted monthly amount allocated in the current operating budget to each operating expense category shall be provided to the HBA and copies shall be provided to home buyers upon request.

§ 1270.110 Earned Home Payments Account (EHPA).

(a) *Credits to the account.* The LHA shall establish and maintain a separate EHPA for each home buyer. Since the home buyer is responsible for maintaining his home, a portion of his required monthly payment equal to the LHA's estimate, approved by HUD, of the monthly cost for such routine maintenance shall be set aside in his EHPA. In addition this account shall be credited with (1) Any voluntary payments made pursuant to paragraph (f) of this section, and (2) any amount earned through the performance of maintenance as provided in paragraphs (c) and (d) of this section.

(b) *Charge for failure to provide maintenance for dwelling unit.* If for any reason the home buyer is unable or fails to perform any item of required maintenance as described in § 1270.107(a), the LHA shall arrange to have the work done in accordance with the procedures established by the LHA and the HBA, and the cost thereof shall be charged to the home buyer's EHPA. Inspections of the home shall be made jointly by the LHA and the HBA.

(c) *Exercise of option; required amount in EHPA.* The home buyer shall not be entitled to exercise his option to buy his home until he has built up a minimum balance of $200 in his EHPA, at which time he shall receive a certificate to this effect (see appendix III to this subpart). The home buyer shall be obligated to build up this minimum balance within the first 2 years of his occupancy and shall also be obligated to continue performing the required maintenance thereby adding to his EHPA. If the home buyer fails to meet either of these obligations, the LHA and the HBA shall investigate and take appropriate corrective action, including termination of the agreement in appropriate cases.

(d) *Additional equity through maintenance of common property.* Home buyers may earn additional EHPA credits by providing in whole or in part any of the maintenance necessary to the common property of the project. When such maintenance is to be provided by the home buyer, this may be done and credit earned therefor only pursuant to a prior written agreement between the home buyer and the LHA (or the homeowners association, depending on whose property is involved), covering the nature and scope of the work and the amount of credit the home buyer is to receive. In such cases, the agreed amount shall be charged to the appropriate maintenance account and credited to the home buyer's EHPA upon completion of the work.

(h) *Annual statement to home buyer.* The LHA shall provide an annual statement to each home buyer specifying at least: (1) The amount in his EHPA, and (2) the amount in his nonroutine maintenance reserve. During the year, any maintenance or repair done on the dwelling by the LHA which is chargeable to the EHPA or nonroutine maintenance reserve shall be accounted for through a work order. A home buyer shall receive a copy of all such work orders for his home.

(i) *Withdrawal and assignment.* The home buyer shall have no right to assign, withdraw, or in any way dispose of the funds in his EHPA except as provided in §§ 1270.113, 1270.114, and 1270.115.

§ 1270.111 Nonroutine maintenance reserve.

(a) *Purpose of reserve.* The LHA shall use a portion of the home buyer's monthly payment to establish a separate nonroutine maintenance reserve for each home. The purpose of this reserve is to provide funds for the infrequent but costly items of maintenance and replacements which may be required over a period of years. Such items may include the replacement of dwelling equipment (such as range and refrigerator), replacement of roof, exterior painting, major repairs to heating, plumbing, and electrical systems, etc. This reserve shall not be used for maintenance and replacements of any items of common property; funds for such purposes shall be set aside in the operating reserve (see § 1270.112). Items of common property shall include all nondwelling structures and equipment, common areas, playgrounds, etc., and in some instances, it may include certain component parts of dwelling structures.

(b) *Amount of reserve.* The amount of the monthly payments to be set aside for the nonroutine maintenance reserve shall be determined by the LHA, with the approval of HUD, on the basis of maintenance engineering estimates of the amount needed during the term of the home buyers ownership opportunity agreement, taking into consideration the type of construction and dwelling equipment.

(c) *Charges to reserve.* When the LHA provides maintenance and/or replacements for which this reserve is established, the cost shall be charged to the nonroutine maintenance reserve for the home involved. Such maintenance may be provided by the home buyer but only pursuant to a prior written agreement with the LHA covering the nature and scope of the work and the amount of credit the home buyer is to receive. The amount of any credit shall, upon completion of the work, be charged to the nonroutine maintenance reserve for the home involved and credited to the home buyer's EHPA.

(d) *Transfer to home buyer.* When a home buyer purchases his home, the nonroutine maintenance reserve applicable to the home shall be transferred by the LHA to the home buyer and may be used if he so wishes to pay the downpayment, settlement, and related costs.

(e) *Investment of excess.* (1) When the aggregate amount of the nonroutine maintenance reserve balances for all the homes exceeds the estimated reserve requirements for 90 days, the LHA shall invest the excess in federally insured savings accounts, federally insured credit unions, and/or securities approved by HUD. Income earned on the investment of such funds shall be prorated and credited to each home buyer's nonroutine maintenance reserve in proportion to the amount in such reserve account.

(2) Periodically, but not less often than semiannually, the LHA shall prepare a statement showing: (i) The aggregate amount of all nonroutine maintenance reserve balances, (ii) the aggregate amount of investments (savings accounts and/or securities) held for the account of the nonroutine maintenance reserves, and (iii) the aggregate uninvested balance of the nonroutine maintenance reserves. A copy of this statement shall be made available to any authorized representative of the HBA.

§ 1270.112 Operating reserve.

(a) *Purpose of reserve.* To the extent that total operating receipts (including subsidies for operations) exceed total operating expenditures of the project,

the LHA shall establish an operating reserve up to the maximum approved by HUD in connection with its approval of the annual operating budgets for the project. The purpose of this reserve is to provide funds for: (1) The infrequent but costly items of nonroutine maintenance and replacements of common property, taking into consideration the types of items which constitute common property, such as nondwelling structures and equipment, and, in certain cases, common elements of dwelling structures, (2) any repairs to the dwelling units for which the LHA is responsible and which are not covered by the nonroutine maintenance reserve, and (3) a deficit in the operation of the project for a fiscal year, including a deficit resulting from monthly payments totaling less than the break-even amount for the project.

(b) *Provision for operating reserve.* (1) The amount of the provision for operating reserve to be included in operating expense (and in the break-even amount) established for the fiscal year (see § 1270.108) shall be determined by the LHA, with the approval of HUD, on the basis of maintenance engineering estimates of the monthly amount needed to accumulate an adequate reserve for the items described in paragraph (a)(1) of this section. This provision for operating reserve shall be made only during the period the LHA is responsible for the maintenance of any common property; and during such period, the amount shall be determined on the basis of the requirements of all common property in the project in a manner similar to that explained in § 1270.109(c).

(2) The amount of the provision for operating reserve to be included in computing the break-even amount may be increased (or decreased) when total routine expense for the preceding fiscal year is over (or under) the amount budgeted and used as a basis for establishing the break-even amount for such preceding fiscal year. When the operating reserve reaches the maximum authorized in paragraph (c) of this section, the break-even (monthly operating expense) computations (see § 1270.108) for the next and succeeding fiscal years need not include a provision for operating reserve unless the balance of the reserve is reduced below the maximum during any such succeeding fiscal year.

(c) *Maximum operating reserve.* The maximum operating reserve that may be retained by the LHA at the end of any fiscal year shall be the sum of:

(1) One-half of total routine expense included in the operating budget approved for the next fiscal year; and,

(2) One-third of total break-even amounts included in the operating budget approved for the next fiscal year.

Total routine expense means the sum of the amounts budgeted for administration, home-buyers' services, LHA-supplied utilities, routine maintenance of common property, protective services, and general expense, or other category of day-to-day routine expense (see § 1270.109 above for explanation of various categories of expense).

(d) *Transfer to homeowners association.* The LHA shall be responsible for and shall retain custody of the operating reserve until the homeowners association acquires voting control (see § 1270.119(c) and § 1270.120(f)). If the homeowners association then elects to assume full responsibility for management and maintenance of common property under a plan approved by HUD, there shall be transferred to the homeowners association the portion of the operating reserve then held by the LHA which is allocable to maintenance of common property, computed as follows:

(1) If the operating reserve is then at the allowable maximum, the sum of the amounts for: (i) Routine maintenance of common property; and (ii) the provision for operating reserve for common property which were included in the computation of the maximum operating reserve.

(2) If the operating reserve is then below the allowable maximum, a proportion of the amount computed in accordance with subparagraph (1) of this paragraph, based upon the proportion that the amount in the operating reserve bears to the allowable maximum.

In no case shall any portion of the operating reserve be transferred to individual home buyers or homeowners.

(e) *Disposition of reserve.* If, at the end of a fiscal year, there is an excess over the maximum operating reserve, this excess shall be applied to reduce the debt on the project (i.e., advance amortization). Following the end of the year next preceding the last annual contribution date for the project, the balance of the operating reserve held by the LHA shall be paid to HUD for application to reduction of annual contributions paid or payable.

§ 1270.113 Application of funds upon vacating of dwelling.

(a) *Charges to EHPA.* (1) In the event a home-buyers ownership opportunity agreement with the LHA is terminated or if the home buyer vacates the home (see § 1270.107(d)), the LHA shall charge against his EHPA the amounts required to pay: (i) The amount due the LHA, including the monthly payments he is obligated to pay to the date he vacates; (ii) the monthly payment for the period the home is vacant, not to exceed 30 days from the date of notice of intention to vacate, or 30 days from the date the home is vacated if the home buyer failed to give notice of intention to vacate; and (iii) the cost of repair and other work required to put the home in good condition for the next occupant in conformity with § 1270.107.

(2) If the EHPA balance is not sufficient to cover all of these charges, the LHA shall require the home buyer to pay the additional amount due. If the amount in the account exceeds these charges, the excess shall be paid to him.

(b) *Nonroutine maintenance and operating reserves.* The unused balance of the nonroutine maintenance reserve and of the operating reserve shall not be refunded but shall be retained by the LHA.

(c) *Settlement.* Settlement with the home buyer shall be made within 30 days from the date he vacates and after the actual cost of repairs has been determined: *Provided, however,* That the home buyer may obtain settlement within 7 days of the date he vacates if he has given the LHA notice of his intention to vacate 30 days prior to the date he vacates and if the amount to be charged against his EHPA pursuant to paragraph (a)(1)(iii) of this section is based on the LHA's estimate of the cost thereof (determined after consultation with the appropriate representative of the HBA).

§ 1270.114 Achievement of ownership by initial occupant.

(a) *Determination of purchase price.* The initial purchase prices of the homes shall be determined by the LHA on the basis of the estimated total development cost (including the full amount for contingencies as authorized by HUD) of the project as shown in the development cost budget in effect upon award of the main construction contract or execution of the contract of sale less the amounts, if any, attributed to: (1) Relocation costs, (2) counseling and training costs, (3) the cost of any community buildings, and (4) the cost of any other land, buildings, equipment, and other facilities which are not part of the property to be owned by home buyers or the homeowners association. The LHA (subject to HUD approval) shall determine the initial purchase price of each home by prorating such estimated total development cost for the project, after deducting costs for items identified in subparagraphs (1) through (4) of this paragraph, on an equitable basis taking into account the size of the homes, the type of construction, the size of the lot (land) which becomes a part of the home, and such other factors as may affect the relative value of the home.

(b) *Purchase price schedule.* Each home buyer shall be provided with a purchase price schedule showing: (1) The monthly declining purchase price over a 30-year period commencing with the initial purchase price on the first day of the month following the effective date of his home-buyers ownership opportunity agreement; and (2) the monthly debt service amount upon which the schedule is based. This schedule and debt service amount shall be computed on the basis of the initial purchase price, a 30-year period, and a rate of interest equal to the minimum loan interest rate as specified in the annual contributions contract for the project on the date of HUD approval of the development cost budget, described in paragraph (a) of this section, rounded up, if necessary, to the next multiple of one-fourth of 1 percent (¼%).

(c) *Methods of purchase.* (1) The home buyer may achieve ownership when

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the amount in his EHPA, plus such portion of the nonroutine maintenance reserve as he wishes to use for the purchase, is equal to the purchase price as shown at that time on his purchase price schedule plus costs incidental to acquiring ownership. If for any reason title to the home is not conveyed to the home buyer during the month in which such circumstances occur, the purchase price shall be fixed at the amount specified for such month and the home buyer shall be refunded the net additions, if any, credited to his EHPA subsequent to such month, and such part of the monthly payments made by the home buyer after the purchase price has been fixed which exceed the sum of the break-even amount attributable to the unit and the interest portion of the debt service payment shown in the purchase price schedule.

(2) Where the sum of the purchase price and costs described in subparagraph (1) of this paragraph is greater than the amounts from his EHPA and nonroutine maintenance reserve as described in subparagraph (1) of this paragraph, the home buyer may achieve ownership by obtaining financing for or otherwise paying the excess amount. The purchase price shall be the amount shown on his purchase price schedule for the month in which the settlement date for the purchase occurs. Among the sources from which the home buyer may obtain funds for such excess is mortgage financing under a federally insured or guaranteed home-loan program.

(d) *Period for achieving ownership.* The maximum period for achieving ownership shall be 30 years, but depending upon increases in the home-buyers income and the amount of credit which the home buyer can accumulate through maintenance and voluntary payments, the period may be shortened accordingly.

§ 1270.115 Payment upon resale at profit.

(a) *Promissory note.* (1) The home buyer (regardless of whether ownership is achieved under § 1270.114 or 1270.116) shall be required to make a payment to the LHA if he sells his house at a profit within 5 years of actual residence in the home after he becomes a homeowner. The obligation to make such a payment shall be provided for in a non-interest-bearing promissory note (see appendix IV to this subpart) to the LHA which shall be executed at the time he becomes a homeowner and shall be secured by a second mortgage. The initial amount of the note shall be computed by taking the FHA-appraised value at the time the home buyer gets title to his house (that is, when he becomes a homeowner) and subtracting: (i) The price for which the home buyer acquires title to this home; (ii) the closing and other costs incurred by the homeowner in acquiring title; and (iii) the amount of increased value of the home caused by improvements made by the home buyer. The result shall be the initial amount of the note.

(2) The promissory note shall provide that the amount of the note shall be automatically reduced by 20 percent of the initial amount at the end of each year of residency as a homeowner with the note terminating at the end of the 5-year period of residency as determined by the LHA. To protect the homeowner, the note shall provide that the amount payable under it shall in no event be more than the net profit on the sale, that is, the amount by which the sales price exceeds the sum of: (i) The home-buyer's purchase price; (ii) the closing and other costs paid by him at time of purchase; (iii) the costs of the sale, including commissions, mortgage prepayment penalties, if any, and other costs paid by him at time of closing; and (iv) the value of home improvements added by him as a home buyer or homeowner.

(3) Amounts collected by the LHA under such notes shall be applied: (a) To reduce the LHA's capital indebtedness on the project; and (b) after such indebtedness has been paid, for such purposes as may be authorized or approved by HUD under such annual contributions contract as the LHA may then have with HUD.

Illustration. If the homeowner's purchase price is $10,000, the closing and other costs are $500, the added improvements are $1,000 and the FHA appraised value at the time is $17,000, the note computation would be as follows:

FHA appraised value		$17,000
Homeowner's purchase price	$10,000	
Improvements	1,000	
Closing and other costs	500	−11,500
Initial note amount		5,500

In this example, the amount of the note during the first year of residence is $5,500. In the second year, the amount of the note is $4,400, and in the third year it is $3,300, etc. The note shall terminate at the end of the fifth year.

If the homeowner in this example sells his home during the first year for a sales price of $17,500, has sales costs of $1,600 (including a sales commission), and has made $1,500 in further improvements, he would be required to pay the LHA $2,900 rather than the $5,500, as indicated in the following computations:

Sales price		$17,500
Sales costs	$1,600	
All improvements	2,500	
Purchase price and costs	10,500	−14,600
Payable to LHA		2,900

(b) *Residence requirement.* The 5-year note period does not end if the homeowner rents or otherwise does not use the home as his principal place of residence for any period within the first 5 years after he achieves ownership. In this case, only the actual amount of time he is in residence is counted and the note shall be in effect until a total of 5 years time of residence has accrued, at which time the homeowner may request the LHA to release him from the note, and the LHA shall do so.

§ 1270.116 Achievement of ownership by subsequent occupants.

(a) *Low-income successors.* A low-income family succeeding the initial home buyer may achieve ownership in the same manner as described in § 1270.114 for its predecessor—under a home-buyers ownership opportunity agreement—by making the required monthly payments, performing its own maintenance and repairs, and making voluntary payments.

(b) *Determination of initial purchase price.* The initial purchase price for a successor home buyer shall be an amount equal to: (1) The purchase price shown on the initial home-buyer's purchase price schedule as of the date of the home-buyers ownership opportunity agreement with the successor home buyer plus; (2) the amount, if any, by which the fair market value of the home determined or approved by HUD as of the same date, exceeds the purchase price specified in subparagraph (1) of this paragraph.

(c) *Purchase price schedule.* The successor home-buyer's purchase price schedule shall be the same as the unexpired portion of the initial home-buyer's purchase price schedule except that where his purchase price includes an additional amount as specified in paragraph (b)(2) of this section, the initial home-buyer's purchase price schedule shall be followed by an additional purchase price schedule for such additional amount based upon the same monthly debt service and the same interest rate as applied to the initial home-buyer's purchase price schedule.

(d) *Continued eligibility and repayment upon resale.* The provisions of §§ 1270.104(d) and 1270.115 apply to successor home buyers as well as to initial home buyers.

(e) *Residual receipts.* After payment in full of the LHA's debt, if there are any successor occupants who have not acquired ownership of their homes, the LHA shall continue to pay to HUD all residual receipts from the operation of the project, including payments received on account of any additional purchase price schedules applicable to the homes, provided the aggregate amount of such payments of residual receipts does not exceed the aggregate amount of annual contributions paid by HUD with respect to the project.

§ 1270.117 Transfer of title to home buyer.

When the home buyer is to obtain ownership, as described in § 1270.114 or § 1270.116, a closing date shall be mutually agreed upon by the parties. On the closing date, the home buyer shall pay the required amount of money (including any amounts available in his EHPA and such portion of the nonroutine maintenance reserve as he may wish) to the LHA and receive a deed for the home.

§ 1270.118 Responsibilities of home buyer after acquisition of ownership.

After acquisition of ownership, each homeowner shall be required to pay to the LHA or to the homeowners association, as appropriate, a monthly fee for: (a) The maintenance and operation of community facilities including utility facilities, if any, (b) the maintenance of grounds and other common areas, and (c) such other purposes as determined by the LHA or the homeowners association, as appropriate, including taxes and a provision for a reserve. This requirement shall be set out in the planned unit development or condominium documents which shall be recorded prior to the date of full availability, or in an LHA-homeowner contract in this regard.

§ 1270.119 Homeowners Association—Planned unit development (PUD).

If the development is organized as a planned unit development:

(a) *Ownership and maintenance of common property.* The common areas, sidewalks, parking lots, and other common property in the development shall be owned and maintained as provided for in the approved planned unit development (PUD) program except that the LHA shall be responsible for maintenance until such time as the homeowners association assumes such responsibility (see § 1270.112(d)).

(b) *Title restrictions.* The title ultimately conveyed to each home buyer shall be subject to restrictions and encumbrances to protect the rights and property of all other owners. The homeowners association shall have the right and obligation to enforce such restrictions and encumbrances and to assess owners for the costs incurred in connection with common areas and property and other responsibilities.

(c) *Votes in association.* There shall be as many votes in the association as there are homes, and at the outset all the voting rights shall be held by the LHA. As each home is conveyed to the home buyer, one vote shall automatically go to the home owner so that when all the homes have been conveyed, the LHA shall no longer have any interest in the homeowners association.

(d) *Voting control.* The LHA shall not lose its majority voting interest in the association as soon as a majority of the homes have been conveyed, unless the law of the state requires control to be transferred at a particular time, or the LHA so desires.

If permitted by State law, provision shall be made for each home owned by the LHA to carry three votes while each home owned by a homeowner shall carry one vote. Under this weighted voting plan, the LHA shall continue to have voting control until 75 percent of the homes have been acquired by homeowners. However, at its discretion, the LHA may transfer voting control to the homeowners when at least 50 percent of the homes have been acquired by the homeowners.

§ 1270.120 Homeowners association—condominium.

If the development is organized as a condominium: (a) The LHA at the outset shall own each condominium unit and its undivided interest in the common areas;

(b) All the land, including that land under the housing units, shall be a part of the common areas;

(c) The homeowners association shall own no property but shall maintain and operate the common areas for the individual owners of the condominium units except that the LHA shall be responsible for maintenance until such time as the homeowners association assumes such responsibility (see § 1270.112(d));

(d) The percentage of undivided interest attached to each condominium unit shall be based on the ratio of the value of the units to the value of all units and shall be fixed when the project is completed. This percentage shall determine the homeowner's liability for the maintenance of the common areas and facilities;

(e) Each homeowner's vote in the homeowners association shall be identical with the percentage of undivided interest attached to his unit; and

(f) The LHA shall not lose its majority voting interest in the association as soon as units representing 50 percent of the value of all units have been conveyed, unless the law of the State requires control to be transferred at a particular time or the LHA so desires. For voting purposes, if permitted by State law (until units representing 75 percent of the value of all units have been acquired by homeowners), the total undivided interest attributable to the homes owned by the LHA shall be multiplied by three. Under this weighted voting plan, the LHA shall continue to maintain voting control until 75 percent of the homes have been acquired by homeowners. However, at its discretion, the LHA may transfer voting control to the homeowners when units representing at least 50 percent of the value of all units have been acquired by the homeowners.

§ 1270.121 Relationship of homeowners association to HBA.

The HBA and the LHA may make arrangements to permit home buyers to participate in homeowners association matters which affect the home buyers. Such arrangements may include rights to attend meetings and to participate in homeowners association deliberations and decisions.

§ 1270.122 Use of appendices.

Use of the following appendices is mandatory for projects developed under this subpart:

Appendix I—Annual Contributions Contract "Special Provisions for Turnkey III Homeownership Opportunity Project";

Appendix II—Home Buyers Ownership Opportunity Agreement (Turnkey III);

Appendix III—Certificate of Acknowledgment of Home Buyer's Right to Purchase Home;

Appendix IV—Promissory Note for Payment Upon Resale by Home Buyer at Profit.

No modification may be made in format, content or text of these appendices except: (a) As required under State or local law as determined by HUD; or (b) with approval of HUD.

APPENDIX I

ANNUAL CONTRIBUTION CONTRACT

(—) Special provisions for turnkey III homeownership opportunity project No. ——.

(1) The local authority agrees to operate the project in accordance with requirements for the homeownership opportunity program for low-income families (turnkey III) as prescribed by the Government. The local authority shall enter into an agreement with the occupant of each dwelling unit in the project which agreement shall be in the form of the home buyers ownership opportunity agreement approved by the Government, and provides for the ultimate ownership of the dwelling unit by each occupant who has performed all of the obligations and conditions precedent imposed upon him by such agreement: *Provided*, That upon conveyance of any such dwelling unit, the local authority's outstanding obligations in respect to the project shall be reduced by the amount received for such conveyance, and the Government's obligation for payment of annual contributions in respect to the project shall be reduced by the amount allocable to the initial purchase price of the dwelling unit. The term "initial purchase price" as used in these special provisions shall have the same meaning as in the home buyers ownership opportunity agreement, and the term "dwelling unit" shall have the same meaning as the term "Home" used in the home buyers ownership opportunity agreement.

(2) Failure of the local authority to enter into such home buyers ownership opportunity agreements at the time and in the form as required by the Government, failure to perform any such agreement, and failure to meet any of its obligations under these special provisions shall constitute a substantial default under this contract.

(3) The books of account and records of the local authority shall be maintained to meet the requirements of the homebuyers ownership opportunity agreement as well as the other provisions of this contract and in such manner as will at all times show the operating receipts, operating expenditures, reserves, residual receipts, and other required accounts for the project separate and distinct from all other projects under this contract.

(4) As of the date of full availability, or at such earlier date as the Government may require, the local authority

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shall determine and submit to the Government for its approval the amount below which the development cost of the project will in no event fall. Upon approval thereof by the Government, such amount shall constitute and be known as the "Minimum Development Cost" of the project. The local authority shall issue its project loan notes, permanent notes, or project notes as the Government may require to finance the minimum development cost.

(5) Notwithstanding section 403(A)(4), the term "Development Cost" shall include interest on that portion of borrowed moneys allocable to the project for the period ending with the date of full availability or such earlier date as may be specifically approved by the Government.

(6) The Government shall make debt service annual contributions and additional annual contributions for the project as provided in section 415. In determining the total amount of annual contributions for the project pursuant to section 415(e) prior to the determination of the minimum development cost for the project, such term shall be construed to mean the estimated total development cost of the project. The first debt service annual contribution shall: (i) Be paid or made available as of the annual contribution date following the date as of which the minimum development cost of the project is first established, and (ii) be in an amount, as determined by the Government, which if applied annually at the interest rate (adjusted to the nearest one-eighth of 1 percent) charged the local authority during the preceding fiscal year would fully amortize the amount of the minimum development cost of the project on the first day of the month following the _____[1] anniversary of the annual contribution date on which the first debt service annual contribution was paid or made available with respect to the project. Not more than 40 annual contributions shall be paid with respect to the project nor shall any such annual contributions be paid or made available subsequent to 40 years from the date the first such annual contribution was paid or made available for the project.

(7)(a) During the maximum contribution period established for the project, the local authority shall, within 60 days after the end of each fiscal year, pay to the Government all residual receipts of the project for such fiscal year, provided that such receipts shall be applied to the reduction of the notes issued to finance the minimum development cost of the project.

(b) During the period of years immediately following and equal to the maximum contribution period established for the project, the local authority shall, within 60 days after the end of each fiscal year, pay to the Government all residual receipts of the project for such fiscal year, provided that such receipts shall be applied to the reduction of the annual contributions payable under section 415 for the project.

(c) Following the end of the fiscal year in which the last dwelling unit has been conveyed by the local authority, the balance of the operating reserve held by the local authority shall be paid to the Government, provided that the aggregate amount of payments under (b) and (c) of this paragraph shall not exceed the aggregate amount of annual contributions paid by the Government with respect to the project.

(8) No part of the funds on deposit in the debt service fund or the advance amortization fund with respect to any other project under this contract, or the funds available for deposit in such funds for such other projects, shall be applied to the retirement of notes issued for this project, nor shall any such funds on deposit or available for deposit from this project be used with respect to any other project or projects under this contract.

(9) To the extent that the provisions of this section conflict with other provisions of this contract, the provisions of this section shall be controlling with respect to the project.

[1] This shall be the number equal to the number of years of the maximum contribution period.

APPENDIX II

HOME BUYERS OWNERSHIP OPPORTUNITY AGREEMENT

(Turnkey III)

PART I

This agreement, made and entered into _____, 19____, by and between _____ (herein called the "Authority"), and _____ (herein called the "Home Buyer");

WITNESSETH:

In consideration of the agreements and covenants contained in this agreement and in home buyers ownership opportunity agreement Part II, which is hereby incorporated into this agreement by reference, the authority leases to the home-buyer the following described land and improvements thereon together with an undivided interest in all common areas and property (herein called the "Home") located in the _____ development (project No. _____), which home is identified and located as follows: (Insert address and legal description of location of home, including rights with respect to common areas and property, and making reference to book and page number in recorder of deeds office).

A. *Term of agreement.* The term of this agreement shall commence on _____, 19____, and shall expire at midnight on the last day of this same calendar month. Said term shall be extended automatically for successive periods of 1 calendar month for a total term of _____[1] years from the first day of the next calendar month unless the home buyer acquires his home pursuant to § 14 or 15 of Part II, as applicable, or unless this agreement is terminated pursuant to § 22 of Part II hereof.

B. *Monthly payment.* 1. Until changed in accordance with this agreement, the home buyer's monthly payment shall be $_____ per month, due and payable on or before the first day of each month. If liability for the monthly payment shall start on a day other than the first day of a calendar month, or if for any reason the effective date of termination occurs on other than the last day of the month, the monthly payment for such month shall be proportionate to the period of occupancy during that month.

2. The amount of the monthly payment may be increased or decreased only by reason of changes in the rent schedule (see § 7d of Part II) or changes in the home buyer's family income or other circumstances (see § 7e of Part II). Any such change in monthly payment shall become effective by written notice from the authority to the home buyer as of the date specified in such notice, and such notice shall be deemed to constitute an amendment to this agreement.

C. *Option to purchase and purchase price.* In consideration of the covenants contained herein, the authority grants the home buyer an option to purchase the home for the applicable purchase price, which option he may exercise after he has built up a credit of $200 in his earned home payments account according to § 8 of Part II. The initial purchase price of this home is $_____ (this price has been determined in accordance with § 14 or 15 of Part II hereof, as applicable); this amount shall be reduced periodically in accordance with the schedule (hereinafter called purchase price schedule) for that amount, which schedule is hereby furnished the home buyer.

D. *Home Buyers Association.* The signing of this agreement entitles the home buyer to membership in the Home Buyers Association, as provided in § 5 of Part II.

E. *Designation of successor.* For the purpose of § 23 of Part II, the designee and his address are:

_____
First name Initial

_____
Last name

_____
Relationship

F. *Entire agreement.* This agreement (comprising Parts I and II) is the entire agreement between the authority and the home buyer, and, except as otherwise provided in this agreement, no changes shall be made other than in writing signed by the authority and the home buyer.

This agreement is signed in duplicate, either copy of which may be considered the original for all purposes. The home buyer hereby acknowledges receipt of one of these signed copies.

WITNESSES:

_____

_____

By _____
The Authority

By _____
[ ] Initial Home buyer
[ ] Successor Home buyer

[1] Fill in term of years equal to term of purchase price schedule (and additional purchase price schedule, if applicable, see § 14 or 15, as applicable).

PART II

TERMS AND CONDITIONS

1. *The development.* a. *The home.* The home described in Part I of this agreement is included in a project (herein called the "Development"), which the authority has acquired or caused to be constructed. This development contains a number of dwelling units including related land, and common areas and property (certain projects may not contain such common areas and property), for occupancy by low-income families under lease-purchase agreements, each in the form of this home buyers ownership opportunity agreement. This development is financed by sale of the authority's notes which will be amortized over the period of years specified in the annual contributions contract relating to this development.

b. *Annual contributions contract.* The authority has entered into an annual contributions contract (ACC) with the Department of Housing and Urban Development (HUD) under which the authority will receive annual contributions provided by HUD, and will perform certain operational functions, to provide housing for the home buyers and assist the home buyers in achieving homeownership.

c. *Management.* The authority may enter into a contract or contracts for management of the development or for performance of management functions, by the Home Buyers Association, or others.

2. *The home buyers ownership opportunity agreement.* Under this home buyers ownership opportunity agreement, the home buyer may achieve ownership of the home described in Part I of this agreement by making the required monthly payments and providing maintenance and repairs to build up an equity in his earned home payments account (hereinafter called "EHPA"). While the home buyer is performing his obligations, the purchase price will be reduced in accordance with the purchase price schedule, so that, while this purchase price is being reduced, the home buyer is increasing the amount of his EHPA. The home buyer may also make voluntary payments to his EHPA which will enable him to acquire ownership more quickly. The home buyer may take title to his home when he is able to finance or pay in full the balance of the purchase price as shown on the purchase price schedule plus the costs incidental to acquiring ownership, as provided in § 14 or 15, as applicable.

3. *Status of home buyer.* After the home buyer achieves a credit of $200 in the EHPA, either by an initial payment of $200 or through monthly payments and provision of repairs and maintenance, he shall be entitled to exercise his option to purchase his home for the applicable purchase price pursuant to § C of Part I of this agreement. Until he achieves an EHPA credit of $200, the home buyer has the status of a lessee of the authority from month to month with an obligation to build up the minimum balance of $200 in his EHPA within the first 2 years and to continue adding to his EHPA thereafter. For convenience the term "home buyer" also refers to the occupant during his status as a lessee.

4. *Counseling of home buyers.* The authority shall provide training and counseling, as required and approved by HUD. The authority's own staff and resources, and/or existing community resources, and/or contracting with a private agency, shall be utilized to prepare home buyers for the rights, responsibilities, and obligations of homeownership including participation in the Home-Buyers Association. The home buyer agrees to participate in and cooperate fully in all official training and counseling activities.

5. *Home-Buyers Association.*[1] The signing of this agreement entitles the home buyer to membership in the Home-Buyers Association, composed of the home buyer to membership in the home-home buyers in the development and having the purposes set forth in the articles of incorporation of said association.

6. *Repair, routine maintenance, and use of premises.*

a. *Routine maintenance.* The home buyer shall be responsible for the routine maintenance of his dwelling and grounds, to the satisfaction of the Home-Buyers Association and the authority. This routine maintenance includes the work (labor and materials) of keeping the dwelling structure, grounds and equipment in good repair, condition and appearance so that they may be utilized continually at their designed capacities and at the satisfactory level of efficiency for their intended purposes, and in conformity with the requirements of local housing codes and applicable regulations and guidelines of HUD. It includes repairs (labor and materials) to the dwelling structure, plumbing fixtures, dwelling equipment (such as range and refrigerator), shades and screens, water heater, heating equipment, and other component parts of the dwelling. It also includes all interior painting and the maintenance of grounds (lot) on which the dwelling is located. It does not include maintenance and replacements provided for by the nonroutine maintenance reserve described in paragraph 9.

b. *Repair of damage.* In addition to his obligation for routine maintenance, the home buyer shall be responsible for repair of any damage caused by the home buyers or members of his family.

[1] There may be cases, such as where the homes are on scattered sites, where there is no Home-Buyers Association but an alternative method for home-buyer representation and counseling is provided (see 24 CFR, § 1270.307). In such cases, § 5 and other portions of this agreement referring to the Home-Buyers Association should be modified to reflect the alternative method provided for home-buyer representation and counseling.

c. *Care of home.* The home buyer agrees to keep his dwelling in a sanitary condition; to cooperate with the authority and the Home Buyers Association in keeping and maintaining the common area and property, including fixtures and equipment, in good condition and appearance; and to follow all rules of the authority and of the Home-Buyers Association concerning the use and care of the dwellings and the common areas and property.

d. *Inspections.* The home buyer agrees to permit officials, employees, or agents of the authority, and of the Home-Buyers Association to inspect his home at reasonable hours and intervals in accordance with rules established by the authority and the Home-Buyers Association.

e. *Use of home.* The home buyer shall not: (1) Sublet his home without the prior written approval of the authority and HUD, (2) use or occupy his home for any unlawful purpose nor for any purpose deemed hazardous by insurance companies on account of fire or other risks, or (3) provide accommodations (unless approved by the Home Buyers Association and the authority) to boarders or lodgers. The home buyer agrees to use the home only as a place to live for himself and his family (as identified in his initial application or by subsequent amendment with the approval of the authority), for children thereafter born to or adopted by members of such family, and for aged or widowed parents of the home buyer or his spouse who may join the household.

f. *Structural changes.* The home buyer shall not make any structural changes in or additions to his home without first obtaining the written consent of the Home Buyers Association and the authority.

g. *Charges.* The authority agrees to accept monthly payments without regard to any charges otherwise owed by the home buyer to the authority, and without regard to other rights and remedies applicable with respect to such other charges.

h. *Statements of condition and repair.* When the home buyer moves in, the authority shall inspect the home and shall give the home buyer a written statement, to be signed by the authority and the home buyer, of the condition of the home and the equipment in it. When the home buyer vacates, the authority shall inspect the home and give the home buyer a written statement of the repairs and other work, if any, required to put the home in good condition for the next occupant (see § 8h). The home buyer and/or his representative may join in any such inspections with the authority and the Home Buyers Association.

7. *Monthly payments by home buyer.*

a. *Determination of amount.* Except as otherwise provided hereinafter, the home buyer agrees to pay to the authority, so long as this agreement is in effect, a required monthly payment in an amount determined in accordance with a schedule adopted by the authority and

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approved by HUD. The schedule shall provide for payments to be based upon a percentage of the family's adjusted monthly income and shall indicate allowances for those utilities which the home buyer will pay for directly.

b. *Break-even amount.* The term "Break-even Amount" means the minimum monthly amount needed to provide funds for:

(1) Monthly operating expense, including provision for operating reserve, pursuant to § 7c below;

(2) The monthly amount to be credited to the home-buyer's EHPA pursuant to § 8 below; and

(3) The monthly amount to be credited to the nonroutine maintenance reserve for the home pursuant to § 9 below.

c. *Monthly operating expense.* (1) The term "Monthly Operating Expense" means the monthly amount needed to pay operating expense of the development including the provision for operating reserve. The monthly operating expense rate for each fiscal year shall be estabilshed on the basis of an operating budget for such fiscal year as approved by the authority and HUD, which budget shall control the operation. Subject to changes in the approved operating budget, the monthly operating expense shall consist of the following categories of expense and provision for operating reserve:

Administration.
Home-buyers services.
Utilities furnished by the authority.
Routine maintenance of common property.
Protective services.
General expense (insurance, payroll taxes, collection losses, payments in lieu of taxes, etc.).
Provision for operating reserve.

(2) During the period the authority is responsible for the maintenance of common property, the annual budget shall include the amount required for routine maintenance of all common property in the development, even though a number of the homes may have been acquired by home buyers. During such period, this amount shall be computed on the basis of the total number of homes in the development (i.e., the annual amount budgeted for routine maintenance of common property shall be divided by the number of homes in the development, resulting in the annual amount for each home; this figure shall in turn be divided by 12 to determine the monthly amount to be included in the monthly operating expense (and in the break-even amount) for routine maintenance of common property). After the Homeowners Association assumes responsibility for maintenance of common property, the monthly operating expense (and break-even amount) shall include an amount equal to the monthly assessment by the Homeowners Association for the remaining homes owned by the authority.

(3) The amount of the provision for operating reserve to be included in monthly operating expense shall be determined by the authority, with the approval of HUD, on the basis of maintenance engineering estimates of the monthly amount needed to accumulate an adequate reserve for the infrequent but costly items of nonroutine maintenance and replacements of common property, taking into consideration the types of items which constitute common property, such as nondwelling structures, nondwelling equipment, and in certain cases common elements of dwelling structures, etc. This provision for operating reserve shall be made only during the period the authority is responsible for the maintenance of common property; and during such period, the amount shall be determined on the basis of the requirements of all common property in the development in a manner similar to that explained in subsection (2) above.

(4) The amount of the provision for operating reserve may be increased or decreased when total routine expense (as defined below) for the preceding fiscal year exceeds or is less than the amount budgeted and used as a basis for establishing the break-even amount for such preceding fiscal year. When the operating reserve balance reaches the authorized maximum (see § 10a below) the break-even amount (monthly operating expense) for the next and succeeding fiscal years need not include a provision for reserve unless the operating reserve balance is reduced below the maximum during any such succeeding fiscal year. Total routine expense means the sum of the amounts budgeted for administration, home buyers' services, utilities furnished by the authority, routine maintenance of common property, protective services, general expense, and other categories of day-to-day routine expense.

(5) A statement showing the amount allocated to each monthly operating expense category shall be provided to the Home Buyers Association, and a copy shall be furnished to each home buyer upon request.

d. *Changes in monthly payment due to changes in rent schedules.* The required monthly payment may be adjusted: (1) By changes in the required percentage-of-income (and resulting change in rent schedule) due to changes in the break-even amount, and (2) to reflect changes made in the amount of the utility allowance to reflect current utility costs.

e. *Changes in monthly payment due to changes in family income or other circumstances.* The required monthly payment may be adjusted as a result of the authority's regularly scheduled reexamination of the home buyer's income and family composition. Interim changes may be made in accordance with the authority's policy on reexaminations, which shall include a provision for hardship adjustments. If a home buyer requests a rent adjustment based on circumstances not covered by the authority's policy, an adjustment may be made if both the authority and the Home Buyers Association agree that the circumstances warrant it.

f. *Application of monthly payment.* The home buyer's monthly payment shall be applied by the authority as follows: First, to the credit of the home buyer's EHPA pursuant to § 8 below; second, to the credit of the nonroutine maintenance reserve for the home pursuant to § 9 below; and third, for payment of monthly operating expense, including establishment of operating reserve as provided in § 10 below.

g. *Monthly payment below break-even amount.* In the event the home buyer's required monthly payment is less than the break-even amount, the amount to be used for payment of monthly operating expense and establishment of operating reserve shall be reduced accordingly; the credits to the EHPA and the nonroutine maintenance reserve account shall not be reduced by reason of such deficit.

h. *Monthly payments in excess of break-even amount.* When the home buyer's required monthly payment exceeds the break-even amount, the excess will not go into the EHPA but shall be used to supplement that portion of the required monthly payment designated for monthly operating expense, including operating reserve.

i. *Voluntary equity payments.* To enable the home buyer to acquire title to his home within a shorter period, he may either periodically or in a lump sum voluntarily make payments over and above his required monthly payments. Such voluntary payments shall be deposited to his credit in his EHPA.

8. *Earned home payments account (home buyers ownership reserve).* a. *Credits to the account.* The authority shall establish and maintain a separate EHPA for each home buyer. Since the home buyer is responsible for maintaining his home as provided in § 6, a portion of his required monthly payment equal to the authority's estimate approved by HUD, of the monthly cost for such routine maintenance shall be set aside in his EHPA. In addition, this account shall also be credited with: (1) Any voluntary payments made pursuant to § 7i, and (2) the amounts earned through the performance of maintenance pursuant to subsection e of this section. All amounts received by the authority for credit to the home buyer's account, including credits for performance of maintenance pursuant to subsection e of this section, shall be held by the authority for the account of the home buyer.

b. *Use of EHPA funds.* The unused balance in the home buyer's EHPA may be used toward purchase of the home as provided in § 14 or 15, as applicable, or shall be payable to the home buyer if he leaves the project as provided in subsection h of this section.

c. *Charge for failure to provide maintenance.* If for any reason the home buyer is unable or fails to perform any item of required maintenance as described in § 6 above, the authority shall arrange to have the work done in accordance with the procedures established by

the authority and the Home Buyers Association, and the cost thereof shall be charged to the home buyers' EHPA. Inspections of the home shall be made jointly by the authority and the Home Buyers Association.

d. *Required amount in EHPA; right to exercise option to buy.* The home buyer shall not be entitled to exercise his option to buy his home until he has built up a minimum balance of $200 in his EHPA, at which time he shall receive a certificate to this effect in the form attached hereto. The home buyer shall be obligated to build up this minimum balance within the first 2 years of his occupancy and shall also be obligated to continue performing the required maintenance thereby adding to his EHPA. If the home buyer fails to meet either of these obligations, the authority and the Home Buyers Association may investigate and take appropriate corrective action, including, where appropriate, termination of this agreement by the authority (see §§ 8h and 22).

e. *Additional equity through other maintenance.* Besides the maintenance which he must provide, as provided in § 6, the home buyer may earn additional EHPA credits by providing in whole or in part any of the maintenance necessary to the common property of the development or maintenance for which the nonroutine maintenance reserve is established (see § 9). When such maintenance is to be provided by the home buyer, this may be done and credit earned therefor only pursuant to a prior written agreement between the home buyer and the authority (or the Homeowners Association, depending on who has responsibility for maintenance of the property involved), covering the nature and scope of the work and the amount of credit the home buyer is to receive. Upon completion of such work, the agreed amount shall be charged to the appropriate expense account or to the nonroutine maintenance reserve of the home, as applicable, and credited to the home buyer's EHPA.

f. *Investment of excess.* When the aggregate amount of the EHPA balances for all the home buyers exceeds the estimated reserve requirements for 90 days, the LHA shall notify the HBA and shall invest the excess as provided below. The Homebuyers Association, if it so desires, should submit periodically to the authority a list of HUD-approved depositaries and securities which the association recommends for investment by the authority of EHPA funds. The authority shall invest such excess EHPA funds in federally insured savings accounts, federally insured credit unions, and/or securities approved by HUD and in accordance with the recommendations, if any, of the Homebuyers Association. The income earned on the investment of such funds shall be prorated and credited to each home buyer's account in proportion to the amount in each such account.

Periodically, but not less often than semiannually, the authority shall prepare a statement showing: (1) The aggregate amount of all EHPA balances, (2) the aggregate amount of investments (savings accounts and/or securities) held for the account of all the home buyers' EHPA's, and (3) the aggregate uninvested amount of all the home buyers' EHPA's. This statement shall be made available to any authorized representative of the Home Buyers Association.

g. *Delinquent monthly payments.* Under exceptional circumstances as determined by the Home Buyers Association and the authority, a home buyer's EHPA may be used to pay his delinquent monthly payments, provided the amount used for this purpose does not seriously deplete the account and provided that the home buyer agrees to cooperate in such counseling as may be made available by the authority or the Home Buyers Association.

h. *Application of EHPA funds upon termination of agreement.* (1) In the event this agreement is terminated or if the home buyer vacates the home, there shall be charged against the balance in his EHPA the sum of the amounts, if any, required to pay: (A) The amount due the authority, including monthly payments the home buyer is obligated to pay to the date he vacates, (B) the monthly payment for the period the home is vacant, not to exceed 30 days from the date of notice of intention to vacate, or 30 days from the date that the home is vacated if the home buyer failed to give notice of intention to vacate, and (C) the cost of repairs and other work required to put the home in condition for the next occupant in conformity with § 6. If the home buyer's EHPA balance is not sufficient to cover all of these charges, the authority shall require the home buyer to pay the additional amount due; if the amount in the EHPA exceeds these charges, the excess shall be paid to the home buyer.

(2) Final settlement with the home buyer shall be made within 30 days from the date he vacates, and after the actual cost of repairs has been determined. The home buyer may, however, obtain final settlement within 7 days of the date he vacates if he has given the authority notice of his intention to vacate 30 days prior to the date he vacates and if he agrees that the amount to be charged against his EHPA pursuant to subsection h(1)(C) above is based on the authority's estimate of the cost thereof (determined after consultation with the Home Buyers Association).

i. *Withdrawal and assignment.* The home buyer shall have no right to assign, withdraw, or in any way dispose of the funds in his EHPA, except as provided in this agreement.

9. *Non-routine-maintenance reserve.* a. *Purposes of reserve.* The authority shall use a portion of the home buyer's required monthly payment to establish and maintain a separate non-routine-maintenance reserve for his home. Funds in the non-routine-maintenance reserve shall be available for the infrequent but costly items of maintenance and replacement, which may be required over a period of years. Such items may include replacement of dwelling equipment (such as range and refrigerator), replacement of roof, exterior painting, major repairs to heating, plumbing, and electrical systems, etc. Maintenance and replacement costs applicable to common property will not be funded from the non-routine-maintenance reserve but shall be provided from the operating reserve (see sec. 10).

b. *Amount of reserve.* The amount to be set aside from the home buyer's required monthly payment for the nonroutine maintenance reserve will be determined by the authority with the approval of HUD, on the basis of maintenance engineering estimates of the amount needed during the term of this agreement, taking into consideration the type of construction and dwelling equipment.

c. *Charges to reserve.* When the authority (or the home buyer pursuant to § 8e) provides maintenance and/or replacements for which the nonroutine maintenance reserve is established, the cost thereof shall be charged to that reserve for his home.

d. *Use of reserve funds.* When the home buyer purchases his home pursuant to § 14 or § 15 hereof, the balance of the Nonroutine maintenance reserve applicable to his home shall be transferred by the authority to him and may be used, at his option, to pay any downpayment and costs incidental to acquiring ownership.

e. *Investment of excess.* When the aggregate amount of the nonroutine maintenance reserve balances for all the homes exceeds the estimated reserve requirements for 90 days, the authority shall invest the excess in federally insured savings accounts, federally insured credit unions, and/or securities approved by HUD for the investment of moneys on deposit in the authority's general fund. The income earned on the investment of such funds shall be prorated and credited to each home buyer's nonroutine maintenance reserve in proportion to the amount in such reserve account.

Periodically, but not less often than semiannually, the authority shall prepare a statement showing: (1) The aggregate amount of all nonroutine maintenance reserve balances, (2) the aggregate amount of investments (savings accounts and/or securities) held for the account of the home buyers' nonroutine maintenance reserves, and (3) the aggregate uninvested balance of the home buyers' nonroutine maintenance reserves. This statement shall be made available to any authorized representative of the Home Buyers Association.

10. *Operating reserve.* a. *Purpose of reserve (maximum reserve).* To the extent that total operating receipts (including subsidies for operations) exceed total operating expenditures of the project, the authority shall establish an operating reserve up to the maximum allowed by HUD in connection with its approval of the annual operating budgets for the development. The purpose of this

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reserve is to provide funds for: (1) The infrequent but costly items of nonroutine maintenance and replacements of common property (see § 7c(3) above); (2) repairs to the dwelling units for which the authority is responsible and which are not covered by the non-routine-maintenance reserve; and (3) a deficit in the operation of the project for a fiscal year, including a deficit resulting from monthly payments totaling less than the break-even amount for the development.

b. *Disposition of reserve.* If, at the end of a fiscal year, there is an excess over the maximum operating reserve, this excess shall be applied to reduce the capital debt for the development (i.e., advance amortization). Following the end of the year next preceding the last annual contribution date for the development, the balance of the operating reserve held by the authority is to be paid to HUD for application to reduction of annual contributions paid or payable.

c. *Transfer to Homeowners Association.* The authority shall be responsible for and will retain custody of the operating reserve until the Homeowners Association acquires voting control as provided in §§ 19 and 20 hereof. If the Homeowners Association then elects to assume full responsibility for management and maintenance of common property under a plan approved by HUD, there shall be transferred to the Homeowners Association the portion of the operating reserve then held by the authority which is allocable to maintenance of common property, computed as follows:

(1) If the operating reserve is then at the allowable maximum, the sum of the amounts for: (A) Routine maintenance of common property; and (B) the provision of operating reserve for common property which were included in the computation of the maximum operating reserve.

(2) If the operating reserve is then below the allowable maximum, a proportion of the amount computed in accordance with (1) immediately above, based upon the proportion that the amount in the operating reserve bears to the allowable maximum.

In no case shall any portion of the operating reserve be transferred to individual home buyers or homeowners.

11. *Annual statement to home buyer.* The authority shall maintain books of accounts and provide a statement at least annually to each home buyer which will show the following: (a) the amount in his EHPA; (b) the amount in the nonroutine maintenance reserve for his home.

12. *Insurance.* Until transfer of title to the home buyer, the authority shall carry all insurance prescribed by HUD including fire and extended coverage insurance upon the home buyer's home in such form and amount and with such company or companies as it determines. The authority shall not carry any insurance on the home buyer's furniture, clothing, automobile, or any other personal property, or personal liability insurance covering the home buyer. In the event the home buyer's home is damaged or destroyed by fire or other casualty, the authority shall consult with the home buyer as to whether the home shall be repaired or rebuilt. If the authority determines that the home should not be repaired or rebuilt but the home buyer disagrees, the matter shall be submitted to HUD for final determination. If the final determination is that the home should not be repaired or rebuilt, the authority shall terminate this agreement upon reasonable notice to the home buyer. In such case, the home buyer shall be paid the balance in his EHPA and (to assist him in connection with relocation expenses) the balance in his nonroutine maintenance reserve, less amounts, if any, due by him to the authority, including monthly payments he may be obligated to pay. In the event of termination or if the home must be vacated during the repair period, the authority will use its best efforts to assist in relocating the home buyer. If the home must be vacated during the repair period, monthly payments shall be suspended during the vacancy period.

13. *Eligibility for continued occupancy.*

a. *Eligibility determination.* The home buyer shall cease to be eligible for continued occupancy with the aid of HUD annual contributions when the authority determines that his adjusted monthly income has reached the level, and is likely to continue at such level, at which 20 percent thereof equals or exceeds the monthly housing cost (see subsection b immediately below). In such event, if the authority determines, with HUD approval, that suitable financing (such as a subsidized or unsubsidized HUD-insured mortgage, or a VA-guaranteed loan) is available, the authority shall notify the home buyer that he shall either: (1) Purchase the home, or (2) move from the development: *Provided, however,* That if the authority determines that, due to special circumstances, the home buyer is unable to find decent, safe, and sanitary housing within his financial reach although making every reasonable effort to do so, the home buyer may be permitted to remain for the duration of such a situation if he pays an increased rent consistent with his increased income. This rent shall not, however, exceed the greater of the sum of the monthly breakeven amount plus the monthly debt service amount shown on the purchase price schedule for the home, or the rent for comparable unsubsidized housing in the locality. Such an increased rent shall also be payable by the home buyer if he continues in occupancy without purchasing the home because suitable financing is not available.

b. *Monthly housing cost.* The term "monthly housing cost," as used in this section, means the sum of: (1) The monthly debt service amount shown on his purchase price schedule (except where the home buyer can purchase the home by the method described in § 14c (1) below); (2) one-twelfth of the annual real property taxes which he will be required to pay as a homeowner; (3) the current monthly per unit amount budgeted for: (A) Routine maintenance (EHPA), (B) nonroutine maintenance reserve, and (C) routine maintenance—common property; and (4) the current authority- and HUD-approved monthly allowance for utilities paid for directly by the home buyer plus the monthly cost of utilities supplied by the authority.

14. *Achievement of ownership by initial home buyer.*

a. *Determination of initial purchase price.* The initial purchase price of the home is based on the estimated total development cost of the development as shown in the development cost budget in effect upon award of the main construction contract or execution of the contract of sale, less the amounts, if any, attributed to: (1) relocation costs, (2) counseling and training costs, (3) the cost of any community buildings, and (4) the cost of any other land, buildings, equipment, and other facilities which are not part of the property to be owned by home buyers or the Homeowners Association. The authority (subject to HUD approval) has determined the initial purchase price of each home by prorating such estimated total development cost, after deducting costs for items identified in (1) through (4) above, on an equitable basis taking into account the size of the homes, the type of construction, the size of the lot (land) which becomes a part of the home, and such other factors as may affect the relative value of the homes.

b. *Purchase price schedule.* The purchase price schedule mentioned in section C of Part I of this agreement shows: (1) The monthly declining purchase price commencing with the initial purchase price on the first day of the month following the effective date of this agreement, and (2) the monthly debt service amount upon which the schedule is based. This schedule has been computed on the basis of the initial purchase price, a term of 30 years, and a rate of interest equal to the minimum loan interest rate as specified in the annual contributions contract for the development on the date of HUD approval of the development cost budget described in subsection a above, rounded up, if necessary, to the next multiple of one-fourth of 1 percent (¼ percent).

c. *Methods of purchase.* (1) The home buyer may achieve ownership when the amount in his EHPA, plus such portion of the nonroutine maintenance reserve as he wishes to use for the purchase, is equal to the purchase price as shown at that time on his purchase price schedule plus costs incidental to acquiring ownership. If for any reason title to the home is not conveyed to the home buyer during the month in which such circumstances occur, the purchase price shall be fixed at the amount specified for such month and the home buyer shall be refunded any net additions to his EHPA subsequent to such month, and such part of the monthly payments made by the home buyer after the purchase price has been

fixed which exceed the sum of the break-even amount attributable to the unit and the interest portion of the debt service payment shown in the purchase price schedule.

(2) Where the sum of the purchase price and costs described in (1) above is greater than the amounts from his EHPA and nonroutine maintenance reserve as described in (1) above, the home buyer may achieve ownership by obtaining financing for or otherwise paying the excess amount. The purchase price shall be the amount shown on his purchase price schedule for the month in which the settlement date for the purchase occurs. Among the sources of financing for the excess amount is mortgage financing under a federally insured or guaranteed home loan program.

d. *Counseling.* The home buyer shall be offered counseling and guidance by the authority and the Home Buyers Association in connection with the purchase of his home.

15. *Achievement of ownership by successor home buyers.*

a. *Determination of initial purchase price.* The initial purchase price for a successor home buyer shall be an amount equal to: (A) The purchase price shown on the initial home buyer's purchase price schedule as of the date of this agreement with the successor home buyer, plus (B) the amount, if any, by which the fair market value of the home determined or approved by HUD as of the same date, exceeds the purchase price specified in (A).

b. *Purchase price schedule.* The successor home buyer's purchase price schedule shall be the same as the unexpired portion of the initial home buyer's purchase price schedule, provided, however, that where his purchase price includes an additional amount as specified in "B" of subsection a above, this schedule shall be followed by an additional purchase price schedule for such additional amount based upon the same monthly debt service and the same interest rate as applied to the initial home buyer's purchase price schedule.

c. *Methods of purchase.* The methods of purchase for a successor home buyer shall be the same as stated in § 14c for the initial home buyer.

16. *Transfer of title to home buyer.*

a. *Closing date.* When the home buyer is to obtain ownership, a closing date shall be mutually agreed upon by the parties.

b. *Closing.* On the closing date the home buyer shall pay the required amount of money (including any amounts available in his EHPA and such portion of the nonroutine maintenance reserve as he may wish) to the authority and receive a deed for the home.

17. *Payment upon resale in 5 years.*

a. *Promissory note.* The home buyer shall be required to make a payment to the authority if he sells his home at a profit within 5 years of actual residence in the home after he becomes a homeowner. The obligation to make such a payment shall be provided for in a non-interest-bearing promissory note (secured by a second mortgage) to the authority which shall be executed at the time he becomes a homeowner. The initial amount of the note shall be computed by taking the FHA appraised value at the time the home buyer gets title to his home (that is, when he becomes a homeowner) and subtracting: (1) The price for which title to the home was acquired, (2) the closing and other costs incurred by the homeowner in acquiring title, and (3) the amount of increased value of the home caused by improvements made by the home buyer. The result shall be the initial amount of the note. The note shall provide that the amount of the note shall be automatically reduced by 20 percent of the initial amount at the end of each year of residency as a homeowner with the note terminating at the end of the 5-year period of residency as determined by the authority. To protect the homeowner, the note shall provide that the amount payable under it shall in no event be more than the net profit on the sale, that is, the amount by which the sales price exceeds the sum of: (1) The home buyer's purchase price, (2) the closing and other costs paid by him at the time of purchase, (3) the cost of the sale, including commissions, mortgage prepayment penalties, if any, and other costs paid by him at time of closing, and (4) the value of home improvements added by him as a home buyer or a home owner.

b. *Residency requirement.* The 5-year-note period does not end if the homeowner rents or otherwise does not use the home as his principal place of residence for any period within the first 5 years after he achieves ownership. In this case, only the actual amount of time he is in residence is counted and the note shall be in effect until a total of 5 years' time of residence as a homeowner has accrued, at which time the homeowner may request the authority to release him from the note, and the authority shall do so.

18. *Responsibilities of homeowner.* After acquisition of ownership, the homeowner shall pay to the authority or to the Homeowners Association, as appropriate, a monthly fee for: (a) The maintenance and operation of community facilities, including utility facilities, if any, (b) the maintenance of grounds and other common areas, and (c) such other purposes, as determined by the authority or the Homeowners Association, as appropriate, including taxes and a provision for a reserve. This requirement will be spelled out in the planned unit development or condominium documents which shall be recorded prior to the date of full availability of the development, or in an LHA-homowner contract in this regard.

19. *Homeowners Association—Planned unit development (PUD).*[1] If the development is organized as a planned unit development:

a. The common areas, sidewalks, parking lots, and other common property in the development shall be owned and maintained as provided for in the approved planned unit development (PUD) program, except that the authority shall be responsible for maintenance until such time as the Homeowners Association assumes such responsibility (see § 10c above).

b. The title ultimately conveyed to each home buyer shall be subject to restrictions and encumbrances to protect the rights and property of all other owners. The Homeowners Association shall have the right and obligation to enforce such restrictions and encumbrances and to assess owners for the costs incurred in connection with common areas and property and other responsibilities.

c. There shall be as many votes in the association as there are homes, and at the outset all the voting rights will be held by the authority. As each home is conveyed to the home buyer, one vote shall automatically go to the home buyer, so that when all the homes have been conveyed, the authority shall no longer have any interest in the Homeowners Association.

d. The authority shall not lose its majority voting interest in the association as soon as a majority of the homes have been conveyed, unless the law of the State requires control to be transferred at a particular time, or the authority so desires. If permitted by State law, provision shall be made for each home owned by the authority to carry three votes while each home owned by a homeowner shall carry one vote. Under this weighted voting plan, the authority will continue to have voting control until 75 percent of the homes have been acquired by homeowners. However, at its discretion, the authority may transfer voting control to the homeowners when at least 50 percent of the homes have been acquired by the homeowners.

20. *Homeowners Association—Condominium.*[1] If the development is organized as a condominium:

a. The authority at the outset shall own each condominium unit and the undivided interest of such unit in the common areas;

b. All the land, including that land under the housing units, shall be a part of the common areas;

c. The Homeowners Association shall own no property and shall merely maintain and operate the common areas for the individual owners of the condominium units, except that the authority shall be responsible for maintenance until such time as the Homeowners Association assumes such responsibility (see § 10c above);

[1] See footnote to § 20.

[1] If this home is a development of scattered sites, delete both §§ 19 and 20. If this home is in a planned unit development, delete § 20. If this home is in condominium, delete § 19.

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d. The percentage of undivided interest attached to each condominium unit shall be based on the ratio of the value of the unit to the value of all units and shall be fixed when the development is completed. This percentage shall determine the homeowner's liability for the maintenance of the common areas and facilities;

e. Each homeowner vote in the Homeowners Association shall be identical with the percentage of undivided interest attached to his unit; and

f. The authority shall not lose its majority voting interest in the association as soon as units representing more than 50 percent of the value of all units have been conveyed, unless the law of the State requires control to be transferred at a particular time or the authority so desires. For voting purposes, if permitted by State law, until units representing 75 percent of the value of all units have been acquired by homeowners the total undivided interest attributable to the homes owned by the authority shall be multiplied by 3. Under this weighted voting plan, the authority will continue to have voting control until units representing 75 percent of the value of all units have been acquired by homeowners. However, at its discretion the authority may transfer voting control to the homeowners when units representing at least 50 percent of the value of all units have been acquired by the homeowners.

21. *Relationship of Homeowners Association to Home Buyers Association.* The Home Buyers Association and the authority may make arrangements with the Homeowners Association to permit home buyers to participate in Homeowners Association matters which affect the home buyers. Such arrangements may include rights to attend meetings and to participate in Homeowners Association deliberations and decisions.

22. *Termination of agreement.*

a. *Termination by the authority.* In the event that a home buyer breaches this agreement by failure to make his monthly payments or otherwise (including but not limited to misrepresentation or withholding of information in applying for admission or in connection with subsequent reexamination of income and family composition), this agreement may be terminated by or at the direction of the authority, after consulting the appropriate officers of the Home Buyers Association. The authority should provide the home buyer with an opportunity for special counseling designed to help him with his particular problem in fulfilling this agreement. The home buyer shall be given 30 days' written notice and shall be informed by a representative of the authority of the reason for the termination. The home buyer shall be given an opportunity to reply to the same representative of the authority, and, if he wishes, to another representative, or other representatives of the authority. The home buyer shall have the right to be accompanied by a representative of the Home Buyers Association when he presents his reply or replies.

b. *Termination by the home buyer.* The home buyer may terminate this agreement by giving the authority 30 days' notice in writing of his intention to terminate and vacate the home. In the event that the home buyer abandons the home, or vacates it without notice to the authority, this agreement shall be automatically terminated and the authority may dispose of, in any manner deemed suitable by the authority, any items of personal property abandoned by the home buyer in the home.

c. *Application of funds.* The unused balance of the EHPA funds shall be applied as provided in § 8h above. The unused balance of the non-routine-maintenance reserve and of the operating reserve will not be refunded, but shall be retained by the authority.

d. *Failure to terminate.* The failure or omission of the authority to terminate this agreement for any cause shall not impair the right of the authority to do so later for similar or other causes.

23. *Survivorship.* In the event of the death, mental incapacity, or abandonment of the family by the home buyer, the designee under section E of Part I of this agreement shall be his successor as a home buyer, unless such designee is then determined by the authority and HUD to be no longer qualified.

24. *Nonassignability.*

a. *Nonassignability.* The home buyer shall not assign this agreement, or assign, mortgage, or pledge any right or interest therein including any right or interest in any reserve or account, without the prior written approval of the authority and HUD.

b. *Use of reserves and accounts.* It is understood and agreed that the home buyer shall have no right to receive or use the money in any reserve or account created pursuant to this agreement except for the limited purposes and under the special circumstances set forth by the terms of this agreement. It is further understood and agreed that both the authority and HUD have a financial and a governmental interest in the earned home payments account and other reserves as security for the financial integrity of the development, as a means of savings in cost to the Government by minimizing the amount and period over which HUD annual contributions must be paid, and as a means of advancing the public interest and welfare by assisting low-income families to achieve homeownership.

25. *Notices.* Any notice required hereunder or by law shall be sufficient if delivered in writing to the home buyer personally, or to an adult member of his family residing in the dwelling unit, or if sent by certified mail return receipt requested properly addressed to the home buyer, postage prepaid. Notice to the authority shall be in writing, and either delivered to any authority employee at the office of the authority or sent to the authority by certified mail, properly addressed, postage prepaid.

26. *Grievance procedure.* All grievances or appeals arising under this home-buyers agreement shall be processed and resolved pursuant to the grievance procedure of the authority, which procedure shall be revised to reflect the participation of the Home Buyers Association in the grievance process consistent with § 5 of part II of this agreement. This grievance procedure, as revised, shall be posted in the authority's office, and is incorporated herein by reference.

APPENDIX III

CERTIFICATE OF ACKNOWLEDGMENT OF HOME-BUYER'S RIGHT TO PURCHASE HOME

State of _____ }
County of _____ } ss

I, the undersigned, being the duly qualified and acting _____ of
(officer)
the _____ housing authority, do hereby certify that, as of the date hereof, _____ has attained a balance of at least $200 in his earned home payments account and has thereby achieved the status of home buyer, pursuant to which he is entitled to exercise the option to purchase the home located at _____, all in accordance with and subject to provisions of the home-buyers ownership opportunity agreement dated _____, 19____.
(Home buyer)

In witness whereof, I have hereunto affixed my official signature and seal this _____ day of _____, 19____.

[SEAL] _____
(Authorized officer)
_____
Housing authority

APPENDIX IV

PROMISSORY NOTE FOR PAYMENT UPON RESALE BY HOME BUYER AT PROFIT

For value received, _____ (Homeowner) promises to pay to _____ (Authority) or order, the principal sum of _____[1] dollars ($_____), without interest, on the date of resale by the homeowner of the property conveyed by the authority to the homeowner.

Such principal sum shall be reduced at the time of resale either to: (A) The difference between the resale price and the sum of (1) the homeowner's purchase price, (2) the costs incidental to his acquiring ownership, (3) the cost of such resale including commissions, mortgage prepayment penalties, and closing costs, and (4) the value of all improvements to the property made by the homeowner whether as a home buyer or homeowner; or (B) the remaining amount, if any, after deducting 20 percent of such principal sum for each year of residency by the homeowner on the property as determined by the authority; whichever is lower.

If the home owner shall pay this note at the time and in the manner set forth above, or if, by its provisions, the amount of this note shall be zero, then the note shall terminate and the authority shall, within thirty (30) days after written demand therefor by the homeowner, execute a release or satisfaction of this note, and the homeowner hereby waives the benefits of all statutes or laws which require the earlier execution or delivery of such release or satisfaction by the authority.

Presentment, protest, and notice are hereby waived.

Dated _____, 19____.

_____
Local housing authority
By: _____
_____
Homeowner
_____
Homeowner's spouse

[1] Amount determined in accordance with § 17 of the home buyers ownership opportunity agreement.

Subpart C—Homeownership Counseling and Training

§ 1270.201 Purpose.

The purpose of the counseling and training program shall be to assure that the home buyers, individually and collectively through their home-buyers association (HBA), will be more capable of dealing with situations with which they may be confronted, making decisions related to these situations, and understanding and accepting the responsibility and consequences that accompany those decisions.

§ 1270.202 Objectives.

The counseling and training program should seek to achieve the following objectives:

(a) Enable the potential home buyer to have a full understanding of the responsibilities that accompany his participation in the homeownership opportunity program;

(b) Enable the potential home buyer to have an understanding of homeownership tasks with specific training given to individuals as the need and readiness for counseling or training indicates;

(c) Assure that the role of the HBA is understood and plans for its organization are initiated at the earliest practical time;

(d) Develop an understanding of the role of the LHA and of the need for a cooperative relationship between the home buyer and the LHA;

(e) Encourage the development of self-help by the home buyer through reducing dependency and increasing independent action;

(f) Develop an understanding of mutual assistance and cooperation that will develop a feeling of self-respect, pride, and community responsibility;

(g) Develop local resources that can be of assistance to the individual and the community on an ongoing basis.

§ 1270.203 Planning.

(a) The counseling and training program shall be flexible and responsive to the needs of each prospective home buyer. While many subjects lend themselves to group sessions, consideration shall be given to individual counseling. Individuals should not be required to attend training classes on subject matter they are familiar with unless they can actively participate in the instruction process.

(b) The program may be provided by contract with an outside organization, or by the LHA staff, in either case with voluntary involvement and assistance of groups and individuals within the community. It must be recognized that most of the objectives stated require specialized instructional skill and content knowledge. There shall be recognition of the differences in communication and in value systems, and an understanding and respect for past experience of the individual. Maximum possible use shall be made of indigenous trainers to insure good communication and rapport. Special attention shall be directed to the needs of working members of the family for counseling and training sessions to be held when they can attend. Where the services of outside groups are utilized, there shall be a close working relationship with the LHA and a program for phasing in LHA staff who will have the ongoing responsibility for the program. The value of local agencies, educational institutions, etc., for implementing the program rather than an outside firm shall be carefully considered since their presence in the community can often develop into an ongoing resource beyond the contract period.

(c) In planning a homeownership counseling and training program, whether self-administered or contracted, the LHA shall consult with HUD for advice and information on programs, qualified contractors, local resources, reasonable costs, and other similar matters.

(d) Where the program is to be contracted to an outside group, proposals shall be secured either by public advertising or by sending requests for proposals to a number of competent public or private organizations.

(e) In areas where there are large concentrations of home buyers who do not read, write, or understand English fluently, the native language of the people shall be used. If feasible all instructional matters shall be in both languages.

§ 1270.204 General requirements and information.

The counseling and training program shall be designed to meet the needs of the home buyers and be sufficiently flexible to meet new needs as they arise. The nature of the program suggests four phases of counseling: (1) Preoccupancy; (2) move-in; (3) postoccupancy; (4) assistance to the HBA. While some elements of the program lend themselves more to one phase than another, the program areas shall be coordinated and interrelated. It is recommended that the entity providing these services work closely with the participants and insure that policies established are agreeable to both the LHA and the home buyer.

The following is a description of major elements of the program which experience thus far has shown to be relevant. More detailed information is set forth in Appendix I, "Content Guide for Counseling and Training Program."

(a) *Preoccupancy phase.* The scheduling of this phase should be related to construction schedules and occupancy dates and it should be completed before the families and the LHA enter into the home buyers ownership opportunity agreements. During this phase, each family and the LHA should be able to assess the family's potential and the desirability of its participating in the homeownership project. It should provide basic preparation for the families to assume the responsibilities of homeownership, though many of the elements to be covered will be dealt with in greater depth as the program develops. An overload of information should be avoided in this phase, because experience has shown that much of the information will be more relevant to the families in the postoccupancy period.

(b) *Move-in phase.* During this phase, the counseling and training staff should be available to the home buyers on an individual basis. Services may include: (1) Inspecting the units, interior and exterior, with the home buyers and a representative of the LHA, (2) testing appliances and equipment, (3) providing information on the moving process (packing, trucks, etc.), and (4) assisting home buyers in making adjustments occasioned by the move, serving as liaison among home buyers, LHA, builder, and other agencies, and assisting home buyers in meeting new neighbors.

(c) *Postoccupancy phase.* Before this phase begins, a period (possibly 1 month) should elapse to allow home buyers an opportunity to adjust to their new surroundings. This is a time when new questions and problems come to light that can be dealt with in further counseling and training. This phase should be designed to cover the same basic subjects as the preoccupancy phase, both by review and refresher where necessary, but in much greater depth.

(d) *Assistance to the HBA.* The parties responsible for the counseling and training program shall be responsible for the formation, incorporation, and development of the HBA, including the execution of the recognition agreement between the LHA and HBA, as provided in Subpart D of this part.

§ 1270.205 Training methodology.

Equal in importance to the content of the pre- and post-occupancy training is the training methodology. Because groups vary, there should be adaptability in the communication and learning experience. Methods to be utilized may include group presentations, small discussion groups, special classes, and workshops. Especially important to a successful program are individual family home visits for discussion and instruction on unique problems and operation of equipment.

§ 1270.206 Funding.

(a) *Source of funds.* The LHA may, with the approval of HUD, include up to $500 per dwelling unit in the development cost of the project for expenses in connection with: (1) Pre- and post-occupancy counseling and training activities for applicants and home buyers, and (2) organization and operation of the HBA, provided that such expenses

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are incurred no later than a date set by the LHA with the approval of HUD. If additional funds should be needed for such purposes, the LHA, with the assistance of the CPC, if any, shall explore all other possible sources of services and funds.

(b) *Application for funds.* (1) The LHA shall apply for fund approval by preparing a narrative statement outlining the counseling and training program, including services and funds to be obtained from other sources. This statement, together with copies of any proposed contract and other pertinent documents, shall be submitted to the HUD area office at the time of the submission of the development program for the project or as soon thereafter as possible.

(2) The statement outlining the counseling and training program shall include the following:

(i) Description of the needs and problems of prospective home buyers;

(ii) The method to be used to determine individual training and counseling needs;

(iii) The scope of the proposed program, including a detailed breakdown of tasks to be performed, products to be produced, and a time schedule, including provision for progress payments for specific tasks;

(iv) An outline of the content of the counseling and training to be provided;

(v) The methods of counseling and training to be utilized;

(vi) The experience and qualifications of those providing the counseling and training;

(vii) The local community resources to be utilized;

(viii) The estimated cost, source of funds, and methods of payment for the tasks and products to be performed or produced, including estimates of costs for each of the following cost categories:

(*a*) Counseling and training: Salaries; materials, supplies, and expendable equipment; contract costs; and other costs.

(*b*) Home buyers association costs.

(3) Upon approval by HUD of the application for funds, the total amount of HUD funds included in the approved counseling and training program shall constitute the maximum amount that may be included in the development cost of the project: *Provided*, That such amount may be amended, if necessary, with HUD approval, subject to the overall limitation of $500 per dwelling unit.

(c) *Approval of funds.* The development program for each homeownership project shall include an estimate of the costs for the counseling and training program. However, the approval of the development program does not constitute approval for incurring such costs prior to the approval of the counseling and training program. Upon approval of the counseling and training program, the LHA shall include the approved amount in its contract award development cost budget.

§ 1270.207 Use of appendix.

A content guide for counseling and training program (appendix I) is provided as further detailed information, for consideration in designing the counseling and training program. The items set forth therein are not to be considered mandatory.

APPENDIX I

CONTENT GUIDE FOR COUNSELING AND TRAINING PROGRAM

Inclusion of the following items in the Counseling and Training Program should be considered, keeping in mind that the extent to which they are covered will depend on specific needs of home buyers in the given development.

Preoccupancy phase

1. *Explanation of program.* Includes the background and a full description of the program with special emphasis on the financial and legal responsibilities of the home buyers, the HBA, and the LHA; and a review for home buyers of the computation of the monthly payment and of the accumulation and purpose of equity and reserves.

2. *Property care and maintenance.* Includes making home buyers generally familiar with the overall operation of the home, including fixtures, equipment, interior designing, and building and equipment warranties, and the appropriate procedures for obtaining services and repairs to which the home buyers may be entitled. (This aspect will probably have to be covered in more detail during the postoccupancy phase.)

3. *Money management.* Includes budgeting, consumer education, credit counseling, insurance, utility costs, etc.

4. *Developing community.* Includes a view of the surrounding community, and especially how the home buyer relates to it as an individual and as a member of the HBA.

5. *Referrals.* Includes information as to community resources and services where assistance can be obtained in relation to individual or family problems beyond the scope of the contract agency. This may include referrals to community services that can upgrade employment skills, provide legal services, offer educational opportunities, care for health and dental needs, care for children of working mothers, provide guidance in marital problems and general family matters, including drugs and alcohol.

Postoccupancy phase

1. *Home maintenance.* This should include builder responsibility, identification of minor and major repairs, instructions on do-it-yourself repairs and methods of having major repairs completed.

2. *Money management.* This should involve an in-depth study of the legal and financial aspects of consumer credit, savings and investments, and budget counseling.

3. *Developing community.* This will consist primarily of creating an awareness on the part of the home buyer of the nature and function of the HBA and the value of his participation in, and working through, the HBA as a responsible member of his community. By this means much will be learned about relationships with neighbors, community cooperation, and the ways in which individual and group problems are solved.

Other items

In addition to the above, there are other needs and concerns, especially those expressed by the home buyers, that may be dealt with in special classes or workshops. These may include such topics as child care, selection of furnishings, decorating and furnishing, refinishing of furniture, upholstery, sewing, food and nutrition, care of clothing, etc.

Subpart D—Home Buyers Association (HBA)

§ 1270.301 Purpose.

It is essential that the home buyers have an organized vehicle for pursuing their common interests, for effectively representing the needs of residents in dealing with the LHA, and for undertaking eventual management responsibility for the development. Although this organization, called the Home Buyers Association (HBA), shall be representative of the home buyers and independent of the LHA, it shall be the responsibility of the LHA and the training and counseling staff to assist the home buyers in their initial efforts at organization. Except as noted in § 1270.307, each homeownership project shall have an HBA.

§ 1270.302 Membership.

All families who have entered into home buyers ownership opportunity agreements shall be members of the HBA.

§ 1270.303 Organizing the HBA.

(a) The HBA should be organized and incorporated as early in the life of the project as is feasible, in order to allow selected home buyers an opportunity to meet each other and begin forging a sense of community, but in any case the HBA shall be organized and incorporated no later than the date on which 50 percent of the home buyers have been selected. However, officers and directors shall not be elected for full terms until 80 percent of the home buyers are in occupany.

(b) The LHA, in cooperation with the CPC, if any, shall be responsible for assuring that competent counseling and training assistance pursuant to Subpart C of this part will be provided in organizing the HBA. These services shall be continued until the HBA is fully operational.

(c) The provision of such services shall include at least the following functions:

(1) Assembling home buyers for initial orientation and planning;

(2) Explaining to home buyers the structure and functions of an HBA and the rights and responsibilities of the HBA and the LHA;

(3) Aiding in the preparation of charters, bylaws, contracts with the LHA, and other appropriate documents;

(4) Assisting in the formation of the organization, including such things as the initial election of HBA officers and directors, and the establishment of standing committees, if any.

(d) The LHA and the HBA shall execute an agreement recognizing the HBA as the official representative of the home buyers, and establishing the functions, rights, and responsibilities of both parties (see appendix II). This agreement shall

be executed as soon as possible after incorporation of the HBA.

§ 1270.304 Functions of the HBA.

(a) Subject to possible variations agreed to by the HBA and approved by HUD, the functions of the HBA shall include the following:

(1) Representing its members, individually and collectively, with respect to any deficiencies in the development or the homes therein and with respect to fulfillment of the construction contract and related warranties;

(2) Representing its members, individually and collectively, in their relationships with the LHA and others in regard to financial matters such as monthly payments, credits to and charges against reserves, settlement upon vacating the home, acquisition of ownership and to such other matters as pertain to project management;

(3) Recommending policies to the LHA for operation and management and, where appropriate, establishing HBA rules in that respect;

(4) Participating in the operation of official grievance mechanisms;

(5) Advising and assisting the members regarding procedures and practices relative to the earned home payments account and the acquisition of ownership;

(6) Participating with the LHA in periodic maintenance inspections of homes after occupancy, and assisting and making recommendations in case of disagreements arising out of such maintenance inspections;

(7) Participating with the LHA in the selection of subsequent home buyers;

(8) Coordinating, supervising, or managing the operation of credit union, child care, or other supportive services established for the development;

(9) Participating with the LHA in the establishment and implementation of policies related to collection of monthly payments, termination of occupancy, and resolution of hardship situations; and

(10) Performing management services as specified in § 1270.306 and participating in any other activities pursuant to agreement between the HBA and the LHA.

(b) In addition, the HBA may offer such special services as the following:

(1) The development of self-help such as consumer clubs, furniture and other co-ops, credit unions, transportation pools, and skill pools;

(2) Assisting home buyers in acquiring group insurance;

(3) Developing programs and contracting for services such as child care centers to be located in the community facility where one exists;

(4) Assisting home buyers in their employment, especially by participating in skill development and apprenticeship programs in cooperation with local educational organizations;

(5) Assisting home buyers in planning the management role of the HBA and in negotiating any contract for management services with the LHA.

§ 1270.305 Funding.

For general items of expense in the conduct of the business and activities of an HBA, in addition to noncash contributions such as space, office furniture, and duplicating services, the LHA shall provide for such expense in its budget and shall make cash contributions to cover HBA needs to the extent approved by HUD in the LHA budget. (After the $500 per unit maximum amount provided in § 1270.206 has been exhausted, the LHA's cash contribution shall be as provided in the LHA's annual operating budgets.) Such expenses of the HBA shall be subject to whatever restrictions are applied by HUD to the funding of tenant councils generally, except that the amounts shall be within the limitations stated in this section. Such contributions shall not exceed $3 per year per dwelling unit, except that as an incentive to the HBA to provide additional funds from other sources such as home buyers' dues, contributions, revenues from special projects or activities, etc., the LHA shall, to the extent approved by HUD in the LHA budget, match such additional funds beyond the $3 up to a maximum of $7.50, for a total LHA share of $7.50 where the total funding for the HBA is $12 or more. The HBA shall not be precluded from seeking to achieve total funding in excess of $12 per unit where this can be done with additional funds from sources other than the LHA. Furthermore, funding by the LHA for the normal expenses of the HBA is not to be confused with fees paid pursuant to management services contracts as described in § 1270.306.

§ 1270.306 Performing management services.

The LHA may also contract with the HBA to perform some or all of the functions of project management for which the HBA may be better suited or located than the LHA. Such functions may include security, maintenance of common property, or collection of monthly payments. For this purpose, the HBA may form a management corporation and the officers of the HBA shall be the directors of such corporation. This corporation and the LHA shall then negotiate a management-services contract. Such arrangements are consistent with the objective of providing for maximum participation by residents in the management of their development. As an alternative, the HBA and the LHA may elect to undertake any other arrangement approved by HUD.

§ 1270.307 Alternative to HBA.

Where the homes are on scattered sites (noncontiguous lots throughout a multiblock area, with no common property), or where the number of homes may be too few to support an HBA, and where an alternative method for home buyer representation and continuing counseling is provided, an HBA shall not be required. For such cases, a modified form of home buyers association may be called for or a less formal organization may be desirable. This decision shall be made jointly by the LHA and the home buyers, acting on the recommendation of HUD.

§ 1270.308 Relationship with Homeowners Association.

The HBA and the homeowners association are, in legal terms, separate and distinct organizations with different functions. The homeowners association may hold title to and be responsible for maintenance of common property (see §§ 1270.119 and 1270.120), while the HBA has more general service and representative functions. While all residents are members of the HBA, only those who have acquired title to their homes are members of the homeowners association.

§ 1270.309 Use of appendixes.

Use of the articles of incorporation (Part I of Appendix I) and the recognition agreement between the local housing authority and Home Buyers Association (Appendix II) is mandatory for projects developed under Subpart B of this part which have home buyers associations. No modification may be made in format, content or text of these appendixes except: (a) As required under State or local law as determined by HUD, or (b) with approval of HUD. The bylaws of the Home Buyers Association is provided as a guide for such projects and it may be used or modified to the extent required by the HBA and LHA respectively to meet local needs and desires.

APPENDIX I

ARTICLES OF INCORPORATION AND BYLAWS OF _____ HOME BUYERS ASSOCIATION

Part I—*Articles of Incorporation*

In compliance with the requirements of the undersigned, all of whom are natural

_____
(reference to statute under which incorporation is sought)

persons, residents of _____ of full age, have this day voluntarily associated themselves together for the purpose of forming a corporation, not-for-profit, and do hereby certify:

ARTICLE I—NAME

The name of the corporation is _____ Home Buyers Association (hereinafter referred to as the "Association").

ARTICLE II—OFFICE

The principal office of the Association is located at _____

ARTICLE III—AGENT

_____, whose address is _____, is hereby appointed the initial registered agent of the Association.

ARTICLE IV—DURATION

The period of duration of the Association is perpetual.

ARTICLE V—PURPOSES

The purpose for which this Association is formed shall not result in pecuniary gain or profit to the members thereof. These purposes are to provide organization and

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representation for its members in their relationships with _____ (hereinafter referred to as the "Authority") in all matters regarding the homeownership opportunity program and, if appropriate, to perform management responsibilities for _____ (hereinafter referred to as the "Development") under contract with the Authority. In order to carry out these purposes, the Association shall perform the following functions:

1. Represent its members, individually and collectively, with respect to any deficiencies in the development or any individual unit (hereinafter referred to as the "Home") therein and with respect to fulfillment of the construction contract and related warranties;

2. Represent its members, individually and collectively, in their relationships with the authority and others in regard to financial matters such as monthly payments, credits to and charges against reserves, settlement upon vacating the home, and acquisition of ownership, and to such other matters as pertain to project management;

3. Recommend policies to the authority for operation and management and, where appropriate, establish association rules in that respect;

4. Participatae in the operation of official grievance mechanisms;

5. Advise and assits its members regarding procedures and practices relative to their earned home payments accounts and to their acquisition of homeownership;

6. Participate with the authority in periodic maintenance inspections of the homes after occupancy and assist and make recommendations in case of disagreement arising out of such maintenance inspections;

7. Participate with the authority in the selection of subsequent home buyers;

8. Coordinate, supervise, or manage the operation of credit union, child care, or other supportive services established for the development;

9. Participate with the authority in the establishment and implementation of policies related to collection of monthly payments, termination of occupancy, and resolution of hardship situations;

10. Perform management functions as specified under contract with the authority or with the Homeowners Association and participate in other activities pursuant to agreement with the authority or with the Homeowners Association.

ARTICLE VI—POWERS

This association shall have all the powers, privileges, rights and immunities which are necessary or convenient for carrying out its purposes and which are conferred by the provisions of all applicable laws of the State of _____ pertaining to nonprofit corporations.

ARTICLE VII—MEMBERS

Membership in the association shall be limited to families who have signed a homebuyers ownership opportunity agreement with the authority with respect to a home in the development. This membership shall automatically be in effect from the date of signing of the home-buyers ownership opportunity agreement until the date of termination of occupancy of the home. Families who have attained homeownership shall continue as members of the association.

ARTICLE VIII—VOTING

There shall be only one vote per home regardless of the number of persons in the family that occupies the home.

ARTICLE IX—BOARD OF DIRECTORS AND BYLAWS

The affairs of the association shall be managed by a board of directors, all of whom shall be members of the association. The number of directors shall be as provided in the bylaws of the association. The following persons shall serve as the first board of directors:

Name	*Address*
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

This board shall manage the affairs of the association until election of their successors by the membership.

Promptly after 80 percent of the homes are occupied, the board shall call the first annual meeting of the association at which the members shall adopt bylaws and elect one-third of the board for a term of 1 year, one-third for a term of 2 years, and one-third for a term of 3 years. At each annual meeting thereafter the members shall elect one-third of the board for a term of 3 years.

ARTICLE X—DISSOLUTION

After all members have acquired ownership of their homes, the association shall be dissolved with the assent given in writing and signed by not less than two-thirds of the members. The dissolution shall be effective when all of the assets of the association remaining after payment of its liabilities have been granted, conveyed and assigned in such manner as the association and authority may mutually agree.

ARTICLE XI—AMENDMENT

Amendment of these articles shall require the assent of 75 percent of the entire membership.

IN WITNESS WHEREOF, for the purposes of incorporating this association under laws of the State of _____, we, the undersigned constituting the incorporators of this association, have executed these articles of incorporation this _____ day of _____, 19_____.

_____
_____
_____
_____
_____
(Witness, notary or acknowledgment as required by State law)

(NOTE: The following is a suggested form of bylaws. Different format and content to meet local needs may be used. For example, it may be considered desirable to combine HBA offices, eliminate or change functions of various committees, provide for other committees, etc.)

Part II—Bylaws

The members of the _____ Home-buyers Association (hereinafter referred to as the "Association") do hereby adopt in accordance with Article IX of the Articles of Incorporation the following bylaws:

SECTION 1. ORGANIZATION

The affairs of the association shall be managed by a board of directors elected by and from the members of the association. The board shall elect officers of the association, including a president, vice president, secretary, and treasurer, who shall carry out such functions and duties as are prescribed by these bylaws and the board.

SECTION 2. ASSOCIATION MEETINGS

A. *Annual meetings.* The association shall have an annual meeting at _____ (time) on the _____ each year (day of week and month) for the purpose of transacting such business as may be necessary or appropriate. If the date of the annual meeting is a legal holiday, the meeting shall be held at the same hour on the first day following which is not a legal holiday.

B. *Quarterly and special meetings.* Between annual meetings, quarterly meetings shall be called by the president and be held for the purpose of advising the membership of activities of the board and enabling the members to bring up matters of common concern. Special meetings may be called at any time: (1) By the president with the written concurrence of at least two of the other officers, or (2) by a petition filed with the secretary stating the purpose of the meeting and signed by at least one-fifth of the total number of members in the association.

C. *Notice of meetings.* Written notice of each annual, quarterly, or special meeting of the members shall be given by, or at the direction of, the secretary by mailing a copy of such notice at least 15 days before an annual or quarterly meeting or at least 7 days before a special meeting, addressed to each member at the member's address shown on the records of the association. Such notice shall specify the place, date, and hour of the meeting and, in the case of a special meeting, the purpose of such meeting. No business shall be transacted at any special meeting other than that stated in the notice unless by consent of at least one-half of the total number of votes of the association.

D. *Quorum.* A quorum at any meeting shall consist of members entitled to cast votes which represent at least one-tenth of the votes of the association. If such a quorum is not present, those present shall have the power to reschedule the meeting from time to time without notice other than an announcement at the meeting until there is a quorum. At any rescheduled meeting at which a quorum is present, the only business which may be transacted is that which might have been transacted at the original meeting.

E. *Voting.* Each family shall designate in writing to the secretary the family member who is to cast the family vote. That designee may appoint as a proxy for a specific meeting any other member of the association. A proxy must be in writing and filed with the secretary not later than the time that meeting is called to order. Every proxy shall be revocable and shall be automatically revoked when the person who appointed the proxy attends the meeting or ceases to have voting privileges in the association. Votes represented by proxy shall be counted in determining the presence or absence of a quorum at any meeting.

F. *Agenda.* An agenda shall be prepared for every meeting.

SECTION 3. BOARD OF DIRECTORS

A. *Number of directors.* The affairs of the association shall be managed by a board of _____ directors, all of whom shall be members of the association. The number of directors may be changed by amendment of the bylaws of the association.

B. *Term of office.* The board of directors shall be elected at the annual meeting of

the association. At the first annual meeting, the members shall elect _____[1] directors for a term of 1 year, _____[1] directors for a term of 2 years, and _____[1] directors for a term of 3 years. At each annual meeting thereafter the members shall elect _____[1] directors for a term of 3 years.

C. *Removal and other vacancies of directors.* Any director may be removed from the board, for cause, by a majority of the votes of the association at any annual or quarterly meeting or any special meeting called for such purpose, provided that the director has been given an opportunity to be heard at such meeting. In the event of death, resignation or removal of a director, his successor shall be elected by the remaining members of the board and shall serve for the unexpired term of his predecessor.

D. *Chairman of the board.* At the first regular board meeting after each annual meeting, the board of directors shall elect a chairman from among their number.

E. *Compensation.* No compensation shall be paid to the board for its services. However, any Director may be reimbursed for his actual expense incurred in the performance of his duties, as long as such expense receives approval of the board and is within the approved association budget.

SECTION 4. NOMINATION AND ELECTION OF THE BOARD

A. *Nomination.* Nomination for election to the board of directors (other than for filling of vacancies under § 3C.) shall be made by the nominating committee; *Provided, however,* That nominations may also be made from the floor at the annual meeting by motion properly made and seconded, or by a petition which states the name of the person nominated, is signed by members representing at least 10 votes, and is filed with the secretary not later than the day prior to the annual meeting. Persons nominated must be members of the association.

B. *Election.* Election of the board of directors shall be in accordance with § 2E., and by secret written ballot. The ballots shall be prepared by the secretary. Cumulative voting is not permitted (that is, a voter who refrains from voting with respect to one or more vacancies may not on that account cast any extra vote or votes with respect to another vacancy). The persons receiving the largest number of votes shall be elected.

SECTION 5. MEETINGS OF DIRECTORS

A. *Regular meetings.* Regular meetings of the board of directors shall be held monthly at such time and hours as may be fixed from time to time by resolution of the board. Notice of time and place of the meetings shall be mailed to each director no later than 7 days before the meeting.

B. *Special meetings.* Special meetings of the board of directors shall be held when called by the president of the association, the chairman of the board or by any two directors, after not less than 3 days' notice to each director.

C. *Quorum.* A simple majority of the board shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Board present at a duly held meeting shall be regarded as an act of the board.

D. *Action taken without a meeting.* Any action which could be otherwise taken at a board meeting may be taken in the absence of a meeting, by obtaining the written approval of all directors. Any action so approved shall have the same effect as though taken at a meeting of the board.

SECTION 6. POWERS AND DUTIES OF THE BOARD OF DIRECTORS

A. *Powers and duties generally.* The board of directors shall have and exercise all the powers, duties, and authority necessary for the administration of the affairs and to carry out the purposes of the association, excepting only those acts and things as are required by law, by the articles of incorporation, or by these bylaws to be exercised and done by the members or their officers.

B. *Powers.* The board shall have the power to: (1) Adopt and publish such rules and regulations as are appropriate in the exercise of its powers and duties, including, but not limited to, rules and regulations governing the amount and payment of dues, use of common areas and facilities, and the conduct of the members and their guests thereon, and the establishment of penalties for violation of such rules and regulations; (2) appoint or designate officers, agents, and employees, and make such delegations of authority as in its judgment are in the best interests of the association; (3) declare the office of a member of the board of directors to be vacant in the event such member shall be absent from at least three consecutive regular meetings of the board of directors.

C. *Duties.* It shall be the duty of the board of directors to: (1) Cause to be kept a complete record of all its acts and association affairs, and to present a statement thereof to the members at the annual meeting, or at any special meeting when such statement is requested in writing by members representing at least one-fifth of the votes of the association; (2) cause to be prepared an annual audit of the association books to be made at the completion of each fiscal year; (3) cause to be supervised all officers, agents, and employees of the association, and see that their duties are properly performed; (4) procure and maintain adequate liability and hazard insurance on any property owned by the association; (5) cause such officers or employees having fiscal responsibilities to be bonded as the board may deem appropriate; (6) cause to be performed the functions listed in Article V of the articles of incorporation.

SECTION 7. ASSOCIATION OFFICERS AND THEIR DUTIES

A. *Election.* The board of directors shall elect the following officers of the association: A president, a vice president, a secretary, a treasurer, and such other special officers as, in the opinion of the board, the association may require. The president and vice president shall be elected from members of the board. The election of officers shall take place biennially at the first meeting of the board of directors following the annual meeting of the members.

B. *Term.* The officers shall hold office for 2 years unless they shall resign sooner, be removed, or otherwise be disqualified to serve; *Provided, however,* That special officers shall hold office for such period as the board may determine, but not to exceed 1 year.

C. *Removal and resignation.* Any officer may be removed from office, for cause, by the board. Any officer may resign at any time by giving written notice to the board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

D. *Vacancies.* A vacancy in any office may be filled by appointment by the board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

E. *Multiple officers.* No person shall simultaneously hold more than one of the offices required by these bylaws.

F. *Duties.* The duties of the officers are as follows:

(1) *President.* The president shall preside at all association meetings; shall execute the orders and resolutions of the board; shall sign all leases, mortgages, deeds, and other written instruments; and shall cosign with the treasurer all checks and promissory notes.

(2) *Vice president.* The vice president shall act in place and stead of the president in the event of his absence or disability and shall exercise and discharge such other duties as may be required of him by the board.

(3) *Secretary.* The secretary shall record the votes and keep the minutes of all meetings and proceedings of the board and of the association; shall keep the corporate seal of the association and affix it on all papers requiring said seal; shall serve notice of the meetings of the board and of the association; shall keep appropriate current records showing the names and addresses of the members of the association; and shall perform such other duties as required by the board.

(4) *Treasurer.* The treasurer shall receive and deposit in appropriate bank accounts all funds of the association and shall disburse such funds as directed by resolution of the board of directors; shall cosign with the president all checks and promissory notes of the association; shall keep proper books of account; and shall prepare an annual budget and statement of income and expenditures which shall be approved by the board before presentation to the association at its regular annual meeting, and furnish a copy to each of the members.

(5) *Special officers.* Special officers shall have such authority and perform such duties as the board may determine.

(6) *Compensation.* Officers may not be compensated except as may be determined by the board, in accordance with the approved association budget.

SECTION 8. COMMITTEES

A. *Committees to be established.* The board of directors shall establish the following committees:

(1) *Representation Committee* which shall represent members, individually and collectively, with respect to: Any deficiencies in the development or the individual homes therein; fulfillment of the construction contract and related warranties; relationships with the authority and others in regard to financial matters such as monthly payments, credits to and charges against reserves, settlement upon vacating the home, and acquisition of ownership; matters pertaining to project management; and matters in the authority's official grievance mechanisms.

(2) *Rules Committee* which shall present to the board for recommendation to the authority policies for operation and management and, where appropriate, assist the board in establishing association rules in that respect.

(3) *Homeownership Committee* which shall advise and assist members in regard to maintenance and acquisition of ownership of their homes, financial matters, and other matters related to home ownership and home management.

(4) *Selection Committee* which shall recommend proposed home buyers from a list of eligible applicants.

(5) *Nominating Committee* which shall consist of a chairman, who shall be a member of the board of directors, and two

[1] Each group shall be one-third of the total number of directors.

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or more members of the association, none of whom are directors. The Nominating Committee shall be appointed by the board of directors prior to each annual meeting, to serve from the close of such annual meeting until the close of the next annual meeting and such appointments shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the board of directors as it shall in its discretion determine, but not less than the number of vacancies to be filled.

B. *Other committees.* The board may establish other committees, permanent or temporary, which it deems necessary or desirable to carry out the purposes of the association.

C. *Committee chairmen and members.* The chairmen of all committees, except the Nominating Committee, shall be appointed by and serve at the pleasure of the president. Committee members shall be appointed by the chairman of the committee on which they are to serve and shall serve until a new chairman is appointed.

D. *Committee reports.* The chairman of each committee shall make a report to the president in writing of committee meetings and activities prior to each regular monthly meeting of the board of directors.

E. *Authority.* Unless specifically authorized in writing by the board of directors or the president, a committee chairman or a committee shall have no authority to legally obligate the association or incur any expenditure on behalf of the association.

SECTION 9. SUSPENSION OF RIGHTS

The board may suspend, by a majority vote of the board, the voting rights and right to use the recreational facilities, of a member, and his family and guests, during any period in which the member shall be in default in the payment of any dues or assessment imposed by the association. Such rights may also be suspended, after notice and hearing, for a period not to exceed 60 days, for violation of the association's rules and regulations.

SECTION 10. BOOKS AND RECORDS

The books, records and papers of the association shall at all times, during reasonable business hours, be subject to inspection by any member.

SECTION 11. AMENDMENTS

Amendments to these Bylaws may be introduced and discussed at any annual or special meeting of the association, provided that copies of any proposed amendment shall be mailed to all the members with the notice of the meeting at which such amendment will be introduced. A vote on adopting such amendment shall be taken at the first association meeting held at least 2 weeks subsequent to the meeting at which the amendment was introduced. Amendments shall be adopted by a vote of a majority of the members of the association.

SECTION 12. CORPORATE SEAL

The association shall have a seal which shall appear as follows:

[SEAL]

SECTION 13. FISCAL YEAR

The first fiscal year of the association shall begin on the date of incorporation and shall end on the last day of ----------
(month, year)

Each successive fiscal year shall begin on the first day of ---------- and end on the last day of ----------
(month) (month)

The foregoing Bylaws were adopted at the first annual meeting of the association held ---------- by the undersigned members of the association.

APPENDIX II

RECOGNITION AGREEMENT BETWEEN LOCAL HOUSING AUTHORITY AND HOME BUYERS ASSOCIATION

WHEREAS the ---------- (Authority), a public body corporate and politic, has developed or acquired with the aid of loans and annual contributions from the Department of Housing and Urban Development (HUD), a development (Development) of dwelling units (Homes) in ---------- (Location) which low-income families will occupy with lease-purchase rights leading to eventual homeownership; and

WHEREAS, an organization of residents (Home buyers) is an essential element in such development for purposes of effective participation of the home buyers in the management of the development, and representation of the home buyers in their relationships with the Authority, and for other purposes; and

WHEREAS, the ---------- Home Buyers Association (Association) fully represents the home buyers of the development. *Now, therefore,* This agreement is entered into by and between the Authority and the association, and they do hereby agree as follows:

1. The association, whose articles of incorporation are attached hereto and made a part hereof, is hereby recognized as the established representative of the home buyers of the development and is the sole group entitled to represent them as tenants or home buyers before the Authority;

2. For each fiscal year, the Authority shall make available funds to the association for its normal expenses, in such amounts as may be available to the Authority for such purposes and subject to whatever applicable HUD regulations;

3. The Association shall be entitled to the use of office space in ---------- at the development without charge by the Authority for such use;

4. The Authority and the officers of the association shall meet at a location convenient to both parties on the ------ (day) of each month to discuss matters of interest to either party;

5. In the event the parties later agree that the association should assume management responsibilities now held by the Authority, a contract for such purpose will be negotiated by the Authority and the association;

6. This agreement shall terminate upon dissolution of the association.

IN WITNESS WHEREOF, the parties have executed this Agreement on ----------, 19------.

Witness ----------
Witness ----------
By ----------
(Local Housing Authority)
By ----------
(Homebuyers Association)

[FR Doc.72-18845 Filed 11-3-72;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 25]

[Docket No. 10769; Notice 71-2B]

COCKPIT VISION AND COCKPIT CONTROLS

Notice of Reopening of Comment Period

Notice 71-2 (36 F.R. 829), was published in the FEDERAL REGISTER on January 19, 1971, inviting public comment on proposed amendments to Part 25 of the Federal Aviation Regulations that would introduce comprehensive cockpit vision standards and that would change the range of pilot heights used for the location and arrangement of cockpit controls. Notice 71-2A (36 F.R. 7257), extending the comment period from April 16, 1971, to May 18, 1971, was published in the FEDERAL REGISTER on April 16, 1971. During the FAA's review of the proposal, in the light of comments received, it has come to the attention of the FAA that additional data has been gathered and analyzed by industry since the closing of the comment period and that there may have been further advances in the state-of-the-art which should be considered in this rule making action. The FAA understands that such data includes information not contained in the comments received in response to Notice 71-2 in the areas of rearward vision, optical distortion; protrusion of cockpit displays, and introduction of flexibility in the proposed visional dimensions. It is also recognized that further developments relating to the other proposals in Notice 71-2 may have taken place, and the FAA invites the submission of comments related to any proposal contained in the notice. It is therefore requested that interested persons review their previously submitted comments, if any, in the light of the foregoing, and submit any new and additional comments. Accordingly, the period for public comment on the proposals of Notice 71-2 is being reopened and, as a convenience to the public, Notice 71-2, revised only to reflect the new closing date for comments, February 1, 1973, is being republished by this notice, as follows.

The Federal Aviation Administration is considering amending Part 25 of the Federal Aviation Regulations to introduce comprehensive cockpit vision standards and to change the range of pilot heights used for the location and arrangement of cockpit controls.

Interested persons are invited to participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, DC 20591. All communications received on or before February 1, 1973, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Part 25 of the Federal Aviation Regulations presently requires that pilot compartments of transport category airplanes provide a sufficiently extensive, clear, and undistorted view to enable the pilots to safely perform any maneuvers within the operating limitations of the airplane, including taxiing, takeoff, approach, and landing. The present regulations do not contain any standards concerning the size and arrangement of cockpit windows and other factors affecting pilot vision. In the past, Civil Aeronautics Manual (CAM) 4b.351-1 through 4b.351-3 set forth the FAA's policies applicable to pilot compartment vision. This CAM material contained detailed provisions regarding the placement of cockpit windows, the angles of pilot vision measured from a fixed "reference eye" position, and the position and maximum recommended width of obstructions to vision in the windshield and window areas, along with other related information. Although the policy material has been followed by many manufacturers of transport category airplanes, it was not mandatory and not all transport category airplanes have been certificated in accordance with that policy.

The FAA has recently made a study of cockpit vision with respect to transport category airplanes. This study included, a review of the midair collision accident reports, the FAA Near Midair Collision Report of 1968, the vision angles available in current transports, the Society of Automotive Engineers Aerospace Standards, the military specifications for transports, and of research on the forward-downward view needed during landing approaches under low visibility conditions. The FAA study confirmed the need for more definitive cockpit vision standards.

In view of the foregoing, and to assure the necessary level of cockpit vision for future transport category airplanes, the FAA proposes to amend Part 25 of the Federal Aviation Regulations to incorporate detailed standards for the cockpit vision of transport category airplanes. The proposed standards are based on CAM 4b.351-1 through 4b.351-3 with the following changes which are based on the recent FAA study of cockpit vision: The downward-vision angles would be increased and the upward-vision angles to the side of the airplane would be increased; the windshield posts would be prohibited in certain areas and limited in width where they are used; precise standard for ground view ahead in the approach configuration would be established; a provision would be added requiring that the instrument panel glare shield provide accurate horizontal reference; optical property standards for both nontinted and tinted windshields and windows would be added; and provisions specifying the portion of the windshield which must be kept clear during precipitation conditions would be established.

In addition to the above-proposed requirements, the FAA proposes to establish new pilot height parameters. In order to establish a "reference eye" position for the measurement of cockpit vision angles, it is necessary to establish a seat height range and this in turn requires that the range of seated heights of pilots be established. Section 25.777(c) of the FAR's presently incorporates a standard range of pilot heights of 5'2" to 6' for the location of the cockpit controls. However, a recent study by the National Aeronautics and Space Administration (NASA Report No. SP-3006) indicates that a more accurate average height range for pilots of air transport category airplanes at this time is 5'4" to 6'3". This height range has therefore been used as a basis for the cockpit dimensions and the "reference eye" position of Appendix G of this proposal. It is also proposed to amend § 25.777(c) to incorporate the new pilot height range of 5'4" to 6'3" for the purpose of locating pilot controls.

The FAA presently has under study Parts 23, 27, and 29 of the Federal Aviation Regulations with a view toward proposing appropriate standards for aircraft certificated under those parts consistent with the proposals contained in this notice.

In consideration of the foregoing, it is proposed to amend Part 25 of the Federal Aviation Regulations as follows:

1. By amending § 25.773 (a)(1) and (b)(1) to read as follows:

§ 25.773 Pilot compartment view.

(a) • • •

(1) The windows and windshields in each pilot compartment must meet the requirements of Appendix G of this part, and must be arranged so as to enable the pilots to safely perform any maneuvers within the operating limitations of the airplane, including taxiing, takeoff, approach, and landing.

• • • • •

(b) • • •

(1) The airplane must have a means to maintain a clear portion of the windshield sufficient for both pilots to have adequate vision along the flight path in normal flight attitudes of the airplane. In addition, the means must meet the requirements of Appendix G of this part. This means must be designed to function, without continuous attention on the part of the crew, in— • • •.

• • • • •

§ 25.777 [Amended]

2. By amending § 25.777(c) by striking out the words, "from 5'2" to 6' in height," and inserting the words, "from 5'4" to 6'3" in height," in place thereof.

3. By amending Part 25 by adding a new Appendix G to read as follows:

Appendix G

CRITERIA FOR DETERMINING COCKPIT VISION

I—*Reference eye position.* (a) A single point selected by the applicant, within the limitations of subparagraphs (1) through (4) of this paragraph, constitutes the reference eye position. The central axis is a vertical line located 3½" aft of the reference eye position (reference figure 1).

(1) The reference eye position must be located not less than five (5) inches aft of the rearmost extremity of the primary longitudinal control column when the control is in its most rearward position (i.e., against the up longitudinal control stops).

(2) The reference eye position must be located between two vertical longitudinal planes which are one (1) inch to either side of the seat centerline. If the seat has lateral adjustment, the two vertical longitudinal planes must be within one (1) inch of either side of the primary longitudinal control centerline.

(3) Any persons from 5'4" to 6'3" in height, sitting in the seat associated with the selected reference eye position, must be able to:

(i) Adjust the seat, with the seat back in its most upright position, to locate the midpoint of his eyes at the reference eye position; and

(ii) With the seat belt fastened and the seat adjusted in accordance with subdivision (i) of this subparagraph, utilize all the aircraft controls associated with this seating position in compliance with the requirements of § 25.777.

(4) All measurements must be with the airplane longitudinal axis in a level position except those specified in section II(b).

(b) With the seat located 31½ inches below the reference eye position there must be no less than three (3) inches of available seat adjustment in both the up and the down directions. The 31½ inches is measured to the top of the seat cushion as depressed by a subject weighing 170 to 220 pounds, with the airplane longitudinal axis in a level position (reference figure 1).

(c) Means must be provided at both the pilot and copilot stations to enable the person occupying the seat to locate the midpoint of his eyes at the reference eye position.

II—*Clear areas of vision.* (a) With the reference eye position located as indicated in paragraphs I (a), (b), and (c) and utilizing binocular vision and azimuthal movement of the head and eyes about a radius, the center of which is the central axis, the pilot must have clear areas of vision, measured from the appropriate eye position with the aircraft's longitudinal axis level, as specified in subparagraphs (1) through (6) of this paragraph. The areas defined are based on the cardinal points of reference indicated in figure 2. A dual lens camera as a photo recorder, or other methods including a goniometer producing equivalent areas to those obtained with the dual lens camera, must be used in measuring the angles specified in this paragraph. When not using a dual lens camera, compensation must be made for one-half the distance which exists between the eyes, i.e., 1¼ inches as indicated in figure 3.

(1) 20° forward and up from the horizon between 30° left and 10° right diminishing

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linearly to 15° up to 30° right (this area unbroken);

(2) 17° forward and down from the horizon between 30° left and 10° right diminishing linearly to 10° down at 30° right (this area unbroken);

(3) Increasing linearly from 20° forward and up from the horizon at 30° left to 40° forward and up from the horizon at 70° left;

(4) Increasing linearly from 17° forward and down from the horizon at 30° left to 35° forward and down from the horizon at 70° left;

(5) 40° forward and up from the horizon between 70° left and 110° left diminishing linearly to 20° up at 135° left; and

(6) 35° forward and down from the horizon between 70° left and 110° left diminishing linearly to 15° down at 135° left.

(b) In addition to the clear areas of vision specified in paragraph (a) of this section, the view angle forward and down must be sufficient to allow the pilot to see a length of approach and/or touchdown zone lights which would be covered in 3 seconds at landing approach speed when the aircraft is—

(1) On a 2½° glide slope;

(2) At a decision height which places the lowest part of the aircraft at 100 feet above the touchdown zone extended horizontally (see figure 4);

(3) Yawing ±10°;

(4) Making an approach with 1,200 feet RVR; and

(5) Loaded to the most critical weight and center of gravity location.

(c) If in a symmetrical type pilot compartment there is an area about the center of the windshield where the requirements governing pilot and copilot vision areas do not overlap, the angles in this area above and below eye level may diminish due to the increased distance between the appropriate eye position and the windshield, but the windshield dimensions established at the 30° right position, above and below the horizontal plane of the pilot's eye, must be retained. This area must also be governed by the limitations of paragraph III of this appendix.

III—*Impairments to vision.* (a) There must be no horizontal obstructions to vision within the area described in section II(a).

(b) There must be no vertical obstructions to vision in the transparent area between 30° right and 30° left and between 85° left and 95° left.

(c) The area beyond 135° must be as large as practicable.

(d) Any windshield post must not exceed 2.5 inches total obstruction in projected width on the pilot's eye when measured with the head rotated so that the eyes are perpendicular to the vertical plane passing through the centerline of the projected width as indicated in figure 5.

(e) The location of the instruments, equipment, and structure must not impair any of the areas of vision established in this paragraph. In addition, cockpit equipment must not obstruct a line of vision from a point 2 inches above the reference eye position to any points along the upper limit of the forward windshield panels, and similarly, a line of vision from a point 2 inches below the reference eye position to the lower limit of the forward windshield panels.

(f) The glare shield structure within direct or peripheral vision of either pilot must be so designed as to offer an accurate determination of the horizontal plane without restricting vision through the windshield.

IV—*Optical properties of windshield.* Both clear and tinted windshields must exhibit equivalent optical properties to those covered in MIL-G-25871A dated July 30, 1958, for flat panels, and MIL-G-25667A dated July 30, 1958, for curved panels or any subsequent specification found acceptable by the Administrator (copies obtainable from Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia PA 19120). In addition, the optical properties of the windshield must not deteriorate under pressurization loads, icing protection system provisions, or in operation.

V—*Sunvisors.* Cockpit sunvisors must not interfere with the pilots' vision. Means must be provided to prevent the sunvisors from projecting into the clear areas of vision prescribed by section II when they are not in use.

VI—*Windshield clearing provisions.* A minimum view must be provided through that portion of windshield which is cleared of rain and mist to allow each pilot to see a minimum of from 15° left to 15° right of the reference eye position, upwards to the horizon during the steepest approach path expected in operation and downwards to the angles specified in section II(b) of this appendix. The cleared area enclosed by these requirements need not be rectangular.

Section II of this appendix specifies the minimum areas of vision from the left pilot seat for showing compliance with § 25.773. The minimum areas of vision from the right pilot seat must be the same as those specified for the left pilot seat except that the left and right angle designations are interchanged.

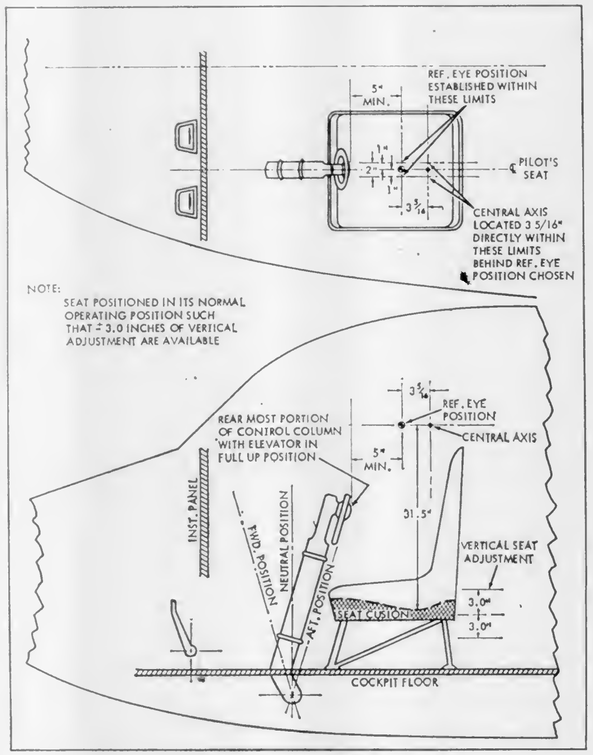

Figure 1.—Reference eye position

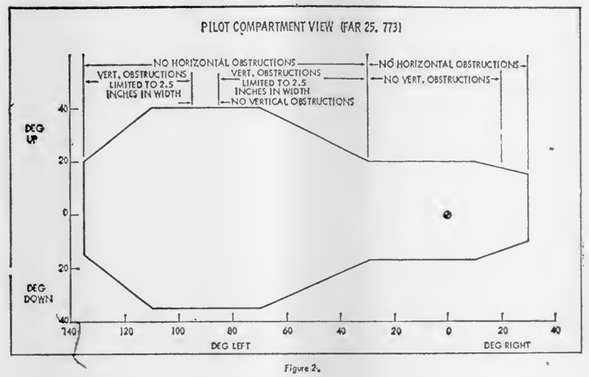

Figure 2.

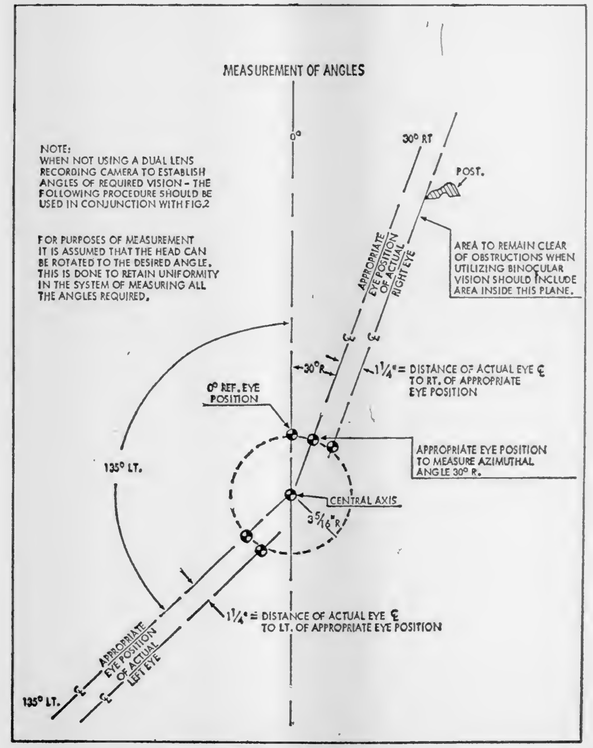

Figure 3 – Measurement of angles

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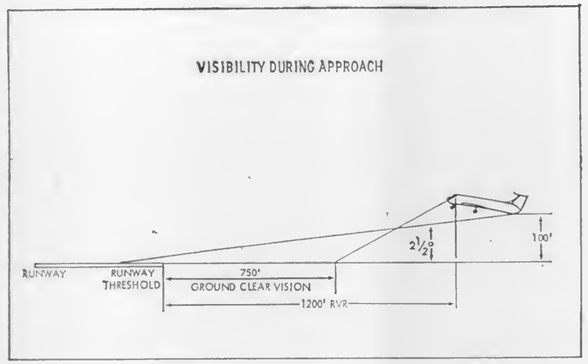
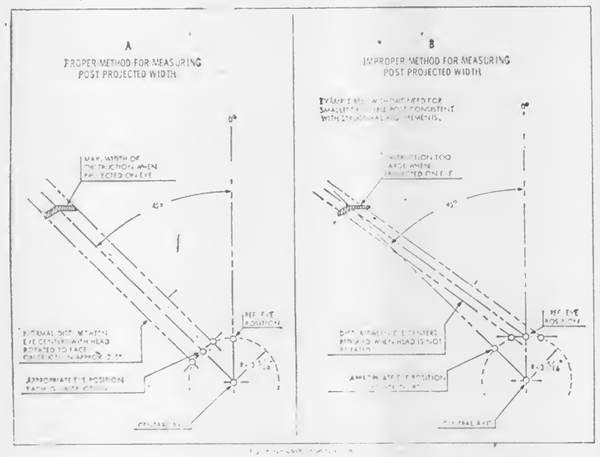


Figure 4.



These amendments are proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on October 27, 1972.

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

[FR Doc.72-18795 Filed 11-3-72;8:45 am]

[14 CFR Part 39]

[Docket No. 11423]

NICKEL-CADMIUM BATTERIES

Proposed Airworthiness Directive; Extension of Comment Period

A proposed airworthiness directive was published in the FEDERAL REGISTER on September 13, 1972 (37 F.R. 18564; F.R. Doc. 72-15512) inviting comments on a proposed amendment to Part 39 of the Federal Aviation Regulations that would require modification, before July 1, 1973, of certain aircraft having nickel-cadmium batteries installed. The notice stated that consideration would be given to all communications received on or before October 30, 1972.

The National Business Aircraft Association has requested a 14-day extension of the time for submission of comments. The petitioner states that it has been an active participant in the nickel-cadmium battery program since its inception, working closely with the FAA in the development of related airworthiness directives. Further, the petitioner states that it has scheduled a meeting of engineering representatives of all domestic and foreign battery manufacturers whose products are approved for use in U.S. certificated aircraft, that this meeting can not be convened until October 30, 1972, and that some time thereafter will be required to compile the findings of the meeting for submittal to the docket.

In view of the foregoing, I find that the petitioner has shown a substantive interest in the proposed amendment, that good cause exists for an extension, and that an extension is consistent with the public interest.

However, since publication of this notice in the FEDERAL REGISTER cannot be accomplished prior to November 4, 1972, I find that it is appropriate, in order to provide interested persons that are not affiliated with the petitioner an equivalent extension period, to extend the closing date for comments until November 20, 1972.

Therefore, pursuant to the authority contained in sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)), the closing date for comments on the subject proposed airworthiness directive is extended to November 20, 1972.

Issued in Washington, D.C., on October 30, 1972.

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

[FR Doc 72-18901 Filed 11-3-72;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 72-NW-11]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Pasco, Wash., Transition Area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Operations, Procedures and Airspace Branch, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108.

A VOR approach procedure has been proposed for the Richland Airport, Richland, Benton County, Wash., utilizing the 288° radial of the Pasco VOR. A review of the airspace requirements for this proposal revealed that additional 700-foot transition area airspace would be required to provide controlled airspace protection for aircraft executing the proposed procedure while operating below 1,500 feet above the surface.

In consideration of the foregoing the FAA proposes the following:

In § 71.181 (37 F.R. 2143) the description of the Pasco, Wash., transition area as amended (37 F.R. 7880) is further amended as follows: to the description add, "; within 3 miles north and 7.5 miles south of the Pasco VOR 288° radial extending from 8 miles west of the VOR to 18 miles west of the VOR."

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Seattle, Wash., on October 25, 1972.

C. B. WALK, Jr.,
Director, Northwest Region.

[FR Doc.72-18900 Filed 11-3-72;8:47 am]

Federal Highway Administration

[49 CFR Part 393]

[Docket No. MC-43; Notice 72-19]

EXHAUST SYSTEMS OF BUSES

Location of Discharge Points

The Director of the Bureau of Motor Carrier Safety is considering amending § 393.83(b) of the motor carrier safety regulations, relating to the location of exhaust system discharge points on diesel-powered buses.

Under the existing rule, the exhaust system of a diesel-powered bus must discharge to the atmosphere at or within 15 inches forward of the rearmost part of the bus. General Motors Corp. has filed a petition for rulemaking, seeking an amendment to this rule. According to the petition, GM has developed an "Environmental Improvement Package" for buses, designed to reduce noxious exhaust emissions. One feature of the package is use of a vertical exhaust system which discharges to the atmosphere at the upper rear corner of the bus. Owing to the configuration of the rear end of a bus, the point of discharge is more than 15 inches forward of the rearmost point of the vehicle.

The objective of § 393.83(b) is to insure that exhaust gases do not seep into the passenger compartment of a bus. The proposal here announced appears calculated to achieve that objective while, at the same time, removing a design restriction that may inhibit development of exhaust systems that reduce noise and air pollution.

In consideration of the foregoing, the Director proposes to amend § 393.83(b) of Subchapter B in Chapter III of Title 49, CFR to read as follows:

§ 393.83 Exhaust system location.

• • • • • •

(b) The exhaust system of a bus equipped with a gasoline engine, shall discharge to the atmosphere at or within 6 inches forward of the rearmost part of the bus. The exhaust system of a bus powered by other than a gasoline engine shall—

(1) Be designed, constructed, installed, and maintained so that exhaust gases do not enter the passenger compartment of the bus; and

(2) Either—

(i) Discharge to the atmosphere at or within 15 inches forward of the rearmost part of the bus; or

(ii) Discharge to the atmosphere above and to the rear of any door or window designed to be opened for ventilation or passenger egress.

• • • • • •

Interested persons are invited to submit data, views, or arguments pertaining to the proposed amendment. All comments should refer to the docket number and notice number appearing at the top of this notice. Comments should be submitted in three copies to the Director, Bureau of Motor Carrier Safety, Washington, D.C. 20590. All comments received before the close of business on December 29, 1972, will be considered before further action is taken. Comments will be available for examination in the Docket Room of the Bureau of Motor Carrier Safety, Room 4136, 400 Seventh Street SW., Washington, DC both before and after the closing date for comments.

This notice of proposed rule making is issued under the authority of section 204 of the Interstate Commerce Act, as amended, 49 U.S.C. 304, section 6 of the Department of Transportation Act, 49 U.S.C. 1655, and the delegations of authority from the Secretary of Transportation and the Federal Highway Administrator at 49 CFR 1.48 and 389.4, respectively.

Issued on October 30, 1972.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety.

[FR Doc.72-18951 Filed 11-3-72;8:51 am]

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Notices

DEPARTMENT OF STATE

Agency for International Development

DIRECTOR, WEST AFRICA REGIONAL ECONOMIC DEVELOPMENT SERVICES OFFICE

Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me as Assistant Administrator for Program and Management Services under Delegation of Authority No. 17, as amended, from the Administrator of the Agency for International Development, I hereby redelegate to the Director, West Africa Regional Economic Development Services Office, and to the person in that Office who has been designated, with the concurrence of this Bureau, as contracting officer, the authority to sign or approve the following:

(1) Contracts and amendments to contracts financed in whole or in part by A.I.D., provided each individual contractual action does not exceed $200,000;

(2) Letters of commitment or notices of approval for financing of cooperating country contracts for contracts described in (1) above;

(3) Project implementation orders—technical services (PIO/T);

(4) Advance payments and the required determination and findings for such payments under A.I.D.-financed nonprofit contracts with nonprofit educational or research institutions.

The authority herein delegated to the Director, West Africa Regional Economic Development Services Office may be exercised by duly authorized persons who are performing the functions of the Director in an acting capacity. The authorities delegated herein are to be exercised in accordance with regulations, procedures, and policies now or hereafter established or modified and promulgated within the Agency for International Development.

I make this redelegation of contracting authority based on my finding that the overseas field procuring activity described above possesses the necessary skills to exercise properly the authority granted.

This redelegation of authority shall be effective immediately.

Dated: October 24, 1972.

WILLARD H. MEINECKE,
Deputy Assistant Administrator, Bureau for Program and Management Services.

[FR Doc.72-18937 Filed 11-3-72;8:49 am]

DEPARTMENT OF DEFENSE

Department of the Navy

NAVAL POSTGRADUATE SCHOOL; SUPERINTENDENT'S BOARD OF ADVISORS

Notice of Public Meeting

In accordance with the provisions of Executive Order No. 11671, dated June 5, 1972, announcement is made of a public meeting of the Superintendent's Board of Advisors for the Naval Postgraduate School to be held beginning at 8 a.m. on Thursday, November 9, 1972, and continuing through Friday, November 10, 1972. The Board will meet in the conference room of the Naval Postgraduate School, Monterey, Calif.

(1) *Purpose.* The Board was appointed to advise and assist the Superintendent concerning the Naval Postgraduate School Education Program.

(2) *Membership.* The Board is chaired by Dr. L. R. Hafstad and is composed of the following: Dr. Ralph D. Bennett, Rear Adm. William A. Brockett, USN (Ret.), Mr. Richard R. Hough, Dr. Niel H. Jacoby, Adm. Isaac C. Kidd, USN, Provost George J. Maslach, Dr. Dean E. McHenry, Dr. David S. Potter, Adm. James S. Russell, USN (Ret.), and Mr. Emmett C. Solomon.

(3) *Activities.* This will be the eighth meeting of the Board of Advisors and discussions on current developments of significance to the school will be held.

(4) *Agenda.* A short report by the Superintendent, presentations and discussions of current significant developments, introduction of a school study to examine long-range effects of education on a naval career, and other general discussions are scheduled.

Dated: October 31, 1972.

[SEAL] MERLIN H. STARING,
Rear Admiral, JAGC, U.S. Navy, Judge Advocate General of the Navy.

[FR Doc.72-19023 Filed 11-3-72;8:53 am]

DEPARTMENT OF JUSTICE

[Order 494-72]

PEACH COUNTY, GA.

Certificate Regarding Appointment of Examiners

In accordance with section 6 of the Voting Rights Act of 1965, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the 15th amendment to the Constitution of the United States in Peach County, Ga. This county is included within the scope of the determinations of the Attorney General and the Director of the Census made on August 6, 1965, under section 4(b) of the Voting Rights Act of 1965 (Public Law 89-110) and published in the FEDERAL REGISTER on August 7, 1965 (30 F.R. 9897).

RICHARD G. KLEINDIENST,
Attorney General of the United States.

NOVEMBER 4, 1972.

[FR Doc.72-19101 Filed 11-3-72;11:18 am]

Bureau of Narcotics and Dangerous Drugs

METHYLPHENIDATE

Aggregate Production Quota

On July 6, 1972, a notice of proposed aggregate production quotas was published in the FEDERAL REGISTER (37 F.R. 13279). The notice proposed that the aggregate production quota for 1972 for methylphenidate expressed in kilograms of the anhydrous alkaloid, be established at 1,427 kilograms. The notice invited all interested persons to submit their comments and objections in writing regarding this proposal. Hearings were requested by CIBA Pharmaceutical Co., a division of CIBA-GEIGY Corp., and the Narcotics Guidance Council of Huntington, Long Island, N.Y. Comments also were received from other sources with respect to the notice.

On October 7, 1972, the Director of the Bureau of Narcotics and Dangerous Drugs determined that CIBA had standing to request a hearing and ordered that a hearing be held on October 24, 1972, for the purpose of determining the quota. Following publication of the notice, the Bureau met with representatives of CIBA, the Huntington Council, and the Department of Health, Education, and Welfare. Consideration was given to sales and marketing information for the current and previous years provided by HEW, CIBA, and independent statistical services indicating legitimate medical need for methylphenidate.

After reviewing data not previously available, the Department of Health, Education, and Welfare, by letter dated October 30, 1972, has estimated that the legitimate medical needs for methylphenidate in the United States in 1972 could be met by a 20-percent reduction in production of methylphenidate from the 1971 level. This contrasted with an initial recommendation of a 50-percent reduction.

The quota which is determined herein is for the purpose of procuring methylphenidate for manufacturing into dosage form to supply wholesale and retail needs. The Bureau recognizes that this quota is less than the actual and projected 1972 sales of methylphenidate. In the Bureau's present opinion, however, this quota together with CIBA's existing inventory will be adequate to meet legitimate medical needs.

The Bureau will give consideration to appropriate supplemental applications to amend the 1972 quota for:

(i) Research projects;

(ii) Unusual inventory problems and potential disruptions to production;

(iii) A significant change in the amount required to fill the legitimate medical needs of the United States in 1972 as evidenced by an increased demand; and

(iv) Export requirements.

The Bureau intends to publish the proposed 1973 aggregate production quota in the near future and to consider relevant information relating to the legitimate medical use of methylphenidate in 1972 and in prior years (as evidenced by CIBA sales, by prescribing information, and by hospital and physician usage), changes in CIBA's inventory in 1972 and research projects, export requirements and potential disruptions in production.

CIBA, in light of the revised recommendation by the Department of Health, Education, and Welfare and the lateness in the year for which quotas can be set, agreed to withdraw its request for a hearing on the proposed quota.

The Narcotics Guidance Council of the town of Huntington, Long Island, N.Y., had also requested a hearing on the proposed aggregate production quota of methylphenidate. This group also agreed to withdraw its request for a hearing on the proposed aggregate production quota for the same reasons set forth above.

The Bureau has agreed with both parties who filed requests for a hearing on the proposed aggregate production quota that, if they wished to request a public hearing on the 1973 aggregate production quota for methylphenidate, when proposed, on the issue of the proper determination of legitimate medical need, the Bureau would hold such a public hearing.

Therefore, because all persons requesting a hearing on this matter have withdrawn their requests, the Director of the Bureau of Narcotics and Dangerous Drugs hereby orders that the public hearing previously ordered for October 24, 1972, for the purpose of determining the aggregate production quota for methylphenidate be canceled.

Other comments were received by the Bureau, only one of which asserted that the aggregate production quota was too high. The Honorable Claude S. Pepper, chairman of the Select Committee on Crime, U.S. House of Representatives, stated in his letter of August 17, 1972, that "the production quota * * * should be predicated solely upon the necessity to provide medication for those individuals who are actually suffering from narcolepsy and hyperkinesis." Various organizations representing parents of children with learning disabilities asserted that the proposed quota was too low. The Bureau has considered all such comments and has determined that the revised quota is appropriate in light of their comments.

Having considered the revised recommendation by the Department of Health, Education, and Welfare and the additional information presented, the Director of the Bureau of Narcotics and Dangerous Drugs, pursuant to the authority vested in the Attorney General by section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) and redelegated to the Director, Bureau of Narcotics and Dangerous Drugs by § 00.100 of Title 28 of the Code of Federal Regulations, orders that the aggregate production quota for 1972 for methylphenidate, expressed in kilograms of the anhydrous alkaloid, be established as follows:

Basic class	Produced—1971	Requested—1972	Granted—1972
Methylphenidate	2,330	2,070	1,857

This order is effective upon the date of its publication in the FEDERAL REGISTER (11-4-72).

Dated: November 1, 1972.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[FR Doc.72-18968 Filed 11-3-72;8:51 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

CRESCENT LAKE NATIONAL WILDLIFE REFUGE

Notice of Public Hearing Regarding Wilderness Proposal

Notice is hereby given in accordance with provisions of the Wilderness Act of September 3, 1964 (Public Law 88-577; 78 Stat. 890-896; 16 U.S.C. 1131-1136), that a public hearing will be held beginning at 9 a.m. on December 14, 1972, at Garden County Courthouse in Oshkosh, Nebr., on a proposal leading to a recommendation to be made to the President of the United States by the Secretary of the Interior regarding the desirability of including the Crescent Lake proposal within the National Wilderness Preservation System. The wilderness proposal consists of approximately 24,502 acres within Crescent Lake National Wildlife Refuge, which is located in Garden County, State of Nebraska.

A study summary containing a map and information about the Crescent Lake Wilderness proposal may be obtained from the Refuge Manager, Crescent Lake National Wildlife Refuge, Star Route 30178, Ellsworth, Nebr. 69340, or the Regional Director, Bureau of Sport Fisheries and Wildlife, Twin Cities, Minn. 55111.

Individuals or organizations may express their oral or written views by appearing at this hearing, or they may submit written comments for inclusion in the official record of the hearing to the Regional Director at the above address by January 15, 1973.

E. V. SCHMIDT,
Acting Director, Bureau of Sport Fisheries and Wildlife.

OCTOBER 13, 1972.

[FR Doc.72-18890 Filed 11-3-72;8:46 am]

Geological Survey

YUKON RIVER BASIN, ALASKA

Power Site Modification 448

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and 220 Departmental Manual 6.1, Power Site Classification 445, of January 5, 1965, is hereby modified to the extent necessary to allow the State of Alaska, Department of Highways, to locate a right-of-way under Revised Statute 2477 (43 U.S.C. 932) for the construction of a portion of the Livengood to Prudhoe Bay Highway and the Yukon River Bridge. The right-of-way will affect the following described lands:

FAIRBANKS MERIDIAN, ALASKA (PROTRACTED SURVEY)

T. 12 N., R. 10 W.,
Secs. 7, 18, 19, and 21.
T. 12 N., R. 11 W.,
Sec. 13.

This power site modification is subject to the condition that should the land traversed by the right-of-way be required for reservoir or power purposes, any improvements or structures thereon, when found by the Secretary of the Interior to interfere with reservoir or power development, shall be removed or relocated to eliminate interference with such development at no cost to the United States, its permittees, or licensees.

Date: October 30, 1972.

V. E. MCKELVEY,
Director.

[FR Doc.72-18893 Filed 11-3-72;8:46 am]

Office of the Secretary

[DES 72-110]

CRESCENT LAKE NATIONAL WILDLIFE REFUGE, NEBR.

Proposed Wilderness Area; Notice of Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91-190, the Department of the Interior has prepared a draft environmental statement for a proposed wilderness area, located in Garden County, Nebr., and invites written comments within 45 days of this notice.

Under this proposal, a 24,502-acre unit of Crescent Lake National Wildlife Refuge would be designated as wilderness within the National Wilderness Preservation System. The statement examines the

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environmental impacts of the proposed designation.

Copies of the draft statement are available for inspection at the following locations:

Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.

Bureau of Sport Fisheries and Wildlife, Office of Environmental Quality, Department of the Interior, Room 2246, 18th and C Streets, Washington, D.C. 20240.

Single copies may be obtained by writing the Chief, Office of Environmental Quality, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240. Please refer to the statement number above.

Date: October 31, 1972.

W. W. LYONS,
Deputy Assistant Secretary, Program Policy.

[FR Doc 72-18892 Filed 11-3-72;8:46 am]

[DES 72-109]

PROPOSED JOHN DAY FOSSIL BEDS NATIONAL MONUMENT, OREG.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for a legislative proposal for the establishment of John Day Fossil Beds National Monument in the State of Oregon, and invites written comment within forty-five (45) days of this notice.

The proposal recommends the authorization of a national monument of some 14,402 acres consisting of three separate but interrelated units located in Grant and Wheeler Counties, Oreg. The monument will preserve and make available to the public a great variety of Cenozoic plant and animal fossils in a compact setting where earth history can be presented plainly and clearly.

Copies are available from and for inspection at the following locations: Pacific Northwest Regional Office, National Park Service, 523 Fourth and Pike Building, Seattle, Wash. 98101; Klamath Falls Group Office, National Park Service, 1939 South Sixth Street, Klamath Falls, OR 97601; Portland, Oreg. 97232.

Dated: October 31, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc 72-18891 Filed 11-3-72;8:46 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

REPORTING EGG PRICES AND MARKET CONDITIONS TWICE WEEKLY

Modification of Market News Releases

On September 9, 1972, the U.S. Department of Agriculture asked for comments on recommendations for changes in the reporting of market prices of shell eggs whereby reports of egg prices and market conditions released at Newark, N.J., Chicago, Ill., Atlanta, Ga., and Jackson, Miss., would be mailed twice a week rather than daily. No changes were proposed for operations in other market news offices.

The Department's announcement stated that the factors relative to this proposal were: (1) An effort to reduce mail cost, (2) a recommendation from the National Egg Pricing System Study Committee for less-than-daily reports, and (3) to keep abreast with the trend in the industry away from daily price negotiations.

Ninety-one comments were received as a result of this notice. About 75 percent of those responding agreed that twice a week reporting would adequately serve their needs, but many suggested that the mailed report contain a summary of the daily trading that had occurred since the last report. Others suggested that the Department make such daily information available by phone or teletype for those persons who desire to call in or be on the teletype system.

In view of comments received, the following modifications will take place effective January 1, 1973:

1. Mailed reports from Newark, Chicago, Atlanta, and Jackson will be issued twice a week (Tuesday and Friday), except when a holiday may change mailing days.

2. Information on egg market conditions and trading will continue to be collected daily and will be available daily at these market news offices and by the teletype system. Telephone numbers are listed on the mailed report.

3. Mailed reports will contain a summary of the current information as well as information since the last mailed report.

The Department appreciates the responses and views received from all interested persons on this issue.

Done at Washington, D.C., this 31st day of October 1972.

E. L. PETERSON,
Administrator, Agricultural Marketing Service.

[FR Doc.72-18918 Filed 11-3-72;8:45 am]

Commodity Credit Corporation

[Amdt. 4]

SALES OF CERTAIN COMMODITIES

Monthly Sales List; Amendments

The CCC Monthly Sales List for the fiscal year ending June 30, 1973, published in 37 F.R. 13352 is amended as follows:

1. The provisions of section 40 entitled "Nonfat Dry Milk—Unrestricted Use Sales" are deleted.

2. The provisions of section 41 entitled "Nonfat Dry Milk—Export Sales" are deleted.

Effective date: 12:35 p.m. (e.d.t.) October 20, 1972.

Signed at Washington, D.C., on October 30, 1972.

GLENN A. WEIR,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.72-18921 Filed 11-3-72;8:45 am]

DEPARTMENT OF COMMERCE

[Report No. 119]

Maritime Administration

LIST OF FREE WORLD AND POLISH FLAG VESSELS ARRIVING IN CUBA SINCE JANUARY 1, 1963

SECTION 1. The Maritime Administration is making available to the appropriate Departments the following list of vessels which have arrived in Cuba since January 1, 1963, based on information received through May 24, 1972, exclusive of those vessels that called at Cuba on U.S. Government-approved noncommercial voyages and those listed in section 2. Pursuant to established U.S. Government policy, the listed vessels are ineligible to carry U.S. Government-financed cargoes from the United States.

FLAG OF REGISTRY AND NAME OF SHIP	*Gross tonnage*
Total—all flags (180 ships)	1,379,434
Cypriot: (92 ships)	749,311
Aegis Banner	9,024
Aegis Eternity	8,814
Aegis Fame	9,072
Aegis Hope (previous trips to Cuba as the Huntsmore—British)	5,678
*Aegis Loyal	10,405
Aegis Strength	9,305
Aftadelfos	8,136
Aghios Ermolaos	7,208
Aghios Nicolaos	7,254
*Alamar	11,929
Alda	7,292
Alfa	7,388
Alitric	7,564
Alma	9,097
Alpa	9,159
Amarilis	8,959
Anemone	7,168
Annunication Day	8,047
Antigoni	3,174
Arendal	7,265
Areti	8,406
Arion	3,570
Aris II	7,202
Armar	7,307
Artigas	5,841
Aurora	8,380
Azalea	9,506
Baracon	9,242
Begonia	6,576
Byron	8,729
Calypso (tanker)	12,883
Camelia	8,111
Castalia	7,641
Cleo II	7,590
Cleopatra	8,079
Costiana	7,199
Degedo	9,000
Diamando	7,067
Dolphin	3,550
Dorine Papalios (previous trips to Cuba as the Formentor—British)	8,424
E. D. Papalios	9,431

See footnotes at end of document.

Cypriot—Continued	*Gross tonnage*
Elpida	8,296
*Eftyhia (trips to Cuba—Greek)	9,854
Free Trader (previous trips to Cuba—Lebanese)	7,061
Gardenia	9,744
George	7,378
George N. Papalios	9,071
Georgios C. (previous trips to Cuba as the Huntsfield—British and Cypriot)	9,483
Georgios T	9,646
Giannis	7,490
Goodluck	6,952
Happy Land	9,080
Herodemos	7,356
*Hymettus	11,771
Ilena (previous trips to Cuba—Lebanese)	5,925
Iris	8,479
June	9,357
Kitsa	9,519
Kypros	7,001
Lena	7,029
Magnolia	7,176
Master George	7,334
May	8,853
Mimis N. Papalios	9,069
Mimosa	8,618
Miss Papalios	9,072
Mitera Irini (previous trips to Cuba as the Soclyve—British and Maltese)	7,291
Nea Hellas	9,241
Nedi 2	7,679
**Newheath (trips to Cuba—British)	7,643
Nike	9,505
Noelle (previous trips to Cuba—Lebanese)	7,251
Pantazis Calas	9,618
Petunia	7,843
Platres	7,244
Protoapostolos	8,130
Protoklitos	6,154
Ravens	8,036
Reifens	8,071
Rothens	8,113
Salvia	8,522
Silver Coast	7,328
Silver Hope	5,313
Sophia (previous trips to Cuba—Greek)	7,030
Stavros T	10,407
Successor	11,471
Telenikis	12,303
Theoskepasti	6,618
Torenia	8,077
Venturer	9,000
Zaira	8,032
Zinnia	7,114
British (24 ships)	190,188
Arctic Ocean	8,791
Athelmonarch (tanker)	11,182
Cheung Chau	8,566
Carol Islands	9,060
East Sea	9,679
Fortune Enterprise	7,696
**Glendalough (trip to Cuba as the Ardrossmore—British)	5,820
Golden Bridge	7,897
Ho Fung	7,121
Huntsland	9,353
Hwa Chu	9,091
Ivory Islands	9,718
Kinross	5,388
Magister	2,239
Red Sea (previous trip to Cuba as the Grosvenor Mariner—British)	7,026
**Rosetta Maud (trips to Cuba as the Ardtara—British)	5,795

See footnotes at end of document.

British—Continued	*Gross tonnage*
Sea Amber	10,421
Sea Coral	10,421
Sea Empress	9,841
Sea Moon	9,085
Seasage	4,330
**Shun Wah (trip to Cuba as the Vercharmian—British)	7,265
Steed	8,989
Yugiutaton	5,414
Polish (19 ships)	136,159
Baltyk	6,984
Bytom	5,967
Chopin	9,231
Chorzow	7,237
Energetyk	10,876
Grodziec	3,379
Huta Labedy	7,221
Huta Ostrowiec	7,179
Huta Zgoda	6,840
Hutnik	10,847
Kopalnia Bobrek	7,221
Kopalnia Czladz	7,252
Kopalnia Mlechowice	7,223
Kopalnia Siemianowice	7,165
Kopalnia Wujek	7,033
Narwik	7,065
Piast	3,184
Rejowiec	3,401
Transportowiec	10,854
Somali (12 ships)	96,485
**Atlas (trip to Cuba—Finnish)	3,916
Ber Sea	8,269
Dimitrakis	7,829
Fethang	8,924
Felta	8,903
Hemisphere (previous trips to Cuba—British)	8,718
Marbella	8,409
Nebula (previous trips to Cuba—British)	8,907
**Oriental (trips to Cuba as the Oceantramp—British)	6,185
**Eastglory (previous trips to Cuba—British)	8,995
**Jolitty (trips to Cuba—British)	8,819
**Venice (trips to Cuba—British)	8,611
Yugoslav (8 ships)	56,740
Agrum	2,449
Bar	8,776
Cetinje	8,229
Niksic	10,067
Piva	7,519
Plod	3,657
Uicinj	8,602
Tara	7,441
Greek (7 ships)	46,045
*Aegis Legend	8,925
Andromachi (previous trips to Cuba as the Penelope—Greek)	6,712
**Anna Maria (trips to Cuba as the Helka—British)	2,111
Ariadne	6,487
**Gold Land (trip to Cuba as the Amfred—Swedish)	2,838
**Lambros M. Fatsis (trips to Cuba as the Lahortensia—British)	9,486
**Pothiti (trips to Cuba as the Huntsville—British)	9,486
French (4 ships)	10,466
**Atlanta (trip to Cuba as the ENEE—French)	1,232
Circe	2,874
Danae	3,486
Nelle	2,874
Italian (3 ships)	35,977
Alderamine (tanker)	12,505
Elia (tanker)	11,021
San Nicola	12,451
Lebanese (2 ships)	11,583
Antonis	6,259
Astir	5,324
Netherlands (2 ships)	1,615
Meike	500
Tempo	1,115
Guinean (1 ship)	852
**Drame Oumar (trip to Cuba as the Neve—French)	852
Liberia (1 ship)	9,284
**San Francesco (trips to Cuba—Italian)	9,284
Maltese (1 ship)	5,333
Timios Stavros (previous trips to Cuba—British and Greek)	5,333
Moroccan (1 ship)	3,214
Marrakech	3,214
Pakistani (1 ship)	8,708
**Maulabaksh (trips to Cuba as the Phoenician Dawn and East Breeze—British)	8,708
Panama (1 ship)	9,278
**Kika (trips to Cuba as the Santa Lucia—Italian)	9,278
Singapore (1 ship)	8,196
Tong Hoe	8,196

SEC. 2. In accordance with approved procedures, the vessels listed below which called at Cuba after January 1, 1963, have reacquired eligibility to carry U.S. Government-financed cargoes from the United States by virtue of the persons who control the vessels having given satisfactory certification and assurance:

(a) That such vessels will not, thenceforth, be employed in the Cuban trade so long as it remains the policy of the U.S. Government to discourage such trade; and

(b) That no other vessels under their control will thenceforth be employed in the Cuban trade, except as provided in paragraph (c); and

(c) That vessels under their control which are covered by contractual obligations, including charters, entered into prior to December 16, 1963, requiring their employment in the Cuban trade shall be withdrawn from such trade at the earliest opportunity consistent with such contractual obligations.

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FLAG OF REGISTRY AND NAME OF SHIP

a. Since last report:

	Gross tonnage
Maco Felicity (Cypriot)	10,570
Somalia (Italian)	3,602

b. Previous reports:

Flag of Registry:	Number of ships
British	49
Cypriot	9
Danish	1
Finnish	4
French	4
Germany (West)	1
Greek	31
Israeli	1
Italian	14
Japanese	1
Kuwaiti	1
Lebanese	9
Liberian	1
Moroccan	2
Norwegian	5
Singapore	1
Somali	1
Spanish	6
Sweden	1
Yugoslavia	2
(Total)	144

SEC. 3. The following number of vessels have been removed from this list since they have been broken up, sunk, or wrecked.

a. Since last report:

	Gross tonnage
Arsia (Cypriot)	7,233
Katerina (Cypriot)	9,357
Kimon (Cypriot)	5,686
Marco (Cypriot)	7,622
Mery (Cypriot)	7,258
Newgate (Cypriot)	6,743
Suerte (Cypriot)	7,267
Thios Costas (Cypriot)	7,258
Venus (Cypriot)	9,777
Someri (Finnish)	4,779
Bialystok (Polish)	7,173
Athelaird (British)	11,150
Athelaird (British)	11,150

b. Previous reports.

Flag of Registry:	Broken up, sunk, or wrecked
British	28
Cypriot	54
Finnish	5
French	1
Greek	18
Italian	4
Japanese	1
Lebanese	36
Maltese	2
Polish	1
Monaco	1
Moroccan	1
Norwegian	1
Pakistan	1
Panamanian	9
Singapore	1
Somali	1
South Africa	2
Swedish	1
Yugoslav	7
Total	175

SEC. 4. The ships listed in sections 1 and 2 have made the following number of trips to Cuba since January 1, 1963, based on information received through May 24, 1972.

Flag of registry	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972 Jan.-May	Total
British	133	180	126	101	78	62	45	53	18	5	801
Cypriot	-	1	17	27	42	68	115	199	173	45	687
Lebanese	61	91	58	25	16	16	4	1	-	-	272
Greek	99	27	23	27	29	7	-	-	1	1	214
Italian	16	30	24	11	11	10	15	13	9	-	129
Yugoslav	12	11	15	10	11	9	6	7	9	2	92
French	8	9	9	10	10	4	2	5	2	2	59
Finnish	1	4	5	12	11	8	2	1	-	-	44
Spanish	9	17	-	-	-	-	-	-	-	-	26
Norwegian	11	10	-	-	-	-	-	-	-	-	21
Moroccan	9	13	1	-	-	-	-	-	-	-	23
Maltese	-	2	6	1	1	8	1	2	-	-	21
Somali	-	-	-	-	2	11	7	4	6	2	32
Netherlands	-	-	1	2	-	-	-	-	-	-	3
Swedish	3	3	-	-	-	-	-	-	-	-	6
Kuwaiti	-	-	2	1	-	-	-	-	-	-	3
Israeli	-	-	-	2	-	-	-	-	-	-	2
Japanese	1	-	-	-	-	1	-	-	-	-	2
Danish	1	-	-	-	-	-	-	-	-	-	1
German West	1	-	-	-	-	-	-	-	-	-	1
Haitian	-	-	1	-	-	-	-	-	-	-	1
Monaco	-	-	-	1	-	-	-	-	-	-	1
Singapore	-	-	-	-	-	-	-	-	1	-	1
Sub-Total	371	391	290	224	218	201	197	285	219	55	2,457
Polish	18	16	12	10	11	7	2	3	4	-	83
Grand total	389	410	302	234	229	211	199	288	223	55	2,540

NOTE: Trip totals in section 4 exceed ship totals in sections 1 and 2 because some of the ships made more than one trip to Cuba. Monthly totals subject to revision as additional data becomes available.

*Added to Report No. 118 appearing in the FEDERAL REGISTER issue of June 13, 1972.

**Ships appearing on the list which have made no trips to Cuba under their present registry.

Dated: August 11, 1972.

By order of the Acting Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, JR.,
Secretary,
Maritime Subsidy Board.

[FR Doc 72-13881 Filed 11-3-72;8:45 am]

[Docket No. S-298]

CHAS. KURZ & CO., INC.

Notice of Application

Notice is hereby given that application has been filed under the Merchant Marine Act of 1936, as amended, for operating-differential subsidy with respect to bulk cargo carrying service in the U.S. foreign trade, principally between the United States and the U.S.S.R., to expire on June 30, 1973 (unless extended only for subsidized voyages in progress on that date). Inasmuch as the below-listed applicant, and/or related persons or firms, employ ships in the domestic, intercoastal or coastwise service, written permission of the Maritime Administration under section 805(a) of the Merchant Marine Act, 1936, as amended, will be required for such applicant if its application for operating-differential subsidy is granted.

The following applicant has requested permission involving the domestic, intercoastal or coastwise services described below:

Name of Applicant: Chas. Kurz & Co., Inc. (Kurz).

Description of domestic service and vessels: On January 6, 1972, a related company of Kurz, Margate Shipping Co. (Margate), was granted written permission for Margate's affiliates to own and operate a total of 31 U.S.-flag vessels to transport liquid bulk cargoes within or between the following coastal areas with free interchange of the vessels among these various domestic trades. The following list shows the maximum number of vessels to be employed in each domestic trade at any one time:

	Vessels
U.S. Gulf Atlantic, coastwise	17
U.S. Gulf Atlantic, Puerto Rico	2
U.S. Atlantic Gulf, intercoastal (including Alaska and Hawaii)	5
Pacific Coast—Alaska and Hawaii	10

The following U.S.-flag tankers are owned, managed, or operated by Margate's affiliates:

Chancellorville.	Catawba Ford.
Perryville.	Keytanker.
Shenandoah.	Keystoner.
Fort Fetterman.	Keytrader.
Julesburg.	Ticonderoga.
Naeco.	Valley Forge.
Bennington.	Golden Gate.
Cherry Valley.	Edgar M. Queeny.
Gaines Mill.	P. C. Spencer.
Mill Spring.	J. E. Dyer.
Northfield.	Sinclair Texas.
Tullahoma.	David E. Day.
Meadowbrook.	Mobile Gas.
Sandy Lake.	Mobile Power.
Monmouth.	Mobile Fuel.
Spirit of Liberty.	

Written permission is now required by the applicant (Kurz) notwithstanding the previous grant to a related company (Margate) or the fact that a voyage in the proposed service for which subsidy is sought would not be eligible for subsidy if the vessel carried domestic commerce of the United States on that voyage.

Interested parties may inspect this application in the Office of the Secretary, Maritime Subsidy Board, Maritime Administration, Department of Commerce Building, 14th and E Streets NW., Washington, DC 20235.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in any application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit comments or views concerning the application must, by close of business on November 13, 1972, file same with the Maritime Subsidy Board/Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board/Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled for 10 a.m., November 15, 1972, Room 4896, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20235. The purpose of the hearing will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal services, or (b) would be prejudicial to the objects and policy of the Act.

By order of the Maritime Subsidy Board/Maritime Administration.

Dated: November 2, 1972.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc.72-19032 Filed 11-3-72;8:53 am]

[Docket No. S-299]

CHAS. KURZ & CO., INC. ET AL.

Notice of Multiple Applications

Notice is hereby given that the following corporations have filed application for an operating-differential subsidy contract to carry bulk cargoes to expire on June 30, 1973 (unless extended only for subsidized voyages in progress on that date). The bulk cargo carrying vessels proposed to be subsidized and the trades in which each proposes to engage are presented also.

Operator's name and address	Type ship	Name of ship
Chas. Kurz & Co., Inc., 611 Wilmington Trust Building, 100 West 10th St., Wilmington, DE 19801.	Tanker	SS Mill Spring.
	do	SS Julesburg.
	do	SS Tullahoma.
	do	SS Sandy Lake.
	do	SS P.C. Spencer.
Transeastern Shipping Corp., 1 Chase Manhattan Plaza, New York, NY 10005.	do	SS Transeastern.
Manhattan Tankers Co., Inc., 1 Chase Manhattan Plaza, New York, NY 10005.	do	SS Manhattan.

The foregoing applications may be inspected in the Office of the Secretary, Maritime Subsidy Board, Maritime Administration, U.S. Department of Commerce, Washington, D.C., during regular working hours.

These vessels are to engage in the carriage of export bulk raw and processed agricultural commodities in the foreign commerce of the United States (U.S.) from ports in the United States to ports in the Union of Soviet Socialist Republics (U.S.S.R.), or other permissible ports of discharge. Liquid and dry bulk cargoes may be carried from U.S.S.R. and other foreign ports inbound to U.S. ports during voyages subsidized for carriage of export bulk raw and processed agricultural commodities to the U.S.S.R.

Full details concerning the U.S.-U.S.S.R. export bulk raw and processed agricultural commodities subsidy program, including terms, conditions and restrictions upon both the subsidized operators and vessels, appear in the regulations published in the FEDERAL REGISTER on October 21, 1972 (37 F.R. 22747).

For purposes of section 605(c), Merchant Marine Act, 1936, as amended (Act), it should be assumed that each vessel named will engage in the trades described on a full-time basis through June 30, 1973 (with extension to termination of approved subsidized voyages in progress on that date). Each voyage must be approved for subsidy before commencement of the voyage. The Maritime Subsidy Board (Board) will act on each request for a subsidized voyage as an administrative matter under the terms of the individual operating-differential subsidy contract for which there is no requirement for further notices under section 605(c) of the Act.

Any person having an interest in the granting of one or any of such applications and who would contest a finding of the Board that the service now provided by vessels of U.S. registry for the carriage of cargoes as previously specified is inadequate, must, on or before November 13, 1972, notify the Board's Secretary, in writing, of his interest and of his position, and file a petition for leave to intervene in accordance with the Board's rules of practice and procedure (46 CFR Part 201). Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Act and with as much specificity as possible the facts that the intervenor would undertake to prove at such hearing. Further, each such statement shall identify the applicant or applicants against which the intervention is lodged.

In the event a hearing under section 605(c) of the Act is ordered to be held with respect to any application(s), the purpose of such hearing will be to receive evidence relevant to (1) whether the application(s) hereinabove described is one with respect to vessels to be operated in an essential service, served by citizens of the United States which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of U.S. registry is inadequate and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such action as may be deemed appropriate.

Dated: November 2, 1972.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc.72-19031 Filed 11-3-72;8:53 am]

[Docket No. S-297]

KEYSTONE TANKSHIP CORP. ET AL.

Notice of Multiple Applications

Notice is hereby given that applications have been filed under the Merchant Marine Act of 1936, as amended, for operating-differential subsidy with respect to bulk cargo carrying service in the U.S. foreign trade, principally between the United States and the Union of Soviet Socialist Republics, to expire on June 30, 1973 (unless extended only for subsidized voyages in progress on that date). Inasmuch as the below listed applicants, and/or related persons or firms, employ ships in the domestic, intercoastal or coastwise service, written permission of the Maritime Administration under section 805(a) of the Merchant Marine Act, 1936, as amended, will be required for each such applicant if its application for operating-differential subsidy is granted.

The following applicants have requested permission involving the domestic, intercoastal, or coastwise services described below:

Name of applicants: Keystone Tankship Corp. (Keystone Tank), Keystone Shipping Co. (Keystone Ship).

Description of domestic service and vessels: On January 6, 1972, a related company of Keystone Tank and Keystone Ship, Margate Shipping Co. (Margate),

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was granted written permission for Margate's affiliates to own and operate a total of 31 U.S.-flag vessels to transport liquid bulk cargoes within or between the following coastal areas with free interchange of the vessels among these various domestic trades. The following list shows the maximum number of vessels to be employed in each domestic trade at any one time:

	Vessels
U.S. Gulf Atlantic, coastwise	17
U.S. Gulf Atlantic, Puerto Rico	2
U.S. Atlantic/Gulf, intercoastal (including Alaska and Hawaii)	5
Pacific Coast—Alaska and Hawaii	10

The following U.S.-flag tankers are owned, managed, or operated by Margate's affiliates:

Chancellorville.	Catawba Ford.
Perryville.	Keytanker.
Shenandoah.	Keystoner.
Fort Fetterman.	Keytrader.
Julesburg.	Ticonderoga.
Neeco.	Valley Forge.
Bennington.	Golden Gate.
Cherry Valley.	Edgar M. Queeny.
Gaines Mill.	P. C. Spencer.
Mill Spring.	J. E. Dyer.
Northfield.	Sinclair Texas.
Tullahoma.	David E. Day.
Meadowbrook.	Mobile Gas.
Sandy Lake.	Mobile Power.
Monmouth.	Mobile Fuel.
Spirit of Liberty.	

Written permission is now required by the applicants (Keystone Tank and Keystone Ship) notwithstanding the previous grant to a related company (Margate) or the fact that a voyage in the proposed service for which subsidy is sought would not be eligible for subsidy if the vessel carried domestic commerce of the United States on that voyage. Keystone Tank and Keystone Ship are also related to another applicant, Chas. Kurz & Co., Inc., whose section 805(a) application has been separately noticed.

Name of applicants: Willamette Transport, Inc. (Willamette); Wabash Transport, Inc. (Wabash); Connecticut Transport, Inc. (Connecticut).

Description of domestic service and vessels: Willamette, Wabash, and Connecticut, all affiliates of one another and of the other owning companies listed hereafter, have each requested written permission to continue employment in the domestic intercoastal and/or coastwise service for the below listed vessels owned by each or their affiliates, provided, however, the vessel(s) are not then currently receiving operating differential subsidy.

Ship	*Owning Company*
SS Albany	Albany River Transport, Inc.
ST Connecticut	Connecticut Transport, Inc.
SS James	James River Transport, Inc.
SS Missouri	Meadowbrook Transport, Inc.
SS Mohawk	Mohawk Shipping, Inc.
ST Ogden Wabash	Wabash Transport, Inc.
ST Ogden Willamette	Willamette Transport, Inc.
ST Ogden Yukon	Ogden Sea Transport, Inc.
SS Yellowstone	Rio Grande Transport, Inc.

Written permission is now required by the applicants (Willamette, Wabash, and Connecticut) notwithstanding that a voyage in the proposed service for which subsidy is sought would not be eligible for subsidy if the vessel carried domestic commerce of the United States on that voyage.

Interested parties may inspect these applications in the Office of The Secretary, Maritime Subsidy Board, Maritime Administration, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20235.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in any application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit comments or views concerning the application must, by close of business on November 13, 1972, file same with the Maritime Subsidy Board/Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board/Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled for 10 a.m., November 15, 1972, Room 4896, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20235. The purpose of the hearing will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal services, or (b) would be prejudicial to the objects and policy of the Act.

Dated: November 2, 1972.

By order of the Maritime Subsidy Board Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc 72-19033 Filed 11-3-72;8:53 am]

National Oceanic and Atmospheric Administration

[Docket No. G-540]

WILLIAM K. DAHME

Notice of Loan Application

OCTOBER 31, 1972.

William K. Dahme has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new fiber glass vessel, about 44-foot in length, to engage in the fishery for red snapper, groupers, sea trout, mackerel, kingfish, pompano, and spiny lobsters.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

ROBERT W. SCHONING,
Acting Director.

[FR Doc.72-18932 Filed 11-3-72;8:48 am]

Social and Economic Statistics Administration

CENSUS ADVISORY COMMITTEE ON SMALL AREAS

Notice of Public Meeting

The Census Advisory Committee on Small Areas will convene on November 16, 1972 at 9:15 a.m. in Room 2113, Federal Building 3, at the Bureau of the Census in Suitland, Md.

The Census Advisory Committee on Small Areas was established in 1965 to advise the Bureau of the Census concerning development of statistical programs in metropolitan and other local communities regarding transportation, urban renewal, poverty, and other activities.

The agenda for the meeting is: (1) A review of the Census Bureau's Fiscal 1973 activities, the outlook for Fiscal 1974, and the status of the 1975 Sample Survey; (2) Survey of Census Users and Summary Tape Processing Centers and Proposed Seminars for Business Organizations; (3) Economic Census Summary Tape Program; (4) 1970 Public Use Samples of basic records; (5) Review of geographic planning for Small Areas; (6) The Revenue Sharing Program and its implications for Small Area Data; and (7) Program to study the uses of Census Statistics.

A limited number of seats—approximately 15—will be available to the public. A brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Guidance and Control Officer at least 3 days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting should contact the Committee Guidance and Control Officer, Mr. Robert B. Voight, Chief, Data User Services Office, Bureau of the Census, Room 3555, Federal Building 3, Suitland, Md.

(Mail address: Washington, D.C. 20233). Telephone (301) 763-7720.

Dated: October 26, 1972.

HAROLD C. PASSER,
Assistant Secretary for Economic Affairs.

[FR Doc.72-18888 Filed 11-3-72;8:46 am]

SURVEY OF DISTRIBUTORS' STOCKS OF CANNED FOODS

Notice of Determination

In conformity with title 13, United States Code, sections 181, 224, and 225, and due notice of consideration having been published October 6, 1972 (37 F.R. 21195), I have determined that year-end data on stocks of 30 canned and bottled products, including vegetables, fruits, juices, and fish, are needed to aid the efficient performance of essential government functions, and have significant application to the needs of the public and industry and are not publicly available from nongovernmental or other governmental sources. This is a continuation of the survey conducted in previous years.

All respondents will be required to submit information covering their December 31, 1972, inventories of 30 canned and bottled vegetables, fruits, juices, and fish. Reports will not be required from all firms but will be limited to a scientifically selected sample of wholesalers and retail multiunit organizations handling canned foods, in order to provide year-end inventories of the specified canned food items with measurable reliability. These stocks will be measured in terms of actual cases with separate data requested for "all sizes smaller than No. 10" and for "sizes No. 10 or larger." (In addition, multiunit firms reporting separately by establishment will be requested to update the list of their establishments maintaining canned food stocks.)

Report forms will be furnished to firms covered by the survey. Additional copies of the forms are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed that this annual survey be conducted for the purpose of collecting these data.

Dated: October 30, 1972.

HAROLD C. PASSER,
Administrator, Social and Economic Statistics Administration.

[FR Doc 72-18887 Filed 11-3-72;8:46 am]

SURVEY OF RETAIL SALES, PURCHASES, AND INVENTORIES

Notice of Consideration

Notice is hereby given that the Bureau of the Census is considering a proposal to repeat in 1973 the Annual Retail Trade Survey which has been conducted each year under title 13, United States Code, sections 181, 224, and 225 to collect data covering year-end inventories, purchases, and annual sales. This survey covering 1972 is the only continuing source available on a comparable classification and timely basis for use as the benchmark for developing monthly retail inventory estimates. It also assists in establishing a benchmark for the distribution of monthly sales by geographic area.

Information and recommendations received by the Bureau of the Census indicate that the data will have significant application to the needs of the public, the distribution trades, and governmental agencies, and are not publicly available from nongovernment or other governmental sources.

Such a survey, if conducted, shall begin not earlier than 30 days after the publication of this notice in the FEDERAL REGISTER.

Reports will be required only from a selected sample of retail establishments in the United States. The sample will provide, with measurable reliability, statistics on the subjects specified above. Reports will be requested from a sample of stores based on their sales size and location in Census sample areas. A group of the largest firms, in terms of number of retail stores, will be requested to report their sales and number of stores by county; but those firms which are participating monthly in the Bureau's geographic area survey will be asked to report at the national level only.

Copies of the proposed forms and a description of the collection methods are available upon request to the Director, Bureau of the Census, Washington, DC 20233.

Any suggestions or recommendations concerning the subject mater of the proposed survey, submitted in writing to the Director of the Bureau of the Census within 30 days after the date of this publication will receive consideration.

Dated: October 30, 1972.

HAROLD C. PASSER,
Administrator, Social and Economic Statistics Administration.

[FR Doc.72-18889 Filed 11-3-72;8:46 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-518; NADA 10-954V etc.]

FORT DODGE LABORATORIES ET AL.

Various NADA's; Notice of Opportunity for Hearing

Regulations published in the FEDERAL REGISTER of September 14, 1971 (36 F.R. 18375) (21 CFR 135.35), required that each applicant for whom a new animal drug application or supplement for a drug for use in animals became effective or was approved at any time prior to June 20, 1963, shall submit in duplicate certain specified information for each dosage form within 90 days from the effective date of said regulations (October 14, 1971). The referenced regulation § 135.35 stated that if reports show that a new animal drug was not marketed or has been discontinued a notice may be published in the FEDERAL REGISTER proposing to withdraw approval of such application, on any of the grounds specified in section 512 of the act (21 U.S.C. 360b). The below listed firms responded by advising the Commissioner of Food and Drugs that the named drugs are not marketed.

Schering Corp. is delinquent in submitting reports concerning experience with new animal drugs for NADA No. 13-727V, Azium Ophthalmic Solution, as required by § 135.14a. None of the other firms listed herein have responded to the notice regarding drug effectiveness which was published in the FEDERAL REGISTER of July 9, 1966 (31 F.R. 9426) for the other new animal drugs listed herein. Therefore, notice is hereby given to the firms listed below and to any interested persons who may be adversely affected that the Commissioner proposes to issue an order under section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b) withdrawing approval of the listed new animal drug applications.

1. Fort Dodge Laboratories, Division of American Home Products Corp., Fort Dodge, Iowa 50501; NADA (new animal drug application) No. 10-954V, Meprobamate.

2. Jensen-Salsbery Laboratories, Division of Richardson-Merrell, Inc., 2000 South 11th Street, Kansas City, KS 66103; NADA No. 8-821V, C-B-G Solution Improved.

3. Hess & Clark, Division of Rhodia Inc., Ashland, Ohio 44805; NADA No. 2-513V, PTZ Capsules; NADA No. 3-510V, PTZ Drench; NADA 3-850V, PTZ Pellets; NADA No. 5-160V, Nicozine; NADA No. 5-219V, Coxitrol; NADA No. 6-562V, Vermi-Tabs; and NADA No. 8-241V, PTZ Drench with Lead Arsenate.

4. Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., Rahway, N.J. 07065; NADA No. 11-433V, 0.5 percent Ophthalmic Solution Hydeltrone.

5. Ralston Purina Co., Checkerboard Square, St. Louis, Mo. 63188; NADA No. 13-214V, Purina Hygromix for Hogs.

6. Schering Corp., Galloping Hill Road, Kenilworth, N.J. 07033; NADA No. 13-727V, Azium Ophthalmic Solution.

7. E. R. Squibb & Sons, Inc., Georges Road, New Brunswick, N.J. 08903; NADA No. 9-910V, Chick'n Tee.

In accordance with the provisions of section 512 of the act (21 U.S.C. 360b), the Commissioner hereby gives the applicants, and any interested person who would be adversely affected by an order withdrawing such approval an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of the above-named new animal drug applications should not be withdrawn.

Within 30 days after the date of publication hereof in the FEDERAL REGISTER, such persons are requested to file with the Hearing Clerk, Department of Health, Education, and Welfare, Office of

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the General Counsel, Room 6–88, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner, without further notice, will enter a final order withdrawing approval of the new animal drug applications.

Failure of such persons to file a written appearance of election within said 30 days will be construed as an election by said persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this order will be open to the public except that any portion of the hearing concerning a method or process which the Commissioner finds is entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file a written appearance requesting the hearing and giving the reasons why approval of the new animal drug application should not be withdrawn together with a well-organized and full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition to the grounds for this notice. A request for a hearing may not rest upon mere allegations or denials but must set forth the specific fact showing that there is a genuine and substantial issue of fact requiring a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the withdrawal of approval of the applications, the Commissioner will enter an order stating his findings and conclusions on such data. If the hearing is requested and justified by the response to this notice, the issues will be defined, an administrative law judge will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

Responses to this notice will be available for public inspection in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343–51; 21 U.S.C. 360b) and under the authority delegated to the Commissioner (21 CFR 2.120).

Dated: October 30, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-18911 Filed 11-3-72;8:47 am]

[FAP 8A2197]

SHELL CHEMICAL CO.

Notice of Withdrawal of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Shell Chemical Co., a division of Shell Oil Co., 110 West 51st Street, New York, N.Y. 10020, has withdrawn its petition (FAP 8A2197), notice of which was published in the FEDERAL REGISTER of August 8, 1967 (32 F.R. 11449), proposing the issuance of a regulation to provide for the safe use of 1,3,5-trimethyl-2,4,6-tris(3,5-di-*tert*-butyl-4-hydroxybenzyl) benzene as an antioxidant alone or in combination with other permitted antioxidants in food whereby the total amount of all antioxidants added to such food shall not exceed 0.02 percent of the oil or fat content of the food, including the essential (volatile) oil content of the food.

Dated: October 26, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-18912 Filed 11-3-72;8:47 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON EDUCATION OF DISADVANTAGED CHILDREN

Notice of Public Meeting

Notice is hereby given, pursuant to Executive Order 11671, that the next meeting of the National Advisory Council on the Education of Disadvantaged Children will be held on November 15, 1972, at 2:30 p.m. to 6 p.m., and November 16, 1972, at 8 a.m. to 6 p.m., local time, in Room 152, 1717 H Street NW., Washington, DC 20006.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Education Act (20 U.S.C. 2411). The Council is established to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

The agenda of the meeting includes a discussion of legislative proposals and regulations from State Title I Coordinators to improve the delivery of title I, ESEA services.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on the Education of Disadvantaged Children, located in Room 202, 1717 H Street NW., Washington, DC.

Signed at Washington, D.C., on October 25, 1972.

ROBERTA LOVENHEIM,
Executive Director.

[FR Doc 72-18942 Filed 11-3-72;8:53 am]

Office of the Secretary

GRANTS ADMINISTRATION ADVISORY COMMITTEE

Notice of Public Meeting

The Grants Administration Advisory Committee, which advises the Secretary on matters relating to administrative and fiscal policies for grants administered by the Department, will meet November 15–17, 1972, in the Travelodge-at-the-Wharf, 250 Beech Street, San Francisco, CA. Daily sessions will begin at 9 a.m. and are open to the public. The agenda covers discussion of current and pending grant administration policies and procedures within the Department. A roster of committee members may be obtained from Dr. Ernest M. Allen, Deputy Assistant Secretary for Grant Administration Policy, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, DC 20201.

Dated at Washington, D.C., this 31st day of October 1972.

ERNEST M. ALLEN,
Executive Secretary, Grants Administration Advisory Committee.

[FR Doc 72 18940 Filed 11-3-72;8:55 am]

IMPROVED REGENERATION OF ABSORBENT FOR SULFUR OXIDES

Notice of Proposed Issuance of Exclusive License

Pursuant to § 6.3, 45 CFR Part 6, notice is hereby given of intent to issue a limited-term, revocable, exclusive patent license in and to an invention of James R. Birk and Christian M. Larsen, entitled "Improved Regeneration of Absorbent for Sulfur Oxides."

Any objection thereto together with request for opportunity to be heard, if desired, should be directed to Dr. Merlin K. DuVal, Assistant Secretary for Health and Scientific Affairs, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, DC 20201, within thirty (30) days of the date of publication of this notice. Interested parties may obtain a copy of the patent application directed to this invention upon request in writing to the party hereinabove named.

(45 CFR 6.3)

Dated: October 27, 1972.

MERLIN K. DUVAL,
Assistant Secretary for Health and Scientific Affairs.

[FR Doc.72-18941 Filed 11-3-72;8:51 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA–Pet–No. 65]

MERIDIAN & BIGBEE RAILROAD CO.

Notice of Petition for Exemption From Hours of Service Act

OCTOBER 27, 1972.

The Meridian & Bigbee Railroad Co., has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a (e) for an exemption, with respect to certain employees, from the Hours of Service Act, 45 U.S.C. sections 61, 62, 63, and 64.

Interested persons are invited to participate by submitting written data, views or comments. Communications should identify the docket number and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: Docket FRA–Pet–No. 65, 400 Seventh Street SW., Washington, DC 20590. Communications received before December 4, 1972, will be considered by the Federal Railroad Administrator before taking final action. All comments received will be available for examination by interested persons at any time during regular working hours in Room 5428, Nassif Building, 400 Seventh Street SW., Washington, DC.

EDWARD F. CONWAY, Jr.,
Acting Assistant Chief Counsel for Safety Regulation.

[FR Doc.72–18939 Filed 11–3–72;8:51 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50–358]

CINCINNATI GAS & ELECTRIC CO. ET AL.

Notice of Issuance of Construction Permit

Notice is hereby given that, pursuant to the initial decision of the Atomic Safety and Licensing Board, dated October 19, 1972, the Deputy Director for reactor projects has issued Construction Permit No. CPPR–88 to the Cincinnati Gas & Electric Co., Columbus & Southern Ohio Electric Co., and the Dayton Power & Light Co. for construction of a boiling water nuclear reactor at the applicants' site on the east shore of the Ohio River, just one-half mile north of Moscow and about 24 miles southeast of Cincinnati, in Washington Township, Clermont County, Ohio. The proposed reactor, known as the Wm. H. Zimmer Nuclear Power Station, is designed for initial operation at approximately 2,436 megawatts thermal with a net electrical output of approximately 807 megawatts.

A copy of the initial decision and the construction permit are on file in the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20545, and at the Clermont County Library, Third and Broadway Streets, Batavia, Ohio 45103.

Dated at Bethesda, Md., this 27th day of October 1972.

For the Atomic Energy Commission.

ROBERT A. CLARK,
Acting Assistant Director for Boiling Water Reactors, Directorate of Licensing.

[FR Doc.72–18931 Filed 11–3–72;8:48 am]

[Docket No. 50–206]

SOUTHERN CALIFORNIA EDISON CO.

Notice of Availability of Applicant's Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that a report entitled "Southern California Edison Co., San Diego Gas & Electric Co. (San Onofre Nuclear Generating Station, Unit 1)—Environmental Report, Operating License Stage," submitted by Southern California Edison Co. has been placed in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, and at the local public document room at the San Clemente Public Library in San Clemente, Calif. The report is also being sent to the Office of the Lieutenant Governor, Office of Intergovernmental Management, State Capitol, Sacramento, Calif. 95814, and to the San Diego County Comprehensive Planning Organization, 207 County Administration Center, 1600 Pacific Highway, San Diego, CA 92101.

This report discusses environmental considerations related to the proposed issuance of a full-term operating license for the San Onofre Nuclear Generating Station Unit No. 1 located near Camp Pendleton, San Diego County, Calif.

After the report has been analyzed by the Commission's Director of Regulation or his designee, a draft detailed statement of environmental considerations related to the proposed action will be prepared. Upon preparation of the draft detailed statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft detailed statement. The summary notice will request comments from interested persons on the proposed action and on the draft detailed statement. The summary notice will also contain a statement to the effect that the comments of Federal agencies, State and local officials thereon will be available when received.

Dated at Bethesda, Md., this 27th day of October 1972.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Operating Reactors, Directorate of Licensing.

[FR Doc.72–18886 Filed 11–3–72;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24555]

MINIMUM CHARGES PER AIR FREIGHT SHIPMENT

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on November 28, 1972, at 10 a.m., e.s.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report, served October 2, 1972, the supplemental prehearing conference report, served October 13, 1972, and other documents in this docket on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., November 1, 1972.

[SEAL] THOMAS P. SHEEHAN,
Administrative Law Judge.

[FR Doc.72–18964 Filed 11–3–72;8:52 am]

TEXAS INTERNATIONAL AIRLINES, INC.

Notice of Meeting

Notice is hereby given that a meeting with the above carrier will be held on November 13, 1972, at 2 p.m., local time, in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, at which time Texas International will make a presentation on its overall strategy for restoring the airline to economic viability.

Dated at Washington, D.C., November 1, 1972.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72–18965 Filed 11–3–72;8:52 am]

[Docket No. 24488; Order 72–10–90]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Passenger Fares

OCTOBER 27, 1972.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations between various air carriers, foreign air carriers and other carriers embodied in the resolutions of Traffic Conference 2 of the International Air Transport Association (IATA). The agreement, which has been assigned the above-designated CAB agreement number, was adopted for expedited effectiveness at the Worldwide Passenger Conference held in Torremolinos, Spain, September–October 1972, for a limited period through March 31, 1973.

V37-214 NOV 4 72 XUM

The agreement would increase normal first-class and economy fares between various specified points within Africa, as well as adding new points, and would establish a maximum discount of 40 percent to apply to student fares for travel wholly within Africa. Additionally, the agreement would eliminate provisions for ground transportation from the resolution governing group fares for seamen within the area comprised of Europe/Middle East/Africa. We are approving the agreement to the extent that it involves normal first-class and economy fares, which are combinable with fares to/from United States points and thus have indirect application in air transportation as defined by the Act. Student and seamen's fares, on the other hand, are not similarly combinable, and we are herein disclaiming jurisdiction with respect to that aspect of the agreement.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14:

1. It is not found that the following resolutions, which are incorporated in agreement CAB 23342 as indicated and which do not directly affect air transportation within the meaning of the Act, are adverse to the public interest or in violation of the Act:

Agreement CAB 23342	IATA No.	Title	Application
1: 1	062 I	TC2 First Class Fares (Amending) [1]	2: Africa.
1: 2	062 II	TC2 First Class Fares (Amending) [1]	Do.
1: 3	062 I	TC2 Economy Class Fares (Amending) [1]	Do.
1: 4	062 II	TC2 Economy Class Fares (Amending) [2]	Do.

2. It is not found that the following resolutions, which are incorporated in agreement CAB 23342 as indicated, affect air transportation within the meaning of the Act:

Agreement CAB 23342	IATA No.	Title	Application
1: 5	067a	TC2 Group Fares for Seamen (Amending) [1]	2.
1: 6	092	Student Fares (Amending) [2]	2: Africa.

[1] For intended Nov. 1, 1972, effectiveness.
[2] For intended Dec. 1, 1972, effectiveness.

Accordingly, it is ordered, That:

1. Agreement CAB 23342, R–1 through R–4, be and hereby is approved; and

2. Jurisdiction is disclaimed with respect to Agreement CAB 23342, R–5 and R–6.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc 72-18963 Filed 11-3-72;8:52 am]

FEDERAL MARITIME COMMISSION

NORTH ATLANTIC WESTBOUND FREIGHT ASSOCIATION

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by

D J. K. Conway, Chairman, North Atlantic Westbound Freight Association, 74 St. James's Street, London SW1A 1PS, England.

Agreement No. 5850–19 modifies the organic agreement of the above named conference to provide for the selection of a conference chairman and the enumeration of his duties; to establish unauthorized disclosure of conference business as a breach of the agreement subject to self-policing sanctions; and to incorporate the self-policing provisions of the Associated North Atlantic Freight Conferences and to appoint its executive director as the conference's enforcement authority.

By order of the Federal Maritime Commission.

Dated: October 31, 1972.

FRANCIS C. HURNEY,
Secretary.

[FR Doc 72-18975 Filed 11-3-72;8:50 am]

[Docket No. 72-48]

PACIFIC MARITIME ASSOCIATION

Rescheduling of Filing Dates

Pacific Maritime Association—cooperative working arrangements; possible violations of sections 15, 16, and 17, Shipping Act, 1916.

Upon request of various parties, and good cause appearing, the filing dates set forth in first supplemental order served October 19, 1972, are rescheduled as follows:

1. Requests for hearing shall be filed on or before December 15, 1972.

2. Simultaneous affidavits of fact and memoranda of law shall be filed on or before December 15, 1972.

3. Reply affidavits and memoranda shall be filed on or before January 12, 1973.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-18974 Filed 11-3-72;8:50 am]

[Commission Order No. I (Revised)]

ORGANIZATION AND FUNCTIONS; DELEGATION OF AUTHORITY

Licensing Requirements

The Federal Maritime Commission published in the FEDERAL REGISTER on January 15, 1972, 37 F.R. 678, a rule making whereby "Requirements for Licensing" would be amended for purposes of assuring continuity of responsibility and experience of persons associated with an applicant for an independent ocean freight forwarder license under 46 CFR Part 510.

Notice is hereby given that the Managing Director, Federal Maritime Commission, has been delegated the authority by the Commission under § 7.04 of Commission Order I (Revised) to grant, upon the showing of good cause, an extension or extensions of time to independent ocean freight forwarder licensees in which to report the name of qualifying partners or officers of such licensees.

Section 7.04 of Commission Order I is revised accordingly by adding thereto a new subparagraph as follows:

(h) Approve extension or extensions of time to licensed freight forwarders, in which to furnish the Commission the name(s) and ocean freight forwarding experience of the managing partner(s) or officer(s) who will replace the qualified partner or officer upon whose qualifications the original licensing was approved.

Since this change is merely procedural, it shall become effective immediately.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-18976 Filed 11-3-72;8:50 am]

FEDERAL POWER COMMISSION

[Docket No. IT–5331]

ARIZONA PUBLIC SERVICE CO.

Notice of Application

OCTOBER 31, 1972.

Take notice that Arizona Public Service Co. (Applicant), incorporated under the laws of the State of Arizona with its principal place of business at Phoenix, Ariz., has filed an application in Docket No. IT–5331 for a supplemental order, pursuant to section 202(e) of the Federal Power Act, authorizing an increase in the amount and rate of transmission of electric energy which Applicant may transmit from the United States to Mexico.

By Commission order issued October 22, 1970, in Docket No. IT–5331 (44 FPC 1284), Applicant was authorized to transmit electric energy from the United States to Mexico in an amount not in excess of 14 million kw.-hr. per year at a transmission rate not to exceed 3,200 kw. for sale and delivery to Compania de Servicios Publicos de Agua Prieta, S.A. (Mexican company), incorporated under the laws of the Republic of Mexico, over certain 2.4 kv. facilities of Applicant located at the international border between the United States and Mexico in or near Douglas, Ariz. Applicant's facilities are covered by the Presidential Permit signed by the President of the United States on July 30, 1941, Docket No. IT–5331, and released to Arizona Edison Co., Inc., corporate predecessor of Applicant. The Presidential Permit was subsequently transferred to Applicant by the Amendatory Presidential Permit signed by the President on August 28, 1952, Docket No. IT–5331.

Applicant now requests that the authorization granted by the Commission's October 22, 1970 order, referred to above, be modified so as to authorize Applicant to export electric energy in an amount not in excess of 26 million kw.-hr. per year at a transmission rate not to exceed 5,000 kw. to Mexican Company over Applicant's above-mentioned facilities for the purpose of meeting the growth in the electric load served by Mexican Company in Agua Prieta, Sonora, Mexico, and vicinity. The additional amount of energy proposed to be exported will be sold and delivered by Applicant to Mexican Company in accordance with the terms and at the rates set forth in the contract dated March 21, 1972, between Applicant and Mexican Company.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 17, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18943 Filed 11-3-72;8:49 am]

[Docket No. CI73–239]

CHARLES A. BARTON, SR., ET AL.

Notice of Application; Correction

OCTOBER 20, 1972.

In the notice of application, issued October 12, 1972, and published in the FEDERAL REGISTER October 14, 1972, 37 F.R. 21871:

Paragraph 2: Delete last sentence and substitute "Applicants propose to sell approximately 2,000 Mcf of gas per day at 36 cents per Mcf at 15.025 p.s.i.a., including 1 cent per Mcf reimbursement for severance taxes."

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18944 Filed 11-3-72;8:49 am]

[Docket No. E–7720]

DUKE POWER CO.

Order Accepting Immediate Appeal and Ordering Certification of Hearing Record

OCTOBER 30, 1972.

By motion dated October 3, 1972, staff sought to have this Commission overrule two rulings of the Presiding Administrative Law Judge in the above-styled proceeding.

The first ruling denied staff's motion to have evidence of discrimination, both introduced and sought to be introduced by Intervenors and Duke, stricken from the record.

Staff then sought to have the initial ruling appealed directly to the Commission pursuant to our rules of practice and procedure, § 1.28(a). When the Presiding Administrative Law Judge chose not to rule on this second motion, staff appealed directly to this Commission, alleging the Presiding Administrative Law Judge's inaction was a denial of the motion for an immediate appeal.

To support its motion for an immediate appeal, staff maintained that the introduction of evidence of discrimination was producing an excessively long and costly hearing which was not in the public interest. Staff also set forth reasons why the evidence should not be admitted. Intervenors responded by denying the hearing was excessively long and setting out reasons for the admission of the evidence.

While our ruling here is not a ruling on the substantive elements of staff's appeal, staff has noted that this same question of Duke's discrimination is currently before the Commission in another proceeding, Docket No. E–7557. This allegation is denied by the intervenors. Staff also asserts that the initial Commission order so limited the issue to be tried in this proceeding (i.e., fuel adjustment clause) as to exclude the issue of Duke's alleged discrimination.

While we do not now decide the substantive arguments, we think that their presence, and the public interest, merits an immediate appeal pursuant to § 1.28(a) of our rules, even though the hearing phase of this proceeding has been terminated.

The Commission finds:

(1) The inaction of the Presiding Administrative Law Judge on a motion for an immediate appeal pursuant to § 1.28 (a) of our rules of practice and procedure was a denial of that motion.

(2) It is necessary and proper and in the public interest that the record in this proceeding, Docket No. E–7720, be certified to the Commission.

The Commission orders:

(1) The Presiding Administrative Law Judge's denial of staff's motion for an immediate appeal is hereby overruled.

(2) The Presiding Administrative Law Judge shall forthwith certify the record in this proceeding, Docket No. E–7720, to the Commission.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18929 Filed 11-3-72;8:48 am]

[Docket No. G–2798, etc.]

FOREST OIL CORP.

Findings and Order After Statutory Hearing; Correction

OCTOBER 19, 1972.

Forest Oil Corp. (Operator) et al., Docket No. G–2798 et al.; Glen E. Jeffery, Dockets Nos. CI72–535 through CI72–539.

In the findings and order after statutory hearing issuing certificates of public convenience and necessity, amending orders issuing certificates, permitting and approving abandonment of service, terminating certificates, canceling FPC gas rate schedule supplements for filing, canceling docket number, and terminating rate proceedings, issued September 6,

V37-214 NOV 4 72 XUM

1972, and published in the FEDERAL REGISTER September 15, 1972, 37 F.R. 18754: Appendix, page 18756: Under column "Description and Date of Document" for Dockets Nos. CI72-535 through CI72-539, change effective date "11-11-71" to "11-1-71".

KENNETH F. PLUMB,
Secretary.

[FR Doc 72-18945 Filed 11-3-72;8:49 am]

[Docket No. G-7425 etc.]

G. J. HOLLANDSWORTH ET AL.

Notice of Petition to Amend; Correction

OCTOBER 25, 1972.

In the notice of petition to amend, issued October 18, 1972, and published in the FEDERAL REGISTER October 21, 1972, 37 F.R. 22773: Paragraph 1: Delete lines 6 and 7 and substitute "by substituting Natural Gas Pipeline Company of America (Natural) in lieu of Petitioner as purchaser of natural gas from."

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18947 Filed 11-3-72;8:49 am]

[Docket No. E-7734]

MID-CONTINENT AREA POWER POOL AGREEMENT

Order Accepting Rate Schedules for Filing, Granting Petitions To Intervene, and Setting Matters for Hearing; Correction

OCTOBER 12, 1972.

In the order accepting rate schedules for filing, granting petitions to intervene, and setting matters for hearing, issued September 26, 1972, and published in the FEDERAL REGISTER September 30, 1972, 37 F.R. 20595: Page 20597, lines 5 and 6: Change "Basin Electric Power Corporation" to "Basin Electric Power Cooperative."

KENNETH F. PLUMB,
Secretary.

[FR Doc 72-18948 Filed 11-3-72;8:49 am]

[Docket No. E-7768]

PUBLIC SERVICE ELECTRIC AND GAS CO.

Order Accepting for Filing and Suspending Proposed Changes in Rate Schedules, Permitting Intervention, and Directing Submission of Offers of Proof

OCTOBER 30, 1972.

On August 30, 1972, Public Service Electric and Gas Co. (PSE&G) tendered for filing proposed changes in its Electric Rate Schedules FPC Nos. 47 and 48 and 49[1] (High Tension Service), to become effective on October 31, 1972. The proposed rates would constitute a revenue increase of approximately $785,238 based on a 1971 test year. PSE&G avers that the increase is necessary to offset an increase in operating expenses, taxes, and fixed charges.

The notice of proposed increase, issued on September 12, 1972, provided that the closing dates for petitions to intervene, protests, and comment was September 29, 1972. On October 10, 1972, the Borough of Milltown (Milltown) filed a letter protesting the proposed rate increases and expressing a desire to intervene. As Milltown has alleged that the proposed increases may be unjust and unreasonable, and since Milltown, as a customer of PSE&G, will be affected by this proposed increase, we shall construe this letter as a petition to intervene.

On October 19, 1972, PSE&G filed an answer to the letter of the Borough of Milltown, disputing Milltown's intervention in this proceeding and alleging that the facts stated in the letter of Milltown were irrelevant and inaccurate. In view of the fact that we will require offers of proof in this proceeding, we will defer taking action on the substantive arguments raised in the letter and answer until the 30-day period allowed for offers of proof by intervenors and staff has expired.

PSE&G's rate filing indicates the proposed rate increases would yield a rate of return on jurisdictional service of approximately 4.8 percent, based on a 1971 test year.

In order to determine the necessity of an evidentiary hearing, the Commission requests that the intervenor, Borough of Milltown, and staff submit offers of proof within thirty (30) days from the issuance of this order to support their position as to the lawfulness of the proposed rates. Within 15 days from the service of such offers of proof, PSE&G may file its answer to such pleadings. Upon review of the pleadings, the Commission will determine if a full evidentiary hearing is justified and set such further procedural dates as may be necessary.

Pending the Commission's determination of whether an evidentiary hearing is necessary, it is appropriate that the proposed increased rates be suspended for a period of one (1) day.

The Commission finds:

(1) Consideration of the letter of the Borough of Milltown, filed October 10, 1972, as a petition to intervene may be in the public interest.

(2) Participation in this proceeding of the above-named petitioner to intervene may be in the public interest.

(3) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission request offers of proof from intervenor, Borough of Milltown and staff concerning the lawfulness of the rates and charges contained in PSE&G's Rate Schedule Nos. 47, 48, and 49 as proposed to be amended in this docket, and that the tendered rate schedule be suspended as hereinafter provided.

(4) The disposition of this proceeding should be expedited in accordance with the procedure set forth below.

(5) In the event this proceeding is not concluded prior to the termination of the suspension period herein ordered, the placing of the tariff changes applied for in this proceeding into effect, subject to refund with interest while pending Commission determination as to their justness and reasonableness, is consistent with the purpose of the Economic Stabilization Act of 1970, as amended.

The Commission orders:

(A) The aforementioned proposed rate schedules, filed on August 30, 1972, are accepted for filing subject to the terms and conditions of this order.

(B) The letter of the Borough of Milltown, filed October 10, 1972, constitutes a petition to intervene in this proceeding.

(C) The above-named petition to intervene is hereby granted subject to the Commission's rules of practice and procedure: *Provided, however,* The participation of such intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in its petition to intervene; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that he might be aggrieved by any orders entered in this proceeding.

(D) Not more than thirty (30) days after the issuance of this order, the Commission Staff and the above-named intervenor shall submit offers of proof as to the lawfulness of the proposed rate increases from which the Commission can make a finding as to the necessity of an evidentiary hearing.

(E) Not more than fifteen (15) days after the service of such offers of proof, PSE&G may file its answer to such pleadings.

(F) Pending a final decision in this proceeding, PSE&G's proposed rate schedules tendered August 30, 1972, are suspended and the use thereof deferred until November 1, 1972, subject to refund as provided by section 205(e) of the Federal Power Act and the regulations thereunder.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18930 Filed 11-3-72;8:48 am]

[Project 199]

SOUTH CAROLINA PUBLIC SERVICE AUTHORITY

Notice of Application for Approval of Nonproject Use of Project Lands and Waters

OCTOBER 30, 1972.

Public notice is hereby given that application for approval of nonproject use of project lands and waters has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by South Carolina Public Service Authority (correspondence to: Mr. J. B. Thomason, General Manager, South Carolina Public Service Authority, Santee-Cooper, Moncks Corner, S.C. 29461) in Project No. 199 located on the Santee River and the Cooper River.

Applicant has requested Commission approval of a raw water intake structure in Lake Moultrie of Project No. 199 by the South Carolina Wildlife Resources Department. The intake would furnish water for operation of the Bonneau Fish Hatchery. It is estimated that 0.61 acre-feet per day or about 200,000 gallons per day would be withdrawn from and not returned to the reservoir.

Applicant states that the hatchery would have rearing ponds to raise striped bass to fingerling size.

A permit to construct the subject intake was issued by the Corps of Engineers, Charleston, S.C. on April 21, 1972. The facility has also been approved by the U.S. Forest Service, the Fish and Wildlife Service of the U.S. Department of the Interior and appropriate State and local agencies.

Any person desiring to be heard or to make protest with reference to said application should on or before December 18, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18928 Filed 11-3-72;8:48 am]

[Docket No. E-7618]

SOUTHERN CALIFORNIA EDISON CO.

Notice of Filing of Settlement Agreement

NOVEMBER 1, 1972.

Pursuant to § 1.36(a) of the Commission's rules of practice and procedure, notice is hereby given that on August 17, 1972, a settlement agreement made and entered into between Southern California Edison Co. (Edison) and the cities of Anaheim, Banning, and Riverside (Cities) was filed with the Commission in the above-entitled proceeding. The settlement agreement provides, inter alia, for:

(1) Network transmission service.
(2) Partial requirements service.
(3) Point-to-point transmission service.
(4) Participation on a mutually agreeable basis in new generating units.

(5) Combined dispatch of power resources, sharing of reserves, transmission service, purchase and sale of capacity or energy and other necessary supplemental services, as part of integrated operation and interconnection of city-owned resources with those of Edison.

(6) Withdrawal by cities of various claims involving the parties presently pending before regulatory commissions, before U.S. Court of Appeals for the District of Columbia, and for the Department of Justice.

(7) A payment by Edison in the sum of $3,125,000 to the Cities in consideration of various matters as set out in the settlement agreement.

The settlement agreement is on file with the Commission and is available for public inspection. Comments with respect to the settlement agreement may be filed with the Commission on or before December 4, 1972.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18926 Filed 11-3-72;8:48 am]

[Docket No. CI73-307]

STERLING W. WOOLSEY

Notice of Application

NOVEMBER 1, 1972.

Take notice that on October 24, 1972, Sterling W. Woolsey filed in Docket No. CI73-307 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Texas Eastern Transmission Corp. from the East Bishop Field, Nueces County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that he proposes to commence the sale of natural gas within the contemplation of § 157.29 of the the regulations under the Natural Gas Act (18 CFR 157.29) and that he proposes to continue said sale for 1 year from the end of the 60-day emergency period within the contemplation of § 2.70 of the Commission general policy and interpretations (18 CFR 2.70). Applicant proposes to sell up to 2,000 Mcf of gas per day at 35 cents per Mcf at 14.65 p.s.i.a.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 13, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18927 Filed 11-3-72;8:48 am]

FEDERAL RESERVE SYSTEM

CAMBRIDGE AGENCY, INC.

Formation of Bank Holding Company and Proposed Acquisition of Insurance Agency

Cambridge Agency, Inc., Cambridge, Nebr., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares of The Cambridge State Bank, Cambridge, Nebr. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Cambridge Agency, Inc., has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Cambridge Insurance Agency, Inc., Cambridge, Nebr. Notice of the application was published on August 3, 1972, in the Cambridge Clarion, a newspaper circulated in Cambridge, Nebr. Applicant has also applied for permission to itself engage in the sale of credit life and accident and health insurance. Notice with respect thereto was published on October 5, 1972, in the Cambridge Clarion.

Applicant states that the proposed subsidiary would engage in the activities of a general insurance agency in a community of less than 5,000 people. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

[1] These schedules supersede FPC Nos. 39, 40, and 41, respectively.

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Interested persons may express their views on the question whether consummation of the proposal under section 4(c)(8) can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 27, 1972.

Board of Governors of the Federal Reserve System, October 30, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18933 Filed 11-3-72;8:48 am]

NORTH SHORE CAPITAL CORP.

Formation of Bank Holding Company

North Shore Capital Corp., Chicago, Ill., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 50 percent or more of the voting shares of The North Shore National Bank of Chicago, Chicago, Ill. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 27, 1972.

Board of Governors of the Federal Reserve System, October 31, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18934 Filed 11-3-72;8:48 a.m.]

UNITED JERSEY BANKS

Acquisition of Bank

United Jersey Banks, Hackensack, N.J., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of United Jersey National Bank of Middlesex County, South Plainfield, N.J., a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than November 27, 1972.

Board of Governors of the Federal Reserve System, October 30, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18935 Filed 11-3-72;8:48 am]

OFFICE OF EMERGENCY PREPAREDNESS

ARIZONA

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in me by the President under Executive Order 11575 of December 31, 1970; and by virtue of the Act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744), as amended by Public Law 92-209 (85 Stat. 742); notice is hereby given that on October 25, 1972, the President declared a major disaster as follows:

I have determined that the damages in certain areas of the State of Arizona from heavy rains and flooding, beginning about October 18, 1972, are of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 91-606. I therefore declare that such a major disaster exists in the State of Arizona. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575 to administer the Disaster Relief Act of 1970 (Public Law 91-606, as amended), I hereby appoint Mr. Robert C. Stevens, Regional Director, OEP Region 9, to act as the Federal Coordinating Officer to perform the duties specified by section 201 of that Act for this disaster.

I do hereby determine the following areas in the State of Arizona to have been adversely affected by this declared major disaster:

THE COUNTIES OF

Graham. Greenlee.

Date: October 26, 1972.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[FR Doc.72-18894 Filed 11-3-72;8:46 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority 30, Rev. 14, Admt. 4]

REGIONAL DIRECTORS

Delegation of Authority To Conduct Program Activities in the Field Offices

Delegation of Authority No. 30 (Revision 14) (37 F.R. 12651), as amended (37 F.R. 14840, 37 F.R. 19405, and 37 F.R. 21466), is hereby further amended to include approval and certain other authority for strategic arms limitation economic injury loans. Parts I and II are revised to read as follows:

PART I—FINANCING PROGRAM

SECTION A. *Loan approval authority.*

* * * * *

3. *Displaced business and other economic injury loans.* To decline displaced business loans, coal mine health and safety loans, consumer protection loans (meat, egg, poultry), occupational safety and health loans, strategic arms limitation economic injury loans, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters in any amount and to approve such loans up to $1 million (SBA share).

* * * * *

SEC. B. *Other financing authority*—1. *Loan participation agreements.* To enter into business, economic opportunity, disaster, displaced business, consumer protection (meat, egg, poultry), coal mine health and safety, occupational health and safety, and strategic arms limitation economic injury loan participation agreements with banks.

* * * * *

3. *Cancel, reinstate, modify, and amend authorizations.* To cancel, reinstate, modify, and amend authorizations for all loans, i.e., business, economic opportunity, disaster, displaced business, consumer protection (meat, egg, poultry), coal mine health and safety, occupational health and safety, and strategic arms limitation economic injury loans.

* * * * *

PART II—DISASTER PROGRAM

SECTION A. *Disaster loan approval authority.* 1. To decline * * * (excluding displaced business loans, coal mine health and safety loans, occupational safety and health loans, strategic arms limitation economic injury loans, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters) except to the extent of refinancing of a previous SBA disaster loan.

* * * * *

Effective date: September 28, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-18895 Filed 11-3-72;8:46 am]

INTERSTATE COMMERCE COMMISSION

[Notice 109]

ASSIGNMENT OF HEARINGS

NOVEMBER 1, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No Amendments will be entertained after the date of this publication.

MC 107295 Sub 521, Pre Fab Transit Co., now assigned November 7, 1972, at Birmingham, Ala., hearing is canceled and application dismissed.

No. 35634, Lighterage at New York Harbor, Erie Lackwanna Ry., assigned November 29, 1972, MC 107515 Sub 764, Refrigerated Transport Co., Inc., assigned November 27, 1972, at New York, N.Y., will be held in Room E-2222, 26 Federal Plaza.

MC-119767 Sub 287, and MC-119767 Sub 292, Beaver Transport Co., now assigned November 6, 1972, at Chicago, Ill., is canceled and transferred to Modified Procedure.

I & S M-25977, Classification of Gelatin Capsules, now assigned November 9, 1972, at Washington, D.C., postponed to January 9, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 60196 Sub 7, Auto Express, hearing continued to December 4, 1972, Scranton, Pa., in a hearing room to be later designated.

MC 107743 Sub 17, System Transport, Inc., now being assigned hearing January 15, 1973 (3 days), at Chicago, Ill., in a hearing room to be later designated.

MC 4405 Sub 498, Dealer Transit, Inc., now being assigned hearing January 18, 1973 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC 107496 Sub 855, Ruan Transport Corp., now being assigned hearing January 19, 1973 (1 day), at Chicago, Ill., in a hearing room to be later designated.

AB-5 Sub 57, George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, Trustees of the Property of Penn Central Transportation Co., Debtor, Abandonment Between Columbus and Flat Rock, Bartholomew and Shelby Counties, Ind.; AB-5 Sub 58, George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, Trustees of the Property of Penn Central Transportation Co., Debtor, Abandonment Between Fenns and Shelbyville, Shelby County, Ind.; AB-5 Sub 59, George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, Trustees of the Property of Penn Central Transportation Co., Debtor, Abandonment Between Rays Crossing and Rushville, Shelby and Rush Counties, Ind., now being assigned hearing January 22, 1973 (1 week), at Rushville, Ind., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-18952 Filed 11-3-72;8:49 am]

FOURTH SECTION APPLICATIONS

NOVEMBER 1, 1972.

Protests to the granting of an application must be prepared in accordance with § 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42557—*Joint Water-Rail Container Rates—Sea-Land Service, Inc.* Filed by Sea-Land Service, Inc., (No. 70), for itself and interested rail carriers. Rates on general commodities, between ports in Europe and the United Kingdom, on the one hand, and rail carriers terminals at Long Beach, Oakland and Richmond, Calif., via Houston, Tex., on the other.

Grounds for relief—Water competition.

Tariffs—Sea-Land Service, Inc., tariffs ICC Nos. 67, 68, and 69. Rates are published to become effective on November 29, 1972.

FSA No. 42558—*Iron or Steel, Angles and Bars to Points in Texas.* Filed by Southwestern Freight Bureau, agent, (No. B-361), for interested rail carriers. Rates on angles and bars, iron or steel, in carloads, as described in the application, from specified points in Alabama, Georgia, Illinois, Missouri, and Oklahoma, to specified points in Texas.

Grounds for relief—Barge-rail competition.

Tariff—Supplement 336 to Southwestern Freight Bureau, agent, tariff ICC 4753. Rates are published to become effective on November 29, 1972.

FSA No. 42560—*Returned Shipments of Newsprint Paper Winding Cores From and to Points in Illinois, Southern and Southwestern Territories.* Filed by Southwestern Freight Bureau, agent (No. B-363), for interested rail carriers. Rates on returned shipments of newsprint paper winding cores, in carloads, as described in the application, from points in Illinois, officials, southern and southwestern (including Missouri (Northern Region)) territories, on the one hand, to points in southwestern territory, on the other; also to points in the reverse direction.

Grounds for relief—Carrier competition.

Tariffs—Supplements 68, 41, and 53 to Southwestern Freight Bureau, agent, tariffs ICC 4781, 4965, and 4891, respectively. Rates are published to become effective on November 29, 1972.

FSA No. 42561—*Pulpboard or Fibreboard to Rock Island, Ill.* Filed by Southwestern Freight Bureau, agent (No. B-354), for interested rail carriers. Rates on pulpboard or fibreboard, in carloads, as described in the application, from Bastrop and West Monroe, La., also Camden, Ark., to Rock Island, Ill.

Grounds for relief—Carrier competition.

Tariff—Supplement 40 to Southwestern Freight Bureau, agent, tariff ICC 4965. Rates are published to become effective on December 7, 1972.

AGGREGATE-OF-INTERMEDIATES

FSA No. 42559—*Iron or steel, angles and bars to points in Texas.* Filed by Southwestern Freight Bureau, agent (No. B-362), for interested rail carriers. Rates on angles and bars, iron or steel, in carloads, as described in the application, from specified points in Alabama, Georgia, Illinois, Missouri, and Oklahoma, to specified points in Texas.

Grounds for relief—Maintenance of depressed rates published to meet barge-rail competition without use of such rates as factors in constructing combination rates.

Tariff—Supplement 336 to Southwestern Freight Bureau, agent, tariff ICC 4753. Rates are published to become effective on November 29, 1972.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-18953 Filed 11-3-72;8:49 am]

[Notice 164]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73894. By order of October 24, 1972, the Motor Carrier Board approved the transfer to The Briggs Corp., Portland, Conn., of Permits Nos. MC-123695 issued February 8, 1962, and MC-123695 (Sub-No. 2), issued October 2, 1970, to Briggs Trans. Inc., Portland, Conn., authorizing the transportation of petroleum products and various other commodities from Portland, Conn., to specified points for the account of Cities Service Oil Company of New York, N.Y. John E. Fay, 342 North Main Street, West Hartford, CT 06117, attorney for applicants.

No. MC-FC-73930. By order of October 26, 1972, the Motor Carrier Board approved the transfer to Howe and Company, Inc., Framingham, Mass., of the certificate of registration in No. MC-98330 (Sub-No. 1), issued April 9, 1964,

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to City Transfer of Lowell, Inc., West Chelmsford, Mass., evidencing a right to engage in transportation in interstate or foreign commerce corresponding to the grant of authority in irregular route common carrier certificate No. 6076 dated March 19, 1952, issued by the Massachusetts Department of Public Utilities. Mary E. Kelley, 11 Riverside Avenue, Medford, MA 02155, attorney for applicants.

No. MC-FC-73986. By order of October 24, 1972, the Motor Carrier Board approved the transfer to Julsco, Inc., Chicago, Ill., of Certificate No. MC-16567 and subs thereunder issued to J. L. Scheffler Transport, Inc., Chicago, Ill., authorizing the transportation of: General commodities, usual exception, and other specified commodities, between specified points in Illinois, Indiana, and Wisconsin. Edward G. Bazeion, attorney, 39 South La Salle Street, Chicago, IL 60603.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-18954 Filed 11-3-72;8:50 am]

[Notice 145]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 31, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 49304 TA, filed October 13, 1972. Applicant: BOWMAN TRUCKING COMPANY, INC., Post Office Box 6, Stephens City, VA 22655. Applicant's representative: James L. Bowman (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash*, from Williamsport, Md., to points in Warren County, Va., for 180 days. Supporting shippers: Monongahela Power Co., 1310 Fairmont Avenue, Fairmont, WV 26554; Riverton Corp., Riverton, Va. 22651. Send protests to: Robert D. Caldwell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 12th Street and Constitution Avenue NW., Washington, D.C. 20423.

No. MC 59640 TA, filed October 16, 1972. Applicant: PAULS TRUCKING CORPORATION, 3 Commerce Drive, Cranford, NJ. Applicant's representative: Charles J. Williams, 47 Lincoln Park, Newark, NJ 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, *equipment, materials, and supplies* used in the conduct of such business (except commodities in bulk), between the warehouse facilities of Supermarkets General Corp. at Mahwah, N.J., on the one hand, and, on the other, points in Hudson, Middlesex, Union, and Essex Counties, N.J., restricted to traffic which has a prior or subsequent movement by water or rail; New York, N.Y.; and points in Nassau, Westchester, Rockland and Suffolk Counties, N.Y.; Parkesburg and Philadelphia, Pa., and points in Bucks, Delaware, Berks, Dauphin, Montgomery, Cumberland, York, Lehigh, and Northampton Counties, Pa.; New Milford, Conn., and points in Fairfield, New Haven, Hartford, and Middlesex Counties, Del.; points in Wicomico County, Md. and the facilities of Supermarkets General Corp. at Baltimore, Md., and Hampden County, Mass. Restriction: The authority sought herein is limited to a transportation service to be performed under a continuing contract, or contract, with Supermarkets General Corp., for 180 days. NOTE: The authority sought herein is only to permit applicant to serve the new warehouse facilities of Supermarket General Corp. at Mahwah, N.J., in the area it is now authorized to serve. Supporting shipper: Supermarkets General Corp., 3 Commerce Drive, Cranford, NJ 07016. Send protests to: District Supervisor Robert E. Johnston, Interstate Commerce Commission, Bureau of Operations, 970 Broad St., Newark, NJ 07102.

No. MC 60186 TA, filed October 16, 1972. Applicant: NELSON FREIGHTWAYS, INC., Post Office Box 356, Rockville, CT 06066. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points on Long Island on and east of New York Highway 112, on the one hand, and, on the other, points in Connecticut, for 180 days. NOTE: Applicant states that it does intend to tack with the authority in MC 60186 Subs 26 and 37. Supported by: There are approximately 15 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor David J. Kiernan, Bureau of Operations, Interstate Commerce Commission, 324 U.S. Post Office Building, 135 High Street, Hartford, CT 06101.

No. MC 61825 TA, filed October 13, 1972. Applicant: ROY STONE TRANSFER CORPORATION, Post Office Box 385, V.C. Drive, Collinsville, VA 24078. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, other than in bulk, from Rittman, Ohio to points in Amelia, Bedford, Blackstone, Brookneal, Catawba, Charlottesville, Chase City, Chesapeake, Christiansburg, Danville, Dillard, Eagle Rock, Emporia, Farmville, Galax, Hampton, Ivy, Kenbridge, Lynchburg, Luray, Martinsville, Mechanicsville, Norfolk, Petersburg, Portsmouth, Pulaski, Richmond, Roanoke, Salem, South Boston, Staunton, Suffolk, Virginia Beach, Waynesboro, West Point, Winchester and Wytheville, Va., for 180 days. Supporting shipper: Morton Salt Co., 939 North Delaware Avenue, Philadelphia, PA 19123. Send protests to: Clatin M. Harmon, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 215 Campbell Avenue SW., Roanoke, VA 24011.

No. MC 71164 (Sub-No. 5 TA), filed October 12, 1972. Applicant: LAND-SEA-AIR SERVICES, INC., 166 Northern Avenue, Boston, MA 02210. Applicant's representative: Frederick T. O'Sullivan, 622 Lowell Street, Peabody, MA 01960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* requiring refrigeration (except commodities in bulk, in tank vehicles, in hopper-type vehicles) and *cured pickled meats:* (1) Between points in Massachusetts, on the one hand, and, on the other, points in Florida and (2) from points in Iowa to points in Massachusetts, for 180 days. Supporting shippers: Agar Supply Co., Inc., 6 Foodmart Road, Boston, MA; World Meat Exports Corp., Somerville, Mass., and Boston Sausage & Provision, Inc., Constitution Wharf, Boston, Mass. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, Bureau of Operations, J. F. K. Federal Building, Room 2211B, Government Center, Boston, Mass. 02203.

No. MC 105159 TA, filed October 12, 1972. Applicant: KNUDSEN TRUCKING, INC., 1320 West Main Street, Red Wing, MN 55077. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cheese and cheese products* (a) from

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

Bongard and Dalbo, Minn., and Alpha, Arpin, Cadott, Ellsworth, Grantsburg, Greenwood, Loomis, Marathon, Monroe, Marinette, Waukesha, Wisconsin Rapids, Knapp, Thorp, and Seneca, Wis., to the plantsite and warehouse facilities of M. Wildstein & Sons, Inc., located in Philadelphia, Pa., (b) from the plant and warehouse facilities of M. Wildstein & Sons, Inc., located in Philadelphia, Pa., to Richmond and Norfolk, Va., Charlotte and Greensboro, N.C., Baltimore, Md., and Buffalo and New York, N.Y., (2) *empty steel drum containers* used for transporting cheese and cheese products, from the plantsite and warehouse facilities of M. Wildstein & Sons, Inc., in Philadelphia, Pa., to the origin points listed in (1) above; and (3) *inedible cheese* and *inedible cheese products* from the plantsite and warehouse facilities of M. Wildstein & Sons, Inc., in Philadelphia, Pa., to Peoria, Ill. Restriction: The authority set forth in Part (1)(a) above is restricted to traffic originating at the named origin points for the account of M. Wildstein & Sons, Inc., of Philadelphia, Pa., for 180 days. Supporting shipper: M. Wildstein & Sons, Inc., Delaware Avenue and Vine Street, Philadelphia, PA 19106. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building, and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 107460 (Sub-No. 38 TA), filed October 11, 1972. Applicant: WILLIAM Z. GETZ, INC., 3055 Yellow Goose Road, Lancaster, PA 17601. Applicant's representative: Donald D. Shipley (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum doors and windows*, glazed and unglazed; aluminum extrusions, from the plantsite of Capitol Products Corp. at or near Kentland, Ind., to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Nebraska, Ohio, Oklahoma, Tennessee, Texas, Utah, Wisconsin, and Wyoming, for 180 days. Supporting shipper: Capitol Products Corp., Kentland, Ind. 47951. Send protests to: Robert W. Ritenour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 508 Federal Building, Post Office Box 869, Harrisburg, PA 17108.

No. MC 107496 (Sub-No. 863 TA), filed October 11, 1972. Applicant: RAUN TRANSPORT CORPORATION, Third and Keosauqua Way, Post Office Box 855, Des Moines, IA 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nitric acid*, in bulk, in tank vehicles, from Pine Bend, Minn., to Iron Mountain, Mich., for 150 days. Supporting shipper: St. Paul Ammonia Products, Inc., Post Office Box 418, South St. Paul, MN 55075. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 108449 TA, filed October 11, 1972. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, MN 55113. Applicant's representative: W. A. Myllenbeck (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs*, from Lomira, Wis., to points in Wisconsin on and north and west of a line beginning at the Wisconsin-Minnesota State line on Highway 16, thence along Highway 16 in a northeasterly direction to Sparta, Wis., thence along Highway 21 to the intersection of Highway 51, located at Coloma, Wis., thence north along Highway 51 to the Michigan-Wisconsin State line, for 180 days. Supporting shipper: California Canners & Growers, Plant 14, Fond du Lac, Wis. 54935. Send protests to: District Supervisor Raymond T. Jones, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 128527 (Sub-No. 30 TA), filed October 13, 1972. Applicant: MAY TRUCKING COMPANY, Post Office Box 398, Payette, ID 83661. Applicant's representative: Gatchel & Batt, Professional Building, Payette, Idaho. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Aluminum sheet in coils and/or plates, pipe, or tubing; aluminum siding, roofing, and accessories; rejected or damaged shipments of the same material; and scrap aluminum and pallets on a return movement.* Authority is also sought to provide mixed loads of the aforementioned commodities between the points set forth. Material will be supplied for mobile homes, modular and assembled buildings, recreational vehicles and campers. From plantsite of AMAZ Building Products, a division of AMAX Aluminum Mill Products, Inc. (Post Office Box 418, East Highway 30, Boise, ID 83701) to plantsites located in or near the cities of Calgary and Red Deer, in the Province of Alberta, Canada for 180 days. Applicant does not intend to tack authority or to interline with any other carrier. Supporting shipper: Amax Building Products, Post Office Box 418, East Highway 30, Boise, ID 83701. Send protests to: C. W. Campbell, Bureau of Operations, Interstate Commerce Commission, 550 West Fort, Box 07, Boise, ID 83702.

No. MC 134439 (Sub-No. 1 TA), filed October 13, 1972. Applicant: JAMES G. FERNEYHOUGH, doing business as J. G. F. TRUCKING COMPANY, Post Office Box 2173, Lynchburg, VA 24501. Applicant's representative: Calvin F. Major, 200 West Grace Street, Richmond, VA 23220. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Corrugated paper sheets, containers, and parts thereof*, from the plantsite and facilities of Weyerhaeuser Co. at Lynchburg, Va., to points in Maryland, Pennsylvania, Tennessee, and West Virginia; and (2) *returned or refused shipments of the above commodities and materials, equipment, and supplies* used in the manufacture and sale of same, from the above-described destinations to the plantsite and facilities of Weyerhaeuser Co. at Lynchburg, Va., for 150 days. Supporting shipper: Weyerhaeuser Co., Tacoma, Wash. 98401. Send protests to: Clatin M. Harmon, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 215 Campbell Avenue SW., Roanoke, VA 24011.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-18955 Filed 11-3-72;8:50 am]

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federal register

SATURDAY, NOVEMBER 4, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 214

PART II

ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

Regulations affecting Federal Register

■

OFFICE OF THE FEDERAL REGISTER

Incorporation by Reference

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Title 1—GENERAL PROVISIONS

Chapter I—Administrative Committee of the Federal Register

REVISION OF REGULATIONS

This document effects a complete revision of the regulations of the Administrative Committee of the Federal Register. The purpose of this revision is to make the FEDERAL REGISTER a more meaningful and more useful publication. With the enactment of the Administrative Procedure Act in 1946, Congress provided an opportunity for general participation in the administrative actions of the Federal Government. However, in order to participate effectively, citizens must be able to understand the actions, both proposed and final, as published in the FEDERAL REGISTER. Unfortunately, in many instances, documents are being written so that the criticisms by Rudolph Flesch in his 1946 book, "The Art of Plain Talk" are still valid. In a chapter entitled "How To Read the FEDERAL REGISTER," Mr. Flesch quotes several virtually unintelligible documents and reaches this conclusion:

> Slowly we begin to understand. The FEDERAL REGISTER is not supposed to be read at all. It simply prints things so that some day, somewhere, some government official can say: "Yes, but it says in the FEDERAL REGISTER * * *". All this government stuff, in other words, is not reading matter, but prefabricated parts of quarrels.

Today, interest in the FEDERAL REGISTER is at an all-time high. Consumer groups and other public-interest oriented organizations regularly examine its contents to keep up with the administrative rulings of the Federal Government. The Administrative Committee of the Federal Register feels that affirmative action is required to make the FEDERAL REGISTER more meaningful to readers and believes that the new requirements contained in this revision will further that purpose.

Following is a summary of the most significant changes in existing regulations effected by this revision:

1. Requirement for a preamble in each document that describes the contents of the document in a manner sufficient to apprise a reader who is not an expert in the subject area of the general subject matter of the document.

2. Requirement for setting forth specific effective dates and action dates.

3. Changes in publication dates of the daily FEDERAL REGISTER.

4. Staggered publication of the Code of Federal Regulations.

In general, the responses to the three proposals published by the Administrative Committee on which these amendments are based were almost completely favorable. Two of the proposals published on July 27, 1972, at 37 F.R. 15006, related to limited subject areas (effective dates and time periods and staggered publication of the Code of Federal Regulations) and because of overwhelmingly favorable comments received may be disposed of quickly.

Effective dates and time periods. There was no significant opposition to the Committee's proposal that to the extent practical each document submitted for publication in the FEDERAL REGISTER should set forth dates certain as opposed to dates based on publication which must be computed by each interested party. Nor was there any significant objection to the computation method proposed to be used by the staff of the FEDERAL REGISTER for inserting a date certain where a document does contain a time period based on the publication date.

In commenting on this proposal, a large number of commentors indicated that too often Federal agencies allow inadequate time periods for commenting on proposed regulations. Several commenters stated that for most proposals of any significance a 45-day comment period should be considered the minimal. While outside the scope of this proposal, the Administrative Committee calls these comments to the attention of regulatory agencies since it is apparent that many persons feel that in the past they have not had adequate time to analyze and comment on proposed Federal actions.

Staggered publication of the Code of Federal Regulations. The proposal to stagger the publication of the Code of Federal Regulations also received almost unanimous support. There was some concern that it would be more difficult to check on changes to a particular Code of Federal Regulations volume since the current finding aids (the General Index and List of Sections Affected) are based on the annual Code of Federal Regulations. The Office of the Federal Register will revise the coverage of these finding aids so that Code of Federal Regulations users will have no difficulty at any time determining the regulations currently in effect.

The proposed general revision of the Administrative Committee's Regulations. The remaining changes in the present regulations of the Administrative Committee of the Federal Register are based on the notice of proposed rule making published in the FEDERAL REGISTER on April 4, 1972 (37 F.R. 6805).

Adequate preambles. Not surprisingly, virtually all of the comments received from outside the Federal establishment enthusiastically supported the Committee's proposal that each rule making document contain adequate preamble statements that summarize the contents of the document and discuss such things as the substance of the proposed rules, major issues involved, and basis and purpose thereof, etc. The comments received from Federal rule making agencies generally supported the proposed requirement although several felt that the proposal went beyond the requirements of the Administrative Procedure Act (5 U.S.C. 551–555). Others questioned the authority for the Director of the Federal Register to return a document to a Federal agency when it is signed by a qualified official of the agency.

With respect to the first point, as was discussed in the preamble to the notice of proposed rule making and in the amendment adopting the "Highlights" requirement (36 F.R. 5203), the Administrative Committee believes that the proposed requirements are clearly within the spirit and intent of the Federal Register Act (44 U.S.C. 1501–1511) and the Administrative Procedure Act.

One Federal agency recommended that the required preamble statement should describe the contents of the document "in a manner sufficient to apprise a reader, who is not an expert, of the general subject matter of such rules." The Committee believes this language expresses its intent even better than the language proposed and has incorporated it in a revised § 18.12 so that it applies to both notices of proposed rule making and final rules. Also, as suggested by several comments, § 18.12, as adopted, requires that to the extent practicable each proposed rule making preamble should discuss the reasons for the proposed rule.

Where a final rule was preceded by a notice of proposed rule making, § 18.12, as adopted, also requires that the preamble "indicate in general terms the principal differences, if any, between the rules as proposed and the rules as adopted." This requirement (as commenters suggested) has been substituted for the proposed requirement that the preamble discuss "the disposition of the significant comments received."

The provision concerning the return of documents by the Director of the Federal Register to agencies has been transferred from section 18.12 to a more appropriate location, section 2.4, which relates to the general authority of the Director. It should be pointed out that throughout the years since the beginning of the FEDERAL REGISTER, the Director has exercised this authority many times. This does not mean that the Director is substituting his judgment for that of the issuing agency. In most cases, questions concerning the adequacy of documents are handled informally to the satisfaction of both the agency and the Office of the Federal Register. Only in an extreme case, when a document is patently inadequate, would the Director return the document.

Liaison officers. Several agencies questioned the proposed change concerning liaison officers to the extent that it appeared to inject the Director of the Federal Register into the internal affairs of an agency. This, of course, was not the intent of the proposal. As adopted, § 16.1(b) has been modified to simply recommend that each agency choose as its liaison officer a person who is directly involved in the agency's regulatory program. In this way the officer will be in the best position to serve both his agency and the Office of the Federal Register.

Publication dates. There were only two significant objections to the proposal that the FEDERAL REGISTER be published Monday through Friday rather than Tuesday through Saturday, as it has been for over 35 years. Several commenters were concerned that the former Saturday issue, which would now carry a Monday date, might not be put in the mails until Monday rather than early Saturday morning, as is presently the case. As the preamble to the notice of proposed rule making stated, adoption of the new publication schedule would not change existing work schedules. The FEDERAL REGISTER bearing the Monday dateline will be printed and deposited at the post office before 9 a.m. on Saturday.

The other objection concerned certain agricultural marketing documents that have for many years been published in the Saturday FEDERAL REGISTER in advance of the new crop-week which begins on Sunday. While the Committee recognizes that elimination of the Saturday FEDERAL REGISTER will require certain adjustments in this particular regulatory area, it believes that the overall benefits justify this one inconvenience. Furthermore, any person depending on the FEDERAL REGISTER for notice of a particular action would be hard pressed to obtain copies of a Saturday FEDERAL REGISTER before the beginning of a time period commencing on Sunday. Therefore, while the practice of publishing such documents on a Saturday may have provided pro forma compliance with some legal requirement, the Committee believes that publication of the same class of documents in the Friday FEDERAL REGISTER will better serve to provide actual notice to those persons affected.

Inclusion of dates in the Highlights listing. The response to the Committee's request for advice on the advisability of continuing to publish significant dates in the Highlights listing was mixed. After considering all the comments received, the Committee has decided to continue the use of important dates in the Highlights listing where practicable.

Except for a few minor reorganization and other nonsubstantive changes, 1 CFR Chapter I, set forth below, conforms to the notices of proposed rule making referred to above.

In consideration of the foregoing, 1 CFR Chapter I is amended to read as set forth below:

Effective date. Except for the provisions of § 8.3, which take effect immediately, this amendment is effective January 2, 1973.

ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER,

JAMES B. RHOADS,
Archivist of the United States, Chairman.

H. J. HUMPHREY,
Acting Public Printer, Member.

MARY O. EASTWOOD,
Representative of the Attorney General, Member.

Approved:

RICHARD G. KLEINDIENST,
Attorney General.

A. SAMPSON,
Acting Administrator of General Services.

SUBCHAPTER A—GENERAL

PART 1—DEFINITIONS

§ 1.1 Definitions.

As used in this chapter, unless the context requires otherwise—

"Administrative Committee" means the Administrative Committee of the Federal Register established under section 1506 of title 44, United States Code;

"Agency" means each authority, whether or not within or subject to review by another agency, of the United States, other than the Congress, the courts, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States;

"Document" includes any Presidential proclamation or Executive order, and any rule, regulation, order, certificate, code of fair competition, license, notice, or similar instrument issued, prescribed, or promulgated by an agency;

"Document having general applicability and legal effect" means any document issued under proper authority prescribing a penalty or course of conduct, conferring a right, privilege, authority, or immunity, or imposing an obligation, and relevant or applicable to the general public, members of a class, or persons in a locality, as distinguished from named individuals or organizations; and

"Regulation" and "rule" have the same meaning.

(44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189)

PART 2—GENERAL INFORMATION

Sec.
2.1 Scope and purpose.
2.2 Administrative Committee of the Federal Register.
2.3 Office of the Federal Register; location; office hours.
2.4 General authority of Director.
2.5 Publication of statutes, regulations, and related documents.
2.6 Unrestricted use.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189.

§ 2.1 Scope and purpose.

(a) This chapter sets forth the policies, procedures, and delegations under which the Administrative Committee of the Federal Register carries out its general responsibilities under Chapter 15 of Title 44, United States Code.

(b) A primary purpose of this chapter is to inform the public of the nature and uses of FEDERAL REGISTER publications.

§ 2.2 Administrative Committee of the Federal Register.

(a) The Administrative Committee of the Federal Register is established by section 1506 of Title 44, United States Code.

(b) The Committee consists of—

(1) The Archivist, or Acting Archivist, of the United States, who is the Chairman;

(2) An officer of the Department of Justice designated by the Attorney General; and

(3) The Public Printer or Acting Public Printer.

(c) The Director of the Federal Register is the Secretary of the Committee.

(d) Any material required by law to be filed with the Committee, and any correspondence, inquiries, or other material intended for the Committee or which relate to Federal Register publications shall be sent to the Director of the Federal Register.

§ 2.3 Office of the Federal Register; location; office hours.

(a) The Office of the Federal Register is a component of the National Archives and Records Service of the General Services Administration.

(b) The Office is located at 633 Indiana Avenue NW., Washington, D.C.

(c) The mailing address is: Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

(d) Office hours are 8:45 a.m. to 5:15 p.m., Monday through Friday, except for official Federal holidays.

§ 2.4 General authority of Director.

(a) The Director of the Federal Register is delegated authority to administer generally this chapter, the related provisions of Chapter 15 of Title 44, United States Code, and the pertinent provisions of statutes and regulations contemplated by section 1505 of Title 44, United States Code.

(b) The Director may return to the issuing agency any document submitted for publication in the FEDERAL REGISTER or a special edition thereof, if in his judgment the document does not meet the minimum requirements of this chapter.

§ 2.5 Publication of statutes, regulations, and related documents.

(a) The Director of the Federal Register is responsible for the central filing of the original acts enacted by Congress and the original documents containing Executive orders and proclamations of the President, other Presidential documents, regulations, and notices of proposed rule making and other notices, submitted to the Director by officials of the executive branch of the Federal Government.

(b) Based on the acts and documents filed under paragraph (a) of this section, the Office of the Federal Register publishes the "slip laws," the "United States Statutes at Large," the daily FEDERAL REGISTER, and the "Code of Federal Regulations."

(c) Based on source materials that are officially related to the acts and documents filed under paragraph (a) of this section, the Office also publishes the "United States Government Organization Manual," the "Public Papers of the Presidents of the United States," and the "Weekly Compilation of Presidential Documents."

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§ 2.6 Unrestricted use.

Any person may reproduce or republish, without restriction, any material appearing in any regular or special edition of the FEDERAL REGISTER.

PART 3—SERVICES TO THE PUBLIC

Sec.
3.1 Information services.
3.2 Public inspection of documents.
3.3 Reproductions and certified copies of acts and documents.
3.4 Availability of Federal Register publications.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 F.R. 2709; 3 CFR 1954–1958 Comp. p. 189.

§ 3.1 Information services.

Except in cases where the time required would be excessive, information concerning the publications described in § 2.5 of this chapter and the original acts and documents filed with the Office of the Federal Register is provided by the staff of that Office. However, the staff may not summarize or interpret substantive text of any act or document.

§ 3.2 Public inspection of documents.

(a) Current documents filed with the Office of the Federal Register pursuant to law are available for public inspection in Room 405, 633 Indiana Avenue NW., Washington, D.C., during the Office of the Federal Register office hours. There are no formal inspection procedures or requirements.

(b) The Director of the Federal Register shall cause each document received by the office to be filed for public inspection not later than the working day preceding the publication day for that document.

(c) The Director shall cause to be placed on the original and certified copies of each document a notation of the day and hour when it was filed and made available for public inspection.

(d) Manual, typewritten, or other copies of documents or excerpts may be made at the inspection desk.

§ 3.3 Reproductions and certified copies of acts and documents.

The regulations for the public use of records in the National Archives (41 CFR Part 105–61) govern the furnishing of reproductions of acts and documents and certificates of authentication for them. Section 105–61.108 of those regulations provides for the advance payment of appropriate fees for reproduction services and for certifying reproductions.

§ 3.4 Availability of Federal Register publications.

(a) The publications described in § 2.5 of this chapter are published by the Government Printing Office and are sold by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. They are not available for free distribution to the public.

(b) Federal Register publications are available through subscription, as follows:

(1) *Slip laws.* In accordance with section 709 of title 44, United States Code, printed slip form copies of public and private laws are available from the Superintendent of Documents, individually or by subscription service on a yearly basis.

(2) *U.S. Statutes at Large.* In accordance with section 728 of title 44, United States Code, copies of the United States Statutes at Large are available from the Superintendent of Documents.

(3) *Federal Register.* Daily issues are furnished to subscribers on a monthly or yearly basis, at a price determined by the Administrative Committee and paid in advance to the Superintendent of Documents. Limited quantities of current or recent copies may be obtained from the Superintendent of Documents at a price determined by him.

(4) *Code of Federal Regulations.* Subscription services on a yearly basis to the volumes comprising the Code, and individual copies thereof, are sold by the Superintendent of Documents at prices determined by him, under the general direction of the Administrative Committee.

(5) *U.S. Government Organization Manual.* Placed on sale by the Superintendent of Documents at a price determined by him, under the general direction of the Administrative Committee.

(6) *Public Papers of the Presidents of the United States.* Annual volumes are placed on sale by the Superintendent of Documents at a price determined by him, under the general direction of the Administrative Committee.

(7) *Weekly Compilation of Presidential Documents.* Placed on sale by the Superintendent of Documents at a price determined by him, under the general direction of the Administrative Committee.

SUBCHAPTER B—THE FEDERAL REGISTER

PART 5—GENERAL

Sec.
5.1 Publication policy.
5.2 Documents required to be filed and published.
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5.5 Supplement to the Code of Federal Regulations.
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5.8 Form of citation.
5.9 Categories of documents.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189.

§ 5.1 Publication policy.

(a) Pursuant to Chapter 15 of Title 44, United States Code, and this chapter, the Director of the Federal Register shall publish a serial publication called the "FEDERAL REGISTER" to contain the following:

(1) Executive orders, proclamations, and other Presidential documents.

(2) Documents required to be published therein by law.

(3) Documents accepted for publication under § 5.3.

(b) Each document required or authorized to be filed for publication shall be published in the FEDERAL REGISTER as promptly as possible, within limitations imposed by considerations of accuracy, usability, and reasonable costs.

(c) In prescribing regulations governing headings, preambles, effective dates, authority citations, and similar matters of form, the Administrative Committee does not intend to affect the validity of any document that is filed and published under law.

§ 5.2 Documents required to be filed and published.

The following documents are required to be filed with the Office of the Federal Register and published in the FEDERAL REGISTER:

(a) Presidential proclamations and Executive orders in the numbered series, and each other document that the President submits for publication or orders to be published.

(b) Each document or class of documents required to be published by act of Congress.

(c) Each document having general applicability and legal effect.

§ 5.3 Publication of other documents.

Whenever the Director of the Federal Register considers that publication of a document not covered by § 5.2 would be in the public interest, he may allow that document to be filed with the Office of the Federal Register and published in the FEDERAL REGISTER.

§ 5.4 Publication not authorized.

(a) Chapter 15 of Title 44, United States Code, does not apply to treaties, conventions, protocols, or other international agreements, or proclamations thereof by the President.

(b) Chapter 15 of Title 44, United States Code, prohibits the publication in the FEDERAL REGISTER of comments or news items.

(c) The Director of the Federal Register may not accept any document for filing and publication unless it is the official action of the agency concerned. Chapter 15 of Title 44, United States Code, does not authorize or require the filing and publication of other papers from an agency.

§ 5.5 Supplement to the Code of Federal Regulations.

The FEDERAL REGISTER serves as a daily supplement to the Code of Federal Regulations. Each document that is subject to codification and published in a daily issue shall be keyed to the Code of Federal Regulations.

§ 5.6 Daily publication.

There shall be an edition of the FEDERAL REGISTER for each official Federal working day.

§ 5.7 Delivery and mailing.

The Government Printing Office shall distribute the FEDERAL REGISTER by delivery or by deposit at a post office at or before 9 a.m. on the publication day, except that each FEDERAL REGISTER dated for a Monday shall be deposited at a post office at or before 9 a.m. on the preceding Saturday.

§ 5.8 Form of citation.

Without prejudice to any other form of citation, FEDERAL REGISTER material may be cited by volume and page number, and the short form "FR" may be used for "FEDERAL REGISTER". For example, "37 FR 6803" refers to material beginning on page 6803 of volume 37 of the daily issues.

§ 5.9 Categories of documents.

Each document published in the FEDERAL REGISTER shall be placed under one of the following categories, as indicated:

(a) *The President.* Containing each Executive order or Presidential proclamation, and each other Presidential document that the President submits for publication or orders to be published.

(b) *Rules and regulations.* Containing each document subject to codification, except those covered by paragraph (a) of this section.

(c) *Proposed rule making.* Containing each notice of proposed rule making submitted pursuant to section 553 of Title 5, United States Code, or any other law, and each notice of a similar nature voluntarily submitted by an issuing agency.

(d) *Notices.* Containing miscellaneous documents not covered by paragraph (a), (b), or (c) of this section, such as notices of hearings that are not included under proposed rule making documents and documents accepted for publication on the basis of public interest.

PART 6—INDEXES AND ANCILLARIES

Sec.
6.1 Index to daily issues.
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6.3 Daily lists of parts affected.
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AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958, Comp. p. 189.

§ 6.1 Index to daily issues.

Each daily issue of the FEDERAL REGISTER shall be appropriately indexed.

§ 6.2 Analytical subject indexes.

Analytical subject indexes covering the contents of the FEDERAL REGISTER shall be published as currently as practicable, and shall be cumulated and separately published at least once each calendar year.

§ 6.3 Daily lists of parts affected.

(a) Each daily issue of the FEDERAL REGISTER shall carry a numerical list of the parts of the Code of Federal Regulations specifically affected by documents published in that issue.

(b) Beginning with the second issue of each month, each daily issue shall also carry a cumulated list of the parts affected by documents published during that month.

§ 6.4 Monthly lists of sections affected.

A monthly list of sections of the Code of Federal Regulations affected shall be separately published on a cumulative basis during each calendar year. The list shall identify the sections of the Code specifically affected by documents published in the FEDERAL REGISTER during the period it covers.

§ 6.5 Index-digests and guides.

(a) The Director of the Federal Register may cause to be prepared and published, yearly or at other intervals as necessary to keep them current and useful, index-digests and similar guides, based on laws, Presidential documents, regulations, and notice materials published by the Office and which serve a need of users of the FEDERAL REGISTER.

(b) Each digest and guide is considered to be a special edition of the FEDERAL REGISTER whenever the public need requires special printing or special binding in substantial numbers.

PART 7—DISTRIBUTION WITHIN FEDERAL GOVERNMENT

Sec.
7.1 Members of Congress.
7.2 The Judiciary.
7.3 Executive agencies.
7.4 Requisitions for quantity overruns of specific issues.
7.5 Requisitions for quantity overruns of separate Part II issues.
7.6 Extra copies.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189.

§ 7.1 Members of Congress.

Each Senator and each Member of the House of Representatives is entitled to not more than five copies of each daily issue of the FEDERAL REGISTER, without charge.

§ 7.2 The Judiciary.

(a) *The Supreme Court.* The Supreme Court is entitled to the number of copies of each daily issue of the FEDERAL REGISTER that it needs for official use, without charge.

(b) *Other courts.* Each other constitutional or legislative court of the United States is entitled to the number of copies of each daily issue of the FEDERAL REGISTER that it needs for official use, without charge, based on a written authorization submitted to the Director of the Federal Register by the Director of the Administrative Office of the U.S. Courts specifying the number needed.

§ 7.3 Executive agencies.

(a) Each Federal executive agency is entitled to the number of copies of each daily issue of the FEDERAL REGISTER that it needs for official use, without charge.

(b) The person in each agency concerned who is authorized under §§ 16.1 and 16.4 of this chapter to list the officers and employees of that agency who need the FEDERAL REGISTER for daily use shall send a written request to the Director of the Federal Register for placement of the names of those officers and employees on the mailing list.

§ 7.4 Requisitions for quantity overruns of specific issues.

(a) To meet its needs for special distribution of the FEDERAL REGISTER in substantial quantity, any agency may request an overrun of a specific issue.

(b) An advance printing and binding requisition on Standard Form 1 must be submitted by the agency directly to the Government Printing Office, to be received not later than 12 noon on the working day before publication.

§ 7.5 Requisitions for quantity overruns of separate Part issues.

(a) Whenever it is determined by the Director of the Federal Register to be in the public interest, one or more documents may be published as a separate Part (e.g., Part II, Part III) of the FEDERAL REGISTER.

(b) Advance arrangements for this service must be made with the Office of the Federal Register.

(c) Any agency may request an overrun of such a separate Part by submitting an advance printing and binding requisition on Standard Form 1 directly to the Government Printing Office, to be received not later than 12 noon on the working day before the publication date.

§ 7.6 Extra copies.

An agency may order limited quantities of extra copies of a specific issue of the FEDERAL REGISTER, for official use, from the Superintendent of Documents, to be paid for by that agency.

SUBCHAPTER C—SPECIAL EDITIONS OF THE FEDERAL REGISTER

PART 8—CODE OF FEDERAL REGULATIONS

Sec.
8.1 Policy.
8.2 Orderly development.
8.3 Periodic updating.
8.4 Indexes.
8.5 Ancillaries.
8.6 General format and binding.
8.7 Agency cooperation.
8.8 Official distribution.
8.9 Form of citation.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189.

§ 8.1 Policy.

(a) Pursuant to Chapter 15 of Title 44, United States Code, the Director of the Federal Register shall publish periodically a special edition of the FEDERAL REGISTER to present a compact and practical code called the "Code of Federal Regulations", to contain each Federal regulation of general applicability and current or future effect.

(b) The Administrative Committee intends that every practical means be used to keep the Code as current and readily usable as possible, within limitations imposed by dependability and reasonable costs.

§ 8.2 Orderly development.

To assure orderly development of the Code of Federal Regulations along practical lines, the Director of the Federal Register may establish new titles in the Code and rearrange existing titles and subordinate assignments. However, before taking an action under this section, the Director shall consult with each agency directly affected by the proposed change.

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§ 8.3 Periodic updating.

(a) *Criteria.* Each book of the Code shall be updated at least once each calendar year. If no change in its contents has occurred during the year, a simple notation to that effect may serve as the supplement for that year. More frequent updating of any unit of the Code may be made whenever the Director of the Federal Register determines that the content of the unit has been substantially superseded or otherwise determines that such action would be consistent with the intent and purpose of the Administrative Committee as stated in § 8.1.

(b) *Staggered publication.* The Code will be produced over a 12-month period under a staggered publication system to be determined by the Director of the Federal Register.

(c) *Cutoff dates.* Each updated Title of the Code will reflect each amendment to that Title published in the FEDERAL REGISTER on or before the "As of" date. Thus, each Title updated as of July 1 each year will reflect all amendatory documents appearing in the daily FEDERAL REGISTER on or before July 1.

§ 8.4 Indexes.

A subject index to the entire Code shall be annually revised and separately published. An agency-prepared index for any individual book may be published with the approval of the Director of the Federal Register.

§ 8.5 Ancillaries.

The Code shall provide, among others, the following-described finding aids:

(a) *Parallel tables of statutory authority and rules.* In Title 2 of the Code of Federal Regulations or at such other place as the Director of the Federal Register considers appropriate, numerical lists of all sections of the current edition of the United States Code (except section 301 of Title 5) which are cited by issuing agencies as rule making authority for currently effective regulations in the Code of Federal Regulations. The lists shall be arranged in the order of the titles and sections of the United States Code with parallel citations to the pertinent titles and sections of the Code of Federal Regulations.

(b) *Parallel tables of Presidential documents and agency rules.* In Title 3 of the Code of Federal Regulations, or at such other place as the Director of the Federal Register considers appropriate, tables of proclamations, Executive orders, and similar Presidential documents which are codified, cited as authority, quoted, cited in text, or included or referred to in currently effective regulations as published in the Code of Federal Regulations.

(c) *List of sections affected.* Following the text of each book or cumulative supplement, a numerical list of sections which are affected by documents published in the FEDERAL REGISTER. (A separate volume, "List of Sections Affected, 1949–1963" lists all sections of the Code which have been affected by documents published during the period January 1, 1949 to December 31, 1963.) Listings shall refer to FEDERAL REGISTER pages and shall be designed to enable the user of the Code to assure himself of the precise text that was in effect on a given date in the period covered.

§ 8.6 General format and binding.

The Director of the Federal Register shall provide for the binding of the Code into as many separate books as are indicated by the needs of users and compatible with the facilities of the Government Printing Office.

§ 8.7 Agency cooperation.

Each agency shall cooperate in keeping publication of the Code current by complying promptly with deadlines set by the Director of the Federal Register and the Public Printer.

§ 8.8 Official distribution.

(a) The Code shall be distributed to the following, without charge:

(1) *Congress.* To each committee of the Senate and House of Representatives in the quantity needed for official use, upon the written authorization of the committee chairman or his delegate, to the Director of the Federal Register.

(2) *Supreme Court.* To the Supreme Court in the quantity needed for official use.

(3) *Other courts.* To other constitutional and legislative courts of the United States, in the quantity needed for official use, upon the written authorization of the Director of the Administrative Office of the U.S. Courts to the Director of the Federal Register.

(4) *Executive agencies.* To officials, libraries, and major organizational units of the executive agencies in the quantity needed for official use, upon the written authorization of the authorizing officer or his alternate designated under § 16.1 of this chapter.

(b) Legislative, judicial, and executive agencies of the Federal Government may obtain selected units of the Code, as needed in substantial quantity for special distribution, by the timely submission of a printing and binding requisition to the Government Printing Office on Standard Form 1.

§ 8.9 Form of citation.

The Code of Federal Regulations may be cited by title and section, and the short form "CFR" may be used for "Code of Federal Regulations." For example, "1 CFR 10.2" refers to Title 1, Code of Federal Regulations, Part 10, section 2.

PART 9—U.S. GOVERNMENT ORGANIZATION MANUAL

Sec.
9.1 Publication required.
9.2 Scope.
9.3 Distribution to Government agencies.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189.

§ 9.1 Publication required.

The Director of the Federal Register shall separately publish annually or at times designated by the Administrative Committee of the Federal Register a special edition of the FEDERAL REGISTER called the "United States Government Organization Manual" or any other title that the Administrative Committee of the Federal Register considers appropriate. The Director of the Federal Register may issue special supplements to the Manual when he considers such supplementation to be in the public interest.

§ 9.2 Scope.

(a) The Manual shall contain appropriate information about the Executive, Legislative, and Judicial branches of the Federal Government, which for the major Executive agencies shall include—

(1) Descriptions of the agency's public purposes, programs and functions;

(2) Established places and methods whereby the public may obtain information and make submittals or requests; and

(3) Lists of officials heading major operating units.

(b) Brief information about quasi-official agencies and supplemental information that in the opinion of the Director of the Federal Register is of enough public interest to warrant inclusion shall also be published in the Manual.

§ 9.3 Distribution to Government agencies.

(a) The Manual shall be distributed to the following, in the quantities indicated, without charge:

(1) *Members of Congress.* Each Senator and each Member of the House of Representatives shall be furnished two copies, and is entitled to not more than 10 additional copies upon his written authorization to the Director of the Federal Register.

(2) *Congressional committees.* Each committee is entitled to the quantity needed for official use, upon the written request of the chairman of the committee, or his delegate, to the Director, for placement on the mailing list.

(3) *Supreme Court.* The Supreme Court is entitled to 18 copies.

(4) *Other courts.* Each other constitutional or legislative court is entitled to one copy, upon the written authorization of the Director of the Administrative Office of the U.S. Courts to the Director of the Federal Register.

(5) *Executive agencies.* The head of each executive agency and each liaison officer designated under § 16.1 or § 20.1 of this chapter is entitled to one copy.

(b) Legislative, judicial, and executive agencies of the Federal Government may obtain additional copies of the Manual, at cost, for official use by submission, before the press run, of a printing and binding requisition to the Government Printing Office on Standard Form 1. After the press run, each request for extra copies of the Manual must be addressed to the Superintendent of Documents, to be paid for by the agency or official making the request.

PART 10—PRESIDENTIAL PAPERS

Subpart A—Annual Volumes

Sec.
10.1 Publication required.
10.2 Coverage of prior years.
10.3 Scope and sources.
10.4 Format, indexes, and ancillaries.
10.5 Distribution to Government agencies.
10.6 Extra copies.

Subpart B—Weekly Compilation

10.10 Publication required.
10.11 Format and indexes.
10.12 Distribution to Government agencies.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189.

Subpart A—Annual Volumes

§ 10.1 Publication required.

The Director of the Federal Register shall publish, at the end of each calendar year, a special edition of the FEDERAL REGISTER called the "Public Papers of the Presidents of the United States." Unless the amount of material requires otherwise, each volume shall cover one calendar year.

§ 10.2 Coverage of prior years.

After consulting with the National Historical Publications Commission on the need therefor, the Administrative Committee may authorize the publication of volumes of papers of the Presidents covering specified years before 1957.

§ 10.3 Scope and sources.

(a) The basic text of each volume shall consist of oral statements by the President or of writings subscribed by him, and selected from—

(1) Communications to the Congress;
(2) Public addresses;
(3) Transcripts of news conferences;
(4) Public letters;
(5) Messages to heads of State;
(6) Statements released on miscellaneous subjects; and
(7) Formal executive documents promulgated in accordance with law.

(b) In general, ancillary text, notes, and tables shall be derived from official sources.

§ 10.4 Format, indexes, and ancillaries.

(a) Each annual volume, divided into books whenever appropriate, shall be separately published in the binding and style that the Administrative Committee considers suitable to the dignity of the Office of the President of the United States.

(b) Each volume shall be appropriately indexed and contain appropriate ancillary information respecting significant Presidential documents not printed in full text.

§ 10.5 Distribution to Government agencies.

(a) The Public Papers of the Presidents of the United States shall be distributed to the following, in the quantities indicated, without charge:

(1) *Members of Congress.* Each Senator and each Member of the House of Representatives is entitled to one copy of each annual volume published during his term of office, upon his written request to the Director of the Federal Register.

(2) *Supreme Court.* The Supreme Court is entitled to 12 copies of each annual volume.

(3) *Executive agencies.* The head of each executive agency is entitled to one copy of each annual volume upon application to the Director.

(b) Legislative, judicial, and executive agencies of the Federal Government may obtain copies of the annual volumes, at cost, for official use, by the timely submission of a printing and binding requisition to the Government Printing Office on Standard Form 1.

§ 10.6 Extra copies.

Each request for extra copies of the annual volumes must be addressed to the Superintendent of Documents, to be paid for by the agency or official making the request.

Subpart B—Weekly Compilation

§ 10.10 Publication required.

The Director of the Federal Register shall publish a special edition of the FEDERAL REGISTER called the "Weekly Compilation of Presidential Documents."

§ 10.11 Format and indexes.

(a) The Weekly Compilation shall be published in the binding and style that the Administrative Committee considers suitable for public and official use.

(b) The Director of the Federal Register shall provide indexes and any other finding aids that he considers appropriate for effective use.

§ 10.12 Distribution to Government agencies.

(a) The Weekly Compilation shall be distributed regularly to Members of the Senate and House of Representatives and to officials of the legislative, judicial, and executive branches of the Federal Government in the quantities needed for official use.

(b) Requests for copies shall be made in writing by the authorizing officer to the Director of the Federal Register.

(c) Special needs for selected issues in substantial quantity shall be filled by the timely submission of a printing and binding requisition to the Government Printing Office on Standard Form 1.

SUBCHAPTER D—PREPARATION, TRANSMITTAL, AND PROCESSING OF DOCUMENTS

PART 15—SERVICES TO FEDERAL AGENCIES

Subpart A—General

Sec.
15.1 Cooperation.
15.2 Information services.
15.3 Staff assistance.
15.4 Reproduction of certified copies of acts and documents.
15.5 Official subscriptions and requisitions of Federal Register publications.

Subpart B—Special Assistance

15.10 Information on drafting and publication.

Subpart C—Supplemental Printing and Editorial Services

15.15 Purpose.
15.16 Use of Federal Register standing type.
15.17 Special editorial service.
15.18 Supplemental loose-leaf services.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189.

Subpart A—General

§ 15.1 Cooperation.

The Director of the Federal Register shall assist each agency in complying with the pertinent publication laws to assure efficient public service in promulgating administrative documents having the effect of legal notice or of law.

§ 15.2 Information services.

The Director of the Federal Register shall provide for the answering of each appropriate inquiry presented in person, by telephone, or in writing. Each written communication and each matter involving classified material or the Administrative Committee shall be sent to the Director, Office of the Federal Register, National Archives and Records Service, Washington, DC 20408.

§ 15.3 Staff assistance.

The staff of the Office of the Federal Register shall provide informal assistance and advice to officials of the various agencies with respect to general or specific programs of regulatory drafting, procedures, and promulgation practices.

§ 15.4 Reproduction of certified copies of acts and documents.

The Director of the Federal Register shall furnish to requesting agencies, without charge, reproductions or certified copies of original acts and documents filed with that Office that are needed for official use. However, in a case involving voluminous material or numerous copies, the requesting agency may be required to reimburse the cost of reproduction.

§ 15.5 Official subscriptions and requisitions of Federal Register publications.

The following governs the availability of Federal Register publications for official use.

(a) *Slip laws.* Single copies may be obtained from the House or Senate Document Room, U.S. Congress. Quantity overruns of any slip law may be obtained by the timely submission of a requisition to the Government Printing Office on Standard Form 1.

(b) *U.S. Statutes at Large.* Written requests should be directed to the Joint Committee on Printing, United States Capitol, Washington, D.C. 20510. General provisions relating to the distribution of the U.S. Statutes at Large are set forth in section 728 of Title 44, United States Code.

(c) *Federal Register.* See §§ 7.1 to 7.6 of this chapter.

(d) *Code of Federal Regulations.* See § 8.8 of this chapter.

(e) *U.S. Government Organization Manual.* See § 9.3 of this chapter.

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(f) *Public Papers of the Presidents of the United States.* See §§ 10.5 and 10.6 of this chapter.

(g) *Weekly Compilation of Presidential Documents.* See § 10.12 of this chapter.

Subpart B—Special Assistance

§ 15.10 Information on drafting and publication.

The Director of the Federal Register may prepare, and distribute to agencies, information and instructions designed to promote effective compliance with the purposes of Chapter 15 of Title 44, United States Code, sections 553–554 of Title 5, United States Code, related statutes, and this chapter. The Director may also develop and conduct programs of technical instruction.

Subpart C—Supplemental Printing and Editorial Services

§ 15.15 Purpose.

The Director of the Federal Register may provide special services to agencies to promote efficiency and economy through the use of printing and editorial facilities developed in editing and publishing Federal Register publications.

§ 15.16 Use of Federal Register standing type.

Type used in printing the FEDERAL REGISTER is available for reuse by agencies in making reprints, on their own requisition, by submitting a printing and binding requisition on Standard Form 1 to the Office of the Federal Register for forwarding to the Government Printing Office.

§ 15.17 Special editorial service.

Upon written request by an appropriate agency official, the staff of the Office of the Federal Register may compile and collate Code units, as of a given date, to assist an issuing agency to prepare a document for publication in the FEDERAL REGISTER.

§ 15.18 Supplemental loose-leaf services.

The Director of the Federal Register may cooperate with agencies in developing supplemental loose-leaf services for special items in which the need would justify the cost.

PART 16—AGENCY REPRESENTATIVES

Sec.
16.1 Designation.
16.2 Liaison duties.
16.3 Certifying duties.
16.4 Authorizing duties.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189.

§ 16.1 Designation.

(a) Each agency shall designate, from its officers or employees, persons to serve in the following capacities with relation to the Office of the Federal Register:

(1) A liaison officer and an alternate.

(2) A certifying officer and an alternate.

(3) An authorizing officer and an alternate.

The same person may be designated to serve in one or more of these positions.

(b) In choosing its liaison officer, each agency should consider that this officer will be the main contact between that agency and the Office of the Federal Register and that the liaison officer will be charged with the duties set forth in § 16.2. Therefore, the agency should choose a person who is directly involved in the agency's regulatory program.

(c) Each agency shall notify the Director of the name, title, address, and telephone number of each person it designates under this section and shall promptly notify the Director of any changes.

§ 16.2 Liaison duties.

Each liaison officer shall—

(a) Represent his agency in all matters relating to the submission of documents to the Office of the Federal Register, and respecting general compliance with this chapter;

(b) Be responsible for the effective distribution and use within his agency of FEDERAL REGISTER information on document drafting and publication assistance authorized by § 15.10 of this chapter; and

(c) Promote his agency's participation in the technical instruction authorized by § 15.10 of this chapter.

§ 16.3 Certifying duties.

The certifying officer is responsible for attaching the required number of true copies of each original document submitted by his agency to the Office of the Federal Register and for making the certification required by §§ 18.5 and 18.6 of this chapter.

§ 16.4 Authorizing duties.

The authorizing officer is responsible for furnishing, to the Director of the Federal Register, a current mailing list of officers or employees of his agency who are authorized to receive the FEDERAL REGISTER, the Code of Federal Regulations, and the Weekly Compilation of Presidential Documents for official use.

PART 17—PUBLICATION SCHEDULES

Sec.
17.1 Receipt and processing.

REGULAR SCHEDULE

17.2 Procedure and timing for regular schedule.

EMERGENCY SCHEDULE

17.3 Criteria for emergency schedule.
17.4 Procedure and timing for emergency schedule.
17.5 Transmittal from distant points.

DEFERRED SCHEDULE

17.6 Criteria.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189.

§ 17.1 Receipt and processing.

Unless special arrangements are made with the Director of the Federal Register, the Office of the Federal Register receives documents only during official working hours. Upon receipt, each document shall be held for confidential processing until it is filed for public inspection.

REGULAR SCHEDULE

§ 17.2 Procedure and timing for regular schedule.

(a) Each document received shall be assigned to the regular schedule unless the issuing agency makes special arrangements otherwise. Receipt of a document in the ordinary course of business is considered to be a request for publication on the regular schedule.

(b) The regular schedule for publication is as follows:

Received	Filed	Published
Monday	Wednesday	Thursday.
Tuesday	Thursday	Friday.
Wednesday	Friday	Monday.
Thursday	Monday	Tuesday.
Friday	Tuesday	Wednesday.

Where a legal Federal holiday intervenes, one additional work day is added.

EMERGENCY SCHEDULE

§ 17.3 Criteria for emergency schedule.

The emergency schedule is designed to provide the fastest possible publication of a document involving the prevention, alleviation, control, or relief of an emergency situation.

§ 17.4 Procedure and timing for emergency schedule.

(a) Each agency requesting publication on the emergency schedule shall briefly describe the emergency and the benefits to be attributed to immediate publication in the FEDERAL REGISTER. The request shall be made by letter if time permits.

(b) The Director of the Federal Register shall assign a document to the emergency schedule whenever he concurs with a request for that action and it is feasible. The Director shall confirm the assignment as soon as possible.

(c) Each document assigned to the emergency schedule shall be published as soon as possible.

§ 17.5 Transmittal from distant points.

The text of a document assigned to the emergency schedule may be transmitted from a distant field installation to the Washington Office of the agency concerned by telecommunication. A certified transcription of the text may be filed in advance of receipt of the original document. The agency must file the original document at the earliest possible time. In such a case, the publication date is based on receipt of the certified transcribed copies by the Office of the Federal Register.

§ 17.6 Criteria.

A document may be assigned to the deferred schedule under the following conditions:

(a) There are technical problems, unusual tabulations, or illustrations, or the document is of such size as to require extraordinary processing time.

(b) The agency concerned requests a deferred publication date.

PART 18—PREPARATION AND TRANSMITTAL OF DOCUMENTS GENERALLY

Sec.
18.1 Original and copies required.
18.2 Prohibition on combined documents.
18.3 Submission of documents and letters of transmittal.
18.4 Form of document.
18.5 Certified copies.
18.6 Form of certification.
18.7 Signature.
18.8 Seal.
18.9 Style.
18.10 Illustrations and tabular material.
18.11 Forms.
18.12 Preamble requirements.
18.13 Withdrawal of filed documents.
18.14 Correction of errors in documents.
18.15 Correction of errors in printing.
18.16 Highlights.
18.17 Effective dates and time periods.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189.

§ 18.1 Original and copies required.

(a) Except as provided in § 19.2 of this subchapter for Executive orders and proclamations, each agency submitting a document to be filed and published in the FEDERAL REGISTER shall send an original and two duplicate originals or certified copies. However, if the document is printed or processed on both sides, the agency shall send, in addition to the original, three duplicate originals or certified copies.

(b) In the case of a document issued outside of the District of Columbia, an agency may submit certified text in place of the original. However, it must replace the certified text with the original document as soon as practicable for filing as required by Chapter 15 of Title 44, United States Code.

§ 18.2 Prohibition on combined documents.

(a) The Director of the Federal Register may not accept a document for filing and publication if it combines material that must appear under more than one category in the FEDERAL REGISTER. For example, a document may not contain both rule making and notice of proposed rule making material.

(b) Where two related documents are to be published in the same FEDERAL REGISTER issue, the agency may arrange with the Office of the Federal Register for the insertion of cross-references in each document.

§ 18.3 Submission of documents and letters of transmittal.

(a) Each document authorized or required by law to be filed with the Office of the Federal Register, published in the FEDERAL REGISTER, or filed with the Administrative Committee shall be sent to the Director of the Federal Register.

(b) Except for cases involving special handling or treatment, there is no need for a letter of transmittal for a document submitted for filing and FEDERAL REGISTER publication.

§ 18.4 Form of document.

(a) Except as provided in paragraph (b) of this section, to be eligible for filing and publication in the FEDERAL REGISTER, a document must be typewritten on white bond paper approximately 8 by 10½ inches in size, double spaced, with a left-hand margin of approximately 1½ inches and a right-hand margin of approximately 1 inch.

(b) A printed or processed document may be accepted for filing and publication if it is suitable as an archival original. However, a photostatic copy may not be accepted as an original document.

(c) A document in the form of a letter may not be accepted for filing or publication in the rules and regulations, proposed rule making, or notices categories of the FEDERAL REGISTER.

§ 18.5 Certified copies.

(a) The certified copies or duplicate originals of each document must be attached to the original. Each copy or duplicate must be entirely clear and legible.

(b) Copies of a typewritten original may be the first two carbon copies of the ribbon original, positive photostats on paper with a matte surface, or electrostatic copies.

(c) Publication dates are determined at the time when clear and legible copies are received.

§ 18.6 Form of certification.

Each copy of each document submitted for filing and publication, except a Presidential document or a duplicate original, must be certified substantially as follows:

(Certified to be a true copy of the original)

signed by a certifying officer designated under § 16.1 of this chapter.

§ 18.7 Signature.

The original and each duplicate original document must be signed in ink, with the name and title of the official signing the document typed or stamped beneath his signature. Initialed or impressed signatures may not be accepted.

§ 18.8 Seal.

Use of a seal on an original document or certified copy is optional with the issuing agency.

§ 18.9 Style.

Each agency submitting a document for filing and publication shall prepare it in accordance with the following:

(a) Punctuation, capitalization, spelling, and other matters of style must conform, in general, to the current edition of the U.S. Government Printing Office Style Manual.

(b) The spelling of geographic names must conform to the decisions of the Board on Geographic Names, established by section 2 of the act of July 25, 1947, 61 Stat. 456 (43 U.S.C. 364a).

(c) Descriptions of land must conform, so far as practicable, to the current edition of the "Specifications for Descriptions of Tracts of Land for Use in Executive Orders and Proclamations" prepared by the Bureau of Land Management, Department of the Interior.

§ 18.10 Illustrations and tabular material.

(a) An original drawing, or a clear reproduction, of each map, chart, graph, or other illustration that is found to be a necessary part of a document to be filed and published may be accepted only after submission to the Director of the Federal Register at least 6 working days before the date on which publication is desired.

(b) A clear and legible reproduction of the original illustration, approximately 8 by 10½ inches, shall be included in the original document and each certified copy.

(c) Tabular material consisting of more than two typewritten pages that is to be a part of a document to be filed and published shall be submitted to the Director at least 6 working days before the date on which publication is desired.

§ 18.11 Forms.

Except when considered necessary by the Director of the Federal Register, tabulated blank forms for applications, registrations, reports, contracts, and similar items, and the instructions for preparing the forms, may not be published in full. In place thereof, the agency concerned shall submit for publication a simple statement describing the purpose and use of each form and stating the places at which copies may be obtained.

§ 18.12 Preamble requirements.

Each notice of proposed rule making and final rule making document shall conform to the following:

(a) There must be a clear preamble statement that describes the contents of the document in a manner sufficient to apprise a reader, who is not an expert in the subject area, of the general subject matter of the rule making document.

(b) To the extent practicable, the preamble statement for a proposed rule making document should also discuss the major issues involved in, and the reasons for, the proposed rules.

(c) To the extent practicable, the preamble statement for a rule or regulation that was preceded by a notice of proposed rule making, should also indicate in general terms the principal differences, if any, between the rules as proposed and the rules as adopted.

§ 18.13 Withdrawal of filed documents.

A document that has been filed with the Office of the Federal Register and placed on public inspection as required by this chapter, may be withdrawn from publication by the submitting agency only by a timely written instrument revoking that document, signed by a duly authorized representative of the agency. Both the original and the revoking document shall remain on file.

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§ 18.14 Correction of errors in documents.

After a document has been filed for public inspection and publication, a substantive error in the text may be corrected only by the filing of another document effecting the correction.

§ 18.15 Correction of errors in printing.

Typographical or clerical errors made in the printing of the FEDERAL REGISTER shall be corrected by insertion of an appropriate notation or a reprinting in the FEDERAL REGISTER published without further agency documentation, if the Director of the Federal Register determines that—

(a) The error would tend to confuse or mislead the reader; or

(b) The error would affect text subject to codification.

§ 18.16 Highlights.

(a) Except as provided in paragraph (b) of this section, each agency which submits a document for publication in the FEDERAL REGISTER shall furnish with the document two copies of a descriptive catchword or phrase and a brief statement that:

(1) Names the agency issuing the document;

(2) Identifies the principal subject of the document; and

(3) States any important dates, such as closing date for comments, hearing date, or effective date.

The language of the statement submitted under this section and the headings required by Parts 17 and 22 of this chapter may be the same whenever appropriate. The following are examples of the kinds of statements intended by this requirement:

DETERGENTS—Proposed FTC labeling and advertising requirements for synthetic detergents—comment period ends 4–19–72; public hearing 4–26–72.

COAL MINE SAFETY—Interior Department procedures to assess civil penalties for violations—effective 1–16–73.

(b) A statement need not be submitted with a document that is making nonsubstantive changes that are corrective or editorial in nature. The Director of the Federal Register may grant additional exceptions to the requirements of this section. The Director shall publish once each month in the FEDERAL REGISTER a list of the classes of documents exempted under this section during the preceding month, stating the agency involved and the document or class of documents.

(c) Selected statements submitted under this section shall be included in a highlights listing which will be printed in a prominent place in the daily FEDERAL REGISTER. The Director shall exercise final editorial control over the wording of each statement and make the final determination as to its inclusion in the highlights listing.

(d) Neither failure to submit a statement under this section, nor failure to print such a statement in the highlights listing in the FEDERAL REGISTER affects the legal status of a document printed in the FEDERAL REGISTER. Highlights listings printed in the FEDERAL REGISTER are intended solely to serve as an aid to readers and the wording of a listed item is not intended to interpret the language of the document. FEDERAL REGISTER readers should continue to use the Table of Contents to identify the documents published in each issue and the text of a document to determine its legal effect.

§ 18.17 Effective dates and time periods.

(a) Whenever practicable, each document submitted for publication in the FEDERAL REGISTER should set forth dates certain. Thus, a document should state "all comments received before July 3, 1972, will be considered" or "this amendment takes effect July 3, 1972," rather than stating a time period measured by a certain number of days after publication in the FEDERAL REGISTER. Where a document does contain a time period rather than a date certain, the FEDERAL REGISTER staff will insert a date certain to be computed as set forth in paragraph (b) of this section.

(b) Dates certain will be computed by counting the day after the publication day as one, and by counting each succeeding day, including Saturdays, Sundays, and holidays. However, where the final count would fall on a Saturday, Sunday, or holiday, the date certain will be the next succeeding Federal business day.

PART 19—EXECUTIVE ORDERS AND PRESIDENTIAL PROCLAMATIONS

Sec.
19.1 Form.
19.2 Routing and approval of drafts.
19.3 Routing and certification of originals and copies.
19.4 Proclamations calling for the observance of special days or events.
19.5 Proclamations of treaties excluded.
19.6 Definition.

NOTE: The provisions of this Part 19 derived from sections 1 to 6 of Executive Order 11030, 27 FR 5847, 3 CFR 1959–1963 Comp., p. 610, and E.O. 11354, 32 FR 7895, 1966–1970 Comp., p. 652.

§ 19.1 Form.

Proposed Executive orders and proclamations shall be prepared in accordance with the following requirements:

(a) The order or proclamation shall be given a suitable title.

(b) The order or proclamation shall contain a citation of the authority under which it is issued.

(c) Punctuation, capitalization, spelling, and other matters of style shall, in general, conform to the most recent edition of the U.S. Government Printing Office Style Manual.

(d) The spelling of geographic names shall conform to the decisions of the Board on Geographic Names, established by section 2 of the act of July 25, 1947, 61 Stat. 456 (43 U.S.C. 364a).

(e) Descriptions of tracts of land shall conform, so far as practicable, to the most recent edition of the "Specifications for Descriptions of Tracts of Land for Use in Executive Orders and Proclamations," prepared by the Bureau of Land Management, Department of the Interior.

(f) Proposed Executive orders and proclamations shall be typewritten on paper approximately 8 x 13 inches, shall have a left-hand margin of approximately 1½ inches and a right-hand margin of approximately 1 inch, and shall be double-spaced except that quotations, tabulations, and descriptions of land may be single-spaced.

(g) Proclamations issued by the President shall conclude with the following-described recitation:

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of _____, in the year of our Lord _____, and of the Independence of the United States of America the _____.

§ 19.2 Routing and approval of drafts.

(a) A proposed Executive order or proclamation shall first be submitted, with seven copies thereof, to the Director of the Office of Management and Budget, together with a letter, signed by the head or other properly authorized officer of the originating Federal agency, explaining the nature, purpose, background, and effect of the proposed Executive order or proclamation and its relationship, if any, to pertinent laws and other Executive orders or proclamations.

(b) If the Director of the Office of Management and Budget approves the proposed Executive order or proclamation, he shall transmit it to the Attorney General for his consideration as to both form and legality.

(c) If the Attorney General approves the proposed Executive order or proclamation, he shall transmit it to the Director of the Office of the Federal Register, National Archives and Records Service, General Services Administration: *Provided*, That in cases involving sufficient urgency the Attorney General may transmit it directly to the President: *And provided further*, That the authority vested in the Attorney General by this section may be delegated by him, in whole or in part, to the Deputy Attorney General, Solicitor General, or to such Assistant Attorney General as he may designate.

(d) After determining that the proposed Executive order or proclamation conforms to the requirements of § 19.1 and is free from typographical or clerical error, the Director of the Office of the Federal Register shall transmit it and three copies thereof to the President.

(e) If the proposed Executive order or proclamation is disapproved by the Director of the Office of Management and Budget or by the Attorney General, it shall not thereafter be presented to the President unless it is accompanied by a statement of the reasons for such disapproval.

§ 19.3 Routing and certification of originals and copies.

(a) If the order or proclamation is signed by the President, the original and two copies shall be forwarded to the Director of the Federal Register for publication in the FEDERAL REGISTER.

(b) The Office of the Federal Register shall cause to be placed upon the copies of all Executive orders and proclamations forwarded as provided in paragraph (a) of this section the following notation, to be signed by the Director or by some person authorized by him to sign such notation: "Certified to be a true copy of the original."

§ 19.4 Proclamations calling for the observance of special days or events.

Except as may be otherwise provided by law, responsibility for the preparation and presentation of proposed proclamations calling for the observance of special days, or other periods of time, or events, shall be assigned by the Director of the Office of Management and Budget to such agencies as he may consider appropriate. Such proposed proclamations shall be submitted to the Director at least 60 days before the date of the specified observance.

§ 19.5 Proclamations of treaties excluded.

Consonant with the provisions of Chapter 15 of Title 5 of the United States Code (44 U.S.C. 1511), nothing in these regulations shall be construed to apply to treaties, conventions, protocols, or other international agreements, or proclamations thereof by the President.

§ 19.6 Definition.

The term "Presidential proclamations and Executive orders," as used in Chapter 15 of Title 5 of the United States Code (44 U.S.C. 1505(a)), shall, except as the President or his representative may hereafter otherwise direct, be deemed to include such attachments thereto as are referred to in the respective proclamations or orders.

PART 20—HANDLING OF UNITED STATES GOVERNMENT ORGANIZATION MANUAL STATEMENTS

Sec.
20.1 Liaison officers.
20.2 Preparation of agency statements.
20.3 Organization.
20.4 Description of program activities.
20.5 Sources of information.
20.6 Form, style, arrangement, and apportionment of space.
20.7 Deadline dates.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189.

§ 20.1 Liaison officers.

Each of the following shall appoint an officer to maintain liaison with the Office on matters relating to the United States Government Organization Manual:

(a) Agencies of the legislative and judicial branches.

(b) Executive agencies that do not have a liaison officer designated under § 16.1 of this chapter or who wish to appoint a liaison officer for Manual matters other than the one designated under such § 16.1.

(c) Quasi-official agencies represented in the Manual.

(d) Any other agency that the Director believes should be included in the Manual.

Each liaison officer will insure his agency's compliance with Part 9 of this chapter and this Part 20.

§ 20.2 Preparation of agency statements.

In accordance with schedules established under § 20.7 each agency shall submit for publication in the Manual an official draft of the information required by § 9.2 of this chapter and this Part 20.

§ 20.3 Organization.

(a) Information about lines of authority and organization may be reflected in a chart if the chart clearly delineates the agency's organizational structure. Charts must be submitted in duplicate in the form of clear prints suitable for photographing. Charts should be prepared so as to be perfectly legible when reduced to the size of a Manual page. Charts that do not meet this requirement will not be included in the Manual.

(b) Listings of heads of operating units should be arranged wherever possible to reflect relationships between units.

(c) Verbal descriptions of organization that duplicate information conveyed by charts or by lists of officials will not be published in the Manual.

§ 20.4 Description of program activities.

Descriptions should state clearly the public purposes that the agency serves, and the programs that carry out those purposes. Detailed descriptions of the responsibilities of individuals will not be accepted for publication in the Manual.

§ 20.5 Sources of information.

Pertinent sources of information useful to the public, in areas of public interest such as employment, consumer activities, contracts, services to small business, and other topics of public interest should be provided with each agency statement. These sources of information shall plainly identify the places at which the public may obtain information or make submittals or requests.

§ 20.6 Form, style, arrangement and apportionment of space.

The form, style, and arrangement of agency statements and other material included in the Manual and the apportionment of space therein shall be determined by the Director of the Federal Register. The U.S. Government Printing Office Style Manual is the applicable reference work in determining style.

§ 20.7 Deadline dates.

The Manual is published on a schedule designed to provide the public with information about their Government on a timely basis. Therefore, agencies must comply with the deadline dates established by the Director of the Federal Register for transmittal of statements and charts and for the verification of proofs. Failure to do so may result in publication of an outdated statement or the omission of important material, thus depriving members of the public of information they have a right to expect in a particular edition of the Manual.

PART 21—PREPARATION OF DOCUMENTS SUBJECT TO CODIFICATION

Subpart A—General

Sec.
21.1 Drafting.
21.2 [Reserved]
21.3 [Reserved]
21.4 Descriptions of organization.
21.5 Separate documents for each title and chapter amended.
21.6 Notice of expiration of codified material.

CODE STRUCTURE

21.7 Titles and subtitles.
21.8 Chapters and subchapters.
21.9 Parts, subparts, and undesignated center heads.
21.10 Sections.

NUMBERING

21.11 Divisions of the Code of Federal Regulations.
21.12 Reservation of numbers.
21.13 Addition of new units between existing units.
21.14 Keying to agency numbering systems.
21.15 Statements of policy and interpretations.

HEADINGS

21.16 Required Code headings.
21.17 Additional captions.
21.18 Tables of contents.
21.19 Composition of part headings.

AMENDMENTS

21.20 General requirements.

REFERENCES

21.21 General requirements.
21.22 References between or within titles.
21.23 Parallel citations of Code and FEDERAL REGISTER.
21.24 References to 1938 Edition of Code.

EFFECTIVE DATE STATEMENT

21.30 General.

Subpart B—Citations of Authority

21.40 General requirements.
21.41 Agency responsibility.
21.42 Exceptions.

PLACEMENT

21.43 Coverage.
21.44 Documents involving various amendments.
21.45 Nonstatutory authority.

FORM

21.51 General.
21.52 Statutory materials.
21.53 Nonstatutory materials.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189.

Subpart A—General

§ 21.1 Drafting.

(a) Each agency that prepares a document that is subject to codification shall draft it as an amendment to the

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Code of Federal Regulations, in accordance with this subchapter, before submitting it to the Office of the Federal Register.

(b) The agency shall place a promulgation statement in the document precisely describing the relationship of the new provisions to the Code.

§§ 21.2, 21.3 [Reserved]

§ 21.4 Descriptions of organization.

The Director of the Federal Register may designate documents submitted under section 552(a)(1)(A) of Title 5, United States Code, as "documents subject to codification" under special agreement with the issuing agency. The agreement must be in writing, signed by the head of the agency, or his designee, and stating that—

(a) Publication in the Code is necessary or desirable for the effective discharge of the agency's functions or activities; and

(b) Publication in the Code may be discontinued by the Administrative Committee for failure of the agency to keep publication current.

§ 21.5 Separate documents for each title and chapter amended.

Whenever an agency is taking an action that will amend more than one title, or more than one chapter, of the Code of Federal Regulations, it shall prepare a separate document for each title and each chapter that is to be amended.

§ 21.6 Notice of expiration of codified material.

(a) Whenever a document subject to codification expires after a specified period by its own terms or by law, the issuing agency shall submit a notification by document for puolication in the FEDERAL REGISTER.

(b) If the preparation of the document is not practicable, the agency shall send a timely notice, in writing, to the Director of the Federal Register, stating that the document is no longer in effect, citing the pertinent terms.

CODE STRUCTURE

§ 21.7 Titles and subtitles.

(a) The major divisions of the Code are titles, each of which brings together broadly related Government functions.

(b) Subtitles may be used to distinguish between materials emanating from an overall agency and the material issued by its various components. Subtitles may also be used to group chapters within a title.

§ 21.8 Chapters and subchapters.

(a) The normal divisions of a title are chapters, assigned to the various agencies within a title descriptive of the subject matter covered by the agencies' regulations.

(b) Subchapters may be used to group related parts within a chapter.

§ 21.9 Parts, subparts, and undesignated center heads.

(a) The normal divisions of a chapter are parts, consisting of a unified body of regulations applying to a specific function of an issuing agency or devoted to specific subject matter under the control of that agency.

(b) Subparts or undesignated center heads may be used to group related sections within a part. Undesignated center heads may also be used to group sections within a subpart.

§ 21.10 Sections.

(a) The normal divisions of a part are sections. Sections are the basic units of the Code.

(b) When internal division is necessary, a section may be divided into paragraphs, and paragraphs may be further subdivided using the lettering indicated in § 21.11.

NUMBERING

§ 21.11 Divisions of the Code of Federal Regulations.

(a) Titles are numbered consecutively in Arabic throughout the Code.

(b) Subtitles are lettered consecutively in capitals throughout the title.

(c) Chapters are numbered consecutively in Roman capitals throughout each title.

(d) Subchapters are lettered consecutively in capitals throughout the chapter.

(e) Parts are numbered in Arabic throughout each title.

(f) Subparts may be lettered in capitals or be undesignated.

(g) Sections are numbered in Arabic throughout each part. A section number includes the number of the part followed by a decimal point and the number of the section. For example, the section number for section 15 of Part 21 is "§ 21.15".

(h) The lettering for divisions of a section is as follows:

Division	*Illustrative lettering*
Paragraph	(a), (b), etc.
Further subdivision of a paragraph.	(1), (2), etc. (i), (ii), etc. (A), (B), etc. (*i*), (*2*), etc. (*i*), (*ii*), etc.

§ 21.12 Reservation of numbers.

In a case where related parts or related sections are grouped under a heading, numbers shall be reserved at the end of each group to allow for expansion.

§ 21.13 Addition of new units between existing units.

(a) Whenever it is necessary to introduce a new part or section between existing consecutive parts or sections, the new part or section shall be designated by the addition of a lower case letter to the number of the preceding part or section. For example, a part inserted between Parts 31 and 32 is numbered "31a", and a section inserted between § 31.1 and § 31.2 is numbered "§ 31.1a".

(b) Whenever it is necessary to insert a paragraph between existing consecutive paragraphs, and revision of the entire paragraph is not desired, the new paragraph shall be designated by the addition of a hyphen and an Arabic number to the letter designating the preceding paragraph. For example, a paragraph inserted between paragraph (a) and (b) is designated "(a–1)".

§ 21.14 Keying to agency numbering systems.

The Director of the Federal Register may allow the keying of section numbers to correspond to a particular numbering system used by an agency only when, in his opinion, the keying will benefit both that agency and the public.

§ 21.15 Statements of policy and interpretations.

(a) Whenever a statement of general policy or an interpretation, submitted pursuant to section 552(a)(1)(D) of Title 5, United States Code, applies to an entire part, it shall be included in or appended to that part.

(b) Whenever a statement of general policy or an interpretation applies to a specific section it shall be appended to that section.

(c) Statements of policy and interpretations that are broader in scope than those covered by paragraphs (a) and (b) of this section shall be assigned to a part or group of parts within the chapter affected.

HEADINGS

§ 21.16 Required Code headings.

(a) The title, chapter, and part headings, in that order, shall be set forth in full on separate lines at the beginning of each document. Subtitle, subchapter, and subpart headings shall, if applicable, also be set forth.

(b) Each section shall have a brief descriptive heading, preceding the text, on a separate line.

§ 21.17 Additional captions.

(a) For the purpose of publication in the FEDERAL REGISTER, a brief caption more specifically describing the scope of a document constituting a partial amendment of the material in a part shall be provided immediately below the part heading.

(b) An agency that uses regulation numbers or other identifying symbols shall place them in brackets centered immediately above the part heading.

§ 21.18 Tables of contents.

A table of contents shall be used at the beginning of the part whenever a new part is introduced, an existing part is completely revised, or a group of sections is revised or added and set forth as a subpart or otherwise separately grouped under a center head. The table shall follow the part heading and precede the text of the regulations in that part. It shall also list the headings for the subparts, undesignated center headings, and sections in the part.

§ 21.19 Composition of part headings.

Each part heading shall indicate briefly the general subject matter of the part. Phrases such as "Regulations under the Act of July 28, 1955" or other expressions that are not descriptive of the subject matter may not be used. Introductory expressions such as "Regulations governing" and "Rules applicable to" may not be used.

AMENDMENTS

§ 21.20 General requirements.

(a) Each amendatory document shall identify in specific terms the unit amended, and the extent of the changes made.

(b) The number and heading of each section amended shall be set forth in full on a separate line.

REFERENCES

§ 21.21 General requirements.

(a) Each reference to the Code of Federal Regulations shall be in terms of the specific titles, chapters, parts, sections, and paragraphs involved. Ambiguous references such as "herein", "above", "below", and similar expressions may not be used.

(b) Each document that contains a reference to material published in the Code shall include the Code citation as a part of the reference.

§ 21.22 References between or within titles.

Unless the meaning is otherwise precisely expressed and an undue or awkward repetition would result, the following references shall be used:

(a) *Between titles.* When reference is made to material codified in a title other than that in which the reference occurs, the short form of citation shall be used. For example, a reference within Title 41 to § 2.4 of Title 1 is "1 CFR 2.4".

(b) *Within titles.* When reference is made to material codified in the same title, the following forms shall be used, as appropriate:

Chapter ------ of this title.
Part ------ of this title.
§ ------ of this title.

(c) *Within chapters.* When reference is made to material codified in the same chapter, the following forms shall be used, as appropriate:

Part ------ of this chapter.
§ ------ of this chapter.

(d) *Within sections.* When reference is made to material codified in the same section, the following forms shall be used, as appropriate:

Paragraph (------) of this section.

§ 21.23 Parallel citations of Code and Federal Register.

For parallel reference, the Code of Federal Regulations and the FEDERAL REGISTER may be cited in the following forms, as appropriate:

------ CFR ------ (------ FR ------).
§ ------ of this chapter (------ FR ------).

§ 21.24 References to 1938 edition of Code.

When reference is made to material codified in the 1938 edition of the Code of Federal Regulations, or a supplement thereto, the following forms may be used, as appropriate:

------ CFR, 1938 Ed., ------.
------ CFR, 1943, Cum. Supp., ------.
------ CFR, 1946 Supp., ------.

EFFECTIVE DATE STATEMENT

§ 21.30 General.

Each document subject to codification shall include a clear statement as to the date or dates upon which its contents become effective.

Subpart B—Citations of Authority

§ 21.40 General requirements.

(a) Each section in a document subject to codification shall include, or be covered by, a complete citation of the authority under which the section is issued, including—

(1) General or specific authority delegated by statute; and

(2) Executive delegations, if any, necessary to link the statutory authority to the issuing agency.

§ 21.41 Agency responsibility.

(a) Each issuing agency is responsible for the accuracy and integrity of the citations of authority in the documents it issues.

(b) Each issuing agency shall formally amend the citations of authority in its codified material to reflect any changes therein.

§ 21.42 Exceptions.

The Director of the Federal Register may make exceptions to the requirements of this subpart relating to placement and form of citations of authority whenever he determines that strict application would impair the practical use of the citations.

PLACEMENT

§ 21.43 Coverage.

(a) *Single section.* Authority covering a single section shall be cited in parentheses on a separate line immediately following the text of the section. For example:

(Sec. 5, Pub. L. 89–670, 80 Stat. 935 (49 U.S.C. 1654))

(b) *Blanket coverage.* Authority covering two or more consecutive sections shall be cited following the word "AUTHORITY" and placed as a text note immediately preceding the first section of the group. For example:

AUTHORITY: Sec. 5, Pub. L. 89–670, 80 Stat. 935 (49 U.S.C. 1654).

(c) *Combined blanket and separate coverage.* Whenever individual sections within a group covered by a blanket citation reflect additional authority, a combined form shall be used. For example:

AUTHORITY: Sec. 5, Pub. L. 89–670, 80 Stat. 935 (49 U.S.C. 1654), unless otherwise noted.

(d) *Combined blanket coverage.* Whenever a group of two or more consecutive sections within a broader group covered by a blanket citation reflects the same additional authority, a combined blanket citation shall be used. For example:

AUTHORITY: Sec. 5, Pub. L. 89–670, 80 Stat. 935 (49 U.S.C. 1654). §§ 7.1 to 7.11 also issued under sec. 313, Pub. L. 85–726, 72 Stat. 752 (49 U.S.C. 1354).

§ 21.44 Documents involving various amendments.

(a) Whenever a document prescribes several amendments issued under common authority, the citation to that authority shall be placed in parentheses on a separate line after the last amendment.

(b) Whenever a document prescribes several amendments issued under varying authorities, each amendment shall be followed by the appropriate citation in parentheses on a separate line.

§ 21.45 Nonstatutory authority.

Citation to a document as authority shall be placed after the statutory citations. For example:

AUTHORITY: Sec. 9, Pub. L. 89–670, 80 Stat. 944 (49 U.S.C. 1657). E.O. 11222, 30 FR 6469, 3 CFR 1965 Comp.

FORM

§ 21.51 General.

(a) Formal citations of authority shall be in the shortest form compatible with positive identification and ready reference.

(b) The Office of the Federal Register shall assist agencies in developing model citations.

§ 21.52 Statutory materials.

(a) *Public laws.* Citations to current public laws shall include reference to the volume and page of the U.S. Statutes at Large to which they have been assigned. For example:

Sec. 5, Pub. L. 89–670, 80 Stat. 935 (49 U.S.C. 1654)

(b) *U.S. Statutes at Large.* Citations to the U.S. Statutes at Large shall refer to section, page, and volume. The page number should refer to the page on which the section cited begins. If the cited material is contained in a title of the United States Code that has not been positively enacted, the parallel United States Code citation shall also be given. For example:

Sec. 5, Pub. L. 89–670, 80 Stat. 935 (49 U.S.C. 1654); sec. 313, Pub. L. 85–726, 72 Stat. 752 (49 U.S.C. 1354)

(c) *Positive law titles of the United States Code.* Citations to titles of the United States Code that have been enacted into positive law (such as 1, 5, 10, etc.) shall be cited as follows, without public law or U.S. Statutes at Large citation:

10 U.S.C. 501.

§ 21.53 Nonstatutory materials.

Nonstatutory documents shall be cited by document designation and by FEDERAL REGISTER volume and page, followed, if possible, by the parallel citation to the Code of Federal Regulations. For example:

Special Civil Air Reg. SR–422A, 28 FR 6703, 14 CFR Part 4b. E.O. 11130, 28 FR 12789; 3 CFR 1959–1963 Comp.

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PART 22—PREPARATION OF NOTICES AND RULE MAKING PROPOSALS

NOTICES IN GENERAL

Sec.
22.1 Name of issuing agency and subdivision.
22.2 Authority citation.

NOTICES OF PROPOSED RULE MAKING

22.5 General requirements.
22.6 Code designation.
22.7 Codification.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189.

NOTICES IN GENERAL

§ 22.1 Name of issuing agency and subdivision.

(a) The name of the agency issuing a notice shall be placed at the beginning of the document.

(b) Whenever a specific bureau, service, or similar unit within an agency issues a notice, the name of that bureau, service, or unit shall be placed on a separate line below the name of the agency.

(c) An agency that uses file numbers, docket numbers, or similar identifying symbols shall place them in brackets immediately below the other headings required by this section.

(d) A suitable short title identifying the subject shall be provided beginning on a separate line immediately after the other required caption or captions. Whenever appropriate, an additional brief caption indicating the nature of the document shall be used.

§ 22.2 Authority citation.

The authority under which an agency issues a notice shall be cited in narrative form within text or in parentheses on a separate line following text.

NOTICES OF PROPOSED RULE MAKING

§ 22.5 General requirements.

Each notice of proposed rule making required by section 553 of title 5, United States Code, or any other statute, and any similar notice voluntarily issued by an agency shall include a statement of—

(a) The time, place, and nature of public rule making proceedings; and

(b) Reference to the authority under which the regulatory action is proposed.

§ 22.6 Code designation.

The area of the Code of Federal Regulations directly affected by a proposed regulatory action shall be identified by placing the appropriate CFR citation in brackets immediately below the name of the issuing agency. For example:

[1 CFR Part 22]

§ 22.7 Codification.

Any part of a notice of proposed rule making document that contains the full text of a proposed regulation shall also conform to the pertinent provisions of Part 21 of this chapter.

[FR Doc.72-18989 Filed 11-3-72;8:51 am]

Chapter II—Office of the Federal Register

PART 51—INCORPORATION BY REFERENCE

The purpose of this amendment is to adopt a revised regulation governing the incorporation by reference of material outside the Code of Federal Regulations in Federal Register documents. This amendment is based on a notice of proposed rule making published in the FEDERAL REGISTER on April 4, 1972 (37 F.R. 6805).

Several of the commenters expressed general opposition to the use of "incorporation by reference" in Federal Register documents and recommended against adoption of proposed Part 51. With respect to these comments, it should be pointed out that specific congressional authority for the use of incorporation by reference has existed since 1967 (5 U.S.C. 552(a)) and that proposed Part 51 is for the most part a revision of 1 CFR Part 20, which was originally adopted the same year. Thus, adoption of Part 51 is not an invitation to increased usage of incorporation by reference. Actually, as was discussed in the notice of proposed rule making, in several respects revised Part 51 imposes more restrictions and places more control in the Director of the Federal Register than did the previous regulations.

One commenter suggested that the proposed regulations appear to apply to notice of proposed rule making documents although 5 U.S.C. 552(a) applies only to final rule making documents. To clarify this, a new paragraph (e) has been added to § 51.1. This new provision also encourages agencies to consult with the office of the Federal Register with respect to the requirements of Part 51 before submission of proposed rule making documents. In this way agencies can avoid problems that might surface after a document has gone through notice and public comment.

Another commenter pointed out that the use of incorporation by reference in a proposed rule making document can affect the reasonableness of the time period for public comment. This commenter made the valid point that sometimes it takes weeks to obtain a technical document proposed to be incorporated by reference and that little time may be left for review and submission of comments. While this comment is outside the scope of the proposed regulation, agencies are urged to consider this factor in establishing the comment period.

One commenter pointed out that, as proposed, § 51.10(c) would require the republication of a document or a portion thereof, whenever a document containing an incorporation by reference is published in the FEDERAL REGISTER without the Director's advance approval. The commenter suggested that a more flexible approach might be warranted since the incorporation by reference might well be one that the Director would be willing to approve after publication and that in such a case republication would serve no useful purpose. Section 51.10(c) has been rewritten to make it clear that the mere publication in the FEDERAL REGISTER of a document containing an incorporation by reference is not of itself approval by the Director of that incorporation. In such a situation, the Director will review the document after publication and the proper corrective action can be worked out between the agency and the Director.

In consideration of the foregoing, and after considering all relevant comments received, Part 51 is adopted as proposed with the following changes:

1. A new paragraph (e) is added to § 51.1.
2. A new paragraph (c) is added to § 51.10.
3. Section 51.12 is revised.

Effective date. This amendment is effective January 2, 1973.

FRED J. EMERY,
Director of the Federal Register.

GENERAL

Sec.
51.1 Policy.
51.2 Matter eligible.
51.3 Distinctions.
51.4 Elements on which approval may be based.
51.5 Filing.

DRAFTING STANDARDS

51.6 Language of incorporation.
51.7 Identification and description.
51.8 Statement of availability.

PUBLICATION PROCEDURES

51.10 Advance consultation.
51.11 Letter transmitting final document.
51.12 Stamp of approval.

AUTHORITY: The provisions of this Part 51 issued under 5 U.S.C. 552(a).

GENERAL

§ 51.1 Policy.

(a) Section 552(a) of Title 5, United States Code, provides, in part, that "matter reasonably available to the class of persons affected thereby is deemed published in the FEDERAL REGISTER when incorporated by reference therein with the approval of the Director of the Federal Register."

(b) The Director will strictly interpret the language quoted in paragraph (a) of this section to provide fairness and uniformity in administrative proceedings involving publication in the FEDERAL REGISTER.

(c) The Director will interpret and apply the language quoted in paragraph (a) of this section with full regard to the significance of related instruments governing publication in the FEDERAL REGISTER and the Code of Federal Regulations. Related instruments include—

(1) Subchapter II of Chapter 5 of Title 5, United States Code;

(2) Chapter 15 of Title 44, United States Code;

(3) Chapter I of this title; and

(4) Special statutory provisions listed in appendix B to Chapter I of this title, that require publication in the FEDERAL REGISTER.

(d) The Director will assume that the language quoted in paragraph (a) of this section is—

(1) Designed to cover the limited purposes of section 552(a) of title 5, United States Code;

(2) Intended to benefit both the Federal Government and the members of the classes affected by reducing the volume of matter printed in the FEDERAL REGISTER; and

(3) Not intended to detract from the legal or practical attributes of the system established under the basic instruments listed in paragraph (c) of this section.

(e) While the requirements of 5 U.S.C. 552(a) and of this part apply to a final rule making document, issuing agencies are encouraged to consult the Office of the Federal Register with respect to the requirements of this part before submitting for publication a notice of proposed rule making document that contains an incorporation by reference.

§ 51.2 Matter eligible.

To be eligible for incorporation by reference, under section 552(a) of Title 5, United States Code, in a document to be published in the FEDERAL REGISTER, material must conform to the policy stated in § 51.1 and be in the nature of published data, criteria, standards, specifications, techniques, illustrations, or other published information reasonably available to the members of the class that would be affected by the publication.

§ 51.3 Distinctions.

(a) *Ordinary references.* For the purposes of this part, informational references and cross references that do not purport to incorporate outside matter within a FEDERAL REGISTER document are not considered to be legal incorporations by reference under section 552(a) of Title 5, United States Code.

(b) *Regulations governing availability of agency issuances.* Regulations governing the availability of agency issuances are not considered to be legal incorporation by reference under section 552(a) of Title 5, United States Code.

§ 51.4 Elements on which approval may be based.

The Director of the Federal Register will approve an incorporation by reference only when the following considerations are favorable and reasonably stable:

(a) The matter is eligible.

(b) Incorporation will substantially reduce the volume of material published in the FEDERAL REGISTER.

(c) The matter incorporated is in fact available to the extent necessary to afford fairness and uniformity in the administrative process.

(d) The incorporating document is drafted and submitted for publication in accordance with this part.

§ 51.5 Filing.

Copies of material approved for incorporation by reference including copies of all amendments or revisions to that material, shall be filed with the Office of the Federal Register.

DRAFTING STANDARDS

§ 51.6 Language of incorporation.

(a) The language incorporating material by reference shall be as precise and complete as possible.

(b) The words expressing the incorporation shall make it clear that the incorporation by reference is intended and completed by the document in which it appears.

§ 51.7 Identification and description.

(a) Each incorporation by reference shall include an identification and subject description of the matter incorporated, in terms as precise and useful as practicable within the limits of reasonable brevity.

(b) Titles, dates, editions, numbers, authors, and publishers shall be stated whenever they would contribute to clear identification.

(c) A brief subject description shall be included to inform the user of his potential need to obtain the matter incorporated.

§ 51.8 Statement of availability.

(a) *Information.* Each incorporation by reference shall include a statement covering the availability of the material incorporated, including current information as to where and how copies of it may be examined and be readily obtained with maximum convenience to the user.

(b) *Official showing.* Inclusion of the statement required by paragraph (a) of this section constitutes an official showing by the issuing agency that the material incorporated is, in fact, reasonably available to the class of persons affected.

(c) *Future amendments or revisions.* In any case in which incorporated material will be subject to change, the statement required by paragraph (a) of this section shall set forth that information. However, the incorporation of material in a FEDERAL REGISTER document by reference is limited to the material as it exists on the effective date of the document. Future amendments or revisions of material incorporated by reference are not included. They may be added as they become available, or at any later time, by the issuance of an amendatory document. Separate approval of the Director of the incorporation of each amendment whose original incorporation was approved need not be obtained if all other requirements of this part are met.

PUBLICATION PROCEDURES

§ 51.10 Advance consultation.

(a) To avoid delay, each issuing agency shall consult in advance with the Director of the Federal Register regarding the approval of any specific incorporation by reference. The consultation should take place at least 10 working days before the proposed date of submission of the document.

(b) After completion of the consultation, the Director will notify the agency of his decision, at least 5 working days before the proposed date of submission of the document.

(c) Publication in the FEDERAL REGISTER of a document containing an incorporation by reference does not, of itself, constitute approval by the Director of the incorporation by reference.

§ 51.11 Letter transmitting final document.

Each agency submitting a document under this part shall send with it a letter of transmittal covering the matter of incorporation by reference and referring specifically to the advance consultation.

§ 51.12 Stamp of approval.

(a) Whenever the Director of the Federal Register accepts a document under this part a statement will be printed in the FEDERAL REGISTER as part of the document substantially as follows:

Incorporation by reference provisions approved by the Director of the Federal Register ----------
(date)

[FR Doc.72-18990 Filed 11-3-72;8:51 am]

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TUESDAY, NOVEMBER 7, 1972

WASHINGTON, D.C.

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(Revised as of October 1, 1972)

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Order from Superintendent of Documents,
United States Government Printing Office,
Washington, D.C. 20402

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Area Code 202 Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1972, and specifies how they are affected.

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PART 213—EXCEPTED SERVICE

Executive Office of the President

Section 213.3303 is amended to show that one additional position of confidential secretary to the Director, Special Action Office for Drug Abuse Prevention, is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (11–7–72), subparagraph (1) of paragraph (j) of § 213.3303 is amended as set out below.

§ 213.3303 Executive Office of the President.

• • • • • •

(j) *Special Action Office for Drug Abuse Prevention.* (1) Three confidential secretaries to the Director.

• • • • • •

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–19045 Filed 11–6–72;8:51 am]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

Section 213.3316 is amended to show that one position of assistant to the Secretary is no longer excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (11–7–72), § 213.3316(a)(13) is amended as set out below.

§ 213.3316 Department of Health, Education, and Welfare.

(a) *Office of the Secretary.* • • •

(13) Seven assistants to the Secretary.

• • • • • •

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–19047 Filed 11–6–72;8:51 am]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

Section 213.3316 is amended to show that one position of special assistant to the Assistant Secretary for Public Affairs is no longer excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (11–7–72), subparagraph (20) of paragraph (a) under § 213.3316 is revoked.

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–19043 Filed 11–6–72;8:51 am]

PART 213—EXCEPTED SERVICE

Administrative Conference of the United States

Section 213.3319 is amended to show that one position of Private Secretary to the Chairman is no longer excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (11–7–72), § 213.3319 is revoked.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–19048 Filed 11–6–72;8:51 am]

PART 213—EXCEPTED SERVICE

General Services Administration

Section 213.3337 is amended to show that one position of Confidential Secretary to the Chairman, National Advisory Council on Economic Opportunity, is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (11–7–72), § 213.3337(g)(2) is added as set out below.

§ 213.3337 General Services Administration.

• • • • • •

(g) *National Advisory Council on Economic Opportunity.* • • •

(2) One Confidential Secretary to the Chairman.

• • • • • •

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–19046 Filed 11–6–72;8:51 am]

PART 213—EXCEPTED SERVICE

Department of Transportation

Section 213.3394 is amended to show that the following positions are no longer excepted under Schedule C: Two Confidential Secretaries and one Special Assistant to the Assistant Secretary for Public Affairs. This section is further amended to reflect the following title changes: From one State Liaison Officer, Office of the Assistant Secretary for Public Affairs, to one State Liaison Officer, Office of the Director of Intergovernmental Relations; and from seven Congressional Liaison Officers, Office of the Assistant Secretary for Public Affairs, to seven Congressional Liaison Officers, Office of the Director of Congressional Affairs.

Effective on publication in the FEDERAL REGISTER (11–7–72), subparagraphs (5) and (8) of paragraph (a) are revoked and subparagraphs (16) and (17) of paragraph (a) are amended under § 213.3394 as set out below.

§ 213.3394 Department of Transportation.

(a) *Office of the Secretary.* • • •

(5) [Revoked]

• • • • • •

(8) [Revoked]

• • • • • •

(16) One State liaison officer, Office of the Director of Intergovernmental Relations.

(17) Seven congressional liaison officers, Office of the Director of Congressional Affairs.

• • • • • •

(5 U.S.C. secs. 3301 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–19044 Filed 11–6–72;8:51 am]

Title 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 41—STANDARD CONTAINERS

Deletion of Regulations

On October 22, 1968, Public Law 90–628 repealed the Standard Container Acts of 1916 and 1928. Sections 41.4 through 41.22 of the regulations issued under the Standard Container Acts were deleted from Title 7, Part 41, of the Code of Federal Regulations on January 29,

1971. However, through error, §§ 41.1

Done at Washington, D.C., this 2d

ately prior to the date of enactment of

Department that no reduction is required at this time, pursuant to section 202(d)

recommended that requirements be established significantly less than the

amended, 927, as amended, and 928, as amended; 7 U.S.C.

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1971. However, through error, §§ 41.1 through 41.3 were not deleted at that time. Since the authority for these regulations has expired. §§ 41.1 through 41.3 are hereby deleted from Title 7, Part 41, of the Code of Federal Regulations.

This notice shall be effective upon publication in the FEDERAL REGISTER (11-7-72).

Done at Washington, D.C. this 2d day of November 1972.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.72-19067 Filed 11-6-72;8:51 am]

Chapter III—Animal and Plant Health Inspection Service; Department of Agriculture

PART 319—FOREIGN QUARANTINE NOTICES

Subpart—Citrus Fruit

DELETION OF MARKING REQUIREMENT

On October 11, 1972, there was published in the FEDERAL REGISTER (37 F.R. 21444) under the administrative procedure provisions of 5 U.S.C. 553, a notice of proposed rule making, concerning an amendment to Notice of Quarantine No. 28 relating to the importation of citrus fruit (Unshu oranges) by deleting a marking requirement on the individual fruit. Interested persons were given until October 25, 1972, to submit written data, views, or arguments with respect to the proposal. Only one comment was received and it objected to the possible loss of identification of individual fruits by deleting the marking requirement.

This marking requirement was one of several safeguards included in the quarantine when it was amended in 1967 and 1972 to permit Unshu oranges into specified areas of the United States (32 F.R. 7958; 37 F.R. 7481). Such requirement has proven a considerable hardship to the importer. Because of the odd shape of the fruit, such marking must be done by hand rather than machine. It has been determined that such marking on the fruit is not necessary because the remaining safeguards contained in the quarantine are adequate to insure the identity of the individual fruits. Accordingly, it has been determined that the deletion of the individual fruit marking requirement will not affect the degree of pest risk of introducing citrus canker into the United States nor prevent the effective enforcement of the restrictions on interstate distribution of the fruit within the United States.

Therefore, pursuant to section 9 of the Plant Quarantine Act of 1912 (7 U.S.C. 151 et seq.), paragraph (b)(4)(i) of Quarantine 28 (7 CFR 319.28) is amended by deleting the first sentence thereof.

(Sec. 9, 37 Stat. 318; 7 U.S.C. 162; 29 F.R. 16210, as amended, 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505)

Effective date. This amendment shall become effective upon issuance.

Done at Washington, D.C., this 2d day of November 1972.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-19068 Filed 11-6-72;8:51 am]

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

PART 811—CONTINENTAL SUGAR REQUIREMENTS AND AREA QUOTAS

Requirements and Quotas for 1973

Basis and purpose and bases and considerations. This regulation is issued pursuant to the authority vested in the Secretary of Agriculture by the Sugar Act of 1948, as amended (61 Stat. 922, as amended; 7 U.S.C. 1101), hereinafter referred to as the "Act". The purpose of Sugar Regulation 811 is to determine pursuant to section 201 of the Act the amount of sugar needed to meet the requirements of consumers in the continental United States for the calendar year 1973, and to establish sugar quotas for the supplying areas in terms of short tons of sugar, raw value, equal to the amount determined to be needed in 1973. Furthermore, this regulation determines and prorates and allocates deficits in quotas, establishes quantities of certain quotas that may be filled by direct-consumption sugar and establishes a liquid sugar quota.

In accordance with the rule-making requirements in 5 U.S.C. 553 there was published in the FEDERAL REGISTER (37 F.R. 21333) a notice of proposed rule making for the issuance of a regulation determining sugar requirements for the continental United States and establishing quotas for the calendar year 1973. Written data, views, or arguments for consideration in connection with the proposed regulation were to be submitted by interested persons prior to October 19, 1972. Thorough consideration has been given to all data, views, and comments received relative to the proposed regulation and are briefly summarized at the end of this statement of bases and considerations.

Subsection 201(a) of the Act requires a determination for each calendar year of the amount of sugar needed to meet the requirements of consumers in the continental United States and a revision of such determination during the calendar year whenever necessary to attain the price objective set forth in subsection 201(b) of the Act.

The price objective is a price for raw sugar which will maintain the same ratio between such price and the average of the parity index (1967=100) and the wholesale price index (1957=100) as the ratio that existed between (1) the simple average of the monthly price objective calculated for the period September 1, 1970, through August 31, 1971, under this section as in effect immediately prior to the date of enactment of the Sugar Act Amendments of 1971 (8.55 cents per pound), and (2) the simple average of such two indexes for the same period (115.4). Adjustments shall be made in the determination of requirements during the period November through February whenever the simple average price for raw sugar over 7 consecutive market days is 3 percent or more above or below the average price objective for the previous 2 calendar months. The percentage is increased to 4 percent for the March through October period.

During the first 9 months of 1972, the domestic price of raw sugar fluctuated from a low 8.76 cents per pound as an average for May to a high of 9.39 cents per pound as an average for September. The average for the 9-month period was 9.07 cents per pound or 100.4 percent of the average monthly price objective for the same period. The price on October 26 was 9.20 cents per pound, or 100.4 percent of the current price objective referred to in section 201 of the Act. In developing this determination, consideration has been given to maintaining prices in 1973 that will carry out the price objective set forth in section 201(b) of the Act.

In the proposal of October 3, the Secretary announced that consideration was being given to a requirement level of 11.8 million short tons, raw value. It now appears that cane sugar refiners' deliveries during 1972 will be somewhat less than estimated at that time and consequently, yearend stocks of quota sugar held by refiners will be greater.

In consideration of these matters, it is determined that 11.7 million short tons, raw value, is the quantity of sugar needed to meet the requirements of consumers in the continental United States and to attain the price objective of the Act.

A quota of 20,000 short tons, raw value, is established for the Texas Cane Area on the basis of estimated production from 1973 crop sugar available for marketing in 1973.

A quota of 1,110,000 short tons, raw value, is established herein for Hawaii pursuant to section 202(a)(3) of the Act. Such quota is subject to adjustment pending final data on the production and marketing of sugar by Hawaii in 1972.

The quota for Southern Rhodesia has been withheld pursuant to Executive Order 11322 issued on January 5, 1967, and is prorated herein to Western Hemisphere countries pursuant to section 202(d)(1)(B) of the Act.

On the basis of information currently available to the Department, it is herein determined, pursuant to section 202(d)(3) of the Act, that total quotas be withheld and not established for the Bahamas and Uganda for calendar year 1973. The total quantity of quotas withheld from the Bahamas and Uganda are prorated herein to other foreign countries in the same manner as deficits under section 204 of the Act.

It is also determined on the basis of information currently available to the Department that no reduction is required at this time, pursuant to section 202(d)(3) and (4) of the Act, in the quotas established herein for other foreign countries. This action is based on the tentative assumption that each such country will fill its 1972 quota within a reasonable tolerance and that facts will be submitted which will support a finding that any deficit and/or shortfall in a country's 1972 quota was due to force majeure.

Production of sugar in Puerto Rico is not expected to exceed 335,000 short tons, raw value, while requirements for consumption in Puerto Rico are expected to be of the order of 130,000 tons. It appears that the quantity of sugar from Puerto Rico available for shipment to the continental United States would not be more than 205,000 tons. It is now estimated that the Domestic Beet Sugar Area may have a slightly lower effective inventory of sugar as of January 1, 1973, than at the beginning of 1972. The size of the effective inventory limits marketings of domestic beet sugar until new crop becomes available. Therefore, it appears that the Domestic Beet Sugar Area will be unable to market sugar in excess of 3,500,000 short tons, raw value. Accordingly, deficits are herein determined in the quotas for Puerto Rico and the Domestic Beet Sugar Area of 650,000 and 144,333 short tons, raw value, respectively, and such total quantity of 794,333 short tons, raw value, is herein allocated, pursuant to section 204 of the Act, to the Republic of the Philippines and Western Hemisphere countries with 1973 quotas in effect.

This determination differs from the proposal of October 3 in the following respects: (1) Sugar requirements and quotas have been reduced by 100,000 tons; (2) a quota of 20,000 tons has been established for the new Texas Cane Area; (3) the proposed quota for Hawaii has been reduced by 65,000 tons on the basis of recent estimates of 1972 crop sugar production in Hawaii; and (4) the quota established for the Bahamas has been withheld and a quota has been established for Bolivia.

The following views were received from interested persons regarding the proposed requirements level announced on October 3, 1972:

The American Sugar Cane League, of the U.S.A., Inc., the Florida Sugar Cane League, Inc., the Hawaiian Sugar Planters' Association, the National Sugarbeet Growers Federation and the growers of the Farmers and Manufacturers Beet Sugar Association recommended that 1973 requirements be established at 11,500,000 short tons, raw value. The California Beet Growers Association, Ltd., recommended a 1973 requirement level of 11,550,000 tons. A brief submitted on behalf of all of the sugar beet processors, except Spreckels Sugar Co., recommended a 1973 requirement level of 11,400,000 tons. In individual briefs by sugar beet processors, Michigan Sugar Co. also recommended requirements be establisesd at 11,400,000 tons while the Amalgamated Sugar Co. recommended that requirements be established significantly less than the 11,800,000 ton level proposed by the Department. The principal reason given for recommending a lower requirement level was the fear of lower sugar prices, especially during the next few months since quarterly import limitations cannot be imposed. Several stated that the Department's projection of domestic beet area deficits may be too high, others that the population or per capita consumption estimates used by the Department in making projections of U.S. requirements were too high. Some said that a high beginning requirement level takes the flexibility out of maintaining prices in line with the price objective. Several stated that the Department's own bases would support a requirement level of only 11,650,000 tons. None of the briefs received from processor or grower representatives mentioned that the then current raw sugar price exceeded the price objective in excess of 2 percent nor did they make reference to the short world sugar supply.

The U.S. Cane Sugar Refiners' Association supported the Department's proposed requirement level of 11,800,000 short tons, raw value. They also stated that they believed it imperative that foreign sugar quota holders receive notice immediately of the quantity of sugar they must commit to the U.S. market in 1973, so consumers are assured of adequate supplies at reasonable prices.

The Sugar Users Group, representing 12 food processing associations, recommended that 1973 sugar requirements be established at 12 million short tons, raw value. They pointed out that world sugar consumption continues to outpace world sugar production and that resulting higher prices could cause a delay in foreign sugar reaching the United States at various times during the year. For this reason the group stated that a larger quota is needed to insure adequate supplies at all times for the U.S. market. The group also projected that domestic consumption would increase due to more emphasis on the food stamp program, the special food services program, and the school lunch program. They also pointed out that the average raw price is currently higher than the price objective, that the average raw price for 1972 has exceeded the average guide price by one-half of 1 percent and that the 11,800,000-ton requirement level proposed by the Department may not result in actual shortages but it could well continue the trend of having an average spot price which is higher than the guide price set out in the Sugar Act.

Sec.
811.20 Sugar requirements 1973.
811.21 Quotas for domestic areas.
811.22 Proration and allocation of deficits in quotas.
811.23 Quotas for foreign countries.
811.24 Applicability of quotas.
811.25 Restrictions on importations and marketings within quotas.

AUTHORITY: §§ 811.20 to 811.25 issued under Sec. 403, 61 Stat. 932, 7 U.S.C. 1153; Secs. 201, 202, 204, 207, 208, 209, 210; 61 Stat. 923, as amended, 924, as amended, 925, as amended, 927, as amended, and 928, as amended; 7 U.S.C. 1111, 1112, 1114, 1117, 1118, 1119, 1120 and Public Law 92-138 approved October 14, 1971.

§ 811.20 Sugar requirements 1973.

The amount of sugar needed to meet the requirements of consumers in the continental United States for the calendar year 1973 is hereby determined to be 11,700,000 short tons, raw value.

§ 811.21 Quotas for domestic areas.

(a)(1) For the calendar year 1973, domestic area quotas limiting the quantities of sugar which may be brought into or marketed for consumption in the continental United States are established, pursuant to section 202(a) of the Act in column (1), and the amounts of such quotas for offshore areas that may be filled by direct-consumption sugar are established, pursuant to section 207 of the Act in column (2), as follows:

Area	Quotas	Direct-consumption limits
	(Short tons, raw value)	
	(1)	(2)
Domestic beet sugar	3,644,333	No limit
Mainland cane sugar	1,625,667	No limit
Texas cane area	20,000	No limit
Hawaii	1,110,000	40,356
Puerto Rico	855,000	169,000

(2) It is hereby determined pursuant to section 204(a) of the Act that for the calendar year 1973 Puerto Rico and the Domestic Beet Area will be unable by 650,000 and 144,333 short tons, raw value, respectively, to fill their quotas established in subparagraph (1) of this paragraph. Pursuant to section 204(b) of the Act the determination of such deficits shall not affect the quotas established in subparagraph (1) of this paragraph.

(b) Of the quantity established in paragraph (a) of this section for Puerto Rico which may be filled by direct-consumption sugar, 126,033 short tons, raw value, may be filled only by sugar principally of crystalline structure.

§ 811.22 Proration and allocation of deficits in quotas.

(a) The deficit in the Puerto Rican and the Domestic Beet Area quotas determined in paragraph (a)(2) of § 811.21 of 794,333 short tons, raw value, is hereby prorated and allocated pursuant to section 204(a) of the Act, by allocating 30.08 percent or 238,935 short tons, raw value, to the Republic of the Philippines and by prorating the remaining 555,398 short tons, raw value, to Western Hemisphere countries on the basis of quotas determined herein pursuant to section 202.

(b) In establishing deficit prorations herein for Western Hemisphere countries consideration has been given to the purchase of U.S. agricultural commodities by such countries, by determining that the value of U.S. agricultural exports to each such country exceeded the total net receipts f.a.s. port of shipment derived from the sale of sug[illegible] it prorations imported from eac[illegible] country during the most recent 12-month period for which data are available. Each

foreign country which is unable to fill

(b) The quantitative limitations es-

ing agreement and order, and upon other

capacity of 18 pounds of fruit shall be of

the lower financial returns to producers

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foreign country which is unable to fill its quota including its deficit proration has the responsibility to notify the Secretary the extent of and reasons for such shortfall.

§ 811.23 Quotas for foreign countries.

(a) The quotas or prorations for foreign countries limiting the quantities of sugar which may be imported into the continental United States during the calendar year 1973 for consumption therein and the amounts of such quotas and prorations that may be filled by direct-consumption sugar are hereby established as set forth in the following paragraphs (b), (c), (d), (e), and (f) of this section.

(b) For the calendar year 1973, the quota for the Republic of the Philippines is 1,376,758 short tons, raw value, representing 1,126,020 short tons, established pursuant to section 202(b) of the Act, 238,935 short tons established pursuant to section 204 of the Act and 11,803 short tons established pursuant to section 202(d) of the Act. Of the quantity of 1,126,020 short tons established pursuant to section 202 of the Act, only 59,920 short tons, raw value, may be filled by direct-consumption sugar pursuant to section 207(d) of the Act.

(c) For the calendar year 1973, the prorations to individual foreign countries other than the Republic of the Philippines pursuant to section 202 of the Act are shown in columns (1) and (2) of the following table. In column (3) a portion of the deficit proration in the quotas of Puerto Rico and the Domestic Beet Area amounting to 555,398 short tons, raw value, is herein prorated to Western Hemisphere countries listed in section 202(c)(3)(A) of the Act, on the basis of quotas determined herein pursuant to section 202. Total quotas and prorations are shown in column (4).

Production area	Basic quotas	Temporary quotas and prorations pursuant to Sec. 202(d)[1]	Deficits and deficits prorations	Total quotas and prorations
	(Short tons, raw value)			
Dominican Republic	424,144	144,568	117,061	685,773
Mexico	375,103	127,851	103,525	606,479
Brazil	365,825	124,690	100,965	591,480
Peru	261,777	89,225	72,248	423,250
West Indies	136,521	46,532	37,679	220,732
Ecuador	54,012	18,409	14,907	87,328
Argentina	50,698	17,280	13,992	81,970
Costa Rica	45,728	15,586	12,621	73,935
Colombia	45,065	15,360	12,438	72,863
Panama	42,746	14,570	11,797	69,113
Nicaragua	42,746	14,570	11,797	69,113
Venezuela	40,757	13,893	11,249	65,899
Guatemala	39,101	13,327	10,792	63,220
El Salvador	28,497	9,713	7,865	46,075
British Honduras	22,333	7,611	6,219	36,433
Haiti	20,544	7,002	5,670	33,216
Honduras	7,953	2,710	2,195	12,858
Bolivia	4,308	1,469	1,189	6,966
Paraguay	4,308	1,469	1,189	6,966
Australia	166,344	46,276		212,620
Republic of China	69,255	19,366		88,521
India	66,604	18,529		85,133
South Africa	47,054	13,090		60,144
Fiji Islands	36,450	10,141		46,591
Mauritius	24,521	6,822		31,343
Swaziland	24,521	6,822		31,343
Thailand	15,243	4,240		19,483
Malawi	12,260	3,410		15,670
Malagasy Republic	9,941	2,766		12,707
Ireland	5,351			5,351
Total	2,489,910	817,267	555,398	3,862,575

[1] Proration of the quota withheld from Cuba, Southern Rhodesia, Bahamas, and Uganda.

(d) The importation of raw sugar within the annual quotas from foreign countries will be authorized on the basis of applications on Form SU-3 in accordance with the provisions of Part 817 of this chapter. Applications to import raw sugar from the Republic of the Philippines, before final approval, must be supplemented by certification from the Sugar Quota Administrator for the Government of the Philippines granting the applicant the permission to export sugar to the U.S. market.

(e) For the calendar year 1973, the quantity of each proration established in paragraph (c) of this section that may be filled by direct-consumption sugar pursuant to section 207(e) of the Act is as follows:

Country:	Short tons, raw value
Ireland	5,351
Panama	3,817

(f) For the calendar year 1973, the quota for liquid sugar for foreign countries as a group is 2 million gallons of sirup of cane juice of the type of Barbados molasses, limited to liquid sugar containing soluble nonsugar solids (excluding any foreign substances that may have been added or developed in the product) of more than 5 percent of the total soluble solids, which is not to be used as a component of any direct-consumption sugar but is to be used as molasses without substantial modification of its characteristics after importation.

§ 811.24 Applicability of quotas.

(a) All sugar and liquid sugar marketed or imported into the continental United States is subject to the provisions of Part 816 or Part 817 of this chapter which prescribe the time, manner, and conditions under which quotas and prorations are filled by the marketing and importation of sugar or liquid sugar.

(b) The quantitative limitations established by §§ 811.21 to 811.23, inclusive, do not apply to sugar or liquid sugar marketed or imported pursuant to sections 211 and 212 of the Act in accordance with the provisions of Part 816 or Part 817 of this chapter.

§ 811.25 Restrictions on importation and marketings within quotas.

Subject to the provisions of Parts 816 and 817 of this chapter all persons are prohibited from bringing or importing into or marketing in the continental United States, (a) any sugar or liquid sugar from any country for which no quota is established or in excess of or after the applicable quota or quantity set forth in §§ 811.21 to 811.23 inclusive has been filled, or (b) any sugar or liquid sugar as direct-consumption sugar from any country for which no direct-consumption sugar limitation is established or after the direct-consumption portion of the applicable quota has been filled.

Effective date. The Act provides for the determination of sugar requirements and the establishment of sugar quotas for the continental United States for the calendar year 1973 during October of 1972. This regulation applies to the submission and approval of applications to import sugar prior to January 1, 1973, for the importation of sugar subsequent to that date. Accordingly, it is hereby found to be impracticable and not in the public interest to comply with the 30-day effective date requirements in 5 U.S.C. 533. The aspects of § 811.23 relating to the submission and approval of applications shall be effective when filed with the Office of the Federal Register and all other provisions of this regulation shall become effective January 1, 1973.

Signed at Washington, D.C. on November 1, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-19016 Filed 11-2-72;11:23 am]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Amdt. 13]

PART 906—ORANGES AND GRAPEFRUIT GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

Container, Pack, and Container Marking Regulations

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the Texas Valley Citrus Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation on the handling of Texas oranges and grapefruit, as hereinafter set forth, is in accordance with the provisions of said marketing agreement and order, and will tend to effectuate the declared policy of the act.

(2) This action reflects the Department's appraisal of the need for restricting the use of containers and pack sizes to those most suitable for the packing and handling of fruit to promote orderly marketing, so as to provide consumers with good quality fruit and improve returns to producers pursuant to the declared policy of the act. The amendment suspends for the period November 6, 1972, through July 31, 1973, the requirement that bags having a capacity of 18 pounds of fruit be mesh or woven. The current requirement that bags having a capacity of 18 pounds of fruit be mesh or woven has been in effect since January 1, 1971, under § 906.340 (7 CFR 906.340; 37 F.R. 2765; 4707; 21800). The committee has asked for the temporary suspension of the "mesh or woven" requirement for this container; so that it will have a period of time to evaluate 18-pound bags of other types for shipping Texas oranges and grapefruit.

(3) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (i) the handling of fruit is now in progress and to be of maximum benefit the provisions of this amendment should be effective upon the date hereinafter specified, (ii) the effective date hereof will not require of handlers any preparation that cannot be completed prior thereto, (iii) this amendment was recommended by members of the Texas Valley Citrus Committee in an open meeting at which all interested persons were afforded opportunity to submit their views, (iv) the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and (v) this amendment relieves restrictions on the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas.

Order. It is therefore ordered that the provisions of § 906.340 (7 CFR 906.340; 37 F.R. 2765; 4707; 21800) are amended as follows:

Paragraph (a)(1)(iv) is amended to read:

§ 906.340 Container, pack, and container marking regulations.

(a) • • •

(1) • • •

(iv) Bags having a capacity of 5, 8, or 18 pounds of fruit: *Provided*, That on and after August 1, 1973, bags having a capacity of 18 pounds of fruit shall be of the mesh or woven type.

• • • • • •

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated, November 2, 1972, to become effective November 6, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-19064 Filed 11-6-72;8:51 am]

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

List of Countries for Export Sales of Reserve Raisins

Notice was published in the October 12, 1972, issue of the FEDERAL REGISTER (37 F.R. 21538), regarding a proposal to change the list of countries to which sale in export of reserve tonnage natural Thompson Seedless raisins may be made by handlers by the deletion of Mexico from such list. This action is pursuant to the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989; 37 F.R. 19621, 20022), hereinafter referred to collectively as the "order," regulating the handling of raisins produced from grapes grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "act."

The notice afforded interested persons an opportunity to submit written data, views, or arguments on the proposal. None were received within the prescribed time.

The list of countries to which handlers may make sales of reserve tonnage natural Thompson Seedless raisins was established pursuant to § 989.67(c) of the order and is contained in § 989.221 (7 CFR 989.221; 36 F.R. 20742) of the Subpart—Supplementary Orders Regulating Handling. The Committee has reviewed the list as required by § 989.67(c), and has recommended that it be changed by deleting Mexico from such list. After such deletion, sales to Mexico by handlers could be made solely from free tonnage raisins of such varietal type.

Mexico was added to the aforesaid list in November of 1968. After a review of handler shipments of raisins to Mexico and market conditions and prices of natural Thompson Seedless raisins in Mexico over the past 4 years, the Committee concluded that such shipments do not justify continued inclusion of Mexico on the list. The price to handlers for reserve tonnage NTS raisins shipped to Mexico has been less than the price for free tonnage NTS raisins during the 4 years in which sales to Mexico were made from reserve tonnage raisins. Shipments during this period did increase slightly over the shipments made during a comparable period preceding 1968. However, the Committee concluded that such increase was not sufficient to offset the lower financial returns to producers received for reserve tonnage.

After consideration of all relevant matter presented, including that in the notice, the information and recommendation of the Committee, and other available information, changing the list of countries to which sale of reserve tonnage natural Thompson Seedless raisins may be made by handlers by deleting Mexico from such list is hereby approved.

Therefore, § 989.221 is amended to read as follows:

§ 989.221 Countries to which sale in export of reserve tonnage natural Thompson Seedless raisins may be made by handlers.

The countries to which sale in export of reserve tonnage natural Thompson Seedless raisins may be made by handlers shall be all of those countries, other than Australia, outside of the Western Hemisphere. For purposes of this section, "Western Hemisphere" means the area east of the international dateline and west of 30° W. longitude but excluding all of Greenland. All of the countries covered by this section to which sale in export of such reserve tonnage may be made shall be deemed listed in this section for the purposes of § 989.67(c).

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 2, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-19065 Filed 11-6-72;8:51 am]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1464—TOBACCO

Subpart A—Tobacco Loan Program

1972 CROP—BURLEY TOBACCO TYPE 31, ADVANCE SCHEDULE

On September 28, 1972, there was published in the FEDERAL REGISTER (37 F.R. 20256) a notice of proposed rule making setting forth the proposed price support advance rates for 1972 crop burley tobacco, type 31. Interested parties were given the opportunity to submit within 30 days data, views, and recommendations regarding the proposed advance rates.

No unfavorable comments have been received and proposed advance rates are hereby adopted without change and are set forth below. The material previously appearing under § 1464.21 remains applicable to the crop to which it refers.

Effective date: Date of filing with the Office of the Federal Register.

Signed at Washington, D.C., on October 31, 1972.

GLENN A. WEIR,
Acting Executive Vice President, Commodity Credit Corporation.

§ 1464.21 1972 Crop—Burley tobacco, a false loan application or a willful

Agriculture for Rural Development and Conservation, 36 F.R. 21529)

(c) "Insurance fund" is the Agricul-

§ 1873.3 Delegations of authority.

"Notice and Acknowledgment of Sale of

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§ 1464.21 1972 Crop—Burley tobacco, type 31, advance schedule.[1]

DOLLARS PER HUNDRED POUNDS, FARM SALES WEIGH

Grade	Advance rate	Grade	Advance rate
B1F	80.25	T4VF	71.25
B2F	79.25	T5VF	67.25
B3F	78.25	T4VR	63.25
B4F	77.25	T5VR	59.25
B5F	76.25	T4GF	65.25
B1FR	77.25	T5GF	61.25
B2FR	76.25	T4GR	58.25
B3FR	75.25	T5GR	55.25
B4FR	74.25	C1L	82.25
B5FR	72.25	C2L	81.25
B1R	75.25	C3L	80.25
B2R	74.25	C4L	79.25
B3R	73.25	C5L	78.25
B4R	72.25	M3FR	70.25
B5R	70.25	M4FR	66.25
B4D	62.25	M5FR	62.25
B5D	58.25	N1L	74.25
B3K	73.25	N2L	67.25
B4K	71.25	C1F	82.25
B5K	66.25	C2F	81.25
B3M	75.25	C3F	80.25
B4M	73.25	C4F	79.25
B5M	67.25	C5F	78.25
B3VF	77.25	C3K	77.25
B4VF	74.25	C4K	75.25
B5VF	71.25	C5K	70.25
B3VR	69.25	C3M	78.25
B4VR	68.25	C4M	76.25
B5VR	65.25	C5M	72.25
B3GF	70.25	C3V	79.25
B4GF	68.25	C4V	77.25
B5GF	65.25	C5V	73.25
M1F	79.25	C4G	67.25
M2F	78.25	C5G	63.25
M3F	77.25	X1L	82.25
M4F	75.25	X2L	81.25
M5F	72.25	X3L	80.25
B3GR	63.25	X4L	79.25
B4GR	61.25	X5L	78.25
B5GR	58.25	X1F	82.25
T3F	76.25	X2F	81.25
T4F	73.25	X3F	80.25
T5F	70.25	X4F	79.25
T3FR	74.25	X5F	78.25
T4FR	72.25	X4M	76.25
T5FR	69.25	X5M	70.25
T3R	69.25	X4G	71.25
T4R	66.25	X5G	63.25
T5R	62.25	N1F	69.25
T4D	61.25	N1R	57.25
T5D	58.25	N2R	51.25
T4K	60.25	N1G	55.25
T5K	57.25	N2G	51.25

[1] Only the original producer is eligible to receive advances. Tobacco graded "U" (unsound), "W" (wet), "No-G" (no grade), or scrap will not be accepted. Cooperatives are authorized to deduct 25 cents per hundred pounds to apply against overhead costs.

(Sec. 4, 62 Stat. 1070, as amended, sec. 5, 62 Stat. 1072, secs. 101, 106, 401, 403, 63 Stat. 1051, as amended, 1054, 74 Stat. 6; 7 U.S.C. 1441, 1445, 1421, 1423, 15 U.S.C. 714b, 714c)

[FR Doc.72-19018 Filed 11-6-72;8:46 am]

Chapter XVIII—Farmers Home Administration, Department of Agriculture

SUBCHAPTER E—ACCOUNT SERVICING

[FHA Instruction 456.1]

PART 1864—DEBT SETTLEMENT

Cancellation of Debt Discharged in Bankruptcy

Section 1864.5(c) is revised to provide for the attachment of a copy of the referee in bankruptcy's order of discharge to Form FHA 456–1, "Application for Settlement of Indebtedness," when a debt has been discharged in bankruptcy. The Office of the General Counsel does not have to be consulted unless the county office files contain evidence of a false loan application or a willful and malicious conversion of security property.

As amended, § 1864.5(c) of Part 1864, Title 7, Code of Federal Regulations (36 F.R. 17836) will read as follows:

§ 1864.5 Cancellation of nonjudgment debts, regardless of the amount of deceased, disappeared, and bankrupt debtors without applications.

* * * * *

(c) *Cancellation of debts that have been discharged in bankruptcy.* Debts discharged in bankruptcy may be canceled by the use of Form FHA 456–2. A copy of the referee in bankruptcy's order of discharge must be attached to Form FHA 456–1. The advice of OGC should not be requested unless the county office files contain evidence of a false loan application or a willful and malicious conversion of security property.

(Sec. 339, 75 Stat. 318, 7 U.S.C. 1989; sec. 510, 63 Stat. 437, 42 U.S.C. 1480; sec. 4, 64 Stat. 100, 40 U.S.C. 442; sec. 602, 78 Stat. 528, 42 U.S.C. 2942; sec. 301, 80 Stat. 379, 5 U.S.C. 301; order of Acting Secretary of Agriculture, 36 F.R. 21529; order of Secretary of Agriculture, 37 F.R. 14245; order of Assistant Secretary of Agriculture for Rural Development and Conservation, 36 F.R. 21529; order of Director, OEO, 29 F.R. 14764)

Dated: October 20, 1972.

ARTHUR C. HARMAN, JR.,
Acting Administrator,
Farmers Home Administration.

[FR Doc.72-18925 Filed 11-6-72;8:45 am]

[FHA Instruction 452.1]

PART 1867—RENEWING OPERATING LOANS

Return of Promissory Note

Section 1867.9 is amended to provide for the return of the original renewed promissory note to the borrower, except in Louisiana.

Section 1867.9, Part 1867, Title 7, Code of Federal Regulations (36 F.R. 17843), as amended will read as follows:

§ 1867.9 Disposition of renewed promissory notes.

Promissory notes which have been renewed will be stamped "RENEWED, NOT PAID." The original note will be forwarded by the Finance Office to the county office. The county office will return the note to the borrower. The county office copy will be marked "Renewed, Not Paid" and retained in the county office case file. In Louisiana, the original note will not be returned to the borrower, but will be retained in the county office case file. When the renewed loan has been paid in full or otherwise satisfied, the renewal note will be handled as provided in § 1861.8 or in § 1864.17 of this chapter.

(Sec. 339, 75 Stat. 318, 7 U.S.C. 1989; order of Acting Secretary of Agriculture, 36 F.R. 21529; order of Secretary of Agriculture, 37 F.R. 14245; order of Assistant Secretary of Agriculture for Rural Development and Conservation, 36 F.R. 21529)

Dated: October 20, 1972.

ARTHUR C. HARMAN, JR.,
Acting Administrator,
Farmers Home Administration.

[FR Doc.72-18924 Filed 11-6-72;8:45 am]

SUBCHAPTER F—SECURITY SERVICING AND LIQUIDATIONS

[FHA Instruction 471.1]

PART 1873—TRANSFER OF INSURED ASSOCIATION, SOIL AND WATER INDIVIDUAL, FARM OWNERSHIP, AND HOUSING NOTES

Part 1873, Title 7, Code of Federal Regulations (31 F.R. 14237) currently in effect under §§ 1873.1 to 1873.8 has been revised for clarification.

This Part 1873 delegates authority and prescribes policy and procedure for the sale, assignment, or transfer of the ownership of notes or bonds.

The revised Part 1873 reads as follows:

Sec.
1873.1 Scope.
1873.2 Definitions.
1873.3 Delegations of authority.
1873.4 General policies.
1873.5 Procedure for sale of insured notes by private holders to private buyers.
1873.6 Procedure for assignment of insured notes to FHA.
1873.7 Assignment of notes by FHA from the insurance fund.
1873.8 Assignment of insured notes by FHA as trustee.
1873.9 Procedure to be followed upon the death of a holder of an insured note.

AUTHORITY: The provisions of this Part 1873 issued under section 339, 75 Stat. 318, 7 U.S.C. 1989; section 510, 63 Stat. 437, 42 U.S.C. 1480; section 4, 64 Stat. 100, 40 U.S.C. 442; order of Acting Secretary of Agriculture, 36 F.R. 21529; order of Secretary of Agriculture, 37 F.R. 14245; order of Assistant Secretary of Agriculture for Rural Development and Conservation, 36 F.R. 21529.

§ 1873.1 Scope.

This part delegates authority and prescribes policy and procedure for the sale, assignment, or other transfer of the ownership of notes or bonds which evidence any of the following types of insured loans: association, soil and water (SW) individual, or farm ownership (FO) loans in cases in which the United States is the mortgagee; or domestic farm labor housing (LH), rural rental housing (RRH), or section 502 rural housing (RH) loans.

§ 1873.2 Definitions.

As used in this part:

(a) "FHA" is the United States acting through the Farmers Home Administration. "FHA" does not include "FHA as Trustee."

(b) "FHA as Trustee" is the United States acting through the Farmers Home Administration as trustee for a State Rural Rehabilitation Corporation (SRRC) under a section 2(f) agreement.

(c) "Insurance fund" is the Agricultural Credit Insurance Fund authorized by section 309 of the Consolidated Farmers Home Administration Act of 1961, if the loan is insured in accordance with that section, or the Rural Housing Insurance Fund authorized by section 517 of the Housing Act of 1949, if the loan is insured in accordance with that section.

(d) "Insured note" is any promissory note or bond evidencing an insured loan of a type specified in § 1873.1, regardless of whether it is held by FHA in the insurance fund, by a private holder, or by FHA as Trustee.

(e) "Insurance agreement" is the entire contract evidencing and setting forth the terms and conditions of FHA's insurance of payment of an insured note. The insurance agreement with respect to any particular loan may be evidenced by Form FHA 440–5, "Insurance Endorsement (Insured Loan)," Form FHA 440–30, "Insurance Endorsement (Insured Loans)," Form FHA 471–6, "Reinsurance and Repurchase Agreement (Automatic Renewal)," or any other form or forms prescribed by the national office and executed by an authorized official of FHA. It may include such provisions as, for example, an agreement of FHA to purchase or repurchase the loan, or to make supplementary payments from the insurance fund.

(f) "Insured holder" is the current owner of an insured note other than FHA, according to the records of FHA as insurer of the note.

(g) "Private holder" is an insured holder other than FHA as Trustee.

(h) "Sale," "seller," and "buyer" are, respectively, the transfer of ownership (including possession or the right of possession), the transferor, and the transferee.

(i) "Repurchase agreement" is a provision in the insurance agreement obligating FHA to buy the insured note at the option of the holders.

(j) "Option period" is any period during which the insured holder has the optional right to require the FHA to purchase the insured note, as specified in the insurance agreement.

(k) "Fixed period" is any time interval (preceding an option period) during which the insured holder is not entitled to require FHA to purchase the insured note, as specified in the insurance agreement.

(l) "Par value" is the total amount to which the insured holder is entitled under the terms of the insurance agreement.

(m) "Director, Finance Office" is the Director or the Insured Loan Officer of the Finance Office of FHA.

(n) "State Director" is the State Director of FHA for the State in which is located the real estate improved, purchased, or refinanced with the loan evidenced by the insured note.

(o) "National Office" is the Administrator or other authorized officer of the FHA in Washington, D.C.

(p) "Private buyer" is a buyer of an insured note other than FHA, or FHA as Trustee.

§ 1873.3 Delegations of authority.

Subject to the provisions of this part:

(a) The Director, Finance Office, is authorized in connection with the sale of any insured note to execute required documents on behalf of FHA and to take other appropriate action, including but not limited to:

(1) Endorsing any insured note to the order of a private buyer and executing the applicable insurance agreement.

(2) Acknowledging notice of sale of an insured note.

(3) Requiring an insured holder to sell an insured note to FHA, when requested by the State director, or by the county supervisor with the approval of the State director.

(4) Accepting sale to FHA of an insured note.

(5) Authorizing disbursements from the insurance fund to pay for insured notes being sold to FHA.

(b) The Director, Finance Office, or the State Director is authorized on behalf of FHA as trustee, to sell an insured SW or FO note held by FHA as trustee.

(c) The State Director, or County Supervisor with the approval of the State Director, is authorized to request the Director, Finance Office, to require an insured holder to sell an insured note to FHA in connection with any voluntary conveyance of foreclosure, or transfer related to liquidation of the borrower's account or any other servicing action so related.

(1) Upon recommendation by the State Director that purchase of an insured note is necessary for any servicing action not related to liquidation of the borrower's account, authorization may be given by the national office.

§ 1873.4 General policies.

(a) *Effective date of assignment.* When an insured note is sold by a private holder to a private buyer, notice of such sale executed by the seller must be given to and acknowledged by FHA in order for the sale to be binding upon FHA; and, as to FHA, the effective date of the sale will be the acknowledgment date specified in the acknowledgment of notice executed by FHA.

(b) *Assignment to FHA at request of FHA.* At any time FHA deems it necessary for proper servicing of the loan, FHA may in writing require a private holder to sell an insured note to FHA.

(c) *Assignment to FHA at option of holder.* A private holder at any time during the option period may in writing require FHA to purchase an insured note, if the insurance agreement so provides.

(d) *Price.* Where FHA is buyer of an insured note, the price will be the par value as of the effective date of the sale. In other cases, the price will be determined by agreement between the parties.

§ 1873.5 Procedure for sale of insured notes by private holders to private buyers.

(a) Upon receipt of notice from a private holder of intention to assign an insured note, the Director, Finance Office, will send the holder Form FHA 471–7, "Notice and Acknowledgment of Sale of Insured Loan," a statement of the unpaid principal, and appropriate information on how to complete the assignment. If requested, the Director, Finance Office, will furnish a statement of account instead of or in addition to a statement of the unpaid principal.

(b) If the Director, Finance Office, is informed that an insured note has been assigned and FHA is requested to recognize the assignment, the Director, Finance Office, will send the assignor Form FHA 471–7 with directions for its execution.

(c) Upon receipt of Form FHA 471–7 properly executed by the assignor, the Director, Finance Office, will complete and execute the acknowledgment section of the form. The Director, Finance Office, will retain the original of the form, have three facsimile copies made, and send one to the assignee, and one to the County Supervisor. For any correction or other change to be made in the record of the name or address of a private holder, or of a designated agent of a private holder, a request will be made to FHA in writing.

(d) As of the date of the acknowledgment executed by the Director, Finance Office, on Form FHA 471–7, the Director, Finance Office, will transfer the insured note from the assignor to the assignee as the insured holder on the records of FHA. The name and address of the assignee will be recorded by FHA exactly as they appear on Form FHA 471–7.

(e) Payments transmitted by FHA on or after the acknowledgment date shown on Form FHA 471–7 will be transmitted to the assignee. The Director, Finance Office, will give notice to the assignor and the assignee of any payments transmitted by FHA to the assignor before the acknowledgment date and after either the date of sale, or the date of the statement of account, whichever is earlier. However, FHA will not be liable for any failure to give such notice.

(f) The Federal National Mortgage Association has statutory authority to purchase, in its secondary market operations, loans insured under title V of the Housing Act of 1949. In case of an assignment of an insured LH, RRH, or RH note by a private holder to the Federal National Mortgage Association:

(1) The Director, Finance Office, will verify that the insured note covered by the notice and acknowledgment evidences an LH, RRH, or RH loan when he executes the acknowledgments and will have the following statement stamped or typed on Form FHA 471–7:

The payment of the note or bond covered by this notice and acknowledgment is insured pursuant to title V of the Housing Act of 1949.

(2) A statement of account as of the acknowledgment date will accompany the copies of Form FHA 471–7 sent to the assignor and assignee respectively.

§ 1873.6 Procedure for assignment of insured notes to FHA.

(a) *Assignment at the request of the holder.* For assignment of an insured

note to FHA during the option period at

(2) Execute for each note an insurance

(b) A certified copy of the court order appointing the Administrator or Execu-

[Airspace Docket No. 72-WE-33]

is amended as follows: "* * * 108° * * *" is deleted and "* * * 110° * * *" is sub-

signed to implement the purpose and policies underlying the Act and is based

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note to FHA during the option period at the request of the holder, the following procedure will apply:

(1) The holder will endorse the insured note as follows: "Pay to the order of the United States of America. Without recourse." The holder will then deliver the endorsed note, together with the insurance agreement, to the Director, Finance Office.

(2) Upon receipt of the endorsed note with the accompanying insurance agreement, the Director, Finance Office will:

(i) Acknowledge receipt of the note; and

(ii) Process payment to the assignor of the par value of the note as of the date of the Treasury check.

(b) *Assignment at the request of FHA.* The procedure for assigning an insured note at the request of FHA will be the same as that prescribed in paragraph (a) of this section, except that the Director, Finance Office, will send a written request to the holder that the insured note be assigned to FHA and delivered to the Director, Finance Office, with the accompanying insurance agreement. The Director, Finance Office, will explain that the assignment is necessary to enable FHA to service the account properly and will give the holder all necessary information as to the manner of making the assignment and the amount to be paid by FHA.

§ 1873.7 Assignment of notes by FHA from the insurance fund.

(a) Upon completion of negotiations for the sale of notes by FHA from the insurance fund to a private buyer, the Director, Finance Office, will ascertain:

(1) The precise name and correct mailing address of the buyer (and the precise name and correct mailing address of the buyer's collection agent, if any).

(2) The manner and time of delivery of the notes.

(3) The agreed arrangements for making payment for the notes.

(4) The agreed or proposed effective date of sale.

(5) The rate of any annual charge or additional payments, and the length of any fixed period, to be stipulated in the insurance agreement.

(6) Any other pertinent information.

(b) The Director, Finance Office, will send the buyer a list of the notes showing each borrower's name and case number and the selling price of each note as of the agreed or proposed effective date of sale.

(c) If payment is to be made in advance of delivery of the notes, the Director, Finance Office, will request the buyer to forward a check or draft before the effective date of sale, drawn to the order of the FHA, in the amount of the aggregate selling price. If the buyer is a reputable institution, its check or draft, or a certified check or cashier's check may be accepted. In all other cases, payment by certified check or cashier's check will be required. Upon receipt of payment, the Director, Finance Office, will:

(1) Endorse each note to the order of the buyer.

(2) Execute for each note an insurance agreement on Form FHA 440-5, Form FHA 440-30, Form FHA 471-6, or other form prescribed or approved by the National Office, whichever is applicable. When a repurchase agreement is not to be included in the insurance agreement, the paragraph providing for a repurchase agreement will be deleted, and the deletion initialed by the Director, Finance Office.

(3) Send the notes, with the executed insurance agreements to the buyer by certified mail, return receipt requested, except that:

(i) If a sight draft is received in payment, the Director, Finance Office, will attach it to the endorsed notes and executed insurance agreements and send them by certified mail, return receipt requested, to the bank designatd by the buyer. The buyer will pay the bank's charges for handling the transaction. The bank's remittance in payments of the draft must be made on or before the agreed effective date of the sale of the notes.

(4) Inform the County Supervisor of the assignment by providing him with a copy of Form FHA 451-12, "Statement of Account," stamped to show the new fund code and the name and address of the buyer.

(d) If the agreed terms and conditions of sale provide for delivery and payment by other means that those described in paragraph (c) of this section, the Director, Finance Office, will make the necessary arrangements.

§ 1873.8 Assignment of insured notes by FHA as trustee.

(a) *Assignment to a private buyer.* (1) Upon completion of negotiations for sale to a private buyer of insured notes held by FHA as Trustee, the State Director will send the notes to the Director, Finance Office, by certified mail, return receipt requested.

(2) Payment for the notes will be drawn to the order of "Farmers Home Administration, Trustee of the (insert name of the SRRC)."

(3) In all other respects, § 1873.7 will apply.

(b) *Assignment to FHA for account of the insurance fund.* When it becomes necessary to assign to FHA for account of the insurance fund an insured note held by FHA as Trustee, the State Director will:

(1) Send the note to the Director, Finance Office.

(2) Request the Director, Finance Office, to take the necessary steps immediately to assign the loan to FHA for account of the insurance fund and make payment therefor.

§ 1873.9 Procedure to be followed upon the death of a holder of an insured note.

The Director, Finance Office, should be notified of the death of a holder of an insured note. The following documents should be forwarded with the notice if available:

(a) A certified copy of the death certificate.

(b) A certified copy of the court order appointing the Administrator or Executor (includes the mailing address of the Administrator or Executor). The Director, Finance Office, will notify the attorney, trust officer, Administrator, or Executor of the estate if any other records or documents are needed, and will provide any additional instructions that are needed. Legal opinions and advice will be obtained by the Finance Office as needed from the Regional Attorney.

Dated: October 20, 1972.

ARTHUR C. HARMAN, Jr.,
Acting Administrator,
Farmers Home Administration.

[FR Doc.72-18923 Filed 11-6-72;8:45 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 11377; Amdt. 39-1555]

PART 39—AIRWORTHINESS DIRECTIVES

Hawker Siddeley de Havilland Model DH-104 "Dove" Airplanes

Amendment 39-1457 (37 F.R. 11155), AD 72-12-3, as amended by Amendment 39-1542 (37 F.R. 21528), requires the replacement of the two main air reservoir assemblies with new assemblies, which contain new air bottles, on Hawker Siddeley de Havilland Model DH-104 "Dove" airplanes. After issuing Amendment 39-1542, the FAA determined that a critical shortage of replacement parts still existed. Therefore, the AD is being further amended to extend the compliance date to February 1, 1973.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1457 (37 F.R. 11155), AD 72-12-3, as amended by Amendment 39-1542 (37 F.R. 21528), is further amended by amending the compliance statement to read as follows:

Compliance is required on or before February 1, 1973.

This amendment becomes effective November 13, 1972.

(Secs. 313(a), 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 31, 1972.

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

[FR Doc.72-18979 Filed 11-6-72;8:49 am]

[Airspace Docket No. 72-WE-33]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Revocation of VOR Federal Airway Segment

On September 9, 1972, a notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER (37 F.R. 18396) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would revoke the south alternate to VOR Federal airway No. 16 between Toltec, Ariz., Intersection and Tucson, Ariz.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 4, 1973, as hereinafter set forth.

In § 71.123 (37 F.R. 2009) V-16 is amended as follows:

Delete "Tucson, Ariz.; including a south alternate from INT Phoenix 161° and Casa Grande 105° radials, to Tucson via INT Phoenix 161° and Tucson 298° radials; Cochise, Ariz.," and substitute "Tucson, Ariz.; Cochise, Ariz.," therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 31, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-18980 Filed 11-6-72;8:49 am]

[Airspace Docket No. 72-SO-109]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Miami, Fla. (Opa Locka Airport), control zone.

The Miami (Opa Locka Airport) control zone is described in § 71.171 (37 F.R. 2056): In the description, an extension is predicated on Miami VORTAC 108° radial. The final approach radial for the VOR Runway 9L Instrument Approach Procedure has been refined to the Miami VORTAC 110° radial. It is necessary to alter the description to reflect this change. Since this amendment is minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.171 (37 F.R. 2056), the Miami, Fla. (Opa Locka Airport), control zone is amended as follows: "• • • 108° • • •" is deleted and "• • • 110° • • •" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on October 26, 1972.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.72-18981 Filed 11-6-72;8:49 am]

[Airspace Docket No. 72-SO-65]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Area High Routes

Correction

In F.R. Doc. 72-18292 appearing on page 22974 of the issue of Friday, October 27, 1972, the first line of paragraph c reading, "c. In J934B "Bremen, Ga. 33°39'N./", should read, "c. In J934R "Bremen, Ga. 33°39'32" N./".

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 8818-o]

PART 13—PROHIBITED TRADE PRACTICES

Firestone Tire & Rubber Co.

Correction

In F.R. Doc. 72-18346 appearing at page 22977 of the issue for Friday, October 27, 1972, the following words should be inserted in the first ordering paragraph, just before the words, "of the Commission • • •": "be, and it hereby is, adopted as the decision".

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release Nos. 33-5316, 34-9804, 35-17717, IC-7405]

REGISTRATION OF CERTAIN TRANSACTIONS INVOLVING MERGERS, CONSOLIDATIONS AND ACQUISITIONS OF ASSETS

The Securities and Exchange Commission today announced the adoption of Rule 145 (17 CFR 230.145) under the Securities Act of 1933 (Act) and several related proposals and the prospective rescission of Rule 133 (17 CFR 230.133) under that Act. The effect of this action will be to subject transactions involving business combinations of types described in the new rule to the registration requirements of the Act. Rule 145 is designed to implement the purpose and policies underlying the Act and is based on the Commission's experience in administering Rule 133, the interpretations of and problems under that rule, the recommendations of the Disclosure Policy Study's 1969 report, and comments received on previously proposed revisions of the rule and related proposals as published on October 9, 1969, in Securities Act Release No. 5012 (34 F.R. 17180) and on May 2, 1972, in Securities Act Release No. 5246 (37 F.R. 10585).

This notice contains a general discussion of the background, purpose, and general effect of the proposals to assist in a better understanding of them. However, attention is directed to the full text of the proposals included as a part of this release for a more complete understanding of their provisions. Further, the rescission of the Rule 133 and the adoption of Rule 145 should be considered in the context of and in conjunction with several other proposals which the Commission is herewith adopting or has previously adopted, including:

1. Adoption of Rule 153A (17 CFR 230.153a) under the Act;
2. Revision of Form S-14 (17 CFR 239.23) under the Act;
3. Amendment of Rule 14a-2 (17 CFR 240.14a-2) under the Securities Exchange Act of 1934 (Exchange Act);
4. Amendment of Rule 14a-6 (17 CFR 240.14a-6) under the Exchange Act;
5. Amendment of Rule 14c-5 (17 CFR 240.14c-5) under the Exchange Act; and
6. Rule 144 (17 CFR 230.144) under the Act (Release 33-5223) (37 F.R. 599, 4329).

BACKGROUND AND PURPOSE

Congress, in enacting the Federal securities statutes, created a continuous disclosure system designed to protect investors and to assure the maintenance of fair and honest securities markets. The Commission in administering and implementing the objectives of these statutes has sought to coordinate and integrate this disclosure system, and the rescission of Rule 133 and adoption of Rule 145 and related matters are further steps in this direction.

The rescission of Rule 133 and adoption of Rule 145 are designed to implement the fundamental purposes of the Act as expressed in its preamble:

To provide full and fair disclosure of the character of the securities sold in interstate commerce and through the mails, and to prevent fraud in the sale thereof • • •.

Rule 145 is also intended to inhibit the creation of public markets in securities of issuers about which adequate current information is not available to the public. This approach is consistent with the philosophy underlying the Act, that a disclosure law provides the best protection for investors. If a security holder who is offered a new security in a Rule 145 business combination transaction has available to him the material facts about the transaction, he will be in a position to make an informed investment judgment. In order to provide such informa-

tion in connection with public offerings on which the "no-sale" theory is predicated, namely, that the exchange or al-

Furthermore, the Commission is aware of situations in which companies have

and effect of the rule is the same set

1. *Rule 145(a)(1). Reclassifications*

thorize the sale, and the selling corpora-

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tion in connection with public offerings of these securities, Rule 145 will require the filing of a registration statement with the Commission and the delivery to security holders of a prospectus containing accurate and current information concerning the proposed business combination transaction.

EXPLANATION AND ANALYSIS

I. RESCISSION OF RULE 133. DEFINITION FOR PURPOSES OF SECTION 5 OF "SALE," "OFFER TO SELL," AND "OFFER FOR SALE"

Rule 133 provides that for purposes only of section 5 of the Act, the submission to a vote of stockholders of a corporation of a proposal for certain mergers, consolidations, reclassifications of securities or transfers of assets is not deemed to involve a "sale," "offer," "offer to sell," or "offer for sale" of the securities of the new or surviving corporation to the security holders of the disappearing corporation. That rule further provides that persons who are affiliates of the constituent corporation are deemed to be underwriters within the meaning of the section 2(11) of the Act, and except for certain limited amounts cannot sell their securities in the surviving corporation without registration.

The "no-sale" theory embodied in Rule 133 is based on the rationale that the types of transactions specified in the rule are essentially corporate acts, and the volitional act on the part of the individual stockholder required for a "sale" was absent. The basis of this theory was that the exchange or alteration of the stockholder's security occurred not because he consented thereto, but because the corporate action, authorized by a specified majority of the interests affected, converted his security into a different security.

Based on the Commission's experience in administering the provisions of the Act and Rule 133 thereunder, and having given consideration to the Disclosure Policy Study Report, to the comments received on the Commission's published proposed revision of Rule 133 (Release 33-5012) and to the comments received on the proposed adoption of Rule 145 (Release 33-5246), the Commission is of the view that the "no-sale" approach embodied in Rule 133 overlooks the substance of the transactions specified therein and ignores the fundamental nature of the relationship between the stockholders and the corporation. The fact that such relationships are in part controlled by statutory provisions of the state of incorporation does not preclude, as a matter of law, the application of the broad concepts of "sale," "offer," "offer to sell," and "offer for sale" in section 2(3) of the Act which are broader than the commercial or common law meanings of such terms.

Transactions of the type described in Rule 133 do not, in the Commission's opinion, occur solely by operation of law without the element of individual stockholder volition. A stockholder faced with a Rule 133 proposal must decide on his own volition whether or not the proposal is one in his own best interest. The basis on which the "no-sale" theory is predicated, namely, that the exchange or alteration of the stockholder's security occurs not because he consents thereto but because the corporation by authorized corporate action converts his securities, in the Commission's opinion, is at best only correct in a formalistic sense and overlooks the reality of the transaction. The corporate action, on which such great emphasis is placed, is derived from the individual consent given by each stockholder in voting on a proposal to merge or consolidate a business or reclassify a security. In voting, each consenting stockholder is expressing his voluntary and individual acceptance of the new security, and generally the disapproving stockholder is deferring his decision as to whether to accept the new security or, if he exercises his dissenter's rights, a cash payment. The corporate action in these circumstances, therefore, is not some type of independent fiat, but is only the aggregate effect of the voluntary decisions made by the individual stockholders to accept or reject the exchange. Formalism should no longer deprive investors of the disclosure to which they are entitled.

The Commission also is aware that Rule 133 has caused anomolous applications of the provisions of the securities laws. For example, transactions which are deemed not to involve "sales" for purposes of section 5 of the Act, nevertheless are deemed to be "purchases" for purposes of section 16 of the Exchange Act. Moreover, transactions which are not deemed to be "sales" for purposes of section 5 of the Act, nevertheless are deemed to be "sales" for purposes of the antifraud provisions of the Act and Exchange Act and "sales" for purposes of the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, and the Investment Company Act of 1940.

In addition, the Commission has difficulty in reconciling Rule 133 with certain exemptive provisions of the Act. For example, section 3(a)(9) of the Act exempts from the registration provisions of the Act the issuance of securities in a reclassification only where no commission or other remuneration is paid or given directly or indirectly for solicitation. Notwithstanding, Rule 133 in effect provides an exemption from registration for the issuance of securities in a reclassification even though a commission or other remuneration is paid for solicitation. Further, section 3(a)(10) exempts from the registration provisions of the Act securities issued only in court or administratively supervised reorganizations. Yet Rule 133 in effect provides that securities issued in reorganizations of the type described therein are not subject to the registration provisions of the Act even though there is not judicial or administrative supervision.[1]

Furthermore, the Commission is aware of situations in which companies have utilized the rule to avoid or evade the registration provisions of the Act. This has resulted in large quantities of unregistered securities being distributed to the public and has not been in the public interest or for the protection of investors.

The Commission recognizes that the "no-sale" concept has been in existence in one form or another for a long period of time. Certain persons who commented on the October 9, 1969, and May 2, 1972, proposals have cited this as a reason for retaining the present Rule 133 and others have asserted that the Commission lacks the power to revise the rule. The Commission does not agree with these comments. Administrative agencies as well as courts from time to time change their interpretation of statutory provisions in the light of reexamination, new considerations, or changing conditions which indicate that earlier interpretations are no longer in keeping with the statutory objectives. The Commission believes, after a thorough reexamination of the studies and proposals cited above, that the interpretation embodied in Rule 133 is no longer consistent with the statutory objectives of the Act. The Commission's judgment is based upon a number of factors, including the observation that Rule 133 has enabled large amounts of securities to be distributed to the public without the protections afforded by the Act's registration provisions.

In view of the above, the Commission is of the opinion that transactions covered by Rule 133 involve a "sale," "offer," "offer to sell," or "offer for sale" as those terms are defined in section 2(3) of the Act. The Commission no longer sees any persuasive reason why, as a matter of statutory construction or policy, in light of the broad remedial purposes of the Act and of public policy which strongly supports registration, this should not be the interpretative meaning.

II. ADOPTION OF RULE 145. RECLASSIFICATIONS OF SECURITIES, MERGERS, CONSOLIDATIONS AND ACQUISITIONS OF ASSETS

A. *Preliminary note.* A preliminary note has been added to the rule in order to provide a convenient reference to assist in understanding and interpreting its provisions.

B. Rule 145(a)—*Transactions within the rule.* Paragraph (a) of Rule 145 provides that the submission to a vote of security holders of a proposal for certain reclassifications of securities, mergers, consolidations, or transfers of assets, is deemed to involve an "offer," "offer to sell," "offer for sale," or "sale" of the securities to be issued in the transaction. The effect of the rule is to require registration of the securities to be issued in connection with such transactions, unless an exemption from registration is available. In this regard, the purpose

[1] The legislative history of the Act contains the following statement with respect to this matter:

"Reorganizations carried out without such judicial supervision possess all the dangers implicit in the issuance of new securities and are, therefore, not exempt from the Act. For the same reason the provision (section 3(a)(10)) is not broad enough to include mergers or consolidations of corporations entered into without judicial supervision." H.R. Rep. No. 85, 73d Cong., 1st sess. (May 4, 1933) at p. 16.

and effect of the rule is the same set forth in the releases of October 9, 1969, and May 2, 1972, to rescind Rule 133 and promulgate a rule requiring registration under the Act of the securities to be offered.

In response to comments received from the public, several textual changes have been made in Rule 145(a) as proposed. As noticed for comment, the rule by its literal language only applied to business combinations involving "corporations." Rule 133 was intended to apply to business combinations involving corporations as well as other entities, such as partnerships and real estate investment trusts. Accordingly, the rule has been revised to read "corporation or other person" in order to make clear that it applies to all issuers, without distinction as to the form of business organization. Also, the phrase "certificate of incorporation" has been revised to read "certificate of incorporation or similar controlling instruments."

A number of comments focused upon the question of whether foreign issuers should be included within the scope of Rule 145. The Commission notes that certain provisions under the Exchange Act, and the rules promulgated thereunder, provide exemptions for foreign issuers from certain provisions of the Exchange Act (see Rules 12g3-2 and 3a12-3) (17 CFR 240.12g3-2 and 17 CFR 240.3a12-3). Similar exemptions for foreign issuers, however, do not appear in the Securities Act, and, in the Commission's opinion, there is no statutory basis for affording such exemptions by rule. The U.S. securities statutes were intended to protect U.S. investors who buy securities of foreign issuers, and the need for the protection afforded by registration is not diminished because the issuer has a foreign domicile.[2] Accordingly, Rule 145 will apply to foreign issuers making offers or sales of securities to U.S. investors, unless an exemption is available under the Securities Act. While it is noted that difficulties in meeting required accounting standards may arise for foreign issuers, the Commission has authority under Regulation S-X (17 CFR 210.01 et seq.) to waive or modify accounting requirements, and, to the extent applicable, Item 15(c) (17 CFR 240.14a-101 Item 15(c)) under the proxy rules allows the Commission to authorize the omission or substitution of financial statements. Various other forms contain similar provisions. The staff of the Commission will be available for consultation on such matters. To clarify the applicability of Rule 145 to foreign issuers, the phrase "state of incorporation" has been changed to read "jurisdiction".

Also in response to public comments, Rule 145 has been revised to make clear that it covers transactions involving action taken upon security holder approval. The words "or consent" have been added to the word "vote" wherever it appears.

[2] Foreign issuers frequently register rights offerings under the Securities Act when they have security holders who are residents of the United States.

1. *Rule 145(a)(1). Reclassifications.* Rule 145(a), as proposed, covered any reclassification "other than a stock split or reverse stock split which involves the substitution of a security for another security." The rule has been revised to also exclude any reclassification which involves only a change in par value.

2. *Rule 145(a)(2). Mergers or consolidations.* Rule 145(a)(2) has been revised in three respects. The first revision adds the phrase "or similar plan of acquisition" after the words "merger or consolidation" because a number of similar transactions do not fit precisely within the terms "merger or consolidation". The second revision adds the phrase "held by such security holders" to describe those securities which will become or be exchanged for other securities. This revision is designed to clarify that in a transaction of the character described in Rule 145(a), an offer occurs under the rule only as to security holders who are entitled to vote or consent to the matter, and who hold securities which become or will be exchanged for new securities. The third revision adds an exception to indicate that registration is not required where a merger or consolidation is effected solely to change an issuer's domicile.

Several commentators suggested that the applicability of Rule 145 to short form mergers should be clarified. In certain instances, State law allows a merger of a parent and its 85 to 90 percent owned subsidiary to be consummated without shareholder approval. Because Rule 145(a) is couched in terms of offers arising in connection with a submission for the vote or consent of security holders, short form mergers not requiring such vote or consent are not within the scope of the rule. However, if a security is to be issued in such short form mergers, the Commission is of the opinion that the transaction involves an "offer," "offer to sell," "offer for sale," or "sale," within the meaning of section 2(3) of the Act, and accordingly such transactions are subject to the registration provisions of the Act unless an exemption is available.

3. *Rule 145(a)(3). Transfers of assets.* Rule 145(a)(3) has been revised to clarify those conditions under which Rule 145 is applicable to a stock for assets transaction. As revised, the rule applies only if: (1) The matter voted upon provides for dissolution of the corporation receiving the securities; (2) the matter voted upon provides for a pro rata distribution by the corporation receiving the securities; (3) the directors of the corporation receiving the securities adopt resolutions relative to (1) to (2) within 1 year after the vote; or (4) a subsequent dissolution or distribution is part of a preexisting plan for distribution. However, if the securities acquired in the transaction are distributed after 1 year, notwithstanding the absence of a plan, such securities must be registered unless a statutory exemption from registration is then available.

With regard to the third condition above, if the vote of the stockholders of the selling corporation is taken to authorize the sale, and the selling corporation thereafter decides to dissolve or distribute the securities within 1 year after the transaction, the sale of assets and the dissolution or distribution by the selling corporation are deemed to be portions of the same transaction and to involve a sale for value of the purchasing corporation's stock to the shareholders of the selling corporation. Accordingly, the transaction should be registered on Form S-14[2] at the time the plan or agreement for the sale of assets is submitted to shareholders for their vote or consent if it is contemplated that the corporation receiving the securities will adopt resolutions within 1 year for dissolution or distribution of the securities received. If the transaction is not registered at the time of submission of the plan or agreement for the vote or consent of security holders, but a resolution for dissolution or distribution of the securities received is adopted within 1 year, the issuer should file a registration statement covering the dissolution or distribution of securities on the appropriate form other than Form S-14, unless an exemption is available.

C. Rule 145(b). Communications not deemed to be a "Prospectus" or "Offer to Sell." Notice of a proposed action or of a meeting of security holders for voting on transactions of the character specified in Rule 145 is generally sent or furnished to security holders. Because the rule will make the registration provisions of the Act applicable to these transactions, questions have been raised as to whether such notices will constitute statutory prospectuses or involve an offer for sale of a security. Paragraph (b) of Rule 145 is designed to resolve these questions by providing that any written communication which contains no more than the information specified in paragraph (b) of the rule shall not be deemed a prospectus for purposes of section 2(10) of the Act and shall not be deemed an "offer for sale" of the security involved for the purposes of section 5 of the Act.

Rule 145(b) has been revised to expand the permissible information that may be included in the announcement. The revised rule permits the identification of all parties to the transaction; a brief description of their business; a description of the basis upon which the transaction will be made; and any legend or similar statement required by Federal law or State or administrative authority Also, paragraph (b) of the rule has been revised to indicate that the notice may take the form of a written communication "or other published statement."

D. *Rule 145(c). Persons and parties deemed to be underwriters.* Rule 145(c), as proposed, contained specific criteria designed to clarify the underwriter status of persons who acquire substantial amounts of securities in a business combination registered on Form S-14, and who desire to resell such securities. The public comments on the proposal noted legal and policy arguments against any

[2] Filed as part of the original document.

interpretation that imposes statutory transactions of limited quantities of se- does not apply to solicitations involved

Act. (See the discussion of financial A question has been raised as to whether allow tacking of holding periods in

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interpretation that imposes statutory underwriter status on persons solely by virtue of their receiving more than a certain amount of securities in a business combination. In addition, technical problems were cited in the application of the percentage tests in proposed Rule 145(c), and it was suggested that underwriter's liability should not be imposed on persons who may not be in a position to perform any necessary due diligence investigation. Others described the practical and regulatory problems that would arise if banks, investment companies, arbitrageurs and others enter into a Rule 145 transaction with marketable securities, but receive securities subject to trading restrictions. Because the question of the underwriter status of persons taking substantial portions of registered offerings arises in connection with all registered offerings, the Commission believes that the matter should be dealt with in a more comprehensive manner after further study, and not just in the limited context of business combinations.

Accordingly, Rule 145(c) has been revised by deleting the quantitative standards contained in the proposal and in lieu thereof criteria patterned after those now contained in Rule 133 have been substituted. Revised paragraph (c) of the rule provides that any party to any transaction specified in Rule 145(a), other than the issuer, or any person who is an affiliate of such party at the time any such transaction is submitted for vote or consent, who offers or sells securities acquired in such transaction, shall be deemed to be engaged in a distribution and therefore an underwriter, except with respect to the limited resales permitted pursuant to paragraph (d) of Rule 145. Moreover, from a practical standpoint, because such persons usually are in a position to verify the accuracy of information set forth in the registration statement, and usually are in a position to influence the transaction, the Commission believes that this provision is not unreasonably burdensome.

Rule 145(c) includes a definition of the term "party" with respect to the phrase "any party to any transaction specified in paragraph (a) * * *" The term is defined to mean the corporations, business entities, or other persons, other than the issuer, whose assets or capital structure are affected by the transaction specified in paragraph (a).

The securities received in a Rule 145 transaction by persons who are neither affiliates of the acquired company nor of the acquiring company are registered securities without restriction on resale.

E. *Rule 145(d).* Resale provisions for persons and parties deemed underwriters. Rule 145(d) provides that a person or party specified in paragraph (c) shall not be deemed to be engaged in a distribution if he sells in accordance with certain provisions of Rule 144: Paragraph (c) (current public information); (e) (limitation on amount of securities sold); (f) (manner of sale); and (g) (brokers' transactions). This provision is designed to permit public sale by such persons or parties in ordinary trading transactions of limited quantities of securities. Such resales are permissible within successive 6-month periods, but no accumulation is permitted, i.e., the person cannot skip 6 months and then sell an accumulated amount in the following 6 months.

The volume limitations of Rule 144(e) for resales of securities listed on a national securities exchange may be determined by reference to the average weekly trading volume for the 4 weeks preceding receipt of the order by the broker to execute the transaction. It should be noted that the holding period requirement of Rule 144(d), and the requirement to file a Form 144 (17 CFR 239.144) pursuant to Rule 144(h) are not applicable. In addition to resales permitted by Rule 145(d), the amended Form S–14 may be used for the registration under the Act of distributions by persons or parties who are deemed underwriters.

F. *Rule 145(e). Definition of "Person."* Paragraph (e) of Rule 145 provides that the term "person" in paragraphs (c) and (d) of the rule when used with reference to a person for whose account securities are to be sold, shall have the same meaning as the definition of that term in paragraph (a)(2) of Rule 144 under the Act.

III. 153A. DEFINITION OF "PRECEDED BY A PROSPECTUS" AS USED IN SECTION 5(B)(2) OF THE ACT, IN RELATION TO CERTAIN TRANSACTIONS REQUIRING APPROVAL OF SECURITY HOLDERS

Rule 153A defines the phrase "preceded by a prospectus" in connection with transactions of the type subject to Rule 145. The rule has been revised in two respects. First, the word "delivery" has been substituted for the word "sending" to conform the rule to the general instructions in Form S–14. Second, the rule has been revised to apply the delivery requirement when action is taken by consent.

The persons entitled to vote on or consent to a Rule 145 transaction will usually be determined either: (1) By the fixing of a record date for shareholders so entitled or, (2) by the closing of the stock transfer records of the acquired company. The group of persons thus determined may, because of interim transfers, vary somewhat from the group of persons ultimately entitled to receive the securities issued in the transaction. Thus, Rule 153A provides that the delivery of the final prospectus to security holders entitled to vote on or consent to the transaction shall be deemed to satisfy the prospectus delivery requirements of section 5(b)(2) of the Act.

IV. AMENDMENTS TO RULES 14a–2(d), 14a–6 AND 14C–5 UNDER THE EXCHANGE ACT.

A. *Rule 14a–2. Solicitations to which rules apply.* Rule 14a–2(d) under the Exchange Act provides that the proxy rules do not apply to any solicitation involved in the offer or sale of securities registered under the Securities Act. This provision has been amended to provide that the exemption from the proxy rules does not apply to solicitations involved in the offer or sale of registered securities to be issued in a transaction of the character specified in new Rule 145(a) under the Securities Act.

B. *Rule 14a–6. Material required to be filed.* Rule 14a–6 under the Exchange Act has been amended to provide that material required to be filed under that rule shall be deemed to be so filed when it is filed on a Form S–14 under the Securities Act. Thus, material filed with the registration statement will be deemed to have been filed under the proxy rules also, without the necessity of filing copies under those rules or payment of a proxy filing fee.

C. *Rule 14c–5. Filing of information statement.* To provide similar treatment for proxy material and information statements, an amendment to Rule 14c–5 under the Exchange, analogous to that to Rule 14a–6, has been adopted. That amendment provides that material filed in a Form S–14 registration statement under the Securities Act shall be deemed to satisfy the filing requirements of Regulation 14C (17 CFR 240.14c–1 et seq.) under the Exchange Act. In such instances, there will be no information statement filing fee required.

The amendment to Rule 14c–5 is a technical change which removes restrictions and reduces the filing burdens on registrants without sacrificing protection to investors. The Commission finds that the amendment is minor and not of material substance and, therefore, need not be published for comment pursuant to the Administrative Procedure Act.

V. AMENDMENTS TO FORM S–14

The Commission believes that registration of securities issued in transactions of the character specified in Rule 145 is practical and not unduly burdensome. However, the Commission is aware that registration of such securities imposes some additional burdens on issuers, and, in order to minimize these burdens to the extent feasible, particularly for small businesses, Form S–14 provides that the prospectus to be used shall consist of a proxy or information statement that meets the requirements of the Commission's proxy or information rules under section 14 of the Exchange Act. In the case of companies subject to those rules, the filing of the registration statement on Form S–14 satisfies the requirement for filing a proxy statement and form of proxy or information statement pursuant to those rules. Thus, registration will involve little additional work on the part of the companies subject to those rules who are required to solicit votes from their security holders, because the informational requirements will be the same for both. Where a company is not subject to the proxy rules, or is subject thereto but is not required to solicit votes from its security holders, the prospectus would contain the same information that would be required by the proxy rules. In this regard, the information requirements under section 14 of the Exchange Act are not as burdensome to small companies as are those under the Securities

Act. (See the discussion of financial statements below.)

A. *Instructions to Form S–14.* The proposed amendment to Form S–14 provided that the form would be available, generally, if the prospectus were delivered 20 days prior to the meeting date, unless such period were "in conflict" with State law. That amendment has been revised to provide that, if applicable law of the jurisdiction permits the furnishing of a notice of the meeting or other action within less than the 20-day period, then compliance with such law shall be deemed to satisfy the requirement.

General Instruction A to Form S–14 has been revised to make clear that the form may be utilized for reoffers of securities issued in Rule 145(a) type transactions to persons who may be deemed underwriters and who want to distribute such securities.

General Instruction D(a) to Form S–14 has been revised to make that if one party to a Rule 145 transaction is subject to Regulation 14A (17 CFR 240.14a–1 et seq.) or 14C as to a particular submission, and the other party is not, then the latter will not, by filing the Form S–14, be deemed to have filed materials subject to such regulations.

B. *Financial statements required in Form S–14.* Regulation 14A and 14C (Item 15–(b) of Schedule 14A), and thus Form S–14, require financial statements for each specified party to the transaction "such as would currently be required in an original registration statement for registration of securities of such persons pursuant to section 12 of the (Exchange) Act." Form 10, a form for a registration under the Exchange Act, requires a certified balance sheet as of the close of the registrant's last fiscal year and certified profit and loss and source and applications of funds statements for each of the 3 fiscal years preceding the date of the balance sheet. Item 15(c) of Schedule 14A to the proxy rules, which also applies to information statements and to Form S–14, provides that the Commission may permit the omission or substitution of certain financial statements

The financial statements of an acquired company not subject to the reporting provisions of the Exchange Act required to be furnished in Form S–14 will be the financial statements specified in Form 10 (17 CFR 249.210), certified to the extent practicable. In this regard, the standard of practicability is provided by Item 15(b) of Schedule 14A to the proxy rules. If such company cannot comply with the requirements of Form 10 on an uncertified basis, then the Commission, generally, for the purposes of the requirements of Form S–14, will require the financial statements specified in Item 11, Schedule I, Form I–A (17 CFR 239.90) under Regulation A of the Securities Act. (17 CFR 230.251 to 230.263.)

C. *Items 2 and 6; use of Form S–14 by persons and parties deemed underwriters.* A question has been raised as to whether securities to be offered for resale may initially be registered on Form S–14 when the consummation of the transaction described in Rule 145(a) has not yet occurred. Such registration will be permitted if the reoffering is made upon the consummation of the transaction. An instruction has been added in view of the language of section 6(a) of the Act that "(a) registration statement shall be deemed effective only as to the securities specified therein as proposed to be offered."

Item 6(a) of Form S–14 has been revised to make clear that a post-effective amendment need not be filed in connection with a reoffering, if all requisite information is already included therein. Item 6(a) has been further revised to make clear that the undertaking relates only to reofferings to be made through the use of Form S–14.

D. *Exhibits required in Form S–14.* In addition to exhibits relating to the Rule 145 transaction, all exhibits of Form 10 under the Exchange Act must be filed in a registration statement on Form S–14. However, in lieu of the Form 10 exhibits, an issuer may file certain exhibits required by Form S–7 (17 CFR 239.26) under the Securities Act, if the issuer otherwise meets the requirements for use of Form S–7.

OPERATION OF THE RULES

I. PROSPECTIVE RESCISSION OF RULE 133

Rule 133 is rescinded prospectively on and after January 1, 1973, with the following exceptions. First, the rule will continue to be available for completion or consummation of any transaction submitted before that date for vote or consent of security holders. Second, the rule will continue to be available for completion and consummation of any transaction which, before January 1, 1973, has been formally submitted for approval to any governmental regulatory agency, if such approval is required by law. Finally, Rule 133 will continue to be available for resales of securities received by persons in any transaction for which the rule is available.

II. RELATIONSHIP BETWEEN RULES 133 AND 144

Rule 144 is not available for resale of securities received in a Rule 133 transaction except for securities received by persons who are or become affiliates of the issuer. Such affiliates may also resell such securities in a registered offering, a private placement, or pursuant to some other statutory exemption.

III. RELATIONSHIP BETWEEN RULE 144 AND SECTION 4(2) BUSINESS COMBINATIONS

When the private placement exemption from registration is available under section 4(2) of the Act for a business combination, Rule 144 may be available for securities received in such transaction. However, with respect to the holding period for such securities, the present provisions of Rule 144(d) do not allow tacking of holding periods in business combination transactions. The Commission is reconsidering this matter and may take further action in this regard by rule amendment or interpretative release in the near future.

IV. ADOPTION OF RULE 145

Rule 145 is adopted effective on and after January 1, 1973. The rule applies to any transaction of the type described therein submitted for security holder vote or consent on or after that date, except that it shall not apply to any such transaction which has been formally submitted before such date to any governmental regulatory agency for approval, if such approval is required by law.

V. REGISTRATION FOR TRANSACTIONS OF THE TYPE SPECIFIED IN RULE 145

Form S–14 is not the exclusive form available for the registration under the Act of securities to be issued in a transaction of the type specified in Rule 145. Form S–1 (17 CFR 239.11) is available for registration of such transactions, but Forms S–7 and S–16 (17 CFR 239.27) are not available at this time. If Form S–1 is used, the information set forth therein should generally follow the format utilized for exchange offers, including a complete description of the parties, together with pro forma information on the resulting business entity.

When a registration statement is filed on Form S–14, the staff will accord it an appropriate type of review, as described in Securities Act Release No. 5231 (February 3, 1972) (37 F.R. 4327), and will attempt to review it with the same expediency afforded merger proxy materials.

Commission action. Pursuant to authority in sections 2(3), 2(10), 2(11), 4(1), 4(3), 4(4), 5, and 19(a) of the Securities Act of 1933, as amended, in sections 14(a), 14(c), and 23(a) of the Securities Exchange Act of 1934, as amended, in sections 12(e), and 20(a) of the Public Utility Holding Company Act of 1935, and in sections 20(a) and 38(a) of the Investment Company Act of 1940, the Securities and Exchange Commission hereby amends Parts 230, 239, and 240 of Chapter II of Title 17 of the Code of Federal Regulations by: (1) Adding a note at the end of § 230.133 to indicate that it is rescinded prospectively effective on and after January 1, 1973, except that it shall remain in effect under certain circumstances as indicated; (2) by adding new §§ 230.145 and 230.153a, effective on and after January 1, 1973, except that § 230.145 shall not apply to transactions submitted before that date for vote or consent of security holders, nor to transactions formally submitted for approval before that date to any governmental regulatory agency if such approval is required by law; (3) amending § 239.23 effective on and after January 1, 1973; and (4) amending §§ 240.14a–2, 240.14a–6, and 240.14c–5, effective on and after January 1, 1973; all as set forth below:

PART 230—GENERAL RULES AND

(a) *Transactions within this section*

PART 239—FORMS PRESCRIBED

with this section but separate copies of

1. At page 18787, § 203.6(b)(8): In-

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PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

§ 230.133 Definition for purposes of section 5 of the act, of "sale," "offer," "offer to sell," and "offer for sale".

* * * * *

NOTE: This section is rescinded effective on and after January 1, 1973, except that it shall remain in effect: (1) For transactions submitted before that date for vote or consent of security holders; (2) for transactions formally submitted before such date for approval to any governmental regulatory agency; if such approval is required by law; and (3) for resales of securities received by persons in such transactions.

§ 230.145 Reclassification of securities, mergers, consolidations and acquisitions of assets.

PRELIMINARY NOTE

Section 230.145 is designed to make available the protection provided by registration under the Securities Act of 1933, as amended (Act), to persons who are offered securities in a business combination of the type described in paragraphs (a) (1), (2), and (3) of the rule. The thrust of the rule is that an "offer," "offer to sell," "offer for sale," or "sale" occurs when there is submitted to security holders a plan or agreement pursuant to which such holders are required to elect, on the basis of what is in substance a new investment decision, whether to accept a new or different security in exchange for their existing security. Rule 145 embodies the Commission's determination that such transactions are subject to the registration requirements of the Act, and that the previously existing "no-sale" theory of Rule 133 is no longer consistent with the statutory purposes of the Act. Rule 145 is effective for matters formally submitted for security holder vote or consent on or after January 1, 1973, except for those matters formally presented prior to that date to a governmental agency for approval, where such approval is required by law.

While Rule 133 (§ 230.133) is rescinded effective January 1, 1973, it will remain available for any transaction which, before that date, had been submitted to security holders for vote or consent, or which had been submitted formally to a governmental agency for approval where such approval was required by law. Rule 133 shall also remain available for resales of securities received by persons in any transaction for which Rule 133 was available.

In order to minimize the burdens of registration to the extent feasible, particularly for small businesses, the Commission has amended Form S–14 so that registration under the Securities Act may be effectuated through the use of the informational requirements under Regulation 14A or 14C of the Exchange Act, which are generally less burdensome than those of the Securities Act.

Transactions for which statutory exemptions under the Act, including those contained in sections 3(a) (9), (10), (11), and 4(2), are otherwise available are not affected by Rule 145.

NOTE 1: Reference is made to § 230.153a describing the prospectus delivery required in a transaction of the type referred to in § 230.145.

NOTE 2: A reclassification of securities covered by § 230.145 would be exempt from registration pursuant to section 3(a) (9) or (11) of the Act if the conditions of either of these sections are satisfied.

(a) *Transactions within this section.* An "offer," "offer to sell," "offer for sale," or "sale" shall be deemed to be involved, within the meaning of section 2(3) of the Act, so far as the security holders of a corporation or other person are concerned where, pursuant to statutory provisions of the jurisdiction under which such corporation or other person is organized, or pursuant to provisions contained in its certificate of incorporation or similar controlling instruments, or otherwise, there is submitted for the vote or consent of such security holders a plan or agreement for—

(1) *Reclassifications.* A reclassification of securities of such corporation or other person, other than a stock split, reverse stock split, or change in par value, which involves the substitution of a security for another security;

(2) *Mergers or consolidations.* A statutory merger or consolidation or similar plan or acquisition in which securities of such corporation or other person held by such security holders will become or be exchanged for securities of any other person, except where the sole purpose of the transaction is to change an issuer's domicile; or

(3) *Transfers of assets.* A transfer of assets of such corporation or other person, to another person in consideration of the issuance of securities of such other person or any of its affiliates, if:

(i) Such plan or agreement provides for dissolution of the corporation or other person whose security holders are voting or consenting; or

(ii) Such plan or agreement provides for a pro rata or similar distribution of such securities to the security holders voting or consenting; or

(iii) The board of directors or similar representatives of such corporation or other person, adopts resolutions relative to subdivision (i) or (ii) of this subparagraph within 1 year after the taking of such vote or consent; or

(iv) The transfer of assets is a part of a preexisting plan for distribution of such securities, notwithstanding subdivision (i), (ii), or (iii) of this subparagraph.

(b) *Communications not deemed to be a "Prospectus" or "Offer to Sell".* For the purpose of this section, the term "prospectus" as defined in section 2(10) of the Act and the term "offer to sell" in section 5 of the Act shall not be deemed to include the following:

(1) Any written communication or other published statement which contains no more than the following information: The name of the issuer of the securities to be offered, or the person whose assets are to be sold in exchange for the securities to be offered, and the names of other parties to any transaction specified in paragraph (a) of this section; a brief description of the business of parties to such transaction; the date, time, and place of the meeting of security holders to vote on or consent to any such transaction specified in paragraph (a) of this section; a brief description of the transaction to be acted upon and the basis upon which such transaction will be made; and any legend or similar statement required by State or Federal law or administrative authority.

(2) Any written communication subject to and meeting the requirements of paragraph (a) of § 240.14a–12 of this chapter and filed in accordance with paragraph (b) of that section.

(c) *Persons and parties deemed to be underwriters.* For purposes of this section, any party to any transaction specified in paragraph (a) of this section, other than the issuer, or any person who is an affiliate of such party at the time any such transaction is submitted for vote or consent, who publicly offers or sells securities of the issuer acquired in connection with any such transaction, shall be deemed to be engaged in a distribution and therefore to be an underwriter thereof within the meaning of section 2(11) of the Act. The term "party" as used in this paragraph (c) shall mean the corporations, business entities, or other persons, other than the issuer, whose assets or capital structure are affected by the transactions specified in paragraph (a) of this section.

(d) *Resale provisions for persons and parties deemed underwriters.* Notwithstanding the provisions of paragraph (c) of this section, a person or party specified therein shall not be deemed to be engaged in a distribution and therefore not to be an underwriter of registered securities acquired in a transaction specified in paragraph (a) of this section if such securities are sold by such person or party in accordance with the provisions of paragraphs (c), (e), (f), and (g) of § 230.144.

(e) *Definition of "person."* The term "person" as used in paragraphs (c) and (d) of this section, when used with reference to a person for whose account securities are to be sold, shall have the same meaning as the definition of that term in paragraph (a) (2) of § 230.144.

§ 230.153a Definition of "preceded by a prospectus" as used in section 5(b) (2) of the Act, in relation to certain transactions requiring approval of security holders.

The term "preceded by a prospectus," as used in section 5(b) (2) of the Act with respect to any requirement for the delivery of a prospectus to security holders of a corporation or other person, in connection with transactions of the character specified in paragraph (a) of § 230.145, shall mean the delivery of a prospectus:

(a) Prior to the vote of security holders on such transactions; or,

(b) With respect to actions taken by consent, prior to the earliest date on which the corporate action may be taken;

to all security holders of record of such corporation or other person, entitled to vote on or consent to the proposed transaction, at their address of record on the transfer records of the corporation or other person:

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

§ 239.23 Form S–14, for simplified registration procedure for securities in certain transactions under Rules 133 and 145 (17 CFR 230.133, 230.145).

This form and Form S–1 (17 CFR 239.11) may be used for registration under the Securities Act of 1933 of securities to be issued in a transaction specified in paragraph (a) of § 230.145: *Provided, however,* That Form S–14 shall not be so used unless the prospectus is delivered to security holders whose vote or consent is solicited at least 20 days prior to the date on which the meeting of such security holders is held: *Provided further,* That if applicable law of the jurisdiction permits the furnishing of a notice of the meeting or other actions within less than the 20-day period specified herein, then compliance with such provisions of such law shall be deemed to satisfy this requirement. Form S–14 may also be used by persons and parties who may be deemed underwriters, for the registration of a public reoffering of securities issued in a transaction specified in paragraph (a) of § 230.145 of this chapter or in a transaction specified in paragraph (a) of § 230.133 of this chapter exempted by the latter section prior to its rescission effective on and after January 1, 1973.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

§ 240.14a–2 Solicitations to which §§ 240.14a–1 to 240.14a–11 apply.

Sections 240.14a–1 to 240.14a–11 apply to every solicitation of a proxy with respect to securities registered pursuant to section 12 of the Act, whether or not trading in such securities has been suspended, except the following:

* * * * *

(d) Any solicitation involved in the offer and sale of securities registered under the Securities Act of 1933: *Provided,* That this paragraph shall not apply to securities to be issued in any transaction of the character specified in paragraph (a) of § 230.145 of this chapter.

* * * * *

§ 240.14a–6 Material required to be filed.

* * * * *

(j) Notwithstanding the foregoing provisions of this section, any proxy statement, form of proxy or other soliciting material included in a registration statement filed under the Securities Act of 1933 on Form S–14 (§ 239.23 of this chapter) shall be deemed filed both for the purposes of that Act and for the purposes of this section, but separate copies of such material need not be furnished pursuant to this section nor shall any fee be required under paragraph (i) of this section. However, any additional soliciting material used after the effective date of the registration statement on Form S–14 shall be filed in accordance with this section but separate copies of such material need not be filed as an amendment of such registration statement.

§ 240.14c–5 Filing of information statement.

* * * * *

(e) Notwithstanding the foregoing provisions of this section, any information statement or other material included in a registration statement, filed under the Securities Act of 1933 on Form S–14 (§ 239.23 of this chapter) shall be deemed filed both for the purposes of that Act and for the purposes of this section, but separate copies of such material need not be furnished pursuant to this section nor shall any fee be required under paragraph (a) of this section. However, any additional material used after the effective date of the registration statement on Form S–14 shall be filed in accordance with this section but separate copies of such material need not be filed as an amendment of such registration statement.

(Secs. 2(3), 2(10), 2(11), 4(1), 4(3), 4(4), 5, 19(a), 48 Stat. 74, 77, 85, secs. 201, 203, 204, 209, 48 Stat. 905, 906, 908, secs. 1–4, 6, 7, 68 Stat. 683, 684, sec. 12, 78 Stat. 580, 15 U.S.C. 77b(3), 77(b)(10), 77(b)(11), 77d(1), 77d(3), 77d(4), 77e, 77s(a); secs. 14(a), 14(c), 23(a), 48 Stat. 895, 901, sec. 5, 78 Stat. 569, 570, secs. 203(a), 8, 49 Stat. 704, 1379, 15 U.S.C. 781m(a), 78m(c), 78w(a); secs. 12(e), 29(a), 49 Stat. 823, 833, 15 U.S.C. 79l(e), 79t(a); secs. 20(a), 38(a), 54 Stat. 822, 841, 15 U.S.C. 80a–20(a), 80a–37(a))

The Commission finds that the amendment to Rule 14c–5 under the Securities Exchange Act of 1934 is technical and removes restrictions and reduces filing burdens on registrants and accordingly further notice and other rule making procedures pursuant to the Administrative Procedure Act are not necessary.

Copies of amended Form S–14 have been filed with the Office of the Federal Register, and additional copies are available on request from the Securities and Exchange Commission, Washington, D.C. 20549.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

OCTOBER 6, 1972.

[FR Doc.72–18988; Filed 11–6–72;8:47 am]

Title 29—LABOR

Chapter II—Office of the Assistant Secretary for Labor-Management Relations, Department of Labor

LABOR RELATIONS IN FEDERAL SERVICE

Miscellaneous Amendments

Notice is hereby given that F.R. Doc. 72–15390, published as a notice in Part II of the issue dated Friday, September 15, 1972, 37 F.R. 18780, is a final document of rules and regulations.

Further, F.R. Doc. 72–15390 which is a revision of Chapter II of Title 29, including Parts 201, 202, 203, 204, 205, and 206 is corrected and changed as follows:

1. At page 18787, § 203.6(b)(8): Insert the word "as" in between "be" and "provided"; change § 204.14 to § 203.14.

2. At page 18788, § 203.15(g): In the sixth line delete "Regional" following the word "designated."

3. At page 18795, § 204.70: In the first sentence of the text, delete the comma after the word "admission."

4. The titles of chief hearing examiner and hearing examiner as defined in Part 201, Subpart B, and as used in Parts 202–206, are hereby changed to Chief Administrative Law Judge and Administrative Law Judge, respectively.

Effective on publication in the FEDERAL REGISTER (11–7–72).

Signed at Washington, D.C., this 1st day of November 1972.

W. J. USERY, JR.,
Assistant Secretary of Labor for Labor-Management Relations.

[FR Doc.72–19061 Filed 11–6–72;8:51 am]

Chapter V—Wage and Hour Division, Department of Labor

SUBCHAPTER B—STATEMENTS OF GENERAL POLICY OR INTERPRETATION NOT DIRECTLY RELATED TO REGULATIONS

PART 782—EXEMPTION FROM MAXIMUM HOURS PROVISIONS FOR CERTAIN EMPLOYEES OF MOTOR CARRIERS

Change of Position Regarding Employees Engaged in Transportation of Mail Under Contract With U.S. Postal Service

Section 13(b)(1) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 213(b)(1)), provides that section 7 of the Act relating to premium compensation for overtime work shall not apply with respect to any employee as to whom the Secretary of Transportation (prior to October 15, 1966, the Interstate Commerce Commission) has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935, 49 Stat. 546, 49 U.S.C. 304, being Part II of the Interstate Commerce Act, added in 1935.

The Interstate Commerce Commission disclaimed jurisdiction under the Motor Carrier Act of employees engaged in the transportation of mail under contract with the Postal Service in vehicles used exclusively for that purpose (see 3 M.C.C. 694, 697); accordingly, the Department of Labor took the position that such employees of mail contractors were not within the overtime exemption provided by section 13(b)(1) of the Fair Labor Standards Act.

On June 14, 1972, the Department of Transportation published a notice in the FEDERAL REGISTER (37 F.R. 11781) asserting its power to establish qualifications and maximum hours of service of employees of contract mail haulers, thereby reversing the longstanding position of the Interstate Commerce Commission.

In deference to the foregoing assertion of jurisdiction by the Department of

Transportation, paragraph (b) of § 782.8

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804,

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Transportation, paragraph (b) of § 782.8 of Regulations Part 782, Exemption from Maximum Hours Provisions for Certain Employees of Motor Carriers, is hereby revised. Pending authoritative decisions by the courts that the Secretary of Transportation does not have power to establish qualifications and maximum hours of service of employees of contract mail haulers, the Department of Labor will no longer assert that such employees are not within the overtime exemption provided by section 13(b)(1) of the Fair Labor Standards Act for overtime work performed after June 14, 1972.

This position is adopted without prejudice to the rights of individual employees under section 16(b) of the Fair Labor Standards Act.

This amendment is the legal consequence of the action of the Secretary of Transportation in assuming jurisdiction of these employees pursuant to section 204 of the Motor Carrier Act of 1935, and is procedural in nature. Accordingly, under the administrative procedures of 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect to the amendment are impractical, unnecessary, and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Effective date. This amendment shall be effective upon publication in the FEDERAL REGISTER (11-7-72). As revised, § 782.8(b) reads as follows:

§ 782.8 Special classes of carriers.

* * * * *

(b) Prior to June 14, 1972, when the Department of Transportation published a notice in the FEDERAL REGISTER (37 F.R. 11781) asserting its power to establish qualifications and maximum hours of service of employees of contract mail haulers, thereby reversing the long-standing position of the Interstate Commerce Commission, the Administrator of the Wage and Hour Division had taken the position that employees engaged in the transportation of mail under contract with the Postal Service were not within the exemption provided by section 13(b)(1) of the Fair Labor Standards Act. As the result of the notice of June 14, 1972, the Administrator will no longer assert that employees of contract mail carriers are not within the 13(b)(1) exemption for overtime work performed after June 14, 1972, pending authoritative court decisions to the contrary. This position is adopted without prejudice to the rights of individual employees under section 16(b) of the Fair Labor Standards Act.

* * * * *

(52 Stat. 1060 as amended; 29 U.S.C. 201 et seq.)

Signed at Washington, D.C., this 2d day of November 1972.

HORACE E. MENASCO,
Administrator, Wage and Hour Division, U.S. Department of Labor.

[FR Doc.72-19059 Filed 11-6-72;8:50 am]

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter X—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

* * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
...	...	...	...	...	...	...
Florida	Broward	Fort Lauderdale	I 12 011 1050 05 through I12 011 1050 08	Department of Community Affairs, 309 Office Plaza, Tallahassee, Fla. 32301. State of Florida Insurance Department, Treasurer's Office, The Capitol, Tallahassee, Fla. 32304.	Department of Engineering, City of Fort Lauderdale, 100 North Andrews Ave., Fort Lauderdale, FL 33302.	Nov. 20, 1970. Emergency. Nov. 3, 1972. Regular.
Do	do	Hollywood	I 12 011 1420 01 through I 12 011 1420 03	do	Engineering Office, Hollywood City Hall, Hollywood, Fla. 33022.	June 9, 1971. Emergency. Nov. 3, 1972. Regular.
Do	do	Lighthouse Point	I 12 011 1826 01	do	City Hall, City of Lighthouse Point, Post Office Box 5100, 2200 Northeast 38th St., Lighthouse Point, FL 33064.	Feb. 26, 1972. Emergency. Nov. 3, 1972. Regular.
Illinois	Cook	Elk Grove Village				Nov. 3, 1972. Emergency.
Massachusetts	Suffolk	Winthrop				Do.
New Jersey	Essex	Newark				Do.
Pennsylvania	Allegheny	McKees Rocks Borough				Do.
Do	Dauphin	Lower Paxton Township.				Do.
Do	do	Lower Swatara Township.				Do.
Do	Delaware	Chester Heights Borough.				Do.
Do	Luzerne	Forty Fort Borough.				Do.
Do	do	Wyoming Borough.				Do.
Do	Union	Lewisburg Borough.				Do.
Texas	Harris	Water Control and Improvement District No. 93.				Do.
Do	Bexar	Live Oak				Do.
Wisconsin	Ozaukee	Mequon	I 55 089 3002 01 through I 55 089 3002 04	Department of Natural Resources, Post Office Box 450, Madison, WI 53701. Wisconsin Insurance Department, 212 North Bassett St., Madison, WI 53703.	Department of Public Works, City of Mequon, 11333 North Cedarburg Rd. 60 W., Mequon, WI 53092.	July 2, 1971. Emergency. Nov. 3, 1972. Regular.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: October 30, 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.72-18913 Filed 11-6-72;8:45 am]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
...	...	...	...	...	...	...
Florida	Broward	Fort Lauderdale	H 12 011 1050 05 through H 12 011 1050 08	Department of Community Affairs, 309 Office Plaza, Tallahassee, Fla. 32301. State of Florida Insurance Department, Treasurer's Office, The Capitol, Tallahassee, Fla. 32304.	Department of Engineering, City of Fort Lauderdale, 100 North Andrews Ave., Fort Lauderdale, FL 33302.	Nov. 20, 1970.
Do	do	Hollywood	H 12 011 1420 01 through H 12 011 1420 03	do	Engineering Office, Hollywood City Hall, Hollywood, Fla. 33022.	June 9, 1971.
Do	do	Lighthouse Point	H 12 011 1826 01	do	City Hall, City of Lighthouse Point, Post Office Box 5100, 2200 North East 38th St., Lighthouse Point, FL 33064.	Feb. 26, 1972.
Illinois	Cook	Elk Grove Village				Nov. 3, 1972.
Massachusetts	Suffolk	Winthrop				Do.
New Jersey	Essex	Newark				Do.
Pennsylvania	Allegheny	McKees Rocks Borough				Do.
Do	Dauphin	Lower Paxton Township.				Do.
Do	do	Lower Swatara Township.				Do.
Do	Delaware	Chester Heights Borough.				Do.
Do	Luzerne	Forty Fort Borough.				Do.
Do	do	Wyoming Borough.				Do.
Do	Union	Lewisburg Borough.				Do.
Texas	Harris	Water Control and Improvement District No. 93.				Do.
Do	Bexar	Live Oak				Do.
Wisconsin	Ozaukee	Mequon	H 55 089 3002 01 through H 55 089 3002 04	Department of Natural Resources, Post Office Box 450, Madison, Wis. 53701. Wisconsin Insurance Department, 212 North Bassett St., Madison, Wis. 53703.	Department of Public Works, City of Mequon, 11333 North Cedarburg Rd. 60 W., Mequon, Wis. 53092.	July 2, 1971.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: October 30, 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.72-18914 Filed 11-6-72;8:45 am]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER G—OCCUPATIONAL SAFETY AND HEALTH RESEARCH AND RELATED ACTIVITIES

PART 85—REQUESTS FOR HEALTH HAZARD EVALUATIONS

On March 17, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 5634) which prescribed the conditions and procedures for conducting health hazard evaluations pursuant to section 20(a)(6) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669(a)(6)). That section directs the Secretary of Health, Education, and Welfare to determine, following a written request by any employer or authorized representative of employees, whether any substance normally found in a place of employment has potentially toxic effects in such concentrations as used or found and further provides that such determinations shall be submitted to the appropriate employer and affected employees.

Interested persons were invited to submit, within 30 days, written comments, suggestions, or objections regarding the proposed regulations.

In addition, on June 20, 1972, the proposed regulations and the issues raised by the public comments concerning them were discussed with the National Advisory Committee on Occupational Safety and Health established by section 7 of the Occupational Safety and Health Act. All public comments, as well as the views expressed by the members of the Committee, have been taken into consideration with the result that a number

of changes, as discussed below, have been

revealed that failure to give advance

during the initial physical inspection of

to preclude the use of other channels of

stance or in which such substance is

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of changes, as discussed below, have been made in the regulations which were proposed. All comments in response to the rules as proposed and the transcript of the Committee proceedings on June 20 are available for public inspection at the National Institute for Occupational Safety and Health, Room 10–05, 5600 Fishers Lane, Rockville, MD.

1. *Applicability.* A statement has been added to the applicability section to indicate that Part 85 is not intended to preclude the use of other channels of communication with the National Institute for Occupational Safety and Health (NIOSH) to obtain information and assistance concerning toxic substances.

2. *Definitions.* Definitions of the terms "investigation" and "health hazard evaluation" have been added and these terms have been used throughout Part 85 in an effort to distinguish the physical inspection of a place of employment by NIOSH in conducting a health hazard evaluation, from the compliance inspection conducted by the Department of Labor. The definition of "toxic effects" has been revised to exclude those which produce acute discomfort.

3. *Procedures for requesting evaluations.* The main thrust of the comments on the procedures for requesting evaluations went to the question of who should be considered an "authorized representative of employees". The comments ranged from a suggestion that any individual employee should be allowed to make the request, to the contention that the authorized representatives should be limited to those who represent the employees for purposes of collective bargaining. The final regulations provide that an authorized representative may be either: (1) A representative for purposes of collective bargaining; (2) an employee of the employer who has written authorization from two or more employees employed in the work place where the substance is normally found, to represent them for purposes of the Act; or (3) where three or less employees are employed in the work place where the substance is normally found, any one of such employees. Objections to the Institute's withholding the identity of requesters have been considered and rejected. Such protection is, in our judgment, necessary to assure utilization of this procedure by employees. The option to withhold the requester's identity has been extended to those who have authorized the requester to represent them. Copies of these written authorizations must accompany the request.

4. *Authority for investigation.* The section has been amended to make clear that the duty to conduct a health hazard evaluation and the authority to investigate and inspect for purposes of conducting that evaluation extend only to the place of employment with respect to which the request has been made, which under the definition of "place of employment" can be the entire factory or a single work place.

5. *Advance notice of visits.* NIOSH experience over the last several months has revealed that failure to give advance notice can interfere with a thorough and effective plant visit and thus impede the health hazard evaluation. The very process to which the request is directed may not be in operation on the day of the visit and the problem becomes even more serious when the place of employment is not readily accessible. Furthermore, the employer and, in the case of employee requests, the employees may wish to have a particular representative accompany the NIOSH officer. The surprise visit would conflict with this desire. The Institute, after considering all comments on this matter, has concluded that the evil which this surprise visit is intended to avoid—the misrepresentation of actual production conditions—can be avoided by exercise of the authority under section 8 to conduct private interviews with appropriate employees. Thus, the Institute's decision to give employers advance notice must be read in the light of the authority of NIOSH to question employees privately.

Accordingly, the section on advance notice (§ 85.6) has been completely revised to provide that advance notices of visits to the place of employment may be given to expedite a thorough and effective investigation. Advance notice will not be given when, in the judgment of the NIOSH officer, giving such notice would adversely affect the validity and effectiveness of an investigation. In the case of employee requests, advance notice will be given by the Institute to the requester, the representative of the employees for purposes of collective bargaining if such representative is other than the requester, and to the employer. Where the request is from the employer, advance notice will be given to such employer and, upon the request of the employer, to an authorized representative of employees.

6. *Conduct of investigations.* The major change in section 85.7 concerns trade secret information. This provision has been expanded to set forth the procedure where the Institute questions the designation by an employer of certain information as trade secret information. Where the Institute questions the identification, the employer will be given written notice of the Institute's intention to remove the trade secret designation from such information. The employer may within that period request reconsideration and provide additional information in support of the trade secret designation. If, after reconsideration, the decision of NIOSH is to remove the designation, the employer shall then be notified. Since the decision does not become effective until 15 days after the date of the written notice, the employer has the opportunity to take appropriate steps to retain the trade secret designation.

7. *Representatives of employers and employees; employee requests.* This section of the regulations has been revised to provide that in the case of employee requests, a representative authorized by the employees shall be given an opportunity to accompany the NIOSH officer during the initial physical inspection of the workplace. Since NIOSH experience in the conduct of this program indicates that visits subsequent to the initial inspection are principally for the purpose of environmental sampling and medical examinations, the presence of the representative of employees will not be routinely requested during these aspects of the investigation.

8. *Imminent dangers.* In response to a number of comments, the term "serious hazard" has been deleted and the statutory phrase "imminent danger" has been substituted therefor.

9. *Notification of determination to employers, affected employees and Department of Labor.* The method of notifying affected employees of the determination was the subject of a substantial number of comments. Section 85.11 requires that the employer post a copy of the determination at or near the work places of the affected employees. However, no posting is required if the employer requests NIOSH to mail copies to the affected employees and furnishes the Institute with a list of the names and mailing addresses of the employees determined by NIOSH to be exposed to the substance which is the subject of the health hazard evaluation.

Effective date. These regulations shall be effective 30 days after their publication in the FEDERAL REGISTER.

Dated: October 16, 1972.

VERNON E. WILSON,
Administrator, Health Services and Mental Health Administration.

Approved: October 30, 1972.

ELLIOT L. RICHARDSON,
Secretary.

Sec.
85.1 Applicability.
85.2 Definitions.
85.3 Procedures for requesting health hazard evaluations.
85.4 Acting on requests.
85.5 Authority for investigations.
85.6 Advance notice of visits.
85.7 Conduct of investigations.
85.8 Provision of suitable space for employee interviews and examinations; identification of employees.
85.9 Representatives of employers and employees; employee requests.
85.10 Imminent dangers.
85.11 Notification of determination to employers, affected employees, and Department of Labor.
85.12 Subsequent requests for health hazard evaluations.

AUTHORITY: The provisions of this Part 85 issued under the authority of section 8(g), 84 Stat. 1600; 29 U.S.C. 657(g).

§ 85.1 Applicability.

The provisions of this Part 85 are applicable to requests submitted by any employer or authorized representative of employees pursuant to section 20(a)(6) of the Occupational Safety and Health Act of 1970 for a determination of potentially toxic effects of any substance normally used or found in any place of employment to which the Act is applicable. This Part 85 is not intended

to preclude the use of other channels of communication with the National Institute for Occupational Safety and Health to obtain information and technical assistance related to toxic substances.

§ 85.2 Definitions.

Any term defined in the Occupational Safety and Health Act of 1970 and not defined below shall have the meaning given it in the Act. As used in this part:

(a) "Act" means the Occupational Safety and Health Act of 1970 (29 U.S.C. 651, et seq.).

(b) "Authorized representative of employees" means any person or organization meeting the conditions specified in § 85.3(b)(4) (i), (ii), or (iii).

(c) "Investigation" includes a physical inspection of the place of employment pursuant to section 8 of the Act and means such inspection, sampling, observations, and other measurements reasonably necessary to determine whether any substance found in the place of employment for which the request is made has potentially toxic effects in such concentrations as used or found.

(d) "Health hazard evaluation" means the investigation and the determination of potentially toxic effects of any substance normally used or found in any place of employment to which the Act is applicable.

(e) "Place of employment" means any factory, plant, establishment, construction site, or other area, workplace, or environment where work is performed by any employee of an employer.

(f) "NIOSH" means the National Institute for Occupational Safety and Health.

(g) "NIOSH officer" means a person authorized by NIOSH to conduct investigations.

(h) "Substance means any chemical or biological agent which has the potential to produce toxic effects.

(i) "Toxic effects" are those which result in short- or long-term disease, bodily injury, affect health adversely, or endanger the life of man.

§ 85.3 Procedures for requesting health hazard evaluations.

(a) A request for a health hazard evaluation should be addressed to the National Institute for Occupational Safety and Health, Hazard Evaluation Services Branch, U.S. Department of Health, Education, and Welfare, Cincinnati, Ohio 45202.

(b) A request for such an evaluation shall:

(1) Be in writing and signed by (i) the employer in whose place of employment the substance is normally found, or (ii) by an authorized representative of employees who are employed by such employer;

(2) State the requester's name, address, and telephone number, if any; the address of the place of employment where the substance is normally found; the specific workplace or workplaces involved, and the specific process or type of work which is the source of the substance or in which such substance is used;

(3) Specify with reasonable particularity the nature of the conditions, circumstances, or other grounds on which the request is made;

(4) State, where the requester is other than the employer:

(i) That he is an authorized representative, or an officer, of the organization representing the employees for purposes of collective bargaining; or

(ii) That he is an employee of the employer and is authorized by two or more employees employed in the workplace where the substance is normally found to represent them for purposes of the Act. Each such authorization shall be in writing and included in the request; or

(iii) That he is one of three or less employees employed in the workplace where the substance is normally found.

(5) Indicate whether the requester or those persons who have authorized the requester to represent them desire that NIOSH not reveal their names to the employer.

(c) The request shall, if the information is known to the requester:

(1) Identify the potentially toxic substance or substances involved;

(2) State the trade name, chemical name, and the manufacturer of each such substance;

(3) State whether the substance or the container of such substance has a warning label; and

(4) Specify the physical form of the substance, number of people exposed, length of exposure (hours/day), and occupations of exposed employees.

NOTE: The National Institute for Occupational Safety and Health has developed a form, entitled "Request for Health Hazard Evaluation," to assist persons in requesting evaluations under this part. Forms are available upon request from NIOSH, Hazard Evaluation Services Branch, Cincinnati, Ohio 45202, or from the NIOSH representative in any Regional Office of the Department of Health, Education, and Welfare.

§ 85.4 Acting on requests.

(a) When a request meeting the requirements of this part has been submitted in accordance therewith and designated employees of NIOSH have concluded that there is reasonable cause to believe that an investigation is warranted, a NIOSH officer will inspect the place of employment, collect samples where appropriate and perform such tests as necessary, including medical examinations of employees, to the conduct of a health hazard evaluation.

(b) If there is no reasonable cause to conclude that an investigation is warranted, the requester shall be notified in writing of such decision.

(c) Investigations shall be conducted in accordance with the requirements of this part.

§ 85.5 Authority for investigations.

(a) Employees of the National Institute for Occupational Safety and Health who have been issued the NIOSH official credentials (consisting of HSM Form 599–2 entitled "Identification Record") are authorized by the Director, NIOSH, for the purposes of section 20(a)(6) of the Act and pursuant to section 8, to enter without delay and at reasonable times any place of employment for which a request has been submitted, to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment, and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein as may be directly related to the determination whether any substance normally found in the place of employment for which a request has been submitted has potentially toxic effects in such concentrations as used or found. In connection with any such investigation, such NIOSH employees may question privately any employer, owner, operator, agent, or employee and review records required by the Act and regulations, and other related records.

(b) Areas containing information which is classified by any agency of the U.S. Government in the interest of national security will be inspected only by NIOSH employees who have obtained the appropriate security clearance.

§ 85.6 Advance notice of visits.

(a) Advance notice of visits to the place of employment may be given to expedite a thorough and effective investigation. Advance notice will not be given when, in the judgment of the NIOSH officer, giving such notice would adversely affect the validity and effectiveness of the investigation.

(b) Where a request in accordance with this part has been made by an authorized representative of employees, advance notice in accordance with paragraph (a) of this section will be given by NIOSH to the requester, the representative of the employees for purposes of collective bargaining if such representative is other than the requester, and to the employer.

(c) Where a request in accordance with this part has been made by any employer, advance notice will be given by NIOSH to the employer. Upon the request of the employer, NIOSH will inform the authorized representative of employees of the visit: *Provided*, The employer furnishes NIOSH in writing with the identity of such representative and with such information as is necessary to enable NIOSH promptly to inform such representative of the visit.

§ 85.7 Conduct of investigations.

(a) Prior to beginning an investigation, NIOSH officers shall present their credentials to the owner, operator, or agent in charge at the place of employment, explain the nature, purpose, and scope of the investigation and the records specified in § 85.5 which they wish to review. Where the investigation is the result of a request submitted by an authorized representative of employees, a copy of the request shall be provided to the employer, except where the requester or any person authorizing the requester pursuant to § 85.3(b)(4)(ii) has indicated

to NIOSH not reveal his name to the a health hazard evaluation has been danger of such allegation and will inform

Big Pine Flat Station Administrative Site der No. 10355 of May 26, 1952 (17 F.R.

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that NIOSH not reveal his name to the employer, in which case, a summary of the basis for the request shall be provided to the employer.

(b) At the commencement of an investigation, the employer should precisely identify information which can be obtained in the workplace or workplaces to be inspected as trade secrets. If the NIOSH officer has no clear reason to question such identification, such information shall not be disclosed except in accordance with the provisions of section 20(a)(6) and section 15 of the Act. However, if NIOSH at any time questions such identification by an employer, not less than 15 days' notice to an employer shall be given of the intention to remove the trade secret designation from such information. The employer may within that period submit a request to the Director, NIOSH, to reconsider this intention and may provide additional information in support of the trade secret designation. The Director, NIOSH, shall notify the employer in writing of the decision which will become effective no sooner than 15 days after the date of such notice.

(c) NIOSH officers are authorized to collect environmental samples and samples of substances, to take or obtain photographs related to the purpose of the investigation, employ other reasonable investigative techniques, including medical examinations of employees with the consent of such employees, and to question privately any employer, owner, operator, agent, or employee. The employer shall have the opportunity to review photographs taken or obtained for the purpose of identifying those which contain or might reveal a trade secret.

(d) NIOSH officers shall comply with all safety and health rules and practices at the place of employment being investigated, and they shall provide and use appropriate protective clothing and equipment. In situations requiring specialized or unique types of protective equipment, such equipment shall be furnished by the employer.

(e) The conduct of investigations shall be such as to preclude unreasonable disruption of the operations of the employer's establishment.

§ 85.8 Provision of suitable space for employee interviews and examinations; identification of employees.

An employer shall, on request of the NIOSH officer, provide suitable space, if such space is reasonably available, to NIOSH to conduct private interviews with, and examinations of, employees. NIOSH officers shall consult with the employer as to the time and place of the medical examination and shall schedule such examinations so as to avoid undue disruption of the operations of the employer's establishment. NIOSH shall conduct, and assume the medical costs of, examinations conducted under this part.

§ 85.9 Representatives of employers and employees; employee requests.

(a) NIOSH officers shall be in charge of investigations. Where the request for a health hazard evaluation has been made by an authorized representative of employees, a representative of the employer and a representative authorized by his employees who is an employee of the employer shall be given an opportunity to accompany the NIOSH officer during the initial physical inspection of any workplace for the purpose of aiding the investigation by identifying the suspected hazard. The NIOSH officer may permit additional employer representatives and such additional representatives authorized by employees to accompany him where he determines that such additional representatives will further aid the investigation. However, if in the judgment of the NIOSH officer, good cause has been shown why accompaniment by a third party who is not an employee of the employer is reasonably necessary to the conduct of an effective and thorough investigation of the workplace, such third party may accompany the NIOSH officer during the inspection: *Provided, however,* That access by such persons to areas described in paragraph (d) of this section shall be in accordance with the requirements of such provision, and access to areas described in paragraph (e) of this section shall be with the consent of the employer. A different employer and employee representative may accompany the officer during each different phase of an inspection if this will not interfere with the conduct of the investigation.

(b) NIOSH officers are authorized to resolve all disputes as to who is the representative authorized by the employer and employees for the purpose of this section. If there is no authorized representative of employees, or if the NIOSH officer is unable to determine with reasonable certainty who is such representative, he shall consult with a reasonable number of employees concerning matters directly related to the health hazard evaluation.

(c) NIOSH officers are authorized to deny the right of accompaniment under this section to any person whose conduct interferes with a fair and orderly physical inspection.

(d) With regard to information classified by an agency of the U.S. Government in the interest of national security, only persons authorized to have access to such information may accompany an officer in areas containing such information.

(e) Upon request of an employer, any representative authorized under this § 85.9 by employees in any area containing trade secrets shall be an employee in that area or an employee authorized by the employer to enter that area.

§ 85.10 Imminent dangers.

Whenever, during the course of, or as a result of, an investigation under this part, the NIOSH officer believes that there is a reasonable basis for an allegation of an imminent danger, NIOSH will immediately advise the employer and those employees who appear to be in immediate danger of such allegation and will inform appropriate representatives of the Department of Labor or the State agency designated under section 18(b) of the Act.

§ 85.11 Notification of determination to employers, affected employees and Department of Labor.

(a) A determination made pursuant to section 20(a)(6) of the Act will, as a minimum: (1) Identify and set forth, where appropriate, the concentrations of the substance(s) found in the place of employment and the conditions of use, and (2) state whether such substance(s) has potentially toxic effects in such concentrations, as well as the basis for such judgments.

(b) Copies of the determination will be mailed to the employer and to the authorized representatives of employees.

(c) Except as hereinafter provided, the employer shall post a copy of the determination for a period of 30 calendar days at or near the workplace(s) of affected employees. The employer shall take steps to insure that the posted determinations are not altered, defaced, or covered by other material during such period. The employer will not be required to post the determination if the employer requests that copies of the determination be mailed to affected employees and furnishes NIOSH with a list of the names and mailing addresses of the employees employed in the workplace(s) designated by the NIOSH Officer. In the latter event, NIOSH will mail such copies to affected employees at the mailing addresses provided by the employer.

(d) For purposes of this section, the term "affected employees" means those employees determined by NIOSH to be exposed to the substance(s) which is the subject of the health hazard evaluation.

(e) Copies of all determinations will be forwarded to the Department of Labor and the appropriate State agency designated under section 18(b) of the Act. If the Secretary of Health, Education, and Welfare determines that any substance is potentially toxic at the concentrations in which it is used or found in a place of employment, and such substance is not covered by an occupational safety or health standard promulgated under section 6 of the Act, the Secretary of Health, Education, and Welfare will immediately submit such determination to the Secretary of Labor together with all pertinent criteria.

§ 85.12 Subsequent requests for health hazard evaluations.

Where a request is received for a health hazard evaluation in a place of employment in which an evaluation under this part previously has been made, the Secretary may make a subsequent investigation if, as a result of the passage of time or additional information, he deems such a subsequent investigation consistent with the purpose of the Act.

[FR Doc.72-19042 Filed 11-6-72;8:51 am]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5295]

[Riverside 07376]

CALIFORNIA

Withdrawal for National Forest Administrative Sites and Recreation Areas

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws, 30 U.S.C., Ch. 2, but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

SAN BERNARDINO NATIONAL FOREST

SAN BERNARDINO MERIDIAN

Big Bear Ranger Station Administrative Site

T. 2 N., R. 1 E.,
Sec. 6, E½ of lot 13 and lot 14.

Pine Knot Public Campground

T. 2 N., R. 1 E.,
Sec. 28, W½NE¼NE¼, NW¼NE¼, and NE¼NW¼.

Onyx Summit Station Administrative Site and Onyx Peak Fire Lookout

T. 1 N., R. 2 E.,
Sec. 12, NE¼NE¼.

T. 1 N., R. 3 E.,
Sec. 6, E½SW¼ of lot 14 and SE¼ of lot 14.

Greenspot Picnic Ground

T. 2 N., R. 2 E.,
Sec. 30, SW¼NE¼SE¼ and SE¼NW¼SE¼.

Pipes Canyon Public Campground

T. 1 N., R. 3 E.,
Sec. 10, N½N½SE¼SW¼.

Round Valley Public Campground

T. 2 N., R. 3 E.,
Sec. 19, W½SW¼SW¼SE¼ and E½SE¼SE¼SW¼.

Hannah Flat Public Campground

T. 2 N., R. 1 W.,
Sec. 3, SW¼NW¼, SW¼SE¼NW¼, N½NE¼SW¼, and NE¼NW¼SW¼.

Coldbrook Public Campground and Cozy Dell Picnic Area

T. 2 N., R. 1 W.,
Sec. 25, NE¼NE¼ and E½NW¼NE¼.

Siberia Creek Public Campground

T. 2 N., R. 1 W.,
Sec. 32, SW¼NE¼SW¼SW¼, SE¼NW¼SW¼SW¼, NE¼SW¼SW¼SW¼, and NW¼SE¼SW¼SW¼.

Worlds Champion Lodgepole Pine

T. 2 N., R. 1 W.,
Sec. 34, S½NE¼NW¼ and N½SE¼NW¼.

Big Pine Flat Station Administrative Site and Public Campground

T. 3 N., R. 1 W.,
Sec. 29, SW¼NW¼;
Sec. 30, E½E½NE¼ and E½W½E½NE¼.

Horse Springs Public Campground

T. 3 N., R. 2 W.,
Sec. 15, NE¼NE¼NE¼.

Warm Springs Public Campground

T. 3 N., R. 3 W.,
Sec. 14, NE¼SW¼SW¼.

The areas described aggregate 563.25 acres, more or less, in San Bernardino County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRISON LOESCH,
Assistant Secretary of the Interior.

NOVEMBER 1, 1972.

[FR Doc.72-18992 Filed 11-6-72;8:47 am]

[Public Land Order 5296]

[Riverside 05191]

CALIFORNIA

Partial Revocation of Reclamation Withdrawal

By virtue of the authority contained in section 3 of the Act of June 17, 1902, as amended and supplemented, 43 U.S.C. section 416 (1970), it is ordered as follows:

1. The departmental order of October 16, 1931, withdrawing lands for the Colorado River storage project, is hereby revoked so far as it affects the following described lands:

SAN BERNARDINO MERIDIAN

T. 9 N., R. 23 E.,
Sec. 30, SW¼SE¼SE¼SW¼, SE¼SW¼SE¼SW¼;
Sec. 31, NW¼NE¼NE¼NW¼, NE¼NW¼NE¼NW¼.

The areas described aggregate 10 acres in San Bernardino County.

2. The land has been determined to be "property" within the meaning of the Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. section 471 (1970), and it has been disposed of under the provisions of said Act.

HARRISON LOESCH,
Assistant Secretary of the Interior.

NOVEMBER 1, 1972.

[FR Doc.72-18993 Filed 11-6-72;8:47 am]

[Public Land Order 5297]

[Arizona 04543]

ARIZONA

Partial Revocation of Public Land Order No. 1161

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Public Land Order No. 1161 of June 6, 1955, withdrawing national forest lands for administrative sites, recreation areas, and for other public purposes, is hereby revoked so far as it affects the following described lands:

GILA AND SALT RIVER MERIDIAN

TONTO NATIONAL FOREST

Upper Camp Creek Recreation Area

T. 7 N., R. 5 E., unsurveyed.
Sec. 26, E½NE¼SW¼, NW¼NE¼SW¼, N½SW¼NE¼SW¼, W½SW¼SW¼, E½SE¼SW¼.

The areas described aggregate approximately 75 acres in Maricopa County.

2. At 10 a.m., on December 7, 1972, the lands shall be open to such forms of disposal as may by law be made of national forest lands.

HARRISON LOESCH,
Assistant Secretary of the Interior.

NOVEMBER 1, 1972.

[FR Doc.72-18994 Filed 11-6-72;8:47 am]

[Public Land Order 5298]

[Arizona 6592]

ARIZONA

Withdrawal for Protection and Expansion of Primitive Area

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described lands, which are under the jurisdiction of the Secretary of the Interior, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, 30 U.S.C. Ch. 2, but not from leasing under the mineral leasing laws, for the expansion and protection of the Aravaipa Canyon Primitive Area:

GILA AND SALT RIVER MERIDIAN

T. 6 S., R. 18 E.,
Sec. 15, S½S½;
Sec. 24, S½SE¼;
Sec. 25, W½E½, W½.
T. 6 S., R. 19 E.,
Sec. 19, lot 4;
Sec. 30, lots 2 to 6, inclusive, SW¼NE¼, W½SE¼.

The areas described aggregate 1,062.70 acres in Pinal and Graham Counties.

2. The Bureau of Land Management will administer the use of these lands in such a manner as will complement and supplement administration of the adjacent Aravaipa Canyon Primitive Area designated by the order of the Secretary of the Interior of January 10, 1969.

HARRISON LOESCH,
Assistant Secretary of the Interior.

NOVEMBER 1, 1972.

[FR Doc.72-18995 Filed 11-6-72;8:47 am]

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Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER A—GENERAL

PART 3—STATEMENT OF GENERAL POLICY OR INTERPRETATION

Hexachlorophene as a Component in Drug and Cosmetic Products for Human Use; Correction

In F.R. Doc. 72-18855 appearing at page 23537 in the FEDERAL REGISTER of Saturday, November 4, 1972, § 3.91(c)(5) is corrected to read as follows:

§ 3.91 Hexachlorophene, as a component of drug and cosmetic products.

* * * * *

(c) *Prescription drugs.* * * *

(5) Prescription drug products may contain hexachlorophene as part of an effective preservative system only under the conditions and limitations provided for under paragraph (d) of this section.

* * * * *

Dated: November 3, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-19210 Filed 11-6-72;9:52 am]

Title 45—PUBLIC WELFARE

Chapter VIII—Civil Service Commission

PART 801—VOTING RIGHTS PROGRAM

Appendix A; Georgia

Appendix A to Part 801 is amended as set out below to show, under the heading "Dates, Times, and Places for Filing", one additional place for filing in Georgia:

GEORGIA

County; Place for filing; beginning date.
* * * * *
Peach; Fort Valley—U.S. Post Office Building; 300 West Church Street; November 7, 1972.

(Secs. 7 and 9 of the Voting Rights Act of 1965; Public Law 89-110)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-19171 Filed 11-6-72;8:52 am]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Bureau of Mines

[30 CFR Part 71]

COAL MINE HEALTH AND SAFETY

Notice of Proposed Rule Making

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior under section 101(e) of the Federal Coal Mine Health and Safety Act of 1969, as amended (83 Stat. 745; 30 U.S.C. 811(e)) to propose mandatory health standards which have been developed by the Secretary of Health, Education, and Welfare and transmitted to the Secretary of the Interior in accordance with the procedures provided in section 101(d) of the Act (83 Stat. 745; 30 U.S.C. 811(d)), it is proposed that Subparts B, C, and D of Part 71, Subchapter O of Chapter I, Title 30, Code of Federal Regulations be amended as set forth below.

The dust standards (Subpart B) would be amended to require frequent dust sampling of the working environments of miners who show evidence of the development of pneumoconiosis and who have exercised their options to transfer to jobs in less dusty areas which are located on the surface. The standards for airborne contaminants (Subpart C) would be amended to reflect the latest findings of the American Conference of Governmental Industrial Hygienists. In addition, a new standard would be prescribed for asbestos to conform to the recommendations developed recently by the National Institute for Occupational Safety and Health. Amendments to the noise standard (Subpart D) are intended to clarify the reporting requirements and the action required of the operator in case the standard is violated.

Interested persons may submit written comments, suggestions, or objections to the Director, Bureau of Mines, Washington, D.C. 20240, no later than 45 days following publication of this notice in the FEDERAL REGISTER.

HOLLIS M. DOLE,
Assistant Secretary of the Interior.

NOVEMBER 2, 1972.

Part 71 would be amended as set forth below:

1. The following new section would be inserted in Subpart B:

§ 71.110-1 Periodic sampling; transferred miners.

At least once every 90 days, one sample of respirable dust shall be taken from the atmosphere to which each miner who has exercised his option to transfer under section 203(b) of the Act is exposed.

2. In Subpart C, § 71.200(a) would be amended and a new § 71.202 would be inserted as set forth below:

§ 71.200 Inhalation hazards; threshold limit values for gases, dust, fumes, mists, and vapors.

(a) No operator of an underground coal mine and no operator of a surface coal mine may permit any person working at a surface installation or surface worksite to be exposed to airborne contaminants (other than respirable coal mine dust, respirable dust containing quartz, and asbestos dust) in excess of, on the basis of a time-weighted average, the threshold limit values adopted by the American Conference of Governmental Industrial Hygienists in "Threshold Limit Values of Airborne Contaminants" (1972) which is hereby incorporated by reference and made a part hereof. Excursions above the listed threshold limit values shall not be of greater magnitude than is characterized as permissible by the conference. This paragraph does not apply to airborne contaminants given a "C" designation by the conference in the document. This document is available for examination at the Bureau of Mines, 18th and C Streets NW., Washington, D.C.; at every Coal Mine Health and Safety District and Subdistrict Office; at the National Institute for Occupational Safety and Health, 5600 Fishers Lane, Rockville, MD; and at the Public Health Service Information Centers listed in 45 CFR 5.31. Copies of the document may be purchased from the Secretary-Treasurer, American Conference of Governmental Industrial Hygienists, Post Office Box 1937, Cincinnati, OH 45202.

* * * * *

§ 71.202 Asbestos dust standard; measurement.

(a) The 8-hour average airborne concentration of asbestos dust to which miners are exposed shall not exceed two fibers per cubic centimeter of air. Exposure to a concentration greater than two fibers per cubic centimeter of air, but not to exceed 10 fibers per cubic centimeter of air, may be permitted for a total of 1 hour each 8-hour day.

(b) The determination of fiber concentration shall be made by counting all fibers longer than 5 micrometers in length and with a length-to-width ratio of at least 3 to 1 in at least 20 randomly selected fields using phase contrast microscopy at 400-450 magnification.

3. Subpart D would be amended by inserting the following new sections:

§ 71.302 Initial noise level survey.

On or before December 31, 1972, each operator shall:

(a) Conduct, in accordance with this subpart, a survey of the noise levels to which each miner in each surface installation and at each surface worksite is exposed during his normal work shift; and,

(b) Report and certify to the Bureau of Mines and the Department of Health, Education, and Welfare, the results of such survey using the Coal Mine Noise Data Report. (See Figure 1, Part 70 of this subchapter.) Reports shall be sent to:

Division of Automatic Data Processing, Post Office Box 25407, Building 41, Denver Federal Center, Denver, CO 80225.

§ 71.303 Periodic noise level survey.

(a) At intervals of at least every 6 months after December 31, 1972, but in no case shall the interval be less than 3 months, each operator shall conduct periodic surveys of the noise levels to which each miner in each surface installation and at each surface worksite is exposed and shall report and certify the results of such surveys to the Bureau of Mines, and the Department of Health, Education, and Welfare, using the Coal Mine Noise Data Report Form. Reports shall be sent to:

Division of Automatic Data Processing, Post Office Box 25407, Building 41, Denver Federal Center, Denver, CO 80225.

(b) Where no A-scale reading recorded for any miner during an initial or periodic noise level survey exceeds 90 dBa, the operator shall not be required to survey such miner during any subsequent periodic noise level survey required by this section: *Provided, however*, That the name and job position of each such miner shall be reported in every periodic survey and the operator shall certify that such miner's job duties and noise exposure levels have not changed substantially during the proceding 6-month period.

§ 71.304 Supplemental noise level survey; reports and certification.

(a) Where the certified results of an initial noise level survey conducted in accordance with § 71.302 or a periodic noise level survey conducted in accordance with § 71.303 show that any miner is exposed to a noise level in excess of the permissible noise level, the operator shall conduct a supplemental noise level survey with respect to each miner whose noise exposure exceeds this standard. This survey shall be conducted within 15 days following notification to the operator by the Bureau of Mines to conduct such survey.

(b) Supplemental noise level surveys shall be conducted by taking noise level measurements in accordance with § 70.506 of this Subchapter O; however, noise level measurements shall be taken during the entire period of each individual operation to which the miner under consideration is actually exposed during his normal work shift.

(c) Each operator shall report and cer-

proposed to amend 29 CFR 1910.103, 104,

tively, and provided titles, to establish

leaks and other malfunctions and prompt repair made of deficiencies. No empty

Schedule shall be considered as having

(c) Before employees commence equipment repair or transfer of fuel or

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(c) Each operator shall report and certify the results of each supplemental noise level survey conducted in accordance with this section to the Bureau of Mines and the Department of Health, Education, and Welfare using the Coal Mine Noise Data Report Form to record noise level readings taken with respect to all operations during which such measurements were taken.

(d) Supplemental noise level surveys shall, upon completion, be mailed to:

Division of Automatic Data Processing, Post Office Box 25407, Building 41, Denver Federal Center, Denver, CO 80225.

§ 71.305 Violation of noise standard: notice of violation; action required by operator.

(a) Where the results of a supplemental noise level survey conducted in accordance with § 71.304 show that any miner is exposed to noise levels which exceed the permissible noise levels, the Secretary shall issue a notice to the operator that he is in violation of this subpart.

(b) Upon receipt of a notice of violation issued pursuant to paragraph (a) of this section, the operator shall:

(1) Institute, promptly, administrative and/or engineering controls necessary to assure compliance with the standard. Such controls may include protective devices other than those devices or systems which the Secretary or his authorized representative finds to be hazardous in such mine.

(2) Within 60 days following the issuance of any notice of violation of this subpart, submit for approval to a joint Bureau of Mines/Health, Education, and Welfare committee, a plan for the administration of a continuing, effective hearing conservation program to assure compliance with this subpart, including provision for:

(i) Reducing environmental noise levels;

(ii) Personal ear protective devices to be made available to the miners;

(iii) Preemployment and periodic audiograms.

(3) Plans required under subparagraph (2) of this paragraph shall be submitted to:

Division of Automatic Data Processing, Post Office Box 25407, Building 41, Denver Federal Center, Denver, CO 80225.

[FR Doc.72-19020 Filed 11-6-72;8:46 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

SAFETY AND HEALTH STANDARDS Hazardous Materials

Pursuant to section 6(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1593; 29 U.S.C. 655), Secretary of Labor's Order No. 12-71 (36 F.R. 8754), and 29 CFR Part 1911 (36 F.R. 17506), it is hereby proposed to amend 29 CFR 1910.103, 104, 106, 107, and 110 as set forth below.

The changes proposed herein are summarized as follows:

1. *Unattended service stations.* Since the promulgation of Part 1910—Occupational Safety and Health Standards—in May 1972, a number of inquiries have been made as to the application of § 1910.106(g)(3)(vii), to unattended service stations, where a customer inserts coins or bills into an automatic dispenser and fills the tank of his vehicle himself. While such stations are not regularly attended, it is nonetheless necessary for some person, often an employee, to enter the station to collect the money, refill the storage tanks, and service the equipment. Accordingly, a proposal is made herein to establish requirements tailored to the protection of employees required to enter a generally unattended service station, which may be exposed to careless action of customers or vandalism either of which could create potentially hazardous conditions for employees.

2. *Inspections.* Hydrogen and oxygen systems, supplied by gas or liquid brought to the user's site by carriers, have generally been inspected and maintained by the same entity supplying the hydrogen and oxygen as many users may not have the technical skills within their own organizations to perform necessary inspections or maintenance. This general arrangement is embodied in the requirements of § 1910.103 (b)(5)(i) and (c)(5)(i), and § 1910.104(b)(10)(i), which were developed by The National Fire Protection Association recognizing both the potential hazards and the industry practices developed to deal with them. This is on its face too restrictive. Some users do possess the necessary skills. It is not necessary that such employers contract for service they can perform themselves. Consequently, the requirement for supplier or contract inspection and maintenance is proposed to be deleted. It is also proposed that such inspection be performed at least monthly, with maintenance at such times as disclosed to be necessary by the inspection.

3. *Protection by public fire department.* Protection for exposure, which is now defined in § 1910.106(a)(27) to include fire protection "acceptable to the authority having jurisdiction" would be made more specific by stating that such protection would mean that the establishment is "located within the jurisdiction of a public fire department having a Class 5 or better rating by application of the American Insurance Association Grading Schedule."

4. *Miscellaneous changes.* In § 1910.106(c)(2)(i) and (ii), "malleable iron" would be recognized as being an acceptable material along with steel and nodular iron. This recognizes a long history of satisfactory use in many industries.

In § 1910.106(d)(7)(i)(b)(1), the reference to the word "approved" would be changed to apply the requirements of § 1910.159. In addition (1), (2), and (3) appearing under (b) would be correctly renumbered (ii), (iii), and (iv) respectively, and provided titles, to establish them at the same organization level as the same provisions in NFPA 30–1969, the source standard.

In § 1910.106(g)(1)(i), (d) would be revoked since this material actually describes a variance properly handled in accordance with 29 CFR Part 1905.

In § 1910.106(g)(1)(i)(e), (3) would be revoked since safety of employees does not depend on the ownership of vehicles being serviced.

In § 1910.106(g)(3)(iv)(b), a new requirement would be established requiring evidence of listing on fuel dispensing nozzles to be affixed so as to show whether such nozzles had been dismantled, and to prohibit the use of nozzles which do not have intact evidence.

In § 1910.107(b)(1), the specification of 18 gage steel would be deleted, since the performance requirement is adequate to insure safety without reference to a specific gage of steel.

In § 1910.107(d)(2), the words "or property" would be deleted, since the Act is not addressed to property protection.

In § 1910.110(f)(5)(iii), the words "single strength glass or other similar" would be deleted. The deletion does not prohibit the use of such glass, but removes any implication that it is the only recommended or best method of explosion-relieving construction.

Written data, views, and arguments concerning the proposals may be mailed to the Office of Standards, Room 500, 400 First Street NW., Washington, DC 20210, within 30 days after the publication of this notice in the FEDERAL REGISTER. The data, views, and arguments will be available for public inspection and copying at the Office of Standards located at the above address. Pursuant to 29 CFR 1911.11 (b) and (c), interested persons may, in addition to filing written matter as provided above, file objections to the proposal requesting an informal hearing with respect thereto in accordance with the following conditions:

(1) The objections must include the name and address of the objector;

(2) The objections must be postmarked on or before the 30th day after the date of publication of this notice of proposed rule making;

(3) The objections must specify with particularity the provision of the proposed rule to which objection is taken, and must state the grounds therefor;

(4) Each objection must be separately stated and numbered; and

(5) The objections must be accompanied by a summary of the evidence proposed to be adduced at the requested hearing.

1. As amended 29 CFR 1910.103 (b)(5)(i) and (c)(5)(i) would read as follows:

§ 1910.103 Hydrogen.

* * * * * *

(b) *Gaseous hydrogen systems.* * * *

(5) *Maintenance*—(i) *Inspection.* The equipment and functioning of each charged gaseous hydrogen system shall be inspected not less than monthly for

leaks and other malfunctions and prompt repair made of deficiencies. No empty system shall be charged until a complete inspection of all equipment and functions is completed, and such inspection assures that the equipment and functions are safe. A written record of each inspection, including the items inspected, type of inspection, and results, shall be made, and shall be maintained at the establishment for a period of not less than 3 years.

* * * * * *

(c) *Liquefied hydrogen systems.* * * *

(5) *Maintenance*—(i) *Inspection.* The equipment and functioning of each charged liquefied hydrogen system shall be inspected not less than monthly for leaks and other malfunctions, and prompt repair made of deficiencies. No empty system shall be charged until a complete inspection of all equipment and functions is completed, and such inspection assures that the equipment and functions are safe. A written report of each inspection, including the items inspected, type of inspection, and results, shall be made, and shall be maintained at the establishment for a period of not less than 3 years.

* * * * * *

2. As amended 29 CFR 1910.104(b)(10)(i) would read as follows:

§ 1910.104 Oxygen.

(b) *Bulk oxygen systems.* * * *

(10) *Maintenance* — (i) *Inspection.* The equipment and functioning of each charged bulk oxygen system shall be inspected not less than monthly for leaks and other malfunctions, and prompt repair made of deficiencies. No empty system shall be charged until a complete inspection of all equipment and functions is completed, and such inspection assures that the equipment and functions are safe. A written record of each inspection, including the items inspected, type of inspection, and results, shall be made, and shall be maintained at the establishment for a period of not less than 3 years.

* * * * * *

3. As amended, 29 CFR 1910.106 (a)(27), (c)(2)(i), (c)(2)(ii), (d)(7)(ii) (now incorrectly numbered (d)(7)(i)(b)(1)), (d)(7)(iii) (now incorrectly numbered (d)(7)(i)(b)(2)), (d)(7)(iv) (now incorrectly numbered (d)(7)(i)(b)(3)), (g)(1)(i)(d), (g)(1)(i)(e)(3), (g)(3)(iv)(b), and (g)(3)(vii) would read as follows:

§ 1910.106 Flammable and combustible liquids.

(a) *Definitions.* * * *

(27) Protection for exposure shall mean fire protection for structures on property adjacent to tanks. Such structures located within the jurisdiction of a public fire department having a Class 5 or better rating by application of the American Insurance Association Grading Schedule shall be considered as having such protection.

* * * * * *

(c) *Piping, valves, and fittings.* * * *

(2) *Materials for piping, valves, and fittings*—(i) *Required materials.* Materials for piping, valves, or fittings shall be steel, nodular iron, or malleable iron except as provided in subdivisions (ii), (iii), and (iv) of this subparagraph.

(ii) *Exceptions.* Materials other than steel, nodular iron, or malleable iron may be used underground or if required by the properties of the flammable or combustible liquid handled. Materials other than steel, nodular iron, or malleable iron shall be designed to specifications embodying principles recognized as good engineering practices for the material used.

* * * * * *

(d) *Container and portable tank storage.* * * *

(7) *Fire control.* * * *

(ii) *Sprinklers.* When sprinklers are provided, they shall be installed in accordance with § 1910.159.

(iii) *Open flames and smoking.* Open flames and smoking shall not be permitted in flammable or combustible liquids storage areas.

(iv) *Water reactive materials.* Materials which will react with water shall not be stored in the same room with flammable or combustible liquids.

* * * * * *

(g) *Service stations*—(1) *Storage and handling*—(i) *General provisions.* * * *

(d) [Revoked.]

(e) * * *

(3) [Revoked.]

* * * * * *

(3) *Dispensing systems.* * * *

(iv) *Dispensing units.* * * *

(b) Dispensing devices for Class I liquids shall be listed. All nozzles installed on or after January 1, 1973, shall have evidence of listing affixed in such manner that any attempt at dismantling the nozzle will destroy such evidence. After January 1, 1977, all nozzles shall have evidence of listing so affixed. No nozzle produced with such evidence shall be used if the evidence is broken or missing.

* * * * * *

(vii) *Unattended public dispensing stations.* (a) As used in this subdivision an unattended public dispensing station shall mean any installation open to the public where flammable or combustible liquids are dispensed without the presence of a trained and designated attendant whose primary duties include controlling the dispensing of liquids.

(b) An unattended public dispensing station shall have a listed master electrical disconnect at least 50 feet, but not more than 100 feet, from the pump installation. Such disconnect shall be located so that an employee does not have to approach within 50 feet to the pump installation to reach it. Operation of the disconnect shall interrupt all powerlines in the station, including the neutral.

(c) Before employees commence equipment repair or transfer of fuel or similar work at the station:

(1) Power shall be removed from the pumps and other equipment at the pump installation, except that lights may be left on;

(2) The station shall be barricaded and posted to prevent entry of unauthorized vehicles and persons during the period of work; and

(3) The station shall be freed of spilled fuel and other hazards presenting serious injury potential.

(d) Electrical power may be restored during repair and maintenance operations for test purposes, with appropriate safeguards to ignition sources.

* * * * * *

4. As amended § 1910.107 (b)(1) and (d)(2) would read as follows:

§ 1910.107 Spray finishing using flammable and combustible materials.

* * * * * *

(b) *Spray booths*—(1) *Construction.* Spray booths shall be substantially constructed of steel, securely and rigidly supported, or of concrete or masonry, except that aluminum or other substantial noncombustible materials may be used for intermittent or low volume spraying. Spray booths shall be designed to sweep air currents toward the exhaust outlet.

* * * * * *

(d) *Ventilation.* * * *

(2) *General.* All spraying areas shall be provided with mechanical ventilation adequate to remove flammable vapors, mists, or powders to a safe location and to confine and control combustible residues so that life is not endangered. Mechanical ventilation shall be kept in operation at all times while spraying operations are being conducted and for a sufficient time thereafter to allow vapors from drying coated articles and drying finishing material residue to be exhausted.

* * * * * *

5. As amended § 1910.110(f)(5)(iii) would read as follows:

§ 1910.110 Storage and handling of liquefied petroleum gases.

* * * * * *

(f) *Storage of containers awaiting use.* * * *

(5) *Storage within special buildings or rooms.* * * *

(iii) A portion of the exterior walls or roof having an area not less than 10 percent of that of the combined area of the enclosing walls shall be of explosion relieving material.

* * * * * *

(Sec. 6, 84 Stat. 1593; 29 U.S.C. 655)

Signed at Washington, D.C., this 1st day of November 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-19062 Filed 11-6-72;8:51 am]

DEPARTMENT OF

The international standards and rec-

tion concerning flight within TCAs is contained in FAA Advisory Circular

Since this action involves, in part, the designation of navigable airspace outside

ning at the intersection of the arc of a 15-mile radius circle centered on Miami

Time of use: Daily, 0700 to 2300 local time.
Using agency: Commander, Naval Base,

V37-215 NOV 7 72 XUM

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 71-SO-166]

ADDITIONAL CONTROL AREAS

Proposed Designation

The Federal Aviation Administration (FAA) is considering amendments to Part 71 of the Federal Aviation Regulations that would designate additional control areas along the east coast of the United States.

Consistent with this proposal, nonrule making action will be required to alter Warning Areas W-132, W-157, W-158A, and W-160 as described herein. Procedures for joint use of these areas by the using agency and the FAA must also be established.

The proposed designation of controlled airspace will permit vectoring of traffic from overland routes or Control 1150 through the above mentioned warning areas when said areas are not being used by the using agency.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

As parts of these proposals relate to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO international standards and recommended practices.

Applicability of international standards and recommended practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertain to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The international standards and recommended practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, where air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the international standards and recommended practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its standards and recommended practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since these actions involve, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The airspace actions proposed in this docket would designate additional control areas as follows:

1. That airspace extending upward from 2,000 feet MSL bounded on the north by Control 1152; on the east by Control 1150; on the south by Control 1153, and on the west by a line 3 nautical miles from and parallel to the shoreline.

2. That airspace extending upward from 2,000 feet MSL bounded on the north by Control 1153; on the east by Control 1150; on the south by a line extending from Lat. 29°21'30" N., Long. 79°08'05" W. westerly to Lat. 28°49'00" N., Long. 80°41'00" W.; and on the west by a line 3 nautical miles from and parallel to the shoreline.

The nonrule making action associated with the proposed amendments would alter certain warning areas.

1. W-132 would be redefined as follows:

Boundaries: Beginning at Lat. 32°33'00"N., Long. 79°22'00" W.; to Lat. 32°15'00" N., Long. 78°32'00" W.; to Lat. 32°00'00" N., Long. 78°36'00" W.; to Lat. 32°00'00" N., Long. 79°22'00" W.; to point of beginning.

Altitude: Surface to and including FL-800.

Time of use: Daily, 0700 to 2300 local time.

Using agency: Commander, Naval Base, Charleston, S.C.

Controlling agency: Federal Aviation Administration, ARTC Center, Jacksonville, Fla.

2. W-133 would be established as a new area as follows:

Boundaries: Beginning at Lat. 32°42'10" N., Long. 79°45'30" W.; to Lat. 32°33'00" N., Long. 79°22'00" W.; to Lat. 32°00'00" N., Long. 80°29'00" W.; to Lat. 32°29'30" N., Long. 80°10'55" W.; thence along a line 3 nautical miles from and parallel to the shoreline to point of beginning.

Altitude: Surface to and including 4,500 feet MSL.

Time of use: Daily, 0700 to 2300 local time.

Using agency: Commander, Naval Base, Charleston, S.C.

Controlling agency: Federal Aviation Administration, ARTC Center, Jacksonville, Fla.

3. W-134 would be established as a new area as follows:

Boundaries: Beginning at Lat. 32°42'10" N., Long. 79°45'30" W.; to Lat. 32°33'00" N., Long. 79°22'00" W.; to Lat. 32°00'00" N., Long. 79°22'00" W.; to Lat. 32°00'00" N., Long. 80°29'00" W.; to Lat. 32°29'30" N., Long. 80°10'55" W.; thence along a line 3 nautical miles from and parallel to the shoreline to point of beginning.

Altitude: From 4,500 feet MSL to and including FL-800.

Time of use: Daily, 0700 to 2300 local time.

Using agency: Commanding Officer, Marine Corps Air Station, Beaufort, S.C.

Controlling agency: Federal Aviation Administration ARTC Center, Jacksonville, Fla.

4. W-157 would be modified as follows:

a. Change the time of use from "Continuous" to "0600 to 0300 local time the following day (21 hours), 7 days per week."

b. Add "Controlling Agency: Federal Aviation Administration, ARTC Center, Jacksonville, Fla."

5. W-158A would be modified as follows:

a. Change the time of use from "Continuous" to "0600 to 0300 local time the following day (21 hours), 7 days per week."

b. Add "Controlling Agency: Federal Aviation Administration, ARTC Center, Jacksonville, Fla."

6. W-160 would be modified as follows:

a. Change the altitude from "Surface to Unlimited" to "Surface to FL-550."

b. Change the time of use from "Sunrise to Sunset" to "0600 to 0300 local time the following day (21 hours), 7 days per week."

c. Add "Controlling Agency: Federal Aviation Administration, ARTC Center, Jacksonville, Fla."

These amendments are proposed under the authority of section 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510), Executive Order 10854 (24 F.R. 9565) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on October 31, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-18983 Filed 11-6-72;8:49 am]

[14 CFR Part 71]

[Airspace Docket No. 72-WA-11]

MIAMI, FLA.

Proposed Terminal Control Area

The Federal Aviation Administration (FAA) is considering the adoption of a Group I terminal control area for Miami, Fla. Rules for the control and segregation of all aircraft operated within terminal control areas are contained in Part 91, § 91.70 and 91.90 of the Federal Aviation Regulations. Further information concerning flight within TCAs is contained in FAA Advisory Circular AC No. 91-30 dated 6/11/70, subject: Terminal Control Areas (TCA).

Interested persons may participate in the propdsed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 20636, Atlanta, GA 30320. All communications received within 60 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO international standards and recommended practices.

Applicability of international standards and recommended practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertain to the establishment of air navigation facilities and services necessary to promoting the safe, orderly and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The international standards and recommended practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the international standards and recommended practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its standards and recommended practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft. Also, the proposed rule places no requirements on foreign aircraft operating in international airspace.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

On January 21, 1970, the Federal Aviation Administration held a public hearing in Miami to discuss the original TCA concept designed for the Miami terminal area. On May 19, 1970, a meeting was held with the users and user representatives in the local Miami area to consider the problems associated with the TCA airspace configuration. Although many persons objected to the proposed TCA, most opposition was directed to the concept rather than specific aspects of the Miami proposal.

Further action on the Miami TCA was suspended until early in 1972, when the airspace requirements were reviewed in light of operational knowledge derived from currently established TCA's and a revised plan was presented at user meetings on April 6 and June 7, 1972. Again, there were many objections and again most opposition was directed to the TCA concept rather than specific aspects of the Miami proposal. The proposal presented at the June 7, 1972, meeting contained a north/south VFR corridor over the Miami Airport as suggested by some of the users at the April 6, 1972, meeting. However, in response to numerous objections to the corridor, it has been deleted from this notice. In further response to user comments stating operational requirements for seaplane operations along Biscayne Bay, that airspace below 1,000 feet m.s.l. over Biscayne Bay has been excluded from the proposed TCA.

In consideration of the foregoing, it is proposed to amend Part 71 of the Federal Aviation Regulations by adding the following to § 71.401(a) Group I terminal control areas.

MIAMI, FLA., TERMINAL CONTROL AREA

PRIMARY AIRPORT

Miami International Airport (lat. 25°47'-34" N., long. 80°17'10" W.).

Boundaries

Area "A"

The airspace extending upward from the surface to 7,000 feet m.s.l. within an 8-mile radius of Miami International Airport (lat. 25°47'34" N., long. 80°17'10" W.) extending clockwise from the 000° bearing to the 180° bearing from the Miami International Airport; and within a 9-mile radius of the Miami International Airport extending clockwise from the 180° bearing to the 360° bearing from the Miami International Airport; excluding that airspace within and underlying Areas B, C, and E.

Area "B"

The airspace over Biscayne Bay extending upward from 1,000 feet m.s.l. to 7,000 feet m.s.l. bounded on the east by the arc of an 8-mile circle centered on the Miami International Airport, on the south by the Biscayne VORTAC 269° radial, and on the west by the west shoreline of Biscayne Bay.

Area "C"

The airspace north of Miami extending upward from 5,000 to 7,000 feet m.s.l., beginning at the intersection of the arc of a 15-mile radius circle centered on Miami International Airport and Miami VOR 089° radial, thence west along this radial, to and southwest along the 038° bearing from the center of Miami International Airport, to and west along lat. 25°52'34" N., to and northwest along Miami VOR 130° radial, to Miami VOR, thence west along Miami VOR 269° radial, to and clockwise along the arc of a 15-mile radius circle centered on Miami International Airport, to point of beginning.

Area "D"

The airspace east of Miami extending upward from 2,000 to 7,000 feet m.s.l., bounded on the north by Miami VOR 089° radial, on the east by the arc of a 20-mile radius circle centered on Miami International Airport, on the south by Biscayne VOR 089° and 269° radials, on the west by the arc of an 8-mile radius circle centered on the Miami International Airport and on the northwest by the 038° bearing from the center of Miami International Airport.

Area "E"

The airspace south of Miami extending upward from 5,000 to 7,000 feet m.s.l., bounded on the north by Biscayne VOR 089° and 269° radials, and on the southeast, south, and southwest by the arc of a 15-mile radius circle centered on Miami International Airport.

Area "F"

The airspace west of Miami extending upward from 2,000 to 7,000 feet m.s.l. bounded on the north by Miami VOR 269° radial, on the northeast by Miami VOR 130° radial, on the east by Area "A," on the south by Biscayne VOR 269° radial, and on the west by the arc of a 20-mile radius circle centered on Miami International Airport.

This amendment is proposed under the authority of sections 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510) Executive Order 10854 (24 F.R. 9565) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on October 31, 1972.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-18982 Filed 11-6-72;8:49 am]

National Highway Traffic Safety Administration

[49 CFR Part 573]

[Docket No. 69-31; Notice 4]

DEFECT INFORMATION REPORT

Submission of Vehicle Identification Numbers

This notice proposes an amendment to the Defect Reports regulation that would require manufacturers of motor vehicles to include in defect information reports the vehicle identification numbers (VIN's) of all vehicles possibly involved in the notification campaign. The Defect Reports regulation was published February 17, 1971 (36 F.R. 3064), and August 11, 1971 (36 F.R. 14742).

The regulation presently requires defect information reports (§ 573.4), in describing the vehicles which are sub-

ject to the campaign which the report

Interested persons are invited to sub-

ant to the marketing agreement and order

handlers, and distributors of cream substitutes

1. The center heading "Equine Infectious Anemia (Swamp Fever)" would be

tificate meet the requirements of § 75.5(c)

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ject to the campaign which the report concerns, to contain, "identifying classifications of the vehicles potentially affected by the defect, including make, model, model year if appropriate, any other data necessary to describe the affected vehicles, and the inclusive dates (month and year) of manufacture." Manufacturers are not required to include vehicle identification numbers as part of this information, although they are free to do so.

The NHTSA has become aware that the notification of owners and the repair of defective vehicles might be improved by requiring manufacturers to make available as a matter of course the vehicle identification numbers of vehicles involved in notification campaigns. The State Farm Insurance Co., for example, has indicated in correspondence with the Administration that if supplied with VIN's of defective vehicles, it could through its data facilities notify the present owner of any involved vehicle that it insures. This notification would reach many owners of older vehicles, who may be second or third owners whose names and addresses are not available to manufacturers.

The Center for Auto Safety has petitioned directly that VIN's be provided in defect information reports. Their petition maintains that the availability of VIN's would facilitate the ability of consumers to determine whether their vehicles have been the subject of a campaign. They further argue that VIN's could also be used by State inspection facilities in determining whether vehicles subject to recall campaigns have been repaired.

The NHTSA believes these arguments to be of substantial merit, and accordingly proposes by this notice to require manufacturers to include vehicle identification numbers in defect information reports. These reports are presently made available to the public as a matter of course, and vehicle identification numbers would be similarly available.

The proposal also would substitute "line" for "model" in the list of required information regarding affected vehicles. It appears that "model" can refer to a number of different descriptive categories and is consequently ambiguous. "Line," which is based on SAE Recommended Practice J-218, "Passenger Car Identification Terminology," is specific, denoting a family of vehicles within a make.

In light of the above, it is proposed that § 573.4(c)(2) of 49 CFR Part 573, "Defects Reports," be amended to read as follows:

§ 573.4 Defect information report.

* * * * *

(c) * * *

(2) Identifying classifications of the vehicles potentially affected by the defect, including make, line, vehicle identification number, model year if appropriate, any other data necessary to describe the affected vehicles, and the inclusive dates (month and year) of manufacture.

* * * * *

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on February 2, 1973, will be considered, and will be available for examination in the docket at the above address both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Administration. However, the rule making action may proceed at any time after that date, and comments received after the closing date and, too late for consideration in regard to the action will be treated as suggestions for future rule making. The Administration will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Proposed effective date: July 1, 1973.

This notice is issued pursuant to sections 103, 112, 113, and 119 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392, 1401, 1402, 1407) and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.

Issued on October 31, 1972.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.72-19009 Filed 11-6-72;8:46 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 911]

[Docket No. AO-267-A7]

LIMES GROWN IN FLORIDA

Withdrawal of Hearing Notice and Termination of Proceeding with Respect to Proposed Further Amendment of the Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders (7 CFR Part 900), a notice setting forth a proposal, a location, date, and time for a public hearing was published in the FEDERAL REGISTER (37 F.R. 20951), with respect to proposed amendment of the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911; 37 F.R. 10497), regulating the handling of limes grown in Florida. This proposal was submitted by the Florida Lime Administrative Committee, the administrative agency established pursuant to the marketing agreement and order.

On August 9, 1972, when the committee at its regular monthly meeting, with all members or alternates present, unanimously recommended to the Secretary that a hearing be held to consider its proposal for further amendment of the marketing agreement and order, there was no industry opposition to the proposed amendment.

Since the time the committee submitted its proposal, several large volume handlers of Florida limes withdrew their support of the proposed amendment, and at its meeting on October 31, 1972, a majority of grower and handler members and alternates serving on the committee recommended withdrawal of the proposed amendment, that the hearing not be held on November 9, 1972, as stated in said notice of hearing and that the hearing be postponed indefinitely.

In view of the changed situation with respect to grower and handler support since the proposal was submitted, it is concluded that no useful purpose would be served by indefinite postponement of the hearing. Therefore, the notice of hearing (37 F.R. 20951) is hereby withdrawn and the proceeding terminated.

Dated: November 3, 1972.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.72-19239 Filed 11-6-72;11:41 am]

[7 CFR Part 1099]

MILK IN THE PADUCAH, KY., MARKETING AREA

Termination of Proceeding To Suspend a Certain Provision of the Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), notice of proposed rulemaking was issued by the Deputy Administrator, Regulatory Programs, on October 3, 1972, with respect to a proposed suspension of a certain provision of the order regulating the handling of milk in the Paducah, Ky., marketing area. Interested persons were invited to submit views, data, or arguments to the Hearing Clerk not later than October 17, 1972, in connection with the proposed suspension.

The provision in § 1099.15 proposed to be suspended reads, "cream, sweet and sour;". Suspension of this language from the order would result in fluid cream being classified and priced as a Class II product rather than as a Class I product. The proposed suspension was requested by Dairymen, Inc., a cooperative association representing a substantial majority of the producers on the market, and by Ryan Milk Co., Inc., a fully regulated handler under the order. Proponents contend that the proposed suspension would enable Ryan Milk Co. to better compete with handlers regulated under other Federal milk orders, unregulated

handlers, and distributors of cream substitutes.

Several handlers and another cooperative association submitted written views opposing the proposed suspension. All such handlers compete with proponent Paducah handler in one or more Federal order markets in which the latter distributes cream. The cooperative association, which processes cream and cream products, also represents producers supplying milk to a number of these same markets.

Most of the parties opposed to the proposed suspension objected to the reclassification of any milk product, including cream, on an order by order basis. Opponents argued, in general, that the granting of this suspension in the Paducah order would create inequities in other marketing areas where the Paducah regulated handler competes for sales of fluid cream.

While the proposed suspension would reduce the cost of milk for cream use to the Ryan Milk Co., it would not do so for regulated handlers with whom it competes for cream sales. Ryan Milk Co. competes for cream sales with handlers regulated under 17 different Federal milk orders. Sixteen of these orders continue to classify fluid cream as a Class I product. Although the matter of reclassifying cream for all such markets (and others) is under consideration in another proceeding, it would not be appropriate, particularly in view of vigorous objection, to provide a time advantage for a single market through suspension procedure.

On the basis of available information, it is concluded that the aforesaid provision should not be suspended.

It is hereby found and determined that the proposed suspension should not be effectuated and that the proceeding begun in this matter on October 3, 1972, should be and is hereby terminated.

Signed at Washington, D.C., on November 2, 1972.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.72-19066 Filed 11-6-72;8:51 am]

Animal and Plant Health Inspection Service

[9 CFR Part 75]

EQUINE INFECTIOUS ANEMIA (SWAMP FEVER)

Interstate Movement of Certain Animals

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to the provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, and the Act of March 3, 1905, as amended (21 U.S.C. 111-113, 115, 117, 120, 121, 123-126), the Department is considering amending Part 75, Title 9, Code of Federal Regulations, in the following respects:

1. The center heading "Equine Infectious Anemia (Swamp Fever)" would be inserted just after § 75.4.

2. The following section would be added to Part 75:

§ 75.5 Notice relating to existence of equine infectious anemia (swamp fever), and conditions of interstate movement of certain animals.

(a) Notice is hereby given that equine infectious anemia (swamp fever), a communicable disase of horses, asses, mules, ponies, and zebras exists in all States.

(b) *Definitions.* For the purposes of this section, the following terms shall have the meanings set forth in this paragraph. See also definitions in § 71.1 of this chapter.

(1) *Official test.* The Agar gel immuno/diffusion test for equine infectious anemia conducted in a laboratory approved by the Secretary for the purpose of conducting this test. Laboratories will be approved by the Secretary following the determination by him that the laboratory: (i) Has adequately trained technical personnel assigned to conduct the test, (ii) uses USDA licensed antigen, (iii) follows standard test protocol, (iv) meets check test proficiency requirements, and (v) reports all test results to State and Federal animal health officials.[1]

(2) *Reactor.* Any horse, ass, mule, pony, or zebra which discloses a positive reaction to the official test.

(3) *Officially identified.* The permanent identification by a Veterinary Services inspector, State inspector, or an accredited veterinarian of a reactor, using a hot iron brand, freezemarking, or a chemical brand, to apply the letter "A" and the National Uniform Tag code number assigned by the Department to the State in which the reactor was tested. Such markings shall not be less than 3 inches high on the left thigh of such reactor.[2]

(4) *Certificate.* An official document issued by a State or Federal inspector or by an accredited veterinarian at the point of origin of the shipment on which are listed: (i) The description, age, breed, color, sex, distinctive markings when present (such as brands, tattoos, scars, or blemishes) on each reactor to be moved; (ii) the number of animals covered by the document; (iii) the purpose for which the animals are to be moved; (iv) the points of origin and destination; (v) the consignor; and (vi) the consignee; and which states that the animal or animals identified on the certificate meet the requirements of § 75.5(c).

(5) *Veterinary services inspector.* A veterinarian or livestock inspector employed by Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, in animal health activities, who is authorized to perform the function involved.

(6) *State inspector.* A veterinarian or livestock inspector regularly employed in animal health activities by a State or a political subdivision thereof, authorized by such State or political subdivision to perform the function involved under a cooperative agreement with the U.S. Department of Agriculture.

(7) *Accredited veterinarian.* An accredited veterinarian as defined in Part 160 of this chapter.

(c) Any reactor to an official test shall be classified as affected with equine infectious anemia, and no reactor shall be moved interstate unless:

(1) It is officially identified, and accompanied by a certificate as defined in § 75.5(b)(4); and

(2) It is moved interstate to a federally inspected slaughtering establishment operated under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) or to a State-inspected slaughtering establishment which has inspection by a State inspector at the time of slaughter, for immediate slaughter; or to a diagnostic or research facility designated by the Deputy Administrator, as provided in § 71.3(e),[3] or

(3) The reactor is disclosed on an official test conducted in a State other than the State where the home farm of the reactor is located, such reactor is moved interstate to its home farm under a certificate issued by a Veterinary Services inspector upon his determination, after consultation with the State officials concerned, that the reactor so moved will be maintained segregated from other equidae and quarantined under State authority on the premises of its home farm until natural death, slaughter, or disposition by euthanasia.

The purposes of the foregoing proposed amendments would be to provide for an official test for equine infectious anemia and to more efficiently prevent the interstate spread of the disease by requiring reactors to an official test for equine infectious anemia to be permanently identified and to meet other specified conditions as a prerequisite for movement interstate.

Any person who wishes to submit written data, views, or arguments concerning this proposal may do so by filing them with the Deputy Administrator,

[1] Information as to the names of laboratories approved by the Secretary for running the official test and criteria for approval of such laboratories can be obtained from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Center Building, Hyattsville, Md. 20782.

[2] Information as to the National Uniform Tag code number system can be obtained from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Services, U.S. Department of Agriculture, Federal Center Building, Hyattsville, Md. 20782.

[3] Research facilities will be designated by the Deputy Administrator upon request and after a determination by the Deputy Administrator that the facility is secure and will prevent exposure to other equidae. Information as to the names and locations of designated research facilities can be obtained from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Center Building Hyattsville, Md. 20782.

Veterinary Services, Animal and Plant

tion Service, U.S. Department of Agri-

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stock. This would be the case regardless

240.15c3-1 (c)(2)(A), (c)(4), and (c)

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Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, Md. 20782, within 30 days after publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Center Building, 6505 Belcrest Road, Room 370, Hyattsville, MD 20782, during regular business hours in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 2d day of November 1972.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-19070 Filed 11-6-72;8:51 am]

[9 CFR Part 327]

IMPORTATION OF MEAT AND MEAT PRODUCTS

Proposed Addition of British Honduras to List of Countries

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that, pursuant to the authority contained in the Federal Meat Inspection Act (34 Stat. 2160, as amended, 21 U.S.C. 601 et seq.), the Animal and Plant Health Inspection Service is considering amending § 327.2(b) of the Federal meat inspection regulations (9 CFR 327.2(b)) by adding British Honduras to the list of countries specified therein.

Statement of considerations. The Federal Meat Inspection Act prohibits the importation into the United States of carcasses, parts thereof, meat and meat food products of cattle, sheep, swine, goats, or equines, capable of use as human food, unless they comply with all the provisions of the Act and regulations issued thereunder applicable to such articles in commerce within the United States. Such articles from approved plants in the countries listed in § 327.2(b) are eligible for importation into the United States as provided in the regulations. The laws and regulations of British Honduras concerning these matters have been reviewed and appear to be acceptable. Furthermore, onsite reviews of the export meat inspection program of British Houduras indicate that it is equal to our program in the United States. Certificates issued by British Honduras officials for export of carcasses, parts thereof, meat and meat food products to the United States are reliable.

Any person who wishes to submit written data, views, or arguments concerning the proposed amendment may do so by filing them in duplicate, with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

Persons desiring opportunity for oral presentation of views should address such requests to the Director, Field Operations, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, so that arrangements may be made for presentation of such views within the 30-day period. A transcript will be made of all views orally presented.

All written submissions and transcripts of oral views made pursuant to this notice will be made available for public inspection unless the person making the submission requests that it be held confidential and a determination is made that a proper showing in support of the request has been made on the grounds that its disclosure could adversely affect such person by disclosing information in the nature of trade secrets or commercial or financial information obtained from any person and privileged or confidential. If it is determined that a proper showing has been made in support of the request, the material will be held confidential; otherwise, notice will be given of denial of such a request and an opportunity afforded for withdrawal of the submission. Requests for confidential treatment will be held confidential (7 CFR 1.27(c)).

Comments on the proposal should bear a reference to the date and page number of this issue of the FEDERAL REGISTER.

Done at Washington, D.C., on November 2, 1972.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 72-19069 Filed 11-6-72;8:51 am]

Commodity Credit Corporation

[7 CFR Part 1438]

CRUDE PINE GUM

1973 Gum Naval Stores Support Program

Notice is hereby given that the Secretary of Agriculture, under the authority of sections 301 and 401 of the Agricultural Act of 1949, as amended (63 Stat. 1051, as amended; 7 U.S.C. 1447 and 1421), hereinafter called "the Act," and sections 4 and 5 of the Commodity Credit Corporation Charter Act, as amended (62 Stat. 1070, as amended; 15 U.S.C. 714b and 714c), is considering undertaking, through Commodity Credit Corporation, a support program for crude pine gum produced in the United States during the calendar year 1973. Such consideration includes determinations to be made regarding such matters as (a) the level of support for the crude pine gum; and (b) the manner of making such support available to producers.

In making the determinations specified above, the following factors are relevant:

(a) *The level of support for crude pine gum.* The Act authorizes the Secretary to make support available to producers of crude pine gum at a level not to exceed 90 percent of the crude pine gum parity price. The Act requires that, in determining the level of such support, consideration to be given to the supply of the commodity in relation to the demand therefor, the levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired through such an operation, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand.

(b) *The manner of making support available to producers.* The Act authorizes the Secretary to make support available to producers through loans, purchases or other operations. Gum naval stores are marketed primarily in the form of gum rosin and gum turpentine. Gum rosin is the more storable of the two commodities and currently accounts for about 85 percent of the value of crude pine gum. Therefore, consideration is being given to continuing the practice of supporting crude pine gum through loans on gum rosin. The rosin loan rates would be derived from the level of support for crude pine gum. An allowance would be made for the prospective market value of the turpentine content of crude pine gum during the 1973 calendar year.

Before making any of the foregoing determinations, consideration will be given to any data, views, and recommendations which are submitted in writing to the Director, Oilseeds and Special Crops Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. In order to be sure of consideration, all submissions must be received by the Director not later than 30 days after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.) (7 CFR 1.27(b)).

Signed at Washington, D.C., on October 31, 1972.

KENNETH E. FRICK,
Executive Vice President, Commodity Credit Corporation.

[FR Doc.72-19071 Filed 11-6-72;8:51 am]

FEDERAL RESERVE SYSTEM

[12 CFR Parts 207, 220, 221]

[Regs. G, T, and U]

CREDIT TO PROVIDE CAPITAL TO BROKERS AND DEALERS

Withdrawal of Proposed Rules, and Proposed Termination of Related Provision

On April 16, 1971, the Board of Governors of the Federal Reserve System issued, and on July 9, 1971, it revised, proposed amendments to its Regulation G, "Securities Credit by Persons Other Than Banks, Brokers, or Dealers"; T, "Credit by Brokers and Dealers"; and U, "Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks" setting forth conditions under which credit may be obtained without regard to initial margin requirements for the purpose of providing capital to broker/dealer firms. The initial proposals were published in the FEDERAL REGISTER on April 24, 1971 (36 F.R. 7754) and the revised proposals were published in the FEDERAL REGISTER on July 16, 1971 (36 F.R. 13218–13221). The original and revised proposals were intended to replace a conditional interim provision regarding such credit which was added to Regulation U, on April 16, 1971, when the proposals were initially put forth for comment.

The revised proposals were to become effective October 1, 1971, but the Board has since postponed the effective date to December 1, 1972.

After consideration of the comments and suggestions received, and in view of subsequent changes in the capital rules prescribed by the self-regulatory bodies and the Securities and Exchange Commission, the Board (1) has decided to withdraw its proposals to amend § 207.1 (f) of Regulation G, § 220.4(f)(2) of Regulation T, §221.2(m) and §221.3 (b) (4) and (q) of Regulation U, and (2) proposes to amend Regulation U by terminating the related provision in paragraph (m) of § 221.2 which was adopted as an interim measure.

The effect of the Board's actions in withdrawing the above-cited rules and terminating § 221.2(m) would be to restore the rules on this subject to those which prevailed before April 16, 1971.

Most importantly, credit extended by banks, after the effective date of the proposed termination, for the purpose of providing capital to broker/dealer firms would be subject to margin requirements if secured directly or indirectly by any stock. This would be the case regardless of whether the credit was extended directly to the firm or to a third party to enable them to contribute capital to the firm. If not so secured, such credit would not be subject to Regulation U.

Credit extended or maintained by banks pursuant to the provision in § 221.2 (m) of Regulation U, prior to the effective date of its amendment including renewals or extensions of such credit after that date, would not become subject to the margin requirements of Regulation U, so long as it continued to meet the conditions specified therein.

Bank credit would continue to be available to contribute capital to broker/dealer firms under paragraph (1) of § 221.2 without regard to margin requirements in individual situations where the Board has determined, upon certification by the Securities Investor Protection Corporation, that such action is appropriate under the circumstances.

Section 221.2(m) would be amended to read as follows:

§ 221.2 Exceptions to general rule.

* * * * * *

(m) Any credit extended to a customer, prior to the effective date of the proposed termination, and maintained continuously thereafter, for the purpose of making a loan or contribution of capital to a broker or dealer subject to Part 220 of this chapter (Regulation T), or to purchase stock in such a broker which is a corporation: *Provided*, That

(1) Such loan or contribution is in conformity with the requirements regarding satisfactory subordination agreements or equities in the accounts of partners of a rule of the Securities and Exchange Commission (Rule 15c3-1 (c) (2) (A), (c) (4), and (c) (7) (17 CFR 240.15c3-1 (c) (2) (A), (c) (4), and (c) (7)) or the capital rules of an exchange of which the broker or dealer is a member if the members thereof are exempt therefrom by Rule 15c3-1(b)(2) of the Commission (17 CFR 240.15c3-1(b)(2)) or such stock is purchased directly from the issuer and not as part of a public distribution, and

(2) All of the proceeds of such extension of credit are so loaned or contributed to the capital of such broker or dealer, or used to purchase such stock, and

(3) All of the net proceeds of any withdrawal of such loan or contribution of capital from such broker or dealer or redemption of such stock shall be paid to the bank and used to reduce or retire such extension of credit.

The Board is affording interested persons an opportunity to submit relevant data, views, or arguments concerning the proposed amendment. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 20, 1972. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's rules regarding availability of information.

This notice is published pursuant to section 553(b) of Title 5, United States Code, and § 262.2(a) of the rules of procedure of the Board of Governors of the Federal Reserve System (12 CFR 262.2(a)).

By order of the Board of Governors, November 2, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary.

[FR Doc.72-19166 Filed 11-6-72;8:52 am]

compliance) is filed. The application (for a Rock, N.C., where Carl Sandburg lived

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Notices

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

COMMISSIONER OF THE PUBLIC DEBT

Order of Succession

Order of succession of officials to act as Commissioner of the Public Debt, and provisions for the continuous performance of functions of the Bureau of the Public Debt in the event of an enemy attack on the continental United States.

1. It is hereby ordered that the following officers of the Bureau of the Public Debt, in order of succession enumerated, shall act as Commissioner in the event of the absence or disability of the Commissioner or a vacancy in the office:
   1. Deputy Commissioner.
   2. Assistant Commissioner.
   3. Assistant Deputy Commissioner.
   4. Technical Assistant to the Commissioner.
   5. Chief Counsel.
   6. Director, Chicago Office.
   7. Director, Parkersburg Office.
   8. Director, Division of Securities Operations.
   9. Director, Division of Public Debt Accounts.
   10. Deputy Director, Division of Securities Operations.
   11. Deputy Director, Division of Public Debt Accounts.

2. In the event of an enemy attack on the continental United States and without regard to the matter of succession, the Assistant Commissioner, the Assistant Deputy Commissioner, and the Directors of the Chicago and Parkersburg offices are hereby authorized to perform any function of the Secretary of the Treasury or Commissioner of the Public Debt (whether or not otherwise delegated), (a) if it is essential to the carrying out of responsibilities otherwise assigned to them, and (b) if, and so long as, they are unable to ascertain (in a manner consistent with the efficient performance of such responsibilities) whether the Commissioner or any official acting in his stead is available to discharge the Commissioner's duties with respect to the performance of those functions.

3. The foregoing order of succession and provisions for the continuous performance of functions are made under the authority of The Department of the Treasury Order No. 129, Revision No. 2, dated April 22, 1955. This order of succession supersedes the order of this Bureau dated August 4, 1972.

[SEAL] H. J. HINTGEN,
Commissioner of the Public Debt.

NOVEMBER 1, 1972.

[FR Doc.72-19012 Filed 11-6-72;8:49 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A 6949]

ARIZONA

Order Providing for Opening of Lands

Pursuant to the vacating order of the Federal Power Commission (37 F.R. 9586, May 12, 1972) and in accordance with Bureau of Land Management Order 701 dated July 23, 1964 (29 F.R. 10526), as amended, it is ordered as follows:

1. The following described lands, so far as they are withdrawn and reserved for power purposes, are hereby restored to disposition under applicable public land law, as provided herein, from the withdrawals for Federal Power Projects No. 1201 dated March 21, 1932, and No. 1444 dated October 26, 1937, as interpreted July 11, 1941, subject to valid existing rights and the provisions of existing withdrawals:

GILA AND SALT RIVER MERIDIAN, ARIZ.

POWER PROJECT NO. 1201

All portions of the following tracts lying within 25 feet of the centerline of the transmission line location shown on a map designated "Exhibit K" and entitled "Showing Right of Way of the Arizona Power Co. Clear Creek Transmission Line through Prescott and Coconino National Forests and Private Lands, Prescott, Yavapai County, Ariz.," and filed in the office of the Federal Power Commission on March 11, 1932:

T. 13 N., R. 5 E.,
Sec. 7, lots 8, 9, and 10;
Sec. 11, lots 2 and 5 (inside former Camp Verde Garden Reservation);
Sec. 11, lot 2 (outside former Camp Verde Reservation);
Sec. 12, lots 11 and 12;
Sec. 13, SE¼NE¼ and NE¼SE¼;
Sec. 14, lot 1 (inside former Camp Verde Reservation);
Sec. 15, lot 2 (inside former Camp Verde Reservation);
Sec. 15, lot 2 (outside former Camp Verde Reservation).

POWER PROJECT NO. 1444

All portions of the following tracts lying within 25 feet of the centerline of the transmission line as shown on a map designated "Exhibit K" and entitled "Showing Right-of-Way, the Arizona Power Corp., for the Beaver Creek Transmission Line Thru Private, State, and Coconino National Forest Lands," and filed in the office of the Federal Power Commission on May 19, 1937:

T. 14 N., R. 5 E.,
Sec. 4, SW¼NE¼ and SE¼NW¼;
Sec. 5, lots 9, 14, and 15;
Sec. 8, lot 1, W½NE¼, SE¼NW¼, W½SW¼, and N½NE¼SW¼;
Sec. 17, lots 2, 3, and 4;
Sec. 18, lots 5, 6, and 9, and SE¼SE¼;
Sec. 19, E½NE¼ and NE¼SE¼.
T. 15 N., R. 6 E.,
Sec. 31, lot 2 and SE¼NW¼;
Sec. 32, S½N½;
Sec. 33, SW¼NE¼, S½NW¼, and N½NE¼NW¼SE¼.

The areas described, including both public and nonpublic lands, aggregate approximately 51 acres in Yavapai County.

The public lands are withdrawn as parts of the Prescott and Coconino National Forests, and are under the jurisdiction of the Department of Agriculture. In addition to the withdrawals for national forest purposes, some of the lands are withdrawn for administrative site, national monument, or other Federal power purposes, and some are patented. The status of any tract may be ascertained by inquiry of the agencies hereinafter named.

2. Upon publication of this notice in the FEDERAL REGISTER, those lands subject to application shall be open to operation of the act of March 20, 1922 (42 Stat. 465; 16 U.S.C. 485), subject to valid existing rights. They have been open to applications and offers under the mineral leasing laws, and to location under the U.S. mining laws subject to the provisions of the act of August 11, 1955 (69 Stat. 682; 30 U.S.C. 621).

Inquiries concerning the lands should be addressed to the Chief, Division of Technical Services, Arizona State Office, Bureau of Land Management, 3022 Federal Building, Phoenix, AZ 85025, or the Regional Forester, Forest Service, U.S. Department of Agriculture, 517 Gold Avenue SW, Albuquerque, NM 87101.

Dated: October 30, 1972.

JOE T. FALLINI,
State Director.

[FR Doc.72-18991 Filed 11-6-72;8:47 am]

Bureau of Mines

RESPIRABLE COAL MINE DUST

Certification of Engineers To Conduct Dust Surveys of Working Places in Underground Coal Mines

In the FEDERAL REGISTER for July 20, 1972 (37 F.R. 14526), the interim compliance panel, established by section 5 of the Federal Coal Mine Health and Safety Act of 1969, as amended (30 USC 804; 83 Stat. 744) promulgated Part 502 of Subchapter A, Chapter V, Title 30, Code of Federal Regulations entitled "Permits for Noncompliance with 2.0 mg./m.³ Respirable Dust Standard."

Section 502.5 of Part 502 provides:

A certified engineer shall conduct a survey of the respirable dust conditions of each working place of the mine with respect to which an application (for a permit for noncompliance) is filed. The application (for a permit for noncompliance) shall contain a report of the results of such survey * * *.

Section 502.2(k) of Part 502 provides:

"Certified engineer" means a person certified or registered by the United States (Bureau of Mines) for the purpose of conducting a survey of the respirable dust conditions of a mine.

Notice is hereby given that engineers who are presently certified by the Bureau of Mines as capable of taking accurate samples of the amount of respirable dust in the atmosphere of a coal mine in accordance with the methods, and at the locations and intervals prescribed by the Secretary of the Interior and the Secretary of Health, Education, and Welfare in Part 70, Title 30, Code of Federal Regulations, "Mandatory Health Standards—Underground Coal Mines," will also be considered to be certified for purposes of conducting a survey of respirable dust conditions, as required by 30 CFR 502.5.

Those engineers who are presently qualified (but not certified) by the Bureau as capable of taking accurate samples of the amount of respirable dust in the atmosphere of a coal mine, as described above, may apply for certification as a person meeting the requirements of 30 CFR 502.5 by submitting an application to:

Office of Certification and Qualification, Division of Education and Training, Bureau of Mines, Department of the Interior, Washington, D.C. 20240.

Such application shall include the following information:

(a) The name and address of the applicant;

(b) Information showing the applicant has satisfactorily completed a respirable coal mine dust sampling and evaluation training program conducted or approved by the Bureau of Mines.

(c) Information showing that the applicant is an engineer who has practical experience in an underground coal mine, and a working knowledge of underground coal mining equipment, ventilation systems, and the operation and maintenance of approved coal mine dust personal sampler units.

The Bureau of Mines will continue to conduct its respirable coal mine dust sampling and evaluation training program on a demand basis in each Coal Mine Health and Safety District.

HOLLIS M. DOLE,
Assistant Secretary of the Interior.

NOVEMBER 1, 1972.

[FR Doc.72-19021 Filed 11-6-72;8:46 am]

National Park Service

CARL SANDBURG HOME NATIONAL HISTORIC SITE, N.C.

Establishment

The Act of October 17, 1968 (82 Stat. 1154) authorized the Secretary of the Interior to acquire all or any part of the property and improvements at Flat Rock, N.C., where Carl Sandburg lived and worked during the last 20 years of his life, comprising approximately 242 acres and about 6 acres of adjacent or related property, as the Secretary might deem necessary for establishment of the Carl Sandburg Home National Historic Site.

Notice is given that the Carl Sandburg Home property has been acquired, as has approximately 6 acres of adjacent property. Accordingly, since the property deemed necessary for purposes of the aforesaid act is now in Federal ownership, establishment of the Carl Sandburg Home National Historic Site is hereby declared.

Dated: October 27, 1972.

GEORGE B. HARTZOG, JR.,
Director,
National Park Service.

[FR Doc.72-18997 Filed 11-6-72;8:48]

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, or Corrections

By notice in the FEDERAL REGISTER of March 15, 1972, Part II, there was published a list of the properties included in the National Register of Historic Places. This list has been amended by a notice in the FEDERAL REGISTER of March 7 (pp. 4923–24), April 4 (pp. 6770–72), May 2 (pp. 8890–95), June 6 (pp. 11274–76), July 4 (pp. 13193–96), August 1 (pp. 15390–91), September 6 (pp. 18043–44), and October 3 (pp. 20732–34). Further notice is hereby given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 915, 16 U.S.C. 470.

The following are corrections for properties already listed in the National Register:

CONNECTICUT

Middlesex County

East Haddam, *Day, Amasa, House*, Plains Road (October 3, 1972 FEDERAL REGISTER).

FLORIDA

Polk County

Lake Wales vicinity, *Bok Mountain Lake Sanctuary and Singing Tower*, 2 miles north of Lake Wales (September 6, 1972 FEDERAL REGISTER).

GEORGIA

Richmond County

Augusta, *The Augusta Canal*, beginning at the Augusta City Lock and Dam and flowing southeasterly parallel to the Savannah River; continuing through downtown Augusta to a point just east of the intersection of Walton Way and 13th Street; thence flowing north to a point south of Telfair and 12th Streets; then turning northwest to the point where the canal rejoins the Savannah River at Hawk's Gully (March 15, 1972 FEDERAL REGISTER).

The following properties have been demolished and have been removed from the National Register:

IDAHO

Ada County

Boise, *Moore-De Lamar House*, 807 Grove Street.

MASSACHUSETTS

Bristol County

New Bedford, *Rotch Counting House*, 123 Front Street.

NEW JERSEY

Atlantic County

Atlantic City, *Traymore Hotel*, Illinois Avenue and the Boardwalk.

The following properties have been added to the National Register since October 3:

ALABAMA

Cherokee County

Cedar Bluff vicinity, *Cornwall Furnace*, 2 miles north of Cedar Bluff.

Dallas County

Selma, *Morgan, John Tyler, House*, 719 Tremont.

Mobile County

Mobile, *Bragg-Mitchell House*, 1906 Springhill Avenue.

Montgomery County

Montgomery, *Semple House*, 725 Monroe Street.

Talladega County

Talladega, *Talladega Court House Square Historic District.*

ARKANSAS

Clark County

Arkadelphia, *Magnolia Manor*, on Arkansas 51.

Independence County

Batesville, *Morrow Hall*, Seventh and Boswell Streets.

CALIFORNIA

Napa County

St. Helena, *Pope Street Bridge*, Pope Street, over the Napa River.

Santa Cruz County

Santa Cruz, *McHugh and Bianchi Building*, Pacific Avenue and Mission Street.

COLORADO

El Paso County

Colorado Springs, *El Paso County Courthouse*, 215 South Tejon Street.

CONNECTICUT

Hartford County

Bloomfield, *Old Farm School House*, Park Avenue and School Street.

New London County

Colchester, *Champion, Henry, House*, Westchester Road.

Colchester, *Hayward House*, 9 Haywood Avenue.

DELAWARE

Kent County

Frederica vicinity, *Barratt's Chapel*, north of Frederica on U.S. 113.

FLORIDA

Dade County

Coral Gables, *Miami-Biltmore Hotel* (VA Hospital), 1210 Anastasia Avenue.

Frederick County

NEBRASKA

OHIO

Dane County

The subsamples designated "1-A" and

XUM
V37-215 NOV 7 72 V
XUM

Duval County

Jacksonville, *Red Banks Plantation*, 1230 Greenridge Road.

GEORGIA

Bibb County

Macon, *Dasher-Stevens House*, 904 Orange Terrace.

Clarke County

Athens, *Garden Club of Georgia Muscum-Headquarters House*, Lumpkin Street, University of Georgia campus.

McIntosh County

Cox vicinity, *Fort Barrington*, 5 miles northwest of Cox on Old Barrington Road.

Spalding County

Griffin, *Mill House*, 406 North Hill Street.

IDAHO

Ada County

Boise vicinity, *Oregon Trail*, about 8 miles southeast of Boise.

ILLINOIS

Cook County

Chicago, *U.S.S. Silversides (S.S. 236)*, Naval Armory at the foot of Lake Street.

McLean County

Bloomington, *Clover Lawn (David Davis Mansion)*, 1000 East Monroe.

Macoupin County

Mount Olive, *Union Miners Cemetery*, 0.5 mile north of city park.

INDIANA

Vanderburgh County

Evansville, *Willard Library*, 21 First Avenue.

IOWA

Lee County

Keokuk, *Brown, Dr. Frank, House*, 318 North Fifth Street.

KENTUCKY

Jefferson County

Louisville, *Farmington*, 3033 Bardstown Road.

Louisville, *Kentucky Air National Guard Archeological Site, Standiford Field*, at the north end of Grade Lane.

Scott County

Georgetown, *Scott County Courthouse*, East Main and Broadway.

Shelby County

Simpsonville, *Young, Whitney M. Jr., Birthplace*, southwest of Simpsonville, off U.S. 60.

Woodford County

Versailles vicinity, *Crittenden, John Jordan, Birthplace Cabin*, 2 miles east of Versailles off U.S. 60.

LOUISIANA

Iberia Parish

New Iberia, *The Shadows-on-the-Teche*, East Main Street.

MAINE

Oxford County

Bethel, *Durrell, Ada, House*, Broad Street.

MARYLAND

Baltimore (independent city)

Lombard Street Bridge, Lombard Street over Jones Falls Stream.

Frederick County

Frederick, *The Historical Society of Frederick County Building*, 24 East Church Street.

Howard County

Savage, *Bollman Railroad Truss*, Gorman and Savage Roads.

Queen Annes County

Queenstown, *Bloomingdale*, Bloomingdale Road and U.S. 50.

MASSACHUSETTS

Middlesex County

Weston, *Golden Ball Tavern*, 662 Boston Post Road.

Norfolk County

Quincy, *Thomas Crane Public Library*, 40 Washington Street.

MICHIGAN

Berrien County

Benton Harbor, *Shiloh House*, Britain Road.

Livingston County

Brighton, *Bingham House*, 10950 McCabe Road.

Monroe County

Monroe, *Nims, Rudolph, House*, 206 West Noble Avenue.

Muskegon County

Muskegon, *Muskegon Historic District*.

Saginaw County

Saginaw, *Passolt House*, 1105 South Jefferson Avenue.

St. Clair County

Port Huron, *Davidson, W. F., House*, 1707 Military Street.

Wayne County

Detroit, *Kahn, Albert, House*, 208 Mack Avenue.

MINNESOTA

Itasca County

Grand Rapids vicinity, *White Oak Point Site*, west of Grand Rapids on the Mississippi River.

MISSISSIPPI

Copiah County

Wesson, *Wesson Hotel*, Railroad Avenue and Spring Street.

Hinds County

Jackson, *Manship House*, 412 East Fortification Street.

Monroe County

Amory vicinity, *Cotton Gin Port Site*, 3 miles west of Amory.

MISSOURI

Jackson County

Independence, *Jackson County Courthouse*, bounded by Lexington and Maple Avenues and Liberty and Main Streets.

Kansas City, *Harris, Colonel John, House*, 4000 Baltimore Avenue.

Lincoln County

Moscow Mills, *Old Rock House*, Second and Mill Streets.

St. Louis (independent city)

Compton Hill Water Tower, in Reservoir Park, at Grand and Russell Boulevards and Lafayette Avenue.

NEBRASKA

Douglas County

Omaha, *Omaha National Bank Building (New York Life Insurance Building)*, 17th and Farnam streets.

NEW JERSEY

Essex County

Newark, *North Reformed Church*, 510 Broad Street.

Newark, *St. Barnabas' Episcopal Church*, West Market Street, Sussex Avenue, and Roseville Avenue.

Newark, *St. James' A.M.E. Church*, High and Court Streets.

Newark, *St. Stephan's Church*, Ferry Street and Wilson Avenue.

Gloucester County

Sewell, *Chew, Jesse, House*, 611 Mantua Boulevard.

Woodbury, *Hunter-Lawrence House*, 58 North Broad Street.

Mercer County

Pennington, *Hart, John D., House*, Curtis Avenue.

Monmouth County

Matawan, *Burrowes, Major John, Mansion*, 94 Main Street.

NEW YORK

Albany County

Coeymans, *Coeymans, Ariaanje, House*, Stone House Road.

Chautauqua County

Jamestown, *Fenton, Governor, Mansion (Walnut Grove)*, 68 South Main Stree.

Dutchess County

Hyde Park, *Bergh-Stoutenburgh House*, U.S. 9.

Hyde Park, *Stoutenburgh, William, House*, East Park, U.S. 9G.

New York County

New York, *First National City Bank*, 55 Wall Street.

New York, *Municipal Building*, Centre Street.

New York, *South Street Seaport*.

Orange County

Newburgh, *Crawford, David, House*, 189 Montgomery Street.

Westchester County

Dobbs Ferry, *Hyatt-Livingston House*, 152 Broadway.

NORTH CAROLINA

Carteret County

Cape Lookout, *Cape Lookout Light Station*, on Core Banks, across Barden Inlet from Shackleford Banks.

Craven County

New Bern, *Jerkins, Thomas, House*, 305 Johnson Street.

New Bern, *Rhem-Waldrop House*, 701 Broad Street.

Cumberland County

Fayetteville, *Cool Spring Place*, 119 North Cool Spring Street.

Lincoln County

Machpelah vicinity, *Tucker's Grove Camp Meeting Ground*, north of Machpelah off N.C. 1360.

Rockingham County

Monroeton vicinity, *Troublesome Creek Iron-Works*, about 1.5 miles north of Monroeton on N.C. 2422.

OHIO

Fairfield County

Lancaster vicinity, *Concord Hall*, 1445 Cincinnati-Zanesville Road SW.

Stark County

Alliance, *Glamorgan*, 1025 South Union Avenue.

Alliance, *Mount Union College District*.

OKLAHOMA

Delaware County

Siloam Springs vicinity, *Hildebrand Mill*, about 10 miles west of Siloam Springs.

PENNSYLVANIA

Bucks County

Doylestown, *James-Lorah House*, 132 North Main Street.

Chester County

Hamorton vicinity, *Longwood Gardens District*, on U.S. 1.

York County

York, *Cookes House*, 438–440 Codorus Street.

PUERTO RICO

San Juan, *San Juan Historic District*, northwestern triangle of the islet of San Juan.

SOUTH CAROLINA

Richland County

Columbia, *Supreme Court of South Carolina Building*, northwest corner of Gervais and Sumter Streets.

SOUTH DAKOTA

Clay County

Vermillion, *Austin-Whittemore Museum*, 15 Austin Avenue.

TENNESSEE

Davidson County

Nashville, *Nashville City Cemetery*, 1001 South Fourth Avenue.

Knox County

Knoxville, *Park, James, House*, 422 West Cumberland Avenue.

Williamson County

Franklin, *Franklin Historic District*, bounded by North Margin Street on the north; Big Harpeth River and North and South First Avenue on the east; both sides of South Margin Street on the south; and both sides of North and South Fifth Avenue on the west.

TEXAS

Goliad County

Goliad, *Old Market House Museum*, southwest corner of South Market and Franklin Streets.

VIRGINIA

Fauquier County

Upperville, *Upperville Historic District*.

WEST VIRGINIA

Tyler County

Sistersville, *Sistersville City Hall*, Main and Diamond Streets.

Sistersville, *The Wells Inn*, 316 Charles Street.

WISCONSIN

Columbia County

Columbus, *Farmers and Merchants Union Bank*, 159 West James Street.

Dane County

Madison, *Pierce, Carrie, House*, 424 North Pinckney Street.

Milwaukee County

Milwaukee, *Bogk, Frederick C., House*, 2420 North Terrace Avenue.

Outagamie County

Kaukauna, *Grignon, Charles A., House*, Augustine Street.

ROBERT M. UTLEY,
Director, Office of Archeology and Historic Preservation.

[FR Doc.72-18996 Filed 11-6-72;8:47 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Marketing Agreement 146]

PEANUTS

1972 Crop; Outgoing Quality Regulation and Indemnification

Pursuant to the provisions of sections 32, 34, and 36 of the marketing agreement regulating the quality of domestically produced peanuts heretofore entered into between the Secretary of Agriculture and various handlers of peanuts (30 F.R. 9402) and upon recommendation of the Peanut Administrative Committee established pursuant to such agreement and other information, it is hereby found that the amendments hereinafter set forth to the Outgoing Quality Regulation and Terms and Conditions of Indemnification Applicable to 1972 Crop Peanuts (37 F.R. 11493) will tend to effectuate the objectives of the Agricultural Marketing Agreement Act of 1937, as amended, and of such agreement.

Amendment of paragraph (c) of the Outgoing Quality Regulation is necessary to bring the requirements for pretesting samples of shelled peanuts into conformity with determinations of the committee that the samples would be required to be sent to an AMS laboratory, a designated laboratory, or a laboratory listed on the most recent committee list of approved laboratories that can provide analysis results on such samples in 36 hours. Likewise, amendment of paragraphs 4, 7, and 10 of the Terms and Conditions of Indemnification is necessary to bring the provisions for paying indemnification transportation expenses into conformity with determinations of the committee that transportation expenses be included in the indemnification payment on a lot of rejected peanuts only if such lot is found to be unwholesome as to aflatoxin after the lot had been certified negative as to aflatoxin prior to being shipped or otherwise disposed of for human consumption by the handler pursuant to the Outgoing Quality Regulations.

Therefore, the seventh sentence of paragraph (g) of the Outgoing Quality Regulation (37 F.R. 11493) is deleted and replaced by the following:

The subsamples designated "1–A" and "1–B" shall be sent as requested by the handler or buyer, for aflatoxin assay to an AMS laboratory, a designated laboratory, or a laboratory listed on the most recent committee list of approved laboratories that can provide analyses results on such samples in 36 hours.

In the fourth paragraph of the Terms and Conditions of Indemnification (37 F.R. 11493), the second sentence is deleted and replaced by the following:

The indemnification payment for peanuts in such a lot shall be the indemnification value of the peanuts, as hereinafter provided, plus actual costs of any necessary storage. Transportation expenses (excluding demurrage) from the handler's plant or storage to the point within the continental United States where the rejection occurred and from such point to a delivery point specified by the committee shall be included in the indemnification payment if the lot is found by the committee to be unwholesome as to aflatoxin after such lot had been certified negative as to aflatoxin prior to being shipped or otherwise disposed of for human consumption by the handler pursuant to requirements of the "Outgoing Quality Regulation—1972 Crop Peanuts".

Likewise, in the seventh paragraph, the first and second sentences are deleted and replaced by the following:

The indemnification payment on peanuts declared for remilling, and which contain not more than 1 percent damaged kernels other than minor defects, shall be the indemnification value referable to the weights of peanuts lost in the remilling process and not cleared for human consumption, plus temporary storage, except as hereinafter restricted, plus an allowance for remilling of 1 cent per pound on the original weight, less 1½ percent of the foregoing contract or market prices multiplied by the original weight. However, the 1½ percent deduction shall not apply to peanuts whose appropriate samples for pretesting, drawn, and assayed in accordance with paragraph (c) of the "Outgoing Quality Regulation—1972 Crop Peanuts," were determined to be not indemnifiable as to aflatoxin. Transportation expenses (excluding demurrage) from the handler's plant or storage to the point within the continental United States where the rejection occurred and from such point to a delivery point specified by the committee shall be included in the indemnification payment if the lot is found by the committee to be unwholesome as to aflatoxin after such lot had been certified negative as to aflatoxin prior to being shipped or otherwise disposed of for human consumption by the handler pursuant to requirement of the "Outgoing Quality Regulation—1972 Crop Peanuts".

In the 10th paragraph of the same Terms and Conditions of Indemnification, the third sentence is deleted.

The Peanut Administrative Committee has recommended that these amendments be issued as soon as possible so as to implement and effectuate the provisions of the marketing agreement dealing with the Outgoing Quality Regulation and Terms and Conditions of Indemnification. Marketing of the 1972 peanut crop is underway and such regulations and terms and conditions for actual operations under the agreement should therefore be modified and made effective as soon as possible, i.e., on the effective date specified herein. Handlers of pea-

nuts who will be affected by such amend-

Signed at Washington, D.C., on No-

DEPARTMENT OF HEALTH

discuss and evaluate and/or rank con-

view, discuss, and evaluate and/or rank

Health, Building 31–C, Conference Room

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nuts who will be affected by such amendments have signed the marketing agreements authorizing the issuance of such regulations and terms and conditions, they are represented on the committee which recommended such amendments and time does not permit prior notice of the proposed amendments to such handler.

The foregoing amendments of the Outgoing Quality Regulation and the Terms and Conditions of Indemnification are hereby approved.

Dated: November 1, 1972; to become effective November 7, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-19015 Filed 11-6-72;8:48 am]

Agricultural Stabilization and Conservation Service

[Docket No. SH-311]

SUGARCANE PRICES IN PUERTO RICO

Notice of Hearing and Designation of Presiding Officers

Pursuant to the authority contained in section 301(c)(2) of the Sugar Act of 1948, as amended (61 Stat. 929; 7 U.S.C. 1131), and in accordance with the rules of practice and procedure applicable to price proceedings (7 CFR 802.1 et seq.), notice is hereby given that a public hearing will be held in Santurce, P.R., in the Conference Room, Seventh Floor, Segarra Building, Stop 20, on November 16, 1972, beginning at 10 a.m.

The purpose of this hearing is to receive evidence likely to be of assistance to the Secretary of Agriculture in determining, pursuant to the provisions of section 301(c)(2) of the act, fair and reasonable prices to be paid for the 1972-73 crop of Puerto Rican sugarcane by producers who process sugarcane grown by other producers and who apply for payment under the act on their own sugarcane production.

In the interest of obtaining the best possible information, all interested persons are requested to appear at the hearing to express their views and to present appropriate data with respect to the subject matter involved.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

The hearing, after being called to order at the time and place mentioned herein, may be continued from day to day within the discretion of the presiding officers, and may be adjourned to a later day or to a different place without notice other than the announcement thereof at the hearing by the presiding officers.

Leo L. Sommerville, Robert R. Stansberry, Jr., James E. Agnew, Jr., and Carlos Troche are hereby designated as presiding officers to conduct either jointly or severally the foregoing hearing.

Signed at Washington, D.C., on November 3, 1972.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-19211 Filed 11-6-72;9:47 am]

Office of the Secretary

IOWA

Designation of Areas for Emergency and Rural Housing Disaster Loans

It has been determined that property loss or damage or injury in certain counties in Iowa has resulted from natural disasters caused by heavy rains and flooding during August and September 1972, and hailstorms, windstorms, and tornadoes during the period of August through September 1972. The following counties of Iowa are affected by such natural disasters:

Chickasaw.	Hamilton.
Delaware.	Jones.
Dubuque.	Linn.
Fayette.	Wayne.
Floyd.	Wright.

It has further been determined that in the above counties of Iowa a general need for credit exists. Therefore, these counties are declared eligible for low interest rate disaster loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, the Disaster Relief Act of 1970, title V of the Housing Act of 1949, and Public Law 92-385. Applications for such loans must be received by this Department prior to July 1, 1973, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans.

The urgency of the need for loans in the designated areas make it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 2d day of November, 1972.

J. PHIL CAMPBELL,
Acting Secretary.

[FR Doc.72-19019 Filed 11-6-72;8:46 am]

DEPARTMENT OF COMMERCE

Maritime Administration

NATIONAL BANK OF TULSA

Notice of Approval of Applicant as Trustee

Notice is hereby given that National Bank of Tulsa, with offices at 320 South Boston Avenue, Tulsa, Okla., has been approved as trustee pursuant to Public Law 89-346 and 46 CFR 221.21-221.30.

Dated: October 31, 1972.

BURT KYLE,
Chief, Office of Domestic Shipping.

[FR Doc.72-19034 Filed 11-6-72;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

BOARD OF SCIENTIFIC COUNSELORS, NICHD

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the Board of Scientific Counselors, NICHD, November 13 and 14, 1972, at 9 a.m., National Institutes of Health, Building 31, Conference Room 4. This meeting will be open to the public from 9 a.m. to 10:30 a.m., November 13, at which time Dr. Gerald D. LaVeck, Director, NICHD, will report on recent legislative activities affecting the Institute and Dr. Charles Lowe, Scientific Director, NICHD, will present an overview of Institute intramural research activities as an orientation for new Board members. The meeting will be closed to the public 10:30 a.m. to 5 p.m., November 13 and 9 a.m. to 5 p.m., November 14 to review specific intramural research programs under consideration or in progress and to consider and formulate advice on the intramural research programs. This portion of the meeting is closed in accordance with the Secretary's Determination of September 27, 1972.

Ms. Patricia Gabbett, Information Officer, NICHD, Building 31, Room 2A-51, National Institutes of Health, 496-5133, will furnish summaries of the meeting and rosters of the committee members. Substantive information may also be obtained from Dr. Charles Lowe, Scientific Director, NICHD, Building 31, Room 3A-51, National Institutes of Health, 496-5035.

JOHN F. SHERMAN,
Deputy Director, National Institutes of Health.

OCTOBER 26, 1972.

[FR Doc.72-19030 Filed 11-6-72;8:46 am]

MYOCARDIAL INFARCTION COMMITTEE

Notice of Meeting

Pursuant to Executive Order 11671 notice is hereby given of the following meeting and the Executive Secretary from whom a summary of the meeting may be obtained.

Committee, date, time, and location of meeting

Myocardial Infarction Committee; November 15, 1972; 9 a.m.-5 p.m.; Ramada Inn-Convention Center, Executive II, 1011 South Akard at Interstate 20, Dallas, Tex.

Dr. Peter L. Frommer, Room 1B59, NIH Building 31, Bethesda, Md.

This meeting shall be closed to the public in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination, in order to review, discuss and evaluate and/or rank contract proposals.

JOHN F. SHERMAN,
National Institutes of Health, Deputy Director,

OCTOBER 30, 1972.

[FR Doc.72-19027 Filed 11-6-72;8:46 am]

NATIONAL ADVISORY CHILD HEALTH AND HUMAN DEVELOPMENT COUNCIL

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the National Advisory Child Health and Human Development Council, November 27 and 28, 1972, at 9 a.m., National Institutes of Health, Building 31, Conference Room 4. This meeting will be open to the public from 9 a.m. to 5 p.m., November 27, with reports from the Director, NICHD, and staff members on the current status of the Institute, a scientific presentation by one of the Council members, followed by presentations and discussion on specific programs of the Institute. The meeting will be closed to the public 9 a.m. to 5 p.m., November 28, to review, discuss and evaluate and/or rank grant applications in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination.

Ms. Patricia Gabbett, Information Officer, NICHD, Building 31, Room 2A-51, National Institutes of Health, 496-5133, will furnish summaries of the meeting and rosters of the committee members. Substantive information may also be obtained from Mrs. Marjorie Neff, Council Secretary, NICHD, Landow Building Room C-633, National Institute of Health 496-1756.

JOHN F. SHERMAN,
Deputy Director, National Institutes of Health.

OCTOBER 30, 1972.

[FR Doc.72-19026 Filed 11-6-72;8:45 am]

NATIONAL ADVISORY COUNCIL ON NURSE TRAINING

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the National Advisory Council on Nurse Training, November 27 to 29, 1972, at 10:30 a.m. on November 27, National Institutes of Health, Building 31, Conference Room 6. This meeting will be open to the public from 10:30 a.m. to noon, November 27, 1972, to discuss general information of interest to the Council regarding the Division of Nursing. Miss Jessie M. Scott, Director of the Division of Nursing, will cover announcements, introduction of new personnel, procedure for conduct of the meeting, discuss future meeting dates and the current status of program activity. The meeting will be closed to the public from 1 p.m., November 27, 1972, through 5 p.m., November 29, 1972, in order to review, discuss, and evaluate and/or rank grant applications in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination.

1. The Information Officer who will furnish summaries of the open meeting and rosters of committee members:

Mrs. Norma Golumbic, Information Officer, Division of Nursing, Room 2C19, Building 31, National Institutes of Health, Bethesda, Md. 20014, telephone 496-1143.

2. The Executive Secretary for the National Advisory Council on Nurse Training, from whom substantive information may be obtained:

Mary S. Hill, Ph. D., Room 2B58, Building 31, National Institutes of Health, Bethesda, Md. 20014, telephone 496-6985.

JOHN F. SHERMAN,
Deputy Director, NIH, National Institutes of Health.

OCTOBER 30, 1972.

[FR Doc.72-19025 Filed 11-6-72;8:45 am]

NATIONAL ADVISORY GENERAL MEDICAL SCIENCES COUNCIL

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the National Advisory General Medical Sciences Council on November 30 and December 1, 1972, at 9 a.m., National Institutes of Health, Building 31A, Conference Room 4.

The following is the agenda:

November 30, 1972—9 to 10:30 a.m.—Open to the public. "Opening remarks, introductions, announcements, etc." 10:30 a.m. to 5 p.m.—Closed to the public. "Consideration of Applications".

December 1, 1972—9 to 12 noon—Open to the public. "Discussion of Budget Process as it Affects NIGMS." Speaker will be Mr. Robert M. Moyer, Staff Assistant, Labor-HEW Subcommittee, Committee on Appropriations, House of Representatives.

The closed portion of this meeting will be reserved for review, discussion, and/or ranking grant applications in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination.

Name of the person from whom rosters of the National Advisory General Medical Sciences Council and/or summary of the meeting may be obtained:

Mrs. Helen W. Garrett, Building 31, Room 4A47, NIH, Bethesda, Md. 20014, telephone 496-4586.

JOHN F. SHERMAN,
Deputy Director, National Institutes of Health.

OCTOBER 30, 1972.

[FR Doc.72-19028 Filed 11-6-72;8:46 am]

NATIONAL ADVISORY NEUROLOGICAL DISEASES AND STROKE COUNCIL

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the National Advisory Neurological Diseases and Stroke Council, November 16, 1972, at 9 a.m., National Institutes of Health, Building 31-C, Conference Room 6. This meeting will be open to the public from 9 a.m. to 1 p.m. on November 16, 1972, and from 8:30 a.m. to 9:30 a.m. and after 3:30 p.m. on November 17, 1972, until the conclusion of the meeting to discuss program planning and program accomplishments, and closed to the public on November 16, 1972, from 1 p.m. to 6 p.m. and on November 17, 1972, from 9:30 a.m. to 3:30 p.m., to review, discuss and evaluate and/or rank grant applications in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination.

The name of the person from whom rosters of Council members and/or summary of the meeting may be obtained: Dr. Murray Goldstein, Director, Extramural Programs, Associate Director, National Institute of Neurological Diseases and Stroke, Room 757, Westwood Building, NIH, Bethesda, Md. 20014, phone No.: 496-7705.

JOHN F. SHERMAN,
Deputy Director, National Institutes of Health.

OCTOBER 30, 1972.

[FR Doc.72-19024 Filed 11-6-72;8:45 am]

PERIODONTAL DISEASES ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the Periodontal Diseases Advisory Committee, December 6 and 7, 1972, National Institutes of Health, Building 31-C, Conference Room 8. This meeting will be open to the public from 9:30 a.m. to 5 p.m., December 6, and from 9 a.m. to 1 p.m., December 7. The committee will advise the National Institute of Dental Research on the policies it should develop on periodontal disease research and research manpower.

The Executive Secretary from whom substantive information may be obtained is:

Dr. Anthony A. Rizzo, Chief, Periodontal Diseases Program, Extramural Programs, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 506, Bethesda, Md. 20014.

Dated: October 26, 1972.

JOHN F. SHERMAN,
Deputy Director, National Institutes of Health.

[FR Doc.72-19029 Filed 11-6-72;8:46 am]

Office of the Secretary

SECRETARY'S ADVISORY COMMITTEE ON AUTOMATED PERSONAL DATA SYSTEMS

Notice of Meeting

A public meeting of the Secretary's Advisory Committee on Automated Personal Data Systems will be held from 9 a.m. to 5:30 p.m. on Thursday, November 9, in Room 5051, HEW North Building, 330 Independence Avenue SW.,

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Washington, DC. The Committee will also meet in executive session, closed to the public, on November 10 and 11.

(1) *Purposes.* The Committee was appointed to advise and assist the Department of Health, Education, and Welfare in the preparation of analyses and recommendations which the Secretary determines will help the Department to take initiative in seeking to assure that the use of automated personal data systems will be managed to maximize their benefits and minimize their potential for harmful consequences.

(2) *Membership.* The Committee is chaired by Frances Grommers, M.D., and is composed of the following other members: Layman Allen, Juan Anglero, Stanley Aronoff, William Bagley, Philip Burgess, Gertrude Cox, Patricia Cross, Gerald Davey, Taylor DeWeese, Guy Dobbs, Robert Gallati, Florence Gaynor, John Gentile, Jane Hardaway, James Impara, Patricia Lanphere, Arthur Miller, Don Muchmore, Jane Noreen, Roy Siemiller, Ruth Silver, Sheila Smythe, Willis Ware, and Joseph Weizenbaum.

(3) *Activities.* This will be the seventh meeting of the Committee. At these meetings, presentations are made to the Committee of information on various aspects of specific data systems and discussions of issues relating to the use of such systems and their impact on privacy, confidentiality, and due process.

(4) *Agenda.* The November 9 meeting will include presentations by individuals who are the subjects of records stored in automated personal data systems and by representatives of such individuals. Among those who will appear are the eastern and western regional representatives of the National Welfare Rights Organization, representatives of the American Civil Liberties Union, representatives of veterans' organizations and Federal employees.

The November 10 and 11 executive sessions of the Committee's meeting will be devoted to the purpose of considering and formulating advice to be included in the Committee's report to the Secretary.

It is suggested that those desiring more specific information on the meeting call the Office of the Executive Director at 963-3003.

DAVID B. H. MARTIN,
Executive Director.

OCTOBER 30, 1972.

[FR Doc.72-19126 Filed 11-6-72;8:52 am]

AMERICAN REVOLUTION BICENTENNIAL COMMISSION

ADVISORY COMMITTEES AND PANELS

Notice of Meetings

Notice is hereby given, pursuant to Executive Order 11671, that the following American Revolution Bicentennial Commission Advisory Committee and panel meetings will be held the month of November 1972:

CREATIVE AND VISUAL ARTS ADVISORY PANEL

The Creative and Visual Arts Advisory Panel will hold an open meeting (with the exception of the agenda item asterisked below) from 1 p.m., November 20, 1972, to 4 p.m., November 21, 1972. The meeting will be held at the ARBC Conference Room, 736 Jackson Place NW., Washington, DC. The panel is composed of private citizens well known in the fields of art, environmental quality, museum management, drama, sculpture, film making, writing, teaching, architecture, journalism, and American crafts.

The agenda will include:

Review and development of program guidelines and policy.
Identification of programs.
Consideration of project proposals.*

INVITATION TO THE WORLD ADVISORY PANEL

The Invitation to the World Advisory Panel will hold an open meeting (with the exception of the agenda item asterisked below) from 1 p.m., November 20, 1972 to 4 p.m., November 21, 1972. The meeting will be held at the ARBC Conference Room, 736 Jackson Place NW., Washington, DC. The panel membership consists of representatives from the travel industry, COSERV, hotel management, international visitors' programs, camping associations, DATO, etc. The agenda for the meeting will include discussion of:

Hotel/motel rates.
Home hospitality and information.
Low cost accommodations.
Services to visitors.
Student needs.
Camping facilities.
Common carrier rates.
Consideration of project proposals.*

PERFORMING ARTS ADVISORY PANEL

The Performing Arts Advisory Panel will hold an open meeting (with the exception of the agenda item asterisked below) from 1 p.m., November 20, 1972, to 4 p.m., November 21, 1972. The meeting will be held at the ARBC Conference Room, 736 Jackson Place NW., Washington, D.C. The panel membership consists of leaders in the fields of journalism, choreography, drama, modern dance, art, ballet, music, opera, and labor. The agenda items to be discussed are:

Review and development of program guidelines and policy.
Identification of programs.
Consideration of project proposals.*

HISTORIC CONSERVATION PANEL

The Historic Conservation Panel will be meeting on Wednesday, November 29, 1972, at 10 a.m., in the Board Room of the National Trust for Historic Preservation, 748 Jackson Place NW., Washington, D.C. The morning session is open to the public. The afternoon is an executive session. The panel is composed of leaders in the fields of museum history, architecture, interior design, landscape architecture, civil engineering, archaeology, and history. The panel will be meeting to review programs and projects, specifically: Additional information provided by the State Bicentennial Commissions on the Heritage 1976 Meeting House Proposal, and the "Above Ground Archaeology Proposal."

COMMEMORATION AND CONVOCATIONS PANEL

The Commemoration and Convocations Panel will be meeting on Wednesday, November 29, 1972, at 10 a.m. in the Board Room of the National Trust for Historic Preservation, 748 Jackson Place NW., Washington, DC. The morning session is open to the public. The panel will be meeting in executive session in the afternoon. Membership on the panel is represented by persons from:

American Academy of Arts and Sciences.
American Antiquarian Society.
American Association for State and Local History.
American Historical Association.
American Philosophical Society.
American Political Science Association.
Daughters of the American Revolution.
Phi Beta Kappa.
Sons of the American Revolution.
U.S. Capitol Historical Society.

The agenda will include discussion of a proposal submitted by the Metropolitan Museum of Art and the review of and policy guidelines for the Heritage 1976 Program Committee in the area of commemorations.

PUBLICATIONS AND RESEARCH PANEL

The Publications and Research Panel will be meeting on Wednesday, November 29, 1972, at 10 a.m., in the Board Room of the National Trust for Historic Preservation, 748 Jackson Place NW., Washington, DC. The morning session is open to the public. The afternoon is an executive session. Membership on the panel is represented by persons from:

American Association for State and Local History.
American Historical Association.
American Political Science Association.
Association for the Study of Negro Life and History.
Institute of Early American History and Culture.
National Historical Publications Commission.
Organization of American Historians.
Society of American Archivists.
American Council of Learned Societies.
The Association of American University Presses, Inc.
American Library Association.

The panel will be meeting to discuss a microfilm project suggested by Dr. Herbert Johnson, and to review material provided by State Bicentennial Commissions on Historic Bibliographies.

Dated: November 1, 1972.

HUGH A. HALL,
Acting Director, American Revolution, Bicentennial Commission.

[FR Doc.72-19022 Filed 11-6-72;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-298]

NEBRASKA PUBLIC POWER DISTRICT

Notice of Availability of Applicant's Environmental Report, Supplemental Environmental Report, and AEC Draft Environmental Statement for Cooper Nuclear Station

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations set forth in Appendix D to 10 CFR Part 50, notice is hereby given that documents entitled "Applicant's Environmental Report and Supplement No. 1 through Supplement No. 5 to Environmental Report" (collectively known as the "reports"), submitted by the Nebraska Public Power District have been placed in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, and in Auburn Public Library, 1118 15th Street, Auburn, NE 68305. The reports are also available at the State Office of Planning and Programing, State Capitol, Post Office Box 94601, Lincoln, NE 68509, and the Southeastern Nebraska Joint Planning Commission, Humboldt, Nebr. 68376.

Notice of availability of the applicant's environmental report was published in the FEDERAL REGISTER on December 7, 1971 (36 F.R. 23264).

The reports have been analyzed by the Commission's Directorate of Licensing, and a draft environmental statement, dated November 1972, related to the proposed continuation of Construction Permit No. 42 and the proposed issuance of operating licensing for the Copper Nuclear Station located near the village of Brownsville, Nemaha County, Nebr., has been prepared and has been made available for public inspection at the locations designated above. Copies of the Commission's draft environmental statement may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Pursuant to Appendix D to CFR Part 50, interested persons may, within forty-five (45) days from the date of publication of this notice in the FEDERAL REGISTER, submit comments for the Commission's consideration on the report and supplements, on the draft environmental statement, and on the proposed action. Federal and State agencies are being provided with copies of the draft environmental statement (local agencies may obtain this document on request), and when comments thereon of the Federal, State, and local officials are received, they will be made available for public inspection at the above designated locations. Comments on the draft environmental statement from interested members of the public should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545. Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 2d day of November 1972.

For the Atomic Energy Commission.

DANIEL R. MULLER,
Assistant Director, for Environmental Projects, Directorate of Licensing.

[FR Doc.72-19041 Filed 11-6-72;8:51 am]

CIVIL AERONAUTICS BOARD

[Docket Nos. 23664 etc.; Order 72-10-94]

PURDUE AIRLINES, INC., ET AL.

Order of Investigation and Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 30th day of October 1972.

Purdue Airlines, Inc., certificates of public convenience and necessity for supplemental air transportation; petition of Modern Air Transport, Inc., for revocation of certificates of Purdue Airlines, Inc., Docket 23664; application of Prairie Avenue Gospel Center doing business as Fiesta Air, Carl Pike, Stephens, Inc., and Purdue Airlines, Inc., for approval under sections 401, 408, and 409 of the Federal Aviation Act of 1958, as amended, Docket 24715.

Purdue Airlines, Inc. (Purdue), holds certificates of public convenience and necessity for supplemental air transportation.[1] Section 401(n) of the Federal Aviation Act of 1958, as amended, invests the Board with the power to modify, suspend or revoke the certificates of a supplemental air carrier for failure to comply with certain requirements contained therein. Section 401(n)(3) of the Act provides that the Board may, after notice and hearing, direct that the certificate of public convenience and necessity of any supplemental air carrier shall cease to be effective if any such carrier fails to perform service authorized by its certificate to the minimum extent prescribed by the Board. Section 208.25 of the Board's economic regulations requires each supplemental air carrier to perform services authorized by its certificate for at least 500 hours of revenue flight in any two consecutive calendar quarters. Failure to perform such minimum service is deemed to constitute a prima facie cause for suspension of the carrier's operating authority. Section 401(n)(4) of the Act imposes on each supplemental air carrier a continuing requirement that it be fit, willing, and able to properly perform the transportation authorized by, and furnished pursuant to, its certificate of public convenience and necessity, and to conform to the provisions of the Act and the rules and regulations thereunder. This same section also authorizes the Board to modify, suspend, or revoke the certificate of any supplemental air carrier which fails to comply with these continuing requirements.[2] Additionally, section 401(n)(5) gives the Board power to immediately suspend a carrier's certificate in any case in which the Board determines that the failure of the carrier to comply with the requirements of section 401(n) (3) or (4) results in a situation in which a suspension is required in the interest of the rights, welfare, or safety of the public, and to immediately enter upon a hearing to determine whether the certificate should be modified, suspended, or revoked.

According to reports filed with the Board, Purdue has operated the following number of hours of revenue flight during the last four quarters:

Quarter ending	Number of revenue hours
June 30, 1971	301
September 30, 1971	81
December 31, 1971	51
March 31, 1972	70
June 30, 1972	52

Purdue's present state of operation raises substantial questions with regard to its performance of supplemental air transportation under the statutory provisions governing supplemental air carriers. Based upon its reports, it appears that Purdue has failed to meet the minimum service requirements set forth in § 208.25. In addition, its failure to perform service under its certificates raises a substantial question as to whether it continues to be fit, willing and able to perform its certificated service.

In view of Purdue's present situation and the statutory requirements discussed above, the Board has decided to institute an investigation pursuant to section 401 (n) (3) and (4) of the Act to determine if Purdue has failed to comply with the continuing requirements imposed by these provisions, and whether the carrier's certificates should be modified, suspended, revoked, or whether these certificates should cease to be effective. We note that there is pending an application to acquire the stock of Purdue and that many of the issues presented therein are related to the matters in the instant investigation. We will, therefore, consolidate the investigation instituted herein with the application in Docket 24715 of Prairie Avenue Gospel Center doing business as Fiesta Air to acquire and control the stock of Purdue.

In view of Purdue's current circumstances, the Board tentatively finds and concludes that Purdue's certificates should be suspended during the pendency of the consolidated hearing. Interested persons will be given twenty (20) days following the date of service of this order to show cause why the tentative findings and conclusions should not be made final.

While the Board might consider entry of an order under section 401(n)(5) immediately suspending Purdue's certificates, a show cause order will afford the carrier, as well as any other interested person, with an opportunity to demonstrate why Purdue's certificates should not be suspended without the necessity of using the Board's emergency powers under section 401(n)(5) of the Act. Prompt resolution of this question will make it possible to proceed expeditiously with the consolidated hearing established herein.[3]

Accordingly, it is ordered:

1. That an investigation is instituted to determine (1) whether Purdue Airlines, Inc., has failed to meet the minimum service requirement set forth in section 401(n)(3) of the Act and in sec-

[1] Purdue holds certificates authorizing it to engage in supplemental air transportation between points within the United States and between points in the United States and points in Canada.

[2] On July 27, 1971, Modern Air Transport, Inc., filed a petition in Docket 23664 requesting that the Board revoke Purdue's certificate for failure to comply with the continuing requirements of section 401(n). In view of our action herein, Modern's petition is rendered moot and we will dismiss it.

[3] Similarly, prompt resolution should make a section 401(n)(5) proceeding unnecessary, and should therefore avoid delays to the consolidated hearing which might result from the institution of such proceeding.

Draft, October 27

at its entrance. Marine life will be ad-

23.8 acres of marine and waterfront

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tion 208 of the Board's economic regulations; (2) whether Purdue continues to be fit, willing, and able to perform supplemental air transportation in accordance with its certificates; and (3) whether Purdue's certificates should be modified, suspended, revoked, or otherwise declared to be ineffective pursuant to section 401(n) of the Act;

2. That the application of Prairie Avenue Gospel Center doing business as Fiesta Air, et al., in Docket 24715 be consolidated into the investigation instituted herein;

3. That all interested persons are directed to show cause why the Board should not with such approval of the President as may be necessary, issue an order making final the tentative findings and conclusions stated herein, suspending the certificates of public convenience and necessity for supplemental air transportation held by Purdue Airlines, Inc., pending final action by the board in the consolidated proceeding instituted herein;

4. That any interested person having objection to the issuance of an order making final the proposed certificate suspensions set forth herein shall, within 20 days after service of this order, file with the Board and serve upon all persons listed in paragraph 7 infra, a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections;

5. That if timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before action is taken by the Board;

6. That in the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with its tentative findings and conclusions set forth herein;

7. That a copy of this order shall be served upon Purdue Airlines, Inc., which is hereby made a party to this proceeding, Prairie Avenue Gospel Center, doing business as Fiesta Air, Carl Pike, Capitol International Airways, Inc., Interstate Airmotive, Inc., Johnson Flying Service, Inc., McCulloch International Airlines, Inc., Modern Air Transport, Inc., Overseas National Airways, Inc., Standard Airways, Inc., Trans International, Inc., Universal Airlines, Inc., and World Airways, Inc.; and

8. That the petition of Modern Air Transport, Inc., in Docket 23664 be and it hereby is dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.72-19058 Filed 11-6-72;8:50 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Availability

Environmental impact statements received by the Council from October 24 through October 27, 1972.

NOTE: At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

DEPARTMENT OF AGRICULTURE

Contact: Dr. T. C. Byerly, Office of the Secretary, Washington, D.C. 20250, 202—388-7803.

FOREST SERVICE

Draft, October 10
Gila National Forest, N. Mex., Counties: Catron and Grant. The statement refers to the proposed designation of 514,678 acres of the national forest as wilderness within the National Wilderness Preservation System. Impacts of the action which are discussed in the statement include ecological, social, and economic considerations. (23 pages) (ELR Order No. 05432) (NTIS Order No. EIS 72-5432-D)

Draft, October 24
Radiobiology of Northern Forests, Wisconsin, County: Oneida. The statement refers to a research project which is being conducted in a 1,440 acre forest, a 6.5 acre gamma radiation field, and in the laboratory of the institute of Forest Genetics, near Rhinelander, Wis. The purpose of the research is to study the effects of gamma radiation (including that resulting from nuclear disasters), upon individual species and the forest community. Direct effects of radiation will be significant on approximately 10 of the 1,440 acres. (41 pages) (ELR Order No. 05525) (NTIS Order No. EIS 72-5525-D)

SOIL CONSERVATION SERVICE

Final, October 24
Taliulah Creek Watershed, N.C., County: Graham. The statement refers to the proposed construction of one multipurpose structure (for flood prevention and water supply), and the use of land treatment measures. Approximately 36 acres of agricultural and forest land will be removed from production and upland game habitat; 4,000 feet of trout stream will be inundated. (42 pages) Comments made by: COE, EPA, HEW, TVA, ARC, and State agencies. (ELR Order No. 05512) (NTIS Order No. EIS 72 5512-F)

ATOMIC ENERGY COMMISSION

Contact: For Non-Regulatory Matters: Mr. Robert J. Catlin, Director, Division of Environmental Affairs, Washington, D.C. 20545, 202—973-5391.

For Regulatory Matters: Mr. A. Giambusso, Deputy Director for Reactor Projects, Directorate of Licensing, Washington, D.C. 20545, 202—973-7373.

Draft, October 27
Arkansas Nuclear One, Unit 1, Ark., County: Pope. The statement refers to the issuance of an operating license to the Arkansas Power Light Co. for Unit 1, which will employ a 2568 MWt pressurized water reactor to produce 850 MWe. The statement considers the effects both of Unit 1, and of Units 1 and (under construction) 2 operating simultaneously. Cooling water for Unit 1 will be drawn from Lake Dardanelle for a once-through system and discharged to an embayment of the lake at 15° F. above ambient. Aquatic organisms may be adversely affected by impingement upon intake screens, entrapment in the cooling system, or temperature variations. (310 pages) (ELR Order No. 05530) (NTIS Order No. EIS 72 5530-D)

Draft, October 24
Rancho Seco Nuclear Station, Calif., County: Sacramento. The statement refers to the proposed continuation of a construction permit and the issuance of an operating license to the Sacramento Municipal Utility District for the start-up and operation of Unit 1. The unit will employ a pressurized water reactor to produce 2788 MWt and 901 MWe (net); cooling water will be drawn from the Folsom South Canal, and circulated through two natural draft towers. Total body-dose to the population within a 50-mile radius will be 3 man-rem/year. (134 pages) (ELR Order No. 05520) (NTIS Order No. EIS 72 5520-D)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attention: DALN-PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, DC 20314. 202—693-7168.

Draft, October 19
Jacksonville Port Authority, County: Duval. The statement refers to the proposed granting of a dredge and fill permit, pursuant to section 10 of the River and Harbor Act of 1899, to the Jacksonville Port Authority. The project contemplated under authority of the permit involves the construction of a bulkhead in the Back River at Blount Island, behind which dredged spoil from both the Back and St. John's River would be deposited in the construction of an Offshore Power Systems (OPS) facility for the production of Floating Nuclear Plants (FNP). Approximately 240 acres of the Back River, along with the river's present and future biological contribution to the St. John's ecosystem, will be committed to the project. (Approximately 210 pages) (ELR Order No. 05494) (NTIS Order No. EIS 72 5494-D)

San Francisco Bay Drift Removal, California. The statement refers to the removal of navigational hazards (debris) from the bay, and its use in land fill at Fort Barry. Some adverse effects will result to wildlife habitat. (20 pages) (ELR Order No. 05496) (NTIS Order No. EIS 72 5496-D)

Humboldt Harbor and Bay, Calif., County: Humboldt. The statement refers to a project which involves the maintenance dredging of navigation channels in the bay and the rehabilitation of jetties

at its entrance. Marine life will be adversely affected by dredging operations. (20 pages) (ELR Order No. 05497) (NTIS Order No. EIS 72 5497-D)

Redwood City Harbor, Calif., County: San Mateo. The statement refers to the proposed maintenance dredging of the harbor. Dredging activities will adversely affect marine biota. (28 pages) ELR Order No. 05498) (NTIS Order No. EIS 72 5498-D)

Draft, October 20
Perry Creek, Iowa, Counties: Plymouth and Woodbury. The statement refers to a proposed project which would provide flood protection for the western portion of the Sioux City metropolition area. Physical features of the project would be four dams and lakes and 6 miles of channel works. Approximately 5,980 acres (1,140 of which would be inundated), of agricultural land would be required for the project; 30 families would be displaced. (89 pages) (ELR Order No. 05503) (NTIS Order No. EIS 72 5503-D)

Draft, October 18
Gavins Point Dam, Nebraska and South Dakota. The statement refers to the operation and maintenance of the dam and Lewis and Clark Lake, which are on the Missouri River. The project is operated for the purposes of irrigation, recreation, flood control, navigation, and power generation. (38 pages) (ELR Order No. 05483) (NTIS Order No. EIS 72 5483-D)

Bay Ridge and Red Hook Channels, N.Y. The proposed project is the maintenance dredging of the existing navigation channel, with spoil being dumped in the New York Bight. Temporary turbidity will adversely affect marine life. (9 pages) (ELR Order No. 05487) (NTIS Order No. EIS 72 5487-D)

Draft, October 24
Bowline Point Generating Station, N.Y. The statement refers to the proposed granting of a discharge permit, pursuant to section 13 of the River and Harbor Act of 1899, to Orange and Rockland Utilities, Inc., for construction of the station. The project will include two 600 mw. (fuel oil) electric generating units, a marine fuel oil receiving terminal (which will extend 500 feet into the Hudson River), the dredging of an inlet channel, and the construction of recreation facilities. Ten acres of wetlands have been committed to the project; there is potential for damage to marine life and increases in air pollution. (106 pages) (ELR Order No. 05522) (NTIS Order No. EIS 72 5522-D)

Draft, October 18
Lower Monumental Lake, Wash., County: Columbia. The proposed action is the sale of 89 acres of waterfront land (on Lower Monumental Lake of the Snake River) to the Port of Columbia County, for the development of industrial and port facilities. The change of ownership itself would create no impact; the subsequent development however could. (Resultant impact may occur to wildlife resources, and air and water quality). (35 pages) (ELR Order No. 05488) (NTIS Order No. EIS 72 5488-D)

Final, October 24
King Cove, Alaska. The statement refers to the proposed construction of a 1,250-foot-long earthfill dike and a 210-foot rock groin, and the dredging of a 400-foot-long channel and an 11-acre anchorage basin. The project would provide protected mooring for resident and transient fishing vessels. Approximately 23.8 acres of marine and waterfowl habitat would be committed to the project (80 pages) Comme ts made by: USDA, DOI, DOT, DOC, EPA, and State agencies and concerned citizens. (ELR Order No. 05513) (NTIS Order No. EIS 72 5513-F)

Copan Lake, Okla., County: Washington. The statement refers to the proposed construction of a multiourpose (flood control, water supply, water quality control, recreation, and fish and wildlife) dam and reservoir on the Little Caney River. The reservoir will permanently inundate 4,850 acres of land, with an additional 8,530 acres being contained in the flood pool, which is expected to fill once every 16 years. Approximately 77 families will be displaced; 2 railroads, highways, and other facilities will be relocated; wildlife habitat will be lost. (Approximately 135 pages) Comments made by: EPA, HEW, DOI, and State agencies of Kansas, Arkansas, and Oklahoma, and concerned citizens. (ELR Order No. 05514) (NTIS Order No. EIS 72 5514-F)

Walker Dam Impoundment, Virginia, County: New Kent. The action is the treatment of the waters of the impoundment with a 50–50 mixture of diquat dibromide and potassium endothall. The purpose of the action is the control of the Brazilian waterweed (Egeria densa). Adverse effects will include minor fish kills; a reduction in the oxygen content of the water; the rendering of reservoir water not potable for a period of 2 weeks; and potential damage to an adjacent farm. (38 pages) Comments made by: USDA, DOC, EPA, DOI, and State agencies and concerned citizens. (ELR Order No. 05511) (NTIS Order No. EIS 72 5511-F)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, DC 20240, 202—343-3891

BUREAU OF OUTDOOR RECREATION

Draft, October 24
Cuyahoga Valley, Ohio, Counties: Cuyahoga and Summit. The statement refers to the proposed acquisition by the Ohio Department of Natural Resources, of 14,500 acres of land. This would be maintained as open space and will provide public outdoor recreation opportunities. Adverse effects of the action will be the loss of tax base, the relocation of 29 residences, the restriction of land uses, and an expected influx of visitors. (33 pages) (ELR Order No. 05516) (NTIS Order No. EIS 72 5516-D)

BUREAU OF SPORTS FISHERIES AND WILDLIFE

Draft, October 24
Columbian White-Tailed Deer Refuge, Oreg. and Wash. The statement refers to the proposed acquisition of 5,230 acres of land in Clatsop County, Oreg., and Wahkiakum County, Wash., for designation as a Columbian White-Tailed Deer National Wildlife Refuge. Other wildlife which are common to the area include whistling swans and Canada geese, mink and beaver, bald eagles, and red-tailed hawks. (36 pages) (ELR Order No. 05517) (NTIS Order No. EIS 72 5517-D)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 Seventh Street SW., Washington, DC 20590, 202—426-4355.

FEDERAL AVIATION AGENCY

Final, October 12
Fosston Municipal Airport, Minnesota, County, Polk. The statement refers to the proposed acquisition of 325.1 acres of land for the construction of a new asphalt N/S runway (3,500' x 75'), connecting taxiway (840' x 40'), parking ramp (300' x 150'), runway edge lights and beacon installations. The airport will be capable of accommodating all propeller aircraft under 12,500 pounds and some small corporate jets. The noise level near the airport will increase. (41 pages) Comments made by: State and local agencies. (ELR Order No. 05459) (NTIS Order No. EIS 72 5459-F)

FEDERAL HIGHWAY ADMINISTRATION

Draft, October 20
Tutuila Island, American Samoa, County, Lealataua. The statement refers to the proposed construction of a two-lane road from the village of Pagmalo to Aoloaufou; no road presently exists. The road will introduce vehicular traffic where it does not presently exist; the tranquility of villages will be altered. Some local customs will be affected (such as that of stopping all traffic during Sunday services, the statement contends that as a public road the new facility must be open to traffic at all times). An unspecified amount of agricultural land will be taken as right-of-way; economic development will be affected. (32 pages) (ELR Order No. 05505) (NTIS Order No. EIS 72 5505-D)

Tutuila Island, American Samoa, County, Lealatava. The statement refers to the proposed construction of a two-lane road from the village of Poloa to Fagamalo; no road presently exists. The road will introduce vehicular traffic to Fagamalo and Fagalli; the tranquility of the villages will be altered. Some local customs will be affected (such as that of stopping all traffic during Sunday church services; the statement contends that as a public road the new facility must be open to traffic as all times). An unspecified amount of agricultural land will be taken as right-of-way; economic development will be affected. (31 pages) (ELR Order No. 05506) (NTIS Order No. EIS 72 5506-D)

Tutuila Island, American Samoa, County, Vaifanua. The statement refers to the proposed construction of a two-lane road from the village of Onenoa to Tula; no road presently exists. The road will introduce vehicular traffic to Onenoa; the tranquility of the village will be altered. Some local customs will be affected (such as that of stopping all traffic during Sunday church services; the statement contends that as a public road the new facility must be open to traffic at all times). One or two fales (dwelling units) will be displaced; an unspecified amount of agricultural land will be taken as right-of-way; economic development will be affected. (34 pages) (ELR Order No. 05507) (NTIS Order No. EIS 72 5507-D)

Tutuila Island, American Samoa, County, Vaifanua. The statement refers to the proposed construction of a 2-lane road from the village of Aoa to Onenoa; no road presently exists. The road will introduce vehicular traffic to Onenoa; the tranquility of the village will be altered. Some local customs will be affected (such as that of stopping all traffic during Sunday church services; the statement contends that as a public road the new facility must be open to traffic at all times).

$1,700,000 plus the amount of capital additions made to the properties from

tion pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the

Docket No.	Date filed	Name of applicant

V37-215 NOV 7 72 XUM

Several fales (dwelling units), will be displaced; an unspecified amount of agricultural land will be taken as right-of-way; economic development will be affected. (31 pages) (ELR Order No. 05508) (NTIS Order No. EIS 72 5508–D)

Draft, October 24

Kentucky–18, Kentucky, County, Boone. The proposed project is the widening of existing KY–18 from a two-lane to a four-lane road. Project length is 1.35 miles. Displacements will include 29 families and four businesses. (17 pages) (ELR Order No. 05526) (NTIS Order No. EIS 72 5526–D)

King Street-St. Phillip Street Connector, South Carolina. The proposed project is the construction of a two-lane, one-way facility in Charleston. Project length is 760 feet. Sixty people would be displaced. (13 pages) (ELR Order No. 05502) (NTIS Order No. EIS 72 5502–D)

Final, October 24

U.S. 78, Alabama, County, Walker. The proposed project is the widening of a segment of U.S. 78. Project length is 7.7 miles. Seventy-seven acres of land will be acquired; 53 families, 18 businesses and one church will be displaced. A 4(f) statement has been filed to acquire land from Lynn's Park on Mulberry Fork of the Warrior River. There will be an increase of water pollution. (67 pages) Comments made by: USDA, COE, AEC, DOC, DOI, DOT, EPA (ELR Order No. 05515) (NTIS Order No. EIS 72 5513–F)

Interstate 435, Kansas, Counties, Johnson, Wyandotte, and Leavenworth. The proposed project is the addition of 20.5 miles to Interstate 435. The amount of land acquisition and the number of displacements are unknown; one church will be displaced. Adverse effects will include erosion and siltation, loss of water bodies and aquatic habitat, loss of agricultural and wooded area causing loss of wildlife habitat and increases of air, water, and noise pollution within the corridor area. (130 pages) Comments made by: USDA, COE, EPA, OEO, DOI and State and local agencies (ELR Order No. 05509) (NTIS Order No. EIS 72 5509–F)

Kansas–7, Kansas, County, Johnson. The proposed project is the relocation and widening of K–7 to a four-lane highway. Project length is 7.5 miles. The amount of land acquisition, and number of family and business displacements will depend upon the route chosen. Any route chosen will traverse streams and other water bodies causing increases in water pollution, and the loss of aquatic habitat. (121 pages) Comments made by: USDA, COE, EPA, DOI, and State and local agencies and concerned citizens. (ELR Order No. 05519) (NTIS Order No. EIS 72 5519–F)

Interstate 88, New York, County, Otsego and Schonarie. The proposed project is the relocation and widening of a section of I–88. Project length is 45 miles. The relocation of 71 dwellings, 48 businesses, and 47 farm units would be necessary. Increases in noise and air pollution will occur. A 4(f) statement has been filed for land from the Richmondville Recreational agencies. (ELR Order No. 05510) by: COE, DOI, DOT, local, State and regional agencies. (ELR Order No. 05510) (NTIS Order No. EIS 72 5510–F)

Final, October 17

Friendly Road (SR 2147), North Carolina, County, Guilford. The proposed action is the widening of State Route 2147 to five lanes with curb and gutter. The project will require additional right-of-way through urban and suburban land, including the Guilford College Campus; a section 4(f) consideration will be prepared. The displacement of approximately 24 business tenants will result. (80 pages) Comments made by: USDA, COE, DOC, GSA, HEW, HUD, DOI, OEO, STAT, State and local agencies. (ELR Order No. 05472) (NTIS Order No. EIS 72 5472–F)

Final, October 24

South Dakota 34, South Dakota, County, Lake. The proposed project is the relocation and widening of South Dakota 34 from a two-lane to a four-lane road. Project length is 7.5 miles. The acquisition of land (including wetlands) is necessary for right-of-way; there will be resulting impact upon local wildlife populations. (28 pages) Comments made by: USDA, COE, DOC, DOI, EPA, HEW, HUD, State and regional agencies (ELR Order No. 05521) (NTIS Order No. EIS 72 5521–F)

BRIAN P. JENNY,
Acting General Counsel.

[FR Doc.72–19013 Filed 11–6–72;8:49 am]

FEDERAL POWER COMMISSION

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON CONSERVATION OF ENERGY

Order Designating Additional Member

NOVEMBER 1, 1972.

The Federal Power Commission, by order issued September 28, 1972, established the National Power Survey Technical Advisory Committee on Conservation of Energy.

2. *Membership.* An additional member of the Technical Advisory Committee on Conservation of Energy, as selected by the Chairman of the Commission, with the approval of the Commission, is as follows:

Howard P. Allen, Member, Senior Vice President, Southern California Edison Co.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc. 72–19006 Filed 11–6–72;8:49 am]

[Docket No. CI73–289]

APACHE EXPLORATION CORP. ET AL.

Notice of Application

NOVEMBER 2, 1972.

Take notice that on October 24, 1972, Apache Exploration Corp. (Operator), et al. (Applicant), Post Office Box 2299, Tulsa, OK 74101 filed Docket No. CI73–289 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Transcontinental Gas Pipe Line Corp. (Transco) from acreage in the Cameron Field, Cameron Parish, La., all as more fully set forth in the application which is on the file with the Commission and open to public inspection.

Applicant proposes to sell Transco approximately 420,000 Mcf of natural gas per month at 45 cents per Mcf at 15.025 p.s.i.a. for 1 year within contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to deliver such gas to Transco at the tailgate of Mobil Oil Corp.'s Cameron plant. Applicant states that it is required to build approximately 3.51 miles of line to a central delivery point on Mobil's gathering system to facilitate delivery in connection with this proposed sale.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 13, 1972, file with the Federal Power Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–18967 Filed 11–6–72;8:48 am]

[Docket No. E–7793]

COMMONWEALTH EDISON CO. AND CENTRAL ILLINOIS PUBLIC SERVICE CO.

Notice of Application

OCTOBER 30, 1972.

Take notice that on October 10, 1972, Commonwealth Edison Co. (Edison) of Chicago, Ill. and Central Illinois Public Service Co. (CIPSCO) of Springfield, Ill., filed a joint application seeking an order disclaiming jurisdiction under the Federal Power Act over the sale by Edison and the purchase by CIPSCO of Edison's electric facilities in Albion, Ill., for

$1,700,000 plus the amount of capital additions made to the properties from June 30, 1971, to the closing date less depreciation accrued on such additions, all in accordance with a purchase and sale agreement dated as of March 20, 1972, which is attached to the application, or, in the alternative, an order pursuant to section 203 authorizing the sale by Edison and purchase by CIPSCO.

Edison and Central Illinois Light Co. (CILCO) filed a joint application with this Commission under section 203 on November 18, 1971, Docket No. E–7681, seeking approval of the sale by Edison and purchase by CILCO of the electric properties in Lincoln, Homer, Bement, and Albion, Ill., pursuant to a purchase and sale agreement dated October 20, 1971. Subsequently, Edison and CILCO agreed to amend the purchase and sale agreement dated October 20, 1971, by removing from it the sale of the Albion Electric properties and by reducing the total purchase price.

Edison filed an amended final report in Docket No. E–7225 dated June 9, 1972, stating that it had entered into a purchase and sale agreement to sell the Albion electric properties to CIPSCO. On June 19, 1972, notification to this Commission of that amendment was also filed as well as amended pages and exhibits in Docket No. E–7681. The disposition by Edison of the Albion electric properties is in accordance with the order in Docket No. E–7275 issued on December 2, 1966, 36 FPC 927 directing that Edison shall show why it should continue to own and operate the Albion electric properties.

Any person desiring to be heard or to make any protest with reference to such application should on or before November 14, 1972, file with the Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to proceeding or to participate as a party in any hearing herein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–18999 Filed 11–6–72;8:48 am]

[Docket No. CS73–237, etc.]

CUTTYCHAMP OIL AND GAS CORP. ET AL.

Notice of Applications for "Small Producer" Certificates [1]

NOVEMBER 2, 1972.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 20, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date filed	Name of applicant
CS73–237...	9–27–72	Cuttychamp Oil & Gas Corp., 1329 Fort Worth National Bank Bldg., Fort Worth, Tex. 76102.
CS73–255...	9–27–72	Jack Pryor, Monroe, La. 71201.
CS73–256...	9–27–72	T. D. Reppond, Monroe, La. 71201.
CS73–257...	9–27–72	Willjack Corp., Monroe, La. 71201.
CS73–258...	9–27–72	W. G. Little, trustee for Gwendolyn Pryor, Monroe, La. 71201.
CS73–259...	9–27–72	Mrs. Irvin M. Shlenker, Monroe, La. 71201.
CS73–260...	9–27–72	Irvin M. Shlenker, by Mrs. Bertha Alyce Shlenker, Ind. Exe., Monroe, La. 71201.
CS73–261...	9–25–72	Gisela Susskind, Post Office Box 332, Locust Valley, N.Y. 11560.
CS73–262...	9–25–72	Joshua Cohn and Leah Cohn Arendt, 715 First National, Fort Smith, Ark. 72901.
CS73–263...	9–28–72	Wm. B. Wilson, 316 Bldg. of the Southwest, Midland, Tex. 79701.
CS73–264...	9–28–72	O. B. Kiel, 205 Guaranty Bank Plaza, Corpus Christi, Tex. 78401.
CS73–265...	9–29–72	T. O. Clark, 626 Robinson, Corpus Christi, TX 78404.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[FR Doc.72–19057 Filed 11–6–72;8:50 am]

[Docket No. RP72–116]

EL PASO NATURAL GAS CO.

Notice of Further Extension of Time

NOVEMBER 1, 1972.

On October 30, 1972, El Paso Natural Gas Co. filed a motion for further extension of time of the procedural dates established by the notice issued September 12, 1972. The motion states that no party to these proceedings nor any person filing a notice of intervention or a petition to intervene objects to the motion.

Upon consideration, notice is hereby given that the procedural dates are further extended as follows:

El Paso and staff to serve testimony and exhibits.	Dec. 20, 1972.
Interveners to serve testimony and exhibits.	Jan. 8, 1973.
El Paso to serve rebuttal evidence.	Jan. 22, 1973.
Hearing for cross-examination.	Jan. 30, 1973, 10 a.m. e.s.t

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–19003 Filed 11–6–72;8:48 am]

[Docket No. CP72–175]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Petition To Amend

OCTOBER 31, 1972.

Take notice that on October 13, 1972, Michigan Wisconsin Pipe Line Co. (Petitioner), 1 Woodward Avenue, Detroit, MI 48226, filed in Docket No. CP72–175 a petition to amend the order of the Commission issuing a certificate in said docket on July 20, 1972 (48 FPC ____) by authorizing the construction and operation of a 12,000 horsepower compressor unit at its Bridgman Compressor Station in lieu of the 4,500 horsepower unit authorized, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that when it solicited competitive bids for the installation of

Commencement of cross examination of all evidence.	May 8, 1973, 10 a.m. (e.d.t.)	

become a party must file a petition to intervene. Copies of the application are

herein, if the Commission on its own re-

Any person desiring to be heard or to make any protest with reference to said

Number, date, and subject

V37-215 NOV 7 72 XUM

Petitioner states that when it solicited competitive bids for the installation of the authorized 4,500 h.p. compressor unit at its Bridgman Compressor Station, one engine manufacturer submitted a proposal for the installation of a 12,000 h.p. unit at an estimated cost of $3,241,636 with a deferred payment provision, which provides for the payment of $2,365,046 in 1972, $100,000 in 1973, $361,146 in 1974, and $415,444 in 1976. Petitioner indicates that the first year's expenditure for the 12,000 horsepower unit will be substantially less than the cost associated with the acceptance of any other bid. Petitioner further states that the installation of a 12,000 rather than a 4,500 horsepower unit at the Bridgman Compressor Station, which is utilized to compress gas for delivery both to storage during the storage injection cycle and to market during the storage withdrawal cycle, will provide greater assurance of continuity of service until the full capacity of the larger unit is required.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 20, 1972, file with the Federal Power Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19000 Filed 11-6-72;8:48 am]

[Docket No. E-7734]

MID-CONTINENT AREA POWER POOL AGREEMENT

Notice of Extension of Time

OCTOBER 31, 1972.

On October 19, 1972, counsel for the Alexandria Board of Public Works, Minnesota, et al. filed a motion for change of the procedural dates as set forth in the Commission order issued September 26, 1972. The motion states that staff counsel, counsel for applicants, and the city of St. Paul, Minn., have no objection to the change in dates.

Upon consideration, notice is given that the procedural dates are modified as follows:

Prepared testimony and exhibits of intervenors.	Jan. 30, 1973.
Prepared testimony and exhibits by applicants.	Mar. 1, 1973.
Testimony by staff	Mar. 22, 1973.
Service of rebuttal evidence	Apr. 16, 1973.
Prehearing conference	May 1, 1973, 10 a.m. (e.d.t.)
Commencement of cross examination of all evidence.	May 8, 1973, 10 a.m. (e.d.t.)

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19004 Filed 11-6-72;8:48 am]

[Docket No. E-7690]

NEPOOL POWER POOL AGREEMENT

Notice of Extension of Time

OCTOBER 27, 1972.

On October 13, 1972, Northeast Public Power Association filed a motion for extension of time for filing testimony as required by the Commission's order issued on September 21, 1972. The motion states that the Commission staff has no objection and the Rhode Island Consumers Council and HG&E concur. The applicants accede to the request, provided that they are granted an equal extension to file their testimony.

Upon consideration, notice is hereby given that the procedural dates are modified as follows:

Prepared testimony and exhibits by intervenors.	Dec. 29, 1972
Prepared testimony and exhibits by applicants.	Jan. 30, 1973
Testimony by staff	Feb. 20, 1973
Rebuttal testimony	Mar. 15, 1973
Prehearing conference	Mar. 29, 1973, 10 a.m., e.s.t.
Cross-examination on all evidence	Apr. 9, 1973, 10 a.m., e.s.t.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19005 Filed 11-6-72;8:48 am]

[Docket No. E-7758]

NORTHERN INDIANA PUBLIC SERVICE CO.

Notice of Completed Filing of Proposed Settlement Agreement

NOVEMBER 2, 1972.

Take notice that on October 6, 1972, Northern Indiana Public Service Co. (NIPSCO) filed supplemental cost-of-service data to its offer of settlement filed August 18, 1972, in this proceeding. The proposed settlement agreement would increase NIPSCO's revenues from jurisdictional sales and service by $1,109,418 based on the test year ended December 31, 1971, with an overall rate of return of 7.12 percent, to become effective upon issuance of a Commission order approving the proposed settlement.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 13, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the application are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19058 Filed 11-6-72;8:50 am]

[Docket No. CP73-107]

NORTHERN NATURAL GAS CO.

Notice of Application

NOVEMBER 1, 1972.

Take notice that on October 19, 1972, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, NE 68102, filed in Docket No. CP73-107 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Diamond Shamrock Corp. (Diamond Shamrock) in Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes pursuant to a gas transportation agreement dated July 25, 1972, to transport up to a maximum of 7,500 Mcf per day of Diamond Shamrock's portion of raw gas produced from the Wright "A" No. 1 well in Hemphill County, Tex., to treat such gas, and to redeliver it to Diamond Shamrock at Applicant's Hemphill County No. 1 gathering compressor station by reducing its takes from Diamond Shamrock by an amount equal to the volume of residue gas attributable to the raw gas volumes delivered to Applicant at the wellhead. Said agreement provides for the payment of 5 cents per Mcf to Applicant for the transportation and treating service. Applicant states that this service will avoid the need for duplicate facilities in the Mathers Ranch Field.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 27, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required

herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19001 Filed 11-6-72;8:48 am]

[Docket No. RP72-91, etc.]

SOUTHERN NATURAL GAS CO.

Order Accepting Substitute, Redesigned Rates for Filing, Subject to Hearing and Refund; Correction

OCTOBER 31, 1972.

In the Order Accepting Substitute, Redesigned Rates for Filing, Subject to Hearing and Refund, issued September 29, 1972, and published in the FEDERAL REGISTER October 5, 1972 (37 F.R. 21008):

Change footnote 1 to read as follows:

[1] Sixth Revised Volume No. 1: Ninth Revised Sheets Nos. 8E, 15E, 26E; 11th Revised Sheet No. 11F; 14th Revised Sheet No. 11J; 15th Revised Sheets Nos. 8A, 8D, 11H, 15A, 15D, 26A, 26D, 30; 19th Revised Sheets Nos. 9, 16, 27;

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19007 Filed 11-6-72;8:49 am]

[Docket No. CP73-108]

TRANSWESTERN PIPELINE CO.

Notice of Application

NOVEMBER 1, 1972.

Take notice that on October 20, 1972, Transwestern Pipeline Co. (Applicant), Post Office Box 2521, Houston, TX 77001, filed in Docket No. CP73-108 a budget-type application pursuant to section 7(c) of the Natural Gas Act as implemented by § 157.7(b) of the Commission's regulations thereunder, for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1973, and operation of certain natural gas purchase facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system supplies of natural gas in various producing areas generally coextensive with said system.

The total cost of the facilities proposed herein is not to exceed $7 million with no single project in excess of $1 million.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 24, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19002 Filed 11-6-72;8:48 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. D-36]

POSTMASTER GENERAL

Revocation of Delegations of Authority

1. *Purpose.* This regulation revokes delegations of authority to the Postmaster General which are no longer necessary due to the enactment of the Postal Reorganization Act, Public Law 91-375, August 12, 1970, 84 Stat. 720.

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation expires October 31, 1972.

4. *Revocation.* This revocation identifies those delegations which are no longer necessary. Accordingly, the following FPMR temporary regulations are hereby revoked:

Number, date, and subject
D-7; August 23, 1967; delegation of authority to the Postmaster General—operation, maintenance, and protection.
D-17; May 8, 1969; delegation of authority to the Postmaster General—inspection and maintenance contracts.

Dated: October 30, 1972.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

[FR Doc.72-19097 Filed 11-6-72;8:52 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANELS

Notice of Meetings

Pursuant to Executive Order 11671, notice is hereby given of meetings of the following committees, including the individuals to contact for further information respecting each committee. The purpose of each of these advisory bodies is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects.

ADVISORY PANEL FOR SOCIAL PSYCHOLOGY

Date and time of meeting: 9 a.m. on November 9 and 10, 1972.

Location of meeting: Room 517; 1800 G Street NW.; Washington, DC 20550.

Agenda: The agenda will be devoted to the review and evaluation of research proposals.

For further committee information, contact: Dr. Roland Radloff, Program Director, Social Psychology Program; Room 205; 1800 G Street NW.; Washington, DC 20550.

ADVISORY PANEL FOR POLITICAL SCIENCE

Date and time of meeting: 9 a.m. on November 15, 1972.

Location of meeting: Room 203; 1800 G Street NW.; Washington, DC 20550.

Agenda: The agenda will be devoted to the review and evaluation of research proposals.

For further committee information, contact: Mrs. Bertha Rubenstein, Assistant Program Director, Political Science Program; Room 203; 1800 G Street NW.; Washington, DC 20550.

ADVISORY PANEL FOR ECONOMICS

Date and time of meeting: 9 a.m. on November 16 and 17, 1972.

Location of meeting: Room 621; 1800 G Street NW., Washington, DC 20550.

Agenda: The agenda will be devoted to the review and evaluation of research proposals.

For further committee information, contact: Dr. James H. Blackman, Program Director, Economics Program; Room 205; 1800 G Street NW., Washington, DC 20550.

ADVISORY PANEL FOR HISTORY AND PHILOSOPHY OF SCIENCE

Date and time of meeting: 9 a.m. on November 18, 1972.

Location of meeting: Room 338; 1800 G Street NW., Washington, DC 20550.

Agenda: The agenda will be devoted to the review and evaluation of research proposals.

For further committee information, contact: Dr. Vivian Shelanski, Assistant Program Director, History and Philosophy of Science Program; Room 205; 1800 G Street NW., Washington, DC 20550.

These meetings will not be open to the public in accordance with the determi-

in an industrial directory, and statistical audit programs. The meeting will be open

SECURITIES AND EXCHANGE

dealer sales agreement with, nor does it

For the Commission, by the Division

Testing and Selection will conduct 2 days of meetings on November 27 and 28, 1972.

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These meetings will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated August 23, 1972, pursuant to the provisions of executive Order 11671, section 13(d).

T. E. JENKINS,
Assistant Director for Administration.

OCTOBER 31, 1972.

[FR Doc.72-19040 Filed 11-6-72;8:51 am]

OFFICE OF MANAGEMENT AND BUDGET

AMERICAN STATISTICAL ASSOCIATION ADVISORY COMMITTEE ON STATISTICAL POLICY

Notice of Public Meeting

Pursuant to section 13(a)(2) of Executive Order No. 11671 of June 5, 1972, notice is hereby given of a meeting of the American Statistical Association Advisory Committee on Statistical Policy to be held in Room 10104, New Executive Office Building, 276 Jackson Place (entrance on 17th Street between Pennsylvania Avenue and H Street NW.), Washington, DC on Thursday, November 9, 1972, at 9:30 a.m.

The American Statistical Association Advisory Committee on Statistical Policy assists the Statistical Policy Division of the Office of Management and Budget in formulating policies, standards, and procedures for the development and improvement of the Federal statistical services.

The names and affiliations of members of the Committee are as follows:

Leonall C. Andersen, Federal Reserve Bank of St. Louis.
T. A. Bancroft, Iowa State University.
Daniel H. Brill, Commercial Credit Co.
Ewan Clague, Leo Kramer, Inc.
Walter E. Duffett, retired, formerly with Statistics Canada.
A. Ross Eckler, retired, formerly Director of Bureau of the Census.
Douglas Greenwald, McGraw-Hill, Inc.
Morris H. Hansen, Westat Research, Inc.
Philip M. Hauser, University of Chicago.
Forrest E. Linder, University of North Carolina.
Isador Lubin, Twentieth Century Fund.
Richard Ruggles, Yale University.
Eleanor Sheldon, Russel Sage Foundation.
Willard Thorp, retired, formerly with Amherst College.
Ralph J. Watkins, Surveys & Research Corp.

The purpose of the meeting is to hear remarks from the Chief of the Statistical Policy Division of the Office of Management and Budget on recent developments in the Federal statistical system; to hear a report on the new Federal Advisory Committee Act; and to discuss alternatives to the middecade census, confidentiality and privacy in collecting agency agreements, in establishment surveys and in an industrial directory, and statistical audit programs. The meeting will be open to public observation and participation.

HARRY H. FLICKINGER,
Acting Assistant to the Director for Administration.

[FR Doc.72-19096 Filed 11-6-72;8:52 am]

PRICE COMMISSION

[Notice 38]

STATE AND FEDERAL REGULATORY AGENCIES

Certificates of Compliance

Section 300.304(c) of the regulations of the Price Commission provides for the issuance by the Price Commission of Certificates of Compliance to State and Federal regulatory agencies whose rules for implementing the Economic Stabilization Program with respect to public utilities, have been approved by the Price Commission. In accordance with the Commission's policy, this notice is issued on a biweekly basis, to inform all interested persons of those regulatory agencies to which certificates have been issued by the Commission.

As of November 1, 1972, Certificates of Compliance have been issued to the following agencies:

FEDERAL

Civil Aeronautics Board.
Interstate Commerce Commission.

STATE

Alabama Public Service Commission.
Arkansas Public Service Commission.
California Public Utilities Commission.
Colorado Public Utilities Commission.
Delaware Public Service Commission.
District of Columbia Public Service Commission.
Florida Public Service Commission.
Georgia Public Service Commission.
Indiana Public Service Commission.
Kansas State Corporation Commission.
Kentucky Public Service Commission.
Maryland Public Service Commission.
Michigan Public Service Commission.
Mississippi Public Service Commission.
Missouri Public Service Commission.
Montana Public Service Commission.
New Hampshire Public Utilities Commission.
New York Public Service Commission.
North Carolina Utilities Commission.
Oklahoma Corporation Commission.
Oregon (Public Utilities Commissioner of).
Pennsylvania Public Utility Commission.
South Carolina Public Service Commission.
Texas Aeronautics Commission.
Virginia State Corporation Commission.
Washington Utilities and Transportation Commission.
Wisconsin Public Service Commission.

By direction of the Commission.

Issued in Washington, D.C., on November 2, 1972.

JAMES B. MINOR,
General Counsel, Price Commission.

[FR Doc.72-19037 Filed 11-6-72;8:46 am]

SECURITIES AND EXCHANGE COMMISSION

[812-3275]

CHEMICAL FUND, INC. AND THE EBERSTADT FUND, INC.

Notice of Filing of Application

OCTOBER 30, 1972.

Notice is hereby given that Chemical Fund, Inc. (Chemical) and The Eberstadt Fund, Inc. (Eberstadt) (hereinafter also referred to as "Applicants"), 61 Broadway, New York, NY 10006, both diversified, open-end management investment companies registered under the Investment Company Act of 1940 (Act), have filed an application for an order of the Commission pursuant to section 6(c) of the Act declaring that Dr. Roger F. Murray shall not be deemed to be an interested person of Applicants as that term is defined under section 2(a)(19) of the Act solely by reason of his status as a director of Lincoln National Life Insurance Co of New York (Lincoln New York), and American Union Insurance Co. of New York (American Union). All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Dr. Roger F. Murray has been a nonaffiliated member of the Board of Directors of Chemical since March 3, 1959, and of Eberstadt since June 28, 1966. Dr. Murray is also a director of Lincoln New York, which is a wholly-owned subsidiary of Lincoln National Life Insurance Co. of Fort Wayne, Ind. (Lincoln Indiana), and a director of American Union, which is a wholly-owned subsidiary of American States Insurance Co., Indianapolis, Ind. (American States). Lincoln Indiana is a wholly-owned subsidiary of Lincoln National Corp., and American States is 99.9 percent owned by Lincoln National Corp., of which LNC Equity Sales Corp. (Sales Corp.) is also a wholly-owned subsidiary. Sales Corp. is registered as a broker-dealer under the Securities Exchange Act of 1934.

Sales Corp. is in the business of selling mutual funds, and independent insurance agents of Lincoln Indiana are registered representatives of Sales Corp. in connection with its business of selling mutual funds. Registered representatives of Sales Corp. offer for sale, in addition to approximately four different mutual funds, combined programs for the acquisition of mutual fund shares and life insurance issued by Lincoln Indiana through equity funding programs. Sales Corp. is not a member of any securities exchange, does not make markets in securities, and does not execute or clear securities transactions, except transactions in mutual funds which it sells. Sales Corp. is not otherwise engaged in the securities business, and it does not have a

dealer sales agreement with, nor does it sell shares of, either of the Applicants. Since the activities of Sales Corp. are limited as described above, it is not in a position to, nor would it have reason to, in any way, act for or with, or to the detriment of, Applicants in connection with any securities transactions.

Section 2(a)(19) of the Act, as here pertinent, defines an interested person of an investment company as any broker or dealer registered under the Securities Exchange Act of 1934 or any affiliated person of such a broker or dealer.

Section 2(a)(3) of the Act includes in the definition of an "affiliated person" of another person, any director of such other person.

Section 6(c) of the Act provides that the Commission may, upon application, conditionally or unconditionally exempt any person from any provisions of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants assert that Dr. Roger F. Murray should not be deemed an "interested person" of Applicants because his affiliation with Lincoln New York and American Union does not and will not impair his independence in acting on behalf of Applicants and its shareholders, and that the requested exemption is therefore consistent with the provisions of section 6(c) of the Act.

Notice is further given that any interested person may, not later than November 24, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-18986 Filed 11-6-72;8:47 am]

[File No. 500-1]

CRYSTALOGRAPHY CORP.

Order Suspending Trading

OCTOBER 30, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Crystalography Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 31, 1972, through November 9, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-18985 Filed 11-6-72;8:47 am]

[File No. 500-1]

MINUTE APPROVED CREDIT PLAN, INC.

Order Suspending Trading

OCTOBER 30, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.05 par value, and all other securities of Minute Approved Credit Plan, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange, be summarily suspended, this order to be effective for the period from October 31, 1972, through November 9, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-18984 Filed 11-6-72;8:47 am]

DEPARTMENT OF LABOR

Office of Federal Contract Compliance

ADVISORY COMMITTEE ON TESTING AND SELECTION

Notice of Public Meetings

Notice is hereby given that the Department of Labor Advisory Committee on Testing and Selection will conduct 2 days of meetings on November 27 and 28, 1972, to discuss Department of Labor policy regarding the application of its Order for Employee Testing and Other Selection Procedures (41 CFR Part 60-3, 36 F.R. 19307, October 2, 1971) to various employment situations subject to the equal employment opportunity requirements of Executive Order 11246, as amended. The November 27 meeting will commence at 9 a.m. in Rooms 107 A, B, and C, Main Labor Department Building, 14th Street and Constitution Avenue NW., Washington, D.C. The November 28 meeting will commence at 9 a.m. in Room 3428, Main Labor Department Building, 14th Street and Constitution Avenue NW., Washington, D.C.

These meetings will be open to the public. In order to insure that problem areas of significant public concern will receive appropriate consideration by the Advisory Committee, interested persons are encouraged to submit written comments, views, or suggestions regarding test validation and related matters to Mr. Philip J. Davis, Acting Director, Office of Federal Contract Compliance, U.S. Department of Labor, Washington, D.C. 20210, by November 20, 1972.

Signed at Washington, D.C., this 31st day of October 1972.

PHILIP J. DAVIS,
Acting Director, Office of Federal Contract Compliance.

[FR Doc.72-19063 Filed 11-6-72;8:51 am]

Wage and Hour Division

CERTIFICATES AUTHORIZING THE EMPLOYMENT OF FULL-TIME STUDENTS WORKING OUTSIDE OF SCHOOL HOURS AT SPECIAL MINIMUM WAGES IN RETAIL OR SERVICE ESTABLISHMENTS OR IN AGRICULTURE

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulation on employment of full-time students (29 CFR Part 519), and Administrative Order No. 621 (36 F.R. 12819), the establishments listed in this notice have been issued special certificates authorizing the employment of full-time students working outside of school hours at hourly rates lower than the minimum wage rates otherwise applicable under section 6 of the act. While effective and expiration dates are shown for those certificates issued for less than a year, only the expiration dates are shown for certificates issued for a year. The minimum certificate rates are not less than 85 percent of the applicable statutory minimum.

The following certificates provide for an allowance not to exceed the proportion of the total hours worked by full-time students at rates below $1 an hour to the total number of hours worked by all employees in the establishment during the base period in occupations of the same general classes in which the establishment employed full-time students at

wages below $1 an hour in the base year; or provide the same standards authorized

Ill. (9-19-73); No. 4612,, Freeport, Ill.; No. 179, Galesburg, Ill.; No. 130, Joliet, Ill.; No.

(9-7-72 to 9-2-73); No. 326, Omaha, Nebr. (9-6-72 to 9-2-73); No. 4501, Alliance, Ohio;

Springfield, Ohio; No. 27, Steubenville, Ohio (9-14-73); No. 372, Troy, Ohio (9-7-73); No.

Mo. (8-23-73); No. 454, Hannibal, Mo. (9-2-73); No. 158, Independence, Mo.

clerk, stock clerk, office clerk; 13 to 30 percent; 9-14-73

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wages below $1 an hour in the base year; or provide the same standards authorized in certificates previously issued to the establishment.

Arizona Drumstick, Inc., restaurant; 2240 North Scottsdale Road, Tempe, AZ; 8–31–73.

The Baby Shop, Inc., apparel stores, 9–2–73: 404 Main, Evansville, IN; 1120 Washington Square Mall, Evansville, IN.

Barkmeiers, variety-department store; Exeter, Nebr.; 9–9–73.

Buehler Market, food store; 2315 North Street, Omaha, NE; 9–6–72 to 9–2–73.

Buy Rite, Inc., food store; 308 South Silver, Paola, KS; 9–2–73.

Byck Brothers & Co., apparel store; 532 South Fourth Street, Louisville, KY; 8–31–73.

C-Mart, variety-department store; 90 East Marion Street, Mount Gilead, OH; 8–31–73.

Capin's El Paso Store, variety-department store; 125–129 Morley Avenue, Nogales, AZ; 8–31–73

Carrollton Foods, Inc., food store; 905 South Main, Carrollton, MO; 9–2–73.

Central Store, Inc., variety-department store; Central Avenue and Verity Parkway, Middletown, Ohio; 9–5–73.

Charlie's Market, food store; George, Iowa; 9–9–73.

Conley's variety-department stores, 9–15–73: 101 Grant Street, Chardon, OH; 212 North Wooster Avenue, Dover, OH; 985 Ashland Road, Mansfield, OH; 3839 Pearl Road, Medina, OH; Route 250, Midvale, Ohio; Route 170, North Kingsville, Ohio; 250 North Main Street, Rittman, OH.

Convenient Food Mart, Inc., food store; No. 320, Parma, Ohio; 9–17–73.

Cooke's Food Store, Inc., food store; 17 Broad Street Southwest, Cleveland, TN; 8–31–73.

Falls Super Market, Inc., food store; 405 South Mill Street, Redwood Falls, MN; 9–2–73

Food Fair, Inc., food store; Mount Vernon, Ky; 9–2–73.

Fruit & Vegetable Fair, Inc., food store; 29220 North Campbell Road, Madison Heights, MI; 8–26–73.

Golden Good Shepherd Home, nursing home; Golden, Ill.; 8–25–73.

Good Samaritan Center, nursing home; Scribner, Nebr.; 9–9–73.

W. T. Grant Co., variety-department stores, 9–2–73, except as otherwise indicated: No. 3086, Gary, Ind.; No. 69, St. Paul, Minn.; No. 173, Paterson, N.J.; No. 74, Canton, Ohio; No. 482, Delphos, Ohio (8–21–73); No. 313, Newark, Ohio; No. 729, Kingsport, Tenn. (8–31–73).

Greenfield Search Food Stores, Inc., food store; South Side, Greenfield, Ill.; 8–24–73.

Haan's Super Market, Inc., food store; 919 36th Street, Wyoming, MI; 9–1–73.

Hardee's, restaurants, 9–14–73: 3737 State Avenue, Kansas City, KS; 115 North Belt Hiway, St. Joseph, MO.

J. I. Ipoel Co., variety-department store; 423 Court Street, Saginaw, MI; 8–26–73.

K. C. Super Markets, food store; Eighth Street and Ohio Avenue, Etowah, Tenn.; 8–31–73.

Keltsch Association, Inc., drug store, 8–31–73: 103 South Main Street, Auburn, IN; 3209 North Anthony Boulevard, Fort Wayne, IN; 5439 South Anthony Boulevard, Fort Wayne, IN; 6320 East State Boulevard, Fort Wayne, IN; 1203 West State Street, Fort Wayne, IN; 1402 Wells Street, Fort Wayne, IN.

S. S. Kresge Co., variety-department stores, 9–2–73, except as otherwise indicated: No. 254, Aurora, Ill.; Nos. 34 and 4031, Bloomington, Ill.; No. 94, Bridgeview, Ill.; Nos. 174, 690, and 4019, Champaign, Ill.; Nos. 8, 236, 416, 480, 594, 599, 627, 4562, 4613, and 4624, Chicago, Ill.; No. 261, Danville, Ill.; Nos. 201 and 641, Decatur, Ill.; No. 50, Deerfield, Ill.; No. 429, Des Plains, Ill.; No. 220, Evanston, Ill. (9–19–73); No. 4612, Freeport, Ill.; No. 179, Galesburg, Ill.; No. 130, Joliet, Ill.; No. 417, Kankakee, Ill.; No. 918, La Grange, Ill.; No. 4464, Loves Park, Ill. (9–14–73); No. 25, Markham, Ill.; No. 497, Mattoon, Ill.; No. 4546, Moline, Ill.; No. 503, Oak Brook, Ill.; No. 4623, Oak Lawn, Ill.; No. 630, Park Forest, Ill.; No. 4375, Pekin, Ill. (8–31–73); No. 4630, Pekin, Ill.; Nos. 242 and 4005, Peoria, Ill.; No. 321, Quincy, Ill.; No. 318, Rockford, Ill.; No. 136, St. Charles, Ill.; No. 4592, Streator, Ill.; No. 4412, Wood River, Ill. (9–14–73); No. 483, Bedford, Ind. (9–12–73); No. 237, Elkhart, Ind.; No. 647, Evansville, Ind.; No. 568, Fort Wayne, Ind.; No. 4079, Fort Wayne, Ind. (8–25–73); Nos. 462 and 618, Gary, Ind.; Nos. 7, 583, and 672, Indianapolis, Ind.; No. 4436, Indianapolis, Ind. (8–31–73); Nos. 589 and 4014, Kokomo, Ind.; Nos. 204 and 4008, Lafayette, Ind.; No. 466, Mishawaka, Ind.; No. 251, New Castle, Ind.; No. 4571, Peru, Ind.; No. 597, Richmond, Ind.; No. 2217, Vincennes, Ind.; No. 4628, Burlington, Iowa (9–6–72 to 9–2–73); No. 170, Cedar Rapids, Iowa; No. 4584, Clinton, Iowa (8–31–73); No. 270, Davenport, Iowa; No. 71, Des Moines, Iowa; No. 542, Des Moines, Iowa (9–7–72 to 9–2–73); No. 100, Dubuque, Iowa (9–6–72 to 9–2–73); No. 559, Iowa City, Iowa (9–6–72 to 9–2–73); No. 692, Mason City, Iowa (9–8–72 to 9–2–73); No. 163, Sioux City, Iowa (9–6–72 to 9–2–73); No. 4156, Urbandale, Iowa (8–20–73); No. 127, Leavenworth, Kans. (9–7–72 to 9–2–73); No. 197, Salina, Kans.;

No. 56, Louisville, Ky; No. 624, Louisville, Ky. (8–31–73); No. 363, Owensboro, Ky. (9–15–73); No. 112, Paducah, Ky. (8–31–73); No. 485, Adrian, Mich.; No. 605, Allen Park, Mich.; No. 504, Alpena, Mich. (9–6–73); Nos. 74, 131, 160, and 468, Ann Arbor, Mich.; No. 21, Battle Creek, Mich.; No. 4086, Benton Harbor Mich.; No. 296, Berkley, Mich.; No. 227, Birmingham, Mich.; Nos. 16, 350, and 580, Dearborn, Mich.; Nos. 1, 208, 289, 290, 340, 369, 395, 456, 521, 527, 533, 620, 4516, and 4538, Detroit, Mich.; No. 166, Detroit, Mich. (9–7–73); No. 550, Detroit, Mich. (9–15–73); No. 507, Escanaba, Mich.; No. 185, Ferndale, Mich.; Nos. 12 and 272, Flint, Mich. (9–14–73); No. 214, Flint, Mich. (9–15–73); No. 642, Flint, Mich.; No. 4083, Flint, Mich. (8–23–73); No. 574, Fraser, Mich.; No. 4405, Fraser, Mich. (9–8–73); No. 59, Grand Rapids, Mich.; No. 465, Grosse Pointe, Mich.; No. 276, Hazel Park, Mich.; Nos. 211 and 365, Highland Park, Mich.; No. 403, Iron Mountain, Mich. (9–7–73); No. 103, Jackson, Mich.; No. 679, Kalamazoo, Mich.; No. 549, Lansing, Mich. (9–13–73); No. 4631, Lansing, Mich.; Nos. 245 and 685, Lincoln Park, Mich.; No. 27, Livonia, Mich.; No. 353, Madison Heights, Mich.; No. 529, Monroe, Mich.; No. 353, Mount Clemens, Mich. (9–6–73); No. 626, Muskegon, Mich.; No. 623, Plymouth, Mich.; Nos. 13, 516, and 684, Pontiac, Mich.; No. 2, Port Huron, Mich. (9–16–73); No. 577, River Rouge, Mich.; No. 677, Rochester, Mich.; Nos. 415 and 667, Roseville, Mich.; No. 530, Royal Oak, Mich.; No. 428, Saginaw, Mich.; No. 433, Saginaw, Mich. (9–13–73); No. 315, Sault Ste. Marie, Mich. (9–14–73); Nos. 123 and 4074, Southfield, Mich.; No. 687, Southgate, Mich.; No. 4021, Southgate, Mich. (9–13–73); No. 499, Traverse City, Mich. (9–12–73); Nos. 364 and 4002, Warren, Mich.; No. 566, Wayne, Mich.; No. 678, Westland, Mich. (8–22–73); No. 4578, Faribault, Minn.; No. 176, Minneapolis, Minn.; No. 323, Rochester, Minn.; No. 683, St. Paul, Minn.; No. 52, Winona, Minn.; No. 4193, Bridgeton, Mo. (9–19–73);

No. 89, Hannibal, Mo.; No. 249, Joplin, Mo. (9–15–72 to 6–26–73); No. 49, Kansas City, Mo. (9–6–72 to 9–2–73); No. 82, Kansas City, Mo. (9–7–72 to 9–2–73); No. 4220, Kansas City, Mo. (8–25–73); No. 58, St. Joseph, Mo. (9–6–72 to 9–2–73); No. 24, St. Louis, Mo. (9–19–72 to 9–3–73); No. 601, St. Louis, Mo. (9–6–72 to 9–2–73); Nos. 4585 and 4643, St. Louis, Mo.; No. 11, Webster Groves, Mo. (9–7–72 to 9–2–73); No. 326, Omaha, Nebr. (9–6–72 to 9–2–73); No. 4501, Alliance, Ohio; No. 4516, Ashtabula, Ohio; No. 658, Barberton, Ohio (9–15–73); No. 4266, Brooklyn, Ohio (9–11–73); No. 120, Canton, Ohio; No. 4194, Cincinnati, Ohio (8–13–73); Nos. 28, 118, 298, 434, 411, 459, and 531, Cleveland, Ohio; Nos. 5, 29, and 328, Columbus, Ohio; No. 663, Columbus, Ohio (9–6–73); No. 538, Cuyahoga Falls, Ohio; Nos. 9, 287, 628, and 649, Dayton, Ohio; No. 4179, Dayton, Ohio (8–31–73); No. 171, Lancaster, Ohio; No. 51, Lima, Ohio; No. 4528, Lorain, Ohio; Nos. 144 and 4597, Maple Heights, Ohio; No. 362, Marion, Ohio (9–18–73); No. 512, Mount Vernon, Ohio; No. 410, Painesville, Ohio; Nos. 314 and 676, Parma, Ohio; No. 4638, Piqua, Ohio; No. 318, Springfield, Ohio; No. 458, Steubenville, Ohio; No. 686, Tiffin, Ohio (8–22–73); No. 646, Toledo, Ohio (9–16–73); Nos. 299 and 674, Warren, Ohio; No. 228, Willowick, Ohio; No. 248, Xenia, Ohio; No. 595, Youngtown, Ohio; Nos. 377 and 4556, Zanesville, Ohio; No. 758, Alcoa, Tenn. (9–9–73); No. 4050, Johnson City, Tenn. (8–31–73); No. 4004, Knoxville, Tenn. (8–20–73); Nos. 607 and 4051, Eau Claire, Wis.; No. 611, Fond Du Lac, Wis.; No. 222, Green Bay, Wis.; No. 4089, La Crosse, Wis.; No. 162, Madison, Wis.; No. 4321, Madison, Wis. (9–1–73); No. 4325, Madison, Wis. (9–19–73); No. 420, Manitowoc, Wis.; No. 442, Neenah, Wis.; No. 86, Racine, Wis.; No. 78, Superior, Wis.; No. 119, Watertown, Wis.; No. 4376, Waukesha, Wis. (9–14–73); No. 493, Wausau, Wis.

The La Crescent Nursing Center, nursing home; 701 Main Street, La Crescent, Minn.; 8–31–73.

Latonia 5/1.00 Store, variety-department store; 3925 Winston Avenue, Covington, Ky.; 9–17–73.

La Ville de Paris, variety-department store; 101–103 Morley Avenue, Nogales, Ariz.; 8–31–73.

Lebensraum, Inc., nursing home; 114–118 South Ingalls, Grand Island, Nebr.; 9–8–73.

Levs Department Store, variety-department stores, 8–31–73: 435 East Mill Street, Plymouth, Wis.; 258 North Main Street, West Bend, Wis.

Magic Mart, Inc., variety-department store; Highway 84 and Locust Street, Caruthersville, Mo.; 8–22–73.

H. B. Magruder Memorial Hospital, hospital; Fulton Street, Port Clinton, Ohio; 8–6–73.

McCrory-McLellan-Green Stores, variety-department stores, 9–2–73, except as otherwise indicated: Nos. 375 and 379, Phoenix, Ariz. (8–31–73); No. 709, Sierra Vista, Ariz. (8–31–73); No. 580, Tucson, Ariz. (8–31–73); No. 360, East Alton, Ill.; No. 676, Pekin, Ill.; No. 44, Anderson, Ind.; No. 569, Fort Dodge, Iowa (9–7–72 to 9–2–73); No. 1081, Keokuk, Iowa (9–19–72 to 9–8–73); No. 560, Mason City, Iowa (9–19–72 to 9–2–73); No. 470, Topeka, Kans. (9–15–72 to 9–2–73); No. 305, Lexington, Ky. (8–31–73); No. 1316, Louisville, Ky. (9–16–73); No. 556, Alpena, Mich.; No. 668, Grand Haven, Mich. (9–12–73); No. 447, Lapeer, Mich.; No. 541, Petoskey, Mich.; No. 1056, St. Paul, Minn.; No. 1032, Asbury Park, N.J. (7–29–73); No. 168, Camden, N.J. (7–29–73); No. 308, Clifton, N.J.; No. 1025, Elizabeth, N.J. (7–31–73); No. 1152, Irvington, N.J. (7–28–73); No. 272, Jersey City, N.J. (7–29–73); No. 1034, Manasquan, N.J. (7–29–73); No. 251, Newark, N.J. (7–29–73); No. 1085, Newark, N.J. (7–31–73); No. 131, Passaic, N.J. (7–31–73); No. 218, Perth Amboy, N.J. (7–31–73); No. 1072, Succasunna, N.J. (9–14–73); No. 189, Canton, Ohio (9–4–73); No. 1207, Cleveland, Ohio; No. 1035, Columbus, Ohio (9–15–73); No. 180, Dayton, Ohio (9–4–73); No. 1065, Dayton, Ohio; No. 684, Delaware, Ohio; No. 26, East Liverpool, Ohio; No. 362, Fairborn, Ohio (9–4–73); No. 1059, Portsmouth, Ohio (9–5–73); No. 24, Springfield, Ohio; No. 27, Steubenville, Ohio (9–14–73); No. 372, Troy, Ohio (9–7–73); No. 1124, Uhrichsville, Ohio; No. 165, Youngstown, Ohio (9–4–73); No. 139, Bristol, Tenn. (9–17–73); No. 429, Chattanooga, Tenn. (9–4–73); No. 497, Columbia, Tenn. (9–4–73); No. 307, Memphis, Tenn. (9–4–73); No. 337, Murfreesboro, Tenn. (9–13–73); No. 417, Murfreesboro, Tenn. (9–4–73); No. 507, Nashville, Tenn. (9–4–73); No. 292, Oak Ridge, Tenn. (8–31–73); No. 451, La Crosse, Wis.; No. 578, Marinette, Wis.; No. 454, Marshfield, Wis. (9–7–73); No. 579, Monroe, Wis.; No. 694, Oconomowoc, Wis.

Meyer Brothers, variety-department store; 181 Main Street, Paterson, N.J.; 8–31–73.

Michelich Food Market, food store; Keewatin, Mich.; 9–9–73.

Mr. Steak, restaurant; No. 305, Roseville, Mich.; 7–31–73.

Moreland Drug, Inc., drug store; 110 Shelby Street, Falmouth, Ky.; 8–24–73.

G. C. Murphy Co., variety-department stores, 9–2–73, except as otherwise indicated: No. 330, Mattoon, Ill. (9–14–73); No. 119, Greencastle, Ind.; No. 430, Madison, Ind.; No. 17, Ashland, Ky.; No. 239, Louisville, Ky.; No. 111, Maysville, Ky.; No. 466, Logan, Ohio; No. 429, Wapakoneta, Ohio (7–31–73).

Nelsner Bros., Inc., variety-department stores, 9–2–73: Nos. 30, 31, 52, 54, 65, 74, and 97, Chicago, Ill.; No. 202, Crystal Lake, Ill.; No. 37, Waukegan, Ill.; No. 204, Burlington, Iowa; Nos. 32 and 43, Detroit, Mich.; No. 13, Hamtramck, Mich.; No. 101, Lincoln Park, Mich.; No. 73, Wyandotte, Mich.; No. 129, Rochester, Minn.; No. 59, St. Louis, Mo.; No. 100, Cincinnati, Ohio; No. 39, Norwood, Ohio.

J. J. Newberry Co., variety-department stores, 9–2–73, except as otherwise indicated: 108–110 South Main Street, Harland, Ky. (8–31–73); No. 715, Norfolk, Nebr.; No. 549, Bricktown, N.J.; No. 187, Vineland, N.J.

Okolona Department Store, variety-department store; 7821 Preston Highway, Louisville, Ky.; 8–23–73.

Olson Supermarket, food store; 1406 West Main Street, Chanute, Kans.; 9–7–72 to 9–2–73.

Parisian Merchantile Corp., variety-department store; 205 Morley Avenue, Nogales, Ariz.; 8–31–73.

Parkview Home, nursing home; Belview, Minn.; 8–31–73.

Park View Manor, nursing home; Sac City, Iowa; 9–2–73.

Pasek Pharmacy, Inc., drug store; 117 West First Street, Duluth, Minn.; 8–9–73.

Rogers Department Store, Inc., variety-department store; 959 28th Street Southwest, Wyoming, Mich.; 9–1–73.

Roodhouse Search Food Stores, Inc., food store; West Clay Street, Roodhouse, Ill.; 8–24–73.

Roth's, Inc., apparel stores: 4500 North First Avenue, Evansville, Ind., 8–31–73; 100 East Third Street, Mount Vernon, Ind., 8–27–73.

Rusty's Food Centers, Inc., food stores, 9–2–73: Ninth and Iowa, Lawrence, Kans.; 620 North Second, Lawrence, Kans.

Schnable Drug Co., drug store; No. 2, Lafayette, Ind.; 8–31–73.

Selthner Brothers, Inc., variety-department store; 302 Federal Street, Saginaw, Mich.; 9–12–73.

Spurgeon's, variety-department store; 103 South Main, Shawano, Wis.; 8–30–73.

Stuckey's Pecan Shoppe, food store; No. 292, Brewster, Kans.; 8–31–73.

T. G. & Y. Stores Co., variety-department stores, 8–31–73, except as otherwise indicated: No. 187, Phoenix, Ariz.; No. 1502, Tempe, Ariz.; No. 568, Hawthorne, Calif.; No. 593, San Bernardino, Calif.; No. 648, Simi Valley, Calif.; No. 155, Kansas City, Kans. (9–2–73); No. 1405, Kansas City, Kans.; No. 143, Mission, Kans. (9–2–73); No. 1404, Shawnee, Kans.; No. 1403, Wichita, Kans.; No. 159, Columbia, Mo. (9–2–73); No. 151, Gladstone, Mo. (8–23–73); No. 454, Hannibal, Mo. (9–2–73); No. 158, Independence, Mo. (9–2–73); No. 163, Jefferson City, Mo. (9–2–73); No. 152, Parkville, Mo. (9–11–73).

Thomas Grocery, food store; Robbins Road and Ferry Street, Grand Haven, Mich.; 8–26–73.

Thomas Kilpatrick & Co., variety-department store; 42d and Center Street, Omaha, Nebr.; 9–2–73.

Weeks, Inc., food store; 505 South Santa Fe, Salina, Kans.; 9–6–72 to 9–2–73.

Whitehall Search Food Stores, Inc., food store; South Main Street, Whitehall, Ill.; 8–24–73.

Wm. A. Lewis Clothing, apparel stores, 9–2–73: 2301 West 95th Street, Chicago, IL; Hillside Shopping Center, Hillside, Ill.; Randhurst Center, Mount Prospect, Ill.; Harlem-Irving Store Plaza, Norridge, Ill.

Younker Brothers, Inc., variety-department stores 9–2–73, except as otherwise indicated: Middle and Kimberley Roads, Bettendorf, Iowa; 4444 First Avenue Northeast, Cedar Rapids, IA; 1550 East Douglas, Des Moines, IA (9–7–72 to 9–2–73); 503 Merle Hay Plaza, Des Moines, IA; Seventh and Walnut Street, Des Moines, Iowa; 217–239 South 25th Street, Fort Dodge, IA; 111 East Washington, Iowa City, IA; 101 South Federal, Mason City, IA; 1501 First Avenue East, Newton, IA; 119 High Street West, Oskaloosa, IA; 129 East Main Street, Ottumwa, IA; Fourth and Pierce, Sioux City, Iowa; 1950 Grand Avenue North, Spencer, IA.

The following certificates issued to establishments permitted to rely on the base-year employment experience of others were either the first full-time student certificates issued to the establishment, or provide standards different from those previously authorized. The certificates permit the employment of full-time students at rates of not less than 85 percent of the applicable statutory minimum in the classes of occupations listed, and provide for the indicated monthly limitations on the percentage of full-time student hours of employment at rates below the applicable statutory minimum to total hours of employment of all employees.

C. Clement Supermarket, foodstore; Laplace, La.; bagger, packer, stock clerk; 40 percent; 9–14–73.

Consumers Super Market, Inc., foodstore; 537 Arapahoe, Thermopolis, WY; carryout; 9 to 39 percent; 9–14–73.

Gee Bee Food Market, foodstore; Walnut Street, Johnstown, Pa.; salesclerk, stock clerk, cashier, wrapper; 0.2 to 3 percent; 9–14–73.

S. S. Kresge Co., variety-department store; No. 3013, Cleveland, Ohio; salesclerk, stock clerk, office clerk, food preparation, maintenance; 10 percent; 9–14–73.

McCrory-McLellan-Green Stores, variety-department stores, for the occupations of salesclerk, stock clerk, office clerk, 7 to 21 percent, 9–14–73, except as otherwise indicated: No. 62, Bremen, Ga. (10 to 31 percent); No. 117, Frederick, Md. (salesclerk, stock clerk, 5 to 18 percent); No. 64, Joplin, Mo.; No. 101, Richmond, Va. (salesclerk, stock clerk).

Ossie's, Inc., restaurant; 5506 Old Shell Road, Mobile, AL.; general restaurant worker; 9 to 21 percent; 9–14–73.

Red Rooster Southern Fried Chicken, Inc., restaurant; 2110 Winthrop Road, Lincoln, NE; general restaurant worker; 9 to 50 percent; 9–14–73.

Sandy's Drive-In, Inc., restaurant; 2209 South Sixth Avenue, Tucson, AZ; general restaurant worker; 35 to 63 percent; 9–14–73.

T. G. & Y. Stores Co., variety-department store; No. 2201, North Gulfport, Miss.; salesclerk, stock clerk, office clerk; 13 to 30 percent; 9–14–73.

Winegar's Wholesale Grocery, foodstore; 3371 South Orchard Drive, Bountiful, UT; bagger, salesclerk; 47 to 49 percent; 9–14–73.

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at special minimum rates is necessary to prevent curtailment of opportunities for employment, and the hiring of full-time students at special minimum rates will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under a certificate. The certificate may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 30 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 519.9.

Signed at Washington, D.C., this 30th day of October 1972.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[FR Doc.72–19060 Filed 11–6–72;8:52 am]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 2, 1972.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42562—*Phosphatic feed supplements to St. Paul, Minn.* Filed by M. B. Hart, Jr., agent (No. A6326), for interested rail carriers. Rates on phosphatic feed supplements, in carloads, as described in the application, from Bonnie and Coronet, Fla., to St. Paul Minn.

Grounds for relief—Rail-barge competition.

Tariff—Supplement 95 to Southern Freight Association, agent, tariff ICC S–784. Rates are published to become effective on November 28, 1972.

FSA No. 42563—*Clay and water mixed to points in southwestern territory.* Filed by M. B. Hart, Jr., agent (No. A6325), for interested rail carriers. Rates on clay and water mixed, in tank car loads, as described in the application, from Toomsboro, Ga., and Group Points, as defined in schedule listed below, to points in southwestern territory, as named in schedule listed below.

Grounds for relief—Short-line distance formula and grouping.

XUM
V37-215 NOV 7 72
XUM

Tariff—Supplement 21 to Southern Freight Association, agent, tariff ICC S–973.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72–19049 Filed 11–6–72;8:49 am]

[Notice 155]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by Division 3 of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 30 days from the date of service of the order. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–73617. By order of October 27, 1972, Division 3, acting as an Appellate Division, approved the transfer to Southern Ohio Truck Lines, Inc., Hamilton, Ohio, of a portion of Certificate No. MC–123429 issued February 10, 1971, to McDowell Truck Line, Inc., Chicago, Ill., authorizing the transportation of papermill products and materials and supplies used therein, between Hamilton, Ohio, and Jeffersonville, Ind., over specified regular routes, serving all intermediate points, subject to certain restrictions. Earl N. Merwin, 85 East Gay Street, Columbus, OH 43215, attorney for applicant.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72–19051 Filed 11–6–72;8:50 am]

[Notice 156]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–73766. By order of October 25, 1972, the Motor Carrier Board, on reconsideration, approved the transfer to Bobby Joe Cooper, doing business as Bob Coopers Transfer Service, Nicholasville, Ky., of the operating rights in Certificate No. MC–126299 issued December 18, 1964, to Willard Richardson, Irvine, Ky., authorizing the transportation of feed, in bags, from Reading, Ohio, to points in Estill, Lee, and Owsley Counties, Ky. Mart V. Mainous, Post Office Box 35, Irvine, KY 40336, attorney for applicants.

No. MC–FC–73922. By order of October 26, 1972, the Motor Carrier, Board approved the transfer to M.A.P. Transportation, Inc., Carson, Calif., of the operating rights in Certificate No. MC–5187 (Sub-No. 3) issued April 4, 1967, to Hain Trucking Co., Inc., Carson, Calif., authorizing the transportation of plate glass, window glass, and rolled glass, from San Francisco, Oakland, Sacramento, and Stockton, Calif., to points in Marin, Sonoma, Napa, Solano, Sutter, Yolo, Yuba, Sacramento, San Joaquin, Stanislaus, Merced, Fresno, Madera, San Benito, Monterey, Santa Clara, Santa Cruz, San Mateo, Contra Costa, Alameda, and San Francisco Counties, Calif. restricted to the transportation of traffic having a prior movement by water; and from points in San Joaquin County, Calif., to San Francisco, Oakland, Sacramento, and Stockton, Calif. restricted to the transportation of traffic having a subsequent movement by water. Donald Murchison, 9454 Wilshire Boulevard, Suite 400, Glendale Federal Building, Beverly Hills, CA 90212, attorney for applicants.

No. MC–FC–73978. By order of October 27, 1972, the Motor Carrier Board approved the transfer to Best Moving & Storage Co., Inc., Akron, Ohio, of Certificate No. MC–18222 issued March 14, 1955, to Stanley L. Best and R. W. Best, a partnership, doing business as Best Moving & Storage Co., Akron, Ohio, authorizing the transportation of household goods, between points in Summit County, Ohio, on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia. Reginald W. Best, Best Moving & Storage Co., 543 Grant Street, Akron, OH 44311, representative for applicants.

No. MC–FC–73997. By order of October 25, 1972, the Motor Carrier Board approved the transfer to Williams Refrigerated Express, Inc., Federalsburg, Md., of the operating rights in Certificate No. MC–134082 (Sub-No. 1) issued July 18, 1972, to K. H. Transport, Inc., Ellicott City, Md., authorizing the transportation of foodstuffs and ingredients, materials, supplies, and equipment used in the processing and manufacture of foodstuffs, except commodities in bulk, between Milford, Bridgeville, Clayton, Georgetown, Wilmington, Milton, and Houston, Del., Whiteford, Snow Hill, Hurlock, Cambridge, Salisbury, Pocomoke City, Chestertown, Ridgely, Baltimore, Goldsboro, and Trappe, Md., Parksley, Va., Centre Hall, Bloomsburg, York, Hanover, Lancaster, and Downingtown, Pa., Bridgeton, Swedesboro, Woodstown, Camden, Moorestown, and Glassboro, N.J., Sumter, S.C., and the District of Columbia, restricted to the transportation of traffic originating at and destined to facilities used by Campbell Soup Co., its affiliates, and its subsidiaries. Chester A. Zyblut, 1522 "K" Street NW., Washington, DC 20005, attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72–19052 Filed 11–6–72;8:50 am]

[Notice 145]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 1, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC–67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 30887 (Sub-No. 182 TA), filed October 11, 1972. Applicant: SHIPLEY TRANSFER, INC., 49 Main Street, Box 55, Reisterstown, MD 21136. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Natural latex*, in bulk, in tank vehicles, from Baltimore, Md., to Fulton, Ky., for 180 days. Supporting shipper: Reginald Slavin, Stein, Hall & Co., Inc., 605 Third Avenue, New York, NY 10016. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 814–B Federal Building, Baltimore, Md. 21201.

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 107882 (Sub-No. 27 TA), filed October 16, 1972. Applicant: ARMORED MOTOR SERVICE CORPORATION, 160 Ewingville Road, Trenton, NJ 08638. Applicant's representative: Herbert Alan Dubin, 1819 H Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Food coupons*, from New York, N.Y., to Washington, D.C., for 180 days. Supporting shipper: Office of Motor Equipment, Transportation and Public Utilities, General Services Administration, Washington, D.C. 20406. Send protests to: Richard M. Regan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 113908 (Sub-No. 240 TA), filed October 10, 1972. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale Street, Post Office Box 3180 Glenstone Station, Springfield, MO 65804. Applicant's representative: B. B. Whitehead (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid soap, cleaning commodities, and ingredients*, in bulk, in tank- and hopper-type vehicles, from Denver, Colo., to points in Louisiana and Texas (except liquid soap from Denver, Colo., to Metairie-New Orleans, La.), and from points in Louisiana and Texas to Denver, Colo., for 180 days. Supporting shipper: Foresight, Inc., 1645 Court Place, Denver, CO 80202. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Building, 911 Walnut Street, Kansas City, MO.

No. MC 110420 (Sub-No. 665 TA), filed October 11, 1972. Applicant: QUALITY CARRIERS, INC., Post Office Box 186, Pleasant Prairie, WI. Off: I–94, County Highway C, Bristol, Kenosha County, Wis. 53104. Applicant's representative: Fred H. Figge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acid, spent, liquid, in bulk, in tank vehicles*, from Burns Harbor, Ind., to Grafton, Wis., for 180 days. Supporting shipper: The C. Reiss Coal Co., Sheboygan, Wis. 53081 (R. H. Viever, Assistant to the Vice President—Operations and Development). Send protests to: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 110563 (Sub-No. 90 TA), filed October 11, 1972. Applicant: COLDWAY FOOD EXPRESS, INC., 113 North Ohio Avenue, Post Office Box 747, Ohio Building, Sidney, OH 45365. Applicant's representative: John L. Maurer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766, from Hastings, Nebr., to points in Texas, Iowa, Minnesota, Wisconsin, Missouri, Illinois, Indiana, Ohio, Michigan, and Pennsylvania, for 180 days. Supporting shipper: Western Nebraska Packing Co., Inc., Post Office Box 314, Hastings, NE 68901. Send protests to: Keith D. Warner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 534 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 115669 (Sub-No. 133 TA), filed October 17, 1972. Applicant: HOWARD N. DAHLSTEN, doing business as, DAHLSTEN TRUCK LINE, Post Office Box 95, Clay Center, NE 68933. Applicant's representative: Howard N. Dahlsten (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite clay and foundry moulding sand treating compounds*, in bulk, from the plantsite of American Colloid Co. at or near Belle Fourche, S. Dak., to Waterloo, Iowa, and Omaha, Nebr., for 180 days. Supporting shipper: Robert N. Garrity-ATM American Colloid Co., 5100 Suffield Court, Skokie, IL 60076. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 320 Federal Building, and Court House, Lincoln, Nebr. 68508.

No. MC 126159 (Sub-No. 5 TA), filed October 12, 1972. Applicant: ROC-SALT TRANSPORT, INC., 1151 South Carferry Drive, Milwaukee, WI 53207. Applicant's representative: Robert K. O'Connell (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, from La Salle, Peru, and Chicago, Ill., to points in Wisconsin, for 180 days. Supporting shipper: Domtar Chemicals, Inc., Sifto Salt Division, 9950 West Lawrence Avenue, Schiller Park, IL 60176 (A. McDougall, operations manager). Send protests to: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 135903 (Sub-No. 4 TA), filed October 18, 1972. Applicant: MID NEBRASKA TRUCKING, INC., Cornlea, Nebr. 68630. Applicant's representative: Patrick E. Quinn, 605 South 24th Street, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ear corn cribs* from Columbus, Nebr., to points in Iowa, Illinois, Minnesota, Indiana, Michigan, Wisconsin, and Ohio and (2) *Iron and steel*, from Chicago, Ill., commercial zone and Kokomo, Ind., to plantsite and storage facilities of Irregation Pump Co., at Columbus, Nebr., on return, for 180 days. Supporting shipper: Don Sokol, President, Irregation Pump Co., Post Office Box 666, Columbus, NE 68601. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 320 Federal Building, and Court House, Lincoln, NE 68503.

No. MC 136423 (Sub-No. 1 TA), filed October 18, 1972. Applicant: EMPIRE DIRECT SHIPPERS, INC., 400 Sip Street, Jersey City, NJ. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, PA 18517. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ribbons, bows and rosettes*, from Carlstadt, N.J., to Columbus, Ohio, Dallas, Tex., Fort Smith, Ark., and Houston, Tex., for 150 days. Supporting shipper: Artistic Manufacturing Co., 631 Central Avenue, Carlstadt, NJ 07072. Send protests to: District Supervisor Robert E. Johnston, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72–19050 Filed 11–6–72;8:50 am]

[Corrected Exemption 11, Amdt. 1; Ex Parte No. 241]

EXEMPTION UNDER PROVISION OF MANDATORY CAR SERVICE RULES

Upon further consideration of Corrected Exemption No. 11 issued July 25, 1972.

It is ordered, That, under authority vested in me by Car Service Rule 19, Corrected Exemption No. 11 to the mandatory car service rules ordered in Ex Parte No. 241, be, and it is hereby, amended to expire November 30, 1972.

This amendment shall become effective October 31, 1972.

Issued at Washington, D.C., October 25, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE, *Agent.*

[FR Doc.72–19053 Filed 11–6–72;8:50 am]

[Ex Parte No. MC–19 (Sub-No. 19)]

PRACTICES OF MOTOR COMMON CARRIERS OF HOUSEHOLD GOODS

Consumer Protection

Upon consideration of the record in the above-entitled proceeding, and of the motions of Grace Polk Stern filed October 18, 1972, for: (1) Waiver of (a) Rule 15 of the Commission's rules of practice (49 CFR 1100.15) in its entirety as to individual members of the public for purposes of this proceeding, and (b) Rule 16 of the said rules of practice (49 CFR 1100.16) for purposes of this proceeding

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to the extent that individual members of the public may satisfy the procedural requirements of that rule by filing only the original of their representations, pleadings, or other submissions with the Commission (instead of the usual requirement of an original plus 15 copies to the Commission and copies to the original petitioner's representatives); and (2) expedited handling of the waiver requests in (1) above, and good cause appearing therefor.

It is ordered, That the motion in (1) above be, and it is hereby, overruled, for the reasons: (1) That there has been no persuasive showing at this time that movant or any other potential party to this proceeding is unwilling or unable adequately to represent the public interest in the manner which was contemplated and fully published in the notice of proposed rule making and order (37 F.R. 15466); (2) That this Commission's extremely limited staff and budgetary resources may not be sufficient to meet the additional burdens that would be placed upon them by a contrary determination as to this issue; and (3) That the Commission's rules of practice, as liberally construed pursuant to Rule 2 thereof to secure the just, speedy, and inexpensive determination of the issues presented (49 CFR 1100.2), should be complied with to the fullest extent practicable, and that individual requests for waivers of any of the requirements of Rules 15 and 16 will be considered when the document to which the request pertains is submitted with the request. This determination renders formal action on movant's request for expedited handling unnecessary.

Dated at Washington, D.C., this 31st day of October 1972.

By the Commission, Commissioner Murphy.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-19054 Filed 11-6-72;8:50 am]

[No. MC-12653 (Sub-No. 23)]

TURNER EXPEDITING SERVICE

Extension of Chicago Commercial Zone

Order. At a session of the Interstate Commerce Commission, Division 1, Acting as an Appellate Division, held at its office in Washington, D.C., on the 27th day of October 1972.

Kent I. Turner, Kenneth E. Turner, and Ervin L. Turner, a partnership doing business as Turner Expediting Service, extention—Chicago commercial zone (Louisville, Ky.).

Upon consideration of the record in the above-entitled proceeding, and of:

(1) Joint petition of All-American Transport, Inc., C. W. Transport, Inc., Courier-Newsom Express, Inc., and Dohrn Transfer Co., protestants, filed May 22, 1972, for reconsideration or, alternatively, oral hearing or receipt of additional evidence;

(2) Petition of Clairmont Transfer Co., protestant, filed May 25, 1972, for reconsideration or, alternatively, reopening for oral hearing or to receive additional evidence;

(3) Joint petition of McLean Trucking Co. and Smith's Transfer Corp., protestants, filed May 26, 1972, for reconsideration or, alternatively, rehearing;

(4) Reply by applicant, filed June 14, 1972; and

It further appearing, that by recommended order served February 24, 1972, the examiner recommended that applicant be granted authority to transport general commodities (with exception) between O'Hare Field, Chicago, Ill., on the one hand, and, on the other, points in the Chicago, Ill., commercial zone, restricted to the handling of traffic originating at or destined to the plantsite of American Greetings Corp., near Danville, Ky.;

It further appearing, that by stay decision and order, entered March 14, 1972, the Commission, Review Board Number 2, modified the examiner's findings by deleting the above-mentioned restriction, finding it to be difficult of enforcement and administratively undesirable, citing "Fox-Smythe Transp. Co. Ext.—Oklahoma," 106 M.C.C. 1, 56;

It further appearing, that the evidence of record, when considered in light of the pleadings, discloses that the grant made by the review board herein would authorize the institution of a new competitive service to an extent not warranted by the record; that the service description should be altered as indicated below to conform to the evidence of record; and that the findings of the board should be modified accordingly; and good cause appearing therefor:

It is ordered, That said stay decision and order of March 14, 1972, be, and it is hereby, modified, in the section entitled "Service Authorized" of the appendix thereto, by substituting for the phrase, "O'Hare Field, Chicago, Ill., on the one hand, and on the other, points in the Chicago, Ill., commercial zone," the phrase "the plantsite of American Greeting Corp. near Danville, Ky., on the one hand, and, on the other, Chicago, Ill., restricted to the transportation of traffic originating at or destined to the said plantsite."

It is further ordered, That, unless compliance is made by applicant with the requirements of sections 215, 217, and 221(c) of the Interstate Commerce Act, within 90 days after the date of service of this order, or within such additional time as may be authorized by the Commission, the grant of authority in the decision and order of March 14, 1972, as modified herein, shall be considered as null and void, and the application shall stand denied in its entirety effective upon the expiration of the said compliance time.

It is further ordered, That notice of the grant of authority made herein be published in the FEDERAL REGISTER.

By the Commission, Division 1, acting as an Appellate Division.

NOTE: This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-19055 Filed 11-6-72;8:50 am]

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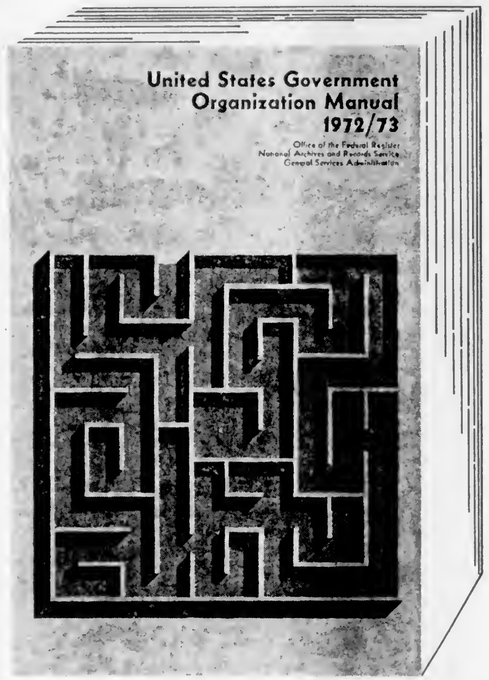

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Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Title 7—AGRICULTURE

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Orders 71, 73, 97, 102, 104, 106, 108, 120, 126, 127, 128, 129, 130, 132, and 138; Docket No. AO-231-A39, etc.]

MILK IN NORTH TEXAS AND CERTAIN OTHER MARKETING AREAS

Order Amending Orders

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are hereby made with respect to each of the aforesaid orders:

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the respective marketing areas.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within each of the respective marketing areas, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending each of the specified orders, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the respective orders as hereby amended;

(3) The issuance of the order amending each of Orders 1071, 1073, 1106, 1108, 1120, 1127, 1128, 1132, and 1138 is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area;

(4) The issuance of the order amending each of Orders 1104, 1126, and 1130 is approved or favored by at least two-thirds of the producers who voted in a producer referendum and who were engaged in the production of milk for sale in the marketing area during the determined representative period; and

(5) The issuance of the order amending each of Orders 1097, 1102, and 1129 is favored by at least three-fourths of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the respective marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the aforesaid orders, as amended, and as hereby further amended, as follows:

PART 1071—MILK IN THE NEOSHO VALLEY MARKETING AREA

1. Section 1071.60 is revised as follows:

§ 1071.60 Producer-handlers.

Sections 1071.40 through 1071.46, 1071.50 through 1071.52, 1071.70, 1071.71, 1071.90 through 1071.97, and 1071.110 through 1071.122 shall not apply to a producer-handler.

2. In § 1071.62, paragraph (b)(5) is revised as follows:

§ 1071.62 Obligation of handler operating a partially regulated distributing plant.

* * * * * *

(b) * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location plus 5 cents (not to be less than the Class II price) and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such skim milk at the Class II price.

3. In § 1071.71, add a new paragraph (c-1) as follows:

§ 1071.71 Computation of uniform price.

* * * * * *

(c-1) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

* * * * * *

4. In § 1071.93, paragraph (b)(2) is revised as follows:

§ 1071.93 Payments to the producer-settlement fund.

* * * * * *

(b) * * *

(2) The value at the uniform price applicable at the location of the plant(s) from which received plus 5 cents (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1071.70(d).

5. Immediately following § 1071.97, a new centerhead and new §§ 1071.110 through 1071.122 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1071.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1071.121 (b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

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§ 1071.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1071.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1071.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1071.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1071.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1071.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1071.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1071.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1071.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1071.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91–670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1071.110 and 1071.117.

§ 1071.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1071.110 and 1071.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1071.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1071.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1071.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1071.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1071.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1071.121 Duties of the market administrator.

Except as specified in § 1071.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1071.113(c).

(b) Set aside the amounts subtracted under § 1071.71(c–1) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1071.71(c–1).

(3) After the end of each calendar quarter make a refund to each producer who has made application for such refund pursuant to § 1071.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1071.71(c–1) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1071.110 through 1071.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1071.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1071.92.

PART 1073—MILK IN THE WICHITA MARKETING AREA

1. Section 1073.60 is revised as follows:

§ 1073.60 Producer-handler.

Sections 1073.40 through 1073.46, 1073.50 through 1073.54, 1073.61, 1073.62, 1073.70 through 1073.72, 1073.80 through 1073.88, and 1073.110 through 1073.122 shall not apply to a producer-handler.

2. In § 1073.62, paragraph (b)(5) is revised as follows:

§ 1073.62 Obligation of handler operating a partially regulated distributing plant.

* * * * *

(b) * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location plus 5 cents (not to be less than the Class III price) and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such skim milk at the Class III price.

3. In § 1073.71, a new paragraph (c–1) is added as follows:

§ 1073.71 Computation of uniform prices.

* * * * *

(c–1) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

* * * * *

4. In § 1073.84, paragraph (b)(2) is revised as follows:

§ 1073.84 Payments to the producer-settlement fund.

* * * * *

(b) * * *

(2) The value at the "weighted average" price(s) applicable at the location of the plant(s) from which received plus 5 cents (not to be less than the value at the Class III price) with respect to other source milk for which a value is computed pursuant to § 1073.70(g).

5. Immediately following § 1073.88, a new centerhead and new §§ 1073.110 through 1073.122 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1073.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1073.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1073.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1073.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1073.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1073.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to

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constitute a majority of the agency representatives.

§ 1073.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1073.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1073.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1073.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1073.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1073.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1073.110 and 1073.117.

§ 1073.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following.

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1073.110 and 1073.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1073.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1073.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1073.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1073.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1073.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A diary farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1073.121 Duties of the market administrator.

Except as specified in § 1073.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1073.113(c).

(b) Set aside the amounts subtracted under § 1073.71(c-1) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1073.71(c-1).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1073.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1073.71(c-1) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1073.110 through 1073.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1073.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1073.83.

PART 1097—MILK IN THE MEMPHIS, TENN. MARKETING AREA

1. Section 1097.60 is revised as follows:

§ 1097.60 Producer-handler.

Sections 1097.40 through 1097.46, 1097.50 through 1097.53, 1097.70 through 1097.72, 1097.80 through 1097.83, 1097.90 through 1097.97, and 1097.110 through 1097.122 shall not apply to a producer-handler.

2. In § 1097.71, a new paragraph (d-1) is added as follows:

§ 1097.71 Computation of uniform prices for handlers.

* * * * * *

(d-1) Subtract an amount computed by multiplying the total hundredweight of producer milk in each class by 5 cents; and

* * * * * *

3. In § 1097.72, paragraphs (a) and (b) are revised as follows:

§ 1097.72 Computation of the uniform prices for base and excess milk for handlers.

* * * * * *

(a) Following the computations and adjustments provided for in § 1097.71 (a), (b), (c), (d), and (d-1);

(b) Compute the value of excess milk received by such handler as producer milk and bulk milk from a cooperative association in its capacity as a handler pursuant to § 1097.10(c), by multiplying the quantity of such milk not in excess of the total quantity of Class II milk for such handler pursuant to § 1097.70(a) by the Class II price less 5 cents; multiply the remaining excess milk by the Class I price less 5 cents, and add together the resulting amounts;

* * * * * *

4. Immediately following § 1097.97, a new centerhead and new §§ 1097.110 through 1097.122 are added as follows:

AVERTISING AND PROMOTION PROGRAM

§ 1097.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1097.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1097.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1097.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1097.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1097.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1097.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1097.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1097.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

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(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1097.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1097.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1097.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91–670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1097.110 and 1097.117.

§ 1097.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1097.110 and 1097.117;

(c) Keep minutes, books and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1097.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1097.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1097.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1097.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commision or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1097.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1097.121 Duties of the market administrator.

Except as specified in § 1097.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1097.113(c).

(b) Set aside the amounts substracted under § 1097.71(d–1) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1097.71(d–1).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1097.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1097.71(d–1) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter

with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1097.110 through 1097.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1097.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall be distributed in an equitable manner to producers by the market administrator.

PART 1102—MILK IN THE FORT SMITH, ARK., MARKETING AREA

1. Section 1102.60 is revised as follows:

§ 1102.60 Producer-handler.

Sections 1102.40 through 1102.46, 1102.50 through 1102.54, 1102.70 through 1102.72, 1102.80 through 1102.86, 1102.90, through 1102.93, and 1102.110 through 1102.122 shall not apply to a producer-handler.

2. In § 1102.71, at the end of paragraph (c) the word "and" is deleted, and a new paragraph (c–1) is added as follows:

§ 1102.71 Computation of uniform prices for handlers.

* * * * *

(c–1) Subtract an amount computed by multiplying the total hundredweight of producer milk in each class by 5 cents; and

3. In § 1102.72, paragraphs (a) and (b) are revised as follows:

§ 1102.72 Computation of the uniform prices for base and excess milk for each handler.

* * * * *

(a) Following the computations and adjustments provided for in § 1102.71 (a), (b), (c), and (c–1);

(b) Compute the value of excess milk received by such handler from producers, by multiplying the quantity of such milk not in excess of the total Class II milk included in this computation by the Class II price less 5 cents; multiply the remaining excess milk by the Class I price less 5 cents and add together the resulting amounts;

* * * * *

4. Add a new § 1102.87 as follows:

§ 1102.87 Payment of advertising and promotion funds.

On or before the 15th day after the end of each month during which producer milk was received, each handler shall turn over to the market administrator the advertising and promotion funds deducted pursuant to § 1102.71(c–1).

5. Immediately following § 1102.93, a new centerhead and new §§ 1102.110 through 1102.122 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1102.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1102.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1102.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1102.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1102.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1102.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1102.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1102.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1102.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1102.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1102.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1102.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91–670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1102.110 and 1102.117.

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§ 1102.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1102.110 and 1102.117;

(c) Keep minutes, books, and records, and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1102.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1102.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1102.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1102.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1102.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1102.121 Duties of the market administrator.

Except as specified in § 1102.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1102.113(c).

(b) Set aside the amounts subtracted under § 1102.71(c–1) and received pursuant to § 1102.87 into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1102.71(c–1).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1102.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1102.71(c–1) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1102.110 through 1102.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1102.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall be distributed in an equitable manner to producers by the market administrator.

PART 1104—MILK IN THE RED RIVER VALLEY MARKETING AREA

1. Section 1104.60 is revised as follows:

§ 1104.60 Producer-handler.

Sections 1104.40 through 1104.46, 1104.50 through 1104.54, 1104.70 through 1104.74, 1104.80 through 1104.86, and 1104.110 through 1104.122 shall not apply to a producer-handler.

2. In § 1104.62, paragraph (b)(5) is revised as follows:

§ 1104.62 Obligation of handler operating a partially regulated distributing plant.

• • • • • •

(b) • • •

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location plus 5 cents (not to be less than the Class II price applicable to milk used in the manufacture of American cheese, butter, and nonfat dry milk) and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such skim milk at such Class II price.

3. In § 1104.71, a new paragraph (c–1) is added as follows:

§ 1104.71 Computation of uniform prices.

(c–1) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

• • • • • •

4. In § 1104.82, paragraph (b)(2) is revised as follows:

§ 1104.82 Payments to the producer-settlement fund.

• • • • • •

(b) • • •

(2) The value at the weighted average price(s) applicable at the location of the plant(s) from which received plus 5 cents (not to be less than the value at the Class II price applicable to milk used in the manufacture of butter, American cheese and nonfat dry milk) with respect to other source milk for which a value is computed pursuant to § 1104.70(e).

5. Immediately following § 1104.86, a new centerhead and new §§ 1104.110 through 1104.122 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1104.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1104.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1104.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under §1104.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1104.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1104.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1104.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1104.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1104.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1104.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1104.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1104.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91–670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1104.110 and 1104.117.

§ 1104.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1104.110 and 1104.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings, and pay the expenses of administering the Agency; and

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(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1104.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1104.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1104.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1104.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1104.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1104.121 Duties of the market administrator.

Except as specified in § 1104.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1104.113(c).

(b) Set aside the amounts subtracted under § 1104.71(c–1) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1104.71(c–1).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1104.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1104.71(c–1) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1104.110 through 1104.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1104.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1104.81.

PART 1106—MILK IN THE OKLAHOMA METROPOLITAN MARKETING AREA

1. Section 1106.60 is revised as follows:

§ 1106.60 Producer-handler.

Sections 1106.40 through 1106.46, 1106.50 through 1106.53, 1106.70 through 1106.72, 1106.80 through 1106.88, and 1106.110 through 1106.122 shall not apply to a producer-handler.

2. In § 1106.62, paragraph (b)(5) is revised as follows:

§ 1106.62 Obligation of handler operating a partially regulated distributing plant.

* * * * * *

(b) * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant subtract its value at the weighted average price applicable at such location plus 5 cents (not to be less than the Class II price applicable to milk used in the manufacture of American cheese, butter, and nonfat dry milk), and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such skim milk at such Class II price.

3. In § 1106.71, a new paragraph (e) is added as follows:

§ 1106.71 Computation of aggregate value used to determine price(s).

* * * * * *

(e) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents.

4. In § 1106.84, paragraph (b)(2) is revised as follows:

§ 1106.84 Payments to the producer-settlement fund.

* * * * * *

(b) * * *

(2) The value at the uniform price applicable at the location of the plant(s) from which received plus 5 cents (not to be less than the value at the Class II price applicable to milk used in the manufacture of American cheese, butter and nonfat dry milk) with respect to other source milk for which a value is computed pursuant to § 1106.70(e).

5. Immediately following § 1106.88, a new centerhead and new §§ 1106.110 through 1106.122 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1106.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1106.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1106.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1106.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1106.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1106.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1106.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1106.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1106.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1106.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1106.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1106.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91–670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1106.110 and 1106.117.

§ 1106.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1106.110 and 1106.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1106.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1106.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1106.121(b)(1) shall be utilized for administrative expense of the Agency.

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(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1106.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1106.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1106.121 Duties of the market administrator.

Except as specified in § 1106.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1106.113(c).

(b) Set aside the amounts subtracted under § 1106.71(e) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1106.71(e).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1106.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1106.71(e) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1106.110 through 1106.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1106.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1106.83.

PART 1108—MILK IN THE CENTRAL ARKANSAS MARKETING AREA

1. Section 1108.60 is revised as follows:

§ 1108.60 Producer-handler.

Sections 1108.40 through 1108.46, 1108.50 through 1108.53, 1108.61, 1108.62, 1108.70 through 1108.75, 1108.80 through 1108.86, 1108.90 through 1108.93, and 1108.110 through 1108.122 shall not apply to a producer-handler.

2. In § 1108.62, paragraph (b)(5) is revised as follows:

§ 1108.62 Obligation of handler operating a partially regulated distributing plant.

* * * * * * *

(b) * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location plus 5 cents (not to be less than the Class II price) and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such skim milk at the Class II price.

3. In § 1108.71, a new paragraph (c–1) is added as follows:

§ 1108.71 Computation of the uniform price.

* * * * * * *

(c–1) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

* * * * * * *

4. In § 1108.72, paragraphs (b) (1) and (2) are revised as follows:

* * * * * * *

(b) * * *

(1) Multiply the hundredweight of such milk not in excess of the total quantity of producer milk assigned to Class II milk of handlers included in these computations by the Class II price less 5 cents;

(2) Multiply any additional hundredweight of such milk by the Class I price less 5 cents; and

* * * * * * *

5. In § 1108.82, paragraph (b)(2) is revised as follows:

§ 1108.82 Payments to the producer-settlement fund.

* * * * * * *

(b) * * *

(2) The value at the weighted average price(s) applicable at the location of the plant(s) from which received plus 5 cents (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1108.70(e).

6. Immediately following § 1108.93, a new centerhead and new §§ 1108.110 through 1108.122 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1108.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1108.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1108.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1108.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1108.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1108.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1108.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1108.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1108.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1108.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1108.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1108.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91–670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1108.110 and 1108.117.

§ 1108.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1108.110 and 1108.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1108.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1108.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1108.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1108.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except

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for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1108.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refunds shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1108.121 Duties of the market administrator.

Except as specified in § 1108.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1108.113(c).

(b) Set aside the amounts subtracted under § 1108.71(c–1) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1108.71(c–1).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1108.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1108.71(c–1) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1108.110 through 1108.122).

(d) Make the necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1108.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1108.81.

PART 1120—MILK IN THE LUBBOCK-PLAINVIEW MARKETING AREA

1. Section 1120.60 is revised as follows:

§ 1120.60 Producer-handler.

Sections 1120.40 through 1120.46, 1120.50 through 1120.53, 1120.70 through 1120.75, 1120.80 through 1120.87, and 1120.110 through 1120.122 shall not apply to a producer-handler.

2. In § 1120.62, paragraph (b)(5) is revised as follows:

§ 1120.62 Obligation of handler operating a partially regulated distributing plant.

* * * * * *

(b) * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price), subtract its value at the uniform price applicable at such location plus 5 cents (not to be less than the Class II price) and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price) less the value of such skim milk at the Class II price.

3. In § 1120.71, the word "and" at the end of paragraph (c) is deleted, the period at the end of paragraph (d) is deleted and a semicolon followed by the word "and" is added thereat, and a new paragraph (e) is added as follows:

§ 1120.71 Computation of aggregate value used to determine uniform price.

* * * * * *

(e) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents.

4. In § 1120.82, paragraph (b)(2) is revised as follows:

§ 1120.82 Payments to the producer-settlement fund.

* * * * * *

(b) * * *

(2) The value at the weighted average price(s) applicable at the location of the plant(s) from which received plus 5 cents (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1120.70(e).

5. Immediately following § 1120.87, a new centerhead and new §§ 1120.110 through 1120.122 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1120.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1120.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1120.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1120.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1120.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1120.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1120.112 Term of office.

The term of office or each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1120.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative, who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1120.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1120.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1120.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1120.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91–670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1120.110 and 1120.117.

§ 1120.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1120.110 and 1120.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1120.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1120.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1120.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1120.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1120.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only by the producer. Only that information through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application

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filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1120.121 Duties of the market administrator.

Except as specified in § 1120.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1120.113(c).

(b) Set aside the amounts subtracted under § 1120.71(e) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1120.71(e).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1120.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1120.71(e) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1120.110 through 1120.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1120.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1120.81.

PART 1126—MILK IN THE NORTH TEXAS MARKETING AREA

1. Section 1126.60 is revised as follows:

§ 1126.60 Producer-handler.

Sections 1126.40 through 1126.46, 1126.50 through 1126.53, 1126.70 through 1126.72, 1126.90 through 1126.97, and 1126.110 through 1126.122 shall not apply to a producer-handler.

2. In § 1126.62, paragraph (b)(5) is revised as follows:

§ 1126.62 Obligation of handler operating a partially regulated distributing plant.

* * * * *

(b) * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price), subtract its value at the uniform price applicable at such location plus 5 cents (not to be less than the Class II price) and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price) less the value of such skim milk at the Class II price.

3. In § 1126.71, the word "and" at the end of paragraph (c) is deleted, the period at the end of paragraph (d) is deleted and a semicolon followed by the word "and" is added thereat, and a new paragraph (e) is added as follows:

§ 1126.71 Computation of aggregate value used to determine uniform price.

* * * * *

(e) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents.

4. In § 1126.93, paragraph (b)(2) is revised as follows:

§ 1126.93 Payments to the producer-settlement fund.

* * * * *

(b) * * *

(2) The value at the uniform price applicable at the location of the plant(s) from which received plus 5 cents (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1126.70(e).

5. Immediately following § 1126.97, a new centerhead and new §§ 1126.110 through 1126.122 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1126.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1126.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1126.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1126.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1126.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1126.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1126.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1126.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships

and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1126.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1126.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1126.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1126.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1126.110 and 1126.117.

§ 1126.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1126.110 and 1126.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1120.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1126.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1126.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1126.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1126.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of his section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1126.121 Duties of the market administrator.

Except as specified in § 1126.116, the market administrator in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1126.113(c).

(b) Set aside the amounts subtracted under § 1126.71(e) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

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(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1126.71(e).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1126.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1126.71(e) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1126.110 through 1126.122)

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1126.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1126.92.

PART 1127—MILK IN THE SAN ANTONIO MARKETING AREA

1. In § 1127.61, paragraph (b)(5) is revised as follows:

§ 1127.61 Obligation of handler operating a partially regulated distributing plant.

* * * * * *

(b) * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price), subtract its value at the uniform price applicable at such location plus 5 cents (not to be less than the Class II price) less the value of such skim milk at the Class II price.

2. In § 1127.71, a new paragraph (c–1) is added as follows:

§ 1127.71 Computation of uniform price.

* * * * * *

(c–1) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

* * * * * *

3. In § 1127.84, paragraph (b)(2) is revised as follows:

§ 1127.84 Payments to the producer-settlement fund.

* * * * * *

(b) * * *

(2) The value at the uniform price(s) applicable at the location of the plant(s) from which received plus 5 cents (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1127.70(d).

4. Immediately following § 1127.88, a new centerhead and new §§ 1127.110 through 1127.122 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1127.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1127.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1127.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1127.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1127.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1127.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1127.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1127.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1127.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1127.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1127.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1127.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91–670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with

persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1127.110 and 1127.117.

§ 1127.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1127.110 and 1127.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1127.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1127.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1127.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1127.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1127.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) though (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1127.121 Duties of the market administrator.

Except as specified in § 1127.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1127.113(c).

(b) Set aside the amounts subtracted under § 1127.71(c–1) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1127.71(c–1).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1127.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1127.71(c–1) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1127.110 through 1127.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1127.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1127.83.

PART 1128—MILK IN THE CENTRAL WEST TEXAS MARKETING AREA

1. Section 1128.60 is revised as follows:

§ 1128.60 Producer-handler.

Sections 1128.40 through 1128.46, 1128.50 through 1128.53, 1128.70 through 1128.75, 1128.80, 1128.81, 1128.90 through 1128.98, and 1128.110 through 1128.122 shall not apply to a producer-handler.

2. In § 1128.62, paragraph (b)(5) is revised as follows:

§ 1128.62 Obligation of handler operating a partially regulated distributing plant.

* * * * * *

(b) * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price), subtract its value at the uniform price applicable at

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such location plus 5 cents (not to be less than the Class II price) and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price) less the value of such skim milk at the Class II price.

3. In § 1128.71, the word "and" at the end of paragraph (c) is deleted, the period at the end of paragraph (d) is deleted and a semicolon followed by the word "and" is added thereat, and a new paragraph (e) is added as follows:

§ 1128.71 Computation of aggregate value used to determine uniform price.

* * * * *

(e) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents.

4. In § 1128.94, paragraph (b)(2) is revised as follows:

§ 1128.94 Payments to the producer-settlement fund.

* * * * *

(b) * * *

(2) The value at the uniform price applicable at the location of the plant(s) from which received plus 5 cents (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1128.70(e).

5. Immediately following § 1128.98, a new centerhead and new §§ 1128.110 through 1128.122 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1128.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1128.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1128.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1128.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1128.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1128.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1128.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1128.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1128.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1128.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1128.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1128.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1128.110 and 1128.117.

§ 1128.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1128.110 and 1128.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1128.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1128.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1128.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1128.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1128.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1128.121 Duties of the market administrator.

Except as specified in § 1128.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1128.113(c).

(b) Set aside the amounts subtracted under § 1128.71(e) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1128.71(e).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1128.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1128.71(e) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1128.110 through 1128.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1128.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1128.93.

PART 1129—MILK IN THE AUSTIN-WACO MARKETING AREA

1. Section 1129.60 is revised as follows:

§ 1129.60 Producer-handler.

Sections 1129.40 through 1129.46, 1129.50 through 1129.54, 1129.70 through 1129.72, 1129.90 through 1129.95, and 1129.110 through 1129.122 shall not apply to a producer-handler.

2. In § 1129.71, the word "and" at the end of paragraph (b) is deleted, the period at the end of paragraph (c) is deleted and a semicolon followed by the word "and" is added thereat, and a new paragraph (d) is added as follows:

§ 1129.71 Computation of aggregate value used to determine uniform price.

* * * * *

(d) Subtract an amount computed by multiplying the total hundredweight of producer milk in each class by 5 cents;

3. Add a new § 1129.96 as follows:

§ 1129.96 Payment of advertising and promotion funds.

On or before the 15th day after the end of each month during which producer milk was received, each handler shall turn over to the market administrator the advertising and promotion funds deducted pursuant to § 1129.71(d).

4. Immediately following § 1129.96, a new centerhead and new §§ 1129.110 through 1129.122 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1129.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1129.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1129.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1129.113(b), is authorized one agency

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representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1129.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1129.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1129.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1129.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative, who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1129.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1129.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1129.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1129.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91–670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1129.110 and 1129.117.

§ 1129.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business.

(b) Develop programs and projects pursuant to §§ 1129.110 and 1129.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1129.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1129.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1129.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1129.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1129.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1129.121 Duties of the market administrator.

Except as specified in § 1129.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1129.113(c).

(b) Set aside the amounts subtracted under § 1129.71(d) and received pursuant to § 1129.96 into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1129.71(d).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1129.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1129.71(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1129.110 through 1129.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1129.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall be distributed in an equitable manner to producers by the market administrator.

PART 1130—MILK IN THE CORPUS CHRISTI, TEXAS, MARKETING AREA

1. Section 1130.62 is revised as follows:

§ 1130.62 Producer-handler.

Sections 1130.40 through 1130.46, 1130.51 through 1130.54, 1130.70 through 1130.72, 1130.80 through 1130.88, and 1130.110 through 1130.122 shall not apply to a producer-handler.

2. In § 1130.61, paragraph (b)(5) is revised as follows:

§ 1130.61 Obligation of handler operating a partially regulated distributing plant.

* * * * * * *

(b) * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant (not to be less than the Class III price), subtract its value at the uniform price applicable at such location plus 5 cents (not to be less than the Class III price) and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant (not to be less than the Class III price) less the value of such skim milk at the Class III price.

3. In § 1130.71, the word "and" at the end of paragraph (c) is deleted, the period at the end of paragraph (d) is deleted and a semicolon followed by the word "and" is added thereat, and a new paragraph (e) is added as follows:

§ 1130.71 Computation of aggregate value used to determine uniform price.

* * * * * * *

(e) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents.

4. In § 1130.84, paragraph (b)(2) is revised as follows:

§ 1130.84 Payments to the producer-settlement fund.

* * * * * * *

(b) * * *

(2) The value at the uniform price applicable at the location of the plant(s) from which received plus 5 cents (not to be less than the value at the Class III price) with respect to other source milk for which a value is computed pursuant to § 1130.70(e).

5. Immediately following § 1130.88, a new centerhead and new §§ 1130.110 through 1130.122 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1130.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1130.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1130.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1130.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1130.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1130.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1130.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1130.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a),

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(b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1130.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1130.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1130.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1130.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1130.110 and 1130.117.

§ 1130.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1130.110 and 1130.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1130.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval of all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1130.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1130.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1130.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1130.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1130.121 Duties of the market administrator.

Except as specified in § 1130.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1130.113(c).

(b) Set aside the amounts subtracted under § 1130.71(e) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1130.71(e).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1130.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1130.71(e) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1130.110 through 1130.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1130.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1130.83.

PART 1132—MILK IN THE TEXAS PANHANDLE MARKETING AREA

1. Section 1132.60 is revised as follows:

§ 1132.60 Producer-handler.

Sections 1132.40 through 1132.46, 1132.50 through 1132.53, 1132.70 through 1132.72, 1132.80 through 1132.89, and 1132.110 through 1132.122 shall not apply to a producer-handler.

2. In § 1132.62, paragraph (b)(5) is revised as follows:

§ 1132.62 Obligation of handler operating a partially regulated distributing plant.

* * * * * * *

(b) * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant subtract its value at the weighted average price applicable at such location plus 5 cents (not to be less than the Class II price) and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such skim milk at the Class II price.

3. In § 1132.71, the word "and" at the end of paragraph (c) is deleted, the period at the end of paragraph (d) is deleted and a semicolon followed by the word "and" is added thereat, and a new paragraph (e) is added as follows:

§ 1132.71 Computation of aggregate value used to determine uniform price.

* * * * * * *

(e) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents.

4. In § 1132.84, paragraph (b)(2) is revised as follows:

§ 1132.84 Payments to the producer-settlement fund.

* * * * * * *

(b) * * *

(2) The value at the weighted average price(s) applicable at the location of the plant(s) from which received plus 5 cents (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1132.70(e).

5. Immediately following § 1132.89, a new centerhead and new §§ 1132.110 through 1132.122 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1132.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1132.121 (b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1132.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1132.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1132.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall, nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1132.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1132.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1132.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative, who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1132.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall

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conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1132.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1132.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1132.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91–670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1132.110 and 1132.117.

§ 1132.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1132.110 and 1132.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1132.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1132.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1132.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1132.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1132.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1132.121 Duties of the market administrator.

Except as specified in § 1132.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1132.113(c).

(b) Set aside the amounts subtracted under § 1132.71(e) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1132.71(e).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1132.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1132.71(e) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1132.110 through 1132.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1132.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1132.83.

PART 1138—MILK IN THE RIO GRANDE VALLEY MARKETING AREA

1. Section 1138.60 is revised as follows:

§ 1138.60 Producer-handler.

Section 1138.40 through 1138.46, 1138.50 through 1138.54, 1138.70 through 1138.72, 1138.80 through 1138.88, and 1138.110 through 1138.122 shall not apply to a producer-handler.

2. In § 1138.62, paragraph (b)(5) is revised as follows:

§ 1138.62 Obligation of handler operating a partially regulated distributing plant.

* * * * * * *

(b) * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price), subtract its value at the uniform price applicable at such location plus 5 cents (not to be less than the Class II price) and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price) less the value of such skim milk at the Class II price.

3. In § 1138.71, a new paragraph (c–1) is added as follows:

§ 1138.71 Computation of the uniform price.

* * * * * * *

(c–1) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

* * * * * * *

4. In § 1138.84, paragraph (b)(2) is revised as follows:

§ 1138.84 Payments to the producer-settlement fund.

* * * * * * *

(b) * * *

(2) The value at the uniform price(s) applicable at the location of the plant(s) from which received plus 5 cents (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1138.70(e).

5. Immediately following § 1138.88, a new centerhead and new §§ 1138.110 through 1138.122 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1138.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1138.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1138.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1138.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1138.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1138.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1138.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1138.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1138.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1138.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1138.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1138.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91–670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1138.110 and 1138.117.

§ 1138.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public

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such rules as may be necessary for the conduct of its business:

(b) Develop programs and projects pursuant to §§ 1138.110 and 1138.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1138.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1138.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1138.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1138.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1138.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1138.121 Duties of the market administrator.

Except as specified in § 1138.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1138.113(c).

(b) Set aside the amounts subtracted under § 1138.71(c–1) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1138.71(c–1).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1138.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1138.71(c–1) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§ § 1138.110 through 1138.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1138.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1138.83.

Effective date: Upon publication (11–8–72) with respect to marketings on and after January 1, 1973.

Signed at Washington, D.C., on November 3, 1972.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.72–19103 Filed 11–7–72;8:48 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

SUBCHAPTER C—AIRCRAFT

[Docket No. 10421, Admt. 39–1558]

PART 39—AIRWORTHINESS DIRECTIVES

Handley Page HP–137 Mark I Airplanes

Amendment 39–1031 (35 F.R. 11384), AD 70–15–4, as amended by Amendment 39–1317 (36 F.R. 19359), provides, in part, only for the installation of first stage turbine discs, P/N 0.261.25.013.0 which

are new on engines that incorporate Turbomeca Models TU–123, TU–124, and TU–126 on Handley Page HP–137 Mark I airplanes. After issuing Amendment 39–1317, the FAA determined that first stage turbine discs, P/N 0.261.25.013.0 which had accumulated less than 100 hours' time in service could also be safely installed on engines that incorporate Turbomeca Models TU–123, TU–124, and TU–126. Therefore, the AD is being further amended to provide that first stage turbine discs, P/N 0.261.25.013.0, with less than 100 hours' time in service since new, may be installed on engines that incorporate Turbomeca Models TU–123, TU–124, and TU–126. The existing requirements are continued with regard to all other first stage turbine discs.

Since this amendment relieves a restriction, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary, and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation regulations, Amendment 39–1031 (35 F.R. 11384), AD 70–15–4, as amended by Amendment 39–1317 (36 F.R. 19359), is further amended as follows:

By amending paragraph (c) to read as follows:

(c) For first stage turbine discs, P/N 0.261.25.013.0 installed with less than 100 hours' time in service since new on engines that incorporate Turbomeca Models TU–123, TU–124, and TU–126, installed in accordance with Turbomeca Service Instructions No. 0123, dated August 27, 1970, No. 0124, dated September 16, 1970, and No. 0127, dated September 16, 1970, respectively, or FAA-approved equivalents, before the accumulation of 750 hours total disc time in service or 2,000 cycles, whichever occurs sooner, remove the first stage turbine disc from service and replace it with a disc of the same part number, which has less than 100 hours' time in service since new.

This amendment becomes effective November 13, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 31, 1972.

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

[FR Doc.72–19084 Filed 11–7–72;8:50 am]

[Docket No. 72–NE–10, Amdt. 39–1552]

PART 39—AIRWORTHINESS DIRECTIVES

Sikorsky Model S–58 Helicopters

Amendment 191 (25 F.R. 8026), AD 60–17–3, as amended, requires inspection of specified main rotor blade assemblies on Sikorsky S–58 helicopters for cracks and internal flaws with replacement as necessary and mandatory replacement of these blades after 2,650 hours total time in service. Due to service experience, the agency has determined that an increase in the service life of these Sikorsky S–58 main rotor blades is justified. Therefore, the AD is being further amended to increase the service life limit from the present 2,650 hours to 3,200 hours.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13397), § 39.13 of Part 39 of the Federal Aviation regulations, Amendment 191 (25 F.R. 8026), AD 60–17–3, is amended as follows:

1. By deleting the words "2,650 hours" in paragraph (e) and inserting the words "3,200 hours" in lieu thereof.

2. By deleting the words "Sikorsky Service Bulletin No. 58B15–4C dated January 19, 1966" from paragraph (e) and inserting the words "Sikorsky Service Bulletin No. 58B15–4G dated September 12, 1972" in lieu thereof.

This amendment becomes effective November 15, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Burlington, Mass., on October 31, 1972.

FERRIS J. HOWLAND,
Director,
New England Region.

[FR Doc.72–19085 Filed 11–7–72;8:51 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER D—SPECIAL REGULATIONS

[Reg. SPR–65, Amdt. 1]

PART 372a—TRAVEL GROUP CHARTERS

Modification of Surety Bond Requirements

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of November 1972.

When the Board enacted the travel group charter rule (SPR–61, adopted and effective September 27, 1972), it referred to the fact that it was not making final certain provisions relating to security arrangements for customers' deposits which had been included in the proposed rule (notice of proposed rule making EDR–218/SPDR–22A, dated December 30, 1971, hereafter referred to as EDR–218). At the time the proposed rule in EDR–218 was issued there was then pending before the Board a proposal (SPDR–26, dated October 26, 1971, 36 F.R. 20895) to generally amend certain of the security provisions in Parts 373,[1] 378[2] and 378a[3] of the Board's special regulations, as well as other amendments relating thereto. All of the proposed amendments to the general bond provisions set forth in SPDR–26 were accordingly incorporated as proposals in EDR–218, in anticipation that the former proceeding might be concluded before the latter. The reason for such action was the desirability of having the particular security provisions with regard to travel group charters consistent with the counterpart provisions applying generally throughout the Board's regulations. Accordingly, since SPR–61 was adopted before the amendments to the general provision had become final, the Board withdrew the affected proposals on security provisions in travel group charters and deferred this question to the general rule making proceeding in SPDR–26. In doing so, the Board indicated that such amendments as the Board might ultimately adopt in the general rule making proceeding (SPDR–26) would be adopted, by parallel amendment, for Part 372a, so as to maintain as much consistency as possible among the technical security provisions in all charter rules.

The surety bond provisions as proposed in SPDR–26 have now been made final, with modifications (SPR–62, adopted October 10, 1972). Thus, we are now incorporating these provisions, insofar as applicable, in the travel group charter rule (Part 372a).

Since this amendment is in the nature of a technical change and serves to conform the surety bond provisions of this charter rule to the counterpart provisions in the Board's other charter rules, which were adopted following public rule making procedures, and since it is in the public interest to have these new surety bond provisions used in connection with the travel group charters now being organized, the Board finds that notice and that the rule should be made effective immediately.

In consideration of the foregoing, the Civil Aeronautics Board amends Part 372a of its special regulations (14 CFR Part 372a), effective November 1, 1972, as follows:

1. Amend § 372a.25 by modifying subparagraph (1) of paragraph (b), and paragraphs (c) and (d). As modified, § 372a.25 will read, in part, as follows:

§ 372a.25 Surety bond and depository agreement.

* * * * * *

(b) * * *

(1) A surety bond in the following minimum amounts: (i) If the charter is for air transportation only, a bond in the amount of $5,000 per round-trip charter flight, up to a maximum of $50,000 for a series of 10 or more round-trip flights; or (ii) if the charter involves land accommodations in addition to air transportation, a bond in the amount of $10,000 per round-trip flight, up to a maximum amount of $100,000 for a series of 10 or more round-trip flights: *Provided, however,* That the liability of the surety to any charter participant shall not exceed the amounts

[1] Study group charters.
[2] Inclusive tour charters.
[3] Contract bulk inclusive tours.

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paid by such charter participant to the charter organizer with respect to the charter; and

* * * * *

(c) The bond required under paragraphs (a) and (b) of this section shall insure the financial responsibility of the charter organizer and the supplying of the transportation and all other accommodations, services, and facilities in accordance with the contract between the charter organizer and the charter participants, and shall be in the form set forth as Appendix B.[1] Such bond shall be issued by a bonding or surety company (1) whose surety bonds are accepted by the Interstate Commerce Commission under 49 CFR 1084.6; or (2) which is listed in Best's Insurance Reports (Fire and Casualty) with a general policyholders' rating of "A" or better. The bonding or surety company shall be one legally authorized to issue bonds of that type in the State in which the charter originates. For purposes of this section, the term "State" includes any territory or possession of the United States, or the District of Columbia. The bond shall be specifically identified by the issuing surety with a company bond numbering system so that the Board may identify the bond with the specific charter or charters to which it relates: *Provided, however,* That these data may be set forth in an addendum attached to the bond which addendum must be signed by the charter organizer and the surety company. It shall be effective on or before the date the surety bond is filed with the Board. If the bond does not comply with the requirements of this section, or for any reason fails to provide satisfactory or adequate protection for the public, the Board will notify the direct air carrier(s) and the charter organizer by registered or certified mail, stating the deficiencies of the bond. Unless such deficiencies are corrected within the time set forth in such notification, the subject charter or charters shall be canceled.

(d) The bond required by this section shall provide that unless the charter participant files a claim with the charter organizer, or, if he is unavailable, with the surety, within sixty (60) days after termination of the charter, the surety shall be released from all liability under the bond to such participant. The contract between the charter organizer and the charter participant shall contain notice of this provision.

2. Amend § 372a.29 by amending paragraph (j). As amended, § 372a.29 will read in part as follows:

§ 372a.29 Contract between charter organizer and charter participants.

* * * * *

(j) The name and address of the surety and a statement that unless the charter participant files a claim with the charter organizer, or, if he is unavailable, with the surety, within sixty (60) days after termination of the charter, the surety shall be released from all liability under the bond to such charter participant (see § 372a.25(d));

3. Amend Appendix B to Part 372a as follows:

APPENDIX B

TRAVEL GROUP CHARTER ORGANIZER'S SURETY BOND UNDER PART 372a OF THE SPECIAL REGULATIONS OF THE CIVIL AERONAUTICS BOARD (14 CFR PART 372a)

* * * * *

The liability of the Surety shall not be discharged * * *

The bond shall cover the following charters: [2]

Surety company's bond No.	Date of flight departure	Place of flight departure

This bond is effective the ------ day of ----------, 19--, 12:01 a.m., standard time at the address of the principal as stated herein and shall continue in force until terminated as hereinafter provided. The principal or the surety may at any time terminate this bond by written notice to the Civil Aeronautics Board at its office in Washington, D.C., such termination to become effective thirty (30) days after actual receipt of said notice by the Board. The surety shall not be liable hereunder for the payment of any of the damages hereinbefore described which arise as the result of any contracts, agreements, undertakings, or arrangements for the supplying of transportation and other services made by the principal after the termination of this bond as herein provided, but such termination shall not affect the liability of the surety hereunder for the payment of any such damages arising as the result of contracts, agreements, or arrangements for the supplying of transportation and other services made by the principal prior to the date such termination becomes effective. Liability of the surety under this bond shall in all events be limited only to a charter participant or charter participants who shall within sixty (60) days after the termination of the particular travel group charter described herein give written notice of claim to the charter organizer or, if he is unavailable, to the surety, and all liability on this bond shall automatically terminate sixty (60) days after the termination date of the particular travel group charter covered by this bond except for claims filed within the time provided herein.

* * * * *

(Secs. 101(3), 204(a), 401, 402, 407, 416(a) and 1001 of the Federal Aviation Act of 1958, as amended, 72 Stat. 737 (as amended), 743, 754 (as amended), 757, 766, 771, and 788; 49 U.S.C. 1301, 1324, 1371, 1372, 1377, 1386, and 1481).

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-19155 Filed 11-7-72;8:52 am]

[1] Filed as part of basic enactment (SPR-61). See F.R. Doc. 72-16841 appearing at page 20808 in the issue for Wednesday, Oct. 4, 1972.

[2] These data may be supplied in an addendum attached to the bond. See § 372a.25(c), supra.

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 310]

PART 22—DRAWBACK

Proof of Export

On April 23, 1970, a notice of proposed rule making relating to proof of export for drawback purposes was published in the FEDERAL REGISTER (35 F.R. 6505). It was proposed to eliminate usage of the notice of exportation and the shipper's export declaration for drawback purposes and to provide two alternative procedures by which the drawback claimant could establish export of the goods upon which drawback would be claimed. Interested persons were given 60 days from the date of publication of the notice to submit relevant written data, views, or arguments regarding the proposed amendments to the regulations.

Because of the response to the notice of April 23, 1970, a supplemental notice was published on March 3, 1971 (36 F.R. 4046), which titled the two alternative procedures suggested in the prior notice: (1) Carrier document, and (2) export examination, and made some minor revisions on these procedures. Furthermore, a third procedure entitled exporter's summary was proposed. As in the previous notice, the public was given 60 days to respond.

From the response to both notices, it has been found that the present procedure of filing notices of exportation, with an alternative to the certification requirement will best satisfy the needs of the drawback claimants. The proposed carrier document and export examination procedures, on the other hand, were strongly objected to as being too time consuming. Therefore, the proposed carrier document, and the export examination procedures are withdrawn. The present notice of exportation procedure is retained. Furthermore, the drawback claimant will be given an option of either submitting the notice of exportation to the district director of Customs at the port of exportation for certification and return or, in lieu of obtaining such certification, of furnishing the uncertified notice of exportation with the drawback entry supported by documentary evidence of exportation such as the bill of lading, air waybill, or cargo manifest, or certified copies thereof.

The exporter's summary procedure is implemented in the manner proposed in the notice of March 3, 1971, but with the addition of a new suggested format for setting forth the chronological summary of exports under that procedure.

Drawback claims which are pending on the effective date of the amendments of the Customs regulations may be processed under the regulations in their present form, or under the regulations as amended, at the option of the claimant.

The most significant changes from the notice of proposed rule making of March 3, 1971, are as follows:

1. The proposed changes in §§ 22.6(f)(19), 22.10, 22.18(b), 22.20, 22.37(a), and 22.45 of the Customs regulations are withdrawn, and the text of those sections as they appear in the present regulations is retained.

2. Section 22.7(a) is amended by listing the three optional procedures as: (1) Certified notice of exportation, (2) uncertified notice of exportation, and (3) exporter's summary. The certified notice of exportation procedure is the same procedure followed in the present regulations, whereas the uncertified notice of exportation procedure is a liberalized version of the present procedure which permits the filing of an uncertified notice if evidence of exportation is presented.

3. Section 22.7(b) is withdrawn as proposed and in its place appear provisions that set forth the current procedure for the certified notice of exportation. Subparagraphs (1) to (5) of § 22.7(b), except for a few minor editorial changes, are identical to paragraphs (a) to (e) of § 22.7 of the current regulations. However, subparagraph (6) of § 22.7(b) serves as a cross-reference to § 22.8 which covers drawback procedures on mail shipments, and is entirely new.

4. Section 22.7(c) is revised to set forth a liberalized procedure which permits filing an uncertified notice of exportation. In lieu of obtaining certification of the notice of exportation, the drawback claimant may furnish an uncertified notice of exportation supported by evidence of exportation such as the bill of lading, air waybill, freight waybill, Canadian Customs manifest, cargo manifest, or certified copies thereof.

5. Section 22.7(d) adopts the Exporter's Summary procedure. However, this section is amended by adding to it a suggested format for setting forth the chronological summary of exports.

6. In §§ 22.8, 22.9, and 22.11, the term "notice of exportation" is substituted for the terms "Certificate of Registration" or "Certificate of Registration, Customs Form 4455", wherever either of those terms appear. In § 22.20(d), the term "notice of exporation" is retained.

7. Section 22.11 is changed by deleting the first sentence and by substituting "regional commissioner" for "district director" in the section as amended. The section is further changed by providing for the amendment of any certified or uncertified notice of exportation as well as the amendment of an exporter's summary.

8. Section 22.13(a) is changed to provide for the documentation required to show proof of exportation when the certified and uncertified notices of exportation and the exporter's summary are used. Minor editorial changes have been made because of the changes in procedures prescribed by § 22.7.

9. Section 22.17(a) is changed by adding to the first sentence the clause "or the regional commissioner for the region where the drawback claim is liquidated" as an additional person who may require a landing certificate. Also, in the last sentence of this section the term "Customs officers" is substituted for "the district director of Customs".

10. In §§ 22.17 and 22.21, the word "master" is deleted from the phrase "master air waybill" where this phrase appears.

11. In § 22.21(a), the person who is held to be the exporter and entitled to claim drawback is changed to the person named exporter in (1) the district director's certificate on the notice of exportation, or in (2) the bill of lading, air waybill, freight waybill, Canadian Customs manifest, cargo manifest, or certified copies thereof, when other than the certified notice of exportation is used.

12. Section 22.26(a) is changed by deleting the phrase "and clearance of the exporting conveyance has been established by the records in the case of direct exportation or by a certificate when the merchandise was exported at another port".

Accordingly, §§ 22.6(g-1)(10), 22.7, 22.8, 22.9, 22.11, 22.13(a), 22.17(a), 22.21(a), and 22.26(a) are hereby adopted as set forth below.

Effective date. This amendment shall become effective 30 days after publication in the FEDERAL REGISTER.

[SEAL] LEONARD LEHMAN, *Acting Commissioner of Customs.*

Approved: October 31, 1972.

EUGENE T. ROSSIDES, *Assistant Secretary of the Treasury.*

Section 22.6(g-1)(10) is amended to read:

§ 22.6 General drawback rates in effect; approval of drawback statements by the Bureau and by regional commissioners.

* * * * *

(g-1) *Crude petroleum and petroleum derivatives; substitution.* * * *

(10) The refiner shall file a combination drawback entry and certificate of manufacture showing the products exported in the quantities established by the notices of lading and other evidence of exportation. Inasmuch as exported products, as described on the notices of lading and other evidence of exportation may include quantities of nonpetroleum additives, a recapitulation shall be made showing quantities exported and the quantity of each product (less additives) in terms of the abstract.

* * * * *

Section 22.7 is amended to read:

§ 22.7 Evidence of exportation.

(a) *Optional procedures.* Exportation of articles covered by a drawback claim shall be established by compliance with the provisions of one of the following procedures:

(1) Certified Notice of Exportation described in paragraph (b) of this section;

(2) Uncertified Notice of Exportation described in paragraph (c) of this section;

(3) Exporter's Summary described in paragraph (d) of this section.

(b) *Certified Notice of Exportation procedure.* (1) A notice of exportation, in triplicate, on Customs Form 7511 for each shipment of merchandise on which drawback is to be claimed under this procedure shall be filed by the exporter or his agent with the district director of Customs at the port at which the shipment is to be exported from the United States. Such notice shall show the name of the exporting vessel or other carrier, the number and kind of packages and their marks and numbers, the description of the merchandise and its weight (gross and net), gage, measure, or number, the name of the exporter, and the name of the port where the drawback entry is to be filed. If the merchandise is to be exported in railroad cars, a notice of exportation shall be filed for each car.

(2) Except as provided for in §§ 22.8 and 22.9, the notice of exportation shall be filed with the shipper's export declaration, or, if filed subsequently, it shall be filed within 3 years after exportation and shall state the number, if any, and date of the shipper's export declaration. One shipper's export declaration may cover several notices of exportation. A notice of exportation not filed in the time and manner herein specified shall not be accepted unless its acceptance is specifically authorized by the Bureau.

(3) Upon receipt of the notice of exportation, the district director shall assign a number thereto which shall be stamped or endorsed on the original and each copy of the notice. If a number has been assigned to the corresponding shipper's export declaration, the same number shall be assigned to the notice of exportation. If a shipper's export declaration covers more than one notice of exportation, each of the notices shall be assigned the same number as that assigned to the shipper's export declaration, but each notice shall be further identified by the addition of an alphabetic designation beginning with the letter "A." However, if no number has been assigned to the shipper's export declaration, each notice of exportation shall be separatelv numbered. On one of the copies of the notice, the district director shall certify (i) as to the exportation of the merchandise as shown by the records of his office, and (ii) as to the name of the exporter as shown by the shipper's export declaration covering the merchandise. The district director shall return such copy and one uncertified copy to the person designated by the exporter, for subsequent filing with the drawback entry. Whenever the district director is unable to certify to the exportation of the merchandise covered by the notice of exportation, he shall return two copies of the notice to the exporter or to the person designated by the exporter, with a statement of the facts in the case.

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(4) When drawback is to be claimed under section 313 (a), (b), or (g), Tariff Act of 1930, with the use of this procedure, on an aircraft departing under its own power from the United States, or on merchandise exported by aircraft, the notice of exportation shall be filed in the manner prescribed herein at the port where the shipper's export declaration is filed.

(5) When merchandise is laden on a vessel for transshipment at a domestic port outside the continental United States, the notice of exportation shall be filed with the district director of Customs at the port where the merchandise was last transshipped for its foreign destination (the place where the shipper's export declaration is filed).

(6) Drawback claims on articles exported by mail must be supported by certified notices of exportation. See § 22.8 herein.

(c) *Uncertified notice of exportation procedure.* (1) The claimant may support the drawback entry with an uncertified notice of exportation on Customs Form 7511 for each shipment of merchandise covered by the claim. The notice of exportation shall show the name of the exporting vessel or other carrier, the number and kind of packages and their marks and numbers, the description of the merchandise and its weight (gross and net), gage, measure, or number, and the name of the exporter. An uncertified notice of exportation shall be supported by documentary evidence of exportation, such as the bill of lading, air waybill, freight waybill, Canadian Customs manifest, cargo manifest, or certified copies thereof, issued by the exporting carrier, and any additional evidence required by Customs officers to fully establish the time and fact of exportation.

(2) Prior to filing an uncertified notice of exportation with the drawback entry, the claimant shall assign a number thereto which shall be stamped or endorsed on the original and each copy of the notice. The number assigned shall correspond to that of the supporting document, such as the bill of lading, air waybill, or cargo manifest which is filed with the notice of exportation. If the supporting document covers more than one notice of exportation, each of the notices shall be assigned the same number, but each notice shall be further identified by the addition of an alphabetic designation beginning with the letter "A." However, if no number has been assigned to the supporting document, each notice of exportation shall be separately numbered.

(d) *Exporter's summary procedure.* (1) A procedure consolidating claims for drawback on a periodic basis shall be available when such procedure will substantially reduce the paperwork involved. Under this procedure the drawback entry shall be supported by a chronological summary of the exports and any additional evidence required by Customs officers to fully establish the fact of exportation and shall be permitted only when complete and accurate information is available from the records of the exporter-claimant.

(2) Application to use this procedure shall be made to the regional commissioner of Customs with whom drawback claims will be filed. Permission to use the procedure may be granted if, in the regional commissioner's discretion, he shall conclude that the circumstances so warrant and provided that the following conditions are met:

(i) Prior to filing the drawback claim the claimant's export volume is found sufficient to justify the proposed usage of the exporter's summary procedure by the regional commissioner of Customs in whose region the claims are to be filed;

(ii) A bond is furnished by the exporter-claimant in an amount determined by the district director of Customs, subject to approval of the regional commissioner, to protect the revenue against erroneous payment of drawback due to the incorrect description of (*a*) the exported articles, (*b*) the party entitled to drawback, or (*c*) the facts of exportation;

(iii) For a period of 3 years from the date of payment of the drawback, evidence of exportation that must include the identity and location of the ultimate consignee of the exported goods, shall be retained by the exporter-claimant for examination by authorized Government officials.

(3) The chronological summary of the exports shall be in a format acceptable to the regional commissioner of Customs with whom drawback claims are filed and shall contain substantially the data provided for in the sample format which follows:

CHRONOLOGICAL SUMMARY OF EXPORTS

Drawback Entry No. .....

Exporter/Claimant .....

Period from ..... to .....

Date of export	Exporting carrier	Freight or air waybill, bill of lading, manifest No., etc.[1]	Marks and numbers	Description	Net quantity	Schedule "B" number
(1)	(2)	(3)	(4)	(5)	(6)	(7)

[1] This number is to be used to associate the claim with exportation evidence retained by claimant.

Section 22.8 is amended to read:

§ 22.8 Notice of exportation; mail shipments.

(a) *Procedure.* If the merchandise on which drawback is to be claimed is to be exported by mail or parcel post, the notice of exportation shall be filed in triplicate with the postmaster at the place of mailing and the merchandise shall be delivered to the postmaster at the same time and mailed under his supervision. Such notices shall be numbered by the exporter in accordance with § 22.10.

(b) *Waiver of withdrawal.* Each package to be exported shall have stamped or written thereon a waiver of the right to withdraw the package from the mails, signed by the exporter.

(c) *Certification.* After the packages have been mailed, the postmaster will execute his certificate on one of the copies of the notice of exportation and return such copy and one uncertified copy to the exporter, or to the person designated by the exporter, for subsequent filing with the drawback entry. One copy will be retained by the postmaster as his record of the transaction.

Section 22.9 is amended to read:

§ 22.9 Evidence of exportation; Government shipments.

(a) *Procedure.* In the case of a shipment by a department, branch, or agency of the U.S. Government, the exportation may be established as provided by any one of the procedures set forth under § 22.7 when the drawback is to be claimed by such department, branch, or agency. The supplier of the merchandise may establish exportation under § 22.7 (b) or (c) only. No bond shall be required when the U.S. Government claims drawback under the provisions of § 22.7(d).

(b) *Certification.* When the certified notice of exportation procedure (§ 22.7 (b)) is to be used:

(1) Three copies of the notice of exportation shall be filed by the exporter or his agent with the Government officer in charge of transportation at the port of exportation. Such notice of exportation shall be numbered by the exporter in accordance with § 22.10.

(2) The notice of exportation shall bear an endorsement in the following form, to be placed thereon by the exporter, for execution by the Government transportation officer at the port of exportation:

CERTIFICATION OF EXPORTATION

This is to certify that the merchandise described herein was laden at the port of ----------, for ----------;
(foreign destination—actual or code)

that the exporting conveyance departed from the above-named port on ----------;
(date)

and that ---------- was the
(name)

actual shipper of the merchandise.

(name)

(date)

(rank, organization, title)

(3) The Government transportation officer at the port of exportation will certify exportation on the notice of exportation, mark "Copy" on the copies and return the original and one copy to the person who presented the notice. One copy of the notice of exportation will be retained by the Government transportation officer as his record of the transaction.

Section 22.11 is amended to read:

§ 22.11 Amendment of notices of exportation.

At any time within the 3-year period prescribed for the completion of the drawback claim, any certified or uncertified notice of exportation or exporter's summary may be amended if the regional commissioner is satisfied as to the correctness of the amendment. Every application for amendment and its supporting evidence shall be in writing and submitted to the regional commissioner of Customs for the region supervising the port where the drawback entry is filed.

Section 22.13(a) is amended to read:

§ 22.13 Completion of drawback claims.

(a) A drawback entry and certificate of manufacture shall be filed within 3 years after the date the articles are exported. Such entry and certificate shall be filed on Customs Form 7575 except in cases covered by paragraph (c) or (e) of this section. If any entry and certificate is filed on Customs Form 7575, such form shall be filed in duplicate; and, if the entry is filed on Customs Form 7573, only one copy (the original) need be filed, provided that an additional copy of either form may be required by the district director of Customs if he deems such additional copy necessary for administrative use in his office. When the entry covers exports under § 22.7(b), the copy of the notice of exportation certified by the district director of Customs shall be filed with the entry. When the entry covers exports under § 22.7(c), one copy of the uncertified notice of exportation, together with the original or a certified copy of the supporting document shall be filed. The certified or uncertified notice of exportation shall show that the merchandise was shipped by the person making the drawback entry, or shall bear an endorsement of the person in whose name the merchandise was shipped, showing that the person making entry is authorized to make it and to receive the drawback. One entry may cover several shipments. With respect to exportations under the provisions of § 22.7(d), one copy of the chronological summary of exports, shall be filed with the entry. All documents necessary to the liquidation of the entry, including those issued by one Customs officer to another, shall be filed or applied for, as the case may require within the 3-year period prescribed above, except that any required landing certificate shall be filed within the time presribed in § 22.17(c). Claims not completed within the 3-year prescribed above be treated as abandoned and no extension will be granted, unless it is established that failure to complete the claim within 3 years was occasioned by the action of a responsible Customs officer.

* * * * *

Section 22.17(a) is amended to read:

§ 22.17 Landing certificates.

(a) A landing certificate shall be required (1) whenever the district director of Customs at the port of exportation or at the port where the drawback entry is filed or the regional commissioner for the region where the drawback claim is liquidated shall have reason to believe that the shipment is not a bona fide exportation, (2) when the Bureau specifically directs that a landing certificate shall be produced, (3) when a landing certificate is otherwise required by law or regulation, and (4) for every aircraft which departs from the United States under its own power if drawback is claimed on the aircraft or any part thereof. Landing certificates for aircraft shall show the exact time of landing of the aircraft in the foreign country and describe the aircraft or parts thereof, on which drawback is claimed in sufficient detail to enable Customs officers to identify them with the bill of lading, air waybill, cargo manifest, or notice of exportation.

* * * * *

Section 22.21(a) is amended to read:

§ 22.21 To whom payable.

(a) The person named as exporter in (1) the district director's certificate on the notice of exportation, or in (2) the bill of lading, air waybill, freight waybill, Canadian Customs manifest, cargo manifest, or certified copies thereof, when other than the Certified Notice of Exportation procedure is used, shall be held to be the exporter and entitled to the drawback, unless the manufacturer or producer, on the sale or consignment of such articles, shall have reserved to himself the right to claim the drawback, in which case such manufacturer or producer may make entry for such drawback and it shall be paid to him upon the production of satisfactory evidence that such reservation was made with the knowledge and consent of the exporter.

* * * * *

Section 22.26(a) is amended to read:

§ 22.26 Statement of drawback due.

(a) When the drawback claim has been completed by the filing of the entry and other documents, as required by the regulations in this part and any required landing certificate has been produced, the regional commissioner of Customs shall proceed to ascertain the amount of drawback due by reference to the certificate of manufacture and the drawback rate under which the drawback claimed is allowable.

* * * * *

(R.S. 251, as amended, secs. 313, 624, 46 Stat. 693, as amended, 759; 19 U.S.C. 66, 1313, 1624)

[FR Doc.72-19181 Filed 11-7-72;8:54 am]

[T.D. 72-311]

PART 153—ANTIDUMPING

Drycleaning Machinery From West Germany

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the Secretary of the Treasury responsibility for determination of sales at less than fair value. Pursuant to this authority the Secretary of the Treasury has determined that drycleaning machinery from West Germany is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). (Published in the FEDERAL REGISTER of June 30, 1972 (37 F.R. 12978, F.R. Doc. 72-10129).)

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the U.S. Tariff Commission responsibility for determination of injury or likelihood of injury. The U.S. Tariff Commission has determined, and on September 29, 1972, it notified the Secretary of the Treasury that an industry in the United States is being injured by reason of the importation of drycleaning machinery from West Germany that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. (Published in the FEDERAL REGISTER of October 4, 1972 (37 F.R. 20898, F.R. Doc. 72-16951).)

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to drycleaning machinery from West Germany.

Section 153.43 of the Customs regulations is amended by adding the following to the list of findings of dumping currently in effect:

Merchandise	Country	T.D.
Drycleaning machinery....	West Germany	72-311

(Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173)

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-19114 Filed 11-7-72;8:48 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER A—GENERAL

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

Use of Lithographed Soft Drink Bottles Bearing Label Declaration for Cyclamates

In the FEDERAL REGISTER of July 11, 1972 (37 F.R. 13556), the Commissioner

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of Food and Drugs proposed to allow continued use of certain mislabeled lithographed returnable soft drink bottles after October 1, 1972.

Thirty-six comments were received in response. The principal points raised and the Commissioner's conclusions are as follows:

Seventeen consumers (including two diabetics), two soft drink bottlers and one ecology interest group support the proposal because it would prevent the insult to the environment that would result from discarding such a large number of glass bottles over a short period of time. On the other hand, one consumer suggested that the bottles could be recycled and would not harm the environment. In addition to the short term disposal problem that would result from adhering to the October 1, 1972, cut-off date, the Commissioner recognized that there would also result a long-term environmental impact because bottlers have indicated that most of these returnable bottles would likely be replaced by one-way bottles. Notwithstanding this order ruling on the proposal; the Commissioner believes that the bottlers should pursue every means possible to phase out the bottles at the earliest possible date, weighing economic losses and environmental gains under the knowledge that a mislabeling is perpetuated by this order. Recycling the lithographed bottles is a possibility that should be given consideration as one means worthy of pursuit.

There were no objections raised against the proposal that had not been previously evaluated. One soft drink bottler objected to the proposal without suggestions for modifying its provisions. A county consumer agency stated that the proposed corrective labeling does not prevent confusion. Six consumers (including two diabetics) and one State agency objected to the proposal because of possible harm to diabetics and others who might be misled by conflicting labeling. The possibilities of such confusion and harm to diabetics were considered by the Comissioner prior to publishing the proposal. The cautionary labeling specified, i.e., prominent labeling on the bottle caps, cartons, and vending machines showing that the product contains sugar or carbohydrates and specifying the caloric and carbohydrate content per fluid ounce, was deemed sufficient to minimize confusion and properly inform diabetics that these beverages were not for their use without the advice of a physician.

Three consumer interest groups recommended that the cyclamate labeled bottles not be used after October 1, 1972, and one such group recommended a 5-year time limit. Adhering to the October 1, 1972, deadline would create too severe an environmental impact when the bottles were discarded. A specified time limit after the October 1, 1972, date was considered prior to publishing the proposal and rejected on the basis that use of the bottles have already been allowed for 3 years during which time it was originally anticipated that they would be phased out by attrition. At this time it is not possible to predict whether the bottles will be phased out by attrition in 5 years. Bottlers are, however, encouraged to hasten this phasing out by every possible means.

Two consumer interest groups and a county health department recommended use of the mislabeled bottles only if correct labeling is added directly to the bottles. A bottler's study of various relabeling possibilities indicates that existing equipment in bottling establishments cannot add labeling to the bottles, and the costs, both in money and in time, to equip the plants for relabeling would be prohibitive.

Accordingly, having considered the comments received and other relevant material, the Commissioner concludes that the proposal should be adopted as set forth in the FEDERAL REGISTER of July 11, 1972 (37 F.R. 13556).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 403, 409(d), 701(a), 52 Stat. 1047–1048 as amended, 1055, 72 Stat. 1787; 21 U.S.C. 343, 348(d), 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), paragraph (e) of § 3.72 is revised as follows:

§ 3.72 **Combinations of nutritive and nonnutritive sweeteners in "diet beverages."**

. . . . . .

(e) Bottlers of diet drinks have on hand large stocks of returnable lithographed bottles bearing statements indicating that the beverages contain cyclamates and/or declarations such as "sugar free," less than 1 calorie per bottle," or "less than 2 calories per bottle" which bottles were formerly used for artificially sweetened beverages containing cyclamates. The Food and Drug Administration will not object to continued use of these bottles under the following conditions:

(1) The bottles when filled with beverages made with combinations of nutritive and nonnutritive sweeteners may be marketed only:

(i) In multiunit cartons labeled prominently on each principal display panel with the information set forth in paragraphs (c) and (d) of this section and with a prominent, forthright notice that any information on bottles which is contrary to that on the cartons should be disregarded because it is incorrect. To assure adequate prominence and conspicuousness, the following statements should stand out in marked contrast with other labeling: The statement of caloric content, and carbohydrate content per fluid ounce, the statement required by paragraph (d) (3) or (4) of this section as applicable, and the notice to disregard any information on bottles which is contrary to that on the cartons. These statements may be made to stand out by means such as setting them forth in boxes, printing in bold capitals on lines separated from other printed labeling, using colors that contrast with those used for other label statements, or other similar means.

(ii) In vending machines bearing durable labeling which includes all of the information required to appear on cartons set forth with the same degree of prominence.

(2) In addition, the bottles must bear caps labeled prominently with the words "Contains Sugar" or "Contains Carbohydrates," and accurate statements of the caloric content and carbohydrate content per fluid ounce.

Effective date. This order shall become effective upon publication in the FEDERAL REGISTER (11–8–72).

(Secs. 403, 409(d), 701(a), 52 Stat. 1047–1048 as amended, 1055, 72 Stat. 1787; 21 U.S.C. 343, 348(d), 371(a))

Dated: November 1, 1972.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.72-19090 Filed 11-7-72;8:49 am]

SUBCHAPTER C—DRUGS

PART 141—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

Doxycycline Hyclate

Correction

In F.R. Doc. 72-17212 appearing at page 21302 of the issue for Saturday, October 7, 1972, in the tabulated material under § 141.7(c) the heading "Route of administration as described in paragraph (C) of this section" and the material thereunder should be deleted.

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter V—Office of Assistant Secretary for Community Development, Department of Housing and Urban Development

[Docket No. R-72-141]

PART 540—OPEN SPACE LAND

The Department of Housing and Urban Development is amending its regulations concerning eligibility and assistance requirements for the Open Space Land Program. The basic regulations were issued at 36 F.R. 17496, September 1, 1971, to become effective immediately in order that title IV of the Housing and Urban Development Act of 1970 could be implemented. At that time, the Department invited public comments with a view towards early amendment of these regulations.

Several comments were received, all of which were basically favorable to these regulations. Several of the comments addressed issues which are now covered by the Project Selection System for the Open Space Land Program which was published at 37 F.R. 7388, April 14, 1972. One of the comments addressed the question of letters to proceed prior to project approval, the use of which has been discontinued in most instances. These commitments, which were never binding upon the Department, had become cumbersome in regard to coordination of program requirements with the requirements of other Federal agencies.

The Department now wishes to amend these regulations and set forth revised guidelines for the program in the interest of eliminating unnecessary constraints and clarifying eligibility requirements. The amended regulations, in addition, set forth the rules to be employed involving donations of land and material for incorporation in projects and revise the limitations on development-type projects.

Several organizational changes are made in Chapter V as a result of this amendment. Subpart A of Subchapter B, Part 540 (§§ 540.100–540.114) is deleted since it has been superseded by Subtitle A, Parts 41 and 42 of Title 24.

Because the changes reflected in this amendment relax certain of the present requirements of Part 540 or are clarifying in nature, comment and public procedure are unnecessary and good cause exists for making this amendment effective upon publication. Consistent with this, former Subpart B now comprises the whole of Part 540—Open Space Land and the sections thereto have been retitled and renumbered as follows:

1. Section 540.1 replaces §§ 540.201, and 540.202.

2. Section 540.2 is a new section which provides definitions of terms used in the regulations.

3. Section 540.3 is a new section which discusses the amount of Federal assistance which may be provided, and also includes information formerly covered by § 540.207 concerning eligible applicants.

4. Section 540.4 covers material formerly contained in §§ 540.212, 540.225, 540.226, 540.229, 540.235, 540.239, and 540.245.

5. Section 540.5 covers information formerly covered by §§ 540.209, 540.210, 540.238, 540.241, and 540.248.

6. Section 540.6, is intended to clarify information formerly contained in § 540.232.

7. Section 540.7, covers and simplifies information formerly contained in § 540.232.

8. Section 540.8 is a new section which recognizes donation of materials as an eligible part of the local share of project costs.

9. Section 540.9 reiterates and updates § 540.217.

10. Section 540.10 concerns Subchapter B, Part 541, Project Selection System (37 F.R. 7388).

11. Section 540.11 replaces in part § 540.231, the balance of which has been deleted as being unduly prescriptive.

12. Section 540.12 replaces in part § 540.240, the balance of which has been deleted as being unduly prescriptive.

13. Section 540.13 modifies and condenses material formerly covered in § 540.250.

14. Section 540.14 modifies material formerly covered in § 540.247 for purposes of clarification.

15. Section 540.15 is the same as previous § 540.251.

16. Former §§ 540.203, 540.204, 540.205, 540.208, 540.211, 540.213, 540.215, 540.216, 540.220, 540.224, 540.230, and 540.246, are covered by Part 541, Project Selection System (37 F.R. 7388).

17. Former §§ 540.218, 540.219, 540.222, 540.227, 540.228, and 540.249 have been deleted because they cover contractual obligations, the subject of which is not appropriate to these regulations.

18. Former §§ 540.221, 540.223, 540.233, 540.234, 540.236, 540.242, 540.243, and 540.244 represent local determinations which should not be subject to Federal regulation insofar as they are controlled by State and local conditions or statute.

Since this amendment relaxes existing requirements and in large measure is intended to clarify and simplify the existing regulations, comment and public procedure are unnecessary and the amended Part 540 is made effective upon publication.

Accordingly, Part 540, Open Space Land, of Subchapter B, Chapter V, is amended as follows:

Subpart A [Deleted]

1. Subpart A—Relocation Payments is deleted.

Subpart B [Renumbered]

2. Former Subpart B—The Legacy of Parks Program is renumbered, retitled as Part 540—Open Space Land, revised to read as follows:

Sec.
540.1 Purposes.
540.2 Definitions.
540.3 Grants for open space land and historic preservation.
540.4 Eligible projects.
540.5 Requirements and conditions for assistance.
540.6 Acquisition of lesser interest.
540.7 Valuation of donated land.
540.8 Valuation of donated material.
540.9 Labor standards.
540.10 Project selection.
540.11 Establishment of acquisition date.
540.12 Establishment of development date.
540.13 Changes in uses and conversions.
540.14 Information, application forms, and applications.
540.15 Waivers.

AUTHORITY: The provisions of this Part 540 issued under section 7(d) of the Housing and Urban Development Act, 42 U.S.C. 3535(d).

§ 540.1 Purpose.

The purpose of these regulations is to implement title IV of the Housing and Urban Development Act of 1970, Public Law 91–609, 84 Stat. 1770, 1781. The objectives of the program as set forth in the law include: To help curb urban sprawl and prevent the spread of urban blight and deterioration, to encourage more economic and desirable urban development, to assist in preserving areas and properties of historic or architectural value, and to help provide necessary recreational, conservation, and scenic areas by assisting State and local public bodies in taking prompt action to: (a) Provide, preserve, and develop open space land in a manner consistent with the planned long-range development of the Nation's urban areas, (b) acquire, improve, and restore areas, sites, and structures of historic or architectural value, and (c) develop and improve open space and other public urban land in accordance with programs to encourage and coordinate local public and private efforts toward this end.

§ 540.2 Definitions.

(a) "Changes in uses" means utilizing the open space land for purposes not contemplated in the application for a Grant Assistance Contract.

(b) "Conversions" means changes in land use from open space uses to non-open space uses.

(c) "Donation" means cash, land, material, or services provided to, or by, an applicant for incorporation in the project at no cost to the applicant.

(d) "Local public body" means any public body (including a political subdivision) created by or under the laws of a State or two or more States, or a combination of such bodies, and includes Indian tribes, bands, groups, and nations (including Alaska Indians, Aleuts, and Eskimos) of the United States.

(e) "Open Space Land" means any land located in an urban area which has value for: (1) Park and recreational purposes, (2) conservation of land and other natural resources, or (3) historic, architectural, or scenic purposes.

(f) "Open space uses" means any use of open space land for: (1) Park and recreational purposes, (2) conservation of land and other natural resources, or (3) historic, architectural, or scenic purposes.

(g) "Secretary" means the Secretary of Housing and Urban Development or an officer authorized to perform the functions of the Secretary.

(h) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States.

(i) "Urban area" means any area which is urban in character, including those surrounding areas which, in the judgment of the Secretary, form an economic and socially related region, taking into consideration such factors as present and future population trends and patterns of urban growth, location of transportation facilities and systems, and distribution of industrial, commercial, residential, governmental, institutional, and other activities.

§ 540.3 Grants for open space land and historic preservation.

(a) Grants of not more than 50 percent of the acquisition and/or development cost of open space land and/or historic preservation activities may be made to States and local public bodies.

(b) Grants of not more than 75 percent of the acquisition cost of undeveloped or predominantly undeveloped land

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which has special significance in helping to shape economic and desirable patterns of urban growth if it is withheld from commercial, industrial, and residential development, may be made to States and local public bodies. Subsequent disposal of interest(s) acquired under this section are subject to approval by the Secretary on such terms and conditions as he determines equitable and appropriate, with respect to the control of future use and the sharing or application of the proceeds or value realized.

§ 540.4 Eligible projects.

(a) Grant assistance is available to:

(1) Acquire title to or other interest in open space land in urban areas;

(2) Develop open space or other land in urban areas for open space uses;

(3) Assist in the acquisition and/or preservation of structures of historic or architectural significance.

(b) Grant assistance will not be provided to:

(1) Defray ordinary State or local government expenses;

(2) Finance the acquisition by a public body of land outside the urban area for which it exercises (or participates in the exercise of) responsibilities consistent with the purpose of the Act;

(3) Acquire and clear developed land in built-up urban areas unless adequate open space land cannot be effectively provided through the use of existing undeveloped land;

(4) Provide assistance for historic and architectural preservation purposes except for districts, sites, buildings, structures, and objects which the Secretary of the Interior determines meet the criteria used in establishing the National Register of Historic Places.

§ 540.5 Requirements and conditions for assistance.

(a) An eligible project must be needed for carrying out a unified or officially coordinated program, meeting criteria established by the Secretary, for the provision and development of open space land which is a part, or is consistent with, the comprehensively planned development of the urban area except for historic preservation projects, and

(b) Not more than 50 percent of the non-Federal share of such eligible project cost may be made up by donations of land or materials.

(c) When fee title to land is acquired with assistance under section 702 of the Act, the land must remain under public control (except for changes in use and conversions which are permitted under conditions specified in § 540.13), and

(d) When fee title is not acquired there must be a reasonable relationship between the nature and term of the interest acquired and the nature and/or useful life of the development or facility.

(e) All facilities developed with assistance under section 702 of the Act must remain under public control for the useful life of the facility so developed.

(f) No grant assistance is available for major construction, such as outdoor amphitheaters, dock facilities, golf courses, or major buildings. The grant amount for other type development costs may not exceed $250,000 or such other limitations as the Secretary may impose from time to time. In any event, only the cost of otherwise eligible development which commences after HUD approval of a project application will be an eligible project cost. The foregoing limitations do not apply to development projects involving historic preservation activities or swimming pools.

(g) The Secretary is authorized to collect a fixed fee to defray the Government's expense in administering the program. Such fees will be charged grant recipients except for projects involving total costs of $25,000 or less, for which no fee shall be charged.

§ 540.6 Acquisition of lesser interest.

Notwithstanding § 540.5 (c) and (e), less than full title acquisition is permitted for land acquired under the program. Such lesser interests include, but are not limited to, easements, rights-of-way, and leaseholds. The interest so acquired must assure public control of the land for a period of time appropriate to the particular open space use.

§ 540.7 Valuation of donated land.

The fair market value of donated land must be established by two independent appraisals as of the date of dedication.

§ 540.8 Valuation of donated materials.

The value of donated materials shall be their wholesale market price at the time that they are incorporated into the project.

§ 540.9 Labor standards.

All laborers and mechanics employed by contractors or subcontractors on projects assisted by a grant made pursuant to section 702 of the Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5), and shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours Standards Act (40 U.S.C. 327-332), and the contractors and subcontractors shall comply with all regulations issued pursuant to these Acts. The Secretary of Labor has, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan No. 14 of 1950 (15 F.R. 3176, 5 U.S.C. 133z-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c). No such project shall be approved without first obtaining adequate assurance that these labor standards will be maintained upon the construction work.

§ 540.10 Project selection.

Applications will be evaluated in accordance with the criteria and procedures set forth in Part 541—Open Space Land Program Project Selection System of this chapter (37 F.R. 7388).

§ 540.11 Establishment of acquisition date.

Property will be considered acquired as of the date a binding purchase agreement is executed, title is transferred, or a condemnation proceeding is initiated which cannot be discontinued without incurring substantial liability or penalty, whichever is earlier.

§ 540.12 Establishment of development date.

Development will be considered commenced as of the date the applicant becomes unconditionally bound by a contract or issues a work order covering the activities, or actually begins the activities, whichever is earlier.

§ 540.13 Changes in uses and conversions.

Projects receiving assistance are to be utilized as specified in the application and HUD grant contract. Under some conditions, the intended use may be altered if the change is in the interest of the applicant and the Federal Government. Any change in use of or conversion to other uses, and the disposition of any proceeds resulting therefrom, however, must have prior approval of HUD, and be in accord with the HUD grant contract.

§ 540.14 Information, application forms, and applications.

Information and application forms may be obtained from, and applications submitted to, the Regional or Area Office of the Department of Housing and Urban Development which serves the area in which the applicant is located.

§ 540.15 Waivers.

Any requirement of this subpart may be waived by the Secretary of Housing and Urban Development or his delegate so long as such waiver would not violate any requirement of Federal law.

These amendments are effective upon publication in the FEDERAL REGISTER (11-8-72).

FLOYD H. HYDE,
Assistant Secretary for Community Development.

[FR Doc.72-19113 Filed 11-7-72;8:48 am]

Title 29—LABOR

Chapter XVII—Occupational Safety and Health Administration, Department of Labor

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Machine Guarding; Employment of Minors

Pursuant to authority in sections 6 (b) and 8(g) of the Williams-Steiger Occupational Safety and Health Act of 1970 (OSHA) (29 U.S.C. 655, 657), Secretary of Labor's Order No. 12-71 (36 F.R. 8754), and the regulations in 29 CFR 1911.5 (37 F.R. 8664), 29 CFR 1910.217(f) is hereby amended as set forth below, in order to clarify an apparent inconsistency between the OSHA rule as contained in 29 CFR 1910.217(f) and Hazardous Occupations Order No. 8 (29 CFR 570.59) published under section 3 of the Fair Labor Standards Act (29 U.S.C. § 203).

Section 1910.217(f) of Title 29, Code of Federal Regulations, prohibits anyone under 18 years of age from operating or assisting in the operation of certain types of powered mechanical presses. Hazardous Occupations Order No. 8 also prohibits employment of persons between 16 and 18 years of age on similar equipment; however, the order exempts persons employed in apprenticeship programs as specified in 29 CFR 570.50 (b) and (c).

This amendment is intended to make it clear that where the employment of minors on power presses would otherwise be authorized under the provisions of Hazardous Occupations Order No. 8 such employment is permissible under the OSHA regulations in 29 CFR 1910.217 (f).

The amendment is appropriate and largely interpretative in that it accommodates one statutory scheme with that of another, while at the same time effectuating the purposes of both the Williams-Steiger Act and the Fair Labor Standards Act. Cf. "Southern S.S. Co. v. NLRB," 316 U.S. 31, 47 (1942).

The provisions of 5 U.S.C. 553 concerning notice of proposed rule making, public participation therein, and delay in effective date are inapplicable by reason of the exception to the rule making provisions of the Administrative Procedure Act (5 U.S.C. 553), which permits the making of minor rules or amendments where there is good cause for not providing notice and an opportunity for public participation.

Having determined that the safety and health protections afforded minors employed on power presses covered by the provisions of 29 CFR 1910.217(f) will not be diminished by allowing such minors to participate in apprenticeship training programs authorized by Hazardous Occupations Order No. 8, and having determined that the inconsistency between the OSHA prohibition and the Hazardous Occupations Order No. 8 must be resolved, § 1910.217 is amended by revising paragraph (f) to read as follows:

§ 1910.217 Mechanical power presses.

* * * * *

(f) *Operation of power presses*—(1) *Employment of minors.* The employer shall permit no one under 18 years of age to operate or assist in the operation of machinery covered in this section, except that this paragraph shall not be deemed to prohibit the employment of persons who are 16 or 17 years of age in an apprenticeship training program which meets the requirements contained in §§ 570.59 and 570.50 (b) and (c) of this title.

* * * * *

(Secs. 6(a), 8(g), 84 Stat. 1593, 1598; 29 U.S.C. 655, 657; Secretary of Labor's Order 12-71, 36 F.R. 8754)

Effective date. This amendment shall become effective immediately upon publication in the FEDERAL REGISTER (11-8-72).

Signed at Washington, D.C., this 3d day of November 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-19182 Filed 11-7-72;8:54 am]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER P—RECORDS

PART 288—USER CHARGES

Schedule of Fees and Rates

The following miscellaneous amendments to Part 288 have been authorized:

Section 288.10 has been amended to read as follows:

§ 288.10 Schedule of fees and rates.

(a) This schedule applies to authorized services related to copying, certifying, and searching records rendered to the public by components of the Department of Defense, except when those services are excluded or excepted from charges under § 288.3(d) of or § 288.9 to this instruction. Except as provided in special cases prescribed below, a minimum fee of $2 will be levied for processing any chargeable case. Normally only one (1) copy of any record or document will be provided.

(b) Requests involving:

(1) Training and education.

(i) Transcripts:

	Fee
Original copy	$2.00
Each additional copy	.25

(Includes requests for transcripts of graduation from military academies and schools.)

(ii) Certificates:

	Fee
Original copy	2.00
Each additional copy	.25

(Includes all requests for certificates, verification of attendance, and course completion from service schools and other facilities.)

(2) Medical and dental records of patients and former patients when requested for purposes other than further treatment. Covers request for information from or copies of medical records, including clinical records (inpatient records of military and nonmilitary patients), health records (military outpatient records), outpatient records (nonmilitary outpatient records), dental records and loan of X-rays.

	Fee
Searching and processing (per hour)	$5.00
Minimum charge	3.00
Each typewritten page	1.75
Office copy reproductions (per image)	.05
Loan of each X-ray	1.50

(3) Military membership and record (excluding medical and dental records).

	Fee
Address of record, each	$2.00
Copies of releasable military personnel records, such as effectiveness reports for officers and enlisted men, reproduced for the personal use of active men, retired and former members or next of kin of missing in action or deceased member of the Armed Forces. Minimum charge (up to six reproduced images)	2.00
Each additional image	.05
Statement of verification of service of report of separation, for individuals with other than honorable discharges	3.00

(4) Photography:

(i) Still pictorial or documentary photographic prints, and not more than three prints may be sold from any individual negative on each order. Unlisted standard sizes of prints may be furnished, if available at proportionate rates:

	Fee
8 by 10 single weight glossy finish, 1st print	$1.25
2d and 3d prints, each	1.00
8 by 10 double weight matte finish, 1st print	1.75
2d and 3d prints, each	1.50
11 by 14 double weight matte finish, each	3.50
16 by 20 double weight matte finish, each	4.75
20 by 24 double weight matte finish, each	6.50
35mm color transparencies (cardboard mount), each	3.50
4 by 5 color transparencies or color negative, each	6.75
8 by 10 color transparencies or color negative, each	14.00

In quantities not to exceed three copies of any one view.

8 by 10 color type "C" print, 1st print	4.50
2d and 3d prints, each	2.00
11 by 14 color type "C" print, 1st print	8.00
2d and 3d prints, each	5.00
16 by 20 color type "C" print, each	17.50
16 by 20 color type "C" print, mounted on 20 by 24 cardboard, each	19.25

(ii) Aerial photographic prints, contact prints, or exact negative sizes, single weight glossy or double weight semi-matte:

	Fee
Up to 9 by 9 inch negative format in quantities:	
1-25, for each print	$1.75
Over 25	43.75
(Plus $1.25 for each print over 25.)	
9 by 18 inch negative format in quantities:	
1-25, for each print	3.00
Over 25	75.00
(Plus $2.30 for each print over 25.)	

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	Fee
Print enlargements:	
14 by 14 inch format, each	3.00
18 by 18 inch format, each	3.50
20 by 20 inch format, each	4.00
Duplicative positives, each	3.00
Duplicative negatives:	
Up to 9 by 9 inch format, each	6.00
9 by 18 inch format, each	10.00

(iii) Aerial photograhic indexes and mosaic copies:

Size 20 by 24 inches, each	3.00

(iv) Reproduction of cover overlays:

Transparent foil film overlays, each	2.00
Transparent paper overlays, each	1.00

(v) Motion picture:

16 mm. or 35 mm. black and white unedited footage without optical sound track per foot	.07
With optical sound track, per foot	.10
Color unedited footage:	
16 mm., per foot	.20
16 mm., internegative	.25
35 mm., per foot:	
Answer print, each	.45
Viewing or release print, each	.15
Separation master positive (3 required)	.85
Color, interpositive, each	.55
Color, internegative, each	.55
Magnetic tape (per foot):	
16 mm. (direct dubb), each	.05
35 mm. (direct dubb), each	.05
Searching (including overhead) each hour or fraction thereof (per hour)	10.00

All film used in duplication to furnish a requested end product shall be charged for on a per foot basis.

Minimum charge (including stock search) per order	20.00

(5) Construction and engineering information. Copies of aerial photographic maps, specifications, permits, charts, blueprints, and other technical engineering documents.

	Fee
Searching, per hour or fraction thereof (including overhead costs)	$5.00
First print	1.00
Each additional print of same document	.50

(6) Copies of medical articles and illustrations. Standards contained in reference (a) of the basic instruction will be utilized in computing costs.

(7) Claims, litigation. (Includes court-martial records, furnishing information from Investigative Reports, e.g., automobile collision investigations, safety reports, etc.) Requests pertaining to private litigation and to cases in which the United States is a party and where court rules provide for reproduction of records without cost to the Government (if not covered in 2. or 3. above).

	Fee
Searching and processing (per hour)	$5.00
Minimum charge	3.00

NOTE: Charges for professional search or research will be made in accordance with paragraph 10.b., below.

Office copy reproductions (minimum up to six (6) reproduced images)	2.00
Each additional image	$0.05
Certification and validation with seal, each	3.00

(8) Publications and Forms. A search and/or processing fee as prescribed in 10.a., below, will be made for requests requiring extensive time (one hour or more):

(i) Shelf Stock: (Requestors may be furnished more than one copy of a publication or form if it does not deplete stock levels below projected planned usage.):

	Fee
Minimum fee per request (up to 6 repro pages)	$2.00
Plus:	
Forms, per copy	.05
Publications, per printed page	.01

(Examples: Cost of 20 forms, $3.00; cost of a publication with 100 pages, $3.00.)

(ii) Office copy reproduction (when shelf stock is not available):

	Fee
Minimum chage (up to six reproduced pages)	$2.00
Each additional image	.05

(9) Engineering data (microfilm).

	Fee
Aperture cards:	
Silver duplicate negative, per card	$0.40
When key punched and verified, per card	.50
Diazo duplicate negative, per card	.35
When key punched and verified, per card	.40
35 mm. roll film, per frame	.30
16 mm. roll film, per frame	.25
Paper prints (engineering drawings), each	.50
Paper reprints of microfilm indices, each	.05

(10) General. Charges for any additional services not specifically provided above and consistent with the provisions of the basic instruction will be made by the respective DOD Components at the following rates.

	Fee
Clerical search and processing per hour	$5.00
Minimum charge	3.00
Professional searching or researching	-----
(To be established at actual hourly rate prior to search. A minimum charge will be established at ½ hourly rate.)	
Minimum charge for office copy reproduction (minimum up to six images)	2.00
Each additional image	.05
Each typewritten page	1.75
Certification and validation with seal, each	3.00
Review of application for authorization to solicit members of the military services for the purchase of life insurance on U.S. military installations in foreign areas	175.00
Hand drawn plots and sketches, each hour or fraction thereof	6.00

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Comptroller).

[FR Doc.72-19117 Filed 11-7-72;8:47 am]

Chapter V—Department of the Army

SUBCHAPTER A—AID OF CIVIL AUTHORITIES AND PUBLIC RELATIONS

PART 516—LITIGATION

Legal Proceedings

Sections 516.1 and 516.2 are revised as indicated below. These revisions are necessary due to changes in policy approaches and procedures which render present material contained in §§ 516.1 and 516.2 as obsolete.

§ 516.1 **General.**

(a) *Scope.* The regulations of this part set forth basic policies and procedures applicable to legal proceedings in domestic and foreign civil courts or administrative tribunals of interest to the Army.

(b) *Litigation responsibility of The Judge Advocate General.* Subject to the control of litigation vested in the Attorney General and the Department of Justice, The Judge Advocate General:

(1) Is responsible for the initiation, administration, supervision, and coordination of measures for the protection of the Government in litigation and other legal proceedings which arise out of the operations of the Department of the Army or which otherwise involve its interests.

(2) Acts for the Secretary of the Army on matters connected with litigation and legal proceedings.

(3) Or his designee, certifies the payment of compromise settlements in accordance with applicable law.

(c) *Representation of the Department of the Army.* (1) The Judge Advocate General is responsible for all liaison between the Department of the Army and the Department of Justice. Within the Department of the Army, only The Judge Advocate General, and those military and civilian personnel who are designated by him are authorized to represent the Department of the Army and its instrumentalities before Federal, State, and foreign courts, administrative tribunals and regulatory bodies, and to maintain liaison with the Department of Justice and other governmental departments and agencies regarding litigation and legal proceedings.

(2) The Chief, Litigation Division, Office of The Judge Advocate General, and the attorneys assigned to that division or designated by the Chief, Litigation Division, are authorized to represent the Department of the Army in all civil litigation, except as otherwise specifically designated.

(3) The Chief, Regulatory Law Division, Office of The Judge Advocate General, the attorneys assigned to that division, and other military and civilian attorneys designated from time to time on a case-by-case basis by the Chief, Regulatory Law Division, are solely designated to represent the Department of the Army in all regulatory matters before the courts, administrative agencies and regulatory bodies, including, but not limited to, communications, transportation and other utility services.

(4) The Chief, U.S. Army Claims Service, and the attorneys assigned thereto are authorized, subject to the provisions of Chapter 4, AR 27–20, to maintain direct liaison with the Department of Justice in regard to the preliminary aspects of administrative settlement of claims in excess of $25,000 under the Federal Tort Claims Act.

(5) The Chief, Patents Division, Office of The Judge Advocate General, and the attorneys assigned to that division, are designated to represent the Department of the Army in matters pertaining to patents, copyrights, or trademarks.

(6) The Chief, Civilian Personnel Law Office of The Judge Advocate General, and the attorneys assigned to that office are designated to represent the Department of the Army before the administrative authority having jurisdiction relative to personnel action effected against civilian employees of the Army pursuant to statute, Department of the Army regulations, and Civil Service Commission regulations, excepting, however, personnel actions against nonappropriated fund employees of the Army and Air Force Exchange Service and Motion Picture Service. They are also designated to represent the Department of the Army before administrative bodies in matters pertaining to labor relations arising under Executive Order 11491, dated October 29, 1969 (34 F.R. 17605; 3 CFR 1966–70 Comp., p. 861), as amended by Executive Order 11616, dated August 26, 1971 (36 F.R. 17319; 3 CFR 1971 Comp., p. 202), excepting, however, cases involving employees of the Army and Air Force Exchange Service and Motion Picture Service. Upon the request of such services or of other military agencies, the Chief, Civilian Personnel Law Office of The Judge Advocate General, and the attorneys assigned to that office are authorized to coordinate with such services and other military agencies in such labor relations matters, including participation in any administrative proceedings arising under such executive orders.

(7) The duly designated legal representatives of the Chief of Engineers are designated to maintain direct liaison with the Department of Justice in litigation matters arising from the civil functions of the Corps of Engineers and in connection with condemnation proceedings instituted for the acquisition of real property and interests therein as provided for in §§ 552.30–552.39 of this chapter.

(8) The Army Chief Trial Attorney and the attorneys assigned to the Contract Appeals Division, Office of The Judge Advocate General, are responsible for protecting the interests of the Government before the Armed Services Board of Contract Appeals (ASBCA). The Chief Trial Attorney shall present to the ASBCA all Department of the Army cases, except that Corps of Engineers attorneys shall act as trial attorneys in connection with Corps of Engineers contract cases. When it is determined by the Commanding General, U.S. Army Materiel Command, that an appeal before the ASBCA has particular significance to his procuring activity and that it involves difficult operational and technical facts, he may, on the filing of the contracting officer's comprehensive report and after consultation with The Judge Advocate General, Department of the Army, detail to the Chief Trial Attorney an attorney from his procuring activity who shall be an attorney of record.

(9) Except in the exercise of the authority provided in this section, neither military nor civilian personnel of the Army will confer or correspond with any representative of the Department of Justice concerning legal proceedings within the purview of this part without the prior approval of The Judge Advocate General. This paragraph, however, in no way affects the requirement for judge advocates and legal advisers to maintain liaison with the U.S. Attorneys. Neither does this paragraph affect the requirement that certain offenses be reported to the Federal Bureau of Investigation, nor the requirement for cooperation with that agency during the course of its investigation.

(d) *Appearance as counsel.* (1) Except as authorized in paragraph (c) of this section, military personnel on active duty and civilian personnel of the Department of the Army are prohibited from appearing as counsel before any civil court, administrative tribunal, regulatory body, or governmental agency unless:

(i) The appearance is specifically authorized by The Judge Advocate General subsequent to the individual's request; or

(ii) The individual is a party to the action or proceeding; or

(iii) The officer concerned is designated to conduct the prosecution of offenders under the provisions of AR 27–44.

(2) Requests by military or civilian personnel to appear as counsel will be delivered to the Staff Judge Advocate or Legal Adviser. The Staff Judge Advocate or Legal Adviser will forward this request to The Judge Advocate General, Attention: Chief, Litigation Division (HQDA (DAJA–LT)) Wash., D.C. 20310, together with his recommendation and evaluation of the case, including but not limited to: nature and current status of court-martial proceedings, listing of all counsel participating in the defense, nature and status of any previous civil court actions in this or related cases. At the same time that he delivers a request of this nature to the Staff Judge Advocate concerned, if the requested appearance is upon the behalf of a military accused, the individual attorney may forward directly to Chief, Defense Appellate Division (HQDA (JAAJ–DD)), Nassif Building, Falls Church, Va. 22041, a full analysis of the case including venue, nature of relief to be requested, facts and legal authorities relied upon, and his reasons for requesting authority to appear in civil courts. The detailed contents of this communication with the Chief, Defense Appellate Division, will be considered privileged. Staff Judge Advocates will neither request nor require disclosure of its contents. Chief, Defense Appellate Division, after consideration of information received will furnish TJAG with evaluation of the request from the viewpoint of senior defense counsel.

(e) *Service of process.*—(1) *Criminal process.* (i) The delivery of persons charged with criminal offenses, at the request of or pursuant to process issued by the civil authorities, will be accomplished within the United States in accordance with § 503.2 of this chapter, and in foreign countries in accordance with paragraph 4, AR 600–40.

(ii) Commanders and other Army officials will be governed by the policies set forth in subparagraph (2) of this paragraph, in the treatment of process issued for the attendance of witnesses or the production of evidence in criminal cases. See also § 516.4.

(2) *Civil process.* (i) The service of process is not a function of the Department of the Army or of its military personnel or civilian employees in their official capacity, except when required by treaty or international agreement. It is the policy of the Department of the Army, however, to assist civil officials in the service of process as provided in subdivisions (iii) and (iv) of this subparagraph.

(ii) Commanders and other Army officials will not prevent or evade the service of process in legal actions brought against the United States or themselves concerning their official duties. If acceptance of service of process would interfere with the performance of his military duties, a commander or other official may designate a representative to accept service in his stead.

(iii) Service of civil process within the United States, its territories and possessions is as follows:

(*a*) *Process of Federal courts.* Service of process is accomplished in accordance with the rules of the Federal court concerned (38 U.S.C. appendix). Installation commanders may impose reasonable restrictions upon persons who enter their installations to serve the process.

(*b*) *Process of State courts in areas of exclusive Federal jurisdiction not subject to the right to serve process.* Commanders or other Army officials in charge will bring the matter to the attention of the individual requested to be served and will determine whether he wishes to accept service voluntarily in accordance with the laws of the State issuing the process. Judge advocates or other competent officials will inform the individual of the legal effect of voluntary acceptance of service. If the individual does not desire to accept service, the party requesting such service will be notified and will be informed that the nature of the jurisdiction precludes service by State authorities on the military installation.

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(c) *Process of State courts in areas of exclusive Federal jurisdiction in which the right to service process is reserved by, or granted to, the State or States, in areas of concurrent jurisdiction, and in areas in which the United States has only a proprietorial interest.* If Army officials are asked to serve process, they may proceed as in (*b*) of this subdivision. If the individual declines to accept service, the requesting party will be so notified and will be informed that he may proceed through authorities authorized to serve process by the applicable State law. Civil officials authorized by applicable State law will be permitted, upon proper application, to enter areas subject to the right to serve process for the purpose of making service. Commanders or other Army officials in charge will assist the civil officials by making military personnel or civilian employees available for service of process, subject to reasonable limitations. In addition, civil officials may enter areas subject to the right to serve process for the purpose of levy on and the subsequent sale of personal property of personnel residing thereon, subject to reasonable limitations. This authority does not extend, however, to the levy on or the sale of personal property essential to or proper for the use of military personnel or civilian employees in the performance of their official duties.

(*d*) *Process of foreign courts.* In the absence of treaty or agreements to the contrary, individuals or agencies requesting the assistance of military authorities in serving process of foreign courts will be advised to proceed as prescribed in section 1696 of title 28, United States Code.

(iv) Service of civil process outside the United States, its territories and possessions is as follows:

(*a*) *Process of foreign courts.* In foreign countries the service of process issued by foreign courts, including subpenas duce tecum, will be made in accordance with the law of the place of service except as otherwise provided by applicable treaties or agreements between the host country and the United States. In foreign areas under exclusive U.S. jurisdiction, service of process issued by foreign courts will be made in accordance with the law specified by appropriate U.S. authority in such areas (e.g., organic acts, territorial codes, or executive orders).

(*b*) *Process of Federal courts.* Service of process is accomplished in accordance with sections 1781 and 1783, title 28, United States Code, and with the rules of the Federal court concerned. See especially rules 4, 5, and 45, Federal Rules of Civil Procedure, 28 U.S.C. appendix. Installation commanders may impose reasonable restrictions upon persons who enter their installation to serve process.

(c) *Process of State courts.* Army personnel requested to serve process will follow the procedures prescribed in subdivision (iii) (*b*) of this subparagraph. If the individual will not accept service voluntarily, the party requesting service will be so notified and advised that he should follow the procedures prescribed or recognized by the law of the foreign country concerned for obtaining service of process within its territory.

(*d*) *Suits against agencies or instrumentalities of the United States.* Any writ, summons, notice of legal proceedings or other foreign civil process served upon or otherwise delivered to an Army officer, employee, or activity will be referred immediately upon receipt to the appropriate judge advocate or legal adviser, who will return the document to the issuing authority with a suitable statement explaining the lack of authority of the person or activity to accept service on behalf of the United States, and suggesting that service or delivery be made upon the United States through established diplomatic channels.

§ 516.2 Defense of legal proceedings.

(a) *Defense by the Department of Justice and U.S. Attorneys.*—(1) *Responsibilities.* The Department of Justice is responsible for the defense of suits brought against the United States, its agencies and instrumentalities, and officials and employees whose official conduct is involved, in all courts within the torneys will defend civil actions or pro- Under the direction of the Attorney General, U.S. Attorneys normally afford counsel and representation of the defendants in such suits. In addition, U.S. Attorneys will defend civic actions or proceedings brought against military personnel or civilian employees arising from their operation of motor vehicles in the scope of office or employment (28 CFR Part 15).

(2) *Policies.* It is the policy of the Department of Justice to afford counsel and representation to military personnel and civilian employees of the Department of the Army and its agencies and instrumentalities who are sued civilly or charged with violation of local or State criminal laws as a result of the performance of their official duties. This policy applies wherever property damage, personal injury or death has resulted or where a substantial Federal interest is involved. In addition, representation may be furnished private interests in suits in which the Government ultimately may be required to make reimbursement. Otherwise, except where unusual circumstances exist, representation will be declined. Representation may also be declined where the military personnel or civilian employee is adequately protected by his own liability insurance and potential liability of the United States appears not to be involved.

(b) *Procedures for obtaining representation.*—(1) *Department of Justice and U.S. Attorneys.* As to any action or proceeding in which Government representation may be afforded under the circumstances specified in paragraph (a) of this section, the judge advocate or a legal adviser will:

(i) If the action or proceeding is a civil suit brought against a military person or a civilian employee on account of his operation of a motor vehicle in the scope of his office or employment, obtain representation by taking the actions specified in paragraph 2–3e(2), AR 27–40.

(ii) In other cases, where time for response is limited, request the appropriate U.S. Attorney to afford temporary counsel and representation. The Judge Advocate General will be promptly advised of the request for representation and of the action being taken thereon for any confirmatory action necessary.

(iii) Otherwise, promptly refer the matter to The Judge Advocate General with the necessary justification.

(2) *Private counsel at Government expense.* (i) Except as provided in subdivision (iii) of this subparagraph, requests for the employment of private counsel at Government expense will be referred through channels to The Judge Advocate General. Every such request will be accompanied by a statement of facts justifying the request and the recommendations of commanders or supervisors concerned. Persons who employ private counsel in such cases should be advised that they may be individually responsible for any expenses thus incurred, if they do so without notice from The Judge Advocate General that specific authorization has been obtained.

(ii) In actions or proceedings brought in foreign countries, if immediate court representation is required beyond feasible handling by the judge advocate concerned and the local court or agency has denied a request for a stay or continuance to permit action on a formal request for the hiring of a local attorney, local counsel may be retained, preferably selected from a listing of qualified and suitable foreign counsel maintained at the United States Embassy or Consulate in the country or city in which the action or proceeding has been initiated. The retention of such counsel will specifically be made contingent on confirmation by the Department of Justice. If the case falls within its responsibility, the Department of Justice will employ the attorney thus selected or pay him for the services performed in the event he is not retained generally. The local attorney retained under this emergency authorization should avoid any steps which could be construed as a waiver of sovereign immunity of the United States, its agencies and instrumentalities, and officials or employees whose official conduct is involved, from suit in a foreign court. Any appearance by such counsel, prior to receipt of instructions from the Department of Justice, should be limited to the local equivalent of a special appearance on the jurisdictional point or the procuring of a stay of the proceedings, provided such actions would not constitute a general appearance.

(iii) Counsel may be hired to represent persons subject to the Uniform Code of Military Justice before foreign courts and administrative agencies (10 U.S.C. 1037). Requests for such counsel will be processed under AR 27–50.

(3) *Government contractors.* (i) Upon request from the Army, the Department of Justice normally will defend suits against contractors whose contracts with the United States provide for reimbursement to the contractor for recoveries against them arising out of any suits in connection with the performance of the contract, or for the reimbursement of the fees paid private counsel and the costs of such litigation.

(ii) Litigation Division, Office of The Judge Advocate General, will decide which cases referred to it will be referred to the Department of Justice with a request that the contractor be represented by a U.S. Attorney. Such representation will not be requested in cases where no investigative report or pleadings are required to be furnished to The Judge Advocate General. Upon notice of the commencement of any suit against a contractor which requires the submission of an investigative report to The Judge Advocate General, the contracting agency will ascertain whether the contractor desires government representation. If such representation is desired, the contracting agency will obtain from the contractor an executed agreement for representation and forward it with the investigative report.

(iii) Upon receipt of advice that the U.S. Attorney will act on behalf of the contractor, or that his services are not available, the contracting officer or purchasing office will so inform the contractor.

(iv) The following relationships and responsibilities in the conduct of any ensuing litigation are furnished for guidance:

(*a*) Unless the contractor requests and is authorized representation by a U.S. Attorney, it is presumed that the contractor will obtain such services of private counsel as are reasonably necessary to defend the appropriate contractor interests.

(*b*) Where the contractor is represented by a U.S. Attorney, there is no objection to the participation of private counsel employed by the contractor, provided it is understood the U.S. Attorney has complete control of the litigation. Fees for the services of private counsel in such cases will not be reimbursable except under unusual circumstances and then only if approved by The Judge Advocate General.

(*c*) The Department of Justice does not charge the contractor or the Department of the Army for any expenses incident to services performed by a U.S. Attorney.

(*d*) The compromise of a suit is primarily for determination by the contractor. Aspects of reimbursement under the contract are primarily for determination by the contracting officer. If the approval of a compromise by higher authority is desired, the contracting officer may forward the compromise proposal with his views and those of the U.S. Attorney, if one is participating in the case, through procurement channels.

(e) Private counsel representing the contractor may seek advice from the Army with respect to appealing an adverse judgment. In such case the matter may be referred through procurement channels to The Judge Advocate General.

(*f*) The reimbursability and reasonableness of the fees of private counsel are primarily for determination by the contracting officer.

Effective date. This revision shall become effective on the date of its publication in the FEDERAL REGISTER (11–8–72).

[AR 27–40, April 4, 1972] (Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012)

For the Adjutant General.

E. W. GANNON,
Lieutenant Colonel, U.S. Army,
Chief, Plans Office, TAGO.

[FR Doc.72–19074 Filed 11–7–72;8:45 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 3—Department of Health, Education, and Welfare

PART 3–3—PROCUREMENT BY NEGOTIATION

Subpart 3–3.1—Use of Negotiation

Correction

In F.R. Doc. 72–17965 appearing at page 22613 of the issue for Friday, October 20, 1972, at the top of the first column on page 22614, the line "(2) A debriefing is intended to:" should be inserted immediately before subdivision (i).

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 72–967]

PART 1—PRACTICE AND PROCEDURE

PART 73—RADIO BROADCAST SERVICES

Reregulation of Radio and Television Broadcasting

Order. In the matter of reregulation of radio and television broadcasting.

1. In a public notice dated April 6, 1972, the Commission announced that it was undertaking a comprehensive study looking toward reregulation of radio and television broadcasting.

2. Each provision of the existing broadcast rules and regulations is being analyzed as to its current validity, particularly as to radio. The provision may be continued, modified, or deleted. New provisions and new regulatory concepts may be promulgated to reflect more accurately the present state of broadcast technology and operation. The resulting set of rules will be written and organized in a concise and readily understandable manner. The Commission's primary concern is that its regulatory authority over the dynamic field of broadcasting is exercised in a timely and meaningful manner consistent with the public interest.

3. The public notice invited comments and suggestions. Over 400 replies have been received to date. Most are from licensees in small radio markets. Heading their list of concerns are renewals, meter readings every 30 minutes, political spending rules, fairness doctrine, counter advertising proposals, FCC paperwork requirements and 5-day-a-week inspections of the transmitting system, in that order.

4. The Commission's task force for this study, under the supervision of Commissioner Richard E. Wiley, has made an initial review of the replies and of the existing broadcast rules. Many of the rules are a carryover from the early days of radio and television. Technological advancements have produced more sophisticated and reliable equipment. Programing and management experience has led to increased maturity in operation. Thus, the Commission has determined that certain rules are no longer required in their present form and should be relaxed or deleted without further delay.

5. The following changes will be made:

(a) Thirty-minute meter readings now required to be entered in the operating log are to be made at the beginning of operation in each mode and at intervals not exceeding 3 hours. (§§ 73.113(a)(3) AM; 73.283(a)(3) FM; 73.583(a)(3) Ed. FM; 73.671(a)(3) TV; and, remote control §§ 73.67(a)(5) AM; 73.676(f)(3) TV.)

(1) The requirement to observe certain operating parameters of transmitting systems at 30-minute intervals is a reflection of the performance of early radio station equipment. With the performance and reliability of equipment in general use today, we find no need for such frequent observation of these parameters. Accordingly, we are relaxing the existing requirement, but deem it necessary to do so cautiously at this time. (See paragraph 6 below.) Therefore, we are specifying that such observations be made at intervals of no greater than three hours.

(b) The required inspection of transmitting equipment is to be made at least once a week, with an interval of not less than 5 days between the required inspections; instead of once a day, 5 days a week, at intervals of not less than 12 hours between inspections. (§§ 73.93(j) AM; 73.265(h) FM; 73.565(h) Ed. FM.)

(1) When the Commission adopted its present five-day-per-week inspection and related logging requirement in Docket 14661 (1963), it stated: "• • • we • • • intend • • • simply to insist that more time and attention to be paid to the technical details of station operation. As a first step in this direction, we will require a radiotelephone first-class operator, in effect, to certify that the

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operation is in accordance with the Commission's rules and the station authorizations or the extent to which compliance is not attained."

The important consideration is that stations must operate in conformance with the Commission's rules and the station authorizations. The action we are taking herein in no way relieves the licensee of this responsibility.

Recognizing this, and also recognizing that the present requirement imposes considerable hardship on a large number of stations with little commensurate improvement in radio service, we find that formal certification of conformance on a weekly basis is adequate.

(c) A new provision is made that the operating log and the maintenance log may be kept individually, on the same sheet in one common log, at the option of the licensee (§§ 73.111 AM; 73.281 FM; 73.581 Ed. FM; 73.669 TV).

(1) A number of licensees have urged that we permit them to combine the operating log and maintenance log in one technical log. Since station operation is not affected by such action, we will permit use of a common log, with certain conditions.

(d) Station identification of broadcast stations is to be made at the beginning and ending of operation and, hourly, as close to the hour as feasible, at a natural break in program offerings; instead of within 2 minutes of the hour for TV and within 2 minutes of the hour and half hour for AM and FM stations (§ 73.1201(a)).

This relaxation obviates the need for paragraphs (d), (e), and (f) on "Program interruption," "Deferred station identification," and "Equipment performance measurements," concerning identifications outside the 2-minute provision. The paragraphs are deleted.

(1) Requirement for more frequent identification of AM's and FM's is unnecessary. Identification at a natural break in programing is a simplification and restatement of the present 2-minute provision and its allowable variations.

(e) Rebroadcasting the program of another broadcast station will only require consent of the originating station, not authority of the Commission as now provided in certain situations (e.g., TV rebroadcasts of FM) or notification of consent to the Commission as now provided in all situations (except emergency broadcast system operations). Copies of the written consent are to be kept at the rebroadcasting station and made available to the Commission upon request. Provisions on rebroadcast of signals from nonbroadcast stations (e.g. Naval Observatory time) are codified from FCC public notices and clarified. The separate rules on rebroadcast for AM, FM, Ed. FM and TV are deleted. One new rule, 73.1207, is added to Subpart H, "Rules Applicable in Common to Broadcast Stations." (§§ 73.121 (b), (b), (c), (d), AM; 73.291 (a), (b), (c), (d), FM; 73.591 (a), (b), (c), Fd FM; 73.655 (a), (b), (c), TV.) (§ 73.1207.)

(1) Our administrative experience is that notifications of consent and applications for rebroadcast authority serve no useful purpose. Consent of the originating station is crucial, and, once obtained, the rebroadcasting station has met the statutory requirement (sec. 315 of the Communications Act). Authority of the Commission is still required for rebroadcast of point-to-point messages of government and privately owned nonbroadcast stations.

(f) The "Mechanical Reproduction" rule is retitled "Broadcast of Taped Filmed or Recorded Material." The rule is simplified to provide merely against misleading the public. Taped, filmed, or recorded material (a) in which time is of special significance, or (b) by which an affirmative attempt is made to create the impression that it is occurring simultaneously with the broadcast, shall be identified at the beginning as taped, filmed, or recorded. The rule does not apply to taped, filmed, or recorded announcements which are of a commercial, promotional, or public service nature. The daily announcement by a station that some of its network programs were taped for later broadcast is no longer required. The Separate rules for AM, FM, Ed. FM and TV are deleted. One rule, 73.1208, is added to Subpart H, "Rules Applicable in Common to Broadcast Stations." (§§ 73.118 (a), (b), (c) AM; 73.288 (a), (b), (c) FM; 73.588 (a), (b), (c) Ed. FM; 73.635 (a), (b), (c) TV.) (§ 73.1208.)

(1) The state of the art of "recording" in broadcasting-telecasting is highly advanced technically in audio taping, video taping, filming, and recordings of vocal-instrumental material. Virtually all TV today, with the exception of newscasts, and on-the-spot coverage of special events (like conventions) and sports is "recorded." Recording is the vital base in the program fare of radio. This rule is rewritten to recognize these modern uses, but with the intent to protect the viewer/listener from being misled by any deliberate misuse of recordings, taping, or filming.

(g) Copies of contracts specified in § 1.613 as to time brokers, subsidiary communications authorization operations, and time sales over 4 hours daily to same sponsor, are to be kept at the station instead of being filed with the Commission. They shall be made available for inspection upon request. (§ 1.613 (a), (b), (c), (d), (e), (f); SCA § 73.295.)

(1) To reduce the administrative detail of the Commission, and at the same time relieve the licensee of unnecessary filing burdens, this rule is rewritten to exclude from filing requirements certain contracts which offer no real support in carrying out the operational duties of any divisions of the Commission. They are part of the FCC public files, but requests to review them by outside parties have been virtually nil. The need to have them in the FCC files seems nonexistent.

6. We believe that these changes will provide substantial relief from unnecessary operating burdens on both the Commission and the licensee. The relief should result in a better serving of the public interest. The changes are a beginning. It is possible that some can be relaxed further. Meter readings are an example. Pointing to proven reliability of present-day equipment, many licensees contend that two or three times a day are adequate. Further consideration will be given to this in our examination of basic engineering matters. We specified three hours as the most we believe necessary and a safe basis upon which to give immediate relief.

7. This order is but an initial action in our overall proceeding. As our reregulation study continues, we anticipate additional orders for relaxations and deletions. We expect to issue shortly notices of inquiry and notices of proposed rule making looking into the fundamental aspects of broadcasting and our regulation of broadcasting.

8. Amendments hereby adopted are editorial revisions, and deletions and relaxations of existing rule provisions which we consider no longer necessary. We believe that they will inure to the benefit of many and to the detriment of none; and that they will better serve the public interest. Therefore, prior notice of rule making and public procedure thereon are unnecessary, pursuant to the Administrative Procedure and Judicial Review provisions of 5 U.S.C. 553(b)(3)(B).

9. *Therefore, it is ordered*. That, pursuant to sections 4(i) and 303 (j), and (r) of the Communications Act of 1934, as amended, Parts 1 and 73 of the Commission's rules and regulations are amended as set forth below, effective December 15, 1972.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: November 1, 1972.

Released: November 2, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

1. Section 1.613 is amended by revising paragraph (d), placing paragraphs (c), (d) as revised, and (e) in a new paragraph (d), and redesignating paragraph (f) (1), (2) as (c) (1), (2).

Section 1.613 (c) and (d) are amended to read as follows:

§ 1.613 Filing of contracts.

• • • • • •

(c) Contracts relating to personnel. (1) The following contracts, agreements, or understandings shall be filed: Management consultant agreements with independent contractors; contracts relating to the utilization in a management capacity of any person other than an officer, director, or regular employee of the licensee or permittee station, management contracts with any persons, whether or not officers, directors, or regular employees, which provide for

[1] Commissioners H. Rex Lee and Hooks absent.

both a percentage of profits and a sharing in losses; or any similar agreements.

(2) The following contracts, agreements, or understandings need not be filed: agreements with persons regularly employed as general or station managers or salesmen; contracts with program managers or program personnel; contracts with chief engineers or other engineering personnel except those contracts required to be filed under the provisions of §§ 73.93(c), 73.265(c), and 73.565(c) of this chapter; contracts with attorneys, accountants, or consulting radio engineers; contracts with performers; contracts with station representatives; contracts with labor unions; or any similar agreements.

(d) The following contracts, agreements, or understandings need not be filed, but shall be kept at the station and made available for inspection upon request: Contracts relating to the sale of broadcast time to "time brokers" for resale; Subchannel leasing agreements for Subsidiary Communications Authorization operation; time sales contracts with the same sponsor for more than 4 or more hours per day, except where the length of the events (such as athletic contests, musical programs, and special events) broadcast pursuant to the contract is not under control of the station.

2. Section 73.67(a)(5) is amended to read as follows:

§ 73.67 Remote control operation.

(a) • • •

(5) The indications at the remote control point of the antenna current meter, or, for directional antennas, the common point current meter and remote base current meters, shall be read and entered in the operating log every 3 hours.

• • • • • •

3. Section 73.93(j) is amended to read as follows:

§ 73.93 Operator requirements.

• • • • • •

(j) At all standard broadcast stations, a complete inspection of the transmitting system and required monitoring equipment in use, shall be made by an operator holding a first class radiotelephone license at least once each calendar week. The interval between successive required inspections shall not be less than 5 days. This inspection shall include such tests, adjustments, and repairs as may be necessary to insure operation in conformance with the provisions of this subpart and the current station authorization.

• • • • • •

4. Section 73.111 is amended by adding new paragraph (e), to read as follows:

§ 73.111 General requirements relating to logs.

• • • • • •

(e) The operating log and the maintenance log may be kept individually on the same sheet in one common log, at the option of the permittee or licensee.

5. Section 73.113(a)(3) is amended to read as follows:

§ 73.113 Operating log.

(a) • • •

(3) An entry at the beginning of operation in each mode and at intervals not exceeding 3 hours, of the following (actual ratings observed prior to making any adjustments to the equipment and, when appropriate, an indication of corrections to restore parameters to normal operating values):

• • • • • •

§ 73.118 [Deleted]

6. Section 73.118 is deleted.

§ 73.121 [Deleted]

7. Section 73.121 is deleted.

8. Section 73.265(h) is amended to read as follows:

§ 73.265 Operator requirements.

• • • • • •

(h) At all FM broadcast stations, a complete inspection of the transmitting system and required monitoring equipment in use shall be made by an operator holding a first class radiotelephone license at least once each calendar week. The interval between successive required inspections shall not be less than 5 days. This inspection shall include such tests, adjustments, and repairs as may be necessary to insure operation in conformance with the provisions of this subpart and the current station authorization.

9. Section 73.281 is amended by adding new paragraph (e), to read as follows:

§ 73.281 General requirements relating to logs.

• • • • • •

(e) The operating log and the maintenance log may be kept individually on the same sheet in one common log, at the option of the permittee or licensee.

10. Section 73.283(a)(3) is amended to read as follows:

§ 73.283 Operating log.

(a) • • •

(3) An entry at the beginning of operation and at intervals not exceeding 3 hours, of the following (actual readings observed prior to making any adjustments to the equipment and, when appropriate, an indication of corrections to restore parameters to normal operating values):

• • • • • •

§ 73.288 [Deleted]

11. Section 73.288 is deleted.

§ 73.291 [Deleted]

12. Section 73.291 is deleted.

13. Section 73.295(c) is amended to read as follows:

§ 73.295 Operation under Subsidiary Communications Authorizations.

• • • • • •

(c) In all arrangements entered into with outside parties affecting SCA operation, the licensee or permittee must retain control over all material transmitted over the station's facilities, with the right to reject any material which it deems inappropriate or undesirable. Subchannel leasing agreements shall be reduced to writing, kept at the station, and made available for inspection upon request.

• • • • • •

14. Section 73.565(h) is amended to read as follows:

§ 73.565 Operator requirements.

• • • • • •

(h) At all noncommercial educational FM broadcast stations, a complete inspection of the transmitting system and required monitoring equipment in use shall be made by an operator holding a first class radiotelephone license at least once each calendar week. The interval between successive required inspections shall not be less than 5 days. This inspection shall include such tests, adjustments, and repairs as may be necessary to insure operation in conformance with the provisions of this subpart and the current station authorization: *Provided*, That if the transmitter power output is in excess of 10 watts, but not greater than 1 kilowatt, an operator holding a second class radiotelephone license may perform the required inspection: *Provided, further*, That if the transmitter power output is 10 watts or less, no such weekly inspection need be made, although this shall in no way relieve such stations from the duty to operate in conformance with the provisions of this subpart and the current station authorization.

15. Section 73.581 is amended by adding new paragraph (e), to read as follows:

§ 73.581 General requirements relating to logs.

• • • • • •

(e) The operating log and the maintenance log may be kept individually on the same sheet in one common log, at the option of the permittee or licensee.

16. Section 73.583(a)(3) is amended to read as follows:

§ 73.583 Operating log.

(a) • • •

(3) For each station licensed for transmitter output above 10 watts, an entry, at the beginning of operation and at intervals not exceeding 3 hours, of the following (actual readings observed prior to making any adjustments to the equipment, and when appropriate, an indication of corrections made to restore parameters to normal operating values):

• • • • • •

§ 73.588 [Deleted]

17. Section 73.588 is deleted.

§ 73.591 [Deleted]

18. Section 73.591 is deleted.

§ 73.653 [Deleted]

19. Section 73.653 is deleted.

§ 73.655 [Deleted]

20. Section 73.655 is deleted.

21. Section 73.669 is amended by adding new paragraph (e), as follows:

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§ 73.669 General requirements relating to logs.

. . . . . .

(e) The operating log and the maintenance log may be kept individually on the same sheet in one common log, at the option of the permittee or licensee.

22. Section 73.671(a)(3) is amended to read as follows:

§ 73.671 Operating log.

(a) * * *

(3) An entry at the beginning of operation and at intervals not exceeding 3 hours, of the following (actual readings observed prior to making any adjustments to the equipment, and, when appropriate, an indication of corrections to restore parameters to normal operating values):

. . . . . .

23. Section 73.676(f)(3) is amended to read as follows:

§ 73.676 Remote control operation.

(f) * * *

(3) The required test signals shall be observed immediately after commencement of operation, and thereafter at intervals not exceeding 3 hours. More frequent observations shall be made as necessary to insure proper performance of the transmitter and associated equipment.

24. Section 73.1201(a) is amended and paragraphs (d), (e), and (f) are deleted, to read as follows:

§ 73.1201 Station identification.

(a) *When regularly required.* Broadcast station identification announcements shall be made: (1) At the beginning and ending of each time of operation, and (2) hourly, as close to the hour as feasible, at a natural break in program offerings. Television broadcast stations may make these announcements visually or aurally.

. . . . . .

25. New § 73.1207 is added, to read as follows:

§ 73.1207 Rebroadcast.

(a) The term "rebroadcast" means reception by radio of the programs of a radio station, and the simultaneous or subsequent retransmission of such programs by a broadcast station.

NOTE 1: As used in § 73.1207 "program" includes any complete program or part thereof.

NOTE 2: The transmission of a program from its point of origin to a broadcast station entirely by common carrier facilities, whether by wire line or radio, is not considered a rebroadcast.

(b) No broadcasting station shall rebroadcast the program, or any part thereof, of another broadcasting station without the express authority of the originating station. A copy of the written consent, of the licensee originating the program shall be kept by the licensee of the station rebroadcasting such program and shall be made available to the Commission upon request. Stations originating emergency communications under § 73.971(b), which provides unrestricted AM/FM/TV rebroadcast privileges for stations utilizing the facilities, systems, and procedures of a Detailed State EBS Operational Plan, shall be deemed to have conferred rebroadcast authority on other participating stations. The broadcasting of a program relayed by a remote pickup broadcast station (§ 74.401 of this chapter) is not considered a rebroadcast.

(c) The rebroadcast of time signals originated by the Naval Observatory and the National Bureau of Standards is permitted without further Commission authorization under the conditions set forth in Note 1 to this paragraph. The rebroadcast of National Weather Service (NWS) transmissions is permitted without further Commission authorization under the conditions set forth in Note 2 to this paragraph. Programs originated by the Voice of America (VOA) and the American Forces Radio and Television Service (AFRTS) cannot, in general, be cleared for domestic rebroadcast, and may therefore be rebroadcast only by special arrangement among the parties concerned. Except as otherwise provided by international agreement, programs originated by foreign stations may be rebroadcast without the consent of the originating station. In the case of retransmissions of subcarrier background music and other FM multiplex subscription services, permission must first be obtained from the originating station. The retransmission of point-to-point messages originated by government and privately owned nonbroadcast stations must be authorized by the Commission prior to retransmission; requests for such authority may be submitted informally (by letter), accompanied by the written consent of the originating station.

NOTE 1: (a) *Naval Observatory Time Signals.* (1) The time signal rebroadcast must be obtained by direct radio reception from a naval radio station.

(2) Announcement of the time signal must be made without reference to any commercial activity.

(3) Identification of the Naval Observatory as the source of the time signal must be made by an announcement, substantially as follows: "With the signal, the time will be ---------- courtesy of the U.S. Naval Observatory."

Schedules of time signal broadcasts may be obtained upon request from the Superintendent, U.S. Naval Observatory, Washington, D.C. 20390.

(b) *National Bureau of Standards Time Signals.* (1) Time signals for rebroadcast must be obtained by direct radio reception from an NBS station.

(2) Use of receiving and rebroadcasting equipment must not delay the signals by more than 0.05 seconds.

(3) Signals must be rebroadcast live, not from tape or other recording.

(4) Voice or code announcements of the call letters of NBS stations are not to be rebroadcast.

(5) Identification of the origin of the service and the source of the signals must be made by an announcement substantially as follows: "At the tone, 11 hours 25 minutes Greenwich mean time. This is a rebroadcast of a continuous service furnished by the National Bureau of Standards, Time and Frequency Division, Boulder, Colo." No commercial sponsorship of this announcement is permitted and none may be implied.

(6) Notice of use of NBS time signals for rebroadcast should be forwarded semiannually to Frequency-Time Broadcast Services, Time and Frequency Division, National Bureau of Standards, Boulder, Colo. 80302.

(7) In the rebroadcasting of NBS time signals, announcements will not state that they are standard frequency transmissions. Voice announcements of G.m.t. are given in voice every minute. Each minute, except the first of the hour, begins with a 0.8-second long tone of 1000 Hz at WWV and 1200 Hz tone at WWVH. The first minute of every hour begins with an 0.8-seccond long tone of 1500 Hz at both stations. This tone is followed by a 3-second pause, then the announcement, "National Bureau of Standards Time." This is followed by another 3-second pause before station identification. This arrangement allows broadcast stations sufficient time to retransmit the hour time tone and the words "National Bureau of Standards Time" either by manual or automatic switching.

(8) Time signals or scales made up from integration of standard frequency signals broadcast from NBS stations may not be designated as national standard scales of time or attributed to the NBS as originator. For example, if a broadcasting station transmits time signals obtained from a studio clock which periodically calibrated against the NBS time signals from WWV or WWVH, such signals may not be announced as NBS standard time or as having been originated by the NBS.

Schedules of time signal broadcasts may be obtained upon request from Frequency-Time Broadcast Services Section, Time and Frequency Division, National Bureau of Standards, Boulder, Colo. 80302.

NOTE 2: (a) Message must be rebroadcast within 1 hour of receipt from the National Weather Service (Weather Bureau).

(b) If advertisements are given in connection with a weather rebroadcast, these advertisements shall not directly or indirectly convey an endorsement by the Government of the products or services so advertised.

(c) Credit must be given to indicate that the rebroadcast messages originate with the National Weather Service (Weather Bureau).

26. New § 73.1208 is added, to read as follows:

§ 73.1208 Broadcast of taped, filmed, or recorded material.

(a) Any taped, filmed or recorded program material in which time is of special significance, or by which an affirmative attempt is made to create the impression that it is occurring simultaneously with the broadcast, shall be announced at the beginning as taped, filmed or recorded. The language of the announcement shall be clear and in terms commonly understood by the public. For television stations, the announcement may be made visually or aurally.

(b) Taped, filmed, or recorded announcements which are of a commercial, promotional or public service nature need not be identified as taped, filmed or recorded.

[FR Doc.72-19147 Filed 11-7-72;8:52 am]

Title 49—TRANSPORTATION

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 72-25, Notice 1]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

New Pneumatic Tires, Tire Selection, and Rims for Passenger Cars

Correction

In F.R. Doc. 72-17870 appearing at page 22620 of the issue for Friday, October 20, 1972, in Table I-N, the entry under "Tire size[1] designation" reading "65/70R10" should read "165/70R10".

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Recodification; Correction

In the recodification and republication of the Federal Motor Vehicle Safety Standards, appearing at page 22902 of the FEDERAL REGISTER of December 2, 1971, three lines of the definition for "vehicle normal load on the tire," appearing in § 571.110 (Motor Vehicle Safety Standard No. 110; 36 F.R. 22924) were omitted. The correct definition reads as follows:

§ 571.110 Standard No. 110; tire selection and rims.

. . . . . .

"Vehicle normal load on the tire" means that load on an individual tire that is determined by distributing to each axle its share of the curb weight, accessory weight, and normal occupant weight (distributed in accordance with Table I) and dividing by 2.

. . . . . .

Issued on November 3, 1972.

CHARLES H. HARTMAN,
Acting Administrator.

[FR Doc.72-19283 Filed 11-7-72;8:51 am]

[Docket No. 70-12; Notice 15]

PART 574—TIRE IDENTIFICATION AND RECORD KEEPING

Tire Size Codes

The purpose of this amendment to Part 574 of Title 49, Code of Federal Regulations, is to provide that the second group of symbols within the tire identification number shall, in the case of new tires, be assigned at the option of the manufacturer rather than conforming to the tire size code presently found in Table I of the regulation.

Under the present system, even if the presently unassigned symbols "O" and "R" are used, a maximum of 900 tire size codes can be assigned. Due to the many new tire sizes being introduced, it is necessary to change the system to allow more flexibility. Therefore, Table I is herewith deleted, new tire manufacturers are allowed to assign their own two-digit code for the tire size, and retreaders are allowed to use either a self-assigned matrix code or a self-assigned tire size code. Each new tire manufacturer will still be required to use a two-symbol size code and to maintain a record of the coding system used, which shall be provided to the National Highway Traffic Safety Administration upon written request. It is recommended but not required that manufacturers use the code sizes previously assigned by this agency for active sizes, and reuse the codes for obsolete sizes when additional size codes are needed.

A notice of proposed rule making on this subject was published on June 16, 1972 (37 F.R. 11979). The comments received in response to the notice have been considered in the issuance of this final rule. The rule is issued as it appeared in the proposal including the letter "T" inadvertently omitted from the proposal.

Three of the tire manufacturers who commented favored the proposed change, and the National Tire Dealers and Retreaders Association, the Japan Automobile Manufacturers Association and the European Tyre and Rim Technical Organisation commented without objection to the proposed change.

Bandag, Inc., a retreader of tires, objected to the proposed change on the grounds that allowing tire manufacturers to assign their own tire size code would remove one of the methods a retreader has to determine the tire size of a casing to be retreaded.

Mercedes-Benz of North America and Volkswagen of America did not favor the change because of the possibility of confusion for the vehicle manufacturer that equips its vehicle with several manufacturers' tires.

The principal objection raised by Bandag should be considerably alleviated by an amendment to Standard No. 109 (36 F.R. 24824) under consideration, which would require tire manufacturers to place the actual tire size, as well as other pertinent information, between the section width and the bead of the tire so that the information will be less susceptible to obliteration during use or removal during the retreading process.

With respect to the comment by Mercedes-Benz of North America and Volkswagen of America, it was concluded that because the existing system does not provide enough symbols to meet the anticipated introduction of new tire sizes, the proposed change is necessary. Mercedes' recommendation that "G", "Q", "S", and "Z" be added or that a three-digit size code be used was rejected, because the additional symbols suggested are difficult to apply to the tire, and the addition of a third symbol would, according to the tire manufacturers, be impractical and inefficient.

A list of the tire size codes assigned up to this time is published in the general notice section of this issue of the FEDERAL REGISTER (37 F.R. 23742). The NHTSA urges tire manufacturers to use these existing codes for time sizes presently being produced and to work within their tire and rim associations to make code assignments for new tire sizes on an industry-wide basis and reuse obsolete size codes wherever possible. In this way the usefulness of the tire size code to the vehicle manufacturer will be maintained.

In consideration of the foregoing, in Part 574 of Title 49, Code of Federal Regulations, Table I is deleted and § 574.5 is amended to read as set forth below.

§ 574.5 Tire identification requirements.

Each tire manufacturer shall conspicuously label on one sidewall of each tire he manufactures, except tires manufactured exclusively for mileage-contract purchasers, by permanently molding into or onto the sidewall, in the manner and location specified in Figure 1, a tire identification number containing the information set forth in paragraphs (a) through (d) of this section. Each tire retreader, except tire retreaders who retread tires for their own use, shall conspicuously label one sidewall of each tire he retreads by permanently molding or branding into or onto the sidewall, in the manner and location specified in Figure 2, a tire identification number containing the information set forth in paragraphs (a) through (d) of this section. In addition, the DOT symbol required by Federal Motor Vehicle Safety Standards shall be located as shown in Figures 1 and 2. The DOT symbol shall not appear on tires to which no Federal Motor Vehicle Safety Standard is applicable. The symbols to be used in the tire identification number for tire manufacturers and retreaders are "A, B, C, D, E, F, H, J, K, L, M, N, P, R, T, U, V, W, X, Y, 1, 2, 3, 4, 5, 6, 7, 8, 9, 0." Tires manufactured or retreaded exclusively for mileage-contract purchasers are not required to contain the tire identification number if the tire contains the phrase "for mileage contract use only" permanently molded into or onto the tire sidewall in lettering at least one-quarter inch high.

(a) *Second grouping.* For new tires, the second group, of no more than two symbols, shall be used to identify the tire size. For retreaded tires, the second group, of no more than two symbols, shall identify the retread matrix in which the tire was processed or a tire size code if a matrix was not used to process the retreaded tire. Each new-tire manufacturer and retreader shall maintain a record of each symbol used, with the corresponding matrix or tire size and shall provide such record to the NHTSA upon written request.

. . . . . .

Effective date: November 8, 1972.

Because this amendment relieves a restriction, and because of the immediate need for the introduction of new-tire size codes, it is found for good cause shown that an effective date less than 30 days from the date of issuance is in the public interest.

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Issued under the authority of sections 103, 112, 113, 119, and 201 of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1401, 1402, 1407, and 1421, and the delegation of authority at 49 CFR 1.51.

Issued on October 31, 1972.

CHARLES H. HARTMAN,
Acting Administrator.

[FR Doc.72-19010 Filed 11-7-72;8:45 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1033—CAR SERVICE

[S.O. 1112, Amdt. 1]

Railroad Operating Regulations for Freight Car Movement

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 2d day of November 1972.

Upon further consideration of Service Order No. 1112 (37 F.R. 21153), and good cause appearing therefor:

It is ordered, That: Service Order No. 1112 be, and it is hereby, amended by adding the following subdivision (xiv) to paragraph (a), subparagraph (1):

§ 1033.1112 Service Order No. 1112.

(a) *Railroad operating regulations for freight car movement*—(1) *Application.* • • •

(xiv) *Exception.* To alleviate hardships or inequities, exceptions to this order may be authorized to the carrier by the Railroad Service Board, Interstate Commerce Commission, Washington, D.C. Requests for such exceptions may be made only by carriers and shall be sent to W. H. Van Slyke, Chairman, Car Service Division, Association of American Railroads, Washington, D.C., for recording and submission to the Railroad Service Board, Interstate Commerce Commission, for consideration.

Effective date. This amendment shall become effective at 11:59 p.m., November 6, 1972.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies secs. 1(10–17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That copies of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-19172 Filed 11-7-72;8:53 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 752]

[Amdt. 1]

WATER BANK PROGRAM

Notice of Proposed Rule Making

Notice is hereby given of a proposal to amend the regulations governing the Water Bank Program as authorized by the Water Bank Act, 84 Stat. 1468, 16 U.S.C. 1301.

The proposed amendment includes the following:

(a) Revision of § 752.4 to provide that the program will be applicable in the States and counties designated by the Deputy Administrator.

(b) Revision of § 752.5 to provide that a farm to be eligible for participation in the program must not currently have a Water Bank Program agreement.

(c) Revision of § 752.6 to add a paragraph (c)(5) which provides that type 3, 4, or 5 wetlands that are common to more than one farm are ineligible to be placed under agreement unless that portion of a wetland area common to more than one farm which is located on the farm which controls the potential outlet for drainage is placed under agreement. After an agreement has been approved for the farm controlling the outlet for drainage, an agreement may be entered into with any other farm for other portions of the common wetland area provided all agreements have the same beginning date as the farm controlling the outlet for drainage.

(d) Revision of § 752.7(e) to authorize limited grazing of the designated acreage if such a management practice is called for in the conservation plan.

(e) Revision of § 752.9 to provide that the beginning date of all agreements shall be January 1 of the year in which the agreement is approved except that agreements approved in 1972 may have a beginning date of January 1, 1973, if the county committee determines that the agreement signers will be unable to comply with the provisions of § 752.7 relating to the use of the designated acreage during the year 1972.

Interested persons are invited to submit written data, views, or arguments regarding the proposed changes to the Director, Conservation and Land Use Programs Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Room 3096, South, Washington, D.C. 20250. In order to be sure of consideration, all submissions must be received by the Director not later than 30 days after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.).

The proposed amendment is as follows:

1. Section 752.4 is amended to read as follows:

§ 752.4 Geographical applicability.

The program will be applicable in States and counties designated by the Deputy Administrator.

2. Section 752.5 is amended to read as follows:

§ 752.5 Eligible farm.

A farm is eligible for participation in the program if (a) at the time the request for an agreement is filed, land on the farm is not covered by a Water Bank Program agreement, (b) the farm contains type 3, 4, or 5 wetlands which are identified in a conservation plan developed in cooperation with the Soil and Water Conservation District in which the farm is located, and (c) the farm meets the other requirements specified in this part.

3. Section 752.6(c) is amended by adding a new subparagraph (5) to read as follows:

§ 752.6 Land eligible for designation.

• • • • • •

(c) • • •

(5) Type 3, 4, or 5 wetlands which are common to more than one farm unless the portion of a wetland area common to more than one farm which is located on the farm which controls the potential outlet for drainage is placed under agreement. After an agreement has been approved for the farm controlling the outlet for drainage, an agreement may be entered into with any or all other farms for other portions of the common wetland area if all agreements have the same beginning date as the farm controlling the outlet for drainage.

4. Section 752.7(e) is amended to read as follows:

§ 752.7 Use of designated acreage.

• • • • •

(e) No crop shall be harvested from the designated acreage and such acreage shall not be grazed except as may be called for in the conservation plan as provided in paragraph (b) of this section: *Provided,* That the designated acreage may be grazed in the first year of the agreement period prior to the date the agreement is approved.

5. Section 752.9(a) is amended to read as follows:

§ 752.9 Agreement period.

(a) The agreement period shall be 10 years. The agreement shall become effective on January 1 of the year in which the agreement is approved: *Provided,* That an agreement approved in 1972 shall become effective on January 1, 1973, in cases where, at the time the agreement is approved, the county committee determines that the agreement signers will be unable to comply with the provisions in § 752.7 relating to the use of the designated acreage during the year 1972.

• • • • •

(Sec. 12, 84 Stat. 1471, 16 U.S.C. 1311)

Signed at Washington, D.C., on November 1, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-19105 Filed 11-7-72;8:49 am]

Packers and Stockyards Administration

[9 CFR Part 201]

PACKERS AND LIVE POULTRY DEALERS AND HANDLERS

Time of Payment for Live Poultry Purchases

Notice is hereby given, in accordance with the Administrative Procedure Provisions of 5 U.S.C., section 553, that pursuant to the authority conferred by section 407(a) of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 228(a)), the Administrator of the Packers and Stockyards Administration is considering the amendment of the regulations under the Act (9 CFR Part 201) by adding a new § 201.111 pertaining to packers, live poultry dealers and handlers regarding the time of payment for live poultry purchases.

It has come to the attention of the Department that persons engaged in the business of purchasing poultry frequently withhold payment due the sellers of poultry for undue and unreasonable period of time. A large percentage of old hens (spent fowl) and to a lesser degree other poultry are sold outright to dealers and processors for purposes of slaughter. These sales frequently involve large amounts. A recent representative study of payment practices for live poultry discloses that in some instances payment is not made for periods exceeding 30 days after slaughter. The normal accepted practice is to pay within 5 business days after slaughter.

The purpose of the proposed regulation is to establish a uniform rule regarding payment for live poultry purchased by packers, live poultry dealers

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and handlers consistent with the established custom for payment of live poultry within 5 business days after slaughter. The proposed regulation requires that if the parties to a live poultry sales transaction enter into an agreement extending payment beyond 5 business days after slaughter, the substance of such agreement must be disclosed by the packer, live poultry dealer or handler in his records and on the accountings or other documents issued by him relating to such transaction.

The proposed § 201.111 would read as follows:

§ 201.111 Purchasers to pay promptly for live poultry purchases.

Whenever a packer or live poultry dealer or handler purchases live poultry, such purchaser shall, before the close of 5 business days following slaughter of such poultry, transmit or deliver to the seller of such poultry or his duly authorized agent the full amount of the purchase price thereof, unless otherwise expressly agreed between the parties before the purchase of the poultry. Any such agreement shall be disclosed in such purchaser's records and on all accountings or other documents issued by such purchaser relating to the transaction.

Any person who wishes to submit written data, views, or arguments concerning the proposed amendment may do so by filing them in duplicate with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, within 60 days from the publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 3d day of November 1972.

MARVIN L. MCLAIN,
Administrator, Packers and Stockyards Administration.

[FR Doc.72-19154 Filed 11-7-72;8:52 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 27]

CANNED APRICOTS, PRUNES, SEEDLESS GRAPES, CHERRIES, BERRIES, PLUMS, AND FIGS

Proposal To Amend Standards of Identity Regarding Optional Packing Media

Notice is given that the National Canners Association, 1133 20th Street, NW., Washington, DC 20038, has filed a petition proposing:

1. That the standards of identity for canned apricots, canned prunes, canned cherries, canned berries, canned plums, and canned figs (21 CFR 27.10, 27.15, 27.30, 27.35, 27.45, and 27.70) be amended to provide for the use of "fruit juice(s)," "slightly sweetened fruit juice(s)," "light fruit juice(s) sirup," "heavy fruit juice(s) sirup," and "extra heavy fruit juice(s) sirup" as optional packing media;

2. That the standard of identity for canned seedless grapes (21 CFR 27.25) be amended to provide for the use of "fruit juice(s)" is an optional packing medium.

3. That the standard of identity for canned prunes (21 CFR 27.15) in addition to the aforementioned packing media in (1) above, be amended to provide for the use of "slightly sweetened water" as an optional packing medium.

4. That the fruit juice(s) packing media may be prepared from any single fruit juice or a blend of two or more fruit juices one of which may be that of the fruit packed or all of which may be from different fruits.

5. That the fruit juice(s) may be fresh, canned, frozen, or made from concentrate(s), but if made from concentrate(s) the juice(s) shall be reconstituted with water to the soluble fruit solids that each fruit juice had before concentration.

6. That whenever nutritive sweeteners are used in preparing optional packing media, they shall be added in the same proportions as are presently required by the subject standards.

7. That if a packing medium is prepared with concentrated fruit juice(s) and is reconstituted with water or with water and invert sugar sirup, corn sirup, or glucose sirup (in the same proportions presently provided by the affected standards) to the soluble fruit solids that each fruit juice had before concentration, the packing medium is to be considered as being prepared with fruit juice as the liquid ingredient.

8. That the Brix measurements for the proposed optional packing media slightly sweetened fruit juice(s), light fruit juice(s) sirup, heavy fruit juice(s) sirup, and extra heavy fruit juice(s) sirup be the same as those presently designated for slightly sweetened water, light sirup, heavy sirup, and extra heavy sirup, respectively, in the said standards, except that in § 27.10 a Brix measurement of 10° or more but less than 16° is proposed for slightly sweetened fruit juice(s) and in § 27.15 a Brix measurment of less than 20° is proposed for slightly sweetened water and slightly sweetened fruit juice(s); and

9. By providing that the name of the optional packing media shall appear on the principal display panel preceded by "in" or "packed in" and if it is prepared with:

a. A single fruit juice, the name of the fruit juice shall be used in lieu of the word "fruit" in the name of the optional packing medium.

b. A combination of two or more fruit juices, the names of the fruit juices in the order of predominance by weight shall either be used in lieu of the word "fruit" in the name of the packing medium or appear together in an ingredient statement on the principal display panel or any appropriate information panel or panels of the label in conspicuous and easily legible letters of boldface print or type the size of which shall be not less than one-half of that required by Part 1 of this chapter for the statement of net quantity of content appearing on the label, but in no case less than one-sixteenth inch in height.

c. A single juice or a combination of two or more fruit juices any of which are made from concentrate(s), the words "from concentrate(s)" shall follow the word "juice(s)" in the name of the packing medium or in the name(s) of the juice(s) if declared in the ingredient statement.

Grounds given in support of the petition are that the proposed amendments will provide the consumer with products that are wholesome, nondeleterious, and more natural in fresh fruit flavor and taste.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371) and in accordance with authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), interested persons are invited to submit their views in writing (preferably in quintuplicate) regarding this proposal within 60 days after its date of publication in the FEDERAL REGISTER. Such views and comments should be addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, and may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during business hours, Monday through Friday.

Dated: October 19, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-19092 Filed 11-7-72;8:49 am]

[21 CFR Part 150d]

ROLITETRACYCLINE MONOGRAPHS

Recodification and Technical Revisions

Correction

In F.R. Doc. 72-17211 appearing at page 21344 of the issue for Saturday, October 7, 1972, in the 11th line of § 150d.12(b)(1) the word "preparation" should be followed by a comma instead of a semicolon, and the phrase "an accurately measured representative" should be added immediately following that line.

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 72-218 P]

NORTH FORK, MOKELUMNE RIVER, CALIF.

Proposed Drawbridge Operation Regulations

The Coast Guard is considering amending the regulations for the Millers Ferry Bridge across the North Fork of the Mokelumne River, mile 12.1 to require that the draw open on signal from May 15 through September 15 from 9 a.m. to 5 p.m., and that, at all other times, the draw open on signal if at least 12 hours notice is given. The draw is presently required to open on signal at all times if at least 12 hours notice is given. This amendment is being considered because of an increase in the number of vessel passages through the draw of this bridge.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), 12th Coast Guard District, 630 Sansome Street, San Francisco, CA 94126. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, 12th Coast Guard District.

The Commander, 12th Coast Guard District, will forward any comments received before December 12, 1972, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by revising subparagraph (2) of paragraph (h) of § 117.714 to read as follows:

§ 117.714 San Joaquin River and its tributaries, Calif.

* * * * * *

(h) * * *

(2) *North Fork; Sacramento and San Joaquin Counties highway bridge (Millers Ferry Bridge).* From May 15 through September 15, from 9 a.m. to 5 p.m., the draw shall open on signal. At all other times the draw shall open on signal if at least 12 hours notice is given.

* * * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Dated: November 1, 1972.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.72-19123 Filed 11-7-72;8:45 am]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-SW-72]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a 700-foot transition area at Stephenville, Tex.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the following transition area is added:

STEPHENVILLE, TEX.

That airspace extending upward from 700 feet AGL within a 5-mile radius of Clark Field, Tex. (latitude 32°13'00" N., longitude 98°10'42" W.), and within 3 miles each side of the Acton, Tex., VORTAC 244° radial extending from the 5-mile radius area to 27 miles from the VORTAC.

The proposed transition area will provide controlled airspace for aircraft executing approach/departure procedures proposed at the Clark Field Airport, Stephenville, Tex.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Tex., on October 27, 1972.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.72-19087 Filed 11-7-72;8:51 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 72-18; Notice 4]

FEDERAL MOTOR VEHICLE SAFETY STANDARDS

New Pneumatic Tires for Passenger Cars

This notice proposes an amendment to Appendix A of Motor Vehicle Safety Standard No. 109, New Pneumatic Tires, 49 CFR 571.109.

An amendment to Appendix A of Standard No. 109 and Appendix A of Standard No. 110 (§ 571.110) was published August 2, 1972 (37 F.R. 15430), pursuant to guidelines established October 5, 1968 (33 F.R. 14964). Under the guidelines, additions to the tables of the appendixes become effective 30 days from publication if no objections to them are received. When objections are received, rule making pursuant to NHTSA procedural regulations 49 CFR Part 553, is initiated.

Objections to two of the amendments made by the August 2 notice were received, and in accordance with the guidelines those amendments were revoked by notice of September 1, 1972 (37 F.R. 17837), and September 19, 1972 (37 F.R. 19138). One of those amendments, consisting of changes in the load values of Table I–H of Standard No. 109, requested by the Rubber Manufacturers Association (RMA) and objected to the European Tyre and Rim Technical Organisation (ETRTO), will not be reproposed at this time, since the request has been withdrawn by RMA.

ETRTO in a request of December 23, 1971, asked that footnote 1 of Table I–R be revised to read as follows:

The letters "HR", "SR", or "VR" may be included in any specified tire size designation adjacent to or in place of the dash.

This footnote would be the same as the one already shown in Table I–G for "70-Series" radial ply tires. The Rubber Manufacturers Association and the B.F. Goodrich Tire Co. objected to this amendment on the basis that the inclusion of the letter "R", which is used to indicate radial construction and which already appears once in the tire size designation, is redundant and therefore confusing. In order to provide opportunity for public comment on the request,

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it is hereby proposed that the amendment to Table I–R be made as requested by ETRTO.

Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on December 20, 1972, will be considered, and will be available for examination in the docket at the above address both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Administration. However, the rule making action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rule making. The Administration will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Proposed effective date: August 1, 1973.

This notice is issued pursuant to the authority of sections 103, 119, 201, and 202 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392, 1407, 1421, 1422) and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.

Issued on November 1, 1972.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.72-19088 Filed 11-7-72;8:49 am]

[49 CFR Part 575]

[Docket 72-24; Notice 1]

CONSUMER INFORMATION REGULATION

Special Vehicles

This notice proposes to amend Part 575, Consumer Information, to require manufacturers to identify any vehicles, such as police cars and other configurations offered only for fleet sale, that have a configuration not available for purchase by the general public. The amendment is proposed as a result of a tentative agency determination that inclusion of these vehicles in compilations or rankings published by this agency as consumer information serves no beneficial purpose, and could confuse the consumer. Although it is not a rule making matter, the NHTSA invites comment from interested persons on the omission of this information from future compilations.

Accordingly, it is proposed that Part 575 of Chapter V of Title 49, Code of Federal Regulations, be amended by adding a new § 575.7 to read as follows:

§ 575.7 Special vehicles.

A manufacturer who produces vehicles having a configuration not available for purchase by the general public shall identify those vehicles when furnishing the information required in Subpart B of this part.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on December 7, 1972, will be considered, and will be available for examination in the docket at the above address both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Administration. However, the rule making action may proceed at any time after the date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rule making. The Administration will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

(Secs. 103, 112, 119, 203, National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1401, 1407, 1423; delegations of authority at 49 CFR 1.51, 49 CFR 501.8)

Issued on November 1, 1972.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.72-19089 Filed 11-7-72;8:49 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 242]

[Docket No. 24890; EDR-236]

SCHEDULED ALL-CARGO SERVICES

Proposed Reporting Results; Extension of Part

Notice is hereby given that the Civil Aeronautics Board has under consideration a proposed amendment to Part 242 of the Economic Regulations (14 CFR Part 242) to extend the part indefinitely.

The principal features of the proposed amendment are described in the explanatory statement and the proposed amendment is set forth in the proposed rule. The amendment is proposed under the authority of sections 204(a) and 407 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 766; 49 USC 1324, 1377).

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before December 11, 1972, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, upon receipt thereof.

By the Civil Aeronautics Board.

Dated: November 3, 1972.

[SEAL] HARRY J. ZINK,
Secretary.

EXPLANATORY STATEMENT

Part 242[1] established separate reporting requirements for the scheduled all-cargo services of certain certificated air carriers. The part by its terms is due to expire December 31, 1972.[2] The reports required thereunder have been kept separate from the basic Form 41 reports because of the fear that the integrity of the latter reports would be impaired by the introduction of experimental and controversial allocation techniques which would, of necessity, have to be employed in segregating the costs of scheduled all-cargo results. This is particularly so because the cost allocation techniques vary markedly from carrier to carrier.

The Board has regarded Part 242 as a temporary expedient[3] pending the development of reliable techniques employing automatic data processing (ADP) which would permit incorporation of definitive costing rules in the Part 241 regulations, governing Form 41 reports. By contrast, Part 242 leaves allocation techniques largely to the discretion of the carriers.

Part 241 has not yet been refined, so that the Form 41 reports cannot now reflect the necessary data on all-cargo scheduled services. Although an amendment to Part 241[4] modernized and mechanized the Form 41 statistics by providing detailed traffic and capacity data needed to refine procedures for allocating costs between passenger and cargo services, further improvements must be made in the reporting of financial data. Until these improvements are effected, the Form 242 all-cargo reports will need to be continued.

Moreover, the Board is currently engaged in a comprehensive investigation entitled "Domestic Air Freight Rate Investigation," Doc. 22859. An evidentiary hearing is required, but has not yet taken place. That investigation may indicate the need for, and nature of, further refinements in reporting procedures and methods of allocation of cost between passenger and all-cargo services. In view

[1] ER-430, adopted Mar. 2, 1965.
[2] ER-655, adopted Nov. 20, 1970.
[3] Part 242 was originally scheduled to expire on July 1, 1968; since then it has been extended twice.
[4] ER-586 and ER-597, effective July 1, 1970.

of the pending investigation, it would seem advisable to postpone any major revision in the reporting of scheduled all-cargo services until the completion of that case. In the interim a substantial amount of information concerning the costing of all-cargo services should be collected in that investigation. But for the present the Board's needs for reporting scheduled all-cargo services can best be satisfied by a continuation of the Part 242 reports.

For the above reasons, the Board tentatively concludes that the term of the part should be extended for an indefinite period. At the conclusion of the "Domestic Air Freight Rate Investigation," we expect to review the Part 242 requirements to determine whether to propose revisions in the reporting requirements based upon the standards, criteria and other needs developed in that proceeding.

It is proposed to amend Part 242 (14 CFR Part 242) of the economic regulations as follows:

1. Amend § 242.1 by deleting and reserving paragraph (b) as follows:

§ 242.1 Applicability.

* * * * *

(b) [Reserved]

[FR Doc.72-19156 Filed 11-7-72;8:52 am]

FEDERAL POWER COMMISSION

[18 CFR Parts 101, 104, 141, 201, 204, 260]

[Dockets Nos. R-424, R-446]

UNIFORM SYSTEM OF ACCOUNTS AND CERTAIN FORMS

Notice of Conference

NOVEMBER 3, 1972.

Accounting for premium, discount and expense of issue, gains and losses on refunding and reacquisition of long-term debt, and interperiod allocation of income taxes; Amendments to the Uniform Systems of Accounts for Class A, B, and C Public Utilities and Licensees and Natural Gas Companies; deferred income taxes.

Take notice that on November 22, 1972, a conference will be held to discuss Commission proposal announced in notice of proposed rule making Docket No. R-424 (36 F.R. 16069, August 19, 1971) and Docket No. R-446 (37 F.R. 13805, July 14, 1972) in response to the request of certain parties. The conference will be held at 10 a.m. in Hearing Room A (or Room 2043 alternate) at the Federal Power Commission, 441 G Street NW., Washington, DC.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19184 Filed 11-7-72;8:54 am]

SMALL BUSINESS ADMINISTRATION

[13 CFR Parts 120, 122, 123]

SMALL BUSINESS CONCERNS

Qualifications of "Financial Institutions" as Eligible Loan Participants

Notice is hereby given that pursuant to authority contained in section 5 of the Small Business Act, Public Law 85–536, 72 Stat. 384, 385, as amended, it is proposed to amend, as set forth below, Parts 120, 122 and 123, by amending §§ 120.1 (c), 122.2(f)(2), and 123.1(d)(2), and by adding a new paragraph (c) to § 120.3. Prior to adoption of such amendments, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in triplicate, to the Associate Administrator for Financial Assistance, Small Business Administration, 1441 L Street NW., Washington, DC 20416, within a period of twenty (20) days of the date of publication of this notice in the FEDERAL REGISTER.

Information. SBA is authorized by statute to make participation loans to small business concerns in cooperation with banks and other lending institutions through agreements to participate on an immediate or deferred basis. The purpose of the instant proposal is to set forth the qualifications that must be met for "financial institutions" to be recognized as an eligible SBA loan participant. Proposed new § 120.3(c), Eligible loan participants, deals with such eligibility factors as capacity to service loans, adequate capital structure and financial standing, qualified management, amenability to examining authority and reporting requirements, and absence of any self-dealing interests by participant and its associates in the borrower small business concern. As stated in § 120.3(c)(6), small business investment companies licensed by SBA are (as a matter of law) ineligible to serve as SBA loan participants.

The standards set forth in proposed new § 120.3(c) will govern the eligibility of loan participants in the fallowing SBA financial assistance programs: (1) Business loans as well as (2) disaster and related loans made pursuant to sections 7(a) and 7(b), respectively, of the Small Business Act; (3) loans to local development companies pursuant to section 502 of the Small Business Investment Act and implementing Regulation 108.502–1(g); and (4) E.O. loans and guarantees pursuant to section 402(a) of the Economic Opportunity Act, as amended, and implementing Regulation 119.41.

It is proposed to amend Part 120 as follows:

1. By amending the reference to "financial institution" appearing in § 120.1 (c) so that it would read as follows:

§ 120.1 Introduction.

* * * * *

(c) "Financial institution" as used in this part shall include, but not be limited to, banks and other lending institutions whose regular course of business entails, the making of commercial, industrial and/or other loans of the type authorized to be made by SBA to eligible small business concerns and who otherwise meet the criteria specified in § 120.3(c).

2. By adding a new paragraph (c) to § 120.3 that would read as follows:

§ 120.3 Terms and conditions of business loans and guarantees.

* * * * *

(c) *Eligible loan participant.* SBA is authorized by appropriate enabling legislation to make participation loans to small concerns in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis. In order to serve as an eligible loan participant in a particular loan transaction with SBA, the financial institution must—

(1) *Capacity to service loan.* Have the continuing capacities for processing, evaluating, disbursing, and servicing commercial term, and other loans authorized to be made by SBA to small concerns.

(2) *Capital structure and financial standing.* Have an adequate capital structure aggregating not less than $200,000 (except that the $200,000 minimum shall not apply to institutions which are subject to supervisory and examining control of State or Federal chartering, licensing or similar regulatory authority, and, together with its existing or proposed directors, officers, other employees, and other persons connected with its organization and operations, possess good character as well as general standing and reputation in the community based on their lending and other established financial ability and experience.

(3) *Qualified management.* Have and maintain in charge of operations qualified management which shall be available to the public during regular business hours, and hold itself out to the public as engaged in the making of commercial, industrial, and other loans of the type authorized to be made by SBA to eligible small concerns.

(4) *Supervisory and examining authority.* Be operating subject to applicable supervisory and examining control of State or Federal chartering, licensing, or similar regulatory authority, or, in the absence of such control, be authorized to and shall enter into a written agreement with SBA to submit appropriate financial reports to SBA or to make available for SBA examination its books, records, accounts and affairs deemed necessary and appropriate by SBA to the protection of its interest in the transaction.

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(5) *Absence of other financial or self-dealing interest in borrower concern.* Not possess, nor may any of its officers, directors, stockholders owning ten (10) or more percent of any class of shares, investment advisers, or other associates or affiliates, possess any interest, directly or indirectly, in the borrower small concern by reason of an equity position, or as a result of financing its own sales or business operations (except that any such interest in the borrower by a small business investment company, duly licensed by SBA, associated or affiliated with a loan participant shall not disqualify such otherwise eligible loan participant). Concerns operating as a subsidiary or affiliate engaged primarily in lending for the purpose of financing the sale of products or services or other business operations of an affiliate or parent concern are not considered eligible.

(6) *Ineligibility of SBIC's.* Not operate as a small business investment company duly licensed by SBA.

§§ 122.2 and 123.1 [Amended]

3. By adding a new sentence at the end of § 122.2(f)(2) and § 123.1(d)(2) as follows: "The eligibility qualifications for financial institutions set forth in Part 120, § 120.3(c) are incorporated herein."

Dated: October 31, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-19108 Filed 11-7-72;8:47 am]

Notices

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1972 Rev., Supp. 7]

MGIC INDEMNITY CORPORATION

Surety Companies Acceptable on Federal Bonds; Change of Name

New York Guaranty Corporation of New York, N.Y., a New York corporation, has formally changed its name to MGIC Indemnity Corporation. Documents evidencing the change of name are on file in the Treasury.

A new Certificate of Authority as an acceptable surety on Federal bonds, dated October 3, 1972, has been issued by the Secretary of the Treasury to MGIC Indemnity Corporation, New York, New York, under Sections 6 to 13 of Title 6 of the United States Code, to replace the Certificate issued October 3, 1972 (37 F.R. 21359, October 7, 1972) to the Company under its former name, New York Guaranty Corporation. The underwriting limitation of $1,117,000 previously established for the Company remains unchanged.

The change in name of New York Guaranty Corporation does not affect its status or liability with respect to any obligation in favor of the United States or in which the United States has an interest, which it may have undertaken pursuant to the Certificate of Authority issued by the Secretary of the Treasury.

Certificates of Authority expire on June 30 each year, unless sooner revoked and new Certificates are issued on July 1, so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1, in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Copies of the Circular, when issued, may be obtained from the Treasury Department, Bureau of Accounts, Audit Staff, Washington, D.C. 20226.

Dated: November 2, 1972.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[FR Doc.72-19116 Filed 11-7-72;8:48 am]

Office of the Secretary

DEFLECTION YOKES FROM JAPAN

Notice of Discontinuance of Antidumping Investigation

NOVEMBER 2, 1972.

On June 30, 1972, there was published in the FEDERAL REGISTER a "Notice of Intent to Discontinue Antidumping Investigation" of deflection yokes (of the type used in color television receivers) from Japan.

The statement of reasons for intending to discontinue the investigation was published in the above-mentioned notice, and interested parties were afforded an opportunity to make written submissions and to present oral views in connection with the intended action.

After consideration of all written and oral arguments presented and for the reasons stated in the "Notice of Intent to Discontinue Antidumping Investigation," I hereby discontinue the antidumping investigation of deflection yokes (of the type used in color television receivers) from Japan.

This "Notice of Discontinuance of Antidumping Investigation" is published pursuant to § 153.15(b) of the Customs regulations (19 CFR 153.15(b)).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-19115 Filed 11-7-72;8:48 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[M 23479: Group 557]

MONTANA

Notice of Filing of Plat of Survey and Order Providing for Opening of Public Lands

OCTOBER 31, 1972.

1. Plat of survey of the lands described below, accepted September 29, 1972, will be officially filed of record in the Montana State Office, Bureau of Land Management, 316 North 26th Street, Billings, MT 59101, at 10 a.m., December 8, 1972.

PRINCIPAL MERIDIAN, MONTANA

T. 6 N., R. 16 W.,
Sec. 25, lots 1, 2, 3, 4, W½E½, W½;
Sec. 36, lots 1, 2, 3, 4, W½E½, W½.

The area described contains 1,275.16 acres.

2. Except for and subject to valid existing rights, title to the lands in section 36 passed to the State of Montana upon acceptance of the plat of survey.

3. The public lands in section 25 are opened to the operations of the public land laws, subject to any valid existing rights, and the requirements of applicable law, rules, and regulations. These lands have been classified for multiple use management and are segregated from appropriation only under the agricultural land laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. Sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171).

4. Inquiries concerning these lands shall be addressed to Chief, Division of Management Services, Bureau of Land Management, Billings, Mont. 59101.

ALAN B. CARLSON,
Chief,
Division of Management Services.

[FR Doc.72-19122 Filed 11-7-72;8:45 am]

Office of Hearings and Appeals

[Docket No. M 73-7]

KINGS STATION COAL CORP.

Notice Regarding Modification of Mandatory Safety Standard

In regard petition of Kings Station Coal Corp., for modification of a mandatory safety standard (30 CFR 75.802), Docket No. M 73-7, Kings Mine.

Take notice that Kings Station Coal Corp., 1725 Midland Building, Cleveland, Ohio 44115, has filed a petition to modify 30 CFR 75.802. The regulation in question, which contains the requirements of 308(b) of the Act, provides as follows:

Section 75.802 *Protection of high-voltage circuits extending underground.* High-voltage circuits extending underground and supplying portable, mobile, or stationary high-voltage equipment shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the source transformers, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all high-voltage equipment supplied power from that circuit, except that the Secretary or his authorized representative may permit ungrounded high-voltage circuits to be extended underground to feed stationary electrical equipment if such circuits are either steel armored or installed in grounded, rigid steel conduit throughout their entire length, and upon his finding that such exception does not pose a hazard to the miners. Within 100 feet of the point on the surface where high-voltage circuits enter the underground portion of the mine, disconnecting devices shall be installed and so equipped or designed in such a manner that it can be determined by visual observation that the power is disconnected, except that the Secretary or his authorized representative may permit such devices to be installed at a greater distance from such area of the mine if he determines, based on existing physical conditions, that such installation will be more accessible at a greater distance and will not pose any hazard to the miners.

Kings Station supports its petition with the following argument:

30 CFR 75.802 provides that high-voltage circuits extending underground be grounded through a suitable resistor at the source transformers. At present, petitioner's power arrangement is such that it receives power at a transformer bank which steps down electricity from 43,000 to 2,300 volts. This

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transformer bank is located approximately 200 feet from petitioner's powerhouse containing switching gear for distribution of power to various circuits above and below ground. This powerhouse is approximately 100 feet from the point at which the cable supplying power to the rectifier station underground leaves the surface and goes underground. This underground circuit is grounded by a resistor located in the powerhouse, rather than at the source transformers.

Petitioner's present arrangement is due to the desirability of continuing to use the switch gear in the powerhouse which formerly generated power for the mine and other use in the area. When the use of mine-generated power was discontinued and power was purchased from outside sources, it was most feasible to continue to use the switch gear contained in the powerhouse. This resulted in the grounding of many circuits at the powerhouse rather than at the source transformers.

Petitioner avers that the grounding of high-voltage circuits extending underground at a point in petitioner's powerhouse, rather than at the source transformers, provides no less than the same measure of protection afforded to the miners by the provisions of 30 CFR 75.802.

Parties interested in this petition shall file their answer or comments and their request for a hearing, if they wish one, within 30 days from the date of publication of this notice in the FEDERAL REGISTER, with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, VA 22203. Copies of the petition are available for inspection at that address.

[SEAL] JAMES DAY,
Director,
Office of Hearings and Appeals.

OCTOBER 30, 1972.

[FR Doc.72-19075 Filed 11-7-72;8:50 am]

[Docket No. M 73-8]

OAK LEAF COAL COMPANY, INC.

Notice Regarding Modification of Mandatory Safety Standard

In regard petition of Oak Leaf Coal Company, Inc., for modification of a mandatory safety standard (30 CFR 75.313), Docket No. M 73-8, No. 4 Mine.

Notice is hereby given that Oak Leaf Coal Company, Inc., Box 10, Wharncliffe, WV 25651, has filed a petition to modify 30 CFR 75.313. The regulation in question provides:

Section 75.313 *Methane monitor.* The Secretary or his authorized representative shall require, as an additional device for detecting concentrations of methane, that a methane monitor, approved as reliable by the Secretary after March 30, 1970, be installed, when available, on any electric face cutting equipment, continuous miner, longwall face equipment, and loading machine, except that no monitor shall be required to be installed on any such equipment prior to the date on which such equipment is required to be permissible under §§ 75.500, 75.501, and 75.504. When installed on any such equipment, such monitor shall be kept operative and properly maintained and frequently tested as prescribed by the Secretary. The sensing device of such monitor shall be installed as close to the working face as practicable. Such monitor shall be set to deenergize automatically such equipment when such monitor is not operating properly and to give a warning automatically when the concentration of methane reaches a maximum percentage determined by an authorized representative of the Secretary which shall not be more than 1.0 volume percent of methane. An authorized representative of the Secretary shall require such monitor to deenergize automatically equipment on which it is installed when the concentration of methane reaches a maximum percentage determined by such representative which shall not be more than 2.0 volume percent of methane.

Oak Leaf Coal Company, Inc., makes the following statement in support of its petition:

• • • This mine is located above the water table, in a small remaining block of coal left as uneconomical to mine by previous mine-owners, and is in an area that contains multiple seams that has been mined since 1899. All the mines that have operated since that time have been considered nongaseous. From all information available, there has never been any methane found in any of these mines, nor have there been any mine fires or explosions. Oak Leaf Mine No. 4 mine has operated since December 2, 1971, and previous to that as the Lower Cedar Grove Coal Co. and also have never detected any concentrations of methane.

Parties interested in this petition shall file their answer or comments and their request for a hearing, if they wish one, within 30 days from the date of publication of this notice in the FEDERAL REGISTER, with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, VA 22203. Copies of the petition are available for inspection at that address.

JAMES DAY,
Director,
Office of Hearings and Appeals.

OCTOBER 30, 1972.

[FR Doc.72-19076 Filed 11-7-72;8:50 am]

National Park Service

BLUE RIDGE PARKWAY

Notice of Intention To Issue a Concession Permit

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Superintendent, Blue Ridge Parkway, proposes to issue a concession permit to Miss Grace Laffoon, the present concessioner who now manages the Brinegar Cabin, authorizing her to provide concession facilities and services for the public at Blue Ridge Parkway for a period of five (5) years from January 1, 1973, through December 31, 1977.

The foregoing concessioner has performed her obligations under a prior permit to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. However, under the Act cited above, the National Park Service is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Superintendent, Blue Ridge Parkway, Post Office Box 7606, Asheville, NC 28807, for information as to the requirements of the proposed permit.

Dated: August 17, 1972.

GRANVILLE B. LILES,
Superintendent, Blue Ridge Parkway.

[FR Doc.72-19077 Filed 11-7-72;8:50 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[NTIS Order No. EIS 72 5289 F]

WHEAT, FEED GRAIN, AND COTTON SET-ASIDE PROGRAMS

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the U.S. Department of Agriculture, Agricultural Stabilization and Conservation Service has prepared a final environmental statement for the Wheat, Feed Grain, and Cotton Set-Aside Programs, USDA-ASCS-ES-(ADM) 72-3.

The environmental statement discusses the Wheat, Feed Grain, and Cotton Set-Aside Programs which were established under the Agricultural Act of 1970. The Act instructs the Secretary of Agriculture to provide for a set-aside of cropland if he determines that the supply of wheat, feed grain, or cotton will likely be excessive. About 60 million acres have been set aside in 1972 and devoted to conserving uses approved for the program. The Act further authorized additional payments to participants who agree to permit public access for hunting, fishing, trapping, and hiking. A pilot public access program is being conducted in five counties in each of 10 designated States in 1972. Producers are to take measures determined appropriate to protect the set-aside acreage from erosion, insects, weeds, and rodents.

The final environmental statement was transmitted to CEQ on September 18, 1972.

Copies are also available from the Na during regular working hours at the following location:

USDA, Agricultural Stabilization and Conservation Service, South Agriculture Building, Room 3615, 12th Street and Independence Avenue SW., Washington, DC 20250.

Copies are also available from the National Technical Information Service,

U.S. Department of Commerce, Springfield, Va. 22151. Please refer to the name and number of statement above when ordering. Copies of the final statement have been sent to all agencies, organizations, and individuals who commented on the draft statement.

Signed at Washington, D.C., on November 1, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-19107 Filed 11-7-72;8:49 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-300]

GLOBE SEAWAYS, INC.

Notice of Multiple Applications

Notice is hereby given that applications have been filed under the Merchant Marine Act of 1936, as amended, for operating-differential subsidy with respect to bulk cargo carrying service in the U.S. foreign trade, principally between the United States and the Union of Soviet Socialist Republics, to expire on June 30, 1973 (unless extended only for subsidized voyages in progress on that date). Inasmuch as the below listed applicants, and/or related persons or firms, employ ships in the domestic, intercoastal or coastwise service, written permission of the Maritime Administration under section 805(a) of the Merchant Marine Act, 1936, as amended, will be required for each such Applicant if its application for operating-differential subsidy is granted.

The following Applicants have requested permission involving the domestic, intercoastal or coastwise services described below:

Name of applicants:

Globe Seaways, Inc. (Globe).
Ocean Transportation Co., Inc. (Ocean).
Overseas Oil Carriers, Inc. (Overseas).

Description of domestic service and vessels: The applicants, Globe, Ocean, and Overseas, are subsidiaries of Overseas Shipholding Group, Inc. (Shipholding), whose subsidiaries have engaged in domestic coastwise, intercoastal and non-contiguous petroleum trades with tanker vessels, and each applicant has requested written permission to continue such operations. The following tanker vessels are owned by the applicants and other subsidiaries of Shipholding:

Ship	*Owner*
OVERSEAS ALASKA	Intercontinental Bulktank Corporation
OVERSEAS ALICE	Intercontinental Bulktank Corporation
OVERSEAS ALEUTIAN	Ocean
OVERSEAS ULLA	Ocean
OVERSEAS ARCTIC	Overseas Bulktank Corporation
OVERSEAS VALDEZ	Overseas Bulktank Corporation
OVERSEAS JOYCE	Overseas
OVERSEAS REBECCA	Globe
OVERSEAS VIVIAN	Ocean Tankships Corporation
ALPHA RESERVE	Sea Tankers, Inc.
BETA RESERVE	Sea Tankers, Inc.
GAMMA RESERVE	Sea Tankers, Inc.

Written permission is now required by the applicants (Globe, Ocean, and Overseas) notwithstanding that a voyage in the proposed service for which subsidy is sought would not be eligible for subsidy if the vessel carried domestic commerce of the United States on that voyage.

Interested parties may inspect these applications in the Office of the Secretary, Maritime Subsidy Board, Maritime Administration, Department of Commerce Building, 14th and E Streets NW., Washington, DC 20235.

Any person, firm or corporation having any interest (within the meaning of section 805(a)) in any application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit comments or views concerning the application must, by close of business on November 15, 1972, file same with the Maritime Subsidy Board/Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board/Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled for 10 a.m., November 17, 1972, in Room 4896, Department of Commerce Building, 14th and E Streets NW., Washington, DC 20235. The purpose of the hearing will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal services, or (b) would be prejudicial to the objects and policy of the Act.

Dated: November 3, 1972.

By order of the Maritime Subsidy Board/Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.72-19162 Filed 11-7-72;8:51 am]

[Docket No. S-302]

HUDSON WATERWAYS CORP., ET AL.

Notice of Multiple Applications

Notice is hereby given that the following corporations have filed application for an operating-differential subsidy contract to carry bulk cargoes to expire on June 30, 1973 (unless extended only for subsidized voyages in progress on that date). The bulk cargo carrying vessels proposed to be subsidized and the trades in which each proposes to engage are presented also.

Operator's name and address	Type of ship	Name of ship
Hudson Waterways Corp., 1 Chase Manhattan Plaza, New York, NY 10005.	Tanker	SS Transerie.
	do	SS Transpanama.
	do	SS Transuperior.
Overseas Oil Carriers, Inc., 511 Fifth Ave., New York, NY 10017.	do	ST Overseas Joyce.
	Bulk carrier.	SS Overseas Progress.
Globe Seaways, Inc., 511 Fifth Ave., New York, NY 10017.	Tanker	ST Overseas Rebecca.
Ocean Transportation Co., Inc., 511 Fifth Ave., New York, NY 10017.	do	ST Overseas Aleutian.
	do	ST Overseas Ulla.

The foregoing applications may be inspected in the Office of the Secretary, Maritime Subsidy Board, Maritime Administration, U.S. Department of Commerce, Washington, DC, during regular working hours.

These vessels are to engage in the carriage of export bulk raw and processed agricultural commodities in the foreign commerce of the United States (U.S.) from ports in the U.S. to ports in the Union of Soviet Socialist Republics (U.S.S.R.), or other permissible ports of discharge. Liquid and dry bulk cargoes may be carried from U.S.S.R. and other foreign ports inbound to U.S. ports during voyages subsidized for carriage of export bulk raw and processed agricultural commodities to the U.S.S.R.

Full details concerning the U.S.-U.S.S.R. export bulk raw and processed agricultural commodities subsidy program, including terms, conditions and restrictions upon both the subsidized operators and vessels, appear in the regulations published in the FEDERAL REGISTER on October 21, 1972 (37 F.R. 22747).

For purposes of section 605(c), Merchant Marine Act, 1936, as amended (Act), it should be assumed that each vessel named will engage in the trades described on a full-time basis through June 30, 1973 (with extension to termination of approved subsidized voyages in progress on that date). Each voyage must be approved for subsidy before commencement of the voyage. The Maritime Subsidy Board (Board) will act on each request for a subsidized voyage as an administrative matter under the terms of the individual operating-differential subsidy contract for which there is no requirement for further notices under section 605(c) of the Act.

Any person having an interest in the granting of one or any of such applications and who would contest a finding of the Board that the service now provided by vessels of U.S. registry for the carriage of cargoes as previously specified is inadequate, must, on or before November 15, 1972, notify the Board's secretary, in writing, of his interest and of

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his position, and file a petition for leave to intervene in accordance with the Board's rules of practice and procedure (46 CFR Part 201). Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the act and with as much specificity as possible the facts that the intervenor would undertake to prove at such hearing. Further, each such statement shall identify the applicant or applicants against which the intervention is lodged.

In the event a hearing under section 605(c) of the Act is ordered to be held with respect to any application(s), the purpose of such hearing will be to receive evidence relevant to (1) whether the application(s) hereinabove described is one with respect to vessels to be operated in an essential service, served by citizens of the United States which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of U.S. registry is inadequate and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such action as may be deemed appropriate.

Dated: November 3, 1972.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.72-19164 Filed 11-7-72;8:51 am]

[Docket No. S-303]

MANHATTAN TANKERS CO., INC.

Notice of Multiple Applications

Notice is hereby given that applications have been filed under the Merchant Marine Act of 1936, as amended, for operating-differential subsidy with respect to bulk cargo carrying service in the U.S. foreign trade, principally between the United States and the Union of Soviet Socialist Republics, to expire on June 30, 1973 (unless extended only for subsidized voyages in progress on that date). Inasmuch as the below listed applicants, and/or related persons or firms, employ ships in the domestic, intercoastal, or coastwise service, written permission of the Maritime Administration under section 805(a) of the Merchant Marine Act, 1936, as amended, will be required for each such applicant if its application for operating-differential subsidy is granted.

The following applicants have requested permission involving the domestic, intercoastal, or coastwise services described below:

Name of applicants:

Manhattan Tankers Co., Inc. (Manhattan).
Transeastern Shipping Corp. (Transeastern).
Hudson Waterways Corp. (Hudson).

Description of domestic service and vessels: The applicants, Manhattan, Transeastern, and Hudson, are all affiliated with each other and with Seatrain Lines, Inc. (Seatrain), and Seatrain and its affiliates have engaged in the domestic trades shown below, and each applicant has requested written permission for the continuance, by Seatrain and other affiliated companies, of those services, as well as the right to move any vessel listed below from one domestic trade to another, and/or from a foreign trade(s) to a domestic trade(s) within the fiscal year period of the proposed operating-differential subsidy agreement. All of the vessels listed have coastwise privileges. The following are the vessels by type and an indication of those currently in the domestic trades:

Ship	Type	Current service
Seatrain Puerto Rico	Dry cargo (Military)	MSC.[1]
Seatrain Carolina	do	MSC.
Seatrain Florida	do	MSC.
Seatrain Maryland	do	MSC.
Seatrain Maine	do	MSC.
Seatrain Washington	do	MSC.
Seatrain Ohio	do	MSC.
Transcolorado	Dry cargo (heavy type)	MSC.
Transcolumbia	do	MSC.
Transpacific	C4 Conventional	MSC.
Transeastern	Tanker	
Erna Elizabeth	do	Time Charter (MSC).[1]
Transhuron	do	Time Charter (MSC).
Transidaho	Container C4	U.S. E.C./Puerto Rico.
Transoregon	do	Do.
Transhawaii	do	Do.
Seatrain San Juan	Container T2	Do.
Seatrain Delaware	do	Do.
Transindiana	do	U.S. Pacific Coast/Hawaii.
Transchamplain	Container mission tanker	Do.
Transonelda	Container T2	
Transontario	do	
Seatrain Georgia	do	
Seatrain Louisiana	do	
Manhattan	Tanker	
Transglobe	Ro/Ro	
Transerie	Tanker	
Transpanama	do	
Transsuperior	do	

[1] The vessels chartered to MSC are presently under contract to MSC for periods of up to 5 years and their operations are consequently not under the control of their owners.

Written permission is now required by the applicants (Manhattan, Transeastern, and Hudson) notwithstanding that a voyage in the proposed service for which subsidy is sought would not be eligible for subsidy if the vessel carried domestic commerce of the United States on that voyage.

Interested parties may inspect these applications in the Office of the Secretary, Maritime Subsidy Board, Maritime Administration, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20235.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in any application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit comments or views concerning the application must, by close of business on November 15, 1972, file same with the Maritime Subsidy Board/Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board/Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled for 10 a.m., November 17, 1972, in Room 4896, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20235. The purpose of the hearing will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal services, or (b) would be prejudicial to the objects and policy of the Act.

By order of the Maritime Subsidy Board/Maritime Administration.

Dated: November 3, 1972.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.72-19165 Filed 11-7-72;8:51 am]

[Docket No. S-301]

WABASH TRANSPORT, INC., ET AL.

Notice of Multiple Applications

Notice is hereby given that the following corporations have filed application for an operating-differential subsidy contract to carry bulk cargoes to expire on June 30, 1973 (unless extended only for subsidized voyages in progress on that date). The bulk cargo carrying vessels proposed to be subsidized and the trades in which each proposes to engage are presented also.

Operator's name and address	Type of ship	Name of ship
Wabash Transport, Inc., c/o Ogden Marine, Inc., 2 Pennsylvania Plaza, New York, NY 10001.	Tanker	ST Ogden Wabash.
Willamette Transport, Inc., c/o Ogden Marine, Inc., 2 Pennsylvania Plaza, New York, NY 10001.	do	ST Ogden Willamette.
Connecticut Transport, Inc., c/o Ogden Marine, Inc., 2 Pennsylvania Plaza, New York, NY 10001.	do	ST Connecticut.
Keystone Shipping Co., 1 Chestnut St., Philadelphia, PA 19106.	do	SS Perryville.
Keystone Tankship Corp., c/o Keystone Shipping Co., Agent, 1 Chestnut St., Philadelphia, PA 19106.	do	SS Keytanker.
	do	Do.
	do	SS Ticonderoga.
Plaza Shipping, Inc., Suite 900, 1414 Avenue of the Americas, New York, N Y 10019.	do	ST Julie.

The foregoing applications may be inspected in the Office of the Secretary, Maritime Subsidy Board, Maritime Administration, U.S. Department of Commerce, Washington, D.C., during regular working hours.

These vessels are to engage in the carriage of export bulk raw and processed agricultural commodities in the foreign commerce of the United States (U.S.) from ports in the U.S. to ports in the Union of Soviet Socialist Republics (U.S.S.R.), or other permissible ports of discharge. Liquid and dry bulk cargoes may be carried from U.S.S.R. and other foreign ports inbound to U.S. ports during voyages subsidized for carriage of export bulk raw and processed agricultural commodities to the U.S.S.R.

Full details concerning the U.S.–U.S.S.R. export bulk raw and processed agricultural commodities subsidy program, including terms, conditions, and restrictions upon both the subsidized operators and vessels, appear in the regulations published in the FEDERAL REGISTER on October 21, 1972 (37 F.R. 22747).

For purposes of section 605(c), Merchant Marine Act, 1936, as amended (Act), it should be assumed that each vessel named will engage in the trades described on a full-time basis through June 30, 1973 (with extension to termination of approved subsidized voyages in progress on that date). Each voyage must be approved for subsidy before commencement of the voyage. The Maritime Subsidy Board (Board) will act on each request for a subsidized voyage as an administrative matter under the terms of the individual operating-differential subsidy contract for which there is no requirement for further notices under section 605(c) of the Act.

Any person having an interest in the granting of one or any of such applications and who would contest a finding of the Board that the service now provided by vessels of U.S. registry for the carriage of cargoes as previously specified is inadequate, must, on or before November 15, 1972, notify the Board's Secretary, in writing, of his interest and of his position, and file a petition for leave to intervene in accordance with the Board's rules of practice and procedure (46 CFR Part 201). Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Act and with as much specificity as possible the facts that the intervenor would undertake to prove at such hearing. Further, each such statement shall identify the applicant or applicants against which the intervention is lodged.

In the event a hearing under section 605(c) of the Act is ordered to be held with respect to any application(s), the purpose of such hearing will be to receive evidence relevant to: (1) Whether the application(s) hereinabove described is one with respect to vessels to be operated in an essential service, served by citizens of the U.S. which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of U.S. registry is inadequate and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such action as may be deemed appropriate.

Dated: November 3, 1972.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.72-19163 Filed 11-7-72;8:51 am]

Office of Import Programs

HARVARD MEDICAL SCHOOL

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00421-33-46040. Applicant: Harvard Medical School, 25 Shattuck Street, Boston, MA 02115. Article: Electron Microscope, Model JEM-100B. Manufacturer: JEOL, Ltd., Japan. Intended use of article: The article is intended to be used as the primary instrument for various studies by the Department of Anatomy. The materials to be examined will be biological specimens, ranging from micro-organisms to man. Some of the studies to be undertaken are:

a. Fine structure of the parietal cell correlated with its secretory activity,

b. Study of gastric muscous biosynthesis and its role in the stomach,

c. Study of gastric mucosal architecture by freeze etch techniques, and

d. Comparative study of gastric mucosal fine structure of various mammalian and other vertebrate species.

Other studies in which the article will be used include:

1. Ultrastructural study of the testis,

2. Ultrastructural characterization of Rickettsia prowazeki in the intestinal epithelium of the body louse,

3. Studies on cell to cell associations and cell surfaces by electron microscopy after treatment with digestive enzymes,

4. Electron microscopy of sea urchin egg fertilization and early cleavage stages, and

5. Morphological aspects of fat and ferritin absorption in the intestinal epithelium of fish and some mammals.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article has a specified resolving capability of 3.0 Angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C has a specified resolving capability of 5 Angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolving capability.)

We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated October 6, 1972, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-19093 Filed 11-7-72;8:49 am]

JOHNS HOPKINS UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural

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Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 73-00094-56-17500. Applicant: The Johns Hopkins University, Purchasing Department, Charles and 34th Streets, Baltimore, Md. 21218. Article: Recording Current Meter Model No. 4. Manufacturer: Ivar Aanderaa, Norway. Intended use of article: The article is intended to be used to determine the dominate physical processes controlling the circulation in the Chesapeake Bay region by measurement of the water temperature and salinity at various levels above some arbitrary datum plane.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: This application is a resubmission of Docket No. 72-00472-81-17500 which was denial without prejudice to resubmission for informational deficiencies. The foreign article is a self-contained instrument providing the capabilities for measuring water current speed, water current direction, water temperature, water conductivity (salinity), and unattended operation for periods up to 6 months. We are advised by the National Bureau of Standards (NBS) in its memorandum dated October 18, 1972, that the requirement for a self-contained instrument capable of measuring the various parameters described above and unattended operation for periods up to 6 months is pertinent to the purposes for which the article is intended to be used. NBS also advises that it knows of no domestically manufactured instrument which is scientifically equivalent to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-19094 Filed 11-7-72;8:49 am]

NORTH CAROLINA DEPARTMENT OF MENTAL HEALTH ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6 (c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulation issued under cited Act, as published in the February 24, 1972, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 73-00183-33-46500. Applicant: North Carolina Department of Mental Health, Research Division, Embryology Laboratory, Station B, Box 7532, Raleigh, NC 27611. Article: Ultramicrotome, Model "OmU2". Manufacturer: C. Reichert Optische Werke AG, Austria. Intended use of article: The article is intended to be used for thin-sectioning and ultrathin-sectioning of embryonal brain and srinal cord of chickens for electron microscopy in order to study fine structural changes due to the experimental manipulations. Application received by Commissioner of Customs: October 11, 1972.

Docket No. 73-00184-33-03400. Applicant: The University of Tennessee, Department of Audiology and Speech Pathology, South Stadium Hall, Knoxville, Tenn. 37916. Article: Mini-suvag hearing aid. Manufacturer: Service European De Diffusion Des Inventories, S.A., France. Intended use of article: The article is intended to be used to examine the effect of utilizing this low-frequency hearing aid with preschool deaf children. In addition, the article will be used in courses in diagnostics and aural rehabilitation of the deaf. Application received by Commissioner of Customs: October 5, 1972.

Docket No. 73-00186-33-46040. Applicant: University of Wisconsin-Stevens Point, Department of Biology, Stevens Point, Wis. 54481. Article: Electron microscope, Model HS-8. Manufacturer: Hitachi Perkin-Elmer, Japan. Intended use of article. The article is intended to be used to examine embryonic hearts of chicks and rats at appropriate stages of development to determine the mechanism of formation of the interventricular septum and the atrioventricular valves. In addition, studies of structural features of plant cells and tissues which characterize organisms with long life spans, and effects of conditions such as hormones and environment on reversal of the aging process will be carried out. The article is also intended to be used in teaching undergraduates (juniors and seniors) electron microscopic techniques and the interpretation of fine structure. Application received by Commissioner of Customs: October 5, 1972.

Docket No. 73-00187-33-46040. Applicant: Washington University (Ophthalmology Department), 660 South Euclid Avenue, St. Louis, MO 63110. Article: Electron microscope, Model JEM-100B and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for research on the visual system directed at elucidation of the processes involved in photoreception which requires the study of microscopic sections of the rods and cones of the retina at high resolution following exposure to light or darkness or to various chemical or physical agents. The article will also be used to train investigators in visual research. Application received by Commissioner of Customs: October 11, 1972.

Docket No. 73-00188-33-46040. Applicant: New York University School of Medicine, Department of Cell Biology, 550 First Avenue, New York, NY 10016. Article: Electron microscope, Model JEM 100B and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in high resolution cytochemical studies which include the following:

(1) The study of ribosomes and microsomes from human fibroblasts (WI-38 cells) and rat hepatocytes.

(2) The structural organization of the secretory apparatus of the liver, adrenal glands, and exocrine glands.

(3) Localization of 3B-hydroxysteroid dehydrogenase bycovtochemistry at the electron microscope level. Application received by Commissioner of Customs: October 6, 1972.

Docket No. 73-00190-33-46040. Applicant: Harvard School of Dental Medicine, Department of Oral Medicine and Oral Pathology, 188 Longwood Avenue, Boston, MA 02115. Article: Electron microscope, Model Corinth 295. Manufacturer: AEI Scientific Industries, United Kingdom. Intended use of article: The article is intended to be used for the fine structural study of a variety of experimental models of human oral carcinoma to learn more about the cause and control and to study basic mechanisms in the following existing four-model systems in hamster oral mucosa currently being used in the laboratory:

(a) Well-differentiated epidermoid carcinoma of hamster buccal pouch induced by painting with DMBA;

(b) Anaplastic epidermoid carcinoma of hamster buccal pouch induced by painting with DMBA and simultaneous systemic administration of methotrexate of fluorouracil;

(c) Regression of anaplastic epidermoid carcinoma of hamster buccal pouch induced by azathioprine;

(d) Epidermoid carcinoma of hamster gingiva induced by painting with DMBA and adhesion to mucosa with cyanoacrylate.

The article will also be used in the training of graduate students and postdoctoral fellows in the department. The courses utilizing the article will be "graduate oral pathology" and "experimental oral pathology" dealing with the structure and ultrastructure of oral disease in human beings and the structure and ultrastructure of experimental oral disease patterns in animals.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-19095 Filed 11-7-72;8:50 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

ALLOTMENT RATIOS FOR VOCATIONAL EDUCATION ACT OF 1963

Promulgation

Pursuant to section 103(d)(2) of the Vocational Educational Act of 1963, as amended (20 U.S.C. 1243), the following allotment ratios were computed for the purpose of making grants under Parts B and C of title I of the Act to each of the States, the District of Columbia, American Samoa, Guam, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the Virgin Islands, and are hereby promulgated for the fiscal year ending June 30, 1974:

Alabama	.6000
Alaska	.4200
Arizona	.5401
Arkansas	.6000
California	.4363
Colorado	.5125
Connecticut	.4000
Delaware	.4392
Florida	.5342
Georgia	.5716
Hawaii	.4323
Idaho	.5884
Illinois	.4261
Indiana	.5113
Iowa	.5270
Kansas	.5020
Kentucky	.6000
Louisiana	.6000
Maine	.5919
Maryland	.4574
Massachusetts	.4505
Michigan	.4643
Minnesota	.5134
Mississippi	.6000
Missouri	.5282
Montana	.5659
Nebraska	.5161
Nevada	.4219
New Hampshire	.5408
New Jersey	.4203
New Mexico	.6000
New York	.4000
North Carolina	.5918
North Dakota	.5926
Ohio	.4922
Oklahoma	.5788
Oregon	.5251
Pennsylvania	.5008
Rhode Island	.5020
South Carolina	.6000
South Dakota	.5935
Tennessee	.6000
Texas	.5498
Utah	.5914
Vermont	.5614
Virginia	.5380
Washington	.4897
West Virginia	.6000
Wisconsin	.5287
Wyoming	.5345
District of Columbia	.4000
American Samoa	.6000
Guam	.6000
Puerto Rico	.6000
Trust Territory of the Pacific Islands	.6000
Virgin Islands	.6000

Dated: October 27, 1972.

S. P. MARLAND, Jr.,
Commissioner of Education.

[FR Doc.72-19099 Filed 11-7-72;8:45 am]

BUREAU OF EDUCATION FOR THE HANDICAPPED

Notice of Closing Date for Receipt of Applications

Pursuant to the authority contained in sections 631 and 634 of the Education of the Handicapped Act (84 Stat. 175, 184, 185, 20 U.S.C. 1431, 1434), notice is hereby given that the U.S. Commissioner of Education has established a final closing date for receipt of applications for training grants (except special projects) under Part D of the Act by institutions of higher education. Such applications must be postmarked on or before the 30th day following the publication of this notice in the FEDERAL REGISTER.

Regulations governing such grants and other programs and projects authorized under Part D of the Act are being developed, and will be published in the FEDERAL REGISTER as notice of proposed rule making, subject to public comment, as soon as they have been completed.

Dated: November 1, 1972.

S. P. MARLAND, Jr.,
Commissioner of Education.

[FR Doc.72-19100 Filed 11-7-72;8:46 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 72-219PH]

PROPOSED FIXED BRIDGE ACROSS RARITAN RIVER, CITY OF NEW BRUNSWICK AND PISCATAWAY TOWNSHIP, MIDDLESEX COUNTY, N.J.

Notice of Public Hearing

Notice is hereby given that the Commandant has authorized a public hearing to be held by Commander, Third Coast Guard District, at 7:30 p.m. on December 14, 1972 in the auditorium of the New Brunswick High School, Livingston Avenue, between Ninth and 12th Street, New Brunswick, N.J.

The purpose of the public hearing is to consider the application from the New Jersey Department of Transportation for approval of location and plans for construction of a fixed highway bridge across the Raritan River, approximately 14.2 miles above its mouth. The State of New Jersey proposes to extend existing Route 18 from a point commencing about 250 feet north of New Street, New Brunswick, to River Road in Piscataway Township, Middlesex County, N.J. The proposed right-of-way in New Brunswick generally parallels the Raritan River to a point adjacent to the junction of College Avenue and George Street. At this point the highway curves and crosses the Raritan River on a bridge which will provide navigational clearances of 27.25 feet vertically when measured from mean high water to the underside of the low girders in the southerly river span, and 177 feet horizontally when measured normal to the river flow between faces of the pier shafts. The proposed extension then continues through a section of Johnson Park and connection with the existing River Road through a cloverleaf interchange in Piscataway Township.

Interested parties were given an opportunity to submit written comments on the application to the Commander, Third Coast Guard District, by Public Notice No. 3-150 dated August 31, 1972, and to the applicant's environmental analysis and report of the proposed project.

Responses to the notice and to the applicant's environmental analysis and report indicated that this proposed project is controversial and many interested persons requested a public hearing in order to more fully present their views.

This hearing is being held to hear views and gather any additional data and information that may be available from the general public, not already submitted, concerning the impact of the proposed bridge project on navigation and the quality of the human environment. Accordingly interested persons may present data, views, and comments, oral or in writing, at the public hearing. This hearing will concern navigation, public recreation areas, wildlife and waterfowl refuges, public parks and historical sites which are of national, State, or local significance and any other factors which may affect the quality of the human environment.

In preparing comments interested parties may desire to review and comment on the applicant's environmental analysis and report. Copies are available and may be viewed at the following location from 9:30 a.m. to 4:30 p.m., Monday through Friday until December 14, 1972.

Mr. William J. Cahill, Clerk, City of New Brunswick, 78 Bayard Street, New Brunswick, NJ 08903.

Mrs. Ann Nolan, Clerk, Piscataway Township, 455 Hoes Lane, Piscataway, NJ 08854.

Mr. William F. Ducca, Clerk, Highland Park Borough, 21 South Fourth Avenue, Highland Park, NJ 08904.

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Mr. Douglas S. Powell, Director, Middlesex County Planning Board, County Administration Building, J. F. Kennedy Square, New Brunswick, N.J. 08903.
Head Librarian, Rutgers University Library, New Brunswick, N.J. 08901.
Head Librarian, New Brunswick Public Library, 60 Livingston Avenue, New Brunswick, NJ 08901.
Editor, New Brunswick Home News, 123 How Lane, New Brunswick, NJ 08903.
Commander (oan), Third Coast Guard District, Building 135A, Governors Island, New York, N.Y. 10004.

Information received at the public hearing will be carefully evaluated. This information may be used in the preparation of a draft environmental impact statement of the project which will be prepared by the Coast Guard and circulated for comment in accordance with the provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (83 Stat. 853).

The hearing will be informal and will be conducted by a representative of the Commander, Third Coast Guard District. He will make an opening statement presenting a brief summary of the proposed bridge project and will outline the procedures for the conduct of the hearing. A transcript will be made of the hearing and may be purchased by the public.

Interested persons who are unable to attend the hearing may also participate in this procedure by submitting written comments, data, views, or arguments as they may desire on or before December 29, 1972. All submissions should be directed to the Commander, Third Coast Guard District (oan), Governors Island, New York, N.Y. 10004. Each communication received within the time specified will be fully considered and evaluated before final action is taken.

After the time established for submission of comments by all interested parties, the Commander, Third Coast Guard District will forward the record, including all written submissions, and his recommendations with respect to the proposed bridge project to the Commandant, U.S. Coast Guard, Washington, D.C. 20590. The Commandant will make the final determination on the bridge permit.

Dated: November 2, 1972.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.72-19124 Filed 11-7-72;8:45 am]

[CGD 72-220N]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Termination of Approval Notice

1. Certain laws and regulations (46 CFR Ch. I) require that various items of lifesaving, firefighting, and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the Outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described during the period from December 22, 1971, to September 11, 1972 (List No. 29-72). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (46 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. Notwithstanding the termination of approval listed in this document, the equipment affected may be used as long as it remains in good and serviceable condition.

LIFEBOATS

The Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, N.J. 07727, Approval Nos. 160.035/208/5 and 160.035/285/2 expired and were terminated effective August 10, 1972.

The Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, N.J. 07727, Approval Nos. 160.035/216/4 and 160.035/270/3 expired and were terminated effective June 15, 1972.

The Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, N.J. 07727, Approval Nos. 160.035/246/3 and 160.035/284/3 expired and were terminated effective April 10, 1972.

The Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, N.J. 07727, Approval Nos. 160.035/271/2, 160.035/274/3, and 160.035/350/2 expired and were terminated effective August 14, 1972.

The Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, N.J. 07727, Approval No. 160.035/358/1 expired and was terminated effective January 13, 1972.

The Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, N.J. 07727, Approval No. 160.035/360/1 expired and was terminated effective June 16, 1972.

The Lane Lifeboat and Davit Corp., 150 Sullivan Street, Brooklyn, NY 11231, Approval No. 160.035/388/1 expired and was terminated effective December 22, 1971.

The Lane Lifeboat and Davit Corp., 150 Sullivan Street, Brooklyn, NY 11231, Approval No. 160.035/451/0 expired and was terminated effective January 10, 1972.

BUOYANT VESTS, UNICELLULAR PLASTIC FOAM

NOTE: For motorboats of Classes A, 1, or 2 not carrying passengers for hire.

The Billy Boy Products, Inc., Quincy, Mich. 49082, no longer manufactures certain unicellular plastic foam buoyant vests for the Bulldog Marine Products, Inc., 5825 South Western Avenue, Chicago, IL 60636, and Approval Nos. 160.052/280/0, 160.052/281/0, and 160.052/282/0 were therefore terminated effective September 11, 1972.

Dated: November 1, 1972.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.72-19125 Filed 11-7-72;8:45 am]

National Highway Traffic Safety Administration

[Docket No. 70-12; Notice 16]

TIRE SIZE CODES

The purpose of this notice is to publish an updated list of tire size codes assigned by the National Highway Traffic Safety Administration in accordance with the Tire Identification and Record Keeping regulation, 49 CFR Part 574 (36 F.R. 1196).

The Tire Identification and Record Keeping regulation requires that a tire identification number be placed on new and retreaded tires, and that the second grouping of the number be a code that identifies the tire size or, in the case of a retreaded tire, the tire matrix. New tire manufacturers have up to now been required to use a specific tire size code assigned to the tire size by the NHTSA. Because of the number of new tire sizes being introduced into the market, the possible combinations of letters and numbers have been virtually exhausted.

In order to accommodate new tire sizes, the regulation is being amended by notice published elsewhere in this issue (37 F.R. 23727), to allow each tire manufacturer to assign a two-symbol size code of his own choice, rather than having the number assigned by the agency. However, it is urged that manufacturers maintain the assigned tire size code for existing tire sizes, and that they reuse obsolete tire size codes for new sizes wherever possible.

For convenience of reference, an updated list of the tire size codes assigned by the NHTSA is published below for the information and guidance of tire manufacturers.

This notice is issued under the authority of sections 103, 113, 119, 201, and 1402, 1407, 1421, and 1426; and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.

Issued on October 26, 1972.

ROBERT L. CARTER,
Associate Administrator, Motor Vehicle Programs.

SIZE CODE FOR MOTOR VEHICLE TIRES

Tire size code:	Tire size designation [1]
AA	4.00-4
AB	3.50-4
AC	3.00-5
AD	4.00-5
AE	3.50-5
AF	6.90-6
AH	3.00-8
AJ	3.50-6
AK	4.10-6
AL	4.50-6
AM	5.30-6
AN	6.00-6
AP	3.25-8
AT	3.50-8
AU	3.00-7
AV	4.00-7
AW	4.80-7
AX	5.30-7
AY	5.00-8
A1	H60-14
A2	4.00-8
A3	4.80-8
A4	5.70-8
A5	16.5 x 6.5-8
A6	18.5 x 8.5-8
A7	CR70-14
A8	2.75-9
A9	4.80-9
BA	6.00-9
BB	6.90-9
BC	3.50-9
BD	4.00-10
BE	3.00-10
BF	3.50-10
BH	5.20-10
BJ	5.20 R 10
BK	5.9-10
BL	5.90-10
BM	6.50-10
BN	7.00-10
BP	7.50-10
BT	9.00-10
BU	20.5 x 8.0-10
BV	145-10
BW	145 R 10
BX	145-10/5.95-10
BY	4.50-10 LT [2]
B1	5.00-10 LT
B2	3.00-12
B3	4.00-12
B4	4.50-12
B5	4.80-12
B6	5.00-12
B7	5.00 R 12
B8	5.20-12
B9	5.20-12 LT
CA	5.20 R 12
CB	5.30-12
CC	5.50-12
CD	5.50-12 LT
CE	5.50 R 12
CF	5.60-12
CH	5.60-12 LT
CJ	5.60 R 12
CK	5.9-12
CL	5.90-12
CM	6.00-12
CN	6.00-12 LT

[1] The letters "H," "S," and "V" may be included in the tire size designation adjacent to or in place of a dash without affecting the size code for the designation.
[2] As used in this table the letters at the end of the tire size indicate the following: LT—Light Truck, ML—Mining and Logging, MH—Mobile Home, ST—Special Trailer.

Tire size code:	Tire size designation [1]
CP	6.2-12
CT	6.20-12
CU	6.90-12
CV	23.5 x 8.5-12
CW	125-12
CX	125 R 12
CY	125-12/5.35-12
C1	135-12
C2	135 R 12
C3	135-12/5.65-12
C4	145-12
C5	145 R 12
C6	145-12/5.95-12
C7	155-12
C8	155 R 12
C9	155-12/6.15-12
DA	4.80-10
DB	3.25-12
DC	3.50-12
DD	4.50-12 LT
DE	5.00-12 LT
DF	7.00-12
DH	5.00-13
DJ	5.00-13 LT
DK	5.00 R 13
DL	5.20-13
DM	5.20 R 13
DN	5.50-13
DP	5.50-13 LT
DT	5.50 R 13
DU	5.60-13
DV	5.60-13 LT
DW	5.60 R 13
DX	5.90-13
DY	5.90-13 LT
D1	5.90 R 13
D2	6.00-13
D3	6.00-13 LT
D4	6.00 R 13
D5	6.2-13
D6	6.20-13
D7	6.40-13
D8	6.40-13 LT
D9	6.40 R 13
EA	6.50-13
EB	6.50-13 LT
EC	6.50-13 ST
ED	6.50 R 13
EE	6.70-13
EF	6.70-13 LT
EH	6.70 R 13
EJ	6.9-13
EK	6.90-13
EL	7.00-13
EM	7.00-13 LT
EN	7.00 R 13
EP	7.25-13
ET	7.25 R 13
EU	7.50-13
EV	135-13
EW	135 R 13
EX	135-13/5.65-13
EY	145-13
E1	145 R 13
E2	145-13/5.95-13
E3	150 R 13
E4	155-13
E5	155 R 13
E6	155-13/6.15-13
E7	160 R 13
E8	165-13
E9	165 R 13
FA	165-13/6.45-13
FB	165/70 R 13
FC	170 R 13
FD	175-13
FE	175 R 13
FF	175-13/6.95-13
FH	175/70 R 13
FJ	185-13
FK	185 R 13
FL	185-13/7.35-13
FM	185/70 R 13
FN	195-13
FP	195 R 13
FT	195/70 R 13
FU	D70-13
FV	B78-13
FW	BR78-13
FX	C78-13
FY	7.50-12
F1	140 R 12
F2	6.5-13
F3	185/60 R 13
F4	A70-13
F5	A78-13
F6	CR78-13
F7	2.25-14
F8	2.75-14
F9	3.00-14
HA	6.70-14 LT
HB	165-14 LT
HC	2.50-14
HD	5.00-14 LT
HE	5.20-14
HP	5.20 R 14
HH	5.50-14 LT
HJ	5.60-14
HK	5.90-14
HL	5.90-14 LT
HM	5.90 R 14
HN	6.00-14
HP	6.00-14 LT
HT	6.40-14
HU	6.40-14 LT
HV	6.45-14
HW	6.50-14
HX	6.50-14 LT
HY	6.70-14
H1	6.95-14
H2	7.00-14
H3	7.00-14 LT
H4	7.00 R 14
H5	7.35-14
H6	7.50-14
H7	7.50-14 LT
H8	7.50 R 14
H9	7.75-14
JA	7.75-14 ST
JB	8.00-14
JC	8.25-14
JD	8.50-14
JE	8.55-14
JF	8.85-14
JH	9.00-14
JJ	9.50-14
JK	135-14
JL	135 R 14
JM	135-14/5.65-14
JN	145-14
JP	145 R 14
JT	145-14/5.95-14
JU	155-14
JV	155 R 14
JW	155-14/6.15-14
JX	155/70 R 14
JY	165-14
J1	165 R 14
J2	175-14
J3	175 R 14
J4	185-14
J5	185 R 14
J6	185/70 R 14
J7	195-14
J8	195 R 14
J9	195/70 R 14
KA	205-14
KB	205 R 14
KC	215-14
KD	215 R 14
KE	225-14
KP	225 R 14
KH	620 R 14
KJ	690 R 14
KK	AR78-13
KL	195-14 LT
KM	185-14 LT
KN	A80-22.5
KP	B80-22.5
KT	C80-22.5
KU	D80-22.5
KV	E80-22.5
KW	F60-14
KX	G60-14
KY	J60-14
K1	L60-14

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Tire size code:	Tire size designation [1]
K2	F80–22.5
K3	G80–22.5
K4	H80–22.5
K5	J80–22.5
K6	A80–24.5
K7	B80–24.5
K8	BR78–14
K9	D70–14
LA	DR70–14
LB	E70–14
LC	ER70–14
LD	F70–14
LE	FR70–14
LF	G70–14
LH	GR70–14
LJ	H70–14
LK	HR70–14
LL	J70–14
LM	JR70–14
LN	L70–14
LP	LR70–14
LT	C80–24.5
LU	D80–24.5
LV	E80–24.5
LW	F80–24.5
LX	G77–14
LY	B78–14
L1	C78–14
L2	CR78–14
L3	D78–14
L4	DR78–14
L5	E78–14
L6	ER78–14
L7	F78–14
L8	FR78–14
L9	G78–14
MA	GR78–14
MB	H78–14
MC	HR78–14
MD	J78–14
ME	JR78–14
MF	205–14 LT
MH	G80–24.5
MJ	H80–24.5
MK	7–14.5
ML	8–14.5
MM	9–14.5
MN	6.60 R 15
MP	2.00–15
MT	2.25–15
MU	2.50–15
MV	3.00–15
MW	3.25–15
MX	5.0 –15
MY	5.20–15
M1	5.5 –15
M2	5.50–15 L
M3	5.50–15 LT
M4	5.60–15
M5	5.60 R 15
M6	5.90–15
M7	5.90–15 LT
M8	6.00–15
M9	6.00–15 L
NA	6.00–15 LT
NB	6.2 –15
NC	6.40–15
ND	6.40–15 LT
NE	6.40 R 15
NF	6.50–15
NH	6.50–15 L
NJ	6.50–15 LT
NK	6.70–15
NL	6.70–15 LT
NM	6.70 R 15
NN	6.85–15
NP	6.9 –15
NT	7.00–15
NU	7.00–15 L
NV	7.00–15 LT
NW	7.10–15
NX	7.10–15 LT
NY	7.35–15
N1	7.50–15
N2	7.60–15
N3	7.60 R 15
N4	7.75–15
N5	7.75–15 ST
N6	8.00–15
N7	8.15–15
N8	8.20–15
N9	8.25–15
PA	8.25–15 LT
PB	8.45–15
PC	8.55–15
PD	8.85–15
PE	8.90–15
PF	9.00–15
PH	9.00–15 LT
PJ	9.15–15
PK	10–15
PL	10.00–15
PM	7.50–15 LT
PN	7.00–15 TR
PP	8.25–15 TR
PT	9.00–15 TR
PU	7.50–15 TR
PV	125–15
PW	125 R 15
PX	125–15/5.35–15
PY	135–15
P1	135 R 15
P2	135–15/5.65–15
P3	145–15
P4	145 R 15
P5	145–15/5.95–15
P6	155–15
P7	155 R 15
P8	155–15/6.35–15
P9	165–15
TA	165–15 LT
TB	165 R 15
TC	175–15
TD	175 R 15
TE	175–15/7.15–15
TF	175/70 R 15
TH	180–15
TJ	185–15
TK	185 R 15
TL	185/70 R 15
TM	195–15
TN	195 R 15
TP	205–15
TT	205 R 15
TU	215–15
TV	215 R 15
TW	225–15
TX	225 R 15
TY	235–15
T1	235 R 15
T2	J80–24.5
T3	ER60–15
T4	D78–13
T5	A78–15
T6	DR70–13
T7	HR60–15
T8	E60–14
T9	205/70 R 14
UA	215/70 R 14
UB	H60–15
UC	E60–15
UD	F60–15
UE	FR60–15
UF	G60–15
UH	GR60–15
UJ	J60–15
UK	L60–15
UL	4.60–15
UM	2.75–15
UN	2.50–9
UP	2.50–10
UT	5.00–9
UU	6.7–10
UV	C70–15
UW	D70–15
UX	DR70–15
UY	E70–15
U1	ER70–15
U2	F70–15
U3	FR70–15
U4	G70–15
U5	GR70–15
U6	H70–15
U7	HR70–15
U8	J70–15
U9	JR70–15
VA	K70–15
VB	KR70–15
VC	L70–15
VD	LR70–15
VE	17–400 TR
VP	185–300 TR
VH	185–300 LT
VJ	AR78–15
VK	BR78–15
VL	C78–15
VM	D78–15
VN	E78–15
VP	ER78–15
VT	F78–15
VU	FR78–15
VV	G78–15
VW	GR78–15
VX	H78–15
VY	HR78–15
V1	J78–15
V2	JR78–15
V3	L78–15
V4	LR78–15
V5	N78–15
V6	17–15 (17–380 LT)
V7	17–400 LT
V8	11–15
V9	11–16
WA	L84–15
WB	11.00–15
WC	2.25–16
WD	2.50–16
WE	3.00–16
WP	3.25–16
WH	3.50–16
WJ	5.00–16
WK	5.10–16
WL	5.50–16 LT
WM	6.00–16
WN	6.00–16 LT
WP	6.50–16
WT	6.50–16 LT
WU	6.70–16
WV	7.00–16
WW	7.00–16 LT
WX	7.50–16
WY	7.50–16 LT
W1	8.25–16
W2	9.00–16
W3	10–16
W4	8.25–16 LT
W5	9.00–16 LT
W6	11.00–16
W7	19–400C
W8	165–400
W9	235–16
XA	185–16
XB	19–400 LT
XC	G45C–16
XD	E50C–16
XE	F50C–16
XF	7.00–16 TR
XH	7.50–16 TR
XJ	8.00–16.5
XK	8.75–16.5
XL	9.50–16.5
XM	10–16.5
XN	12–16.5
XP	185 R 16
XT	4.50–17
XU	2.00–17
XV	2.25–17
XW	2.50–17
XX	2.75–17
XY	3.00–17
X1	3.25–17
X2	3.50–17
X3	6.50–17
X4	6.50–17 LT
X5	7.00–17
X6	7.50–17
X7	8.25–17
X8	7.50–17 LT
X9	225/70 R 14
YA	G50C–17
YB	H50C–17
YC	195/70 R 15

Tire size code:	Tire size designation [1]
YD	4.20–18
YE	8–17.5 LT
YF	11–17.5
YH	7–17.5
YJ	8–17.5
YK	8.5–17.5
YL	9.5–17.5
YM	10–17.5
YN	14–17.5
YP	9–17.5
YT	205/70 R 15
YU	2.25–18
YV	2.50–18
YW	2.75–18
YX	3.00–18
YY	3.25–18
Y1	3.50–18
Y2	4.00–18
Y3	4.50–18
Y4	6.00–18
Y5	7.00–18
Y6	7.50–18
Y7	8.25–18
Y8	9.00–18
Y9	10.00–18
1A	11.00–18
1B	6.00–18 LT
1C	6.00–20 LT
1D	L50C–18
1E	7.00–18 LT
1P	12–19.5
1H	2.00–19
1J	2.25–19
1K	2.50–19
1L	2.75–19
1M	3.00–19
1N	3.25–19
1P	3.50–19
1T	4.00–19
1U	11.00–19
1V	9.5–19.5
1W	10–19.5
1X	11–19.5
1Y	7–19.5
11	7.5–19.5
12	8–19.5
13	9–19.5
14	14–19.5
15	15–19.5
16	16.5–19.5
17	18–19.5
18	19.5–19.5
19	6.00–20
2A	6.50–20
2B	7.00–20
2C	7.50–20
2D	8.25–20
2E	8.5–20
2F	9.00–20
2H	9.4–20
2J	10.00–20
2K	10.3–20
2L	11.00–20
2M	11.1–20
2N	11.50–20
2P	11.9–20
2T	12.00–20
2U	12.5–20
2V	13.00–20
2W	14.00–20
2X	6.50–20 LT
2Y	7.00–20 LT
21	13/80–20
22	14/80–20
23	2.75–21
24	3.00–21
25	2.50–21
26	2.75–20
27	10.00–22
28	11.00–22
29	11.1–22
3A	11.9–22
3B	12.00–22
3C	14.00–22
3D	11.50–22
3E	4.10–18
3F	4.10–19
3H	7–22.5
3J	8–22.5
3K	8.5–22.5
3L	9–22.5
3M	9.4–22.5
3N	10–22.5
3P	10.3–22.5
3T	11–22.5
3U	11.1–22.5
3V	11.5–22.5
3W	11.9–22.5
3X	12–22.5
3Y	12.5–22.5
31	15–22.5
32	16.5–22.5
33	18–22.5
34	215.70 R 15
35	225.70 R 15
36	185.60 R 13
37	9.00–24
38	10.00–24
39	11.00–24
4A	12.00–24
4B	14.00–24
4C	3.50–7
4D	3.00–4
4E	12.5–24.5
4F	11–24.5
4H	12–24.5
4J	13.5–24.5
4K	7.00–20 ML
4L	7.50–20 ML
4M	8.25–20 ML
4N	9.00–20 ML
4P	10.00–20 ML
4T	10.00–22 ML
4U	10.00–24 ML
4V	11.00–20 ML
4W	11.00–22 ML
4X	11 00–24 ML
4Y	11.00–25 ML
41	12.00–20 ML
42	12.00–21 ML
43	12.00–24 ML
44	12.00–25 ML
45	13.00–20 ML
46	13.00–24 ML
47	13.00–25 ML
48	14.00–20 ML
49	14.00–21 ML
5A	14.00–24 ML
5B	14.00–25 ML
5C	10.3–20 ML
5D	11.1–20 ML
5E	12.5–20 ML
5F	9–22.5 ML
5H	9.4–22.5 ML
5J	10–22.5 ML
5K	10.3–22.5 ML
5L	11–22.5 ML
5M	11–24.5 ML
5N	14–17.5 ML
5P	15–19.5 ML
5T	15–22.5 ML
5U	16.5–19.5 ML
5V	16.5–22.5 ML
5W	18–19.5 ML
5X	18–22.5 ML
5Y	19.5–19.5 ML
51	23–23.5 ML
52	18–21 ML
53	19.5–21 ML
54	23–21 ML
55	6.00–13 ST
56	7.35–14 ST
57	8.25–14 ST
58	7.35–15 ST
59	8.25–15 ST
6A	12.00–22 ML
6B	4.30–18
6C	3.60–19
6D	3.00–20
6E	4.25–18
6F	MP90–18
6H	3.75–19
6J	MM90–19
6K	3.25–7
6L	2.75–16
6M	4.00–16
6N	7–9
6P	25 x 7.50–15
6T	27 x 8.50–15
6U	27 x 9.50–15
6V	29 x 12.00–15
6W	31 x 13.50–15
6X	31 x 15.50–15
6Y	C70–14
61	Not assigned
62	Not assigned
63	Not assigned
64	Not assigned
65	Not assigned
66	3.40–5
67	4.10–4
68	4.10–5
69	175–14 LT
7A	11–14
7B	E78–14 LT
7C	G78–15 LT
7D	H78–15 LT
7E	180 R 15
7F	185–16 LT
7H	205–16 LT
7J	215–16 LT
7K	F78–16 LT
7L	H78–16 LT
7M	L78–16 LT
7N	135 R 10
7P	6.95–14 LT
7T	7–14.5 MH
7U	8–14.5 MH
7V	9–14.5 MH
7W	4.25/85–18
7X	A78–14
7Y	7.50–18 MPT
71	10.5–18 MPT
72	12.5–18 MPT
73	12.5–20 MPT
74	14.5–20 MPT
75	10.5–20 MPT
76	10.5–20
77	8.25–10
78	150 R 12
79	150 R 14
8A	1¾–19
8B	1¾–19¾
8C	2–12
8D	2–16
8E	2–17
8F	2–17 R
8H	2–18
8J	2–19
8K	2–19 R
8L	2–19¾
8M	2–22
8N	2–22½
8P	2¼–15
8T	2¼–16
8U	2¼–17
8V	2¼–18
8W	2¼–19
8X	2¼–19 R
8Y	2¼–20
81	2½–8
82	2½–9
83	2½–16
84	2½–17
85	2½–18
86	2½–19
87	2½ 19 R
88	2¾–9
89	2¾–16
9A	2¾–17
9B	2¾–17 R
9C	3–10
9D	3–12
9E	21 x 4
9F	22 x 4½
9H	15.50–20
9J	18.50–20
9K	19.50–20
9L	2¼–14
9M	2½–20
9N	2¾–16 R
9P	2¾–18
9T	10–20
9U	11–24

Tire size code:	Tire size designation [1]
K2	F80–22.5
K3	G80–22.5
K4	H80–22.5
K5	J80–22.5
K6	A80–24.5
K7	B80–24.5
K8	BR78–14
K9	D70–14
LA	DR70–14
LB	E70–14
LC	ER70–14
LD	F70–14
LE	FR70–14
LF	G70–14
LH	GR70–14
LJ	H70–14
LK	HR70–14
LL	J70–14
LM	JR70–14
LN	L70–14
LP	LR70–14
LT	C80–24.5
LU	D80–24.5
LV	E80–24.5
LW	F80–24.5
LX	G77–14
LY	B78–14
L1	C78–14
L2	CR78–14
L3	D78–14
L4	DR78–14
L5	E78–14
L6	ER78–14
L7	F78–14
L8	FR78–14
L9	G78–14
MA	GR78–14
MB	H78–14
MC	HR78–14
MD	J78–14
ME	JR78–14
MF	205–14 LT
MH	G80–24.5
MJ	H80–24.5
MK	7–14.5
ML	8–14.5
MM	9–14.5
MN	6.60 R 15
MP	2.00–15
MT	2.25–15
MU	2.50–15
MV	3.00–15
MW	3.25–15
MX	5.0 –15
MY	5.20–15
M1	5.5 –15
M2	5.50–15 L
M3	5.50–15 LT
M4	5.60–15
M5	5.60 R 15
M6	5.90–15
M7	5.90–15 LT
M8	6.00–15
M9	6.00–15 L
NA	6.00–15 LT
NB	6.2 –15
NC	6.40–15
ND	6.40–15 LT
NE	6.40 R 15
NF	6.50–15
NH	6.50–15 L
NJ	6.50–15 LT
NK	6.70–15
NL	6.70–15 LT
NM	6.70 R 15
NN	6.85–15
NP	6.9 –15
NT	7.00–15
NU	7.00–15 L
NV	7.00–15 LT
NW	7.10–15
NX	7.10–15 LT
NY	7.35–15
N1	7.50–15
N2	7.60–15
N3	7.60 R 15
N4	7.75–15
N5	7.75–15 ST
N6	8.00–15
N7	8.15–15
N8	8.20–15
N9	8.25–15
PA	8.25–15 LT
PB	8.45–15
PC	8.55–15
PD	8.85–15
PE	8.90–15
PF	9.00–15
PH	9.00–15 LT
PJ	9.15–15
PK	10–15
PL	10.00–15
PM	7.50–15 LT
PN	7.00–15 TR
PP	8.25–15 TR
PT	9.00–15 TR
PU	7.50–15 TR
PV	125–15
PW	125 R 15
PX	125–15/5.35–15
PY	135–15
P1	135 R 15
P2	135–15/5.65–15
P3	145–15
P4	145 R 15
P5	145–15/5.95–15
P6	155–15
P7	155 R 15
P8	155–15/6.35–15
P9	165–15
TA	165–15 LT
TB	165 R 15
TC	175–15
TD	175 R 15
TE	175–15/7.15–15
TF	175/70 R 15
TH	180–15
TJ	185–15
TK	185 R 15
TL	185/70 R 15
TM	195–15
TN	195 R 15
TP	205–15
TT	205 R 15
TU	215–15
TV	215 R 15
TW	225–15
TX	225 R 15
TY	235–15
T1	235 R 15
T2	J80–24.5
T3	ER60–15
T4	D78–13
T5	A78–15
T6	DR70–13
T7	HR60–15
T8	E60–14
T9	205/70 R 14
UA	215/70 R 14
UB	H60–15
UC	E60–15
UD	F60–15
UE	FR60–15
UF	G60–15
UH	GR60–15
UJ	J60–15
UK	L60–15
UL	4.60–15
UM	2.75–15
UN	2.50–9
UP	2.50–10
UT	5.00–9
UU	6.7–10
UV	C70–15
UW	D70–15
UX	DR70–15
UY	E70–15
U1	ER70–15
U2	F70–15
U3	FR70–15
U4	G70–15
U5	GR70–15
U6	H70–15
U7	HR70–15
U8	J70–15
U9	JR70–15
VA	K70–15
VB	KR70–15
VC	L70–15
VD	LR70–15
VE	17–400 TR
VP	185–300 TR
VH	185–300 LT
VJ	AR78–15
VK	BR78–15
VL	C78–15
VM	D78–15
VN	E78–15
VP	ER78–15
VT	F78–15
VU	FR78–15
VV	G78–15
VW	GR78–15
VX	H78–15
VY	HR78–15
V1	J78–15
V2	JR78–15
V3	L78–15
V4	LR78–15
V5	N78–15
V6	17–15 (17–380 LT)
V7	17–400 LT
V8	11–15
V9	11–16
WA	L84–15
WB	11.00–15
WC	2.25–16
WD	2.50–16
WE	3.00–16
WP	3.25–16
WH	3.50–16
WJ	5.00–16
WK	5.10–16
WL	5.50–16 LT
WM	6.00–16
WN	6.00–16 LT
WP	6.50–16
WT	6.50–16 LT
WU	6.70–16
WV	7.00–16
WW	7.00–16 LT
WX	7.50–16
WY	7.50–16 LT
W1	8.25–16
W2	9.00–16
W3	10–16
W4	8.25–16 LT
W5	9.00–16 LT
W6	11.00–16
W7	19–400C
W8	165–400
W9	235–16
XA	185–16
XB	19–400 LT
XC	G45C–16
XD	E50C–16
XE	F50C–16
XF	7.00–16 TR
XH	7.50–16 TR
XJ	8.00–16.5
XK	8.75–16.5
XL	9.50–16.5
XM	10–16.5
XN	12–16.5
XP	185 R 16
XT	4.50–17
XU	2.00–17
XV	2.25–17
XW	2.50–17
XX	2.75–17
XY	3.00–17
X1	3.25–17
X2	3.50–17
X3	6.50–17
X4	6.50–17 LT
X5	7.00–17
X6	7.50–17
X7	8.25–17
X8	7.50–17 LT
X9	225/70 R 14
YA	G50C–17
YB	H50C–17
YC	195/70 R 15

Tire size code:	Tire size designation [1]
YD	4.20–18
YE	8–17.5 LT
YF	11–17.5
YH	7–17.5
YJ	8–17.5
YK	8.5–17.5
YL	9.5–17.5
YM	10–17.5
YN	14–17.5
YP	9–17.5
YT	205/70 R 15
YU	2.25–18
YV	2.50–18
YW	2.75–18
YX	3.00–18
YY	3.25–18
Y1	3.50–18
Y2	4.00–18
Y3	4.50–18
Y4	6.00–18
Y5	7.00–18
Y6	7.50–18
Y7	8.25–18
Y8	9.00–18
Y9	10.00–18
1A	11.00–18
1B	6.00–18 LT
1C	6.00–20 LT
1D	L50C–18
1E	7.00–18 LT
1P	12–19.5
1H	2.00–19
1J	2.25–19
1K	2.50–19
1L	2.75–19
1M	3.00–19
1N	3.25–19
1P	3.50–19
1T	4.00–19
1U	11.00–19
1V	9.5–19.5
1W	10–19.5
1X	11–19.5
1Y	7–19.5
11	7.5–19.5
12	8–19.5
13	9–19.5
14	14–19.5
15	15–19.5
16	16.5–19.5
17	18–19.5
18	19.5–19.5
19	6.00–20
2A	6.50–20
2B	7.00–20
2C	7.50–20
2D	8.25–20
2E	8.5–20
2F	9.00–20
2H	9.4–20
2J	10.00–20
2K	10.3–20
2L	11.00–20
2M	11.1–20
2N	11.50–20
2P	11.9–20
2T	12.00–20
2U	12.5–20
2V	13.00–20
2W	14.00–20
2X	6.50–20 LT
2Y	7.00–20 LT
21	13/80–20
22	14/80–20
23	2.75–21
24	3.00–21
25	2.50–21
26	2.75–20
27	10.00–22
28	11.00–22
29	11.1–22
3A	11.9–22
3B	12.00–22
3C	14.00–22
3D	11.50–22
3E	4.10–18
3F	4.10–19
3H	7–22.5
3J	8–22.5
3K	8.5–22.5
3L	9–22.5
3M	9.4–22.5
3N	10–22.5
3P	10.3–22.5
3T	11–22.5
3U	11.1–22.5
3V	11.5–22.5
3W	11.9–22.5
3X	12–22.5
3Y	12.5–22.5
31	15–22.5
32	16.5–22.5
33	18–22.5
34	215.70 R 15
35	225.70 R 15
36	185.60 R 13
37	9.00–24
38	10.00–24
39	11.00–24
4A	12.00–24
4B	14.00–24
4C	3.50–7
4D	3.00–4
4E	12.5–24.5
4F	11–24.5
4H	12–24.5
4J	13.5–24.5
4K	7.00–20 ML
4L	7.50–20 ML
4M	8.25–20 ML
4N	9.00–20 ML
4P	10.00–20 ML
4T	10.00–22 ML
4U	10.00–24 ML
4V	11.00–20 ML
4W	11.00–22 ML
4X	11 00–24 ML
4Y	11.00–25 ML
41	12.00–20 ML
42	12.00–21 ML
43	12.00–24 ML
44	12.00–25 ML
45	13.00–20 ML
46	13.00–24 ML
47	13.00–25 ML
48	14.00–20 ML
49	14.00–21 ML
5A	14.00–24 ML
5B	14.00–25 ML
5C	10.3–20 ML
5D	11.1–20 ML
5E	12.5–20 ML
5F	9–22.5 ML
5H	9.4–22.5 ML
5J	10–22.5 ML
5K	10.3–22.5 ML
5L	11–22.5 ML
5M	11–24.5 ML
5N	14–17.5 ML
5P	15–19.5 ML
5T	15–22.5 ML
5U	16.5–19.5 ML
5V	16.5–22.5 ML
5W	18–19.5 ML
5X	18–22.5 ML
5Y	19.5–19.5 ML
51	23–23.5 ML
52	18–21 ML
53	19.5–21 ML
54	23–21 ML
55	6.00–13 ST
56	7.35–14 ST
57	8.25–14 ST
58	7.35–15 ST
59	8.25–15 ST
6A	12.00–22 ML
6B	4.30–18
6C	3.60–19
6D	3.00–20
6E	4.25–18
6F	MP90–18
6H	3.75–19
6J	MM90–19
6K	3.25–7
6L	2.75–16
6M	4.00–16
6N	7–9
6P	25 x 7.50–15
6T	27 x 8.50–15
6U	27 x 9.50–15
6V	29 x 12.00–15
6W	31 x 13.50–15
6X	31 x 15.50–15
6Y	C70–14
61	Not assigned
62	Not assigned
63	Not assigned
64	Not assigned
65	Not assigned
66	3.40–5
67	4.10–4
68	4.10–5
69	175–14 LT
7A	11–14
7B	E78–14 LT
7C	G78–15 LT
7D	H78–15 LT
7E	180 R 15
7F	185–16 LT
7H	205–16 LT
7J	215–16 LT
7K	F78–16 LT
7L	H78–16 LT
7M	L78–16 LT
7N	135 R 10
7P	6.95–14 LT
7T	7–14.5 MH
7U	8–14.5 MH
7V	9–14.5 MH
7W	4.25/85–18
7X	A78–14
7Y	7.50–18 MPT
71	10.5–18 MPT
72	12.5–18 MPT
73	12.5–20 MPT
74	14.5–20 MPT
75	10.5–20 MPT
76	10.5–20
77	8.25–10
78	150 R 12
79	150 R 14
8A	1¾–19
8B	1¾–19¾
8C	2–12
8D	2–16
8E	2–17
8F	2–17 R
8H	2–18
8J	2–19
8K	2–19 R
8L	2–19¾
8M	2–22
8N	2–22½
8P	2¼–15
8T	2¼–16
8U	2¼–17
8V	2¼–18
8W	2¼–19
8X	2¼–19 R
8Y	2¼–20
81	2½–8
82	2½–9
83	2½–16
84	2½–17
85	2½–18
86	2½–19
87	2½ 19 R
88	2¾–9
89	2¾–16
9A	2¾–17
9B	2¾–17 R
9C	3–10
9D	3–12
9E	21 x 4
9F	22 x 4½
9H	15.50–20
9J	18.50–20
9K	19.50–20
9L	2¼–14
9M	2½–20
9N	2¾–16 R
9P	2¾–18
9T	10–20
9U	11–24

V 37-216 NOV 8 72 XUM

Tire size code:	Tire size designation [1]
9V	11.25–24
9W	15 x 4½–8
9X	14.75/80–20
9Y	23 x 5
91	25 x 6
92	15 x 4½–8
93	18 x 7–8
94	21 x 8–9
95	23 x 9–10
96	27 x 10–12
97	2.00–15 TR
98	2.50–15 TR
99	3.00–15 TR
OA	GR60–14
OB	560 x 165–11
OC	680 x 180–15
OD	8.55–15 ST
OE	3.50–14
OF	3.25–14
OH	3.50–15
OJ	AR70–13
OK	B60–13
OL	245/60 R 14
OM	255/60 R 15
ON	2¾–15
OP	2.50–20
OT	Not assigned
OU	BR60–13
OV	15.00–20
OW	18.00–20
OX	12/80–20
OY	14/80–24
O1	15.5/80–20
O2	13–22.5
O3	21–22.5
O4	9/70–22.5
O5	10/70–22.5
06	11/70–22.5
07	12/70–22.5
08	13/70–22.5
09	7.25/75–17.5
10	8.00/75–17.5
20	8.75/75–17.5
30	9.50/75–17.5
40	7.25/75–16.5
50	8.00/75–16.5
60	8.75/75–16.5
70	9.50/75–16.5
80	6.70–14C
90	7–17.5C
RA	125–12C
RB	125–13C
RC	125–14C
RD	125–15C
RE	135–12C
RF	135–13C
RH	135–14C
RJ	135–15C
RK	145–10C
RL	145–12C
RM	145–13C
RN	145–14C
RP	145–15C
RT	155–12C
RU	155–13C
RV	155–14C
RW	155–15C
RX	A60–13
RY	C60–15
R1	155–16C
R2	165–13C
R3	165–16C
R4	175–13C
R5	175–15C
R6	175–16C
R7	185–13C
R8	185–15C
R9	195–15C
AO	195–16C
BO	205–15C
CO	215–14C
DO	215–15C
EO	225–14C
FO	225–15C
HO	225–16C
JO	235–14C
KO	235–15C
LO	235–16C
MO	21–400C
NO	3.50–20
PO	3.75–15
TO	3.60–18
UO	3.00–10C
VO	4.00–10C
WO	4.00–8C
XO	4.50–8C
YO	265/60 R 14
AR	215/60 R 15
BR	LR60–15
CR	ER60–15
DR	D60–13
ER	C60–13
FR	D60–14
HR	175/70 R 14
JR	MN90–18
KR	MR90–18
LR	4.25–19
MR	230–15
NR	5.4–10
PR	ER60–13
TR	FR60–14
UR	C60C–15
VR	13/80–24
WR	175–16C
XR	195–16C
YR	BR70–13
1R	185–15 LT
2R	13–22.5 ML
3R	MR70–15
4R	E60–26.5
5R	6.7–12
6R	5.4–14
7R	7.4–14
8R	5.4–16
9R	4.60–18

[FR Doc.72-18752 Filed 11-7-72;8:45 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-269A, 50-270A, 50-287A, 50-369A, 50-370A]

DUKE POWER CO.

Notice and Order for Prehearing Conference

In the matter of Duke Power Co. (Oconee Units 1, 2, and 3; McGuire Units 1 and 2).

Take notice, that pursuant to the Commission's notice of antitrust hearing in this proceeding and in accordance with the Commission's rules of practice, a prehearing conference will be held on November 17, 1972, at 10 a.m., local time, Court of Customs and Patent Appeals, Fourth Floor Lobby, 717 Madison Place, NW., Washington, DC 20006.

At this prehearing conference, the Board will hear argument on the motions now pending in this proceeding and will consider such other matters as may aid in the disposition of the proceeding.

It is so ordered.

Issued at Washington, DC., this 3d day of November 1972.

ATOMIC SAFETY AND LICENSING BOARD,
JOHN B. FARMAKIDES,
Member.
JOSEPH F. TUBRIDY,
Member.
WALTER W. K. BENNETT,
Chairman.

[FR Doc.72-19183 Filed 11-7-72;8:54 am]

[Docket No. 50-366]

GEORGIA POWER CO.

Order Scheduling Hearing Conference on Environmental Issues

In the matter of Georgia Power Company (Edwin I. Hatch, Unit 2).

Notice is hereby given that a hearing on the environmental issues will be held on November 17, 1972, at 10 a.m. local time, in Room 5A092, North Building, James Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20004.

All members of the public are entitled to attend the hearing.

It is so ordered.

Issued at Washington, D.C. this 3d day of November 1972.

THE ATOMIC SAFETY AND LICENSING BOARD,
ELIZABETH S. BOWERS,
Chairman.

[FR Doc.72-19219 Filed 11-7-72;8:55 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24736; Order 72-11-2]

DALLAS/FORT WORTH-GRAND JUNCTION

Order Providing for Further Proceedings in Accordance With Subpart M Expedited Procedures

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of November 1972.

On September 7, 1972, Frontier Airlines, Inc. filed an application pursuant to Subpart M of Part 302 of the Board's Procedural Regulations, for amendment of its certificate of public convenience and necessity for route 73 so as to permit, without subsidy eligibility, nonstop operations between Dallas/Forth Worth and Grand Junction.[1]

No statements requesting dismissal have been filed. A letter in support of Frontier's application has been received from the Grand Junction Chamber of Commerce.

Upon consideration of the foregoing, we find that Frontier's application is in compliance with, and is appropriate for processing under, the provisions of Subpart M. Accordingly, we order further proceedings pursuant to the provisions of Subpart M, § 302.1306–1310 of the Board's rules of practice, with respect to the above application.

Since there has been no indication of opposition to Frontier's application, we will require answers to be filed within 7 days of the date of this order. Our decision to advance the procedural dates does

[1] Frontier proposes to operate one nonstop round trip with B–737 aircraft on Saturdays only between Dec. 16, 1972, and April 21, 1973, Dallas-Grand Junction-Salt Lake City, and return. Dallas/Fort Worth is a terminal point on segment 21 of route 73 and Grand Junction is a terminal point on segment 3. Frontier proposes to overfly the segment junction point Denver, Colo., on its one flight per week.

not, in any way, alter our ability to take whatever procedural action may be necessary to insure that the interests of all affected parties are fully considered. If no answers requesting a hearing are filed the Board may, pursuant to Rule 1306(b), issue a final order without further procedures.

Accordingly, it is ordered, That:

1. The application of Frontier Airlines, Inc. be and it hereby is set for further proceeding pursuant to Rules 1306–1310 of the Board's rules of practice;

2. Any interested person may, within 7 days of the date of this order, file with the Board an answer to said application, such answers to comply with rules 1306 and 1307(a) of the Board's rules of practice;

3. In the event no such answers are filed, all further procedural steps will be deemed to have been waived, and the Board may proceed to enter a final order; and

4. A copy of this order shall be served upon all the persons served by Frontier in its application.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-19157 Filed 11-7-72;8:52 am]

[Docket No. 24072]

EXPANDED APPLICATION OF CATEGORY Z FARES

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on November 22, 1972, at 10 a.m. (local time), in Room 911, Universal Building, 1825 Connecticut Avenue, NW., Washington, DC, before Administrative Law Judge E. Robert Seaver.

In order to facilitate the conduct of the conference, parties are instructed to submit to the Administrative Law Judge and other parties on or before November 15, 1972, (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statement of positions of parties; and (5) proposed procedural dates.

Dated at Washington, D.C., November 2, 1972.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.72-19159 Filed 11-7-72;8:53 am]

[Docket No. 24888; Order 72-11-10]

MURRAY AIR FREIGHT, INC.

Order of Suspension and Investigation Regarding Nonacceptance of Watches

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 3d day of November 1972.

By tariff revision bearing the issue date of October 6 and marked to become effective November 5, 1972, Murray Air Freight, Inc. (Murray), an air freight forwarder, proposes to modify its tariff to include watches under shipments not acceptable for carriage.

The forwarder has offered no justification in support of its filing.

Upon consideration of all relevant factors, the Board finds that the proposed rule may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the proposal should be suspended pending investigation.

The Board had previously suspended proposals canceling pick-up and delivery service in connection with shipments of watches (Order 71–7–116) and furs (Order 70–3–160) by certain direct air carriers on the ground that the abrupt cancellation of the service would have an adverse impact upon shippers or consignees, or would be unreasonable. We further believe that Murray's proposal is analogous to a provision proposing the non-acceptance of watches, etc., when the declared value exceeds 50 cents per pound proposed by CF Air Freight, Inc. (CF), another air freight forwarder. In suspending this proposal, Order 72–8–55, August 11, 1972, the Board stated, inter alia, that CF's proposal would have eliminated specific services which the shipper had come to expect and rely upon.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof,

It is ordered, That:

1. An investigation is instituted to determine whether the provisions in Rule No. 20(J) on 3d Revised Page 4 of Murray Air Freight Inc.'s CAB No. 4, and rules, regulations, or practices affecting such provisions are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful provisions and rules, regulations, and practices affecting such provisions;

2. Pending hearing and decision by the Board, Rule No. 20(J) on 3d Revised Page 4 of Murray Air Freight Inc.'s CAB No. 4 is suspended and its use deferred to and including February 2, 1973, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding herein designated Docket 24888 be assigned for hearing before an Administrative Law Judge of the Board at a time and place hereafter to be designated; and

4. Copies of this order shall be filed with the tariff and served upon Murray Air Freight, Inc., which is hereby made party to Docket 24888.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-19158 Filed 11-7-72;8:52 am]

[Docket No. 24808]

PACIFIC WESTERN AIRLINES, LTD.

Notice of Postponement of Prehearing Conference and Hearing

For the reasons given in a letter dated November 1, 1972, submitted by Pacific Western Airlines, Ltd., and in accordance with the requests therein, notice is hereby given that the prehearing conference herein, previously scheduled to be held on November 21, 1972 (37 F.R. 23123, October 28, 1972) is postponed to November 29, 1972, at 10 a.m. (local time) in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned administrative law judge. Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before November 15, 1972.

Dated at Washington, D.C., November 2, 1972.

[SEAL] ARTHUR S. PRESENT,
Administrative Law Judge.

[FR Doc.72-19160 Filed 11-7-72;8:53 am]

[Docket No. 24573]

WARDAIR CANADA, LTD.

Notice of Postponement of Hearing

The applicant, Wardair Canada, Ltd., by letter dated November 2, 1972, has requested a postponement in the hearing upon its application for renewal and expansion of its foreign air carrier permit until such time as the Canadian Air Transport Commission has determined whether it will approve the proposed acquisition by Air Canada, Ltd., of a one-third interest in the applicant.

The applicant reports that it has given actual notice by telephone to all parties of its request and of the indication of the undersigned that the request would be granted.

Notice is hereby given that the hearing in the above-entitled proceeding set for November 6, 1972, has been postponed indefinitely.

Dated at Washington, D.C., November 3, 1972.

[SEAL] FRANK M. WHITING,
Administrative Law Judge.

[FR Doc.72-19161 Filed 11-7-72;8:53 am]

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FEDERAL POWER COMMISSION

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON FUELS

Order Designating Additional Member

NOVEMBER 2, 1972.

The Federal Power Commission, by order issued September 28, 1972, established the National Power Survey Technical Advisory Committee on Fuels.

2. *Membership.* An additional member to the Technical Advisory Committee on Fuels, as selected by the Chairman of the Commission, with the approval of the Commission, is as follows:

James T. Goodwin, member, Executive Director, Southern Interstate Nuclear Board.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-19140 Filed 11-7-72;8:47 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON POWER SUPPLY

Order Designating Additional Member

NOVEMBER 2, 1972.

The Federal Power Commission, by order issued September 28, 1972, established the National Power Survey Technical Advisory Committee on Power Supply.

2. *Membership.* An additional member to the Technical Advisory Committee on Power Supply, as selected by the Chairman of the Commission, with the approval of the Commission, is as follows:

Edward L. Hoffman, member, Administrative Assistant, Manager System Staff Engineering, Niagara Mohawk Power Corp.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-19141 Filed 11-7-72;8:47 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON CONSERVATION OF ENERGY

Order Designating Additional Members

NOVEMBER 2, 1972.

The Federal Power Commission, by order issued September 28, 1972, established the National Power Survey Technical Advisory Committee on Conservation of Energy.

2. *Membership.* Additional members to the Technical Advisory Committee on Conservation of Energy, as selected by the Chairman of the Commission, with the approval of the Commission, are as follows:

David P. Lingo, member, Director, MAPP Coordination Center.

John H. Whitney, Manager, Marketing Services Division, Potomac Electric Power Co.

Dr. Charles A. Berg, Deputy Director for Engineering, Institute for Applied Technology, National Bureau of Standards.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-19142 Filed 11-7-72;8:47 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON FINANCE

Order Designating Additional Members

NOVEMBER 2, 1972.

The Federal Power Commission, by order issued September 28, 1972, established the National Power Survey Technical Advisory Committee on Finance.

2. *Membership.* Additional members to the Technical Advisory Committee on Finance, as selected by the Chairman of the Commission, with the approval of the Commission, are as follows:

George J. Schneider, member, Vice President, Finance, General Public Utilities.

John P. Abbadessa, member, Controller, Atomic Energy Commission.

A. J. Barker, member, Executive Vice President, Public Service Company of Indiana.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-19143 Filed 11-7-72;8:47 am]

TRANSMISSION-TECHNICAL ADVISORY COMMITTEE

Notice of Meeting and Agenda Therefor

Agenda, meeting, Transmission-Technical Advisory Committee to be held in Conference Room 4008 of the Federal Power Commission 441 G Street, NW, Washington, DC, on November 21, 1972 at 1:30 p.m. Presiding: Mr. Thos. H. Jenkins (Acting) FPC Survey Coordinating Representative and Secretary.

1. Meeting Call to Order, Mr. Jenkins.
2. Review of TAC Objectives and Work Program, Mr. Willis A. Strauss, Vice Chairman, Transmission-TAC.
3. Statement concerning the Procedures for Implementing Phase II of the Transmission-Technical Advisory Task Force Studies, Mr. Ferdinand L. Gagne, Deputy Vice Chairman, Transmission-Technical Advisory Committee.
4. Review of Work Program and Application of Methodology to Transmission-Technical Advisory Task Force-Facilities, Mr. John W. Morton, Director, Transmission-TATF-Facilities.
5. Review of Work Program and Application of Methodology to Transmission-Technical Advisory Task Force-Operations, Mr. Orval C. Davis, Director-Transmission-TATF-Operations.
6. Review of Work Program to complete the Transmission-Technical Advisory Task Force-Economics, Mr. Wilber H. Mack, Director, Transmission-TATF-Economics.
7. Review of Work Program to complete the Transmission-Technical Advisory Task Force—Regulation and Legislation, Mr. George F. Kirby, Director.
8. Review and discussion of further work to be done concerning the Environmental Aspects of the Transmission-Technical Advisory Committee's Program, Mr. William E. Towell, member (Environmentalist) of the Transmission-TAC.
9. Coordination of Data and Outputs between Transmission Technical Advisory Task Forces, Mr. Gagne.
10. Status of Assigned Work Programs and Estimated Dates for Completion, Mr. Strauss.
11. Other business.
12. Adjournment, Mr. Jenkins.

KENNETH F. PLUMB, *Secretary.*

[FR Doc. 72-19145 Filed 11-7-72;8:47 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEES ON CONSERVATION OF ENERGY AND ON POWER SUPPLY

Order Redesignating Alternate Secretaries

NOVEMBER 2, 1972.

The Federal Power Commission, by order issued September 28, 1972, established the Technical Advisory Committees on Conservation of Energy and on Power Supply of the National Power Survey.

2. *Membership.* The Alternate Secretaries designated in the order of September 28, 1972, are redesignated as follows:

Technical Advisory Committee on Conservation of Energy.

Alternate Secretary designated by order of September 28, 1972, C. R. Beyer, Bureau of Power.

Current Alternate Secretary designation, James T. Roseberry, Bureau of Power.

Technical Advisory Committee on Power Supply.

Alternate Secretary designated by order of September 28, 1972, James T. Roseberry, Bureau of Power.

Current Alternate Secretary designation, C. R. Beyer, Bureau of Power.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-19139 Filed 11-7-72;8:47 am]

[Docket No. E-7766]

BONNEVILLE POWER ADMINISTRATION

Notice of Request for Approval of Rate Schedule

NOVEMBER 2, 1972.

Notice is hereby given that the Secretary of the Interior (Secretary), acting on behalf of Bonneville Power Administration (BPA) and pursuant to the provisions of the Bonneville Act, as amended, and the Flood Control Act of 1944, has filed with the Federal Power Commission a request in Docket No. E-7766 for confirmation and approval of a proposed rate schedule for furnishing forced-outage reserve capacity to the Bureau of Reclamation (Bureau). Approval of the proposed rate schedule is requested for the period ending December 31, 1981.

The proposed rate schedule is included in the memorandum of understanding dated March 13, 1972 (Contract) between BPA and the Bureau, which is designated as BPA Contract No. 14-03-19292 and B/R Contract No. 14-06-200-5715A. The Contract, a copy of which was submitted with the Secretary's request, relates to the sale, exchange, and delivery of electric generating capacity and energy made available to the Bureau's Central Valley Project, which is located in California, from the Bureau's share of the output of the Centralia Project, a steam-electric generating plant owned jointly by investor-owned electric utilities and public bodies and located in the southwestern part of the State of Washington. The Bureau's share of that output is included as a firm resource of the U.S. Government through BPA for which BPA is obligated to provide forced-outage reserves as a party to the Pacific Northwest Coordination Agreement.

Under the proposed rate schedule, BPA will furnish the Bureau over a 10-year period which began January 1, 1972, a levelized capacity of 98 megawatts of forced-outage reserves for the Bureau's share of the Centralia Project output at the rate of $7.50 per kilowatt per year ($61,250 per month). The Contract provides that such rate may be increased or decreased by BPA upon 3 months' prior written notice and not more frequently than once in 3 years, subject, however, to the approval of this Commission. In accordance with the Pacific Northwest Coordination Agreement, referred to above, BPA must provide such forced-outage reserves to the Bureau when requested to do so. The Contract states, however, that the reserves "may be withdrawn upon 5 years' written notice by the Administrator [of BPA] if in his judgment such forced-outage reserves are needed to meet the requirements of entities in the Pacific Northwest."

The proposed rate schedule is on file with the Commission and available for public inspection. Any person desiring to make comments or suggestions for the Commission's consideration with respect to said rate schedule should submit the same in writing on or before November 24, 1972, to the Federal Power Commission, Washington, D.C. 20426.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-19138 Filed 11-7-72;8:47 am]

[Dockets Nos. CP70-21, etc.]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Petition to Amend

NOVEMBER 1, 1972.

Take notice that on October 16, 1972, Michigan Wisconsin Pipe Line Co. (Petitioner), 1 Woodward Avenue, Detroit, MI 48226, filed in Dockets Nos. CP70-21, CP72-147, CP72-175, and CP72-185, a petition to amend the orders of the Commission issuing certificates of public convenience and necessity in said dockets pursuant to section 7(c) of the Natural Gas Act by authorizing the construction and operation of certain compression equipment different from that originally authorized, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner was authorized, inter alia, to install additional compression aggregating 12,000 horsepower at its St. John Compressor Station in the following dockets and manner:

Docket No.	Date of certificate	Horsepower authorization
CP72-147...	June 9, 1972 (47 FPC.....).	1 3,000 h.p. Unit.
CP72-175...	July 20, 1972 (48 FPC.....).	1-5,000 h.p. Unit.
CP72-185.....	do.....	1-4,000 h.p. Unit.

Petitioner requests authorization to install one 12,000 horsepower unit at its St. John Station in lieu of the three separate units. Petitioner states that the estimated cost of the one single unit is $3,073,967 in contrast to the estimated aggregate cost of $4,269,110 for the three units.

By Commission order in Docket No. CP70-21 on January 6, 1970 (43 FPC 11) Petitioner was authorized, inter alia, to develop its Croton Storage Field and in that connection install one 1,250 horsepower reciprocating compressor unit and one 2,500 horsepower reciprocating compressor unit in the further development of the Winfield Storage Field. Petitioner requests authorization to install two 1,250 horsepower units at its Winfield-Croton Compressor Station in lieu of the 1,250 horsepower unit authorized for the Croton Storage Field and one 2,500 horsepower unit authorized for the Winfield Storage Field. Petitioner states that the estimated cost of the two 1,500 horsepower units is $927,180, in contrast to the estimated aggregate cost of $2,516,240 of the two authorized units. Petitioner further states that as a result of engineering studies, it has determined that by installing compressor units for these two storage fields so that they can be used to service both fields, greater efficiency and flexibility can be achieved and the total horsepower required will be less.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 24, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-19131 Filed 11-7-72;8:46 am]

[Project 619]

PACIFIC GAS AND ELECTRIC CO.

Notice of Application for Change in Land Rights

NOVEMBER 1, 1972.

Public notice is hereby given that application was filed on September 5, 1972, under the Federal Power Act (16 U.S.C. 791a–825r) by the Pacific Gas and Electric Co. (correspondence to: Mr. J. F. Roberts, Jr., Vice President—Rates and Valuation, Pacific Gas and Electric Co., 77 Beale Street, San Francisco, CA 94106) for a change in land rights for constructed Project No. 619, known as Bucks Creek project, located on Bucks, Grizzly, and Milk Ranch Creeks and their tributaries, all tributaries of the North Fork Feather River in Plumas County and Plumas National Forest, Calif.

The application seeks Commission approval to renew its leases with 71 lessees of existing recreation homesites at Bucks Lake within the Bucks Creek project. The present leases, some of which have been in effect since 1940, all terminate on December 31, 1972. Applicant states that no additional lands either inside or outside the project will be affected by the lease renewals.

Any person desiring to be heard or to make protest with reference to said application should on or before December 11, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-19132 Filed 11-7-72;8:46 am]

[Project 2310]

PACIFIC GAS AND ELECTRIC CO.

Notice of Application for Change in Land Rights

NOVEMBER 1, 1972.

Public notice is hereby given that application for approval of a change in land rights has been filed under the Federal Power Act (16 U.S.C. 791a–825r) by Pacific Gas and Electric Co. (Correspondence to: Mr. J. F. Roberts, Jr., Vice President,

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Rates and Valuation, Pacific Gas and Electric Co. 77 Beale Street, San Francisco, CA 94106), for the Drum Spaulding Project No. 2310, affecting land located in Placer County, Calif.

Applicant seeks Commission authorization to grant Mr. and Mrs. William J. Crabtree permission to link three access roads to the Drum Powerhouse road as it passes through their lots, Nos. 8, 15, and 16, located in Section 26, T. 16 N., R. 10 E., M.D.B. & M. In addition applicant seeks authorization to grant them a right-of-way over the same road where it lies on land owned in fee by applicant, located in N½SE¼ and SW¼SE¼ of Section 26, T. 16 N., R. 10 E., M.D.B. & M.

Applicant filed with the application a copy of the proposed agreement which provides that the Crabtree's use shall not endanger health, create a nuisance or otherwise be incompatible with overall project recreational use, in accordance with paragraph (C) of Commission Order No. 313 and that the rights granted shall be in effect only so long as Pacific Gas and Electric Co. is licensee for Project No. 2310. The proposed agreement also requires the Crabtrees to acknowledge the right of the licensee to use the Drum Spaulding road for project purposes.

Any person desiring to be heard or to make protest with reference to said application should on or before December 4, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 72-19133 Filed 11-7-72;8:46 am]

[Docket No. E-7795]

PHILADELPHIA ELECTRIC CO.

Notice of Filing of Rate Schedule

NOVEMBER 2, 1972.

Take notice that on October 24, 1972, Philadelphia Electric Co. (Philadelphia), tendered for filing a rate schedule entitled "Wholesale Municipal Service to the Borough of Lansdale." The company states that Philadelphia is currently rendering electric wholesale service to the Borough of Lansdale (Lansdale) under a contract dated March 20, 1964, (FPC Rate Schedule No. 24) and that such contract provides for service up to a demand of 8,000 kw. The newly filed rate schedule is not contractual in form and is proposed to cover service in excess of 8,000 kw. demand.

The company recites that Philadelphia and Lansdale entered into a contractual agreement dated November 12, 1971, which provided for full service to Lansdale up to 29,000 kw. and that such contract was filed with the Commission as a change in rate and said filing was rejected by Commission order issued August 31, 1972. The company's instant filing is denominated a new-rate schedule and is tendered under sections 35.1 and 35.12 of the Commission's regulations under the Federal Power Act. The company further states that facilities for the enlarged service to Lansdale were completed by the company and energized on July 26, 1972, and requests that the proposed rate schedule be permitted to become effective upon less than 30 days notice for service rendered on and after September 1, 1972.

Any person desiring to be heard or to make any protest with reference to said application should, on or before, November 10, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19134 Filed 11-7-72;8:46 am]

[Project No. 1894]

SOUTH CAROLINA ELECTRIC AND GAS CO.

Notice of Application for New License for Constructed Project

NOVEMBER 1, 1972.

Public notice is hereby given that application for new license has been filed July 26, 1972 under section 15 of the Federal Power Act (16 U.S.C. 791a–825r) by South Carolina Electric and Gas Co. (Correspondence to: Mr. George H. Fischer, Esq., Vice President and General Counsel, South Carolina Electric and Gas Co., Post Office Box 764, Columbia, SC 29202) for its constructed Project No. 1894, comprising the Parr Hydroelectric project, located on the Broad River in Newberry and Fairfield Counties, SC, affecting lands of the United States within the Sumter National Forest. In addition to an application for a new license, applicant is seeking (1) authorization to construct and include within the new license a pumped-storage project utilizing the existing Parr Reservoir enlarge to serve as the lower pool, and (2) authorization to use the upper reservoir of the pumped storage project as a cooling impoundment for a proposed nuclear electric power plant.

The Parr Hydroelectric project, the current annual license for which will expire on June 30, 1973, consists of (1) a 2,715-foot-long dam having a 35-foot-high 2,000-foot-long, concrete overflow section with a crest elevation of 257 feet, USC & GS, joined on the westerly end by an earth dike about 300 feet long and on the easterly end by a 300-foot-long integral powerhouse section, a 90-foot-long concrete non-overflow section, and a 25-foot earth-fill section; (2) a 1,850-acre reservoir having a controlled surface elevation of 257 feet, USC & GS, extending about 8½ miles upstream; (3) a steel-frame brick powerhouse containing six generators rated at 2,480 kw. each, and provisions for two additional units; and (4) all other facilities and interests in land appurtenant to operation of the project.

Applicant states that the existing Parr powerhouse structure and generating equipment will be retained, unaltered, as a part of the project. The existing Parr Dam will be raised in elevation approximately 9 feet. The enlarged reservoir will extend upstream for 13 miles, will have a usable storage volume of 29,000 acre-feet in a drawdown of 10 feet, and will provide capacity for 8 hours of continuous pumped-storage generation at 480 MW. The reservoir will continue to provide water power for operation of the existing Parr project and will serve as the lower pool of a proposed pumped-storage addition to the project (Fairfield pumped-storage facility).

The pumped-storage project will consist of the following works: (1) The enlarged Parr Reservoir; (2) a 6,800-acre upper pool (Monticello Reservoir) having a total capacity of 400,000 acre-feet at the 425-foot maximum pool elevation; (3) four random fill dams with a 434-foot crest elevation impounding Monticello Reservoir; (4) an intake channel, a gated intake structure, and four 26-foot diameter surface penstocks; (5) a semi-outdoor type generating station (Fairfield Powerhouse) housing eight generating units rated at 64,800 kilowatts, each (518,400 kilowatts, total); and (6) a switchyard, associated transmission lines, and all other facilities appurtenant to operation of the project.

The third part of this application is a request for authorization to use the upper reservoir of the pumped-storage project as cooling impoundment for a proposed nuclear electric power plant (AEC Docket No. 50-395). The Virgil C. Summer Nuclear Station to be located on the south shore of Monticello Reservoir will contain a single nuclear reactor and a single 900,000-kilowatt generator. Application for a license for this facility is pending before the Atomic Energy Commission in AEC Docket No. 50-395.

Applicant states that the capacity and electric energy developed by the Parr hydroelectric plant and the Fairfield pumped-storage facility will be fully utilized. The Parr hydroelectric plant

will continue to be operated as it has been since it was constructed in 1914.

The recreational use of Parr Reservoir at present consists of fishing and water fowl hunting. After proposed redevelopment, the enlarged 4,400-acre reservoir will have a daily fluctuation of 10 feet due to pumped-storage operation. The total presently contemplated recreational development of Parr Reservoir consists of a boat launching area adjacent to the crossing of Heller's Creek by County Road 28. Two parcels of land on the western shore totaling 188.5 acres and a 387-acre parcel between its eastern shore and Monticello Reservoir will be purchased for future recreational use.

Monticello Reservoir will fluctuate a maximum of 4.5 feet daily. Applicant plans to construct within the northernmost portion of Monticello Reservoir a separate 300-acre impoundment containing a public boat launching area with parking and sanitary facilities on land purchased for recreational purposes. A scenic overlook with an observation platform will be located on the eastern shore of Monticello Reservoir and will also contain parking, sanitary and picnic facilites. Altogether, 1082.5 acres of land will be purchased for future recreational use.

Any person desiring to be heard or to make protest with reference to said application should on or before January 8, 1973, file with the Federal Power Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19135 Filed 11-7-72;8:46 am]

[Docket No. RP72-98]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Prehearing Conference and Postponement of Procedural Dates

NOVEMBER 1, 1972.

On October 31, 1972, Texas Eastern Transmission Corp. (Texas Eastern) filed a motion requesting that a prehearing conference be convened on November 10, 1972, to take action with respect to a Stipulation and Agreement, and that the submission of further evidence be postponed pending Commission action on the Stipulation and Agreement. The motion states that as a result of settlement conferences, Texas Eastern and substantially all of its customers have reached a Stipulation and Agreement in settlement of the issues in the captioned proceeding. A copy of the Stipulation and Agreement is to be mailed no later than November 1, 1972, to all of Texas Eastern's customers, interested State commissions and all parties of record.

Upon consideration, notice is hereby given that a prehearing conference will convene at 10 a.m., e.s.t., on Friday, November 10, 1972, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, to take appropriate action with respect to the Stipulation and Agreement.

All procedural dates fixed by the order issued by the Chief Administrative Law Judge on October 3, 1972, are postponed pending further order.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19144 Filed 11-7-72;8:47 am]

[Docket No. CP73-109]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Application

NOVEMBER 2, 1972.

Take notice that on October 20, 1972, Texas Eastern Transmission Corp. (Applicant), Post Office Box 2521, Houston, TX 77001, filed in Docket No. CP73-109 a budget-type application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the Commission's regulations thereunder for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1973, and operation of certain natural gas purchase facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system supplies of natural gas which will be purchased from producers in the general area of its existing system.

The total cost of the proposed facilities herein is not to exceed $7 million with no single onshore project exceeding $1 million. Applicant requests a waiver of § 157.7(b)(1)(ii) of the Commission's regulations to allow no single offshore project to exceed $2,500,000. Applicant states that this waiver is justified because a majority of the offshore facilities to be constructed under this requested authorization will be in deep water, where weather conditions severely limit the time periods during which construction can be safely undertaken.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 27, 1972, file with the Federal Power Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19136 Filed 11-7-72;8:46 am]

[Docket No. RP73-59]

UNITED NATURAL GAS CO.

Notice of Proposed Change in Rates and Charges

NOVEMBER 2, 1972.

Take notice that on October 26, 1972, United Natural Gas Co. (United Natural) tendered for filing certain tariff sheets to be effective on December 1, 1972, and which are stated to contain a purchased gas adjustment clause (PGA) that is in conformity with Commission's Orders Nos. 452 and 452-A issued in Docket No. 406. United Natural requests waiver of the requirements of § 154.63 of the Commission's regulations under the Natural Gas Act as such relate to Statements O and P.

The company states that although the PGA provides for a 45-day notice period it may be necessary to ask for a shorter period since United Natural is a second and third tier pipeline.

Copies of the filing have been served upon the company's jurisdictional customers and interested State commissions.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 17, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the

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Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19137 Filed 11-7-72;8:46 am]

[Docket No. CS73-297, etc.]

CHARLES B. WILSON, JR., LTD. ET AL.

Notice of Applications for "Small Producer" Certificates [1]

NOVEMBER 1, 1972.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 27, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date filed	Name of applicant
CS73-297	10-18-72	Charles B. Wilson, Jr., LTD., 1616 West Loop South, Houston, TX 77027.
CS73-298	10-19-72	Howard & Son, Post Office Box 503, Mount Jewett, PA 16740.
CS73-299	10-19-72	Herbert E. Williams, 1517 First City National Bank Bldg., Houston, Tex. 77006.
CS73-308	10-19-72	Classen Oil & Gas Co., Suite 300, 3545 Northwest 58th, Oklahoma City, OK 73112.
CS73-309	10-19-72	Radcliffe Killam, Post Office Box 499, Laredo TX 78040.
CS73-310	10-19-72	Elmer H. Wahl, Inc., 6 Oakwood Dr., Oklahoma City, OK 73121.
CS73-311	10-20-72	Robert K. Hillin, Post Office Box 1552, Midland, TX 79701.
CS73-312	10-20-72	Herbert E. Ware, Jr., 606 Vaughn Bldg., Midland, TX 79701.
CS73-313	10-24-72	The OHB Co., Ltd., Post Office Box 126, Refugio, TX 78377.
CS73-314	10-24-72	Ted Solomon, Box 1567, Havre, MT 59501.
CS73-315	10-24-72	Del-Lea, Inc., Post Office Box 1889, Hobbs, NM 88240.
CS73-316	10-24-72	Jim Leonard, 2731 Lemmon Ave. East, Suite 300, Dallas, TX 75204.
CS73-317	10-20-72	John M. Clark, 311 Gulf Bldg., Midland, TX 79701.

[FR Doc.72-18998 Filed 11-7-72;8:45 am]

FEDERAL RESERVE SYSTEM

ALLIED BANCSHARES, INC.

Order Approving Formation of Bank Holding Company

Allied Bancshares, Inc., Houston, Tex., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successors to the assets and liabilities of Conroe Bank, Conroe, Tex.; of Continental Bank, Houston, Tex.; and of Merchants Bank, Port Arthur, Tex. (hereinafter collectively referred to as "Banks"). The banks which will succeed to the assets and liabilities of Banks have no significance other than as a means to facilitate the acquisition of the assets and the assumption of liabilities of Banks. Accordingly, the proposed acquisition of shares of the successor organizations is treated herein as a proposed acquisition of the assets and assumption of liabilities of Banks.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none have been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant was recently formed for the purpose of acquiring Banks. Upon acquisition of Conroe Bank (deposits of $26 million), Continental Bank (deposits of $126 million), and Merchants Bank (deposits of $63 million), applicant would become the eighth largest multibank holding company in the State, controlling 0.7 percent of commercial bank deposits in the State. (Banking data are as of December 31, 1971, unless otherwise noted, and reflect holding company formations and acquisitions approved through August 21, 1972.)

Conroe Bank and Continental Bank are the 48th and ninth largest, respectively, of the 149 commercial banks operating in the Houston banking market, approximated by the five-county area constituting the Houston Standard Metropolitan Statistical Area (SMSA), and hold 0.4 and 1.79 percent, respectively, of deposits in commercial banks in that market. Merchants Bank is the fourth largest of 20 banks in the adjacent Beaumont-Port Arthur-Orange banking market, approximated by the Beaumont-Port Arthur-Orange SMSA, and holds 10 percent of deposits in commercial banks in this area.

Although Conroe Bank and Continental Bank operate in the same market, consummation of the proposed transactions would not appear to have a significant adverse effect upon existing competition between the two banks. A distance of approximately 40 miles separates the two banks and there are approximately eight banks located in the intervening area. Furthermore, there appears to exist a degree of affiliation between Conroe Bank and Continental Bank. Directors and officers of Applicant own approximately 25 percent of the shares of the former and 37 percent of the shares of the latter. The two chief officers of Continental Bank are both former directors of Conroe Bank and are consulted on items of major importance to Conroe Bank. Merchants Bank, located 90 miles east of Houston, does not appear to compete significantly with either Conroe Bank or Continental Bank. The Board concludes that consummation of the proposed transaction will not have a significantly adverse effect upon existing competition in either the Houston or Beaumont-Port Arthur-Orange banking markets.

Nor does it appear that consummation of the proposed transaction would foreclose the development of competition among Banks. Texas law effectively prohibits each of the three banks from establishing branch offices in the vicinity of the other two, and there appears to be little prospect for disaffiliation among Banks. In any case, neither Conroe Bank, nor Merchants Bank is of sufficient size to form its own independent bank holding company. Applicant's acquisition of Conroe Bank may be viewed as a "foothold" entry into the northern periphery of the Houston market. Although applicant's acquisition of Merchants Bank, in effect, represents entry by the ninth largest bank in the Houston market into an adjacent market, the acquisition should not have a significant adverse effect on

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

potential competition in the Beaumont-Port Arthur-Orange banking market. That market is not particularly attractive for entry as evidenced by only a slight gain in population over the past decade, consistently high rates of unemployment, and a population-per-banking-office ratio approximating the average ratio for all Texas SMSA's. Consummation of the proposal is expected to have a beneficial effect upon the development of competition in both the Houston and Beaumont-Port Arthur-Orange banking markets in that it would enhance the ability of Banks, none of which are dominant in their respective markets, to compete with major banks in those markets which are, or have proposed to become, subsidiaries of the three largest multibank holding companies in the State.

Applicant's financial condition, managerial resources, and future prospects are dependent upon those of its proposed subsidiary banks. The financial and managerial resources and future prospects of Banks are presently consistent with approval. Applicant will increase the capital levels of Conroe Bank and Continental Bank by purchasing subordinated debentures to be issued by those Banks. This infusion of debt capital lends slight weight toward approval, as does the benefit to the convenience and needs of the communities to be served that will derive from the increased flexibility inherent in a holding company structure. It is the Board's judgment that the proposed transaction is in the public interest and should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Board of Governors,[1] effective October 31, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-19118 Filed 11-7-72;8:45 am]

CHASE MANHATTAN CORP.

Order Approving Acquisition of Bank

The Chase Manhattan Corp., New York, N.Y., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Chase Manhattan Bank of Greater Rochester (National Association), Caledonia, N.Y.,[2] the successor by merger to Bank of Caledonia, Caledonia, N.Y. (Bank). Chase Manhattan Bank of Greater Rochester (National Association), Caledonia, N.Y., has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the second largest banking organization in New York in terms of domestic deposits, controls two subsidiary banks[3] with aggregate deposits of approximately $13.6 billion, representing 14.1 percent of the total deposits in commercial banks in the State. (Unless otherwise noted, deposit data are as of December 31, 1971, and market data are as of June 30, 1970, adjusted to reflect bank holding company formations and acquisitions approved by the Board through September 30, 1972.) Consummation of the proposal would not significantly increase applicant's share of deposits in the State.

Bank ($8.8 million in deposits) is the 10th largest of 16 banks in the Rochester banking market, controlling 0.5 percent of the deposits in that market. The nearest office of one of applicant's operating banking subsidiaries is approximately 320 miles southeast of Caledonia and there is no significant existing competition between this or any other of applicant's subsidiaries. Applicant's acquisition of Bank would have a procompetitive effect since Bank, with applicant's support, should compete more aggressively with the four largest banks in the market, all of which are affiliated with bank holding companies and control in the aggregate nearly 92 percent of area deposits. Consummation of the proposal would have no adverse effects on existing or potential competition nor would it have any adverse effect on any competing bank.

The financial and managerial resources and future prospects of applicant, its subsidiary banks and Bank are satisfactory and consistent with approval. The banking needs of the communities involved are being adequately met at present. However, applicant proposes to provide, through Bank, an alternative source of specialized banking needs. Therefore, considerations relating to convenience and needs lend some weight toward approval. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

Applicant owns two nonbanking subsidaries, Berkeley Service Corp., Boston, Mass., and Dovenmuehle, Inc., Chicago, Ill., which were acquired on June 4, 1969, and December 19, 1969, respectively. Berkeley Service Corp. is a service agency for the Shapiro Factors Division of The Chase Manhattan Bank, and Dovenmuehle, Inc., is a mortgage servicing company.

In making its determination herein, the Board has relied upon a finding that the combination of an additional subsidiary bank with applicant's existing nonbanking subsidiaries is unlikely to have an adverse effect upon the public interest at the present time. However, applicant's banking and nonbanking activities remain subject to Board review and the Board retains the authority to require applicant to modify or terminate its nonbanking activities or holdings if the Board at any time determines that the combination of applicant's banking and nonbanking activities is likely to have adverse effects on the public interest.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of New York pursuant to delegated authority.

By order of the Board of Governors,[4] effective October 31, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-19119 Filed 11-7-72;8:45 am]

FIRST EMPIRE STATE CORP.

Order Approving Acquisition of Bank

First Empire State Corporation, Buffalo, N.Y., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to ac-

[1] Voting for this action: Chairman Burns and Governors Roberston, Mitchell, Daane, Brimmer, Sheehan, and Bucher.

[2] Subsequent to publication of notice, applicant changed the name of the surviving bank from Chase Manhattan Bank of the Genesee Valley (National Association) to Chase Manhattan Bank of Greater Rochester (National Association).

[3] On August 10, 1972, the Board of Governors announced its approval of applicant's plan to acquire a third bank, Chase Manhattan Bank of Central New York (National Association), Syracuse, N.Y., a proposed new bank.

[4] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, Sheehan, and Bucher.

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quire all of the voting shares (less directors' qualifying shares) of the successor by merger to the First National Bank of Highland, Highland, N.Y. (Bank). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the 16th largest banking organization in New York, has two subsidiary banks with aggregate deposits of approximately $1.1 billion, representing 1.1 percent of the total deposits in commercial banks in the State.[1] Acquisition of Bank by applicant would increase its statewide share of deposits by only .1 percentage points and applicant would remain the 16th largest banking organization in New York. Bank is the fifth largest of 29 banks in the mid-Hudson banking market, which is approximated by Dutchess, Putnam, and Ulster Counties and the Newburgh area of Orange County. It has deposits of $63 million and controls approximately 6.6 percent of commercial deposits in that market.

The nearest subsidiary banking office of applicant to Bank is Empire-New York, New York City (Empire Bank), located approximately 60 miles away from Bank. Applicant's lead bank, Manufacturers and Traders Trust Company, Buffalo, N.Y. (M&T Bank), is located about 285 miles from Bank. Bank derives less than .1 percent of its loans and deposits from M&T Bank's and Empire Bank's services areas; and M&T Bank and Empire Bank derive no deposits and virtually no loans from Bank's service area. Accordingly, consummation of the proposed acquisition would not eliminate any significant existing competition.

Bank is located in the Third Banking District. Applicant's existing subsidiary banks are prohibited by State law, until 1976, from branching into that District. It does not appear likely that applicant would choose to enter Bank's market de novo because of the distance separating Bank from applicant's banks and the intense competition in Bank's market. Furthermore, Applicant's acquisition of Bank would have the precompetitive effect of removing home office protection from Highland, N.Y. Accordingly, no significant potential competition would be foreclosed upon consummation of this proposal. The financial and managerial resources and future prospects of applicant, its existing subsidiaries and Bank are generally satisfactory and consistent with approval.

Applicant proposes to offer new and improved services at Bank if this application is approved. Applicant would add increased capacity to service large corporate customers, expanded services to local governmental units, the development of international banking services, and the development of automated services, to the services Bank presently offers. Although there is no evidence that the banking needs of the communities to be served are not being adequately met at present, Bank would become an alternative competitive source for specialized banking services. Accordingly, considerations relating to the convenience and needs of the communities to be served are consistent with approval. It is the board's judgment that the proposed transaction is in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (B) later than 3 months after the effective date of this order, unless such period is extended for good cause by the board, or by the Federal Reserve Bank of New York pursuant to delegated authority.

By order of the Board of Governors,[2] effective October 31, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc 72-19120 Filed 11-7-72;8:45 am]

[1] Deposit data are as of December 31, 1971. Market rank and share are as of June 30, 1970.

FIRST PENNSYLVANIA CORP.

Order Approving Acquisition of American Loan and Finance Company

First Pennsylvania Corp., Philadelphia, Pennsylvania, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the act and § 225.4(b)(2) of the Board's Regulation Y, to acquire the assets of American Loan and Finance Co. (Company), Hamilton, Ohio.

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (37 F.R. 22118). The time for filing comments and views has expired, and none has been timely received.

Applicant's banking subsidiary, First Pennsylvania Banking and Trust Co. (Bank), is the second largest bank in the State of Pennsylvania and the largest in the Philadelphia market area, with total deposits of $2.6 billion.[1] Applicant also has nonbanking subsidiaries engaged principally in mortgage banking, data processing, equipment leasing, investment advisory services, and consumer financing.

Company is engaged in the consumer finance business from 11 offices located in Ohio, two in Indiana and one in Virginia. Company has experienced a decline in its receivables outstanding and, as a result of a suit brought by the Securities and Exchange Commission, was placed in receivership in June 1970. From that date until August 1972, Company has been operated by a court-appointed Receiver. Proceedings have now been commenced under Chapter X of the Bankruptcy Act, and Company's Trustee, with the guidance of the U.S. District Court for the Eastern District of Virginia, has concluded that continued operation of Company is not in the best interests of its creditors. Company's activities are consistent with the kinds of activities determined by the Board to be closely related to banking (12 CFR 225.4(a)(1)).

Although both Applicant and Company are engaged in the consumer finance business, consummation of the proposed acquisition would not have any significant adverse effect on existing competition. Elimination of Company as an alternative source of personal loans would have but minimal competitive effect due to the number of finance companies and banks presently competing for such loans in the respective markets. Nor does it appear that consummation of the proposed acquisition would have any adverse effect on potential competition or on credit availability to independent finance companies in any relevant area.

There is no evidence in the record indicating that consummation of the proposed transaction would result in any undue concentration of resources, unfair competition, unsound banking practices, or other adverse effects on the public interest. It is anticipated that Company's affiliation with Applicant will provide the capital and management strength to restore the 14 offices of Company to a viable competitive position. The resulting increased competition and gains in efficiency will add materially to the convenience and needs of the public.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

[2] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, Sheehan, and Bucher.

[1] Banking data as of June 30, 1972.

By order of the Board of Governors,[3] effective October 31, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-19121 Filed 11-7-72;8:45 am]

NORTHERN VIRGINIA BANKSHARES INC.

Proposed Acquisition of Falls Church Mortgage Corporation

Northern Virginia Bankshares Inc., Arlington, Va., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Falls Church Mortgage Corporation, Falls Church, Va. Notice of the application was published on October 23, 1972, in The Evening Star and Daily News, a newspaper circulated in Washington, D.C.

Applicant states that the proposed subsidiary would engage in the activities of a mortgage company by: (1) Originating and servicing loans as principal; (2) originating loans as principal for sale to investors and servicing of such loans after such sale; (3) servicing loans not originated as principal for nonaffiliated individuals, partnerships and corporations; and (4) incidental activities related to the mortgage business. In addition, Falls Church Mortgage Corporation would engage de novo in: (1) Originating loans as agent; (2) servicing loans for subsidiaries of Northern Virginia Bankshares Inc.; and (3) the sale, as agent, of credit life, credit disability, mortgage redemption, and mortgage cancellation insurance in connection with credit transactions. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

In addition, the application indicates that Falls Church Mortgage Corporation owns real property located at 701 West Broad Street, Falls Church, VA., which Northern Virginia Bankshares Inc. states it plans to use for its operations at such times as present leases of the property permit. Substantially all of the property is expected to be occupied by applicant to commence within 5 years. Falls Church Mortgage Corporation also owns real property located at 107 and 111 South Lee Street, Falls Church, VA.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 27, 1972.

Board of Governors of the Federal Reserve System, October 31, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-19098 Filed 11-7-72;8:48 am]

[3] Voting for this Action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, Sheehan and Bucher.

[Regs. G, T, and U]

OTC MARGIN STOCK

Changes in List

The following changes have been made, effective November 2, 1972, in the list of OTC margin stocks, as of May 15, 1972, published in the FEDERAL REGISTER on May 24, 1972.

(1) Deletions: (stocks now registered on national securities exchanges) Bandag, Inc., $1 par common; Brush Wellman Inc., $1 par common; Cavanagh Communities Corp., $0.01 par common; Colonial Penn Group, Inc., $0.10 par common; Frigitronics, Inc., $0.10 par common; Gleason Works, common; Golden Cycle Corp., the, no par common; Hardee's Food Systems, Inc., no par common; Morrison-Knudsen Co., Inc., $10 par common; Pacific Resources, Inc., no par common; Public Service Co. of New Mexico, $5 par common; Richmond Corp., common; Smith's Transfer Corp., $2.50 par common; Southeast Banking Corp., $5 par common; Southern New England Telephone Co., the $25 par common; Southland Corp., the, $0.01 par common; and Trinity Industries, Inc., $1 par common; (stock of company acquired by another firm) Cypress Communications Corp., $1 par common.

(2) Changes: Coastal States Life Insurance Co., the, common now reads as Coastal States Corp., $1 par common; First Union National Bancorp, Inc., $5 par capital is changed to Cameron Financial Corp., $3.33⅓ par capital; Monmouth County National Bank, $1 par common-capital becomes Colonial First National Bank, $1 par common; Quality Courts Motels, Inc., $1 par common is renamed Quality Inns International, Inc., $1 par common; Security Pacific National Bank, $10 par common is changed to Security Pacific Corp., $10 par common; and Virginia National Bank, $5 par common becomes Virginia National Bankshares, Inc., $5 par common.

Board of Governors of the Federal Reserve System, by its Director of Supervision and Regulation pursuant to delegated authority (12 CFR 265.2(c)(13)), November 1, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary to the Board.

[FR Doc.72-19167 Filed 11-7-72;8:53 am]

AMERICAN FLETCHER CORP.

Proposed Acquisition of Credit Card Operations of Economy Finance Corp., Known as Shoppers Charge Service and Custom Services

American Fletcher Corp., Indianapolis, Ind., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire assets of Shoppers Charge Service, Inc. (Cincinnati), of Shoppers Charge Service, Inc. (St. Louis), of Shoppers Charge Service, Inc. (Minnesota), of Houston Shoppers Charge Service, of Shoppers Charge division of Indianapolis Morris Plan Corp., and of Custom Services division of Shoppers Charge division of Indianapolis Morris Plan Corp., each of which is presently a subsidiary of Economy Finance Corp., Indianapolis, Ind. Notice of the application was published on September 15, 1972, in the Houston Post, a newspaper circulated in Houston, Tex.; on September 13, 1972, in the Indianapolis Star, a newspaper circulated in Indianapolis, Ind.; on September 13, 1972, in the Minneapolis Star and Minneapolis Tribune, newspapers circulated in Minneapolis, Minn.; on September 14, 1972, in the Cincinnati Enquirer, a newspaper circulated in Cincinnati, Ohio; and on September 12, 1972, in the St. Louis Globe-Democrat, a newspaper circulated in St. Louis, Mo.

Applicant states that the proposed subsidiary would engage in the activities of issuing mercantile credit cards to individuals and purchasing from merchants, and servicing, the accounts receivable, arising out of credit sales of merchandise to persons who use the credit cards in making purchases. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

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The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 29, 1972.

Board of Governors of the Federal Reserve System, November 2, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-19168 Filed 11-7-72;8:53 am]

BANCOHIO CORP.

Acquisition of Bank

BancOhio Corp., Columbus, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the Capital National Bank, Cleveland, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 29, 1972.

Board of Governors of the Federal Reserve System, November 2, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-19169 Filed 11-7-72;8:53 am]

INTERNATIONAL JOINT COMMISSION—UNITED STATES AND CANADA

POLLUTION OF LAKE SUPERIOR AND POLLUTION OF THE GREAT LAKES SYSTEM FROM LAND USE ACTIVITIES

Notice of Public Hearings

The International Joint Commission has been requested by the Governments of Canada and the United States to conduct a study of water quality in Lake Huron and Lake Superior in light of the provisions of the 1909 Boundary Waters Treaty which provides that boundary waters shall not be polluted on either side to the injury of health or property on the other and in light also of the Canada-United States Water Quality Agreement of April 15, 1972. The Commission has also been requested to conduct a study of pollution of the boundary waters of the Great Lakes System from agricultural, forestry, and other land use activities. The complete text of these two references to the Commission may be obtained from the Secretaries of the Commission at the addresses shown hereunder.

The Commission, in accord with its rules of procedure, will hold the first two of a series of preliminary public hearings at the times and places noted below for the purpose of receiving information relevant to the subject matter of the studies. At the hearing opportunity will be given to anyone either on their own behalf or in a representative capacity to offer pertinent information and views on the above subjects which may assist the Commission or its technical advisers. Statements may be made orally or in writing. If written statements are submitted, it is requested that, if possible, 30 copies be provided for Commission use. Additional copies may be deposited with the Secretaries at the hearing for the news media and others present.

Tuesday, December 5, 1972, 9:30 a.m., local time, auditorium, Mary J. L. Black Library, 1571 Brock Street W., Thunder Bay, ON.

Thursday, December 7, 1972, 9:30 a.m., local time, the Great Hall, Radisson Duluth Hotel, 505 West Superior Street, Duluth, MN.

W. A. BULLARD,
Secretary, U.S. Section, International Joint Commission, Suite 203, 1717 H Street NW., Washington, DC 20440.

D. G. CHANCE,
Secretary, Canadian Section, International Joint Commission, Suite 850, 151 Slater Street, Ottawa, ON, Canada, K1P 5H2.

NOVEMBER 2, 1972.

[FR Doc.72-19234 Filed 11-7-72;8:45 am]

OFFICE OF EMERGENCY PREPAREDNESS

ALFRED A. HAHN

Notice of Appointment as Federal Coordinating Officer

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575, December 31, 1970 (36 F.R. 37, January 5, 1971), to administer the Disaster Relief Act of 1970 (Public Law 91-606, 84 Stat. 1744), I hereby appoint Alfred A. Hahn as Federal Coordinating Officer to perform the duties specified by section 201 of that Act for Virginia disaster No. 358 with date of declaration, October 7, 1972, effective November 3, 1972.

This notice changes my designation of October 7, 1972 (37 F.R. 21668, October 13, 1972), with respect to the same disaster listed, naming Francis X. Carney as Federal Coordinating Officer.

Dated: November 3, 1972.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[FR Doc.72-19128 Filed 11-7-72;8:46 am]

SECURITIES AND EXCHANGE COMMISSION

[812-3300]

BACHE & CO. INC.

Notice of Filing of Application for an Order of Exemption

OCTOBER 31, 1972.

Notice is hereby given that Bache & Co. Inc., a registered broker-dealer corporation with its principal office at 100 Gold Street, New York, NY 10038 (Applicant), in connection with a proposed public offering of shares of Common Stock of Vestaur Securities, Inc. (Company), a diversified, closed-end management investment company registered under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 6(c) of the Act for an order of the Commission exempting Applicant and its co-underwriters from section 30(f) of the Act to the extent that such Section adopts section 16(b) of the Securities Exchange Act of 1934 (the Exchange Act) with respect to their transactions incidental to the distribution of Company shares. All interested persons are referred to the Application on file with the Commission for a statement of the representations therein, which are summarized below.

Applicant and Harris, Upham & Co. Inc., 120 Broadway, New York, NY 10005, are the prospective representatives (the Representatives) of a group of underwriters (the Underwriters) being formed in connection with the above public offering.

Shares of the Company are to be purchased by the Underwriters pursuant to an Underwriting Agreement (the Underwriting Agreement) to be entered into between the Underwriters, represented by the Representatives, and the Company. It is also contemplated that one or more dealers will offer and sell certain of the shares. It is intended that the several Underwriters will make a public offering of all the Company shares which such Underwriters are to purchase under the Underwriting Agreement at the price therein specified, as soon on or after the effective date of the Company's Registration Statement on Form S-4 (the Registration Statement) as the Representatives deem advisable, and such shares are initially to be offered to the public at a per share public offering price and subject to underwriting commissions to be specified in the prospectus (the Prospectus) at the time the Registration Statement becomes effective under the Securities Act of 1933, as amended. Although 5,500,000 shares have been included for registration in the Registration Statement, the actual number of shares which may be the subject of the proposed public offering may be decreased by the Representatives and the Company shortly before the effective date of the Registration Statement and the proposed public offering, depending upon market conditions and the exercise of an overallotment election granted to the Underwriters.

Applicant states that it is possible that the underwriting commitment of any one or more of the Underwriters, including each of the Representatives, will exceed 10 percent of the aggregate number of shares of the Company's common stock to be outstanding after the purchase by the several Underwriters pursuant to the Underwriting Agreement or upon the completion of the initial public offering or at some interim time. Since section 30(f) of the Act subjects every person who is directly or indirectly the beneficial owner of more than 10 percent of any class of outstanding securities of the Company to the same duties and liabilities as those imposed by section 16 of the Exchange Act with respect to the transactions in the securities of the Company, such Underwriter or Underwriters would become subject to the filing requirements of section 16(a) of the Exchange Act and, upon resale of the shares purchased by them to their customers, subject to the obligations imposed by section 16(b) of the Exchange Act.

Rule 16b-2 under the Exchange Act exempts certain transactions in connection with a distribution of securities from the operation of section 16(b) thereof. Applicant states that the purpose of the purchase of the shares by the Underwriters will be for resale in connection with the initial distribution of the shares. Applicant also states that such purchases and sales, therefore, will be transactions effected in connection with a distribution of a substantial block of securities within the purpose and spirit of Rule 16b-2.

Applicant further states that it is possible that one or more of the Underwriters, through their participation in the distribution of the Company's shares, may not be exempted from section 16(b) of the Exchange Act by the operation of Rule 16b-2; they may fail to meet the requirement stated in Rule 16b-2(a)(3) that the aggregate participation of persons not within the purview of section 16(b) of the Exchange Act be at least equal to the participation of persons receiving the exemption under Rule 16b-2 since it is possible that one or more of the Underwriters who, pursuant to the Underwriting Agreement, will purchase more than 10 percent of the shares of the Company may be obligated to purchase more than 50 percent of the shares of the Company being offered.

In addition to purchases of shares from the Company and sales of shares to customers, there may be the usual transactions of purchase or sale incident to a distribution such as stabilizing purchases, purchases to cover overallotments or other short positions created in connection with such distribution, and sales of shares purchased in stabilization.

Applicant states that there is no inside information in existence since the Company, prior to the initial distribution of the shares, will have no assets, other than cash, or business of any sort, and all material facts with respect to the Company will be set forth in the Prospectus pursuant to which the shares will be offered and sold. Except for John C. Jansing, who is a senior vice president and director of the Applicant and a director of the Company, no director or officer of the Applicant or Harris, Upham & Co. Inc., is a director or officer of either the Company or Vestaur Corp., the Company's investment adviser (the Adviser), and Applicant states that it does not anticipate that any partner, director or officer of any other underwriter or selected dealer, except for Paul B. Fay, Jr., who is a director of the Company and a vice president of William Hutchinson & Company, which may be an underwriter, will be a director or officer of the Company or the Adviser.

Applicant submits that the requested exemption from the provisions of section 30(f) of the Act is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant further contends that the transactions sought to be exempted cannot lend themselves to the practices section 16(b) of the Exchange Act and section 30(f) of the Act were enacted to prevent.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities, or transactions from any provision of the Act and Rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 20, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the Application herein may be issued by the Commission upon the basis of the information stated in said Application, unless an order for hearing upon said Application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-19078 Filed 11-7-72;8:50 am]

[811-237]

BOSTON PERSONAL PROPERTY TRUST

Notice of Filing of Application for Order of Act Declaring Company Has Ceased To Be an Investment Company

OCTOBER 31, 1972.

Notice is hereby given that Boston Personal Property Trust (Applicant) c/o State Street Bank and Trust Co., Post Office Box 351, Boston, MA 02101, a Massachusetts business trust registered as a diversified, open-end management investment company under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that on September 29, 1972, it transferred all of its assets, consisting of portfolio securities and cash, except for a cash reserve of $1,000, to Consolidated Investment Trust (Consolidated), also an investment company registered under the Act, in exchange for 1,518,338 shares of Consolidated, pursuant to an agreement and plan of reorganization dated May 16, 1972, between the Applicant and Consolidated. Applicant also states that on September 29, 1972, it delivered said 1,518,338 shares of Consolidated to its custodian bank, State Street Bank and Trust Co. (the Bank), as liquidating agent and depositary pursuant to a liquidation agreement dated September 29, 1972, between the Applicant and the Bank, with instructions to distribute said shares of Consolidated to the Applicant's shareholders pro rata, and the Applicant also delivered said $1,000 to the Bank as such liquidating agent and depositary.

Applicant further states that its trustees have voted that the Applicant be

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dissolved and terminated, and said transfer of assets and dissolution and termination have been authorized by the written consent of more than three-fourths in interest of the shareholders of the Applicant as required by the declaration of trust under which the Applicant is organized.

Applicant represents that it has paid or made provision for the payment of all its liabilities, including unclaimed dividends and other distributions, and by delivery of the Consolidated shares and cash to the Bank on September 29, 1972, the Applicant has divested itself of all of its remaining assets, and since that date has held no assets and has conducted no business. Accordingly, the Applicant asserts that it has ceased to be an investment company within the meaning of the Act.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than November 24, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing thereon shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-19079 Filed 11-7-72;8:55 am]

[812-3289]

BROWN FUND OF HAWAII, LTD. AND BROWN GROWTH-INCOME FUND, INC.

Notice of Filing of Application for Order Exempting Proposed Transaction

OCTOBER 31, 1972.

Notice is hereby given that the Brown Fund of Hawaii, Ltd. (Brown Fund) and the Brown Growth-Income Fund, Ltd. (BGIF) (hereinafter collectively called Applicants), 915 Fort Street, Suite 1100, Honolulu, HI 96813, have filed an application pursuant to section 17(b) of the Investment Company Act of 1940 (Act) for an order exempting from the provisions of section 17(a) of the Act a proposed sale of assets by BGIF to the Brown Fund in exchange for shares of common stock of the Brown Fund. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants are each Hawaiian corporations registered as diversified open-end management investment companies under the Act. They have substantially similar investment objectives and directors and share the same officers and investment adviser.

Applicants have entered into an Agreement and Plan of Reorganization (Agreement) which provides for the sale of the assets of BGIF to Brown Fund pursuant to the laws of Hawaii in exchange for shares of the common stock of Brown Fund and for the subsequent distribution of Brown Fund common shares to BGIF's shareholders upon the liquidation of BGIF, Brown Fund will assume none of the liabilities of BGIF. The proposed sale of assets will constitute a tax-free reorganization and no gain or loss will be recognized by Applicants as a result of the merger.

Approval of the sale of assets and liquidation by BGIF requires the affirmative vote of the holders of three-quarters of the outstanding shares of BGIF. If the transaction is approved, it is anticipated that the transaction will be completed by December 31, 1972, and as soon after the date of the shareholders' meeting as practicable.

The number of shares of Brown Fund to be issued to BGIF will be determined on the basis of relative net asset values per share on the day prior to the sale of assets. For this purpose the net asset value of each Applicant's common stock will be adjusted by deducting an amount equal to 10 percent of the net realized capital gains (or adding an amount equal to 10 percent of any net realized capital loss) on investments and 6½ percent of the net unrealized appreciation (or adding an amount equal to 6½ percent of any net unrealized depreciation) on investments.

If the valuation under the Agreement had taken place on September 29, 1972, the adjustment to BGIF's and the Brown Fund's net assets respectively would have been an addition of $1,335 and a deduction of $30,375, so that the net asset values of BGIF and Brown Fund as adjusted would have been respectively $186,791 and $6,673,801.

Applicants state that since the board of directors of Applicants are identical, Applicants might be deemed to be under "common control" and each of the Applicants might be deemed an "affiliated person" of the other under the definition of "affiliated person" set forth in section 2(a)(3) of the Act.

Section 17(a) of the Act, as here pertinent, provides that it is unlawful for any affiliated person of a registered investment company knowingly to sell to or purchase from such registered investment company any security or other property except securities of which the investment company is the issuer, unless the Commission upon application grants an exemption from such prohibitions pursuant to section 17(b) of the Act after finding that the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Applicants represent that the terms of the proposed transaction have been considered by the Board of Directors of each Applicant and that each Board has determined that such terms are fair and reasonable and do not involve overreaching with respect to any party and that the proposed transaction is consistent with the policy of each Applicant and with the general purposes of the Act.

Notice is further given that any interested person may, not later than November 21, 1972 at 5:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his interest, the reasons for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued upon the basis of the information stated in said application, unless an order for hearing upon

said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulations, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-19080 Filed 11-7-72;8:50 am]

[File No. 500-1]

CAMIN INDUSTRIES CORP.

Order Suspending Trading

NOVEMBER 1, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.10 par value, and all other securities of Camin Industries Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 11:25 a.m., e.s.t., on November 1, 1972, through November 10, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-19111 Filed 11-7-72;8:48 am]

[File No. 500-1]

COMPUDAT SCIENTIFIC SYSTEMS, INC.

Order Suspending Trading

NOVEMBER 1, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Compudat Scientific Systems, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors.

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 11:25 a.m., e.s.t. on November 1, 1972, through November 10, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-19110 Filed 11-7-72;8:48 am]

[File No. 500-1]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

OCTOBER 31, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value, of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors.

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 1, 1972, through November 10, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-19082 Filed 11-7-72;8:50 am]

[File Nos. 2-44841 (22-7251)]

DART INDUSTRIES INC.

Notice of Application and Opportunity for Hearing

NOVEMBER 1, 1972.

Notice is hereby given that Dart Industries Inc. (Dart) has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the Act) for a finding by the Securities and Exchange Commission (Commission) that the trusteeship of Morgan Guaranty Trust Co. of New York (Morgan Guaranty) under an indenture dated as of July 15, 1972 (the Domestic Indenture), which was qualified under the Act, and the trusteeship of Morgan Guaranty under an indenture dated as of August 16, 1972 (the Eurodollar Indenture), which has not been qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Morgan Guaranty from acting as Trustee under the Domestic Indenture.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in such section), it shall within 90 days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of such section provides that with certain exceptions a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under both indentures.

Dart alleges that:

(1) As of August 17, 1972, it had outstanding $60 million principal amount of its 4¼ percent Subordinated Debentures due July 15, 1997 (the Domestic Debentures), under the Domestic Indenture.

(2) On August 17, 1972, it issued under the Eurodollar Indenture and sold $20 million principal amount of its 4¾ percent Subordinated Debentures due August 15, 1987 (the Eurodollar Debentures), to underwriters who agreed that: (i) Except for sales to underwriters and securities dealers who purchased for distribution in conformity with the agreement, they would not directly or indirectly offer or sell any Eurodollar Debentures in the United States (including its territories, possessions and all areas subject to its jurisdiction) or to United States or Canadian persons including corporations organized under the laws of the United States or Canada or any political subdivision of either and (ii) each purchaser of Eurodollar Debentures from the underwriters who is not a retail purchaser would agree that it is purchasing such debentures as principal and not for reoffering in the United States, or to United States or Canadian persons. The Eurodollar Debentures were not registered under the Securities Act of 1933, as amended (the 1933 Act), nor was the Eurodollar Indenture qualified under the Trust Indenture Act of 1939, as amended (the Act).

(3) The Domestic Indenture and the Eurodollar Indenture are wholly unsecured. All debentures issued under the Domestic Indenture rank equally with the Eurodollar Debentures. Except for variations as to amounts and interest rates, maturity dates, places, and dates of payment of principal and interest, redemption procedures, redemption dates, redemption prices, and exchange rates, there are no material variations between the Indentures except that

(a) Additional interest will be paid in respect of the Eurodollar Debentures, under certain circumstances, in the event of withholding for or on account of U.S. income taxes.

(b) Certain provisions required by the Act are not contained in the Eurodollar Indenture.

(4) Such differences as exist between the Domestic Indenture and the Eurodollar Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest

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or for the protection of investors to disqualify Morgan Guaranty from acting as trustee under both indentures.

Dart has waived notice of hearing, hearing and any and all rights to specify procedures under the rules of practice of the Securities and Exchange Commission.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at 500 North Capitol Street NW., Washington, DC 20549.

Notice is further given that any interested person may, not later than November 23, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-19112 Filed 11-7-72;8:48 am]

[70-5257]

MIDDLE SOUTH UTILITIES, INC., AND ARKANSAS POWER & LIGHT CO.

Notice of Proposed Issue and Sale of First Mortgage Bonds and Preferred Stock at Competitive Bidding and of Common Stock to a Holding Company

OCTOBER 31, 1972.

Notice is hereby given that Middle South Utilities, Inc. (Middle South), 280 Park Avenue, New York, New York 10017, a registered holding company, and its electric utility subsidiary company, Arkansas Power & Light Co. (Arkansas), Ninth and Louisiana Streets, Little Rock, Ark. 72203, have filed an application-declaration with this Commission, pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a), 6(b), 9(a), 10, and 12(f) of the Act and Rules 23, 24, 43, and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Arkansas proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 promulgated under the Act, $15 million principal amount of its first mortgage bonds, ____ percent series due December 1, 2002 (Bonds). The interest rate on the Bonds (which will be a multiple of one-eighth of 1 percent and the price, exclusive of accrued interest, to be paid to Arkansas (which will be not less than 100 percent nor more than 102¾ percent of the principal amount thereof) will be determined by the competitive bidding. The Bonds will be issued under Arkansas' mortgage and deed of trust dated as of October 1, 1944, to Morgan Guaranty Trust of New York and John W. Flaherty, as successor trustees, as heretofore supplemented and as to be further supplemented by a 23d supplemental indenture to be dated as of December 1, 1972, which includes a prohibition until December 1, 1977, against refunding the Bonds, directly or indirectly, with the proceeds of funds borrowed at a lower effective interest cost.

Arkansas also proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 promulgated under the Act, 200,000 shares of a new series of its cumulative Preferred Stock, $100 par value (Preferred Stock). The Preferred Stock is to be created by appropriate corporate action and, except as to designation, dividend rate, the date from which dividends commence to accumulate, redemption premiums and the terms and conditions of redemption, is to have the same characteristics as, and rank pari passu with, the presently outstanding preferred stock of Arkansas. The dividend rate of the Preferred Stock (which will be a multiple of 1/25th of 1 percent) and the price (which shall be not less than $100 nor more than $102.75 per share) will be determined by the competitive bidding. The terms of the Preferred Stock will include a prohibition until April 1, 1977, against refunding the Preferred Stock, directly or indirectly, with funds obtained from the issuance of debt securities at a lower effective interest cost or from the issuance of other stock which ranks prior to or on a parity with the Preferred Stock as to dividends or assets, at a lower effective dividend cost.

Arkansas proposes to use the net proceeds from the sale of the Bonds and Preferred Stock for the payment of bank loans and commercial paper indebtedness approximating $35 million incurred or estimated to be incurred prior to the completion of the proposed financing to finance its construction program.

Arkansas further proposes to issue and sell, and Middle South proposed to purchase, 800,000 shares of Arkansas' presently authorized and unissued Common Stock (Additional Common Stock) at a price of $12.50 per share, or $10 million in aggregate. Concurrently with the issuance and sale of the Additional Common Stock, Arkansas proposes to declare a cash dividend of $10 million on the outstanding shares of its common stock, all of which is presently owned by Middle South. Taken together, the purchase of Additional Common Stock and the declaration of a cash dividend will have the effect of converting $10 million of Arkansas' earned surplus into capital, and increasing Middle South's investment in Arkansas by a like amount.

Fees and expenses incident to the proposed transactions are estimated at $68,000 for the Bonds (including auditors' fees of $4,500, and counsel fees of $19,000); and $59,000 for the Preferred Stock (including legal fees of $19,000 and auditors' fees of $3,000). The fees of counsel for the successful bidders are estimated at $7,000 in respect of the Bonds and $7,000 in respect of the Preferred Stock; these fees, together with counsel's out-of-pocket expenses, will be paid by such bidders.

The filing states that the Arkansas Public Service Commission and the Tennessee Public Service Commission have authorized the issuance and sale of the Bonds, Preferred Stock, and Additional Common Stock; and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 22, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permited to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-19081 Filed 11-7-72;8:50 am]

[812-3246]

NARRAGANSETT CAPITAL CORP.

Notice of Filing of Application for Order Exempting Transactions From Provisions and Permitting Transactions

NOVEMBER 1, 1972.

Notice is hereby given that Narragansett Capital Corp. (Narragansett), 40 Westminister Street, Providence, RI 02903, a Rhode Island corporation registered as a closed-end, nondiversified, management investment company under the Investment Company Act of 1940 (Act) and licensed as a small business investment company under the Small Business Investment Act of 1958, has filed an application pursuant to section 17(b) of the Act and Rule 17d–1 thereunder for an order exempting from the provisions of section 17(a) and permitting under Rule 17d–1, the sale by Bevis Industries, Inc. (Bevis) of (i) the assets, subject to certain of the liabilities of its subsidiary, Newman-Crosby Steel Co. (Old NC), to Newman-Crosby, Inc. (New NC) and (ii) an adjoining parcel of approximately 8 acres of land in Pawtucket, Rhode Island, to Business Development Company of Rhode Island (BDC) which will lease said 8-acre parcel to New NC. All interested persons are referred to the application on file with the Commission for a statement of Applicant's representations which are summarized below.

BACKGROUND

In March, 1972, Bevis, a company controlled by Narragansett, transferred the assets of its Newman-Crosby Steel Co. division (the Newman-Crosby business), except for approximately 8 acres of land in Pawtucket, Rhode Island, adjacent to Newman-Crosby's plant (the Pawtucket Land), to a newly formed subsidiary of Bevis (i.e., Old NC). In June, 1972, a new corporation i.e., New NC was formed by certain management personnel (the Management Group), which owns 50 percent of the equity of New NC, purchased at $150,000.

BDC is a State development corporation specially chartered by the legislature of Rhode Island to enhance existing business or attract business to the State of Rhode Island.

Pursuant to a purchase and sale agreement entered into on June 30, 1972 (the Agfeement) New NC will purchase all of the tangible assets, property and business of Old NC of every kind and description wherever located, as of the closing date, with such changes as shall have occurred in the ordinary course of Old NC's business between May 31, 1972, and the closing date. On the closing date Bevis agrees to sell and deliver to BDC a deed for the Pawtucket Land.

The purchase price will be paid in cash and is the net worth of Old NC as of May 31, 1972, less $900,000 plus an amount computed on such price at an annual rate of 6 percent for the period June 19, 1972 through the closing date. The net worth of Old NC on May 31, 1972, was $2,474,757. The purchase price for the Pawtucket Land sold to BDC by Bevis is to be $200,000. BDC will lease the land to New NC at an annual rental of $20,000.

Industrial National Bank of Rhode Island (Bank) has agreed to lend New NC $1 million on a first mortgage loan basis for a 5-year term, subject to execution of a loan agreement. The loan is repayable at a rate of not less than $100,000 a year during the term. The Bank will also extend a $200,000 line of credit for working capital purposes to the new corporation.

Applicants allege that during the course of negotiations with a nonaffiliated potential purchaser, it was determined by the parties, including the Bank and BDC, that the value of the assets of Old NC, not including the Pawtucket Land, for the purpose of a possible sale, was $900,000 less than the net book value and such amount, as noted above, has been deducted to arrive at the sale price.

BDC is also purchasing for $150,000 one-half of the equity of New NC. This purchase will entitle BDC to equal representation on New NC's Board of Directors. New NC will have the right to repurchase BDC's shares before BDC can sell them to an outsider and may also purchase the shares after 5 years but prior to 10 years from the closing of the Agreement at a price of $300,000 or their audited book value, whichever is higher, provided all of New NC's debt to BDC has been paid in full. BDC has also agreed to lend New NC $600,000 in exchange for a 10-year note subordinated only to the bank loan described above and secured by a second lien on New NC's assets. The loan will bear interest at the rate of 4 percent over the prime rate but not less than 10 percent nor more than 12 percent per annum, payable monthly.

The obligations of BDC were contingent upon the execution of the Agreement, and are contingent upon the commitment by the Bank of the first mortgage loan described above and the successful negotiation of an agreement with the United Steel Workers Union satisfactory to BDC.

The business of Bevis consists primarily of selling a variety of articles through direct mail selling, principally through catalogs prepared by Bevis. Beginning with the sale of its Masslite Division (a manufacturer of building materials) on March 25, 1971, Bevis has sought to concentrate its efforts in the field of merchandising consumer items. On August 17, 1971, Bevis sold its Marshall & Williams Division, a manufacturer of textile and thermoplastic tentering equipment and related machinery. The application alleges that the transactions described herein represent the last step divesting Bevis of its businesses unrelated to consumer oriented operations.

Narragansett now holds directly 836,952 shares, or approximately 46.3 percent of the outstanding shares of common stock of Bevis. This amount does not include 356,246 shares of Bevis stock (including 161,227 shares in escrow) which may be payable to Narragansett in 1973 contingent upon future earnings of the Casper Division of Bevis. Narragansett's aggregate investment at March 31, 1972, in Bevis was $1,260,016. The value of this investment on that date as determined by the board of directors of Narragansett was $1,260,016. Following the consummation of the transactions described herein, neither Narragansett nor any of its affiliates will have any interest in New NC.

Affiliates of Narragansett, specifically some of its officers and directors, hold shares of Bevis common stock. Some of the directors of Bevis who approved the transaction with New NC and BDC, are also officers and directors of Narragansett, and hold shares of Narragansett common stock. None of the persons own or will own any of the equity of New NC.

The members of the Management Group, who will own 50 percent of the equity of New NC are affiliates of an affiliate of Narragansett by virtue of being employees of Bevis. Certain of these management personnel hold shares of stock of Bevis and Narragansett as set forth in the application. Following the consummation of the transactions described herein none of the Management Group will have any affiliation with either Bevis or Narragansett, other than the shareholdings indicated.

Royal Little is chairman of the executive committee and a director of Narragansett and chairman of the board and a director of Bevis. Harvey J. Sarles is president and a director of Narragansett and vice-chairman and a director of Bevis. Robert S. Davis is the secretary of both Narragansett and Bevis.

Messrs. Little and Sarles are members of the board of directors and the executive committee of BDC, and Mr. Sarles is chairman of the board (but not the chief executive officer) of BDC. BDC is controlled by its members, who elect 11 of the 21 members of the board of directors and four of the seven members of the executive committee. The members are all financial institutions which, the application alleges, are independent of control or influence by Narragansett. The chairman of the executive committee, which makes investment decisions for BDC, is John J. Cummings, Jr., president of the Bank, which is a member of BDC. The stockholders of BDC elect the balance of the board and executive committee. Messrs. Little and Sarles represent stockholders on these bodies. The stockholders are businesses, charitable institutions and private investors, all of whom are independent of Narragansett. Messrs. Little and Sarles did not participate in the voting on the approval of the transactions described herein by the Board of Directors of either Bevis or BDC. Mr. John J. Cummings, Jr., also

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did not vote on the approval of the proposal when it was considered by the executive committee of BDC.

COMMISSION JURISDICTION

Narragansett is a registered investment company, Bevis, a controlled portfolio company, is an affiliated person of Narragansett. Old NC, a subsidiary of Bevis, is its affiliate, and the Management Group within 6 months prior to the closing will have been affiliates of Old NC, and will be affiliates of New NC at the closing. Thus, New NC is indirectly affiliated with Narragansett. As Bevis and Old NC may also be deemed to be controlled by Narragansett, section 17(a) may be deemed to prohibit the purchase by New NC of the assets of Old NC and the Pawtucket Land. As here pertinent, section 17(a) provides that it shall be unlawful for any affiliated person of a registered investment company, or any affiliated person of such a person, knowingly to purchase from any company controlled by such registered company, any security or other property (except securities of which the seller is the issuer).

Section 17(b) of the Act permits a registered investment company to file an application with the Commission for an order exempting a transaction from the provisions of section 17(a). Pursuant to section 17(b), the Commission shall grant an exemption if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under the Act; and the proposed transaction is consistent with the general purposes of the Act.

As Bevis and Old NC are companies controlled by Narragansett, and New NC, an indirect affiliate of Narragansett are participating in the same transaction, the proposed transaction may be deemed to be prohibited by section 17(d) of the Act and Rule 17d–1 thereunder.

Taken together the section and rule provide, as here pertinent, that it shall be unlawful for an affiliated person of a registered investment company or any affiliated person of such person, acting as principal, to participate in, or to effect any transaction in connection with any joint enterprise or other joint arrangement in which such registered company, or a company controlled by such registered company, is a participant unless an application regarding such arrangement has been granted by the Commission. In passing upon an application, the Commission must consider whether the participation of such registered company or controlled company in such arrangement is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Narragansett seeks an exemption from section 17(a) and an order under section 17(b) and Rule 17d–1 under the Act to the extent they may be applicable to the proposed sale of the assets of Old NC and the Pawtucket Land to New NC.

SUPPORTING STATEMENTS

Narragansett contends that the proposed transactions, including the consideration to be paid or received, (i) are reasonable and fair and do not involve overreaching on the part of any person concerned as the terms are more favorable and at a higher purchase price than the terms that Bevis was able to obtain from unaffiliated persons and as Little and Sarles took no part in the determination by the board of BDC to enter into the financing; (ii) are consistent with the policy of Narragansett as recited in its registration statement and reports filed under the Act as it believes the sale of the assets of Old NC and the concentration of Bevis in consumer-oriented fields would result in greater profitability for Bevis and thus in the appreciation of Narragansett's investment in it; (iii) are consistent with the general purposes of the Act and no insiders or special classes of security holders of Bevis, Old NC, or Narragansett are being given preferential treatment by virtue of the proposed transactions or will benefit from the operation of an independently owned and operated New NC; and (iv) the participation of Narragansett and its affiliates is consistent with the provisions, policies and purposes of the Act and is not on a basis different from or less advantageous than that of any other participant.

Notice is further given, that any interested person may, no later than November 22, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Narragansett at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, and order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72–19109 Filed 11–7–72;8:48 am]

[File No. 500–1]

NORTH AMERICAN PLANNING CORP.

Order Suspending Trading

OCTOBER 31, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the Class B nonvoting common stock, $0.01 par value and all other securities of North American Planning Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors.

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 1, 1972, through November 10, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72–19063 Filed 11–7–72;8:50 am]

TARIFF COMMISSION

[TEA–I–26]

MEN'S TIE FOUNDATION, INC.

Men's and Boys' Neckties; Notice of Investigation and Hearing

Investigation instituted. Following receipt of a petition filed by the Men's Tie Foundation, Inc., on behalf of its member companies, the U.S. Tariff Commission, on November 3, 1972, instituted an investigation under section 301(b)(1) of the Trade Expansion Act of 1962 to determine whether—

Men's and boys' neckties, of textile materials, provided for in items 373.05 to 373.30, inclusive, of the Tariff Schedules of the United States,

are, as a result in major part of concessions granted thereon under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to the domestic industry or industries producing like or directly competitive products.

Public hearing ordered. A public hearing in connection with this investigation will be held beginning at 10 a.m., e.s.t., January 23, 1973, in the Hearing Room, Tariff Commission Building, Eighth and

E Streets NW., Washington, D.C. Appearances at the hearing should be entered in accordance with § 201.13 of the Tariff Commission's rules of practice and procedure.

Inspection of petition. The petition filed in this case is available for inspection by persons concerned at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New York office of the Tariff Commission located in Room 437 of the Customhouse.

By order of the Commission.

Issued: November 3, 1972.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.72–19146 Filed 11–7–72;8:51 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 110]

ASSIGNMENT OF HEARINGS

NOVEMBER 2, 1972.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

I&S M 26226, Foodstuffs, southern ports to central States, now assigned December 13, 1972, at Washington, D.C., hearing is canceled.

AB–7 Sub 2, Chicago, Milwaukee St. Paul, and Pacific Railroad Co. Abandonment between Trail City and Faith, in Corson, Dewey, Ziebach, and Mead Counties, S. Dak., now being assigned January 15, 1973, at Pierre, S. Dak., in a hearing room to be later designated.

MC–134063 Sub 5, Frank R. Chullino, d.b.a. Midwest Transportation Co., now being assigned hearing January 18, 1973, at Omaha, Nebr., in a hearing room to be later designated.

MC–74195 Sub 5, Young and Hay Transportation Co., now being assigned hearing January 22, 1973, at Omaha, Nebr., in a hearing room to be later designated.

MC–C–7333 Sam Fanelli, et al. vs. Greyhound Lines, Inc., now being assigned hearing January 30, 1973 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC 123383 Sub 61, Boyle Brothers, Inc., now assigned November 7, 1972, at Washington, D.C., is postponed indefinitely.

AB 6 (Sub-No. 3), Burlington Northern Inc., abandonment between Grant City and Albany Junction, Worth and Gentry Counties, Mo., now being assigned January 15, 1973 (2 days), at Grant City, Mo., in a hearing room to be later designated.

MC–F–11563, Ross Truck Lines, Inc.—purchase (portion)—Robert Foltz, now being assigned hearing January 18, 1973 (2 days), at Kansas City, Mo., in a hearing room to be later designated.

MC–F–11315, Best Way Frozen Express, Inc.—purchase—Refrigerated Foods Line, Inc., MC–F–11576, Robco Transportation, Inc.—purchase—Best Way Frozen Express, Inc., and Meat Packers Express, Inc., MC 136786, Robco Transportation, Inc., now being assigned hearing January 22, 1973 (1 week), at Kansas City, Mo., in a hearing room to be later designated.

MC 51146 Sub 279, Schneider Transport, Inc., now being assigned hearing January 29, 1973 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC–F–11501, Aubrey Freight Lines, Inc.—purchase—Whitehall Transport, Inc., and MC 135732 Sub 1, Aubrey Freight Lines, Inc., now being assigned hearing January 31, 1973 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC 118989 Sub 74, Container Transit, Inc., now being assigned hearing February 2, 1973 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC–F–11443, Glendenning Motorways, Inc.—purchase—Pick Up and Delivery, Inc. (Nathan Yorke, assignee), and MC 43475 Sub 53, Glendenning Motorways, Inc., now being assigned hearing February 5, 1973 (1 week), at Chicago, Ill., in a hearing room to be later designated.

MC 42487 Sub 785, Consolidated Freightways Corp. of Delaware, application dismissed.

MC 114211 Sub 170, Warren Transport, Inc., now being assigned hearing January 22, 1973 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC 114457 Sub 120, Dart Transit Co. extension—Northlake, Ill., now being assigned hearing January 24, 1973 (3 days), at Chicago, Ill., in a hearing room to be later designated.

MC 66886 Sub 30, Beiger Cartage Service, Inc., now being assigned hearing January 15, 1973, at Kansas City, Mo., in a hearing room to be later designated.

MC 113459 Sub 71, H. J. Jeffries Truck Line, Inc., now being assigned hearing January 18, 1973 (1 day), at Kansas City, Mo., in a hearing room to be later designated.

MC 66886 Sub 32, Beiger Cartage Service, Inc., now being assigned January 19, 1973 (1 day), at Kansas City, Mo., in a hearing room to be later designated.

MC 61231 Sub 69, Ace Lines, Inc., now being assigned hearing January 22, 1973 (1 day), at Kansas City, Mo., in a hearing room to be later designated.

MC 66886 Sub 31, Beiger Cartage Service, Inc., now being assigned hearing January 23, 1973 (1 day), at Kansas City, Mo., in a hearing room to be later designated.

MC 123004 Sub 2, The Luper Transportation Co., now being assigned hearing January 24, 1973 (3 days), at Kansas City, Mo., in a hearing room to be later designated.

MC–77972 Sub 19, Merchants Truck Line, Inc., now assigned November 27, 1972, at Jackson, Miss., is canceled and reassigned for hearing on November 27, 1972 (1 week), at Holiday Inn, 1441 East Brooks Road, Memphis, TN, and December 11, 1972 (1 week) at the Sun-N-Sand Motel (Room 404), 401 North Lamar Street, Jackson, MS.

MC 106497 Sub 68, Parkhill Truck Co., now being assigned hearing January 29, 1973 (1 week), at Chicago, Ill., in a hearing room to be later designated.

MC–112822 Sub 235, Bray Lines, Inc., now being assigned hearing January 29, 1973 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC–111812 Sub 476, Midwest Coast Transport, Inc., now being assigned hearing January 31, 1973 (3 days), at Chicago, Ill., in a hearing room to be later designated.

MC–108449 Sub 302, Indianhead Truck Line, Inc., extension-Methane, MC–120880 Sub 24, Capitol Truck Line, Inc., extension—Methane, now being assigned hearing February 5, 1973 (1 week), at Chicago, Ill., in a hearing room to be later designated.

MC 42894, Frank M. Herbert, Inc., now being assigned hearing January 15, 1973 (2 days), at New York, N.Y., in a hearing room to be later designated.

MC 128218 Sub 6, Jersey Area Food Transport, Inc., now being assigned hearing January 17, 1973 (3 days), at New York, N.Y., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72–19178 Filed 11–7–72;8:54 am]

[Notice No. 111]

ASSIGNMENT OF HEARINGS

NOVEMBER 3, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

W–552 Sub 14, American Commercial Barge Line Co., hearing not called application dismissed.

MCC 7499, Manhattan Transit Co., Consolidated Terminal and Travel Bureau, Inc., and National Tour Brokers Association—petition for declaratory order, now being assigned hearing February 5, 1973 (2 days), at New York, N.Y., in a hearing room to be later designated.

MC 136670, Conboy Trucking Corp., now being assigned February 7, 1973 (3 days), at New York, N.Y., in a hearing room to be later designated.

I&S M 25996, General Increase, July 1972, Middle Atlantic Conference, now assigned November 7, 1972, at Washington, D.C., is postponed to December 5, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 120646 Sub 9, Bradley Freight Lines, Inc., now assigned November 27, 1972, at Washington, D.C., is postponed to December 4, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 116110 Sub 10, P. C. White Truck Line, Inc., continued to November 20, 1972, at the Ramada Inn, 3001 West 10th Street, Panama City, FL.

MC–C–7837, Donald & Jerome Fleecs, doing business as Fleecs Brothers-Investigation of Operations, now being assigned hearing January 29, 1973 (2 days), at Omaha, Nebr., in a hearing room to be later designated.

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MC 115113 Sub 30, Iowa Packers Xpress, Inc., now being assigned hearing January 31, 1973 (1 day), at Omaha, Nebr., in a hearing room to be later designated.

MC 30844 Sub 413, Kroblin Refrigerated Xpress, Inc., MC–110098 Sub 128, Zero Refrigerated Lines, MC 117815 Sub 195, Pulley Freight Lines, Inc., and MC 136904, Worster-Michigan, Inc., now being assigned hearing February 1, 1973 (2 days), at Omaha, Nebr., in a hearing room to be later designated.

MC 110563 Sub 55, Coldway Food Express, Extension-York, Nebr., now being assigned hearing February 6, 1973 (1 day), at Omaha, Nebr., in a hearing room to be later designated.

MC 26825 Sub 12, Andrews Van Lines, Inc., now being assigned hearing February 7, 1973 (3 days), at Omaha, Nebr., in a hearing room to be later designated.

MC 102616 Sub 869, Coastal Tank Lines, Inc., now being assigned hearing January 29, 1973 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC 118959 Sub 100, Jerry Lipps, Inc., now being assigned hearing February 1, 1973 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC 35358 Sub 29, Berger Transfer & Storage, Inc., now being assigned hearing February 5, 1973 (1 week), at Chicago, Ill., in a hearing room to be later designated.

MC–30837 Sub 440, Kenosha Auto Transport Corp. Extension-Import Automobiles, MC–52657 Sub 685, Arco Auto Carriers, Inc. Extension-Import Automobiles, now being assigned hearing February 5, 1973 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC–123407 Sub 103, Sawyer Transport, Inc., now being assigned for continued hearing February 7, 1973 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC–109633 Sub 17, Arbet Truck Lines, Inc., now being assigned hearing February 9, 1973 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC–124174 Sub 90 and Sub 91, Momsen Trucking Co., now being assigned hearing February 12, 1973 (1 week), at Chicago, Ill., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72–19179 Filed 11–7–72;8:54 am]

[Notice No. 157]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–73853. By order of October 27, 1972, the Motor Carrier Board approved the transfer to C & J Co., Inc., Dalton, Ga., of the operating rights in No. MC–124251 and subnumbers thereunder issued to Jack Jordan, Inc., Dalton, Ga., authorizing the transportation of synthetic latex, in bulk, in tank vehicles, liquid latex compounds, feldspathic sand, feldspar, dry ground limestone, clay, and clay slurry, and other specified commodities, from and to points as specified in Georgia, Alabama, Arkansas, Florida, Louisiana, Mississippi, North Carolina, Oklahoma, Ohio, South Carolina, Kentucky, Tennessee, and Virginia. Ariel V. Conlin, 53 Sixth Street NE., Atlanta, GA 30308, attorney for applicants.

No. MC–FC–73938. By order of October 27, 1972, the Motor Carrier Board approved the transfer to Howard William Bowen, Berlin, Md., of Certificate No. MC–100555 issued February 11, 1958, to Harold Francis Chapman, Snow Hill, Md., authorizing the transportation of passengers and their baggage, restricted to traffic originating at the points indicated, in charter operations, from Horntown, Va., and points within 2 miles of Horntown, to specified points in Maryland, Pennsylvania, and points in Delaware, and return; and from Stockton, Md., and points within 2 miles of Stockton, to specified points in Pennsylvania, Virginia, and points in Delaware, and return. Harold Francis Chapman, 105 South Ross Street, Snow Hill, MD 21863, representative for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72–19180 Filed 11–7–72;8:54 am]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

[Notice No. 90]

NOVEMBER 3, 1972.

The following publications are governed by the new Special Rule 1100.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant,[1] and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

[1] Except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

MOTOR CARRIERS OF PROPERTY

No. MC 113267 (Sub-No. 277) (Republication), filed February 28, 1972, published in the FEDERAL REGISTER issues of March 30, 1972, and October 26, 1972, and republished this issue. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris Street, Caseyville, IL 62232. Applicant's representative: Lawrence A. Fischer (same address as above). NOTE: The purpose of this republication is to show the correct docket number assigned thereto in lieu of No. MC 13267 Sub 277, which was published in error.

No. MC 136185 (Republication), filed November 15, 1971, published in the FEDERAL REGISTER issue of January 6, 1972, and republished this issue. Applicant: FLEETWOOD HOMES OF TEXAS, INC., 2901 Industrial Road, Waco, TX 70703. Applicant's representative: Coke Mills, Jr., 604 First National Building, Waco, TX 76701. An order of the Commission, Review Board Number 1, dated October 18, 1972, and served October 27, 1972, finds that operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, of *extruded polyethylene bags, liners, and wrapping material,* from Waco, Tex., to Chicago, Ill., Atlanta, Ga., St. Louis, Mo., Phoenix, Ariz. Albuquerque, N. Mex., and points in Los Angeles, Orange, Riverside, and San Bernardino Counties, Calif., under a continuing contract or contracts with Pakrite Plastic Corp. of Waco, Tex., subject to the conditions: (1) That applicant shall maintain separate accounts and records for its for-hire operations as distinct from its other business activities, and (2) that applicant shall not at the same time and in the same vehicle transport property both as a private carrier and as a for-hire carrier, will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder, and that an appropriate permit should be issued. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 136273 (Republication), filed December 9, 1972, published in the FEDERAL REGISTER issue of January 20, 1972,

and republished this issue. Applicant: KENNETH G. MAY and ORVILLE L. HOWARD, a partnership, doing business as CORONADO TRUCKING CO., 1315 Santiago Avenue, Santa Ana, CA 92701. Applicant's representative: Ernest D. Salm, 3846 Evans Street, Los Angeles, CA 90027. A report of the Commission, Review Board Number 3, decided October 2, 1972, and served October 27, 1972, finds that operation by applicants, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, (1) of paint, and paint materials, in containers, from Edgewater, Fla., to points in Alabama, Arizona, California, Colorado, Florida, Georgia, Illinois, Kentucky, Louisiana, Massachusetts, Missouri, New Jersey, North Carolina, North Dakota, Ohio, South Carolina, Texas, Virginia, and Washington, and (2) of materials and supplies used in the manufacture, production, and distribution of the commodities described in (1) above (except in bulk), from points in California, Florida, Georgia, Illinois, Kentucky, Louisiana, Maryland, Mississippi, Missouri, New Jersey, Texas, and West Virginia, to Edgewater, Fla., under a continuing contract or contracts with Coronado Paint Co., of Edgewater, Fla., will be consistent with the public interest and the national transportation policy; that applicants are fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings below, a notice of the authority actually granted will be published in the FEDERAL REGISTER and grant of a permit in this proceeding will be withheld for 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE FOR FILING OF PETITIONS

No. MC 118758 (Sub-No. 1) (notice of filing of petition for modification of certificate), filed October 2, 1972. Petitioner: TOTEM TOTERS, INC., 140 Eagel Street, Anchorage, AK 99501. Petitioner's representative: David J. Pree, 101 Christensen Drive, Anchorage, AK 99501. Petitioner presently holds a certificate in No. MC 118758 (Sub-No. 1), issued September 5, 1972, authorizing operation as a common carrier, by motor vehicle, over irregular routes, transporting: *Mobile homes,* between points in Alaska (except that area southeast of Yakutat Bay), on the one hand, and, on the other, points in California, Oregon, Washington, Wisconsin, Michigan, Indiana, Kentucky, and Tennessee; and between points in Alaska (except points in that area southeast of Yakutat Bay). By the instant petition, petitioner seeks modification of its certificate to include the transportation of: *Prefabricated houses or buildings,* set up or in set up sections moving on wheeled undercarriages equipped with ball-hitch, pintle-hitch, or drop pin connectors, between those points listed above. NOTE: Applicant presently holds the requested modification in Alaska in permit No. 107 (Amended) issued May 31, 1972 by order of the Alaska Transportation Commission in Docket 71–447–MF/A. Any interested person desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 119440 (Notice of filing of petition to change restriction), filed October 12, 1972. Petitioner: ALBERT J. DE VRIES, 105 North 16th Street, Paterson, NJ 07524. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Petitioner presently holds a certificate in No. MC 119440 issued May 23, 1972, authorizing operation as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods (uncrated) as defined by the Commission, commodities in bulk, commodities requiring special equipment, commodities injurious or contaminating to other lading, and radioactive material class D poison), from the sites of break bulk stations of Springmeier Shipping Co., Inc., in the New York, N.Y. commercial zone, as defined by the Commission, to points in Nassau County, N.Y.; and *returned shipments* of the above-specified commodities. Restriction: The authority grant herein is restricted to shipments having an immediately prior or an immediately subsequent movement on freight forwarder bills of lading. By the instant petition, petitioner seeks to transport the above-specified commodities, from the sites of common carriers in the New York, N.Y., commercial zone, as defined by the Commission, to points in Nassau County, N.Y.; and *returned shipments* of the above-specified commodities. Restriction: Restricted to shipments having an immediately prior or an immediately subsequent movement by common carrier. Any interested person desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 124211 (Sub-No. 109) (Notice of filing of petition for removal of restriction), filed October 16, 1972. Petitioner: HILT TRUCK LINE, INC., Post Office Box 988 Downtown Station, Omaha, NE 68101. Petitioner's representative: Thomas L. Hilt (same address as above). Petitioner presently holds a certificate in No. MC 124211 (Sub-No. 109), issued August 8, 1968, authorizing as pertinent, operation as a common carrier, by motor vehicle, over irregular routes, transporting: *Advertising matter and advertising paraphernalia,* when intended for use by the beverage industry and when moving in the same vehicle and at the same time with beverages, *bottle openers and can openers, and unfrozen beverages,* from Pueblo, Colo., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Michigan (except Detroit), Mississippi, North Dakota, Tennessee, and Texas; from points in Nebraska, to points in Alabama, Arkansas, Florida, Georgia, Illinois (except points in that part of Illinois north of U.S. Highway 24), Indiana, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Nebraska, North Dakota, South Dakota, Tennessee, Texas, and Wisconsin; from Belleville, Peoria, and Quincy, Ill., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming; from Chicago, Ill., Kansas City and St. Louis, Mo., to points in Idaho, Montana, New Mexico, North Dakota, South Dakota, and Texas; from Detroit, Mich., to points in Idaho, Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, and Texas; from Minneapolis, Minn., Muskogee, Okla., and LaCrosse, Milwaukee, and Waukesha, Wis., to points in Arizona, California, Idaho, Kansas, Montana, Nebraska (except Omaha), Nevada, New Mexico, North Dakota, Oregon, South Dakota, Texas, Utah, and Washington; from St. Joseph, Mo., to points in Arizona, California, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, Texas, Utah, Washington, and Wyoming; from points in that part of Nebraska east of U.S. Highway 77, to points in Idaho, Montana, and New Mexico; and, from points in New Jersey, to David City, Fairbury, Fremont, Lincoln, McCook, Norfolk, Omaha, and Scottsbluff, Nebr. Restriction: The authority granted hereinabove is restricted against the transportation of whiskey, in containers, from Pueblo, Colo., Chicago, Belleville, Peoria, and Quincy, Ill., Detroit, Mich., Kansas City and St. Louis, Mo., and points in New Jersey. By the instant petition, petitioner seeks removal of the above-stated restriction from its certificate. Any interested person desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATION FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATION UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 22301 (Sub-No. 13), filed October 10, 1972. Applicant: SIOUX TRANSPORTATION COMPANY, INC., 1230 Steuben Street, Sioux City, IA 51102. Applicant's representative: Carl L.

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Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, household goods as defined by the Interstate Commerce Commission, classes A and B explosives, commodities of unusual value and commodities which because of size or weight require special equipment) between points in Lake, DuPage, Cook, Will, Kane, and Kendall Counties, Ill., and points in McHenry and Grundy counties located on and east of Illinois Highway 47 and on and north of Illinois Highway 113 and points in Kankakee County on and north of Illinois Highway 17 (except Kankakee). NOTE: Applicant states that the requested authority can be tacked at points in the Chicago, Ill. commercial zone. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. The instant application seeks to purchase the operating rights of H & S Motor Service, Inc. under Certificate No. MC 120940. This is a matter directly related to MC–F 11692 published in the FEDERAL REGISTER issue of October 26, 1972. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC–F–11654. (Correction) (McBRIDE TRANSPORTATION, INC.—PURCHASE (PORTION)—CHEMICAL LEAMAN TANK LINES, INC.), published in the September 20, 1972, issue of the FEDERAL REGISTER on page 19411. Prior notice should be modified to read, from Peekskill, N.Y., in lieu of *New York and Peekskill, N.Y.*

No. MC–F–11655. (Correction) (A) (C & J COMMERCIAL DRIVEAWAY, INC.—PURCHASE (PORTION)—HOWARD SOBER, INC.), and (AA) (HOWARD SOBER, INC.—PURCHASE (PORTION)—DEALERS TRANSIT, INC.), published in the September 20, 1972, issue of the FEDERAL REGISTER on pages 19411 and 19412. Prior notice should be modified to read. (A) *Automobiles, trucks, tractors, and chassis*, new, used, unfinished, or wrecked, in secondary movements, in truckaway service, and bodies, new, used, unfinished, or wrecked, and *parts* of the commodities specified immediately above, as a common carrier over irregular routes, between points named or described under the second commodity description herein, but excluding service from Allentown, Pa.; Springfield, Ohio; Fort Wayne and Union City, Ind., between points in Iowa, New Hampshire, Tennessee, Vermont, and Virginia, between points in Iowa, New Hampshire, Tennessee, Vermont, and Virginia, on the one hand, and, on the other, points in Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Maryland, West Virginia, Ohio, Kentucky, Michigan, Indiana, Wisconsin, Illinois, Missouri, Arkansas, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, that part of Texas north of U.S. Highway 80 and east of U.S. Highway 81, and the District of Columbia, but excluding service from Allentown, Pa.; Springfield, Ohio; Fort Wayne and Union City, Ind. (AA) *New trucks, new tractors, new trailers, new chassis*, and *new buses*, in initial movements, in driveaway service, and *new cabs*, from Allentown, Pa., to St. Paul and Minneapolis, Minn., St. Louis, Mo., and Chicago, Ill.; *new trucks, new tractors, new trailers, new chassis*, and *new commercial automobiles*, in initial movements in driveaway service, and *new cabs*, from places of manufacture and assembly in Wayne County and Warren Township, Macomb County, Mich., to points in Rhode Island, Connecticut, New York, Pennsylvania, Maryland, Ohio, Michigan, Indiana, Illinois, Wisconsin, Minnesota, Iowa, Nebraska, Kansas, Missouri, Arkansas, Tennessee, Georgia, North Carolina, and that part of North Dakota on and east of North Dakota Highway 18, from places of manufacture and assembly in Fort Wayne, Indiana to points in Ohio and Illinois.

No. MC–F–11669. (Correction) (McDUFFEE MOTOR FREIGHT, INC.—PURCHASE (PORTION) — WEBB TRANSFER LINE, INC.), published in the October 4, 1972, issue of the FEDERAL REGISTER on page 20907. Prior notice should be modified to include, service is authorized to and from all intermediate points; and the off-route points of Bagdad, Cropper, Finchville, Mount Eden, Waddy, and Christianburg, Ky.

No. MC–F–11700. Authority sought for control and merger by CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, Post Office Box 1375, Joplin, MO 64801, of the operating rights and property of SOUTHEAST TRANSPORTATION COMPANY, also of Joplin, Mo. 64801, and for acquisition by U. G. LEWELLEN, 115 West Atchison, Jefferson City, MO 65101, of control of such rights and property through the transaction. Applicants' attorney: Thomas F. Kilroy, Post Office Box 624, Springfield, VA 22150. Operating rights sought to be controlled and merged: *Petroleum products*, in containers as a *common carrier* over irregular routes, from Bradford, Pa., to points in that part of Missouri bounded by a line beginning at the Kansas-Missouri State line but not including Kansas City, Mo., and extending along U.S. Highway 50 to certain specified points in Missouri; *green unfinished cheese*, from points in Iowa, to certain specified points in Missouri; *fresh meats*, and *food products* (except canned goods), from Springfield, Cabool, El Dorado Springs, Monett, and Lebanon, Mo., the site of the plant of M.F.A. Packing Division at or near Macon, Mo., and points in Jasper, Newton, Lawrence, and Christian Counties, Mo., to points in Nebraska; *meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, *food products* (except vegetable oil products and fats and oils, in bulk, in tank vehicles), and *agricultural commodities*, the transportation of which is not otherwise subject to economic regulation, when moving in mixed loads with the commodities described above, between Springfield, the plantsite of Missouri Farmers Association at Macon, Carthage, El Dorado Springs, Cabool, Lebanon, Monett, and Neosho, Mo., on the one hand, and, on the other, points in Kentucky and Tennessee (except Memphis, Tenn.), with restrictions. CONTRACT FREIGHTERS, INC., is authorized to operate as a *common carrier* in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, Wisconsin, and Wyoming. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11701. Authority sought for purchase by HOFFMAN RIGGING & CRANE SERVICE, INC., 560 Cortland Street, Belleville, NJ 07109, of the operating rights and property of RAYMOND INTERNATIONAL, INC., Post Office Box 22718, Houston, TX 77027, and for acquisition by HARRY L. HOFFMAN, JR., also of Belleville, N.J. 07109, of control of such rights and property. Applicants' attorney: Morton E. Kiel, 140 Cedar Street, New York, NY 10006. Operating rights sought to be transferred under provisions section 303(e)(2): It transports as a *contract carrier*, (1) by derricks and/or barges and tugs from and to ports on the Atlantic and gulf coasts of heavy or bulky articles such as tanks, boilers, airplanes, cracking chambers, machinery and similar pieces of freight, and (2) by towing vessels and derrick lighters of contractors' equipment and material, consisting of steam shovels, pile driving rigs, trucks, bulldozers, ditching machines, caterpillar cranes, compressors, dredges, derrick lighters, and other miscellaneous heavy and bulky material used in construction work between construction sites, and between contractors' yards and construction sites, along the Atlantic coast, on Long Island, N.Y., and along Long Island Sound, Block Island Sound, and their tributary waterways, Narragansett Bay, Providence River, and in the area defined in the order of March 26, 1941, in Ex Parte No. 140, *Determination of the Limits of New York Harbor and Harbors Contiguous Thereto;* (1) by non-self-propelled vessels with the use of separate towing vessels in the transportation of commodities generally between ports and points on Long Island Sound and Block Island Sound and their tributary waterways, Narragansett Bay, Providence River, and the area defined in the order of March 26, 1941 in Ex Parte No. 140, *Determination of the Limits of New York Harbor and Harbors Contiguous Thereto;* and (2) by towing vessels in the performance of general towage between ports and points along Long Island Sound, Block Island Sound, the Atlantic coast, and their tributary waterways (including Narragansett Bay and the Providence River) from the New York Harbor area as defined by the order of March 26, 1941, in Ex Parte No. 140, to Boston, Mass., inclusive, and on Nantucket, Martha's Vineyard, Plum, Fishers, and Gull Island. Vendee is authorized to operate as a *common carrier* in Pennsylvania, Delaware, Connecticut, Maryland, Massachusetts, New Jersey, New York, and Rhode Island. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11702. Authority sought for purchase by ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, Denver, CO 80216, of a portion of the operating rights of HENNIS FREIGHT LINES, INC., OF NEBRASKA, Post Office Box 612, Winston-Salem, NC 27102, and for acquisition by CERRO CORPORATION, 300 Park Avenue, New York, NY 10022, of control of such rights through the purchase. Applicants' attorneys: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603 and James E. Wilson, 1032 Pennsylvania Building, Washington, D.C. 20004. Operating rights sought to be transferred: *General commodities*, except those of unusual value, class A and B explosives, inflammables, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, as a *common carrier* over regular routes, between Omaha, Nebr., and Kansas City, Mo., serving all intermediate points; and the off-route point of the site of the Goodyear plant (located approximately 1½ miles northwest of the city limits of Topeka, Kans., on U.S. Highway 24 and truck route U.S. Highway 40). Vendee is authorized to operate as a *common carrier* in Illinois, California, Wyoming, Colorado, Arizona, New Mexico, Iowa, Nebraska, Kansas, Missouri, Texas, and Utah. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11704. Authority sought for purchase by MOHAWK MOTOR, INC., 34200 Mound Road, Sterling Heights, MI 48077, of a portion of the operating rights of MICHIGAN EXPRESS, INC. (Maurice A. Edleman, receiver), 1122 Freeman Avenue SW., Grand Rapids, MI 49502, and for acquisition by CENTRAL TRANSPORT, INC., and in turn by, T. J. MOURN AND M. J. MOURN, all of Sterling Heights, Mich. 48077, of control of such rights through the purchase. Applicants' attorney: Jack Goodman, 39 South La Salle Street, Chicago, IL 60603. Operating rights sought to be transferred: *General commodities*, with exceptions, as a *common carrier* over regular routes, serving various intermediate and off-route points in connection with carrier's regular route operations to and from Cincinnati, Ohio, and Kentucky, between junction U.S. Highway 52 and Indiana Highway 44 and Cincinnati, Ohio, between junction U.S. Highway 52 and Indiana Highway 28 and Cincinnati, Ohio, between Dayton and Cincinnati, Ohio, between junction U.S. Highway 52 and U.S. Highway 40 and Dayton, Ohio, between junction U.S. Highway 52 and Indiana Highway 28 and Dayton, Ohio, serving all intermediate points; over one alternate route for operating convenience only. Vendee is authorized to operate as a *common carrier* in Ohio, Michigan, Indiana, and Illinois. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11705. Authority sought for purchase by FOOD TRANSPORT, INC., Post Office Box 1041, York, PA 17405, of the operating rights of ROBERT S. LOCKHART AND WALTER M. LOCKHART, doing business as LOCKHART EXPRESS, Post Office Box 15, Stephenson, VA 22656, and for acquisition by STEWART LLOYD, 2100 Pleasant View Drive, York, PA 17402, and PAUL HIVELY, 287 Dew Drop Road, York, PA 17402, of control of such rights through the purchase. Applicants' attorneys: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101 and S. Harrison Kahn, Suite 733 Investment Building, Washington, D.C. Operating rights sought to be transferred: *Canned goods*, as a *common carrier* over irregular routes, from the plantsite of Bowman Apple Products Co., at Mount Jackson, Va., to points in Alabama and Tennessee. Vendee is authorized to operate as a *common carrier* in Pennsylvania, Florida, Maryland, Alabama, Georgia, New Jersey, Louisiana, Texas, New York, Mississippi, West Virginia, Virginia, Delaware, District of Columbia, Ohio, Kentucky, Tennessee, Rhode Island, Connecticut, Massachusetts, North Carolina, Arkansas, South Carolina, Indiana, Illinois, Missouri, Kansas, Michigan, Wisconsin, Iowa, North Dakota, South Dakota, Oklahoma, Maine, New Hampshire, and Vermont. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11706. Authority sought for purchase by CARL H. BETZ, Rural Delivery No. 1, Orefield, Lehigh County, Pa. 18069, of a portion of the operating rights of JOHN D. BOHR, INC., Box 217, Annville, Lebanon County, PA 17003. Applicants' attorney: Paul B. Kemmerer, 1620 North 19th Street, Allentown, PA 18104. Operating rights sought to be transferred: *Dolomitic limestone and dolomitic limestone products* (except when used for feed ingredients), in bulk, as a *common carrier* over irregular routes, from points in Upper Saucon Township, Lehigh County, Pa., to points in Maryland, New Jersey (except points in Cumberland, Salem, Gloucester, Cape May, Atlantic, Camden, and Burlington Counties), New York, and Delaware: *dolomitic limestone and dolomitic limestone products* (except when used for feed ingredients), in packages, from points in Upper Saucon Township, Lehigh County, Pa., to points in New Jersey, New York, and Delaware. Vendee is authorized to operate as a *common carrier* in Maryland, New Jersey, and Pennsylvania. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11707. Authority sought for purchase by INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, MN 55113, of a portion of the operating rights and property of MICHIGAN EXPRESS, INC., 1122 Freeman Avenue SW., Grand Rapids, MI 49502, and for acquisition by LESTER A. WILSEY, Jr., 1178 Tiller Lane, St. Paul, MN 55113, of control of such rights and property through the purchase. Applicants' attorneys: Paul C. Gartzke, 121 West Doty Street, Madison, WI 53703, and William L. Alvey, 1947 West County Road C, St. Paul, MN 55113. Operating rights sought to be transferred: *General commodities*, excepting among others, classes A and B explosives, household goods, and commodities in bulk, as a *common carrier* over regular routes, serving off-route points in connection with carrier's regular route operations between Findlay and Toledo, Ohio, and to and from Cincinnati, Ohio, between Lima and Toledo, Ohio, between Lima and Cincinnati, Ohio, serving all intermediate points. Vendee is authorized to operate as a *common carrier* in Wisconsin, Minnesota, Iowa, South Dakota, North Dakota, Illinois, Montana, Nebraska, Missouri, Indiana, Kansas, Oklahoma, Michigan, Kentucky, Ohio, Arkansas, Colorado, Wyoming, Texas, Tennessee, New Jersey, and West Virginia. Application has been filed for temporary authority under section 210a(b).

NOTICE

SOO LINE RAILROAD COMPANY (SOO LINE), with offices at Room 800, Soo Line Building, Minneapolis, Minn. 55440, hereby gives notice that on the 16th day of October 1972, it filed with the Interstate Commerce Commission at Washington, D.C., in Finance Docket No. 27211, an application for authority to acquire trackage rights over approximately 4.59 miles of the multi-track terminal trackage of the Burlington Northern, Inc. (BN), between Soo Line's Shoreham yard in Minneapolis, Minn., and the main yard of the Minnesota Transfer Railway Co. in St. Paul, Minn., for the purpose of operating Soo Line's locomotives and cars with its own crews to interchange cars with said Minnesota Transfer Railway. Said rights were a condition of the Northern Lines merger case in Finance Docket No. 21478 et al., and are described in section 21(b) of Appendix L in 331 ICC 228.

In the opinion of the applicant, the Commission's actions requested in this application will not have any significant

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impact upon and will not significantly affect the quality of the human environment. The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission no later than 30 days from the date of first publication in the FEDERAL REGISTER.

Soo Line Railroad Co. is represented in the above matter by Mr. Robert G. Gehrz, Room 804, Soo Line Building, Minneapolis, Minn. 55440.

No. MC–F–11708. Authority sought for purchase by MILTON TRANSPORTATION, INC., Post Office Box 207, Milton, PA 17847, of the operating rights and property of ROWE CAMBRIDGE MOTOR TRANSPORTATION, INC., Tyrone, Pa. 16686 and for acquisition by RAY B. BOWERSOX, JAMES R. SPOTTS, GARY L. WIEAND, SANDRA J. BOWER, AND GLEN L. NAREHOOD, all of Post Office Box 207, Milton, PA 17847, of control of such rights and property through the purchase. Applicants' attorney: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Operating rights sought to be transferred: *Iron cores*, as a *contract carrier* over regular routes, from Dunellen, N.J., to Tyrone, Pa., serving no intermediate points; *activated carbon*, between Tyrone, Pa., and Luke, Md., from Tyrone, Pa., to Carney's Point, N.J., serving no intermediate points; *activated carbon*, over regular and irregular routes, from Tyrone, Pa., to points in New York and New Jersey, serving no intermediate points; *printing paper*, other than newsprint, between Tyrone and Williamsburg, Pa., and Luke, Md., from Tyrone and Williamsburg, Pa., to Brooklyn and New York, N.Y., and points within 25 miles of Newark, N.J., serving no intermediate points; *iron paper winding cores*, from Brooklyn and New York, N.Y., and points within 25 miles of Newark, N.J., to Tyrone and Williamsburg, Pa., serving no intermediate points; *flakeboard*, over irregular routes, from Tyrone, Pa., to points in Massachusetts, Rhode Island, Connecticut, Delaware, North Carolina, and South Carolina, and a defined area of Ohio, Maryland, West Virginia, New Jersey, and New York; paper and paper products, from Tyrone, Pa., to points in Vermont, from Tyrone, Pa., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, that part of Maryland within 50 miles of Gaithersburg, Md., Michigan, Minnesota, Mississippi, Missouri, New Hampshire, that part of Ohio west of Ohio Highway 4, Oklahoma, Tennessee, Texas, Vermont, Virginia, that part of West Virginia within 50 miles of Gaithersburg, Md., Wisconsin, and the District of Columbia, with restrictions; *paper and paper products*, from Tyrone, Pa., to points in Vermont, with restriction; *paper and paper products, woodpulp, and wastepaper*, from the plantsite of Westvaco Corp., at or near Wickliffe, Ky., to points in Massachusetts, Connecticut, Rhode Island, New Jersey, Pennsylvania, Maryland, Delaware, Virginia, West Virginia, and the District of Columbia, from the plantsite of Westvaco Corp. near Wickliffe, Ky., to points in New York; *materials and supplies* used in the manufacture and distribution of paper products (except commodities in bulk), from points in Massachusetts, Connecticut, Rhode Island, New Jersey, Pennsylvania, Maryland, Delaware, Virginia, West Virginia, and the District of Columbia, from points in New York, to the plantsite of Westvaco Corp., near Wickliffe, Ky., with restrictions; *printing paper* (other than newsprint), from Tyrone, Pa., to points in Connecticut, New Hampshire, New York (except Poughkeepsie and New York, N.Y., and all intermediate points on U.S. Highway 9 between Poughkeepsie and New York, N.Y.), and Rhode Island, with restriction; *paper and paper products, and wood pulp*, from Tyrone, Pa., to points in Massachusetts, Maine and Michigan; *materials, equipment and supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk), from points in Massachusetts, Maine, and Michigan to Tyrone, Pa., with restriction; *scrap paper*, from points in Connecticut, Delaware, Maryland, Massachusetts, Michigan, New York, North Carolina, Ohio, and Virginia, to Williamsburg, Pa., from points in New Jersey to Williamsburg, Pa., with restrictions. Vendee is authorized to operate as a *contract carrier* in Pennsylvania, New York, New Jersey, Maryland, Delaware, Ohio, Virginia, West Virginia, Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire, Maine, Indiana, Illinois, Michigan, Iowa, Kentucky, Missouri, North Carolina, Tennessee, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

NOTICE

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY hereby gives notice that on October 18, 1972, it filed with the Interstate Commerce Commission at Washington, D.C., an application for authority to acquire trackage rights over and joint use of certain lines of railroad of Burlington Northern Inc. between Hinkley, Minn. and Central Avenue, Superior, Wis., a distance of approximately 64.14 miles, and between Boylston, Wis., and Cloquet, Minn., a distance of approximately 25.63 miles and over certain Burlington Northern terminal trackage in Duluth-Superior and interchange trackage in Saunder, Wis. The proceeding assigned Finance Docket No. 27217 will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission no later than 30 days from the date of first publication in the FEDERAL REGISTER.

Applicant believes that the requested Commission action will have no adverse effect or other impact on the quality of the human environment.

In accordance with the Commission's regulations (49 CFR 1100.250) in Ex Parte No. 55 (Sub-No. 4), *Implementation—Nat'l Environmental Policy Act, 1969*, 340 I.C.C. 431 (1972), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall include information relating to the relevant factors set forth in Ex Parte No. 55 (Sub-No. 4), supra, Part (b) (1)–(5), 340 I.C.C. 431, 461. A copy of any protest should also be sent to Mr. Joseph J. Nagle, General Attorney, 888 Union Station, 516 West Jackson Boulevard, Chicago, IL 60606.

NOTICE

The Atchison, Topeka & Santa Fe Railway Co. hereby gives notice that on the 24th day of October 1972 it filed with the Interstate Commerce Commission at Washington, D.C., an application under section 5(2)(a)(ii) of the Interstate Commerce Act for authority to acquire trackage rights over a line of railroad of St. Louis-San Francisco Railway Co. between Black Bear, Noble County and Camp, Pawnee County, Okla., a distance of approximately 31.14 miles. The application has been assigned Finance Docket No. 27220. In Docket No. 27221 applicant filed a directly related application for authority to abandon a line of railroad between Esau Junction and Pawnee, Pawnee County, Okla. The proceedings will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. In the opinion of the applicant, the authoirty sought by these applications will have no significant effect upon the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1100.250) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act of 1969*, 340 I.C.C. 431 (1972), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present the statement shall include such information relating to the facts set forth in Ex Parte No. 55 (Sub-No. 4), supra Part (b) (1)–(5), 340 I.C.C. 431, 461. Any person opposed to this trackage rights application should advise the Commission promptly, with an original and six copies, identifying the docket number, and send a copy of the protest to Mr. Harvey Huston, General Attorney, The Atchison, Topeka & Santa Fe Railway Co., 80 East Jackson Boulevard, Chicago, IL 60606. Any protests shall be filed with the Commission no later than 30 days from the date of first publication in the FEDERAL REGISTER.

The Atchison, Topeka & Santa Fe Railway Co.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-19177 Filed 11-7-72;8:53 am]

[I.C.C. Order 73–A; Rev. Service Order 994]

ST. JOHNSBURY & LAMOILLE COUNTY RAILROAD

Rerouting Traffic

TO ALL RAILROADS: Upon further consideration of I.C.C. Order No. 73 (St. Johnsbury & Lamoille County Railroad) and good cause appearing therefor:

It is ordered, That:

(a) I.C.C. Order No. 73 be, and it is hereby, vacated and set aside.

(b) This order shall become effective at 12:01 a.m., November 5, 1972.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., November 2, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER, *Agent.*

[FR Doc.72-19176 Filed 11-7-72;8:53 am]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

NOVEMBER 3, 1972.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Kansas Docket No. 93, 452 M, Route No. 9047 (Amendment) filed April 14, 1972, published in the FEDERAL REGISTER issue of May 17, 1972 and republished as amended this issue. Applicant: JAYHAWK TRUCK LINES, INC., 1400 Vickers–KSB&T Building, Wichita, KS. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities*: To, from and between Wichita, Kans., and Herington, Kans., and a 5-mile radius thereof; and the intermediate points of Lincolnville, Lost Springs, Admire, Council Grove, Wilsey, Delavan, Hope, Elmo, Durham, Goessel, and Newton, Kans., and a 5-mile radius thereof; and the off-route points of Pilsen, Burdick, Ramona, Woodbine, Navarre, Enterprise, Carlton, Gypsum, Roxbury, Hesston, and Tampa, Kans., and a 5-mile radius thereof. From Florence, Kans., on present authority, north of U.S. Highway 77 to Herington, Kans.; thence west on Kansas Highway 4 to Elmo, Kans.; thence south on Kansas Highway 15 to Newton, Kans.; thence south on U.S. Interstate 35W to Wichita, Kans., and return over the same route. Also, from Strong City, Kans., on present authority, north on Kansas Highway 177 to Council Grove, Kans.; thence west on U.S. Highway 56 to Herington, Kans.; thence on route as herein described, and return over the same route. Also, from Emporia, Kans., on present authority, north on Kansas Turnpike to U.S. Highway 56, thence west on U.S. Highway 56 to Herington, Kans., thence on route as herein described and return over the same route. As an alternate route for operating convenience only; from Elmo, Kans., west on Kansas Highway 4 to the intersection of Kansas Highway 4 and U.S. Interstate 35W, thence south on U.S. Interstate 35 to Wichita, Kans., and return over the same route. Both intrastate and interstate authority sought.

HEARING: Before the State Corporation Commission, Morris County Courthouse, Public Meeting Room, Council Grove, Kans., on Tuesday, December 12, 1972. Requests for procedural information including the time for filing protests concerning this application should be addressed to the State Corporation Commission, Fourth Floor, State Office Building, Topeka, Kans. 66612 and should not be directed to the Interstate Commerce Commission. NOTE: The purpose of this republication is to seek an extension of certificate of convenience and necessity to transport general commodities.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-19175 Filed 11-7-72;8:53 am]

[Sec. 5a Application 61, Amdt. 22]

NATIONAL CLASSIFICATION COMMITTEE—AGREEMENT

Application for Approval of Amendments

AUGUST 9, 1972.

The Commission is in receipt of an application in the above-entitled proceeding for approval of amendments to the agreement therein approved.

Filed June 7, 1972, by Richard H Hinchcliff, Secretary, National Classification Committee, 1616 P Street NW., Washington, DC 20036 and Bryce Rea, Jr., 1329 E Street NW., Washington, DC 20004.

The amendments involve: (1) Authorizing the chairman of the classification committee to appoint not more than 10 members-at-large to such committee, in addition to the 100 elected members (article II, section 1); (2) preclude eligibility for reelection to classification committee membership by failure to attend one of three regular meetings preceding the mailing of ballots (article II, section 3); and (3) revise the appeal procedure to permit the classification committee to modify and approve a recommendation of the classification board and to provide for publication of approved committee actions without further submittal to the board (article IV, rule 11).

The complete amended application may be inspected at the Office of the Commission in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing within 20 days from the date of publication of this notice in the FEDERAL REGISTER. As provided by the general rules of practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved without public hearing.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-19174 Filed 11-7-72;8:53 am]

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FEDERAL COMMUNICATIONS COMMISSION

[Canadian List 298]

CANADIAN STANDARD BROADCAST STATIONS

Notification List

OCTOBER 27, 1972.

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

Call letters	Location	Power kws	Antenna	Schedule	Class	Antenna height (feet)	Ground system: Number of radials	Ground system: Length (feet)	Proposed date of commencement of operation
		790 kHz							
CFNW (now in operation)	Port aux Choix, Newfoundland, N. 50°42'00", W. 57°24'00".	1	DA-1	U	III				
		1150 kHz							
CJRC (now in operation)	Ottawa, Ontario, N. 45°16'14", W. 75°40'39".	50D/8N	DA-2	U	III				
		1150 kHz							
CKX (now in operation)	Brandon, Manitoba, N. 49°50'28", W. 100°03'19".	10	DA-N ND-D-187	U	III				
		1240 kHz							
(New)	Bale Verte, Newfoundland, N. 49°57'26", W. 56°10'45".	1D/0.5N	ND-180.5	U	IV	132.3	120	317	E.I.O. 12-7-73.
		1370 kHz							
(New) (delete assignment immediately).	Saskatoon, Saskatchewan, N. 52°03'27", W. 106°42'14".	10	DA-N ND-D-194	U	III				
		1440 kHz							
CJOI (now in operation)	Wetaskiwin, Alberta, N. 52°57'30", W. 113°27'00".	1	DA-1	U	III				
		1470 kHz							
CJVB (change in daytime efficiency).	Vancouver, British Columbia, N. 49°11'36", W. 123°06'39".	10	DA-2	U	III				
		1490 kHz							
CJFR (now in operation)	Coleman, Alberta, N. 49°37'39", W. 114°27'59".	1D/0.25N	ND-236	U	IV	330	120	300	

[SEAL]

Federal Communications Commission,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.72-19151 Filed 11-7-72;8:52 am]

[Mexican List 268]

MEXICAN STANDARD BROADCAST STATIONS

Notification List

OCTOBER 1, 1972.

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Mexican standard broadcast stations modifying the assignments of Mexican broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

Call letters	Location	Power watts	Antenna radiation mv./m./kw.	Schedule	Class	Antenna height (feet)	Ground system: Number Radials	Ground system: Length (feet)	Proposed date of change or commencement of operation
		600 kHz							
XETA (in operation)	Zitacuaro, Mich., N. 19°26'04", W. 100°20'03".	500-D/150-N	ND-175	U	III	328	180	345	9-1-72.
		1080 kHz							
XETA (assignment deleted)	Zitacuaro, Mich.	500-D/100-N	ND	U	II				
		1100 kHz							
XEBD (PO 250 W.)	Perote, Ver., N. 19°33'58", W. 97°14'32".	1000	ND-175	D	II	201	90	200	4-1-73 (probable).
		1150 kHz							
XEFN (in operation with 1,000 W.).	Uruapan, Mich., N. 19°25'02", W. 101°57'12".	1000	ND-202	D	II	317	120	197	10-1-72.
		1160 kHz							
XEBE (in operation)	Perote, Ver., N. 19°37'18", W. 97°14'24".	250	ND-190	D	II	212	120	212	5-17-71.
		1240 kHz							
XECG (requires coordination)	Nogales, Son.	1000-D/250-N	ND	U	IV				1-1-73 (probable).
		1500 kHz							
XEXV (in operation)	San Francisco del Rincon, Gto., N. 21°01'05", W. 101°51'55".	1000	ND-182	D	III	187	180	164	9-1-72.

Call letters	Location	Power watts	Antenna radiation mv./m./kw.	Schedule	Class	Antenna height (feet)	Ground system: Number Radials	Ground system: Length (feet)	Proposed date of change or commencement of operation
		1540 kHz							
XEAA (requires coordination)	Mexicali, B.C.	1000-D/250-N	ND	U	IV				1-1-73 (probable).
		1540 kHz							
XEMT (requires coordination)	Matamoros, Tams.	1000-D/250-N	ND	U	IV				1-1-73 (probable).
		1550 kHz							
XEOC (in operation)	Puerto Penasco, Son. N. 31°19'54", W. 113°31'60";	500	ND-170	D	III	148	90	148	9-1-72.
		1410 kHz							
XEIR (new assignment)	Cd. Valles, S.L.P.	500	ND	D	III				5-1-73 (probable).
		1430 kHz							
XETT (new assignment)	Tlaxcala, Tlax.	500	ND	D	III				4-1-73 (probable).
		1450 kHz							
XESS (requires coordination)	Ensenada, B.C.	1000-D/250-N	ND	U	IV				1-1-73 (probable).
		1290 kHz							
XEAQ (requires coordination)	Agua Prieta, Son.	1000-D/250-N	ND	U	IV				1-1-73 (probable).
		1490 kHz							
(New)	Tampico, Tams.	250-D/100-N	ND	U	IV				5-1-73 (probable).

[SEAL]

Federal Communications Commission,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.72-19150 Filed 11-7-72;8:52 am]

[Canadian List 297]

CANADIAN BROADCAST STATIONS

Notification List

OCTOBER 2, 1972.

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

Call letters	Location	Power kw.	Antenna	Schedule	Class	Antenna height (feet)	Ground system: Number of radials	Ground system: Length (feet)	Proposed date of commencement of operation
		1250 kHz							
CKDA (now in operation)	Victoria, British Columbia, N. 48°26'00", W. 123°14'55".	50	DA-1	U	II				
		1290 kHz							
CJBK (change of call sign)	London, Ontario, N. 42°52'05", W. 81°13'58".	10	DA-1	U	III				
		1400 kHz							
(New)	Drummondville, Province of Quebec, N. 45°52'12", W. 72°30'48".	0.25D/0.1N	DA-1	U	IV				E.I.O. 10-2-73.
		1350 kHz							
CJEP (now in operation)	Riviere-du-Loup, Province of Quebec, N. 47°47'13", W. 69°35'27".	10D/5N	DA-N ND-D-193	U	IV				
		1470 kHz							
CJVB (now in operation)	Vancouver, British Columbia, N. 49°11'36", W. 123°00'39".	10	DA-2	U	III				
		1600 kHz							
CKOT (PO 1510 kHz, 1 kw., DA-D).	Tillsonburg, Ontario, N. 42°41'08", W. 80°39'25".	10	DA-2	U	III				E.I.O. 10-2-73.

[SEAL]

Federal Communications Commission,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau,

[FR Doc.72-19149 Filed 11-7-72;8:52 am]

[Dockets Nos. 19620, 19621; FCC 72-950]

CABOOL BROADCASTING CORP., AND KICKAPOO PRAIRIE BROADCASTING CO., INC.

Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of Cabool Broadcasting Corp., Cabool, Mo., Docket No. 19620, File No. BPH-7806, Requests: 92.7 MHz, No. 224; 3 kW (H & V), 191.5 feet; Kickapoo Prairie Broadcasting Co., Inc., Mountain Grove, Mo., Docket No. 19621, File No. BPH-7903, Requests: 92.7 MHz, No. 224; 3 kW (H & V), 300 feet; for construction permits.

1. The Commission has before it the captioned applications which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference. Therefore, a comparative hearing must be held.

2. The respective proposals, although for different communities would serve substantial areas in common. Consequently, in addition to determining, pursuant to section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will also be specified.

3. Cabool Broadcasting Corp. proposes independent programing, while Kickapoo Prairie Broadcasting Co., Inc., proposes to duplicate the programing of its commonly owned AM station, KLRS, during 47 percent of its broadcast time. Therefore, evidence regarding program duplication will be admissible under the contingent comparative issue. When duplicated programing is proposed, the showing permitted under the contingent comparative issue will be limited to evidence concerning the benefits to be derived from the proposed duplication, and

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a full comparison of the applicants' program proposals will not be permitted in the absence of a specific programing inquiry. "Jones T. Sudbury," 8 FCC 2d 360 (1967).

4. Each of the applicants is qualified to construct and operate as proposed. However, because of their mutual exclusivity, the Commission is unable to make a statutory finding that a grant of the subject applications would serve the public interest, convenience, and necessity. Therefore, they must be designated for hearing in a consolidated proceeding on the issues set forth below.

5. *Accordingly, it is ordered,* That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine the areas and populations which would receive FM service of 1 m.v./m or greater intensity from the respective proposals together with the availability of other primary (1 m.v./m or better for FM) aural services in such areas.

(2) To determine, in light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

(3) To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to section 307(b), which of the proposals would better serve the public interest.

(4) To determine, in light of the evidence adduced under the above issues, which of the applications should be granted.

6. *It is further ordered,* That the applicants shall file a written appearance stating an intention to appear and present evidence on the specified issues, within the time and in the manner required by § 1.221(c) of the rules.

7. *It is further ordered,* That the applicants shall give notice of the hearing within the time and in the manner specified in § 1.594 of the rules, and shall seasonably file the statement required by § 1.594(g).

Adopted: October 26, 1972.

Released: October 31, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-19152 Filed 11-7-72;8:51 am]

[Docket No. 19562]

SAMUEL C. McCLUNEY III

Order for Hearing and Consolidation

In the matter of Samuel C. McCluney III, 1536 Pearl Street, Jacksonville, FL 32206, suspension of amateur radio operator license KOECG, and order to show cause why the license for radio station KOECG in the amateur radio service should not be revoked, Docket No. 19562.

The Commission, by the Chief, Safety and Special Radio Services Bureau, under delegated authority, having under consideration its order released June 29, 1972, which suspended amateur radio operator license KOECG for the balance of the license term and also having under consideration its order released June 29, 1972 (Docket No. 19562), directing Samuel Copp McCluney III, to show cause why the license for amateur radio station KOECG should not be revoked; and

It appearing, that respondent, in accordance with section 303(m)(2) of the Communications Act of 1934, as amended, has filed a timely application for hearing on the suspension order;

It is ordered, Pursuant to sections 303(m)(1)(a) and (d) and 303(m)(2) of the Communications Act of 1934, as amended, and §§ 0332(f) and 1.85 of the Commission's rules, that the matter of the suspension of the amateur radio operator license of Samuel Copp McCluney III, is designated for hearing before an Administrative Law Judge to be named and at a time and place to be specified by subsequent order upon the following issues:

1. To determine whether respondent committed violations of §§ 97.19 and 97.129 of the Commission's rules; and

2. To determine whether respondent's actions as described in the order of suspension are contrary to the public interest, convenience, and necessity and contrary to the provisions of sections 301 and 307(a) of the Communications Act of 1934, as amended; and

3. To determine whether respondent has misrepresented or concealed material facts or was lacking in candor in that:

(a) Respondent represented by his application filed August 20, 1970, that he had been issued an amateur extra class radio station license August 31, 1965;

(b) Respondent, in his letters to the Commission dated September 3, 1971, and April 20, 1972, stated that he had taken the amateur extra class examination in the spring of 1966 or 1967; and

4. To determine, in view of the foregoing, whether the Commission would be warranted in refusing to grant an application filed by respondent for an amateur radio station license if the original application were now before it; and

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, whether the order of suspension should be affirmed, modified, or revoked; and

It further appearing, that the proceeding in Docket No. 19562 involves the same respondent and the issues are substantially the same and that consolidation of these proceedings will be conducive to the proper dispatch of business and to the ends of justice;

It is ordered, Pursuant to the provisions of § 1.227 of the Commission's rules, that the proceeding on the order of suspension and the proceeding on the issues on the order to show cause are consolidated for hearing; and

It is further ordered, That a copy of this order shall be sent to respondent by airmail at 1536 Pearl Street, Jacksonville, FL 30206.

Adopted: October 27, 1972.

Released: October 31, 1972.

SAFETY AND SPECIAL RADIO SERVICES BUREAU,
[SEAL] J. RUSSEL SMITH,
Chief, Legal, Advisory and Enforcement Division.

[FR Doc.72-19153 Filed 11-7-72;8:51 am]

[No. 91171]

INSPECTION BY PUBLIC OF REPORTS SUBMITTED BY COMMON CARRIERS

Ruling. In the matter of inspection by the public of reports submitted by common carriers pursuant to 47 CFR 43.61.

1. Pursuant to § 43.61 of the Commission's rules, 47 CFR 43.61, certain common carriers are required to submit two reports containing detailed information concerning overseas traffic handled with overseas points, one for the first 6 months of the calendar year, and the second for the entire calendar year.[1] These particular reports are not listed in 47 CFR 0.455 as routinely available for inspection although other reports filed pursuant to § 43.71 of the rules are so listed.

2. For several years, the Commission has been publishing consolidated data from individual reports submitted by the carriers in the FCC Statistical Yearbook (Statistics of Communications Common Carriers). For example, Tables 23 and 24 of the yearbook contain an analysis of overseas message telegraph and telex by country or point on a consolidated industry basis.[2]

3. Recently, the Commission, with the agreement of the carriers, established procedures for the computerization of these reports. Since it has been our understanding that several of the carriers principally engaged in handling telegraph traffic have been informally exchanging their individual reports among themselves for several years, it was proposed that the new computerized reports showing results for each carrier be made available to all carriers as well as to the general public. (In this connection, several carriers proposed that we indicate each carrier's percentage of participation in overseas message telegraph and telex by country or points.) Accordingly, all carriers required to submit reports under § 43.61 of the rules were asked to advise the Commission, in writing, as to their views with respect to making their individual data available to each other and to the general public.

[1] Reports are filed by, among others, American Telephone & Telegraph Co. (A.T. & T.), various subsidiaries of International Telegraph Co. ITT World Communications, Inc. (ITT Worldcom), All America Cables & Radio, Inc. (A.A.C. & R.), ITT Communications, Inc.-Virgin Islands (ITTCIVI), RCA Global Communications, Inc. (RCA Globcom), Western Union International, Inc. (WUI), Cable & Wireless/Western International, Inc. (C&W/WUI), Tropical Radio Telegraph Co., Inc. (Tropical Radio), U.S.-Liberia Radio Co. (USLR), the French Cable Co. (FC), the Hawaiian Telephone Co. (HAWTEL), and the Western Union Telegraph Co. (WUTC).

[2] Although these statistics do not show the individual data reported by each carrier, Table 15 contains an analysis of overseas telephone traffic by country or point which reports information obtained solely from A.T. & T.'s reports filed pursuant to 47 CFR 43.61.

4. All of the carriers responded and a number stated they would have no objection to making their statistical data filed in compliance with § 43.61 available for public inspection. However, ITT Worldcom, RCA Globcom, and WUI indicated that their individual reports should not be made available for public inspection but that they would be willing to permit inspection by some of the other record carriers on a reciprocal basis.[3] By letter of December 10, 1971, the Common Carrier Bureau asked the carriers opposing total disclosure to submit their reasons for limiting disclosure to select carriers.

5. The carriers gave several different reasons to support their requests for selective disclosure. One contended that the detailed nature of the data would permit the identification of "information relating to individual customers or groups of customers" (ITT Worldcom letter of December 23, 1971). Another carrier pointed out that disclosure would cause information to be made available not only to competitors but also to persons who had "contributed little or no effort" to compile it (RCA Globcom letter of February 29, 1972).[4] The carriers also submitted that there are often "important purposes in the areas of planning and evaluation" to be served by the exchange of individual reports among the record carriers and that no similar purpose would be served by "total disclosure" (WUI letter of February 18, 1972, concurred in by C&W/WUI). These carriers further contended that the information involved is commercial or financial data "entitled to exemption from public disclosure" under section 552(b)(4) of the Public Information Act, 5 U.S.C. 552(b)(4), and § 0.457(d) of the Commission's rules, 47 CFR 0.457(d), and that they are entitled to have it maintained on a confidential basis by the Commission even though they may be willing to make it available to some of their competitors on a reciprocal basis (WUI letter, supra). In addition, the carriers argued that unlimited disclosure could work to their detriment in meeting the competition of foreign communications carriers (letters of ITT Worldcom, WUI, supra).

6. We have considered the reasons submitted by the carriers in support of limited disclosure and believe that their requests for limited confidentiality should not be granted. Initially, it is difficult to understand how the public availability of this information would cause them serious competitive injury in view of their apparent willingness to furnish it to their principal competitors. As for the contention that this is the kind of material that is exempted from public disclosure under the Public Information Act and the Commission's rules, it should be noted that the information normally entitled to protection under these provisions is the kind which ordinarily would not be made available to competitors by the person submitting it. It seems obvious that the Commission should be under no obligation to maintain this information on a confidential basis when the persons submitting it intend to give it to their principal competitors. That the usual justification for protecting this data is lacking here is reinforced by the willingness of the other carriers to make it available to everyone. The fact that the carriers would receive, in some instances no comparable information in return is, of course, no basis for nondisclosure. Nor does the fact that there may be "important purposes" to be served by exchanging the information among principal competitors provide such a basis.

7. Finally, it should be noted in this connection that section 412 of the Communications Act, 47 U.S.C. 412, among other things, expressly provides that reports the Commission requires the carriers to file pursuant to the Communications Act, are to be public records unless, in accordance with the same section's proviso clause, the Commission determines it would be in the public interest to keep them confidential because their publication would place the U.S. domestic carriers at a disadvantage with their foreign competitors.[5] Section 0.457(3) of the rules provides that any person may file a petition requesting that materials covered by section 412 be withheld from public inspection and that such a petition must demonstrate that the material "* * * relates to foreign wire or radio communications; that its publication would place American communication companies at a disadvantage in meeting the competition of foreign communication companies; and that the public interest would be served by keeping its terms confidential."

8. While the carriers have made the bare claim that total disclosure would place them at a disadvantage with respect to their foreign competition, but that a disclosure limited to U.S. international record carriers would not, they have given no reasons to support these assertions. Nor have they provided any reasons as to how the public interest would be served by disclosure limited only to their principal competitors. It seems clear that an unsubstantiated allegation of potential economic injury should not be sufficient to invoke the protection afforded by section 412 in view of the explicit disclosure requirements set forth in that section.

9. Accordingly, pursuant to 47 CFR 0.459, the Bureau has determined that the individual reports submitted pursuant to 47 CFR 43.61 should be available for public inspection.

10. Pursuant to 47 CFR 0.459(g), the individual reports will be held in confidential status for a period of 30 days from the date of release of this order, to afford ITT Worldcom, RCA Globcom, and WUI an opportunity within that period to file an application for review by the Commission and to petition for judicial review of this action.

Released: October 24, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BERNARD STRASSBURG,
Chief, Common Carrier Bureau.

[FR Doc.72-19148 Filed 11-7-72;8:52 am]

[3] ITT Worldcom's reply was also made in behalf of A.A.C. & R. and ITTCIVI and WUI's response was made in behalf of C&W/WUI.

[4] RCA Globcom also suggested that a "consolidated industry report" should be prepared for public consumption, that its individual data should be returned, and that the carriers, rather than the Commission, should arrange for the exchange of their individual statistics among themselves. (RCA letter, supra)

[5] This section entitled "Documents Filed To Be Public Records-Use in Proceedings," provides in pertinent part as follows: "* * * and the statistics, tables, and figures contained in the annual or other reports of carriers * * * made to the Commission as required under the provisions of this Act shall be preserved as public records in the custody of the secretary of the Commission, * * * *Provided*, That the Commission may, if the public interest will be served thereby, keep confidential any contract, agreement, or arrangement relating to foreign wire or radio communication when the publication of such contract, agreement, or arrangement would place American communication companies at a disadvantage in meeting the competition of foreign communication companies."

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WASHINGTON, D.C.

Volume 37 ■ Number 216

PART II

ENVIRONMENTAL PROTECTION AGENCY

■

CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Proposed Modification to Allowable Maintenance on Light Duty Vehicles

No. 216—Pt. II——1

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ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 85]

CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Proposed Modification to Allowable Maintenance on Light-Duty Vehicles

Section 85.90 of the motor vehicle emission certification regulations (40 CFR Part 85) presently prescribes a specific schedule of allowable maintenance on durability data vehicles. To meet the stringent Federal motor vehicle emission standards for 1975/1976, it is likely that certain advanced emission control systems may need maintenance that is not now provided for by the regulations.

The amendments proposed in this notice would allow the manufacturer to establish, prior to the beginning of 1975 model year certification testing, a schedule for maintenance on Exhaust Gas Recirculation (EGR) systems at no more than the 12,000, 24,000, and 36,000 mile test points and catalytic converters (no more than once during 50,000 miles) on durability data vehicles if: (1) Failure to perform maintenance is not likely to result in an improvement in vehicle performance, and (2) the same type of maintenance at the same intervals will be specified in the maintenance instructions furnished to the original purchaser of the motor vehicle.

The proposed amendments would also clarify the criteria upon which the Administrator would approve any additional maintenance not otherwise provided for in the regulations. For example, the Administrator would allow scheduled maintenance related to emission control for components other than those specifically authorized in the regulations if parts and components not requiring so high a level of maintenance as is being requested to be authorized are unavailable. The Administrator would allow unscheduled maintenance if such maintenance would not affect emission deterioration of the test vehicles, not change the engine-system combination and not require access to the combustion chamber (except for spark plug removal or replacement). By not allowing unscheduled maintenance which requires direct access to the combustion chamber, the proposed regluations would, for example, prohibit valve replacement unless such replacement is approved as scheduled maintenance at specified mileage intervals.

Any maintenance not specifically allowed by these regulations would be prohibited.

The proposed regulations would also modify the durability testing procedure to:

(1) Increase the allowable frequency of scheduled spark plug replacement to the 12,000, 24,000, and 36,000 mile test point (present regulations, allowing replacement every 12,000 miles for small engines and 24,000 miles for large ones, are considered unrepresentative in view of recent studies of in-use vehicle spark plug maintenance),

(2) Prohibit emission testing other than as provided by the regulations or as specifically authorized by the Administrator (this prohibition would reduce the likelihood of unauthorized maintenance being performed on durability data vehicles), and

(3) Remove the requirement for emission testing at the 48,000 mile test point (since the final test—at 50,000 miles—occurs only 2,000 miles later).

Reasonable assurance that maintenance proposed to be allowed on test vehicles will in fact be performed on vehicles in actual use is anticipated to be provided by State vehicle inspection programs. States with safety inspection programs will be encouraged to require documentation that periodic maintenance on EGR systems and catalytic converters has been performed. When State-operated emission test-based inspection systems go into effect, corrections for vehicles failing such inspections will be made in accordance with section 207(b) of the Clean Air Act.

40 CFR Part 85 as revised by this amendment would become effective 30 days after promulgation and would be applicable to 1975 and subsequent model year vehicles. The current regulations which appear at 40 CFR Part 85 would remain in effect for the purpose of their applicability to 1974 and earlier model year vehicles.

Interested persons may submit written data, views, or arguments (in quadruplicate) in regard to the proposed regulations to the Administrator, Environmental Protection Agency, Attention: Mobile Source Pollution Control Program, Office of Air and Water Programs, Washington, D.C. 20460. All relevant material received not later than 60 days after publication of this notice will be considered.

EPA is particularly interested in comments on other emission-control-related components and systems for which maintenance should be specifically allowed, the need for allowing such maintenance, and a suggested basis on which the Administrator should allow such maintenance consistent with the objective of providing reasonable assurance that maintenance allowed to be performed on durability vehicles will in fact also be performed on cars in actual use.

Comments from interested parties are particularly solicited on the desirability of a warranty by the manufacturer to the vehicle owner to cover the cost of replacement of all emission-control-related components, including the extent to which the provision would increase the probability that a vehicle owner would obtain necessary replacements, the feasibility of administering such a warranty, and its competitive impact.

In addition, the EPA is interested in receiving comments on a concept that has potential for assuring that emission control system maintenance will be performed as it is needed, but on which insufficient technical data is available to allow it to be proposed at this time. Such a concept would require the manufacturer to equip the vehicle with sensors that would trigger an overt signal, such as a light or a buzzer, in the event that a critical emission control component such as a catalyst should fail to function. Such signal could be on the dashboard, to alert the driver; or could be visible from the outside of the car, to alert local authorities to the need for maintenance of the vehicle's emission control system. A variant on this concept on which comments are also solicited would be to require the manufacturer to build into the vehicle sensors which would give an indication of major emission control component failure when a specialized test instrument is plugged in at a vehicle testing facility. Comments from vehicle manufacturers and from sensor and test equipment manufacturers, as well as from other interested parties, are specifically sought on such concepts which may be considered for application to future model years.

Comments submitted shall be available for public inspection during normal business hours at the Office of Public Affairs, Environmental Protection Agency, Fourth and M Streets SW., Washington, D.C. 20460.

This notice of proposed rule making is issued under the authority of section 206 of the Clean Air Act, as amended (42 U.S.C. 1857f–5).

Dated: October 31,1972.

WILLIAM D. RUCKELSHAUS,
Administrator.

1. Section 85.90 of Part 85, Title 40 of the Code of Federal Regulations as applicable to 1975 and later model light duty vehicles, is proposed to be revised as follows:

§ 85.90 Maintenance.

(a) (1) Maintenance on the engines and fuel systems of durability vehicles may be performed only under the following provisions:

(i) One scheduled major engine tuneup to manufacturer's specifications may be performed at 24,000 miles (±250 miles) of scheduled driving with the following exception: On a vehicle with an engine displacement of 150 cubic inches or less (or a rating of at least 0.8 maximum rated horsepower per cubic inch of displacement) scheduled major engine tuneups may be performed at 12,000, 24,000, and 36,000 miles (±250 miles) of scheduled driving. A scheduled major engine tuneup shall be restricted to the following and shall be conducted in a manner consistent with maintenance instructions provided by the manufacturer for the use of service personnel in the field:

(*a*) Inspect ignition wiring, distributor cap, and rotor and replace as required.

(*b*) Replace distributor breaker points and condenser as required.

(*c*) Lubricate distributor cam.

(*d*) Check distributor advance and breaker point dwell angle and adjust as required.

(*e*) Check automatic choke for free operation and correct as required.

(*f*) Adjust carburetor idle speed and mixture.

(*g*) Adjust drive belt tension on engine accessories.

(*h*) Adjust valve lash if required.

(*i*) Check exhaust heat control valve for free operation.

(*j*) Check engine bolt torque and tighten as required.

(ii) Spark plugs may be changed at the 12,000, 24,000, and 36,000 mile test points, and at other times only if a persistent misfire is detected.

(iii) Normal vehicle lubrication services (engine and transmission oil change and oil filter, fuel filter, and air filter servicing) will be allowed at manufacturer's recommended intervals.

(iv) The crankcase emission control system may be serviced at 12,000, 24,000, and 36,000 miles (±250 miles) of scheduled driving.

(v) The fuel evaporative emission control system may be serviced at 12,000, 24,000, and 36,000 (±250 miles) of scheduled driving.

(vi) Readjustment of the engine choke mechanism or idle settings may be performed only if there is a problem of stalling at stops.

(vii) Engine idle speed may be adjusted at the 4,000 mile test point.

(viii) An Exhaust Gas Recirculation (EGR) system may be serviced at any or all of the following mileage points: 12,000, 24,000, and 36,000: *Provided:*

(*a*) The manufacturer satisfies the Administrator that failure to perform EGR system maintenance is not likely to result in an improvement in vehicle performance; and

(*b*) Maintenance instructions furnished to the ultimate purchaser of the motor vehicle reflect the EGR maintenance required and the mileage points at which such maintenance is to be performed.

(ix) The catalytic converter may be serviced once during 50,000 miles of scheduled driving, but not prior to 25,000 miles of scheduled driving: *Provided:*

(*a*) The manufacturer satisfies the Administrator that failure to perform such maintenance is not likely to result in the improvement of vehicle performance; and

(*b*) Maintenance instructions furnished to the ultimate purchaser of the motor vehicle specify the catalytic converter maintenance required and the mileage point at which such maintenance is to be performed.

(x) Any other engine, emission control system, or fuel system adjustment, repair, removal, replacement, or disassembly on durability data vehicles shall be performed only with the advance approval of the Administrator.

(*a*) In the case of unscheduled maintenance, such approval will be given only if the Administrator:

(*1*) Has made a preliminary determination that such maintenance or repairs will not significantly affect emission deterioration of the test vehicles, will not result in a significant change in the engine-system combination, and, except for spark plug, fuel injection component, or removable prechamber removal or replacement, does not require direct access to the combustion chamber; and

(*2*) Has made a determination that the need for maintenance or repairs is indicated by substantial or significant overt indication of malfunction such as persistent misfire, vehicle stall, overheating, fluid leakage, loss of oil pressure, or charge indicator warning.

(*b*) Emission measurements may not be used as a means of determining the need for unscheduled maintenance under (*a*) of this subdivision.

(c) In the case of scheduled maintenance for emission-control-related components not specifically authorized to be maintained by these regulations which the manufacturer requests to be authorized, such requests will be considered only prior to the beginning of durability testing. The Administrator will precondition his approval on a showing of unavailability of parts and components that may not require so high a level of maintenance as is requested to be authorized. In no case will such scheduled maintenance as would be authorized under this paragraph be allowed to be performed if the failure to perform such maintenance is likely to result in the improvement of vehicle performance.

(2) Where the Administrator agrees under § 85.91 to a mileage accumulation of less than 50,000 miles for durability testing, he may modify the requirements of this paragraph.

(b) Allowable maintenance on emission data vehicles shall be limited to the adjustment of engine idle speed at the 4,000 mile test point. Any other engine, emission control system, or fuel system adjustment, repair, removal, replacement, or disassembly on emission data vehicles shall be performed only with the advance approval of the Administrator.

(c) Repairs to vehicle components of the durability or emission data vehicle, other than the engine, emission control system, or fuel system, shall be performed only as a result of part failure or vehicle system malfunction.

(d) Complete emission tests (see §§ 85.71–85.88) shall be run before and after any vehicle maintenance which may reasonably be expected to affect emissions. These test data shall be supplied to the Administrator immediately after the tests, along with a complete record of all pertinent maintenance, including an engineering report of any malfunction diagnosis and the corrective action taken. In addition, all test data and maintenance reports shall be compiled and provided to the Administrator in accordance with § 85.53.

(e) If the Administrator determines that maintenance or repairs performed have resulted in a substantial change to the engine-system combination, the vehicle shall not be used as a durability or emission data vehicle.

(f) The use of instruments, tools, or emission tests to identify malfunctioning, maladjusted, or defective engine components is not allowed unless (1) performed in conjunction with scheduled maintenance under this section, or (2) performed subsequent to the identification of a vehicle or engine malfunction as provided in paragraph (a)(1)(x) of this section for durability data vehicles or paragraph (b) of this section for emission data vehicles, or (3) unless otherwise specifically authorized by the Administrator.

2. In § 85.91 of Part 85, Title 40 of the Code of Federal Regulations, as applicable to 1974 and later model year light duty vehicles, paragraphs (b) and (c) are proposed to be revised and paragraph (h) is proposed to be added as follows:

§ 85.91 Mileage accumulation and emission measurements.

* * * * *

(b) Durability data vehicles: Each durability data vehicle shall be driven, with all emission control systems installed and operating, for 50,000 miles or such lesser distance as the Administrator may agree to as meeting the objectives of this procedure. Emission measurements from a cold start, taken in accordance with §§ 85.81 and 85.82, shall be made at the following mileage points: 0, 4,000, 8,000, 12,000, 16,000, 20,000, 24,000, 28,000, 32,000, 36,000, 40,000, 44,000, and 50,000.

(c) All tests required by this subpart to be conducted after 4,000 miles of driving or at any subsequent test point listed in paragraph (b) of this section may be conducted at any accumulated mileage within 250 miles of each of those test points.

* * * * *

(h) Emission testing of any type with respect to any certification vehicle other than that specified in this subpart is not allowed except as such testing may be specifically authorized by the Administrator.

3. Section 85.92 of Part 85, Title 40 of the Code of Federal Regulations, as applicable to 1975 and later model light duty vehicles, is proposed to be amended, as follows:

§ 85.92 Compliance with emission standards.

* * * * *

(c) * * *

(1) * * *

(l) * * *

(*b*) All emission data from the tests conducted before and after the scheduled maintenance provided in § 85.90 (a)(1).

* * * * *

[FR Doc.72-19127 Filed 11-7-72;8:46 am]

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federal register

WEDNESDAY, NOVEMBER 8, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 216

PART III

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

■

MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and to Order

No. 216—Pt. III——1

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which the market could depend to per- sions to pool distributing plants in the

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1036]

[Docket No. AD 179-A36]

MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and to Order

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Cleveland, Ohio, on January 25–28, 1972, pursuant to notice thereof issued on January 7, 1972 (37 F.R. 465).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on July 17, 1972 (37 F.R. 14393) filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. Under "1. *Pool plant qualifications.*", the first paragraph is changed.

2. Under "2. *Diversion of producer milk.*", four paragraphs are added thereto.

3. "3. *Location adjustments.*" is completely changed.

4. Under "4. *Butterfat differential.*", the eighth and ninth paragraphs are deleted.

5. Under "7. *Miscellaneous and conforming changes.*", a paragraph is added thereto.

The material issues on the record of the hearing relate to:

1. Pool plant qualifications.
2. Diversion of producer milk.
3. Location adjustments.
4. Butterfat differentials.
5. Class I price.
6. Classification provisions.
7. Miscellaneous and conforming changes.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Pool plant qualifications.* (a) *Balancing plant.* A milk processing plant that is operated by a cooperative and is approved by a duly constituted health authority to handle milk for fluid consumption should be accorded pool plant status if, during the month, a quantity of fluid milk products that is not less than a specified percentage (65 percent in September–April and 50 percent in other months) of its producer members' milk is received at pool distributing plants, either by direct delivery from the producers' farms or as a shipment from the cooperative's supply plant.

Enabling such a plant to qualify as a pool plant was proposed by a principal cooperative in the market. There was no opposition to the proposal at the hearing.

A plant operated by the proponent cooperative, which now must qualify for pooling by meeting the pooling requirements for a supply plant, serves the market as a "balancing plant." In that capacity it enables proprietary plant operators to tailor their receipts each day to their bottling needs. A bottling plant that receives milk by direct delivery from the farms of designated producer members of the cooperative may accept a part or none of such deliveries on any day. That is, the total deliveries of such producers on the days the bottling plant is not operated, and the amounts in excess of its Class I needs on other days, are received at the cooperative's plant. When the direct deliveries of the producers assigned to such plants are inadequate for its needs, the bottling plant obtains from the cooperative's plant supplemental supplies for the balance of its needs.

The cooperative claims that it is becoming increasingly difficult to qualify its plant for pooling on the basis of its shipping performance as a supply plant. This is because the cooperative's plant is operating mainly as an equalizing, or balancing, plant in handling the reserve supplies associated with the Class I requirements of the increasing number of pool distributing plants it serves. Under these circumstances, the cooperative contends, to continue to require its balancing plant to qualify under the pooling requirements of a supply plant will force it to make unnecessary and uneconomic movements of milk.

The balancing plant now serving the market (which now qualifies for pooling as a supply plant) used 246 million pounds of milk for manufacturing in 1971. This represented supplies that were not needed by buying handlers for Class I purposes. As might be expected, the quantities of milk used for manufacture at this plant were lowest during those months of the year when the market's Class I sales were highest relative to producer deliveries. Conversely, the quantities of milk utilized in the balancing plant for manufacture were highest in the months when the Class I needs of the market were lowest relative to production. In 1971 the average daily quantity of milk utilized for manufacture at the balancing plant was 1,015,000 pounds in May through August, and 502,000 in the other 8 months of the year.

Requiring that a quantity of fluid milk products that is at least 65 percent of a cooperative's member producer milk received at pool plants during the month, either by direct delivery from such members' farms or as a shipment from the cooperative's balancing plant, is a reasonable basis to qualify such plant for pooling in September through April. In the months of May through August, when the quantity of reserve milk in the pool is substantially greater than that in the other months, a 50-percent requirement (instead of 65 percent) to qualify a balancing plant to pool is an appropriate basis for determining association with the market.

In proposing the above percentages, the proponent cooperative stated that the pool distributing plants that it supplies are basically Class I operations. As a consequence, the percentages listed above would tend to approximate the actual utilization of the milk of their producer members. Percentages proposed by the cooperative and herein adopted also approximate the Class I utilization for the total market for the months to which they apply.

It was not indicated that any plant other than the proponent's is now serving the market as a balancing plant. Proponent stated, however, that its proposal is intended to enable any cooperative to pool one or more of its plants that meet the requirements herein adopted.

A cooperative should be permitted to qualify two or more plants with manufacturing facilities for pooling as balancing plants if such plants collectively meet the standards herein adopted. The balancing plant function performed by a cooperative for the market would in no way be diminished, and might even be enhanced, if two or more plants were considered as a unit to qualify them for pooling as balancing plants.

Enabling a cooperative's balancing plant to obtain pool-plant status under the conditions adopted in this decision will contribute to the orderly marketing of producer milk under the order. When the production of dairy farmers regularly supplying the market is not needed at the bottling plant to which it is usually assigned, their milk will be pooled by delivery to the balancing plant. The plant thus is an assured outlet for reserve milk without involving arrangements under which the producers' milk would need to be diverted from the bottling plants in order to maintain pool status.

A cooperative should be permitted at any time to request nonpool status for a plant that would qualify for pooling as a balancing plant unless such plant during the same month would qualify for pooling on the basis of its performance as a distributing plant or a supply plant. However, if the cooperative elects nonpool status for a balancing plant, such plant could not be reinstated for pooling as a balancing plant in the next 12 months. If a balancing plant were allowed to move from pool to nonpool status and back in shorter periods, it could not be considered as a plant on

which the market could depend to perform the function of a balancing plant.

A balancing plant should not be eligible to qualify as a pool plant under this order if it qualified in the same month as a pool plant under another order and the volume of fluid milk products (except filled milk) disposed of from such plant in the other order's marketing area as route disposition and to fully regulated distributing plants under that order was greater than the volume of route disposition in this marketing area and transfers to pool distributing plants under this order during the same month from that plant. Such a provision will preclude the pooling in the Eastern Ohio-Western Pennsylvania order a plant with primary association in another order market.

(b) *Pooling a supply plant in March–August based on its supplying the market in the preceding September–February period.* The requirements for pooling a supply plant in March through August based on its supplying the market in the preceding September through February should be modified.

To qualify for pooling in any individual month a supply plant must move to pool distributing plants, by transfer or diversion, not less than 50 percent during the months of September, October, and November (40 percent in other months) of the milk received from dairy farmers (excluding that diverted from other plants) at such plant during the month. It may count also toward such percentage its route disposition in the marketing area. A supply plant thus qualified for each month of September through February is accorded "automatic" pool plant status for the following March through August, i.e., without being required to ship.

The provision to count route disposition in the marketing area the same as a shipment to a pool distributing plant in determining qualification to pool was instituted in the order effective October 1, 1970. At the present hearing it was proposed that the order be clarified as to whether such disposition is to be counted in determining whether a supply plant qualifies for automatic pooling in the March–August period.

Qualifying a supply plant for pooling in March through August only on the basis of its transfers and diversions to pool distributing plants in the preceding September–February period recognizes the supply plant function of such a plant. When the automatic pooling provision was instituted in the order, it contemplated that a supply plant would qualify for automatic pooling in March–August solely on the basis of transfers and divisions to pool distributing plants in the preceding September through February. It was not contemplated at that time, or has it ever been proposed, that its route disposition would be credited as performance toward its automatic pool status as a supply plant.

Accordingly, it is concluded that the order should be clarified by providing for automatic pooling in the March–August period for a supply plant only on the basis of its actual shipments and diversions to pool distributing plants in the preceding months of September through February.

(c) *Specifying plant at which diverted milk shall be pooled.* The order should be clarified to specify that all milk diverted from a pool distributing plant to other plants (except another pool distributing plant) shall be considered as having been received at the distributing plant in determining its qualification to pool.

To qualify as a pool plant for each month, a distributing plant must have route disposition of 50 percent (40 percent in April–August) of its receipts of fluid milk products. In addition, its route disposition in the marketing area during the month must be at least 15 percent of such receipts.

For determining its pooling qualification, a plant's receipts now include fluid milk products (except filled milk) physically received at such plant or diverted as producer milk to a nonpool plant. As proposed at the hearing, milk diverted from a distributing plant to a pool supply plant also would be considered as a receipt at the distributing plant in determining its pooling qualification.

Prior to October 1970 such diversions were considered as a receipt at the pool supply plant to which diverted. The order was amended effective October 1, 1970, however, to exclude milk diverted to a pool supply plant as a receipt at such plant in determining its pooling qualifications. That change necessarily means that such diverted milk be considered a receipt at the plant with which it is primarily associated, the distributing plant from which diverted. The amendment adopted by this decision provides the appropriate language to accomplish this.

2. *Diversion of producer milk.* Milk diverted from a pool plant to another pool plant or to a nonpool plant should be priced at the location of the plant to which diverted.

Diversions to nonpool plants are now priced at the location of the pool plant from which diverted. Likewise, milk of a producer diverted from the pool plant at which his milk is customarily received to another pool plant is now priced at the location of the plant from which diverted, to the extent that his number of days' production involved in the diversion does not exceed his number of days of production physically received at the plant from which diverted. Diversions to pool plants in excess of such limit are priced at the location of the plant to which diverted.

Changes in the diversion provisions were considered at the hearing as well as proposals to revise location adjustments. As provided by this decision, the location adjustments are changed to recognize the greater value of producer milk f.o.b. plants in or near the principal population centers in the marketing area, as compared to its value at other locations. In view of this, it would be inconsistent to continue to price milk as if delivered to a plant in or near the principal population centers in the market when actually delivered as diverted milk to a plant at a location at which a different price is appropriate based on the location adjustment provisions adopted in this decision.

The purpose of the diversion provisions is to facilitate marketing the reserve milk that is a necessary part of the market's supply. Because of variations in market needs and in production, the milk of each producer is not needed every day for processing as fluid milk at the plant to which it is customarily delivered. It is necessary, however, that there be a reserve of qualified milk available for the fluctuating needs of handlers serving the market. At times, therefore, when milk of a dairy farmer regularly supplying the market is not needed at the plant to which it is usually shipped, it can be handled most economically by moving it directly as diverted milk from the farm to another pool plant where it is needed for Class I purposes or (when it is not needed for Class I purposes) to a nearby manufacturing plant, whether it be a pool plant or a nonpool plant.

The location adjustments adopted by this decision appropriately reflect the relative values for producer milk received at pool plants according to their respective locations. When producer milk is received as diverted milk at a nonpool plant, its location value is similar to that of milk delivered by producers to a pool plant at the same distance from the market.

In its exceptions to the recommended decision, a cooperative asked that the diverted milk of a producer be priced at the location of the plant to which diverted only when more than 30 percent of his deliveries during the month is diverted milk. The cooperative stated that such provision is desirable because most distributing plants operate only 4 or 5 days a week, and the milk of producers regularly assigned to such plants must be diverted on the remaining days of the week. As stated by the cooperative, "Unless the order accommodates this balancing function in relation to zone pricing, orderly marketing will suffer and some producers will benefit at the expense of other producers with different net prices to producers in the same area."

Most pool distributing plants under the order are located in the zones (2, 3, and 4) in which plus location adjustments apply. On days when the milk of producers assigned to such plants is not needed by them, it is diverted to other plants for manufacturing. The plants to which milk is diverted are located principally in areas where no location adjustment, or a minus location adjustment, would apply as provided by this decision.

To adopt the provision proposed by the cooperative in its exceptions (which could price as much as 30 percent of a producer's deliveries diverted to a plant at which no location adjustment applies at the price applicable at a plant where a higher price applies) could nullify the effect of the order change adopted herein, i.e., pricing producer milk based on the location of the plant at

Zone 3 would include Cuyahoga and hauling expense. The cooperative's

In this market the current problem of throughout the marketing area and be

competition with milk from plants

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which the milk is received directly from the farm.

The cooperative's proposed provision would result in different prices being paid to producers for milk physically delivered to the same plant during the month. For example, if 30 percent of the milk of a producer shipping to a pool distributing plant in Zone 4 (plus 10-cent location adjustment) were physically delivered as diverted milk to a pool supply plant in Zone 1 (no location adjustment) the producer would receive the plus 10-cent location adjustment for the diverted milk. On the other hand, the producer whose entire production was delivered to the pool supply plant would receive the Zone 1 price, 10 cents less than that paid to producers for milk diverted to the same plant from a Zone 4 plant. It cannot be concluded that such a provision would promote equity among producers or be in the best interests of the market.

3. *Location adjustments.* Location adjustments (the amounts by which the Class I price and the uniform price are adjusted for milk received at plants variously located) should be based on a plant's location relative to the major consumption centers in the market.

For the purpose of applying location adjustments, the marketing area should be divided into three zones designated as follows:

Zone 1 would include the Ohio counties of Ashtabula, Carroll, Geauga, Guernsey (limited to the townships of Londonderry, Millwood, and Oxford), Harrison, Holmes, Monroe, Portage, Tuscarawas, Wayne, Ashland (except the townships of Ruggles, Sullivan, and Troy), Stark (limited to Sugar Creek township) and Trumbull (limited to the townships of Bazetta, Bloomfield, Bristol, Champion, Farmington, Fowler, Greene, Gustavus, Hartford, Johnston, Kinsman, Mecca, Mesopotamia, Southington, and Vernon); and the Pennsylvania counties of Clarion (limited to the townships of Ashland, Beaver, Licking, Madison, Perry, Piney, Richland, Salem, and Toby), Crawford, Erie, and Venango.

Zone 2 would include the Ohio counties of Belmont, Columbiana, Jefferson, Mahoning, Stark, Summit, Lorain (limited to the townships of Amherst, Avon, Avon Lake, Black River, Carlisle, Columbia, Eaton, Elyria, Grafton, Ridgeville and Sheffield), Medina (except the townships of Chatham, Homer, Litchfield, and Spencer), Stark (except Sugar Creek township), Trumbull (limited to the townships of Braceville, Brookfield, Howland, Hubbard, Liberty, Lordstown, Newton, Warren, Weathersfield, and Vienna); the Pennsylvania counties of Armstrong, Beaver, Butler, Fayette, Greene, Lawrence, Mercer, Washington, and Westmoreland (except the boroughs of Bolivar, Donegal, Ligonier, New Florence, and Seward and the townships of Cook, Donegal, Fairfield, Ligonier, and St. Clair); and the West Virginia counties of Barbour, Brooke, Doddridge, Hancock, Harrison, Lewis, Marion, Marshall, Monongalia, Ohio, Preston, Randolph, Taylor, Tucker, Tyler, Upshur, and Wetzel.

Zone 3 would include Cuyahoga and Lake Counties, Ohio, and Allegheny County, Pa.

Zone 4 would include Allegheny County, Pa.

No location adjustment should apply at plants in Zone 1. At plants in Zone 2 the location adjustment should be plus 5 cents; at plants in Zone 3, plus 8 cents; and at plants in Zone 4 plus 10 cents.

For a plant outside the marketing area, the Class I and uniform prices should be those applicable nearest to the plant of six cities (Canton and Cleveland, Ohio; Erie, Pittsburgh, and Uniontown, Pa.; and Clarksburg, W. Va.) that are now used as basing points for determining location adjustments, adjusted by a reduction of 1.5 cents for each 10 miles or fraction thereof that the plant is located from the city hall of such nearest city.

The order now provides for two zones for pricing milk at plants in the marketing area. At plants in the presently designated Pittsburgh district (that portion of the marketing area that is either in West Virginia or within 80 miles of the Pittsburgh city hall), the applicable Class I and uniform prices are 10 cents more than at plants in the remainder of the marketing area, which is currently designated as the Cleveland-Erie district. At plants outside the marketing area, the location adjustment rates are essentially the same as those adopted in this decision, except that they are applicable only at plants more than 85 miles from the six specified basing points.

The principal cooperative in the market proposed that the marketing area be divided into three zones for the purpose of applying location adjustments. As proposed by the cooperative, Zone 3 would include only Allegheny County, Pa. Zone 2 would include the Pennsylvania counties of Armstrong, Beaver, Butler, Fayette, Greene, Washington, and Westmoreland; the Ohio counties of Belmont, Cuyahoga, Guernsey, Harrison, Jefferson, Lake, and Monroe; and the 17 West Virginia counties in the marketing area. Zone 1 would include the remaining territory in the marketing area.

As proposed by the cooperative, no location adjustment would be applicable at plants in Zone 1. At Zone 2 plants, the location adjustment would be plus 8 cents and at Zone 3 plants, plus 13 cents. At a plant outside the marketing area, the Class I and uniform prices would be those applicable at the nearest of the six designated cities for measuring location adjustments, less 3 cents, and less an additional 1.5 cents for each 10 miles or fraction thereof that such plant is located from the nearest of the six cities.

The proponent cooperative emphasized that the purpose of its location adjustment proposal is to make it economically feasible for producers to ship directly from their farms to bottling plants in the principal population centers in the marketing area, instead of to places nearer their farms where they would incur less hauling expense. The cooperative's spokesman stated that its proposal contemplated no increase in the total value of Class I milk in the pool. That is, the total cost to handlers for Class I milk purchased from producers, as proposed, would approximate the present aggregate value of producer milk in Class I.

The operator of a pool plant in Youngstown, Ohio, supported the cooperative proposal. It would include such plant in Zone 1, at which no location adjustment would apply. Such plant is now in the Pittsburgh district and is subject to a plus 10 cent location adjustment.

A pool plant operator in Clarksburg, W. Va., proposed that no location adjustment apply at plants in the West Virginia portion of the marketing area. He contended that West Virginia handlers should not continue to be subject to the same location pricing as Pittsburgh handlers, particularly since none of the West Virginia handlers sell in Pennsylvania.

Five handlers whose pool plants and principal sales areas are within that contiguous territory made up of the northernmost West Virginia counties in the marketing area and the nearby Ohio counties of Belmont, Jefferson, Harrison, Monroe, and Guernsey, proposed that no location adjustments apply at plants in these counties. They contend that they should not be subject to the Pittsburgh district location pricing (as they now are) because their competition for sales is predominately with milk from regulated plants at locations at which the present and proposed applicable Class I prices are lower.

Handlers operating plants in Allegheny County, Pa., objected to any change in the present location pricing. The principal basis for their objection to the location pricing proposed by the cooperative is that the Class I price for plants in Allegheny County would be increased 4 cents while the Class I price for plant operators in surrounding counties, with whom they have substantial competition, would be decreased 1 cent.

The spokesmen for 15 handlers in the northern Ohio portion of the marketing area, principally Cuyahoga County, likewise opposed any change in location pricing. The location adjustment proposed by the cooperative would increase their Class I price 8 cents. This, they claim, would place them at a disadvantage in competing for sales in the Cleveland area with milk distributed from plants located elsewhere at which no location adjustment would apply.

A relatively small cooperative in northern Ohio also opposed any change from the present location pricing. The pool plant to which its producer members ship is not now subject to any location adjustment. Neither would it be subject to a location adjustment under the hearing notice proposal. The cooperative opposed the proposed location pricing, contending that it would result in its members subsidizing the higher blend prices to be paid to producers delivering to plants at which plus location adjustments would apply.

In this market the current problem of location pricing is essentially one of insuring adequate supplies at the main, but widely separated, population centers of the market, where a high proportion of the market supply is processed for distribution as fluid milk products.

Fluid milk products are bulky and perishable, and incur a relatively high transportation cost when they are moved a considerable distance. The location adjustment provisions assist in facilitating, under the minimum price provisions, the movement of milk from supply plants to the points where processed for Class I uses. Since minus location adjustments apply only at outlying plant locations, no minus location adjustment applies when milk is received directly from the farm at a plant in the marketing area. The transportation or hauling cost on such milk is paid for by the individual producer and the hauling rate is not fixed by the order. Location price adjustments reflect, however, the lesser value of milk when received at an outlying plant location, or when diverted to an outlying location.

When milk is received at a supply plant, located a considerable distance from the market, the handler, rather than the producer, incurs the cost of moving that milk from the outlying plant to the market center for processing. Under these conditions, the value of producer milk delivered to a supply plant located some distance from the central market reduces in proportion to the distance and the cost of transporting such milk from the plant of first receipt to the distributing plant. If a distributing plant is located at a considerable distance from any of the main centers of population in the marketing area, the price at such plant will reflect a value relative to the market center, equivalent to that of milk received at a supply plant similarly located.

A primary consideration in establishing location adjustments is to identify the major consumption centers in the marketing area. Of the 8.5 million population (1970 census) in the Eastern Ohio-Western Pennsylvania marketing area, 2.4 million reside in the several counties making up the Pittsburgh Standard Metropolitan Statistical Area [1] (SMSA), and 2.1 million in the Cleveland SMSA.

The principal concentration of population in the Pittsburgh SMSA is in Allegheny County. The population of the Cleveland SMSA is primarily that of Cuyahoga and Lake Counties.

The 17 pool distributing plants in Allegheny County and the 16 in Cuyahoga and Lake Counties process a high portion of the total Class I milk priced under the order. They are not only the major distributors in these counties but also have substantial distribution in other parts of the marketing area. Producer supplies of milk are moved to plants in these major population centers in the market from various locations throughout the marketing area and beyond.

Greater monetary incentive is needed if producers, responding to the minimum prices established by the order, are to deliver adequate quantities of milk to plants in these population centers when alternative plant outlets nearer their farms are available. A producer whose farm is nearer to a secondary population center in the marketing area than to Pittsburgh or Cleveland frequently can achieve a better net return, after paying hauling cost, by shipping to the secondary market. This has been particularly true with the price realized for milk delivered to Cleveland being the same as that for milk delivered to any other point in the marketing area, except the Pittsburgh district where a 10-cent higher price has applied.

Also, all diverted milk is now priced at the plant from which diverted. This enables producers to receive a price f.o.b. the marketing area location even though their milk actually is diverted to, and physically received at, a plant at a distance from the marketing area. Provision for pricing diverted milk at the location of the plant to which diverted is made elsewhere in this decision.

In providing milk for Metropolitan Cleveland plants, the cooperative that is the major supplier of Cleveland handlers currently finds it necessary to subsidize the hauling of producer milk to such plants to substantial degree to insure such plants adequate supplies for their Class I milk needs.

Although producers proposed an increased location adjustment for Pittsburgh area plants, it was not shown that the present plus 10-cent adjustment for the Pittsburgh area (Allegheny County) is not inducing delivery of adequate supplies of milk for plants in that area. Moreover, the smaller location adjustment to be applicable in the counties adjacent to and nearby Pittsburgh, as provided in this decision, will make shipping to Pittsburgh area handlers relatively more attractive than at present. Heretofore, producers receive the same plus location adjustment for milk delivered to plants in these counties as when shipped to Pittsburgh.

The recommended decision proposed a plus 10-cent location adjustment (compared to 8 cents provided herein) at plants in Cuyahoga and Lake Counties. Exceptions of Cleveland area handlers claim the proposed 10-cent adjustment would disadvantage them in competition with milk distributed from plants in the lower-priced zones. The exceptors stressed that the location pricing at their plants and at those in nearby counties (where a plus 5-cent location adjustment is provided by this decision) should be the same, or that the difference between the applicable Class I prices at Cleveland area plants and those in the nearby counties should be reduced.

About 30 percent of the total Class I distribution in Cuyahoga and Lake Counties emanates from plants in other counties. Also, there is substantial distribution from Cuyahoga County and Lake County plants outside these counties in competition with milk from plants in lower-priced zones.

At present, a number of relatively large plants in the counties adjacent to and near Cuyahoga County are attractive outlets for the milk of producers as well as plants in metropolitan Cleveland (in Cuyahoga and Lake Counties). Since Cleveland is located on Lake Erie, the supply of producer milk for these plants must move from the south past the plants of other regulated handlers to Cleveland area plants.

Recognition is given to the fact of handler competition involving interzone movements of milk. This must be weighed along with the fact of the greater cost (than is incurred at plant locations nearer the principal production areas for the market) incurred by producers supplying milk f.o.b. Cleveland area plants from their farms. Producers should not be required, under order terms, to absorb the extra cost thus involved, and thereby realize a lower net return for milk delivered to plants in the metropolitan Cleveland area than for milk delivered to many other regulated plants under the order. The differential provided will promote appropriate distribution of supplies to plants without undue expense in connection therewith being incurred by a particular group of producers. The plus 8-cent location adjustment (over base zone price) adopted in this decision will provide needed incentive for producers to supply the Class I needs of Cleveland area plants.

The plus 5-cent location adjustment for Zone 2 adopted by this decision would be applicable in the secondary population centers in the market and in those counties adjacent to and in the vicinity of Allegheny and Cuyahoga and Lake Counties. The regulated plants in these primarily urban counties are geographically somewhat nearer the farm production area than are the plants in Cleveland and Pittsburgh. The cost of transporting farm supplies of milk to these secondary population centers is less than for transporting it the greater distances to Cleveland or Pittsburgh. Providing for a lesser location adjustment (of plus 5 cents) at these Zone 2 plants than at Zone 3 and Zone 4 plants gives appropriate recognition to this cost difference.

Seventeen West Virginia counties, currently in the Pittsburgh district, are included in Zone 2, as defined herein. Also, the plants in the Pennsylvania counties of Armstrong, Beaver, Butler, Fayette, Greene, Lawrence, Mercer, Washington, and Westmoreland, likewise in the Pittsburgh district, are moved to Zone 2. Handlers in these areas do not experience the same difficulty in obtaining supplies as do Pittsburgh handlers. This is because the plants in these areas are nearer to the principal production area than are Pittsburgh plants.

There is a substantial overlapping of the sales areas of West Virginia regulated handlers in the West Virginia portion of the marketing area. In addition, these handlers compete for sales in the West Virginia portion of the marketing area with fluid milk products emanating

[1] As defined by the Bureau of the Census of the U.S. Department of Commerce.

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from plants in Ohio and Pennsylvania regulated by this order and from plants regulated by the Ohio Valley order.

The Ohio and Pennsylvania pool plants with distribution in West Virginia are included in Zone 2 in this decision, the same as West Virginia plants. Presently some of these plants are not subject to the 10-cent higher Pittsburgh district Class I price as are the West Virginia plants. Also, the $1.85 Class I price differential provided by this decision in conjunction with the 5-cent lower location adjustment will result in a $1.90 Class I differential applicable at West Virginia plants compared to $1.97 at present.

The revised location pricing adopted in this decision will place West Virginia handlers in a more equitable competitive position with milk distributed in West Virginia from plants in other States that are regulated by this order and the Ohio Valley order.

The Ohio counties of Belmont, Columbiana, Jefferson, Mahoning, and Summit, those portions of Lorain and Medina Counties that are in the marketing area, Stark County (except Sugar Creek township), and the 10 southernmost townships of Trumbull County should also be in Zone 2.

The southern portion of Trumbull County, which is mostly urban, contains a substantial portion of the Youngstown-Warren Metropolitan area. The population of the 10 southern townships is about 190,000 compared to about 43,000 in the 15 northern townships of such county. Milk at plants in these areas are now subject to Pittsburgh district pricing.

The other Ohio counties to be included in Zone 2, Stark (except Sugar Creek township), Summit, Lorain, and Medina, are now in the Cleveland-Erie district. A plus location adjustment of 5 cents in these counties should provide sufficient incentive to attract adequate supplies of milk to the city plants in these counties. In addition, a 3-cent difference in price between plants in Cuyahoga and Lake Counties and these nearby counties should be adequate to move sufficient milk from the production area the additional distance to Cleveland area plants.

In the recommended decision, Sugar Creek township in Stark County was included in Zone 2 (plus 5-cent location adjustment). Substantial quantities of producer milk are diverted from city bottling plants to a nonpool manufacturing plant at Brewster in rural Sugar Creek township, the western and southern limits of which border on territory in Zone 1 (no location adjustment).

A major cooperative excepted to the plus location adjustment for the Sugar Creek vicinity. The cooperative's regulated plant at Orrville in adjacent Wayne County (Zone 1) receives and processes a large proportion of the market's reserve supply of producer milk.

The Orrville and Brewster plants are approximately the same distance from major consumption centers in the marketing area. (e.g., Orrville is about 60 and Brewster about 64 miles from Cleveland.) If the location pricing proposed in the recommended decision for Sugar Creek township were adopted, the Orrville plant would be at a competitive disadvantage since the uniform price payable to producers at that location would be 5 cents less than that for producer milk diverted to the nearby Brewster plant.

Providing for the same location pricing at the Orrville and Brewster locations will tend to insure orderly marketing of producer milk in this area, in which are located two of the principal plants to which milk is moved directly from producers' farms when it is not needed by city bottling plants for Class I purposes. It is appropriate, therefore, that Sugar Creek township be in Zone 1.

The territory in the marketing area that is not included in either Zone 4, Zone 3, or Zone 2, as adopted in this decision, should be included in Zone 1. There has been no problem of inducing adequate supplies of milk for plants in this area at the order prices. None of the proposals at the hearing suggested a location adjustment for plants in Zone 1.

As earlier stated, the location adjustment for a plant outside the marketing area should be based on its distance from the nearest of the following city halls: Canton and Cleveland, in Ohio; Erie, Pittsburgh, and Uniontown, in Pennsylvania; and Clarksburg, in West Virginia. There were no proposals at the hearing to change these basing points for determining location adjustments for out-of-area plants. For example, if the nearest basing point to such plant outside the marketing area were Pittsburgh (in Zone 4), the location adjustment for the plant would be computed on the Class I and uniform prices applicable in Zone 4. This method is essentially the same as now provided in the order.

As proposed by producers, and adopted in this decision, minus location adjustments would apply at all plants outside the marketing area at the rate of 1.5 cents for each 10 miles or fraction thereof that a plant is from the nearest of the six designated basing points. The order now applies location adjustments only at a plant more than 85 miles from its basing point. There was no support at the hearing for continuing to exempt all plants within 85 miles of the basing points from the location adjustment provisions.

The hearing proposal of the cooperative provided that in addition to a minus location adjustment of 1.5 cents for each 10 miles, the applicable location adjustment be further reduced by 3 cents. This amount is not now included in computing the minus location adjustments under the order.

The cooperative stated that a 3-cent reduction in the location adjustment at all supply plants outside the marketing area is desirable to "overcome the inertia" to move milk to the market. It was not demonstrated, however, that the rate of 1.5 cent for each 10 miles now included in the order, and continued by this decision, is inappropriate. This rate is representative of the cost of transporting milk. It is the same rate that is commonly accepted and used in Federal orders for similar purpose.

Since this decision provides for minus location adjustments at all supply plants outside the marketing area instead of only at those more than 85 miles from designated basing points, the Class I and uniform prices at the three supply plants now under the order, all of which are within 85 miles of a designated basing point, would be reduced 4.5, 7.5, and 13.5 cents, respectively. These adjustments are based on the location of these plants from established basing points in the marketing area at the rate of 1.5 cents for each 10 miles.

Exceptions filed on behalf of some of the handlers operating plants in and near Cuyahoga County, Ohio, ask that the order's present location pricing applicable to Class I milk not be changed and that the location adjustments provided in the recommended decision, and adopted herein, apply only to the uniform price paid to producers. The same handlers requested that the hearing be reopened unless the location pricing applicable to Class I milk proposed in their exceptions is adopted in this decision.

The location adjustments as applied to the Class I and uniform prices reflect the value of milk at specified locations after giving consideration to transporting such milk from producers' farms to plants at such specified locations. This is generally accomplished in Federal orders, and is currently effectuated in the eastern Ohio-western Pennsylvania order, by providing the same location pricing to the Class I price paid by handlers and to the uniform price paid to producers. Appropriate reflection of these relative values is made at the rate specified for milk moved in fluid form.

To be useful in meeting fluid requirements at urban bottling plants, milk must be moved in fluid form when transported at the handler's expense from an outlying plant. For the producer, the alternative for delivery to an outlying plant is to deliver his milk to the urban plant, again in fluid form, to serve the fluid requirements of the plant and to enjoy the higher price of the urban location. Applying a similar rate to Class I milk moved on an interplant basis and to the blend price when the producer's milk is delivered to the outlying plant location recognizes these conditions.

The handlers' requests to reopen the hearing are, in effect, presented as options. That is, they ask that either (a) the location pricing applicable to Class I milk provided in the recommended decision be set aside and that which is now provided in the order be retained, or (b) the hearing be reopened to receive further testimony on location pricing.

Requests for reopening the hearing are directed primarily at obtaining a reduction, or elimination, of the difference in zone pricing between Cleveland area plants and those nearby plants in Zone 2. Recognition has been given to this matter elsewhere in this discussion. Extensive testimony on location pricing was presented at the hearing and the

comprehensive record made was fully considered in this decision. There is no indication that conditions in the market since the hearing have so changed to warrant reopening the hearing to receive additional testimony. The requests for reopening the hearing are denied.

4. *Butterfat differential.* A single butterfat differential, 11.5 percent of the Chicago butter price for the current month, should be used to adjust the class prices and the uniform price.

Presently, the order provides for three different butterfat differentials. That for Class I is 12 percent of the Chicago butter price for the preceding month; for Class II and Class III, it is 11.5 percent of the Chicago butter price for the current month. The butterfat differential used in adjusting the uniform price is the average of the butterfat differentials for the three classes, weighted by the proportion of producer milk in each class.

The principal cooperative in the market proposed that the Class I butterfat differential be reduced from 12 percent of the butter price for the preceding month to 11.5 percent of the butter price for the current month. This proposal was supported at the hearing by other producer associations, which, together with proponent, represent a substantial majority of the 9,500 producers on the market. In proposing a lower Class I butterfat differential, producers contended that the values now assigned to butterfat and skim milk in Class I products do not reflect the current market values of these components of milk.

One producer group opposed a reduction in the Class I butterfat differential. This cooperative contended that its members would receive less money for butterfat in milk in excess of 3.5 percent butterfat. The average butterfat test of the production of this cooperative's members, 3.85 percent, is above the market average.

Handlers spoke strongly against reducing the Class I butterfat differential. Handler witnesses emphasized that reducing the Class I butterfat differential without making any change in the Class I price would cause an unwarranted increase in their cost of Class I milk. Handlers took the position that if the Class I butterfat differential were reduced, an adjustment should be made in the Class I price differential in order that their cost of Class I milk would not be changed.

Indicative of the declining proportion of butterfat in Class I sales is the continuous decline in the average test of fluid milk products sold in the Federal order marketing areas. In 1966 the average butterfat test in 66 Federal order markets for such sales was 3.53 percent.[1] This percentage declined from year to year, and in 1971 the comparable average butterfat test was 3.21 percent. On a percentage basis, the average butterfat content in these fluid milk products declined 9 percent from 1966 to 1971. It can reasonably be expected that the decline at a comparable rate will continue in the several years immediately ahead.

Under the Eastern Ohio-Western Pennsylvania order the average butterfat tests of Class I sales has been declining at a rate similar to that experienced nationally. Most recently, from 1970 to 1971, the average test of producer milk classified in Class I dropped from 3.28 to 3.15 percent, a decline of 4 percent. The increasing demand for Class I products of lower butterfat content can expect to result in a continuing decline in the average butterfat test of Class I sales under the order. Adopting the same butterfat differential for Class I milk as for other classes, as provided in this decision, gives recognition to a lower market value of butterfat in the fluid milk products in Class I.

While the butterfat content in producer milk is relatively close to the average butterfat content of whole milk sold as class I, it is now running substantially above the average test of all Class I milk. This is because fluid skim milk and lowfat milk items have become an increasing proportion of Class I sales at the expense of whole milk.

During 1971, when the butterfat in producer milk classified in Class I averaged 3.15 percent, producer deliveries averaged 3.72 percent butterfat.

The order price for Class I milk of 3.15 percent butterfat sold by handlers during 1971 averaged $6.383. This is computed by subtracting 28.7 cents (3.5 points of butterfat at 8.2 cents per point) from the average $6.67 Class I price for 3.5 percent milk. At the lower butterfat differential adopted in this decision, the adjustment in butterfat for such period would have been 27.3 cents (3.5 points of butterfat at 7.8 cents per point). This would have resulted in an average price of $6.397 for producer milk sold in Class I, 1.4 cents more than the actual Class I price ($6.383) for producer milk of 3.15 percent butterfat sold in Class I in 1971.

As indicated above, only the Class I butterfat differential is based on the butter price for the preceding month. That quotation no longer would be used for pricing under the order in the current month. The differential adopted in this decision would be based on the butter price for the current month, which butter price is now used for computing the Class II and Class III prices.

Because there is little change from month to month in the Chicago butter price, it is unnecessary to provide for average monthly butter quotations for both the current month and the preceding month for computing butterfat differentials applicable in the same month. Providing for the use of 1 average monthly butterfat quotation, that for the current month, as proposed at the hearing and here adopted, will simplify application of the order's provisions.

Since a single butterfat differential will apply to all classes of milk, such differential will determine the value of all butterfat in producer milk. If the differential is the same for each class, as proposed herein, the provisions for weighting the values of butterfat by classes become unnecessary and the same butterfat differential will be used for adjusting the producer's uniform price.

5. *Class I price.* The Class I price should be the basic formula price for the second preceding month plus $1.85 in Zone 1.

The Class I differential is now $1.87 for plants in the Cleveland-Erie district, and $1.97 in the Pittsburgh district.

Producers proposed a single Class I differential of $1.88 in conjunction with their proposal to revise the location pricing schedule under the order. Proponents stated their intention that the proposed change should return to producers the same total dollar value for Class I milk as they now receive under the order.

Adopting a Class I differential of $1.85 in conjunction with the other changes applicable to Class I milk adopted in this decision (e.g., location pricing, butterfat differential) will return to producers approximately the same aggregate amount for Class I milk that they are presently receiving. The Class I differential herein adopted is reasonable under current conditions affecting the supply and demand for milk in the market.

6. *Classification provisions.* (a) *Direct allocation of nonfluid other source milk to Class II utilization.* The order should permit the direct allocation to Class II of other source milk received in a form other than fluid milk products or fluid cream products (such as nonfat dry milk and condensed milk or skim milk) and used to produce Class II products.

Several handlers proposed a direct allocation to Class II utilization for other source milk, except that received in the form of a fluid milk product. The basis for their proposal was that there is no need to protect the local dairy farmers against the use of nonfat dry milk solids and condensed milk or skim milk in Class II products because such products involve greater cost than producer milk. They indicated that handlers rely principally on producers for a supply of milk for Class II uses, and use alternative sources only when producer milk is not available or the Class II product is modified by the addition of nonfat dry milk solids.

The major use of other source milk in Class II products is the addition of nonfat dry milk to cream products and to skim milk being used for the manufacture of cottage cheese. When supplies of producer milk are short, handlers also may reconstitute nonfat dry milk for cottage cheese production. Condensed milk or condensed skim milk may be similarly used.

Nonfat dry milk has certain processing advantages for handlers. It can be added readily to milk or milk products to increase their nonfat milk solids content. Also, its storability enables handlers to have a concentrated form of nonfat milk solids on hand at all times for emergency use. Nevertheless, any higher cost of nonfat dry milk to the handler relative to producer milk would tend to limit its use only to those situations where the nonfat dry milk provides a distinct processing advantage.

[1] The January 1972 Summary of Federal Milk Order Statistics (issued by the Dairy Division, AMS of USDA), page 4.

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(b) *Assignment of utilization to milk transferred to a nonpool plant.* The transfer provisions of the order should be revised so that any assignment of Class I milk at a nonpool plant to dairy farmers who the market administrator determines constitute the regular sources of supply for such nonpool plant is limited to those farmers whose milk is of bottling grade quality.

If a nonpool plant receives milk from a pool plant, the market administrator must determine the classification to be assigned the receipt of pool plant milk. This necessitates assignment of Class I utilization at the nonpool plant to its various receipts.

The order provides priorities in Class I milk assignments to the milk of dairy farmers who constitute such nonpool plant's regular sources of supply. The order does not, however, differentiate between the milk of bottling grade quality received from some dairy farmers and the manufacturing grade milk received from others at the nonpool plant. Consequently, the manufacturing grade milk may now be assigned Class I utilization before any such assignment is made to fluid milk products received from pool plants.

The manufacturing grade milk received from dairy farmers is not involved in a nonpool plant's Class I operation. Accordingly, it should not be assigned to any of the plant's Class I utilization in the process of determining the classification of pool plant milk at such nonpool plant.

(c) *Allowable Class III shrinkage on bulk cream transfers.* There should be no division of shrinkage between the transferring handler and the receiving handler on transfers of bulk cream between plants. The handler first receiving the milk should receive the full amount of allowable shrinkage associated with the processing of such milk into bulk cream. As the result of a suspension order currently in effect, the regulation so provides at the present time.

A cooperative proposed that the division of shrinkage be eliminated in order that the plant processing the bulk cream will not be disadvantaged in processing. The cooperative handles a substantial portion of the market's reserve supplies. It receives producer milk at farm weights and tests, separates such milk at its plant, and transfers large quantities of cream to other plants. The association indicated that it is experiencing losses greatly in excess of the 0.5 percent permitted a receiving operation, and that a large amount of its loss is occurring in the process of separating milk for cream.

When bulk cream is transferred between plants, it is not necessary that the receiving handler be allotted any Class III shrinkage on such transfer. Such bulk cream usually would be used in a manufactured product and be fully accounted for on a "used to produce" basis. Since the handler would report that his total receipts of bulk cream were used to produce specified Class II or Class III products, there is no remainder of the cream to be considered as unaccounted for, or shrinkage.

(d) *Limiting Class III shrinkage on transfers to other plants.* The shrinkage allowable in Class III on a pool plant's transfers to other plants should be limited to a quantity that is not more than the Class III shrinkage computed on the basis of the pool plant's total receipts.

The allowable Class III shrinkage at a plant is computed on the basis of its receipts of producer milk, milk diverted to other plants and fluid milk products received from other plants. Up to 2 percent of producer milk may be eligible for Class III shrinkage; on milk diverted from the plant, the Class III shrinkage allowance is 0.5 percent; and on bulk fluid milk products received from other plants, the allowable Class III shrinkage is 1.5 percent, except that no shrinkage is allowed on such transfers if a Class II or Class III use is requested. The order also provides for deducting from a plant's allowable Class III shrinkage 1.5 percent of the bulk fluid milk products transferred to other plants. Thus, a "negative" shrinkage allowance results when 1.5 percent of the bulk fluid milk products transferred from a plant exceeds the allowable Class III shrinkage that was computed on the basis of the plant's receipts of producer milk, its milk diverted to other plants and bulk fluid milk products received from other plants.

If, for example, a plant has receipts of 1 million pounds of producer milk, and it is buying such milk on the basis of farm weights, it is permitted actual shrinkage up to 2 percent in Class III, e.g., 20,000 pounds. If the plant has additional receipts of other source milk for which Class III utilization is requested, it receives no allowable shrinkage thereon. In the event the plant transferred 1.5 million pounds of milk to other plants, the transferor-handler must deduct 1.5 percent of such transfer, or 22,500 pounds, from the pool plant's allowable Class III shrinkage of 20,000 pounds. In such instance the transferor-pool plant would have a negative allowable shrinkage of 2,500 pounds.

The order amendments provided herein would limit the allowable shrinkage in the example cited above to zero.

(e) *Shrinkage assigned to other source milk.* The method of prorating shrinkage to producer milk and other source milk should be clarified by providing that the proration to other source milk will be limited to that in the form of bulk fluid milk products.

The order now provides for a proration of plant shrinkage to (1) the quantity of producer milk, and other source milk in bulk form for which Class II or III utilization is not requested, and (2) the quantity of remaining other source milk.

A cooperative proposed that the second category to which shrinkage is prorated be limited to that in the form of bulk fluid milk. Proponent stated that little, if any, shrinkage occurs whenever nonfat dry milk solids are used in reconstituting or fortifying a fluid milk product. The cooperative also indicated that other source milk received in the from of packaged fluid milk products should not receive any shrinkage at the plant of receipt because the principal shrinkage on such milk would have occurred at the plant where such milk was processed and packaged.

Handlers stated, contrarily, that the losses in a processing operation involving the use of nonfluid other source milk are not significantly different than the losses occurring in an operation using other source milk in fluid form.

Nonfat dry milk solids, condensed milk, and condensed skim milk are used primarily for Class III purposes. These products are also widely used to fortify fluid milk products disposed of as Class I, but the quantities so used are relatively small compared to the quantities used for other purposes. When nonfat dry milk solids or condensed milk products are used in the manufacture of a Class II or Class III milk product, the proration of shrinkage to the quantity so used is not on the basis of the actual weight of such products but on the basis of the skim milk equivalent (nonfat milk solids contained in such product plus all of the water originally associated with such solids). Accordingly, the proration of shrinkage should be limited to other source milk in the form of bulk fluid milk products in order that a disproportionate amount of shrinkage is not allocated to the manufacturing segment of a plant's operation.

7. *Miscellaneous and conforming changes*—(a) *Receipts of fluid milk products priced by an order at a pool plant from an unregulated supply plant.* No pool charge should be made on fluid milk products received at a pool plant or a partially regulated distributing plant from an unregulated supply plant when it is determined that such fluid milk products have been priced as Class I under this or any other Federal order. When an unregulated supply plant makes Class I purchases from a regulated plant under any order, the obligation to the order pool at the Class I price has been met, and there is no justification for any additional charge. On any unpriced milk received from an unregulated supply plant and allocated to Class I at a pool plant, the eastern Ohio-western Pennsylvania order will continue to provide for payment to the producer settlement fund at the difference between the Class I and uniform prices.

(b) *Definition of fluid cream product.* A definition of "fluid cream product" should be added to the order to mean cream (including aerated cream and sterilized cream) or a mixture of cream and milk or skim milk containing 10.5 percent or more butterfat. These products, when disposed of by a handler for fluid consumption, are classified in Class II.

Reference is frequently made throughout the order to the various products herein proposed to be included in the fluid cream product definition. Incorporating a definition in the order will facilitate such reference to the many order provisions concerned with these products that are herein designated as fluid cream products.

(c) *Equivalent price.* The order language providing for the "use of equivalent prices" should be modified.

The order now provides that if for any reason a price quotation required by the order for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price that is required. At the hearing, it was proposed that this provision be made more definitive so as to encompass items other than price quotations that might be required for computing class prices when such prices are not available in the manner described.

Although the various quotations now used in the order are specified price quotations, a different price constituent (e.g., a price index) that is reflective of one or more price quotations might under some circumstances be instituted in the order as a basis for determining class prices. Replacing "price quotation" with "price or pricing constituent" in the order language relating to the use of equivalent prices will more appropriately express the intent of this provision of the order, and is therefore adopted in this decision.

(d) *Repositioning of location adjustment applicable to other source milk.* The provisions which provide that the Class I and weighted average price for other source milk, when adjusted for location of the shipping plant, shall not be less than the Class III price, should be repositioned in the order.

A pool plant operator's obligation to the producer settlement fund includes a payment on fluid milk products received from unregulated supply plants and allocated to Class I. The handler's obligation to the pool is determined by charging him at the Class I price and crediting him at the weighted average price. The Class I price and the weighted average price used in such computation are those applicable at the unregulated supply plant, except that each is limited so as not to be less than the Class III price.

Presently such limits to the Class I price appear in the section dealing with computation of the net pool obligation of each handler. The phrase "but not to be less than the Class III price" should be deleted from such paragraph and placed within a new paragraph to be added to the section on location adjustments to handlers.

The limit to the weighted average price at which the pool handler is credited appears in the section specifying payments to the producer settlement fund. The parenthetical phrase "not to be less than the value at the Class III price" should be deleted from such paragraph and the location differentials on nonpool milk should be revised to include such limits.

These changes, as proposed herein, remove from certain sections of the order limits to the amount by which location adjustments might decrease the Class I or weighted average price and places such limits within sections of the order dealing with appropriate location adjustments.

(e) *Accounting for packaged fluid cream products received from other plants.* The order should specify that handlers report their receipts of packaged fluid cream products from other plants. Handlers are not now required to report such receipts. The order does require, however, that handlers report their month-end inventories of packaged fluid cream products, irrespective of their source.

It was proposed that packaged fluid cream products received at a pool plant and then disposed of from the plant without further processing be treated as "pass-through" products. Under this treatment, such "pass-through" products would not be considered other source milk and would not be subject to the allocation and pricing provisions of the order.

Although no handler obligation would result under the provisions herein proposed (requiring handlers to report their receipts of packaged fluid cream products from other plants) their adoption will be helpful in establishing a more complete accounting of all processing operations within the plant that involve the use of fluid cream products. To facilitate the accounting for all fluid cream products handled at a plant, the other source milk definition should include all fluid cream products, whether in bulk or packaged form. This will preclude the recordkeeping difficulties that might otherwise be experienced in accounting separately for inventories and sales of fluid cream products that are processed in the handler's plant and those received at the plant in packaged form from other plants.

(f) *Order format.* The order format should be revised to result in a more compact order and a more precise grouping of related order provisions. In addition to redesignation of section numbers (and codified subunits), some changes have been made in section titles, introductory paragraphs, and section content. These modifications conform with the format recently incorporated in several Federal milk orders and proposed for a number of others. No substantive change in the Eastern Ohio-Western Pennsylvania order provisions will result from the adoption of the revised order format.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act.

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order amending the order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Referendum Order To Determine Producer Approval

Prior to the effective date of the order amending the order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area, a referendum shall be conducted among producers (as defined in the tentative marketing agreement) who, during the representative period, have been engaged in the production of milk for sale in the marketing area, to determine whether they favor the issuance of the order.

The representative period for the conduct of such referendum is hereby determined to be October 1972.

The agent of the Secretary to conduct such referendum is hereby designated to be the Director, Dairy Division, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

The ballots used in such referendum shall be in accordance with the provisions of § 900.400 of the general rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900).

All milk which is received at pool plants during the representative period and which is not subsequently classified as Class I milk shall be deemed to be milk not intended for fluid consumption in the marketing area.

List of Subjects in 7 CFR Part 1036

Milk marketing orders.

Proposed Amendments to Tentative Marketing Agreement

The following amendments to the tentative marketing agreement regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area are proposed:

1. Section 1036.2 is revised to read as follows:

§ 1036.2 Eastern Ohio-Western Pennsylvania marketing area.

The Eastern Ohio-Western Pennsylvania marketing area hereinafter called the "marketing area" means all the territory within the boundaries of the following counties, including all territory within the boundaries of any military reservation, fort, or similar institution, which is entirely or partly within any county listed:

(a) In Ohio: Ashtabula, Belmont, Carroll, Columbiana, Cuyahoga, Geauga, Harrison, Jefferson, Lake, Mahoning, Portage, Stark, Summit, Trumbull, and Tuscarawas;

(b) In Pennsylvania: Allegheny, Armstrong, Beaver, Butler, Crawford, Erie, Fayette, Greene, Lawrence, Mercer, Venango, Washington, and Westmoreland;

(c) In West Virginia: Brooke, Hancock, Marshall, Ohio, and Wetzel; and

(d) In New York: Chautauqua.

2. Section 1036.4 is revised to read as follows:

§ 1036.4 [Reserved]

(iii) In Guernsey County: the township of Jackson;

during which it would not otherwise qualify as a pool plant.

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REFERENDUM ORDER TO DETERMINE PRODUCER APPROVAL; DETERMINATION OF REPRESENTATIVE PERIOD; AND DESIGNATION OF REFERENDUM AGENT

It is hereby directed that a referendum be conducted and completed on or before the 30th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300 et seq.), to determine whether the issuance of the attached order as amended and as hereby proposed to be amended regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The representative period for the conduct of such referendum is hereby determined to be July 1972.

The agent of the Secretary to conduct such referendum is hereby designated to be Mr. Cleo C. Taylor.

Signed at Washington, D.C., on November 3, 1972.

RICHARD E. LYNG,
Assistant Secretary.

Order[1] amending the order, regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area.

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on July 17, 1972, and published in the FEDERAL REGISTER on July 20, 1972 (37 F.R. 14393) shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein subject to the following modification in § 1036.6 as it appeared in the recommended decision.

The entire order (Part 1036), incorporating the provisions of this order, amending the order, is set forth in full herein in a revised order format. In addition to redesignation of section numbers (and codified subunits), some changes have been made in section titles, introductory paragraphs, and section content. The revised order format is concerned only with structure and makes no substantive changes in order provisions.

PART 1036—MILK IN EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

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ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1036.85 Assessment for order administration.
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GENERAL PROVISIONS

§ 1036.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1036.2 Eastern Ohio-Western Pennsylvania marketing area.

The "Eastern Ohio-Western Pennsylvania marketing area," hereinafter called the "marketing area," means all the territory within the boundaries of the following geographical units, including all waterfront facilities connected therewith and all territory occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within the listed geographical units:

(a) "Zone 1" includes:

(1) In Ohio:

(i) The following counties in their entirety:

Ashtabula.	Monroe.
Carroll.	Portage.
Geauga.	Tuscarawas.
Harrison.	Wayne.
Holmes.	

(ii) Ashland County (except the townships of Ruggles, Sullivan, and Troy).

(iii) In Guernsey County: the townships of Londonderry, Millwood, and Oxford.

(iv) In Stark County: Sugar Creek Township.

(v) In Trumbull County: the townships of Bazetta, Bloomfield, Bristol, Champion, Farmington, Fowler, Greene, Gustavus, Hartford, Johnston, Kinsman, Mecca, Mesopotamia, Southington, and Vernon.

(2) In Pennsylvania:

(i) The following counties in their entirety:

Crawford.	Venango.
Erie.	

(ii) In Clarion County: the townships of Ashland, Beaver, Licking, Madison, Perry, Piney, Richland, Salem, and Toby.

(b) "Zone 2" includes:

(1) In Ohio:

(i) The following counties in their entirety:

Belmont.	Mahoning.
Columbiana.	Summit.
Jefferson.	

(ii) In Lorain County: the townships of Amherst, Avon, Avon Lake, Black River, Carlisle, Columbia, Eaton, Elyria, Grafton, Ridgeville, and Sheffield.

(iii) Medina County (except the townships of Chatham, Homer, Litchfield, and Spencer).

(iv) Stark County (except Sugar Creek Township).

(v) In Trumbull County: the townships of Braceville, Brookfield, Howland, Hubbard, Liberty, Lordstown, Newton, Warren, Weathersfield, and Vienna.

(2) In Pennsylvania:

(i) The following counties in their entirety:

Armstrong.	Greene.
Beaver.	Lawrence.
Butler.	Mercer.
Fayette.	Washington.

(ii) Westmoreland County (except the boroughs of Bolivar, Donegal, Ligonier, New Florence, and Seward and the townships of Cook, Donegal, Fairfield, Ligonier, and St. Clair).

(3) In West Virginia, the following counties in their entirety:

Barbour.	Ohio.
Brooke.	Preston.
Doddridge.	Randolph.
Hancock.	Taylor.
Harrison.	Tucker.
Lewis.	Tyler.
Marion.	Upshur.
Marshall.	Wetzel.
Monongalia.	

(c) "Zone 3" includes Cuyahoga and Lake counties, Ohio, in their entirety.

(d) "Zone 4" includes Allegheny County, Pa., in its entirety.

§ 1036.3 Route disposition.

"Route disposition" means a delivery (except to a plant), either directly or through any distribution facility (including disposition from a plant store, vendor, or vending machine), of a fluid milk product classified as Class I pursuant to § 1036.40(a)(1).

§ 1036.4 [Reserved]

§ 1036.5 Distributing plant.

"Distributing plant" means a plant in which fluid milk products approved by a duly constituted health authority for fluid consumption, or filled milk, are processed or packaged and from which there is route disposition in the marketing area during the month.

§ 1036.6 Supply plant.

"Supply plant" means a plant from which a fluid milk product acceptable to a duly constituted health authority, or filled milk, is transferred or diverted during the month to a pool plant.

§ 1036.7 Pool plant.

Except as provided in paragraph (e) of this section, "pool plant" means:

(a) A distributing pool plant that has:

(1) Route disposition, except filled milk, during the month of not less than 50 percent (40 percent for each month of April through August) of the total receipts of fluid milk products, except filled milk, that are approved by a duly constituted health authority for fluid consumption and that are physically received at such plant or diverted as producer milk pursuant to § 1036.13 to plants other than those qualified as pool plants pursuant to this paragraph; and

(2) Route disposition, except filled milk, in the marketing area during the month of not less than 15 percent of the receipts described in subparagraph (1) of this paragraph.

(b) A supply plant from which during the months of September, October, and November, not less than 50 percent, and in all other months not less than 40 percent, of the total quantity of milk approved by a duly constituted health authority for fluid consumption that is physically received (excluding that diverted from other plants) at such plant from dairy farmers and handlers defined in § 1036.9(c) or diverted as producer milk pursuant to § 1036.13 to pool plants and nonpool plants is transferred or diverted to and physically received in the form of fluid milk products, except filled milk, at pool plants qualified under paragraph (a) of this section or disposed of as route disposition in the marketing area.

(c) A plant that qualified as a pool plant under paragraph (b) of this section on the basis of its transfers and diversions to pool plants (exclusive of its route disposition in the marketing area) in each of the immediately preceding months of September through February shall be a pool plant for the months of March through August unless the milk received at the plant does not continue to meet the requirements of a duly constituted health authority or a written application is filed by the plant operator with the market administrator on or before the first day of any such month requesting that the plant be designated as a nonpool plant for such month and each subsequent month through August during which it would not otherwise qualify as a pool plant.

(d) A plant(s) that is approved by a duly constituted health authority to handle milk for fluid consumption, that is operated by a cooperative association, and from which during the month the quantity of fluid milk products (except filled milk) shipped to pool plants qualified pursuant to paragraph (a) of this section plus the milk physically received at such plants by direct delivery from the farms of producer members of the cooperative association is not less than 65 percent in any month of September through April and not less than 50 percent in any other month of the cooperative association members' producer milk. If the cooperative association operating a plant qualified as a pool plant pursuant to this paragraph files with the market administrator prior to the first day of any month a written request for nonpool status for such plant, the plant shall be a nonpool plant for such month and for each of the next 11 months in which it does not qualify as a pool plant pursuant to paragraph (a), (b), or (c) of this section.

(e) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant; and

(2) A plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to this section and a greater volume of fluid milk products, except filled milk, is disposed of from such plant in this marketing area as route disposition and to pool plants qualified on the basis of route disposition in this marketing area than is disposed of from such plant in the marketing area regulated pursuant to the other order as route disposition and to plants qualified as fully regulated plants under such other order on the basis of route disposition in its marketing area.

§ 1036.8 Nonpool plant.

"Nonpool plant" means a plant (except a pool plant) which receives milk from dairy farmers or is a milk or filled milk manufacturing, processing, or bottling plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means:

(1) A nonpool plant that is a distributing plant and is not an other order plant or a producer-handler plant; and

(2) An other order plant with respect to its route disposition in the marketing area that is not priced and pooled pursuant to any order issued pursuant to the Act.

(d) "Unregulated supply plant" means:

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

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(1) A nonpool plant that is a supply plant and is not an other order plant or a producer-handler plant; and

(2) An other order plant with respect to fluid milk products which were received at a pool plant from such a plant and which are not priced and pooled pursuant to any order issued pursuant to the Act.

§ 1036.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) Any cooperative association with respect to producer milk which it causes to be diverted for its account from a pool plant of another handler to a nonpool plant;

(c) Any cooperative association with respect to milk of its producer-members which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association. The milk for which a cooperative association is the handler pursuant to this paragraph shall be deemed to have been received at the location of the pool plant to which it was delivered;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) Any producer-handler; and

(f) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant.

§ 1036.10 Producer-handler.

"Producer-handler" means any person who:

(a) Operates a dairy farm and a distributing plant;

(b) Receives no fluid milk products from sources other than his own farm production and pool plants;

(c) Uses no milk products other than fluid milk products for reconstitution into fluid milk products; and

(d) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary for his own farm production and the operation of the processing and packaging business are the personal enterprise and risk of such person.

§ 1036.11 [Reserved]

§ 1036.12 Producer.

(a) "Producer" means any person, except a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk for fluid consumption in compliance with the inspection requirements of a duly constituted health authority, which milk is received at a pool plant or diverted pursuant to § 1036.13 from a pool plant to a nonpool plant or another pool plant.

(b) "Producer" shall not include a person with respect to milk that is physically received at a pool plant as diverted milk from an other order plant if a Class II or Class III classification under this order is designated for such milk and it is subject to the pricing and pooling provisions of another order issued pursuant to the Act.

§ 1036.13 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk of a producer which is:

(a) With respect to a handler defined in § 1036.9(a):

(1) Received at the handler's pool plant directly from the producer, excluding receipts of milk diverted from another pool plant;

(2) Received at the handler's pool plant from a handler defined in § 1036.9(c) that does not operate a pool plant;

(3) Diverted for the handler's account from his pool plant to a nonpool plant that is not a producer-handler plant, subject to the conditions set forth in paragraph (e) of this section; or

(4) Diverted for the handler's account from his pool plant to another pool plant, subject to the conditions set forth in paragraph (f) of this section;

(b) With respect to a handler defined in § 1036.9(b), diverted for the handler's account from a pool plant of another handler to a nonpool plant that is not a producer-handler plant, subject to the conditions set forth in paragraph (e) of this section;

(c) With respect to a handler defined in § 1036.9(c) that does not operate a pool plant, received by the handler from the producer's farm in excess of the producer's milk that is received by a pool plant operator pursuant to paragraph (a)(2) of this section; and

(d) With respect to a handler defined in § 1036.9(c) that also operates a pool plant, received by the handler from the producer's farm.

(e) The following conditions shall apply to milk diverted from a pool plant to a nonpool plant that is not a producer-handler plant:

(1) Such milk shall be deemed to have been received by the diverting handler at the location of the nonpool plant to which diverted;

(2) To the extent that it would result in nonpool plant status for the pool plant from which diverted, milk diverted for the account of a cooperative association from the pool plant of another handler shall not be deemed to have been received at such pool plant and shall not be producer milk;

(3) In any month of August through March, the quantity of milk of any producer diverted to nonpool plants that exceeds that physically received at pool plants shall be deemed to have not been received by the diverting handler and shall not be producer milk;

(4) The diverting handler shall designate the dairy farmers' deliveries that are not producer milk pursuant to this paragraph. If the handler fails to make such designation, no milk diverted by him to a nonpool plant shall be producer milk;

(5) In determining if the diversion limitations specified in this paragraph have been exceeded, the quantity of milk diverted to nonpool plants or physically received at pool plants shall be considered in terms of days of production of the producer; and

(6) Milk diverted to an other order plant shall be producer milk only if a Class II or Class III classification is designated for such milk pursuant to the provisions of another order issued pursuant to the Act and such milk is not subject to the pricing and pooling provisions of such order.

(f) Milk diverted from a pool plant to another pool plant shall be deemed to have been received by the diverting handler at the location of the pool plant to which diverted.

§ 1036.14 Other source milk.

"Other source milk" means the skim milk and butterfat contained in or represented by:

(a) Fluid milk products and bulk fluid cream products from any source except producer milk, fluid milk products and bulk fluid cream products from pool plants, and fluid milk products and bulk fluid cream products in inventory at the beginning of the month;

(b) Receipts of packaged fluid cream products from other plants;

(c) Products, other than fluid milk products, bulk fluid cream products and Class II products listed in § 1036.40(b)(3), from any source (including those produced at the plant) which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Any disappearance of nonfluid products in a form in which they may be converted into a Class I product and which are not otherwise accounted for.

§ 1036.15 Fluid milk product.

"Fluid milk product" means the following products or mixtures in either fluid or frozen form, including such products or mixtures that are flavored, cultured, modified (with added nonfat milk solids), concentrated, or reconstituted: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, milk shake mixes containing less than 12 percent total milk solids, and mixtures of cream and milk or skim milk containing less than 10.5 percent butterfat. The term "fluid milk product" shall not include those products and mixtures listed in § 1036.40(b)(1) and (3), and (c)(1).

§ 1036.16 Fluid cream product.

"Fluid cream product" means cream (including aerated cream and sterilized cream) or a mixture of cream and milk or skim milk containing 10.5 percent or more butterfat.

§ 1036.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1036.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members; and

(c) To have all of its activities under the control of its members.

§ 1036.19 Reload point.

"Reload point" means a location at which milk moved from a farm in a tank truck is transferred to another tank truck and commingled with other milk before entering a plant. A reload operation on the premises of a plant shall be considered a part of the plant operation.

HANDLER REPORTS

§ 1036.30 Reports of receipts and utilization.

On or before the 8th day after the end of each month, reports of receipts and utilization for such month shall be made to the market administrator, in the detail and on forms prescribed by the market administrator, as follows:

(a) Each handler operating a pool plant shall report for each of his pool plants:

(1) Receipts of skim milk and butterfat contained in or represented by:

(i) Producer milk, showing in the case of milk received directly from each producer the pounds and butterfat test and the number of days of production involved for each producer;

(ii) Fluid milk products and fluid cream products from other pool plants and from a handler defined in § 1036.9(c) that also operates a pool plant; and

(iii) Other source milk;

(2) Inventories at the beginning and end of the month of the following products:

(i) Fluid milk products; and

(ii) Fluid cream products, showing separately such inventories in bulk form and in packaged form;

(3) The utilization or disposition of all skim milk and butterfat required to be reported pursuant to this paragraph, showing separately:

(i) Total route disposition and route disposition in the marketing area, showing separately such disposition of filled milk inside and outside the marketing area; and

(ii) Transfers and diversions to other plants; and

(4) Such other information with respect to the receipts and utilization of skim milk and butterfat as the market administrator may prescribe;

(b) Each cooperative association shall report:

(1) The quantities of skim milk and butterfat contained in milk from producers for which it is the handler pursuant to § 1036.9 (b) and (c), showing:

(i) The quantity of milk delivered to each plant; and

(ii) For each producer the pounds and butterfat test of the milk and the number of days of production involved;

(2) The utilization of all skim milk and butterfat required to be reported pursuant to subparagraph (1) of this paragraph, except that contained in producer milk described in § 1036.13(a)(2); and

(3) Such other information with respect to its receipts and utilization of skim milk and butterfat as the market administrator may prescribe; and

(c) Each handler operating a partially regulated distributing plant shall report as required in paragraph (a) of this section except that receipts of bottling grade milk from dairy farmers shall be reported in lieu of receipts of producer milk. Such report shall include a separate statement showing the amount of reconstituted skim milk in route disposition in the marketing area.

§ 1036.31 Payroll reports.

(a) Each handler defined in § 1036.9 (a), (b), and (c) shall report to the market administrator on or before the 25th day after the end of the month, in the detail and on forms prescribed by the market administrator, his producer payroll for such month which shall show for each producer:

(1) His identity;

(2) The quantity of milk received from such producer and the number of days, if less than the entire month, on which milk was received from such producer;

(3) The average butterfat content of such milk; and

(4) The net amount of such handler's payment, together with the price paid and the amount and nature of any deductions.

(b) Each handler operating a partially regulated distributing plant who does not elect to make payments pursuant to § 1036.76(b) shall report to the market administrator on or before the 25th day after the end of the month the same information required of handlers pursuant to paragraph (a) of this section. In such report, payments to dairy farmers delivering milk that is approved by a duly constituted health authority for fluid consumption shall be reported in lieu of payments to producers.

§ 1036.32 Other reports.

(a) Each producer-handler shall report to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler who operates an other order plant shall report total receipts and utilization or disposition of skim milk and butterfat at the plant at such time and in such manner as the market administrator may require and shall allow verification of such reports by the market administrator.

CLASSIFICATION OF MILK

§ 1036.40 Classes of utilization.

Except as provided in § 1036.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1036.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as provided in paragraphs (b) and (c) of this section; and

(2) Not accounted for as Class II or Class III milk.

(b) *Class II milk.* Except as provided in paragraph (c) of this section, Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product;

(2) In inventory at the end of the month of packaged fluid cream products;

(3) Used to produce yogurt, sour cream, sour cream products (e.g., dips), cottage cheese, and cottage cheese curd; and

(4) Disposed of in bulk as fluid milk products or fluid cream products to any commercial food processing establishment (other than a milk or filled milk plant) for the manufacture of packaged food products (other than milk products and filled milk) for consumption off the premises.

(c) *Class III milk.* Class III milk shall be:

(1) Skim milk and butterfat used to produce frozen desserts and frozen dessert mixes, eggnog, frozen cream, butter, cheese (excluding cottage cheese and cottage cheese curd), evaporated and condensed milk (plain or sweetened), nonfat dry milk, dry whole milk, dry whey, condensed or dry buttermilk, any product containing 6 percent or more nonmilk fat (or oil), milk shake mixes containing 12 percent or more total milk solids, and sterilized products (except fluid cream products and those products listed in paragraph (b)(3) of this section) in hermetically sealed glass or metal containers;

(2) Skim milk and butterfat in fluid milk products, fluid cream products and products listed in paragraph (b)(3) of this section that are disposed of by a handler for livestock feed;

(3) Skim milk and butterfat in fluid milk products, fluid cream products and products listed in paragraph (b)(3) of this section that are dumped by a handler after notification to, and opportunity for verification by, the market administrator;

(4) Skim milk and butterfat in inventory of fluid milk products and bulk fluid cream products at the end of the month;

(5) Skim milk represented by the nonfat milk solids added to a fluid milk product which is in excess of an equivalent volume of such product prior to the addition;

(6) Skim milk and butterfat, respectively, in each pool plant's shrinkage, but not in excess of:

(i) Two percent of producer milk physically received at the plant (except that received from a handler defined in § 1036.9(c)); plus

(ii) Plus 1.5 percent of milk received from a handler defined in § 1036.9(c) and of milk diverted to such plant from another pool plant, except that if the plant operator receiving such milk files

notice with the market administrator

class in the transferee plant after the

milk (approved by a duly constituted

§ 1036.43 General classification rules.

of a fluid milk product or a fluid cream

the operator of such plant and the

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notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage shall be 2 percent;

(iii) Plus 0.5 percent of producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the other plant purchases such milk on the basis of farm weights, no percentage shall apply;

(vi) Plus 1.5 percent of bulk fluid milk products received by transfer from other pool plants;

(v) Plus 1.5 percent of bulk fluid milk products received from other order plants exclusive of the quantity for which Class II or Class III classification was requested by the operators of both plants;

(vi) Plus 1.5 percent of bulk fluid milk products received from unregulated supply plants exclusive of the quantity for which Class II or Class III classification is requested by the handler; and

(vii) Less 1.5 percent of the quantity of bulk fluid milk products transferred to other plants that does not exceed such quantity to which percentages were applied pursuant to subdivisions (i), (ii), (iv), (v), and (vi) of this subparagraph;

(7) Skim milk and butterfat, respectively, in shrinkage of other source milk assigned pursuant to § 1036.41(b)(2); and

(8) Skim milk and butterfat, respectively, in shrinkage of milk from producers that is diverted from a pool plant to a nonpool plant by a cooperative association acting as a handler pursuant to § 1036.9(b) or in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1036.9(c), but not in excess of 0.5 percent of the receipts of milk from producers, exclusive of such receipts for which farm weights are used as the basis of receipt at the plant to which delivered.

§ 1036.41 Shrinkage.

The market administrator shall allocate shrinkage over each pool plant's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each pool plant; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat, respectively, in:

(1) The net quantity of producer milk and other fluid milk products specified in § 1036.40(c)(6); and

(2) Other source milk in the form of bulk fluid milk products exclusive of that specified in § 1036.40(c)(6).

§ 1036.42 Classification of transfers and diversions.

Skim milk or butterfat in the form of a fluid milk product or a bulk fluid cream product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred or diverted from a pool plant to the pool plant of another handler, subject to the following conditions:

(1) The skim milk or butterfat so assigned to each class shall be limited to the amount thereof remaining in such class in the transferee plant after the computations pursuant to § 1036.44(a)(13) and the corresponding step of § 1036.44(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1036.44(a)(7) and the corresponding step of § 1036.44(b), the skim milk and butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor plant received during the month other source milk to be allocated pursuant to § 1036.44(a)(12) or (13) and the corresponding steps of § 1036.44(b), the skim milk and butterfat so transferred or diverted up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler plant;

(c) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of subparagraph (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification as Class II or Class III in his report submitted pursuant to § 1036.30;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred or diverted shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any route disposition in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of milk (approved by a duly constituted health authority for fluid consumption) for such nonpool plant;

(ii) Any route disposition in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of milk (approved by a duly constituted health authority for fluid consumption) for such nonpool plant;

(iii) Class I utilization (exclusive of that resulting from transfers of fluid milk products to pool plants and other order plants) in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute regular sources of supply of milk (approved by a duly constituted health authority for fluid consumption) for such nonpool plant and any remaining Class I utilization (including that resulting from transfers of fluid milk products to pool plants and other order plants) shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool plants and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred or diverted shall be classified as Class III milk to the extent Class III utilization is available and the remainder as Class II milk; and

(d) As follows, if transferred to another order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, movements in bulk form shall be classified as Class III milk to the extent of the Class III utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for only two classes of utilization, skim milk and butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk and butterfat allocated to the other class shall be classified as Class III milk; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1036.40.

§ 1036.43 General classification rules.

For each month, the market administrator shall correct for mathematical and other obvious errors all reports submitted pursuant to § 1036.30 and shall compute for each handler the total pounds of skim milk and butterfat in each class: *Provided*, That the skim milk contained in any product utilized, produced or disposed of by the handler during the month shall be considered to be an amount equivalent to the nonfat milk solids contained in such product plus all the water originally associated with such solids.

§ 1036.44 Classification of producer milk.

After making the computations pursuant to § 1036.43, the market administrator shall determine the classification of producer milk for each handler as follows: *Provided*, That the classification of producer milk for which a cooperative association is the handler pursuant to § 1036.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III milk pursuant to § 1036.40(c)(6);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order;

(3) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants, except that to be subtracted pursuant to subparagraph (7)(v) of this paragraph, as follows:

(i) From Class III milk, the lesser of the pounds remaining or the quantity associated with such receipts and classified as Class III milk pursuant to § 1034.40(c)(5) plus 2 percent of the remainder of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in packaged fluid cream products received from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in packaged fluid cream products that are in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is added to, or used to produce, any product specified in § 1036.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product or a fluid cream product) that was not subtracted pursuant to subparagraphs (4) and (6) of this paragraph;

(ii) Receipts of fluid milk products (except filled milk) and bulk fluid cream products for which appropriate health approval is not established and receipts of fluid milk products and bulk fluid cream products, from unidentified sources;

(iii) Receipts of fluid milk products and bulk fluid cream products from a producer-handler, as defined under this or any other Federal order;

(iv) Receipts of reconstituted skim milk in filled milk from unregulated supply plants that were not subtracted pursuant to subparagraph (2) of this paragraph; and

(v) Receipts of reconstituted skim milk in filled milk from other order plants which are regulated under an order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor plant;

(8) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in bulk fluid cream products received from nonpool plants that were not subtracted pursuant to subparagraph (7)(iii) of this paragraph and in packaged fluid cream products in inventory at the beginning of the month that were not subtracted pursuant to subparagraph (5) of this paragraph;

(9) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II and Class III (beginning with Class III), but not in excess of such quantities:

(i) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraph (2) and (7)(iv) of this paragraph:

(*a*) For which the handler requests Class III classification; or

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool handlers, and receipts in bulk from other order plants that were not subtracted pursuant to subparagraph (7)(v) of this paragraph; and

(ii) Receipts of fluid milk products in bulk from an other order plant that were not subtracted pursuant to subparagraph (7)(v) of this paragraph, in excess of similar transfers to such plant, if Class III classification was requested by the operator of such plant and the handler;

(10) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in inventory of fluid milk products and bulk fluid cream products;

(11) Add to the remaining pounds of skim milk in Class III the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(12) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraphs (2), (7)(iv), and (9)(i) of this paragraph;

(13) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant that are in excess of similar transfers to the same plant and that were not subtracted pursuant to subparagraphs (7)(v) and (9)(ii) of this paragraph:

(i) In series beginning with Class III, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II and Class III utilization of skim milk announced for the month by the market administrator pursuant to § 1036.45(a) or the percentage that Class II and Class III utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(14) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products and bulk fluid cream products received from pool plants of other handlers according to the classification of such products pursuant to § 1036.42(a);

(15) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of milk from a handler defined in § 1036.9(c) that also operates a pool plant;

(16) If the pounds of skim milk remaining exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1036.44(a)(16) and the corresponding step of § 1036.44(b).

CLASS PRICES

§ 1036.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

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(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1036.44(a)(13) and the corresponding step of § 1036.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the classification to which such receipts are allocated pursuant to § 1036.44 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products and bulk fluid cream products to an other order plant the classification to which the skim milk and butterfat in such fluid milk products and bulk fluid cream products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

(d) On or before the 20th day of each month, report to each cooperative association that so requests the class utilization of milk received during the preceding month by each handler from producers who are members of such association, prorating to such receipts the class utilization of all producer receipts of such handler.

§ 1036.50 Class prices.

Subject to the provisions of § 1036.52, the class prices per hundredweight for milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.85.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month, but not to exceed an amount computed as follows:

(1) Multiply by 4.2 the simple average of the wholesale prices (using the midpoint of any price range as one price) of Grade A (92 score) bulk butter per pound at Chicago, as reported by the Department for the month;

(2) Multiply by 8.2 the weighted average of carlot prices per pound of nonfat dry milk solids, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph subtract 48 cents, and round to the nearest cent.

§ 1036.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92 score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1036.52 Plant location adjustments for handlers.

(a) At a plant in the marketing area and outside Zone 1, the Class I price for producer milk shall be adjusted as follows:

(1) At a plant in Zone 2, the Class I price shall be increased 5 cents;

(2) At a plant in Zone 3, the Class I price shall be increased 8 cents; and

(3) At a plant in Zone 4, the Class I price shall be increased 10 cents.

(b) At a plant outside the marketing area, the Class I price shall be that applicable pursuant to paragraph (a) of this section at the location of the nearest of the cities here listed (Canton and Cleveland, Ohio; Erie, Pittsburgh, and Uniontown, Pa.; and Clarksburg, W. Va. to such plant. Such Class I price shall be further adjusted by a reduction of 1.5 cents for each 10 miles or fraction thereof that such plant is from the city hall of the nearest of the above named cities. Distances applied pursuant to this paragraph shall be the shortest hard-surfaced highway distances as determined by the market administrator.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraphs (a) and (b) of this section, except that the adjusted Class I price shall not be less than the Class III price.

(d) For the purpose of computing location adjustments pursuant to paragraph (b) of this section, fluid milk products physically received at a pool plant from other pool plants shall be assigned any remainder of Class I milk at such plant that is in excess of 92.5 percent of the sum of producer milk receipts at the plant and that assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment shall be made in sequence beginning with receipts from the plant(s) at which the highest Class I price is applicable.

§ 1036.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1036.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

§ 1036.60 Handler's value of milk for computing uniform price.

The net pool obligation of each handler defined in § 1036.9 (a), (b), and (c) for each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class as computed pursuant to § 1036.44(c) by the applicable class price, adjusted pursuant to § 1036.52;

(b) Add the amounts obtained from multiplying the overage deducted from each class pursuant to § 1036.44(a)(16) and the corresponding step of § 1036.44(b) by the applicable class price adjusted pursuant to §§ 1036.52 and 1036.74;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I or Class II price for the current month, as the case may be, by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1036.44(a)(10) and the corresponding step of § 1036.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price at the pool plant and the Class III price, both for the current month, by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1036.44(a)(7) and (8) and the corresponding steps of § 1036.44(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1036.44(a)(7)(iv) and (v) and the corresponding steps of § 1036.44(b) the Class I price shall be adjusted to the location of the transferor plant; and

(e) Add the amount obtained from multiplying the Class I price adjusted for the location of the nearest nonpool plants from which an equivalent volume was received by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1036.44(a)(12) and the corresponding step of § 1036.44(b), excluding such skim milk or butterfat in bulk receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order.

§ 1036.61 Computation of uniform price.

For each month, the market administrator shall compute a uniform price per hundredweight of milk of 3.5 percent butterfat content as follows:

(a) Combine into one total the values computed pursuant to § 1036.60 for all handlers who filed the reports pursuant to § 1036.30 for the month, except those in default of payments required pursuant to § 1036.71 for the preceding month;

(b) Add an amount equal to the total value of the minus location adjustments applicable pursuant to § 1036.75;

(c) Subtract an amount equal to the total value of the plus location adjustments applicable pursuant to § 1036.75;

(d) Add an amount equal to one-half the unobligated balance in the producer settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1036.60(e);

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price," and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (e)(2) of this section by the weighted average price;

(h) Subtract for each of the months of April, May, June, and July the amount obtained by multiplying the hundredweight of producer milk specified in paragraph (e)(1) of this section by a rate that is equal to 6 percent of the average basic formula price (computed to the nearest cent) for the preceding calendar year but not to exceed 25 cents;

(i) Add for each of the months of September, October, and November one-fourth of the total amount subtracted pursuant to paragraph (h) of this section for the preceding period of April through July, and add for the month of December the remainder of such total amount plus any interest earned on such total amount;

(j) Divide the amount resulting from the computations pursuant to paragraphs (g), (h), and (i) of this section by the hundredweight of producer milk specified in paragraph (e)(1) of this section; and

(k) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1036.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce on or before:

(a) The fifth day of each month, the butterfat differential for the preceding month; and

(b) The 14th day of each month, the uniform price for the preceding month.

PAYMENTS FOR MILK

§ 1036.70 Producer-settlement fund.

(a) The market administrator shall maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments pursuant to §§ 1036.71 and 1036.76 and out of which he shall make all payments pursuant to § 1036.72: *Provided*, That the market administrator shall offset the payments due to a handler against payments due from such handler.

(b) All amounts subtracted pursuant to § 1036.61(h) shall be deposited in the producer-settlement fund and set aside as an obligated balance until withdrawn for the purpose of effectuating § 1036.61(i).

§ 1036.71 Payments to the producer-settlement fund.

(a) On or before the 16th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in subparagraph (1) of this paragraph exceeds the amount specified in subparagraph (2) of this paragraph:

(1) The net pool obligation pursuant to § 1036.60 for such handler; and

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1036.75, of such handler's receipts of producer milk; and

(ii) The value at the weighted average price applicable at the location of the plants from which received of other source milk for which a value is computed pursuant to § 1036.60(e).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in subparagraph (1) of this paragraph to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1036.72 Payments from the producer-settlement fund.

On or before the 17th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1036.71(a)(2) exceeds the amount computed pursuant to § 1036.71(a)(1). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1036.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraph (b) of this section, each handler shall make payment for producer milk as follows:

(1) On or before the last day of the month, to each producer who has not discontinued delivery of milk to such handler, not less than the amount determined by multiplying the pounds of producer milk received from such producer during the first 15 days of the month by the Class III price for the preceding month, without adjustment for butterfat content, less proper deductions authorized by the producer; and

(2) On or before the 18th day after the end of the month, to each producer not less than the amount determined by multiplying the pounds of producer milk received from such producer during the month by the uniform price as adjusted pursuant to §§ 1036.74 and 1036.75, less the following amounts:

(i) The payment made pursuant to subparagraph (1) of this paragraph for such month;

(ii) Proper deductions authorized by the producer;

(iii) Any marketing service deduction pursuant to § 1036.86; and

(iv) If before such date the handler has not received full payment from the market administrator pursuant to § 1036.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this subparagraph next following after receipt of the balance due from the market administrator.

(b) Upon receipt of a written request from a cooperative association which the Secretary determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association, each handler shall pay to the cooperative association for producer milk received from such members an amount equal to the sum of the individual payments otherwise payable to such producers pursuant to subparagraph (1) or (2), as the case may be, of paragraph (a) of this section. Such payment shall be made on or before the second day prior to the date specified in such applicable subparagraph. Payments under this paragraph shall be subject to the following conditions:

(1) Each handler shall submit to the cooperative association with such pay-

ments written information which shows

cable to the uniform price, except that

(2) From this obligation, deduct the

§§ 1036.71, 1036.72, 1036.77, 1036.85, and

Class I pursuant to § 1036.44(a)(7) and

16th day after the end of the month,

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ments written information which shows for each such producer:

(i) The total pounds of milk received from him during the period for which the payment applies;

(ii) With respect to the payment described in paragraph (a)(2) only of this section, the total pounds of butterfat contained in such milk;

(iii) The number of days on which milk was received; and

(iv) The amount of any deductions authorized by the producer;

(2) Payments to a cooperative association and the submission of information by handlers pursuant to this paragraph shall be made with respect to that milk of each producer whom the cooperative association certifies is a member which is received on and after the first day of the calendar month next following the receipt of such certification through the last day of the month next preceding the receipt of a notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association; and

(3) A copy of each such request, promise to reimburse, and certified list, of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination.

(c) On or before the 15th day after the end of each month, each handler shall pay a cooperative association at not less than the class prices adjusted pursuant to §§ 1036.52 and 1036.74 for milk which he receives:

(1) By transfer or diversion from a pool plant operated by such cooperative association; or

(2) From such cooperative association in its capacity as a handler pursuant to § 1036.9(c), if such cooperative association also operates a pool plant.

§ 1036.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent at a rate (rounded to the nearest one-tenth cent) determined by multiplying the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1036.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk received at a plant shall be adjusted according to the location of such plant at the rates set forth in § 1036.52.

(b) The weighted average price applicable to other source milk shall be subject to the same adjustments applicable to the uniform price, except that the weighted average price shall not be less than the Class III price.

§ 1036.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1036.30 and 1036.31(b) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) The obligation that would have been computed pursuant to § 1036.60 at such plant shall be determined as though such plant were a pool plant, subject to the following modifications:

(i) Receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant;

(ii) Transfers from such nonpool plants to a pool plant or other order plant shall be classified as Class II or Class III milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk, except that reconstituted skim milk in filled milk shall be valued at the Class III price. No obligation shall apply to Class I milk transferred to a pool plant or an other order plant if such Class I utilization is assigned to receipts at the partially regulated distributing plant from pool plants and other order plants at which such milk was classified and priced as Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1036.60(e) and a credit in the amount specified in § 1036.71(a)(2)(ii) with respect to receipts from an unregulated supply plant, except that the credit for receipts of reconstituted skim milk in filled milk shall be at the Class III price, unless an obligation with respect to such plant is computed as specified below in subdivision (iii) of this subparagraph;

(iii) If the operator of the partially regulated distributing plant so requests, and provides with his report pursuant to § 1036.30 a similar report for each nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1036.7 (b) and (c), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation, deduct the sum of;

(i) The gross payments made by such handler for milk (adjusted to a 3.5-percent butterfat basis pursuant to § 1036.74) received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph; and

(ii) Payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat in the plant's route disposition in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received at the plant;

(i) As Class I milk from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act; and

(ii) From a nonpool plant that is not an other order plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such nonpool plant by handlers fully regulated under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order;

(3) Deduct the quantity of reconstituted skim milk in fluid milk products disposed of as route disposition in the marketing area;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in subparagraph (3) of this paragraph by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

§ 1036.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses adjustments to be made, for any reason, which result in moneys due the market administrator from such handler, due such handler from the market administrator, or due any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any such amount due, and payment thereof shall be made on or before the next date for making payment set forth in the provision under which such error occurred, following the 5th day after such notice.

§ 1036.78 Charges on overdue accounts.

Any unpaid obligation of a handler or of the market administrator pursuant to

§§ 1036.71, 1036.72, 1036.77, 1036.85, and 1036.86 shall be increased one-half of 1 percent on the first day of the calendar month next following the due date of such obligation, and on the first day of each calendar month thereafter until such obligation is paid.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1036.85 Assessment for order administration.

As his pro rata share of the expense of administration of this part, each handler shall pay to the market administrator on or before the 16th day after the end of the month 3 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1036.44(a)(7) and (12) and the corresponding steps of § 1036.44(b), except such other source milk on which no handler obligation applies pursuant to § 1036.60(e); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1036.76(b)(2).

§ 1036.86 Deduction for marketing services.

(a) Except as provided in paragraph (b) of this section, each handler in making payments for producer milk received during the month shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe (except on such handler's own farm production) and shall pay such deductions to the market administrator not later than the 16th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 16th day after the end of each month, pay over such deductions to the association rendering such services.

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WASHINGTON, D.C.

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Area Code 202 Phone 962-8626

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Title 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—U.S. Standards for Grades of Canned Plums [1]

On April 20, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 7801) regarding a proposed revision of the U.S. Standards for Grades of Canned Plums.

Comments were received from one consumer group, the Oregon Consumer League of Portland, Oreg., and one individual consumer. Both of these endorsed the proposal in its entirety. No comments were received from the plum canning industry and no adverse comments were received from the Federal Food and Drug Administration. After consideration of all such relevant matters as was presented by interested persons, therefore, the proposed revision as so proposed is hereby adopted in its entirety.

Effective date. This revision is effective December 15, 1972, and thereupon will supersede the U.S. Standards for Grades of Canned Plums (7 CFR Part 52) which have been in effect since September 11, 1962.

Dated: November 2, 1972.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

The revision is as follows:

PRODUCT DESCRIPTION, VARIETIES, STYLES, AND GRADES

Sec.
52.1781 Product description.
52.1782 Varietal types.
52.1783 Styles.
52.1784 Grades.

LIQUID MEDIA, FILL OF CONTAINER, DRAINED WEIGHTS, AND FILL WEIGHTS

52.1785 Liquid media and Brix measurements for canned plums.
52.1786 Recommended fill of container.
52.1787 Recommended minimum drained weight.
52.1788 Recommended fill weights.

SAMPLE UNIT SIZE

52.1789 Sample unit size.

FACTORS OF QUALITY

52.1790 Ascertaining the grade of a sample unit.
52.1791 Ascertaining the rating for the factors which are scored.
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ALLOWANCES FOR QUALITY FACTORS

52.1796 Allowances for quality factors.

LOT COMPLIANCE

52.1797 Ascertaining the grade of a lot.

SCORE SHEET

52.1798 Score sheet for canned plums.

AUTHORITY: The provisions of this subpart issued under sec. 205, 60 Stat. 1090 as amended; 7 U.S.C. 1624.

PRODUCT DESCRIPTION, VARIETIES, STYLES, AND GRADES

§ 52.1781 Product description.

"Canned plums," as defined in the standards of identity for canned fruits (21 CFR 27.45) issued pursuant to the Federal Food, Drug, and Cosmetic Act, is the food prepared from mature plums of the domestic (Prunus domestica L.) varietal groups; are packed in water or plum juice with or without nutritive sweetening ingredients; and are sealed in a container and so processed by heat as to prevent spoilage. The food may be seasoned with one or more of the optional ingredients permitted under the Federal Food, Drug, and Cosmetic Act.

§ 52.1782 Varietal types.

(a) Purple plum groups.
(b) Green-yellow plum groups.

§ 52.1783 Styles.

(a) "Whole, unpeeled, unpitted."
(b) "Whole, peeled, unpitted."
(c) "Whole, unpeeled pitted."
(d) "Whole, peeled, pitted."
(e) "Halves, unpeeled, pitted."
(f) "Halves, peeled, pitted."

§ 52.1784 Grades.

(a) "U.S. Grade A" or "U.S. Fancy" is the quality of canned plums that:
(1) Have similar varietal characteristics;
(2) Have a normal flavor and odor;
(3) Have a good, practically uniform color;
(4) Are at least reasonably uniform in size;
(5) Are practically free from defects;
(6) Have a good character; and
(7) Score not less than 90 points when scored in accordance with the scoring system outlined in this subpart.

(b) "U.S. Grade B" or "U.S. Choice" is the quality of canned plums that:
(1) Have similar varietal characteristics;
(2) Have a normal flavor and odor;
(3) Have a reasonably good and reasonably uniform color;
(4) Are at least fairly uniform in size;
(5) Are reasonably free from defects;
(6) Have a reasonably good character; and
(7) Score not less than 80 points when scored in accordance with the scoring system outlined in this subpart.

(c) "U.S. Grade C" or "U.S. Standard" is the quality of canned plums that:
(1) Have similar varietal characteristics;
(2) Have a normal flavor and odor;
(3) Have a fairly good color;
(4) Are fairly uniform in size;
(5) Are fairly free from defects;
(6) Have a fairly good character; and
(7) Score not less than 70 points when scored in accordance with the scoring system outlined in this subpart.

(d) "Substandard" is the quality of canned plums that fail to meet the requirements of U.S. Grade C.

LIQUID MEDIA, FILL OF CONTAINER, DRAINED WEIGHTS, AND FILL WEIGHTS

§ 52.1785 Liquid media and Brix measurements for canned plums.

"Cut-out" requirements for liquid media in canned plums are not incorporated in the grades of the finished product since sirup or any other liquid medium, as such, is not a factor of quality for the purposes of these grades. The "cut-out" Brix measurements for the particular varieties and respective designations are specified in Table I:

TABLE I—BRIX REQUIREMENTS

Designations	Brix measurement	
	Purple plum groups	Other varieties
Extra heavy sirup or extra heavy plum juice sirup.	26° or more but not more than 35°.	24° or more but not more than 35°.
Heavy sirup or heavy plum juice sirup.	21° or more but less than 26°.	19° or more but less than 24°.
Light sirup or light plum juice sirup.	18° or more but less than 21°.	16° or more but less than 19°.
Slightly sweetened water or slightly sweetened plum juice.	Less than 18°.	Less than 16°.
In water	Not applicable.	Not applicable.
In plum juice	do.	Do.

§ 52.1786 Recommended fill of container.

The recommended fill of container is not incorporated in the grades of the finished product since fill of container, as such, is not a factor of quality for the purposes of these grades. It is recommended that each container be filled with plums as full as practicable without impairment of quality, and that the product and packing medium occupy not

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

TABLE III—Continued

of the largest full-sized unit exceeds the

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with the U.S. Department of Agriculture's "Variables Control Chart Plan" and adaptations thereto, as applicable to processed fruits and vegetables and related products.

(c) *Definitions of terms and symbols.* "Subgroup" means a group of sample units representing a portion of a sample.

$\bar{X}_{min}$ means the minimum lot average fill weight.

LWL_1 means the lower warning limit for subgroup averages.

LRL_1 means the lower reject limit for subgroup averages.

LWL_2 means the lower warning limit for individual fill weight measurements.

LRL_2 means the lower reject limit for individual fill weight measurements.

$\bar{R}$ means a specified average range value.

R_{max} means a specified maximum range for a subgroup.

Sampling allowance code means a code letter on the Sampling Allowance Chart of the Variables Control Chart Plan. This letter identifies the appropriate line which gives the amount of sampling allowance to be applied to the specification average for fill weights in order to determine compliance with requirements for fill weight averages for a sample.

(d) *Subgroup size.* The subgroup size for the determination of fill weights shall be 5 containers.

(e) *Sampling frequency.* (1) Small lots—for lots consisting of 100 cases or less which require 4 hours or more to pack use the "optional fill weight procedure" contained in the Instructions for Adaptation of the Variables Control Chart Plan to Fill Weights.

(2) Other than small lots—draw at least one subgroup per code approximately every 40 minutes.

(f) *Compliance with recommended fill weights.* Compliance with the recommended fill weights shall be in accordance with the acceptance criteria specified in the U.S. Department of Agriculture's "Variables Control Chart Plan" and adaptations thereto, as applicable to processed fruits and vegetables and related products.

TABLE III

RECOMMENDED FILL WEIGHT VALUES

Container designation (metal unless otherwise stated.)	Purple plums, whole, unpeeled							Sampling allowance code
	$\bar{X}_{min}$	LWL_1	LRL_1	LWL_2	LRL_2	$\bar{R}$	R_{max}	
8 Z tall (211 x 304) and 8 Z glass	4.6	4.1	3.8	3.5	2.9	1.3	2.70	J
No. 303 (303 x 406) and No. 303 glass	8.1	7.2	6.8	6.4	5.4	1.6	3.4	M
No. 2 (307 x 409) (less than 17 oz.)	11.5	10.8	10.4	9.9	9.1	1.9	3.9	O
17 oz or more	12.0	11.3	10.9	10.4	9.6	1.9	3.9	
No. 2½ (401 x 411):								
Any count	17.0	16.1	15.6	15.0	14.0	2.3	4.9	
Less than 17	17.5	16.6	16.1	15.5	14.5	2.3	4.9	S
22 or more	18.0	17.1	16.6	16.0	15.0	2.3	4.9	
No. 2½ Glass:								
Less than 17	16.5	15.6	15.1	14.5	13.5	2.3	4.9	
17 or more	17.0	16.1	15.6	15.0	14.0	2.3	4.9	
No. 10 (603 x 700):								
Any count	66.0	61.5	63.7	62.6	60.9	4.0	8.4	Z
70 or more	68.0	67.5	66.7	65.6	63.9	4.0	8.4	
PURPLE PLUMS, HALVED, PEELED AND UNPEELED								
8 Z tall and 8 Z glass	5.2	4.7	4.5	4.2	3.7	1.2	2.5	L
No. 303 and No. 303 glass	10.7	10.2	9.9	9.4	8.6	1.6	3.4	K
No. 2½	18.3	17.5	17.3	16.7	15.7	2.3	4.9	M
No. 10	18.7	17.9	17.5	17.0	15.4	2.3	4.9	Q
No. 2½ glass	18.5	17.7	17.3	16.7	15.7	2.3	4.9	X
No. 10	70.0	68.7	68.0	67.0	65.4	4.0	8.4	J
8 Z tall (211 x 304) and 8 Z glass	9.4	9.0	8.6	7.9	7.1	1.6	3.4	M
No. 303 (303 x 406) and No. 303 glass	10.0	9.4	9.0	8.4	7.9	1.6	3.4	O
No. 2 (307 x 409)	12.2	11.5	11.1	10.6	9.6	2.3	4.9	S
No. 2½ (401 x 411)	16.2	15.4	15.2	14.7	13.7	2.3	4.9	
No. 2½ glass	16.2	15.4	15.2	14.7	13.7	2.3	4.9	
No. 10 (603 x 700)	67.0	65.5	64.7	63.6	61.9	4.0	8.4	Z

Container size (metal, unless otherwise stated)	In any liquid medium							
	Purple				Green, yellow			
	Halved unpeeled (ounces)		Whole unpeeled (ounces)		Whole unpeeled (ounces)		Whole unpeeled (ounces)	
	LL	$\bar{X}_d$	LL	$\bar{X}_d$	LL	$\bar{X}_d$	LL	$\bar{X}_d$
8 Z tall (211 x 304) and 8 Z glass	4.1	4.7	3.6	4.2	4.1	4.7	3.9	4.5
No. 303 (303 x 406) and No. 303 glass	8.9	9.7	8.1	9.0	8.5	9.4	8.1	9.0
No. 2 (307 x 409):								
Any count	11.1	12.0			10.5	11.5	9.9	10.9
Less than 17			9.5	10.5				
17 or more			10.0	11.0				
No. 2½ (401 x 411):								
Any count	15.8	17.0			15.4	16.7	15.0	16.3
16 oz or less			14.2	15.5				
17 to 22			14.7	16.0				
23 oz or more			15.2	16.6				
No. 2½ Glass:								
Any count	15.7	16.8			15.2	16.5	14.7	16.0
16 oz less			13.7	15.0				
17 oz or more			14.2	15.5				
No. 10 (603 x 700):								
Any count	60.8	63.0			59.9	62.4	58.3	60.8
Less than 70			57.6	60.0				
70 or more			59.5	62.0				

§ 52.1788 **Recommended fill weights.**

(a) *General.* The minimum fill weight recommendations specified in Table III are not incorporated in the grades of the finished product since drained weight, as such, is not a factor of quality for the purposes of these grades.

(b) *Method for ascertaining fill weight.* Fill weight is determined in accordance

plums less the weight of the dry sieve. A sieve 8 inches in diameter is used for the equivalent of No. 3 size cans (404 x 414) and smaller, and a sieve 12 inches in diameter is used for containers larger than the equivalent of the No. 3 size can.

(c) *Compliance with recommended drained weights.* A lot of canned plums is considered as meeting the minimum drained weight recommendations if the following criteria are met:

(1) The average of the drained weights from all the sample units in the sample meets the recommended minimum average drained weight (designated as "$\bar{X}_d$" in Table II); and

(2) The number of sample units which fail to meet the recommended drained weight lower limit for individuals (designated as "LL" in Table II does not exceed the applicable acceptance number specified in the single sampling plan contained in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products.

TABLE II

RECOMMENDED MINIMUM DRAINED WEIGHTS

TABLE III—Continued

GREEN-YELLOW PLUMS, WHOLE, PEELED

8 Z tall and 8 Z glass	5.3	4.8	4.5	4.2	3.6	1.3	2.7	J
No. 303 and No. 303 glass	10.5	9.9	9.5	9.1	8.4	1.6	3.4	M
No. 2	12.8	12.1	11.7	11.2	10.4	1.9	3.9	O
No. 2½	18.7	17.8	17.3	16.7	15.7	2.3	4.9	S
No. 2½ glass	18.4	17.5	17.0	16.4	15.4	2.3	4.9	
No. 10	68.8	67.3	66.5	65.4	63.7	4.0	8.4	Z

SAMPLE UNIT SIZE

§ 52.1789 **Sample unit size.**

Compliance with requirements for the various quality factors is based on the following sample unit size for the applicable style:

(a) Whole—25 whole plums.

(b) Halves—50 halves.

FACTORS OF QUALITY

§ 52.1790 **Ascertaining the grade of a sample unit.**

(a) *General.* In addition to considering other requirements outlined in the standards the following quality factors are evaluated:

(1) *Factors not rated by score points.*

(i) Varietal characteristics.

(ii) Flavor and ordor.

(2) *Factors rated by score points.* The relative importance of each factor which is scored is expressed numerically on the scale of 100. The maximum number of points that may be given such factors are:

Factors:	Points
Color	20
Uniformity of size	20
Defects	30
Character	30
Total score	100

(b) *Definition of flavor and odor.* "Normal flavor and odor" means that the product is free from objectionable flavors and objectionable odors of any kind.

§ 52.1791 **Ascertaining the rating for the factors which are scored.**

The essential variations within each factor which is scored are so described that the value may be ascertained for each factor and expressed numerically. The numerical range within each factor which is scored is inclusive (for example, "18 to 20 points" means 18, 19, or 20 points).

§ 52.1792 **Color.**

(a) *General.* The factor of color refers to the color of the skin and any exposed flesh typical for the varietal group and to the intensity and brightness of such characteristic color. Characteristic mottling on the skin for the varietal group is considered as typical color and not as lacking in uniformity of color.

(b) *Definitions of color*—(1) *Well colored.* The color is bright and well developed, typical of well-matured plums. Any exposed flesh is at least reasonably bright and with respect to purple plums the packing media is a practically clear and highly colored purple liquid.

(2) *Reasonably well colored.* The color is reasonably bright and reasonably well developed, typical of reasonably well-matured plums. Any exposed flesh is at least fairly bright and with respect to purple plums and packing media is a reasonably clear and reasonably high-colored purple liquid.

(3) *Fairly well colored.* The color is fairly bright and fairly well developed, typical of fairly well-matured plums. Any exposed flesh may be lightly dull.

(4) *Poorly colored.* The color may be dull, poorly developed, typical of immature plums, including the "dead brown" color of canned purple plums. Any exposed flesh may be excessively dull; or the plums may be off-color due to improper processing.

(c) (*A*) *classification.* Canned plums that possess a good color may be given a score of 18 to 20 points. "Good color" means that the plums are well colored and as a mass possess a practically uniform color, typical of a single varietal group; and the number of reasonably well colored plums does not exceed the number specified for the style in § 52.1796.

(d) (*B*) *classification.* Canned plums that possess a reasonably good color may be given a score of 16 or 17 points. Canned plums that fall into this classification shall not be graded above U.S. Grade B, regardless of the total score (this is a limiting rule). "Reasonably good color" means that the plums are reasonably well colored and as a mass possess a reasonably uniform color, typical of a single varietal group; and the number of fairly well colored units does not exceed the number specified for the style in § 52.1796.

(e) (*C*) *classification.* Canned plums that possess a fairly good color may be given a score of 14 or 15 points. Canned plums that fall into this classification shall not be graded above U.S. Grade C regardless of the total score for the product (this is a limiting rule). "Fairly good color" means that the plums may be at least fairly well colored; possess a color typical of a single varietal group which have been properly processed; that such characteristic color may be markedly variable; and the number of poorly colored plums does not exceed the number specified for the style in § 52.1796.

(f) (*SStd*) *classification.* Canned plums that fail to meet the requirements of paragraph (e) of this section may be given a score of 0 to 13 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 52.1793 **Uniformity of size.**

(a) *General.* Compliance with uniformity of size is ascertained by determining the percent by which the weight of the largest full-sized unit exceeds the weight of the smallest full-sized unit in the sample unit. Plums of halved style that are not cleanly divided into halves shall be separated into two approximately equal halves before ascertaining uniformity of size.

(b) (*A*) *classification.* Canned plums that are practically uniform in size may be given a score of 18 to 20 points. "Practically uniform in size" means that the number of units that are in excess of the maximum weight variation does not exceed the number specified for the style for U.S. Grade A in § 52.1796.

(c) (*B*) *classification.* Canned plums that are reasonably uniform in size may be given a score of 16 or 17 points. "Reasonable uniform in size" means that the number of units that are in excess of the maximum weight variation does not exceed the number specified for the style for U.S. Grade B in § 52–1796.

(d) (*C*) *classification.* Canned plums that are fairly uniform in size may be given a score of 14 or 15 points. Canned plums that fall into this classification shall not be classified above U.S. Grade B, regardless of the total score (this is a partial limiting rule). "Fairly uniform in size" means that the number of units that are in excess of the maximum weight variation does not exceed the number specified for the style for U.S. Grade C in § 52.1796.

(e) (*SStd*) *classification.* Canned plums that fail to meet the requirements of paragraph (d) of this section may be given a score of 0 to 13 points and shall not be graded above substandard, regardless of the total score (this is a limiting rule).

§ 52.1794 **Defects.**

(a) *General.* The factor of defects refers to the degree of freedom from stems, leaves, crushed or broken units, pits or loose pits for the applicable style—damaged and seriously damaged units—and from any other defects not specifically mentioned which detract from the appearance or edibility of the product.

(b) *Definitions.* (1) A "unit," in whole style, means a whole or substantially whole plum. In halved style, any whole or partially whole plum is separated into two approximately equal halves and each half therefrom is considered a "unit."

(2) "Small stem" means the small stem or portion thereof that attaches the plum to the branch of the tree.

(3) "Harmless extraneous material" means leaves or portions thereof or other harmless plant material.

(4) "Crushed or broken" means that a unit bears marks of crushing or is otherwise crushed or broken not due to ripeness. In whole style, plums that possess broken skins or that are split to the pit cavity are not considered crushed or broken unless the entire pit cavity is exposed or the unit is mutilated to the extent that it is not intact as a whole or substantially whole plum. In halved style, halves of plums that are slightly split are not considered crushed or broken unless the unit is seriously mutilated.

TABLE V—STYLE—HALVES SAMPLE UNIT SIZE—50 UNITS

ALABAMA

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XUM
XUM

(5) A "pit" means a whole pit or any portion thereof. In whole style, only "loose pits" are considered as defects. In halved style, pits are considered as defects whether loose or attached to a unit.

(6) "Damaged" means any injury which, singly or in the aggregate on a unit or in a unit (except for internal gummosis), materially affects the appearance of the unit and includes, but is not limited to:

(i) Surface areas blemished by sunburn, scab, or other discoloration (exclusive of characteristic mottling having an aggregate area exceeding that of a circle three-sixteenths of an inch in diameter not extending into the fruit tissue and materially affects the appearance or eating quality of the unit.

(ii) Surface areas blemished by sunburn, scab, or other serious discoloration (exclusive of characteristic mottling) having an aggregate area equivalent of, or less than, that of a circle three-sixteenths of an inch in diameter and extending into the fruit tissue so that the flesh is materially discolored or toughened;

(iii) Abnormalities, such as "doubles" and growth cracks, but not "shriveled" areas:

(iv) External gummosis.

(7) "Seriously damaged" means any damage that seriously affects the appearance or edibility of the unit, regardless of area.

(c) (*A*) *classification.* Canned plums that are practically free from defects may be given a score of 27 to 30 points. "Practically free from defects" means that the number of defects that may be present does not exceed the number specified for the style and respective type of defect in § 52.1796.

(d) (*B*) *classification.* Canned plums that are reasonably free from defects may be given a score of 24 to 26 points. Canned plums that fall into this classification shall not be graded above U.S. Grade B, regardles of the total score for the product (this is a limiting rule). "Reasonably free from defects" means that the number of defects that may be present does not exceed the number specified for the style and respective type of defect in § 52.1796.

(e) (C) *classification.* Canned plums that are fairly free from defects may be given a score of 21 to 23 points. Canned plums that fall into this classification shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a limiting rule). "Fairly free from defects" means that the number of defects that may be present does not exceed the number specified for the style and respective type of defect in § 52.1796.

(f) (*SStd*) *classification.* Canned plums that fail to meet the requirements of paragraph (e) of this section may be given a score of 0 to 20 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 52.1795 **Character.**

(a) *General.* The factor of character refers to the texture and condition of the flesh, to the tenderness and firmness of the plums, and to shriveled areas of the skin.

(b) *Definitions*—(1) *Good character.* The units are thick-fleshed, tender, may be soft but hold their apparent original conformation, and otherwise possess a good texture of both skin and flesh characteristic of canned plums that have been properly processed from well-ripened or well-matured plums.

(2) *Reasonably good character.* The units may be reasonably fleshy, may be variable in texture from soft to slightly firm, and otherwise possess a reasonably good texture of both skin and flesh characteristic of canned plums that have been properly processed from reasonably well-ripened or reasonably well-matured plums.

(3) *Fairly good character.* The units may be thin fleshed, possess a fairly good texture of both skin and flesh, may be variable in texture from very soft to slightly tough but are not so soft as to show material disintegration, and may possess shriveled areas that materially affect, but do not seriously affect, the appearance of the product.

(4) *Poor character.* The units may be very thin fleshed, possess a poor texture of both skin and flesh, may be variable in texture from mushy to more than slightly tough, and may possess shriveled areas that seriously affect the appearance of the product.

(c) (*A*) *classification.* Canned plums that possess a good character may be given a score of 27 to 30 points. To score in this classification the number of units that are of reasonably good character shall not exceed the number specified for the style in § 52.1796.

(d) (*B*) *classification.* Canned plums that possess a reasonable good character may be given a score of 24 to 26 points. Canned plums that fall into this classification shall not be graded above "U.S. Grade B," regardless of the total score for the product (this is a limiting rule). To score in this classification the number of units that are of fairly good character shall not exceed the number specified for the style in § 52.1796.

(e) (C) *classification.* Canned plums that possess a fairly good character may be given a score of 21 to 23 points. Canned plums that fall into this classification shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a limiting rule). To score in this classification the number of units that are of poor character shall not exceed the number specified for the style in § 52.1796.

(f) (*SStd*) *classification.* Canned plums that fail to meet the requirements of paragraph (e) of this section may be given a score of 0 to 20 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

ALLOWANCES FOR QUALITY FACTORS

§ 52.1796 **Allowances for quality factors.**

TABLE IV

STYLE—WHOLE SAMPLE UNIT SIZE—25 UNITS

Factors	Maximum number of units permissible for respective grade					
	A		B		C	
Color:						
Reasonably good	2		No limit		No limit	
Fairly good	0		4		No limit	
Poor	0		0		4	
Uniformity of size:						
Variation in weight						
Exceeds 50%	1		No limit		No limit	
Exceeds 75%	0		1		No limit	
Exceeds 100%	0		0		1	
	Ind [2]	Avg [3]	Ind.	Avg.	Ind.	Avg.
Absence of defects:						
Harmless extraneous material	0	0	1	0.2	1	0.4
Small stem	1	0.6	1	N/A [1]	2	N/A
Crushed or broken	0	0	1	N/A	3	N/A
Loose pits	1	N/A	2	N/A	3	N/A
Damaged and seriously damaged	2	N/A	4	N/A	5	N/A
	including		including		including	
Seriously damaged	1	N/A	1	N/A	2	N/A
Character:						
Reasonably good	2		No limit		No limit	
Fairly good	0		5		No limit	
Poor	0		0		6	

[1] N/A—Means not applicable.
[2] Ind—Means individual sample unit.
[3] Avg—Means average of all the sample units in the sample.

TABLE V—STYLE—HALVES SAMPLE UNIT SIZE—50 UNITS

Factors	Maximum number of units permissible for respective grade					
	A		B		C	
Color:						
Reasonably good color	5		No limit		No limit	
Fairly good	0		7		No limit	
Poor color	0		0		4	
Uniformity of size:						
Variation in weight						
Exceeds 50%	3		No limit		No limit	
Exceeds 75%	0		3		No limit	
Exceeds 100%	0		0		3	
	Ind [2]	Avg [3]	Ind	Avg	Ind	Avg
Absence of defects:						
Harmless extraneous material	0	0	1	0.2	1	0.4
Small stem	1	0.6	1	N/A	2	N/A [1]
Crushed or broken	0	0	2	N/A	5	N/A
Pits	1	0.5	1	N/A	2	N/A
Damaged and seriously damaged	5	0	7	N/A	10	N/A
	including		including		including	
Seriously damaged	1	N/A	2	N/A	5	N/A
Character:						
Reasonably good	5		No limit		No limit	
Fairly good	0		10		No limit	
Poor	0		0		10	

[1] N/A—Means not applicable.
[2] Ind—Means individual sample unit.
[3] Avg—Means average of all the sample units in the sample.

LOT COMPLIANCE

§ 52.1797 **Ascertaining the grade of a lot.**

The grade of a lot of canned plums covered by these standards is determined by the procedures set forth in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (§§ 52.1 through 52.87).

SCORE SHEET

§ 51.1798 **Score sheet for canned plums.**

Size and kind of container			
Container mark or identification			
Label			
Net weight (ounces)			
Vacuum (inches)			
Count			
Drained weight (ounces)			
Brix measurement			
Sirup designation (extra heavy, heavy, etc.)			
Varietal type			
Style (whole) (halves)			

Factors	Score points		
Color	20	(A)	18-20
		(B)	[1] 16-17
		(C)	[1] 14-15
		(SStd)	[1] 0-13
Uniformity of size	0	(A)	18-20
		(B)	16-17
		(C)	[2] 14-15
		(SStd)	[1] 0-20
Defects	30	(A)	27-30
		(B)	[1] 24-26
		(C)	[1] 21-23
		(SStd)	[1] 0-20
Character	30	(A)	27-30
		(B)	[1] 24-26
		(C)	[1] 21-23
		(SStd)	[1] 0-20
Total score	100		

Normal flavor and odor	
Grade	

[1] Indicates limiting rule.
[2] Indicates partial limiting rule.

Dated: April 13, 1972.

G. R. GRANGE,
Acting Administrator.

[FR Doc.72-19106 Filed 11-8-72;8:47 am]

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR COMBINED CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for combined crop insurance for the 1973 crop year. The crops on which insurance is offered are shown opposite the name of the county.

STATE AND COUNTY—CROP(S)

North Dakota: Barnes, barley, flax, oats, rye, wheat; Grand Forks, barley, flax, oats, wheat; Pierce, barley, flax, oats, rye, wheat; Ransom, barley, corn, flax, oats, wheat; Richland, barley, corn, flax, oats, rye, soybeans, wheat; Sargent, barley, corn, flax, oats, wheat; Steele, barley, flax, oats, and wheat.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] D. W. MCELWRATH,
Acting Manager, Federal Crop Insurance Corporation.

[FR Doc.72-19248 Filed 11-8-72;8:50 a.m.]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR CORN CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for corn crop insurance for the 1973 crop year.

De Kalb.
Jackson.

Boulder.
Kit Carson.
Larimer.
Logan.

Kent.
New Castle.

Suwannee.

Colquitt.

Adams.
Bond.
Brown.
Bureau.
Carroll.
Cass.
Champaign.
Christian.
Clark.
Clinton.
Coles.
Crawford.
Cumberland.
De Kalb.
De Witt.
Douglas.
Edgar.
Effingham.
Fayette.
Ford.
Fulton.
Greene.
Grundy.
Hancock.
Henderson.
Henry.
Iroquois.
Jasper.
Jefferson.
Jersey.
Jo Daviess.
Kankakee.
Kendall.
Knox.
La Salle.
Lee.

Adams.
Allen.
Bartholomew.
Benton.
Blackford.
Boone.
Carroll.
Cass.
Clay.
Clinton.
Decatur.
De Kalb.
Delaware.
Elkhart.
Fayette.
Fountain.
Fulton.
Gibson.
Grant.
Hamilton.
Hancock.
Hendricks.
Henry.
Howard.
Huntington.
Jackson.
Jasper.
Jay.
Johnson.
Knox.

ALABAMA
Marshall.

COLORADO
Morgan.
Sedgwick.
Washington.
Weld.

DELAWARE
Sussex.

FLORIDA

GEORGIA

ILLINOIS
Livingston.
Logan.
McDonough.
McLean.
Macon.
Macoupin.
Madison.
Marshall.
Mason.
Menard.
Mercer.
Monroe.
Montgomery.
Morgan.
Moultrie.
Ogle.
Peoria.
Piatt.
Pike.
Putnam.
St. Clair.
Sangamon.
Schuyler.
Scott.
Shelby.
Stark.
Stephenson.
Tazewell.
Vermilion.
Warren.
Washington.
Wayne.
Whiteside.
Winnebago.
Woodford.

INDIANA
Kosciusko.
Lagrange.
Madison.
Marion.
Marshall.
Miami.
Montgomery.
Morgan.
Newton.
Noble.
Parke.
Pulaski.
Putnam.
Randolph.
Ripley.
Rush.
Shelby.
Sullivan.
Tippecanoe
Tipton.
Union.
Vermillion.
Vigo.
Wabash.
Warren.
Wayne.
Wells.
White.
Whitley.

IOWA	MICHIGAN—Continued	NEBRASKA—Continued
Adair.	Ontonagon.	Dawson.
Adams.	Osceola.	Deuel.
Allamakee.	Oscoda.	Dixon.
Appanoose.	Otsego.	Dodge.
Audubon.	Presque Isle.	Douglas.
Benton.	Roscommon.	Dundy.
Black Hawk.	Saginaw.	Fillmore.
Boone.	Sanilac.	Franklin.
Bremer.	Schoolcraft.	Frontier.
Buchanan.	Shiawassee.	Furnas.
Buena Vista.	Tuscola.	Gage.
Butler.	Van Buren.	Garden.
Calhoun.	Washtenaw.	Garfield.
Carroll.	Wayne.	Gosper.
Cass.	Wexford.	Grant.
Cedar.		Greeley.
Cerro Gordo.	MINNESOTA	Hall.
Cherokee.	Aitkin.	Hamilton.
Chickasaw.	Anoka.	Harlan.
Clarke.	Becker.	Hayes.
Clay.	Beltrami.	Hitchcock.
Clayton.	Benton.	Holt.
Clinton.	Big Stone.	Howard.
Crawford.	Blue Earth.	Jefferson.
Dallas.	Brown.	Johnson.
Davis.	Carlton.	Kearney.
Decatur.	Carver.	Keya Paha.
Delaware.	Cass.	Kimball.
Des Moines.	Chippewa.	Knox.
Dickinson.	Chisago.	Lancaster.
Dubuque.	Clay.	Lincoln.
Emmet.	Clearwater.	Logan.
Fayette.	Cook.	Loup.
Floyd.	Cottonwood.	Madison.
Franklin.	Crow Wing.	McPherson.
Fremont.	Dakota.	Merrick.
Greene.	Dodge.	Nance.
Grundy.	Douglas.	Nemaha.
Guthrie.	Faribault.	Nuckolls.
Hamilton.	Fillmore.	Otoe.
Hancock.	Freeborn.	Pawnee.
Hardin.	Goodhue.	Perkins.
Harrison.	Grant.	Phelps.
Henry.	Hennepin.	Pierce.
Howard.	Houston.	Platte.
Humboldt.	Hubbard.	Polk.
Ida.	Isanti.	Red Willow.
Iowa.	Itasca.	Richardson.
Jackson.	Jackson.	Rock.
Jasper.	Kanabec.	Saline.
Jefferson.	Kandiyohi.	Sarpy.
Johnson.	Kittson.	Saunders.
Jones.	Koochiching.	Seward.
Keokuk.	Lac Qui Parle.	Sherman.
Kossuth.	Lake.	Stanton.
Lee.	Lake of the Woods.	Thayer.
Linn.	Le Sueur.	Thomas.
Louisa.	Lincoln.	Thurston.
Lucas.	Lyon.	Valley.
Lyon.	McLeod.	Washington.
Madison.	Mahnomen.	Wayne.
Mahaska.	Marshall.	Webster.
Marion.	Martin.	Wheeler.
Marshall.	Meeker.	York.
Mills.	Mille Lacs.	
Mitchell.	Morrison.	
Monona.	Mower.	
Monroe.	Murray.	
Montgomery.	Nicollet.	
Muscatine.	Nobles.	
O'Brien.	Norman.	
Osceola.	Olmsted.	
Page.	Otter Tail.	
Palo Alto.	Pennington.	
Plymouth.	Pine.	
Pocahontas.	Pipestone.	
Polk.	Polk.	
Pottawattamie.	Pope.	
Poweshiek.	Ramsey.	
Ringgold.	Red Lake.	
Sac.	Redwood.	
Scott.	Renville.	
Shelby.	Rice.	
Sioux.	Rock.	
Story.	Roseau.	
Tama.	St. Louis.	
Taylor.	Scott.	
Union.	Sherburne.	
Van Buren.	Sibley.	
Wapello.	Stearns.	
Warren.	Steele.	
Washington.	Stevens.	
Wayne.	Swift.	
Webster.	Todd.	
Winnebago.	Traverse.	
Winneshiek.	Wabasha.	
Woodbury.	Wadena.	
Worth.	Waseca.	
Wright.	Washington.	
	Watonwan.	
MICHIGAN	Wilkin.	
Alcona.	Winona.	
Alger.	Wright.	
Allegan.	Yellow Medicine.	
Alpena.		
Antrim.	NEBRASKA	
Arenac.	Adams.	
Baraga.	Antelope.	
Barry.	Arthur.	
Bay.	Banner.	
Benzie.	Blaine.	
Berrien.	Boone.	
Branch.	Box Butte.	
Calhoun.	Boyd.	
Cass.	Brown.	
Charlevoix.	Buffalo.	
Cheboygan.	Burt.	
Chippewa.	Butler.	
Clare.	Cass.	
Crawford.	Cedar.	
Delta.	Chase.	
Dickinson.	Cherry.	
Eaton.	Cheyenne.	
Emmet.	Clay.	
Genesee.	Colfax.	
Gladwin.	Cuming.	
Gogebic.	Custer.	
Gratiot.	Dakota.	
Hillsdale.	Dawes.	
Houghton.	Deuel.	
Huron.	Dixon.	
Ingham.	Dodge.	
Ionia.	Douglas.	
Iosco.	Dundy.	
Iron.	Fillmore.	
Isabella.	Franklin.	
Jackson.	Frontier.	
Kalamazoo.	Furnas.	
Kalkaska.	Gage.	
Kent.	Garden.	
Keweenaw.	Garfield.	
Lake.	Gosper.	
Lapeer.	Grant.	
Leelanau.	Greeley.	
Lenawee.	Hall.	
Livingston.	Hamilton.	
Luce.	Harlan.	
Mackinac.	Hayes.	
Macomb.	Hitchcock.	
Manistee.	Holt.	
Marquette.	Howard.	
Mason.	Jefferson.	
Mecosta.	Johnson.	
Menominee.	Kearney.	
Midland.	Keya Paha.	
Missaukee.	Kimball.	
Monroe.	Knox.	
Montcalm.	Lancaster.	
Montmorency.	Lincoln.	
Muskegon.	Logan.	
Newaygo.	Loup.	
Oakland.	Madison.	
Oceana.	McPherson.	
Ogemaw.	Merrick.	
	Nance.	
	Nemaha.	
	Nuckolls.	
	Otoe.	
	Pawnee.	
	Perkins.	
	Phelps.	
	Pierce.	
	Platte.	
	Polk.	
	Red Willow.	
	Richardson.	
	Rock.	
	Saline.	
	Sarpy.	
	Saunders.	
	Seward.	
	Sherman.	
	Stanton.	
	Thayer.	
	Thomas.	
	Thurston.	
	Valley.	
	Washington.	
	Wayne.	
	Webster.	
	Wheeler.	
	York.	

WISCONSIN—Continued	*State and County*	*Class(es) of dry beans insured*
Adams.		
Ashland.		
Barron.		
Bayfield.		
Brown.		
Buffalo.		
Burnett.		
Calumet.		
Chippewa.		
Clark.		
Columbia.		
Crawford.		
Dane.		
Dodge.		
Door.		
Douglas.		
Dunn.		
Eau Claire.		
Florence.		
Fond du Lac.		
Forest.		
Grant.		
Green.		
Green Lake.		
Iowa.		
Iron.		
Jackson.		
Jefferson.		
Juneau.		
Kenosha.		
Kewaunee.		
La Crosse.		
Lafayette.		
Langlade.		
Lincoln.		
Manitowoc.		
Marathon.		
Marinette.		
Marquette.		
Menominee.		
Milwaukee.		
Monroe.		
Oconto.		
Oneida.		
Outagamie.		
Ozaukee.		
Pepin.		
Pierce.		
Polk.		
Portage.		
Price.		
Racine.		
Richland.		
Rock.		
Rusk.		
St. Croix.		
Sauk.		
Sawyer.		
Shawano.		
Sheboygan.		
Taylor.		
Trempealeau.		
Vernon.		
Vilas.		
Walworth.		
Washburn.		
Washington.		
Waukesha.		
Waupaca.		
Waushara.		
Winnebago.		
Wood.		

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR COMBINED CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for combined crop insurance for the 1973 crop year. The crops on which insurance is offered are shown opposite the name of the county.

STATE AND COUNTY—CROP(S)

Arizona: Cochise, barley, cotton, grain sorghum, wheat; Graham, barley, cotton, grain sorghum, wheat; Greenlee, barley, cotton, grain sorghum, wheat; Pima, barley, cotton, grain sorghum, wheat; Pinal, barley, cotton, grain sorghum, wheat; Santa Cruz, barley, cotton, grain sorghum, wheat.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] D. W. MCELWRATH,
Acting Manager, Federal Crop Insurance Corporation.

[FR Doc.72-19249 Filed 11-8-72;8:50 a.m.]

V37-217 NOV 9 72 XUM

IOWA

Adair.
Adams.
Allamakee.
Appanoose.
Audubon.
Benton.
Black Hawk.
Boone.
Bremer.
Buchanan.
Buena Vista.
Butler.
Calhoun.
Carroll.
Cass.
Cedar.
Cerro Gordo.
Cherokee.
Chickasaw.
Clarke.
Clay.
Clayton.
Clinton.
Crawford.
Dallas.
Decatur.
Delaware.
Des Moines.
Dickinson.
Dubuque.
Emmet.
Fayette.
Floyd.
Franklin.
Fremont.
Greene.
Grundy.
Guthrie.
Hamilton.
Hancock.
Hardin.
Harrison.
Henry.
Howard.
Humboldt.
Ida.
Iowa.
Jackson.
Jasper.
Jefferson.
Johnson.
Jones.
Keokuk.
Kossuth.
Lee.
Linn.
Louisa.
Lucas.
Lyon.
Madison.
Mahaska.
Marion.
Marshall.
Mills.
Mitchell.
Monona.
Monroe.
Montgomery.
Muscatine.
O'Brien.
Osceola.
Page.
Palo Alto.
Plymouth.
Pocahontas.
Polk.
Pottawattamie.
Poweshiek.
Sac.
Scott.
Shelby.
Sioux.
Story.
Tama.
Taylor.
Union.
Wapello.
Warren.
Washington.
Webster.
Winnebago.
Winneshiek.
Woodbury.
Worth.
Wright.

KANSAS

Atchison.
Bourbon.
Brown.
Cheyenne.
Crawford.
Doniphan.
Douglas.
Finney.
Franklin.
Grant.
Gray.
Greeley.
Haskell.
Jackson.
Jefferson.
Johnson.
Kearny.
Linn.
Marshall.
Meade.
Miami.
Nemaha.
Osage.
Pottawatomie.
Scott.
Seward.
Shawnee.
Sheridan.
Sherman.
Stanton.
Stevens.
Thomas.
Wallace.
Washington.
Wichita.

KENTUCKY

Christian.
Daviess.
Henderson.
Hopkins.
McLean.
Todd.
Union.

LOUISIANA

Pointe Coupee.

MARYLAND

Caroline.
Kent.
Queen Annes.
Talbot.

MICHIGAN

Branch.
Calhoun.
Cass.
Clinton.
Eaton.
Gratiot.
Hillsdale.
Ingham.
Ionia.
Jackson.
Kalamazoo.
Lenawee.
Livingston.
Monroe.
Saginaw.
St. Clair.
St. Joseph.
Shiawassee.
Tuscola.
Washtenaw.

MINNESOTA

Big Stone.
Blue Earth.
Brown.
Carver.
Chippewa.
Cottonwood.
Dakota.
Dodge.
Douglas.
Faribault.
Fillmore.
Freeborn.
Goodhue.
Grant.
Houston.
Jackson.
Kandiyohi.
Lac qui Parle.
Le Sueur.
Lincoln.
Lyon.
McLeod.
Martin.
Meeker.
Mower.
Murray.
Nicollet.
Nobles.
Olmsted.
Pipestone.
Pope.
Redwood.
Renville.
Rice.
Rock.
Scott.
Sibley.
Stearns.
Steele.
Stevens.
Swift.
Todd.
Traverse.
Wabasha.
Waseca.
Washington.
Watonwan.
Winona.
Wright.
Yellow Medicine.

MISSISSIPPI

Tippah.

MISSOURI

Adair.
Andrew.
Atchison.
Audrain.
Barton.
Bates.
Boone.
Buchanan.
Butler.
Caldwell.
Callaway.
Cape Girardeau.
Carroll.
Cass.
Chariton.
Clark.
Clinton.
Cooper.
Daviess.
De Kalb.
Dunklin.
Franklin.
Gentry.
Grundy.
Harrison.
Henry.
Holt.
Howard.
Jackson.
Jasper.
Johnson.
Knox.
Lafayette.
Lawrence.
Lewis.
Lincoln.
Linn.
Livingston.
Macon.
Marion.
Mississippi.
Monroe.
Montgomery.
New Madrid.
Nodaway.
Pemiscot.
Pettis.
Pike.
Platte.
Ralls.
Randolph.
Ray.
St. Charles.
Saline.
Scotland.
Scott.
Shelby.
Stoddard.
Sullivan.
Vernon.
Worth.

NEBRASKA

Adams.
Antelope.
Boone.
Burt.
Butler.
Cass.
Cedar.
Chase.
Clay.
Colfax.
Cuming.
Dixon.
Dodge.
Fillmore.
Gage.
Hall.
Hamilton.
Johnson.
Kearney.
Knox.
Lancaster.
Lincoln.
Madison.
Merrick.
Nemaha.
Otoe.
Pawnee.
Phelps.
Pierce.
Platte.
Polk.
Richardson.
Saline.
Saunders.
Scotts Bluff.
Seward.
Stanton.
Thayer.
Washington.
Wayne.
York.

NORTH CAROLINA

Anson.
Beaufort.
Hyde.
Nash.
Pamlico.
Pitt.
Robeson.
Rowan.
Union.
Washington.

NORTH DAKOTA

Cass.
Ransom.
Richland.
Sargent.

OHIO

Allen.
Ashland.
Auglaize.
Butler.
Champaign.
Clark.
Clinton.
Crawford.
Darke.
Defiance.
Delaware.
Erie.
Fairfield.
Fayette.
Franklin.
Fulton.
Greene.
Hancock.
Hardin.
Henry.
Highland.
Huron.
Knox.
Licking.
Logan.
Lucas.
Madison.
Marion.
Medina.
Mercer.
Miami.
Montgomery.
Morrow.
Ottawa.
Paulding.
Pickaway.
Preble.
Putnam.
Richland.
Sandusky.
Seneca.
Shelby.
Union.
Van Wert.
Wayne.
Williams.
Wood.
Wyandot.

OKLAHOMA

Texas.

PENNSYLVANIA

Adams.
Chester.
Cumberland.
Dauphin.
Franklin.
Lancaster.
Lebanon.
Perry.
York.

SOUTH DAKOTA

Aurora.
Beadle.
Bon Homme.
Brookings.
Charles Mix.
Clark.
Clay.
Codington.
Davison.
Day.
Deuel.
Douglas.
Grant.
Hamlin.
Franklin.
Hanson.
Hutchinson.
Kingsbury.
Lake.
Lincoln.
McCook.
Miner.
Minnehaha.
Moody.
Roberts.
Sanborn.
Turner.
Union.
Yankton.

TENNESSEE

Obion.

TEXAS

Castro.
Moore.

VIRGINIA

Nansemond.
Southampton.

WISCONSIN

Barron.
Buffalo.
Calumet.
Clark.
Columbia.
Crawford.
Dane.
Dodge.
Dunn.
Fond du Lac.

WISCONSIN—Continued

Grant.
Green.
Iowa.
Jackson.
Jefferson.
Kenosha.
La Crosse.
Lafayette.
Pepin.
Pierce.
Polk.
Racine.
Richland.
Rock.
St. Croix.
Sauk.
Trempealeau.
Vernon.
Walworth.
Waukesha.
Winnebago.

WYOMING

Goshen.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] D. W. McELWRATH,
Acting Manager,
Federal Crop Insurance Corporation.

[FR Doc.72-19249 Filed 11-8-72;8:50 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR DRY BEAN CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for dry bean crop insurance for the 1973 crop year. The class(es) of beans on which insurance is offered is shown opposite the name of the county.

State and County	Class(es) of dry beans insured
COLORADO:	
Boulder	Pinto.
Larimer	Do.
Logan	Do.
Morgan	Do.
Sedgwick	Do.
Washington	Do.
Weld	Do.
IDAHO:	
Ada	Great Northern, pink, pinto, red kidney, small red.[1]
Canyon	Do.[1]
Cassia	Do.[1]
Gooding	Do.[1]
Jerome	Do.[1]
Lincoln	Do.[1]
Minidoka	Do.[1]
Owyhee	Do.
Twin Falls	Do.[1]
MICHIGAN:	
Bay	Pea and medium white.
Gratiot	Do.
Huron	Do.
Saginaw	Do.
St. Clair	Do.
Sanilac	Do.
Shiawassee	Do.
Tuscola	Do.
NEBRASKA:	
Box Butte	Great Northern, pink, pinto.
Morrill	Do.
Scotts Bluff	Do.
Sheridan	Do.
WASHINGTON:	
Adams	Great Northern, pink, pinto, small flat whites, small red.
Franklin	Do.
Grant	Do.

[1] Insurance is also provided on bush varieties of garden seed beans.

State and County	Class(es) of dry beans insured
WYOMING:	
Big Horn	Great Northern, pinto.
Goshen	Do.
Park	Do.
Platte	Do.
Washakie	Do.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] D. W. McELWRATH,
Acting Manager,
Federal Crop Insurance Corporation.

[FR Doc.72-19244 Filed 11-8-72;8:49 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR FLAX CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for flax crop insurance for the 1973 crop year.

MINNESOTA

Becker.
Big Stone.
Chippewa.
Clay.
Grant.
Kittson.
Lac qui Parle.
Lincoln.
Lyon.
Mahnomen.
Marshall.
Murray.
Nobles.
Norman.
Otter Tail.
Pennington.
Pipestone.
Polk.
Pope.
Red Lake.
Redwood.
Roseau.
Stevens.
Swift.
Traverse.
Wilkin.
Yellow Medicine.

NORTH DAKOTA

Barnes.
Benson.
Bottineau.
Burleigh.
Cass.
Cavalier.
Dickey.
Eddy.
Emmons.
Foster.
Grand Forks.
Griggs.
Kidder.
La Moure
Logan.
McHenry.
McIntosh.
McLean.
Mountrail.
Nelson.
Pembina.
Pierce.
Ramsey.
Ransom.
Renville.
Richland.
Rolette.
Sargent.
Sheridan.
Steele.
Stutsman.
Towner.
Traill.
Walsh.
Ward.
Wells.

SOUTH DAKOTA

Brookings.
Brown.
Campbell.
Clark.
Codington
Corson.
Day.
Deuel.
Edmunds.
Grant.
Hamlin.
Kingsbury
Lake.
McPherson.
Marshall.
Miner.
Moody.
Roberts.
Walworth.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] D. W. McELWRATH,
Acting Manager, Federal Crop Insurance Corporation.

[FR Doc.72-19250 Filed 11-8-72;8:50 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR OAT CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for oat crop insurance for the 1973 crop year.

CALIFORNIA

Modoc.

ILLINOIS

Bureau.
Carroll.
Henry.
Jo Daviess.
Ogle.
Stephenson.

IOWA

Adair.
Adams.
Allamakee.
Appanoose.
Audubon.
Benton.
Black Hawk.
Boone.
Bremer.
Buchanan.
Buena Vista.
Butler.
Calhoun.
Carroll.
Cass.
Cedar.
Cerro Gordo.
Cherokee.
Chickasaw.
Clarke.
Clay.
Clayton.
Clinton.
Crawford.
Dallas.
Decatur.
Delaware.
Des Moines.
Dickinson.
Dubuque.
Emmet.
Fayette.
Floyd.
Franklin.
Fremont.
Greene.
Grundy.
Guthrie.
Hamilton.
Hancock.
Hardin.
Harrison.
Henry.
Howard.
Humboldt.
Ida.
Iowa.
Jackson.
Jasper.
Jefferson.
Johnson.
Jones.
Keokuk.
Kossuth.
Lee.
Linn.
Louisa.
Lucas.
Lyon.
Madison.
Mahaska.
Marion.
Marshall.
Mills.
Mitchell.
Monona.
Monroe.
Montgomery
Muscatine.
O'Brien.
Osceola.
Page.
Palo Alto.
Plymouth
Pocahontas.
Polk.
Pottawattamie.
Poweshiek.
Sac.
Scott.
Shelby.
Sioux.
Story.
Tama.
Taylor.
Union.
Wapello.
Warren.
Washington.
Webster.
Winnebago.
Winneshiek.
Woodbury
Worth.
Wright.

MINNESOTA

Becker.
Big Stone.
Blue Earth.
Brown.
Carver.
Chippewa.
Clay.
Cottonwood.
Dakota.
Dodge.
Douglas.
Faribault.
Fillmore.
Freeborn.
Goodhue.
Grant.
Houston.
Jackson.
Kandiyohi.
Kittson
Lac Qui Parle.
Le Sueur.
Lincoln.
Lyon.
McLeod.
Mahnomen.

MINNESOTA—Continued

Martin.
Meeker.
Mower.
Murray.
Nicollet.
Nobles.
Olmsted.
Pipestone.
Pope.
Redwood.
Renville.
Rice.
Rock.
Scott.
Sibley.
Stearns.
Steele.
Stevens.
Swift.
Todd.
Traverse.
Wabasha.
Waseca.
Washington.
Watonwan.
Winona.
Wright.
Yellow Medicine.

MISSOURI

Adair.
Andrew.
Atchison.
Audrain.
Barton.
Bates.
Boone.
Buchanan.
Butler.
Caldwell.
Callaway.
Cape Girardeau.
Carroll.
Cass.
Chariton.
Clark.
Clinton.
Cooper.
Daviess.
De Kalb.
Dunklin.
Franklin.
Gentry.
Grundy.
Harrison.
Henry.
Holt.
Howard.
Jackson.
Jasper.
Johnson.
Knox.
Lafayette.
Lawrence.
Lewis.
Lincoln.
Linn.
Livingston.
Macon.
Marion.
Mississippi.
Monroe.
Montgomery.
New Madrid.
Nodaway.
Pemiscot.
Pettis.
Pike.
Platte.
Ralls.
Randolph.
Ray.
St. Charles.
Saline.
Scotland.
Scott.
Shelby.
Stoddard.
Sullivan.
Vernon.
Worth.

NEBRASKA

Adams.
Antelope.
Boone.
Burt.
Butler.
Cass.
Cedar.
Chase.
Clay.
Colfax.
Cuming.
Dixon.
Dodge.
Fillmore.
Gage.
Hall.
Hamilton.
Johnson.
Kearney.
Knox.
Lancaster.
Lincoln.
Madison.
Merrick.
Nemaha.
Otoe.
Pawnee.
Phelps.
Pierce.
Platte.
Polk.
Richardson.
Saline.
Saunders.
Scotts Bluff.
Seward.
Stanton.
Thayer.
Washington.
Wayne.
York.

NORTH CAROLINA

Anson.
Beaufort.
Hyde.
Nash.
Pamlico.
Pitt.
Robeson.
Rowan.
Union.
Washington.

NORTH DAKOTA

Cass.
Ransom.
Richland.
Sargent.

OHIO

Allen.
Ashland.
Auglaize.
Butler.
Champaign.
Clark.
Clinton.
Crawford.
Darke.
Defiance.
Delaware.
Erie.
Fairfield.
Fayette.
Franklin.
Fulton.
Greene.
Hancock.
Hardin.
Henry.
Highland.
Huron.
Knox.
Licking.
Logan.
Lucas.
Madison.
Marion.
Medina.
Mercer.
Miami.
Montgomery.
Morrow.
Ottawa.
Paulding.
Pickaway.
Preble.
Putnam.
Richland.
Sandusky.
Seneca.
Shelby.
Union.
Van Wert.
Wayne.
Williams.
Wood.
Wyandot.

OKLAHOMA

Texas.

PENNSYLVANIA

Adams.
Chester.
Cumberland.
Dauphin.
Franklin.
Lancaster.
Lebanon.
Perry.
York.

SOUTH DAKOTA

Aurora.
Beadle.
Bon Homme.
Brookings.
Charles Mix.
Clark.
Clay.
Codington.
Davison.
Day.
Deuel.
Douglas.
Grant.
Hamlin.
Hanson.
Hutchinson.
Kingsbury.
Lake.
Lincoln.
McCook.
Miner.
Minnehaha.
Moody.
Roberts.
Sanborn.
Turner.
Union.
Yankton.

TENNESSEE

Obion.

TEXAS

Castro.
Moore.

VIRGINIA

Nansemond.
Southampton.

WISCONSIN

Barron.
Buffalo.
Calumet.
Clark.
Columbia.
Crawford.
Dane.
Dodge.
Dunn.
Fond du Lac.

WISCONSIN—Continued

Grant.
Green.
Iowa.
Jackson.
Jefferson.
Kenosha.
La Crosse.
Lafayette.
Pepin.
Pierce.
Polk.
Racine.
Richland.
Rock.
St. Croix.
Sauk.
Trempealeau.
Vernon.
Walworth.
Waukesha.
Winnebago.

WYOMING

Goshen.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] D. W. McELWRATH,
Acting Manager,
Federal Crop Insurance Corporation.

[FR Doc.72-19245 Filed 11-8-72;8:49 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR SUNFLOWER CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for sunflower crop insurance for the 1973 crop year.

MINNESOTA

Becker.
Big Stone.
Chippewa.
Clay.
Grant.
Kittson.
Lac qui Parle.
Lincoln.
Lyon.
Mahnomen.
Marshall.
Murray.
Nobles.
Norman.
Otter Tail.
Pennington.
Pipestone.
Polk.
Pope.
Red Lake.
Redwood.
Roseau.
Stevens.
Swift.
Traverse.
Wilkin.
Yellow Medicine.

NORTH DAKOTA

Barnes.
Benson.
Bottineau.
Burleigh.
Cass.
Cavalier.
Dickey.
Eddy.
Emmons.
Foster.
Grand Forks.
Griggs.
Kidder.
La Moure
Logan.
McHenry.
McIntosh.
McLean.
Mountrail.
Nelson.
Pembina.
Pierce.
Ramsey.
Ransom.
Renville.
Richland.
Rolette.
Sargent.
Sheridan.
Steele.
Stutsman.
Towner.
Traill.
Walsh.
Ward.
Wells.

SOUTH DAKOTA

Brookings.
Brown.
Campbell.
Clark.
Codington
Corson.
Day.
Deuel.
Edmunds.
Grant.
Hamlin.
Kingsbury
Lake.
McPherson.
Marshall.
Miner.
Moody.
Roberts.
Walworth.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] D. W. McELWRATH,
Acting Manager, Federal Crop Insurance Corporation.

[FR Doc.72-19246 Filed 11-8-72;8:49 am]

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MINNESOTA—Continued

Marshall.	Rock.
Martin.	Roseau.
Meeker.	Scott.
Mower.	Sibley.
Murray.	Stearns.
Nicollet.	Steele.
Nobles.	Stevens.
Norman.	Swift.
Olmsted.	Todd.
Otter Tail.	Traverse.
Pennington.	Wabasha.
Pipestone.	Waseca.
Polk	Washington.
Pope.	Watonwan.
Red Lake.	Wilkin.
Redwood.	Winona.
Renville.	Wright.
Rice.	Yellow Medicine.

NORTH DAKOTA

Barnes.	Nelson.
Benson.	Pembina.
Burleigh.	Pierce.
Cass.	Ramsey.
Cavalier.	Ransom.
Dickey.	Richland.
Eddy.	Sargent.
Foster.	Stark.
Grand Forks.	Steele.
Griggs.	Stutsman.
Kidder.	Towner.
La Moure.	Traill.
Logan.	Walsh.
Morton.	

OREGON

Klamath.	

PENNSYLVANIA

Chester.	Dauphin.
Cumberland.	Perry.

SOUTH DAKOTA

Aurora.	Hutchinson.
Beadle.	Kingsbury.
Bon Homme.	Lake.
Brookings.	Lincoln.
Brown.	McCook.
Charles Mix.	Marshall.
Clark.	Miner.
Clay.	Minnehaha.
Codington.	Moody.
Davison.	Roberts.
Day.	Sanborn.
Deuel.	Spink.
Douglas.	Turner.
Grant.	Union.
Hamlin.	Yankton.
Hanson.	

WISCONSIN

Barron.	La Crosse.
Buffalo.	Lafayette.
Calumet.	Pepin.
Clark.	Pierce.
Columbia.	Polk.
Crawford.	Racine.
Dane.	Richland.
Dodge.	Rock.
Dunn.	St. Croix.
Fond du Lac.	Sauk.
Grant.	Trempealeau.
Green.	Vernon.
Iowa.	Walworth.
Jackson.	Waukesha.
Jefferson.	Winnebago.
Kenosha.	

WYOMING

Big Horn.	Washakie.
Park.	

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] D. W. MCELWRATH,
Acting Manager, Federal Crop Insurance Corporation.

[FR Doc.72-19251 Filed 11-8-72;8:50 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR PEA (CANNING AND FREEZING) CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for pea (canning and freezing) crop insurance for the 1973 crop year.

IDAHO

Franklin.	Nez Perce.

MINNESOTA

Blue Earth.	Nicollet.
Brown.	Olmsted.
Dakota.	Redwood.
Dodge.	Renville.
Faribault.	Rice.
Freeborn.	Scott.
Goodhue.	Sibley.
Kandiyohi.	Steele.
Le Sueur.	Wabasha.
McLeod.	Waseca.
Martin.	Watonwan.
Meeker.	Winona.
Mower.	

OREGON

Umatilla.	Union.

UTAH

Box Elder.	Salt Lake.
Cache.	Utah.
Davis.	Weber.

WASHINGTON

Columbia.	Whitman.
Walla Walla.	

WISCONSIN

Calumet.	Fond du Lac.
Columbia.	Trempealeau.
Dane.	Winnebago.
Dodge.	

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] D. W. MCELWRATH,
Acting Manager, Federal Crop Insurance Corporation.

[FR Doc.72-19253 Filed 11-8-72;8:50 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR PEA (DRY) CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for pea (dry) crop insurance for the 1973 crop year.

IDAHO

Benewah.	Lewis.
Kootenai.	Nez Perce.
Latah.	

OREGON

Umatilla.	Union.

WASHINGTON

Adams.	Spokane.
Columbia.	Walla Walla.
Franklin.	Whitman.
Grant.	

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] D. W. MCELWRATH,
Acting Manager, Federal Crop Insurance Corporation.

[FR Doc.72-19254 Filed 11-8-72;8:50 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR PEANUT CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for peanut crop insurance for the 1973 crop year. The type(s) of peanuts on which insurance is offered in each county is shown opposite the county name.

ALABAMA

Barbour—Runner, Southeast Spanish, Virginia.
Coffee—Runner, Southeast Spanish, Virginia.
Conecuh—Runner, Southeast Spanish, Virginia.
Covington—Runner, Southeast Spanish, Virginia.
Crenshaw—Runner, Southeast Spanish, Virginia.
Dale—Runner, Southeast Spanish, Virginia.
Geneva—Runner, Southeast Spanish, Virginia.
Henry—Runner, Southeast Spanish, Virginia.
Houston—Runner, Southeast Spanish, Virginia.
Pike—Runner, Southeast Spanish, Virginia.

FLORIDA

Jackson—Runner, Southeast Spanish, Virginia.

GEORGIA

Baker—Runner, Southeast Spanish, Virginia.
Ben Hill—Runner, Southeast Spanish, Virginia.
Bulloch—Runner, Southeast Spanish, Virginia.
Calhoun—Runner, Southeast Spanish, Virginia.
Clay—Runner, Southeast Spanish, Virginia.
Coffee—Runner, Southeast Spanish, Virginia.
Colquitt—Runner, Southeast Spanish, Virginia.
Cook—Runner, Southeast Spanish, Virginia.
Crisp—Runner, Southeast Spanish, Virginia.
Decatur—Runner, Southeast Spanish, Virginia.
Dooly—Runner, Southeast Spanish, Virginia.
Early—Runner, Southeast Spanish, Virginia.
Houston—Runner, Southeast Spanish, Virginia.
Irwin—Runner, Southeast Spanish, Virginia.
Lee—Runner, Southeast Spanish, Virginia.
Miller—Runner, Southeast Spanish, Virginia.
Mitchell—Runner, Southeast Spanish, Virginia.
Randolph—Runner, Southeast Spanish, Virginia.
Sumter—Runner, Southeast Spanish, Virginia.
Terrell—Runner, Southeast Spanish, Virginia.
Thomas—Runner, Southeast Spanish, Virginia.
Tift—Runner, Southeast Spanish, Virginia.
Toombs—Runner, Southeast Spanish, Virginia.
Turner—Runner, Southeast Spanish, Virginia.
Worth—Runner, Southeast Spanish, Virginia.

NORTH CAROLINA

Bertie—Virginia.
Bladen—Virginia.
Chowan—Virginia.
Edgecombe—Virginia.
Gates—Virginia.
Halifax—Virginia.
Hertford—Virginia.
Martin—Virginia.
Nash—Virginia.
Northampton—Virginia.
Pitt—Virginia.
Washington—Virginia.

OKLAHOMA

Caddo—Southwest Spanish.
Grady—Southwest Spanish.

TEXAS

Atascosa—Southwest Spanish.
Comanche—Southwest Spanish.
Eastland—Southwest Spanish.
Erath—Southwest Spanish.
Frio—Southwest Spanish.
Hood—Southwest Spanish.
Wilson—Southwest Spanish.

VIRGINIA

Dinwiddie—Virginia.
Greensville—Virginia.
Isle of Wight—Virginia.
Nansemond—Virginia.
Prince George—Virginia.
Southampton—Virginia.
Surry—Virginia.
Sussex—Virginia.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] D. W. MCELWRATH,
Acting Manager, Federal Crop Insurance Corporation.

[FR Doc.72-19256 Filed 11-8-72;8:50 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR RICE CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for rice crop insurance for the 1973 crop year.

ARKANSAS

Arkansas.	Jackson.
Ashley.	Jefferson.
Chicot.	Lonoke.
Clay.	Monroe.
Craighead.	Poinsett.
Crittenden.	Prairie.
Cross.	St. Francis.
Desha.	Woodruff.
Greene.	

LOUISIANA

Acadia.	Jefferson Davis.
Calcasieu.	St. Landry.
Evangeline.	

MISSISSIPPI

Bolivar.	Washington.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] D. W. MCELWRATH,
Acting Manager, Federal Corp Insurance Corporation.

[FR Doc.72-19258 Filed 11-8-72;8:50 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR SOYBEAN CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designed for soybean crop insurance for the 1973 crop year.

ALABAMA

Baldwin.	Madison.
Escambia.	Morgan.
Jackson.	Shelby.
Lawrence.	Talladega.
Limestone.	

ARKANSAS

Arkansas.	Lee.
Ashley.	Lincoln.
Chicot.	Lonoke.
Clay.	Mississippi
Craighead.	Monroe.
Crittenden.	Phillips.
Cross.	Poinsett.
Desha.	Prairie.
Greene.	Randolph.
Jackson.	St. Francis.
Jefferson.	Woodruff.
Lawrence.	

DELAWARE

Kent.	Sussex.
New Castle.	

GEORGIA

Houston.	

ILLINOIS

Adams.	Livingston.
Bond.	Logan.
Brown.	McDonough.
Bureau.	McLean.
Carroll.	Macon.
Cass.	Macoupin.
Champaign.	Madison.
Christian.	Marshall.
Clark.	Mason.
Clinton.	Menard.
Coles.	Mercer.
Crawford.	Monroe.
Cumberland.	Montgomery.
De Kalb.	Morgan.
De Witt.	Moultrie.
Douglas.	Ogle.
Edgar.	Peoria.
Effingham.	Piatt.
Fayette.	Pike.
Ford.	Putnam.
Fulton.	St. Clair.
Greene.	Sangamon.
Grundy.	Schuyler.
Hancock.	Scott.
Henderson.	Shelby.
Henry.	Stark.
Iroquois.	Stephenson.
Jasper.	Tazewell.
Jefferson.	Vermilion.
Jersey.	Warren.
Jo Daviess.	Washington.
Kankakee.	Wayne.
Kendall.	Whiteside.
Knox.	Winnebago.
La Salle.	Woodford.
Lee.	

INDIANA

Adams.	Clinton.
Allen.	Decatur.
Bartholomew.	De Kalb.
Benton.	Delaware.
Blackford.	Elkhart.
Boone.	Fayette.
Carroll.	Fountain.
Cass.	Fulton.
Clay.	Gibson.

INDIANA—Continued

Grant.	Noble.
Hamilton.	Parke.
Hancock.	Pulaski.
Hendricks.	Putnam.
Henry.	Randolph.
Howard.	Ripley.
Huntington.	Rush.
Jackson.	Shelby.
Jasper.	Sullivan.
Jay.	Tippecanoe.
Johnson.	Tipton.
Knox.	Union.
Kosciusko.	Vermillion.
Lagrange.	Vigo.
Madison.	Wabash.
Marion.	Warren.
Marshall.	Wayne.
Miami.	Wells.
Montgomery.	White.
Morgan.	Whitley.
Newton.	

IOWA

Adair.	Jasper.
Adams.	Jefferson.
Appanoose.	Johnson.
Allamakee.	Jones.
Audubon.	Keokuk.
Benton.	Kossuth.
Black Hawk.	Lee.
Boone.	Linn.
Bremer.	Louisa.
Buchanan.	Lucas.
Buena Vista.	Lyon.
Butler.	Madison.
Calhoun.	Mahaska.
Carroll.	Marion.
Cass.	Marshall.
Cedar.	Mills.
Cerro Gordo.	Mitchell.
Cherokee.	Monona.
Chickasaw.	Monroe.
Clarke.	Montgomery.
Clay.	Muscatine.
Clayton.	O'Brien.
Clinton.	Osceola.
Crawford.	Page.
Dallas.	Palo Alto.
Decatur.	Plymouth.
Delaware.	Pocahontas.
Des Moines.	Polk.
Dickinson.	Pottawattamie.
Dubuque.	Poweshiek.
Emmet.	Sac.
Fayette.	Scott.
Floyd.	Shelby.
Franklin.	Sioux.
Fremont.	Story.
Greene.	Tama.
Grundy.	Taylor.
Guthrie.	Union.
Hamilton.	Wapello.
Hancock.	Warren.
Hardin.	Washington.
Harrison.	Webster.
Henry.	Winnebago.
Howard.	Winneshiek.
Humboldt.	Woodbury.
Ida.	Worth.
Iowa.	Wright.
Jackson.	

KANSAS

Allen.	Franklin.
Anderson.	Johnson.
Atchison.	Labette.
Bourbon.	Linn.
Brown.	Lyon.
Cherokee.	Miami.
Coffey.	Neosho.
Crawford.	Osage.
Doniphan.	Wilson.
Douglas.	Woodson.

KENTUCKY

Calloway.	Fulton.
Daviess.	Graves.

KENTUCKY—Continued

Henderson.	Ohio.

MISSOURI—Continued

Jasper.	Pettis.

TENNESSEE

Carroll.	Lake.
Chester.	Lauderdale.

NORTH DAKOTA

Cass.	Richland.
Grand Forks.	Traill.

KENTUCKY—Continued

Christian	22, 31, 35
Clark	31
Mercer	31
Metcalfe	31

TENNESSEE—Continued

Cocke	31
De Kalb	31
Marshall	31
Maury	31

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KENTUCKY—Continued

Henderson.
Hopkins.
McLean.
Ohio.
Union.

LOUISIANA

Acadia.
Avoyelles.
Bossier.
Caddo.
Calcasieu.
Caldwell.
Catahoula.
Concordia.
East Carroll.
Evangeline.
Franklin.
Jefferson Davis.
Madison.
Morehouse.
Natchitoches.
Pointe Coupee.
Rapides.
Red River.
Richland.
St. Landry.
Tensas.
West Carroll.

MARYLAND

Caroline.
Kent.
Queen Annes.
Talbot.

MICHIGAN

Branch.
Cass.
Clinton.
Gratiot.
Hillsdale.
Lenawee.
Monroe.
Saginaw.
St. Joseph.
Shiawassee.
Washtenaw.

MINNESOTA

Becker.
Big Stone.
Blue Earth.
Brown.
Carver.
Chippewa.
Clay.
Cottonwood.
Dakota.
Dodge.
Douglas.
Faribault.
Fillmore.
Freeborn.
Goodhue.
Grant.
Houston.
Jackson.
Kandiyohi.
Lac qui Parle.
Le Sueur.
Lincoln.
Lyon.
McLeod.
Martin.
Meeker.
Mower.
Murray.
Nicollet.
Nobles.
Norman.
Olmstead.
Otter Tail.
Pipestone.
Pope.
Redwood.
Renville.
Rice.
Rock.
Scott.
Sibley.
Stearns.
Steele.
Stevens.
Swift.
Todd.
Traverse.
Wabasha.
Waseca.
Washington.
Watonwan.
Wilkin.
Winona.
Wright.
Yellow Medicine.

MISSISSIPPI

Benton.
Bolivar.
Calhoun.
Carroll.
Chickasaw.
Coahoma.
De Soto.
Holmes.
Humphreys.
Issaquena.
Lee.
Leflore.
Monroe.
Panola.
Prentiss.
Quitman.
Sharkey.
Sunflower.
Tallahatchie.
Tippah.
Tunica.
Union.
Washington.
Yazoo.

MISSOURI

Adair.
Andrew.
Atchison.
Audrain.
Barton.
Bates.
Boone.
Buchanan.
Butler.
Caldwell.
Callaway.
Cape Girardeau.
Carroll.
Cass.
Chariton.
Clark.
Clinton.
Cooper.
Daviess.
De Kalb.
Dunklin.
Gentry.
Grundy.
Harrison.
Henry.
Holt.
Howard.
Jackson.

MISSOURI—Continued

Jasper.
Johnson.
Knox.
Lafayette.
Lewis.
Lincoln.
Linn.
Livingston.
Macon.
Marion.
Mississippi.
Monroe.
Montgomery.
New Madrid.
Ncdaway.
Pemiscot.
Pettis.
Pike.
Platte.
Ralls.
Randolph.
Ray.
St. Charles.
Saline.
Scotland.
Scott.
Shelby.
Stoddard.
Sullivan.
Vernon.
Worth.

NEBRASKA

Cass.
Colfax.
Cuming.
Dodge.
Lancaster.
Nemaha.
Otoe.
Richardson.
Saunders.
Washington.
Wayne.

NORTH CAROLINA

Anson.
Beaufort.
Craven.
Hyde.
Johnston.
Jones.
Pamlico.
Pitt.
Robeson.
Union.
Washington.

NORTH DAKOTA

Cass.
Richland.
Traill.

OHIO

Allen.
Ashland.
Auglaize.
Butler.
Champaign.
Clark.
Clinton.
Crawford.
Darke.
Defiance.
Delaware.
Erie.
Fairfield.
Fayette.
Franklin.
Fulton.
Greene.
Hancock.
Hardin.
Henry.
Highland.
Huron.
Knox.
Licking.
Logan.
Lucas.
Madison.
Marion.
Medina.
Mercer.
Miami.
Montgomery.
Morrow.
Ottawa.
Paulding.
Pickaway.
Preble.
Putnam.
Richland.
Sandusky.
Seneca.
Shelby.
Union.
Van Wert.
Wayne.
Williams.
Wood.
Wyandot.

OKLAHOMA

Craig.
Ottawa.

SOUTH CAROLINA

Aiken.
Allendale.
Bamberg.
Barnwell.
Calhoun.
Clarendon.
Darlington.
Dillon.
Dorchester.
Florence.
Hampton.
Horry.
Kershaw.
Lee.
Lexington.
Marion.
Marlboro.
Orangeburg.
Sumter.
Williamsburg.

SOUTH DAKOTA

Bon Homme.
Brookings.
Charles Mix.
Clay.
Deuel.
Grant.
Hamlin.
Hutchinson.
Kingsbury.
Lake.
Lincoln.
McCook.
Minnehaha.
Moody.
Roberts.
Turner.
Union.
Yankton.

TENNESSEE

Carroll.
Chester.
Crockett.
Dyer.
Fayette.
Gibson.
Hardeman.
Haywood.
Lake.
Lauderdale.
Madison.
Obion.
Shelby.
Tipton.
Weakley.

VIRGINIA

Nansemond.
Southampton.

WISCONSIN

Buffalo.
Dunn.
Jackson.
Jefferson.
Kenosha.
Pepin.
Pierce.
Polk.
Racine.
Rock.
St. Croix.
Trempealeau.
Walworth.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] D. W. MCELWRATH,
Acting Manager, Federal Crop Insurance Corporation.

[FR Doc.72-19259 Filed 11-8-72;8:51 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR SUGAR BEET CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for sugar beet crop insurance for the 1973 crop year.

CALIFORNIA

Imperial.

COLORADO

Adams.
Boulder.
Kit Carson.
Larimer.
Logan.
Morgan.
Sedgwick.
Weld.

IDAHO

Ada.
Bannock.
Bingham.
Bonneville.
Canyon.
Cassia.
Franklin.
Jerome.
Minidoka.
Owyhee.
Power.
Twin Falls.

KANSAS

Finney.
Grant.
Kearny.
Sherman.
Stanton.
Wallace.
Wichita.

MICHIGAN

Bay.
Saginaw.
Tuscola.

MINNESOTA

Clay.
Kittson.
Marshall.
Norman.
Polk.
Wilkin.

MONTANA

Big Horn.
Carbon.
Custer.
Dawson.
Prairie.
Richland.
Rosebud.
Stillwater.
Treasure.
Yellowstone.

NORTH DAKOTA

Cass.
Grand Forks.
McKenzie.
Pembina.
Richland.
Traill.
Walsh.
Williams.

OHIO

Hancock.
Henry.
Lucas.
Ottawa.
Putnam.
Sandusky.
Wood.

OREGON

Malheur.

UTAH

Box Elder.
Cache.
Davis.
Salt Lake.
Utah.
Weber.

WASHINGTON

Adams.
Benton.
Franklin.
Grant.
Yakima.

WYOMING

Big Horn.
Goshen.
Park.
Washakie.

(Secs. 506, 516, 52 Stat. 73, as amended, 77 as amended; 7 U.S.C. 1506, 1516)

[SEAL] D. W. MCELWRATH,
Acting Manager, Federal Crop Insurance Corporation.

[FR Doc.72-19260 Filed 11-8-72;8:51 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR TOBACCO CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for tobacco crop insurance for the 1973 crop year. The type(s) of tobacco on which insurance is offered in each county is shown opposite the county name.

FLORIDA

Alachua	14	Madison	14
Columbia	14	Suwanee	14
Hamilton	14		

GEORGIA

Appling	14	Jeff Davis	14
Atkinson	14	Lanier	14
Bacon	14	Lowndes	14
Ben Hill	14	Mitchell	14
Berrien	14	Pierce	14
Brantley	14	Tattnall	14
Brooks	14	Thomas	14
Bulloch	14	Tift	14
Candler	14	Toombs	14
Coffee	14	Turner	14
Colquitt	14	Ware	14
Cook	14	Wayne	14
Decatur	14	Worth	14
Irwin	14		

KENTUCKY

Adair	31	Boyle	31
Allen	31, 35	Bracken	31
Anderson	31	Breckinridge	31
Barren	31	Caldwell	22, 31, 35
Bath	31	Calloway	23, 35
Boone	31	Carroll	31
Bourbon	31	Casey	31
Christian	22, 31, 35	Mercer	31
Clark	31	Metcalfe	31
Daviess	31, 36	Montgomery	31
Fayette	31	Muhlenberg	22, 31, 3
Fleming	31	Muhlenberg	22, 31, 35
Franklin	31	Nelson	31
Grant	31	Nicholas	31
Garrard	31	Ohio	31, 36
Graves	23, 31, 35	Owen	31
Green	31	Pendleton	31
Harrison	31	Pulaski	31
Hart	31	Robertson	31
Henderson	31, 36	Russell	31
Henry	31	Scott	31
Hopkins	31, 36	Shelby	31
Jessamine	31	Simpson	22, 31, 35
Larue	31	Spencer	31
Lewis	31	Taylor	31
Lincoln	31	Todd	22, 31, 35
Logan	22, 31, 35	Trigg	22, 31, 35
McLean	31, 36	Warren	31, 35
Madison	31	Washington	31
Marion	31	Wayne	31
Marshall	23, 31, 35	Woodford	31
Mason	31		
Meade	31		

MISSOURI

Buchanan	31	Platte	31

NORTH CAROLINA

Alamance	11a	Lee	11b
Alexander	11a	Lenoir	12
Beaufort	12	Madison	31
Bertie	12	Martin	12
Bladen	13	Mitchell	31
Brunswick	13	Montgomery	11b
Buncombe	31	Moore	11b
Carteret	12	Nash	12
Caswell	11a	Northampton	12
Chatham	11b	Onslow	12
Chowan	12	Orange	11b
Columbus	13	Pamlico	12
Craven	12	Pender	12
Cumberland	13	Person	11a
Davidson	11a	Pitt	12
Davie	11a	Randolph	11a
Duplin	12	Richmond	11b
Durham	11b	Robeson	13
Edgecombe	12	Rockingham	11a
Forsyth	11a	Sampson	12
Franklin	11b	Scotland	13
Gates	12	Stokes	11a
Granville	11b	Surry	11a
Greene	12	Vance	11b
Guilford	11a	Wake	11b
Halifax	12	Warren	11b
Harnett	11b	Washington	12
Haywood	31	Wayne	12
Hertford	12	Wilkes	11a
Hoke	13	Wilson	12
Iredell	11a	Yadkin	11a
Johnston	12	Yancey	31
Jones	12		

OHIO

Adams	31	Highland	31
Brown	31		

PENNSYLVANIA

Lancaster	41

SOUTH CAROLINA

Chesterfield	13	Kershaw	13
Clarendon	13	Lee	13
Darlington	13	Marion	13
Dillon	13	Marlboro	13
Dorchester	13	Orangeburg	13
Florence	13	Sumter	13
Georgetown	13	Williamsburg	13
Horry	13		

TENNESSEE

Anderson	31	Carter	31
Blount	31	Claiborne	31
Cocke	31	Marshall	31
De Kalb	31	Maury	31
Dickson	22	Monroe	31
Franklin	31	Montgomery	22, 31
Giles	31	Obion	23, 35
Grainger	31	Putnam	31
Greene	31	Robertson	22, 31, 35
Hamblen	31	Sevier	31
Hancock	31	Smith	31
Hawkins	31	Stewart	22, 31
Jackson	31	Sullivan	31
Jefferson	31	Sumner	22, 31, 35
Johnson	31	Trousdale	31
Knox	31	Unicoi	31
Lawrence	31	Washington	31
Lincoln	31	Weakley	23, 35
Loudon	31	Wilson	31
McMinn	31	White	31
Macon	31, 35	Williamson	31

VIRGINIA

Amelia	11a, 21	Nansemond	11a
Appomattox	11a, 21	Nottoway	11a, 21
Brunswick	11a, 21	Pittsylvania	11a
Campbell	11a, 21	Prince Edward	11a, 21
Charlotte	11a, 21	Prince George	11a
Cumberland	11a, 21	Russell	31
Dinwiddie	11a, 21	Scott	31
Franklin	11a	Smyth	31
Greensville	11a	Southampton	11a
Halifax	11a	Sussex	11a
Lee	31	Washington	31
Lunenberg	11a, 21		
Mecklenburg	11a		

WISCONSIN

Crawford	55	Richland	55
Dane	54	Trempealeau	55
La Crosse	55	Vernon	55

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] D. W. MCELWRATH,
Acting Manager, Federal Crop Insurance Corporation.

[FR Doc.72-19261 Filed 11-8-72;8:51 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR TOMATO CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for tomato crop insurance for the 1973 crop year.

OHIO

Darke.
Fulton.
Henry.
Lucas.
Ottawa.
Putnam.
Sandusky.
Wood.

UTAH

Box Elder.
Davis.
Salt Lake.
Utah.
Weber.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] D. W. MCELWRATH,
Acting Manager, Federal Crop Insurance Corporation.

[FR Doc.72-19262 Filed 11-8-72;8:51 am]

PART 402—RAISIN CROP INSURANCE

designated for apple crop insurance for the 1973 crop year.

tions, the following counties have been designated for citrus crop insurance for

Chapter VII—Agricultural Stabilization and Conservation Service

ket conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit

part of California. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as

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PART 402—RAISIN CROP INSURANCE

Subpart—Regulations for the 1966 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR RAISIN CROP INSURANCE

Pursuant to authority contained in § 402.1 of the above-identified regulations, the following counties have been designated for raisin crop insurance for the 1973 crop year.

CALIFORNIA

Fresno.	Merced.
Kern.	Stanislaus.
Kings.	Tulare.
Madera.	

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] D. W. MCELWRATH,
Acting Manager,
Federal Crop Insurance Corporation.

[FR Doc.72-19257 Filed 11-8-72;8:50 am]

PART 403—PEACH CROP INSURANCE

Subpart—Regulations for the 1965 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR PEACH CROP INSURANCE

Pursuant to authority contained in § 403.40 of the above-identified regulations, as amended, the following counties have been designated for peach crop insurance for the 1973 crop year.

ALABAMA

Chilton.

ARKANSAS

Cross.	Lee.
Johnson.	St. Francis.

GEORGIA

Peach. Upson.

NORTH CAROLINA

Cleveland.	Richmond.
Montgomery.	Rutherford.
Moore.	

SOUTH CAROLINA

Aiken.	Laurens.
Allendale.	Lexington.
Barnwell.	Saluda.
Chesterfield.	Spartanburg.
Edgefield.	York.
Greenville.	

(Secs. 506 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] D. W. MCELWRATH,
Acting Manager, Federal
Crop Insurance Corporation.

[FR Doc.72-19255 Filed 11-8-72;8:50 am]

PART 404—APPLE CROP INSURANCE

Subpart—Regulations for the 1967 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR APPLE CROP INSURANCE

Pursuant to authority contained in § 404.20 of the above-identified regulations, the following counties have been designated for apple crop insurance for the 1973 crop year.

OREGON

Umatilla.

WASHINGTON

Chelan.	Douglas.
Columbia	Okanogan.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] D. W. MCELWRATH,
Acting Manager, Federal
Crop Insurance Corporation.

[FR Doc.72-19242 Filed 11-8-72;8:49 am]

PART 406—CALIFORNIA ORANGE CROP INSURANCE

Subpart—Regulations for the 1963 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR ORANGE CROP INSURANCE

Pursuant to authority contained in § 406.1 of the above-identified regulations, as amended, the following counties have been designated for orange crop insurance for the 1973 crop year.

CALIFORNIA

Fresno.	Tulare.
Kern.	

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] D. W. MCELWRATH,
Acting Manager, Federal
Crop Insurance Corporation.

[FR Doc.72-19252 Filed 11-8-72;8:50 am]

PART 408—NORTH CAROLINA APPLE CROP INSURANCE

Subpart—Regulations for the 1965 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR APPLE CROP INSURANCE

Pursuant to authority contained in § 408.1 of the above-identified regulations, as amended, the following counties have been designated for apple crop insurance for the 1973 crop year.

NORTH CAROLINA

Alexander.	Wilkes.
Henderson.	

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] D. W. MCELWRATH,
Acting Manager, Federal
Crop Insurance Corporation.

[FR Doc.72-19243 Filed 11-8-72;8:49 am]

PART 409—ARIZONA-DESERT VALLEY CITRUS CROP INSURANCE

Subpart—Regulations for the 1967 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR CITRUS CROP INSURANCE

Pursuant to authority contained in § 409.20 of the above-identified regulations, the following counties have been designated for citrus crop insurance for the 1973 crop year.

ARIZONA

Maricopa. Yuma.

CALIFORNIA

Imperial. Riverside.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] D. W. MCELWRATH,
Acting Manager, Federal
Crop Insurance Corporation.

[FR Doc.72-19246 Filed 11-8-72;8:49 am]

PART 410—FLORIDA CITRUS CROP INSURANCE

Subpart—Regulations for the 1970 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR CITRUS CROP INSURANCE

Pursuant to authority contained in § 410.1 of the above-identified regulations, the following counties have been designated for citrus crop insurance for the 1973 crop year.

FLORIDA

Brevard.	Marion.
De Soto.	Martin.
Hardee.	Orange.
Hernando.	Osceola.
Highlands.	Pasco.
Hillsborough.	Polk.
Indian River.	St. Lucie.
Lake.	Seminole.
Manatee.	

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] D. W. MCELWRATH,
Acting Manager, Federal
Crop Insurance Corporation.

[FR Doc.72-19245 Filed 11-8-72;8:49 am]

PART 413—TEXAS CITRUS CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR CITRUS CROP INSURANCE

Pursuant to authority contained in § 413.20 of the above-identified regulations, the following counties have been designated for citrus crop insurance for the 1973 crop year.

TEXAS

Cameron. Willacy.
Hidalgo.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] D. W. MCELWRATH,
Acting Manager, Federal
Crop Insurance Corporation.

[FR Doc.72-19247 Filed 11-8-72;8:50 am]

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 722—COTTON

1973 Crop of Extra-Long Staple Cotton; Acreage Allotments and Marketing Quotas

Correction

In F.R. Doc. 72-17691 appearing on page 21988 of the issue for Wednesday, October 18, 1972, the file line at the end of the document should appear as follows: [FR Doc.72-17691 Filed 10-13-72; 9:32 am].

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Navel Orange Reg. 274]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.574 Navel Orange Regulation 274.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 7, 1972.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period November 10, through November 16, 1972, are hereby fixed as follows:

(i) District 1: 893,000 cartons;

(ii) District 2: Unlimited;

(iii) District 3: 57,000 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 8, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-19420 Filed 11-8-72;11:17 am]

PART 909—GRAPEFRUIT GROWN IN ARIZONA; IN IMPERIAL COUNTY, CALIF.; AND IN THAT PART OF RIVERSIDE COUNTY, CALIF., SITUATED SOUTH AND EAST OF WHITE WATER, CALIF.

Expenses, Rate of Assessment, and Carryover of Unexpended Funds

On October 25, 1972, notice of proposed rulemaking was published in the FEDERAL REGISTER (37 F.R. 22798) regarding proposed expenses, the proposed rate of assessment, and the proposed carryover of unexpended assessment funds, for the fiscal period September 1, 1972, through August 31, 1973, pursuant to marketing Order No. 909, as amended (7 CFR Part 909), regulating the handling of grapefruit grown in Arizona and designated part of California. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Administrative Committee (established pursuant to the said amended marketing order), it is hereby found and determined that:

§ 909.211 Expenses, rate of assessment, and carryover of unexpended funds.

(a) *Expenses.* The expenses that are reasonable and likely to be incurred by the Administrative Committee during the period September 1, 1972, through August 31, 1973, will amount to $37,875.

(b) *Rate of assessment.* The rate of assessment for such period, payable by each handler in accordance with § 909.41, is hereby fixed at three-fourths of a cent ($0.0075) per carton, or equivalent quantity of grapefruit.

(c) *Operating reserve.* Unexpended assessment funds, in excess of expenses incurred during such period, shall be carried over as a reserve in accordance with the applicable provisions of § 909.42.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of the current crop of grapefruit grown in the designated production area are now being made; (2) the relevant provisions of said marketing order require that the rate of assessment herein fixed shall be applicable to all assessable grapefruit handled during the aforesaid period; and (3) such period began on September 1, 1972, and said rate of assessment will automatically apply to all such grapefruit beginning with such date.

(Secs. 1–19, 48 Stat. 81, as amended; 7 U.S.C. 601–674)

Dated: November 6, 1972.

CHARLES R. BRADER,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-19294 Filed 11-8-72;8:54 am]

PART 999—SPECIALTY CROPS; IMPORT REGULATIONS

Importation and Reporting Requirements

Notice was published in the October 12, 1972, issue of the FEDERAL REGISTER (37 F.R. 21538) regarding a proposal to: (1) Amend paragraph (e) of § 999.300 (7 CFR 999.300; 37 F.R. 5282; 13634) governing the importation of raisins, to permit importation of raisins, which do not meet the requirements pursuant to paragraph (b) of § 999.300 with respect to mechanical damage and sugaring, for use in the production of raisin paste; and (2) delete the phrase, "at the port of arrival" from § 999.300(a)(7); § 999.300

(b); and § 999.300(d). In conjunction with importation for such usage, certain reporting requirements were included in the proposal. This action is pursuant to section 8e (7 U.S.C. 608e–1) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "act".

The notice afforded interested persons an opportunity to submit written data, views, or arguments with respect to the proposal. Written comments were received from three persons within the period prescribed therefor.

Section 8c of the act provides, in part, that whenever a marketing order issued by the Secretary of Agriculture pursuant to section 8c of the act (7 U.S.C. 608c) contains any terms or conditions regulating the grade, size, quality, or maturity of raisins produced in the United States, the importation of raisins into the United States during the period of time such order is in effect shall be prohibited unless such commodity complies with the grade, size, quality, and maturity provisions of such order or comparable restrictions promulgated under said section 8e.

Order No. 989, as amended (7 CFR Part 989; 37 F.R. 19621; 20022), regulating the handling of raisins produced from grapes grown in California (hereinafter referred to as the "order"), is effective under the act. The order prescribes terms and conditions regulating the grade and size of such raisins. Under a recent amendment of the order, raisins which do not meet the applicable grade and size requirements with respect to mechanical damage and sugaring may be used in the production of raisin paste. Therefore, raisins for importation which do not meet the applicable grade and size requirements of § 999.300 with respect to mechanical damage and sugaring should similarly be permitted to be used in the production of raisin paste.

With regard to deletion of the phrase "at the port of arrival," the current regulation defines importation, in paragraph (a)(7), as release of raisins from custody of the Bureau of Customs at the port of arrival; prohibits, in paragraph (b), importation of raisins unless they are inspected at the port of arrival; and, in paragraph (d), permits reconditioning of raisins only at the port of arrival. Since all raisins for importation are under Customs' custody until released, the current regulation could be unnecessarily restrictive and impose financial hardships and delays on importers because all ports of arrival do not have inspection and reconditioning facilities readily available. Therefore such requirement should be deleted.

Written comments submitted pursuant to the notice by three persons all recommended the proposal be adopted. In the written comments submitted, two persons further recommended that raisins which do not meet the tolerance for capstems should also be permitted to be imported for use in production of raisin paste, or a tolerance for capstems should be established for raisins to be imported for use in the production of raisin paste at a level of 70 to 80 capstems per 500 grams of raisins. This proposal is not adopted because the domestic marketing order contains no comparable provision with respect to domestically produced raisins and section 8e requires the same or comparable restrictions be placed on imported raisins as are placed upon domestically produced raisins under the marketing order.

The amended regulation will continue to require that all raisins be inspected by USDA inspectors. Importers of raisins which do not meet the applicable grade and size requirements with respect to mechanical damage and sugaring and which are to be imported for use in the production of raisin paste will be required to file certain forms with the Bureau of Customs and the Department for administrative and compliance purposes.

After consideration of all relevant information, including that in the notice, the written comments received pursuant to the notice, and other available information, it is hereby ordered that § 999.300 is amended as follows:

1. In paragraphs (a)(7), (b), and (d), of § 999.300, the phrase "at the port of arrival" is deleted.

2. Subparagraph (2) of § 999.300(e) is revised to read as follows:

(2) Any person may import any lot of raisins which does not meet the applicable grade and size requirements of paragraph (b) of this section for use in the production of alcohol, syrup for industrial use, or which does not meet such requirements with respect to mechanical damage or sugaring for use in the production of raisin paste. Prior to such importation, such person shall file with the Bureau of Customs' Regional Commissioner or District Director, as applicable, at the port at which the customs entry is filed an executed "Raisins—Section 8e Entry Declaration" prescribed in subdivision (i) of this subparagraph as "Raisin Form No. 1". Promptly after such filing, such person shall transmit a copy of this form to the Fruit and Vegetable Division. No person may import, sell, or use any raisins which do not meet the applicable grade and size requirements of paragraph (b) of this section, for use in the production of alcohol, syrup for industrial use, or raisin paste shall obtain from each purchaser, not later than the time of delivery to such purchaser, and file with the Fruit and Vegetable Division not later than the fifth day of the month following the month in which the raisins were delivered, an executed "Raisins—Section 8e Certification of Processor or Reseller," prescribed in subdivision (ii) of this subparagraph as "Raisin Form No. 2." One copy of this executed form shall be retained by the importer and one copy shall be retained by the purchaser. Each reseller of raisins imported pursuant to this subparagraph should, for his protection, obtain from each purchaser and hold in his files an executed Raisin Form No. 2, covering such sales of such raisins during the calendar year. One copy of this executed form shall be retained by the reseller and one copy shall be retained by the purchaser.

(i) *Raisin Form No. 1.* The following is prescribed as Raisin Form No. 1.

RAISIN FORM NO. 1

RAISINS—SECTION 8e ENTRY DECLARATION

I certify to the U.S. Department of Agriculture and the Bureau of Customs that none of the raisins being imported and which are identified below will be used other than in the production of alcohol, syrup for industrial use, or raisin paste.

1. Name of vessel: _____
2. Country of origin of raisins: _____
3. Date of arrival: _____
4. City of arrival: _____
5. Unloading pier: _____
6. USDA Certificate of Quality and Condition Number: _____
7. Raisins entered: _____

Lot or chop mark	Number of containers	Total net weight (pounds)

I agree to obtain from each person to whom any of the raisins listed above are delivered, an executed Raisin Form No. 2 "Raisins—Section 8e Certification of Processor or Reseller" and to file the same with the Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, not later than the fifth day of the month following the month in which the raisins were delivered.

Dated: _____

Name of firm: _____
Address: _____
Signature: _____
Title: _____

(ii) *Raisin Form No. 2.* The following is prescribed as Raisin Form No. 2.

RAISIN FORM NO. 2

RAISINS—SECTION 8e CERTIFICATION OF PROCESSOR OR RESELLER

I hereby certify to the U.S. Department of Agriculture that I have acquired the raisins covered by this certification; that I will use or sell them for use only in production of alcohol, syrup for industrial use, or raisin paste, as permitted by the Regulation Governing the Importation of Raisins (7 CFR 999.300; 37 F.R. 5282; 13634) and I am: (Check one or more if applicable)

____ Producer of alcohol ____ Producer of syrup for industrial use ____ Producer of raisin paste ____ Reseller

1. Date of purchase: _____
2. Place of purchase: _____
3. Name and address of importer or seller: _____
4. USDA Certificate of Quality and Condition Number: _____
5. Raisins acquired:

Number of containers	Total net weight (lbs.)

Dated: _____
Name of firm: _____
Address: _____
Signature: _____
Title: _____

It is hereby found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), and for making it effective on the date hereinafter stated, in that: (1) This action permits importation of raisins, which do not meet the applicable grade and size requirements of this part with respect to mechanical damage and sugaring, for use in the production of raisin paste; (2) heretofore, the importation of such raisins for use in such outlets was prohibited, and thus this action relieves restriction on importation of raisins; (3) importers of such raisins require no advance preparation to comply with this action; and (4) no useful purpose would be served by postponing the effective time of this amendatory action.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 6, 1972, to become effective November 10, 1972.

CHARLES R. BRADER,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72–19295 Filed 11–8–72;8:54 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

[Docket No. 72–575]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined and Released

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, paragraph (e)(2) relating to the State of Indiana, a new subdivision (iv) relating to Madison, Henry, and Hancock Counties is added to read:

(e) • • •

(2) *Indiana.* • • •

(iv) The adjacent portions of Madison, Henry, and Hancock Counties bounded by a line beginning at the junction of U.S. Highway 36 and the Fall Creek-Adams Township line in Madison County; thence, following U.S. Highway 36 in an easterly direction to the Fall Creek-Jefferson Township line in Henry County; thence, following the Fall Creek-Jefferson Township line in a southerly direction to the junction of the Fall Creek-Jefferson-Harrison Township lines; thence, following the Jefferson-Harrison Township line in an easterly direction to County Road 400 W; thence, following County Road 400 W in a southerly direction to Greensboro Road; thence, following Greensboro Road in an easterly direction to the junction of the Greensboro-Henry-Spiceland Township lines; thence, following the Greensboro-Spiceland Township line in a southerly, then westerly direction to Interstate Highway 70; thence, following Interstate Highway 70 in a southwesterly direction to State Highway 209 in Hancock County; thence, following State Highway 209 in a northerly direction to the Hancock-Madison County line; thence, following the Hancock-Madison County line in an easterly direction to the Fall Creek-Adams Township line in Madison County; thence, following the Fall Creek-Adams Township line in a northerly direction to its junction with U.S. Highway 36 in Madison County.

2. In § 76.2, paragraph (e)(5) relating to the State of Mississippi is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264–1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended, 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments quarantine portions of Madison, Henry, and Hancock Counties in Indiana because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined areas.

The amendments exclude portions of Kemper and Lauderdale Counties in Mississippi from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas contained in 9 CFR Part 76, as amended, do not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 apply to the excluded areas. No areas in Mississippi remain under quarantine.

Insofar as the amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera, they must be made effective immediately to accomplish their purpose in the public interest. Insofar as the amendments relieve restrictions presently imposed, they are no longer deemed necessary to prevent the spread of hog cholera, and they should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 3d day of November 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72–19263 Filed 11–8–72;8:51 am]

[Docket No. 72–576]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, in paragraph (e)(2) relating to the State of Indiana, subdivision (ii) relating to Randolph County is amended to read:

(e) • • •

(2) *Indiana.* • • •

(ii) That portion of Randolph County bounded by a line beginning at the junction of State Highway 32 and Greenville Pike; thence, following Greenville Pike in a southeasterly direction to County Road 400E; thence, following County Road 400E in a northerly direction to County Road 700N; thence, following County Road 700N in an easterly direction to the Indiana-Ohio State line; thence, following the Indiana-Ohio State line in a southerly direction to the Randolph-Wayne County line (in Indiana); thence, following the Randolph-Wayne County line (in Indiana) in a westerly direction to the West River-Washington Township line; thence, following the West River-Washington Township line in a northerly direction to the junction of

the West River-Washington-White River

Chapter III—Animal and Plant Health

sorbitol or its use as a food additive for the purposes cited in the FEDERAL REG-

553, it is found upon good cause that further notice and other rule making

[Airspace Docket No. 72–SW–63]

flown over a specified route or portion thereof. These altitudes, when used in

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the West River-Washington-White River Township lines; thence, following the White River-Washington Township line in an easterly direction to Huntsville Pike; thence, following Huntsville Pike in a northeasterly direction to State Highway 32; thence, following State Highway 32 in an easterly direction to its junction with Greenville Pike.

2. In § 76.2, in paragraph (e)(7) relating to the State of Ohio, a new subdivision (iv) relating to Darke County is added to read:

(e) * * *

(7) *Ohio.* * * *

(iv) That portion of Darke County bounded by a line beginning at the junction of the Ohio-Indiana State line and Washington Road: thence, following Washington Road in an easterly direction to New Madison-Coletown Road; thence, following New Madison-Coletown Road in a southerly direction to State Highway 502; thence, following State Highway 502 in a westerly direction to the Ohio-Indiana State line; thence, following the Ohio-Indiana State line in a northerly direction to its junction with Washington Road.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264–1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132, 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210 as amended, 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments quarantine a portion of Darke County in Ohio and an additional portion of Randolph County in Indiana because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined areas.

The amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera, and must be made effective immediately to accomplish their purpose in the public interest. It does not appear that public participation in this rule making proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 3d day of November 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-19264 Filed 11-8-72;8:51 am]

Chapter III—Animal and Plant Health Inspection Service (Meat and Poultry Products Inspection), Department of Agriculture

SUBCHAPTER A—MANDATORY MEAT INSPECTION

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

Sorbitol in Cooked Sausages

On December 17, 1971, there appeared in the FEDERAL REGISTER (36 F.R. 24005) a notice of proposed rule making to provide for the use of sorbitol in formulas for cooked sausages labeled frankfurter, frank, furter, wiener, and knockwurst. The food additive was proposed for use as an optional flavoring agent, to facilitate removal of the artificial casing from products after processing, and to reduce charring when the products are cooked by means of prolonged direct contact with heated metal surfaces. The notice cited data supplied to the Department as support for the use of sorbitol as proposed. The data along with information from observations of test products by USDA staff members were filed for public examination in the Office of the Hearing Clerk.

Statement of considerations: The proposal indicated the Department's intent to preclude the simultaneous use of sorbitol with corn syrup and similar sweetening agents. This restriction was based on the lack of a practical routine laboratory procedure to quantitate sorbitol in the presence of corn syrup and corn syrup solids. Also, methodology was not available to determine corn syrup and corn syrup solids when in a mixture with sorbitol. Therefore, the use of the flavoring agents in excess of the permitted 2 percent would not be analytically determined. The comments submitted on the proposal did not contain information or data on practical or effective laboratory procedures to determine individual quantities of corn syrup, corn syrup solids, or sorbitol when together in formulas.

The comments on the whole consisted mainly of opinions. They contained very little additional information or data on sorbitol or its use as a food additive for the purposes cited in the FEDERAL REGISTER notice.

A thorough review of the entire record on sorbitol indicates that:

(1) Sorbitol is safe for use as a food ingredient. A regulation of the Food and Drug Administration provides for the use of sorbitol as a food additive when amounts are not used in excess of reasonable quantity requirements to accomplish the intended physical or technical effects.

(2) Sorbitol occurs naturally in a variety of fruits and berries.

(3) Sorbitol is widely used in the manufacture of candies, shredded sweetened cocoanut, and other confections and as an ingredient of various pharmaceuticals.

(4) Sorbitol effectively facilitates the removal of artificial casings from processed cooked sausages.

(5) The surfaces of sausages that contain sorbitol are able to resist charring during prolonged contact with heated metal surfaces while awaiting sale.

(6) The sweetening power of sorbitol is sufficient to adequately contribute to the flavor of cooked sausages.

The available information substantiates the usefulness of sorbitol at the proposed rate in the preparation of the specific cooked sausages. It shows that sorbitol can be expected to provide processors with opportunities to prepare products that have the versatilities necessary to permit merchandising under a variety of market display conditions.

In consideration of all factors concerned with the proposal, the Department concludes that the meat inspection regulations should be amended to provide for the use of sorbitol in certain cooked sausages. Accordingly, in subparagraph (4) of paragraph (c) of § 318.7, as amended, the chart is amended as stated below:

In that portion of the chart dealing with class of substance, flavoring agents, protectors, and developers, the following information is added in alphabetical order:

§ 318.7 Approval of substances for use in the preparation of products.

* * * * *

Class of substance	Substance	Purpose	Products	Amounts
Flavoring agents, protectors and developers.	Sorbitol . . .	To flavor, to facilitate the removal of casings from product and to reduce caramelization and charring.	Cooked sausage labeled frankfurter, frank, furter, wiener, knockwurst.	Not more than 2 percent of the weight of the formula, excluding the formula weight of water or ice; not permitted in combination with corn syrup, and/or corn syrup solids.

* * * * *

(Sec. 21, 34 Stat. 1260, as amended, 21 U.S.C. 621; 29 F.R. 16210, as amended, 37 F.R. 6327, 6505)

The wording of the amendment differs in certain respects from that proposed in the notice of rule making. The wording changes were made to clarify the regulation, to be more consistent with § 318.7 (c)(4) of the regulations governing the use of certain other sweetening agents allowed in the same meat food products, and to provide a more uniform base from which inspectional surveillance can be exercised.

It does not appear that further public participation in rule making proceedings on the amendment would make additional information available to the Department. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that further notice and other rule making procedure on the amendment is impracticable and unnecessary.

The foregoing amendment to the regulations shall become effective 30 days after publication of this notice in the FEDERAL REGISTER.

Done at Washington, D.C., on November 6, 1972.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.72-19296 Filed 11-8-72;8:54 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 72-SW-56]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Kerrville, Tex., 700-foot transition area.

On August 19, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 16810) stating the Federal Aviation Administration proposed to alter the Kerrville, Tex., transition area by enlarging the area to the northwest.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 4, 1973, as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the Kerrville, Tex., transition area is amended to read:

KERRVILLE, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Kerrville Municipal (Louis Schreiner Field) Airport (latitude 29°58'41" N., longitude 99°05'11" W.); within 3 miles each side of the 134° bearing from the Kerrville RBN (latitude 29°59'11" N., longitude 99°04'31" W.) extending from the 5-mile radius area to 8 miles southeast of the RBN; within 3.5 miles each side of the 306° radial from the proposed non-Federal TVOR site (latitude 30°00'29" N., longitude 99°08'15" W.) to 11.5 miles northwest.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Fort Worth, Tex., on October 31, 1972.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.72-19190 Filed 11-8-72;8:45 am]

[Airspace Docket No. 72-SW-63]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter controlled airspace in the Austin, Tex., terminal area.

On September 26, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 20121) stating the Federal Aviation Administration proposed to alter the Austin, Tex. (Robert Mueller Municipal Airport), control zone and the Austin, Tex., transition area.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 4, 1973, as hereinafter set forth.

(1) In § 71.171 (37 F.R. 2056), the Austin, Tex. (Robert Mueller Municipal Airport), control zone is amended to read:

Austin, Tex. (Robert Mueller Municipal Airport) Within a 5-mile radius of Robert Mueller Municipal Airport (latitude 30°-17'55" N., longitude 97°42'00" W.); within 1.5 miles each side of the Austin VORTAC 304° radial extending from the 5-mile radius zone to 6 miles northwest of the Austin VORTAC; and within 1.5 miles each side of the Austin VORTAC 329° radial extending from the 5-mile radius zone to 6 miles northwest of the Austin VORTAC.

(2) In § 71.181 (37 F.R. 2143), the Austin, Tex., transition area is amended to read:

AUSTIN, TEX.

That airspace extending upward from 700 feet above the surface within a 16-mile radius of Robert Mueller Municipal Airport (latitude 30°17'55" N., longitude 97°42'00" W.); within 2 miles each side of the Bergstrom ILS localizer south course, extending from the 16-mile radius area to 12 miles south of the LOM.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Fort Worth, Tex., on October 31, 1972.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.72-19191 Filed 11-8-72;8:45 am]

[Reg. Docket No. 12339, Amdt. 95-226]

PART 95—IFR ALTITUDES

Miscellaneous Amendments

The purpose of this amendment to Part 95 of the Federal Aviation Regulations is to make changes in the IFR altitudes at which all aircraft shall be flown over a specified route or portion thereof. These altitudes, when used in conjunction with the current changeover points for the routes or portions thereof, also assure navigational coverage that is adequate and free of frequency interference for that route or portion thereof.

As a situation exists which demands immediate action in the interest of safety, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 95 of the Federal Aviation Regulations is amended, effective December 7, 1972 as follows:

1. By amending Subpart C as follows:

Section 95.101 *Amber Federal Airway 1* is amended to read in part:

From, To, and Mea

Port Alexander INT, Alaska; Sitka, Alaska, LF/RBN; 5,200.
Sitka, Alaska, LF/RBN; Harbor Point INT, Alaska; 5,200.

Section 95.102 *Amber Federal Airway 2* is amended to read in part:

Chip River INT, Alaska; Browerville, Alaska, LF/RBN; 2,000.

Section 95.679 *Blue Federal Airway 79* is amended to read in part:

Hazy Island INT, Alaska; Sitka, Alaska, LF/RBN; *6,900. *6,100—MOCA.
Sitka, Alaska, LF/RBN; Sisters Island, Alaska, LF/RBN; *6,500. *6,300—MOCA.

Section 95.1001 *Direct Routes—United States* is amended by adding:

Austin, Tex., VOR; Lockhart INT, Tex.; *2,500. *1,900—MOCA.

Section 95.1001 *Direct Routes—United States* is amended to delete:

Adak, Alaska, LF/RBN; Nikolski, Alaska, LF/RBN; 9,000.
Cold Bay, Alaska, LFR; Crab INT, Alaska; *4,000. *2,200—MOCA.
King Salmon, Alaska, LFR (Control 1484); Crab INT, Alaska; 2,000.
Crab INT, Alaska; Marlin INT, Alaska; 4,000.
Marlin INT, Alaska; Cold Bay, Alaska, LFR; 4,000.
Shemya, Alaska, LF/RBN; Adak, Alaska, LF/RBN; 8,000.
Toolik INT, Alaska; Bettles, Alaska, LF/RBN; *10,000. *9,600—MOCA.
Prudhoe Bay, Alaska, NDB; Toolik INT, Alaska; 3,000.
Domestic Yakutat INT, Alaska; Middleton Island, Alaska VOR; *2,000. *10,000 required without HF airborne communication equipment.
Domestic Anette INT, Alaska; Domestic Yakutat INT, Alaska; *2,000. *10,000 required without HF airborne communication equipment.
Juniper INT, Alaska; Flaxman, Alaska, LF/RBN; *2,000. *1,900—MOCA.
Juniper INT, Alaska; Flaxman Island, Alaska NDB; 2,000.
Sagwon, Alaska, NDB; Flaxman Island Alaska, NDB; 3,000.
Bergstrom INT, Tex.; Austin, Tex., VOR; 2,500.
Elroy INT, Tex.; Bergstrom INT, Tex.; *3,500. *1,800—MOCA.

		From, To, and MEA
Johnson City INT Tex.; Capitol INT, Tex.;	Ontario, Calif., VOR; Rialto INT, Calif., 4,500.	Barberville INT, Fla.; Roy INT, Fla.; *2,500. *1,200—MOCA.

Section 95.7507 *Jet Route No. 507* is amended to read in part:

States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150

Muscatine, Iowa—Muscatine Municipal Airport; NDB Runway 5, Amdt. 3; Revised.
Pocatello, Idaho—Pocatello Municipal Airport; NDB Runway 21, Amdt. 14; Revised.

XUM
V37-217 NOV 9 72 XUM

Johnson City INT Tex.; Capitol INT, Tex.: *3,400. *3,000—MOCA.

INT, 166° M rad, Austin VOR and 065° M rad, San Antonio VOR; Bergstrom INT, Tex.; *2,500. *1,800—MOCA.

Section 95.1001 *Direct routes—United States* is amended to read in part:

From, To, and MEA

Nassau, Bahamas, RBN; Carolina Beach, N.C., RBN (Via Control 1,151) *2,500. *1,200—MOCA.

Bahama Routes

Section 95.1001 *Direct routes—United States* 57–V is amended to read in part:

From, To, and MEA

Palm Beach, Fla. VOR; Bimini, Bahamas VOR; *2,000. *1,500—MOCA.

Section 95.5000 *High Altitude RNAV Routes.*

From/to; total distance; changeover point distance from geographic location; track angle; MEA; and MAA

J813R is amended to read in part:

Bremen, Ga., W/P, Montgomery, Ala., VORTAC; 102.5; 201°/030° to Montgomery; 18,000; 45,000.

Montgomery, Ala., VORTAC, Monroeville, Ala., W/P; 69.8; 226°/046° to Monroeville; 18,000; 45,000.

J836R is amended to read in part:

Judyville, Ind., W/P, Osgood, Ind., W/P; 119.6; 122 /302° to Osgood; 18,000; 45,000.

J842R is amended to read in part:

Memphis, Tenn., W/P, Watertown, Tenn., W/P; 203.6; 53.0, Memphis, 35°17'22" N., 88°58'08" W.; 061°/241° to COP, 067°/247° to Watertown; 18,000; 45,000.

Section 95.6002 *VOR Federal airway 2* is amended by adding:

From, to, and MEA

Nodine, Minn., VOR via S alter; INT, 146° M rad, Nodine VOR and 282° M rad, Lone Rock VOR via S alter; 3,000.

INT, 146° M rad, Nodine VOR and 282° M rad, Lone Rock VOR via S alter; Lone Rock, Wis., VOR via S alter; *3,000. *2,600—MOCA.

Section 95.6002 *VOR Federal airway 2* is amended to read in part:

Muskegon, Mich., VOR via S alter; James INT, Mich., via S alter; *2,600. *2,500—MOCA.

Section 95.6008 *VOR Federal airway 8* is amended to read in part:

Seal Beach, Calif., VOR via N alter; Pomona, Calif., VOR via N alter; 3,500.

*Pomona, Calif., VOR via N alter; Cable INT, Calif., via N alter; northeast-bound, 10,800; southwest-bound, 5,300.
*10,300—MCA Pomona VOR, northeast-bound.

Cable INT, Calif., via N alter; Mount San INT, Calif., via N alter; northeast-bound, 11,500; southwest-bound, 10,700.

Mount San INT, Calif., via N alter; *Apple INT, Calif., via N alter; 11,500. *9,100—MCA Apple INT, southwest-bound.

Apple INT, Calif., via N alter; Daggett, Calif., VOR via N alter; 7,500.

Seal Beach, Calif., VOR Olive INT, Calif., 3,000.

*Olive INT, Calif., Ontario, Calif., VOR; 5,000. *4,100—MCA Olive INT, northeast-bound.

Ontario, Calif., VOR; Rialto INT, Calif., 4,500.

*Rialto INT, Calif.; #Lucerne INT, Calif., 10,500. *8,800—MCA Rialto INT, northeast-bound. #9,300—MCA Lucerne INT, southwest-bound.

Lucerne INT, Calif.; Hector, Calif., VOR; *9,000. *8,000—MOCA.

Section 95.6021 *VOR Federal airway 21* is amended to read in part:

Seal Beach, Calif., VOR; Olive INT, Calif.; 3,000.

*Olive INT, Calif.; Ontario, Calif., VOR; 5,000. *4,100—MCA Olive INT, NE-bound.

Ontario, Calif., VOR; Rialto INT, Calif.; 4,500.

*Rialto INT, Calif.; #Lucerne INT, Calif.; 10,500. *8,800—MCA Rialto INT, NE-bound. #9,300—MCA Lucerne INT, SW-bound.

Lucerne INT, Calif.; Hector, Calif., VOR; *9,000. *8,000—MOCA.

Section 95.6107 *VOR Federal airway 107* is amended to read in part:

Los Angeles, Calif., VOR; Stadium INT, Calif.; 2,500.

Section 95.6122 *VOR Federal airway 122* is amended to read in part:

Crescent City, Calif., VOR; O'Brien DME Fix, Oreg., SW-bound, 6,000; NE-bound, 8,000.

O'Brien DME Fix, Oreg.; Applegate INT, Oreg.; *8,000. *10,000—MRA.

Section 95.6197 *VOR Federal airway 197* is amended to read in part:

*Pamona, Calif., VOR; Hawkins INT, Calif., NW-bound, 10,000; SE-bound, 6,400. *8,300—MCA Pomona VOR, NW-bound.

Hawkins INT, Calif.; *Palmdale, Calif., VOR; 10,000. *8,000—MCA Palmdale VOR, SE-bound.

Section 95.6210 *VOR Federal airway 210* is amended to read in part:

From, To, and MEA

Los Angeles, Calif., VOR; Diamond INT, Calif.; 3,500.

Diamond INT, Calif.; Pomona, Calif., VOR; 4,500.

*Pomona, Calif., VOR; Cable INT, Calif.; northeast-bound 10,800. Southwest-bound 5,300. *10,300—MCA Pomona, VOR, northeast-bound.

Cable INT, Calif.; Mt. San INT, Calif.; northeast-bound 11,500. Southwest-bound 10,700.

Mt. San INT, Calif.; *Apple INT, Calif.; 11,500. *9,100—MCA Apple INT, southwest-bound.

Apple INT, Calif.; Hector, Calif., VOR; 7,500.

Section 95.6264 *VOR Federal airway 264* is amended to read in part:

From, To, and MEA

Los Angeles, Calif., VOR; Stadium INT, Calif.; 2,500.

Stadium INT, Calif.; Alhambra INT, Calif.; 3,000.

*Pomona, Calif., VOR; Rialto INT, Calif.; 6,000. *5,600—MCA Pomona, VOR, eastbound.

*Rialto INT, Calif.; Redlands INT, Calif.; eastbound 12,800. Westbound 9,000. *11,400—MCA Rialto, INT, eastbound.

Redlands INT, Calif.; *Joshua INT, Calif.; 13,500. *11,500—MCA Joshua INT, westbound.

Joshua INT, Calif.; Twenty Nine Palms, Calif., VOR; 7,700.

Section 95.6267 *VOR Federal airway 267* is amended to read in part:

From, To, and MEA

Barberville INT, Fla.; Roy INT, Fla.; *2,500. *1,200—MOCA.

Section 95.6316 *VOR Federal airway 316* is amended to read in part:

From, To, and MEA

Train INT, Mich.; Emerson INT, Mich.; *5,500. *2,300—MOCA.

Section 95.6317 *VOR Federal airway 317* is amended to read in part:

Storey INT, Alaska; Perry DME Fix, Alaska; 5,000.

Perry DME Fix, Alaska; Whittier INT, Alaska, W-bound, *10,000; E-bound, *8,000. *8,000—MOCA.

Section 95.6357 *VOR Federal airway 357 is amended to read in part:*

*Tollgate INT, Wash.; **Walla Walla, Wash., VOR; 6,000. *7,000—MCA Tollgate INT, SE-bound. **5,000—MCA Walla Walla VOR, SE-bound.

Section 95.6452 *VOR Federal airway 452* is amended to read in part:

Nome, Alaska, VOR; Moses Point, Alaska, VOR; *5,000. *4,200—MOCA.

Galena, Alaska, VOR; Horseshoe DME Fix, Alaska; *6,000. *4,000—MOCA.

Horseshoe DME Fix, Alaska; Boney INT, Alaska; *7,000. *4,000—MOCA.

Section 95.6463 *VOR Federal airway 463* is deleted.

Section 95.7002 *Jet Route No. 2* is amended to read in part:

From, To, MEA, and MAA

Yuma, Ariz., VORTAC; Gila Bend, Ariz., VORTAC; 18,000; 45,000.

Section 95.7022 *Jet Route No. 22* is amended by adding:

Corpus Christi, Tex., VORTAC; Palacios, Tex., VORTAC; 18,000; 45,000.

Palacios, Tex., VORTAC; Lake Charles, La., VORTAC; 18,000; 45,000.

Section 95.7022 *Jet Route No. 22* is amended to delete:

Corpus Christi, Tex., VORTAC; Houston, Tex., VORTAC; 18,000; 45,000.

Houston, Tex., VORTAC; Lake Charles, La. VOR; 18,000; 45,000.

Section 95.7029 *Jet Route No. 29* is amended by adding:

Corpus Christi, Tex., VORTAC; Palacios, Tex., VORTAC; 18,000; 45,000.

Palacios, Tex., VORTAC; Humble, Tex., VORTAC; 18,000; 45,000.

Humble, Tex., VORTAC; Lufkin, Tex., VORTAC; 18,000; 45,000.

Section 95.7029 *Jet Route No. 29* is amended to delete:

Corpus Christi, Tex., VORTAC; Houston, Tex., VORTAC; 18,000; 45,000.

Houston, Tex., VORTAC; Lufkin, Tex., VOR; 18,000; 45,000.

Section 95.7037 *Jet Route No. 37* is amended by adding:

Houston, Tex., VORTAC; New Orleans, La., VORTAC; 26,000; 45,000.

Section 95.7138 *Jet Route No. 138* is amended by adding:

Houston, Tex., VORTAC; Lake Charles, La. VORTAC; 18,000; 45,000.

Section 95.7507 *Jet Route No. 507* is amended to read in part:

Deadhorse, Alaska LF/RBN; Fin LF INT, Alaska; 18,000; 45,000.

Fin LF INT, Alaska; Chooka LF INT, Alaska; 18,000; 45,000.

Chooka LF INT, Alaska; Fort Yukon, Alaska VOR; ±18,000; 45,000. ±MEA is established with a gap in navigation signal coverage.

Section 95.7515 *Jet Route No. 515* is amended to read in part:

Bettles, Alaska, VOR; Chip River LF INT, Alaska; 18,000; 45,000.

Chip River LF INT, Alaska; Browerville, Alaska LF/RBN; 18,000; 45,000.

Section 95.7595 *Jet Route No. 595* is added to read:

U.S. Canadian Border; Watertown, N.Y. VORTAC; 23,000; 45,000.

Watertown, N.Y., VORTAC; Plattsburgh, N.Y., VORTAC; 18,000; 45,000.

Plattsburgh, N.Y., VORTAC; Bangor, Maine, VORTAC; 18,000; 45,000.

Bangor, Maine, VORTAC; U.S. Canadian Border; 18,000; 45,000.

(Secs. 307, 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348, 1510)

Issued in Washington, D.C., on November 1, 1972.

C. R. MELUGIN, JR.,
Acting Director,
Flight Standards Service.

[FR Doc.72-19086 Filed 11-8-72;8:45 am]

[Docket No. 12338, Amdt. 837]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAP's) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAP's for the changes and additions covered by this amendment are described in FAA Form 3139, 8260–3, 8260–4, or 8260–5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97–696 (35 F.R. 5609).

SIAP's are available for examination at the rules docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAP's may be purchased from the FAA Public Document Inspection Facility, HQ–405, 800 Independence Avenue SW., Washington, DC 20591, or from the applicable FAA regional office in accordance with the fee schedule prescribed in (49 CFR 7.85). This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by establishing, revising, or canceling the following VOR–VOR/DME SIAP's, effective December 21, 1972.

Biddeford, Maine—Biddeford Municipal Airport; VOR–A, Original; Established.
Hickory, N.C.—Hickory Municipal Airport; VOR Runway 24, Amdt. 14; Revised.
Muscatine, Iowa—Muscatine Municipal Airport; VOR/DME–A, Amdt. 1; Revised.
Norfolk, Va.—Norfolk Regional Airport; VOR Runway 4, Amdt. 8; Canceled.
Norfolk, Va.—Norfolk Regional Airport; VOR/DME Runway 5, Original; Established.
Norfolk, Va.—Norfolk Regional Airport; VOR/DME Runway 23, Amdt. 3; Revised.
Pocatello, Idaho—Pocatello Municipal Airport; VOR Runway 3, Amdt. 12; Revised.
Pocatello, Idaho—Pocatello Municipal Airport; VOR/DME Runway 21, Amdt. 4; Revised.
Wisconsin Rapids, Wis.—Alexander Field South Wood County Airport; VOR/DME–A, Amdt. 1; Revised.

2. Section 97.23 is amended by establishing, revising, or canceling the following VOR–VOR/DME SIAP's, effective October 31, 1972.

Pierre, S. Dak.—Pierre Municipal Airport; VOR/DME Runway 7, Amdt. 3; Revised.
Pierre, S. Dak.—Pierre Municipal Airport; VOR Runway 25, Amdt. 11; Revised.

3. Section 97.25 is amended by establishing, revising, or canceling the following SDF–LOC–LDA SIAP's effective December 21, 1972.

Columbus, Ga.—Columbus Metropolitan Airport; LOC (BC) Runway 23, Amdt. 5; Revised.

4. Section 97.25 is amended by establishing, revising, or canceling the following SDF–LOC–LDA SIAP's effective October 27, 1972.

Bar Harbor, Maine—Bar Harbor Airport; LOC Runway 22, Amdt. 1; Revised.

5. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's, effective December 21, 1972.

Amchitka, Alaska—Amchitka Airport; NDB Runway 7, Amdt. 2; Revised.
Amchitka, Alaska—Amchitka Airport; NDB Runway 25, Amdt. 3; Revised.
Atlantic, Iowa—Atlantic Municipal Airport; NDB Runway 12, Amdt. 2; Revised.
Columbus, Ga.—Columbus Metropolitan Airport; NDB Runway 5, Amdt. 21; Revised.
Muscatine, Iowa—Muscatine Municipal Airport; NDB Runway 5, Amdt. 3; Revised.
Pocatello, Idaho—Pocatello Municipal Airport; NDB Runway 21, Amdt. 14; Revised.
Shenandoah, Iowa—Shenandoah Municipal Airport; NDB Runway 30, Amdt. 3; Revised.

6. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's, effective October 27, 1972.

Bar Harbor, Maine—Bar Harbor Airport; NDB–B, Amdt. 1; Revised.

7. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's, effective December 21, 1972.

Columbus, Ga.—Columbus Metropolitan Airport; ILS Runway 5, Amdt. 16; Revised.
Norfolk, Va.—Norfolk Regional Airport; ILS Runway 5, Amdt. 14; Revised.
Pocatello, Idaho—Pocatello Municipal Airport; ILS Runway 21, Amdt. 17; Revised.

8. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's, effective November 2, 1972.

New York, N.Y.—John F. Kennedy International Airport; ILS Runway 4R, Amdt. 19; Revised.

9. Section 97.31 is amended by establishing, revising, or canceling the following radar SIAP's, effective December 21, 1972.

Columbus, Ga.—Columbus Metropolitan Airport; Radar–1, Amdt. 2; Revised.
Norfolk, Va.—Norfolk Regional Airport; Radar–1, Amdt. 5; Revised.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510, Sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c) and 5 U.S.C. 552(a)(1))

Issued in Washington, D.C., on November 2, 1972.

C. R. MELUGIN, JR.,
Acting Director,
Flight Standards Service.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 F.R. 5610) approved by the Director of the FEDERAL REGISTER on May 12, 1969.

[FR Doc.72-19192 Filed 11-8-72;8:45 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

SUBCHAPTER A—PROCEDURES AND RULES OF PRACTICE

PART 2—NONADJUDICATIVE PROCEDURES

Subpart C—Consent Order Procedure

The Commission announces the following amendment to Subpart A of Part 2 of Chapter I of Title 16 of the Code of Federal Regulations. This amendment is effective on the date of publication in the FEDERAL REGISTER (11–9–72).

Section 2.34(b) is amended to read as

Articles 12, 13, 14, 15, 27, 30–8, and

functioning of the Office of Administra-

delegates, until the Commission orders

Secretary by administrative law judges designated to prepare such, pursuant to

trial memoranda setting forth the legal theories on which the parties rely, and

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Section 2.34(b) is amended to read as follows:

§ 2.34 Disposition.

* * * * *

(b) Upon receiving such an agreement, the Commission may: (1) Accept it; (2) reject it and issue its complaint and set the matter down for adjudication in regular course; or (3) take such other action as it may deem appropriate. If an agreement is accepted, the Commission will place the order contained therein on the public record for a period of thirty (30) days, during which it will receive and consider any comments or views concerning the order that may be filed by any interested persons. Thereafter, within thirty (30) days, the Commission may either withdraw its acceptance of the agreement and so notify the other party, in which event it will take such other action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require), and decision, in disposition of the proceeding.

* * * * *

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46)

By direction of the Commission, dated October 25, 1972.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-19298 Filed 11-8-72;8:54 am]

Title 17—COMMODITY AND SECURITIES EXCHANGE

Chapter II—Securities and Exchange Commission

[Release Nos. 33-5311, 34-9797, 35-17711, 39-324, IC-7392, IA-337]

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Change in Title of Hearing Examiners

The Commission has renamed the "Office of Hearing Examiners," so that it is now known as the "Office of Administrative Law Judges." The title "Hearing Examiner" has been changed to "Administrative Law Judge" and the title "Chief Hearing Examiner" has been changed to "Chief Administrative Law Judge." These changes were made to conform to a determination by the Civil Service Commission that on a Government-wide basis the position of "Hearing Examiner" should be retitled "Administrative Law Judge." Appropriate changes have been made in the Commission's rules of practice and the statement of organization and program management, including the rules relating to delegation of authority, as found in 17 CFR 200.1, et seq. Certain other changes were made in Part 200 of Title 17 to conform to existing practice. Articles 12, 13, 14, 15, 27, 30–8, and 30–10, as amended, are set forth below.[1]

Commission action. In conformity to the amendment effected by the U.S. Civil Service Commission in subpart B of part 930 of title 5 of the Code of Federal Regulations as published at 37 F.R. 16787, and pursuant to authority conferred upon it under section 1 of Public Law 87-592, sections 19 and 21 of the Securities Act of 1933, sections 4(b) and 23(a) of the Securities Exchange Act of 1934, section 20 of the Public Utility Holding Company Act of 1935, section 319 of the Trust Indenture Act of 1939, section 38 of the Investment Company Act of 1940 and section 211 of the Investment Advisers Act of 1940, the Securities and Exchange Commission hereby amends §§ 200.12, 200.13(b), 200.14, 200.15, 200.27, 300.30–8(a), and 200.30–10 of Chapter II of Title 17 of the Code of Federal Regulations, to read as follows:

§ 200.12 Functional responsibilities.

This section sets forth the administrative and substantive responsibilities of the Division Directors, Office Heads, Regional Administrators, and certain other Commission officers. All Commission officers and other staff members, except administrative law judges, shall perform, in addition to the duties herein set forth, such additional duties as the chairman of the Commission may assign from time to time. These officers also serve as liaison with Government and other agencies concerning matters within their respective functional responsibilities.

§ 200.13 The Secretary of the Commission.

* * * * *

(b) In addition, the Secretary has been delegated responsibilities relating to the Commission's rules of practice and other responsibilities.

§ 200.14 Office of Administrative Law Judges.

(a) Hearings for the purpose of developing the evidentiary record in the Commission's administrative proceedings are conducted before its administrative law judges. They rule on the admissibility of evidence and on legal and other issues which arise during the course of such proceedings. Unless waived by the parties, an initial decision is prepared by the administrative law judge in each case containing his conclusions as to the factual and legal issues presented and an appropriate order.

(b) The Chief Administrative Law Judge performs the duties of an administrative law judge and in addition those duties delegated to him by the Commission. He is responsible for the orderly functioning of the Office of Administrative Law Judges apart from the conduct of administrative proceedings and acts as liaison between that Office and the Commission.

§ 200.15 Director of the Office of Opinions and Review.

The Director of the Office of Opinions and Review is responsible for assisting members of the Commission in the preparation of the opinions of the Commission, and to the Commission for the preparation of opinions and decisions on motions and certifications of questions and rulings by administrative law judges in the course of administrative proceedings, except in cases where, pursuant to a waiver by the parties of separation of function requirements, another Division or Office of the Commission's staff undertakes to prepare such Findings and Opinion, in which cases the Director may assist in such preparation. * * *

§ 200.27 The Regional Administrators.

Each Regional Administrator is responsible for executing the Commission's programs within his geographic region as set forth below (except as specified below with regard to matters arising under chapters X and XI of the Bankruptcy Act), subject to policy direction and review by the Division Directors, the General Counsel, and the Chief Accountant. The Regional Administrator's responsibilities include particularly the investigation of transactions in securities on national securities exchanges, in the over-the-counter market, and in distribution to the public; the examination of members of national securities exchanges and registered brokers and dealers, investment advisers and investment companies including the examination of reports filed under § 240.17a–5 of this chapter; the examination and processing of filings under §§ 230.251 to 230.262 of this chapter issued pursuant to section 3(b) of the Securities Act of 1933; the prosecution of injunctive actions in U.S. District Courts and administrative proceedings before Administrative Law Judges; the rendering of assistance to U.S. attorneys in criminal cases; and the making of the Commission's facilities more readily available to the public in that region. In addition, the New York Regional Administrator is responsible for the participation in proceedings under chapters X and XI of the Bankruptcy Act in the New York and Boston regions, and in the State of Pennsylvania; the Chicago Regional Administrator in Chicago, Fort Worth and Denver regions, except for the State of Utah; and the Los Angeles Regional Administrator in the Los Angeles and Seattle regions, plus the State of Utah.

§ 200.30–8 Delegation of authority to Director of Office of Opinions and Review.

Pursuant to the provisions of Public Law No. 87–592, 76 Stat. 394, the Securities and Exchange Commission hereby

[1] See Securities Act Release No. 5309 (Sept. 27, 1972) for appropriate amendments to Rules 11 and 22 of the Commission's rules of practice.

delegates, until the Commission orders otherwise, the following functions to the Director of the Office of Opinions and Review, to be performed by him or under his direction by such person or persons as may be designated from time to time by the Chairman of the Commission:

(a) * * *

(1) * * *

(i) To consider an application for review of an interlocutory ruling which an administrative law judge has refused to certify, and to deny such application upon determining that the administrative law judge did not err in refusing to certify the matter.

(ii) To consider an interlocutory ruling which an administrative law judge has certified, and to affirm such ruling upon determining that such action is appropriate.

* * * * *

§ 200.30–10 Delegation of authority to Chief Administrative Law Judge.

Pursuant to the provisions of Public Law No. 87–592, 76 Stat. 394 (15 U.S.C. 78d–1), the Securities and Exchange Commission hereby delegates, until the Commission orders otherwise, the following functions to the Chief Administrative Law Judge or to such administrative law judge or administrative law judges as may be designated by the Chief Administrative Law Judge in his absence, or as otherwise designated by the Chairman of the Commission in the absence of the Chief Administrative Law Judge:

(a) With respect to proceedings conducted before an administrative law judge, pursuant to the Securities Act of 1933, 15 U.S.C. 77a et seq., the Securities Exchange Act of 1934, 15 U.S.C. 78a et seq., the Public Utility Holding Company Act of 1935, 15 U.S.C. 79a et seq., the Trust Indenture Act of 1939, 15 U.S.C. 77aaa et seq., the Investment Company Act of 1940, 15 U.S.C. 80a–1 et seq., and the Investment Advisers Act of 1940, 15 U.S.C. 80b-1 et seq.:

(1) After a proceeding has been authorized, to fix the time and place for hearing pursuant to Rule 6(b) of the Commission's rules of practice, § 201.6(b) of this chapter, and Rule 11(a) of the Commission's rules of practice, § 201.11 (a) of this chapter;

(2) To designate administrative law judges pursuant to Rule 11(b) of the Commission's rules of practice, § 201.11 (b) of this chapter;

(3) To postpone or adjourn hearings or otherwise adjust the date for commencement of hearings pursuant to Rule 13 of the Commission's rules of practice, § 201.13 of this chapter, or to advance or cancel such hearings, if necessary;

(4) To grant extensions of time within which to file papers pursuant to Rule 13 of the Commission's rules of practice, § 201.13 of this chapter;

(5) To permit the filing of briefs exceeding 60 pages in length, pursuant to Rule 22(d) of the Commission's rules of practice, § 201.22(d) of this chapter;

(6) To extend the time within which initial decisions are to be filed with the Secretary by administrative law judges designated to prepare such, pursuant to Rule 16(f) of the Commission's rules of practice, § 201.16(f) of this chapter;

(7) In the event the designated presiding administrative law judge is unavailable to issue subpenas requiring the attendance and testimony of witnesses and subpenas requiring the production of documentary or other tangible evidence at any designated place of hearing upon request therefor by any party, pursuant to Rule 14(b) of the Commission's rules of practice, § 201.14(b) of this chapter. (b) Notwithstanding anything in the foregoing, in any case in which the Chief Administrative Law Judge believes it appropriate he may submit the matter to the Commission.

(Secs. 1, Public Law 87–592, 15 U.S.C. 78d–1; secs. 19, 21, 209, 48 Stat. 85, 86, 908, 15 U.S.C. 77s, 77u; sec. 4(b), 48 Stat. 885, sec. 1106(a), 63 Stat. 972, 15 U.S.C. 78d(b); sec. 23(a), 48 Stat. 901, sec. 8, 49 Stat. 1379, 15 U.S.C. 78w; sec. 20, 49 Stat. 888, 15 U.S.C. 79t; sec. 319, 58 Stat. 1173, 15 U.S.C. 77sss; sec. 38, 54 Stat. 841, 15 U.S.C. 80a–37; sec. 211, 54 Stat. 885, sec. 14, 74 Stat. 888, 15 U.S.C. 80b–11)

The Commission finds that the foregoing amendments relate solely to rules of agency organization, procedure or practice and that notice and public procedure pursuant to 5 U.S.C. 553 are not required. The foregoing amendments shall be effective immediately.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

SEPTEMBER 27, 1972.

[FR Doc.72-19223 Filed 11-8-72;8:48 am]

[Release Nos. 33-5309, 34-9795, 35-17710, 39-323, IC-7389, IA-335]

PART 201—RULES OF PRACTICE

Miscellaneous Amendments

The Securities and Exchange Commission has amended certain of its rules of practice (17 CFR Part 201) governing administrative proceedings before the agency. The amendments are part of the Commission's continuing program of refining existing practices and procedures in the interest of providing for more efficient and expeditious conduct of and disposition of administrative proceedings, encouraging settlements between the parties, achieving greater fairness in adjudicative matters, and expanding the authority of hearing officers in the conduct of hearings. The amendments announced today were adopted by the Commission after consideration of various recommendations in this area made in the report of June 1, 1972, of the Advisory Committee on Enforcement Policies and Practices.

Rule 8(d) (17 CFR 201.8(d)) is amended to make it clear that the hearing officer may in appropriate cases direct the submission or exchange of pre-trial memoranda setting forth the legal theories on which the parties rely, and may require the disclosure of the identity of witnesses and a list of the documents intended to be introduced at the hearing. Under Rule 8(d) the hearing officer has had authority to order conferences during the course of the proceedings for the exchange of information and to simplify issues and expedite the proceedings. Moreover, under Rule 7(d) (17 CFR 201.7(d)) a party has been able to file a motion for a more definite statement of specified matters of fact or law to be considered or determined. While in the past the Commission has held that a respondent is entitled to be sufficiently informed of the charges against him so that he may adequately prepare his defense, but that he is not entitled as of right to a disclosure of evidence in advance of the hearing (see, e.g., "Michael J. Meehan," 1 SEC 238 (1935); "Charles M. Weber," 35 SEC 79 (1953)), the Commission has also indicated that in the exercise of discretion in order to expedite the proceeding it may be appropriate to direct that respondents be furnished additional information even of an evidentiary nature ("e.g., Murray Securities Corporation," 37 SEC 780, 781 (1957)). There has been a trend also in orders issued by hearing officers toward requiring the disclosure of more information in advance of hearing. The present amendment to Rule 8 (d) is intended further to indicate the Commission's policy to encourage the use of formal or informal conference procedures and the exchange of relevant information where practical and reasonable to expedite proceedings, arrive at settlements or simplification of the issues and assure fairness to respondents.

The authority so granted to the hearing officer is to be used in the exercise of his sound discretion where it appears that under all the circumstances the use of some or all of these procedures would make a substantial contribution to the settlement or expeditious disposition of issues. Such procedures would be of particular benefit in those cases where there are issues of an unusually complex nature or it appears likely that the hearings will require extended periods of time. By the same token, in the exercise of his sound discretion the hearing officer would not direct any procedure which would appear to involve an unnecessary burden or delay in a particular case, undermine staff independence of action, or require the disclosure of the names of witnesses where there is a reasonable basis to anticipate that such action may lead to undesirable pressures on or harassment of witnesses or otherwise not be in the public interest.

Several other amendments are made to clarify and expand the authority of hearing officers to control the course and conduct of administrative proceedings referred to them. Rule 6(d) (17 CFR 201.6(d)) is amended to make it clear that a hearing officer may, for cause shown, grant a motion for an amendment to the matters to be considered at any time after the commencement of

the hearing and prior to the filing of an

§ 201.6 Notice of proceedings and hear-

possibility of obtaining stipulations and

§ 201.13 Extension of time and adjourn-

practice, and that notice and procedures pursuant to 5 U.S.C. 553 are unnecessary

the staff, any submissions by interested persons will be forwarded to the Com-

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the hearing and prior to the filing of an initial decision or if no initial decison is to be filed, prior to the time fixed for the filing of final briefs with the Commission. Normally, the staff would file a motion to amend with the hearing officer where the proposed new matter is within the framework of the original order for proceedings issued by the Commission; if there is new matter which is without the framework of that order, the staff would submit its motion for amendment to the Commission.

Rule 8(a) (17 CFR 201.8(a)) is amended to specify that upon the agreement and request of the interested parties a hearing officer may in his discretion express his views regarding the appropriateness of a proposed offer of settlement with the understanding that such request constitutes a waiver of any claim of prejudice based on the hearing officer's expression of views. The hearing officer, of course, may decline to express his views on a settlement offer.

To give effect to the recent change in title made by the Civil Service Commission, Rule 11(b) (17 CFR 201.11(b)) is amended to change the designation of hearing examiner to that of administrative law judge.[1] Rule 11(d) (17 CFR 201.11(d)) is amended to state that a hearing officer in his discretion may require, in a proceeding involving more than one respondent, that the staff indicate at least 1 day before evidence is presented the respondent against whom that evidence will be presented. Rule 11(e) (17 CFR 201.11(e)) is amended to authorize the hearing officer to grant a motion to dismiss not only at the end of a proceeding but also in his discretion at the end of the staff's case.

Rules 13 and 16 (17 CFR 201.13, 201.16) are also amended to give hearing officers greater discretion in the granting of postponements or adjournments of hearings and fixing the time for the filing of proposed findings and conclusions and briefs. Likewise, Rule 22(d) (17 CFR 201.22(d)) is amended to allow a hearing officer to permit the filing of a brief exceeding 60 pages in length with that hearing officer.

Commission actions. Pursuant to authority conferred upon it under section 1 of Public Law 87–592, sections 19 and 21 of the Securities Act of 1933, sections 4(b) and 23(a) of the Securities Exchange Act of 1934, section 20 of the Public Utility Holding Company Act of 1935, section 319 of the Trust Indenture Act of 1939, section 38 of the Investment Company Act of 1940 and section 211 of the Investment Advisers Act of 1940, the Securities and Exchange Commission hereby amends Part 201 of Chapter II of Title 17 of the Code of Federal Regulations as set forth below.

I. Paragraph (d) of § 201.6 is amended to read as follows:

[1] See Securities Act Release No 5311 (September 27, 1972).

§ 201.6 Notice of proceedings and hearings.

* * * * * *

(d) *Amendment of order for proceedings.* In any proceeding, applications or motions for amendments to the matters of fact and law to be considered may be granted, for cause shown, by the hearing officer at any time after the commencement of the hearing and prior to the filing of an initial decision therein, or, if no initial decision is to be filed, prior to the time fixed for the filing of final briefs with the Commission, or by the Commission at any time.

* * * * * *

II. In § 201.8, subparagraph (2) of paragraph (a) is redesignated as subparagraph (3) of said paragraph (a) and a new subparagraph (2) is inserted thereunder; and paragraph (d) is amended; all to read as follows:

§ 201.8 Settlements, agreements, and conferences.

(a) *Offers of settlement.* * * *

(2) Upon the agreement and request of the interested parties, the hearing officer may express his views regarding the appropriateness of any offer of settlement, with the understanding that the request by the parties constitutes a waiver of any right to claim prejudgment by the hearing officer based on the views the hearing officer expresses, and the hearing officer in any event in his discretion may decline to express any view on the offer;

* * * * * *

(d) *Conferences and prehearing memoranda.* At the opening of a hearing or at any other time during the course of any proceeding, to the extent practicable, where time, the nature of the proceeding, and the public interest permit, the hearing officer shall, at the request of any party or upon his own motion, hold or order conferences for the purpose of clarifying and simplifying issues and otherwise facilitating or expediting the proceeding. At the conference or otherwise, the hearing officer, at the request of any party or upon his own motion, where he believes such action would tend to expedite the proceedings or promote fairness, may in his discretion and with due regard for the convenience and necessity of the parties or their attorneys, order a party, including the interested division, to furnish where practicable any or all of the following: An outline of its case or defense; the legal theories upon which it will rely; the identity of the witnesses who will testify on its behalf; and copies of or a list of documents which it intends to introduce at the hearing. The hearing officer shall not order any of the foregoing procedures that a party including the division can show is inappropriate under all the circumstances. At the conference, the parties shall where practical and reasonable consider such matters as (1) the possibility of obtaining stipulations and admissions of facts and of authenticity and contents of documents which will avoid unnecessary proof; (2) expedition in the presentation of evidence; (3) the exchange of copies of proposed exhibits; (4) settlement of the issues; and (5) such other matters as will promote a fair and expeditious hearing or aid in the disposition of the proceeding. Where such conference is held without the presence of the hearing officer, the hearing officer shall be advised promptly by the parties of the agreements reached. At or following the conclusion of a conference the hearing officer shall enter a ruling or order which recites the agreements reached and any procedural determinations made by the hearing officer, which may include any procedural ruling he is authorized to make during the course of a proceeding.

III. Section 201.11 is amended as follows:

a. The first sentence of paragraph (b) is amended.

b. In paragraph (d), new language is added at the end;

c. The first sentence of paragraph (e) is revised to read as follows:

§ 201.11 Hearings for the purpose of taking evidence; motions and applications to hearing officers.

* * * * * *

(b) *Presiding officers; public hearings.* All such hearings shall be held before the Commission or a hearing officer, who shall be an administrative law judge or other officer duly designated by the Commission or shall be one or more members of the Commission. * * *

* * * * * *

(d) * * * The hearing officer may in his discretion where practicable order the division in a proceeding involving more than one respondent to indicate on the record at least 1 day prior to the presentation of any evidence, each respondent against whom that evidence will be offered.

(e) *Rulings by hearing officer; exceptions.* Except as otherwise directed by the Commission, or where these rules specifically provide otherwise, all applications, motions and objections made during a proceeding prior to the filing of an initial decision therein, or, if no initial decision is to be filed, prior to the time fixed for the filing of final briefs with the Commission, shall be made to or referred to and decided by the hearing officer, except that an application or motion which requires a ruling which would dispose of the proceeding in whole or in part shall be made to the hearing officer after the conclusion of the division's case or after the conclusion of the hearing. * * *

IV. In § 201.13, paragraph (b) thereof is deleted, and paragraph (c) thereof is redesignated as paragraph (b) and as so redesignated paragraph (b) is amended to read as follows:

§ 201.13 Extension of time and adjournments.

* * * * * *

(b) *Limitations on postponements and adjournments.* A hearing before a hearing officer shall begin at the time and place ordered by the Commission, provided that, within the limits provided by statute, the hearing officer may for good cause postpone the commencement of the hearing for a reasonable period of time or change the place of hearing. Any convened hearing may be adjourned to such time and place as may be ordered by the Commission or by the hearing officer. It is the policy of the Commission that such postponements or adjournments should normally not exceed 30 days. If the hearing officer orders a postponement or an adjournment for a period exceeding 30 days, the reasons for so doing shall be stated in his order.

V. The first sentence of paragraph (e) of § 201.16 is amended to read as follows:

§ 201.16 Proposed findings and conclusions; initial decisions.[2]

* * * * * *

(e) *Time for filing proposed findings and briefs prescribed by hearing officer.* At the end of every hearing, the hearing officer shall, after consultation with the parties, prescribe the period within which such proposed findings and conclusions and supporting briefs are to be filed and shall direct such filings to be either simultaneous or successive: *Provided, however,* That the period within which the first filing is to be made, normally should be no more than 30 days after the close of the hearing, and if the hearing officer directs that the first filing be made at a date later than 30 days after the close of the hearing, the reasons for so doing shall be stated in his order. * * *

* * * * * *

VII. Paragraph (d) of § 201.22 is amended to read as follows:

§ 201.22 Filing; formalities; computation of time.

* * * * * *

(d) *Length and form of briefs.* All briefs filed with the Commission or with a hearing officer containing more than 10 pages shall include an index and table of cases. The date of each brief must appear on its front cover or title page. No brief shall exceed 60 pages in length, except with the permission of the Commission, or as to briefs filed with a hearing officer, with the permission of that hearing officer.

* * * * * *

(Sec. 1, Public Law 87–592, 15 U.S.C. 78d–1; secs. 19, 21, 209, 48 Stat. 85, 86, 908, 15 U.S.C. 77s, 77u; sec. 4(b) 48 Stat. 885, sec. 1106(a), 63 Stat. 972, 15 U.S.C. 78d(b); sec. 23(a) 48 Stat. 901, sec. 8, 49 Stat. 1379, 15 U.S.C. 78w; sec. 20, 49 Stat. 888, 15 U.S.C. 79t; sec. 319, 58 Stat. 1173, 15 U.S.C. 77sss; sec. 38, 54 Stat. 841, 15 U.S.C. 80a–37; sec. 211, 54 Stat. 885; sec. 14, 74 Stat. 888, 15 U.S.C. 80b–11)

The Commission finds that the foregoing amendments relate solely to rules of agency organization, procedure and practice, and that notice and procedures pursuant to 5 U.S.C. 553 are unnecessary and not required. The foregoing amendments, therefore, shall be effective immediately.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

SEPTEMBER 27, 1972.

[FR Doc.72–19224 Filed 11–8–72;8:48 am]

[Release Nos. 33–5320, 34–9818, IC–7422, IA–340]

PART 202—INFORMAL AND OTHER PROCEDURES

Preliminary or Formal Investigations

On September 27, 1972, the Commission issued a release describing certain informal Commission procedures relating to the commencement of enforcement proceedings and termination of staff investigations. See Release Nos. 33–5310; 34–9796; IC–7390; IA–336. Appropriate amendments have been made in the Commission's Statement of Informal and Other Procedures contained in Part 202 of Title 17 of the Code of Federal Regulations to reflect those procedures. The text of these amendments follows.

Commission action. Pursuant to authority conferred upon it under section 1 of Public Law 87–592, sections 19 and 21 of the Securities Act of 1933, sections 4(b) and 23(a) of the Securities Exchange Act of 1934, section 20(a) of the Public Utility Holding Company Act of 1935, section 319 of the Trust Indenture Act of 1939, section 38 of the Investment Company Act of 1940, and section 211 of the Investment Advisers Act of 1940, the Securities and Exchange Commission hereby amends paragraphs (c) and (d) of § 202.5 of Chapter II of Title 17 of the Code of Federal Regulations to read as follows:

§ 202.5 Enforcement activities.

* * * * * *

(c) Persons who become involved in preliminary or formal investigations may, on their own initiative, submit a written statement to the Commission setting forth their interests and position in regard to the subject matter of the investigation. Upon request, the staff, in its discretion, may advise such persons of the general nature of the investigation, including the indicated violations as they pertain to them, and the amount of time that may be available for preparing and submitting a statement prior to the presentation of a staff recommendation to the Commission for the commencement of an administrative or injunction proceeding. Submissions by interested persons should be forwarded to the appropriate Division Director or Regional Administrator with a copy to the staff members conducting the investigation and should be clearly referenced to the specific investigation to which they relate. In the event a recommendation for the commencement of an enforcement proceeding is presented by the staff, any submissions by interested persons will be forwarded to the Commission in conjunction with the staff memorandum.

(d) In instances where the staff has concluded its investigation of a particular matter and has determined that it will not recommend the commencement of an enforcement proceeding against a person, the staff, in its discretion, may advise the party that its formal investigation has been terminated. Such advice if given must in no way be construed as indicating that the party has been exonerated or that no action may ultimately result from the staff's investigation of the particular matter.

(Sec. 1, P.L. 87–592, 15 U.S.C. 78d–1; secs. 19, 21, 209, 48 Stat. 85, 86, 908, 15 U.S.C. 77s, 77u; sec. 4(b), 48 Stat. 885, sec. 1106(a), 63 Stat 972, 15 U.S.C. 78d(b); sec. 23(a), 48 Stat. 901, sec. 8, 49 Stat. 1379, 15 U.S.C. 78w; sec. 20, 49 Stat. 888, 15 U.S.C. 79t; sec. 319, 58 Stat. 1173, 15 U.S.C. 77sss; sec. 38, 54 Stat. 841, 15 U.S.C. 80a–37; sec. 211, 54 Stat. 885, sec. 14, 74 Stat. 88, 15 U.S.C. 80b–11)

The Commission finds that these amendments relate solely to rules of agency organization, procedure or practice, and notice and public procedures pursuant to 5 U.S.C. 553 are therefore not required. The foregoing amendments are effective immediately.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

OCTOBER 12, 1972.

[FR Doc.72–19225 Filed 11–8–72;8:48 am]

[Release No. 33–5314]

PART 230—GENERAL RULES AND REGULATIONS SECURITIES ACT OF 1933

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

Small Offering Exemption for Fractional Undivided Interests in Oil and Gas Rights

Notice is hereby given that the Securities and Exchange Commission has adopted amendments to Regulation B (17 CFR 230.300 to 230.356) of its general rules and regulations under section 3(b) of the Securities Act of 1933 (Act) which will become effective on January 1, 1973. This regulation, which provides an exemption from the registration requirements of the Act for certain offerings of fractional undivided interests in oil and gas rights, has not been materially amended since 1937.

The proposed revision would retain the general structure of the regulation, although it has been revised and reordered to make it clearer and to incorporate and codify certain administrative interpretations of the existing regulation. The Commission also has adopted several important revisions of the regulation which, because of changes in economic and industry conditions and because of certain abuses in past selling practices, appear

necessary in the public interest and for the protection of investors. The important

of the offering sheet 48 hours prior to any sale, which is a reasonable time for such

5. *Report of results of offering (Rule 316 (17 CFR 230.316) and Form 3–G).*—

to be raised under the regulation would be increased from $100,000 to $250,000.

Section 230.306 (17 CFR 230.306).—

sheet has been filed and the protection of investors does not appear to require a permanent suspension.

Securities Act of 1933, the Securities and Exchange Commission hereby rescinds all of present Regulation B (§§ 230.300

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necessary in the public interest and for the protection of investors. The important revisions include: (1) An increase in the dollar amount of an offering exempted from $100,000 to $250,000; (2) restriction on the use of sales literature and other forms of advertising; (3) a requirement for the delivery of the required offering sheet 48 hours before any sale may be made; (4) the denial on a prospective basis of the exemption to any person where he or certain related persons have been involved in violations of the Federal securities laws in connection with the sale of securities and revision of the procedure for suspension of the exemption to assist in obtaining compliance with the terms of the exemption; (5) a requirement for reports concerning the results of the offering on form 3–G (17 CFR 239.101(b)(2)); and (6) the elimination of the existing provision pertaining to offerings of less than $30,000 and in which the smallest interest offered or sold is not less than $300.

SUMMARY OF PRINCIPAL AMENDMENTS

Reference is made to the attached Regulation B and forms for the full text of the amendments thereto which should be carefully considered. The Commission has received a number of comments with respect to its proposal to adopt these amendments as announced on February 14, 1972 in Securities Act Release No. 5233 (37 F.R. 16008). The Commission's decision to adopt the proposals with certain revisions and additions discussed below, reflects consideration of those comments.

1. *Increase in dollar amount of exemption (Rule 302) (17 CFR 230.302).*—The Commission notes that economic conditions have changed significantly since 1937, and believes it is appropriate to increase the dollar amount of offerings exempted from $100,000 to $250,000 in order to reflect increases in drilling costs. Such an increase is also consistent with the Commission's recent action increasing the dollar amount of an offering exempted pursuant to section 3(b) of the Act and Regulation A (17 CFR 230.251–230.263) thereunder.

2. *Prior delivery of offering sheet (Rule 310) (17 CFR 230.310).*—The registration provisions of the Securities Act of 1933 provide for a "waiting period" between the filing date and effective date of a registration statement during which written offers to sell securities may be made by means of a preliminary prospectus. The Commission has, by rule or release, taken steps to encourage dissemination of the preliminary prospectus during this period in order to afford persons effecting a distribution and persons reasonably expected to be purchasers of the securities a means of being informed about the investment merits of the offering prior to the effective date of the registration statement. The Commission believes that persons purchasing securities offered pursuant to Regulation B should have a similar opportunity to consider the material in the offering sheet. Accordingly, rule 310(d) requires delivery of the offering sheet 48 hours prior to any sale, which is a reasonable time for such consideration and is in accordance with the standard applied in Securities Act Release No. 4968 (34 F.R. 7235).[1]

3. *Limitations on the use of sales literature and other forms of advertising (Rule 318) (17 CFR 230.318).*—Enforcement problems have been reported to the Commission relating to frequent abuses in the use of sales literature and advertising material in connection with offerings purported to be exempt pursuant to Regulation B. Accordingly, Rule 318 provides as a condition of the exemption, that advertising and sales material should be limited to the offering sheet, "tombstone" advertisements, and any material required by State law. The Commission has added a provision to Rule 318 as proposed for comment which would permit sales material to indicate whether the well to be drilled is to be exploratory or developmental.

4. *Grounds for denial of exemption and revision of suspension procedures (Rules 306, 334, 336, and 338 (17 CFR 230.306, 230.334, 230.336, and 230.338).*—It appears to the Commission that where persons who propose to publicly offer securities have violated provisions of the Federal securities laws within a reasonable period prior to a proposed offering, it may not be in the public interest to allow such persons to take advantage of the exemption from registration provided by Regulation B. Accordingly, Rule 306 provides a bar to the use of the exemption by such persons which would terminate after a period of 5 years and from which the Commission could grant relief upon a showing of good cause. However, the Commission has determined that Rule 306 would apply only to operative events under the rule, such as injunctive orders or stop orders, occurring subsequent to its adoption.

The procedures for suspending the exemption accorded by Regulation B have also been amended to provide for more effective enforcement. For example, Regulation B presently would permit a person to make other offerings pursuant to the regulation, if one offering is suspended. The amendment would prohibit such a practice, and generally, would make the suspension procedures pursuant to Regulation B similar to those under Regulation A. However, the proposal as announced in Release 33–5233 has been revised to permit a temporary suspension to be lifted prior to the entry of an order for hearing to determine whether a permanent suspension should be entered when the offering sheet has been appropriately amended and the protection of investors does not appear to require a permanent suspension. (See Rule 336(c).)

5. *Report of results of offering (Rule 316 (17 CFR 230.316) and Form 3–G).*—A report of the results of the offering would provide information which would be useful to investors particularly in view of the fact that there is no continuous reporting requirement under Regulation B similar to section 15(d) of the Exchange Act. Such a report is required from new registrants under the Securities Act pursuant to Rule 463 (17 CFR 230.463). The report as published for comment has been simplified and shortened.

6. *Deletion of the $30,000 provision (Rule 314(a) (17 CFR 230.314(a)).).*—Rule 314(a) presently provides that no exemption from the regulation is available unless the operating lessee will own a working interest of a specified amount upon completion of the sale of the issue. Under paragraph (b) of the rule, however, this provision does not apply if (i) the aggregate amount at which the issue is offered to the public does not exceed $30,000 and (ii) the smallest interest which is separately offered or sold to the public is not so offered or sold for less than $300. Paragraph (b) has been deleted from proposed Rule 302(c), the successor rule to Rule 314(a) because investors in issues conforming to the limitations of present Rule 314(b) need the prophylactic protections afforded by present Rule 314(a) to the same extent as investors in larger issues.

ANALYSIS OF PROPOSED RULES

General. The rules have been renumbered by using even numbers beginning with Rule 300. Odd numbers have been reserved for use in the future adoption of other rules as deemed necessary and appropriate in the public interest.

The presentation of the regulation, in general, follows this pattern:

A. Introduction.
B. Definitions.
C. Availability of the exemption.
  1. Requirements.
  2. Limitations.
D. Conditions for the exemption.
  1. Filing and use of the offering sheet, reports, sales materials.
E. The offering sheet.
  1. Form, preparation.
F. The suspension order.
  1. Reasons for suspension.
  2. Procedure.
  3. Effects of suspension.
G. Amendments.
H. Withdrawal and termination.

The more significant changes in the regulation are as follows: § 230.300 (17 CFR 230.300). The definitions in Rule 300 are based on and substantially similar to, those contained in the present Rule 300. The definition of the term "participating interest" has been extended to cover rights of participation in the oil or gas, or in the proceeds from the sale of oil or gas produced from a well or wells. Certain other revisions have been made to conform the definitions to other rules. Also, a definition of "affiliate" has been added to the rule as previously proposed.

Section 230.302 (17 CFR 230.302).—The maximum dollar amount permitted

[1] See Rule 460 (17 CFR 230.460) under the Act, Rule 15c2–8 (17 CFR 240.15c2–8) under the Securities Exchange Act, and Securities Act Release No. 4968. See also Securities Act Release No. 5277 (37 F.R. 16008) wherein the Commission recently announced a proposal to require delivery of offering circulars used in connection with offerings exempt pursuant to Regulation A 48 hours prior to any sale.

to be raised under the regulation would be increased from $100,000 to $250,000.

Section 230.306 (17 CFR 230.306).—This rule, which will operate prospectively, denies the exemption to an offeror where it has been involved in violations of the Federal securities laws. Included in the rule is a relief provision where the Commission, upon a showing of good cause, may permit the use of the exemption.

Section 230.310 (17 CFR 230.310).—The waiting period for sale has been extended from 8 to 10 days. In addition, the rule requires the furnishing of the offering sheet to investors 48 hours before a sale may be made or money or other consideration accepted. Two copies of the definitive offering sheet are required to be filed under this rule. Finally, the period of time during which the offering sheet may be used has been extended from 110 to 120 days.

Section 230.316 (17 CFR 230.316).—An additional report (Form 3–G) (17 CFR 239.102(b)(2)), showing how proceeds were expended and the results of drilling, is required to be filed not later than 3 months after completion of the offering and copies of the report are required to be distributed to participants who have purchased working or participating interests. The report is not required to be distributed to persons acquiring certain royalty interests or production payments. Additional reports may be required to provide information as to a well completion. The filing of a report of sales on Form 1–G (17 CFR 239.102(b)(1)) is required after the termination of sales, rather than after each individual sale, as previously required.

Section 230.318 (17 CFR 230.318).—This rule provides that, other than the limited forms of advertisements permitted by the rule and material required by State law, no form of advertising or sales literature would be permitted under this regulation.

Section 230.326 (17 CFR 230.326).—The number of schedules on which filings may be made pursuant to the regulation has been reduced from six to four, by the rescission of Schedules E and F (17 CFR 239.101(e), 239.101(f)).

Section 230.334 (17 CFR 230.334).—The existing suspension provision has been augmented by adding as bases for suspension both violations of the antifraud provisions of the Federal securities acts in connection with the offering and failure of certain persons to cooperate with the Commission in connection with any investigation relating to the offering. The provision requiring that a temporary suspension order must be entered within 7 days after filing the offering sheet has been removed.

Section 230.336 (17 CFR 230.336).—The suspension procedure has been amended to conform substantially with the procedure specified in Regulation A. After the entry of a temporary suspension order, if no hearing is requested, the order would become permanent on the 30th day after its entry unless an appropriate amendment to the offering sheet has been filed and the protection of investors does not appear to require a permanent suspension.

Section 230.338 (17 CFR 230.338).—This rule provides that the effectiveness of an offering sheet shall be delayed or suspended until any temporary or permanent suspension order issued is vacated.

Section 230.340 (17 CFR 230.340). This rule provides that an offering sheet may not be amended if sales have been made under that offering sheet. It further provides that any offering sheet may not be amended after an order for hearing on the suspension of the exemption for that offering has been entered.

Section 230.342 (17 CFR 230.342). This rule provides for the red-lining of one copy of an amendment in order to show changes from the previous filing.

FORMS AND SCHEDULES

Forms 1–G (17 CFR 239.101(b)(1) and 3–G (17 CFR 239.101(b)(2)). As noted in the reference to Rule 316 (17 CFR 230.316), above, the Commission has amended Form 1–G to reduce the number of such filings required and has adopted Form 3–G, a report disclosing how proceeds of the offering were expended and the results of drilling. Both Forms 1–G and 3–G are self-explanatory. Some simplification of Form 3–G as previously proposed has been accomplished in light of comments received.

Rescission of Form 2–G (17 CFR 239.101(h)). Existing Rule 322 conditionally excepts certain transactions from the offering sheet requirements prescribed by existing Rule 320. Certain of such transactions were required to be reported on Form 2–G. However, it appears that over the years few, if any, such transactions have been effected in reliance on the exceptions in Rule 322, and the Commission has not received a report on Form 2–G in years. The Commission, therefore, has eliminated the exceptions set forth in Rule 322. Form 2–G does not therefore appear necessary and has been rescinded. It further appears that the type of transactions excepted in Rule 322 are of the type which might permit sales in reliance on the exemptions provided by section 4(1) or 4(2) of the Act. Where such is not the case the Commission believes that delivery of an offering sheet should be required.

Rescission of Schedules E and F (17 CFR 239.101(e) and 239.101(f)). There have been six schedules (A through F) (17 CFR 239.101 (a)–(f)) for filing of offering sheets under Regulation B. The Commission has received no filings on Schedule E or F for years. It appears from a review of the schedules that Schedules A through D (formerly 17 CFR 239.101 (a)–(d) now 17 CFR 239.101 (a) (1)–(4)) provide all that is required by way of schedules under the regulation. Any filings that might have been made on Schedules E and F may be made on Schedule C or D (17 CFR 239.101(a)(3)–(4)). The Commission has therefore rescinded Schedules E and F.

Commission action. Pursuant to authority in sections 3(b) and 19(a) of the Securities Act of 1933, the Securities and Exchange Commission hereby rescinds all of present Regulation B (§§ 230.300 through 230.256) including the headnote thereto, and adopts a new Regulation B (§§ 230.300 through 200.346) including new headnote in Part 230 and amends § 239.101 in Part 239 of Chapter II of Title 17 of the Code of Federal Regulations reading as follows:

REGULATION B—EXEMPTION RELATING TO FRACTIONAL UNDIVIDED INTERESTS IN OIL OR GAS RIGHTS

Introduction. While compliance with this regulation does not require the registration of securities under the Securities Act of 1933 (the Act), the need to make filings with the Commission and to disclose certain basic information is not eliminated. Persons offering securities under this exemption, as conditions to the exemption, are still required to file prescribed documents with the Commission containing certain basic and material information and to provide prospective investors with this information with respect to such securities. The regulation and the rules provide a method for obtaining an exemption from the requirements of registration if certain conditions are met and the rules of the regulation are followed. It should also be noted that the antifraud provisions of the Federal securities laws and the civil liabilities provisions of section 12(2) of the Act remain applicable, even if the exemption is available.

Form S–10 (17 CFR 239.17) adopted pursuant to the Act is available for the registration of fractional interests in oil and gas rights should the exemption provided by this regulation be unavailable.

§ 230.300 Definitions of terms used in Regulation B.

(a) As used in Regulation B (§§ 230.300–230.346), the following terms shall have the respective meanings set forth below:

(1) *Fractional undivided interests.* The term "fractional undivided interest in oil or gas rights" shall include fractional undivided interests in landowner's royalty interests, overriding royalty interests, working interests, participating interests, and oil and gas payments as defined in subparagraphs (2) to (6) inclusive of this paragraph.

(2) *Landowner's royalty interest.* The term "landowner's royalty interest" means the right in the royalty reserved by a landowner or fee owner upon the creation of an oil and gas lease.

(3) *Overriding royalty interest.* The term "overriding royalty interest" means the right of participation in the oil or gas, or in the proceeds from the sale of the oil or gas, produced from a specified tract or tracts, which right is limited in duration to the terms of an existing lease and is not subject to any portion of the expense of development, operation, or maintenance.

(4) *Working interest.* The term "working interest" means that right in an oil or gas leasehold which is subject to any

portion of the expense of development,

(c) As used in this section, the term "operating lessee or lessee" shall in-

or enjoining such offeror from engaging

The Commission may, however, in its discretion, authorize the commencement

tion of sales, whichever comes first, the offeror, or offerors collectively, if more

fined in § 230.300 of this chapter, shall not be entitled to the exemption provided

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portion of the expense of development, operation, or maintenance.

(5) *Participating interest.* The term "participating interest" means the right of participation in the oil or gas, or in the proceeds from the sale of oil or gas, produced from a specified tract or tracts, or well(s), which right is limited in duration to the terms of an existing lease and is subject to any portion of the expense of development, operation, or maintenance.

(6) *Oil or gas payment.* The term "oil and gas payment" means the right of participation in the oil or gas, or in the proceeds from the sale of the oil or gas, produced from a specified tract or tracts, which is limited to a maximum amount fixed in barrels of oil, cubic feet of gas, or dollars.

(7) *Offeror.* The term "offeror" means any issuer of, underwriter of, or dealer in, any of the interests or rights offered under Regulation B (§§ 230.300–230.346) or any other person who issues, offers, or sells, any such interest or rights.

(8) *Offering sheet.* The term "offering sheet" means the offering sheet required by § 230.310.

(9) *Affiliate.* An "affiliate" of any person is a person controlling, controlled by, or under common control with such person.

(10) The terms "person," "issuer," "underwriter," and "dealer" shall have the meanings given in section 2 of the Act.

(b) Where the terms defined in subparagraphs (1) through (10) of paragraph (a) of this section are used in an offering sheet, such terms shall not be given a meaning inconsistent with such definitions. Other technical terms used in the offering sheet should not be inconsistent with their customary usage in the oil and gas industry.

§ 230.302 Interests exempted.

(a) Except as otherwise provided in this Regulation B, fractional undivided interests in oil and gas rights, such as landowner's royalty interests, oil or gas payments, overriding royalty interests, participating interests, or working interests which are offered and sold in accordance with the terms and conditions of this Regulation B, shall be exempt from registration under the Act, provided the aggregate amount of the offering does not exceed $250,000.

(b) No exemption shall be available under this Regulation B unless the operating lessee or lessees will own, as a minimum amount, unencumbered in his name or their names, upon completion of the sale of the issue, a working interest in the tract or tracts involved equal to whichever of the following amounts is greater: (1) 20 percent of the total production from such tract or tracts of all oil, gas, or other hydrocarbon substances, or (2) the total percentage of production from such tract or tracts which is not subject to any portion of the expenses of development, operation, or maintenance, such as the landowner's royalty and overriding royalty.

(c) As used in this section, the term "operating lessee or lessees" shall include the lessee of record actually engaged in developing and operating the tract or tracts involved and all other owners of working interests in the tract or tracts, who are regularly engaged in the business of exploring for or producing oil or gas and who have consented in writing to the development and operation of said tract or tracts by such lessee of record.

(d) No exemption shall be available under this Regulation B for limited partnership interests, "reversionary interests," and "interests in net profits." For purposes of this paragraph the term "reversionary interests" means the right of participation in an oil and gas right after the recovery by that right of all of its drilling, completion, and operating costs; and the term "interest in net profits" means the right of participation in the proceeds from the sale of the oil or gas after deduction of all expenses of operation.

§ 230.304 Interests involving noncontiguous tracts.

(a) Interests involving noncontiguous tracts of land may be included in the same offering sheet, only if the following conditions are met:

(1) All of the interests to be offered thereunder are landowner's royalty interests; and either:

(i) All of the tracts involving such interests are currently producing oil or gas, are located wholly within the limits of the same oil or gas pool, and are being currently operated by the same operator under an oil and gas lease executed by one or more landowners, each of whom was, at the time of the execution of the lease, the owner of a fee or mineral intrest in each of the tracts involved; or

(ii) All of the tracts involving such interests are nonproducing but appear, on the basis of all past and proposed development for oil or gas, to have equal possibilities for production of oil or gas; and

(2) The purchaser of any such interest is entitled to the same fractional portion of the oil and gas produced from each tract covered by the offering sheet.

§ 230.306 Limitations on offeror.

(a) No exemption shall be available under this regulation to any offeror if such offeror or any officer, director, predecessor, or affiliate of such offeror as a result of any civil, criminal, or governmental or self-regulatory administrative proceeding, or examination commenced after January 1, 1973:

(1) Has been convicted within 10 years prior to the filing or use of such offering sheet of any crime or offense in connection with the purchase or sale of securities;

(2) Is subject to any order, judgment or decree of any court of competent jurisdiction entered within 5 years prior to the filing or use of an offering sheet, temporarily or permanently restraining or enjoining such offeror from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security, or arising out of such person's conduct as an underwriter, broker, dealer, or investment adviser;

(3) Is subject to a United States Post Office fraud order entered within 5 years prior to the filing or use of an offering sheet;

(4) Has filed a registration statement which is the subject of any proceeding or examination under Section 8 of the Act, or is the subject of any refusal order or stop order entered thereunder within 5 years prior to the filing or use of such offering sheet;

(5) Is subject to an order of the Commission pursuant to section 15(b) of the Securities Exchange Act of 1934, or pursuant to section 203(d) or (e) of the Investment Advisers Act of 1940, or is suspended, or has been expelled from membership in a national or provincial securities dealers association or national securities exchange for conduct inconsistent with just and equitable principles of trade, if such order has been issued, or such action has been taken within 5 years prior to the filing or use of an offering sheet; and

(6) Has made any filing pursuant to sections 3(b) or (c) of the Securities Act of 1933 which is under an order of temporary suspension, or which is and has been under an order of permanent suspension within 5 years prior to the filing or use of such offering sheet.

(b) No exemption shall be available under Regulation B (§§ 230.300–230.346) if the offeror is in fact, a dealer and at the time of any offer to sell or any sale is not duly registered as a dealer pursuant to section 15 of the Securities Exchange Act of 1934, as amended.

(c) Notwithstanding the foregoing, this section shall not apply to any offering if the Commission determines, upon filing of an application and showing of good cause, that it is not necessary in the public interest and for the protection of investors that the exemption be denied. Any such relief granted by the Commission may be either general or on a specific filing basis. Any such determinations by the Commission shall be without prejudice to any other action by the Commission in any other proceeding or matter with respect to the offeror or any other persons.

§ 230.310 Filing and use of the offering sheet.

(a) At least 10 days prior to the commencement of the offering of any securities under this Regulation B, four copies of an offering sheet containing the information specified in § 230.326 shall be filed with the Commission by or on behalf of the offeror of the interests. At the time of filing the offering sheet, the applicant shall pay to the Commission a fee of $100, no part of which shall be refunded. Unless amended, the offering sheet shall become effective and an offering may commence on the 11th day following such filing with the Commission.

The Commission may, however, in its discretion, authorize the commencement of the offering prior to the expiration of such 10-day period.

(b) Except as provided in § 230.318, no securities shall be offered, orally or otherwise, under Regulation B (§§ 230.300–230.346) unless at or prior to the time of the initial offer of such securities an offering sheet meeting the requirements of paragraph (a) of this section concurrently is given to the person to whom the offer is made.

(c) The offer and sale of securities under Regulation B (§§ 230.300–230.346) shall be made through an offering sheet meeting the requirements of paragraph (a) of this section, and the information contained therein shall be as of a date not more than 120 days prior to the use of such offering sheet.

(d) No sale shall be made nor money or other consideration accepted from any person for the purchase of any security offered under this Regulation B until 48 hours after a copy of the offering sheet has been delivered to such person.

(e) If any sales under an offering sheet have been made and not rescinded, the offering sheet may be refiled only once thereafter to extend the time within which to complete the offering: *Provided*, That adequate disclosure was made in the offering sheet that such a refiling may be made.

(f) Within 10 days after the effective date of the offering sheet or any amendment thereto, two copies of such offering sheet shall be filed with the Commission in the exact form in which it is to be used. Each offering sheet so filed shall be dated and clearly identified in red on the first page as being a definitive copy of the offering sheet.

§ 230.312 Filing of offering sheets on behalf of other persons.

An offering sheet may be filed with the Commission for, and on behalf of, other persons, provided all such other persons are duly registered as dealers under section 15 of the Securities Exchange Act of 1934, and addresses of all such persons are filed with the Commission in duplicate prior to any use of such offering sheet by such other person; and the Commission may refuse to accept for filing any list which contains the name of any person who is not so registered.

§ 230.314 Delivery of evidence of title.

Prior to the making of a contract of sale with, and prior to the payment of any part of the consideration by, the purchaser of any interest offered under Regulation B (§§ 230.300–230.346), the offeror shall deliver to the purchaser evidence satisfactory to the purchaser of the validity of the title which he is to receive and upon which the value of his interest depends.

§ 230.316 Reports.

(a)(1) On or before the 15th day after the expiration of each effective offering sheet pursuant to Regulation B (§§ 230.300–230.346), or the termination of sales, whichever comes first, the offeror, or offerors collectively, if more than one, shall file with the Commission one copy of a report on Form 1–G (§ 239.101(b)(2) of this chapter) containing the information called for by that form. This report shall be filed whether or not any sales were made under the offering sheet.

(2) An additional such report on Form 1–G shall be filed on or before the 15th day after the termination of sales, or after the expiration of each additional effective offering sheet covering the same tract or tracts, whichever comes first, where such offering sheet has been refiled to extend time for the offer.

(3) These reports shall be kept confidential unless the Commission shall order otherwise.

(b) Not later than 3 calendar months after the termination of the offering, the offeror shall file with the Commission and send to purchasers of interests a report on Form 3–G (§ 239.101(b)(2) of this chapter), containing the information called for by that form. This form shall be filed and distributed at the times specified in the instructions to the form.

§ 230.318 Use of sales material.

(a) Any written advertisement or other written communication, or any radio or television broadcast, which states from whom an offering sheet meeting the requirements of Regulation B (§§ 230.300–230.346) may be obtained and, in addition, contains no more than the following information, may be published, distributed, or broadcast at or after the commencement of the public offering to any person prior to sending or giving such person a copy of the offering sheet:

(1) The name of the offeror of the interests;

(2) The identity or type of the interests to be offered;

(3) The number of such interests to be offered;

(4) The location (county and state) of the tract or tracts involved;

(5) The price of the interest to be offered; or

(6) The type of well to be drilled, such as an exploratory or developmental well.

(b) Except for the offering sheet required by Regulation B (§§ 230.300–230.346) and any material permitted by paragraph (a) of this section, no other advertisement, radio, or television broadcast, or written communication shall be used in connection with the offering of securities under Regulation B (§§ 230.300–230.346), except as required by state law.

§ 230.320 Restricting use of estimations not included in offering sheets.

A person using any estimation of the amount of oil or gas recoverable from the tract involved, or from any other tract for comparative purposes, in connection with an offer to sell any fractional undivided interest in oil or gas rights, defined in § 230.300 of this chapter, shall not be entitled to the exemption provided by Regulation B (§§ 230.300–230.346), and, shall not be relieved from any liability which, in the absence of the exemption provided by Regulation B, would be imposed upon such person because such security was unregistered, unless such estimation is permitted to be and is included in, and furnished as part of, an offering sheet accurately describing such security.

§ 230.322 Prohibition of certain statements.

No offering sheet or other written or oral communication used in connection with any offering under Regulation B (§§ 230.300–230.346) shall contain any language stating or implying that the Commission has in any way passed upon the merits of, or given its approval to, the securities offered or the terms of the offering, or has determined that the securities are exempt from registration, or has made any finding that the statements in any such offering sheet or other communication are accurate or complete.

§ 230.324 Liability for unauthorized use of offering sheet.

Any person using an offering sheet in connection with an offer to sell any security described therein shall not be entitled to the exemption provided by Regulation B (§§ 230.300–230.346), and, shall not be relieved from any liability which, in the absence of the exemption provided by Regulation B, would be imposed upon such person because such security was unregistered, unless such offering sheet has previously been filed with the Commission by, or for, or on behalf of, such person, and is effective at the time of its use.

§ 230.326 Form and contents of offering sheets.

(a) The offering sheets required by Regulation B (§§ 230.300–230.346) shall be filed with the Commission in the form prescribed in the schedules specifically enumerated below, which schedules, as amended and adopted, are, by reference, hereby incorporated in, and made a part of, this section.

(1) *Schedule A.*—If the interests offered are producing landowner's royalty interests.

(2) *Schedule B.*—If the interests offered are nonproducing landowner's royalty interests.

(3) *Schedule C.*—If the interests offered are producing overriding royalty interests, working interests, or participating interests, or are oil payments, gas payments, or oil and gas payments to be made from tracts represented to be producing at the time of the offering.

(4) *Schedule D.*—If the interests offered are nonproducing overriding royalty interests, working interests, or participating interests, or are oil payments, gas payments, or oil and gas payments to be made from tracts represented to be nonproducing at the time of the offering.

§ 230.328 Preparation of offering sheet.

(a) The offering sheet shall contain

mission in compliance with the rules and regulations of the Commission on behalf

and (2) that the Commission, upon receipt of a written request at any time within 30 days after the entry of such

(2) In the event a temporary suspension order is in effect and a hearing with respect thereto has not been ordered,

(1) *Schedule A.* If the interests offered are producing landowners' royalty interests,

tuate section 501 of H.R. 16810, approved by the President on October 27, 1972.

The provisions of 5 U.S.C. 553 which

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§ 230.328 Preparation of offering sheet.

(a) The offering sheet shall contain the information called for by all of the applicable items and required exhibits of the appropriate schedule according to the instructions thereto, but the instructions thereto shall not be repeated in the offering sheet.

(b) The information required shall be furnished as of a specified date no earlier than 30 days prior to the date of filing the offering sheet with the Commission, or as of such other date as may be indicated in the particular item or instruction of the applicable schedule. When any other date is used, such date shall be set forth with a brief statement as to the necessity for its use.

(c) If any item of information cannot be furnished, or there is reason to doubt the accuracy of all of the information available with respect thereto, the answer to the item may be omitted, but the reason for the omission must be given. In no case, however, may there be omitted information which is a matter of public record in the county, state, or other political subdivision in which the tract is located.

(d) The offering sheet which is given to the person to whom the offering is made may be printed, mimeographed, lithographed, or typewritten, or prepared by any similar process which will result in clearly legible copies. If it is printed, it shall be set in roman type at least as large as 10-point modern type, leaded at least 2 points, or if typewritten the type shall be no smaller than elite.

(e) At least one copy of the offering sheet filed with the Commission shall be manually signed by the offeror, or if there is more than one offeror by each of them. If the offering sheet is typewritten, the "original" ribbon copy shall be signed. Unsigned copies shall be conformed.

§ 230.330 Representations in offering sheets.

(a) All statements or information contained in any offering sheet or in any exhibit attached thereto or incorporated therein shall constitute continuing representations by the person filing such offering sheet to any person who may, in reliance upon a copy of such offering sheet, purchase any interest described therein, that the statements contained therein are substantially correct and that no material fact has been omitted, the inclusion of which would reasonably appear necessary, in the light of the circumstances, to make the information contained therein not misleading to the purchaser.

(b) All statements or information contained in any offering sheet shall constitute continuing representations by any offeror who shall deliver, or cause such offering sheet to be delivered, to any person who may, in reliance upon a copy of such offering sheet, purchase any interest described therein from, or through, such offeror, that such offering sheet is a true copy of an offering sheet filed with the Securities and Exchange Commission in compliance with the rules and regulations of the Commission on behalf of such offeror, that such offeror has reasonable grounds to believe, and does believe, that the statements contained therein are substantially correct, and, that no material fact known to the offeror has been omitted, the inclusion of which would reasonably appear necessary, in the light of the circumstances, to make the information contained therein not misleading to the purchaser.

(c) If an estimation of recoverable oil or gas, or a geological report made by someone other than the person filing the offering sheet, is included in the offering sheet, the contents thereof shall not be regarded as a representation by the person filing the offering sheet; *Provided*, The person filing the offering sheet has reason to believe, and does believe, that the author of such estimation or report possesses the qualifications and integrity necessary to make such estimation or report, and provided the person filing the offering sheet does not know or believe the estimation or report to be untrue or misleading in any respect.

§ 230.332 The use of the offering sheet.

Each offering sheet used, distributed, or delivered by the person making the filing with the Commission or by any other person shall be an exact copy of the offering sheet filed with the Commission (as amended, if amended).

§ 230.334 Reasons for suspension.

(a) The Commission may, at any time after the filing of an offering sheet, enter an order temporarily suspending the exemption if it has reason to believe that:

(1) No exemption is available under Regulation B (§§ 230.300–230.346) for the securities purported to be offered hereunder, or any of the terms or conditions of this Regulation B have not been complied with, including failure to file any reports;

(2) The offering sheet, or any literature or report permitted or required by Regulation B, or used, contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading;

(3) The offering has been, or is being, made in violation of the antifraud provisions of section 17 of the Act and section 10 of the Securities Exchange Act of 1934, as amended;

(4) The issuer, offeror, underwriter, or any promoter, officer or director thereof has failed to cooperate or has obstructed, or refused to permit the making of an investigation by the Commission in connection with any offering made or proposed to be made hereunder.

§ 230.336 The suspension procedure.

(a) Upon the entry of an order under paragraph (a) of § 230.334, the Commission will promptly give notice to the persons on whose behalf the notification was filed (1) that such order has been entered, together with a brief statement of the reasons for the entry of the order, and (2) that the Commission, upon receipt of a written request at any time within 30 days after the entry of such order, will set the matter down for hearing within 30 days after the receipt of such request at a place to be designated and on a date to be set by the Commission. (Where a hearing is requested or is ordered by the Commission, the Commission will, after notice of and opportunity for such hearing, either vacate the order or enter an order permanently suspending the exemption.)

(b) The Commission may at any time after notice of and opportunity for hearing, enter an order permanently suspending the exemption for any reason upon which it could have entered a temporary suspension order under paragraph (a) of this section. Any such order shall remain in effect until vacated by the Commission. If no hearing is requested and none is ordered by the Commission, the order shall become permanent on the 30th day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission.

(c) If any time before the Commission enters an order setting the matter down for hearing, it finds that an offering sheet has been amended to cure the objectives specified in any temporary suspension order entered pursuant to § 230.334, the Commission may, in its sole discretion, upon written request or upon its own motion where necessary or appropriate in the public interest or for the protection of investors terminate the proceedings which have been instituted by any such temporary suspension order and give notice of such action to the person who filed the offering sheet.

(d) All notices required by this section shall be given by personal service, registered or certified mail, or confirmed telegraphic notice to the person or persons on whose behalf the offering sheet was filed at the addresses of such persons given in the offering sheet.

§ 230.338 Effect of suspension order.

(a) An offering sheet complying with the requirements of Regulation B (§§ 230.300–230.346) shall become effective on the 11th day after the date upon which it is received by the Commission for filing except that (1) if the Commission shall enter a temporary suspension order, the offering sheet shall not become effective, or if effective shall no longer be effective until the temporary suspension order expires or is vacated; (2) if the Commission shall enter a permanent suspension order, the offering shall not become or shall no longer be effective.

§ 230.340 When offering sheet may be amended.

(a) Any person who has filed an offering sheet may, subject to the provisions of § 230.342, file amendments thereto, but only under the following conditions and in the following instances:

(1) In the event none of the securities referred to in said offering sheet have been sold and the person filing the offering sheet shall so represent to the Commission in writing.

(2) In the event a temporary suspension order is in effect and a hearing with respect thereto has not been ordered.

* * * * *

§ 230.342 How offering sheet may be amended.

(a) Any amendment to an offering sheet shall be filed in accordance with this section and shall become and be effective only as hereinafter provided:

(1) An amendment shall be made either by filing or substituting a wholly corrected offering sheet, or by filing or substituting entire exhibits or pages, as amended.

(2) Four copies of the amendment shall be filed with the Commission, and each copy shall bear the signature of the person who filed the offering sheet as well as every other person whose estimations or statements are modified or affected by such amendment. Where the amendment is made by filing or substituting exhibits or pages, each such exhibit or page shall be signed by the persons whose signatures are required by this subparagraph.

(3) Any amendment complying with the requirements of Regulation B (§§ 230.300–230.346) shall become effective at such time as the Commission may order.

(4) One copy of any amendment filed shall be notated in red to indicate any changes from the previous filing.

§ 230.344 Withdrawal.

An offering sheet or any amendment or exhibit thereto may be withdrawn upon application if none of the interests described therein have been sold, if all persons on whose behalf the offering sheet was filed and who have received copies thereof have been notified in writing of the intention to withdraw it and the Commission, finding such withdrawal consistent with the public interest and protection of investors consents thereto. Application for the order shall be signed by the person who filed the offering sheet and shall establish the foregoing conditions necessary to the withdrawal.

§ 230.346 Termination.

The Commission will enter an order terminating the exemption if all persons on whose behalf the offering sheet was filed and who have received copies thereof have been notified in writing of the intention to terminate it, and if the Commission shall find it otherwise appropriate in the public interest to do so. Application for the order shall be in the form of an affidavit by the person who filed the offering sheet and shall establish the foregoing conditions necessary to the termination.

§ 239.101 Schedules and forms for offering sheets pertaining to fractional undivided interests in oil or gas rights offered pursuant to exemption under Regulation B (§§ 230.300–230.346 of this chapter).

(a) An offeror of fractional undivided interests in oil or gas rights pursuant to §§ 230.300–230.346 of this chapter shall file an offering sheet, in accordance with § 230.310 or 230.312 of this chapter, upon the applicable schedule listed below:

(1) *Schedule A.* If the interests offered are producing landowners' royalty interests.

(2) *Schedule B.* If the interests offered are nonproducing landowners' royalty interests.

(3) *Schedule C.* If the interests offered are producing overriding royalty interests, working interests, or participating interests, or are oil payments, gas payments, or oil and gas payments to be made from tracts represented to be producing at the time of the offering.

(4) *Schedule D.* If the interests offered are nonproducing overriding royalty interests, working interests, or participating interests, or are oil payments, gas payments, or oil and gas payments to be made from tracts represented to be nonproducing at the time of the offering.

(b) An offeror will also have the obligation of filing the following reports in accordance with § 230.316 of this chapter:

(1) *Form 1–G.* One copy of this report will be filed with the Commission within 15 days after the expiration of the offering sheet or the termination of sales, whichever date is earlier. This form will report the sales of oil or gas interests pursuant to §§ 230.300–230.346 of this chapter.

(2) *Form 3–G.* Four copies of this report will be filed with the Commission within 3 calendar months after the termination of any offering pursuant to §§ 230.300–230.346 of this chapter. This form will report the results of the offering.

NOTE: Copies of amended Form 1–G and newly adopted Form 3–G have been filed with the Office of Federal Register as part of this document and are available upon request at the Securities and Exchange Commission, Washington, D.C. 20549.

(Secs. 3(b), 19(a), 48 Stat. 75, 85, Sec. 209, 48 Stat. 908, 59 Stat. 167, 84 Stat. 1480)

The Commission has taken the foregoing action pursuant to the Securities Act of 1933, particularly sections 3(b) and 19(a) thereof. Such action shall become effective on January 1, 1973, but shall not apply to offering sheets filed prior to that date.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

OCTOBER 11, 1972.

[FR Doc.72-19222 Filed 11-8-72;8:48 am]

Title 20—EMPLOYEES' BENEFITS

Chapter V—Manpower Administration, Department of Labor

PART 615—EXTENDED UNEMPLOYMENT COMPENSATION

Determination of National and State Indicators

Part 615 of Chapter V of Title 20 of the Code of Federal Regulations is amended by revising § 615.13(d) to effectuate section 501 of H.R. 16810, approved by the President on October 27, 1972.

The provisions of 5 U.S.C. 553 which require notice of proposed rulemaking and delay of effective date are not applicable because this amendment is needed on an emergency basis to implement section 501 of H.R. 16810 designed to permit States to pay, under stated conditions, extended compensation for weeks of unemployment beginning after October 27, 1972 and before July 1, 1973. Accordingly, I find that delay in the effective date would be contrary to the public interest.

The amendment shall become effective on the date of its publication in the FEDERAL REGISTER (11–9–72).

As amended, § 615.13 reads as follows:

§ 615.13 Determination of national and State indicators.

* * * * *

(d) There is a State "off" indicator for a State for a week if the head of the State agency determines, in accordance with § 615.14(b), that for the period consisting of such week and the immediately preceding 12 weeks, the total rate of insured unemployment (not seasonally adjusted)—

(1) Was less than 120 percent of the average of such rates for the corresponding 13-week period ending in each of the preceding 2 calendar years, or

(2) Was less than 4 percent.

Provided, however, That if a State by law so provides, an "off" indicator in the State resulting from the application of subparagraph (1) of this paragraph may be disregarded and the determination of whether there has been a State "off" indicator ending any extended benefit period shall be made under this section as if it did not contain subparagraph (1) of this paragraph; if there is no such State "off" indicator, the extended benefit period shall be deemed to continue and extended compensation shall be payable in the State of individuals entitled thereto but only for weeks of unemployment beginning after October 27, 1972 (or, if later, the date established pursuant to State law) and beginning before July 1, 1973; if there is such State "off" indicator, the extended benefit period shall end as provided in § 615.15(b): *Provided further,* That with respect to extended compensation for weeks of unemployment beginning after June 30, 1973, the determination of whether there has been a State "off" indicator ending any extended benefit period shall be made by the application of subparagraphs (1) and (2) of this paragraph.

* * * * *

(Federal-State Extended Unemployment Compensation Act of 1970, title II of Public Law 91–373, amended by section 501 of H.R. 16810; Secretary's Order No. 20–71, August 13, 1971)

Signed at Washington, D.C. this 3d day of November 1972.

M. R. LOVELL, Jr.,
Assistant Secretary for Manpower.

[FR Doc.72-19266 Filed 11-8-72;8:51 am]

Title 21—FOOD AND DRUGS

standards. The Act requires that the primary standards protect public health.

State plans disapproved in this action may in fact fulfill the requirements of

now better than the secondary standards. The disapproval applies to all

cial review of the approval may do so without delay.

1. The pesticide is useful for the purpose for which the tolerances are being

XUM V37-217 NOV 9 72 XUM

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 148e—ERYTHROMYCIN

Erythromycin Stearate; Change in Moisture Content

In a notice published in the FEDERAL REGISTER of March 8, 1972 (37 F.R. 4967), the Commissioner of Food and Drugs proposed to amend the antibiotic drug regulations by raising the moisture limit for erythromycin stearate from 3.0 to 4.0 percent.

One comment was received from a manufacturer in response to the proposal. The firm supported the revision to 4.0 percent, but requested the data upon which the proposed 4 percent limit was based. A summary of such data was provided the firm.

A compilation of certification data for the then current fiscal year (July 1971 to June 1972) shows that the moisture content of all erythromycin stearate produced meets the proposed 4 percent limit.

After consideration of the comment received and the relevant manufacturing data, the Commissioner concludes that the proposal should be adopted without change.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner (21 CFR 2.120), § 148e.6 *Erythromycin stearate* is amended in paragraph (a)(1)(iii) by changing the moisture content from "3.0" to "4.0" percent.

Effective date. This order shall be effective 30 days after its date of publication in the FEDERAL REGISTER.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: November 2, 1972.

MARY A. MCENIRY,
Assistant to the Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc.72-19215 Filed 11-8-72;8:47 am]

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Significant Deterioration of Air Quality

On April 30, 1971, pursuant to section 109 of the Clean Air Act, as amended, the Administrator promulgated national primary and secondary ambient air quality standards. The Act requires that the primary standards protect public health, with an adequate margin of safety, and that the secondary standards protect public welfare from any known or anticipated adverse effect. Under section 110 of the Act, States are required to prepare and submit to the Administrator plans for implementing the national ambient air standards in each air quality control region in the State. The Administrator published on May 31, 1972, his initial approvals and disapprovals of State implementation plans developed and submitted under these provisions of Federal law.

On May 30, 1972, the U.S. District Court for the District of Columbia decided the case of "Sierra Club v. Ruckelshaus" (Civil Action No. 1031-72) and issued an order which interpreted the Clean Air Act as requiring that, in addition to the attainment of the national standards, the Environmental Protection Agency was to prevent "significant deterioration" of air quality in those areas of the country in which air quality was already better than the standards. The order of the court specifically required the Administrator to again review State implementation plans to determine whether the plans permitted "significant deterioration of existing air quality in any portion of any State where the existing air quality is better than one or more of the secondary (ambient air quality) standards promulgated by the Administrator." The order also required that the Administrator announce his approval or disapproval of plans with respect to this issue within 4 months of the decision. Finally, it required that the Administrator promulgate regulations which were necessary to prevent "significant deterioration" for any State which lacked the necessary laws by December 1, 1972. In accordance with the court's order, a review of State plans was completed on September 30, 1972.

The review of State plans pursuant to the court order dealt with a number of factors which are pertinent to the prevention of "significant deterioration" of air quality. Among these factors were States' legal authority to prevent deterioration, the manner in which States provided for growth, the extent to which States intended to achieve ambient air quality standards more stringent than the national standards, and the extent to which State plans included procedures implementing a policy or requirement prohibiting "significant deterioration."

The review indicated that a majority of the State plans mentioned "nondegradation" of air quality in some manner, either as a statement of policy or as part of their regulations. However, no State included detailed provisions in its enforcement procedures or regulations for implementing such a policy. Accordingly, it has been determined that all State plans must be disapproved to the extent that they do not contain provisions which will effectively prevent "significant deterioration" of air quality. It should be understood, however, that some of the State plans disapproved in this action may in fact fulfill the requirements of the court order as that order is finally implemented.

The action taken herein to disapprove State implementation plans with respect to their provisions for "significant deterioration" is not intended to and should not be construed as affecting the validity of prior approvals or promulgations of State plans by the Administrator. Provisions of approved or promulgated plans remain in effect and are enforceable by the State and/or Federal Government in accordance with the provisions of the Clean Air Act.

To implement the requirement of the Clean Air Act, as interpreted by the court order, in a reasonable manner, the Administrator must resolve a number of complex, interrelated legal, technical, and social issues. The Environmental Protection Agency is proceeding toward resolution of these issues on a priority basis and expects to publish, as soon as possible, proposed regulations setting forth appropriate requirements for modification of State implementation plans.

The amendment set forth below is effective on the date of publication in the FEDERAL REGISTER (11-9-72), because prior notice, public participation, and deferral of effective date are impracticable. The Agency finds that good cause exists for not issuing notice and providing opportunity to comment on this amendment and for making it effective immediately upon publication, since the amendment is made pursuant to a court order which required the Agency to "* * * disapprove (by September 30, 1972) any portion of a State plan which fails to effectively prevent the significant deterioration of existing air quality in any portion of any State." "Sierra Club v. Ruckelshaus," 344 F.Supp. 253 (D.C.D.C., May 30, 1972).

(42 U.S.C. 1857g(a))

Dated: November 7, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator, Environmental Protection Agency.

Subpart A of Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended by adding § 52.21 as follows:

§ 52.21 Significant deterioration of air quality.

Subsequent to May 31, 1972, the Administrator reviewed State implementation plans to determine whether or not the plans permit or prevent significant deterioration of air quality in any portion of any State where the existing air quality is better than one or more of the secondary standards. The review indicates that State plans generally do not contain regulations or procedures specifically addressed to this problem. Accordingly, all State plans are disapproved to the extent that such plans lack procedures or regulations for preventing significant deterioration of air quality in portions of States where air quality is now better than the secondary standards. The disapproval applies to all States listed in Subparts B through DDD of this part. Nothing in this section shall invalidate or otherwise affect the obligations of States, emission sources, or other persons with respect to all portions of plans approved or promulgated under this part.

[FR Doc.72-19356 Filed 11-8-72;8:56 am]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval of Plan Revisions

On May 31, 1972 (37 F.R. 10842), the Administrator approved certain portions of the implementation plan submitted by the State of Massachusetts for attainment and maintenance of national ambient air quality standards in accordance with the Clean Air Act, as amended (42 U.S.C. 1857 et seq.). On July 27, 1972, a revision to the approved plan was submitted to the Administrator by the State after notice and public hearing. The revision modifies the compliance schedules as they relate to the source identified in the regulation set forth below.

The Administrator has determined that the revision in part is consistent with the requirements of the Clean Air Act and 40 CFR Part 51 and that part is approved as stipulated in the regulation set forth below. A copy of the implementation plan, as revised, is available for public inspection at the Environmental Protection Agency, 401 M Street SW., Washington, DC; at the Agency's Regional Office, John F. Kennedy Building, Boston, Mass.; and at the Massachusetts Department of Public Health, Division of Environmental Health, 600 Washington Street, Room 320, Boston, MA. This regulation is effective on the date of its publication in the FEDERAL REGISTER (11-9-72). The Agency finds that good cause exists for not publishing the regulation as a notice of proposed rule making and for making it effective immediately upon publication, for the following reasons:

1. The implementation plan revision was adopted in accordance with procedural requirements of State and Federal law, which provided for adequate public participation through notice and public hearings and comments, and consequently further public participation is unnecessary.

2. Immediate effectiveness of the approval enables the source involved to proceed with certainty in conducting its affairs, and persons wishing to seek judicial review of the approval may do so without delay.

(42 U.S.C. 1857c-5)

Dated: November 3, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator, Environmental Protection Agency.

Section 52.1125 of Chapter I, Title 40 of the Code of Federal Regulations is amended by adding a line and a footnote to the table in paragraph (b) as follows:

§ 52.1125 Compliance schedules.

(b) * * *

Source	Location	Regulation involved	Date issued by State or local agency
* * *	* * *	* * *	* * *
General Electric Co.[1]	Pittsfield...	5.1.2	July 25, 1972

[1] The revision is approved insofar as it applies to the period April 1, 1973, to October 1, 1973, and is disapproved insofar as it applies to the period October 1, 1972, to March 31, 1973.

[FR Doc.72-19289 Filed 11-8-72;8:53 am]

SUBCHAPTER E—PESTICIDES PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

2-Chloro-1-(2,4-dichlorophenyl)vinyl Diethyl Phosphate

A petition (PP OF0991) was filed by William Cooper & Nephews, Inc. (now Cooper U.S.A., Inc.), 1909 North Clifton Avenue, Chicago, IL 60614, in accordance with the provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) proposing establishment of tolerances for residues of the insecticide 2-chloro-1-(2,4-dichlorophenyl) vinyl diethyl phosphate in the raw agricultural commodities milk and the meat, fat, and meat byproducts of cattle at 0.002 part per million and in eggs and the meat, fat, and meat byproducts of poultry at 0.001 part per million.

Subsequently, the petitioner amended the petition by (a) changing the proposed tolerance of 0.002 part per million in milk to 0.1 part per million in milk fat (reflecting negligible residues in milk), (b) by increasing the proposed tolerances of 0.002 part per million in meat, fat, and meat byproducts of cattle and 0.001 part per million in eggs and the meat, fat, and meat byproducts of poultry to 0.005 part per million, and (c) by extending this new 0.005 part per tolerance to cover the meat, fat, and meat byproducts of goats, hogs, horses, and sheep.

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The pesticide is useful for the purpose for which the tolerances are being established.

2. Since residues of the pesticide concentrate in fat, a tolerance adequate to cover residues in fat is sufficient; separate tolerances are not required on meat, meat byproducts, or whole milk.

3. The tolerance of 0.15 part per million recently established for residues of this insecticide in the fat of cattle and sheep is adequate to cover residues resulting from this proposed use as well.

4. The tolerances established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), § 180.322 is revised to read as follows:

§ 180.322 2-Chloro-1-(2,4-dichlorophenyl)vinyl diethyl phosphate; tolerances for residues.

Tolerances are established for residues of the insecticide 2-chloro-1-(2,4-dichlorophenyl)vinyl diethyl phosphate in or on raw agricultural commodities as follows:

0.15 part per million in the fat of cattle and sheep from dermal application (minimum preslaughter interval 3 days).

0.1 part per million in milk fat (reflecting negligible residues in whole milk).

0.005 part per million in eggs.

0.005 part per million in the fat of goats, hogs, horses, and poultry.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3902A, Fourth and M Streets SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by ground legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (11-9-72).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: November 1, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-19236 Filed 11-8-72;8:49 am]

PART 180—TOLERANCES AND EX-

Effective date. This order shall become

Title 47—TELECOMMUNICATION

justify establishment of additional facilities. He again referred to the techni-

locality be changed to specify that the required number of vessels that must be

Part 81 of the rules is amended as indicated below.

XUM V37-217 NOV 9 72 XUM

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

2-[α-Naphthoxy)-*N,N*-diethylpropionamide

A petition (PP 2F1194) was filed by Stauffer Chemical Co., 1200 South 47th Street, Richmond, CA 94804, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of tolerances (40 CFR Part 180) for negligible residues of the herbicide 2-(α-naphthoxy)-*N,N*-diethylpropionamide in or on the raw agricultural commodities almonds, citrus fruits, fruiting vegetables, small fruits, and stone fruits at 0.1 part per million.

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The herbicide is useful for the purpose for which the tolerances are being established.

2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

3. The tolerances established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), Part 180 is amended by adding the following new section to Subpart C:

§ 180.328 2-(α-Naphthoxy)-*N,N*-diethylpropionamide; tolerances for residues.

Tolerances are established for negligible residues of the herbicide 2-(α-naphthoxy)-*N,N*-diethylpropionamide in or on the raw agricultural commodities almonds, citrus fruits, fruiting vegetables, small fruits, and stone fruits at 0.1 part per million.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3902A, Fourth and M Streets SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (11-9-72).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: November 1, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-19238 Filed 11-8-72;8:49 am]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Methomyl

Correction

In F.R. Doc. 72-18302, appearing on page 22984, in the issue of Friday, October 27, 1972, in the second line of the sixth paragraph, after the word "Cosmetic", insert "Act (sec. 408(d)(2), 68 Stat. 512; 21".

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5265]

[Idaho 3779]

IDAHO

Partial Revocation of Reclamation Project Withdrawals

Correction

In F.R. Doc. 72-17893 appearing on page 22616 of the issue of Friday, October 20, 1972, under "T. 5S., R. 32E.," the description reading "Sec. 19, lots 1 to 4, inclusive, NE-¼NE-¼ NW-¼.", should read "Sec. 19, lots 1 to 4, inclusive, NE-¼, NE-¼NW-¼."

Title 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER J—ELECTRICAL ENGINEERING

PART 110—GENERAL PROVISIONS

Nonsparking Fans; Clarification of Design Characteristics

Correction

In F.R. Doc. 72-12950 appearing on page 16547 of the issue for Wednesday, August 16, 1972, the figure "3961" in the seventh line should read "4961".

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 19360; FCC 72-971]

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

Duplication of Service by Public Coast Stations

Memorandum opinion and order. In the matter of amendment of Part 81 of the rules concerning the duplication of service by Public Coast Stations; to require justification for assignment of more than one working frequency to Public and Limited Coast Stations; and to require listening watches by Limited Coast Stations on working frequencies, Docket No. 19360.

1. The American Telephone and Telegraph Co. (A.T. & T.) and A. W. Brothers (Brothers) have filed petitions for reconsideration of our report and order in this docket released July 5, 1972 (FCC 72-557, 37 F.R. 13548, July 11, 1972). The petitioners complain, essentially, that the changes in §§ 81.303(b)(2) and 81.304(f) of the rules promulgated by that report and order containing criteria for establishing additional VHF public correspondence services are too stringent and prevent relief in situations where assigned frequencies are heavily overloaded.

2. More specifically, A.T. & T. asserts that:

a. In § 81.303(b)(2), the required channel occupancy of 40 percent to qualify for an additional working frequency for an existing station (or 50 percent for the establishment of a new station) for a 12-hour daily period over any three 5-day operational periods, should be for a 3-hour period for any 4 days in a 10-day period;

b. The definition of "boating locality" in that rule section as a port, harbor, or marina with facilities for the specified number of vessels equipped with radio, should be amended by specifying that the vessels be equipped with radio to operate on public correspondence channels; and

c. The specified 30 miles in § 81.303(b)(2) beyond which new stations could be authorized under the enumerated conditions should be deleted, or at least increased to 50 miles so that greater protection would be afforded to an existing licensee.

3. Brothers, essentially, repeats the argument and recommendation made in his earlier comment filed in response to the notice of proposed rule making in this docket. Brothers repeats that the channel load should be 10 percent to

justify establishment of additional facilities. He again referred to the technical data for the Rural Electrification Administration furnished with his earlier comment, which we rejected for the reasons explained in our report and order in this docket.

4. On the basis of the additional information and traffic studies furnished by A.T. & T., we will grant petitioners' requests to the extent of adopting the channel occupancy criteria recommended by A.T. & T., as set forth in the attached appendix. We believe this will substantially provide both A.T. & T. and Brothers with a measure of relief. In making this change, we have some concern that this more liberalized criteria for assigning additional working frequencies may prematurely exhaust all nine of the available VHF public correspondence frequencies and thereby prevent the establishment of service in new areas later in the 1970's when the VHF conversion program is fully implemented. On the other hand, there appears to now be an urgent need for additional frequencies to provide service, especially in congested areas where service is obtained only after unreasonably long periods of as much as several hours. Of these two considerations, we believe the present, rather than the potential, need is more paramount and necessitates remedial action now. In determining the number of months that must be included in any channel traffic study used as a basis for establishing additional facilities, we are specifying a 2-month period for an existing station licensee when requesting an additional frequency, and 3 months for an applicant for a new station based on channel use by an existing station. This will allow an existing licensee a reasonable opportunity to remedy a situation where inadequate service exists before an application for a new competing station may be filed.

5. With respect to A. T. & T.'s assertion that the new-rule provision permitting the establishment of a new station at least 30 miles from an existing station, under the conditions specified, should be deleted or increased to 50 miles, we do not agree. As stated in paragraph 8 of our subject report and order, this new 30-mile provision provides substantially more protection for an existing station than before, and for reasons fully explained in that paragraph, we do not believe that more protection is desirable at this time when this VHF maritime service is in a process of being developed incidental to a general conversion from the medium to the very high frequency band in the maritime service bands. As this conversion is completed later in this decade, the matter can be reviewed in the light of information then available to determine if greater protection for existing stations is needed in order for the stations to remain economically viable to provide adequate service in the public interest. A. T. & T.'s petition, insofar as it is related to this provision, will therefore be denied.

6. We are not persuaded that A.T. & T.'s suggestion is reasonable or desirable that the definition of a boating locality be changed to specify that the required number of vessels that must be equipped with radio, must be further equipped to operate on public correspondence channels. Such a provision could impose a requirement on an applicant to furnish information which he may have no ability to acquire. Information concerning the number and types of nontransient vessels in a boating locality may usually be easily obtained from the port or marina operators, whereas information concerning the channels on which such vessels are equipped to operate would ordinarily be obtainable only from a vessel owner who may, or may not, be cooperative in furnishing such information. Such a provision could be counter productive in our program to establish adequate VHF public coast facilities. Ordinarily a vessel operator would not equip his ship station to operate on local public correspondence channels when there is no nearby coast station with which to communicate. The vessel operator would not know which of the nine public coast channels to install, and he may, until a coast station is in operation, prefer to use his available channels for other purposes. Under these circumstances, to require a coast station applicant, as a condition precedent to the filing of an application, to show that vessels are equipped to operate on local public correspondence frequencies could, in effect, impose a condition which could never be met as a practical matter and thereby prevent the establishment of any new stations. For these reasons we will not adopt A.T. & T.'s suggestion that our definition of a "boating locality" include a requirement that boats be equipped to to operate on public correspondence channels.

7. In view of the foregoing: *It is ordered*, That the Petitions for Reconsideration filed by American Telephone and Telegraph Co., Inc., and A. W. Brothers are granted to the extent that the criteria is changed for determining channel occupancy as a basis for applying for additional working frequencies for VHF Public Coast stations, or for new stations of this class, as shown in the attached appendix and in all other respects the Petitions are denied.

8. *It is further ordered*, Pursuant to the authority contained in sections 4(i) and 303 (b), (f), and (r) of the Communications Act of 1934, as amended, Part 81 of the Commission Rules is amended, effective December 15, 1972, as set forth below.

9. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: November 1, 1972.

Released: November 6, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary.

[1] Commissioners Johnson and Wiley concurring in the result: Commissioners H. Rex Lee and Hooks absent.

Part 81 of the rules is amended as indicated below.

1. Section 81.303(b) is amended to read as follows:

§ 81.303 Duplication of service.

* * * * *

(b) When calculated in accordance with Subpart R of this part, the service areas of two or more Class III-B public coast stations shall not be duplicated in more than 20 percent of the navigable waters within the service area of any station: *Provided, however*, That, (1) an application may be filed for a station to serve a boating locality in which no station is located and which is at least 30 miles from an existing station serving primarily another locality, and for purposes of this rule section a boating locality is defined as a port, marina, or harbor with docking or servicing facilities for not less than 10 commercial or 50 noncommercial vessels that are equipped with radio; or (2) an application may be filed for a station having a service area which duplicates more than 20 percent of the service area of an existing station if the assigned channel occupancy of the existing station exceeds 50 percent during the station's specified busiest hours of operation. An application based on channel use of an existing station and proposing duplication of more than 20 percent of the coverage area of the existing station, shall be accompanied by a record of monitorings or other satisfactory information to show that for any 4 days within a 10-consecutive-day period of station operation in each of 3 months immediately prior to the filing of the application, the assigned frequency, or frequencies, was in use for exchanging communications at least 50 percent of the 3 busiest hours of each day, of which not more than half of the use time may consist of waiting or setup time.

* * * * *

2. In § 81.304, paragraph (b)(22) is amended to read as follows:

§ 81.304 Frequencies available.

* * * * *

(b) * * *

(22) To the extent practicable, the order of assignment of public correspondence channels will be in accord with the U.S. priority numbering system, as follows:

Priority No. U.S.	Priority No. I.T.U.	Transmit (MHz)	Receive (MHz)	Channel designator
1	1	161.900	157.300	26
2	2	161.950	157.350	27
3	3	161.850	157.250	25
4	4	161.800	157.200	24
1[1]	6	162.000	157.400	28
5	13	161.825	157.225	84
6	14	161.975	157.375	87
7	15	161.925	157.325	86
8	17	161.875	157.275	85

[1] Channel 28 will be assigned interchangeably with Channel 26 as the first priority number.

In assigning frequencies in the band 156–162 MHz to a Class III–B public coast station, initial grants will be limited

to one working frequency. An additional

Title 49—TRANSPORTATION

By the Commission, Railroad Service Board.

§ 32.22 Special regulations; raccoons; for individual wildlife refuge areas.

Hunting shall be in accordance with all applicable State regulations concerning

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to one working frequency. An additional frequency may be assigned (i) when the assigned working frequency is also used by a foreign station near enough to result in destructive electrical interference by simultaneous operation; or (ii) if the channel occupancy of the assigned frequency, or frequencies, exceeds 40 percent during its specified busiest hours of operation. An application for assignment of an additional working frequency based on channel occupancy shall be accompanied by a record of monitorings, or other satisfactory information, to show that for any 4 days within a 10-consecutive-day period of station operation in each of 2 months immediately prior to the filing of the application, the assigned frequency, or frequencies, was in use for exchanging communications at least 40 percent of the 3 busiest hours of each day, of which not more than half of the use time may consist of waiting or setup time.

* * * * * *

[FR Doc.72-19291 Filed 11-8-72;8:53 am]

[FCC 72-962]

PART 97—AMATEUR RADIO SERVICE

Issuance of Permit

Order. In the matter of amendment of § 97.307(a) of the Commission's amateur radio service rules to allow alien permittees to continue operating pending action on their application for renewal.

Public Law 88-313 authorizes the Commission to grant permits to aliens temporarily residing in the United States to allow them to operate an amateur station. These permits are issued for a period of 1 year or less and are renewable.

5 U.S.C. section 558 and 47 U.S.C. section 307(d) provide that when a licensee makes timely and sufficient application for a renewal of a license, a license of a continuing nature will not expire until the application has been determined. Pursuant to Public Law 88-313, the provisions of Administrative Procedure Act and the Communications Act are not applicable to alien permit applications. Thus, when an alien's permit expires, his authority to operate his amateur station ceases even though he has filed a timely and sufficient renewal application.

Under the provisions of Public Law 88-313 when the Commission receives an initial or renewal application, the Commission must notify the appropriate government agencies. Before any further action can be taken on these applications, these agencies must submit any information they may have regarding the application compatibility with national security. The time in which these responses are received from these agencies varies between several days and months. The Commission believes that there is no legitimate reason in the case of renewal application to require an alien permittee to cease operation while the Commission obtains the required clearance from the appropriate agencies in light of the fact that clearance has been previously obtained within a year of the permit's expiration date. To prevent undue hardship to the alien permittee, Part 97 of the Commission's rules is being amended to allow the alien permittee to continue operating his amateur station pending Commission action on his renewal application, provided the application is timely and sufficiently filed.

While the Congress in Public Law 88-313 provided that the provisions of the Administrative Procedure Act and the Communications Act would not be applicable to alien permits, it also gave the Commission broad authority to administer the public law under any rules the Commission deems appropriate. Our action in this order is both within the scope of our authority granted by Public Law 88-313 and within the intent and purpose of the Congress.

We have notified the appropriate government agencies of our proposed rule amendment and they have voiced no objection. No other public interest will be served by any other form of public notice. Accordingly, under these circumstances, public notice and an opportunity to file comments are not required.

In view of the foregoing: *It is ordered*, That effective December 15, 1972, § 97.307(a) is amended as shown below.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: November 1, 1972.

Released: November 6, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE, *Secretary.*

Part 97 of the Commission's rules is amended as follows:

1. Section 97.307(a) of the Commission's rules is amended to read as follows:

§ 97.307 Issuance of permit.

(a) The Commission may issue a permit to an alien amateur under such terms and conditions as it deems appropriate. If a change in the terms of a permit is desired, an application for modification of the permit is required. If operation beyond the expiration date of a permit is desired, an application for renewal of the permit is required. In any case in which the permittee has, in accordance with the provisions of this subpart, made a timely and sufficient application for renewal of an unexpired permit, such permit shall not expire until the application has been finally determined. Application for modification or for renewal of a permit shall be filed on FCC Form 610-A.

* * * * * *

[FR Doc.72-19292 Filed 11-8-72;8:53 am]

[1] Commissioners H. Rex Lee and Hooks absent.

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1112, Amdt. 2]

PART 1033—CAR SERVICE

Railroad Operating Regulations for Freight Car Movement

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 3d day of November 1972.

Upon further consideration of Service Order No. 1112 (37 F.R. 21153), and good cause appearing therefor:

It is ordered, That: Service Order No. 1112 be, and it is hereby, amended by adding the following subdivision (iv) to paragraph (a), subparagraph (3):

§ 1033.1112 Service Order No. 1112.

(a) *Railroad operating regulations for freight car movement.* * * *

(3) *Removal of cars.* * * *

(iv) Cars shall not be removed from point of unloading or from industrial interchange tracks, nor released from demurrage or detention status, until all bracing, blocking, dunnage, paper, residue of lading, debris, and other foreign matter directly related to the inbound load have been removed from the car in accordance with the requirement of Rules 14 and 27 of the Uniform Freight Classification, ICC 7, issued by J. D. Sherson, supplements thereto, or reissues thereof.

EXCEPTION: Dunnage being returned to shipper under the provisions of the applicable tariffs may be left in cars released as empty, provided that proper shipping instructions are received by the carrier prior to 5:00 p.m. of the first day, which is not a Saturday, Sunday, or holiday, immediately following release of the car.

* * * * * *

Effective date. This amendment shall become effective at 11:59 p.m., November 10, 1972.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2))

It is further ordered, That copies of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association: and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-19303 Filed 11-8-72;8:54 am]

[S.O. 1115-A]

PART 1033—CAR SERVICE

Chicago, Milwaukee, St. Paul and Pacific Railroad Co. Authorized To Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 3d day of November 1972.

Upon further consideration of Service Order No. 1115 (37 F.R. 22873), and good cause appearing therefor:

It is ordered, That: § 1033.1115 *Service Order No. 1115* (Chicago, Milwaukee, St. Paul and Pacific Railroad Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company) be, and it is hereby, vacated and set aside.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2))

It is further ordered, That this order shall become effective at 12:01 a.m., November 6, 1972; that copies of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the FEDERAL REGISTER.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-19304 Filed 11-8-72;8:54 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Mark Twain National Wildlife Refuge, Ill.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11-9-72).

§ 32.22 Special regulations; raccoons; for individual wildlife refuge areas.

ILLINOIS

MARK TWAIN NATIONAL WILDLIFE REFUGE

Public hunting of raccoons on the Mark Twain National Wildlife Refuge, Ill., is permitted only on the areas designated by signs as open to hunting. These open areas, comprising 7,299 acres, are delineated on maps available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting shall be in accordance with all applicable State regulations concerning the hunting of raccoons and subject to the following conditions:

(1) The open season for hunting raccoons on the Batchtown and Calhoun divisions is from December 17, 1972, through January 31, 1973.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuges generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 31, 1973.

LESLIE F. BEATY, *Refuge Manager, Mark Twain National Wildlife Refuge, Quincy, Ill.*

NOVEMBER 3, 1972.

[FR Doc.72-19306 Filed 11-8-72;8:55 am]

PART 32—HUNTING

Mark Twain National Wildlife Refuge, Ill.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11-9-72).

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

ILLINOIS

MARK TWAIN NATIONAL WILDLIFE REFUGE

Public hunting of rabbits and quail on the Mark Twain National Wildlife Refuge, Ill., is permitted only on the areas of the Batchtown division and Calhoun division designated by signs as open to hunting. These open areas, comprising 2,250 acres on the Batchtown division and 4,500 acres lying west of the Illinois River on the Calhoun division are delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting shall be in accordance with all applicable State regulations concerning the hunting of rabbits and quail and subject to the following conditions:

(1) The open season for hunting rabbits and quail on the refuge is from December 17, 1972, through January 15, 1973.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuges generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 15, 1973.

LESLIE F. BEATY, *Refuge Manager, Mark Twain National Wildlife Refuge, Quincy, Ill.*

NOVEMBER 2, 1972.

[FR Doc.72-19305 Filed 11-8-72;8:55 am]

PART 33—SPORT FISHING

Tewaukon National Wildlife Refuge, N. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11-9-72).

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

NORTH DAKOTA

TEWAUKON NATIONAL WILDLIFE REFUGE

Sport fishing on the Tewaukon National Wildlife Refuge, Cayuga, N. Dak., is permitted only on the areas designated by signs as open to fishing. These open areas are Lake Tewaukon, Mann Lake, Sprague Lake, and a portion of Cutler's Marsh, comprising 1,570 acres, and are shown on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from December 16, 1972, through March 25, 1973, inclusive.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33, and are effective through March 25, 1973.

HERBERT G. TROESTER, *Refuge Manager, Tewaukon National Wildlife Refuge, Cayuga, N. Dak.*

NOVEMBER 2, 1972.

[FR Doc.72-19227 Filed 11-8-72;8:48 am]

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Proposed Rule Making

DEPARTMENT OF JUSTICE

Bureau of Narcotics and Dangerous Drugs

[21 CFR Part 301]

DRUG ABUSE PREVENTION AND CONTROL

Notice of Proposed Rule Making

Over the past 18 months, the Bureau of Narcotics and Dangerous Drugs has received numerous requests and suggestions for simplifying the process by which a researcher can be registered to handle Schedule I substances. In September of 1971, the Bureau amended its regulations to eliminate multiple registrations of researchers and consolidate use of order forms by researchers. Since then, other recommendations have been made to further ease the administrative burdens imposed on research by the Controlled Substances Act. In response to these requests, the Bureau and Food and Drug Administration, in consultation with the Special Action Office for Drug Abuse Prevention, have developed new regulations governing the procedures for submitting and processing applications to conduct research with Schedule I controlled substances.

The major change is the drafting of a new section (§ 301.33) to describe the form and content of research protocols. Section 301.33(a) sets forth the form and required contents for research protocols. Paragraph (b) provides a mechanism to be used when clinical research is involved, whereby an IND is submitted to the Food and Drug Administration in lieu of a protocol. Paragraph (c) describes the process of amending an approved protocol to increase the quantity of the substance being used. Paragraph (d) sets forth a procedure for supplemental protocols which cover controlled substances not included in the researcher's approved protocol.

Section 301.42 details the procedures for processing applications and protocols. The Bureau will forward a copy of all materials to the Food and Drug Administration within 7 days after being submitted by the researcher. The FDA will review the protocol and within 21 days (30 days if an IND is involved) render a decision to approve or deny the protocol. If a protocol is defective, the researcher will be requested by FDA to correct the defects, again within the 21-day limit. Within 10 days of the protocol's being approved by FDA, the Bureau will issue the certificate of registration authorizing the researcher to begin his activities. If a protocol is denied by FDA, the Bureau will notify the researcher within 10 days and provide him with an opportunity for a hearing. If any delays or difficulties arise in processing an application or protocol, the researcher will be promptly notified.

Section 301.32(a)(6) requires a conforming amendment to incorporate the above proposals.

The Bureau believes that these new regulations will assure the research community of its right to prompt and responsible action on requests to conduct research. The Bureau has consistently tried to minimize the burdens imposed upon researchers, including administrative delays in processing applications and protocols. Of the 310 Schedule I research protocols approved as of October 1, 1972, over 84 percent were granted within 60 days of receipt by BNDD, and all but one were approved within 90 days. Of the 38 applications pending at that time, only nine have been delayed over 60 days and in each case the researcher has been notified of the specific reason for delay.

Therefore, under the authority vested in the Attorney General by sections 301, 302(f) and 501(b) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and redelegated to the Director, Bureau of Narcotics and Dangerous Drugs, by § 0.100 of Title 28 of the Code of Federal Regulations, the Director hereby proposes that Part 301 of Title 21 of the Code of Federal Regulations be amended with the following changes:

1. By amending § 301.32 by revising paragraph (a)(6) to read as follows:

§ 301.32 Application forms; contents signature.

(a) • • •

(6) To conduct research with controlled substances listed in schedule I, he shall apply on BNDD Form 225, with three copies of a research protocol as described in § 301.33(a) attached to the form, or, in the case of a clinical investigation, with three copies of a certificate of submission of an IND as described in § 301.33(b) attached to the form (the researcher also submitting to the Food and Drug Administration three copies of a Notice of Claimed Investigational Exemption for a New Drug as required in § 301.33(b));

• • • • •

2. By adopting a new § 301.33 to read as follows:

§ 301.33 Research protocols.

(a) A protocol to conduct research with controlled substances listed in Schedule I shall be in the following form and contain the following information where applicable:

(1) Investigator:

(i) Name, address, and BNDD registration number; if any.

(ii) Institutional affiliation.

(iii) Qualifications, including a curriculum vitae and an appropriate bibliography (list of publications).

(2) Research project:

(i) Title of project.

(ii) Statement of the purpose.

(iii) Name of the controlled substances or substances involved and the amount of each needed.

(iv) Description of the research to be conducted, including the number and species of research subjects, the dosage to be administered, the route and method of administration, and the duration of the project.

(v) Location where the research will be conducted.

(vi) Statement of the security provisions for storing the controlled substances (in accordance with § 301.75) and for dispensing the controlled substances in order to prevent diversion.

(3) Authority:

(i) Institutional approval.

(ii) Approval of a Human Research Committee for human studies.

(iii) Indication of an approved active Notice of Claimed Investigational Exemption for a New Drug (number).

(iv) Indication of an approved funded grant (number).

(b) In the case of a clinical investigation with controlled substances listed in Schedule I, the applicant shall submit three copies of a Notice of Claimed Investigational Exemption for a New Drug (IND) together with a statement of the security provisions (as prescribed in paragraph (a)(2)(v) of this section for a research protocol) to, and have such submission approved by, the Food and Drug Administration as required in 21 U.S.C. 355(i) and § 130.3 of this title. Submission of this Notice and statement to the Food and Drug Administration shall be in lieu of a research protocol to the Bureau as required in paragraph (a) of this section. The applicant, when applying for registration with the Bureau, shall indicate that such notice has been submitted to the Food and Drug Administration by submitting to the Bureau with his BND Form 225 three copies of the following certificate:

I hereby certify that on _____, pursuant (Date)
to 21 U.S.C. 355(i) and 21 CFR 130.3,
I, _____
(Name and Address of IND Sponsor)
submitted a Notice of Claimed Investigational Exemption for a New Drug (IND) to the Food and Drug Administration for:
_____
(Name of Investigational Drug)
_____
(Date)

_____
Signature of Applicant

(c) In the event that the registrant desires to increase the quantity of a controlled substance used for an aproved research project, he shall submit a request to the Registration Branch, Bureau of Narcotics and Dangerous Drugs, Post Office Box 28083, Central Station, Washington, D.C. 20005, by registered mail, return receipt requested. The request shall contain the following information: BNDD registration number; name of the controlled substance or substances and the quantity of each authorized in the approved protocol; and the additional quantity of each desired. Upon return of the receipt, the registrant shall be authorized to purchase the additional quantity of the controlled substance or substances specified in the request. The Bureau shall review the letter and forward it to the Food and Drug Administration together with the Bureau comments. The Food and Drug Administration shall approve or deny the request as an amendment to the protocol and so notify the registrant. Approval of the letter by the Food and Drug Administration shall authorize the registrant to use the additional quantity of the controlled substance in the research project.

(d) In the event the registrant desires to conduct research beyond the variations provided in the registrant's approved protocol (excluding any increase in the quantity of the controlled substance requested for his research project as outlined in paragraph (c) of this section), he shall submit three copies of a supplemental protocol in accordance with paragraph (a) of this section describing the new research and omitting information in the supplemental protocol which has been stated in the original protocol. Supplemental protocols shall be processed and approved or denied in the same manner as original research protocols.

3. By deleting § 301.42 in its entirety and replacing it with the following:

§ 301.42 Action on applications for research in Schedule I substances.

(a) In the case of an application for registration to conduct research with controlled substances listed in Schedule I, the Director shall process the application and protocol and forward a copy of each to the Secretary within 7 days after receipt. The Secretary shall determine the qualifications and competency of the applicant, as well as the merits of the protocol (and shall notify the Director of his determination) within 21 days after receipt of the application and complete protocol, except that in the case of a clinical investigation, the Secretary shall have 30 days to make such determination and notify the Director. The Secretary, in determining the merits of the protocol, shall consult with the Director as to effective procedures to safeguard adequately against diversion of such controlled substances from legitimate medical or scientific use.

(b) An applicant whose protocol is defective shall be notified by the Secretary within 21 days after receipt of such protocol from the Director (or in the case of a clinical investigation within 30 days), and he shall be requested to correct the existing defects before consideration shall be given to his submission.

(c) If the Secretary determines the applicant qualified and competent and the research protocol meritorious, he shall notify the Director in writing of such determination. The Director shall issue a certificate of resignation within 10 days after receipt of this notice, unless he determines that the certificate of registration should be denied on a ground specified in section 304(a) of the Act (21 U.S.C. 824(a)). In the case of a supplemental protocol, a replacement certificate of registration shall be issued by the Director.

(d) If the Secretary determines that the protocol is not meritorious and/or the applicant is not qualified or competent, he shall notify the Director in writing setting forth the reasons for such determination. If the Director determines that grounds exist for the denial of the application, he shall within 10 days issue an order to show cause pursuant to § 301.48 and, if requested by the applicant, hold a hearing on the application pursuant to § 301.51. If the grounds for denial of the application include a determination by the Secretary, the Secretary or his duly authorized agent shall furnish testimony and documents pertaining to his determination at such hearing.

(e) Supplemental protocols will be processed in the same manner as original research protocols. If the processing of an application or research protocol is delayed beyond the time limits imposed by this section, the applicant shall be so notified in writing.

All interested persons are invited to submit their comments and objections in writing regarding this proposal. Comments and objections should be submitted in quintuplicate to the Hearing Clerk, Office of Chief Counsel, Bureau of Narcotics and Dangerous Drugs, Department of Justice, Room 611, 1405 I Street NW., Washington, DC 20537, and must be received no later than December 15, 1972.

Dated: November 3, 1972.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[FR Doc.72-19271 Filed 11-8-72;8:52 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 724]

TOBACCO

Determinations on Marketing Quotas for 1973–74, 1974–75, and 1975–76 Marketing Years

Pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq., hereinafter referred to as the "Act"), the Secretary is preparing (1) with respect to Fire-cured (type 21), Fire-cured (type 22–24) and Dark air-cured tobacco, to proclaim national marketing quotas for the 1973–74, 1974–75, and 1975–76 marketing years, and to conduct within 30 days after the proclamation of such national marketing quotas referenda of farmers engaged in the 1972 production of each of such kinds of tobacco to determine whether they favor or oppose marketing quotas for such years; and (2) with respect to Fire-cured (type 21), Fire-cured (types 22–24), Dark air-cured, Virginia sun-cured, Cigar-binder (types 51 and 52), and Cigar-filler and Binder (types 42–44, 53–55) tobacco, to determine and announce the national marketing quotas for the 1973–74 marketing year; to convert such marketing quotas into national acreage allotments and announce the allotments; to apportion such allotments, less reserves of not to exceed 1 percent of each respectively, through the local committees among old farms and to apportion the reserves for use in (a) establishing acreage allotments for new farms and (b) making corrections and adjusting inequities in old farm allotments.

The Act (7 U.S.C. 1312(a)) requires the Secretary to proclaim marketing quotas, not later than February 1, 1973, for Fire-cured and Dark air-cured tobacco for the 3 marketing years beginning October 1, 1973, because the 1972–73 marketing year is the last year of the 3 consecutive years for which marketing quotas previously proclaimed will be in effect.

The Secretary has previously proclaimed quotas and conducted referenda for the various kinds of tobacco with results as follows: Fire-cured for the 1970–71, 1971–72, and 1972–73 marketing years, approved by growers (35 F.R. 4945); Dark air-cured for the 1970–71, 1971–72, and 1972–73 marketing years, approved by growers (35 F.R. 4945); Virginia sun-cured for the 1971–72, 1972–73, and 1973–74 marketing years, approved by growers (36 F.R. 6734); Cigar-binder (types 51 and 52) for the 1972–73, 1973–74, and 1974–75 marketing years, approved by growers (37 F.R. 3422); and Cigar-filler and Binder (types 42–44, 53–55) for the 1972–73, 1973–74, and 1974–75 marketing years, approved by growers (37 F.R. 3422).

Section 301(b)(15) of the Act (7 U.S.C. 1301(b)(15)) defines "tobacco" as each one of the kinds of tobacco listed below comprising the types specified as classified in Service and Regulatory Announcement No. 118 (Part 30 of this title) of the former Bureau of Agricultural Economics of the Department:

Flue-cured tobacco, comprising types 11, 12, 13, and 14;
Fire-cured tobacco, comprising type 21;
Fire-cured tobacco, comprising types 22, 23, and 24;
Dark air-cured tobacco, comprising types 35 and 36;

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Virginia sun-cured tobacco, comprising type 37;
Burley tobacco, comprising type 31;
Maryland tobacco, comprising type 32;
Cigar-filler and Cigar-binder tobacco, comprising types 42, 43, 44, 45, 46, 51, 52, 53, 54, and 55; and
Cigar-filler tobacco, comprising type 41.

Section 301(b)(15) also provides that any one or more of the types comprising any such kind of tobacco shall be treated as a "kind of tobacco" for the purposes of the Act if the Secretary finds that there is a difference in supply and demand conditions as among such types of tobacco which results in a difference in the adjustments needed in the marketings thereof in order to maintain supplies in line with demand. Pursuant to this authority, the Secretary has determined (15 F.R. 8214) that type 46 tobacco shall be treated as a separate kind of tobacco for purposes of marketing quotas and price supports. Pursuant to such authority, the Secretary has also determined (22 F.R. 367) that Cigar-binder (types 51 and 52) tobacco, beginning with the 1957–58 marketing year, shall be treated as a separate kind of tobacco for purposes of marketing quotas and price supports. Type 45 tobacco is no longer grown. No further action under this section is contemplated at this time.

Section 312(b) of the Act (7 U.S.C. 1312(b)) provides that the Secretary shall determine and announce, not later than the first day of February 1973 with respect to kinds other than Flue-cured tobacco, the amount of the national marketing quota which will be in effect for the 1973–74 marketing year in terms of the total quantity of tobacco which may be marketed which will make available during such marketing year a supply of each kind of tobacco equal to the reserve supply level. Section 312(b) provides further that the amount of the 1973–74 national marketing quota (determined pursuant to such section) may, not later than March 1, 1973, be increased by not more than 20 percent if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restrictions of marketings in adjusting the total supply to the reserve supply level.

The Act (7 U.S.C. 1301(b)) defines the "total supply" of tobacco for any marketing year as the carryover at the beginning of the marketing year (on January 1 of such marketing year in the case of Maryland tobacco), plus the estimated production in the United States during the calendar year in which such marketing year begins. "Reserve supply level" is defined as the normal supply plus 5 percent thereof. "Normal supply" is defined as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic consumption and 65 percent of a normal year's exports. A "normal year's domestic consumption" is defined as the yearly average quantity produced in the United States and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption. A "normal year's exports" is defined as the yearly average quantity produced in the United States which was exported from the United States during the 10 marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

The Act (7 U.S.C. 1312(c)) requires that within 30 days after national marketing quotas are proclaimed under section 312(a) of the Act for a kind of tobacco, the Secretary shall conduct a referendum of farmers engaged in the production of the crop of such kind of tobacco harvested immediately prior to the holding of the referendum to determine whether such farmers are in favor of or opposed to quotas for the next 3 succeeding marketing years. If more than one-third of the farmers voting in a referendum for a kind of tobacco oppose the quotas, such results shall be proclaimed by the Secretary and the national marketing quotas so proclaimed shall not be in effect but such results shall in no way affect or limit the subsequent submission to a referendum, as otherwise provided in section 312 of the Act (7 U.S.C. 1312), of national marketing quotas.

The Act (7 U.S.C. 1313(g) authorizes the Secretary to convert the national marketing quota into a national acreage allotment on the basis of the national average yield for the 5 years immediately preceding the year in which the national marketing quota is proclaimed, and to apportion the national acreage allotment (less a reserve of not to exceed 1 percent thereof for new farms and for making corrections and adjusting inequities in old farm allotments) among old farms.

The subjects and issues involved in making the determinations described in this notice are:

1. The amount of the reserve supply level for Fire-cured (type 21), Fire-cured (types 22–24), Dark air-cured, Sun-cured, Cigar-binder (types 51 and 52) and Cigar-filler and Binder (types 42–44, 53–55) tobacco.

2. The amount of the national marketing quota for each of these kinds of tobacco for the 1973–74 marketing year.

3. The national factors for apportioning national acreage allotments to old farms.

4. The amounts of the national acreage allotments to be reserved for new farms, and for making corrections and adjusting inequities in old farm allotments.

5. The date(s) or period(s) of the two referenda on quotas for the 1973–74, 1974–75, and 1975–76 marketing years for Fire-cured and Dark air-cured tobacco, and whether either or both of the referenda should be conducted at polling places rather than by mail ballot (31 F.R. 12011).

Consideration will be given to data, views, and recommendations pertaining to the proposed determinations covered by this notice which are submitted in writing to the Director, Tobacco Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to the notice will be made available for public inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in Room 3741, South Building, 14th and Independence Avenue SW., Washington, D.C. All submissions must, in order to be sure of consideration, be postmarked not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Signed at Washington, D.C., on November 3, 1972.

GLEN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-19240 Filed 11-8-72;8:49 am]

Rural Electrification Administration

[7 CFR Part 1701]

SALES OF CAPITAL ASSETS BY ELECTRIC BORROWERS

Proposed Revision of REA Bulletin

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue revised REA Bulletin 115–1, Sales of Capital Assets by Electric Borrowers, to clarify and expand certain provisions of the previous bulletin.

Persons interested in the provisions of revised REA Bulletin 115–1, may submit written data, views, or comments to the Director, Power Supply, Management and Engineering Standards Division, Room 3313, South Building, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 30 days from the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Power Supply, Management and Engineering Standards Division, during regular business hours.

A copy of the revised REA Bulletin, including related forms and attachments may be secured in person or by written request from the Director, Power Supply, Management and Engineering Standards Division.

The summary of the proposed revision of REA Bulletin 115–1 is as follows:

SUMMARY OF PROPOSED CHANGES IN REVISED BULLETIN 115–1

1. The title of the bulletin has been changed from "Sales of Property by Electric Borrowers" to "Sales of Capital Assets by Electric Borrowers" to more closely conform this terminology to that in the loan security documents.

2. The distribution and accounting for the proceeds from the sale, less out-of-pocket expense incident to the sale, have been clarified to assure understanding of requirements that net proceeds from sales of capital assets shall be distributed and accounted for as follows:

(a) To the "Cash-Construction-Fund Trustee" account to be used in a manner and for a purpose for which REA loan funds may be used, or

(b) If the borrower has no concurrent loans outstanding, to the Rural Electrification Administration as a special payment to be applied to the note or notes designated by the borrower or REA, or

(c) To REA and a secured supplemental lender if the borrower has concurrent loans outstanding, by application of such funds as a prepayment on the notes of both lenders pro rata according to the aggregate unpaid principal of the notes then outstanding, as designated by the noteholders, or

(d) In the case of disposition of equipment, materials or scrap to the "Cash-General" account to be used for the purchase of materials, equipment, supplies, or property used in the mortgagor's business which shall be subject to the lien of the mortgage.

3. Provision has been made for the handling of sales to be paid for by the purchaser in installments. For such sales a Sales-Purchase Agreement will be executed by the borrower and the purchaser and assigned to the U.S. Government and supplemental lenders, if applicable. Copies of such assigned agreements will be submitted to REA and the supplemental lenders, if applicable, together with REA Form 369, Request for Approval to Sell Capital Assets, and with other supporting data as set forth in the bulletin. Partial releases of lien will not be executed by REA or supplemental lenders, if applicable, until the final installment has been paid by the purchaser.

Dated: November 6, 1972.

DAVID A. HAMIL,
Administrator.

[FR Doc.72-19297 Filed 11-8-72;8:54 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 148m]

TROLEANDOMYCIN ORAL SUSPENSION

Upper Potency Limit

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463; 21 U.S.C. 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), it is proposed that § 148m.7 *Troleandomycin oral suspension* be amended to raise the upper limit of potency for the drug by changing "not more than 120 percent of the number of milligrams" in the third sentence of paragraph (a)(1) to read "not more than 125 percent of the number of milligrams."

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: November 2, 1972.

MARY A. MCENIRY,
Assistant to the Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc.72-19212 Filed 11-8-72;8:47 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Part 10]

[CGD 72-132PHa]

UNINSPECTED TOWING VESSELS

Licensing of Operators; Extension of Time for Comments

In the August 11, 1972, issue of the FEDERAL REGISTER (37 F.R. 16374), the Coast Guard proposed regulations governing the issuance of licenses for the operation of uninspected towing vessels to implement the Towing Vessel Operator Licensing Act, Public Law 92–339, R.S. 4427, as amended, 46 U.S.C. 405(b) (July 7, 1972).

The Coast Guard held four public hearings on the proposed regulations: On September 13, 1972, in Seattle, Wash.; on September 20, 1972, in New York, N.Y.; on September 26, 1972, in New Orleans, La.; and on September 27, 1972, in St. Louis, Mo. In addition, interested persons were given until October 17, 1972, to submit comments.

The Coast Guard has received several requests for extension of the comment period from towboat operators whose duties prevented them from participating in any of the public hearings and from meeting the October 17 deadline. The Coast Guard found the requests justified and extended the period of comments to October 31, 1972.

Since then, the Coast Guard has received additional requests for extension of the comment period from interested parties who have had insufficient time to fully document oral or written comments submitted at the public hearings.

The Coast Guard finds that the request for additional time in which to comment on the proposed regulations is appropriate and hereby extends the period for such comments to November 30, 1972. All relative comments received by that time will be considered.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Executive Secretary, Marine Safety Council (GCMC/82), Room 8234, 400 Seventh Street SW., Washington, DC 20590, phone: 202—426–1477. Written comments should include the docket number (CGD 72–132PH), the name and address of the person submitting the comments, and the section of the proposal to which each comment is directed. Copies of comments received will be available for examination in Room 8234, 400 Seventh Street SW., Washington, DC.

Dated: November 6, 1972.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.72-19267 Filed 11-8-72;8:51 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 252]

[Docket No. 21708; EDR–231A]

SPECIFICALLY DESIGNATED "SMOKING" AREAS ABOARD COMMERCIAL AIRCRAFT

Supplemental Notice of Proposed Rule Making

NOVEMBER 6, 1972.

By circulation of notice of rule making EDR–231, dated September 13, 1972, and published at 37 F.R. 19146, the Board gave notice that it had under consideration a new part (Part 252 of its regulations (14 CFR Part 252)) to require certificated air carriers (both route and supplemental carriers) to establish procedures designed to segregate passengers who desire to be seated in designated "smoking" areas and to prohibit smoking in all areas not so designated on commercial flights. Interested persons were invited to file comments with the Board on or before November 3, 1972.

On November 2, 1972, Action on Smoking and Health (ASH), a national nonprofit, antismoking organization, requested an extension of 30 days for the filing of comments. The undersigned finds that good cause has been shown for a grant of the requested extension of time for filing comments. Accordingly, pursuant to the authority delegated in § 385.20(d) of the Board's organization regulations, the undersigned hereby extends the time for submitting comments to December 4, 1972.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324)

[SEAL] ARTHUR H. SIMMS,
Associate General Counsel, Rules and Rates.

[FR Doc.72-19288 Filed 11-8-72;8:53 am]

clarifying the rules to make clear the

4. In response to Theta-Com's rule

UHF channels or other programing on as well as conventional CAR stations that

tions using double sideband AM emission

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ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

PESTICIDE CHEMICAL SAFETY

Proposed Toxicology Guidelines; Extension of Time for Filing Comments

The notice published in the FEDERAL REGISTER of September 20, 1972 (37 F.R. 19383), proposing the establishment of § 180.36 *Toxicology guidelines for evaluating pesticide chemical safety of residue tolerances* provided for the filing of comments within 30 days after said date.

At the request of interested parties who have asked more time to prepare detailed comments on the proposal, the time for filing comments is extended to 30 days from the publication of this notice in the FEDERAL REGISTER.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(m), 68 Stat. 517; 21 U.S.C. 346a(m)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038).

Dated: November 1, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-19237 Filed 11-8-72;8:49 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19623; FCC 72-964]

[47 CFR Part 78]

BANDWIDTHS AVAILABLE FOR INTRACITY STATIONS

Proposed Alternative Channel Arrangement

In the matter of Amendment of Part 78 of the Commission's rules and regulations to add an alternative channel arrangement, reducing the bandwidths available for intracity stations, and adding certain other clarifications, Docket No. 19623, RM-1936.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. The Commission has before it for consideration a petition (RM-1936) filed by Theta-Com of California [1] requesting rule making: (1) To provide an alternative channel arrangement for local distribution service (LDS) stations in the cable television relay service, and (2) clarifying the rules to make clear the situations in which nonadjacent channels may be used for LDS station operations. Responsive pleadings were filed by a number of parties all supporting Theta-Com's proposal. In addition a number of parties request that the proceeding be expanded to consider the adoption of a frequency plan for channels of return communication.

ALTERNATIVE LDS CHANNEL ARRANGEMENT

3. Theta-Com's concern is basically that the vestigial sideband AM transmission LDS frequency channelling plan specified in the rules be compatible with possible frequency plans within cable television systems. Two difficulties are presented by the existing rules. First, the existing channel plan (§ 78.18(a)(2)) was developed to facilitate the relay of up to 18 channels over two or more hops, and to provide frequency space for additional systems serving the same general area.[2] The available channels are divided into two nonduplicating groups of 18 channels. The existing channel plan is shown in Appendix A. Each group is arranged so that block processing of all channels is facilitated and there is no need for individual processing of channels between the LDS receiver and the cable interface. If more than 20 channels are to be relayed, as will clearly be necessary in connection with modern high capacity cable television systems,[3] channels from both groups must be used. Because the channels in the second group (Group D) are not contiguous with those in the first group (Group C) individual channel processing at the cable interface becomes necessary.[4] This individual processing, Theta-Com indicates, degrades the signals involved, reduces the reliability of the system as a whole, adds unnecessary expense, and causes maintenance problems that largely nullify the inherent advantages of the single sideband type of operation. According to Theta-Com the need to process each signal individually would double or triple the cost of each receiving site. To overcome the need for individual channel processing and facilitate the relay of more than 18 channels at a time, Theta-Com has suggested an alternative channel plan for use in non-repeatered operations that simply divides that available frequency space into 40 evenly spaced 6 MHz channels.[5]

4. In response to Theta-Com's rule making petition, the National Cable Television Association filed comments agreeing in theory with the rule making request but suggesting that the Commission leave the specific cable channel allocations unstructured. That would be left as a detail to be described by each applicant. NCTA points out that there is as yet no industrywide standard for within-cable frequency allocations, so that it is difficult to devise an LDS frequency allocation plan compatible with all of the possible cable allocation plans. Comments were also filed by Cox Cable Communications, Inc., Buckeye Cablevision, Inc., Oak Electro/Netics Corp., Cypress Communications Corp., TelePrompTer Corp., Athena Communications Corp., and Varian/Micro-Link. All indicate their support for a change in the rules to facilitate the relay of a greater number of channels.

5. We believe that Theta-Com's petition has merit and are accordingly issuing this notice proposing for adoption the channel allocation plan submitted by Theta-Com.[6] We are also interested in receiving comments with respect to the destructured approach proposed by the NCTA.[7] We believe, however, at least initially that a structured approach facilitates the processing of applications and is desirable for that reason. We intend in any case to retain provision for case-by-case consideration of non-standard channel proposals.

ADJACENT CHANNEL USE

6. The second matter raised in Theta-Com's petition is a request for clarification of the rules to indicate specifically those situations in which adjacent channel use will not be required. Although the rules do not now require adjacent channel use, we did state in adopting the LDS rules that adjacent channel use was "encouraged." [8] The reason for encouraging adjacent channel use is that it is difficult for other users of the available frequency space to make use of isolated channels surrounded by channels in use by other station licensees. Theta-Com points out, however, that there are a number of situations in which adjacent channel use is inefficient (for the first user) because it requires individual rather than block processing of signals at the interface between the LDS receiver and the cable system. We are asked to amend the rules to specifically indicate that adjacent channel operation is not required:

a. When the channels to be transmitted via LDS are not all adjacent to one another either when received off the air or when carried on the CATV system; or

b. Where there is a potential for radio frequency interference problems; or

c. When the LDS system is required to transmit CATV originated or translated

[1] Theta-Com is a developer and manufacturer of LDS microwave equipment.

[2] The existing plan was suggested by Theta-Com's parent corporation in response to our Notice of Proposed Rule Making in Docket 18542, 16 FCC 2d 433 (1969). See Report and Order in Docket 18542, 20 FCC 2d 415 (1969) paragraph 12, (1969).

[3] The rules now require some cable television systems to have a greater than 20 channel capacity. See § 76.251.

[4] Existing rules, § 78.18(e), already recognize this problem to some extent by permitting alternative channel arrangements "on a case-by-case basis in order to avoid interference or to permit a more efficient use."

[5] Plus pilot channels. An additional plan following the same theory but offset to some extent and involving a smaller number of channels is also suggested for use where local interference factors prohibit use of its first suggested alternative.

[6] See Appendix B, § 78.18(a)(2).

[7] See Appendix C, § 78.18(k) for this alternative approach.

[8] Report and Order in Docket 18542, supra. Note 2 at page 420.

UHF channels or other programing on nonadjacent channels which are to be inserted in nonadjacent "empty frequency" slots on the CATV system.

7. Although the existing rules permit the use of nonadjacent channels when there is good cause therefor, we agree with Theta-Com that it would be useful to indicate with particularity those situations where nonadjacent channel usage will not be questioned. Section 78.18(e) as proposed in Appendix B contains essentially the language suggested by Theta-Com.

RETURN COMMUNICATION CHANNELS

8. In responding to Theta-Com's request for rule making, a number of parties requested that we also clarify the rules as they apply to return communications and adopt a frequency plan applicable to channels used for this purpose. Both TelePrompTer and Theta-Com (in a reply comment) suggest that seven 6 MHz channels between 12,711.45 MHz and 12,753.5 MHz be added to Theta-Com's suggested alternate Group D channel plan.[9] Under the rules as they now stand no distinction is drawn between channels that are used for forward and channels that are used for return communications. The CAR service frequencies are available for stations used to relay return communications and these stations may use any of the channels and methods of transmission permitted by the rules.

9. While we are not proposing any specific rule changes in connection with return channels at this time we are, in light of the comments received in response to Theta-Com's petition, requesting comments as to the need for clarification or amendments in the rules to account for any technical or administrative problems unique to return communications channel paths or stations. This would include, but not be limited to, the need for new channel groupings as suggested by TelePrompTer and Theta-Com, possible bandwidth limitations (6 MHz), and the possibility that, when LDS stations are used, both forward and return communication paths should be included in the same application or filed concurrently.

12.5 MHZ BANDWIDTH LIMITATION FOR INTRACITY STATIONS

10. On our own motion we are including in this proceeding a proposal to limit all stations in the CAR service that do not use the frequency-division multiplexed/FM (FDM/FM) system of transmission and that are used for intracity communications to a 12.5 MHz bandwidth.[10] Included among the intracity stations would generally be local distribution service (LDS) stations, studio to headend link (SHL) stations, pickup stations, as well as conventional CAR stations that are used for communication within the confines of a single cable television system community.[11] We believe this proposal is timely both in terms of the potential for congestion being created by these intracity stations in our major cities and in terms of the developing technology which it appears will make this bandwidth reduction both technically and economically feasible over the distances involved in typical intracity applications.[12] Comments on both the economic and technical costs that this change would require are requested. In making this proposal we recognize that the CARS band must accommodate two distinct modes of operation. A microwave service which is (a) intercity, relaying what is generally a small number of television channels to a cable system headend from a reception or interconnection point 30 or more miles away and which frequently involves several hops, and (b) is intracity, involving relatively short-haul stations that bridge gaps within a cable network or supply short-distance feeds to the network, and which likely involve a larger number—possibly several dozen—of program channels.

11. Our intention here is to retain the rules as they are for intercity stations but to limit stations which are used for intracity transmission to a bandwidth of 12.5 MHz and thus to conserve spectrum space where congestion is most likely to occur.

DOUBLE SIDEBAND AM TRANSMISSION

12. We are also proposing on our own motion, a channel assignment plan and specific frequency tolerance provisions applicable to stations using double sideband AM transmission. Section 78.103(a) of the rules specifies that a cable television relay station may be authorized "to employ any type of emission, for which there are technical standards incorporated in Subpart D of this part, suitable for the simultaneous transmission of visual and aural television signals." Stations using double sideband AM emission systems have been type accepted and appear to be more conservative in their use of spectrum space than those using conventional FM emission.[13] We are accordingly proposing rules to permit authorization of stations of this type.[14]

CONCLUSION

13. Authority for the proposed rule making instituted herein is contained in sections 4(i), 303, and 403 of the Communications Act of 1934, as amended.

14. All interested persons are invited to file written comments on the rule making proposals on or before December 15, 1972, and reply comments on or before December 29, 1972. In reaching a decision in this matter, the Commission may take into account any other relevant information before it, in addition to the comments invited by this notice.

15. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments, replies, pleadings, briefs, or other documents filed in this proceeding shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Adopted: November 1, 1972.

Released: November 6, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[15]
[SEAL] BEN F. WAPLE,
Secretary.

APPENDIX A

Channel groups available for stations using vestigial sideband AM transmission under present § 78.17(a)(2) of the rules.

Group C	*Group D*
12,700.5–12,706.5	12,759.7–12,765.7
12,706.5–12,712.5	12,765.7–12,771.7
12,712.5–12,718.5	12,771.7–12,777.7
12,718.5–12,722.5	12,777.7–12,781.7
12,722.5–12,728.5	12,781.7–12,787.7
12,728.5–12,734.5	12,787.7–12,793.7
12,734.5–12,740.5	12,793.7–12,799.7
12,740.5–12,748.5	12,799.7–12,805.7
12,746.5–12,752.5	12,805.7–12,811.7
12,752.5–12,758.5	12,811.7–12,817.7
12,820.5–12,826.5	12,879.7–12,885.7
12,826.5–12,832.5	12,885.7–12,891.7
12,832.5–12,838.5	12,891.7–12,897.7
12,838.5–12,844.5	12,897.7–12,903.7
12,844.5–12,850.5	12,903.7–12,909.7
12,850.5–12,856.5	12,909.7–12,915.7
12,856.5–12,862.5	12,915.7–12,921.7
12,862.5–12,868.5	12,921.7–12,927.7
12,868.5–12,874.5	12,927.7–12,933.7
	12,933.7–12,939.7
	12,939.7–12,945.7

[9] Designated D(2) in proposed 78.18(a)(2) in Appendix B.

[10] See Appendix B, § 78.18(1). Existing operations would be appropriately grandfathered. It is not proposed that this limitation apply to FDM/FM stations at this time because different technical factors are applicable to these stations.

[11] In the alternative the limitation might be made applicable to all CAR stations located in the areas most likely to be congested (e.g., the major television markets as defined in § 76.5(g) of the rules) that have relatively short transmission paths (e.g. 10 miles or less).

[12] It should be noted that a 12.5 MHz channel spacing was initially proposed in the Notice of Proposed Rule Making in Docket 15586, FCC 64-720, 29 F.R. 11458, paragraph 24. After reviewing the comments concerning this narrow band proposal, the Commission, in the Second Report and Order in Docket 15586, 11 FCC 2d 709 (1968), stated: "We note also the strong objection to the proposed technical standards calling for widths limited to 12.5 Mc/s. These objections are found persuasive because the number of hops and route distances contemplated by CATV operators are considerably greater than those originally contemplated for this service, and also because relay operators place heavy reliance upon standard techniques and readily available equipment for effecting economical piecemeal expansion of their facilities." It would appear that these considerations are not applicable to the intracity stations to which the limit would now be applied.

[13] Stations using double sideband AM transmission are authorized to use 12.5 MHz bandwidth. Conventional FM stations in the CAR service have used 25 MHz.

[14] See Appendix B, §§ 78.18(a)(4), 78.18(g), and 78.111(c). The channel assignment plan proposed would also be available for FM stations operating with an authorized bandwidth of 12.5 MHz.

[15] Commissioners H. Rex Lee and Hooks absent.

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APPENDIX B

The following rules are proposed for adoption:

Part 78 of Chapter I of Title 47 of the Code of Federal Regulations is amended in the following manner:

1. In § 78.18, paragraph (a)(2) is amended to revise the lists of Group C and Group D frequencies; paragraph (a)(4) is added; paragraph (e) is revised; paragraphs (g) and (h) are redesignated as (j) and (k), respectively, and new paragraphs (g), (h), and (i) are added to read as follows:

§ 78.18 Frequency assignments.

(a) • • •

(2) • • •

Group C (MHz)	Group D (MHz)
12,700.5–12,706.5	12,759.7–12,765.7
12,706.5–12,712.5	12,765.7–12,771.7
12,712.5–12,718.5	12,771.7–12,777.7
12,718.5–12,722.5 [1]	12,777.7–12,781.7 [1]
12,722.5–12,728.5	12,781.7–12,787.7
12,728.5–12,734.5	12,787.7–12,793.7
12,734.5–12,740.5	12,793.7–12,799.7
12,740.5–12,746.5	12,799.7–12,805.7
12,746.5–12,752.5	12,805.7–12,811.7
12,752.5–12,758.5	12,811.7–12,817.7
12,758.5–12,760.5 [1]	12,817.7–12,819. [1]
12,760.5–12,766.5	12,819.7–12,825.7
12,766 5–12,772.5	12,825.7–12,831.7
12,772.5–12,778.5	12,831.7–12,837.7
12,778.5–12,784.5	12,837.7–12,843.7
12,784.5–12,790.5	12,843.7–12,849.7
12,790.5–12,796.5	12,849.7–12,855.7
12,796.5–12,802.5	12,855.7–12,861.7
12,802.5–12,808.5	12,861.7–12,867.7
12,808.5–12,814.5	12,867.7–12,873.7
12,814.5–12,820.5	12,873.7–12,879.7
12,820.5–12,826.5	12,879.7–12,885.7
12,826.5–12,832.5	12,885.7–12,891.7
12,832.5–12,838.5	12,891.7–12,897.7
12,838.5–12,844.5	12,897.7–12,903.7
12,844.5–12,850.5	12,903.7–12,909.7
12,850.5–12,856.5	12,909.7–12,915.7
12,856.5–12,862.5	12,915.7–12,921.7
12,862.5–12,868.5	12,921.7–12,927.7
12,868.5–12,874.5	12,927.7–12,933.7
12,874.5–12,880.5	12,933.7–12,939.7
12,880.5–12,886.5	12,939.7–12,945.7
12,886.5–12,892.5	
12,892.5–12,898.5	
12,898.5–12,904.5	
12,904.5–12,910.5	
12,910.5–12,916.5	
12,916.5–12,922.5	
12,922.5–12,928.5	
12,928.5–12,934.5	
12,934.5–12,940.5	
12,940.5–12,946.5	

Auxiliary Channels (MHz)

12,933.7–12,939.7	12,939.7–12,945.7

[1] For transmission of pilot subcarriers, or other authorized narrow band signals.

• • • • • •

(4) For cable television relay stations using double sideband AM transmission and FM transmission requiring a necessary bandwidth of no more than 12.5 MHz:

Group I (MHz)	Group J (MHz)
12,700–12,712.5	12,712.5–12,725
12,725–12,737.5	12,737.5–12,750
12,750–12,762.5	12,762.5–12,775
12,775–12,787.5	12,787.5–12,800
12,800–12,812.5	12,812.5–12,825
12,825–12,837.5	12,837.5–12,850
12,850–12,862.5	12,862.5–12,875
12,875–12,887.5	12,887.5–12,900
12,900–12,912.5	12,912.5–12,925
12,925–12,937.5	12,937.5–12,950

• • • • • •

(e) For cable television relay stations using vestigial sideband AM transmission, channels from only Group C, only Group D, only Group C(2) or only Group D(2) will normally be assigned a station. In situations where the number or the arrangement of channels available in either group is not adequate, or in order to avoid potential interference, or in order to achieve the required VHF channelization arrangement on the CATV system, or for repeatered operation, or for two-way transmission, or upon the showing of other good cause, the use of channels in Groups C and D, or in alternate Groups C or D, may be authorized. Applicants are encouraged to apply for adjacent channels within each group of channels, except that different channel arrangements may be authorized when required to conform to the required channelization arrangement at VHF on the CATV system, when it is necessary to transmit nonadjacent off-the-air channels or signals intended to fill nonadjacent slots in the spectrum, or to avoid potential interference, or upon other showing of good cause.

• • • • • •

(g) For cable television relay (CAR) stations using double sideband AM transmission or FM transmission requiring a necessary bandwidth of no more than 12.5 MHz, channels from only Group I or Group J normally will be assigned a station, although upon adequate showing variations in the use of channels in Groups I and J may be authorized on a case-by-case basis in order to avoid potential interference or to permit a more efficient use. The use of channels in both Groups I and J may be authorized where the number of channels in one group is insufficient to accommodate the services proposed to be provided on the cable system, if the Commission finds that such use of channels in both groups is feasible and would serve the public interest.

(h) For double sideband AM transmission, the assigned visual carrier frequency for each channel listed in Group I or J shall be 6.25 MHz above the lower boundary frequency for each channel, and the side frequencies corresponding to the carrier frequency of the accompanying FM aural signal shall be 4.5 MHz above and below the visual carrier frequency.

(i) Unless frequency-division multiplexed/FM transmission is used, Local Distribution Service (LDS) stations, Studio to Headend Link (SHL) stations, Relay Pickup Stations, and other Cable Television Relay stations that are used for communication within the confines of a single cable television community shall employ no more than 12.5 MHz bandwidth per channel.

• • • • • •

2. In § 78.103, paragraph (b) is amended to read as follows:

§ 78.103 Emissions and bandwidth.

• • • • • •

(b) Any emission appearing on a frequency outside of the channel authorized for a transmitter shall be attenuated below the peak power of emission in accordance with the following schedule:

(1) For stations using other than vestigial sideband AM transmission:

(i) On any frequency above the upper channel limit and below the lower channel limit by between zero and 50 percent of the assigned channel width: At least 25 decibels;

(ii) On any frequency above the upper channel limit or below the lower channel limit by more than 50 percent and up to 150 percent of the assigned channel width: At least 35 decibels; and

(iii) On any frequency above the upper channel limit or below the lower channel limit by more than 150 percent of the channel width: At least $43+10 \log_{10}$ (power in watts) decibels.

• • • • • •

3. Section 78.111 is amended by adding a new paragraph (c) to read as follows:

§ 78.111 Frequency tolerance.

• • • • • •

(c) The frequency of the visual carrier of a station using double sideband AM transmission shall be maintained within 0.005 percent of the assigned frequency; the side frequencies corresponding to the carrier frequency of the accompanying aural signal shall be maintained 4.5 MHz±1 kHz above and below the visual carrier frequency.

4. In § 78.115, paragraph (c) is added new to read as follows:

§ 78.115 Modulation limits.

• • • • • •

(c) For stations that are authorized to use FM transmission with a bandwidth of 12.5 MHz, the total excursion of the radio frequency carrier under modulation shall not exceed 1.5 MHz and the maximum modulating frequency shall not be greater than 4.525 MHz.

APPENDIX C

The following amendment would achieve the de-structured channel approach suggested in the comments of the National Cable Television Association.

A substitute paragraph (k) for § 78.18 is suggested as follows:

§ 78.18 Frequency assignments.

• • • • • •

(k) Notwithstanding the frequency assignment plans applicable to cable television relay (CAR) stations in paragraphs (a)(2) and (4) of this section, Local Distribution Service (LDS) stations, Studio to Headend Link (SHL) stations, and Relay Pickup stations using either vestigial sideband or double sideband AM transmission may apply for any frequency assignment plan which is compatible with the frequency usage on the associated cable television system and which does not cause interference to existing authorized microwave systems. If either FM or FM/FDM transmission is used, the frequencies assignable to such stations shall conform to the plans listed in paragraphs (a)(1) and (3) of this section, as applicable.

[FR Doc.72-19293 Filed 11-8-72;8:54 am]

FEDERAL POWER COMMISSION

[18 CFR Parts 3, 260]

[Docket No. R-457]

IMPORTS AND EXPORTS OF NATURAL GAS

Proposed Annual Report Form

NOVEMBER 6, 1972.

Notice is given pursuant to 5 U.S.C. 553 and sections 3, 10, 14, and 16 of the Natural Gas Act (52 Stat. 822, 826, 828, 830; 15 U.S.C. 717b, 717i, 717m, 717o) that the Commission proposes to amend:

A. Part 260 of its Regulations—Statements and Reports (Schedules); Subchapter G—Approved Forms, Natural Gas Act; Chapter I, Title 18 of the Code of Federal Regulations to prescribe the addition of a new § 260.4, Form No. 14, Annual Report For Importers and Exporters of Natural Gas, for the reporting year 1972 and thereafter;

B. Part 3 of its rules of practice and procedure, Subchapter A, Chapter I, Title 18 of the Code of Federal Regulations to add Form 14 to the list in § 3.170—Approved Forms, etc.

To date, the Commission has granted numerous authorizations under section 3 of the Natural Gas Act for the import and export of natural gas, both as gas and as liquid. Where procedures for reporting volumes transported under these authorizations have been prescribed, it has been on a case-by-case basis undertaken by ordering condition attached to the authorization granted pursuant to section 3 of the Natural Gas Act, or informally at the request of the Commission staff. This approach to reporting has resulted in nonuniformity of the data reported thereunder. The increasing number and importance of natural gas imports and exports makes it appropriate in the proper administration of the Natural Gas Act that the reporting of data relating to the import and export of natural gas by parties with such authorizations be placed on a periodic, uniform and formalized basis. We therefore propose to establish an annual reporting requirement together with a new form, FPC Form No. 14. This report form is not intended to supersede or limit any other present reporting requirements of the Commission.

This reporting requirement will apply to all persons, whether or not a natural gas company, who now have or who receive, in the future, authorization pursuant to section 3 of the Natural Gas Act (15 U.S.C. 717b). Section 3 provides that the Commission may, in granting authorization thereunder, do so "with such modification and upon such terms and conditions as the Commission may find necessary or appropriate • • •." Each presently effective authorization pursuant to section 3 has been granted subject to a condition generally to the effect that the Commission may order the filing of reports with respect to such imports or exports as it may from time to time require. This regulation shall therefore apply to any person importing or exporting natural gas during the reporting period under existing authorizations as well as under authorizations received in the future. Any person having authorization to import or export natural gas but not exercising such privilege during the reporting year must also file the report with this Commission.

It is desirable, and we are proposing, that the report:

a. Apply to all natural gas imports and exports;

b. Be filed by all persons holding authorization pursuant to section 3 of the Natural Gas Act for each such authorization, or where more than one geographic point of entry into or exit from the United States relates to a single authorization, then data for each geographic point of entry or exit shall be reported;

c. Include for gaseous phase pipeline movements the name of the foreign purchaser or seller, the transporters involved other than buyer or seller, the geographic point of entry into or exit from the United States and the related Federal Power Commission docket number(s) associated with the appropriate section 3 authorization. In addition, the monthly quantities as well as the peak day date and quantities of gas received or shipped, expressed in Mcf and in millions of British thermal units, shall be reported along with the amount in U.S. dollars paid or received for the gas together with the annual weighted average B.t.u. content and weighted average price;

d. Include for liquid phase movements the geographical receiving or loading point, the name of the foreign purchaser or seller, the transporters involved other than buyer or seller, the mode of transportation, and the Federal Power Commission docket number associated with the related section 3 authorization. Also include on a monthly basis the quantity imported at the U.S. point of delivery and the quantity exported at the U.S. loading point in barrels, M.c.f. equivalent, and million British Thermal Units, and the revenue or expenditure, in U.S. dollars, related to the quantities reported together with the annual weighted average B.t.u. content and price;

e. Be filed annually by March 31, for the prior calendar year.

The proposed amendment to the Commission's regulations would be issued under the authority granted to the Federal Power Commission by the Natural Gas Act, as amended, particularly sections 3, 10, 14, and 16 thereof (52 Stat. 822, 826, 828, 830; 15 U.S.C. 717b, 717i, 717m, 717o).

Accordingly, it is proposed to prescribe a new form—Form No. 14, attached hereto, and to amend Part 260, Subchapter G, Chapter I, Title 18 of the Code of Federal Regulations by adding a new § 260.4 to read as follows:

§ 260.4 Form No. 14, Annual Report for Importers and Exporters of Natural Gas.

(a) The form of the annual report for importers and exporters of natural gas is prescribed for the calendar year ending December 31, 1972, and thereafter, and is designated as FPC Form No. 14.

(b) Each person having authorization from the Federal Power Commission pursuant to section 3 of the Natural Gas Act to import or export natural gas shall, beginning with the reporting year 1972, and thereafter annually, file on or before March 31, an original and three conformed copies of the above designated FPC Form No. 14, signed and certified by an officer of the reporting company.

To conform our rules of practice and procedure with the proposal herein, we also propose to amend Part 3, Subchapter A, Chapter I, Title 18 of the Code of Federal Regulations by amending § 3.170 to read as follows:

§ 3.170 Approved forms, etc.

(a) • • •

(14) Form No. 14, annual report for importers and exporters of natural gas (§ 260.4 of this chapter).

• • • • • •

The existing number (14) and succeeding numerical designations in paragraph (a) of § 3.170 shall be renumbered accordingly.

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than December 21, 1972, data, views, comments, or suggestions in writing concerning the amended regulation and form. An original and 14 conformed copies should be filed with the Secretary of the Commission. Submittals to the Commission should indicate the name, title, mailing address, and telephone number of the person to whom communications concerning the proposals should be addressed and whether the persons filing them requests a conference with the staff of the Federal Power Commission to discuss the proposed amendment. The staff, in its discretion, may grant or deny requests for conference. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Washington, D.C., during regular business hours. The Commission will consider all such written submittals before acting on the matters herein proposed. In addition, interested persons wishing to have their comments considered in the clearance of the revised report form under the provisions of the Federal Reports Act of 1942, 44 U.S.C. 3501–3511 may, at the same time, submit a conformed copy of their comments directly to the Clearance Officer, Statistical Policy Division, Office of Management and Budget, Washington, D.C. 20503.

The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By the direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19274 Filed 11-8-72;8:52 am]

[18 CFR Parts 141, 260]

[Docket No. R-443]

mine facts, conditions, practices, and matters relating to the use of estimates, forecasts, or projections of earnings and

(7) The effect of the civil and criminal liability provisions of the Securities Act of 1933 and the Securities Exchange Act

Notices

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[18 CFR Parts 141, 260]

[Docket No. R-443]

CERTAIN ANNUAL REPORTS

Information on Future Finance Requirements; Notice of Staff Conference

NOVEMBER 3, 1972.

On May 26, 1972, the Commission issued its notice of proposed rule making in Docket No. R-443.[1] The Commission proposed to amend FPC Form No. 1 and FPC Form No. 2 to add one additional schedule page to each of the aforementioned forms. The schedule page would be numbered and entitled schedule page 120, Forecast of Financing Requirements.

It appears that it would be in the public interest for the staff of the Federal Power Commission to call a conference for the purpose of allowing all persons who have filed comments concerning Docket No. R-443 to discuss the issues raised in their comments. Members of the public not commenting formally on Docket No. R-443 may attend the meeting, but under the rules of the Commission are not allowed to participate.

The conference will be held at 10 a.m., December 7, 1972, in the General Accounting Office Auditorium, Seventh floor, GAO Building, at 441 G Street NW., Washington, DC.

JEFFREY A. MEITH,
Commission Staff Counsel.

[FR Doc.72-19189 Filed 11-8-72;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Ch. II]

[Release No. 34-9844]

ESTIMATES, FORECASTS, OR PROJECTIONS OF ECONOMIC PERFORMANCE

Preliminary Notice of Public Rule Making Proceeding

The Commission today authorized a public rule making proceeding to determine facts, conditions, practices, and matters relating to the use of estimates, forecasts, or projections of earnings and revenues and related subjects, in connection with public offerings of and trading in securities of all issuers whose securities are registered under the Securities Act of 1933 or the Securities Exchange Act of 1934 or otherwise publicly offered or traded. The proceeding will be conducted for the Commission by the Division of Corporation Finance.

The primary purpose of these hearings is to develop information for rule making purposes and consideration of disclosure and regulatory policies and not for enforcement purposes.

The hearings will begin at 10 a.m., e.s.t., on November 20, 1972, and continue through December 12, 1972, and will consider specifically:

(1) Whether such estimates, forecasts or projections should be required, merely permitted, or prohibited in whole or in part in filings with the Commission or whether any requirements should apply only to certain classes of issuers;

(2) Which types of filings under the Securities Act of 1933 and the Securities Exchange Act of 1934 should be allowed, or be required, to contain such estimates, forecasts or projections, if any, and whether follow-up reporting should be required;

(3) Whether guidelines or rules should be adopted relating to estimates, forecasts or projections which are disseminated to the public through the communications media by companies whose securities are publicly traded;

(4) Whether standard assumptions underlying such estimates, forecasts or projections are feasible, and if so, what types of assumptions are necessary;

(5) What format for presentation should be required;

(6) Whether certification or some other form of independent verification or report on such estimates, forecasts or projections should be required, and if so, in what form and whether standards for qualification of persons certifying, verifying or reporting on such estimates should be adopted; and

(7) The effect of the civil and criminal liability provisions of the Securities Act of 1933 and the Securities Exchange Act of 1934 on estimates, forecasts or projections filed with the Commission.

The hearings will concentrate on projections and estimates of economic performance and will not include a consideration of such subjects as valuation accounting.

For the purpose of this proceeding the Commission has appointed Alan B. Levenson, Richard H. Rowe, Andrew P. Steffan, and Mary E. T. Beach, hearings officers. Mario V. Mirabelli will act as chief hearing counsel for the Division of Corporation Finance in connection with these hearings.

Interested persons who wish to submit written statements of their views relating to these matters or who wish additional information should contact Mrs. Beach or Mr. Mirabelli, Division of Corporation Finance, 500 North Capital Street, Washington, DC 20549.

Those persons wishing to appear and give an oral presentation in addition to their written submission will be permitted to do so at the sole discretion of the hearing officer and will be limited to 15 minutes. The written text of their oral statement should be received by the hearing officer no later than 2 business days prior to their scheduled appearance and such persons should be prepared to respond to inquiries from the Commission's staff.

The Commission has ordered this public rule making proceeding pursuant to section 21(a) of the Securities Exchange Act of 1934, as amended, and Rule 4(b) of the rules of practice of the Commission (17 CFR 201.4(b)).

(Sec. 21(a), 48 Stat. 899, 15 U.S.C. 78u(a))

By the Commision, November 1, 1972.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-19265 Filed 11-8-72;8:51 am]

[1] See F.R. 72-8410, published at 37 F.R. 11192, Saturday, June 3, 1972.

Notices

DEPARTMENT OF JUSTICE

Bureau of Narcotics and Dangerous Drugs

NARCOTICS AND COCAINE

Aggregate Production Quotas

Section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for all controlled substances in schedules I and II.

On October 5, 1972, the Bureau published the proposed aggregate production quotas for 1973 for narcotics and cocaine (37 F.R. 20993). All interested parties were provided the opportunity to submit written comments or objections. No comments or objections were submitted to the Bureau.

In determining the narcotic and cocaine aggregate production quotas for 1973 which are adequate to provide for the estimated medical, scientific, research, and industrial needs of the United States, lawful export requirements and establishment and maintenance of reserve stocks, the Bureau has considered the following as required by section 306 of the CSA (21 U.S.C. 826) and § 303.11 of Title 21 of the Code of Federal Regulations:

(1) Total net disposal by all manufacturers during the current and preceding 2 years and trends in the national rate of net disposal;

(2) Total actual (or estimated) inventory of narcotics and cocaine and of all substances manufactured from them and trends in inventory accumulation; and

(3) Projected demand as indicated by procurement quotas requested pursuant to § 303.13 of Title 21 of the Code of Federal Regulations.

Based upon consideration of the above factors, the Director, Bureau of Narcotics and Dangerous Drugs, under the authority vested in the Attorney General by § 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) and redelegated to the Director, Bureau of Narcotics and Dangerous Drugs by § 0.100 of Title 28 of the Code of Federal Regulations, orders that the aggregate production quotas for 1973 for narcotics and cocaine, expressed in grams in terms of their respective anhydrous bases, be established as follows:

Substance:	*Grams*
1. Alphaprodine	52,000
2. Anileridine	276,000
3. Apomorphine	3,000
4. Cocaine	1,161,902
5. Codeine (for conversion)	310,000
6. Codeine (for sale)	32,563,961
7. Diphenoxylate	660,000
8. Dihydrocodeine	139,812
9. Ecogonine	123,700
10. Ethylmorphine	22,074
11. Fentanyl	3,000
12. Hydrocodone	485,310
13. Hydromorphone	58,000
14. Levorphanol	8,000
15. Methadone	3,339,000
16. Methadone Intermediate (4 - cyano - 2 - dimethylamino - 4,4 - diphenyl butane)	1,089,500
17. Morphine (for conversion)	30,556,748
18. Morphine (for sale)	534,662
19. Norpethidine	550,000
20. Opium (tinctures, extracts, etc., expressed in terms of opium)	1,145,500
21. Oxycodone (for conversion)	10,000
22. Oxycodone (for sale)	1,240,000
23. Oxymorphone	6,000
24. Pethidine	16,291,638
25. Phenazocine	275
26. Thebaine (for conversion)	597,000
27. Thebaine (for sale)	3,500,000

All persons who submitted an application for either an individual manufacturing quota or procurement quota for 1973 will be notified by mail as to their respective 1973 quota established by the Bureau.

This order is effective upon the date of its publication in the FEDERAL REGISTER (11-9-72).

Dated: November 3, 1972.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[FR Doc.72-19272 Filed 11-8-72;8:52 am]

PHENMETRAZINE (PRELUDIN)

Aggregate Production Quota

On July 6, 1972, a notice of Proposed Aggregate Production Quotas was published in the FEDERAL REGISTER (37 F.R. 13279). The notice proposed that the aggregate production quota for 1972 for phenmetrazine be established at 2,672 kilograms expressed in terms of the anhydrous alkaloid. The notice invited all interested persons to submit their comments and objections in writing regarding this proposal. Subsequently a hearing was requested by Boehringer Ingelheim Ltd. and by the Narcotics Guidance Council of Huntington, Long Island, N.Y. Comments also were received from other sources with respect to the notice.

On October 7, 1972, the Director of the Bureau of Narcotics and Dangerous Drugs determined that Boehringer Ingelheim Ltd., had standing to request a hearing and ordered that a hearing be held on November 9, 1972, for the purpose of determining the quota and published a notice of the hearing in the FEDERAL REGISTER (37 F.R. 21359). Following publication of this notice of hearing, the Bureau met with representatives of Boehringer Ingelheim Ltd. and the Huntington Council.

Boehringer Ingelheim Ltd., informed the Bureau that, although it believed the proposed quota to be inadequate, it would not be meaningful to bring the dispute to hearing in view of the lateness in the year for which the quota was to be set. Therefore, by letter dated October 20, 1972, Boehringer Ingelheim Ltd., withdrew its request for a hearing on the proposed aggregate production quota.

The Narcotics Guidance Council of the Town of Huntington, Long Island, N.Y., also withdrew its request for a hearing on the proposed 1972 aggregate production quota for phenmetrazine, by letter dated October 24, 1972, for the same reasons set forth above.

The Bureau has agreed with both parties who filed requests for a hearing on the proposed aggregate production quota that, if they wished to request a public hearing on the 1973 aggregate production quota for phenmetrazine, when proposed, on the issue of the proper determination of legitimate medical need, the Bureau would hold such a public hearing.

Therefore, because all persons requesting a hearing on this matter have withdrawn their requests, the Director of the Bureau of Narcotics and Dangerous Drugs hereby orders that the public hearing previously ordered for November 9, 1972, for the purpose of determining the aggregate production quota for phenmetrazine be canceled.

Other comments were received by the Bureau, only one of which asserted that the aggregate production quota was too high. The Bureau has considered all comments received and has determined that the proposed quota is appropriate in light of their comments.

Pursuant to the authority vested in the Director of the Bureau of Narcotics and Dangerous Drugs by the Attorney General by section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) and redelegated to the Director, Bureau of Narcotics and Dangerous Drugs by § 0.100 of Title 28 of the Code of Federal Regulations, orders that the aggregate production quota for 1972 for phenmetrazine, expressed in kilograms of the anhydrous alkaloid, be established as follows:

Basic class	Produced-1971	Requested-1972	Granted 1972
Phenmetrazine	4,638	6,174	2,672

This order is effective upon the date of its publication in the FEDERAL REGISTER (11-9-72).

Dated: November 3, 1972.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[FR Doc.72-19273 Filed 11-8-72;8:52 am]

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

CHEMEHUEVI INDIAN RESERVATION, ARIZ.

Ordinance Legalizing the Introduction, Sale, or Possession of Intoxicants

OCTOBER 31, 1972.

In accordance with authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2, and in accordance with the Act of August 15, 1953, Public Law 277, 83d Congress, 1st session (67 Stat. 586), I certify that the following ordinance relating to the application of the Federal Indian Liquor Laws on the Chemehuevi Indian Reservation, Ariz., was adopted on April 29, 1972, by the Chemehuevi Tribal Council, which has jurisdiction over the area of Indian country included in the ordinance, reading as follows:

Whereas, Title 18, section 1161 of the United States Code provides that certain laws prohibiting the sale and consumption of alcoholic beverages on Indian country, are not applicable to an act or transaction which is in conformity both with the laws of the State of California and with an ordinance duly adopted by the Tribe having jurisdiction over such area of Indian country, certified by the Secretary of the Interior and published in the FEDERAL REGISTER; and

Whereas, Tribal Ordinance No. 4 of the Chemehuevi Indian Tribe, enacted by the Chemehuevi Tribal Council on April 24, 1971, and published in the FEDERAL REGISTER (F.R. Doc. 71-13186, filed 9-7-71; 8:52 a.m.) failed to provide that such sale and consumption of alcoholic beverages shall be in conformity with the laws of the State of California; and

Whereas, this Tribal Council wishes to take such steps as are necessary to legalize the sale of alcoholic beverages by the Tribe on the reservation;

Now, therefore, the following ordinance is hereby enacted:

The sale of alcoholic beverages to adult persons on the reservation by persons duly authorized by the Tribal Council, and on premises designated by the Tribal Council as proper for such purpose, shall be lawful; the purchase and consumption by adult persons of alcoholic beverages so sold shall be lawful on the reservation;

Provided that such introduction, sale, purchase, possession, and consumption is in conformity with the laws of California.

Further resolved, that the Chairman instruct legal counsel to submit the foregoing ordinance to the Superintendent of the Colorado River Agency, Bureau of Indian Affairs, for submission to the Secretary of the Interior for certification and publication in the FEDERAL REGISTER.

Further resolved, that the Chairman instruct legal counsel to submit the appropriate application to the San Bernadino area Licensing Supervisor of the California Beverage Control Department for an off sale alcoholic beverage license applicable to sales by the Tribe on the reservation;

Further resolved, that the officers of this Tribal Council be authorized and directed to execute such documents as may be necesary or desirable to effectuate the foregoing ordinance and resolutions.

JOHN O. CROW,
Deputy Commissioner of Indian Affairs.

[FR Doc.72-19230 Filed 11-8-72;8:48 am]

Bureau of Land Management

ALASKA

Notice of Filing of Plat of Survey

1. Plat of survey of the lands described below will be officially filed in the Anchorage Land Office, Anchorage, Alaska, effective at 10 a.m., December 15, 1972.

SEWARD MERIDIAN, ALASKA

T. 15 N., R. 1 E.
Sec. 1: All
Containing 640 acres.

2. The land in section 1 ranges from rolling to steep precipitous slopes along the Eklutna River Canyon. Elevation ranges from 700 feet above mean sea level, where the south boundary crosses the Eklutna River, to 1,900 feet on the north boundary.

a. The soil, for the most part, is a thin sandy loam and rocky.

b. Timber is first and second growth spruce, birch, and cottonwood.

c. Eklutna Lake Road traverses the land.

3. The public lands affected by this order are hereby restored to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, rules, and regulations.

4. Inquiries concerning the lands should be addressed to the Manager, Anchorage Land Office, 555 Cordova Street, Anchorage, AK 99501.

Dated: October 31, 1972.

CLARK R. NOBLE,
Land Office Manager,
Anchorage, Alaska.

[FR Doc.72-19231 Filed 11-8-72;8:48 am]

ALASKA

Notice of Filing of Plat of Survey

1. Plat of survey of the lands described below will be officially filed in the Anchorage Land Office, Anchorage, Alaska, effective at 10 a.m., December 15, 1972.

SEWARD MERIDIAN, ALASKA

T. 15 N., R. 1 W.
Sec. 13: Lots 1 to 14 inclusive, NE¼, E½NW¼, NE¼SW¼, N½SE¼, N½S½SE¼;
Sec. 27: Lots 1 and 2;
Sec. 28: E½SE¼;
Sec. 33: E½E½;
Sec. 34: N½NW¼.
Containing 1,041.57 acres.

2. A variety of land and soil are found in these areas. The soil ranges from sandy loam to clay, with a considerable amount of rocks and gravel.

a. Timber ranges from first to second growth spruce, birch, and cottonwood with large amounts of alder and willow undergrowth.

b. The elevation ranges from 950 to 3,500 feet above mean sea level. In general, the land is mountainous with many steep to precipitous slopes.

c. There are two important streams in the survey, Peters Creek and Little Peters Creek, both drain to the northeast.

d. There are also two unimproved dirt roads.

3. The public lands affected by this order are hereby restored to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, rules, and regulations.

4. Inquiries concerning the lands should be addressed to the Manager, Anchorage Land Office, 555 Cordova Street, Anchorage, AK 99501.

Dated: October 31, 1972.

CLARK R. NOBLE,
Land Office Manager,
Anchorage, Alaska.

[FR Doc.72-19232 Filed 11-8-72;8:48 am]

ALASKA

Notice of Filing of Plat of Survey

1. Plat of survey of the lands described below will be officially filed in the Anchorage Land Office, Anchorage, Alaska, effective at 10 a.m., December 15, 1972.

SEWARD MERIDIAN, ALASKA

T. 16 N., R. 1 E.,
Sec. 27, all;
Sec. 28, all;
Sec. 29, all;
Sec. 33, NE¼NE¼;
Sec. 34, N½;
Sec. 35, all.
Containing 2,920 acres.

2. The lands are situated along the Eklutna River Canyon, the terrain ranges from gently rolling to precipitous along the Eklutna River.

a. Elevation ranges from 300 to 3,000 feet above mean sea level.

b. Timber ranges from first to second growth spruce, birch, and cottonwood, with alder and willow undergrowth.

c. Soil is a thin sandy loam and rocky.

d. The Eklutna River is down to a trickle because of a dam placed across it at the outlet of Eklutna Lake.

3. The public lands affected by this order are hereby restored to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, rules, and regulations.

4. Inquiries concerning the lands should be addressed to the Manager,

Anchorage Land Office, 555 Cordova Street, Anchorage, AK 99501.

Date: November 2, 1972.

CLARK R. NOBLE,
Land Office Manager,
Anchorage, Alaska.

[FR Doc.72-19195 Filed 11-8-72;8:46 am]

[S 5283]

CALIFORNIA

Notice of Proposed Withdrawal and Reservation of Lands

OCTOBER 31, 1972.

The Bureau of Land Management, U.S. Department of the Interior has filed an application, Serial No. S 5283, for the withdrawal of the public lands described below, from appropriation under the public land laws including the mining laws but not the mineral leasing laws. The lands will be used for wildlife and recreation purposes.

On or before December 10, 1972, all persons who wish to submit comments, suggestions, or objections in connection with the proposed protective withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, U.S. Department of the Interior, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, CA 95825.

The Department's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. Adjustments will be made as necessary to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

MOUNT DIABLO MERIDIAN, CALIF.

T. 9 S., R. 22 E.,
Sec. 26, SE¼SW¼;
Sec. 27, SE¼SE¼;
Sec. 33, SE¼SE¼;
Sec. 34;
Sec. 35, SW¼NE¼, W½, W½SE¼.
T. 10 S., R. 22 E.,
Sec. 1, lots 19, 20 and 21;
Sec. 2, lots 11 to 21, inclusive, SW¼NE¼, S½NW¼, NW¼SW¼;
Sec. 3, lots 5 to 13, inclusive, S½NE¼, SE¼NW¼, NE¼SW¼, N½SE¼;
Sec. 4, lots 11 and 12;
Sec. 11, NW¼NW¼, SW¼SW¼.

The area described aggregates 2,610.51 acres.

ELIZABETH H. MIDTBY,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.72-19228 Filed 11-8-72;8:48 am]

FEDERAL RESERVE SYSTEM

BANCOHIO CORPORATION

Acquisition of Bank

BancOhio Corp., Columbus, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to the Peoples Savings Bank Co., Delta, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 30, 1972.

Board of Governors of the Federal Reserve System, November 2, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-19198 Filed 11-8-72;8:45 am]

COMMERCE FINANCIAL CORP.

Formation of One-Bank Holding Company

Commerce Financial Corp., Fort Worth, Tex., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Bank of Commerce, Fort Worth, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than November 29, 1972.

Board of Governors of the Federal Reserve System, November 3, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-19197 Filed 11-8-72;8:45 am]

UTAH BANCORPORATION

Formation of One-Bank Holding Company

Utah Bancorporation, Salt Lake City, Utah, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of Valley Bank & Trust Company, Salt Lake City, Utah. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than November 27, 1972.

Board of Governors of the Federal Reserve System, November 3, 1972.

MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-19196 Filed 11-8-72;8:45 am]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

HUMANELY SLAUGHTERED LIVESTOCK

Identification of Carcasses; List of Establishments

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904), and the statement of policy thereunder in 9 CFR 391.1, the following table lists the establishments operating under Federal inspection pursuant to the Federal Meat Inspection Act, as amended (21 U.S.C. 601 et seq.) which were officially reported as humanely slaughtering and handling the species of livestock respectively designated for such establishments in the table. Additions to and deletions from the list will be made from time to time, as the facts may warrant, by notices published in the FEDERAL REGISTER. The establishment number given with the name of the establishment is branded on each carcass of livestock inspected at that establishment. The table should not be understood to indicate that all species of livestock slaughtered at a listed establishment are slaughtered and handled by humane methods unless all species are listed for that establishment in the table. Nor should the table be understood to indicate that the affiliates of any listed establishment use only humane methods.

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ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 1 OF 18 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINES
ARMOUR & COMPANY	2 C	-(•)					
ARMOUR & COMPANY	2 H	-(•)				(•)	
ARMOUR & COMPANY	2 W					(•)	
ARMOUR & COMPANY	2AT					(•)	
ARMOUR & COMPANY	2CC	-(•)					
ARMOUR & COMPANY	2HT	-(•)					
ARMOUR & COMPANY	2SA			(•)	-(•)		
ARMOUR & COMPANY	2SD					(•)	
ARMOUR & COMPANY	2SI	-(•)					
ARMOUR & COMPANY	2WN	-(•)	-(•)				
SWIFT & COMPANY	3 C					(•)	
SWIFT & COMPANY	3 G	-(•)					
SWIFT & COMPANY	3 H	-(•)				(•)	
SWIFT & COMPANY	3 L					(•)	
SWIFT & COMPANY	3 N	-(•)				(•)	
SWIFT & COMPANY	3 R	-(•)					
SWIFT & COMPANY	3 S					(•)	
SWIFT & COMPANY	3 Y	-(•)					
SWIFT & COMPANY	3 Z	-(•)					
SWIFT & COMPANY	3AE					(•)	
SWIFT & COMPANY	3BW			(•)	-(•)		
SWIFT & COMPANY	3CN					(•)	
SWIFT & COMPANY	3GI	-(•)					
SWIFT & COMPANY	3GW					(•)	
SWIFT & COMPANY	3TA	-(•)					
LYKES BROTHERS, INC. OF GEORGIA	8	-(•)	-(•)			(•)	
LYKES BROTHERS, INC.	8 B	-(•)					
PAULY PACKING COMPANY, INC.	10	-(•)					
THE EVANS PACKING COMPANY	11	-(•)	-(•)	-(•)		(•)	
HYGRADE FOOD PRODUCTS CORPORATION	12 A					(•)	
HYGRADE FOOD PRODUCTS CORPORATION	12 P	-(•)					
HYGRADE FOOD PRODUCTS CORPORATION	12 T	-(•)					
HYGRADE FOOD PRODUCTS CORPORATION	12FW	-(•)					
MICKELBERRY'S FOOD PRODUCTS COMPANY	16					(•)	
JOHN MORRELL & COMPANY	17	-(•)				(•)	
JOHN MORRELL & COMPANY	17 A	-(•)				(•)	
JOHN MORRELL & COMPANY	17 D	-(•)		(•)		(•)	
JOHN MORRELL & COMPANY	17 E	-(•)				(•)	
JOHN MORRELL & COMPANY	17 U	-(•)					
C. FINKBEINER, INC.	18	-(•)				(•)	
CUDAHY COMPANY	19 W	-(•)					
WILSON CERTIFIED FOODS, INC.	28 A	-(•)				(•)	
WILSON-SINCLAIR COMPANY	28 H					(•)	
WILSON CERTIFIED FOODS, INC.	28 I	-(•)					
WILSON-SINCLAIR COMPANY	28 L					(•)	
WILSON CERTIFIED FOODS, INC.	28 N	-(•)	-(•)	-(•)		(•)	
WILSON CERTIFIED FOODS, INC.	28 Q	-(•)	-(•)			(•)	
WILSON BEEF & LAMB COMPANY	28 U			(•)			
WILSON-SINCLAIR COMPANY	28 Y	-(•)	-(•)	-(•)		(•)	
WILSON BEEF & LAMB COMPANY	28AI	-(•)		(•)	-(•)		
SWIFT & COMPANY	23	-(•)		(•)			
COAST PACKING COMPANY	25	-(•)	-(•)				
PATRICK CUDAHY, INC.	28					(•)	
KREINBERG & KRASNY, INC.	30	-(•)					
SUPERIOR'S BRAND MEATS, INC.	31	-(•)	-(•)			(•)	
VALLEYDALE PACKERS, INC.	34	-(•)	-(•)	-(•)		(•)	

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 2 OF 18 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINES
KENTON PACKING COMPANY	36	-(•)	-(•)				
SUNNYLAND PACKING COMPANY	43					(•)	
STARK WETZEL & COMPANY, INC.	44	-(•)					
STARK WETZEL & COMPANY, INC.	44 A					(•)	
LINDEN PACKING COMPANY, INC.	45	-(•)					
IDAHO MEAT PACKERS	46	-(•)					
MIDWESTERN BEEF, INC.	53	-(•)					
INSEL AND INSEL	54	-(•)	-(•)	-(•)	-(•)		
SUNNYLAND PACKING COMPANY OF ALABAMA	56	-(•)					
SUNNYLAND PACKING COMPANY OF ALABAMA	56 A					(•)	
WEIMER PACKING COMPANY, INC.	59	-(•)				(•)	
GLOVER PACKING COMPANY OF AMARILLO	60	-(•)					
GLOVER PACKING COMPANY	60 A	-(•)	-(•)	-(•)	-(•)	-(•)	
SUNFLOWER BEEF PACKERS OF NEBRASKA	62	-(•)					
SANDUSKY DRESSED BEEF COMPANY	63	-(•)					
SELKIRK REALTY COMPANY	65					(•)	
MEAT QUALITY LABORATORY	68	-(•)	-(•)	-(•)		(•)	
AUBURN UNIVERSITY MEATS LABORATORY	71	-(•)				(•)	
MINCH'S WHOLESALE MEATS, INC.	72	-(•)	-(•)	-(•)		(•)	
BROWN THOMPSON & SONS	73					(•)	
BALTIC CORPORATION	74 E						(•)
DINNER BELL FOODS, INC.	79 A	-(•)					
DINNER BELL FOODS, INC.	79 B	-(•)				(•)	
THE CUDAHY COMPANY	81					(•)	
EDGAR PACKING COMPANY	84		-(•)				
KANSAS BEEF INDUSTRIES, INC.	86	-(•)					
KANSAS BEEF INDUSTRIES, INC.	86 A	-(•)					
UTICA VEAL COMPANY, INC.	88	-(•)					
THE E. KAHN'S SONS COMPANY	89	-(•)	-(•)			(•)	
PEET PACKING COMPANY	90					(•)	
PEET PACKING COMPANY	90 A	-(•)					
LAREDO PACKING COMPANY	91	-(•)	-(•)				
SUGARDALE FOODS, INC.	92	-(•)				(•)	
LANE PACKING INC.	93	-(•)	-(•)	-(•)	-(•)		
THE VAL DECKER PACKING COMPANY	95	-(•)				(•)	
CENTRAL PACKING COMPANY, INC.	96	-(•)					
A. KOCH'S SONS	98	-(•)	-(•)				
ARMOUR & COMPANY	100	-(•)				(•)	
LIBERTY PACKING COMPANY	101	-(•)	-(•)				
H. GRAVER COMPANY	103	-(•)					
J. LYNN CORNWELL, INC.	107					(•)	
CONTRIS PACKING COMPANY, INC.	110					(•)	
WILSON-SINCLAIR COMPANY	111	-(•)		(•)	-(•)	(•)	
THE MORRIS PACKING COMPANY	113	-(•)					
FARMLAND FOODS, INC.	114	-(•)					
PINE BURR PACKING COMPANY	116	-(•)	-(•)	-(•)	-(•)	(•)	
TROPHY MEAT PACKING COMPANY, INC.	117	-(•)	-(•)	-(•)	-(•)	(•)	
MARHOEFER PACKING COMPANY, INC.	121					(•)	
CITY DRESSED BEEF	125	-(•)					
JOHN MORRELL & COMPANY	126	-(•)					
CASH BROTHERS PACKING COMPANY, INC.	127	-(•)	-(•)	-(•)	-(•)	-(•)	
JOHN ROTH & SON, INC.	130	-(•)					
TOBIN PACKING COMPANY, INC.	133					(•)	
FERRARA MEAT COMPANY, INC.	134	-(•)	-(•)				
NEBRASKA BEEF PACKERS, INC.	135	-(•)					
KLUENER PACKING COMPANY	142	-(•)					

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 3 OF 18 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINES
R.-B. RICE SAUSAGE COMPANY, INC.	144					(•)	
SILVER FALLS PACKING COMPANY, INC.	153	-(•)	-(•)				
DALLAS CITY PACKING, INC.	156	-(•)	-(•)				
CORNLAND DRESSED BEEF, INC.	157	-(•)					
BEEFLAND INTERNATIONAL, INC.	158	-(•)					
CARR PACKING COMPANY, INC.	160	-(•)					
KANSAS BEEF INDUSTRIES, INC.	164	-(•)					
NEW YORK STATE COLLEGE OF AGRICULTURE	165	-(•)	-(•)	-(•)	-(•)	-(•)	
E. W. KNEIP, INC.	169	-(•)					
BUB DAVIS PACKING COMPANY	171	-(•)	-(•)			(•)	
AMERICAN MEAT PACKING CORPORATION	180					(•)	
THE RATH PACKING COMPANY	186					(•)	
THE RATH PACKING COMPANY	186 F					(•)	
CARL'S SAUSAGE COMPANY	188					(•)	
CUDAHY COMPANY	191					(•)	
KREY PACKING COMPANY	192					(•)	
HYNES PACKING COMPANY	197	-(•)	-(•)	-(•)			
UNITED PACKING COMPANY	198	-(•)				(•)	
GEORGE A. HORMEL & COMPANY	199	-(•)				(•)	
GEORGE A. HORMEL & COMPANY	199 D					(•)	
GEORGE A. HORMEL & COMPANY	199 I					(•)	
GEORGE A. HORMEL & COMPANY	199 N	-(•)				(•)	
CAVINESS PACKING COMPANY, INC.	200	-(•)					
CUDAHY COMPANY	202					(•)	
PLATTE VALLEY PACKING COMPANY	203	-(•)					
ENGE PACKING COMPANY, INC.	205	-(•)				(•)	
NATIONAL BEEF PACKING COMPANY	208 A	-(•)					
RIVERSIDE ABATTOIR, INC.	210	-(•)					
PENN PACKING COMPANY	212					(•)	
E. W. KNEIP, INC.	213	-(•)					
MARSHALL MEAT PRODUCTS, INC.	215	-(•)					
LINCOLN MEAT COMPANY	217	-(•)					
ITT GWALTNEY, INC.	221 A					(•)	
ARMOUR & COMPANY	222	-(•)				(•)	
DE JONG PACKING COMPANY	223	-(•)	-(•)				
HYGRADE FOOD PRODUCTS CORPORATION	224	-(•)				(•)	
HYGRADE FOOD PRODUCTS CORPORATION	224 B	-(•)	-(•)				
JOHN MORRELL & COMPANY	234	-(•)					
WALTI SCHILLING & COMPANY, INC.	235	-(•)					
TEXAS TECHNOLOGICAL COLL. - ANIMAL HUSBANDRY	236	-(•)	-(•)	-(•)	-(•)		
RASKIN PACKING COMPANY	237	-(•)					
SHREVEPORT PACKING COMPANY INC. OF KANSAS	239	-(•)	-(•)				
P. D. & J. MEATS	240	-(•)	-(•)				
GREENWOOD PACKING PLANT	242	-(•)	-(•)	-(•)	-(•)		
H. KLAYMAN & COMPANY	243				-(•)		
IOWA BEEF PROCESSORS, INC.,	244	-(•)					
IOWA BEEF PROCESSORS, INC.	245	-(•)					
IOWA BEEF PROCESSORS, INC.	245 A	-(•)					
IOWA BEEF PROCESSORS, INC.	245 B	-(•)					
IOWA BEEF PROCESSORS, INC.	245 C	-(•)					
HARGET REALTY CORPORATION	247				-(•)		
FEDERAL PACKING COMPANY, INC.	249	-(•)					
METRO MEAT PACKING, INC.	253				-(•)		
MAGIC VALLEY PACKING COMPANY	258	-(•)					
HYPLAINS DRESSED BEEF, INC.	262	-(•)					
THE JONES DAIRY FARM	263				-(•)		

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 4 OF 18 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINES
FARM PAC KITCHENS, INC.	266	-(•)				(•)	
PACIFIC MEAT COMPANY, INC.	267	-(•)	-(•)			(•)	
PRAIRIELAND PACKING CORPORATION	269	-(•)					
PAWNEE PACKING COMPANY	270					(•)	
GOLDEN VALLEY PACKING COMPANY	271	-(•)					
TOG PACKING COMPANY, INC.	273	-(•)					
ALPHA BETA ACME MARKETS, INC.	279	-(•)					
MONENCE PORK PACKERS COMPANY	282					(•)	
PARNETT PACKING CORPORATION	283	-(•)					
SOLANO MEAT COMPANY	285	-(•)	-(•)	-(•)			
WESTERN PACKING COMPANY	288	-(•)					
ARBOGAST AND BASTIAN COMPANY	289					(•)	
THE H. H. MEYER PACKING COMPANY	290					(•)	
SAN JOSE MEAT COMPANY, INC.	291	-(•)				(•)	
ARMOUR & COMPANY	292					(•)	
IOWA BEEF PROCESSORS, INC.	292 A	-(•)					
S. SCHWEID	295	-(•)	-(•)	-(•)			
GUS JUENGLING & SON, INC.	298	-(•)					
WALDOCK PACKING COMPANY	299					(•)	
GREAT FALLS MEAT COMPANY	301	-(•)				(•)	
COMMERCIAL PACKING COMPANY, INC.	302	-(•)					
UNION PACKING COMPANY	305	-(•)					
UNION PACKING COMPANY	305 A	-(•)					
STAR PACKING COMPANY	306	-(•)					
KAUFMAN MEAT PACKERS, INC.	310	-(•)	-(•)				
MELTON PROVISION COMPANY	311	-(•)		(•)	-(•)		
RUDY'S FARM COMPANY	315					(•)	
DUTTERER'S OF MANCHESTER	316 A	-(•)				(•)	
ESTES PACKING COMPANY	319	-(•)					
STADLER PACKING COMPANY, INC.	320	-(•)				(•)	
RUDNICK PACKING COMPANY, INC.	325	-(•)					
FRISCO PACKING COMPANY	327	-(•)					
C & M MEAT PACKING CORPORATION	329	-(•)					
ROYAL PACKING COMPANY	331 A	-(•)					
SHAPIRO PACKING COMPANY, INC.	332	-(•)					
GREAT WESTERN PACKING COMPANY, INC.	334	-(•)					
NOBLE'S MEAT COMPANY	335	-(•)					
CHINO VALLEY MEAT PACKING COMPANY, INC.	336	-(•)					
SAM KANE PACKING COMPANY	337	-(•)	-(•)				
GREEN & OLIVER SAUSAGE COMPANY	338	-(•)				(•)	
MIDLAND EMPIRE PACKING COMPANY, INC.	339	-(•)					
BOOKEY PACKING COMPANY	340	-(•)					
GOLD-PAC MEAT COMPANY, INC.	344	-(•)					
ANZA PACKING COMPANY	345	-(•)					
UNION PACKING COMPANY	351	-(•)					
FRESNO MEAT PACKING COMPANY	354	-(•)					
HERNANDO PACKING COMPANY, INC.	355	-(•)	-(•)				
ST. PAUL DRESSED BEEF, INC.	357	-(•)					
CLOUGHERTY PACKING COMPANY	360					(•)	
MEYER'S PACKING COMPANY	363	-(•)					
JAMES ALLAN & SONS	365	-(•)	-(•)			(•)	
WILSON CERTIFIED FOODS, INC.	374	-(•)	-(•)			(•)	
CROSS BROTHERS MEAT PACKERS, INC.	376	-(•)	-(•)	-(•)			
SALINAS MEAT COMPANY	378	-(•)	-(•)	-(•)		(•)	
EMGE PACKING COMPANY, INC.	380	-(•)				(•)	
SMITHFIELD PACKING COMPANY, INC.	382					(•)	

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ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 6 OF 18 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	HOGS	SHEEP	GOATS	EQUINES
THE HULL & DILLON PACKING COMPANY	510	-	-	-	-	-	-
SHEN-VALLEY MEAT PACKERS, INC.	511	-	-	-	-	-	-
SNIDER BROTHERS, INC.	512	-	-	-	-	-	-
CENTRAL BEEF COMPANY, INC.	513	-	-	-	-	-	-
CHARLES MILLER & COMPANY	517	-	-	-	-	-	-
PORK-PACKERS INTERNATIONAL INC.	520	-	-	-	-	-	-
ILLINOIS PACKING COMPANY	521	-	-	-	-	-	-
PEARL PACKING COMPANY	522	-	-	-	-	-	-
DUBUQUE PACKING COMPANY	527	-	-	-	-	-	-
LUGAN PACKING COMPANY	396 C	-	-	-	-	-	-
ARMOUR & COMPANY	528	-	-	-	-	-	-
SHALLWOOD PACKING COMPANY, INC.	529	-	-	-	-	-	-
MARYSVILLE MEAT PACKING COMPANY, INC.	535	-	-	-	-	-	-
PEPPER PACKING COMPANY	536	-	-	-	-	-	-
A. GUSS & SONS, INC.	537 A	-	-	-	-	-	-
OSCAR MAYER & COMPANY, INC.	537 B	-	-	-	-	-	-
OSCAR MAYER & COMPANY, INC.	537 C	-	-	-	-	-	-
OSCAR MAYER & COMPANY, INC.	537 E	-	-	-	-	-	-
ALPINE PACKING COMPANY	538	-	-	-	-	-	-
THE LUNDY PACKING COMPANY	413	-	-	-	-	-	-
THE LUNDY PACKING COMPANY	413 A	-	-	-	-	-	-
FAUSTEN MEAT COMPANY	414	-	-	-	-	-	-
HARRIS BEEF COMPANY	417	-	-	-	-	-	-
S. BONACCURSO & SONS, INC.	438	-	-	-	-	-	-
MURRAY PACKING COMPANY, INC.	421	-	-	-	-	-	-
WILLISTON PACKING COMPANY, INC.	405	-	-	-	-	-	-
NEUROFF BROTHERS	406	-	-	-	-	-	-
A. GUSS & SONS, INC. BEEF, INC.	410	-	-	-	-	-	-
ALPINE PACKING COMPANY	412	-	-	-	-	-	-
THE LUNDY PACKING COMPANY	413	-	-	-	-	-	-
SCHNEIDER PACKING COMPANY	459	-	-	-	-	-	-
OMAHA DRESSED BEEF COMPANY, INC.	451	-	-	-	-	-	-
IDEAL BEEF COMPANY	445	-	-	-	-	-	-
A. DICJILO & SONS, INC.	468	-	-	-	-	-	-
DEWITT PACKING CORPORATION	456	-	-	-	-	-	-
MORRIS RIFKIN & SONS, INC.	460	-	-	-	-	-	-
PIONEER BONELESS BEEF, INC.	461	-	-	-	-	-	-
KANSAS BEEF PACKERS, INC.	462	-	-	-	-	-	-
LITVAK PACKING COMPAIY	465	-	-	-	-	-	-
BECHAR PACKING COMPANY	467	-	-	-	-	-	-
CORNHUSKER PACKING COMPANY	486	-	-	-	-	-	-
MISSOURI BEEF PACKERS, INC.	471	-	-	-	-	-	-
MISSOURI BEEF PACKERS, INC.	475 A	-	-	-	-	-	-
MISSOURI BEEF PACKERS, INC.	475 B	-	-	-	-	-	-
MID-STATES PACKERS, INC.	476	-	-	-	-	-	-
ARMOUR & COMPANY	476 A	-	-	-	-	-	-
SCHMIDT PACKING COMPANY, INC.	477	-	-	-	-	-	-
SAINT CROIX ABATTOIR	482	-	-	-	-	-	-
ROBEL BEEF PACKERS	485	-	-	-	-	-	-
EAST TENNESSEE PACKING COMPANY	487	-	-	-	-	-	-
MEMPHIS BUTCHERS ASSOCIATION, INC.	489	-	-	-	-	-	-
H. H. KEITH COMPANY	490	-	-	-	-	-	-
GOLD RING PACKING COMPANY	498	-	-	-	-	-	-
FAIRBANK FARMS, INC.	492	-	-	-	-	-	-
MID-STATE MEAT PACKERS, INC.	494	-	-	-	-	-	-
PARTELLO MEAT COMPANY	497	-	-	-	-	-	-
HERMANN MEAT PACKING COMPANY	499	-	-	-	-	-	-
SPENCER FOODS, INC.	501	-	-	-	-	-	-

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 8 OF 18 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	HOGS	SHEEP	GOATS	EQUINES
GRANITE STATE PACKING COMPANY	785	-	-	-	-	-	-
SPENCER FOODS, INC.	788	-	-	-	-	-	-
HATFIELD PACKING COMPANY	791	-	-	-	-	-	-
BAUM'S MEAT PACKING COMPANY	792	-	-	-	-	-	-
ROD BARNES PACKING COMPANY	798	-	-	-	-	-	-
WILSON BEEF & LAMB COMPANY	806	-	-	-	-	-	-
BAUR'S BOLOGNA, INC.	555	-	-	-	-	-	-
MEAT COMPANY PACKERS, INC.	807	-	-	-	-	-	-
AMERICAN BEEF PACKERS, INC.	807 A	-	-	-	-	-	-
AMCO-PAC CORPORATION	809	-	-	-	-	-	-
QUALITY MEAT PACKING COMPANY	810	-	-	-	-	-	-
COLORADO WEST PACKERS, INC.	812	-	-	-	-	-	-
GLOBE PACKING COMPANY	815	-	-	-	-	-	-
THE G. ERHARDT SONS, INC.	816	-	-	-	-	-	-
UNITED PACKING OF IOWA, INC.	817	-	-	-	-	-	-
CAMPBELL BROS.	818	-	-	-	-	-	-
ROCHESTER INDEPENDENT PACKER, INC.	823	-	-	-	-	-	-
J. H. HOUTH PACKING COMPANY	824	-	-	-	-	-	-
STERLING COLORADO BEEF COMPANY	825	-	-	-	-	-	-
FORENOST PACKING COMPANY, INC.	826	-	-	-	-	-	-
BERCHEM'S MEAT COMPANY, INC.	830	-	-	-	-	-	-
LEE-JOHNSON, INC.	835	-	-	-	-	-	-
JOHN MORRELL & CO.	836	-	-	-	-	-	-
FREDERICK PACKING PRODUCTS, INC.	838	-	-	-	-	-	-
RED CROSS PACKING COMPANY	840	-	-	-	-	-	-
G. BARTUSCH PACKING COMPANY	843	-	-	-	-	-	-
THE ALLEN PACKING COMPANY	845	-	-	-	-	-	-
ARENA DRESSED BEEF COMPANY	853	-	-	-	-	-	-
SIOUXLAND DRESSED BEEF COMPANY	856	-	-	-	-	-	-
SIOUX BEEF COMPANY	857 F	-	-	-	-	-	-
JORDAN MEAT AND LIVESTOCK COMPANY, INC.	858	-	-	-	-	-	-
WELLS AND TAYLES, INC.	860	-	-	-	-	-	-
AMERICAN BEEF PACKERS, INC.	862	-	-	-	-	-	-
TENNESSEE DRESSED BEEF COMPANY	865	-	-	-	-	-	-
AMERICAN BEEF PACKERS, INC.	866	-	-	-	-	-	-
HANDY AID COMPANY, INC.	869	-	-	-	-	-	-
SANTA ANA PACKING COMPANY	874	-	-	-	-	-	-
PACIFIC MEAT COMPANY, INC.	880	-	-	-	-	-	-
SWANTON PACKING COMPANY, INC.	883	-	-	-	-	-	-
ALCO PACKING COMPANY	885	-	-	-	-	-	-
ALCO PACKING COMPANY	885 A	-	-	-	-	-	-
WALDEN PACKING COMPANY, INC.	886	-	-	-	-	-	-
MERCER PACKING COMPANY	889	-	-	-	-	-	-
VERNON CALHOUN PACKING COMPANY	897	-	-	-	-	-	-
MEATS, INC.	899	-	-	-	-	-	-
SIGHAM MEAT COMPANY, INC.	901 B	-	-	-	-	-	-
PARTY PACKING CORPORATION	907	-	-	-	-	-	-
THE AMERICAN MEAT PACKING CORPORATION	908	-	-	-	-	-	-
ALICE PACKING COMPANY	971	-	-	-	-	-	-
VALLEYDALE PACKERS, INC.	922	-	-	-	-	-	-
WISCONSIN PACKING COMPANY	924	-	-	-	-	-	-
PEOPLES PACKING COMPANY	932	-	-	-	-	-	-
PACIFIC MEAT COMPANY, INC.	933	-	-	-	-	-	-
ATLAS PACKING COMPANY	934	-	-	-	-	-	-
CENTRAL PACKING COMPANY	775	-	-	-	-	-	-
TEXAS PACKING COMPANY	777	-	-	-	-	-	-
BRYAN PACKING COMPANY	789	-	-	-	-	-	-
DIAMOND MEAT COMPANY, INC.	783	-	-	-	-	-	-
APPEL PACKING COMPANY	938	-	-	-	-	-	-
IOWA BEEF PROCESSORS, INC.	935	-	-	-	-	-	-
CAPPELLINO ABATTOIR, INC.	939	-	-	-	-	-	-
GENTHNER PACKING COMPANY, INC.	941	-	-	-	-	-	-

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 5 OF 18 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	HOGS	SHEEP	GOATS	EQUINES
ACME MARKETS, INC.	384	-	-	-	-	-	-
SHEN-VALLEY MEAT PACKERS, INC.	387	-	-	-	-	-	-
QUIDALE PACKING COMPANY	390	-	-	-	-	-	-
OLDHAM'S FARM SAUSAGE COMPANY, INC.	392	-	-	-	-	-	-
ROBERT L. RUNTZ, INC.	395	-	-	-	-	-	-
BUNGE'S MEAT COMPANY, INC.	395 B	-	-	-	-	-	-
DUBUQUE PACKING COMPANY	396	-	-	-	-	-	-
DUBUQUE PACKING COMPANY	396 C	-	-	-	-	-	-
ARMOUR & COMPANY	397	-	-	-	-	-	-
WATSONVILLE DRESSED BEEF, INC.	398	-	-	-	-	-	-
CLARKS PACKING COMPANY, INC.	400	-	-	-	-	-	-
OAKRIDGE SMOKEHOUSE	401	-	-	-	-	-	-
OMEIS COUNTRY SAUSAGE, INC.	403	-	-	-	-	-	-
WILLISTON PACKING COMPANY, INC.	405	-	-	-	-	-	-
NEUROFF BROTHERS	406	-	-	-	-	-	-
A. GUSS & SONS, INC. BEEF, INC.	410	-	-	-	-	-	-
ALPINE PACKING COMPANY	412	-	-	-	-	-	-
THE LUNDY PACKING COMPANY	413	-	-	-	-	-	-
THE LUNDY PACKING COMPANY	413 A	-	-	-	-	-	-
FAUSTEN MEAT COMPANY	414	-	-	-	-	-	-
HARRIS BEEF COMPANY	417	-	-	-	-	-	-
S. BONACCURSO & SONS, INC.	438	-	-	-	-	-	-
MURRAY PACKING COMPANY, INC.	421	-	-	-	-	-	-
E. W. KNEIP INC. OF IOWA	422	-	-	-	-	-	-
THE COUNTRY PACKING COMPANY	423	-	-	-	-	-	-
KENOSHA PACKING COMPANY, INC.	425	-	-	-	-	-	-
FINEBERG PACKING COMPANY	428	-	-	-	-	-	-
SCHNEIDER PACKING COMPANY	450	-	-	-	-	-	-
OMAHA DRESSED BEEF COMPANY, INC.	451	-	-	-	-	-	-
IDEAL BEEF COMPANY	445	-	-	-	-	-	-
A. DICJILO & SONS, INC.	468	-	-	-	-	-	-
DEWITT PACKING CORPORATION	456	-	-	-	-	-	-
MORRIS RIFKIN & SONS, INC.	460	-	-	-	-	-	-
PIONEER BONELESS BEEF, INC.	461	-	-	-	-	-	-
KANSAS BEEF PACKERS, INC.	462	-	-	-	-	-	-
LITVAK PACKING COMPAIY	465	-	-	-	-	-	-
BECHAR PACKING COMPANY	467	-	-	-	-	-	-
CORNHUSKER PACKING COMPANY	486	-	-	-	-	-	-
MISSOURI BEEF PACKERS, INC.	471	-	-	-	-	-	-
MISSOURI BEEF PACKERS, INC.	475 A	-	-	-	-	-	-
MISSOURI BEEF PACKERS, INC.	475 B	-	-	-	-	-	-
MID-STATES PACKERS, INC.	476	-	-	-	-	-	-
ARMOUR & COMPANY	476 A	-	-	-	-	-	-
SCHMIDT PACKING COMPANY, INC.	477	-	-	-	-	-	-
SAINT CROIX ABATTOIR	482	-	-	-	-	-	-
ROBEL BEEF PACKERS	485	-	-	-	-	-	-
EAST TENNESSEE PACKING COMPANY	487	-	-	-	-	-	-
MEMPHIS BUTCHERS ASSOCIATION, INC.	489	-	-	-	-	-	-
H. H. KEITH COMPANY	490	-	-	-	-	-	-
GOLD RING PACKING COMPANY	498	-	-	-	-	-	-
FAIRBANK FARMS, INC.	492	-	-	-	-	-	-
MID-STATE MEAT PACKERS, INC.	494	-	-	-	-	-	-
PARTELLO MEAT COMPANY	497	-	-	-	-	-	-
HERMANN MEAT PACKING COMPANY	499	-	-	-	-	-	-
SPENCER FOODS, INC.	501	-	-	-	-	-	-

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 7 OF 18 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	HOGS	SHEEP	GOATS	EQUINES
BIND PROVISION COMPANY	647	-	-	-	-	-	-
SPENCER FOODS, INC.	648	-	-	-	-	-	-
SCHELL BRIDGE, INC. COMPANY, INC.	649	-	-	-	-	-	-
JOHN MORRELL & COMPANY	650	-	-	-	-	-	-
WILSON BEEF & LAMB COMPANY	655	-	-	-	-	-	-
BAUR'S BOLOGNA, INC.	657	-	-	-	-	-	-
MEAT COMPANY PACKERS, INC.	807	-	-	-	-	-	-
QUALITY MEAT PACKING COMPANY	660	-	-	-	-	-	-
COLORADO WEST PACKERS, INC.	662	-	-	-	-	-	-
GLOBE PACKING COMPANY	663	-	-	-	-	-	-
WEBBER FARMS, INC.	665	-	-	-	-	-	-
SCOTTSBLUFF PACKING COMPANY	667	-	-	-	-	-	-
UNION PACKING COMPANY, INC.	673	-	-	-	-	-	-
S & S PACKING COMPANY, INC.	674	-	-	-	-	-	-
S & S PACKING COMPANY, INC.	674 A	-	-	-	-	-	-
JAMES S. BOND & SONS, INC.	675	-	-	-	-	-	-
CALDWELL PACKING COMPANY, INC.	683	-	-	-	-	-	-
CALLAWAY PACKING COMPANY, INC.	688	-	-	-	-	-	-
PIERCE PACKING COMPANY	691	-	-	-	-	-	-
WILHELM FOODS, INC.	692	-	-	-	-	-	-
MARTIN BROS. PACKING CO.	693	-	-	-	-	-	-
KANSAS STATE UNIV. - ANIMAL HUSBANDRY DEPT.	694	-	-	-	-	-	-
KRAMER BEEF COMPANY	695	-	-	-	-	-	-
GULF PACKING COMPANY	696	-	-	-	-	-	-
CENTRAL NEBRASKA PACKING COMPANY	715	-	-	-	-	-	-
FARMLAND FOODS, INC.	716	-	-	-	-	-	-
FARMLAND FOODS, INC.	717	-	-	-	-	-	-
A. ZUKIN & SONS, INC. - RHODE	717 A	-	-	-	-	-	-
SWIFT & COMPANY	726	-	-	-	-	-	-
DECKER & SON	727	-	-	-	-	-	-
ROODE PACKING COMPANY, INC.	729	-	-	-	-	-	-
FARMLAND FOODS, INC.	730	-	-	-	-	-	-
PACIFIC MEAT COMPANY	731	-	-	-	-	-	-
WESTERN PACKERS	733	-	-	-	-	-	-
S W GALLS SON	735	-	-	-	-	-	-
OHIO PACKING COMPANY	736	-	-	-	-	-	-
PACIFIC MEAT COMPANY	738	-	-	-	-	-	-
THE JACOB SCHLACHTER'S SONS COMPANY	739	-	-	-	-	-	-
MID-STATE MEAT COMPANY	741	-	-	-	-	-	-
SIETZ PACKING, INC.	749	-	-	-	-	-	-
THE OK PACKING COMPANY	755 A	-	-	-	-	-	-
MONROE PACKING COMPANY, INC.	760	-	-	-	-	-	-
THE AMERICAN MEAT PACKING CORPORATION	761	-	-	-	-	-	-
SCHMAKE PACKING COMPANY, INC.	767	-	-	-	-	-	-
KARLER PACKING COMPANY, INC.	768	-	-	-	-	-	-
EMERIDAN MEAT COMPANY, INC.	771	-	-	-	-	-	-
ESTES, INC.	773	-	-	-	-	-	-
HANFORD MEAT PACKING COMPANY	774	-	-	-	-	-	-
ATLAS PACKING COMPANY	775	-	-	-	-	-	-
CENTRAL PACKING COMPANY	777	-	-	-	-	-	-
TEXAS PACKING COMPANY	789	-	-	-	-	-	-
BRYAN PACKING COMPANY	789	-	-	-	-	-	-
DIAMOND MEAT COMPANY, INC.	783	-	-	-	-	-	-

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ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 10 OF 18 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	HOGS	GOATS	SHEEP	EQUINES
AMANA SOCIETY MEAT DEPARTMENT	2357	-(*)-	----	-(*)-	----	----	----
THEIS PACKING COMPANY, INC.	2367	-(*)-	----	-(*)-	----	----	----
GROTE MEAT COMPANY	2369	----	----	-(*)-	-(*)-	----	----
NUESTING PACKING COMPANY	2370	----	----	-(*)-	----	----	----
CLAUSEN MEAT COMPANY	2374	----	----	-(*)-	----	----	----
SHIT & SUN, INC.	2376	----	----	----	-(*)-	----	----
SPENCER FOODS, INC.	2379	-(*)-	----	-(*)-	----	----	----
MARSHALL PACKING COMPANY, INC.	2385	----	----	----	----	-(*)-	----
FARMERS PRIDE PACKING CO.	2386	-(*)-	----	-(*)-	----	----	----
GUSTAV B. NISSEN & SON PACKING COMPANY	2388	-(*)-	----	-(*)-	----	----	----
C. E. RICHARD AND SONS, INC.	2391	-(*)-	----	-(*)-	----	----	----
UNITED MEAT COMPANY, INC.	2396	-(*)-	----	-(*)-	----	----	----
QUALITY PACKINGHOUSE, INC.	2435	-(*)-	----	-(*)-	----	----	----
CUDAHY PACKING COMPANY	2451	-(*)-	----	-(*)-	----	----	----
CIMPL PACKING COMPANY	2460	-(*)-	----	-(*)-	----	----	----
LINK BROTHERS ENTERPRISES	2472	-(*)-	----	-(*)-	----	----	----
WENNING PACKING COMPANY, INC.	2533	-(*)-	----	-(*)-	----	----	----
PACKERS CONSUMER BEEF, INC.	2586	-(*)-	----	-(*)-	----	----	----
BP PACKING COMPANY	2587	-(*)-	----	-(*)-	----	----	----
HEYHAUPT BROTHERS PACKING COMPANY	2594	-(*)-	----	-(*)-	----	----	----
BARTLOW BROTHERS, INC.	2595	-(*)-	----	-(*)-	----	----	----
THE TEETERS PACKING COMPANY	2598	-(*)-	----	-(*)-	----	----	----
J. J. MEATS AND FOODS, INC.	2621	----	----	----	-(*)-	----	----
H. P. BEALE & SONS, INC.	2682	-(*)-	----	-(*)-	----	----	----
YODERS LOCKER PLANT	2699	----	----	----	-(*)-	----	----
WAGNER PROVISION COMPANY, INC.	2710	-(*)-	----	-(*)-	----	----	----
YONTZ PACKING COMPANY	2939	-(*)-	----	-(*)-	----	----	----
DAVIS SLAUGHTER PLANT	2950	-(*)-	----	-(*)-	----	----	----
CAMDEN MEAT PROCESSING, INC.	2965	-(*)-	----	-(*)-	----	----	----
HIGHLANDVILLE PACKING COMPANY	2987	-(*)-	----	-(*)-	----	----	----
FORT PLAIN PACKING COMPANY, INC.	5074	-(*)-	----	-(*)-	----	----	----
DOUBLE A MEAT PACKING, INC.	5162	-(*)-	----	-(*)-	-(*)-	----	----
ANTHONY PARILLO, INC.	5193	-(*)-	----	-(*)-	-(*)-	----	----
CAMBRIDGE PACKING COMPANY, INC.	5208	-(*)-	----	-(*)-	-(*)-	----	----
JOHNSTON DRESSED BEEF & VEAL COMPANY, INC.	5301	-(*)-	----	-(*)-	-(*)-	----	----
HAYES PACKING CORPORATION	5309	-(*)-	----	-(*)-	-(*)-	----	----
MORRIS MENDEL & COMPANY	5319	-(*)-	----	-(*)-	-(*)-	----	----
KLINGH A. SCHALLER, INC.	5327	-(*)-	----	-(*)-	----	----	----
HERSHEY ESTATES ABATTOIR	5388	-(*)-	----	-(*)-	----	----	----
WINCHESTER PACKING COMPANY, INC.	5508	-(*)-	----	-(*)-	----	----	----
AMEND PACKING COMPANY	5509	-(*)-	----	-(*)-	----	----	----
GIBBON PACKING, INC.	5511	-(*)-	----	-(*)-	----	----	----
CARL DOSS, INC.	5512	-(*)-	----	-(*)-	----	----	----
CENTRAL FOODS, INC.	5519	-(*)-	----	-(*)-	-(*)-	----	----
HEWLETT WHOLESALE MEATS	5524	-(*)-	----	-(*)-	----	----	----

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 12 OF 18 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	HOGS	GOATS	SHEEP	EQUINES
WAUSA LOCKERS	5686	-(*)-	----	-(*)-	-(*)-	----	----
DEERSONS MEAT PLANTS, INC.	5690	-(*)-	----	-(*)-	----	----	----
BURNETTE SAUSAGE COMPANY	5705	-(*)-	----	-(*)-	----	----	----
HAVILIK'S LOCKER PLANT	5729	-(*)-	----	-(*)-	-(*)-	----	----
THE FREEZER	5786	-(*)-	----	-(*)-	-(*)-	----	----
MCGEE PACKING COMPANY	5801	-(*)-	----	-(*)-	----	----	----
SCHLESWIG SAUSAGE INC.	5825	-(*)-	----	-(*)-	----	----	----
KESSLER'S SMOKEHOUSE	5834	-(*)-	----	-(*)-	----	----	----
LYNCH PACKING PLANT	5843	-(*)-	----	-(*)-	-(*)-	----	----
O. K. MEAT PACKING COMPANY, INC.	6001	-(*)-	----	-(*)-	----	----	----
WILLIAM C. PARKE & SONS COMPANY	6003	-(*)-	----	-(*)-	----	----	----
UNIVERSITY OF FLORIDA - ANIMAL SCIENCE DIVISION	6004	-(*)-	----	-(*)-	----	----	----
MEATS BY LINDY, INC.	6011	-(*)-	----	-(*)-	----	----	----
UNIV. OF CALIFORNIA - DEPT. OF ANIMAL SCIENCE	6012	-(*)-	----	-(*)-	----	----	----
OAKDALE MEAT COMPANY	6016	-(*)-	----	-(*)-	----	----	----
LAUB SERVICE, INC.	6017	-(*)-	----	-(*)-	----	----	----
NEVADA MEAT COMPANY, INC.	6038	-(*)-	----	-(*)-	-(*)-	----	----
PASCO MEAT PACKERS, LNC.	6039	-(*)-	----	-(*)-	----	----	----
WEBER, INC.	6040	-(*)-	----	-(*)-	-(*)-	----	----
MC RAE PACK, INC.	6041	-(*)-	----	-(*)-	----	----	----
AVILA MEAT COMPANY	6042	-(*)-	----	-(*)-	----	----	----
AVILA MEAT COMPANY	6046	-(*)-	----	-(*)-	----	----	----
SATICOY MEAT PACKING COMPANY	6055	-(*)-	----	-(*)-	----	----	----
SCHENK PACKING COMPANY/	6056	-(*)-	----	-(*)-	----	----	----
TULARE MEAT COMPANY	6065	-(*)-	----	-(*)-	----	----	----
RED BARN FOODS	6071	-(*)-	----	-(*)-	----	----	----
KLUBNIKIN PACKING COMPANY	6083	-(*)-	----	-(*)-	----	----	----
GRANDVIEW PACKING COMPANY	6084	-(*)-	----	-(*)-	-(*)-	----	----
ARNOPOLE MEAT PACKING COMPANY	6110	-(*)-	----	-(*)-	-(*)-	----	----
KRATZIG MEAT COMPANY	6114	-(*)-	----	-(*)-	-(*)-	----	----
AMERICAN MEAT PACKING	6118	-(*)-	----	-(*)-	-(*)-	----	----
CEDAR PACKING COMPANY	6126	-(*)-	----	-(*)-	----	----	----
CUYAMACA MEAT COMPANY	6131	-(*)-	----	-(*)-	----	----	----
CIRCLE BAR MEAT COMPANY	6171	-(*)-	----	-(*)-	----	----	----
T. C. MEAT PACKING COMPANY	6175	-(*)-	----	-(*)-	----	----	----
LEWIS MEATS	6513	-(*)-	----	-(*)-	----	----	----
GEORGE H. MEYER SONS, INC.	6521	-(*)-	----	-(*)-	----	----	----
GUARD HILL MEATS, INC.	6526	-(*)-	----	-(*)-	----	----	----
GUARD HILL MEATS, INC.	6541	-(*)-	----	-(*)-	----	----	----
ODUM SAUSAGE COMPANY, INC.	6544	-(*)-	----	-(*)-	----	----	----
SUFFOLK PACKING COMPANY	6546	-(*)-	----	-(*)-	----	----	----
MARTIN'S ABATTOIR & WHOLESALE MEATS	6547	-(*)-	----	-(*)-	----	----	----
PENN MAID MEATS, INC.	6562	-(*)-	----	-(*)-	----	----	----
KRAFT PLATE PROCESSING PLANT, INC.	6563	-(*)-	----	-(*)-	----	----	----
EDWARDS SAUSAGE COMPANY, INC.	6579	-(*)-	----	-(*)-	----	----	----
LEDFORD'S LIVESTOCK FARM SLAUGHTER PLANT	6593 A	-(*)-	-(*)-	-(*)-	----	----	----
WHITE PACKING COMPANY	6595	-(*)-	----	-(*)-	----	----	----
DEAL SAUSAGE COMPANY, INC.	6615	-(*)-	----	-(*)-	----	----	----
MARTIN'S MARKET	6675	-(*)-	----	-(*)-	----	----	----
YOST PACK INC.	6672	-(*)-	----	-(*)-	----	----	----
HOLLSTEIN PACKING COMPANY	6673	-(*)-	----	-(*)-	----	----	----
FLICKR PACKING COMPANY	6676	-(*)-	----	-(*)-	----	----	----
KRUEGER PACKING COMPANY	6681	-(*)-	----	-(*)-	----	----	----
TECUMSEH LOCKER	6682	-(*)-	----	-(*)-	----	----	----
VALENTINE LOCKERS	6683	-(*)-	----	-(*)-	----	----	----
VERDIGRE MEAT & LOCKER	6684	-(*)-	-(*)-	-(*)-	----	----	----

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 9 OF 18 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	HOGS	GOATS	SHEEP	EQUINES
DIAMOND MEAT PACKERS, INC.	944	----	----	----	----	----	----
A. BRIZZOLARA & COMPANY	946	-(*)-	----	-(*)-	----	----	----
JOE DOCTORIAN & SON PACKING COMPANY, INC.	949	-(*)-	----	-(*)-	----	----	----
KENNEDY'S SAUSAGE COMPANY	950	----	----	-(*)-	----	----	----
BOB EVANS FARMS, INCORPORATED, INC.	952	----	----	-(*)-	----	----	----
FRANK H. FOOSE & SONS, INC.	959	-(*)-	----	-(*)-	----	----	----
GREATER OMAHA PACKING COMPANY, INC.	960	-(*)-	----	-(*)-	----	----	----
VIRGINIA PACKING COMPANY, INC.	963	-(*)-	-(*)-	----	----	----	----
LAY PACKING COMPANY	967	-(*)-	----	-(*)-	----	----	----
HONFORT PACKING COMPANY	969	-(*)-	----	-(*)-	----	----	----
HANKA MEAT COMPANY, LTD.	968	-(*)-	----	-(*)-	----	----	----
LONGHORN MEAT PACKERS, INC.	976	-(*)-	----	-(*)-	----	----	----
NATIONAL FOOD STORES, INC.	981	-(*)-	----	-(*)-	----	----	----
BANNER BEEF COMPANY	985	-(*)-	----	-(*)-	----	----	----
SHAMROCK BEEF COMPANY	987	-(*)-	----	-(*)-	----	----	----
CLEVELAND PACKING SON, INC.	988	-(*)-	----	-(*)-	----	----	----
KLARER OF KENTUCKY, INC.	995	-(*)-	----	-(*)-	----	----	----
THE HOME PRIDE PROVISIONS, INC.	1029	-(*)-	----	-(*)-	----	----	----
ARMOUR & COMPANY	1085	-(*)-	----	-(*)-	----	----	----
KAULA PACKING COMPANY	1171	-(*)-	----	-(*)-	----	----	----
ROSEDALE DAIRY CONSOLIDATED FOODS	1301	-(*)-	----	-(*)-	----	----	----
A. F. MOYER & SONS, INC.	1311	-(*)-	----	-(*)-	----	----	----
MC CABE PACKING PLANT	1312	-(*)-	----	-(*)-	----	----	----
STEVENS MEAT COMPANY, INC.	1485	-(*)-	----	-(*)-	----	----	----
JAMES SAUSAGE COMPANY	1818	-(*)-	----	-(*)-	----	----	----
C. G. HUSMANN, INC.	2111	-(*)-	----	-(*)-	----	----	----
DE LUCA PACKING COMPANY	2211 A	-(*)-	----	-(*)-	----	----	----
ODOM SAUSAGE COMPANY OF KENTUCKY, INC.	2094	----	----	----	-(*)-	----	----
ALEMELS, INC.	2101	-(*)-	----	-(*)-	----	----	----
JESSE JONES SAUSAGE DIVISION OF GOODMARK, INC.	2103	----	----	----	-(*)-	----	----
BALLAS EGG PRODUCTS, INC.	2104	-(*)-	----	-(*)-	----	----	----
P & H PACKING COMPANY, INC.	2211	-(*)-	----	-(*)-	-(*)-	----	----
P & H PACKING COMPANY, INC.	2211 A	-(*)-	----	-(*)-	-(*)-	----	----
GREELY MEAT COMPANY	2212	-(*)-	----	-(*)-	----	----	----
MORRELL PACKING COMPANY, INC.	2214	-(*)-	----	-(*)-	-(*)-	----	----
SOUTH ST. PAUL PACKING CO., LTD.	2215	-(*)-	----	-(*)-	-(*)-	----	----
BURLISON PACKING COMPANY	2224	-(*)-	----	-(*)-	----	----	----
PACE PACKING COMPANY	2228	-(*)-	----	-(*)-	----	----	----
RIDLEY PACKING COMPANY	2229	-(*)-	----	-(*)-	----	----	----
SOUTH PLAINS PACKERS, INC.	2230	-(*)-	----	-(*)-	----	----	----
L. A. FREY & SONS, DIVISION	2239	-(*)-	----	-(*)-	----	----	----
CURRY COUNTY MEAT COMPANY	2248	-(*)-	----	-(*)-	----	----	----
BRYAN SAUSAGE COMPANY, INC.	2249	-(*)-	----	-(*)-	----	----	----
COLORADO STATE UNIV. - DEPT. OF ANIMAL SCIENCE	2253	-(*)-	----	-(*)-	----	----	----
GOLDEN ISLES PACKING COMPANY, INC.	2260	-(*)-	----	-(*)-	----	----	----
C & A PACKING COMPANY	2262	-(*)-	----	-(*)-	----	----	----
RIDLEY PACKING COMPANY	2265	-(*)-	----	-(*)-	----	----	----
L. A. FREY & SONS, INC.	2266 A	-(*)-	----	-(*)-	----	----	----
WRIGHT PACKING COMPANY	2269	-(*)-	----	-(*)-	----	----	----
LUCAS MEAT PACKERS	2272	-(*)-	----	-(*)-	----	----	----
AMARILLO PACKING COMPANY	2273	-(*)-	----	-(*)-	----	----	----
SUNRAY MEATS, INC.	2274	-(*)-	----	-(*)-	----	----	----
NORTHWEST PACKING COMPANY	2283	-(*)-	----	-(*)-	----	----	----
HUSSAND BROTHERS PACKING COMPANY	2284	-(*)-	----	-(*)-	----	----	----
BARTLOW BROTHERS, INC.	2295	-(*)-	----	-(*)-	----	----	----
DANKWORTH PACKING COMPANY	2296	-(*)-	----	-(*)-	----	----	----

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 11 OF 18 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	HOGS	GOATS	SHEEP	EQUINES
MACON BEEF PACKERS, INC.	5531	-(*)-	----	----	----	----	----
SIOUX-PREME PACKING COMPANY	5537	-(*)-	----	-(*)-	----	----	----
JACK POLEN BEEF COMPANY, INC.	5548	-(*)-	----	-(*)-	----	----	----
BURNETTE SAUSAGE COMPANY	5564	-(*)-	----	-(*)-	----	----	----
HAVILIK'S LOCKER PLANT	5729	-(*)-	----	-(*)-	-(*)-	----	----
THE FREEZER	5786	-(*)-	----	-(*)-	-(*)-	----	----
MCGEE PACKING COMPANY	5801	-(*)-	----	-(*)-	----	----	----
SCHLESWIG SAUSAGE INC.	5825	-(*)-	----	-(*)-	----	----	----
KESSLER'S SMOKEHOUSE	5834	-(*)-	----	-(*)-	----	----	----
LYNCH PACKING PLANT	5843	-(*)-	----	-(*)-	-(*)-	----	----
O. K. MEAT PACKING COMPANY, INC.	6001	-(*)-	----	-(*)-	----	----	----
WILLIAM C. PARKE & SONS COMPANY	6003	-(*)-	----	-(*)-	----	----	----
UNIVERSITY OF FLORIDA - ANIMAL SCIENCE DIVISION	6004	-(*)-	----	-(*)-	----	----	----
MEATS BY LINDY, INC.	6011	-(*)-	----	-(*)-	----	----	----
UNIV. OF CALIFORNIA - DEPT. OF ANIMAL SCIENCE	6012	-(*)-	----	-(*)-	----	----	----
OAKDALE MEAT COMPANY	6016	-(*)-	----	-(*)-	----	----	----
LAUB SERVICE, INC.	6017	-(*)-	----	-(*)-	----	----	----
NEVADA MEAT COMPANY, INC.	6038	-(*)-	----	-(*)-	-(*)-	----	----
PASCO MEAT PACKERS, LNC.	6039	-(*)-	----	-(*)-	----	----	----
WEBER, INC.	6040	-(*)-	----	-(*)-	-(*)-	----	----
MC RAE PACK, INC.	6041	-(*)-	----	-(*)-	----	----	----
AVILA MEAT COMPANY	6042	-(*)-	----	-(*)-	----	----	----
AVILA MEAT COMPANY	6046	-(*)-	----	-(*)-	----	----	----
SATICOY MEAT PACKING COMPANY	6055	-(*)-	----	-(*)-	----	----	----
SCHENK PACKING COMPANY/	6056	-(*)-	----	-(*)-	----	----	----
TULARE MEAT COMPANY	6065	-(*)-	----	-(*)-	----	----	----
RED BARN FOODS	6071	-(*)-	----	-(*)-	----	----	----
KLUBNIKIN PACKING COMPANY	6083	-(*)-	----	-(*)-	----	----	----
GRANDVIEW PACKING COMPANY	6084	-(*)-	----	-(*)-	-(*)-	----	----
ARNOPOLE MEAT PACKING COMPANY	6110	-(*)-	----	-(*)-	-(*)-	----	----
KRATZIG MEAT COMPANY	6114	-(*)-	----	-(*)-	-(*)-	----	----
AMERICAN MEAT PACKING	6118	-(*)-	----	-(*)-	-(*)-	----	----
CEDAR PACKING COMPANY	6126	-(*)-	----	-(*)-	----	----	----
CUYAMACA MEAT COMPANY	6131	-(*)-	----	-(*)-	----	----	----
CIRCLE BAR MEAT COMPANY	6171	-(*)-	----	-(*)-	----	----	----
T. C. MEAT PACKING COMPANY	6175	-(*)-	----	-(*)-	----	----	----
LEWIS MEATS	6513	-(*)-	----	-(*)-	----	----	----
GEORGE H. MEYER SONS, INC.	6521	-(*)-	----	-(*)-	----	----	----
GUARD HILL MEATS, INC.	6526	-(*)-	----	-(*)-	----	----	----
GUARD HILL MEATS, INC.	6541	-(*)-	----	-(*)-	----	----	----
ODUM SAUSAGE COMPANY, INC.	6544	-(*)-	----	-(*)-	----	----	----
SUFFOLK PACKING COMPANY	6546	-(*)-	----	-(*)-	----	----	----
MARTIN'S ABATTOIR & WHOLESALE MEATS	6547	-(*)-	----	-(*)-	----	----	----
PENN MAID MEATS, INC.	6562	-(*)-	----	-(*)-	----	----	----
KRAFT PLATE PROCESSING PLANT, INC.	6563	-(*)-	----	-(*)-	----	----	----
EDWARDS SAUSAGE COMPANY, INC.	6579	-(*)-	----	-(*)-	----	----	----
LEDFORD'S LIVESTOCK FARM SLAUGHTER PLANT	6593 A	-(*)-	-(*)-	-(*)-	----	----	----
WHITE PACKING COMPANY	6595	-(*)-	----	-(*)-	----	----	----
DEAL SAUSAGE COMPANY, INC.	6615	-(*)-	----	-(*)-	----	----	----
MARTIN'S MARKET	6671	-(*)-	----	-(*)-	----	----	----
YOST PACK INC.	6672	-(*)-	----	-(*)-	----	----	----
HOLLSTEIN PACKING COMPANY	6673	-(*)-	----	-(*)-	----	----	----
FLICKR PACKING COMPANY	6676	-(*)-	----	-(*)-	----	----	----
KRUEGER PACKING COMPANY	6681	-(*)-	----	-(*)-	----	----	----
TECUMSEH LOCKERS	6682	-(*)-	----	-(*)-	----	----	----
VERDIGRE MEAT & LOCKER	6684	-(*)-	-(*)-	-(*)-	----	----	----

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ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 14 OF 18 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINES
T. M. LANDIS, INC.	7517	-(•)-	-(•)-	-(•)-	----	-(•)-	----
GARTNER-HAUF COMPANY	7576	-(•)-	-(•)-	-(•)-	----	----(•)-	----
MERWIN PACKING, INC.	7680	----	----	----	----	----(•)-	----
ABERCHOMBIE MEAT	7601	----	----	----	----	----	----
MILLNER & SHARP MEAT	7692	----	----	----	----	----	----
KENOSHA PACKING COMPANY, INC.	7686	----	----	----	----	----(•)-	----
ILLINI BEEF PACKERS, INC.	7695	----	----	----	----	----	----
BOB EVANS FARMS, INC.	7696	----	----	----	----	----	----
UTICA PACKING COMPANY	7697	-(•)-	-(•)-	-(•)-	----	-(•)-	----
KEYSER PACKING COMPANY	7698	-(•)-	-(•)-	-(•)-	----	-(•)-	----
NEMETZ PACKING HOUSE	7608	-(•)-	-(•)-	-(•)-	----	-(•)-	----
MILLER PROCESSING COMPANY, INC.	7611	-(•)-	-(•)-	-(•)-	----	-(•)-	----
ELCONA FOODS, INC.	7612	-(•)-	-(•)-	-(•)-	----	-(•)-	----
ABE MAY PACKING COMPANY	7615	-(•)-	-(•)-	-(•)-	----	-(•)-	----
SCHWARTZMAN PACKING COMPANY	7619	-(•)-	-(•)-	-(•)-	----	-(•)-	----
DEMING PACKING COMPANY, INC.	7618	-(•)-	-(•)-	-(•)-	----	-(•)-	----
JIMMY DEAN MEAT COMPANY	7619	-(•)-	-(•)-	-(•)-	----	-(•)-	----
HUSKOGEE PACKING COMPANY, INC.	7620	-(•)-	-(•)-	-(•)-	----	-(•)-	----
KEYSER PACKERS, INC.	7622	-(•)-	-(•)-	-(•)-	----	-(•)-	----
WESTERN MEAT PACKERS, INC.	7623	-(•)-	-(•)-	-(•)-	----	-(•)-	----
WEBB PACKING COMPANY	7624	-(•)-	-(•)-	-(•)-	----	-(•)-	----
CROW'S MEAT COMPANY	7625	-(•)-	-(•)-	-(•)-	----	-(•)-	----
CHEF-REDDY MEATS COMPANY	7627	-(•)-	-(•)-	-(•)-	----	-(•)-	----
BRADSHAW PACKING COMPANY, INC.	7632	-(•)-	-(•)-	-(•)-	----	-(•)-	----
BHONITI'S MEAT LOCKER	7633	-(•)-	-(•)-	-(•)-	----	-(•)-	----
INTERSTATE PACKING COMPANY	7634	-(•)-	-(•)-	-(•)-	----	-(•)-	----
BROWN PACKING COMPANY	7636	-(•)-	-(•)-	-(•)-	----	-(•)-	----
COMMUNITY ABATTOIR, INC.	7641	-(•)-	-(•)-	-(•)-	----	-(•)-	----
MYERS MEAT PROCESSING	7642	-(•)-	-(•)-	-(•)-	----	-(•)-	----
HILLSIDE MEAT COMPANY	7644	-(•)-	-(•)-	-(•)-	----	-(•)-	----
GUILLOT PACKING COMPANY, INC.	7646	-(•)-	-(•)-	-(•)-	----	-(•)-	----
CAPROCK BEEF PACKERS, INC.	7648	-(•)-	-(•)-	-(•)-	----	-(•)-	----
E-TEX PACKING COMPANY	7647	-(•)-	-(•)-	-(•)-	----	-(•)-	----
OSBURN PACKING COMPANY	7648	-(•)-	-(•)-	-(•)-	----	-(•)-	----
HARRISON'S PACKING COMPANY	7649	-(•)-	-(•)-	-(•)-	----	-(•)-	----
KENTUCKY SAUSAGE COMPANY, INC.	7655	-(•)-	-(•)-	-(•)-	----	-(•)-	----
DUFFY BONELESS BEEF COMPANY	7656	-(•)-	-(•)-	-(•)-	----	-(•)-	----
METZGER PACKING COMPANY, INC.	7661	-(•)-	-(•)-	-(•)-	----	-(•)-	----
ENTERPRISE MEAT COMPANY, INC.	7676	-(•)-	-(•)-	-(•)-	----	-(•)-	----
KENT MEAT COMPANY	7677	-(•)-	-(•)-	-(•)-	----	-(•)-	----
RAHR MEAT SERVICE	7678	-(•)-	-(•)-	-(•)-	----	-(•)-	----
MILES CITY PACKING COMPANY	7679	-(•)-	-(•)-	-(•)-	----	----(•)-	----
HARDIN MEAT MARKET	7684	----	----	----	----	----	----
SENTZ-BONERS PROCESSING PLANT	7685	-(•)-	-(•)-	-(•)-	----	-(•)-	----
KREZELAMP'S MEAT PACKING CO. INC.	7687	-(•)-	-(•)-	-(•)-	----	-(•)-	----
ROCKY MOUNTAIN PACKING COMPANY, INC.	7690	-(•)-	-(•)-	-(•)-	----	-(•)-	----
TRIANGLE PACKING COMPANY	7691	-(•)-	-(•)-	-(•)-	----	-(•)-	----
MARIA'S PACKING COMPANY	7692	-(•)-	-(•)-	-(•)-	----	-(•)-	----
BLUE RIDGE BEEF PLANT, INC.	7693	-(•)-	-(•)-	-(•)-	----	-(•)-	----
WILLIAMSON SAUSAGE COMPANY, INC.	7694	-(•)-	-(•)-	-(•)-	----	-(•)-	----
DIAMOND MEAT COMPANY, INC.	7695	-(•)-	-(•)-	-(•)-	----	-(•)-	----
FIELD PACKING COMPANY, INC.	7707	-(•)-	-(•)-	-(•)-	----	-(•)-	----
BRUNDIGE SAUSAGE COMPANY	7708	-(•)-	-(•)-	-(•)-	----	-(•)-	----
FLORENCE PACKING COMPANY	7710	-(•)-	-(•)-	-(•)-	----	-(•)-	----
DANVILLE MEAT PRODUCTS	7713	-(•)-	-(•)-	-(•)-	----	-(•)-	----
STANDARD BEEF, INC.	6710	-(•)-	-(•)-	-(•)-	----	----	----
CALIHAN & COMPANY	6775	-(•)-	-(•)-	-(•)-	----	----	----
HELMS SLAUGHTERHOUSE	6777	-(•)-	-(•)-	-(•)-	----	----	----
THE ROSS ABATTOIR COMPANY	6780	-(•)-	-(•)-	-(•)-	----	----	----
BERGMAN PACKING COMPANY, INC.	6785	-(•)-	-(•)-	-(•)-	----	----	----
KING MEAT PACKING, INC.	6786	-(•)-	-(•)-	-(•)-	----	----	----
GOLDADES BUTCHER SHOP	6806	-(•)-	-(•)-	-(•)-	----	----	----
CEDAR RIDGE MEAT SERVICE	6807	-(•)-	-(•)-	-(•)-	----	----	----
BARNES COUNTY LOCKERS	6808	-(•)-	-(•)-	-(•)-	----	----	----
HOPKINS PACKING CO., INC.	6832	-(•)-	-(•)-	-(•)-	----	----	----
CASSELTON COLD STORAGE	6886	-(•)-	-(•)-	-(•)-	----	----	----
GREAT BEND LOCKERS	6889	-(•)-	-(•)-	-(•)-	----	----	----
FAIRMONT LOCKERS	6902	-(•)-	-(•)-	-(•)-	----	----	----
SKYBERG'S	6965	-(•)-	-(•)-	-(•)-	----	----	----
ANIMAL SCIENCE	7309	----	----	----	----	----	----
STANLEY LOCKER SERVICE	7616	-(•)-	-(•)-	-(•)-	----	-(•)-	----
KALISPELL PACKING PLANT	7617	-(•)-	-(•)-	-(•)-	----	-(•)-	----
PARK RIVER LOCKER PLANT	7618	-(•)-	-(•)-	-(•)-	----	-(•)-	----
NIAGARA LOCKERS	7619	-(•)-	-(•)-	-(•)-	----	-(•)-	----
BONDON LOCKER PLANT	7620	-(•)-	-(•)-	-(•)-	----	-(•)-	----
LANGDON LOCKERS	7622	-(•)-	-(•)-	-(•)-	----	-(•)-	----
SCHMIDT'S MEAT PLANT	7623	-(•)-	-(•)-	-(•)-	----	-(•)-	----
ROCKLAKE LOCKER PLANT	7624	-(•)-	-(•)-	-(•)-	----	-(•)-	----
ANETA MEATS	7625	-(•)-	-(•)-	-(•)-	----	-(•)-	----
ANIMAL SCIENCE	7627	-(•)-	-(•)-	-(•)-	----	-(•)-	----
STANLEY LOCKER SERVICE	7632	-(•)-	-(•)-	-(•)-	----	-(•)-	----
KALISPELL PACKING PLANT	7633	-(•)-	-(•)-	-(•)-	----	-(•)-	----
LUNDE PROCESSING	7634	-(•)-	-(•)-	-(•)-	----	-(•)-	----
DAKOTA MEATS, INC.	7636	-(•)-	-(•)-	-(•)-	----	-(•)-	----
MYERS MEAT PROCESSING	7641	-(•)-	-(•)-	-(•)-	----	-(•)-	----
HILLSIDE MEAT COMPANY	7642	-(•)-	-(•)-	-(•)-	----	-(•)-	----
GUILLOT PACKING COMPANY, INC.	7644	-(•)-	-(•)-	-(•)-	----	-(•)-	----
WETSCH JACK & JILL	7646	-(•)-	-(•)-	-(•)-	----	-(•)-	----
BOSCH MEAT COMPANY	7647	-(•)-	-(•)-	-(•)-	----	-(•)-	----
FRED BORN	7648	-(•)-	-(•)-	-(•)-	----	-(•)-	----
SCHAFERS BUTCHER SHOP	7649	-(•)-	-(•)-	-(•)-	----	-(•)-	----
ROSSING PACKING AND SALES	7655	-(•)-	-(•)-	-(•)-	----	-(•)-	----
JOHN BONN	7656	-(•)-	-(•)-	-(•)-	----	-(•)-	----
JAT CORPORATION	7661	-(•)-	-(•)-	-(•)-	----	-(•)-	----
VALLEY MEAT PACKING COMPANY, INC.	7676	-(•)-	-(•)-	-(•)-	----	-(•)-	----
KENT MEAT SERVICE	7677	-(•)-	-(•)-	-(•)-	----	-(•)-	----
RAHR MEAT SERVICE	7678	-(•)-	-(•)-	-(•)-	----	-(•)-	----
MILES CITY PACKING COMPANY	7679	-(•)-	-(•)-	-(•)-	----	----(•)-	----
HARDIN MEAT MARKET	7684	----	----	----	----	----	----
SENTZ-BONERS PROCESSING PLANT	7685	-(•)-	-(•)-	-(•)-	----	-(•)-	----
KREZELAMP'S MEAT PACKING CO. INC.	7687	-(•)-	-(•)-	-(•)-	----	-(•)-	----
ROCKY MOUNTAIN PACKING COMPANY, INC.	7690	-(•)-	-(•)-	-(•)-	----	-(•)-	----
TRIANGLE PACKING COMPANY	7691	-(•)-	-(•)-	-(•)-	----	-(•)-	----
MARIA'S PACKING COMPANY	7692	-(•)-	-(•)-	-(•)-	----	-(•)-	----
BLUE RIDGE BEEF PLANT, INC.	7693	-(•)-	-(•)-	-(•)-	----	-(•)-	----
WILLIAMSON SAUSAGE COMPANY, INC.	7694	-(•)-	-(•)-	-(•)-	----	-(•)-	----
DIAMOND MEAT COMPANY, INC.	7695	-(•)-	-(•)-	-(•)-	----	-(•)-	----
FIELD PACKING COMPANY, INC.	7707	-(•)-	-(•)-	-(•)-	----	-(•)-	----
BRUNDIGE SAUSAGE COMPANY	7708	-(•)-	-(•)-	-(•)-	----	-(•)-	----
FLORENCE PACKING COMPANY	7710	-(•)-	-(•)-	-(•)-	----	-(•)-	----
DANVILLE MEAT PRODUCTS	7713	-(•)-	-(•)-	-(•)-	----	-(•)-	----

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 16 OF 18 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINES
TED'S MEAT MARKET	8635	-(•)-	-(•)-	-(•)-	----	----	----
NIRCH'S MEATS	8636	----	----	----	----	----	----
MARVIN A. KIPP	8646	----	----	----	----	----	----
GIUNTA	8649	----	----	----	----	----	----
NEW FRANKLIN LOCKER SERVICE	8696	----	----	----	----	----	----
UPTOWN SLAUGHTER HOUSE	8731	----	----	----	----	----	----
GLASGOW LOCKER	8747	----	----	----	----	----	----
ALLEN PACKING COMPANY	8748	-(•)-	-(•)-	-(•)-	----	-(•)-	----
GREGGHOOD FARM	8901	----	----	----	----	----	----
ERDMAN SUPERMARKETS, INC.	8905	----	----	----	----	----	----
ST. JOSEPH MEAT MARKET, INC.	8916	----	----	----	----	----	----
FARMHANDS COMPANY	8917	----	----	----	----	----	----
ADAMS MEAT MARKET	8920	----	----	----	----	----	----
RUCK'S MEAT PROCESSING CENTER, INC.	8921	-(•)-	-(•)-	-(•)-	----	-(•)-	----
SCHULLER'S PROCESSING SERVICE	8922	-(•)-	-(•)-	-(•)-	----	-(•)-	----
MELROSE LOCKER	8927	----	----	----	----	----	----
CONNELL PACKING COMPANY	8929	-(•)-	-(•)-	-(•)-	----	-(•)-	----
PLANTENBERG MARKET, INC.	8931	-(•)-	-(•)-	-(•)-	----	-(•)-	----
KETTER'S MEATS	8937	-(•)-	-(•)-	-(•)-	----	-(•)-	----
CARLSON FROZEN MEAT SALES	8948	-(•)-	-(•)-	-(•)-	----	-(•)-	----
HENNING LOCKER PLANT	8949	-(•)-	-(•)-	-(•)-	----	-(•)-	----
ADAMS MEAT LOCKERS	8950	-(•)-	-(•)-	-(•)-	----	-(•)-	----
FERGUS LOCKER PLANT	8952	-(•)-	-(•)-	-(•)-	----	-(•)-	----
LAKELAND MEATS, INC.	8953	-(•)-	-(•)-	-(•)-	----	----	----
SPIKES LOCKERS	8954	-(•)-	-(•)-	-(•)-	----	-(•)-	----
CITY MEAT MARKET	8960	-(•)-	-(•)-	-(•)-	----	-(•)-	----
NORTH HILL LOCKER PLANT	8962	-(•)-	-(•)-	-(•)-	----	-(•)-	----
PETERS, INC.	8963	----	----	----	----	----	----
PETERS, INC.	8966	-(•)-	-(•)-	-(•)-	----	-(•)-	----
FORSTER PACKING COMPANY, INC.	8971	-(•)-	-(•)-	-(•)-	----	-(•)-	----
PASSTON CO-OP ASSOCIATION LOCKER DEPARTMENT	8974	-(•)-	-(•)-	-(•)-	----	-(•)-	----
CITY MEAT MARKET	8975	-(•)-	-(•)-	-(•)-	----	-(•)-	----
GENEVA MEATS & PROCESSING SERVICE	8979	-(•)-	-(•)-	-(•)-	----	-(•)-	----
LYNCH'S FOODS	8980	----	----	----	----	----	----
GREENWALD LOCKER PLANT	8982	-(•)-	-(•)-	-(•)-	----	-(•)-	----
JOPPRU, INC.	8988	-(•)-	-(•)-	-(•)-	----	-(•)-	----
SLAYTON Z-R-D PAC	8989	-(•)-	-(•)-	-(•)-	----	-(•)-	----
SIBECA LOCKER	8992	-(•)-	-(•)-	-(•)-	----	-(•)-	----
CLOVIS MARKET	8997	-(•)-	-(•)-	-(•)-	----	-(•)-	----
SANTIAM MEAT PACKERS	9218	-(•)-	-(•)-	-(•)-	----	-(•)-	----
VALLEY MEAT COMPANY	9222	-(•)-	-(•)-	-(•)-	----	-(•)-	----
O S U MEAT SCIENCE LABORATORY	9225	----	----	----	----	----	----
STANTON PACKING COMPANY	9226	-(•)-	-(•)-	-(•)-	----	-(•)-	----
STUTZMAN SLAUGHTERHOUSE	9229	-(•)-	-(•)-	-(•)-	----	-(•)-	----
MILLERS WHOLESALE MEATS	9230	-(•)-	-(•)-	-(•)-	----	-(•)-	----
HABERMANS MEAT SERVICE	9232	-(•)-	-(•)-	-(•)-	----	-(•)-	----
MARTIN'S MEAT PACKING COMPANY	9233	-(•)-	-(•)-	-(•)-	----	-(•)-	----
JACOBMUHLENS MEATS	9234	-(•)-	-(•)-	-(•)-	----	-(•)-	----
REED & HERTIG PACKING COMPANY	9237	-(•)-	-(•)-	-(•)-	----	-(•)-	----
A & B MEAT PACKING	9239	-(•)-	-(•)-	-(•)-	----	-(•)-	----
MERRILL MEAT COMPANY	9240	-(•)-	-(•)-	-(•)-	----	-(•)-	----
PAUL'S MEAT PROCESSING	9241	-(•)-	-(•)-	-(•)-	----	-(•)-	----
FARMER PACKING COMPANY	9243	-(•)-	-(•)-	-(•)-	----	-(•)-	----

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 13 OF 18 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINES
STANDARD BEEF, INC.	6710	-(•)-	-(•)-	-(•)-	----	----	----
CALIHAN & COMPANY	6775	-(•)-	-(•)-	-(•)-	----	----	----
HELMS SLAUGHTERHOUSE	6777	-(•)-	-(•)-	-(•)-	----	----	----
THE ROSS ABATTOIR COMPANY	6780	-(•)-	-(•)-	-(•)-	----	----	----
BERGMAN PACKING COMPANY, INC.	6785	-(•)-	-(•)-	-(•)-	----	----	----
KING MEAT PACKING, INC.	6786	-(•)-	-(•)-	-(•)-	----	----	----
GOLDADES BUTCHER SHOP	6806	-(•)-	-(•)-	-(•)-	----	----	----
CEDAR RIDGE MEAT SERVICE	6807	-(•)-	-(•)-	-(•)-	----	----	----
BARNES COUNTY LOCKERS	6808	-(•)-	-(•)-	-(•)-	----	----	----
HOPKINS PACKING CO., INC.	6832	-(•)-	-(•)-	-(•)-	----	----	----
CASSELTON COLD STORAGE	6886	-(•)-	-(•)-	-(•)-	----	----	----
GREAT BEND LOCKERS	6889	-(•)-	-(•)-	-(•)-	----	----	----
FAIRMONT LOCKERS	6902	-(•)-	-(•)-	-(•)-	----	----	----
SKYBERG'S	6965	-(•)-	-(•)-	-(•)-	----	----	----
ANIMAL SCIENCE	7309	----	----	----	----	----	----
STANLEY LOCKER SERVICE	7616	-(•)-	-(•)-	-(•)-	----	-(•)-	----
KALISPELL PACKING PLANT	7617	-(•)-	-(•)-	-(•)-	----	-(•)-	----
PARK RIVER LOCKER PLANT	7618	-(•)-	-(•)-	-(•)-	----	-(•)-	----
NIAGARA LOCKERS	7619	-(•)-	-(•)-	-(•)-	----	-(•)-	----
BONDON LOCKER PLANT	7620	-(•)-	-(•)-	-(•)-	----	-(•)-	----
LANGDON LOCKERS	7622	-(•)-	-(•)-	-(•)-	----	-(•)-	----
SCHMIDT'S MEAT PLANT	7623	-(•)-	-(•)-	-(•)-	----	-(•)-	----
ROCKLAKE LOCKER PLANT	7624	-(•)-	-(•)-	-(•)-	----	-(•)-	----
ANETA MEATS	7625	-(•)-	-(•)-	-(•)-	----	-(•)-	----
ANIMAL SCIENCE	7627	-(•)-	-(•)-	-(•)-	----	-(•)-	----
STANLEY LOCKER SERVICE	7632	-(•)-	-(•)-	-(•)-	----	-(•)-	----
KALISPELL PACKING PLANT	7633	-(•)-	-(•)-	-(•)-	----	-(•)-	----
LUNDE PROCESSING	7634	-(•)-	-(•)-	-(•)-	----	-(•)-	----
DAKOTA MEATS, INC.	7636	-(•)-	-(•)-	-(•)-	----	-(•)-	----
MYERS MEAT PROCESSING	7641	-(•)-	-(•)-	-(•)-	----	-(•)-	----
HILLSIDE MEAT COMPANY	7642	-(•)-	-(•)-	-(•)-	----	-(•)-	----
GUILLOT PACKING COMPANY, INC.	7644	-(•)-	-(•)-	-(•)-	----	-(•)-	----
WETSCH JACK & JILL	7646	-(•)-	-(•)-	-(•)-	----	-(•)-	----
BOSCH MEAT COMPANY	7647	-(•)-	-(•)-	-(•)-	----	-(•)-	----
FRED BORN	7648	-(•)-	-(•)-	-(•)-	----	-(•)-	----
SCHAFERS BUTCHER SHOP	7649	-(•)-	-(•)-	-(•)-	----	-(•)-	----
ROSSING PACKING AND SALES	7655	-(•)-	-(•)-	-(•)-	----	-(•)-	----
JOHN BONN	7656	-(•)-	-(•)-	-(•)-	----	-(•)-	----
JAT CORPORATION	7661	-(•)-	-(•)-	-(•)-	----	-(•)-	----
VALLEY MEAT PACKING COMPANY, INC.	7676	-(•)-	-(•)-	-(•)-	----	-(•)-	----
KENT MEAT SERVICE	7677	-(•)-	-(•)-	-(•)-	----	-(•)-	----
RAHR MEAT SERVICE	7678	-(•)-	-(•)-	-(•)-	----	-(•)-	----
MILES CITY PACKING COMPANY	7679	-(•)-	-(•)-	-(•)-	----	----(•)-	----
HARDIN MEAT MARKET	7684	----	----	----	----	----	----
SENTZ-BONERS PROCESSING PLANT	7685	-(•)-	-(•)-	-(•)-	----	-(•)-	----
KREZELAMP'S MEAT PACKING CO. INC.	7687	-(•)-	-(•)-	-(•)-	----	-(•)-	----
ROCKY MOUNTAIN PACKING COMPANY, INC.	7690	-(•)-	-(•)-	-(•)-	----	-(•)-	----
TRIANGLE PACKING COMPANY	7691	-(•)-	-(•)-	-(•)-	----	-(•)-	----
MARIA'S PACKING COMPANY	7692	-(•)-	-(•)-	-(•)-	----	-(•)-	----
BLUE RIDGE BEEF PLANT, INC.	7693	-(•)-	-(•)-	-(•)-	----	-(•)-	----
WILLIAMSON SAUSAGE COMPANY, INC.	7694	-(•)-	-(•)-	-(•)-	----	-(•)-	----
DIAMOND MEAT COMPANY, INC.	7695	-(•)-	-(•)-	-(•)-	----	-(•)-	----
FIELD PACKING COMPANY, INC.	7707	-(•)-	-(•)-	-(•)-	----	-(•)-	----
BRUNDIGE SAUSAGE COMPANY	7708	-(•)-	-(•)-	-(•)-	----	-(•)-	----
FLORENCE PACKING COMPANY	7710	-(•)-	-(•)-	-(•)-	----	-(•)-	----
DANVILLE MEAT PRODUCTS	7713	-(•)-	-(•)-	-(•)-	----	-(•)-	----
KALISPELL MEAT COMPANY	7716	-(•)-	-(•)-	-(•)-	----	----	----
WHITE'S WHOLESALE MEATS	7717	-(•)-	-(•)-	-(•)-	----	----	----
VANDERVANTER MEATS	7718	-(•)-	-(•)-	-(•)-	----	----	----
SCHMIDT PACKING COMPANY	7719	-(•)-	-(•)-	-(•)-	----	----	----
TOLMAN MEAT PROCESSING	7724	-(•)-	-(•)-	-(•)-	----	----	----
MICKEY'S PACKING PLANT	7732	-(•)-	-(•)-	-(•)-	----	----	----
THE MODERN LOCKER COMPANY	7745	-(•)-	-(•)-	-(•)-	----	----	----
OLLES MEAT PROCESSING PLANT	7781	-(•)-	-(•)-	-(•)-	----	----	----
SISTER'S OF THE ORDER OF SAINT BENEDICT	7784	----	----	----	----	----	----
WILSON'S MEAT MARKET	7790	-(•)-	-(•)-	-(•)-	----	----	----
CARLOS LOCKERS	7796	-(•)-	-(•)-	-(•)-	----	----	----
LUCERNE LOCKER	7797	-(•)-	-(•)-	-(•)-	----	----	----
CLARISSA MEATS	7799	-(•)-	-(•)-	-(•)-	----	----	----
BRUNO'S PACKING COMPANY	7804	-(•)-	-(•)-	-(•)-	----	-(•)-	----
BANGOR BEEF COMPANY	7806	-(•)-	-(•)-	-(•)-	----	-(•)-	----
CONNELL PACKING COMPANY, INC.	7845	-(•)-	-(•)-	-(•)-	----	-(•)-	----
READFIELD ABATTOIR	7874	-(•)-	-(•)-	-(•)-	----	-(•)-	----
PETER D. VILLARI, INC.	7887	-(•)-	-(•)-	-(•)-	----	-(•)-	----
SAY'S MEAT PACKING COMPANY	7908	-(•)-	-(•)-	-(•)-	----	-(•)-	----
MILLS MEAT PROCESSING SERVICE	7918	-(•)-	-(•)-	-(•)-	----	-(•)-	----
MEHERIN PACKING COMPANY	7931	-(•)-	-(•)-	-(•)-	----	-(•)-	----
ELM HILL MEATS, INC.	7936	-(•)-	-(•)-	-(•)-	----	-(•)-	----
KOCH BEEF COMPANY	7937	-(•)-	-(•)-	-(•)-	----	-(•)-	----
MONSEN WHOLESALE MEAT COMPANY, INC.	7944	-(•)-	-(•)-	-(•)-	----	-(•)-	----
NORTHWEST MEAT CORPORATION	7945	-(•)-	-(•)-	-(•)-	----	-(•)-	----
CHARLES J. SCHMIDT & COMPANY	7948	-(•)-	-(•)-	-(•)-	----	-(•)-	----
DREHER PACKING COMPANY, INC.	7957	-(•)-	-(•)-	-(•)-	----	-(•)-	----
LOUISVILLE BEEF CORPORATION	7969	-(•)-	-(•)-	-(•)-	----	-(•)-	----
KINGS MEAT MARKET, INC.	7973	-(•)-	-(•)-	-(•)-	----	-(•)-	----
UNIVERSITY OF KENTUCKY - MEAT LABORATORY	8013	----	----	----	----	----	----
DAVIDSON MEAT MARKET	8024	-(•)-	-(•)-	-(•)-	----	-(•)-	----
TRI-STATE PACKERS, INC.	8055	-(•)-	-(•)-	-(•)-	----	-(•)-	----
BOURBON PACKING COMPANY	8077	-(•)-	-(•)-	-(•)-	----	-(•)-	----
BILL HULLIN SLAUGHTER HOUSE	8834	-(•)-	-(•)-	-(•)-	----	-(•)-	----
FAIMERS SLAUGHTER HOUSE	8835	-(•)-	-(•)-	-(•)-	----	-(•)-	----
HENRY HOSS PACKING COMPANY	8845	-(•)-	-(•)-	-(•)-	----	-(•)-	----
HOLMES MARKET AND MARKET	8855	-(•)-	-(•)-	-(•)-	----	-(•)-	----
SPALDING PACKING COMPANY	8858	-(•)-	-(•)-	-(•)-	----	-(•)-	----
LORETTO MEAT PROCESSORS	8864	-(•)-	-(•)-	-(•)-	----	-(•)-	----
BOWERMAN COUNTRY SAUSAGE	8872	-(•)-	-(•)-	-(•)-	----	-(•)-	----
GREGORY SLAUGHTER HOUSE, INC.	8880	-(•)-	-(•)-	-(•)-	----	-(•)-	----
DOUGLASS SLAUGHTER HOUSE	8882	-(•)-	-(•)-	-(•)-	----	-(•)-	----
ELMORE A PAYNE PACKING COMPANY, INC.	8888	-(•)-	-(•)-	-(•)-	----	-(•)-	----
BROWNSDALE MEAT SERVICE INC.	8889	-(•)-	-(•)-	-(•)-	----	-(•)-	----
WELTER'S CUSTOM SLAUGHTERING	8569	-(•)-	-(•)-	-(•)-	----	-(•)-	----
BILSKI'S SLAUGHTER	8586	-(•)-	-(•)-	-(•)-	----	-(•)-	----
MAURY PACKING COMPANY	8587	-(•)-	-(•)-	-(•)-	----	-(•)-	----
RILEY'S MEAT PROCESSING	8614	-(•)-	-(•)-	-(•)-	----	-(•)-	----
ROBIE MEAT PACKERS, INC.	8616	-(•)-	-(•)-	-(•)-	----	-(•)-	----

Commodity Credit Corporation

[Amdt. 5]

After considering the record in the case, I adopt the following findings of fact made by the Hearing Commissioner, requesting or obtaining prior written approval of the Office of Export Control. By failing to request such approval the Office

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ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 16 OF 18 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	HOGS	SHEEP	EQUINES
STOLZFUS LOCKER & IGA FOOD MARKET	9625	(*)	(*)	(*)	(*)	(*)
WATSON'S HOME DRESSED MEATS	9647	(*)	(*)	(*)	(*)	(*)
JOSEPH VELCIA DRESSED BEEF	9656	(*)	(*)	(*)	(*)	(*)
BLUE RIDGE BROTHERS	9660	(*)	(*)	(*)	(*)	(*)
CATELLI INC.	9671	(*)	(*)	(*)	(*)	(*)
PRINCE'S HOME DRESSED MEATS	9673	(*)	(*)	(*)	(*)	(*)
J. I. FETTEROLF	9685	(*)	(*)	(*)	(*)	(*)
MARK BOHRAY	9686	(*)	(*)	(*)	(*)	(*)
ALEX E. KOCH	9687	(*)	(*)	(*)	(*)	(*)
KOLB'S MEAT MARKET	9689	(*)	(*)	(*)	(*)	(*)
CARL VENEZIA	9693	(*)	(*)	(*)	(*)	(*)
DITZLER BROTHERS	9694	(*)	(*)	(*)	(*)	(*)
PAUL H. SCHNICKEY COMPANY	9695	(*)	(*)	(*)	(*)	(*)
MILLER'S MEAT MARKET	9706	(*)	(*)	(*)	(*)	(*)
WILMER BARINGER	9707	(*)	(*)	(*)	(*)	(*)
HAGERS MEAT MARKET	9711	(*)	(*)	(*)	(*)	(*)
HERBERT HANSON-MEATS	9712	(*)	(*)	(*)	(*)	(*)
COFANO'S CUSTOM BUTCHERING	9713	(*)	(*)	(*)	(*)	(*)
COLUMBIA PACKING COMPANY	9714	(*)	(*)	(*)	(*)	(*)
THOMA MEAT MARKET	9715	(*)	(*)	(*)	(*)	(*)
DAVE FINE MEAT PACKER	9716	(*)	(*)	(*)	(*)	(*)
WALTER'S MEAT PACKERS	9749	(*)	(*)	(*)	(*)	(*)
HELLER'S PACKING	9753	(*)	(*)	(*)	(*)	(*)
FRANK MADRIGALE	9755	(*)	(*)	(*)	(*)	(*)
LEMMENEY BUTCHER SHOP, INC.	9758	(*)	(*)	(*)	(*)	(*)
GEORGE R. REV	9762	(*)	(*)	(*)	(*)	(*)
REARICK'S	9763	(*)	(*)	(*)	(*)	(*)
ALBERT GILBERT & SON	9765	(*)	(*)	(*)	(*)	(*)
JOEL AND DAVID HEINTZELMAN	9767	(*)	(*)	(*)	(*)	(*)
DELBERT E. HAYDT	9776	(*)	(*)	(*)	(*)	(*)
JOHN ELNITSKI	9780	(*)	(*)	(*)	(*)	(*)
WALTER JURCZAK	9781	(*)	(*)	(*)	(*)	(*)
ADAM SCHMIDT	9786	(*)	(*)	(*)	(*)	(*)
FREDERICK R. SCHWEIGHOFER	9789	(*)	(*)	(*)	(*)	(*)
WILLIAM STEPNIAK	9798	(*)	(*)	(*)	(*)	(*)
LOCUSTDALE PACKING COMPANY	9853	(*)	(*)	(*)	(*)	(*)
ALBERT E. DOBERSTEIN	9854	(*)	(*)	(*)	(*)	(*)
LAKELAND MEATS, INC.	9855	(*)	(*)	(*)	(*)	(*)

Done at Washington, D.C., on November 1, 1972.

FRED J. FULLERTON,
Acting Associate Administrator, Meat and Poultry Inspection Program.

[FR Doc.72-19017 Filed 11-8-72;8:45 am]

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 17 OF 18 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	HOGS	SHEEP	EQUINES
BOYER MEAT COMPANY	9746	(*)	(*)	(*)	(*)	(*)
MYRTLE PACKING COMPANY	9747	(*)	(*)	(*)	(*)	(*)
ERDMAN PACKING COMPANY	9749	(*)	(*)	(*)	(*)	(*)
CEDAR POINT PACKING COMPANY	9750	(*)	(*)	(*)	(*)	(*)
GREENE MEAT COMPANY	9751	(*)	(*)	(*)	(*)	(*)
HOMER PACKING COMPANY	9753	(*)	(*)	(*)	(*)	(*)
SPRINGFIELD SLAUGHTER PLANT	9756	(*)	(*)	(*)	(*)	(*)
NICKMAN'S MEATS	9757	(*)	(*)	(*)	(*)	(*)
GATES SLAUGHTER HOUSE	9758	(*)	(*)	(*)	(*)	(*)
BOB'S KOLALA MEATS	9765	(*)	(*)	(*)	(*)	(*)
MARK'S MEAT COMPANY	9766	(*)	(*)	(*)	(*)	(*)
MOUNT ANGEL MEAT COMPANY	9770	(*)	(*)	(*)	(*)	(*)
CANNON MEAT COMPANY	9771	(*)	(*)	(*)	(*)	(*)
FLORENCE BUTCHER HOUSE	9772	(*)	(*)	(*)	(*)	(*)
GRAHAM MEAT COMPANY	9775	(*)	(*)	(*)	(*)	(*)
H & H MEAT COMPANY	9780	(*)	(*)	(*)	(*)	(*)
VALLEY SAUSAGE COMPANY	9781	(*)	(*)	(*)	(*)	(*)
JOHN DAY VALLEY PACKING COMPANY	9786	(*)	(*)	(*)	(*)	(*)
HOWARD'S MEAT SERVICE	9787	(*)	(*)	(*)	(*)	(*)
HAROLD MEAT COMPANY	9788	(*)	(*)	(*)	(*)	(*)
VAN MERTS LOCKERS & SLAUGHTERHOUSE	9789	(*)	(*)	(*)	(*)	(*)
CROOKED RIVER MEAT COMPANY	9791	(*)	(*)	(*)	(*)	(*)
CINDER BUTTE PACKING CORPORATION	9795	(*)	(*)	(*)	(*)	(*)
TERREBONNE MEAT COMPANY	9796	(*)	(*)	(*)	(*)	(*)
GRETTLER MEAT PACKERS	9966	(*)	(*)	(*)	(*)	(*)
ALLEN'S MILLE MARKET	9967	(*)	(*)	(*)	(*)	(*)
MIKE ZRILE	9968	(*)	(*)	(*)	(*)	(*)
HARRINGTON MEAT PACKING COMPANY, INC.	9984	(*)	(*)	(*)	(*)	(*)
JOHN J. KOHLER	9989	(*)	(*)	(*)	(*)	(*)
BRISTOL BEEF COMPANY, INC.	9999	(*)	(*)	(*)	(*)	(*)
BATTLES MEAT PROCESSING PLANT	9401	(*)	(*)	(*)	(*)	(*)
JOE DEFLICE & SONS	9402	(*)	(*)	(*)	(*)	(*)
EDGAR H. LANDIS	9417	(*)	(*)	(*)	(*)	(*)
DEER CREEK COUNTRY MARKET	9419	(*)	(*)	(*)	(*)	(*)
EDWARDS BROTHERS PACKING COMPANY	9431	(*)	(*)	(*)	(*)	(*)
YAMBROVICH MEATS	9455	(*)	(*)	(*)	(*)	(*)
LAKEVIEW PACKING COMPANY, INC.	9446	(*)	(*)	(*)	(*)	(*)
HERFURTH BROTHERS MEAT COMPANY	9465	(*)	(*)	(*)	(*)	(*)
MEATS BY SCHMIDT	9467	(*)	(*)	(*)	(*)	(*)
INDIANA SLAUGHTERING COMPANY	9498	(*)	(*)	(*)	(*)	(*)
JOHN J. KOHLER	9569	(*)	(*)	(*)	(*)	(*)
GREAT VALLEY MEAT MARKET	9557	(*)	(*)	(*)	(*)	(*)
HERMAN S. KISTLER	9561	(*)	(*)	(*)	(*)	(*)
CHARLES WOLFF & COMPANY	9565	(*)	(*)	(*)	(*)	(*)
STEIGMALT'S MEAT MARKET	9572	(*)	(*)	(*)	(*)	(*)
DIETZ & WATSON INC.	9574	(*)	(*)	(*)	(*)	(*)
STEVE FICHERA WHOLESALE MEATS	9576	(*)	(*)	(*)	(*)	(*)
WESLEY R. BOULDEY	9577	(*)	(*)	(*)	(*)	(*)
GAURLEY PACKING COMPANY, INC.	9579	(*)	(*)	(*)	(*)	(*)
LIVINGSTON PACKING COMPANY	9580	(*)	(*)	(*)	(*)	(*)
CONGENS AQUANTE	9581	(*)	(*)	(*)	(*)	(*)
DOWNINGTOWN WHOLESALE MEATS	9605	(*)	(*)	(*)	(*)	(*)
FRANK SCHMIDT & SONS	9606	(*)	(*)	(*)	(*)	(*)
MOCCIO PACKING	9618	(*)	(*)	(*)	(*)	(*)

Commodity Credit Corporation

[Amdt. 5]

SALES OF CERTAIN COMMODITIES

Monthly Sales List

The CCC monthly sales list for the fiscal year ending June 30, 1973, published in 37 F.R. 13352 is amended as follows:

1. The provisions of section 25 entitled "Rice, rough—unrestricted use sales—FOB warehouse" published in 37 F.R. 13354, as amended in 37 F.R. 15887 and 19389, are deleted.

Effective date: 2:30 p.m., e.s.t., October 31, 1972.

Signed at Washington, D.C., on November 2, 1972.

KENNETH E. FRICK,
Executive Vice President, Commodity Credit Corporation.

[FR Doc.72-19241 Filed 11-8-72;8:49 am]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[Case No. 437]

FELAP G.m.b.H. and KURT BAERHOLD

Order Denying Export Privileges

In the matter of Felap G.m.b.H. (Fabrikation Elektronischer Apparate Und Bauteile) and Kurt Baerhold Furtenbachstrasse 26, 85 Nuernberg-Reichelsdorf, Federal Republic of Germany, Respondent, Case No. 437.

By charging letter dated March 3, 1972, the respondents Felap G.m.b.H. and Kurt Baerhold were charged by the Director, Compliance Division, Office of Export Control, with violations of the regulations issued under the Export Administration Act of 1969. The charging letter was duly served. The respondents replied to the charging letter and requested an oral hearing but they did not answer the allegations of the charging letter in the manner required by § 388.5 of the Export Control Regulations. Their failure to deny or controvert material allegations in the charging letter is deemed an admission of such allegations.

The respondents did not avail themselves of the opportunity to participate in an oral hearing in Washington, D.C., either by personal attendance or through an attorney or other representative. The Hearing Commissioner held an informal hearing on October 19, 1972, without the respondents being present. Evidence in support of the charges was presented on behalf of the Compliance Division.

The Hearing Commissioner considered the evidence which included invoices, shipping documents, a statement signed by Baerhold, and also his reported statements. The Hearing Commissioner submitted to the undersigned a report which summarizes the essential evidence, considers the various charges, and which includes findings of fact and conclusions. He also recommended the sanction that should be imposed.

After considering the record in the case, I adopt the following findings of fact made by the Hearing Commissioner.

FINDINGS OF FACT

1. The respondent Felap G.m.b.H. (acronym for Fabrikation Electronischer Apparate Und Bauteile) located in Nuernberg, Federal Republic of Germany, is dealer and exporter of electronic components and it also manufactures telephone amplifiers, radios, and tape recorders. The respondent Kurt Baerhold is the principal shareholder in the company and is its manager. In the transaction hereinafter described he acted in the name of and on behalf of the company.

2. Under the Foreign-Based Warehouse Procedure of the Export Control Regulations (§ 373.4) the respondent Felap was an approved customer of a Switzerland based distributor of U.S.-origin electronic components and parts, including tubes and semiconductors. The said distributor was a subsidiary of a U.S. exporter. As a prerequisite to obtaining the status as an approved customer, the respondent Baerhold, on behalf of Felap, executed a Multiple Transactions Statement by Customer of Distributor of United States Commodities Stocked Abroad, Form FC–243.

3. In said Form FC–243 the respondents on August 6, 1970, expressly certified and represented: (a) That they would not sell the commodities received under the Foreign-Based Warehouse Procedure outside of the Federal Republic of Germany; (b) that the commodities would be used by Felap in the manufacture of wireless sets in the Federal Republic of Germany; (c) that except as specifically authorized by the U.S. Export Control Regulations they would not reexport or sell such commodities without obtaining prior written approval of the U.S. Government. In reliance on these certifications and representations, the Office of Export Control on September 16, 1970, approved Felap as an FC–243 customer of the above-mentioned distributor.

4. Subsequent to September 16, 1970, Felap made three purchases of semiconductor diodes from the Swiss distributor, which commodities had an aggregate value of approximately $6,700. The invoices from the said distributor to Felap were dated respectively, October 6, 1970, December 9, 1970, and April 27, 1971. The commodities on each occasion were shipped by airfreight from Switzerland to Felap in Nuernberg and were received by it.

5. Each of the invoices mentioned in the previous finding bore the following destination control notice, "These commodities licensed for ultimate destination West Deutschland. Reexport without * * * authorization prohibited."

6. Notwithstanding the certifications and the representations in the Form FC–243 mentioned in Finding 3, and contrary to the prohibition against reexportation appearing on the invoices, the respondents knowingly reexported the diodes from West Germany to Poland without requesting or obtaining prior written approval of the Office of Export Control. By failing to request such approval the Office of Export Control was precluded from determining whether the ultimate consignee should be approved for receipt of the diodes. Based on the foregoing, I have concluded that respondents: (1) Violated § 387.4 of the U.S. Export Control Regulations in that they sold and disposed of U.S.-origin commodities with knowledge that it was a violation of said regulations to do so; (2) violated § 387.6 of said regulations in that without authorization from the Office of Export Control they knowingly reexported U.S.-origin commodities contrary to representations made by them and contrary to notification of prohibition against such reexportation.

The evidence shows that the respondent Baerhold is the sole proprietor of the firm known as "Ing. Kurt Baerhold Industrie-Vertretungen Gross-und Aussenhandel mit Rundfunk-Elektro-und Fernsegeraeten", located in Nuernberg. The name indicates that Baerhold, an engineer, is engaged as a representative in wholesale and export activities for radio, electronic and television equipment. The order issued in this case is also effective against this firm.

Now, after considering the record in the case and the report and recommendation of the Hearing Commissioner and being of the opinion that his recommendation as to the sanction that should be imposed is fair and just and calculated to achieve effective enforcement of the law: *It is hereby ordered,*

I. All outstanding validated export licenses in which respondents appear or participate in any manner or capacity are hereby revoked and shall be returned forthwith to the Bureau of International Commerce for cancellation.

II. Except as qualified in Paragraph IV hereof, the respondents for the period of 5 years are hereby denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transactions involving commodities or technical data exported from the United States in whole or in part, or to be exported, or which are otherwise subject to the Export Control Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation: (a) As a party or as a representative of a party to any validated export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control documents; (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data; (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondents,

but also to their successors, representatives, agents, and employees, and also to

DEPARTMENT OF HEALTH,

radiopaque diagnostic drugs. Based upon a reevaluation, the Commissioner of Food

quired information for the following National Advisory body scheduled to

tend the open portion of the meeting on a first come, first serve, basis.

health policies and problems as they relate to women in society and in HEW.

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but also to their successors, representatives, agents, and employees, and also to any person, firm, corporation, or other business organization with which they now or hereafter may be related by affiliation, ownership, control, position of responsibility or other connection in the conduct of trade or services connected therewith. Included within the foregoing is the firm Ing. Kurt Baerhold Industrie-Vertretungen Gross-und Aussenhandel mit Rundfunk-Elektro-und Fernsehgerraeten.

IV. Three years after the effective date of this order the respondents may apply to have the effective denial of their export privileges held in abeyance while they remain on probation. Such applications as may be filed by said respondents shall be supported by evidence showing their compliance with the terms of this order and such disclosure of their import and export transactions as may be necessary to determine their compliance with this order. Such applications will be considered on their merits and in the light of conditions and policies existing at that time. The respondents' export privileges may be restored under such terms and conditions as appear to be appropriate.

V. During the time when the respondents or other parties within the scope of this order are prohibited from engaging in any activity within the scope of Part II hereof, no person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of International Commerce, shall do any of the following acts, directly or indirectly, in any manner or capacity, on behalf of or in any association with the respondents or other parties denied export privileges within the scope of this order, or whereby the respondents or such other parties may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for any such respondents or other person denied export privileges within the scope of this order; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

Dated: November 1, 1972.

This order shall become effective November 9, 1972.

RAUER H. MEYER,
Director,
Office of Export Control.

[FR Doc.72-19039 Filed 11-8-72;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

CERTAIN ANTIRHEUMATIC DRUGS

Release of Evaluation Reports; Drugs for Human Use; Drug Efficacy Study Implementation

In a notice published in the FEDERAL REGISTER of September 7, 1972 (37 F.R. 18105) the Commissioner of Food and Drugs announced that he had made available copies of previously unreleased National Academy of Sciences-National Research Council, Drug Efficacy Study Group findings received by the Food and Drug Administration for drugs for human use in the DESI (Drug Efficacy Study Implementation) program.

In addition to the drugs in the original study, three drugs which were not submitted by the NDA holder in 1966 for review by the Academy were referred by the Food and Drug Administration to the Academy for evaluation following the completion of the original study.

Copies of the Academy's findings on these drugs have also been placed on display with the Hearing Clerk, Food and Drug Administration, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852. They are:

Geigy Pharmaceuticals, Division of Ciba-Geigy Corp., Post Office Box 430, Yonkers, N.Y. 10702.

NDA's:
11735, Sterazolidin, capsules.
12542, Tandearil, tablets.
8319, Butazolidin, tablets.

Copies of the Academy's reports have been furnished to the firm referred to above. Requests for the reports should be directed to the Food and Drug Administration, Drug Efficacy Study Information Control (BD-66), Bureau of Drugs, 5600 Fishers Lane, Rockville, Md. 20852.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1052-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: November 3, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-19213 Filed 11-8-72;8:47 am]

[DESI 2282]

NONRADIOPAQUE DIAGNOSTIC DRUGS

Drugs for Human Use; Drug Efficacy Study Implementation; Mannitol Injection

The Food and Drug Administration published an announcement in the FEDERAL REGISTER of August 6, 1971 (36 F.R. 14507), regarding the efficacy of nonradiopaque diagnostic drugs. Based upon a reevaluation, the Commissioner of Food and Drugs finds it appropriate to amend the announcement of August 6, 1971, by the following revisions for Mannitol:

In section I C *Labeling Conditions*, the "Indications" section is changed to read as follows:

INDICATIONS

Mannitol for Urologic Irrigation

Mannitol solution is indicated as an irrigating solution in transurethral prostatic resection.

Mannitol for Intravenous Use Only

a. Therapeutic Use.
Mannitol injection is indicated for:
1. The promotion of diuresis, in the prevention and/or treatment of the oliguric phase of acute renal failure before irreversible renal failure becomes established.
2. The reduction of intracranial pressure and treatment of cerebral edema by reducing brain mass.
3. The reduction of elevated intraocular pressure when the pressure cannot be lowered by other means.
4. Promoting the urinary excretion of toxic substances.
b. Diagnostic Use.
Measurement of glomerular filtration rate.

(Labeling guidelines for the drug are available from the Administration on request.)

Holders of approved new drug applications are requested to submit supplements for revised labelling, as needed, within 60 days following publication hereof in the FEDERAL REGISTER. The supplement should be submitted under the provisions of section 130.9 (d) and (e) of the new drug regulations (21 CFR 130.9 (d) and (e)) which permit certain changes to be put into effect at the earliest possible time. The revised labeling should be put into use within the 60-day period.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: November 2, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-19214 Filed 11-8-72;8:47 am]

Health Services and Mental Health Administration

REGIONAL HEALTH ADVISORY COMMITTEE (REGION VII) AND MATERNAL AND CHILD HEALTH SERVICE RESEARCH GRANTS REVIEW COMMITTEE

Notice of Public Meeting and Correction

Pursuant to Executive Order 11671, the Administrator, Health Services and Mental Health Administration, announces the meeting date and other required information for the following National Advisory body scheduled to assemble the month of November 1972, in accordance with provisions set forth in section 13(a) (1) and (2) of that Executive order:

Committee name, date, time, place, type of meeting and/or contact person

Regional Health Advisory Committee, Region VII; November 30, 9 a.m., Glenwood Manor, Overland Park, Kans.; Open, Contact Mrs. Jean Glenn, Room 536B, New Federal Building, 601 East 12th Street, Kansas City, MO, Code 816—374-3491.

Purpose: The Committee is charged with assisting the Regional Office in issue identification and provides a new viewpoint for the interface of Federal, State and local efforts in the Health Service field in the States of Iowa, Kansas, Missouri, and Nebraska.

Agenda: Agenda items will cover the Committee's report on Emergency Medical Services, State Plans, Education of Health Professionals, and other appropriate programmatic issues.

Items for discussion are subject to change due to priorities as directed by the President of the United States, or the Secretary of Health, Education, and Welfare.

A roster of members may be obtained from the contact person listed above.

Correction. In F.R. Doc. 72-18560 appearing at page 23120 in the issue for Saturday, October 28, 1972, the name of the last committee mentioned on page 23121, "Maternal and Child Health Service Research," should read "Maternal and Child Health Service Research Grants Review Committee."

Dated: November 3, 1972.

ANDREW J. CARDINAL,
Associate Administrator for Management, Health Services and Mental Health Administration.

[FR Doc.72-19229 Filed 11-8-72;8:48 am]

National Institutes of Health

NATIONAL CANCER ADVISORY BOARD

Notice of Public Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the National Cancer Advisory Board, November 20, 1972, at 2 p.m., National Institutes of Health, Building 31, Conference Room 6. Agenda items will include reports on the cancer control program; the National Clearinghouse for Smoking and Health; plans for public affairs; the NCI Grants-Contracts mechanism; and preparation of reports to the President and Congress. This meeting will be open to the public from 2 p.m., November 20, and closed to the public from 9 a.m., November 22 through adjournment, to review, discuss, and evaluate and/or rank grant applications in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination. Subject to the availability of space any interested person may attend the open portion of the meeting on a first come, first serve, basis.

Name of the person from whom rosters of Board members and/or summary of the meeting may be obtained:

Mrs. Marjorie F. Early, National Cancer Institute Building 31, Room 10A16, Bethesda, Md. 20014.

Dated: November 1, 1972.

JOHN F. SHERMAN,
Deputy Director, NIH.

[FR Doc.72-19193 Filed 11-8-72; 8:47 am]

NATIONAL CANCER ADVISORY BOARD SUBCOMMITTEES

Notice of Meetings

Pursuant to Executive Order 11671 notice is hereby given of meetings of the following subcommittees of the National Cancer Advisory Board and the executive secretary from whom summaries of meetings may be obtained.

Subcommittee, date, time, and location

Diagnosis and Treatment; November 20, 1972; 9 a.m.; National Institutes of Health, Building 31, Conference Room 4.
Carcinogenesis and Prevention; November 20, 1972; 9 a.m.; National Institutes of Health, Building 31, Conference Room 9.

These meetings shall be closed to the public in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination, in order to review, discuss, and evaluate and/or rank grant applications.

Name of executive secretary from whom summaries of meetings may be obtained:

Dr. John T. Kalberer, Jr., National Cancer Institute, Building 31, Room 10A04A, Bethesda, Md. 20014.

Dated: November 1, 1972.

JOHN F. SHERMAN,
Deputy Director, NIH.

[FR Doc.72-19194 Filed 11-8-72;8:47 am]

Office of the Secretary

ADVISORY COMMITTEE ON THE RIGHTS AND RESPONSIBILITIES OF WOMEN, SUBCOMMITTEE ON HEALTH

Notice of Public Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, Subcommittee on Health, which was established to review the policies, programs, and activities of the Department of Health, Education, and Welfare relative to health problems of women, make recommendations to the Secretary through the Committee, and continually determine how health programs can be better developed, implemented, and delivered to women will meet on Friday, November 10, at 815 21st Street NW., Room 21, from 11:30 a.m. to 8 p.m. This meeting will be open for public observation. The subcommittee will discuss health policies and problems as they relate to women in society and in HEW.

Dated: November 6, 1972.

FLORENCE J. HICKS,
Executive Director, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc.72-19331 Filed 11-8-72;8:55 am]

ADVISORY COMMITTEE ON THE RIGHTS AND RESPONSIBILITIES OF WOMEN, SUBCOMMITTEE ON INTERNAL AFFAIRS

Notice of Public Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, Subcommittee on Internal Affairs (HEW Policies and Employment) which was established to review the policies, programs, and activities of the Department of Health, Education, and Welfare relative to internal policies affecting women and in particular employment, make recommendations to the Secretary through the Committee, and continually evaluate these policies, programs, and activities as they relate to women will meet on Friday, November 10, from 9 a.m. to 5 p.m. in Room 3169 HEW North Building. This subcommittee will discuss HEW policies and employment as they relate to women. This meeting is open for public observation.

Dated: November 6, 1972.

FLORENCE J. HICKS,
Executive Director, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc.72-19332 Filed 11-8-72;8:55 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 72-216N]

CHEMICAL TRANSPORTATION INDUSTRY ADVISORY COMMITTEE

Notice of Open Meeting

This is to give notice pursuant to Executive Order 11671, section 13(a), dated June 5, 1972, that the Chemical Transportation Industry Advisory Committee to the Marine Safety Council, U.S. Coast Guard, will conduct an open meeting on Tuesday, November 21, 1972, at U.S. Coast Guard Headquarters, 400 Seventh Street SW., Washington, DC 20590, beginning at 9:30 a.m. in room 8332.

Members of the committee and their industry positions are as follows:

Mr. Robert K. Gregg, Chairman, Regulations Supervisor, Dow Chemical, U.S.A.

Mr. Malcolm M. Anderson, Assistant to Director-Distribution Operations, Chemicals

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& Plastics Distribution Department, Union Carbide Corp.

Mr. A. C. Clark, Assistant Technical Director, Chemical Transportation & Distribution, Manufacturing Chemists Association.

Mr. William A. Creelman, President, National Marine Service, Inc.

Mr. Roland V. Danielson, Assistant Manager, Ship Development & Sales, Bethlehem Steel Corp.

Mr Charles H. Erikson, Jr General Manager, Hendy International Co.

Mr. George W. Feldmann, Principal Marine Engineer, Physical Distribution Planning Division, Traffic Department, E. I. du Pont de Nemours & Co., Inc.

Mr. Robert D. Goldbach, Vice President, Engineering, Marine Transport Lines, Inc.

Mr. William L. Hammond, Manager, of Distribution Operations, PPG Industries, Inc

Mr. Charles F. Lehman, Assistant Vice President, American Commercial Barge Line Co.

Mr. Semond Levitt, Containerization Consultant

Capt. Archibald H. McComb, Jr., Marine Assistant to Director of Transportation, American Petroleum Institute.

Mr. Lawrence W. Mottley, Corporate Manager of Traffic, Inmont Corp.

Mr. Phillip Neal, Safety Advisor, Marine Transportation Department, Mobil Oil Corp

Mr. Walter G. Neal, Jr., Project Engineer, Keystone Shipping Co.

Mr. Alexander Delli Paoli, Manager of Design, Standard Oil Company of New Jersey, Esso International Tankers.

Mr. Robert J. Patrick, Vice President, St. Louis Ship.

Mr. James J. Scott, Jr., Chief Engineer, South Carolina State Ports Authority.

Mr. Jake J Simmons III, Vice President, Amerada Hess Corp.

Mr Gerald L. Spaeth, President, Bulk Terminals Co.

Mr. Edward C. Sumner, Manager, Marine Development, Shell Oil Co.

Mr. Robert J. Wheeler, Manager, Marine Transportation, Phillips Petroleum Co.

The agenda for the November 21st meeting consists of the following:

1. Call to Order and Introductions.
2. Opening Remarks by Commandant
3. Functions and Procedures of Committee
4. Appointment of Vice Chairman and Secretary.
5. Remarks by Coast Guard on Ports and Waterways Safety Act of 1972.
6. Report of Task Group on Transportable Tanks.
7. Report of Task Group on LPG LNG Regulations.
8. Establishment of New Subcommittees and Task Groups.
   (a) Tankerman Examinations (Task Group).
   (b) Port Safety (Subcommittee).
   (c) Subchapter O Revisions (Subcommittee).
   (d) IMCO Hazard Grouping Evaluation (Task Group).
   (e) Liaison with National Offshore Operations Industry Advisory Committee (Task Group).
   (f) Future Tasks.
9. Other subjects of interest.
10. Next meeting.
11. Adjournment.

The Treasury Department first established the Chemical Transportation Advisory Panel on May 4, 1949, "to act as an advisory body on matters concerned with bulk transportation of chemicals or hazardous cargo." The Secretary of Transportation on June 11, 1971, (1) revised the title of the Chemical Transportation Advisory Panel to read Chemical Transportation Industry Advisory Committee, and (2) established the committee for the 2-year period ending June 30, 1973. The Secretary of Transportation approved members for the Committee and the Commandant, U.S. Coast Guard, sent letters of appointment on June 30, 1972. Members of the committee serve without compensation from the Federal Government, either travel or per diem. The committee has not met since the appointment of members.

Interested persons may request additional information concerning the November 21 meeting and other matters relating to the Chemical Transportation Industry Advisory Committee by writing Capt. D. H. Clifton, Executive Secretary, Marine Safety Council, U.S. Coast Guard Headquarters (GCMC/82), 400 Seventh Street SW., Washington, DC 20590, or by calling 202—426-1477.

Dated: November 3, 1972.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.72-19268 Filed 11-8-72;8:51 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-366]

GEORGIA POWER CO.

Order Changing Place of Hearing Conference on Environmental Issues

In the matter of Georgia Power Company (Edwin I. Hatch, Unit 2).

Notice is hereby given that the hearing on the environmental issues, which was formerly scheduled to be held in the James Forrestal Building, will be held on November 17, 1972, at 10 a.m. local time, in Suite 500, 2000 L Street NW., Washington, DC 20268.

All members of the public are entitled to attend the hearing.

It is so ordered.

Issued at Washington, D.C., this 7th day of November 1972.

ATOMIC SAFETY AND LICENSING BOARD,
ELIZABETH S. BOWERS,
Chairman.

[FR Doc.72-19333 Filed 11-8-72;8:55 am]

[License No. 04-14886-01E]

HOCHIKI-AMERICA CORP.

Notice of Issuance of Byproduct Material License

Please take notice that the Atomic Energy Commission has, pursuant to § 32.26 of 10 CFR Part 32, issued License No. 04-14886-01E to Hochiki-America Corp., 21804 Belshire Avenue, Hawaiian Gardens, CA 90716, which authorizes the distribution of Model PID-B fire detectors to persons exempt from the requirements for a license pursuant to § 30.20 of 10 CFR Part 30.

1. The devices are designed to detect incipient fires by responding to the products of combustion produced by thermal decomposition of building materials or contents prior to the appearance of visible smoke, flame, or appreciable heat. The sensitive element of the detector is an ionization chamber in which air flowing into the chamber is made conductive by alpha particles emitted by americium 241.

2. The byproduct material incorporated in the detector is americium in the oxide form contained in foils manufactured by the Radiochemical Centre (Model AMMQ 958). The maximum activity contained in the unit is 0.96 microcurie.

3. Each exempt unit will have a label identifying the manufacturer (Hochiki-America Corp.) and the byproduct material (americium 241) contained in the unit and recommending that the unit be returned to the Hochiki-America Corp. for repair or disposal.

A copy of the license and a safety evaluation containing additional information, prepared by the Directorate of Licensing, are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, DC.

For the Atomic Energy Commission.

Dated at Bethesda, Md. this 1st day of November 1972.

S. H. SMILEY,
Deputy Director for Fuels & Materials, Directorate of Licensing.

[FR Doc.72-19218 Filed 11-8-72;8:47 am]

[Docket No. 50-16]

POWER REACTOR DEVELOPMENT CO.

Notice of Reconstitution of Board

In the matter of Power Reactor Development Company (Enrico Fermi Atomic Power Plant No. 1).

Mr. Robert L. Zanetell was previously appointed by the Commission as a member of the Atomic Safety and Licensing Board for the above proceeding. The Commission has appointed Mr. Robert M. Underhill to replace Mr. Zanetell on this Board.

Mr. Underhill, retired, was formerly vice president and business manager of the University of California, Berkeley, Calif. His mailing address is 5700 Mira Vista Avenue, Apartment 205, Oakland, CA 94610.

Dated at Washington, D.C. this 3d day of November 1972.

JAMES R. YORE,
Executive Secretary, Atomic Safety and Licensing Board Panel.

[FR Doc.72-19233 Filed 11-8-72;8:49 am]

[License No. 05-13943-01E]

STATITROL CORP.

Notice of Issuance of Amendment of Byproduct Material License

Please take notice that the Atomic Energy Commission has, pursuant to § 32.26 of 10 CFR Part 32, issued Amendment No. 4 to License No. 05-13943-01E to Statitrol Corp., 140 South Union Boulevard, Lakewood, CO 80228, which authorizes the distribution of Models 104-050, 104-051, and 102-050 ionization fire detectors to persons exempt from the requirements for a license pursuant to § 30.20 of 10 CFR Part 30.

1. The devices are designed to detect incipient fires by responding to the products of combustion produced by thermal decomposition of building materials or contents prior to the appearance of visible smoke, flame, or appreciable heat. The sensitive element of the detector is an ionization chamber in which air flowing into the chamber is made conductive by alpha particles emitted by americium 241.

2. The byproduct material incorporated in the detector is americium in the oxide form contained in foils manufactured by Nuclear Radiation Developments (Model A-001) or by the Radiochemical Centre (Model AMM). The maximum activity contained in the unit is 1.3 microcuries.

3. Each exempt unit will have a label identifying the manufacturer (Statitrol Corp.) and the byproduct material (americium 241) contained in the unit and recommending that the unit be returned to the Statitrol Corp. for repair or disposal.

A copy of the amended license and a safety evaluation containing additional information, prepared by the Directorate of Licensing, are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, DC.

For the Atomic Energy Commission.

Dated at Bethesda, Md., November 1, 1972.

S. H. SMILEY,
Deputy Director for Fuels & Materials, Directorate of Licensing.

[FR Doc.72-19217 Filed 11-8-72;8:47 am]

[Docket No. 50-363]

JERSEY CENTRAL POWER & LIGHT CO.

Notice and Order for Special Prehearing Conference

In the matter of Jersey Central Power & Light Co., (Forked River Nuclear Generating Station, Unit No. 1), Docket No. 50-363.

Take notice, that pursuant to the Atomic Energy Commission's "Notice of Hearing on a Facility Operating License," dated August 16, 1972, and in accordance with § 2.751a of said Commission's rules of practice, a special prehearing conference will be held in the subject proceeding on November 28, 1972, at 10 a.m. local time, in the Commissioners Board Room (Room 223), Courthouse (west wing), Washington Street, Toms River, N.J.

The special prehearing conference will deal with the following matters:

1. Identification and simplification of the issues;
2. Outstanding petitions for intervention;
3. Establishment of schedules for further action;
4. Need for discovery, and the time required for such discovery;
5. Motions to be addressed to the Atomic Safety and Licensing Board (Board);
6. Procedures, including rules of evidence, to be followed in the presentation of evidence at the actual evidentiary hearings; and
7. Such other matters as may aid in the orderly disposition of the instant proceeding.

The attorneys for the respective parties are hereby directed to confer in advance of the special prehearing conference and report to the Board at the time of said conference on the prospects of:

1. Settlement;
2. A stipulation of the matters in controversy;
3. A stipulation or statement of the uncontested facts.

At the special prehearing conference, the Board will hear oral argument on the outstanding petitions to intervene. The petitioners, as well as the parties, will be permitted to be heard in this regard.

In addition, the Board will hear oral argument by the parties regarding the following issues:

1. Associations who have petitioned to intervene should be prepared to identify their members by name and address who contend their interest will be affected by the proposed Forked River Nuclear Plant. They should also be prepared to state with specificity at the prehearing conference in what respect their interests will be affected.

2. The scope of the National Environmental Policy Act review to be made by the Board in light of the Commission's notice of hearing and the recently enacted Federal Water Pollution Control Act Amendments of 1972. As part of this discussion, the Board will require data as to any enacted New Jersey water quality standards or effluent limitations which have been federally approved, and which might be applicable to the Forked River Unit.

Issued at Washington, D.C., this 7th day of November 1972.

It is so ordered.

THE ATOMIC SAFETY AND LICENSING BOARD,
ELIZABETH S. BOWERS,
Chairman.

[FR Doc.72-19357 Filed 11-8-72;8:47 am]

CIVIL AERONAUTICS BOARD

MONTANA AERONAUTICS COMMISSION

Notice of Meeting

Notice is hereby given that a meeting with the above Commission will be held on November 28, 1972, at 2:30 p.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, to discuss air service needs in Montana.

Dated at Washington, D.C., November 6, 1972.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc. 72-19285 Filed 11-8-72;8:53 am]

[Docket No. 24801]

NORDAIR LTEE.—NORDAIR LTD.

Notice of Postponement of Prehearing Conference

Renewal and amendment of Foreign Air Carrier permit. Charter flights between Canada and United States and between the United States and any point in a country other than Canada.

Notice is hereby given that, at the request of applicant Nordair Ltee.—Nordair Ltd., the prehearing conference in the above-entitled matter has been postponed from November 20, 1972 (37 F.R. 23123, October 28, 1972), to December 1, 1972, at 10 a.m. (local time) in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC.

Dated at Washington, D.C., November 1, 1972.

[SEAL] HARRY H. SCHNEIDER,
Administrative Law Judge.

[FR Doc.72-19286 Filed 11-8-72;8:53 am]

[Docket No. 24717; Order 72-11-17]

U.S. CERTIFICATED CARRIERS

Order Granting Motion Regarding Amenities and Services for Delayed Passengers

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on 3d day of November 1972.

By motion filed October 11, 1972, Wien Consolidated Airlines, Inc. (Wien), requests that the Board dismiss it as a party to this proceeding. Wien had filed a similar motion on September 8, 1972, indicating that its rules governing amenities and services for delayed passengers were detailed in its tariffs and such provisions did not discriminate as to class of passenger. The carrier also stated that Order 72-9-1, dated September 1, 1972, which instituted this proceeding, did not include Wien's tariffs as being subject to this investigation.

Wien's motion was denied by Order 72-9-97, dated September 26, 1972. The

omission of Wien's tariff provisions in

gether with all advisory committees, in-

Coordinating representatives:

Fuels Task Force—Administrative, as

acreage in the Rhode Ranch Field,

of the State of Delaware with its prin-
cipal place of business at Boise, Idaho,

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omission of Wien's tariff provisions in Appendix A of Order 72-9-1 was an inadvertence which was corrected by Order 72-9-97. In denying the motion, we also noted that Wien's tariff provisions governing the availability of complimentary services to delayed passengers denied such amenities to standby passengers who had been cleared for boarding. Since standby passengers, once they are cleared for boarding, are generally treated similarly to other passengers in the same class of service, this distinction on its face appeared questionable. In its renewed motion, Wien states that its tariff rules have now been amended; and, in the case of interrupted flights, standby passengers cleared for boarding will be entitled to the same amenities and services as passengers holding confirmed reservations.

Wien's motion will be granted. As noted in its motion, Wien's tariff provisions no longer contain the infirmities which are of concern in this investigation. Wien advises travelers whose trips have been interrupted that various courtesy services are made available to them and does not distinguish among first class, coach, and standby passengers who have been cleared for boarding in the courtesy services made available.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof:

It is ordered, That:

The motion of Wien Consolidated Airlines, Inc., to be dismissed as a party to Docket 24717 is hereby granted.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-19287 Filed 11-8-72;8:53 am]

FEDERAL POWER COMMISSION

NATIONAL POWER SURVEY COORDINATING COMMITTEE

Order Designating Initial Membership and Chairmanship

NOVEMBER 2, 1972.

The Federal Power Commission hereby determines that the establishment of the National Power Survey Coordinating Committee is in the public interest, and necessary and appropriate for the purposes of the Federal Power Act, 16 U.S.C. 791(a) et seq., and the Commission establishes this Committee in accordance with the provisions of the Commission's order issued June 29, 1972, 37 F.R. 13380—Order Authorizing the Establishment of National Power Survey Advisory Committees and Prescribing Procedures—and the provisions of this order.

1. *Purpose.* The National Power Survey Coordinating Committee shall perform a liaison function with respect to the National Power Survey as constituted by the Federal Power Commission, together with all advisory committees, including any task forces thereto, which may be established by the Commission from time-to-time. The Commission contemplates that the National Power Survey Coordinating Committee, in performing this liaison function will assist in the implementation of requests for data, information, studies, or other materials requested or recommended by the National Power Survey, and its constituent advisory committees, including task forces thereto, as referred to above; will recommend work schedule assignments and work schedule priorities among such National Power Survey advisory committees, including task forces, as the Coordinating Committee considers appropriate to the implementation of requests for data, information, studies, or other materials requested or recommended by the National Power Survey; will recommend assignments to various National Power Survey advisory committees, including task forces thereto, relative to the collection and collation of data, information, studies, or other materials requested or recommended by the National Power Survey; and will assist in other ways as it may be called upon to act in performing its liaison function as requested from time-to-time by the Commission or its staff.

2. *Membership.* The chairman, coordinating representatives, secretary, and members of the National Power Survey Coordinating Committee, as selected by the Chairman of the Commission, with the approval of the Commission, are designated in the appendix hereto.

3. *Selection of future Committee members.* All future National Power Survey Coordinating Committee members and persons designated to act as committee chairman, coordinating representatives, and secretary, shall be selected and designated by the Chairman of the Commission with the approval of the Commission; provided, however, the Chairman of the Commission may select and designate additional persons to serve in the capacity of alternate secretary.

4. The following paragraphs of the aforementioned Commission order, issued June 29, 1972, are hereby incorporated by reference:

3. Conduct of meetings.
4. Minutes and records.
5. Secretary of the Committee.
6. Location and time of meetings.
7. Advice and recommendations offered by the Committee.
8. Duration of the Committee.

The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

APPENDIX

NATIONAL POWER SURVEY COORDINATING COMMITTEE

Chairman: Shearon Harris, Chairman, National Power Survey Executive Advisory Committee.

Coordinating representatives:

B. E. Biggerstaff, Bureau of Power.
Bernard B. Chew, Bureau of Power.
Alexander Gakner, Bureau of Power.
Dr. Richard F. Hill, Officer of Environmental Quality.
Drexel D. Journey, Office of the General Counsel.
William W. Lindsay, Bureau of Power.

Secretary: Daniel G. Lewis, Director, National Power Survey.

Members:

Gordon R. Corey, Chairman, National Power Survey Technical Advisory Committee on Finance.
M. F. Hebb, Chairman, National Power Survey Technical Advisory Committee on Power Supply.
Paul D. Martinka, Chairman, National Power Survey Technical Advisory Committee on Fuels.
Dr. Bruce Netschert, Chairman, National Power Survey Technical Advisory Committee on Conservation of Energy.
Dr. H. Guyford Stever, Chairman, National Power Survey Technical Advisory Committee on Research and Development.

[FR Doc.72-19276 Filed 11-8-72;8:52 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON FUELS TASK FORCE—ADMINISTRATIVE

Order Designating Initial Membership and Chairmanship

NOVEMBER 2, 1972.

The Federal Power Commission hereby determines that the establishment of the National Power Survey Technical Advisory Committee on Fuels Task Force—Administrative, as identified hereinafter, is in the public interest and necessary and appropriate for the purposes of the Federal Power Act, 16 U.S.C. 791(a) et seq., and the Commission establishes this task force in accordance with the provisions of the Commission's order issued June 29, 1972, 37 F.R. 13380—Order Authorizing the Establishment of National Power Survey Advisory Committees and Prescribing Procedures, the Commission's order issued September 28, 1972, 37 F.R. 20999—Order Establishing National Power Survey Technical Advisory Committees and Designating Initial Membership and Chairmanship—and the provisions of this order.

1. *Purpose.* The purposes of the National Power Survey Technical Advisory Committee on Fuels Task Force—Administrative are to recommend a structure and schedule for the Technical Advisory Committee on Fuels report; coordinate Committee work, monitor preparation and review of the Committee report; and furnish such other assistance to the Committee as may be requested. The National Power Survey Task Force established herein is organizationally subordinate to the National Power Survey Technical Advisory Committee on Fuels.

2. *Membership.* The chairman, coordinating representatives, secretaries, and members of the National Power Survey Technical Advisory Committee on Fuels Task Force—Administrative, as selected by the Chairman of the Commission, with the approval of the Commission, are designated in the appendix hereto.

3. *Selection of future Committee members.* All future National Power Survey Technical Advisory Committee on Fuels Task Force—Administrative members and persons designated to act as committee chairman, coordinating representatives, and secretaries, shall be selected and designated by the Chairman of the Commission with the approval of the Commission; provided, however, the Chairman of the Commission may select and designate additional persons to serve in the capacity of alternate secretary.

4. The following paragraphs of the Commission order issued June 29, 1972, are hereby incorporated by reference:

3. Conduct of meetings.
4. Minutes and records.
5. Secretary of the Committee.
6. Location and time of meetings.
7. Advice and recommendations offered by the Committee.
8. Duration of the Committee.

The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

APPENDIX

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON FUELS TASK FORCE—ADMINISTRATIVE

Chairman: Paul D. Martinka, Vice President, Coal Supply, American Electric Power Service Corp.

Coordinating representatives:

Alexander Gakner, Bureau of Power.
Warren Morrison, Office of Economics.

Secretary: C. W. Lines, Bureau of Power.

Alternate secretary: Lawrence J. Prete, Bureau of Power.

Members:

Dr. James E. Connor, Director, Office of Plans and Analysis, Atomic Energy Commission.
Hollis M. Dole, Assistant Secretary, Mineral Resources, Department of the Interior.
Joseph Padgett, Director of Strategies and Air Standards Division, Environmental Protection Agency.
W. T. Robertson, Manager, Fuel Purchases, Duke Power Co.
Dr. Otto H. Zinke, Professor of Physics, University of Arkansas.

[FR Doc.72-19275 Filed 11-8-72;8:52 am]

Fuels Task Force—Administrative, as selected by the Chairman of the Commission, with the approval of the Commission, are designated in the appendix hereto.

3. *Selection of future Committee members.* All future National Power Survey Technical Advisory Committee on Fuels Task Force—Administrative members and persons designated to act as committee chairman, coordinating representatives, and secretaries, shall be selected and designated by the Chairman of the Commission with the approval of the Commission; provided, however, the Chairman of the Commission may select and designate additional persons to serve in the capacity of alternate secretary.

4. The following paragraphs of the Commission order issued June 29, 1972, are hereby incorporated by reference:

3. Conduct of meetings.
4. Minutes and records.
5. Secretary of the Committee.
6. Location and time of meetings.
7. Advice and recommendations offered by the Committee.
8. Duration of the Committee.

The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

APPENDIX

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON FUELS TASK FORCE—ADMINISTRATIVE

Chairman: Paul D. Martinka, Vice President, Coal Supply, American Electric Power Service Corp.

Coordinating representatives:

Alexander Gakner, Bureau of Power.
Warren Morrison, Office of Economics.

Secretary: C. W. Lines, Bureau of Power.

Alternate secretary: Lawrence J. Prete, Bureau of Power.

Members:

Dr. James E. Connor, Director, Office of Plans and Analysis, Atomic Energy Commission.
Hollis M. Dole, Assistant Secretary, Mineral Resources, Department of the Interior.
Joseph Padgett, Director of Strategies and Air Standards Division, Environmental Protection Agency.
W. T. Robertson, Manager, Fuel Purchases, Duke Power Co.
Dr. Otto H. Zinke, Professor of Physics, University of Arkansas.

[FR Doc.72-19275 Filed 11-8-72;8:52 am]

[Docket No. CI73-312]

ATLANTIC RICHFIELD CO.

Notice of Application

NOVEMBER 7, 1972.

Take notice that on October 30, 1972, Atlantic Richfield Co. (Applicant), Post Office Box 2819, Dallas, TX 75221, filed in Docket No. CI73-312 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Texas Eastern Transmission Corp. from formations down to 1,600 feet underlying acreage in the Rhode Ranch Field, McMullen County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of natural gas on October 12, 1972, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and that it proposes to continue said sale for 1 year from the end of the 60-day emergency period within the contemplation of section 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to sell up to 4,000 Mcf of gas per day, plus additional volumes which may be available and for which pipeline capacity exists, at 35 cents per Mcf at 14.65 p.s.i.a.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 17, 1972, file with the Federal Power Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commision on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19328 Filed 11-8-72;8:55 am]

[Docket No. E-7765]

BOISE CASCADE CORP.

Notice of Application

NOVEMBER 3, 1972.

Take notice that Boise Cascade Corp. (Applicant), incorporated under the laws of the State of Delaware with its principal place of business at Boise, Idaho, has filed an application in Docket No. E-7765 for a permit, pursuant to Executive Order No. 10485, dated September 3, 1953 (3 CFR, 1949-1953 Comp., p. 970), for the construction, operation, maintenance, and connection at the international border between the United States and Canada of certain facilities for the transmission of electric energy between the United States and Canada.

According to the application, a 120,000 volt overhead transmission line is proposed for construction over the Rainy River and across the United States-Canadian border between International Falls, Minn., and Fort Frances, Province of Ontario, Canada. In general, the proposed line will extend between the pulp, paper, and insulation board mill of Applicant located at International Falls and the pulp and paper mill of Applicant's subsidiary, The Ontario-Minnesota Pulp and Paper Co. Ltd. (Canadian Subsidiary) located at Fort Frances. The proposed line will be constructed and operated for the purpose of exporting electric energy from Fort Frances to International Falls. The electric transmission facilities for which Applicant seeks a permit will consist of that portion of the proposed line situated on the U.S. side of the aforementioned international border. Canadian Subsidiary will construct and operate the Canadian portion of the proposed line.

The electric energy exported from Fort Frances over the proposed 120,000 volt transmission line will be sold and delivered by Canadian Subsidiary to Applicant in accordance with the terms and conditions and at the rates set forth in the export sale agreement dated May 15, 1970, between Canadian Subsidiary and Applicant, a copy of which was filed as an exhibit to the application. The energy purchased and received from Canadian Subsidiary will be utilized by Applicant for its manufacturing operations at International Falls.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 24, 1972, file with the Federal Power Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19277 Filed 11-8-72;8:52 am]

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[Docket No. CI73-310]

KERR-McGEE CORP.

Notice of Application

NOVEMBER 6, 1972.

Take notice that on October 30, 1972, Kerr-McGee Corp. (Applicant), Kerr-McGee Building, Oklahoma City, Okla. 73102, filed in Docket No. CI73-310 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Panhandle Eastern Pipe Line Co., from the Hobart Ranch Field, Hemphill County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell an average daily maximum of 2.116 Mcf of gas at 35 cents per Mcf at 14.65 p.s.i.a., subject to upward and downward B.t.u. adjustment, for 1 year within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Initial upward B.t.u. adjustment is estimated at 5.25 cents per Mcf.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 16, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19185 Filed 11-8-72;8:46 am]

[Docket No. E-7787]

MAINE YANKEE ATOMIC POWER CO.

Notice of and Order Accepting Initial Rate Schedule for Filing With Condition

NOVEMBER 6, 1972.

On October 10, 1972, Maine Yankee Atomic Power Co. (Maine Yankee) tendered for filing a proposed initial rate schedule consisting of a Composite Power Contract dated as of May 20, 1968, between Maine Yankee and 11 utility company customers with provisions for service to be rendered to additional customers as the volume of service increases.

The company's transmittal letter states that:

> The proposed rate is to be based upon the total costs of operation of the unit except that prior to commercial operation incidental power produced intermittently in connection with final testing and preliminary operation will be delivered to the purchasers at 3.75 mills.

The proposed effective date is November 10, 1972, or such earlier date as deliveries may begin.

On October 27, 1972, counsel for a group of nonsponsoring municipal utility systems and electric cooperatives [1] which have been given the opportunity to purchase entitlements in the Maine Yankee plant, filed an objection to the effective date of November 10, 1972, proposed by Maine Yankee, claiming that the date should be postponed "until such time that all related contracts under which power from Maine Yankee is to be sold, resold by Maine Yankee sponsor companies, transmitted and delivered to the various participating utilities have been tendered for filing to the Commission" to avoid "serious legal disputes." Our review of counsel's objections and the tendered filing indicates that the filing is complete and meets all of the requirements of § 35.12 of the Commission's regulations under the Federal Power Act and that the requested delay in effective date would not be appropriate.

Due to an oversight this filing was not noticed and published in the FEDERAL REGISTER. Therefore, this order shall also serve as notice and we shall accept the tendered rate schedule for filing, to become effective on November 10, 1972, on the condition that the Commission reserves the right to review and adjust or modify the filing based on any complaint raised within the comment period provided below and on the further condition that Maine Yankee and the 11 utility customers named in the filing shall file consent motions to this condition on or before November 10, 1972.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.18, 1.10). All such petitions or protests should be filed on or before November 13, 1972. Protests will be considered by the Commission in determining whether the appropriate action has been taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the application are on file with the Commission and available for public inspection.

The Commission finds:

It is reasonable and appropriate in the public interest and to aid in the enforcement of the Federal Power Act that Maine Yankee's tendered rate schedule be accepted for filing as hereinafter ordered and conditioned.

The Commission orders:

(A) Maine Yankee's tendered rate schedule filed on October 10, 1972, is accepted for filing to become effective November 10, 1972, subject to further Commission review and adjustment or modification of the filing based upon comments received on or before November 13, 1972: *And provided*, That Maine Yankee and the 11 utility customers named in the filing shall file motions consenting to this condition on or before November 10, 1972.

(B) Any change in the capital structure of Maine Yankee affecting capital costs and resulting in a rate of return on common stock equity in excess of 10 percent or a common stock equity ratio in excess of 40 percent will constitute a change in filed rate schedule requiring timely filing.

(C) The request for extension of the effective date of the filing by counsel for parties listed in Appendix A is hereby denied.

(D) The Secretary shall cause prompt publication of this document to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

APPENDIX A

List of nonsponsoring municipal utility systems and electric cooperatives represented by protestant:

Asburnham.	Shrewsbury.
Boylston.	Sterling.
Braintree.	Taunton.
Chicopee.	Templeton.
Danvers.	Wakefield.
Georgetown.	West Boylston.
Hingham.	Westfield.
Holyoke.	Massachusetts.
Hudson.	Wolfeboro.
Hull.	New Hampshire.
Ipswich.	New Hampshire Electric Cooperative.
Littleton.	
Marblehead.	
Middleboro.	Eastern Maine Electric Cooperative.
Middleton.	
North Attleboro.	Houlton Water Co.
Paxton.	
Peabody.	

[FR Doc.72-19329 Filed 11-8-72;8:55 am]

[1] See Appendix A.

[Dockets Nos. E-7737, E-7739]

ORANGE AND ROCKLAND UTILITIES, INC., AND ROCKLAND ELECTRIC CO.

Order Accepting and Suspending Proposed Rate; Increase and Providing for Hearing and Consolidating Proceedings for Limited Purpose

NOVEMBER 3, 1972.

On June 2, 1972, Orange and Rockland Utilities, Inc. (O&R) tendered for filing proposed amendments to its cost of service agreements with Rockland Electric Co. (Rockland) and Pike County Light & Power Co. (Pike). These amendments to Rockland's and Pike's agreements were made to increase O&R's rate of return from 7.5 percent to 9 percent. Rockland and Pike each certified its concurrence in this increase.

O&R requested waiver of the filing requirements of § 35.3(b)(4)(iv) of the Commission's regulations under the Federal Power Act except for the most recent balance sheet, income statement, and Statement G. By letter from the Secretary on June 28, 1972, this request was denied. Subsequently, on October 6, 1972, O&R supplied the remaining statements required under the aforementioned regulation. Since 30 days is adequate time for review of the filing a proposed effective date of November 6, 1972, has been assigned to the filing.

Accompanying O&R's filing of October 6, 1972, was an additional amendment to its Rockland and Pike agreements which adds to the O&R plant investment allocable to Rockland and Pike respectively a portion of O&R's construction work in progress, allocated on a demand basis. Rockland proposes to take no interest on such amount, but to take interest on only the amount by which construction work in progress exceeds such allocated total in any month. Both Rockland and Pike have certified their concurrence in this proposed amendment.

The proposed rate increase is based on the calendar year 1971 test period and would result in an increase in revenue of $751,734 from Rockland and $5,175 from Pike.

On October 10, 1972, O&R requested waiver of the Commission's notice requirements to permit acceptance of both sets of proposed amendments to become effective August 1, 1972. O&R states that the primary reason for its request is to meet its interest coverage requirements.

In a related case in Docket No. E-7739, the Commission in an order issued July 31, 1972, suspended a proposed rate increase by Rockland [1] to the Borough of Park Ridge (Park Ridge). Since a major portion of Rockland's increase is based on its increased cost of purchased power from O&R in Docket No. E-7737, the amount of the increase ultimately allowed O&R has a direct bearing on Rockland's charges to Park Ridge. The rate charged by O&R to Rockland in Docket No. E-7737 and the purchased power cost charged by Rockland to Park Ridge in Docket No. E-7739 may raise common issues of law and fact. We will accordingly order consolidation of these dockets for the limited purpose of determining this issue. Consistent with this action, we will amend our order of July 31, 1972, in Docket No. E-7739 to provide procedural dates reflecting our action herein.

No petitions to intervene or protests have been filed in this proceeding.

Review of the filing indicates that it raises certain issues which may require development in an evidentiary hearing. The proposed increases in rates and charges have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful.

In view of the fact that the proposed rate increase is based upon a test period of calendar year 1971 and we are herein suspending the increase until April 6, 1973, the Presiding Administrative Law Judge should determine whether, based upon equitable considerations, an updated test period is required.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in O&R's Rate Schedules, as proposed to be amended in this docket, and that the tendered increases be suspended as hereinafter provided.

(2) The disposition of this proceeding should be expedited in accordance with the procedure set forth below.

(3) In the event this proceeding is not concluded prior to the termination of the suspension period herein ordered, the placing of the rate changes applied for in this proceeding into effect, subject to refund with interest, while pending Commission determination as to their justness and reasonableness, is consistent with the purpose of the Economic Stabilization Act of 1970, as amended.

(4) Good cause has not been shown to waive the notice provisions of the Commission's regulations nor to permit the proposed increase filed herein to become effective on August 1, 1972.

(5) Consistent with our action consolidating issues of law and fact identical to Docket Nos. E-7737 and E-7739 the procedural dates in our July 31, 1972, order in the latter docket should be amended.

The Commission orders:

(A) Pursuant to the authority of the Federal Power Act, particularly section 205(e) thereof, the Commission's rules of practice and procedure, and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held, commencing with a prehearing conference on March 22, 1973 at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, concerning the lawfulness of the rates, charges, classifications and services contained in O&R's Rate Schedules as proposed to be revised in Docket No. E-7737.

(B) At the prehearing conference on March 22, 1973, O&R's prepared testimony (Statement P), together with its entire filing shall be admitted to the record as its complete case-in-chief subject to appropriate motions, if any, by parties to the proceeding. All parties will be expected to come to this conference prepared to effectuate the provisions of §§ 1.18 and 2.59 of the Commission's rules of practice and procedure.

(C) On or before March 2, 1973, the Commission staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of any or all intervenors shall be served on or before March 16, 1973. Any rebuttal evidence by O&R shall be served on or before March 30, 1973, cross-examination of the evidence filed will commence on April 10, 1973.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control the proceeding in accordance with the policies expressed in § 2.59 of the Commission's rules of practice and procedure.

(E) Pending hearing and a final decision in Docket No. E-7737 O&R's Rate Schedules tendered originally on June 7, 1972, and officially filed on October 6, 1972, and the use thereof will be deferred until April 6, 1973.

(F) O&R's request for waiver of the notice requirements of the Commission's regulations and request that the rates be made effective August 1, 1972, is denied.

(G) Our order of July 31, 1972, in Docket No. E-7739 is amended to provide the following procedural dates: Staff evidence to be served on March 2, 1973; intervenor evidence to be served on March 16, 1973; Rockland rebuttal evidence to be served on March 30, 1973; prehearing conference to be held on March 22, 1973; hearing on the issues consolidated with Docket No. E-7737 to commence on April 10, 1973; and hearing on remaining issues in Docket No. E-7739 to commence on April 17, 1973.

(H) Because of issues of law and fact identical to Dockets Nos. E-7737 and E-7739 those dockets are hereby consolidated for the limited of purpose of determining the rate charged by O&R to Rockland in the former docket and the purchased power cost charged by Rockland in Docket No. E-7739.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19280 Filed 11-8-72;8:52 am]

[1] Rockland is a subsidiary of, and purchases its entire energy requirement from O&R.

[Docket No. E-7678]

OTTER TAIL POWER CO.

Notice of Application

NOVEMBER 3, 1972.

Take notice that on October 30, 1972, Otter Tail Power Co. (Applicant) of Fergus Falls, Minn., filed an application seeking an order for approval of the issu-

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ance of short-term obligations in the form of promissory notes to banks, such notes to be issued on or before March 31, 1974, with a final maturity date of not later than March 31, 1975, and in the form of commercial paper to commercial paper dealers, such commercial paper to be issued on or before March 31, 1974, and to have a maturity date of not to exceed 9 months from the date of issue.

The net proceeds from the notes and from the sale of commercial paper will be used to provide general funds for the company's construction program.

Any person desiring to be heard or to make any protests with reference to such application should, on or before November 24, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19278 Filed 11-8-72;8:52 am]

[Dockets Nos. CS72-203, CS73-158]

PETRO-LEWIS FUNDS, INC., AND PARTNERSHIP PROPERTIES CO.

Notice of Petition for Declaratory Order or for Waiver of Regulations

NOVEMBER 3, 1972.

Take notice that on October 24, 1972, Petro-Lewis Funds, Inc., 1224 Denver Club Building, Denver, Colo. 80202, certificate holder in Docket No. CS72-203, and Partnership Properties Co., 1600 Broadway, Denver, CO 80202, certificate applicant in Docket No. CS73-158, filed a petition for a declaratory order holding that the acquisition of certain interests from which gas was dedicated to the interstate market by Amerada Hess Corp. (Amerada) did not involve the purchase of developed reserves in place within the contemplation of § 157.40(c) of the regulations under the Natural Gas Act (18 CFR 157.40(c)), or, in the alternative, for waiver in part of § 157.40(c), all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioners state that Amerada Hess Corp., a large producer certificate holder in Docket No. CI61-1650, assigned to Petro-Lewis Corp., a portion of Amerada's interest in the Robert Jacob Hoxbar Gas Unit, West Velma Field, Stephens County, Okla., from which gas was dedicated to Amerada's FPC Gas Rate Schedule No. 94. Petro-Lewis Corp. conveyed an undivided 94 percent of said interest to Partnership Properties Co. as nominee for Petro-Lewis Funds, Inc.

Petitioners state that at the time of Petro-Lewis Corp.'s purchase of Amerada's interest there were no wells capable of commercial production of gas from said interest and no known commerical reserves included in said interest. They state further that there are presently no wells capable of commercial production of gas from said interest and that there are presently no known commercial reserves included in said interest. Based upon a letter from Lone Star Gas Co. to Amerada, petitioners allege that the well that had been producing gas from the subject interest had been disconnected in 1965. Accordingly, petitioners request either that the Commission find that they did not acquire developed reserves in place from Amerada or, in the alternative, that the Commission waive, with respect to sales from the subject interest, that portion of § 157.40(c) which proscribes sales under small producer certificates from developed reserves acquired in place by small producers from large producers.

Petitioners submit that without any current prospect of income from the subject interest, requiring further administrative action with respect to said interest represents an unproductive financial burden on them which eventually will be borne by the ultimate consumers of gas and, further, that because there are no known commercial reserves of gas in the subject interest, waiver of the regulation will further rather than subvert the Commission's intention in promulgating § 157.40.

Any person desiring to be heard or to make any protest with reference to said petition should on or before November 27, 1972, file with the Federal Power Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19279 Filed 11-8-72;8:52 am]

[Docket No. CI73-308]

PHILLIPS PETROLEUM CO.

Notice of Application

NOVEMBER 6, 1972.

Take notice that on October 27, 1972, Phillips Petroleum Co. (Applicant), Bartlesville, Okla. 74004, filed in Docket No. CI73-308 on application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Transwestern Pipeline Co. in Gray County, Tex., from production in the Panhandle-Hugoton Area of Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it intends to commence the sale of natural gas within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for 6 months from the end of the 60-day emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to sell up to 30,000 Mc.f. of gas per day at 39 cents per Mc.f. at 14.65 p.s.i.a.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 16, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19186 Filed 11-8-72;8:46 am]

[Docket No. CI73-63]

SOUTHERN UNION GATHERING CO.

Notice of Further Extension of Time

NOVEMBER 3, 1972.

On November 1, 1972, Southern Union Gathering Co. filed a motion for a further extension of time within which evidence is to be filed and a postponement of the date for hearing in the above matter established by the Presiding Administrative Law Judge by notice issued on October 10, 1972. The motion states that neither counsel for Aztec nor the New Mexico Public Service Commission has any objection to such request. Aztec has agreed to defer the effective date of its rate increase from December 29, 1972, to January 19, 1973.

Upon consideration, notice is hereby given that the time is further extended to and including November 27, 1972, within which prepared testimony and exhibits shall be filed. The hearing is postponed to December 5, 1972, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19281 Filed 11-8-72;8:53 am]

[Docket No. CP72-111]

TENNESSEE GAS PIPELINE CO. AND TRUNKLINE GAS CO.

Notice of Petition To Amend

NOVEMBER 3, 1972.

Take notice that on October 30, 1972, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee), and Trunkline Gas Co. (Trunkline) filed in Docket No. CP72-111 a petition to amend the order issuing a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act in said docket on May 2, 1972 (47 FPC ——), by authorizing Petitioners to exchange natural gas for additional time, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The order of May 2, 1972, authorizes Petitioners to exchange gas pursuant to an agreement between them dated October 11, 1971, on file with the Commission as Rate Schedule X-35 in Sixth Revised Volume No. 2 of Tennessee's Gas Tariff. Said agreement provides that Tennessee, from November 1, 1971, through October 31, 1972, shall deliver on a best efforts basis and Trunkline shall receive at an existing point of interconnection near Kinder, Louisiana, or other mutually agreeable points, daily volumes up to 127,500 Mcf at 14.73 p.s.i.a. of natural gas. The agreement provides further that Trunkline, from November 1, 1973, through October 31, 1977, shall redeliver to Tennessee at Kinder or other points a volume of gas equal to that delivered by Tennessee, at a rate up to 31,875 Mcf at 14.73 p.s.i.a. per day.

Petitioners state that inasmuch as the Commission order authorizing the subject exchange was issued on May 2, 1972, and initial delivery was made by Tennessee on May 15, 1972, Trunkline was unable to receive gas during the full 12-month period as contemplated. Accordingly, Petitioners have amended the exchange agreement to provide for deliveries by Tennessee to Trunkline through October 31, 1973, and to provide for redeliveries by Trunkline to Tennessee from November 1, 1974, through October 31, 1978. The amendment also provides that deliveries and redeliveries may be made by means of Trunkline's existing facilities at the tailgate of the Texaco Inc. Henry gas plant in Vermilion Parish, La.

Petitioners submit that continuation of the delayed exchange under the amended agreement will increase their flexibility in the southwest Louisiana supply area and will be beneficial by permitting each company to use its gas supplies and facilities more efficiently.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 27, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19188 Filed 11-8-72;8:45 am]

[Docket No. CP69-199]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Petition To Amend

NOVEMBER 3, 1972.

Take notice that on October 30, 1972, Transcontinental Gas Pipe Line Corp. (Petitioner), Post Office Box 1396, Houston, TX 77001, filed in Docket No. CP69-199 a petition to amend the order issued pursuant to section 7(c) of the Natural Gas Act in said docket on June 21, 1971 (45 FPC 1190), as amended April 24, 1972 (47 FPC ——), by authorizing the continuation of an interruptible transportation service at an adjusted rate, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner is presently authorized to transport for and deliver to Southern Natural Gas Co. (Southern) up to 5,000 Mcf of natural gas per day through January 29, 1973, at the rate of 6.25 cents per Mcf at 15.025 p.s.i.a. The gas is received by Petitioner at its Happytown purchase meter station on its Happytown lateral in Pointe Coupee Parish, La., and transported to existing points of interconnection between the systems of the two companies near Selma, Ala., and Jonesboro, Ga. The gas which is the subject of the transportation is normally purchased by Southern in the Bayou Henry Field, Iberville Parish, La., and taken through Southern's Bayou Bouillon-East Happytown line and thence into its main transmission system. Southern's line has been out of service as the result of two breaks at the Whiskey Bay Pilot Channel, and the authorized transportation by Petitioner was initiated at Southern's request in order to avoid the flaring of the Bayou Henry oil well gas.

Petitioner states that Southern has now determined that, given the expected life of the reserves in question, it would not be economic to make repairs in its line and has requested Petitioners to extend the interruptible transportation service, for a period of ten years or until such earlier date as Southern's Bayou Henry reserves are depleted. Petitioner proposes to charge an increased rate of 8.0 cents per Mcf. Petitioners states that the 6.25-cent rate was equal to 50 percent of the CD-1 rate at 100 percent load factor in effect at the time of the original agreement and that the new 8.0-cent rate is equal to 50 percent of the CD-1 rate at 100 percent load factor in effect at the present time.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 27, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19282 Filed 11-8-72;8:53 am]

VERMONT ELECTRIC POWER CO., INC.

Notice of Filing of Power and Transmission Agreements

NOVEMBER 3, 1972.

Take notice that Vermont Electric Power Co., Inc., by separate letters dated September 14, 1972, submitted for filing with the Federal Power Commission (1) a three-party power agreement and (2) a three-party transmission agreement, both dated November 21, 1969, with Cen-

tral Vermont Public Service Corp. and Green Mountain Power Corp.

[Docket Nos. RI73-79, etc.]

household goods of Government employees. These rate quotations provide

ticularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I),

ment since the line-haul transportation allowances contained in this schedule in-

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tral Vermont Public Service Corp. and Green Mountain Power Corp.

Through these agreements Vermont Electric Power Co., Central Vermont Public Service, and Green Mountain Power Corp., agree to sell, distribute, transmit, and resell output from Vermont Yankee Nuclear Power Corp.

Any person desiring to be heard or to make any protest with reference to said filing should on or before November 22, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19187 Filed 11-8-72;8:45 am]

[Docket Nos. RI73-79, etc.]

ATLANTIC RICHFIELD CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

NOVEMBER 2, 1972.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in docket No.
R173-79...	Atlantic Richfield Co.....	312	1	El Paso Natural Gas Co. (Pleasance Creek Field, Rio Blanco County, Colo.).	$980	10- 5-72	.....	12- 6-72	[2] 15.0	[2] 16.0	
		604	1	....do.....	1,144	10- 5-72	.....	12- 6-72	[2] 15.0	[2] 16.0	
R173-80...	Union Oil Co. of California..	90	4	Colorado Interstate Gas Co. (Patrick Draw Area, Sweetwater County, Wyo.).	705	10-11-72	.....	[1] 1- 2-73	17.1275	18.1350	R168-279.
	....do.....	91	6	....do.....	1,381	10-11-72	.....	[1] 1- 2-73	15.6163	16.6238	R168-279.
	....do.....	150	3	Colorado Interstate Gas Co. (Desert Springs Field, Sweetwater County, Wyo.).	55,413	10-11-72	.....	[1] 1- 2-73	15.6163	16.6238	R168-277.
	.....do.....	177	3	El Paso Natural Gas Co. (Gomez Field, Pecos County, Tex., Permian Basin).	6,022	10-11-72	.....	[1] 1- 2-73	17.5656	18.5694	R168-332.

*Unless otherwise stated, the pressure base is 14.65 p.s.i.a.
[1] One day after contractual due date.
[2] The pressure base is 15.025 p.s.i.a.

The proposed increases filed herein do not exceed the corresponding rate filing limitation imposed in Southern Louisiana and therefore are suspended for 1 day after termination of the 60 day notice period or for 1 day after the contractual due date, whichever is later.

The producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56).

CERTIFICATION OF ABBREVIATED SUSPENSION

Pursuant to § 300.16(1)(3) of the Price Commission Rules and Regulations, 6 CFR Part 300 (1972), the Federal Power Commission certifies as to the abbreviated suspension period in this order as follows:

(1) This proceeding involves producer rates which are established on an area rather than company basis. This practice was established by Area Rate Proceeding, Docket No. AR61-1, et al., Opinion No. 468, 34 FPC 159 (1965), and affirmed by the Supreme Court in Permian Basin Area Rate Case, 390 U.S. 747 (1968). In such cases as this, producer rates are approved by this Commission if such rates are contractually authorized and are at or below the area ceiling.

(2) In the instant case, the requested increases do not exceed the ceiling rate for a one day suspension.

(3) By Order No. 423 (36 F.R. 3464) issued February 18, 1971, this Commission determined as a matter of general policy that it would suspend for only one day a change in rate filed by an independent producer under section 4(d) of the Natural Gas Act [15 U.S.C. 717c(d)] in a situation where the proposed rate exceeds the increased rate ceiling, but does not exceed the ceiling for a 1 day suspension.

(4) In the discharge of our responsibilities under the Natural Gas Act, this Commission has been confronted with conclusive evidence demonstrating a natural gas shortage. (See Opinions Nos. 595, 598, and 607, and Order No. 435). In these circumstances and for the reasons set forth in Order No. 423 the Commission is of the opinion in this case that the abbreviated suspension authorized herein will be consistent with the letter and intent of the Economic Stabilization Act of 1970, as amended, as well as the rules and regulations of the Price Commission, 6 CFR Part 300 (1972). Specifically, this Commission is of the opinion that the authorized suspension is required to assure continued, adequate and safe service and will assist in providing for necessary expansion to meet present and future requirements of natural gas.

[FR Doc.72-19130 Filed 11-8-72;8:45 am]

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPMR A-32; General Supplement 2]

SHIPMENT OF GOVERNMENT EMPLOYEES' HOUSEHOLD GOODS

Use of Commuted Rate Schedule or Actual Expense Method

To: Heads of Federal agencies.

1. *Purpose.* This supplement informs agencies of additional carriers who have filed rate quotations for shipments of household goods of Government employees. These rate quotations provide bases for predetermining packing and accessorial charges and enable agencies to obtain, before making such shipments, valid cost comparisons on a "total basis" between use of the commuted rate schedule and the actual expense (Government bill of lading) method.

2. *Expiration date.* This supplement contains material of a continuing nature and will remain in effect until canceled.

3. *Background.* Supplement 1, dated May 9, 1972, to GSA Bulletin FPMR A-32 provides in Attachment A thereto, a list of individual household goods carriers who have filed rate quotations containing predeterminable packing charges, and states that additions or deletions to this list will be published by supplements, annually or as appropriate.

4. *Additional carriers quoting predeterminable packing charges.* More than 2,000 additional carriers now quote predeterminable packing charges under the following issuances:

a. All carriers participating in the Household Goods Carriers' Bureau Military and Government Rate Tariff (HGCB M&GRT) No. 1-F (ICC No. 30) now provide a basis for predetermining packing charges. Supplement No. 7 (effective July 15, 1972) to this tariff, in Item 105, contains a maximum packing schedule covering all packing and unpacking services except for the use of wooden boxes or wooden crates.

b. All carriers participating in the Movers' & Warehousemen's Association of America, Inc., Government Rate Tender (M&WAA, Inc., GRT) ICC No. 1-W now provide a basis for predetermining packing charges. Supplement No. 5 (effective July 15, 1972) to this tariff, in Item 120, contains a maximum packing schedule covering all packing and unpacking services except for the use of wooden boxes or wooden crates.

c. Cartwright Van Lines, Inc., Grandview, Mo., has filed an individual rate quotation, dated May 19, 1972, under which packing and unpacking charges may be predetermined.

5. *Recommended action.* a. Make the following additions to the list of carriers contained in GSA Bulletin FPMR A-32, Supplement 1, Attachment A:

HGCB M&GRT No. 1-F (All participating carriers).
M&WAA, Inc., GRT ICC No. 1-W (All participating carriers).
Cartwright Van Lines, Inc., Grandview, Mo.

b. When a cost comparison is being made between the commuted rate schedule and the actual expense (Government bill of lading or GBL) method and the rate quotation of the carrier being considered provides separately stated charges for accessorial services (such as piano carry and servicing appliances), the actual expense (GBL) computation should reflect such charges to the extent they apply to the particular shipment under consideration. The comparative cost computation by the commuted rate schedule requires no similar adjustment since the line-haul transportation allowances contained in this schedule include all packing, unpacking, and related accessorial services.

Dated: October 10, 1972.

M. S. MEEKER,
Commissioner, Federal Supply Service.

[FR Doc.72-19235 Filed 11-8-72;8:49 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 72-23]

RESEARCH AND TECHNOLOGY ADVISORY COMMITTEE ON AERONAUTICAL OPERATING SYSTEMS

Notice of Meeting

The NASA Research and Technology Advisory Committee on Aeronautical Operating Systems will meet on November 16 and 17, 1972, at NASA's Langley Research Center, Hampton, Va. 23365. The meeting will be held in the Conference Room of the 7' x 10' Wind Tunnel Building. Interested public individuals will be admitted to the open portion of the meeting beginning at 8:30 a.m. on November 16 on a first-come-first-served basis up to the seating capacity of the room, which is approximately 40 persons. All visitors must report to the NASA Langley main gate.

The NASA Research and Technology Advisory Committee on Aeronautical Operating Systems serves in an advisory capacity only. In this capacity, it is concerned wtih aircraft operational problems associated with atmospheric phenomena, flight safety aspects of flight operations, occupant protection and survival, crew performance, simulation technology, air traffic systems, airport design technology, legal-political-economic influences on aviation, and facilities supporting research in the above areas. The current Chairman is Mr. Franklin W. Kolk. There are 14 members.

The following list sets forth the approved agenda and schedule for the November 16 and 17, 1972, meeting of the Committee. For further information, please contact Mr. Robin K. Ransone, 202—755-2360.

NOVEMBER 16, 1972

Time	Topic
8:30 a.m....	Opening remarks. (Purpose: To welcome members and guests, set forth the order of meeting, etc.)
9:10 a.m....	Discussion of Civil Aviation Research and Development Policy, Plans, and Problems. (Purpose: To obtain inputs from Committee members relating to current and future needs of civil aviation in the context of what government and industry R&D activity can contribute to improvement of civil aviation.)
10:15 a.m....	Discussion of Human Factors Research Needs. (Purpose: To obtain inputs from Committee members relating to Human Factors research through discussion, which can be integrated into future NASA research plans.)
1:00 p.m....	Discussion of Air Transportation System. Productivity (Purpose: To examine through discussion the elements in the air transportation system which can benefit most heavily from research activity. These benefits will be translated into better transportation value for the traveler or cargo shipper.)
3:15 p.m....	Discussion of Terminally-Configured Vehicle Concepts. (Purpose: To examine through discussion, ways and means of improving the safety and efficiency of air vehicles operating in the terminal area.)

NOVEMBER 17, 1972

Time	Topic
8:30 a.m....	Continuation of previous day's discussion topics.
9:45 a.m....	Research and Technology Briefings. (Purpose: To review results from research programs in general aviation, collision avoidance, and wake turbulence.)
1:00 p.m....	Committee Executive Session and Members' Report. (Purpose: To consider members' recommendations for NASA research based upon previous discussions and with regard to NASA budget, organizational problems, and other agency activities, and to identify new problem areas.) (Closed session to discuss proprietary and budgetary data.)

HOMER E. NEWELL,
Associate Administrator, National Aeronautics and Space Administration.

[FR Doc.72-19226 Filed 11-8-72;8:48 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

ACCURATE CALCULATOR CORP.

Order Suspending Trading

NOVEMBER 3, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Accurate Calculator Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15 (c)(5) of the Securities Exchange Act

Delmarva, 20 percent by Del-Md and 3 percent by Del-Va.

gas system capability is 131,914,000 cubic feet. Delmarva sold 16,634,659 mcf of gas

It is further ordered, That any person, other than the applicant, desiring to be

otherwise than on a national securities exchange be summarily suspended, this

its construction program (which for 1972 is estimated at $465,683,000). The esti-

FEDERAL REGISTER, VOL. 37, NO. 217—THURSDAY, NOVEMBER 9, 1972

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It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 6, 1972, through November 15, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19202 Filed 11-8-72;8:46 am]

[31-736]

DELMARVA POWER & LIGHT CO.

Notice of Filing and Order for Consolidated Hearing

NOVEMBER 2, 1972.

Notice is hereby given that Delmarva Power & Light Co. (Delmarva), 800 King Street, Wilmington, DL 19899, a registered holding company and a public-utility company, has filed an application pursuant to section 3(a)(2) of the Public Utility Holding Company Act of 1935 (Act) seeking exemption from all the provisions thereof except section 9(a)(2). All interested persons are referred to the application, which is summarized below, for a complete statement of the facts.

Delmarva (formerly Delaware Power & Light Co.) is incorporated under the laws of Delaware and maintains its principal offices in Wilmington, Del. It is engaged within the State of Delaware in the generation, transmission and distribution of electric energy, in the retail distribution of gas, and in the steam business and is a joint owner of electric generation and transmission facilities in the States of New Jersey and Pennsylvania.

Delmarva has two wholly owned subsidiary companies: Delmarva Power & Light Co. of Maryland (Del-Md), a Maryland corporation engaged exclusively in the electric utility business in Maryland, and Delmarva Power & Light Co. of Virginia (Del-Va), a Virginia corporation engaged exclusively in the electric utility business in Virginia. Delmarva's utility operations in Delaware are subject to the jurisdiction of the Public Service Commission of Delaware. The electric utility businesses of its subsidiaries in Maryland and Virginia are subject, respectively, to the jurisdiction of the Public Service Commission of Maryland and the State Corporation Commission of Virginia.

The service areas of the three companies, all located on the "Delmarva Peninsula," are interconnected and comprise an aggregate of approximately 4,700 square miles, having a total population in excess of 842,000. Delmarva is affiliated with the Pennsylvania-New Jersey-Maryland (PJM) Interconnection System. In 1971, the system companies generated a total of 6,050,000 mw.-hr., of which 92 percent was generated by Delmarva, 7.8 percent by Del-Md and less than 1 percent by Del-Va, and for that year, system electric sales were 5,748,000 mw.-hr., of which 77 percent was sold by Delmarva, 20 percent by Del-Md and 3 percent by Del-Va.

The consolidated gross operating revenues of the Delmarva system for the year ended December 31, 1971, amounted to $129,505,193, consisting of $104,741,538 from the sale of electricity; $19,279,943 from the sale of gas; and the balance ($5,483,712) from steam and electric service to a nonaffiliated oil refinery in the State of Delaware. Of the consolidated electric revenues (including steam revenues), about 75 percent were applicable to Delmarva, 21 percent to Del-Md and 4 percent to Del-Va. As of December 31, 1971, the consolidated plant account amounted to $630,957,530 (of which 86 percent was electric plant, 7.8 percent was gas, 3.5 percent was steam, and 2.7 percent denominated as common property), to which was applied an aggregate accumulated depreciation reserve of $135,417,987.

The Delmarva system renders retail electric service in twelve municipalities, of these municipalities, six are in Delaware, two in Maryland and four in Virginia. The system also renders wholesale electric service to 12 other municipalities, three cooperatives and two nonaffiliated utility companies. Of these wholesale customers, many of which purchase 100 percent of their electric energy requirements from the Delmarva system, nine municipalities and one cooperative are located in Delmarva; three municipalities, one cooperative and the two nonaffiliated utilities are located in Maryland; and one cooperative is in Virginia.

As of June 30, 1972, the aggregate capacity of generating units owned by Delmarva was 1,083,500 kilowatts; while that of Del-Md was 290,500 kw., and that of Del-Va was 43,700 kw.

Delmarva has under construction a 400,000 kilowatt steam-electric generating unit at Edge Moor, Del., scheduled for completion in 1973; a joint-owned nuclear generating station in Peach Bottom, Pa., in which it will have a 160,000 kilowatt entitlement, scheduled for completion in 1973–74 and a jointly owned nuclear generating station in Salem, N.J., in which it will have 163,000 kilowatt entitlement, scheduled for completion in 1974–75. Delmarva has, also, executed a purchase order for two 770,000 kilowatt nuclear units for a generating station in Delaware, at a site yet to be determined, for completion in 1979–82.

Delmarva's Delaware City station supplied steam and electricity to an unaffiliated oil refinery under contract and generates electricity for system requirements. The refinery has an option to purchase the plant on November 1, 1976, and at 5-year intervals thereafter.

Delmarva conducts the entire gas utility business of the Delmarva system. This gas utility business is conducted in New Castle County, Del., within territory served by Delmarva with electricity. In 1971, Delmarva provided gas service to about 73,613 customers in an area, including the city of Wilmington, of about 275 square miles having a total population of 382,000. The maximum 24-hour gas system capability is 131,914,000 cubic feet. Delmarva sold 16,634,659 mcf of gas in 1971.

Natural gas is distributed through approximately 983 miles of gas mains, and is supplemented with propane-air gas during periods of high usage. Delmarva has under construction a storage facility for liquefied natural gas with a storage capacity of 250,000 mcf equivalent, and an output capability of 50,000 mcf per day, scheduled to be in operation for the storage of gas in the winter of 1972–73.

On April 5, 1972, the Commission instituted a proceeding with respect to Delmarva under section 11(b)(1) of the Act (Holding Company Act Release No. 17530, File No. 59–114, Administrative Proceeding File No. 3–3640). In this notice and order for hearing, the Commission specified, as the principal issue, whether Delmarva may retain within its holding-company system, its gas properties along with its electric properties. In its answer, filed on May 22, 1972, Delmarva has supported its claim for retention by asserting, inter alia, that it is entitled to an exemption under section 3(a)(2) of the Act.

A hearing in the section 11(b)(1) proceeding was held at 1100 L Street NW., Washington, DC 20549, before Warren E. Blair, Chief Administrative Law Judge; said hearing was adjourned to December 4, 1972.

It appearing to the Commission that common questions of law and fact exist in these two proceedings, and that pursuant to Rule 10 of the Commission's rules of practice it is appropriate that these separate proceedings be consolidated; that it is appropriate in the public interest and in the interest of investors and consumers that a public hearing be held with respect to the issues noted below:

It is ordered, Accordingly, that the proceeding with respect to Delmarva's application under section 3(a)(2) be, it hereby is, consolidated with proceeding under section 11(b)(1) and that the application for exemption be, and it hereby is, made part of Delmarva's answer it has heretofore filed in the section 11(b)(1) proceeding.

It is further ordered, That the Chief Administrative Law Judge shall preside at the hearing in these consolidated proceedings. This officer, as heretofore authorized, is to exercise all powers granted to the Commission under section 18(c) of the Act and to an administrative law judge under the Commission's rules of practice.

It is further ordered, That with respect to the exemption application particular attention be directed in the hearing to the following matters:

(a) Whether Delmarva meets the requirements for an exemption specified in section 3(a)(2) of the Act;

(b) Whether Delmarva should be granted such exemption, without first complying with section 11(b)(1);

(c) Whether the granting of any exemption under section 3(a)(2) should be subject to terms and conditions, including compliance with section 11(b)(1).

It is further ordered, That any person, other than the applicant, desiring to be heard in connection with this proceeding or proposing to intervene therein shall file with the Secretary of the Commission, on or before November 27, 1972, a written request relative thereto as provided in Rule 9 of the Commission's rules of practice. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Persons filing an application to participate or be heard will receive notice of the date of hearing or any adjournment thereof as well as other actions of the Commission involving the subject matter of these consolidated proceedings.

It is further ordered, That the Secretary of the Commission shall serve notice of the aforesaid by mailing a copy of this notice of and order for hearing by certified mail to applicant, and each other respondent in the consolidated docket; the Federal Power Commission; the U.S. Department of Justice; the Maryland Public Service Commission; the Delaware Public Service Commission; the Virginia State Corporation Commission; the city of Wilmington, Del.; and the county of New Castle, Del.; and that notice of said hearing is hereby given to the aforesaid and to all States, municipalities, and political subdivisions of States within which are located any of the physical assets of the respondent companies, to all State commissions, State securities commissions, and all agencies, authorities or instrumentalities of the State, municipality, or other political subdivision having jurisdiction over any of the respondent companies or any of the business affairs or operations of any of them, and to all other interested persons, such notice to be given by a general release of the Commission and by publication of this notice and order in the FEDERAL REGISTER.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19221 Filed 11-8-72;6:47 am]

[File No. 500-1]

FIRST WORLD CORP.

Order Suspending Trading

NOVEMBER 3, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the Class A and Class B common stocks, $0.15 par value, and all other securities of First World Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 6, 1972, through November 15, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19200 Filed 11-8-72;6:47 am]

[70-5258]

GEORGIA POWER CO.

Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding

NOVEMBER 3, 1972.

Notice is hereby given that Georgia Power Co. (Georgia), 270 Peachtree Street NW., Atlanta, GA 30303, an electric utility subsidiary company of The Southern Co., a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Georgia proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, up to $150 million principal amount of its first mortgage bonds, — percent series, to mature not less than 5 years and not more than 30 years from the second day of the calendar month within which the bonds are issued. Georgia will decide on the maturity of the bonds after the date of public invitation for proposals and subsequently notify prospective bidders not less than 72 hours prior to the time of the bidding. The interest rate (which will be a multiple of one-eighth percent) and the price, exclusive of accrued interest, to be paid to Georgia (which will be not less than 99 percent nor more than 102¾ percent of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under an indenture, dated as of March 1, 1941, between Georgia and Chemical Bank, as trustee, as heretofore supplemented, including the supplemental indenture dated October 25, 1972, modifying the $1 billion limitation on the principal amount of bonds which may be outstanding under the indenture (Holding Company Act Release No. 17684, Oct. 10, 1972) and as to be further supplemented by a supplemental indenture to be dated as of December 1, 1972, which includes a prohibition until December 1, 1977, against refunding the bonds with or in anticipation of the proceeds from borrowings at a lower cost.

Georgia will apply the proceeds from the sale of the bonds, together with other funds, to reduce indebtedness evidenced by short-term notes payable and 2-year notes payable contemplated by Georgia to be incurred in connection with its construction program (which for 1972 is estimated at $465,683,000). The estimated aggregate amount of such notes payable is $318 million, after giving effect to the full amounts contemplated in previous filings with the Commission (see Holding Company Act Release No. 17645, July 13, 1972). Georgia estimates that following the sale of the full $150 million principal amount of the proposed new bonds, the aggregate of its notes payable will be reduced to $16,200,000 as at December 31, 1972.

It is stated that the Georgia Public Service Commission has jurisdiction over the proposed issuance and sale of the bonds by Georgia and that the requisite order of that Commission will be filed by amendment. It is further stated that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. A statement of the fees and expenses to be incurred in connection with the transaction will be supplied by amendment.

Notice is further given that any interested person may, not later than November 27, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19199 Filed 11-8-72;8:46 am]

[812-3200]

GIANT MASCOT MINES LTD.

Filing of Application

NOVEMBER 2, 1972.

Notice is hereby given that Giant Mascot Mines Ltd. (Applicant), Toronto-Dominion Bank Tower, Pacific

Centre, 700 West Georgia Street, Vancouver 1, BC, Canada, a British Colum-

ductible exploration expenditures for most of the participants, rather than

Applicant has never received any income from its interest in the Consortium

exchange, be summarily suspended, this order to be effective for the period from

ican Stock Exchange, pursuant to provisions of the Securities Exchange Act of

	File No.
Freeport Minerals Co.	7-4301
General Instrument Corp.	7-4302

V37-2172 NOV 9 1972 XUM

Centre, 700 West Georgia Street, Vancouver 1, BC, Canada, a British Columbia corporation, has filed an application for an order of the Commission pursuant to section 3(b)(2) of the Investment Company Act of 1940 (Act) declaring that it is primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding or trading in securities either directly or (A) through majority-owned subsidiaries or (B) through controlled companies conducting similar types of businesses, or, in the alternative, for an order pursuant to section 6(c) of the Act exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein which are summarized below.

Applicant was incorporated on June 7, 1950, under the laws of British Columbia and has since then been engaged in the business of mining and exploring for various minerals, almost exclusively in the Province of British Columbia. It was incorporated under a British Columbia statute available only to companies engaging in the mining, oil or natural gas business. Applicant states that its charter does not contemplate or permit investment company activity.

Applicant's sole significant source of revenues is from a British Columbia mine (the Giant Nickel Mine) where it produces nickel-copper concentrates. The activities and background of Applicant's officers are oriented to the mining business. Applicant employs no security analyst, trading staff or investment departments and has never publicly held itself out as having any investment expertise or as having the intention of making investments in minority interests of other companies.

In 1970, Applicant acquired an approximately 4.52 percent equity interest in Panarctic Oils Ltd. (the Consortium), a Canadian corporation holding extensive/petroleum and natural gas rights in Canada's Arctic islands. The Consortium was formed in 1966 under Federal letters patent. The Canadian Federal Government owns 45 percent of the equity and the balance of the Consortium's shares are held by 19 private interests, including Applicant, none of which owns more than approximately 9 percent of the shares. The Consortium's shares are not publicly traded and are transferable only upon the prior approval of the holders of at least 60 percent of the Consortium's outstanding equity. By agreement among the Consortium's participants, each participant is entitled to representation on the Consortium's Board of Directors and its Exploration Committee. This form of syndicate for the exploration of oil and gas properties is commonly used in Canada in lieu of the co-ownership arrangement used in the United States to explore oil or gas fields too large for any one company to explore alone. For Canadian income tax purposes, contributions to the Consortium for oil and gas exploration constitute deductible exploration expenditures for most of the participants, rather than capital expenditures for acquiring stock.

As of June 30, 1972, Applicant's interest in the Consortium was valued at Cdn. $12,105,309, which represented as of such date 45.39 percent of Applicant's total assets (exclusive of U.S. Government securities and cash items.)

Applicant has never received any income from its interest in the Consortium and has no expectation of doing so for several years at least. Its interest in the Consortium is contended not to be of the kind contemplated by the Act's definition of investment security. A summary of Applicant's assets as of June 30, 1972, is as follows:

Item	Value	Percentage of applicant's total assets (exclusive of cash items) (percent)
Mining properties and natural gas interest held by applicant and its wholly owned subsidiaries and other tangible assets (Canadian)	$13,939,631	52.28
Investment in majority owned subsidiary, Mascot Nickel Plate Mines, Ltd. (75.47 percent interest)	229,684	.86
Investment in and advances to controlled corporation, Giant Explorations, Ltd. (N.P.L.) (27.87 percent interest)	365,663	1.37
Securities guaranteed by the Province of British Columbia at cost	27,472	.10
Interest in Panarctic Oils, Ltd.	12,105,309	45.39
Total assets (excluding cash items) (Canadian)	26,667,759	100
Cash items	538,241	
Total assets (Canadian)	27,206,000	

Section 3(a)(3) of the Act provides that an "investment company" for purposes of the Act includes an issuer which "is engaged or proposes to engage in the business of investing, reinvesting, holding or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis." For purposes of section 3(a)(3), the term "investment securities" includes all securities except U.S. Government securities and securities issued by majority-owned subsidiaries which are not themselves investment companies. Section 3(b)(2) excludes from the definition of "investment company":

(2) Any issuer which the Commission, upon application by such issuer, finds and by order declares to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities either directly or (A) through majority-owned subsidiaries or (B) through controlled companies conducting similar types of businesses.

Section 6(c) of the Act authorizes the Commission upon application to exempt any person from any provision or provisions of the Act conditionally or unconditionally if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is given that any interested person may, not later than November 24, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the Applicant at the address stated above. Proof of such service (by affidavit or in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the Application herein may be issued by the Commission upon the basis of the information stated in said application unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19220 Filed 11-8-72;8:47 am]

[File No. 500-1]

MARKETING COMMUNICATIONS, INC.

Order Suspending Trading

NOVEMBER 3, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, no par value, and all other securities of Marketing Communications, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange, be summarily suspended, this order to be effective for the period from November 6, 1972 through November 15, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19204 Filed 11-8-72;8:46 am]

[File No. 500-1]

MONARCH GENERAL, INC.

Order Suspending Trading

NOVEMBER 2, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Monarch General, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 10:45 a.m. (e.s.t.) on November 2, 1972, through November 11, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19206 Filed 11-8-72;8:46 am]

[File No. 500-1]

POWER CONVERSION, INC.

Order Suspending Trading

NOVEMBER 3, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Power Conversion, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 5, 1972 through November 14, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19205 Filed 11-8-72;8:46 am]

[File No. 500-1]

TOPPER CORP.

Order Suspending Trading

NOVEMBER 3, 1972.

The common stock, $1 par value of Topper Corp. being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Topper Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 5, 1972 through November 14, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19201 Filed 11-8-72;8:46 am]

[File No. 500-1]

TRANS-EAST AIR, INC.

Order Suspending Trading

NOVEMBER 3, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.50 par value, and all other securities of Trans-East Air, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 6, 1972 through November 15, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19203 Filed 11-8-72;8:46 am]

[File Nos. 7-4301-7-4310]

FREEPORT MINERALS CO. ET AL.

Applications for Unlisted Trading Privileges; Opportunity for Hearing

NOVEMBER 3, 1972.

In the matter of applications of the Cincinnati Stock Exchange for unlisted trading privileges in certain securities.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Freeport Minerals Co.	7-4301
General Instrument Corp.	7-4302
Lone Star Gas Co.	7-4303
McDonnell Douglas Corp.	7-4304
Northern Natural Gas Co.	7-4305
Pacific Gas and Electric Co.	7-4306
Revlon, Inc.	7-4307
Southern Natural Gas Co.	7-4308
Texas Gas Transmission Corp.	7-4309
Weyerhaeuser Co.	7-4310

Upon receipt of a request, on or before November 19, 1972, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19208 Filed 11-8-72;8:47 am]

[File No. 7-4293 etc.]

AIRCO, INC. ET AL.

Applications for Unlisted Trading Privileges; Opportunity for Hearing

NOVEMBER 3, 1972.

In the matter of applications of the Cincinnati Stock Exchange for unlisted trading privileges in certain securities. Securities Exchange Act of 1934.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Airco, Inc	7-4293
American General Insurance Co	7-4294
American Metal Climax, Inc	7-4295
AMF Incorporated	7-4296
Bunker Ramo Corp	7-4297
Coastal States Gas Producing Co.	7-4298
Commonwealth Oil Refining Co., Inc.	7-4299
Duke Power Co.	7-4300

Upon receipt of a request, on or before November 19, 1972, from any interested person, the Commission will determine

whether the application with respect to

For the Commission, by the Division of Market Regulation, pursuant to dele-

of hearings as promptly as possible, but interested parties should take appropri-

to publish notices of cancellation of hearings as promptly as possible, but

house facilities of the Radio Shack Division of the Tandy Corp. at Garden Grove, Calif., for 180 days. Supporting

thority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid coloring*

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whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C., 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19209 Filed 11-8-72;8:47 am]

[File No. 7-4292]

UNIVERSITY COMPUTING CO.

Application for Unlisted Trading Privileges; Opportunity for Hearing

NOVEMBER 3, 1972.

In the matter of application of the Pacific Coast Stock Exchange for unlisted trading privileges in a certain security. Securities and Exchange Act of 1934.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

	File No.
University Computing Co	7-4292

Upon receipt of a request, on or before November 19, 1972, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19207 Filed 11-8-72;8:47 am]

SELECTIVE SERVICE SYSTEM

SELECTIVE SERVICE FORMS

Notice of Availability

Pursuant to 5 U.S.C. 552(a)(1) notice is given that the following forms may be obtained at any local board of the Selective Service System:

SSS FORMS

1—Registration Card.
6—Request for Duplicate Registration Certificate or Notice of Classification.
80—Standby Reserve Questionnaire.
100—Classification Questionnaire.
103—Graduate or Professional College Student Certificate.
104—Request for Undergraduate Student Deferments.
109—Student Certificate.
118—Dependency Questionnaire.
127—Current Information Questionnaire.
130—Request for Relief from Training and Service in the Armed Forces of the United States (Revised July 1972).
131—Special Form for Alien or Dual National (July 1972).
150—Special Form for Conscientious Objector (Rev. Apr. 18, 1972).
151—Application of Volunteer for Civilian Work.
152—Special Form for Class 1-O Registrants.
156—Employer's Statement of Availability of Job as Alternate Service.
172—Special Form for Divinity Student (Sept. 1972).
173—Special Form for Registrant With Court Record (Sept. 1972).
174—Special Form for Surviving Son (Sept. 1972).
175—Special Form for Minister of Religion (Sept. 1972).
254—Application for Voluntary Induction.
305—Notice of Confinement or Release from Confinement.
725—Authorization for Release of Information.

BYRON V. PEPITONE, *Acting Director.*

NOVEMBER 6, 1972.

[FR Doc.72-19284 Filed 11-8-72;8:53 am]

INTERSTATE COMMERCE COMMISSION

[Notice 112]

ASSIGNMENT OF HEARINGS

NOVEMBER 6, 1972.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 136761, Hugh Loden & Alvin Vinson doing business as Vinson Garage & Wrecker Service, now assigned December 11, 1972, at Memphis, Tenn., is cancelled and transferred to modified procedure.

MC-129708 Sub 1, McRay Truck Line, Inc., Common Carrier Application, now assigned November 27, 1972, MC-106497 Sub 66, Parkhill Truck Co., now assigned November 28, 1972, MC-119777 Sub 242, Ligon Specialized Hauler, Inc., now assigned November 29, 1972, MC-51146 Sub 274, Schneider Transport, Inc., now assigned November 30, 1972, MC-108676 Sub 47, A. J. Metler Hauling & Rigging, Inc., now assigned December 1, 1972, MC-C-7786, Eck Miller Transportation Corp.—Investigation and Revocation of Certificates, now assigned December 4, 1972, MC-117565 Sub 90, Motor Service Co., Inc. now assigned December 6, 1972, will be held in Room 370, New Federal Building, 600 Federal Place, Louisville, KY.

MCC 7166, Travel Center of Waterbury, Inc. v. Continental Trailways, Inc. et al., M.C.C. 7631, Travel Center of Waterbury, Inc. v. Eastern Ski Tours, Inc. et al., now being assigned hearing January 29, 1973 (2 days), at New York, N.Y., in a hearing room to be later designated.

MC-F-11644, Maplewood Equipment Co.—Control and Merger—Inter-City Transportation Co., Inc. et al., FD 27179, Maplewood Equipment Co., now being assigned hearing January 31, 1973 (3 days), at Newark, N.J., in a hearing room to be later designated.

MC-99208 Sub 9, Skyline Transportation, Inc., now assigned November 27, 1972, at Frankfort, Ky., is cancelled and reassigned to Ramada Inn, 7621 Kingston Pike, Knoxville, TN.

MC-C-7436, Needham Packing Co., Inc. v. Curtins, Inc., now being assigned hearing February 5, 1973 (1 day), at Omaha, Nebr., in a hearing room to be later designated.

MC-C-7757, Inter-County Motor Coach, Inc. v. Schenck Tours, Inc. et al., MC-12731 Subs 1 and 2, Teens N Tours, Inc., now being assigned hearing February 12, 1973 (2 days), at New York, N.Y., in a hearing room to be later designated.

MC-135736 Sub 1, Fleet Services, Inc., now being assigned hearing February 14, 1973 (3 days), at New York, N.Y., in a hearing room to be later designated.

MC 117610 Sub 8, Derrico Trucking Corp., now assigned November 6, 1972, at New York, N.Y., hearing not called, application dismissed.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-19299 Filed 11-8-72;8:54 am]

[Notice 113]

ASSIGNMENT OF HEARINGS

NOVEMBER 6, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made

to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

CORRECTION

No. 35655, Clougherty Packing Company-V-Burlington Northern, Inc., et al., now being assigned hearing January 31, 1973, at Los Angeles, Calif., in a hearing room to be later designated, instead of the Offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-19300 Filed 11-8-72;8:54 am]

[Notice 147]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 3, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 15897 (Sub-No. 9 TA), filed October 19, 1972. Applicant: O.K. TRANSFER AND STORAGE CO., Post Office Box 1602, 207 South Union Street, Shawnee, OK 74801. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Center, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated store fixtures and furnishings*, from the facilities of the Plastelite Engineering Co., Division of Tandy Corp., Fort Worth, Tex., to the warehouse facilities of the Radio Shack Division of the Tandy Corp. at Garden Grove, Calif., for 180 days. Supporting shipper: Robert J. Russell, General Manager, Plastelite Engineering Co., Post Office Box 412, Fort Worth, TX 76101. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 67200 (Sub-No. 37 TA), filed October 17, 1972. Applicant: THE FURNITURE TRANSPORT COMPANY, INC., Post Office Box 392, Milford, CT 06460. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Baby carriages, strollers, play yards and high chairs*, from Gardner, Mass., to points in New York, New Jersey, Pennsylvania, Delaware, Maryland, and the District of Columbia, for 180 days. Supporting shipper: Collier-Keyworth Co., Gardner, Mass. 01440. Send protests to: David J. Kiernan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 324 U.S. Post Office Building, 135 High Street, Hartford, CT 06101.

No. MC 100666 (Sub-No. 228 TA), filed October 24, 1972. Applicant: MELTON TRUCK LINES, INC., Post Office Box 7666, Shreveport, LA 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 Northwest 58th Street, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Quarry stone* from the facilities of Texas Quarries, Inc., at or near Lueders, Tex., to Shreveport, La., for 180 days. Supporting shipper: B. & B. Cut Stone Co., Inc., Post Office Box 35, Shreveport, La. 71161. Send protests to: District Supervisor Paul D. Collins, Interstate Commerce Commission, Bureau of Operations, T-9038 Federal Building, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 107818 (Sub-No. 63 TA), filed October 16, 1972. Applicant: GREENSTEIN TRUCKING COMPANY, a corporation, 280 Northwest 12th Avenue, Post Office Box 608, Pompano Beach, FL 33061. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products, yogurt, and prepared desserts*, from Walton, N.Y., and Hagerstown, Md., to points in North Carolina, South Carolina, Georgia, and Florida, for 180 days. Supporting shipper: Breakstone Sugar Creek Foods, 450 East Illinois Street, Chicago, IL 60611. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, 5720 Southwest 17th Street, Room 105, Miami, FL 33155.

No. MC 116273 (Sub-No. 158 TA), filed October 17, 1972. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, IL 60650. Applicant's representative: Robert G. Paluch, VP, Sales and Traffic (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid coloring agents*, in bulk, in tank vehicles, from Northbrook, Ill., to Boston, Mass., for 180 days. Supporting shipper: Inca Inks, Inc., 1836 Stanley Street, Northbrook, IL 60062. Send protests to: District Supervisor Richard K. Shullaw, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 119435 (Sub-No. 2 TA), filed October 24, 1972. Applicant: WADDELL TRANSFER, INC., Post Office Box 61, Hockett Street, Marion, VA 24354. Applicant's representative: R. Cameron Rollins, 321 East Center Street, Kingsport, TN 37660. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick, cinder block, concrete block, clay and clay products, shale and shale products, concrete and concrete products, mortar mixes, and brick, block and tile raw materials*, (1) between Glasgow, Richlands, and Richmond, Va., on the one hand, and, on the other, points in Kentucky, Maryland, North Carolina, Tennessee, and West Virginia; and (2) between Elizabethton, Johnson City, Kingsport, and Knoxville, Tenn., on the one hand, and, on the other, points in Kentucky, North Carolina, Virginia, and West Virginia, for 180 days. Supporting shipper: General Shale Products Corp., Post Office Box 3547, Johnson City, TN 37601. Send protests to: C. M. Harmon, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 215 Campbell Avenue SW., Roanoke, VA 24011.

No. MC 119789 (Sub-No. 121 TA), filed October 24, 1972. Applicant: CARAVAN REFRIGERATED CARGO, INC., Post Office Box 6188, 1612 Irving Boulevard, Dallas, TX 75222. Applicant's representative: James N. Weatherly (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and bottled foodstuffs*, from Lafayette and New Iberia, La., to points in Oregon and Washington, for 180 days. NOTE: Carrier does not intend to tack authority. Supporting shipper: B. F. Trappey's Sons, Inc., Locker Drawer 400, New Iberia, LA 70560. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, TX 75202.

No. MC 123048 (Sub-No. 233 TA), filed October 17, 1972. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., Post Office Box A, 53403, 1919 Hamilton Avenue, Racine, WI 53401. Applicant's representative: Carl S. Pope (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors* (except truck tractors designed to be used in the transportation of property on highways and of tractors weighing 10,000 pounds or more), and (2) *tractor attachments and parts* in mixed loads with tractors, from the port

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

of entry at Houston, Tex., and from the branch facilities of J. I. Case Co., at or

ing: (1) *Cardboard corrugating medium*, from port of entry on the international

7651, Boise, ID 83707. Authority sought to operate as a *common carrier*, by motor

The full cooperation of all practioners in effectuating this policy will be

which the application will be dismissed by the Commission.

Restricted against the transportation of traffic originating at or destined to Mem-

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of entry at Houston, Tex., and from the branch facilities of J. I. Case Co., at or near Kansas, City, Mo., to points in Colorado, Kansas, and Missouri, and to points in Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore, Hutchinson, Roberts, and Hemphill Counties, Tex., Benton, Carroll, Boone, Washington, Madison, Newton, Crawford, Franklin, Johnson, Pope, Scott, Sebastian, Logan, and Yell Counties, Ark., and to points north of and including the following counties: Ellis, Dewey, Blaine, Kingfisher, Logan, Lincoln, Okjuskee, McIntosh, Haskell, Latimer, and Le Flore, Okla., for 180 days. Supporting shipper: J. I. Case Co., 700 State Street, Racine, WI 53404 (James Pavel, Traffic Manager). Send protests to: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 135234 (Sub-No. 11 TA), filed October 17, 1972. Applicant: COMMERCIAL CARTAGE, INC., 101 Hudson Street, St. Albans, WV 25177. Applicant's representative: Marvin L. Meadows (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wire rope or strand, iron or steel, galvanized or plastic coated on reels or in coils; wire, iron or steel, galvanized in coils or on reels, spirals, iron or steel; and products used in the manufacture of wire rope, iron or steel*, between Jacksonville, Fla., on the one hand, and, on the other, points in the continental United States east of the Mississippi River, and points in Iowa, Kansas, Missouri, Nebraska, and Texas, for 180 days. Supporting shipper: Florida Wire & Cable Co., Inc., 825 North Lane Avenue, Post Office Box 6835, Jacksonville, FL 32205. Attention: William R. Boyle, Traffic Manager. Send protests to: R. R. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 3108 Federal Building, 500 Quarrier Street, Charleston, WV 25301.

No. MC 135276 (Sub-No. 2 TA) (Correction), filed October 2, 1972, published in the FEDERAL REGISTER issues of October 20, and November 1, 1972, respectively, and republished in part as corrected this issue. Applicant: GENE ROMSBURG ENTERPRISES, INC., South Water Street, Frederick, MD 21701. Applicant's representative: Francis J. Ortman, 1100—17th Street NW., Washington, DC 20036. NOTE: The purpose of this partial republication is to show the correct address of applicant's representative as 1100 17th Street NW., in lieu of 110 17th Street NW., shown in error in previous publication. The rest of the notice remains the same.

No. MC 135609 (Sub-No. 3 TA), filed October 24, 1972. Applicant: FRED W. MOHOLLAND, Box 98, Princeton, ME 04668. Applicant's representative: Frederick T. McGonagle, 36 Main Street, Gorham, ME 04038. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cardboard corrugating medium*, from port of entry on the international boundary line between the United States and Canada, at or near Calais, Maine, to points in Massachusetts, New York, and New Jersey, Presque Isle, Maine, Berlin, and Manchester, N.H., and Portland, Conn., and (2) *waste cardboard*, from Quincy, Mass., to the port of entry on the international boundary line between the United States and Canada, at or near Calais, Maine, for 180 days. Supporting shipper: Fundy Forest Industries Limited, Box 180, St. George, New Brunswick, Canada. Send protests to: District Supervisor Donald G. Weiler, Interstate Commerce Commission, Bureau of Operations, Post Office Box 167, PSS, Room 307, 76 Pearl Street, Portland, ME 04112.

No. MC 138071 (Sub-No. 1 TA), filed October 18, 1972. Applicant: D. A. HAMPTON, doing business as D. A. HAMPTON TRUCKING CO., 1504 Oak Street, Charlotte, NC 28213. Applicant's representative: D. A. Hampton (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Sand, crushed stone, plant mix asphalt, dirt*, from points in Mecklenburg County, N.C., to points in York County, S.C., for 180 days. Supporting shipper: Queen City Paving Co., Post Office Box 15127, Charlotte, NC 28210. Send protests to: Frank H. Wait, Jr., Interstate Commerce Commission, Bureau of Operations, Suite 417, BSR Building, 316 East Morehead Street, Charlotte, NC 28202.

No. MC 138072 TA (Amendment), filed September 29, 1972, published in the FEDERAL REGISTER issue of October 10, 1972, amended and republished as amended this issue. Applicant: MAY TRUCKING CO., INC., Allen, KY 41601. Applicant's representative: Francis P. Desmond, 115 East Fifth Street, Chester, PA 19013. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Nitro carbonitrate* in bulk, from Allen, Ky., to points in Mingo and *McDowell* Counties, W. Va., and *Buchanan*, Dickenson, Russell, and Wise Counties, Va., for 180 days. Supporting shipper: Paul J. Keehan, Assistant Manager, Truck and Air Transportation Section, Traffic Department, E. I. Du Pont de Nemours & Company, 1007 Market Street, Wilmington, DE 19801. Send protests to: R. W. Schneiter, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 222 Bakhaus Building, 1500 West Main Street, Lexington, KY 40505. NOTE: The purpose of this republication is to add the restriction, to show the correct county as Buchanan, Va., in lieu of Buckingham, Va., and to show the correct county as McDowell, W. Va., in lieu of McDonell, W. Va.

No. MC 138078 (Sub-No. 1 TA), filed October 17, 1972. Applicant: M K TRANSPORT, INC., 975 East 25th Street, Post Office Box 2762, Idaho Falls, ID 83401. Applicant's representative: F. L. Sigloh & Associates, Post Office Box 7651, Boise, ID 83707. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber mill products*, including plywood and builtup woods, from Kootenai, Benewah, Latah, Nezperce, Lewis, Clearwater, Idaho, and Lemhi Counties, Idaho and Darby and Missoula, Mont. to points in Colorado, for 180 days. NOTE: Applicant states that it does not intend to tack the requested authority or interline with any other carrier. Supporting shippers: Potlatch Forests, Inc., Lewiston, Idaho, 83501; Del Conner Lumber, Inc., Darby, Mont. 59829; Foster Lumber Co., Inc., 205 Canyon Boulevard, Boulder, CO; and Geddes Lumber Co., 4 South Santa Fe Drive, Denver, CO 80223. Send protests to: District Supervisor C. W. Campbell, Interstate Commerce Commission, Bureau of Operations, 550 West Fort, Box 07, Boise, ID 83702.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-19301 Filed 11-8-72;8:54 am]

HEARING DATES AND FILING OF BRIEFS

Postponements and Extensions of Time

The Commission desires to remind all parties to proceedings before it that delays resulting from undue requests for postponement of hearings and brief dates result in unnecessary expense and inconvenience to the parties as well as to the Government. By notice issued April 26, 1965, the Commission advised that a more restrictive policy was to be adopted in respect to such requests and that a closer scrutiny thereof would be made by officials authorized to grant or deny them. The processing of unnecessary requests results in inefficient employment of personnel, is equally burdensome upon all parties who must consider and reply thereto, and cannot be allowed to continue to grow.

As in the past, every effort will be made to assign hearings and to establish due dates for briefs and other pleadings with a view toward giving sufficient time for all parties to prepare. However, the occurrence of a conflict of dates will not, standing alone, be considered as an adequate reason for postponement. Similarly, the press of other work will not necessarily be regarded as a sufficient reason to warrant an extension of time. The press of matters before this Commission is also of great importance.

Those participating in proceedings before the Commission will be expected to be prepared for hearings on the dates they are assigned and to refrain from requesting extensions of time except where absolute necessity dictates such a request and warrants an extension. The Commission deems strict administrative disposition of all such requests to be a matter best serving the overall public interest.

The full cooperation of all practioners in effectuating this policy will be expected.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-19302 Filed 11-8-72;8:54 am]

[Notice 91]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

NOVEMBER 3, 1972.

The following applications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

No. MC 531 (Sub-No. 281), filed October 9, 1972. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, Post Office Box 14048, Houston, TX 77021. Applicant's representative: Wray E. Hughes (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fruit juice concentrates*, in bulk, in tank vehicles, from points in Michigan, New York, and Pennsylvania, to points in California. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 2202 (Sub-No. 419), filed October 6, 1972. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, OH 44309. Applicant's representative: James W. Conner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, class A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, (1) between Meridian, Miss., and Florence, Ala., serving the facilities of Mueller Brass at or near Fulton, Miss., as an off-route point and serving Meridian, Miss., and Florence, Ala., for purposes of joinder only, from Meridian over U.S. Highway 45 to junction of U.S. Highway 45 and Mississippi Highway 25, thence over Mississippi Highway 25 to the junction of Mississippi Highway 25 and U.S. Highway 78, thence over U.S. Highway 78 to the junction of Highways 78 and 43, thence over U.S. Highway 43 to Florence, Ala., and return over the same route, and (2) between Memphis, Tenn., and the junction of U.S. Highways 278 and 431, serving the facilities of Mueller Brass at or near Fulton, Miss., as an off-route point, and serving Memphis, Tenn., and the junction of U.S. Highways 278 and 431 for purposes of joinder only, from Memphis over U.S. Highway 78 to the junction of U.S. Highways 78 and 278, thence over U.S. Highway 278 to the junction of U.S. Highways 278 and 431, and return over the same route. Restriction: Restricted against the transportation of traffic originating at or destined to Memphis, Tenn., or points in its commercial zone. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C., or Washington, D.C.

No. MC 2263 (Sub-No. 4), filed September 22, 1972. Applicant: LAUREL TRANSPORT CORPORATION, Post Office Box 438, Rio Grande, NJ 08242. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, items of unusual value, commodities requiring special equipment, and household goods as defined by the Commission) between points in Cape May County, N.J., on the one hand, and, on the other, the New York, N.Y. commercial zone, as defined by the Commission. NOTE: Applicant states that the requested authority can be tacked with its lead under MC 2263 and Subs 1 and 2 but indicates it is not presently feasible. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at either (1) Cape May Courthouse, N.J.; (2) New York, N.Y.; or (3) Washington, D.C.

No. MC 2401 (Sub-No. 50), filed October 11, 1972. Applicant: MOTOR FREIGHT CORPORATION, Post Office Box 2057, Idaho Station, 2345 South 13th Street, Terre Haute, IN 47802. Applicant's representative: Robert R. Redmon, 2001 Massachusetts Avenue NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the warehouse site of Western Electric Co., at or near Underwood, Iowa, as an off-route point in connection with applicant's regular-route operations via Omaha, Nebr. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Washington, D.C.

No. MC 10223 (Sub-No. 6), filed September 28, 1972. Applicant: ROBERT E. MACK, CARL BROWN, SOPHIE R. MACK, ESTELLE M. FUNK, AND THERESA R. MOLLY, doing business as MACK TRANSPORTATION COMPANY, 4330 Torresdale Avenue, Philadelphia, PA 19124. Applicant's representative: John W. Frame, Post Office Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by department stores, between Bloomfield, N.J., and Langhorne, Pa., on the one hand, and, on the other, New York, N.Y., and points in Long Island, West-

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

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chester, Rockland, Orange, and Putnam Counties, N.Y., and Fairfield County, Conn. Restriction: Restricted to traffic originating at or destined to stores, warehouses, facilities, or plantsites of Bambergers's, New Jersey, a division of R. H. Macy and Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 26739 (Sub-No. 73), filed October 12, 1972. Applicant: CROUCH BROS., INC., Elwood, Kans. 66024. Applicant's representative: R. A. Dombrowski, Post Office Box 1059, St. Joseph, MO 64502. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), serving the warehouse site of Western Electric located at or near Underwood, Iowa, as an off-route point in connection with applicant's regular route operations via Omaha, Nebr. NOTE: Applicant states that the requested authority may duplicate its authority to serve Iowa in No. MC 26739 (Sub Nos. 58 and 64). If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 29555 (Sub-No. 60), filed October 10, 1972. Applicant: BRIGGS TRANSPORTATION CO., a corporation, 2360 West County Road C, St. Paul, MN 55113. Applicant's representative: Winston W. Hurd (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, livestock, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment (except those requiring temperature control and those injurious or contaminating to other lading) serving the 400,000-square-foot storage warehouse facilities of the Western Electric Co., Inc., near Underwood, Iowa, approximately 12 miles northeast of Council Bluffs, Iowa as an off-route point in connection with applicant's regular route operations. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., Omaha, Nebr., or Des Moines, Iowa.

No. MC 29910 (Sub-No. 124), filed October 2, 1972. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street Fort Smith, AR 72901. Applicant's representative: Don A. Smith, Post Office Box 43, Kelley Building, Fort Smith, AR 72901. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except commodities in bulk, livestock, classes A and B explosives, and commodities which because of size and weight require the use of special equipment) serving the plantsite facilities of Chicago Bridge & Iron Co., at or near Indian Oaks, Ill., as an off-route point in connection with applicant's regular-route operations to and from Chicago, Ill. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or St. Louis, Mo.

No. MC 30844 (Sub-No. 433), filed October 12, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., Post Office Box 5000, Waterloo, IA 50704. Applicant's representative: Truman A. Stockton, The 1650 Grant Street Building, Denver, CO. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen and dehydrated potatoes and frozen vegetables*, from Hart, Holland, and Lake Odessa, Mich., to points in Colorado, Connecticut, Delaware, the District of Columbia, Illinois, Indiana, Iowa, Kansas, Maryland, Massachusetts, Minnesota, Missouri, Nebraska, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, Texas, Virginia, West Virginia, and Wisconsin. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho, or Washington, D.C.

No. MC 30844 (Sub-No. 434), filed October 16, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., Post Office Box 5000, Waterloo, IA 50704. Applicant's representative: Truman A. Stockton, The 1650 Grant Street Building, Denver, CO. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such articles and supplies* as are dealt in by retail and discount department stores (except foodstuffs and commodities in bulk) from points in that portion of New York, N.Y., commercial zone as defined in the fifth supplemental report in commercial zones and terminal areas, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of section 203 (b)(8) of the Interstate Commerce Act (the "exempt" and zones) to points in Colorado, Minnesota, Missouri, Oklahoma, and Texas, restricted to the transportation of shipments originating or destined to the facilities of Target Stores, Inc. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Washington, D.C.

No. MC 30844 (Sub-No. 435), filed October 16, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., Post Office Box 5000, Waterloo, IA 50704. Applicant's representative: Truman A. Stockton, The 1650 Grant Street Building, Denver, CO. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, from Quincy, Ill., to Solon, Ohio. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 36556 (Sub-No. 27), filed September 18, 1972. Applicant: BLACKMON TRUCKING, INC., 1111 120th Avenue, Somers, WI 53171. Applicant's representative: Earle Munger, 520 58th Street, Kenosha, WI 53140. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Inedible frozen ingredients* for fur farm animal food and dog food, from the plantsites of Bydalek Fur Farms located at points in Kenosha County, Wis., to General Foods Corp. at points in Kankakee, Ill., restricted to traffic originating at the plantsites of Bydalek Fur Farms and destined to plantsite of General Foods Corp. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis., or Chicago, Ill.

No. MC 51146 (Sub-No. 294), filed October 5, 1972. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, WI 54304. Applicant's representative: D. F. Martin, Post Office Box 2298: Green Bay, WI 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic products*, from Neenah and Menasha, Wis., to points in the United States (except Alaska and Hawaii). NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no *present* intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 51146 (Sub-No. 295), filed October 5, 1972. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, WI 54304. Applicant's representative: D. F. Martin, Post Office Box 2298, Green Bay, WI 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products* (except commodities in bulk), from Niagara Falls, N.Y., to points in Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New Jersey, Maryland, Pennsylvania, Ohio, Michigan, Indiana, Illinois, Wisconsin, Minnesota, Iowa, Missouri, Kansas, Oklahoma, Texas, Arkansas, Kentucky, Tennessee, Georgia, and Florida. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no *present* intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant request it be held at Washington, D.C.

No. MC 53965 (Sub-No. 88), filed October 9, 1972. Applicant: GRAVES TRUCK LINES, INC., 739 North 10th Street, Salina, KS. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), between Omaha, Nebr., on the one hand, and, the plantsite and/or storage facilities of Western Electric Co., located at or near Underwood, Iowa, on the other hand. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 59485 (Sub-No. 8), filed October 6, 1972. Applicant: DARLING TRANSFER, INC., 8106 J Street, Omaha, NE 68127. Applicant's representative: Dade W. Smith, 8220 Travis, Overland Park, KS 66204. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the warehouse site of Western Electric located at or near Underwood, Iowa, as an off-route point in connection with applicant's operations between Omaha, Nebr., and Kansas City, Mo/Kans. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 60253 (Sub-No. 26), filed October 9, 1972. Applicant: ARLINGTON TRUCK COMPANY, a corporation, 524 Oregon Road, Toledo, OH 43605. Applicant's representative: John D. Obee, 3553 Claudia Drive, Toledo, OH 43614. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass on racks and glass glazing units*, between Toledo, Ohio, on the one hand, and, on the other, Clinton and Laurinburg, N.C., under contract with Libbey-Owens-Ford Co., Thermopane L–O–F, Inc., and L–O–F Glass Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Toledo, Ohio; Detroit, Mich.; or Columbus, Ohio.

No. MC 61592 (Sub-No. 285), filed October 2, 1972. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, IA 52722. Applicant's representative: Donald Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rough lumber and wood products*, from the plantsites, mills, and warehouse facilities used by American Lumber Co. located at or near McConnelsville, Nellie, Piketon, St. James, and West Lafayette, Ohio, to points in North Carolina, Tennessee, Virginia, and West Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 61592 (Sub-No. 286), filed October 2, 1972. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, IA 52722. Applicant's representative: Donald Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food and food products* (except in bulk), in vehicles equipped with mechanical refrigeration: (1) From Somerville, Mass., to points in Illinois, Michigan, and Pennsylvania; (2) from Cambridge, Mass., to points in Illinois, Michigan, Ohio, and Pennsylvania; (3) from Bedford and Manchester, N.H., and Lawrence, Mass., to points in Colorado, Illinois, Kansas, Kentucky, Maryland, Missouri, New York, Ohio, Pennsylvania, Virginia, and the District of Columbia; and (4) from Boston and North Abington, Mass., to points in Ohio and Pennsylvania, and points in Chautauqua, Cattaraugus, Erie, Niagara, Orleans, Genesee, Wyoming, Allegany, Monroe, Livingston, Wayne, Ontario, Yates, Steuben, Seneca, Schuyler, Chemung, Cayuga, Tompkins, Tioga, Broome, Cortland, Onondaga, Oswego, Jefferson, Lewis, Herkimer, Oneida, Madison, Chenango, Otsego, Fulton, Montgomery, Delaware, Hamilton, Franklin, Clinton, St. Lawrence, and Essex Counties, N.Y. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

NO. MC 71459 (Sub-No. 29), filed October 5, 1972. Applicant: O.N.C. FREIGHT SYSTEMS, a corporation, 2800 West Bayshore Road, Palo Alto, CA 94303. Applicant's representative: C. J. Boddington (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, dangerous articles, household goods, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between San Bernardino, Calif., and Salt Lake City, Utah, from San Bernardino over Interstate Highway 15 (also U.S. Highway 91) to Salt Lake City, Utah, and return over the same route, serving the intermediate point of Las Vegas, Nev. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, or Los Angeles, Calif.

No. MC 73390 (Sub-No. 7), filed October 9, 1972. Applicant: H. A. HARTMAN & SON, INC., 537 North Front Street, Steelton, PA 17113. Applicant's representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, between points in that part of Pennsylvania south and east of a line beginning at Philadelphia, Pa., and extending along U.S. Highway 422 to Reading, Pa., thence along U.S. Highway 122 to Sunbury, Pa., thence along Pennsylvania Highway 14 to Northumberland, Pa., thence along U.S. Highway 11 to Selinsgrove, Pa., and thence along U.S. Highway 552 to the Pennsylvania-Maryland State line, including points on the indicated portions of the highways specified, on the one hand, and, on the other points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia. NOTE: Applicant states that the requested authority can be tacked with its existing authority at all points it is presently authorized to serve, which it may do under its existing authority via the Philadelphia gateway. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa.

No. MC 82492 (Sub-No. 72), filed October 5, 1972. Applicant MICHIGAN & NEBRASKA TRANSIT CO., INC., Post Office Box 2853, 2109 Olmstead Road, Kalamazoo, MI 49003. Applicant's representative: William C. Harris (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are manufactured and/or dealt in by wholesale, retail, and chain grocery houses*, from Galesburg, Ill. to points in Indiana, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 83539 (Sub-No. 355), filed October 12, 1972. Applicant: C & H TRANSPORTATION CO., INC., 1936–2010 West Commerce Street, Post Office Box 5976, Dallas, TX 75222. Applicant's representative: Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel beams*, from the Port of Catoosa, Okla., to points in Arkansas, Colorado, Kansas, Louisiana, Missouri, Nebraska, Oklahoma, and Texas. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is

deemed necessary, applicant requests it be held at Pittsburgh, Pa.

No. MC 109397 (Sub-No. 284), filed October 12, 1972. Applicant: TRI-STATE MOTOR TRANSIT CO., Post Office Box 113, Joplin, MO 64801. Applicant's representative: Max G. Morgan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum products*, from the plantsite and storage facilities of United States Gypsum Co. located at or near Baltimore, Md., to points in Virginia and West Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 109397 (Sub-No. 285), filed October 12, 1972. Applicant: TRI-STATE MOTOR TRANSIT CO., Post Office Box 113, Joplin, MO 64801. Applicant's representative: Max G. Morgan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsite and storage facilities of Granite City Steel Co. located at or near Granite City, Ill., to points in Arkansas, Colorado, Kansas, Louisiana, Missouri, Nebraska, Oklahoma, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 109397 (Sub-No. 286), filed October 12, 1972. Applicant: TRI-STATE MOTOR TRANSIT CO., Post Office Box 113, Joplin, MO 64801. Applicant's representative: Max G. Morgan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsite and storage facilities of Granite City Steel Co. located at or near Granite City, Ill., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 109638 (Sub-No. 22), filed June 19, 1972. Applicant: WOODROW EVERETTE, d.b.a. W. EVERETTE TRUCK LINE, Route 1, Box 1, Lansdale, Pa. 19446. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsite and storage facilities of Granite City Steel Co. located at or near Granite City, Ill., to points in Arkansas, Colorado, Kansas, Louisiana, Missouri, Nebraska, Oklahoma, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 109638 (Sub-No. 23), filed June 19, 1972. Applicant: WOODROW EVERETTE, d.b.a. W. EVERETTE TRUCK LINE, Route 1, Box 1, Lansdale, Pa. 19446. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Olean, N.Y., to Lansdale, Pa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 109638 (Sub-No. 24), filed June 19, 1972. Applicant: WOODROW EVERETTE, d.b.a. W. EVERETTE TRUCK LINE, Route 1, Box 1, Lansdale, Pa. 19446. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsite and storage facilities of Granite City Steel Co. located at or near Granite City, Ill., to points in the United States (except Hawaii). NOTE: Applicant states that the requested authority cannot be tacked

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deemed necessary, applicant requests it be held at Pittsburgh, Pa.

No. MC 83539 (Sub-No. 356), filed October 13, 1972. Applicant: C & H TRANSPORTATION CO., INC., 1936–2010 West Commerce Street, (Post Office Box 5976), Dallas, TX 75222. Applicant's representative: Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Street sweepers, attachments, parts, and accessories*, from Dodge City, Kans., to points in the United States including Alaska (but excluding Hawaii). NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it to be held at Kansas City, Kans.

No. MC 83539 (Sub-No. 357), filed October 13, 1972. Applicant: C & H TRANSPORTATION CO., INC., 1936–2010 West Commerce Street, Post Office Box 5976, Dallas, TX 75222. Applicant's representative: Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Car wash systems*; (2) *parts, attachments, and accessories* for the commodities specified in (1) above; and (3) *supplies* used in the operation and maintenance of commodities specified in (1) above, from the plantsite and facilities of California Car Wash Systems, Inc., located at or near Sun Valley, Calif., to points in the United States (except Alaska and Hawaii), restricted to traffic originating at said plantsite and facilities and destined to the points named above. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it to be held at Los Angeles, Calif.

No. MC 83850 (Sub-No. 9), filed October 6, 1972. Applicant: JOHNSONS TRANSFER, INC., 2519 Morris Street, Philadelphia, PA 19145. Applicant's representative: Harold P. Boss, 1100 17th Street, NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum and gypsum products, and materials and supplies* used in the manufacture, installation, and application of gypsum and gypsum products (except liquid commodities in bulk) from the plantsite, warehouses, and facilities of the United States Gypsum Co. located at or near Baltimore, Md., to points in Virginia and West Virginia beyond 200 miles of Baltimore; and (2) located at or near Norfolk, Va., to Baltimore, Md. NOTE: Applicant states that the present authority can be tacked with its existing authority to transport building materials from Baltimore to Norfolk, under MC 83850, therefore the authority sought herein will enable it to serve the supporting shipper on northbound movements from Norfolk to Baltimore and by tacking at Baltimore to serve points it is presently authorized to serve in Maryland and Pennsylvania under its lead certificate MC 83850 and Sub 8; Delaware under MC 83850; New Jersey under MC 83850 Sub 7; and Connecticut, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont under MC 83850 Sub 8. Applicant further states it does not propose to serve from Norfolk (by tacking at Baltimore) to its presently authorized points in Virginia or West Virginia within 200 miles of Baltimore. Applicant holds contract carrier authority under MC 2135, therefore common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 102567 (Sub-No. 155), filed October 9, 1972. Applicant: EARL GIBBON TRANSPORT, INC., 4295 Meadow Lane, Post Office Drawer 5357, Bossier City, LA 71010. Applicant's representative: Jo E. Shaw, 816 Houston First Savings Building, Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum wax*, in bulk, in tank vehicles, from Beaumont, Tex., to points in Illinois, Indiana, and Ohio. NOTE: Applicant states that the requested authority can be tacked with its existing authority in MC 102567 section (A) authorizing transportation of petroleum products between points in Texas, Arkansas, and Louisiana within 150 miles of Henderson, Tex. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Houston, Tex.

No. MC 102982 (Sub-No. 28), filed October 11, 1972. Applicant: GEORGE W. KUGLER, INC., 2800 East Waterloo Road, Akron, OH 44312. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Propane gas*, in bulk, from Marcus Hook, Pa., to the plantsite and storage facilities of Griffin Pipe Products Co., located at or near Florence, Burlington County, N.J. Restricted to service performed under continuing contracts with Griffin Pipe Products Co., Oak Brook, Ill. NOTE: Applicant holds common carrier authority under MC 125533 Subs 1 and 3, therefore common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 104210 (Sub-No. 68), filed October 5, 1972. Applicant: THE TRANSPORT COMPANY, INC., Post Office Box 4726, Corpus Christi, TX 78408. Applicant's representative: Mike Cotten, Post Office Box 1148, Austin, TX 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal fat*, in bulk, in tank vehicles, from points in Texas in and north of Parmer, Castro, Swisher, Briscoe, Hall, and Childress Counties to points in New Mexico on and east of U.S. Highway 85 and Interstate Highway 25, points in Colorado on and east of Interstate Highway 25, and points in Oklahoma on and west of U.S. Highway 81 and returned shipments in the reverse direction. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Amarillo, Fort Worth, or Dallas, Tex.

No. MC 106001 (Sub-No. 7), filed October 6, 1972. Applicant: DENNIS TRUCKING COMPANY, INC., 2519 Morris Street, Philadelphia, PA 19145. Applicant's representative: Harold P. Boss, 1100 17th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum and gypsum products, and materials and supplies* used in the manufacture, installation, and application of gypsum and gypsum products (except liquid commodities in bulk) from the plantsite, warehouses, and facilities of the United States Gypsum Co., located at or near Philadelphia, Pa., to points in New York beyond 150 miles of Philadelphia and points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority under MC 2135, therefore common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107818 (Sub-No. 64), filed October 5, 1972. Applicant: GREENSTEIN TRUCKING COMPANY, a corporation, 280 Northwest 12th Avenue, Post Office Box 608, Pompano Beach, FL 33061. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and articles distributed by meat packinghouses*, from Fergus Falls and Long Prairie, Minn., and the plantsites and facilities used by Metro Meat Packing, Inc., at St. Paul and Minneapolis, Minn., to points in Alabama, Florida, Georgia, South Carolina, Virginia, Mississippi, North Carolina, and Tennessee, restricted to traffic originating at said origins.

NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn., Chicago, Ill., or Milwaukee, Wis.

No. MC 109638 (Sub-No. 23), filed June 19, 1972. Applicant: WOODROW EVERETTE, d.b.a., W. EVERETTE TRUCK LINE, Post Office Box 145, Hodges Avenue, Washington, NC 27889. Applicant's representative Woodrow Everette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wooden boxes and pallets* from Ahoskie, N.C., to points in New York, New Jersey, Pennsylvania, Maryland, Connecticut, Georgia, South Carolina, and Florida; and (2) *wooden boxes, pallets, and lumber*, from Weldon, N.C., to points in New York, New Jersey, Pennsylvania, Delaware, Virginia, West Virginia, Kentucky, Maryland, South Carolina, Florida, Georgia, Tennessee, and Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Raleigh, N.C. or Norfolk, Va.

No. MC 110589 (Sub-No. 19), filed September 29, 1972. Applicant: J. E. LAMMERT TRANSFER, INC., 317 North Oak Street, Grand Island, NE 68801. Applicant's representative: Donn K. Bieber, Box 311, Schuyler, NE 68661. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and other articles distributed by meat packinghouses* (except commodities in bulk), from York, Nebr., to Aurora and Chicago, Ill.; Landover, Md.; Detroit, Mich.; Florence, Newark, and Woodbridge, N.J.; and New York, N.Y. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Lincoln or Omaha, Nebr.

No. MC 111672 (Sub-No. 6) (amendment), filed May 4, 1972, published in the FEDERAL REGISTER issue of June 29, 1972, and republished as amended this issue. Applicant: R & M TRUCK LINE, INC., Post Office Box 198, Oskaloosa, IA 52577. Applicant's representative: Larry D. Knox, 910 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ammonium nitrate prills*, from Seneca, Ill., to all points in Iowa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to redescribe the commodity description. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa or Omaha, Nebr.

No. MC 113119 (Sub-No. 10), filed October 12, 1972. Applicant: C. S. I., INC., doing business as: CONTRACT SERVICE, INC., Post Office Box 281, Trewigtown Road, Colmar, PA 18915. Applicant's representative: Robert L. Binder (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tile, facing or flooring, clay or earthenware*, glazed or not glazed, and *articles* used or useful in the manufacture and/or installation of same, from Olean, N.Y., to Lansdale, Pa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 113382 (Sub-No. 15), filed October 11, 1972. Applicant: NELSEN BROS., INC., Post Office Box 613, Nebraska City, NE 68410. Applicant's representative: J. Max Harding, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, products produced or distributed by manufacturers and converters of paper and paper products, and, (2) *Materials and supplies* used in the manufacture and distribution of the commodities described in (1) above (except commodities in bulk, and commodities which, by reason of size or weight, require the use of special equipment), from St. Paul and Minneapolis, Minn., to points in South Dakota and Nebraska, under contract with Hoerner Waldorf Corp. Restriction: Restricted to traffic originating at the plantsite or warehouse facilities utilized by Hoerner Waldorf Corp. at St. Paul and Minneapolis, Minn. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 114004 (Sub-No. 122), filed September 28, 1972. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, AR 72209. Applicant's representative: Harold G. Hernly, Jr., 2030 North Adams Street, Suite 510, Arlington, VA 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers* designed to be drawn by passenger automobiles in initial movements from points in Arkansas except: From Jacksonville and Newport, Ark., and points within 9 miles thereof; Camden, Ark., and points within 10 miles thereof; Walnut Ridge, Ark., and points within 15 miles thereof; Arkadelphia and Searcy, Ark., and points within 15 miles thereof; Pulaski County, Ark. (except Jacksonville); points in Columbia County, Ark.; West Memphis, Ark.; points in Jefferson County, Ark.; Cabot, Ark., and points within 5 miles thereof; Malvern, Ark., and points within 25 miles thereof; points in Mississippi and Faulkner Counties, Ark.; the plantsite of U.S. Mobile Homes, Inc., near Guerdon, Ark.; from points in Perry, Hempstead, Crawford, Crittenden, Benton and Sebastian Counties, Ark.; plantsite of Air Line Homes Corp. near Hazen, and Izard County, Ark., to points in the United States (except Hawaii), and (2) *Buildings* in sections on wheeled undercarriages from points in Arkansas except: From the plantsite of Holiday Mfg. Co., located approximately 5 miles north of Camden and Cabot, Ark.; Mississippi and Pulaski Counties, Ark.; those points in that part of Arkansas in the West Memphis, Ark., commercial zone as defined by the Commission; Hope and Van Buren, Ark., to points in the United States (except Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark.

No. MC 114211 (Sub-No. 177), filed October 10, 1972. Applicant: WARREN TRANSPORT, INC., 324 Manhard Street, Waterloo, IA 50704. Applicant's representative: Daniel Sullivan, 327 South La Salle, Chicago, IL 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Construction, road building*, and *maintenance equipment*; (b) *paving machinery and equipment*; (c) *trailers* designed for the transportation of the above-described commodities; and (d) *parts, attachments and accessories and related equipment* for the above-described commodities in (a), (b), and (c), from points in Beadle County, S. Dak., to points in the United States (except Alaska and Hawaii); and (2) *materials, equipment, and supplies* used in the manufacture or distribution of the above-described commodities in (a), (b), (c), and (d) above (except in bulk) from points in the United States (except Alaska and Hawaii) to points in Beadle County, S. Dak. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at either (1) Pierre, S. Dak.; (2) Minneapolis, Minn.; (3) Omaha, Nebr. or (4) Chicago, Ill.

No. MC 114533 (Sub-No. 262), filed October 5, 1972. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, IL 60632. Applicant's representative: Warren W. Wallin, 330 South Jefferson Street, Chicago, IL 60606. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Audit media and other business records, exposed and processed film and prints, complimentary replacement film and incidental dealer handling supplies* (except motion picture films and materials and supplies used in connection with commercial and television motion pictures) between Elgin, Ill., on the one hand, and, on the other, points in Indiana, Iowa, Michigan, Missouri, Ohio, and Wisconsin. NOTE: Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 115841 (Sub-No. 443), filed October 9, 1972. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 Bankhead Highway West, Birmingham, AL 35204. Applicant's repre-

sentative: Roger M. Shaner, Post Office Box 168, Concord, TN 37720. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* (except commodities in bulk), from Lincoln, Omaha, and Wahoo, Nebr., in connection with applicant's existing authority to points in the United States (except Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

ico, Nebraska, Kansas, Oklahoma, Texas, Iowa, Missouri, Arkansas, and Louisiana, under continuing contract with William

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sentative: Roger M. Shaner, Post Office Box 168, Concord, TN 37720. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy, confectionery and advertising materials, supplies, and premiums* when moving in mixed loads with candy and confectionery (except commodities in bulk, in tank vehicles), from Chicago, Ill. to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, Pennsylvania, Virginia, and the District of Columbia. NOTE: Common control may be involved. The requested authority duplicates an application pending in No. MC 115841 (Sub-No. 411). Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no *present* intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., Philadelphia, Pa., or Washington, D.C.

No. MC 116544 (Sub-No. 135) (Correction), filed October 4, 1972, and published in the FEDERAL REGISTER issue of November 2, 1972, republished in part, as corrected, this issue. Applicant: WILSON BROTHERS TRUCK LINE, INC., 700 East Fairview Avenue, Post Office Box 636, Carthage, MO 64836. Applicant's representative: Robert Wilson (same address as above). NOTE: The purpose of this partial republication is to indicate the correct docket number as MC 116544 (Sub-No. 135), in lieu of No. MC 16544 (Sub-No. 135) which was erroneously published. The rest of the application remains as previously published.

No. MC 116763 (Sub-No. 232), filed October 11, 1972. Applicant: CARL SUBLER TRUCKING, INC., Route 92, Post Office Box 215, Auburndale, FL 33823. Applicant's representative: H. M. Richters, North West Street, Versailles, Ohio 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes, frozen vegetables, and dehydrated potatoes*, from Hart, Holland, and Lake Odessa, Mich., to points in Connecticut, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and points in that part of Indiana south of U.S. Highway 40. NOTE: Applicant states that the requested authority can be tacked with its existing authority under MC 116763 (Sub-No. 48). Applicant further states no duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 119631 (Sub-No. 19), filed October 5, 1972. Applicant: DEIOMA TRUCKING CO., a corporation, Post Office Box 915, Mount Union Station, Alliance, OH 44601. Applicant's representative: James E. Wilson, 1032 Pennsylvania Building, Pennsylvania Avenue, and 13th Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay products*, from East Liverpool, Ohio, to points in Kentucky and Florida. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 119726 (Sub-No. 27), filed October 9, 1972. Applicant: N.A.B. TRUCKING CO., INC., 2502 West Howard Street, Indianapolis, IN 46221. Applicant's representative: James L. Beattey, 130 East Washington Street, Suite 1000, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Kitchen cabinets, vanity cabinets, and laminated products*, from Gretna, La., Bessemer, Ala., and Rosedale, Miss., to points in North Dakota and South Dakota. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala.

No. MC 119968 (Sub-No. 6), filed October 2, 1972. Applicant: A. J. WEIGAND, INC., 1046 North Tuscarawas Avenue, Dover, OH 44622. Applicant's representatives: Jacob P. Billig, 1108 16th Street NW., Washington, DC 20036 and Paul F. Beery, 88 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are manufactured, sold, dealt in, and utilized by chemical manufacturing plants, from Dover, Ohio, to points in Illinois, Indiana, Kentucky, Ohio, West Virginia, New York, Pennsylvania, Massachusetts, Rhode Island, Connecticut, New Jersey, Delaware, Maryland, and the lower peninsula of Michigan and on return from the above-named destinations to the above-named origin. NOTE: Applicant states that the requested authority duplicates that authority it holds in No. MC 119968, authorizing the transportation of *such commodities* as are manufactured and sold by chemical manufacturing plants (except petroleum products, in bulk, in tank vehicles) to the same above-named destinations and origins. Applicant further states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 121561 (Sub-No. 3), filed October 6, 1972. Applicant: DONALD E. MILLER and NORMA H. MILLER, a partnership, doing business as MILLER TRANSFER, Post Office Box 217, Ceresco, NE 68017. Applicant's representatives: Paul Gatler, 811 South 13th Street, Lincoln, NE 68508 and Donald A. Morken, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Commodities requiring mechanical refrigeration equipment*, moving to and from Lincoln, Omaha, and Wahoo, Nebr., in connection with applicant's existing regular route general commodity authority between Lincoln, Omaha, and Wahoo, Nebr. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha or Lincoln, Nebr.

No. MC 123392 (Sub-No. 45), filed October 2, 1972. Applicant: JACK B. KELLEY, INC., U.S. 66 West at Kelley Drive (Route 1, Box 444), Amarillo, TX 79109. Applicant's representative: Austin L. Hatchell, Suite 1022, Perry-Brooks Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cryogenically liquefied gases* in bulk, in cryogenic trailers, between points in Michigan, Indiana, and Ohio. NOTE: Applicant states that it intends to tack the requested authority at points in Indiana and Ohio with its existing authority, under which it serves points in the United States. If a hearing is deemed necessary, applicant requests it be held at Amarillo, Tex., Oklahoma City, Okla., or Dallas, Tex.

No. MC 123685 (Sub-No. 15), filed October 5, 1972. Applicant: PEOPLES CARTAGE, INC., 8045 Navarre Road Southwest, Missillon, OH 44646. Applicant's representative: James Muldoon, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods, commodities in bulk, and those requiring special equipment, between Clarksburg, W. Va., and Parkersburg, W. Va., serving no intermediate points, and serving Clarksburg and Parkersburg for joinder only, from Clarksburg over U.S. Highway 50 to Parkersburg, and return over the same route. NOTE: Applicant is already authorized to serve Parkersburg and Clarksburg, W. Va., over different routes. The purpose of this application is to seek better use of applicant's Parkersburg terminal. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio or Washington, D.C.

No. MC 124821 (Sub-No. 9), filed September 28, 1972. Applicant: WILLIAM GILCHRIST, 509 Susquehanna Avenue, Old Forge, PA 18518. Applicant's representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tile* (except clay tile), *facing or flooring* and (2) *Materials and supplies* used in the manufacture of tile (except commodities in bulk), between Chicago Heights, Ill., on the one hand, and, on the other, points in Ohio, Michigan, Kentucky, Indiana, New York, New Jersey, Pennsylvania, Maryland, Delaware, Virginia, Connecticut, Rhode Island, Massachusetts, New Hampshire, Vermont, Maine, West Virginia, and Washington, D.C. NOTE: Applicant states that the requested authority cannot be

tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 125209 (Sub-No. 1), filed October 12, 1972. Applicant: RAYMOND E. BALLENTINE, doing business as: BALLENTINE TRANSPORT, Post Office Box 463, Scottsbluff, NE 69361. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, NE 68106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Camper holddowns, spare tire carriers, swing-up bumper steps, truck cab steps, bounce eliminators, snowmobiles, camper jacks, jack pads, camper dollies, lector-drive units, bumper steps, cab steps, brace clamps, and parts and accessories therefor*, from Wahoo, Nebr., to points in California, Kansas, Minnesota, Oregon, and Washington, under contract with Hellstar Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 128375 (Sub-No. 83), filed October 9, 1972. Applicant: CRETE CARRIER CORPORATION, Box 249, Crete, NE 68333. Applicant's representative: Duane W. Acklie (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor Vehicle parts, and materials and supplies* used in the distribution, manufacture, and production of motor vehicle parts, from points in Wisconsin to points in Tennessee, under a continuing contract with Maremont Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Lincoln, Nebr.

No. MC 133492 (Sub-No. 5), filed October 4, 1972. Applicant: CECIL CLAXTON, East Elm Street, Wrightsville, GA 31096. Applicant's representative: William Addams, 5299 Roswell Road, Northeast, Suite 212, Atlanta, GA 30342. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, and *empty containers* on return, (1) from Memphis, Tenn., and Winston-Salem, N.C., to Talladega, Ala., and Vidalia, Ga., and (2) from Jacksonville, Fla., to Waycross, Ga., under contract with Talladega Beverage Co., Smokey Snider Distributing Co., and Raleigh Distributors. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 134387 (Sub-No. 15), filed August 21, 1972. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Street, South Gate, CA 90280. Applicant's representative: Warren N. Grossman, 825 City National Bank Building, 606 South Olive Street, Los Angeles, CA 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberboard cans*, with or without metal ends, from points in Contra Costa and Orange Counties, Calif., to points in Oregon and Washington. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Los Angeles or San Francisco, Calif.

No. MC 134599 (Sub-No. 59), filed September 5, 1972. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, Post Office Box 748, Salt Lake City, UT 84110. Applicant's representatives: Richard A. Peterson, Post Office Box 80806, Lincoln, NE 68501 and Gordon L. Roberts, 520 Kearns Building, Salt Lake City, Utah 84101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, crated or uncrated, from North Hollywood, Calif., to points in Minnesota and points in the United States (except Alaska and Hawaii) on and east of U.S. Highway 61. NOTE: If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, or Lincoln, Nebr.

No. MC 134765 (Sub-No. 8), filed September 21, 1972. Applicant: SPECIALTY TRANSPORT, INC., Holland Road, Wales, Mass. 01081. Applicant's representative: David M. Marshall, 135 State Street, Suite 200, Springfield, MA 01103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper, plastic and wood products and articles and materials and supplies* used or useful in the manufacture and distribution of such commodities; and *egg processing machinery*: (1) Between Springfield, Ludlow, Thorndike, Bondsville, Palmer, and Boston, Mass.; Dixfield and Oakland, Maine; Ogdensburg and Plattsburgh, N.Y.; Millville, N.J.; Erie, Pa.; and Baltimore, Md., on the one hand, and, on the other, points in the United States east of the Mississippi River (including the District of Columbia); and (2) from Dayton, Cincinnati, Lockland, and Middletown, Ohio; Morris, Ill.; Detroit and Farmington, Mich.; Natchez, Miss.; and Montevallo, Ala., to points in Massachusetts, Connecticut, Rhode Island, Maine, New Hampshire, Vermont, New York, New Jersey, Pennsylvania, Delaware, Maryland, and the District of Columbia, under a continuing contract with Diamond International Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at either (1) New York, N.Y.; (2) Hartford, Conn.; (3) Boston, Mass.; (4) Albany, N.Y. or (5) Washington, D.C.

No. MC 135007 (Sub-No. 17), filed October 10, 1972. Applicant: AMERICAN TRANSPORT, INC., 108 East Renfro Circle, Millard, NE 18137. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Floor coverings, floor tile, carpet padding and lining and materials, equipment and supplies* used in the installation thereof, from Anaheim and South Gate, Calif., to points in Washington, Oregon, Idaho, Nevada, Utah, Arizona, Montana, Wyoming, Colorado, New Mexico, Nebraska, Kansas, Oklahoma, Texas, Iowa, Missouri, Arkansas, and Louisiana, under continuing contract with William Volker & Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at San Francisco or Los Angeles, Calif.

No. MC 135007 (Sub-No. 18), filed October 16, 1972. Applicant: AMERICAN TRANSPORT, INC., 108 East Renfro Circle, Millard, NE 68137. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New finished furniture*, from Taylor and San Marcos, Tex., to points in Washington, Oregon, California, Idaho, Utah, Nevada, Arizona, Montana, Wyoming, New Mexico, North Dakota, and South Dakota under continuing contract with William Volker & Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at San Francisco or Los Angeles, Calif.

No. MC 135007 (Sub-No. 19), filed October 16, 1972. Applicant: AMERICAN TRANSPORT, INC., 108 Renfro Circle, Millard, NE 68137. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Window shades, shutters, slats, rollers, roller fixtures and equipment, materials and supplies* used in the manufacture and installation of the above-named commodities, from Ogdensburg, N.Y., and Chicago, Ill., to points in Nebraska, Missouri, Texas, Colorado, Utah, Oregon, Washington, and California under continuing contract with William Volker & Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at San Francisco or Los Angeles, Calif.

No. MC 136214 (Sub-No. 3), filed September 21, 1972. Applicant: ROGER L. JACOBSON, 120 South Gollob, Tucson, AZ 85710. Applicant's representative: Edwin E. Piper, Jr., 715 Simms Building, Albuquerque, N. Mex. 87101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feeds* (except liquid feeds in bulk), from points in Arizona, Colorado, New Mexico, and Texas to points in Kansas with the operations authorized to be performed under a continuing contract or contracts with Billstone Feed and Grain Service, Inc., El Paso, Tex. NOTE: If a hearing is deemed necessary, applicant requests it be held at Albuquerque, N. Mex., or El Paso, Tex.

No. MC 136232 (Sub-No. 1), filed October 10, 1972. Applicant: FRALEY'S, INCORPORATED, Route 1, Big Stone Gap, Va. 24219. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mine roof support bolts*, from Duffield, Va., to points in Fayette,

Logan, McDowell, Nichols, Raleigh, Summers, and Wyoming Counties,

No. MC 136907, filed July 12, 1972. Applicant: EL SOL DE MAYO EXPRESS

35565. Applicant's representative: E. Stephen Heisley, Suite 805, 666 11th

facilities of Industrial Docks and Supply, Ltd., and Moore-McCleary located at the

Houston First Savings Building, Houston, Tex. 77002. Authority sought to

20006. Authority sought under Section 410, Part IV of the Interstate Commerce

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Logan, McDowell, Nichols, Raleigh, Summers, and Wyoming Counties, W. Va., Harlan and Clay Counties, Ky., and Campbell County, Tenn., under contract with Virginia Birmingham Bolt, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Roanoke, Va., or Washington, D.C.

No. MC 136399 (Sub-No. 2), filed October 9, 1972. Applicant: DORRIS S. BARKER, RONALD W. FISHER, AND JACKIE H. BROWNING, a partnership, doing business as: BF&B TRUCKING COMPANY, 445 17th Street, Post Office Box 457, Dunbar, WV 25064. Applicant's representative: Jackie H. Browning (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electrical products*, from Charleston, W. Va., to Belpre, Riverview, and Marietta, Ohio; Catlettsburg and Ashland, Ky.; *damaged or rejected products* from Belpre, Riverview, and Marietta, Ohio and Catlettsburg and Ashland, Ky., to Charleston, W. Va., under contract with Graybar Electric Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Charleston, W. Va

No. MC 136525 (Sub-No. 1), filed September 14, 1972. Applicant: CAMERON'S TRANSFER LTD., 7583 Edmonds Street, Burnaby 3, BC, Canada. Applicant's representative: J. Stewart Black, 1322 Laburnum Street, Vancouver 9, BC, Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper* in rolls or skids, from Millwood, Wash., to the international boundary line between the United States and Canada located in the State of Washington, for furtherance to British Columbia, Canada. NOTE: If a hearing is deemed necessary, applicant requests it be held at Seattle, Bellingham, or Tacoma, Wash., or Portland, Oreg.

No. MC 136629 (Sub-No. 1), filed September 28, 1972. Applicant LUNN-BRUNO TRUCKING, INC., Margaretville, N.Y. 12455. Applicant's representative: Julius Braun, Albany Port Administration Building, Albany, N.Y. 12202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Prefabricated houses in bundles, with all necessary component parts*, from points in Delaware County, N.Y., to points in Connecticut, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Virginia; and (2) *lumber and wood chips*, between points in Delaware County, N.Y. on the one hand, and, on the other, points in Connecticut, Massachusetts, New Jersey, New York, and Pennsylvania. NOTE: Applicant holds contract carrier authority under MC 129202 (Sub-No. 1), therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Albany or New York, N.Y.

No. MC 136907, filed July 12, 1972. Applicant: EL SOL DE MAYO EXPRESS FURNITURE INC., 1301 Oak Point Avenue, Bronx, NY 10474. Applicant's representative: Hector A. Ortiz, 960 East 163d Street, Bronx, NY 10459. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, (1) between Philadelphia, Pa., on the one hand, and, on the other, points in the New York commercial zone as defined in the fifth supplemental report in commercial zone and territory areas, 53 MCC–451, and (2) between Boston, Mass., and points in the New York commercial zone, restricted to the transportation of traffic having a prior or subsequent movement by water. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York City, N.Y., Boston, Mass., or Philadelphia, Pa.

No. MC 138052 (Sub-No. 1), filed September 22, 1972. Applicant: GOLD COAST TRUCKING, INC., 140 North Hill Street, Albany, OR 97321. Applicant's representative: Robert G. Simpson, 1200 Standard Plaza, 1100 Southwest Sixth Avenue, Portland, OR 97204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages, containers, cartons, bottle openers, advertising and brewery products* moving incidentally to the movement of malt beverages, from Los Angeles and San Francisco, Calif., to points in Oregon; and *returned empty containers, palettes, spoiled and rejected malt* beverages, on return, and; (2) *Wine, containers and cartons, bottle openers, advertising and winery products* moving incidentally to the movement of wine, from points in California north of San Luis Obispo, Kern, and San Bernardino Counties, to points in Oregon; and *returned empty containers, palettes, spoiled and rejected wine*, on return. NOTE: If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 138076 (Sub-No. 2), filed October 11, 1972. Applicant: HEAVY HAULING, INC., 1100 West Grand, Salina, KS 67401. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Reciprocal engines, reciprocal engine parts, turbine engines, turbine engine parts, castings, steel plates and shafting* between the shop, plant and/or warehouse facilities of Exline, Inc., located at or near Salina, Kans., on the one hand, and, on the other, points in Wyoming, Nebraska, Arkansas, Colorado, South Dakota, Louisiana, New Mexico, Mississippi, Minnesota, Texas, Iowa, Alabama, Oklahoma, Tennessee, Kentucky, Illinois, Indiana, Michigan, Wisconsin, Ohio, and Missouri. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 138106, filed October 11, 1972. Applicant: TIDWELL MOTOR CARRIERS, INC., Route 5, Haleyville, Ala. 35565. Applicant's representative: E. Stephen Heisley, Suite 805, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers*, designed to be drawn by passenger automobiles, in initial movements, and *buildings, in sections*, when moving on their own undercarriages, and *modular homes*, when moving on their own or removable undercarriages, from points in Winston, and Marion Counties, Ala., and Elkhart County, Ind., to points in the United States, including Alaska (but excluding Hawaii); and (2) *returned, disabled, wrecked and repossessed trailers*, designed to be drawn by passenger automobiles, *buildings in sections*, when moving on their own undercarriages, and *modular homes*, when moving on their own or removable undercarriages, from points in the United States including Alaska (but excluding Hawaii), to points in Marion and Winston Counties, Ala., and Elkhart County, Ind. Restrictions: (1) The operations authorized in Part (1) of the application are restricted to the transportation of traffic originating at the facilities and plantsites of Tidwell Industries, Inc., its divisions, and/or subsidiaries located in the named counties; (2) the operations in Part (2) of the application are restricted to the transportation of traffic destined to the plantsites and facilities of Tidwell Industries, Inc., its divisions and/or subsidiaries located in the named counties, and (3) the operations authorized in Parts 1 and 2 are restricted to the transportation of traffic moving under a continuing contract or contracts with Tidwell Industries, Inc., its divisions and/or subsidiaries. NOTE: Applicant states that it is commonly controlled with the contracting shipper and the purpose of this application is to substitute its commonly controlled contract carrier for the shipper's private carriage. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala.

No. MC 138117, filed October 9, 1972. Applicant: MOORE-McCLEARY LIMITED, 78 Ormond Street, Thorold, ON, Canada. Applicant's representative: Robert D. Gunderman, Suite 1708 Statler Hilton, Buffalo, NY 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Commodities* in bulk, in dump or hopper vehicles, except liquid commodities and cement, between ports of entry on the international boundary line between the United States and Canada on the Niagara River, on the one hand, and, on the other, points in that part of New York south and west of a line beginning at Oswego, N.Y., and extending along New York Highway 57 to Fulton, N.Y., thence along New York Highway 49 to its intersection with Interstate Highway 81, thence along Interstate Highway 81 to the New York-Pennsylvania State line, including points on the indicated portions of the highways specified: Restricted to the transportation of traffic originating at or destined to the

facilities of Industrial Docks and Supply, Ltd., and Moore-McCleary located at the town of Thorold in the Province of Ontario, Canada. (b) *commodities* in bulk, except liquid commodities and cement in dump, or hopper type vehicles, between the ports of entry on the international boundary line between the United States and Canada on the Niagara River, on the one hand, and, on the other, the city of Niagara Falls, N.Y. Restricted to the transportation of traffic originating at or destined to the facilities of Airco Alloys situated in the city of Niagara Falls, N.Y., from or to Atlas Steels, Ltd., located at the city of Weliand, in the Province of Ontario, Canada. (c) *abrasives, refractive materials, furnace residue, metal briquettes, sand, gravel, asphalt, rock, stone, fill, turf, earth, and rubble*, in bulk, and in bags, in dump vehicles between ports of entry on the international boundary line between the United States and Canada on the Niagara River, and points in Erie and Niagara Counties, N.Y., and the city of Batavia, N.Y. NOTE: Applicant holds contract carrier authority under MC 138117 therefore common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. MC 138118, filed September 28, 1972. Applicant: LAWRENCE C. ARTHUR, Post Office Box 601, Warsaw, VA 22572. Applicant's representative: Lawrence C. Arthur (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wooden pallets*, from points in Louisa County, Va., to points in New Jersey, Pennsylvania, Delaware, Maryland, New York, Connecticut, Ohio, North Carolina, West Virginia, and the District of Columbia, under contract with Dominion Pallet, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Warsaw or Richmond, Va.

No. MC 138120, filed October 2, 1972. Applicant: VINCENT SACCENTE & SONS, INC., 100 Horatio Street, New York, NY 10014. Applicant's representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Unprinted paper*, from New York, N.Y., to points in Bergen, Hudson, Essex, Middlesex, Passaic, Somerset, and Union Counties, N.J., under a continuing contract with Weyerhaeuser Co., Fitchburg, Mass. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Boston, Mass.

No. MC 138121, filed October 11, 1972. Applicant: A. Q. MAXWELL, doing business as UNEEDA TRANSFER COMPANY, 5223 Winnie, Post Office Box 3178, Galveston, TX 77550. Applicant's representative: Joe G. Fender, 802 Houston First Savings Building, Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* in cargo containers and/or cargo vans and *empty cargo containers and empty cargo vans*, between port facilities at Galveston, Tex., on the one hand, and, on the other, points in Texas, Oklahoma, Louisiana, and Arkansas. NOTE: If a hearing is deemed necessary, applicant requests it be held at Galveston or Houston, Tex.

No. MC 138123 filed October 12, 1972. Applicant: JOHN J. CRISANTI, doing business as, NORTH HAVEN TRANSPORTATION CO., 19 Montowese Avenue, North Haven, CT 06473. Applicant's representative: David M. Marshall, 135 State Street, Suite 200, Springfield, MA 01103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, commodities in bulk, and commodities requiring special equipment, between points in Connecticut. Restriction: Restricted to the transportation of freight moving under bills of lading issued by freight forwarders or shipper's associations under Part IV of the Interstate Commerce Act. NOTE: If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn., Boston, Mass., or Albany, N.Y.

MOTOR CARRIER OF PASSENGERS

No. MC 138053 (Sub-No. 2), filed October 2, 1972. Applicant: YELLOW CAB OF BOCA RATON, INC., 2150 Northwest First Place, Boca Raton, FL 33432. Applicant's representative: Richard B. Austin, 5720 Southwest 17th Street, Miami, FL 33155. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Airline passengers and their baggage* to be transported in nine passenger (including driver) limousines as part of a total prearranged air and ground transportation movement, (1) between Miami International Airport, Dade County, Fla., on the one hand, and, on the other, the Boca Raton Hotel and Club, Boca Raton, Palm Beach County, Fla.; and (2) between the Boca Raton Hotel and Club, Boca Raton, Fla., on the one hand, and, on the other, the Miami International Airport, Dade County, Fla. NOTE: If a hearing is deemed necessary, applicant requests it be held at Miami or Fort Lauderdale, Fla.

APPLICATIONS FOR FREIGHT FORWARDERS

No. FF–428 (MITCHELL OVERSEAS MOVERS, INC., Freight Forwarder Application), filed October 20, 1972. Applicant: MITCHELL OVERSEAS MOVERS, INC., Post Office Box 88728, Tukwila Station, Seattle, WA 98188. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. Authority sought under Section 410, Part IV of the Interstate Commerce Act for a permit authorizing applicant to continue operations as a freight forwarder in the forwarding of *used household goods and unaccompanied baggage*, between points in the United States (including Hawaii, but excluding Alaska).

No. FF–429 (ALLIED VAN LINES INTERNATIONAL CORPORATION FREIGHT FORWARDER APPLICATION), filed October 17, 1972. Applicant: ALLIED VAN LINES INTERNATIONAL CORPORATION, Post Office Box 4403, Chicago, IL 60680. Applicant's representative: Joseph P. Tuohy (same address as applicant). Authority sought to operate under Section 410, Part IV of the Interstate Commerce Act, for a permit to institute operation as a freight forwarder, in interstate or foreign commerce, through use of the facilities of common carriers by railroad or motor vehicle in the transportation of: (a) *Household goods* as defined by the Commission in *Practices of Motor Common Carriers of Household Goods*, 111 M.C.C. 427 (525) (49 CFR 1056.1) (b) *used autombiles*, (c) *unaccompanied baggage*, (d) *used boats, and* (e) *electronics and parts*, between points in the United States including Hawaii, Alaska, and the District of Columbia.

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No. MC 113908 (Sub-No. 242) filed October 10, 1972. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, Springfield, MO 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Apple juice*, in bulk, in tank vehicles, from points in Wayne County, N.Y., to Belding, Mich., refused and/or rejected shipments on return. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority.

No. MC 116459 (Sub-No. 44), filed August 25, 1972. Applicant: RUSS TRANSPORT, INC., Post Office Box No. 4022, Chattanooga, TN 37405. Applicant's representative: Leonard A. Jaskiewicz, Suite 501, 1730 M Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, from points in Knox County, Tenn., to points in Georgia, Kentucky, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-19170 Filed 11-8-72;8:45 am]

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Title 3—The President

DETERMINATION OF NOVEMBER 8, 1972

Presidential Determination

THE WHITE HOUSE,

Washington, November 8, 1972

I hereby determine that it is in the national interest for the Export-Import Bank of the United States to guarantee, insure, extend credit and participate in the extension of credit in connection with the purchase or lease of any product or service by, for use in, or for sale or lease to the Polish People's Republic, in accordance with Section 2(b)(2) of the Export-Import Bank Act of 1945, as amended.

Richard Nixon

[FR Doc.72-19414 Filed 11-9-72;9:42 am]

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Title 7—AGRICULTURE

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER E—DETERMINATION OF SUGAR COMMERCIALLY RECOVERABLE

[Rev. 1, Supp. 9, Amdt. 1]

PART 831—BEET SUGAR AREA

1972 Crop; Rates of Recoverability

Pursuant to section 302(a) of the Sugar Act of 1948, as amended, § 831.19 is amended by revising the table at the end of paragraph (c) to read as follows:

§ 831.19 Rates of recoverability, 1972 crop.

• • • • • •

(c) • • •

	1965–71 average sugar content (percent)
Sugar companies and settlement areas:	
Amalgamated Sugar Co:	
Nyssa-Nampa district	15.20
American Crystal Sugar Co.:	
Mason City, Iowa factory	14.56
Utah-Idaho Sugar Co.:	
Toppenish-Moses Lake district	15.61
Utah and Idaho district	15.57

Statement of bases and considerations. The rates of recoverability for the 1972 crop of sugar beets inadvertently listed the Utah district and the Idaho district of the Utah-Idaho Sugar Co., as separate settlement areas with the 1965–71 average sugar content percentage computed as 15.37 and 15.72, respectively. In order that the settlement area used as the basis for determining Sugar Act payments will be the same as the settlement area used by the Utah-Idaho Sugar Co., in settling with growers, this amendment combines the 7-year average sugar content of the two districts into one settlement area for the 1972 crop.

A notice of proposed rule making was not given for this determination as it follows mathematical formulas which make use of actual operating and production data reported by the sugar factories involved. Therefore, no discretionary decisions are involved and a public recommendation would not change the data. Public notice is, therefore, unnecessary.

Accordingly, I hereby find and conclude that the foregoing determination will effectuate the applicable provisions of the Act.

(Secs. 302, 303, 304, 403, 61 Stat. 930, as amended, 932; 7 U.S.C. 1132, 1133, 1134)

Effective date: Date of publication (11–10–72).

Signed at Washington, D.C., on November 6, 1972.

E. J. PERSON,
Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service.

[FR Doc.72–19344 Filed 11–9–72;8:46 am]

Chapter X—Agricultural and Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

PART 1121—MILK IN THE SOUTH TEXAS MARKETING AREA

Rescission of Order Terminating Order

Findings. (a) On July 16, 1971, an order was issued by the Assistant Secretary (36 F.R. 13369) which would terminate on August 1, 1971, all of the order, as amended, regulating the handling of milk in the South Texas marketing area (7 CFR Part 1121) except that part of § 1121.1 incorporating §§ 1000.4 (c) and (d), 1000.5 (b) and (c), and 1000.6 of the general provisions.

(b) The order terminating the South Texas order was based on a determination by the Assistant Secretary that termination of the South Texas order was favored by a majority of the producers engaged in the production of milk for sale in the South Texas marketing area in the representative period of May 1971, and that such producers produced more than 50 percent of the milk produced for sale in the South Texas marketing area in such representative period. Section 608c(16)(B) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), requires that if a majority of the producers engaged in the production of milk for sale in the marketing area in a representative period determined by the Secretary favors termination of the order, and such producers produced more than 50 percent of the milk produced for sale in the marketing area in such period, the order shall be terminated at the end of the current marketing period. The current marketing period was determined to be July 1971.

(c) On July 30, 1971, the U.S. District Court for the District of Columbia issued, on the basis of a civil action before it, a preliminary injunction restraining the Secretary from effectuating the termination order pending a further hearing by the court on the authority of the Secretary to terminate the order in the manner contemplated. On the basis of this injunction, the effective date of the termination order was suspended by the Assistant Secretary on July 30, 1971 (36 F.R. 14312).

(d) On October 12, 1972, a cooperative association representing a majority of the producers on the South Texas market filed with the Department a request that the order terminating the South Texas order be rescinded. Such action thereby removes any basis for invoking the provisions of 608c(16)(B) of the Agricultural Marketing Agreement Act of 1937, as amended.

(e) Following the submission of the cooperative association's request for rescission, the U.S. District Court for the District of Columbia vacated its preliminary injunction and dismissed the aforesaid civil action.

RESCISSION ORDER

In view of the above findings, it is hereby ordered that the order issued July 16, 1971, terminating the South Texas order (7 CFR Part 1121) be rescinded.

(Secs. 1–9, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: Upon publication in the FEDERAL REGISTER (11–10–72).

Signed at Washington, D.C. on November 6, 1972.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.72–19345 Filed 11–9–72;8:46 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 72–WE–18–AD; Amdt. 39–1553]

PART 39—AIRWORTHINESS DIRECTIVES

North American Rockwell NA–265

There has been one instance of a fatigue crack and one instance of prior damage in the trunnion area of the main landing gear strut on North American Rockwell NA–265 Sabreliner airplanes. In each case, a failure and collapse of the landing gear resulted.

Since the condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require inspections and any necessary rework of the main landing gear shock strut on North American Rockwell NA–265 airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and

ductions to the airspace proposed in the

have been received and the proposed

30-day notice. However, since it is necessary that sufficient time be allowed to

lished in the FEDERAL REGISTER (37 F.R. 17857) stating that the Federal Avia-

In § 75.100 (37 F.R. 2382) Jet Route No. 71 is amended to read as follows:

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In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697) § 239.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

NORTH AMERICAN ROCKWELL. Applies to Sabreliner Model NA-265-40, Serial Nos. 282-1 through 282-97; Model NA-265-50, Serial No. 287-1; and Model NA-265-60, Serial Nos. 306-1 through 306-63.

Compliance required within the next 100 hours' time in service, but not later than 90 days after the effective date of this AD, whichever occurs first, unless already accomplished within the last 2,300 hours' time in service, and thereafter at intervals not to exceed 2,400 hours' time in service or 2,400 landings, whichever occurs first, from the last inspection.

To detect and remove cracks, tool marks, nicks, scratches, rust, or other minor surface blemishes, inspect and rework the main landing gear outer strut cylinder and inner trunnion (cone shaped) surface in accordance with the inspection and rework provisions of North American Rockwell Sabreliner Service Bulletin No. 72-15 dated October 30, 1972, or later FAA-approved revision, or an equivalent procedure approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective November 11, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on November 1, 1972.

CHARLES J. WINGER,
Acting Director,
FAA Western Region.

[FR Doc.72-19307 Filed 11-9-72;8:47 am]

[Airspace Docket No. 72-AL-9]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

On June 3, 1972, a notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER (37 F.R. 11186) stating that the Federal Aviation Administration (FAA) was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the Point Barrow, Alaska, control zone and transition area.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No comments were received.

Subsequent to the publication of the notice of proposed rule making, the Point Barrow RBN (PBA) was decommissioned and the Browerville RBN (NMT) substituted therefor in the description of control zone and transition area. This resulted in minor adjustments and reductions to the airspace proposed in the notice. Since these changes are minor in nature and less restrictive than the proposed amendment, further notice and public procedure thereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 4, 1973, as hereinafter set forth.

1. In § 71.171 (37 F.R. 2056) the Point Barrow control zone is amended to read:

POINT BARROW, ALASKA

Within a 5-mile radius of the Point Barrow AFS Airport (latitude 71°20'21" N., longitude 156°37'45" W.); within a 5-mile radius of the Wiley Post-Will Rogers Memorial Airport (latitude 71°17'11" N., longitude 156°46'15" W.); within 3 miles each side of the Point Barrow RBN (PTR) 051° bearing extending from the 5-mile radius zone to 10 miles northeast of the RBN (PTR); within 2.5 miles each side of the Barrow RBN (BRW) 090° bearing, extending from the 5-mile radius zone to 10 miles east of the RBN; within 2.5 miles each side of the Barrow RBN (BRW) 226° bearing, extending from the 5-mile radius zone to 10 miles southwest of the RBN; and within 2.5 miles each side of the Barrow RBN (BRW) 270° bearing, extending from the 5-mile radius zone to 10.5 miles west of the RBN.

2. In § 71.181 (37 F.R. 2143) the Point Barrow transition area is amended to read:

POINT BARROW, ALASKA

That airspace extending upward from 700 feet above the surface within 3 miles each side of the Browerville RBN (NMT) 155° bearing, extending from the control zone to 10 miles south of the RBN; and that airspace extending upward from 1,200 feet above the surface within a 22-mile radius of latitude 71°18'00" N., longitude 156°43'00" W.

(Secs. 307(a), 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348(a), 1510; Executive Order 10854 (34 F.R. 9565); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 3, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc.72-19310 Filed 11-9-72;8:47 am]

[Airspace Docket No. 72-WE-36]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

On September 28, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 20258) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would designate a new control zone for Chino, Calif. Airport and alter the description of the Ontario, Calif., control zone.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendments are hereby adopted without change.

Effective date. These amendments shall be effective 0901 G.m.t., December 18, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on October 31, 1972.

CHARLES J. WINGER,
Acting Director, Western Region.

In § 71.171 (37 F.R. 2056) the following control zone is added:

CHINO, CALIF.

Within a 3-mile radius of the Chino, Calif. Airport (latitude 33°58'30" N., longitude 117°38'10" W.). This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

In § 71.171 (37 F.R. 2056) the description of the Ontario, Calif., control zone is amended to read as follows:

ONTARIO, CALIF.

Within a 5-mile radius of Ontario International Airport (latitude 34°03'25" N., longitude 117°36'30" W.); within 2 miles each side of the Ontario ILS localizer east course extending from the 5-mile radius zone to 3 miles east of the OM, and within a 3-mile radius of Chino, Calif., excluding the portion within the Chino control zone when it is effective.

[FR Doc.72-19308 Filed 11-9-72;8:47 am]

[Airspace Docket No. 72-RM-26]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 73—SPECIAL USE AIRSPACE

Alteration of Special Use Airspace

The purpose of these amendments to Parts 71 and 73 of the Federal Aviation Regulations (FAR's) is to divide and redentify R-6408 as R-6408A for the northern portion and R-6408B for the southern portion. The lateral/vertical dimensions of R-6408A and R-6408B combined will be identical to the present R-6408.

The purpose of this alteration to R-6408 is to permit use of only the northern portion of present R-6408 for LOKI meteorological missile operations, thus minimizing impact on other airspace users and tourist activities in the Canyonlands National Park area.

Since these amendments are minor in nature and no substantive change in the regulation or its effect upon the operation of aircraft is effected, notice and public procedure thereon are unnecessary, and good cause exists for making these amendments effective on less than

30-day notice. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, these amendments will become effective January 4, 1973.

In consideration of the foregoing, Parts 71 and 73 of the Federal Aviation Regulations are amended, effective 0901 G.m.t., January 4, 1973, as hereinafter set forth.

1. Section 71.151 (37 F.R. 2045) is amended as follows:

a. "R-6408 Indian Creek, Utah" is deleted.

b. "R-6408A Indian Creek, Utah" is added.

c. "R-6408B Indian Creek, Utah" is added.

2. Section 73.64 (37 F.R. 2373) is amended as follows:

a. R-6408 is deleted.

b. The following restricted area is added:

R-6408A INDIAN CREEK, UTAH

Boundaries. Beginning at lat. 38°15'00" N., long. 109°54'00" W.; to lat. 38°21'00" N., long. 109°54'00" W.; to lat. 38°23'00" N., long. 109°52'00" W.; to lat. 38°23'00" N., long. 109°34'00" W.; to lat 38°16'00" N., long. 109°24'00" W.; to lat. 38°15'00" N., long. 109°21'30" W.; to point of beginning.

Designated altitudes. Surface to unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Denver ARTC Center.
Using agency. Air Force Special Weapons Center, Kirtland AFB, N. Mex.

c. The following restricted area is added:

R-6408B INDIAN CREEK, UTAH

Boundaries. Beginning at lat. 38°15'00" N., long. 109°54'00" W.; to lat. 38°15'00" N., long. 109°21'30" W.; to lat. 38°06'00" N., long. 109°22'00" W.; to lat. 37°59'00" N., long. 109°23'00" W.; to lat 37°57'00" N., long. 109°25'00" W.; to lat. 37°58'00" N., long. 109°40'00" W.; to lat. 38°02'00" N., long. 109°54'00" W.; to point of beginning.

Designated altitudes. Surface to unlimited.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Denver ARTC Center.
Using agency. Air Force Special Weapons Center, Kirtland AFB, N. Mex.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 3, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc.72-19312 Filed 11-9-72;8:48 am]

[Airspace Docket No. 72-SO-75]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Jet Route Segment

On September 1, 1972, a notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER (37 F.R. 17857) stating that the Federal Aviation Administration (FAA) was considering amendments to Parts 71 and 75 of the Federal Aviation Regulations that would revoke the Gainesville, Fla., high-altitude reporting point; designate Taylor, Fla., as a high-altitude reporting point; alter Jet Route Nos. 85 and 89 between Lakeland, Fla., and Alma, Ga.; and redescribe Jet Route No. 119 between St. Petersburg, Fla., and Taylor, Ga.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Parts 71 and 75 of the Federal Aviation Regulations are amended, effective 0901, G.m.t., January 4, 1973, as hereinafter set forth.

1. Section 71.207 (37 F.R. 2318) is amended as follows:

a. "Gainesville, Fla." is deleted.

b. "Taylor, Fla." is added.

2. Section 75.100 (37 F.R. 2382) is amended as follows:

a. In Jet Route No. 85 "Lakeland; Gainesville, Fla.; INT of the Gainesville 350° and the Alma, Ga., 182° radials; Alma;" is deleted and "Lakeland; Taylor, Fla.; Alma, Ga.;" is substituted therefor.

b. In Jet Route No. 89 "Lakeland; Gainesville, Fla.; INT of the Gainesville 350° and the Alma, Ga., 182° radials; Alma;" is deleted and "Lakeland; Taylor, Fla.; Alma, Ga.;" is substituted therefor.

c. In Jet Route No. 119 "St. Petersburg; to Alma, Ga." is deleted and "St. Petersburg; to Taylor, Fla." is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 3, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc.72-19311 Filed 11-9-72;8:47 am]

[Airspace Docket No. 72-GL-39]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Jet Route Segment

On August 25, 1972, a notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER (37 F.R. 17214) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 75 of the Federal Aviation Regulations that would alter Jet Route 71 between Centralia, Ill., and Northbrook, Ill., to overlie Roberts, Ill., VORTAC.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 4, 1973, as hereinafter set forth.

In § 75.100 (37 F.R. 2382) Jet Route No. 71 is amended to read as follows: "From Memphis, Tenn., Centralia, Ill.; INT Centralia 019° and Northbrook, Ill., 186° radials; to Northbrook."

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 3, 1972.

CHARLES H. NEWPOL,
Chief, Airspace and
Air Traffic Rules Division.

[FR Doc.72-19309 Filed 11-9-72;8:47 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Colloidal Ferric Oxide Injection

The Commissioner of Food and Drugs has evaluated a new animal drug application (46-210V) filed by Wittney & Co., 4655 Colorado Boulevard, Denver, CO 80216, proposing the safe and effective use of colloidal ferric oxide to prevent and treat anemia in baby pigs. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), § 135b.61 is amended in paragraph (b) as follows to include Wittney & Co. as an additional sponsor of the product.

§ 135b.61 Colloidal ferric oxide injection.

* * * * * *

(b) *Sponsor.* See Code Nos. 004, 026, and 080 in § 135.501(c) of this chapter.

* * * * * *

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (11-10-72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: November 2, 1972.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.72-19335 Filed 11-9-72;8:45 am]

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Levamisole Hydrochloride

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (45-513V) filed by American Cyanamid Co., Post Office Box 400, Princeton, NJ 08540, proposing revised labeling regarding the safe and

approximately 12 milligrams of the clindamycin phosphate sample into a 50-

$$\text{Micrograms of clindamycin per milligram} = \frac{R_u \times W_s \times f_s}{R_s \times W_u}$$

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promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act, with respect to approval of the antibiotic drug clindamycin phosphate.

He concludes that data supplied by the manufacturer concerning the subject antibiotic drug is adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended to provide for the certification of this drug.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 141 and 149u (21 CFR 141 and 149u) are amended as follows:

1. Part 141 is amended:

a. In § 141.5(b) by alphabetically inserting a new item in the table, as follows:

§ 141.5 Safety test.

* * * * *

(b) * * *

Antibiotic drug	Diluent (diluent number as listed in § 141.3)	Test dose: Concentration in units or milligrams of activity per milliliter	Test dose: Volume in milliliters to be administered to each mouse	Route of administration as specified in paragraph (c) of this section
* * *	* * *	* * *	* * *	* * *
Clindamycin phosphate	4	20 mg.	5	Intravenous.
* * *	* * *	* * *	* * *	* * *

b. In § 141.7(c) by alphabetically inserting a new item in the table, as follows:

§ 141.7 Histamine test.

* * * * *

(c) * * *

Antibiotic	Diluent (diluent number as listed in § 141.3(b))	Concentration of test solution (milligrams of activity per milliliter)	Volume of test solution to be injected (milliliters per kilogram of body weight)
* * *	* * *	* * *	* * *
Clindamycin phosphate	4	5.0	1.0
* * *	* * *	* * *	* * *

c. By adding a new section as follows:

§ 141.574 Clindamycin phosphate vapor phase chromatography.

(a) *Equipment.* Gas chromatograph equipped with an electronic integrator and with a flame ionization detector that has a sensitivity of at least 1×10^{-10} amperes: Hewlett-Packard 7600 or equivalent.

(b) *Reagents.* (1) Trifluoroacetic anhydride.

(2) Intestinal alkaline phosphatase.

(3) pH 9.0 borate buffer: Transfer 3.1 grams of boric acid into a 1-liter volumetric flask containing 500 milliliters of water, mix, and add 21 milliliters of 1.0*N* sodium hydroxide and 10 milliliters of 0.1*M* magnesium chloride. Dilute to volume with water and mix well.

(4) Internal standard: Prepare a chloroform solution containing approximately 0.45 milligram hexacosane per milliliter.

(5) Anhydrous sodium carbonate.

(c) *Typical conditions.* (1) Column: 2 feet × 3 millimeters ID, glass, with 1 percent SE-30 on Diaoport S (80/100 mesh), or equivalent. (2) Temperatures: Column, 180° C., detector, 215° C., injection port, ambient temperature. (3) Carrier gas: Helium approximately 60 milliliters per minute. (4) Detector: Hydrogen flame—hydrogen flow at 40 milliliters per minute. Air flow at 400 milliliters per minute. (5) Sensitivity: 1×10^{-9} amperes.

(d) *Preparation of clindamycin phosphate sample solution.* Accurately weigh approximately 12 milligrams of the clindamycin phosphate sample into a 50-milliliter glass-stoppered centrifuge tube. Pipet 25 milliliters of the pH 9.0 borate buffer into the centrifuge tube. Add 10 milliliters chloroform and shake vigorously for 15 minutes. Centrifuge the resulting mixture and pipet a 20-milliliter aliquot of the aqueous phase into a 35-milliliter centrifuge tube. Add a weighed amount of intestinal alkaline phosphatase equivalent to 50 units of activity [1] and allow the solution to stand until the enzyme has completely dissolved. Place the tube into a water bath at 37° C.±2° C. for 2.5 hours. After the 2.5-hour hydrolysis, allow the solution to cool and proceed as directed in paragraph (f) of this section.

(e) *Preparation of the clindamycin hydrochloride standard solution.* Accurately weigh approximately 9 milligrams of the clindamycin hydrochloride working standard into a 35-milliliter glass-stoppered centrifuge tube and dissolve in 20 milliliters of pH 9.0 borate buffer. Proceed as directed in paragraph (f) of this section.

(f) *Procedure.* Add 10 milliliters of the internal standard solution to each sample and standard solution. Shake the centrifuge tubes vigorously for 30 minutes and centrifuge. Remove the aqueous layer and discard. Shake the tubes again; mix in an ultrasonic mixer for 2 minutes, then centrifuge. No emulsion should be present at this stage. Remove the remaining aqueous layer by suction and transfer a 3-milliliter aliquot of the chloroform layer to a 1-dram tablet vial containing approximately 1 gram of anhydrous sodium sulfate. Swirl the vial to dry the chloroform and transfer a 1-milliliter aliquot to another 1-dram tablet vial. Using a 0.25-milliliter pipet, add 0.25 milliliter of trifluoracetic anhydride to each of the vials and place into a water bath at 45° C.±2° C. for 30 minutes. Remove the vials from the bath, add about 10 granules of anhydrous sodium carbonate to each vial, and allow to stand for approximately 30 minutes. Centrifuge the vials for approximately 10 minutes at 5,000 r.p.m. Inject 2 microliters of each of the resulting solutions into the gas chromatograph. Use the conditions and materials listed in paragraphs (a), (b), and (c) of this section. The elution order is: Internal standard, clindamycin, and epiclindamycin (if present). Calculate the clindamycin content as directed in paragraph (g) of this section.

(g) *Calculations.* Calculate the clindamycin content of the sample as follows:

$$\text{Micrograms of clindamycin per milligram} = \frac{R_s \times W_s \times f}{R_t \times W_s}$$

where:

R_s = Area of the clindamycin sample peak (at a retention time equal to that observed for the clindamycin standard); / Area of internal standard peak

R_t = Area of the clindamycin standard peak; / Area of internal standard peak

W_s = Weight of the clindamycin working standard in milligrams;

W_s = Weight of the sample in milligrams;

f = Potency of the clindamycin working standard in micrograms per milligram.

2. Part 149u is amended to provide for the certification of the antibiotic clindamycin phosphate by adding the following two new sections:

§ 149u.4 Sterile clindamycin phosphate.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Sterile clindamycin phosphate is a water-soluble ester of clindamycin and phosphoric acid. It occurs as a white to off-white powder. It is so purified and dried that:

(i) Its clindamycin content is not less than 758 micrograms of clindamycin per milligram calculated on an anhydrous basis.

(ii) Its microbiological activity is not less than 758 micrograms of clindamycin per milligram calculated on an anhydrous basis.

(iii) It is sterile.

(iv) It is nonpyrogenic.

(v) It passes the safety test.

(vi) It contains no histamine nor histamine-like substances.

(vii) Its moisture content is not more than 6 percent.

(viii) Its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 3.5 and not more than 4.5.

(ix) It is crystalline.

(x) It passes the identity test for clindamycin phosphate.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for clindamycin content, microbiological activity, sterility, pyrogens, safety, histamine, moisture, pH, crystallinity, and identity.

(ii) Samples required:

(*a*) For all tests except sterility: 10 packages, nine containing approximately 300 milligrams and one containing 1.5 grams.

(*b*) For sterility testing: 20 packages, each containing approximately 300 milligrams.

(b) *Tests and methods of assay—*(1) *Clindamycin content (vapor phase chromatography).* Proceed as directed in § 141.574 of this chapter.

(2) *Microbiological activity (microbiological agar diffusion assay).* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Accurately weigh approximately 12 milligrams of the clindamycin phosphate sample into a 50-milliliter glass-stoppered centrifuge tube. Pipet 25 milliliters of the pH 9.0 borate buffer into the centrifuge tube. Add 10 milliliters of chloroform and shake vigorously for 15 minutes. Centrifuge the resulting mixture and pipet a 20-milliliter aliquot of the aqueous phase into a 35-milliliter centrifuge tube. Add a weighed amount of intestinal alkaline phosphatase equivalent to 50 units of activity [1] and allow the solution to stand until the enzyme has completely dissolved. Place the tube into a water bath at 37° C.±2° C. for 2.5 hours. After the 2.5-hour hydrolysis, allow the solution to cool. Further dilute an aliquot of the solution with 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to the reference concentration of 1.0 microgram of clindamycin per milliliter (estimated).

(3) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(1) of that section.

(4) *Pyrogens.* Proceed as directed in § 141.4(a) of this chapter, using a solution containing 24 milligrams of clindamycin per milliliter.

(5) *Safety.* Proceed as directed in § 141.5 of this chapter.

(6) *Histamine.* Proceed as directed in § 141.7 of this chapter.

(7) *Moisture.* Proceed as directed in § 141.502 of this chapter.

(8) *pH.* Proceed as directed in § 141.503 of this chapter, using an aqueous solution containing 10 milligrams per milliliter.

(9) *Crystallinity.* Proceed as directed in § 141.504(a) of this chapter.

(10) *Identity.* Proceed as directed in § 141.521 of this chapter, using the sample preparation method described in paragraph (b)(2) of that section, except dry the sample for 2 hours at 100° C. and

[1] Defined such that 50 units hydrolyzes at least 20 micromoles of a clindamycin phosphate authentic sample under the assay conditions described in this section.

[1] Defined such that 50 units hydrolyzes at least 20 micromoles of a clindamycin phosphate authentic sample under the assay conditions described in § 141.574 of this chapter.

effective use of levamisole hydrochloride to include its use against intestinal thread worms (*Strongyloides ransomi*). The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), § 135c.18 *Levamisole hydrochloride* is amended in the table in paragraph (f) for item 5 in the "Indications for Use" column by adding the words "intestinal thread worms (*Strongyloides ransomi*)" between the word "*Oesophagostonum*", and the word "and".

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (11–10–72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: November 2, 1972.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.72-19334 Filed 11-9-72;8:45 am]

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Sulfadimethoxine, Ormetoprim

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (47-089V) filed by Hoffmann-La Roche, Inc., Nutley, N.J. 07110, proposing a revision in the limitations for the combination of sulfadimethoxine, ormetroprim with ipronidazole when used in turkey feed. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135e (21 CFR 135e) is amended by revising item 4 in the "Limitations" column in the table in § 135e.55(e), as follows:

§ 135e.55 Sulfadimethoxine, ormetoprim.

* * * * *

(e) * * *

Principal ingredient	Grams per ton	Combined with	Grams per ton	Limitations	Indications for use
* * *	* * *	* * *	* * *	* * *	* * *
Sulfadimethoxine and ormetoprim.	* * *	* * *	* * *	For turkeys; do not feed to turkeys producing eggs for food; withdraw 4 days before slaughter.	* * *
* * *	* * *	* * *	* * *	* * *	* * *

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (11–10–72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: November 2, 1972.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.72-19336 Filed 11-9-72;8:45 am]

PART 135g—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

Carbadox

Correction

In F.R. Doc. 72-16746 appearing at page 20683 of the issue for Tuesday, October 3, 1972, make the following changes in § 135g.81:

1. Under "II. Solutions," items B and C, reading "B. 5*M* Sodium hydroxide." and "C. 3*M* Potassium hydroxide." should read "B. 5*M* Sodium hydroxide." and "C. 3*M* Potassium hydroxide."; and

2. Under "IV. Procedure" in paragraph 1 of "E. Thin-Layer Chromatography" the word "absorbent" in the 10th line should read "adsorbent".

PART 141—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

PART 149u—CLINDAMYCIN

Clindamycin Phosphate

The Commissioner has evaluated data submitted in accordance with regulations

allow to equilibrate with the atmosphere

C.±2° C. for 2.5 hours. After the 2.5-hour

conditionally in support of the petition in (1) above:

respect to the transportation of the shipment on which claim is made, is

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defined in ASPR 1–201.23 to the Head of Procuring Activity and are authorized

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allow to equilibrate with the atmosphere for 1 hour.

§ 149n.13 Clindamycin phosphate injection.

(a) *Requirements for certification—(1) Standards of identity, strength, quality, and purity.* Clindamycin phosphate injection is an aqueous solution of clindamycin phospate with one or more suitable and harmless preservatives and sequestering agents. Each milliliter contains clindamycin phosphate equivalent to 150 milligrams of clindamycin. Its clindamycin content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of clindamycin that it is represented to contain. It is sterile. It is nonpyrogenic. It passes the safety test. It contains no histamine nor histamine-like substances. Its pH is not less than 5.5 and not more than 7. The clindamycin phosphate used conforms to the standards prescribed by § 149u.4(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The clindamycin phosphate used in making the batch for clindamycin content, microbiological activity, moisture, pH, crystallinity, and identity.

(*b*) The batch for clindamycin content, sterility, pyrogens, safety, histamine, and pH.

(ii) Samples required:

(*a*) The clindamycin phosphate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of 10 immediate containers.

(2) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay—*(1) *Clindamycin content (vapor phase chromatography).* Proceed as directed in § 141.574 of this chapter, except prepare the sample for assay as follows: Shake the sample and dilute a portion with pH 9.0 borate buffer to obtain a solution containing the equivalent of approximately 0.4 milligram of clindamycin per milliliter. Place 25 milliliters of this solution into a 50-milliliter stoppered centrifuge tube. Add 10 milliliters of chloroform. Shake vigorously for 15 minutes and centrifuge. There should be no emulsion present after centrifugation. Transfer 20 milliliters of the aqueous phase from the tube into a 35-milliliter stoppered centrifuge tube. Add to the tube a weighed amount of intestinal alkaline phosphatase equivalent to 50 units of activity[1] and allow to stand until the phosphatase has dissolved completely. Place the centrifuge tube into a water bath at 37° C.±2° C. for 2.5 hours. After the 2.5-hour hydrolysis, allow the solution to cool.

(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 141.4(a) of this chapter, using a solution containing the equivalent of 24 milligrams of clindamycin per milliliter.

(4) *Safety.* Proceed as directed in § 141.5 of this chapter.

(5) *Histamine.* Proceed as directed in § 141.7 of this chapter.

(6) *pH.* Proceed as directed in § 141.503 of this chapter, using the undiluted drug.

Since the conditions prerequisite to providing for certification of subject antibiotic have been complied with and since the matter is noncontroversial, notice and public procedures and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (11–10–72).

(Sec. 507, 59 Stat. 465, as amended; 21 U.S.C. 357)

Dated: November 2, 1972.

MARY A. MCENIRY,
Assistant to the Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc.72–19216 Filed 11–9–72;8:45 am]

[1] Defined such that 50 units hydrolyzes at least 20 micromoles of a clindamycin phosphate authentic sample under the assay conditions described in § 141.574 of this chapter.

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. 263]

PART 1005—PRINCIPLES AND PRACTICES FOR THE INVESTIGATION AND VOLUNTARY DISPOSITION OF LOSS AND DAMAGE CLAIMS AND PROCESSING SALVAGE

Processing of Loss and Damage Claims

Order. At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 15th day of September 1972.

Upon consideration of the record in the above-entitled proceeding, including the report and order at 340 I.C.C. 515, and of:

(1) Petition of the trustees of the property of the Penn Central Transportation Co., respondents, filed July 31, 1972, for waiver of Rule 101(e) of the Commission's general rules of practice, embracing a tendered petition for modification of paragraph 2 of 49 CFR 1005.3 (acknowledgment of claims);

(2) Petition (letter) of American Trucking Associations, Inc., on behalf of member motor common carriers of property, respondents, filed August 15, 1972, conditionally in support of the petition in (1) above;

It appearing, that although petitioners seek to have modified the second paragraph of 49 CFR 1005.3 assertedly in order better to accommodate the provisions thereof to their utilization of electronic computers, data recording media, and microfilm processes for recording and filing shipping orders and delivery receipts, their proposed modification would not be wholly consistent with the purposes intended to be served by said second paragraph (as specifically set forth in the answer to question No. 6 in the appendix to the order entered herein on Apr. 13, 1972); that, in addition, petitioners' proposals would serve only to disclose, and not prevent, duplicate claims payments; and that the modification of the said paragraph set forth in the third ordering paragraph below will enable the utilization of modern recordkeeping techniques in keeping with the original purposes and intent of the said rule, and is consistent with the public interest and the national transportation policy;

It further appearing, that the Commission has become aware of a growing concern that the present form of paragraph (c) of 49 CFR 1005.4 would allow carrier respondents arbitrarily to deny legitimate shortage claims and that modification thereof would therefore be in the public interest; and good cause appearing therefor:

It is ordered, That the tendered petitions be, and they are hereby, accepted for filing.

It is further ordered, That the petitions in (1) and (2) above be, and they are hereby, denied for the reasons that the requested modification of the order of February 3, 1972, served February 24, 1972, as modified, would not be in the public interest for the reasons expresed above.

It is further ordered, That the second paragraph of 49 CFR 1005.3 be, and it is hereby, modified by substituting in lieu thereof the following:

The carrier shall at the time each claim is received create a separate file and assign thereto a successive claim file number and note that number on all documents filed in support of the claim and all records and correspondence with respect to the claim, including the written acknowledgment of receipt. At the time such claim is received the carrier shall cause the date of receipt to be recorded on the face of the claim document, and the date of receipt shall also cause the claim file number to be noted appear in the carrier's written acknowledgment of receipt to the claimant. The carrier shall also cause the claim file number to be noted on the shipping order, if in its possession, and the delivery receipt, if any, covering such shipment, unless the carrier has established an orderly and consistent internal procedure for assuring (a) that all information contained in shipping orders, delivery receipts, tally sheets, and all other pertinent records made with

respect to the transportation of the shipment on which claim is made, is available for examination upon receipt of a claim; (b) that all such records and documents (or true and complete reproductions thereof) are in fact examined in the course of the investigation of the claim (and an appropriate record is made that such examination has in fact taken place); and (c) that such procedures prevent the duplicate or otherwise unlawful payment of claims.

It is further ordered, That paragraph (c) of 49 CFR 1005.4 be, and it is hereby modified by substituting in lieu thereof the following:

(c) *Verification of Loss.* When an asserted claim for loss of an entire package or an entire shipment cannot be otherwise authenticated upon investigation, the carrier shall obtain from the consignee of the shipment involved a certified statement in writing that the property for which the claim is filed has not been received from any other source.

It is further ordered, That the modifications in the first and second preceding paragraphs be, and they are hereby, made effective on October 16, 1972, and shall apply to all claims received by respondents on and after that date.

It is further ordered, That Title 49 Subtitle B, Chapter X, Subchapter A, Part 1005, of the Code of Federal Regulations be, and it is hereby, amended in the manner set forth in the second and third preceding paragraphs. (Authority: 24 Stat. 380 (this section and subsequent citations designated with an asterisk, as amended), 383*, 386: 34 Stat. 595*, 44 Stat. 1450*; 49 Stat. 546*, 550*, 558*, 560*, 561*, 563*, 52 Stat. 1237; 54 Stat. 900, 922, 933, 934*, 935, 944*, 946; 56 Stat. 285, 286, 287, 294*, 295, 297, 746*; 62 Stat. 472; 63 Stat. 486; and 64 Stat. 1114*, 49 U.S.C. 1, 5, 5b, 6, 12, 20, 304, 305, 316, 317, 318, 319, 320, 904, 905, 906, 913, 916, 1003, 1004, 1005, 1009, 1012, 1013, and 1017.).

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission.

NOTE: This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72–19358 Filed 11–9–72;8:50 am]

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER W—AIR FORCE PROCUREMENT

PART 1001—GENERAL PROVISIONS

PART 1009—PATENTS, DATA, AND COPYRIGHTS

Miscellaneous Amendments

Part 1001, Subchapter W of Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

§ 1001.452 [Amended]

1. Change the last sentence in § 1001.452 to read: "This authority has been delegated to Deputy Chief of Staff, Systems and Logistics and the Director of Procurement Policy, DCS/S&L, by Secretary of the Air Force Order (SAFO) 6504 dated July 3, 1969, and redelegated to the Major Commands by Director of Procurement Policy (AF/LGP)".

2. Section 1001.453 is revised to read as follows:

§ 1001.453 Designation of heads of procuring activities.

(a) The Commanders of the commands specified in ASPR 1–201.14 are designated as a "Head of a Procuring Activity" (HPA). Each HPA may authorize an individual not below the level of the staff officer responsible for procurement within the Command headquarters to act for him in exercising ASPR prescribed responsibilities vested only in the HPA.

(b) The Director of Procurement Policy, DCS/S&L is the HPA for all Major Commands and Separate Operating Agencies listed below:

(1) Air Force Accounting and Finance Center.

(2) Air University.

(3) Air Force Communications Service.

(4) Air Force Reserve.

(5) Hq Command USAF.

(6) USAF Academy.

(7) USAF Security Services.

(8) USAF Southern Command.

(c) Commanders of Major Commands and Separate Operating Agencies who are not designated as a HPA but who have a need for one of the ASPR prescribed responsibilities vested in the HPA will submit a request for such responsibility to the Director of Procurement Policy, DCS/S&L, Hq USAF (LGP).

(d) The Commanders of the agencies set forth in paragraph (b) of this section are designated the "Designee" as defined in ASPR 1–201.23 to the Head of Procuring Activity and are authorized to perform any act or make determinations contemplated in ASPR or Air Force ASPR Supplements where such authority is vested in the "Head of the Procuring Activity or his Designee" with the power of redelegation not below the level of the staff office responsible for procurement within the headquarters of the Major Command or Special Operating Activity.

(e) The air attachés and chiefs of Air Force Foreign Missions are designated the "Designee" as defined in ASPR 1–201.23 and authorized to perform any act or make determinations contemplated in ASPR or Air Force ASPR Supplements where such authority is vested in the "Head of the Procuring Activity or Designee."

3. Section 1001.454 is revised to read as follows:

§ 1001.454 Contracts for public utility services extending beyond current fiscal year but not exceeding 10 years.

(a) Contracts for public utilities. The authority to enter into contracts for public utility services has been redelegated to the HPA's and all Major Commands and Separate Operating Agencies as listed in § 1001.453(b).

(b) Contracts for communications services.

(1) The Director of Procurement Policy, DCS/S&L, Hq USAF has been authorized to enter into contracts for communication services for periods extending beyond the current fiscal year but not to exceed 10 years, under one or more of the following circumstances.

(i) When services are obtained for communication common carrier whose rates are regulated by a Federal, State, or other public-regulatory body;

(ii) When the services are obtained by competitive means from other than communication carriers; and

(*a*) Where there are obtained lower rates, larger discounts, or more favorable conditions of service than those available under contracts the firm terms of which would not extend beyond a current fiscal year.

(*b*) Where nonrecurring or termination charges payable under contracts the firm term of which would not extend beyond a current fiscal year are eliminated or reduced.

(iii) The termination liability incurred under the contract, when added to the cumulative termination liabilities of existing contracts does not exceed the termination liability ceilings imposed by public law or departmental administrative procedures.

(3) The authority of the Director of ... nate the intended AFCEL action with the ... performance is considered less than satis-

Promptly recommend removal when the

(1) Formats for initial notice to con-

ance or financial condition) of your com-

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(2) The authority of the Director of Procurement Policy, DCS/S&L HQ USAF, as described in subparagraph (1) of this paragraph has been delegated by § 1001.-453.

§ 1001.455 [Amended]

4. Section 1001.455 is amended by changing the symbol "HQ USAF (APSPP)" to "HQ USAF (LGP)".

5. A new § 1001.456 is added to read as follows:

§ 1001.456 Extraordinary actions to facilitate the national defense.

Authority to take action under Public Law 85–804 is prescribed in § 1017.203 of this chapter.

6. Section 1001.905–50 is amended by revising paragraphs (b), (d), (e), and (g) to read as follows:

§ 1001.905–50 Air Force contractor experience list.

* * * * *

(b) *Purpose.* The purpose of the AFCEL is to identify contractors, including nonappropriated fund contractors, who have not performed satisfactorily or who have encountered difficulties that might endanger future performance. The AFCEL alerts contracting officers to these difficulties prior to placing new business with listed contractors. It also serves to identify conditions which the contractor must correct to justify removal from the AFCEL.

* * * * *

(d) *Reasons for listing contractors.* Contractors with one or more of the following letter coded deficiencies will be considered for the AFCEL.

(1) Code D—Contractors who have a less than satisfactory record in meeting contract delivery schedules on one or more contracts.

(2) Code Q—Contractors who fail to meet quality standards established by the contract.

(3) Code T—Contractors who have had one or more contracts terminated for default.

(4) Code F—Contractors whose contract performance has become unsatisfactory because of financial problems.

(5) Code M—Contractors whose performance is considered unsatisfactory or whose responsibility is questioned for other specific reasons.

(e) *Procedures.* (1) The procedures outlined below apply to initial recommendations for AFCEL listing and also to the addition of codes to an already listed contractor. Both purchasing and contract administration offices, as well as nonappropriated fund purchasing offices, may initiate recommendations for the AFCEL. The purchasing office will coordinate the intended AFCEL action with the contract administration office, or vice versa, as applicable, and will obtain supporting information needed to substantiate the recommendation:

(2) To initiate an AFCEL case, the chief of the purchasing or contract administration office (or higher level authority as determined by the major command concerned) will notify the contractor by letter of the proposed AFCEL recommendation. For nonappropriated fund cases, the notification letter will be signed by the chief of the central purchasing office, or by the base commander, as appropriate. Notification letters to contractors will identify the specific deficiencies in performance or financial condition and, except as indicated below, request a reply within 15 days to permit the contractor to present reasons why he should not be recommended for AFCEL listing. For Code T and Code F (bankruptcy or receivership) no request for reply will be made. For Code F, other than bankruptcy or receivership, the contractor will be requested to reply.

(3) If the contractor does not respond within 15 days, or if the response is considered unsatisfactory, immediately advise the contractor that he is being recommended for the AFCEL. Simultaneously submit the recommendations to HQ USAF/LGP through procurement channels. Recommendations for Code T and for Code F (bankruptcy or receivership) will be submitted simultaneously with the issuance of the notification letter specified in subparagraph (2) of this paragraph. The major command will forward the recommendation within 15 days to HQ USAF with concurrence/nonconcurrence unless there are valid reasons for delay.

(4) Recommendations should be brief, but complete and factual. Copies of contracts and other lengthy documents are normally not required. All recommendations should include at least the following information:

(i) Complete identity of contractor, including name of firm, name of president or owner, address, and product line. If only one part of a company is recommended, specifically identify and indicate the relationship to the parent office.

(ii) Purchasing and contract administration offices, including autovon phone number.

(iii) Code(s) for which the contractor is recommended. See paragraph (d) of this section.

(iv) Contract number, effective date, type of contract, dollar value, items covered, and unusual pertinent provisions.

(v) Brief narrative of contract requirements not met, and the contractor's actual performance, or other reasons for the recommended listing. If contractor's performance is considered less than satisfactory for only certain product lines or services, identify such qualification specifically in the recommendation.

(vi) Brief outline of previous corrective actions taken by the contracting officer, such as "show cause" or "cure" notices, including dates such actions were taken and results obtained.

(vii) State whether a preaward survey was conducted and if the recommendation was affirmative or negative.

(viii) Copy of notification(s) to contractor.

(ix) For Code D give original contract delivery dates and changes thereto, including reasons therefor, action taken to assure that delivery schedules are current and realistic, and a brief summary of the frequency, duration, and seriousness of late deliveries considered to be the fault of the contractor.

(x) For Code Q provide a brief current evaluation of the contractor's quality control system in addition to identifying the specific quality deficiency.

(xi) For Code T include reasons for the default termination and results of any appeal or other disposition of the case, if available.

(xii) For Code F describe how contractor's financial problems caused unsatisfactory contract performance. In cases of bankruptcy or receivership, provide latest known data.

(xiii) AFCEL recommendations from purchasing activities will include a copy of a statement from the cognizant contract administration office providing current performance evaluation on the specific contracts involved, pertinent overall performance, background information, and concurrence or nonconcurrence with the recommendation.

(5) The AFCEL Review Board at HQ USAF will review all recommendations prior to final approval by the Director of Procurement policy, HQ USAF/LGP.

(6) HQ USAF/LGP will advise the contractor by letter of the decision on AFCEL listing, with copies to all offices concerned.

(7) HQ USAF/LGP will publish an updated AFCEL quarterly and will distribute it to all major commands, DSA, and Navy for distribution to their procuring activities, including those dealing with nonappropriated funds. Interim changes will be published as required.

(8) AFCEL Review: (i) Each contractor on the current AFCEL will be reviewed by the recommending activity each quarter to keep the listing current and to determine if removal or retention is warranted. If the purchasing office is the recommending activity, contact the appropriate contract administration activity to obtain an evaluation of the contractor's current overall performance.

Promptly recommend removal when the contractor has corrected the deficiency for which he was placed on the AFCEL and no other major deficiencies exist. Specifically substantiate recommendations. If retention is recommended, also validate the letter coding.

(ii) Forward results of quarterly reviews by letter through procurement channels to arrive at HQ USAF/LGP by the 10th of February, May, August, and November of each year. HQ USAF/LGP will advise the contractor by letter if removal is approved, with copies to all offices concerned.

(iii) Recommend removal of a contractor who no longer has or seeks Government contracts after 1 year on the list unless there are valid reasons for retention.

(iv) Recommend removal of a contractor who is subsequently included in the Joint Consolidated List of Debarred, Ineligible, and Suspended Contractors (AFR 70–23).

(v) Do not recommend removal of a contractor who has appealed any matter which caused AFCEL listing, other than Code T, until final resolution of the appeal with the contractor's position substantially upheld.

(vi) Do not recommend removal of a contractor who has listed for Code T until the termination for default is converted to a termination for convenience, the Armed Services Board of Contract Appeals substantially upholds the contractor's position, or until other contractor actions such as demonstrated improvement in overall delivery performance, financial condition or corrective action to preclude future default determinations for the same reason as that which caused AFCEL action, warrant removal consideration.

(vii) Do not recommend removal of a contractor who was listed under Code F for filing a petition of bankruptcy or for receivership until such proceedings have been completed and the contractor has reestablished his financial capability or has been legally dissolved.

(viii) Whenever a listed contractor changes his name or address promptly notify HQ USAF/LGP. Identify whether the new name or address replaces or is in addition to the present listing. This includes contractors listed on the Navy or DSA CELs.

* * * * *

(g) *Letters to contractors.* The following are formats for letters to contractor top management.

(1) Formats for initial notice to contractors for Codes D, Q, M and F (except bankruptcy or receivership).

Dear Mr. ---------- (president): The Air Force maintains a listing of contractors whose performance record or financial condition has been determined to be unsatisfactory. This list is the Air Force Contractor Experience List (AFCEL). Further information on the AFCEL is contained in Air Force ASPR Supplement 1–905.50.

This is to notify you that (recommending activity) considers the (performance or financial condition) of your company to be unsatisfactory for the following reasons: (State specific deficiencies). We are considering recommending your firm for placement on the AFCEL (or for placement on the AFCEL for deficiencies other than those currently listed), based on the above unsatisfactory conditions. However, you are being afforded the opportunity at this time to provide reasons why this action should not be taken. Please provide your written response to this office within 15 days.

Sincerely

(2) Format for notice to contractor of recommendation to HQ USAF.

(i) For Codes D, Q, M, and F (except bankruptcy or receivership).

Dear Mr. ---------- (president): Your response of (date) has been carefully reviewed (or: no response has been received to my letter of (date)) and the basis for recommending your firm for the Air Force Contractor Experience List (AFCEL) is still considered appropriate. Therefore, I have recommended that your firm be placed on the AFCEL. If approved by HQ USAF, your firm will be listed in the next AFCEL publication. Your listing will be carefully reviewed at least quarterly, and at such time as there is assurance that you have taken effective action to correct the unsatisfactory condition, we will recommend that your company be removed from the AFCEL.

Being listed on the AFCEL will not prevent your firm from bidding on or submitting proposals for future contracts. However, the list will alert contracting officers to companies whose performance or financial conditions has been determined to be currently unsatisfactory.

We sincerely hope that you soon correct the condition(s) that prompted this recommendation.

Sincerely

(ii) For Code T and F (bankruptcy or receivership).

Dear Mr. ---------- (president): The Air Force maintains a listing of contractors whose performance record or financial condition has been determined to be unsatisfactory. This is the Air Force Contractor Experience List (AFCEL). Further information regarding the AFCEL is contained in Air Force ASPR Supplement 1–905.50.

This is to notify you that the (recommending activity) considers the (performance or financial condition) of your company to be unsatisfactory for the following reasons: (State specific deficiencies). Therefore, I have recommended that your firm be placed on the AFCEL. If this recommendation is approved by HQ USAF, your firm will be listed in the next AFCEL publication. The basis for listing your firm will be carefully reviewed at least quarterly, and at such time as conditions warrant, we will recommend that the name of your company be removed from the AFCEL.

Being listed on the AFCEL will not prevent your firm from bidding on or submitting proposals for future contracts. However, the list will alert contracting officers to companies whose performance or financial condition has been determined to be currently unsatisfactory.

We sincerely hope that you correct the condition(s) that prompted this recommendation.

Sincerely

Part 1009, Subchapter W of Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

§§ 1009.203–52 and 1009.203–53 [Deleted]

§ 1009.203–54 [Redesignated]

Delete §§ 1009.203–52 and 1009.203–53 and redesignate § 1009.203–54 to § 1009.-203–52.

(Ch. 137, 10 U.S.C. 8012)

By order of the Secretary of the Air Force.

JOHN W. FAHRNEY,
Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.72–19317 Filed 11–9–72;8:48 am]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5269]

[Arizona 822, 3753]

ARIZONA

Withdrawal for Proposed Reclamation Project

Correction

In F.R. Doc. 72–17897 appearing on page 22617 of the issue for Friday, October 20, 1972, in the fifth line under the description "T. 21 S., R. 22 E.," the figure "7" should be inserted immediately following the word "Sec.".

Title 24—HOUSING AND URBAN DEVELOPMENT

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

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FEDERAL REGISTER, VOL. 37, NO. 218—FRIDAY, NOVEMBER 10, 1972

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter X—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies (1) the effective date of the authorization of the sale of flood insurance in the area under the emergency or under the regular flood insurance program; (2) the effective date on which the community became ineligible for the sale of flood insurance because of its failure to submit land use and control measures as required pursuant to § 1909.24(a); or (3) the effective date of a community's formal reinstatement in the program pursuant to § 1909.24(b). The entry reads as follows:

§ 1914.4 Status of participating communities.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
...	...	...	...	...	...	...
California	San Mateo	Burlingame	I 06 081 0490 01 through I 06 081 0490 06	Department of Water Resources, Post Office Box 388, Sacramento, CA 95802. California Insurance Department, 107 South Broadway, Los Angeles, CA 90012, and 1407 Market St., San Francisco, CA 94103.	Office of the City Clerk, First Floor, City Hall, 501 Primrose Rd., Burlingame, CA 94010.	Mar. 24, 1971. Emergency. Nov. 10, 1972. Regular.
Do	Tulare	Woodlake	I 06 107 4250 02 through I 06 137 4250 04	do	Office of the City Clerk, City of Woodlake, 350 North Valencia Blvd., Woodlake, CA 93286.	Mar. 12, 1971. Emergency. Nov. 10, 1972. Regular.
Florida	Broward	Deerfield Beach	I 12 011 0790 01 I 12 011 0790 02	Department of Community Affairs, 309 Office Plaza, Tallahassee, Fla. 32301. State of Florida Insurance Department, Treasurer's Office, The Capitol, Tallahassee, Fla. 32304.	City Engineer's Office, City of Deerfield Beach, 150 Northeast Second Ave., Post Office Drawer AH, Deerfield Beach, FL 33441.	Feb. 19, 1972. Emergency. Nov. 10, 1972. Regular.
Do	do	Davie				Nov. 10, 1972. Emergency.
Do	Pinellas	Unincorporated areas.				June 17, 1970. Emergency. June 18, 1971. Regular. Sept. 15, 1972. Suspended. Nov. 3, 1972. Reinstated. Nov. 10, 1972.
Illinois	Cook	Huffman Estates Village.				Emergency.
Massachusetts	Norfolk	Braintree				Do.
New Jersey	Hunterdon	Clinton				Do.
North Carolina	Dare	Nag's Head	I 37 055 3235 01 through I 37 055 3235 08	North Carolina Office of Water and Air Resources, Department of Natural and Economic Resources, Post Office Box 27687, Raleigh, NC 27611. North Carolina Insurance Department, Post Office Box 26387, Raleigh, NC 27611.	Office of the Town Clerk, Town of Nag's Head, Town Hall, Nag's Head, N.C. 27959.	Dec. 23, 1971. Emergency. Nov. 10, 1972. Regular.
Pennsylvania	Bucks	Bristol Township				Nov. 10, 1972. Emergency.
Do	Dauphin	Highspire Borough.				Do.
Do	Huntington	Mount Union Borough.				Do.
Wisconsin	St. Croix	Hudson	I 55 109 2220 01	Department of Natural Resources, Post Office Box 450, Madison, WI 53701. Wisconsin Insurance Department, 212 North Bassett St., Madison, WI 53703.	City Hall, City of Hudson, 505 Third St., Hudson, WI 54016.	Apr. 27, 1971.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: November 3, 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc 72-19269 Filed 11-9-72;8:45 am]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
...	...	...	...	...	...	...
California	San Mateo	Burlingame	H 06 081 0490 01 through H 06 081 0490 06	Department of Water Resources, Post Office Box 388, Sacramento, CA 95802. California Insurance Department, 107 South Broadway, Los Angeles, CA 90012, and 1407 Market St., San Francisco, CA 94103.	Office of the City Clerk, First Floor, City Hall, 501 Primrose Rd., Burlingame, CA 94010.	Mar. 24, 1971.
Do	Tulare	Woodlake	H 06 107 4250 02 through H 06 017 4250 04	do	Office of the City Clerk, City of Woodlake, 350 North Valencia Blvd., Woodlake, CA 93286.	Mar. 12, 1971.
Florida	Broward	Deerfield Beach	H 12 011 0790 01 H 12 011 0790 02	Department of Community Affairs, 309 Office Plaza, Tallahassee, Fla. 32301. State of Florida Insurance Department, Treasurer's Office, The Capitol, Tallahassee, Fla. 32304.	City Engineer's Office, City of Deerfield Beach, 150 Northeast Second Ave., Post Office Drawer AH, Deerfield Beach, FL 33441.	Feb. 19, 1972.
Do	do	Davie				Nov. 10, 1972.
Illinois	Cook	Hoffman Estates Village.				Do.
Massachusetts	Norfolk	Braintree				Do.
New Jersey	Hunterdon	Clinton				Do.
North Carolina	Dare	Nag's Head	H 37 055 3235 01 through H 37 055 3235 08	North Carolina Office of Water and Air Resources, Department of Natural and Economic Resources, Post Office Box 27687, Raleigh, NC 27611. North Carolina Insurance Department, Post Office Box 26387, Raleigh, NC 27611.	Office of the Town Clerk, Town of Nag's Head, Town Hall, Nag's Head, N.C. 27959.	Dec. 23, 1971.
Pennsylvania	Bucks	Bristol Township				Nov. 10, 1972.
Do	Dauphin	Highspire Borough				Do.
Do	Huntington	Mount Union Borough.				Do.
Wisconsin	St. Croix	Hudson	H 55 109 2220 01	Department of Natural Resources, Post Office Box 450, Madison, WI 53701. Wisconsin Insurance Department, 212 North Bassett St., Madison, WI 53703.	City Hall, City of Hudson, 505 Third St., Hudson, WI 54016.	Apr. 27, 1971.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: November 3, 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.72-19270 Filed 11-9-72;8:45 am]

Title 6—ECONOMIC STABILIZATION

Chapter II—Pay Board

PART 201—STABILIZATION OF WAGES AND SALARIES

Prospective Discontinuance of Merit Exception

The purpose of the amendments set forth below is to provide for discontinuance of the exception with respect to qualified merit plans. The effect of this action is not to prevent merit plans from operating, but to require them to operate subject to the 5.5-percent general wage and salary standard.

Before taking this action, the Pay Board conducted a review of cases submitted to the Board during Phase II in order to assess the economic impact the merit exception has had on the goals of the Economic Stabilization Program. Further, the Board considered the fact that the full year's operation of the exception has served the purpose of accomplishing an orderly and equitable transition for employees under qualified merit plans into the control program. In view of these and other considerations, the Board has concluded that stabilization of wages and salaries can now be accomplished more effectively and equitably by eliminating the exception, thereby making merit plans—whether or not "qualified"—subject to the 5.5-percent general wage and salary standard and other applicable regulations.

Discontinuance of the merit exception is consistent with the Board's previous action in discontinuing the life of certain pay practices previously set forth. Under present Pay Board regulations such practices are scheduled to expire on November 13, 1972. This action is also consistent with the previous discontinuance of the exception for "catch-up" increases generally scheduled to expire on November 13, 1972.

In order to avoid disruptions in the course of current control years the discontinuance of the merit exception will not be effective until the start of the next control year for the appropriate employee unit involved. In a great many instances, this will be the calendar year beginning January 1, 1973. However, the merit exception will not be available for any control year beginning after November 13, 1972. Accordingly, appropriate employee units with control years beginning November 14, 1972, will be subject to the change in treatment for qualified merit plans.

Since these amendments are essential to the expeditious implementation of the Economic Stabilization Act of 1970, as amended, and Executive Order No. 11640, amended, the Board finds that the time for submission of written comments by interested persons in accordance with the usual rule making procedure is impracticable and that good cause exists for promulgating these amendments in

less than 30 days. Interested persons may submit written comments regarding these

continue to operate according to the following rules: Any increases applied to a

ments of 1971, Public Law 92–210; Executive Order No. 11640, 37 F.R. 1213, Jan. 27, 1972; Cost of Living Council Order No. 4, 36 F.R.

exceptions to Part 300 of the Price Commission regulations, review and deter-

Chapter IV—Internal Revenue Service

PART 411—TEMPORARY PROCE-

Part 401 of this chapter shall be applied to the provisions of this part.

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less than 30 days. Interested persons may submit written comments regarding these amendments. Communications should be addressed to the Office of the General Counsel, Pay Board, Washington, D.C. 20508.

(Economic Stabilization Act of 1970, as amended, Public Law 92-210, 85 Stat. 743, Executive Order No. 11640, 37 F.R. 1213 (1972), as amended by Executive Order No. 11660, 37 F.R. 6175 (1972), and Cost of Living Council Order No. 3, 36 F.R. 2020, (1971), as amended)

Effective date. These amendments are effective on November 10, 1972.

GEORGE H. BOLDT,
Chairman.

Section 201.11(a)(5) is amended by revising subdivisions (i) and (iii) to read as follows:

§ 201.11 Criteria for exceptions.

(a) *In general.* * * *

(5) *Merit increases*—(i) *Exception for qualified merit plans contained in successor employment contracts or successor pay practices.* Wage and salary increases granted pursuant to a qualified merit plan (as defined in subdivision (ii) of this subparagraph), provided for in an employment contract or pay practice previously set forth which existed prior to November 14, 1971, and which is continued in a successor employment contract or successor pay practice effective after November 13, 1971, without any changes of terms or administrative practice may (subject to the provisions of paragraphs (b) and (c) of this section) be permitted as an exception to the general wage and salary standard: *Provided, however,* That such exception shall apply only with respect to a control year beginning prior to November 14, 1972. For purposes of the preceding sentence, a change in the maximum or minimum terminal points of a pay rate range in a qualified merit plan shall not be deemed a change of terms if the ratio of such maximum to such minimum terminal point is not increased. For purposes of this subparagraph, a qualified merit plan provided for in a pay practice which meets all of the criteria set forth in the first sentence of this subdivision, except that such pay practice is not "previously set forth" within the meaning of § 201.14(b) because the aggregate amount to be expended cannot be documented as being finally and formally decided prior to November 14, 1971, shall be treated as a successor pay practice otherwise eligible for the exception provided in this subparagraph.

* * * * *

(iii) *Special rules.* Wage and salary increases granted pursuant to a merit plan provided for in an employment contract existing prior to November 14, 1971, and continued in a successor employment contract entered into prior to April 19, 1972, shall be excluded from the computation of the annual aggregate increase in the base-compensation rate in any control year beginning prior to November 14, 1972. Such merit plan may continue to operate according to the following rules: Any increases applied to a rate range under such merit pay plan shall be considered a general increase in wages and salaries under the regulations in this chapter. However, individual increases within the rate range under such plans shall not be considered a wage and salary increase under such regulations in any control year beginning prior to November 14, 1972.

* * * * *

[FR Doc.72-19502 Filed 11-9-72;11:05 am]

Chapter III—Price Commission

PART 300—PRICE STABILIZATION

Delegation of Authority to District Directors of Internal Revenue, Dallas, Tex., and Austin, Tex.

The purpose of this amendment is to delegate authority to the District Directors of Internal Revenue, Dallas, Tex., and Austin, Tex., to make decisions and issue orders in price cases, consider and grant or deny exceptions to this part, review and determine the correctness of reported price increases, issue orders in connection therewith, and order and supervise investigations and make findings and determinations with respect thereto.

Section 300.507 currently limits the delegated authority of District Directors to cases involving exceptions for providers of health services and price Category III firms other than public utilities. Similarly, § 301.108(e) of the rent regulations delegates exception authority with respect to rents to District Directors.

It has been determined by the Commission that the Dallas and Austin District Offices should have the delegated authority, on a pilot basis, to handle the broad range of price and exceptions cases at places convenient to persons whose legal residence, principal place of business, or principal office or agency is located within their respective areas. Because of the Price Commission's desire to provide more convenient and expeditious service on price and exception matters, the delegation provides for the broad exercise of functions and duties respecting those matters for persons located in the Dallas and Austin Districts. The delegation will, unless extended, expire at the close of February 10, 1973.

This amendment has been approved by the Secretary of the Treasury pursuant to § 300.511.

Because the purpose of this amendment is to provide immediate guidance and information as to economic stabilization program matters, and procedures with respect thereto, it is hereby found that notice and public procedure thereon is impracticable and unnecessary and that good cause exists for making it effective less than 30 days after publication.

(Economic Stabilization Act of 1970, as amended, Public Law 91-379, 84 Stat. 799, Public Law 91-558, 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92-210; Executive Order No. 11640, 37 F.R. 1213, Jan. 27, 1972; Cost of Living Council Order No. 4, 36 F.R. 20202, Oct. 16, 1971)

In consideration of the foregoing, Part 300 of Title 6 of the Code of Federal Regulations is amended by adding the following new section after § 300.507, effective November 13, 1972:

§ 300.509 Authority of District Directors of Internal Revenue, Dallas, Tex., and Austin, Tex.

(a) There is hereby delegated to the District Directors of Internal Revenue, Dallas, Tex., and Austin, Tex., the authority to perform the following functions and duties with respect to firms whose legal residence, principal place of business, or principal office or agency is located within their respective districts:

(1) Make decisions and issue orders with respect to individual requests for price increases or adjustments.

(2) Consider, and grant or deny, in whole or in part, any request for an exception to any provision of this part.

(3) Review and determine the correctness of reported price increases or adjustments and issue appropriate orders with respect thereto.

(4) Order and supervise investigations to determine whether persons are in compliance with the regulations, decisions, and orders issued under this chapter, and make findings and determinations with respect thereto.

(b) This section expires at the close of February 10, 1973.

Issued in Washington, D.C., on November 7, 1972.

[SEAL] C. JACKSON GRAYSON, JR.,
Chairman, Price Commission.

Delegation approved: October 31, 1972.

GEORGE P. SHULTZ,
Secretary of the Treasury.

[FR Doc.72-19440 Filed 11-9-72;8:52 am]

PART 305—PROCEDURAL REGULATIONS

Appeals From Actions of District Directors of Internal Revenue, Dallas, Tex., and Austin, Tex.

The purpose of this amendment to § 305.21 of the regulations of the Price Commission is to provide that, during the period November 13, 1972, through February 10, 1973, appeals to the Price Commission from adverse actions, other than interpretations, by the District Directors of Internal Revenue, Dallas, Tex., and Austin, Tex., will not be permitted. Such appeals will, however, be authorized to the extent provided in Part 401 of Title 6 of the Code of Federal Regulations.

Effective November 13, 1972, the Commission has delegated authority to the District Directors of Internal Revenue, Dallas, Tex., and Austin, Tex., on a pilot basis, to make decisions and issue orders in price cases, consider and grant or deny exceptions to Part 300 of the Price Commission regulations, review and determine the correctness of reported price increases, issue orders in connection therewith, and order and supervise investigations and make findings and determinations with respect thereto. The purpose of the delegation, which, unless extended, will expire at the close of February 10, 1973, is to determine the feasibility of providing expeditious service on price and exceptions matters to persons at a place convenient to their legal residences, principal place of business, or principal office or agency.

The amendment to § 305.21, proscribing appeal to the Commission from actions, other than interpretations, of the Texas District Directors, will insure that this pilot project is a realistic one and is in accordance with the Commission's intent that the Dallas, Tex., and Austin, Tex., District Directors, and other offices of the Internal Revenue Service, have full and final authority over the matters delegated.

Because the purpose of this amendment is to provide immediate guidance and information as to the procedures of the economic stabilization program, it is hereby found that notice and public procedure thereon is impracticable and unnecessary and that good cause exists for making it effective less than 30 days after publication.

(Economic Stabilization Act of 1970, as amended, Public Law 91-379, 84 Stat. 799; Public Law 91-558; 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92-210; Executive Order No. 11640, 37 F.R. 1213, Jan. 27, 1972; Cost of Living Council Order No. 4, 36 F.R. 20202, Oct. 16, 1971)

In consideration of the foregoing, § 305.21 of Part 305 of Title 6 of the Code of Federal Regulations is amended to read as follows, effective November 13, 1972:

§ 305.21 Who may appeal.

(a) Except as provided in paragraph (b) of this section, any person aggrieved by an adverse action by IRS or the Chief Counsel's Office for IRS, issued pursuant to Part 401 of this title, other than a person who seeks to appeal from a notice of violation or apparent liability issued by IRS under Part 401 of this title, may file an appeal with the Commission.

(b) No person aggrieved by an adverse action, other than an interpretation, by the District Directors of Internal Revenue, Dallas, Tex., or Austin, Tex., during the period beginning on November 13, 1972, and ending at the close of February 10, 1973, may file an appeal with the Commission.

Issued in Washington, D.C., on November 1, 1972.

JAMES B. MINOR,
General Counsel,
Price Commission.

[FR Doc.72-19441 Filed 11-9-72;8:52 am]

Chapter IV—Internal Revenue Service

PART 411—TEMPORARY PROCEDURAL RULES RELATING TO CERTAIN INTERNAL REVENUE DISTRICTS

Establishment of new part. Part 411—Temporary Procedural Rules Relating to Certain Internal Revenue Districts is added to Chapter IV, Title 6, Code of Federal Regulations. The purpose of this new part is to prescribe the procedures to be used by the Internal Revenue Service in exercising the delegation of authority granted by new Price Commission Reg. § 300.509, 37 F.R. 23914 (1972).

Because the purpose of these regulations is to provide immediate guidance as to procedures applicable after November 12, 1972, it is hereby found impracticable to issue this regulation with notice and public procedure thereon under 5 U.S.C., section 553(b), or subject to the effective date limitation of 5 U.S.C., section 553(d).

These regulations shall become effective on November 13, 1972.

JOHNNIE M. WALTERS,
Commissioner of
Internal Revenue.

411.1 General rules.
411.11 Requests for price increases and adjustments.
411.12 Requests for exceptions.
411.13 Remedial orders.

AUTHORITY: The provisions of this Part 411 are issued pursuant to Economic Stabilization Act of 1970, as amended, Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92-210; Executive Order No. 11640, 37 F.R. 1213, Jan. 27, 1972; Cost of Living Council Order No. 4, 36 F.R. 20202, Oct. 16, 1971)

§ 411.1 General rules.

(a) *In general.* Notwithstanding any other provision of this chapter, the provisions of this part shall apply, with respect to the matters mentioned or described in the context, to those persons whose legal residence, principal place of business, or principal office or agency is located within the district of a designated district director. Thus, with respect to such matters a designated district director shall perform functions such as (but not limited to) receiving and acting upon requests, forms, reports, and other documents.

(b) *Designated district directors.* For purposes of this part, the term "designated district director" means the district director for one of the following districts:

Austin, Tex.
Dallas, Tex.

(c) *Application of Part 401.* Except to the extent that they are contrary to a provision of this part, the provisions of Part 401 of this chapter shall be applied to the provisions of this part.

§ 411.11 Requests for increases and adjustments.

(a) *In general.* Pursuant to § 300.509 of this title, a designated district director shall make decisions and issue orders with respect to individual requests for price increases or adjustments under Part 300 of this title. With respect to such requests, a designated district director or his delegate shall perform the functions mentioned or described in such part (and in the other provisions of Chapter III of this title therein referenced) as being performed by the Price Commission. With respect to such performance, the procedures mentioned or described in such part (and in the other provisions of Chapter III of this title therein referenced) shall pertain.

(b) *Review of decisions under paragraph (a).* A person whose request under paragraph (a) of this section is denied in whole or in part may request a reconsideration under part 305G of this title. With respect to such request for reconsideration, a designated district director or his delegate shall perform the functions mentioned or described in such part (and in the other provisions of Chapter III of this title therein referenced) as being performed by the Price Commission. With respect to such performance, the procedures mentioned or described in such part (and in the other provisions of Chapter III of this title therein referenced) shall pertain.

§ 411.12 Requests for exceptions.

(a) *In general.* Pursuant to § 300.509 of this title, a district director may grant a request for an exception under Parts 300D and 305C of this title. With respect to such requests, a designated district director or his delegate shall perform the functions mentioned or described in such part (and in the other provisions of Chapter III of this title therein referenced) as being performed by the Price Commission. With respect to such performance, the procedures mentioned or described in such part (and in the other provisions of Chapter III of this title therein referenced) shall pertain.

(b) *Review of decisions under paragraph (a) of this section.* A person whose request under paragraph (a) of this section is denied in whole or in part may request a reconsideration under Part 305C of this title. With respect to such requests for reconsideration, a designated district director or his delegate shall perform the functions mentioned or described in such part (and in the other provisions of Chapter III of this title therein referenced) as being performed by the Price Commission. With respect to such performance, the procedures mentioned or described in such part (and in the other provisions of Chapter III of this title therein referenced) shall pertain.

§ 411.13 Remedial orders.

(a) *In general.* Pursuant to § 300.509

PAR. 2. Section 1.162-22, as set forth in paragraph 4 of the appendix to the notice of proposed rule making, is amended by

such deficiency may be assessed prior to the expiration of such one-year period notwithstanding the provision of any other law or

settlement made with respect to a violation of the antitrust laws and a crim-

Co., Y Co., A, the president of X Co., and B, the president of Y Co., under section 1 of the Sherman Anti-Trust Act, 15 U.S.C. 1. In the

ary 1, 1972. The regulations set forth herein are temporary and are designed to provide transitional rules with re-

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§ 411.13 Remedial orders.

(a) *In general.* Pursuant to § 300.509 of this title, a designated district director may issue remedial orders under Part 305H of this title. With respect to such orders, a designated district director or his delegate shall perform the functions mentioned or described in such part (and in the other provisions of Chapter III of this title therein referenced) as being performed by the Price Commission. With respect to such performance, the procedures mentioned or described in such part (and in the other provisions of Chapter III of this title therein referenced) shall pertain.

(b) *Review of orders under paragraph (a).* A person to whom an order is issued under paragraph (a) of this section may request a modification or rescission under Part 305H of this title. With respect to such requests for modification or rescission, a designated district director or his delegate shall perform the functions mentioned or described in such part (and in the other provisions of Chapter III of this title therein referenced) as being performed by the Price Commission. With respect to such performance, the procedures mentioned or described in such part (and in the other provisions of Chapter III of this title therein referenced) shall pertain.

[FR Doc. 72-19501 Filed 11-9-72;11:00 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7217]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Deductibility of Treble Damage Payments Under the Antitrust Laws

On May 27, 1971, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under sections 162, 212, and 471 of the Internal Revenue Code of 1954 to conform the regulations to section 902 of the Tax Reform Act of 1969 (Public Law 91-172, 83 Stat. 710) was published in the FEDERAL REGISTER (36 F.R. 9637). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed under section 162(g) of such code, the amendments of the regulations as set forth in paragraphs 1 and 4 of the appendix to the notice of proposed rule making are hereby adopted subject to the changes set forth below:

PARAGRAPH 1. Section 1.162-21, as set forth in paragraph 4 of the appendix to the notice of proposed rule making, is revised as set forth below.

PAR. 2. Section 1.162-22, as set forth in paragraph 4 of the appendix to the notice of proposed rule making, is amended by revising paragraph (a) as set forth below.

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: November 6, 1972.

FREDRIC W. HICKMAN,
Assistant Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) under section 162 of the Internal Revenue Code of 1954 to section 902 of the Tax Reform Act of 1969 (Public Law 91-172, 83 Stat. 710), such regulations are amended as follows:

PARAGRAPH 1. Section 1.162 is amended by revising section 162(c), by redesignating section 162(f) as section 162(h), by inserting after section 162(e) new section 162 (f) and (g), and by revising the historical note. These amended and added provisions read as follows:

§ 1.162 Statutory provisions; trade or business expenses.

SEC. 162. *Trade or business expenses.* • • •

(c) *Bribes and illegal kickbacks*—(1) *Illegal payments to government officials or employees.* No deduction shall be allowed under subsection (a) for any payment made, directly or indirectly, to an official or employee of any government, or of any agency or instrumentality of any government, if the payment constitutes an illegal bribe or kickback or, if the payment is to an official or employee of a foreign government, the payment would be unlawful under the laws of the United States if such laws were applicable to such payment and to such official or employee. The burden of proof in respect of the issue, for the purposes of this paragraph, as to whether a payment constitutes an illegal bribe or kickback (or would be unlawful under the laws of the United States) shall be upon the Secretary or his delegate to the same extent as he bears the burden of proof under section 7454 (concerning the burden of proof when the issue relates to fraud).

(2) *Other bribes or kickbacks.* If in a criminal proceeding a taxpayer is convicted of making a payment (other than a payment described in paragraph (1)) which is an illegal bribe or kickback, or his plea of guilty or nolo contendere to an indictment or information charging the making of such a payment is entered or accepted in such a proceeding, no deduction shall be allowed under subsection (a) on account of such payment or any related payment made prior to the date of the final judgment in such proceeding.

(3) *Statute of limitations.* If a taxpayer claimed a deduction for a payment described in paragraph (2) which is disallowed because of a final judgment entered after the close of the taxable year for which the deduction was claimed, and if the proceeding was based on an indictment returned or an information filed prior to the expiration of the period for the assessment of any deficiency for such taxable year, the period for the assessment of any deficiency attributable to the deduction of such payment shall not expire prior to the expiration of one year from the date of such final judgment, and such deficiency may be assessed prior to the expiration of such one-year period notwithstanding the provision of any other law or rule of law which would otherwise prevent such assessment.

• • • • •

(f) *Fines and penalties.* No deduction shall be allowed under subsection (a) for any fine or similar penalty paid to a government for the violation of any law.

(g) *Treble damage payments under the antitrust laws.* If in a criminal proceeding a taxpayer is convicted of a violation of the antitrust laws, or his plea of guilty or nolo contendere to an indictment or information charging such a violation is entered or accepted in such a proceeding, no deduction shall be allowed under subsection (a) for two-thirds of any amount paid or incurred—

(1) On any judgment for damages entered against the taxpayer under section 4 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (commonly known as the Clayton Act), on account of such violation or any related violation of the antitrust laws which occurred prior to the date of the final judgment of such conviction, or

(2) In settlement of any action brought under section 4 on account of such violation or related violation.

The preceding sentence shall not apply with respect to any conviction or plea before January 1, 1970, or to any conviction or plea on or after such date in a new trial following an appeal of a conviction before such date.

(h) *Cross reference.* • • •

[Sec. 162 as amended by sec. 5, Technical Amendments Act 1958 (72 Stat. 1608); secs. 7(b) and 8, Act of Sept. 14, 1960 (Public Law 86-779, 74 Stat. 1002, 1003); sec. 3(a), Revenue Act 1962 (76 Stat. 973); sec. 902, Tax Reform Act 1969 (83 Stat. 710)]

§ 1.162-21 [Reserved]

§ 1.162-22 Treble damage payments under the antitrust laws.

(a) *In general.* In the case of a taxpayer who after December 31, 1969, either is convicted in a criminal action of a violation of the Federal antitrust laws or enters a plea of guilty or *nolo contendere* to an indictment or information charging such a violation, and whose conviction or plea does not occur in a new trial following an appeal of a conviction on or before such date, no deduction shall be allowed under section 162(a) for two-thirds of any amount paid or incurred after December 31, 1969, with respect to—

(1) Any judgment for damages entered against the taxpayer under section 4 of the Clayton Act (15 U.S.C. 15), as amended, on account of such violation or any related violation of the Federal antitrust laws, provided such related violation occurred prior to the date of the final judgment of such conviction, or

(2) Settlement of any action brought under such section 4 on account of such violation or related violation.

For the purposes of this section, where a civil judgment has been entered or a

settlement made with respect to a violation of the antitrust laws and a criminal proceeding is based upon the same violation, the criminal proceeding need not have been brought prior to the civil judgment or settlement. If, in his return for any taxable year, a taxpayer claims a deduction for an amount paid or incurred with respect to a judgment or settlement described in the first sentence of this paragraph and is subsequently convicted of a violation of the antitrust laws which makes a portion of such amount unallowable, then the taxpayer shall file an amended return for such taxable year on which the amount of the deduction is appropriately reduced. Attorney's fees, court costs, and other amounts paid or incurred in connection with a controversy under such section 4 which meet the requirements of section 162 are deductible under that section. For purposes of subparagraph (2) of this paragraph, the amount paid or incurred in settlement shall not include amounts attributable to the plaintiff's costs of suit and attorney's fees, to the extent that such costs or fees have actually been paid.

(b) *Conviction.* For purposes of paragraph (a) of this section, a taxpayer is convicted of a violation of the antitrust laws if a judgment of conviction (whether or not a final judgment) with respect to such violation has been entered against him, provided a subsequent final judgment of acquittal has not been entered or criminal prosecution with respect to such violation terminated without a final judgment of conviction. During the pendency of an appeal or other action directly contesting a judgment of conviction, the taxpayer should file a protective claim for credit or refund to avoid being barred by the period of limitations on credit or refund under section 6511.

(c) *Related violation.* For purposes of this section, a violation of the Federal antitrust laws is related to a subsequent violation if (1) with respect to the subsequent violation the United States obtains both a judgment in a criminal proceeding and an injunction against the taxpayer, and (2) the taxpayer's actions which constituted the prior violation would have contravened such injunction if such injunction were applicable at the time of the prior violation.

(d) *Settlement following a dismissal of an action or amendment of the complaint.* For purposes of paragraph (a)(2) of this section, an amount may be considered as paid in settlement of an action even though the action is dismissed or otherwise disposed of prior to such settlement or the complaint is amended to eliminate the claim with respect to the violation or related violation.

(e) *Antitrust laws.* The term "antitrust laws" as used in section 162(g) and this section shall include the Federal acts enumerated in paragraph (1) of section 1 of the Clayton Act (15 U.S.C. 12), as amended.

(f) *Examples.* The application of this section may be illustrated by the following examples:

Example (1). In 1970, the United States instituted a criminal prosecution against X Co., Y Co., A, the president of X Co., and B, the president of Y Co., under section 1 of the Sherman Anti-Trust Act, 15 U.S.C. 1. In the indictment, the defendants were charged with conspiring to fix and maintain prices of electrical transformers from 1965 to 1970. All defendants entered pleas of nolo contendere to these charges. These pleas were accepted and judgments of conviction entered. In a companion civil suit, the United States obtained an injunction prohibiting the defendants from conspiring to fix and maintain prices in the electrical transformer market. Thereafter, Z Co. sued X Co. and Y Co. for $300,000 in treble damages under section 4 of the Clayton Act. Z Co.'s complaint alleged that the criminal conspiracy between X Co. and Y Co. forced Z Co. to pay excessive prices for electrical transformers. X Co. and Y Co. each paid Z Co. $85,000 in full settlement of Z Co's action. Of each $85,000 paid, $10,000 was attributable to court costs and attorney's fees actually paid by Z Co. Under section 162(g), X Co. and Y Co. are each precluded from deducting as a trade or business expense more than $35,000 of the $85,000 paid to Z Co. in settlement

$$\left($10{,}000+\frac{$85{,}000-$10{,}000}{3}\right)$$

Example (2). Assume the same facts as in example (1) except that Z Co.'s claim for treble damages was based on a conspiracy to fix and maintain prices in the sale of electrical transformers during 1983. Although the criminal prosecution of the defendants did not involve 1963 (a year barred by the applicable criminal statute of limitations when the prosecution was instituted), Z Co.'s pleadings alleged that the civil statute of limitations had been tolled by the defendants' fraudulent concealment of their conspiracy. Since the United States has obtained both a judgment in a criminal proceeding and an injunction against the defendants in connection with their activities from 1965 to 1970, and the alleged actions of the defendants in 1963 would have contravened such injunction if it were applicable in 1963, the alleged violation in 1963 is related to the violation from 1965 to 1970. Accordingly, the tax consequences to X Co. and Y Co. of the payments of $85,000 in settlement of Z Co.'s claim against X Co. and Y Co. are the same as in example (1).

Example (3). Assume the same facts as in example (1) except that Z Co.'s claim for treble damages was based on a conspiracy to fix and maintain prices with respect to electrical insulators for high-tension power poles. Since the civil action was not based on the same violation of the Federal antitrust laws as the criminal action, or on a related violation (a violation which would have contravened the injunction if it were applicable), X Co. and Y Co. are not precluded by section 162(g) from deducting as a trade or business expense the entire $85,000 paid by each in settlement of the civil action.

[FR Doc.72-19376 Filed 11-9-72;8:51 am]

[T.D. 7219]

PART 3—CAPITAL CONSTRUCTION FUND

Deposits

The following regulations relate to the application of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177) as amended by section 21(a) of the Merchant Marine Act of 1970 (84 Stat. 1026) and to the requirement thereof with respect to deposits in capital construction funds for taxable years beginning after December 31, 1970, and before January 1, 1972. The regulations set forth herein are temporary and are designed to provide transitional rules with respect to deposits in capital construction funds for such years. The regulations are effective until the issuance of final regulations to be prescribed by the Commissioner of Internal Revenue and approved by the Secretary or his delegate and prescribed by the Secretary of Commerce or his delegate. These regulations have been issued jointly by the Secretary of the Treasury and the Secretary of Commerce and also appear under 46 CFR Part 390.

In order to extend the time within which deposits may be made in capital construction funds with respect to income reported on certain taxpayer's 1971 Federal income tax returns, § 3.1 of chapter I of 26 CFR is amended by redesignating paragraph (c) thereof as paragraph (c)(1) and by adding a new subparagraph (2) to such paragraph (c), to read as follows:

§ 3.1 Capital construction fund.

• • • • •

(c)(1) • • •

(2) Notwithstanding subparagraph (1) of this paragraph, for taxable years beginning after December 31, 1970, and ending prior to January 1, 1972, deposits made later than the last date permitted under subpararaph (1) of this paragraph but on or before January 9, 1973, in a capital construction fund pursuant to an agreement with the Secretary of Commerce, acting by and through the Administrator of the National Oceanic and Atmospheric Administration, shall be deemed to have been made on the date of the actual deposit or as of the close of business of the last regular business day of such taxable year, whichever is earlier.

• • • • •

Because this Treasury decision merely extends the time within which certain deposits into a capital construction fund may be made it is found unnecessary to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d).

(Sec. 607, Merchant Marine Act, 1936, 46 U.S.C. 1177, as amended by sec. 21(a), Merchant Marine Act of 1970, 84 Stat. 1026; sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: November 6, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

ROBERT W. WHITE,
Administrator, National Oceanic and Atmospheric Administration.

HOWARD F. CASEY,
Acting Assistant Secretary of Commerce for Maritime Affairs.

[FR Doc.72-19375 Filed 11-9-72;8:51 am]

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 7215]

Subpart I—Tax on Investment Income of and Denial of Exemption to Certain Private Foundations

Deductibility of Treble Damage Payments Under the Antitrust Laws

On May 27, 1971, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under sections 162, 212, and 471 of the Internal Revenue Code of 1954 to conform the regulations to section 902 of the Tax Reform Act of 1969 (Public Law 91-172, 83 Stat. 710) was published in the FEDERAL REGISTER (36 F.R. 9637). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed under section 162(g) of such code, the amendments of the regulations as set forth in paragraphs 1 and 4 of the appendix to the notice of proposed rule making are hereby adopted subject to the changes set forth below:

PARAGRAPH 1. Section 1.162-21, as set forth in paragraph 4 of the appendix to the notice of proposed rule making, is revised as set forth below.

PAR. 2. Section 1.162-22, as set forth in paragraph 4 of the appendix to the notice of proposed rule making, is amended by revising paragraph (a) as set forth below.

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: November 6, 1972.

FREDRIC W. HICKMAN,
Assistant Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) under section 162 of the Internal Revenue Code of 1954 to section 902 of the Tax Reform Act of 1969 (Public Law 91-172, 83 Stat. 710), such regulations are amended as follows:

PARAGRAPH 1. Section 1.162 is amended by revising section 162(c), by redesignating section 162(f) as section 162(h), by inserting after section 162(e) new section 162 (f) and (g), and by revising the historical note. These amended and added provisions read as follows:

§ 1.162 Statutory provisions; trade or business expenses.

SEC. 162. *Trade or business expenses.* • • •

(c) *Bribes and illegal kickbacks*—(1) *Illegal payments to government officials or employees.* No deduction shall be allowed under subsection (a) for any payment made, directly or indirectly, to an official or employee of any government, or of any agency or instrumentality of any government, if the payment constitutes an illegal bribe or kickback or, if the payment is to an official or employee of a foreign government, the payment would be unlawful under the laws of the United States if such laws were applicable to such payment and to such official or employee. The burden of proof in respect of the issue, for the purposes of this paragraph, as to whether a payment constitutes an illegal bribe or kickback (or would be unlawful under the laws of the United States) shall be upon the Secretary or his delegate to the same extent as he bears the burden of proof under section 7454 (concerning the burden of proof when the issue relates to fraud).

(2) *Other bribes or kickbacks.* If in a criminal proceeding a taxpayer is convicted of making a payment (other than a payment described in paragraph (1)) which is an illegal bribe or kickback, or his plea of guilty or nolo contendere to an indictment or information charging the making of such a payment is entered or accepted in such a proceeding, no deduction shall be allowed under subsection (a) on account of such payment or any related payment made prior to the date of the final judgment in such proceeding.

(3) *Statute of limitations.* If a taxpayer claimed a deduction for a payment described in paragraph (2) which is disallowed because of a final judgment entered after the close of the taxable year for which the deduction was claimed, and if the proceeding was based on an indictment returned or an information filed prior to the expiration of the period for the assessment of any deficiency for such taxable year, the period for the assessment of any deficiency attributable to the deduction of such payment shall not expire prior to the expiration of one year from the date of such final judgment, and such deficiency may be assessed prior to the expiration of such one-year period notwithstanding the provision of any other law or rule of law which would otherwise prevent such assessment.

• • • • •

(f) *Fines and penalties.* No deduction shall be allowed under subsection (a) for any fine or similar penalty paid to a government for the violation of any law.

(g) *Treble damage payments under the antitrust laws.* If in a criminal proceeding a taxpayer is convicted of a violation of the antitrust laws, or his plea of guilty or nolo contendere to an indictment or information charging such a violation is entered or accepted in such a proceeding, no deduction shall be allowed under subsection (a) for two-thirds of any amount paid or incurred—

(1) On any judgment for damages entered against the taxpayer under section 4 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (commonly known as the Clayton Act), on account of such violation or any related violation of the antitrust laws which occurred prior to the date of the final judgment of such conviction, or

(2) In settlement of any action brought under section 4 on account of such violation or related violation.

The preceding sentence shall not apply with respect to any conviction or plea before January 1, 1970, or to any conviction or plea on or after such date in a new trial following an appeal of a conviction before such date.

(h) *Cross reference.* • • •

[Sec. 162 as amended by sec. 5, Technical Amendments Act 1958 (72 Stat. 1608); secs. 7(b) and 8, Act of Sept. 14, 1960 (Public Law 86-779, 74 Stat. 1002, 1003); sec. 3(a), Revenue Act 1962 (76 Stat. 973); sec. 902, Tax Reform Act 1969 (83 Stat. 710)]

§ 1.162-21 [Reserved]

§ 1.162-22 Treble damage payments under the antitrust laws.

(a) *In general.* In the case of a taxpayer who after December 31, 1969, either is convicted in a criminal action of a violation of the Federal antitrust laws or enters a plea of guilty or *nolo contendere* to an indictment or information charging such a violation, and whose conviction or plea does not occur in a new trial following an appeal of a conviction on or before such date, no deduction shall be allowed under section 162(a) for two-thirds of any amount paid or incurred after December 31, 1969, with respect to—

(1) Any judgment for damages entered against the taxpayer under section 4 of the Clayton Act (15 U.S.C. 15), as amended, on account of such violation or any related violation of the Federal antitrust laws, provided such related violation occurred prior to the date of the final judgment of such conviction, or

(2) Settlement of any action brought under such section 4 on account of such violation or related violation.

For the purposes of this section, where a civil judgment has been entered or a

(b) *Certain sections inapplicable.* Section 507 (relating to termination of private foundation had been a domestic private foundation, and

subdivision is filed, be denied exemption from taxation under section 501(a) by

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SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 7215]

PART 53—FOUNDATION EXCISE TAXES

Taxes on Taxable Expenditures

Correction

In F.R. Doc. 72-18555 appearing at page 23161 of the issue for Tuesday, October 31, 1972, the following changes should be made:

1. In § 53.4945-2(d)(2)(iii), the words "such as discussions of alternative scholarships" should be inserted in the eighth line of example (3), between the words "program," and "programs".

2. In § 53.4945-3(b)(3)(i), the words "four taxable years. However, the support" should be inserted in the seventh line between the words "preceding" and "received".

3. In § 53.4945-5(e)(1)(iv), the words "the grantor foundation determines that any part of a" should be inserted in the third line between the words "and" and "grant".

[T.D. 7218]

PART 53—FOUNDATION EXCISE TAXES

Foreign Private Foundations

On April 13, 1971, notice of proposed rule making with respect to the amendment of the Miscellaneous Excise Taxes Regulations (26 CFR Part 53) under section 4948 of the Internal Revenue Code of 1954, as enacted by section 101(b) of the Tax Reform Act of 1969 (83 Stat. 498) (relating to tax on investment income of and denial of exemption to certain foreign organizations) to provide rules under that section was published in the FEDERAL REGISTER (36 F.R. 7014). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted, subject to the changes set forth below:

Paragraph (a) of § 53.4948-1, as set forth in the notice of proposed rule making, is changed by revising subparagraphs (1) and (3) thereof. These revised provisions read as set forth below.

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: November 6, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

Subpart I—Tax on Investment Income of and Denial of Exemption to Certain Foreign Organizations

§ 53.4948 Statutory provisions; tax on investment income and denial of exemption.

SEC. 4948. *Application of taxes and denial of exemption with respect to certain foreign organizations.*—(a) *Tax on income of certain foreign organizations.* In lieu of the tax imposed by section 4940, there is hereby imposed for each taxable year on the gross investment income (within the meaning of section 4940(c)(2)) derived from sources within the United States (within the meaning of section 861) by every foreign organization which is a private foundation for the taxable year a tax equal to 4 percent of such income.

(b) *Certain sections inapplicable.* Section 507 (relating to termination of private foundation status), section 508 (relating to special rules with respect to section 501(c)(3) organizations), and this chapter (other than this section) shall not apply to any foreign organization which has received substantially all of its support (other than gross investment income) from sources outside the United States.

(c) *Denial of exemption to foreign organizations engaged in prohibited transactions.*—(1) *General rule.* A foreign organization described in subsection (b) shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction after December 31, 1969.

(2) *Prohibited transactions.* For purposes of this subsection, the term "prohibited transactions" means any act or failure to act (other than with respect to section 4942(e)) which would subject a foreign organization described in subsection (b), or a disqualified person (as defined in section 4946) with respect thereto, to liability for a penalty under section 6684 or a tax under section 507 if such foreign organization were a domestic organization.

(3) *Taxable years affected.*

(A) Except as provided in subparagraph (B), a foreign organization described in subsection (b) shall be denied exemption from taxation under section 501(a) by reason of paragraph (1) for all taxable years beginning with the taxable year during which it is notified by the Secretary or his delegate that it has engaged in a prohibited transaction. The Secretary or his delegate shall publish such notice in the Federal Register on the day on which he so notifies such foreign organization.

(B) Under regulations prescribed by the Secretary or his delegate, any foreign organization described in subsection (b) which is denied exemption from taxation under section 501(a) by reason of paragraph (1) may, with respect to the second taxable year following the taxable year in which notice is given under subparagraph (A) (or any taxable year thereafter), file claim for exemption from taxation under section 501(a). If the Secretary or his delegate is satisfied that such organization will not knowingly again engage in a prohibited transaction, such organization shall not, with respect to taxable years beginning with the taxable year with respect to which such claim is filed, be denied exemption from taxation under section 501(a) by reason of any prohibited transaction which was engaged in before the date on which such notice was given under subparagraph (A).

(4) *Disallowance of certain charitable deductions.* No gift or bequest shall be allowed as a deduction under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522, if made—

(A) to a foreign organization described in subsection (b) after the date on which the Secretary or his delegate publishes notice under paragraph (3)(A) that he has notified such organization that it has engaged in a prohibited transaction, and

(B) in a taxable year of such organization for which it is not exempt from taxation under section 501(a) by reason of paragraph (1).

[Sec. 4948 as added by sec. 101(b), Tax Reform Act 1969 (83 Stat. 518)]

§ 53.4948-1 Application of taxes and denial of exemption with respect to certain foreign organizations.

(a) *Tax on income of certain foreign organizations.* (1) In lieu of the tax imposed by section 4940 and the regulations thereunder, there is hereby imposed for each taxable year beginning after December 31, 1969, on the gross investment income (within the meaning of section 4940(c)(2) and the regulations thereunder) derived from sources within the United States (within the meaning of section 861 and the regulations thereunder) by every foreign organization which is a private foundation (within the meaning of section 509 and the regulations thereunder) and exempt from taxation under section 501(a) for the taxable year a tax equal to 4 percent of such income, except as provided in subparagraph (3) of this paragraph. The tax (if any) will be reported on the form the foundation is required to file under section 6033 for the taxable year, at the time prescribed for filing such annual return (determined without regard to any extension of time for filing). For purposes of this section, the term "foreign organization" means any organization which is not described in section 170(c)(2)(A).

(2) With respect to the deduction and withholding of tax imposed by section 4948(a), see section 1443(b) and the regulations thereunder.

(3) Whenever there exists a tax treaty between the United States and a foreign country, and a foreign private foundation subject to section 4948(a) is a resident of such country or is otherwise entitled to the benefits of such treaty (whether or not such benefits are available to all residents), if the treaty provides that any item or items (or all items with respect to an organization exempt from income taxation) of gross investment income (within the meaning of section 4940(c)(2)) shall be exempt from income tax, such item or items shall not be taken into account by such foundation in computing the tax to be imposed under section 4943(a) for any taxable year for which the treaty is effective.

(b) *Certain sections inapplicable.* Section 507 (relating to termination of private foundation status), section 508 (relating to special rules with respect to section 501(c)(3) organizations), and chapter 42 (other than section 4948) of the Code shall not apply to any foreign organization which from the date of its creation has received at least 85 percent of its support (as defined in section 509(d), other than section 509(d)(4)) from sources outside the United States. For purposes of this paragraph, gifts, grants, contributions, or membership fees directly or indirectly from a United States person (as defined in section 7701(a)(30)) are from sources within the United States.

(c) *Denial of exemption to foreign organizations engaged in prohibited transactions.*—(1) *In general.* A foreign private foundation described in section 4948(b) and paragraph (b) of this section shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction (within the meaning of subparagraph (2) of this paragraph) after December 31, 1969.

(2) *Prohibited transactions.* (i) For purposes of this section, the term "prohibited transaction" means any act or failure to act (other than with respect to section 4942(e), relating to minimum investment return) which would subject a foreign private foundation described in paragraph (b) of this section, or a disqualified person (as defined in section 4946) with respect thereto, to liability for a penalty under section 6684 (relating to assessable penalties with respect to liability for tax under chapter 42) or a tax under section 507 (relating to termination of private foundation status) if such foreign private foundation were a domestic private foundation.

(ii) For purposes of subdivision (i) of this subparagraph—

(*a*) Approval by an appropriate foreign government of grants by the foreign private foundation to individuals is sufficient to satisfy the requirements of section 4945(g) and the regulations thereunder.

(*b*) In determining whether a grantee of the foreign organization is a private foundation which is not an operating foundation for purposes of section 4942(g)(1)(A)(ii) or is an organization which is not described in section 509(a)(1), (2), or (3) for purposes of section 4945(d)(4) and (h), a determination made by such foreign organization will be accepted if such determination is made in good faith after a reasonable effort to identify the status of its grantee.

(iii) For purposes of subdivision (i) of this subparagraph, in order for an act or failure to act (without regard to section 4942(e)) to be treated as a prohibited transaction under section 4948(c)(2) by reason of the application of section 6684(1), there must have been a prior act or failure to act (without regard to section 4942(e)), which—

(*a*) Would have resulted in liability for tax under chapter 42 (other than section 4940 or 4948(a)) if the foreign private foundation had been a domestic private foundation, and

(*b*) Had been the subject of a warning from the Commissioner that a second act or failure to act (without regard to section 4942(e)) would result in a prohibited transaction.

The second act or failure to act (with respect to which a warning described in subparagraph (3)(i) of this paragraph is given) need not be related to the prior act or failure to act with respect to which a warning from the Commissioner was given under (b) of this subdivision.

(3) *Taxable years affected.* (i) Except as provided in subdivision (ii) of this subparagraph, a foreign private foundation described in paragraph (b) of this section shall be denied exemption from taxation under section 501(a) by reason of subparagraph (1) of this paragraph for all taxable years beginning with the taxable year during which it is notified by the Commissioner that it has engaged in a prohibited transaction. The Commissioner shall publish such notice in the FEDERAL REGISTER on the day on which he so notifies such foreign private foundation. In the case of an act or failure to act (without regard to section 4942(e)) which would result in a penalty under section 6684(1) if the foreign private foundation were a domestic private foundation, before giving notice under this subdivision the Commissioner shall warn such foreign private foundation that such act or failure to act may be treated as a prohibited transaction. However, such act or failure to act will not be treated as a prohibited transaction if it is corrected (within the meaning of chapter 42 and the regulations thereunder) within 90 days after the making of such warning.

(ii) (*a*) Any foreign private foundation described in paragraph (b) of this section which is denied exemption from taxation under section 501(a) by reason of subparagraph (1) of this paragraph may, with respect to the second taxable year following the taxable year in which notice is given under subdivision (i) of this subparagraph (or any taxable year subsequent to such second taxable year), file a request for exemption from taxation under section 501(a) on Form 1023. In addition to the information generally required of an organization requesting exemption as an organization described in section 501(a), a request under this subdivision must contain or have attached to it a written declaration, made under the penalties of perjury, by a principal officer of such organization authorized to make such declaration, that the organization will not knowingly again engage in a prohibited transaction.

(*b*) If the Commissioner is satisfied that such organization will not knowingly again engage in a prohibited transaction and that the organization has satisfied all other requirements under section 501, the organization will be so notified in writing. In such case the organization shall not, with respect to taxable years beginning with the taxable year with respect to which a request under this subdivision is filed, be denied exemption from taxation under section 501(a) by reason of any prohibited transaction which was engaged in before the date on which notice was given under subdivision (i) of this subparagraph. Section 4948(c) provides that an organization denied exemption under such section will not be exempt from taxation under section 501(a) for the taxable year in which notice of loss of exemption is given and at least one immediately subsequent taxable year.

(d) *Disallowance of certain charitable deductions.* No gift, bequest, legacy, devise, or transfer shall be allowed as a deduction under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522, if made:

(1) To a foreign private foundation described in paragraph (b) of this section after the date on which the Commissioner publishes notice under paragraph (c)(3)(i) of this section that he has notified such organization that it has engaged in a prohibited transaction, and

(2) In a taxable year of such organization for which it is not exempt from taxation under section 501(a) by reason of paragraph (c)(1) of this section.

For purposes of this paragraph, a bequest, legacy, devise, or transfer under section 2055 or 2106(a)(2) shall be treated as made on the date of death of the decedent. For example, assume that an individual gives money to a foreign private foundation described in section 4948(b) in January 1970, January 1971, and January 1972. The organization has a taxable year from June 1 through May 31. In February 1970, notice is duly published that the foreign organization has engaged in a prohibited transaction. In December 1970, the organization duly submits a request for exemption under paragraph (c)(3)(ii)(*a*) of this section which is granted for the taxable year ending May 31, 1972. The January 1970 gift is allowable as a deduction under section 2522 since it was made before the notice (February 1970). The January 1971 gift is not allowable as a deduction because the taxable year ending May 31, 1971, is a nonexempt year (the first taxable year subsequent to the taxable year of the notice) for the foreign organization. The January 1972 gift is allowable as a deduction under section 2522 because the taxable year ending May 31, 1972, is an exempt year for the organization.

[FR Doc.72-19374 Filed 11-9-72;8:51 am]

Title 45—PUBLIC WELFARE

Chapter XII—Action

PART 1202—DECLASSIFICATION

Title 45 is hereby amended by the addition of a new *Part 1202, Declassification,* to establish review procedures for declassification requests relating to classified ACTION materials.

Sec.
1202.1 Introduction.

Sec.
1202.2 Request for classification review of

enable ACTION personnel to identify and obtain the document from ACTION

ACTION request for more particulars, he may appeal to the Interagency Classifi-

Proposed Rule Making

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Sec.
1202.2 Request for classification review of documents.
1202.3 Action on requests for classification review.

AUTHORITY: The provisions of this Part 1202 issued under Executive Order 11652.

§ 1202.1 Introduction.

The following guidance is provided for members of the public desiring a classification review of a document of ACTION pursuant to sections 5(c) and 5(f) of Executive Order 11652 and section III.B. of the National Security Council Directive covering the Classification, Downgrading, Declassification and Safeguarding of National Security Information.

§ 1202.2 Request for classification review of documents.

(a) Any person desiring a classification review of an ACTION document containing information classified as National Security information by reason of Executive Order 11652 (or any predecessor Executive order) and which is more than 10 years old, should address such request to the General Counsel, ACTION, Washington, D.C. 20525.

(b) Requests need not be made on any special form but shall, as specified in Executive Order 11652, describe the document with sufficient particularity to enable ACTION personnel to identify and obtain the document from ACTION records without expending more than a reasonable amount of effort.

(c) Charges for locating and reproducing copies of records will be made when deemed applicable in accordance with title 5 of the Independent Offices Appropriations Act, 1952 (65 Stat. 290; 31 U.S.C. 483a).

§ 1202.3 Action on requests for classification review.

(a) The General Counsel shall assign each request to the ACTION Classification Review Committee which will consist of the Associate Director of International Operations, the Director of Public Affairs, and the General Counsel and will be chaired by the Associate Director of International Operations.

(b) Every effort will be made to complete action on each request within 30 days of receipt of the request. If action cannot be completed within 30 days, the requester will be so advised by the General Counsel along with reasons for the need for additional time. If the requester does not receive a decision on his request within 60 days from the date of receipt of his request by ACTION, or from the date of the most recent receipt of his response to an ACTION request for more particulars, he may appeal to the Interagency Classification Review Committee as provided in paragraph (c) of this section.

(c) In the event the ACTION Classification Review Committee determines that requested information must remain classified by reason of the provisions of Executive Order 11652, the requester shall be given prompt notification of that decision and whenever possible shall be provided with a brief statement as to why the information or material cannot be declassified. He shall also be advised that if he desires he may appeal that determination to the Interagency Classification Review Committee established under section 7A of Executive Order 11652. Such appeals should be in writing and addressed to the Interagency Classification Review Committee, Executive Office Building, Washington, D.C. 20500.

(d) For purposes of administrative determinations under this section, the burden of proof is on ACTION to show that continued classification is required under the terms of Executive Order 11652.

JOSEPH H. BLATCHFORD,
Director.

[FR Doc.72-19362 Filed 11-9-72;8:50 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1, 13]

FOREIGN PRIVATE FOUNDATIONS

Withholding of Tax

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by December 12, 1972. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by December 12, 1972. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

In order to provide rules for the withholding of the tax imposed by section 4948(a) of the Code, the Income Tax Regulations (26 CFR Part 1) under section 1443(b) of the Internal Revenue Code of 1954, as amended by section 101(j)(22)(B) of the Tax Reform Act of 1969 (83 Stat. 528), relating to income subject to section 4948, are hereby amended. Temporary Treasury Regulation 13.14, 35 F.R. 17331 (T.D. 7067, 1970) is repealed.

Section 1.1443-1 is amended by adding thereto a new paragraph (b). This added provision reads as follows:

§ 1.1443-1 Foreign tax-exempt organizations.

* * * * *

(b) *Income subject to section 4948*—(1) *In general*—(i) *Application of withholding provisions.* Except as provided in subdivision (ii) of this subparagraph, in the case of a foreign private foundation which is subject to the tax imposed by section 4948(a) and the regulations thereunder, the withholding provisions of Chapter 3 of the Code and the regulations thereunder shall apply with respect to the gross investment income (as defined in section 4940(c)(2)) of such foundation from sources within the United States (within the meaning of section 861 and the regulations thereunder) as if the excise tax imposed by section 4948(a) were a tax imposed by Chapter 3 of the Code, except that the deduction and withholding shall be at the rate of 4 percent. The withholding requirements imposed by this paragraph are in addition to the requirements otherwise applicable to a withholding agent, such as the depositary requirements of section 6302 and the regulations thereunder. Similarly, the requirements of this paragraph do not obviate a private foundation's obligation to file any return required by law with respect to such an organization, such as the form the foundation is required to file under section 6033 for the taxable year.

(ii) *Special rule with respect to certain tax treaties.* Whenever there exists a tax treaty between the United States and a foreign country, and a foreign private foundation which is subject to the tax imposed by section 4948(a) and the regulations thereunder is a resident of such country or is otherwise entitled to the benefits of such treaty (whether or not such benefits are available to all residents), if the treaty provides that any item or items (or all items with respect to an organization exempt from income taxation) of gross investment income (within the meaning of section 4940(c)(2)) shall be exempt from income tax, the withholding provisions of Chapter 3 of the Code and the regulations thereunder shall not apply to such item or items.

(2) *Return on Form 1042.* Every withholding agent required to deduct and withhold any amount by virtue of the provisions of this paragraph shall make a return of the amount required to be deducted and withheld by completing and filing a Form 1042 with the Internal Revenue Service in accordance with the instructions accompanying that form and submitting the balance due (if any). In addition, in any case in which any amount is so withheld, the withholding agent shall prepare and submit to the foreign private foundation one of the copies of the Form 1042S showing the tax withheld under this paragraph in addition to any tax otherwise shown on such form.

(3) *Claims for refund and credits.* Claims for refund of or credit for amounts overpaid shall be made on a Form 843 or 1042 or other appropriate form, which shall be filed with the Mid-Atlantic Service Center on or after January 1, 1973. Claims filed prior to January 1, 1973, shall be filed with the Director of International Operations. In determining whether a claim for refund is appropriate and, if appropriate, who should make the claim, the provisions of section 1464 and the regulations thereunder shall apply.

(4) *Identification of foreign private foundations; general rule.* (i) Except as provided in subparagraph (6) of this paragraph, where a foreign organization does not have a ruling or determination letter that it is an organization described in section 509(a)(1), (2), (3), or (4), any person required under section 1443(b) and this paragraph to deduct and withhold any tax imposed by section 4948(a) on such foreign organization (if it were a private foundation) shall not be liable for such tax if prior to the day on which the person deposits or pays to the Internal Revenue Service any amount required to be withheld, such person has made a good faith determination that the foreign organization is an organization described in section 509(a)(1), (2), (3), or (4). For purposes of this subdivision, such a "good faith determination" ordinarily will be considered as made where the determination is based on an affidavit of the foreign organization or an opinion of counsel (of the withholding agent or the foreign organization) that the foreign organization is an organization described in section 509(a)(1), (2), (3), or (4). Such an affidavit or opinion must set forth sufficient facts concerning the operations and support of the foreign organization for the Internal Revenue Service to determine that such organization would be likely to qualify as an organization described in section 509(a)(1), (2), (3), or (4).

(ii) For special transitional rules relating to the identification of foreign private foundations, see subparagraph (5) of this paragraph.

(iii) Nothing in this paragraph relieves any foreign private foundation of the liability for the tax (including interest and penalties) imposed by section 4948(a).

(5) *Special transitional rules relating to identification of foreign private foundations.* (i) Any person required under section 1443(b) and this paragraph to deduct and withhold any tax imposed by section 4948(a) on any foreign organization for any period after December 31, 1969, and before the 90th day after publication of final regulations under section 508 in the FEDERAL REGISTER shall not be liable for such tax if such person receives a certified statement from the foreign

organization prior to the day on which with the approval of the Secretary of the Code, or to postpone or interfere

Commissioner of Internal Revenue, with the payment of the tax or any installment thereof unless specified to the con- a reasonable cause and not to willful neglect, the addition to the tax will not

organization prior to the day on which the person deposits or pays to the Internal Revenue Service any amount required to be withheld stating that either—

(*a*) Such foreign organization has properly filed the notice described in section 508(b) and the regulations thereunder and has not been notified by the Commissioner or his delegate by the 30th day after the day on which the notice is filed that such notice has failed to establish that such foreign organization is not a private foundation, or

(*b*) The presumption contained in section 508(b) does not apply to such foreign organization by reason of section 508(c) and the regulations thereunder.

(ii) If a certified statement described in subdivision (i) of this subparagraph is not received prior to the day on which a deposit or payment of any amount withheld in accordance with the provisions of this paragraph must be made by any person required to deduct and withhold any tax imposed by section 4948(a) with respect to any foreign organization, except as provided in subparagraph (4) of this paragraph such person shall be liable for all such tax imposed (including interest and penalties) for the period being returned by such person on Form 1042, to the extent that such person incurs liability to the foreign organization for gross investment income, as defined in section 4940(c)(2).

(iii) Any foreign organization to which section 508 by reason of section 4948(b) does not apply because such organization has received substantially all of its support (other than gross investment income, as defined in section 4940(c)(2)) from sources outside the United States may nevertheless receive the benefits of subdivision (i) of this subparagraph by following the procedure set forth in such subdivision.

(6) *Effect of notice by Internal Revenue Service concerning organization's statement.* Subparagraphs (4) and (5) of this paragraph shall have no effect with respect to a withholding agent as to a particular foreign organization on or after the earlier (i) the date on which such agent acquires knowledge that the Internal Revenue Service has given notice to such foreign organization that its notice or statement has failed to establish that it is not a private foundation, (ii) the date on which the Internal Revenue Service makes notice to the public that such foreign organization has failed to establish that it is not a private foundation, or (iii) the date on which the Internal Revenue Service makes notice to the public that such foreign organization is a private foundation.

[FR Doc.72-19371 Filed 11-9-72;8:51 am]

[26 CFR Parts 1, 148]

REVOCATION OR SUSPENSION OF REGISTRATIONS

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by December 12, 1972. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by December 12, 1972. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in sections 4222(c) and 7805 of the Internal Revenue Code of 1954 (72 Stat. 1285, 68A Stat. 917; 26 U.S.C. 4222(c) and 7805).

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

In order to prescribe temporary rules relating to the revocation or suspension of the registration of any person to sell or purchase articles free of any tax imposed under Chapter 32 of the Internal Revenue Code of 1954, § 148.1–3 of the temporary regulations under the Excise Tax Technical Changes Act of 1958 (26 CFR Part 148) is amended by adding at the end thereof a new paragraph (j) which reads as follows:

§ 148.1–3 Temporary procedures for tax-free sales and purchases.

* * * * *

(j) *Revocation or suspension of registration*—(1) *Revocation or suspension by district director or Director of International Operations.* Except as provided in subparagraph (2) of this paragraph, the district director or the Director of International Operations, as the case may be, is authorized to revoke or temporarily suspend the registration of any person and the right of such person to sell or purchase articles tax free under section 4221 of the Code (or under any section specified in section 4222(d) to which the provisions of section 4222 have been extended) in any case in which he finds that—

(i) The registrant is not a bona fide manufacturer, or a purchaser reselling direct to manufacturers or exporters;

(ii) The registrant is for some other reason (including a change in the law relating to an exemption to which section 4222 applies) not eligible to retain a certificate of registry;

(iii) The registrant has unlawfully used his registration to avoid the payment of any tax imposed by Chapter 32 of the Code, or to postpone or interfere in any manner with the collection of such tax;

(iv) Such revocation or suspension is necessary to protect the revenue; or

(v) The registrant failed to comply with the requirements of paragraph (f) of this section, relating to evidence required in support of a tax-free sale.

Written notice of such revocation or suspension shall be sent by mail to the registrant's last known address. Such notice shall specify the grounds for the revocation or suspension and state the effective date of revocation or suspension. Notwithstanding the provisions of paragraph (e) (1) or (2) of this section, any person whose registration is revoked or suspended must reregister in accordance with the provisions of paragraph (e)(3) of this section before selling or purchasing articles tax free on or after the effective date of revocation or suspension. The revocation or suspension of registration is in addition to any penalty which may apply under the law for any act or failure to act.

(2) *Blanket revocation and reregistration.* The Commissioner is authorized to revoke the registration of every person and the right of every person to sell or purchase articles tax free under section 4221 of the Code (or under any section specified in section 4222(d) to which the provisions of section 4222 have been extended) when he finds that a blanket revocation is necessary to protect the revenue. Notice of blanket revocation shall be given by publication of such notice in the Internal Revenue Bulletin at least 60 days prior to the effective date of revocation. Notwithstanding the first sentence of this paragraph, the published notice may specify that the blanket revocation is to apply only to registrations made prior to a particular date provided in such notice, and may limit application of the blanket revocation to a defined group or classification of persons who are registered to sell or purchase tax free under any exemption provision to which section 4222 applies. In any case, persons registering during the period beginning with the date of publication of notice of revocation and ending with the effective date shall be excluded from the blanket revocation. Notwithstanding the provisions of paragraph (e) (1) or (2) of this section, persons who are affected by the blanket revocation shall be required to reregister in accordance with the provisions of paragraph (e)(3) of this section before selling or purchasing articles tax free on or after the effective date of revocation.

[FR Doc.72-19373 Filed 11-9-72;8:51 am]

[26 CFR Parts 1, 301]

PROCEDURE AND ADMINISTRATION

Extension of Time for Corporations To Pay Tax

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the

Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by December 12, 1972. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by December 12, 1972. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their request for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

In order to provide that an automatic extension of time to file a corporation income tax return does not operate to extend the time for payment of tax due on such return and to specify that reasonable cause for any underpayment of such tax will be presumed if certain conditions are satisfied, the Income Tax Regulations (26 CFR Part 1) under sections 6081 and 6161 of the Internal Revenue Code of 1954 and the Procedure and Administration Regulations (26 CFR Part 301) under section 6651 of such code are hereby amended as follows, effective for returns with respect to taxable years ending on or after December 31, 1972:

PARAGRAPH 1. Section 1.6081–1 is amended by revising paragraph (a) to read as follows:

§ 1.6081–1 Extension of time for filing returns.

(a) *In general.* District directors and directors of service centers are authorized to grant a reasonable extension of time for filing any return, declaration, statement, or other document which relates to any tax imposed by Subtitle A of the code and which is required under the provisions of Subtitle A or F of the code or the regulations thereunder. However, other than in the case of taxpayers who are abroad, such extensions of time shall not be granted for more than 6 months. Except in the case of an extension of time pursuant to § 1.6081–2, an extension of time for filing an income-tax return shall not operate to extend the time for the payment of the tax or any installment thereof unless specified to the contrary in the extension. In the case of an extension of time pursuant to § 1.6081–2, an extension of time for filing an income-tax return shall operate to extend the time for the payment of the tax or any installment thereof unless specified to the contrary in the extension. For extension of time for filing of declarations of estimated tax, see § 1.6073–4. For rules relating to extension of time for paying tax, see § 1.6161–1.

* * * * *

PAR. 2. Section 1.6081–3 is amended by redesignating paragraph (c) as paragraph (d) and by adding a new paragraph (c) reading as follows:

§ 1.6081–3 Automatic extension of time for filing corporation income tax returns.

* * * * *

(c) *Special rule for the extension of time for the payment of tax.* Notwithstanding the application of § 1.6081–1(a), any automatic extension of time for filing a corporation income tax return granted under paragraph (a) or (b) of this section shall not operate to extend the time for payment of any tax due on such return.

* * * * *

§ 1.6161–1 [Amended]

PAR. 3. Section 1.6161–1 is amended by deleting paragraph (a)(3).

PAR. 4. Section 301.6651–1 is amended by revising subparagraph (1) of paragraph (c) and by adding a new subparagraph (4) to such paragraph, to read as follows:

§ 301.6651–1 Failure to file tax return or to pay tax.

* * * * *

(c) *Showing of reasonable cause.* (1) Except as provided in subparagraphs (3) and (4) of this paragraph, a taxpayer who wishes to avoid the addition to the tax for failure to file a tax return or pay tax must make an affirmative showing of all facts alleged as a reasonable cause for his failure to file such return or pay such tax on time in the form of a written statement containing a declaration that it is made under penalties of perjury. Such statement should be filed with the district director or the director of the service center with whom the return is required to be filed; *Provided*, That where special tax returns of liquor dealers are delivered to an alcohol, tobacco and firearms officer working under the supervision of the Regional Director, Bureau of Alcohol, Tobacco and Firearms, such statement may be delivered with the return. If the district director, the director of the service center, or, where applicable, the Regional Director, Bureau of Alcohol, Tobacco and Firearms, determines that the delinquency was due to a reasonable cause and not to willful neglect, the addition to the tax will not be assessed. If the taxpayer exercised ordinary business care and prudence and was nevertheless unable to file the return within the prescribed time, then the delay is due to a reasonable cause. A failure to pay will be considered to be due to reasonable cause to the extent that the taxpayer has made a satisfactory showing that he exercised ordinary business care and prudence in providing for payment of his tax liability and was nevertheless either unable to pay the tax or would suffer an undue hardship (as described in § 1.6161–1(b) of this chapter) if he paid on the due date. In determining whether the taxpayer was unable to pay the tax in spite of the exercise of ordinary business care and prudence in providing for payment of his tax liability, consideration will be given to all the facts and circumstances of the taxpayer's financial situation, including the amount and nature of the taxpayer's expenditures in light of the income (or other amounts) he could, at the time of such expenditures, reasonably expect to receive prior to the date prescribed for the payment of the tax. Thus, for example, a taxpayer who incurs lavish or extravagant living expenses in an amount such that the remainder of his assets and anticipated income will be insufficient to pay his tax, has not exercised ordinary business care and prudence in providing for the payment of his tax liability. Further, a taxpayer who invests funds in speculative or illiquid assets has not exercised ordinary business care and prudence in providing for the payment of his tax liability unless, at the time of the investment, the remainder of the taxpayer's assets and estimated income will be sufficient to pay his tax or it can be reasonably foreseen that the speculative or illiquid investment made by the taxpayer can be utilized (by sale or as security for a loan) to realize sufficient funds to satisfy the tax liability. A taxpayer will be considered to have exercised ordinary business care and prudence if he made reasonable efforts to conserve sufficient assets in marketable form to satisfy his tax liability and nevertheless was unable to pay all or a portion of the tax when it became due.

* * * * *

(4) If, for a taxable year ending on or after December 31, 1972, a corporate taxpayer satisfies the requirements of § 1.6081–3 (a) or (b) (relating to an automatic extension of time for filing a corporation income tax return), reasonable cause shall be presumed, for the period of the extension of time to file, with respect to any underpayment of tax if—

(i) Not less than the amount of tax that would be required as the first installment under section 6152(a)(1), if the taxpayer elected to pay the tax in installments, is paid on or before the regular due date of the return and the second installment is paid on or before 3 months after such date,

(ii) The amount of tax (determined without regard to any prepayment

troduction or delivery for introduction into interstate commerce, or the receipt

be seen in the above office during working hours, Monday through Friday.

In consideration of the foregoing, the Federal Aviation Administration pro-

A public docket will be available for examination by interested persons in the

Paragraph (f) of § 393.67 specifies that liquid fuel tanks must be certified that

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(ii) The amount of tax (determined without regard to any prepayment thereof) shown on Form 7004, or the amount of tax paid on or before the regular due date of the return, is at least 90 percent of the amount of tax shown on the taxpayer's Form 1120, and

(iii) Any balance due shown on the Form 1120 is paid on, or before the due date of the return, including any extensions of time for filing.

* * * * *

[FR Doc.72-19372 Filed 11-9-72;8:51 am]

[21 CFR Part 191]

HAZARDOUS SUBSTANCES FOR HOUSEHOLD USE MARKETED IN CONTAINERS IDENTIFIABLE AS FOOD, DRUG, OR COSMETIC CONTAINERS

Notice of Proposed Rule Making

Investigations by the Food and Drug Administration reveal that hazardous substances for household use, particularly cleaners, waxes, and polishes, are being introduced into interstate commerce with labels bearing pictorial equivalents or references to food products. In some instances, the product also has a scent corresponding with a food. Such hazardous substances are also being marketed in containers associated with food contents, such as gable-top containers and pull-ring cans commonly used for milk, fruit juice beverages, beer, soft drinks, etc. Such products present the obvious hazard of nonfood contents being mistaken by a child or inattentive adult as food contents. Small children in particular, reacting to picture, scent, and/or container shape and unaware of printed labeling, are subject to injury by such products.

Section 4(f) of the Federal Hazardous Substances Act prohibits the introduction or delivery for introduction into interstate commerce, or the receipt and subsequent delivery or proffered delivery for pay or otherwise, of a hazardous substance in a container identifiable as a food, drug, or cosmetic container by its labeling or by other identification. Section 5(a) of the act prescribes penalties for violators of any provision of section 4.

In view of the above, the Commissioner of Food and Drugs concludes that to promote consumer protection and safety a regulation regarding said provision of section 4(f) of the act should be established as proposed below.

Therefore, pursuant to provisions of the Federal Hazardous Substances Act (secs. 4(f), 5(a), 10(a), 74 Stat. 375, 376, 378; 15 U.S.C. 1263(f), 1264(a), 1269(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that a new section be added to Part 191, as follows:

§ 191.5a Hazardous substances marketed in containers identifiable as food, drug, or cosmetic containers.

(a) Section 4(f) of the Federal Hazardous Substances Act prohibits the introduction or delivery for introduction into interstate commerce, or the receipt and subsequent delivery or proffered delivery for pay or otherwise, of a hazardous substance in a container identifiable as a food, drug, or cosmetic container by its labeling or by other identification. Section 5(a) of the act prescribes penalties for violators of any provision of section 4 of the act.

(b) Investigations by the Food and Drug Administration reveal that hazardous substances for household use, such as cleaners, waxes, and polishes, have been introduced or delivered for introduction into interstate commerce in containers that may be mistakenly identified as food containers by their labeling or other identifying characteristics. The container label may bear a pictorial equivalent of a food product, or the contents may have a scent associated with food, or the product may be in a type of container usually associated with food contents (such as a gable-top container or pull-ring can commonly used for beverages). Such products present the obvious hazard of nonfood contents being mistaken by a child or inattentive adult as food contents. Small children in particular, reacting to picture, scent, and/or container shape and unaware of printed labeling, are subject to injury by such products.

(c) To reduce reasonably foreseeable injuries deriving from accidental misuse of misleading packaged hazardous substances, no container that resembles a food, drug, or cosmetic container by virtue of its shape, size, color, label vignette, label design, illustration, content appearance (if visible), content fragrance, closure design, or any combination of these, may be used for a hazardous substance. In applying this regulation, consideration shall be given to such factors as the impression an article will make on a child or casual adult, historical package usage in the home environment, and market ratios, particularly where the container has been used predominantly as a food container.

(d) Examples of household articles subject to this regulation are:

(1) Containers of hazardous substances with labeling that bears pictorial equivalents, vignettes, or illustrations of any food, drug, or cosmetic substance.

(2) Hazardous substances in metal cans with the "pull-ring" throwaway tab openings commonly used on soft drink, beer, and fruit juice cans.

(3) Hazardous substances in gable-top type containers commonly used for milk and other beverages.

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: November 1, 1972.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.72-19091 Filed 11-9-72;8:49 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-GL-57]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Detroit, Mich.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

A review of the transition area in the Detroit, Mich. area indicated a requirement for additional 700-foot transition area to protect instrument approach procedures at Ann Arbor Airport. The review also indicated that the transition area in this location has been built up in individual airspace actions and was covered under six citations. The chart showing these transition areas is difficult for both the pilot and controller to read and to determine when the aircraft is in, or out of the controlled airspace. It would be advantageous to the public and air traffic controllers to combine these into one citation and eliminate the small areas not covered by the transition area. This would also make charting much easier.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (37 F.R. 2143), the following transition areas are deleted:

Port Huron, Mich.
Mt. Clemens, Mich.
Pontiac, Mich.
Detroit City, Mich.
Ann Arbor, Mich.

In § 71.181 (37 F.R. 2143), the following transition area is amended to read:

DETROIT, MICH.

That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 43°00'00" N., longitude 82°25'00" W., on the Canadian boundary to latitude 43°04'00" N., longitude 82°30'00" W., to latitude 42°53'00" N., longitude 83°00'00" W., to latitude 42°45'00" N., longitude 83°50'00" W., to latitude 42°30'00" N., longitude 83°50'00" W., to latitude 42°10'00" N., longitude 84°00'00" W., to latitude 42°00'00" N., longitude 83°30'00" W., thence east along the 42d parallel to the Canadian boundary, thence along the Canadian boundary to point of beginning.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Ill., on October 24, 1972.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc.72-19313 Filed 11-9-72;8:48 am]

[14 CFR Part 71]

[Airspace Docket No. 72-GL-56]

CONTROL ZONE

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a control zone at Ann Arbor, Mich.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

A control tower will be established on the Ann Arbor Airport in January 1973. Accordingly, the Ann Arbor, Mich., control zone must be established for the protection of IFR air traffic utilizing the Ann Arbor Airport.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.171 (37 F.R. 2056), the following control zone is added:

ANN ARBOR, MICH.

Within a 5-mile radius of the Ann Arbor, Mich. Airport (latitude 42°13'22" N., longitude 83°44'40" W.); excluding that portion which overlies the Detroit, Mich., Willow Run Airport control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Ill., on October 24, 1972.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc.72-19314 Filed 11-9-72;8:48 am]

Federal Highway Administration

[49 CFR Part 393]

[Docket No. MC-18; Notice 72-20]

COMMERCIAL MOTOR VEHICLES

Proposed General Requirements for Liquid Fuel Systems

The Director of the Bureau of Motor Carrier Safety is considering issuing amendments to §§ 393.65 and 393.67 of the Motor Carrier Safety Regulations. These sections contain general requirements for liquid fuel systems. They are part of Subpart E of the Bureau's rules pertaining to parts and accessories of commercial motor vehicles (49 CFR Part 393). On August 6, 1971, the Director issued a complete revision of Subpart E (36 F.R. 15444) and, on February 14, 1972, he specified that that revision would become effective on January 1, 1973 (37 F.R. 4340).

The primary objective of the amendments under consideration is to move certain provisions of §§ 393.67 to 393.65. Those provisions deal with design and installation of fuel lines and with excess flow valves. As a result of these changes, § 393.67 would contain only provisions relating to the design and construction of liquid fuel tanks.

Paragraph (f) of § 393.67 specifies that liquid fuel tanks must be certified that they meet all requirements in §§ 393.65 and 393.67. A number of fuel tank manufacturers have expressed concern about the certification requirement, saying that they should not be compelled to certify the correctness of installation of their products on motor vehicles. The tank manufacturers point out that they do not normally install the tanks in completed vehicles and, therefore, exercise no control over how the installation work is done.

It was not the purpose of the certification requirement to compel any person, including a manufacturer, to certify the correctness of work he neither performs nor supervises. That is why § 393.67(f) explicitly provided for partial and conditional certifications. In light of the comments, however, the Director believes that the best policy may be to redistribute certain of the provisions of § 393.67 so that the section will deal exclusively with fuel tanks. He is also proposing to amend § 393.67(f) to make it clear that certification does not apply to installation work. There appears to be no need to have installation work certified, because a visual inspection can easily determine whether that work, the requirements for which are spelled out in § 393.65, has been properly done.

In consideration of the foregoing, the Director of the Bureau of Motor Carrier Safety proposes to amend §§ 393.65 and 393.67 of Subchapter B in Chapter III of Title 49, CFR, as set forth below. It is proposed to make these amendments effective on January 1, 1973.

Interested persons are invited to submit written data, views, or arguments pertaining to the proposed amendments. Comments must identify the docket number and notice number appearing at the top of this document and must be submitted in three copies to the Director, Bureau of Motor Carrier Safety, Washington, D.C. 20590. All comments received before the close of business on December 1, 1972, will be considered before further action is taken. All comments will be available for examination in the docket room of the Bureau of Motor Carrier Safety, Room 4136, 400 Seventh Street SW., Washington, DC, both before and after the closing date for comments.

This notice of proposed rule making is issued under the authority of section 204 of the Interstate Commerce Act, 49 U.S.C. 304, section 6 of the Department of Transportation Act, 49 U.S.C. 1655, and the delegations of authority by the Secretary of Transportation and the Federal Highway Administrator in 49 CFR 1.48 and 389.4, respectively.

Issued on November 6, 1972.

ROBERT A. KAYE,
Director,
Bureau of Motor Carrier Safety.

I. New paragraphs (f) and (g) would be added at the end of § 393.65, reading as follows:

§ 393.65 **All fuel systems.**

hereby gives public notice that consideration is being given to the following

All persons who desire to submit views to the Director on the proposals should

with an order of his local board to report for and submit to an Armed Forces examination, he may, after he is classified into

for induction as ordered and he shall not be inducted until his acceptability has been satisfactorily determined: *Pro-*

Armed Forces examination shall be performed after he has reported for induc-

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§ 393.65 **All fuel systems.**

* * * * *

(f) *Fuel lines.* A fuel line which is not completely enclosed in a protective housing must not extend more than 2 inches below the fuel tank or its sump. Diesel fuel crossover, return, and withdrawal lines which extend below the bottom of the tank or sump must be protected against damage from impact. Every fuel line must be—

(1) Long enough and flexible enough to accommodate normal movements of the parts to which it is attached without incurring damage; and

(2) Secured against chafing, kinking, or other causes of mechanical damage.

(g) *Excess flow valve.* When pressure devices are used to force fuel from a fuel tank, a device which prevents the flow of fuel from the fuel tank if the fuel feed line is broken must be installed in the fuel system.

II. Section 393.67 is amended as follows:

a. The heading of § 393.67 would be amended to read as set forth below.

b. Paragraph (c)(5) would be revised and paragraph (c)(6) would be deleted, and paragraph (f) would be revised to read as follows:

§ 393.67 **Liquid fuel tanks.**

* * * * *

(c) * * *

(5) *Fuel withdrawal fittings.* Except for diesel fuel tanks, the fittings through which fuel is withdrawn from a fuel tank must be located above the normal level of the fuel in the tank when the tank is full.

(6) [Reserved].

* * * * *

(f) *Certification.* Each liquid fuel tank shall be legibly and permanently marked with the month and year of its manufacture and with a certificate that it conforms to the rules in this section applicable to the tank. If a tank conforms to all the rules in this section pertaining to side-mounted fuel tanks, the certificate may be in the following form: "Meets all FHWA side-mounted fuel tank requirements." If a tank conforms to all the rules in this section pertaining to fuel tanks which are not side-mounted fuel tanks, the certificate may be in the following form: "Meets all FHWA requirements for non-side-mounted fuel tanks."

[FR Doc.72-19367 Filed 11-9-72;8:50 am]

SELECTIVE SERVICE SYSTEM

[32 CFR Part 1660]

ALTERNATE SERVICE

Selection of Nonvolunteer

Pursuant to the Military Selective Service Act, as amended (50 U.S. Code App., sections 451 et seq.), and § 1604.1 of Selective Service regulations (32 CFR 1604.1), the Director of Selective Service hereby gives public notice that consideration is being given to the following proposed amendments to the Selective Service regulations constituting a portion of Chapter XVI of the Code of Federal Regulations. These regulations implement the Military Selective Service Act, as amended (50 U.S. Code App., sections 451 et seq.).

All persons who desire to submit views to the Director on the proposals should prepare them in writing and mail them to the General Counsel, National Headquarters, Selective Service System, 1724 F Street NW., Washington, DC 20435, within 30 days following the publication of this notice in the FEDERAL REGISTER.

The proposed amendments follow:

Paragraph (a) of § 1660.4 *Selective of Nonvolunteer for Alternate Service,* is amended to read as follows:

§ 1660.4 **Selection of Nonvolunteer for alternate service.**

(a) Any member or compensated employee of the local board, or any compensated employee of the Selective Service System whose official duties include the performance of administrative duties at a local board, will issue to a registrant classified in Class 1-O an order to report for alternate service (SSS Form 153) together with Conscientious Objectors Skills Questionnaire (SSS Form 152) and three copies of Employer's Statement of Availability of a Job as Alternate Service (SSS Form 156) at the same time that he would be issued an Order to Report for Induction (SSS Form 252) were he classified in Class 1-A or 1-A-O. Such Order to Report for Alternate Service (SSS Form 153) shall specify the place and a date on which the registrant is to report for alternate service in accord with the instructions of the State Director. The date specified shall be not earlier than 70 days after such order is mailed.

* * * * *

BYRON V. PEPITONE,
Acting Director.

NOVEMBER 7, 1972.

[FR Doc.72-19352 Filed 11-9-72;8:49 am]

[32 CFR Parts 1626, 1628, 1631]

APPEALS, EXAMINATIONS, ALLOCATIONS OF INDUCTIONS

Notice of Proposed Rule Making

Pursuant to the Military Selective Service Act, as amended (50 U.S. Code App., sections 451 et seq.), and Executive Order No. 11623 dated October 12, 1971, the Director of Selective Service hereby gives public notice that consideration is being given to the following proposed amendments to the Selective Service regulations constituting a portion of Chapter XVI of the Code of Federal Regulations. These regulations implement the Military Selective Service Act, as amended (50 U.S. Code App., sections 451 et seq.).

All persons who desire to submit views to the Director on the proposals should prepare them in writing and mail them to the General Counsel, National Headquarters, Selective Service System, 1724 F Street NW., Washington, DC 20435, within 30 days following the publication of this notice in the FEDERAL REGISTER.

The proposed amendments follow:

1. Section 1626.1 *Who may appeal,* is amended to read as follows:

§ 1626.1 **Who may appeal.**

The Director of Selective Service and the State Director of Selective Service as to the local boards in his State may appeal from any determination of a local board at any time prior to the induction of the registrant or his reporting for alternate service in lieu of induction. The registrant may appeal to an appeal board from his classification by the local board except his initial administrative classification into Class 1-H.

2. Paragraph (b) of § 1628.6 *Order to Report for Armed Forces Examination,* is amended to read as follows:

§ 1628.6 **Order to Report for Armed Forces Examination.**

* * * * *

(b) Any member or compensated employee of the local board, or any compensated employee of the Selective Service System whose official duties include the performance of administrative duties at a local board, shall select and order for Armed Forces examination registrants in accordance with the instructions of the Director of Selective Service. The date specified for reporting for such examination shall be at least 15 days after the date on which the Order to Report for Armed Forces Examination (SSS Form 223) is mailed, except that a registrant who has volunteered for induction may be ordered to report for such examination on any date after he has so volunteered.

* * * * *

Paragraph (a) of § 1631.6 *Action by local board upon receipt of allocation,* is amended to read as follows:

§ 1631.6 **Action by local board upon receipt of allocation.**

(a) When an allocation is received from the State Director of Selective Service, any member or compensated employee of the local board, or any compensated employee of the Selective Service System whose official duties include the performance of administrative duties at a local board, shall select as provided herein, and issue orders to report for induction to those men required to fill the call from among its registrants who have been classified in Class 1-A or Class 1-A-O and have been found acceptable for service in the Armed Forces and to whom a Statement of Acceptability (DD Form 62) has been mailed: *Provided,* That notwithstanding Part 1628 or any other provision of these regulations, when a registrant in whatever classification has refused or otherwise failed to comply

with an order of his local board to report for and submit to an Armed Forces examination, he may, after he is classified into Class 1-A or 1-A-O be selected and ordered to report for induction even though he has not been found acceptable for service in the Armed Forces and a Statement of Acceptability (DD Form 62) has not been mailed to him, and in such case the Armed Forces examination shall be performed after he has reported for induction as ordered and he shall not be inducted until his acceptability has been satisfactorily determined: *Provided further,* That a registrant who has volunteered for induction may be selected and ordered to report for induction to fill an induction call notwithstanding the fact that he has not been found acceptable for service in the Armed Forces and regardless of whether or not a Statement of Acceptability (DD Form 62) has been mailed to him, but in such case the Armed Forces examination shall be performed after he has reported for induction as ordered and he shall not be inducted until his acceptability has been satisfactorily determined.

* * * * *

BYRON V. PEPITONE,
Acting Director.

NOVEMBER 7, 1972.

[FR Doc.72-19351 Filed 11-9-72;8:49 am]

sidered in the preparation of the final environmental statement.

PHILIP L. THORNTON,

Pacific Northwest Region, Portland, Oreg. 97208. Comments must be received by December 29, 1972, in order to be

preparation of the final environmental statement.

PHILIP L. THORNTON,

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Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

REFRIGERATORS, FREEZERS, OTHER REFRIGERATING EQUIPMENT, AND PARTS THEREOF FROM ITALY

Notice of Countervailing Duty Proceedings

Information has been received pursuant to the provisions of § 16.24(b) of the Customs Regulations (19 CFR 16.24 (b)), which appears to indicate that certain payments, bestowals, rebates, or refunds granted by the Government of Italy upon the manufacture, production, or exportation of refrigerators, freezers, other refrigerating equipment, and parts thereof constitute the payment or bestowal of a bounty or grant, directly or indirectly, within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303), upon the manufacture, production, or exportation of the merchandise to which the payments, bestowals, rebates or refunds apply.

The available information indicates that the approximate amount of the payments, bestowals, rebates, or refunds is between 20 lire and 45 lire per kilogram on refrigerators, freezers, other refrigerating equipment, and parts thereof.

After the expiration of the time limits set forth in this notice, a determination will be made whether a bounty or grant is being paid or bestowed in connection with any such manufacture, production, or export. If it is determined that a bounty or grant is being paid or bestowed, an appropriate countervailing duty order will be issued and published in accordance with § 16.24 of the Customs Regulations (19 CFR 16.24).

Before a determination is made, consideration will be given to any relevant data, views, or arguments submitted in writing with respect to the existence of nonexistence, and the net amount of a bounty or grant. Submissions should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, DC 20226, in time to be received by his office not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

This notice is published pursuant to § 16.24(d) of the Customs Regulations (19 CFR 16.24(d)).

[SEAL] LEONARD LEHMAN,
Acting Commissioner of Customs.

Approved: November 2, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-19473 Filed 11-9-72;9:54 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Change in Location and Office Hours of Fairbanks District Office

Effective November 20, 1972, the location of the Fairbanks District is changed from 516 Second Avenue to 1028 Aurora Drive, Fairbanks, Alaska. The hours of business are changed from: 7:45 a.m. A.s.t.–4:30 p.m. A.s.t. to 8 a.m. A.s.t–4:30 p.m. A.s.t. The hours which the Division of Lands is open to the public for filing of documents, payment of fees and inspection of records are 10 a.m. to 4 p.m. standard time or daylight savings time, whichever is in effect.

The address for the District Office is Post Office Box 1150, Fairbanks, AK 99707. The telephone number for the District Office will be 907—456–6687.

RICHARD H. LEDOSQUET,
Manager, Fairbanks District and Land Office.

[FR Doc.72-19350 Filed 11-9-72;8:49 am]

Office of the Secretary

[DES 72-111]

WORLD HERITAGE CONVENTION

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for a proposed international convention establishing the World Heritage. The Department of the Interior invites comments within forty-five (45) days of this notice.

The convention provides for the establishment of an international system for protecting natural and cultural heritage throughout the world that is of outstanding universal value. For purposes of the convention, international protection is understood to mean establishment of a system of international cooperation designed to support efforts of nations ratifying the convention to identify and preserve that heritage.

Copies are available for inspection at:

Office of International Activities, Room 5312, Department of the Interior, Washington, D.C. 20240, telephone 202–343–5678.

Single copies may be obtained by writing to the Office of International Activities.

Dated: November 3, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-19315 Filed 11-9-72;8:48 am]

DEPARTMENT OF AGRICULTURE

Forest Service

HERBICIDE USE ON OLYMPIC, MOUNT BAKER, SNOQUALMIE, AND GIFFORD PINCHOT NATIONAL FORESTS

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for Calendar Year 1973 Herbicide Use on the Olympic, Mount Baker, Snoqualmie, and Gifford Pinchot National Forests, USDA–FS–DES(Adm) 73–31.

The environmental statement concerns a proposed use of herbicides for control of undesirable vegetation.

This draft statement was filed with CEQ 11–2–72.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3230, 14th Street and Independence Avenue SW., Washington, DC 20250.
USDA, Forest Service, 319 Southwest Pine Street, Portland, OR 97208.
Olympic National Forest, Federal Building, Olympia, Wash. 98501.
Mount Baker National Forest, 1601 Second Avenue Building, Seattle, WA 98101.
Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, WA 98660.

A limited number of single copies are available upon request to Theodore A. Schlapfer, Regional Forester, Pacific Northwest Region, Portland, Oreg. 97208.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please refer to the name and number of the environmental statement when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Theodore A. Schlapfer, Regional Forester, Pacific Northwest Region, Portland, Oreg. 97208. Comments must be received by December 21, 1972, in order to be considered in the preparation of the final environmental statement.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

NOVEMBER 6, 1972.

[FR Doc.72-19347 Filed 11-9-72;8:47 am]

HERBICIDE USE ON DESCHUTES, FREMONT, OCHOCO, AND WINEMA NATIONAL FORESTS

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for Calendar Year 1973 Herbicide Use on the Deschutes, Fremont, Ochoco, and Winema National Forests, USDA–FS–DES(Adm) 73–30.

The environmental statement covers the proposed Forest Service use of Amitrole, Dicamba, 2,4,5-T, 2,4-D, Silvex and Picloram on the Deschutes, Fremont, Ochoco, and Winema National Forests in the State of Oregon.

This draft environmental statement was filed with CEQ October 31, 1972.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3230, 14th Street and Independence Avenue SW., Washington, DC 20250.
USDA, Forest Service, 319 Southwest Pine Street, Portland, OR 97208.
Deschutes National Forest, 211 East Revere, Bend, OR 97701.
Fremont National Forest, 34 D Street North, Lakeview, OR 97630.
Ochoco National Forest, Federal Office Building, Princeville, Oreg. 97754.
Winema National Forest, Post Office Building, Klamath Falls, Oreg. 97601.

A limited number of single copies are available upon request to Theodore A. Schlapfer, Regional Forester, Pacific Northwest Region, Portland, Oreg. 97208.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please refer to the name and number of the environmental statement when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Theodore A. Schlapfer, Regional Forester, Pacific Northwest Region, Portland, Oreg. 97208. Comments must be received by December 29, 1972, in order to be considered in the preparation of the final environmental statement.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

NOVEMBER 6, 1972.

[FR Doc.72-19348 Filed 11-9-72;8:47 am]

MONARCH WILDERNESS PROPOSAL

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for Monarch Wilderness Proposal, USDA–FS–DES(Leg) 73–26.

The environmental statement is a report on proposed legislation to establish a Monarch Wilderness as a National Forest unit of the National Wilderness Preservation System in Fresno County, State of California.

This draft environmental statement was filed with CEQ October 12, 1972.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3230, 14th Street and Independence Avenue SW., Washington, DC 20250.
USDA, Forest Service, 630 Sansome Street, San Francisco, CA 94111.
Sequoia National Forest, 900 West Grand Avenue, Porterville, CA 93257.
Sierra National Forest, Federal Building, Room 3211, Fresno, Calif. 93721.

A limited number of single copies are available upon request to U.S. Forest Service, California Region, 630 Sansome Street, San Francisco, CA 94111.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please refer to the name and number of the environmental statement when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Douglas R. Leisz, Regional Forester, 630 Sansome Street, San Francisco, CA 94111. Comments must be received by December 18, 1972, in order to be considered in the preparation of the final environmental statement.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

NOVEMBER 6, 1972.

[FR Doc.72-19346 Filed 11-9-72;8:46 am]

TRINITY ALPS WILDERNESS PROPOSAL

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Trinity Alps Wilderness Proposal, USDA–FS–DES(Leg) 73–25.

The environmental statement concerns proposed legislation to establish a Trinity Alps Wilderness as a National Forest Unit of the National Wilderness Preservation System in the State of California.

This draft environmental statement was filed with CEQ on October 10, 1972.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3230, 14th Street and Independence Avenue SW., Washington, DC 20250.
USDA, Forest Service, California Region, 630 Sansome Street, San Francisco, CA 94111.

A limited number of single copies are available upon request to Douglas R. Leisz, Regional Forester, 630 Sansome Street, San Francisco, CA 94111.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Mr. Douglas R. Leisz, Regional Forester, 630 Sansome Street, San Francisco, CA 94111. Comments must be received by January 8, 1973, in order to be considered in the preparation of the final environmental statement.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

NOVEMBER 6, 1972.

[FR Doc.72-19349 Filed 11-9-72;8:47 am]

DEPARTMENT OF COMMERCE

tions: (1) An announcement section which provides information concerning

schedule. Proposed waivers relating to procurement of nonconforming equipment or

Washington, D.C. 20234. They should describe the nature of the waiver and set forth the

Patent Office. Copies of the patent applications can be purchased from the

Inquiries and requests for licensing information should be directed to the

DEPARTMENT OF COMMERCE

National Bureau of Standards

NATIONAL INVENTORS COUNCIL

Notice of Meeting

Pursuant to Executive Orders 11671 and 11686, notice is hereby given of a meeting of the National Inventors Council to be held in Room 6802 at the Department of Commerce, Washington, D.C., from 10 a.m. to 5 p.m. on November 29, 1972.

The purpose of the Council is to advise the Secretary of Commerce on policies affecting the processes of technological change.

The Council is composed of approximately 15 members from the industrial, legal, and academic communities, and 10 observers from Federal agencies in the Washington, D.C. area.

The agenda for the meeting will include a discussion of plans for a conference on "The Public Need and the Role of the Inventor," and the role that the Council might have in the experimental technology incentives program of the National Bureau of Standards.

The meeting will be open to public observation; applications for admission will be accepted and granted on a first-come-first-served basis up to the capacity of the conference room. These applications should be sent by first-class mail to Mrs. Florence Essers, Executive Secretary, National Inventors Council, National Bureau of Standards, Washington, D.C. 20234, telephone (301) 921–3615.

Dated: November 6, 1972.

LAWRENCE M. KUSHNER,
Acting Director.

[FR Doc.72-19343 Filed 11-9-72;8:46 am]

OPTICAL CHARACTER RECOGNITION

Notice of Two Proposed Federal Information Processing Standards

Under the provisions of Public Law 89–306, the Secretary of Commerce is authorized to make appropriate recommendations to the President relating to the establishment of uniform Federal automatic data processing standards.

Two proposed standards relating to optical character recognition are being recommended by the National Bureau of Standards, (1) Character Set for Handprinting, and (2) Optical Character Recognition Character Sets. These standards, at such time as they may be approved by the Office of Management and Budget, will be published as Federal Information Processing Standards.

Prior to the submission of the final endorsement of these proposals to the OMB, it is essential to assure that proper consideration is given the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

Proposed Federal Information Processing Standards contain two basic sections: (1) An announcement section which provides information concerning the applicability, implementation, and maintenance of the standard, and (2) a specification section which details the technical requirements of the standard. A copy of the technical specifications for both of these proposed standards is available without cost from the Office of Information Processing Standards, Center for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234. The title of the document should be cited in the request.

Interested parties may submit comments to the Associate Director, ADP Standards, Center for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, within 90 days after publication of this notice in the FEDERAL REGISTER.

LAWRENCE M. KUSHNER,
Acting Director.

NOVEMBER 6, 1972.

PROPOSED FEDERAL INFORMATION PROCESSING STANDARDS PUBLICATION

Date ----------

ANNOUNCING THE STANDARD FOR OPTICAL CHARACTER RECOGNITION CHARACTER SETS

Federal Information Processing Standards publications are issued by the National Bureau of Standards under the direction of the Office of Management and Budget in accordance with the provisions of Public Law 89–306 and Office of Management and Budget Circular No. A–86.

Name of standard. Optical Character Recognition Character Sets (FIPS ----).

Category of standard. Hardware Standard, Character Recognition.

Explanation. This standard provides the description, scope, and identification for standard sets of graphic shapes to be used in the application of Optical Character Recognition (OCR) systems.

Approving authority. Office of Management and Budget.

Maintenance agency. Department of Commerce, National Bureau of Standards, Center for Computer Sciences and Technology.

Cross index. a. ANS X3.17–1966 or X3.17 (Revised), American National Standard Character Set for Optical Character Recognition.

b. ECMA 11 (Revised), Character Set for Optical Character Recognition.

c. ISO DR 1073 Character Set for Character Recognition.

d. FIPS 1, Code for Information Interchange.

e. FIPS PUB 12, Federal Information Processing Standards Index.

Applicability. This standard is applicable to Optical Character Recognition systems utilizing any part or all of the character sets contained herein. The choice of the character set to be used is not prescribed.

Implementation schedule. All applicable equipment ordered on or after the date of this FIPS PUB must be in conformance with this standard unless a waiver has been obtained in accordance with the procedure prescribed below. Exceptions to this standard are made in the following cases:

a. For equipment installed or on order prior to the date of this FIPS PUB.

b. Where procurement actions are into the solicitation phase (i.e., request for proposals or invitation for bids have been issued) on the date of this FIPS PUB.

Waiver procedure. Heads of agencies may waive the provisions of the implementation schedule. Proposed waivers relating to procurement of nonconforming equipment or the use of nonconforming character sets will be coordinated in advance with the National Bureau of Standards. Letters should be addressed to the Associate Director ADP Standards, Center for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234. They should describe the nature of the waiver and set forth the reasons therefor.

Sixty days should be allowed for review and response by the National Bureau of Standards. The waiver is not to be effective until a reply is received from the National Bureau of Standards; however, the final decision for the granting of a waiver is a responsibility of the agency head.

Specifications. Federal Information Processing Standard ---- (FIPS ----), Optical Character Recognition Character Sets, dated ---------- (affixed).

Qualifications. As contained in the specifications.

Where to obtain copies of the standard. Copies of this publication are for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (Price -- cents a copy; SD Catalog No. C13.52:--). There is a 25-percent discount on quantities of 100 or more. When ordering, specify document number, title, and SD catalog number or accession number.

PROPOSED FEDERAL INFORMATION PROCESSING STANDARDS PUBLICATION

Date ----------

ANNOUNCING THE STANDARD FOR CHARACTER SET FOR HANDPRINTING

Federal Information Processing Standards Publications are issued by the National Bureau of Standards under the direction of the Office of Management and Budget in accordance with the provisions of Public Law 89–306 and Office of Management and Budget Circular No. A–86.

Name of standard. Character Set for Handprinting (FIPS ----).

Category of standard. Hardware Standard, Character Recognition.

Explanation. This standard provides the description, scope, and application rules for a character set for handprinting, to be used in optical character recognition systems.

Approving authority. Office of Management and Budget.

Maintenance agency. Department of Commerce, National Bureau of Standards, Center for Computer Sciences and Technology.

Cross index. a. Proposed American National Standard ANS X3.45–--, Character Set for Handprinting.

Applicability. This standard is applicable to optical character recognition systems using handprinting capabilities.

Implementation schedule. All applicable equipment ordered on or after the date of this FIPS PUB must be in conformance with this standard unless a waiver has been obtained in accordance with the procedure described below. Exceptions to this standard are made in the following cases:

a. For equipment installed or on order prior to the date of this FIPS PUB.

b. Where procurement actions are into the solicitation phase (i.e., request for proposals or invitation for bids have been issued) on the date of this FIPS PUB.

Waiver procedure. Heads of agencies may waive the provisions of the implementation schedule. Proposed waivers relating to procurement of nonconforming character sets will be coordinated in advance with the National Bureau of Standards. Letters should be addressed to the Associate Director ADP Standards, Center for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234. They should describe the nature of the waiver and set forth the reasons therefor.

Sixty days should be allowed for review and response by the National Bureau of Standards. The waiver is not to be effective until a reply is received from the National Bureau of Standards; however, the final decision for the granting of a waiver is a responsibility of the agency head.

Specifications. This standard adopts in whole the requirements set forth in the American National Standard X3.45–--, Character Set for Handprinting which was developed and approved by the American National Standards Institute.

Qualifications. The proposed American National Standard Character Set for Handprinting describes a set of characters and associated procedural rules for use in data entry systems for OCR and involving alphabetic and numeric handprinted characters. Additional standards and information sources are required to describe the full set of necessary characteristics of an installed, operating OCR system. In general, these cover the topics of OCR Forms, OCR Print Quality, and OCR Tutorial Papers. Refer to FIPS PUB 12, Federal Information Processing Standards Index, for the latest current listing of available publications relating to character recognition. Use of these standards, guidelines, and information papers is required for the effective operation of installed OCR systems.

The set of characters and associated procedural rules described in this standard may also provide a method of improved man-to-man communication. Such an application of the standard is optional; however, it is urged that the use of the standard for such man-to-man communications be carefully considered for its contribution to increased efficiency and ease of operation wherever handprinted characters are involved in a data processing environment.

Where to obtain copies of the specifications. a. Federal Government activities should obtain copies from established sources within each agency. When there is no established source, purchase orders should be submitted to the General Services Administration, Specification Activity, Printed Materials Supply Division, Building 197, Washington Navy Yard Annex, Washington, D.C. 20407. Refer to Federal Information Standards Publication ---- (Price -- cents a copy).

b. Others may obtain copies from the American National Standards Institute, 1430 Broadway, New York, NY 10018. Refer to American National Standard X3.45–--, Character Set for Handprinting. (Price -- a copy. Discounts are available on quantity order. See ANSI Catalog.)

[FR Doc.72-19342 Filed 11-9-72;8:46 am]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Notice of Availability for Licensing

The inventions listed below resulted from research in aeronautical and space activities performed under programs of the National Aeronautics and Space Administration. The inventions are available for licensing in accordance with the NASA Patent Licensing Regulations (14 CFR 1245.2).

Each invention is covered by a patent application currently pending in the U.S. Patent Office. Copies of the patent applications can be purchased from the National Technical Information Service, Springfield, Va. at $3 each for paper copy and $0.95 each for microfiche. Orders for copies of the patent applications must cite the patent application number and the title.

Inquiries and requests for licensing information should be directed to the address cited on the first page of each copy of the patent application.

DOUGLAS J. CAMPION,
Patent Promotion Coordinator, National Technical Information Service.

Patent Application Number	*Title*
PAT-APPL-150 215	Ablative System.
PAT-APPL-193 980	Molding Process for Imidazopyrrolone Polymers.
PAT-APPL-195 061	Underwater Space Suit Pressure Control Regulator.
PAT-APPL-198 289	Low Power Electromagnetic Flowmeter Providing Accurate Zero Set.
PAT-APPL-215 076	Chemical Laser.
PAT-APPL-220 051	A Spiral Groove Seal.
PAT-APPL-221 714	Lightning Tracking System.
PAT-APPL-223 560	Event Sequence Detector.
PAT-APPL-226 551	Low Outgassing Polymeric Material and Preparation Thereof.
PAT-APPL-228 163	Improved Storage Battery.
PAT-APPL-228 169	Image Data Rate Converter.
PAT-APPL-228 229	Oil and Fat Absorbing Polymers.
PAT-APPL-231 662	A Compton Scatter Attenuation Gamma Ray Spectrometer.
PAT-APPL-233 098	Apparatus and Method for Generating Large Mass Flow of High Temperature Air at Hypersonic Speeds.
PAT-APPL-233 173	Apparatus and Method for Generating Large Mass Flow of High Temperature Air at Hypersonic Speeds.
PAT-APPL-233 587	A Technique fro Breaking Ice in the Path of a Ship.
PAT-APPL-235 268	Short Range Laser Obstacle Detector.
PAT-APPL-235 295	Ferrofluidic Solenoid.
PAT-APPL-235 338	Digital Servo Control of Random Sound Test Excitation.
PAT-APPL-235 957	Apparatus for Sampling Particulates in Gasses.
PAT-APPL-235 962	Cavity Resonator for Hydrogen Maser.
PAT-APPL-236 052	Ultraviolet Atomic Emission Detector.
PAT-APPL-236 285	Counting Digital Filters.
PAT-APPL-238 263	Ultrasonic Scanner for Radial and Flat Panels.
PAT-APPL-239 573	Technique for Extending the Frequency Range of Digital Dividers.
PAT-APPL-239 574	Redundant Speed Control for Brushless Hall Effect Motor.
PAT-APPL-239 575	Anti-Buckling Fatigue Test Assembly.
PAT-APPL-239 576	Inherent Redundancy Electric Heater.
PAT-APPL-241 061	Highly Fluorinated Polyurethanes.
PAT-APPL-241 614	Third Order Phase Locked Loops.
PAT-APPL-241 615	Infrared Tunable Laser.
PAT-APPL-242 027	Cardiotachometer.
PAT-APPL-242 028	Apparatus for Aiding a Pilot in Avoiding a Midair Collision Between Aircraft.
PAT-APPL-243 374	Multiple In-Line Docking Capability for Rotating Space Stations.
PAT-APPL-244 519	Omnidirectional Wheel.
PAT-APPL-244 523	A Thermal Control System for a Spacecraft Modular Housing.
PAT-APPL-245 063	Regulated DC to DC Converter for Voltage Step-Up or Step-Down with Input-Output Isolation.
PAT-APPL-246 056	Method and Apparatus for Nondestructive Testing.
PAT-APPL-247 055	Apparatus for Welding Blades to Rotors.
PAT-APPL-247 090	Diffusion Welding in Air.
PAT-APPL-247 434	Production of I–123.
PAT-APPL-247 481	Temperature Controller for a Fluid Cooled Garment.
PAT-APPL-247 482	Aluminized Nickel Coatings for Nickel-Base Super Alloys.
PAT-APPL-248 469	Rocket Borne Instrument to Measure Electric Fields Inside Electrified Clouds.
PAT-APPL-250 335	Accumulator.
PAT-APPL-250 766	Television Multiplexing System.
PAT-APPL-251 609	Tilting Table for Ergometer and for Other Biomedical Devices.
PAT-APPL-251 821	Power Supply for CO_2 Lasers.
PAT-APPL-251 752	Method of Repairing Discontinuity in Fiber Glass Structures.
PAT-APPL-253 405	Parasitic Suppressing Circuit.
PAT-APPL-253 249	Means for Adjusting Input Signal Bias.
PAT-APPL-254 173	Hall Effect Magnetometer.
PAT-APPL-254 177	Derivation of a Tangent Function Using an Integrated Circuit Four Quadrant Multiplier.
PAT-APPL-254 279	Production of Pure Metals.
PAT-APPL-256 317	Korotkov Sound Processor.
PAT-APPL-258 171	Conducting Flow Electrophoresis in the Substantial Absence of Gravity.
PAT-APPL-258 331	Powerplexer.
PAT-APPL-260 093	Electrophoretic Sample Insertion.

Patent Application Number	*Title*
PAT-APPL-260 241	Method and Apparatus for Optically Monitoring the Angular

UNIVERSITY OF ALABAMA ET AL.

Notice of Applications for Duty-Free

ultrastructure of normal and abnormal cells in general. The article will also be used in the course Electron Microscopic

related to retinal degeneration following experimental retinal detachment in monkeys. Application received by Com-

turer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used in studies on bio-

XUM
V37-218 NOV 10 72 XUM

Patent Application Number	*Title*
PAT-APPL-260 241	Method and Apparatus for Optically Monitoring the Angular Position of a Rotating Mirror.
PAT-APPL-261 183	Apparatus for Applying Simulated G-Forces to an Arm of an Aircraft Simulator Pilot.
PAT-APPL-262 430	Cryogenic Gyroscope Housing.
PAT-APPL-263 498	Heat Flow Calorimeter.
PAT-APPL-263 815	Wind Tunnel Model and Method.
PAT-APPL-266 772	Apparatus and Method for Applying Protective Coatings.
PAT-APPL-266 820	Variably Positioned Guide Vanes for Aerodynamic Choking.
PAT-APPL-266 899	Data Storage, Image Tube Type.
PAT-APPL-266 940	Method and Apparatus for Decoding Compatible Convolutional Codes.
PAT-APPL-267 768	High Speed Shutter.
PAT-APPL-267 862	Bio-Isolated DC Operational Amplifier.

[FR Doc.72-19355 Filed 11-9-72;8:50 am]

Office of Import Programs

STATE UNIVERSITY COLLEGE AT CORTLAND

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, DC.

Docket No. 72-00634-99-43780. Applicant: State University College at Cortland, Graham Avenue, Miller Administration Building, Room 319, Cortland, NY 13045. Article: Kinesiology Equipment. Manufacturer: Holtain Ltd., United Kingdom. Intended use of article: The article is intended to be used for specifying length of body segments, measuring of subcutaneous tissue, and determining segment size and shape for classification of body types as part of two courses in Kinesiology (1) anatomical aspects of movement, and (2) biomechanics. The readings provided will be accurate to the nearest millimeter.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The devices comprising the article are equipped with a counterbalanced movement which facilitates measurement. In addition these devices give accurate and direct readings to the nearest millimeter. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated October 20, 1972, that the characteristics described above are pertinent to the intended use of the article. HEW further advises that it knows of no comparable domestic devices which provide the pertinent characteristics of the article.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-19339 Filed 11-9-72;8:46 am]

TEXAS SOUTHERN UNIVERSITY ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the February 24, 1972, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 73-00199-33-46040. Applicant: Texas Southern University, 3201 Wheeler Street, Houston, TX 77004. Article: Electron Microscope, Model Elmiskop IA. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is intended to be used to examine the fine structure of cells of the endocrine organs, spleens, lymph nodes and bone marrow of certain vertebrate species; to study the mechanism of infection in insect tissues such as cell of the gut, fat bodies, caecum, salivary glands and epidermis; to study viral replication, biosynthesis and transformation in mammalian cell cultures; and to study the ultrastructure of normal and abnormal cells in general. The article will also be used in the course Electron Microscopic Anatomy which consists of teaching students the theories of fixation, dehydration, and embedding tissues for microscopy, as well as actual experience in the use of the electron microscope. Application received by Commissioner of Customs: October 19, 1972.

Docket No. 73-00200-33-46040. Applicant: DHEW, PHS, HSMHA, Center for Disease Control, 1600 Clifton Road N.E., Atlanta, GA 30333. Article: Electron Microscope, Model EM 201. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used in the investigation of the etiology of neoplastic diseases including the examination of various specimens (human biopsy tissue, tissue culture cells, infected tissue, and leukemic blood) for viruses or virus-like forms in search for the causative agent of leukemia. Application received by commissioner of Customs: October 19, 1972.

Docket No. 73-00201-33-46500. Applicant: Veterans Administration Hospital, 500 Foothill Boulevard, Salt Lake City, UT 84113. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to prepare thin sections for electron micrography for ultrastructural studies of changes of the liver in hypercholesterol diets and changes of the liver in diabetic animals. The article will also be used to train an electron microscopy technician and to familiarize pathology residents with electron microscopy. Application received by Commissioner of Customs: October 19, 1972.

Docket No. 73-00202-00-37100. Applicant: The Wistar Institute, 36th Street at Spruce, Philadelphia, PA 19104. Article: Multiple Membrane Filter—consisting of stainless steel and perspex base, stainless steel filter disc carrier and perspex cover plate. Manufacturer: Yeda, Research and Development Co., Ltd., Israel. Intended use of article: The articles are accessories to a Yeda Press to be used for the rapid filtration of large numbers of small samples through filter discs. It will be used for amino acid transport and incorporation studies involving, for example, nucleic acids and proteins, radiological and radioimmunological assays. Application received by Commissioner of Customs: October 19, 1972.

Docket No. 73-00203-33-37100. Applicant: The Wistar Institute, 36th Street at Spruce, Philadelphia, PA 19104. Article: Yeda Press. Manufacturer: Yeda, Research and Development Co., Ltd., Israel. Intended use of article: The article is intended to be used for homogenization of a number of biological tissues which include tumor cells and spleen cells. These tissues have to be homogenized for the purpose of isolating subcellular particulates with high biological activity.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-19340 Filed 11-9-72;8:46 am]

UNIVERSITY OF ALABAMA ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the February 24, 1972, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 73-00191-33-46500. Applicant: University of Alabama in Birmingham, University Station, Birmingham, Ala. 35294. Article: Ultramicrotome, Model LKB 4800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is to be used in dental research for investigations involving samples of purified collagen, other proteins, mitochondria, lysosomes, cell membranes, and basement membranes in normal and pathologic tissues utilizing a variety of techniques including combined histochemical-cytochemical-microchemical-biochemical-electron microscope methods. The article will also be used in the preparation of a book including practical histochemical techniques which will require laboratory testing and training students in an understanding of cellular pathology. Application received by Commissioner of Customs: October 6, 1972.

Docket No. 73-00193-33-46500. Applicant: University of Illinois, Eye and Ear Infirmary, 1855 West Taylor Street, Chicago, IL 60612. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used in the investigation of ocular and ocular adnexal tissues obtained from enucleated human eye and experimental animals. Specific projects include: (1) A study of argon laser photocoagulation on the cornea, iris, anterior chamber angle, retina and choroid of the human eye; (2) a study of the vascular changes of Coats' disease, a pediatric ocular disease; (3) a study of the optic nerve changes associated with hereditary-primary tapetal-retinal degeneration of canines; and (4) studies related to retinal degeneration following experimental retinal detachment in monkeys. Application received by Commissioner of Customs: October 16, 1972.

Docket No. 73-00194-33-46500. Applicant: University of Pittsburgh, School of Medicine, The Montefiore Hospital, 3459 Fifth Avenue, Pittsburgh, PA 15213. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of normal and altered mammalian tissues, mostly derived from animal experiments. The phenomena under investigation include the finding of enzymatic activity of certain renal cells as related to their phagocytic and/or pinocytotic function. These experiments may help to understand the handling of antigenic materials and the findings are relevant for the understanding of a variety of interstitial human renal diseases. Application received by Commissioner of Customs: October 16, 1972.

Docket No. 73-00195-33-46500. Applicant: University of Miami, Post Office Box 8184, Coral Gables, FL 33124. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to prepare ultrathin sections of plastic-embedded tissues, principally muscle and nerve, from a wide variety of animal types from lower invertebrates to mammals. The experiments to be conducted include the embryogenesis of muscle and nerve, and the development of the characteristic subcellular components of these cells. A variety of experiments will involve the association of the myofibrils with the membranes concerned in synaptic excitation and the control of contraction and relaxation. Application received by Commissioner of Customs: October 16, 1972.

Docket No. 73-00196-33-46500. Applicant: Ball State University, Muncie, Ind 47306. Article: Ultramicrotome, Model LKB 4800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for examination of embryonic, larval, pupal and adult tissues in insects to examine the interactions of somatic and germ tissues in development of functional adult gonads. The study will involve looking at sections of heterogenous tissues, for example, ovaries containing eggs undergoing shell formation and larval material. Other projects will involve examination of various plant materials including woody and germinating material. These materials present special problems in embedding and ultramicrotomy. The article will also be used to instruct selected undergraduate and graduate students in the preparation of specimens for electron microscopy. Application received by Commissioner of Customs: October 16, 1972.

Docket No. 73-00197-33-46500. Applicant: Children's Hospital Medical Center, 300 Longwood Avenue, Boston, MA 02115. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used in studies on biological materials which will include mammalian tissues obtained from experimental animals. The specific research purposes are to investigate the chemical and structural nature of the initial mineral deposits in enamel, bone, dentin, and cartilage; to characterize the phases and those changes occurring during maturation of the deposits; and to relate to phases to cellular organelles and to structural elements in the organic matrices. Application received by Commissioner of Customs: October 16, 1972.

Docket No. 73-00198-65-46070. Applicant: IIT Research Institute, 10 West 35th Street, Chicago, IL 60616. Article: Scanning electron microscope, Model JSM-50A. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in many programs requiring extensive application of scanning electron microscopy some of which include the following:

(a) Investigation of Failures by Examination of Fracture Surfaces—Documentation of fracture surface, microstructure, surface features, etc., of over 200 laboratory failed samples in commonly used industrial alloys (steels, cast irons, aluminum, nickel, and titanium alloys) in the most commonly encountered facture modes.

(b) Industrial Application of the SEM Diffraction Capability—Obtaining crystallographic and defect information from areas down to 5 microns and below.

(c) Microstructural studies in the SEM.

Application received by Commissioner of Customs: October 17, 1972.

B BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-19338 Filed 11-9-72;8:46 am]

UNIVERSITY OF PITTSBURGH

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00193-01-77095. Applicant: University of Pittsburgh, Department of Chemistry, 4200 Fifth Avenue, Pittsburgh, PA 15213. Article: Photoelectron spectrometer, Model PS-16 and accessories. Manufacturer: Perkin-Elmer, Ltd., United Kingdom. Intended use of article: The article is intended to be used for measurements of the photoelectron spectra of free (gas phase) molecules which permits ionization potentials to be measured down to the energy of the exciting radiation providing information on

molecular bonding properties, bond types,

The afternoon portion of this meeting shall be closed to the public in accord-

methods for determining the amount of the substance which may be present

directs the development, coordination, dissemination, and monitoring of overall

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license, the applicants will be required to execute an indemnity agreement as re-

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molecular bonding properties, bond types, bond orders, electronic populations, charge densities and the vibrational modes and configurations of the resulting molecular ion. The article will also be used by graduate students in basic research as partial fulfillment of the requirements for a dissertation for the degree of doctor of philosophy and for demonstration and student use in applied spectroscopy courses.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides an He'' lamp allowing the capability for measurement of low energy photoelectron spectra with high resolution down to 40 electron volts. We are advised by the National Bureau of Standards (NBS) in its memorandum dated October 19, 1972, that the capability described above is pertinent to the purposes for which the article is intended to be used. NBS also advises that it knows of no domestic instrument which is scientifically equivalent to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-19341 Filed 11-9-72;8:46 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

CARDIOVASCULAR AND RENAL ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Executive Order 11671, the Food and Drug Administration announces the following public advisory committee meeting and other required information in accordance with provisions set forth in section 13(a) (1) and (2) of that order:

Committee name, date, time, place, and type of meeting and contact person
Cardiovascular and Renal Advisory Committee, November 29, 9 a.m., Conference Room K, Parklawn Building, 5600 Fishers Lane, Rockville, MD, open—9 a.m. to 12 m., closed—1 p.m. to 4:30 p.m., John B. MacGregor, M.D., Room 10B-23, 5600 Fishers Lane, Rockville, MD 20852.

Purpose. Advises the Commissioner of Food and Drugs on safety and efficacy of drugs employed in the treatment of cardiovascular and renal disorders.

Agenda. Review of guidelines on antihypertensive and diuretic agents, immunologic phenomena, coronary arteriography, and discussion of NDA on metalozone.

The afternoon portion of this meeting shall be closed to the public in accordance with section 13(d) of Executive Order 11671 and the Secretary's notice of determination of September 27, 1972, published in the FEDERAL REGISTER of October 5, 1972 (37 F.R. 20995).

A list of committee members and summary minutes of the meeting may be obtained from the contact person for the committee.

Dated: November 3, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-19337 Filed 11-9-72;8:46 am]

Health Services and Mental Health Administration

OCCUPATIONAL SAFETY AND HEALTH

Request for Information on Certain Airborne Dust Contaminants and Chemical Agents

Section 20(a)(3) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669(a)(3)) provides that the Secretary of Health, Education, and Welfare, on the basis of information available to him, shall develop criteria dealing with toxic materials and harmful physical agents and substances which will describe exposure levels that are safe for various periods of employment. Section 22(c) of the Act authorizes the National Institute for Occupational Safety and Health to develop recommended occupational safety and health standards and to perform all functions of the Secretary of Health, Education, and Welfare, under sections 20 and 21 of the Act. The Institute is currently collecting information and data on a number of chemical substances including:

1. Acetone.
2. Aniline.
3. Copper and copper compounds.
4. Cyanides.
5. Methyl chloride
6. Methyl ethyl ketone.
7. Methyl isobutyl ketone.
8. Nitrous oxide.
9. Styrene.
10. Zinc and zinc compounds.

The information and data collected for each substance will be analyzed and evaluated relative to the nine areas listed below:

1. Establishment of safe occupational environment levels for such agents, including levels for acute and chronic exposure to airborne concentrations of the chemical substances, as well as safe practices concerning direct contact with such substances.

2. Establishment of biologic standards; i.e., the levels of such substances, metabolites, or other effects of exposure which may be present within man without his suffering ill effects, taking into consideration (a) the correlation of airborne concentrations of, and extent of exposure to such substances with effects on specific biologic systems of man, such as the circulatory, respiratory, urinary, and nervous system, and (b) the analytical methods for determining the amount of the substance which may be present within man.

3. Engineering controls, including ventilation, environmental temperature, humidity, and housekeeping and sanitation procedures, with attention to the technological feasibility of such controls.

4. Specifications for the conditions under which personal protective devices should be required.

5. Methodology, including instrumentation, for air sampling and sample analysis of chemical substances.

6. The need for medical examinations for workers exposed to such substances, the frequency of such examinations, and the specific diagnostic tests which should be used, and the rationale for their selection.

7. Work practices or procedures which may be instituted for control of the workplace environment in normal operations, and those which may be instituted when environmental levels are temporarily exceeded, or where peak concentrations of chemical substances in man are reached.

8. The types of records concerning occupational exposure to such substances that employers should be required to maintain.

9. Warning devices and labels which should be required for the prevention of occupational diseases and hazards caused by such substances.

Any person having information or data which is not readily available in "open scientific literature" in any of the nine areas listed, or in other areas which the person considers relevant to the establishment of a safe and healthful occupational environment involving the substances set forth above, is invited to submit such information, with accompanying documentation, to the Assistant Director for Research and Standards Development, National Institute for Occupational Safety and Health, Room 10-28, 5600 Fishers Lane, Rockville, MD 20852, within 60 days after publication of this notice.

All information received concerning any substance will be available for public inspection after the development of the respective research analysis report or criteria document.

Dated: November 3, 1972.

MARCUS M. KEY,
Director, National Institute for Occupational Safety and Health.

[FR Doc.72-19354 Filed 11-9-72;8:49 am]

Office of the Secretary

OFFICE OF CHILD DEVELOPMENT

Statement of Organization, Functions, and Delegations of Authority

The Statement of Organization, Functions, and Delegations of Authority for the Office of Child Development, section IT03.20, (B.2) is amended to read as follows:

B. *Bureau of Child Development Services—2. Project Head Start.* Plans and directs the development, coordination, dissemination, and monitoring of overall program planning and support policies. Directs the development and implementation of strategic and operational planning, including managerial policies, standards, and guidelines governing overall program operation. Provides guidance to the Office of the Associate Director and the Regional Offices in the effective utilization of Project Head Start resources.

(a) *Program Management Division.* Provides a focal point for overall Project Head Start management, and develops a plan for operational guidance, program analysis, and policy coordination for individual Head Start programs. Develops annual nationwide Head Start improvement plan, including managerial policies, standards, and guides for regional staffs and Head Start grantees. Assists program specialists in assessing the impact of policies and procedures and developing new or revised guidelines.

(b) *Parent and Child Center Division.* Administers, develops, recommends, and disseminates policies and guidelines for pilot programs designed to provide comprehensive parent and child center services to parents and children aged 0-3 years from economically disadvantaged families. Develops and recommends policies, and provides staff support for the purpose of monitoring these programs. Offers technical assistance in carrying out the goals and objectives of Parent and Child Centers, and reviews and recommends approval of grant applications at Headquarters.

(c) *Indian and Migrant Division.* Reviews and recommends approval of grant applications for Head Start programs for Indians living on reservations and for migrants. Develops and recommends policies for and provides staff support to programs for Indians and migrants. Provides or arranges for technical assistance for Indian and migrant grantees and serves as a focal point within the Office of Child Development for mobilizing resources in addition to Head Start for Indian and migrant programs. Provides assistance to the National Center for Child Advocacy in promoting the establishment of programs for Indians and migrants as appropriate.

(d) *Career Development and Technical Assistance Division.* Develops, in conjunction with the Regional Offices and the Head Start grantees, a strategy for serving the technical assistance and training needs of local Head Start programs. Provides guidance for the career development efforts of local grantees. Plans and conducts in-service training for Office of Child Development staff and provides leadership in developing a Department-wide child care training strategy.

Dated: November 2, 1972.

STEVEN D. KOHLERT,
Deputy Assistant Secretary for Management.

[FR Doc.72-19330 Filed 11-9-72;8:47 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-334]

DUQUESNE LIGHT CO. ET AL.

Notice of Receipt of Application for Facility Operating License; Notice of Hearing; Notice of Consideration of Issuance of Facility Operating License and Opportunity for Hearing

In the matter of Duquesne Light Co., Ohio Edison Co., and Pennsylvania Power Co. (Beaver Valley Power Station Unit No. 1).

Duquesne Light Co., Ohio Edison Co., and Pennsylvania Power Co. (the applicants), pursuant to section 104(b) of the Atomic Energy Act of 1954, as amended, have filed an application, which was docketed on October 18, 1972, together with a final safety analysis report, for a license to operate the Beaver Valley Power Station, Unit No. 1, a pressurized water nuclear reactor (the facility), located at the Beaver Valley Power Station, an approximately 449-acre site on the south bank of the Ohio River in Shippingport Borough, Beaver County, Pa.

The Atomic Energy Commission (the Commission) will consider the issuance of a facility operating license to the applicant which would authorize the applicants to possess, use, and operate Beaver Valley Power Station Unit No. 1 at reactor core power levels not to exceed 2,660 megawatts thermal in accordance with the provisions of the license and the technical specifications appended thereto. The license would be issued upon the completion of a favorable safety evaluation of the application by the Commission's Directorate of Licensing, the completion of the environmental review required by the Commission's regulations in 10 CFR Part 50, Appendix D, the receipt of a report on the applicant's application for a facility operating license by the Advisory Committee on Reactor Safeguards, and a finding by the Commission that the application for the facility license, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (Act), and the Commission's regulations in 10 CFR Chapter 1. Construction of the facility was authorized by Construction Permit No. CPPR-75 issued by the Commission on June 26, 1970.

Prior to issuance of any operating license, the Commission will inspect the facility to determine whether it has been constructed in accordance with the application, as amended, and the provisions of Construction Permit No. CPPR-75. In addition, the license will not be issued until the Commission has made the findings, reflecting its review of the application under the Act which will be set forth in the proposed license, and has concluded that the issuance of the license will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the license, the applicants will be required to execute an indemnity agreement as required by section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

In addition to the above, the facility is subject to the provisions of section B of Appendix D to 10 CFR Part 50, which sets forth procedures applicable to review of environmental considerations for production and utilization facilities for which construction permits or operating licenses were issued in the period January 1, 1970–September 9, 1971. These provisions require that a hearing be held to consider whether the construction permit should be continued, modified, terminated, or appropriately conditioned to protect environmental values. With respect to this consideration, notice is hereby given, pursuant to the Act and the regulations in 10 CFR Part 2, rules of practice, and Appendix D to 10 CFR Part 50, "Implementation of the National Environmental Policy Act of 1969," that a hearing will be held in the captioned proceeding by an Atomic Safety and Licensing Board (Board) at a time and place to be fixed by subsequent order of the Board to consider and make determinations on the matters set forth below.

1. In the event that this proceeding is not a contested proceeding as defined by 10 CFR 2.4(n) of the Commission's rules of practice, the Board will without conducting a de novo evaluation of the application determine whether the environmental review conducted by the Commission's regulatory staff pursuant to Appendix D of 10 CFR Part 50 has been adequate.

2. In the event that this proceeding is a contested proceeding, the Board will decide any matters in controversy among the parties within the scope of Appendix D to 10 CFR Part 50, with regard to whether, in accordance with the requirements of Appendix D to 10 CFR Part 50, the construction permit should be continued, modified, terminated or appropriately conditioned to protect environmental values.

3. Regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with section A.11 of Appendix D of 10 CFR Part 50, (a) determine whether the requirements of section 102(2) (C) and (D) of NEPA and Appendix D to 10 CFR Part 50 of the Commission's regulations have been complied with in this proceeding; (b) independently consider the final balance among conflicting factors contained in the record of the proceeding with a view toward determining the appropriate action to be taken; and (c) determine, after weighing the environmental, economic, technical, and other benefits against environmental costs and considering available alternatives, whether the construction permit should be continued, modified, terminated, or appropriately conditioned to protect environmental values.

The Board will be designated by the Atomic Energy Commission. Notice as

filed within the time prescribed in this

cense docketed October 18, 1972, as

the ATC bonding requirements applicable to sales agents.[1]

if the air carrier members of ATC

Acting pursuant to authority duly del-

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to its membership will be published in the FEDERAL REGISTER. Within thirty (30) days from the date of publication of this present notice in the FEDERAL REGISTER, the applicant may file a request for a hearing with respect to issuance of the facility operating license and any person whose interest may be affected by this proceeding may file a petition for leave to intervene (1) with respect to the issuance of the facility operating license; or (2) with respect to whether, considering those matters covered by Appendix D to 10 CFR Part 50, the construction permit should be continued, modified, terminated, or appropriately conditioned to protect environmental values. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's rules of practice in 10 CFR Part 2.

A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of 10 CFR 2.714. As required by 10 CFR 2.714, a petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A request for a hearing or a petition for leave to intervene must be filed with the Office of the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, DC 20545, Attention: Chief, Public Proceedings Staff, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. A petition for leave to intervene which is not timely will not be granted unless the Commission determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Commission has considered those factors specified in 10 CFR 2.714 (a).

If a request for a hearing or petition for leave to intervene with respect to the issuance of a facility operating license is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

Any person who does not wish to, or is not qualified to become a party to this proceeding, concerning continuation, modification, termination, or conditioning the construction permit, may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715. A person making a limited appearance may only make an oral or written statement on the record, and may not participate in the proceeding in any other way. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, DC 20545, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER.

A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered, to the extent that the questions are within the scope of the hearing as specified in the issues set out above.

In the event that this proceeding concerning continuation, modification, termination, or conditioning the construction permit is not contested, the Board will convene a prehearing conference of the parties within sixty (60) days after this notice of hearing or such other time as may be appropriate, at a time and place to be set by the Board. It will also set the schedule for the evidentiary hearing. Notice of the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

In the event that this proceeding concerning continuation, modification, termination, or conditioning the construction permit, becomes a contested proceeding, the Board will convene a special prehearing conference of the parties to the proceeding and persons who have filed petitions for leave to intervene, or their counsel, to be held within sixty (60) days from the date of publication of this notice in the FEDERAL REGISTER, or within such other time as may be appropriate, at a place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR 2.751a.

The Board will convene a prehearing conference of the parties, or their counsel, to be held subsequent to any special prehearing conference and within sixty (60) days after discovery has been completed, or within such other time as may be appropriate, at a place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR 2.752.

Notices of the dates and places of the special prehearing conference, the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

For further details pertinent to the matters under consideration, see the application for the facility operating license docketed October 18, 1972, as amended, and the applicants' Environmental Report dated September 24, 1971, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Beaver, Area Memorial Library, 100 College Avenue, Beaver, PA 15009. As they become available, the following documents also will be available at the above locations: (1) The safety evaluation prepared by the Directorate of Licensing; (2) the Commission's draft detailed statement on environmental considerations pursuant to 10 CFR 50, Appendix D; (3) the Commission's final detailed statement on environmental considerations; (4) the report of the Advisory Committee on Reactor Safeguards on the application for facility operating license; (5) the proposed facility operating license; and (6) the proposed technical specifications, which will be attached to the proposed facility operating license. Copies of items (1), (3), (4), and (5) may be obtained by request to Deputy Director for Reactor Projects, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

With respect to this proceeding concerning continuation, modification, termination, or conditioning the construction permit, the Commission will delegate to the Atomic Safety and Licensing Appeal Board the authority and the review function which would otherwise be exercised and performed by the Commission. The Commission will establish the Appeal Board pursuant to 10 CFR 2.785 and will make the delegation pursuant to paragraph (a)(1) of that section. The Appeal Board will be composed of a Chairman, and two other members to be designated by the Commission. Notice as to the membership of the Appeal Board will be published in the FEDERAL REGISTER.

Dated at Germantown, Md., this 7th day of November, 1972.

UNITED STATES ATOMIC ENERGY COMMISSION
PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.72-19415 Filed 11-9-72;8:52 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24884; Order 72-11-5]

AIR TRAFFIC CONFERENCE OF AMERICA

Order Deferring Action and Requesting Comments Regarding Bonding of Travel Agents

Issued under delegated authority November 2, 1972.

The Air Traffic Conference of America (ATC), on behalf of its air carrier members, has filed with the Board under section 412 of the Federal Aviation Act of 1958, as amended (the Act), two agreements which, in part, propose to alter the ATC bonding requirements applicable to sales agents.[1]

The first agreement (CAB 5044–A154) amends the ATC Agency Resolution to require that agents' sales of air transportation between the Continental United States, Alaska, and Hawaii be included in determining agents' sales of air transportation for the sake of determining bond coverage.[2] At present, agents are required to include only those sales of air transportation wholly within each of these geographical areas.

Upon consideration of the matter, we have decided to defer action temporarily to allow an opportunity for air carriers, agents, and other interested persons to file written comments in support of or in opposition to approval of the proposed change. Accordingly, in connection with this aspect of Agreement CAB 5044–A154 the following information is desired:

1. What circumstances prompted adoption of the above-mentioned change in bonding coverage?

2. Is the proposed expansion of bond coverage related to or affected by the ATC proposal, set forth in Agreement CAB 16874–A29, to expand the use of Standard Agent's Tickets under the Standard Agent's Ticket and Area Settlement Plan? If so, explain the relationship.

The second agreement (CAB 16874–A29) increases the minimum amount of the bond to be maintained by agents from $10,000 to $15,000 and the maximum amount from $50,000 to $75,000. Thus, it is apparent that the air carrier members of ATC are proposing significant increases in the amount of bond coverage to be maintained by their agents. In this connection, the Board, in Order 72–4–114, April 20, 1972, expressed the view that any proposal, advanced by carriers or agents, for either an upward or downward adjustment in the bonding requirement be fully documented. The air carriers have not submitted any specific factual data, reasons for adoption, or justification with respect to the proposal now before the Board. Accordingly, the Board is left without any basis for proceeding on such proposal. In this light, it has also been decided to defer action on this particular aspect of Agreement CAB 16874–A29 in order to allow the air carrier members of ATC a further opportunity to submit factual data in support of their proposal, and to allow other interested persons to file written comments in support of or in opposition to approval of such proposal. It would be helpful if the air carrier members of ATC set out in their comments the basic philosophy behind the proposed increases in the agents' bonds, i.e., what objectives are the increases intended to achieve, and what portion of the costs associated with the desired objectives are to be borne by the agents?[3]

In addition to the foregoing, any response of the air carrier members of ATC to this order should include, inter alia, for each calendar year 1962 through 1972 (January through September 1972):

(a) The number of ATC-approved agents as of December 31.

(b) The dollar amount of domestic air transportation sales attributable to ATC-approved travel agents.

(c) The number of travel agency defaults.

(d) Total gross losses from defaults to carriers participating in the ATC agency program both prior to and after adoption of the Settlement Plan.

(e) The portion of gross losses from defaults recovered from bonding companies.

(f) The portion of gross losses from defaults recovered from agents.

(g) The net carrier losses from defaults.

(h) Information with respect to bond premium costs for ATC-approved agents including (1) average premium cost per $1,000 for ASTA agents and non-ASTA agents (2) total number of ASTA agents and non-ASTA agents, and (3) average premium cost per $1,000 for ATC-approved agents.

(i) The average (1) dollar amount per default, (2) amount of the bond maintained by defaulting agents at the time of default and (3) amount collected from the surety.

(j) The number of defaults by agents carrying (1) minimum bonds and (2) maximum bonds.

(k) The average amount of defaults by agents carrying (1) minimum bonds and (2) maximum bonds.

(l) The number of agents bonded at the minimum- and maximum-bond amounts.

(m) The average amount of bond carried by ATC-approved agents.

(n) A table setting forth default experience information relative to the Settlement Plan, including for each year (a) the loss exposure periods and (b) the number of defaults within such loss exposure periods.

The air carrier members of ATC should also include in their response the technical basis for the selection of the new minimum- and maximum-bond amounts of $15,000 and $75,000, respectively.

Acting pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.3, it is concluded that it is in the public interest to defer action on those provisions of Agreements CAB 5044–A154 and CAB 16874–A29 discussed herein in order to permit interested persons to file comments as provided for herein.

Accordingly, it is ordered, That:

1. Action on those specific provisions of Agreements CAB 5044–A154 and CAB 16874–A29 as discussed herein be and it hereby is deferred;

2. The air carrier members of the ATC may file comments on those specific provisions of Agreements CAB 5044–A154 and CAB 16874–A29 as discussed herein within 21 days from the date of this order;

3. All other interested persons are afforded a period not exceeding 35 days from the date of this order to file comments in support of or in opposition to approval of those provisions of Agreements CAB 5044–A154 and 16874–A29 discussed herein;[4]

4. Rebuttal comments may be filed by those persons filing initial comments pursuant to paragraph 2 hereof within 42 days of the date of this order;

5. This order shall be served upon the Air Traffic Conference of America, and each air carrier member thereof, Pan American World Airways, Inc., the American Society of Travel Agents, the Association of Retail Travel Agents, and the Department of Justice;

6. Comments filed pursuant to ordering paragraphs 2, 3, and 4 shall be served on all persons named in ordering paragraph 5;[5]

7. Rebuttal comments filed pursuant to ordering paragraph 4 shall be served upon all persons filing initial comments pursuant to ordering paragraph 3; and

8. This proceeding shall be assigned Docket 24884.

This order shall be published in the FEDERAL REGISTER.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-19370 Filed 11-9-72;8:51 am]

[1] The proposed changes in the ATC bonding requirements are intended to be effective 60 days after their approval by the Civil Aeronautics Board.

[2] At the present time agents must procure and maintain a bond for the benefit of ATC members in the basic minimum amount of $10,000, such amount to be increased (to a basic maximum amount of $50,000) whenever necessary to cover the average of the three highest months (of the last 12) gross sales of air transportation for the accounts of ATC members.

[3] It is hoped that any comments as to the philosophy behind the proposed increases will explain the relationship thereof to the purposes of the bonding program which, as the Board noted in Order 72–4–114, reflected a strong desire on the part of the Board for the carriers to turn away from broad and indefinite standards in judging agents' qualifications in favor of more objective requirements. (The same order also pointed out that bonding expedites ATC's review of agent's qualifications.)

[4] We note that the Association of Retail Travel Agents has already filed comments concerning the agreements. These comments, as well as such additional comments as may be filed pursuant to this ordering paragraph, will be considered in reaching a final decision in this proceeding.

[5] An original and 2 copies of all comments filed pursuant to ordering paragraphs 2, 3, and 4 hereof shall be filed with the Board's Docket Section.

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NATIONAL CUSTOMS BROKERS & FORWARDERS ASSOCIATION OF AMERICA, INC.

Notice of Meeting

Notice is hereby given that a meeting with the above Association will be held on November 16, 1972, at 9 a.m., local time, in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, at which time the National Customs Brokers & Forwarders Association will make an informal presentation regarding the Association's views of the present status of U.S. international air freight forwarders and air freight agents, and their future role in the development of air transportation.

Dated at Washington, D.C., November 7, 1972.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-19368 Filed 11-9-72;8:50 am]

[Docket No. 24640; Order 72-11-4]

TWIN FAIR, INC. ET AL.

Order Granting Exemptions and Tentative Approval for Exemption or Approval of Control Relationships

Issued under delegated authority November 1, 1972.

By joint application, as amended, Twin Fair, Inc. (Twin Fair), Aero Spacelines, Inc. (ASI), ASI Aircraft Corp. (New ASI), TIFS, Inc. (TIFS) and LTH, Inc. (LTH) request approval without hearing under, or exemption from, section 408 of the Federal Aviation Act of 1958, as amended (the Act), of certain control relationships arising from a corporate reorganization involving ASI and New ASI, and the acquisition of all the outstanding stock of TIFS by Twin Fair.

The applicants further request, pursuant to Part 287 of the Board's economic regulations, exemption from section 409 of the Act with respect to certain interlocking relationships resulting from the above-mentioned transactions[1] and approval of the transfer of exemption authority now held by ASI [2] to New ASI or, alternatively, to reissue such exemption to New ASI.

Twin Fair, a New York corporation, owns and operates discount department stores and manufactures iron castings for use in the electrical, automotive and construction industries through subsidiary corporations.

ASI, a California-based corporation wholly owned by Twin Fair,[3] manufactures (by modifying other aircraft) and operates aircraft (known as Guppy aircraft) for the carriage of outsize cargo pursuant to exemption authority granted by the Board.[4]

New ASI is presently an inactive corporation wholly owned by ASI and created solely for the purpose of the proposed corporate reorganization discussed below.

TIFS, wholly owned by Twin Fair, is a corporation organized to manufacture total in-flight simulation aircraft for training purposes. TIFS has had no sales and is presently inactive.

LTH, wholly owned by Twin Fair,[5] is a corporation which formerly performed aircraft maintenance and overhaul services but has since sold substantially all its assets, properties and business interests to Modern Air Transport, Inc.[6] and is presently inactive.

The applicants state that the purpose of the proposed corporate reorganization is to eliminate certain California State sales and use taxes now imposed on the Guppy aircraft that are manufactured and operated in California by ASI.[7]

The applicants' plan of reorganization contemplates the activation of New ASI upon Board approval and the assumption by New ASI of the exemption authority now held by ASI to operate as a specialized air cargo carrier as well as the lease by ASI of all of its operational aircraft to New ASI.[8] ASI will, according to the applicants, thenceforth cease to be an air carrier and engage only in the business of manufacturing, modifying and repairing aircraft.[9] After the reorganization is effected, ASI will continue to own all of the stock of New ASI and the officers and directors of both companies will be identical. In addition, the applicants state that upon completion of the reorganization New ASI will do business as "Aero Spacelines." [10]

In support of their request, the applicants state that except for the formality of ASI's separation into two corporations, one for manufacturing and one for operations, there will be no substantive changes in ASI's operations; ASI and New ASI will continue to be engaged in the same business, in the same manner, and with the same facilities as ASI heretofore has been,[11] but without the burden of the existing California State sales/use taxes.

With respect to the acquisition of TIFS by Twin Fair, the applicants state that TIFS is not an air carrier and may not be considered as presently engaged in any phase of aeronautics within the meaning of section 408 of the Act since it has had no sales and is presently inactive.[12]

No comments or requests for a hearing have been received.

It is found that upon completion of the reorganization and transfer of exemption authority, New ASI will, for all practical purposes, be the same corporation as ASI and will operate with the same persons who also serve as officers and directors with ASI. It appears that the reorganization will not interrupt, increase or diminish the air carrier activities of ASI but will simply permit ASI to take advantage of tax benefits it would otherwise be ineligible for while continuing control of its air carrier activities through New ASI. While the Board has indicated its concern with the potential deleterious consequences of air carrier reorganizations and is currently investigating such schemes when undertaken by certificated carriers,[13] neither ASI nor New ASI are certificated carriers, and therefore do not have the obligations and responsibilities which warrant a closer look at corporate reorganization and diversification. In any event, we shall retain jurisdiction over the transaction.

Upon consideration of the foregoing, it is concluded that Twin Fair is a person controlling both an air carrier and persons engaged in phases of aeronautics and that ASI and New ASI are air carriers and TIFS and LTH are persons engaged in phases of aeronautics, all within the meaning of section 408 of the Act,

[1] Applicants have requested a waiver from § 287.3(e) of the Board's economic regulations which contains a proviso that no interlocking relationship shall be exempted involving transactions between an air carrier and a person engaged in a phase of aeronautics which exceed $100,000 per year.

[2] By Order E-26532, March 18, 1968, ASI was granted an exemption from the provisions of section 401 of the Act for a temporary period of 5 years to engage in worldwide transportation of outsize cargo in planeload charter service, subject to certain conditions.

[3] Ownership and control of ASI by Twin Fair (formerly Unexcelled, Inc.) was approved by Board Order E-26533, Mar. 18, 1968.

[4] See footnote 2, supra.

[5] Control of LTH (formerly American Airmotive Corp.) by Twin Fair and resultant interlocking relationships with ASI were approved by Order E-26533, Mar. 18, 1968.

[6] See Order 70-5-36, May 8, 1970.

[7] According to the applicants, ASI can be exempted from such sales/use taxes under California law if it sells or leases the aircraft to a common carrier of persons or property. In this connection, the lease of Guppy aircraft by ASI to New ASI (as the common carrier) would be exempt from tax as would components and materials purchased by ASI for the manufacture of Guppy aircraft sold or leased to New ASI. The applicants estimate a tax benefit of $1125,000 per aircraft as a result of such exemption

[8] Applicants note that a condition attendant to ASI's exemption authority prohibits it from selling or leasing aircraft to any air carrier without prior Board approval. However, applicants state that since the reorganization will not affect ASI's manufacturing and marketing decisions and is a matter solely of corporate formality, the lease between the parent (ASI) and the wholly owned subsidiary (New ASI) is of no economic consequence and should be approved.

[9] The applicants request that the Board disclaim jurisdiction over ASI if the application for reorganization and attendant transactions is approved or exempted since according to the applicants ASI would then cease to be an air carrier upon the transfer of its exemption authority to New ASI and, thus would no longer be subject to the Act or to Board Order E-26533.

[10] Applicants submit that since ASI will no longer be an air carrier after the reorganization, the use of this name presents no problems under Part 215 of the Board's economic regulations. In any event, the applicants state that ASI consents to the use of the name "Aero Spacelines" by New ASI.

[11] The applicants state that after the reorganization New ASI will hold the same noncertificated air carrier status as ASI.

[12] The joint applicants submit that Twin Fair's ownership of TIFS does not result in creating a monopoly, nor tend to restrain competition, and is in the public interest.

[13] Air Carrier Reorganization Investigation, Order 72-3-27, Mar. 10, 1972.

and that the above-described corporate reorganization and acquisition of control involving ASI and New ASI and Twin Fair and TIFS,[14] respectively, are subject to that section. However, it is further concluded that the reorganization described herein will not result in creating a monopoly and thereby restrain competition or jeopardize another air carrier; nor does it appear that the transaction will be inconsistent with the public interest or that the conditions of section 408 will be unfulfilled. No person disclosing a substantial interest is requesting a hearing and it is concluded that the public interest does not require a hearing. Therefore, exemption of the control relationship from the provisions of section 408 pursuant to the proviso contained in subsection (a)(5) is in the public interest, and the reorganization shall be so exempted pursuant to 14 CFR 385.13.

With respect to the reissuance of ASI's exemption authority to New ASI, it appears that New ASI will be substantially the same company as ASI with the same officers and directors. In this light the bases for the exemption granted to new ASI's predecessor in Order E-26532 remain, and for the reasons therein stated we find that enforcement of section 401 of the Act or of any applicable rule, regulation, term, condition, or limitation would be an undue burden on New ASI by reason of the limited extent of, or the unusual circumstances affecting, its operations and that enforcement of such provisions is not in the public interest. Accordingly, pursuant to section 416(b) of the Act, the exemption authority held by ASI is terminated and such exemption authority is reissued to New ASI.[15]

With respect to the applicants' request that the Board disclaim jurisdiction over ASI after the reorganization, we conclude that ASI will essentially remain the same corporate entity performing the same business activities as prior to the reorganization and will, therefore, continue to be subject to the same conditions, including continuing Board jurisdiction, as described in Order E-26533. Accordingly, we will deny the applicants' request and continue to apply the terms and conditions of Order E-26533 to ASI as well as to New ASI upon its assumption of ASI's existing exemption authority.

Turning to the interlocking relationships described herein, it has been concluded that such come within the scope of the exemption from the provisions of section 409 afforded by § 287.2 of the Board's economic regulations and, therefore, to the extent that the application requests exemption of such relationships, it is dismissed.[16]

Regarding the acquisition of control of TIFS by Twin Fair, it is determined that such relationship is within the meaning of section 408(a)(6) of the Act. However, it is tentatively concluded that such acquisition of control may be approved without hearing under the third proviso of section 408(b) of the Act. It appears that the acquisition of TIFS by Twin Fair does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in creating a monopoly, and does not tend to restrain competition. Moreover, no person disclosing a substantial interest is currently requesting a hearing and it is concluded that the public interest does not require a hearing. In its final order the Board will reserve jurisdiction generally over the control relationships which it will approve. Accordingly, under section 408 of the Act and pursuant to the Board's regulations, 14 CFR 385.13, this order constitutes, among other things, notice of the Board's tentative findings, and will be published in the FEDERAL REGISTER. Interested persons will be afforded an opportunity to file comments or request a hearing on the Board's tentative decision.

Accordingly, it is ordered, That:

1. The reorganization involving Aero Spacelines, Inc. and ASI Aircraft Corp. be and it hereby is exempted from the provisions of section 408(a)(5) of the Act pursuant to the proviso thereof;

2. The exemption authority described in Order E-26532 held by Aero Spacelines, Inc. be and it hereby is terminated;

3. The use of the trade name "Aero Spacelines" by ASI Aircraft Corp. be and it hereby is authorized;

4. The lease of aircraft by Aero Spacelines, Inc. to ASI Aircraft Corp. be and it hereby is approved;

5. ASI Aircraft Corp., doing business as "Aero Spacelines" be and it hereby is exempted from the provisions of section 401 of the Act insofar as they would otherwise prevent it from engaging in world-wide transportation of outsize cargo, as defined in the margin below [17]

6. The exemption granted in ordering paragraph 3, supra, shall be effective on the effective date of this order and shall continue in effect until March 18, 1973;

7. Jurisdiction on this proceeding is retained for the purpose of taking such further action as may be required by the public interest;

8. The acquisition of control of TIFS, Inc. by Twin Fair, Inc. be and it hereby is tentatively approved;

9. Interested persons are hereby afforded a period of ten (10) days from the date of issuance of this order within which to file comments or request a hearing with respect to the Board's proposed action described in ordering paragraph 8; [18] and

10. The Attorney General of the United States be furnished a copy of this order within 1 day of publication.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed or the Board gives notice that it will review this

[14] Although the acquisition of control of TIFS by Twin Fair has already been accomplished, it has been determined that exceptional circumstances exist within the meaning of Sherman Control and Interlocking Relationships, 14 CAB 876 (1952) and that there is no impediment to processing this application on its merits.

[15] For similar reasons we also approve the lease of aircraft between ASI and New ASI and the use by New ASI of the name "Aero Spacelines."

[16] We have decided to waive the $100,000 yearly limitation pertaining to transactions between ASI and New ASI under § 287.3(e) of the Board's economic regulations since the lease of aircraft and other transactions between ASI and New ASI, while involving more than $100,000 per calendar year, will not materially alter the present arrangement whereby ASI manufactures and then operates its own aircraft through its subsidiary New ASI.

[17] (a) Outsize cargo is a unit which by virtue of its dimensions and/or shape when enclosed in any packaging or protective covering necessary for its transportation cannot be accommodated on any other aircraft used in commercial cargo operations by any other air carrier including, but not limited to, the following aircraft: DC-6A, DC-7C, L-1049H, CL-44, DC-8F, "stretch" DC-8, C-130E, B-727, B-737 (when available), and B-747 (when available).

(b) Outsize cargo includes a reasonable number of integral accessorial component parts, appurtenances, spare parts, and tools, and a reasonable amount of fuel, which are necessary to the functioning and/or utilization of the unit, described in paragraph (a) above, during its transportation and/or at its destination even though such component parts, appurtenances, spare parts, tools, and fuel would not, alone or in the aggregate, satisfy the definition in paragraph (a).

(c) Outsize cargo does not include a unit which consists of a containerized aggregate of separate items no one of which would alone satisfy the definition in paragraph (a).

[18] Comments shall conform to the requirements of the Board's rules of practice (14 CFR Part 302). Further, since an opportunity to file comments is being provided, petitions for reconsideration of this order will not be entertained.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

V37-1218 NOV 10 72 XUM

tion for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order shall be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-19369 Filed 11-9-72;8:50 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 621]

COMMON CARRIERS SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

NOVEMBER 6, 1972.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day of which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cut-off dates are set forth in the alternative—applications will be entitled to consideration with those listed below if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE, *Secretary.*

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

[2] The above alternative cut-off rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

2850–C2–P–73—Communications Engineering, Inc. (New), for a new one-way station to be located at Third and "E" Streets, Anchorage, Alaska, to operate on 152.24 MHz.

2851–C2–P–73—Radio Telephone Service, Inc. (New), for a new two-way station to be located at the WKYW–FM tower at the intersection of Highway No. 421 and St. John Road, 1.5 miles northwest of Frankfort, Ky., to operate on 152.06 MHz.

2852–C2–P–73—Same as above except to be located at Pine Mountain, 3.5 miles north of Harlan, Ky., to operate on 152.12 MHz.

2853–C2–P/ML–73—Communications Equipment & Service Co. (KWA632), to reinstate expired C.P. to replace transmitter operating on 152.03 MHz at location No. 1: Ester Dome, Alaska and replace transmitter operating on 152.09 MHz at location No. 2: 1010 College Road, Fairbanks, AK.

2855–C2–P–73—Radio Telephone Service (KJU819), for additional facilities to operate on 152.06 MHz and change the antenna system at 0.2 miles west of Catlettsburg, Ky.

2856–C2–P–73—Same as above except, to operate on 152.12 MHz near the WPAY–FM radio tower, 0.2 mile south of South Portsmouth, Ky.

2857–C2–AL–73—Pocket Paging Service, Inc., consent to assignment of license from Pocket Paging Service, Inc., Assignor, to Ralph C. Parker, doing business as Ratel Communications Co., Assignee. Station KLB716, Abilene, Tex.

2936–C2–MP–(2)–73—General Telephone Company of the Northwest, Inc. (KON912), change frequencies to 454.425 and 454.525 MHz, at 426 Casino Road, Everett, WA.

2937–C2–P–(4)–73—Bell Telephone Company of Pennsylvania (KGA585), for additional standby facilities to operate on 454.425, 454.475, 454.575, and 454.650 MHz at location No. 2: 12 South 12th Street, Philadelphia, PA.

3053–C2–P–73—J. B. James (New), for a new one-way station to be located on U.S. Highway No. 98, east of Cove Street, Panama City, Fla., to operate on 152.24 MHz.

3054–C2–P–(2)–73—United Telephone Company of Ohio (KUA305), for additional facilities to operate on 152.60 MHz and change the antenna system for 152.78 MHz located off Highway No. 42, approximately 1 mile southwest of Mansfield, Ohio.

3055–C2–P–73—Answerphone, Inc. (KTS255), replace transmitter operating on 152.24 MHz and retain old transmitter for standby at Lookout Mountain, near Golden, Colo.

3059–C2–P–73—Deer River Telephone Exchange, Inc. (New), for a new two-way station to be located at second and fourth Avenues, Deer River, Minn., to operate on 152.63 MHz.

3060–C2–P–(2)–73—The Pacific Telephone & Telegraph Co. (KME432), replace transmitters operating on 152.54 and 152.60 MHz, located on Helen Drive, south of Park View Drive, Fullerton, Calif.

3061–C2–P–73—First Colony Telephone Co. (KIJ361), change the antenna system and relocate facilities operating on 152.51 MHz to Second Street, Amherst, Va.

3166–C2–P–(3)–73—Ute Communications (New), for a new two-way station to be located at Crow Mesa, 3 miles north of Lybrook, N. Mex., to operate on 152.06 MHz base and 459.300 MHz repeater and at 2 miles east of Mancos, Colo., to operate on 454.300 MHz control.

3167–C2–P–73—Same (New), for a new one-way station to be located at 23 Pinion Drive, Cortez, CO, to operate on 152.24 MHz.

Major Amendment

372–C2–P–73—Message-Mate (New), Pine Street, Rehoboth, Mass. Add second channel on 454.125 MHz. All other particulars same as Report No. 607, dated July 31, 1972.

RURAL RADIO SERVICE

3052–C1–P–73—The Ohio Bell Telephone Co. (New), for a new rural subscriber station to be located at Water Intake Crib No. 3, Ohio, to operate on 459.400 MHz.

3056–C1–P–73—Central Telephone Co. (KPT35), for additional facilities to operate on 152.78 MHz and change the class of station from relay-fixed to central office fixed. Existing facilities: 454.400 MHz communicating with KPT36, Youth Camp, Nev. Station location: Mount Potosi, Nev.

3057–C1–P–73—Central Telephone Co. (New), for a new rural subscriber station to be located at 2.5 miles northwest of Sandy, Nev., to operate on 158.04 MHz.

3058–C1–P–73—Nevada Telephone-Telegraph Co. (New), for a new rural subscriber station to be located at Twin Springs Ranch, approximately 10.8 miles east of Warm Springs, Nev., to operate on 157.09 MHz.

3062–C1–P–73—RCA Alaska Communications, Inc. (New), for a new central office station to operate on 152.57, 152.66, and 152.72 MHz at Bonasila Dome, Alaska.

3063–C1–P–73—Same as above except, for a rural subscriber station to operate on 157.83, 157.92, and 157.98 MHz at Anvik Village, located 140 miles north-northeast of Bethel, Alaska.

3064–C1–P–73—Same except, to be located at Grayling Village, 158 miles north-northeast of Bethel.

3065–C1–P–73—Same except, to be located at Holy Cross Village, 115 miles northeast of Bethel.

3066–C1–P–73—Same except, to be located at Shageluk, 146 miles northeast of Bethel, Alaska.

3067–C1–P–73—Same except, for a new central office station to operate on 152.54, 152.63, 152.69, and 152.81 MHz to be located at Hill 1142, Alaska.

3068–C1–P–73—Same except, for a new rural subscriber station to operate on 157.80, 157.89, 157.95, and 158.07 MHz to be located at Alakanuk Village, 165 miles northwest of Bethel.

3069–C1–P–73—Same except, to be located at Emmonak Village, 165 miles northwest of Bethel.

3070–C1–P–73—Same except, to be located at Kotlik Village, 162 miles north-northwest of Bethel.

3071–C1–P–73—Same except, to be located at Mountain Village, 110 miles northwest of Bethel.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

3047–C1–P–73—Same (New), C.P. for a new station 4 miles west of Decatur, Nebr., latitude 42°00'30" N., longitude 96°21'56" W. Frequencies 6220.9V MHz toward Sioux City, Iowa, azimuth 128°24'.

2848–C1–P–73–Same (New), C.P. for a new station 1.5 miles north-northwest of Magnolia, Iowa, Latitude 41°43'09" N., longitude 95°52'50" W. Frequencies 6945.2V MHz toward Decatur, Nebr., azimuth 308°44', and 6004.5H MHz toward Omaha, Nebr., azimuth 185°33'.

2849–C1–MP–73—Same (WOH43), 18th and Farnam, Omaha, Nebr., latitude 41°15'28" N., longitude 95°56'24" W. MP. to add frequency 6226.5H MHz toward Magnolia, Iowa, azimuth 5°30'.

3013–C1–P–73—American Telephone & Telegraph Co. (KTY340), 1 mile southwest of Arkabutla, Miss Latitude 34°41'08" N., longitude 90°08'18" W. C.P. to add frequency 4030V MHz toward Cockrum, Miss.

3014–C1–P–73—Same (KYN32), 1 mile west-northwest of Cockrum (Desoto), Miss. Latitude 34°47'36" N., longitude 89°48'23" W. C.P. to add frequency 4070V MHz toward Arkabutla, Miss.; frequency 4070H MHz toward Shayden, Miss.

3015–C1–P–73—Same (KYN31), 4.3 miles west of Shayden (Marshall), Miss. Latitude 34°57'20" N., longitude 89°58'05" W. C.P. to add frequency 4030H MHz toward Cockrum, Miss.; frequency 4030H MHz toward Saulsbury, Tenn.

3016–C1–P–73—Same (KYN30), 17 miles west-northwest of Saulsbury (Hardeman), Tenn. Latitude 35°03'06" N., longitude 89°07'05" W. C.P. to add frequency 4070H MHz toward Shayden, Miss.; frequency 4070H MHz toward Stayden, Miss.; frequency 4070H MHz toward Arkabutla, Miss.

3017–C1–P–73—Same (KYN29), 1.7 miles east-northeast of Pocahontas (McNairy), Tenn. Latitude 35°03'45" N. longitude 88°47'02" W. C.P. to add frequency 4030H MHz toward Saulsbury, Tenn.; frequency 4090H MHz toward Michie, Tenn.

3018–C1–P–73—Same (KYN28), 1 mile east-northeast of Michie (McNairy), Tenn. Latitude 35°03'40" N, longitude 88°25'19" W. C.P. to add frequency 4070H MHz toward Pocahontas, Tenn.; frequency 4070H MHz toward Olivehill, Tenn.

3019–C1–P–73—Same (KYN27), 4.9 miles south-southwest of Olivehill (Hardin), Tenn. Latitude 35°12'26" N., longitude 88°03'38" W. C.P. to add frequency 4090H MHz toward Michie, Tenn.; frequency 4030H MHz toward Waynesboro, Tenn.

3020–C1–P–73—American Telephone & Telegraph Co. (KYN26) 3.7 miles east of Waynesboro, Tenn. Latitude 35°19'11" N., longitude 87°41'50" W. C.P. to add frequency 4070H MHz toward Olivehill, Tenn.; frequency 4070H MHz toward Brace, Tenn.

3021–C1–P–73–Same (KYN25), 2.5 miles west-southwest of Brace, Tenn. Latitude 35°21'41" N., longitude 87°20'51" W. C.P. to add frequency 4090H MHz toward Waynesboro, Tenn.; frequency 4030H MHz toward Culleoka, Tenn.

3022–C1–P–73–Same (KYN24), 2.4 miles west-northwest of Culleoka, Tenn. Latitude 35°29'15" N., longitude 87°01'30" W. C.P. to add frequency 4070H MHz toward Brace, Tenn.; frequency 4070H MHz toward Farmington, Tenn.

3023–C1–P–73–Same (KIA60), 0.7 mile northeast of Farmington, Tenn. Latitude 35°30'28" N., longitude 86°41'58" W. C.P. to add frequency 4090H MHz toward Culleoka, Tenn.; frequency 3850V MHz toward Wartrace, Tenn.

3024–C1–P–73–Same (KYN23), 4.5 miles east of Wartrace, Ala. Latitude 35°21'47" N., longitude 86°15'18" W. C.P. to add frequency 3810V MHz toward Farmington, Tenn.; frequency 3810H MHz toward Centertown, Tenn.

3025–C1–P–73–Same (KYN22), 0.9 mile northwest of Centertown, Tenn. Latitude 35°44'06" N., longitude 86°55'46" W. C.P. to add frequency 3850H MHz toward Wartrace, Tenn.; frequency 3850H MHz toward Cassville, Tenn.

3026–C1–P–73–Same (KYN21), 1.8 miles west-northwest of Cassville, Tenn. Latitude 35°-50'04" N., longitude 86°37'41" W. C.P. to add frequency 3810H MHz toward Centertown, Tenn.; frequency 3810H MHz toward Algood, Tenn.

3027–C1–P–73–Same (KYN20), 1.4 miles east of Algood, Tenn. Latitude 36°11'33" N., longitude 85°26'22" W. C.P. to add frequency 3850H MHz toward Cassville, Tenn.; frequency 3950H MHz toward Alons, Tenn.

3028–C1–P–73–Same (KYM99), 1.8 miles north-northwest of Alons, Tenn. Latitude 36°-28'08" N., longitude 85°21'13" W. C.P. to add frequency 3810H MHz toward Algood, Tenn.; frequency 3810H MHz toward Ida, Ky.

RURAL RADIO SERVICE—Continued

3072–C1–P–73—Same except, for a new central office station to operate on 152.54, 152.63, 152.69 and 152.81 MHz to be located at Pilcher Mountain, Alaska.

3073–C1–P–73—Same except, for a new rural subscriber station to operate on 157.80, 157.89, 157.95, and 158.07 MHz to be located at Marshall, 78 miles north-northwest of Bethel, Alaska.

3074–C1–P–73—Same except, to be located at Pilot Station Village, 90 miles northwest of Bethel.

3075–C1–P–73—Same except, to be located at Pitkas Point Village 102 miles northwest of Bethel.

3076–C1–P–73—RCA Alaska Communications, Inc. (continued). Same except, to be located at Russian Mission Village, 70 miles north of Bethel, Alaska.

3077–C1–P–73—Same except, to be located at Andreasky (St. Mary's) Village, 100 miles north-northwest of Bethel, Alaska.

3078–C1–P–73–Same except, for a new central office station to operate on 152.51 and 152.60 MHz to be located at Kasaan Mountain, Alaska.

3079–C1–P–73–Same except, for a new rural subscriber station to operate on 157.77 and 157.86 MHz to be located at Myers Chuck Village, 35 miles north-northwest of Ketchikan, Alaska.

3080–C1–P–73–Same except, to be located at Thorne Bay Village, 40 miles northwest of Ketchikan.

3081–C1–P–73–Same except, for a new central office station to operate on 152.57 and 152.66 MHz to be located at Dent Point, Remote Mountain, Alaska.

3082–C1–P–73–Same except, for a new rural subscriber station to operate on 157.83 and 157.92 MHz to be located at Twin Village, 300 miles southwest of Kodiak, Alaska.

3083–C1–P–73–Same except, to be located at Ferryville Village, 292 miles southwest of Kodiak.

3084–C1–P–73—Same except, to be located at Squaw Harbor, 360 miles southwest of Kodiak.

3085–C1–P–73—Same except, for a new central office station to operate on 152.67, 152.86, and 152.72 MHz to be located southeast of Aphalik Mountain, Alaska.

3086–C1–P–73–Same except, for a new rural subscriber station to operate on 157.83, 157.92, and 157.98 MHz.

3087–C1–P–73—Same except, to be located at Red Devil Village, 162 miles east-northeast of Bethel.

3088–C1–P–73–Same except, to be located at Sleetmute Village, 170 miles east-northeast of Bethel.

3089–C1–P–73–Same except, to be located at Stopy River Village, 188 miles east-northeast of Bethel.

400–C1–MP/L–73—RCA Alaska Communications, Inc (WJT44) Chathbalak, Anlak, Alaska.

401–C1–MP/L–73—Same (WJT46), Kalskag, Alaska.

402–C1–MP/L–73–Same, change class of station to interoffice, rural radio and (WJT49). Lower Kalskag, Alaska.

425–C1–MP/L–73—Same as above, change class of station aid service to interoffice, rural radio. All other particulars to remain as reported on PN No. 560 (September 7, 1971).

Major Amendment

3567–C1–P–(4)–72—Same as above (New) change nature of service to rural radio and change class of station to central office See PN No. 576, dated December 27, 1971.

Correction

RCA Alaska Communications, Inc. (New), corrected to show the official file No. 1603–C1–P–73, which was inadvertently omitted. See PN No. 614, dated September 18, 1972.

POINT-TO-POINT MICROWAVE RADIO SERVICE

1027–C1–R–73—Bell Telephone Company of Nevada (KPF80). Application for renewal of radio station license expiring Dec 1, 1972. Term: Dec. 1 1972, to Dec. 1, 1974.

2846–C1–MP–73—Nebraska Consolidated Communications Corp. (WOH35) 0.5 mile northeast of War Eagle Park, Sioux City, Iowa. Latitude 42°29'51" N. longitude 96°20'53" W. MP to delete 5960H toward Wakefield, Nebr., azimuth 239°46' and add 6045.2V toward Decatur, Nebr., azimuth 172°49'.

XUM
V37-1218-NOV 10 72 [XUM] V37-1218-NOV 10 72 XUM

3029–C1–P–73—Same (KYM98), 1.4 miles north-northwest of Ida, Ky. Latitude 38°47'12" N., longitude 85°10'31" W. C.P. to add frequency 3850H MHz toward Allons, Tenn.; frequency 3850H MHz toward Monticello, Ky.

3030–C1–P–73—Same (KYC99), 5 miles east-northeast of Monticello, Ky. Latitude 36°51'11" N., longitude 84°45'51" W. C.P. to add frequency 3810H MHz toward Ida, Ky.; frequency 3850H MHz toward Mount Victory, Ky.

3031–C1–P–73—Same (KYJ99), 2.7 miles north-northeast of Mount Victory, Ky. Latitude 37°04'03" N., longitude 84°22'37" W. C.P. to add frequency 3810H MHz toward Monticello, Ky.; frequency 3810H MHz toward Annville, Ky.

3032–C1–P–73—American Telephone & Telegraph Co. (KYJ68), 3.4 miles northwest of Annville, Ky. Latitude 37°20'45" N., longitude 84°01'10" W. C.P. to add frequency 3850H MHz toward Mount Victory, Ky.; frequency 3850H MHz toward Cowcreek, Ky.

3033–C1–P–73—Same (KYJ97), 4.5 miles east-southeast of Cowcreek, Ky. Latitude 37°24'49" N., longitude 83°32'06" W. C.P. to add frequency 3810H MHz toward Annville, Ky.; frequency 3810H MHz toward Seitz, Ky.

3034–C1–P–73—Same (KYJ96), 4.7 miles west-southwest of Seitz, Ky. Latitude 37°40'10" N., longitude 83°14'56" W. C.P. to add frequency 3850H MHz toward Cowcreek, Ky.; frequency 3850H MHz toward Paintsville, Ky.

3035–C1–P–73—Same (KYJ95), 2 miles south-southeast of Paintsville, Ky. Latitude 37°47'15" N., longitude 82°49'09" W. C.P. to add frequency 3810H MHz toward Seitz, Ky.; frequency 3810H MHz toward Missouri Branch, W. Va.

3036–C1–P–73—Same (KYJ94), 5.1 miles east-northeast of Webb, W. Va. C.P. to add frequency 3850H MHz toward Paintsville, Ky.

3037–C1–P–73—The Mountain States Telephone & Telegraph Co. (KPZ73), latitude 41°47'43" N., longitude 111°30'45" W. C.P. to add frequencies 11,565H and 11,645V MHz toward Garden City, Utah, via passive reflector.

3038–C1–P–73—Same (New), 60 East First South, Garden City, Utah. Latitude 41°56'38" N., longitude 111°23'30" W. C.P. for a new station on frequencies 11,035V and 11,115H MHz toward Mud Flat, Utah, via passive reflector.

3039–C1–P–73—American Telephone & Telegraph Co. (KLW21), 1.7 miles northeast of Noble, Okla. Latitude 35°09'39" N., longitude 97°22'07" W C.P. to add frequency 3930H MHz toward Oklahoma City, Okla.

3041–C1–P–73—Continental Telephone Company of California (KNB40), Pratt Mountain, near Garberville, Calif. C.P. to change antenna system, points of communications and transmitters on frequency 6315.9H MHz toward Laytonville, Calif., via passive reflector.

3042–C1–P–73—Same (KNB44), Laytonville, Calif. Latitude 39°41'13" N., longitude 123°29'00" W. C.P. to change antenna system, points of communication, and transmitter on frequency 6063.8H MHz toward Pratt Mountain, Calif., via passive reflector.

3046–C1–P–73—The Mountain States Telephone & Telegraph Co. (New), 67 North Vernal Avenue, Vernal, Utah. Latitude 40°27'24" N., longitude 109°31'42" W. C.P. for a new station on frequencies 10,915H and 11,155V MHz toward Grizzly Ridge, Utah.

3047–C1–P–73—General Telephone Company of Florida (KIO65), corner of Pine Place and Bamboo Lane, Sarasota, Fla. Latitude 27°20'06" N., longitude 82°32'10" W. C.P. to add frequency 6256.5V MHz toward Verna, Fla.

3048–C1–P–73—General Telephone Company of Florida (WIV85), 10.9 miles from Parrish, Verna, Fla. Latitude 27°27'59" N., longitude 82°18'02" W. C.P. to add frequency 6004.5V MHz toward Sarasota, Fla.; frequency 6123.1V MHz toward Myakka City, Fla.

3049–C1–P–73—Same (New), corner of Old Street, Road 70, and Lebanon Street, Myakka City, Fla. Latitude 27°21'01" N., longitude 82°09'44" W. C.P. for a new station on frequency 6375.2V MHz toward Verna, Fla.

3050–C1–P–73—RCA Alaska Communications, Inc. (WGF46), 2 Lincoln Street, Sitka, Alaska. Latitude 57°02'56" N., longitude 135°20'18" W. C.P. to change name of radio service to point-to-point microwave and class to fixed on frequency 2175.4V MHz toward Biorka Island, Alaska.

3051–C1–P–73—Same (WQF81), Biorka Island FAA, Biorka Island, Alaska. Latitude 56°51'11" N., longitude 135°31'38" W. C.P. to change name of radio service to point-to-point microwave and class to fixed on frequency 2125.4V MHz toward Sitka, Alaska.

2792–C1–P–73—American Telephone & Telegraph Co. (KGA26), Wyndmoor, Pa., latitude 40°05'02" N., longitude 75°11'19" W. C.P. to add frequency 3870.0V MHz toward Topton Mountain, Pa., on azimuth 316°26'.

2793–C1–P–73—Same (KGG35), Topton Mountain, 0.30 mile north of Henningsville, Pa., latitude 40°28'22" N., longitude 75°40'27" W. C.P. to add frequency 4170.0V MHz toward Big Boulder, Pa., on azimuth 05°12'.

2794–C1–P–73—Same (KGG36), Big Boulder, 3.50 miles southwest of Blakeslee, Pa., latitude 41°02'38" N., longitude 75°36'20" W. C.P. to add frequency 3910.0V MHz toward Wyoming Mountain, Pa., latitude 41°11'52" N., longitude 75°49'22" W., on azimuth 313°12'. (Informative: A.T. & T. proposes to provide one channel of non-broadcast video service, originating in New York City, to its customer, Service Electric Cable TV, Inc., at Wyoming Mountain, Pa. A waiver of section 21.701(i) of the FCC rules is requested by A.T. & T. Special temporary authority is also requested.)

3094–C1–P–73—GPI Microwave, Inc. (New), C.P. for a new station 2.3 miles east-southeast of Bastrop, Tex. Latitude 30°06'23" N., longitude 97°17'19" W., for frequencies 6212.0V, 6271.4V, and 6330.7V MHz on azimuth 82°3' toward Giddings, Tex. (Informative: This application replaces those facilities deleted from application File No. 5891–C1–P–70 which will permit separation of the initial filed microwave systems.)

2957–C1–P–73—United Video, Inc. (New), 0.4 mile west of Ardmore, Okla., latitude 34°09'55" N., longitude 97°09'30" W. C.P. for a new station—frequencies 10735H MHz and 10895H MHz toward Scullin, Okla., on azimuth 33°33'.

2958–C1–P–73—Same (New), 1 mile north of Scullin, Okla., latitude 34°31'09" N., longitude 96°51'40" W. C.P. for a new station—(a) Frequencies 6286.2V and 6345.5V MHz toward Pauls Valley, latitude 34°41'02" N., longitude 97°12'16" W., and Ada, latitude 34°54'08" N., longitude 96°40'37" W., Oklahoma, on azimuths 297°38' and 22°29', respectively, and (b) Frequency 6286.2H MHz toward Sulphur, Okla., latitude 34°30'22" N., longitude 97°03'20" W., on azimuth 259°35'. (Informative: These applications, File Nos. 2957 and 2958–C1–P–73, in conjunction with other United applications, File Nos. 1854 through 1858–C1–P–70, will form a microwave system that extends from Ardmore to Pryor, Okla. United proposes, along this route, to provide the signal of KTVT, Dallas/Fort Worth, Tex., to CATV system in Sulphur, Tex., and the signals of KDTV and KTVT (Dallas/Fort Worth) to CATV systems in Pauls Valley, McAlester, and Pryor, Okla. A waiver of section 21.701(i) of the FCC rules is requested by United. See File Nos. 1854 through 1858–C1–P–70, this public notice.)

3043–C1–P–73—United Video, Inc. (New), McKiddyville, 16 miles southeast of Norman, Okla., latitude 35°06'07" N., longitude 97°11'54" W. C.P. for a new station—frequencies 11,425V and 11,585V MHz toward Woods, Okla., on azimuth 353°17'.

3044–C1–P–73—Same (New), Oklahoma City, Okla., latitude 35°28'06" N., longitude 97°30'54" W. C.P. for a new station—frequencies 11,425V and 11,585V MHz toward El Reno, Okla., latitude 35°30'50" N., longitude 97°57'45" W., on azimuth 277°14'.

3045–C1–P–73—Same (New), 5 miles southeast of Garber, Okla., latitude 36°23'56" N., longitude 97°29'30" W. C.P. for a new station—frequencies 10,775V and 10,935V MHz toward Enid, Okla., latitude 36°29'55" N., longitude 97°55'01" W., on azimuth 286°19'. (Informative: These applications, File Nos. 3043 through 3045–C1–P–73, in conjunction with other United applications, File Nos. 1843 through 1850–C1–P–70, will form a microwave system that extends from Ardmore, Okla., to Arkansas City, Kans. United proposes, along this route, to provide the signals of KTVT and KDTV, Dallas/Fort Worth, Tex., to CATV systems in El Reno and Enid, Okla., and Arkansas City, Kans. A waiver of section 21.701(i) of the FCC rules is requested by United. See File Nos. 1843 through 1850–C1–P–70, this public notice.)

INFORMATIVE: MCI–Indiana-Ohio, Inc., has filed four new applications for stations at Medina, Vienna, Waynesville, and Mason, Ohio. Frequencies and points of communication contained in these new applications have been deleted from applications, Files Nos. 4124 and 4129–C1–P–72, and 8676 and 8871–C1–P–70, for these same four stations. This action separates into five parts MCI Indiana-Ohio's specialized common carrier proposal contained in applications 8857 through 8867–C1–P–70, 4124 through 4130–C1–P–72 and 7154 through 7164–C1–P–72. Since these new applications make no change to the existing proposal (other than separation into five parts), the 30-day period specified by section 309(b) of the Communications Act does not apply.

Applications 8871 and 8676–C1–P–70 were filed June 26, 1970, and appeared on public notice July 6, 1970. Subsequent amendments appeared on public notice January 17, 1972, and April 17, 1972. 4124 and 4129–C1–P–72 were filed December 22, 1971, and appeared on public notice April 17, 1972.

3090–C1–P–73—MCI Indiana-Ohio, Inc. (New), 3 miles south-southeast of Medina, Ohio. Latitude 41°04'48" N., longitude 81°50'32" W. Frequency 6226.9V toward Massilon, Ohio, azimuth 145°54'.

3091–C1–P–73—Same (New), 0.7 mile north-northeast of Vienna, Ohio. Latitude 39°56'13" N., longitude 83°36'26" W. Frequency 6256.5V toward Springfield, Ohio, azimuth 265°13'.

3092–C1–P–73—Same (New), 2.7 miles north-northwest of Waynesville, Ohio. Latitude 39°34'14" N., longitude 84°06'53" W. Frequency 6226.9H toward Pyrmont, Ohio, azimuth 309°09'.

3093–C1–P–73—Same (New), 2.8 miles south of Hason, Ohio. Latitude 39°18'59" N., longitude 84°19'10" W. Frequency 5974.8H toward Hamilton, Ohio, azimuth 293°53' and 5945.2H toward Middletown, Ohio, azimuth 342°01'.

3096–C1–P–73—The Western Union Telephone Co. (New), Buckley AFB, Colo. Latitude 39°42'55" N., longitude 104°46'30" W. C.P. for a new station on frequency 6315.9H MHz toward Hilltop, Colo.

3097–C1–P–73—Same (KAK25), 5.5 miles northeast of Franktown, Hilltop, Colo. Latitude 39°25'16" N., longitude 104°39'16" W. C.P. to add frequency 6152.8H MHz toward Buckley AFB, Colo.; frequency 6034.2H MHz toward Lowry AFB, Colo.

3098–C1–P–73—Same (New), Lowry AFB, Colo. Latitude 39°43'26" N., longitude 104°53'20" W. C.P. for a new station on frequency 6197.2H MHz toward Hilltop, Colo.

3099–C1–P/ML–73—American Telephone & Telegraph Co. (KEF72), any temporary fixed location in the continental United States. C.P. and modification of license to add 65 additional units to be used primarily in connection with making orientation and cross polarization adjustments of antennas and wave guides.

3100–C1–P–73—Southern Bell Telephone & Telegraph Company (KJA97), 213 South Coit, Florence, S.C. Latitude 34°11'39" N., longitude 79°46'17" W. C.P. to add frequencies 5974.8V and 6093.5V MHz toward Marion, S.C.

3101–C1–P–73—Same (KJA98), Pine at Harlee Street, Marion, S.C. Latitude 34°10'47" N., longitude 79°23'53" W. C.P. to add frequencies 6197.2H, 6256.5H, 6316.9H, and 6375.2H MHz toward Dillon, S.C.; frequency 6256.5V MHz toward Gurley, S.C.

3102–C1–P–73—Same (KJA99), Harrison at Fourth Avenue, Dillon, S.C. Latitude 34°25'02" N., longitude 79°22'07" W. C.P. to change frequencies from 5937.8H and 6056.4H MHz to 5945.2V and 6063.8V MHz toward Marion, S.C.

3103–C1–MP–73—Northwestern Bell Telephone Co. (WHT51), U.S. Highway 20 West, Webster City, Iowa. Latitude 42°28'36" N., longitude 93°50'54" W. Modification of C.P. to delete frequency 6390.9H and add frequency 6390.0H MHz toward Fort Dodge, Iowa.

3104–C1–P–73—Southern Bell Telephone & Telegraph Co. (KJA71), 1209 Broad Street, Camden, S.C. Latitude 34°14'57" N., longitude 80°36'26" W. C.P. to add frequency 5974.8H MHz toward Pleasant Hill, S.C.

3105–C1–P–73—Same (KIY61), 208 Broad Street, Clinton, S.C. Latitude 34°28'13" N., longitude 81°52'55" W. C.P. to add frequency 5974.8V MHz toward Greenwood, S.C.

3106–C1–P–73—Same (KJH41), 7 miles west of Hartsville, S.C. Latitude 34°21'25" N., longitude 80°12'03" W. C.P. to add frequency 6404.8H MHz toward Society Hill, S.C.

3107–C1–P–73—Same (KJH42), 2.2 miles southwest of Society Hill, S.C. Latitude 34°28'51" N., longitude 79°51'37" W. C.P. to add frequencies 5974.8H and 6152.8H MHz toward Bennettsville, S.C.

3108–C1–P–73—American Telephone & Telegraph Co. (KYJ94), 5.1 miles east-northeast of Webb, W. Va. Latitude 38°00'33" N., longitude 82°23'56" W. C.P. to add frequency 3850H MHz toward Holden, W. Va.

3109–C1–P–73—Same (KYJ93), 3.7 miles southwest of Holden, W. Va. Latitude 37°46'48" N., longitude 82°06'32" W. C.P. to add frequency 3810H MHz toward Missouri Branch, W. Va.; frequency 3810H MHz toward Kopperston, W. Va.

3110–C1–P–73—Same (KYJ92), 5.2 miles west-southwest of Arnett, W. Va. Latitude 37°47'27" N., longitude 81°30'58" W. C.P. to add frequency 3850H MHz toward Holden, W. Va.; frequency 3850H MHz toward Flat Top, W. Va.

3111–C1–P–73—Same (KYJ91), 0.1 mile north of Flat Top, W. Va. Latitude 37°35'42" N., longitude 81°06'19" W. C.P. to add frequency 3810H MHz toward Kopperston, W. Va.; frequency 3810H MHz toward Springdale, W Va.

3112–C1–P–73—American Telephone & Telegraph Co. (KYJ90), 1.7 miles northeast of Springdale, W. Va. Latitude 37°53'54" N., longitude 80°46'48" W. C.P. to add frequency 3850H MHz toward Flat Top, W. Va.; frequency 3850H MHz toward Anthony, W. Va.

3113–C1–P–73—Same (KYJ89), 4.3 miles east-northeast of Woodman, W. Va. Latitude 37°56'49" N., longitude 80°14'56" W. C.P. to add frequency 3810V MHz toward Springdale, W. Va.; frequency 3810V MHz toward Warm Springs, W. Va.

3114–C1–P–73—Same (KYJ88), 1 mile south-southeast of Warm Springs, Va. Latitude longitude 79°20'09" W. C.P. to add frequency 3810H MHz toward Warm Springs, Va.; 38°02'02" N., longitude 79°46'45" W. C.P. to add frequency 3850V MHz toward Anthony, W. Va.; frequency 3850H MHz toward McKinley, Va.

3115–C1–P–73—Same (KYJ87), 3.5 miles southeast of Craigsville, Va. Latitude 38°02'26" N., frequency 3810H MHz toward Afton, Va.

3116–C1–P–73—Same (KYJ86), 2.8 miles west-southwest of Afton, Va. Latitude 38°00'38" N., longitude 78°53'14" W. C.P. to add frequency 3850H MHz toward McKinley, Va.; frequency 3850V MHz toward Advance Mills, Va.

3117–C1–P–73—Same (KYJ85), 4.8 miles southwest of Ruckersville, Va. Latitude 38°10'43" N., longitude 78°25'12" W. C.P. to add frequency 3810V MHz toward Afton, Va.; frequency 3810H MHz toward Rhoadsville, Va.

3118–C1–P–73—Same (KYJ84), 1.2 miles east-southeast of Rhoadsville, Va. Latitude 38°16'02" N., longitude 77°54'57" W. C.P. to add frequency 3860H MHz toward Advance Mills, Va.; frequency 3850H MHz toward Stafford, Va.

3119–C1–P–73—Same (KYJ83), 4 miles west of Stafford, Va. Latitude 38°25'19" N., longitude 77°29'02" W. C.P. to add frequency 3810H MHz toward Rhoadsville, Va.; frequency 3810H MHz toward Faulkner, Md.

3120–C1–P–73—Same (KGN87), 0.5 mile southwest of Faulkner, Md. Latitude 38°26'02" N., longitude 76°58'58" W. C.P. to add frequency 3850H MHz toward Stafford, Va.; frequencies 3750V and 3830V MHz toward Westwood, Md.

3121–C1–P–73—Same (KON78), 1.4 miles southeast of Westwood, Md. Latitude 38°38'47" N., longitude 76°43'04" W. C.P. to add frequencies 3710V and 3790V MHz toward Faulkner, Md.; frequencies 3710H and 3790H MHz toward Prince Frederick, Md.

3122–C1–P–73—Same (KGN95), 4 miles south of Prince Frederick, Md. Latitude 38°28'46" N., longitude 76°32'58" W. C.P. to add frequencies 3750H and 3830H MHz toward Westwood, Md.; frequencies 3750V and 3830V MHz toward Trappe, Md.

3123–C1–P–73—Same (KCO60), 0.7 mile south of Trappe, Md. Latitude 38°38'29" N., longitude 76°03'30" W. C.P. to add frequencies 3710V and 3790V MHz toward Prince Frederick, Md.; frequencies 3710H and 3790H MHz toward Denton, Md.

3124–C1–P–73—American Telephone & Telegraph Co. (KGP39), 2 miles northeast of Denton, Md. Latitude 38°54'19" N., longitude 75°47'23" W. C.P. to add frequencies 3750H and 3830H MHz toward Trappe, Md.; frequencies 3750V and 3830V MHz toward Blackiston, Del.

3125–C1–P–73—Same (KGP42), 1.85 miles southeast of Blackiston, Del. Latitude 39°15'20" N., longitude 75°40'20" W. C.P. to add frequencies 3710V and 3790V MHz toward Denton, Md.; frequencies 3710V and 3790V MHz toward Quinton, N.J.

3126–C1–P–73—Same (KEM73), 2 miles southeast of Quinton, N.J. Latitude 39°31'49" N., longitude 75°22'53" W. C.P. to add frequencies 3750V and 3830V MHz toward Blackiston, Del.

3127–C1–MP–73—The Bell Telephone Company of Pennsylvania (WJM40), Peters Mountain, 2.8 miles northwest of Dauphin, Pa. Latitude 40°24'28" N., longitude 76°56'39" W., Modification of C.P. to change frequency from 6034.2V to 6123.1H MHz toward Thick Mountain, Pa.

3128–C1–MP–73—Same (WJM44), Thick Mountain, 5.2 miles east-northeast of Naginey, Pa. Latitude 40°44'30" N., longitude 77°28'02" W. Modification of C.P. to change frequency from 6286.2H to 6375.2V MHz toward Peters Mountain, Pa.

3129–C1–P–73—Southern Bell Telephone & Telegraph Co. (KIY59), 1645 Hampton Street, Columbia, SC. Latitude 34°00'39" N., longitude 81°01'42" W. C.P. to add frequency 6093.5V MHz toward Swansea, S.C.

3130–C1–P–73—Same (KJC87), 1.7 miles east of Swansea, S.C. Latitude 33°44'42" N., longitude 81°04'25" W. C.P. to add frequency 6345.5V MHz toward Blackville, S.C.; frequencies 6345.5V and 6226.9V MHz toward Orangeburg, S.C.

3131–C1–P–73—Same (KJC88), approximately 4 miles north-northwest of Blackville, S.C. Latitude 33°24'55" N., longitude 81°17'02" W. C.P. to add frequencies 6093.5H and 5974.8H MHz toward Montmorenci, S.C.; frequency 6093.6V MHz toward Allendale, S.C.

3132–C1–P–73—Same (KJC89), 3 miles northwest of Allendale, S.C. Latitude 33°01'56" N., longitude 81°20'53" W. C.P. to add frequency 3890V MHz toward Walterboro, S.C.

hereby revoked effective October 25, 1972, without prejudice to reapply for a license

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

3133–C1–P–73—Same (KJC90), 8.5 miles west of Walterboro S.C. Latitude 32°53'16'' N., longitude 80°48'34'' W. C.P. to add frequency 3930V MHz toward Summerville, S.C.; frequencies 5974.8H and 6093 5H MHz toward Lobeco, S.C.

3134–C1–P–73—Same (KJC91), 10 miles southwest of Summerville, S.C. Latitude 32°52'20'' N., longitude 80°16'22' W. C.P. to add frequency 3890V MHz toward Charleston, S.C.

3135–C1–P–73—Same (KJH35), 1 5 miles west of Montmorenci, S.C. Latitude 33°31'26'' N., longitude 81°39'40'' W. C.P. to add frequencies 10,795H and 11,035H MHz toward Aiken, S.C.

3136–C1–P–73—Western Tele-Communications, Inc. (New), 1880 Century Park East, latitude 34°03'36'' N., longitude 118°24'46'' W. C.P. for new station—frequencies 5989.7V, 6049.0V, and 6108.3V MHz toward Mount Wilson.

3137–C1–P–73—Same (New), 31.5 miles northeast of Altadena, Calif., latitude 34°13'36'' N., longitude 118°03'59'' W. C.P. for new station—frequencies 3910H, 4070H, and 4150H MHz toward Santiago Peak.

3138–C1–P–73—Same (New), 11 miles south-southeast of Corona, Calif., latitude 33°42'42'' N., longitude 117°31'46'' W. C.P. for a new station—frequencies 10,935H, 11,095H, and 10,855H MHz toward Toro Peak, Calif.

3139–C1–P–73—Same (WOI56), 14.1 miles south-southwest of Palm Desert, Calif., latitude 33°31 22'' N., longitude 116°25'30'' W. C.P. to add transmitters—frequencies 4010H, 3990H, and 4070H MHz toward El Centro, Calif.

3140–C1–P–73—Same (WOI52), 449 Broadway, El Centro, CA, latitude 32°47'36'' N., longitude 115°33'13'' W. C.P. to add transmitters—frequencies 3890V, 3970V, and 4050V MHz toward Midway Well, Calif.

3141–C1–P–73—Same (WOI53), 19 miles southeast of Holtville, Calif., latitude 32°42'35'' N., longitude 115°03'53'' W. C.P. to add transmitters—frequencies 4170V, 3990H, and 4070H MHz toward Telegraph Pass, Ariz

3142–C1–P–73—Same (WOI54), 16.5 miles east-southeast of Yuma, Ariz., latitude 32°40'22'' N., 114°20'14'' W. C.P. to add transmitters—frequencies 3730H, 3890H. and 3970H MHz toward Oatman Mountain, Ariz.

3143–C1–P–73—Same (WOI81), 25.25 miles northeast of Gila Bend, Ariz., latitude 33°03'06'' N., longitude 113°08'06'' W. C.P. to add transmitters—frequencies 3910V, 3990V, and 4070V MHz toward White Tank Mountain, Ariz.

3144–C1–P–73—Same (WOI80), 10.5 miles north-northwest of Perryville, Ariz., latitude 33°34'10'' N., longitude 112°33'33'' W. C.P. to add transmitters—frequencies 4030H, 3950H, and 3710H MHz toward Phoenix, Ariz.

3145–C1–P–73—Same (WOI83), 2980 Grand Avenue, Phoenix, Ariz., latitude 33°29'08.2'' N.; longitude 112°07'19.8'' W. C.P. to add transmitters-frequencies 4010V MHz, 3910H MHz, and 4070H MHz toward Pinal Peak, Ariz.

3146–C1–P–73—Same (WOI84), 8.5 miles south-southwest of Globe, Ariz., latitude 33°16'56'' N., longitude 110°49'13.5'' W. C.P. to add transmitters-frequencies 3730H MHz, 3890H MHz, and 4050H MHz toward Heliograph Peak, Ariz., and frequencies 3730V MHz, 3790V MHz, and 4050V MHz toward Mount Bigelow, Ariz.

3147–C1–P–73—Same (New), 18 miles northeast of Tucson, Ariz., latitude 32°24'56'' N., longitude 110°42'48.5'' W. C.P. for new station-frequencies 3910V MHz, 4070V MHz, and 4150V MHz toward Tucson, Ariz.

3148–C1–P–73—Same (WOI87), 13.8 miles southwest of Safford, Ariz., latitude 32°38'59'' N., longitude 109°50'53'' W. C.P. to add transmitters-frequencies 3910V MHz, 3990V MHz, and 4070V MHz toward Burrow Peak, N Mex.

3149–C1–P–73—Same (WOI88), 16 miles south-southwest of Silver City, N. Mex., latitude 32°34'56'' N., longitude 108°25'37'' W. C.P. to add transmitters-frequencies 3890V MHz, 3970V MHz, and 4050V MHz toward Aden Hills, N. Mex.

3150–C1–P–73—Same (WOI89), 19.3 miles southwest of Las Cruces, N. Mex., latitude 32°11'15'' N., longitude 107°05'33'' W. C.P. to add transmitters-frequencies 5989.7V MHz, 6049.0V MHz, and 6108.3V MHz are power splits toward El Paso, Tex.; Las Cruces, N. Mex.; and Lake Valley, N. Mex.

3151–C1–P–73—Same (New), 1 75 miles northwest of Lake Valley, N. Mex., latitude 32°44'16'' N., longitude 107°35'02'' W. C.P. for new station-frequencies 6241.7H MHz, 6271 4V MHz, and 6360.3H MHz toward Engle, N. Mex.

3152–C1–P–73—Same (New), 9 miles north-northeast of Engle, N. Mex., latitude 33°17'47'' N., longitude 107°04'28'' W. C.P. for new station-frequencies 5960.0V MHz, 6019.3V MHz, and 6078.6V MHz toward Black Mesa, N. Mex.

3153–C1–P–73—Same (New), 2.8 miles south-southeast of San Marcial, N. Mex., latitude 33°39'47'' N., longitude 106°58'29'' W. C.P. for new station-frequencies 6212.0H MHz, 6271.4H MHz, and 6330.7H MHz toward Socorro, N. Mex.

3154–C1–P–73—Same (New), 85 miles east-northeast of Lemitar, N. Mex., latitude 34°11'49'' N., longitude 106°45'54'' W. C.P. for new station-frequencies 5960.0H MHz, 6019.3H MHz, and 6078.6H MHz toward Rio Puerco, N. Mex.

3155–C1–P–73—Same (New), 5 miles east-northeast of Rio Puerco, N. Mex., latitude 34°48'28'' N., longitude 106°54'32'' W. C.P. for new station-frequencies 6212.0H MHz, 6271.4H MHz, and 6330.7H MHz toward Sandia Crest, N. Mex.

3156–C1–P–73—Same (New), 10 miles northeast of Albuquerque, N. Mex., latitude 35°12'44'' N., longitude 106°26'59'' W. C.P. for new station-frequencies 10,915H MHz, 11,075H MHz, and 10,955V MHz are power splits toward Albuquerque, N. Mex.; Santa Fe, N. Mex.; and Barillas Peak, N. Mex.

3157–C1–P–73—Same (New), 14 miles west of Las Vegas, N. Mex., latitude 35°34'08'' N., longitude 105°28'22'' W. C.P. for new station-frequencies 3910V MHz, 3990V MHz, and 4150V MHz toward Cornudo Hills, N. Mex.

3158–C1–P–73—Same (New), 5 miles east of Wagan Mound, N. Mex., latitude 35°59'12'' N., longitude 104°37'36'' W. C.P. for new station-frequenices 3730H MHz, 3810H MHz, and 3970H MHz toward Bartlett Mesa, N. Mex.

3159–C1–P–73—Same (New), 6 miles north of Raton, N. Mex., latitude 36°59'33'' N., longitude 104°27'39'' W. C.P. for new station-frequencies 3770H MHz, 3850H MHz, and 4010H MHz toward Mustang Hill, Colo.

3160–C1–P–73—Same (New), 19 miles north of Walsenburg, Colo., latitude 37°54'15'' N., longitude 104°45'56'' W. C.P. for new station-frequencies 5945.2V MHz, 6004.5V MHz, and 6063.8V MHz toward Pueblo CATV.

3161–C1–P–73—Same (New), 620 West Ninth Street, Pueblo, Colo., latitude 38°16'31'' N., longitude 104°36'56'' W. C.P. for new station-frequencies 6197.2V MHz, 6256.5V MHz, and 6315.9V MHz toward Ellicott, Colo.

3162–C1–P–73—Same (New), 9 miles west-southwest of Ellicott, Colo., latitude 38°48'53'' N., longitude 104°33'26'' W. C.P. for new station-frequencies 5974.8V MHz, 6034.2V MHz, and 6093.5V MHz are power splits toward Colorado Springs, Colo., and Peyton, Colo.

3163–C1–P–73—Same (New), 12.5 miles northeast of Peyton, Colo., latitude 39°06'48'' N., longitude 104°24'04'' W. C.P. for new station-frequencies 6197.2V MHz, 6256.5V MHz, and 6315.9V MHz toward Kiowa, Colo.

3164–C1–P–73—Same (New), 13.5 miles northeast of Kiowa, Colo., latitude 39°26'51'' N., longitude 104°14'40'' W. C.P. for new station-frequencies 5945.2V MHz, 6004.5V MHz, and 6063.8V MHz toward Parker, Colo.

3165–C1–P–73—Same (New), 5 miles east of Parker, Colo., latitude 39°31'22'' N., longitude 104°40'04'' W. C.P. for new [illegible]on-frequencies 6197.2H MHz, 6256.5H MHz, and 6315.9H MHz toward Denver Tec[illegible]ogical Center, Denver, Colo. (Informative: Applicant proposes to provide a Home Theatre Network service from Los Angeles, Calif., to Phoenix and Tucson, Ariz.; El Paso, Tex.; Las Cruces, Albuquerque, and Santa Fe, N. Mex.; Pueblo, Colorado Springs, and Denver, Colo.

1843–C1–P–70—United Video, Inc. (New), 0.4 mile west of Ardmore, Okla., latitude 34°-09'55'' N., longitude 97°09'30'' W. Application amended: (a) To change the polarity of frequencies 10,735 and 10,895 MHz to horizontal and (b) to change azimuth toward Scullin, Okla., to 33°33'.

1844–C1–P–70—Same (New), Scullin, Okla., latitude 34°32'09'' N., longitude 96°51'40'' W. Application amended: (a) To change station location to foregoing coordinates; (b) to change frequencies to 6286.2H and 6345.5H MHz toward Byars, Okla., on azimuth 330°00'; and (c) to delete Ada, Okla., as point of communication.

1845–C1–P–70—Same (New), 3.2 miles west of Byars, Okla., latitude 34°52'54'' N., longitude 97°06'13'' W. Application amended: (a) To change station location to foregoing coordinates; (b) to add frequencies 10,775V and 10,935V MHz toward new point of communication at McKiddyville, Okla., on azimuth 341°40'; and (c) to delete Norman, Okla., as a point of communication.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

1846–C1–P–70—Same (New), 2.7 miles southeast of Woods, Okla., latitude 35°25'00'' N., longitude 97°14'27'' W. Application amended: (a) To change station location to foregoing coordinates; (b) to add frequencies 10,735H and 10,895H MHz toward new point of communication at Oklahoma City, Okla., on azimuth 283°03'; (c) to add frequencies 10,775V and 10,935V MHz toward new point of communication at Carney, Okla., on azimuth 24°27'; and (d) to delete Turner Turnpike, Okla., as point of communication.

1847–C1–P–70—Same (New), 1 mile southeast of Carney, Okla., latitude 35°47'54'' N., longitude 97°01'40'' W. Application amended: (a) To change station location to foregoing coordinates; (b) to add frequencies 11,385V and 11,545V MHz toward new point of communication at Stillwater, Okla., on azimuth 358°08'; and (c) to delete Mulhall, Okla., as point of communication.

1848–C1–P–70—Same (New), 1 mile east of Stillwater, Okla., latitude 36°06'39'' N., longitude 97°02'25'' W. Application amended: (a) To change station location to foregoing coordinates; (b) to add frequencies 11,015V and 11,175V MHz toward new point of communication at Watchorn, Okla., on azimuth 357°39'; and (c) to delete Perry, Okla., as point of communication.

1849–C1–P–70—Same (New), Watchorn, 7 miles east-southeast of Red Rock, Okla., latitude 36°26'20'' N., longitude 97°03'25'' W. Application amended: (a) To change station location to foregoing coordinates; (b) to add frequencies 11,665H and 11,345H MHz toward new point of communication at Garber, Okla., on azimuth 263°38'; (c) change frequencies to 11,385V and 11,545V MHz toward Ponca City, Okla., on azimuth 02°58'; and (d) to delete Enid, Okla., as point of communication.

1850–C1–P–70—Same (New), 1 mile north of Ponca City, Okla., latitude 36°44'30'' N., longitude 97°02'15'' W. Application amended to change frequencies to 10,975V and 11,135V MHz toward Arkansas City, Kans., latitude 37°01'33'' N., longitude 97°00'38'' W., on azimuth 04°21'. (NOTE: See File Nos. 3043 through 3045–C1–P–73, this public notice.)

1854–C1–P–70—United Video, Inc. (New), 7.5 miles north of Ada, Okla., latitude 34°54'08'' N., longitude 96°40'37'' W. Application amended to change frequencies to 5974.8H and 6034.2H MHz toward Holdenville, Okla., on azimuth 49°05'.

1855–C1–P–70—Same (New), 1 mile northeast of Holdenville, Okla., latitude 35°06'09'' N., longitude 96°23'43'' W. Application amended to change frequencies to 6226.9H and 6286.2H MHz toward Henryetta, Okla., on azimuth 41°36'.

1856–C1–P–70—Same (New), 2.3 miles west-southwest of Henryetta, Okla., latitude 35°25'50'' N., longitude 96°02'20'' W. Application amended: (a) To change frequencies to 5974.8V and 6034.2V MHz toward Bald Hill, Okla., on azimuth 26°51' and (b) to add frequencies 11,425H and 11,345H MHz toward new point of communication at McAlester, Okla., latitude 34°58'15'' N., longitude 95°45'15'' W., on azimuth 152°58'.

1857–C1–P–70—Same (New), Bald Hill, 8.25 miles east-northeast of Preston, Okla., latitude 35°44'45'' N., longitude 95°50'35'' W. Application amended to delete frequency 11,665H MHz toward Oneta, Okla., on azimuth 22°27'.

1858–C1–P–70—Same (New), Oneta, 5 miles southeast of Broken Arrow, Okla., latitude 36°-01'17'' N., longitude 95°42'08'' W. Application amended to delete frequency 10,975V MHz toward Pryor, Okla., on azimuth 48°35'. (NOTE: See File Nos. 2957 and 2958–C1–P–73, this public notice.)

4646–C1–P–72—American Television & Communications Corp. (New), 2.5 miles northeast of Wilmer, La., latitude 30°49'34'' N., longitude 90°19'37'' W. Application amended to change frequency 6152.8 to 6197.2V MHz toward McComb, Miss., on azimuth 347°05'.

4647–C1–P–72—Same (New), McComb, Miss., latitude 31°14'59'' N., longitude 90°26'24'' W. Application amended to change frequency 6226.9 to 6167.6H MHz toward Brookhaven, Miss., on azimuth 358°44'.

4648–C1–P–72—Same (New), Brookhaven, Miss., latitude 31°33'42'' N., longitude 90°-26'53'' W. Application amended to change frequency 6152.8 to 6197.2H MHz toward Crystal Springs, Miss., on azimuth 01°18'. (Informative: ATC proposes, in addition to these technical changes, to provide the signal of WGNO–TV, New Orleans, La., to Brookhaven Cablevision in Brookhaven.)

5945–C1–P–72—Eastern Microwave, Inc. (KEM35), Ingraham Hill, N.Y., latitude 42°03'43'' N., longitude 75°57'03'' W. Application amended: (a) To add two new points of communication at Vestal and Endicott, N.Y., on frequency 11,055V MHz and azimuths of 259°28' and 320°38', respectively, and (b) to change type of transmitting equipment. (Informative: Eastern is amending its pending proposal for service to CATV system in Binghamton, N.Y., to include service to CATV systems in Vestal and Endicott, N.Y. Sterling Communications, Inc., of New York, N.Y., will provide the program material for transmission by Eastern.)

[FR Doc.72-19290 Filed 11-9-72;8:45 am]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 835]

CAPITOL SHIPPING CO.

Order of Revocation

On October 25, 1972, the Federal Maritime Commission received notification that Capitol Shipping Co., 1010 Vermont Avenue NW., Suite 902, Washington, DC 20005, wishes to voluntarily surrender its Independent Ocean Freight Forwarder License No. 835 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) § 7.04(f) (dated May 1, 1972);

It is ordered, That Independent Ocean Freight Forwarder License No. 835 be returned to the Commission for cancellation.

It is further ordered, That the Independent Ocean Freight Forwarder License of Capitol Shipping Co. be and is hereby revoked effective October 25, 1972, without prejudice to reapply for a license at a later date.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Capitol Shipping Co.

AARON W. REESE,
Managing Director.

[FR Doc.72-19325 Filed 11-9-72;8:49 am]

MATSON TERMINALS, INC., AND HONOLULU TERMINALS CO., LTD.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Peter P. Wilson, Counsel, Matson Navigation Co., 100 Mission Street, San Francisco, CA 94105.

Agreement No. T-2710, between Matson Terminals, Inc. (Matson), and Honolulu Terminals Co., Ltd. (HTC), is a labor loan agreement whereby HTC will provide Matson clerk labor to perform checking of containers at container yards located in Honolulu, Hawaii. As compensation, HTC is to receive rates as agreed to by the parties and filed with this Commission.

By order of the Federal Maritime Commission.

Dated: November 6, 1972.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-19326 Filed 11-9-72;8:49 am]

PORT OF TACOMA AND CONTINENTAL GRAIN CORP.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to Section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Ray R. Heinke, Manager, Terminal Division, Port of Tacoma, Post Office Box 1837, Tacoma, WA 98401.

Agreement No. T-[illegible]706, between the Port of Tacoma (Port) and Continental Grain Corp. (Continental), is a lease-agreement whereby the Port will construct a grain storage terminal facility and lease it to Continental for a 30-year term with renewal options. The facility is to be operated by Continental as a public agricultural products facility for the receipt and storage of dry agricultural products. Continental's rental for the facility is to be computed in accordance with a formula set forth in detail in the agreement based on the amortization of final construction costs. Under the terms of the agreement, Continental will have the exclusive right to establish and assess tariff charges and promulgate rules and regulations governing the facility. With respect to dockage charges, however, Continental is to become a "Participating Terminal" under the Tacoma Terminals Tariff. All charges are to be generally competitive with charges assessed by similar facilities in the area.

By order of the Federal Maritime Commission.

Dated: November 7, 1972.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-19327 Filed 11-9-72;8:49 am]

[Docket No. 72-59]

TRANSAMERICAN TRAILER TRANSPORT INC.

Order of Investigation and Suspension

On October 6, 1972, Transamerican Trailer Transport, Inc. (TTT) filed various revised pages to its tariff FMC-F No. 1, proposing extension of service to include the Port of Baltimore, Md., effective November 5, 1972. Included in those revised pages, on sixth revised page 43, is Rule 621 covering "Wharfage charges at Baltimore, Maryland." The rule is similar to those of Sea-Land Service, Inc., and Seatrain Lines, Inc., currently under investigation in Docket No. 72-25, and provides for a "top wharfage" charge against cargo which moves to or from the pier in other than railroad car service.[1] There appears to be no parallel charge levied by TTT in New York on similar cargo.

Upon review of the above-rule, the Commission is of the opinion that the proposed charge may constitute an unreasonable preference to cargo moving in railroad car service and that it also may be unduly prejudicial to shippers in and the Port of Baltimore as opposed to their New York counterparts in contravention of section 16 First of the Shipping Act, 1916 (46 U.S.C. 815).

Good cause appearing, therefore:

It is ordered, That pursuant to the authority of section 22 of the Shipping Act, 1916, and sections 3 and 4 of the Intercoastal Shipping Act, 1933, an investigation is hereby instituted into the lawfulness of said tariff rule for the purpose of making such findings and orders as the facts and circumstances warrant. In the event that the subject rule is further changed, or reissued, such matter is hereby ordered to be included in this investigation.

It is further ordered, That pursuant to section 3, Intercoastal Shipping Act, 1933, Rule 621 on sixth revised page 43 of Transamerican Trailer Transport Inc.'s tariff FMC-F No. 1 is hereby suspended and the use thereof deferred to and including March 4, 1973, unless otherwise ordered by this Commission.

It is further ordered, That there shall be filed immediately with this Commission by Transamerican Trailer Transport Inc. a consecutively numbered supplement to the aforesaid tariff which supplement shall bear no effective date, shall reproduce the portion of this order wherein the suspended matter is described and shall state that the aforesaid matter is suspended and may not be used until March 5, 1973, unless otherwise authorized by this Commission and that the suspended matter may not be changed until this proceeding has been disposed of or until the period of suspension has expired, whichever comes first, unless otherwise ordered by this Commission.

It is further ordered, That pursuant to section 16 First of the Shipping Act, 1916, a determination shall be made as to whether the subject rule gives any unreasonable preference or advantage to shippers who utilize railroad car service or who ship via New York, or whether it subjects the Port of Baltimore, or shippers who do not utilize railroad car service, to any undue or unreasonable prejudice or disadvantage.

It is further ordered, That copies of this order shall be filed with the said tariff schedule in the Bureau of Compliance of the Federal Maritime Commission.

It is further ordered, That Transamerican Trailer Transport Inc. be named as respondent in this proceeding.

It is further ordered, That this proceeding be assigned for public hearing before an administrative law judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined by that presiding officer.

It is further ordered, That: (i) A copy of this order be forthwith served upon the respondent herein and upon this Commission's Bureau of Hearing Counsel, and published in the FEDERAL REGISTER; and (ii) the respondent and Hearing Counsel be duly served with notice of time and place of the hearing.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 5(1) of the Commission's rules of practice and procedure (46 CFR 502.72) with a copy to all parties to this proceeding.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-19324 Filed 11-9-72;8:49 am]

[1] Railroad car service includes trailer-on-flat-car service under certain specified conditions.

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 11(p)(1) of the Federal Water Pollution Control Act, as amended, and, accordingly, have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No. — *Owner/Operator and Vessels*

01065--- Reederei Richard Schroder:
Leo Schroder.
01080--- Fred Devine Diving & Salvage Co., Inc., Firstbank Leasing Corp.:
Salvage Chief.
01104--- Hyundai International, Inc.:
Atlas Counsellor.
01178--- Olaf Pedersen's Rederi A/S:
Sunny Lady.
01185--- Aksjeselskapet Kosmos:
Jarita.

Certificate No. — *Owner/Operator and vessels*

01330--- Shell Tankers (U.K.) Ltd.:
Hemiglypta.
Solen.
01331--- Poling Transportation Corp.:
Janet C.
01465--- Scottish Ship Management Ltd.:
Baron Wemyss.
01466--- Common Bros. (management) Ltd.:
Ida Lundrigan.
01710--- Pluto S.P.A.-Palermo:
Brasilia.
Igara.
01712--- Nereide S.P.A. Di Navigazione:
Kudu.
01716--- Achille Lauro-Napoli:
Gioacchino Lauro.
01758--- Chotin Transportation, Inc.:
Chotin-1380X.
Chotin-1381X.
Chotin-1382X.
Chotin-1383X.
01848--- Ares Shipping Corp.:
Emerald Seas.
01904--- Waterman Steamship Corp.:
Thomas Jefferson.
John Tyler.
02021--- Atlantska Plovidba:
Astarea.
02039--- "Gryf" Deep Sea Fishing Co.:
Likowal.
02041--- "Dalmor" Przedsiebiorstwo Polowow Dalekomorskich I Uslug Rybackich:
Taurus.
02198--- The Peninsular & Oriental Steam Navigation Co.:
Spirit of London.
02332--- Lykes Bros Steamship Co., Inc.:
LY-102.
LY-103.
LY-104.
LY-105.
LY-106.
LY-107.
LY-108.
LY-109.
LY-110.
LY-111.
02452--- Dover Navigation Co., Ltd.:
Ocean Queen.
02713--- T. L. James & Co., Inc.:
Atlas I.
02836--- The Scindia Steam Navigation Co., Ltd.:
Jalayamini.
Jalamokambi.
02863--- Naviera Aznar, S.A.:
Monte Abril.
02956--- Ashland Oil, Inc.:
JN-101.
02961--- Kobe Kisen Kabushiki Kaisha:
Colombia Maru.
03018--- Federal Barge Line, Inc.:
ME-8.
ME-9.
FT-1.
FT-2.
FTC-4.
03148--- Astromerito Compania Naviera S.A.:
Leandros.
03397--- Hilmar Rekstein:
Fabian.
Araluck.
03433--- Hiroumi Kisen Kabushiki Kaisha:
San Martin-Maru.
03441--- Japan Line K.K.:
Japan Adonis.
World NKK.
Neptune World.
Japan Mimosa.
03457--- Masumoto Kaiunsangyo K.K.:
Daishin Maru.
03459--- Meiji Kaiun K.K.:
Marquis.
03482--- Ryutsu Kaiun Kabushiki Kaisha:
Ryuseimaru.
03519--- Toko Shosen K.K.:
Kikuko Maru.
04064--- Northern Navigation Co. Inc.:
Minoan Bull.
04136--- Thomas Marine Co.:
SC 35
04289--- Dixie Carriers, Inc.:
DXE 1111.
DXE 1112.
DXE 3007-B.
04357--- Koninklijke Nedlloyd N.V.:
Nedlloyd Carwell.
04398--- Hapag-Lloyd Aktiengesellschaft:
Hong Kong Express.
04448--- San Francisco Port Commission:
Piledriver No. 2.
Piledriver No. 3.
04483--- Kaiomaru Gyogyo Kabushiki Kaisha:
Kaiomaru No. 31.
04640--- McAllister Lighterage Line Inc.:
McAllister 149.
04798--- Vicksburg Towing Co. Inc.:
Yazoo City.
05089--- H. F. Eimskipafelag:
Manafoss.
Mulafoss.
Irafoss.
05198--- Esso Tankers Inc.:
Esso Kumamoto.
Esso Rotterdam.
05244--- Hanseatische Hochseefischerei. Aktiengesellschaft:
Karlsburg.
05537--- Empresa Navegacion Mambisa:
Frimar.
06095--- Helmville Ltd.:
David Marquess of Milford Haven.
06105--- Booker Development Co. Inc.:
Rig No. 1.
06248--- Commercial Corporation "Sovrybflot":
Lev Tolstoy.
06578--- Van Nievelt, Goudriaan & Co. N.V.:
Ilios.
Alcor.
Algol.
Algorab.
Alkes.
Asmidiske.
Asterope.
Adara.
Situla.
Markab II.
Rochab.
Subra.
Marian Maria.
Asuncion.
Villarrica.
Astron.
Nushaba.
Nashira.
Talita.
Nusakan.
Sheratan.
06682--- Reederei Claus-Peter Offen KG:
Holstendeich.
06761--- Sinclair Memphis Marine Service, Inc.:
Southern Cross.
06925--- Bibby Bulk Carriers Ld.:
Lancashire.
07011--- Pergamos Shipping Co. Ltd.:
Good Navigator.
07014--- Compagnie Atlantique Maritime:
Mont Louis.
07074--- Hae Woi Industrial Co., Ltd.:
Luna No. 22.
07160--- Zenith Obo Shipping Corp.:
Delaware.
07208--- Sikinos Shipping Co. Ltd.:
Dekatria.
07341--- Christianson Construction Co., Inc.:
Barnacle.
07344--- Main Corp.:
American Main.
07353--- Elizalde & Co., Inc., Shipping Department:
Orient Star.
07354--- Fernavi-Societa' Di Navigazione:
Marcus Lolli-Ghetti.
07357--- The Shipping Partnership for MS Lindblad Explorer:
Lindblad Explorer.
07358--- Eimini Lizard Inc.:
Mini Lizard.
07359--- Empresa Insulana De Navegaco S.A.R.L.:
Mauricio De Oliveira.
Rodrigues Cabrilho.
07362--- Primorsk Shipping Co.:
Leninskoye Znamya.
07366--- Compagnie Maritime Des Chargeurs Reunis:
Medariana.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-19321 Filed 11-9-72;8:48 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 11(p)(1) of the Federal Water Pollution Control Act, as amended, and, accordingly, have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No. — *Owner/Operator and vessels*

01105--- Tschudi & Eitzen:
Sibeau.
01326--- Sabine Towing & Transportation Co., Inc.:
STCO 220.
STCO 221.
01334--- American President Lines, Ltd.:
President Fillmore.
01428--- Ocean Steam Ship Co. Ltd.:
Phemius.
Phrontis.
Perseus.
Patroclus.
01516--- Royal Caribbean Cruise Line A/S:
Sun Viking.
01764--- Reynolds Metals Co.:
Pyramid Vega.
02001--- Rederiaktiebolaget Transatlantic:
Barranduna.
02024--- A/S Hav and A/S Havtank:
Permina I.
Stavern.
02198--- The Peninsular & Oriental Steam Navigation Co.:
Kildare.
Chitral.
Cathay.
02332--- Lykes Bros. Steamship Co., Inc.:
LY 98.
LY 99.
LY 100.
LY 101.
LY 94.
LY 95.
LY 96.
LY 97.

XUM V37-218 NOV 10 72 XUM

Certificate No.	Owner/Operator and vessels
02501	Standard Oil Co. of California:
	Nevada Standard
02835	Hong Kong Shipowners & Managers Co., Ltd.:
	Yancey.
	Katharina.
03214	Salenrederierna Aktieboloag:
	Sea Serpent.
	Snow Storm.
03400	Nicolas J. Vardinoyannis:
	Pavlos V.
03422	Daiwa Kaiun K. K.:
	Fiji Maru.
03466	Nanboku Sangyo K. K.:
	Santo Maru.
03467	Nissin Kisen K. K.:
	Nichigo Maru.
03485	Sanoyasu Shoji K. K.:
	M. V. Kinyo Maru.
03640	Pan Ocean Bulk Carriers, Ltd.:
	Bum Woo.
03725	Circle Line-Sightseeing Yachts, Inc.:
	Dayliner.
03836	Splosna Plovba:
	Kidric B.
04024	Erie Sand Steamship Co.:
	Jack Wirt.
04050	A/S Uglands Rederi:
	Akarita.
04074	Tankore Corp.:
	Sanovia.
04093	Renaissance Shipping Corp.:
	Renaissance.
04113	Mon River Towing, Inc.:
	MRT 17.
04196	Otto Candies, Inc.:
	OC-300.
04264	Outerocean Navigation Corp., Ltd.:
	Harriet.
04289	Dixie Carriers, Inc.:
	B-101.
04435	Gateway Barge Linea, Inc.:
	GW 65.
04502	Kotoshiro Gyogyo Kabushiki Kaisha:
	Kotoshiromaru No. 10.
04504	Sumiyoshi Gyogyo Kabushiki Kaisha:
	Sumiyoshimaru No. 35.
	Sumiyoshimaru No. 5.
04625	American Commercial Lines, Inc.:
	Sponson No. 1.
	Sponson No. 2.
04629	Smit International (Antilles) N.V.:
	Smit Pioneer.
04844	Dampfschifffahrts - Gesellschaft "Neptun":
	Gammagas.
05151	Ocean Protein, Inc.:
	Zapata Atachafalaya Bay.
	Zapata Timballer Bay.
05577	Far-Eastern Shipping Co.:
	Kapitan Kondratjev.
	Kansk.
	Taiga.
	Primories.
	Djurma.
	Zagorsk.
	Kungur.
	Bukhara.
	Mekhanik Ryabachuk.
	Shadrinsk.
	Kraskino.
05708	Petersen & Alpers:
	Hansa.
05746	Campanella Corp.:
	Jamestown.
05770	C.A. Venezolana De Navigacion:
	La Guaira.
	Maracaibo.
05834	Kooyoo Suisan Kabushiki Kaisha:
	Seiko Maru No. 8.
05867	Ocean Carriers Corp.:
	U-723.
05874	Sonoda Kisen K. K.:
	Yukizono Maru.
06248	Commercial Corporation "Sovrybflot":
	Khrustal.
	Senyavina.
06321	Shimat Marine (Panama) S.A.:
	Royal Star.
	Eastern Star.
06511	Associated Shipping Corp. Ltd.:
	Eastern Ocean.
06549	Compagnie Marocaine De Navigation:
	Toubkal.
06563	Ragnar Johansen & Co. A/S:
	Stolterjo.
	Murjo.
06903	Sun Shipbuilding and Dry Dock Co.:
	Fortaleza.
06988	North Star Compania Naviera S.A.:
	North Star.
07017	Coquet Shipping Co., Ltd.:
	Hongkong Truth.
07199	Compania Bandera S.A.:
	Spyro.
07237	Southern Barge, Inc.:
	ST-1501.
	ST-1502.
	REB-2501.
	REB-2502.
07261	Chancery Shipping Corporation Inc.:
	Alba.
07279	Vincent Shipping Corp., Liberia:
	Maritime Harmony.
07287	Charles Barge Corp.:
	CM-202.
	UMI-1204.
	UMI-1206.
	NDT-103.
	ST-107.
07289	Amilia Compania Naviera, S.A.:
	Amilia.
07297	Armadora Hidalga S.A.:
	Angelmar.
07299	Safety Company (Liberia) Ltd.:
	Mercy.
07304	Yhtyneet Paperitehtaat Osakeyhtio:
	Kaipola.
	Valkeakoski.
07305	Triumph Shipping S.A.:
	Triumph.
07307	Nagashiki K.K.:
	Kiyoshio-Maru.
07309	Varnibros Corp. S.A.:
	Nicos V.
07311	T. & S. Towing Co., Inc.:
	Barbara Ann.
07320	Skips A/S Blue Nor:
	M/S Blue Lady.
07321	Grand Trunk Milwaukee Car Ferry Co.:
	City of Milwaukee.
	Madison.
07322	Apollonian Light Co. S.A.:
	Apollonian Light.
07328	New England Fish Co.:
	Americana.
	Theresa Lee.
07331	K. K. Kaieisha:
	Katsura-Maru.
	Freesia.
	Iris.
07334	Yokoyama Kaiun K.K.:
	Eihaku Maru.
07337	BJ. Ruud-Pedersen:
	Essi Silje.
07338	C & J Towing, Inc.:
	Bryan B.
07342	United Maritime Management Co. (PTE) Ltd.:
	Lien Ming.
	Lien Fung.
	Min Fong.
	Choy Fung.
	Wah Fung.
07346	Grand Carriers Inc.:
	Grand Carrier.
07347	Navegantes Transatlantica S.A.:
	Rio Casca.
07348	K/S-A/S Sea-Team & Co.:
	Norvegia Team.
07349	Doric Bulk Carriers Corp. of Liberia:
	Doric Flame.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-19323 Filed 11-9-72;8:49 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Revoked

Notice of voluntary revocation is hereby given with respect to certificates of financial responsibility (oil pollution) which had been issued by the Federal Maritime Commission, covering the below-indicated vessels, pursuant to Part 542 of Title 46 CFR and section 11(p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	Owner/operator and vessels
01033	Britain Steamship Co. Ltd.:
	Lancashire.
01074	Sigval Bergesen & Associated Companies:
	Sydfonn.
01080	Fred Devine Diving & Salvage Co., Inc., Salvage Chief Corp.:
	Salvage Chief.
01118	Hvalfangerselskapet "Polaris" A/S:
	Polarsol.
01155	Ernst Jacob Reeder und Schiffsmakler:
	Helene Roth.
	Mailand.
	Anton Roth.
01421	Bibby Line Ltd.:
	Schropshire.
01448	Burnside Shipping Co., Ltd.:
	Afghanistan.
01467	Lowland Tanker Co., Ltd.:
	Border Terrier.
01605	D'Amico Societa Di Navigazione S.P.A.:
	Mirella D'Amico.
01837	N.V. Tanker Handel Maatschappij "Tahama":
	Tahama.
	Tamara.
01861	B. P. Tanker Co., Ltd.:
	British Vision.
01882	State Shipping Co., Inc.:
	Vanmint.
01893	Silver Line Ltd.:
	Silverbeach.
	Silversea.
01905	The Ben Line Steamers Ltd.:
	Benledi.
	Benalligin.
01935	SS Co. Svendborg Ltd. & SS Co. of 1912 Ltd.:
	Eleo Maersk.
01962	Ab Svenska Ostasiatiska Kompaniet:
	Nicobar.
	Nara.
02021	Atlantska Plovidba:
	Hercegovina.
02043	Suomen Tankkilaiva Oy; Finska Tankfartygs AB:
	WIIMA.

Certificate No.	Owner/Operator and vessels
02402	Sinesis Com. Nav. S.A.:
	Djatisari.
02417	Norfolk, Baltimore & Carolina Line, Inc.:
	Carolina Clipper.
02492	Interstate Oil Transport Co.:
	I.B.C. 16.
	I.B.C. 17.
	I.B.C. 18.
02501	Standard Oil Co. of California:
	J. H. MacGaregill.
02823	Walrus Shipping Co., S.A.:
	Contesa.
02836	The Scindia Steam Navigation Co., Ltd.:
	Jalavijaya.
02867	Kee Yuen Maritime (Panama) Corp., S.A.:
	Kee Yuen.
02935	Cable and Wireless Limited:
	Mercury.
02956	Ashland Oil Co.:
	GBL-10.
02961	Kobe Kisen Kabushiki Kaisha:
	Naoshima Maru.
03018	Federal Barge Lines, Inc.:
	JDC-1.
	JDC-2.
03089	Transpacific Lines, Inc.:
	Hong Kong Truth.
03149	Isla Grande Cia. Naviera:
	Kalliopi Pateras.
03165	Asimi Maritime Co. Ltd.:
	St. Demetrius.
03422	Daiwa Kaiun K.K.:
	Samoa Maru.
	Tokelau Maru.
03441	Japan Line K.K.:
	Nichigo Maru.
	San Martin Maru.
03459	Meiji Kaiun K.K.:
	Meiryo Maru.
03484	Sanko Kisen K.K.:
	Hiko Maru.
	Kikuko Maru.
03501	Osaka Shosen Mitsui Senpaku K.K.:
	Arizona Maru.
03900	Coralstone Shipping Corporation, Monrovia:
	Coralstone.
03926	Harumi Senpaku Kabushiki Kaisha:
	Kamo Maru.
03968	Zim Israel Navigation Company Ltd.: Negba.
04112	Greater Pacific Mariner Industries, Inc.:
	Oceana.
04134	Peruana de Navegacion S.A.:
	Chimu.
	Chavin.
04419	Bernhard Howaldt, Flensburg:
	Bernhard Howaldt.
04596	Pan-Alaska Fisheries, Inc.:
	Marconi.
04640	McAllister Lighterage Line Inc.:
	Daniel A. Cobb.
	Planet.
	Saturn.
	War Chief.
	Venus.
	Pictor.
	Sculptor.
	Stanwood B.
	McAllister Bros. No. 90.
05076	Gulf Petroleum S.A.:
	Gulf Rey.
05147	Arne Presthus Rederi A/S:
	Helene Presthus.
05403	Stratford Shipping Ltd.:
	Golden Falcon.
05438	Time Lines (Panama) Ltd. S.A.:
	Tien Cheung.
05537	Empresa Navegacion Mambisa:
	7 de Noviembre.
	10 de Octubre.
	9 de Abril.
	5 de Septiembre.
05632	Christianson Construction Co., Inc.:
	Octopus.
05956	Procyon Shipping Corporation:
	Procyon.
05959	Cheyenne Shipping Corporation:
	Pegasus.
06435	Damp . . . . A/S Tonsberg, A/S Tankfart I, IV, V and VI:
	Tungsha.
	Tarim.
06561	Komandittselskapet Cruise Venture A/S & Co.:
	Island Venture.
06655	Friederick Glazt Ohg.:
	Drautal.
06680	The Great Fortune Navigation Corporation (Singapore) Private Ltd.:
	Great Power.
	Great Peace.
07160	Zenith Obo Shipping Corporation:
	Ranger.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-19320 Filed 11-9-72;8:48 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below-indicated vessels, pursuant to Part 542 of Title 46 CFR and section 11(p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	Owner/Operator and Vessels
01039	Den Norske Amerikalinje A/S:
	Foldenfjord.
01135	Frio Barge Co.:
	Frio.
01140	Nueces Barge Co.:
	Nueces.
01428	Ocean Steam Ship Co., Ltd.:
	Pyrrhus.
01430	Tankers, Ltd.:
	Athelmonarch.
01498	Vessel Operators, Inc.:
	B & M 1201.
01504	Yngvar Hvistendahl:
	Minoru.
01561	Lubeck Linie Aktiengesellschaft:
	Castorp.
01712	Nereide S.P.A. Di Navigazione:
	Felce.
01754	Blue Peter Steamships, Ltd.:
	Blue Cloud.
01755	Hugo Stinnes Zweigniederlassung Hamburg:
	Zephir.
01760	Kornelius Olsen:
	Gannsfjord.
	Lifjord.
01761	Union Steam Ship Company of New Zealand, Ltd.:
	Waimate.
01819	King Line, Ltd.:
	King Alexander.
01843	A. F. Harmstorf & Co.:
	Luhesand.
01893	Silver Line, Ltd.:
	Silvercape.
01905	The Ben Line Steamers, Ltd.:
	Benarmin.
	Benkitlan.
01913	Compagnie Fabre/Societe Generale De Transports Maritimes:
	Joliette.
02007	Rederiet for M/S Skeldervik:
	Skeldervik.
02024	A/S Hav and A/S Havtank:
	Stavik.
02194	Compagnie Generale Transatlantique:
	Fort Frontenac.
	Fort Niagara.
	La Coubre.
02198	The Peninsular & Oriental Steam Navigation Co.:
	Iberia.
02443	Panama Transoceanic Co. S.A.:
	Mary Ellen Conway.
02705	Partenreederei M/S Mangan:
	Barber Mangan.
02765	Rex Maritime S.A.:
	Ariston.
02889	Showa Kaiun Kaisha, Ltd.:
	Nichiran Maru.
02922	Remsen Corp. Compania Mundial De Transportes S.A.:
	Natal.
02956	Ashland Oil, Inc.:
	GBL-9.
	T 100 SL.
03160	Libra Navigation Corp.:
	Nimar.
03418	Daiichi Senpaku K. K.:
	Rokko Maru.
03438	Inui Kisen Kabushiki Kaisha:
	Shomei Maru.
03441	Japan Line K. K.:
	Kosoh Maru.
03590	Tank Barge 8, Inc.:
	Barge Birch.
	Barge 103.
03609	Pacific Barge 3, Inc.:
	Barge 101.
03690	The Harbor Tug and Barge Co.:
	Isla Verde.
	Barge Attu.
03923	Shinwa Kaiun Kaisha, Ltd.:
	Onomichi Maru.
03971	Korea Shipping Corp., Ltd.:
	Jin Duek.
03979	Moran Towing Corp.:
	Moran 112.
	Moran 110.
04064	Northern Navigation Co., Inc.:
	Minoan Bull.
04087	Merichem Co.:
	ETT 104.
	ETT 105.
04093	Republic Maritime Corp.:
	Vermont I.
04127	Sambad ISL. Samvinnufelaga:
	Disarfell.
04173	Foss Launch & Tug Co.:
	Foss 106.
04641	American Tug Boat Co.:
	ATB 96.
	ATB 97.
	ATB 99.
04701	Rederij H. Pepping:
	Johanna.
04996	Don Shipping Co., Ltd.:
	Trader.
05506	Aegean Shipping Co., Ltd.:
	Mandraki.
06002	Elmira Shipping, Inc.:
	Pisces.
06321	Shimat Marine, Inc.:
	Espirito Santo.
	Sun Europa.
06842	Regules Navigation Corp.:
	Triton.
06843	Ilion Navigation Co., Ltd.:
	Ilion.

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Certificate

tion or petition pursuant to section 7 of

Take further notice that, pursuant to

Docket No. Price per Pres-

Applicant states that, as shown in the

Certificate No.	Owner/Operator and vessels
06844---	Pioneer Navigation Co., Ltd.: Icon Sea.
06845---	Marillon Navigation Co., Ltd.: Marillon.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-19322 Filed 11-9-72;8:49 am]

FEDERAL POWER COMMISSION

[Docket No. RP73-58]

ARKANSAS LOUISIANA GAS CO.

Notice of Proposed Changes in Rates and Charges

NOVEMBER 7, 1972.

Notice is hereby given that Arkansas Louisiana Gas Co. (Ark-La) on October 12, 1972, tendered for filing changes in rate and charges applicable to its FPC Gas Rate Schedule Nos. XFS-1 and XFS-3 covering sales to Mississippi River Fuel Corp. and Southwest Gas Producing Co., respectively. The proposed changes would increase the applicable rates by 0.6667 cents per Mcf and result in increased jurisdictional revenues of approximately $750 per annum. The company states that the filings are submitted in accordance with Commission Order No. 456-B to reflect the increase in the Louisiana Severance Tax effective September 1, 1972.

Copies of the tenders have been served upon the customers involved.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street, NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on, or before, November 17, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19404 Filed 11-9-72;8:52 am]

[Docket No. G-2991, etc.]

SUN OIL CO. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

NOVEMBER 2, 1972.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before December 1, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-2991..... C 10-18-72	Sun Oil Co., Post Office Box 2880, Dallas, TX 75221.	Texas Gas Transmission Corp., Carthage Field, Panola County, Tex.	25.0	14.65
G-6648..... C 10-18-72	....do.....	....do.....	25.0	14.65
G-10354..... C 10-24-72	Atlantic Richfield Co., Post Office Box 2819, Dallas, TX 75221.	Texas Eastern Transmission Corp., Various Field, Hardin et al. Counties, Tex.	[2] 24.0	14.65
G-12403..... E 10-16-72	Suburban Propane Gas Corp., (successor to Frio-Tex Oil & Gas Co.), 2120 Alamo National Bldg., San Antonio, Tex. 78205.	Transcontinental Gas Pipe Line Corp., West Big Foot Field, Frio County, Tex.	[3] 15.05625	14.65
G-18243..... C 10-19-72	Sun Oil Co., Post Office Box 2880, Dallas, TX 75221.	Texas Gas Transmission Corp., Carthage Field, Panola County, Tex.	25.0	14.65
C166-301..... E 10-19-72	Suburban Propane Gas Corp. (successor to Frio-Tex Oil & Gas Co. (Operator) et al.).	Northern Natural Gas Co., Ozona Field, Crockett County, Tex.	[3] 17.0637 [4] 16.5619 [5] 16.5618	14.65 14.65 14.65
C167-248..... 10-25-72 [6]	Beacon Gasoline Co., Post Office Box 1126, Shreveport, LA 71163.	Walker Creek Field, Columbia County, Ark.	.....	.....
C167-248..... 10-25-72 [7]	....do.....	Oakes Field, Claiborne Parish, La.	.....	.....
C168-926..... E 10-24-72	Suburban Propane Gas Corp. (successor to Frio-Tex Oil & Gas Co.), 2210 Mercantile Bank Bldg., Dallas, Tex. 75201.	Northern Natural Gas Co., Ozona Field, Crockett County, Tex.	17.0637	14.65
C170-894..... E 10-10-72	Dale V. Steele, d.b.a. Steele Oil Field Service (successor to Howard W. Kaler), 1023 10th Ave., Sidney, NE 69162.	Kansas-Nebraska Natural Gas Co. Inc., Cheyenne County, Nebr.	15.0	16.4
C171-560..... C 10-19-72	Phillips Petroleum Co., Bartlesville, Okla. 74001.	El Paso Natural Gas Co., Sales Ranch Field, Permian Basin Area, Martin County, Tex.	[8] 35.0	14.65
C173-248..... (G-17574) F 10-6-72	Clinton Oil Co. (Operator) et al. (successor to Amoco Production Co.), 217 North Water St., Wichita, KS 67202.	Texas Gas Transmission Corp., Jefferson Island Field, Iberia Parish, La.	[8] 22.375	15.025
C173-249..... (C161-313) F 10-6-72	Clinton Oil Co. (successor to Amoco Production Co.), 217 North Water St., Wichita, KS 67202.	Transcontinental Gas Pipe Line Corp., Cooke Field, La Salle County, Tex.	14.6958	14.65
C173-284..... A 10-19-72	Skelly Oil Co., Post Office Box 1650, Tulsa, OK 74102.	Northern Natural Gas Co., Acreage in Gray, Carson, and Hutchinson Counties, Tex.	[8] 30.0	14.65
C173-286..... B 10-18-72	Pennzoil Producing Co., 900 Southwest Tower, Houston, Tex. 77002.	United Gas Pipe Line Co., Pass Fourchon Field, Iberia and St. Mary Parishes, La.	Depleted	.....
C173-287..... B 10-24-72	R. Lacy, Inc., et al., 222 East Tyler St., Post Office Box 2146, Longview, TX 75601.	Texas Gas Transmission Corp., Carthage Field, Panola County, Tex.	[10]	.....
C173-288..... A 10-24-72	Mountain Petroleum, Ltd. (1972), 712 Denver Center Bldg., Denver, Colo. 80203.	Kansas-Nebraska Natural Gas Co., Inc., Fleming Area, Logas County, Colo. (T8N-R50W).	[8] 25.0	14.65
C173-292..... A 10-24-72	McCulloch Oil Corp. of Texas, a Texas corporation, 10880 Wilshire Blvd., Suite 1500, Los Angeles, CA 90024.	Northern Natural Gas Co., acreage in Pecos County, Tex.	[8] 25.0	14.65
C173-300..... A 10-26-72	Texaco, Inc., Post Office Box 60252, New Orleans, La. 70160.	Florida Gas Transmission Co., Lake Fausse Point Field, St. Martin and Iberia Parishes, La.	[11] 26.875	15.025
C173-301..... B 10-19-72	Frank J. Hall et al., 604 Johnson Bldg., Shreveport, La. 71101.	United Gas Pipe Line Co., Sligo Field, Bossier Parish, La.	Depleted	.....

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI73-302..... B 10-19-72	Frank J. Hall (Operator) et al., 604 Johnson Bldg., Shreveport, La. 71101.	Arkansas Louisiana Gas Co., Greenwood-Waskom Field, Caddo Parish, La.	Depleted	.....
CI73-303..... B 10-19-72	Frank J. Hall et al., 604 Johnson Bldg., Shreveport, La. 71101.	Arkansas Louisiana Gas Co., Caddo-Pine Island Field, Caddo Parish, La.	Depleted	.....

[2] Pursuant to Opinion No. 595.
[3] Includes tax reimbursement of 0.5625 cent.
[4] RI71-770 except supplements Nos. 2 and 5. (Effective subject to refund May 2, 1971.)
[5] RI70-676 add acreage under Supplement No. 2 only. (Effective subject to refund Oct. 2, 1969.)
[6] RI70-1779 add acreage under Supplement No. 5 only. (Effective subject to refund June 12, 1970.)
[7] To add contract with Atlas Corp. et al.
[8] To add contract with Atlantic Richfield Co.
[9] Plus 3.82 cents upward B.t.u. adjustment.
[10] Subject to upward and downward B.t.u. adjustment.
[11] Texas Gas Transmission Corp. is no longer taking delivery of gas from R. Lacy, Inc., et al.
[12] Applicant is willing to accept a certificate at an initial rate of 26.875 cents per Mcf plus upward B.t.u. adjustment of 0.346 cent per Mcf; however, the contract price is 31 cents per Mcf plus B.t.u. adjustment.

[FR Doc.72-19129 Filed 11-9-72;8:45 am]

[Docket No. CI73-323]

OHB CO., LTD.

Notice of Application

NOVEMBER 8, 1972.

Take notice that on November 3, 1972, the OHB Co., Ltd. (Applicant), Post Office Box 126, Refugio, TX 78377, filed in Docket No. CI73-323 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Trunkline Gas Co. from the O'Brien Ranch Field, Goliad County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell up to 10,000 Mcf at 14.65 p.s.i.a. of gas per day at 35.0 cents per Mcf for 1 year within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 20, 1972, file with the Federal Power Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19446 Filed 11-9-72;8:52 am]

[Docket No. CP73-20]

TRANSCO ENERGY CO.

Notice of Application for Disclaimer of Jurisdiction or for Temporary Certificate

NOVEMBER 8, 1972.

Take notice that on November 2, 1972, Transco Energy Co. (Applicant), Post Office Box 1396, Houston, TX 77001, filed in Docket No. CP73-20 an application for an order of the Commission disclaiming jurisdiction over the SNG facility which is the subject of the application for a certificate of public convenience and necessity filed pursuant to section 7(c) of the Natural Gas Act in the instant docket, or, in the alternative, for a temporary certificate authorizing the construction and operation of said facility, all as more fully set forth in the instant application which is on file with the Commission and open to public inspection.

Applicant states that, as shown in the companion application for a certificate of public convenience and necessity of Transcontinental Gas Pipe Line Corp. (Transco) in Docket No. CP73-21, it is estimated that Transco's domestic gas supply will fall short of meeting its certificated firm requirements by 267,513,000 Mcf in the year 1975 unless the additional supply of 87,500,000 Mcf to be provided by Applicant's SNG plant is available. Applicant states that this shortfall, which reflects the assumption that Transco will be able to contract for new supplies each year during the interim period with about 100,000 Mcf per day of deliverability, represents a curtailment of approximately 25 percent of the firm certificated requirements on Transco's system and that, even with the SNG facility on stream, the gas supply deficiency in 1975 is estimated to be 180,013,000 Mcf which is approximately 16 percent of the firm certificate requirements on Transco's system. Applicant alleges that, unless there is a substantial and presently unforeseen upturn in domestic production in Transco's gas supply area between now and 1975, there is no possibility of relief from the gas supply shortage by that time other than by the SNG facility proposed in the instant proceeding. Applicant states that, in order for the SNG facility to be ready for operation by the 1974-75 winter, site preparation must commence by February 1, 1973, and actual construction of the plant must commence by April 1, 1973.

Applicant submits that, although the Commission has not yet ruled on the question of its jurisdiction over naphtha-based SNG plants, the administrative law judge in Algonquin SNG, Inc., et al., Docket No. CP72-35, et al., has held that the Commission does not have jurisdiction over such a facility and no party to that case contended that the Commission does have jurisdiction; and, therefore, the Commission should issue an order disclaiming jurisdiction over Applicant's proposed SNG plant in order that Applicant may commence construction on schedule. In the alternative, Applicant requests a temporary certificate in order to assure maintenance of adequate service to Transco's customers.

Any person desiring to be heard or to make any protest with reference to said application for disclaimer or temporary certificate should on or before November 27, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with

the Commission's rules. Any person who has heretofore filed a petition to inter-

Considerations relating to the financial and managerial resources and future

By order of the Board of Governors,[1] effective November 3, 1972.

hearing proposes to submit or to elicit at the hearing and a statement of the rea-

Board of Governors of the Federal Reserve System, November 3, 1972.

ceived other reports of investigations of conditions in the areas affected;

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the Commission's rules. Any person who has heretofore filed a petition to intervene or a protest in the instant proceeding need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19447 Filed 11-9-72;8:52 am]

FEDERAL RESERVE SYSTEM

COMMERCE BANCSHARES, INC.

Order Approving Acquisition of Bank

Commerce Bancshares, Inc., Kansas City, Mo., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Commerce Bank of St. Louis, National Association, St. Louis, Mo. (Bank), a proposed new bank.

Notice of receipt of the application has been given in accordance with section 3(b) of the Act, and the time for filing comments and views has expired. The Board has considered the application and all comments received in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)) and finds that:

Applicant, the third largest bank holding company and banking organization in Missouri, has 21 subsidiary banks which control $985.9 million in deposits, representing 7.8 percent of total deposits in commercial banks in the State. (All banking data are for December 31, 1971, unless otherwise noted.)

Bank, which Applicant states would not be opened for business were the application to be denied, would be located in downtown St. Louis. Commerce Bancshares has four subsidiary banks within the relevant market which is considered to include St. Louis City, St. Louis County, and portions of Jefferson and St Charles Counties. These present subsidiary banks are all located in the suburban areas of St. Louis and are not significant factors in the market. Together they control less than 2 percent of market deposits. As bank is a proposed new bank consummation of the proposal would eliminate no existing competition, but rather would increase competition for corporate accounts in Bank's proposed service area, downtown St. Louis. While population in the proposed service area has been declining, there is still a higher ratio of population to banking offices than in the suburban areas and it appears that the area can support an additional banking alternative. Since 1967 the downtown banks have shown good deposit growth, and net income per share and net operating income per share for the four largest banks in St. Louis have increased an average of 22.8 percent and 16 percent respectively. The Board concludes that consummation of the proposal would not eliminate existing or potential competition, nor would it have adverse effects on any competing bank.

Considerations relating to the financial and managerial resources and future prospects of Applicant and Bank are satisfactory and consistent with approval of the application. While Applicant proposes to orient Bank toward the provision of wholesale banking services, there is no evidence on the record that any significant banking needs are going unserved in the proposed service area. Applicant will, however, provide an alternative source of banking services. Considerations relating to the convenience and needs of the communities to be served are consistent with approval of the application.

A contention has been raised that the acquisition of Bank by Applicant would be in violation of the branch banking restrictions of the State of Missouri. As the Board stated in connection with its approval of the recent application of Boatmen's Bancshares, Inc., to acquire a proposed new bank in St. Louis County, "a State's restrictive branch banking laws do not, in light of the legislative history of the Bank Holding Company Act of 1956, prohibit the formation or expansion of a bank holding company in that State" (1972 Bulletin 923).

In addition, a protesting bank has petitioned that the system conduct a survey to determine whether there is a need for an additional wholesale bank in St. Louis. The bank further petitioned the Board to conduct either a formal or informal hearing on the application pursuant to the Board's rules of procedure, § 262(3)(f)(2, 3). In view of the fact that the Comptroller of the Currency recommended approval of the application, no hearing is required by the Act. (It might be noted that the Comptroller held a hearing prior to granting the charter for Bank and the protesting party appeared at that proceeding.) Further, it does not appear to the Board that there are any issues concerning the application on which a formal hearing or oral presentation would be useful. The petition is hereby denied with respect to the above requests. A request that the application be acted on by the Board rather than the Reserve Bank under delegated authority (12 CFR 265.2(f)(24)) was granted.

It is the Board's judgment that the proposed acquisition would be in the public interest and should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order; and (c) Commerce Bank of St. Louis, National Association, St. Louis, Mo., shall be opened for business not later than 6 months after the effective date of this order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[1] effective November 3, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-19361 Filed 11-9-72;8:50 am]

[1] Voting for this action: Chairman Burns and Governors Robertson, Brimmer, Sheehan, and Bucher. Absent and not voting: Governors Mitchell and Daane.

BANK SHARES INC.

Application for Acquisition of O.C.B. Agency, Inc.

Bank Shares Inc., Minneapolis, Minn., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of O.C.B. Agency, Inc., Rochester, Minn. Notice of the application was published on September 23, 1972, in Rochester Post-Bulletin, a newspaper circulated in Rochester, Minn.

Applicant states that the proposed subsidiary would engage in the activities of an insurance agency for the following types of insurance: (i) Insurance for the holding company and the subsidiaries, (ii) (a) insurance directly related to extensions of credit by a bank or bank related firm of the kind described in Regulation Y of the Federal Reserve Board of Governors, or (b) to directly related to the provision of other financial services by a bank or a bank related firm, or (c) insurance which is otherwise sold as a matter of convenience to the purchaser, so long as the premium income from sales within subdivision (ii)(c) does not constitute a significant portion of the aggregate insurance premium income of the holding company sold pursuant to subdivision (ii). Among the types of insurance applicant is presently selling are: credit life; accident and health; auto; fire; casualty; workmen's compensation; surety license and fidelity bonds; and term and whole life insurance. Certain insurance agency activities have been specified by the Board in section 225.4(a)(9) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b). Applicant has stated that the activities of O.C.B. Agency not in compliance with section 225.4(a)(9) of Regulation Y will be eliminated.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 30, 1972.

Board of Governors of the Federal Reserve System, November 3, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-19378 Filed 11-9-72;8:50 am]

NORTHWEST IOWA BANCORPORATION

Formation of Bank Holding Company

Northwest Iowa Bancorporation, Le Mars, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of The Lakes National Bank, Arnolds Park, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 30, 1972.

Board of Governors of the Federal Reserve System, November 3, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-19377 Filed 11-9-72;8:50 am]

UNITED JERSEY BANKS

Acquisition of Bank

United Jersey Banks, Hackensack, N.J., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of United Jersey National Bank of Hudson County, Secaucus, N.J., a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than November 29, 1972.

Board of Governors of the Federal Reserve System, November 3, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-19379 Filed 11-9-72;8:51 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 950]

CALIFORNIA

Declaration of Disaster Loan Area

Whereas it has been reported that during the month of October 1972, because of the effects of heavy rainfall, flooding, and mudslides, damage resulted to property located in the State of California;

Whereas the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as amended, may be received and considered by the office below indicated from persons or firms whose property situated in San Mateo County, Calif., with the principal towns affected being South San Francisco and Pacifica, Calif., suffered damage or destruction resulting from heavy rainfall, flooding, and mudslides during the week of October 8, 1972.

OFFICE

Small Business Administration Regional Office, 450 Golden Gate Avenue, Box 36044, San Francisco, CA 94102.

2. Temporary offices will be established at such areas as are necessary, addresses to be announced locally.

3. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to January 31, 1973.

Dated: October 24, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-19318 Filed 11-9-72;8:48 am]

[Declaration of Disaster Loan Area 949]

VIRGINIA

Declaration of Disaster Loan Area

Whereas it has been reported that during the month of October 1972, because of the effects of torrential rainfall and flooding, damage resulted to property located in the State of Virginia;

Whereas the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Application for disaster loans under the provisions of section 7(b) of the Small Business Act (15 U.S.C. 636(b)) as amended, may be received and considered by the office below indicated from persons or firms whose property situated in or adjacent to the Counties of Brunswick, Sussex, Albermarle, Culpeper, and Page, and the cities of Emporia, Petersburg, Richmond, Waynesboro, and Front Royal, Va., suffered damage or destruction resulting from torrential rains and flooding on October 6, 7, and 8, 1972.

SBA Richmond Disaster Office, 400 North Eighth Street, Seventh Floor, Federal Building, Richmond, VA 23219.

2. Temporary offices will be established at such areas as are necessary, addresses to be announced locally.

3. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to January 31, 1973.

Dated: October 11, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-19319 Filed 11-9-72;8:48 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

ARKANSAS DEVELOPMENTAL PLAN

Extension of Time for Public Comment

Notice is hereby given that the time for public comment on the Occupational Safety and Health Plan for the State of Arkansas, for which notice of submission ways given at 37 F.R. 20899, October 4, 1972, has been extended. Interested persons are hereby given 30 days from the close of the original comment period on November 3, 1972, in which to submit data, views, and arguments concerning the plan. The submissions are to be addressed to the Director, Office of State Programs, OSHA, Railway Labor Building, Room 500, U.S. Department of Labor, Washington, D.C. 20210. The written comments will be available for public inspection and copying, at the expense of the person(s) requesting such copies, at the above address.

Signed at Washington, D.C., this 6th day of November, 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-19365 Filed 11-9-72;8:51 am]

VERMONT DEVELOPMENTAL PLAN

drafting of various administrative rules, regulations, and procedures. The time-

TEMPORARY LABOR CAMP ADVISORY COMMITTEE

NATIONAL ADVISORY COMMITTEE ON OCCUPATIONAL SAFETY AND

amendments will be entertained after the date of this publication.

hand, and, on the other, points in Connecticut, Maine, New Hampshire, New

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VERMONT DEVELOPMENTAL PLAN

State Occupational Safety and Health Standards and Their Enforcement; Notice of Informal Hearing

1. *Submission and description of plan.* Pursuant to section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) and § 1902.11 of Title 29, Code of Federal Regulations, notice is hereby given that an Occupational Safety and Health Plan for the State of Vermont has been submitted to the Assistant Secretary of Labor for Occupational Safety and Health. The Assistant Secretary has preliminarily reviewed the plan, and hereby gives notice that the question of the approval of the plan is in issue before him

The plan designates the Department of Labor and Industry as the agency responsible for administering the plan throughout the State. It proposes to define the occupational safety and health issues covered by it as defined by the Secretary of Labor in 29 CFR 1902.2(c)(1). All occupational safety and health standards promulgated by the U.S. Secretary of Labor will be adopted under the plan, except those found in 29 CFR Parts 1915, 1916, 1917, and 1918 (shiprepairing, shipbuilding, shipbreaking, longshoring), and after public hearings will become effective July 1, 1973. However, any standards promulgated by the U.S. Department of Labor after December 31, 1972, will not be immediately adopted as State standards but instead will be promulgated within 1 year from the date of the original promulgation by the U.S. Secretary of Labor.

Within the plan there is the Vermont Occupational Safety and Health Code which became law on July 1, 1972. The Act as enacted gives the Department of Labor and Industry the statutory authority to implement an Occupational Safety and Health Plan modeled after the Federal Act. It provides for the coverage of all employees within the States including employees of State agencies and municipalities. There are provisions within it granting the Commissioner of Labor and Industry the authority to inspect workplaces and to issue citations for the abatement of violations and there is also included a prohibition against advance notice of any such inspection. Further, there is a provision made for judicial review as well as for the creation of an Occupational Safety and Health Review Board. Imminent danger situations are to be promptly restrained and a system of penalties for violation of the Act is included within it. Thus, the Act sets forth the general authority and scope for implementing the Vermont plan, but at the same time, the plan is developmental within 29 CFR 1902.2(b) in that specific rules and regulations must be adopted to carry out the plan and to make it fully operative. There is set forth in the proposed plan a timetable providing for the future drafting of various administrative rules, regulations, and procedures. The timetable covers such general areas as the development and enforcement of occupational health and safety standards, administrative rules and regulations governing the operation of the Occupational Safety and Health Review Board, inspection rules and procedures including employer-employee representation during the inspection process, the rules governing imminent danger situations, rules and procedures controlling the granting of variances, the creation of a State informational program, the development of programs for employees exposed to toxic materials, the formulation of a voluntary compliance program, and the development of specific administrative procedures for implementing the plans within the State agencies. The plan also contains a comprehensive description of personnel employed under the State's merit system as well as its proposed budget and resources. Finally, attached to the plan is a copy of the Governor's support and approval of it.

2. *Location of plan for inspection and copying.* A copy of the plan may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, Room 500, Railway Labor Building, 400 First Street NW., Washington, DC 20210; Regional Administrator, Occupational Safety and Health Administration, U.S. Department of Labor, 18 Oliver Street, Fourth Floor, Boston, MA 02110; Department of Labor and Industry, State Office Building, Montpelier, Vt. 05602.

3. *Public participation.* Interested persons are hereby given 30 days from the date of this publication in which to submit to the Assistant Secretary written data, views, and arguments concerning the plan. The submissions are to be addressed to the Director, Office of State Programs, Room 500, Railway Labor Building, 400 First Street NW., Washington, DC 20210. The written comments will be available for public inspection and copying at the above address.

Any interested person(s) may request an informal hearing concerning the proposed plan, or any part thereof, whenever particularized written objections thereto are filed within the 30 days specified above. If the Assistant Secretary finds that substantial objections are filed, he shall hold a formal or informal hearing on the subjects and issues involved.

The Assistant Secretary of Labor for Occupational Safety and Health shall thereafter consider all relevant comments and arguments presented and issue his decision as to approval or disapproval of the plan.

Signed at Washington, D.C., this 6th day of November 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-19364 Filed 11-9-72;8:51 am]

TEMPORARY LABOR CAMP ADVISORY COMMITTEE

Notice of Meeting

Notice is hereby given that the Temporary Labor Camp Subcommittee of the Standards Advisory Committee on Agriculture, established under section 7(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 656) will meet at 9 a.m. on Wednesday, November 15, 1972, and on Thursday, November 16, 1972, in Room 10026 of the Federal Building, 450 Golden Gate Avenue, San Francisco, CA 94102.

The Subcommittee will take up for consideration a new draft standard relating to temporary labor camps for agricultural workers.

The meeting shall be open to the public.

Signed at Washington, D.C., this 8th day of November 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-19474 Filed 11-9-72;9:54 am]

Office of the Secretary

GENERAL INSTRUMENT CORP.

Notice of Continuation of Certification of Eligibility of Workers to Apply for Adjustment Assistance

After an affirmative finding a certification of eligibility was issued on November 4, 1970, pursuant to section 302(c), of the Trade Expansion Act of 1962 (35 F.R. 17378) certifying that production and maintenance workers of the F. W. Sickles Division, General Instrument Corp., located at Chicopee, Mass., who became or will become unemployed or underemployed after October 18, 1968, are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1962. The certification has not been terminated under section 302(e), and it appearing, on the basis of additional information, that the conditions specified in section 301(c)(2) of the Act continue to exist and a threat of further unemployment or underemployment exists with respect to workers covered by the certification of November 4, 1970, it is hereby so determined and certification is made so that: production and maintenance workers at the F. W. Sickles Division, General Instrument Corp., located at Chicopee, Mass., who are threatened with unemployment or underemployment on and after November 3, 1972, continue to be eligible to apply for adjustment assistance.

Signed at Washington, D.C., this 3d day of November 1972.

JOEL SEGALL,
Deputy Under Secretary, International Affairs.

[FR Doc.72-19366 Filed 11-9-72;8:50 am]

NATIONAL ADVISORY COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH

Notice of Meeting Open to the Public

Notice is hereby given that the next meeting of the National Advisory Committee on Occupational Safety and Health will commence at 9 a.m., on November 16 and 17, 1972, in Conference Room B, Departmental Auditorium, 14th and Constitution Avenue NW., Washington, D.C. (adjacent to Department of Labor Building).

The National Advisory Committee on Occupational Safety and Health is established under section 7(a) of the Williams-Steiger Occupational Safety and Health Act (29 U.S.C. 656). The Committee is directed to advise, consult with, and make recommendations to the Secretary of Labor and the Secretary of Health, Education, and Welfare on matters relating to the administration of the Act.

The meeting of the Committee shall be open to the public. A verbatim transcript shall be kept. The transcript shall be available for public inspection and copying at the office of the Committee's Executive Secretary, which is located in Room 1120, 1726 M Street NW., Washington, DC. Copies may also be obtained by making arrangements at the meeting with the Executive Secretary. If copies are subsequently requested, the applicants shall be referred to the reporting service.

Signed at Washington, D.C., this 8th day of November 1972.

ROGER W. GRANT,
Executive Secretary.

[FR Doc.72-19467 Filed 11-9-72;8:52 am]

INTERSTATE COMMERCE COMMISSION

[Notice 114]

ASSIGNMENT OF HEARINGS

NOVEMBER 7, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 133633 Sub 8, Highway Express, Inc., now assigned November 13, 1972, at Jackson, Miss., hearing is canceled and application dismissed.

MC 114211 Sub 160, Warren Transport, Inc., now being assigned hearing February 5, 1973, MC 123048 Sub 221, Diamond Transportation System, Inc., now being assigned hearing February 6, 1973 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC-133095 Sub 30, Texas Continental Express, Inc., now assigned November 13, 1972, at Washington, D.C., is postponed indefinitely.

MC 30837 Sub 440, Kenosha Auto Transport Corp., Extension-Import Automobiles, MC 52657 Sub 685, Arco Auto Carriers, Inc., Extension-Import Automobiles, now assigned February 5, 1973, at Chicago, Ill., advanced to December 11, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-135509 Sub 2, William R. Wade Common Carrier Application, now assigned January 22, 1973, at Kansas City, Mo., is advanced to December 4, 1972, in Room 303, Old Federal Building, 911 Walnut Street, Kansas City, MO.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-19360 Filed 11-9-72;8:50 am]

[Notice 158]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73920. By order of October 30, 1972, the Motor Carrier Board approved the transfer to Carleton W. Berry, Jr., 11 Broad Street, Billerica, MA, of Certificate No. MC-93822 issued to Carleton W. Berry, 119 Russell Street, Waltham, MA, authorizing the transportation of: Household goods, as defined by the Commission, between Waltham, Mass., and 25 miles thereof, on the one hand, and, on the other, points in Connecticut, Maine, New Hampshire, New York, and Rhode Island.

No. MC-FC-73962. By order of October 31, 1972, the Motor Carrier Board approved the transfer to M & D Tours, Inc., Elmer L. Stein, Charles F. Stein, and William Ausman, a limited partnership, doing business as Meyer & Dietel Tours, Ltd., New Berlin, Wis., of the license in No. MC-12791 issued May 21, 1964, to Meyer and Dietel Tours, Inc., Milwaukee, Wis., authorizing operations as a broker at Milwaukee, Wis., in connection with the transportation of passengers and their baggage, limited to students, their teachers, and chaperones, in charter operations, in round-trip all-expense tours, beginning and ending at points in Wisconsin and extending to rail terminals in Chicago, Ill. and beginning and ending at Washington, D.C., Silver Spring and Baltimore, Md., and extending to points in Connecticut, Delaware, Maryland, Massachusetts, New York, New Jersey, Pennsylvania, Rhode Island, Virginia, and West Virginia. Michael B. Laikin, 611 East Wisconsin Avenue, Milwaukee, WI 53202, attorney for applicants.

No. MC-FC-73928. By order of October 31, 1972, the Motor Carrier Board approved the transfer to Jackert Trucking Co., Inc., Poughkeepsie, N.Y., of Certificate No. MC-124125 issued to A. & P. Equipment Supply Corp., Kingston, N.Y., authorizing the transportation of: Stone and aggregates, in bulk, in dump vehicles, from Mount Marion and Ulster, N.Y., to points in Connecticut, Massachusetts, New Hampshire, Rhode Island, Vermont, and specified portions of New Jersey. John J. Brady, Jr., Attorney, 75 State Street, Albany, NY 12207, Julius Braun, attorney, Room 21, Albany Port Administration Building, Albany, N.Y. 12202.

No. MC-FC-74010. By order entered October 30, 1972, the Motor Carrier Board approved the transfer to Pacific Storage Co., Stockton, Calif., of the operating rights set forth in Certificate No. MC-129685 (Sub-No. 1), issued October 10, 1969, to William R. Gould, doing business as Gould's Van & Storage, Modesto, Calif., authorizing the transportation of used household goods, between points in Merced, Mariposa, Stanislaus, and Tuolumne Counties, Calif., restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points involved, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization on such traffic. Robert W. Foy, 517 North Hunter Street, Post Office Box 334, Stockton, CA 95201, representative for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-19359 Filed 11-9-72;8:50 am]

[No. MC-126537 (Sub-No. 23)]

TURNER EXPEDITING SERVICE

general commodities (with exception) between O'Hare Field, Chicago, Ill., on the one hand, and on the other, points in the Chicago, Ill., commercial zone," the phrase "the plantsite of American

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FEDERAL REGISTER, VOL. 37, NO. 218—FRIDAY, NOVEMBER 10, 1972

[No. MC-126537 (Sub-No. 23)]

TURNER EXPEDITING SERVICE

Extension of Chicago Commercial Zone

Order. At a session of the Interstate Commerce Commission, Division 1, Acting as an Appellate Division, held at its office in Washington, D.C., on the 27th day of October 1972.

Upon consideration of the record in the above-entitled proceeding, and of:

(1) Joint petition of All-American Transport, Inc., C W Transport, Inc., Courier-Newsom Express, Inc., and Dohrn Transfer Co., protestants, filed May 22, 1972, for reconsideration or, alternatively, oral hearing or receipt of additional evidence;

(2) Petition of Clairmont Transfer, Co., protestant, filed May 25, 1972, for reconsideration or, alternatively, reopening for oral hearing or to receive additional evidence;

(3) Joint petition of McLean Trucking Co. and Smith's Transfer Corp., protestants, filed May 26, 1972, for reconsideration or, alternatively, rehearing;

(4) Reply by applicant, filed June 14, 1972; and

It further appearing, that by recommended order served February 24, 1972, the examiner recommended that applicant be granted authority to transport general commodities (with exception) between O'Hare Field, Chicago, Ill., on the one hand, and, on the other, points in the Chicago, Ill., commercial zone, restricted to the handling of traffic originating at or destined to the plantsite of American Greetings Corp. near Danville, Ky.;

It further appearing, that by stay decision and order, entered March 14, 1972, the Commission, Review Board Number 2, modified the examiner's findings by deleting the above-mentioned restriction, finding it to be difficult of enforcement and administratively undesirable, citing "Fox-Smythe Transp. Co., Ext.—Oklahoma" 106 M.C.C. 1, 56;

It further appearing, that the evidence of record, when considered in light of the pleadings, discloses that the grant made by the review board herein would authorize the institution of a new competitive service to an extent not warranted by the record; that the service description should be altered as indicated below to conform to the evidence of record; and that the findings of the board should be modified accordingly; and good cause appearing therefor:

It is ordered, That said stay decision and order of March 14, 1972, be, and it is hereby, modified, in the section entitled "Service Authorized" of the appendix thereto, by substituting for the phrase, "O'Hare Field, Chicago, Ill., on the one hand, and on the other, points in the Chicago, Ill., commercial zone," the phrase "the plantsite of American Greeting Corp. near Danville, Ky., on the one hand, and on the other, Chicago, Ill., restricted to the transportation of traffic originating at or destined to the said plantsite.";

It is further ordered, That, unless compliance is made by applicant with the requirements of sections 215, 217, and 221 (c) of the Interstate Commerce Act, within 90 days after the date of service of this order, or within such additional time as may be authorized by the Commission, the grant of authority in the decision and order of March 14, 1972, as modified herein, shall be considered as null and void, and the application shall stand denied in its entirety effective upon the expiration of the said compliance time.

It is further ordered, That notice of the grant of authority made herein be published in the FEDERAL REGISTER.

By the Commission, Division 1, Acting as an Appellate Division.

NOTE: This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.72-19173 Filed 11-9-72;8:47 am]

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Volume 37 ■ Number 218

PART II

DEPARTMENT OF LABOR

Employment Standards Administration

■

Minimum Wages for Federal and Federally Assisted Construction

Area Wage Determination Decisions, Modifications, and Supersedeas Decisions

No. 218—Pt. II——1

DEPARTMENT OF LABOR

tion industry wage determinations frequently and in large volume causes prevailing hourly wage rates and fringe benefit payments since these determina-

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DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Area Wage Determination Decisions, Modifications and Supersedeas Decisions

Area wage determination decisions. Area Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 F.R. 21138), and of Secretary of Labor's Orders 12–71 and 15–71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

Area Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR, Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

There is set forth below Area Wage Determination Decision No. AP–31 of the Secretary of Labor for Du Page County, Ill.

Modifications and supersedeas decisions to area wage determination decisions. Modifications and Supersedeas Decisions to Area Wage Determination Decisions for specified localities in the States of California, Illinois, Iowa, Kentucky, Louisiana, Nevada, New York, Oklahoma, Oregon, Texas, and Wyoming.

Area Wage Determination Decisions published in the FEDERAL REGISTER on the following dates:

Decision No.	Date
AM–1,735	Aug. 11, 1971
AM–2,447(AP–510)	Aug. 25, 1971
AM–2,477(AP–250)	Aug. 27, 1971
AM–6,130	Nov. 12, 1971
AM–11,418(AP–357)	May 5, 1972
AM–11,424(AP–359)	June 16, 1972
AM–8,625	June 23, 1972
AM–8,627(AP–30)	June 30, 1972
AP–300	July 7, 1972
AP–203(AP–511)	July 21, 1972
AP–212(AP–512); AP–214 (AP–513); AP–218(AP–249); AP–306	Aug. 11, 1972
AP–312(AP–358)	Aug. 18, 1972
AP–224; AP–316	Aug. 25, 1972
AP–236; AP–243	Sept. 22, 1972
AP–342; AP–351	Sept. 29, 1972
AP–132; AP–133; AP–134; AP–135; AP–245; AP–248	Oct. 13, 1972

are hereby modified and/or superseded as set forth below. Supersedeas decision numbers are in parentheses following the number of the decision being superseded.

These modifications and/or supersedeas decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since these determinations were issued.

The determinations of prevailing rates and fringe benefits made in these modifications and/or supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 F.R. 21138), and of Secretary of Labor's Orders 13–71 and 15–71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in the foregoing area wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

The modifications and/or supersedeas decisions are effective from their date of publication in the FEDERAL REGISTER and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 is set forth in the document being modified.

Signed at Washington, D.C., this 3d day of November 1972.

HORACE E. MENASCO,
Administrator,
Wage and Hour Division.

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PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Years Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular rate to vacation pay credit for employee who has worked in business less than 5 years.

b. Six paid holidays, A to F.

c. Eight paid holidays, A to F plus Washington's Birthday & Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

NEW DECISION

STATE: Illinois
DECISION NUMBER: AP-31
DESCRIPTION OF WORK: Residencial construction consisting of single family homes and garden type apartments up to and including 4 stories.

COUNTY: DuPage
DATE: Date of Publication

Asbestos workers	$8.25	.40	.275		.05
Boilermakers	8.35	.50	.75	Z1	.01
Boilermakers' helpers	8.25	.50	.75	Z1	.01
Bricklayers & Stonemasons	8.90	.40	.60		.03
Carpenters:					
Carpenters & Soft Floor Layers	8.30	.45	.625		.08
Millwrights & Piledrivermen	8.30	.45	.625		.08
Cement Masons	9.00	.40	.40		.03
Electricians	9.84	.20	1.2+.30		½ of 1.2
Elevator Constructors:					
Elevator Constructors	8.75	.195	.20	Z3+4b	.005
Helpers	6.125	.195	.20	Z3+4b	.005
Helpers (Probationary)	50%JR				
Glaziers	7.65	.16	.25		.01
Ironworkers	10.05	.25	.125		.02
Lathers	8.39	.41	.345		
Leadburners	6.90	.30		c	.01
Line Construction:					
Linemen, Digger Operator	7.65	.15	1%		½%
Groundmen, Equipment & Tractor Opr.	5.20	.15	1%		½%
Ground Men	5.00	.15	1%		½%
Marble Setters	8.20	.30			
Marble Setters' helpers	7.30				
Painters:					
Brush	7.225	.40	.30		.04
Spray	7.625	.40	.30		.04
Plasterers	8.205	.40	.60		
Plumbers & Pipefitters:					
Wheaton & North DuPage County	8.05	.25	.25	.15	.03
Naperville & South DuPage County	8.80	.30	.35		.02
Roofers:					
Composition	9.10	.30	.15		.02
Slate & Tile	9.22	.18	.15		.02
Sprinkler fitters	8.70	.16	.40		.09
Sheet Metal Workers	8.10	.30	.30	.20	
Terrazzo Workers	7.50				
Terrazzo Workers' helpers & Floor Mach.	6.85	.30-5/8	.42		
Tile Setters	8.15	.30-5/8	.325		
Tile Setters' helpers	6.80				

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LABORERS:						
Building Laborers, Grade Separation Laborers, Sewer & Water Laborers, Building Laborers, Pumps for Dewatering and other Unclassified Laborers	$6.50	.47	.65			
Cement Gun Laborers, Scaffold Laborers, Chimney Laborers (over 40')	6.60	.47	.65			
Cement Gun Laborers (Gunite), Windlass Men, Plasterers' Laborers	6.65	.47	.65			
Stone Derrickmen & Handlers	6.70	.47	.65			
Plumbers' Laborers, Jackhammer, Power Driven Concrete Saws, Tampers and Pneumatic Tools, Concrete Vibrators	6.75	.47	.65			
Firebrick and Boiler Setter Laborers	6.85	.47	.65			
Caisson Diggers, Well Point System Men, Chimney Laborers (on Firebrick)	6.85	.47	.65			
Boiler Setter Plastic Laborers	6.95	.47	.65			

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS						
CLASS I						
Mechanic, Asphalt Plant, Asphalt Spreader, Autograde, Batch Plant, Benoto (Requires Two Engineers) Boiler & Throttle Valve, Caisson Rigs, Central Redi-Mix Plant, Combination Back Hoe Front Enloader Machine, Compressor & Throttle Valve, Concrete Breaker (Truck Mounted) Concrete Conveyor, Concrete Paver over 27E cu. ft. Concrete Paver 27E cu. ft. and under, Concrete Placer, Concrete Tower, Cranes, (all), Cranes Hammerhead, Derricks, (all), Derricks, Traveling, Grader, Elevating Grouting Machines, Highlift Shovels or Fron Endloader 2½ yd. & over, Hoists, 1,2 and 3 Drum, Hoists, 2 Tugger one floor, Hydraulic Boom Trucks, Locomotives, (all) Motor Patrol, Piledrivers & Skid Rig, Post Hole Digger, Pre-Stress Machine, Pump Cretes: squeeze cretes-screw type pumps, Gypsum Bulker & pump, Rock Drill (Self-Propelled) Rock Drill (Truck Mounted) Scoops-Tractor Drawn-Slip Form Paver, Straddle Buggies, Tournapull, Tractor w/boom, & Side Boom, Trenching Machines.	$9.55	.40	.50	.20	.02	
CLASS II						
Boilers, Bulldozers, Broom, All power Propelled, Concrete Mixer (2 Bag & over) Conveyor, Portable, Forklift trucks, Greaser Engineer, Highlift Shovels or Fron Endloaders under 2kyd., Hoists, Automatic, Hoists, All Elevators, Hoists, Tugger Single Drum, Rollers, (all) Steam Generators Stone Crushers, Tractors (all) Winch Trucks with "A" Frame	8.30	.40	.50	.20	.02	
CLASS III						
Air Compressor - small 125 & under (1 to 5 not to exceed a total of 300 Ft.), Air Compressor - large over 125 Combination - small equipment operator Generators - small 50w & under						

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
POWER EQUIPMENT OPERATORS (CONT'D)						
CLASS III (CONT'D)						
Generators - large over 50kw, Heaters, Mechanical, Pumps, over 3" (1 to 3 not to exceed a total of 300 ft.) Pumps, Well points, Welding Machines (2 through 5) Winches, 4 small electric drill winches	7.30	.40	.50	.20	.02	
CLASS IV						
Oilers	6.15	.40	.50	.20	.02	

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
TRUCK DRIVERS:						
Bulk tank trucks, buses, dry batch trucks, dump or conveyor trucks, fuel trucks, grease trucks, low boys, service trucks, scissor trucks, telescope trucks, water trucks:						
2 or 3 axle trucks	$6.20	a12.00	a16.00			
4 axle trucks	6.35	a12.00	a16.00			
5 axle trucks	6.55	a12.00	a16.00			
6 axle trucks	6.75	a12.00	a16.00			
A frame truck when used for transportation purposes, air compressors & welding machines including those pulled by cars, pick-up trucks & tractors, ambulances, batch gate lockers, batch hopperman, carryalls, fork lift & hoisters, helpers, mechanic helpers & greasers	6.20	a12.00	a16.00			
Car & truck washers	6.05	a12.00	a16.00			
Dispatcher	6.30	a12.00	a16.00			
Dump crets & asgetors under 7 yards, mixer trucks under 7 yards	6.35	a12.00	a16.00			
Dump crets and adgetors 7 yards or over, explosive and/or fission material trucks, mixer trucks 7 yards & over	6.55	a12.00	a16.00			
Master mechanic	6.75	a12.00	a16.00			
Dumpsters, track trucks, euclids, hug bottom dump tournatrailers or tournapulls when pulling other than self-loading equipment of similar equipment:						
Under 16 cubic yards	6.35	a12.00	a16.00			
Over 16 cubic yards	6.55	a12.00	a16.00			
Mechanic	6.40	a12.00	a16.00			
Oil distributors - 2 man operation, pavement breakers, pole trailer, up to 40 feet, power mower tractors, self-propelled chip spreader, skipman, slurry trucks - 2 man operation, teamsters, unskilled dumpmen, warehousemen & dockmen, winch trucks 2 axles.	6.20	a12.00	a16.00			

NOTICES

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
TRUCK DRIVERS:						
Ready-mix plant hopper operator	$6.35	a12.00	a16.00			
Mobile crane while in transit, oil distributors 1-man operation, pole trailer, over 40 feet, slurry trucks 1-man operation, winch trucks, 3 axles or more	6.55	a12.00	a16.00			

FOOTNOTE:

a. Per week per employee

DECISION #AM-6,130 - Mod. #3
(36 FR 21723 - November 12, 1971)
San Diego County, California

Changes TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
PICKUPS, (3/4 tons & under); Swampers & helpers; Traffic control pilot car (excl. moving heavy equip.)	$ 5.22	.60	.65	.90		
TRUCK REPAIRMAN; Welder helper	5.42	.60	.65	.90		
INDUSTRIAL LIFT	5.55	.60	.65	.90		
DUMP (Less than 8 yds.); Dump or flat-bed (2 axle); Concrete pumping; Fork-lift (under 15,000 lbs.)	5.58	.60	.65	.90		
DUMP (8 yds. & under 12 yds.); Dump or flatbed (3 axle); Bunkerman	5.63	.60	.65	.90		
FORK LIFT (15,000 lbs. & over); Ross carrier	5.70	.60	.65	.90		
DUMP (12 yds. & under 16 yds.); Dump or flatbed (3 axle with semi)	5.71	.60	.65	.90		
WATER TRUCK (2 axle); Erosion control nozzleman; Prell truck; Pipeline working truck drivers (incl. winch truck & all sizes of truck); Road oil spreader; Cement distributor or Slurry driver; Road oil or Slurry bootman	5.73	.60	.65	.90		
DUMPCRETE (less than 6 1/2 yds.)	5.79	.60	.65	.90		
EROSION CONTROL TRUCK DRIVER; Water trucks (3 axles)	5.85	.60	.65	.90		
FUEL OR DYNAMITE & EXPLOSIVES	5.88	.60	.65	.90		
DUMP (16 yds. & under 25 yds.); Dump or flatbed (4 axles or more); Lowbed and trailer; Transit mix (under 8 yds.); Grout mixer; Dumpcrete (6 1/2 yds. & over); Dumpster	5.93	.60	.65	.90		
DUMP (25 yds. & under 35 yds.)	5.98	.60	.65	.90		
DW 10's, DW 20's OR EUCLID TYPE EQUIP. or LeTourneau Fulle or Terra Cobras or similar types of equip. regardless of types of attachments when performing work in the teamsters' jurisdiction or FB or similar types of dump trucks with loading attachments	6.00	.60	.65	.90		

DECISION #AM-6,130 (cont'd)

TRUCK DRIVERS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
TRUCK GREASER	6.01	.60	.65	.90		
7 AXLES OR DOUBLE GOOSENECK LOWBED or combination of vehicles when under permit load	6.055	.60	.65	.90		
TRANSIT MIX (8 yds. &over)	6.07	.60	.65	.90		
TIREMEN	6.11	.60	.65	.90		
DUMP (35 yds. & under 50 yds.)	6.13	.60	.65	.90		
A-FRAME or swedish crane; Water pull tankers; Welder	6.20	.60	.65	.90		
DUMP (50 yds. & under 65 yds.)	6.28	.60	.65	.90		
TRUCK REPAIRMAN	6.30	.60	.65	.90		
DUMP (65 yds. & over)	6.43	.60	.65	.90		
Carpenters:						
Carpenters	7.06	.56	.75	.50	.02	
Piledrivermen	7.19	.56	.75	.50	.02	
Millwrights; Pneumatic nailer; Hardwood floor layers	7.31	.56	.75	.50	.02	
Cement masons:						
Cement masons	6.52	.50	.73	.61	.02	
Cement masons color work	6.645	.50	.73	.61	.02	
Composition/Mastic/Epoxy; Finishing machine; Curb machine	6.77	.50	.73	.61	.02	
Marble setters; Terrazzo workers; Tile setters	6.71	.30	.45	.60		

DECISION #AP-224 -Mod. #4
(37 FR 17321 - August 25, 1972)
San Diego County, California

MODIFICATIONS P. 3

Change:

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
TRUCK DRIVERS:						
PICKUPS, (3/4 tons & under); Swampers & helpers; Traffic control pilot car (excl. moving heavy equip.)	$ 5.22	.60	.65	.90		
TRUCK REPAIRMAN; Welder helper	5.42	.60	.65	.90		
INDUSTRIAL LIFT	5.55	.60	.65	.90		
DUMP (Less than 8 yds.); Dump or flat-bed (2 axle); Concrete pumping; Fork-lift (under 15,000 lbs.)	5.58	.60	.65	.90		
DUMP (8 yds. & under 12 yds.); Dump or flatbed (3 axle); Bunkerman	5.63	.60	.65	.90		
FORK LIFT (15,000 lbs. & over); Ross carrier	5.70	.60	.65	.90		
DUMP (12 yds. & under 16 yds.); Dump or flatbed (3 axle with semi)	5.71	.60	.65	.90		
WATER TRUCK (2 axle); Erosion control nozzleman; Prell truck; Pipeline working truck drivers (incl. winch truck & all sizes of truck); Road oil spreader; Cement distributor or Slurry driver; Road oil or Slurry bootman	5.73	.60	.65	.90		
DUMPCRETE (less than 6 1/2 yds.)	5.79	.60	.65	.90		
EROSION CONTROL TRUCK DRIVER; Water trucks (3 axles)	5.85	.60	.65	.90		
FUEL OR DYNAMITE & EXPLOSIVES	5.88	.60	.65	.90		
DUMP (16 yds. & under 25 yds.); Dump or flatbed (4 axles or more); Lowbed and trailer; Transit mix (under 8 yds.); Grout mixer; Dumpcrete (6 1/2 yds. & over); Dumpster	5.93	.60	.65	.90		
DUMP (25 yds. & under 35 yds.)	5.98	.60	.65	.90		
DW 10's, DW 20's OR EUCLID TYPE EQUIP. or LeTourneau Pulls or Terra Cobras or similar types of equip. regardless of types of attachments when performing work in the teamsters' jurisdiction or PB or similar types of dump trucks with loading attachments	6.00	.60	.65	.90		

DECISION #AP-224 (cont'd)

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
TRUCK DRIVERS: (CONT'D)						
TRUCK GREASER	6.01	.60	.65	.90		
7 AXLES OR DOUBLE GOOSENECK LOWBED or combination of vehicles when under permit load	6.055	.60	.65	.90		
TRANSIT MIX (8 yds. & over)	6.07	.60	.65	.90		
TIREMEN	6.11	.60	.65	.90		
DUMP (35 yds. & under 50 yds.)	6.13	.60	.65	.90		
A-FRAME or swedish crane; Water pull tankers; Welder	6.20	.60	.65	.90		
DUMP (50 yds. & under 65 yds.)	6.28	.60	.65	.90		
TRUCK REPAIRMAN	6.30	.60	.65	.90		
DUMP (65 yds. & over)	6.43	.60	.65	.90		
Carpenters:						
Carpenters	7.06	.56	.75	.50	.02	
Piledrivermen	7.19	.56	.75	.50	.02	
Millwrights; Pneumatic nailer; Hardwood floor layers	7.31	.56	.75	.50	.02	
Cement masons:						
Cement masons	6.52	.50	.73	.61	.02	
Cement masons color work	6.645	.50	.73	.61	.02	
Composition/Mastic/Epoxy; Finishing machine; Curb machine	6.77	.50	.73	.61	.02	
Marble setters; Terrazzo workers; Tile setters	6.71	.30	.45	.60		

DECISION #AP-245 - Mod. #1
(37 FR 21721 - October 13, 1972)
Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara and Ventura Counties, California

MODIFICATIONS P. 5

Change:

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	/Others
ELECTRICIANS:						
Riverside County	$8.62	.40	1%+.40		.02	
Santa Barbara County						
Vandenberg Air Force Base:						
Electricians	9.83	.42	1%+.65		.03	
Remainder of County:						
Electricians	8.58	.42	1%+.85		.03	
LATHERS:						
Kern County	6.88	.45	.85	.55		
Orange County	8.29	.55	.65	.50	.03	
SHEET METAL WORKERS:						
Kern County & Los Angeles County (North of line between Gorman & Big Pines)	8.47	.69	1.05			
SOFT FLOOR LAYERS:						
Kern County (Remaining portion)	8.05	.37	.15	.44		
TILE SETTERS:						
Kern County	7.30	.40		.30		
Riverside & San Bernardino Cos.	7.15	.40	.40		.025	
GLAZIERS:						
Imperial County	9.05	.35	.30			
LATHERS:						
Santa Barbara County	8.47	.24	.35			

DECISION #AP-248 - Mod. #1
(37 FR 21740 - October 13, 1972)
Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California

MODIFICATIONS P. 6

Change:

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	/Other
BRICK TENDERS:						
San Luis Obispo County	$5.90	.55	1.10	.30		
ELECTRICIANS:						
Riverside County	8.62	.40	1%+.40		.02	
San Luis Obispo County						
Electricians	8.48	.60	1%		.01	
Cable splicers	9.33	.60	1%		.01	
Santa Barbara County						
Vandenberg Air Force Base:						
Electricians	9.83	.42	1%+.85		.03	
Remainder of County:						
Electricians	8.58	.42	1%+.85		.03	
LATHERS:						
Inyo and Kern Counties	6.88	.45	.85	.55		
Orange County	8.29	.55	.65	.50	.03	
LINE CONSTRUCTION:						
Riverside County						
Linemen; Line equipment ops.	8.62	.40	1%+.40		.02	
SHEET METAL WORKERS:						
Inyo, Kern, Los Angeles (North of line between Gorman & Big Pines), and Mono Counties	8.47	.69	1.05			
SOFT FLOOR LAYERS:						
Kern County (Remaining portion)	8.05	.37	.15	.44		
TILE SETTERS:						
Inyo, Kern and Mono Counties	7.30	.40		.30		
Riverside & San Bernardino Cos.	7.15	.40	.40		.025	
Add:						
GLAZIERS:						
Imperial County	9.05	.35	.30			
LATHERS:						
San Luis Obispo & Santa Barbara Cos.	8.47	.24	.35			
MARBLE SETTERS:						
Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties	7.61	.60	.55			

NOTICES

DECISION #AM-P,625 - Mod. #4
(37 FR 12471 - June 23, 1972)
Boyd County, Kentucky

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apprentice Tr.
Power Equipment Operators:					
Class A Operators:					
Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, Clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevating grader and all types of loaders, hoetype machine, hoisting engine (2 or more drums) locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height), all types of boom cats, core drill, hopto, tow or push boat, A-Frame winch truck, concrete paver, gradeall, hoist, hyster, punpcrete, ross carrier, side boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), hydro crane, backfiller, gurries, sub-grader	$7.20	.25	.25		
Class B Operators:					
All air compressors, (600 cu. ft. per min. or greatar capacity), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 H. P. and over) bull float, finish machine, outboard motor boat, flexoplane, fireman, boon type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self propelled compactor, tractair and road widening trencher and farm tractor with					

DECISION #KI-P,625 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apprentice Tr.
Power Equipment Operators (cont'd)					
Class B Operators (cont'd):					
attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (one drum or buck hoist), well points, grout pump, throttle-vaive man, tugger, electric vibrator compactor	$5.86	.25	.25		
Class C Operators:					
Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50 HP), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment, deckhand oiler, hydraulic post driver, and drill helper	5.42	.25	.25		
Painters, Commercial:					
Brush	5.60				
Spray	6.10				
Painters, Industrial:					
Brush	6.50				
Spray	7.05				

DECISION #AP-132 - Mod. #2
(37 FR 21767 - October 13, 1972)
Jefferson County, Kentucky

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apprentice Tr.
Power Equipment Operators:					
Class A Operators:					
Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, Clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevating grader and all types of loaders, hoetype machine, hoisting engine (2 or more drums) locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height), all types of boom cats, core drill, hopto, tow or push boat, A-Frame winch truck, concrete paver, gradeall, hoist, hyster, punpcrete, ross carrier, side boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), hydro crane, backfiller, gurries, sub-grader	$7.20	.25	.25		
Class B Operators:					
All air compressors, (600 cu. ft. per min. or greatar capacity), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 H. P. and over) bull float, finish machine, outboard motor boat, flexoplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self propelled compactor, tractair and road widening trencher and farm tractor with					

DECISION #AP-132 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apprentice Tr.
Power Equipment Operators (cont'd):					
Class B Operators (cont'd):					
attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (one drum or buck hoist), well points, grout pump, throttle-vaive man, tugger, electric vibrator compactor	$5.86	.25	.25		
Class C Operators:					
Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50 HP), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment, deckhand oiler, hydraulic post driver, and drill helper	5.42	.25	.25		
Truck Drivers:					
3 tons and under	5.72	a	a	b	
Over 3 tons	5.83	a	a	b	
Semi-trailer, tandem axle or pole trailers and dumps	5.83	a	a	b	
Euclid and other heavy earth moving equipment and lowboy	6.00	a	a	b	
Winch truck and A-Frame and monorail truck when used to transport building materials	6.00	a	a	b	
Fork lift truck when used to transport building materials	6.00	a	a	b	
Mechanic	5.90	a	a	b	
Mechanic helpers, greasers and tire changers	5.72	a	a	b	
Helpers	5.60	a	a	b	
Concrete mixers (all types), hauling only on job site	5.90	a	a	b	

Footnotes

a. Employer contributes $13.50 per week to Health and Welfare; and $14.00 per week to Pension for each employee whose name appears on the payroll that week who has been employed a minimum of 20 work days within any 90 consecutive days period.

b. Employees who have been regularly employed on a project by an employer for one year and who have worked a minimum of 1200 hours during the year receive a vacation and pay for 40 hours. Employees who have been regularly employed on a project by an employer for one year, and who have worked a minimum of 650 hours during the year receive a vacation and pay for 20 hours. Employees who have worked 1200 hours since their 2nd year of employment and have completed three years receive an additional week vacation (40 hours).

DECISION #AP-133 - Mod. #2
(37 FR 2176n - October 13, 1972)
Warren County, Kentucky

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	/App. Tr.
Change:					
Power Equipment Operators:					
Class A Operators:					
Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, Clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevating grader and all types of loaders, hoetype machine, hoisting engine (2 or more drums) locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height), all types of boom cats, core drill, hopto, tow or push boat, A-Frame winch truck, concrete paver, gradeall, hoist, hyster, pumpcrete, ross carrier, side boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), hydro crane, backfiller, gurries, sub-grader	$7.20	.25	.25		
Class B Operators:					
All air compressors, (600 cu. ft. per min. or greater capacity), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 H. P. and over) bull float, finish machine, outboard motor boat, flexoplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self propelled compactor, tractair and road widening trencher and farm tractor with					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	/App. Tr.
Power Equipment Operators (cont'd)					
Class B Operators (cont'd):					
attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (one drum or buck hoist), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor	$5.86	.25	.25		
Class C Operators:					
Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50 HP), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment, deckhand oiler, hydraulic post driver, and drill helper	5.42	.25	.25		
Truck Drivers:					
3 tons and under	$5.72	a	a	b	
Over 3 tons	5.83	a	a	b	
Semi-trailer, tandem axle or pole trailers and dumps	5.83	a	a	b	
Euclid and other heavy earth moving equipment and louboy	6.00	a	a	b	
Winch truck and A-Frame and monorail truck when used to transport building materials	6.00	a	a	b	
Fork lift truck when used to transport building materials	6.00	a	a	b	
Mechanic	5.90	a	a	b	
Mechanic helpers, greasers and tire changers	5.72	a	a	b	
Helpers	5.60	a	a	b	
Concrete mixers (all types), hauling only on job site	5.90	a	a	b	

Footnotes

a. Employer contributes $13.50 per week to Health and Welfare; and $14.00 per week to Pension for each employee whose name appears on the payroll that week who has been employed a minimum of 20 work days within any 90 consecutive day period.

b. Employees who have been regularly employed on a project by an employer for one year and who have worked a minimum of 1200 hours during the year receive a vacation and pay for 40 hours. Employees who have been regularly employed on a project by an employer for one year, and who have worked a minimum of 650 hours during the year receive a vacation and pay for 20 hours. Employees who have worked 1200 hours since their 2nd year of employment and have completed three years receive an additional week vacation (40 hours).

DECISION #AP-134 - Mod. #2
(37 FR 21769 - October 13, 1972)
McCracken County, Kentucky

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	/App. Tr.
Change:					
Power Equipment Operators:					
Class A Operators:					
Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, Clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevating grader and all types of loaders, hoetype machine, hoisting engine (2 or more drums) locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height), all types of boom cats, core drill, hopto, tow or push boat, A-Frame winch truck, concrete paver, gradeall, hoist, hyster, pumpcrete, ross carrier, side boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), hydro crane, backfiller, gurries, sub-grader	$7.20	.25	.25		
Class B Operators:					
All air compressors, (600 cu. ft. per min. or greater capacity), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 H. P. and over) bull float, finish machine, outboard motor boat, flexoplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self propelled compactor, tractair and road widening trencher and farm tractor with					

DECISION #AP-134 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	/App. Tr.
Power Equipment Operators:					
Class B Operators (cont'd):					
attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (one drum or buck hoist), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor	$5.86	.25	.25		
Class C Operators:					
Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50 HP), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment, deckhand oiler, hydraulic post driver, and drill helper	5.42	.25	.25		
Truck Drivers:					
Up to but not including five (5) tons, such as pick-up trucks, dump, flat beds and stake bodies	$5.05		c		
Five (5) tons and over, including special equipment such as Euclids, winch, dempsters, dumpsters, crawler type trucks	5.40		c		
Tractor-trailer drivers and similar equipment such as louboys, distributors, water tank and fork lifts	5.40		c		
Ready-mix and mechanics	5.60		c		
Material checkers, tire changers, greasers, mechanics' helpers	5.10		c		

Footnote:

c. Employer contributes $14.00 per week per employee.

DECISION #AP-135 - Mod. #1
(37 FR 21771 - October 13, 1972)
Fayette County, Kentucky

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Change:					
Power Equipment Operators:					
Class A Operators:					
Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, Clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevating grader and all types of loaders, hoetype machine, hoisting engine (2 or more drums) locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, utility truck, push dozer, highlift, forklift (regardless of lift height), all types of boom cats, core drill, hopto, tow or push boat, A-Frame winch truck, concrete paver, gradeall, hoist, hyster, pumpcrete, ross carrier, side boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), hydro crane, backfiller, gurries, sub-grader	$7.20	.25	.25		
Class B Operators:					
All air compressors, (600 cu. ft. per min. or greater capacity), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 H. P. and over) bull float, finish machine, outboard motor boat, flexoplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self propelled compactor, tractair and road widening trencher and farm tractor with					

DECISION #AP-135 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Power Equipment Operators (cont'd)					
Class B Operators (cont'd):					
attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (one drum or buck hoist), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor	$5.86	.25	.25		
Class C Operators:					
Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50 HP), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment, deckhand oiler, hydraulic post driver, and drill helper	5.42	.25	.25		

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-300 - Mod. #3 (37 FR 13455 - July 7, 1972) Rapides Parish, Louisiana						
Change:						
Elevator Constructors:						
Journeymen	$6.32	.195	.20	2% + a&b		
Helpers	70%-JR	.195	.20	2% + a&b		
Helpers-probationary	50%-JR					
DECISION #AP-351 - Mod. #1 (37 FR 20441 - September 29, 1972) Orleans, Jefferson, Plaquemines, & St. Bernard Parishes, Louisiana						
Change:						
Asbestos Workers	$6.65	.30	.70			
DECISION #AP-236 - Mod. #2 (37 FR 19919 - September 22, 1972) Statewide (excluding the Nevada Test Site and Tonopah Test Range), Nevada						
Change:						
Painters:						
Clark-Esmeralda-Lincoln-Nye (South of Manhattan)						
Brush	8.23	.32	.25		.02	
Spray; Steel Painters; Swing Stage Sand Blaster; Pot Tander; Sign Painting	8.48	.32	.25		.02	
Structural Steel and Buffing Steel	8.73					
Steeple Jack	9.48	.32	.25		.02	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-243 - Mod. #2 (37 FR 19945 - September 22, 1972) Clark and Lincoln Counties and that portion of Nye County south of Highway #6 excluding the Nevada Test Site, Nevada						
Change:						
Painters:						
Brush and Roller	8.23	.32	.25		.02	
Spray; Steel Painter; Swing Stage Boson Chair; Paperhanger; Sand Blaster; Pot Tender; Tapers; Buffing; Acid Staining; Sign Painting	8.48	.32	.25		.02	
Paperhanging with machine; Sand Blasting; Structural Steel and Buffing Steel	8.73	.32	.25		.02	
Steeple Jack	9.48	.32	.25		.02	
DECISION #AM-1,735 - Mod. #4 (36 FR 14980 - August 11, 1971) Suffolk County, New York						
Change:						
Modification #2 - 37 FR 22706 - 10-20-72 to read: Modification #3						
DECISION #AP-316 - Mod. #4 (37 FR 17358 - August 25, 1972) Tulsa County, Oklahoma						
Change:						
Cement Masons:						
Cement masons	$6.07			.70	.06	
Power tool operator	6.32			.70	.06	

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	√Others
DECISION #AP-306 - Mod. #6 (37 FR 16365 - August 11, 1972) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Parker, Rockwall, Tarrant & Wise Counties, Texas						
Change Modification #5 to Read Decision #AP-306						
DECISION #AP-342 - Mod. #4 (37 FR 20485 - September 29, 1972) Nueces County, Texas						
Change: Building Construction:						
Plumbers-Steamfitters	$6.15	.15	.25		.035	
Roofers:						
Roofers	4.825		.10			
Kettlemen	4.70		.10			
Waterproofers	4.825		.10			
Deckmen	4.825		.10			

SUPERSEDEAS DECISION

STATE: Illinois
DECISION NUMBER: AP-30
Supersedes Decision No. AM-8627, dated June 30, 1972, in 37 FR 13035
COUNTY: DuPage
DATE: Date of Publication
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), and Heavy Construction.

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	√ Others
Asbestos workers	$8.25	.40	.275		.05	
Boilermakers	8.35	.50	.75	2%	.01	
Boilermakers' helpers	8.25	.50	.75	2%	.01	
Bricklayers & Stonemasons:						
North of Butterfield Road (Argonne Nat'l. Accl. Lab. & AEC Plant)	8.90	.40	.60		.03	
All territory within county south of Butterfield Road from east to west	8.90	.40	.60		.03	
Carpenters: (Building & Heavy)						
Carpenters & Soft Floor Layers	8.30	.45	.625		.08	
Millwrights & Piledrivermen	8.30	.45	.625		.08	
Cement Masons:(Building & Heavy)	9.00	.40	.40		.03	
Electricians	9.84	.20	1%+.30		½ of 1%	
Elevator Constructors:						
Elevator Constructors	8.75	.195	.20	2% + a&b	.005	
Helpers	6.125	.195	.20	2% + a&b	.005	
Helpers (Probationary)	50%JR					
Glaziers	7.65	.16	.25		.01	
Ironworkers:						
Argonne & vicinity	9.20	.25	.125		.02	
Nat'l. Accl. Lab. & Remainder of Co.	10.05	.25	.125		.045	
Lathers	8.39	.41	.345			
Leadburners	6.90	.30		c	.01	
Line Construction:						
Linemen, Digger Operator	7.65	.15	1%		½%	
Groundmen, Equipment & Tractor Opr.	5.20	.15	1%		½%	
Groundmen	5.00	.15	1%		½%	
Marble Setters	8.20	.30				
Marble Setters' helpers	7.30					
Painters:						
Brush	7.225	.40	.30		.04	
Spray	7.625	.40	.30		.04	
Plasterers	8.205	.40	.60			
Plumbers & Pipefitters:						
Argonne AEC Plant						
Plumbers	9.27	.40	.30		.05	
Pipefitters	9.00	.47	.50		.02	
Wheaton & North DuPage County	8.05	.25	.25	.15	.03	
Naperville & South DuPage County	8.80	.30	.35		.02	
Roofers:						
Composition	9.10	.30	.15		.02	
Slate & Tile	9.22	.18	.15		.02	
Sprinkler fitters	8.70	.16	.40		.09	
Sheet Metal Workers	8.10	.30	.30	.20		
Terrazzo Workers	7.50					
Terrazzo workers' helpers & Floor Mach.	6.85					
Tile Setters	8.15	.30-5/8	.42			
Tile Setters' helpers	6.80	.30-5/8	.325			

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:

a. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular rate to vacation pay credit for employee who has worked in business less than 5 years.

b. Six paid holidays, A to F.

c. Eight payed holidays, A to F plus Washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Years Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

AP-30 P. 3

ILLINOIS-22-LABORERS-1-2-3 B

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
LABORERS: (BUILDING, HEAVY)						
Building Laborers, Grade Separation Laborers, Sewer & Water Laborers, Building Laborers, Pumps for De-watering and other Unclassified Laborers	$6.50	.47	.65			
Cement Gun Laborers, Scaffold Laborers, Chimney Laborers (over 40')	6.60	.47	.65			
Cement Gun Laborers (Gunite), Windlass Men, Plasterers' Laborers	6.65	.47	.65			
Stone Derrickmen & Handlers	6.70	.47	.65			
Plumbers' Laborers, Jackhammer, Power Driven Concrete Saws, Tampers and Pneumatic Tools, Concrete Vibrators	6.75	.47	.65			
Firebrick and Boiler Setter Laborers	6.85	.47	.65			
Caisson Diggers, Well Point System Men, Chimney Laborers (on Firebrick)	6.85	.47	.65			
Boiler Setter Plastic Laborers	6.95	.47	.65			

AP-30 P. 4

ILLINOIS 12-PEO-1 H 1 of 2

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
BUILDING CONSTURCTION						
POWER EQUIPMENT OPERATORS						
CLASS I						
Mechanic, Asphalt Plant, Asphalt Spreader, Autograde, Batch Plant, Benoto (Requires Two Engineers) Boiler & Throttle Valve, Caisson Rigs, Central Redi-Mix Plant, Combination Back Hoe Front Enloader Machine, Compressor & Throttle Valve, Concrete Breaker (Truck Mounted) Concrete Conveyor, Concrete Paver over 27E cu. ft. Concrete Paver 27E cu. ft. and under, Concrete Placer, Concrete Tower, Cranes, (all), Cranes Hammerhead, Derricks, (all), Derricks. Traveling, Grader, Elevating Grouting Machines, Highlift Shovels or Fron Endloader 2½ yd. & over, Hoists, 1,2 and 3 Drum, Hoists, 2 Tugger one floor, Hydraulic Boom Trucks, Locomotives, (all) Motor Patrol, Piledrivers & Skid Rig, Post Hole Digger, Pre-Stress Machine, Pump Cretes: squeeze cretes-screw type pumps, Gypsum Bulker & pump, Rock Drill (Self-Propelled) Rock Drill (Truck Mounted) Scoops-Tractor Drawn-Slip Form Paver, Straddle Buggies, Tournapull, Tractor w/boom, & Side Boom, Trenching Machines.	$9.55	.40	.50	.20	.02	
CLASS II						
Boilers, Bulldozers, Broom, All power Propelled, Concrete Mixer (2 Bag & over) Conveyor, Portable, Forklift trucks, Greaser Engineer, Highlift Shovels or Fron Endloaders under 2kyd., Hoists, Automatic, Hoists, All Elevators, Hoists, Tugger Single Drum, Rollers, (all) Steam Generators Stone Crushers, Tractors (all) Winch Trucks with "A" Frame	8.30	.40	.50	.20	.02	
CLASS III						
Air Compressor - small 125 & under (1 to 5 not to exceed a total of 300 Ft.), Air Compressor - large over 125 Combination - small equipment operator Generators - small 50w & under						

AP-30 P. 5

ILLINOIS 12-PEO-1 2 of 2

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
POWER EQUIPMENT OPERATORS (CONT'D)						
CLASS III (CONT'D)						
Generators - large over 50kw, Heaters Mechanical, Pumps, over 3" (1 to 3 not to exceed a total of 300 ft.) Pumps, Well points, Welding Machines (2 through 5) Winches, 4 small electric drill winches	7.30	.40	.50	.20	.02	
CLASS IV						
Oilers	6.15	.40	.50	.20	.02	

AP-30 P. 6

Ill.-10-PEO-2-3 J 1 of 2

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
HEAVY & SEWER CONST.						
POWER EQUIPMENT OPERATORS:						
CLASS I:						
Asphalt plant, asphalt heater & planer combination, asphalt spreader, autograde, belt loader, caisson rigs, central redimix plant, concrete breaker (truck mounted), concrete conveyor, concrete paver over 27E cu. ft., concrete placer, concrete tube float, cranes, all attachments, cranes, Linden, Peco & machines of a like nature, derricks, all, derrick boats, derricks, traveling, dredges, euclid loader, elevating type, gradall, & machines of a like nature, grader, elevating, hoists, one, two & three drum, locomotive, all, mucking machine, 1 cu. yd. & over, mucking machine, under 1 cu. yd., pile drivers & skid rig, pre-stress machine, pump cretes dual ran (requiring frequent lubrication & water), rock drill - crane type, slip form paver, straddle buggies, tractor with boom, tractaire - with attachments, trenching machines, underground boring &/or mining machines 5 ft. in diameter & over tunnel, etc, underground boring &/or mining machine under 5 ft., wheel excavator, widener (Apsco)	$8.90	.40	.40	.10	.02	
CLASS II:						
Mechanic-welder, batch plant, bituminous mixer, bulldozer, combination backhoe front endloader machine, concrete breaker or hydro hammer, concrete grinding machine, concrete mixer or paver 7s series to & including 27 cu. ft., concrete spreader, concrete curing machine, burlap machine, belting machine & sealing machine, finishing machine - concrete, grader, motor grader, motor patrol, auto patrol, form grader, pull grader, subgrader, highlift shovels or front endloader, hydraulic boom trucks (all attachments), locomotives, dinky,						

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
POWER EQUIPMENT OPERATORS (CONT'D):						
pump cretes: Squeeze cretes - screw type pumps Gypsum bulker & pump, rock drill (self-propelled), roto-tiller, seaman, etc., self-propelled scoops - tractor drawn, self-propelled compactor, spreader - chip - stone, etc., scraper, tank car heater, tractor, push, pulling sheeps foot, disc., compactor, etc, tug boats	8.40	.40	.40	.10	.02	
CLASS III:						
Boilers, boiler & throttle valve, brooms, all power propelled, cement supply tendor, compressor & throttle valve, concrete mixer (two bag & over) conveyor, portable, fireman on boilers, forklift trucks, greaser engineer, grouting machine, hoists, automatic, hoists, all elevators, hoists, tugger single drum, jeep diggers, pipe jacking machines, post-hole digger, power saw, concrete, power-driven, pug mills, rollers, all, steam generators, stone crushers, stump machine, winch trucks with "A" frame, work boats, tamper - form - motor driven	7.80	.40	.40	.10	.02	
CLASS IV:						
Air compressors, all, generators, heaters, mechanical, light plants, all (1 through 5), pumps, all, pumps well points, tractaire, welding machines (2 through 6),	6.85	.40	.40	.10	.02	
CLASS V:						
Oilers	5.85	.40	.40	.10	.02	

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
TRUCK DRIVERS: Building, Hvy.						
Bulk tank trucks, buses, dry batch trucks, dump or conveyor trucks, fuel trucks, grease trucks, low boys, service trucks, scissor trucks, telescope trucks, water trucks:						
2 or 3 axle trucks	$6.20	a12.00	a16.00			
4 axle trucks	6.35	a12.00	a16.00			
5 axle trucks	6.55	a12.00	a16.00			
6 axle trucks	6.75	a12.00	a16.00			
A frame truck when used for transportation purposes, air compressors & welding machines including those pulled by cars, pick-up trucks & tractors, ambulances, batch gate lockers, batch hopperman, carryalls, fork lift & hoisters, helpers, mechanic helpers & greasers	6.20	a12.00	a16.00			
Car & truck washers	6.05	a12.00	a16.00			
Dispatcher	6.30	a12.00	a16.00			
Dump crets & agetors under 7 yards, mixer trucks under 7 yards	6.35	a12.00	a16.00			
Dump crets and agetors 7 yards or over, explosive and/or fission material trucks, mixer trucks 7 yards & over	6.55	a12.00	a16.00			
Master mechanic	6.75	a12.00	a16.00			
Dumpsters, track trucks, euclids, hug bottom dump tournatrailers or tournapulls when pulling other than self-loading equipment of similar equipment:						
Under 16 cubic yards	6.35	a12.00	a16.00			
Over 16 cubic yards	6.55	a12.00	a16.00			
Mechanic	6.40	a12.00	a16.00			
Oil distributors - 2 man operation, pavement breakers, pole trailer, up to 40 feet, power mower tractors, self-propelled chip spreader, skipman, slurry trucks - 2 man operation, teamsters, unskilled dumpmen, warehousemen & dockmen, winch trucks 2 axles.	6.20	a12.00	a16.00			

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
TRUCK DRIVERS:						
Ready-mix plant hopper operator	$6.35	a12.00	a16.00			
Mobile crane while in transit, oil distributors 1-man operation, pole trailer, over 40 feet, slurry trucks 1-man operation, winch trucks, 3 axles or more	6.55	a12.00	a16.00			

FOOTNOTE:

a. Per week per employee

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
WELL DRILLERS:						
Drillers, Pump Installer, Welder and Mechanic	$7.70	.35	.35	a		
Tool Dresser, Helper	7.30	.35	.35	a		

FOOTNOTE:

a. Six (6) paid Holidays: New Year's Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day.

NOTICES
23980
23978
23981
23979

SUPERSEDEAS DECISION

STATE: Iowa

COUNTY: Black Hawk (City of Waterloo and abutting municipalities)

DECISION NUMBER: AP-510

DATE: Date of Publication

Supersedes Decision No. AM-2,447 dated August 25, 1971 in 36 FR 16793

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS	$7.70	.25	.25		.10	
BOILERMAKERS	8.25	.30	1.00		.02	
BRICKLAYERS; Stonemasons	6.58	.17				
CARPENTERS:						
Carpenters; Piledrivermen	6.25	.25	.35		.01	
Millwrights	6.60	.25	.35		.01	
CEMENT MASONS	6.04	.25	.35			
ELECTRICIANS:						
Electricians	7.05	.20	1%		1%	
Cable Splicers	7.50	.20	1%		1%	
ELEVATOR CONSTRUCTORS	6.54	.185	.20	2%+a		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.185	.20	2%+a		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
IRONWORKERS:						
Ornamental; Reinforcing; Structural	7.80					
LABORERS:						
Common laborers; Carpenters' Helpers; Moving; Wrecking & Demolition	4.88	.21				
Mason tenders; Hod carriers; Machine &Air tool operators	4.98	.21				
Powderman	5.13	.21				
LATHERS	6.54	.25				
PAINTERS:						
Brush, roller	5.10					
Tapers	5.20					
Spray	5.60					
PLASTERERS	6.74	.25				
PLUMBERS; Steamfitters	5.50	.15			.03	
ROOFERS	6.22					
SHEET METAL WORKERS	7.10	.15				
SOFT FLOOR LAYERS	6.25	.25	.35		.01	
SPRINKLER FITTERS	8.00	.25	.40		.05	
TRUCK DRIVERS:						
Up to 6 tons	5.14	.25	.30			
Helpers	4.97	.25	.30			

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Employer contributes 4% of basic hourly rate for over 5 years' service and 2% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six PAid Holidays; A through F.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS:						
GROUP I MASTER MECHANIC	7.225	.30	.30		.01	
GROUP II AIR & ELECTRIC TUGGERS; Boom & crane trucks; Bulldozers; Cableways; Clamshells; Cranes; Tower cranes; Derricks; Ditching machine; Draglines; Dredges; Railroad locomotive & Stiff-leg & revolving derricks; Elevating graders; Endloaders; Forklifts (on steel erection, machinery handling & hoisting building material above first complete story); Hoist, 1-2-3 drums; Mechanics & welders; Motor patrol; Paving mixers; Piledrivers; C.M.I. caisson excavators; Pushcats; Scrapers (all types including tournapula); Shovels; Tractors (w/power takeoff); Trench hoes	6.725	.30	.30		.01	
GROUP III AIR COMPRESSORS (500' & over); Bituminous spreader machine (self propelled); Bituminous plant op.; Backfillers; Bull floats; Cement plant op.; Concrete mixers, (1 yd. & over & plant mixers); Concrete spreader; Concrete finish machines; Flexplanes 2nd man on railroad locomotive; Tower crane; Oiler; Apprentice engineers; Firemen on piledrivers, cranes, etc.; Forklifts (other than described above); Gunnite machine; Jaeger mixer (bitum); Pumps; Plant air compressors (consisting of 3 or more contractor units); Self propelled rollers (asphalt or brick); Stump chippers; Truck power winch; Tractor pulling Roller & self propelled tamper	6.425	.30	.30		.01	
GROUP IV AIR COMPRESSORS (less than 500'); Concrete pumps; Conveyors; Oilers; Portable concrete mixers (less than 1 yd. with skip); Power rollers (earth); Pumps (3" or over, vacuum single units); Truck crane drivers & oilers; Welding machine	6.125	.30	.30		.01	

POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
GROUP V FIREMAN ON MECHANICAL HEATERS	5.925	.30	.30		.01	

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Cr
CARPENTERS; Piledrivermen	$ 5.91	.25				
CEMENT MASONS	5.65					
LABORERS: Sandblasters; Powderman & blaster; Pipelayer, sewer, water, telephone conduits etc.; Sewer utility man; Gunnite nozzleman; Diamond & core drills, powered by air, all work performed by laborers working from a bos'n chair, swinging stage, life belt, tag line, or block & tackle; Drill op. of air tracs, wagon drills & similar drills	5.30	.15	.10			
Tree climber; Form setters; Rakers; Box-tenders; Asphalt curb machines; Potmen (not mechanical); Bull float, hand operated; Scalers; Timbermen; Underpinning & shoring; Caissons (over 12'); Grade checker & cutting torches on demolition work	5.05	.15	.10			
Power buggyman; Concrete & paving sawman; Form liner, expansion joint assembler; Bottom man; Caulker & jointer & painter; Timber & chain-saw man; Mechanical grouters; Boring machine; Automatic concrete power curbing machines; Stresser or stretcherman on post-tension or prestressed concrete (on or off the job); Powdermen helpers	4.80	.15	.10			
Form tamper; Air, gas & electric tool op., vibrator; Barco hammer, paving breaker, spader, tamper, electric drills; Hammer & jackhammer; Tree groundmen; Chuck tender; Drill helpers, tool room men & checkers; Sandblaster helper; Concrete processing material & monitors; Cement finishers helpers	4.65	.15	.10			

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
HEAVY AND HIGHWAY CONSTRUCTION (CONT.)						
Fence erectors; Handling & placing of metal mesh, dowel bars, reinforcing bars & chairs; Dumpmen & spotters; Carrying reinforcing rods; Corrugated culvert pipe; Concrete drainage pipe; Stake chaser, seeding, mulching & planting of trees, shrubs & flowers; Water boy; Common laborer; Rodmen, tending to carpenters; Hot asphalt labor; Stringman on paving work	4.55	.15	.10			
POWER EQUIPMENT OPERATORS:						
Power shovel & crane type equipment (1/2 cy. & over); Central mix plant op. (concrete 5 cy & over); Dredge op. & leverman; Concrete Mixer, Paver; Hoisting engineer (steel erection); Tractor operating scrapers in tandem; Motor patrol on finishing work; Master mechanic (when 4 or more mechanics are employed); Tow or push boat; Piledriver machine	6.05	.30	.30		.01	
Asphalt plant; Asphalt pugmill; Power shovel (crane type equipment, under 1/2 cy); Front end loader (all types 40 HP or over); Mechanics & welders; Tournapull; DW 10 & all similar equipment, over 10 cy struck cap; All self-loading scrapers; Tractors, Bulldozers; Push cats or Pulling scraper or Rooter; Sideboom tractor; Churn or rotary drill; Trenching machine (Cleveland 80 or similar cap.); Self-propelled sheepsfoot roller (100,000 lbs. & over); Central mix plant (concrete, under 5 cy); Asphalt spreader; Group equipment greaser; Automatic sub-grade machine; Slip form paving	5.90	.30	.30		.01	
Motor patrol (other than finish); Asphalt roller (high type surfacing); Concrete curb breaking machine; Concrete widening machine; Elevating grader & Athey loader; Tournapul;						

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS (CONT'D)						
DW 10 & all similar equipment under 10 cy struck cap; Paving breaker (drop or pneumatic); Spreader box (self propelled) or tractor-pushed); Subgrade Stab. (P & H & similar sizes); Boiler (2 or one boiler & dryer); Subgrading machine (CMI); Asphalt-Paver; Backhoe under 3/8 cy	5.65	.30	.30		.01	
Self-propelled roller (other than high type asphalt); Distributor; Screening & washing plant; Spreader, concrete; Tank Car heater (combination boiler & booster); Self-propelled vibrating compactor; Trenching machine (other); Pumps on well points & deep wells for dewatering; mechanical broom; Steel placing machine; Boat op.; Compressor; Concrete mixer (side loader); Conveyor; Crusher feeder; Finishing machine on concrete; Flex-plane; Bull float; Form grade; Motor crane combination driver & oiler; Concrete curing machine	5.45	.30	.30		.01	
Boiler (single); Apprentice engineer or oil or mechanics' helper or Group greaser helper; Self-propelled tractor (pulling disc harrow or sheepsfoot roller); Welding machine; Pump op. (other than dredge); Boom & winch truck	5.25	.30	.30		.01	
Batching plant (dry); Front end loader, rubbertired (with backhoe attachment, under 3/8 cy); Farm tractor pulling pneumatic roller	4.95	.30	.30		.01	
TRUCK DRIVERS:						
Truck drivers (not otherwise specified); Warehousemen; Drivers on; 4-wheel service trucks, bus hauling men, carry all & winch trucks, dumpcretes & scoopmobiles	4.65	.25				

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS (CONT'D)						
Semi & tandem; Ready mix; Dumpster; Tandem axle service; Korking & similar dumpsters, track trucks, euclids, hug bottom drums, tournapulls or similar equipment used for transportation; Drivers on pavement breakers, pole trailers or air compressors and welding machines, including those pulled by separate units	4.75	.25				

SUPERSEDEAS DECISION

STATE: Iowa

COUNTY: Des Moines (City of Burlington and abutting municipalities; and Burlington Ordnance Plant)

DECISION NUMBER: AP-511

DATE: Date of Publication

Supersedes Decision No. AP-203 dated July 21, 1972 in 37 FR 14677

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

29-IOWA-BMO-1-b (1-2)

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
ASBESTOS WORKERS	$7.70	.25	.25		.10	
BOILERMAKERS	8.25	.30	1.00		.02	
BRICKLAYERS; Stonemasons	7.35		.20			
CARPENTERS:						
Carpenters & Soft Floor Layers	6.35	.35	.30		.01	
Millwrights	7.00	.35	.30		.01	
Piledrivermen	6.85	.35	.30		.01	
CEMENT MASONS	7.15					
ELECTRICIANS	7.58	.20	1%		1%	
GLAZIERS	6.63	.15	.30	.2748		
IRONWORKERS:						
Ornamental; Reinforcing; Structural	7.25	.30	.30			
LABORERS:						
Common laborers; Signal man; Wrecking, Deck Hand	5.25					
Plaster tender; Mortar mixer; Mason tender; Stone & marble setter tender; Drill op.; Jackhammer man; Air tamper; Air spade, (electric or pneumatic); Spraying equipment; & all mechanical operated tools; Excavation work over 6' deep below ground level or basement level	5.40					
Tile Layers (sewers)	5.50					
Gunniting & sandblasting	5.60					
Tunnel & sewer mucker & miner over 6' deep; Caisson worker & drill op. in tunnel & caisson; Powderman	5.70					
PAINTERS:						
Brush	5.50					
Rollers	5.60					
Sign	6.00					
Spray; Structural steel; Swing stage	6.50					
PLASTERERS	6.80					
PLUMBERS; Steamfitters	7.10	.27	.27		.05	
ROOFERS	5.40			.10		
SHEET METAL WORKERS	7.33	.17			.005	
SPRINKLER FITTERS	8.00	.25	.40		.05	

AP-511 P. 2 (2-2)

29-IOWA-TD-1-b

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
TRUCK DRIVERS						
WAREHOUSEMAN; Helpers; Teamsters; Mechanic helpers; Greasers; Single axle flat beds & dump trucks; Pulling air compressors & welding machines; Batch trucks 2-34E batches or less; Chip spreaders	$5.35	8.50p/w				
CHEATER AXLE; Tandems; 6 wheel trucks; Semi-trailers; Carryall; Winch; Mixers; Batch over 2-34E batches; "A" Frame; Pole trailers	5.55	8.50p/w				
TRACK TRUCKS; Euclid type truck; Oil distributors; Front & rear; All types of dumpsters; Pavement breakers	5.65	8.50p/w				

AP-511 P.3 82-IOWA-PEO-1-2-3-d (1-2)

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
ALL HOIST OR STEEL ERECTING EQUIPMENT USED TO HOIST OR ERECT, IN CONJUNCTION WITH THE CREW OF A SPECIALTY TRADE	$8.00	.30	.40		.08	
CRANE; Shovel; Clamshell; Dragline; Backhoe; Derrick; Tower Crane; Cableway; Concrete spreader (servicing 2 pavers); Asphalt spreader; Asphalt mixer plant engineer; Dipper dredge; Dipper dredge craneman; Dual purpose truck (boom or winch); Leverman or engineman (hydraulic dredge); Mechanic; Paving mixer with tower attached (2 operators required); Piledriver; Boom tractor; Stationary, portable or floating mixing plant; Trenching machine (over 20 h.p.); Building hoist (2 drums); Hot paint wrapping machine; Cleaning & priming machine; End loader (½ cu. yd. or over, on basement excavation work); Backfiller (throw bucket); Locomotive engineer; Qualified welder; Tow or push boat; Concrete paver; Seaman Trav-L-Plant or similar machines; CMI autograder or similar machines; Slip form pavers Caisson augering machine; Mucking machine; Asphalt heater planer unit; Hydrulic cranes	7.58	.30	.40		.08	
ATHEY; Barber-Green; Euclid or Heiss loader; Asphalt pug mill; Fireman & drier; Concrete pump; Concrete Spreader (servicing one paver); Bulldozer; End loader (other than mentioned above); Forklift; Elevating grader; Group equipment greaser; Letourneaupul & similar machines; DW-10; Straddle carrier; Hyster winch & similar machines; Motro patrol; Power blade; Push cat; Tractor pulling elevating grader or power blade; Tractor operating scoop or scraper; Tractor with power attachs; Roller on asphalt or blacktop; Single drum hoist; Jaeger mix & placer machine; Pipe bending machine; Welding machines (3 or 4); Fuller Kenyon cement						

AP-511 P. 4 82-IOWA-PEO-1-2-3-d (2-2)

POWER EQUIPMENT OPERATORS Cont'd	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
pump or similar machines; Automatic cement & gravel batch-plants (one stop set-up); Seaman Pulvi-Mixer or similar machines; Blastholer self-propelled rotary drill or similar machines; Work boat; Combination concrete finishing machine and float; Self-propelled sheep foot roller or compactor (used in conjunction with a grading spread); Mud jack; Underground boring machine (over 8 inches); Apsco spreader or similar machine	$7.41	.30	.40		.08	
ASPHALT BOOSTER; Fireman & pump op. at asphalt plant; Compressor (500 cu. ft. & over); Concrete finishing machine; Form grader with roller on earth; Mixers (3 bag to 16E); Power operated bull float; Tractor w/o power attachs; Dope pot (agitating motor); Dope chop machine; Distributor (back end); Flexplane or similar machine; Portable machine fireman; Hydrohammer; Power winch or paving work; Self-propelled roller or compactor (other than provided for above); Pump (more than one well-point pump); Portable crusher; Trench machine (20 h.p. & under); Power subgrader (on forms) or similar machines; Asphalt spreader screed op.; Conveyor	6.52	.30	.40		.08	
AIR COMPRESSOR (under 50 cu. ft.); Driver on truck crane or similar machines; Light plant; Mixer (1 or 2 bags); Power batching machine (cement auger or conveyor); Boiler (engineer or fireman); Water pumps; Welding machine; Mechanical broom; Automatic cement & gravel batch plants (2 or 3 stop set-up); Small rubber-tired tractors (not incl. backhoes or end loaders); Self-propelled curing machine	6.11	.30	.40		.08	
OILER; Mechanic's helper; Water pump (pumping water to paver); Mechanical heater (other than steam boiler); Belt machine; Small outboard motor boat	5.50	.30	.40		.08	

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
CARPENTERS; Piledrivermen	$ 5.91	.25				
CEMENT MASONS	5.65					
LABORERS: Sandblasters; Powderman & blaster; Pipelayer, sewer, water, telephone conduits etc.; Sewer utility man; Gunnite nozzleman; Diamond & core drills, powered by air, all work performed by laborers working from a bos'n chair, swinging stage, life belt, tag line, or block & tackle; Drill op. of air tracs, wagon drills & similar drills	5.30	.15	.10			
Tree climber; Form setters; Rakers; Box-tenders; Asphalt curb machines; Potmen (not mechanical); Bull float, hand operated; Scalers; Timbermen; Underpinning & shoring; Caissons (over 12'); Grade checker & cutting torches on demolition work	5.05	.15	.10			
Power buggyman; Concrete & paving sawmen; Form liner, expansion joint assembler; Bottom man; Caulker & jointer & painter; Timber & chain-saw man; Mechanical grouters; Boring machine; Automatic concrete power curbing machines; Stresser or stretcherman on post-tension or prestressed concrete (on or off the job); Powdermen helpers	4.80	.15	.10			
Form tamper; Air, gas & electric tool op., vibrator; Barco hammer, paving breaker, spader, tamper, electric drills; Hammer & jackhammer; Tree groundmen; Chuck tender; Drill helpers, tool room men & checkers; Sandblaster helper; Concrete processing material & monitors; Cement finishers helpers	4.65	.15	.10			

HEAVY AND HIGHWAY CONSTRUCTION (CONT.)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Fence erectors; Handling & placing of metal mesh, dowel bars, reinforcing bars & chairs; Dumpmen & spotters; Carrying reinforcing rods; Corrugated culvert pipe; Concrete drainage pipe; Stake chaser, seeding, mulching & planting of trees, shrubs & flowers; Water boy; Common laborer; Rodmen, tending to carpenters; Hot asphalt labor; Stringman on paving work	4.55	.15	.10			
POWER EQUIPMENT OPERATORS: Power shovel & crane type equipment (1/2 cy. & over); Central mix plant op. (concrete 5 cy & over); Dredge op. & leverman; Concrete Mixer, Paver; Hoisting engineer (steel erection); Tractor operating scrapers in tandem; Motor patrol on finishing work; Master mechanic (when 4 or more mechanics are employed); Tow or push boat; Piledriver machine	6.05	.30	.30		.01	
Asphalt plant; Asphalt pugmill; Power shovel (crane type equipment, under 1/2 cy); Front end loader (all types 40 HP or over); Mechanics & welders; Tournapull; DW 10 & all similar equipment, over 10 cy struck cap; All self-loading scrapers; Tractors, Bulldozers; Push cats or Pulling scraper or Rooter; Sideboom tractor; Churn or rotary drill; Trenching machine (Cleveland 80 or similar cap.); Self-propelled sheepsfoot roller (100,000 lbs. & over); Central mix plant (concrete, under 5 cy); Asphalt spreader; Group equipment greaser; Automatic sub-grade machine; Slip form paving	5.90	.30	.30		.01	
Motor patrol (other than finish); Asphalt roller (high type surfacing); Concrete curb breaking machine; Concrete widening machine; Elevating grader & Athey loader; Tournapul;						

POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
DW 10 & all similar equipment under 10 cy struck cap; Paving breaker (drop or pneumatic); Spreader box (self propelled) or tractor-pushed); Subgrade Stab. (P & H & similar sizes); Boiler (2 or one boiler & dryer); Subgrading machine (CMI); Asphalt Paver; Backhoe under 3/8 cy	5.65	.30	.30		.01	
Self-propelled roller (other than high type asphalt); Distributor; Screening & washing plant; Spreader, concrete; Tank Car heater (combination boiler & booster); Self-propelled vibrating compactor; Trenching machine (other); Pumps on well points & deep wells for dewatering; mechanical broom; Steel placing machine; Boat op.; Compressor; Concrete mixer (side loader); Conveyor; Crusher feeder; Finishing machine on concrete; Flex-plane; Bull float; Form grade; Motor crane combination driver & oiler; Concrete curing machine	5.45	.30	.30		.01	
Boiler (single); Apprentice engineer or oil or mechanics' helper or Group greaser helper; Self-propelled tractor (pulling disc harrow or sheepsfoot roller); Welding machine; Pump op. (other than dredge); Boom & winch truck	5.25	.30	.30		.01	
Batching plant (dry); Front end loader, rubbertired (with backhoe attachment, under 3/8 cy); Farm tractor pulling pneumatic roller	4.95	.30	.30		.01	
TRUCK DRIVERS: Truck drivers (not otherwise specified); Warehousemen; Drivers on; 4-wheel service trucks, bus hauling men, carry all & winch trucks, dumpcretes & scoopmobiles	4.65	.25				

POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Semi & tandem; Ready mix; Dumpster; Tandem axle service; Korking & similar dumpsters, track trucks, euclids, hug bottom drums, tournapulls or similar equipment used for transportation; Drivers on pavement breakers, pole trailers or air compressors and welding machines, including those pulled by separate units	4.75	.25				

SUPERSEDEAS DECISION

STATE: Iowa

COUNTY: Linn (City of Cedar Rapids and abutting municipalities)

DECISION NUMBER: AP-512

DATE: Date of Publication

Supersedes Decision No. AP-212 dated August 11, 1972 in 37 FR 16330

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Cr
ASBESTOS WORKERS	8.05	.25	.25		.10	
BOILERMAKERS	8.25	.30	1.00		.02	
BRICKLAYERS; Stonemasons	7.65	.35				
CARPENTERS:						
Carpenters	6.84	.25			.02	
Millwrights; Piledrivermen	7.19	.25			.02	
CEMENT MASONS	6.88	.21				
ELECTRICIANS	7.55	.18	1%	6%	1%	
ELEVATOR CONSTRUCTORS	6.54	.185	.20	2% + a		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.185	.20	2% + a		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
GLAZIERS	6.63	.15	.30	.2748		
IRONWORKERS:						
Ornamental; Reinforcing; Structural	7.80					
LABORERS:						
Common laborers	5.64	.15	.15			
All water service; Mortar mixers; Sewer tile layers	5.765	.15	.15			
Air, electric or gasoline powered jackhammers; Chipping hammers; Machine rock drills; Power driven buggies; Tampers; Vibrators; Well point work	5.84	.15	.15			
LATHERS	5.30					
PAINTERS:						
Brush	6.30					
Paperhangers; Structural steel; Swing stage to 55'	6.55					
Spray	6.95					
PLASTERERS	7.28					
PLUMBERS; Steamfitters	6.85	.20	.30		.01	
ROOFERS	5.95					
SHEET METAL WORKERS	5.15					
SOFT FLOOR LAYERS	6.84	.25			.02	
SPRINKLER FITTERS	8.00	.25	.40		.05	
TRUCK DRIVERS	5.64					

FOOTNOTE:

a. Employer contributes 4% basic hourly rate for over 5 years' service 2% basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. Six Paid Holidays: A through F.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

AP-512 P. 2

5-10WA-PEO-1-f (1-2)

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Cr
POWER EQUIPMENT OPERATORS:						
GROUP I MASTER MECHANIC	7.225	.30	.30		.01	
GROUP II AIR & ELECTRIC TUGGERS; Boom & crane trucks; Bulldozers; Cableways; Clamshells; Cranes; Tower cranes; Derricks; Ditching machine; Draglines; Dredges; Railroad locomotive & Stiffleg & revolving derricks; Elevating graders; Endloaders; Forklifts (on steel erection, machinery handling & hoisting building material above first complete story); Hoist, 1-2-3 drums; Mechanics & welders; Motor patrol; Paving mixers; Piledrivers; C.M.I. caisson excavators; Pushcats; Scrapers (all types including tournapule); Shovels; Tractors (w/power takeoff); Trench hoes	6.725	.30	.30		.01	
GROUP III AIR COMPRESSORS (500' & over); Bituminous spreader machine (self propelled); Bituminous plant op.; Backfillers; Bull floats; Cement plant op.; Concrete mixers, (1 yd. & over & plant mixers); Concrete spreader; Concrete finish machines; Flexplanes 2nd man on railroad locomotive; Tower crane; Oiler; Apprentice engineers; Firemen on piledrivers, cranes, etc.; Forklifts (other than described above); Gunnite machine; Jaeger mixer (bitum); Pumps; Plant air compressors (consisting of 3 or more contractor units); Self propelled rollers (asphalt or brick); Stump chippers; Truck power winch; Tractor pulling Roller & self propelled tamper	6.425	.30	.30		.01	
GROUP IV AIR COMPRESSORS (less than 500'); Concrete pumps; Conveyors; Oilers; Portable concrete mixers (less than 1 yd. with skip); Power rollers (earth); Pumps (3" or over, vacuum single units); Truck crane drivers & oilers; Welding machine	6.125	.30	.30		.01	

AP-512 P. 3

5-10WA-PEO-1-f (2-2)

POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Cr
GROUP V FIREMAN ON MECHANICAL HEATERS	5.925	.30	.30		.01	

AP-512 P. 4

11a-10WA-2-3 (1-4)

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Cr
CARPENTERS; Piledrivermen	$ 5.91	.25				
CEMENT MASONS	5.65					
LABORERS:						
Sandblasters; Powderman & blaster; Pipelayer, sewer, water, telephone conduits etc.; Sewer utility man; Gunnite nozzleman; Diamond & core drills, powered by air, all work performed by laborers working from a bos'n chair, swinging stage, life belt, tag line, or block & tackle; Drill op. of air trace, wagon drills & similar drills	5.30	.15	.10			
Tree climber; Form setters; Rakers; Box-tenders; Asphalt curb machines; Potmen (not mechanical); Bull float, hand operated; Scalers; Timbermen; Underpinning & shoring; Caissons (over 12'); Grade checker & cutting torches on demolition work	5.05	.15	.10			
Power buggyman; Concrete & paving sawman; Form liner, expansion joint assembler; Bottom man; Caulker & jointer & painter; Timber & chain-saw man; Mechanical grouters; Boring machine; Automatic concrete power curbing machines; Stresser or stretcherman on post-tension or prestressed concrete (on or off the job); Powdermen helpers	4.80	.15	.10			
Form tamper; Air, gas & electric tool op., vibrator; Barco hammer, paving breaker, spader, tamper, electric drills; Hammer & jackhammer; Tree groundmen; Chuck tender; Drill helpers, tool room men & checkers; Sandblaster helper; Concrete processing material & monitors; Cement finishers helpers	4.65	.15	.10			

HEAVY AND HIGHWAY CONSTRUCTION (CONT.)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
Fence erectors; Handling & placing of metal mesh, dowel bars, reinforcing bars & chairs; Dumpmen & spotters; Carrying reinforcing rods; Corrugated culvert pipe; Concrete drainage pipe; Stake chaser, seeding, mulching & planting of trees, shrubs & flowers; Water boy; Common laborer; Rodmen, tending to carpenters; Hot asphalt labor; Stringman on paving work	4.55	.15	.10			
POWER EQUIPMENT OPERATORS:						
Power shovel & crane type equipment (1/2 cy. & over); Central mix plant op. (concrete 5 cy & over); Dredge op. & leverman; Concrete Mixer, Paver; Hoisting engineer (steel erection); Tractor operating scrapers in tandem; Motor patrol on finishing work; Master mechanic (when 4 or more mechanics are employed); Tow or push boat; Piledriver machine	6.05	.30	.30		.01	
Asphalt plant; Asphalt pugmill; Power shovel (crane type equipment, under 1/2 cy); Front end loader (all types 40 HP or over); Mechanics & welders; Tournapull; DW 10 & all similar equipment, over 10 cy struck cap; All self-loading scrapers; Tractors, Bulldozers; Push cats or Pulling scraper or Rooter; Sideboom tractor; Churn or rotery drill; Trenching machine (Cleveland 80 or similar cap.); Self-propelled sheepsfoot roller (100,000 lbs. & over); Central mix plant (concrete, under 5 cy); Asphalt spreader; Group equipment greaser; Automatic sub-grade machine; Slip form paving	5.90	.30	.30		.01	
Motor patrol (other than finish); Asphalt roller (high type surfacing); Concrete curb breaking machine; Concrete widening machine; Elevating grader & Athey loader; Tournapul;						

POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
DW 10 & all similar equipment under 10 cy struck cap; Paving breaker (drop or pneumatic); Spreader box (self propelled) or tractor-pushed); Subgrade Stab. (P & H & similar sizes); Boiler (2 or one boiler & dryer); Subgrading machine (CMI); Asphalt Paver; Backhoe under 3/8 cy	5.65	.30	.30		.01	
Self-propelled roller (other than high type asphalt); Distributor; Screening & washing plant; Spreader, concrete; Tank Car heater (combination boiler & booster); Self-propelled vibrating compactor; Trenching machine (other); Pumps on well points & deep wells for dewatering; mechanical broom; Steel placing machine; Boat op.; Compressor; Concrete mixer (side loader); Conveyor; Crusher feeder; Finishing machine on concrete; Flex-plane; Bull float; Form grade; Motor crane combination driver & oiler; Concrete curing machine	5.45	.30	.30		.01	
Boiler (single); Apprentice engineer or oil or mechanics' helper or Group greaser helper; Self-propelled tractor (pulling disc harrow or sheepsfoot roller); Welding machine; Pump op. (other than dredge); Boom & winch truck	5.25	.30	.30		.01	
Batching plant (dry); Front end loader, rubbertired (with backhoe attachment, under 3/8 cy); Farm tractor pulling pneumatic roller	4.95	.30	.30		.01	
TRUCK DRIVERS:						
Truck drivers (not otherwise specified); Warehousemen; Drivers on; 4-wheel service trucks, bus hauling men, carry all & winch trucks, dumpcretes & scoopmobiles	4.65	.25				

POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
Semi & tandem; Ready mix; Dumpster; Tandem axle service; Korking & similar dumpsters, truck trucks, euclids, hug bottom drums, tournapulls or similar equipment used for transportation; Drivers on pavement breakers, pole trailers or air compressors and welding machines, including those pulled by separate units	4.75	.25				

NOTICES 23992 23990 23993 23991 XUM

SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Polk (City of Des Moines and abutting municipalities)

DECISION NUMBER: AP-513 DATE: Date of Publication

Supersedes Decision No. AP-214 dated August 11, 1972 in 37 FR 16334

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

77-IOWA-POL-1- (1-2)

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
ASBESTOS WORKERS	$ 7.95	.425	.25			
BOILERMAKERS	8.25	.30	1.00		.02	
BRICKLAYERS; Stonemasons	7.625	.325				
CARPENTERS:						
Carpenters	7.00	.25	.20		.04	
Millwrights; Piledrivermen	7.25	.25	.20		.04	
CEMENT MASONS:						
Cement Masons	7.24					
Hanging, traveling scaffold slip form work mach. travel; Float operator; Color work	7.365					
ELECTRICIANS	8.50	.25	1%		1%	
ELEVATOR CONSTRUCTORS	7.625	.185	.20	2% + a		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.185	.20	2% + a		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
GLAZIERS	5.32		.20	2 weeks		
IRONWORKERS:						
Ornamental; Reinforcing; Structural	6.975	.26	.50		.02	
LABORERS:						
General Laborers	6.185	.275	.275			
Mortar mixers; Motor buggies, when pouring concrete; Power tool ops. (Air tools, concrete vibrator, gunnite, nozzlemen, electric drills & hammers)	6.285	.275	.275			
Plasterers tenders	6.31	.275	.275			
Powder men	6.335	.275	.275			
Air tool, power tampers & other similar self-powered tools weighing 50 lbs. & over	6.385	.275	.275			
All tunnel work	6.435	.275	.275			
Paving breakers weighing 50 lbs. and over	6.485	.275	.275			
LATHERS	7.10					
PAINTERS:						
Brush; Roller; Drywall finisher	7.20				.03	
Paperhangers	7.45				.03	
Spray; Structural steel; Sandblasting	7.70				.03	
Stack; Tower work over 100'	8.30				.03	
PLASTERERS	7.35					
PLUMBERS; Steamfitters	7.49	.30	.20		.05	
ROOFERS	6.885					
SHEET METAL WORKERS	7.495	.25	.20		.05	
SPRINKLER FITTERS	8.00	.25	.40		.05	

BUILDING CONSTRUCTION (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
TRUCK DRIVERS	5.91					

FOOTNOTE:

a. Employer contributes 4% of basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

3-IOWA-PEO-1-J (1-2)

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
GROUP I ATHEY; Barber Green; Euclid or Haiss loaders; Scoopmobile, when operated on project site; Cranes; Shovels; Draglines; Clamshells; Backhoes; Cableways; Derricks; Hoist, single drum, hauling men; Hoist, on steel, stone or concrete bucket; Dual drum paver; Paving mixer 21E to 24E; Paving mixer with tower attached; Mixer plants, stationary, portable and floating; Mixermobile; Frontend loader; Hi-lifts; Boom tractors; Boom or winch truck; Asphalt mixer plant engineer; Dipper dredge; Dipper dredge cranesman; Leverman; Engineman; Hydraulic dredges; Piledriver; Building hoist with two active drums; Mechanic & welders; Hot paint wrapping machine Cleaning & priming machine; Locomotive engineers; Trenching machine; Backfiller & all similar machines; Bulldozers; Scoop or scraper; Motor patrol; Pushcat; Tractor with power takeoff; DW 10's and 20's; LeTourneaupul & similar equipment; Elevating graders	$ 6.75	.30	.30		.01	
GROUP II ASPHALT PUGMILL; Barber Green Jauger & similar asphalt spreading; Rollers on asphalt, blacktop; Air compressors, over 250 cu. ft.; Concrete mixer, under 21E; Concrete pump; Concrete spreader; Concrete finishing machine on forms; Boat op.; Forklift; Tractor; Power blade; Power sub-grader on forms; Group equipment greaser; Tractor pulling elevating grader; Ross carrier; Hyster winch & similar machine; Pump or pumps over 3 inches in diameter; Single drum hoist, material only; Automatic hoist; Elevators permanent or temporary, used for hoisting material, lowering debris or carrying workmen from floor to floor; Locomotive firemen; Firing two boilers	6.525	.30	.30		.01	

3-IOWA-PEO-1-J (2-2)

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
GROUP III AIR COMPRESSORS, 250 cu. ft. & under; Pumps 3 inches in diameter or under; Two or more gas driven welding machines; Mechanical heater; Conveyor; Concrete saw with seat; Firemen on crane or piledriver; Distributor; Screed	$ 6.10	.30	.30		.01	
GROUP IV OILER	6.00	.30	.30		.01	

11a-IOWA-2-3 (1-4)

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
CARPENTERS; Piledrivermen	$ 5.91	.25				
CEMENT MASONS	5.65					
LABORERS: Sandblasters; Powderman & blaster; Pipelayer, sewer, water, telephone conduits etc.; Sewer utility man; Gunnite nozzleman; Diamond & core drills, powered by air, all work performed by laborers working from a bos'n chair, swinging stage, life belt, tag line, or block & tackle; Drill op. of air tracs, wagon drills & similar drills	5.30	.15	.10			
Tree climber; Form setters; Rakers; Box-tenders; Asphalt curb machines; Formen (not mechanical); Bull float, hand operated; Scalers; Timbermen; Underpinning & shoring; Caissons (over 12'); Grade checker & cutting torches on demolition work	5.05	.15	.10			
Power buggyman; Concrete & paving sawman; Form liner, expansion joint assembler; Bottom man; Caulker & jointer & painter; Timber & chain-saw man; Mechanical grouters; Boring machine; Automatic concrete power curbing machines; Stresser or stretcherman on post-tension or prestressed concrete (on or off the job); Powdermen helpers	4.80	.15	.10			
Form tamper; Air, gas & electric tool op., vibrator; Barco hammer, paving breaker, spader, tamper, electric drills; Hamer & jackhammer; Tree groundmen; Chuck tender; Drill helpers, tool room men & checkers; Sandblaster helper; Concrete processing material & monitors; Cement finishers helpers	4.65	.15	.10			

11a-IOWA-2-3 (2-4)

HEAVY AND HIGHWAY CONSTRUCTION (CONT.)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Fence erectors; Handling & placing of metal mesh, dowel bars, reinforcing bars & chairs; Dumpmen & spotters; Carrying reinforcing rods; Corrugated culvert pipe; Concrete drainage pipe; Stake chaser, seeding, mulching & planting of trees, shrubs & flowers; Water boy; Common laborer; Rodmen, tending to carpenters; Hot asphalt labor; Stringman on paving work	4.55	.15	.10			
POWER EQUIPMENT OPERATORS: Power shovel & crane type equipment (1/2 cy. & over); Central mix plant op. (Concrete 5 cy & over); Dredge op. & leverman; Concrete Mixer, Paver; Hoisting engineer (steel erection); Tractor operating scrapers in tandem; Motor patrol on finishing work; Master mechanic (when 4 or more mechanics are employed); Tow or push boat; Piledriver machine	6.05	.30	.30		.01	
Asphalt plant; Asphalt pugmill; Power shovel (crane type equipment, under 1/2 cy); Front end loader (all types 40 HP or over); Mechanics & welders; Tournapull; DW 10 & all similar equipment, over 10 cy struck cap; All self-loading scrapers; Tractors, Bulldozers; Push cats or Pulling scraper or Rooter; Sideboom tractor; Churn or rotary drill; Trenching machine (Cleveland 80 or similar cap.); Self-propelled sheepsfoot roller (100,000 lbs. & over); Central mix plant (concrete, under 5 cy); Asphalt apreader; Group equipment gresser; Automatic sub-grade machine; Slip form paving	5.90	.30	.30		.01	
Motor patrol (other than finish); Asphalt roller (high type surfacing); Concrete curb breaking machine; Concrete widening machine; Elevating grader & Athey loader; Tournapul;						

11a-IOWA-2-3 (3-4)

POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
DW 10 & all similar equipment under 10 cy struck cap; Paving breaker (drop or pneumatic); Spreader box (self propelled) or tractor-pushed); Subgrade Stab. (P & H & similar sizes); Boiler (2 or one boiler & dryer); Subgrading machine (CMI); Asphalt Paver; Backhoe under 3/8 cy	5.65	.30	.30		.01	
Self-propelled roller (other than high type asphalt); Distributor; Screening & washing plant; Spreader, concrete; Tank Car heater (combination boiler & booster); Self-propelled vibrating compactor; Trenching machine (other); Pumps on well points & deep wells for dewatering; mechanical broom; Steel placing machine; Boat op.; Compressor; Concrete mixer (side loader); Conveyor; Crusher feeder; Finishing machine on concrete; Flex-plane; Bull float; Form grade; Motor crane combination driver & oiler; Concrete curing machine	5.45	.30	.30		.01	
Boiler (single); Apprentice engineer or oil or mechanics' helper or Group gresser helper; Self-propelled tractor (pulling disc harrow or sheepsfoot roller); Welding machine; Pump op. (other than dredge); Boom & winch truck	5.25	.30	.30		.01	
Batching plant (dry); Front end loader, rubbertired (with backhoe attachment, under 3/8 cy); Farm tractor pulling pneumatic roller	4.95	.30	.30		.01	
TRUCK DRIVERS: Truck drivers (not otherwise specified); Warehousemen; Drivers on; 4-wheel service trucks, bus hauling men, carry all & winch trucks, dumpcretes & scoopmobiles	4.65	.25				

11a-IOWA-2-3 (4-4)

POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Semi & tandem; Ready mix; Dumpster; Tandem axle service; Korking & similar dumpsters, track trucks, euclids, hug bottom drums, tournapulls or similar equipment used for transportation; Drivers on pavement breakers, pole trailers or air compressors and welding machines, including those pulled by separate units	4.75	.25				

SUPERSEDEAS DECISION

STATE: Louisiana
DECISION NO.: AP-359
Supersedes Decision No. AM-11,424 dated June 16, 1972 in 37 FR 12038.
PARISH: East Baton Rouge
DATE: Date of Publication
DESCRIPTION OF WORK: Building Construction (excluding single family homes and gardan type apartments up to and including 4 stories).

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	$6.65	.30	.70		
BOILERMAKERS	6.80	.30	.50		.02
BRICKLAYERS & STONEMASONS	6.66	.20	.15		.01
CARPENTERS:					
Carpenters & Piledrivermen	6.28	.15	.15		.04
Millwrights	7.525				
CEMENT MASONS	5.575				
ELECTRICIANS:					
Electricians	7.75	.25	1% + .20		3/10%
Cable Splicers	8.00	.25	1% + .20		3/10%
ELEVATOR CONSTRUCTORS:					
Journeymen	6.32	.195	.20	2% + a&b	
Helpers	70%-JR	.195	.20	2% + a&b	
Helpers-probationary	50%-JR				
GLAZIERS	5.30				
IRONWORKERS:					
Structural, Ornamental, Reinforcing	7.425	.20	.15		.015
LABORERS:					
Building & General laborers, Carpenter tenders	4.31	.10	.10		
Power Tool operators (Jackhammer, Vibrator), Pipelayers(concrete-clay)	4.41	.10	.10		
Mason tenders, Hod Carrier tenders, Plaster tenders, Cement Mix(wet or dry) tenders, Mortar mixers & Cement mixers(wet or dry)	4.46	.10	.10		
LATHERS	5.90				.01
MARBLE, TERRAZZO & TILE WORKERS:					
Journeymen	5.80				
Helpers	4.80	.15			
PAINTERS:					
Brush	5.70				
Steel	6.075				
Spray & Rollers	5.95				
PLASTERERS	5.875				.01
PLUMBERS & PIPEFITTERS	7.20	.365	.475		.035
ROOFERS:					
Roofers	5.685	.25	.20		.01
Roofers' Helpers	4.285	.25	.20		.01
SHEET METAL WORKERS	6.85	.15	.10		
SPRINKLER FITTERS	7.30	.25	.40		.05
TRUCK DRIVERS:					
Pickups & Trucks 1 ton & under	4.15				
Trucks over 1 ton but less than 3 tons	4.45				
3 tons & over but less than 5 tons	4.60				
5 tons & over including winch, dempsey dumpster, lowboy, semi-trailer, euclid & tournapull	4.80				
Winch truck with "A" frame	4.75				

AP-359 P. 2

16 - LA - 1,2 (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:

a. 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate.

b. The following paid holidays: New Year's, Memorial, Independence, Labor, Thanksgiving & Christmas.

AP-359 P. 3

LA, - 1 - PEO - 1 k

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
HEAVY DUTY OPERATOR Backhoe; Cable Way; Concrete Mixer, 16S & up; Crane; Derrick; Dragline; Dredge; Equipment Maintenance; Mechanic; Hoist - 2 drum; Locomotive Crane; Paving Mixer; Piledriver; Road Paver; Roller on Asphalt or Brick (5 tons & over); Shovel; Sideboom Cat; Bulldozer - 6 and over; Motor Patrol; Scraper; Hydrolift Crane, Hydrolift Truck, Yard Crane, Cherry Picker, etc.; Foundation, Boring and Reaming Machine; Cement Stabilizer; Trenching Machine; Asphalt Spreader; Traxcavator and similar front-end loading equipment with Scoop or Bucket of one (1) cubic yard or more capacity; Tug Boat Operator; Turnapull, Euclid, DW-10, and other similar self-loading earth-moving equipment; Concrete Pump (not Pump Crete)	$6.66	.10	.15			
MEDIUM DUTY OPERATOR A-Frame Truck; Bulldozer - under 6; Crew Boat Operator; Fireman; Fork Lift; Straddle Buggy; Traxcavator, Scoopmobile and similar front-end loading equipment with Scoop or Bucket under one (1) cubic yard capacity; Locomotive; Well Point System; Unit Operator; Hoist - 1 drum, 4 stories or over	6.03	.10	.15			
LIGHT DUTY OPERATOR Air Compressor; Asphalt Plant Engineer; Blade Grader; Distributor (Bitum Surface); Finishing Machine (Concrete, Paving); Hoist - 1 drum, less than 4 stories; Concrete Mixer under 16S; Oiler Driver; Pump Crete; Street and Road Sweeper; Roller (except on asphalt or brick); Roller, asphalt or brick (under 5 tons); Post-hole digger; Tractor operated Bush Hog and similar grass or bush cutting equipment	5.36	.10	.15			
Batch Plant Operator	4.93	.10	.15			
Mechanic Helper	4.76	.10	.15			
Oiler	4.63	.10	.15			
Pumps, under 3-inch suction	4.76	.10	.15			
Pumps, 3-inch suction or more	5.11	.10	.15			
Snatch Cat	5.11	.10	.15			

SUPERSEDEAS DECISION

STATE: Oregon
DECISION NUMBER: AP-249
Supersedes Decision No. AP-218 dated August 11, 1972, 37 FR 16357
COUNTIES: Statewide
DATE: Date of Publication
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction and dredging.

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS	7.85	.35	.60		.06	
BOILERMAKERS	6.95	.60	1.00	.50	.02	
BRICKLAYERS; Stonemasons						
Clackamas, Clatsop, Columbia, Gilliam, Hood River, Multnomah, Morrow, Sherman, Tillamook, Wasco (north of the City of Maupin), Washington, N½ Yamhill Cos.	7.90	.35	.35		.02	
North ½ of Lincoln, Marion, Polk, S½ of Yamhill Cos.	7.40	.35	.35		.02	
Baker, North 1/2 of Malheur, Union, Umatilla, Wallowa Cos.	7.85	.30				
Benton, Coos, Crook, Curry, Deschutes, Douglas, Grant, Harney, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, South 1/2 of Lincoln, Linn, South 1/2 of Malheur, Wasco (incl. the City of Maupin & south thereof), Wheeler Cos.	7.00	.45	.45		.02	
CARPENTERS:						
Acoustical & Drywall Applicators; Automatic Nailing Machine; Carpenters; Form Strippers; Manhole Builders	6.78	.55	.40	.35	.03	
Piledrivermen, Bridge, Dock & Wharf Builders	6.88	.55	.40	.35	.03	
Floor Layers & Finishers; Stationary Power Saw Operators	6.91	.55	.40	.35	.03	
Boom Men	6.98	.55	.40	.35	.03	
Millwrights & Machine Erectors	7.03	.55	.40	.35	.03	
CEMENT MASONS:						
Cement Masons	6.51	.35	.25		.01	
Mastic Worker; Composition Workers; Gunnite Man; Power Machinery Operator	6.635	.35	.25		.01	
DRYWALL TAPERS	6.10	.32	.15	.50	.015	
ELECTRICIANS:						
Malheur County						
Electricians	7.45	.30	1%		2/10%	
Cable Splicers	8.195	.30	1%		2/10%	
Baker; Gilliam; Grant; Morrow; Umatilla; Union; Wallowa; Wheeler Cos.						
Electricians	8.03	.25	1%		.02	
Cable Splicers	8.43	.25	1%		.02	
Coos; Curry; Lincoln; Those portions of Douglas & Lane Cos. lying west of a line north & south from the NE corner of Coos Co. to the SE corner of Lincoln Co.						
Electricians	$ 7.14	.15	1%			
Cable Splicers	7.85	.15	1%			
Clatsop; Tillamook Cos.						
Electricians	7.10	.15	1% + .30			
Cable Splicers	7.60	.15	1% + .30			
Benton; Crook; Deschutes; Jefferson; Lane (except coast portion); Linn; Marion; Polk; S. 1/2 of Yamhill Cos.						
Electricians	8.03	.25	1%		.04	
Cable Splicers	8.48	.25	1%		.04	
Clackamas; Columbia; Hood River; Multnomah; Sherman; Wasco; Washington; N. 1/2 of Yamhill Cos.						
Electricians	7.75	.25	1% + .30		.02	
Cable Splicers	8.35	.25	1% + .30		.02	
Harney; Jackson; Josephine; Klamath; Lake; That portion of Douglas lying east of a line running north & south from the corner of Coos Co. to the southeast corner of Lincoln Co.						
Electricians	7.42	.15	1%		.02	
Cable Splicers	7.87	.15	1%		.02	
ELEVATOR CONSTRUCTORS	6.84	.185	.20	2% + a		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.185	.20	2% + a		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
GLAZIERS	6.82	.26	.20	4%	.01	
IRONWORKERS:						
Reinforcing; Structural; Fence Erectors; Ornamental; Riggers; Signal Men	7.13	.43	.40	.25	.03	
LATHERS						
Clackamas, Clatsop, Columbia, Gilliam, Harney, Hood River, Morrow, Multnomah, Sherman, Tillamook, Wasco, Washington, Yamhill Cos.	6.60	.15			.01	
MARBLE SETTERS						
Clackamas, Clatsop, Columbia, Gilliam, Hood River North 1/2 of Lincoln, Marion, Multnomah, Morrow, Polk, Sherman, Tillamook, Wasco (north of the City of Maupin), Washington, Yamhill Cos.	7.90	.35	.35		.02	
Baker, North 1/2 of Malheur, Union, Umatilla; Wallowa Cos.						
Outside	7.85	.30				
Inside	7.65	.30				
Benton, Coos, Crook, Curry, Deschutes, Douglas, Grant, Harney, Jackson, Jefferson, Josephine, Klamath, Lake,						

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Lane, South 1/2 of Lincoln, Linn, South 1/2 of Malheur, Wasco (incl. the City of Maupin & south thereof), Wheeler Cos.	6.75	.35	.35		.02	
PAINTERS:						
Brush	6.55	.30	.20		.015	
Spray	6.80	.30	.20		.015	
High Work over 100'	7.05	.30	.20		.015	
High Towers, ground to 100'	6.70	.30	.20		.015	
High Towers, ground to 300'	7.05	.30	.20		.015	
High Towers, ground to over 300'	7.55	.30	.20		.015	
PLASTERERS	6.95	.45	.45		.01	
PLUMBERS; STEAMFITTERS:						
Baker; Harney (except NW portion); Malheur Cos.	6.58	.28	.30		.05	
Grant (except SW corner); Morrow; Umatilla; Wallowa; Union Cos.	7.52	.26	.55	.47	.06	
N. 1/2 of Benton, Lincoln, & Linn Cos.; Marion; Polk; S 1/2 of Tillamook, Yamhill Cos.	6.55	.46	.65	1.00	.08	
Clackamas; Clatsop; Columbia; Gilliam; Hood River; Jefferson; Multnomah; Sherman; N. 1/2 of Tillamook; Wasco; Wheeler; Washington; & N. 1/2 of Yamhill	7.36	.59	.66		.07	
Coos; Curry; Coast portion of Douglas Co.; Lane (City of Florence) Lane (except for City of Florence); Douglas (except coast portion); Crook; Deschutes; N.W. portion of Harney; Northern portions of Klamath and Lake Cos.; S. 1/2 of Lincoln, Linn, Benton and Jefferson Cos.; & S.W. corner of Grant County	6.71	.35	.40		.0175	
Remainder of Klamath & Lake Cos.	7.73	.41	.62		.02	
Jackson; Josephine Cos.	7.06	.45	.55	.75	.05	
ROOFERS	6.85	.40	.50	.43	.02	
Clackamas, Clatsop, Columbia, Gilliam, Hood River, Jefferson, Multnomah, Sherman, Tillamook, Wasco Cos.						
Roofers	6.95	.45	.46			
Coal Tar	7.45	.45	.46			
Coal Tar in confined areas	7.70	.45	.46			
Wallowa County	6.25					
Coos, Crook, Curry, Deschutes, Douglas, Harney, Jackson, Josephine, Klamath, Lake, Lane, Malheur Cos.	6.53	.25				

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
SHEET METAL WORKERS						
Benton, Clackamas, Clatsop, Columbia, Crook, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Lincoln, Linn, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Wasco, Washington, Wheeler, Yamhill Cos.	6.05	.20	.24	.24	.02	
Malheur County	7.06	.27	.20		.02	
Baker, Umatilla, Union, Wallowa Cos.	6.50	.22	.30			
Coos, Curry, Douglas, Lane Cos.	7.51	.22	.34		1/2%	
Jackson, Josephine	6.73	.22	.30			
SOFT FLOOR LAYERS	6.65	.35	.45	b	.05	
SPRINKLER FITTERS	8.70	.30	.50		.05	
TILE SETTERS & TERRAZZO WORKERS						
Clatsop, Clackamas, Columbia, Gilliam, Harney, Hood River, N. 1/2 of Lincoln, Marion, Morrow, Multnomah, Polk, Sherman, Wasco (north of the City of Maupin), Washington, Tillamook, Yamhill Cos.	6.95	.25	.24			
Baker, North 1/2 of Malheur, Union, Umatilla, Wallowa Cos.	7.18	.30				
Benton, Coos, Crook, Curry, Deschutes, Douglas, Grant, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, South 1/2 of Lincoln, Linn, South 1/2 of Malheur, Wasco (incl. the City of Maupin and south thereof), Wheeler Cos.	6.95	.25				
TILE SETTERS' HELPERS	6.04	.25				
WELDERS; RIGGERS: Receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer credits 4% basic hourly rate of employee with over 5 years' service, 2% basic hourly rate from 6 months to 5 years' service to Vacation Plan. Six Paid Holidays: A through F.

b. 4% of all gross wages to be placed to the credit of employees with less than one year of service. 6% to employees with more than one year of service

POWER EQUIPMENT OPERATORS	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTH
GROUP I ASSISTANT CONVEYOR; Oiler, including plant and crusher; Crusher Feederman; Deckhand; Self-propelled Scaffolding; Guard Rail Punch Oiler; Pump under 4" Brakeman Switchman; Parts Man (Tool Room)	$6.10	.40	.50	.20		
GROUP II BLADE, PULLED TYPE; Truck Crane Oiler-driver, 25 ton capacity or over; Fireman, all equipment; A-Frame Truck, single drum; Tugger or Coffin type Hoist, any power; Drill Helper; Auger Oiler; Boatman; Forklift or Lumber Stacker; Temporary Heating Plant; Grade Oiler, required to check grade; Grade Checker; Tar Pot Fireman; Tar Pot Fireman (power agitated); H.D. Repairman Helper; Welder's Helper; Fireman Helicopter Radio-man (ground); Roller, Rock	6.24	.40	.50	.20		
GROUP III PLANT FIREMAN; Pugmill; Truck Mounted Asphalt Spreader, with screed; Compressor, any power, under 1,000 cu. ft. total capacity; Mixer Box Concrete Plant; Concrete Conveyor; Cement Hog; Concrete Saw, self-propelled unit; Wire Mat Machine or Booming Machine; Concrete Curing Machine, self-propelled; Bucket Elevator Loader, Barber Greene and similar type; Hydraulic Pipe Press; Pump any power, 4" and over; Hydrostatic Pump; Motorman; Ballast Jack Tamper; Bell Boy, phones, etc; Tamping Machine, mechanical self-propelled; Hydrographic Seeder Machine, straw, pump or seed; Broom Operator, self-propelled; Air Filtration Equipment; Welding Machine	6.34	.40	.50	.20		

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHERS
GROUP IV SCREED; Compactor, including vibratory; Compressor, over 1,000 cu. ft. total capacity; Concrete Mixer, single drum, under 5 bag capacity; Concrete Cooling Machine; Combination Mixer and Compressor, Gunite work; Helicopter Hoist; Fork Lift, over 5 tons; Lull Hi-Lift of similar type, 20 ft. or over; Service Oiler (Greaser); Hydra Hammer or similar types; Pavement Breaker; Pump, more than 3, any size; Locomotive, under 40 tons; Roller, Oiling, CTP	$6.50	.40	.50	.20		
GROUP V CURB MACHINE, MECHANICAL BERM, CURB AND/OR CURB AND GUTTER; Wagner Factor or similar type (without blade); Batch Plant Material Control; Power Jumbo, setting slip forms, etc. in tunnels; Slip Form Pumps, power driven hydraulic lifting device for concrete forms; Hoist, single drum; Elevator, Diesel, Gas, Engineer; Chip Spreading Machine; Lime Spreading Sweeper (Wayne Type) self-propelled; Tractor, rubber-tired 50 H.P. Flywheel and under; Trenching Machine, maximum digging capacity 3 ft. depth	6.52	.40	.50	.20		
GROUP VI ASPHALT PLANT; Asphalt Paver; Maginnis, internal full slab vibrator; Concrete finishing Machine, Clary, Johnson, Bidwell, Burgess, bridge deck or similar type; Curb Machine, Mechanical Berm, Curb and/or Curb and Gutter; Concrete Joint Machine; Concrete Planer; Cast in place pipe laying machine; Concrete Paving Machine; Concrete Spreader; Loaders, Rubber-tired type, 2½ cu. yds. and under; Rock Spreader, self-propelled	6.60	.40	.50	.20		

	Basic Hourly Rates	FRINGE BENEFITS PAYMENTS H & W	Pensions	Vacation	App. Tr.	Other
GROUP VII ROLLER, ASPHALT; Concrete Mixer, single drum, 5 bag capacity and over; Beltcrete; Pumpcrete; Cement pump, Fuller-Kenyon and similar; Grouting Machine; Concrete Pump; Tower Mobile; A-Frame Truck, double drums; Boom Truck; Churn Drill and Earth Boring Machine; Hydraulic Backhoe, wheel type 3/8 cu. yds. and under with or without front end attachments 2½ cu. yds. and under (Ford, John Deere, Case type); Elevating Grader, Tractor and towed requiring operator or grader; Pot Rammer; Ballast Regulator; Ballast Tamper Multi-Purpose; Track Liner; Tie Spacer; Shuttle Car; Locomotive, 40 tons and over	6.66	.40	.50	.20		
GROUP VIII DIESEL-ELECTRIC ENGINEER, PLANT OR FLOATING; Batch Plant and/or wet mix, one and two drums; Generator; Diesel-Electric Engineer; Belt Loaders Kolman and Ko Cal types	6.76	.40	.50	.20		
GROUP IX BULLDOZER; Drill Cat; Side-Boom Cat; Compactor, with blade; Chicago Boom and similar types; Lift Slab Machine; Boom Type lifting device, 5 tons capacity or less; Cherry picker or similar type crane-hoist 5 ton capacity or less; Grizzley; Crusher Plant; Boring Machine; Surface Heater & Planer; Hydraulic Backhoe, truck type 3/8 cu. yds Loader, front end and overhead 2½ cu. yds. and under 4 cu. yds.; Pipe Cleaning Machine; Pipe Doping Machine; Pipe Banding Machine; Pipe Wrapping Machine; Bolt Threading Machine; Drill Doctor; including bit grinder; H.D. Mechanic; H.D. Welder; Machine Tool Operator; Stationary Drag Scraper; Tractor Rubber-tired over 50 H.P. Flywheel; Tractor, Rubber tired with boom attachments; Trenching Machine maximum digging capacity over 3 ft. depth	6.82	.40	.50	.20		
GROUP X BULLDOZER, TWIN-ENGINE (TC 12 and similar typo); Cable-Plow; Compactor, Multi-engine; Driller-Percussion, Diamond, Core, Cable, Rotary and similar types; Jack Operator Elevating Barges; Barge Operator, self-Unloading; Combination H.D. Mechanic-Welder; Welder-Certified; Rubber tired Dozers and Pushers (Michigan, Cat, Hough type)	6.88	.40	.50	.20		

	Basic Hourly Rates	FRINGE BENEFITS PAYMENTS H & W	Pensions	Vacation	App. Tr.	Other
GROUP XI MIXER MOBILE; Crane, 25 tons and under; Shovel, Dreglino, Clamshell, Hoe, etc., under 1 cu. yd.; Gradeall, under 1 cu. yd.; Mucking Machine	6.90	.40	.50	.20		
GROUP XII BLADE; Batch Plant and/or wet mix, 3 units or more; Hoist, 2 drum; Hoist, 3 or more drums; Elevating Loader, Athey and similar types; Piledriver (not crane type); Rubber-tired Scraper, single engine, single scraper; Scraper-Self-Loading, paddle wheel ladder type; Rubber-tired Scraper, twin engine; Rubber-tired Scraper, with push-pull attachments; Blade Mounted Spreaders, Ulrich and similar types; Shield Operator	6.96	.40	.50	.20		
GROUP XIII BLADE, FINISH (Working with either red or blue tops); Blade, Electronically controlled by wire or laser beams; Blade, Multi-engine; Concrete Paving and Road Mixer; Bridge Crane, Locomotive, Gantry, Overhead; Derrick, under 100 tons; Hoist, Stiff-leg, Guy Derrick or similar type 50 tons and over; Cableway, up to 25 tons; Crane, over 25 tons and including 40 tons; Tower Crane; Piledriver (not crane type); Floating Clamshell, etc., under 3 cu. yds.; Floating Crane (Derrick Barge), less than 30 tons; Hydraylic Backhoe, truck type over 3/8 cu. yds. Elevating Grader, operated by tractor, Sierra, Euclid or similar types; Back-Filling Machine; Shovel, etc., 1 cu. yd. but less than 3 cu. yds.; Gradeall, 1 cu. yd. and over; Back filling Machine	7.04	.40	.50	.20		
GROUP XIV RUBBER-TIRED SCRAPER WITH TANDEM SCRAPER	7.20	.40	.50	.20		
GROUP XV ROCK HOUND; Loader, 4 cu. yds. but less than 6 cu. yds.	7.16	.40	.50	.20		
GROUP XVI AUTO GRADER (i.e. CMD) or TRIMMER; Tandem Bulldozer, Quad-nine and similar type; Automatic Concrete Slip Form Paver; Concrete Canal Liner; Cableway, 25 tons and over; Crane, over 40 tons and including 100 tons; Whirley, 80 tons and under; Floating Clamshell, etc., 3 cu. yds. and over;						

	Basic Hourly Rate	FRINGE BENEFITS PAYMENTS H & W	Pensions	Vacation	App Tr	Other
floating Crane (Derrick Barge), 30 tons but less than 80 tons; Loader, 6 cu. yds., but less than 8 cu. yds. Loader 8 cu. yds., but less than 12 cu. yds.; Rubber-tired Scraper, with Tandem Scrapers, Multi-engine; Shovel, etc. 3 cu. yds. but less than 5 cu. yds.; Wheel Excavator, under 750 cu. yds. per hour	7.54	.40	.50	.20		
GROUP XVII CRANE, Over 100 tons and including 200 tons; Whirley over 80 tons and including 150 tons; Floating Crane (Derrick Barge), 80 tons but less than 150 tons; Loader, 12 cu. yds. and over; Shovel, etc., 5 cu. yds. and over; Canal Trimmer	7.68	.40	.50	.20		
GROUP XVIII CRANE, over 200 tons; Whirley, 150 tons and over; Floating Crane 150 tons but less than 250 tons; Wheel Excavator, over 750 cu. yds. per hour; Band Wagons, in conjuction with wheel excavator	7.86	.40	.50	.20		
GROUP XVIV HELICOPTER; When used in erecting work; Floating Crane 250 tons and over; Remote controlled earth moving equipment (no one operator shall operate more than two pieces of moving equipment at one time); Underwater Equipment, remote or otherwise	8.00	.40	.50	.20		

LABORERS	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTH
GROUP 1 Asphalt plant laborers; Asphalt spreaders; Batch weighman; Broomers; Brush burners & cutters; Car & truck loaders; Carpenter tender; Change-House man or dry shack men; Choker setters; Clean up laborers; Concrete laborers; Crusher feeders; Culvert, hand labor; Curing, concrete; Demolition, wrecking, & moving laborers; Driller helpers; Dumpers, Road oiling crew; Dumpmen (for grading crew); Elevator feeders; Fence builder (incl. Guard rail, Median rail, Reference post, Guide post, Right-of-way marker); Fine graders; Form strippers (not swinging stages); GENERAL LABORERS; Landscaping or planting laborers; Leverman on aggregate spreader (Flaherty & similar types); Loading spotters; Material yard man (incl. electrical); Pittsburgh chipper operator or similar types; Powderman helper; Railroad track laborers; Ribbon setters (incl. steel forms); Rip Rap man (hand placed); Road pump tender; Sewer labor; Skipmen; Signalman; Slopers; Sprayman; Stake chaser-Stake setter-Grade checker; Stockpiler; Timber faller & bucker (hand labor); Toolroom man (at job site) Tunnel bull gang (above ground); Weigh man-crusher aggregate (when used)	$5.25	.40	.45	.20	.02	
GROUP II Applicator (incl. pot tender for same), applying protective material by hand or nozzle on utility lines or storage tanks on project; Burners; Choker splicer; Clary power spreader & similar types; Clean-up nozzleman; Greencutter (Concrete rock, etc.); Concrete power buggyman; Demolition & wrecking charred materials; Gunite nozzleman tender; Gunite or sand blasting pot tender; Handlers or mixers of all materials of an irritating nature (incl. cement & lime); Manhole builder; Powertool op., incls but not limited to: Chipping Guns, JACKHAMMER, Paving breakers, Post hole digger, Air Gas, or Electric, Tampers, Vibrating screed, Vibrators (less than 4" in diameter); Ribbon setter, head; Rip rap man (hand), Hand placed; Sand blasting (wet); Sewer						

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTH
timbermen; Timber buckers & fallers, Brush cutters (power saw); Tunnel-Muckers, Brakemen, Concrete crew, Bull gang (underground)	$5.40	.40	.45	.20	.02	
GROUP III Asphalt rakers; Bid grinder; Concrete saw op.; Drill doctor; Drill operator, Air tracks, Cat drills, Wagon drills, Rubber-mounted drills, & other similar types; Gunite nozzleman; High scalers, strippers & drillers (covers work in swinging stages, cheirs or belts, under extreme conditions unusual to normal drilling, blasting, barring-down, or sloping & stripping); Powdermen; Power saw ops. (Bucking & falling merchantable logs); Pumpcrete nozzlemen; Sand blasting (Dry); SEWER PIPE LAYERS; Track liners, Anchor machines, Ballast regulators, Multiple tampers, Power jacks; Tugger op.; Tunnel--Chuck tenders, Nippers & Timbermen; Vibrators (4" & larger); Water blaster	5.55	.40	.45	.20	.02	
GROUP IV Tunnel miners; Tunnel powderman	5.70	.40	.45	.20	.02	

TRUCK DRIVERS	Basic Hourly Rate	FRINGE BENEFITS PAYMENTS H & W	Pensions	Vacation	App Tr	Other
Battery rebuilder; Bus or man-haul driver; Concrete buggies (power operated); Dump trucks, side, end & bottom dumps, incl. semi-trucks & trains or combin. thereof: 6 cu. yds. & under; Lift jitneys, fork lifts (all sizes used in loading, unloading & transporting material on job site); Loader and/or leverman on concrete dry batch plant (manually operated); Pilot car; Solo flat bed & misc. body trucks, 0-10 tons; Truck helper; Truck mechanic helper; Warehouseman (warehouse parts, tool men & parts chaser, checker & receivers); Water wagons (rated capacity); up to 1600 gals.	$6.06	.40	.45	.25		
"A" frame or hydra-lift truck w/load bearing surface; Lubrication man, fuel truck driver, tireman, wash rack, steam cleaner or combin.; Team drivers	6.11	.40	.45	.25		
Dump trucks, side, end & bottom dumps, incl. semi-trucks & trains or combin. thereof: over 6 cu. yds. incl. 10 cu. yds.; Slurry truck driver or leverman; Transit mix & dry or wet trucks: 5 cu. yds. & under; Tireman (full-time basis); Water wagons (rated capacity): 1600 to 3000 gals.	6.16	.40	.45	.25		
Flaherty spreader driver or leverman; Low bed equipment, flat bed semi-trailer, truck & trailer or doubles transporting equipment or wet or dry materials; Lumber carrier driver-Straddle carrier (used in loading, unloading and transporting of materials on job site); Oil distributor driver or levenman; Water wagons (rated capacity: 3000 to 5000 gals.	6.21	.40	.45	.25		
Dumpster or similar equipment, all sizes; Transit mix & wet or dry mix trucks; Over 5 cu. yds. & incl. 7 cu. yds.	6.26	.40	.45	.25		
Dump trucks, side, end & bottom dumps, incl. semi trucks & trains or combin. thereof: over 10 cu. yds. & incl. 20 cu. yds.; Transit mix & dry or wet mix trucks: over 7cu. yds. & incl. 9 cu. yds.; Truck mechanic--welder--body repairman; Water wagons (rated capacity): 5000 to 7000 gals.	6.36	.40	.45	.25		

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	Gross Hourly Rate	FRINGE BENEFITS PAYMENTS H & W	Pensions	Vacation	App. Tr.	Other
Dump trucks, side end & bottom dumps, incl. semi-trucks & trains or combin. thereof: over 20 cu. yds. & incl. 30 cu. yds.; Transit mix & wet or dry mix trucks: over 9 cu. yds. & incl. 11 cu. yds.; Water Wagons (Rated capacity): over 7000 gals to 10,000 gals.	6.46	.40	.45	.25		
Dump trucks, side, end & bottom dumps, incl. semi trucks & trains or combin. thereof: over 30 cu. yds. & incl. 40 cu. yds.; Transit mix & wet or dry mix trucks: over 11 cu. yds. and incl. 13 cu. yds.; Wager Wagons (rated capacity): over 10,000 gals. to 15,000 glas.	6.56	.40	.45	.25		
Dump trucks, side, end & bottom dumps, incl. semi-trucks & trains or combin. thereof: over 40 cu. yds. & incl. 50 cu. yds.; Transit mix and wet or dry mix trucks: over 13 cu. yds. and incl. 15 cu. yds.	6.66	.40	.45	.25		
Dump trucks, side, end & bottom dumps, incl. semi-trucks & trains or combin. thereof: over 50 cu. yds. & incl, 60 cu. yds.	6.83	.40	.45	.25		
Dump trucks, side, end & bottom dumps, incl. semi-trucks & trains or combin. thereof: over 60 cu. yds. & incl. 70 cu. yds.	6.93	.40	.45	.25		
Dump trucks, side, end & bottom dumps, incl. semi truck & trains or combin. thereof: over 70 cu. yds. and incl. 80 cu. yds.	7.03	.40	.45	.25		
Dump trucks, side, end & bottom dump, including semi trucks & trains or combin. thereof: over 80 cu. yds. & incl. 90 cu. yds.	7.13	.40	.45	.25		
Dump trucks, side, end & bottom dump, incl. semi-trucks and trains or combin. thereof: over 90 cu. yds. & incl. 100 cu. yds.	7.23	.40	.45	.25		

Drivers and Helpers (handling sacked cement add $.15 per hour).
Winch truck - takes classification of truck on which winch is mounted.

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Dredging:						
Dipper Leverman:						
(a) 5 yards and under	7.59	.40	.50	.20		
(b) Over 5 yards	8.14	.40	.50	.20		
Leverman, Hydraulic	7.20	.40	.50	.20		
Assistant Engineer (Electric Generator Operator for Primary Pump; Power Barge or Dredge)	6.88	.40	.50	.20		
Assistant Engineer (Electric, Diesel, Steam or Booster Pump); Mates and Boatmen	6.78	.40	.50	.20		
Engineer Welder; Craneman	6.83	.40	.50	.20		
Fireman; Oiler	6.44	.40	.50	.20		
Assistant Mate (Deckhand)	6.34	.40	.50	.20		

LINE CONSTRUCTION - OREGON d (1-1)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Cable Splicers Leadman Pole Sprayer	$ 8.60	.25	1%		1/2%	
Lineman; Pole Sprayer; Heavy Line Equipment Man; Certified Lineman Welder	7.76	.25	1%		1/2%	
Tree Trimmer	7.00	.25	1%		1/2%	
Line Equipment Man	6.67	.25	1%		1/2%	
Head Groundman (Chipper); Head Groundman; Powderman; Jackhammer Man	5.82	.25	1%		1/2%	
Groundman; Tree Trimmer Helper	5.49	.25	1%		1/2%	
Hole Digger	5.25	.25	1%		1/2%	

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Cameron, Hidalgo, Starr and Willacy

DECISION NO.: AP-357

DATE: Date of Publication

Supersedes Decision No. AW-11,418, dated May 5, 1972, in 37 FR 9163.

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

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BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS	$6.555	.30	.295		.02	
BOILERMAKERS	6.80	.30	.50			
BRICKLAYERS	5.00					
CARPENTERS:						
Carpenters	4.275					
Piledriverman	4.67					
CEMENT MASONS	3.50					
ELECTRICIANS	5.76		1%		1%	
GLAZIERS	2.75					
LABORERS:						
Common laborers	1.60					
Mason tenders	1.75					
Pipelayers (concrete & clay)	2.00					
PAINTERS:						
Brush	2.60					
PLASTERERS	5.00					
PLUMBERS - PIPEFITTERS	5.90	.15			.05	
ROOFERS:						
Roofers	3.00					
Kettlemen	2.05					
SOFT FLOOR LAYERS	2.00					
SPRINKLER FITTERS	8.35	.30	.50		.05	
TERRAZZO WORKERS	2.50					
TERRAZZO WORKERS' HELPERS	1.83					
TILE SETTERS	2.50					
TILE SETTERS' HELPERS	1.75					
TRUCK DRIVERS	1.93					
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.						

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INCIDENTAL PAVING & UTILITIES	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Air Tool Man	$1.85					
Asphalt Heaterman	2.60					
Asphalt Raker	2.15					
Batterboard Setter	2.70					
Carpenter	3.00					
Carpenter Helper	2.25					
Concrete Finisher (Paving)	2.55					
Concrete Finisher Helper (Paving)	2.50					
Concrete Finisher (Structures)	2.75					
Concrete Finisher Helper (Structures)	2.35					
Electrician	5.50					
Fireman	2.75					
Form Builder (Structures)	3.15					
Form Builder Helper (Structures)	2.50					
Form Setter (Paving and Curb)	3.00					
Form Setter Helper (Paving and Curb)	2.50					
Form Setter (Structures)	3.15					
Form Setter Helper (Structures)	2.05					
Laborer, Common	1.85					
Laborer, Utility Man	2.30					
Mechanic	3.15					
Mechanic Helper	2.50					
Oiler	2.15					
Serviceman	2.35					
Piledriverman	3.35					
Pipelayer	2.50					
Reinforcing Steel Setter (Paving)	2.60					
Reinforcing Steel Setter (Structures)	3.00					
Reinforcing Steel Setter Helper	2.00					
Spreader Box Man	2.60					
Swamper	2.50					
Power Equipment Operators:						
Asphalt Distributor	2.60					
Asphalt Paving Machine	3.00					
Broom or Sweeper Operator	2.25					
Bulldozer, 150 H.P. and Less	3.00					
Bulldozer, over 150 H.P.	3.25					
Concrete Paving Curing Machine	3.15					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ C.Y.)	3.00					

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	Basic Hourly Rate	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Dump trucks, side end & bottom dumps, incl. semi-trucks & trains or combin. thereof: over 20 cu. yds. & incl. 30 cu. yds.; Transit mix & wet or dry mix trucks: over 9 cu. yds. & incl. 11 cu. yds.; Water Wagons (Rated capacity): over 7000 gals to 10,000 gals.	6.46	.40	.45	.25		
Dump trucks, side, end & bottom dumps, incl. semi trucks & trains or combin. thereof: over 30 cu. yds. & incl. 40 cu. yds.; Transit mix & wet or dry mix trucks: over 11 cu. yds. and incl. 13 cu. yds.; Wager Wagons (rated capacity): over 10,000 gals. to 15,000 glas.	6.56	.40	.45	.25		
Dump trucks, side, end & bottom dumps, incl. semi-trucks & trains or combin. thereof: over 40 cu. yds. & incl. 50 cu. yds.; Transit mix and wet or dry mix trucks: over 13 cu. yds. and incl. 15 cu. yds.	6.66	.40	.45	.25		
Dump trucks, side, end & bottom dumps, incl. semi-trucks & trains or combin. thereof: over 50 cu. yds. & incl, 60 cu. yds.	6.83	.40	.45	.25		
Dump trucks, side, end & bottom dumps, incl. semi-trucks & trains or combin. thereof: over 60 cu. yds. & incl. 70 cu. yds.	6.93	.40	.45	.25		
Dump trucks, side, end & bottom dumps; incl. semi truck & trains or combin. thereof: over 70 cu. yds. and incl. 80 cu. yds.	7.03	.40	.45	.25		
Dump trucks, side, end & bottom dump, including semi trucks & trains or combin. thereof: over 80 cu. yds. & incl. 90 cu. yds.	7.13	.40	.45	.25		
Dump trucks, side, end & bottom dump, incl. semi-trucks and trains or combin. thereof: over 90 cu. yds. & incl. 100 cu. yds.	7.23	.40	.45	.25		

Drivers and Helpers (handling sacked cement add $.15 per hour).
Winch truck - takes classification of truck on which winch is mounted.

AP-249 P. 14

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Dredging:						
Dipper Leverman:						
(a) 5 yards and under	7.59	.40	.50	.20		
(b) Over 5 yards	8.14	.40	.50	.20		
Leverman, Hydraulic	7.20	.40	.50	.20		
Assistant Engineer (Electric Generator Operator for Primary Pump; Power Barge or Dredge)	6.88	.40	.50	.20		
Assistant Engineer (Electric, Diesel, Steam or Booster Pump); Mates and Boatmen	6.78	.40	.50	.20		
Engineer Welder; Craneman	6.83	.40	.50	.20		
Fireman; Oiler	6.44	.40	.50	.20		
Assistant Mate (Deckhand)	6.34	.40	.50	.20		

LINE CONSTRUCTION - OREGON 4 (1-1)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Cable Splicers Leadman Pole Sprayer	$ 8.60	.25	1%		1/2%	
Lineman; Pole Sprayer; Heavy Line Equipment Man; Certified Linemen Welder	7.76	.25	1%		1/2%	
Tree Trimmer	7.00	.25	1%		1/2%	
Line Equipment Man	6.67	.25	1%		1/2%	
Head Groundman (Chipper); Head Groundmen; Powderman; Jackhammer Man	5.82	.25	1%		1/2%	
Groundman; Tree Trimmer Helper	5.49	.25	1%		1/2%	
Hole Digger	5.25	.25	1%		1/2%	

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Cameron, Hidalgo, Starr and Willacy

DECISION NO.: AP-357

DATE: Date of Publication

Supersedes Decision No. AR-11,418, dated May 5, 1972, in 37 FR 9163.

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

23 - Texas - 1 i

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS	$6.555	.30	.295			
BOILERMAKERS	6.80	.30	.50		.02	
BRICKLAYERS	5.00					
CARPENTERS:						
Carpenters	4.275					
Piledriverman	4.67					
CEMENT MASONS	3.50					
ELECTRICIANS	5.76		1%		1%	
GLAZIERS	2.75					
LABORERS:						
Common laborers	1.60					
Mason tenders	1.75					
Pipelayers (concrete & clay)	2.00					
PAINTERS:						
Brush	2.60					
PLASTERERS	5.00					
PLUMBERS - PIPEFITTERS	5.90	.15			.05	
ROOFERS:						
Roofers	3.00					
Kettlemen	2.05					
SOFT FLOOR LAYERS	2.00					
SPRINKLER FITTERS	8.35	.30	.50		.05	
TERRAZZO WORKERS	2.50					
TERRAZZO WORKERS' HELPERS	1.83					
TILE SETTERS	2.50					
TILE SETTERS' HELPERS	1.75					
TRUCK DRIVERS	1.93					
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.						

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36 - Texas - 3 g (1 - 2)

INCIDENTAL PAVING & UTILITIES	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Air Tool Man	$1.85					
Asphalt Heaterman	2.60					
Asphalt Raker	2.15					
Batterboard Setter	2.70					
Carpenter	3.00					
Carpenter Helper	2.25					
Concrete Finisher (Paving)	2.55					
Concrete Finisher Helper (Paving)	2.50					
Concrete Finisher (Structures)	2.75					
Concrete Finisher Helper (Structures)	2.35					
Electrician	5.50					
Fireman	2.75					
Form Builder (Structures)	3.15					
Form Builder Helper (Structures)	2.50					
Form Setter (Paving and Curb)	3.00					
Form Setter Helper (Paving and Curb)	2.50					
Form Setter (Structures)	3.15					
Form Setter Helper (Structures)	2.05					
Laborer, Common	1.85					
Laborer, Utility Man	2.30					
Mechanic	3.15					
Mechanic Helper	2.50					
Oiler	2.15					
Serviceman	2.25					
Piledriverman	3.35					
Pipelayer	2.50					
Reinforcing Steel Setter (Paving)	2.60					
Reinforcing Steel Setter (Structures)	3.00					
Reinforcing Steel Setter Helper	2.00					
Spreader Box Man	2.60					
Swamper	2.50					
Power Equipment Operators:						
Asphalt Distributor	2.60					
Asphalt Paving Machine	3.00					
Broom or Sweeper Operator	2.25					
Bulldozer, 150 H.P. and Less	3.00					
Bulldozer, over 150 H.P.	3.25					
Concrete Paving Curing Machine	3.15					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1¼ C.Y.)	3.00					

AP-357 P. 3 36 - Texas - 3 g (2 - 2)

INCIDENTAL PAVING & UTILITIES	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators (Cont'd):						
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1¼ C.Y. and Over)	$3.50					
Front End Loader (2¼ C.Y. and Less)	2.55					
Front End Loader (Over 2¼ C.Y.)	3.05					
Motor Grader Operator, Fine Grade	3.50					
Motor Grader Operator	3.00					
Roller, Steel Wheel (Plant-Mix Pavements)	2.35					
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	2.35					
Roller, Pneumatic (Self-Propelled)	2.10					
Scrapers (17 C.Y. and Less)	2.75					
Scrapers (Over 17 C.Y.)	3.00					
Tractor (Crawler Type) 150 H.P. and Less	2.35					
Tractor (Crawler Type) over 150 H.P.	2.55					
Tractor (Pneumatic) 80 H.P. and Less	2.25					
Tractor (Pneumatic) over 80 H.P.	2.40					
Traveling Mixer	2.85					
Trenching Machine, Light	2.60					
Truck Drivers:						
Single Axle, Light	1.85					
Single Axle, Heavy	2.50					
Tandem Axle or Semitrailer	1.85					
Welder	3.00					

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
LINE CONSTRUCTION:						
Lineman	$5.34	.17	1%		1/2%	
Ground mechanic	4.40	.17	1%		1/2%	
Groundman, 1st 6 months	2.28	.17	1%		1/2%	
Groundman	3.31	.17	1%		1/2%	

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher and Wheeler

DECISION NO.: AP-358

DATE: Date of Publication

Supersedes Decision No. AP-312, dated August 18, 1972, in 37 FR 16716.

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

(1 - 4)

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	✓ Others
ASBESTOS WORKERS	$7.25	.30	.25		.02	
BOILERMAKERS	6.80	.30	.50		.02	
BRICKLAYERS & STONEMASONS	6.75					
CARPENTERS:						
Carpenters:						
Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hartley, Oldham, Potter, Randall, Sherman, Swisher and Wheeler Counties	6.65					
Hansford, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree and Roberts Counties	6.40					
Millwrights:						
Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hartley, Oldham, Potter, Randall, Sherman, Swisher and Wheeler Counties	6.90					
Hansford, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree and Roberts Counties	6.65					
CEMENT MASONS:						
Cement masons	5.70					
Machine operators	5.95					
ELECTRICIANS:						
Electricians	6.90	.25	1%		1/2%	
Cable splicers	7.59	.25	1%		1/2%	
ELEVATOR CONSTRUCTORS	4.06	.175	.20	2%+4b		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.175	.20	2%+4b		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
GLAZIERS	4.85					
IRONWORKERS:						
Structural; Ornamental; Reinforcing	6.55	.40	.40		.05	

AP-358 P. 2 (2 - 4)

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
LABORERS:						
Unskilled:						
Armstrong, Carson, Castro, Childress, Collingsworth, Deaf Smith, Donley, Oldham, Potter, Randall and Swisher Counties	$3.00					
Dallam, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Roberts, Sherman and Wheeler Counties	3.50					
Air tool operator (jackhammer, vibrator):						
Armstrong, Carson, Castro, Childress, Collingsworth, Deaf Smith, Donley, Oldham, Potter, Randall, and Swisher Counties	3.15					
Dallam, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Roberts, Sherman and Wheeler Counties	3.65					
Mason tenders:						
Armstrong, Carson, Castro, Childress, Collingsworth, Deaf Smith, Donley, Oldham, Potter, Randall, and Swisher Counties	3.15					
Dallam, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Roberts, Sherman and Wheeler Counties	3.65					
Mortar mixers:						
Armstrong, Carson, Castro, Childress, Collingsworth, Deaf Smith, Donley, Oldham, Potter, Randall and Swisher Counties	3.15					
Dallam, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Roberts, Sherman and Wheeler Counties	3.65					
Pipelayers (non-metallic):						
Armstrong, Carson, Castro, Childress, Collingsworth, Deaf Smith, Donley, Oldham, Potter, Randall and Swisher Counties	3.15					
Dallam, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Roberts, Sherman and Wheeler Counties	3.65					

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
LABORERS (CONT'D):						
Plasterers' tenders: Armstrong, Carson, Castro, Childress, Collingsworth, Deaf Smith, Donley, Oldham, Potter, Randall, and Swisher Counties	3.15					
Dallam, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Roberts, Sherman and Wheeler Counties	3.65					
LATHERS	5.275					
MARBLE MASONS (EXTERIOR)	5.50					
MARBLE MASONS (INTERIOR)	4.60					
PAINTERS:						
Brush & roller; paperhanger; perfa-tapers	5.25					
Structural steel painters; swing-ing stage or chair below 50 ft.	5.375					
Spray painters & sandblasters	5.90					
Perfa-tape, machine operator	5.50					
PLASTERERS	5.925				.01	
PLUMBERS & PIPEFITTERS:						
ZONE 1 - shall extend a distance of 25 road miles beyond the police station in Amarillo & Borger	6.20	.25	.30	.35		
ZONE 2 - shall extend a distance of 25 road miles beyond the outer perimeter of Zone 1	6.45	.25	.30	.35		
ZONE 3 - shall apply to all areas not within Zones 1 or 2	6.70	.25	.30	.35		
SHEET METAL WORKERS	7.22					
SPRINKLER FITTERS	8.35	.30	.50		.05	
TERRAZZO WORKERS	4.60					
TILE SETTERS	4.60					
TRUCK DRIVERS:						
1/2 ton to 3 tons	2.88					
3 to 5 tons	3.13					
5 tons and over	3.38					
Ready mix concrete to 3 yds.	2.88					
Ready mix concrete over 3 yds.	3.13					
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.						

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate.
b - Paid Holidays - A through F.

PAID HOLIDAYS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS						
HEAVY EQUIPMENT:						
Utility operator	$6.15		.35			
Blade grader, self-propelled; clam shells; cableways; cranes, power operated, all types; derricks, power operated all types; draglines; elevating graders, self-propelled; hoist, two drum or more; locomotives; mixermobiles; paving mixer, all sizes; pile drivers; scrapers; bulldozers; side boom; cherry pickers; shovels; heavy duty mechanics; all welders; all tractors, with power attachments (crawler type); ditching machine; all other equipment of similar nature coming within the heavy class, when power operated	6.025		.35			
LIGHT EQUIPMENT:						
Mixer, 14 cu. ft. or over; rollers, over ten tons; 2 pumps operated by 1 man; 1 air compressor and 1 air tugger; 2 or more boilers; farm type tractors (loader under 1 yd.) with backhoe	5.85		.35			
Winch trucks	5.75		.35			
2 air compressors, 1 air compressor and 1 pump; front end scoopmobile loader	5.725		.35			
Blade grader, towed; elevated graders, towed; elevators, building; fork lifts; form graders; hoist, single drum or one line hoisting; mixer, less than 14 cu. ft.; rollers; screening plants; welding machines (gas or diesel) min. 2 max. 5; crushing plants; tractors, wheel type (except when hauling material); truck crane drivers and/or oilers	5.625		.35			
Pulsometer; 1 pump; 1 air compressor; mechanic helper; welder helper; fireman	5.45		.35			
Greasers	5.275		.35			
Oilers	5.175		.35			
All other equipment of similar nature coming within the light class, when power operated						

INCIDENTAL PAVING & UTILITIES	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Asphalt Hesterman	$3.20					
Asphalt Raker	3.50					
Batching Plant Scaleman	3.90					
Carpenter	3.25					
Carpenter Helper	2.25					
Concrete Finisher (Paving)	3.75					
Concrete Finisher Helper (Paving)	3.30					
Concrete Finisher (Structures)	3.80					
Concrete Finisher Helper (Structures)	2.60					
Concrete Rubber	3.25					
Form Builder (Structures)	3.55					
Form Liner (Paving and Curb)	3.50					
Form Setter (Structures)	4.35					
Form Setter Helper (Structures)	3.20					
Laborer, Common	2.15					
Laborer, Utility Man	2.70					
Mechanic	3.50					
Mechanic Helper	3.25					
Oiler	3.00					
Serviceman	3.10					
Pipelayer	2.60					
Powderman	3.50					
Powderman Helper	2.70					
Reinforcing Steel Setter (Structures)	2.85					
Reinforcing Steel Setter Helper	2.35					
Sign Erector	2.85					
Sign Erector Helper	2.50					
Spreader Box Man	3.20					
Power Equipment Operators:						
Asphalt Distributor	3.30					
Asphalt Paving Machine	4.20					
Bulldozer, 150 H.P. and Less	3.25					
Bulldozer, over 150 H.P.	3.50					
Concrete Paving Finishing Machine	3.75					
Concrete Paving Spreader	3.75					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ C.Y.)	3.65					

INCIDENTAL PAVING & UTILITIES	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators (Cont'd):						
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1¼ C.Y. and Over)	$4.35					
Crusher or Screening Plant Operator	3.75					
Foundation Drill Operator (Truck Mounted)	4.20					
Front End Loader (2½ C.Y. and Less)	3.25					
Front End Loader (Over 2½ C.Y.)	3.75					
Motor Grader Operator, Fine Grade	4.35					
Motor Grader Operator	3.75					
Roller, Steel Wheel (Plant-Mix Pavements)	3.30					
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.00					
Roller, Pneumatic (Self-Propelled)	2.55					
Scrapers (17 C.Y. and Less)	3.00					
Scrapers (Over 17 C.Y.)	3.50					
Tractor (Crawler Type) 150 H.P. and Less	2.75					
Tractor (Crawler Type) over 150 H.P.	3.00					
Tractor (Pneumatic) 80 H.P. and Less	2.60					
Tractor (Pneumatic) over 80 H.P.	3.00					
Traveling Mixer	3.50					
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.00					
Truck Drivers:						
Single Axle, Light	2.50					
Single Axle, Heavy	2.90					
Tandem Axle or Semitrailer	2.25					
Weighman (Truck Scales)	2.25					
Welder	4.35					

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
LINE CONSTRUCTION:						
Lineman	$6.80		1%			
Groundman, more than 1 year experience	4.59		1%			
Groundman, less than 1 year experience	4.01		1%			
Operator-hole digger, line truck	5.34		1%			
Flat bed truck driver	4.01		1%			

SUPERSEDEAS DECISION

STATE: Wyoming COUNTY: Laramie
DECISION NUMBER: AP-250 DATE: Date of Publication
Supersedes Decision No. AM-2,477 dated August 27, 1971, 36 FR.17152
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

BUILDING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS: H & W	PENSIONS	VACATION	APP. TR.	OTH
ASBESTOS WORKERS	$7.04	.25	.42			
BOILERMAKERS	8.25	.30	1.00		.02	
BRICKLAYERS; Stonemasons	5.75					
CARPENTERS:						
Carpenters	6.65	.25	.25		.06	
Piledrivermen	6.90	.25	.25		.06	
CEMENT MASONS:						
Cement Masons	5.10	.15				
Working with composition material; Scaffold, Swinging Stage or Temporary Platform over 8' high; Op. of Power Machines	5.35	.15				
Working on Scaffold, Swing Stage or Temporary Platform over 20' high	5.60	.15				
ELECTRICIANS:						
Electricians	7.33	.32	1%		1%	
Cable Splicers	7.53	.32	1%		1%	
ELEVATOR CONSTRUCTORS	6.71	.185	.20	2%+a		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.185	.20	2%+a		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
IRONWORKERS:						
Structural; Ornamental; Reinforcing	7.10	.40	.65		.10	
LATHERS	4.60			.20		
PLASTERERS	6.47			.20		
PLUMBERS; Steamfitters:						
Zone #1 (10 mi radius from Cheyenne P.O.)	6.47	.30	.10	.60	.05	
Zone #2 (10 mi radius beyond Zone #1)	7.07	.30	.10	.60	.05	
Zone #3 (15 mi radius beyond Zone #2)	7.67	.30	.10	.60	.05	
Zone #4 (Jurisdiction beyond Zone #3)	8.52	.30	.10	.60	.05	
Zone #5 (Footnote "b")						
General Contracts $700,000.00 or less	6.47	.30	.10	.60	.05	
General Contracts over $700,000.00	6.97	.30	.10	.60	.05	
ROOFERS	6.15					
SHEET METAL WORKERS	7.08	.22				
SPRINKLER FITTERS	7.95	.30	.50		.05	

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS: H & W	PENSIONS	VACATION	APP. TR.	OTHER
WELDERS; Riggers: Receive rate prescribed for craft performing operation to which rigging or welding is incidental.						

FOOTNOTES:
a. Employer contributes 4% basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F.
b. Use only in the cities of Laramie, Torrington, Wheatland, Evanston, Green River and Rock Springs within a 5-mile radius from the Post Office of each of the above cities.

PAID HOLIDAYS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

1-WYO-2-3-a (1-1)

HEAVY AND HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS: H & W	PENSIONS	VACATION	APP. TR.	OTHER
Carpenters	$4.61					
Cement Masons	3.89					
Ironworkers, structural	5.12					
Ironworkers, reinforcing	3.72					
Painters, brush & spray	5.00					

WYOMING-LINE CONSTRUCTION-1 (1-1)

LINE CONSTRUCTION:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS: H & W	PENSIONS	VACATION	APP. TR.	OTHER
All work over 34.5 KV, all work on steel towers and/or multiple wood structures, all cross country underground communications work, and all motor traffic controlling, street, & highway lighting:						
Cable Splicer	$6.78	.15	1%		½%	
Linemen	6.16	.15	1%		½%	
Equipment Operator	5.64	.15	1%		½%	
Groundman	4.65	.15	1%		½%	
All work 34.5 KV and under						
Lineman	5.95	.15	1%		½%	
Line Equipment Operator	5.18	.15	1%		½%	
Experienced Groundman (2yrs.)	4.60	.15	1%		½%	
Groundman	3.97	.15	1%		½%	

BUILDING CONSTRUCTION

1-WYO-LAB-1-f (1-2)

LABORERS	Basic Hourly Rates	FRINGE BENEFITS PAYMENTS H & W	Pensions	Vacation	App. Tr.	Other
GROUP I						
Axeman and Hand Faller; Concrete Worker (wet or dry) (curing and drying); Car and Truck Loader; Dumpman; Erector and Installer (includes the installation and erection of all fences, right-of-way, median fence, snow fence, etc., guard rails, section rails, reference posts, guide posts, signs and right-of-way markers); Form Stripper; Form Setter Helper (paving); General Laborer; Gunite Helper; Landscaper Helper; Material Handler (lumber, rods, cement, concrete) Nozzleman (air and water); Pipe Setters Helpers, non-metallic; Pipe Setters Helpers, corrugated; All work pretaining to pre-watering, pre-irrigation, and pre-watting; Rodman; Riprap Man; Sandblaster Pot Tender; Signalman, grade, concrete, etc.; Sisserman or Hopper Man; Stake Jumper for Equipment; Tar and Asphalt Pot Tender Wrecking and Demolition Crews; Unloading and Packing of Steel Rods and Mesh (reinforcing); Heater Tender and Pilot Car Operator	$4.15					
GROUP II						
Asphalt Raker and Tamper; Bin Wall Installer; Bituminous Curb Builder; Carpenter Tender; Cement Mason Tender; Chuck Tender; Form Setter (paving); Hand Operator Vibrator Roller; Landscaper; Mechanical Form Cleaner; Mortar Man on Stone Riprap; Operator of Pneumatic, Electric, Gas Tamper and Similar Mechanical Tools; Powderman Helper; Pipe Setter, Corrugated, Culvert Pipe, Multi-plate, Sectional Plate and Similar Type; Pipe Wrapper; Power-Type Concrete Buggy (push); Power Saw Operator (clearing); Vibrator (concrete); Creosote Material Handler (corrosive enamel or its equal); Burner (cutting torch)	4.37					
GROUP III						
Concrete Saw; Gunite Nozzleman; High Scaler (using air tools from bos'n chair, swing stage life belt, or block and tackle, shall receive $.20 per hour more than the classified rate); Jackhammer and Pavement Breaker; Sandblaster Nozzleman; Sewer Pipe Installer, non-metallic;						

1-WYO-LAB-1- f (2-2)

LABORERS	Basic Hourly Rates	FRINGE BENEFITS PAYMENTS H & W	Pensions	Vacation	App. Tr.	Other
GROUP III (CONT'D)						
Caulker; Collarman; Jointer; Mortarman; Rigger; Jacker; Power-Type Concrete Buggy (ride); Shoring and Lagging of Open Ditch	4.43					
GROUP IV						
Powderman and Blaster; Wagon Drill, Air Track, Diamond and other drills for blasting powder or grouting	4.65					
GROUP V						
Hod Carriers; Mason Tenders; Plasterers Tenders; Terrazzo Tenders; Tile Setter Tenders; and Scaffold Builders.	4.65					
GROUP VI						
TUNNEL AND UNDERGROUND WORK: Miners (drills) Machine Man; Timberman; Steelman; Drill doctor; Form setter and Movers; Spaders; Tuggers; Spilling and/or Caisson Workers; Jackhammer men; Finishers; Re-bar man; Powderman.	4.90					
GROUP VII						
Nipper; Chuck Tender; Top Man or Toplander	4.74					
GROUP VIII						
Brakeman and Vibrator Man	4.63					
GROUP IX						
Mucker and Bull Gang Laborer	4.47					

BUILDING CONSTRUCTION

1-WYO-PEO-1-b (1-3)

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTH
BATCH BIN WEIGHMAN, Scissorman, or Hopperman; Beginner Op.; Brakeman and Helper; Crusher Oiler; Oiler, utility; Scraper Equipment, Multiple Units; Screed Operator	$3.81	.15	.15		.01	
PUMP OPERATOR (under 6 inches)	3.83	.15	.15		.01	
AUGER MACHINE OPERATOR; Broom Operators self-propelled; Cableway Signalman (bellboy); Concrete Saw (self-propelled) Fireman; Power Loader, Belt & Bucket type; Tractor Operators: Farm, crawler or wheel type 60 hsp (drawbar) or less w/wo use of power attachments, except for use of back hoe or bucket	3.86	.15	.15		.01	
AIR COMPRESSOR over 315 cu. ft. cap.; Chip Spreader Op.; Form Grader Op.; Helper (welder or heavy duty); Joint Machine Op.; Longitudinal Float Op.; Mixer Op., Concrete (under 1 yd); Roller Op., self-propelled (pneumatic, rubber tired, sheep foot, vibratory or combination type); Tire Repairman	3.91	.15	.15		.01	
PUMP OPERATOR (over 6 inches)	3.94	.15	.15		.01	
CONVEYOR BELT OPERATOR; Fork Lift and Loader Staker; Screening Plant Op.	3.96	.15	.15		.01	
"A" FRAME TRUCK; Front End Loader (up to 3/4 cu. yds); Tractor Operators: Farm, crawler or wheel type, over 60 hsp (drawbar) w/o use of power attachments	4.01	.15	.15		.01	
OILER, LEAD UTILITY	4.05	.15	.15		.01	

1-WYO-PEO-1-b (2-3)

POWER EQUIPMENT OPERATORS: CONT'D	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTH
GUNITE & GROUT MACHINE OPERATOR: Mulching Machine Op.; Oil Distributor	$4.06	.15	.15		.01	
FRONT END LOADER (3/4 & incl. 1 cu. yd) Pavement Breakers, Hydro-Tamper & sim. type Machines; Pump, Well Points	4.16	.15	.15		.01	
AIR COMPRESSOR, 2 or more machines; Hoist Op. (1 drum); Welding Machine Op. (gas or diesel)	4.21	.15	.15		.01	
HAULAGE MOTORMAN AND INDUSTRIAL TYPE HOTORMAN	4.23	.15	.15		.01	
ASPHALT PLANT OPERATOR: Bituminous Laydown Machine Op.; CMI Machine & sim; Concrete Batch Plant; Concrete Finish Machine Op.; Concrete Multi blade span saw (Hunt process or sim); Concrete Spreader & Paver Op.; Crusher Op.; Drilling Machine, Integrated (Core, Rotary, Caisson, Diamond); Economobile Elevating Grader; Finish Dozer Op.; Jumbo Form Op.; Joy Cutter & sim. type machines; Mixer, Bituminous Op. (travel plant); Mixer Op, Base Course Pug Mill type; Mixer Op., Concrete (over 1 yd); Motor Patrol Op.; Mucking Machine Op. (all types); Pneumatic Guns; Pumpcrete Op.; Roller Op. (Tandem steel wheel, 3 axle or 3 wheel); Ross Carrier & sim. type Machines; Scraper Equipment (all types); Shovels, Draglines, Piledrivers: 3/4 yd. & smaller, all attachs.; Shuttle Car Op.; Subgrade Machine Op. (power); Tractor Operators, all w/use of power attachs. & incl. Pushcat, Dozer, Tournadozer, etc. (The use of power attachments shall not incl. disking, pulling or rollers, & sim. unskilled actions);						

POWER EQUIPMENT OPERATORS CONT'D	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTH
ASPHALT PLANT OPERATOR: (cont'd)						
Trenching Machine Op.; Wash Plant Op.; Front End Loader (over 1 cu. yd.)	4.38	.15	.15		.01	
WELDER, MACHINE DOCTOR	4.42	.15	.15		.01	
HEAVY DUTY MECHANIC, Machine Doctor; Hoist Op. (2 or more drums or shafts or raises)	4.48	.15	.15		.01	
CABLEWAY OPERATORS; Cranes (Whirley, Gantry, Stiffleg, Hydro Cranes); Locomotive Engineer; Mixer, Dual Drum; Shovels, Draglines, Piledrivers over 3.4 yds. to 3½ yds. all attachments	4.53	.15	.15		.01	
SHOVELS, DRAGLINES, PILEDRIVERS: over 3½ yds. to 7 cu. yds. all attachments Wheel Excavator Operator	4.68	.15	.15		.01	
SHOVELS, DRAGLINES, PILEDRIVERS: 7 cu. yds. and over	4.98	.15	.15		.01	

Fifteen Cents (15¢) per hour for each additional connected tractor.

Boom Pay - One Cent (1¢) per hour per foot over 80 feet not to exceed 50¢ per hour.

Caisson Drilling Machine, truck or truck mounted, Oiler; Oiler on Cranes and Shovels; Truck Crane Carrier Operator - 50¢ under Operator's rate.

SCRAPER Equipment, Multiple Units: Fifteen cents (15¢) per hour additional per unit.

Underground Work shall be paid an additional twelve and one-half (12½¢) per hour more than the regular rate.

HEAVY AND HIGHWAY CONSTRUCTION

LABORERS

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTH
GROUP I Axeman and Hand Faller; Bin Wall Installer Helpers; Concrete Worker (wet or dry); Concrete Workers (curing & drying); Dumpman; Erector & Installer (incl. the installation & erection of fences, snow fense, guard rails, median rails, median posts, signs & right of way marker); Form Stripper; Form Setter Helper (Paving); General Labor; Gunite Helper; Heater Tender; Landscaper Helper; Material Handler (Lumber, rods, cement, concrete); Nozzleman, air & water; Pipe Setters Helpers (non-metallic); Pipe Setters Helpers (corrugated); Pre watering, pre wetting and pre irrigation (all work); Rip Rap Man; Sandblaster Pot Tender; Signal men, grade concrete, etc.; Scissor Man or Hopper Man; Stake Jumper for equipment; Tar & Asphalt Pot Tender; Wrecking & Demolition Crews	$3.35					
GROUP II Asphalt Raker & Tamper; Bin Wall Installer; Bituminous Curb Builder; Cement Mason or Finisher, helper & tender; Chuck Tender; Form Setter (paving); Hand Operated Vibratory Roller; Landscaper; Mortar Man on Stone Rip Rap; Operator of Pneumatic, Electric Gas Tamper & similar mechanical tools; Pipe setter (corrugated, culvert pipe, sectional, multiplate & similar type); Pipe Setter, Pipelayer (non-metallic); Pipewrapper; Powderman Helper; Power Type Concrete Buggy (push or ride); Power Saw Operator (clearing); Vibrator, concrete	3.45					
GROUP III Concrete Saw; Gunite Nozzleman; High Scaler (using air tools from bos'n chair, swing stage life belt, or block and tackle shall receive $.20 per hour more than the classified rate); Jackhammer & Pavement Breaker; Sandblaster Nozzleman; Sewer Pipe Installer (non-metallic), clay concrete, etc. (caulker, collarman, jointer, mortarman, rigger, jacker	3.60					

LABORERS (CONT'D)	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTH
GROUP IV Powderman & Blaster; Wagon Drill, Air-trac, Diamond, and other drills for blasting powder or grouting	$3.85					
GROUP V - TUNNEL & UNDERGROUND WORK						
Brakeman; Swamper; Vibrator Man	3.83					
Bull Gang; Dumpman; Mucker; Trackman	3.67					
Miners (drillers) machine men; timbermen; steelmen; drill doctor; form setter and mover; spader; tuggers spilling and/or caisson workers; powdermen; jackhammermen; finishers	4.10					
Nipper; Chucktender; Topman; Toplander	3.94					

HEAVY AND HIGHWAY CONSTRUCTION

POWER EQUIPMENT OPERATORS

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHER
Group I AUGER MACHINE OPERATOR: (Post hole, etc. Batch Bin Weighman, Scissorman or Hopperman; Beginner Op.; Brakeman and Helpers; Crusher Oiler, Utility Screed Op.; Tractor Op., Farm, Crawler or Wheel type, 60 hsp. (drawbar) or less with or without use of power attachments except for use of backhoe or bucket	$4.36	.15	.20		.01	
Group II BROOM OPERATORS, self-propelled; Cableway Signalman (Bellboy); Concrete Saw (self-propelled); Fireman; Power Loader, Belt & Bucket type	4.41	.15	.20		.01	
Group III AIR COMPRESSOR over 315 cu. ft. cap.; Chip Spreader Op.; Form Grader; Joint Machine Op.; Longitudinal Float Op.; Mixer Op., concrete (under 1 yd.); Helper (welder or heavy duty); Roller Op., self-propelled (pneumatic, rubber tired, Sheep foot, vibratory or comb. type); Tire Repairman	4.46	.15	.20		.01	
Group IV PUMP OPERATOR (except in tunnels, shafts raises)	4.49	.15	.20		.01	
Group V CONVEYOR BELT OPERATOR: Fork Lift and Lumber Staker; Screening Plant Op.	4.51	.15	.20		.01	
Group VI A-FRAME TRUCK; Tractor Op., Farm, Crawler or Wheel type, over 60 hsp. (drawbar); without use of power attachments	4.56	.15	.20		.01	
Group VII OILER, Lead Utility	4.60	.15	.20		.01	
Group VIII GUNNITE AND GROUT MACHINE OPERATOR; Mulching Machine Op.; Oiler Distributor	4.61	.15	.20		.01	

POWER EQUIPMENT OPERATORS (CONT'D)	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Group IX FRONT END LOADER (up to & incl. 1½ cu. yds.); Pavement Breakers, Hydro-Tamper & sim. type machine; Pump, Well Points	$4.71	.15	.20		.01	
Group X HOIST OPERATOR (one drum)	4.76	.15	.20		.01	
Group XI HAULAGE MOTORMAN & INDUSTRIAL TYPE MOTORMAN; Motor Patrol Op. (all except finish); Pump Op. (in tunnels, shafts, raises); Hydro-type Cranes (up to 15 tons)	4.78	.15	.20		.01	
Group XII AIR COMPRESSOR, two or more machines or tunnels, shafts, raises or plant op.; Asphalt Plant Op., Bituminous Laydown Machine Op.; CMI Machine & sim.; Concrete Batch Plant; Concrete Finish Machine Op.; Concrete Multi-Blade Span Saw (Hunt process or sim.); Concrete Spreader and Paver Op.; Crusher Op.; Drilling Machine, integrated (core, rotary, caisson, diamond); Elevating Grader Front End Loader (over 1½ cu. yds.); Jumbo Form Op.; Mixer Op., base course pugmill type; Mixer Bituminous Op. (travel plant); Mixer Op. Concrete (over one yd.); Motor Patrol Op. (finish); Mucking Machine Op.; (all types); Pneumatic Guns; Pumpcrete Op.; Roller Op. (tandem steel wheel, 3 axle or 3 wheel); Scraper Equipment (all types); Shovels, Draglines, Cranes, Filedrivers, all Truck Mounted Cranes (mfg's rating) Up to 3½ yds. all attachments; Hydor-type Cranes (15 tons and over); Shuttle Car Op. Subgrade Machine Op. (power); Tractor Ops. (all w/use of power attach. & incl. Pushcat, Dozer, Tournadozer, etc.); Trenching Machine Op.; Wash Plant Operator	4.93	.15	.20		.01	
Group XIII WELDER, Machine Doctor	4.97	.15	.20		.01	

POWER EQUIPMENT OPERATORS (CONT'D)	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Group XIV HOIST OPERATOR (two or more drums or shafts or raises); Heavy Duty Mechanics, Machine Doctor	$5.03	.15	.20		.01	
Group XV CABLEWAY OPERATOR; Mixer, dual drum; Cranes (Whirley, Gantry, Stiffleg, Overhead Traveling)	5.08	.15	.20		.01	
Group XVI SHOVELS, Draglines, Cranes, Pile-drivers, all Truck Mounted Cranes (mfg's rating) 3½ to 7 cu. yds., all attachments; Wheel Operator	5.23	.15	.20		.01	
Group XVII SHOVELS, Draglines, Cranes, Pile-drivers, all Truck Mounted Cranes (mfg's rating) 7 cu. yds. & over, all attachments	5.53	.15	.20		.01	

HEAVY AND HIGHWAY CONSTRUCTION

TRUCK DRIVERS

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
Group I DUMP (Water level capacity box) over 40 cu. yds. to & incl. 45 cu. yds.	$4.40					
Group II FIELD MECHANICS	4.38					
Group III DUMP (Water level capacity box) 35 cu. yds. to & incl. 40 cu. yds.	4.35					
Group IV DUMP (Water level capacity box) 30 cu. yds. to & incl. 35 yds.	4.30					
Group V DUMP (Water level capacity box) 25 cu. yds. to & incl. 30 yds.	4.25					
Group VI DUMP (Water level capacity box) 20 cu. yds. to & incl. 25 cu. yds.; Heavy duty (Euclids, electric or similar type)	4.15					
Group VII LOWBOY & Tandem Axle Float Drivers; Multiple Axle Type; Semi; Dump (Water level capacity box) 13 cu. yds. to & incl. 20 cu. yds.	4.15					
Group VIII HELPERS-FIELD (Welders, Mechanics, etc.)	3.91					
Group IX OVER 3600 gal. (semi-truck); Transit Mix or Wet Mix over 10 cu. yds.	3.85					
Group X OVER 3600 gal. (straight truck): Transit Mix or Wet Mix, over 5 cu. yds. to 10 cu. yds; Tandem Axle	3.75					

TRUCK DRIVERS (CONT'D)

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
Group XI OVER 2500 gals. to & incl. 3600 gals.; Dump (Water level capacity box) over 10 cu. yds. to & incl. 13 cu. yds.; Flat Rack, over 5 tons; Winch Trailer (cable & hoist); Utility Winch; "A" Frame Transit Mix or Wet Mix, less than 5 cu. yds.; Single Axle	$3.65					
Group XII DUMP (Water level capacity box) over 7 cu. yds. to & incl. 10 cu. yds.; 2500 gals. or less (semi-truck); Flat Rack, 2 tons to 5 tons; Power Broom; Material Checkers	3.55					
Group XIII DUMP (Water level capacity box) 7 cu. yds. or less; Gravel Spreader; Flat Rack, less than 2 tons; Gang; Single Axle Type Truck; Warehousemen, Partsmen & Helpers; 2500 gals. or less (straight truck); Fuel Service; Greasemen, Tiremen, Servicemen & Helpers	3.95					
Group XIV PILOT CAR DRIVERS; Pick-up	3.35					

[FR Doc.72-19102 Filed 11-9-72;8:45 am]

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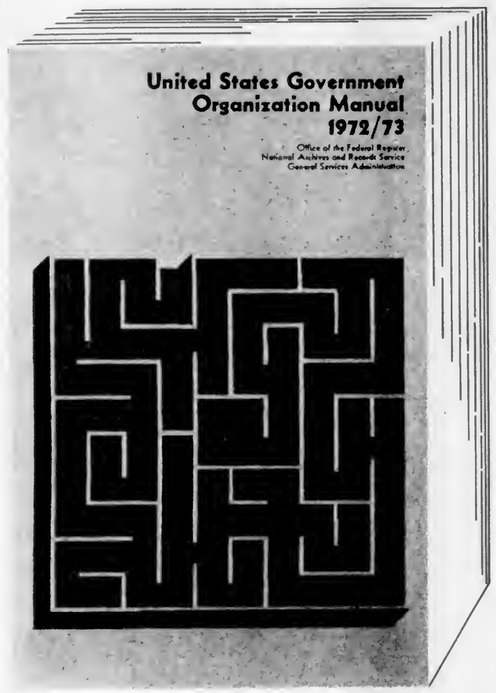

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SATURDAY, NOVEMBER 11, 1972
WASHINGTON, D.C.

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federal register

SATURDAY, NOVEMBER 11, 1972

WASHINGTON, D.C.

Volume 37 ■ Number 219

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Area Code 202 Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Office of Economic Opportunity

Section 213.3373 is amended to show that the following positions are no longer excepted under Schedule C: One Confidential Assistant and one Confidential Secretary to the Assistant Director for Program Development.

Effective on publication in the FEDERAL REGISTER (11–11–72), subparagraphs (24) and (27) of paragraph (a) of § 213.3373 are revoked.

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–19413 Filed 11–10–72;8:48 am]

Title 7—AGRICULTURE

Chapter II—Food and Nutrition Service, Department of Agriculture

PART 225—SPECIAL FOOD SERVICE PROGRAM FOR CHILDREN

Appendix—Apportionment of Food Assistance and Nonfood Assistance Funds Pursuant to National School Lunch Act for Fiscal Year 1973

Pursuant to section 13, of the National School Lunch Act, as amended, food assistance and nonfood assistance funds available for the fiscal year ending June 30, 1973, are apportioned among the States as follows:

State	Total apportionment
Alabama	$816,003
Alaska	68,526
Arizona	195,570
Arkansas	522,579
California	863,437
Colorado	182,941
Connecticut	132,957
Delaware	78,953
District of Columbia	112,253
Florida	620,209
Georgia	885,483
Guam	9,482
Hawaii	87,934
Idaho	103,174
Illinois	627,090
Indiana	347,392
Iowa	316,165
Kansas	213,137
Kentucky	665,438
Louisiana	736,524
Maine	134,006
Maryland	269,011
Massachusetts	248,512
Michigan	530,133
Minnesota	343,488
Mississippi	795,224
Missouri	505,038
Montana	105,811
Nebraska	190,481
Nevada	62,584
New Hampshire	77,667
New Jersey	286,850
New Mexico	190,414
New York	887,887
North Carolina	1,116,064
North Dakota	138,310
Ohio	629,820
Oklahoma	357,641
Oregon	143,790
Pennsylvania	767,827
Puerto Rico	384,300
Rhode Island	99,587
South Carolina	701,090
South Dakota	155,445
Tennessee	784,560
Texas	1,492,708
Utah	98,559
Vermont	84,082
Virginia	648,937
Washington	189,961
West Virginia	380,947
Wisconsin	293,621
Wyoming	71,680
Virgin Islands	4,382
Samoa, American	3,693
Trust Territory	13,663
Total	20,775,000

(Sec. 13, 82 Stat. 117; 42 U.S.C. 1761)

Dated: November 7, 1972.

EDWARD J. HEKMAN,
Administrator.

[FR Doc.72–19427 Filed 11–10–72;8:53 am]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Navel Orange Reg. 273, Amdt. 1]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the Act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Navel oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraphs (b)(1) (i) and (iii) of § 907.573 (Navel Orange Regulation 273, 37 F.R. 23323) during the period November 3 through November 9, 1972, are hereby amended to read as follows:

§ 907.573 Navel Orange Regulation 273.

* * * * * * *

(b) *Order.* (1) * * *

(i) District 1: 799,000 cartons;

* * * * * * *

(iii) District 3: 51,000 cartons.

* * * * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 8, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72–19464 Filed 11–10–72;8:51 am]

[Lemon Reg. 559]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.859 Lemon Regulation 559.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 36 F.R. 9061), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis

of the recommendations and informa-

PART 991—HANDLING OF HOPS OF

leaf and stem content of more than 8 percent, as determined by the Federal-

(a) *Findings upon the basis of the hearing record.* Pursuant to the provi-

ified in sec. 8c(9) of the Act) of more than 50 percent of the milk, which is

deliveries of milk by their member producers if each association has filed in

V37-219-NOV 11 72 XUM

of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 7, 1972.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period November 12, through November 18, 1972, is hereby fixed at 175,000 cartons.

(2) As used in this section, "handled", and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 8, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72–19503 Filed 11–10–72;8:54 am]

PART 991—HANDLING OF HOPS OF DOMESTIC PRODUCTION

Subpart—Administrative Rules and Regulations

MINIMUM QUALITY STANDARDS

Notice was published in the October 12, 1972, issue of the FEDERAL REGISTER (37 F.R. 21539) of a proposal recommended by the Hop Administrative Committee to amend the Subpart — Administrative Rules and Regulations (7 CFR 991.130–991.601). The subpart is operative pursuant to Order No. 991, as amended (7 CFR Part 991), regulating the handling of hops of domestic production, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Section 991.31 contains the authority for promulgation of such minimum quality standards for hops in terms of their leaf and stem content and other quality factors as are required to effectuate the objectives of the order and the declared policy of the act. Currently, § 991.231 of the administrative rules and regulations prescribes minimum quality standards for hops. These standards prescribe the maximum permissible percentage of leaf and stem content that may be present in hops. Lupulin, and lupulin sweepings, appropriately packaged and identified, are exempt from these standards. This amendment adds a new paragraph (b) to § 991.231 which establishes quality standards for lupulin and lupulin sweepings. Hence, this amendment is consistent with action already taken with respect to baled hops and provides quality standards for all hops, including lupulin and lupulin sweepings. The amendment would insure a consistent quality of lupulin including lupulin sweepings by eliminating extraneous matter. These quality standards were developed after consultation with the Federal-State Inspection Service.

The notice afforded interested persons opportunity to submit written data, views, or arguments with respect to the proposal. None were received.

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the Committee, and other available information, it is hereby found that this action prescribing additional quality standards pursuant to said Order No. 991, as amended, and thereby providing for quality regulations of hops, including lupulin and lupulin sweepings, would tend to effectuate the declared policy of the act.

Therefore, Subpart — Administrative Rules and Regulations is amended by revising § 991.231 to read as follows:

§ 991.231 Minimum quality standards.

(a) *Hops.* No handler shall acquire, use, or sell, nor the Committee accept for reserve pooling, hops which have a leaf and stem content of more than 8 percent, as determined by the Federal-State Inspection Service: *Provided*, That lupulin, including lupulin sweepings, that have been packaged and so identified by Committee approved seals or stencils, shall be exempt from this leaf and stem requirement.

(b) *Lupulin, including lupulin sweepings.* No handler shall acquire, use, or sell, nor the Committee accept for reserve pooling, lupulin, including lupulin sweepings, unless 95 percent by weight of such lupulin, including lupulin sweepings, will pass through a number 10 mesh screen as determined by the Federal-State Inspection Service.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) and for making this action effective at the time hereinafter provided in that: (1) Most 1972 crop hops and lupulin are baled and are now beginning to enter the channels of commerce, and the industry desires that the quality standards prescribed herein apply to as much of the remaining lupulin and lupulin sweepings as possible; and (2) hops, including lupulin, in excess of producers' allotments became reserve on November 1 and the industry desires to have any lupulin or lupulin sweepings that are placed in the reserve pool meet these quality standards.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 8, 1972, to become effective November 15, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72–19421 Filed 11–10–72;8:51 a.m.]

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order 133; Docket No. AO–275–A25]

PART 1133—MILK IN THE INLAND EMPIRE MARKETING AREA

Order Amending Order

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Inland Empire marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than December 1, 1972. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The recommended decision of the Deputy Administrator, Regulatory Programs, was issued October 6, 1972, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued October 30, 1972. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective December 1, 1972, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order, amending the order, is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Inland Empire marketing area shall be in conformity to, and in compliance with the terms and conditions of the aforesaid order, as amended and as hereby further amended, as follows:

1. In § 1133.8, the introductory text is revised to read as follows:

§ 1133.8 Pool plant.

"Pool plant" means any plant described in paragraph (a) or (b) of this section, other than the plant of a producer-handler or a plant with respect to which the handler is exempt pursuant to § 1133.61, which is approved by an appropriate health authority for the receiving of milk qualified for distribution as Grade A milk in the marketing area. If a portion of such plant is physically separated from the Grade A part of such plant, is operated separately, and is not approved by any health authority for the receiving, processing, or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section.

* * * * * *

2. In § 1133.12, paragraph (c) is revised to read as follows:

§ 1133.12 Producer milk.

* * * * * *

(c) With respect to diversions to nonpool plants:

(1) A cooperative association may divert for its account, under paragraph (b)(1) of this section, the milk of any member-producer eligible for diversion. The total quantity of milk so diverted may not exceed 50 percent in any of the months of September through March, and 70 percent in any of the months of April through August, of its total member milk received at all pool plants or diverted therefrom during the month. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if each association has filed in writing with the market administrator a request for such computation;

(2) A handler operating a pool plant may divert for his account under paragraph (a)(2) of this section, milk of any producer eligible for diversion, other than a member of a cooperative association which diverts milk under subparagraph (1) of this paragraph. The total quantity of milk so diverted may not exceed 50 percent in any of the months of September through March and 70 percent in any of the months of April through August, of the milk received at or diverted from such pool plant during the month from producers who are not members of a cooperative association that diverts milk under subparagraph (1) of this paragraph;

(3) Milk diverted in excess of the limits specified shall not be considered as producer milk, and the diverting handler shall specify the producers whose milk is ineligible as producer milk. If a handler fails to designate such producers, producer milk status shall be forfeited with respect to all milk diverted by the handler;

(4) Producers eligible for diversion are those whose milk has been received at the pool plant prior to diversion from such plant (but not necessarily in the current month). Producers eligible for diversion in the months of September, October, or November must in addition have at least 2 days' production received at a pool plant in the respective month; and

(5) For the purpose of location adjustments pursuant to §§ 1133.53 and 1133.81, diverted milk shall be considered to have been received at the location of the plant to which diverted.

3. In § 1133.81, paragraph (a) is revised to read as follows:

§ 1133.81 Location adjustments to producers and on nonpool milk.

(a) In making payments pursuant to § 1133.80 the market administrator shall reduce the uniform price computed pursuant to § 1133.71 by the location adjustment applicable at the plant where the milk was first physically received from producers, and the uniform price of producer milk diverted to a nonpool plant according to the location of the nonpool plant, each at the rates set forth in § 1133.53.

* * * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: December 1, 1972.

Signed at Washington, D.C., on November 8, 1972.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.72–19465 Filed 11–10–72;8:51 am]

Title 9—ANIMALS AND ANIMAL

Tennessee because of the existence of hog cholera. This action is deemed

northwesterly direction to State Highway 72 in Dillon County; thence, following

Part 170 to remove the exemption from payment of fees for a construction permit or license applied for by, or issued to,

Title 14—AERONAUTICS AND

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (39 F.R. 13697),

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Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

[Docket No. 72-577]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, in paragraph (e)(8) relating to the State of Tennessee, a new subdivision (i) relating to Hamblen and Jefferson Counties is added to read:

(e) * * *

(8) *Tennessee.* (i) The adjacent portions of Hamblen and Jefferson Counties bounded by a line beginning at the junction of U.S. Highway 25 E, State Highway 32, and Secondary Road 2488 in Hamblen County; thence, following U.S. Highway 25 E, State Highway 32 in a southeasterly direction to the north bank of the Broad River in Jefferson County; thence, following the north bank of the Broad River in a generally southwesterly direction to State Highway 92; thence, following State Highway 92 in a northwesterly direction to U.S. Highway 11 E; thence, following U.S. Highway 11 E in a northeasterly direction to the north bank of the Mossy Creek; thence, following the north bank of the Mossy Creek in a generally northwesterly direction to the east bank of the Cherokee Lake; thence, following the east bank of the Cherokee Lake in a generally northeasterly direction to Secondary Road 2488 in Hamblen County; thence, following Secondary Road 2488 in a southeasterly direction to its junction with U.S. Highway 25 E, State Highway 32 in Hamblen County.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264–1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended; 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment quarantines portions of Hamblen and Jefferson Counties in Tennessee because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined areas.

The amendment imposes certain further restrictions necessary to prevent the interstate spread of hog cholera, and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable, unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 7th day of November 1972.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-19424 Filed 11-10-72;8:49 am]

[Docket No. 72-578]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, a new paragraph (e)(5) relating to the State of South Carolina is added to read:

(e) * * *

(5) *South Carolina.* The adjacent portions of Dillion and Marion Counties bounded by a line beginning at the junction of the east bank of the Little Pee Dee River and State Highway 41 in Dillion County; thence, following State Highway 41 in a northeasterly direction to the South Carolina-North Carolina State line; thence, following the South Carolina-North Carolina State line in a southeasterly direction to the north bank of the Lumber River; thence, following the north bank of the Lumber River in a generally southwesterly direction to State Highway 30 in Marion County; thence, following State Highway 30 in a northwesterly direction to State Highway 72 in Dillon County; thence, following State Highway 72 in a northwesterly direction to the east bank of the Little Pee Dee River; thence, following the east bank of the Little Pee Dee River in a generally northwesterly direction to its junction with State Highway 41 in Dillon County.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264–1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended; 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment quarantines portions of Dillon and Marion Counties in South Carolina because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined areas.

The amendment imposes certain further restrictions necessary to prevent the interstate spread of hog cholera, and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable, unnecessary and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 7th day of November 1972.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-19423 Filed 11-10-72;8:49 am]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 170—FEES FOR FACILITIES AND MATERIALS LICENSES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

Removal of Exemption From Fees for Licenses Issued to Government Agencies for Nuclear Power Plants

On October 4, 1972, the Atomic Energy Commission published in the FEDERAL REGISTER (37 F.R. 20871) a proposed amendment to its regulations in 10 CFR Part 170 to remove the exemption from payment of fees for a construction permit or license applied for by, or issued to, a Government agency for a reactor producing power on a commercial basis. Interested persons were invited to submit written comments and suggestions for consideration within 15 days after publication of the notice of proposed rule making in the FEDERAL REGISTER.

No comments were received. The Commission has adopted the amendment in the form set forth in the notice of proposed rule making.

On June 16, 1972, legislation was enacted amending the Atomic Energy Act by adding a new subsection 161.w., which authorized the Commission to:

> w. Prescribe and collect from any other Government agency, which applies for or is issued a license for a utilization facility designed to produce electrical or heat energy pursuant to section 103 or 104b, any fee, charge, or price which it may require, in accordance with the provisions of section 483a of title 31 of the United States Code or any other law, of applicants for, or holders of, such licenses.

The amendment which follows implements the new statutory authority by amending § 170.11(a)(5) of Part 170 to remove the exemption for Government agencies which apply for or are issued a license to operate a nuclear reactor producing power for sale.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendment to Title 10, Chapter 1, Code of Federal Regulations, Part 170, is published as a document subject to codification to be effective thirty (30) days after publication in the FEDERAL REGISTER.

Subparagraph (5) of § 170.11(a) of 10 CFR Part 170 is amended to read as follows:

170.11 Exemptions.

(a) No application filing fees, license fees, or annual fees shall be required for:

* * * * * *

(5) A construction permit or license applied for by, or issued to, a Government agency, except for a utilization facility designed to produce electrical or heat energy pursuant to section 103 or 104b of the Atomic Energy Act of 1954, as amended.

(Sec. 501, 65 Stat. 290; 31 U.S.C. 483a)

Dated at Bethesda, Md., this 3d day of November 1972.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.72-19434 Filed 11-10-72;8:53 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 72-SO-110, Amdt. 39-1554]

PART 39—AIRWORTHINESS DIRECTIVES

Teledyne Continental Engine Models IO-346-A, IO-520-B, IO-520-C and TSIO-520-B, TSIO-520-E and TSIO-520-J Engine Oil Filter Adapter

Amendment 39-1215 (36 F.R. 9241, 9242), AD 71-11-4, as amended by Amendments 39-1256 (39 F.R. 14127) and 39-1289 (39 F.R. 18373) requires inspection and replacement, if necessary, of the oil filter housing base plate on Teledyne Continental engine Models IO-346-A, IO-520-B, IO-520-C, and TSIO-520-B, TSIO-520-E and TSIO-520-J engines models with improved Teledyne Continental Part No. 633750 or AC Part No. 6437508 (Package No. 6436627) base plate. In addition, this amendment established requirements for inspection of the oil filter adapter and installation procedures for the oil filter housing assembly until such time as a strengthened replacement adapter has been installed. Since the issuance of this amendment, several configurations of strengthened oil filter adapters were produced; however, certain of these redesigned adapters were reported to have failed. Consequently, the requirement to install oil filter adapter Teledyne Continental Part No. 631645 or AC Part No. 5579663 identified with ½-inch-tall raised letter "A" and raised dot directly above it (cast into the adapter) was deleted from AD 71-11-4. Subsequently, Teledyne Continental has produced a satisfactory adapter which is now on new production engines and AC has produced a new strengthened adapter which has accumulated considerable satisfactory service.

Therefore, Airworthiness Directive 71-11-4 is being superseded by a new airworthiness directive that reinstitutes the replacement of oil filter adapters with either the Teledyne Continental adapter or the improved AC adapter at next overhaul and retains the inspection provisions of Amendment 39-1289 only until an improved adapter is installed.

Since this amendment is in part relaxatory in nature, provides clarification, and is in the interest of safety, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (39 F.R. 13697), § 39.13 or Part 39 of the Federal Aviation Regulations is amended by adding the following airworthiness directive:

TELEDYNE CONTINENTAL: Applies to Models IO-346-A, IO-520-B and IO-520-C and TSIO-520-B, TSIO-520-E, and TSIO-520-J engines having Teledyne Continental Part No. 631645 oil filter adapter installed, used with AC OF-9-A oil filter assembly.

Compliance required as indicated, unless already accomplished. To prevent loss of oil accomplish the following or an equivalent procedure approved by the Chief, Engineering and Manufacturing Branch, Southern Region, Atlanta, Ga.:

(A) Not later than next engine overhaul, replace Teledyne Continental Part No. 631645 oil filter adapter with strengthened Teledyne Continental Part No. 632881 (Kit Part No. 637584A1) in accordance with Teledyne Continental Service Bulletin M70-16 or AC Part No. 5579663 (Package No. 6437861) in accordance with AC Instruction Sheet 6439067. NOTE: The correct AC part may be identified by a cast-in insignia "Ā" (raised letter A with a raised bar over the letter A). All other AC adapters are ineligible, including those identified by a plain-raised letter "A" and a raised letter "A" and a raised dot (A) directly above. The Teledyne Continental adapter is identified by part number only.

(B) Within 25 hours' time in service from the effective date of the amendment, unless already accomplished under AD 71-11-4, paragraph (B) inspect the base plate to determine whether the gasket retaining seat is wedge-shaped or rectangular. If the gasket seat is wedge-shaped, replace this part with improved Teledyne Continental Part No. 633750 or AC Part No. 6437508 (Package No. 6436627) base plate having a rectangular-shaped gasket retaining seat.

NOTE: The required base plate can be identified by the presence of a thin sheet metal, square-shouldered retaining ring, spot welded around the gasket groove to hold the gasket in place.

(C) Unless already accomplished within the last 50 hours' of service prior to date of this amendment, accomplish the following within the next 25 hours' time in service and at every oil filter element change thereafter:

(1) Visually inspect the upper surface of the oil filter adapter face using a light and mirror for indications of radial cracks inward from the outer edge. Replace any cracked adapters with serviceable parts prescribed in paragraph (A).

(2) After placing filter element in housing in accordance with oil filter element manufacturers' instructions, install assembled housing and base plate to adapter as follows:

(*a*) Clean all gasket and seal surfaces.

(*b*) Lubricate new gasket well, on both sides using engine oil.

(*c*) Install assembly on adapter and turn center stud to a light seal contact by hand.

(*d*) Visually inspect base plate to adapter seal for proper positioning and seating.

(*e*) Torque center studs to 15–18 lb. ft. If torque wrench is not available or center stud is inaccessible to torque wrench, tighten center stud 1¾ turns beyond point of initial seal contact.

(*f*) Reattach upper bracket and resafety.

(*g*) Operate engine for approximately 5 minutes at 1,000–2,000 r.p.m. Check for oil

side of the Waterloo, Iowa VORTAC 078° radial extending from the 5-mile radius zone to 6 miles east of the VORTAC; and within

In § 71.181 (37 F.R. 2143), the following transition area is amended to read:

Title 21—FOOD AND DRUGS

SUBCHAPTER C—DRUGS

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2531(a)(2) is amended by

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(f) Reattach upper bracket and resafety.

(g) Operate engine for approximately 5 minutes at 1,000–2,000 r.p.m. Check for oil leaks and proper assembly using a light and mirror if necessary. If a leak appears between top of housing and stud, remove stud and check for nicks or visual damage at sealing surface. Correct any damage and re-install using a new copper gasket. *Do not increase torque to stop leaks.*

Continental Service Bulletin M66-6, dated April 28, 1966, refers to this subject.

(D) The requirements of paragraph (C) are no longer applicable when paragraph (A) has been complied with.

This airworthiness directive supersedes Amendment 39-1215 (36 F.R. 9241, 9242), A.D. 71-11-4, as amended by Amendments 39-1256 (39 F.R. 14127) and 39-1289 (39 F.R. 18373).

This amendment becomes effective November 15, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on November 1, 1972.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.72-19394 Filed 11-10-72;8:46 am]

[Airspace Docket No. 72-CE-18]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

On pages 17562 and 17563 of the FEDERAL REGISTER dated August 30, 1972, the Federal Aviation Administration published a notice of proposed rule making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Waterloo, Iowa.

Interested persons were given 30 days to submit written comments, suggestions, or objections regarding the proposed amendments.

No objections have been received and the proposed amendments are hereby adopted without change and are set forth below.

These amendments shall be effective 0901 G.m.t., January 4, 1973.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on October 20, 1972.

CHESTER W. WELLS,
Acting Director, Central Region.

(1) In § 71.171 (37 F.R. 2056), the following control zone is amended to read:

WATERLOO, IOWA

Within a 5-mile radius of Waterloo Municipal Airport (latitude 42°33'20" N., longitude 92°24'00" W.); within 2½ miles each side of the Waterloo, Iowa VORTAC 078° radial extending from the 5-mile radius zone to 6 miles east of the VORTAC; and within 2½ miles each side of the Waterloo, Iowa VORTAC; and within 3½ miles each side mile radius zone to 6½ miles south of the VORTAC; and within 3½ miles each side of the Waterloo, Iowa VORTAC 001° radial extending from the 5-mile radius zone to 10½ miles north of the VORTAC; and within 3½ miles each side of the Waterloo, Iowa VORTAC 316° radial extending from the 5-mile radius zone to 10½ miles northwest of the airport.

(2) In § 71.181 (37 F.R. 2143), the following transition area is ammended to read:

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Waterloo Municipal Airport (latitude 42°33'20" N., longitude 92°24'00" W.); and within 3½ miles each side of the Waterloo ILS localizer northwest course extending from the 10-mile radius area to 8 miles northwest of the OM; and 3 miles each side of the Waterloo, Iowa VORTAC 120° radial extending from the 10-mile radius to 15 miles southeast of the VORTAC; and within 3½ miles each side of the Waterloo, Iowa VORTAC 200° radial extending from the 10-mile radius to 11½ miles south of the VORTAC; and within 3½ miles each side of the Waterloo, Iowa VORTAC 001° radial extending from the 10-mile radius to 11½ miles north of the VORTAC; and within 3½ miles each side of the Waterloo, Iowa VORTAC 316° radial extending from the 10-mile radius to 11½ miles northwest of the VORTAC; and that airspace extending upward from 1,200 feet above the surface with the arc of a 29-mile radius circle centered on the Waterloo VORTAC.

[FR Doc.72-19397 Filed 11-10-72;8:46 am]

[Airspace Docket No. 72-CE-21]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On page 16552 of the FEDERAL REGISTER dated August 16, 1972, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Lebanon, Mo.

Interested persons were given 30 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., January 4, 1973.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on October 20, 1972.

CHESTER W. WELLS,
Acting Director, Central Region.

In § 71.181 (37 F.R. 2143), the following transition area is amended to read:

LEBANON, MO.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Lebanon, Mo., airport located at latitude 37°38'56" N., longitude 92°39'06" W., and within 3 miles either side of the 177° bearing of the Lebanon Airport extending from 5 miles to 8.5 miles, and that airspace extending upward from 1,200 feet above the surface within 9.5 miles west and 4.5 miles east of the 177° bearing from the Lebanon Airport extending from the airport to 18.5 miles south.

[FR Doc.72-19395 Filed 11-10-72;8:46 am]

[Airspace Docket No. 72-CE-20]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On page 17563 of the FEDERAL REGISTER dated August 30, 1972, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at St. Louis, Mo.

Interested persons were given 30 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., January 4, 1973.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on October 20, 1972.

CHESTER W. WELLS,
Acting Director, Central Region.

In § 71.181 (37 F.R. 2143), the following transition area is amended, in part, to read:

ST. LOUIS, MO.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Lambert St. Louis International Airport (latitude 39°44'50" N., longitude 90°21'55" W.); within 5 miles southeast and 8 miles northwest of the Lambert St. Louis International Airport runway 24 ILS localizer northeast course, extending from the 10-mile radius area to 12 miles northeast of the runway 24 OM; within 5 miles southwest and 9 miles northeast of the Lambert St. Louis International Airport runway 12R ILS localizer northwest course; extending from the runway 12R OM to 12 miles northwest of the OM; within an 8-mile radius of Civic Memorial Airport, Alton, Ill. (latitude 38° 53'30" N., longitude 90°30'00" W.);

[FR Doc.72-19396 Filed 11-10-72;8:46 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 27—CANNED FRUITS AND FRUIT JUICES

Canned Figs Identity Standard: Confirmation of Effective Date of Order Providing for Optional Use of Slightly Sweetened Water

In the matter of amending the standard of identity for canned figs (21 CFR 27.70) to provide for the use of slightly sweetened water as an optional packing medium:

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055–56 as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120) notice is given that no objections or requests for a hearing were filed to the order in the above-identified matter published in the FEDERAL REGISTER of August 9, 1972 (37 F.R. 15991). Accordingly, the amendment promulgated by that order became effective October 8, 1972.

Dated: November 7, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-19489 Filed 11-10-72;8:54 am]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting from Contact with Containers or Equipment and Food Additives Otherwise Affecting Food

SURFACE LUBRICANTS USED IN THE MANUFACTURE OF METALLIC ARTICLES

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 1B2629) filed by Quaker Chemical Corp., Conshohocken, Pa. 19428, and other relevant material, concludes that the food additive regulations should be amended as set forth below to provide for the safe use of tridecanol as a component of surface lubricants employed in the manufacture of metallic articles that contact food. The Commissioner further concludes that the tridecanol food additive should be identified as a synthetic primary alcohol mixture of straight- and branched-chain alcohols that contain at least 99 percent primary alcohols consisting of the following: Not less than 70 percent normal alcohols; not less than 93 percent C_{12}—C_{18} alcohols; not more than 5 percent C_{14}—C_{15} alcohols; and not more than 2.5 percent alpha, omega C_{18}—C_{19} diols.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2531(a)(2) is amended by alphabetically inserting in the list of substances the following new item:

§ 121.2531 Surface lubricants used in the manufacture of metallic articles.

* * *

(a) * * *

(2) * * *

List of substances	*Limitations*
* * *	* * *
Synthetic primary alcohol mixture of straight- and branched-chain alcohols that contain at least 99 percent primary alcohols consisting of the following: not less than 70 percent normal alcohols; not less than 93 percent C_{12}—C_{18} alcohols; not more than 5 percent C_{14}—C_{15} alcohols; and not more than 2.5 percent alpha, omega C_{18}—C_{19} diols. The alcohols are prepared from linear olefins from a purified kerosene fraction, carbon monoxide and hydrogen using a modified oxo process, such that the finished primary alcohol mixture meets the following specifications: Molecular weight, 194±5; hydroxyl number, 283–296.	For use only at a level not to exceed 8 percent by weight of the finished lubricant formulation.
* * *	* * *

* * * * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (11–11–72).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: November 6, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-19402 Filed 11-10-72;8:47 am]

SUBCHAPTER C—DRUGS

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Diethylcarbamazine Citrate Tablets

The Comissioner of Food and Drugs has evaluated a supplemental new animal drug application (6–462V) filed by American Cyanamid Co., Post Office Box 400, Princeton, NJ 08540, proposing revised labeling for the safe and effective use of diethylcarbamazine citrate tablets as an anthelmintic in the treatment of dogs and cats. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135c is amended by adding a new section as follows:

§ 135c.86 Diethylcarbamazine citrate tablets.

(a) *Specifications.* Diethylcarbamazine citrate tablets contain 50 or 400 milligrams of diethylcarbamazine citrate per tablet.

(b) *Sponsor.* See Code No. 004 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) The drug is used as an aid in the treatment of ascarids in dogs and cats and for the prevention of heartworm disease (*Dirofilaria immitis*) in dogs.

(2) For the treatment of ascarids in dogs and cats, the tablets are administered orally or pulverized and given in the feed or water at a dosage level of 25 to 50 milligrams of diethylcarbamazine citrate per pound of body weight. A repeat dose should be given in 10 to 20 days to remove immature worms which may enter the intestine from the lungs after the first dose.

(3) For the prevention of heartworm disease in heartworm endemic areas dogs should be given a daily dose of 3 milligrams of diethylcarbamazine citrate per pound of body weight.

(4) Dogs with established heartworm infections should not receive the drug until they have been converted to a negative status.

(5) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (11–11–72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: November 6, 1972.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.72-19490 Filed 11-10-72;8:54 am]

Title 22—FOREIGN RELATIONS

(3) Assistant Director.

(4) Assistant to the Director for Administration.

should be classified at all, he should designate the less restrictive treatment.

termine that under the criteria set forth in Executive Order 11652 continued classification is required, the requester

the requester should be asked to provide additional identifying information whenever possible. Before denying a request

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Title 22—FOREIGN RELATIONS

Chapter II—Agency for International Development, Department of State

[A.I.D. Reg. 11]

PART 211—TRANSFER OF FOOD COMMODITIES FOR USE IN DISASTER RELIEF AND ECONOMIC DEVELOPMENT, AND OTHER ASSISTANCE

Claims Against Ocean Carriers

The amendment of § 211.9(c) (2) (ii) (*a*) of Part 211 of Chapter II, Miscellaneous Amendments (A.I.D. Regulation 11), published in Volume 37, FEDERAL REGISTER, No. 165, Thursday, August 24, 1972 (37 F.R. 17028), inadvertently modified provisions in the current regulations which it is intended shall remain in effect. Therefore, § 211.9(c) (2) (ii) (*a*) as contained in the foregoing amendment is hereby revised to read as follows:

§ 211.9 Liability for loss and damage or improper distribution of commodities.

* * * * *

(c) * * *

(2) * * *

(ii) (*a*) Unless otherwise provided in the Food for Peace Program Agreement or other program document, voluntary agencies and intergovernmental organizations shall file notice of any cargo loss and damage with the carrier immediately upon discovery of any such loss and damage and shall promptly initiate claims against the ocean carriers for cargo loss and damage, and shall take all necessary action to obtain restitution for losses within any applicable periods of limitations. However, the voluntary agencies or intergovernmental organizations need not file a claim where the cargo loss is not in excess of $25, or in any case when the loss is in excess of $25 but not in excess of $100 and it is determined by the voluntary agencies or intergovernmental organizations that the cost of filing and collecting the claim will exceed the amount of the claim. Where a claim is in excess of $25 but not in excess of $400, the voluntary agencies or intergovernmental organizations may terminate collection activity on the claim according to the standards set forth in 4 CFR 104.3 (1972). Approval of such termination by CCC is not required but the voluntary agencies or intergovernmental organizations shall notify CCC when collection activity on a claim is terminated. The voluntary agencies or intergovernmental organizations will take no action to collect claims when there is loss or damage to commodities and general average has been declared. (See subdivision (iii) of this subparagraph (2).)

* * * * *

Effective date. The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER (11-11-72).

Dated: November 6, 1972.

JOHN A. HANNAH,
Administrator.

[FR Doc.72-19391 Filed 11-10-72;8:46 am]

Title 32—NATIONAL DEFENSE

Chapter XVII—Office of Emergency Preparedness

PART 1706—CLASSIFICATION AND DECLASSIFICATION OF NATIONAL SECURITY INFORMATION AND MATERIAL

The following regulations are issued pursuant to Executive Order 11652 of March 8, 1972 (37 F.R. 5209), entitled "Classification and Declassification of National Security Information and Material" and the National Security Council Directive of May 17, 1972, implementing that Executive order.

The Office of Emergency Preparedness security regulations have been approved by the Interagency Classification Review Committee; the following parts thereof affecting the public are published as required by the above-cited Executive order and directive.

Dated: November 3, 1972.

G. A. LINCOLN,
Director, Office of Emergency Preparedness.

Sec.
1706.1 Purpose.
1706.2 Authority to classify.
1706.3 Review of classified material for declassified purposes.
1706.4 Historical research and access by former Government officials.

AUTHORITY: The provisions of this Part 1706 are issued under Executive Order 11652 (37 F.R. 5209, March 10, 1972) and National Security Council Directive of May 17, 1972 (37 F.R. 10053, May 19, 1972).

§ 1706.1 Purpose.

To set forth those provisions of the Office of Emergency Preparedness Physical Security Regulations to the extent they affect the general public.

§ 1706.2 Authority to classify.

(a) Personal and nondelegable: Classification authority may be exercised only by those officials who are designated by, or in writing pursuant to, section 2 of Executive Order 11652. Such officials may classify information or material only at the level authorized or below. This authority vests only to the official designated and may not be delegated.

(b) The authority to originally classify information or material as Top Secret shall be exercised only by:

(1) Director.

(2) Deputy Director.

(3) Assistant Director.

(4) Assistant to the Director for Administration.

(c) The authority to originally classify information or material as Secret shall be exercised by those officials having Top Secret classification authority and the following:

(1) Executive Assistant.

(2) Assistant Director and General Counsel.

(3) Assistant to the Director for Planning Review.

(4) Health Adviser.

(5) Assistant to the Director for Congressional and Public Affairs.

(6) Assistant to the Director for Administration Chief, Security Division.

(7) Assistant Director for Government Preparedness.

(i) Deputy Assistant Director for Government Preparedness.

(*a*) Chief, Plans and Procedures Division.

(*b*) Chief, Implementation and Review Division.

(8) Assistant Director for Disaster Programs.

(9) Assistant Director for Resource Analysis.

(i) Deputy Assistant Director for Resource Evaluation.

(*a*) Chief, Stockpile Policy Division.

(ii) Deputy Assistant Director for Information and Analysis.

(*a*) Chief, Systems Evaluation Division.

(*b*) Chief, Information Systems Division.

(10) All Regional Directors.

(d) The authority to originally classify information or material as Confidential shall be exercised by all of the above.

(e) Observance of classification: Whenever information or material classified by an official designated under paragraph (a) of this section is incorporated in another document or other material by any person other than the classifier, the previously assigned security classification category shall be reflected thereon together with the identity of the classifier.

(f) Identification of classifier: The person at the highest level authorizing the classification must be identified on the face of the information or material classified, unless the identity of such person might disclose sensitive intelligence information. In the latter instance OEP shall establish some other record by which the classifier can readily be identified.

(g) Record requirement: The Office of Emergency Preparedness shall maintain a listing by name of the officials who have been designated in writing to have Top Secret, Secret, and Confidential classification authority. The listings and records shall be compiled beginning July 1, 1972, and updated at least on a quarterly basis.

(h) Resolution of doubts: If the classifier has any substantial doubt as to which security classification category is appropriate, or as to whether the material should be classified at all, he should designate the less restrictive treatment.

§ 1706.3 Review of classified material for declassification purposes.

(a) *Mandatory review of exempted material.* All classified information and material originated in OEP after June 1, 1972, which is exempt from the General Declassification Schedule shall be subject to a classification review by the originating office at any time after the expiration of 10 years from the date of origin provided:

(1) A department or agency or member of the public requests a review;

(2) The request describes the record with sufficient particularity to enable OEP to identify it; and

(3) The record can be obtained with only a reasonable amount of effort.

Information or material which no longer qualifies for exemption shall be declassified. Information or material continuing to qualify under the Exemptions Schedule shall be so marked and, unless impossible, a date for automatic declassification shall be set.

(b) *Systematic reviews.* All information and material originating in OEP and classified after the effective date of Executive Order 11652 and determined in accordance with Chapter 21, 44 U.S.C. (82 Stat. 1287) to be of sufficient historical or other value to warrant preservation shall be systematically reviewed on a timely basis by OEP for the purpose of making such information and material publicly available in accordance with the determination regarding declassification made by the classifier under Executive Order 11652. During each calendar year OEP shall segregate to the maximum extent possible all such information and material warranting preservation and becoming declassified at or prior to the end of such year. Promptly after the end of such year OEP, or the Archives of the United States if transferred thereto, shall make the declassified information and material available to the public to the extent permitted by law.

(c) *Review for declassification of classified material over 10 years old.* The OEP Security Division is designated the office to which members of the public or departments may direct requests for mandatory review for declassification. This office shall in turn assign the request to the appropriate office for action. In addition, the office which has been assigned action shall immediately acknowledge receipt of the request in writing. If the request requires the rendering of services for which fair and equitable fees should be charged pursuant to title 5 of the Independent Offices Appropriations Act, 1952, 65 Stat. 290, 31 U.S.C. 483a the requester shall be notified. The action office shall thereafter make a determination within 30 days of receipt or shall explain the reasons why further time is necessary. If at the end of 60 days from receipt of the request for review no determination has been made, the requester may apply to the OEP Classification Review Committee for a determination. Should the office assigned action on a request for review determine that under the criteria set forth in Executive Order 11652 continued classification is required, the requester shall promptly be notified, and whenever possible, provided with a brief statement as to why the requested information or material cannot be declassified. The requester may appeal any such determination to the OEP Classification Review Committee and the notice of determination shall advise him of this right.

(d) *Departmental committee review for declassification.* The OEP Classification Review Committee shall establish procedures to review and act within 30 days upon all applications and appeals regarding requests for declassification. The Director, OEP, acting through the Classification Review Committee shall be authorized to overrule previous determinations in whole or in part when, in its judgment, continued protection is no longer required. If the OEP Classification Review Committee determines that continued classification is required, it shall promptly so notify the requester and advise him that he may appeal the denial to the Interagency Classification Review Committee.

(e) *Review of classified material over 30 years old.* A request by a member of the public or by a department to review for declassification OEP documents more than 30 years old shall be referred directly to the Archivist of the United States, and he shall have the requested documents reviewed for declassification. If the OEP information or material requested has not been transferred to the General Services Administration for accession into the Archives, the Archivist shall, together with the Director of OEP, have the requested documents reviewed for declassification. Classification shall be continued in either case only where the Director of OEP makes at that time the personal determination required by section 5(E)(1) of Executive Order 11652. The Archivist shall promptly notify the requester of such determination and of his right to appeal the denial to the Interagency Classification Review Committee.

(f) *Burden of proof for administrative determinations.* For purposes of administrative determinations under paragraph (c), (d), or (e) of this section, the burden of proof is on the originating department to show that continued classification is warranted within the terms of the order.

(g) *Availability of declassified material.* Upon a determination of paragraph (c), (d), or (e) of this section that the requested material no longer warrants classification it shall be declassified and made promptly available to the requester, if not otherwise exempt from disclosure under section 552(b) of title 5 U.S.C. (Freedom of Information Act) or other provision of law.

(h) *Classification review requests.* As required by section 5(C) of the order, a request for classification review must describe the document with sufficient particularity to enable OEP to identify it and obtain it with a reasonable amount of effort. Whenever a request is deficient in its description of the record sought, the requester should be asked to provide additional identifying information whenever possible. Before denying a request on the ground that it is unduly burdensome, the requester should be asked to limit his request to records that are reasonably obtainable. If nonetheless the requester does not describe the records sought with sufficient particularity, or the record requested cannot be obtained with a reasonable amount of effort, the requester shall be notified of the reasons why no action will be taken and of his right to appeal such decision.

§ 1706.4 Historical research and access by former Government officials.

(a) The Director, OEP, upon written request may permit persons outside the executive branch performing functions in connection with historical research projects to have access to classified information if it is determined that (1) access to the information will be clearly consistent with the interests of national security, and (2) the persons to be granted access have the apropriate security clearances on record with the OEP Security Office.

(b) Every applicant for access shall beforehand agree in writing to the following:

(1) The historical researcher agrees to safeguard the information or material in a manner consistent with Executive Order 11652 and directives thereunder.

(2) The information or material requested is reasonably accessible and can be located and compiled with a reasonable amount of effort.

(3) The historical researcher agrees to authorize a review of his notes and manuscript for the sole purpose of determining that no classified information or material is contained therein.

(c) Access granted a person by reason of his having previously occupied a policymaking position shall be limited to those papers which the former official originated, reviewed, signed, or received while in public office.

(d) These requirements and procedures shall have no application to Restricted Data or formerly Restricted Data since access to such information may only be granted by the Atomic Energy Commission.

[FR Doc.72-19432 Filed 11-10-72;8:54 am]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Yellowstone National Park, Wyo.; Operation of Commercial Passenger-Carrying Motor Vehicles

Pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3),

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section 4 of the Act of May 7, 1894 (28 Stat. 73, 16 U.S.C. 26), 245 DMI (27 F.R.

to be followed by such vehicles within the park.

(1) A transferee either immediate or remote is legally liable to the Admin-

received on these proposals. The remaining six proposals contained in that notice

lished June 21, 1972 (37 F.R. 12237), to Motor Vehicle Safety Standard No. 205,

special features for occasional off-road operation." The agency has decided to adhere to this position.

section 4 of the Act of May 7, 1894 (28 Stat. 73, 16 U.S.C. 26), 245 DMI (27 F.R. 6395), as amended, National Park Service Order No. 66 (36 F.R. 21218), as amended, and Midwest Region Order No. 5 (37 F.R. 6324), § 7.13 of Title 36 of the Code of Federal Regulations is hereby amended as set forth below.

The purpose of the amendment is to elliminate the clause "which tour did not originate within 500 miles of the park boundaries" from the first sentence of paragraph (f) as an unnecessary restriction on operation of passenger-carrying motor vehicles in the park and to substitute the clause "on which the visit to the park is an incident to such tour." In addition, the phrase "at or outside the park" has been deleted from the last sentence of paragraph (f) as misleading and unnecessary since no such services outside the park are provided pursuant to a contract with the Secretary of the Interior.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. However, due to immediate need for this change, the amendment will take effect immediately on publication in the FEDERAL REGISTER (11–11–72).

(5 U.S.C. 553; 39 Stat. 535, as amended; 16 U.S.C. 3)

Section 7.13 of Title 36 of the Code of Federal Regulations is hereby amended to read as follows:

§ 7.13 Yellowstone National Park.

• • • • •

(f) *Commercial automobiles and buses.* The prohibition against the commercial transportation of passengers by motor vehicles in Yellowstone National Park contained in § 5.4 of this chapter shall be subject to the following exception: Motor vehicles operated on an infrequent and nonscheduled tour on which the visit to the park is an incident to such tour, carrying only round trip passengers traveling from the point of origin of the tour will, subject to the conditions set forth in this paragraph, be accorded admission to the park for the purpose of delivering passengers to a point of overnight stay in the park and exit from the park. After passengers have completed their stay, such motor vehicles shall leave the park by the most convenient exit station, considering their destinations. Motor vehicles admitted to the park under this paragraph shall not, while in the park, engage in general sightseeing operations. Admission will be accorded such vehicles upon establishing to the satisfaction of the superintendent that the tour originated from such place and in such manner as not to provide in effect a regular and duplicating service conflicting with, or in competition with, the services provided for the public pursuant to contract authorization from the Secretary. The superintendent shall have the authority to specify the route to be followed by such vehicles within the park.

• • • • • •

JACK K. ANDERSON,
Superintendent,
Yellowstone National Park, Wyoming.

[FR Doc.72–19385 Filed 11–10–72;8:45 am]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 36—LOAN GUARANTY

Release of Liability

The Veterans Administration is amending §§ 36.4323 and 36.4508, Title 38 of the Code of Federal Regulations to implement the provisions of section 204 of Public Law 92–328 (86 Stat. 393). The amendment is issued pursuant to the authority of section 210(c), Title 38, United States Code. The regulations set forth the conditions under which a veteran who has disposed of residential property securing a guaranteed, insured, or direct loan obtained by him under 38 U.S.C. Ch. 37 without receiving a release from liability with respect to such loan may, after termination of the loan, be released from liability on the resulting indebtedness.

The regulations were published in proposed form in the FEDERAL REGISTER on August 24, 1972 (37 F.R. 17067), with a request for comment from interested parties. The few comments received approved the change insofar as it went but requested further extension of the new regulations. The suggested changes were beyond the scope of the law (Public Law 92–328) and therefore cannot be incorporated in the regulations.

Effective date. These VA regulations are effective on the date of approval of the Administrator.

Approved: November 6, 1972.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

1. In § 36.4323, paragraph (g) is added to read as follows:

§ 36.4323 Subrogation and indemnity.

• • • • •

(g) If, on or after July 1, 1972, any veteran disposes of residential property securing a guaranteed or insured loan obtained by him under 38 U.S.C. Ch. 37, without receiving a release from liability with respect to such loan under 38 U.S.C. 1817(a) and a default subsequently occurs which results in liability of the veteran to the Administrator on account of the loan, the Administrator may relieve the veteran of such liability if he determines that:

(1) A transferee either immediate or remote is legally liable to the Administrator for the debt of the original veteran-borrower established after the termination of the loan, and

(2) The original loan was current at the time such transferee acquired the property, and

(3) The transferee who is liable to the Administrator is found to have been a satisfactory credit risk at the time he acquired the property.

2. In § 36.4508, paragraph (c) is added to read as follows:

§ 36.4508 Transfer of property by borrower.

• • • • •

(c) If, on or after July 1, 1972, any veteran disposes of the property securing a direct loan obtained by him under 38 U.S.C. Ch. 37, without receiving a release from liability with respect to such loan under 38 U.S.C. 1817(a) and a default subsequently occurs which results in liability of the veteran to the Administrator on account of the loan, the Administrator may relieve the veteran of such liability if he determines that:

(1) A transferee either immediate or remote is legally liable to the Administrator for the debt of the original veteran-borrower established after the termination of the loan, and

(2) The original loan was current at the time such transferee acquired the property, and

(3) The transferee who is liable to the Administrator is found to have been a satisfactory credit risk at the time he acquired the property.

[FR Doc.72–19399 Filed 11–10–72;8:47 am]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

[CGD 72–34]

PART 146—TRANSPORTATION OR STORAGE OF EXPLOSIVES OR OTHER DANGEROUS ARTICLES OR SUBSTANCES AND COMBUSTIBLE LIQUIDS ON BOARD CARGO VESSELS

Nitrogen Tetroxide

The purpose of this amendment is to:

1. Authorize DOT 3A, 3AA, and 3E cylinders for nitrogen tetroxide, liquid.

2. Revise the exemptions concerning labeling requirements to bring them into consonance with DOT regulations.

On Wednesday, March 1, 1972, the Coast Guard published a notice of proposed rule making containing these proposals. A public hearing was held on May 24, 1972, and interested persons were given 90 days in which to submit written comments. No comments were

received on these proposals. The remaining six proposals contained in that notice will be handled in a future rule making.

In consideration of the foregoing Title 46, Code of Federal Regulations, Part 146 is amended as follows:

§ 146.25–100 [Amended]

1. In § 146.25–100 "Table H-Classification: Class A extremely dangerous poisons" for the article "Nitrogen tetroxide, liquid" by adding to column 4 the following:

Authorized for nitrogen tetroxide liquid only:
Cylinders (DOT 3A1800, 3AA1800 or 3E1800) Specification 3A and 3AA cylinders must not exceed 125-pound water capacity (nominal) and must have valve protection or be packed in strong wooden or metal boxes as described in 49 CFR 173.327(a)(2). Specification 3E1800 cylinders must be packed in strong wooden or metal boxes.

2. By revising § 146.08–31 to read as follows:

§ 146.08–31 Exemptions concerning labeling requirements.

(a) Packages containing explosives or other dangerous articles or substances need not be labeled when the packages are loaded and unloaded under the supervision of Department of Defense personnel and under escort by Department of Defense personnel in a separate vehicle.

(b) Cylinders containing compressed gases classed as flammable or nonflammable need not be labeled when the cylinders are—

(1) Carried by private and contract motor carriers;

(2) Not overpacked; and

(3) Durable and legibly marked in accordance with CGA Pamphlet C–7 Appendix A, dated May 15, 1971, entitled "A Guide for the Preparation of Precautionary Markings for Compressed Gas Containers."

This amendment becomes effective on February 16, 1973.

(R.S. 4472, as amended, R.S. 4417a, as amended; sec. 1, 19 Stat. 252, 49 Stat. 1889, sec. 6(b)(1), Stat. 937; 46 U.S.C. 170, 391a, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Dated: November 6, 1972.

C. R. BENDER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.72–19431 Filed 11–10–72;8:51 am]

Title 49—TRANSPORTATION

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket 71–1; Notice 4]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Glazing Materials; Response to Petitions for Reconsideration

This notice responds to petitions for reconsideration of an amendment published June 21, 1972 (37 F.R. 12237), to Motor Vehicle Safety Standard No. 205, "Glazing Materials" (49 CFR 571.205). Petitions were received from the Recreational Vehicle Institute (RVI) and the California Highway Patrol. To the extent that this notice does not grant the requests of the petitioners, they are hereby denied.

In the amendment of June 21, the NHTSA changed the application section of the standard, based on FHWA Ruling 68–1 (33 F.R. 5020, March 26, 1968) to expressly include glazing for use in all campers, and defined campers to include both slide-in or "pickup" campers (including a related item, pickup covers), and chassis-mount campers (campers mounted directly onto truck chassis). The 1968 ruling held that Standard No. 205 applied to glazing for use in slide-in campers, and that glazing for use in chassis-mount campers came within the standard when the camper was ultimately attached to a chassis, as a standard applied expressly to the glazing of the completed vehicle, a multipurpose passenger vehicle. The petitioner objects to this amendment on the basis that the recreational vehicle industry has distinguished between the two camper types, and has considered the latter a motor home (a multipurpose passenger vehicle under Standard No. 205), and the former an item of motor vehicle equipment. It requests in its petition that this earlier distinction be retained in the standard.

The NHTSA has determined that the petition of RVI in this regard should be granted, and the applicability section of the standard is amended to refer specifically both to glazing for use in "slide-in campers," as that term is defined in Motor Vehicle Safety Standard No. 126, Truck-Camper Loading (49 CFR 571.126), and to glazing for use in pickup covers. Chassis-mount campers are included in a newly defined category of multipurpose passenger vehicle, "motor home," and glazing for use in them is subject to the standard insofar as they are incorporated into completed vehicles.

The RVI petition also requested that the requirements of the standard for glazing for use in multipurpose passenger vehicles (including chassis-mount campers and other motor homes) be clarified, suggesting that the requirements be made identical to those for passenger car glazing, with an exception in the case of motor homes for locations other than windshields, and windows directly to the right and left of the driver. It further requested that forward-facing windows of motor homes be considered to be "openings in the roof" under ANS Z.26. The NHTSA has previously, as a matter of interpretation, taken the position that is embodied in this amendment, that for the purposes of Standard No. 205 glazing for use in multipurpose passenger vehicles is subject to the requirements for glazing for use in trucks. This is based on the definition of multipurpose passenger vehicle in section 571.3: "A motor vehicle with motive power, except a trailer, designed to carry 10 persons or less, which is constructed either on a truck chassis or with special features for occasional off-road operation." The agency has decided to adhere to this position.

An exception is hereby adopted for motor home windows other than windshields, forward-facing windows, and windows directly to the right and left of the driver. Manufacturers may use in these other locations any type of glazing allowed by the standard to be used in motor vehicles. This is the position previously adopted for slide-in campers, which have a purpose and use similar to motor homes. The effect of this provision is to allow the use in motor homes, except for windshields, forward-facing windows, and windows to the immediate right and left of the driver, of any item authorized for use in motor vehicles by Standard No. 205. Windshields and windows to the immediate right and left of the driver must conform to the requirements applicable to trucks for those locations. Forward-facing windows may be manufactured of any item authorized for use by the standard except item 6 (AS 6), item 7 (AS 7), and item 13 (AS 13) flexible plastics.

The California Highway Patrol has petitioned for reconsideration of that part of the amendment which seemed to delete a requirement that persons who cut glazing material must place on the cut material the prime manufacturer's marking. Section 6 of ANS Z26 requires sections of glazing cut from pieces bearing the markings required by that section to be identically marked. The June 21 notice did not delete this provision. It deleted that part of the proposed requirements specifying that persons who cut glazing materials include the DOT symbol and the prime manufacturer's code number. The language of the preamble (p. 12238, col. 3) was intended to reflect only that fact. This amendment clarifies those requirements to make it clear that persons who cut glazing must include the markings required by section 6 of ANS Z26 on each cut piece. The amendment also provides that the prime manufacturer's DOT symbol and code number are to be affixed only to glazing items made by the prime manufacturer as components for specific vehicles, and not on sheets to be cut into components by other persons.

The marking provisions are further amended to specify that the new items of glazing material authorized by the amendment of June 21 be identified for purposes of marking by the marks "AS 12" and "AS 13". The use of these marks does not indicate approval by the American National Standards Institute, but is specified for the purpose of consistency with existing marking requirements.

In light of the above, Motor Vehicle Safety Standard No. 205, Glazing Materials, appearing at 49 CFR 571.205, is amended as follows:

1. Paragraph S3., Application, is revised to read as follows:

S3. *Application.* This standard applies to glazing materials for use in passenger cars, multipurpose passenger vehicles, trucks, buses, motorcycles, slide-in campers, and pickup covers designed to carry persons while in motion.

2. Paragraph S4., Definitions, is revised to read as follows:

S6. *Certification and marking.*

S6.1 Each prime glazing material

In the matter of Administrative Ruling No. 76, No. MC–C–6786, Milton K. Morris,

Commission at Washington, D.C., and by filing a copy thereof with the Director,

of the term "control year" for pay adjustments involving certain nonunion

(Economic Stabilization Act of 1970, as amended (Public Law 92–210, 85 Stat. 743), Executive Order No. 11,640, 37 F.R. 1213

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2. Paragraph S4., Definitions, is revised to read as follows:

S4. *Definitions.* "Camper" means a structure designed to be mounted in the cargo area of a truck, or attached to an incomplete vehicle with motive power, for the purpose of providing shelter for persons.

"Motor home" means a multipurpose passenger vehicle that provides living accommodations for persons.

"Pickup cover" means a camper having a roof and sides but without a floor, designed to be mounted on and removable from the cargo area of a truck by the user.

"Slide-in camper" means a camper having a roof, floor, and sides, designed to be mounted on and removable from the cargo area of a truck by the user.

3. Paragraph S5.1.1.2 is revised to read as follows:

S5.1.2.2 • • •

(j) Windows and doors in motor homes, except for the windshield and windows to the immediate right or left of the driver.

(k) Windows and doors in slide-in campers and pickup covers.

4. Paragraph S5.1.1.3 is revised to read as follows:

S5.1.1.3 • • •

(j) Windows and doors in motor homes, except for the windshield, forward-facing windows, and windows to the immediate right or left of the driver.

(k) Windows, except forward-facing windows, and doors in slide-in campers and pickup covers.

5. A new paragraph S5.1.1.5 is added, to read as follows:

S5.1.1.5 *Multipurpose passenger vehicles.* Except as otherwise specifically provided by this standard, glazing for use in multipurpose passenger vehicles shall conform to the requirements for glazing for use in trucks as specified in ANS Z26.

6. Paragraph S5.1.2.1 is revised to read as follows:

S5.1.2.1 *Item 12—Rigid plastics.*

• • • • •

(a) Windows and doors in slide-in campers and pickup covers.

• • • • •

(g) Windows and doors in motor homes, except for the windshield and windows to the immediate right or left of the driver.

7. Paragraph S5.1.2.2 is revised to read as follows:

S5.1.2.2 *Item 13—Flexible plastics.*

• • • • •

(a) Windows, except forward-facing windows, and doors in slide-in campers and pickup covers.

• • • • •

(g) Windows and doors in motor homes, except for the windshield, forward-facing windows, and windows to the immediate right or left of the driver.

8. Paragraph S6. is revised to read as follows:

S6. *Certification and marking.*

S6.1 Each prime glazing material manufacturer, except as specified below, shall mark glazing materials manufactured by him in accordance with section 6 of ANS Z26. The materials specified in S5.1.2.1 and S5.1.2.2 shall be identified by the marks "AS 12" and "AS 13" respectively. A prime glazing material manufacturer is one who fabricates, laminates, or tempers the glazing material.

S6.2 Each prime glazing material manufacturer shall certify each piece of glazing material to which this standard applies that is designed as a component of any specific motor vehicle or camper, pursuant to section 114 of the National Traffic and Motor Vehicle Safety Act of 1966, by adding to the mark required by S6.1 in letters and numerals of the size specified in section 6 of ANS Z26, the symbol "DOT" and a manufacturer's code mark, which will be assigned by the NHTSA on the written request of the manufacturer.

S6.3 Each prime glazing material manufacturer shall certify each piece of glazing material to which this standard applies that is designed to be cut into components for use in motor vehicles or items of motor vehicle equipment, pursuant to section 114 of the National Traffic and Motor Vehicle Safety Act.

S6.4 Each manufacturer or distributor who cuts a section of glazing material to which this standard applies, for use in a motor vehicle or camper, shall mark that material in accordance with section 6 of ANS Z26.

S6.5 Each manufacturer or distributor who cuts a section of glazing material to which this standard applies, for use in a motor vehicle or camper, shall certify that his product complies with this standard in accordance with section 114 of the National Traffic and Motor Vehicle Safety Act.

Effective date. The effective date of April 1, 1973, is retained.

(Secs. 103, 114, 119, National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1403, 1407; delegation of authority, 49 CFR 1.51)

Issued on November 8, 1972.

DOUGLAS W. TOMS,
Administrator.

[FR Doc.72-19487 Filed 11-9-72;10:56 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER B—OTHER REGULATIONS RELATING TO TRANSPORTATION

[Ex Parte No. MC-83]

PART 1053—CONTRACTS FOR THE TRANSPORTATION OF PROPERTY

Contract Carrier Authority; Definition of Shipper

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 19th day of October 1972.

In the matter of Administrative Ruling No. 76, No. MC-C-6786, Milton K. Morris, Inc., petition for declaratory order.

It appearing, that by notice of proposed rule making and order of October 14, 1970, this Commission instituted the above-cited rule making proceeding to consider whether and to what extent Commission policies announced informally in Administrative Ruling No. 76 in 1939, should be revised in the light of present-day conditions and practices surrounding and affecting the operations of a contract carrier by motor vehicle as defined in section 203(a)(15) of the Interstate Commerce Act; and to take such other and further action as the facts and circumstances may justify or require;

It further appearing, that the proceeding in No. MC-C-6786 was held open pending the determination in the above-cited Ex Parte proceeding;

And it further appearing, that investigation of the matters and things involved in these proceedings having been made, and the Commission having made and filed a report herein containing its findings of fact and conclusions thereon, which report is hereby made a part hereof;

It is ordered, That Part 1053 of Subchapter B of Chapter X of Title 49 of the Code of Federal Regulations be, and it is hereby, amended by adding a new § 1053.7, reading as follows:

§ 1053.7 Contract carrier authority—definition of shipper.

Contracts of contract carriers, as required by Ex Parte No. MC-12 (1 M.C.C. 628), must be between the contract carrier and a particular shipper or shippers. The term "shipper" means the person who controls the transportation and refers to the actual shipper rather than an intermediary. Such shipper may be nominally either the consignor or consignee, but must be one or the other. The payment of the charges for the transportation is evidence that the person who pays is the person who controls the transportation and such person will be presumed to be the shipper. However, this presumption is rebuttable and can be rebutted by evidence demonstrating that a person not paying the transportation charges controls the selection of the carrier and the routing of the shipment. In such an instance, the person selecting the carrier and controlling the routing of the shipment would be presumed to be the shipper. The contract carrier may not transport property for shippers other than the shipper with whom he has a contract.

It is further ordered, That in all other respects, the petition in No. M-C-6786 be, and it is hereby, denied.

It is further ordered, That this order shall become effective on December 26, 1972, and shall continue in effect until the further order of this Commission.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the

Commission at Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 72-19458 Filed 11-10-72;8:50 am]

Title 6—ECONOMIC STABLIZATION

Chapter II—Pay Board

PART 201—STABILIZATION OF WAGES AND SALARIES

Extension of Control Year for Nonunion Construction

The purpose of the amendment set forth below is to provide a new definition of the term "control year" for pay adjustments involving certain nonunion construction employees. Under present § 201.82(f), that term means the 12-month period beginning on November 14, 1971, and ending on November 13, 1972. The amendment would extend the definition to mean each succeeding 12-month period beginning on November 14.

Since this amendment is essential to the expeditious implementation of the Economic Stabilization Act of 1970, as amended, and Executive Order No. 11640, as amended, the Board finds that the time for submission of written comments by interested persons in accordance with the usual rule making procedure is impracticable and that good cause exists for promulgating this amendment in less than 30 days. Interested persons may submit written comments regarding the amendment. Communications should be addressed to the Office of the General Counsel, Pay Board, Washington, D.C. 20508.

(Economic Stabilization Act of 1970, as amended (Public Law 92-210, 85 Stat. 743), Executive Order No. 11,640, 37 F.R. 1213 (1972), as amended by Executive Order No. 11,660, 37 F.R. 6175 (1972), and Cost of Living Council Order No. 3, 36 F.R. 20202 (1971), as amended)

Effective date. This amendment is effective November 11, 1972.

GEORGE H. BOLDT,
Chairman.

Section 201.82 is amended by revising paragraph (f) to read as follows:

§ 201.82 Definitions.

For purposes of this subpart, the term

• • • • • •

(f) "Control year" means the period from November 14, 1971 through November 13, 1972, and each succeeding 12-month period beginning on November 14.

• • • • • •

[FR Doc.72-19603 Filed 11-10-72;12:05 pm]

Proposed Rule Making

their milk than they do now. He reasoned that the increases and decreases

that was adopted in the January 24, 1972, decision for the 61 orders likewise should

than was taken for the other orders that were under consideration.

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 929]

HANDLING OF CRANBERRIES GROWN IN CERTAIN STATES

Proposed Expenses for Fiscal 1971–72

Consideration is being given to the following proposal submitted by the Cranberry Marketing Committee established pursuant to the marketing agreement, as amended, and Order No. 929, as amended (7 CFR Part 929), regulating the handling of cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the provisions thereof:

a. That the Secretary find that provisions pertaining to the expenses in paragraph (a) of § 929.212 *Expenses and rate of assessment* (36 F.R. 24213) be amended as follows:

§ 929.212 Expenses and rate of assessment.

(a) *Expenses.* The expenses that are reasonable and likely to be incurred by the Cranberry Marketing Committee during the fiscal period September 1, 1971, through August 31, 1972, will amount to $54,575.

* * * * *

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposal shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: November 8, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-19466 Filed 11-10-72;8:50 am]

[7 CFR Part 1121]

[Docket No. AO-364-A5]

MILK IN SOUTH TEXAS MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the South Texas marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the seventh day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order, as amended, were formulated was conducted at Washington, D.C., on December 13, 1971, pursuant to notice thereof which was issued December 3, 1971 (36 F.R. 23222).

This hearing was held to consider certain proposed amendments to all Federal milk orders in effect, including the South Texas order. Following the issuance of a recommended decision on January 5, 1972 (37 F.R. 447), and a final decision on January 24, 1972 (37 F.R. 1368), concerning the hearing proposals, all orders except the South Texas order were amended effective February 1, 1972 (37 F.R. 2927).

A decision on the proposed amendments to the South Texas order was deferred pending the outcome of a preliminary injunction by the U.S. District Court for the District of Columbia which restrained the Secretary from effectuating an order, issued July 16, 1971, terminating the South Texas order. On October 26, 1972, the court vacated its preliminary injunction and the order terminating the South Texas order was rescinded by the Assistant Secretary on November 7, 1972. These actions now permit a decision on the proposed amendments to the South Texas order.

The material issues on the record of the hearing relate to:

1. Advancing the date for announcing the Class I price; and
2. Taking emergency action on Issue 1.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Advance pricing.* The South Texas order should provide that the Class I price for the month be announced by the fifth day of the preceding month, and that such price be based on the Minnesota-Wisconsin price (basic formula price) for the second preceding month. Presently, the order requires that the Class I price be announced by the fifth day of the current month, and that it be based on the Minnesota-Wisconsin price for the preceding month.

This manner of computing and announcing the Class I price was incorporated in each of the other 61 orders included in this hearing. In the January 24, 1972, decision for these orders, the following findings and conclusions were set forth:

"The Milk Industry Foundation (MIF), whose membership includes handlers under the 62 orders, proposed the earlier determination and announcement of Class I prices adopted herein. MIF claims that because handlers are unable to adjust their resale prices at the same time as, or within a reasonable period of, the change in their raw material cost, they are forced to absorb Class I price increases for extended periods before they can make necessary adjustments in their resale prices. The need for advance pricing is particularly urgent now, according to MIF, because of the requirements to which handlers are subject under the Economic Stabilization Act. Proponents claim handlers would be required to substantiate resale price increases resulting from Class I price changes in accordance with steps prescribed pursuant to that Act."

This procedure, it is argued, will extend even further the period of time between a Class I price change and the corresponding adjustment in resale prices.

"A handler who operates regulated plants under a number of orders testified in support of the MIF proposal. The witness emphasized particularly that advance pricing is needed by handlers to enable them to change resale prices at the same time the Class I price increases. He stated that handlers are now at a disadvantage in not knowing the Class I price for the month before the fifth of the month and, therefore, are unable to institute resale price changes before the greater part of the month to which the Class I price applies is over.

"National Milk Producers Federation (NMPF), which represents producer associations under the 62 orders, supported the MIF proposal. A number of producer association members of NMPF maintain milk processing and distribution operations. According to the NMPF witness, such associations have the same interest in advance Class I pricing as do proprietary handlers. The witness further stated that its other producer association members, however, fully support the proposal. He took the position that using the Minnesota-Wisconsin price for a month earlier than at present (in computing the Class I price) would not result in producers receiving any less money for

their milk than they do now. He reasoned that the increases and decreases from month to month in the Class I price (due to changes in the Minnesota-Wisconsin price) would be fully reflected in returns to producers as they now are, except for a delay of 1 month.

"The spokesman for the cooperative representing producers under five orders in the Northeast stated that the cooperative had not had sufficient time to study the proposal and its effect on its members, and therefore, urged that no action be taken on it. He questioned particularly whether the principal basis of proponents for requesting advance pricing is a valid one. In this connection, he cited an earlier decision of the Secretary in which it was found that there is no basis for assuming that there is a direct relationship between changes in Class I prices and changes in prices charged to stores and to consumers.

"The rapidly changing structure of the milk distribution industry throughout the United States makes it desirable that handlers be notified at a reasonable period in advance of changes in the price they must pay for Class I milk. An increasing proportion of the milk distribution throughout the country is by large firms, including cooperative associations as well as proprietary handlers. The centralized control of these large distributors requires a longer period of time between the date a Class I price change is announced and the time when the change may be made in their resale prices.

"According to an industry witness, it is mechanically impossible to place in effect a price increase in less than 2 to 4 weeks after learning of Class I price changes. This problem is compounded by the adoption of machine accounting by both handlers and retailers. Computer programs must be changed by both parties, a new price list developed and circulated by handlers, and new pricing schedules issued to retailers by both chain and cooperative buying groups.

"The major portion of the distribution of the principal handlers in the order markets is to large volume buyers such as supermarket chains and institutions (e.g., hospitals, schools). The prices at which sales are made to these are primarily on a contractual basis, many by advance bidding. Announcing Class I prices before the month to which they apply will facilitate the resale pricing of milk sold to large volume outlets.

"Replacing the Minnesota-Wisconsin price for the month immediately preceding with that for the second preceding month for computing Class I prices need not have, as testified by producers, any significant effect on producer returns since the proposed change only involves advance setting of price and not a change in the basis of pricing Class I milk."

These findings and conclusions concerning the marketing conditions in the areas regulated by the 61 orders are equally applicable to the South Texas market. Accordingly, the manner of computing and announcing the Class I price that was adopted in the January 24, 1972, decision for the 61 orders likewise should be adopted for the South Texas order.

To maintain pricing continuity for the first month in which these changes are effective, it is necessary to specify in the order that the market administrator shall announce by the fifth day of such month the Class I price for that month as well as the Class I price for the following month. As under the new pricing arrangement, the Class I price announced for this first month should be computed by using the Minnesota-Wisconsin price for the second preceding month. Using the earlier Minnesota-Wisconsin price will result in the South Texas Class I price being coordinated with the Class I prices under other Federal orders in this first month.

No change should be made in the method of computing the Class I butterfat differential. This differential, which is announced for the current month by the fifth day of such month, is based on the average of the wholesale selling prices of 92-score butter at Chicago for the preceding month.

Proponents advocating the use of the Minnesota-Wisconsin price for the second preceding month in computing the Class I price proposed at the hearing that the Class I butterfat differential be announced by the fifth day of the preceding month and be based on the Chicago butter prices for the second preceding month. The hearing notice contained no proposal, however, for advancing the Class I butterfat differential announcements. Those proposing it urged its adoption as an appropriate corollary change.

This proposal was not adopted for the other 61 orders included in this hearing. The following findings and conclusions on this issue were set forth in the 61-market decision:

"The Class I butterfat differential changes infrequently. This is because the Chicago butter price quotations, which are strongly influenced by the prices paid for butter by the Government under the price support program, do not vary significantly from month to month. Consequently, there is no compelling need to advance the Class I butterfat differential announcement in connection with the adoption of advance Class I pricing. Moreover, proposals to revise the butterfat differential provisions in 40 of the 62 orders were considered at hearings which began in Clayton, Mo., July 14, 1970 (35 F.R. 10694), for seven orders and in Atlanta, Ga., on October 18, 1971 (36 F.R. 19604), for 33 orders. Action on the record of these hearings has not been completed. It would be inappropriate, therefore, to amend any butterfat differential provision in these orders without full consideration of the evidence on the still open records of the hearings previously held."

There is no basis on the record of this hearing for taking a different action with respect to the Class I butterfat differential under the South Texas order than was taken for the other orders that were under consideration.

The uniform provisions concerning the announcement of class prices, butterfat differentials, and uniform prices that were adopted for the 61 other orders included in this hearing should be incorporated in the South Texas order. For Class I, the price announced by the fifth day of the month would be that for the following month, while the announced butterfat differential would be that for the current month. The Class II price and butterfat differential announced by that date would be for the preceding month, as at present. The announcement date for the uniform price under this and other orders was not under consideration and is unchanged by this decision. Under the uniform provisions for price announcements the market administrator will continue to have an obligation to notify handlers and other interested parties of all price announcements.

Similarly, the uniform basic formula price provisions that were adopted for the 61 orders should be adopted for the South Texas order. As provided herein, the basic formula price would be "the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5-percent-butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33."

As noted in the decision for the other 61 orders, no purpose is served by the variations among orders in the language used to define the basic formula price. The South Texas order, therefore, should be made uniform in this respect with the other orders. This change will not affect the level of the basic formula price now existing under the South Texas order.

In the 61-market decision, it was stated that the Class I price under all orders "is determined, directly or indirectly, by adding a differential to the basic formula price. In most orders the Class I differential is a stated amount 'plus 20 cents.' The 'plus 20 cents,' which was instituted in these orders by amendment for specified periods prior to January 1, 1969, has been effective without a termination date since then. There is, therefore, no apparent need to continue listing the 'plus 20 cents' separately from the stated Class I differential. In the amended order language here adopted, the Class I differential for each order is stated as one amount, which includes the plus 20 cents heretofore listed separately." For these same reasons, a comparable change should be made in the manner of stating the Class I price differential in the South Texas order.

2. *Emergency action.* Proponents re-

ing numbers of the backtags or other approved identification applied; *Provided*,

mals covered by the statement or other document, (*d*) the identifying numbers

Great progress has been made in the control and eradication of communicable

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2. *Emergency action.* Proponents requested that the recommended decision on proposed amendments to the 62 orders under consideration be omitted to facilitate prompt effectuation of the advance pricing provisions. This request, which was denied for the 61 orders dealt with in the earlier decision, likewise is denied for the South Texas order.

A primary reason advanced by proponents for emergency action is the time-consuming procedures required for making price changes under the Economic Stabilization Program (Phase II). This is not a problem distinguishable on the record from the problems faced by participants in many other industries with respect to the pricing of their goods. Also, there is uncertainty at present of the extent to which the various categories of milk handlers are affected by that program. It cannot be concluded, therefore, that the requirements of the Economic Stabilization Act per se warrant the emergency action requested.

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RECOMMENDED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the South Texas marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. In § 1121.22, paragraph (i) is revised as follows:

§ 1121.22 Additional duties of the market administrator.

* * * * *

(i) Publicly announce on or before:

(1) The fifth day of each month:

(i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;

(ii) The Class I butterfat differential for the current month; and

(iii) The Class II price and Class II butterfat differential, both for the preceding month; and

(2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

* * * * *

2. Section 1121.50 is revised as follows:

§ 1121.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5-percent-butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

3. In § 1121.51, paragraph (a) is revised as follows:

§ 1121.51 Class prices.

* * * * *

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.68.

* * * * *

Signed at Washington, D.C., on November 7, 1972.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.72-19422 Filed 11-10-72;8:49 am]

Animal and Plant Health Inspection Service

[9 CFR Part 71]

INTERSTATE MOVEMENT OF CATTLE

Proposed Identification

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to the provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, and the Act of March 3, 1905, as amended (21 U.S.C. 111–113, 114a, 114a–1, 115–117, 120–126), the Animal and Plant Health Inspection Service is considering amending § 71.18 of Part 71, Title 9, Code of Federal Regulations.

Section 71.18 would be amended to read:

§ 71.18 Individual identification of certain cattle 2 years of age or over for interstate movement.

(a) No cattle 2 years of age or over, except steers and spayed heifers, shall be moved interstate other than in accordance with the requirements of this section. All interstate movements of any cattle shall also comply with the other applicable provisions in this part and other parts of this subchapter.

(1) When permitted under such other provisions, cattle subject to this section:

(i) May be moved interstate from any point to any destination, if such cattle, when moved interstate, are identified by a Department-approved backtag affixed a few inches from the midline and just behind the shoulder of the animal, or by other means approved by the Deputy Administrator, Veterinary Services, upon request in specific cases, and if such cattle are accompanied by a statement signed by the owner or shipper of the cattle, or other document,[1] stating: (*a*) The point from which the animals are moved interstate; (*b*) the destination of the animals; (*c*) the number of animals covered by the statement, or other document; (*d*) the name and address of the owner or shipper;[2] and (*e*) the identifying numbers of the backtags or other approved identification applied: *Provided,* That identification numbers are not required to be recorded on such statement or document for cattle moved from a stockyard posted under the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), directly to a slaughtering establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) or slaughtering establishment specifically approved under § 78.16 (b) of this subchapter; or

(ii) May be moved interstate only from a farm, ranch, or feedlot to a slaughtering establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) or slaughtering establishment specifically approved under § 78.16(b) of this subchapter; or to a stockyard posted under the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), for sale and shipment to such a slaughtering establishment, if such cattle are identified when received at such slaughtering establishment or stockyard by the application of Department-approved backtags or by other approved identification as prescribed in subdivision (i) of this subparagraph, and, when moved interstate, are accompanied by a statement signed by the owner or shipper of the cattle, or other document[1] stating: (*a*) The point from which the animals are moved interstate; (*b*) the destination of the animals; (*c*) the number of animals covered by the statement or other document; and (*d*) the name and address of the owner or shipper: *Provided,* That the application of backtags is not required if such cattle are moved interstate to a federally inspected or specifically approved slaughtering establishment and if, when moved interstate, such cattle are identified by individual brands registered with an official brand inspection agency and are accompanied by an official brand inspection certificate: *And provided further,* That the application of backtags is not required when such cattle are moved interstate to a federally inspected or specifically approved slaughtering establishment, which maintains records of ownership of cattle by slaughter lot number;[3] or

(iii) May be moved interstate for breeding or dairy purposes if such cattle, when moved interstate are identified by Animal and Plant Health Inspection Service-approved eartags in lieu of backtags, and are accompanied by an owner's statement or other document[1] stating: (*a*) The point from which the animals are moved interstate, (*b*) the destination of the animals, (*c*) the number of animals covered by the statement or other document, (*d*) the identifying numbers of the eartags, and (*e*) the name and address of the owner or shipper: *Provided,* That identification by eartag is not required if such animals are registered purebred animals which are moved interstate for purposes other than slaughter and are identified in a manner acceptable to the appropriate breed association for registration purposes; or are identified by individual brands registered with an official brand inspection agency and are accompanied by an official brand inspection certificate as prescribed in subdivision (ii) of this subparagraph.

(2) The owner's or shipper's statement or other document[1] or registered purebred identification required by this section for cattle moved under subparagraph (1) (i) or (ii) of this paragraph shall be delivered to the management of the stockyard or slaughtering establishment at the time of delivery of the cattle;[4] and documents accompanying animals moved under subparagraph (1) (iii) of this paragraph for breeding or dairy purposes shall be delivered to the consignee. All such documents shall be made available for inspection on request by a State or Federal inspector or an accredited veterinarian, as defined in § 78.1, at any time within 1 year from the date of such delivery.

(3) Each person who ships, transports, or otherwise causes the movement of the cattle interstate is responsible for the identification of the animals as required by this section. No person shall remove or tamper with an identification backtag or eartag required in this section for interstate movement of animals, except as may be authorized by the Deputy Administrator, Veterinary Services, upon request in specific cases and under such conditions as he may impose to insure continuing identification.

The purpose of the foregoing proposed amendments would be to: (1) Require the identification by backtags or other approved means of all cattle 2 years of age or over moving interstate, except steers and spayed heifers (and certain cattle moving directly to slaughter); (2) permit cattle being moved interstate for dairy or breeding purposes to be identified by eartags in lieu of backtags; and, (3) exempt registered purebred animals being moved interstate for purposes other than slaughter from the backtagging or eartagging requirements. The proposed amendments would facilitate the identification of livestock in marketing channels and the tracing of diseased animals directly to farms of origin, which would make it possible to more efficiently control the spread of diseases by isolation and eradication of infection where found.

Great progress has been made in the control and eradication of communicable diseases of livestock, such as brucellosis, scabies, and tuberculosis. However, it is known that the contagion of brucellosis still exists in domestic animals in most States and Puerto Rico and there is reason to believe that communicable diseases of livestock may exist throughout the United States. The threat of the introduction of foot-and-mouth disease or other exotic diseases is ever present. The rapid transportation of animals in commercial channels makes it essential to locate and suppress foci of infection in the most rapid manner possible. The most efficient way to do this is to identify livestock in marketing channels and to trace diseased animals directly to farms of origin. In this manner, continued progress in disease eradication programs can be achieved; the interstate spread of diseases can be minimized by isolation and eradication of infection where found; and the probability of rapidly tracing diseases of foreign origin will be greatly strengthened.

Any person who wishes to submit written data, views, or arguments concerning this proposal may do so by filing them with the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Center Building, Hyattsville, Md. 20782, written 30 days after publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be made available for public inspection at times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 7th day of November 1972.

F. J. MULHERN,
Administrator, Animal and
Plant Health Inspection Service.

[FR Doc.72-19426 Filed 11-10-72;8:53 am]

[9 CFR Part 94]

RINDERPEST AND FOOT-AND-MOUTH DISEASE

Proposed Prohibitions and Restrictions on Importation of Meat and Other Articles; Declaration of Uninfested Countries

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to sections 106 and 107 of the Act of May 23, 1957, section 306 of the Act of June 17, 1930, as amended, section 2 of the Act of February 2, 1903, as amended, and sections 2, 3, 4, and 11 of the Act of July 2, 1962 (7 U.S.C. 150ee, 150ff, 19 U.S.C. 1306, 21 U.S.C. 111, 134a, 134b, 134c, 134f), the Department of Agriculture is considering the following proposed amendments of Part 94, Title 9, Code of Federal Regulations, relating to additional prohibitions and restrictions on importation of meat and other articles:

[1] Other document means a shipping permit, an official health certificate, an official brand inspection certificate, a bill of lading, a waybill, or an invoice on which is listed information concerning the shipment as required in § 71.18(a)(1)(i).

[2] Department-approved backtags are available at such stockyards and slaughtering establishments, and from Federal and State inspectors as defined in § 78.1 of this subchapter. Information with respect to the federally inspected slaughter establishments, specifically approved slaughtering establishments, and specifically approved stockyards may be obtained as indicated in §§ 78.14 and 78.15 of this subchapter. Posted stockyards are designated by posting tariff rates at such stockyards and by publication in the FEDERAL REGISTER.

[3] It is the responsibility of the person who causes the interstate movement to determine whether the establishment maintains such records. As evidence that the establishment does maintain such records such person should obtain a statement to that effect from the management of the establishment and retain it for a period of 5 years from the date of the shipment.

[4] The backtag or other identification numbers should be included on the receiving document of the stockyard or establishment for all such cattle identified by backtags or other identification after arrival at such stockyard or establishment.

1. In § 94.1, paragraph (a) and the introductory portion of paragraph (c) would be amended to read:

Inspection Service, as adequate to prevent the introduction into or dissemination within the United States of livestock,

the United States by any means but are not offered for entry into this country;

in a hermetically sealed can which is shelf stable without refrigeration) shall have been prepared only in an inspected establishment that is eligible to have its

United States if products from such countries were allowed into the United States, without special safeguards; (3)

Vessels operating on the waters of the Great Lakes have, for many years, used a VHF radiotelephone communications

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1. In § 94.1, paragraph (a) and the introductory portion of paragraph (c) would be amended to read:

§ 94.1 Designation of countries where rinderpest or foot-and-mouth disease exists; importation prohibited; exceptions.

(a) Notice is hereby given that, in accordance with section 306 of the Act of June 17, 1930, as amended (19 U.S.C. 1306), it has been determined, and official notice has been given to the Secretary of the Treasury that:

(1) Rinderpest or foot-and-mouth disease exists in all countries of the world, except those listed in subparagraph (2) of this paragraph;

(2) The following countries are declared to be free of both rinderpest and foot-and-mouth disease:

Australia.	Dominican Republic.
Bahama Islands.	El Salvador.
Bermuda.	Fiji.
British Honduras.	Great Britain (England, Scotland, Wales, and Isle of Man).
British Virgin Islands.	Mexico.
Canada.	New Zealand.
Channel Islands.	Nicaragua.
Greenland.	Northern Ireland.
Guatemala.	Norway.
Haiti.	Panama.
Honduras.	Panama Canal Zone.
Iceland.	Sweden.
Ireland.	
Jamaica.	
Japan.	
Costa Rica.	

* * * * *

(c) Except as otherwise provided in this part, fresh, chilled, or frozen meat of ruminants or swine which originates in and is shipped from a country other than those designated in paragraph (a) of this section as infected with rinderpest or foot-and-mouth disease and which enters any port of such an infected country or otherwise transits such an infected country en route to the United States, may be imported into the United States insofar as the restrictions of this part are concerned, if:

* * * * *

2. In § 94.5, the present provisions would be amended to read:

§ 94.5 Garbage.

Garbage aboard any aircraft, vessel, railroad car, or other means of conveyance that has been outside the territorial limits of the United States and Canada shall not be imported into the United States (including the territorial waters thereof) except in accordance with the following conditions: It shall not be unloaded from such means of conveyance in the United States unless such garbage is removed in tight receptacles under the supervision of an Animal and Plant Health Inspection Service inspector for sterilization in a facility approved by the Deputy Administrator, Veterinary Services, or for incineration, or other appropriate handling in such manner and under such supervision as may, upon request in specific cases, be approved by the Administrator, Animal and Plant Health Inspection Service, as adequate to prevent the introduction into or dissemination within the United States of livestock, poultry, and plant diseases and plant pests. Importation into the United States of any garbage derived in whole or in part from meat originating in any country designated in § 94.1 as infected with rinderpest or foot-and-mouth disease is prohibited by law (19 U.S.C. 1306).

4. Section 94.7 would be amended to read:

§ 94.7 Disposal of animals, meat, and other articles ineligible for importation.

(a) Ruminants and swine, and fresh, chilled, or frozen meats, prohibited importation under § 94.1, which come into the United States by ocean vessel and are offered for entry and refused admission into this country shall be destroyed or otherwise disposed of as the Deputy Administrator, Veterinary Services, may direct pursuant to section 306 of the Act of June 17, 1930, as amended (19 U.S.C. 1306), unless they are exported by the consignee within 48 hours, and meanwhile are retained under such isolation and other safeguards as the Deputy Administrator, Veterinary Services, may require to prevent the introduction or dissemination of livestock or poultry diseases into the United States.

(b) Ruminants and swine, and fresh, chilled, or frozen meats, prohibited importation under § 94.1, which come into the United States aboard an airplane or railroad car and are offered for entry and refused admission into this country shall be destroyed or otherwise disposed of as the Deputy Administrator, Veterinary Services, may direct pursuant to section 306 of the Act of June 17, 1930, as amended (19 U.S.C. 1306), unless they are exported by the consignee within 24 hours and meanwhile are retained under such isolation and other safeguards as the Deputy Administrator, Veterinary Services, may require to prevent the introduction or dissemination of livestock or poultry diseases into the United States.

(c) Ruminants and swine, and fresh, chilled, or frozen meats, prohibited importation under § 94.1, which come into the United States by any means other than ocean vessel, airplane, or railroad car and are offered for entry and refused admission into this country shall be destroyed or otherwise disposed of as the Deputy Administrator, Veterinary Services, may direct pursuant to section 306 of the Act of June 17, 1930, as amended (19 U.S.C. 1306), unless they are exported by the consignee within 8 hours on the same means of conveyance and meanwhile are retained under such isolation and other safeguards as the Deputy Administrator, Veterinary Services, may require to prevent the introduction or dissemination of livestock or poultry diseases into the United States.

(d) Ruminants and swine, and fresh, chilled, or frozen meats, prohibited importation under § 94.1, which come into the United States by any means but are not offered for entry into this country; and other animals, meats, and other articles prohibited importation under other sections of this part which come into the United States by any means, whether they are offered for entry into this country or not, shall be immediately destroyed or otherwise disposed of as the Deputy Administrator, Veterinary Services, may direct at any time in accordance with section 2 of the Act of February 2, 1903, as amended, or section 2 of the Act of July 2, 1962 (21 U.S.C. 111, 134a).

§ 94.8 [Amended]

5. In § 94.8 the reference to Italy would be deleted.

6. A new § 94.11 would be added to read:

§ 94.11 Restrictions on importation of meat and other animal products from specified countries.

(a) Great Britain (England, Scotland, Wales, and the Isle of Man), Japan, Norway, and Sweden, which are declared in § 94.1 to be free of rinderpest and foot-and-mouth disease, supplement their national meat supply by the importation of fresh, chilled, or frozen meat of ruminants or swine from countries that are designated in § 94.1(a) to be infected with rinderpest or foot-and-mouth disease; or have a common land border with countries designated as infected with rinderpest or foot-and-mouth disease; or import ruminants or swine from countries designated as infected with rinderpest or foot-and-mouth disease under conditions less restrictive than would be acceptable for importation into the United States; Thus, even though this Department has declared such countries to be free of rinderpest and foot-and-mouth disease, the meat and other animal products produced in such free countries may be commingled with the fresh, chilled, or frozen meat of animals from an infected country, resulting in an undue risk of introducing rinderpest or foot-and-mouth disease into the United States. Therefore, meat of ruminants or swine, and other animals products, and ships stores, airplane meals, and baggage containing such meat or animal products originating in Great Britain (England, Scotland, Wales, or the Isle of Man), Japan, Norway, and Sweden, shall not be imported into the United States unless the following requirements in addition to other applicable requirements of this Chapter III are met. As used in this section, the term "other animal product" means all parts of the carcass of any ruminant or swine, other than meat and articles regulated under Part 95 or 96 of this chapter.

(b) All meat or other animal product from such countries, whether in personal-use amounts or commercial lots (except that which has been fully cooked by a commercial method in a rigid can which was sealed promptly after filling and before such cooking and sealing so as to result in a fully sterilized product

in a hermetically sealed can which is shelf stable without refrigeration) shall have been prepared only in an inspected establishment that is eligible to have its products imported into the United States under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) and the regulations in § 327.2, Chapter III of this title, issued thereunder, and shall be accompanied by a Department-approved meat inspection certificate prescribed in § 327.4 in Chapter III of this title, or similar certificate approved by the Deputy Administrator, Veterinary Services, as adequate to effectuate the purposes of this section, regardless of the purpose or amount of product in the shipment.

(c) Shipments of such meat or other animal product must be accompanied by an additional certificate, signed by a full-time salaried veterinary official of the agency in the national government having responsibility for the health of animals within that country, giving the name and official establishment number of the establishment where the animals involved were slaughtered and stating that:

(1) The slaughtering establishment is not permitted to receive animals that originated in, or have ever been in, or that have been aboard a means of conveyance at the time such means of conveyance called at or landed at a port in, a country listed in § 94.1(a) as a country infected with rinderpest or foot-and-mouth disease;

(2) The slaughtering establishment is not permitted to receive meat or other animal products derived from ruminants or swine which originated in such a rinderpest or foot-and-mouth disease infected country, or meat or other animal products from a rinderpest and foot-and-mouth disease free country transported through a rinderpest or foot-and-mouth disease infected country except in containers sealed with serially numbered seals of the national government of the noninfected country or origin;

(3) The meat or other animal product covered by the certificate was derived from animals born and raised in a country listed in § 94.1(a)(2) as free of rinderpest and foot-and-mouth disease and the meat or other animal product has never been in any country in which rinderpest or foot-and-mouth disease existed;

(4) The meat or other animal product has been processed, stored, and transported to the means of conveyance that will bring the article to the United States in a manner to preclude its being commingled or otherwise in contact with meat or other animal products that do not comply with the conditions contained in this certificate.

The proposed amendments would: (1) Clarify and simplify designation of countries with rinderpest and foot-and-mouth disease; (2) identify those countries found free of rinderpest and foot-and-mouth disease and those in this category which practice importation procedures that might constitute an undue risk of introduction of livestock disease into the United States if products from such countries were allowed into the United States, without special safeguards; (3) restrict importation of meat and other animal products, including ships stores, airplane meals, and baggage containing meat or animal products, and garbage into the United States from certain countries; (4) reduce time limitations for removal from the United States of animals, meat, and other articles ineligible for importation into the United States; and (5) delete Italy from the list of countries where African swine fever exists.

Any person who wishes to submit written data, views, or arguments concerning the proposed amendments may do so by filing them with the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, Md. 20782, within 30 days after publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Center Building, 6505 Belcrest Road, Room 370, Hyattsville, MD 20782, during regular business hours in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 7th day of November 1972.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-19425 Filed 11-10-72;8:53 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 26]

[CGD 72-223P]

VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE RULES FOR THE GREAT LAKES

Notice of Proposed Rule Making

At the request of the Lake Carriers' Association, the Coast Guard is considering amending the Vessel Bridge-to-Bridge Radiotelephone Regulations to change the radiotelephone frequency and frequency use requirements for vessels operating on the waters of the Great Lakes.

Section 7 of the Vessel Bridge-to-Bridge Radiotelephone Act provides in pertinent part that—where a local communications system fully complies with the intent of the concept of the Act, but does not conform in detail, the Secretary of the Department in which the Coast Guard is operating, may issue exemptions from any provisions of the Act, on such terms and conditions as he considers appropriate. This authority is delegated to the Commandant of the Coast Guard under 49 CFR 1.46(o)(2).

Vessels operating on the waters of the Great Lakes have, for many years, used a VHF radiotelephone communications system, primarily for the purpose of increasing the safety of navigation.

Under the system in use on these waters, the operators of approaching vessels can communicate their intentions to one another through voice radio, located convenient to the operators' navigation stations—this is within the intent of the concept of the Bridge-to-Bridge Radiotelephone Act.

As required by the Act, vessels operating on these waters are equipped with multichannel VHF radiotelephone equipment, capable of transmitting and receiving on the 156–162 MHz band using emission designated by the Federal Communications Commission for the exchange of navigational information. However, the Great Lakes VHF radiotelephone system uses 156.8 MHz as a common distress, safety, and calling frequency. After establishing communication, operators may continue the exchange of information on other frequencies commonly used for the system.

The Coast Guard will hold a public hearing on Monday, December 4, 1972, at 9:30 a.m., Room 2069, Federal Building, 1240 East Ninth Street, Cleveland, OH. Interested persons are invited to attend the hearing and participate in this proposed rule making by presenting oral or written statements on the proposal. The public hearing will be informal and intended to obtain views and information from those persons affected by the proposal. There will be no cross-examination of persons presenting statements. Written comments may also be addressed to Commandant (GCMC), U.S. Coast Guard Headquarters, Room 8234, 400 Seventh Street SW., Washington, DC 20590.

The Coast Guard will consider each written comment received before December 15, 1972, and each oral and written comment submitted at the public hearing and then take final action on this proposal. The proposed amendment may be changed in light of comments received. Interested persons may examine all comments received by the Coast Guard at Room 8234, U.S. Coast Guard Headquarters, Washington, D.C.

The substance of the rule change is as follows:

1. The proposed amendment would apply to every vessel that is subject to the Vessel Bridge-to-Bridge Radiotelephone Act when navigating on those waters governed by the Navigation Rules for Great Lakes and their connecting and tributary waters (33 U.S.C. 241 et seq.).

2. The master or person in charge of a vessel to which the amendment applies would be required to maintain a listening watch on 156.8 MHz, rather than 156.65 MHz.

3. The amendment would allow the transmission and confirmation of vessel maneuvering intentions and any other information necessary for the safe navigation of vessels on 156.30 MHz or 156.40

MHz, after communications are initiated on 156.8 MHz.

Code of Federal Regulations, be amended by revising subparagraph (28-a) of paragraph (f) of § 117.245 to read as follows:

written data, views, or arguments to the U.S. Coast Guard (GCMC), 400 Seventh Street SW., Washington, DC 20590. Each

Article	Classed as	Label required

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XUM

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MHz, after communications are initiated on 156.8 MHz.

(Vessel Bridge-to-Bridge Radiotelephone Act, 85 Stat. 164; 33 U.S.C. 1201–1208; 49 CFR 1.46(o)(2))

Dated: November 7, 1972.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.72-19429 Filed 11-10-72;8:51 am]

[33 CFR Part 117]

[CGD 72-224P]

NANSEMOND RIVER, VA.

Proposed Drawbridge Operation Regulations

The Coast Guard is considering amending the regulations for the Virginia Department of Highways bridge on U.S. Route 460 across the Nansemond River at Suffolk to permit the draw to remain permanently closed to the passage of vessels; the draw is presently opened on signal if at least 12 hours notice is given. This change is being considered because the oil company located upstream from this bridge, the sole user, has converted from water to land transportation for supplying this facility and because a dam located approximately ½-mile upstream effectively prevents navigation above the dam.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, VA 23705. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Fifth Coast Guard District.

The Commander, Fifth Coast Guard District, will forward any comments received before December 15, 1972, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by revising subparagraph (28–a) of paragraph (f) of § 117.245 to read as follows:

§ 117.245 **Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.**

* * * * * *

(f) * * *

(28–a) Nansemond River, Va.; Virginia Department of Highways bridge on U.S. Route 460 at Suffolk. The draw need not open for the passage of vessels, and paragraph (b) through (e) of this section shall not apply to this bridge. However, the bridge owner shall return the draw to operable condition within 6 months after notification by the Commandant to take such action.

* * * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(c)(4))

Dated: November 8, 1972.

J. D. MCCANN,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.72-19430 Filed 11-10-72;8:51 am]

[46 CFR Part 146]

[CGD 72-182PH]

DANGEROUS CARGOES

Transportation or Storage

The Coast Guard is considering amending the dangerous cargoes regulations to:

1. Revise the regulation on ammonium nitrate and other nitrates.

2. Update the shipping names of certain dry chlorine compounds and to permit portable tanks to be used as packaging.

3. Permit the DOT–6D cylindrical steel overpack as a package for titanium sulfate solutions.

4. Grant exemptions for motor vehicle passenger restraint systems.

5. Grant exemptions for hydraulic-accumulators.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the U.S. Coast Guard (GCMC), 400 Seventh Street SW., Washington, DC 20590. Each person submitting comments should include his name and address, identify the notice (CGD 72–182PH), and give reasons for any recommendations. Comments received will be available for examination by interested persons in Room 8234, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C.

The Coast Guard will hold a hearing on December 12, 1972, at 9:30 a.m. in Conference Room 8334, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC. Interested persons are invited to attend the hearing and present oral or written statements on this proposal. It is requested that anyone desiring to attend the hearing notify the U.S. Coast Guard (GCMC), 400 Seventh Street, SW., Washington, DC 20590.

All communications received before December 29, 1972, will be evaluated before final action is taken on this proposal. The proposed regulations may be changed in the light of comments received.

By a separate document published at page 16108 of the August 10, 1972, issue of the FEDERAL REGISTER, the Hazardous Materials Regulations Board of the Department of Transportation proposes amendments to Part 172 of Title 49, Code of Federal Regulations. For reasons fully stated in that document the Board has proposed these changes.

The hazardous materials regulations of the Department of Transportation in Title 49 apply to shippers by water, air, and land, and to carriers by air and land. The adoption of this proposed amendment to Title 46 would make the proposal of the Hazardous Materials Regulations Board applicable to carriers by water.

The Coast Guard proposes to incorporate the substance of the Board's proposal in 46 CFR Part 146.

In consideration of the foregoing, it is proposed to amend Part 146 of Title 46 of the Code of Federal Regulations as follows:

§ 146.04–5 [Amended]

1. Section 146.04–5 "List of explosives and other dangerous articles and combustible liquids by:

a. Striking out the following entries:

Article	Classed as	Label required
Calcium nitrate	Oxy. M	Yellow.
Dichloroisocyanuric acid, dry, containing more than 39 percent available chlorine.	Oxy. M	Yellow.
Potassium dichloroisocyanurate, dry, containing more than 39 percent available chlorine.	Oxy. M	Yellow.
Sodium dichloroisocyanurate, dry, containing more than 39 percent available chlorine.	Oxy. M	Yellow.
Trichloroisocyanuric acid, dry, containing more than 39 percent available chlorine.	Oxy. M	Yellow.

b. Adding the following entries:

Article	Classed as	Label required
Ammonium nitrate fertilizer *containing no more than 0.2 percent carbon.*	Oxy. M	Yellow.
Mono-(trichloro) tetra(monopotassium dichloro)-penta-s-triazenetrione (*dry containing more than 39 percent available chlorine.*	Oxy. M	Yellow.
Potassium dichloro-s-triazenetrione (*dry, containing more than 39 percent available chlorine*).	Oxy. M	Yellow.
Sodium dichloro-s-triazenetrione (*dry, containing more than 39 percent available chlorine*).	Oxy. M	Yellow.
Trichloro-s-triazenetrione (*dry, containing more than 39 percent available chlorine*).	Oxy. M	Yellow.

c. Revising the following entry:

Article	Classed as	Label required
*Ammonium nitrate phosphate	Oxy. M	Yellow.

§ 146.22–200 [Amended]

2. Section 146.22–200 "Table E-Classification: Oxidizing materials" by:

a. Striking out the entries in all seven columns for the following articles:

(1) Calcium nitrate.
(2) Dichloroisocyanuric acid, dry, containing more than 39 percent available chlorine.
(3) Potassium dichloroisocyanurate, dry, containing more than 39 percent available chlorine.
(4) Sodium dichloroisocyanurate, dry, containing more than 39 percent available chlorine.
(5) Trichloroisocyanuric acid, dry, containing more than 39 percent available chlorine.

b. Adding the following articles in proper alphabetical sequence:

Descriptive name of article	Characteristic properties, cautions, markings required	Label required	Required conditions for transportation
			Cargo vessel
• • •	• • •	• • •	• • •
Mono-(trichloro) tetra-(monopotassium dichloro)-penta-s-triazenetrione (*dry, containing more than 59 percent available chlorine*).		Yellow..	Stowage "On deck protected." "On deck under cover." "Tween decks." "Under deck, but not overstowed." Outside containers: Steel barrels or drums: (DOT-6A, 6H, 6C) not over 55 gal. cap. (DOT-17E, 17H, 37A, 37B) STC, not over 55 gal. cap. Strong outside wooden or fiberboard packages with inside containers of glass not over 5 lb. cap. each, or with metal containers or plastic bottles not over 10 lb. cap. each. Outside wooden containers not to exceed 150 lb. gr. wt. and outside fiberboard containers not to exceed 65 lb. gr. wt. Fiber drum (DOT-21C) WIL, not over 400 lb. net wt.
• • •	• • •	• • •	• • •
Potassium dichloro-s-triazenetrione (*dry, containing more than 59 percent available chlorine*). Sodium dichloro-s-triazenetrione (*dry, containing more than 59 percent available chlorine*).	*White crystalline powder granules. Hygroscopic. Up to 59 percent available chlorine.* Keep dry and cool. *White crystalline powder. Hygroscopic. Up to 60 percent available chlorine.* Keep dry and cool.	Yellow.....	Stowage: "On deck protected." "On deck under cover." "Tween decks." "Under deck, but not overstowed." Outside containers: Steel barrels or drums: (DOT-6A, 6H, 6C) not over 55 gal. cap. (DOT-17E, 17H, 37A, 37B) STC, not over 55 gal. cap. Strong outside wooden or fiberboard packages with inside containers of glass not over 5 lb. cap. each, or with metal containers or plastic bottles not over 10 lb. cap. each. Outside wooden containers not to exceed 150 lb. gr. wt. and outside fiberboard containers not to exceed 65 lb. gr. wt. Fiber drum (DOT-21C) WIL, not over 400 lb. net wt. Metal portable tank (DOT-56).
• • •	• • •	• • •	• • •

Descriptive name of article	Required conditions for transportation—Continued		
	Passenger vessel	Ferry vessel, passenger or vehicle	R.R. car ferry, passenger or vehicle
• • •	• • •	• • •	• • •
Mono-(trichloro) tetra-(monopotassium dichloro)-penta-s-triazenetrione (*dry, containing more than 59 percent available chlorine*).	Stowage "On deck under cover." "Tween decks readily accessible." Outside containers: Steel barrels or drums: (DOT-6A, 6H, 6C) not over 55 gal. cap. (DOT-17E, 17H, 37A, 37B) STC, not over 55 gal. cap. Strong outside wooden or fiberboard packages with inside containers of glass not over 5 lb. cap. each, or with metal containers or plastic bottles not over 10 lb. cap. each. Outside wooden containers not to exceed 150 lb. gr. wt. and outside fiberboard containers not to exceed 65 lb. gr. wt. Fiber drum (DOT-21C) WIL, not over 400 lb. net wt.	Ferry stowage (AA) Outside containers: Steel barrels or drums: (DOT-6A, 6H, 6C) not over 55 gal. cap. (DOT-17E, 17H, 37A, 37B) STC, not over 55 gal. cap. Strong outside wooden or fiberboard packages with inside containers of glass not over 5 lb. cap. each, or with metal containers or plastic bottles not over 10 lb. cap. each. Outside wooden containers not to exceed 150 lb. gr. wt. and outside fiberboard containers not to exceed 65 lb. gr. wt. Fiber drum (DOT-21C) WIL, not over 400 lb. net wt.	Ferry stowage (BB). Outside containers: Steel barrels or drums: (DOT-6A, 6H, 6C) not over 55 gal. cap. (DOT-17E, 17H, 37A, 37B) STC, not over 55 gal. cap. Strong outside wooden or fiberboard packages with inside containers of glass not over 5 lb. cap. each, or with metal containers or plastic bottles not over 10 lb. cap. each. Outside wooden containers not to exceed 150 lb. gr. wt. and outside fiberboard containers not to exceed 65 lb. gr. wt. Fiber drum (DOT-21C) WIL, not over 400 lb. net wt.
• • •	• • •	• • •	• • •
Potassium dichloro-s-triazenetrione (*dry, containing more than 59 percent available chlorine*). Sodium dichloro-s-triazenetrione (*dry, containing more than 59 percent available chlorine*).	Stowage: "On deck under cover." "Tween decks readily accessible." Outside containers: Steel barrels or drums: DOT-6A, 6H, 6C) not over 55. gal. cap. (DOT-17E, 17H, 37A 37B) STC, not over 55 gal. cap. Strong outside wooden or fiberboard packages with inside containers of glass not over 5 lb. cap. each, or with metal containers or plastic bottles not over 10 lb. cap. each. Outside wooden containers not to exceed 150 lb. gr. wt. and outside fiberboard containers not to exceed 65 lb. gr. wt. Fiber drum (DOT-21C) WIL, not over 400 lb. net wt. Metal portable tank (DOT-56).	Ferry stowage (AA). Outside containers: Steel barrels or drums: (DOT-6A, 6H, 6C) not over 55 gal. cap. (DOT-17E, 17H, 37A, 37B) STC, not over 55 gal. cap. Strong outside wooden or fiberboard packages with inside containers of glass not over 5 lb. cap. each, or with metal containers or plastic bottles not over 10 lb. cap. each. Outside wooden containers not to exceed 150 lb. gr. wt. and outside fiberboard containers not to exceed 65 lb. gr. wt. Fiber drum (DOT-21C) WIL, not over 400 lb. net wt. Metal portable tank (DOT-56).	Ferry stowage (BB). Outside containers: Steel barrels or drums: (DOT-6A, 6H, 6C) not over 55 gal. cap. (DOT-17E, 17H, 37A, 37B) STC, not over 55 gal. cap. Strong outside wooden or fiberboard packages with inside containers of glass not over 5 lb. cap. each, or with metal containers or plastic bottles not over 10 lb. cap. each. Outside wooden containers not to exceed 150 lb. gr. wt. and outside fiberboard containers not to exceed 65 lb. gr. wt. Fiber drum (DOT-21C) WIL, not over 400 lb. net wt. Metal portable tank (DOT-56).
• • •	• • •	• • •	• • •

The Jesup transition area would be

Department's invitation to express their official views on the matter.

Veterans Administration purposes 38 CFR Part 3 is amended as set forth below.

Descriptive name of article	Characteristic properties, cautions, markings required	Label required	Required conditions for transportation
			Cargo vessel
• • •	• • •	• • •	• • •
Trichloro-s-triazenetrione (*dry, containing more than 59 percent available chlorine*).	*White crystalline powder or granules. Hygroscopic. Up to 90 percent available chlorine.* Keep dry and cool.	Yellow.....	Stowage: "On deck protected." "On deck under cover." "Tween decks." "Under deck, but not overstowed." Outside containers: Steel barrels or drums: (DOT-6A, 6B, 6C) not over 55 gal. cap. (DOT-17E, 17H, 37A, 37B) STC, not over 55 gal. cap. Strong outside wooden or fiberboard packages with inside containers of glass not over 5 lb. cap. each, or with metal containers or plastic bottles not over 10 lb. cap each. Outside wooden containers not to exceed 150 lb. gr. wt. and outside fiberboard containers not to exceed 65 lb. gr. wt. Fiber drum (DOT-21C) WIL, not over 400 lb. net wt.
• • •	• • •	• • •	• • •

Descriptive name of article	Required conditions for transportation—Continued		
	Passenger vessel	Ferry vessel, passenger or vehicle	R.R. car ferry, passenger or vehicle
• • •	• • •	• • •	• • •
Trichloro-s-triazenetrione (*dry, containing more than 59 percent available chlorine*).	Stowage: "On deck under cover." "Tween decks readily accessible." Outside containers: Steel barrels or drums: (DOT-6A, 6B, 6C) not over 55 gal. cap. (DOT-17E, 17H, 37A, 37B) STC, not over 55 gal. cap. Strong outside wooden or fiberboard packages with inside containers of glass not over 5 lb. cap. each, or with metal containers or plastic bottles not over 10 lb. cap. each. Outside wooden containers not to exceed 150 lb. gr. wt. and outside fiberboard containers not to exceed 65 lb. gr. wt. Fiber drum (DOT-21C) WIL, not over 400 lb. net wt.	Ferry stowage (AA) Outside containers: Steel barrels or drums: (DOT-6A, 6B, 6C) not over 55 gal. cap. (DOT-17E, 17H, 37A, 37B) STC not over 55 gal. cap. Strong outside wooden or fiberboard packages with inside containers of glass not over 5 lb. cap. each, or with metal containers or plastic bottles not over 10 lb. cap. each. Outside wooden containers not to exceed 150 lb. gr. wt. and outside fiberboard containers not to exceed 65 lb. gr. wt. Fiber drum (DOT-21C) WIL, n ot over 400 lb. net wt.	Ferry stowage (BB). Outside containers: Steel barrels or drums: (DOT-6A, 6H, 6C) not over 55 gal. cap. (DOT-17E, 17H, 37A, 37B) STC not over 55 gal. cap. Strong outside wooden or fiberboard packages with inside containers of glass not over 5 lb. cap. each, or with metal containers or plastic bottles not over 10 lb. cap. each. Outside wooden containers not to exceed 150 lb. gr. wt. and outside fiberboard containers not to exceed 65 lb. gr. wt. Fiber drum (DOT-21C) WIL, not over 400 lb. net wt.
• • •	• • •	• • •	• • •

c. Adding in columns 4, 6, and 7 for the article "Ammonium nitrate (*no organic coating*)" directly after the words "Metal barrels or drums" the following:

Polypropylene bags in compliance with DOT regulations.
Polyethylene bags in compliance with DOT regulations.

d. Revising the article "Ammonium nitrate and ammonium nitrate products containing 90 percent or more ammonium nitrate by weight (*no organic coating*)" to read as follows:

Ammonium nitrate products *containing no more than 0.2 percent carbon.*

e. Adding in columns 4, 5, 6, and 7 for the article "Sodium nitrate" the following:

Authorized for sodium nitrate only:
Portable tanks:
(DOT–53, 56).

§ 146.23–100 [Amended]

3. Adding to § 146.23–100 "Table F-Classification: Corrosive liquids" in column 4 for the article "Titanium sulfate solution containing not more than 45 percent sulfuric acid" the following:

Cylindrical steel overpacks:
(DOT–6D) WIC overpack of over 15 gallons must be constructed of at least 18 gage steel throughout.

4. Adding § 146.24–23 as follows:

§ 146.24–23 Exemptions for Passenger Restraint Systems.

A cylinder which is a component part of a passenger restraint system installed in a motor vehicle, charged with nonliquefied, nonflammable compressed gas and having no more than two actuating cartridges per valve is exempt from the regulations in this Part 146 provided that it complies with 49 CFR 173.306(d)(3).

5. By adding § 146.24–24 as follows:

§ 146.24–24 Exemptions for Hydraulic Accumulators.

Hydraulic accumulators installed in motor vehicles, construction equipment and assembled machinery and designed and fabricated with a burst pressure of not less than five times their charged pressure at 70° F. when shipped are exempt from the requirement of this Part 146.

(R.S. 4472, as amended; R.S. 4417a, as amended; sec. 1, 19 Stat. 252, 49 Stat. 1889, sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 170, 391a, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Dated: November 3, 1972.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.72–19353 Filed 11–10–72;8:45 am]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72–SO–111]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Jesup, Ga., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

XUM

FEDERAL REGISTER, VOL. 37, NO. 219—SATURDAY, NOVEMBER 11, 1972

XUM

The Jesup transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Jesup-Wayne County Airport (lat. 31°33'18" N., long. 81°52'54" W.); within 3 miles each side of the 286° bearing from Slover RBN (lat. 31°33'08" N., long. 81°52'48" W.), extending from the 6.5-mile radius area to 8.5 miles west of the RBN.

The proposed designation is required to provide controlled airspace protection for IFR operations at Jesup-Wayne County Airport. A prescribed instrument approach procedure to this airport, utilizing the Slover (private) Nondirectional Radio Beacon, is proposed in conjunction with the designation of this transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on November 1, 1972.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.72-19398 Filed 11-10-72;8:46 am]

Office of the Secretary

[49 CFR Part 71]

[OST Docket No. 6]

STANDARD TIME ZONE BOUNDARY IN THE STATE OF INDIANA

Withdrawal of Proposed Rule Making

In Notice No. 70-2, published in the FEDERAL REGISTER on November 7, 1970 (35 F.R. 17195), the Department of Transportation proposed that § 71.5 of Title 49 of the Code of Federal Regulations be amended to redefine the boundary line between the eastern and central standard time zones so as to include Perry County, Ind., in the central zone. The proposal was based on a petition of the Governor of Indiana. The notice stated that consideration would be given to all comments received on or before December 15, 1970.

By resolution dated December 7, 1970, the Board of County Commissioners of Perry County requested the Secretary of Transportation to defer action on the proposal until after the close of the 1971 session of the Indiana General Assembly. Under Article 4 of the constitution of the State of Indiana, the general assembly was to convene in January 1971 and could have remained in session into April 1971. The board of county commissioners made the request to defer action on the proposal because the Indiana General Assembly was expected to consider exempting the entire State of Indiana from the requirement of "advanced time" as provided for by section 3 of the Uniform Time Act of 1966 (15 U.S.C. 260a). A number of similar requests were received from local business interests and individuals.

It was clear at the time that if the Indiana General Assembly exempted the State from the requirement of advancing its time 1 hour during the summer months the views of the citizens of Perry County who favored a change to the central time zone could have been significantly altered. If a State law were to be enacted exempting Indiana from observing "advanced time", the alternatives available with respect to Perry County would then be eastern standard time the entire year or central standard time the entire year. Neither alternative would involve "advanced time" during the sumer months.

In consideration of the foregoing, by Notice No. 70-3, published in the FEDERAL REGISTER on January 7, 1971 (36 F.R. 225), the Department extended the period for comment until April 15, 1971.

In January 1971, the Indiana General Assembly, over the veto of the Governor, exempted the entire State of Indiana from the requirement of observing advanced (daylight) time during the summer months. By its terms the Indiana exemption law (Acts 1969, Chapter 491) provided that if Federal law were ever changed to allow a State divided by a time zone boundary to exempt from the observance of advanced (daylight) time only that part of the State which is in one zone, instead of the entire State, then the Indiana law would apply only to the eastern time zone portion of the State. Until any such change in Federal law, the exemption applied to the entire State.

As it had during the 91st Congress, the Department of Transportation supported during the 92d Congress an amendment to the Uniform Time Act of 1966 to permit what the Indiana exemption law anticipated, i.e., authority for a State with parts in more than one time zone to exempt that part of the State in one time zone without requiring it to exempt the part in another time zone. If the amendment were enacted, the choices open to Perry County would be eastern nonadvanced time the entire year, or 6 months of central nonadvanced and 6 months of central advanced (daylight) time. Pending congressional consideration of the amendment, the Department decided to leave the docket open. The amendment was enacted by Congress and signed by the President on March 30, 1972. (Public Law 92-267.)

Comments received by the Department over the course of this proceeding indicate a change in the views of the citizens of Perry County following enactment of the legislative changes. Before Indiana enacted its exemption law, the majority of comments favored placing Perry County in the central time zone. Since enactment of that law, the comments, although less in number, have favored leaving Perry County in the eastern zone. The Board of County Commissioners of Perry County has declined the Department's invitation to express their official views on the matter.

In view of the foregoing, it does not appear to the Department that there is adequate basis for making any change in the present time zone boundary. Accordingly, the notice of proposed rule making published in the FEDERAL REGISTER on November 7, 1970 (35 F.R. 17195), is hereby withdrawn.

This action is taken under the authority of the Act of March 19, 1918, as amended by the Uniform Time Act of 1966 (15 U.S.C. 260-67), section 6(e)(5) of the Department of Transportation Act (49 U.S.C. 1655(e)(5)), and section 1.59(a) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.59(a)).

Issued in Washington, D.C., on November 6, 1972.

JOHN W. BARNUM,
General Counsel.

[FR Doc.72-19393 Filed 11-10-72;8:46 am]

FEDERAL POWER COMMISSION

[18 CFR Parts 2, 4]

[Docket No. R-398]

IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

Notice Denying Request for Extension of Time

NOVEMBER 7, 1972.

On November 6, 1972, the Edison Electric Institute requested an extension of time for filing comments concerning the notice of proposed rule making to amend §§ 2.80, 2.81, and 2.82 of the general rules, and § 4.41 of the regulations under the Federal Power Act, issued October 30, 1972, in the above matter.

Upon consideration, notice is given that the request for an extension of time to file comments in the above matter is denied.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19448 Filed 11-10-72;8:50 am]

[18 CFR Part 260]

[Docket No. R-308]

GAS PIPELINE COMPANIES

Annual Report of Total Gas Supply; Proposed Form; Correction

NOVEMBER 3, 1972.

In the notice of proposed rule making, issued October 31, 1972 and published in the FEDERAL REGISTER November 4, 1972, 37 F.R. 23550:

First paragraph, line 15, change "1971" to "1972".

Paragraph (a), line 4, change "1971" to "1972".

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19456 Filed 11-10-72;8:50 am]

VETERANS ADMINISTRATION

[38 CFR Part 3]

SURVIVOR BENEFIT PLAN ANNUITIES

Character of Income; Exclusions and Estates

Public Law 92-425, enacted September 21, 1972, established a Survivor Benefit Plan, sections 1447 through 1455, title 10, United States Code, for retired servicemen and commissioned officers of the Public Health Service and the National Oceanic and Atmospheric Administration. This is a contributory plan which provides annuities for the surviving dependents of deceased retirees. It supersedes the Retired Serviceman's Family Protection Plan (sections 1431 through 1446, title 10, United States Code). Prior to enactment of Public Law 92-425, 38 United States Code 415(g)(1)(M) and 503(a)(17) provided for exclusion of annuities under the Retired Serviceman's Family Protection Plan from consideration as income for dependency and indemnity compensation and disability and death pension. The act amended the language of these provisions of title 38 to reflect subchaptering of Chapter 73, title 10, United States Code, and continues the exclusion. It provides, however, that annuities under the Survivor Benefit Plan shall be considered income under laws administered by the Veterans Administration. To implement the provisions of the law relating to income for Veterans Administration purposes 38 CFR Part 3 is amended as set forth below.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (232H), Veterans Administration, Central Office, 810 Vermont Avenue NW., Washington, DC 20420. All relevant material received not later than 30 days after publication of this notice in the FEDERAL REGISTER will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays), during the mentioned 30-day period and for 10 days thereafter. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Assistance Unit in Room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and will be furnished the address of the above room number.

Notice is also given that it is proposed to make this regulatory change effective September 21, 1972.

It is proposed to amend § 3.261(a)(14), Part 3, Title 38 of the Code of Federal Regulations to read as follows:

§ 3.261 Character of income; exclusions and estates.

• • • • • •

	Dependency (parents)	Dependency and indemnity compensation (parents)	Pension; protected (veterans, widows and children)	Pension; Pub. Law 86-211 (veterans, widows and children)	See—
(a) *Income:*					
• • •	• • •	• • •	• • •	• • •	• • •
(14) Retired Serviceman's Family Protection Plan; Survivor Benefit Plan (10 U.S.C. ch. 73):					
Retired Serviceman's Family Protection Plan (Subch. 1):					
Annuities	Excluded	Excluded	Excluded	Excluded	
Refunds (10 U.S.C. 1446)	do	do	do	do	
Survivor Benefit Plan (Subch. II):	do	do	do	do	§ 3.262(e).
(Pub. Law 92-425; 86 Stat. 706)					
• • •	• • •	• • •	• • •	• • •	• • •

Approved: November 6, 1972.

By direction of the Administrator.

FRED B. RHODES,
Deputy Administrator.

[FR Doc.72-19438 Filed 11-10-72;8:52 am]

Bureau of Sport Fisheries and Wildlife, 1500 Plaza Building, Room 288, 1500 Northeast Irving Street, Post Office Box 3737, Port-	(1) None. (2) None. (3) None.	*gayi*) in the Pacific Ocean including the purchasing of unprocessed fish of such species from non-American catching

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Notices

DEPARTMENT OF JUSTICE

Bureau of Narcotics and Dangerous Drugs

MANUFACTURE OF OXYCODONE

Notice of Application

Pursuant to § 301.43 of Title 21 of the Code of Federal Regulations, notice is hereby given that on September 26, 1972, Mallinckrodt Chemical Works, 3600 North Second Street, St. Louis, Mo., made application to the Bureau of Narcotics and Dangerous Drugs to be registered as a bulk manufacturer of oxycodone, a basic class of narcotic controlled substance listed in Schedule II.

Section 303(a)(1) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 832 (a)(1)) states:

The Attorney General shall register an applicant to manufacture controlled substances in schedule I or II if he determines that such registration is consistent with the public interest and with U.S. obligations under international treaties, conventions, or protocols in effect on the effective date of this part. In determining the public interest, the following factors shall be considered:

(1) Maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule I or II compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes;

Any person registered to manufacture oxycodone in bulk may, within 30 days from the date of publication of this notice in the FEDERAL REGISTER, file written comments on or objection to the issuance of the proposed registration, and may, at the same time, file a written request for a hearing on the application (stating with particularity the objections or issues, if any, concerning which the person desires to be heard and a brief summary of his position on those objections or issues).

Comments and objections may be addressed to the Hearing Clerk, Office of Chief Counsel, Bureau of Narcotics and Dangerous Drugs, Room 611, 1405 Eye Street NW., Washington, DC 20537.

Dated: November 6, 1972.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[FR Doc.72-19428 Filed 11-10-72;8:50 am]

DEPARTMENT OF THE INTERIOR

Geological Survey

[Power Site Cancellation 287]

DESCHUTES RIVER BASIN, OREGON

Cancellation of Power Site

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and 220 Departmental Manual 6.1, Power Site Classifications 274, 275, and 380 are hereby canceled to the extent that they affect the following described land:

WILLAMETTE MERIDIAN

Power Site Classification 274, of June 13, 1933:

T. 1 S., R. 16 E.,
Sec. 31, SE¼NE¼.

AREA—40 ACRES

Power Site Classification 275, of July 12, 1933:

T. 24 S., R. 9 E.,
Sec. 3, lots 3 and 4;
Sec. 4, SW¼NE¼, SE¼NW¼, NE¼SW¼, and SW¼SW¼;
Sec. 5, S½NE¼.

AREA—319 ACRES

Power Site Classification 380, of August 1, 1947:

T. 17 S., R. 21 E.,
Sec. 2, N½SW¼ and N½SE¼;
Sec. 4, N½S½;
Sec. 6, lots 6, 7, E½SW¼, NE¼SE¼, and S½SE¼;
Sec. 8, S½N½, NE¼SW¼, and NW¼SE¼;
Sec. 10, SE¼SE¼;
Sec. 14, N½NW¼.
T. 17 S., R. 22 E.,
Sec. 6, lots 1, 2, 3, 4, and SE¼NE¼;
Sec. 8, N½NE¼ and S½S½;
Sec. 10, W½SW¼;
Sec. 18, lots 1, 3, SW¼NE¼, and NE¼NW¼;
Sec. 22, SE¼NW¼.

AREA—1,675 ACRES

The land described aggregates about 2,034 acres. The effective date of this cancellation is March 2, 1973.

Dated: November 2, 1972.

V. E. MCKELVEY,
Director.

[FR Doc.72-19390 Filed 11-10-72;8:46 am]

National Park Service

CAPE HATTERAS NATIONAL SEASHORE

Notice of Intention to Negotiate Concession Contract

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Chicamacomico Enterprises, Inc., authorizing it to provide concession facilities and services for the public at Cape Hatteras National Seashore for a period of five (5) years from January 1, 1973, through December 31, 1977.

The foregoing concessioner has performed its obligations under the expiring contract to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Chief of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: November 3, 1972.

LAWRENCE C. HADLEY,
Assistant Director, National Park Service.

[FR Doc.72-19383 Filed 11-10-72;8:45 am]

Office of the Secretary

[FES 72-39]

PROPOSED SAN JUAN WILDERNESS AREA, WASHINGTON

Notice of Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91-190, the Department of the Interior has prepared a final environmental statement for the proposed San Juan Wilderness Area, Washington.

The environmental statement proposes wilderness designation for seven islands of the San Juan Archipelago, located in San Juan and Skagit counties, Washington, presently in the Matia Island and San Juan National Wildlife Refuges. This action will include the subject area within the National Wilderness Preservation System.

Copies of the final statement are available for inspection at the following locations:

Bureau of Sport Fisheries and Wildlife, 1500 Plaza Building, Room 288, 1500 Northeast Irving Street, Post Office Box 3737, Portland, OR 97208.
Bureau of Sport Fisheries and Wildlife, Office of Environmental Quality, Department of the Interior, Room 2246, 18th and C Streets NW., Washington, DC 20240.

Single copies may be obtained by writing the Chief, Office of Environmental Quality, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240. Please refer to the statement number above.

Dated: November 2, 1972.

W. W. LYONS,
Deputy Assistant Secretary, Program Policy.

[FR Doc.72-19389 Filed 11-10-72;8:46 am]

Office of the Secretary

HOWARD A. BECK

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) Add—Texaco Inc.
(3) No change.
(4) No change.

This statement is made as of October 2, 1972.

Dated: October 2, 1972.

HOWARD A. BECK.

[FR Doc.72-19386 Filed 11-10-72;8:45 am]

JAMES BROADDUS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of September 29, 1972.

Dated: September 29, 1972.

JAMES S. BROADDUS.

[FR Doc.72-19387 Filed 11-10-72;8:45 am]

ELWYN TIMME

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of October 20, 1972.

Dated: October 20, 1972.

E. J. TIMME.

[FR Doc.72-19388 Filed 11-10-72;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. S-591]

DAVID J. AEDER

Notice of Loan Application

NOVEMBER 6, 1972.

David J. Aeder, Post Office Box 76, Wheeler, OR 97147, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new fiber glass vessel, about 31 feet in length, to engage in the fishery for salmon, albacore, and bottomfish off the coasts of California, Oregon, and Washington.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above-entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

ROBERT W. SCHONING,
Acting Director.

[FR Doc.72-19380 Filed 11-10-72; 8:45 am]

[Docket No. Sub-B-50]

AMERICAN STERN TRAWLERS, INC.

Notice of Hearing

NOVEMBER 9, 1972.

American Stern Trawlers, Inc., has applied for permission to transfer the operations of the 296-foot 10-inch-length, overall, fishing vessel Seafreeze Pacific, constructed with the aid of a fishing vessel construction-differential subsidy, from the fishery for bottomfish, hake and herring in the North Pacific Ocean and the freezing and transportation of salmon in the North Pacific Ocean to the fishery for bottomfish, hake and herring in the North Pacific Ocean and the freezing and transportation of salmon in the North Pacific Ocean and the processing, freezing and transportation of all such species (including *Merluccius gayi*) in the Pacific Ocean including the purchasing of unprocessed fish of such species from non-American catching vessels and the delivery of processed and frozen products to the United States utilizing other American flag vessels and foreign port facilities.

Notice is hereby given pursuant to the provisions of the U.S. Fishing Fleet Improvement Act (Public Law 88-498) and Notice and Hearing on Subsidies (50 CFR Part 257) that a hearing on the above-entitled matter will be held on December 14, 1972, at 10 a.m., e.s.t., in Room 400, Page Building 2, 3300 Whitehaven Street NW, Washington, DC. Any person desiring to intervene must file a petition to intervention with the Director, National Marine Fisheries Service, as prescribed in 50 CFR Part 257 at least 10 days prior to the date set for the hearing. If such petition of intervention is granted, the place of the hearing may be changed to a field location. Telegraphic notice will be given to the parties in the event of such a change along with the new location.

PHILIP M. ROEDEL,
Director.

[FR Doc.72-19544 Filed 11-10-72;8:52 am]

Office of the Secretary

[Dept. Organization Order 20-2]

OFFICE OF AUDITS

Organization and Functions

This order effective October 25, 1972 supersedes the material appearing at 36 F.R. 21218 of November 4, 1971 and 37 F.R. 9678 of May 16, 1972.

SECTION 1. *Purpose.* This order prescribes the functions and organization of the Office of Audits.

SEC. 2. *Status and line of authority.* The Office of Audits, a Departmental office, shall be headed by a Director, who shall report and be responsible to the Assistant Secretary for Administration.

SEC. 3. *Functions.* .01 Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10-5, and subject to such policies and directives as the Assistant Secretary for Administration may prescribe, the Office shall conduct audits of all organizational units of the Department except as the Assistant Secretary for Administration may otherwise determine with respect to particular auditing tasks for designated organizational units. The audits may (a) encompass the operating, administrative, and financial activities of units, including the administration for compliance with applicable law, economy and efficiency, and achievement of desired results, or (b) concern selected claims, costs, cost proposals, and cost and pricing data arising from contracts, grants, subsidies, loans or other similar agreements entered into, or proposed by, organizational units. The Office may also, by agreement, conduct audits for other Government organizations on a reimbursable basis, with the approval of the Assistant Secretary for Administration.

.02 The Director of Audits, shall be the adviser to, and serve as the representative of, the Assistant Secretary for

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Administration on all internal and external audit matters of the Department, and shall serve as adviser to other Departmental officials with respect to these matters. He shall represent the Department in conferences and negotiations with officials of other Federal agencies or other groups with respect to audit matters.

SEC. 4. *Specified authority.* In addition to the authority implicit in and essential to carrying out the functions assigned the Office, the Director of Audits is expressly delegated the authority to arrange with other Federal, State and local agencies, and other organizations, to make external audits.

SEC. 5. *Organization.* Under the direction and supervision of the Director, the functions of the Office shall be organized and carried out as provided below:

.01 The Deputy Director of Audits shall be the chief operating aide to the Director of Audits on substantive audit matters and shall be responsible for managing the audit staff. In consultation and cooperation with the Office of Personnel, he shall be responsible to the Director of Audits for obtaining a high quality professional staff, for developing and prescribing programs designed to further the career development of individual staff members, and for obtaining appropriate recognition of the professional character of the work done by members of the audit staff. He shall perform such other duties and assignments as the Director of Audits may prescribe. He shall also perform the functions of the Director in the latter's absence.

.02 The Program, Planning and Review Staff shall develop (a) policies, procedures, and standards for planning, programing, executing, and reporting on all internal audits, and (b) policies and procedures for all management and administrative matters for the Office of Audits. It shall coordinate, review and revise, as appropriate, individual audit programs and audit plans applicable to internal audits prepared by the operating divisions in the Office; maintain surveillance, through audit site visits, reports and conferences, over internal audits in process to determine compliance with approved policies, plans and programs; post-review selected internal audits in detail as a quality control; review, reference, edit, and process internal audit reports; maintain follow-up on all audit findings and recommendations; coordinate responses to and comments on General Accounting Office reports; and carry out such other duties and assignments as the Director of Audits may prescribe.

.03 The External Audit Policy Staff shall develop Department-wide policies, procedures, and standards for the execution of and reporting on all external audits. It shall maintain surveillance, through audit site visits, reports and conferences, over external audits in process to determine compliance with established policies; post-review selected external audits in detail as a quality control; maintain follow-up on external audit recommendations; in consultation with Regional Offices, prepare standard audit guides and standard audit programs for accounting systems surveys and financial audits for all Departmental contracts and grant and loan programs; maintain liaison with other Federal agencies and other groups on all matters pertaining to external audits; and carry out such other duties and assignments as the Director may prescribe.

.04 The Internal Audit Divisions, under the direct supervision of the Director, shall carry out, on a cyclical basis, comprehensive audits of the operating, administrative, and financial activities of organizational units, or special audits relating thereto. Each Audit Division is assigned, as specified below, a group of organizations of the Department which normally it will audit:

Division	*Organizations to Audit*
Internal Audit Div. 1	National Bureau of Standards. National Oceanic and Atmospheric Administration. National Technical Information Service. Office of Telecommunications. Patent Office.
Internal Audit Div. 2	Bureau of Domestic Commerce. Bureau of International Commerce. Maritime Administration. Office of Foreign Direct Investments. Social and Economic Statistics Administration. United States Travel Service.
Internal Audit Div. 3	Economic Development Administration. Office of Minority Business Enterprise. Office of the Secretary.

.05 The Regional Offices (located in Chicago, Dallas, San Francisco, and Washington, D.C.), under the direct supervision of the Director, shall carry out, or arrange for, site audits of documentation in support of claims, costs, cost proposals, and cost and pricing data arising from selected contracts, grants, subsidies, loans, and other similar agreements, entered into or proposed by organizational units. The Regional Offices shall carry out or arrange for site audits of contracts, grants, or similar agreements, or proposals thereto, as requested by the Department officials and agreed to by the Director of Audits. The Regional Offices shall make any necessary arrangements with other Federal, State, and local agencies, or with any other organizations, for the performance of audits of such contracts, grants, or other agreements, on a reimbursable or other basis, and shall prescribe the scope of such audits and maintain liaison with the auditing agency or organization. The Regional Offices will carry out such other duties and assist in performing internal audits as the Director may prescribe.

Effective date: October 25, 1972.

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

[FR Doc.72-19412 Filed 11-10-72;8:48 am]

Office of Textiles

MANAGEMENT-LABOR TEXTILE ADVISORY COMMITTEE

Notice of Closed Meeting

NOVEMBER 10, 1972.

A. Management-Labor Textile Advisory Committee.

B. The purpose of the Committee is to provide advice and information to Department officials on conditions in the textile industry and on trade in textiles and apparel.

C. The meeting is scheduled for November 21, 1972, at 2 p.m., Main Commerce Building, U.S. Department of Commerce, Washington, D.C. 20230.

D. The Secretary of Commerce, pursuant to section 13(d) of Executive Order 11671 of June 5, 1972, has determined that the Committee meeting scheduled for November 21, 1972, shall be exempt from the provisions of sections 13 (a), (b), and (c), relating to public participation and record keeping, because the Committee's activities are matters which fall within policies analogous to those recognized in section 552(b) of title 5 of the United States Code, and the public interest requires such activities to be withheld from disclosure. The specific exemption is the foreign policy exemption set forth in paragraph 1 of Section 552(b).

E. Further information may be obtained from Mr. Arthur Garel, Director, Office of Textiles, Room 2815, Main Commerce Building, U.S. Department of Commerce, Washington, D.C. 20230.

ARTHUR GAREL,
Director, Office of Textiles.

[FR Doc.72-19593 Filed 11-10-72;11:29 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 50168]

ANTIBIOTIC-STEROID PREPARATION CONTAINING POLYMYXIN B SULFATE, ZINC BACITRACIN, NEOMYCIN SULFATE, AND HYDROCORTISONE

Drugs for Human Use; Drug Efficacy Study Implementation; Correction

In F.R. Doc. 72-9211 appearing at page 12166 in the June 20, 1972, issue of the FEDERAL REGISTER, in the second paragraph, the number "NDA 50-146," is corrected to read "NDA 50-416."

Dated: November 6, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-19400 Filed 11-10-72;8:47 am]

[DESI 6002; Docket No. FDC-D-309; NDA 8-578 etc.]

CERTAIN ANTI-INFECTIVE DRUGS

Drugs for Human Use; Drug Efficacy Study Implementation

In the FEDERAL REGISTER of August 7, 1971 (36 F.R. 14662), the Food and Drug Administration announced its conclusions pursuant to evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, concerning the subject drugs. Among the drugs included in that announcement were the following:

1. Delvex Tablets containing dithiazanine iodide; Eli Lilly & Co., Post Office Box 618, Indianapolis, IN 42606 (NDA 11-440).

2. Lucanthone Hydrochloride Tablets; Burroughs Wellcome and Co., Inc., 3030 Cornwallis Road, Research Triangle Park, NC 27709 (NDA 12-344).

For these two drugs, the announcement required, among other things, submission of abbreviated new drug applications, abbreviated supplements, and data to assure bioavailability.

Because of the potential toxicity of these two drugs, the Commissioner concludes that the requirement for bioavailability testing is not appropriate, and that, for the same reason, abbreviated applications and supplements are not acceptable. Therefore, with respect to these two drugs, only, marketing may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study" published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 12273), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling and a supplement for updating information as described in paragraphs (a)(1) (i) and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of a full new drug application as described in paragraph (a)(3)(iii) of that notice. The Office of Scientific Evaluation (BD-100), Bureau of Drugs should be contacted concerning the clinical studies required.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: November 6, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-19403 Filed 11-10-72;8:47 am]

[Docket No. FDC-D-533; NADA No. 11-353V]

WHITMOYER LABORATORIES, INC.

Thera-Tergent; Notice of Opportunity for Hearing

In an announcement published in the FEDERAL REGISTER of September 5, 1970 (35 F.R. 14168, DESI 901V), the Commissioner of Food and Drugs announced the conclusions of the Food and Drug Administration following evaluation of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Thera-Tergent NADA (new animal drug application) No. 11-353V; marketed by Affiliated Laboratories Division, Whitmoyer Laboratories, Inc., 19 North Railroad Street, Myerstown, PA 17067 (formerly marketed by Warren-Teed Pharmaceuticals, Inc.). The announcement invited the holder of said new animal drug application and any other interested persons to submit pertinent data on the drug's effectiveness.

A satisfactory supplemental new animal drug application has not been submitted in response to said announcement and available information fails to provide substantial evidence that this drug will have the effect it purports to have when administered in accordance with the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, notice is given to Whitmoyer Laboratories, Inc., and to any other interested person who may be adversely affected that the Commissioner proposes to issue an order under the provisions of section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b) withdrawing approval of NADA No. 11-353V, including all amendments and supplements thereto.

In accordance with the provisions of section 512 of the Act (21 U.S.C. 360b), the Commissioner hereby gives the applicant and any interested persons who would be adversely affected by an order withdrawing such approval an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of NADA No. 11-353V should not be withdrawn. Promulgation of the order will cause any drug similar in composition to the above-cited drug product and recommended for similar conditions of use to be a new animal drug for which an approved new animal drug application is not in effect. Any such drug then on the market would be subject to appropriate regulatory action.

Within 30 days after publication hereof in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Office of the General Counsel, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner, without further notice, will enter a final order withdrawing approval of the new animal drug application.

Failure of such persons to file a written appearance of election within said 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing concerning a method or process that the Commissioner finds is entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file a written appearance requesting the hearing and giving the reasons why approval of the new animal drug application should not be withdrawn together with a well-organized and full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition to the grounds for this notice. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that there is a genuine and substantial issue of fact requiring a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the withdrawal of approval of the application, the Commissioner will enter an order stating his findings and conclusions of such data. If a hearing is requested, and is justified by the response to this notice, the issues will be defined, an administrative law judge will be named, and he shall issue a written notice of a time and place at which the hearing will commence.

Responses to this notice will be available for public inspection in the Office of the Hearing Clerk (address given above), during regular business hours, Monday through Friday.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under the authority delegated to the Commissioner (21 CFR 2.120).

Dated: November 6, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-19401 Filed 11-10-72;8:47 am]

Health Services and Mental Health Administration

NATIONAL ADVISORY HEALTH SERVICES COUNCIL AND FEDERAL HOSPITAL COUNCIL

Notice of Meetings During November

Pursuant to Executive Order 11671, the Administrator, Health Services and Mental Health Administration, announces the reissuance of meeting dates and other required information for the following National Advisory bodies scheduled to assemble during the month of November 1972, in accordance with provisions set forth in section 13(a) (1) and (2) of that Executive Order:

Committee name, date, time, place, type of meeting and/or contact person

Joint Meeting of the National Advisory Health Services Council and the Federal Hospital Council, November 15, 9 a.m., Conference Room G-H, Parklawn Building, 5600 Fishers Lane, Rockville, Md., Open. Contact Russell Z. Seidel, Room 15-35, Parklawn Building, 5600 Fishers Lane, Rockville, Md. Code 301—443-2940.

Purpose: The Councils are charged with advising on policies and regulations under title III and title VI of the Public Health Service Act.

Agenda: The Councils will be receiving reports from the Director and Staff members of

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the National Center for Health Services Research and Development relative to the current programs and plans for Fiscal Year 1973.

Committee name, date, time, place, type of meeting, and/or contact person

Federal Hospital Council, 11–16, 9 a.m., Conference Room G–H, Parklawn Building, 5600 Fishers Lane, Rockville, Md., closed, 9–10:30 a.m., open, 10:30 a.m.–4:30 p.m., contact Russell Z. Seidel, Room 15–35, Parklawn Building, 5600 Fishers Lane, Rockville, Md. Code 301—443–2940.

Purpose: The Council is charged with advising on policies and regulations under title VI of the Public Health Service Act and to provide final review of grant applications for Federal assistance in the program area administered by the National Center for Health Services Research and Development.

Agenda: The Council will review grant applications which contain trade secrets, commercial or financial information obtained from a person and privileged or confidential, and will be closed to the public for that portion of the meeting in accordance with the determination made by the Secretary of Health, Education, and Welfare, pursuant to the provisions of Executive Order 11671, section 13(d). The meeting will be open to the public for that portion when the Director, Health Care Facilities Service submits his report.

A period will be reserved for comments and discussion from the general public.

Interested persons may submit written information or views addressed to the contact person named above. Members of the public who wish to participate in these Council meetings must furnish the contact person, at least 24 hours prior to the meetings, with their name(s), issues to be discussed, and any documentation to be submitted.

Dated: November 9, 1972.

ANDREW J. CARDINAL,
Acting Associate Administrator for Management, Health Services and Mental Health Administration.

[FR Doc.72–19499 Filed 11–10–72;8:54 am]

Office of the Secretary

ADVISORY COMMITTEE ON DENTAL HEALTH

Notice of Meeting

The Advisory Committee on Dental Health, established to advise the Secretary regarding all significant aspects of dental health programs and other dental activities coming under the purview of the Department of Health, Education, and Welfare, is scheduled to hold a meeting on November 20–21, 1972. The meeting will be held in the Food and Drug Administration Building located at 200 C Street SW., Washington, DC, Room 1409. The meeting is scheduled to convene at 9 a.m. and will continue until 5 p.m.

The Committee will review the draft of a final report to be submitted to the Secretary relative to the dental activities under the purview of the Department of Health, Education, and Welfare.

The meeting is open for public observation.

Dated: November 3, 1972.

MELVIN L. DOLLAR,
Executive Secretary.

[FR Doc.72–19414 Filed 11–10–72;8:48 am]

SECRETARY'S ADVISORY COMMITTEE ON THE RIGHTS AND RESPONSIBILITIES OF WOMEN

Notice of Public Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which was established to review the policies, programs, and activities of the Department of Health, Education, and Welfare relative to women, make recommendations to the Secretary on the status of women, and continually determine how HEW's programs can be of better service to the special needs of women, will meet on Thursday and Friday, November 30 and December 1, 1972, from 9 a.m. to 5 p.m. in Dallas, Tex. (Statler Hilton Hotel, 1914 Commerce Street). The Committee will discuss a wide range of issues and these meetings will be open for public observation. The Committee, in particular, will discuss consumer problems as they directly affect women. The Committee will also discuss health, education, social services/welfare, and employment policies as they relate to women.

Dated: November 6, 1972.

FLORENCE J. HICKS,
Executive Director, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc.72–19418 Filed 11–10–72;8:48 am]

SECRETARY'S ADVISORY COMMITTEE ON THE RIGHTS AND RESPONSIBILITIES OF WOMEN, SUBCOMMITTEE ON SOCIAL SERVICES AND WELFARE

Notice of Public Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, Subcommittee on Social Services, which was established to review the policies, programs, and activities of the Department of Health, Education, and Welfare relative to social services and welfare programs affecting women, make recommendations to the Secretary through the Committee, and continually evaluate these policies, programs, and activities will meet on Monday, November 20, 1972, at the Pennsylvania Building, 13th and Pennsylvania Avenue NW., Suite 1032, from 9 a.m. to 5 p.m. This subcommittee will discuss in detail HR–I and child care development projects. This meeting is open for public observation.

Dated: November 6, 1972.

FLORENCE J. HICKS,
Executive Director, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc.72–19419 Filed 11–10–72;8:48 am]

Social and Rehabilitation Service

NATIONAL ADVISORY COUNCIL ON SERVICES AND FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Notice of Public Meeting

The National Advisory Council on Services and Facilities for the Developmentally Disabled created to advise the Secretary on regulations and evaluation of programs for Public Law 91–517 will hold a regular meeting on November 16, 1972, 8:30 a.m. to 12 p.m. and November 19, 1972, 9:30 a.m. to 3 p.m. in the Tudor Room of the Shoreham Hotel, Washington, DC. The agenda will include discussion of National Conference, November 17–18, recommendations of committee on university-affiliated facilities, and discussion on extension of the Developmental Disabilities Act. Meeting will be open to the public. Additional information can be obtained by calling the executive secretary at 202—962–7355.

FRANCIS X. LYNCH,
Executive Secretary.

NOVEMBER 7, 1972.

[FR Doc.72–19316 Filed 11–10–72;8:48 am]

GENERAL SERVICES ADMINISTRATION

ARCHIVES ADVISORY COUNCIL

Notice of Meeting

Notice is hereby given that the Archives Advisory Council shown below will meet at the time and place indicated. Anyone who is interested in attending, or wants additional information should contact the person shown below.

REGIONAL ARCHIVES ADVISORY COUNCIL

REGION 9

Meeting date: December 1, 1972.
Time: 9:30 a.m.–4 p.m.
Place: Federal Archives and Records Center, 1000 Commodore Drive, San Bruno, CA 94066.
Agenda: Research in regional archives; microfilm acquisition and use; Archival Symposia; National Historic Records Program.
For further information contact: Paul A. Kohl, NARS Regional Commissioner, 49 Fourth Street, San Francisco, CA 94103, 415—556–3425.

Issued in Washington, D.C., on November 6, 1972.

JAMES B. RHOADS,
Archivist of the United States.

[FR Doc.72–19435 Filed 11–10–72;8:53 am]

DEPARTMENT OF TRANSPORTATION

Hazardous Materials Regulations Board

SHIPMENT OF HAZARDOUS MATERIALS

Special Permits Issued

Pursuant to Docket No. HM–1, rulemaking procedures of the Hazardous Materials Regulations Board, issued May 22, 1968 (33 F.R. 8277) 49 CFR Part 170, following is a list of new DOT Special Permits upon which Board action was completed during October 1972:

Special Permit No.	Issued to—Subject	Mode or modes of Transportation
6673	Air Products & Chemicals, Inc., Allentown, Pa., to ship nitric acid in an MC–31 tank motor vehicle with bottom discharge outlet.	Highway.
6676	Shippers registered with this Board to ship fissile radioactive materials in packaging identified as container type CMII INOX.	Highway, Rail, Cargo-only Aircraft, Cargo vessel.
6677	Shippers registered with this Board to ship Type B quantities of radioactive materials, n.o.s. in the Savannah River Shipping Container Model No. LP–12.	Highway, Rail, Cargo-only Aircraft.
6678	Shippers registered with this Board to ship large quantities of radioactive materials, n.o.s. in the Savannah River Shipping Container Model No. LP–50.	Highway, Rail, Cargo-only Aircraft.
6679	Shippers registered with this Board to ship fissile and large quantities of radioactive materials, n.o.s., or in special form, packaged in the Protective Packaging, Incorporated's "Half Super Tiger" overpack.	Highway, Rail, Cargo vessel.
6680	Eli Lilly & Co., Indianapolis, Indiana, to make limited import shipment of phosphorus pentachloride in non-DOT specification, open-head steel drums comparable to DOT–37A drums.	Highway, Cargo-only Aircraft.
6681	PPG Industries, Inc., Pittsburgh, Pa., to ship paints and related materials in 6½ gallon capacity DOT–37A drums, not so marked.	Highway.

ALAN I. ROBERTS, *Secretary.*

[FR Doc.72–19392 Filed 11–10–72;8:46 am]

ATOMIC ENERGY COMMISSION

CALIFORNIUM–252

Prices, Standard Forms, and Handling Charges

The U.S. Atomic Energy Commission hereby announces revisions in its present program for the sale and distribution of the neutron emitting isotope californium-252 (Cf–252). An additional standard form is being made available for the benefit of industrial source encapsulators and handling charges are being increased to reflect higher labor costs since initiation of the sale program in 1970.

Notice, entitled "Californium-252 Price Decrease", published in the FEDERAL REGISTER on August 29, 1970 (35 F.R. 13807) is hereby superseded.

1. The AEC will continue to offer unencapsulated californium-252 at a price of $10 per microgram. As a result of the AEC's research effort to establish an improved standard form for industial source encapsulation, palladium-californium oxide cermet ($Pd\text{-}Cf_2O_3$) will be offered, in addition to oxide, as a standard form for Cf–252 sales. The AEC will continue to offer Cf–252 in oxide form as long as sufficient demand for this material exists.

2. The palladium-californium oxide cermet will be available to both domestic and foreign customers in wire and pellet form. Initial californium concentrations in wire form will be 5, 50, and 500 micrograms per inch; however, special orders for concentrations other than these will be considered, with charges for special orders determined in individual cases. Cf–252 cermet pellets are being offered in addition to the wire form because standard 100 series double-encapsulated sources, a design currently offered by commercial source encapsulators, can hold up to 10 mg. of Cf–252 in pellet form compared to a maximum of 2 mg. of Cf–252 in wire form.

3. Because of increased labor costs since initiation of Cf–252 sales, handling charges for Cf–252 in $Pd\text{-}Cf_2O_3$ and oxide must be increased from the current rate of $1,600 per standard shipment, effective immediately. The following charges are now in effect:

$Pd\text{-}Cf_2O_3$ wire or pellets: $1,250 for capsule assembly and preparation plus $600 per inch (or fraction thereof) of 500 microgram per inch wire and $100 per inch of 50 or 5 microgram per inch wire; or $850 per pellet.

Cf–252 Oxide: $1,850 per package.

4. The minimum length of wire ordered will be one-half inch. Cf–252 supplied can be provided within ±10 percent of the quantity ordered for all forms. Specific information on material specifications for sale quantities of Cf–252 is available from the Manager, Savannah River Operations Office, Post Office Box A, Aiken, SC 29801.

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Effective date. This notice is effective upon publication in the FEDERAL REGISTER (11–11–72).

Dated at Germantown, Md., this 6th day of November 1972.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.72–19433 Filed 11–10–72;8:49 am]

[Dockets Nos. 50–361, 50–362]

SOUTHERN CALIFORNIA EDISON CO. AND SAN DIEGO GAS & ELECTRIC CO.

Notice and Order for Prehearing Conference

In the matter of Southern California Edison Co., San Diego Gas & Electric Co. (San Onofre Nuclear Generating Station, Units 2 and 3).

Please take notice, that pursuant to the Prehearing Conference Order issued October 31, 1972, in this proceeding, and in accordance to 10 CFR 2.752 of the "Rules of Practice" of the Atomic Energy Commission, a further prehearing conference will be held in this proceeding on Tuesday, November 21, 1972, at 10 a.m., Suite 720, Vanguard Building, U.S. Department of Labor, 1111 20th Street NW., Washington, DC 20006.

This further prehearing conference will consider:

(1) Simplification, clarification, and specification of the issues;

(2) The necessity or desirability of amending the pleadings;

(3) The obtaining of stipulations and admissions of fact and of the contents and authenticity of documents to avoid unnecessary proof;

(4) Identification of witnesses and the limitation of the number of expert witnesses, and other steps to expedite the presentation of evidence;

(5) The setting of a hearing schedule;

(6) Those matters included in paragraphs J1 and J2 of the Prehearing Conference Order issued herein on October 31, 1972, and;

(7) Such other matters as may aid in the orderly disposition of the proceeding.

Each party shall be represented at this prehearing conference by the attorney who expects to present the evidence at the formal hearing, except that, for good cause, parties may be represented by an attorney associated with the attorney who expects to appear at formal hearing. The attorneys who will appear at this prehearing conference are directed to be prepared to discuss the above-enumerated matters.

By Order of the Atomic Safety and Licensing Board.

Issued: November 7, 1972.

MICHAEL L. GLASER, *Chairman.*

[FR Doc.72–19416 Filed 11–10–72;8:48 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23333; Order 72–11–12]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority November 3, 1972.

Agreements have been filed with the Board pursuant to section 412(a) of the

Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic

of an individual who can answer questions regarding those statements.

in gaseous effluents, and 10 curies in liquid effluents will be released per year.

(218 pages) Comments made by: USDA

Final, October 27

Springdale Municipal Airport, Washington County, Ark. The proposed project con-

displaced; 13.25 acres of undeveloped section 4(f) land from the Bahi Village Park may be committed to right-of-way. (48

TARIFF COMMISSION

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Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreements name additional specific commodity rates as set forth in the attachment hereto,[1] and reflect reductions from the otherwise applicable general cargo rates. The agreements, which have been assigned the above-designated CAB agreement numbers, were adopted pursuant to unprotested notices to the carriers and promulgated in IATA letters dated October 19, 1972, and October 23, 1972, respectively.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the subject agreements are adverse to the public interest or in violation of the Act: *Provided*, That approval is subject to the condition hereinafter ordered.

Accordingly, it is ordered, That:

Agreements CAB 23359 and 23360, R–1 and R–2, be and hereby are approved: *Provided*, That approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; *Provided further*, That tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72–19463 Filed 11–10–72;8:52 am]

[1] Filed as part of the original document.

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Availability

Environmental impact statements received by the Council from October 30 through November 3, 1972.

NOTE: At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

DEPARTMENT OF AGRICULTURE

Contact: Dr. T. C. Byerly, Office of the Secretary, Washington, D.C. 20250. 202—388–7803.

FOREST SERVICE

Draft, November 2

Herbicide control of sagebrush, Idaho. The statement refers to the proposed use of 2,4-D herbicide on approximately 15,000 acres of national forest and grassland areas annually, in order to control sagebrush and Wyethia. The area to be treated is in southern Idaho, south of the Salmon River. The statement indicates that a minor amount of the chemical may find its way to water supplies and to the soil. Grouse, antelope, and mule deer are among the wildlife species which are dependent upon sagebrush for either cover or food; some nontarget species of plants will be affected. (54 pages) (ELR Order No. 05555) (NTIS Order No. EIS 72–5556–D)

ATOMIC ENERGY COMMISSION

Contact: For nonregulatory matters: Mr. Robert J. Catlin, Director, Division of Environmental Affairs, Washington, D.C. 20545, 202—973–5391.

For regulatory matters: Mr. A. Giambusso, Deputy Director for Reactor Projects, Directorate of Licensing. 202—973–7373, Washington, D.C. 20545.

Draft, October 31

Waterford Station, Unit 3, St. Charles County, La. The statement refers to the proposed issuance of a construction permit to the Louisiana Power & Light Co., for Unit 3, which is to be on a site with two existing oil-fueled generating plants. Unit 3 will employ a pressurized water reactor to produce 3,410 MWT and 1,165 MWE (net); a "stretch" level of 3,560 MWT is anticipated. Cooling water will be obtained by a once-through flow from the Mississippi River. The estimated dose to the population within 50 miles from the station is 2 man-rem/year. (212 pages) (ELR Order No. 05549) (NTIS Order No. EIS 72–5549–D)

Draft, November 2

Salem Nuclear Generating Station, N.J. The statement refers to the proposed continuation of provisional construction permits and the issuance of operating licenses to the Public Service Electric & Gas Co., for Units 1 and 2. The two units will employ pressurized water reactors to produce outputs of 3,350 and 3,423 MWT, and 1,090 and 1,115 MWE (net) respectively. Cooling water will be drawn from and returned to the Delaware River (at 13.3° F. above ambient). Several hundred acres of marsh have been filled and leveled for the facility. (196 pages) (ELR Order No. 05557) (NTIS Order No. EIS 72–5557–D)

Final, October 31

Edwin I Hatch Nuclear Plant, Appling County, Ga. The statement refers to the issuance to the Georgia Power Co. of an operating license for Unit 1 and a construction license for Unit 2. Each of the two boiling water reactors will have a capacity of 2,537 MWT; Unit 1 will produce 813 MWE; Unit 2 will produce 822 MWE. The units will be cooled by a closed system with mechanical draft two towers, with water being taken from and discharged to the Altamaha River. The 25,000 g.p.m. of water will be heated 3° above ambient prior to discharge; 170,000 curies of radioactive materials in gaseous effluents, and 10 curies in liquid effluents will be released per year. (218 pages) Comments made by: USDA, COE, DOC, EPA, FPC, HEW, HUD, DOI, and DOT. (ELR Order No. 05550) (NTIS Order No. EIS 72–5550–F)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attention: DAEN–PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, DC 20314, 202—693–7168.

Draft, October 31

Morgan City, St. Mary County, La. The statement refers to the proposed enlargement of 21.4 miles of levee and the construction of 3.5 miles of new levee, in order to minimize hurricane induced flooding. Numerous pipelines will be relocated, and several pumping stations will be modified due to the construction. (32 pages) (ELR Order No. 05543) (NTIS Order No. EIS 72–5543–D)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202—343–3891.

BUREAU OF RECLAMATION

Draft, October 31

Moovalya Marsh, Ariz. The statement refers to the proposed dredging of 80 acres of marsh, in order to provide a kilopower boat race course and convert another 83 acres to dry land suitable for commercial, residential, and recreational use. The project is located in the Colorado River Indian Reservation. Approximately 150 acres of marsh habitat elsewhere on the river will be rehabilitated to replace that lost to the project; a 10-acre replacement heron and egret rookery will also be provided. (45 pages) (ELR Order No. 05548) (NTIS Order No. EIS 72–5548–D)

NATIONAL PARK SERVICE

Draft, November 2

John Day Fossil Beds National Monument, Oreg. The statement refers to the proposed legislative designation of a 14,402-acre area as a national monument. Effects of the action will include the elimination of hunting on 7,127 acres; the restriction of agricultural activities (including grazing); and the displacement of one family. (24 pages) (ELR Order No. 05554) (NTIS Order No. EIS 72–5554–D)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 Seventh Street SW., Washington, DC 20590, 202—426–4355.

FEDERAL AVIATION AGENCY

Draft, October 27

Ingersoll Airport, Fulton County, Ill. The proposed project consists of the construction of a 3,300 foot by 60 foot east/west runway with turnarounds; construction of a 1,130 foot by 40 foot partial parallel taxiway; and installation of a 60-inch drainage pipe and VASI systems on the existing north/south runway. All property involved is owned by the Canton Park District. Noise and air pollution levels will increase. (42 pages) (ELR Order No. 05532) (NTIS Order No. EIS 72–5532–D)

Final, October 27

Springdale Municipal Airport, Washington County, Ark. The proposed project considers the reconstruction of some facilities at the existing airport. The action consists of acquiring land for clear zones; overlaying, extending, widening, and marking the existing north/south runway; constructing and marking partial taxiway and turnarounds; extending aircraft parking aprons and installing medium intensity lighting and VASI. One family will require relocation. Noise and air pollution levels will increase. (58 pages) Comments made by USDA, COE, EPA, HEW, HUD, DOI, DOT, State, and regional agencies. (ELR Order No. 05534) (NTIS Order No. EIS 72–5534–F)

FEDERAL HIGHWAY ADMINISTRATION

Draft, October 31

State Route 395, Inyo County, Calif. The proposed project is the construction of a four-lane expressway on Route 395. Project length is 7.5 miles. The amount of land acquisition will depend upon the route chosen. The road will traverse Birmingham Canyon, causing water pollution and damage to the fish life in the water. Archeological sites will also be affected. (39 pages) (ELR Order No. 05547) (NTIS Order No. EIS 72–5547–D)

Draft, October 27

Soda Springs Overpass, Caribou County, Idaho. Three alternate routes for the construction of a highway-railroad grade separation structure on State Highway 34 are considered in this statement. Project length is 0.3 mile. The number of families and businesses displaced will depend upon the route selected. (30 pages) (ELR Order No. 05535) (NTIS Order No. EIS 72–5535–D)

Draft, October 31

Supplemental Freeway 411, several counties, Illinois. The project provides for the reconstruction of F.A.P. Route 411 (Illinois Route 1) in Lawrence, Wabash, White, Hamilton, Saline, and Gallatin Counties from north of Lawrenceville to Harrisburg. Project length is 95 miles. The number of displacements and the amount of right-of-way required will depend upon the route selected. Disruption of vehicular and pedestrian circulation patterns, loss of agricultural land and private property from the tax base, loss of wildlife habitat and higher noise and pollution levels are adverse effects of the action. (60 pages) (ELR Order No. 05544) (NTIS Order No. EIS 72–5544–D)

State Route 52, Mass. The proposed project is the construction of 2.4 miles of State Route 52 expressway. Displacements will include 56 families and six businesses. Adverse effects will include loss of 60 acres of the Oak-Hickory Forest, 50 acres of meadow and 20 acres of swamps. A change is expected in the hydrology of the Gates Brooks Stream causing increases of water pollution and adverse effects on existing fish life. A section 4(f) statement will be filed for the acquisition of Worcester YMCA Skating Rink. (71 pages) (ELR Order No. 05546) (NTIS Order No. EIS 72–5546–D)

Cross Range Expressway (T.H. 169), St. Louis County, Minn. The statement refers to the proposed construction of an 8.5 mile segment of Trunk Highway 169 in the Mesabi Iron Range. The project will provide a four-lane divided expressway for the mining range and connect with the adjacent section of "Cross Range Expressway" already completed. Five families and two businesses may be displaced; 13.25 acres of undeveloped section 4(f) land from the Bahl Village Park may be committed to right-of-way. (45 pages) (ELR Order No. 05540) (NTIS Order No. EIS 72–5540–D)

U.S. 206 freeway—Hammonton Bypass, Atlantic County, N.J. The proposed project is located on U.S. 206 freeway. The project's length varies from 5.34 to 7.6 miles according to alternates chosen. The amount of land acquired and the number of displaced homes and businesses will depend upon the route chosen. A section 4(f) statement will be filed to obtain land from the Wharton State Forest. (42 pages) (ELR Order No. 05539) (NTIS Order No. EIS 72–5539–D)

Draft, October 27

West Virginia Route 56, Jackson County, W. Va. The proposed project consists of the construction of approximately 2.7 miles of four-lane expressway connecting West Virginia Route 2 and I–77. The number of displacements and the amount of right-of-way required will depend upon the route selected. Temporary construction-related effects to the environment will occur. (64 pages) (ELR Order No. 05537) (NTIS Order No. EIS 72–5537–D)

Final, October 31

I–65–S(32), Jefferson County, Ala. The proposed project is the construction of 3.2 miles of I–65–S(32). Thirteen families and one individual will be displaced. Streams will be traversed, causing siltation and erosion. (46 pages) Comments made by COE, DOI, DOT, EPA, HUD, State and regional agencies. (ELR Order No. 0552) (NTIS Order No. EIS 72–5542–F)

Final, October 27

N.C. 68 (Westchester Drive), Guilford County, N.C. The proposed project is the widening of Westchester Drive in High Point from U.S. 311 (North Main Street) to Elgin Avenue. Project length is 4 miles. Sixteen families and nine businesses may be displaced. Noise levels may increase as a result of the project. (47 pages) Comments made by USDA, COE, EPA, GSA, HUD, DOI, OEO, State, and local agencies. (ELR Order No. 05536) (NTIS Order No. EIS 72–5536–F)

Final, October 31

76th Street, Cotner Boulevard, relocated, Lancaster County, Nebr. The proposed project consists of the redesign and relocation of an existing "Y" intersection at 76th Street and Cotner Boulevard. The relocation of the intersection will displace two homes. Adverse effects will be increases of water and noise pollution. (30 pages) Comments made by USDA, COE, DOI, DOT, EPA, State, local, and regional agencies. (ELR Order No. 05541) (NTIS Order No. EIS 72–5541–F)

U.S. 30, relocated, Adams County, Pa. The proposed project is the relocation of U.S. 30. Project length is 10.1 miles. The relocation will affect 10 to 15 dwellings, two to four farm buildings and three to five commercial buildings. The Marsh Creek will be traversed causing erosion and sedimentation. Other adverse effects will include an increase of storm water drainage from paved areas. (40 pages) Comments made by USDA, EPA, and HUD. (ELR Order No. 05545) (NTIS Order No. EIS 72–5545–F)

BRIAN P. JENNY,
Acting General Counsel.

[FR Doc.72–19471 Filed 11–10–72;8:51 am]

TARIFF COMMISSION

[TEA–F–46]

BERNIE SHOE CO.

Petition for Determination; Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962 on behalf of the Bernie Shoe Co., Haverhill, Mass., the U.S. Tariff Commission, on November 8, 1972, instituted an investigation under section 301(c)(1) of the said Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear for women (of the types provided for in Items 700.43, 700.45, and 700.55 of the Tariff Schedules of the United States) produced by the aforementioned firm, are being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to such firm.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

By order of the Commission.

Issued: November 8, 1972.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72–19469 Filed 11–10–72;8:51 am]

[TEA–W–161]

WISE SHOE CO.

Workers Petition for Determination; Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the workers and former workers of the Wise Shoe Co., Exeter, N.H., the U.S. Tariff Commission, on November 8, 1972, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like, or directly competitive with footwear for women (of the types provided for in items 700.43, 700.45, and 700.55 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or

underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

the Tariff Commission located in Room 437 of the Customhouse.

of the applicant's other first-year operating costs. Thus, we cannot assume that West Columbia has sufficient funds

programing—Ward L. Jones, FCC 67–82 (1967); Policy Statement on Comparative Broadcast Hearings, 1 FCC 2d

tions should not be based solely on 307(b) considerations, which of the proposals would best serve the public interest.

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underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, DC, and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

By order of the Commission.

Issued: November 8, 1972.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.72-19470 Filed 11-10-72;8:51 am]

FEDERAL COMMUNICATIONS COMMISSION

[Canadian List No. 299]

CANADIAN STANDARD BROADCAST STATIONS

Notification List

NOVEMBER 3, 1972.

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering meeting January 30, 1941.

Call letters	Location	Power kw.	Antenna	Schedule	Class	Antenna height (feet)	Ground system: Number of radials	Ground system: Length (feet)	Proposed date of commencement of operation
		1520 kHz							
(New)	Brooks, Alberta, N. 50°29'35", W. 111°53'05".	1D 0.25N	ND-190	U	IV	185	120	294	E.I.O. 11-3-73.
(New) (delete assignment immediately).	Brooks, Alberta, N. 50°33'31", W. 111°54'13".	1D 0.25N	ND-193	U	IV	200	120	294	
		1490 kHz							
CKGO (now in operation)	Hope, British Columbia, N. 49°23'15", W. 121°25'42".	0.25	ND-186	U	IV	150	120	264 (ave)	

[SEAL] FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.72-19445 Filed 11-10-72;8:52 am]

[Docket No. 19624, etc.; FCC 72-966]

CONGAREE BROADCASTERS, INC. ET AL.

Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of: Congaree Broadcasters, Inc., West Columbia, S.C., Requests: 100.1 MHz, No. 261; 3 kw. (H & V); 300 feet. West Columbia Broadcasters, Inc., West Columbia, S.C., Requests: 100.1 MHz, No. 261; 3 kw. (H & V); 300 feet. Statesville Broadcasting Co., Inc., Columbia, S.C., Requests: 100.1 MHz, No. 261; 3 kw. (H & V); 300 feet. For Construction Permits. Docket No. 19624, File No. BPH-7712; Docket No. 19625, File No. BPH-7776; Docket No. 19626, File No. BPH-7777.

1. The Commission has before it the captioned applications which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference. Therefore, a comparative hearing must be held.

2. The financial portion of the application of West Columbia Broadcasters, Inc. (West Columbia) indicates that it will require at least $48,800 to construct and operate its proposed FM station for 1 year.[1] This figures does not include interest and principal payments on West Columbia's projected loans from banks because such data has not been provided. To meet its first-year costs, West Columbia relies on $600 in cash, a $30,000 loan from the Bankers Trust of South Carolina located in West Columbia, and a $25,000 loan from The Lexington State Bank, which is also located in West Columbia. As to the $25,000 loan from The Lexington State Bank, that bank has not stated the interest rate or the terms of repayment for its projected loan to West Columbia, as required by paragraph 4(e), section III, FCC Form 301. The purpose of our financial standards is to provide a reasonable assurance that a particular applicant will be able to operate its proposed station on a continuing basis. A bank loan repayable in a short period is a factor that we wish to consider in making such a determination. We therefore believe that a bank commitment that fails to specify the period of time over which the loan must be repaid, without any additional data, does not adequately describe the terms of repayment and casts considerable doubt as to whether the applicant in question can meet the required payments on its loan as well as its other first-year costs. Thus, appropriate financial issues will be specified as to this loan. Concerning the $30,000 loan from the Bankers Trust of South Carolina, that bank has not stated the interest rate at which it is willing to make the loan, even though it does state that it will not require principal payments during the first year of operation of West Columbia's FM proposal. We note that where an applicant relies on a loan from a bank which has not specified the interest that it will require, but the applicant has shown the availability of sufficient funds in excess of its other first-year expenses to meet any foreseeable interest payments, we will not ordinarily specify a financial issue against it. In this case, however, since The Lexington State Bank has indicated neither the terms of repayment nor the interest required for its projected $25,000 loan to West Columbia, we do not know what figure to allow for the total amount

[1] West Columbia's first-year costs, aside from payments on bank loans, include the following: Down payment on equipment, $2,930; first-year payments on equipment, including interest, $7,000; land and building expenses, $3,120; miscellaneous expenses, $12,000; and working capital, $23,750.

of the applicant's other first-year operating costs. Thus, we cannot assume that West Columbia has sufficient funds available to meet these other first-year costs plus the interest payments on the loan from the Bankers Trust of South Carolina. In light of the foregoing, appropriate issues will also be specified as to the loan from the Bankers Trust of South Carolina, the total first-year operating costs of West Columbia, and the financial qualifications of the applicant.

3. Based on figures contained in its application, we find that Statesville Broadcasting Co., Inc. (Statesville) will have first-year costs of $95,300.[2] To meet these costs, Statesville relies on $21,200 in cash and a $100,000 bank loan. Although Statesville has established the availability of $21,200 in cash, it has not met our standards for showing the availability of the $100,000 bank loan. An entity which agrees to loan money to a broadcast applicant must indicate, among other things, the collateral or security required for the loan. If no collateral or security is required, the entity must so state. In this instance, although The Northwestern Bank in Statesville has stated its willingness to loan the applicant $100,000, it has not stated what security, if any, is required. We do not know, therefore, whether the applicant can meet the bank's security requirements. Thus, the availability of the bank loan has not been established. In view of the foregoing, appropriate financial issues will be specified against Statesville.

4. Statesville will not provide a 3.16 mv./m signal over the entire city of Columbia, as required by § 73.315(a) of the rules. Nevertheless, Statesville's proposed operation will provide a signal level of 3.16 mv./m or more over the city limits of California, as they existed prior to the annexation of the Fort Jackson Military Reservation. As stated by the applicant, the reservation is several times larger than the basic or "downtown" part of Columbia and has scarcely any population over much of its area. A class A station, which is the only class of station allowed on the channel for which Statesville has applied, could not be located so that its 3.16 mv./m contour would encompass all of the new city limits of Columbia, because of the size of the Fort Jackson Reservation. The applicant has determined that 97.1 percent of the total population of Columbia (including that of the reservation) will receive a signal level of 3.16 mv./m or more. In light of these facts, and since the general coverage of the city will be satisfactory, we find that a waiver of § 73.315(a) of our rules is warranted in this instance.

5. A comparison of programing proposals is warranted when one applicant proposes predominantly specialized programing, and the other, general market programing—Ward L. Jones, FCC 67-82 (1967); Policy Statement on Comparative Broadcast Hearings, 1 FCC 2d 393, footnote 9 at 397 (1965). In this case, Congaree Broadcasters, Inc., proposes predominantly religious programing, while the other two applicants propose general market programing. Therefore, this aspect of the programing proposals of the applicants will be compared under the standard comparative issue.

6. The respective proposals would serve substantial areas in common. Consequently, in addition to determining, pursuant to section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service, a contingent comparative issue will also be specified.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

8. *Accordingly, it is ordered,* That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to the application of West Columbia Broadcasters, Inc.:

(a) The interest and terms of repayment required for the $25,000 loan from The Lexington State Bank, West Columbia, S.C.;

(b) The interest terms for the $30,000 loan from the Bankers Trust of South Carolina, West Columbia, S.C.;

(c) The total first-year operating costs for the applicant's FM proposal; and

(d) Whether, in light of the evidence adduced under the preceding issues, the applicant is financially qualified.

2. To determine with respect to the application of Statesville Broadcasting Co., Inc.:

(a) The security required for a $100,000 bank loan from The Northwestern Bank, Statesville, N.C., whether the applicant and/or its principals can meet the bank's security requirements, and, therefore, whether the bank loan will be available to the applicant;

(b) Whether, in light of the evidence adduced under the preceding issue, the applicant is financially qualified.

3. To determine the areas and populations which would receive FM service of 1 mv./m or greater intensity from the respective proposals together with the availability of other primary (1 mv./m or better for FM) aural services in such areas.

4. To determine, in light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

5. To determine, in the event it is concluded that a choice between applications should not be based solely on 307(b) considerations, which of the proposals would best serve the public interest.

6. To determine, in light of the evidence adduced under the preceding issues, which application should be granted.

9. *It is further ordered,* That if the application of Statesville Broadcasting Co., Inc., is granted, the construction permit shall specify that the provisions of § 73.315(a) of our rules are waived to permit a signal level of less than 3.16 mv./m over the entire city of Columbia, S.C.

10. *It is further ordered,* That each of the applicants shall file a written appearance stating an intention to appear and present evidence on the specified issues, within the time and in the manner required by § 1.221(c) of our rules.

11. *It is further ordered,* That the applicants shall give notice of the hearing, within the time and in the manner specified in § 1.594 of our rules, and shall seasonably file the statement required by § 1.594(g).

Adopted: November 1, 1972.

Released: November 6, 1972.

FEDERAL COMMUNICATIONS COMMISSION[3]

[SEAL] BEN F. WAPLE, *Secretary.*

[FR Doc.72-19442 Filed 11-10-72;8:52 am]

[2] Statesville's first-year costs are itemized as follows: equipment expenses, $37,100; miscellaneous expenses, $3,200; and working capital, $55,000.

[3] Concurring and dissenting statement of Commissioner Johnson filed as part of the original document. Commissioners H. Rex Lee and Hooks absent.

[Dockets Nos. 19618, 19619]

HOMER AIR SERVICES, INC., AND COOK INLET AVIATION, INC.

Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of Homer Air Service, Inc., and Cook Inlet Aviation, Inc., for an aeronautical advisory radio station to serve the Homer Airport, Homer, Alaska. Docket No. 19618, File No. 195-A-L-62; Docket No. 19619, File No. 162-A-L-62.

1. The Commission's rules (§ 87.251 (a)), provide that only one aeronautical advisory station may be authorized to operate at a landing area. The above-captioned applications both seek Commission authority to operate an aeronautical advisory station at the same landing area (Homer Airport, Homer, Alaska) and are, therefore, mutually exclusive. Accordingly, it is necessary to designate the applications for comparative hearing in order to determine which application should be granted. Except for the issues specified herein, each applicant is otherwise qualified.

2. In view of the foregoing, *it is ordered,* That pursuant to the provisions of section 309(e) of the Communications Act of 1934, as amended, and § 0.331(b)

(21) of the Commission rules, the above-captioned applications are hereby dis-

tions to the PBX Advisory Committee regarding the most practicable means by

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON

2043, on November 28, 1972, at 9:30 a.m. e.s.t.

[Docket No. RP73-4]

GREAT LAKES GAS TRANSMISSION

subject of extensive hearings, commencing in May 1967. The Presiding Examiner has issued two decisions, an

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(21) of the Commission rules, the above-captioned applications are hereby designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent order on the following issues:

a. To determine which applicant would provide the public with better aeronautical advisory service based on the following considerations:

(1) Location of the fixed-base operation and proposed radio station in relation to the landing area and traffic patterns;

(2) Hours of operation;

(3) Personnel available to provide advisory service;

(4) Experience of applicant and employees in aviation and aviation communications;

(5) Ability to provide information pertaining to primary and secondary communications as specified in § 87.257 of the Commission's rules;

(6) Proposed radio system including control and dispatch points; and

(7) The availability of the radio facilities to other fixed-base operators.

b. To determine in light of the evidence adduced on the foregoing issues which, if either, of the applications should be granted.

3. *It is further ordered*, That to avail themselves of an opportunity to be heard, Homer Air Service, Inc., and Cook Inlet Aviation, Inc., pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

Adopted: November 3, 1972.

Released: November 6, 1972.

[SEAL] JAMES E. BARR,
Chief, Safety and Special Radio Services Bureau.

[FR Doc.72-19444 Filed 11-10-72;8:52 am]

PBX ADVISORY COMMITTEE; NON-VOICE TASK GROUP

Notice of Public Meeting

NOVEMBER 7, 1972.

In accordance with Executive Order No. 11671, dated June 7, 1972, announcement is made of a public meeting of the Nonvoice Task Group of the PBX Advisory Committee to be held Tuesday, November 14, and Wednesday, November 15, 1972. The task group will meet at 590 Madison Avenue, New York, NY, Room A-2 at 9:30 a.m.

1. *Purposes.* The purpose of the PBX Advisory Committee is to prepare recommended standards to permit the interconnection of customer provided and maintained PBX equipment to the public switched network. The purpose of this task group is to prepare recommendations to the PBX Advisory Committee regarding the most practicable means by which a noncertified device may be used with a combined voice/nonbarrier PBX.

2. *Membership.* The task group is chaired by J. Merkel and is composed of the following: P. Bennett, M. J. Birck, G. Jahn, A. Marthens, H. A. Montgomery, G. Orelli, J. L. Wheeler. Observers include: P. D. Aoust, L. K. Armstrong, L. L. Butler, J. L. Caldwell, R. B. King, R. F. Norian, J. T. Walker, and W. L. Weikl.

3. *Activities.* Members and observers review existing interface criteria in some detail with the aim of identifying any additional harms which might accrue from nonvoice (noncarbon transmitter) devices. Any new criteria or need for modifications to the existing documents are highlighted.

4. *Agenda.* The agenda for the November 14 and 15 meeting will be as follows:

a. Review of work assignments.

b. Discussion of work assignments.

c. Review of test standard document.

d. Homework assignments.

It is suggested that those desiring more specific information, contact the Domestic Rates Division on 202—632-6457.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-19443 Filed 11-10-72;8:52 am]

FEDERAL POWER COMMISSION

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON CONSERVATION OF ENERGY

Notice of Meeting and Agenda

Agenda, meeting of the Technical Advisory Committee on Conservation of Energy on November 15, 1972, Room 4008, GAO Building, Washington, D.C. at 9:30 a.m.

1. Approval of minutes of October 17, 1972, meeting.

2. Review and approval of committee guidelines.

3. Review and approval of guidelines for Task Force on Practices and Standards.

4. Review and approval of guidelines for Task Force on Technical Aspects.

5. Review and approval of guidelines for Task Force on Environmental Aspects.

6. Review and approval of guidelines for Task Force on Policy, Implementation Methods, and Impact.

7. Task Force assignments for committee members and suggestions for additional members.

8. Other business.

9. Adjournment.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19452 Filed 11-10-72;8:53 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON FINANCE

Notice of Meeting and Agenda

Agenda, second meeting of the Technical Advisory Committee on Finance at 9:30 a.m. at the Federal Power Commission Offices, 441 G Street NW., Room 2043, Washington, DC., on November 21, 1972.

I. Review of minutes of previous meeting.

II. Discussion of Revised List of Initial Lines of Inquiry.

III. Discussion of Load Forecasts.

IV. Preliminary Reports on assignments made at previous meeting.

A. Capital Structure and Coverage—Messrs. Childs and Eggerstedt.

B. Sulphur Emissions Tax — Mr. O'Connor.

C. Special Financing Problems of REA's—Mr. Raymond.

D. Federal Income Taxes—Mr. Corey.

V. Completion of assignments of study projects.

VI. Other business.

VII. Time and place of next meeting.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 72-19451 Filed 11-10-72;8:53 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON RESEARCH AND DEVELOPMENT

Notice of Meeting and Agenda

Agenda, second meeting of the Technical Advisory Committee on Research and Development at 9:30 a.m. at the Federal Power Commission Offices, 441 G Street NW., Room 2043, Washington, D.C., on November 20, 1972.

I. Approval of minutes of previous meeting.

II. Review of report of the R&D Goals Task Force of the Electric Research Council.

III. Review of recent Office of Science and Technology studies of energy R&D potentials.

IV. Discussion of R&D areas as they relate to the Committee's assignment.

V. Discussion and selection of Committee work objectives and work plan.

VI. Other business.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19453 Filed 11-10-72;8:53 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON FUELS

Notice of Meeting and Agenda

Agenda, meeting, Technical Advisory Committee on Fuels, to be held at the Federal Power Commission Offices, 441 G Street NW., Washington, DC, Room 2043, on November 28, 1972, at 9:30 a.m. e.s.t.

1. Meeting called to order and roll call.

2. Approval of minutes of meeting October 17, 1972.

3. Receipt of report from Task Force on Report Structure and Review.

4. Development of outline of TAC report.

5. Assignment of duties.

6. Other business.

7. Adjournment.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19450 Filed 11-10-72;8:52 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON FUELS

Notice of Meeting and Agenda

Agenda, meeting of the Task Force—Administrative of the Technical Advisory Committee on Fuels, to be held at the Federal Power Commission Offices, 1425 K Street NW., Washington, DC, Room 859, on November 15, 1972, at 10 a.m. e.s.t.

1. Meeting called to order and roll call.

2. Receipt and discussion of comments solicited at TAC meeting October 17, 1972.

3. Preparation of report outline for presentation to TAC meeting November 28, 1972.

4. Other business.

5. Adjournment.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19454 Filed 11-10-72;8:53 am]

[Docket No. CP73-89]

EASTERN SHORE NATURAL GAS CO.

Notice of Applications; Correction

NOVEMBER 3, 1972.

In the notice of application, issued October 19, 1972 and published in the FEDERAL REGISTER October 26, 1972 F.R. 37(22905):

Paragraph 2, change the customer and additional contract demand-Mcf table to read as follows:

Customer	Additional contract demand-Mcf long term service
Cambridge Gas Co	35
Chesapeake Utilities Corp.:	
Citizens Gas Division	80
Dover Gas Light Division	165
Sussex Gas Division	25
Elkton Gas Service:	
Division of Pennsylvania & Southern Gas Company	45
Total	350

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19455 Filed 11-10-72;8:53 am]

[Docket No. RP73-4]

GREAT LAKES GAS TRANSMISSION CO.

Notice of Extension of Time

NOVEMBER 7, 1972.

On November 6, 1972, Commission Staff Counsel filed a motion to change the procedural dates fixed by the order issued September 1, 1972, in the above-designated matter. The motion states that all parties to this proceeding assent to the proposed changes.

Upon consideration, notice is hereby given that the procedural dates fixed by the order issued September 1, 1972, are changed as follows:

Service of Staff evidence	Nov. 27, 1972.
Service of Intervenor evidence	Dec. 18, 1972.
Service of Company rebuttal evidence	Jan. 15, 1973.
Commencement of Prehearing Conference	Dec. 7, 1972. (10 a.m., e.s.t.).
Commencement of Cross-examination	Feb. 6, 1973. (10 a.m., e.s.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19449 Filed 11-10-72;8:52 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON FINANCE

Order Designating Additional Member

NOVEMBER 3, 1972.

The Federal Power Commission, by order issued September 28, 1972, established the National Power Survey Technical Advisory Committee on Finance.

2. *Membership.* An additional member to the Technical Advisory Committee on Finance, as selected by the Chairman of the Commission, with the approval of the Commission, is as follows:

Jack F. Bennett, Member, Deputy Under Secretary for Monetary Affairs, Treasury Department.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19410 Filed 11-10-72;8:48 am]

[Project 2317]

APPALACHIAN POWER CO.

Order Reopening Proceeding and Requiring Further Procedures Implementing National Environmental Policy Act

NOVEMBER 2, 1972.

In this proceeding the Appalachian Power Co. seeks a license to build the Modified Blue Ridge project, a combined conventional and pumped storage hydroelectric project to be located in southwestern Virginia and northwestern North Carolina. The application has been the subject of extensive hearings, commencing in May 1967. The Presiding Examiner has issued two decisions, an Initial Decision on October 1, 1969, and a Supplemental Initial Decision on June 21, 1971. Exceptions to each and briefs opposing exceptions have been filed, and two oral arguments have been held. The matter is now pending before us for decision.

We have frequently indicated our desire that this case proceed with reasonable expedition, for it is an important case and we are anxious to take action concerning it. We remain so minded. We have concluded, however, that we cannot decide the case now, in advance of a further hearing.

On October 10, 1972, the Supreme Court denied this Commission's petition for a writ of certiorari to review the decision of the Court of Appeals for the Second Circuit in Greene County Planning Board v. FPC, 455 F. 2d 412 (1972). FPC v. Greene County Planning Board, Sup. Ct. No. 71-1597, —— U.S. —— (1972). Accordingly, we apply the conclusions expressed by the Court of Appeals in that case. Those conclusions concern this Commission's procedures with respect to the implementation of the National Environmental Policy Act, and in particular the court held that an environmental statement must be prepared by our staff in advance of hearing, and that such statement must be "subject to the full scrutiny of the hearing process."

A draft environmental statement was prepared by our staff in this proceeding, but that statement has not been subjected to cross-examination. In light of the Greene County decision, and because a contested application is here involved, we think that an opportunity to cross-examine must be afforded to the parties to this proceeding. For that reason, we are remanding this case to the Presiding Administrative Law Judge, so that the requirements of the Greene County decision can be met fully. A further hearing will be required to achieve that result.

Our favorable action on the application which forms the basis for this proceeding would, in our view, clearly constitute a "major" Federal action "significantly affecting the quality of the human environment," as that phrase is used in section 102(2)(C) of the National Environmental Policy Act. Recognizing that to be so, the Appalachian Power Co., at the conclusion of the most recent hearing on December 11, 1970, and at the direction of the Presiding Examiner, filed on January 25, 1971, its environmental statement. We accept that statement as constituting the applicant's report of the environmental factors involved in the project. Similarly, we are prepared to accord to the environmental statement filed by our staff on April 21, 1971, as part of the staff initial brief to the Examiner, the status of a draft environmental statement, but the staff should be afforded the opportunity to modify it, if it chooses to do so. Beyond

that, it will be necessary that notice be given of the availability of the staff statement; that it be made available to the

tion of the issues raised in the motions to reopen, as described above, to the extent that such issues are raised by or

ronmental Policy Act, as construed in Greene County Planning Board v. F.P.C., supra, it is necessary that the proceed-

5 months and will become effective subject to refund January 1, 1973 in Docket

(B) Because it is necessary and proper in the public interest and to aid in

[Docket No. CP72-175]

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that, it will be necessary that notice be given of the availability of the staff statement; that it be made available to the parties, to the Council on Environmental Quality, to other appropriate governmental bodies, and to the public, for comment; that after consideration of the comments received, the staff revise as necessary and finalize its environmental statement, prior to hearing; and that such staff statement, as revised and finalized, be offered in evidence at the reopened hearing.

At earlier stages of this proceeding, a total of nine motions to reopen the record were filed, and to these we have not yet spoken. Six were filed by the State of West Virginia on August 20, 1971, and one each were filed by the Alleghany Farm Bureau and the North Carolina Farm Bureau on September 23, 1971, by the Appalachian Research and Defense Fund, Inc., and the Congress for Appalachian Development, on September 30, 1971, and by Grayson County, Va., on October 1, 1971. To the extent that each such motion seeks reopening of the record to permit the further exploration of environmental issues, our action herein has the effect of granting the motions.

More particularly, the six motions of the State of West Virginia seek reopening to afford a further opportunity (1) for the examination of environmental statements already prepared, (2) for the admission of evidence concerning the recreational and environmental impact of the project on 230 miles of the New-Kanawaha River, (3) to study the effects of the project as it relates to the operation of other projects in the pertinent basins, (4) to explore the "impropriety and illegality" of proposed low-flow augmentation, (5) to permit further testimony on the availability of at-source waste treatment technology, and (6) to determine the amount of low-flow augmentation required of the project. The Farm Bureaus' motion is for the purpose of receiving further evidence relating to the project's impact "on the continuing recreational, environmental, ecological and economic stability" of the affected areas. The motion of the Appalachian Research and Defense Fund and the Congress for Appalachian Development is based, in part, upon their belief that "the environmental statement of the Commission" is inadequate, and that the water quality function of the project requires further evaluation. Grayson County's motion states that reopening is required so that there may be received further evidence "relative to the environmental impact of the construction and operation of this project".

The procedures outlined herein, in which we require a staff draft environmental statement, an opportunity for comment thereon, revision as necessary and finalization by the staff of the draft environmental statement, the introduction of such statement as revised and finalized in evidence, and the opportunity to conduct cross-examination thereon, will permit the further exploration of the issues raised in the motions to reopen, as described above, to the extent that such issues are raised by or are revelant to the environmental statement of the staff, as revised and finalized.

The motion to reopen filed by the Appalachian Research and Defense Fund and the Congress for Appalachian Development is also based on the view of these parties that further evidence is needed concerning the desirability of Federal development of Blue Ridge resources, the anticompetitive effect of our granting the license applied for, and the applicant's fitness. On all such subjects, we view the record before us now as sufficient to permit us to reach an informed decision. As to the question of the desirability of Federal development, our orders in this proceeding of October 12, 1970, December 21, 1970, and January 26, 1971, denied earlier motions of these two parties on the same subject, for the reasons therein stated. The movants do not suggest that they have further evidence to offer on any of these three issues. Accordingly, their motion of September 30, 1971, is denied, to the extent that it seeks reopening with respect to the issues of Federal development, anticompetitive effects, and the applicant's fitness.

On October 18, 1972, the Federal Water Pollution Control Act amendments of 1972 became law. Section 102(b)(6) provides that:

> No license granted by the Federal Power Commission for a hydroelectric power project shall include storage for regulation of streamflow for the purpose of water quality control unless the Administrator (of the Environmental Protection Agency) shall recommend its inclusion and such reservoir storage capacity shall not exceed such proportion of the total storage required for the water quality control plan as the drainage area of such reservoir bears to the drainage area of the river basin or basins involved in such water quality control plan.

The question whether the Blue Ridge project should be constructed, or constructed and operated, so as to provide water quality control for the lower Kanawha River, has been a prominent and highly controverted issue in this proceeding. That issue involves numerous environmental implications, as the lengthy record now before us demonstrates. The reopening of the record to permit the further examination of environmental issues will thus have the secondary effect of affording to the parties (including the Administrator of the Environmental Protection Agency, to whom we have accorded the status of an intervenor), the opportunity to address themselves to the effect of the new law upon the Blue Ridge project. The parties will have that opportunity in connection with their comments and cross-examination on the staff environmental statement.

The Commission further finds:

(1) In order to assure that the parties to this proceeding have available to them all of the procedures and safeguards contained in the National Environmental Policy Act, as construed in Greene County Planning Board v. F.P.C., supra, it is necessary that the proceeding be remanded to the Presiding Administrative Law Judge and that the hearing be reopened so that a staff environmental statement may be received in evidence and an opportunity may be afforded for cross-examination thereon.

(2) A further hearing in this proceeding would be in the public interest.

(3) Such further hearing shall not be held until the staff draft environmental statement has been revised as necessary and finalized by the staff, following the receipt of comments on the staff's draft environmental statement, and until such statement, as so revised and finalized, has been made available to the parties for a period of time sufficient for their preparation of cross-examination. The environmental statement of the staff, as so revised and finalized, shall be introduced in evidence at the reopened hearing.

The Commission orders:

(A) The proceeding is hereby reopened so that a staff environmental statement may be received in evidence and an opportunity may be afforded for cross-examination thereon, and a further public hearing before the Presiding Administrative Law Judge shall be held thereon in Washington, D.C., commencing on such date as he may, in his discretion, prescribe. The Presiding Administrative Law Judge shall prescribe procedures for such further hearing, consistent with the decision in Greene County Planning Board v. F.P.C., supra, and with this order. At such reopened hearing, the staff's environmental statement, as revised and finalized following the receipt of comments, shall be offered in evidence, and cross-examination thereon shall be permitted.

(B) All interested persons desiring to be heard in this phase of the proceeding who are not already parties may file appropriate petitions to intervene, on, or before November 20, 1972.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-19405 Filed 11-10-72;8:47 am]

[Docket No. E-7784]

BOSTON EDISON CO.

Order Accepting Proposed Rates for Filing, Consolidating Proceedings and Providing for Refunds

NOVEMBER 7, 1972.

On October 3, 1972, Boston Edison Co. (Edison) tendered for filing Exhibits B-PR and C-PR to its general service for resale tariff, together with supporting data, to provide rates and conditions for partial requirements services for Edison's wholesale for resale customers.

Edison states that the proposed partial requirements rates are base dupon the same revenue requirements as Edison's Rate S-2 which has been suspended for 5 months and will become effective subject to refund January 1, 1973 in Docket No. E-7738. Edison contends that it cannot estimate its revenues under the rates for partial requirements services since it does not have any firm requests for any of the services, and the commercial operation dates of its three atomic units are not known. In its transmittal letter Edison agrees to refund from the initial date of service under the partial requirements rates filed, any amounts for firm base, intermediate or peaking load power which would be or may be found excessive if the revenue requirements in Edison's cost of service are found to be excessive by the Commission in the S-2 case. Edison also agrees that if there is any question concerning the proposed methods or rates, the Commission may consolidate this filing with the Rate S-2 hearing.

Edison proposes to make these rates effective 30 days after the October 3, 1972, submission for filing or as soon thereafter as partial requirements services are provided.

Review of the rate filing indicates that certain issues may require development in an evidentiary hearing. The proposed tariff sheets have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful.

The Commission finds:

(1) Edison's proposed rate schedule supplements should be accepted for filing

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission consolidate the instant Docket No. E-7784 with the proceeding presently pending in Docket No. E-7738.

(3) The disposition of this proceeding should be expedited in accordance with the following service and hearing dates established in Docket No. E-7738:

Staff Service Date	Jan. 3, 1973
Intervenor Service Date	Jan. 17, 1973
Edison Rebuttal Date	Jan. 31, 1973
Prehearing Conference Date	Feb. 7, 1973
Hearing Date	Feb. 13, 1973

(4) Edison should refund from the initial date of service under the partial requirements rates filed, any amounts for firm base, intermediate or peaking load power which may be found excessive after hearing and decision thereon in the consolidated proceedings established by this order.

(5) The placing of the tariff changes applied for in this proceeding into effect, subject to refund with interest while pending Commission determination as to their justness and reasonableness, is consistent with the purposes of the Economic Stabilization Act of 1970, as amended.

The Commission orders:

(A) Edison's proposed rate schedule supplements of October 3, 1972, are accepted for filing and shall become effective 30 days after the October 3, 1972, submission for filing or as soon thereafter as partial requirements services are provided, subject to the terms and conditions of this order.

(B) Because it is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act, Docket No. E-7784 is hereby consolidated with the proceedings presently pending in Docket No. E-7738.

(C) The disposition of this proceeding will be conducted in accordance with the service and hearing dates of Docket No. E-7738 as listed above.

(D) Edison will refund from the initial date of service under the partial requirements rates filed, any amounts for firm base, intermediate or peaking load power which may be found excessive.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control the proceeding in accordance with the policies expressed in section 2.59 of the Commission's rules of practice and procedure.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-19407 Filed 11-10-72;8:47 am]

[Docket No. CP72-175]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Petition To Amend

NOVEMBER 6, 1972.

Take notice that on October 31, 1972, Michigan Wisconsin Pipe Line Co. (Petitioner), 1 Woodward Avenue, Detroit, MI 48226, filed in Docket No. CP72-175 a petition to amend the order issuing a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act in said docket by authorizing delivery of adjusted maximum daily quantities (MDQ) of natural gas, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that its customers have reviewed their requirements for the coming heating season and have advised Petitioner that they will require an increase in contract demand to meet their customers' daily requirements. The requested modifications in MDQ proposed to be delivered by Petitioner are as follows:

Customer	Rate Schedule	Nominations (Mcf) Authorized	Revised	Increase or (Decrease)
City Gas Co.	ACQ-1	3,943	4,360	417
	MDQ-1	657	470	(217)
Michigan Power Co.	ACQ-1	17,682	17,682	
	ACQ-2	65,248	52,618	(12,630)
	MDQ-1	25,052	20,000	(5,052)
North Central Public Service Co.	ACQ-1	6,118	7,799	1,681
	MDQ-1	4,575	3,700	(875)
Wisconsin Fuel and Light Co.	ACQ-1	57,086	59,171	2,085
	MDQ-1	3,914	2,829	(1,085)
Wisconsin Gas Co.	ACQ-1	562,021	603,735	41,714
	MDQ-1	67,979	46,965	(21,714)
Wisconsin Nstural Gas Co.	ACQ-1	255,265	266,851	11,586
	MDQ-1	31,050	25,019	(6,031)
Community Natural Gas Co., Inc.	SGS-1	1,830	2,100	270
Lamoni, Iowa, City of	SGS-1	2,400	2,500	100
West Tennessee P.U.D.	SGS-1	3,500	4,000	500

Petitioner states that the revised MDQ's for City Gas Co., Michigan Power Co., North Central Public Service Co., Wisconsin Fuel and Light Co., Wisconsin Gas Co., and Wisconsin Natural Gas Co. result in no increase in annual entitlements and that the annual requirements of Community Natural Gas Co., Inc., the City of Lamoni, and West Tennessee P.U.D. are essentially the same as heretofore described in the instant docket. Petitioner states further that it can provide the requested service with existing facilities.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 28, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-19406 Filed 11-10-72;8:47 am]

[Docket No. RP71-119, etc.]

PANHANDLE EASTERN PIPELINE CO. ET AL.

Order Conditioning Temporary Modification to Settlement Agreement

NOVEMBER 6, 1972.

Panhandle Eastern Pipeline Co., Docket No. RP71-119; Michigan Consolidated Gas Co., Docket No. R-386; Battle Creek Gas Co., Docket No. R-386.

On September 28, 1972, the Commission issued a Notice of a Motion filed on September 25, 1972, by Battle Creek Gas Co. (Battle Creek), 23 East Michigan Avenue, Battle Creek, MI 49016, in the

above-styled proceeding, requesting that the Commission issue an order modifying

commerce, that such gas will be used exclusively within Michigan, and that all

quested by Battle Creek Gas Co.' Hence, we can only conclude that none of the

customers as may from time to time be authorized hereunder.

(C) That any service made pursuant to the jurisdiction conferred upon the Federal Power Commission by sections 7

River. The parcel in question is located in the northwest quarter of section 29,

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above-styled proceeding, requesting that the Commission issue an order modifying or waiving for a period of several months the flexibility provisions set forth in the settlement and stipulation generally agreed to by Panhandle Eastern Pipeline Co.'s (Panhandle) customers and approved by order of the Commission on June 20, 1972, in this proceeding.

Battle Creek, a natural gas distributor in the City of Battle Creek, and environs, states that Panhandle is its only source of natural gas, that it has two propane plants capable of producing 8,500 Mcf of gas per day for peak shaving, and that it has a strict curtailment policy under which it has not added any new space heating customers since December 1970 and under which it has curtailed all new service to industrial customers and has limited existing firm customers to increases within existing contracts. Battle Creek further contends that for the past 2 years it has been engaged in a program of developing a natural gas storage field in Johnstown Township, Mich., and that engineering problems and environmental considerations have required the leaching of the cavern at a slower rate than anticipated so that the cavern will not be ready to receive gas until fall of 1973.

Battle Creek alleges that, based upon the anticipated curtailment of Panhandle as set forth in its schedule of July 1972, Panhandle's peak day responsibility to it in January 1973 will be 45,994 Mcf of natural gas which, when added to Battle Creek's propane production, provides a peak day availability of 54,494 Mcf of gas. Battle Creek then notes that its peak day requirements for firm gas might reach 62,356 Mcf in the winter of 1972–73 and that it will have a deficiency, based upon a winter colder than normal, of 7,862 Mcf of gas. If a colder than normal winter does in fact occur, it alleges that it will be required to curtail its firm industrial customers and large commercial users which will cause many businesses in the area to cease operations and will cause extreme hardship upon the citizens of the area.

In order to alleviate its supply problem for the 1972–73 heating season, Battle Creek has contracted with Michigan Consolidated Gas Co. (Consolidated) to receive from Panhandle at Consolidated's River Rouge Station in Melvindale, Mich., up to 200,000 Mcf of Battle Creek's gas between October 1, 1972, and November 30, 1972, at a rate not to exceed 10,000 Mcf per day. Battle Creek would cause such gas to be available by interrupting its interruptible customers earlier than it would otherwise do. Consolidated would redeliver gas to Panhandle for delivery to Battle Creek at a rate not to exceed 8,000 Mcf per day from December 1972 through April 1973. The gas would be delivered by displacement of other gas delivered by Panhandle at the River Rouge station during the heating season. Any gas not utilized by Battle Creek prior to April 30, 1973, would be redelivered to it as soon as practical thereafter. Battle Creek alleges that no gas delivered by Panhandle and stored by Consolidated will reenter interstate commerce, that such gas will be used exclusively within Michigan, and that all physical facilities necessary to carry out the proposal are in existence.

It is requested that the Commission approve the subject proposal as an exception to the flexibility provisions of the stipulation and agreement of May 8, 1972, by requiring Panhandle to deliver the gas as proposed and to find that the proposal will not affect the nonjurisdictional status of Battle Creek or Consolidated under the Natural Gas Act.

The arrangement is purely temporary in nature and will not result in Battle Creek's taking more gas from Panhandle than it normally would during the period October 1 through November 30, 1972. Additionally, since the takes will not exceed those contemplated under normal circumstances, the proposed request made by Battle Creek will not permit Battle Creek to pre-empt any capacity in Panhandle's pipeline to which it is not entitled. It is thus evidence that all of the facilities that will be utilized under this modification of the settlement agreement are presently installed.

However, since the service that Consolidated has agreed to undertake for Battle Creek falls within the purview of the Natural Gas Act our authorization is premised upon the condition that it be undertaken only if there is full compliance with our Rules and Regulations. In permitting this emergency service, we note that our rules and regulations under the act only recognize an emergency service of the nature requested when it is limited to a single period of not more than 60 days and when the other requirements prescribed in § 2.68 of our General Rules under the Act have been met. We shall therefore treat Battle Creek's motion and the attached agreement, for purposes of expedition, as a filing pursuant to § 2.68.

Hence, the Commission will approve the instant temporary modification requested by Battle Creek to the aforementioned stipulation and agreement to the extent that it is able within the provisions of section 2.68 of the Commission's general rules under the act. The rendition of the above noted emergency service shall not jeopardize the status that Battle Creek and Consolidated presently enjoy under section 1(c) of the act as long as it is being rendered in complete conformity and compliance with the provisions of the aforementioned section of our general rules. If the emergency service requested will have a duration of longer than 60 days, Consolidated shall obtain an advance statement from the Commission, prior to the termination of the 60-day period, in order to preserve their exempt status under section 1(c) of the act.

In the aforementioned notice relating to this motion issued on September 28, 1972, we afforded any person desiring either to be heard thereon or to make protest thereto until October 16, 1972, to do so. We have received only two responses to this motion and they did not voice opposition to the modification requested by Battle Creek Gas Co.[1] Hence, we can only conclude that none of the parties oppose the modification proposed in the aforementioned motion filed by Battle Creek.

The Commission finds:

(1) The public convenience and necessity requires that the flexibility provisions in the currently effective interim stipulation and agreement providing for curtailed service during times of gas supply deficiency on the Panhandle System, adopted by the Commission in its Order Approving Settlement on June 20, 1972, be modified to permit the emergency storage arrangement between Battle Creek Gas Co. and Michigan Consolidated Gas Co., which is fully set forth in their letter agreement dated September 18, 1972.

(2) The public convenience and necessity requires that Panhandle Eastern Pipe Line Co. make appropriate deliveries, as the occasion may require, to either Battle Creek Gas Co. or Michigan Consolidated Gas Co. in order to provide for service under the modification to the approved settlement requirement which is described in the body of this order, as the Commission may authorize consistent with Battle Creek's motion.

(3) The aforementioned agreement and the deliveries hereunder are both temporary and emergency in nature. Hence, the temporary arrangement between Battle Creek Gas Co. and Michigan Consolidated Gas Co. will not be regarded as affecting their continued exemption under section 1(c) of the Natural Gas Act, provided such service is rendered in conformity and compliance with § 2.68 of our general rules under the act.

(4) That the service recommended is suitable to alleviate the emergency that exists and is, therefore, required by the public convenience and necessity.

The Commission orders:

(A) That the flexibility provisions reflected in the currently effective interim Stipulation and Agreement relating to gas supply deficiency curtailments on the Panhandle Eastern Pipe Line System which the Commission approved in its Order Approving Settlement, issued on June 20, 1972, be modified and/or waived to the extent necessary to provide for the emergency arrangement set forth in the body of this order and in the motion filed by Battle Creek Gas Co. on September 25, 1972.

(B) That Panhandle Eastern Pipe Line Co. make the necessary deliveries to either Battle Creek Gas Co. or Michigan Consolidated Gas Co. as contemplated under the aforementioned modification and/or waiver of the flexibility provisions to the Interim stipulation and agreement, noted above, between Panhandle Eastern Pipe Line Co. and its

[1] A statement in support of the motion was filed by The Central Illinois Public Service Co. on October 13, 1972. A response to the motion by Panhandle was made on October 16, 1972. This order approving the modification appears to be consistent with the observations and comments contained in Panhandle's response.

customers as may from time to time be authorized hereunder.

(C) That any service made pursuant to this modification shall be in conformity with the delivery schedules both with respect to volumes and time as prescribed in the body of this order.

(D) The service rendered under this temporary, emergency arrangement will in no way affect the status that Battle Creek Gas Co. and Michigan Consolidated Gas Co. presently enjoy under section 1 of the Natural Gas Act provided that during the period of time in which this service is being rendered that the provisions in § 2.68 of the Commission's general rules are fully complied with.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-19408 Filed 11-10-72;8:47 am]

[Docket No. CI73-309]

PHILLIPS PETROLEUM CO.

Notice of Application

NOVEMBER 7, 1972.

Take notice that on October 27, 1972, Phillips Petroleum Co. (Applicant), Bartlesville, Okla. 74004, filed in Docket No. CI73-309 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas with Transwestern Pipeline Co. (Transwestern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to deliver gas to Transwestern at the outlet of Applicant's Gray Plant in Gray County, Tex., in exchange for gas to be delivered by Transwestern at points on Transwestern's 6-inch lateral in Roberts County, Tex., and 10-inch lateral in Sherman County, Tex. Applicant states that deliveries will be on an "as available" basis and will be balanced monthly on a weighted average B.t.u. basis. The initial exchange volume is estimated at 600,000 Mc.f. of gas per month. Applicant states that the subject exchange will enable both parties to operate more efficiently and will enable Transwestern to utilize existing horsepower at the LeFors station.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 28, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-19409 Filed 11-10-72;8:47 am]

[Docket Nos. CI72-834, CP72-274]

NAVARRO GAS PRODUCTION CO. ET AL.

Notice of Extension of Time

NOVEMBER 6, 1972.

Navarro Gas Production Co. and Louisiana Gas Production Co., Division of Commercial Solvents Corp., Docket No. CI72-834; Georgia-Pacific Corp., Docket No. CP72-274.

On October 30, 1972, Georgia-Pacific Corp., filed a motion for reconsideration of the order issued October 20, 1972, and, in the alternative, the motion requests the issuance of a temporary certificate. The motion further requests that the dates fixed by the order of October 20 be postponed.

Upon consideration, notice is hereby given that the procedural dates fixed by the order issued October 20, 1972, are postponed, pending action on the motion filed by Georgia-Pacific Corp.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-19411 Filed 11-10-72;8:48 am]

[Project No. 459]

UNION ELECTRIC CO.

Notice of Application for Change in Land Rights

NOVEMBER 7, 1972.

Public notice is hereby given that application has been filed May 17, 1972, under the Federal Power Act (16 U.S.C. 791a–825r) by the Union Electric Co. (correspondence to: Mr. Carl H. Hendrickson, Attorney, Post Office Box 149, St. Louis, MO 63166) for Commission approval of a change in land rights for project No. 459 located on the Osage River below Bagnell Dam.

Applicant requests approval of a lease to the Missouri Conservation Commission (MCC) to develop a parcel of project land as a public access area to the Osage River. The parcel in question is located in the northwest quarter of section 29, Township 40 North, Range 15 West. MCC proposes to construct on the parcel a boat launching ramp, sanitary facilities, roads, and a parking lot.

The proposed lease is subject to the terms of the license, includes a covenant in accordance with paragraph (C) of Commission Order No. 313 and provides for public use of the parcel.

Any person desiring to be heard or to make protest with reference to said application should on or before December 18, 1972, file with the Federal Power Commission, Washington, D.C. 20426, protests or petitions to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-19457 Filed 11-10-72;8:50 am]

FEDERAL RESERVE SYSTEM

BANKS OF IOWA, INC.

Order Approving Acquisition of Bank

Banks of Iowa, Inc., Cedar Rapids, Iowa, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of First National Bank, Burlington, Iowa (Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls four banks with deposits of approximately $345 million, representing 4.7 percent of the total commercial bank deposits in the State, and is the second largest banking organization and bank holding company in Iowa. (All banking data are as of December 31, 1971, adjusted to reflect bank holding company formations and acquisitions approved by the Board through September 30, 1972.) Applicant's acquisition of Bank ($34.5 million in deposits) would increase Applicant's share of deposits in the State by one-half of 1 percentage point, without changing its ranking in the State.

Bank is the largest of seven banking organizations serving the Burlington

(c) Bank Plaza del Oro, N.A., Houston, Tex., shall be opened for business not

CP&L also proposes to amend its charter to increase the authorized shares of

hearing be held with respect to the proposed amendment of the articles of

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Bank is the largest of seven banking organizations serving the Burlington banking market with 30.7 percent of total commercial bank deposits therein. Inasmuch as this proposal represents Applicant's initial entry into the market, no existing competition would be eliminated. Furthermore, the development of any meaningful competition between any of Applicant's existing subsidiaries and Bank appears unlikely in light of the distances involved (Applicant's closest subsidiary is about 73 miles west of Bank), the large number of banks in the intervening area, and the State's restrictive branching law.

Although Applicant proposes to acquire the largest bank in the market, it appears unlikely that Applicant would acquire one of the smaller banks in the Burlington banking market. Three of the competing banks are located in West Burlington and cannot branch into Burlington proper, and thus are not attractive for acquisition. The other three banks in the market do not appear to be available for acquisition because of existing relationships with other banking groups. Applicant possesses the resources for meaningful de novo entry into the market; however, the city of Burlington, which has experienced no population growth since 1960, is not a major Iowa financial center, and the area's economy has been characterized by fluctuations in employment levels in the past. On the basis of the facts of record, the Board concludes that consummation of Applicant's proposal may have a slightly adverse effect on potential competition, but would not eliminate significant existing competition and, therefore, competitive considerations are consistent with approval of the application.

Affiliation with Applicant would increase Bank's lending capabilities through participations with Applicant's subsidiaries and special emphasis would be given to expansion of Bank's activities in trust administration, investment counseling, bond financing, and international banking. Considerations relating to the convenience and needs of the communities to be served lend some weight toward approval of the application.

Considerations relating to financial and managerial resources and prospects as they relate to Applicant and its subsidiaries are regarded as satisfactory. The same conclusions apply generally with respect to Bank, except that Bank has not provided for adequate successor management. Applicant's capabilities for finding competent and experienced officers for Bank as needed lend some weight in favor of approval. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated: (a) Before the 30th calendar day following the effective date of this order, or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[1] effective November 2, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-19381 Filed 11-10-72;8:45 am]

TEXAS COMMERCE BANCSHARES, INC.

Order Approving Acquisition of Bank

Texas Commerce Bancshares, Inc., Houston, Tex., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of Bank Plaza del Oro, N.A., Houston, Tex. (Bank), a proposed new bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls six banks located in the Houston and Beaumont, Tex., areas with aggregate deposits of $1.4 billion, representing 4.7 percent of total deposits of commercial banks in the State.[2] Applicant, the fourth largest banking organization in Texas, is the second largest banking organization in the Houston banking market with four subsidiary banks controlling approximately 17.9 percent of deposits of commercial banks. In addition, applicant holds, through a subsidiary, between 20 and 24 percent of each of three other banks located in the Houston area. These three banks hold aggregate deposits of $77.2 million representing 1.1 percent of the total deposits of commercial banks in the Houston area. (All banking data are as of December 31, 1971, and reflect holding company formations and acquisitions approved through September 30, 1972.[3]) Acquisition of Bank, a proposed new bank, will not affect applicant's ranking among banking organizations in the State.

Bank is to be located in a new residential-commercial complex being developed in the southern portion of the city of Houston approximately 5 miles from that city's central business district in which applicant's lead Bank is located. Applicant's other subsidiary banks in the Houston market are all located to the north of the central business district. An affiliate of applicant, Chemical Bank & Trust Co. ($31 million of deposits), is located approximately 4 miles from Bank's proposed location.[4] There are presently two unaffiliated banks located in Bank's proposed service area and three other unaffiliated banks located adjacent to that service area. As the development of the southern portion of the city of Houston continues, it can be expected that a number of additional banks will seek to locate in this area. Prospects for opening other banks throughout the rapidly growing Houston area (including the area in which Bank is proposed to be located) appear favorable and approval of this proposal would not serve to foreclose the opportunity for entry by other banking organizations into these areas. Applicant's acquisition of Bank should serve neither to eliminate existing or future competition nor have any adverse effect on the concentration of bank resources in the Houston area. On the contrary, the proposal herein, by adding an additional banking alternative, may serve to promote competition among those banks now located in or near Bank's proposed service area.

The financial and managerial resources of applicant and its subsidiary banks are regarded as satisfactory and prospects for the group appear favorable. Bank has no financial or operating history. However, as a subsidiary of applicant, Bank's prospects appear favorable. Banking factors are consistent with approval of the application. The development in which Bank is proposed to be opened is located on a site of more than 500 acres on which are to be constructed numerous office and apartment buildings, shopping centers, and professional facilities. As these projects are completed, the need for additional banking services will grow. To the extent Bank will be able to provide an additional alternative source of these services for persons using these facilities, considerations relating to the convenience and needs of the community are consistent with approval of the application. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated: (a) Before the 30th calendar day following the effective date of this order; or (b) later than 3 months after the effective date of this order; and

[1] Voting for this action: Chairman Burns and Governors Robertson, Brimmer, Sheehan, and Bucher. Absent and not voting: Governors Mitchell and Daane.

[2] On Aug. 31, 1972, the Board approved applicant's application to acquire American National Bank of Beaumont, Beaumont, Tex. As a condition to Board approval of that application, applicant is required to divest its interest in Beaumont State Bank, Beaumont, Tex., within 2 years of its acquisition of American National Bank.

[3] In addition to the present application, applicant has filed applications for approval to acquire two other proposed new banks in the Houston area. On Oct. 6, 1972, the Board announced the approval of applicant's application to acquire San Angelo National Bank of San Angelo, San Angelo, Tex. ($70 million of deposits).

[4] Applicant presently owns 20.9 percent of the voting shares of Chemical Bank and has stated its intention to file application to acquire control of this bank in the near future.

(c) Bank Plaza del Oro, N.A., Houston, Tex., shall be opened for business not later than 6 months after the date of this order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Board of Governors,[4] effective November 2, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-19382 Filed 11-10-72;8:45 am]

[4] Voting for this action: Chairman Burns and Governors Robertson, Brimmer, Sheehan, and Bucher. Absent and not voting: Governors Mitchell and Daane.

SECURITIES AND EXCHANGE COMMISSION

[70-5256]

CENTRAL AND SOUTH WEST CORP. AND CENTRAL POWER AND LIGHT CO.

Notice of Proposed Amendment of Charter

NOVEMBER 6, 1972.

Notice is hereby given that Central and South West Corp., 120 North Chaparral Street, Corpus Christi, TX 78403 (Central), a registered holding company, and one of its electric utility subsidiary companies, Central Power and Light Co. (CP&L), have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a), 7, 9, 10, and 12(f) of the act and rules 50, 62, and 65 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

CP&L proposes to amend its articles of incorporation to increase the par value of its 6 million authorized (issued and unissued) shares of common stock from $17 per share to $25 per share and to transfer from earned surplus to the common stock capital account the sum of $39,644,280—the equivalent of $8 per share for each of the 4,955,535 shares of common stock ($17 par value) now outstanding. At August 31, 1972, the common stock capital and the earned surplus of CP&L amounted to $84,244,095 and $60,992,830, respectively. Giving effect to the proposed transfer, common stock capital would be increased to $123,888,375 and earned surplus would be reduced to $21,348,550. The transactions are proposed for the stated purpose of achieving a better balance in the capital accounts of the company. Each of the outstanding common shares having a par value of $17 will, after the proposed transactions, constitute a common share having a par value of $25.

CP&L also proposes to amend its charter to increase the authorized shares of its preferred stock from 175,000 shares to 675,000 shares and to issue and sell, subject to the competitive bidding requirements of rule 50 under the act, 260,000 shares of its authorized but unissued ------ percent preferred stock (cumulative, $100 par value). The dividend rate (which shall be a multiple of .04 percent) and the price (exclusive of accrued dividends) to be paid to CP&L (which shall be not less than $100 or more than $102.75 per share), will be determined by the competitive bidding. The terms of the preferred stock include a 5-year prohibition against refunding the preferred stock, directly or indirectly, with funds derived from the issuance of debt securities at a lower effective interest cost or other preferred stock at a lower effective dividend cost.

It is stated that the net proceeds to be derived by CP&L from the issuance and sale of the preferred stock will be used to pay outstanding short-term loans, estimated at $25 million at the time of issuance of the preferred stock, and to finance, in part, future construction expenditures, estimated at about $31,200,000 for the period July 1–December 31, 1972, and at $82 million for 1973.

It is stated that under Texas law, the affirmative vote of the holders of two-thirds of the outstanding shares of common stock, voting separately as a class, is required for the adoption of the proposed amendment increasing the par value of the shares of common stock and that the affirmative vote of the holders of two-thirds of the outstanding shares of preferred stock, voting separately as a class, and, in addition, the affirmative vote of the holders of two-thirds of the total outstanding shares of preferred stock and common stock, is required for the adoption of the proposed amendment to increase the total authorized preferred stock from 175,000 shares to 675,000 shares. Central, owner of all of the common stock of CP&L, has indicated that it will vote its shares in favor of the proposed amendments.

CP&L intends to submit the proposed transactions to its stockholders for their approval at a special meeting of stockholders which is to be held on or about December 12, 1972. In connection therewith, CP&L proposes, pursuant to rule 62 under the act, to solicit proxies from holders of its outstanding common stock and preferred stock.

Expenses to be incurred in connection with the proposed transactions are estimated at $57,000, including counsel fees of $15,000 and accountants' fees of $3,500. The application-declaration states that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

CP&L has requested that the effectiveness of its declaration with respect to the solicitation of proxies from holders of its preferred stock be accelerated as provided in rule 62.

Notice is further given that any interested person may, not later than December 4, 1972, request in writing that a hearing be held with respect to the proposed amendment of the articles of incorporation and the proposed issue and sale of preferred stock, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing that CP&L's declaration regarding the proposed solicitation of proxies should be permitted to become effective forthwith pursuant to rules 62 and 65:

It is ordered, That the declaration regarding the proposed solicitation of proxies be, and it hereby is, permitted to become effective forthwith pursuant to rules 62 and 65 and subject to the terms and conditions prescribed in rule 24 under the act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-19436 Filed 11-10-72;8:49 am]

[812-3269]

GUARDIAN INSURANCE & ANNUITY COMPANY, INC., ET AL.

Notice of Application for Exemption

NOVEMBER 6, 1972.

Notice is hereby given that The Guardian Insurance & Annuity Company, Inc., 201 Park Avenue South, New York, NY 10003 (Guardian), a stock life insurance company organized under the laws of Delaware, The Guardian Variable Account 1 (VA-1), The Guardian Variable Account 2 (VA-2), separate accounts of Guardian registered as unit investment trusts under the Investment Company Act of 1940 (Act) and GLICOA Associates, Inc. (GLICOA), registered as a broker-dealer under the Securities Exchange Act of 1934 and the principal

underwriter of VA-1 and VA-2 (collectively called "Applicants"), have filed an

In support of the requested exemption from the foregoing provisions of the Act, applicants state that all of the assets

November 30, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied

present Veterans Administration facility is 5 miles southeast of the center of Columbia, S.C. This statement discusses the

Signed at Washington, D.C., this 7th day of November 1972.

LONG-AND-SHORT HAUL

FSA No. 42564—*Iron or steel articles*

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underwriter of VA–1 and VA–2 (collectively called "Applicants"), have filed an application pursuant to section 6(c) of the Act for an order exempting applicants from the provisions of sections 26(a) and 27(c)(2) of the Act to the extent noted below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

VA–1 and VA–2 were established by Guardian in connection with the proposed sale of three types of individual variable annuity contracts. VA–1 is used for purchasers who are qualified for special tax treatment under sections 401 or 403(b) of the Internal Revenue Code, and VA–2 for purchasers who are not so qualified for special tax treatment. Registration statements covering the proposed sale of these securities have been filed with the Commission.

The contracts are sold by persons who are registered representatives of GLICOA and who are also insurance agents or brokers for Guardian. These persons generally will also be agents or brokers of The Guardian Life Insurance Company of America (Guardian Life).

Guardian and GLICOA are both wholly owned subsidiaries of Guardian Life. The assets of VA–1 and VA–2 are invested exclusively in the shares of The Guardian Park Ave. Fund, Inc. (Fund).

Hartford National Bank & Trust Co., Hartford, Conn., is the custodian for VA–1 and VA–2 and is also the custodian and transfer agent for the Fund.

Sections 26(a) and 27(c)(2), as here pertinent, provide in substance that a registered unit investment trust and any depositor and underwriter for the trust are prohibited from selling periodic payment plan certificates unless the proceeds of all payments other than the sales load are deposited with a qualified bank as trustee or custodian, and held under an indenture or agreement containing specified provisions. Such agreement must provide, inter alia, that the bank (i) shall have possession of all property of the unit investment trust and segregate and hold the same in trust subject only to the charges and collections specifically allowed under clauses (A), (B), and (C) of section 26(a)(2) until distribution to the security holders of the trust; (ii) shall not resign until the trust has been liquidated or a successor has been appointed, (iii) may collect from the income and, if necessary, from the corpus of the trust such fees for services performed and reimbursement of expenses incurred as are provided for in the agreement, and (iv) shall not allow as an expense any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative services of a character normally performed by the bank itself. An exemption is requested from the foregoing provisions to the extent necessary to permit such assets to be held in the custody of the sponsor company Guardian.

In support of the requested exemption from the foregoing provisions of the Act, applicants state that all of the assets of VA–1 and VA–2 will be invested in book shares of The Guardian Park Ave. Fund, Inc. The evidence of ownership will consist of confirmations only, thus making the duties of the custodian minimal. Due to the nature of the asset, applicants maintain that there is no possibility of these being lost or disposed of except on the basis of an application properly presented to the custodian for the Fund by authorized personnel of the sponsor company. Applicants also assert that they are subject to extensive supervision and control by the New York and Delaware Superintendents of Insurance which includes filing required reports to the superintendents and being subject to review or examination by the superintendents and their agents at all times. It is further maintained that VA–1 and VA–2 have been established pursuant to a Delaware law which provides that their assets shall not be chargeable with liabilities arising out of any other business Guardian may conduct and all obligations arising under contracts participating in VA–1 and VA–2 are, nevertheless, general obligations of Guardian and Guardian may not abrogate its obligations under such contracts. Applicants contend that the functions of the custodian of VA–1 and VA–2 can be handled by Guardian itself at less cost and without any diminution of the quality of the safekeeping arrangements in regard to the assets, so held.

Applicants have consented to the requested exemptions being subject to the following conditions:

1. That the charges to contract holders under the contracts for administrative services shall not exceed such reasonable amount as the Commission shall prescribe, and that the Commission may reserve jurisdiction for such purpose; and

2. That the payment of sums and charges out of the assets of VA–1 and VA–2 shall not be deemed to be exempted from regulation by the Commission by reason of the order, provided that the applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payment of sums and charges out of VA–1 and VA–2 other than charges for administrative services, and applicants reserve the right, in any proceeding before the Commission or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums and charges.

Section 6(c) authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 30, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72–19437 Filed 11–10–72;8:49 am]

VETERANS ADMINISTRATION

NEW VA HOSPITAL AND MODERNIZATION OF EXISTING BUILDINGS, COLUMBIA, S.C.

Notice of Availability of Final Environmental Impact Statement

Notice is hereby given that a document entitled "Final Environmental Statement for a Replacement 400 Bed Veterans Administration Hospital Building and Modernization of Existing Buildings for a Total Capacity of 580 Beds, Columbia, South Carolina," issued pursuant to the Veterans Administration's implementation of section 102(2)(C) of the National Environmental Policy Act of 1969 is being placed in the following office:

Mr. Arthur W. Farmer, Assistant Chief Medical Director for Administration and Facilities (13), Room 600, Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420.

This project consists of a new 400 bed hospital building for Medical, Surgical, and Neurological nursing units, a new service support building, modernization of existing buildings to provide psychiatric and nursing home care beds, air conditioning five existing buildings, and relocating existing parking spaces. The present Veterans Administration facility is 5 miles southeast of the center of Columbia, S.C. This statement discusses the environmental impact of our hospital replacement and modernization in that location. Included with the statement are the comments received from Federal agencies on the draft statement of which notice of availability was published in the FEDERAL REGISTER dated July 26, 1972 (37 F.R. 14910), and the Veterans Administration's response to these comments.

The Environmental Impact Statement, including the comments and the Veterans Administration's responses, will be furnished upon request addressed to the Assistant Chief Medical Director for Administration and Facilities (13) at the above address.

Dated: November 3, 1972.

[SEAL] DONALD E. JOHNSON, *Administrator.*

[FR Doc.72–19439 Filed 11–10–72;8:49 am]

Signed at Washington, D.C., this 7th day of November 1972.

GLORIA G. VERNON, *Director, Office of Foreign Economic Policy.*

[FR Doc.72–19468 Filed 11–10–72;8:51 am]

INTERSTATE COMMERCE COMMISSION

[Notice 115]

ASSIGNMENT OF HEARINGS

NOVEMBER 8, 1972.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No Amendments will be entertained after the date of this publication.

MC 117940 Sub 54, Nationwide Carriers, Inc., now assigned November 8, 1972, at New York City, N.Y., is canceled and application dismissed.

MC–134776 Sub 20, Milton Trucking, Inc. now assigned November 16, 1972, at Washington, D.C., is postponed indefinitely.

MC–F–11361, Anderson Motor Lines, Inc.—Purchase (portion)—Glosson Motor Lines, Inc., now assigned continued hearing December 7, 1972, at Washington, D.C., advanced to November 27, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC–F–10774, K. L. Breeden & Sons, Inc.—Purchase (portion)—Marks Trucking Co., Inc., now assigned November 13, 1972, at Dallas, Tex., is advanced to November 9, 1972, in Room 3A–19, 1100 Commerce Street, Dallas, Tex.

MC–60196 Sub 7, Auto Express, Inc., now assigned December 4, 1972, will be held in Room 313, U.S. Post Office and Courthouse, North Washington Avenue and Linden Street, Scranton, Pa.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72–19460 Filed 11–10–72;8:50 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 8, 1972.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42564—*Iron or steel articles to Beasley, Tex.* Filed by Southwestern Freight Bureau, agent (No. B–356), for interested rail carriers. Rates on iron or steel articles, in carloads, as described in the application, from origins in various territories, to Beasley, Tex.

Grounds for relief—Rate relationship.

Tariff—Supplement 335 to Southwestern Freight Bureau, agent, tariff ICC 4753. Rates are published to become effective on December 9, 1972.

FSA No. 42565—*Woodpulp to points in WTL territory.* Filed by Western Trunk Line Committee, agent (No. A–2679), for interested rail carriers. Rates on woodpulp, in box cars only, as described in the application, from Fort Frances, Ontario, Canada, to points in Illinois and western trunkline territories; also Kentucky.

Grounds for relief—Market competition, short-line distance formula and grouping.

Tariff—Supplement 179 to Western Trunk Line Committee, agent, tariff ICC A–4669. Rates are published to become effective on December 10, 1972.

FSA No. 42566—*Rubber and related articles from Silsbee, Tex.* Filed by Southwestern Freight Bureau, agent (No. B–358), for interested rail carriers. Rates on rubber, artificial, neoprene, or synthetic, crude, also rubber compounds, NOIBN, loose or in packages, in carloads, as described in the application, from Silsbee, Tex., to various points in Colorado, Georgia, Illinois, Louisiana, Missouri and New Jersey.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 42 to Southwestern Freight Bureau, agent, tariff ICC 4982. Rates are published to become effective on December 13, 1972.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72–19459 Filed 11–10–72;8:50 am]

[Notice 159]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce

Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition

sengers and their baggage, in charter operations, from New York, N.Y., to points in New Jersey, Connecticut, and

Investigation Regarding Certification of Eligibility of Workers To Apply for Adjustment Assistance

The Department of Labor has received a Tariff Commission report containing an affirmative finding under section 301(c)(2) of the Trade Expansion Act of 1962 with respect to its investigation of a petition for determination of eligibility to apply for adjustment assistance filed on behalf of workers of Welpro, Inc., Seabrook, N.H. (TEA–W–156). In view of the report and the responsibilities delegated to the Secretary of Labor under § 8 of Executive Order 11075 (28 F.R. 473), the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, has instituted an investigation, as provided in 29 CFR 90.5 and this notice. The investigation relates to the determination of whether any of the group of workers covered by the Tariff Commission report should be certified as eligible to apply for adjustment assistance, provided for under title III, Chapter 3, of the Trade Expansion Act of 1962, including the determination of related subsidiary subjects and matters, such as the date unemployment or underemployment began or threatened to begin and subdivision of the firm involved to be specified in any certification to be made, as more specifically provided in Subpart B of 29 CFR Part 90.

Interested persons should submit written data, views, or arguments relating to the subjects of investigation to the Director, Office of Foreign Economic Policy, U.S. Department of Labor, Washington, D.C., on or before November 21, 1972.

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

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Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73266. By order of October 30, the Motor Carrier Board on reconsideration approved the transfer to Carlton Repsher, Laceyville, Pa., of the operating rights in certificates Nos. MC-13659, MC-13659 (Sub-No. 9), and MC-13659 (Sub-No. 11) issued May 7, 1958, August 5, 1959, and December 20, 1961, respectively, to Palmer Transfer, Inc., Scranton, Pa., authorizing the transportation of ice cream mix, milk, and milk products, dry sugar, and flour, to and from specified points in Pennsylvania, New Jersey, Delaware, Maryland, Virginia, West Virginia, New York, Massachusetts, and Connecticut. Dual operations were approved. Kenneth R. Davis, 999 Union Street, Taylor, PA 18517, registered practitioner for applicants.

No. MC-FC-73927. By order entered October 30, 1972, the Motor Carrier Board approved the transfer to Fred Olson Co., Inc., Milwaukee, Wis., of those portions of the operating rights set forth in certificates Nos. MC-52673 and MC-52673 (Sub-No. 20), issued April 4, 1962, and May 7, 1965, respectively, to Fred Olson Motor Service Co., Milwaukee, Wis., authorizing the transportation of such commodities as require specialized handling or rigging because of size or weight, and iron articles and steel articles which because of size or weight require transportation by pole trailers, between Chicago, Ill., and Milwaukee, Wis., over specified highways, serving intermediate points, and the off-route points in Milwaukee County, Wis., and between specified areas in Illinois, Indiana, and Wisconsin. Eugene L. Cohn, 1 North La Salle Street, Chicago, IL 60602, and Harold P. Boss, 1100 17th Street NW., Washington, DC 20005, attorneys for applicants.

No. MC-FC-73992. By order of October 31, 1972, the Motor Carrier Board approved the transfer to Olympic Trails Bus Co., Inc., Hillside, N.J., of a portion of certificate No. MC-946 issued to Ferdinand Arrigoni, Inc., Bronx, N.Y., authorizing the transportation of: Passengers and their baggage, in charter operations, from New York, N.Y., to points in New Jersey, Connecticut, and Pennsylvania, and return. Samuel B. Zinder, 98 Cutter Mill Road, Great Neck, NY 11021.

No. MC-FC-74019. By order entered October 30, 1972, the Motor Carrier Board approved the transfer to Stine's Towing Service, Inc., York, Pa., of the operating rights set forth in certificate No. MC-135433, issued September 19, 1972, to Oliver A. Miller, doing business as Stine's Towing Service, York, Pa., authorizing the transportation of: Wrecked and disabled motor vehicles, and replacement vehicles, by use of wrecker equipment, between points in York County, Pa., on the one hand, and, on the other, points in 19 specified States and the District of Columbia. Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-19461 Filed 11-10-72;8:50 am]

[Ex Parte No. MC-19; Sub-No. 19]

MOTOR COMMON CARRIERS OF HOUSEHOLD GOODS (CONSUMER PROTECTION)

Notice of Extension of Time

NOVEMBER 9, 1972.

Commissioner Murphy, Chairman of Division 1 of the Interstate Commerce Commission, has authorized, at the request of Reuben B. Robertson, III, representative of Grace Polk Stern, the extension of the time for filing representations in this proceeding (37 F.R. 15466 and 17638) from November 10, 1972, to December 11, 1972. This time extension includes an extension of the time on or before which petitioner, the Department of Transportation, is expected to comply with the request set forth in the original notice published August 2, 1972, (37 F.R. 15466), that it supply for the record the information and data upon which its petition is based.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-19536 Filed 11-10-72;8:52 am]

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Volume 37 ■ Number 219

PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

GUIDANCE, COUNSELING, AND TESTING PROGRAMS

Assistant to States

No. 219—Pt. II——1

Title 45—PUBLIC WELFARE

of title III only if an SEA elects to permit their participation.

2. A comment was received asking

Subpart D—Program Requirements

Sec.
118.21 Purpose.

(b) "Commissioner" means the U.S. Commissioner of Education.

(c) "Construction" means (1) the

(l) "Innovative," as applied to an educational program, project, service or activity, means new or improved ideas,

means owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which

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Title 45—PUBLIC WELFARE

Chapter I—Office of Education, Department of Health, Education, and Welfare

PART 118—SUPPLEMENTARY CENTERS AND SERVICES; GUIDANCE, COUNSELING, AND TESTING PROGRAMS

PART 143—GUIDANCE AND COUNSELING, AND TESTING; IDENTIFICATION AND ENCOURAGEMENT OF ABLE STUDENTS—STATE PROGRAMS

Assistance to States

Notice of proposed rule making was published in the FEDERAL REGISTER on February 5, 1972, in 37 F.R. 2779, setting forth rules and standards for State plan programs authorized under title III of the Elementary and Secondary Education Act. Comments were received with respect to inclusion of an example of services for handicapped children (§ 118.26(c)), the inclusion of a copyright provision (§ 118.58), the strengthening of requirements for guidance, counseling, and testing programs or the elimination of such programs (§ 118.11), the elimination of the public junior colleges and technical institutes from the regulations (§§ 118.10–118.11), permission to reallocate to other States unused funds provided under section 306 of Public Law 91–230, and adding reference to Public Law 91–646, Uniform Relocation Act. Following review of the comments, the following changes were made:

A. *Summary of changes based on comments received.* 1. Section 118.26(c) has been amended to include an additional example of services available to handicapped children.

2. Section 118.58 has been included to add a copyright and patent provision to cover situations where copyrightable or patentable materials are developed under a title III program or project. This provision was omitted from the earlier regulations which were published in the FEDERAL REGISTER.

3. Section 118.42(r) was added to include the provisions of Public Law 91–646, the Uniform Relocation Act.

4. Other minor changes have been made, either to correct typographical errors or to effect solely technical matters.

B. *Summary of comments.* 1. A comment was received proposing that public junior colleges and technical institutes (§§ 118.10–118.11) be removed from the regulations because they weaken the original Act (Public Law 89–10). In most State educational agencies, the public junior colleges and technical institutes do not participate in the title III program. However, the statute makes it possible for junior colleges and technical institutes to participate in the guidance, counseling, and testing portion of title III only if an SEA elects to permit their participation.

2. A comment was received asking that the requirements for guidance, counseling, and testing programs be strengthened or such programs be eliminated. State educational agencies presently have the option to use the full title III approach (which includes regulatory criteria for innovative programs) or to use the modified approach (which combines a part of the regulatory criteria for innovative programs with additional criteria established by the States).

3. One comment proposes that the U.S. Commissioner of Education be given permission to reallocate to other States the unused decretionary funds provided under section 306 of Public Law 91–230. Such a proposal would require amending the legislation since the reallotment provision is explicit in the Act.

After consideration of the above comments, Title 45 of the Code of Federal Regulations is amended by revoking Part 143 and by revising Part 118 as set forth below.

Effective date. As appears from the above summary, the modifications do not involve any changes of a substantial nature from the provisions which were published in the FEDERAL REGISTER on February 5, 1972, as proposed rule making. Accordingly, these regulations shall be effective upon publication in the FEDERAL REGISTER (11–11–72).

Dated: July 27, 1972.

S. P. MARLAND, JR.,
Commissioner of Education.

Approved: November 3, 1972.

ELLIOT L. RICHARDSON,
Secretary, Health, Education, and Welfare.

Subpart A—Scope of Regulations; Definitions

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Subpart B—State Advisory Council

118.3 Establishment and certification.
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AUTHORITY: The provisions of this Part 118 are issued under 20 U.S.C. 841–847a. Interpret or apply 20 U.S.C. 841–847a, 881, 885, and 1232–1232e.

Subpart A—Scope of Regulations; Definitions

§ 118.1 Scope of regulations.

The regulations published in this part are applicable to grants to States for planning and establishing supplementary educational centers and services and guidance, counseling, and testing programs. Regulations applicable to grants for such purposes by the U.S. Commissioner of Education directly to local educational agencies pursuant to section 306 of title III of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 344b), will be published in Part 126 of this title. Allotments of Federal funds under title III of the Act to the Departments of Interior and Defense pursuant to section 302(a)(1) of the Act (20 U.S.C. 842(a)(1)) shall be governed by such terms and conditions consistent with the Act as may be mutually agreed upon by these Departments and the Commissioner (20 U.S.C. 842(a)(1)).

§ 118.2 Definitions.

As used in this part:

(a) "Act" means the Elementary and Secondary Education Act of 1965, Public Law 89–10, as amended (20 U.S.C. Ch. 24).

(b) "Commissioner" means the U.S. Commissioner of Education.

(c) "Construction" means (1) the erection of new or expansion of existing structures, and the acquisition and installation of equipment therefor; (2) the acquisition of existing structures not owned by the agency making application for assistance under title III of the act; (3) the remodeling or alteration (including the acquisition, installation, modernization, or replacement of equipment) of existing structures; or (4) a combination of any two or more of the foregoing.

(d) "Cultural and educational resources" includes State educational agencies, institutions of higher education, private schools, public and nonprofit private agencies such as libraries, museums, musical and artistic organizations, educational radio and television, and other cultural and educational resources.

(e) "Department" means the U.S. Department of Health, Education, and Welfare.

(f) "Elementary school" means a day or residential school which provides elementary education, as determined under State law.

(g) "Equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facilty for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audiovisual instructional materials, and books, periodicals, documents, and other related materials. Equipment does not include consumable supplies.

(h) "Exemplary," as applied to an educational program, project, service, or activity, means designed to serve as a model for a regular school program.

(i) "Free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State. Elementary education may include kindergarten education meeting the above criteria.

(j) "Guidance and counseling" in relation to activities undertaken pursuant to section 303(b)(4) of the Act (20 U.S.C. 843(b)(4)), refers to (1) services to pupils to assist them in assessing and understanding their particular abilities, educational needs, and career and vocational interests in light of all applicable environmental factors, and (2) assistance in personal and social development, including the development of a positive self-concept.

(k) "Handicapped children" means those children who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired, and who by reason thereof require special education and related services.

(l) "Innovative," as applied to an educational program, project, service or activity, means new or improved ideas, practices, or techniques.

(m) "Junior college" means an institution of higher education which (1) is organized and administered principally to provide a 2-year program which is acceptable for full credit toward a bachelor's degree; (2) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate; (3) is legally authorized within the State to provide a program of education beyond secondary education; (4) is a public or other nonprofit institution; (5) is accredited by a nationally recognized accrediting agency or association, or, if not so accredited (i) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency within a reasonable period of time, or (ii) is an institution whose credits are accepted on transfer by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited; and (6) if a branch of an institution of higher education offering 4 or more years of higher education, is located in a community different from, and beyond a reasonable commuting distance from, the community in which the main campus of the parent institution is located.

(n) "Local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as is recognized in a State as an administrative agency for its public elementary or secondary schools. The term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school. For the purposes of this definition, "service function" means an educational service which is performed by a legal entity, such as an intermediate agency, whose jurisdiction does not extend to the whole of the State and which is authorized to provide consultative, advisory, or educational program services to public elementary or secondary schools, or which has regulatory functions over agencies having administrative control or direction of public elementary or secondary schools, rather than a service which is performed by a cultural or educational resource.

(o) "Nonprofit," as applied to a school, agency, organization, or institution, means owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(p) "Private school" means a nonprofit school which is operated or controlled by other than a public authority, and which complies with State compulsory school attendance laws or is otherwise recognized or accredited by some procedure customarily used in the State as having curricula similar to that required of comparable public schools.

(q) "Project period" means the total period of time for which a State proposes to fund a local project under title III of the Act.

(r) "Secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include education beyond grade 12.

(s) "State" includes, in addition to the States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(t) "State aid" means any contribution, no repayment for which is expected, by a State made to or on behalf of a local educational agency within the State for the support of free public elementary and secondary education.

(u) "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(v) "Technical institute" means an institution of higher education which (1) meets the requirements of subparagraphs (2) through (6) of the definition of "junior college" set forth in paragraph (m) of this section, and (2) is organized and administered principally to provide a 2-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge.

(w) "Testing," in relation to activities undertaken pursuant to section 303(b)(4) of the Act (20 U.S.C. 843(b)(4)), means the use of tests which measure abilities from which aptitudes for an individual's educational or career development may be validly inferred.

(x) "Works of art" means those items, which may be in the nature of fixtures, that are incorporated in school facilities primarily because of their esthetic value. The cost of a work of art which is in the nature of a fixture shall be the estimated additional cost of incorporating those special esthetic features which exceed the general requirements of excellence of architecture and design. (20 U.S.C. 403, 485, 844, 881)

Subpart B—State Advisory Council

this section. The time, place, and manner of such meetings shall be determined by

from the chief State school officer that the Governor has reviewed the plan but

the State advisory council, at least annually, of the effectiveness of the pro-

and the program of guidance and counseling under § 118.11. (20 U.S.C. 844a

(b) Guidance and counseling services under the State plan shall be provided by

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Subpart B—State Advisory Council

§ 118.3 Establishment and certification.

(a) Each State desiring to receive payments under title III of the Act and the regulations in this part for any fiscal year shall establish a State advisory council which is appointed by the State educational agency, and is broadly representative of the cultural and educational resources of the State (as defined in § 118.2(d)) and of the public, including persons representative of (1) elementary and secondary schools, (2) institutions of higher education, (3) areas of professional competence in dealing with children needing special education because of physical or mental handicaps, (4) areas of professional competence in guidance, counseling, and testing, and (5) children from low-income families and other low-income individuals.

(b) The Chief State School Officer and members of the State educational agency shall be ineligible to serve on the State advisory council either as chairman or as voting members.

(c) The State educational agency shall certify the establishment of, and membership of, its State advisory council to the Commissioner at least 90 days prior to the beginning of any fiscal year in which the State desires to receive a grant under title III of the Act and these regulations. The certification shall include the name, education, experience, and current position of each person serving on the State advisory council and shall specify which interest under paragraph (a) of this section each person represents. (20 U.S.C. 844a(a))

§ 118.4 Functions.

(a) The functions of the State advisory council shall include: (1) Advising the State educational agency on the preparation of, and policy matters arising in the administration of the State plan and in the development of the policies and procedures required by these regulations, including the criteria for approval of applications under the State plan; (2) reviewing and making recommendations to the State educational agency on the action to be taken with respect to each application for a grant under the State plan; (3) evaluating programs and projects assisted under title III of the Act; and (4) preparing and submitting through the State educational agency annual reports of its activities, recommendations, and evaluations, together with such additional comments as the State educational agency deems appropriate, to the Commissioner and to the National Advisory Council on Supplementary Centers and Services established pursuant to section 309 of the Act. (20 U..S.C. 847a)

(b) The State advisory council shall meet and select a chairman from its membership within 30 days after certification under § 118.3(c) has been accepted by the Commissioner, and shall meet at such other times throughout the year as may be necessary to fulfill its functions under paragraph (a) of this section. The time, place, and manner of such meetings shall be determined by the council, except that it shall hold not less than one public meeting each year at which the public is given opportunity to express views concerning the administration and operation of title III of the Act.

(c) The State advisory council shall be authorized to obtain (with funds paid to the State under section 307(b) of the Act (20 U.S.C. 845(b)) the services of such professional, technical, and clerical personnel as may be necessary to enable it to carry out its functions under paragraph (a) of this section, and to contract for such services as may be necessary to enable it to carry out its evaluation functions. (20 U.S.C. 844a(a))

§ 118.5 [Reserved]

Subpart C—The State Plan

§ 118.6 Preparation of plan.

(a) *General.* Any State desiring to receive funds under title III of the Act for any fiscal year shall, as a condition to the receipt of such funds, submit a State plan to the Commissioner, in accordance with such forms and instructions as he shall furnish, which meets the requirements of the Act and these regulations.

(b) *Submission.* The State plan shall be prepared and submitted annually and shall be developed in the light of all relevant information obtained, in the prior year or in the process of preparing the new plan, from reassessments of educational needs, evaluations of programs and projects funded under title III of the Act, and reports and recommendations of the State advisory council.

(c) *Certifications*—(1) *By State educational agency.* The State plan and each amendment thereto shall include as an attachment a certificate by an officer of the State educational agency authorized to submit the plan to the effect that the State plan or amendment thereto has been adopted by the State educational agency and that the State plan, or plan as amended, will constitute the basis for operation and administration of the title III program.

(2) *By the State Attorney General.* The State plan and each amendment thereto shall include as an attachment a certificate by the State Attorney General or other appropriate State legal officer to the effect that the State educational agency named in the plan is a "State educational agency" as defined in § 118.2(u), that it has the legal authority ascribed to it in the State plan pursuant to § 118.7, and that all the provisions of the State plan may be carried out in the State.

(d) *Review by the State Governor.* In accordance with § 118.22(b)(2), the State plan and each amendment thereto shall include as an attachment the comments, if any, of the Governor of the State concerning coordination of title III programs and projects under the State plan with other State and Federal programs and projects, or a statement from the chief State school officer that the Governor has reviewed the plan but no comments were made.

(e) *Amendments.* Whenever there is any change in the content or administration of the program set forth in the approved State plan, or whenever there is any change in pertinent State law or in the organization, policies, or operations of the State educational agency which materially affects the program under the plan, the State plan shall be appropriately amended and such amendment shall be submitted to the Commissioner for his approval. (20 U.S.C. 844a(a)(1)(C))

§ 118.7 State educational agency.

(a) *Designation.* The State plan shall give the official name of the State educational agency which will be, either directly or through arrangements with other State or local public agencies, the sole agency responsible for administering the plan.

(b) *Authority.* The State plan shall set forth the authority of the State educational agency under State law to submit the plan and to administer and supervise the programs set forth therein.

(c) *Organization.* The State plan shall set forth the administrative organization and procedures of the State educational agency staff responsible for administration of the State plan, and the qualifications of all staff members involved in the administration of the State plan.

(d) *Fiscal control.* The State plan shall designate the officer or officers of the State educational agency who will have legal authority to receive all funds granted to the State and to authorize their expenditure or transfer to local educational agencies. The State plan shall also set forth the fiscal control and fund accounting procedures (consistent with Subpart E of the regulations in this part) under which the designated officer or officers will assure proper disbursement of and accounting for Federal funds paid to the State under title III of the Act. (20 U.S.C. 844a(b)(2) and (10))

§ 118.8 General plan provisions.

(a) *Assessment of educational needs.* The State plan shall identify the critical educational needs of the State as a whole and the critical educational needs of the various geographic areas and population groups within the State, and shall describe the process by which such needs were identified. This process shall be based upon the use of objective criteria and measurements and shall include procedures for collecting, analyzing, and validating relevant data and translating such data into determinations of critical educational needs. These determinations and the data upon which they are based shall be periodically reviewed and updated, and the State plan shall indicate the most recent date of such review and updating.

(b) *Developing evaluation strategies.* The State plan shall provide for, and describe the objectives of, and the procedures to be used in, the evaluation by

the State advisory council, at least annually, of the effectiveness of the programs and projects funded under the State plan in meeting the purposes of title III of the Act.

(c) *Dissemination of information.* The State plan shall provide for, and describe the objectives of and procedures to be used in, the statewide dissemination of the results of evaluations performed under paragraph (b) of this section and of other information concerning those programs and projects which are determined through such evaluations to be innovative, exemplary, and of high quality.

(d) *Adoption and adaptation of promising practices.* The State plan shall provide for, and describe the objectives of, and the procedures to be used in, the adoption and adaptation within the State of promising educational practices developed through programs or projects funded under title III of the Act.

(e) *Reviewing local project applications.* The State plan shall (1) list and describe any criteria, other than those required by § 118.24(a), which the State educational agency will use in reviewing local project applications (including applications for guidance, counseling, and testing projects) submitted under § 118.23; and (2) provide that final action regarding the proposed final disposition of any local project application (or amendment thereof) shall not be taken without first affording the local educational agency or agencies submitting such application reasonable notice and opportunity for a hearing before a board or official designated by the State educational agency for such purpose, and specified in the State plan.

(f) *Commingling of funds.* The State plan shall set forth policies and procedures which assure that funds made available under title III of the Act for programs and projects for any fiscal year will not be so commingled with State or local funds as to lose their identity as title III funds.

(g) *State aid.* The State plan shall contain adequate assurance that, in determining the eligibility of any local educational agency for State aid or the amount of such aid, grants to that agency under title III of the Act will not be taken into consideration. (20 U.S.C. 844a(b)(1)(A), (6), (9)(A), (12), and (13))

§ 118.9 Supplementary educational centers and services.

The State plan shall set forth a program for improving education in the State through grants to local educational agencies for supplementary educational centers and services, which program (a) shall be based upon the critical educational needs of the State as determined under § 118.8 (a), and (b) shall describe how funds paid to the State under title III of the Act will be used to demonstrate how such educational needs may be met. Such program shall be related to and coordinated with the program for testing under § 118.10 and the program of guidance and counseling under § 118.11. (20 U.S.C. 844a(b)(1)(A))

§ 118.10 Testing.

(a) The State plan shall set forth a program for testing students in the public and private elementary and secondary schools of the State or in the public and private junior colleges and technical institutes of the State. In so doing, the plan shall (1) describe the primary objectives of the program, (2) identify the grade levels of students to be tested, and (3) describe the types of tests to be utilized for the measurement of aptitudes and abilities.

(b) The testing program set forth in paragraph (a) of this section shall include at least one test for students not beyond grade 12, and shall be utilized to (1) identify students with outstanding aptitudes and abilities; (2) provide such information about the aptitudes and abilities of students as may be needed in connection with the guidance and counseling program required by § 118.11; and (3) provide such information as may be needed to assist other educational or training institutions and prospective employers in assessing the educational and occupational potential of students seeking admission to educational or training institutions or employment.

(c) In fulfilling the requirements of this section, the State educational agency may provide services at the State level, make arrangements with local educational agencies or other appropriate local or State agencies, or contract with public or private nonprofit institutions, agencies, or individuals, for the provision of services consistent with the State's responsibilities under these regulations. (20 U.S.C. 843(b)(4), 844a(b)(1)(B)(1))

§ 118.11 Guidance and counseling.

(a) The State plan shall set forth a program of guidance and counseling designed to improve such services at the appropriate levels in the public elementary and secondary schools or public junior colleges and technical institutes of the State and, to the extent required by § 118.15, in the private elementary and secondary schools of the State. Such program shall serve to advise students regarding courses of study best suited to their abilities, aptitudes and skills, the type of educational program they should pursue, the vocation they should train for and enter, and the job opportunities in the various fields, as well as to encourage students with outstanding aptitudes and abilities to complete their secondary school education, take the necessary courses for admission to institutions of higher education, and enter such institutions. Such programs may include short-term training sessions for persons engaged in guidance and counseling in elementary and secondary schools, junior colleges, and technical institutes in the State.

(b) Guidance and counseling services under the State plan shall be provided by qualified counselors through appropriate individual and group processes. Such processes shall be coordinated with other pupil personnel services and guidance and counseling resources both within and outside the school setting, and shall include referral assistance, working with other staff members in planning curriculum content and changes, and consulting both teachers and parents with regard to the learning and developmental needs of pupils.

(c) The program set forth under paragraph (a) of this section shall make provision for supervision and leadership activities by the State educational agency with regard to the establishment, maintenance, and improvement of guidance and counseling services under the State plan. Such activities shall include the assessment of other Federal and State programs (such as titles I and V of the Act, part B of the Education of the Handicapped Act, and the Vocational Education Act of 1963) where there may be need for State level supervision and leadership with respect to guidance and counseling, and the development of procedures for determining how these various programs and sources of funds can be coordinated to provide for strong leadership in the area of guidance and counseling.

(d) In addition to the activities set forth in paragraph (c) of this section, the program set forth under paragraph (a) of this section may also include the provision of services at the State level, through arrangements (including project grants under paragraph (e) of this section) with local educational agencies or other appropriate local or State agencies, or through contracts with public or private nonprofit institutions, agencies, or individuals, which are consistent with the State's responsibilities under these regulations.

(e) Project grants may be made to local educational agencies under this section for the following purposes: (1) Planning programs and projects designed to provide the services and activities described in subparagraphs (2) and (3) of this paragraph, including pilot projects designed to test the effectiveness of such plans; (2) establishing or expanding innovative and exemplary guidance and counseling programs and projects for the purpose of stimulating the adoption of new programs; and (3) establishing, maintaining, and improving guidance and counseling services and activities, especially through new and improved approaches consistent with the purposes of title III of the Act. (20 U.S.C. 843(b)(4), 844a(b)(1)(B)(ii))

§ 118.12 Equitable distribution of assistance.

The State plan shall set forth criteria for achieving an equitable distribution of assistance made available under title III of the Act and these regulations. Such criteria shall be based on a consideration of (a) the size and population of the

State, (b) the geographical distribution and density of the population within the

needs are of the type which the program or project is designed to meet. The num-

the Commissioner reports in accordance with §§ 118.53 and 118.54; and keep such records and afford such access thereto as

part. In such a case, the Commissioner will make available to the State that part of its allotment which he determines to

areas who are excluded from effective participation in title III programs or projects and who, except for such exclu-

satisfied that there is no longer any such failure to comply. (20 U.S.C. 844a(e)(2))

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State, (b) the geographical distribution and density of the population within the State, (c) the relative need of persons in different geographic areas and in different population groups within the State for the kinds of services and activities to be provided under the plan, and (d) the relative financial abilities of local educational agencies within the State to provide such services and activities. Application of the factors set forth in this section shall not result in the approval by the State educational agency of programs or projects which fail to meet any of the requirements contained in this part.

§ 118.13 Special consideration for certain local educational agencies.

The State plan shall provide for giving special consideration, in approving applications for title III programs and projects, to applications submitted by local educational agencies (a) that are making a reasonable tax effort but are unable to meet critical educational needs (including preschool and bilingual education) because some or all of its schools are seriously overcrowded, obsolete, or unsafe; or (b) whose proposed program or project was planned with funds made available under title III of the Act. Application of the factors set forth in this section shall not result in the approval by the State educational agency of programs or projects which fail to meet any of the requirements contained in this part. (20 U.S.C. 844a(b) (4) and (5))

§ 118.14 Percentage requirements regarding uses of funds.

The State plan shall provide that, of the funds made available under title III of the Act for any fiscal year to carry out the State plan:

(a) An amount equal to at least 50 percent of such funds shall be expended for planning, establishing, and expanding innovative and exemplary programs and activities in accordance with § 118.25;

(b) An amount equal to at least 15 percent of such funds shall be expended for special programs or projects for the education of handicapped children in accordance with § 118.26; and

(c) For fiscal years ending prior to July 1, 1973, an amount equal to at least 50 percent of the amount expended by the State under title V–A of the National Defense Education Act of 1958 (20 U.S.C. 401 et seq.) from funds appropriated under such title for fiscal year 1970 shall be expended for guidance, counseling, and testing programs of the types set forth in §§ 118.10 and 118.11. (20 U.S.C. 844a(b) (7) and (8), 844a note)

§ 118.15 Participation by private school children.

(a) The State plan shall contain satisfactory assurances that each local educational agency receiving funds under title III of the Act will provide for the effective participation in its title III program or projects, on an equitable basis, by children enrolled in private schools in the areas to be served whose educational needs are of the type which the program or project is designed to meet. The number of such children to be served, in relation to the total number of such children, shall be consistent with the number of public school children to be served in relation to the total number of public school children in the area served with educational needs of the type the program or project is designed to meet.

(b) Whenever practicable, educational services shall be provided to private school children on publicly controlled premises. Any project to be carried out in public facilities which involves joint participation by children enrolled in private schools and children enrolled in public schools shall include such provisions as are necessary to avoid the separation of participating children by school enrollment or religious affiliation.

(c) Provisions for serving private school children shall not include (1) the payment of salaries to teachers or other employees of private schools except for services performed outside regular hours of duty and under public supervision and control, (2) financing of the existing level of instruction in private schools, (3) the placement of equipment on private school premises other than portable or mobile equipment which is capable of being removed from the premises each day, or (4) the construction of facilities for private schools. None of the funds made available under the Act may be used for religious worship or instruction.

(d) The State educational agency shall require that every project application submitted to it by a local educational agency under § 118.23 shall describe how the local educational agency will fulfill the requirements of paragraphs (a), (b), and (c) of this section. This description shall contain information indicating: (1) The number of private schools in the area to be served by the project and the number of children enrolled in such schools in the grades to be served by the project; (2) the existence of any factors which limit the appropriateness of the project for private school children; (3) the manner in which and extent to which representatives of private school children participated in the development of the project proposal (including participation in the determinations required under subparagraph (2) of this paragraph); (4) the provisions which have been made for effective liaison with representatives of private school children in regard to operation and review of the project; (5) the places at which and methods by which private school children will be served in accordance with the requirements of paragraphs (b) and (c) of this section; and (6) the differences, if any, in the kind and extent of services to be provided private school children as compared with those to be provided public school children, and the reasons for such differences. (20 U.S.C. 844(b)(2)(B), 885)

§ 118.16 Reports and records.

The State Plan shall provide that the State educational agency will submit to the Commissioner reports in accordance with §§ 118.53 and 118.54; and keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports, including those records required by §§ 118.41(c) and 118.56. (20 U.S.C. 844a(b)(11))

§ 118.17 Supplementary nature of projects.

(a) The State plan shall set forth policies and procedures for assuring that funds made available under title III of the Act for any fiscal year will be used to supplement and, to the extent practical, increase (1) the fiscal effort which each local educational agency receiving title III funds would have made in the absence of such funds, for that fiscal year for educational purposes, as required by section 305(b)(9) of the Act (20 U.S.C. 844a(b)(9)), and (2) the level of funds which each local educational agency receiving title III funds and each participating school would have made available in the absence of such funds, for that fiscal year for the purposes described in section 303(b) of the Act, as required by section 304(a)(3) of the Act, 20 U.S.C. 844(a)(3)).

(b) For the purposes of paragraph (a)(1) of this section, fiscal effort of a local educational agency for educational purposes shall be determined by the State educational agency on the basis of the amount of expenditures per pupil of the local educational agency from State and local funds; or in the event of a decrease of such expenditures, on the basis of the ratio between the total expenditures of the local educational agency from State and local funds and the wealth of the local educational agency as measured by the equalized assessed valuation of taxable property, per capita income, or other such indices as appropriate. (20 U.S.C. 844(a)(3), 844a (b)(9)(B))

§ 118.18 Approval of State plans.

(a) *Full approval or disapproval.* The Commissioner will review each State plan or amendment thereto submitted under § 118.7, and approve those plans and amendments which he determines to meet the requirements of title III of the Act and these regulations. Except as provided in paragraph (b) of this section, the Commissioner will disapprove a plan which fails to comply with such requirements.

(b) *Partial approval.* If the Commissioner finds that a State plan submitted under § 118.6 for any fiscal year ending prior to July 1, 1973, is in substantial compliance with title III of the Act and these regulations, but fails to adequately provide for one of the programs required by section 305(b) of the Act (20 U.S.C. 844a(b)) or for some specific requirement (such as participation of private schoolchildren) pertaining to such programs, or is otherwise unapprovable in any other identifiable part, he may approve that part of the plan which he determines to be in compliance with title III of the Act and the regulations in this

part. In such a case, the Commissioner will make available to the State that part of its allotment which he determines to be necessary to carry out the approved part of its State plan. The remainder of the amount the State is eligible to receive may be made available to the State only when the unapproved portion of its State plan is so modified as to bring the plan into compliance with title III of the Act and the regulations in this part. The amount made available to a State pursuant to this subsection may not be less than 50 percent of the maximum amount which the State is eligible to receive under paragraph (f) of this section.

(c) *Effect of State plan.* The State plan, as approved by the Commissioner under this section, will constitute the basis on which Federal grants are made, and the basis for determining the propriety of expenditures of grant funds. The administration of the title III program shall be kept in conformity with the approved plan.

(d) *Effective date of the State plan.* The effective date of the State plan or any amendment thereto shall be the date on which such plan or amendment is received by the Commissioner in substantially approvable form, but no earlier than July 1 of the fiscal year for which the plan or amendment is submitted.

(e) *Notice and opportunity for hearing.* No final action under this section other than one of full approval will be taken by the Commissioner until he first notifies the State educational agency of his proposed action and affords the State educational agency a reasonable opportunity for a hearing.

(f) *Maximum funding level.* A State whose State plan has been approved under this section for any fiscal year may receive, for the purpose of carrying out such plan, an amount not in excess of 85 percent of its allotment under section 302 of the Act. (20 U.S.C. 844a (b), (c), (d), (e)(1))

§ 118.19 Inability or failure to serve private school children.

(a) In any State in which the Commissioner determines under § 118.18(b) that the State plan is approvable except that (1) no State agency is authorized by law to provide, or (2) there has been a substantial failure to provide, for effective participation on an equitable basis by private schoolchildren enrolled in any one or more private elementary or secondary schools in the areas served by programs or projects funded under title III of the Act, as required by § 118.10(a), § 118.11(a), or § 118.15, the Commissioner will arrange for the provision of title III services to such children on an equitable basis.

(b) The costs of services provided in any fiscal year under paragraph (a) of this section will be paid out of the affected State's allotment for that fiscal year. In determining the amount to be withheld, the Commissioner will take into account (1) the number of private schoolchildren in the affected area or areas who are excluded from effective participation in title III programs or projects and who, except for such exclusion, might reasonably have been expected to participate; (2) the number of teachers that would reasonably have been required to serve such children, and (3) the nature and extent of services being provided to public schoolchildren in the affected area by the programs or projects in which private schoolchildren are denied effective participation.

(c) In any case where the State alleges that no State agency is authorized by law to provide for the effective participation of private schoolchildren as required by § 118.10(a), § 118.11(a), or § 118.15, the State shall provide the Commissioner with a written statement signed by the State Attorney General or other appropriate State legal officer setting forth the constitutional and statutory provisions, and case law, which in his opinion prevent the State from so serving private schoolchildren.

(d) In determining whether there has been a "substantial failure" under paragraph (a) of this section, the Commissioner (1) will first consult the affected State educational agency and ask it to provide information concerning the alleged failure, and (2) will consider all acts or omissions of the State, or a local educational agency or other political subdivision thereof, or of any individual acting for or on behalf of such entities, in the process of assessing educational needs and planning, approving, conducting, and monitoring programs and projects under title III of the Act and these regulations, which have the effect of (a) preventing, discouraging, or otherwise limiting in any manner the effective participation by any eligible private school child in the operation of the program or project serving the area in which his private school is located, or (b) not affording private school representatives the opportunity for effective participation in the planning and development of any program or project in which private schoolchildren are eligible to participate. (20 U.S.C. 845(f))

§ 118.20 Operational noncompliance.

Whenever the Commissioner, after affording the State educational agency reasonable notice and opportunity for a hearing, finds that in the operation or administration of its State plan there has been a failure to comply substantially with (a) any provision of title III of the Act and the regulations in this part, (b) any requirement set forth in the plan of that State as approved under § 118.18, or (c) any requirement set forth in an application of one of the State's local educational agencies as approved under § 118.23, he will notify the State educational agency that further payments will not be made to the State under title III of the Act, or that the State educational agency may not make further payments under title III of the Act to specified local educational agencies affected by the failure, until he is satisfied that there is no longer any such failure to comply. (20 U.S.C. 844a(e)(2))

Subpart D—Program Requirements

§ 118.21 Purpose.

This subpart sets forth various program requirements to which each State educational agency shall adhere in administering the educational programs described in its approved State plan and in implementing the provisions of such plan. The policies, procedures, and criteria developed by the State under this subpart shall be set forth in writing and shall be available for inspection at reasonable times and places by the Commissioner or his delegate and by interested parties in the general public. (20 U.S.C. 844, 844a (a)(1) and (b))

§ 118.22 General requirements.

(a) *Long-range strategy for advancing education.* The State shall develop a long-range strategy for advancing education in the State in ensuing years through programs and projects funded under title III of the Act. Such strategy shall be directed toward the critical educational needs of the State as periodically assessed under § 118.9(a) and shall provide for the coordination of title III programs and projects with other public and private programs and projects as required by paragraph (b) of this section.

(b) *Coordination with other aid programs.* (1) To the extent not inconsistent with the prohibition against commingling of funds in § 118.8(f), the State shall establish effective procedures for coordinating the development and operation of programs and projects carried out under title III of the Act and these regulations with other public and private programs having the same or similar purposes. (2) The State plan and amendments thereto which the State educational agency submits to the Commissioner under § 118.6 and the periodic reports which it submits to the Commissioner under §§ 118.53 and 118.54 shall first be submitted to the Governor of the State for his review and comments (if any) on the relationship of title III programs and projects to, and coordination with, State comprehensive plans and State plans in related Federal programs. The Governor shall be given a period of up to 45 days, if necessary, to make such comments. His comments shall accompany the plan, amendment, or report when submitted to the Commissioner, or, if the Governor has no comments, a statement to this effect from the State educational agency official authorized to submit the plan shall accompany the documents.

(c) *State leadership.* The State educational agency shall establish policies and procedures for appropriate professional staff development of State and local administrative, supervisory, instructional, and supporting personnel involved in developing, conducting, or monitoring programs or projects under title III of the Act, including those personnel involved in program or projects for handicapped children.

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(d) *On-site evaluation of projects.* The State educational agency shall develop procedures and criteria for the on-site evaluation, at least annually, of all title III projects in the State. Such procedures shall indicate the role of the State educational agency staff in the evaluation process and the relationship between its functions under this subsection and the functions of the State advisory council under §§ 118.4(a)(3) and 118.8(a). Such procedures shall also provide for incorporation into the affected projects of recommendations made as a result of on-site evaluations and for followup methods to insure proper implementation.

(e) *Construction.* The State educational agency shall establish (1) criteria for determining the conditions under which the construction of facilities for use in a title III program or project is consistent with the educational programs set forth in the State plan and necessary to the efficient operation of the program or project, and (2) procedures for the submission of construction requests by local educational agencies and the review of such requests, in accordance with the provisions of § 118.42 and the criteria established under subparagraph (1) of this paragraph, by the State educational agency and other interested State agencies.

(f) *Conflicts of interests.* The State educational agency shall establish procedures which insure that no board or staff member of the State educational agency, the State advisory council, or a local educational agency will participate in or make recommendations concerning an administrative decision or action involving a program or project under title III of the Act, if such decision or action may reasonably be expected to result in any fee, royalty, commission, remuneration, or other benefit to him or to any member of his immediate family.

(g) *List of projects funded.* The State educational agency shall maintain a list identifying each local project it is funding under title III of the Act, which shall include for each such project (1) the project number, (2) a title or description by which the project may be easily identified, (3) the amount of the current grant, (4) the proposed level of funding for the portion of the project period remaining after expiration of the current grant, (5) the amount of grant funds to be expended in each project for guidance and counseling under § 118.11 or for testing under § 118.10, and (6) the amount of grant funds to be expended in each project for the education of handicapped children under § 118.26 broken down by type of handicap.

(h) *Participation of students in junior colleges and technical institutes.* Participation in title III programs or projects by students enrolled in junior colleges and technical institutes in a State shall be limited to participation in guidance, counseling, and testing programs or projects established under §§ 118.10 and 118.11. (20 U.S.C. 843(b)(4), 844a(a)(1) and (b)(1)(B)(i) and (ii), 883)

§ 118.23 Applications from local educational agencies.

(a) *Solicitation and submission.* The State educational agency shall establish procedures to stimulate the submission of applications for funds under title III of the Act by all local educational agencies in the State that have educational needs of the type which the State has identified and determined to serve under § 118.9. Such procedures shall include (1) the statewide dissemination of information concerning the purposes and provisions of title III of the Act and these regulations and of the educational program which the State proposes to conduct under its State plan; (2) the establishment of cutoff dates for submission of applications and notifications to all local educational agencies of such dates; and (3) the development of solicitation techniques designed to insure that title III funds are equitably distributed as required by § 118.12 and that applications are submitted by local educational agencies deserving special consideration under § 118.13. The State shall not establish methods or procedures which have the effect of excluding the eligibility of any otherwise eligible local educational agency to apply for and receive grants under this part.

(b) *Content of applications.* Each project application submitted to the State educational agency shall set forth a proposal for carrying out one or more of the purposes described in section 303(b) of the Act (20 U.S.C. 843(b)) in accordance with the provisions of title III of the Act and these regulations. Such applications shall:

(1) Provide that the services and activities for which title III funds are sought will be administered by or under the supervision of the applicant, and provide (i) such methods of administration as are necessary for the proper and efficient operation of the project, and (ii) such fiscal control and fund accounting procedures as are necessary to assure proper disbursement of and accounting for title III funds paid to the applicant;

(2) Set forth policies and procedures which assure that funds made available for the project for any fiscal year will supplement and not supplant State and local funds in accordance with § 118.17(a);

(3) Set forth, in the case of an application which includes construction as part of the proposed project, the assurances required by § 118.42(e) and such other information as the State educational agency shall require in fulfilling the requirements of § 118.22(e);

(4) Provide for making such financial reports, annual reports, and other reports, and for keeping and allowing access to such records relating thereto, as the State educational agency may reasonably require to assure compliance with the reports and records requirements in §§ 118.54 to 118.56 and to otherwise carry out its functions under title III of the Act and these regulations;

(5) Set forth the information regarding participation of private schoolchildren which is required by § 118.15(d); and

(6) Contain such other information as the State educational agency may reasonably require to apply the criteria for reviewing project applications set forth in § 118.24.

(c) *Panel of experts.* The State educational agency shall establish a panel of experts, consisting of persons who are not officers or employees of the State educational agency, or the State advisory council to review all local project applications prior to their approval or other disposition. The State educational agency shall determine the number of experts to be utilized and the qualifications to be required of such experts (including one or more experts in the education of handicapped children and one or more experts in guidance, counseling, and testing) and shall establish procedures for selecting the panel.

(d) *Approval of applications.* The State educational agency shall establish procedures for review and disposition of local project applications in accordance with the requirements of title III of the Act and these regulations. Such procedures shall provide for coordinating the roles of the State advisory council (under § 118.4(a)(2)) and the panel of experts (under paragraph (c) of this section) with the role of the State educational agency. Such procedures shall also assure that no application will be approved or renewed by the State educational agency unless it is specifically found to meet the requirements for participation of private school children under § 118.15 and each of the requirements of paragraph (b) of this section, and has been evaluated in terms of the criteria set forth in § 118.24. (20 U.S.C. 844)

(e) *Hearings.* The State educational agency shall develop procedures for a hearing in accordance with § 118.8(e)(2) for any applicant whose application (or amendment thereto) the State educational agency proposes not to approve. (20 U.S.C. 844)

§ 118.24 Criteria for review of project applications.

(a) *Supplementary educational centers and services.* The State educational agency shall establish the criteria to be used in reviewing project applications from local educational agencies under § 118.9. Such criteria shall be applied in conjunction with the special criteria developed by the State educational agency under §§ 118.12 and 118.13, and shall include the following criteria for determining the extent to which the proposal includes:

(1) Evidence that it is designed to demonstrate solutions to identified critical educational needs and will substantially increase the educational opportunities of children in the area of the State to be served;

(2) Provisions for the development of concepts, practices, and techniques which can be adapted or adopted elsewhere;

(3) Promising concepts or practices recognized as unique, original, unusual, innovative, or exemplary;

(4) Concepts or practices which are economically feasible and effective;

(5) Evaluation strategies and procedures based on valid methodology which will provide evidence of the extent to which performance of the participants is improved;

(6) Performance objectives which are measurable, and appropriate activities which facilitate achieving them;

(7) An awareness of information concerning similar programs, relevant research findings, and views of recognized experts;

(8) Provisions for staff with professional qualifications adequate to achieve the project's stated objectives;

(9) Provisions for budgeted expenditures for adequate and appropriate facilities, equipment, and materials which show a direct relationship in facilitating the achievement of the stated objectives;

(10) Documentation that in the planning of the project there has been, and in the operation and evaluation of the project there will be, (i) utilization of the best available talents and resources and (ii) participation of students, teachers, parents, school administrative personnel, private nonprofit school representatives, and other persons including those with low income, broadly representative of the cultural and educational resources of the area to be served;

(11) Provisions for dissemination of information about the proposed project which are appropriate and adequate for the area to be served.

(b) *Guidance and counseling.* The State educational agency shall establish the criteria to be used in reviewing applications for guidance and counseling programs and projects under § 118.11. A State educational agency may elect to apply all criteria in paragraph (a) of this section to guidance and counseling programs and projects. However, at least those criteria set forth in §§ 118.12 and 118.13 and those required by paragraph (a)(4) through (11) of this section shall be applicable to all such programs or projects.

(c) *Additional criteria.* If the State educational agency establishes criteria for the review of project applications in addition to those specified in paragraphs (a) and (b) of this section, it shall list such additional criteria in its State plan in accordance with § 118.8(e)(11). (20 U.S.C. 844)

§ 118.25 Innovative and exemplary projects.

The State educational agency shall establish policies and procedures under which it will use at least 50 percent of the funds that it receives to carry out its State plan in each fiscal year to:

(a) Plan for and take other steps leading to the development of innovative and exemplary programs and projects, including pilot projects designed to test the effectiveness of such plans; and

(b) Establish or expand innovative and exemplary programs and projects (including dual enrollment programs and the lease or construction of necessary facilities) for the purpose of stimulating the adoption of new educational programs, including special programs for handicapped children and programs such as those described in section 503(4) of the Act, in the schools of the State. (20 U.S.C. 844a(b)(7))

§ 118.26 Projects for handicapped children.

The State educational agency shall establish policies and procedures under which it will use at least 15 percent of the funds that it receives to carry out its State plan in each fiscal year for: (a) Planning programs or projects referred to in paragraphs (b) and (c) of this section; (b) establishing or expanding innovative and exemplary educational programs for the purpose of stimulating the adoption of new educational programs to demonstrate ways to meet the special needs of handicapped children; or (c) establishing, maintaining, operating, or expanding services or activities which utilize new and improved approaches which demonstrate ways to meet the special educational needs of handicapped children. The State educational agency shall also establish procedures which assure that such activities will be coordinated with other Federal, State, and local programs and projects for the education of handicapped children, such as title I of the Act, the Education of the Handicapped Act the Developmental Disabilities Services and Facilities Construction Act, and the State shall also establish procedures whereby appropriate State education agency personnel responsible for the education of handicapped children shall review and make recommendations relating to all parts of the State plan which pertain to handicapped children. (20 U.S.C. 844a(b)(8))

§ 118.27 Amendment, continuation, and termination of projects.

(a) *Project period.* The State educational agency shall establish a project period for projects funded under title III of the Act and shall establish procedures for continuing the funding of promising projects throughout the project period, subject to the availability of title III funds, on the basis of evaluations under § 118.22(d) and other periodic reviews which demonstrate that the project is being operated in compliance with all the requirements of title III of the Act and these regulations.

(b) *Amendment of project applications.* The State educational agency shall establish procedures for reviewing requests from grantees to amend project applications and alter projects during the project period and for assuring that such amendments and alterations are fully consistent with the requirements of title III of the Act and these regulations. Whenever the proposed amendment or alteration would involve significant changes in the content, design, or funding level of the project, the review procedures utilized shall conform to the requirements of § 118.23(d).

(c) *Costs of continuation.* If the costs to the State for any fiscal year of continuing projects under this section would exceed the amount of funds available to the State to carry out its State plan for that fiscal year, the State educational agency may request that the Commissioner provide funds to meet such excess costs under section 306 of the Act (20 U.S.C. 344b) and Part 126 of this chapter. The Commissioner will consider such a request only if he specifically determines that the project requiring funds is worthy of continuation and holds promise of making a substantial contribution to the solution of critical education problems common to all or several States.

(d) *Termination of projects.* The State educational agency shall establish procedures for termination, during the project period, of unsuccessful programs and projects which are not operating in substantial compliance with (1) any provision of title III of the Act and these regulations or (2) any requirement set forth in the approved State plan or in the approved project application. In the event of such termination the grantee shall be afforded reasonable notice of the proposed action and opportunity for a hearing. (20 U.S.C. 844)

§§ 118.28–118.30 [Reserved]

Subpart E—Fiscal Procedures

§ 118.31 Allotment availability.

(a) *General.* Funds alloted to States under title III of the Act for any fiscal year shall be available for use by States (as determined pursuant to paragraphs (a) and (b) of this section) only during such fiscal year, except that the following allotments (or portions thereof) shall also be available for use during the succeeding fiscal year (unless otherwise provided for in appropriation acts):

(1) Funds realloted to States pursuant to section 302(d) of the Act.

(2) Funds allotted to States for any fiscal year beginning on July 1, 1969 and ending prior to July 1, 1973.

(b) *Use for State-level activities.* A use of funds under title III of the Act for the administration of State plans (including the administration of guidance, counseling, and testing programs), the activities of State advisory councils, and evaluation and dissemination activities will be determined on the basis of documentary evidence of binding commitments for the acquisition of goods or property or for the performance of work, except that funds for personal services, for services performed by public utilities, for travel, and for the rental of equipment and facilities shall be considered to have been used as of the time such services were rendered, such travel was performed, and such rented equipment and facilities were used, respectively.

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(c) *Use by State agency for local projects.* A use of funds under title III of the Act for local projects shall be determined by the issuance of a grant award document by the State educational agency to a local educational agency. Funds so obligated by the State educational agency shall remain available for expenditure by the local educational agency during the period for which the grant was awarded, as determined pursuant to paragraph (d) of this section, which period shall not extend beyond the end of the fiscal year following the fiscal year in which the grant is awarded. The obligation recorded by the State educational agency shall be adjusted and the grant award amended whenever the amount obligated is determined to be at variance with amounts actually expended by the local educational agency.

(d) *Expenditures by local educational agencies.* For the purpose of paragraph (c) of this section, the expenditure of funds under title III of the Act by local educational agencies shall be determined on the basis of documentary evidence of binding commitments for the acquisition of goods or property, the construction of school facilities, or the performance of work; except that funds for personal services, for services performed by public utilities, for travel, and for rental of equipment and facilities shall be considered to have been expended as of the time such services were rendered, such travel was performed, and such rented equipment and facilities were used, respectively. In the case of funds to be used for administrative activities in connection with the completion of a project, such as evaluation and auditing activities, expenditures may also be determined on the basis of documentary evidence of a specific reservation of funds for the purpose. (20 U.S.C. 1225(b), 31 U.S.C. 200)

(e) *Liquidations of obligations.* An obligation entered into by the State educational agency pursuant to paragraph (b) of this section or LEA pursuant to paragraph (d) of this section and payable out of funds under title III of the Act shall be liquidated by the end of the fiscal year following the fiscal year in which the obligation was incurred unless prior to the end of that following fiscal year the State educational agency determines for good cause that the time for liquidating a particular obligation will be extended and so notifies the Commissioner.

§ 118.32 Grant awards.

In all cases where the State educational agency makes grants under title III of the Act to local educational agencies, it shall award such grants for specified budget periods on the basis of applications which have been approved in accordance with § 118.23. All grant awards shall be in writing and shall set forth the amount of funds granted and the budget period during which such funds are available for expenditure, and shall specify the anticipated length of the project period. (20 U.S.C. 843(a))

§ 118.33 Federal fiscal audits.

All records of the State educational agency and of local agencies receiving title III funds which relate to program or administrative expenditures under title III of the Act shall be subject to periodic audit by the Department and the Comptroller General of the United States, or his duly authorized representative, to assure that the State has properly used and accounted for Federal funds. Such records shall be maintained and be accessible in accordance with § 118.55, and otherwise be adequate to permit an accurate and expeditious audit of the State's title III program. (20 U.S.C. 1232c)

§ 118.34 Allowable expenditures for State and local educational agencies.

(a) *General.* Expenditures for which funds provided under title III of the Act may be used are those which are (1) consistent with title III of the Act, these regulations, and the provisions of the State plan, and reasonably necessary to the operation of title III programs and projects, (2) incurred on or after the effective date of the State plan under § 118.18 (d), and (3) either direct costs which can be identified specifically with the title III program or project benefited, or indirect costs which are incurred for a common or joint purpose benefiting more than one cost objective but are allocable to a title III program or project on the basis of relative benefit received, as computed in accordance with a plan submitted by the State and approved by the Department pursuant to OMB Circular No. A–87, implementing instructions of the Department, and the provisions of Grants Administration Manual Chapter 5–60, "Costs Principles for State and Local Government Agencies." They may be ordered from the Government Printing Office as GPO 894–523.

(b) *Specific expenditures allowed.* To the extent consistent with paragraph (a) of this section, expenditures for which funds provided under title III of the Act may be used are cited in the Grants Administration Manual Chapter 5–60 and OMB Circular No. A–87. Among allowable expenditures are the following:

(1) Establishing and maintaining accounting, auditing, and other information systems required for the management of programs and projects under title III of the Act;

(2) Reasonable compensation for personal services of employees and consultants, including wages, salaries, and supplementary compensation and benefits;

(3) Personnel administration and payroll preparation;

(4) Insurance coverage, to the extent consistent with the general policies of the State educational agency or local educational agency and with sound business practice; and the bonding of employees who handle title III funds;

(5) Communications services;

(6) The acquisition of consumable supplies and printed and published materials for the use of persons administering, supervising, or participating in title III programs or projects;

(7) Printing and reproduction;

(8) Travel and transportation;

(9) Data processing services;

(10) Acquisition (including rental) of office equipment and other equipment required for supervisory and program functions;

(11) Rental of office space in privately or publicly owned buildings, provided that:

(i) The expenditures for the space are necessary and properly related to the efficient administration of the program;

(ii) The State will receive the benefits of the expenditures during the period of occupancy commensurate with such expenditures;

(iii) The amounts paid are not in excess of comparable rental in the particular locality;

(iv) The expenditures represent a current cost; and

(v) In the case of a publicly owned building, like charges are made to other State or local agencies occupying similar space for similar purposes.

(12) Utilities, security, janitorial, and similar services to the extent not otherwise included in rental or other charges for space;

(13) Maintenance and repair of property to the extent necessary to keep such property in an efficient operating condition;

(14) Renovation and minor remodeling of previously completed building space, where such space is needed for the administration or operation of title III programs or projects and renovation or remodeling is necessary to make the space suitable for such use; and

(15) Construction or major structural alteration of buildings and facilities, where undertaken by a local educational agency with funds provided under section 307(a) of the Act after having been specifically approved by the State educational agency under § 118.22(e).

(c) *Proration of costs.* In situations where an expenditure otherwise allowable under paragraphs (a) and (b) of this section is incurred in part for purposes other than the administration or operation of programs and projects under title III of the Act, title III funds shall be available only for that portion of the cost which is fairly attributable to the administration or operation of title III programs and projects. The State educational agency shall establish procedures for prorating costs and for maintaining fully documented records to substantiate prorations of costs for items such as salaries, travel, rent, and equipment. In the case of proration of costs for salaries, such records shall be documented on a before-and-after-the-fact basis. All such records shall be maintained in accordance with § 118.55. (20

U.S.C. 1231c(b); OMB Circular No. A–87, May 9, 1968)

§ 118.35 Accounting for guidance, counseling, and testing expenditures.

(a) Funds expended for the continuation of guidance, counseling, and testing projects initiated under title III of the Act (but not under title V–A of the National Defense Education Act of 1958) prior to fiscal year 1971 shall not be considered in computing the amount of funds which are required to be expended for such purposes under § 118.14(c).

(b) Allowable expenditures incurred by the State educational agency in administering guidance, counseling, and testing programs or projects under the State plan shall be met with administrative funds available to the State under section 307(b) of the Act (20 U.S.C. 845(b)). (20 U.S.C. 844a note, 845 (a) and (b))

§§ 118.36–118.40 [Reserved]

Subpart F—Equipment and Construction

§ 118.41 Acquisition, maintenance, and disposition of equipment.

(a) *Use of equipment.* All equipment acquired under title III of the Act shall be used during the expected useful life of the equipment for the purposes specified in the approved project application, or after the expiration of the project for the purposes set forth in section 303(b) of the Act.

(b) *Title and control of equipment.* Title to equipment acquired with funds made available under title III of the Act shall be vested in, and retained by, a State or local educational agency, and such equipment shall be subject to the administrative control of the State or local educational agency at all times until the end of its useful life or its disposition, whichever is earlier.

(c) *Inventories.* Each State and local educational agency shall maintain inventories of all items of equipment acquired with title III funds which have an initial acquisition cost of $300 or more per unit. Such inventories shall be maintained for the useful life of the equipment or until its disposition, whichever is earlier, and records of such inventories shall be kept intact and accessible for 3 years thereafter.

(d) *Maintenance and repair.* Each State and local educational agency shall make reasonable provision for the maintenance and repair of equipment acquired with title III funds, and shall be responsible for replacing or repairing (with State or local funds) equipment that is lost, damaged, or destroyed due to the negligence of the State or local agency.

(e) *Disposition of equipment.* Whenever equipment acquired with title III funds is no longer used for the purposes prescribed in paragraph (a) of this section or is sold and the proceeds from such sale are not used for such purposes, the Federal Government shall be credited with its proportionate share of the value of such equipment at the time of such diversion or sale. Such value shall be determined on the basis of the sale price in the case of a bona fide sale or the fair market value in the case of a diversion of use. (20 U.S.C. 844(a))

§ 118.42 Grants involving construction.

Where applications are submitted under title III of the Act by local educational agencies for programs or projects which involve construction, such construction shall be approved by the State educational agency only if:

(a) The applicant has notified the State and regional or local clearinghouses designated under OMB Circular A–95, of its intent to submit an application, and

(b) The applicants have included with the application when submitted to the State educational agency:

(1) Any comments made by or through the clearinghouse(s) together with a statement that such comments have been considered prior to submission of the application; or

(2) A statement that the A–95 clearinghouse procedures have been followed and that no comments have been received; and

(c) The applicant provides the HEW Regional Office its assessment of the impact on the quality of the environment in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) and Executive Order No. 11514 (42 U.S.C. 4321 note) and will comply with such procedures in that regard as may be established by the Department; and

(d) The application contains the following assurances and provisions:

(1) The applicant has or will have a fee simple or such other estate or interest in the site, including access thereto, as is sufficient to assure undisturbed use and possession of the facilities for not less than the expected useful life of the facility;

(2) The final working drawings and specifications will be submitted to the State educational agency before the construction is approved and the project is placed on the market for bidding;

(3) Construction approved pursuant to the project proposal will be undertaken promptly;

(4) In developing plans for school facilities, the local and State codes with regard to fire and safety will be observed, and in situations where local and State codes do not apply, recognized codes shall be observed;

(e) In planning the construction of school facilities, the applicant will, in accordance with Executive Order No. 11296 (31 F.R. 10663) and such rules and regulations as may be issued by the Department of Health, Education, and Welfare to carry out its provisions, evaluate flood hazards in connection with such school facilities and, as far as practicable avoid the uneconomic hazardous, or unnecessary use of flood plains in connection with such construction;

(f) In planning the construction of school facilities, the applicant will, in accordance with Executive Order No. 11288 of July 2, 1966 (33 U.S.C. 466 note) and such rules and regulations as may be issued by the Department to carry out its provisions, evaluate the effect of construction and operation of such school facilities on water pollution and, as far as practicable, avoid such harmful effects as may exist;

(g) Architectural or engineering supervision and inspection will be provided at the construction site to insure that the completed work conforms to the approved plans and specifications;

(h) Representatives of the State educational agency will have access at all reasonable times, for the purpose of inspection, to all construction work being done with title III funds, and the contractor will be required to facilitate such access and inspection;

(i) The grantee will furnish progress reports and such other information relating to the proposed construction and the grant as the State educational agency may require;

(j) Except as otherwise provided in the regulations issued by the Administrator of General Services (41 CFR Part 101–17) to implement Public Law 90–480 (42 U.S.C. ch. 51), all school facilities designed, constructed or altered with funds made available under title III of the Act shall be so designed, constructed, or altered as to be in accordance with the minimum standards contained in "American Standard Specifications for Making Buildings and Facilities Accessible to and Usable By the Physically Handicapped" approved by the American Standards Association, Inc. (Subsequently the United States of America Standards Institute) on October 31, 1961;

(k) Reasonable provision has been made, consistent with the other uses to be made of the facilities or areas in such facilities which are adaptable for artistic and cultural activities;

(l) In developing plans for the construction, the applicant has given and will give due consideration to excellence of the architecture and design and to the inclusion of works of art, for which funds under title III of the Act will be available for not in excess of 1 percent of the cost of the project;

(m) Upon completion of the construction, title to the facilities will be in and retained by a State or local educational agency, and the building will be operated and used for the educational and related purposes for which it was constructed for a period of not less than 20 years;

(n) All laborers and mechanics employed by contractors or subcontractors on all construction and minor remodeling projects assisted under title III of the Act shall be paid wages at rates not less than those prevailing on similar construction and minor remodeling in the locality as determined by the Secretary

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§ 118.54 Annual and other reports.

cation of handicapped children by type trative supervision and control over the

of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276–5); and shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours Standards Act (40 .U.S.C. 327–333), and such contractors and subcontractors shall comply with the regulations in 29 CFR Part 3 and 29 CFR 5.5 (a) and (c);

(o) All contracts for construction work or modification thereof, as defined in Executive Order No. 11246 shall incorporate the nondiscrimination clause prescribed by Executive Order No. 11248 of September 24, 1965 (42 U.S.C. 2000e note); and the State or local educational agency undertaking the construction shall otherwise comply with the requirements of section 301 of said Executive order.

(p) Manner of construction: Construction undertaken with funds under title III of the Act shall be functional, shall be undertaken in an economical manner consistent with the architectural and design considerations in paragraphs (e), (j), (k), and (l) of this section, and shall not be elaborate in design or extravagent in the use of materials in comparison with school facilities of a similar type constructed in the State within recent years.

(q) All contracts for construction shall be awarded to the lowest qualified bidder on the basis of open competitive bidding obtained through public advertising except that, if one or more items of construction are covered by an established alternative procedure, consistent with State and local laws and regulations, which is approved by the State educational agency and is designed to assure construction in an economical manner consistent with sound business practice, such alternative procedure may be followed.

(r) Programs or projects receiving Federal financial assistance for construction pursuant to this part are subject to the regulations on Relocation Assistance and Real Property Acquisition Policies contained in part 15 of this title, and prior to approval a State agency (as defined in § 15.4(b) of this title) must notify the Department Regional Office of all such projects affected by Part 15 (36 F.R. 18838, September 22, 1971).

(20 U.S.C. 844(a)(4), 847, 1232b; 33 U.S.C. 466 and 701 note; 40 U.S.C. 327–333, 42 U.S.C. 2000 e note, 4151–56, 4321–47)

§ 118.43 Obligation of funds for construction.

Funds made available for construction pursuant to a grant under title III of the Act shall be obligated by the local educational agency within 12 months from the effective date of the project, except that a longer period may be allowed by the State educational agency upon a showing of good cause. (31 U.S.C. 200)

§ 118.44 Recovery of payments.

If within 20 years after the completion of any construction undertaken pursuant to a grant under title III of the Act (a) the owner of the facility shall cease to be a State or local educational agency, or (b) the facility shall cease to be used for the educational and related purposes for which it was constructed, the United States shall be entitled to recover all or a portion of the Federal funds used to pay for such construction in accordance with the provisions of section 308 of the Act.

§ 118.45 Leasing facilities.

Where a State or local educational agency proposes to lease a facility with funds provided under title III of the Act, it shall obtain the right to occupy and operate and if necessary to maintain and improve, the premises to be leased during the proposed period of the project. (20 U.S.C. 843)

§§ 118.46–118.50 [Reserved]

Subpart G—General Provisions

§ 118.51 Payment of funds.

(a) From its allotment under section 302 of the Act for any fiscal year, the Commissioner will pay to each State, either in advance or by way of reimbursement, amounts equal to the sums necessary for current expenditures by the State under an approved State plan for (1) grants to local educational agencies for supplementary educational centers and services, and (2) guidance, counseling, and testing programs.

(b) The payment of funds under title III of the Act will be limited to the maximum funding level established in § 118.18(f); and the funding of partially approved State plans is further subject to the limitations set forth in § 118.18(b).

(c) The Commissioner will pay additional sums to each State receiving funds under paragraph (a) of this section for administration of the State plan, activities of the State advisory council, and evaluation and dissemination activities. In no case will the amount paid to a State for such activities for any fiscal year exceed an amount equal to 7½ percent of its allotment for that fiscal year or $150,000 ($50,000 in the case of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), whichever is greater. Of the funds available to any State for such activities during any fiscal year, the amount paid for administration of the State plan shall not exceed an amount equal to 5 percent of the State's allotment for that fiscal year or $100,000 ($35,000 in the case of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), whichever is greater (20 U.S.C. 843(a), 845, 1232d)

(d) No payments will be made by the Commissioner to a State under title III of the Act for any fiscal year unless the Commissioner determines that the amount of State aid per pupil with respect to the provision of free public education in that State for the preceding fiscal year was not less than the amount of such State per pupil aid for the second preceding fiscal year.

§ 118.52 Reallotment.

(a) *General.* The amount of any State's allotment under title III of the Act for any fiscal year which the Commissioner determines will not be required by such State for the period for which that amount is available shall be available for grants pursuant to section 306 of the Act (20 U.S.C. 844b) and Part 126 of this title (special grants made directly by the Commissioner) in such State. If the Commissioner further determines that the amount is not needed in such State for grants pursuant to section 306 of the Act, that amount may, in the Commissioner's discretion, either be used for grants pursuant to section 306 in other States or reallotted to other States. Funds may be reallotted from time to time, during the period for which they are available, on such dates as the Commissioner may fix, among other States in proportion to the amounts of their respective original allotments for that year, but with the proportionate amount for any of the other States being reduced to the extent it exceeds the sum the Commissioner estimates the respective State needs and will be able to use during the period for which the funds are available. Funds available due to such reductions may be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State from funds appropriated pursuant to section 301 of the Act (20 U.S.C. 841) for any fiscal year will be deemed to be a part of the amount allotted to it under section 302 of the Act (20 U.S.C. 842) for that year.

(b) *Statements of anticipated need.* In order to provide a basis for reallotment of funds by the Commissioner pursuant to this section, each State agency shall, if requested, submit to the Commissioner, by such date or dates as he may specify, a statement or statements showing the anticipated need for the funds previously allotted during the period for which such funds are available, or any amount needed to be added thereto by reallotment. Such further information as the Commissioner may request for the purpose of making reallotments shall be reflected in such statements. (20 U.S.C. 842)

§ 118.53 Financial reports.

Each State educational agency shall submit in accordance with procedures established by the Commissioner: (a) A report following the end of any fiscal year of the total expenditures made under the State plan during that fiscal year including a breakdown of expenditures for handicapped children by type of handicap; and (b) such other reports as are periodically required by the Commissioner to account properly for title III funds. (20 U.S.C. 844a(b)(11))

§ 118.54 Annual and other reports.

The State educational agency shall make an annual report and such other reports containing such information (including copies of project applications approved under § 118.23(d)) as the Commissioner may reasonably require to carry out his functions under title III of the Act and to determine the extent to which funds provided under title III of the Act have been effective in improving the educational opportunities of persons in the areas served by programs or projects supported under the State plan and in the State as a whole. Information about programs funded under § 118.14(b) shall be reported by type of handicap. The annual report shall include an evaluation made in accordance with objective measurements to determine the extent to which critical educational needs identified in the State plan have been met and an evaluation of the effectiveness of projects funded for that fiscal year under title III of the Act. The State shall also keep such records and afford access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports. (20 U.S.C. 844a(b)(11))

§ 118.55 Records.

(a) Each State and local educational agency receiving funds under title III of the Act shall keep intact and accessible all records relating to receipt and expenditure of such funds, including records which substantiate direct and indirect costs charged to the grant activities and which fully disclose the amount of funds received and the disposition thereof by the recipient, the cost of each program or project for which title III funds are used, and the amount of the cost of each such program or project supplied by other sources (including records relating to the use of consultants, and a breakdown of expenditures for the education of handicapped children by type of handicap).

(b) Except as otherwise provided for inventory records in § 118.41(c), all records required by paragraph (a) of this section shall be retained for 3 years after the close of the period during which the expenditures were made or if an audit has not occurred by that time, such records shall be maintained until (1) the State educational agency has been notified of the completion of the Federal audit, or (2) 5 years after the end of the fiscal year in which the expenditure was made, whichever is earlier.

(c) In cases where there is an audit irregularity, all records regarding the questioned expenditures shall be maintained until its resolution. The Department and the Comptroller General of the United States, or his duly authorized representatives, shall have access for the purposes of audit and examination to all such records and to any other books, documents, or papers of the recipient that are pertinent to the expenditure being questioned. (20 U.S.C. 844a(b)(11), 1232c)

§ 118.56 Contracts for services.

The State educational agency, and local educational agencies if approved by the State educational agency, may enter into contracts or agreements (to the extent permitted by State and local law and consistent with the approved State plan) for the provision by other appropriate public or private agencies, organizations, or institutions of a portion of the services to be provided under a title III program or project. Such contract or agreement shall describe the services to be provided by the agency or institution, shall incorporate the standards and requirements of title III of the Act and these regulations, and shall contain provisions assuring that the State or local educational agency will retain administrative supervision and control over the provision of services under the contract. Where a local educational agency proposes to contract for services, such services shall be specified in the project application or an amendment thereto, and the proposed contract shall be submitted to the State educational agency for approval. All contracts and agreements entered into pursuant to this section shall be in writing, and copies shall be maintained in accordance with § 118.56. (20 U.S.C. 843)

§ 118.57 Applicability of civil rights regulation.

Federal financial assistance under this part is subject to the requirements of title VI of the Civil Rights Act of 1964, approved July 2, 1964 (Public Law 88–352, 78 Stat. 252, 42 U.S.C. 2000d et seq.). Section 601 of that Act provides that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance. Therefore, Federal financial assistance pursuant to this part is subject to the regulation set forth in Part 80 of this title. (42 U.S.C. 2000d et seq.)

§ 118.58 Copyrights and patents.

(a) If a copyright is obtained on materials produced with financial assistance under title III of the Act, the Federal Government shall be granted a nonexclusive, irrevocable, royalty-free license to reproduce and publish the materials so copyrighted, including the power to sublicense, for all governmental purposes.

(b) Any materials of a patentable nature produced through a project with financial assistance under title III of the Act shall be subject to the provisions of Parts 6 and 8 of this title. (20 U.S.C. 841)

[FR Doc.72–19363 Filed 11–10–72;8:45 am]

SATURDAY, NOVEMBER 11, 1972
WASHINGTON, D.C.

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federal register

SATURDAY, NOVEMBER 11, 1972
WASHINGTON, D.C.
Volume 37 ■ Number 219
PART III

ENVIRONMENTAL PROTECTION AGENCY

■

STATE PROGRAM ELEMENTS NECESSARY FOR PARTICIPATION IN NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Proposed Guidelines

No. 219—Pt. III——1

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ENVIRONMENTAL PROTECTION

mit program cannot be approved unless it conforms to guidelines issued under section 304(h)(2) of the Act prescribing

Sec.
124.64 NPDES monitoring, recording, and reporting requirements.

to monitoring and other conditions of NPDES permits.

(j) The term "NPDES permit" means

requirements of section 402 of the Act shall be approved by the Administrator. Upon approval, the Administrator shall

(*Comment.* Federal filing requirements for the NPDES include the timely filing of a properly completed Refuse Act or NPDES ap-

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 124]

STATE PROGRAM ELEMENTS NECESSARY FOR PARTICIPATION IN NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Proposed Guidelines

Notice is hereby given that the guidelines set forth in tentative form below are proposed by the Environmental Protection Agency. The proposed guidelines describe, pursuant to the authority contained in section 304(h)(2) of the Federal Water Pollution Control Act Amendments of 1972 (86 Stat. 816; 33 U.S.C. — (1972)) (hereinafter referred to as the "Act"), the minimum procedural and other elements of any State programs under section 402 of the Act.

Section 402 of the Act creates a National Pollutant Discharge Elimination System under which the Administrator of the Environmental Protection Agency may, after opportunity for public hearing, issue permits for the discharge of any pollutant or combination of pollutants, upon condition that such discharge will meet all applicable requirements of the Act relating to effluent limitations, water quality standards and implementation plans, new source performance standards, toxic and pretreatment effluent standards, inspections, monitoring and entry provisions, and guidelines establishing ocean discharge criteria. Section 402 also provides that States desiring to administer their own permit programs may submit a full and complete description of such a program to the Administrator for approval. The Administrator is to approve a State's program, and suspend issuance of permits under section 402, unless he determines that the State does not possess adequate authority to perform certain acts detailed in 402(b) of the Act. In general terms, the State must have authority to (a) issue permits for terms not exceeding 5 years upon the same conditions relating to effluent limitations and water quality standards as are applicable to permits issued by the Administrator; (b) adequately notify members of the public, other States, and the Secretary of the Army of pending permit applications; (c) abate violations of permits, including civil and criminal penalties; (d) insure that the State permitting agency receive adequate notice of new introductions or substantial changes in the volume or character of pollutants introduced into publicly-owned treatment works; and (e) to insure that any industrial user of publicly-owned treatment works compiles with pretreatment effluent standards and other requirements. The State also must have an approved continuing planning process under section 303(e) of the Act before approval of its permit program can be granted. In addition to these requirements, a State permit program cannot be approved unless it conforms to guidelines issued under section 304(h)(2) of the Act prescribing minimum procedural and other elements of any State program under section 402. These guidelines, which are the subject of this notice, must include, but are not limited to, monitoring and reporting requirements (including procedures to make information available to the public), enforcement provisions, and requirements for funding, personnel qualifications, and manpower.

Prior to the adoption of the proposed guidelines, consideration will be given to any comments, suggestions, or objections thereto which are submitted in writing to the Office of Enforcement and General Counsel, Washington, D.C. 20460, within a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Dated: November 3, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator.

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Subpart A—General

§ 124.1 Definitions.

As used in this part, the following terms shall have the meanings indicated below:

(a) The term "Act" means the Federal Water Pollution Control Act, as amended, 33 U.S.C. ____, et seq.

(b) The term "Refuse Act" means section 13 of the River and Harbor Act of March 3, 1899.

(c) The term "EPA" means the U.S. Environmental Protection Agency.

(d) The term "Administrator" means the Administrator of the U.S. Environmental Protection Agency.

(e) The term "Regional Administrator" means one of the EPA Regional Administrators.

(f) The term "Director" means the chief administrative officer of a State water pollution control agency or interstate agency. In the event responsibility for water pollution control and enforcement is divided among two or more State or interstate agencies, the term "Director" means the administrative officer authorized to perform the particular procedure to which reference is made.

(g) The term "National Pollutant Discharge Elimination System (NPDES)" means the national system for the issuance of permits under section 402 of the Act and includes any State or interstate program which has been approved by the Administrator, in whole or in part, pursuant to section 402 of the Act.

(h) The term "NPDES application" means the uniform national forms (including subsequent additions, revisions, or modifications duly promulgated by the Administrator pursuant to the Act) for application for an NPDES permit.

(i) The term "NPDES reporting form" means the uniform national forms (including subsequent additions, revisions, or modifications duly promulgated by the Administrator pursuant to the Act) for reporting data and information pursuant

to monitoring and other conditions of NPDES permits.

(j) The term "NPDES permit" means any permit or equivalent document or requirements issued by the Administrator, or, where appropriate, by the Director, after enactment of the Federal Water Pollution Control Amendments of 1972, to regulate the discharge of pollutants pursuant to section 402 of the Act.

(k) The term "NPDES form" means any issued NPDES permit and any uniform national form developed for use in the NPDES and prescribed in regulations promulgated by the Administrator, including the NPDES application and the NPDES reporting forms.

(l) The term "Refuse Act application" means the application for a permit under the Refuse Act.

(m) The term "Refuse Act permit" means any permit issued under the Refuse Act.

(n) The definitions of the following terms contained in section 502 of the Act shall be applicable to such terms as used in this part unless the context otherwise requires: "State water pollution control agency (referred to herein as 'State agency')," "interstate agency," "State," "municipality," "person," "pollutant," "navigable waters," "territorial seas," "contiguous zone," "ocean," "effluent limitations," "discharge of a pollutant," "toxic pollutant," "pot source," "biological monitoring," "discharge," "schedule of compliance," "industrial user," and "pollution."

(o) The term "national data bank" means a facility or system established or to be established by the Administrator for the purposes of assembling, organizing, and analyzing data pertaining to water quality and the discharge of pollutants.

(p) The term "applicable water quality standards" means all water quality standards to which a discharge is subject under the Act and which have been (1) approved or permitted to remain in effect by the Administrator following submission to him pursuant to section 303(a) of the Act, or (2) promulgated by the Administrator pursuant to section 303(b) or 303(c) of the Act.

(q) The term "applicable effluent standards and limitations" means all State and Federal effluent standards and limitations to which a discharge is subject under the Act, including, but not limited to, effluent limitations, standards of performance, toxic effluent standards and prohibitions, and pretreatment standards.

§ 124.2 Scope and purpose.

(a) This part establishes guidelines specifying procedural and other elements which must be present in a State or interstate program in order to obtain approval of the Administrator pursuant to section 402 of the Federal Water Pollution Control Act, as amended, 86 Stat. 816, 33 U.S.C. ____.

(b) A submitted State or interstate program which conforms to the guidelines of this part and which meets the requirements of section 402 of the Act shall be approved by the Administrator. Upon approval, the Administrator shall suspend his issuance of NPDES permits as to those point sources subject to such approved program.

(c) Any State program which obtains the approval of the Administrator pursuant to section 402 of the Act shall at all times be in accordance with section 402 and the guidelines contained in this part.

Subpart B—Prohibition of Discharges of Pollutants

§ 124.10 Prohibition of discharges into State waters.

Any State or interstate program participating in the NPDES must have a statute or regulation, enforceable in State courts, which prohibits discharges of pollutants by any person, except as authorized pursuant to an NPDES permit.

(*Comment.* For the purposes of this subpart, a State or interstate program shall qualify for participation in the NPDES if it prohibits discharges of pollutants to the same extent such discharges are prohibited in section 301(a) of the Act. It is recognized that some State or interstate programs presently exempt or exclude certain categories, types, or sizes of point sources from the general prohibition of the unauthorized discharge of pollutants or from the requirement of obtaining a permit. Other States have in effect "grandfather" clauses which either exempt discharges already in existence or provide for automatic issuance of a permit to existing dischargers. Exceptions to the general prohibition cannot be approved. Depending on their scope and nature, any such exceptions will either (1) constitute grounds for withholding approval of the entire submitted program until such time as the State or interstate agency revises or modifies its program to conform to this subpart, or (2) constitute categories, types, or sizes of point sources for which the Administrator will not suspend the issuance of NPDES permits. In the latter case, the Administrator will issue NPDES permits for those point sources not subject to the State or interstate agency's authority.)

Subpart C—Acquisition of Data

§ 124.21 Application for NPDES permit.

Procedures of any State or interstate agency participating in the NPDES shall insure that every applicant for an NPDES permit complies with NPDES filing requirements. Such procedures and requirements shall include the following:

(a) A requirement that any person discharging pollutants must:

(1) Have filed a complete Refuse Act application; or,

(2) File a complete NPDES application no later than 60 days following receipt by the applicant of notice from the Director that the applicant's previously filed Refuse Act application is so deficient as not to have satisfied the filing requirements; or,

(3) File a complete NPDES application within a stated period, not to exceed any applicable periods specified in Federal regulations for persons filing under the NPDES (40 CFR ——).

(*Comment.* Federal filing requirements for the NPDES include the timely filing of a properly completed Refuse Act or NPDES application form. State and interstate agencies may specify, where necessary, additional filing requirements such as the submission of engineering reports, plans, and specifications for present or proposed treatment or control of discharges of pollutants. While duplication should be avoided, the Administrator recognizes that the NPDES application form may not by itself satisfy the needs of every participating program.)

(b) A requirement that any person wishing to commence discharges of pollutants after the applicable period in paragraph (a)(3) of this section, must file a complete NPDES application either (1) no less than 180 days in advance of the date on which it is desired to commence the discharge of pollutants, or (2) in sufficient time prior to the commencement of the discharge of pollutants to insure compliance with the requirements of section 306 of the Act and any other applicable water quality standards and applicable effluent standards and limitations.

(*Comment.* The purpose of this requirement is to insure that the Director has sufficient time to examine applications from new sources of discharge of pollutants and to apply standards of performance without unnecessarily delaying scheduled startup. The sooner the Director can specify requirements for new sources, the more easily the applicant can modify his plans, if necessary, without disruption and waste. Those State or interstate agencies which begin review at the planning stages of a new project are in the best position to insure orderly compliance with new source standards.)

(c) Procedures which (1) enable the Director to require the submission of additional information after a Refuse Act or an NPDES application has been filed, and (2) insure that, if a Refuse Act or NPDES application is incomplete or otherwise deficient, processing of the application shall not be completed until such time as the applicant has supplied the missing information or otherwise corrected the deficiency.

(*Comment.* The Director may find he needs information other than that initially filed by the applicant in order to make a permit decision. The Director should not hesitate to go back to the applicant for further information. In some cases, nothing less than an on-site inspection of an applicant's pollution control technology and practices will suffice.

No NPDES permit should be issued until the applicant has fully complied with the filing requirements specified in this subpart. If an applicant fails or refuses to correct deficiencies in his NPDES application form, the Director should take timely enforcement action.)

§ 124.22 Receipt and use of Federal data.

Each State or interstate agency participating in the NPDES shall receive any relevant data collected by the Regional Administrator prior to such agency's participation in the NPDES in such manner as the Director and the Regional Administrator shall agree. Any

agreement between the State or interstate agency and the Regional Administrator for receipt of such data shall be consistent with applicable laws and regulations.

(*Comment.* Section 308 of the Act requires the Administrator to make available to the States any information obtained by him pursuant to section 308 of the Act. Section 308 also requires that upon request, effluent data shall be available to the public, subject to the provisions of section 1905 of Title 18 of the United States Code.)

§ 124.23 Transmission of data to Regional Administrator.

(a) Except as provided in paragraph (b) of this section, the Director shall transmit to the Regional Administrator a copy of each NPDES application, NPDES form, and any other information relating to such application or form which the Regional Administrator may request.

(b) For each category of sources and discharges and for each class and type of pollutant which the Regional Administrator and the Director agree will not be subject to permits in the State, the Director shall transmit to the Regional Administrator only such information as the Regional Administrator and the Director may agree upon.

§ 124.24 Identity of signatories to NPDES forms.

(a) All NPDES applications shall be signed by a responsible corporate officer, by a general partner or the proprietor, or by a duly authorized representative of such person.

(b) All reports required by NPDES permits and other information requested by the Director shall be signed by a person described in paragraph (a) of this section or by a duly authorized representative of such person.

(c) Changes to authorization. If an authorization under paragraph (b) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph (b) of this section must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

(d) Certification. Any person signing a document under paragraph (a) or (b) of this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

Subpart D—Notice and Public Participation

§ 124.31 Formulation of tentative determinations.

Procedures of any State or interstate agency participating in the NPDES shall insure that, before issuing an NPDES permit, the Director shall formulate tentative determinations with respect to the proposed issuance of the permit. Such procedures shall include the following:

(a) Tentative determinations shall include:

(1) Proposed effluent limitations for those pollutants proposed to be limited;

(2) A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed effluent limitations;

(3) A brief description of any proposed special conditions which will have a significant impact upon the discharge described in the NPDES application;

(4) A brief description of the reasons why the applicable standards and requirements will be met by the proposed permit;

(5) Any calculations or other necessary explanation of the derivation of specific effluent limitations and conditions or standards for sewage sludge use or disposal, including a citation to applicable effluent standards and limitations, water quality standards, and other requirements; and

(6) A brief description of the procedures for the formulation of final determinations, including the 30-day comment period required by § 124.32 and any other procedures by which the public may participate in the formulation of the final determinations.

(b) Tentative determinations shall be accompanied by a fact sheet prepared in accordance with § 124.33.

(c) Tentative determinations shall be accompanied by a draft permit containing the proposed conditions (including effluent limitations and schedules of compliance) which the Director intends to impose in the NPDES permit.

(d) Tentative determinations shall be made by the Director after receipt of the NPDES application and any other information requested by the Director.

§ 124.32 Public Notice.

Procedures of any State or interstate agency participating in the NPDES shall insure that, before issuing an NPDES permit, the Director shall give public notice that a permit application has been tentatively approved. Such procedures shall include the following:

(a) Public notice of every complete NPDES application shall be circulated in a manner designed to inform interested persons of the proposed discharge and of the proposed determination to issue or deny the application. Procedures for the circulation of public notice shall include all reasonable methods to give actual notice of the opportunity for a public hearing and the proposed determination to issue or deny the application. Such procedures shall include:

(1) Mailing notice to the Regional Administrator, to other affected States, and to any known interested persons;

(2) Publication of notice in a daily or weekly newspaper within the area affected by the proposed discharge;

(3) Posting of notice in a conspicuous place near the proposed discharge and near the building in which the permit application is filed; and

(4) Publication of notice in the FEDERAL REGISTER, in lists and periodicals of the State, and through other media, if necessary to assure adequate notice to the affected public.

(b) The contents of public notice of applications shall include at least the following:

(1) Name and address of the office processing the permit action for which notice is given;

(2) Name and address of each applicant, except that for publication in a newspaper, the city or county where each discharge is located may be substituted for the address;

(3) A brief description of each applicant's activities or operations which result in the discharge described in the NPDES application;

(4) Name of waterway to which each discharge is made and a short description of the location of each discharge on the waterway, indicating whether such discharge is associated with municipal or industrial wastewater treatment, storm runoff, or a combined sewer system;

(5) A statement of the tentative determination to issue or deny an NPDES permit for the discharge described in the NPDES application;

(6) A brief description of the procedures for the formulation of final determinations, including the 30-day comment period required by § 124.32 and any other procedures by which the public may participate in the formulation of the final determinations;

(7) Address and phone number of premises at which interested persons may obtain further information, request a copy of the draft permit prepared pursuant to § 124.31, request a copy of the fact sheet prepared pursuant to § 124.33, and inspect and copy NPDES forms and related documents;

(8) A brief description of the comment procedures required by § 124.34 and the time and place of any hearing that will be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled); and

(9) Any additional information considered necessary or proper by the Director.

(c) In addition to general public notice described in paragraph (a) of this section, all persons identified in (a)(1) of this section shall be mailed a copy of the fact sheet prepared pursuant to § 124.33, the draft permit prepared pursuant to § 124.31, and any calculations or other necessary explanation of the derivation of specific effluent limitations and conditions or standards for sewage sludge use or disposal.

§ 124.33 Fact sheets.

Procedures of any State or interstate agency participating in the NPDES shall insure that, before issuing an NPDES permit, the Director shall prepare a fact sheet for every draft permit. Such procedures shall include the following:

(a) Fact sheets shall include, when applicable:

(1) A brief description of the type of facility or activity which is the subject of the draft permit;

(2) A quantitative description of the discharge described in the NPDES application which is the subject of the draft permit;

(3) The tentative determination of the Director to issue or deny the NPDES application;

(4) A brief description of the procedures for the formulation of final determinations, including the 30-day comment period required by § 124.32 and any other procedures by which the public may participate in the formulation of the final determinations;

(5) Reasons why any requested variances or alternatives to required standards do or do not appear justified;

(6) A description of the procedures for effluent limitations, including a description of the type of information which is lacking and needed by the Director to determine applicable effluent limitations and the rationale for the selection of the tentative schedule of compliance;

(7) A description of the procedures for the implementation of any water quality standards which may be applicable, including reasonably available information on the level of water quality which will be achieved by the proposed effluent limitations and the expected impact of the proposed discharge upon water quality;

(8) For every NPDES application for a new source, a statement of the factors considered in making a determination of the availability of in-plant control measures and the application of effluent limitations and standards of performance to the new source;

(9) For every NPDES application for a new source, a statement of the factors considered in making a determination of the extent to which the construction or operation of the new source will cause or contribute to violations of water quality standards;

(10) For every NPDES application for a new source, a statement of the factors considered in making a determination of the extent to which the new source must comply with treatment standards more stringent than those required by § 124.45) which will have a significant impact upon the discharge described in the NPDES

titled to protection as trade secrets of such person. If, however, the information being considered for confidential

agreement between the State or interstate agency and the Regional Administrator shall provide for at least the following:

(a) Prompt transmittal to the Director from the Regional Administrator of copies of any Refuse Act applications, NPDES applications, or other relevant data collected by the Regional Administrator prior to the State or interstate agency's participation in the NPDES; and

(b) A procedure to insure that the Director will not issue an NPDES permit on the basis of any Refuse Act or NPDES application received from the Regional Administrator which the Regional Administrator has identified as incomplete or otherwise deficient until the Director receives information sufficient to correct the deficiency to the satisfaction of the Regional Administrator.

(*Comment.* The two purposes of this section are: (1) To provide for the transfer of data bearing on NPDES permit determinations from the Federal Government to the participating State or interstate agencies, and (2) to insure that any deficiencies in the transferred NPDES forms will be corrected prior to issuance of an NPDES permit. The "agreement" mechanism allows flexibility in achieving both purposes. Time and manner of transfer can be worked out by each participating agency and the Regional Administrator. If agreed upon, deficient applications could either be retained by the Regional Administrator until completed or be transferred with the satisfactory applications. If the Director prefers to receive and correct deficient applications, the agreement could provide for the forwarding to the Regional Administrator of the information necessary to correct the deficiency.)

§ 124.23 Transmission of data to Regional Administrator.

Each State or interstate agency participating in the NPDES shall transmit to the Regional Administrator copies of NPDES forms received by the State or interstate agency in such manner as the Director and Regional Administrator shall agree. Any agreement between the State or interstate agency and the Regional Administrator shall provide for at least the following:

(a) Prompt transmittal to the Regional Administrator of a complete copy of any NPDES form received by the State or interstate agency;

(b) Procedures for the transmittal to the national data bank of a complete copy, or relevant portions thereof, of any appropriate NPDES form received by the State or interstate agency;

(c) Procedures for acting on the Regional Administrator's written waiver, if any, of his rights to receive copies of NPDES forms with respect to classes, types, and sizes within any category of point sources and with respect to discharges to particular navigable waters or parts thereof; and,

(d) An opportunity for the Regional Administrator to object in writing to deficiencies in any NPDES application or reporting form received by him and to have such deficiency corrected. If the Regional Administrator's objection relates to an NPDES application, the Director shall send the Regional Administrator any information necessary to correct the deficiency and shall, if the Regional Administrator so requests, not issue the NPDES permit until he receives notice from the Regional Administrator that the deficiency has been corrected.

§ 124.24 Identity of Signatories to NPDES forms.

Any State or interstate program participating in the NPDES shall require that any NPDES form submitted to the Director be signed as follows:

(a) In the case of corporations, by a principal executive officer of at least the level of vice president.

(b) In the case of a partnership, by a general partner.

(c) In the case of a sole proprietorship, by the proprietor.

(d) In the case of publicly owned treatment works; by the official having responsibility for the overall operation of the treatment works.

Subpart D—Notice and Public Participation

(*Comment.* Section 101(e) of the Act provides that public participation shall be "provided for, encouraged, and assisted by the Administrator and the States." Section 402(b)(3) of the Act further calls upon State and interstate agencies participating in the NPDES "to insure that the public, and any other State the waters of which may be affected, receive notice of each application for a permit and to provide an opportunity for public hearing before a ruling on each such application." This subpart specifies certain procedures to be following by all participating State and interstate agencies to insure national uniformity in the quality of public participation in NPDES permit determinations. Each State or interstate agency may devise additional procedures and means by which effective and constructive public participation may be enhanced.)

§ 124.31 Formulation of tentative determinations.

Any State or interstate agency participating in the NPDES shall formulate and prepare tentative determinations with respect to a Refuse Act or NPDES application in advance of public notice of the proposed issuance or denial of an NPDES permit. Such tentative determinations shall include at least the following:

(a) A proposed determination to issue or deny an NPDES permit for the discharge described in the Refuse Act or NPDES application; and,

(b) If the determination proposed in paragraph (a) of this section is to issue the NPDES permit, the following additional tentative determinations:

(1) Proposed effluent limitations, identified pursuant to §§ 124.42 and 124.43, for those pollutants proposed to be limited;

(2) A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed effluent limitations, identified pursuant to § 124.44; and

(3) A brief description of any other proposed special conditions (other than those required in § 124.45) which will have a significant impact upon the discharge described in the NPDES application.

§ 124.32 Public notice.

(a) Public notice of every complete application for an NPDES permit shall be circulated in a manner designed to inform interested and potentially interested persons of the proposed discharge and of the proposed determination to issue or deny an NPDES permit for the proposed discharge. Procedures for the circulation of public notice shall include at least the following:

(1) Notice shall be circulated within the geographical area of the proposed discharge; such circulation may include any or all of the following:

(i) Posting in the post office and public places of the municipality nearest the premises of the applicant in which the effluent source is located;

(ii) Posting near the entrance to the applicant's premises and in nearby places; and

(iii) Publishing in local newspapers and periodicals, or, if the local newspaper is not a daily newspaper, in a daily newspaper of general circulation;

(2) Notice shall be mailed to any person or group upon request; and

(3) The Director shall add the name of any person or group upon request to a mailing list to receive copies of notices for all NPDES applications within the State or within a certain geographical area.

(b) The Director shall provide a period of not less than thirty (30) days following the date of the public notice during which time interested persons may submit their written views on the tentative determinations with respect to the NPDES application. All written comments submitted during the 30-day comment period shall be retained by the Director and considered in the formulation of his final determinations with respect to the NPDES application.

(c) The contents of public notice of applications for NPDES permits shall include at least the following (See Appendix A to this part for a sample public notice which meets the requirements of this section.):

(1) Name, address, phone number of agency issuing the public notice;

(2) Name and address of each applicant;

(3) Brief description of each applicant's activities or operations which result in the discharge described in the NPDES application (e.g., municipal waste treatment plant, steel manufacturing, drainage from mining activities);

(4) Name of waterway to which each discharge is made and a short description of the location of each discharge on the waterway;

(5) A statement of the Director's tentative determination to issue or deny an NPDES permit for the discharge described in the NPDES application;

(6) A brief description of the procedures for the formulation of final determinations, including the 30-day comment period required by paragraph (b) of this section and any other means by which interested persons may influence or comment upon those determinations; and

(7) Address and phone number of premises at which interested persons may obtain further information, request a copy of the fact sheet described in § 124.33, and inspect and copy NPDES forms and related documents.

§ 124.33 Fact sheets.

Prior to issuance of public notice the Director shall prepare and, following public notice, shall send, upon request to any person a fact sheet with respect to the application described in the public notice. The contents of such fact sheets shall include at least the following information (see Appendix B to this part for a sample fact sheet which meets the requirements of this section):

(a) A sketch or detailed description of the location of the discharge described in the NPDES application;

(b) A quantitative description of the discharge described in the NPDES application which includes at least the following:

(1) The rate or frequency of the proposed discharge; if the discharge is continuous, the average daily flow in gallons per day or million gallons per day;

(2) For thermal discharges subject to limitation under the Act, the average summer and winter temperatures in degrees Fahrenheit; and

(3) The average daily discharge in pounds per day of any pollutants which are present in significant quantities or which are subject to limitations or prohibition under sections 301, 302, 306, or 307 of the Act and regulations published thereunder;

(c) The tentative determinations required under § 124.31;

(d) A brief citation, including a brief identification of the uses for which the receiving waters have been classified, of the water quality standards and effluent standards and limitations applied to the proposed discharge; and

(e) A fuller description of the procedures for the formulation of final determinations than that given in the public notice including:

(1) The 30-day comment period required by § 124.32(b);

(2) Procedures for requesting a public hearing and the nature thereof; and

(3) Any other procedures by which the public may participate in the formulation of the final determinations.

§ 124.34 Notice to other Government agencies.

Any State or interstate agency participating in the NPDES shall notify other appropriate Government agencies of each complete application for an NPDES permit and shall provide such agencies an opportunity to submit their written views and recommendations. Procedures for such notification shall include the following:

(a) At the time of issuance of public notice pursuant to § 124.32, transmission of a fact sheet to any other States whose waters may be affected by the issuance of an NPDES permit and, upon request, providing such States with a copy of the NPDES application. Each affected State shall be afforded an opportunity to submit written recommendations to the Director and to the Regional Administrator which the Director may incorporate into the permit if issued. Should the Director fail to incorporate any written recommendations thus received, he shall provide to the affected State or States (and to the Regional Administrator) a written explanation of his reasons for failing to accept any of the written recommendations.

(b) A procedure, similar to paragraph (a) of this section, for notifying any interstate agency having water quality control authority over waters which may be affected by the issuance of a permit.

(c) At the time of issuance of public notice pursuant to § 124.32, transmission of a fact sheet to the Chief of Engineers of the Army Corps of Engineers of each application for an NPDES permit to discharge pollutants into navigable waters

(d) A procedure for mailing copies of public notice (or upon specific request, copies of fact sheets) for application for NPDES permits to any other Federal, State, or local agency upon request, and providing such agencies an opportunity to respond, comment, or request a public hearing pursuant to § 124.36. Such agencies shall include at least the following:

(1) The agency responsible for the preparation of an approved plan pursuant to section 208(b) of the Act; and

(2) The State or interstate agency responsible for the preparation of a plan pursuant to an approved continuous planning process under section 303(e) of the Act, unless such agency is under the supervision of the Director.

(e) Procedures for notice to and coordination with appropriate public health agencies for the purpose of assisting the applicant in coordinating the applicable requirements of the Act with any applicable requirements of such public health agencies.

§ 124.35 Public access to information.

(a) Any State or interstate agency participating in the NPDES shall insure that any NPDES forms or any public comment upon those forms pursuant to § 124.32(b) shall be available to the public for inspection and copying. The Director, in his discretion, may also make available to the public any other records, reports, plans, or information obtained by the State or interstate agency pursuant to its participation in the NPDES.

(b) The Director may protect any information (other than effluent data) contained in such NPDES form, or other records, reports, or plans as confidential upon a showing by any person that such information if made public would divulge methods of processes entitled to protection as trade secrets of such person. If, however, the information being considered for confidential treatment is contained in an NPDES form, the Director shall forward such information to the Regional Administrator for his concurrence in any determination of confidentiality. If the Regional Administrator does not concur that all of the information being considered for confidential treatment merits such protection and so notifies the Director in writing, the Director shall make available to the public that information for which the Regional Administrator withheld his concurrence.

(c) Any information accorded confidential status, whether or not contained in an NPDES form, shall be disclosed, upon request, to the Regional Administrator, or his authorized representative, who shall maintain the disclosed information as confidential.

(d) The Director shall provide facilities for the inspection of information relating to NPDES forms and shall insure that State employees honor requests for such inspection promptly without undue requirements or restrictions. The Director shall either (1) insure that a machine or device for the copying of papers and documents is available for a reasonable fee, or (2) otherwise provide for or coordinate with copying facilities or services such that requests for copies of nonconfidential documents may be honored promptly.

§ 124.36 Public hearings.

The Director shall provide an opportunity for the applicant, any affected State, any affected interstate agency, the Regional Administrator, or any interested agency, person, or group of persons to request or petition for a public hearing with respect to the NPDES application. Any hearing brought pursuant to this section shall be held in the geographical area (or, if facilities for a proper hearing in the immediate vicinity are not available, in another suitable accessible location) of the proposed discharge.

§ 124.37 Public notice of public hearings.

(a) Public notice of any hearing held pursuant to section 124.36 above shall be circulated at least as widely as was the notice of the NPDES application. Procedures for the circulation of public notice for hearings held under § 124.36 shall include at least the following:

(1) Notice shall be published in at least one newspaper of general circulation within the geographical area of the discharge;

(2) Notice shall be sent to all persons and Government agencies which received a copy of the notice or the fact sheet for the NPDES application;

(3) Notice shall be mailed to any person or group upon request; and

(4) Notice shall be effected pursuant to subparagraphs (1) and (3) of this paragraph at least thirty (30) days in advance of the hearing.

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(b) The contents of public notice of any hearing held pursuant to § 124.36 shall include at least the following (see Appendix C to this part for a sample hearing notice which meets the requirements of this section:

(1) Name, address, and phone number of agency holding the public hearing;

(2) Name and address of applicant;

(3) Name of waterway to which discharge is made and a short description of the location of the discharge on the waterway;

(4) A brief reference to the public notice issued for the NPDES application, including identification number and date of issuance;

(5) Information regarding the time and location for the hearing;

(6) The purpose of the hearing;

(7) A concise statement of the issues raised by the persons requesting the hearing;

(8) Address and phone number of premises at which interested persons may obtain further information, request a copy of the fact sheet described in § 124.33, and inspect and copy NPDES forms and related documents; and

(9) A brief description of the nature of the hearing, including the rules and procedures to be followed.

Subpart E—Terms and Conditions of NPDES Permits

§ 124.41 Prohibited discharges.

Any State or interstate agency participating in the NPDES shall insure that no permit shall be issued authorizing any of the following discharges:

(a) The discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste into navigable waters;

(b) Any discharge which the Secretary of the Army acting through the chief of engineers finds would substantially impair anchorage and navigation;

(c) Any discharge to which the Regional Administrator has objected in writing pursuant to any right to object provided the Administrator in section 402(d) of the Act; and

(d) Any discharge from a point source which is in conflict with a plan approved pursuant to section 208(b) of the Act.

§ 124.42 Application of effluent standards and limitations, water quality standards, and other requirements.

Procedures for any State or interstate program participating in the NPDES must insure that the terms and conditions of each issued NPDES permit apply and insure compliance with all of the following, whenever applicable:

(a) Effluent limitations under sections 301 and 302 of the Act;

(b) Standards of performance for new sources under section 306 of the Act;

(c) Effluent standards, effluent prohibitions, and pretreatment standards under section 307 of the Act;

(d) Any more stringent limitation, including those (1) necessary to meet water quality standards, treatment standards, or schedules of compliance, established pursuant to any State law or regulation (under authority preserved by section 510), or (2) necessary to meet any other Federal law or regulation, or (3) required to implement any applicable water quality standards; such limitations to include any legally applicable requirements necessary to implement total maximum daily loads established pursuant to a continuing planning process approved under section 303(e);

(e) Any more stringent legally applicable requirements necessary to comply with a plan approved pursuant to section 208(b) of the Act; and

(f) Prior to promulgation by the Administrator of applicable effluent standards and limitations pursuant to sections 301, 302, 306, and 307, effluent limitations designed to achieve the requirements of section 301(b) of the Act.

(*Comment.* The House Committee Print states: "The Committee points out, as it did in the discussion of section 401, that the term 'applicable' used in section 402 has two meanings. It means that the requirement which the term 'applicable' refers to must be pertinent and apply to the activity and the requirement must be in existence by having been promulgated or implemented.")

§ 124.43 Effluent limitations in issued NPDES permits.

In the application of effluent standards and limitations, water quality standards, and other legally applicable requirements, pursuant to § 124.42, any State or interstate agency participating in the NPDES shall, for each issued NPDES permit, specify average and maximum daily quantitative limitations for the level of pollutants in the authorized discharge in terms of weight (except pH, temperature, radiation, and any other pollutants not appropriately expressed by weight).

(*Comment.* The manner in which effluent limitations are expressed will depend upon the nature of the discharge. Continuous discharges may be limited by daily loading figures. Batch discharges should be more particularly described and limited in terms of (i) frequency (e.g., to occur not more than once every 3 weeks), (ii) total weight (e.g., not to exceed 300 pounds per batch discharge), (iii) minimum time period for completion of discharge (e.g., to be discharged over a period of not less than 12 hours), and (iv) limitation or prohibition of specified pollutants (e.g., shall not contain more than 15 p.p.m. BOD or 10 pounds of lead). Other intermittent discharges such as recirculation blowdown should be particularly limited to comply with any applicable water quality standards and effluent standards and limitations.)

§ 124.44 Schedules of compliance in issued NPDES permits.

In addition to the application of the effluent standards and limitations, water quality standards, and other legally applicable requirements, pursuant to § 124.42, any State or interstate agency participating in the NPDES shall follow the following procedures in setting schedules in NPDES permit conditions to achieve compliance with applicable effluent standards and limitations, water quality standards, and other legally applicable requirements;

(a) With respect to any discharge which is not in compliance with applicable effluent standards and limitations, applicable water quality standards, or other legally applicable requirements listed in § 124.42 (d) and (e), the permittee shall be required to take specific steps to achieve compliance with the following:

(1) In accordance with any legally applicable schedule of compliance contained in:

(i) Applicable effluent standards and limitations;

(ii) If more stringent, water quality standards; or,

(iii) If more stringent, legally applicable requirements listed in § 124.42 (d) and (e); or,

(2) In the absence of any legally applicable schedule of compliance, in the shortest, reasonable period of time, such period not to extend beyond July 1, 1977.

(b) In any case where the period of time for compliance specified in paragraph (a) of this section exceeds 9 months, one or more interim dates shall be specified for which the permittee shall have achieved interim requirements; in no event shall more than 9 months elapse between interim dates.

(*Comment.* Certain interim requirements such as the submission of preliminary or final plans often require less than 9 months and thus a shorter interval should be specified. Other requirements such as the construction of treatment facilities may require several years for completion and may not readily subdivide into 9-month intervals. Long-term interim requirements should nonetheless be subdivided into intervals not longer than 9 months at which the permittee is required to report his progress to the Director pursuant to § 124.44(c).)

(c) Either before or up to fourteen (14) days following each interim date and the final date of compliance the permittee shall provide the Director with written notice of the permittee's compliance or noncompliance with the interim or final requirement.

(d) If the permittee fails or refuses to comply with an interim or final requirement or if the permittee fails or refuses to notify the Director of compliance or noncompliance with each interim date requirement, the Director shall notify the Regional Administrator of such failure or refusal by the permittee within 30 days of the elapsed interim or final date.

(e) If a permittee fails or refuses to comply with an interim or final requirement in an NPDES permit such noncompliance shall constitute a violation of the permit for which the Director may, pursuant to Subpart H of this part suspend or revoke the permit or take direct enforcement action.

§ 124.45 Other terms and conditions of issued NPDES permits.

In addition to the requirements of §§ 124.42, 124.43, and 124.44, procedures of any State or interstate agency participating in the NPDES must insure that the terms and conditions of each issued NPDES permit provide for and insure the following:

(a) That all discharges authorized by the NPDES permit shall be consistent

with the terms and conditions of the permit; that facility expansions, production increases, or process modifications which result in new or increased discharges of pollutants must be reported by submitting a new NPDES application; that the discharge of any pollutant not identified and authorized by the NPDES permit or the discharge of any pollutant more frequently than or at a level in excess of that identified and authorized by the permit shall constitute a violation of the terms and conditions of the permit;

(b) That the permit may be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

(1) Violation of any terms or conditions of the permit;

(2) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts; and,

(3) A change in conditions or the existence of a condition which requires either a temporary or permanent reduction or elimination of the authorized discharge;

(c) That the permittee shall permit the Director or his authorized representative, upon the presentation of his credentials:

(1) To enter upon permittee's premises in which an effluent source is located or in which any records are required to be kept under terms and conditions of the permit;

(2) To have access to and copy any records required to be kept under terms and conditions of the permit;

(3) To inspect any monitoring equipment or method required in the permit; or,

(4) To sample any discharge of pollutants.

(d) That, if the permit is for a discharge from a publicly owned treatment works, the permittee shall provide notice to the Director of the following:

(1) Any new introduction of pollutants into such treatment works from a source which would be a new source as defined in section 306 of the Act if such source were discharging pollutants;

(2) Any new introduction of pollutants into such treatment works from a source which would be subject to section 301 of the Act if such source were discharging pollutants; and,

(3) Any substantial change in volume or character of pollutants being introduced into such treatment works by a source introducing pollutants into such works at the time of issuance of the permit.

Such notice shall include information on (i) the quality and quantity of effluent to be introduced into such treatment works and (ii) any anticipated impact of such change in the quantity or quality of effluent to be discharged from such publicly owned treatment works. See Appendix D to this part for sample permit conditions for provision of notice pursuant to this paragraph.

(e) That, if the permit is for a discharge from a publicly owned treatment works, the permittee shall require any industrial user of such treatment works to comply with the requirements of sections 204(b), 307, and 308 of the Act. As a means of insuring such compliance, the permittee shall require of each industrial user subject to the requirements of section 307 of the Act and shall forward a copy to the Director periodic notice (over intervals not to exceed nine months) of progress towards full compliance with section 307 requirements. See Appendix E for sample permit conditions for provisions of notice pursuant to this paragraph.

(f) That the permit may not be transferred to a third party without the prior written approval of the Director.

(g) That the permittee at all times shall maintain in good working order and operate at maximum efficiency any facilities or systems of control installed by the permittee to achieve compliance with the terms and conditions of the permit.

§ 124.46 Transmission to Regional Administrator of proposed NPDES permits.

Any State or interstate agency participating in the NPDES shall transmit to the Regional Administrator copies of NPDES permits proposed to be issued by such agency in such manner as the Director and Regional Administrator shall agree upon. Any agreement between the State or interstate agency and the Regional Administrator shall provide for at least the following:

(a) Except as waived pursuant to paragraph (c) of this section, the transmission by the Director of any and all terms, conditions, requirements, or documents which are a part of the proposed permit or which affect the authorization by the proposed permit of the discharge of pollutants;

(b) A period of time (up to 90 days) in which the Regional Administrator, pursuant to any right to object provided in section 402(d)(2) of the Act, may comment upon, object to, or make recommendations with respect to the proposed permit; and

(c) Any written waiver by the Regional Administrator of his rights to receive, review, object to, or comment upon proposed NPDES permits for classes, types, or sizes within any category of point sources.

§ 124.47 Transmission to Regional Administrator of issued NPDES permits.

Each State or interstate agency participating in the NPDES shall transmit to the Regional Administrator a copy of every issued NPDES permit, immediately following issuance, along with any and all terms, conditions, requirements, or documents which are a part of such permit or which affect the authorization by the permit of the discharge of pollutants.

Subpart F—Duration and Review of NPDES Permits

§ 124.51 Duration of issued NPDES permits.

Any State or interstate agency participating in the NPDES shall provide that each issued NPDES permit shall have a fixed term not to exceed 5 years.

(*Comment.* The term of an NPDES permit may extend beyond the time for compliance specified pursuant to § 124.44. The time for compliance shall be that dictated by (i) effluent standards and limitations, or (ii) if more stringent, water quality standards, or (iii) if more stringent, other legally applicable requirements such as those listed in § 124.42 (d) and (e). The term of the NPDES permit may extend beyond the final deadline for compliance, except that the term may not exceed 5 years. Failure to comply with the permit schedule of compliance, including interim and final requirements, as provided in § 124.44(e), is a violation of the permit for which the Director may take Subpart H of this part enforcement action.)

§ 124.52 Reissuance of NPDES permits.

(a) Any State or interstate agency participating in the NPDES shall maintain procedures for the review of applications for reissuance of NPDES permits. Such review procedures shall require, and the Director shall so notify the permittee, that any permittee who wishes to continue to discharge after the expiration date of his NPDES permit must file for reissuance of his permit at least 180 days prior to its expiration. The filing requirements for reissuance shall be determined by the State or interstate agency and may range from a simple written request for reissuance to submission of all NPDES and State or interstate forms.

(b) The scope and manner of any review of an application for reissuance of an NPDES permit shall be within the discretion of the State or interstate agency but shall be sufficiently detailed as to insure the following:

(1) That the permittee is in compliance with or has substantially complied with all the terms, conditions, requirements, and schedules of compliance of the expired NPDES permit;

(2) That the Director has up-to-date information on the nature, contents, and frequency of permittee's discharge, either pursuant to the submission of new forms and applications or pursuant to monitoring records and reports submitted to the Director by the permittee; and,

(3) That the discharge is consistent with applicable effluent standards and limitations, water quality standards, and other legally applicable requirements listed in § 124.42, including any additions to, or revisions or modifications of such effluent standards and limitations, water quality standards, or other legally applicable requirements during the term of the permit.

(c) State or interstate agency notice and public participation procedures for reissuance of the NPDES permit shall be those specified in Subpart D of this part.

Subpart G—Monitoring, Recording, and Reporting

§ 124.61 Monitoring.

Procedures of any State or interstate agency participating in the NPDES for the monitoring of any discharge authorized by an NPDES permit shall be consistent with the following:

(a) Any discharge authorized by an NPDES permit may be subject to such monitoring requirements as may be reasonably required by the Director, including the installation, use, and maintenance of monitoring equipment or

methods (including, where appropriate, biological monitoring methods).

(b) Any discharge authorized by an NPDES permit may be subject to such periodic reporting (at a frequency of not less than once per year) on the proper NPDES reporting form of monitoring

tions of the NPDES permit. If the Director determines that any condition of the permit is violated, he shall notify the

other civil relief as may be appropriate for the violation by any person of (1) any effluent standards and limitations or

pollutants into wells. Any such disposal shall be sufficiently controlled to protect the public health and welfare and to

(i) Estimated numbers of point sources within such category which are required to file for an NPDES permit;

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methods (including, where appropriate, biological monitoring methods).

(b) Any discharge authorized by an NPDES permit which (1) averages more than 50,000-gallons-per-operating day, (2) the Regional Administrator requests, in writing, be monitored, or (3) contains toxic pollutants for which an effluent standard has been established by the Administrator pursuant to section 307(a) of the Act, shall be monitored by the permittee for at least the following:

(i) Flow (in gallons per day); and,

(ii) All of the following pollutants:

(a) Pollutants (either directly or indirectly through the use of accepted correlation coefficients or equivalent measurements) which are subject to reduction or elimination under the terms and conditions of the permit;

(b) Pollutants which the Director finds, on the basis of information available to him, could have a significant impact on the quality of navigable waters;

(c) Pollutants specified by the Administrator, in regulations issued pursuant to the Act, as subject to monitoring; and,

(d) Any pollutants in addition to the above which the Regional Administrator requests, in writing, be monitored.

(c) Each effluent flow or pollutant required to be monitored pursuant to paragraph (b) of this section shall be monitored at intervals sufficiently frequent to yield data which reasonably characterizes the nature of the discharge of the monitored effluent flow or pollutant. Variable effluent flows and pollutant levels shall be monitored at more frequent intervals than relatively constant effluent flows and pollutant levels which may be monitored at less frequent intervals.

§ 124.62 Recording of monitoring activities and results.

Any State or interstate agency participating in the NPDES shall specify the following recording requirements for any NPDES permit which requires monitoring of the authorized discharge:

(a) The permittee shall maintain records of all information resulting from any monitoring activities required of him in his NPDES permit;

(b) Any records of monitoring activities and results shall include for all samples: (1) The date, exact place, and time of sampling; (2) the dates analyses were performed; (3) who performed the analyses; (4) the analytical techniques/methods used; and, (5) the results of such analyses; and,

(c) The permittee shall be required to retain for a minimum of 3 years any records of monitoring activities and results including all original strip chart recording for continuous monitoring instrumentation and calibration and maintenance records. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the permittee or when requested by the Director or Regional Administrator.

§ 124.63 Reporting of monitoring results.

Any State or interstate agency participating in the NPDES shall require periodic reporting (at a frequency of not less than once per year) on the proper NPDES reporting form of monitoring results obtained by a permittee pursuant to monitoring requirements in an NPDES permit. In addition to the NPDES reporting form, the Director in his discretion may require submission of such other information regarding monitoring results as he determines to be necessary.

(*Comment.* Reporting frequency, as with monitoring frequency, depends upon the nature and impact of the discharge. Annual report submission is sufficient for small cooling water discharges. Discharges for which more frequent, even monthly, reporting is desirable include variable discharges, major, including municipal, discharges, and discharges for which new treatment or control methods are being applied. Reporting frequency should correspond with administrative capability to evaluate the reports as they come in.)

§ 124.64 NPDES monitoring, recording, and reporting requirements.

Any State or interstate agency participating in the NPDES shall adopt procedures consistent with any national monitoring, recording, and reporting requirements specified by the Administrator in regulations issued pursuant to the Act.

Subpart H—Enforcement Provisions

§ 124.71 Receipt and followup of notifications and reports.

(a) Any State or interstate agency participating in the NPDES shall have the procedures and the capability for the receipt, evaluation, and investigatory followup for possible enforcement or remedial action of all notices and reports required of permittees including, but not limited to, the following:

(1) Reports from industrial users of progress towards compliance with the requirements of section 307, submitted pursuant to § 124.45(e);

(2) Notifications (or failure to notify) from permittees of compliance or noncompliance with interim requirements specified in NPDES permit schedules of compliance pursuant to § 124.44; and,

(3) Data submitted by permittees in NPDES reporting forms and other forms supplying monitoring data, pursuant to Subpart G of this part.

(b) Any such reports or notifications received by the Director pursuant to paragraph (a) of this section shall: (1) Constitute information available to the Director and (2) if forwarded to the Regional Administrator pursuant to the provisions of this part shall constitute information available to the Administrator within the meaning of section 309 of the Act.

(c) Any State or interstate agency participating in the NPDES shall have similar procedures and capability for the receipt and evaluation of notices (relating to new introductions or changes in the volume or character of pollutants introduced into publicly owned treatment works) submitted by permittees which are publicly owned treatment works, pursuant to § 124.45(d), for possible violation of the terms and conditions of the NPDES permit. If the Director determines that any condition of the permit is violated, he shall notify the Regional Administrator and consider taking action under section 402(h) of the Act. (relating to proceedings to restrict or prohibit the introduction of pollutants into treatment works).

§ 124.72 Modification, suspension, and revocation of NPDES permits.

Any State or interstate agency participating in the NPDES shall insure that any permit issued under the NPDES can be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the causes listed in § 124.45(b) or for failure or refusal of the permittee to carry out the requirements of § 124.45(c).

§ 124.73 Enforcement.

Any State or interstate agency participating in the NPDES shall have such powers and procedures and such recourse to criminal, civil, and civil injunctive remedies as to insure the following ways and means are available to protect, maintain, and enhance water quality:

(a) Procedures which enable the Director to require compliance with (1) any violated effluent standards and limitations or water quality standards, (2) any NPDES permit or term or condition thereof, (3) any NPDES filing requirements, (4) any duty to permit or carry out inspection, entry, or monitoring activities, or (5) any rules or regulations issued by the Director either pursuant to orders issued by the Director, court actions, or both;

(b) Procedures which enable the Director to immediately and effectively halt or eliminate any imminant or substantial endangerments to the health or welfare of persons resulting from the discharge of pollutants (1) by an order or suit in the appropriate State court to immediately restrain any person causing or contributing to the discharge of pollutants or to take such other action as may be necessary, or (2) by a procedure for the immediate telephonic notice to the Regional Administrator of any actual or threatened endangerments to the health or welfare of persons resulting from the discharge of pollutants;

(c) Procedures which enable the Director to sue in competent courts to enjoin any threatened or continuing violations of any NPDES permits or conditions thereof without the necessity of a prior revocation of the permit;

(d) Procedures which enable the Director to enter any premises in which an effluent source is located or in which records are required to be kept under terms or conditions of a permit and otherwise be able to investigate, inspect, or monitor any suspected violations of water quality standards or effluent standards and limitations or of NPDES permits or terms or conditions thereof;

(e) Procedures which enable the Director to assess or to sue to recover in court, such civil fines, penalties, and

other civil relief as may be appropriate for the violation by any person of (1) any effluent standards and limitations or water quality standards, (2) any NPDES permit or term or condition thereof, (3) any NPDES filing requirements, (4) any duty to permit or carry out inspection, entry, or monitoring activities, (5) any order issued by the Director under paragraph (a) of this section, or (6) any rules, regulations, or orders issued by the Director;

(f) Procedures which enable the Director to seek criminal fines for the willful or negligent violation by such persons of (1) any effluent standards and limitations or water quality standards, (2) any NPDES permit or term or condition thereof, (3) any NPDES filing requirements, or (4) any order issued by the Director under paragraph (a) of this section; and,

(g) The maximum civil penalties and criminal fines recoverable by the Director pursuant to paragraphs (e) and (f) of this section shall (1) be comparable to similar maximum amounts recoverable by the Regional Administrator under section 309 or (2) represent an actual and substantial economic deterrent to the actions for which they are assessed or levied. Such civil penalties or criminal fines shall be assessable up to the maximum amounts for each violation specified in paragraphs (e) and (f) of this section, or, if the violation is a continuous discharge, assessable for each day the discharge occurs.

(*Comment.* It is understood that in many States the Director will be represented in State courts by the State attorney general or other appropriate legal officer. While the Director need not appear in court actions under this subpart, he should have the power to request that such actions be brought.

The following enforcement options, while not mandatory, are highly recommended as means not only for compelling compliance but also for providing additional funds to State or interstate program efforts:

(1) Procedures for assessment by the Director or by a State court of any violator for the costs of an investigation, inspection, or monitoring survey which led to the establishment of the violation;

(2) Procedures which enable the Director to assess or to sue any persons for any expenses incurred by the State in removing, correcting, or terminating any adverse effects upon water quality resulting from the unauthorized discharge of pollutants, whether or not accidental; and,

(3) Procedures which enable the Director to sue for compensation for any loss or destruction of wildlife, fish or aquatic life, and for any other actual damages caused by an unauthorized discharge of pollutants, either for the State, for any residents of the State who are directly aggrieved by the unauthorized discharge of pollutants, or both.)

Subpart I—Disposal of Pollutants Into Wells

§ 124.80 Control of disposal of pollutants into wells.

Any State or interstate agency participating in the NPDES shall have procedures which control the disposal of pollutants into wells. Any such disposal shall be sufficiently controlled to protect the public health and, welfare and to prevent pollution of ground and surface waters.

(a) If an applicant for an NPDES permit proposes to dispose of pollutants into wells as part of a program to meet the proposed terms and conditions of an NPDES permit, the Director shall specify additional terms and conditions in the final NPDES permit which shall (1) prohibit the proposed disposal, or (2) control the proposed disposal in order to prevent pollution of ground and surface waters and to protect the public health and welfare.

(b) A State agency participating in the NPDES shall have procedures to prohibit or control through the issuance of permits all other proposed disposals of pollutants into wells. Following approval of the Administrator of a State program pursuant to section 402 of the Act, the Director shall permit no uncontrolled disposals of pollutants into wells within the State.

Subpart J—Resources, Planning and Other Requirements

§ 124.91 Availability of resources.

(a) Any State or interstate agency participating in the NPDES shall, in submitting its program description pursuant to section 402(b) of the Act, provide information regarding funding and manpower appropriated for the use of the program proposed to be established and administered under State law or under an interstate compact. Such information shall include the following:

(1) A description of all full-time and part-time employees who will be engaged in carrying out the State permit program, including information on the qualifications and functions of such employees.

(2) A list of the proposed costs and expenses of establishing and administering the program described in the program description, including (i) wages and salaries of the personnel listed in (1) above, (ii) cost of administrative support (such as office space and supplies, computer time, vehicles, notice and hearing procedures, etc), and (iii) cost of technical support (such as laboratory space and supplies, vehicles, watercraft, etc.). Such estimate of costs and expenses shall include the cost and expense of carrying out the procedures and requirements contained in this part;

(3) A description of the funding available to the Director to meet the costs and expenses listed in subparagraph (2) of this paragraph including any restrictions or limitations upon such funding; and

(4) A list of categories and sizes of all point sources (e.g., major industrial, minor industrial, minor municipal, major feedlot, irrigation return flow, shopping centers and subdivisions, etc.) to which the Director proposes to issue permits under the Act. For each category, the following information shall be given:

(i) Estimated numbers of point sources within such category which are required to file for an NPDES permit; and

(ii) Number and percent of point sources within each category for which the State has already issued a State permit or equivalent document regulating the discharge of pollutants.

(b) The Regional Administrator and the Administrator shall review the information submitted by the Director pursuant to paragraph (a) of this section in order to determine whether the Director has resources available to him which will enable him to carry out the program described in the program description submitted pursuant to section 402(b) and the procedures contained in this part. Such a determination shall be based upon an examination of criteria which shall include the following:

(1) Whether there are a sufficient number of employees to process NPDES applications and issue NPDES permits in sufficient time to allow permittees to attain effluent limitations which will achieve the July 1, 1977 goal specified in section 301(b) of the Act;

(2) Whether the employees of the Director have sufficient expertise and experience for the proper specification of terms and conditions of NPDES permits pursuant to the requirements of subpart E of this part;

(3) Whether the employees of the Director have sufficient administrative and technical support and resources, including funding, to enable the Director to carry out his duties under this part and section 402 of the Act;

(4) The number, location, and kinds of point sources which constitute major sources of discharge of pollutants within the State or interstate area; and

(5) The quality of navigable waters within the State or subject to the authority of the interstate agency.

§ 124.92 Inspection and surveillance support for NPDES permits.

Any State or interstate agency participating in the NPDES shall have the funding, qualified personnel, and other resources necessary to support NPDES permits with inspection and surveillance procedures which will determine, independent of information supplied by applicants and permittees, compliance or noncompliance with applicable effluent standards and limitations, water quality standards, NPDES filing requirements, and issued NPDES permits or terms or conditions thereof. Such surveillance and inspection support procedures shall include the following:

(a) A supporting survey program with sufficient capability to make systematic, on-the-spot, comprehensive surveys of all waters subject to the Director's authority in order to identify and locate all point sources subject to NPDES filing requirements. Any compilation, index, or inventory of point sources shall be made available to the Regional Administrator or his authorized representative upon request;

(b) A supporting inspection program for the periodic inspection (to be per-

for a permit" shall not include officials or employees who work full time for any

The application, related documents, proposed effluent limitations and special con-

Description of proposed discharges—Discharge 001. Utility waste water from steam generating plant

pulp and paper industry, manufacture of bleached paper grades from kraft pulp. See 40 CFR 128.74, 128.89, and 128.91(c)

has applied for a Department of Environmental Protection permit to discharge pollutants into Martin Creek, one-half mile upstream

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(b) A supporting inspection program for the periodic inspection (to be performed not less than once every year for each major point source) of discharges of pollutants from point sources and facilities for the treatment and control of such discharges of pollutants. Such inspections shall determine compliance or noncompliance with issued NPDES permits or terms or conditions thereof and, in particular, compliance or noncompliance with specific effluent limitations and schedules of compliance in such NPDES permits;

(c) A supporting surveillance program with sufficient capability for the random sampling and analysis of discharges for the purpose of identifying occasional and continuing violations of permit conditions or terms or conditions thereof and the accuracy of information submitted by permittees in NPDES reporting forms and other forms supplying monitoring data; and

(d) A supporting program for the purpose of following up evidence of violations of applicable effluent standards and limitations and water quality standards, NPDES filing requirements, or issued NPDES permits or terms or conditions thereof indicated by reports and notifications evaluated pursuant to § 124.71 above or by survey, inspection, and surveillance activities in paragraphs (a)–(c) of this section. The taking of samples and other information shall be performed with sufficient care as to produce evidence admissible in an enforcement proceeding or in court should the follow-up indicate a violation of applicable effluent standards and limitations and water quality standards or issued NPDES permits or terms or conditions thereof.

§ 124.93 Continuing planning process.

Any State or interstate program participating in the NPDES must have an approved continuing planning process pursuant to section 303(e) of the Act and must assure that its approved planning process is at all times consistent with the Act.

§ 124.94 Agency Board membership.

Each State or interstate agency participating in the NPDES shall insure that any board or body which approves NPDES permit applications or portions thereof shall not include as a member, any person who receives, or has during the previous 2 years received, a significant portion of his income directly or indirectly from permit holders or applicants for a permit.

(a) For the purposes of this section, the term "board or body" does not refer to the Director or any employee of the Director.

(b) For the purposes of this section, the term "significant portion of his income" shall mean 20 percent of gross personal income for a calendar year, except that it shall mean 50 percent of gross personal income for a calendar year if the recipient is over 60 years of age and is receiving such portion pursuant to retirement, pension, or similar arrangement.

(c) For the purposes of this section, the term "permit holders or applicants for a permit" shall not include officials or employees who work full time for any department or agency of a State government, such as a Director of Parks or a Director of Fish and Wildlife.

(d) For the purposes of this section, the term "income" includes retirement benefits, consultant fees, and stock dividends.

Subpart K—NPDES Application and Reporting Forms [Reserved]

(Reserved for NPDES application and reporting forms, along with guidelines and instructions for their use by applicants for NPDES permits and by State and interstate programs participating in the NPDES.)

APPENDIX A

SAMPLE PUBLIC NOTICE

DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WATER QUALITY AND RESOURCES,
1616 COURT HOUSE DRIVE, CAPITAL CITY, STATE (ZIP)

[Public Notice No. OPP–72–301; Application No. CIY–400–60–301]

AUGUST 12, 1973.

NOTICE—APPLICATION FOR NPDES PERMIT TO DISCHARGE TO STATE WATERS

Acme Paper Products, Inc., 11345 North Fremont Street, Cape Rockaway, State (ZIP), has applied for a Department of Environmental Protection permit to discharge pollutants into State waters.

Applicant is a manufacturer of bleached grades of paper from kraft pulp. Two discharges are described in the application: One of the utility waste water from applicant's steam generating plant and the other of process wastes from the manufacture of pulp and paper. Both discharges are to Martin Creek one-half-mile upstream from Whitehall Bay.

On the basis of preliminary staff review and application of lawful standards and regulations, the Division of Water Quality and Resources proposes to issue a permit to discharge subject to certain effluent limitations and special conditions. These proposed determinations are tentative. Persons wishing to comment upon or object to the proposed determinations are invited to submit same in writing to the above address no later than September 12, 1973. All comments or objections received prior to September 12, 1973, will be considered in the formulation of final determinations regarding the application. If no objections are received, the Director will issue his final determinations within 60 days of the date of this notice. A public hearing may be held if response to this notice indicates significant public interest.

The application, related documents, proposed effluent limitations and special conditions, fact sheets, comments received, and other information is on file and may be inspected and copied in Room 814, 1616 Court House Drive, Capital City, State (ZIP), at any time between 8:15 a.m. and 4:45 p.m., Monday through Friday.

APPENDIX B

SAMPLE FACT SHEET FOR MAILING TO INTERESTED AND POTENTIALLY INTERESTED PERSONS AND GOVERNMENT AGENCIES

DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WATER QUALITY AND RESOURCES,
1616 COURT HOUSE DRIVE, CAPITAL CITY, STATE (ZIP)

[Public Notice No. OPP–72–301; Application No. CIY–400–60–301]

FACT SHEET—APPLICATION FOR NPDES PERMIT TO DISCHARGE TO STATE WATERS

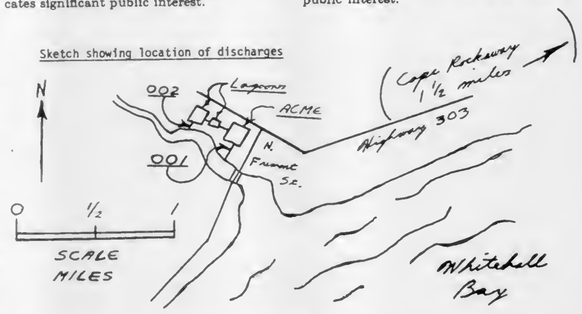
Acme Paper Products, Inc., 11345 North Fremont Street, Cape Rockaway, State (ZIP), has applied for a Department of Environmental Protection permit to discharge pollutants into State waters.

Applicant is a manufacturer of bleached grades of paper from kraft pulp. Two discharges are described in the application: One of utility waste water from applicant's steam generating plant and the other of process wastes from the manufacture of pulp and paper. Both discharges are to Martin Creek one-half-mile upstream from Whitehall Bay. The receiving waters are classified for industrial and navigation use, contact recreation, and propagation of fish and wildlife. A more complete description of the discharges and a sketch of their location follow below.

The application, related documents, proposed effluent limitations and special conditions, comments received, and other information is on file and may be inspected and copied in Room 814, 1616 Court House Drive, Capital City, State (ZIP), at any time between 8:15 a.m. and 4:45 p.m., Monday through Friday.

The proposed staff determinations are tentative. Persons wishing to comment upon or object to the proposed determinations are invited to submit same in writing to the above address no later than September 12, 1973. All comments or objections received prior to September 12, 1973, will be considered in the formulation of final determinations regarding the application. If no objections are received, the Director will issue his final determinations within 60 days of the date of public notice. As described more fully below, a public hearing may be held if response to public notice indicates significant public interest.

Sketch showing location of discharges



Description of proposed discharges—Discharge 001. Utility waste water from steam generating plant.

AVERAGE FLOW: 500,000 GALLONS PER OPERATING DAY

Average temperatures:	Intake	Discharge
Summer	85° F.	95° F.
Winter	38° F.	55° F.

Discharge 002. Process wastes from manufacture of pulp and paper.

AVERAGE FLOW: 24,300,000 GALLONS PER OPERATING DAY

Constituents	Milligrams per liter	Pounds per day
BOD	90	18,000
Suspended solids	110	22,000
Phenols	0.5	100
Mercury	0.0025	0.5

Proposed determinations. The Division of Water Quality and Resources has examined the above application. On the basis of applicable effluent limitations and water quality standards, the State Water Quality and Resources Act of 1971, as amended, and regulations issued thereunder, the Division proposes to issue the applicant a permit to discharge subject to effluent limitations and certain other conditions. The following is a brief description of the proposed effluent limitations and special conditions:

(1) *Proposed effluent limitations.*

Discharge 001. none

Discharge 002. visible foam and visible floating solids prohibited. The following discharge constituents shall be limited as follows:

Constituents	Milligrams per liter	Pounds per day
BOD	27.5	5,500
Suspended solids	25	5,000
Phenols	0.10	20
Mercury	0.0005	0.10

(2) *Proposed schedule for compliance.* The applicant shall achieve the effluent levels described in subsection (1) above in accordance with the following schedule:

Submission of final plans to Director by: November 15, 1973.

Commencement of construction by: January 15, 1974.

Completion of construction by: September 15, 1974.

Operational level attained by: November 1, 1974.

(3) *Proposed special conditions.* The applicant is required to operate his treatment facilities at maximum efficiency at all times. The applicant is required to monitor his discharges on a regular basis and report the results every 3 months. The monitoring results will be available to the public. The applicant is required to conduct studies of possible adverse effects of his heated water discharge 001 upon free floating marine life and shellfish in Martin Creek and Whitehall Bay. If applicant's study or independent information supplied to the Director indicate an adverse effect, the applicant will be required to take additional measures to minimize the adverse impact.

Applicable effluent limitations and water quality standards. The following are the effluent limitations and water quality standards which were applied to applicant's discharge in the formulation of the above proposed determinations:

(1) All effluent limitations except mercury are based upon effluent guidelines for the pulp and paper industry, manufacture of bleached paper grades from kraft pulp. See 40 CFR 128.74, 128.89, and 128.91(c).

(2) The mercury limitation is based upon effluent limitations for toxic substances. See 40 CFR 136.22 (b) and (c).

(3) For water quality standards for Martin Creek and Whitehall Bay, See 40 CFR 42.66 et. seq. Both are classified for the following uses: Industrial use, navigational use, contact recreation, and propagation of fish and wildlife.

Written comments. Interested persons are invited to submit written comments upon the proposed discharge and the Director's proposed determinations. Comments should be submitted by September 12, 1973, either in person or by mail to:

Director, Division of Water Quality and Resources, Attention: Office of Permit Processing, 1616 Courthouse Drive, Capital City, State (ZIP).

The application number should appear next to the above address on the envelope and on the first page of any submitted comments. All comments received by September 12, 1973, will be considered in the formulation of final determinations. If no written objections are received, the Director will issue his final determinations no later than 60 days following the date of this notice.

Information and copying. Persons wishing further information may write to the above address or call the Office of Permit Processing at 307 445–8922. Copies of the application, proposed effluent limitations and special conditions, and other documents (other than those which the Director maintains as confidential) are available at the Office of Permit Processing for inspection and copying. A copying machine is available for public use at a charge of $0.15 per copy sheet.

Register of interested persons. Any person interested in a particular application of group of applications may leave his name, address, and phone number as part of the file for an application. The list of names will be maintained as a means for persons with an interest in an application to contact others with similar interests.

Public hearings. If submitted comments indicate a significant public interest in the application or if he believes useful information may be produced thereby, the Director, in his discretion, may hold a public hearing on the application. Any person may request the Director to hold a public hearing on the application.

Public notice of a hearing will be circulated at least 30 days in advance of the hearing. The hearing will be held in the vicinity of the discharge. Thereafter, the Director will formulate his final determinations within 60 days. Further information regarding the conduct and nature of public hearings concerning discharge permits may be obtained by writing or visiting the Office of Permit Processing, 1616 Courthouse Drive, Capital City, State (zip).

APPENDIX C

SAMPLE PUBLIC NOTICE FOR PUBLIC HEARINGS HELD IN REGARD TO NPDES APPLICATIONS

DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WATER QUALITY AND RESOURCES,
1616 COURTHOUSE DRIVE, CAPITAL CITY, STATE (ZIP)

[Public Notice No. OPP–72–301–PH–24; Application No. CIY–400–60–301]

NOTICE—ANNOUNCEMENT OF PUBLIC HEARING ON APPLICATION OF ACME PAPER PRODUCTS TO DISCHARGE POLLUTANTS INTO MARTIN CREEK NEAR WHITEHALL BAY, CAPE ROCKAWAY, EDWARDS COUNTY, STATE

Acme Paper Products, Inc., 11345 North Fremont Street, Cape Rockaway, State (ZIP), has applied for a Department of Environmental Protection permit to discharge pollutants into Martin Creek one-half mile upstream from Whitehall Bay. The discharge and the Department's proposed determinations have been previously described in Public Notice No. OPP–72–301, dated August 12, 1973. Due to numerous comments received concerning the application, the filing of several petitions requesting a hearing, and the likelihood that information may be presented which will assist the Department in the formulation of final determinations regarding the application, the Director of the Department of Environmental Protection will hold a public hearing at the time and place stated below:

Hearing to be held at 7 p.m., on September 30, 1973, in Center High School Gymnasium, 2171 Furlong Avenue, Cape Rockaway, State (ZIP).

Some of the issues to be considered at the hearing are as follows:

(1) Do the Department's proposed effluent limitations for the applicant's discharge No. 002 represent a proper application of industrial effluent guidelines to the applicant's industrial processes.

(2) Do related water quality or environmental factors require the specification of stricter effluent limitations, additional requirements, or particular methods of treatment or control. In particular,

(a) Will the Department's proposed effluent limitations, if met, restore uncontaminated shellfish populations in Whitehall Bay (water quality standards classify Whitehall Bay for propagation of fish and shellfish).

(b) Does contamination of subsurface wells and water supplies of adjacent home and cottage owners result from leaks in applicant's treatment lagoons. If so, does the Department have the authority to require the applicant (i) to repair the leaks, and (ii) to compensate the adjacent home and cottage owners for damages resulting from the contamination of the subsurface wells and water supplies.

(c) Does the Department have the authority to control the manner in which the applicant utilizes adjoining marshes and wetlands as additional treatment lagoons in order to meet the Department's proposed effluent limitations. If so, what measures can be taken by the applicant to minimize any harmful effects to adjoining wetlands and fish and wildlife habitats therein.

All interested parties are invited to be present or to be represented to express their views on these and other issues relating to the above application. Parties making presentations are urged to address their statements to the above stated issues. Oral statements will be heard, but, for the accuracy of the record, all important testimony should be submitted in writing. Oral statements should summarize any extensive written material so there will be time for all interested parties to be heard.

The application, related documents, the Department's proposed limitations, and all comments and petitions received are on file and may be inspected and copied in Room 814, 1616 Court House Drive, Capital City, State (ZIP), at any time between 8:15 a.m. and 4:45 p.m., Monday through Friday. Copies of public notice OPP–72–301 are available at the above address or by calling the Office of Permit Processing at 307—445–8922.

Please bring the foregoing to the attention of persons whom you know would be interested in this matter.

[FR Doc.72–19011 Filed 11–10–72;8:45 am]

An

the term "permit holders or applicants

FEDERAL REGISTER, VOL. 37, NO. 219—SATURDAY, NOVEMBER 11, 1972

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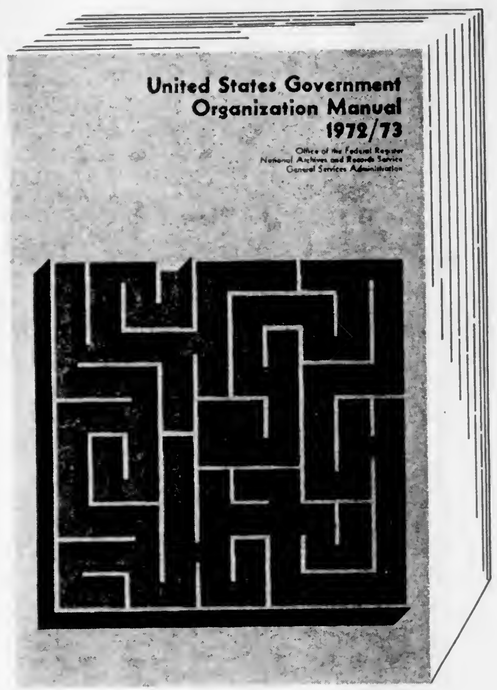

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220

federal register

TUESDAY, NOVEMBER 14, 1972

WASHINGTON, D.C.

Volume 37 ■ Number 220

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A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1972, and specifies how they are affected.

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Rules and Regulations

Title 12—BANKS AND BANKING
Chapter II—Federal Reserve System
Subchapter A—Board of Governors of the Federal Reserve System
PART 221—REGULATION U
§ 221.1[2] Computation of time periods

hereby granted an exemption from the

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Rules and Regulations

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. A]

PART 201—DISCOUNTS AND ADVANCES BY FEDERAL RESERVE BANKS

Obligations Eligible as Collateral for Advances

Paragraph (b) of § 201.108 is amended by adding subparagraphs (18), 19) and (20) at the end of such paragraph to read as follows:

§ 201.108 Obligations eligible as advances.

• • • • • •

(b) • • • Under section 14(b) direct obligations of, and obligations fully guaranteed as to principal and interest by, any agency of the United States are also eligible for purchase by Reserve Banks. Following are the principal agency obligations eligible as collateral for advances:

• • • • • •

(18) Participation certificates evidencing undivided interests in purchase contracts entered into by the General Services Administration,

(19) Obligations entered into by the Secretary of Health, Education, and Welfare under the Public Health Service Act, as amended by the Medical Facilities Construction and Modernization Amendments of 1970.

(20) Obligations guaranteed by the Overseas Private Investment Corp., pursuant to the provisions of the Foreign Assistance Act of 1961, as amended.

• • • • • •

By order of the Board of Governors, November 2, 1972.

[SEAL] MICHAEL A. GREENFAN,
Assistant Secretary of the Board.

[FR Doc.72-19516 Filed 11-13-72;8:48 am]

[Reg. U]

PART 221—CREDIT BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING MARGIN STOCKS

Computation of Time Periods by Block Positioners

Part 221 of title 12 is amended by adding a new section to read as follows:

§ 221.121 Computation of time periods for acquiring and holding blocks of stock by block positioners.

(a) The Board recently considered two questions in connection with § 221.3 (z) (2) and (3) of Regulation U providing for bank credit to block positioners which is exempt from the normal margin requirements as prescribed from time to time in that regulation.

(b) The first question pertained to the period of time in which a block positioner, in order to qualify for the exemption, must position a block of stock when such positioning results from several transactions at approximately the same time from a single source, as set forth in § 221.3(z) (2) (ii).

(c) The Board is of the view that the aggregate of several transactions from a single source would ordinarily be carried out within a timespan of one-half hour in order for such aggregate to be considered one block of stock eligible for exempt credit. In extraordinary circumstances, however, the block positioner could consult the Reserve Bank in whose district its office is situated as to whether stock positioned over a slightly longer period constitutes a single block in such a case the block positioner should, of course, disclose all relevant circumstances to the Reserve Bank.

(d) The second question related to the computation of the period of 20 business days, specified in § 221.3(z)(3), in which exempt credit may remain outstanding for positioning a block of stock.

(e) The Board is of the view that the computation of such 20-day period shall commence on the business day following the date of trade.

(Interprets and applies 12 CFR 221.3(z))

By order of the Board of Governors, November 2, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-19518 Filed 11-13-72;8:48 am]

[Reg. Z]

PART 226—TRUTH IN LENDING

Exemption of Certain State Regulated Transactions

1. Effective November 6, 1972, Supplement III to Regulation Z (§ 226.12—Supplement) is amended by adding paragraph (f) as follows:

§ 226.12 Exemption of certain State regulated transactions.

• • • • • •

(f) *Wyoming.* Except as provided in § 226.12(c), all classes of credit transactions within the State of Wyoming are hereby granted an exemption from the requirements of Chapter 2 of the Truth in Lending Act effective November 6, 1972, with the following exceptions:

(1) Transactions in which a federally chartered institution is a creditor;

(2) Consumer credit sales of insurance by an insurer in which the insurer is a creditor;

(3) Transactions in which a common carrier is a creditor; and,

(4) Consumer loan transactions in which a licensed pawnbroker is a creditor.

2a. The purpose of this amendment is to exempt certain credit transactions in the State of Wyoming from the requirements of Chapter 2 of the Truth in Lending Act (Title I of the Consumer Credit Protection Act (15 U.S.C. 1601ff)).

b. Pursuant to the provisions of 12 CFR 226.12 (Supplement II to Part 226 (Regulation Z)), the State of Wyoming applied to the Board for an exemption from the Truth in Lending Act; notice of receipt of the application was published in the FEDERAL REGISTER of August 10, 1972 (37 F.R. 16134). The Board granted this exemption after consideration of all relevant material, including communications from interested persons. The effective date of the exemption was deferred for less than the 30-day period referred to in section 553(d) of title 5, United States Code. The Board found that the amendment essentially involves no change in a substantive rule and deferral of the date beyond that adopted by the Board would serve no useful purpose.

By order of the Board of Governors, October 31, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-19517 Filed 11-13-72;8:48 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 12341; Amdt. 39-1558]

PART 39—AIRWORTHINESS DIRECTIVES

SIAI Marchetti Model S.205 Airplanes

There have been reports of cracks in the weld area of the reinforcement sheet for the longer cross members of the main landing gear on SIAI Marchetti Model S. 205 airplanes that could result in failure of the main landing gear on landing. Since this condition is likely to exist or develop in other airplanes of the same

type design, an airworthiness directive is being issued to require inspections of these cross members for cracking in the

inforcement sheet of the main landing gear cross members, P/N's 205-9-012 and 205-9-013, for cracks using dye penetrant in ac-

[Airspace Docket No. 72-SO-85]

PART 71—DESIGNATION OF FEDERAL

that airspace within Area K." The correct entry should have been "• • • excluding that airspace west of the Pacific

Title 19—CUSTOMS DUTIES

and $36.90, respectively, per 2,240 pounds of sugar content.

The net amount of bounties or grants

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type design, an airworthiness directive is being issued to require inspections of these cross members for cracking in the weld area of the reinforcement sheets and replacement, as necessary, on SIAI Marchetti Model S.205 airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and contrary to the public interest and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR § 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

SIAI MARCHETTI. Applies to all models of SIAI Marchetti S.205 airplanes, serial numbers 001 thru 003; 101 thru 399; 4–101 thru 4–282, and 4–285, except serial numbers which incorporate new design main landing gear cross members P/N's 205–9–012–05 and 205–9–013–05 or main landing gear cross members which have been reinforced by SIAI Marchetti in accordance with SIAI Marchetti Service Bulletin No. 205B36, dated June 28, 1972. Compliance required as indicated.

To detect cracks in the main landing gear cross members, P/N's 205–9–012 and 205–9–013, in the weld area of the longer cross member reinforcement sheet, accomplish the following:

(a) Before further flight, install a placard in clear view of the pilot prohibiting flight after a hard landing until the inspection and repairs required by this AD have been accomplished.

(b) Within the next 10 hours' time in service after the effective date of this AD, unless already accomplished within the last 90 hours' time in service, and thereafter at intervals not to exceed 100 hours' time in service from the last inspection, inspect the weld area of the reinforcement sheet of the longer arm of each of the main landing gear cross members, P/N's 205–9–012 and 205–9–013, for cracks using dye penetrant in accordance with SIAI Marchetti Service Bulletin No. 205B36, dated June 28, 1972, or an FAA-approved equivalent.

(c) If cracks equal to or longer than 0.79 inch are found during an inspection required by paragraph (b) or (e) of this section, before further flight, replace main landing gear cross members, P/N's 205–9–012 and 205–9–013 with either—

(1) New design main landing gear cross members, P/N's 205–9–012–05 and 205–9–013–05; or

(2) Main landing gear cross members, P/N's 205–9–012 and 205–9–013, which have been reinforced by SIAI Marchetti in accordance with SIAI Marchetti Service Bulletin No. 205B36, dated June 28, 1972; or

(3) An equivalent installation that has been approved by the Chief, Engineering and Manufacturing Branch of an FAA Region (or in the case of the Western Region, the Chief, Aircraft Engineering Division).

(d) If cracks less than 0.79 inches are found during an inspection required by paragraph (b) or (e) of this section, replace main landing gear cross members in accordance with paragraph (c) within the next 10 hours' time in service following the inspection.

(e) After each hard landing, before further flight, inspect the weld area of the longer reinforcement sheet of the main landing gear cross members, P/N's 205–9–012 and 205–9–013, for cracks using dye penetrant in accordance with SIAI Marchetti Service Bulletin No. 205B36, dated June 28, 1972, or an FAA-approved equivalent.

(f) The repetitive inspections required by this AD may be discontinued, and the placard required by this AD may be removed when—

(1) New design main landing gear cross members, P/N's 205–9–012–05 and 205–9–013–05 are installed, or

(2) Main landing gear cross members, P/N's 205–9–012 and 205–9–013, which have been reinforced by SIAI Marchetti in accordance with SIAI Marchetti Service Bulletin No. 205B36, dated June 28, 1972, are installed; or

(3) There has been an equivalent installation that has been approved by the Chief, Engineering and Manufacturing Branch of an FAA Region (or in the case of the Western Region, the Chief, Aircraft Engineering Division).

This amendment becomes effective November 20, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, and 1423; sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 7, 1972.

C. R. MELUGIN, JR.,
Acting Director,
Flight Standards Division.

[FR Doc.72-19475 Filed 11-13-72;8:45 am]

[Airspace Docket No. 72-EA-44]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Control Zone

The Federal Aviation Administration is amending § 71.171 of Part 71 of the Federal Aviation Regulations so as to amend the effective date of the Westhampton Beach, N.Y., control zone.

Due to a delay in the commissioning date of weather-observing equipment, the effective date of the control zone must be delayed.

Since this amendment is relaxatory in nature, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In view of the foregoing, amend the Westhampton Beach, N.Y., control zone effective upon publication in the FEDERAL REGISTER (11–10–72) by deleting the date October 12, 1972, and inserting in lieu thereof the date December 7, 1972.

Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348), sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on October 30, 1972.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.72-19462 Filed 11-13-72;8:45 am]

[Airspace Docket No. 72-SO-85]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On September 9, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 18396), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that alter the Laurinburg, N.C., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

Subsequent to publication of the notice, the geographic coordinates of the Rocky Ford RBN was refined to "latitude 34°45'28" N., longitude 79°24'40" W., and the procedure turn bearing was refined to the "225°" from Rocky Ford RBN. It is necessary to alter the description to reflect these changes. Since these amendments are minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., February 1, 1973, as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the Laurinburg, N.C., transition area is amended as follows:

"• • • southeast of the VORTAC • • •" is deleted and "• • • southeast of the VORTAC; within 3 miles each side of the 225° bearing from Rocky Ford RBN (lat. 34°45'28" N., long. 79°24'40" W.), extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN • • •" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on November 2, 1972.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.72-19476 Filed 11-13-72;8:45 am]

[Airspace Docket No. 72-WA-10]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Terminal Control Area at San Francisco, Calif.

On October 17, 1972, F.R. Doc. 72–17641 was published in the FEDERAL REGISTER (37 F.R. 21928), designating the San Francisco, Calif., Group I Terminal Control Area (TCA) effective December 11, 1972.

In the description of Area A, a portion of the airspace to be excluded was incorrectly identified as "• • • excluding that airspace within Area K." The correct entry should have been "• • • excluding that airspace west of the Pacific coast shoreline." Action is taken herein to correct the error

Since this amendment is editorial in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective on less than 30-day notice.

In consideration of the foregoing, F.R. Doc. 72–17641 (37 F.R. 21928) is amended, effective upon publication in the FEDERAL REGISTER (11–10–72) as hereinafter set forth.

In Area A, line 11 delete "excluding that airspace within Area K." and substitute "excluding that airspace west of the Pacific coast shoreline." therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 7, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-19477 Filed 11-13-72;8:45 am]

[Airspace Docket No. 72-SW-44]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Jet Route Segment

On September 9, 1972, a notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER (37 F.R. 18397) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 75 of the Federal Aviation Regulations that would realign a segment of Jet Route No. 92 between Phoenix, Ariz., and Tucson, Ariz., via Casa Grande, Ariz.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 4, 1973, as hereinafter set forth.

In § 75.100 (37 F.R. 2382) Jet Route No. 92 is altered as follows:

"To Tucson, Ariz." is deleted and "Casa Grande, Ariz.; INT of Casa Grande 145° and Tucson 298° radials to Tucson, Ariz." is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 7, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-19478 Filed 11-13-72;8:45 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 72-314]

PART 16—LIQUIDATION OF DUTIES

Countervailing Duties—Sugar Content of Certain Articles From Australia

The Treasury Department is in receipt of official information that the rates of bounties or grants paid or bestowed by the Australian Government within the meaning of section 303, Tariff Act of 1930 (19 U.S.C. 1303), on the exportation during the months of June, July, and August 1972, of approved fruit products and other approved products containing sugar amount to Australian $11, $20.50, and $36.90, respectively, per 2,240 pounds of sugar content.

The net amount of bounties or grants on the above-described commodities which are manufactured or produced in Australia is hereby ascertained, determined, and declared to be the rates stated above. Additional duties on the above-described commodities, except those commodities covered by T.D. 55716 (27 F.R. 9595), whether imported directly or indirectly from that country, equal to the net amounts of the bounty shown above shall be assessed and collected.

The table in § 16.24(g) under "Australia—Sugar content of certain articles" is amended: (1) by deleting therefrom the reference to T.D. 71–276, and (2) by adding a reference to this Treasury decision. As amended the last three lines of the table under this commodity will read:

Country	Commodity	Treasury Decision	Action
		72-61	New rate.
		72-187	New rate.
		72-314	New rate.

(R.S. 251, secs. 303, 624, 46 Stat. 687, 759; 19 U.S.C. 66, 1303, 1624)

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: October 31, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-19543 Filed 11-13-72;8:51 am]

Title 31—MONEY AND FINANCE

Chapter II—Fiscal Service, Department of the Treasury

SUBCHAPTER B—BUREAU OF THE PUBLIC DEBT

PART 344—REGULATIONS GOVERNING U.S. TREASURY CERTIFICATES OF INDEBTEDNESS—STATE AND LOCAL GOVERNMENT SERIES, AND U.S. TREASURY NOTES—STATE AND LOCAL GOVERNMENT SERIES

Miscellaneous Amendments

Sections 344.1(b) (1) and (2), 344.2 and 344.3 of Department of the Treasury Circular, Public Debt Series No. 3–72, dated May 22, 1972 (31 CFR Part 344), have been amended and revised to read as follows:

§ 344.1 Description of securities.

• • • • • •

(b) *Terms and rates of interest*—(1) *Certificates of indebtedness.* The certificates will be issued in multiples of $5,000 with periods of maturity fixed, at the option of the government body, for (i) 3 months, (ii) 6 months, (iii) 9 months, or (iv) 1 year. Each certificate will bear such rate of interest as the government body may designate; *Provided*, That it shall not be more than the current Treasury rate on a comparable maturity, reduced by one-eighth of 1 percent, on the date the subscription is submitted. The applicable Treasury rates will be determined by the Treasury not less often than monthly, and will be available at Federal Reserve Banks and Branches. Interest on the certificates will be computed on an annual basis and will be payable at maturity with the principal amount.

(2) *Notes.* The notes will be issued in multiples of $5,000 with periods of maturity fixed, at the option of the government body, from 1 year 6 months up to and including 7 years, or for any intervening half-yearly period. Each note will bear such rate of interest as the government body may designate: *Provided*, That it shall not be more than the current Treasury rate on a comparable maturity, reduced by one-eighth of 1 percent, on the date the subscription is submitted. The applicable Treasury rates will be determined by the Treasury not less often than monthly, and will be available at Federal Reserve Banks and Branches. Interest on the notes will be payable on a semiannual basis by Treasury check on June 1 and December 1, and at maturity if other than June 1 or December 1. Final interest will be paid with the principal.

§ 344.2 Subscription for purchase.

A government body may purchase a security under this offering by submitting a subscription and making payment

to a Federal Reserve Bank or Branch. The subscription, dated and signed by an official authorized to make the purchase, must state the amount, issue date, and maturity of the security to be purchased. Payment must be made in accordance with the provisions of the subscription.

§ 344.3 Allotment.

The Secretary of the Treasury reserves the right to reject any subscription, in whole or in part, and to allot less than the amount of securities applied for. Any subscription will be accepted in full for an amount not exceeding $1,000 and allotments in excess of $1,000 will be made in accordance with the following schedule:

Amount applied for	Amount allotted
$1,000	$1,000
$1,001 to $5,000	$1,000
$5,001 to $10,000	$5,000
$10,001 to $50,000	$10,000
$50,001 to $100,000	$50,000
$100,001 to $500,000	$100,000
$500,001 to $1,000,000	$500,000
$1,000,001 to $5,000,000	$1,000,000
$5,000,001 to $10,000,000	$5,000,000

§ 344.4 Payment and delivery.

(a) *Payment.* Payment for the securities allotted must be made on or before the issue date. Payment may be made by a check drawn to the order of the Federal Reserve Bank or Branch to which the subscription is submitted, or by a credit in an account with the Federal Reserve Bank or Branch. Payment may not be made by a check drawn on the account of the United States Government or any of its agencies. Payment may not be made by a check drawn on the account of the government body unless the check is certified by the drawee bank.

(b) *Delivery.* Delivery of the securities will be made at the Federal Reserve Bank or Branch to which the subscription is submitted, or at the option of the government body, will be made by mail at the risk and expense of the government body.

§ 344.5 Redemption.

(a) *Redemption at option of the government body.* Certificates of indebtedness and notes may be redeemed at the option of the government body, in whole or in part, on any interest payment date on or after the date specified in the offering circular, upon notice given not more than 60 days nor less than 15 days prior to the redemption date.

(b) *Redemption at option of the Secretary of the Treasury.* Certificates of indebtedness and notes may be redeemed at the option of the Secretary of the Treasury, in whole or in part, on any interest payment date on or after the date specified in the offering circular, upon notice given not more than 60 days nor less than 15 days prior to the redemption date.

(c) *Redemption at maturity.* Certificates of indebtedness and notes will be redeemed at their face amount with interest on the maturity date.

(d) *Redemption before maturity.* Certificates of indebtedness and notes may be redeemed before maturity in accordance with the terms and conditions set forth in the offering circular.

§ 344.6 Transferability.

The securities are not transferable.

§ 344.7 Exemption from taxation.

The securities are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

§ 344.8 Offering circular.

The Secretary of the Treasury may prescribe an offering circular containing such terms and conditions as he may deem necessary and consistent with this part.

§ 344.9 Amendments.

The Secretary of the Treasury may amend, at any time, any provision of this part, but no amendment shall adversely affect the rights of holders of securities issued prior to the amendment.

(5 U.S.C. 301; 31 U.S.C. 742)

Dated: November 9, 1972.

JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[FR Doc.72-19544 Filed 11-13-72;8:51 am]

(h) *Clearance finding by Regional Board.* A Clearance Recommendation or a Clearance Notice Report will, upon its approval by the Director, Division of Renegotiating, be submitted by him to the Secretary of one of the Departments to eliminate such excessive profits by any of the methods set forth in section 105(b) of the act.

Due to a delay in the commissioning date of weather-observing equipment, the effective date of the control zone must be delayed.

Since this amendment is relaxatory in nature, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In view of the foregoing, amend the Westhampton Beach, N.Y., control zone effective upon publication in the FEDERAL REGISTER (11–10–72) by deleting the date October 12, 1972, and inserting in lieu thereof the date December 7, 1972.

Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348), sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on October 30, 1972.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.72-19462 Filed 11-13-72;8:45 am]

[Airspace Docket No. 72-SO-85]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On September 9, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 18396), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that alter the Laurinburg, N.C., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

Subsequent to publication of the notice, the geographic coordinates of the Rocky Ford RBN was refined to "latitude 34°45'28" N., longitude 79°24'40" W., and the procedure turn bearing was refined to the "225°" from Rocky Ford RBN. It is necessary to alter the description to reflect these changes. Since these amendments are minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., February 1, 1973, as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the Laurinburg, N.C., transition area is amended as follows:

"• • • southeast of the VORTAC • • •" is deleted and "• • • southeast of the VORTAC; within 3 miles each side of the 225° bearing from Rocky Ford RBN (lat. 34°45'28" N., long. 79°24'40" W.), extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN • • •" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on November 2, 1972.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.72-19476 Filed 11-13-72;8:45 am]

[Airspace Docket No. 72-WA-10]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Terminal Control Area at San Francisco, Calif.

On October 17, 1972, F.R. Doc. 72–17641 was published in the FEDERAL REGISTER (37 F.R. 21928), designating the San Francisco, Calif., Group I Terminal Control Area (TCA) effective December 11, 1972.

In the description of Area A, a portion of the airspace to be excluded was incorrectly identified as "• • • excluding that airspace within Area K." The correct entry should have been "• • • excluding that airspace west of the Pacific coast shoreline." Action is taken herein to correct the error

Since this amendment is editorial in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective on less than 30-day notice.

In consideration of the foregoing, F.R. Doc. 72–17641 (37 F.R. 21928) is amended, effective upon publication in the FEDERAL REGISTER (11–10–72) as hereinafter set forth.

In Area A, line 11 delete "excluding that airspace within Area K." and substitute "excluding that airspace west of the Pacific coast shoreline." therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 7, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-19478 Filed 11-13-72;8:45 am]

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to a Federal Reserve Bank or Branch. The subscription, dated and signed by an official authorized to make the purchase, must state the amount, issue date, maturity, and interest rate of the security desired, and must give the title of the designated official authorized to redeem it. Separate subscriptions must be submitted for certificates and notes, and for securities of each maturity and each interest rate. A commercial bank may act on behalf of a government body in submitting subscriptions.

§ 344.3 Issue date and payment.

The issue date of a security will be the date requested by the subscriber: *Provided*, That date is not more than 3 weeks after the date of the subscription, and provided funds in full payment are available on that date at the Federal Reserve Bank or Branch to which the subscription was submitted.

The foregoing amendments were effected under authority of 26 U.S.C. 103(d), 83 Stat. 656; 31 U.S.C. 753, 754, 754b, and 5 U.S.C. 301. Notice and public procedures thereon are unnecessary as public property and contracts are involved.

Dated: November 8, 1972.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[FR Doc.72-19508 Filed 11-13-72;8:47 am]

Title 32—NATIONAL DEFENSE

Chapter XIV—Renegotiation Board

SUBCHAPTER B—RENEGOTIATION BOARD REGULATIONS UNDER THE 1951 ACT

MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

Subchapter B of Chapter XIV of Title 32 is amended as follows:

PART 1461—RECOVERY OF EXCESSIVE PROFITS AFTER DETERMINATION

§ 1461.3 [Amended]

Section 1461.3 *Recovery of refund pursuant to unilateral order* is amended by deleting the first sentence and inserting in lieu thereof the following:

Pursuant to section 105(b)(2) of the act, interest shall accrue and be payable on the amount of excessive profits determined from the 30th calendar day after the date of the order of the Board.

Section 1461.5 *Administration of determinations by agreement or order is* amended by deleting paragraph (b) in its entirety and inserting in lieu thereof the following:

§ 1461.5 Administration of determinations by agreement or order.

* * * * *

(b) When an agreement is made or an order is issued and entered, determining excessive profits, the Board will direct the Secretary of one of the Departments to eliminate such excessive profits by any of the methods set forth in section 105(b) of the act.

* * * * *

PART 1471—ASSIGNMENT OF CONTRACTORS FOR RENEGOTIATION

§ 1471.2 [Amended]

Section 1471.2 *How assignment is made* is amended as follows:

1. Paragraph (b) is amended by deleting the second and fourth sentences thereof.

2. Paragraph (d) is amended by deleting the second sentence thereof.

PART 1472—CONDUCT OF RENEGOTIATION

Section 1472.3 *Conduct of renegotiation by Regional Board* is deleted in its entirety and the following is inserted in lieu thereof:

§ 1472.3 Conduct of renegotiation by Regional Board.

(a) *Submission of additional information; preliminary meetings.* After a case has been assigned to a Regional Board for renegotiation, the Regional Board personnel assigned to the case will examine the Standard Form of Contractor's Report and other information submitted by the contractor and will determine what additional information is needed. When necessary, a preliminary meeting or meetings will be held with the contractor to discuss the information and data to be submitted by the contractor and the manner in which it is to be submitted. The contractor shall also be entitled in any case to submit, and in cases deemed appropriate will be invited at an appropriate stage in the proceedings to submit, a statement setting forth such further information, data, and representations as it may desire to have taken into consideration under the factors prescribed in section 103(e) of the act, and explained in Parts 1460 and 1490 of this chapter. A reasonable opportunity will be provided for the submission of any information, data or representations that the contractor may be requested or invited to submit.

(b) *Disputed issues.* Before completing the reports described in paragraphs (e), (f), (g), and (i) of this section, the Regional Board personnel assigned to the case will endeavor to resolve with the contractor any issues or disputed matters of fact, law, or accounting. Upon its request, the contractor will be afforded a reasonable opportunity to present to such Regional Board personnel, both orally and in writing, any statements or arguments which the contractor desires to submit in support of its position on any such issues or matters.

(c) *Plant inspection.* In cases deemed appropriate or, in any event, in any case in which there exists a possibility of excessive profits, Regional Board personnel will, whenever practicable, with the consent of the contractor, visit and inspect the appropriate plant or site of the contractor, unless a visit of reasonably recent date was made to such plant or site in connection with the renegotiation of the contractor for an earlier fiscal year. Generally, a plant visit, if undertaken, will be made before the completion of the Renegotiation Report pursuant to paragraph (i) of this section.

(d) *Regional Board member as renegotiator.* A Regional Board member who serves as the assigned renegotiator in a case will not be eligible thereafter to serve as a member of a panel of the Regional Board constituted pursuant to paragraph (l) of this section or to vote as a member of the Regional Board in the final disposition of the case.

(e) *Accounting Report.* Except as provided in paragraph (g) of this section, after all relevant financial, accounting and related information has been obtained, the Regional Board accountant assigned to a case will prepare an Accounting Report which will include pertinent financial schedules and accounting data. A copy of the Accounting Report will be furnished to the contractor by the Director, Division of Accounting, after his approval thereof and after such furnishing is authorized by the Chairman of the Regional Board. The letter transmitting the Accounting Report will request the contractor to state, within a fixed time, its concurrence in or its objections to the Statement of Income (Schedule A) included in such report, and will invite its comments upon any other matters set forth therein. A copy of any modification thereafter made of the Accounting Report will be furnished to the contractor by the Director, Division of Accounting, after his approval thereof and after such furnishing is authorized by the Chairman of the Regional Board. The contractor will be requested to state its concurrence in or its objections to such modification.

(f) *Clearance Recommendation by renegotiator.* Except as provided in paragraph (g) of this section, if the renegotiator assigned to a case, after considering the Accounting Report, all information and data submitted by the contractor, and all relevant procurement, performance and other information that shall have been obtained, concludes that the contractor did not realize excessive profits in the fiscal year under review, he will prepare a Clearance Recommendation which will include an analysis of the case under the statutory factors. A Clearance Recommendation will not be furnished to the contractor.

(g) *Clearance Notice Report.* Notwithstanding the provisions of paragraph (e) or (f) of this section, and in lieu of preparing an Accounting Report and a Clearance Recommendation as provided therein, the renegotiator and accountant assigned to a case will prepare a Clearance Notice Report (i.e., a short form recommendation of clearance) in any case in which they consider such a report appropriate. A Clearance Notice Report will not be furnished to the contractor.

(h) *Clearance finding by Regional Board.* A Clearance Recommendation or a Clearance Notice Report will, upon its approval by the Director, Division of Renegotiating, be submitted by him to the Regional Board for consideration. If the Regional Board approves the Clearance Recommendation or the Clearance Notice Report and finds that the contractor did not realize any excessive profits, it will notify the contractor to that effect by registered mail and at the same time will provide the contractor with a Memorandum of Decision stating the basis for the finding, as provided in § 1477.3 of this chapter. Thereupon, the clearance procedure set forth in Part 1473 of this chapter will be followed. If the Regional Board declines to approve a Clearance Recommendation, an Accounting Report and a Renegotiation Report will be prepared, which will be subject to the provisions of paragraphs (e) and (i) of this section.

(i) *Renegotiation Report.* If the renegotiator assigned to the case, after considering the Accounting Report, all information and data submitted by the contractor, and all relevant procurement, performance and other information that shall have been obtained, concludes that the contractor realized excessive profits in the fiscal year under review, he will prepare a Renegotiation Report which will include an analysis and evaluation of the case under the statutory factors and a recommendation with respect to the amount of such excessive profits. Similarly, if the Regional Board declines to approve a Clearance Recommendation or a Clearance Notice Report submitted pursuant to paragraph (h) of this section, a Renegotiation Report will be prepared. A copy of the Renegotiation Report will be furnished to the contractor by the Director, Division of Renegotiating, after his approval thereof and after such furnishing is authorized by the Chairman of the Regional Board.

(j) *Renegotiation conference.* After the Renegotiation Report has been furnished to the contractor, a renegotiation conference will be held with the contractor by the Regional Board personnel assigned to the case, unless the contractor fails or declines to attend such a conference. At the conference the contractor will be afforded an opportunity to discuss the Renegotiation Report and any accounting adjustments reflected in the Accounting Report, as well as any information and data previously submitted by the contractor or otherwise obtained by the Regional Board, and any other matters considered pertinent to the case; and the possibilities of an agreement to eliminate excessive profits will be explored by the contractor. Whether or not a renegotiation conference is held, the contractor will be requested to state in writing, within a fixed time, whether the contractor is or is not willing to enter into an agreement to eliminate excessive profits.

(k) *Regional Board action without panel meeting.* (1) After such notification from the contractor, and any further negotiations with the contractor, or upon the failure of the contractor to furnish such notification within the time fixed therefor, the Director, Division of Accounting, will submit the Accounting Report and the Director, Division of Renegotiating, will submit the Renegotiation Report to the Regional Board, including any modifications of either thereof made as a result of the renegotiation conference or otherwise. At the same time, the Director, Division of Renegotiating, will notify the contractor in writing of the submission of such reports to the Regional Board, including the recommendation with respect to the existence and amount of excessive profits. Unless the contractor shall have advised that it is willing to enter into an agreement to eliminate excessive profits in the amount of such recommendation, or unless the recommendation is a clearance recommendation, the letter of notification to the contractor will request the contractor to state, within a fixed time, whether it desires to meet with a panel of the Regional Board as provided in paragraph (l) of this section.

(2) If the contractor shall have advised that it is willing to enter into an agreement to eliminate excessive profits in the amount recommended to the Regional Board, and the Regional Board approves such recommendation, the procedure set forth in Part 1474 of this chapter for the making of an agreement will be followed.

(3) If the contractor shall have advised that it is willing to enter into an agreement to eliminate excessive profits in the amount recommended to the Regional Board, but the Regional Board declines to approve such recommendation, the Regional Board will notify the contractor in writing to that effect, and of its reasons for such action, and will request the contractor to state, within a fixed time, whether it desires to meet with a panel of the Regional Board as provided in paragraph (l) of this section.

(4)(i) If within the time fixed therefor the contractor does not request a meeting with a panel, the Regional Board will, when appropriate, explore with the contractor the possibilities of an agreement to eliminate excessive profits, and, if agreement is reached, will follow the procedure set forth in part 1474 of this chapter for the making of an agreement. Otherwise, the Regional Board will make a finding with respect to the amount of excessive profits, if any, of the contractor for the fiscal year under review, and will notify the contractor by registered mail of such finding. At the same time, the Regional Board will provide the contractor with a Memorandum of Decision stating the basis for such finding, as provided in § 1477.3 of this chapter. The finding of the Regional Board may be in an amount greater than, equal to, or less than the amount recommended to the Regional Board.

(ii) If the finding of the Regional Board is that the contractor did not realize any excessive profits, the clearance procedure set forth in part 1473 of this chapter will be followed.

(iii) If the finding of the Regional Board is that the contractor realized excessive profits, it will afford the contractor a reasonable time, to be fixed by the Regional Board, to notify the Regional Board whether it is or is not willing to enter into a refund agreement. If agreement is reached, the procedure set forth in part 1474 of this chapter for the making of an agreement will be followed. If agreement is not reached, or upon the failure of the contractor to furnish the requested notification within the time fixed therefor by the Regional Board, the procedure set forth in part 1475 of this chapter will be followed.

(l) *Panel meeting.* In any case in which the contractor has not indicated its willingness to enter into an agreement to eliminate excessive profits in the amount recommended in the Renegotiation Report, or in which the Regional Board has declined to approve the recommendation made therein and agreed to by the contractor, the contractor shall be entitled at its request, made within the time fixed pursuant to paragraph (k) (1) or (3) of this section, to meet with a panel of the Regional Board. Any written argument or other presentation which the contractor desires to submit to a panel, in addition to the material previously submitted by the contractor, should, whenever possible, be filed with the chairman of the panel reasonably in advance of the meeting. At the meeting the contractor will be afforded an opportunity to be heard on all matters considered pertinent to the case, including any unresolved issues or matters of fact, law or accounting; and again, when appropriate, the possibilities of an agreement to eliminate excessive profits will be explored with the contractor.

(m) *Regional Board action after panel meeting.* (1) After the panel meeting provided in paragraph (l) of this section has been held, the panel will submit to the Regional Board its recommendation for final disposition of the case. If the contractor shall have advised that it is willing to enter into an agreement to eliminate excessive profits in the amount recommended to the Regional Board by the panel, and the Regional Board approves such recommendation, or if agreement is otherwise reached by the Regional Board and the contractor with respect to the amount of excessive profits to be eliminated, the procedure set forth in Part 1474 of this chapter for the making of an agreement will be followed. Otherwise, the Regional Board will make a finding with respect to the amount of excessive profits, if any, for the fiscal year under review, and will notify the contractor by registered mail of such finding; and at the same time, the Regional Board will provide the contractor with a Memorandum of Decision stating the basis for the finding, as provided in § 1477.3 of this chapter. The finding of the Regional Board may be in an amount

greater than, equal to, or less than the amount recommended by the panel.

(2) If the finding of the Regional Board is that the contractor did not realize any excessive profits, the clearance procedure set forth in part 1473 of this chapter will be followed.

(3) If the finding of the Regional Board is that the contractor realized excessive profits, it will afford the contractor a reasonable time, to be fixed by the Regional Board, to notify the Regional Board whether it is or is not willing to enter into a refund agreement. If agreement is reached, the procedure set forth in part 1474 of this chapter for the making of an agreement will be followed. If agreement is not reached, or upon the failure of the contractor to furnish the requested notification within the time fixed therefor by the Regional Board, the procedure set forth in part 1475 of this chapter will be followed.

(n) *Finality of Regional Board action.* Except as provided in § 1473.1 of this chapter, the action of the Regional Board in finding that the contractor did not realize excessive profits, or in finding that the contractor realized excessive profits and in eliminating such profits by agreement, shall be final, and no appeal may be taken therefrom.

(o) *Order of Board.* If the Regional Board finds that the contractor realized excessive profits and is unwilling to enter into an agreement to eliminate such profits, the Regional Board will submit to the Board its recommendation for final disposition of the case. The Board will thereupon enter an order determining the amount of excessive profits, if any, realized by the contractor for the fiscal year under review, and will notify the contractor by registered mail of such order. At the same time, the Board will provide the contractor with a Memorandum of Decision stating the basis for such order, as provided in § 1477.3 of this chapter. The order of the Board may be in an amount greater than, equal to, or less than the amount recommended by the Regional Board.

(p) *Finality of Board action.* Except as provided in § 1473.1 of this chapter, the action of the Board in finding that the contractor did not realize excessive profits, or in finding that the contractor realized excessive profits and in eliminating such profits by agreement, shall be final, and no appeal may be taken therefrom.

(q) *Order of Board.* If the Board finds that the contractor realized excessive profits and is unwilling to enter into an agreement to eliminate such profits, the Board will enter an order determining the amount of excessive profits, if any, realized by the contractor for the fiscal year under review, and will notify the contractor by registered mail of such order. At the same time, the Board will provide the contractor with a Memorandum of Decision stating the basis for such order, as provided in § 1477.3 of this chapter. The order of the Board may be in an amount greater than, equal to, or less than the amount recommended by the Regional Board.

§ 1473.1 When clearance procedure used.

Section 1475.4 *Determination by Board* is deleted in its entirety and the following is inserted in lieu thereof:

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greater than, equal to, or less than the amount recommended by the panel.

(2) If the finding of the Regional Board is that the contractor did not realize any excessive profits, the clearance procedure set forth in Part 1473 of this chapter will be followed.

(3) If the finding of the Regional Board is that the contractor realized excessive profits, it will afford the contractor a reasonable time to notify the Regional Board whether it is or is not willing to enter into a refund agreement. If agreement is reached, the procedure set forth in Part 1474 of this chapter for the making of an agreement will be followed. If agreement is not reached, or upon the failure of the contractor to furnish the requested notification within the time fixed therefor by the Regional Board, the procedure set forth in Part 1475 of this chapter will be followed.

Section 1472.4 *Conduct of renegotiation by Board* is deleted in its entirety and the following is inserted in lieu thereof:

§ 1472.4 Conduct of renegotiation by Board.

(a) *Reasons for reassignment from a Regional Board.* A case will be reassigned from a Regional Board to the Board for further proceedings when (1) a Regional Board in a Class A case makes a clearance recommendation or a refund recommendation (see §§ 1472.2(a), 1474.3 (b), and 1475.3 of this chapter); or (2) when a Regional Board makes a finding of excessive profits in a Class B case and the contractor declines to enter into a refund agreement; or (3) the Board considers for any other reason that the further proceedings in the case should be conducted by the Board rather than by the Regional Board to which the case has been previously assigned.

(b) *Proceedings before the Board or a division of the Board.*—(1) *Assignment and processing.* Generally, once a case has been reassigned from a Regional Board, it will be assigned to the Board itself or to a division of the Board. The Board or the division will study the information and data assembled by the Regional Board and will determine what additional information or data, if any, is needed. Such additional information and data will be secured and an independent study of the case will be conducted. The Board or the division, as the case may be, will not be bound or limited in any manner by any evaluation or recommendation of the Regional Board.

(2) *Meeting with the Board or a division of the Board.* In every case reassigned pursuant to § 1475.3 of this chapter or paragraph (a)(3) of this section, the contractor will be afforded an opportunity to meet with the Board or the assigned division of the Board before the final disposition of the case. Prior to such meeting, a Notice of Points for Presentation will or may be sent to the contractor as provided in § 1472.5(a) of this chapter. Any written argument or other presentation which the contractor desires to submit for consideration by the Board or the division, in addition to the material previously submitted by the contractor to the Regional Board, should, whenever possible, be filed with the Director, Office of Review, reasonably in advance of the meeting. Failure of the contractor to file information or arguments prior to the meeting will not preclude presentation thereof at the meeting. At the meeting the contractor will be afforded an opportunity to be heard on all matters considered pertinent to the case, including any unresolved issues or matters of fact, law of accounting. Also, when appropriate, the Board or the division will explore with the contractor the possibilities of an agreement to eliminate excessive profits.

(c) *Board action.* (1) After the meeting with the Board or a division of the Board as provided in paragraph (b)(2) of this section, or after it has been determined that no such meeting is required, the Board will take under consideration the final disposition of the case. In a case that has been assigned to a division, the division will submit a report to the Board, including the recommendation of the division and any proposals made by the contractor. If the contractor shall have advised that it is willing to enter into an agreement to eliminate excessive profits in the amount recommended to the Board by the division, and the Board approves such recommendation, or if agreement is reached by the Board and the contractor with respect to the amount of excessive profits to be eliminated, the procedure set forth in Part 1474 of this chapter for the making of an agreement will be followed. Otherwise, the Board will make a finding with respect to the amount of excessive profits, if any, for the fiscal year under review, and will notify the contractor by registered mail of such finding; and at the same time, the Board will provide the contractor with a Memorandum of Decision stating the basis for the finding, as provided in § 1477.3 of this chapter. The finding of the Board may be in an amount greater than, equal to, or less than the amount recommended by the division.

(2) If the finding of the Board is that the contractor did not realize any excessive profits, the clearance procedure set forth in Part 1473 of this chapter will be followed.

(3) If the finding of the Board is that the contractor realized excessive profits, it will afford the contractor a reasonable time to notify the Board whether it is or is not willing to enter into a refund agreement. If agreement is reached, the procedure set forth in Part 1474 of this chapter for the making of an agreement will be followed. If agreement is not reached, or upon the failure of the contractor to furnish the requested notification within the time fixed therefor by the Board, the procedure set forth in Part 1475 of this chapter for the issuance of an order will be followed. In the event of the issuance of an order, the contractor will be entitled, upon request, to a statement of the determination, of the facts used as a basis therefor, and of the reasons for such determination, as provided in § 1477.2 of this chapter.

§ 1472.5 [Amended]

Section 1472.5 *Notice of Points for Presentation* is amended as follows:

1. Paragraph (a) *When sent* is amended by deleting "§ 1472.4(c)" and inserting in lieu thereof "§ 1472.4(b)".

2. Paragraph (b) *Purpose* is amended by deleting "Board division" and "division" and inserting in lieu of each thereof "Board or division".

3. Paragraph (c) *Contents* is amended by deleting "Board division" in the first sentence and "division" in the third and fifth sentences and inserting in lieu of each thereof "Board or division".

4. Paragraph (d) *Effect* is amended by deleting the last sentence and inserting in lieu thereof a new sentence reading as follows:

(d) The Notice of Points for Presentation is not to be construed as a statement furnished pursuant to § 1477.2 or a Memorandum of Decision furnished pursuant to § 1477.3 of this chapter.

§ 1472.6 [Amended]

Section 1472.6 *Filing of information and requests by contractor* is amended in the following respects:

1. Paragraph (b) is amended by deleting subparagraph (2) *Requests* in its entirety and inserting in lieu thereof the following:

(b) • • •

(2) *Requests.* Requests which may be filed by the contractor include the following: requests for renegotiation on a consolidated basis, as provided in Part 1464 and § 1470.3(h) of this chapter; requests for modification of terms of payment, as provided in §§ 1474.6 and 1475.6 of this chapter, respectively; and requests for statements, as provided in § 1477.2 of this chapter.

2. Paragraph (d) *Place of filing* is amended by deleting subparagraphs (3) and (4) in their entirety and inserting in lieu thereof a new subparagraph (3) to read as follows:

(d) • • •

(3) *Filing of certain requests with Board.* Requests for statements pursuant to § 1477.2 of this chapter shall be filed with the Secretary to the Board at the principal office of the Board.

(3) Paragraph (e) *Time for filing* is amended by deleting the last sentence of subparagraph (4) *Extensions of time.*

PART 1473—CLEARANCE PROCEDURE

This part is deleted in its entirety and the following is inserted in lieu thereof:

Sec.
1473.1 When clearance procedure used.
1473.2 Procedure in Regional Board.
1473.3 Procedure in Board.
1473.4 Form of clearance.

AUTHORITY: Sections 1473.1 and 1473.4 issued under section 109, Public Law 9, 82d Cong. Interpret or apply section 105, Public Law 9, 92d Cong.

§ 1473.1 When clearance procedure used.

The procedure set forth in this part will be used when a Regional Board or the Board finds that the contractor has not realized excessive profits for a fiscal year.

§ 1473.2 Procedure in Regional Board.

(a) *Class A cases.* When a Regional Board finds in a Class A case that the contractor has not realized excessive profits for the fiscal year under review, the Regional Board will make and enter a recommendation of clearance and submit the case to the Board. The Regional Board will notify the contractor of the action taken by the Regional Board. The Board will reassign the case to itself and the procedure set forth in § 1472.4 of this chapter will be followed.

(b) *Class B cases.* When a Regional Board finds in a Class B case that the contractor has not realized excessive profits for the fiscal year under review, the Regional Board will issue a clearance to the contractor.

§ 1473.3 Procedure in Board.

When a case is reassigned to the Board pursuant to § 1472.4 of this chapter and the Board finds that the contractor did not realize excessive profits for the fiscal year under review, the Board will issue a clearance to the contractor.

§ 1473.4 Forms of clearance.

The Regional Board or the Board, as the case may be, will issue a clearance notice to the contractor when it has been found that the contractor has not realized excessive profits, unless such conclusion is conditioned upon the happening of subsequent events. In the latter case, a clearance agreement will be prepared and sent to the contractor. See §§ 1498.2(b), 1498.2(g)(4), and 1498.6 of this chapter.

PART 1474—AGREEMENT PROCEDURE

The Table of Contents for this part is amended by deleting the words "Determination by" each place such words appear and inserting in lieu thereof "Procedure in".

Section 1474.3 *Determination by Regional Board* is deleted in its entirety and the following is inserted in lieu thereof:

§ 1474.3 Procedure in Regional Board.

(a) *Preparation of agreement.* When agreement is reached between a Regional Board and the contractor with respect to the amount of excessive profits to be eliminated for a fiscal year, the Regional Board, in a Class A case, will make and enter a recommendation in such amount, and, in a Class B case, will approve the making of an agreement in such amount, and will prepare an agreement and submit it to the contractor for execution.

(b) *Class A cases.* In a Class A case, after the contractor has returned the agreement properly executed to the Regional Board, the Regional Board will submit the case to the Board, together with its recommendation and the agreement. The Board will reassign the case to itself and, if it is in accord with the recommendation, will execute the agreement on behalf of the Government. Otherwise, the procedure set forth in § 1472.4 of this chapter will be followed.

(c) *Class B cases.* In a Class B case, after the contractor has returned the agreement properly executed to the Regional Board, the Regional Board will execute the agreement on behalf of the Government.

Section 1474.4 *Determination by Board* is deleted in its entirety and the following is inserted in lieu thereof:

§ 1474.4 Procedure in Board.

When, after a case is reassigned to the Board pursuant to § 1472.4 of this chapter, agreement is reached between the Board and the contractor with respect to the amount of excessive profits to be eliminated for the fiscal year under review, the Board will prepare an agreement and submit it to the contractor for execution. Notwithstanding the preceding sentence, if in a Class A case the Board finds that the contractor realized excessive profits in the same amount as that embodied in an agreement executed by the contractor and submitted to the Board by the Regional Board pursuant to § 1474.3(a), the Board will execute such agreement on behalf of the Government.

§ 1474.5 [Amended]

Section 1474.5 *Finality of agreement* is amended by deleting therefrom "the amount determined by a Regional Board or the Board to be".

PART 1475—UNILATERAL ORDER PROCEDURE

The Table of Contents for this part is amended by deleting the words "Determination by" each place such words appear and inserting in lieu thereof "Procedure in".

§ 1475.2 [Amended]

Section 1475.2 *When unilateral order procedure is used* is amended by deleting "determines" and inserting in lieu thereof "finds".

Section 1475.3 *Determination by Regional Board* is deleted in its entirety and the following is inserted in lieu thereof:

§ 1475.3 Procedure in Regional Board.

When a Regional Board finds, in either a Class A or a Class B case, that the contractor has realized excessive profits and the contractor is unwilling to enter into an agreement for the refund of the amount of such excessive profits, the Regional Board will make and enter a recommendation in such amount and submit the case to the Board. The Board will reassign the case to itself and the procedure set forth in § 1472.4 of this chapter will be followed.

Section 1475.4 *Determination by Board* is deleted in its entirety and the following is inserted in lieu thereof:

§ 1475.4 Procedure in Board.

When, after a Class A or Class B case has been reassigned to the Board pursuant to § 1472.4 of this chapter, the Board finds that the contractor realized excessive profits for the fiscal year under review and the contractor is unwilling to enter into a refund agreement, the Board will issue a unilateral order determining the excessive profits and will give notice thereof by registered mail to the contractor.

PART 1477—STATEMENTS TO CONTRACTORS

§ 1477.2 [Amended]

Section 1477.2 *Furnishing of statements pursuant to statutory provision* is amended by deleting the second sentence thereof.

Section 1477.3 *Furnishing of other statements* is deleted in its entirety and the following is inserted in lieu thereof:

§ 1477.3 Furnishing of other statements.

A Memorandum of Decision stating the basis for a finding of the Board or a Regional Board, as the case may be, with respect to the existence and amount of excessive profits realized by a contractor in a fiscal year, will be issued as provided in §§ 1472.3 and 1472.4 of this chapter.

PART 1480—AVAILABILITY AND CONTROL OF RENEGOTIATION RECORDS AND INFORMATION

Section 1480.5 *Public inspection of records;* index is amended by inserting subparagraph (15) immediately before the last sentence of paragraph (a) thereof the following:

§ 1480.5 Public inspection of records; index.

(a) • • •

(15) Memoranda of decision.

• • • • •

PART 1498—FORMS RELATING TO AGREEMENTS AND ORDERS

This part is amended as follows:

1. The Table of Contents for this part is amended by deleting all that follows "1498.6 Clearance notice" and inserting in lieu thereof the following:

Sec.
1498.7 Notice of clearance recommendation by Regional Board (Class A case).
1498.8 Letter not to proceed (Regional Board).
1498.9 [Reserved]
1498.10 [Reserved]
1498.11 [Reserved]

§ 1498.6 [Amended]

2. Section 1498.6 *Clearance notice* is amended in the following respects:

(a) The heading of paragraph (a) *"Class A case"* is changed to *"Class B case"*.

Title 40—PROTECTION OF ENVIRONMENT

0.1 part per million in or on corn grain (except popcorn grain).

Dated: November 6, 1972.

be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief

ices from or through supply sources which are established by law or other competent authority. It does not include policies and procedures pertaining to the

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications

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(a) The heading of paragraph (a) *"Class A case"* is changed to *"Class B case"*.

(b) Paragraph 2 of the notice form set forth therein is deleted in its entirety and the following is inserted in lieu thereof:

(2) This determination has been made by this Regional Board pursuant to due delegation of authority.

(c) Paragraph (b) *Class B case* is deleted in its entirety.

(d) Paragraph (c) *Clearance without assignment* is redesignated paragraph (b).

3. Section 1498.7 *Notice of clearance determination by Regional Board (Class A case)* is deleted in its entirety and the following is inserted in lieu thereof:

§ 1498.7 Notice of clearance recommendation by Regional Board (Class A case).

(Date)

Gentlemen: Pursuant to § 1473.2(a) of the Renegotiation Board Regulations issued under the Renegotiation Act of 1951, as amended, you are hereby notified that this regional board has recommended a determination that you did not realize profits for your fiscal year ended ----------.

The Renegotiation Board has been notified of this recommendation and will reassign this case to itself. If the Renegotiation Board is in accord with the recommendation, it will issue a clearance to you.

REGIONAL RENEGOTIATION BOARD
By ----------

§§ 1498.9, 1498.10, and 1498.11 [Deleted]

3. Sections 1498.9, 1498.10, and 1498.11 are deleted in their entirety.

(Sec. 109, 65 Stat. 22; 50 U.S.C.A., App. sec. 1219)

Dated: November 9, 1972.

RICHARD T. BURRESS,
Chairman.

[FR Doc.72-19551 Filed 11-13-72;8:53 am]

Title 24—HOUSING AND URBAN DEVELOPMENT

SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-72-217]

PART 35—PROHIBITION OF USE OF LEAD-BASED PAINT AND ELIMINATION OF LEAD-BASED PAINT HAZARD

Correction

In F.R. Doc. 72-18146, appearing at page 22732 in the issue for Saturday, October 21, 1972, the following changes should be made:

1. In the first line § 35.3(e), the word "crackling" should read "cracking".

2. In the second line of § 35.16, the reference to "§ 35.3(f)" should read "§ 35.3(e)".

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

SUBCHAPTER E—PESTICIDES PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

O,O-Diethyl O-[p-(Methylsulfinyl) Phenyl] Phosphorothioate

Correction

In F.R. Doc. 72-18708, appearing at page 23334, of the issue of Thursday, November 2, 1972, the headings should read as set forth above, and in the first line of the paragraph under § 180.234, the second word "parts", should read "part".

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Coordination Product of Zinc Ion and Maneb; Correction

As the result of a misinterpretation over what the petitioner was requesting, F.R. Doc. 72-12693 appearing on page 16178 of the issue of Friday, August 11, 1972, amended § 180.176 by: (a) Reducing the tolerance for residues of the coordination product of zinc ion and maneb on corn grain from 0.5 part per million to 0.1 part per million; and (b) by deleting the tolerance of 0.5 part per million "corn grain (including popcorn)" and "fresh corn including sweet corn (kernels plus cob with husks removed)."

The petitioner, however, was merely requesting a reduction on corn grain other than popcorn grain and was not requesting the deletion of the 0.5 part per million tolerance on fresh corn including sweet corn (kernels plus cob with husks removed).

Accordingly, the paragraphs "0.5 part per million * * *" and "0.1 part per million in or on corn grain" are corrected as follows:

§ 180.176 Coordination product of zinc ion and maneb; tolerances for residues.

* * * * *

0.5 part per million in or on popcorn grain, fresh corn including sweet corn (kernels plus cob with husk removed), cottonseed, kidney, liver, onions (dry bulb), and peanuts.

* * * * *

0.1 part per million in or on corn grain (except popcorn grain).

Dated: November 6, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-19541 Filed 11-13-72;8:51 am]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Carbofuran

A petition (PP 2F1219) was filed by FMC Corp., 100 Niagara Street, Middleport, NY 14105, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of a tolerance for combined residues of the insecticide carbofuran and its metabolite 2,3-dihydro-2,2-dimethyl-3-hydroxy-7-benzofuranyl N-methylcarbamate in or on the raw agricultural commodity peppers at 1 part per million.

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The insecticide is useful for the purpose for which the tolerance is being established.

2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

3. The tolerance established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (36 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 F.R. 9038), § 180.254 is amended by revising the paragraph "1 part per million * * *," as follows:

* * * * *

§ 180.254 Carbofuran; tolerances for residues.

One part per million in or on peanut hulls and peppers.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3902A, Fourth and M Streets SW., Waterside Mall, Washington, D.C., 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will

be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (11-14-72).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: November 2, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-19542 Filed 11-13-72;8:51 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations

SUBCHAPTER E—SUPPLY AND PROCUREMENT

PART 101-26—PROCUREMENT SOURCES AND PROGRAMS

PART 101-33—GOVERNMENT SOURCES AVAILABLE TO GRANTEES AND CONTRACTORS

Use of GSA Supply Sources by Federal Grantees

On June 1, 1972, the General Services Administration (GSA) published in the FEDERAL REGISTER a proposed amendment to the Federal Property Management Regulations which, if adopted, would discontinue the use of GSA sources of supply and services, including excess property, by Federal grantees. Interested parties were invited to comment on this proposal within 30 days. The deadline for comments was extended to July 31, 1972, to accommodate numerous requests for an extension. Comments on the proposed amendment have been evaluated. Based on this evaluation it has been determined, in concert with the Office of Management and Budget, that the interests of the country would best be served by discontinuing this grantee program with respect to the use of GSA sources of supply and services. The policy on acquisition and use of excess property, however, will continue unchanged, and a study will be conducted and a determination made as to the desirability for modification of this policy. (Cost-reimbursement type contractors will continue to be permitted to use GSA supply sources under the provisions of Subparts 1-5.5 and 1-5.9 of the Federal Procurement Regulations.) On the basis of these decisions the following amendments to Subchapter E are set forth.

Section 101-26.000 is revised to read as follows:

§ 101-26.000 Scope of part.

This part sets forth policies and procedures regarding the procurement of personal property and nonpersonal services from or through supply sources which are established by law or other competent authority. It does not include policies and procedures pertaining to the purchasing and contracting for property or services obtained from commercial sources without recourse or use of Federal Supply Schedules or other GSA established contracts. (These are provided in the Federal Procurement Regulations.) The extent to which the sources of supply included in this Part 101-26 are to be used by Government agencies is prescribed in the specific subpart or section covering the subject matter involved. Included as eligible to use GSA supply sources are certain civilian and military commissaries and nonappropriated fund activities, generally buying for their own use but not for resale, except as authorized by the individual Federal agency and concurred in by GSA.

Subpart 101-26.5—GSA Procurement Programs

1. Section 101-26.508 is revised to read as follows:

§ 101-26.508 Electronic data processing tape.

Procurement by Federal agencies of electronic data processing (EDP) tape shall be accomplished in accordance with the provisions of this § 101-26.508.

2. Section 101-26.509 is revised to read as follows:

§ 101-26.509 Tabulating machine cards.

Procurement by Federal agencies of tabulating machine cards shall be made in accordance with the provisions of this § 101-26.509.

Subpart 101-26.6—Procurement Sources Other Than GSA

Section 101-26.604 is revised to read as follows:

§ 101-26.604 Marginally punched continuous forms.

The U.S. Government Printing Office (GPO) has been delegated authority by GSA to procure all marginally punched continuous forms for use by Federal agencies, except those procured by GSA for stock. Therefore, all Federal agencies shall submit their requirements for such forms in accordance with the provisions of this § 101-26.604.

* * * * *

The table of contents for Subchapter E is amended as follows:

Part 101-33 [Reserved]

Part 101-33 is amended as follows:

PART 101-33 [RESERVED]

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This revision is effective November 14, 1972.

Dated: November 10, 1972.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

[FR Doc.72-19681 Filed 11-13-72;10:26 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 87—AVIATION SERVICES

Station Identification; Aircraft Radiotelephony Stations

Order. In the matter of editorial amendment of § 87.115 of the FCC rules and regulations.

1. By this order, it is intended to clarify § 87.115(e)(1)(i) of the rules, namely that it is not necessary for an aircraft station subject to that subparagraph to include the prefix "N" in its identification when it is identifying itself by use of its registration marking.

2. Because the rule presently is ambiguous concerning whether or not inclusion of the prefix letter "N" is required in identifying by registration marking, and because considerable confusion has resulted from that ambiguity, the words "omitting the prefix letter 'N'" will be added to the subparagraph in order to clarify the intent of the requirement.

3. Authority for this amendment appears in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and in § 0.231(d) of the Commission's rules and regulations. Since the amendment is editorial in nature, intended merely to clarify the requirement and not to substantively alter it, the prior notice and effective date provisions of the Administrative Procedure Act, 5 U.S.C. 553, do not apply.

4. In view of the above, *It is ordered*, That the rule amendment set forth below shall be adopted effective November 15, 1972.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: November 6, 1972.

Released: November 7, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] JOHN M. TORBET,
Executive Director.

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Section 87.115(e)(1)(i) of the rules is amended to read as follows:

§ 87.115 Station identification.

* * * * * *

(e) * * *

(1) * * *

(i) The characters corresponding to the registration marking ("N" number) of the aircraft, omitting the prefix letter "N", preceded by the type of aircraft; or

* * * * * *

[FR Doc.72-19533 Filed 11-13-72;8:50 am]

Title 49—TRANSPORTATION

Lettuce Committee, established pursuant to the said marketing agreement and order, it is hereby found that the limitation

cannot be completed by such effective date.

The regulation is as follows:

(f) *Special purpose shipments.* Lettuce not meeting grade, pack, or container requirements of paragraphs (a), §§ 971.120-971.125 obtains a Certificate of Privilege applicable thereto and reports thereon; and

(2) Other terms used in this section have the same meaning as when used in Marketing Agreement No. 144 and this

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Title 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation

PART 7—PUBLIC AVAILABILITY OF INFORMATION

Records Available at Document Inspection Facilities; Correction

In the notice of December 1, 1971, 36 F.R. 22812, the item, NHTSA Audit Manuals, was include in the list of records available for public inspection. The inclusion was erroneous since NHTSA Audit Manuals do not exist. Therefore paragraph 3(b), Appendix H of Part 7, Title 49, Code of Federal Regulations, is amended by deleting item 2 and renumbering the remaining items, so that it reads as follows:

(b) The following records are available at all NHTSA document inspection facilities:

(1) *NHTSA Orders.* • • •
(2) *NHTSA Notices.* • • •
(3) *Motor Vehicle Safety Standards.* • • •
(4) *Highway Safety Standards.* • • •
(5) *State Highway Programs.* • • •

(Sec. 9, Department of Transportation Act, 49 U.S.C. 1657; delegation of authority at 49 CFR 7.1(c))

Issued on November 7, 1972.

DOUGLAS W. TOMS,
Administrator.

[FR Doc.72-19488 Filed 11-13-72;8:46 am]

Title 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 971—LETTUCE GROWN IN LOWER RIO GRANDE VALLEY IN SOUTH TEXAS

Limitation of Shipments

Notice of rule making with respect to a proposed limitation of shipments regulation to be made effective under Marketing Agreement No. 144 and Order No. 971 (7 CFR Part 971), regulating the handling of lettuce grown in the Lower Rio Grande Valley in South Texas was published in the FEDERAL REGISTER, November 3, 1972 (37 F.R. 23436). This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons an opportunity to file written data, views, or arguments pertaining thereto not later than November 8, 1972. None was filed.

Findings. After consideration of all relevant matters, including the proposal set forth in the aforesaid notice which was recommended by the South Texas Lettuce Committee, established pursuant to the said marketing agreement and order, it is hereby found that the limitation of shipments regulation, as hereinafter set forth, will tend to effectuate the declared policy of the act.

This proposal is in accord with the committee's marketing policy and reflects its appraisal of the 1972–73 lettuce crop and marketing prospects for the season.

Texas harvested 5,000 acres of winter lettuce in 1972, with a production of 850,000 hundredweight, for which they received a seasonal average price of $8.20 per hundredweight. The 1971 comparison was 7,200 acres, 900,000 hundredweight production and a $5.12 price.

There is presently no official estimate of 1973 U.S. winter lettuce production. The committee estimates that planted acreage in the Lower Rio Grande Valley will amount to 7,000 acres compared to 3,969 acres last year.

It is not likely that the favorable combination of marketing factors that existed for South Texas lettuce during the 1972 winter season will be repeated in 1973. Their 1973 season average price is not expected to exceed parity.

The South Texas lettuce industry has found a 6-day shipping week most practical and that "packaging holidays" on Sundays and Christmas contribute to the improvements of growers prices and are beneficial in promoting more orderly marketing.

The pack and container requirements are needed to maintain the accepted commercial practices of the South Texas lettuce industry of packing specified numbers of heads of lettuce in specific sized containers to avoid deceptive packs and limit them to those found acceptable to the trade for safe transportation of the lettuce.

No purpose would be served by regulating the pack or requiring the inspection and assessment of insignificant quantities of lettuce. Therefore quantities up to two cartons of lettuce per day may be handled without regard to such requirements.

Provisions for special purpose shipments, including export, are designed to meet the different requirements for other than domestic commercial channels of trade. Since these shipments have a negligible effect on the domestic market, they should be permitted provided certain safeguard requirements are met.

It is hereby found that good cause exists for not postponing the effective date of this section 30 days after its publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) Shipments of lettuce grown in the production area will begin on or about the effective date specified herein, (2) to maximize benefits to producers, this regulation should apply to as many shipments as possible during the effective period, (3) information regarding the provisions of this regulation has been made available to producers and handlers in the production area, and (4) compliance with this regulation will not require any special preparation on the part of persons subject thereto which cannot be completed by such effective date.

The regulation is as follows:

§ 971.313 Limitation of shipments.

During the period November 15, 1972, through March 31, 1973, no person shall handle any lot of lettuce grown in the production area unless such lettuce meets the requirements of paragraphs (a), (b), (c), and (d) of this section, or unless such lettuce is handled in accordance with paragraphs (e) or (f) of this section. Further, no person may package lettuce during the above period on any Sunday or on Christmas Day.

(a) [Reserved]

(b) *Pack.* (1) Lettuce heads, packed in container Nos. 7303, 7306, or 7313, if wrapped may be packed only 18, 20, 22, 24, or 30 heads per container; if not wrapped, only 18, 24, or 30 heads per container.

(2) Lettuce heads in container No. 85–40 may be packed only 24 or 30 heads per container.

(c) *Containers.* Containers may be only—

(1) Cartons with inside dimensions of 10 inches by 14¼ inches by 21$^{5}/_{16}$ inches (designated as carrier container No. 7303), or

(2) Cartons with inside dimensions of 9¾ inches by 14 inches by 21 inches (designated as carrier container Nos. 7306 and 7313), or

(3) Cartons with inside dimensions of 21½ by 16⅛ inches by 10¾ inches (designated as carrier container No. 85–40—flat pack).

(d) *Inspection.* (1) No handler shall handle lettuce unless such lettuce is inspected by the Texas-Federal Inspection Service and an appropriate inspection certificate has been issued with respect thereto, except when relieved of such requirement pursuant to paragraphs (e) or (f) of this section.

(2) No handler may transport, or cause the transportation of, any shipment of lettuce by motor vehicle, for which inspection is required unless each such shipment is accompanied by a copy of an appropriate inspection certificate or shipment release form (SPI–23) furnished by the inspection service verifying that such shipment meets the current grade, pack, and container requirements of this section. A copy of such inspection certificate or shipment release form shall be available and surrendered upon request to authorities designated by the committee.

(3) For administration of this part, such inspection certificate or shipment release form required by the committee as evidence of inspection is valid for only 72 hours following completion of inspection, as shown on such certificate or form.

(e) *Minimum quantity.* Any person may handle up to, but not to exceed two cartons of lettuce a day without regard to inspection, assessment, grade, and pack requirements, but must meet container requirements. This exception may not be applied to any shipment of over two cartons of lettuce.

(f) *Special purpose shipments.* Lettuce not meeting grade, pack, or container requirements of paragraphs (a), (b), or (c), of this section may be handled for any purpose listed, if handled as prescribed in subparagraphs (1) and (2) of this paragraph. Inspection and assessments are not required on such shipments. These special purpose shipments are as follow:

(1) For relief, charity, experimental purposes, or export to Mexico, if, prior to handling, the handler pursuant to §§ 971.120–971.125 obtains a Certificate of Privilege applicable thereto and reports thereon; and

(2) For export to Mexico, if the handler of such lettuce loads and transports it only in a vehicle bearing Mexican registration (license).

(g) *Definitions.* (1) "Wrapped" heads of lettuce refers to those which are enclosed individually in parchment, plastic, or other commercial film (Cf AMS 481) and then packed in cartons or other containers.

(2) Other terms used in this section have the same meaning as when used in Marketing Agreement No. 144 and this part.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 10, 1972, to become effective November 15, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-19650 Filed 11-13-72;8:52 am]

Proposed Rule Making

(7 CFR Part 959). This marketing program regulates the handling of onions grown in designated counties in South Texas, and is effective under the Agricultural Marketing Agreement Act of

Act, each contract market shall, at all times while so designated, have in effect provisions to assure that its future contracts meet the following requirements, and if the contract at any time fails to

contract market is located: *Provided,* That if there is no Commodity Exchange Authority office in such city, the information shall be transmitted in accord-

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Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Part 1]

CUSTOMS FIELD ORGANIZATION

Proposed Changes in Customs Region VII

NOVEMBER 3, 1972.

In order to provide better customs service in the Los Angeles, Calif., customs district, it is proposed to establish a customs port of entry at Las Vegas, Nev.

Accordingly, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), which was delegated to the Secretary of the Treasury by the President by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. 11), and pursuant to authority provided by Treasury Department Order No. 190, Rev. 8 (37 F.R. 18572), Las Vegas, Nev., is hereby proposed as a port of entry in the Los Angeles, Calif., district (Region VII).

The proposed geographical limits of Las Vegas shall include all of that area in the State of Nevada as laid out by the U.S. Department of the Interior, Geological Survey map for the State of Nevada and described as follows: Beginning at the northeast corner of section 3, range 60E, township 20S and proceeding in an easterly direction to the northeast corner of section 2, range 62E, township 20S; thence in a southerly direction to the southeast corner of section 14, range 62E, township 22S; thence in a westerly direction to the southwest corner of section 15, range 60E, township 22S; thence in a northerly direction to the point of beginning.

Data, views, or arguments with respect to the foregoing proposal may be adressed to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20226. To insure consideration of such communications, they must be received in the Bureau not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.3(b) of the Customs regulations (19 CFR 103.3(b)), at the Bureau of Customs, Regulations Division, Washington, D.C., during regular business hours.

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-19506 Filed 11-13-72;8:47 am]

[19 CFR Part 1]

CUSTOMS FIELD ORGANIZATION

Proposed Changes in Customs Region VIII

NOVEMBER 3, 1972.

In order to provide better Customs service in the San Francisco, Calif., Customs district, it is proposed to establish a Customs port of entry at Reno, Nev.

Accordingly, by virtue of the authority vested in the President by section 1 of the act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), which was delegated to the Secretary of the Treasury by the President by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. 11), and pursuant to authority provided by Treasury Department Order No. 190, Rev. 8 (37 F.R. 18572), Reno, Nev., is hereby proposed as a port of entry in the San Francisco, Calif., district (Region VIII).

The proposed geographical limits of the port of Reno shall include all of that area in the State of Nevada as laid out by the U.S. Department of the Interior, Geological Survey map for the State of Nevada, and described as follows: Beginning at the northeast corner of section 13, Range 20E, Township 21N and proceeding in a southerly direction to the southeast corner of section 1, Range 20E, Township 18N; thence proceeding in a westerly direction to the southwest corner of section 6, Range 19E, Township 18N; thence in a northerly direction to the northwest corner of section 18, Range 19E, Township 21N; and thence in an easterly direction to the point of beginning.

Data, views, or arguments with respect to the foregoing proposal may be addressed to the Commissioner of Customs, Attention: Regulations Division, Washington, DC. 20226. To insure consideration of such communications, they must be received in the Bureau not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.3(b) of the Customs regulations (19 CFR 103.3(b)), at the Bureau of Customs, Regulations Division, Washington, D.C., during regular business hours.

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-19507 Filed 11-13-72;8:47 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 912]

GRAPEFRUIT GROWN IN THE INDIAN RIVER DISTRICT IN FLORIDA

Proposed Expenses and Rate of Assessment for Fiscal 1972–73

Consideration is being given to the following proposals submitted by the Indian River Grapefruit Committee, established pursuant to the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912), regulating the handling of grapefruit grown in the Indian River District in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(a) That the expenses that are reasonable and likely to be insurred by the Indian River Grapefruit Committee, during the period August 1, 1972, through July 31, 1973, will amount to $28,300.

(b) That the rate of assessment for such period, payable by each handler in accordance with § 912.41, be fixed at $0.0035 per standard packed box.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposal shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: November 9, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-19545 Filed 11-13-72;8:51 am]

[7 CFR Part 959]

ONIONS GROWN IN SOUTH TEXAS

Proposed Expenses and Rate of Assessment

Consideration is being given to the approval of the expenses and rate of assessment, hereinafter set forth, which were recommended by the South Texas Onion Committee, established pursuant to Marketing Agreement No. 143 and Marketing Order No. 959, both as amended

(7 CFR Part 959). This marketing program regulates the handling of onions grown in designated counties in South Texas, and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

All persons who desire to submit written data, views, or arguments in connection with these proposals may file the same in quadruplicate with the Hearing Clerk, Room 112–A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than the 30th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposals are as follows:

§ 959.213 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending July 31, 1973, by the South Texas Onion Committee for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate, will amount to $60,000.

(b) The rate of assessment to be paid by each handler in accordance with the Marketing Agreement and this part shall be one-half cent ($0.005) per 50-pound container of onions, or equivalent quantity, handled by him as the first handler thereof during said fiscal period.

(c) Unexpected income in excess of expenses for the fiscal period ending July 31, 1973, may be carried over as a reserve.

(d) Terms used in this section have the same meaning as when used in the said marketing agreement and this part.

Dated: November 9, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-19546 Filed 11-13-72;8:51 am]

Commodity Exchange Authority

[17 CFR Part 1]

CONTRACT MARKETS

Eligibility for Continued Designation

Notice is hereby given, in accordance with the Administrative Procedure Provisions of 5 U.S.C. section 553 that the Secretary of Agriculture, pursuant to the authority of sections 5, 6, 8, and 8a of the Commodity Exchange Act (7 U.S.C. 7, 8, 12, 12a), proposes to issue a regulation setting forth certain conditions and requirements which must be met by contract markets in order for them to remain eligible for continued designation as such. The text of the proposed regulation is set forth below.

§ 1.50 Eligibility for continued designation as contract market.

(a) Without limitation of other conditions and requirements imposed by the Act, each contract market shall, at all times while so designated, have in effect provisions to assure that its future contracts meet the following requirements, and if the contract at any time fails to meet any one of such requirements, no trading shall be started in that contract for any delivery month for which trading has not already commenced. This provision shall in no way limit the authority of the contract market to terminate trading in any or all contracts.

(1) There must be assured an adequate means of delivery on the futures contract, i.e., a sufficient number of warehouses, or other delivery facilities; sufficient capacity of facilities for delivery on the futures contract; sufficient transportation facilities and a sufficient number of futures contract delivery points which fit into the normal marketing outlets of the commodity and allowance for appropriate freight differentials between delivery points.

(2) The futures contract must be protected from price manipulation or corners by adequate deliverable supplies available for futures delivery and not committed for commercial purposes and such supplies must be readily bought and sold at the delivery points. The commodity must be generally available from a substantial number of suppliers.

(3) The cash commodity of the kind specified in the futures contract must be traded in sufficient volume in the cash market and under such conditions as to reflect fairly the general value of that commodity and the resulting cash values must be publicly disseminated and representative.

(4) The differentials for allowable variations of grades from par delivery specifications must be reasonable and not conflict with commercial values.

(5) The commodity, as specified by the futures contract, must be representative of the cash commodity moving to market in terms of characteristics such as quality, grade, form, packaging, and location, and there must be no impediments to delivery resulting from inappropriate contract specifications.

(b) Each contract market shall file with the Commodity Exchange Authority a statement with supporting data showing the provisions it has made to carry out the above listed conditions and requirements. Such statements shall be filed within 5 years but not less than 90 days after the effective date of this regulation in accordance with a schedule established by the Act Administrator and which will be provided by him to each contract market, and every 5 years after the date of the first filing: *Provided*, That a contract market need not file earlier than 5 years after the effective date of its designation, unless so requested upon special call by the Act Administrator.

(c) The information required in paragraph (b) also shall be filed within 90 days after a special call by the Act Administrator.

(d) The statement and data shall be filed with the office of the Commodity Exchange Authority in the city where the contract market is located: *Provided*, That if there is no Commodity Exchange Authority office in such city, the information shall be transmitted in accordance with the instructions of the Commodity Exchange Authority.

If any interested person desires a hearing with reference to this proposed regulation, he should make a request to that effect stating the reasons therefor, addressed to the Administrator, Commodity Exchange Authority, U.S. Department of Agriculture, Washington, D.C. 20250, on or before January 15, 1973.

Written statements with reference to the subject matter of this proposal may be submitted by any interested person. Such statements should be mailed to the Administrator of the Commodity Exchange Authority prior to January 15, 1973.

The transcript of the proceedings at any hearing which may be held and all written submissions made pursuant to this notice will be made available for public inspection in the Office of the Administrator, Commodity Exchange Authority, during regular business hours (7 CFR 1.27(b)).

Issued: November 9, 1972.

ALEX C. CALDWELL,
Administrator,
Commodity Exchange Authority.

[FR Doc.72-19504 Filed 11-13-72;8:47 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 128b]

LOW-ACID FOODS IN HERMETICALLY SEALED CONTAINERS

Notice of Availability of Tentative Final Order and Opportunity for Further Comment

Pursuant to a petition filed by the National Canners Association, 1133 20th Street NW., Washington, DC 20036, requesting the establishment of requirements and conditions for exemption from the emergency permit control provisions of section 404 of the Federal Food, Drug, and Cosmetic Act, a notice of proposed rule making regarding low-acid foods in hermetically sealed containers was published in the FEDERAL REGISTER of November 12, 1971 (37 F.R. 21688). Interested persons were invited to file written comments within 60 days.

The Commissioner of Food and Drugs has evaluated all comments and has concluded that regulations should immediately be promulgated to specify good manufacturing practices to be followed in the manufacture, processing, or packing of thermally processed low-acid foods

packaged in hermetically sealed containers. It is important that these substantive requirements be promulgated as soon as possible, and that they not be delayed

PART 3–18—PROCUREMENT OF CONSTRUCTION

Subpart 3–18.50—Contracting for Architect-Engineer Services

neering services performed in the contractor's central or branch office.

(c) "Job-site architect-engineer services" means architectural and/or engineering services where performance of

(e) Selection boards shall review the qualifications and performance of each of the firms on the preselection lists in accordance with the policy established in

§ 3–18.5005 Negotiations.

§ 3–18.5005–1 General.

(a) All requests for proposals shall be in writing over the signature of the

§ 3–18.5005–4 Contract forms.

The forms prescribed for use in the procurement of architect-engineer professional services by negotiation are set

packaged in hermetically sealed containers. It is important that these substantive requirements be promulgated as soon as possible, and that they not be delayed pending development of the provisions to be promulgated under section 404 of the Act, which will establish an adequate enforcement mechanism.

A tentative final order containing minimum good manufacturing practices regulations for thermally processed low-acid foods packaged in hermetically sealed containers has been prepared and discussed in detail with NCA, is being sent to all persons commenting on the proposal, and has been placed on display in the Hearing Clerk's Office, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852, for a period of 20 days beginning November 15, 1972, and ending on December 4, 1972. Any person who wishes to submit further comment or to meet with FDA officials to discuss it may do so within the 20 days.

Dated: November 9, 1972.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.72-19640 Filed 11-13-72;8:53 am]

Office of the Secretary

[41 CFR Part 3–18]

PROCUREMENT OF CONSTRUCTION

Notice of Proposed Rule Making

Notice is hereby given in accordance with the administrative provisions in 5 U.S.C. 553, that pursuant to the Federal Property and Administrative Services Act of 1949, as amended, the Office of the Secretary is considering an amendment to 41 CFR Chapter 3 by adding a new Part 3–18, Procurement of Construction. This amendment provides policy and procedures for the procurement of architect-engineer services for designs, plans, drawings, specifications, or other work relating to the planning, construction, repair, or alteration of real property.

Any person who wishes to submit written data, views, or objections pertaining to the proposed amendment may do so by filing them in duplicate with the Director, Office of Procurement and Materiel Management, OASAM, Room 3340, HEW North Building, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, DC 20201, within 30 days following publication of this notice in the FEDERAL REGISTER. All comments submitted pursuant to this proposal will be available for public inspection during regular business hours in the Office of Procurement and Materiel Management.

Dated: November 6, 1972.

N. B. HOUSTON,
Deputy Assistant Secretary for Administration.

As proposed, the new Part 3–18 would read as follows:

PART 3–18—PROCUREMENT OF CONSTRUCTION

Subpart 3–18.50—Contracting for Architect-Engineer Services

Sec.

3–18.5000 Scope of subpart.
3–18.5001 Authority to enter into contracts.
3–18.5002 Definitions.
3–18.5003 Selection of architect-engineer firms.
3–18.5003–1 Selection policy.
3–18.5003–2 Selection procedures.
3–18.5003–3 Special approval of selections.
3–18.5003–4 Release of information on architect-engineer selections.
3–18.5004 Architect-engineer qualifications data.
3–18.5004–1 Filing.
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3–18.5005 Negotiations.
3–18.5005–1 General.
3–18.5005–2 Preparation for negotiation.
3–18.5005–3 Types of contracts.
3–18.5005–4 Contract forms.
3–18.5006 Additional work under fixed price architect-engineer contracts.
3–18.5007 Services not subject to the six percent limitation.

Subpart 3–18.50—Contracting for Architect-Engineer Services

§ 3–18.5000 Scope of subpart.

This subpart provides policy and procedures for the procurement of architect-engineer services for designs, plans, drawings, specifications, or for other work relating to the planning, construction, repair, or alteration of real property.

§ 3–18.5001 Authority to enter into contracts.

The delegation of authority within the Department of Health, Education, and Welfare to enter into contracts for professional engineering, architectural, and landscape architectural services is prescribed in Subpart 3–75.1, Procurement Authority, of the HEW Procurement Regulations (Part 3 of this title). The procurement of such services in connection with a "public building," as that term is defined in section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612), may be exercised only under the conditions prescribed in § 101–17.402(c) of this title and subject to standards prescribed by the Administrator of General Services pursuant to § 101–17.502 of this title. The procurement of such services in connection with special purpose space such as schools, hospitals, laboratories, and research centers is subject to the requirements and conditions prescribed by section 302(c)(4) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252(c)(4)) and § 1–3.204 of this title.

§ 3–18.5002 Definitions.

(a) "Architect-engineer services" means architectural and/or engineering services related to construction.

(b) "Off-site architect-engineer services" means architectural and/or engineering services performed in the contractor's central or branch office.

(c) "Job-site architect-engineer services" means architectural and/or engineering services where performance of the services requires relatively complete staffing for the contract work (including design, engineering, inspection) at an office or location other than the central or branch office of the contractor, and where a minimum of support is required from the contractor's central or branch office staff.

§ 3–18.5003 Selection of architect-engineer firms.

§ 3–18.5003–1 Selection policy.

The selection of architect-engineer firms for the preparation of drawings and specifications or for other technical and professional services, e.g., master planning, architectural or engineering studies, and investigations shall be accomplished in accordance with the procedures set forth in this subpart. Such selection shall not be based on competitive bidding procedures, but rather on the professional qualifications necessary for the satisfactory performance of the service required subject to the following additional considerations:

(a) Specialized experience of the firm in the type of work required;

(b) Capacity of the firm to accomplish the work in the required time;

(c) Past experience, if any, of the firm with respect to performance on HEW contracts;

(d) Volume of work previously awarded to the firm by HEW, with the objective of effecting an equitable distribution of contracts among qualified architect-engineer firms;

(e) Location of the firm in the general geographical area of the project, provided there is an appropriate number of qualified firms in that area.

§ 3–18.5003–2 Selection procedures.

(a) All selection actions, including preselection, shall be performed by selection boards of the Facilities Engineering and Construction Agency (FECA).

(b) Each regional selection board shall consist of five licensed professional architects or engineers (with the Regional Engineer or his representative serving as Chairman), one progam or administrative representative, one nonvoting contracting officer, and one nonvoting recording secretary. A minimum number of three licensed architects or engineers shall be present at all regional selection board meetings.

(c) The makeup of selection boards in the Office of the Director, FECA, is determined by the Director, FECA, so as to meet varying requirements.

(d) Selection boards shall prepare preselection lists of the maximum practicable number of qualified firms, from the data developed under § 3–18.5003 and from other pertinent information which may be available. The lists shall be approved by the Director, Facilities Engineering and Construction Agency, Office of the Secretary, or his designee.

(e) Selection boards shall review the qualifications and performance of each of the firms on the preselection lists in accordance with the policy established in § 3–18.5003–1, and shall recommend, in order of preference, a minimum of three firms to the contracting officer for negotiations in accordance with § 3–18.5005.

(f) All preselection and selection actions shall be fully documented.

§ 3–18.5003–3 Special approval of selections.

The approval of the Director, FECA, OS, or his designee is required when:

(a) The estimated cost of the basic fee of the proposed contract exceeds $60,000;

(b) The award of more than one contract will cause a firm's total fees to exceed $200,000 during a calendar year;

(c) Any modification to an existing contract would increase the total fee by more than 50 percent.

§ 3–18.5003–4 Release of information on architect-engineer selections.

After the required approvals for the selection have been obtained, information may be released by the contracting officer identifying only the architect-engineer firm selected, and describing the work in general terms. If negotiations are terminated without consummating a contract, the contracting officer may release such information and state that negotiations will be undertaken with another (named) architect-engineer. When an award has been made, the contracting officer may release this information, but the estimated construction cost of the facilities involved shall not be divulged.

§ 3–18.5004 Architect-engineer qualifications data.

§ 3–18.5004–1 Filing.

(a) Firms desiring to be considered for HEW architect-engineer contracts in a given area must file Standard Form 251, "U.S. Government Architect-Engineer Questionnaire" with the Facilities Engineering and Construction Agency in HEW Regional Offices or with the Office of Architectural and Engineering Services, FECA, Office of the Secretary, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, DC 20201, depending on their geographical area of interest.

(b) Architect-engineer firms shall normally be selected from the region in which the project is to be accomplished. However, if sufficient qualified firms are not available in a region for consideration for a particular contract, firms from other regions shall be considered.

§ 3–18.5004–2 Utilization of data.

FECA offices shall review all Forms 251 received and classify each firm with respect to:

(a) Location;
(b) Specialized experience;
(c) Professional capabilities; and
(d) Capacity with respect to scope of work that can be undertaken; and shall utilize these data files in the required selection procedures.

§ 3–18.5005 Negotiations.

§ 3–18.5005–1 General.

(a) All requests for proposals shall be in writing over the signature of the cognizant contracting officer, or his authorized representative, who shall have been provided with copies of the preselection and selection reports and with evidence of such approvals as may be required by § 3–18.5003.3.

(b) Negotiations shall be conducted with the first-selected architect-engineer firm to establish a fair and reasonable price which is not to exceed the Government estimate by more than 10 percent. Where negotiations result in a price in excess of this limitation, the contracting officer shall terminate the negotiations and request a proposal from the architect-engineer next in order of preference.

(c) A negotiation report including the details and reasons for all project cost estimate revisions shall be prepared in each case.

§ 3–18.5005–2 Preparation for negotiation.

(a) A Government estimate for architect-engineer contracts shall be prepared in detail in every instance.

(b) The proposal and cost or pricing data submitted by potential contractors shall be evaluated, analyzed, and compared with the Government estimate.

(c) Where the proposal for an architect-engineer contract is less than the Government estimate, the contracting officer shall insure that there is a complete understanding of the scope of the work. Where the proposed price is considered unreasonable, additional data may be requested from the prospective contractor. If he refuses to furnish such data, negotiations with him will be terminated and a proposal will be requested from the architect-engineer selected next in preference.

§ 3–18.5005–3 Types of contracts.

(a) *Fixed price.* In no event shall a firm fixed-price type contract for architect-engineer services for the preparation of designs, plans, drawings, and specifications exceed the statutory basic fee limitation of six (6) percent of the Government-estimated construction costs of the project to which the architect-engineer services apply. If, however, the contract also covers any type services other than the preparation of designs, plans, drawings and specifications, that part of the contract price for such other services shall not be subject to the six (6) percent limitation.

(b) *Cost reimbursement.* This type of contract shall be used in cases of extreme urgency. In negotiating an architect-engineer contract, the contract price, which includes the fee plus the estimated total reimbursable costs to be paid to the architect-engineer, shall not exceed the statutory limitation set forth in paragraph (a) of this section.

§ 3–18.5005–4 Contract forms.

The forms prescribed for use in the procurement of architect-engineer professional services by negotiation are set forth in FPR 1–16.7.

§ 3–18.5006 Additional work under fixed-price architect-engineer contracts.

(a) The principles set forth above in § 3–18.5005–2 (b) and (c), (Preparation for negotiation) with respect to submission of cost or pricing data and insuring that the prospective architect-engineer has a complete understanding of the scope of work is likewise applicable to modifications to the contract.

(b) If the work to be performed under the modification is within the general scope of the contract, the contracting officer shall, under the provisions of the "Changes" clause, by written order, with or without prior negotiation, direct that the changes be made. Where such action causes an increase or decrease in the contractor's cost or time required for performance of the contract, an equitable adjustment shall be made. Where there is a failure to agree as to the equitable adjustment, the provisions of the "Disputes" clause will be followed.

(c) Where the modification involves work not initially included in the contract the statutory limitation is applicable, consistent with the following provisions to the revised total estimated construction costs. Where redesign is required and the contract is modified, the following methods shall be used in determining the amount of the basic fee to be paid the architect:

(1) The estimated construction cost of the redesigned features will be added to the original estimated construction cost;

(2) The contract cost for the original design will be added to the contract for redesign; and

(3) The total contract design cost obtained by subparagraph (a) of this paragraph will be divided by the total construction cost obtained by subparagraph (1) of this paragraph.

(4) If, however, the resulting percentage would exceed the 6-percent limitation and the Government has unilaterally determined a need to increase the architect's basic fee work over and above that contemplated by the original contract, and the additional architect's effort would have an insignificant effect on the original cost of the work, the amount of the architect's basic fee for rerforming this additional work shall be the subject of further negotiations between the parties. Thereafter, an applicable supplemental agreement shall be entered into between the parties setting forth the additional work to be performed and specifying a separate and distinct architect-engineer fee therefor.

(5) If, on the other hand, the additional basic fee work to be performed by the architect would exceed the 6-percent limitation and would have a significant effect on the original cost of the work, the contract should be terminated for the convenience of the Government pursuant

to Article 4 of Standard Form 253, General Provisions, and a new contract negotiated.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building,

days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amend-

[14 CFR Part 71]

[Airspace Docket No. 72–EA–99]

WILMINGTON, DELAWARE

That airspace extending upward from 11.5-mile radius of the center 39°40'42" N., 75°-

Federal Aviation Regulations so as to issue an airworthiness directive applicable to Air Cruiser Co. Model AD–8

XUM V37-220 NOV 14 72 XUM

to Article 4 of Standard Form 253, General Provisions, and a new contract negotiated.

(6) Regardless of whether the additional work is to be performed under (4) or (5) above, the 6-percent limitation with respect thereto may not be exceeded.

§ 3–18.5007 Services not subject to the 6 percent limitation.

The following types of architect-engineer services shall be excluded from the six (6) percent limitation:

(a) Investigative services including but not limited to the following:

(1) Determination of program of requirements;

(2) Determination of feasibility of proposed projects;

(3) Preparation of measured drawings of existing facility;

(4) Subsurface investigation;

(5) Structural, electrical, and mechanical investigations of existing facilities;

(6) Surveys: topographic, boundary utilities.

(b) Special consultant services not normally available in organizations of architects or architects-engineers.

(c) Other:

(1) Reproduction of approved designs through models, color renderings, photographs, or other presentation media;

(2) Travel, per diem;

(3) Supervision of construction.

[FR Doc.72–19534 Filed 11–13–72;8:50 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Part 151]

[CGD 72–130PH]

UNMANNED BARGES

Hull Construction; Proposed Clarification of Transverse Stability Requirements

Correction

In F.R. Doc. 72–18510, appearing at page 23193, in the issue of Tuesday, October 31, 1972, in § 151.10–5(b), the formula, "fa" should be calculated as follows:

$$fa = [(1.25)(\frac{l}{L})(\frac{2b}{B} - 1)(h)] \text{ or } h,$$

Whichever is less where:

l = Trunk length (feet).
L = Overall length (feet).
b = Trunk breadth (feet).
h = Trunk height at side (feet).

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 72–EA–110]

AIR CRUISER LIFE JACKETS

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending § 39.13 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Air Cruiser Co. Model AD–8 life jackets installed on civil aircraft.

During a crew-training exercise one of the subject life jackets was inflated only to have one of the two bottles of CO_2 detach from the jacket, thereby causing its deflation. Further investigation established other defective jackets.

Since the foregoing deficiency can exist on other jackets of similar design, it is proposed to issue an airworthiness directive requiring alteration of the subject jackets. However, in view of the effect on safety equipment for aircraft, it is found that only a 15-day period of comment is practical under the circumstances.

Interested persons are invited to participate in the making of the proposed rule by submitting written data or views. Communications should identify the docket number and be submitted in duplicate to the Office of Regional Counsel, FAA, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

All communications received within 15 days after publication in the FEDERAL REGISTER will be considered before taking action upon the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments will be available in the Office of Regional Counsel for examination by interested parties.

In consideration of the foregoing, it is proposed to issue a new airworthiness directive as hereinafter set forth:

1. Amend § 39.13 of the Federal Aviation Regulations so as to add a new airworthiness directive described as follows:

AIR CRUISERS CO. Applies to all Model AD–8 life jackets manufactured on or before 15 October 1971.

Compliance required within 90 days after the effective date of this AD, unless already accomplished.

To preclude air chamber deflation from defective inflator manifold stem assemblies, accomplish alteration of the aforementioned life jackets in accordance with either:

a. Air Cruisers Co. Service Bulletin No. 112–72–1, dated 6 March 1972; or

b. Any other method approved as equivalent by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

Upon request submitted through a maintenance inspector, accompanied by substantiating data, the compliance time specified in the AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

This amendment is made under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on November 6, 1972.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.72–19479 Filed 11–13–72;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 72–EA–99]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of part 71 of the Federal Aviation Regulations so as to alter the Wilmington, Del., Control Zone (37 F.R. 2140) and Transition Area (37 F.R. 2306).

A review of the subject terminal airspace will require alterations so as to conform to the criteria of the Terminal Instrument Procedures (TERPs).

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Wilmington, Delaware, proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71, Federal Aviation Regulations, by deleting the description of the Wilmington, Del., Control Zone and by substituting the following in lieu thereof:

WILMINGTON, DELAWARE

Within a 6-mile radius of the Center 39°-40'42" N, 75°36'27" W, of the Greater Wilmington Airport, Wilmington, Del.; within 3.5 miles each side of the New Castle, Del., VORTAC 281° radial extending from the 6-mile zone to 9.5 miles west of the VORTAC and within 3.5 miles each side of the New Castle VORTAC 114° radial extending from the 6-mile radius zone to 9.5 miles southeast of the VORTAC.

2. Amend § 71.181 of Part 71, Federal Aviation Regulations, by deleting the description of the Wilmington, Del., 700-foot floor transition area and by substituting the following in lieu thereof:

WILMINGTON, DELAWARE

That airspace extending upward from 11.5-mile radius of the center 39°40'42" N., 75°-36'27" W. of Greater Wilmington Airport, Wilmington, Del., extending clockwise from a 270° bearing to a 030° bearing from the airport; within a 10-mile radius area of the center of the airport extending clockwise from a 030° bearing to a 270° bearing from the airport; and within 3.5 miles each side of the New Castle, Del. VORTAC 261° radial extending from the VORTAC to 10.5 miles west of the VORTAC; within 3.5 miles each side of the New Castle VORTAC 114° radial extending from the VORTAC to 11 miles southeast of the VORTAC. Within a 5-mile radius of the center 39°31'00" N., 75°43'00" W. of Summit Airpark Airport, Middletown, Del., and within 3 miles each side of a 234° bearing from the Greater Wilmington, Del., ILS OM extending from the 5-mile radius area to 13 miles southwest of the OM.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on October 31, 1972.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.72–19480 Filed 11–13–72;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 72–EA–100]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the Atlantic City, N.J., Control Zone (37 F.R. 2061).

A review of the terminal area has established a need to update the control zone requirements for NAFEC Atlantic City Airport, Atlantic City, N.J.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Atlantic City, N.J., proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Atlantic City, N.J., control zone and insert the following in lieu thereof:

Within a 5-mile radius of the center 39°27'22" N., 74°34'41" W. of NAFEC Atlantic City Airport, Atlantic City, N.J.; within 2 miles each side of the NAFEC Atlantic City Airport ILS localizer southwest course, extending from the 5-mile radius zone to the OM; within 3 miles each side of the Atlantic City VORTAC 303° radial, extending from the 5-mile radius zone to 8.5 miles northwest of the VORTAC; within a 1.5-mile radius of the center 39°28'27" N., 74°44'03" W. of Crescent Airport, Mays Landing, N.J.; within a 3-mile radius of the center 39°-21'35" N., 74°27'28" W. of Atlantic City Municipal-Bader Field, Atlantic City, N.J.; within 2 miles each side of the Atlantic City VORTAC 136° radial, extending from the VORTAC to the 3-mile radius zone and within 1.5 miles each side of a 283° bearing from a point 39°21'43" N., 74°27'46" W., extending from said point to 5.5 miles west.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on October 30, 1972.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.72–19481 Filed 11–13–72;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 72–EA–104]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Buffalo, N.Y., transition area (37 F.R. 2164).

A review has indicated an additional amount of air space in the terminal area for aircraft executing instrument approaches and departures at Akron Airport, Akron, N.Y.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Buffalo, N.Y., proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Buffalo, N.Y., 700-foot floor transition area by inserting after "Buffalo, N.Y., VORTAC 034° radial", the following:

within a 5.5-mile radius of the center 43°01'-15" N., 78°29'08" W. of Akron Airport, Akron, N.Y.; within 2.5 miles each side of the Buffalo, N.Y., VORTAC 052° radial, extending from the 5.5-mile radius area to 17.5 miles northeast of the VORTAC.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on October 30, 1972.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.72–19482 Filed 11–13–72;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 72–EA–106]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Red Hook, N.Y., transition area (37 F.R. 2271).

A review of the terminal airspace has established a need to conform the present controlled airspace to the criteria of the Terminal Instrument Procedures (TERP's).

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation,

Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30

Lanham, Tex., for the period January 15, 1973, to February 16, 1973.

Interested persons may submit such

Issued in Fort Worth, Tex., on November 3, 1972.

R. V. REYNOLDS,
Acting Director, Southwest Region.

"scheduled items" so long as the following requirements are met:

1 The real estate securing the loan or contract is residential estate;

2 The loan or contract requires

(ii) The loan or contract requires equal, or substantially equal, regular

real estate (as defined in § 563.9–1(d)(2) of this subchapter);

FEDERAL POWER COMMISSION

[18 CFR Part 2]

[Docket No. R–458]

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Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Red Hook, N.Y., proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Red Hook, N.Y., transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 41°59'12" N., 73°50'12" W., of Skypark Airport, extending clockwise from a 220° bearing to 025° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 025° bearing to a 160° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 160° bearing to a 220° bearing from the airport; and within 4.5 miles each side of the Kingston, N.Y., VORTAC 358° radial, extending from 1.5 miles north of the Kingston VORTAC to 22 miles north of the Kingston VORTAC.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on October 30, 1972.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.72-19483 Filed 11-13-72;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 72-SW-73]

TEMPORARY TRANSITION AREAS

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate temporary 700-foot transition areas at Longhorn, Hico, Camp Bowie, and Lanham, Tex., for the period January 15, 1973, to February 16, 1973.

Interested persons may submit such written data, views, or arguments, as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments, presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the following temporary transition areas are added:

LONGHORN, TEX.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Longhorn temporary nondirectional radio beacon (latitude 31°22'20" N., longitude 97°40'00" W.).

HICO, TEX.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Hico temporary Army helipad (latitude 31°59'12" N., longitude 97°55'45" W.).

CAMP BOWIE, TEX.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Camp Bowie temporary Army helipad (latitude 31°33'37" N., longitude 98°46'15" W.).

LANHAM, TEX.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Lanham temporary Army helipad (latitude 31°46'10" N., longitude 97°56'12" W.).

The proposed temporary transition areas will provide controlled airspace for helicopters executing approach/departure procedures proposed at associated helipads during an Army exercise to be conducted during the period January 15 through February 16, 1973.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Fort Worth, Tex., on November 3, 1972.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.72-19484 Filed 11-13-72;8:46 am]

Highway Safety Program Standards

[23 CFR Part 230]

[Docket No. 72-29]

PROGRAM STANDARDS

Applicability to Federally Administered Areas; Request for Comments; Correction

In F.R. Doc. 72-18172 appearing at page 22876-7 of the issue for Thursday, October 26, 1972, the proposed effective date, appearing on lines 6 and 7 of the last paragraph of the preamble, should read "February 15, 1973."

JAMES L. FOLEY, JR.,
Director, Office of Highway Safety, Federal Highway Administration.

JAMES E. WILSON,
Associate Administrator, Traffic Safety Programs, National Highway Traffic Safety Administration.

[FR Doc.72-19486 Filed 11-13-72;8:46 am]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 561]

[No. 72-1265]

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

"Scheduled Items"

OCTOBER 31, 1972.

Section 561.15(d)(1) of the rules and regulations for Insurance of Accounts requires that certain loans and sales contracts be included in "scheduled items" during the period that such loans or contracts have unexpired maturity periods exceeding the maturity limitations permitted under otherwise applicable lending regulations, or, in the absence of such limitations, in excess of 30 years. The Board now considers it advisable to propose an exception to this requirement. Also, the Board proposes to add a parenthetical phrase in § 561.15 (d)(2)(iii) providing that "all contractually required payments" shall include payments for insurance and taxes, whether or not in escrow. Accordingly, it is hereby proposed to amend said § 561.15 by revising subparagraph (1) and subdivision (iii) of subparagraph (2) of paragraph (d) thereof to read as set forth below.

In substance, the exception proposed to be added in § 561.15(d)(1) would provide that only 20 percent of any such loan or contract will be included in "scheduled items" so long as the following requirements are met:

1. The real estate securing the loan or contract is residential estate;

2. The loan or contract requires monthly amortization of principal and interest;

3. All required payments on such loan or contract have been made for at least the immediately preceding 5 years without a delay of more than 30 days in the making of any one of the last 12 of such payments;

4. The remaining term of such loan or contract does not exceed 35 years; and

5. The insured institution has certain certifications regarding the trend of the value of the real estate securing such loan or contract.

If 80 percent of such a loan or contract has been excluded from "scheduled items" and thereafter any contractually required payment thereon is not made when due or within 30 days after such due date, all of such loan or contract will again become a "scheduled item" for a minimum period of at least 1 year even if the "missed" payment is subsequently "caught-up". Also new certifications of value would be required.

Interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, DC 20552, by December 11, 1972, as to whether this proposal should be adopted, rejected or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

§ 561.15 Scheduled items.

The term "scheduled items" means:

* * * * *

(d) Loans secured by, and contracts for the sale of, real estate described in paragraph (c) of this section and real estate previously owned or held by an insured institution for development or investment purposes (other than insured loans, guaranteed loans, or contracts or loans having the benefit of a guaranty by the Federal Savings and Loan Insurance Corporation) during the period that such loans or contracts—

(1) Have remaining periods to the expiration of their terms in excess of the maximum terms permitted under otherwise applicable lending limitations, or, in the absence of otherwise applicable lending limitations, in excess of 30 years; except that only 20 percent of the unpaid principal balance of any such loan or contract will be included in "scheduled items" if all of the following requirements are met:

(i) The real estate securing the loan or sold under the contract is residential real estate (as defined in § 563.9-1(d)(2) of this subchapter);

(ii) The loan or contract requires equal, or substantially equal, regular monthly payments which include both principal and interest, sufficient to amortize the entire debt, principal and interest, within the term of the loan or contract;

(iii) All contractually required payments (including payments for insurance and taxes, whether or not in escrow) have been made for a continuous period of 60 months without a delay of more than 30 days in the making of any one of the last 12 of such payments;

(iv) The loan or contract has a remaining term of not more than 35 years; and

(v) An officer of the insured institution owning such loan or contract and an appraiser who meets the requirements of paragraph (a) of § 563.10 of this subchapter have certified (as of the time such loan or contract last became eligible for this exceptional treatment) to the effect that (*a*) the real estate securing the loan or sold under the contract has an economic life commensurate with the remaining term of such loan or contract and has a current value in an amount sufficient to protect such insured institution against loss on such loan or contract if the borrower or purchaser ceases to make payments on such loan or contract and (*b*) the value of the real estate securing the loan or sold under the contract has not decreased during the immediately preceding 3-year period of time and the expected trend is not downward; or

(2) Have unpaid principal balances in excess of the maximum amounts permitted under otherwise applicable lending limitations, or, in the absence of otherwise applicable lending limitatons, in excess of 90 percent of the value of the real estate securing such loans or sold under such contracts; except that only 20 percent of the unpaid principal balance of any such loan or contract will be included in "scheduled items" if all of the following requirements are met:

* * * * *

(iii) All contractually required payments (including payments for insurance and taxes, whether or not in escrow) have been made for a continuous period of 36 months without a delay of more than 30 days in the making of any one of the last 12 of such payments.

* * * * *

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,
Secretary.

[FR Doc.72-19515 Filed 11-13-72;8:48 am]

FEDERAL POWER COMMISSION

[18 CFR Part 2]

[Docket No. R-458]

UNECONOMIC PRODUCTION DUE TO CERTAIN FACTORS

Rate Review Applications

NOVEMBER 8, 1972.

1. Pursuant to 5 U.S.C. 551, et seq. Supp. V, (1967) and sections 4, 5, 7, 8, 15, and 16 of the Natural Gas Act (52 Stat. 822, 823, 824, 825, 829, 830; 56 Stat. 83, 84; 61 Stat. 459; 76 Stat. 72; 15 U.S.C. 717c, 717d, 717f, 717g, 717n, 717o), the Commission gives notice that it will consider adopting a policy providing for examination of applications by independent producers for special relief from area rates with respect to sales of natural gas from reservoirs where reduced pressures, the need for reconditioning the producing wells or for deeper drilling in the producing reservoirs make further production uneconomic at existing prices.

2. Abandonment for economic reasons results from a depletion of gas reserves in a reservoir with an attendant diminution in wellhead pressure. The gas must be compressed from the wellhead pressure to the pressure of the purchasing pipeline's transmission line. The producer or the pipeline company must decide whether the price obtainable for the gas will justify the installation of costly compressors. Further, abandonment may result from a need to expend moneys for reconditioning of producing wells or to drill deeper wells to maintain production. Alternatively, the reservoirs may be abandoned or the gas sold locally at wellhead pressure after the producer has obtained abandonment authorization pursuant to section 7(b) of the Natural Gas Act.

3. In these situations a producer may require a price in excess of the area rate to justify the installation of the necessary compression equipment, the reconditioning of the producing wells, or the drilling into deeper horizons. The amount of gas that might be anticipated under a favorable pricing policy with respect to these sales is not readily calculable on the basis of information available to us at the present time, nor is the price level which would warrant further production readily ascertainable, as this price would vary from reservoir to reservoir.

4. We will consider applications for special relief with respect to existing producer sales for contractually authorized rate increases above the applicable area ceiling rate, Permian Basin Area Rate Proceeding, 34 FPC 159 at 225 et seq. Our purpose here is to emphasize that producers who have been selling gas from wells where reduced pressures, the need for reconditioning, or deeper drilling

make further production uneconomic at the applicable area rate, in lieu of seeking abandonment authorization under

part of the procedures proposed herein. Written submittals will be placed in the Commission's public files and will be

Administration, pursuant to the authority conferred by section 120, 73 Stat. 635, 12 U.S.C. 1766 is considering a re-

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make further production uneconomic at the applicable area rate, in lieu of seeking abandonment authorization under section 7(b) of the Act, may apply for special relief.

5. We are hereby proposing to amend our general rules of practice and procedure to insert § 2.76 in Part 2, General Policy and Interpretations, Subchapter A, Chapter 1, Title 18 of the Code of Federal Regulations.

6. The new § 2.76 would read as follows:

§ 2.76 Policy with respect to sales where reduced pressures, need for reconditioning or deeper drilling make further production uneconomic at existing prices.

(a) With respect to reservoirs where reduced pressures, need for reconditioning of the wells or deeper drilling make further production uneconomic at existing rates, it will be the general policy of the Commission, in order to promote the optimum recovery of gas reserves, to accept for consideration applications by independent producers seeking special relief in the form of contractually authorized rate increases, or rate increases where the contract term has expired, in excess of the applicable area ceiling rate.

(b) Applicants shall establish the economic justification for their request, including, where appropriate, information on additional costs, and the amount of gas to be recovered and sold to the interstate market for sales that would otherwise be abandoned.

7. Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than December 27, 1972, views, comments, or suggestions in writing, concerning all or part of the procedures proposed herein. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Washington, D.C. 20426, during regular business hours. The Commission will consider all such written submittals before action on the matters proposed herein. An original and 14 conformed copies should be filed with the Secretary of the Commission. Submittals to the Commission should indicate the name, title, mailing address, and telephone number of the person to whom communications concerning the proposal should be addressed, and whether the person filing them requests a conference with the staff of the Federal Power Commission to discuss the matters involved herein. The staff, in its discretion, may grant or deny requests for conference.

8. The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19493 Filed 11-13-72;8:45 am]

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 721]

INCIDENTAL POWERS

Insurance Activities

Notice is hereby given that the Administrator of the National Credit Union Administration, pursuant to the authority conferred by section 120, 73 Stat. 635, 12 U.S.C. 1766 is considering a revision of § 721.1(j) (12 CFR 721.1(j)) as set forth below.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed regulation to the Administrator, National Credit Union Administration, Washington, D.C. 20456, to be received not later than December 18, 1972.

Dated: November 7, 1972.

HERMAN NICKERSON, JR.,
Administrator.

1. Paragraph (j) of § 721.1 (12 CFR 721.1(j)) is revised by adding at the end thereof the following sentence:

§ 721.1 Insurance activities.

* * * * *

(j) * * * Notwithstanding the foregoing, in those States where a licensed agent is required in order to engage in activities authorized in this section, an employee of the particular credit union concerned may act in such an agency capacity, *Provided*, That neither the employee nor the credit union may receive any remuneration for transactions performed pursuant to such an agency, *And provided further*, That the activities conducted pursuant to such an agency shall be limited to those activities otherwise permitted by this section.

* * * * *

[FR Doc.72-19526 Filed 11-13-72;8:49 am]

Notices

DEPARTMENT OF AGRICULTURE

Forest Service

IDAHO; HERBICIDE CONTROL OF SAGEBRUSH AND WYETHIA

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for Herbicide Control of Sagebrush and Wyethia in Idaho, USDA-FS-DES(Adm), 73-29.

The environmental statement applies to National Forest and National Grassland area administered by the Intermountain Region, Forest Service, USDA in Idaho. It covers the practice of applying the herbicide 2,4-dichorophenoxyacetic acid of approximately 15,000 acres each year, of land covered by dense stands of sagebrush and wyethia.

This draft environmental statement was filed with CEQ on October 27, 1972.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3230, 14th Street and Independence Avenue SW., Washington, DC 20250.
USDA, Forest Service, 1075 Park Bouvelard, Boise, ID 83706.
USDA, Forest Service, Federal Building, Room 5002, 324 25th Street, Ogden, UT 84401.
USDA, Forest Service, Post Office Box 1026, McCall, ID 83838.
USDA, Forest Service, 1525 Addison Avenue, East, Twin Falls, ID 83301.
USDA, Forest Service, 429 South Main Street, Logan, UT 84321.
USDA, Forest Service, Forest Service Building, Challis, ID 83226.
USDA, Forest Service, 420 North Bridge Street, St. Anthony, ID 83445.
USDA, Forest Service, 427 North Sixth Avenue, Focatello, ID 83201.
USDA, Forest Service, Forest Service Building, Salmon, ID 83467.

A limited number of copies are available upon request to Vern Hamre, Regional Forester, USDA, Forest Service, Federal Building, 324 25th Street, Ogden, UT 84401.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please refer to name and number of the statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies outlined in the Council of Environmental Quality Guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and request for additional information should be addressed to Vern Hamre, Regional Forester, Federal Building, 324 25th Street, Ogden, UT 84401. Comments must be received within 30 days in order to be considered in the preparation of the final environmental statement.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

NOVEMBER 8, 1972.

[FR Doc.72-19547 Filed 11-13-72;8:51 am]

Rural Electrification Administration

CENTRAL IOWA POWER COOPERATIVE

Availability of Final Environmental Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Final Environmental Statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a loan application from Central Iowa Power Cooperative of Marion, Iowa. This loan application, together with funds from other sources, includes financing for the installation of one 30 MW gas turbine and waste heat boiler at Creston in Union County, Iowa.

Additional information may be secured on request, submitted to Mr. James N. Myers, Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The Final Environmental Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C., Room 4322 or at the borrower address indicated above.

Final REA action with respect to this matter (including any release of funds) may be taken after thirty (30) days, but only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 7th day of November 1972.

DAVID A. HAMIL,
Administrator, Rural Electrification Administration.

[FR Doc.72-19548 Filed 11-13-72;8:51 am]

SOUTHERN ILLINOIS POWER COOPERATIVE

Availability of Final Environmental Statement

Notice is hereby given that the Rural Electrification Administration has prepared a final environmental statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a loan application from Southern Illinois Power Cooperative of Marion, Ill. This application requests REA loan funds for the purchase and installation of electrostatic precipitators for each of the three existing 33 MW generation units at the Marion plant.

Additional information may be secured on request, submitted to Mr. James N. Myers, Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The final environmental statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue SW., Washington; D.C., Room 4322 or at the borrower address indicated above.

Final REA action with respect to this matter (including any release of funds) may be taken after thirty (30) days, but only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 8th day of November 1972.

DAVID A. HAMIL,
Administrator,
Rural Electrification Administration.

[FR Doc.72-19505 Filed 11-13-72;8:47 am]

DEPARTMENT OF COMMERCE

Office of Import Programs

CITY HOSPITAL CENTER, ELMHURST, AND UNIVERSITY OF KENTUCKY

Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.). (See especially § 701.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the

electron microscopy. Each of the foreign articles to which the foregoing applications relate is a relatively simple, medium resolution electron microscope de-

and (5) ultrastructural evaluation of spontaneous virus diseases of primates or diseases suspected of being caused by virus infections.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended

ported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is in-

capability of analyzing photographs is pertinent within the meaning of Section 701.2(n) of the regulations to minimizing radiation contamination in the appli-

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A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00632-33-46040. Applicant: City Hospital Center at Elmhurst, 79-01 Broadway, Elmhurst, NY 11373. Article: Electron Microscope, Model HS-8 Mark II. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used to study the complicated and chronic changes involved in human renal diseases using a newly developed technique in which lanthium hydroxide is injected on a tracer. In addition, protein-labeled antibodies have been obtained and will be used as an adjunct to these studies. The study of human placental membranes especially in toxemia of pregnancy using a recently developed technique for isolating placental basement membrane will also be carried out. The isolation techniques will also be used to obtain antibodies in experimental animals and to determine the possible role of immunological mechanisms in placental disease. The article will also be used for the instruction of electron microscopy techniques to residents, educational fellows, medical and premedical students. Application received by Commissioner of Customs: June 16, 1972. Advice submitted by Department of Health, Education, and Welfare on: October 20, 1972.

Docket No. 72-00640-33-46040. Applicant: University of Kentucky, Department of Pathology, MS-305, Medical Science Building, Lexington, Ky. 40506. Article: Electron Microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for research and diagnostic work to be conducted in the following areas: (a) Metabolic disorders, (b) renal pathology with particular study of specimens from glomerulonephrities and renal transplantation, (c) neuropathology material, including brain, peripheral nerve, and skeletal muscle, including the study of degenerative disorders and aging related processes, (d) study of premalignant and malignant lesions of the female genital organs. The article will also be used in the teaching and training of technicians, students, residents, postdoctoral fellows, and senior staff in electron microscopy. Application received by Commissioner of Customs: June 26, 1972. Advice submitted by Department of Health Education, and Welfare on: October 20, 1972.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for such purposes as these articles are intended to be used, is being manufactured in the United States. Reasons: Each applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. Each of the foreign articles to which the foregoing applications relate is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programing. The most closely comparable domestic instrument is the Model EMU-4C electron microscope which is a relatively complex instrument designed primarily for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare in its respectively cited memoranda, that the relative simplicity of design and ease of operation of the foreign articles described above are pertinent to the applicants' educational purposes. We, therefore, find that the Forgflo Model EMU-4C electron microscope is not of equivalent scientific value to any of the foreign articles described above for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-19509 Filed 11-13-72;8:47 am]

EMORY UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00641-00-46040. Applicant: Emory University, Purchasing Department, Atlanta, Ga. 30322. Article: Electromagnetic Shutter with Exposure Meter. Manufacturer: Siemens AG, West Germany. Intended use of article: The articles are accessories to an existing electron microscope being used in various biomedical research projects including: (1) Ultrastructural evaluation of tumors of nonhuman primates; (2) electron microscopy of muscle and blood specimens of primates to be used in space flight studies; (3) evaluation of liver biopsy specimens from primates receiving alcohol; (4) characterization of the ultrastructural features of the central nervous system tissues of normal primates and following induced lesions; and (5) ultrastructural evaluation of spontaneous virus diseases of primates or diseases suspected of being caused by virus infections.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to a compatible accessory for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes.

The Department of Commerce knows of no similar accessory being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-19510 Filed 11-13-72;8:48 am]

OAK RIDGE ASSOCIATED UNIVERSITIES

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892, et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, DC.

Docket No. 72-00628-33-46040. Applicant: Oak Ridge Associated Universities, Post Office Box 117, Oak Ridge, TN 37380. Article: Electron Microscope, Model Elmiskop 101. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is intended to be used to examine the fine structure and isolated molecular components of normal and malignant human and experimental animal tissues. The experiments to be conducted include studies on the cellular and subcellular localization of the tumor-localizing raidonuclide 67Ga, using high-resolution autoradiography on tissue sections and on isolated cellular components: similar materials in experimental animals after wholebody acute and chronic x-irradiation to determine, the effect of x-irradiation on the ability of cells and and their molecular components to concentrate or localize 67Ga.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article has a specified resolving capability of 3.5 Angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C has a specified resolving capability of 5 Angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated October 20, 1972, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-19511 Filed 11-13-72;8:48 am]

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, DC.

Docket No. 73-00001-00-46040. Applicant: UCLA, Department of Zoology, 405 Hilgard Avenue, Los Angeles, CA 90024. Article: Anticontamination cold finger. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is a compatible accessory to be used with an existing electron microscope in the study of neuronmuscular junctions of biological materials.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The application relates to a compatible accessory for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes.

The Department of Commerce knows of no similar accessory being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-19513 Filed 11-13-72;8:48 am]

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00472-75-14200. Applicant: University of California, Los Alamos Scientific Laboratory, Post Office Box 990, Los Alamos, NM 87544. Article: Image analyzing computer, Model 720. Manufacturer: Metals Research Ltd., United Kingdom. Intended use of article: The article will be used to study radioactive ceramic materials containing Pu^{238} being used or being considered for use as fuels in SNAP generators. The particle sizes and size distributions contained in samples of these materials will be studied. Solid samples will be exposed to various mechanical and thermal environments and the fine particles formed during the exposures will be counted and sized.

Comments: Comments dated July 8, 1971, were received from Bausch and Lomb, Inc. (B&L) which allege inter alia, "It is apparent that our Quantitative Metallurgical System, Model QMS, is of scientific equivalence to the requested foreign product [the foreign article]."

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (May 26, 1970).

Reasons: This application is a resubmission of Docket No. 71-00230-65-14200 which was denied without prejudice to resubmission on March 8, 1971, due to informational deficiencies. As to the captioned application, the National Bureau of Standards (NBS) advises in its memorandum dated April 18, 1972, that the capability of analyzing photographs is pertinent within the meaning of Section 701.2(n) of the regulations to minimizing radiation contamination in the applicant's analysis of radioactive materials. B&L, in its comments relating to the captioned application, as well as those of January 25, 1971, relating to the applicant's prior application, states that its Model QMS can be equipped with a "Macro Facilities" accessory which has the capability of analyzing photographs. Neither of B&L's comments, however, contain documentation indicating when this accessory became available. In fact, the first printed reference which B&L has provided the Department of Commerce wherein the Marco Facility accessory is offered for sale is dated October 1971. In correspondence with B&L officials dated August 11, 1972, it was noted that "Based on the information enclosed with your letter of August 3, we [Commerce] would have to assume the * * * macro facility * * * [was] available in October 1971 * * *. In the absence of such evidence [documentation which verifies the availability of the accessory prior to October 1971] we must rely upon our evaluation of the best information we have at our disposal." B&L failed to respond to this letter with documentation supporting a date of availability prior to October 1971. Furthermore, the applicant alleged in the captioned application and the prior application that B&L was sent a formal invitation to bid, neither of which was responded to. In its comments on both applications, B&L did not refute this allegation. Finally, NBS advises "It is our understanding that Bausch & Lomb did not offer the Macro Facilities accessory as of the foreign article's order date of May 26, 1970." Accordingly, we find that B&L's QMS was not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used at the time the foreign article was ordered because the Macro Facility accessory was unavailable at the time the foreign article was ordered (May 26, 1970).

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-19512 Filed 11-13-72;8:48 am]

VETERANS' ADMINISTRATION RESEARCH HOSPITAL

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and

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the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00639-33-46040. Applicant: Veterans' Administration Research Hospital, 333 East Huron Street, Chicago, IL 60611. Article: Electron microscope, Model HU-12. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article is intended to be used for monitoring purity, cytochemical and ultrastructural studies and autoradiography wherever required in various research projects including:

(1) Subcellular fractions of brain nuclei and nervous tissues,
(2) Kidney and liver lysosomes,
(3) Brain subcellular fractions,
(4) Neurosecretory granule fractions from beef pituitary,
(5) Storage granules of beef adenohypophysins,
(6) Chromaffin and zymogen granule fractions.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article has a specified resolving capability of 3 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated October 20, 1972, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-10514 Filed 11-13-72;8:48 am]

Maritime Administration

CONSTRUCTION OF LIQUEFIED NATURAL GAS (LNG) VESSELS

Computation of Foreign Cost

Notice is hereby given of the intent of the Maritime Subsidy Board, pursuant to the provisions of section 502(b) of the Merchant Marine Act, 1936, as amended, to compute the estimated foreign cost of the construction of 125,000 cubic meter liquefied natural gas (LNG) vessels with spherical tank system of the Chicago Bridge and Iron Co. design.

Any person, firm, or corporation having any interest (within the meaning of section 502(b)) in such computations may file written statements by the close of business on November 30, 1972, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th and E Streets NW., Washington, DC 20235.

Dated: November 10, 1972.

By order of the Maritime Subsidy Board, Maritime Administration.

AARON SILVERMAN,
Acting Secretary.

[FR Doc.72-19648 Filed 11-13-72;8:53 am]

[Docket No. S-307]

EAGLE TERMINAL TANKERS, INC. AND SEA TRANSPORT CORP.

Notice of Multiple Applications

Notice is hereby given that the following corporations have filed application for an operating-differential subsidy contract to carry bulk cargoes to expire on June 30, 1973 (unless extended only for subsidized voyages in progress on that date). The bulk cargo carrying vessels proposed to be subsidized and the trades in which each proposes to engage are presented also.

Operator's name and address	Type of ship	Name of ship
Eagle Terminal Tankers, Inc., 250 Park Ave., New York, NY 10017.	Tanker.	SS Eagle Charger.
	...do.....	SS Eagle Leader.
	...do.....	SS Eagle Courier.
	...do.....	SS Eagle Transporter.
Sea Transport Corp., 250 Park Ave., New York, NY 10017.	...do.....	SS Eagle Traveler.
	...do.....	SS Eagle Voyager.

The foregoing applications may be inspected in the Office of the Secretary, Maritime Subsidy Board, Maritime Administration, U.S. Department of Commerce, Washington, D.C., during regular working hours.

These vessels are to engage in the carriage of export bulk raw and processed agricultural commodities in the foreign commerce of the United States (U.S.) from ports in the U.S. to ports in the Union of Soviet Socialist Republics (U.S.S.R.), or other permissible ports of discharge. Liquid and dry bulk cargoes may be carried from U.S.S.R. and other foreign ports inbound to U.S. ports during voyages subsidized for carriage of export bulk raw and processed agricultural commodities to the U.S.S.R.

Full details concerning the U.S.-U.S.S.R. export bulk raw and processed agricultural commodities subsidy program, including terms, conditions, and restrictions upon both the subsidized operators and vessels, appear in the regulations published in the FEDERAL REGISTER on October 21, 1972 (37 F.R. 22747).

For purposes of section 605(c), Merchant Marine Act, 1936, as amended (Act), it should be assumed that each vessel named will engage in the trades described on a full-time basis through June 30, 1973 (with extension to termination of approved subsidized voyages in progress on that date). Each voyage must be approved for subsidy before commencement of the voyage. The Maritime Subsidy Board (Board) will act on each request for a subsidized voyage as an administrative matter under the terms of the individual operating-differential subsidy contract for which there is no requirement for further notices under section 605(c) of the Act.

Any person having an interest in the granting of one or any of such applications and who would contest a finding of the Board that the service now provided by vessels of U.S. registry for the carriage of cargoes as previously specified is inadequate, must, on or before November 20, 1972, notify the Board's Secretary, in writing, of his interest and of his position, and file a petition for leave to intervene in accordance with the Board's rules of practice and procedure (46 CFR Part 201). Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Act and with as much specificity as possible the facts that the intervenor would undertake to prove at such hearing. Further, each such statement shall identify the applicant or applicants against which the intervention is lodged.

In the event a hearing under section 605(c) of the Act is ordered to be held with respect to any application(s), the purpose of such hearing will be to receive evidence relevant to (1) whether the application(s) hereinabove described is one with respect to vessels to be operated in an essential service, served by citizens of the U.S. which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of U.S. registry is inadequate and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such action as may be deemed appropriate.

By order of the Maritime Subsidy Board.

Dated: November 10, 1972.

AARON SILVERMAN,
Acting Secretary.

[FR Doc.72-19644 Filed 11-13-72;8:53 am]

[Docket No. S-304]

EAGLE TERMINAL TANKERS, INC. AND SEA TRANSPORT CORP.

Notice of Multiple Applications

Notice is hereby given that applications have been filed under the Merchant Marine Act of 1936, as amended, for operating-differential subsidy with respect to bulk cargo carrying service in the U.S. foreign trade, principally between the United States and the Union of Soviet Socialist Republics, to expire on June 30, 1973 (unless extended only for subsidized voyages in progress on that date). Inasmuch as the below listed applicants, and/or related persons or firms, employ ships in the domestic, intercoastal, or coastwise service, written permission of the Maritime Administration under section 805(a) of the Merchant Marine Act, 1936, as amended will be required for each such applicant if its application for operating-differential subsidy is granted.

The following applicants have requested permission involving the domestic, intercoastal, or coastwide services described below:

Name of applicants:

Sea Transport Corp. (Sea Trans.)
Eagle Terminal Tankers, Inc. (Eagle)

Description of domestic service and vessels: The applicants, Sea Trans. and Eagle, affiliates of one another and of the owning company listed hereafter, have each requested written permission for the continuance of domestic, intercoastal, and coastwise service for the following vessels owned by each of the affiliates:

Ship:	Owner
Eagle Charger	Eagle.
Eagle Leader	Eagle.
Eagle Courier	Eagle.
Eagle Transporter	Eagle.
Eagle Traveler	Sea Trans.
Eagle Voyager	Sea Trans.
Nashbulk	Nashbulk, Inc.

Written permission is now required by the applicants (Sea Trans. and Eagle) notwithstanding that a voyage in the proposed service for which subsidy is sought would not be eligible for subsidy if the vessel carried domestic commerce of the United States on that voyage.

Interested parties may inspect these applications in the Office of the Secretary, Maritime Subsidy Board, Maritime Administration, Department of Commerce Building, 14th and E Streets NW., Washington, DC 20235.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in any application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit comments or views concerning the application must, by close of business on November 20, 1972, file same with the Maritime Subsidy Board/Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board/Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled for 10 a.m., November 22, 1972, in Room 4896, Department of Commerce Building, 14th and E Streets NW., Washington, DC 20235. The purpose of the hearing will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal services, or (b) would be prejudicial to the objects and policy of the Act.

By order of the Maritime Subsidy Board/Maritime Administration.

Dated: November 10, 1972.

AARON SILVERMAN,
Acting Secretary.

[FR Doc.72-19647 Filed 11-13-72;8:53 am]

[Docket No. S-305]

FREIGHTERS INC. ET AL.

Notice of Multiple Applications

Notice is hereby given that applications have been filed under the Merchant Marine Act of 1936, as amended, for operating-differential subsidy with respect to bulk cargo carrying service in the U.S. foreign trade, principally between the United States and the Union of Soviet Socialist Republics, to expire on June 30, 1973 (unless extended only for subsidized voyages in progress on that date). Inasmuch as the below listed applicants, and/or related persons or firms, employ ships in the domestic, intercoastal or coastwise service, written permission of the Maritime Administration under section 805(a) of the Merchant Marine Act, 1936, as amended, will be required for each such applicant if its application for operating-differential subsidy is granted.

The following applicants have requested permission involving the domestic, intercoastal, or coastwise services described below:

Name of applicant: Freighters, Inc. (Freighters).

Description of domestic service and vessels: The applicant, Freighters, owns and operates the SS *American Wheat*, which vessel has from time to time tramped in the U.S. coastwise trade, particularly in the carriage of bulk sugar from the State of Hawaii to the U.S. Gulf, and has requested written permission to continue domestic coastwise service for that vessel.

Written permission is now required by the applicant, Freighters, notwithstanding that a voyage in the proposed service for which subsidy is sought would not be eligible for subsidy if the vessel carried domestic commerce of the United States on that voyage.

Name of applicant: American Rice Steamship Co. (Rice).

Description of domestic service and vessels: The same as for Freighters inasmuch as Freighters is the parent of Rice.

Written permission is required by this applicant (Rice) as a related company to Freighters.

Name of applicant: Mathiasen's Tanker Industries, Inc. (Mathiasen's).

Description of domestic service and vessels: The applicant, Mathiasen's, owns or charters a total of five vessels which are eligible to participate in domestic, coastwise, and intercoastal trades. These vessels are operated in tramp services. The applicant has requested written permission for the continuance of such domestic, coastwise, and intercoastal service for the following vessels owned or bareboat chartered by Mathiasen's:

Prairie Grove	Owned.
Tampico	Owned.
Joseph D. Potts	Bareboat chartered.
Sohio Intrepid	Bareboat chartered.
Sohio Resolute	Bareboat chartered.

Written permission is now required by the applicant, Mathiasen's, notwithstanding that a voyage in the proposed service for which subsidy is sought would not be eligible for subsidy if the vessels carried domestic commerce of the United States on that voyage.

Interested parties may inspect these applications in the Office of the Secretary, Maritime Subsidy Board, Maritime Administration, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20235.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in any application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit comments or views concerning the application must, by close of business on November 20, 1972, file same with the Maritime Subsidy Board/Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board/Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled for 10 a.m., November 22, 1972, in Room 4896, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20235. The purpose of the

hearing will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm,

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in any application and desiring to be heard on issues pertinent

assistance to assist school districts to meet special needs incident to the elimination of racial segregation and discrimination, and technical assistance in

the administration and operation of vocational education programs under the act, including the effectiveness of such programs in meeting the purposes for

visability of adopting additional procedures. The public is advised that individual complaints cannot be considered at the meeting.

study was concluded on November 9, 1971, with the issuance of a Determination of No Hazard to Air Navigation (71-SO-798-OE).

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hearing will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal services, or (b) would be prejudicial to the objects and policy of the Act.

By order of the Maritime Subsidy Board/Maritime Administration.

Dated: November 10, 1972.

AARON SILVERMAN,
Acting Secretary.

[FR Doc.72-19646 Filed 11-13-72;8:53 am]

[Docket No. S-308]

TEXAS CITY TANKERS CORP.

Notice of Applications

Notice is hereby given that application has been filed under the Merchant Marine Act of 1936, as amended, for operating-differential subsidy with respect to bulk cargo carrying service in the U.S.-foreign trade, principally between the United States and the Union of Soviet Socialist Republics, to expire on June 30, 1973 (unless extended only for subsidized voyages in progress on that date). Inasmuch as the below listed applicant, and/or related persons or firms, employ ships in the domestic, intercoastal or coastwise service, written permission of the Maritime Administration under section 805(a) of the Merchant Marine Act, 1936, as amended, will be required for each such applicant if its application for operating-differential subsidy is granted.

The following applicant has requested permission involving the domestic, intercoastal or coastwise services described below:

Name of applicant: Texas City Tankers Corp. (Texas City).

Description of domestic service and vessels: The applicant, Texas City, bareboat charters and operates a number of vessels, including those owned by affiliates and listed hereafter, which vessels have operated in U.S. domestic services and have requested written approval to continue to operate Texas City bareboat chartered vessels in domestic coastwise and/or intercoastal (including Alaska, Hawaii, and Puerto Rico) service with free interchange between trades.

SHIP

V. A. Fogg (ex-Four Lakes).
William T. Steele (ex-The Cabins).
William J. Fields (ex-Thalia).

Written permission is now required by the applicant, Texas City, notwithstanding that a voyage in the proposed service for which subsidy is sought would not be eligible for subsidy if the vessels carried domestic commerce of the United States on that voyage.

Interested parties may inspect this application in the Office of the Secretary, Maritime Subsidy Board, Maritime Administration, Department of Commerce Building, 14th and E Streets NW., Washington, DC 20235.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in any application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit comments or views concerning the application must, by close of business on November 20, 1972, file same with the Maritime Subsidy Board/Maritime Administration, in writing, in triplicate, together with petition for leave to intervene, which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board/Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled for 10 a.m., November 22, 1972, in Room 4896, Department of Commerce Building, 14th and E Streets NW., Washington, DC 20235. The purpose of the hearing will be to receive evidence under section 805(e) relative to whether the proposed operation (a) could result in unfair competition to any person, firm, or corporation, operating exclusively in the coastwise or intercoastal services, or (b) would be prejudicial to the objects and policy of the Act.

By order of the Maritime Subsidy Board/Maritime Administration.

Dated: November 10, 1972.

AARON SILVERMAN,
Acting Secretary.

[FR Doc.72-19645 Filed 11-13-72;8:53 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

BUREAU OF EQUAL EDUCATIONAL OPPORTUNITY

Organization; Delegation of Authority

Statement of Organization, Functions, and Delegations of Authority, Part 2 (Office of Education) section 2-B, Organization and Functions, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare is amended as described below.

The statement under the heading Office of the Deputy Commissioner for School Systems is amended by addition of the following:

BUREAU OF EQUAL EDUCATIONAL OPPORTUNITY

The Bureau of Equal Educational Opportunity is responsible for administering programs of financial and technical assistance to assist school districts to meet special needs incident to the elimination of racial segregation and discrimination, and technical assistance in the development, adoption and implementation of plans for the desegregation of public schools. Local education agencies and certain supporting organizations are eligible for such assistance, which is delivered primarily through the 10 U.S. Office of Education regional offices.

Division of Program Development. Responsible for the initiation, coordination, and renewal of program strategies; the identification and reporting of specific program accomplishments; and the development and implementation of administrative guidelines, management models, operational plans, and training manuals.

Division of Program Operations. Responsible for supporting and facilitating the operations of regional Equal Educational Opportunity Offices including problem-solving action as necessary and directly administering certain specified program activities which are national in scope, limited in number, and/or highly specialized.

The Statement under the heading Office of the Deputy Commissioner for School Systems, Bureau of Elementary and Secondary Education, is amended by deletion of the Division of Equal Educational Opportunities.

Dated: November 3, 1972.

STEVEN D. KOHLERT,
Deputy Assistant Secretary for Management.

[FR Doc.72-19535 Filed 11-13-72;8:50 am]

NATIONAL ADVISORY COUNCIL ON VOCATIONAL EDUCATION

Notice of Public Meeting

Notice is hereby given, pursuant to Executive Order 11671, that the next meeting of the National Advisory Council on Vocational Education will be held on November 16, 1972, from 9 a.m. to 4:30 p.m. local time, in the Federal Room of the Statler-Hilton Hotel, 16th and K Streets NW., Washington, D.C. The National Advisory Council on Vocational Education will hold a joint meeting with the State Advisory Councils on Vocational Education on November 17, 1972, from 9 a.m. to 5 p.m. local time and on November 18, 1972, from 8:30 a.m. to 2 p.m. local time, in the Congressional Room and other meeting rooms of the Statler-Hilton Hotel, 16th and K Streets NW., Washington, D.C.

The National Advisory Council on Vocational Education is established under section 104 of the Vocational Education Amendments of 1968 (20 U.S.C. 1244). The Council is directed to advise the Commissioner of Education concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under the act; review the administration and operation of vocational education programs under the act, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations to the Secretary of HEW for transmittal to the Congress; and conduct independent evaluation of programs carried out under the act and publish and distribute the results thereof.

The meetings of the Council shall be open to the public. The proposed agenda includes:

November 16: Report of Executive Director. Discussion: Review of National Council Priorities. Report on Social Security Act, Titles II and IVA. Committee Reports.
November 17: Report on National Council Activities. Talk by William Pierce. Talk by Congressman Albert Quie. Discussion: Impact of Title X of Education Amendments of 1972. Discussion: Infusion of Occupational Education into the Elementary and Secondary School.
November 18: Talk by John Ottina, Acting Commissioner, USOE. Discussion: Guidance and Counseling. Discussion: Vocational Education for the Handicapped and Disadvantaged. Talk by Thomas Glennan, Director, NIE.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the Council's Executive Director, located in Suite 852, 425 13th Street NW., Washington, DC. 20004.

Signed at Washington, D.C., on November 2, 1972.

CALVIN DELLEFIELD,
Executive Director.

[FR Doc. 72-19496 Filed 11-13-72;8:47 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-72-126]

COMPLAINT PROCEDURES

Notice of Public Meeting

Notice is hereby given of a public meeting on Monday, December 4, 1972, from 9:30 a.m. to 12 noon and 1 p.m. to 5 p.m., Conference Room 10233, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC.

The Department of Housing and Urban Development is reviewing its current procedures for handling complaints of citizens with respect to its programs and activities and is considering the adoption of additional procedures. The purposes of the meeting are to inform the public about departmental complaint procedures and to give all interested persons an opportunity to express their views concerning the adequacy of existing complaint procedures and the advisability of adopting additional procedures. The public is advised that individual complaints cannot be considered at the meeting.

The presentation of comments at the meeting will be subject to the following qualifications:

1. Priority will be given to persons who submit a written request for a place on the agenda (addressed to the person stated below), received on or before November 29, 1972.

2. Oral statements will be limited to 5 minutes; written statements of any reasonable length will be accepted for the record.

A transcript of the meeting will be made and will be available for public inspection or purchase within a reasonable time following the meeting.

A summary of existing complaint procedures and other information pertaining to the meeting may be obtained from:

James H. Gross, Department of Housing and Urban Development, Room 10222, Washington, D.C. 20410, 202—755-7158.

In addition, copies of existing complaint procedures will be available for examination in the Program Information Center, Room 1202, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC.

Interested persons who cannot attend the meeting are invited to participate by submitting written data, views, or comments on or before December 15, 1972, to the person named above. All such written statements will be made part of the record of the meeting.

Dated: November 9, 1972.

GEORGE ROMNEY,
Secretary of Housing and Urban Development.

[FR Doc.72-19553 Filed 11-13-72;8:53 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[OE Docket No. 71-SO-3]

REVIEW AND DETERMINATION OF HAZARD TO AIR NAVIGATION

Notice of Review of Determinations

The Federal Aviation Administration was notified by FAA Form 7460-1, Notice of Proposed Construction or Alteration, dated July 29, 1971, that WSUN, Inc., St. Petersburg, Fla., proposed the construction of a guyed television antenna tower 1,500 feet above ground level (AGL), 1,525 feet above mean sea level (AMSL). The proposed structure would be located near Parrish, Fla., at latitude 27°33'37" north, longitude 82°-21'54" west.

The FAA Southern Region, Atlanta, Ga., conducted an aeronautical study in accordance with Part 77 of the Federal Aviation Regulations. The aeronautical study was concluded on November 9, 1971, with the issuance of a Determination of No Hazard to Air Navigation (71-SO-798-OE).

The Administrator was petitioned for a review of the determination by the Air Line Pilots Association, the city of Lakeland, Fla., and the State of Florida, Department of Transportation. By notice issued January 18, 1972, the review was granted.

Responses to the notice granting a review were filed by the construction sponsor, individual pilots, and representatives for the Air Line Pilots Association, Sarasota-Bradenton Airport, Birdsong Tampa Downs Airport, Vandenberg Airport, Florida Flying Farmers, Inc., Florida Yankee, Inc., and the State of Florida, Department of Transportation.

The record shows that during the aeronautical study, the FAA Southern Regional Office circularized a notice concerning the proposal. Copies of the notice were sent to known interested persons inviting comment with respect to the effect the tower would have on aeronautical operations, procedures, and minimum flight altitudes. Nevertheless, many objections have been raised during the review that were not raised at the regional level.

Examination of the file, developed during the region's aeronautical study, revealed that objections received were aimed largely at the adverse effect the proposed tower would have on operations conducted in accordance with instrument flight rules. The objections pertaining to the effect on visual flight rules operations were general in nature with only one response containing supporting material. With respect to VFR operations, the study disclosed that the tower would be within 2 miles of a direct route between Sarasota and Lakeland. A survey conducted by the Sarasota Flight Service Station found an average of 14 flights daily along the route. It was concluded, however, that the proposed tower would not significantly add to the burden on the pilot since sufficient altitude or lateral clearance would be necessary in order to avoid an existing 1,549-foot AMSL tower located near the route.

The material received in response to the grant of review, contrary to that submitted during the regional study, focused on the effect the tower would have on visual flight rules operations. As a result, a much broader picture of the VFR operations in the Parrish, Fla., area was presented than was available in the aeronautical study. The overall picture of the traffic presented pertaining to the tower site was that it would be on a heavily traveled route between Sarasota and Lakeland but, of equal importance, as being in the primary corridor for local and transient aircraft operating north-south in the western part of the Florida peninsula. Pilots, airport operators, and other aviation interests reported that north-south VFR operations are channeled into this area because of the

swamps on the east and the coastline with its congested areas and numerous large airports on the west.

the FAA at the time the notice of proposed construction was filed. Accordingly, the airport was not subject to con-

Dated this 6th day of November 1972.

For the Board.

JOHN H. REED,

products in Category 22 produced or manufactured in Ghana. Public notice of this request was published in the FEDERAL REGISTER on September 23, 1970

in the FEDERAL REGISTER on April 29, 1972 (37 F.R. 8802).

In carrying out the above directions, entry into the United States for consumption shall

nection of answering devices to the public telephone network. Subcommittee mem-

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swamps on the east and the coastline with its congested areas and numerous large airports on the west.

In further support of the frequent use of the area, it was reported that at a spring meeting of the Florida Suncoast 99's, held at the Hidden River Airport, eight of the nine aircraft arriving passed the site of the proposed tower. Another pilot reported that he flew through the area weekly at an altitude of 1,000 to 1,500 feet. It was also reported that the 14 daily flights between Sarasota and Lakeland, disclosed in the aeronautical study, would actually be substantially larger as most pilots do not file flight plans for such flights. The opposition to the proposed tower location also results from its placing tall towers on both sides of the heavily traveled Sarasota-Lakeland route.

Local operators also reported that to avoid intermixing with the heavy commercial and military traffic, the VFR pilots found it advantageous to fly at the lower altitudes. That the lower altitudes are used in the area was attested to by the President of the Florida Flying Farmers, Inc., who stated that the tower would project into the north-south corridor and that aircraft operate in the corridor at altitudes of 1,000 and 2,000 feet.

It was also maintained that local pilot training is conducted in the corridor for the same reason that transient aircraft prefer to operate there. It is conceded that flight training may be conducted north or south of the proposed tower site, but that the tower would be in the heart of the corridor and would have a substantial adverse effect on that activity.

Finally, the weather and terrain were introduced as important factors to be considered in evaluating the effect of such a structure on VFR operations. It was said that the character of the terrain in the area of concern and on the Florida peninsula favors low altitude flight operations. In conjunction with the flat terrain the cloud formations throughout the year also influence and, to a large extent, require aircraft operating in accordance with VFR to fly at low altitudes where they are most affected by tall guyed towers.

With respect to IFR operations, the review disclosed that the increase from 1,600 to 2,500 feet in the procedure turn altitude for SIAP VOR runway 22, Sarasota-Bradenton Airport, would not increase the minimum descent altitude. Further, the increase from 2,000 feet to 2,500 feet in the minimum en route altitude between South Bay and Gibson Intersections on VOR Federal Airway 97–492 and the increase in the radar vectoring altitude from 1,700 to 2,500 MSL within 3 nautical miles of the structure would not compromise the flexibility of air traffic control. Therefore, it was found that the structure would not have a substantial adverse effect on IFR operations. As for the proposed regional airport, there were no plans on file with the FAA at the time the notice of proposed construction was filed. Accordingly, the airport was not subject to consideration in the review.

In summary, we find that the material received in response to the grant of review provided more adequate evidence concerning the nature of the area around the proposed tower with respect to VFR operations than was available in the regional consideration. The review disclosed that a substantial number of VFR operations are routinely conducted in the area, that these flights operate at altitudes that would be adversely affected by construction of the proposed tower and that there would be no positive means of circumnavigating the tower.

Based on the review, it is the finding of the FAA that the proposed television tower, because of its adverse effect on VFR operations, would have a substantial adverse effect upon the safe and efficient use of the navigable airspace. Therefore, pursuant to the authority delegated to me by the Administrator (30 F.R. 13023), the regional determination of no hazard (71–SO–798–OE) is hereby reversed, and a final Determination of Hazard to Air Navigation is hereby entered in accordance with § 77.37 of the Federal Aviation Regulations, with respect to the proposal by WSUN, Inc., to construct a television tower to a height 1,500 feet AGL (1,525 feet AMSL), at latitude 27°33'37" north, longitude 82°21'54" west.

Issued in Washington, D.C., on November 1, 1972.

RAYMOND G. BELANGER,
Acting Director,
Air Traffic Service.

[FR Doc.72-19485 Filed 11-13-72;8:46 am]

National Transportation Safety Board

[Docket No. SS-R-22]

AIRCRAFT ACCIDENT AT CHICAGO, ILL.

Notice of Designation of Chairman of Board of Inquiry and Notice of Investigation Hearing

In the matter of the investigation of the collision of the Illinois Central Gulf Railroad Passenger Trains Nos. 416 and 720, at Chicago, Ill., on October 30, 1972.

Pursuant to the authority conferred by the National Transportation Safety Board, Washington, D.C., Board Chairman John H. Reed is designated as Chairman, Board of Inquiry, to conduct a public hearing on behalf of the National Transportation Safety Board. The public hearing on the above matter will be held commencing at 9 a.m., c.s.t., on Monday, December 4, 1972, in the Illinois Room of the La Salle Hotel, 10 North La Salle Street, Chicago, Ill. The said Chairman of the Board of Inquiry is authorized to exercise such powers in connection with the conduct of such proceedings as authorized by the National Transportation Safety Board.

Dated this 6th day of November 1972.

For the Board.

JOHN H. REED,
Chairman.

[FR Doc.72-19497 Filed 11-13-72;8:47 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-390, 50-391]

TENNESSEE VALLEY AUTHORITY

Order Changing Date of Evidentiary Hearing

In the matter of Tennessee Valley Authority (Watts Bar Nuclear Plant, Units 1 and 2).

Notice is hereby given that the evidentiary hearing on this matter, which was originally scheduled to be held on November 29, 1972, has been changed and is now scheduled to commence at 10 a.m. local time, on November 20, 1972, in the Rhea County Courthouse, Dayton, Tenn. 37321, and will continue until completed.

The first portion of the evidentiary hearing will concern itself with the environmental issue, then to be directly followed by the radiation and safety issue concerned in the subject application. This combination of the two issues into one continuous hearing is consistent with the intention and agreement of the parties as expressed at the prehearing conference held in this matter on November 6, 1972.

All members of the public are entitled to attend the hearing. All parties who have requested the opportunity to present limited appearances will be permitted to do so as early as practicable on the first day of the scheduled hearing session.

It is so ordered.

Issued at Washington, D.C., this 9th day of November 1972.

ATOMIC SAFETY AND LICENSING BOARD,
ELIZABETH S. BOWERS,
Chairman.

[FR Doc.72-19577 Filed 11-13-72;8:53 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN GHANA

Entry or Withdrawal From Warehouse for Consumption

NOVEMBER 10, 1972.

On September 13, 1972, the U.S. Government requested the Government of Ghana to enter into consultations under Articles 3 and 6(c) of the Long-Term Arrangement Regarding International Trade in Cotten Textiles done at Geneva on February 9, 1962, concerning exports to the United States of cotton textile products in Category 22 produced or manufactured in Ghana. Public notice of this request was published in the FEDERAL REGISTER on September 23, 1972 (37 F.R. 20050). Since no solution has been mutually agreed upon, the U.S. Government, in furtherance of the objectives of, and under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, including Articles 3 and 6(c), which relate to nonparticipants, is establishing a restraint at the requested level of 440,000 square yards for the period beginning September 13, 1972, and extending through September 12, 1973. This restraint does not apply to cotton textile products in Category 22, produced or manufactured in Ghana and exported to the United States prior to September 13, 1972.

There is published below a letter of November 10, 1972, from the chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that the amount of cotton textile products in Category 22, produced or manufactured in Ghana, which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning September 13, 1972, be limited to 440,000 square yards.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary and Director, Bureau of Resources and Trade Assistance.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

NOVEMBER 10, 1972.

DEAR MR. COMMISSIONER: Under the terms of the long-term arrangement regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, including Article 6(c) thereof relating to nonparticipants, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective as soon as possible, and for the 12-month period beginning September 13, 1972, and extending through September 12, 1973, entry into the United States for consumption and withdrawal from warehouse for consumption, of cotton textile products in Category 22, produced or manufactured in Ghana, in excess of a level of restraint for the period of 440,000 square yards.[1]

Entries of cotton textile products in Category 22, produced or manufactured in Ghana and which have been exported to the United States from Ghana prior to September 13, 1972, shall not be subject to this directive.

Cotton textile products in Category 22 which have been released from the custody of the Bureau of Customs under the provisions of 19 U.S.C. 1448(b) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of Category 22 in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on April 29, 1972 (37 F.R. 8802).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Ghana and with respect to imports of cotton textile products from Ghana have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary and Director, Bureau of Resources and Trade Assistance.

[FR Doc.72-19594 Filed 11-13-72;8:53 am]

[1] This level has not been adjusted to reflect any entries made on or after September 13, 1972.

FEDERAL COMMUNICATIONS COMMISSION

ANSWERING DEVICES; ADVISORY SUBCOMMITTEE

Notice of Public Meeting

NOVEMBER 2, 1972.

In accordance with Executive Order No. 11671, dated June 7, 1972, announcement is made of a public meeting of the Answering Devices Subcommittee, to be held Wednesday, November 29, and continuing through Friday, December 1, 1972. The subcommittee will meet at 1229 20th Street NW., Wednesday and Friday in Room A–110 and will meet at 1919 M Street NW., Room 847, on Thursday.

1. *Purposes.* The purpose of this subcommittee is to prepare recommended standards to permit the interconnection of customer-provided and maintained answering equipment to the public switched network.

2. *Membership.* The subcommittee is chaired by Fred Warden and is composed of the following: Lyle D. Abbott, M. E. Hacker, Samuel R. Buxbaum, James B. Eppes, Charles Hernandez, Anthony G. Giacoio, Thomas J. Dunleavy, Peter J. Grant, Jim Owen, F. A. Foresta, Richard W. Horton, Jerry A. Klein, Leslie N. Wilder, K. R. Parker, R. B. Brunson, Clyde W. Sautters, F. G. Splitt, Peter F. Theis, Robert E. Morgan, Lloyd Smith, Shaun Delaney, Boyd King, Ron Matteson, Gustone Perrin, Preston R. Brown, James F. Holmes, Brendan McShane, Allan MacLeod, Denis E. Lowry, Robert W. Shirley, George A. Smith, B. Edelman, Rudy C. Stiefel, John R. Mineo, and Earl C. Mansfield.

3. *Activities.* As at prior meetings, subcommittee members and observers present their suggestions and recommendations regarding the various technical criteria and standards that should be considered with respect to the interconnection of answering devices to the public telephone network. Subcommittee members include representatives of the Federal Government, State regulatory bodies, manufacturers, carriers and users.

4. *Agenda.* The agenda for the November 29 through December 1 meeting will be as follows:

1. Review of equipment test standard.
2. Completion of open items on technical criteria.
3. Discussion on glossary of terms being prepared.
4. Discussion on enforcement procedures.

It is suggested that those desiring more specific information about the meeting call the Domestic Rates Division on 202—632–6457.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-19531 Filed 11-13-72;8:50 am]

RADIOTELEPHONE STATIONS OPERATING IN THE 1600–3500 kHz MARITIME BAND

Notice to Licensees and Operators of Ship

OCTOBER 31, 1972.

The Commission has exempted public coast station KCC, Corpus Christi, Tex., from the requirement for maintenance of a watch on the frequency 2182 kHz for an initial period of 1 year from October 6, 1972.

This action was taken with the concurrence of the U.S. Coast Guard at the request of the Southwestern Bell Telephone Co., the licensee of station KCC. Application by the Telephone Co., was made pursuant to § 81.191(c)(1) of the Commission's rules, which provides that any coast station may be exempted from this watch requirement if the Commission considers that the frequency 2182 kHz is adequately guarded by other stations. The U.S. Coast Guard radio facilities in the Port Aransas, Tex., and Port Isabel, Tex., areas maintain a continuous watch on 2182 kHz and have been shown, as a result of cooperative measurements and tests conducted by the Coast Guard and the Telephone Co., to have a coverage on 2182 kHz equal to or greater than the existing coverage of station KCC.

The exemption has been limited to a 1-year period, ending October 6, 1973, in order to afford the licensees of affected ship stations an opportunity to evaluate the discontinuance of the watch by station KCC under actual operating conditions.

Any interested person who is of the opinion that the continuance of the above-mentioned exemption beyond October 6, 1973, is not in the public interest, may file with the Secretary, Federal

banks in 11 Western States with aggre-

not be consummated: (a) Before the

Board of Governors of the Federal Re-

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Communications Commission, Washington, D.C. 20554, on or before July 6, 1973, a written statement setting forth his opinion and the reasons therefor.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-19532 Filed 11-13-72;8:50 am]

FEDERAL POWER COMMISSION

[Docket No. RP73-60]

ARKANSAS LOUISIANA GAS CO.

Proposed Changes in Rates and Charges

NOVEMBER 9, 1972.

Take notice that on October 26, 1972, Arkansas Louisiana Gas Co. (Ark-La) tendered for filing proposed changes in its FPC gas tariff, Original Volume No. 3, to become effective November 26, 1972. The proposed changes would increase jurisdictional revenues by approximately $200,000 annually to Cities Service Gas Co. (Cities) under Rate Schedule X-26 based on sales made to Cities during the 12-month period ended September 30, 1972.

Ark-La states that the increase in price from 23.45¢ to 24.27¢ per Mcf is based entirely on its increase in the cost of purchased gas and is in accordance with the aforementioned rate schedule which is contractual in form.

Copies of the filing were served upon Cities Service Gas Co., the only customer taking service under Rate Schedule No. X-26.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 16, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19492 Filed 11-13-72;8:46 am]

[Docket No. E-7723]

POTOMAC EDISON CO.

Postponement of Procedural Dates

NOVEMBER 8, 1972.

On November 1, 1972, The Potomac Edison Co. requested a further extension of the time within which to file updated cost of service statements and related prepared testimony as required by the notice issued September 1, 1972, in the above matter (37 F.R. 18118). A motion was filed on November 2, 1972, confirming the request.

Upon consideration, notice is hereby given that the date for filing updated cost of service statements and related prepared testimony and exhibits constituting the Company's case-in-chief is postponed until December 1, 1972. The other dates are further postponed accordingly.

Mar. 1, 1973	Prepared testimony and exhibits of staff.
Mar. 14, 1973, 10 a.m. (e.s.t.).	Prehearing conference.
Apr. 2, 1973	Rebuttal evidence, if any, of the Potomac Edison Co.
Apr. 16, 1973, 10 a.m. (e.s.t.).	Cross-examination of evidence.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19494 Filed 11-13-72;8:47 am]

[Docket No. CP73-123, etc.]

UNITED GAS PIPE LINE CO. ET AL.

Petition for Declaratory Order, Order Directing Compliance, and Motion for Consolidation

NOVEMBER 8, 1972.

Take notice that on November 2, 1972, United Gas Pipe Line Co. (Petitioner) filed in Docket No. CP73-123, pursuant to § 1.7(c) of the Commission's rules of practice and procedure and section 554 (c) of the Administrative Procedure Act, a petition for declaratory order and for order directing compliance, requesting the Commission to order Humble Oil & Refining Co. (Humble) and Isaac Arnold, et al. (Arnold) to desist from reducing deliveries to Petitioner under a 1958 contract, as amended in 1963, between Humble and Arnold as sellers, and Petitioner as buyer, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Concurrently, Petitioner filed a motion for consolidation of the instant docket with the previously consolidated proceedings in Texas Gas Exploration Corp., Docket No. CI72-674, Gulf Oil Corp., Docket No. CI62-965, and Southern Natural Gas Co., Docket No. CP73-72.

At issue in the above-mentioned consolidated proceedings are contractual rights to the gas produced from the Garden City Field, St. Mary Parish, La., which gas is the subject of the petition for declaratory order filed by Petitioner herein.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 20, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19491 Filed 11-13-72;8:46 am]

FEDERAL RESERVE SYSTEM

BANK OF IDAHO

Order Approving Application for Merger of Banks

Bank of Idaho, Boise, Idaho (Boise Bank, a member State bank of the Federal Reserve System, has applied for the Board's approval pursuant to the Bank Merger Act (12 U.S.C. 1828(c)) of the merger of that bank with Cassia National Bank, Burley, Idaho (Cassia Bank), under the charter and title of Boise Bank. As an incident to the merger, the three present offices of Cassia Bank and an approved but unopened branch would become branches of the resulting bank.

As required by the Act, notice of the proposed merger, in form approved by the Board, has been published, and the Board has requested reports on competitive factors from the Attorney General, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation.

The Department of Justice commented on the proposed transaction, concluding that it might have an adverse competitive effect. Justice stated that it believed that the merger would not eliminate any significant existing competition. However, Justice declared that Boise Bank would be eliminated as the most likely potential entrant into the Burley area and, further, that acquisition of Cassia Bank by Boise Bank would lead to further concentration at the statewide level. Boise Bank responded to Justice's comments by arguing that the Burley area was unattractive for de novo entry. Moreover, Boise Bank stated that the proposed merger could enhance competition in the Burley area by making Cassia Bank a more positive competitive force. Boise Bank concluded by indicating its belief that consummation of the merger would have little effect on statewide concentration and would not serve as a precedent for future mergers that might lead to undue concentration in Idaho.

The Board has considered the application and all comments and reports received in the light of the factors set forth in the Act, and finds that:

Boise Bank (deposits of about $205 million) operates 25 banking offices throughout Idaho and controls about 12 percent of the deposits of commercial banks in the State. (Boise Bank is a subsidiary of Western Bancorporation which, as of March 31, 1972, controlled 23 banks in 11 Western States with aggregate resources of $13.1 billion.) Acquisition of Cassia Bank (deposits of about $15 million) would add about 1 percent of Boise Bank's share of statewide deposits and would not result in a significant increase in the concentration of banking resources in Idaho.[1]

Cassia Bank ranks third among four banks in Burley, as measured by area deposits, with approximately 22 percent of such deposits. There is no existing substantial competition between Boise Bank and Cassia Bank, nor does there seem to be a reasonable probability of significant potential competition developing between the two. The closest banking office of Boise Bank to the Burley area is about 39 miles away and there are banks in the intervening area. The closest banking office of Boise Bank to Lava Hot Springs, where Cassia Bank has a branch, is 38 miles north and west of Lava Hot Springs in Pocatello. The area between Pocatello and Lava Hot Springs is sparsely populated and is not an attractive area for an additional bank or branch. Boise Bank has attempted within the last 2 years to establish a de novo branch in Burley, but was turned down by the Board due to the Board's belief that the Burley area could not economically support an additional banking office. Subsequent to the Board's decision, an additional branch by another banking organization was established in Burley so that it seems even more unlikely now that Boise Bank would be permitted to establish a de novo branch in Burley. Because of these several factors the Board concludes that the merger would not have an adverse effect upon competition in any relevant area.

The financial and managerial resources of Boise Bank are generally satisfactory, and the prospects for the resulting bank appear favorable, particularly in light of Boise Bank's commitment to add $4 million in equity capital within the next 4 months. Considerations relating to the convenience and needs of the communities to be served lend some weight toward approval since Boise Bank plans to considerably expand real estate loans in the Burley area, a service that Cassia Bank has not provided to a significant degree. Based upon the foregoing it is the Board's judgment that consummation of the proposal would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above.[2] The transaction shall not be consummated: (a) Before the 30th calendar day following the effective date of this order, or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of San Francisco pursuant to delegated authority.

By order of the Board of Governors,[3] effective November 7, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-19519 Filed 11-13-72;8:46 am]

[1] Banking data are as of Dec. 31, 1971, while market data for the Burley area are as of June 30, 1970.

[2] Dissenting Statement of Governor Robertson filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of San Francisco.

BANK OF VIRGINIA CO.

Acquisition of Bank

Bank of Virginia Co., Richmond, Va., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Bank of Virginia—Norfolk, Norfolk, Va., a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than December 1, 1972.

Board of Governors of the Federal Reserve System, November 7, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-19520 Filed 11-13-72;8:49 am]

CHEMICAL NEW YORK CORP.

Acquisition of Bank

Chemical New York Corp., New York, N.Y., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of State Bank of Hilton, Hilton, N.Y. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 4, 1972.

[3] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Brimmer, and Sheehan. Present and abstaining: Governor Bucher. Voting against this action: Governor Robertson.

Board of Governors of the Federal Reserve System, November 7, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-19521 Filed 11-13-72;8:49 am]

FIRST AT ORLANDO CORP.

Order Approving Acquisition of Bank

First at Orlando Corp., Orlando, Fla., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of Community National Bank & Trust Co., Bal Harbour, Fla. (Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls 26 banks with aggregate deposits of $904.6 million, representing 5.6 percent of the deposits held by commercial banks in Florida. (All banking data are as of December 31, 1971, and reflect holding company formations and acquisitions approved by the Board through August 31, 1972.) Applicant has three subsidiary banks (aggregate deposits of $88.6 million) located in the Miami banking market, approximated by Dade County and the southern third of Broward County, and holds 2.2 percent of the total commercial bank deposits therein. Applicant presently ranks as the 12th largest of the 50 banking organizations in the Miami market. Bank ($42.6 million in deposits) also operates in the Miami banking market and holds 1 percent of total market deposits, thereby ranking as the 27th largest of the 90 banks in the market and 22d largest of the 50 banking organizations in the market. Upon consummation of the proposed transaction, Applicant would become the market's eighth largest banking organization and would control 3.3 percent of deposits therein. Applicant's subsidiary bank closest to Bank is located in downtown Miami, 14 miles southwest of Bank. The service areas of the two banks slightly overlap; however, it does not appear that a significant amount of existing competition would be eliminated by consummation of the proposed transaction.

Although the three largest banking organizations in the Miami market control approximately 41 percent of the deposits in that market, there are, in addition to Bank, 28 unaffiliated banks, including five, each with deposits exceeding $35 million, operating in the market. As each

of these is a vehicle for potential entry, removal of Bank as an alternative means of entry is not likely to significantly lessen opportunities for other bank hold-

FIRST NATIONAL BANCORPORATION, INC.

Acquisition of Bank

standing voting shares of Underwood Mortgage & Title Co., Irvington, N.J. Notice of the application was published on September 27, 1972, in the Star

POSTAL RATE COMMISSION

4. This delegation is subject to revocation or modification in whole or in part at any time.

Dated: November 9, 1972.

suspension of trading in the common stock, $0.03½ par value, and all other securities of Clinton Oil Co., being traded otherwise than on a national securities

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of these is a vehicle for potential entry, removal of Bank as an alternative means of entry is not likely to significantly lessen opportunities for other bank holding companies, not represented in the market to enter the Miami area. Furthermore, consummation of the proposed transaction is unlikely to have an adverse effect on potential competition in the market due to the existence of several banks in the intervening areas between Bank and Applicant's subidiaries, Florida's restrictive branching laws, and the existence of Biscayne Bay physically separating Bank from Applicant's Miami subsidiaries. On the basis of the foregoing and the facts of record, the Board concludes that the competitive considerations with respect to Applicant's proposal are consistent with approval of the application.

The financial conditions of Applicant and its subsidiaries are considered to be generally satisfactory in view of Applicant's commitment to increase the equity capital positions of certain of its subsidiary banks. (See Board's order of September 26, 1972, approving Applicant's applications to acquire shares of The City Bank & Trust Co., of St. Petersburg and the Suncoast City Bank of St. Petersburg.) The managerial resources and future prospects of Applicant and its subsidiaries are considered satisfactory and consistent with approval of the application. The same conclusions apply generally with respect to the financial and managerial resources and future prospects of Bank. The banking needs of the communities are being adequately served at present, and consummation of the proposed transaction would not result in the availability of any new services. However, consummation is expected to enhance Bank's ability to compete with the larger banking organizations operating in the market. Accordingly, considerations relating to the convenience and needs of the communities to be served are consistent with approval of the application. It is the Board's judgment that consummation of the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated: (a) Before the 30th calendar day following the effective date of this order, or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] effective November 7, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-19523 Filed 11-13-72;8:49 am]

[1] Voting for this action: Chairman Burns and Governors Robertson, Brimmer, Sheehan, and Bucher. Absent and not voting: Governors Mitchell and Daane.

FIRST NATIONAL BANCORPORATION, INC.

Acquisition of Bank

The First National Bancorporation, Inc., Denver, Colo., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of The Routt County National Bank of Steamboat Springs, Steamboat Springs, Colo. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 4, 1972.

Board of Governors of the Federal Reserve System, November 7, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-19522 Filed 11-13-72;8:49 am]

FLORIDA COMMERCIAL BANKS, INC.

Acquisition of Bank

Florida Commercial Banks, Inc., Miami, Fla., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Florida Commercial Bank of Vero Beach, Vero Beach, Fla., a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than November 30, 1972.

Board of Governors of the Federal Reserve System, November 7, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-19524 Filed 11-13-72;8:49 am]

NEW JERSEY NATIONAL CORP.

Proposed Acquisition of Underwood Mortgage & Title Co.

New Jersey National Corp., Trenton, N.J., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire all of the outstanding voting shares of Underwood Mortgage & Title Co., Irvington, N.J. Notice of the application was published on September 27, 1972, in the Star Ledger, a newspaper circulated in Irvington, N. J.

Applicant states that the proposed subsidiary would engage in the activities of making and acquiring, for its own account or for the account of others, loans and other extensions of credit principally secured by mortgages. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

The applicant further states that the proposed subsidiary would engage in the activity of acting as insurance agent or broker in offices at which the holding company or its subsidiaries are otherwise engaged in business with respect to (1) insurance for the holding company or its subsidiaries; (2) insurance directly related to an extension of credit or the provision of other financial services by the holding company or its subsidiaries; and (3) insurance otherwise sold as a matter of convenience to the purchaser. Under certain circumstances specified in the Board's interpretation (12 CFR 225.128) of § 225.4(a)(9) of Regulation Y, such activities may be permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Philadelphia.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 4, 1972.

Board of Governors of the Federal Reserve System, November 6, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-19495 Filed 11-13-72;8:47 am]

POSTAL RATE COMMISSION

DOW JONES & CO.

Notice of Presentation and Visit to Plant

NOVEMBER 8, 1972.

Notice is hereby given that on November 20, 1972, a presentation will be made by Dow Jones & Co. to the Commissioners and employees of the Postal Rate Commission for the purpose of describing its operations relating to use of U.S. mail service. Following such presentation a visit will be made to Dow Jones, Silver Spring, Md., plant.

No particular matter at issue in contested proceedings before the Commission nor the substantive merits of a matter that is likely to become a particular matter at issue in contested proceedings before the Commission will be discussed. A report of the presentation and visit will be on file in the Commission's docket room.

By direction of the Commission.

JOSEPH A. FISHER,
Secretary.

[FR Doc.72-19525 Filed 11-13-72;8:49 am]

RENEGOTIATION BOARD

REGIONAL BOARDS

Delegation of Authority With Respect to Certain Functions, Powers and Duties; Amendment

The delegation of authority published in the issue of February 13, 1952 (F.R. Doc. 52-1777; 17 F.R. 1401), as heretofore amended, is deleted in its entirety and the following is substituted therefor:

Pursuant to section 107 (d) and (f) of the Renegotiation Act of 1951:

1. For the purpose of this delegation:

(a) The term "Board" means the Renegotiation Board.

(b) The term "regional board" means a regional board created by the Board.

2. The Board hereby delegates to each regional board the following functions, powers and duties:

(a) To conduct renegotiation under the Renegotiation Act of 1951 with the contractor or subcontractor in any case which is assigned by the Board to such regional board.

(b) In cases designated by the Board as Class B cases, to issue letters not to proceed, to issue clearances, or to enter into agreements for the elimination of excessive profits.

3. No function, power or duty herein delegated shall be redelegated.

4. This delegation is subject to revocation or modification in whole or in part at any time.

Dated: November 9, 1972.

RICHARD T. BURRESS,
Chairman.

[FR Doc.72-19549 Filed 11-13-72;8:51 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

CLINTON OIL CO.

Order Suspending Trading

NOVEMBER 7, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.03½ par value, and all other securities of Clinton Oil Co., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 8, 1972, through November 17, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-19529 Filed 11-13-72;8:49 am]

[File No. 500-1]

FIRST LEISURE CORP.

Order Suspending Trading

NOVEMBER 6, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.10 par value and all other securities of First Leisure Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 7, 1972, through November 16, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-19527 Filed 11-13-72;8:49 am]

[File No. 500-1]

LDS DENTAL SUPPLIES, INC.

Order Suspending Trading

NOVEMBER 6, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of LDS Dental Supplies, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from

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November 7, 1972, through November 16, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19528 Filed 11-13-72;8:49 am]

[File No. 500-1]

ROOSEVELT MARINA, INC.

Order Suspending Trading

NOVEMBER 7, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, no par value, and all other securities of Roosevelt Marina, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 8, 1972, through November 17, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19530 Filed 11-13-72;8:50 am]

SMALL BUSINESS ADMINISTRATION

[License No. 06/06-5160]

GULF SOUTH VENTURE CORP.

Issuance of License To Operate as a Minority Enterprise Small Business Investment Company

On August 15, 1972, a notice was published in the FEDERAL REGISTER (37 F.R. 16521) stating that Gulf South Venture Corp., 511 Richards Building, 837 Gravier Street, New Orleans, LA 70112, had filed an application with the Small Business Administration (SBA), pursuant to § 107.102 of the SBA rules and regulations governing small business investment companies (13 CFR 107.102 (1972)) for a license to operate as a minority enterprise small business investment company (MESBIC).

Interested parties were given to the close of business August 30, 1972, to submit their written comments to SBA.

Notice is hereby given that, having considered the application and all other pertinent information, SBA has issued License No. 06/06-5160 to Gulf South Venture Corp., pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended.

Dated: November 3, 1972.

ANTHONY G. CHASE, *Deputy Administrator.*

[FR Doc.72-19498 Filed 11-13-72;8:45 am]

PERMIAN BASIN CAPITAL CORP.

Application for a License to Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1972)) under the name of Permian Basin Capital Corp., First National Bank Building, 303 West Wall Avenue, Midland, TX 79701, for a license to operate in the States of Texas and New Mexico as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (the Act), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors, and shareholders are as follows:

Oullen J. Kelly, c/o The First National Bank of Midland, Post Office Box 1599, Midland, TX 79701, Chairman of the Board.
William B. Johnston, c/o The First National Bank of Midland, Post Office Box 1599, Midland, TX 79701, President, Director, and General Manager.
L. Harold Wills, c/o The First National Bank of Midland, Post Office Box 1599, Midland, TX 79701, Vice President and Treasurer.
Lonnie C. Early, c/o The First National Bank of Midland, Post Office Box 1599, Midland, TX 79701, Secretary.
Jack Pilon, c/o The First National Bank in Brownwood, Post Office Box 940, Brownwood, TX 76801, Director.
Reed H. Chittim, c/o The First National Bank of Lea County, Post Office Box 70, Hobbs, NM 88240, Director.
William J. Mewhorter, c/o The Western State Bank of Midland, Post Office Box 4157, Midland, TX 79701, Director.

	Class A	Class B
	Percent	*Percent*
The First National Bank of Midland	49	100
The First National Bank of Brownwood	17	.....
The First National Bank of Lea County	17	.....
The Western State Bank of Midland	17	.....

The exclusive voting rights and powers for the election of directors and for all other corporate purposes are vested in the shares of Class A common stock and, except as otherwise provided by law, the shares of the Class B common stock do not possess any voting rights or powers.

The company proposes to commence operation with a capitalization of $500,000. Applicant proposes to conduct its operations principally in the States of Texas and New Mexico and in other areas within the United States of America and its territories and possessions as may from time to time be approved by SBA as its operating territory.

Matters involved in SBA's consideration of the application include the general business reputation and character of the management, and the probability of successful operations of the new company in accordance with the Act and regulations.

Notice is further given that any interested person may, not later than 15 days from the date of publication of this notice, submit to SBA, in writing relevant comments on the proposed licensing of this company. Any such communications should be addressed to: Associate Administrator for Operations and Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

A copy of this notice shall be published by the proposed licensee in a newspaper of general circulation in Midland, Tex., Brownwood, Tex., and Hobbs, N. Mex.

Dated: November 3, 1972.

ANTHONY G. CHASE, *Deputy Administrator.*

[FR Doc.72-17928 Filed 11-13-72;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

CONSTRUCTION SAFETY ADVISORY SUBCOMMITTEE ON SHAFTS AND TUNNELING

Notice of Public Meeting

Notice is hereby given that the Construction Safety Advisory Subcommittee on Shafts and Tunneling, established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 656), will meet at 8:30 a.m., on Monday, November 20, 1972, and on Tuesday, November 21, 1972, in the Main Labor Building, 14th Street and Constitution Avenue NW., Washington, DC. The meeting on Monday will be in Room 216 C and D, and the meeting on Tuesday will be in Room 102 A and B.

The Subcommittee will take up for consideration a new draft standard covering the use of personnel hoists in underground shafts.

The meeting shall be open to the public.

Signed at Washington, D.C. this 13th day of November 1972.

G. C. GUENTHER, *Assistant Secretary of Labor.*

[FR Doc.72-19663 Filed 11-13-72;10:09 am]

INTERSTATE COMMERCE COMMISSION

[Notice 116]

ASSIGNMENT OF HEARINGS

NOVEMBER 9, 1972.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation

of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

I&S M 25996, General Increase, July 1972, Middle Atlantic Conference, now assigned December 5, 1972, at Washington, D.C., is cancelled.
MC 136597, West Kentucky Motor Express, Inc., now assigned November 13, 1972, at Nashville, Tenn., hearing will be held in Room 651, U.S. Courthouse, Eighth and Broadway.
MC 115826 Sub 244, W. J. Digby, Inc., now assigned January 22, 1973, at Denver, Colo., is postponed to January 29, 1973 (1 week), at Denver, Colo., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-19537 Filed 11-13-72;8:51 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 9, 1972.

Protests to the granting of an application must be prepared in accordance with § 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42567—*Joint Water-Rail Container Rates—Sea-Land Service, Inc.* Filed by Sea-Land Service, Inc. (No. 69), for itself and interested rail carriers. Rates on general commodities, between ports in Japan, Korea, Hong Kong, and Taiwan, on the one hand, and rail carriers terminals at Baltimore, Md., and Philadelphia, Pa., on the other.

Grounds for relief—Water competition.

Tariffs—Sea-Land Service, Inc., tariffs ICC Nos. 70, 72, 75, and 78. Rates are published to become effective on December 6, 1972.

FSA No. 42568—*Buff-Colored Cement from Dallas and Gifco, Texas.* Filed by Southwestern Freight Bureau, Agent (No. B-357), for interested rail carriers. Rates on buff-colored masonry and portland cement, in carloads, as described in the application, from Dallas and Gifco, Texas, to points in Indiana, Michigan and Ohio.

Grounds for relief—Market competition, new commodity description.

Tariff—Supplement 238 to Southwestern Freight Bureau, Agent, tariff ICC 4587. Rates are published to become effective on December 11, 1972.

By the Commission.

ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-19539 Filed 11-13-72;8:52 am]

[Notice 150]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

Finance Docket No. 27193. By order of October 31, 1972, the Motor Carrier Board approved the transfer to Star Forwarders, Inc., Kansas City, Mo., of the operating rights in the Fourth Amended Permit and Order issued September 11, 1963, in No. FF-137, to Yellow Forwarding Co., Kansas City, Mo., authorizing operations as a freight forwarder of commodities generally (1) between points in Montana, North Dakota, South Dakota, Minnesota, Colorado, Kansas, Iowa, Missouri, Nebraska, New Mexico, Oklahoma, Texas, and Wyoming, on the one hand, and, on the other, points in Connecticut, Indiana, Kentucky, Maine, Marvland, Massachusetts, Michigan, New Hampshire, New York, New Jersey, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, and the District of Columbia; (2) between points in Illinois and Wisconsin, on the one hand, and, on the other, points specified in (1) above; (3) between points in Illinois, on the one hand, and, on the other, points in Wisconsin; (4) when consigned for export, from points in Michigan to points in the Port of New York, and (5) when consigned for export, from points in Colorado, Indiana, Illinois, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, New Jersey, New York, North Dakota, South Dakota, Wisconsin, and Wyoming to New Orleans, La.

Kenneth E. Midgley and Richard K. Andrews, 1500 Commerce Bank Building, Kansas City, MO 64106, attorneys for applicants.

No. MC-FC-74069. By order entered November 8, 1972, the Motor Carrier Board approved the transfer to Suddath Movers, Inc., Tampa, Fla., of the operating rights set forth in Certificate No. MC-81839, issued February 10, 1966, to Suddath Moving & Storage Co., Inc. of Atlanta, Atlanta, Ga., authorizing the transportation of household goods, between points in Georgia, on the one hand, and, on the other, points in Louisiana, Alabama, Florida, South Carolina, North Carolina, Virginia, Maryland, Pennsylvania, New York, Massachusetts, Rhode Island, Mississippi, New Hampshire, New Jersey, Connecticut, Delaware, Tennessee, Vermont, West Virginia, and the District of Columbia.

Ross H. Suddath, 6900 Interbay Boulevard, Tampa, FL 33611, representative for applicants.

No. MC-FC-73803. By order of November 1, 1972, the Motor Carrier Board approved the transfer to North Central Truck Lines, Inc., a Missouri corporation, Sedalia, Mo., of the operating rights in Certificate No. MC-124148 issued November 6, 1968 to North Central Truck Lines, Inc., an Illinois corporation, Sedalia, Mo., authorizing the transportation of stock in trade of drug stores between points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin.

Tom B. Kretsinger, 450 Professional Building, Kansas City, Mo. 64106, attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-19538 Filed 11-13-72;8:51 am]

[Notice 148]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 7, 1972.

IMPORTANT NOTICE: The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 C.F.R. 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

MOTOR CARRIERS OF PROPERTY

No. MC 14552 (Sub-No. 44 TA), filed

DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul D. Borghesani, 1660 L Street NW., Washington, DC 20036. To operate as a common carrier, by motor vehicle, over irregular routes, transporting: Trailers, designed to be drawn by passenger automobiles, in initial movements, from Los Angeles, CA, to points in Arizona, Colorado, Idaho, Nevada, Oregon, Utah, Washington, and Wyoming. Applicant intends to tack and interline at Los Angeles, CA. Applicant intends to operate from the facilities of Trailer Train Co., 1000 North Los Angeles Street, Room 7708, Los Angeles, CA 90012.

No. MC 119934 (Sub-No. 184 TA), filed

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

The following numerical guide is a list of parts of each title of the Code of

XUM

Motor Carriers of Property

No. MC 14552 (Sub-No. 44 TA), filed October 20, 1972. Applicant: J. V. McNICHOLAS TRANSFER CO., 555 W. Federal Street, Youngstown, OH 44502. Applicant's representative: Paul F. Beery, 88 Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such merchandise as is dealt in by wholesale, retail and chain dairy, grocery and food business houses, and in connection therewith, equipment, materials, and supplies* used in the conduct of such business (except commodities in bulk), from Youngstown, Ohio, to the Great Atlantic and Pacific Tea Co., Inc., stores located in Tarentum, Natrona Heights, Burgettstown, McDonald, and Elizabeth, Pa., (2) *return shipments of commodities* specified in (1) above, from the destinations named in (1) above to Youngstown, Ohio; (3) *bakery products* (except commodities in bulk), from the plantsite of the Great Atlantic and Pacific Tea Co., Inc., Columbus, Ohio, to points in Crawford, Mercer, Benango, Lawrence, Butler, Beaver, Allegheny, and Washington Counties, Pa.; and (4) *returned shipments of commodities* specified in (3) above, from the counties named in (3) above to the plantsite of the Great Atlantic and Pacific Tea Co., Inc., Columbus, Ohio, for 180 days. Supporting shipper: The Great Atlantic and Pacific Tea Co., Inc., 950 Stuyvesant Avenue, Union, NJ 07083. Send protests to: Franklin D. Bail, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 52460 (Sub-No. 39 TA), filed October 13, 1972. Applicant: HUGH BREEDING, INC., 1420 West 35th Street, Post Office Box 9515, Tulsa OK 74107. Applicant's representative: Steve B. McCommas (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials and supplies* used in the manufacture of carpeting, from Toccoa, Ga., to points in Arkansas, Kansas, Missouri, Oklahoma, and Texas, for 180 days. Supporting shipper: Phillips Petroleum Co., W. C. Collins, rate manager, Supply and Transportation Department, Bartlesville, Okla. 74004. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 103993 (Sub-No. 736 TA), filed October 19, 1972. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul D. Borghesani (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from points in Rockingham County, N.C., to points in the United States east of the Mississippi River, for 180 days. Supporting shipper: Broadmore Homes of North Carolina, Inc., Riedsville, N.C. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, Room 204, 345 West Wayne Street, Fort Wayne, IN 46802.

No. MC 106398 (Sub-No. 628 TA), filed October 13, 1972. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Box 51096, Dawson Station, Tulsa, OK 74151. Applicant's representative: Irvin Tull (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from the plantsite of Fleetwood Enterprises, Inc., Reidsville, N.C., to points in North Carolina, South Carolina, Virginia, West Virginia, Kentucky, and Tennessee, for 180 days. Supporting shipper: Fleetwood Enterprises, Inc., 3125 Myers Street, Post Office Box 7368, Riverside, CA 92503. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 109307 (Sub-No. 16 TA), filed October 19, 1972. Applicant: THE KANSAS-ARIZONA MOTOR EXPRESS, INC., 2630½ West Beverly Boulevard, Post Office Box 639, Montebello, CA 90640. Applicant's representative: Bruce E. Mitchell, Post Office Box 872, Atlanta, GA 30301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and dairy products, and articles distributed by meat packinghouses*, as described in sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carriers Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from the plantsites of John Morrell & Co., at or near Sioux Falls, S. Dak., to El Paso, Tex., under contract or contracts with John Morrell & Co., for 150 days. Supporting shipper: John Morrell & Co., Sioux Falls, S. Dak. Send protests to: John E. Nance, Officer in Charge, Interstate Commerce Commission, Bureau of Operations, 300 North Los Angeles Street, Room 7708, Los Angeles, CA 90012.

No. MC 119934 (Sub-No. 184 TA), filed October 16, 1972. Applicant: ECOFF TRUCKING, INC., 625 East Broadway, Fortville, IN 46040. Applicant's representative: J. F. Crouch (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic granules*, from Indianapolis, Ind., to Rochester, Ind., all shipments are to be Ex Rail shipments, for 180 days. Supporting shipper: Dow Chemical U.S.A., 1400 East Touhy Avenue, Des Plaines, IL 60018. Send protests to: James W. Habermehl, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 802 Century Building, 38 South Penn Street, Indianapolis, IN 46204.

No. MC 124649 (Sub-No. 3 TA), filed October 16, 1972. Applicant: JOSEPH BONANNO, INC., 1 Cranford Avenue, Linden, NJ 07036. Applicant's representative: Morton E. Kield, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferrous scrap metal*, from Union and North Bergen, N.J., to Coatesville, Pa., for 180 days. Supporting shipper: Newark Iron & Metal Co., Route 22, Union, N.J. Send protests to: F. W. Doyle, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 128132 (Sub-No. 2 TA), filed October 5, 1972. Applicant: GEORGE A. TAYLOR, INC., 3240 Philmore Avenue, Post Office Box 188, Caledonia, NY 14423. Applicant's representative: William J. Hirsch, 35 Court Street, Buffalo, NY 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precast concrete products*, from the town of Lima, N.Y., to points in Connecticut, Massachusetts, New Jersey, Ohio, Pennsylvania, Rhode Island, and Vermont, and *return shipments* in the reverse direction, for 180 days. Supporting shipper: Lakeland Concrete, Lima, N.Y. Richard S. Clark, Executive Vice President. Send protests to: Morris H. Gross, District Supervisor, Interstate Commerce, Commission, Bureau of Operations, Room 104, 301 Erie Boulevard, West, Syracuse, NY 13202.

By the Commission.

[SEAL] Robert L. Oswald,
Secretary.

[FR Doc.72-19540 Filed 11-13-72;8:52 am]

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TUESDAY, NOVEMBER 14, 1972
WASHINGTON, D.C.
Volume 37 ■ Number 220

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TUESDAY, NOVEMBER 14, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 220

PART II

federal register

ADVISORY COUNCIL ON HISTORIC PRESERVATION

■

NATIONAL REGISTER OF HISTORIC PLACES

Protection of Properties; Procedures for Compliance

ADVISORY COUNCIL ON

and local agencies and private institutions and individuals relating to historic

structures, and objects, significant in American history, architecture, arche-

from distinctive design features, or from association with historic events.

son' Officer and the Executive Director; and (b) in joint consultation with them,

for final review and comment, the joint memorandum shall become final in 30

ADVISORY COUNCIL ON HISTORIC PRESERVATION

NATIONAL REGISTER OF HISTORIC PLACES

Protection of Properties; Procedures for Compliance

Pursuant to the National Historic Preservation Act of 1966 (80 Stat. 915, 16 U.S.C. 470), the Advisory Council on Historic Preservation has undertaken steps to implement the purposes of that Act through the revision of Procedures for Compliance previously set forth in paragraphs II A through C (37 F.R. 5430) of the FEDERAL REGISTER of March 15, 1972. In addition, the role and functions of the Advisory Council on Historic Preservation have been more clearly defined. Proposed revisions and clarifications were published in the FEDERAL REGISTER of July 15, 1972 (37 F.R. 14007) and 30 days were allowed for comment.

It is the purpose of this notice, through publication of the revised procedures, to apprise the public as well as governmental agencies, associations, and all other organizations and individuals interested in historic preservation, that the following procedures are hereby adopted as set forth below and will take effect 30 days after publication of this notice in the FEDERAL REGISTER. Inquiries regarding the substance of, and compliance with, the procedures should be directed to the Executive Secretary, Advisory Council on Historic Preservation, Suite 430, 1522 K Street NW., Washington, DC 20005.

THOMAS FLYNN,
Executive Director, Advisory Council on Historic Preservation.

PROTECTION OF PROPERTIES IN THE NATIONAL REGISTER OF HISTORIC PLACES

Introduction. The National Historic Preservation Act of 1966 created the Advisory Council on Historic Preservation, an independent agency of the Executive branch of the Federal Government, to advise the President and Congress on matters involving historic preservation. Its members are the Secretary of the Interior, the Secretary of Housing and Urban Development, the Secretary of Treasury, the Secretary of Commerce, the Attorney General, the Secretary of Transportation, the Secretary of Agriculture, the Administrator of the General Services Administration, the Secretary of the Smithsonian Institution, the Chairman of the National Trust for Historic Preservation, and 10 citizen members selected on the basis of their outstanding service in the field of historic preservation.

The Council is authorized to review and comment upon undertakings carried out, licensed, or financially assisted by the Federal Government which have an effect upon properties listed on the National Register; to recommend measures to coordinate activities of Federal, State, and local agencies and private institutions and individuals relating to historic preservation; and to secure from the appropriate Federal agencies certain information necessary to the performance of these duties.

I. PROCEDURES FOR COMPLIANCE WITH SECTION 106

The Council exercises an important function by reviewing and commenting upon undertakings carried out, licensed, or financially assisted by the Federal Government when the undertaking will affect a property listed on the National Register. This authority derives from section 106 of the National Historic Preservation Act, which provides that:

> The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of any Federal department or independent agency having authority to license any undertaking shall, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, take into account the effect of the undertaking on any district, site, building, structure, or object that is included in the National Register. The head of any such Federal agency shall afford the Advisory Council on Historic Preservation established under Title II of this Act a reasonable opportunity to comment with regard to such undertaking.

The Advisory Council desires to provide maximum assistance to Federal agencies in connection with section 106. Normally the Council anticipates that its comments will be required in only the most complex situations, and it requests that Federal agencies fulfill their obligations under section 106 by the use of the following procedures:

PROCEDURES FOR COMPLIANCE WITH SECTION 106 NATIONAL HISTORIC PRESERVATION ACT OF 1966

The Advisory Council on Historic Preservation hereby establishes the following procedures for agencies of the Federal Government having direct or indirect jurisdiction or authority over a Federal or federally financed or licensed undertaking for compliance with section 106 of the National Historic Preservation Act of 1966.

A. *Definitions.* As used in these procedures:

1. "National Historic Preservation Act" means Public Law 89-665, approved October 15, 1966, an "Act to establish a program for the preservation of additional historic properties throughout the Nation and for other purposes," 80 Stat. 915, 16 U.S.C. 470, hereinafter referred to as "the Act."

2. "Undertaking" means any Federal action, activity, or program, or the approval, sanction, assistance, or support of any other action, activity, or program, such as the issuance of a license or permit, the granting of funds, or the development or funding of master or regional plans.

3. "National Register" means the National Register of Historic Places, which is a register of districts, sites, buildings, structures, and objects, significant in American history, architecture, archeology, and culture, maintained by the Secretary of the Interior under authority of section 2(b) of the Historic Sites Act of 1935 (49 Stat. 666, 16 U.S.C. 461) and section 101(a)(1) of the National Historic Preservation Act. The National Register is published in its entirety in the FEDERAL REGISTER each year in February. Addenda are published monthly.

4. "National Register Property" means a district, site, building, structure, or object, listed in the National Register.

5. "National Register Criteria" means the following criteria established by the Secretary of the Interior for use in evaluating and determining the eligibility of properties for listing in the National Register:

The quality of significance in American history, architecture, archeology, and culture, is present in districts, sites, buildings, structures, and objects of State and local importance that possess integrity of location, design, setting, materials, workmanship, feeling and association and:

a. That are associated with events that have made a significant contribution to the broad patterns of our history; or

b. That are associated with the lives of persons significant in our past; or

c. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

d. That have yielded, or may be likely to yield, information important in prehistory or history.

Criteria considerations. Ordinarily cemeteries, birthplaces, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past 50 years shall not be considered eligible for the National Register. However, such properties will qualify if they are integral parts of districts that do meet the criteria or if they fall within the following categories:

(1) A religious property deriving primary significance from architectural or artistic distinction or historical importance.

(2) A building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event.

(3) A birthplace or grave of a historical figure of outstanding importance if there is no appropriate site or building directly associated with his productive life.

(4) A cemetery which derives its primary significance from graves of persons of transcendent importance, from age,

from distinctive design features, or from association with historic events.

(5) A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived.

(6) A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own historical significance.

(7) A property achieving significance within the past 50 years if it is of exceptional importance.

6. "Criteria for Effect" means the following criteria established by the Advisory Council on Historic Preservation for use in determining the effect of an undertaking upon a National Register property:

A federally financed or licensed undertaking shall be considered to have an effect on a National Register listing (districts, sites, buildings, structures, and objects, including their settings) when any condition of the undertaking causes or may cause any change in the quality of the historical, architectural, archeological, or cultural character that qualified the property under the National Register criteria for listing in the National Register.

Generally, adverse effects occur under conditions which include but are not limited to:

a. Destruction or alteration of all or part of a property;

b. Isolation from or alteration of its surrounding environment;

c. Introduction of visual, audible, or atmospheric elements that are out of character with the property and its setting.

7. "Agency Official" means the head of the Federal Agency having responsibility for the undertaking or a subordinate employee of the Federal Agency to whom authority with respect to the evaluation of the effect of the proposed undertaking has been delegated.

8. "Executive Director" means the Executive Director of the Advisory Council on Historic Preservation established by Section 205 of the Act, or his designated representative.

9. "State Liaison Officer" means the official within each State, authorized by the State at the request of the Secretary of the Interior, to act as liaison for purposes of implementing the Act, or his designated representative.

B. *Agency procedures*—1. *Consideration of effect.* At the earliest stage of planning or consideration of a proposed undertaking, including master and regional planning, the Agency Official shall: (a) Consult the National Register to determine if a National Register property is invoved in the undertaking; and (b) upon finding involvement, apply the "Criteria for Effect." Upon applying the criteria and finding no effect, the undertaking may proceed.

2. *Effect established.* Upon finding that the undertaking will have an effect upon a National Register property, the Agency Official shall: (a) Notify the State Liaison Officer and the Executive Director; and (b) in joint consultation with them, determine whether or not the effect will be adverse.

3. *Finding of no adversity.* Upon finding the effect not to be adverse, the Agency Official, the State Liaison Officer and the Executive Director shall execute a joint memorandum acknowledging no adversity and forward the document to the Chairman of the Advisory Council for review pursuant to section C(1).

4. *Finding of adversity.* If any of the consulting parties find the effect to be adverse, the Agency Official shall consult further with the State Liaison Officer and the Executive Director to determine whether there is a feasible and prudent alternative to remove or satisfactorily mitigate the adverse effect.

5. *Removal of adversity.* If the Agency Official, the State Liaison Officer, and the Executive Director select and unanimously agree upon a feasible and prudent alternative to remove the adverse effect of the undertaking, they shall execute a joint memorandum acknowledging no adversity. This document shall be forwarded to the Chairman of the Advisory Council for review pursuant to section C(1).

6. *Mitigation of adversity.* If the consulting parties are unable to unanimously agree upon a feasible and prudent alternative to remove the adversity, the Agency Official shall consult with the State Liaison Officer and the Executive Director to determine whether there is a feasible and prudent alternative to satisfactorily mitigate the adverse effect of the undertaking. Upon finding and unanimously agreeing to such an alternative, they shall execute a joint memorandum acknowledging satisfactory mitigation of effect. This document shall be forwarded to the Chairman of the Advisory Council for review pursuant to section C(1).

7. *Failure to remove or mitigate adversity.* Upon the failure of the consulting parties to find and unanimously agree upon a feasible and prudent alternative to remove or satisfactorily mitigate the adverse effect, the Agency Official shall delay further processing of the undertaking and provide written notice affording the Advisory Council an opportunity to comment upon the proposed undertaking. Such notice shall include a record of the status of the proposal in the planning and funding sequence and an account of actions taken in accordance with the Procedures for Compliance. Upon request, the Agency Official shall submit a report of the undertaking to the Advisory Council.

C. *Council procedures*—1. *Review of joint memorandum.* Upon receipt from the Agency Official of a joint memorandum acknowledging either no adversity or satisfactory mitigation of effect, the Chairman of the Council shall review the content of the document. Unless the Chairman, or in his absence a citizen member of the Council appointed by the membership for this purpose, shall notify the Agency Official that the matter has been placed on the agenda of the Council for final review and comment, the joint memorandum shall become final in 30 days and the undertaking may proceed. The Chairman, or in his absence the Council's appointee, may waive all or part of the 30-day review period by notice to the Agency Official, at which time the joint memorandum shall become final and the undertaking may proceed.

2. *Preliminary action on notice affording opportunity for comment.* Upon receipt of a written notice from an agency affording the Advisory Council an opportunity to comment pursuant to section B(7) of these procedures, the notice shall be acknowledged and a 30-day review period instituted during which:

a. It shall be determined whether the Procedures for Compliance have been observed;

b. The Federal Agency, the State Liaison Officer and the Executive Director shall provide such information as may be requested by the Council; and

c. The Chairman, or in his absence the Council's appointee under section C(1), shall determine whether or not the Council will comment. If the Council decides not to comment, the undertaking may proceed.

3. *Decision to comment.* Upon determination to comment upon an undertaking, the Council shall:

a. Schedule the matter for consideration at a regular meeting no less than 60 days from the date the notice was received, or in exceptional cases, schedule the matter for consideration in an unassembled or special meeting;

b. Notify the Federal Agency of the date on which comments will be considered; and

c. Authorize preparation of a section 106 report.

4. *Content of section 106 report.* For purposes of arriving at comments under section 106 of the Act, the Advisory Council prescribes that certain reports be made available to it and accepts reports and statements from other interested parties. Specific informational requirements are enumerated below. Generally, the requirements represent an explication or elaboration of principles contained in the "Criteria for Effect." The Council notes, however, the Act recognizes that historical and cultural resources should be preserved "as a living part of our community life and development." Consequently, in arriving at final comments, the Council considers those elements in an undertaking that have revelance beyond historical and cultural concerns. To assist it in weighing the public interest, the Council welcomes information not only bearing upon physical, sensory, or esthetic effects but information concerning economic, social, and other benefits or detriments that will result from the undertaking.

5. *Elements of the section 106 report.* The report on which the Council relies for comment shall consist of:

a. A report from the Executive Director to include a verification of the legal and historical status of the National Register property; an assessment of the historical, architectural, archeological, or

cultural significance of the National Register property; a statement indicating the special value of features to be most affected; a description of the undertaking's adverse effects; and a description of the Federal Agency's efforts to avoid, reduce, or mitigate adverse effects.

b. Comments of the State Liaison Officer.

c. Comments of the Federal Agency.

d. Any other information deemed necessary or appropriate to the Council's comment.

6. *Comment.* Comments of the Council shall be transmitted to the Federal Agency, the Agency Official shall submit a written report to the Council containing: (a) A description of actions taken by the Federal Agency subsequent

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cultural significance of the National Register property; a statement indicating the special value of features to be most affected by the undertaking; an evaluation of the total effect of the undertaking upon the National Register property; and a critical review of any known feasible and prudent alternatives.

b. A report from the Federal Agency requesting comment to include a general discussion of the proposed undertaking; when appropriate, an account of the steps taken to comply with section 102(2)(A) of the National Environmental Policy Act of 1969 (83 Stat. 852, 42 U.S.C. 4332); an evaluation of the effect of the undertaking upon the National Register property, with particular reference to the impact on the historic scene; steps taken or proposed by the agency to take into account or minimize the effect of the undertaking; a discussion of alternatives, and, if applicable and available, a copy of the draft of the preliminary environmental impact statement prepared in compliance with section 102(2)(C) of the National Environmental Policy Act of 1969.

c. A report from any other Federal Agency having under consideration a plan or undertaking that will concurrently or ultimately affect the National Register property, including a general description of the plan or undertaking and a discussion of the effect the undertaking under consideration by the Council will have upon such proposals.

d. A report from the State Liaison Officer to include an assessment of the significance of the National Register property; an identification of features of special value; an evaluation of the effect of the undertaking upon the National Register property and its specific components; a consideration of known alternatives; a discussion of present or proposed participation of State and local agencies or organizations in preserving or assisting in preserving the National Register property; an indication of the support or opposition of units of government and public and private agencies and organizations within the State; and the recommendations of his office.

e. Other pertinent reports, statements, correspondence, transcripts, minutes, and documents, received by the Council from any and all parties, public or private.

6. *Report by recivient or potential recipient.* When the Federal Agency requests comment upon an application for funds, a grant, or license or some other form of Federal approval, sanction, assistance, or support, the Council will welcome the submission and presentation of a report by the applicant or potential recipient. Arrangements for the submission and presentation of reports by applicants or potential recipients should be made through the Federal Agency having jurisdiction in the matter.

7. *Coordination of section 106 reports and statements.*

a. In considerations involving, either directly or indirectly, more than one Federal department, the agency requesting comment shall act as a coordinator in arranging for a full assessment and discussion of all interdepartmental facets of the problem and prepare a record of such coordination to be made available to the Council.

b. The Council may request the State Liaison Officer or other State officials to accept the responsibility for notifying appropriate governmental units and public and private organizations within the State of the pending comments of the Council, and to coordinate the presentation of written statements to the Council.

8. *Council meetings.* The Council will not hold formal hearings on section 106 matters. All meetings will be open except as otherwise ordered by the Chairman. Reports and statements will be presented to the Council in open session in accordance with a prearranged agenda and considered by the Council in executive session for the purpose of preparing comments. Regular meetings of the Council occur on the first Wednesday and Thursday of February, May, August, and November.

9. *Oral statements to the Council.* A schedule shall provide for oral statements from the Executive Director; the referring Federal Agency presently or potentially involved; the recipient or potential recipient; the State Liaison Officer; and representatives of national, State, or local units of government and public and private organizations. The Council requests that parties wishing to make oral remarks submit written statements of position in advance to the Council staff.

10. *Comments by the Council.* The comments of the Council shall take the form of a three-part statement, including an introduction, findings, and a conclusion. The statement shall include notice to the Federal Agency of the report required under section C(11) of these procedures. Comments shall be made to the head of the Federal Agency requesting comment or having responsibility in the matter. Immediately thereafter, the comments of the Council will be forwarded to the President and the Congress as a special report under authority of section 202(b) of the Act and published as soon as possible in the FEDERAL REGISTER.

11. *Report of agency action in response to Council comments.* When a final decision on the undertaking is reached by the Federal Agency, the Agency Official shall submit a written report to the Council containing: (a) A description of actions taken by the Federal Agency subsequent to the Council's comments; (b) a description of actions taken by other parties pursuant to the actions of the Federal Agency; and (c) the ultimate effect of such actions on the National Register property involved. The Council may request supplementary reports if the nature of the undertaking requires them.

12. *Records of the Council.* The records of the Council shall consist of an oral transcript of the proceedings at each meeting, the section 106 report prepared by the Executive Director, and all other reports, statements, transcripts, correspondence, and documents received. Records shall be maintained in the office of the Council.

13. *Continuing review jurisdiction.* When the Council has formally commented pursuant to sections C(2) through C(10) or has approved a joint memorandum pursuant to section C(1) concerning an undertaking, such as a master plan, which by its nature requires subsequent action by the Federal Agency, the Council will consider its comments or approval to extend only to the undertaking as reviewed. The Agency Official shall insure that subsequent action related to the undertaking is submitted to the Council for review in accordance with these procedures when that action is found to have an effect on a National Register property.

II. OTHER POWERS OF THE COUNCIL

A. *Comment or report upon non-Federal undertaking.* The Council will exercise the broader advisory powers, vested by section 202(a)(1) of the Act, to comment or report upon a non-Federal undertaking that will adversely affect a National Register property or any other property determined by the Secretary of the Interior to meet the National Register criteria: (1) Upon request from the President of the United States, the President of the U.S. Senate, or the Speaker of the House of Representatives, or (2) when agreed upon by a unanimous vote of the members of the Council.

B. *Comment or report upon Federal undertaking in special circumstances.* The Council will exercise its broader advisory powers by commenting to Federal agencies in certain special situations even though written notice that an undertaking will have an effect has not been received. For example, the Council may choose to comment in situations where an objection is made to a Federal Agency finding of "no effect."

[FR Doc.72-19384 Filed 11-13-72;8:45 am]

federal register

TUESDAY, NOVEMBER 14, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 220

PART III

DEPARTMENT OF THE INTERIOR

Bureau of Mines

■

METAL AND NONMETALLIC MINE SAFETY

Notification, Investigation, Reports and Records of Accidents, Injuries and Occupational Illnesses in Metal and Nonmetal Mines

No. 220—Pt. III——1

Title 30—MINERAL RESOURCES

rule making, from the Metal and Nonmetal Mine Safety Advisory Committee, and by Bureau personnel during the area

the fact that the term "accident" which is used throughout this part includes both injuries and illnesses.

Paragraph (b)(2) of § 58.2 and para-

gather the necessary data to file a meaningful report. A 30-day reporting period was suggested. However, a 30-day delay

Subpart C—Operator's Investigation and Records of Accidents

Sec.
58.20 Scope.

ground which is not brought under control within 30 minutes; (3) any unplanned ignition of dust or strata gas;

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Title 30—MINERAL RESOURCES

Chapter I—Bureau of Mines, Department of the Interior

SUBCHAPTER N—METAL AND NONMETALLIC MINE SAFETY

PART 58—NOTIFICATION, INVESTIGATION, REPORTS AND RECORDS OF ACCIDENTS, INJURIES AND OCCUPATIONAL ILLNESSES IN METAL AND NONMETAL MINES

In accordance with the authority vested in the Secretary of the Interior under section 13 of the Federal Metal and Nonmetallic Mine Safety Act (Public Law 89–577, 30 U.S.C. 732) to require operators of mines which are subject to the Act to submit, at least annually and at such other times as the Secretary deems necessary, and in such form as he may prescribe, mandatory reports of accidents, injuries, and occupational diseases or illnesses, and related data, there was published in the FEDERAL REGISTER on Friday, May 5, 1972 (37 F.R. 9125–9128), a notice of proposed rule making which provided for operators of all metal and nonmetallic mines subject to the Act to report directly to the Bureau of Mines an accident, injury, and occupational disease or illness, and related data, so that the Secretary may study and analyze mine health and safety conditions on the basis of accurate and comprehensive data for such purposes as evaluating the progress being made toward improved mine health and safety, framing recommendations for policies to accelerate such progress, or deciding upon which segments of the metal and nonmetallic mining industry or which individual mining operations to concentrate special inspection, enforcement, and training efforts.

Interested persons were afforded a period of 45 days from the date of publication of the notice within which to submit written comments, suggestions, or objections to the Director, Bureau of Mines. In addition, interested persons could examine or obtain copies from the Bureau of Mines of the proposed Forms 6–1555 (Metal-Nonmetal Injury and Illness Report) and 6–1556 (Metal-Nonmetal Quarterly Employment Report) and, respectively, Forms 6–1555–S and 6–1556–S for use in States which have State plan agreements in effect.

A draft of Part 58 was presented to the Metal and Nonmetal Mine Safety Advisory Committee for review and comment in March 1972. After publication in the FEDERAL REGISTER, public information meetings were held between June 5 and 15 in seven selected cities throughout the United States. The purpose of these meetings was to allow the metal and nonmetallic mining industry, including representatives of trade associations and unions, an opportunity to discuss proposed Part 58 with Bureau representatives. As a result of the solicitation of comments in the notice of proposed rule making, from the Metal and Nonmetal Mine Safety Advisory Committee, and by Bureau personnel during the area meetings, written and oral comments, suggestions and objections were received. All of the comments, suggestions, and objections have been given careful consideration.

The Federal Metal and Nonmetallic Mine Safety Act covers underground and surface mines and mills. There are many mining companies throughout the Nation which combine mining and manufacturing and are subject to dual inspection and reporting requirements by the Department of the Interior and the Department of Labor under the Williams-Steiger Occupational Safety and Health Act of 1970 (Public Law 91–596, 29 U.S.C. 651, et seq.) Section 24 of the Occupational Safety and Health Act provides for a broad statistical program which extends to employees to whom enforcement provisions of that Act do not apply. Therefore, the requirement that an employer must comply with the recordkeeping, reporting, and enforcement provisions under the Metal and Nonmetallic Mine Safety Act does not necessarily mean that the mine would not be subject to the reporting requirements under the Occupational Safety and Health Act. The recordkeeping and reporting requirements under the new Part 58 are essential to the Bureau of Mines program of health and safety analysis and special studies of all metal and nonmetallic mining and milling operations. All data obtained under Subpart D is to be processed and entered into a computerized data base. Since the injury information reported to the Department of Labor on the Occupational Safety and Health forms lacks the accident analysis data to be obtained by the Department of the Interior on the Bureau of Mines forms, the Bureau cannot use the Department of Labor reports. However, representatives of the Bureau of Mines have consulted with representatives of the Department of Labor in an effort to develop uniform terms and definitions. In certain instances the Bureau of mines will gather data which the Department of Labor desires and, in so doing, the Department of the Interior will furnish the Department of Labor with information the Department of Labor needs and requires in their statistics. This effort to achieve uniform definitions and form coordination is directed toward eliminating duplicate reporting and the need for the Department of Labor to contact the operators of mines and mills directly in order to secure accident, injury and illness information under the Occupational Safety and Health Act.

In response to the comments, suggestions, and objections received, the following changes in proposed Part 58 have been made:

1. In Subpart A, § 58.2 *Definitions*, the definition of an "accident" in paragraph (b)(1) has been expanded to include "illness" which is defined in paragraph (j). This change was made to clarify the fact that the term "accident" which is used throughout this part includes both injuries and illnesses.

Paragraph (b)(2) of § 58.2 and paragraph (b) of § 58.11 have been modified to correspond with recommendations, comments, and suggestions received, that operators immediately report to the Secretary any outbreak of fire that endangers human life or a fire underground which is not brought under control within 30 minutes.

The proposed definitions of injury and illness in paragraphs (g) through (l) have been modified and rearranged. By redefining "Nonfatal injury," the definitions of "Other injury," "Disabling injury" and "injury" have been eliminated. "Nonfatal injury" has been defined to mean all occupational injuries except fatalities and injuries and illnesses requiring only first aid treatment. The definition of "First aid treatment" has been added and is the same as that defined by OSHA with the addition of examples of illnesses that should be considered as first aid cases.

2. In Subpart B, § 58.11 *Notification by operator*, paragraph (b) concerning outbreak of fire has been changed to "any outbreak of fire that endangers human life or a fire underground which is not brought under control within 30 minutes."

3. In Subpart C, § 58.23 *Maintenance of records*, the term "interested persons" contained in §§ 58.23, 58.30, and 58.31 have been deleted and in lieu thereof the regulations specify those persons who shall have access to the operator's records at the mine or nearest mine office to be the Secretary of the Interior and his duly authorized representatives, authorized representatives of the official mine inspection agency of the State in which the mine is located, representatives of the mine workers, and the worker who is the subject of the report or his legal representative. The operator shall either maintain the written record or a true legible facsimile (microfilm or other) of the record for the required 3-year period.

In accordance with section 13 of the Act, the Metal-Nonmetal Injury and Illness Report and the Metal-Nonmetal Quarterly Employment Report forms filed by each operator may be published and released to any interested person, and shall be made available by the Secretary of the Interior for public inspection.

4. In Subpart D, § 58.31 *Metal-Nonmetal Injury and Illness Report*, the requirement that the operator submit the initial report of injury or illness on the Bureau of Mines Form 6–1555, or 6–1555–S in States in which a State plan agreement is in effect, within 72 hours of occurrence of an injury or diagnosis of an illness has been modified to allow a total of up to 10 calendar days from the date of injury or diagnosis for completion and submittal of the report. This change was made in response to comments to the effect that 72 hours would not allow operators sufficient time to

gather the necessary data to file a meaningful report. A 30-day reporting period was suggested. However, a 30-day delay in the reporting of injuries and illnesses would not permit the Bureau of Mines to gather and maintain a sufficiently current data base. The 10 calendar day reporting requirement allows the operators an opportunity to gather and report the required information to the Bureau and at the same time furnishes the Bureau with current and timely accident, injury, and illness data. The longer reporting period will also reduce the number of follow-up forms required to close out lost-time injury cases and thereby reduce the operators' administrative burden.

In addition, the proposed 5-year record retention requirement for the Metal-Nonmetal Injury and Illness Report, has been reduced to 3 years from the date of occurrence or diagnosis whichever is applicable to coincide with the 3-year retention requirements of the operators' investigation, record, and report of accidents under Subpart C, § 58.23, and the Metal-Nonmetal Quarterly Employment Report, Form 6–1556 or 6–1556–S under Subpart D, § 58.32.

Several comments were received with respect to § 58.32 *Metal-Nonmetal Quarterly Employment Report* and questioning the need for the operator's filing of employment information on a quarterly basis. Annual reporting to the Bureau of Mines of injury and employment data has been accepted for many years. However, the continually increasing need for timely information relating to health and safety in the metal and nonmetallic mineral industries requires collection of the basic data more frequently than once a year. Employment data constitutes an important element in the analysis of the causes of accidents and it is essential that this data be collected frequently enough to provide a current data file. Since monthly reporting would generate a large volume of paper and clerical work and since annual reporting is inadequate to meet the Bureau of Mines needs, it has been determined that quarterly reporting is the most acceptable alternative.

Part 58, Subchapter N, Chapter I, Title 30 of the Code of Federal Regulations is adopted as set forth below.

Effective date. Part 58 shall be effective on and after January 1, 1973.

HOLLIS M. DOLE,
Assistant Secretary of the Interior.

NOVEMBER 8, 1972.

Subpart A—Purpose and Definitions

Sec.
58.1 Purpose.
58.2 Definitions.

Subpart B—Notification of Accidents

58.10 Scope.
58.11 Notification by operator.
58.12 Investigation by Bureau of Mines.

Subpart C—Operator's Investigation and Records of Accidents

Sec.
58.20 Scope.
58.21 Investigations required of operators.
58.22 Written record.
58.23 Maintenance of records.

Subpart D—Operator's Reports to the Bureau of Mines

58.30 Scope.
58.31 Metal-Nonmetal Injury and Illness Report.
58.32 Metal-Nonmetal Quarterly Employment Report.
58.33 Place to file reports; initial supply; additional forms.

AUTHORITY: The provisions of this Part 58 are issued under section 13 of the Federal Metal and Nonmetallic Mine Safety Act (80 Stat. 782, 30 U.S.C. 732).

Subpart A—Purpose and Definitions

§ 58.1 Purpose.

The provisions of the regulations in this Part 58 apply to all metal and nonmetal mines subject to the provisions of the Federal Metal and Nonmetallic Mine Safety Act (80 Stat. 772, 30 U.S.C. sections 721–740). Under the provisions of the Act, the Secretary of the Interior is authorized to cause investigations to be made for the purpose of obtaining information relating to the causes of accidents involving the loss of life or bodily injury and health and safety conditions in such mines. The purpose of the regulations in this Part 58 is to provide for immediate notice to the Bureau of Mines, Department of the Interior, of the occurrence of certain types of accidents in order to afford the Bureau an opportunity to conduct a prompt investigation, to obtain the operator's report of the occurrence, and to gather current and timely information pertaining to injuries and illnesses.

§ 58.2 Definitions.

As used in this part:

(a) "Metal and nonmetal mine" means: (1) An area of land from which minerals other than coal or lignite are extracted in nonliquid form or if in liquid form, are extracted with workers underground; (2) private ways and roads appurtenant to such area; and (3) land, excavations, underground passageways, and workings, structures, facilities, equipment, machines, tools, or other property, on the surface or underground used in the work of extracting such minerals other than coal or lignite from their natural deposits in nonliquid form or if in liquid form, with workers underground, or used in the milling of such minerals, except that with respect to the protection against radiation hazards such term shall not include property used in the milling of source material as defined in the Atomic Energy Act of 1954, as amended.

(b) "Accident" means: (1) Any injury to or illness of any person, as defined in paragraphs (g), (h), and (j) of this section; (2) any outbreak of fire that endangers human life or a fire underground which is not brought under control within 30 minutes; (3) any unplanned ignition of dust or strata gas; (4) any unplanned explosion of dust or gas; (5) any unplanned inundation by water or gas that endangers human life; (6) any unplanned initiation of explosives, including blasting agents; (7) any entrapment that endangers human life; (8) any damage to shafts and ventilation facilities that endangers human life; and (9) any damage to hoisting or haulage facilities used for the transportation of men when such damage endangers human life.

(c) "Ignition" means: The burning of a flammable mixture of gas or dust without evidence of violence from expansion of gases.

(d) "Explosion" means: The burning of a flammable mixture of gas or dust with evidence of violence from expansion of gases.

(e) "State Agency" means: A State agency responsible for administering a State plan agreement on behalf of a State and throughout the State.

(f) "State Plan Agreement" means: An agreement entered into between the United States of America, and a State pursuant to section 16 of the Federal Metal and Nonmetallic Mine Safety Act.

(g) "Nonfatal injury" means: Any occupational injury other than a fatal injury suffered by any worker which results from a work accident arising out of and in the course of work. A nonfatal injury does not include an injury requiring only first aid treatment.

(h) "Fatal injury" means: Any occupational injury of a person resulting in death regardless of the time intervening between injury and death.

(i) "First aid treatment" means: Any one-time treatment, and any followup visit for the purpose of observation for minor headaches, head colds, flu, virus, scratches, cuts, burns, splinters, and other minor injury or illness, which do not ordinarily require medical care. Such one-time treatment, and followup visit for the purpose of observation, is considered first aid even through provided by a physician or registered professional personnel.

(j) "Illness" means: Any occupational illness, that is, any abnormal condition or disorder, other than one resulting from an occupational injury, caused by exposure to environmental factors associated with employment. It includes acute and chronic illnesses or diseases which may be caused by inhalation, absorption, ingestion, or direct contact, and which fall within the listing under the heading "Occupational Illness" on Forms No. 6–1555 and 6–1555–S. An illness does not include an illness requiring only first aid treatment.

(k) "Subdistrict Manager" means: The Metal and Nonmetal Mine Health and Safety Subdistrict Manager of the Subdistrict Office of the Bureau of Mines of the Subdistrict in which the metal and nonmetal mine is located.

(l) "That endangers human life" means: Danger to the life of any person on mine property which is subject to

Mines of an accident specified in § 58.11 shall relieve the operator of the reporting requirements for an injury prescribed in Subpart D of this part.

description of steps taken, or to be taken in the future, along with a reasonable timetable for execution, so that the possibility of recurrence of that type of

three forms: An original (white) operator's copy and two carbon copies (one yellow and one blue), which shall be maintained, filled in, and disposed of

"Total number of lost workdays," the "Number lost from regular job," the "Date returned to work," and other relevant data on the white and yellow copies

submitted to the Bureau of Mines by all metal and nonmetal mine operators for each quarter, or portion thereof, in which the mine is in operation even though the

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(l) "That endangers human life" means: Danger to the life of any person on mine property which is subject to the Act.

Subpart B—Notification of Accidents

§ 58.10 Scope.

The regulations in this Subpart B provide for the immediate notification to the Bureau of Mines, U.S. Department of the Interior, of the occurrence of any accident described in § 58.11 in order to afford the Bureau the opportunity to conduct a prompt investigation, or to require the operator to investigate the accident and submit a written report as provided in Subpart C of this part.

§ 58.11 Notification by operator.

The operator of a metal and nonmetal mine subject to the Act, using the fastest available means of communication, shall immediately notify the Subdistrict Manager of any of the following accidents that occur at a metal and nonmetal mining operation:

(a) Any injury, excluding illness, which results in death or may reasonably be expected to result in death;

(b) Any outbreak of fire that endangers human life or a fire underground which is not brought under control within 30 minutes;

(c) Any unplanned ignition of dust or strata gas;

(d) Any unplanned explosion of dust or gas;

(e) Any unplanned inundation by water or gas that endangers human life;

(f) Any unplanned initiation of explosives, including blasting agents;

(g) Any entrapment that endangers human life;

(h) Any damage to shafts and ventilation facilities that endangers human life; and

(i) Any damage to hoisting or haulage facilities used for the transportation of men when such damage endangers human life.

§ 58.12 Investigation by Bureau of Mines.

Following any notification received in accordance with § 58.11, the Subdistrict Manager shall determine whether an investigation of the accident will be conducted by the Bureau of Mines. If he determines that such an investigation will be conducted (a) in a State with which a State plan agreement is in effect the Subdistrict Manager shall promptly notify the State agency and the operator or, (b) in a State with which a State plan agreement is not in effect, the Subdistrict Manager shall promptly notify the operator directly, of the approximate date and time of such investigation. If an investigation is to be made by the Bureau of Mines, the operator shall, to the extent compatible with rescue and recovery work, take appropriate measures to preserve anything and everything which might assist an investigator in determining the cause or causes of the accident. Neither the operator's immediate report nor an investigation by the Bureau of Mines of an accident specified in § 58.11 shall relieve the operator of the reporting requirements for an injury prescribed in Subpart D of this part.

Subpart C—Operator's Investigation, Record, and Report of Accidents

§ 58.20 Scope.

The Secretary of the Interior or his duly authorized representative may require a detailed investigation and written report of an accident specified in § 58.11. The operator's investigation shall develop sufficient information to determine the cause of the accident and to describe all facts which contributed to or resulted in the accident. The regulations in this Subpart C prescribe the nature and the extent of the information to be included in such records, and the period and manner in which report of accidents shall be recorded and submitted to the Bureau of Mines.

§ 58.21 Investigations required by operators.

Following the occurrence of an accident specified in § 58.11, and if required, an operator shall be notified by the subdistrict manager of the requirement to submit a detailed written report of the accident as soon as practicable to the Bureau of Mines. The operator shall conduct an investigation and, on completion of the investigation, the operator shall submit a written report to the subdistrict manager. If the metal and nonmetal mine is located in a State where a State plan agreement is in effect, the operator shall upon request by the State agency, submit a copy of the written report to the State agency.

§ 58.22 Written record.

(a) The operator's written record of his investigation of an accident shall contain:

(1) The Bureau of Mines mine identification number;

(2) The date and hour on which the accident occurred;

(3) The date and hour the investigation was started;

(4) The name of the person, or persons, who made the investigation;

(5) The name, occupation at the time of the accident, and pertinent occupational experience for each person who received injury, together with the type of each injury incurred;

(6) A narrative description of the accident, including all pertinent events prior to, during, and after the accident; all relevant facts, such as dimension and clearance measurements; manufacturer, model, and type of equipment or machinery involved; in general terms the noise level, visibility, and lighting environment; and identifiable human behavior factors contributing to the accident; and any other factor believed to have related or contributed to the accident;

(7) A diagram of the location of the accident; and

(8) The operator shall attach to his written detailed investigation report, a description of steps taken, or to be taken in the future, along with a reasonable timetable for execution, so that the possibility of recurrence of that type of accident may be eliminated.

(b) A written report submitted by the operator under this Subpart C, which includes an injury, does not relieve the operator from the injury reporting requirements prescribed in Subpart D of this part.

§ 58.23 Maintenance of records.

The operator's written records of investigations of accidents required by this Subpart C, or a true legible facsimile thereof (microfilm or other) shall be maintained at the metal and nonmetal mine or nearest mine office for a period of 3 years from the date of the accident. These records shall be open for inspection by the Secretary of the Interior and his duly authorized representatives, authorized representatives of the official mine inspection agency of the State in which the mine is located, representatives of the mine workers, and the worker who is the subject of the report or his legal representative.

Subpart D—Operator's Reports to the Bureau of Mines

§ 58.30 Scope.

The regulations in this Subpart D prescribe records of injuries and illnesses to be maintained by all operators of metal and nonmetal mines, the time and manner in which required information is to be reported to the Bureau of Mines, and the availability of such records to inspection.

§ 58.31 Metal-nonmetal injury and illness report.

(a) The operator of a metal or nonmetal mine shall maintain at the mine a Metal-Nonmetal Injury and Illness Report (Form 6–1555 or 6–1555–S, whichever is applicable) on which there shall be entered and recorded specified information with respect to each injury by date of occurrence, and each illness by date of diagnosis or occurrence. The Metal-Nonmetal Injury and Illness Report is organized to facilitate the recording and compilation of information for each occurrence. The operator's copy (white) or a true legible facsimile thereof (microfilm or other) shall be maintained at the mine or nearest mine office for a period of 3 years from the date of occurrence or diagnosis, whichever is applicable, and shall be open for inspection by the Secretary of the Interior and his duly authorized representatives, authorized representatives of the official mine inspection agency of the State in which the mine is located, representatives of the mine workers, and the worker who is the subject of the report or his legal representative.

(b) For metal and nonmetal lines located in States in which a State plan agreement is not in effect, the Metal-Nonmetal Injury and Illness Report (Form 6–1555) shall consist of a set of

three forms: An original (white) operator's copy and two carbon copies (one yellow and one blue), which shall be maintained, filled in, and disposed of in accordance with the provisions of this Subpart D.

(c) For metal and nonmetal mines located in States in which a State plan agreement is in effect, the Metal-Nonmetal Injury and Illness Report (Form 6–1555–S) shall consist of a set of five forms, an original (white) operator's copy, and four carbon copies (two yellow and two blue) which shall be maintained, filled in, and disposed of in accordance with the provisions of this Subpart D.

(d) The operator shall maintain at the metal and nonmetal mine, a supply of the Metal-Nonmetal Injury and Illness Report Forms (Form 6–1555 or 6–1555–S). Promptly after an injury occurs, or an illness occurs or is diagnosed, a responsible supervisor or individual of the mine where the injury occurred shall fill out one set of forms for each injury or illness. Where more than one person is injured, or is afflicted simultaneously with the same illness, a separate and additional set of forms shall be used and completed for each person injured or afflicted.

(e) Metal-Nonmetal Injury and Illness Reports shall be retained, completed and information recorded, disposed of and distributed and mailed to the Bureau of Mines as follows:

(1) Promptly after the occurrence of an injury or an illness occurs or is diagnosed. the operator shall record the information required, and upon completion of the recording of the information shall retain the original (white) copy for the operator's records.

(2) The operator shall retain the yellow and blue copies for a period of time not to exceed 10 calendar days after the occurrence of the injury or illness, or diagnosis of an illness. Depending upon whether the person affected does, or does not return to work within the period of 10 calendar days, the operator shall proceed in accordance with subparagraphs (3) and (5) of this paragraph.

(3) If the injured or ill person returns to his regular job at full capacity within 10 calendar days following an injury, or occurrence or diagnosis of an illness, the operator shall enter the "Total number of lost workdays," the "Number lost from regular job," the "Date returned to work," and other relevant data on the white and yellow copies and promptly mail the yellow Federal-copy to the Bureau of Mines and may discard the blue Federal-copy.

(4) Operators in States in which State plan agreements are in effect shall proceed as in subparagraph (3) of this paragraph except that the operator shall mail the yellow State-copy to the State agency and discard the blue State-copy

(5) If the injured or ill person has not returned to his regular job within 10 calendar days following an injury, or occurrence or diagnosis of an illness, the operator shall leave blank the spaces designated "Total number of lost workdays," "Number lost from regular job," "Date returned to work," and also those spaces for other relevant but unknown data or information, and promptly upon the expiration of the period of 10 calendar days the operator shall mail the yellow Federal-copy to the bureau of Mines. Thereafter, when the person returns to his regular job, the operator shall enter the total number of lost workdays, the number of days lost from regular job, the date the person returned to work, and complete and record all other relevant data or information in the spaces provided on the white and blue copies, and mail the blue Federal-copy to the Bureau of Mines.

(6) Operators in States in which State plan agreements are in effect shall proceed as in subparagraph (5) of this paragraph except that at the appropriate times, the operator shall mail the yellow State-copy and the blue State-copy to the State agency, and the yellow Federal-copy and the blue Federal-copy to the Bureau of Mines.

§ 58.32 Metal-Nonmetal Quarterly Employment Report.

(a) On or before the 15th day of the first month following the end of each calendar quarter; that is, April 15, July 15, October 15, and January 15, the operator of a metal and nonmetal mine in which one or more men have worked during any day of a calendar quarter shall file with the Bureau of Mines a Metal-Nonmetal Quarterly Employment Report (Form 6–1556 or 6–1556–S, whichever is applicable). The Metal-Nonmetal Quarterly Employment Report shall be submitted to the Bureau of Mines by all metal and nonmetal mine operators for each quarter, or portion thereof, in which the mine is in operation even though the metal and nonmetal mine may be idle for all or a portion of the quarter. If an operator permanently closes or abandons the mine, the operator shall immediately notify the Bureau of Mines of the last day of operation and no report will be required from a metal and nonmetal mine which has been permanently closed or abandoned, except for the portion of a quarter during which the mine may have been in operation.

(b) For metal and nonmetal mines located in States in which a State plan agreement is not in effect, the operator shall use Form 6–1556 and retain the original and file the copy with the Bureau of Mines.

(c) For metal and nonmetal mines located in States in which State plan agreements are in effect, the operator shall use Form 6–1556–S and retain the original and file the Federal-copy with the Bureau of Mines and the State-copy with the appropriate State Agency.

(d) The operator's original of Form 6–1556 or 6–1556–S or a true legible facsimile thereof (microfilm or other) shall be maintained at the metal and nonmetal mine or nearest mine office for a period of 3 years from the date of filing.

§ 58.33 Place to file reports; initial supply; additional forms.

Unless otherwise provided, all reports required by this Subpart D to be submitted (a) to the State agency in States with State plan agreements in effect, shall be filed with the appropriate State agency, and (b) to the Bureau of Mines shall be filed with the U.S. Bureau of Mines, Health and Safety Analysis Center, Building 20, Denver Federal Center, Denver, Colo. 80225. An initial supply of the Metal-Nonmetal Mine Injury and Illness Report and the Metal-Nonmetal Quarterly Employment Report and preaddressed envelopes for the Bureau of Mines forms will be mailed to each operator. Additional report forms and envelopes may be obtained as needed, upon request, from the Metal and Nonmetal Mine Health and Safety District and Subdistrict Office of the Bureau of Mines of the District or Subdistrict in which the mine is located.

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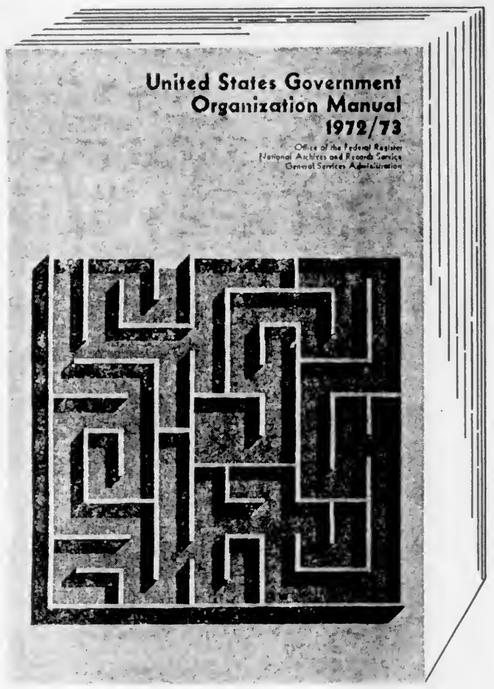

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federal register

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WASHINGTON, D.C.

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Chapter I—Bureau of the Comptroller of the Currency, Department of the Treasury

PART 9—FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE INVESTMENT FUNDS

Miscellaneous Amendments

This amendment is issued pursuant to the authority contained in section 1(j) of Public Law 87–722, 76 Stat. 668, 12 U.S.C. 92a. Notice of the proposed amendment of Part 9 was published in the FEDERAL REGISTER on September 9, 1971 (36 F.R. 18082). A number of comments were received following publication and have been carefully considered

This amendment differs from the published proposed amendment in that it reflects comments received and includes only part of the proposals which were published for comment. The remaining proposals are receiving further consideration.

Since this amendment reflects changes that do not impose substantial new requirements for which further notice would be necessary and desirable, delayed effectiveness is unnecessary and contrary to the public interest. Accordingly, this amendment will become effective upon publication (11–15–72).

Part 9, Chapter 1, Title 12 of the Code of Federal Regulations is amended as follows:

1. Section 9.1 by revising paragraphs (c), (g), and (i);
2. Section 9.2 by revising paragraphs (a) and (c);
3. Section 9.7 by revising paragraph (d);
4. Section 9.11 by revising paragraph (d);
5. Section 9.12 by adding a new subparagraph (4) to paragraph (b);
6. Section 9.13 by revising paragraph (a); and
7. Section 9.18 is revised.

Changes in the text are as follows:

§ 9.1 Definitions.

* * * * *

(c) "Fiduciary powers" means the power to act in any fiduciary capacity authorized by the Act of September 28, 1962, 76 Stat. 668, 12 U.S.C. 92a. Under that Act, a national bank may be authorized to act, when not in contravention of local law, as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver, committee of estates of lunatics, or in any other fiduciary capacity which State banks, trust companies, or other corporations which come into competition with the national bank may exercise under local law;

* * * * *

(g) "Managing agent" means the fiduciary relationship assumed by a bank upon the creation of an account which names the bank as agent and confers investment discretion upon the bank;

* * * * *

(i) "Trust department" means that group or groups of officers and employees of a bank organized under the supervision of officers or employees to whom are designated by the board of directors the performance of the fiduciary responsibilities of the bank, whether or not the group or groups are so named.

§ 9.2 Applications.

(a) A national bank desiring to exercise fiduciary powers shall apply to the Comptroller of the Currency for a special permit to exercise such powers. Such application shall be made on Form CC–7510–01 (formerly TA–1).

* * * * *

(c) Each application made under the provisions of this section shall be executed and forwarded in duplicate, to gether with duplicate copies of documents containing any information submitted with the application, to the Regional Administrator of National Banks of the Region in which the applying bank is located.

§ 9.7 Administration of fiduciary powers.

* * * * *

(d) The trust department may utilize personnel and facilities of other departments of the bank, and other departments of the bank may utilize the personnel and facilities of the trust department only to the extent not prohibited by law.

§ 9.11 Investment of funds held as fiduciary.

* * * * *

(d) As a part of each examination of the trust department of a national bank and as provided by the Comptroller's Manual for Representatives in Trusts, the Comptroller of the Currency will examine the investments held by such bank as fiduciary, including the investment of funds under the provisions of § 9.18, in order to determine whether such investments are in accordance with law, this regulation and sound fiduciary principles.

§ 9.12 Self-dealing.

* * * * *

(b) * * *

(3) As is provided in § 9.18(b)(8)(ii);

(4) Where required by the Comptroller of the Currency.

* * * * *

§ 9.13 Custody of investments.

(a) The investments of each account shall be kept separate from the assets of the bank, and shall be placed in the joint custody or control of not less than two of the officers or employees of the bank designated for that purpose by the board of directors of the bank or by one or more officers designated by the board of directors of the bank; and all such officers and employees shall be adequately bonded. To the extent permitted by law, a national bank may permit the investments of a fiduciary account to be deposited elsewhere.

* * * * *

§ 9.18 Collective investment.

(a) Where not in contravention of local law, funds held by a national bank as fiduciary may be invested collectively:

(1) In a common trust fund maintained by the bank exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank in its capacity as trustee, executor, administrator, or guardian.

(2) In a fund consisting solely of assets of retirement, pension, profit sharing, stock bonus or other trusts which are exempt from Federal income taxation under the Internal Revenue Code.

(b) Collective investments of funds or other property by national banks under paragraph (a) of this section (referred to in this paragraph as "collective investment funds") shall be administered as follows:

(1) Each collective investment fund shall be established and maintained in accordance with a written plan (referred to herein as the Plan) which shall be approved by a resolution of the bank's board of directors and filed with the Comptroller of the Currency. The Plan shall contain appropriate provisions not inconsistent with the rules and regulations of the Comptroller of the Currency as to the manner in which the fund is to be operated, including provisions relating to the investment powers and a general statement of the investment policy of the bank with respect to the fund; the allocation of income, profits and losses; the terms and conditions governing the admission or withdrawal of participations in the fund; the auditing of accounts of the bank with respect to the fund; the basis and method of valuing assets in the fund, setting forth specific criteria for each type of asset; the minimum frequency for valuation of assets of the fund; the period following each such valuation date during which the valuation may be made (which period in usual circumstances should not exceed 10 business days); the basis upon which the fund may be terminated; and such other matters as may be necessary to define clearly the rights of participants in the fund. A copy of the Plan shall be

available at the principal office of the bank for inspection during all banking hours, and upon request a copy of the Plan shall be furnished to any person.

(2) Property held by a bank in its capacity as trustee of retirement, pension, profit sharing, stock bonus, or other trusts which are exempt from Federal income taxation under any provisions of the Internal Revenue Code may be invested in collective investment funds established under the provisions of subparagraph (1) or (2) of paragraph (a) of this section, subject to the provisions herein contained pertaining to such funds, and may qualify for tax exemption pursuant to section 584 of the Internal Revenue Code. Assets of retirement, pension, profit sharing, stock bonus, or other trusts which are exempt from Federal income taxation by reason of being described in section 401 of the Code may be invested in collective investment funds established under the provisions of subparagraph (2) of paragraph (a) of this section if the fund qualifies for tax exemption under Revenue Ruling 56–267, and following rulings.

(3) All participants in the collective investment fund shall be on the basis of a proportionate interest in all of the assets. In order to determine whether the investment of funds received or held by a bank as fiduciary in a participation in a collective investment fund is proper, the bank may consider the collective investment fund as a whole and shall not, for example, be prohibited from making such investment because any particular asset is nonincome producing.

(4) Not less frequently than once during each period of 3 months a bank administering a collective investment fund shall determine the value of the assets in the fund as of the date set for the valuation of assets. No participation shall be admitted to or withdrawn from the fund except (i) on the basis of such valuation and (ii) as of such valuation date. No participation shall be admitted to or withdrawn from the fund unless a written request for or notice of intention of taking such action shall have been entered on or before the valuation date in the fiduciary records of the bank and approved in such manner as the board of directors shall prescribe. No requests or notice may be canceled or countermanded after the valuation date.

(5) (i) A bank administering a collective investment fund shall at least once during each period of 12 months cause an adequate audit to be made of the collective investment fund by auditors responsible only to the board of directors of the bank. In the event such audit is performed by independent public accountants, the reasonable expenses of such audit may be charged to the collective investment fund.

(ii) A bank administering a collective investment fund shall at least once during each period of 12 months prepare a financial report of the fund which shall be filed with the Comptroller of the Currency within 90 days after the end of the fund's fiscal year. This report, based upon the above audit, shall contain a list of investments in the fund showing the cost and current market value of each investment; a statement for the period since the previous report showing purchases, with cost; sales, with profit or loss and any other investment changes; income and disbursements; and an appropriate notation as to any investments in default.

(iii) The financial report may include a description of the fund's value on previous dates, as well as its income and disbursements during previous accounting periods. No predictions or representations as to future results may be made. In addition, as to funds described in subparagraph (1) of paragraph (a) of this section, neither the report nor any other publication of the bank shall make reference to the performance of funds other than those administered by the bank.

(iv) A copy of the financial report shall be furnished, or notice shall be given that a copy of such report is available and will be furnished without charge upon request, to each person to whom a regular periodic accounting would ordinarily be rendered with respect to each participating account. A copy of such financial report may be furnished to prospective customers. The cost of printing and distribution of these reports shall be borne by the bank. In addition, a copy of the report shall be furnished upon request to any person for a reasonable charge. The fact of the availability of the report for any fund described in subparagraph (1) of paragraph (a) of this section may be given publicity solely in connection with the promotion of the fiduciary services of the bank.

(v) Except as herein provided, the bank shall not advertise or publicize its collective investment fund(s) described in subparagraph (1) of paragraph (a) of this section.

(6) When participations are withdrawn from a collective investment fund, distributions may be made in cash or ratably in kind, or partly in cash and partly in kind, provided that all distributions as of any one valuation date shall be made on the same basis.

(7) If for any reason an investment is withdrawn in kind from a collective investment fund for the benefit of all participants in the fund at the time of such withdrawal and such investment is not distributed ratably in kind, it shall be segregated and administered or realized upon for the benefit ratably of all participants in the collective investment fund at the time of withdrawal.

(8) (i) No bank shall have any interest in a collective investment fund other than in its fiduciary capacity. Except for temporary net cash overdrafts or as otherwise specifically provided herein, it may not lend money to a fund, sell property to, or purchase property from a fund. No assets of a collective investment fund may be invested in stock or obligations, including time or savings deposits, of the bank or any of its affiliates: *Provided*, That such deposits may be made of funds awaiting investment or distribution. Subject to all other provisions of this part, funds held by a bank as fiduciary for its own employees may be invested in a collective investment fund. A bank may not make any loan on the security of a participation in a fund. If because of a creditor relationship or otherwise the bank acquires an interest in a participation in a fund, the participation shall be withdrawn on the first date on which such withdrawal can be effected. However, in no case shall an unsecured advance until the time of the next valuation date to an account holding a participation be deemed to constitute the acquisition of an interest by the bank.

(ii) Any bank administering a collective investment fund may purchase for its own account from such fund any defaulted fixed income investment held by such fund, if in the judgment of the board of directors the cost of segregation of such investment would be greater than the difference between its market value and its principal amount plus interest and penalty charges due. If the bank elects to so purchase such investment, it must do so at its market value or at the sum of cost, accrued unpaid interest, and penalty charges, whichever is greater.

(9) Except in the case of collective investment funds described in paragraph (a)(2) of this section:

(i) No funds or other property shall be invested in a participation in a collective investment fund if as a result of such investment the participant would have an interest aggregating in excess of 10 percent of the then market value of the fund: *Provided*, That in applying this limitation if two or more accounts are created by the same person or persons and as much as one-half of the income or principal of each account is payable or applicable to the use of the same person or persons, such accounts shall be considered as one;

(ii) No investment for a collective investment fund shall be made in stocks, bonds, or other obligations of any one person, firm, or corporation if as a result of such investment the total amount invested in stocks, bonds, or other obligations issued or guaranteed by such person, firm or corporation would aggregate in excess of 10 percent of the then market value of the fund: *Provided*, That this limitation shall not apply to investments in direct obligations of the United States or other obligations fully guaranteed by the United States as to principal and interest;

(iii) Any bank administering a collective investment fund shall have the responsibility of maintaining in cash and readily marketable investments such part of the assets of the fund as shall be deemed to be necessary to provide adequately for the needs of participants and to prevent inequities between such participants, and if prior to any admissions to or withdrawals from a fund the bank shall determine that after effecting the admissions and withdrawals which are

to be made less than 40 percent of the value of the remaining assets of the collective investment fund would be composed of cash and readily marketable investments, no admissions to or withdrawals from the fund shall be permitted as of the valuation date upon which such determination is made: *Provided*, That ratable distribution upon all participations shall not be so prohibited in any case.

(10) The reasonable expenses incurred in servicing mortgages held by a collective investment fund may be charged against the income account of the fund and paid to servicing agents, including the bank administering the fund.

(11) (i) A bank may (but shall not be required to) transfer up to 5 percent of the net income derived by a collective investment fund from mortgages held by such fund during any regular accounting period to a reserve account: *Provided*, That no such transfers shall be made which would cause the amount in such account to exceed 1 percent of the outstanding principal amount of all mortgages held in the fund. The amount of such reserve account, if established, shall be deducted from the assets of the fund in determining the fair market value of the fund for the purposes of admissions and withdrawals.

(ii) At the end of each accounting period, all interest payments which are due but unpaid with respect to mortgages in the fund shall be charged against such reserve account to the extent available and credited to income distributed to participants. In the event of subsequent recovery of such interest payments by the fund, the reserve account shall be credited with the amount so recovered.

(12) A national bank administering a collective investment fund shall have the exclusive management thereof. The bank may charge a fee for the management of the collective investment fund provided that the fractional part of such fee proportionate to the interest of each participant shall not, when added to any other compensations charged by a bank to a participant, exceed the total amount of compensations which would have been charged to said participant if no assets of said participant had been invested in participations in the fund. The bank shall absorb the costs of establishing or reorganizing a collective investment fund.

(13) No bank administering a collective investment fund shall issue any certificate or other document evidencing a direct or indirect interest in such fund in any form.

(14) No mistake made in good faith and in the exercise of due care in connection with the administration of a collective investment fund shall be deemed to be a violation of this part if promptly after the discovery of the mistake the bank takes whatever action may be practicable in the circumstances to remedy the mistake.

(c) In addition to the investments permitted under paragraph (a) of this section, funds or other property received or held by a national bank as fiduciary may be invested collectively, to the extent not prohibited by local law, as follows:

(1) In shares of a mutual trust investment company, organized and operated pursuant to a statute that specifically authorizes the organization of such companies exclusively for the investment of funds held by corporate fiduciaries, commonly referred to as a "bank fiduciary fund."

(2) In a single real estate loan, a direct obligation of the United States, or an obligation fully guaranteed by the United States, or in a single fixed amount security, obligation or other property, either real, personal or mixed, of a single issuer: *Provided*, That the bank owns no participation in the loan or obligation and has no interest in any investment therein except in its capacity as fiduciary.

(3) In a common trust fund maintained by the bank for the collective investment of cash balances received or held by a bank in its capacity as trustee, executor, administrator, or guardian, which the bank considers to be individually too small to be invested separately to advantage. The total investment for such fund must not exceed $100,000; the number of participating accounts is limited to 100, and no participating account may have an interest in the fund in excess of $10,000: *Provided*, That in applying these limitations if two or more accounts are created by the same person or persons and as much as one-half of the income or principal of each account is presently payable or applicable to the use of the same person or persons, such account shall be considered as one; and *Provided*, That no fund shall be established or operated under this subparagraph for the purpose of avoiding the provisions of paragraph (b) of this section.

(4) In any investment specifically authorized by court order, or authorized by the instrument creating the fiduciary relationship, in the case of trusts created by a corporation, its subsidiaries and affiliates or by several individual settlors who are closely related: *Provided*, That such investment is not made under this subparagraph for the purpose of avoiding the provisions of paragraph (b) of this section.

(5) In such other manner as shall be approved in writing by the Comptroller of the Currency.

Dated: November 10, 1972.

[SEAL] WILLIAM B. CAMP,
Comptroller of the Currency.

[FR Doc.72-19634 Filed 11-14-72;8:52 am]

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. 72-1308]

PART 564—SETTLEMENT OF INSURANCE

Updating of Examples of Insurance Coverage

NOVEMBER 8, 1972.

The Federal Home Loan Bank Board considers it advisable to amend Part 564 of the Rules and Regulations for Insurance of Accounts (12 CFR Part 564) for the purpose of clarifying certain of the Examples of Insurance Coverage Afforded Accounts in Institutions Insured by the Federal Savings and Loan Insurance Corporation, published as an appendix to said Part 564. Accordingly, on the basis of such consideration and for such purpose, the Federal Home Loan Bank Board hereby amends said Part 564 by revising Examples 8 and 10 of section E *Public unit accounts* and Examples 4 and 7 of section G *Trust accounts* contained in the appendix thereto to read as set forth below.

(Secs. 401, 402, 403, 405, 48 Stat. 1255, 1256, 1257, 1259, as amended; 12 U.S.C. 1724, 1725, 1726, 1728. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–1948, Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,
Secretary.

APPENDIX—EXAMPLES OF INSURANCE COVERAGE AFFORDED ACCOUNTS IN INSTITUTIONS INSURED BY THE FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

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E. Public unit accounts. • • •

EXAMPLE 8

Question: A city treasurer deposits in an insured institution $20,000 in each of the following accounts:

"General Operating Fund."
"Police Department."
"Fire Department."
"Parks Department—Maintenance."

What is the insurance coverage?

Answer: The "Police Department" and "Fire Department" accounts would each be separately insured to $20,000 if the funds in each such account have been allocated by law for the exclusive use of a separate city department or subdivision expressly authorized by State statute.

It is assumed that the Parks Department was not created under express authorization of State statute. If funds in the "Parks Department" account are expended only by order of the city treasurer, then they are added to the funds in the "General Operating Fund" account and are insured only to $20,000 (§§ 561.5a, 564.8(a)).

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EXAMPLE 10

Title 14—AERONAUTICS

Chapter II—Civil Aeronautics Board

raised a number of issues with regard to the general enforcement proposals which

with passports to be used for this purpose on international flights.

Board. Instead, we are amending §§ 212.7 (b) and 214.6(d) so as to require that

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EXAMPLE 10

Question: A city treasurer deposits $20,000 in each of the following accounts:

"Local Improvement District."
"General Operating Fund."
"Equipment Rental Fund."
"Department of Public Welfare."
"Bureau of Weights and Measures' (subordinate agency of "Department of Public Welfare").

What is the insurance coverage?

Answer: The "Department of Public Welfare" and the "Local Improvement District" accounts would each be separately insured to $20,000 if the funds in each such account have been allocated by law for the exclusive use of a separate city department or subdivision expressly authorized by State law. In applying the $20,000 limit to the "Department of Public Welfare" account, those funds allocated to the "Bureau of Weights and Measures" would be added to the DPW account since the Bureau is a subordinate agency of the Department. The "Equipment Rental" and "General Operating" accounts, held for citywide use, would be added together and separately insured to $20,000 (§§ 561.5a, 564.8(a)).

* * * * * *

G. Trust accounts. * * *

EXAMPLE 4

Question: An account in the amount of $40,000 is held pursuant to an irrevocable trust for the benefit of A and her sister B. Under the terms of the trust instrument, A is to receive the income for life and B is to receive the remainder at A's death. At the time of default, A is 70 years of age. What is the insurance coverage?

Answer: The proportionate value of A's life estate can be determined by the use of the present worth tables found at 26 CFR 20.2031-10. To ascertain A's beneficial interest in the account, the appropriate multiplier (0.47540) indicated by Table A(2) is multiplied by the amount in the account. A's interest is found to be $19,016. The difference of $20,984 represents B's beneficial interest in the account. The trustee is entitled to an insurance payment of $39,016, representing A's complete interest ($19,016) and $20,000 of B's interest (§§ 564.2(c)(1) and 564.10).

* * * * * *

EXAMPLE 7

Question: G is settlor of a short-term irrevocable trust for the benefit of H university. Under the terms of the trust instrument, the university is to receive all of the income (payable annually) for 2 years. At the end of the 2-year period, the trust is to terminate, and the corpus is to revert to G. The trustee invests $30,000 in a trust account. At the date of default, 1 year of the 2-year term of the trust has expired. What is the insurance coverage?

Although this arrangement constitutes an express irrevocable trust, G's reversionary interest is treated, for insurance purposes, as an individual account owned by him. (§ 561.-4) To ascertain the value of H university's remaining 1-year income interest in the trust account, the appropriate multiplier (0.05660) indicated by Table B of the present worth tables is multiplied by the account balance. H university's trust estate in the account is $1,698. G's reversionary interest is worth $28,302. Assuming that G has no individual interest in any other account, the trustee is entitled to an insurance payment of $21,698, representing H university's entire trust estate in the account ($1,698) and $20,000 of G's reversionary interest (§§ 564.-2(c)(1) and 564.10).

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[FR Doc.72-19633 Filed 11-14-72;8:51 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 72-SO-112; Amdt. No. 39-1557]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Models PA-28 and PA-25 Series Airplanes

There have been reports of the engine failing to develop power after a rapid throttle advance from low-power operation to high-power operation on certain Piper PA-28 series airplanes. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require the installation of a placard to warn against abrupt throttle operation until such time as an appropriate design change can be effected. Since certain PA-25 series airplanes have the same basic powerplant, this airworthiness directive is being made applicable to the PA-25 (150 hp.).

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, 31 F.R. 13697, § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

PIPER: Applies to Models PA-28-140, PA-28-150, PA-28-160, PA-28-S-160, and PA-25 (150 hp.) airplanes, equipped with Lycoming O-320 engines and Marvel Schebler carburetors Model MA-4SPA, Part No. 10-3678-32 certificated in all categories.

Compliance required within the next 10-hours' time in service after the effective date of this airworthiness directive, unless already accomplished.

To prevent power interruption as a result of abrupt throttle movement, accomplish the following:

(a) Attach the following operating limitation placard to the instrument panel near the throttle control in full view of the pilot using one-eighth inch minimum size type: "Do Not Open the Throttle Rapidly. (Idle to Full Throttle in 2-Seconds Minimum.)" The placard may be fabricated by the owner/operator.

This amendment becomes effective November 17, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on November 3, 1972.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.72-19554 Filed 11-14-72;8:45 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-774; Amdt. 207-7]

PART 207—CHARTER TRIPS AND SPECIAL SERVICES

Facilitation of Enforcement of Charter Regulations

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 25th day of October 1972.

By notice of proposed rule making EDR-223,[1] the Board proposed amendments to Parts 207, 208, 212, 214, and 249 of its Economic Regulations (14 CFR Parts 207, 208, 212, 214, and 249) which were intended to: (1) alleviate the problem of pro rata charter passengers being "stranded" abroad, and (2) facilitate general enforcement of the Board's pro rata charter regulations, including provisions having particular reference to foreign air carriers.

The proposed amendments directed toward general enforcement would, in brief, require that: (1) all passenger lists include telephone numbers; (2) the carrier verify the identity of all enplaning pro rata charter participants; (3) foreign air carriers performing pro rata charter flights departing from the United States file passenger lists with the Board's Bureau of Enforcement at least 20 days prior to the charter flight departure date; and (4) in the case of a charter flight which is the return leg of a charter trip originating in a foreign country, the foreign carrier file, at least 20 days in advance of the flight from the United States, the names, U.S. addresses, and U.S. telephone numbers of the passengers transported on the inbound flight.

Comments in response to the notice of proposed rulemaking were submitted by Air Canada, Aerlinte Eireann Teoranta, Alitalia, certain trunkline carriers, jointly[2] the American Society of Travel Agents, Britannia Airways, British Caledonian Airways, Consortium International (Consortium), Davis Agency, El Al Israel Airlines, Iberia Lineas Aereas de Espana, Japan Air Lines (JAL), KLM Royal Dutch Airlines, Laker Airways, Linea Aerea Nacional-Chile, Luftverkehrsunternehmen Atlantis (Atlantis), the Ambassador of the Netherlands, North Central Airlines, Pan American World Airways, SABENA Belgian World Airlines, Swissair, Trans International Airlines (TIA), Transavia, Viacao Aerea Rio-Grandense (Varig), Windward Island Airways International, and World Airways (World).

On May 31, 1972 the Board adopted,[3] with certain modifications, the proposed amendments directed toward the stranding problem, but deferred action upon the general enforcement proposals. This procedure was adopted because the comments filed in response to the notice

[1] Dated March 17, 1972, 37 F.R. 5826 (Docket 24329).

[2] American, Braniff, Delta, Eastern, National, Northwest, Pan American, TWA, United, and Western.

[3] ER-740, ER-741, ER-742, and ER-743. 37 F.R. 11235.

raised a number of issues with regard to the general enforcement proposals which warranted further consideration by the Board, and we were of the view that consideration of these issues should not impede adoption of a rule on stranding.

We have now determined to adopt in part, certain of the general enforcement proposals, with the modifications discussed hereinbelow. Each of the specific features of the various proposed amendments, and our conclusions with respect thereto in light of the comments, will be discussed.

1. *Proposed amendments applicable to United States and foreign air carriers*—a. *Inclusion of telephone numbers in passenger lists.* The present charter regulations require that the charterer submit a list of the passengers' names and addresses prior to the departure of a flight.[4] We proposed to amend this requirement so as to provide that the passenger lists must also include the passengers' telephone numbers.

Consortium, TIA, and World argue that this requirement would be unworkable.[5] Consortium and TIA contend that many pro rata charter travelers are students, who may not remain at the telephone numbers which they supply. TIA adds that the Board has not shown how the inclusion of passengers' telephone numbers will aid the enforcement of the Board's pro rata charter regulations; this being so, says TIA, the direct air carriers should not be burdened by the requirement. World says that it has been trying for some time to obtain telephone numbers on the passenger lists, and that its efforts have met with little success because charterers do not have the personnel to cope with this burden.

We have determined to adopt the requirement that passenger lists include telephone numbers.[6] The purpose of the requirement is to facilitate the use of telephones by the Board's enforcement officials in directing inquiries to passengers concerning their participation in a particular charter flight. The argument that this is an ineffective investigative tool because many passengers are students, who change their telephone numbers frequently, is not persuasive. After all, passengers' addresses may also be changed no less frequently than their telephone numbers, yet the existing requirement that passenger lists include addresses has been useful to the Board. Nor do we believe it to be unduly burdensome upon either the carrier or the charterer to require that passenger lists include telephone numbers as well as addresses.

b. *Identification of enplaning persons.* It was proposed to require that the carrier verify the identity of enplaning charter participants, noting the source of the verification on the passenger lists, with passports to be used for this purpose on international flights.

Atlantis and World argue that such a requirement would unduly delay the passenger check-in procedure, and World suggests as an alternative that the carrier merely be required to note on the list, next to a passenger's name, that some form of identification was checked. JAL says that foreign carriers already verify the identity of enplaning passengers since they must ascertain that each passenger has a valid visa.[7]

The Board is not persuaded that the requirement of identifying passengers and recording the source of the identification on the passenger list will be unduly burdensome, and we believe on the other hand that it will significantly aid the Board's enforcement efforts. Accordingly, we have determined to adopt this requirement. However, since passports are not required for all international travel, we are modifying this aspect of the proposal by providing that, where there is no passport, any other travel identity document may be used.[8]

2. *Proposed amendments applicable only to foreign air carriers*—a. *Filing of statements of supporting information and passenger lists with the Board.* In EDR-223, we noted that the Director of the Board's Bureau of Enforcement can easily obtain access to passenger lists and statements of supporting information which have been submitted to U.S. carriers;[9] however, in the case of a foreign carrier, although these documents are required to be made available, upon request, to an authorized representative of the Board at a point in the United States,[10] experience has shown that it is often difficult for the Board's enforcement officials to actually obtain and inspect the documents sufficiently in advance of a flight's departure. Therefore, we propose that, in the case of charter flights from the United States, foreign air carriers be required to file all statements of supporting information and passenger lists with the Board's Bureau of Enforcement at least 20 days prior to the flight date.

This proposal has been vigorously opposed by the foreign air carriers, who argue that it would unfairly discriminate against them vis-a-vis U.S. carriers. Moreover, most of the commenting foreign carriers say that they have never refused the Board access to documents relating to charter flights.

Upon further consideration, the Board has determined not to adopt the proposed requirement that foreign air carriers file all statements of supporting information and passenger lists with the Board. Instead, we are amending §§ 212.7(b) and 214.6(d) so as to require that the statements of supporting information and the passenger lists be submitted to the Director, Bureau of Enforcement, within 48 hours after receipt of a written request therefor. This will remedy the enforcement difficulty alluded to earlier, while making the requirement which is applicable to foreign carriers approximately the same as that which is applicable to U.S. carriers.[11]

In view of our action herein, the proposed requirement that the passenger lists be submitted by the charterer to the foreign air carrier at least 30 days in advance, and the proposed deletion of the existing requirement that the foreign air carrier retain the documents, both of which followed from the proposed filing requirements, are not being adopted.

b. *U.S. telephone numbers and addresses of foreign-originating passengers.* Finally, in the case of a charter flight which is the return leg of a charter trip originating in a foreign country, we proposed to require the filing, at least 20 days in advance of the outbound flight, of the names, U.S. addresses, and U.S. telephone numbers of the passengers carried on the inbound flight.

This proposal, too, has been objected to by the foreign carriers. It is urged that the proposal would be unworkable, since it is unlikely that foreign persons traveling to the United States would be able to supply such information. Moreover, the proposed requirement is said to discriminate against foreign air carriers, since it would apply only to them. It is also argued that foreign persons might view with suspicion a governmental request for their U.S. addresses and telephone numbers.

We agree with the comments to the effect that many foreign persons may not be able to supply U.S. addresses and telephone numbers, and accordingly, we have determined not to adopt this portion of the proposal.

Accordingly, the Board hereby amends Part 207 of the Economic regulations (14 CFR Part 207), effective December 15, 1972, as follows:

1. Amend the Table of Contents of Part 207 by adding a new § 207.26 under Subpart B—Provisions Relating to Pro Rata Charters, the table as amended to read as follows:

Sec.
207.26 Air carrier to identify enplanements.

2. Amend § 207.9 by revising paragraph (a), the section as amended to read as follows:

§ 207.9 Records and record retention.

* * * * * *

(a) A record of the names, addresses, and telephone numbers of all passengers

[4] §§ 207.45, 208.215, 212.45, and 214.35.

[5] Varig, while not objecting to the requirement, question its usefulness.

[6] This requirement has already been adopted for travel group charters, under Part 372a, SPR-61, September 27, 1972.

[7] JAL also states that our present regulations do not require foreign air carriers to retain passenger lists; apparently JAL has overlooked § 212.7(a)(3), which does so require.

[8] This requirement, as modified, has already been adopted for travel group charters, under Part 372a, SPR-61, Sept. 27, 1972.

[9] § 385.22(c).

[10] §§ 212.7(b) and 214.6(d).

[11] Documents requested of air carriers by the Director, Bureau of Enforcement, pursuant to § 385.22(c) must be submitted "within a specified reasonable period."

transported on each pro rata charter trip.

743, 754, as amended by 76 Stat. 143, 82 Stat. 867, and 766, as amended by 83 Stat. 103; 49 U.S.C. 1324, 1371, and 1377)

number shall be entered on the passenger list.

4. Amend § 208.215(a) to read as

By notice of proposed rule making EDR-223,[1] the Board proposed, inter alia, certain amendments to Part 212. For the

way passengers. The list shall be amended if passengers are added or dropped before flight.

Rata Charters, the table as amended to read as follows:

Sec.

transported on each pro rata charter trip.

• • • • •

3. Add a new § 207.26, to read as follows:

§ 207.26 Air carrier to identify enplanements.

The air carrier shall make reasonable efforts to verify the identity of all enplaning charter participants, and the documentary source of such verification shall be noted on the passenger list: *Provided however*, That in the case of international flights the identity of each enplaning charter participant shall be verified by means of his passport or, if there be none, by means of any other travel identity document, and the passport number or travel identity document number shall be entered on the passenger list.

4. Amend § 207.45(a) to read as follows:

§ 207.45 Passenger lists.

(a) Prior to each one-way or round-trip flight, a list shall be filed by the charterer with the air carrier showing the names, addresses, and telephone numbers of the persons to be transported, including standbys who may be transported, specifying the relationship of each such person to the charterer (by designating opposite his name one of the three relationship categories hereinafter described), the date the person joined or last renewed a lapsed membership in the charter organization, and the designation "one-way" in the case of one-way passengers. The list shall be amended if passengers are added or dropped before flight.

• • • • •

5. Amend the Statement of Supporting Information set forth at the end of Part 207 by modifying Item 7 of section B of Part II thereof, the statement as amended to read as follows:

STATEMENT OF SUPPORTING INFORMATION [1]

• • • • •

Part II • • •
Section B • • •

7. Attach list of prospective passengers (including "standbys" and one-way passengers designated as such), showing for each: (a) name, address, and telephone number; (b) relationship of such person to chartering organization, i.e., member, spouse, dependent child, parent or "special" (a person whose proposed participation in the charter flight was permitted by the Board pursuant to request for waiver); (c) if such person is related to a member who is not a prospective passenger, the member's name, address, and telephone number; and (d) date member joined or last renewed a lapsed membership.

(NOTE: This is a list of prospective passengers and does not necessarily have to represent the passengers actually to be carried. The list is to be amended, if passengers are dropped or added before flights and the certification required by § 207.45 must be attached to the list.)

• • • • •

(Secs. 204(a), 401, and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 754, as amended by 76 Stat. 143, 82 Stat. 867, and 766, as amended by 83 Stat. 103; 49 U.S.C. 1324, 1371, and 1377)

NOTE: The record-retention requirements herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-19635 Filed 11-14-72;8:52 am]

[Reg. ER-775; Amdt. 208-8]

PART 208—TERMS, CONDITIONS, AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN SUPPLEMENTAL AIR TRANSPORTATION

Facilitation of Enforcement of Charter Regulations

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 25th day of October 1972.

By notice of proposed rule making EDR-223,[1] the Board proposed, inter alia, certain amendments to Part 208. For the reasons set forth in ER-774 (Part 207), published contemporaneously herewith, the Board hereby amends Part 208 of the Economic Regulations (14 CFR Part 208), effective December 15, 1972, as follows:

1. Amend the Table of Contents of Part 208 by adding a new § 208.202c under Subpart C—Provisions Relating to Pro Rata Charters, the table as amended to read as follows:

Sec.
208.202c Air carrier to identify enplanements.

2. Amend § 208.4 by revising paragraph (a), the section as amended to read as follows:

§ 208.4 Particular records.

• • • • •

(a) A record of the names, addresses, and telephone numbers of all passengers transported on each pro rata charter trip.

• • • • •

3. Add a new § 208.202c, to read as follows:

§ 208.202c Air carrier to identify enplanements.

The air carrier shall make reasonable efforts to verify the identity of all enplaning charter participants, and the documentary source of such verification shall be noted on the passenger list: *Provided, however*, That in the case of international flights the identity of each enplaning charter participant shall be verified by means of his passport or, if there be none, by means of any other travel identity document, and the passport number or travel identity document number shall be entered on the passenger list.

4. Amend § 208.215(a) to read as follows:

§ 208.215 Passenger lists.

(a) Prior to each one-way or round-trip flight, a list shall be filed by the charterer with the air carrier showing the names, addresses, and telephone numbers of the persons to be transported, including standbys who may be transported, specifying the relationship of each such person to the charterer (by designating opposite his name one of the three relationship categories hereinafter described), the date the person joined or last renewed a lapsed membership in the charter organization, and the designation "one-way" in the case of one-way passengers. The list shall be amended if passengers are added or dropped before flight.

• • • • •

5. Amend the statement of supporting information set forth at the end of Part 208 by modifying Item 7 of section B of Part II thereof, the statement is amended to read as follows:

STATEMENT OF SUPPORTING INFORMATION [1]

• • • • •

Part II • • •
Section B • • •

7. Attach list of prospective passengers (including "standbys" and one-way passengers designated as such), showing for each: (a) Name, address, and telephone number; (b) relationship of such person to chartering organization, i.e., member, spouse, dependent child, parent or "special" (a person whose proposed participation in the charter flight was permitted by the Board pursuant to request for waiver); (c) if such person is related to a member who is not a prospective passenger, the member's name, address, and telephone number; and (d) date member joined or last renewed a lapsed membership. (NOTE: This is a list of prospective passengers and does not necessarily have to represent the passengers actually to be carried. The list is to the amended, if passengers are dropped or added before flights and the certification required by § 208.215 must be attached to the list.)

• • • • •

(Secs. 204(a), 401, and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 754, as amended by 76 Stat. 143, 82 Stat. 867, and 766, as amended by 83 Stat. 103; 49 U.S.C. 1324, 1371, and 1377)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-19636 Filed 11-14-72;8:52 am]

[Reg. ER-776; Amdt. 212-9]

PART 212—CHARTER TRIPS BY FOREIGN AIR CARRIERS

Facilitation of Enforcement of Charter Regulations

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 25th day of October 1972.

[1] Dated Mar. 17, 1972, 37 F.R. 5826 (Docket 24329).

By notice of proposed rule making EDR-223,[1] the Board proposed, inter alia, certain amendments to Part 212. For the reasons set forth in ER-774 (Part 207), published contemporaneously herewith, the Board hereby amends Part 212 of the Economic Regulations (14 CFR Part 212), effective December 15, 1972, as follows:

1. Amend the Table of Contents by adding a new § 212.26 under Subpart B—Provisions Relating to Pro Rata Charters, the table as amended to read as follows:

Sec.
212.26 Foreign air carrier to identify enplanements.

2. Amend § 212.7 by revising subparagraph (a)(3) and paragraph (b), the section as amended to read as follows:

§ 212.7 Records and record retention.

(a) • • •

(3) A record of the names, addresses, and telephone numbers of all passengers transported on each pro rata charter trip originating or terminating in the United States.

• • • • •

(b) Such documents shall be made available, at a place in the United States, for inspection upon request by an authorized representative of the Board or the Federal Aviation Administration. Each foreign air carrier shall permit such authorized representative to make such notes and copies thereof as he deems appropriate: *Provided*, That the passenger lists and statements of supporting information described in paragraph (a)(3) and (4) of this section shall be submitted so as to be received by the Board within 48 hours after receipt by the carrier of a written request therefor from the Director, Bureau of Enforcement.

3. Add a new § 212.26, to read as follows:

§ 212.26 Foreign air carrier to identify enplanements.

The identity of each enplaning charter participant shall be verified by means of his passport or, if there be none, by means of any other travel identity document, and the passport number or travel identity document number shall be entered on the passenger list.

4. Amend § 212.45(a) to read as follows:

§ 212.45 Passenger lists.

(a) Prior to each one-way or round-trip flight, a list shall be filed by the charterer with the foreign air carrier showing the names, addresses, and telephone numbers of the persons to be transported, including standbys who may be transported, specifying the relationship of each person to the charterer (by designating opposite his name one of the three relationships categories hereinafter described), the date the person joined or last renewed a lapsed membership in the charter organization, and the designation "one-way" in the case of one-way passengers. The list shall be amended if passengers are added or dropped before flight.

• • • • •

5. Amend the Statement of Supporting Information set forth at the end of part 212 by modifying item 7 of section B of part II thereof, the Statement as amended to read as follows:

STATEMENT OF SUPPORTING INFORMATION [1]

• • • • •

Part II • • •
Section B • • •

7. Attach list of prospective passengers (including "standbys" and one-way passengers designated as such), showing for each: (a) name, address, and telephone number; (b) relationship of such person to chartering organization, i.e., member, spouse, dependent child, parent or "special" (a person whose proposed participation in the charter flight was permitted by the Board pursuant to request for waiver); (c) if such person is related to a member who is not a prospective passenger, the member's name, address, and telephone number; and (d) date member joined or last renewed a lapsed membership.

NOTE: This is a list of prospective passengers and does not necessarily have to represent the passengers actually to be carried. The list is to be amended, if passengers are dropped or added before flights and the certification required by § 212.45 must be attached to the list.

• • • • •

(Secs. 204(a), 402 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757; 49 U.S.C. 1324, 1372)

NOTE: The record-retention requirements herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-19637 Filed 11-14-72;8:52 am]

[Reg. ER-777; Amdt. 214-12]

PART 214—TERMS, CONDITIONS, AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS AUTHORIZING CHARTER TRANSPORTATION ONLY

Facilitation of Enforcement of Charter Regulations

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 25th day of October 1972.

By notice of proposed rule making EDR-223,[2] the Board proposed, inter alia, certain amendments to Part 214. For the reasons set forth in ER-774 (Part 207), published contemporaneously herewith, the Board hereby amends Part 214 of the Economic Regulations (14 CFR Part 214), effective December 15, 1972, as follows:

1. Amend the Table of Contents of Part 214 by adding a new § 214.19 under Subpart A—Provisions Relating to Pro Rata Charters, the table as amended to read as follows:

Sec.
214.19 Foreign air carrier to identify enplanements.

2. Amend § 214.6 by revising paragraph (d), the section as amended to read as follows:

§ 214.6 Record retention.

• • • • •

(d) Every foreign air carrier shall make the documents listed in this section available in the United States upon request by an authorized respresentative of the Board or the Federal Aviation Administration and shall permit such representative to make such notes and copies thereof as he deems appropriate: *Provided*, That the documents described in paragraph (a)(2)(4) of this section shall be submitted so as to be received by the Board within 48 hours after receipt by the carrier of a written request therefor from the Director, Bureau of Enforcement.

3. Add a new § 214.19, to read as follows:

§ 214.19 Foreign air carrier to identify enplanements.

The identity of each enplaning charter participant shall be verified by means of his passport or, if there be none, by means of any other travel identity document, and the passport number or travel identity document number shall be entered on the passenger list.

4. Amend § 214.35(a) to read as follows:

§ 214.35 Passenger lists.

(a) Prior to each one-way or round-trip flight, a list shall be filed by the charterer with the foreign air carrier showing the names, addresses, and telephone numbers of the persons to be transported, including standbys who may be transported, specifying the relationship of each such person, to the charterer (by designating opposite his name one of the three relationship categories hereinafter described), the date the person joined or last renewed a lapsed membership in the charter organization, and the designation "one-way" in the case of one-way passengers. The list shall be amended if passengers are added or dropped before flight.

• • • • •

5. Amend the Statement of Supporting Information set forth at the end of Part 214 by modifying item 7 of section B of Part II thereof, the Statement as amended to read as follows:

STATEMENT OF SUPPORTING INFORMATION [1]

• • • • •

Part II • • •
Section B • • •

7. Attach list of prospective passengers (including "standbys" and one-way passengers designated as such), showing for each:

[1] • • •

[2] Dated March 17, 1972, 37 F.R. 5826 (Docket 24329).

[1] This must be retained by the foreign air carrier for 2 years pursuant to the requirements of § 214.6, but open to Board inspection, and to be filed with the Board on demand.

(a) name, address, and telephone number; (b) relationship of such person to chartering organization, i.e., member, spouse, dependent child, parent or "special" (a person whose proposed participation in the charter flight was permitted by the Board pursuant to request for waiver); (c) if such person is related to a member who is not a prospective passenger, the member's name, address, and telephone number; and (d) date member joined or last renewed a lapsed membership.

(NOTE: This is a list of prospective passengers and does not necessarily have to represent the passengers actually to be carried. The list is to be amended, if passengers are dropped or added before flights and the certification required by § 208.215 must be attached to the list.)

• • • • •

(Secs. 204(a), 401, and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 754, as amended by 76 Stat. 143, 82 Stat. 867, and 766, as amended by 83 Stat. 103; 49 U.S.C. 1324, 1371, and 1377)

NOTE: The record-retention requirements herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-19634 Filed 11-14-72;8:51 am]

[Reg. ER-774; Amdt. 207-3]

PART 207—CHARTER TRIPS AND SPECIAL SERVICES

Facilitation of Enforcement of Charter Regulations

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 25th day of October 1972.

By notice of proposed rule making EDR-223,[1] the Board proposed, inter alia, certain amendments to Part 207. For the reasons set forth in ER-774 (Part 207), published contemporaneously herewith, the Board hereby amends Part 207 of the Economic Regulations (14 CFR Part 207), effective December 15, 1972, as follows:

1. Amend the Table of Contents of Part 207 by adding a new § 207.26 under Subpart C—Provisions Relating to Pro Rata Charters, the table as amended to read as follows:

Sec.
207.26 Air carrier to identify enplanements.

2. Amend § 207.45(a) to read as follows:

§ 207.45 Passenger lists.

(a) Prior to each one-way or round-trip flight, a list shall be filed by the charterer with the air carrier showing the names, addresses, and telephone numbers of the persons to be transported, including standbys who may be transported, specifying the relationship of each such person to the charterer (by designating opposite his name one of the three relationship categories hereinafter described), the date the person joined or last renewed a lapsed membership in the charter organization, and the designation "one-way" in the case of one-way passengers. The list shall be amended if passengers are added or dropped before flight.

• • • • •

(b) Such documents shall be made available, at a place in the United States, for inspection upon request by an authorized representative of the Board or the Federal Aviation Administration. Each foreign air carrier shall permit such authorized representative to make such notes and copies thereof as he deems appropriate: *Provided*, That the passenger lists and statements of supporting information described in paragraph (a)(3) and (4) of this section shall be submitted so as to be received by the Board within 48 hours after receipt by the carrier of a written request therefor from the Director, Bureau of Enforcement.

3. Add a new § 207.26, to read as follows:

§ 207.26 Air carrier to identify enplanements.

The air carrier shall make reasonable efforts to verify the identity of all enplaning charter participants, and the documentary source of such verification shall be noted on the passenger list: *Provided however*, That in the case of international flights the identity of each enplaning charter participant shall be verified by means of his passport or, if there be none, by means of any other travel identity document, and the passport number or travel identity document number shall be entered on the passenger list.

4. Amend § 207.45(a) to read as follows:

§ 207.45 Passenger lists.

(a) Prior to each one-way or round-trip flight, a list shall be filed by the charterer with the air carrier showing the names, addresses, and telephone numbers of the persons to be transported, including standbys who may be transported, specifying the relationship of each such person to the charterer (by designating opposite his name one of the three relationship categories hereinafter described), the date the person joined or last renewed a lapsed membership in the charter organization, and the designation "one-way" in the case of one-way passengers. The list shall be amended if passengers are added or dropped before flight.

• • • • •

5. Amend the Statement of Supporting Information set forth at the end of Part 207 by modifying Item 7 of section B of Part II thereof, the statement as amended to read as follows:

STATEMENT OF SUPPORTING INFORMATION [1]

• • • • •

Part II • • •
Section B • • •

7. Attach list of prospective passengers (including "standbys" and one-way passengers designated as such), showing for each: (a) name, address, and telephone number; (b) relationship of such person to chartering organization, i.e., member, spouse, dependent child, parent or "special" (a person whose proposed participation in the charter flight was permitted by the Board pursuant to request for waiver); (c) if such person is related to a member who is not a prospective passenger, the member's name, address, and telephone number; and (d) date member joined or last renewed a lapsed membership.

(NOTE: This is a list of prospective passengers and does not necessarily have to represent the passengers actually to be carried. The list is to be amended, if passengers are dropped or added before flights and the certification required by § 207.45 must be attached to the list.)

• • • • •

(Secs. 204(a), 401, and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 754, as amended by 76 Stat. 143, 82 Stat. 867, and 766, as amended by 83 Stat. 103; 49 U.S.C. 1324, 1371, and 1377)

NOTE: The record-retention requirements herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-19633 Filed 11-14-72;8:51 am]

[Docket 24329; Order 72-11-73]

PART 208—TERMS, CONDITIONS, AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN SUPPLEMENTAL AIR TRANSPORTATION

Facilitation of Enforcement of Charter Regulations

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 25th day of October 1972.

By notice of proposed rule making EDR-223,[1] the Board proposed, inter alia, certain amendments to Part 208. For the reasons set forth in ER-774 (Part 207), published contemporaneously herewith, the Board hereby amends Part 208 of the Economic Regulations (14 CFR Part 208), effective December 15, 1972, as follows:

1. Amend the Table of Contents of Part 208 by adding a new § 208.202c under Subpart C—Provisions Relating to Pro Rata Charters, the table as amended to read as follows:

Sec.
208.202c Air carrier to identify enplanements.

2. Amend § 208.4 by revising paragraph (a), the section as amended to read as follows:

§ 208.4 Particular records.

• • • • •

(a) A record of the names, addresses, and telephone numbers of all passengers transported on each pro rata charter trip.

• • • • •

3. Add a new § 208.202c, to read as follows:

§ 208.202c Air carrier to identify enplanements.

The air carrier shall make reasonable efforts to verify the identity of all enplaning charter participants, and the documentary source of such verification shall be noted on the passenger list: *Provided, however*, That in the case of international flights the identity of each enplaning charter participant shall be verified by means of his passport or, if there be none, by means of any other travel identity document, and the passport number or travel identity document

[1] Dated Mar. 17, 1972, 37 F.R. 5826 (Docket 24329).

acetate, rayon, cotton, or any other material or combinations thereof in a manner which fails to conform to the standard of flammability applicable to such fabric under the provisions of the Flammable Fabrics Act.

It is further ordered, That the individual respondents named herein promptly cease and desist from manufacturing for sale, selling, offering for sale, in com-

(a) name, address, and telephone number; (b) relationship of such person to chartering organization, i.e., member, spouse, dependent child, parent or "special" (a person whose proposed participation in the charter flight was permitted by the Board pursuant to request for waiver); (c) If such person is related to a member who is not a prospective passenger, the member's name, address, and telephone number; and (d) date member joined or last renewed a lapsed membership.

NOTE: This is a list of prospective passengers and does not necessarily have to represent the passengers actually to be carried. The list is to be amended, if passengers are dropped or added before flights and the certification required by § 214.35 must be attached to the list.

* * * * * * *

(Secs. 204(a), 402 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757; 49 U.S.C. 1324, 1372)

NOTE: The record-retention requirements herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-19638 Filed 11-14-72;8:52 am]

[Reg. ER-778; Amdt. 249-22]

PART 249—PRESERVATION OF AIR CARRIER ACCOUNTS RECORDS AND MEMORANDA

Charter Passengers' Telephone Numbers

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 25th day of October 1972.

By notice of proposed rule making EDR-223,[1] the Board proposed, inter alia, certain amendments to Part 249. For the reasons set forth in ER-774 (Part 207), published contemporaneously herewith, the Board hereby amends Part 249 of the Economic Regulations (14 CFR Part 249), effective December 15, 1972, as follows:

1. Amend § 249.8 by modifying Item 12 of the "Category of records," the section as amended to read as follows:

§ 249.8 Period of preservation of records by supplemental air carriers.

* * * * * * *

Category of Records	*Period to be retained*
* * *	* * *
12. Names, addresses, and telephone numbers of all passengers transported on each pro rata charter trip	2 years.
* * *	* * *

2. Amend § 249.12(c) by revising subparagraph (3), the section as amended to read as follows:

§ 249.12 Period of preservation of records by foreign air carriers.

* * * * * * *

(c) Each carrier shall * * *

(3) A record of the names, addresses, and telephone numbers of all passengers transported on each pro rata charter trip originating or terminating in the United States: 2 years.

* * * * * * *

3. Amend § 249.13 by revising paragraph (c) of Item 302 of the "Category of records," the section as amended to read as follows:

§ 249.13 Period of preservation of records by certificated route air carriers.

* * * * * * *

Category of Records	*Period to be retained*
* * *	* * *
302. Reservations, reports and records: * * *	
(c) Names, addresses, and telephone numbers of all passengers transported on each pro rata charter trip	2 years.
* * *	* * *

(Secs. 204(a), 402, 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757, and 766, as amended by 83 Stat. 103; 49 U.S.C. 1324, 1372, and 1377)

NOTE: The record-retention requirements herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-19639 Filed 11-14-72;8:52 am]

[1] Dated March 17, 1972, 37 F.R. 5326 (Docket 24329).

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-2293]

PART 13—PROHIBITED TRADE PRACTICES

B. & H. Importing Corp. and Paul Silverberg

Subpart—Importing, manufacturing, selling, or transporting flammable wear: § 13.1060 *Importing, manufacturing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, B. & H. Importing Corp. et al., Middle Village, Docket No. C-2293, Oct. 2, 1972]

In the Matter of B. & H. Importing Corp., a Corporation, and Paul Silverberg, Individually and as an Officer of Said Corporation

Consent order requiring a Middle Village, N.Y., importer, manufacturer, and wholesaler of scarves, footwear, and accessories, among other things to cease manufacturing for sale, selling, importing, or transporting any products, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued or amended under the provisions of the Flammable Fabrics Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents B. & H. Importing Corp., a corporation, its successors and assigns, and its officers, and Paul Silverberg, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce any product, fabric, or related material; or manufacturing for sale, selling or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric, or related material fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That the respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to the complaint, of the flammable nature of said products and effect the recall of said products from such customers.

It is further ordered, That the respondents herein either process the products that gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That the respondents herein shall within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning: (1) The identity of the products which gave rise to the complaint, (2) the number of said products in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the inflammability of said products and effect the recall of said products from customers, and of the results thereof, (4) any disposition of said products since October 26, 1970, and (5) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products, and the results of such action. Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton, or any other material or combinations thereof in a weight of 2 ounces or less per square yard, or any product, fabric, or related material having a raised fiber surface. Respondents shall submit samples of not less than 1 square yard in size of any such product, fabric or related material with this report.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: October 2, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-19581 Filed 11-14-72;8:47 am]

[Docket No. C-2296]

PART 13—PROHIBITED TRADE PRACTICES

Conseenee Carpets, Inc. et al.

Subpart—Importing, manufacturing, selling, or transporting flammable wear: § 13.1060 *Importing, manufacturing, selling or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Conseenee Carpets, Inc., et al., Ellijay, Ga., Docket No. C-2296, Oct. 5, 1972]

In the Matter of Conseenee Carpets, Inc., a Corporation, and Robert S. Mosley and E. Davis Lacey, Individually and as Officers of Said Corporation.

Consent order requiring an Ellijay, Ga., manufacturer of carpets and rugs, among other things to cease selling and distributing carpeting which does not meet the acceptable criteria for carpeting under the Flammable Fabrics Act, as amended.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Conseenee Carpets, Inc., a corporation, its successors and assigns, and its officers, and Robert S. Mosley and E. Davis Lacey, individually and as officers of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling or offering for sale, any product made of fabric, or related material which has been shipped or received in commerce, as "commerce," "product," "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to this complaint, of the flammable nature of said products and effect the recall of said products from such customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning: (1) The identity of the products which gave rise to the complaint, (2) the identity of the purchasers of said products, (3) the amount of said products on hand and in the channels of commerce, (4) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and the results thereof, (5) any disposition of said products since April 27, 1972, and (6) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or to destroy said products, and the results of such action. Respondents will submit with their report, a complete description of each style of carpet or rug currently in inventory or production. Upon request, respondents will forward to the Commission for testing a sample of any such carpet or rug.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the individual respondents named herein promptly notify the Commission of their discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business or employment in which they are engaged as well as a description of their duties and responsibilities.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: October 5, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-19582 Filed 11-14-72;8:47 am]

[Docket No. C-2294]

PART 13—PROHIBITED TRADE PRACTICES

Devour Chemical Co., Inc., and Otis D. Powell, Jr.

Subpart—Advertising Falsely or Misleadingly: §13.60 *Earnings and profits;* § 13.142 *Operation;* § 13.150 *Premiums and prizes:* 13.150-30 Premiums. Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception.* Subpart—Misrepresenting Oneself and Goods—Business Status, Advantages or Connections: § 13.1490 *Nature;* § 13.1513 *Operations generally;* —Goods: § 13.1615 *Earnings and profits.* Subpart—Neglecting, Unfairly, or Deceptively, To Make Material Disclosure: § 13.1892 *Sales contract, right-to-cancel provision.* Subpart—Offering Unfair, Improper, and Deceptive Inducements To Purchase or Deal: § 13.2020 *Premium or premium conditions.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Devour Chemical Co., Inc., et al., Alma, Ark., Docket No. C-2294, Oct. 2, 1972]

In the Matter of Devour Chemical Co., Inc., a Corporation, and Otis D. Powell, Jr., individually and as an officer of said corporation

Consent order requiring an Alma, Ark., manufacturer, seller, and distributor of household cleaners, among other things to cease its operation of a marketing program where financial gains to participants are dependent upon not only the sale of the promoter's goods, but upon the sale of redistributorships necessarily predicated upon the exploitation of others as well; misrepresenting past

earnings of participants; running a program in the nature of a lottery; failing

ation of such plan as to enable him substantially to affect the amount of any

his intention to conform his business practices to the requirements of this

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Playfield Industries, Inc., et al., Chicago, Ill., Docket No. C-2295, Oct. 2, 1972]

complaint, (2) the number of said products in inventory, (3) any action taken and any further actions proposed to be

In the Matter of Playfield Industries, Inc., a Corporation, and John B. Whisnant, Jr., Individually and as

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earnings of participants; running a program in the nature of a lottery; failing to inform participants of their right to cancel their contract within 3 business days; and furnishing means and instrumentalities of deception.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Devour Chemical Co., Inc., a corporation, and Otis D. Powell, Jr., individually and as an officer of said corporation, its successors and assigns, and respondents' officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of any product or of distributorships, franchises, licenses, or marketing agreements with respect thereto, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from directly or indirectly:

1. Operating or participating in the operation of any marketing program wherein the financial gains to the participants are dependent in any manner upon the continued successive recruitment of other participants.

2. Offering to pay, paying, or authorizing the payment of any finder's fee, bonus, override, commission, cross-commission, discount, rebate, dividend, or other consideration to any participant in respondents' marketing program for the solicitation or recruitment of other participants therein.

3. Offering to pay, paying, or authorizing payment of any bonus, override, commission, cross-commission, discount, rebate, dividend, or other consideration to any person, firm, or corporation in connection with the sale of said products or distributorships under respondents' marketing program unless such person, firm, or corporation performs a bona fide and essential supervisory, distributive, selling, or soliciting function in the sale and delivery of such products to the ultimate consumer.

4. Requiring prospective participants or participants in said program to purchase said products or pay any consideration, other than payment for necessary sales materials, in order to participate in any manner therein.

5. Using any marketing program, either directly or indirectly:

(a) Wherein any finder's fee, bonus, override, commission, cross-commission, discount, rebate, dividend, or other compensation or profit inuring to participants therein is dependent on the element of chance dominating over the skill or judgment of the participants; or

(b) Wherein no amount of judgment or skill exercised by the participant has any appreciable effect upon any finder's fee, bonus, override, commission, cross-commission, discount, rebate, dividend, or other compensation or profits which the participant may receive; or

(c) Wherein the participant is without that degree of control over the operation of such plan as to enable him substantially to affect the amount of any finder's fee, bonus, override, commission, cross-commission, discount, rebate, dividends, or other compensation or profits which he may receive or be entitled to receive.

6. Using any marketing program which fails to:

(a) Inform orally all participants in respondents' marketing program and to provide in writing in all contracts of participation that the contract may be canceled for any reason by notification to respondents in writing within three (3) business days from the date of execution of such contract.

(b) Refund immediately all moneys to (1) customers who have requested contract cancellation in writing within three (3) business days from the execution thereof, and (2) customers showing that respondents' contract solicitations or performance were attended by or involved violation of any of the provisions of this order: *Provided, however*, that subpart (2) hereof shall not apply to such contracts entered into before the date of this order, nor shall the payments of refunds hereunder be construed as an admission that this order or any part thereof has been violated.

7. Representing directly or by implication, orally or in writing, that participants in any marketing program will earn or receive any stated or gross or net amount of earnings or profits; or representing, in any manner, the past earnings of participants unless in fact the past earnings represented are those of a substantial number of participants in the community or geographical area in which such representations are made and accurately reflect the average earnings of these participants under circumstances similar to those of the participant to whom the representation is made.

8. Representing, directly or by implication, orally or in writing, that it is not difficult for participants to recruit or retain persons to invest in any marketing program as distributors or as sales personnel to sell said products.

9. Failing to deliver a copy of this order to cease and desist to all present and future distributors, salesmen or other persons engaged in the advertising, sale or distribution of any products through the use of a marketing program, and securing from each such distributor, salesman, or other person similarly involved a signed statement acknowledging receipt of said order.

10. Furnishing others any means or instrumentalities, services, and facilities, whereby they may mislead participants or prospective participants as to any of the matters or things prohibited by this order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That:

(A) Respondents immediately obtain from each person described in paragraph 9 above a signed statement setting forth his intention to conform his business practices to the requirements of this order.

(B) Respondents advise each such present and future salesman, agent, solicitor, independent contractor, distributor, or any person engaged in the promotion, sale, or distribution of any of respondents' products and/or franchises that respondents will not engage or will terminate the engagement or services of any said person, unless such person agrees to and does file a notice with the respondents that he will be bound by the provisions contained in this order.

(C) If such party will not agree to so file notice with the respondents and be bound by the provisions of the order, the respondents shall not use such third party, or the services of such third party to promote, sell, or distribute any of respondents' products and/or franchises or distributorships.

(D) Respondents so inform the persons so engaged that the respondents are obligated by this order to discontinue dealing with those persons who continue on their own the deceptive acts or practices prohibited by this order.

(E) Respondents institute a program of continuing surveillance adequate to reveal whether the business operations of each of said persons so engaged conform to the requirements of this order; and

(F) That respondents discontinue dealing with the persons so engaged, revealed by the aforesaid program of surveillance, who continue on their own, deceptive acts or practices prohibited by this order.

It is further ordered, That respondents herein shall notify the Commission at least thirty (30) days prior to any proposed change in any of the corporate respondents such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution which may affect compliance obligations arising out of the order.

It is further ordered, That respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: October 2, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-19583 Filed 11-14-72;8:47 am]

[Docket No. C-2292]

PART 13—PROHIBITED TRADE PRACTICES

Kowa American Corp. and Masaaki Kawabe

Subpart—Importing, manufacturing, selling, or transporting flammable wear: § 13.1060 *Importing, manufacturing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Kowa American Corp. et al., New York, N.Y., Docket No. C-2292, Oct. 2, 1972]

In the Matter of Kowa American Corp., a Corporation, and Masaaki Kawabe, Individually and as an Officer of Said Corporation.

Consent order requiring a New York City importer and wholesaler of cameras, tiles, footwear, and textile products, among other things to cease manufacturing for sale, selling, importing, or transporting any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued or amended under the provisions of the Flammable Fabrics Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Kowa American Corp., a corporation, its successors and assigns and its officers, and Masaaki Kawabe, individually and as an officer of said corporation and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting, or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce any product, fabric or related material, or manufacturing for sale, selling or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric," and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric, or related material fails to conform to an applicable standard or regulation continued in effect, issued, or amended under the provisions of the aforesaid Act.

It is further ordered, That the respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to the complaint, of the flammable nature of said products and effect the recall of said products from such customers.

It is further ordered, That the respondents herein either process the products that gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That the respondents herein shall within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the number of said products in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof (4) any disposition of said products since October 23, 1970, and (5) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products, and the results of such action. Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton, or any other material or combinations thereof in a weight of 2 ounces or less per square yard, or any product, fabric, or related material having a raised fiber surface. Respondents shall submit samples of not less than 1 square yard in size of any such product, fabric, or related material with this report.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: October 2, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-19584 Filed 11-14-72;8:47 am]

[Docket No. C-2300]

PART 13—PROHIBITED TRADE PRACTICES

Playfield Industries, Inc., and John B. Whisnant, Jr.

Subpart—Importing, manufacturing, selling, or transporting flammable wear: § 13.1060 *Importing, manufacturing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Playfield Industries, Inc., et al., Chatsworth, Ga., Docket No. 2300, Oct. 6, 1972]

In the Matter of Playfield Industries, Inc., a Corporation, and John B. Whisnant, Jr., Individually and as an Officer of Said Corporation

Consent order requiring a Chatsworth, Ga., manufacturer and seller of carpets and rugs, among other things to cease selling and distributing carpeting which does not meet the acceptable criteria for carpeting under the Flammable Fabrics Act, as amended.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Playfield Industries, Inc., a corporation, its successors and assigns, and its officers, and respondent John B. Whisnant, Jr., individually and as an officer of said corporation and respondents' agents, representatives, and employees directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting, or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling, or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric," and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to this complaint, of the flammable nature of said products and effect the recall of said products from such customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the identity of the purchasers of said products, (3) the amount of said products on hand and in the channels of commerce, (4) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (5) any disposition of said products since April 29, 1972, and

(6) any action taken or proposed to be

volume reports as to completed transactions in securities registered on such ex-

so that they may be examined and commented upon by the public. It was also

ing to any entity which may be established to implement the plan and shall

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(6) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or to destroy said products, and the results of such action. Respondents will submit with their report, a complete description of each style of carpet or rug currently in inventory or production. Upon request, respondents will forward to the Commission for testing a sample of any such carpet or rug.

It is further ordered That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligation which may affect compliance obligations arising out of the order.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued October 6, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-19585 Filed 11-14-72;8:47 am]

[Docket No. C-2295]

PART 13—PROHIBITED TRADE PRACTICES

Rosen & Bachner, Inc., et al.

Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* 13.1108-45 Fur Products Labeling Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185-30 Fur Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212-30 Fur Products Labeling Act: § 13.1255 *Manufacture or preparation:* 13.1255-30 Fur Products Labeling Act. Subpart—Misrepresenting oneself and goods—Goods: § 13.1590 *Composition:* 13.1590-30 Fur Products Labeling Act; § 13.1623 *Formal regulatory and statutory requirements:* 13.1623-30 Fur Products Labeling Act; § 13.1685 *Nature:* 13.1685-35 Fur Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-35 Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Rosen & Bachner, Inc., et al., New York, N.Y., Docket No. C-2295, Oct. 2, 1972]

In the Matter of Rosen & Bachner, Inc., a Corporation, and Marvin Rosen and Arthur Bachner, Individually and as Officers of Said Corporation

Consent order requiring a New York City manufacturer of fur products, among other things to cease misbranding and deceptively invoicing its merchandise.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That Rosen & Bachner, Inc., a corporation, its successors and assigns, and its officers, and Marvin Rosen and Arthur Bachner, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as the terms "commerce", "fur", and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding any fur product by:

1. Representing directly or by implication on a label that the fur contained in such fur product is natural when such fur is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

2. Failing to affix a label to such fur product showing in words and in figures plainly legible all of the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act.

B. Falsely or deceptively invoicing any fur product by:

1. Failing to furnish an invoice, as the term "invoice" is defined in the Fur Products Labeling Act, showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of section 5(b)(1) of the Fur Products Labeling Act.

2. Representing directly or by implication on an invoice that the fur contained in such fur product is natural, when such fur is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

It is further ordered, That Rosen & Bachner, Inc., a corporation, its successors and assigns, and its officers, and Marvin Rosen and Arthur Bachner, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from furnishing a false guaranty that any fur product is not misbranded, falsely invoiced or falsely advertised when the respondents have reason to believe that such fur product may be introduced, sold, transported, or distributed in commerce.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business or employment in which they are engaged as well as a description of their duties and responsibilities.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: October 2, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-19586 Filed 11-14-72;8:48 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release No. 34-9850]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Reporting of Market Information on Transactions in Listed Securities

The Securities and Exchange Commission today announced the adoption of Rule 17a-15 (17 CFR 240.17a-15) under the Securities Exchange Act of 1934 (the Act) requiring registered national securities exchanges, national securities associations and broker-dealers who are not members of such organizations to make available through vendors of market transaction information price and volume reports as to completed transactions in securities registered on such exchanges. This rule is designed to implement the purposes and policies underlying the act and was originally proposed following the release of the Commission's Policy Statement on the Future Structure of the Securities Markets. It has been modified in view of the report and recommendations of the Commission's Advisory Committee on Market Disclosure and public comments received on previous proposals (Securities Exchange Act Release Nos. 9530, published in the FEDERAL REGISTER for March 21, 1972, at 37 F.R. 5761, and 9731, published in the FEDERAL REGISTER for September 19, 1972, at 37 F.R. 19148).

The rule as adopted contains several technical changes from the form in which it was proposed in Securities Exchange Act Release No. 9731. First, it has been revised in response to several suggestions that the rule define more clearly the type of market transaction information which must be reported. Second, with respect to the imposition by self-regulatory organizations and vendors of reasonable, uniform charges (irrespective of geographic location) for distribution of last sale reports, the rule has been modified to clarify that the Commission did not intend that any vendor be required to charge the same rates for its services as any other vendor. In this connection it should be noted that the term "vendor" can include, as well as independent vendors, any self-regulatory organization (or any joint or several instrumentalities thereof) which falls within the definition contained in the rule.

In addition, some commentators felt that the 75-day period after which trades must be reported pursuant to an effective plan is too short. The Commission wishes to note in this regard that plans may provide for a phase-in period, which should not in any event exceed 40 weeks, and distribution of last sale reports pursuant to such an effective plan would not be deemed to violate the prohibition.

There also appeared to be some confusion as to the contemplated role of independent vendors in distributing last sale reports by means of a composite tape, as distinguished from an interrogation system. It is not the intention of the rule to prescribe whether such distribution is to be effected solely by independent vendors, solely by self-regulatory bodies acting as vendors or by both, nor even to create an obligation on the part of self-regulatory bodies to make their last sale reports available for distribution by such vendors. This determination, which must initially be made by each self-regulatory body, cannot be final until the Commission has had an opportunity to examine the plans submitted pursuant to the rule.

Some commentators also recommended that the rule provide for public comment on any plans submitted pursuant to the rule. It is the Commission's intention to place such plans in its public files so that they may be examined and commented upon by the public. It was also suggested that the Commission permit the sponsor of any plan the opportunity to comment on any changes or conditions that the Commission may wish to impose thereon. Before the Commission would impose changes or conditions on the effectiveness of any plan, its sponsors would of course be afforded an opportunity to respond.

Finally, in order to insure that no unjustified restrictions are imposed on access to the information reported pursuant to the rule, the rule has been revised to require that any plan submitted pursuant thereto must contain reasonable standards for denial of access to users and procedures for Commission review of such denials.

Commission action. The Securities and Exchange Commission, acting pursuant to the provisions of the Securities Exchange Act of 1934, and particularly sections 10(b), 15(c), 17(a), and 23(a) thereof, hereby adopts § 240.17a-15 of Chapter II of Title 17 of the Code of Federal Regulations, effective December 15, 1972, as set forth below:

§ 240.17a-15 Reporting of market information on transactions in listed securities.

(a) Every registered national securities exchange (exchange) shall, with respect to transactions executed through the facilities of such exchange, and every national securities association (association) shall, with respect to over-the-counter transactions executed by its members in securities registered or admitted to unlisted trading privileges on an exchange (listed securities), file with the Commission on or before December 26, 1972, a plan, with respect to such exchange or association, for the dissemination of the information required to be reported pursuant to this Section through vendors of market transaction information (vendors). Such plan shall not become effective unless the Commission, having due regard for the maintenance of fair and orderly markets, the public interest and the protection of investors, declares the plan, with whatever changes are deemed necessary or appropriate by the Commission, to be effective. In declaring any such plan effective, the Commission may impose such terms and conditions relating to the provisions of the plan and amendments thereto as it may deem necessary or appropriate. After January 22, 1973, last sale reports relating to transactions in listed securities executed through the facilities of any exchange or in the over-the-counter market shall not be released on a current and continuing basis by such exchange or association or member thereof except pursuant to such an effective plan.

(b) Each plan filed pursuant to paragraph (a) of this section may include joint procedures designed to comply with all or any portion of such paragraph, shall contain copies of all rules, by-laws, or other constituent instruments relating to any entity which may be established to implement the plan and shall specify, among other things:

(1) The manner of collecting, processing, sequencing, distributing, and displaying last sale reports;

(2) The applicable standards and methods which will be utilized to insure promptness of reporting, accuracy, completeness, and similar matters;

(3) All other rules or procedures which may be adopted to insure that the last sale reports will not be reported in a fraudulent or manipulative manner; and

(4) Standards for denial of access to users of last sale reports and procedures for Commission review of such denials.

Each such plan shall also provide that every vendor who receives any information reported pursuant to this section must agree to make available to its subscribers, on a current and continuing basis, through a moving, real-time last sale reporting system (composite tape) or an interrogation system, reports of prices and volume of all completed transactions (last sale reports) from all reporting markets in any listed security reported on by such vendor. The plans also shall require that any person displaying last sale reports shall agree not to exclude such reports based upon the market in which a transaction was executed and that any public display of selected last sale reports be clearly identified as only reporting selected transactions classified as to size, category of security, or other criteria. Each such composite tape or interrogation system, in displaying last sale reports, shall identify the marketplace where each such transaction was executed.

(c) A "vendor" of market transaction information shall include any person engaged in the business of disseminating to brokers and dealers, on a real-time or other current and continuing basis, reports of transactions in listed securities, whether distributed through an electronic communications network or shown on a terminal or other display device.

(d) Every member of an exchange or association shall make and keep current, and promptly transmit to the exchange or association of which it is a member, information and records required by such exchange or association pursuant to the plan declared effective under paragraph (a) of this section.

(e) Every broker or dealer who is not a member of an exchange or association and who effects transactions in listed securities, which transactions are not reported by any exchange or association pursuant to this section, shall file a plan meeting the requirements of paragraph (a) of this section, and such plan shall become effective in the manner specified in such paragraph.

(f) Nothing in this section shall preclude any exchange or association, separately or jointly: (1) From imposing reasonable, uniform charges (irrespective of geographic location) for distribution of last sale reports; nor (2) from requiring any vendor which distributes or

displays last sale reports to make the last sale reports it distributes or displays

ponds, and other potential sources of potable water. The 10 comments (from

POTASSIUM HETACILLIN VETERINARY

(3) For use in dogs and cats only. Not to be used in animals raised for food

quality and purity. Potassium hetacillin oral suspension veterinary is potassium

flask. Bring to volume with a 4:1 solution of acetone and 0.1 *N* hydrochloric

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displays last sale reports to make the last sale reports it distributes or displays available to all qualified subscribers throughout the continental United States and to impose uniform charges on its subscribers (irrespective of geographic location).

(g) No broker or dealer shall operate or maintain any display of information reported pursuant to this section which excludes last sale reports based upon the market in which a transaction was executed.

(h) The Commission may exempt from the provisions of this section, either unconditionally or on specified terms and conditions, any exchange, association, broker, dealer, vendor or specified type of security if the Commission determines that it is not necessary in the public interest or for the protection of investors that such exchange, association, broker, dealer, vendor or type of security be subject to the provisions of this section.

(Secs. 10(b), 15(c), 17(a), 23(a), 48 Stat. 891, 895, 897, 901, 49 Stat. 1377, 1379, 52 Stat. 1075, 1076, 78 Stat. 570, 84 Stat. 1653, 15 U.S.C. 78j(b), 78o(c), 78q, 78w)

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

NOVEMBER 8, 1972.

[FR Doc.72-19590 Filed 11-14-72;8:48 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 72-310]

PART 22—DRAWBACK

Proof of Export

Correction

In F.R. Doc. 72-19181 appearing at page 23712 of the issue for Wednesday, November 8, 1972, the Treasury Decision number should read as set forth above.

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

DIQUAT

Ten comments were received in response to the notice published in the FEDERAL REGISTER of September 13, 1972 (37 F.R. 18562), proposing establishment of an interim food additive tolerance of 0.01 part per million for residues of the herbicide diquat in potable water resulting from use of its dibromide salt in the control of aquatic weeds in canals, lakes, ponds, and other potential sources of potable water. The 10 comments (from Federal, State, and local agencies in Florida plus the University of Florida and a private citizen) supported the proposal.

Having considered the comments received and other relevant information, it is concluded that the proposal should be adopted as published.

The Reorganization Plan No. 3 of 1970, published in the FEDERAL REGISTER of October 6, 1970 (35 F.R. 15623), transferred (effective December 2, 1970) to the Administrator of the Environmental Protection Agency the functions vested in the Secretary of Health, Education, and Welfare for establishing tolerances for pesticide chemicals under sections 406, 408, and 409 of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 346, 346a, and 348).

Therefore, pursuant to provisions of the act (sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides programs (36 F.R. 9038), Part 121 is amended by adding the following new section to Subpart D:

§ 121.1242 Diquat.

An interim tolerance of 0.01 part per million is established for residues of the herbicide diquat in potable water (calculated as the cation) resulting from the use of its dimromide salt to control aquatic weeds in canals, lakes, ponds, and other potential sources of potable water.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3902A, 4th & M Streets SW., Waterside Mall, Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (11-15-72).

(Sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d))

Dated: November 9, 1972.

EDWIN L. JOHNSON, *Acting Deputy Assistant Administrator for Pesticides Programs.*

[FR Doc.72-19598 Filed 11-14-72;8:48 am]

SUBCHAPTER C—DRUGS

POTASSIUM HETACILLIN VETERINARY ORAL LIQUID

The Commissioner of Food and Drugs has evaluated a new animal drug application (55-048V) filed by Bristol Laboratories, Division of Bristol-Myers Co., Post Office Box 657, Syracuse, NY 13201, proposing the safe and effective use of potassium hetacillin veterinary oral liquid for the treatment of dogs and cats. The application is approved.

As said drug is subject to batch certification under provisions of section 512 (n) of the Federal Food, Drug, and Cosmetic Act, this order provides for the appropriate amendments to the antibiotic drug certification regulations.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512 (i) and (n), 82 Stat. 347; 350-351; 21 U.S.C. 360b (i) and (n)) and under the authority delegated to the Commissioner (21 CFR 2.120), Parts 135c, 141, and 149c are amended as follows:

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

1. Part 135c is amended by adding the following new section:

§ 135c.72 Potassium hetacillin veterinary oral liquid.

(a) *Specifications.* The drug is in liquid form and conforms to the certification requirements of § 149c.8 of this chapter.

(b) *Sponsor.* See code No. 044 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) It is used in dogs and cats as a treatment against strains of organisms susceptible to potassium hetacillin and associated with respiratory tract infections, urinary tract infections, gastrointestinal infections, skin infections, soft-tissue infections, and post-surgical infections.

(2) Dosage is administered as follows:

(i) In dogs, administer twice daily at a minimum rate of 5 milligrams per pound of body weight. In severe infections the frequency of the dosage may be increased to three times daily, or alternatively, the dosage may be increased to 10 milligrams per pound of body weight twice daily. For stubborn urinary tract infections, the dosage may be increased to 20 milligrams per pound of body weight twice daily. Treatment should be continued for 48 to 72 hours after the animal has become afebrile or asymptomatic. The drug should be administered 1 to 2 hours prior to feeding to insure maximum absorption. In stubborn infections, therapy may be required for several weeks.

(ii) In cats the recommended dosage is 50 milligrams twice daily. Treatment should be continued for 48 to 72 hours after the animal has become afebrile or asymptomatic. The drug should be administered 1 to 2 hours prior to feeding to insure maximum absorption. In stubborn infections, therapy may be required for several weeks.

(3) For use in dogs and cats only. Not to be used in animals raised for food production.

(4) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

PART 141—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

2. Part 141 is amended by adding the following new section:

§ 141.554 Thin layer chromatographic identity test for hetacillin.

(a) *Equipment*—(1) *Chromatography tank.* A rectangular tank, approximately 9 x 9 x 3.5 inches with a glass solvent trough on the bottom.

(2) *Plates.* Use 20 x 20 centimeter thin layer chromatography plates coated with Silica Gel G or equivalent to a thickness of 250 microns.

(b) *Developing solvent.* Mix 650 milliliters acetone with 100 milliliters distilled water, 100 milliliters benzene, and 25 milliliters acetic acid.

(c) *Spray solution.* Dissolve 300 milligrams of ninhydrin in 100 milliliters ethanol.

(d) *Preparation of spotting solutions*—(1) *Sample solution.* Use the sample solution prepared as described in the section for the particular product to be tested.

(2) *Reference solutions.* Prepare a solution containing 10 milligrams of an authentic hetacillin sample per milliliter in a 4:1 solution of acetone and 0.1*N* hydrochloric acid, and a solution of ampicillin standard at 1 mg/ml in the same solvent.

(e) *Procedure.* Spot a plate as follows: Apply approximately 10 microliters of the sample solution, 1 μl. of the reference hetacillin solution, and 1 μl. of the ampicillin reference solution on a line 1.5 centimeters from the base of the silica gel plate and at intervals of not less than 2.0 centimeters. Pour developing solvent into the glass through the bottom of the chromatography tank. After all spots are thoroughly dry, place the silica gel plate directly into the glass trough of the chromatography tank. Cover and seal the tank. Allow the solvent front to travel about 11.5 centimeters from the bottom of the plate, remove the plate from the tank, and allow to air dry. Apply the spray solution (do not saturate) and place immediately into an oven maintained at 90° C. Heat 15 minutes.

(f) *Evaluation.* Measure the distance the solvent front traveled from the starting line and the distance the spots are from the starting line. Calculate the R_f value by dividing the latter by the former. The sample and standard should have spots of corresponding R_f values.

PART 149c—HETACILLIN

3. Part 149c is amended by adding the following new section:

§ 149c.8 Potassium hetacillin oral suspension, veterinary.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality and purity.* Potassium hetacillin oral suspension veterinary is potassium hetacillin with one or more suitable and harmless colorings, flavorings and gelling agents suspended in a suitable and harmless non-aqueous vehicle. It contains in each milliliter an amount of potassium hetacillin equivalent to 50 milligrams of ampicillin. Its potency is satisfactory if it contains not less than 90 percent and not more than 120 percent of the number of milligrams of ampicillin it is represented to contain. Its moisture content is not more than 1.0 percent. Its pH is not less than 7.0 and not more than 9.0. It gives a positive identity test for hetacillin. The potassium hetacillin used conforms to the requirements of § 149c.1b.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter, except that in lieu of the requirements of § 148.3(a)(1), it shall be labeled in accordance with the requirements of § 1.106(c) of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The potassium hetacillin used in making the batch for potency, safety, moisture, pH, potassium hetacillin content, identity and crystallinity.

(*b*) The batch for potency, moisture, pH and identity.

(ii) Samples required:

(*a*) The potassium hetacillin used in making the batch, 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of eight immediate containers.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed for ampicillin in § 141.110 of this chapter, using the ampicillin working standard as the standard for comparison and preparing the sample for assay as follows: Place an accurately measured aliquot (usually 1 milliliter) into a high-speed glass blender jar, with sufficient 0.1 *M* potassium phosphate buffer, pH 8.0 (solution 3) to give a stock solution of convenient concentration. Blend 3 to 5 minutes. Further dilute an aliquot of the stock solution with solution 3 to the reference concentration of 0.1 microgram of ampicillin per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 141.502 of this chapter.

(3) *pH.* Proceed as directed in § 141.503 of this chapter, preparing the sample as follows: Transfer about 5.0 milliliters of the well shaken sample to a centrifuge tube. Add 10 milliliters of benzene, shake vigorously for 3 minutes and centrifuge at medium speed for 5 minutes. Carefully decant the benzene without disturbing the precipitate. Add 5 milliliters of carbon dioxide-free distilled water.

(4) *Hetacillin identity.* Proceed as directed in § 141.554 of this chapter preparing the sample solution as follows: Place 1.0 milliliter of the well shaken sample into a 50-millliliter volumetric flask. Bring to volume with a 4:1 solution of acetone and 0.1 *N* hydrochloric acid.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (11-15-72).

(Sec. 512(i) and (n), 82 Stat. 347; 350-351; 21 U.S.C. 360b(i) and (n))

Dated: November 7, 1972.

C. D. VAN HOUWELING, *Director, Bureau of Veterinary Medicine.*

[FR Doc.72-19564 Filed 11-14-72;8:46 am]

Title 30—MINERAL RESOURCES

Chapter V—Interim Compliance Panel (Coal Mine Health and Safety)

SUBCHAPTER C—GENERAL ADMINISTRATION

PART 505—PRACTICE AND PROCEDURE FOR HEARINGS UNDER SUBCHAPTERS A AND B OF THIS CHAPTER

Filing of Requests

This amendment clarifies the procedures by which any person interested in an application for a permit for noncompliance may request a public hearing. The amendment also extends these procedures to hearings on applications for permits for noncompliance with the 2.0 mg./g.^{3} respirable dust standard (30 CFR Part 502).

No notice of proposed rule making was published because under 5 U.S.C. 553(b)(A) these rules are exempted as rules of agency procedure or practice.

Accordingly, §§ 505.10 and 505.12 of Part 505 of Title 30 of the Code of Federal Regulations are amended to read as follows:

§ 505.10 Persons who may file requests.

Requests for public hearings will be considered by the Panel only if such requests are filed with the Panel by the following persons:

(a) Any interested person, including the applicant or a representative of the miners at the applicant's mine, after the Panel's decision on an application for an initial permit (other than one under section 305(a)(2) of the Act (30 U.S.C. 865(a)(2)).

(b) Any person interested in the application after publication in the FEDERAL REGISTER of a Notice of Opportunity for Hearing on an application for the renewal of any permit or an application for an initial permit under section 305(a)(2) of the Act.

(c) The applicant, concerning the decision of the Panel as to the application, when no public hearing has been held on an application for which Notice of Opportunity for Hearing was published.

§ 505.12 Time for filing of requests.

The Panel will consider a request for a public hearing:

(a) On its decision on an application for initial permit (other than one under

loss or damage. This part does not apply

(1)) and "Request for Approval of

OPNAVINST 3730.3 series, and AFR 55-4

flight operations at the contractors' op-

(iii) Aircraft currency requirements

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section 305(a)(2) of the Act, if such request is filed within 15 days after the date of mailing by the Panel of notice of such decision.

(b) On an application for a renewal permit or for an initial permit under section 305(a)(2) of the Act, if such request is filed within 15 days after publication in the FEDERAL REGISTER of a Notice of Opportunity for Hearing.

(c) Filed by an applicant if such a request is filed within 15 days after publidate of mailing by the Panel of its decision on an application, when no public hearing has been held pursuant to the Notice of Opportunity for Hearing as described in paragraph (b) of this section.

(Sec. 503, 83 Stat. 803; 30 U.S.C. 957)

Effective date. This amendment shall become effective upon its publication in the FEDERAL REGISTER (11-15-72).

GEORGE A. HORNBECK,
Chairman.

[FR Doc.72-19629 Filed 11-14-72;8:51 am]

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER F—AIRCRAFT

PART 860—CONTRACTOR'S FLIGHT OPERATIONS

Part 860, Subchapter F of Chapter VII of Title 32 of the Code of Federal Regulations is revised to read as follows:

Sec.
860.1 Purpose
860.2 Definitions.
860.3 Approving authority.
860.4 Contractor's flight operations procedures.
860.5 Forms and records.
860.6 Qualification requirements.
860.7 Minimum requirements.
860.8 Flight crewmember approval.
860.9 Contractor flight crewmembers proficiency requirements.
860.10 Other related publications.
860.11 Requests for waivers.
860.12 Disposition of Government flight representative records.
860.13 Supply of forms.

AUTHORITY: The provisions of this Part 860 issued under 10 U.S.C. 8012.

§ 860.1 Purpose.

This part establishes procedures to obtain the required Army, Navy, Air Force, and Defense Supply Agency approval of contractor's flight operations procedures and contractor's personnel who operate aircraft for the Government. Also, it provides for the delegation of authority for such approvals, regardless of service affiliation. This part applies to all Army, Navy, Air Force, and Defense Supply Agency (DSA) Government flight representatives who approve contractor's flight operations procedures, and to contractor's personnel who operate any aircraft for which the Government may be contractually liable for loss or damage. This part does not apply to contract flight training, or to the operation of leased aircraft.

§ 860.2 Definitions.

(a) *Terms relating to Government*—(1) *Approving authority.* The commander or comparable individual of one of the following organizations having the administrative responsibility for a particular contractor facility.

(i) Army Heads of Procurement Activities (HPA) or their designee.

(ii) Naval Plant Representative Office (NAVPLANTREPO).

(iii) Air Force Heads of Procurement Activities (HPA) or their designee.

(iv) Commander, Defense Contract Administration Services Region (DCASR).

(2) *Cognizant Government agency.* Refers to the Army, the Navy, the Air Force, or DSA, whichever has cognizance over the contractor's facility, and the agency having cognizance over a Government installation where a contract for such services as aircraft maintenance is to be performed.

(3) *Government flight representative.* That pilot on current flight status (including Army aviators in an excused flying status, Navy pilots in Category II and III and Naval Flight Officers (NFO's), and Air Force pilots in flying status Code 3) to whom the approving authority has delegated responsibility to approve contractor flight operations procedures and flight crews for which the Government by contract assumes the risk for loss of, damage to, or destruction of aircraft.

(4) *Procuring and administrative contracting officers.* The individual designated in accordance with the Armed Services Procurement Regulation (ASPR) and defined in Part 1, Subchapter A, Chapter 1 of this title.

(b) *Terms relating to contractor*—(1) *Contractor.* Any individual, corporation, or other entity whose personnel may operate aircraft for which the Government assumes contractual liability for loss or damage to the aircraft.

(2) *Flight crewmembers.* Pilot, copilot, flight engineer/mechanic, navigator, bombardier-navigator, sensory systems operator, boom operator, and defensive systems operator when assigned to their respective crew positions to conduct any flight for the contractor.

(3) *Flight personnel (noncrewmember).* Those personnel designated by the contractor to perform a function while the aircraft is in flight; for example, technicians, observers, inspectors, systems engineers, and photographers.

(4) *Ground personnel.* Personnel designated by the contractor to perform taxiing, towing, and engine runup functions.

(5) *Requesting official.* The member of the contractor's first level of management (president, vice president) or his appointed designee authorized to sign the form letters "Request for Approval for Qualification Training" (§ 860.5(a)(1)) and "Request for Approval of Contractor Flight Crewmember" (§ 860.5(b)(1)).

(c) *Terms relating to aircraft*—(1) *Test aircraft.* Any aircraft used for research, development, test, and evaluation purposes; the "first flight" of production aircraft; and the "first flight" of those aircraft falling under the meaning of "major alteration" explained in Federal Aviation Regulation, Part I (14 CFR Part I), available from the Federal Aviation Administration (FAA).

(2) *Production aircraft.* Any aircraft being manufactured for use in the operational inventory or undergoing depot-level maintenance, or contract modification, or inspect and repair as necessary (IRAN) before returning to the operational inventory.

(i) *Preaccepted aircraft.* Any aircraft which has not been accepted (DD Form 250, "Material Inspection and Receiving Report," has not been appropriately signed) by the Government, but for which the Government has assumed flight risk responsibilities.

(ii) *Accepted aircraft.* Any aircraft for which DD Form 250 has been signed.

(3) *Bailed and Government-furnished aircraft.* Government-owned aircraft provided to a contractor for use in conjunction with a specific contractual requirement.

(d) *Terms relating to flights*—(1) *Experimental test flights.* There are five types of these flights.

(i) Initial flight of a new type of model aircraft.

(ii) Flights to test or check compliance with specifications for structural integrity, spin test, etc.

(iii) Flights of experimental and research aircraft (X-22, X-24, etc.).

(iv) Flights to determine flight envelope and expansions thereto.

(v) Flights of an aircraft whose flight characteristics have been altered by configuration changes.

(2) *Functional flights*—(i) *Engineering flights.* (a) Subsystem development flights (for example, autopilot, fire control, bombardier/navigator systems).

(b) Specification compliance for subsystem flights.

(c) Engine, propeller, rotor, and transmission development flights.

(d) Flights where the aircraft serves as the vehicle carrying the item to be checked, for example, radar, missiles, etc.

(ii) *Acceptance flights.* (a) Acceptance flights of production aircraft.

(b) Flights following inspection, repair, and modification (TM 55-1500-204-25/1 and TO 1-1-300).

(3) *Support flights*—(i) Photographic flights.

(ii) Chase flights.

(iii) Target or target towing.

(iv) Ferry flights.

(v) Demonstration flights conducted according to AR 95-1, Navy OPNAVINST 3710.7 series, AFR 60-6, and contractor demonstration flights.

(vi) Hurricane evacuation flights conducted according to AR 95-87/

OPNAVINST 3730.3 series, and AFR 55-4 or appropriate oversea command directives.

(vii) Administrative flights, such as cargo flights, personnel carrier, etc. This includes flights of an emergency nature approved by the contract administration office.

(viii) Reliability, extended flight checks, training, instrument, or navigational proficiency flights.

(ix) First destination delivery flights.

§ 860.3 Approving authority.

(a) The approving authority designates the Government flight representative for the contractor's facility. The approving authority also may designate a Government flight representative to act for the primary Government flight representative during his absence due to leave, TDY, or illness. This delegation must be in writing and may not be redelegated. (Subparagraph (1) of this paragraph gives the format to be used for this delegation.) Notify the contractor when the Government flight representative is changed. The newly appointed Government flight representative furnishes the contractor a copy of his delegation of authority.

(1) Format for designating Government flight representatives:

(Service Letterhead)

Reply to attention of:
Subject: Delegation of Authority.
To:

1. Pursuant to AR 95-20, NAVAIRINST 3710.1 series, AFR 55-22, and DSAR 8210.1, you are hereby designated Government flight representative (primary/act in the absence due to leave, TDY, or illness) (delete inappropriate statement) and delegated authority to approve contractor personnel and procedures for operating aircraft under your jurisdiction for which the Government, by contract, assumes the risk for loss, damage, or destruction.

2. This authority is granted to you as an individual, and is not to be redelegated. It is effective only so long as you remain physically qualified for flying status and in your present assignment, unless sooner terminated.

3. As the Government flight representative, you shall assure that the procedures contained in AR 95-20, NAVAIRINST 3710.1 series, AFR 55-22, or DSAR 8210.1 and appropriate ASPR provisions including departmental implementing instructions, are followed in the approval of contractor aircrew personnel and flight operations procedures.

(Signature of Approving Authority)

(b) Approval of the "Request for Approval of Contractor Flight Crewmember," "Request for Approval for Qualification Training," and the contractor's flight operations procedures shall be accomplished by the Government flight representative having cognizance of the contractor facility.

(c) Government flight representatives, when practical and possible, will be qualified in the mission, design, and series aircraft being operated at their facility.

§ 860.4 Contractor's flight operations procedures.

(a) The contractor prepares written flight operations procedures to cover flight operations at the contractors' operating facilities. The Government flight representative for each facility, or another qualified member of his staff, may assist in preparing but not actually prepare these procedures. Approved contractor operations procedures for principal operating facilities must cover the areas listed below, and are supplemented as necessary to cover other operational facilities.

(1) Flight management:

(i) Flight scheduling.

(a) Procedures for obtaining Government flight representative approval for flights, including flights of preaccepted aircraft. Where a type of flight is conducted repeatedly for the same purpose, the approval may be for all flights of a specified type which would follow the same mission profiles.

(b) Identification of contractor individual responsible for giving written flight authorization.

(c) Procedures governing the use of mixed aircrew (contractor and military crewmembers) in multiplace aircraft or formation flights.

(d) Procedure for designating pilot in commaind for aircraft with more than one pilot and for formation flights.

(e) Establish minimum crew requirements for the various type flight activities.

(f) Maximum crew duty time is 10 consecutive hours for single piloted aircraft, 12 consecutive hours for dual piloted aircraft without an operative autopilot installed, 16 consecutive hours for dual piloted aircraft with an operative autopilot installed. The crew duty period begins when the crewmember reports for work, and includes all time spent in flight planning and preflight. Twelve hours downtime with a minimum of 8 hours allowed for sleep is required before beginning a new crew duty period.

(g) Procedures to insure that flight crewmembers who will be exposed to night or instrument flying are currently qualified for these flight conditions.

(ii) Contractor personnel must use technical manuals and checklists in all cases where applicable technical data has been published. This includes ground operations—for example, towing, taxiing, refueling, scheduled maintenance, unscheduled maintenance, progressive aircraft rework (PAR), and IRAN—as well as flight operations. The contractor obtains normal publications distribution for all military technical manuals, changes, and supplements. Where only commercial manuals are available, the contractor is responsible for obtaining such publications. He insures that changes and supplements are promptly posted in the basic technical publications, so that his personnel can use the most current technical data available. Mixed crews (Government and contractor personnel) performing aircrew or maintenance tasks use identical checklists. Locally devised checklists may be used only if published checklists are not available, or where deviation has been authorized by appropriate Government authority.

(iii) Aircraft currency requirements (§ 860.6(c)).

(iv) Multiple currency policies.

(v) Maintenance of flight crew qualifications and training folders.

(vi) Procedure for inspection of aircrew training folder and aircrew records folder.

(vii) Procedures to insure flight crewmember qualification for varying flight conditions and flight activities.

(viii) Procedures to comply with "Request for Government Approval for Qualification Training" (§ 860.5(a)(1)).

(ix) Procedure to comply with "Request for Approval of Contractor Flight Crewmember" (§ 860.5(b)(1)).

(x) Certificates, licenses, and permits (instrument ratings).

(xi) Procedure and criteria for selecting and designating contractor aircrew instructors, flight examiners, etc.

(xii) Procedure for termination of approval.

(xiii) Provisions for determining weight and balance for each aircraft and flight.

(xiv) Procedures for use of life support equipment.

(xv) Flight safety:

(a) The accident prevention program will include:

(1) Contractor's consolidated safety council.

(2) Regular recurring flight safety surveys. Use the following references as guidelines: For Army the USABAAR Guide to Aircraft Aviation Resources Management for Aircraft Mishap Prevention; for Navy the OPNAVINST 3710.7 series; for the Air Force AFM 127-1; and for Defense Supply Agency DSAM 8220.3.

(3) Safety publications.

(4) Published safety responsibilities.

(5) Hazard reporting/correction procedures.

(6) Regularly scheduled aircrew flying safety meetings (as a minimum these will be conducted monthly).

(7) Designation of aviation officer, with specific duties and responsibilities.

(8) Fire protection and prevention programs.

(9) Aircraft ground handling and services procedures and practices.

(b) Preaccident and crash alarm systems procedures must include a current roster of Government personnel to be notified of lost or damaged aircraft. Guidance on military accident reporting is provided in Department of Defense Index TD-3 (Data item description DI-H-1329-1331) for the Army, OPNAVINST 3750.6 series for the Navy, Joint Chiefs of Staff Publication No. 6, Vol. 5, for the Air Force, and DSAR 8200.4 for the Defense Supply Agency. This plan must include the procedure for contractor and subcontractor cooperation and participation in accident investigations conducted by the Government.

(c) Provisions for search and rescue procedures.

(2) Flight crewmember requirements:

(i) Detailed qualification, requalifica-

(iv) The contractor establishes operaadequate, or outdated, the contractor is

directives pertinent to the accomplishment of my assigned duty.

(d) Maintain a training folder on each flightcrew member while in training

(NOTE: For contractors located in foreign countries, the appropriate civil aviation authority or foreign military department rat-

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(i) Detailed qualification, requalification, upgrading, crosstraining, and instructor qualification programs must be outlined in the contractor's operations procedures. These procedures must include the expiration dates for recurring training requirements, and the procedure to assure that flight crews do not fly if training requirements have not been met.

(ii) Training requirements.

(*a*) Survival training requirements, if essential.

(*b*) Personal and life support equipment training.

(*c*) Egress training.

(*d*) Physiological training (§860.6(d)).

(*e*) Ground school requirements.

(iii) Flying requirements.

(*a*) Annual flying time (§ 860.9).

(*b*) Annual written proficiency and emergency procedure examinations.

(*c*) Annual proficiency flight checks.

(*d*) Annual instrument flight checks.

(*e*) Who may administer flight checks.

(*f*) Current FAA flight physical.

(3) Flight personnel (noncrew) requirements:

(i) Procedures to comply with written approval.

(ii) Determination of contents and maintenance of records folder.

(iii) Flying requirements.

(*a*) Physiological training (§ 860.6(d)).

(*b*) Qualification procedures.

(*c*) Ejection or escape procedures.

(*d*) Ground egress procedures.

(*e*) Contractor physical requirements.

(4) Ground personnel requirements: Contractor personnel taxiing/towing aircraft and performing engine runups.

(i) Qualification procedures.

(ii) Ground egress training.

(iii) Contractor physical requirements.

(5) Procedures for passenger approval.

(6) Planning and flight mission procedures.

(i) Prepare mission profiles for each type of flight regularly conducted by the contractor's flight crewmembers and covered in the flight operations procedures. Establish specific geographical areas or point-to-point routes and flight following procedures for conduct of flights.

(ii) Mission profiles and specified geographical areas must make maximum use of ground radar, ground radio, and chase aircraft to monitor position and status of aircraft.

(iii) Crew briefings, conducted or received by supervisory personnel, must include, but are not limited to:

(*a*) Station and takeoff times.

(*b*) Primary mission, including mission aircraft, support aircraft, weather, crewmember duties, routes and ranges, communications, specific mission procedures, and recovery and landing.

(*c*) Alternate mission.

(*d*) Life support systems and equipment.

(*e*) Emergency procedures.

(*f*) Security assigned to the mission.

(*g*) Ground coordination procedures.

(iv) The contractor establishes operational procedures to cover items (*a*) through (*f*) of this subdivision. If the contractor flight activity is physically located at a fully operational civil or military airfield that has these procedures in operation, the contractor complies with local directives and executes an agreement with the airfield authority. All procedures must meet FAA requirements and, as a minimum, include the following:

(*a*) Basic regulations, to include flight areas.

(*b*) Weather minimum—test and functional.

(*c*) Traffic control tower requirements.

(*d*) Filing of flight plans.

(*e*) Standard operating procedures, to include:

(*1*) Radio failure.

(*2*) Gear malfunction.

(*3*) Cross wind landing criteria.

(*4*) Airdrome traffic procedures.

(*5*) Emergency procedures for takeoff and landing, to include procedures for use of fire equipment and barriers/arresting gear.

(*6*) Ejection and jettisoning areas.

(*7*) Arming and dearming (if applicable).

(*8*) Minimum fuel procedures.

(*f*) Severe weather plans.

(*b*) The contractor forwards the completed written flight operations procedures to the Government flight representative for approval. Government approval is accomplished by the Government flight representative using the Army USAAVSCOM Pamphlet 715–1, Navy OPNAVINST 3710.7 series, or Air Force Manuals 60–1, 60–16, and the AFM 51 series, DSAM 8220.3 as a guide. Both the contractor and Government flight representatives must maintain in their offices or operations sections a current copy of the approved procedures. The flight operations procedures for support operating locations must be approved by the Government flight representative assigned in accordance with DODM 4105.-59H for each location, and forwarded to the Government flight representative at the contractor's principal operating facility. A duplicate copy of these procedures is maintained by the contractor at each such facility. A list of approved crews and copies of operations procedures at the principal facility are furnished to all alternate support facilities.

(*c*) The contractor shall not begin flight operations until his operations procedures have been approved in writing by the Government flight representative.

(*d*) Reviews of contractor's flight operation procedures must be conducted at least every 6 months, or whenever the primary Government flight representative is changed, to assure currency and compliance. A record of the review dates and action taken is kept by the Government flight representative and the contractor. The contractor is responsible for assuring that the contractor's flight operations procedures are current. If the Government flight representative determines the procedures are deficient, inadequate, or outdated, the contractor is notified. Failure of the contractor to correct the procedures in a reasonable time shall be grounds for suspension of the Government flight representative's approval of the flight crewmembers and contractors flight operations procedures. Flights conducted during such suspension are deemed flights without the required approvals of the applicable clauses of 41 CFR, Part 1–10.

(*e*) Noncompliance with approved procedures and/or development of dangerous practice must be brought to the immediate attention of the contractor and the administrative contracting officer by the Government flight representative. If the initial notification is oral, immediately prepare a formal written communication fully outlining the deficiencies as a matter of contract record. Noncompliance with approved flight operations procedures and/or development of a dangerous practice is unreasonable condition or conduct within the meaning of the clause of 41 CFR, Part 1–10, and is grounds for suspension of the approval of the contractor's flightcrew. The Government reserves the right to take such other action as may be necessary for preserving the aircraft.

(*f*) If the procedures need revising, the contractor submits recommended revisions with applicable supporting documents to the Government flight representative for approval.

§ 860.5 Forms and records.

Contractors must:

(a) Use subparagraph (1) of this paragraph, format for "Request for Approval for Qualification Training," Office of Management and Budget (OMB) Approval No. 22–RO195 to request the approval to qualify the contractor's flight crewmembers.

(1) Format for request for approval for qualification training:

Subject: Request for Government Approval for Aircrew Qualification and Training.
To: Government Flight Representative.
I. Name: _____, Crew position: _____, Aircraft: _____, Date of birth: _____, Security clearance: _____, FAA rating: _____.
II. Provide a résumé of education background. (High school, name and location; college or university name, location and degree obtained; flight school and date completed; test pilot school and date completed; and special professional schools.)
III. Have you ever served in any branch of the U.S. Military Service? _____ If so, state: Branch _____, Service dates: From _____ to _____, Last location _____, Highest rank _____, SSAN _____, Aero rating _____. Are you now a member of the Reserves or National Guard? _____. If yes, state: Branch _____, Present rank _____.
IV. Provide a résumé of experience in the flight test field. Include both engineering and aircrew experience by project, type of aircraft, and hours flown.

FLIGHT PHASE

V. I certify that I have read and understand all of the contractor's procedures and directives pertinent to the accomplishment of my assigned duty.

_____ (Crewmember signature)

VI. I have verified the records of _____, and it is requested that he be approved for experimental/functional flights (delete one not applicable) in _____ type aircraft.

_____ (Type name of contractor's requesting official)

_____ (Signature of contractor's requesting official)

1 Attachment DD Form 1821

VII. ☐ Approved
☐ Disapproved

_____ (Date of approval or disapproval)

_____ (Type name of Government flight representative)

_____ (Signature of Government flight representative)

(b) Use subparagraph (1) of this paragraph, format for "Request for Approval of Contractor Flight Crewmember" Office of Management and Budget (OMB) Approval No. 22–RO196 to request approval of contractor flight personnel.

(1) Format for request for approval of contractor flight crewmember:

Subject: Request for approval of contractor flight crewmember.
To: Government flight representative.
I. I have verified the records of _____ (crewmember's name) and it is requested that he be approved as a _____ (crew position) for experimental/functional (delete one not appropriate) flights in _____ type aircraft.
1 Attachment DD Form 1821.

_____ (Signature of Contractor's requesting official and date)

_____ (Typed name of contractor's requesting official)

II. I certify that _____ has satisfactorily flown a proficiency flight check on _____ (date)

_____ (Signature of instructor pilot/flight examiner)

III. ☐ Approved

_____ (Signature of Government flight representative)

☐ Disapproved

_____ (Type Name of Government flight representative)

_____ (Date)

(c) Use DD Form 1821, "Contractor Crewmember Record," Office of Management and Budget (OMB) Approval No. 22–RO197 to record individual flight crew personnel records and approval to operate Government aircraft. It will be an enclosure to the forms listed in paragraphs (a)(1) and (b)(1) of this section.

(d) Maintain a training folder on each flightcrew member while in training status. This folder serves as a management tool to record training progress and assists in the orderly progression of training. The folder shall contain:

(1) Complete copy of form as shown in paragraph (a)(1) of this section.

(2) Copy of the most recent aircraft questionnaires, to be dated and corrected to 100.

(3) Hours, type, and dates of ground school completed.

(4) Each training/checkout flight numbered, with a résumé as to the areas covered, to include how trainee performed during that training period.

(5) Record of training prerequisites (§ 860.4(a)(2)(ii)).

(e) Maintain a record folder for each flightcrew member after the completion of training and qualification to include the following:

(1) Complete training folder required in paragraph (d) of this section.

(2) Completed copy of forms shown in paragraph (b)(1) of this section. Documented records of special training completed that is required to perform all maneuvers required in conducting the test/functional check flights and mission profile, for example, formation, refueling, instrument, night, low level, etc.

(3) Certification of current FAA flight physical.

(4) Completed copies of aircrew proficiency checks administered by Government and/or company personnel during the preceding 2 years.

(5) Certification of physiological training.

(6) Certification of ejection seat or escape training, survival training and egress training, as required by the contractor's operations procedures.

(f) Maintain a records folder for flight personnel (noncrewmembers) to include the following:

(1) Completed copy of contractor's authorization to fly.

(2) Certification of current physical.

(3) Certification of training and qualifications as required in the contractor's operations procedures.

(4) Certification of physiological training.

(5) Certification of ejection seat or escape training, survival training, and egress training as required by the contractor's operations procedures.

(g) Make the records in paragraphs (a) through (f) of this section available to the Government flight representative at his request.

§ 860.6 Qualification requirements.

(a) Minimum qualifications for approval of the "Request for approval of contractor flightcrew member" for test and functional flight categories are listed below. However, they are only minimums, and such factors as total experience, currency of experience, experience in similar aircraft, type of flying experience, and other related factors are evaluated by the Government flight representative before approving a contractor flightcrew member.

(NOTE: For contractors located in foreign countries, the appropriate civil aviation authority or foreign military department ratings, for example, Department of Transport (Canada), Royal Air Force (Great Britain), may be substituted for FAA in the following subparagraphs.)

The requirements are:

(1) *Experimental test flights*—(i) *Pilot.* FAA commercial and instrument rating and current FAA Class II physical qualification. Not less than 1,500 hours first pilot time, to include 100 hours as first pilot during engineering and/or acceptance flights listed under the functional flight category. Graduate of a military test pilot school.

(ii) *Copilot.* FAA commercial and instrument rating, and current FAA Class II physical qualification. Not less than 1,000 hours first pilot time, to include 100 hours of pilot time during engineering and/or acceptance flights listed under the functional flight category. Graduate of a military test pilot school.

(2) *Functional flights*—(i) *Pilot.* FAA commercial and instrument rating and current FAA Class II physical qualification. Not less than 1,000 hours first pilot time. Highly qualified in mission, design, and series of aircraft.

(ii) *Copilot.* FAA commercial and instrument rating and current FAA class II physical qualification. Not less than 500 hours first pilot time. Qualified in mission, design, and series aircraft.

(b) Minimum prerequisites to qualify in any specific type aircraft.

(1) *Pilots.* See § 860.7. These minimums have been established after considering that some contracts require that pilots operate Government aircraft only during VFR and daylight and within a few miles of the home station. If a contract requires flying under more adverse conditions, the Government flight representative shall require more experience than listed in § 860.7. In all cases, however, Government approval depends on experience and proficiency on a par with the type flying being contemplated or conducted. A comprehensive written questionnaire on the applicable mission, design, and, if appropriate, series of aircraft must be completed. A knowledge of all the aircraft systems, including normal and emergency procedures, must be demonstrated to a qualified instructor pilot approved by the Government flight representative. This demonstration may be made while the aircraft is on the ground or during flights.

(2) *Copilots.* A minimum of 5 hours or three sorties and five dual or supervised landings are required in the mission, design, and, if necessary, series aircraft for which approval is requested. The Government flight representative may require more experience at his discretion (for example: 25 or more hours may be appropriated for larger or more complex aircraft). Completion of ground school course is required for mission, design, and, if necessary, series of aircraft. Reference Army Training Circular 1–34, NATOPS for the Navy, and AFM 50–5 and 51 series manuals for the Air Force. A comprehensive written questionnaire

§ 860.8 Flightcrew member approval.

(a) Only contractor-designated re- flight date. If disapproved, the contractor must be notified immediately by the service concerned

tion of employment, physical disqualification, or revocation of FAA rating. The contractor notifies the Government flight

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(b) *Jets and turboprop.*

Aircraft by group	First pilot time for this group	Dual or supervised time before checkout	Dual or supervised sorties, each including at least one landing	Other requirements	Instructor pilots
	Hours	*Hours*			
(1) Single	50	5	5	(1)	At the discretion of the Government flight representative.
(2) Twin engine	100	5	5	(1)	Do.
(3) Three or four engines	100	15	10	(1)	Do.
(4) Multiengine (more than four)	200	20	10	(1)	Do.

[1] Completion of ground school course required for mission, design, and, if necessary, series of aircraft. Reference Army Training Circular 1-34, NATOPS for the Navy, and AFM 50-5 and the 51 series manual for the Air Force.

(c) *VTOL helicopter/aircraft.*

Type of aircraft for group and similar aircraft based on engine horsepower	Total first pilot hours as help time	Dual time in type of helicopter before checkout	Dual autorotations (other than those on power recovers as applicable	Other requirements	Instructor pilot
	Hours	*Hours*			
(1) 0-500 pounds, 5 sorties	50	5	10	Completion of formal ground school course required.	At the discretion of the Government flight representative.
(2) 5,000-16,000 pounds, 5 sorties	250	5	10	Previous completion of a formal ground school course. Completion of specialized or formal ground school course for helicopter concerned.[1]	Do.
(3) 16,000-40,000 pounds, 10 sorties	500	10	10	Previous completion of a formal ground school course. Completion of specialized or formal ground school course for helicopter concerned.[2]	Do.
(4) 40,000 pounds and over, 10 sorties	500	10	10	do[2]	Do.

[1] To include checkout time.
[2] For qualification in amphibious aircraft, 10 water landings also are required.

(d) All flightcrew members shall have received physiological training required by Army Training Circulars 1-26 and 1-34, OPNAVINST 3710.7 series, and AFR 50-27 as supplemented. This requirement may be waived at the discretion of the Government flight representative for crewmembers flying aircraft whose normal flight altitudes do not exceed 10,000 feet.

§ 860.7 **Minimum requirements.**

Minimum requirements for initial qualification of contractor pilots are the satisfactory completion of written questionnaire and demonstration of knowledge of systems, including normal and emergency systems pertaining to the specific mission, design, and series of aircraft to be flown. In addition, the Government flight representative may require night flying (up to 5 hours) and instrument practice (up to 5 hours) or until a satisfactory degree of proficiency is demonstrated. If contractor pilots are to fly under these conditions, on the applicable mission, design, and, if appropriate, series of aircraft must be completed. A knowledge of all the aircraft systems, including normal and emergency procedures, must be demonstrated to a qualified instructor pilot approved by the Government flight representative. This demonstration may be made while the aircraft is on the ground or during flight.

(3) *Other flight personnel.* A written questionnaire applicable to the particular function the individual is to perform (to include emergency procedures) must be completed before flight in that aircraft.

(c) A minimum of one flight and one landing in each mission, design, and series aircraft of significant difference in which qualified is required every 45 days to insure currency as either pilot or copilot. The Government flight representative determines the grouping of aircraft for currency requirements with regard to powerplants, control system, and airframe differences.

(a) *Reciprocating aircraft.*

Aircraft by group	First pilot time for this group	Dual or supervised time before checkout	Dual or supervised sorties, each including at least one landing	Other requirements	Instructor pilots
	Hours	*Hours*			
(1) Single engine up to 6,000 pounds gross weight.	75	5	5	(3)	At the discretion of the Government flight representative.
(2) Single engine 5,000 to 6,000 pounds gross weight.		5	5	(3)	Do.
(3) Twin engine up to 12,000 pounds gross weight.		5	5	(4)	Do.
(4) Four or more engines.	75	15	10	(3)	Do.

[1] To include checkout time.
[2] Completion of ground school course required for mission, design, and, if necessary, series of aircraft. Reference Army Training Circular 1-34, NATOPS for the Navy, and AFM 50-5 and the 51 series manual for the Air Force.

§ 860.8 **Flightcrew member approval.**

(a) Only contractor-designated requesting officials submit requests for crewmember approval and for qualification training. A list of these officials is provided in writing to the Government flight representative. The list is revised as necessary to insure currency by the contractor or subcontractor.

(b) The contractor official requesting approval for qualification training prepares, signs, and forwards to the Government flight representative for approval two copies in the format of § 860.5(a)(1). The Government flight representative indicates his action, and signs both copies. The original is retained by the Government flight representative. The contractor insures that flightcrew members do not fly or initiate qualification training before receipt of Government approval.

(1) The Government flight representative is allowed a minimum of 10 workdays for processing, analyzing, and approving or disapproving contractor requests for qualification training.

(2) Following approval, training must be initiated within 90 days, and completed without interruption. If interrupted for any reason, the resumption of training is a matter to be worked out between the Government flight representative and the contractor.

(3) Formal training offered by military agencies may be requested by the contractor on a space available basis. Unless otherwise provided in the contract, the contractor must reimburse the military agencies for such training.

(c) Request for approval of contractor flightcrew member.

(1) On completion of training, the contractor forwards to the Government flight representative two completed copies in the format of § 860.5(b)(1). The Government flight representative indicates his action and signs both copies. The original is kept in the Government flight representative's files; the duplicate copy must be returned to the contractor within 10 workdays.

(2) The contractor will not use the flightcrew member in his aircrew specialty until receipt of Government approval.

(d) Request for aircraft initial flights.

(1) The contractor submits a written request, including both the names of the flightcrew with current "Request for Approval for Qualification Training" (§ 860.5(a)(1)) and "Request for Approval of Contractor Flightcrew Member" (§ 860.5(b)(1)) for each crewmember and the date of anticipated flight, to the Government flight representative, not less than 90 days before the scheduled initial flight date. The Government flight representative forwards all requests to the appropriate project manager of the Procuring Contracting Officer, as appropriate.

(2) The Government flight representative returns the request to the contractor at least 30 days before initial flight date. If disapproved, the contractor must be notified immediately by the service concerned.

(e) The contractor's requesting official grants written approval for each contractor and subcontractor noncrewmember required to fly in Government aircraft, before the individual's first flight, with a copy of the Government flight representative. The contractor's requesting official insures that each individual is required, and is qualified to serve in a specific capacity while aboard military aircraft. The contractor keeps the written approval on file until the individual is no longer authorized to fly.

(1) Limit personnel approved to those necessary for the contractor to perform on contract.

(2) If the Government flight representative determines that the written approval has been signed without adequate justification, the contractor is requested to remove the affected individual from flight status. If the contractor still feels that the individual should be allowed to fly, the matter is referred to the Administrative Contracting Officer. The contracting officer assures that the above mentioned individual(s) is not allowed to fly pending the result of any appeal.

(3) The Government flight representative reviews flight personnel assignment each 6 months to insure only those necessary to the mission have current written approval.

(f) Contractor instructor flightcrew members.

(1) Only the most highly qualified, proficient, and experienced personnel are designated as instructor flightcrew members. Certification of instructor pilot status must be documented on DD Form 1821.

(2) Contractor instructor flightcrew members shall administer flight checks to other flightcrew members employed by the contractor. Military personnel may receive qualification and recurrency checks from contractor instructor flightcrew members when deemed appropriate by the approval authority.

(3) Contractor personnel administering such checks must be qualified as instructors in accordance with the instructor's criteria as outlined in the contractor's operations procedures.

(g) Any person not approved either as flightcrew member or flight personnel requires written approval by the appropriate Government flight representative before flying in any aircraft which the Government, by contract, assumes the risk of loss, damage, or destruction.

(h) Ground personnel (personnel taxiing or towing aircraft, or performing engine runups) as well as fire crash rescue personnel must be qualified as outlined in the contractor's approved operations procedures. Written Government approval, except when otherwise specified in the applicable contract, is not required.

(i) Termination of approvals:

(1) Approvals of flightcrew members are automatically canceled on termination of employment, physical disqualification, or revocation of FAA rating. The contractor notifies the Government flight representative of such action by the most expeditious means, and confirms in writing within 10 calendar days.

(2) The contractor may request the Government flight representative to terminate any approval. This request must be in writing, and must be signed by a contractor's requesting official.

(3) The Government flight representative suspends approvals of flightcrew members and flight personnel who:

(i) Have failed to meet the general requirements of normal flight techniques and to exercise sound judgment in test or functional flights.

(ii) Have exhibited evidence of personal instability or similar undesirable tendencies or have conducted themselves contrary to the interests of the Government in promoting safety.

(iii) Have failed to accomplish annual (within 12 months) requirements.

(4) The Government flight representative promptly notifies the contractor when an approval is suspended. A written statement by the Government flight representative to the contractor must set forth in detail the reasons for the action. If the contractor feels that the approval should not have been suspended, he may request a review of the matter by the Administrative Contracting Officer.

(j) Verification by the Government flight representative as to the qualifications of contractor personnel flying military aircraft at locations other than the principal location is furnished by letter or message to the Government flight representative at the other location. The contents of the transmittal includes the level of the pilot's qualification (for example, experimental, functional flights, etc.), last flight, time in the model being flown, time in the last 90 days, and any other specific information pertinent to the maneuver/mission to be flown at that location.

(k) The Government flight representative will not approve any flightcrew member until he has approved the contractor's operations procedures. Flightcrew member qualifications procedures will place particular emphasis on ground training, flight training, and checkout requirements for any aircraft in which an individual is not currently qualified. These areas will be in sufficient detail to cover the requirements for initial checkouts, upgrading to test and experimental status, requalification, and any other specific training associated with the contractor's mission.

§ 860.9 **Contractor flightcrew members proficiency requirements.**

(a) The contractor must require a minimum of 80 hours per year total flying time for pilots and copilots, and 60 hours per year for all other flightcrew members. The requirement applies to the period covered by the flight operation phase of the Government contract. For contracts of less than a year's duration, a proportionate share are flown by each

flightcrew member. For pilots and copilots, the contractor may substitute a minimum of 80 sorties per year for each pilot and copilot. However, the contractor must not substitute sorties for flight hours for more than 50 percent of the total requirement. Sorties must be of sufficient duration to accomplish the training objectives. Flightcrew members must be scheduled for sufficient flight time to maintain proficiency in all aircraft and crew positions for which they are qualified.

(b) Flightcrew members must be scheduled for sufficient flight time to maintain proficiency in all aircraft and crew positions for which they are qualified.

(c) Flightcrew members must be scheduled for sufficient flight time to maintain proficiency in all aircraft and crew positions for which they are qualified.

(d) Flightcrew members must be scheduled for sufficient flight time to maintain proficiency in all aircraft and crew positions for which they are qualified.

(e) Flightcrew members must be scheduled for sufficient flight time to maintain proficiency in all aircraft and crew positions for which they are qualified.

(f) Flightcrew members must be scheduled for sufficient flight time to maintain proficiency in all aircraft and crew positions for which they are qualified.

(g) Flightcrew members must be scheduled for sufficient flight time to maintain proficiency in all aircraft and crew positions for which they are qualified.

(h) Flightcrew members must be scheduled for sufficient flight time to maintain proficiency in all aircraft and crew positions for which they are qualified.

(i) Flightcrew members must be scheduled for sufficient flight time to maintain proficiency in all aircraft and crew positions for which they are qualified.

(j) Flightcrew members must be scheduled for sufficient flight time to maintain proficiency in all aircraft and crew positions for which they are qualified.

(k) Flightcrew members must be scheduled for sufficient flight time to maintain proficiency in all aircraft and crew positions for which they are qualified.

(l) Flightcrew members must be scheduled for sufficient flight time to maintain proficiency in all aircraft and crew positions for which they are qualified.

(m) Flightcrew members must be scheduled for sufficient flight time to maintain proficiency in all aircraft and crew positions for which they are qualified.

(n) Flightcrew members must be scheduled for sufficient flight time to maintain proficiency in all aircraft and crew positions for which they are qualified.

(o) Flightcrew members must be scheduled for sufficient flight time to maintain proficiency in all aircraft and crew positions for which they are qualified.

(p) Flightcrew members must be scheduled for sufficient flight time to maintain proficiency in all aircraft and crew positions for which they are qualified.

(q) Flightcrew members must be scheduled for sufficient flight time to maintain proficiency in all aircraft and crew positions for which they are qualified.

(r) Flightcrew members must be scheduled for sufficient flight time to maintain proficiency in all aircraft and crew positions for which they are qualified.

(s) Flightcrew members must be scheduled for sufficient flight time to maintain proficiency in all aircraft and crew positions for which they are qualified.

(t) Flightcrew members must be scheduled for sufficient flight time to maintain proficiency in all aircraft and crew positions for which they are qualified.

(u) Flightcrew members must be scheduled for sufficient flight time to maintain proficiency in all aircraft and crew positions for which they are qualified.

(v) Flightcrew members must be scheduled for sufficient flight time to maintain proficiency in all aircraft and crew positions for which they are qualified.

(w) Flightcrew members must be scheduled for sufficient flight time to maintain proficiency in all aircraft and crew positions for which they are qualified.

(x) Flightcrew members must be scheduled for sufficient flight time to maintain proficiency in all aircraft and crew positions for which they are qualified.

(y) Flightcrew members must be scheduled for sufficient flight time to maintain proficiency in all aircraft and crew positions for which they are qualified.

(z) Flightcrew members must be scheduled for sufficient flight time to maintain proficiency in all aircraft and crew positions for which they are qualified.

involved are considered completely built up

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the issues for the hearing. A hearing will be granted if the objections are sup-

flightcrew member. For pilots and copilots, a minimum of 35 hours must be flown in each 6-month period (Jan.–June, July–Dec.). All others, a minimum of 24 hours.

NOTE: This does not mean that the Government furnishes additional flying time for contractor flightcrew member; the flying time must be available under the contractor's flying program.

(b) In lieu of the total hourly requirements in paragraph (a) of this section, the contractor, with the approval of the Government flight representative, may substitute a minimum of 80 sorties per year for each pilot and copilot. However, a minimum of 15 sorties must be flown in each quarter. No combination of this sortie minimum and the hourly minimum may be used in satisfying proficiency requirements for a period of less than 6 months. But, a 6-month period using the sortie basis may be combined with a 6-month period using the hourly basis to determine annual minimums. If so combined, the respective minimums must be 40 sorties and 40 hours. (Note in paragraph (a) of this section applies.)

(c) Proficiency requirements:

Aircrew	Event	First 6 months July–Dec. minimum	Last 6 months Jan.–June minimum	Annual minimum
Pilot and copilot	Night instruments	(5 hours	5 hours	10 hours.
		(8 hours	8 hours	20 hours.
	Precision approaches	5 each	5 each	10 each.
	Nonprecision approaches	do	do	Do.
Navigator/bombardier/electronic warfare officer/weapons system officer.	Night	4 hours	4 hours	8 hours.

(1) Night instrument time may be applied to either instrument time requirements or night requirements, but not to both.

(2) There is no requirement for contractor pilots to fulfill the night, instrument, or approach requirements, except in those cases where night and/or instrument flying by contractor personnel will be required. Those pilots maintaining night flying proficiency also must maintain instrument proficiency minimum.

(d) Proficiency flight evaluations and/or instrument flight evaluations (if applicable) may be administered to contractor flightcrew members by qualified military flight examiners, at the discretion of the cognizant Government flight representative.

NOTE: The Government may furnish flying time necessary to support this requirement.

(e) If a pilot fails to maintain acceptable proficiency, he is not permitted to fly as a pilot in command of aircraft covered by the Government flight risk clause until appropriate training as prescribed by the Government flight representative is accomplished and a satisfactory flight evaluation is completed. Additional flying time is not furnished by the Government if a training period is required. Flight checks conducted by military flight examiners must be conducted in accordance with criteria of the applicable major command flight evaluation/standardization program.

(f) Approved contractor flightcrew members must demonstrate their ability to operate aircraft, aircraft systems (to include egress systems), or perform other assigned aircrew functions safely and effectively, in accordance with contractor's existing procedures and directives, annually (within 12 months of the previous check) in each aircraft in which currency is maintained. These checks may be conducted as an integral part of the check pilots in the same aircraft or a regularly scheduled flight, with the chase plane. Flight checks are documented on the DD Form 1821. For those aircraft with similar mission and design, but dissimilar series designations (for example, C–130A, C–130E), the Government flight representative determines which are considered like aircraft.

(g) Supervisory personnel (chief pilot administers these checks.

(h) In conjunction with the flight check, the flightcrew member also must demonstrate orally to the check pilot his knowledge of the contractor's operations procedures. In addition, the contractor develops proficiency and emergency procedure examinations for the aircraft and its associated systems. These examinations are administered before the proficiency flight check. Crewmembers certify to having reviewed the contractor operations procedures annually and when revised. Accomplishment of these requirements are documented on the DD Form 1821.

§ 860.10 Other related publications.

In all cases not specifically covered by this part, the contractor should, insofar as practicable, adhere to the procedures set forth in the operational flight instructions and requirements issued by the military services having plant cognizance. For the Army, AR 385–40 and AR 95 series; Navy OPNAVINST 3710.7 series, AFM's 60–1, 60–16, and the 51 series, and the DSA Flight Operations Manual.

§ 860.11 Request for waivers.

Waivers regarding application of this part to the contractor's performance of a contractor contracts, unless specifically provided for in the contract or contracts, are forwarded through the Government flight representative for his recommendations, to the Administrative Contracting Officer, and submitted through channels to the procuring activity, or the requiring activity in those cases where the requiring activity is not the procuring activity (for example, military interdepartmental purchase requests (MIPR)). Monetary or other consideration shall be given to the contractual requirements before processing any requests for waivers. Waivers to this part require approval of the heads of procurement activities (HPA) or his designee, or the HPA for the requiring activity where the contract is awarded as a result of a MIPR.

§ 860.12 Disposition of Government flight representative records.

Records accumulated by the Government flight representatives are disposed of according to disposition standards published by the military services (AFM 12–50, AR 340–18–11, SECNAVINST 5212.5B, DSAM 5015.1).

§ 860.13 Supply of forms.

Locally reproduce DD Form 1821, pages 1, 2, and 3 on 8"x10½" or 8½"x11" paper.

By order of the Secretary of the Air Force.

JOHN W. FAHRNEY,
Colonel, U.S. Air Force, Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.72–19556 Filed 11–14–72;8:45 am]

Title 39—POSTAL SERVICE

Chapter I—U.S. Postal Service

PART 155—CITY DELIVERY

PART 171—MONEY ORDERS

Miscellaneous Amendments

Sections 155.1 and 155.2 of Title 39, Code of Federal Regulations, relating to establishing and extending city delivery service, are amended to revise the criteria for inaugurating delivery service. The current requirement (among others) of $10,000 in annual postal receipts at the post office where delivery service is contemplated is rescinded. The prime requirement henceforth will be a population of 2,500 or more in the area to be served, or 750 possible deliveries. The amendments also state the applicability of delivery service extension requirements to mobile home subdivisions.

Accordingly, §§ 155.1 and 155.2 are amended to read as follows:

§ 155.1 Requirements for establishing city delivery service.

(a) Consideration for establishing city delivery service will be given when the following requirements are met:

(1) A population of 2,500 or more within the area to be served, or 750 possible deliveries. (Postal population may vary greatly from the general census population because of different boundary interpretations and designations);

(2) Fifty percent of the building lots in the area to be served are improved with houses or business places. Where a house or building and its yard or grounds cover more than one lot, all lots

involved are considered completely built up;

(3) Streets are paved or otherwise improved to permit travel of post office vehicles at all times without damage or delay;

(4) Street signs are in place and house numbers displayed, where applicable;

(5) Rights-of-way, turnouts and areas adjacent to roads and streets are improved so that installation and servicing of boxes will not be hazardous to the public or postal employees;

(6) Satisfactory walks for carriers where required; and

(7) Approved mail receptacles or door slots are installed at designated locations.

(b) The requirements set out above are essential to an efficient mail delivery service, and must be met before delivery is inaugurated in a community. In establishing delivery service, a combination of delivery methods is considered in order to provide adequate service to all residential and business sections of a community. All establishments of delivery service must have final approval of the Regional Postmaster General or his designee.

§ 155.2 Delivery extension requirements.

Delivery service extension requirements are the same as those listed in § 155.1, with the exception of paragraph (a)(1), and apply to all extensions, including extensions to mobile home subdivisions.

Section 171.1(b)(2) is amended to extend the flat 15 cents money order fee available to the military overseas to civilians and their dependents who have APO/NPO privileges overseas.

Accordingly, in § 171.1 *Issuance of domestic money orders*, subdivision (ii) of paragraph (b)(2) is amended to read as follows:

§ 171.1 Issuance of domestic money orders.

* * *

(b) * * *

(2) * * *

(ii) The fee for a postal money order issued to authorized civilian or military personnel or their dependents by an Armed Forces Postal Clerk on board any ship or at any other Military Post Office (APO or NPO) located outside the 50 States, Puerto Rico, and Guam is 15 cents, regardless of the amount of the money order. Postal money orders issued to others shall be charged at the fees indicated below.

* * * * * *

(39 U.S.C. 401, 404)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.72–19587 Filed 11–14–72;8:48 am]

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

SUBCHAPTER E—PESTICIDES PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Inorganic Bromides

A notice (PP 2E1280) was published by the Environmental Protection Agency in the FEDERAL REGISTER of September 21, 1972 (37 F.R. 19650), proposing establishment of a tolerance for residues of inorganic bromides resulting from postharvest fumigation with the insecticide methyl bromide in or on the raw agricultural commodity pomegranates at 70 parts per million.

Subsequently, the petitioner amended the petition by increasing the proposed tolerance level from 70 parts per million to 100 parts per million. No comments or requests for referral to an advisory committee were reecived.

It is concluded that the proposal should be adopted.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), § 180.123 is amended by revising the paragraph "100 parts per million in or on copra", as follows:

§ 180.123 Inorganic bromides resulting from fumigation with methyl bromide; tolerances for residues.

* * * * * *

100 parts per million in or on copra and pomegranates.

* * * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3902A, Fourth and M Streets SW., Waterside Mall, Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (11–15–72).

(Sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e))

Dated: November 9, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72–19602 Filed 11–14–72;8:49 am]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Methomyl

A petition (PP 2F1254) was filed by E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of tolerances for residues of the insecticide methomyl (*S*-methyl *N*-[(methylcarbamoyl)oxy] thioacetimidate) in or on the raw agricultural commodities grapefruit, lemons, oranges, and tangelos at 2 parts per million.

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The insecticide is useful for the purpose for which the tolerances are being established.

2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

3. The tolerances established by this order will protect the public health.

4. An amendment published in the FEDERAL REGISTER of April 6, 1971 (36 F.R. 6495), eliminated the use of the term "tangelo" and replaced it with the term "tangerines."

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (36 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), § 180.253 is amended by revising the paragraph "2 parts per million * * *", as follows:

§ 180.253 Methomyl; tolerances for res-

the Administrator to the Deputy Assist-

3. The tolerances established by this

1. The purpose of this notice is to (a) revise Agency policy on the use of negocite any other circumstances which operate to make competitive negotiation

the foreign assistance program. A copy of the determination and findings shall

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§ 180.253 Methomyl; tolerances for residues.

* * * * *

2 parts per million in or on beans (succulent), grapefruit, lemons, oranges, and tangerines.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3902A, Fourth and M Streets SW., Waterside Mall, Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (11–15–72).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: November 9, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-19599 Filed 11-14-72;8:49 am]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Isopropalin

A petition (PP 2F1278) was filed by Elanco Products Co., Post Office Box 1750, Indianapolis, IN 46206, in accordance with the provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of a tolerance for negligible residues of the herbicide isopropalin (2,6-dinitro-*N,N*-dipropylcumidine) in or on the raw agricultural commodity peppers at 0.05 part per million.

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The pesticide is useful for the purpose for which the tolerance is being established.

2. The tolerance established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), § 180.313 is revised to read as follows:

§ 180.313 Isopropalin; tolerances for residues.

Tolerances are established for negligible residues of the herbicide isopropalin (2,6-dinitro-*N,N*-dipropylcumidine) in or on peppers and tomatoes at 0.05 part per million.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3902A, Fourth and M Streets SW., Waterside Mall, Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (11–15–72).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: November 9, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-19598 Filed 11-14-72;8:49 am]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

N^3,N^3-diethyl-2,4-dinitro-6-trifluoromethyl-1,3-phenylenediamine

A petition (PP 2F1267) was filed by U.S. Borax Research Corp., 412 Crescent Way, Anaheim, CA 92801, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of tolerances for negligible residues of the herbicide N^3,N^3-diethyl-2,4 - dinitro-6-trifluoromethyl-1,3-phenylenediamine in or on the raw agricultural commodities soybean forage, cottonseed, cotton forage, and soybeans at 0.05 part per million.

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The herbicide is useful for the purposes for which the tolerances are being established.

2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

3. The tolerances established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (36 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), Part 180 is amended by adding the following new paragraph to Subpart C:

§ 180.327 N^3,N^3-Diethyl-2,4-dinitro-6-trifluoromethyl-1,3-phenylenediamine; tolerances for residues.

Tolerances are established for negligible residues of the herbicide N^3,N^3-diethyl - 2,4 - dinitro - 6 - trifluoromethyl-1,3-phenylenediamine in or on the raw agricultural commodities cotton forage, cottonseed, soybean forage, and soybeans at 0.05 part per million.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3902A, Fourth and M Streets SW., Waterside Mall, Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (11–15–72).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: November 9, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-19597 Filed 11-14-72;8:48 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 7—Agency for International Development, Department of State

[AIDPR Notice 73–1]

PART 7–3—PROCUREMENT BY NEGOTIATION

PART 7–30—CONTRACT FINANCING

Miscellaneous Amendments

Subject: AIDPR Notice No. 73–1, Amendment of Subparts 7–3.1, 7–3.3, 7–30.4 and 7–30.45 of the AID Procurement Regulations (41 CFR Chapter 7).

1. The purpose of this notice is to (a) revise Agency policy on the use of negotiation; (b) add new procedures on the use of method determinations and findings; and (c) simplify the procedures applicable to Federal Reserve letters of credit. AID procuring activities shall comply with the new policies and procedures contained in paragraphs 2, 3, 4, and 5 of this notice in lieu of those currently appearing in the AIDPR (41 CFR Chapter 7).

2. Section 7–3.101–50 is revised to read as follows:

§ 7–3.101–50 Exceptions to normal negotiation procedures.

Competition should be obtained in negotiated procurements whenever possible. However, there are four types of exceptions to normal negotiation procedures which authorize departures from ordinary competitive practices as follows:

(a) The requirements of FPR 1–3.101 for the solicitation of proposals from the maximum number of qualified sources consistent with the nature of and requirements for the supplies or services to be procured shall be deemed satisfied when the selection of the contractor for Architect-Engineer services has been made pursuant to the procedures prescribed in AIDPR section 7–4.2.

(b) Negotiation without the solicitation of proposals from more than one offeror may be undertaken for the types of contracts listed below. In each of these cases, however, consideration of as many sources as is practicable, including informal solicitation to the maximum extent practicable, is required. In each case the contract file will include appropriate explanation and support.

(1) Procurements to be performed by the contractor in person.

(2) Procurements by an overseas procuring officer which do not exceed $25,000.

(3) Procurements from State or local governmental agencies.

(c) Negotiation without solicitation of proposals from more than one offeror or informal solicitation may be undertaken for contracts for which one institution or firm has exclusive or predominate capability by reason of experience, specialized facilities or technical competence to perform the work within the time required and at reasonable prices. In such a circumstance, the initiating technical office may recommend, for approval by the contracting officer, that a proposal be solicited only from this one institution or firm. This recommendation shall be in writing and will be contained in a separate document entitled "Justification for Noncompetitive Procurement" which shall set forth full and complete justification for the selection. Specifically the "Justification" shall explain with particularity the exclusive or predominant capability the proposed contractor possesses which meets the requirements of the procurement, shall cite any other circumstances which operate to make competitive negotiation impracticable and shall reflect the degree of consideration which has been given to other sources in the particular field and the reasons they lack the capability of the proposed contractor. The following illustrations represent factors which should be considered, as appropriate, in preparing the "Justification":

(1) What capability does the proposed contractor have which is important to the specific effort and makes him clearly more desirable than another firm in the same general field?

(2) What prior experience of a highly specialized nature does he possess which is vital to the proposed effort?

(3) What facilities or equipment does he have which are specialized and vital to the effort?

(4) Does he have a substantial investment of some kind which would have to be duplicated at Government expense by another source entering the field?

(5) If time schedules are involved, why are they critical and why can the proposed contractor best meet them?

(6) Does the proposed contractor have personnel considered predominant experts in the particular field?

Each "Justification" shall contain, in the first sentence of the document an appropriate recommendation (e.g., "I recommend that we negotiate only with the _____ for the _____ (Name of entity) (Item or services being procured)").

(d) Negotiation without solicitation of proposals or informal solicitation and without consideration of other competitive sources may be undertaken for the types of contracts listed below. In each case the contract file will include appropriate explanation and support.

(1) Contracts based on unsolicited research and development proposals to be awarded to a qualified offeror upon the appropriate determination by the cognizant Assistant Administrator pursuant to AIDPR section 7–4.5301.

(2) Contract amendments which provide for the continuation of activities or assistance which in the judgment of the contracting officer are designed to meet a goal which is the same as or substantially similar to the goal stated in the original PROP.

(3) Procurements for which the contracting officer determines that the property or services can be obtained from only one person or firm (sole source of supply). See FPR 1–3.210(a)(1).

(4) Procurements for which the head of the procuring activity (this authority is not delegable except to his chief deputy) makes a written determination, with supporting findings (including the degree of consideration, if any, given to other sources in the particular field), that procurement from another source would impair foreign assistance objectives and would be inconsistent with fulfillment of the foreign assistance program. A copy of the determination and findings shall be included in the contract file.

3. Subpart 7–3.3 of Chapter 7 is amended to add new § 7–3.302 as follows:

§ 7–3.302 Determinations and findings required.

The requirement of FPR 1 3.302(b) shall not apply to negotiated amendments to cost reimbursement contracts. The original determination and findings justifying the initial use of a cost reimbursement-type contract shall be deemed applicable to all subsequent amendments to said contracts.

4. Section 7–30.400 is revised to read as follows:

§ 7–30.400 Scope of subpart.

References to nonprofit contracts with nonprofit educational or research institutions for experimental, research, and development work include nonprofit contracts with nonprofit institutions for:

(a) Technical assistance services provided to or for another country or countries, and (b) projects which concern studies, demonstrations, and similar activities related to economic growth or the solution of social problems of developing countries.

5. Section 7–30.4501–2(a) is amended by deleting subparagraphs (1)(iii), (2)(ii) and (iii), and adding the following as subparagraph (2)(ii):

§ 7–30.4501–2 Procedure to establish Federal Reserve Letter of Credit.

* * * * *

(a) * * *

(2) * * *

(ii) Such other data as may be required to conform to the Controller's current requirements: e.g., copy of the contractor's latest available balance sheet, and income and expense statement.

* * * * *

(Sec. 621, 75 Stat. 445, as amended; 22 U.S.C. 2381. E.O. 10973, November 3, 1961, 26 F.R. 10469; 3 CFR 1959–63 Comp.)

6. This AIDPR notice should be filed in front of the cover page of Amendment No. 14.

7. AIDPR Notice No. 73–1 is an interim procurement instruction issued pursuant to AIDPR 7–1.104 (41 CFR 7–1).

8. Effective date: The notice shall be effective 15 days after publication in the FEDERAL REGISTER. It will be canceled and superseded upon publication of its contents in an amendment to the AIDPR (41 CFR Chapter 7).

Dated: November 3, 1972.

WILLARD H. MEINECKE,
Deputy Assistant Administrator for Program and Management Services.

[FR Doc.72-19649 Filed 11-14-72;8:53 am]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

[S.O. 1109]

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge

PART 213—EXCEPTED SERVICE

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

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Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1094, Amdt. 4]

PART 1033—CAR SERVICE

Lehigh Valley Railroad Co.; Authorization To Operate Over Tracks of Lehigh Coal and Navigation Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 29th day of August 1972.

Upon further consideration of Service Order No. 1094 (37 F.R. 9028, 11066, 13334, and 15514), and good cause appearing therefor:

It is ordered, That: § 1033.1094 *Service Order No. 1094* (Lehigh Valley Railroad Co., John F. Nash and Robert C. Haldeman, trustees, authorized to operate over tracks of Lehigh Coal and Navigation Co. (formerly operated by the Central Railroad Company of New Jersey, Robert D. Timpany, trustee) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., September 11, 1972, unless otherwise modified, changed, or suspended by order of this Commission, provided that any extension of this order shall be subject to the continued concurrence of the Lehigh Coal and Navigation Co.

Effective date. This amendment shall become effective at 11:59 p.m., August 31, 1972.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That copies of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.72–19628 Filed 11–14–72;8:51 am]

[S.O. 1109]

PART 1033—CAR SERVICE

Burlington Northern, Inc. Authorized To Operate Over Trackage in Campbell County, Wyo.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 29th day of August 1972.

It appearing, that the Burlington Northern, Inc., has filed an application with the Interstate Commerce Commission in Finance Docket No. 27110 for a certificate of public convenience and necessity authorizing operation over approximately 17 miles of track between a point of connection with the main line of the Burlington Northern, Inc., at Chaining Station H.B. 4704+01 located in Campbell County, Wyo., approximately 10 miles east of Gillette, Wyo., and extending southward to a coal mine now being constructed by the Amax Coal Co., located in sections 34 and 35, Township 48 north, range 71 west, eighth Guide Meridian, Campbell County, Wyo.; that this track is the only source of rail service to the aforementioned mine; that the Commission is of the opinion that there is immediate need for service over this line pending decision by the Commission in Finance Docket No. 27110, and that operation of this line by the Burlington Northern, Inc., is necessary in the interest of the public and the commerce of the people; and that notice and public procedure herein are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than 30 day's notice.

It is ordered, That:

§ 1033.1109 Service Order No. 1109.

(a) *Burlington Northern, Inc., authorized to operate over trackage in Campbell County, Wyo.* The Burlington Northern, Inc., be, and it is hereby, authorized to operate over trackage in Campbell County, Wyo., between a point of connection with the main line of the Burlington Northern, Inc., at Chaining Station H.B. 4704+01 located in Campbell County, Wyo., approximately 10 miles east of Gillette, Wyo., and extending southward to a coal mine now being constructed by Amax Coal Co. located in sections 34 and 35, Township 48 north, Range 71 west, eighth Guide Meridian, Campbell County, Wyo., a distance of approximately 17 miles.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Effective date.* This order shall become effective at 11:59 p.m., August 31, 1972.

(d) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., December 31, 1972, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.72–19627 Filed 11–14–72;8:51 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Monte Vista National Wildlife Refuge, Colo.; Correction

In F.R. Doc. 72–17002, appearing on page 20945 of the issue for Thursday, October 5, 1972, subparagraphs (1) and (2) under special conditions (§ 32.12) should read as follows:

(1) Shooting hours will be from one-half hour before sunrise until sunset for ducks, geese, coots, and mergansers.

(2) Shooting hours will be from sunrise to sunset for sora and Virginia rails, and common snipe (Wilson's).

W. O. NELSON, Jr.,
Regional Director, Bureau of Sport Fisheries and Wildlife, Albuquerque, N. Mex.

NOVEMBER 6, 1972.

[FR Doc.72–19558 Filed 11–14–72;8:45 am]

PART 33—SPORT FISHING

Long Lake National Wildlife Refuge, N. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11–15–72).

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

NORTH DAKOTA

LONG LAKE NATIONAL WILDLIFE REFUGE

Sport fishing on the Long Lake National Wildlife Refuge, Moffit, N. Dak., is permitted on refuge waters. These open areas, comprising 3,625 acres, are delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for winter sport fishing on the refuge extends from December 15, 1972, to March 15, 1973.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuges generally which are set forth in title 50, Part 33, and are effective through March 15, 1973.

LOUIS S. SWENSON,
Refuge Manager, Long Lake National Wildlife Refuge, Moffit, N. Dak.

NOVEMBER 7, 1972.

[FR Doc.72–19559 Filed 11–14–72;8:45 am]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Entire Executive Civil Service

Section 213.3102 is amended to show that the period during which new appointments may be made under the Schedule A authority covering the temporary employment of scientists and engineers under a program of Presidential internship is extended to December 31, 1973.

Effective on publication in the FEDERAL REGISTER (11–15–72), § 213.3102(ee) is amended as set out below.

§ 213.3102 Entire Executive Civil Service.

• • • • •

(ee) Positions in research and development facilities when filled for not to exceed 1 year by scientists and engineers appointed under a program of Presidential internships. No new appointments may be made under this authority after December 31, 1973.

(5 U.S.C. 3301, 3302, H.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–19563 Filed 11–14–72;8:45 am]

PART 213—EXCEPTED SERVICE

United States Soldiers' and Airmen's Home; Change in Title

To conform with F.R. Doc. 72–18946 appearing in the FEDERAL REGISTER of November 4, 1972, on page 23533, § 213.3136 is amended to show the change in title of "United States Soldiers' Home" to "United States Soldiers' and Airmen's Home".

Effective September 7, 1972, the headnote of § 213.3136 is amended as set out below.

§ 213.3136 United States Soldiers' and Airmen's Home.

• • • • •

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–19802 Filed 11–14–72;11:05 am]

PART 213—EXCEPTED SERVICE

Department of Agriculture

Section 213.3313 is amended to reflect the following organization redesignation: From Consumer and Marketing Service to Agricultural Marketing Service.

Effective on publication in the FEDERAL REGISTER (11–15–72), the headnote of paragraph (m) of § 213.3313 is amended as set out below.

§ 213.3313 Department of Agriculture.

• • • • •

(m) *Agricultural Marketing Service.* • • •

• • • • •

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–19561 Filed 11–14–72;8:45 am]

PART 213—EXCEPTED SERVICE

Office of Economic Opportunity

Section 213.3373 is amended to show that one position of Confidential Secretary to the Assistant Director for Planning, Research, and Evaluation is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (11–15–72), § 213.3373(a)(31) is added as set out below.

§ 213.3373 Office of Economic Opportunity.

(a) *Office of the Director.* • • •

(31) One Confidential Secretary to the Assistant Director for Planning, Research, and Evaluation.

• • • • •

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–19562 Filed 11–14–72;8:45 am]

Title 6—ECONOMIC STABILIZATION

Chapter III—Price Commission

PART 300—PRICE STABILIZATION

Price Increases by Rate Bureaus or Conferences

The purpose of this amendment to § 300.310 of the regulations of the Price Commission is to clarify the intention of the Commission regarding prenotification of certain rate increases for public utilities, proposed by rate bureaus, conferences, or similar organizations.

Section 300.310 is being revised to make it clear that any price increase which is proposed by a rate bureau, conference, or similar organization that has been approved by an uncertificated regulatory agency, and which would cause an increase of more than 1 percent in the combined aggregate annual revenues of the members of the rate bureau, conference, or similar organization, may not be put into effect during the 60-working day period after the regulatory agency's approval unless, at an earlier date, the Price Commission determines that the increase complies with § 300.303. This amendment is consistent with the Price Commission's intention, as expressed in § 300.308(b) regarding prenotification public utilities, to prohibit any price increase from going into effect before the Price Commission has had the opportunity to review the price increase for conformity with § 300.303. Other editorial changes have been made which do not affect substance.

Because the purpose of this amendment is to provide clarification of existing provisions and not to effect any substantial change, notice and public procedure thereon is unnecessary and good cause exists for making it effective less than 30 days after publication.

(Economic Stabilization Act of 1970, as amended, Public Law 91–379, 84 Stat. 799; Public Law 91–558, 85 Stat. 1468; Public Law 92–8, 85 Stat. 13; Public Law 92–15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92–210; Executive Order No. 11640, 37 F.R. 1213, Jan. 27, 1972; Cost of Living Council Order No. 4, 36 F.R. 20202, Oct. 16, 1971)

In consideration of the foregoing, § 300.310 of title 6, Code of Federal Regulations is revised as set forth below, effective November 13, 1972.

By direction of the Commission.

Issued in Washington, D.C. on Novem-

voked pursuant to § 300.306, must be cer-

Code of Federal Regulations is amended

XUM V37-221 NOV 15 72 XUM

XUM

Issued in Washington, D.C. on November 13, 1972.

C. JACKSON GRAYSON, JR.,
Chairman, Price Commission.

§ 300.310 Rate bureaus, conferences, and similar organizations.

(a) Whenever any price increase (interim or final) proposed by a rate bureau, conference, or similar organization authorized by law to act on behalf of its members, which would cause an increase of more than 1 percent in the combined aggregate annual revenues of the members of the rating bureau, conference, or similar organization, is approved by a regulatory agency which has not been certificated pursuant to § 300.304 or whose certificate of compliance has been revoked pursuant to § 300.306, the rate bureau, conference, or similar organization must report the price increase to the Price Commission on a prescribed form within 3 working days after the date of the decision authorizing the price increase, and that increase may not be put into effect by any member thereof during the 60-working-day period after the date of that decision, unless, at an earlier date, the Commission determines that the increase complies with § 300.303. During the period it is subject to Commission review, the Commission may take any action authorized by § 300.311 (a).

(b) Any price increase proposed by a rating bureau, conference, or similar organization, other than an increase covered by paragraph (a) of this section, that is approved by a regulatory agency which has not been issued a certificate of compliance under § 300.304 or whose certificate of compliance has been revoked pursuant to § 300.306, must be certified by the rating bureau, conference, or similar organization in the manner prescribed for public utilities under § 300.308(c), and the Price Commission shall have the same power of review over such price increase as is provided in § 300.308(c).

[FR Doc.72-19768 Filed 11-14-72;9:33 am]

PART 300—PRICE STABILIZATION

Certification in Forms PC–50 and PC–51

The purpose of this amendment to Appendix II to Part 300 of the Price Commission regulations is to update the wording of the certification of no price increase specified in the instructions for the preparation of Forms PC–50 and PC–51, to cover Special Regulation No. 1, the custom products rule of § 300.410, and the volatile pricing rule of § 300.51(f).

Because the purpose of this amendment is to provide guidance and information that is needed immediately for compliance with the Price Stabilization Program, notice and public procedure is impracticable and good cause exists for making it effective in less than 30 days after publication in the FEDERAL REGISTER.

(Economic Stabilization Act of 1970, as amended, Public Law 91–379, 84 Stat. 799; Public Law 91–558, 84 Stat. 1468; Public Law 92–8, 85 Stat. 13; Public Law 92–15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92–210; Executive Order No. 11640, 37 F.R. 1213, January 27, 1972; Cost of Living Council Order No. 4, 38 F.R. 20202, October 16, 1971)

In consideration of the foregoing, Appendix II to Part 300 of Title 6 of the Code of Federal Regulations is amended as set forth below, effective November 13, 1972.

Issued in Washington, D.C., on November 13, 1972. By direction of the Commission.

JAMES B. MINOR,
General Counsel, Price Commission.

1. The certification appearing in the second paragraph of the "Who Must File" part of the "Instructions for the preparation of Form PC–50" and of the "Instructions for the preparation of Form PC–51," is amended to read as follows:

I certify that as of _____,
(last day in firm's fiscal quarter)
_____ has not at any time
(name of firm)
since November 13, 1971, charged a price in excess of base price established for any property or service under the regulations of the Price Commission, or if such a price was charged, that the firm has complied with all of the requirements of Special Regulation No. 1 and since that time has not increased a price above base price. I further certify that this firm has not (1) determined a base price for any custom product or service under § 300.410 of the regulations of the Price Commission, or, if it has determined such a price, that the annual revenues attributable to that product or service represent less than $1 million and less than 1 percent of the firm's total annual revenues, and (2) increased a price pursuant to the special rule for volatile pricing under § 300.51(f) of the regulations of the Price Commission.

_____
Chief Executive Officer (or other authorized executive officer)

[FR Doc.72-19693 Filed 11-14-72;8:53 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 905]

ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Proposed Handling Limitations

Consideration is being given to the following proposal submitted by the committees, established under the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The recommendation by the committees for more restrictive size requirements on shipments of tangerines is based on the increasing available supply of smaller size tangerines. The higher minimum size requirement is designed to prevent a general weakening of the price structure for all sizes of tangerines during the period of peak volume and to prevent an excessive build-up of small size tangerines in the markets. It is anticipated by the committees that the supply situation will be such that fresh market outlets will accept a percentage of tangerines of the smaller size in shipments during the period November 27, through December 3, 1972, at prices which will provide favorable returns to producers.

The proposal is as follows:

Order. In § 905.547 (Tangerine Regulation 44; 37 F.R. 21799) the provisions of paragraph (a)(2) are revised to read as follows:

§ 905.547 Tangerine Regulation 44.

(a) • • •

(2) Any tangerines, grown in the production area, which are of a size smaller than $2^{6}/_{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of tangerines smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the U.S. Standards for Florida Tangerines: *Provided*, That during the period November 27, through December 3, 1972, any handler may ship a quantity of tangerines which are smaller than $2^{6}/_{16}$ inches in diameter, including the aforesaid tolerance, if (i) the number of standard packed boxes of such smaller tangerines does not exceed 40 percent of the total shipments of tangerines by such handler during the last previous week, within the current fiscal period, in which he shipped tangerines; and (ii) such smaller tangerines are of a size not smaller than $2^{1}/_{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of tangerines smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in said U.S. Standards for Florida Tangerines.

• • • • •

All written data, views, or arguments submitted in connection with the aforesaid proposal must be received in quadruplicate, by the Hearing Clerk, U.S. Department of Agriculture, Room 112A, Washington, D.C. 20250, not later than November 20, 1972. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27 (b)).

Dated: November 10, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division Agricultural Marketing Service.

[FR Doc.72-19651 Filed 11-14-72;8:52 am]

[7 CFR Part 906]

ORANGES AND GRAPEFRUIT GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

Proposed Container, Pack, and Container Marking Regulations

Consideration is being given to the following proposal, applicable to § 906.340 *Container, pack, and container marking regulations* (7 CFR 906.340; 37 F.R. 2765; 4707; 21800; 23626), recommended by the Texas Valley Citrus Committee, established pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906) regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

All persons who desire to submit written data, views, or arguments in connection with the proposal should file the same with the Hearing Clerk, Room 112A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than the 7th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

This action reflects the committee's appraisal of the need for restricting the use of containers and pack sizes to those most suitable for the packing and handling of fruit to promote orderly marketing so as to provide consumers with good quality fruit, while improving returns to producers pursuant to the declared policy of the act. The proposed amendment would require that fruit packed in bags having a capacity of 5 or 8 pounds of fruit be handled only in certain master containers.

The proposal is that the provisions of paragraph (a)(1)(iv) of § 906.340 (7 CFR 906.340; 37 F.R. 2765, 4707, 21800, 23626) be amended to read as follows:

§ 906.340 Container, pack, and container marking regulations.

(a) • • •

(1) • • •

(iv) *Bags.* (*a*) Bags having a capacity of 5 pounds of fruit: *Provided*, That fruit when packed in such bags shall be handled only when packed in the number and container specified in subdivision (vi) of this subparagraph.

(*b*) Bags having a capacity of 8 pounds of fruit: *Provided*, That fruit when packed in such bags shall be handled only when packed in the number and container specified in subdivision (v) of this subparagraph, and

(*c*) Bags having a capacity of 18 pounds of fruit: *Provided*, That on and after August 1, 1973, bags having a capacity of 18 pounds of fruit shall be mesh or woven type;

• • • • • •

Dated: November 10, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-19652 Filed 11-14-72;8:52 am]

Commodity Credit Corporation

[7 CFR Part 1464]

CIGAR TOBACCO

Advance Grade Rates for Price Support on 1972-Crop Tobacco

Consideration will be given to data, views, and recommendations pertaining to the advance rates set out in this notice which are submitted in writing to the Director, Tobacco Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. All submissions,

in order to be sure of consideration, must be received not later than 20 days

§ 1464.23 1972 crop—Connecticut Valley broadleaf tobacco, type 51, ad-

§ 1464.26 1972 crop—Northern Wisconsin tobacco, type 55, advance

DEPARTMENT OF HEALTH,

Maine, 220° T (239° M) radials; to Bangor.

2. Realign V–29 from Concord, N.H.

ination at the office of the Regional Air Traffic Division Chief.

The airspace action proposed in this

in order to be sure of consideration, must be received not later than 20 days from the date of publication of this notice in the FEDERAL REGISTER.

Under the Tobacco Loan Program published June 18, 1970 (35 F.R. 1000), amended June 17, 1971 (36 F.R. 11634, 12509), and August 5, 1972 (37 F.R. 15856), CCC proposes to establish advance rates by grades for the 1972 crop Ohio filler tobacco, types 42–44, Connecticut Valley broadleaf tobacco, type 51, Connecticut Valley Havana seed tobacco, type 52, New York and Pennsylvania Havana seed tobacco, type 53, and Southern Wisconsin tobacco, type 54, Northern Wisconsin tobacco, type 55, and Puerto Rican tobacco, type 46, as set forth herein. These proposed rates, calculated to provide the level of support of 51.9 cents per pound for types 51–52, 38.9 cents per pound for type 46, and 37.5 cents per pound for types 42–44, 53–55, as determined under section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445), are as follows:

Sec.

1464.22 1972 crop—Ohio filler tobacco, types 42–44, advance schedule.

1464.23 1972 crop—Connecticut Valley broadleaf tobacco, type 51, advance schedule.

1464.24 1972 crop—Connecticut Valley Havana seed tobacco, type 52, advance schedule.

1464.25 1972 crop—New York and Pennsylvania Havana seed tobacco, type 53, and Southern Wisconsin tobacco, type 54 advance schedule.

1464.26 1972 crop—Northern Wisconsin tobacco, type 55, advance schedule.

1464.27 1972 crop—Puerto Rican tobacco, type 46, advance schedule.

AUTHORITY: The provisions of this Part 1464 issued under sec. 4, 62 Stat. 1070, as amended, sec. 5, 62 Stat. 1072, secs. 101, 106, 401, 403, 63 Stat. 1051, as amended, 1054, 74 Stat. 6; 7 U.S.C. 1441, 1445, 1421, 1423, 15 U.S.C. 714b, 714c.

§ 1464.22 1972 crop—Ohio filler tobacco, types 42–44, advance schedule.[1]

Grade	Advance Rate
(Dollars per hundred pounds, farm sales weight)	
Crop run (stripped together):	
X1	38.50
X2	35.50
X3	32.50
X4	29.00
Nondescript:	
N	20.00

[1] The cooperative association through which price support is made available is authorized to deduct from the amount paid the grower 50 cents per hundred pounds to apply against receiving and overhead costs. Only the original producer is eligible to receive advances. No advance is authorized for tobacco designated "No-G" (no grade).

§ 1464.23 1972 crop—Connecticut Valley broadleaf tobacco, type 51, advance schedule.[1]

Grade	Advance rate
(Dollars per hundred pounds, farm sales weight)	
Binders:	
B1	72
B2	64
B3	55
B4	45
B5	40
Nonbinders:	
X1	34

§ 1464.24 1972 crop—Connecticut Valley Havana seed tobacco, type 52, advance schedule.[2]

Grade	Advance rate
(Dollars per hundred pounds, farm sales weight)	
Binders:	
B1	67
B2	59
B3	52
B4	44
B5	40
Nonbinders:	
X1	34

§ 1464.25 1972 crop—New York and Pennsylvania Havana seed tobacco, type 53, and Southern Wisconsin tobacco, type 54, advance schedule.[3]

Grade	Advance rate
(Dollars per hundred pounds, farm sales weight)	
Crop-run:	
X1	42.50
X2	38.00
X3	31.50
Farm fillers:	
Y1	29.00
Y2	27.00
Y3	25.00
Nondescript:	
N1	25.00
N2	19.00

[1] The cooperative association through which price support is made available is authorized to deduct from the amount paid the grower $1 per hundred pounds to apply against receiving and overhead costs. Only the original producer is eligible to receive advances. No advance is authorized for tobacco graded "N1" (first quality nondescript), "N2" (second quality nondescript) or "S" (scrap), or designated "No-G" (no grade).

[2] The cooperative association through which price support is made available is authorized to deduct from the amount paid the grower $1 per hundred pounds to apply against receiving and overhead costs. Only the original producer is eligible to receive advances. No advance is authorized for tobacco graded "N1" (first quality nondescript), "N2" (second quality nondescript) or "S" (scrap), or designated "No-G" (no grade).

[3] The cooperative association through which price support is made available is authorized to deduct from the amount paid the grower 50 cents per hundred pounds to apply against receiving and overhead costs. Only the original producer is eligible to receive advances. No advance is authorized for tobacco designated "No-G" (no grade).

§ 1464.26 1972 crop—Northern Wisconsin tobacco, type 55, advance schedule.[1]

Grade	Advance rate
(Dollars per hundred pounds, farm sales weight)	
Binders:	
B1	60.00
B2	55.00
B3	47.00
Strippers:	
C1	43.50
C2	39.00
C3	32.00
Crop-run:	
X1	43.00
X2	37.00
X3	29.00
Farm fillers:	
Y1	33.00
Y2	30.00
Y3	28.00
Nondescript:	
N1	23.00
N2	18.00

§ 1464.27 1972 crop—Puerto Rican tobacco, type 46, advance schedule.[2]

Grade	Advance rate
(Dollars per hundred pounds, farm sales weight)	
Price Block I (C1F and C1P)	44.50
Price Block II (X1F, X1P and X1S)	38.00
Price Block III (X2T, X2F, X2P and X2S)	27.50
Price Block IV (N)	14.00

All written submissions received pursuant to this notice will be available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Effective date: Date of filing with the Office of the Federal Register.

Signed at Washington, D.C., on November 10, 1972.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.72–19631 Filed 11–10–72;3:37 pm]

[1] The cooperative association through which price support is made available is authorized to deduct from the amount paid the grower 50 cents per hundred pounds to apply against receiving and overhead costs. Only the original producer is eligible to receive advances. No advance is authorized for tobacco graded "N1" (first quality nondescript), "N2" (second quality nondescript) or "S" (scrap), or designated "No-G" (no grade).

[2] The cooperative associations through which price support is made available to growers are authorized to deduct $1 per hundred pounds from the advances to growers to apply against overhead and handling costs. Tobacco is eligible for advance only if consigned by the original producer. No advance is authorized for tobacco graded "S" (scrap) or designated "No-G" (no grade).

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 51]

CANNED SWEET CORN

Standards of Identity, Quality, and Fill of Container

Correction

In F.R. Doc. 72–16644 appearing at page 21112 of the issue for Thursday, October 5, 1972, the following changes should be made:

1. On page 21119 in the "Items of Comparison" column of the tabulated material, "Cream style corn", which appears under "9. Methods for determining quality:", should read "(b) Cream style corn"; and

2. In § 51.21 the reference in the fourth line of paragraph (b) now reading "(§ 15.20(b)(5))" should read "(§ 51.20(b)(5))".

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72–WA–55]

VOR FEDERAL AIRWAYS

Proposed Alteration

The Federal Aviation Administration (FAA) is considering amendments to Part 71 of the Federal Aviation Regulations that would realine Victor Airways 3, 39, and 93 northeast of oBston, Mass.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, New England Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 154 Middlesex Street, Burlington, MA 01803.

All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

The proposed amendments would:

1. Realign V–93 from Concord, N.H., via Kennebunk, N.H.; INT of the Kennebunk 045° T (062° M) and Bangor, Maine, 220° T (239° M) radials; to Bangor.

2. Realign V–39 from Concord, N.H., via INT of the Concord 052° T (068° M) and Augusta, Maine, 227° T (245° M) radials; Augusta; to Millinocket, Maine.

3. Realign V–3 from Ipswich Intersection via Pease, N.H., VOR; INT of the Pease 005° T (021° M) and Augusta 227° T (245° M) radials; to Augusta.

These actions would update and modernize the utilization of low altitude airspace northeast of Boston, Mass., and would create a dual airway system along the east coast of Maine to the Canadian border. These proposed airway changes along with revised center-terminal procedures currently under development would significantly increase utilization of the airspace and provide better service to the users.

These amendments are proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on November 8, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc.72–19555 Filed 11–14–72;8:45 am]

[14 CFR Part 75]

[Airspace Docket No. 72–WA–60]

AREA HIGH ROUTE

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 75 of the Federal Aviation Regulations that would realign a segment of J974R from Casanova, Va., to Westport, Ky.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. All communications received within 20 days after publication of this notice in the FEDERAL REGISTER will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The airspace action proposed in this docket would realign J974R in part from Casanova via Henderson, W. Va., to Westport. If this action is taken, J974R would coincide with J951R between Casanova and Henderson. This alignment would facilitate transition between en route and terminal procedures at Dulles Airport.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on November 13, 1972.

H. B. HELSTROM,
Chief, Airspace and
Air Traffic Rules Division.

[FR Doc.72–19699 Filed 11–14–72;8:53 am]

ATOMIC ENERGY COMMISSION

[10 CFR Part 50]

ENVIRONMENTAL EFFECTS OF THE URANIUM FUEL CYCLE

Notice of Proposed Rule Making

Notice is hereby given that the Atomic Energy Commission is considering possible amendments to its regulations in 10 CFR Part 50, Appendix D, "Interim Statement of General Policy and Procedure: Implementation of the National Environmental Policy Act of 1969 (Public Law 91–190)," that would specifically deal with the question of consideration of environmental effects associated with the uranium fuel cycle in the individual cost-benefit analyses for light water cooled nuclear power reactors.

The Commission's regulation implementing the National Environmental Policy Act of 1969 (NEPA) in 10 CFR Part 50, Appendix D, requires that each draft and final detailed statement prepared pursuant to section 102(2)(C) of NEPA for a nuclear power reactor contain a cost-benefit analysis which, among other things, considers and balances the adverse environmental effects and environmental, economic, technical, and other benefits of the facility. This regulation further provides that the cost-benefit analysis will, to the fullest extent practicable, quantify the various factors considered.

In several nuclear power reactor licensing proceedings it has been argued that the cost-benefit analysis for the facility that is the subject of the licensing action should include costs and benefits associated with the uranium fuel cycle, such as environmental effects of reprocessing spent fuel and disposal of wastes resulting from reprocessing. Other factors related to the fuel cycle include those associated with uranium mining and milling, uranium hexafluoride production, isotopic enrichment, fuel fabrication, and transportation associated

with the above. It has been urged that in each power reactor case the contribution of the fuel cycle to the environmental effects of the facility should be assessed on the record and weighed in the balance with other environmental effects. Some of the fuel cycle activities, such as reprocessing and waste disposal will be those associated not only with nuclear power reactors but with other facilities as well. Therefore, with respect to light water cooled nuclear power reactors, interested persons are invited to submit comments

TABLE S–3

(Sec. 161, 68 Stat. 948; sec. 102, 83 Stat. 853, 42 U.S.C. 2201, 4332)

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with the above. It has been urged that in each power reactor case the contribution of the nuclear power reactor to the environmental costs associated with the fuel cycle activity should be ascertained and considered in the cost-benefit balance.

The Commission's Atomic Safety and Licensing Appeal Board has held that environmental impact statements for nuclear power reactors should consider, among other things, environmental effects of the transportation of irradiated nuclear fuel from the facility that is the subject of the licensing action, and the transportation of low level wastes and of high level solid wastes other than irradiated fuel from the facility to depositories, but should not consider environmental effects of reprocessing of irradiated nuclear fuel, the disposal of wastes resulting from reprocessing, or disposal of low and high level solid wastes. In the matter of Vermont Yankee Nuclear Power Corp. (Vermont Yankee Nuclear Power Station), Docket No. 50–271, Memorandum and Order, June 6, 1972. Subsequently, the Appeal Board in that case held that mining and manufacturing of reactor fuel are not within the scope of the environmental review prescribed for nuclear power reactors by NEPA and the Commission's regulations (Decision, October 11, 1972).

In connection with the foregoing, it should be noted that in conjunction with the revision of Appendix D of 10 CFR Part 50 on September 9, 1971, there was transmitted by the Director of Regulation to applicants for licenses to construct or operate nuclear power plants, and made available to the public, a document dated September 1, 1971, which, among other things, indicated that applicants' environmental reports should describe the environmental effects of the transportation of fuel elements from the fuel fabrication plant to the reactor as well as the transportation of spent fuel elements from the reactor to the fuel reprocessing plant and the transportation of packaged radioactive material from the reactor to low level waste burial grounds.

There are in the United States well over 100 nuclear power reactors in operation, under construction, or on order, and, in addition, three commercial nuclear fuel reprocessing facilities have received operating licenses or are under construction. The existence of a uranium mine or mill, uranium hexafluoride plant, enrichment facility, fuel fabrication plant, fuel reprocessing plant, or ultimate waste depository does not depend upon the licensing of any one nuclear power reactor, nor does the cold or irradiated fuel or waste from any one reactor make more than a fractional contribution, if any, to the effects of such activities or facilities. Uranium mining and milling, uranium hexafluoride production, isotopic enrichment, and fuel fabrication will contribute fuel to many nuclear reactors and the effects associated with fuel reprocessing and waste disposal will be those associated not only with nuclear power reactors now operating or under construction, but also with those that are no longer in operation and those that are planned for the future. There does not appear to be any way to ascertain with any degree of certainty which of the uranium mines or mills, uranium hexafluoride plants, isotopic enrichment facilities, and fuel fabrication plants in existence or to be operated in the future will contribute fuel to a given nuclear power reactor, or which of the various fuel reprocessing plants or commercial burial grounds now in existence or to be constructed from time to time will receive irradiated fuel or wastes from any given nuclear power reactor.

Many of the various elements in the nuclear fuel cycle involve varying methods or processes with different environmental and other effects and there is no reason to believe that during the useful life of any given nuclear power reactor other methods or processes with different effects will not be developed. In addition, effects of uranium milling and mining, uranium hexafluoride production, fuel element fabrication, spent fuel reprocessing, operation of licensed burial grounds, and transportation incident to each of the above, are, except as those activities are subject to agreement State jurisdiction, the subject of Commission NEPA review proceedings associated with issuance of materials or facility licenses that are separate from the review proceedings for issuance of licenses for nuclear power reactors.

Cost-benefit analyses of nuclear power reactor license applications should contain a full and frank disclosure and consideration of costs and benefits of the proposed action. The results of the application of this principle to the question of inclusion of environmental effects associated with the fuel cycle are not entirely clear. As the above discussion indicates, the fractional contribution, if any, of the environmental effects of the fuel cycle to the cost-benefit balance for a particular nuclear reactor is difficult, and may be impossible, to ascertain with any degree of certainty. This suggests that such matters, if they are to be considered at all, be considered in a generic fashion through the rule making process. The Commission's regulatory staff has prepared a report entitled "Environmental Survey of the Nuclear Fuel Cycle," dated November 6, 1972, which provides a basis for an informed consideration of the generic question of the environmental impact associated with the uranium fuel cycle in light water cooled nuclear power reactor licensing proceedings.

To aid the Commission in its consideration of possible amendments to Appendix D to 10 CFR Part 50 of its regulations that would deal with the question of the account to be taken of the environmental effects associated with the uranium fuel cycle in individual cost-benefit analyses for light water-cooled nuclear power reactors, interested persons are invited to submit comments and suggestions, together with relevant data and information, with respect to possible additions to 10 CFR Part 50 along the following alternative lines:

(1) In the case of light water-cooled nuclear power reactors, the applicant's environmental report and the Commission's detailed statement shall contain a full discussion of, inter alia, the environmental effects of the transportation of cold fuel to the reactor and irradiated fuel from the reactor to a fuel reprocessing plant and the transportation of low level waste and high level solid wastes (other than irradiated fuel) from the reactor to depositories. Those documents need not cover the environmental effects of uranium mining and milling, the production of uranium hexafluoride, isotopic enrichment, fuel fabrication, reprocessing of irradiated fuel, disposal of low level and high level solid wastes or transportation related to such activities (other than transportation of cold fuel to, and irradiated fuel from, the reactor), since the environmental effects of those activities as related to a particular light water-cooled nuclear power reactor have been analyzed in the Commission's "Environmental Survey of the Nuclear Fuel Cycle" and, when factored into the cost-benefit analysis, are sufficiently small as not to affect significantly the resultant conclusion. The environmental effects of the latter activities will generally be considered in detail in proceedings in which approval for such activities, or closely related activities, is sought.

(2) Or in the case of light water-cooled nuclear power reactors, the applicant's environmental report and the Commission's detailed statement shall contain a full discussion of, inter alia, the environmental effects of the transportation of cold fuel to the reactor and irradiated fuel from the reactor to a fuel reprocessing plant and the transportation of low level wastes and high level solid wastes (other than irradiated fuel) from the reactor to depositories. In such documents, the contribution of the environmental effects of uranium mining and milling, the production of uranium hexafluoride, isotopic enrichment, fuel fabrication, reprocessing of irradiated fuel, transportation and disposal of wastes resulting from such reprocessing, disposal of low level and high level solid wastes and transportation related to such activities (other than transportation of cold fuel to, and irradiated fuel from, the reactor), to the environmental costs of licensing the nuclear power reactor, shall be as set forth in the following Table S–3 of the Commission's "Environmental Survey of the Nuclear Fuel Cycle": [1]

[1] The "Environmental Survey of the Nuclear Fuel Cycle" provides the supporting data for this summary table.

TABLE S–3

SUMMARY OF ENVIRONMENTAL CONSIDERATIONS FOR NUCLEAR FUEL CYCLE (NORMALIZED TO MODEL LWR ANNUAL FUEL REQUIREMENTS)

Natural resource use	Total
Land (acres):	
Temporarily committed	63
Undisturbed area	45
Disturbed area	18
Permanently committed	4.6
Overburden moved (MT×10⁻⁴)	2.7
Water (gallons×10⁻⁴):	
Discharged to air	163
Discharged to water bodies	11,052
Discharged to ground	123
Total	11,338
Fossil fuel:	
Electrical energy (mw.-hr.×10⁻³)	317
Equivalent coal (MT×10⁻²)	116
Natural gas (s.c.f.×10⁻⁶)	103

Effluents—Radiological (curies)	Total
Gases (including entrainment):	
Rn-222	83
Ra-226	.02
Th-230	.02
Uranium	.046
Tritium (×10⁻³)	12
Kr-85 (×10⁻³)	350
I-129	.002
I-131	.02
Fission products	1.0
Transuranics	.004
Liquids:	
Uranium and daughters	2.1
Ra-226	.027
Th-230	.27
Th-234	.001
Other uranium daughters	.001
Ru-106	4
Tritium (×10⁻³)	6.2
Solids (buried):	
Other than high level	1,200
Thermal (B.t.u. ×10⁻⁴)	3,370

Effluents—Chemical (MT)	Total
Gases (including entrainment):[1]	
SO_x	4400
NO_x	1170
Hydrocarbons	11.3
CO	28.7
Particulates	1156
Other gases:	
F-	1.0
Liquids:	
$SO_4^=$	5.8
NO_3^-	8.2
Fluoride	0.4
Ca^+	5.4
Cl^-	8.2
Na	13.5
NH_3	8.4
Fe	0.4
Tailings solutions (×10⁻³)	240
Solids	91,000

Maximum effect per annual fuel requirement of model 1000 MWe LWR
Principally from mills—Maximum annual dose rate <4 percent of average natural background within 5 miles of mill. Results in 0.06 man-rem per annual fuel requirement. Due to dilute concentration and short half-life of principal component, exposure beyond a 5-mile radius is miniscule relative to natural background.
Principally from fuel reprocessing plants—Whole body dose is 4.4 man-rem for population within 50-mile radius. This is <0.005 percent of average natural background dose to this population.
Principally from milling—Included in tailings liquor and returned to ground—no effluents; therefore, no effect on environment.
From UF_6 production—concentration <5 percent of 10 CFR 20 for total processing of 27.5 model LWR annual fuel requirements.
From fuel fabrication plants—concentration <1 percent of 10 CFR 20 for total processing 26 annual fuel requirements for model LWR.
From reprocessing plants—maximum concentration <4 percent of 10 CFR 20 for total reprocessing of 26 annual fuel requirements for model LWR.
From mills—Included in tailings returned to ground—no significant effluent to the environment.

[1] Estimated effluents based upon combustion of equivalent coal for power generation.
[2] 1.2 percent from natural gas use and process.

The Commission will hold an informal rule-making hearing on possible amendments described in (1) and (2) above on February 1, 1973, at 10 a.m. The location and the presiding officer will be designated in a notice that will be published in the FEDERAL REGISTER in the near future.

Interested persons are invited to attend the hearing and present oral or written statements. Any person who intends to present views at this hearing should furnish in writing his name and the name of the organization he represents to the Secretary of the Commission by January 1, 1973. The hearing will be conducted as a legislative-type hearing. Since the hearing will be part of a rule making, rather than an adjudicatory, proceeding, the provisions of Subpart G, "Rules of General Applicability," of 10 CFR Part 2, the Commission rules of practice, will not be applicable.

Nothing herein shall be construed as affecting the continuing validity of the above-described holdings by the Appeal Board in the Vermont Yankee proceeding during the course of this rule making proceeding, and they shall continue in effect unless and until modified by promulgation of a regulation or other Commission action.

All interested persons who desire to submit written comments or suggestions in connection with the possible amendments to Appendix D of 10 CFR Part 50 or the "Environmental Survey of the Nuclear Fuel Cycle," should send them to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, within sixty (60) days after publication of this notice in the FEDERAL REGISTER.

Copies of comments on this notice as well as the "Environmental Survey of the Nuclear Fuel Cycle," dated November 6, 1972, may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, DC 20545. In addition, copies of the environmental survey may be obtained upon request addressed to the Deputy Director for Fuels and Materials, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

(Sec. 161, 68 Stat. 948; sec. 102, 83 Stat. 853, 42 U.S.C. 2201, 4332)

Dated at Germantown, Md., this 10th day of November 1972.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.72–19698 Filed 11–14–72;8:53 am]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 207, 208, 212, 214]

[Economic Regs. Docket No. 24908; EDR–237]

CHARTER GROUPS

Suspension of "Prior Affinity" Charter Authority Pending the Travel Group Charter Experiment

NOVEMBER 9, 1972.

Notice is hereby given that the Civil Aeronautics Board is considering whether it should propose amendments of Parts 207, 208, 212, and 214 of the Board's Economic Regulations which would suspend the "prior affinity" charter rules pending the travel group charter experiment. The principal features of the proposal are set forth in the attached explanatory statement. The amendments are being considered under the authority of sections 204(a), 401, 402, and 1001 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 754 (as amended), 757, 788; 49 U.S.C. 1324, 1371, 1372, and 1481.

Interested persons may participate in this proceeding through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Individual members of the general public who, as prospective passengers, could be affected by the outcome of this proceeding, may participate in the advance notice of rule making through submission of comments in letter form to the Docket Section at the above-indicated address, without the necessity of filing additional copies thereof. All relevant material in communications received on or before December 15, 1972, will be considered by the Board before it takes further action in this proceeding. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

EXPLANATORY STATEMENT

By SPR–61, adopted and effective September 27, 1972, the Board provided for a new class of charter called Travel Group Charters (TGC), which will be applicable to all direct air carriers and

foreign air carriers. The new type of charter will enable any 40 or more per-

do not permit the operation of travel group charters?

pursuant to § 0.251(b) of the Commission's rule.

"nationwide" loan without "retsinage" by a local servicer if the institution which

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foreign air carriers. The new type of charter will enable any 40 or more persons to be formed into a charter group, regardless of any prior affinity among such persons, provided that certain prescribed conditions and limitations are met.

Among the general conditions of the TGC are the following: (1) The cost of the charter must be shared equally by all participants; (2) each participant must pay a nonrefundable deposit [1] of no less than 25 percent of the pro rata charter price at least 3 months before, and the full balance at least 60 days before the scheduled flight departure; (3) the charter must be for a round trip and be for a prescribed minimum stay (7 days for North American charters, as defined in the rule, or 10 days for all other charters); (4) no earlier than 4 months, and no later than 3 months, prior to scheduled departure the charter organizer and the carrier must jointly file with the Board various documents, including a "main list" of charter participants, and there may also be filed at the same time a "standby list" of persons who are interested in becoming substituted, as assignees, for "main list" participants; and (5) only charter participants whose names were included in the lists filed at least 3 months previously may be passengers on the TGC flight, and of those participants at least 80 percent must be from the "main list."

In the preamble to the travel-group charter rule,[2] we stated that we were not then determining the issue of whether TGC's should be a substitute for, rather than alternative to, the existing affinity charters,[3] but that we would institute in due course a rule making proceeding to consider this particular issue. Accordingly, we are now instituting this rule making proceeding to determine whether existing affinity charter rules should be suspended during the pendency of the TGC experiment.

There are, of course, sound reasons in favor of eliminating affinity charter authority. Indeed, our very adoption of the TGC rule was largely based on our view that the existing affinity charter rules are unsatisfactory,[4] because they tend to discriminate against members of the public who do not belong to charter worthy organizations having a membership large enough to successfully mount a charter program, and also because they have proven to be extremely difficult to enforce. Moreover, since the TGC's are expected to attract principally those very passengers who are prospective participants in affinity charters (i.e., price conscious vacationers), suspension of affinity charters during the pendency of the TGC experiment would appear to be especially desirable, in order to more validly test the full potential of TGC's as a replacement for affinity charters. Indeed, unless the Board suspends the affinity charter rules during the TGC experiment, there will be a substantial incentive to operate illegal so-called affinity charters rather than undertake the operation of TGC's, since the restrictions surrounding TGC operations are more difficult to evade than those surrounding affinity charters. The basic restriction on affinity charters is the affinity concept itself, i.e., availability of such charters is limited to bona fide organizations interested in providing low cost air transportation to their bona fide members on a nonprofit basis. However, if that basic restriction is satisfied (or evaded, in the case of an illegal charter), operation of an affinity charter is not subject to some of the technical restrictions imposed on a TGC. For example, charters operated under our affinity charter rules, unlike those operated under our TGC rules, do not entail: (1) payment of a nonrefundable 25-percent deposit 3 months in advance of flight; (2) payment of the full price 60 days in advance; (3) restricting participation in the flight to persons whose names were filed with the Board at least 3 months in advance; (4) round trip and minimum-stay requirements; or (5) cancellation of the charter if, as a result of defaults, the pro rata charter price exceeds a specified maximum.

Another incidental benefit arising from the suspension of the affinity charter rules is that we would thereby eliminate operators who specialize in consolidating passengers for illegal so-called affinity charters. Elimination of these operators would, in turn, tend to eliminate the problem of passenger strandings abroad, since such strandings are mainly caused by illegal operators. TGC operators, in contrast, are required to be bonded and to place customer deposits in escrow.

On the other hand, the elimination—even temporarily—of affinity charters may well create a serious hiatus in our rules, and cause inconvenience to the traveling public, by precluding all charters which cannot satisfy the technical requirements of the TGC rule although they otherwise comport fully with the basic concept of bona fide group travel which should be charter worthy. For example, a bona fide group wishing to attend a special event could not charter air transportation under the TGC rule unless such special event is to occur at least 3 months hence and the group is willing to meet the applicable minimum-stay requirements.

We have determined to follow the more tentative procedure afforded by advance notice of rule making, rather than the customary notice of a specific proposed rule, because we believe that the step of suspending traditional affinity charter rules during the pendency of a novel charter experiment should be taken, if at all, only after we have had an opportunity to consider as much factual material and discussion of alternatives as we are able to obtain. Accordingly, we are requesting the parties to file with their comments such documentation as is available to support their respective positions. Upon review of the comments and the accompanying data, the Board will then be in a position to decide what rule, if any, should be proposed in this proceeding.

The Board has tentatively concluded that any suspension of the affinity charter rules would not take effect before October 1, 1973, lest such suspension unduly disrupt plans already made, or about to be made, for air transportation under our affinity charter rules during the 1973 summer season. Such plans are frequently confirmed by the participating parties many months in advance of scheduled flight departure, and it seems obvious that the Board could not complete the pending rule making proceeding in time to avoid disruption of plans for the coming peak season. Therefore, we expect to postpone the effectiveness of any rule which may evolve from this proceeding until after completion of the 1973 summer season.

While we shall of course welcome all relevant comments, views, and information, we specifically request interested parties to focus upon the following questions:

(1) What would be the economic impact on total charter operations of the suspension of the affinity charter rules, i.e., how much of the total charter market could not be accommodated by the TGC rule? What is the basis for such conclusion? As much documentation should be provided as possible, as to the type and volume of affinity charters which could not be so accommodated.

(2) Should affinity charters be permitted to operate, but only on a prior approval basis? If so, should prior approval be required on an ad hoc basis for each flight, or could some more generalized type of prior approval be devised? To the maximum extent possible, the Board would obviously wish to avoid the administrative burden which a prior approval procedure entails.

(3) If the Board is to make special provision for the operation of certain types of affinity charters, such as the "special event" type discussed above, how could such an exception be expressed so as to be unambiguous, self-executing, and easily enforceable?

(4) Should special provision be made for charters to or from countries which do not permit the operation of travel group charters?

The Board also invites comments as to what regulatory action, if any, should be taken with respect to affinity group fares offered on scheduled services, in the event that affinity charters are suspended.

[FR Doc.72-19641 Filed 11-14-72;8:53 am]

[1] After contracts are filed with the Board, refund of this 25 percent deposit is permitted only in case of death or illness of a charter participant, and only if such event occurs before the "tentative adjusted price" is computed (no later than 45 days before the date of scheduled flight departure). After that time no payments are refundable to defaulting participants.

[2] SPR-61, page 6 (mimeo.).

[3] By "affinity charters" we mean pro rata charters of all or part of an aircraft by groups of persons who share a "prior affinity" (e.g., membership in a social or professional organization). These have been the traditional group charters and are authorized to be performed by certificated air carriers and foreign air carriers under the following subparts of the rules: Subpart B of Part 207; Subpart C of Part 208; Subpart B of Part 212; and Subpart A of Part 214.

[4] See, for example, SPR-61, supra, pages 1-2 (mimeo.).

of another insured institution servicing

written approval of the Corporation has

to submit written comments thereon by September 29, 1972.

pursuant to § 0.251(b) of the Commission's rule.

Adopted: November 10, 1972.

Released: November 10, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] JOHN W. PETTIT,
General Counsel.

[FR Doc.72-19653 Filed 11-14-72;8:52 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 2]

[Docket No. 19547]

SPACE WARC, GENEVA, 1971

Extension of Time for Filing Comments

Order. In the Matter of amendment of Part 2 of the Commission's rules to conform, to the extent practicable, with the Geneva Radio Regulations, as revised by the Space WARC, Geneva, 1971, Docket No. 19547.

1. On September 29, 1972, the Commission, by its General Counsel, granted a 30-day extension of time for the filing of comments and replies in this proceeding in response to motions by the Central Committee on Communication Facilities of the American Petroleum Institute and the Utilities Telecommunications Council.[1] Comments were accordingly filed on October 30, 1972, by some 17 parties raising a number of issues concerning the proposed rule amendments. Subsequently, there have been informal requests by several parties and a motion filed by the Communications Satellite Corp. (Comsat) for a brief extension of the reply comment date. Comsat states that it has been unable to analyze adequately and respond to the comments of other parties in the short time allowed for reply comments.

2. In our earlier Order extending the time for filing comments in this proceeding, we pointed out the urgency of completing this rule making to align the U.S. Table of Frequency Allocations with the new international regulations adopted at the 1971 World Administrative Radio Conference on Space Telecommunications, which become effective on January 1, 1973. However, considering the number of comments filed and the importance of this proceeding, a 1-week extension of time for the filing or replies would appear to be warranted and should not prejudice the interests of any concerned party.

3. Accordingly, the date for filing reply comments in this proceeding is extended from November 10 to November 17, 1972. Authority for this action is taken

[1] 37 F.R. 23162, October 7, 1972.

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 563]

[No. 72-1266]

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Nationwide Lending and Participation Loans

OCTOBER 31, 1972.

Section 563.9(a)(4) of the rules and regulations for insurance of accounts (12 CFR 563.9(a)(4)) imposes certain requirements with respect to the servicing of "nationwide" loans made or purchased by insured institutions. Under the present regulation, each such loan must be serviced by an FSLIC-insured institution, an FDIC-insured bank, or an approved FHA mortgagee having an office within 100 miles of the real estate securing the loan. The Federal Home Loan Bank Board considers it desirable to liberalize these servicing requirements in several respects. First, it proposes to expand the list of eligible servicers to include any wholly owned subsidiary of an FDIC-insured bank and any savings and loan "service corporation." Second, the 100-mile requirement would be enlarged in the case of servicing by an FSLIC-insured institution having a "normal lending territory" which extends beyond the 100-mile limit (usually due to "grandfather" lending rights). Third, the local servicing requirement would no longer apply in the case of a loan in excess of $500,000.

Section 563.9-1(b) of such regulations (12 CFR 563.9-1(b)), which governs participations in loans on real estate located outside of the "normal lending territory" of an insured institution, imposes certain requirements with respect to the servicing of such loans and "retainage" interests in such loans. Under the present regulation, the real estate securing a participation loan must be located within 100 miles of an office of an "approved lender" servicing such loan and having a certain "retainage" interest in such loan. The Board considers it desirable to liberalize these requirements in several respects.

With regard to servicing, the Board proposes to enlarge the 100-mile requirement in the case of an FSLIC-insured institution having a "normal lending territory" extending beyond such limit. As to the "retainage" requirement, the proposal would permit participation in a "nationwide" loan without "retainage" by a local servicer if the institution which held the whole loan keeps the required "retainage" interest in such loan. The proposal would also permit the local servicing requirement to be met by a wholly owned subsidiary of an "approved lender" holding the required "retainage" in other participation loans.

Accordingly, it is hereby proposed to amend 12 CFR Part 563 by revising §§ 563.9(a)(4) and 563.9-1(b) (1), (2), and (3) to read as set forth below.

Interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, DC 20552, by December 15, 1972, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the General Regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

1. It is proposed to amend § 563.9 by revising subparagraph (4) of paragraph (a) thereof to read as follows:

§ 563.9 Loans and investments.

(a) *General provisions.* • • •

(4) Any insured institution which, at the close of its most recent semiannual period, had a ratio of scheduled items (other than assets acquired in a merger instituted for supervisory reasons) to specified assets of less than 2.5 percent may, to the extent that it has legal power to do so, make, or invest its funds in, any loan on the security of real estate located outside its normal lending territory but within any State of the United States, subject to the following requirements:

(i) The aggregate amount of investment in all such loans may not exceed 10 percent of the insured institution's assets;

(ii) The loan must be serviced by or through one of the following:

(*a*) An insured institution;

(*b*) A lending institution whose deposits are insured by the Federal Deposit Insurance Corporation, or a wholly owned subsidiary of any such lending institution;

(*c*) A service corporation in which the entire capital stock is held by one or more insured institutions or institutions which are eligible to apply for insurance of accounts under title IV of the National Housing Act, as amended; or

(*d*) An approved Federal Housing Administration mortgagee which has furnished to the insured institution documentation of its current approved status.

(iii) Except in the case of a loan in an amount in excess of $500,000, the real estate security for the loan must be located within the normal lending territory

(d) *Adjustment for negative net worth account balances.* In determining

greater of (i) the applicable Federal in-

(*a*) Before a minimum net worth percentage is applied to an asset item, the

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of another insured institution servicing such loan or within 100 miles of the principal or a branch office of any other servicer of such loan; and

(iv) The insured institution must have obtained a signed report of appraisal of the real estate security for the loan by an appraiser, designated by such institution, who has no interest, direct or indirect, in the real estate or in any loan on the security thereof.

* * * * *

2. It is proposed to amend § 563.9–1 by revising subparagraphs (1), (2), and (3) of paragraph (b) thereof to read as follows:

§ 563.9–1 Participation loans.

* * * * *

(b) *Loans on real estate located outside normal lending territory*—(1) *General.* Subject to the provisions of this section, any insured institution, to the extent it has legal power to do so, may purchase from any other approved lender a participation interest in any loan secured by a first lien upon real estate located outside its normal lending territory, and may participate with any other approved lender or lenders in the making of any such loan, if such loan is in one of the following three categories:

(i) The loan is an insured loan or a guaranteed loan;

(ii) (*a*) The loan is secured by property located (*1*) within the normal lending territory of another insured institution servicing such loan or (*2*) within 100 miles of the principal or a branch office of any other approved lender (or wholly owned subsidiary thereof) servicing such loan; and (*b*) at the close of the participation transaction, such servicer or any approved lender holding all of the stock of such servicer has an interest in such loan of at least—

(*1*) 10 percent, if the loan is secured by residential real estate; or

(*2*) 50 percent, if the loan is secured by real estate other than residential real estate; or

(iii) (*a*) The loan was originally made or purchased by an insured institution under the provisions of paragraph (a)(4) of § 563.9 and is being serviced in accordance therewith; and (*b*) at the close of the participation transaction, such insured institution has an interest in such loan of at least—

(*1*) 10 percent, if the loan is secured by residential real estate; or

(*2*) 50 percent, if the loan is secured by real estate other than residential real estate.

(*2*) *Scheduled items limitation.* (i) No insured institution may, pursuant to either subdivision (ii) or (iii) of subparagraph (1) of this paragraph, purchase a participation interest from, or enter into a participation with, any insured institution which had, at the close of its immediately preceding semiannual period, scheduled items (other than assets acquired in a merger instituted for supervisory reasons) in excess of 4 percent of its specified assets, unless the prior written approval of the Corporation has been obtained as provided in subdivision (ii) of this subparagraph.

(ii) An insured institution having scheduled items in excess of 4 percent of its specified assets may request Corporation approval for other insured institutions to purchase from it participation interests in loans and to participate with it in the making of loans pursuant to subparagraph (1) of this paragraph. Any such request by the institution for Corporation approval shall be transmitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, with a copy thereof to the Supervisory Agent.

(3) *Requirements as to servicing and retainage.* An insured institution may maintain a participation interest in a loan, other than an insured loan or a guaranteed loan, only if the relevant servicing and retainage requirements contained in subdivisions (ii) and (iii) of subparagraph (1) of this paragraph continue to be met. In the event that such requirements cease to be met with respect to a loan in which an insured institution has a participation interest, such institution shall dispose of such participation interest within 90 days from the date that such requirements ceased to be met, unless it has, prior to the expiration of such 90-day period, obtained the written approval of the Corporation to maintain such investment for such longer period as the Corporation may provide.

* * * * *

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1728. Reorg. Plan No. 3 of 1947, 12 F.R. 4981. 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary.

[FR Doc.72–19632 Filed 11–14–72;8:51 am]

[No. 72–1324]

[12 CFR Parts 563, 571]

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Federal Insurance Reserve and Net Worth Requirements of Insured Institutions

NOVEMBER 9, 1972.

By Resolution No. 72–951, dated August 10, 1972, the Federal Home Loan Bank Board proposed to amend Parts 563 and 571 of the rules and regulations for Insurance of Accounts (12 CFR Parts 563, 571) for the purpose of revising the regulatory provisions regarding the Federal insurance reserve and net worth requirements of insured institutions.

Notice of such proposed rule making was published in the FEDERAL REGISTER on August 25, 1972 (37 F.R. 17216–17), with an invitation for interested persons to submit written comments thereon by September 29, 1972.

After consideration of all relevant material presented by interested persons or otherwise available, the Board decided to make certain changes in the provisions of the proposal as so published. Since several of such changes could have a substantial effect on some insured institutions, the Board has determined that it is advisable to withdraw such proposal and to publish notice of proposed rule making with respect to the revised proposal and receive additional comment by interested persons. Accordingly, it is hereby proposed to amend said Parts 563 and 571 as set forth below.

Interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, DC 20552, by December 1, 1972, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

1. It is proposed to amend Part 563 by revising §§ 563.11, 563.13, and 563.14 thereof to read as follows:

§ 563.11 Federal insurance reserve; establishment of and earmarking to.

(a) *Establishment of account.* Each insured institution shall set up a Federal insurance reserve account which shall be used solely for the purpose of absorbing losses. No insured institution may pay dividends or interest on savings accounts from its Federal insurance reserve account. Any insured State-chartered institution, by specific and appropriate corporate action, may permanently designate as part of its Federal insurance reserve account all of any reserve account which under the provisions of State law is established for the sole purpose of absorbing losses. Evidence of such action shall be filed promptly with the corporation.

(b) *Earmarking of net worth accounts.* Any insured institution, by specific and appropriate corporate action, and with the prior written approval of the corporation, may earmark as part of its Federal insurance reserve account (1) any portion of any other reserve account which, by such corporate action, is made subject to charges for losses only, or (2) any amount of pledged savings accounts, capital stock (where permitted by State law to be used for absorbing losses), capital surplus, contributed surplus, or retained earnings. Such corporation approval may set forth the conditions under which such earmarked amounts may be released.

(c) *Reserves of Federal associations.* The general reserves of Federal savings and loan associations are deemed to meet the requirements of paragraph (a) of this section.

(d) *Adjustment for negative net worth account balances.* In determining the amount of the Federal insurance reserve account, any net negative balance in the aggregate of all other net worth accounts shall be deducted from the Federal insurance reserve account.

§ 563.13 Required amounts and maintenance of Federal insurance reserve and net worth.

(a) *Federal insurance reserve requirements*—(1) *Minimum required amounts.* After the fiscal year in which a certificate of insurance is issued, each insured institution shall build up its Federal insurance reserve account so that, as of the close of business on the annual closing date following each anniversary of the date of insurance of accounts, such account shall be at least equal to the amount obtained by multiplying the percentage corresponding to such anniversary date, as set forth in the table below, by either (i) the amount of the institution's savings account balance on such closing date, or (ii) the average of the savings account balance on such closing date and on one or more of the 4 immediately preceding annual closing dates, provided all such dates are consecutive. In any event, unless otherwise permitted in writing by the corporation, each insured institution shall build up its Federal insurance reserve account so that, at any one annual closing date prior to the twenty-sixth anniversary of its insurance of accounts, such account shall be at least equal to 5 percent of the institution's savings account balance on such closing date.

Anniversary	*Percentage*
2	0.50
3	0.75
4	1.00
5	1.25
6	1.50
7	1.75
8	2.00
9	2.25
10	2.50
11	2.75
12	3.00
13	3.25
14	3.50
15	3.75
16	4.00
17	4.25
18	4.50
19	4.75
20 and thereafter	5.00

(2) *Maintenance of minimum level.* Each insured institution must maintain in its Federal insurance reserve account (until the next annual closing date) at least the dollar amount required at any annual closing date under the provisions of the first sentence of subparagraph (1) of this paragraph.

(b) *Net worth requirements*—(1) *Minimum required amounts.* After the fiscal year in which a certificate of insurance is issued, each insured institution shall build up its net worth so that, as of the close of business on the annual closing date following each anniversary of the date of insurance of accounts, such net worth shall be at least equal to the greater of (i) the applicable Federal insurance reserve account requirement plus an amount equal to 20 percent of the institution's scheduled items, or (ii) the amount determined under the Asset Composition and Net Worth Index set forth in subparagraph (2) of this paragraph, as adjusted by multiplying such amount by a fraction of which the numerator is the applicable Federal insurance reserve percentage (from the table set forth in paragraph (a)(1) of this section) and the denominator is 5.00.

(2) *Asset Composition and Net Worth Index.* (i) The Asset Composition and Net Worth Index referred to in subparagraph (1) of this paragraph shall be as follows:

ASSET COMPOSITION AND NET WORTH INDEX

Asset Category	*Minimum Net Worth Percentage*
First mortgage loans and contracts:	
Insured or guaranteed mortgage loans	2
Mortgage loans, participations, and mortgage-backed certificates insured or guaranteed by an agency or instrumentality of the United States	2
Conventional mortgage loans	
Single-family dwellings	3
Homes—2–4 dwelling units	5
Multifamily—more than four dwelling units	6
Other improved real estate—commercial and industrial	7
Developed building lots and sites	6
Acquisition and development of land	8
Undeveloped land	8
Nonconforming mortgage loans and contracts to facilitate sale of real estate owned	8
Other loans:	
Property improvement, alteration, or repair	
Insured or guaranteed loans	3
Other than insured or guaranteed loans	5
Educational loans	
Insured or guaranteed loans	2
Other than insured or guaranteed loans	6
Mobile home chattel paper	6
Insured or guaranteed	3
Other than insured or guaranteed	6
Equipping and consumer loans	6
Real estate:	
Foreclosed and in judgment	10
Held for development or investment	7
Office premises—	
Land and buildings	3
Leasehold and leasehold improvements	3
Fixtures	3
Investment securities—Non-liquid:	
Securities other than those that qualify as liquid assets under § 523.10(g) or would so qualify except for maturity	3
Other assets:	
Furniture and equipment	10
Investment in service corporations and other subsidiaries	5
All other (except excluded assets)	3

(ii) The following rules shall apply in making determinations under such Index.

(*a*) Before a minimum net worth percentage is applied to an asset item, the amount of such asset item may be reduced by the amount of (*1*) any applicable allowance or reserve for depreciation, valuation allowance or reserve, specific reserve, or loss reserve, and (*2*) any applicable loans-in-process.

(*b*) The following are "excluded assets" and shall not be included in any asset category under such Index:

(*1*) Cash on hand and demand deposits in banks;

(*2*) Loans on the security of savings accounts;

(*3*) Prepaid FSLIC insurance premiums and secondary reserve prepayments;

(*4*) Securities that qualify as liquid assets under § 523.10(g) of this chapter or would so qualify except for maturity;

(*5*) Time deposits that qualify as liquid assets under § 523.10(g) of this chapter;

(*6*) Stock of a Federal Home Loan Bank or the Federal National Mortgage Association; and

(*7*) Prepaid expenses.

(*c*) Deferred income (in any form) may not be deducted from any asset item.

(3) *Maintenance of minimum level.* Each insured institution must maintain (until the next annual closing date) at least the dollar amount of net worth required at any annual closing date under the provisions of subparagraph (1) of this paragraph.

(c) *Failure to meet Federal insurance reserve or net worth requirements.* If any insured institution fails to meet the Federal insurance reserve requirements set forth in paragraph (a) of this section or the net worth requirements set forth in paragraph (b) of this section, the corporation may, whether through enforcement proceedings (as provided in parts 565 and 566 of this subchapter) or otherwise, require such institution to take any one or more of the following corrective actions:

(1) Increase the amount of its Federal insurance reserve account and/or net worth to a specified level or levels;

(2) Convene a meeting or meetings of its board of directors with the Director, Office of Examinations and Supervision, or his designee, for the purpose of accomplishing the objectives of this section;

(3) Reduce the rate of earnings that may be paid on savings accounts;

(4) Limit the receipt of savings to deposits to existing savings accounts;

(5) Cease or limit the issuance of new savings accounts of any or all classes or categories, except in exchange for existing savings accounts;

(6) Cease or limit lending or the making of a particular type or category of loan;

(7) Cease or limit the purchase of loans or the making of specified other investments;

(8) Limit operational expenditures to specified levels;

(9) Increase liquid assets and maintain such increased liquidity as specified levels; or

(10) Take such other action or actions as the corporation may deem necessary

companies; deferred income taxes, Docket No. R–446.

this notice in the FEDERAL REGISTER will be considered. All written comments re-

more than nonwillful or a mere inadvertence. The Committee may act on a

indebtedness provided the requirements of paragraph (a) of this section are met.

(1) Fraud or misrepresentation of a material fact (see § 13.207(b)).

(2) Material fault: The inexcusable

(10) Take such other action or actions as the corporation may deem necessary or appropriate for the protection of the corporation, the insured institution, or depositors or investors in the insured institution.

§ 563.14 Payment of dividends and interest where losses are chargeable to the FIR.

No insured institution which has recognized losses chargeable to its Federal insurance reserve account may declare any dividends or pay any interest on savings accounts unless the amount standing to the credit of such account, after deduction of all such losses, is equal to at least the amount required under § 563.13. However, for any period when recognized losses are chargeable to such reserve and the amount remaining to the credit of such account after deduction of all such losses is less than the amount required under § 563.13, the declaration of such dividends or the payment of such interest on savings may be made if prior written approval is obtained from the corporation. The corporation hereby approves, for any such insured institution which has been insured for a period of 20 years or more and whose Federal insurance reserve account, prior to the charging of such losses, equalled at least 5 percent of all savings accounts, the declaration of dividends or the payment of interest on savings accounts, if such insured institution provides for the transfer to its Federal insurance reserve account of not less than 25 percent of its net income (as defined in § 572.3 of this subchapter) for such distribution period.

§ 571.3 [Rescinded]

2. It is proposed to amend Part 571 by rescinding § 571.3 thereof.

(Secs. 402, 403, Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 F.R 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary.

[FR Doc.72–19658 Filed 11–14–72;8:53 am]

FEDERAL POWER COMMISSION

[18 CFR Parts 101, 104, 141, 201, 204, 260]

[Dockets Nos. R–424, R–446]

UNIFORM SYSTEM OF ACCOUNTS AND CERTAIN FORMS

Notice of Postponement of Conference

NOVEMBER 10, 1972.

Accounting for premium, discount, and expense of issue, gains and losses on refunding and reacquisition of long-term debt, and interperiod allocation of income taxes, Docket No. R–424; amendments to the Uniform Systems of Accounts for Classes A, B, and C public utilities and licenses and natural gas companies; deferred income taxes, Docket No. R–446.

On November 8, 1972, the Independent Natural Gas Association of America filed a request for a postponement of the conference scheduled for November 22, 1972, by notice issued November 3, 1972 (37 F.R. 23733, November 8, 1972).

Upon consideration, notice is hereby given that the conference in the above-designated matter is postponed to December 5, 1972, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426.[1]

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–19607 Filed 11–14–72;8:49 am]

VETERANS ADMINISTRATION

[38 CFR Part 13]

RECOVERY OF PAYMENT OF INDEBTEDNESS[1]

Single Standard for Waiver

Public Law 92–328 (86 Stat. 393), enacted June 30, 1972, amends sections 1820 and 3102, title 38, United States Code, to provide a single and a more equitable standard in lieu of dual sets of standards, under which the Administrator of Veterans Affairs may waive collection of certain debts.

The law extends the term "overpayment" to the indebtedness of a veteran-transferee and a veteran-purchaser of a vendee account; it permits waiver of certain debts or overpyaments heretofore excluded; and increases the time limitation to 2 years for application for waiver in other than loan program. Sections 13.207 and 13.208 are amended accordingly.

Sections 13.208 and 13.209 reflect the single standard for waiver and § 13.210 prescribes the application of the standard and elements to be considered. Also, § 13.209 authorizes the right to request waiver in the loan program not only to a veteran-borrower, but also to a veteran-transferee, a veteran-purchaser of a vendee account, and to a former spouse of a veteran. Other nonveteran obligors are excluded from waiver consideration.

The law makes no provision for (a) initiating a new claim for waiver or, (b) a waiver request by a veteran other than one so defined in sections 101 and 1801 of 38 U.S.C. This excludes a request for waiver made by a serviceman.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (232H), Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420. All relevant material received not later than 30 days after publication of this notice in the FEDERAL REGISTER will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays), during the mentioned 30-day period and for 10 days thereafter. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Assistance Unit in Room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Notice is also given that it is proposed to make any regulations that are adopted effective June 30, 1972, date of enactment of Public Law 92–328.

1. Section 13.205 is revised to read as follows:

§ 13.205 Legal and technical assistance.

Legal questions involving a determination under § 2.6(f)(4) of this chapter will be referred to the Chief Attorney for action in accordance with delegations of the General Counsel, unless there is in existence a General Counsel's opinion or an approved Chief Attorney's opinion dispositive of the controlling legal principle. As to matters not controlled by § 2.6(f)(4) of this chapter, the chairman of the field station Committee or at his instance, a member, may seek and obtain advice from the Chief Attorney on legal matters within his jurisdiction and from other division chiefs in their areas of responsibility, on any matter properly before the Committee. Guidance may also be requested from Central Office Board.

2. Section 13.207 is revised to read as follows:

§ 13.207 Waiver of overpayments.

The term "overpayment" means payments made and determined to be erroneous, indebtedness resulting from services erroneously furnished, and indebtedness of a veteran-borrower or veteran-transferee under the loan guaranty program or the indebtedness of his spouse, under laws administered by the Veterans Administration.

(a) Benefits subject to waiver include indebtedness due the Veterans Administration because of or in connection with hospitalization, domiciliary care, or treatment of a veteran, a person who claimed he was a veteran, or a person to whom such benefits were granted on the assumption that he was an eligible veteran.

(b) In any case where there is an indication of fraud or misrepresentation of a material fact on the part of the debtor or any other party having an interest in the claim, action on a request for waiver will be deferred pending appropriate disposition of the matter. However, the existence of a prima facie case of fraud shall, nevertheless, entitle a claimant to an opportunity to make a rebuttal with countervailing evidence; similarly, the misrepresentation must be

[1] Notice of proposed rule making in Docket No. R–424 was published at 36 F.R. 16069, Aug. 19, 1971, and in Docket No. R–446 at 37 F.R 13805, July 14, 1972.

more than nonwillful or a mere inadvertence. The Committee may act on a request for waiver concerning such debts, after the Chief Attorney has determined that prosecution is not indicated, or the Department of Justice has notified the Veterans Administration that the alleged fraud or misrepresentation does not warrant action by that department, or the Department of Justice or the appropriate U.S. Attorney specifically authorized action on the request for waiver.

3. In § 13.208, paragraphs (a) and (b) are amended to read as follows:

§ 13.208 Waiver; other than loan guaranty.

(a) *General.* Recovery of overpayments of any benefits made under laws administered by the Veterans Administration shall be waived if recovery of the indebtedness from the payee who received such benefits would be against equity and good conscience.

(b) *Application.* Request for waiver of an overpayment will be considered only if received within 2 years following the date of notice to the payee.

* * * * *

4. In § 13.209, paragraphs (a), (c), and (e) are amended and paragraph (f) is added so that the amended and added material reads as follows:

§ 13.209 Waiver; loan guaranty.

(a) *General.* An indebtedness of a veteran or the indebtedness of his spouse may be waived only when both of the following factors are determined to exist:

(1) Following default there was a loss of the property which constituted security for the loan guaranteed, insured or made under chapter 37 of title 38, United States Code; and

(2) Collection of such indebtedness would be against equity and good conscience.

* * * * *

(c) *Widow or former spouse.* A widow of a veteran or the former spouse of a veteran may be granted a waiver of her indebtedness provided the requirements of paragraph (a) of this section are met.

* * * * *

(e) *Application.* There is no time limit for filing an application for waiver of indebtedness under this section.

(f) *Exclusion.* Except as otherwise provided in this section, the indebtedness of a nonveteran obligor under the loan program is excluded from waiver.

5. Section 13.210 is revised to read as follows:

§ 13.210 Application of standard.

(a) The standard "Equity and Good Conscience," will be applied when the facts and circumstances in a particular case indicate a need for reasonableness and moderation in the exercise of the Government's rights. The decision reached should not be unduly favorable or adverse to either side. The phrase "equity and good conscience" means arriving at a fair decision between the obligor and the Government. In making this determination, consideration will be given to the following elements, which are not intended to be all inclusive:

(1) Fault of debtor: Where actions of the debtor contribute to creation of the debt.

(2) Balancing of faults: Weighing fault of debtor against Veterans Administration fault.

(3) Undue hardship: Whether collection would deprive debtor or family of basic necessities.

(4) Defeat the purpose: Whether withholding of benefits or recovery would nullify the objective for which benefits were intended.

(5) Unjust enrichment: Failure to make restitution would result in unfair gain to the debtor.

(6) Changing position to one's detriment: Reliance on Veterans Administration benefits results in relinquishment of a valuable right or incurrence of a legal obligation.

(b) In applying this single standard for all areas of indebtedness, the following elements will be considered, anyone of which, if found, will preclude the granting of waiver:

(1) Fraud or misrepresentation of a material fact (see § 13.207(b)).

(2) Material fault: The inexcusable commission or omission of an act that directly results in the creation of a debt to the Government.

(3) Lack of good faith: Absence of an honest intention to abstain from taking unfair advantage of the holder and/or the Government.

§ 13.211 [Revoked]

6. Section 13.211 *Standards for waiver; loan guaranty* is revoked.

7. In § 13.212, paragraph (b)(2)(i) is amended to read as follows:

§ 13.212 Scope of waiver decisions.

* * * * *

(b) A field station committee or Central Office Board may:

* * * * *

(2) Waive or decline to waive recovery from specific benefits or sources, except that:

(i) There shall be no waiver of recovery out of insurance of an indebtedness secured thereby; i.e., an insurance overpayment to an insured. However, recovery may be waived of any or all of such indebtedness out of benefits other than insurance then or thereafter payable to the insured.

* * * * *

8. In § 13.213, paragraph (c) is amended to read as follows:

§ 13.213 Refunds.

* * * * *

(c) Amounts which have been recovered by the U.S. Government prior to the date of receipt by the Veterans Administration of a request for waiver, will not be refunded and will be excluded from waiver.

Approved: November 9, 1972.

By direction of the Administrator.

[SEAL] RUFUS H. WILSON,
Associate Deputy Administrator.

[FR Doc.72–19630 Filed 11–14–72;8:51 am]

Notices

DEPARTMENT OF COMMERCE

Dated: November 13, 1972.

By Order of the Maritime Subsidy

one with respect to vessels to be operated in an essential service, served by citizens of the U.S. which would be in addition

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FEDERAL REGISTER, VOL. 37, NO. 221—WEDNESDAY, NOVEMBER 15, 1972

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Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

IMPRESSION FABRIC OF MAN-MADE FIBER FROM JAPAN

Withholding of Appraisement Notice

OCTOBER 17, 1972.

Information was received on January 5, 1972, that impression fabric of man-made fiber from Japan was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of February 24, 1972, on page 3922. The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), notice is hereby given that there are reasonable grounds to believe or suspect that the purchase price (section 203 of the Act; 19 U.S.C. 162) of impression fabric of man-made fiber from Japan is less, or is likely to be less, than the foreign market value (section 205 of the Act; 19 U.S.C. 164).

Statement of reasons. The information before the Bureau of Customs tends to indicate that the probable basis of comparison for fair value purposes will be between purchase price and the adjusted home market price of such or similar merchandise.

Purchase price will probably be calculated on the basis of a c.i.f., f.o.b., or ex-warehouse price, as applicable, with deductions made, where applicable, for ocean freight, marine insurance, inspection charges, and inland freight in Japan.

Home market price will probably be based on a weighted-average delivered price to purchasers in the home market. Where applicable, deductions will be made for inland freight. Adjustments will probably be made, where applicable, for differences in packing, credit costs, and for differences in the merchandise.

Using the above criteria, there are reasonable grounds to believe or suspect that purchase price will be lower than adjusted home market price.

Customs officers are being directed to withhold appraisement of impression fabric of man-made fiber from Japan in accordance with § 153.48, Customs Regulations (19 CFR 153.48).

In accordance with § 153.32(b) and 153.37, Customs Regulations (19 CFR 153.32(b), 153.37), interested parties may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, DC 20226, in time to be received by his office not later than 10 calendar days from the date of publication of this notice in the FEDERAL REGISTER.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

This notice, which is published pursuant to § 153.34(b), Customs Regulations shall become effective upon publication in the FEDERAL REGISTER. It shall cease to be effective at the expiration of 6 months from the date of this publication, unless previously revoked.

[SEAL] LEONARD LEHMAN,
Acting Commissioner of Customs.

Approved: November 10, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-19708 Filed 11-14-72;8:53 am]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[DES 72-112]

PROPOSED ALLAMUCHY MOUNTAIN STATE PARK ACQUISITION PROJECT

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the proposed Allamuchy Mountain State Park Acquisition Project and invites written comment within forty-five (45) days of this notice.

The environmental statement considers the acquisition of approximately 3,604.6 acres in a rural, mountainous area of northwestern New Jersey, containing portions lying in Warren, Sussex, and Morris Counties. The land acquired will be added to other State-owned lands in Allamuchy Mountain State Park serving the New Jersey-New York metropolitan area.

Copies are available for inspection at the following locations:

Office of Communications, Room 7200, Department of the Interior, Washington, D.C. 20240, Telephone: 202—343-4662.
Division of Information, Bureau of Outdoor Recreation, Room 4022, Department of the Interior, Washington, D.C. 20240, Telephone: 202-343-5726.
Division of State and Regional Planning, Department of Community Affairs, Post Office Box 1978, Trenton, NJ 08625.
Tri-State Regional Planning Commission, 100 Church Street, New York, N.Y. 10007.
Office of the Regional Director, Bureau of Outdoor Recreation, 1421 Cherry Street, Philadelphia, PA 19102, Telephone: 215—597-7989.

Copies may be obtained by writing the National Technical Information Service, Department of Commerce, Springfield, Va. 22151. Please refer to the statement number above.

Dated: November 6, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-19588 Filed 11-14-72;8:48 am]

[DES 72-113]

PROPOSED ROADS AND UTILITIES, WILLOW CREEK RECREATION SITE, HERON RESERVOIR, N. MEX.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the proposed construction of Roads and Utilities, Willow Creek Recreation Site, Heron Reservoir, N. Mex., and invites written comment within forty-five (45) days of this notice. Written comment should be addressed to the Director, Southwest Region at the address given below.

The environmental statement discusses the effects of developments consisting of an entrance road and car/boat trailer parking area, residential road, complete water system, underground powerlines, comfort station, and sewage system.

Copies are available for inspection at the Office of the Director, Southwest Region, 1100 Old Sante Fe Trail, Santa Fe, NM 87501. Single copies may be obtained by writing to the same official, Post Office Box 728, Santa Fa, NM 87501.

Dated: November 6, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-19589 Filed 11-14-72;8:48 am]

DEPARTMENT OF COMMERCE

Maritime Administration

U.S.-FLAG BULK CARGO VESSELS

Adoption of Standard Operating-Differential Subsidy Contract for Carrying Bulk Raw and Processed Agricultural Commodities From U.S. to U.S.S.R.

Notice is hereby given that the Maritime Subsidy Board/Maritime Administration has adopted a standard contract under which operating-differential subsidy will be paid for U.S.-flag bulk cargo vessels engaged in carrying bulk raw and processed agricultural commodities from the United States to the Union of Soviet Socialist Republics.

Copies of the contract may be obtained, without charge, from the Secretary, Maritime Subsidy Board, Maritime Administration, Washington, DC. 20235.

Dated: November 13, 1972.

By Order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.72-19764 Filed 11-14-72;8:53 am]

[Docket No. S-308]

MATHIASEN'S TANKER INDUSTRIES, INC. ET AL.

Notice of Multiple Applications

Notice is hereby given that the following corporations have filed application for an operating-differential subsidy contract to carry bulk cargoes to expire on June 30, 1973 (unless extended only for subsidized voyages in progress on that date). The bulk cargo carrying vessels proposed to be subsidized and the trades in which each proposes to engage are presented also.

Applicant's name and address	Type of ship	Name of ship
Mathiasen's Tanker Industries, Inc., Public Ledger Building, Philadelphia, Pa. 19106.	Tanker	SS Prarie Grove.
	do	SS Joseph D. Potts.
	do	SS Sohio Intrepid.
	do	SS Sohio Resolute.
Freighters, Inc., 111 Sutter Street, Suite 1412, San Francisco, CA 94104.	Bulk carrier	SS American Wheat.
American Rice Steamship Co., 111 Sutter Street, Suite 1412, San Francisco, CA 94104.	do	SS American Rice.
Texas City Tankers Corp., Post Office Box 1271, Texas City, TX 77590.	Tanker	SS William J. Fields.
Intercontinental Bulktank Corp., 511 Fifth Avenue, New York, NY 10017.	do	ST Overseas Alaska.
Ocean Tankships Corp., 511 Fifth Avenu, New York, NY 10017	do	ST Overseas Vivian.
Overseas Bulktank Corp., 511 Fifth Avenue, New York, NY 10017.	do	ST Oversea Arctic.

The foregoing applications may be inspected in the Office of the Secretary, Maritime Subsidy Board, Maritime Administration, U.S. Department of Commerce, Washington, D.C., during regular working hours.

These vessels are to engage in the carriage of export bulk raw and processed agricultural commodities in the foreign commerce of the United States (U.S.) from ports in the U.S. to ports in the Union of Soviet Socialist Republics (U.S.S.R.), or other permissible ports of discharge. Liquid and dry bulk cargoes may be carried from U.S.S.R. and other foreign ports inbound to U.S. ports during voyages subsidized for carriage of export bulk raw and processed agricultural commodities to the U.S.S.R.

Full details concerning the U.S.-U.S.S.R. export bulk raw and processed agricultural commodities subsidy program, including terms, conditions, and restrictions, upon both the subsidized operators and vessels, appear in the regulations published in the FEDERAL REGISTER on October 21, 1972 (37 F.R. 22747).

For purposes of section 605(c), Merchant Marine Act, 1936, as amended (Act), it should be assumed that each vessel named will engage in the trades described on a full-time basis through June 30, 1973 (with extension to termination of approved subsidized voyages in progress on that date). Each voyage must be approved for subsidy before commencement of the voyage. The Maritime Subsidy Board (Board) will act on each request for a subsidized voyage as an administrative matter under the terms of the individual operating-differential subsidy contract for which there is no requirement for further notices under section 605(c) of the Act.

Any person having an interest in the granting of one or any of such applications and who would contest a finding of the Board that the service now provided by vessels of U.S. registry for the carriage of cargoes as previously specified is inadequate, must, on or before November 22, 1972, notify the Board's Secretary, in writing, of his interest and of his position, and file a petition for leave to intervene in accordance with the Board's rules of practice and procedure (46 CFR Part 201). Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Act and with as much specificity as possible the facts that the intervenor would undertake to prove at such hearing. Further, each such statement shall identify the applicant or applicants against which the intervention is lodged.

In the event a hearing under section 605(c) of the Act is ordered to be held with respect to any application(s), the purpose of such hearing will be to receive evidence relevant to: (1) Whether the application(s) hereinabove described is one with respect to vessels to be operated in an essential service, served by citizens of the U.S. which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of U.S. registry is inadequate and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such action as may be deemed appropriate.

Dated: November 13, 1972.

By Order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.72-19766 Filed 11-14-72;8:53 am]

[Docket No. S-309]

OVERSEAS BULKTANK CORP. ET AL.

Notice of Multiple Applications

Notice is hereby given that applications have been filed under the Merchant Marine Act of 1936, as amended, for operating-differential subsidy with respect to bulk cargo carrying service in the U.S. foreign trade, principally between the United States and the Union of Soviet Socialist Republics, to expire on June 30, 1973 (unless extended only for subsidized voyages in progress on that date). Inasmuch as the below listed applicants and/or related persons or firms, employ ships in the domestic, intercoastal, or coastwise service, written permission of the Maritime Administration under section 805(a) of the Merchant Marine Act, 1936, as amended, will be required for each such applicant if its application for operating-differential subsidy is granted.

The following applicants have requested permission involving the domestic, intercoastal, or coastwise services described below:

Name of Applicants:

Overseas Bulktank Corp. (Bulktank), Intercontinental Bulktank Corp. (Intercontinental), Ocean Tankships Corp. (Tankships).

Description of domestic service and vessels: The applicants, Bulktank, Intercontinental, and Tankships, are subsidiaries of Overseas Shipholding Group, Inc. (Shipholding), whose subsidiaries have engaged in domestic coastwise, intercoastal, and noncontiguous petroleum trades with tanker vessels, and each applicant has requested written permission to continue such operations. The following tanker vessels are owned by the applicants and other subsidiaries of Shipholding:

Ship *Owner*

Office of the Secretary

equipment, techniques, and computer

DEPARTMENT OF HEALTH,

party in any hearing. Any person who

30 days, a written notice of the time and

Ship	Owner
Overseas Alaska	Intercontinental.
Overseas Alice	Do.
Overseas Aleutian	Ocean Transportation Co., Inc.
Overseas Ulla	Do.
Overseas Arctic	Bulktank.
Overseas Valdez	Do.
Overseas Joyce	Overseas Oil Carriers, Inc.
Overseas Anchorage	Globe Seaways, Inc.
Overseas Vivian	Tankships.
Alpha Reserve	Sea Tankers, Inc.
Beta Reserve	Do.
Gamma Reserve	Do.

Written permission is now required by the applicants (Bulktank, Intercontinental, and Tankships) notwithstanding that a voyage in the proposed service for which subsidy is sought would not be eligible for subsidy if the vessel carried domestic commerce of the United States on that voyage.

Interested parties may inspect these applications in the Office of The Secretary, Maritime Subsidy Board, Maritime Administration, Department of Commerce Building, 14th and E Streets NW., Washington, DC 20235.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in any application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit comments or views concerning the application must, by close of business on November 22, 1972, file same with the Maritime Subsidy Board/Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board/Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled for 10 a.m., November 24, 1972, in room 4896, Department of Commerce Building, 14th and E Streets NW., Washington, DC 20235. The purpose of the hearing will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal services, or (b) would be prejudicial to the objects and policy of the act.

By order of the Maritime Subsidy Board/Maritime Administration.

Dated: November 13, 1972.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.72-19765 Filed 11-14-72;8:53 am]

Office of the Secretary

[Dept. Organization Order 30-2B, Amdt. 1]

NATIONAL BUREAU OF STANDARDS

Organizations and Functions

This order effective November 2, 1972, amends the material appearing at 37 F.R. 14423 of July 20, 1972.

Department Organization Order 30-2B, dated June 12, 1972, is hereby amended as follows:

1. In section 4. *Staff Units Reporting to the Director*, new paragraphs .03 and .04 are added to read:

.03 The "Office of Public Affairs" shall serve as the public information office of the Bureau, acting as the official point of contact and coordinating office for all activities relating to the general and trade press and other media, and providing direction for the activities of the Bureau that relate to public affairs such as press releases, brochures and other written materials, radio and television materials, photography, exhibits, tours, and related activities.

.04 The "Office of Engineering and Information Processing Standards" shall implement Bureau and departmental policy concerning voluntary standardization activities; serve as the focal point for the Bureau's participation in voluntary standards programs; serve as the liaison office with private, national, and international standards organizations; and provide staff guidance and direction to Bureau management on matters relating to voluntary standardization.

2. A new section 6 is added to read as follows:

SEC. 6. *Office of Experimental Technology Incentives Program.* The Office of Experimental Technology Incentives Program shall investigate the effectiveness of various incentives and mechanisms to stimulate increased development and use of technology by industry. These investigations shall be designed to provide an experimental basis for the formulation of Government policy in this area.

3. Old sections 6 through 12 are renumbered 7 through 13, respectively.

4. The title of section 9, and paragraphs .01, .02, and .03 of the section, are revised to read:

SEC. 9. *Institute for Computer Sciences and Technology.*

.01 The "Institute for Computer Sciences and Technology" shall conduct research and provide technical services designed to aid Government agencies in improving cost effectiveness in the conduct of their programs through the selection, acquisition, and effective utilization of automatic data processing equipment (Public Law 89-306); and serve as the principal focus within the executive branch for the development of Federal standards for automatic data processing equipment, techniques, and computer languages.

.02 The "Director" shall direct the development, execution, and evaluation of the programs of the Institute.

.03 The functions of the organizational units of the Institute are as follows:

5. In section 12. *Institute for Applied Technology*, paragraph .03 is revised to read:

.03 The "Engineering and Product Standards Division" shall provide guidance to the engineering and product standards programs conducted in the Institute for Applied Technology, serve as the NBS point of contact on matters pertaining to the metric system of measurement, provide a library and reference service on engineering and product standards, and conduct the Department of Commerce Voluntary Product Standards Program.

6. The organization chart of June 12, 1972, is superseded by the organization chart attached to this amendment. A copy of the organization chart is on file with the original of this document in the Office of the Federal Register.

Effective date: November 2, 1972.

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary for Administration.

[FR Doc.72-19580 Filed 11-14-72;8:47 am]

[Dept. Organization Order 25-5B, Amdt. 4]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Organizations and Functions

This order effective November 1, 1972, further amends the material appearing at 37 F.R. 6411 of March 19, 1972, 37 F.R. 14421 of July 20, 1972, 37 F.R. 19390 of September 20, 1972, and 37 F.R. 21863 of October 14, 1972.

Department Organization Order 25-5B, effective March 10, 1972, is hereby further amended as follows:

Section 8 is amended to read:

SEC. 8. *Office of Sea Grant.* The Office of Sea Grant shall provide grant support, primarily to institutions, for research, education, and advisory services aimed at assisting those who are interested in and responsible for the development, utilization, and management of the seas and the Great Lakes of the United States, including their resources; and shall manage NOAA's Marine Advisory Services to the user community.

Effective date: November 1, 1972.

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary for Administration.

[FR Doc.72-19579 Filed 11-14-72;8:47 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 5743; Docket No. FDC-D-529; NDA 5-743]

AYERST LABORATORIES

Sodium Fluoride, Ascorbic Acid, and Ergocalciferol Lozenge; Notice of Opportunity for Hearing on Proposal to Withdraw Approval of New Drug Application

In an announcement (DESI 5743) published in the FEDERAL REGISTER of July 26, 1972 (37 F.R. 14899), the Commissioner of Food and Drugs announced his conclusions pursuant to the evaluation of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group on Enziflur Lozenges containing sodium fluoride, ascorbic acid, and ergocalciferol; previously marketed by Ayerst Laboratories, 685 Third Avenue, New York, NY 10017 (NDA 5-743).

The announcement stated that there is a lack of substantial evidence that this drug will have the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling and that each component of the combination drug contributes to the total effects claimed, and that the Commissioner intended to initiate proceedings to withdraw approval of the new drug application. Interested persons were invited to submit any pertinent data bearing on the proposal within 30 days following publication of the announcement. No data have been received, and Ayerst has informed the Administration that marketing of the drug was discontinued in 1971.

Therefore, notice is given to the holder(s) of the new drug application(s) and to any other interested person that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the listed new drug application(s) and all amendments and supplements thereto on the grounds that new information before him with respect to the drug(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug(s) will have all the effects purported or represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application(s) reviewed. See 21 CFR 130.40 (37 F.R. 23185, October 31, 1972). Any manufacturer or distributor of such an identical, related, or similar product is an interested person who may in response to this notice submit data and information, request that the new drug application(s) not be withdrawn, request a hearing, and participate as a party in any hearing. Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD-300), 5600 Fishers Lane, Rockville, MD 20852.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner hereby gives the applicant(s) and any other interested person an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER the applicant(s) and any other interested person is required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether or not to avail himself of the opportunity for a hearing. Failure of an applicant or any other interested person to file a written appearance of election within said 30 days will constitute an election by him not to avail himself of the opportunity for a hearing.

If no person elects to avail himself of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the application(s).

If an applicant or any other interested person elects to avail himself of the opportunity for a hearing, he must file, within 30 days after publication of this notice in the FEDERAL REGISTER, a written appearance requesting the hearing, giving the reasons why approval of the new drug application(s) should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data he is prepared to prove in support of his opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing (21 CFR 130.14(b)).

If review of the data submitted by an applicant or any other interested person warrants the conclusion that there exists substantial evidence demonstrating the effectiveness of the product(s) for the labeling claims involved, the Commissioner will rescind this notice of opportunity for hearing.

If review of the data in the application(s) and data submitted by the applicant(s) or any other interested person in a request for a hearing, together with the reasoning and factual analysis in a request for a hearing, warrants the conclusion that no genuine and substantial issue of fact precludes the withdrawal of approval of the application(s), the Commissioner will enter an order of withdrawal making findings and conclusions on such data.

If, upon the request of the new drug applicant(s) or any other interested person, a hearing is justified, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence. All persons interested in identical, related, or similar products covered by the new drug application(s) will be afforded an opportunity to appear at the hearing, file briefs, present evidence, cross-examine witnesses, submit suggested findings of fact, and otherwise participate as a party. The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

Requests for a hearing and/or elections not to request a hearing may be seen in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-53, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: November 7, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-19566 Filed 11-14-72;8:46 am]

[DESI 6261; Docket No. FDC-D-524; NDA 6-257]

G. D. SEARLE AND CO.

Combination Containing Diphenhydramine, Aminophylline, and Racephedrine Hydrochloride for Oral Use; Notice of Opportunity for Hearing on Proposal to Withdraw Approval of New Drug Application

In an announcement (DESI 6261) published in the FEDERAL REGISTER of July 27, 1972 (37 F.R. 15031), the Commissioner of Food and Drugs announced his conclusions pursuant to the evaluation of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group on that part of NDA 6-257 pertaining to Hydrvllin with Racephedrine Tablets containing diphenhydramine, aminophylline, and racephedrine hydrochloride; G. D. Searle and Co., Post Office Box 5110, Chicago, Ill. 60680.

The announcement stated that there is a lack of substantial evidence that this fixed combination drug will have the effect that it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling and that each component of such drug contributes to the total effects claimed and that the Commissioner of Food and Drugs intended to initiate proceedings to withdraw approval of that part of the new drug application providing for that drug. Interested persons were invited to submit pertinent data bearing on the proposal within 30 days following publication of the announcement. No

data providing substantial evidence of effectiveness have been received.

ing the reasons why approval of the new drug application(s) should not be with-

[DESI 10296; Docket No. FDC-D-523; NDA 10-296]

wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administra-

place at which the hearing will commence. All persons interested in identical, related, or similar products covered by

ciated with pain or discomfort, and that each component of the combination contributes to the total effects claimed for

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data providing substantial evidence of effectiveness have been received.

Therefore, notice is given to the holder(s) of the new-drug application(s) and to any other interested person that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (e)) withdrawing approval of the application of part(s) of the listed new-drug application(s) and all amendments and supplements thereto on the grounds that new information before him with respect to the drug(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug(s) will have all the effects purported or represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

All identical, related, or similar products, not the subject of an approved new-drug application, are covered by the new-drug application(s) reviewed. See 21 CFR 130.40 (37 F.R. 23185, October 31, 1972). Any manufacturer or distributor of such an identical, related, or similar product is an interested person who may in response to this notice submit data and information, request that the new-drug application(s) not be withdrawn, request a hearing, and participate as a party in any hearing. Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD–300), 600 Fishers Lane, Rockville, MD 20852.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner hereby gives the applicant(s) and any other interested person an opportunity for a hearing to show why approval of said parts of the new-drug application(s) should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER the applicant(s) and any other interested person is required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852, a written appearance electing whether or not to avail himself of the opportunity for a hearing. Failure of an applicant or any other interested person to file a written appearance of election within said 30 days will constitute an election by him not to avail himself of the opportunity for a hearing.

If no person elects to avail himself of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of said parts of the application(s).

If an applicant or any other interested person elects to avail himself of the opportunity for a hearing, he must file, within 30 days after publication of this notice in the FEDERAL REGISTER, a written appearance requesting the hearing, giving the reasons why approval of the new-drug application(s) should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data he is prepared to prove in support of his opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing (21 CFR 130.14 (b)).

If review of the data submitted by an applicant or any other interested person warrants the conclusion that there exists substantial evidence demonstrating the effectiveness of the product(s) for the labeling claims involved, the Commissioner will rescind this notice of opportunity for hearing.

If review of the data in the application(s) and data submitted by the applicant(s) or any other interested person in a request for a hearing, together with the reasoning and factual analysis in a request for a hearing, warrants the conclusion that no genuine and substantial issue of fact precludes the withdrawal of approval of the application(s), the Commissioner will enter an order of withdrawal making findings and conclusions on such data.

If, upon the request of the new-drug applicant(s) or any other interested person, a hearing is justified, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence. All persons interested in identical, related, or similar products covered by the new-drug application(s) will be afforded an opportunity to appear at the hearing, file briefs, present evidence, cross-examine witnesses, submit suggested findings of fact, and otherwise participate as a party. The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

Requests for a hearing and/or elections not to request a hearing may be seen in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–53, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: November 7, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–19567 Filed 11–14–72;8:46 am]

[DESI 10296; Docket No. FDC–D–523; NDA 10–296]

ELI LILLY AND CO.

Combination Drug Containing Diethylstilbestrol, Methyltestosterone and Reserpine for Oral Use; Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New-Drug Application

In an announcement (DESI 10296) published in the FEDERAL REGISTER of July 27, 1972 (37 F.R. 15040), the Commissioner of Food and Drugs announced his conclusions pursuant to the evaluation of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug:

Tylandril Tablets containing diethylstilbestrol, methyltestosterone and reserpine; Eli Lilly and Co., Post Office Box 618, Indianapolis, IN 46206 (NDA 10–296).

The announcement stated that there is a lack of substantial evidence that this fixed-combination drug will have the effect that it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling, and that each ingredient of the drug contributes to the total effects claimed, and that the Commissioner of Food and Drugs intended to initiate proceedings to withdraw approval of the new-drug application. Interested persons were invited to submit pertinent data bearing on the proposal within 30 days following publication of the announcement. No data has been received.

Therefore, notice is given to the holder(s) of the new-drug application(s) and to any other interested person that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the listed new-drug application(s) and all amendments and supplements thereto on the grounds that new information before him with respect to the drug(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug(s) will have all the effects purported or represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

All identical, related, or similar products, not the subject of an approved new-drug application, are covered by the new-drug application(s) reviewed. See 21 CFR 130.40 (37 F.R. 23185, October 31, 1972). Any manufacturer or distributor of such an identical, related, or similar product is an interested person who may in response to this notice submit data and information, request that the new-drug application(s) not be withdrawn, request a hearing, and participate as a party in any hearing. Any person who

wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD–300), 5600 Fishers Lane, Rockville, MD 20852.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner hereby gives the applicant(s) and any other interested person an opportunity for a hearing to show why approval of the new-drug application(s) should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER the applicant(s) and any other interested person is required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852, a written appearance electing whether or not to avail himself of the opportunity for a hearing. Failure of an applicant or any other interested person to file a written appearance of election within said 30 days will constitute an election by him not to avail himself of the opportunity for a hearing.

If no person elects to avail himself of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the application(s).

If an applicant or any other interested person elects to avail himself of the opportunity for a hearing, he must file, within 30 days after publication of this notice in the FEDERAL REGISTER, a written appearance requesting the hearing, giving the reasons why approval of the new-drug application(s) should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data he is prepared to prove in support of his opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing (21 CFR 130.14 (b)).

If review of the data submitted by an applicant or any other interested person warrants the conclusion that there exists substantial evidence demonstrating the effectiveness of the product(s) for the labeling claims involved, the Commissioner will rescind this notice of opportunity for hearing.

If review of the data in the application(s) and data submitted by the applicant(s) or any other interested person in a request for a hearing, together with the reasoning and factual analysis in a request for a hearing, warrants the conclusion that no genuine and substantial issue of fact precludes the withdrawal of approval of the application(s), the Commissioner will enter an order of withdrawal making findings and conclusions on such data.

If, upon the request of the new-drug applicant(s) or any other interested person, a hearing is justified, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence. All persons interested in identical, related, or similar products covered by the new-drug application(s) will be afforded an opportunity to appear at the hearing, file briefs, present evidence, cross-examine witnesses, submit suggested findings of fact, and otherwise participate as a party. The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

Requests for a hearing and/or elections not to request a hearing may be seen in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–53, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: November 7, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–19571 Filed 11–14–72;8:46 am]

[DESI 12056; Docket No. FDC–D–519; NDA 12–056, etc.]

LEDERLE LABORATORIES; ROCHE LABORATORIES

Certain Sulfanomides With Phenazopyridine; Notice of Opportunity for Hearing on a Proposal To Withdraw Approval of New Drug Applications

In the FEDERAL REGISTER of April 26, 1972 (37 F.R. 8405), the Commissioner of Food and Drugs announced his conclusions (DESI 12056) pursuant to evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs:

1. Azo Gantanol Tablets containing sulfamethoxazole and phenazopyridine hydrochloride; Roche Laboratories, Division of Hoffmann-La Roche, Inc., 340 Kingsland Avenue, Nutley, NJ 17110 (NDA 13–294).

2. Azo Kynex Tablets containing sulfamethoxypyridazine and phenazopyridine hydrochloride; formerly marketed by Lederle Laboratories, Division of American Cyanamid Co., West Middletown Road, Pearl River, NY 10965 (NDA 12–056).

The announcement stated that there is a lack of substantial evidence, within the meaning of the Federal Food, Drug, and Cosmetic Act, that these fixed combination drugs will have the effects that they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling, including their recommended use in certain urinary tract infections associated with pain or discomfort, and that each component of the combination contributes to the total effects claimed for the drugs. It further stated that the Commissioner intended to initiate proceedings to withdraw approval of the new drug applications. Interested persons were invited to submit pertinent data within 30 days.

Lederle Laboratories has advised the Administration that marketing of Azo Kynex has been discontinued. Substantial evidence showing the effectiveness of either of these drugs has not been received.

Therefore, notice is given to the holder(s) of the new drug application(s) and to any other interested person that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the listed new drug application(s) and all amendments and supplements thereto on the grounds that new information before him with respect to the drug(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug(s) will have all the effects purported or represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application(s) reviewed. See 21 CFR 130.40 (37 F.R. 23185, October 31, 1972). Any manufacturer or distributor of such an identical, related, or similar product is an interested person who may in response to this notice submit data and information, request that the new drug application(s) not be withdrawn, request a hearing, and participate as a party in any hearing. Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD–300), 5600 Fishers Lane, Rockville, MD 20852.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner hereby gives the applicant(s) and any other interested person an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER the applicant(s) and any other interested person is required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852, a written appearance electing whether or not to avail himself of the opportunity for a hearing. Failure of an applicant or any other interested person to file a written appearance of election within said 30 days will constitute an election by him not to avail himself of the opportunity for a hearing.

If no person elects to avail himself of the opportunity for a hearing, the Commissioner without further notice will en-

ter a final order withdrawing approval of said parts of the application(s).

If an applicant or any other interested person elects to avail himself of the opportunity for a hearing, he must file, within 30 days after publication of this notice in the FEDERAL REGISTER, a written appearance requesting the hearing, giving the reasons why approval of the new-drug application(s) should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data he is prepared to prove in support of his opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing (21 CFR 130.14 (b)).

If review of the data submitted by an applicant or any other interested person warrants the conclusion that there exists substantial evidence demonstrating the effectiveness of the product(s) for the labeling claims involved, the Commissioner will rescind this notice of opportunity for hearing.

If review of the data in the application(s) and data submitted by the applicant(s) or any other interested person in a request for a hearing, together with the reasoning and factual analysis in a request for a hearing, warrants the conclusion that no genuine and substantial issue of fact precludes the withdrawal of approval of the application(s), the Commissioner will enter an order of withdrawal making findings and conclusions on such data.

If, upon the request of the new-drug applicant(s) or any other interested person, a hearing is justified, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence. All persons interested in identical, related, or similar products covered by the new-drug application(s) will be afforded an opportunity to appear at the hearing, file briefs, present evidence, cross-examine witnesses, submit suggested findings of fact, and otherwise participate as a party. The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

Requests for a hearing and/or elections not to request a hearing may be seen in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–53, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: November 7, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–19572 Filed 11–14–72;8:46 am]

son in a request for a hearing, together with the reasoning and factual analysis in a request for a hearing, warrants the conclusion that no genuine and substantial issue of fact precludes the withdrawal of approval of the application(s), the Commissioner will enter an order of withdrawal making findings and conclusions on such data.

If, upon the request of the new-drug applicant(s) or any other interested person, a hearing is justified, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence. All persons interested in identical, related, or similar products covered by the new-drug application(s) will be afforded an opportunity to appear at the hearing, file briefs, present evidence, cross-examine witnesses, submit suggested findings of fact, and otherwise participate as a party. The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

Requests for a hearing and/or elections not to request a hearing may be seen in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–53, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: November 7, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–19573 Filed 11–14–72;8:46 am]

panolamine hydrochloride, and glyceryl guaiacolate; previously marketed by Lederle Laboratories, Division of American Cyanamid Co., West Middletown Road, Pearl River, NY 10965 (NDA 12–056).

The announcement stated that there is a lack of substantial evidence, within the meaning of the Federal Food, Drug, and Cosmetic Act, that these fixed combination drugs will have the effects that they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling, including their recommended use in certain urinary tract infections associated with pain or discomfort, and that each component of the combination contributes to the total effects claimed for the drugs. It further stated that the Commissioner intended to initiate proceedings to withdraw approval of the new drug applications. Interested persons were invited to submit pertinent data within 30 days.

Lederle Laboratories has advised the Administration that marketing of Azo Kynex has been discontinued. Substantial evidence showing the effectiveness of either of these drugs has not been received.

Therefore, notice is given to the holder(s) of the new drug application(s) and to any other interested person that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the listed new drug application(s) and all amendments and supplements thereto on the grounds that new information before him with respect to the drug(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug(s) will have all the effects purported or represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application(s) reviewed. See 21 CFR 130.40 (37 F.R. 23185, October 31, 1972). Any manufacturer or distributor of such an identical, related, or similar product is an interested person who may in response to this notice submit data and information, request that the new drug application(s) not be withdrawn, request a hearing, and participate as a party in any hearing. Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD–300), 5600 Fishers Lane, Rockville, MD 20852.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner hereby gives the applicant(s) and any other interested person an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER the applicant(s) and any other interested person is required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852, a written appearance electing whether or not to avail himself of the opportunity for a hearing. Failure of an applicant or any other interested person to file a written appearance of election within said 30 days will constitute an election by him not to avail himself of the opportunity for a hearing.

If no person elects to avail himself of the opportunity for a hearing, the Commissioner without further notice will en-

ter a final order withdrawing approval of the application(s).

If an applicant or any other interested person elects to avail himself of the opportunity for a hearing, he must file, within 30 days after publication of this notice in the FEDERAL REGISTER, a written appearance requesting the hearing, giving the reasons why approval of the new drug application(s) should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data he is prepared to prove in support of his opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing (21 CFR 130.14 (b)).

If review of the data submitted by an applicant or any other interested person warrants the conclusion that there exists substantial evidence demonstrating the effectiveness of the product(s) for the labeling claims involved, the Commissioner will rescind this notice of opportunity for hearing.

If review of the data in the application(s) and data submitted by the applicant(s) or any other interested person in a request for a hearing, together with the reasoning and factual analysis in a request for a hearing, warrants the conclusion that no genuine and substantial issue of fact precludes the withdrawal of approval of the application(s), the Commissioner will enter an order of withdrawal making findings and conclusions on such data.

If, upon the request of the new drug applicant(s) or any other interested person, a hearing is justified, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence. All persons interested in identical, related, or similar products covered by the new drug application(s) will be afforded an opportunity to appear at the hearing, file briefs, present evidence, cross-examine witnesses submit suggested findings of fact, and otherwise participate as a party. The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

Requests for a hearing and/or elections not to request a hearing may be seen in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-53, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: November 7, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-19573 Filed 11-14-72;8:46 am]

[DESI 6363; Docket No. FDC-D-532; NDA 12-281 etc.]

METHOCARBAMOL WITH PHENACETIN, ASPIRIN, HYOSCYAMINE SULFATE AND PHENOBARBITAL; AND METHOCARBAMOL WITH ASPIRIN

Notice of Opportunity for Hearing on Proposal to Withdraw Approval of New Drug Applications

In an announcement (DESI 6363), published in the FEDERAL REGISTER of February 11, 1970 (35 F.R. 2836), the Commissioner of Food and Drugs announced his conclusions pursuant to the evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs:

1. Robaxisal-PH Tablets; methocavbamol, phenacetin, aspirin, hyoscyamine sulfate and phenobarbital; A. H. Robins Co., 1407 Cummings Drive, Richmond, VA 23220 (NDA 12-399).

2. Robaxisal Tablets; methocarbamol and aspirin; A. H. Robins (NDA 12-281).

The announcement stated that there is a lack of substantial evidence that these drugs are effective as fixed combinations for the uses recommended or suggested in their labeling and that each component of the combination drugs contributes to the total effects claimed, and that the Commissioner of Food and Drugs intended to initiate proceedings to withdraw approval of the new drug applications. Interested persons were invited to submit pertinent data bearing on the proposal within 30 days following publication of the announcement. Data submitted by A. H. Robins pursuant to the announcement have been reviewed and found not to provide substantial evidence of effectiveness of the drugs.

Therefore, notice is given to the holder(s) of the new drug application(s) and to any other interested person that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (e)) withdrawing approval of the listed new drug application(s) and all amendments and supplements thereto on the grounds that new information before him with respect to the drug(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug(s) will have all the effects purported or represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application(s) reviewed. See 21 CFR 130.40 (37 F.R. 23185, October 31, 1972). Any manufacturer or distributor of such an identical, related, or similar product is an interested person who may in response to this notice submit data and information, request that the new drug application(s) not be withdrawn, request a hearing, and participate as a party in any hearing. Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD-300), 5600 Fishers Lane, Rockville, MD 20852.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner hereby gives the applicant(s) and any other interested person an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER the applicant(s) and any other interested person is required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, a written appearance electing whether or not to avail himself of the opportunity for a hearing. Failure of an applicant or any other interested person to file a written appearance of election within said 30 days will constitute an election by him not to avail himself of the opportunity for a hearing.

If no person elects to avail himself of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the application(s).

If an applicant or any other interested person elects to avail himself of the opportunity for a hearing, he must file, within 30 days after publication of this notice in the FEDERAL REGISTER, a written appearance requesting the hearing, giving the reasons why approval of the new drug application(s) should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data he is prepared to prove in support of his opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing (21 CFR 130.14(b)).

If review of the data submitted by an applicant or any other interested person warrants the conclusion that there exists substantial evidence demonstrating the effectiveness of the product(s) for the labeling claims involved, the Commissioner will rescind this notice of opportunity for hearing.

If review of the data in the application(s) and data submitted by the applicant(s) or any other interested person in a request for a hearing, together with the reasoning and factual analysis in a request for a hearing, warrants the conclusion that no genuine and substantial issue of fact precludes the withdrawal of approval of the application(s), the Commissioner will enter an order of withdrawal making findings and conclusions on such data.

If, upon the request of the new drug applicant(s) or any other interested person, a hearing is justified, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence. All persons interested in identical, related, or similar products covered by the new drug application(s) will be afforded an opportunity to appear at the hearing, file briefs, present evidence, cross-examine witnesses, submit suggested findings of fact, and otherwise participate as a party. The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

Requests for a hearing and/or elections not to request a hearing may be seen in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-53, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: November 7, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-19568 Filed 11-14-72;8:46 am]

[DESI 10547; Docket No. FDC-D-525; NDA 10-547]

PHILIPS ROXANE LABORATORIES, INC.

Combination Drug Containing Isoproterenol Hydrochloride, Phenylpropanolamine Hydrochloride, and Glyceryl Guaiacolate; Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Application

In an announcement (DESI 10547) published in the FEDERAL REGISTER of July 27, 1972 (37 F.R. 15040), the Commissioner of Food and Drugs announced his conclusions pursuant to the evaluation of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug:

Bronkodyl Tablets containing isoproterenol hydrochloride, phenylpropanolamine hydrochloride, and glyceryl guaiacolate; previously marketed by Philips Roxane Laboratories, Inc., 330 Oak Street, Columbus, Ohio 43216 (NDA 10-547).

The announcement stated that there is a lack of substantial evidence that this fixed combination drug will have the effect that it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling, and that each component of the combination contributes to the total effects claimed, and that the Commissioner intended to initiate proceedings to withdraw approval of the new drug application. Interested persons were invited to submit pertinent data bearing on the proposal within 30 days following publication of the announcement. No data have been received pursuant to the announcement. The applicant informed the Food and Drug Administration that the manufacture of Bronkodyl Tablets has been discontinued.

Therefore, notice is given to the holder(s) of the new drug application(s) and to any other interested person that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the listed new drug application(s) and all amendments and supplements thereto on the grounds that new information before him with respect to the drug(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug(s) will have all the effects purported or represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application(s) reviewed. See 21 CFR 130.40 (37 F.R. 23185, October 31, 1972). Any manufacturer or distributor of such an identical, related, or similar product is an interested person who may in response to this notice submit data and information, request that the new drug application(s) not be withdrawn, request a hearing, and participate as a party in any hearing. Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD-300), 5600 Fishers Lane, Rockville, Md. 20852.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner hereby gives the applicant(s) and any other interested person an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER the applicant(s) and any other interested person is required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, a written appearance electing whether or not to avail himself of the opportunity for a hearing. Failure of an applicant or any other interested person to file a written appearance of election within said 30 days will constitute an election by him not to avail himself of the opportunity for a hearing.

If no person elects to avail himself of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the application(s).

If an applicant or any other interested person elects to avail himself of the opportunity for a hearing, he must file, within 30 days after publication of this notice in the FEDERAL REGISTER, a written appearance requesting the hearing, giving the reasons why approval of the new drug application(s) should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data he is prepared to prove in support of his opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing (21 CFR 130.14(b)).

If review of the data submitted by an applicant or any other interested person warrants the conclusion that there exists substantial evidence demonstrating the effectiveness of the product(s) for the labeling claims involved, the Commissioner will rescind this notice of opportunity for hearing.

If review of the data in the application(s) and data submitted by the applicant(s) or any other interested person in a request for a hearing, together with the reasoning and factual analysis in a request for a hearing, warrants the conclusion that no genuine and substantial issue of fact precludes the withdrawal of approval of the application(s), the Commissioner will enter an order of withdrawal making findings and conclusions on such data.

If, upon the request of the new drug applicant(s) or any other interested person, a hearing is justified, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence. All persons interested in identical, related, or similar products covered by the new drug application(s) will be afforded an opportunity to appear at the hearing, file briefs, present evidence, cross-examine witnesses, submit suggested findings of fact, and otherwise participate as a party. The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

Requests for a hearing and/or elections not to request a hearing may be seen in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-53, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: November 7, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-19569 Filed 11-14-72;8:46 am]

[DESI 10548; Docket No. FDC-D-526; NDA 10-548]

PHILIPS ROXANE LABORATORIES, INC.

Combination Drug Containing Isoproterenol Hydrochloride, Phenylpropanolamine Hydrochloride, and Guaifenesin; Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Application

In an announcement (DESI 10548) published in the FEDERAL REGISTER of July 27, 1972 (37 F.R. 15040), the Commissioner of Food and Drugs announced his conclusions pursuant to the evaluation of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug:

Bronkodyl Tablets containing isoproterenol hydrochloride, phenylpropanolamine hydrochloride, and guaifenesin; previously marketed by Philips Roxane Laboratories, Inc., 330 Oak Street, Columbus, Ohio 43216 (NDA 10-548).

The announcement stated that there is a lack of substantial evidence that this fixed combination drug will have the effect that it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling, and that each component of the combination contributes to the total effects claimed, and that the Commissioner intended to initiate proceedings to withdraw approval of the new drug application. Interested persons were invited to submit pertinent data bearing on the proposal within 30 days following publication of the announcement. No data have been received pursuant to the announcement. The applicant informed the Food and Drug Administration that the manufacture of Bronkodyl Tablets has been discontinued.

Therefore, notice is given to the holder(s) of the new drug application(s) and to any other interested person that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the listed new drug application(s) and all amendments and supplements thereto on the grounds that new information before him with respect to the drug(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug(s) will have all the effects purported or represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application(s) reviewed. See 21 CFR 130.40 (37 F.R. 23185, October 31, 1972). Any manufacturer or distributor of such an identical, related, or similar product is an interested person who may in response to this notice submit data and information, request that the new drug application(s) not be withdrawn, request a hearing, and participate as a party in any hearing. Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD-300), 5600 Fishers Lane, Rockville, Md. 20852.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner hereby gives the applicant(s) and any other interested person an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER the applicant(s) and any other interested person is required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, a written appearance electing whether or not to avail himself of the opportunity for a hearing. Failure of an applicant or any other interested person to file a written appearance of election within said 30 days will constitute an election by him not to avail himself of the opportunity for a hearing.

If no person elects to avail himself of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the application(s).

If an applicant or any other interested person elects to avail himself of the opportunity for a hearing, he must file, within 30 days after publication of this notice in the FEDERAL REGISTER, a written appearance requesting the hearing, giving the reasons why approval of the new drug application(s) should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data he is prepared to prove in support of his opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing (21 CFR 130.14(b)).

If review of the data submitted by an applicant or any other interested person warrants the conclusion that there exists substantial evidence demonstrating the effectiveness of the product(s) for the labeling claims involved, the Commissioner will rescind this notice of opportunity for hearing.

If review of the data in the application(s) and data submitted by the applicant(s) or any other interested person in a request for a hearing, together with the reasoning and factual analysis in a request for a hearing, warrants the conclusion that no genuine and substantial issue of fact precludes the withdrawal of approval of the application(s), the Commissioner will enter an order of withdrawal making findings and conclusions on such data.

If, upon the request of the new drug applicant(s) or any other interested person, a hearing is justified, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence. All persons interested in identical, related, or similar products covered by the new drug application(s) will be afforded an opportunity to appear at the hearing, file briefs, present evidence, cross-examine witnesses, submit suggested findings of fact, and otherwise participate as a party. The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

Requests for a hearing and/or elections not to request a hearing may be seen in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

If an applicant or any other interested person elects to avail himself of the

[DESI 11234; Docket No. FDC-D-527; NDA 11-234]

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This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–53, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: November 7, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-19569 Filed 11-14-72;8:46 am]

[DESI 16; Docket No. FDC-D-521; NDA 16]

RIKER LABORATORIES, INC.

Combination Drug Containing Ephedrine Hydrochloride, Atropine Sulfate, and Pentobarbital for Oral Use; Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Application

In an announcement (DESI 16) published in the FEDERAL REGISTER of June 23, 1972 (37 F.R. 12417), the Commissioner of Food and Drugs announced his conclusions pursuant to the evaluation of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Rinofeds Capsules, containing ephedrine hydrochloride, atropine sulfate and pentobarbital; Riker Laboratories, Inc., subsidiary of 3M Co., 19901 Nordhoff Street, Northridge, CA 91324 (NDA 16), and previously marketed by Broemmel Pharmaceuticals, 1235 Sutter Street, San Francisco, CA 94109.

The announcement stated that there is a lack of substantial evidence, within the meaning of the Federal Food, Drug, and Cosmetic Act, that this drug is effective as a fixed combination for its labeled claims relating to the treatment of respiratory conditions and that the Commissioner of Food and Drugs intended to initiate proceedings to withdraw approval of the new drug application. Interested persons were invited to submit any pertinent data bearing on the proposal within 30 days following publication of the announcement. No data have been received pursuant to the announcement.

Therefore, notice is given to the holder(s) of the new drug application(s) and to any other interested person that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the listed new drug application(s) and all amendments and supplements thereto on the grounds that new information before him with respect to the drug(s), available to him at the time of approval of the application(s), shows there is a evaluated, together with the evidence lack of substantial evidence that the drug(s) will have all the effects purported or represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application(s) reviewed. See 21 CFR 130.40 (37 F.R. 23185, October 31, 1972). Any manufacturer or distributor of such an identical, related, or similar product is an interested person who may in response to this notice submit data and information, request that the new drug application(s) not be withdrawn, request a hearing, and participate as a party in any hearing. Any person who wishes to determine whether a specific product is covered by his notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD-300), 5600 Fishers Lane, Rockville, Md. 20852.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner hereby gives the applicant(s) and any other interested person an opportunity for a hearing to show why approval of the new-drug application(s) should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER the applicant(s) and any other interested person is required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, a written appearance electing whether or not to avail himself of the opportunity for a hearing. Failure of an applicant or any other interested person to file a written appearance of election within said 30 days will constitute an election by him not to avail himself of the opportunity for a hearing.

If no person elects to avail himself of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the application(s).

If an applicant or any other interested person elects to avail himself of the opportunity for a hearing, he must file, within 30 days after publication of this notice in the FEDERAL REGISTER, a written appearance requesting the hearing, giving the reasons why approval of the new-drug application(s) should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data he is prepared to prove in support of his opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing (21 CFR 130.14(b)).

If review of the data submitted by an applicant or any other interested person warrants the conclusion that there exists substantial evidence demonstrating the effectiveness of the product(s) for the labeling claims involved, the Commissioner will rescind this notice of opportunity for hearing.

If review of the data in the application(s) and data submitted by the applicant(s) or any other interested person in a request for a hearing, together with the reasoning and factual analysis in a request for a hearing, warrants the conclusion that no genuine and substantial issue of fact precludes the withdrawal of approval of the application(s), the Commissioner will enter an order of withdrawal making findings and conclusions on such data.

If, upon the request of the new drug applicant(s) or any other interested person, a hearing is justified, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence. All persons interested in identical, related, or similar products covered by the new drug application(s) will be afforded an opportunity to appear at the hearing, file briefs, present evidence, cross-examine witnesses, submit suggested findings of fact, and otherwise participate as a party. The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his apparance.

Requests for a hearing and/or elections not to request a hearing may be seen in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–53, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: November 7, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-19565 Filed 11-14-72;8:46 am]

[DESI 10911; Docket No. FDC-D-530; NDA 10-911]

STUART CO.

Buclizine Hydrochloride with Pyridoxine Hydrochloride, Scopolamine Hydrobromide, Atropine Sulfate, and Hyoscyamine Sulfate; Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New-Drug Application

In an announcement (DESI 10911) published in the FEDERAL REGISTER of July 28, 1972 (37 F.R. 15186), the Commissioner of Food and Drugs announced his conclusions pursuant to the evaluation of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug:

Bucladin Tablets, containing buclizine hydrochloride, pyridoxine hydrochloride, scopolamine hydrobromide, atropine sulfate, and hyoscyamine sulfate; The Stuart Co., Division of Atlas Chemical Industries, Inc., Wilmington, Del. 19899 (NDA 10-911).

The announcement stated that there is a lack of substantial evidence that this fixed combination drug has the effects that it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling and that each ingredient contributes to the total effects claimed, and that the Commissioner of Food and Drugs intended to initiate proceedings to withdraw approval of the new-drug application. Interested persons were invited to submit pertinent data bearing on the proposal within 30 days following publication of the announcement. No data providing substantial evidence of effectiveness were submitted pursuant to the announcement.

Therefore, notice is given to the holder(s) of the new-drug application(s) and to any other interested person that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the listed new-drug application(s) and all amendments and supplements thereto on the grounds that new information before him with respect to the drug(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug(s) will have all the effects purported or represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

All identical, related, or similar products, not the subject of an approved new-drug application, are covered by the new-drug application(s) reviewed. See 21 CFR 130.40 (37 F.R. 23185, October 31, 1972). Any manufacturer or distributor of such an identical, related, or similar product is an interested person who may in response to this notice submit data and information, request that the new-drug application(s) not be withdrawn, request a hearing, and participate as a party in any hearing. Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD-300), 5600 Fishers Lane, Rockville, Md. 20852.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner hereby gives the applicant(s) and any other interested person an opportunity for a hearing to show why approval of the new-drug application(s) should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER the applicant(s) and any other interested person is required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, a written appearance electing whether or not to avail himself of the opportunity for a hearing. Failure of an applicant or any other interested person to file a written appearance of election within said 30 days will constitute an election by him not to avail himself of the opportunity for a hearing.

If no person elects to avail himself of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the application(s).

If an applicant or any other interested person elects to avail himself of the opportunity for a hearing, he must file, within 30 days after publication of this notice in the FEDERAL REGISTER, a written appearance requesting the hearing, giving the reasons why approval of the new-drug application(s) should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data he is prepared to prove in support of his opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing (21 CFR 130.14(b)).

If review of the data submitted by an applicant or any other interested person warrants the conclusion that there exists substantial evidence demonstrating the effectiveness of the product(s) for the labeling claims involved, the Commissioner will rescind this notice of opportunity for hearing.

If review of the data in the application(s) and data submitted by the applicant(s) or any other interested person in a request for a hearing, together with the reasoning and factual analysis in a request for a hearing, warrants the conclusion that no genuine and substantial issue of fact precludes the withdrawal of approval of the application(s), the Commissioner will enter an order of withdrawal making findings and conclusions on such data.

If, upon the request of the new-drug applicant(s) or any other interested person, a hearing is justified, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence. All persons interested in identical, related, or similar products covered by the new-drug application(s) will be afforded an opportunity to appear at the hearing, file briefs, present evidence, cross-examine witnesses, submit suggested findings of fact, and otherwise participate as a party. The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

Requests for a hearing and/or elections not to request a hearing may be seen in the office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–53, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: November 7, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-19570 Filed 11-14-72;8:46 am]

[DESI 11234; Docket No. FDC-D-527; NDA 11-234]

WINTHROP LABORATORIES

Combination Drug Containing Quinacrine Hydrochloride, Chloroquine Phosphate, and Hydroxychloroquine Sulfate; Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Application

In an announcement (DESI 11234) published in the FEDERAL REGISTER of July 26, 1972 (37 F.R. 14899), the Commissioner of Food and Drugs announced his conclusions pursuant to the evaluation of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug:

Triquin tablets containing quinacrine hydrochloride, chloroquine phosphate, and hydroxychloroquine sulfate; formerly marketed by Winthrop Laboratories, 90 Park Avenue, New York, N.Y. 10016 (NDA 11-234).

The announcement stated that there is a lack of substantial evidence that this fixed combination drug will have the effect that it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling and that each component of such drug contributes to the total effects claimed and that the Commissioner of Food and Drugs intended to initiate proceedings to withdraw approval of the new drug application. Interested persons were invited to submit any pertinent data bearing on the proposal within 30 days following publication of the announcement. No data have been received pursuant to the announcement.

Therefore, notice is given to the holder(s) of the new drug application(s) and to any other interested person that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the listed new drug application(s) and all amendments and supplements thereto on the grounds that new information before him with respect to the drug(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug(s) will have all the effects purported or represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application(s) reviewed. See 21 CFR 130.40 (37 F.R. 23185, October 31, 1972). Any manufacturer or distributor of such an identical, related, or similar product is an interested person who may in response to this notice submit data and information, request that the new drug application(s) not be withdrawn, request a hearing, and participate as a party in any hearing. Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administra-

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tion, Bureau of Drugs, Office of Compliance (BD-300), 5600 Fishers Lane, Rockville, Md. 20852.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner hereby gives the applicant(s) and any other interested person an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER the applicant(s) and any other interested person is required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether or not to avail himself of the opportunity for a hearing. Failure of an applicant or any other interested person to file a written appearance of election within said 30 days will constitute an election by him not to avail himself of the opportunity for a hearing.

If no person elects to avail himself of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the application(s).

If an applicant or any other interested person elects to avail himself of the opportunity for a hearing, he must file, within 30 days after publication of this notice in the FEDERAL REGISTER, a written appearance requesting the hearing, giving the reasons why approval of the new drug application(s) should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data he is prepared to prove in support of his opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing (21 CFR 130.14 (b)).

If review of the data submitted by an applicant or any other interested person warrants the conclusion that there exists substantial evidence demonstrating the effectiveness of the product(s) for the labeling claims involved, the Commissioner will rescind this notice of opportunity for hearing.

If review of the data in the application(s) and data submitted by the applicant(s) or any other interested person in a request for a hearing, together with the reasoning and factual analysis in a request for a hearing, warrants the conclusion that no genuine and substantial issue of fact precludes the withdrawal of approval of the application(s), the Commissioner will enter an order of withdrawal making findings and conclusions on such data.

If, upon the request of the new drug applicant(s) or any other interested person, a hearing is justified, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence. All persons interested in identical, related, or similar products covered by the new drug application(s) will be afforded an opportunity to appear at the hearing, file briefs, present evidence, cross-examine witnesses, submit suggested findings of fact, and otherwise participate as a party. The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

Requests for a hearing and/or elections not to request a hearing may be seen in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-53, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: November 7, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-19572 Filed 11-14-72;8:46 am]

Office of Education

ADVISORY COMMITTEE ON ACCREDITATION AND INSTITUTIONAL ELIGIBILITY

Notice of Public Meeting

Notice is hereby given, pursuant to Executive Order 11671, that the next meeting of the Advisory Committee on Accreditation and Institutional Eligibility will be held on December 13, 1972, at 9 a.m., local time, in Room 129, the Brookings Institution, 1775 Massachusetts Avenue NW., Washington, DC.

The Advisory Committee on Accreditation and Institutional Eligibility is established pursuant to section 253 of the Veterans' Readjustment Assistance Act (Chapter 33, Title 38 United States Code). The Committee is established to advise the Commissioner of Education in fulfilling his statutory obligations to publish a list of nationally recognized accrediting agencies and associations which he determines to be reliable authority as to the quality of training offered by educational institutions and programs.

The meeting of the Committee shall be open to the public on Wednesday, December 13, 1972. The proposed agenda includes presentations by representatives of accrediting agencies and associations which have petitions for recognition pending before the Committee and a review of the second draft of proposed changes in the Commissioner's Criteria for Recognition of Nationally Recognized Accrediting Agencies and Associations. Records shall be kept of all committee proceedings.

Signed at Washington, D.C., on November 2, 1972.

JOHN R. PROFFITT,
Director, Accreditation and Institutional Eligibility Staff.

[FR Doc.72-19560 Filed 11-14-72;8:45 am]

Office of the Secretary

ADVISORY COMMITTEE ON OLDER AMERICANS, HEALTH SUBCOMMITTEE

Notice of Public Meeting

The Advisory Committee on Older Americans was established by the Older Americans Act of 1965 for the purpose of advising the Secretary of Health, Education, and Welfare on matters bearing on his responsibilities under this Act and related activities of his Department.

The Health subcommittee of the committee will meet on November 16, 11 a.m. to 5 p.m., HEW North Building, Room 3627, 330 Independence Avenue, SW., Washington, DC. They will review the medical program for the aged of the Veterans' Administration, the implications of the Social Security Amendments of 1972 for health services for the elderly and identify future concern areas for the subcommittee. Meeting open to public observation.

CLEONICE TAVANI,
Staff Director.

NOVEMBER 8, 1972.

[FR Doc.72-19689 Filed 11-14-72;8:53 am]

DEPARTMENT OF TRANSPORTATION

National Transportation Safety Board

[Docket No. SS-R-22]

RAILWAY ACCIDENT AT CHICAGO, ILL.

Notice of Designation of Chairman of Board of Inquiry and Notice of Investigation Hearing

Correction

In F.R. Doc. 72-19497 appearing on page 24132 of the issue for Tuesday, November 14, 1972, the headings should appear as set forth above.

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-342 and 50-343]

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

Notice of Withdrawal of Application for Utilization Facility Licenses

The Consolidated Edison Company of New York, Inc., 4 Irving Place, New York, NY 10003, by letter dated October 20, 1972, has withdrawn its application for licenses to construct and operate the Verplanck Nuclear Facility, Units 1 and 2, a two-unit nuclear power station at its 130-acre site on the east side of the Hudson River in the town of Cortlandt, Westchester County, N.Y. The site is contiguous to the company's Indian Point site at Buchanan. A copy of the letter of withdrawal is available for inspection in the AEC's Public Document Room, 1717 H Street NW., Washington, DC. The Atomic Energy Commission approves the withdrawal of this application without prejudice.

Notice of receipt of the application was published in the FEDERAL REGISTER on July 7, 1971, 36 F.R. 12322.

Dated at Bethesda, Md., this 6th day of November 1972.

For the Atomic Energy Commission.

ROGER S. BOYD,
Assistant Director for Boiling Water Reactors, Directorate of Licensing.

[FR Doc.72-19557 Filed 11-14-72;8:45 am]

[Dockets Nos. 50-315, 50-316]

INDIANA AND MICHIGAN ELECTRIC CO. AND INDIANA AND MICHIGAN POWER CO.

Notice and Order for Special Prehearing Conference

In the matter of Indiana and Michigan Electric Co. and Indiana and Michigan Power Co. (Donald C. Cook Nuclear Plant Units 1 and 2).

Take notice, that pursuant to the Atomic Energy Commission's "Notice of Hearing On A Facility Operating License," dated September 29, 1972, and in accordance with § 2.751a of said Commission's restructured rules of practice, a special prehearing conference will be held in the subject proceeding on December 7, 1972, at 10 a.m. local time, in Courtroom No. 4 (second floor), Hall of Justice, 333 Monroe Avenue NW., Grand Rapids, MI 49502.

The special prehearing conference will deal with the following matters:

1. The status of negotiations regarding identification and simplification of the issues;

2. The need for discovery, and the time required for such discovery;

3. Establishment of schedules for further action;

4. Procedures, including rules of evidence, to be followed at the actual evidentiary hearing; and

5. Such other matters as may aid in the orderly disposition of the instant proceeding.

It is so ordered.

Issued at Washington, D.C., this 10th day of November 1972.

ATOMIC SAFETY AND LICENSING BOARD,
JEROME GARFINKEL,
Chairman.

[FR Doc.72-19578 Filed 11-14-72;8:47 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23333; Order 72-11-25]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Approving Agreement

Issued under delegated authority November 8, 1972.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations between various air carriers, foreign air carriers and other carriers embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreement, which has been assigned the above-designated CAB agreement number, was adopted at a special meeting held October 3, 1972, in New York.

The agreement, for intended effectiveness January 1, 1973, would amend an attachment to an existing resolution governing terminal charges on freight shipments in international carriage at airports within the continental United States, Alaska and Hawaii, by specifying those items on new U.S. Department of Commerce Form 7525-V Alternate (Shipper's Export Declaration) which may be completed by the carrier at no charge to the shipper. The agreement would also delete references to U.S. Customs Forms 5119 and 7501, pertaining to the assessment of charges for release of parts of multipiece shipments and for partial delivery of a single shipment, in order to insure that these charges may be levied regardless of the particular U.S. Customs Form involved.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the following resolution, incorporated in Agreement CAB 23365, is adverse to the public interest or in violation of the Act:

Agreement CAB	IATA No.	Title	Application
23365	5129	Air Cargo Rates—Airport to Airport	1, 1/2, 1/2 3.

Accordingly, it is ordered, That:

Agreement CAB 23365 be and hereby is approved.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-19642 Filed 11-14-72;8:53 am]

[Docket No. 24599; Order 72-11-26]

TEXAS INTERNATIONAL AIRLINES, INC.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 9th day of November 1972.

By application in Docket 24599, Texas International Airlines, Inc. (TXI), has requested amendment of its certificate of public convenience and necessity for Route 82 so as to delete Galveston, Tex., therefrom. Simultaneously, TXI filed for the issuance of a show-cause order.

No answers were filed in response to TXI.

Upon consideration of TXI's request and all the relevant facts, we have decided to issue an order to show cause, proposing to grant the requested deletion.

We tentatively find and conclude that the public convenience and necessity require the amendment of TXI's certificate for Route 82, so as to delete Galveston, Tex., therefrom. In support of our ultimate conclusion, we tentatively find and conclude as follows: TXI's Galveston operations have not been and are not likely to be economically sound. Despite intensive promotional efforts by TXI from June 1969 through March 1972 traffic sufficient to sustain economic service has failed to develop.[1] Thus, the passengers boarded by TXI per departure were 3.3 in 1969, 3.6 in 1970 and 4.6 in 1971. Fiscal year 1972 loads averaged less than five passengers per flight on the CV-880. In 1973 we estimate that continued service at Galveston would produce revenues of almost $58,000, incur expenses of almost $115,000, and would fall more than $70,000 short ($24.50 per forecast passenger) of meeting the carrier's full return and tax requirement. Moreover, elimination of Galveston, coupled with an upgrading in service in other markets, would permit the carrier to retain a portion of its Galveston revenues, gain increased revenues in other markets, and eliminate the costs incident to providing direct service at Galveston. We estimate that all such changes in the carrier's operation would result in a decrease in subsidy need of almost $90,000.

[1] In the Trans Texas Airways "Use It or Lose It" investigation (Order E-20283, Dec. 19, 1963) it was decided that Galveston was to be temporarily retained as a subsidized point (Order E-22237, May 28, 1965) because it was anticipated that sufficient traffic would be generated by increasing economic activity in the Galveston area and by the shift of most commercial Houston air traffic from Hobby Airport to the then soon to be opened and more remote Intercontinental Airport. The expected traffic has failed to develop.

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Galveston is suitably connected to the nearest air service center, Houston International, by convenient and reasonably priced alternate means of transportation. Highways which directly connect Galveston to Houston International provide speedy travel by automobile within a travel time of approximately 75 minutes. Hourly scheduled limousine service is available from Galveston to Houston International between 5 a.m. and 10:30 p.m. and from Houston International to Galveston between 7:30 a.m. and 1 a.m. The traveltime by limousine is 90 minutes. In addition, Galveston is connected to Houston International by an air taxi, Houston Metro, which provides eight round trips per weekday (O.A.G. Nov. 1, 1972).[2]

Interested persons will be given 20 days following service of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to support their objections, if any, with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If any evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material facts he would expect to establish through such a hearing. General, vague, or unsupported objections will not be entertained.

Accordingly, it is ordered, That:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein, and amending Texas International Airlines, Inc.'s certificate of public convenience and necessity for route 82 so as to delete Galveston, Tex. therefrom;

2. Any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth herein shall, within 20 days after service of a copy of this order, file with the Board and serve upon all persons listed in paragraph 5 a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections;[3]

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;

4 In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; [4] and

5. A copy of this order shall be served upon Texas International Airlines, Inc., Houston Metro Airlines; mayor, city of Beaumont; mayor, city of Galveston; mayor, city of Houston; mayor, city of Port Arthur; and director, Texas Aeronautics Commission.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-19643 Filed 11-14-72;8:53 am]

[2] Houston Metro also provides service between Houston International and Clear Lake. Clear Lake is only 20 miles from Galveston. The TXI fare between Houston and Galveston is $16. The estimated cost of a private auto trip is less than $6. The limousine fare, one way, is $7.50. Metro's fare is $16 from Houston to Galveston and $12 from Houston to Clear Lake.

[3] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further such motions, requests, or petitions for reconsideration of this order will be entertained

[4] By Order 72-9-39, Sept. 12, 1972, the Board proposed to approve an agreement between Texas International Airlines and Houston Metro Airlines which provided for performance of certain reservation and ground services by TXI for Metro's Houston-Galveston flights. On Sept. 22, 1972, TXI filed a letter indicating that the carriers had terminated the agreement.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN WOOL AND MAN-MADE FIBER TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE REPUBLIC OF CHINA

Entry or Withdrawal From Warehouse for Consumption

NOVEMBER 14, 1972.

On October 4, 1972, there was published in the FEDERAL REGISTER (37 F.R. 20883) a letter of September 29, 1972, from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs implementing those provisions of the bilateral Wool and Man-Made Fiber Textile Agreement of December 30, 1971, between the Governments of the United States and the Republic of China which establish specific export limitations on wool and man-made fiber textile products in certain categories, produced or manufactured in the Republic of China, for the agreement year beginning October 1, 1972.

The bilateral Wool and Man-Made Fiber Textile Agreement also established group ceilings of: (1) 4,390,500 square yards equivalent for wool apparel in Categories 111–125; and (2) 414,000 square yards equivalent for wool fabrics and made-up and miscellaneous textiles in Categories 101–110 and 126–132, produced or manufactured in the Republic of China, for the agreement year beginning October 1, 1972. The U.S. Government has decided to control imports in these groups at the aforestated levels for the remainder of the agreement year.

Accordingly, there is published below a letter of November 14, 1972, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that the amounts of wool textile products in Categories 101–110, 111–125, and 126–132, produced or manufactured in the Republic of China, which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning October 1, 1972, and extending through September 30, 1973, be limited to the designated levels.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary and Director, Bureau of Resources and Trade Assistance.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS:
Department of the Treasury,
Washington, D.C. 20226.

NOVEMBER 14, 1972.

DEAR MR. COMMISSIONER: Under the provisions of the bilateral Wool and Man-Made Fiber Textile Agreement of December 30, 1971, between the Governments of the United States and the Republic of China and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective as soon as possible, and for the period extending through September 30, 1973, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products produced or manufactured in the Republic of China and exported to the United States on or after October 1, 1972, in excess of the following group levels of restraint:

Categories	12-month levels of restraint [1]
111/125—square yards equivalent	4,390,500
101/110 and 126/132—do	414,000

Inasmuch as the group levels of restraint applicable to the above wool textile products, produced or manufactured in the Republic of China and exported to the United States during the agreement year beginning October 1, 1971, and extending through September 30, 1972, have been exhausted by previous entries, such goods entered on or after the effective date of this directive shall be subject to the levels contained in this letter.

Wool textile products which have been released from the custody of the Bureau of Customs under the provisions of 19 U.S.C. 1448(b) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the wool textile categories in terms of T.S.U.S.A. numbers and conversion factors was published in the FEDERAL REGISTER on April 29, 1972 (37 F.R. 8802).

In carrying out this directive, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of China and with respect to imports of wool textile products from the Republic of China have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements and Deputy Assistant Secretary and Director, Bureau of Resources and Trade Assistance.

[FR Doc.72-19795 Filed 11-14-72;10:44 am]

[1] These levels of restraint have not been adjusted to reflect any entries made on or after October 1, 1972.

ENVIRONMENTAL PROTECTION AGENCY

U.S. BORAX CORP.

Establishment of Temporary Tolerances

U.S. Borax Corp., 412 Crescent Way, Anaheim, CA 92801, submitted a petition (PP 2G1279) requesting establishment of temporary tolerances for negligible residues of the herbicide N^3,N^3-diethyl-2,4-dinitro-6-trifluoromethyl-*m*-phenylenediamine in or on the raw agricultural commodities—bean vines, dried beans, peanuts, and peanut forage, hay, and hulls at 0.05 part per million.

It has been determined that temporary tolerances for negligible residues in or on bean vines, dried beans, peanuts, and peanut forage, hay, and hulls at 0.05 part per million are safe and will protect the public health.

They are therefore established as requested on condition that the herbicides be used in accordance with the temporary permits being issued concurrently by the Environmental Protection Agency and which provide for distribution under the U.S. Borax Corp. name.

These temporary tolerances expire November 9, 1973.

This action is being taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038).

Dated: November 9, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-19600 Filed 11-14-72;8:49 am]

UPJOHN CO.

Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 3F1322) has been filed by the Upjohn Co., Kalamazoo, Mich. 49001, proposing establishment of tolerances (40 CFR Part 180) for combined residues of the insectide benzoyl chloride (2,4,6-trichlorophenyl) hydrazone and its metabolite benzoic acid (2,4,6-trichlorophenyl) hydrazide in or on the raw agricultural commodities citrus fruits at 1 part per million and liver of cattle, goats, and sheep at 0.05 part per million.

The analytical method proposed in the petition for determining residues of the insecticide and its metabolite is a gas chromatographic procedure using electron capture detection. The insecticide and its metabolite are first separated by column chromatography and the insecticide is converted to its diethylamine derivative before the gas chromatographic determination is made.

Dated: November 9, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[F.R. Doc.72-19601 Filed 11-14-72;8:49 am]

FEDERAL POWER COMMISSION

NATIONAL GAS SURVEY COORDINATING TASK FORCE

Notice of Meeting and Its Agenda

Agenda, meeting, coordinating task force, to be held in Conference Room 4008 of the Federal Power Commission, 441 G Street NW., Washington, DC, November 30, 1972—9:30 a.m.

Presiding: Mr. William J. McCabe, FPC Survey Coordinating Representative and Secretary.

1. Introductory Remarks—Mr. McCabe.

2. General Review—Mr. Richard C. Young, Task Force Director.

3. Report on Work Program of Supply-Technical Advisory Committee—Mr. William T. Slick, Jr., Deputy Vice Chairman, Supply-TAC.

4. Report on Work Program of Transmission-Technical Advisory Committee—Mr. Ferdinand Gagne, Deputy Vice Chairman, Transmission-TAC.

5. Report on Work Program of Distribution-Technical Advisory Committee—Mr. Ralbern H. Murray, Deputy Vice Chairman, Distribution-TAC.

6. Discussion of Assigned Work Program and Estimated Date for Completion—Mr. Young.

7. General Discussion Including Environmental and Ecological Aspects of the National Gas Survey Program—Mr. Thomas H. Jenkins, Director, National Gas Survey.

8. Adjournment—Mr. McCabe.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19616 Filed 11-14-72;8:50 am]

NATIONAL POWER SURVEY EXECUTIVE ADVISORY COMMITTEE

Order Designating Initial Membership and Chairmanship

AUGUST 11, 1972.

The Federal Power Commission hereby determines that the establishment of the National Power Survey Executive Advisory Committee is in the public interest, and necessary and appropriate for the purposes of the Federal Power Act, 16 U.S.C. 791(a) et seq., and the Commission establishes this Committee in accordance with the provisions of the Commission's order issued June 29, 1972, 37 F.R. 13380—Order Authorizing the Establishment of National Power Survey Advisory Committees and Prescribing Procedures and the provisions of this order.

1. *Purpose.* The Executive Advisory Committee shall constitute the principal policy advisory committee to the Commission and its Staff in the Commission's planning, conduct, and execution of the National Power Survey. In this policy advisory role, the Executive Advisory Committee will be called upon to offer suggestions to assist the Commission and staff in their activities in formulating planning assumptions and directing the work of the survey, including the work of other advisory committees; to assist in establishing priorities for work to be performed and in the coordination of all aspects of the survey; to assist in assembling and assimilating comprehensive, accurate, and reliable data required for the survey; and to assist in such other ways as it may from time to time be called upon by the Commission or its staff.

2. *Membership.* The chairman, secretary, and other members of the Executive Advisory Committee, as selected by the Chairman of the Commission, with the approval of the Commission, are designated in the appendix hereto.

3. *Selection of future committee members.* All future committee members, and persons designated to act as committee chairman, shall be selected and designated by the Chairman of the Commission with the approval of the Commission; provided, however, the Chairman of the Commission may select and designate persons to serve in the capacity of alternate secretary.

4. The following paragraphs of the aforementioned Commission order issued June 29, 1972, are hereby incorporated by reference:

3. *Conduct of Meetings.*
4. *Minutes and Records.*
5. *Secretary of the Committee.*
6. *Locaton and Time of Meetings.*
7. *Advice and Recommendations Offered by the Committee.*
8. *Duration of the Committee.*

The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

NATIONAL POWER SURVEY EXECUTIVE ADVISORY COMMITTEE

Electric Co.
M. Frederik Smith, Rockefeller Associate.
H. Gurford Stever, Director, National Science

vene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of

the nation's air pollution problem through the addition of new gas reserves.

Mcf and the prices being paid for natural gas in the intrastate market as evi-

the Natural Gas Act in Docket No. CS72-792 to Lee W. Kilgore is redesig-

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NATIONAL POWER SURVEY EXECUTIVE ADVISORY COMMITTEE

Chairman: Shearon Harris, Chairman, Carolina Power & Light Co.
Secretary: Robert B. Boyd, Deputy Chief, Bureau of Power, Federal Power Commission.

Members

Mrs. Erma Angevine, Executive Director, Consumer Federation of America.
Lt. Gen. F. J. Clarke, Chief of Engineers, Department of the Army.
Michael Collins, General Manager, Municipal Light Department, Wakefield, Mass.; President, American Public Power Association.
Donald C. Cook, President, American Electric Power Co., Inc.
J. E. Corette, Chairman of the Board, The Montana Power Co.
Edward E. David, Jr., Director, Office of Science and Technology.
William E. Dean, Association of Illinois Electric Cooperatives.
Bernard Falk, President, National Electrical Manufacturers Association.
T. J. Galligan, Jr., President, Boston Edison Co.
Sim Gideon, General Manager, Lower Colorado River Authority.
R. F. Gilkeson, President, Philadelphia Electric Co.
J. L. Grahl, General Manager, Basin Electric Power Cooperative.
David A. Hamil, Administrator, Rural Electrification Administration.
John D. Harper, Chairman, Aluminum Company of America.
Edwin I. Hatch, President, Georgia Power Co.
Durwood Hill, General Manager, Nebraska Public Power District.
Jack K. Horton, Chairman of the Board, Southern California Edison Co.
Mrs. Virginia H. Knauer, Director, Office of Consumer Affairs.
George A. Lincoln, Director, Office of Emergency Preparedness.
Clarence Linder, President, National Academy of Engineering.
D. C. Lutken, President, Mississippi Power & Light Co.
D. Bruce Mansfield, President, Ohio Edison Co.
T. Justin Moore, Jr., President, Virginia Electric & Power Co.
Rogers C. B. Morton, Secretary of the Interior.
Charles McCoy, Chairman of the Board, E. I. du Pont de Nemours & Co.
Marshall McDonald, President, Florida Power & Light Co.
William B. McGuire, Chairman, National Electric Reliability Council.
G. W. Nichols, President and Chief Executive Officer, New England Electric System.
Dr. Ruth Patrick, Curator and Chairman, Department of Limnology, Academy of Natural Sciences, Philadelphia, Pa.
Peter G. Peterson, Secretary of Commerce.
Charles H. Pillard, President, International Brotherhood of Electrical Workers.
John G. Quale, President, Wisconsin Electric Power Co.
William P. Reilly, President, Arizona Public Service Co.
Francis J. Riordan, New Hampshire Public Utilities Commission; President, National Association of Regulatory Utility Commissioners.
P. H. Robinson, Chairman of the Board, Houston Lighting & Power Co.
William D. Ruckelshaus, Administrator, Environmental Protection Agency.
James R. Schlesinger, Chairman, Atomic Energy Commission.
Raymond J. Sherwin, President, Sierra Club.
Shermer L. Sibley, President, Pacific Gas & Electric Co.
M. Frederik Smith, Rockefeller Associate.
H. Guyford Stever, Director, National Science Foundation.
Louis Strong, General Manager, Kentucky Rural Electric Cooperative Corp.; President, National Rural Electric Cooperative Association.
W. C. Tallman, President, Public Service Company of New Hampshire.
Russell E. Train, Chairman, Council on Environmental Quality.
Aubrey J. Wagner, Chairman, Tennessee Valley Authority.
Colston E. Warne, President, Board of Directors, Consumers Union of the United States, Inc.
Frank M. Warren, President, Portland General Electric Co.; Chairman, Edison Electric Institute.

[FR Doc.72-19576 Filed 11-14-72;8:47 am]

[Docket No. CI73-331]

ATLAS CORP. ET AL.

Notice of Application

NOVEMBER 10, 1972.

Take notice that on November 6, 1972, Atlas Corporation (Applicant), 707 National Bank of Tulsa Building, Tulsa, OK 74103, filed in Docket No. CI73-331 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to United Gas Pipe Line Co. from the Oakes Field, Claiborne Parish, La., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell up to 200 Mcf of natural gas per day at 35.0 cents per Mcf at 15.025 p.s.i.a. for 1 year within contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

It appears reasonable and consistent with the public interest in this case to prescribe a period less than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 21, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19574 Filed 11-14-72;8:47 am]

[Docket No. R-441]

OPTIONAL PROCEDURE FOR CERTIFICATING NEW PRODUCER SALES OF NATURAL GAS

Order Denying Petition to Reopen and Reconsider

NOVEMBER 9, 1972.

On October 10, 1972, Hamilton Treadway (Petitioner) filed in Docket No. R-441 a petition for rehearing and reconsideration of Commission Order No. 455, Optional Procedure for Certificating New Producer Sales of Natural Gas,[1] alleging that the Commission did not comply with certain provisions of the National Environmental Policy Act of 1969,[2] when it issued Order No. 455.

On October 21, 1972, the Commission submitted the record in Order No. 455 and Order No. 455-A to the United States Court of Appeals for the District of Columbia Circuit, in the matter of John E. Moss, et al. v. F.P.C., CADC, No. 72-1837. According to section 19(b) of the Natural Gas Act, the Court assumes exclusive jurisdiction in the matter once the record has been filed, and the Commission loses jurisdiction thereby. Accordingly, the Commission does not have jurisdiction at the present time in this matter and therefore must deny the petition herein. It is significant, however, to note that Petitioner raises no issues herein which were not fully considered in Order No. 455, as amended by Order No. 455-A.

In Order No. 455 the Commission stated at Paragraphs 79 and 80:

> 79. As we have noted above • • • natural gas is the cleanest burning, and insofar as is known today, the least polluting of all the fossil fuels. This, of course, is one of the reasons for its present enlarged demand and desirability as a fuel. Indeed, in some of our metropolitan areas, "clean-air" regulations and restrictions have made natural gas not only desirable, but almost a necessity for some commercial and industrial users. The Environmental Protection Agency (EPA) filed its response in this proceeding, stating that in its opinion the optional procedure we provide for herein will be a major step towards elimination of the gas shortage and

[1] Issued Aug. 3, 1972, 37 F.R. 16188 (8/11/72), as amended by Order No. 455-A issued Sept. 8, 1972, 37 F.R. 18721 (9/12/72).
[2] 83 Stat. 852.

the nation's air pollution problem through the addition of new gas reserves.

80. These rules herein adopted are inherently procedural, providing an optional method by which to obtain certification; accordingly, our rulemaking involves no direct impact on the environment (such as construction of facilities would) nor does it indirectly affect the environment through the setting of rates. Questions of environmental concern may be proper at the time of certification, but such questions are of no relevance to the establishment of procedural rules.

The Commission finds:

The Commission lacks jurisdiction for the reasons discussed above.

The Commission orders:

The petition to reopen and reconsider Order No. 455, as amended by Order No. 455-A, is hereby denied.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19612 Filed 11-14-72;8:50 am]

[Docket No. CI73-293]

BELCO PETROLEUM CORP.

Notice of Application

NOVEMBER 10, 1972.

Take notice that on October 24, 1972, Belco Petroleum Corp., Agent (Applicant), 630 Third Street, New York, NY 10017, filed in Docket No. CI73-293 an application pursuant to section 7(c) of the Natural Gas Act and § 2.75 of the Commission's general policy and interpretations (18 CFR 2.75) for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), from the West Delta Block 64 Field, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes under the optional gas pricing procedure to sell natural gas to Tennessee from the West Delta Block 64 Field until June 8, 1982, at an initial rate of 45 cents per Mcf subject to upward B.t.u. adjustment above 1,050 B.t.u.'s per cubic foot at 15.025 p.s.i.a. The subject contract with Tennessee dated June 8, 1972, provides for price escalations of 1.5 cents per Mcf annually.

Applicant asserts that at the 45 cents per Mcf initial price proposed herein, this proposed sale is more reliable and less costly than any of a number of alternative sources of pipeline gas supplies including the importation of foreign gas, liquefied natural gas, and feedstocks, domestic production of synthetic pipeline gas, domestic coal gasification proposals and Alaskan natural gas, which either have been certificated by the Commission, are now pending before the Commission or are under active consideration by pipeline companies. Applicant further asserts that the proposed sale is justified in light of the proposed increase in the price of natural gas for the Appalachian area to 50 cents per Mcf and the prices being paid for natural gas in the intrastate market as evidenced by reports that certain companies have contracted to sell their gas at rates of 52 cents and 73 cents per Mcf in Oklahoma and Ohio, respectively.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 29, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19575 Filed 11-14-72;8:47 am]

[Docket No. CS72-792]

ALBUQUERQUE NATIONAL BANK AND EXECUTOR OF THE ESTATE OF LEE W. KILGORE

Notice of Redesignation

NOVEMBER 10, 1972.

By letter dated September 5, 1972, Albuquerque National Bank has advised the Commission that it has been appointed as executor of the estate of Lee W. Kilgore, deceased, in accordance with an order of the probate court for San Juan County, N. Mex., on July 20, 1972, and requests that the necessary action be taken to transfer the small producer certificate of public convenience and necessity issued to Lee W. Kilgore in Docket No. CS72-792 to Albuquerque National Bank.

Accordingly the small producer certificate of public convenience and necessity issued purusant to section 7(c) of the Natural Gas Act in Docket No. CS72-792 to Lee W. Kilgore is redesignated as that of Albuquerque National Bank, executor of the estate of Lee W. Kilgore, deceased.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19617 Filed 11-14-72;8:50 am]

[Docket No. CP73-121]

ALGONQUIN GAS TRANSMISSION CO.

Notice of Application

NOVEMBER 9, 1972.

Take notice that on November 3, 1972, Algonquin Gas Transmission Co. (Applicant), 1284 Soldiers Field Road, Boston, MA 02135, filed in Docket No. CP73-121 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas for the benefit of New Bedford Gas and Edison Light Co. (New Bedford), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes, pursuant to a temporary exchange-transportation agreement dated October 24, 1972, to reduce its deliveries of natural gas to Commonwealth Gas Co. (Commonwealth) and to deliver to New Bedford through Applicant's existing facilities an amount of natural gas equivalent to the liquefied natural gas, which is to be delivered to Commonwealth by Hopkinton LNG Corp., for the account of New Bedford, all for the period beginning November 16, 1972, and ending April 15, 1973. Applicant asserts that unless it assists New Bedford, it will not be possible for New Bedford to be the beneficiary of such gas this winter.

Applicant proposes to charge New Bedford 10 cents for each Mcf of gas delivered.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 21, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject

to the jurisdiction conferred upon the Federal Power Commission by sections

son wishing to become a party must file a petition to intervene. Copies of this

ther notice before the Commission on this application if no petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR

[Docket No. RP71-87]

MISSISSIPPI RIVER TRANSMISSION

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to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc 72-19610 Filed 11-14-72;8:49 am]

[Docket No. CP73-116]

ARKANSAS LOUISIANA GAS CO.

Notice of Application

NOVEMBER 9, 1972.

Take notice that on November 1, 1972, Arkansas Louisiana Gas Co. (Applicant), Post Office Box 1126, Shreveport, LA 71163, filed in Docket No. CP73-116 a budget-type application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the Commission's Regulations thereunder, for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1973, and operation of certain natural gas purchase facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment its ability to act with reasonable dispatch in contracting for and connecting to its pipeline system supplies of natural gas in producing areas generally co-extensive with its system.

The total cost of the facilities proposed herein shall not exceed $7 million with no single project to exceed $1 million. Applicant plans to finance these costs from cash on hand, from cash generated from normal internal sources, and cash from short term bank loans and other short term borrowings utilized in the normal operation of the company's total business.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 4, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19609 Filed 11-14-72;8:49 am]

[Project 1196]

ESTES BROTHERS, INC.

Notice of Issuance of Annual License

NOVEMBER 10, 1972.

The licensees for minor Project No. 1196, located on an unnamed creek, which is a tributary of Upper Trail Lake, in Seward Recording District, Third Judicial Division, Alaska, and affecting lands of the United States are Robert R. Estes and Edward R. Estes, operating the project as Estes Brothers, Inc.

The license for Project No. 1196 was issued effective October 13, 1962, for a period ending October 12, 1972. In order to authorize the continued operation of the project pursuant to section 15 of the Federal Power Act, it is appropriate and in the public interest to issue an annual license to Estes Brothers, Inc. for the continued operation and maintenance of Project No. 1196.

Take notice that an annual license is issued to Estes Brothers, Inc. for the period October 13, 1972, to October 12, 1973, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of Project No. 1196, subject to the terms and conditions of its present license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19611 Filed 11-14-72;8:49 am]

[Docket No. RP71-87]

MISSISSIPPI RIVER TRANSMISSION CORP.

Notice of Proposed Purchased Gas Adjustment Clause

NOVEMBER 10, 1972.

Take notice that Mississippi River Transmission Corp. (MRT) on October 26, 1972, tendered for filing as part of its FPC Gas Tariff, First Revised Volume No. 1, copies of the following tariff sheets:

Substitute First Revised Sheet No. 27A.
Substitute First Revised Sheet No. 27B.
Substitute First Revised Sheet No. 27C.
Substitute First Revised Sheet No. 27D.
First Revised Sheet No. 27E.
First Revised Sheet No. 27F.
First Revised Sheet No. 27G.
First Revised Sheet No. 27H.
First Revised Sheet No. 27I.[1]

MRT states that the purpose of the filing is to conform MRT's PGA clause to the requirements of § 154.38(d)(4) of the Commission's regulations. MRT claims that the instant filing contains modifications to its effective PGA clause to provide for rate changes concurrent with pipeline supplier rate changes and to reflect the handling of supplier refunds in accordance with the provisions of § 154.38(d)(4).

Because the above listed tariff sheets contain a proposed effective date of August 10, 1972, MRT requests that the Commission waive the notice requirements of § 154.22 of its regulations and permit this filing to become effective as proposed.

On November 1, 1972, MRT filed Seventh Revised Sheet No. 3A to its FPC Gas Tariff, First Revised Volume No. 1 to reflect various rate changes applicable to MRT from its pipeline suppliers and to replace Substitute Fifth Revised Sheet No. 3A.

MRT therefore requests waiver of the requirements of the Commission's Regulations, particularly Section 154 thereof, in order that the Seventh Revised Sheet No. 3A of its FPC Gas Tariff, First Revised Volume No. 1 may become effective December 1, 1972, as proposed.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 20, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19605 Filed 11-14-72;8:49 am]

[1] On Nov. 1, 1972, MRT filed copies of substitute Fifth Revised Sheet No. 3A to its FPC Gas Tariff, First Revised Volume No. 1, which MRT says it had inadvertently omitted from its Oct. 26, 1972, filing.

[Docket No. CI73-322]

UNION TEXAS PETROLEUM

Notice of Application

NOVEMBER 9, 1972.

Take notice that on October 31, 1972, Union Texas Petroleum, a Division of Allied Chemical Corp. (Applicant), 3000 Richmond Avenue, Houston, TX 77006, filed in Docket No. CI73-322 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas in interstate commerce through Applicant's existing Winnie processing plant supply system in Jefferson County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Natural Gas Pipeline Company of America (Natural) has entered into a contract with Mitchell Energy Offshore Corp., et al. (Mitchell), providing for the purchase of natural gas produced in the Block 176-S Prospect Area, offshore Texas, and that Natural will transport such gas onshore and deliver it to Applicant in Galveston County, Tex. Applicant proposes to transport the gas to its Winnie plant for processing, compression, and redelivery to Texas Gas Pipe Line Corp. for the account of Natural. Applicant will process the gas for Mitchell but will not purchase any gas. Applicant proposes to charge 3.5 cents per Mcf at 14.65 p.s.i.a. for transportation and 2.5 per Mcf at 14.65 p.s.i.a. for compression. Estimated monthly volumes to be transported are 450,000 Mcf of gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 1, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19613 Filed 11-14-72;8:50 am]

[Docket No. CP 73-123, etc.]

UNITED GAS PIPE LINE CO. ET AL.

Notice of Petition for Declaratory Order, and for Order Directing Compliance, and of Motion for Consolidation of Proceedings

NOVEMBER 8, 1972.

United Gas Pipe Line Company v. Humble Oil & Refining Company and Isaac Arnold et al., Docket No. CP73-123; Texas Gas Exploration Corporation, et al., Docket Nos. CI72-674, et al.

Take notice that on November 2, 1972, United Gas Pipe Line Co. (Petitioner) filed in Docket No. CP 73-123, pursuant to § 1.7(c) of the Commission's rules of practice and procedure and section 554 (e) of the Administrative Procedure Act, a petition for Declaratory Order and for Order Directing Compliance, requesting the Commission to order Humble Oil & Refining Co. (Humble) and Isaac Arnold et al., (Arnold) to desist from reducing deliveries to Petitioner under a 1958 contract, as amended in 1963, between Humble and Arnold as sellers, and Petitioner as buyer, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Concurrently, Petitioner filed a motion for consolidation of the instant docket with the previously consolidated proceedings in Texas Gas Exploration Corp., Docket No. CI72-674, Gulf Oil Corp., Docket No. CI62-965, and Southern Natural Gas Co., Docket No. CP73-72.

At issue in the above-mentioned consolidated proceedings are contractual rights to the gas produced from the Garden City Field, St. Mary Parish, La., which gas is the subject of the Petition for Declaratory Order filed by Petitioner herein.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 20, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19614 Filed 11-14-72;8:50 am]

[Docket No. CP73-117]

UNITED GAS PIPE LINE CO.

Notice of Application

NOVEMBER 10, 1972.

Take notice that on November 2, 1972, United Gas Pipe Line Co. (Applicant), Post Office Box 1407, Shreveport, LA 71158, filed in Docket No. CP73-117 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the delivery of natural gas to American Cyanamid Co. (American Cyanamid) and the facilities used therefor, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to discontinue deliveries of natural gas on January 1, 1973, to American Cyanamid at its acrylic fiber plant located near Pensacola, Santa Rosa County, Fla. Applicant states that its available supply of natural gas is depleted to the extent that continuance of service to American Cyanamid for the principal purpose for which the gas is used is unwarranted. The application indicates that deliveries to American Cyanamid totaled 2,713,266 Mcf of gas in 1971 and 1,165,867 Mcf of gas through August 31, 1972. Applicant states that American Cyanamid uses 12 Mcf of gas per day as fuel for pilot lights and the remainder of the gas as boiler fuel and that following cessation of service American Cyanamid will use butane as pilot light fuel and fuel oil as boiler fuel.

Applicant proposes to abandon and remove a sales meter and regulator station and to abandon in place 2.5 miles of 6-inch pipeline, all of which have been operated exclusively to serve American Cyanamid.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 4, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

Any person wishing to become a party to

Under the procedure herein provided

classes of products or different marketing areas, it must be applied in reasonable

Owners have entered into a contract with General Electric Co. covering the

The payments to Millstone under the Fuel Supply Contract will be made

It is proposed that such procurements be financed through further issuances of

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Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19615 Filed 11-14-72;8:50 am]

FEDERAL RESERVE SYSTEM

BANK HOLDING COMPANIES

Grandfather Privileges

Correction

In F.R. Doc. 72-17851 appearing at page 22414 of the issue for Thursday, October 19, 1972, the entries in the table concerning "Charles Stewart Mott Foundation, Flint, Mich." and "Minnesota Small Loan Co., Minneapolis, Minn.", should read as set forth below:

Charles Stewart Mott Foundation, Flint, Mich.	Water utilities. Real estate leasing. Real estate development. Sugar production and cattle raising.
Minnesota Small Loan Co., Minneapolis, Minn.	Small loan business.

FIRST NEW MEXICO BANKSHARE CORP.

Acquisition of Bank

First New Mexico Bankshare Corp., Albuquerque, N. Mex., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of The Clovis National Bank, Clovis, N. Mex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 4, 1972.

Board of Governors of the Federal Reserve System, November 7, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-19595 Filed 11-14-72;8:48 am]

PRICE COMMISSION

[Notice 39]

BITUMINOUS COAL INDUSTRY

Allowable Costs Under Price Commission Regulations

The Price Commission has determined that, as a general practice, the following direct and indirect costs incurred after November 11, 1972, will be recognized as "allowable costs" for purposes of justifying price increases by producers of bituminous coal:

1. Cost of wage increases to the extent they do not exceed the formula stated in pargraph 1(a) of Price Commission Ruling 1972-12, January 18, 1972, reduced to reflect productivity gains calculated in accordance with § 300.11a of the Price Commission's regulations using an annual rate of productivity gain of 4.9 percent;

2. Cost of increased employer contributions to:

(i) A pension, profit-sharing, or annuity and savings plan which meets the requirements of sections 401(a), 404(a)(2), 404(c), or 403(b) of the Internal Revenue Code of 1954;

(ii) A group insurance plan;

(iii) A disability and health plan;

(iv) Old-age, survivors, and disability insurance (FICA); or

(v) An unemployment compensation fund; and

3. Costs (including labor costs) to comply with State and federally mandated reclamation and mine health and safety requirements.

With respect to long-term contracts subject to flexible pricing formulas based on costs, the price for each may not be increased over the base price (plus any increases thereto authorized by or under the regulations of the Price Commission before November 12, 1972) by an amount greater than that calculated in accordance with this notice.

An increase calculated in accordance with this notice may be applied to the company's different coal products as sold in different marketing areas, or to different classes of customers. However, if it is applied to different products or classes of products or different marketing areas, it must be applied in reasonable proportion to those products or markets.

The limitations imposed by this determination on the pass-through of increased costs do not apply to sales for export.

The Price Commission will apply the criteria set forth in this notice in acting on requests for price increases, filed by price category I firms engaged in producing coal, to be put into effect after November 11, 1972. Price category II and III firms engaged in the production of coal shall be governed by this notice in implementing price increases after that date.

Issued in Washington, D.C., on November 13, 1972.

C. JACKSON GRAYSON, Jr.,
Chairman, Price Commission.

[FR Doc.72-19659 Filed 11-14-72;8:53 am]

SECURITIES AND EXCHANGE COMMISSION

[70-5260]

NORTHEAST UTILITIES ET AL.

Notice of Proposed Permanent Financing of Nuclear Fuel Cores

NOVEMBER 8, 1972.

Notice is hereby given that Northeast Utilities (Northeast), Post Office Box 270, Hartford, CT 06101, a registered holding company, and the Connecticut Light & Power Co. (CL&P), the Hartford Electric Light Co. (HELCO), and Western Massachusetts Electric Co. (WMECO), public utility subsidiary companies of Northeast, and the Millstone Point Co. (Millstone), a subsidiary company of Northeast, have filed with this Commission an application-declaration, and amendments thereto, pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a), 7, 9, 10, 12, and 13 thereof and Rules 42(b), 43, 45, and 50(a)(2), promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

CL&P, HELCO, and WMECO (Owners) own, as tenant-in-common, the Millstone Nuclear Power Station (Station), their participation interests therein being 53 percent, 28 percent, and 19 percent, respectively. Under an Operating Agreement (Holding Company Act Release No. 15691, March 20, 1967), Millstone is acting as Owners' agent respecting the construction and operation of the Station, of which the first unit (Unit No. 1) of 660,000 kw. was placed in operation in 1970, and the second unit (Unit No. 2) of 830,000 kw. is expected to begin operation in 1974. Owners expect to install subsequent additional nuclear generating units at the Station or other sites.

Owners have entered into a contract with General Electric Co. covering the furnishing of the nuclear fuel required for the first three complete cores for Unit No. 1 (Unit No. 1 Fuel Contract). The first core (which is already in place) is estimated to cost $31,900,000, and the second and third cores $35,400,000 and $37,900,000, respectively. The initial fuel core for Unit No. 2, including the uranium, will be purchased from Combustion Engineering, Inc. for an estimated $26,100,000. Under its contract with Owners (Unit No. 2 Fuel Contract), Combustion Engineering will also fabricate the second core for an estimated $7,500,000, with uranium (estimated to cost $21,300,000) provided by the applicants. In addition, the anticipated total cost of the fuel and fabrication for the first three cores for a projected 1,100,000 kw. nuclear unit scheduled for 1979 is approximately $101 million.

In a series of orders under File No. 70-4755, the Commission has authorized, among other things: (1) The transfer and assignment by Owners of their respective interests in the Unit No. 1 Fuel Contract to Millstone pursuant to an Interim Agreement, and (2) interim financings by Millstone pending the completion of satisfactory arrangements for the permanent financing of nuclear fuel by the latter. Pursuant to such orders, Millstone is presently authorized to issue and sell to banks a maximum aggregate of $12,500,000 principal amount of short-term notes (Interim Bank Notes) and $12,500,000 principal amount of subordinated notes (Interim Subordinated Notes) to its parent, Northeast. (See Holding Company Act Release No. 17692, Sept. 11, 1972.) Millstone also has outstanding $150,000 principal amount of long-term suborinated notes and $15,000 common equity, all held by Northeast.

Applicants now propose to institute a permanent financing program for Millstone providing, among other things: (1) For the refinancing of Millstone's outstanding Interim Bank Notes and Interim Subordinated Notes (initial phase financing), and (2) for the financing of Millstone's additional capital requirements through 1978 in respect of the procurement of nuclear fuel for Units No. 1 and No. 2 of the Station (subsequent phase financing). In connection therewith, Owners propose to enter into a contract (Fuel Supply Contract) with Millstone, extending until December 1, 1982, whereby (a) Owners' interests in Unit No. 2 Fuel Contract will be assigned to Millstone (their interests in Unit No. 1 Fuel Contract having heretofore been so assigned, as previously indicated); (b) Millstone as the owner thereof will procure and supply nuclear fuel, including replacement fuel, to Owners for use in Units No. 1 and No. 2 of the Station; and (c) Owners will pay Millstone's costs and expenses plus a return on invested capital, as more fully described below. It is further proposed that the Operating Agreement between Owners and Millstone be appropriately amended to reflect the foregoing and the associated proposed financing program.

The payments to Millstone under the Fuel Supply Contract will be made monthly by Owners in proportion to their respective participations in the Station. Such payments (which will be subject to the jurisdiction of the appropriate regulatory commission) are designed to cover (i) amounts chargeable as amortization of costs of the nuclear fuel elements; (ii) all other amounts chargeable to fuel costs for the Station, less applicable credits thereto for the salvage value of uranium and plutonium recovered in fuel reprocessing; (iii) to the extent not chargeable to fuel costs under (i) and (ii), all payments on account of indebtedness or lease obligations incurred in connection with the nuclear core elements, including interest expense and payments of principal when due. In addition, to the extent not reflected in the foregoing, Owners will pay Millstone monthly an amount equal to one-twelfth of 8.5 percent of Millstone's total capitalization. It is intended that the monthly payments shall also cover all other expenses of Millstone incident to its undertaking, such as license fees and all other governmental charges and taxes including taxes on income. The Fuel Supply Contract also obligates Owners to supply, or cause to be supplied, to Millstone such amounts of Equity Capital as shall be required to enable Millstone to comply with the capitalization-ratio covenants of the Indenture applicable to Millstone's secured notes, hereinafter described.

Both the initial and subsequent phases of the proposed permanent financing program will involve the issuance and sale by Millstone of long-term notes (Secured Notes) and short-term notes to banks (Bank Notes); in addition, both phases will involve equity capital investments by Northeast from time to time through purchases of common stock and/or capital contributions.

Millstone's outstanding interim debt is estimated to aggregate $23,200,000 as at December 1, 1972, consisting of $12,500,000 Interim Bank Notes, and $10,700,000 Interim Subordinated Notes held by Northeast. As initial phase financing, it is proposed that Millstone issue and sell $9 million principal amount of Secured Notes (to be designated Series A) and $9,450,000 face amount of Bank Notes—the total proceeds to be used to pay all the outstanding Interim Bank Notes and $5,950,000 of the outstanding Interim Subordinated Notes. It is further proposed that the balance of Millstone's Interim Subordinated Notes ($4,750,000) and the $150,000 of long-term notes—all held by Northeast—be converted into permanent equity capital of Millstone. After giving effect to the foregoing initial phase financing, Millstone's capital structure will consist of approximately 65 percent long-term debt and 35 percent equity capital. Beyond the initial phase financing, Millstone's capital requirements are expected to increase irregularly but substantially as additional nuclear fuel elements (and replacements) are procured by it for use in Units No. 1 and No. 2 of the Station. It is proposed that such procurements be financed through further issuances of Bank Notes and Secured Notes and through equity capital investments by Northeast.

The proposed initial $9 million principal amount of Secured Notes (Series A) will be sold to The Travelers Insurance Co. at 100 percent of principal amount; will bear an interest rate of 8.5 percent per annum; will be dated as of December 1, 1972; and will mature December 1, 1982. The Series A will be issued under an open-end Trust Indenture (Indenture) dated as of December 1, 1972, between Millstone and The Connecticut Bank and Trust Co., Trustee. The Indenture will prohibit the redemption of any of the Series A Secured Notes prior to December 1, 1977, through the direct or indirect use of funds borrowed at an effective interest cost to Millstone of less than 8.5 percent per annum. The Series A Secured Notes will not be subject to a sinking fund. The Indenture will also provide, among other things: (1) An adequate inventory of nuclear fuel elements shall be maintained at all times for efficient operation of the station, the fair value of such inventory fuel to be not less than 100 percent of all Secured Notes outstanding. (2) Additional Secured Notes may be issued in amounts not exceeding 65 percent of the fair value of "eligible nuclear core elements" certified to the Trustee as the basis for such issuance. To be "eligible," the core elements must be at the site of the generating unit referred to in the relevant Fuel Supply Contract and must be useful in such unit. No earnings test is provided; Millstone, however, is required to execute and maintain the Fuel Supply Contract on terms as hereinabove described, with Owners, or, in the case of future Fuel Supply Contracts, with Owners and with other utilities provided for in the Indenture. (3) Millstone shall at all times maintain an amount of Equity Capital (consisting of capital stock and surplus plus any subordinated indebtedness to Northeast or wholly owned subsidiaries thereof) equal to not less than (a) 35 percent of the sum of Equity Capital and Secured Notes, and (b) 17½ percent of the sum of Equity Capital, Secured Notes, and bank borrowings. (4) Cash dividends and other distributions on the common stock after December 1, 1972, shall not in the aggregate exceed Millstone's aggregate earnings applicable to common stock after that date, plus such additional amounts as the Commission may authorize under the Act.

To provide Millstone with financing flexibility in meeting its month-to-month capital requirements, the Commission is requested to authorize the issuance, sale, repayment and/or reissuance of Bank Notes through December 31, 1974, in a total aggregate amount not to exceed $25 million at any one time outstanding. Although no formal commitments have been made for such bank borrowings, Millstone expects that a portion thereof will be effected from the following banks in the amounts indicated:

Maximum Amount	hearing thereon. Any such request should be addressed: Secretary, Securi-	1 percent in the six'h and seventh years. The effective interest rate of the notes

For the Commission, by the Division of Corporate Regulation, pursuant to

MC-129291 (Sub-No. 5), McDaniel Motor Express, Inc., now assigned December 4, 1972,

MC-107515 Sub 799, Refrigerated Transport Co., Inc., now being assigned hearing Janu-

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Bank	Maximum Amount
The Connecticut Bank and Trust Co.	$9,000,000
Hartford National Bank and Trust Co.	9,000,000
	18,000,000

Bank borrowings to be effected from additional banks or in larger maximum amounts will be the subject of one or more post-effective amendments hereto. The Bank Notes will each be dated the date of issue; will have a maximum maturity date of 9 months with right of renewal; will bear interest at the prime rate in effect from time to time at The Connecticut Bank and Trust Co., adjusted as of the date of any change in such rate; will be subject to prepayment at any time at Millstone's option without premium; and will be subordinated to all Secured Notes issued by Millstone. There will be no compensating-balance requirement.

It is contemplated that after the initial phase financing Millstone's capital requirements will be met in the first instance by the issue and sale of Bank Notes pursuant to the requested authorization. Outstanding Bank Notes will be refinanced from time to time through successive sales of Secured Notes and equity investments by Northeast. The issuance and sale of future series of Secured Notes and the terms thereof (including redemption provisions, sinking fund requirements, etc.) will be the subject of future applications under the Act.

Authorization is requested for the issuance by Millstone of its common stock to, and/or the making of capital contributions by, Northeast, in such amounts as may be required from time to time to meet the capital ratio limitations of the Indenture and to carry out the Fuel Supply Contract. It is estimated that, in all, the amount of common stock issued and capital contributions made before December 31, 1978, will not exceed $25 million. The common stock is without par value; purchases thereof by Northeast will be at a price of $1,000 per share.

A statement of the fees, commissions, and expenses paid or incurred or to be paid or incurred, directly or indirectly, in connection with the proposed transactions will be supplied by amendment.

It is stated that the Massachusetts Department of Public Utilities has approved the form of the Fuel Supply Contract to be executed by WMECO; that the approval of the Connecticut Public Utilities Commission is required for the issue by Millstone of its common stock and Secured Notes; and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 29, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19592 Filed 11-14-72;7:48 am]

[70-5255]

WHEELING ELECTRIC CO.

Notice of Proposed Issue and Sale of Long Term Notes to Banks

NOVEMBER 8, 1972.

Notice is hereby given that Wheeling Electric Co. (Wheeling), 51-16th Street, Wheeling, WV 26003, a public-utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a) and 7 thereof as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Wheeling proposes pursuant to a bank loan agreement to issue and sell on or before November 1, 1975, its unsecured notes maturing November 1, 1979, in the aggregate amount of $19 million outstanding at any one time. The names of the banks and their commitments are as follows:

Mellon National Bank and Trust Co., Pittsburgh, Pa.	$10,000,000
First National City Bank, New York, N.Y.	5,000,000
Bankers Trust Co., New York, N.Y.	4,000,000
	19,000,000

Borrowings from Mellon and Bankers Trust will bear interest at 114 percent of the prime rate in effect at each bank from time to time, plus ¼ of 1 percent in the fourth and fifth years and ½ of 1 percent in the sixth and seventh years. The effective interest rate of the notes sold to First National City will range from 114 percent of its prime rate in the first 2 years to 123 percent of its prime rate in the seventh year. The agreement provides further that the average annual interest rate paid to any of the banks shall not exceed 7.5 percent. Wheeling will pay to each bank substitute interest computed at the rate of ½ of 1 percent per annum on the daily average unused amount of such bank's commitment. Prepayment of the notes, in whole or in part, may be made at any time without premium. Wheeling has agreed not to create or suffer to exist any mortgage upon its property, or to incur any indebtedness for borrowed money (other than short term debt in an amount not exceedinf 10 percent of its capitalization) if the total of all indebtedness (other than short term debt to the extent specified) shall exceed 65 percent of Wheeling's capitalization.

Wheeling states that the $19 million of notes are to be issued for the purpose of (a) paying at maturity the $13 million of its presently outstanding notes due December 1, 1972, (b) prepaying its short term notes payable to banks of which $4,190,000 were outstanding at June 30, 1972, and (c) providing additional cash to be used to pay, in part, the cost of its 1972 and 1973 construction programs estimated to cost approximately $1,600,000 and $1,900,000, respectively.

Fees and expenses to be incurred in connection with the proposed transactions are estimated at $2,500. It is stated that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 29, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19591 Filed 11-14-72;8:48 am]

INTERSTATE COMMERCE COMMISSION

[Notice 117]

ASSIGNMENT OF HEARINGS

NOVEMBER 10, 1972.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC-F-11275, Navajo Freight Lines, Inc.—Control—Joe Hodges Transportation Corp., now assigned January 29, 1973, at Denver, Colo., is postponed to January 22, 1973, at Denver, Colo., in a hearing room to be later designated.

Ex Parte No. 270 Sub 1B, Export—Import rates and charges Great Lakes, continued to February 5, 1973 (1 week), at Chicago, Ill., in a hearing room to be later designated.

MC 117304 Sub 30, Don Paffile, doing business as Paffile Truck Lines, now being assigned hearing January 18, 1973 (2 days), at Seattle, Wash., in a hearing room to be later designated.

MC 136070 Sub 1, John F. Schroeder, Inc., now being assigned hearing January 15, 1973 (2 days), at Seattle, Wash., in a hearing room to be later designated.

MC 112989 Sub 25, West Coast Truck Lines, Inc., now being assigned hearing January 17, 1973 (1 day), at Seattle, Wash., in a hearing room to be later designated.

MC 1515 Sub 181, Greyhound Lines, Inc., now being assigned hearing January 22, 1973 (3 days), at Portland, Oreg., in a hearing room to be later designated.

I & S No. 8707, Refrigeration Provisions, Florida East Coast Railway, I & S No. 8720, Icing Services, U.S. Railroads, now assigned November 27, 1972, at Los Angeles, Calif., will be held in Tax Courtroom, Customhouse, Federal Office Building, 300 Los Angeles Street.

MC-C-7823, New England-New York Transport, Inc.—Investigation and revocation of certificates, now assigned December 7, 1972, at Boston, Mass., will be held in Room 2211B, John Fitzgerald Kennedy Building, Government Center.

I & S 8789, Passenger Fare Increase, Penn Central, now assigned December 4, 1972, at Providence, R.I., will be held in Conference Room, State of Rhode Island P.U.C., Alwyn-Mason Building, 169 Weybosset Street.

MC-129291 (Sub-No. 5), McDaniel Motor Express, Inc., now assigned December 4, 1972, will be held in Room G-2, Capitol Plaza Tower, Department of Transportation, Frankfort, Ky.

MC 111812 Sub 478, Midwest Coast Transport, Inc., MC 117799 Sub 37, Best Way Frozen Express, Inc., now being assigned hearing February 1, 1973, at Omaha, Nebr., in a hearing room to be later designated.

MC-F-11372, Roadway Express, Inc.—Control and Merger—Poole Transfer, Inc., continued to November 28, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-C-7786, Eck Miller Transportation Corp.—Investigation and revocation of certificates, now assigned December 4, 1972, at Louisville, Ky., is postponed indefinitely.

MC 134847 Sub 3, Bessette Transport, Inc.—Extension-Bedford Slate, now being assigned hearing January 15, 1973 (1 day), at Boston, Mass., in a hearing room to be later designated.

MC 133095 Sub 34, Texas Continental Express, Inc., now being assigned hearing January 16, 1973 (1 day), at Boston, Mass., in a hearing room to be later designated.

MC 108587 Sub 15, Schuster's Express, Inc., now being assigned hearing January 17, 1973 (3 days), at Boston, Mass., in a hearing room to be later designated.

MC 118292 Sub 31, Ballentine Produce, Inc., now being assigned hearing January 29, 1973 (2 days), at San Francisco, Calif., in a hearing room to be later designated.

MC 116474 Sub 21, Leavitts Freight Service, Inc., now being assigned January 25, 1973 (2 days), at Portland, Oreg., in a hearing room to be later designated.

No. 35599, Southern Pacific Transportation Co., Pacific Motor Trucking Co., Bonded Draying Service, Transportation Service Co. and Aldo J. Scoffone—Investigation of Practices, MC-C-7758, Southern Pacific Transportation Co., Pacific Motor Trucking Co., Silas F. Royster doing business as, Royster Trucking Co., Bonded Draying Service, Transportation Service Co., and Aldo J. Scoffone—Investigation of Operations—now being assigned hearing January 31, 1973 (3 days), at San Francisco, Calif., in a hearing room to be later designated.

MC-41432 Sub 128, East Texas Motor Freight Lines, Inc., MC-83539 Sub 345, C & H Transportation Co., Inc., now assigned December 4, 1972; will be held in Room 5A-15, Federal Building, 1100 Commerce Street, Dallas, Tex.

MC-68100 Sub 16, D. P. Bonham Transfer, Inc., now assigned December 5, 1972, will be held in Room 5A-15, Federal Building, 1100 Commerce Street, Dallas, Tex.

MC-110525 Sub 1037, Chemical Leaman Tank Lines, Inc., now assigned December 6, 1972, will be held in Room 5A-15, Federal Building, 1100 Commerce Street, Dallas, Tex.

MC-135021 Sub 1, Texas Overland Trucking Express, Inc., now assigned December 11, 1972, will be held in Room 5B-43, Federal Building, 1100 Commerce Street, Dallas, Tex.

M-55898 Sub 48, Harry A. Decato, doing business as Decato Bros. Trucking Co., now being assigned hearing January 22, 1973 (2 days), at Boston, Mass., in a hearing room to be later designated.

MC-136750 Sub 1, New England Finishing & Furniture Haulers, Inc., now being assigned hearing January 24, 1973 (3 days), at Boston, Mass., in a hearing room to be later designated.

MC-107515 Sub 799, Refrigerated Transport Co., Inc., now being assigned hearing January 22, 1973 (2 weeks), at New York, N.Y., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-19622 Filed 11-14-72;8:50 am]

[S.O. 1112, Exception 2]

CERTAIN RAILROAD-OWNED REFRIGERATOR CARS

Exception To Encourage Use by Other Railroads

It appearing, that the supplies of railroad-owned refrigerator cars of mechanical designations RP, RPL, RS, and RSB on owners' lines are adequate; that numerous other carriers have need for such cars; that elimination of empty cars bearing railroad reporting marks and having mechanical designations RP, RPL, RS, and RSB from paragraph (a)(1)(iii) will best encourage their use by other railroads.

It is ordered, That, pursuant to the authority vested in the Railroad Service Board by Service Order No. 1112, paragraph (a)(1)(xiv), empty cars bearing railroad reporting marks and having mechanical designations RP, RPL, RS, and RSB, are hereby eliminated from the car types listed in paragraph (a)(1)(iii) of Service Order No. 1112.

Effective November 7, 1972.

Issued at Washington, D.C., November 8, 1972.

RAILROAD SERVICE BOARD,
ROBERT L. OSWALD,
Secretary.

[FR Doc.72-19626 Filed 11-14-72;8:51 am]

[S. O. 1112, Exception 1]

THE GREAT WESTERN RAILWAY CO. AND UNION PACIFIC RAILROAD CO.

Storage of Empty Covered Hopper Cars

It appearing, that a substantial number of covered hopper cars bearing mechanical designation "LO" are assigned to the exclusive use of the Great Western Sugar Co.; that these cars are loaded at eight different loading points located on The Great Western Railway Co. or the Union Pacific Railroad Co.; that these cars are presently assigned to the shipper at Milliken, Colo., a nonloading point accessible to both railroads, for purposes of distribution; that such assignment to a central distribution point results in increased car utilization and the assignment of fewer cars than would separate assignment to each loading point.

It is ordered, That, pursuant to the authority vested in the Railroad Service Board by Service Order No. 1112, paragraph (a)(1)(xiv), The Great Western Railway Co. and the Union Pacific Railroad Co. are hereby authorized to store

Thence over unnumbered highway to Albion, thence over Michigan Highway 99 to junction Interstate Highway 94, (17) from Kalamazoo, liamstown, Ky., over Kentucky Highway 36 to junction Interstate Highway 75, tion Virginia Highway 10, thence over Virginia Highway 10 to Smithfield, Va.,

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at Milliken, Colo., empty covered hopper cars of mechanical designation "LO" which are assigned to the exclusive use of the Great Western Sugar Co. for loading at any of the stations named herein. Such cars, while stored at Milliken, are subject to the provisions of paragraph (a)(2)(iii) of Service Order No. 1112. When subsequently ordered from Milliken for placement for loading by Great Western Sugar Co. at any of its facilities named herein and located on the lines of the railroad designated opposite each station named, empty car storage charges shall cease, and demurrage or detention charges covering all subsequent detention shall be assessed in accordance with the applicable tariffs.

The provisions of exception to paragraph (a)(1)(ix) of Service Order No. 1112 shall not apply to empty cars ordered from Milliken to any of the stations named herein. Any such car diverted empty while stored at Milliken, or after arrival at one of the named loading points, to any other point, shall be subject to the exception to section (a)(1)(ix) of Service Order No. 1112:

Loading Points	*Serving Railroad*
Longmont, Colo.	Great Western Ry.
Loveland, Colo.	Do.
Eaton, Colo.	Do.
Windsor, Colo.	Do.
Johnstown, Colo.	Do.
Brighton, Colo.	Union Pacific RR.
Ovid, Colo.	Do.
Greeley, Colo.	Do.

Effective: November 7, 1972.

Issued at Washington, D.C., November 7, 1972.

RAILROAD SERVICE BOARD,
ROBERT L. OSWALD,
Secretary.

[FR Doc.72-19625 Filed 11-14-72;8:51 am]

[Notice 30]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

NOVEMBER 10, 1972.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC-1515 (Deviation No. 634) (Cancels Deviation Nos. 387 and 464), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, OH 44113, filed October 25, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From junction Interstate Highway 94 and U.S. Highway 41, in Hammond, Ind., over Interstate Highway 94 to interchange unnumbered highway (formerly U.S. Highway 12) just southeast of Galesburg, Mich., (2) from the interchange of Interstate Highway 94 and Interstate Highway Business Loop 94, southwest of Battle Creek, Mich., over Interstate Highway 94 to the interchange of Interstate Highway 94 and Interstate Highway Business Loop 94 just east of Jackson, Mich., (3) from the Fletcher Road Interchange with Interstate Highway 94, approximately 1 mile west of Lima, Mich., over Interstate Highway 94 to interchange of U.S. Highway 23 and Interstate Highway 94 south of Ann Arbor, Mich., (4) from Gary, Ind., over city streets to interchange Interstate Highway 94, (5) from junction to U.S. Highway 20 and Indiana Highway 49 over Indiana Highway 49 to interchange Interstate Highway 94, (6) from Michigan City, Ind., over U.S. Highway 421 to junction Interstate Highway 94, (7) from Michigan City, Ind., over U.S. Highway 20 to junction Interstate Highway 94, (8) from Interchange No. 7 of the Indiana East-West Toll Road over Indiana Highway 39 to the Michigan-Indiana State line, thence over Michigan Highway 239 to interchange Interstate Highway 94, (9) from New Buffalo, Mich., over U.S. Highway 12 to interchange with Interstate Highway 94,

(10) From Benton Harbor, Mich., over Interstate Highway B.R. (Business Route) 94 to Interchange Interstate Highway 94 approximately 3 miles east of Benton Harbor, (11) from Coloma, Mich., over Berrien County Highway 706 to interchange Interstate Highway 94, (12) from Watervliet, Mich., over Michigan Highway 140 to interchange Interstate Highway 94, (13) from Paw Paw, Mich., over Michigan Highway 40 to interchange Interstate Highway 94, (14) from Oshtemo, Mich., over Ninth Street to interchange Interstate Highway 94, (15) from Kalamazoo, Mich., over Interstate Highway B.L. (Business Loop) 94 to interchange U.S. Highway 131, thence over U.S. Highway 27 to interchange Interstate Highway 94, west of Kalamazoo, (16) from Kalamazoo, Mich., over Westnedge Avenue to interchange Interstate Highway 94, (17) from Kalamazoo, Mich., over Interstate Highway B.L. (Business Loop) 94 to interchange Interstate Highway 94 east of Kalamazoo, (18) from Battle Creek, Mich., over Michigan Highway 66 to interchange Interstate Highway 94, (19) from Marshall, Mich., over U.S. Highway 27 to interchange Interstate Highway 94, (20) from Marshall, Mich., over Interstate Highway B.L. (Business Loop) 94 to interchange Interstate Highway 94 east of Marshall, (21) from Albion, Mich., over Interstate Highway B.L. (Business Loop) 94 to interchange Interstate Highway 94 north of Albion, (22) from junction Spring Arbor Road and Michigan Highway 60 southwest of Jackson, Mich., over Michigan Highway 60 to interchange Interstate Highway 94, (23) from Jackson, Mich., over U.S. Highway 127 to junction Interstate Highway 94, and (19) also, access and egress to Interstate Highway 94 where it junctions with regular route operations of applicant as follows:

(a) The interchange of the Indiana East-West Toll Road and Interstate Highway 94 in Gary, Ind., (b) the interchange of Interstate Highway B.L. 94 and Interstate Highway 94, 1 mile north of Stevensville, Mich., (c) the interchange of Interstate Highway B.L. 94 and Interstate Highway 94, east of Battle Creek, Mich., and (d) the interchange of Michigan Highway 99 and Interstate Highway 94, east of Albion, Mich., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Chicago, Ill., over U.S. Highway 12 via Michigan City, Ind., to New Buffalo, Mich., thence over Red Arrow Highway (formerly U.S. Highway 12) to junction Interstate Highway B.R. (Business Route) 94, just north of Stevensville, Mich., thence over Interstate Highway B.R. (Business Route) 94 through St. Joseph and Benton Harbor to junction Red Arrow Highway, thence over Red Arrow Highway (formerly U.S. Highway 12) to Coloma, Mich., thence over unnumbered highway (formerly U.S. Highway 12) via Hartford, Lawrence, and Paw Paw to junction Interstate Highway B.L. (Business Loop) 94 at the junction of U.S. Highway 131, thence over Interstate Highway B.L. (Business Loop) 94 through Kalamazoo, Mich., to junction Michigan Highway 96, thence over Michigan Highway 96 to Galesburg, Mich., thence over unnumbered highway to interchange with Interstate Highway 94, thence over Interstate Highway 94 to interchange with Interstate Highway B.L. (Business Loop) 94, just west of Battle Creek, thence over Interstate Highway B.L. (Business Loop) 94 through Battle Creek to junction Interstate Highway 94, thence over unnumbered highway to Marshall, thence over Interstate Highway B.L. (Business Loop) 94 to junction unnumbered highway east of Marshall,

Thence over unnumbered highway to Albion, thence over Michigan Highway 99, crossing Interstate Highway 94 to junction access road to Michigan Avenue, thence over access road to Michigan Avenue, thence over Michigan Avenue, via Parma to Jackson, thence over Interstate Highway B. L. (Business Loop) 94 to junction Interstate Highway 94, thence over Interstate Highway 94 to Fletcher Road Interchange, west of Lima, thence over unnumbered highway via Lima to Ann Arbor, thence over U.S. Highway 23 to junction Interstate Highway 94, thence over Interstate Highway 94 to Ypsilanti, thence over Michigan Highway 17 via Allen Park to junction Southfield Road, thence over Southfield Road to Lincoln Park, Mich., thence over South Fort Road to Detroit, Mich. (also from junction U.S. Highway 12 and Indiana Highway 520, formerly unnumbered highway, approximately 1½ miles west of Michigan City, Ind., over Indiana Highway 520 to junction U.S. Highway 20; also from Michigan City, Ind., east over U.S. Highway 35 to junction U.S. Highway 20; also from Galesburg, Mich., over Michigan Highway 96 via Augusta to Battle Creek; also from Augusta over unnumbered highway to Battle Creek; also from junction Interstate Highway B. L. (Business Loop) 94 and Michigan Avenue just east of Jackson, over Michigan Avenue via Leoni and Gass Lake, Mich., to junction Interstate Highway 94 just north of Sylvan, Mich.; also from Interchange unnumbered highway and Interstate Highway 94 just north of Sylvan over unnumbered highway via Chelsea, Mich., to Fletcher Road Interchange with Interstate Highway 94; also from Ann Arbor over U.S. Highway 23 to junction Interstate Highway 94, thence over Interstate Highway 94 to Ypsilanti, thence over U.S. Highway 12 to Detroit; also from Ann Arbor over Michigan Highway 17 to Ypsilanti; also from interchange of Interstate Highway 94 and Michigan Highway 17 east of Ypsilanti over Interstate Highway 94 to junction U.S. Highway 12; and also from Allen Boulevard to Fort Street, thence over Fort Street to Detroit, Mich.), and return over the same routes.

No. MC-1515 (Deviation No. 635) (Cancels Deviation No. 535), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, OH 44113, filed October 25, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Covington, Ky., over Interstate Highway 75 to Knoxville, Tenn., with the following access routes (1) from Richwood, Ky., over Kentucky Highway 338 to junction Interstate Highway 75, (2) from Walton, Ky., over Kentucky Highway 14–16 to junction Interstate Highway 75, (3) from Crittenden, Ky., over Kentucky Highway 491 to junction Interstate Highway 75, (4) from Dry Ridge, Ky., over Kentucky Highway 22 to junction Interstate Highway 75, (5) from Williamstown, Ky., over Kentucky Highway 36 to junction Interstate Highway 75, (6) from Corinth, Ky., over Kentucky Highway 330 to junction Interstate Highway 75, (7) from Georgetown, Ky., over U.S. Highway 62 to junction Interstate Highway 75, (8) from Lexington, Ky., over Kentucky Highway 922 to junction Interstate Highway 75, (9) from Richmond, Ky., over U.S. Highway 25 to junction Kentucky Highway 876, thence over Kentucky Highway 876 to junction Interstate Highway 75, (10) from Berea, Ky., over U.S. Highway 25 to junction Kentucky Highway 21, thence over Kentucky Highway 21 to junction Interstate Highway 75, (11) from Mount Vernon, Ky., over U.S. Highway 25 northbound to junction Interstate Highway 75, (12) from Mount Vernon, Ky., over U.S. Highway 25 southeasterly to junction Interstate Highway 75, (13) from Corbin, Ky., over U.S. Highway 25 to junction Kentucky Highway 709, thence over Kentucky Highway 709 to junction Interstate Highway 75, (14) from Corbin, Ky., over U.S. Highway 25–W to junction Interstate Highway 75, (15) from Williamsburg, Ky., over Kentucky Highway 92 to junction Interstate Highway 75, and (16) from Jellico, Tenn., over U.S. Highway 25–W southeasterly to junction Interstate Highway 75, and return over the same routes, for operating convenience only.

The notice indicates that the carrier is presently authorized to transport passengers and the same property, over pertinent service routes, as follows: (1) From Cincinnati, Ohio, over U.S. Highway 25 to Lexington, Ky. (also from Cincinnati across the Ohio River to Covington, Ky., thence over Kentucky Highway 17 to junction U.S. Highway 27, thence over U.S. Highway 27 to Lexington), and thence over U.S. Highway 27 to Chattanooga, Tenn., and (2) from Lexington, Ky., over U.S. Highway 25 via Livingston, Oakley and East Bernstadt, Ky., to Corbin, Ky., thence over U.S. Highway 25–W to Knoxville, Tenn., and return over the same route.

No. MC-13300 (Deviation No. 26), CAROLINA COACH COMPANY, 1201 South Blount Street, Raleigh, NC 27602, filed October 25, 1972. Carrier's representative: James E. Wilson, Suite 1032, Pennsylvania Building, Pennsylvania Avenue and 13th Street, NW., Washington, D.C. 20004. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Richmond, Va., over Interstate Highway 64 to junction Virginia Highway 168, thence over Virginia Highway 168 to junction Interstate Highway 64, thence over Interstate Highway 64 to Norfolk, Va., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Richmond, Va., over combined U.S. Highways 1 and 301 to junction Virginia Highway 10, thence over Virginia Highway 10 to Smithfield, Va., thence over combined Virginia Highway 10 and U.S. Highway 258 to Benns Church, Va., thence over combined Virginia Highways 10 and 32 to Chuckatuck, Va., thence over Virginia Highway 125 to Driver, Va., thence over Virginia Highway 337 to Portsmouth, Va., thence over U.S. Highway 58 to Norfolk, Va., and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-19620 Filed 11-14-72;8:50 am]

[Notice 92]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

NOVEMBER 10, 1972.

The following publications are governed by the new Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.[1]

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

NOTICE FOR FILING PETITIONS

No. MC 107409 (Sub-No. 21) (Notice of Filing of Petition for Modification of Existing Authority), filed November 1, 1972. Petitioner: RATLIFF & RATLIFF, INC., Lexington, N.C. Petitioner's representative: William P. Jackson, Jr., 919 18th Street NW., Washington, DC 20006. Petitioner presently holds a certificate in No. MC 107409 (Sub-No. 21), authorizing, as pertinent, operation as a common carrier by motor vehicle, over irregular routes of: *Manufactured iron and steel products and articles*, on flat bed or on open-top vehicles, from the plantsite of Armco Steel Corp., at or near Ashland, Ky., to points in Virginia, Tennessee, North Carolina, South Carolina, Georgia, and Florida, with no transportation for compensation on return except as otherwise authorized. By the instant petition, petitioner seeks removal of the equipment restriction on its Sub-No. 21 authority. The modified authority sought as to transport, as a motor

[1] Except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

common carrier, over irregular routes: *Manufactured iron and steel products*

among other things, whether transferee, under § 1132.3 of the rules and regula-

sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other

and places in the States named above; *new automobiles, new trucks*, and *new*

ada, of control of such rights through the purchase. Applicant's attorneys: David A. Sutherlund and Robert S. Burk, 2001

for temporary authority under section 210a(b).

By the Commission

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common carrier, over irregular routes: *Manufactured iron and steel products and articles*, from the plantsite of Armco Steel Corp., at or near Ashland, Ky., to points in Virginia, Tennessee, North Carolina, South Carolina, Georgia, and Florida, with no transportation for compensation on return except as otherwise authorized. Any interested person desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 129228 (Sub-No. 1) (Notice of Filing of Petition To Add an Additional Shipper), filed October 21, 1972. Petitioner: McCABE'S EXPRESS & TRUCKING CO., LTD., 134 Garfield Avenue, Jersey City, NJ 07305. Petitioner's representative: George A Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Petitioner presently holds a permit in No. MC 129228 (Sub-No. 1) issued May 16, 1972, authorizing operation as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lighting fixtures and lamps, and equipment, materials, and supplies* used in their manufacture and sale, except commodities in bulk, between Jersey City and Kearny, N.J., on the one hand, and, on the other, points in Louisiana, Minnesota, and Texas, and those points in the United States east of the Mississippi River, under a continuing contract or contracts with Lightolier, Inc., of Jersey City, N.J. By the instant petition, petitioner seeks to add Aluminum Processing Corporation of Fall River, Mass., a subsidiary of Lightolier, Inc., as an additional shipper to its authority herein stated above. Any interested person desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

TRANSFER APPLICATIONS TO BE ASSIGNED FOR ORAL HEARING

No. MC–FC–73782. Authority sought by transferee, BEALL'S EXPRESS, INC., 103 Apples Church Road, Thurmont, MD, to transfer to transferee operating rights of transferor, WESTERN EXPRESS, INC., 1522 South Caton Avenue, Baltimore, MD 21227. Transferee's and transferor's representative: James L. Doherty, 425 St. Paul Place, Baltimore MD 21202. Operating rights in Certificate No. MC–21244 sought to be transferred: Such articles as are purchased at auction sales, bankrupts', or sales of merchants' surplus stock in trade, except new furniture, between Baltimore, Md., on the one hand, and, on the other, New York, N.Y., and points and places in New Jersey, Delaware, Pennsylvania, Virginia, Maryland, North Carolina, and the District of Columbia.

The above-entitled transfer application under section 212(b) of the Interstate Commerce Act is to be assigned for hearing for the purpose of determining, among other things, whether transferee, under § 1132.3 of the rules and regulations governing transfer of operating rights, is fit to acquire the rights proposed for transfer. Interested parties have 30 days from the date of this publication in which to file petitions for leave to intervene. Such petitions should state the reason or reasons for the intervention, where the petitioner wishes the hearing to be held, the number of witnesses to be presented, and the estimated time required for the presentation of evidence. The Bureau of Enforcement has been directed to participate as a party in the proceeding for the purpose of presenting evidence and otherwise developing the record.

APPLICATION FOR CERTIFICATE OF PERMIT WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATION UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 127602 (Sub-No. 12) (Amendment), filed September 18, 1972, published in the FEDERAL REGISTER issue of October 4, 1972, and republished as amended, this issue. Applicant: DENVER-MIDWEST MOTOR FREIGHT, INC., 525 Jones Street, Box 156 D.T.S., Omaha, NE 68101. Applicant's representative: Earl H. Scudder, Jr., Post Office Box 82028, 605 South 14th Street, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *General commodities* (except commodities in bulk, household goods as defined by the Commission, commodities which because of size or weight require the use of special equipment, and classes A and B explosives). (1) Regular Routes: Serving points in Cook, Lake, McHenry, Kane, Du Page, De Kalb, Kendall, Grundy, Will, and Kankakee Counties, Ill., as off-route points in connection with carrier's existing authority; and (2) Irregular Routes: Between points in those counties named in (1) above, on the one hand, and, on the other, all points in Illinois. NOTE: Applicant states it intends to tack the authority sought with its existing authority at Chicago, Ill., to provide a through service. This application is a matter directly related to MC–F–11662, published in the FEDERAL REGISTER issue of September 27, 1972. The instant application seeks to convert the Certificate of Registration of Streator Transfer & Storage Co. under No. MC 98297 into a Certificate of Public Convenience and Necessity. The purpose of this republication is to reflect: (1) That regular and irregular operations are involved, (2) to redescribe the territorial description, and (3) to change the tacking information. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

APPLICATIONS UNDER SECTIONS 5 AND 210(a)(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC–F–11683. (Correction) (WILSON FREIGHT COMPANY — PURCHASE (PORTION)—TRANSPORTATION SERVICE, INC., published in the October 18, 1972, issue of the FEDERAL REGISTER on page 22027. Prior notice should have included that transferee operates in the States of Arkansas and Michigan in addition to those shown in the publication.

No. MC–F–11687. Authority sought for purchase by Commercial Carriers, Inc., 10701 Middlebelt Road, Romulus, MI 48174, of the operating rights and property of Paul A. Mavis (a noncarrier), 7101 E. Slauson Avenue, Los Angeles, CA 96022, and for acquisition by American Commercial Lines, Inc., and in turn by Richard C. Young, both of Post Office Box 1160, Owensboro, KY 42301, and Texas Gas Transmission Corp., and in turn by Robert O. Koch, both of 3800 Frederica Street, Owensboro, KY 42301, of control of such rights and property; in No. MC–F–11685, Paul A. Mavis, sought to purchase the operating rights of Robertson Truck-A-Ways, Inc., and these rights in turn will be transferred to Commercial Carriers, Inc. Applicants' attorneys: Charles Pieroni, 400 West Sample Street, South Bend, IN 46627, Jack C. Goodman, 39 South LaSalle Street, Chicago, IL 60603, and E. Phillips Malone, 3800 Frederica Street, Owensboro, KY 42301. Operating rights sought to be transferred: *New automobiles*, in initial movements, as a *common carrier* over irregular routes, from Long Beach, Calif., to points and places in Arizona, New Mexico, Nevada, Oregon, and Utah; *new automobiles* and *new trucks*, in initial movement, from Maywood, Calif., and points and places within 1 mile thereof, to points and places in Arizona, Nevada, and Oregon; *new automobiles*, in secondary movements, from points and places in California, on San Francisco Bay, to points and places in California, except Long Beach, San Pedro, and Wilmington; *new automobiles* and *new trucks*, in secondary movements, from Phoenix, Ariz., to Los Angeles, Calif.; *new automobiles*, *new trucks*, and *new chassis*, in initial movements, in truckaway service, from San Leandro, Calif., and all points and places within 1 mile of San Leandro except points and places in Oakland, Calif., to points and places in California, Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming;

New trucks, and *new chassis*, in initial movements, in driveaway service, from the above-specified origin points and places to the destination points and places described immediately above; *new trucks*, in secondary movements, in driveaway and truckaway service, from San Leandro, Calif., and points and places within 20 miles thereof, to points and places in the States named above; *new automobiles*, *new trucks*, and *new chassis*, in secondary movements, in truckaway service, from Salt Lake City, Utah, to San Leandro, Calif., and points and places within 20 miles thereof; *automobiles*, in initial movements, in truckaway service, from the site of the plant of the Chrysler Corp., located adjacent to Maywood, Calif., to points in the Los Angeles Harbor commercial zone, as defined by the Commission, and points in Idaho and Washington; *automobiles*, in secondary movements, in truckaway service, from points in the Los Angeles Harbor commercial zone, as defined by the Commission, to points in Los Angeles County, Calif.; *new automobiles*, in secondary movements, by the truckaway method, from Phoenix, Ariz., to a defined area in California; *automobiles, trucks, and buses*, (except those which have been repossessed, embezzled, stolen, or wrecked, and except trailers), in secondary movements, in truckaway service, from points in Nebraska to points in New Mexico, Arizona, and California, between points in New Mexico, Arizona, and that part of California south of the northern boundaries of San Luis Obispo, Kern, and San Bernardino Counties, Calif.; *automobiles*, (except used automobiles, and except repossessed, embezzled, stolen, or wrecked automobiles), in secondary movements, in truckaway services, from Sacramento, Calif., to points in Arizona and New Mexico, with restriction:

New and used motor vehicles (except trailers), in secondary movements, in truckaway service, between points in Arizona, New Mexico, Nevada, and Utah (except shipments from Phoenix, Ariz.), with restriction, from Phoenix, Ariz., to points in Arizona, New Mexico, Nevada, and Utah; automobiles and trucks, in initial movements, in truckaway service, from the plant site of Chrysler Corp., in Maywood, Calif., to Farwell, Tex., and points in New Mexico, from Maywood, Calif., to points in Montana; *motor vehicles* (except trailers, trucks, imported motor vehicles, and used motor vehicles which have been repossessed, embezzled, stolen, or damaged) in secondary movements, in truckaway service, between points in Nevada and points in that part of California south of the northern boundaries of San Luis Obispo, Kern, and San Bernardino Counties, Calif., with restriction. Vendee is authorized to operate as a *common carrier* in all of the States in the United States (except Alaska and Hawaii) and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11709. Authority sought for purchase by Laidlaw Transport Limited, 65 Guise Street, Hamilton 21, ON, Canada, of the operating rights of C. J. Weber Trucking, Inc., 540 Broad Street, Tonawanda, NY 14150, and for acquisition by Laidlaw Motorways Limited, and in turn by Michael G. DeGroote, both of 65 Guise Street, Hamilton 21, ON, Canada, of control of such rights through the purchase. Applicant's attorneys: David A. Sutherlund and Robert S. Burk, 2001 Massachusetts Avenue NW., Washington, DC 20036, and Timothy C. Leixner, 700 Liberty Bank Building, Buffalo, N.Y. 14202. Operating rights sought to be transferred: *General commodities*, excepting those among others, Classes A and B explosives, household goods and commodities in bulk, as a *common carrier* over irregular routes, between Tonawanda, Buffalo, and Niagara Falls, N.Y. Vendee is authorized to operate as a *common carrier* in New York, Illinois, Indiana, Ohio, Pennsylvania, Michigan, New Jersey, Maryland, and Delaware. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11710. Authority sought for purchase by Western Lines, Inc., Post Office Box 1145, Houston, TX 77001, of the operating rights and property of J. M. Foster, Box 247, Route No. 6, Brookhaven, MS 39601, and for acquisition by Dixie Transport Co. of Texas, Box 5447, Beaumont, TX 77706, of control of such rights and property through the purchase. Applicants' attorney: Austin L. Hatchell, 1102 Perry Brooks Building, Austin, TX 78701. Operating rights sought to be transferred: *Lumber*, as a *common carrier* over irregular routes, between points in Alabama, Georgia, Louisiana, Mississippi, and Tennessee; *crossties*, from points in Mississippi, to points in Alabama and Louisiana. Vendee is authorized to operate as a *common carrier* in Texas, Arkansas, Louisiana, New Mexico, Oklahoma, Tennessee, Mississippi, Kansas, Missouri, North Dakota, Nebraska, South Dakota, and Colorado; and as a *contract carrier* in Arkansas, Kansas, Oklahoma, New Mexico, Texas, Louisiana, Missouri, Nebraska, and Iowa. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11711. Authority sought for purchase by Barrett Mobile Home Transport, Inc., Post Office Box 919, Moorhead, MN 56560, of the operating rights of James M. Crain, doing business as Jim Crain Mobile Home Transport, 3223 Wade Hampton Boulevard, Taylors, SC 29687, and for acquisition by John C. Barrett, River Oaks, Moorhead, Minn., of control of such rights through the purchase. Applicants' attorney and representative: Robert G. Tessar, 1819–Fourth Avenue South, Moorhead, MN 56560, and James M. Crain, 3223 Wade Hampton Boulevard, Taylors, SC 29687. Operating rights sought to be transferred: *Mobile homes*, in secondary movements, in truckaway service, as a *common carrier* over irregular routes, between points in South Carolina, on the one hand, and, on the other, points in North Carolina, Tennessee, Georgia, Alabama, and Florida. Vendee is authorized to operate as a *common carrier* in all of the States in the United States except Hawaii. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.72-19621 Filed 11-14-72;8:50 am]

[Notice 149]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 8, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC–67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 17051 (Sub-No. 8 TA), filed October 19, 1972. Applicant: BARNET'S EXPRESS, INC., 758 Lidgerwood Avenue, Post Office Box 111, Elizabethport Station, Mailing: 07207, Elizabeth, NJ 07202. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel, equipment materials and supplies* used or useful in the manufacture and sale of wearing apparel for account of Excelled Sportswear, between Somerset, N.J., New York, N.Y., and Athens, Tenn., for 180 days. Supporting shipper: Excelled Sheepskin & Leather Coat Co., Inc., a division of U.S. Industries, Inc., 55 School Avenue, Somerset, NJ 08873. Send protests to: District Supervisor Robert E. Johnston, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 21866 (Sub-No. 76 TA), filed Fresh Meats Co., Division of Swift & ard H. Prevette (same address as above).

the FEDERAL REGISTER, issue of April 11, Tennessee Docket No. MC 5312 (Sub- I64 East to Airport Access Road to U.S. 60

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No. MC 21866 (Sub-No. 76 TA), filed October 19, 1972. Applicant: WEST MOTOR FREIGHT, INC., 740 South Reading Avenue, Boyertown, PA 19512. Applicant's representative: Alan Kahn, Suite 1920, Two Penn Center Plaza, Philadelphia, PA 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from the facilities of Knoll International, Inc., at or near East Greenville and Souderton, Pa., to points in the contiguous United States west of the western boundaries of Minnesota, Iowa, Missouri, Arkansas, and Texas, for 180 days. Supporting shipper: Knoll International, Inc., Water Street, Post Office Box 157, East Greenville, Pa. 18041. Attention: Earl H. Schappell, Manager, Physical Distribution. Send protests to: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 29120 (Sub-No. 145 TA), filed October 13, 1972. Applicant: ALL-AMERICAN TRANSPORT, INC., 1500 Industrial Avenue, Post Office Box 769 (57101), Sioux Falls, SD 57104. Applicant's representative: David L. Lewis (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, from warehouse facilities of Target Stores, Inc., located at Fridley, Minn., to Des Moines, Bettendorf, Clinton, Cedar Rapids, Ottumwa, and Ames, Iowa, and Moline, Ill., for 180 days. Supporting shipper: Target Stores, Inc., 7120 Highway 65 Northeast, Fridley, MN 55432, Jerome C. Simcoe, Distribution Manager. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 110563 (Sub-No. 91 TA), filed October 18, 1972. Applicant: COLDWAY FOOD EXPRESS, INC., 113 North Ohio Avenue, Post Office Box 747, Ohio Building, Sidney, OH 45365. Applicant's representative: John L. Maurer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Scottsbluff-Gering, Nebr., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, West Virginia, and the District of Columbia, for 180 days. Supporting shipper: Swift Fresh Meats Co., Division of Swift & Co., 115 West Jackson Boulevard, Chicago, IL 60604. Send protests to: District Supervisor Keith D. Warner, Interstate Commerce Commission, Bureau of Operations, Room 313, Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 115935 (Sub-No. 4 TA), filed October 18, 1972. Applicant: EXPLOSIVES TRANSPORTS, INC., 2701 South Prospect, Post Office Box 94787, Oklahoma City, OK 73109. Applicant's representative: Goldie E. Skaggs (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives*, from the Naval Ammunition Depot, Crane, Ind., to Naval Weapons Station, Concord, Calif., and Naval Ammunition Depot, Bangor, Wash., for 180 days. Supporting shipper: Curtis L. Wagner, Jr., Chief Regulatory Law Office, Department of the Army, Office of the Judge Advocate General, Washington, D.C. 20310. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 117119 (Sub-No. 466 TA), filed October 20, 1972. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., Post Office Box 188, Elm Springs, AR 72728. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated fireplace logs*, from Orange, Va., to points in Minnesota, for 180 days. Supporting shipper: Husky Industries, Inc., 4040 Louisiana Avenue, Denver, CO 80222. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 119639 (Sub-No. 6 TA), filed October 19, 1972. Applicant: INCO EXPRESS, INC. (Washington corporation), 2201 Sixth Avenue South, Seattle, WA 98134. Applicant's representative: Joseph O. Earp., 411 Lyon Building, Seattle, WA 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cloth or fabric coated with plastic or liquid plastic*, from points in Orange County, Calif., to the boundary line between the United States and Canada at or near Blaine and Sumas, Wash., for 180 days. Supporting shipper: Fiberite West Coast Corp., 645 North Cypress, Post Office Box 738, Orange, CA 92669. Send protests to: John M. Hall, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6049 Federal Office Building, Seattle, Wash. 98104.

No. MC 124078 (Sub-No. 531 TA), filed October 19, 1972. Applicant: SCHWERMAN TRUCKING CO. (a corporation 611 South 28th Street, Milwaukee, WI 53215. Applicant's representative: Richard H. Prevette (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash*, from Glasgow, W. Va., to points in North Carolina and Tennessee, for 180 days. Supporting shipper: Appalachian Power Co., Post Office Box 1986, Charleston, WV 25327 (Ronald E. Morrison, Ash Research. Sales and Development Engineer). Send protests to: District Supervisor John E. Ryden, Bureau of Operations, Interstate Commerce Commission, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 133968 (Sub-No. 3 TA), filed October 17, 1972. Applicant: WATERFORD EXCAVATING CO., INC., 622 North Cass Street, Suite 411, Post Office Box 344, 53201, Milwaukee, WI 53202. Applicant's representative: John Conlan (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, in dump vehicles, from Nebraska City, Nebr., to points in Iowa, for 180 days. Supporting shipper: Diamond Crystal Salt Co., St. Clair, Mich. 48079 (James J. Sheehan, Assistant Traffic Manager). Send protests to: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 138111 (Sub-No. 1 TA), filed October 19, 1972. Applicant: BARRETT'S TRANSFER, INC., Post Office Box 206, Renton, WA 98055. Applicant's representative: Jack R. Davis, 1100 IBM Building, Seattle, WA 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood cellulose, straw, fertilizer, grass seed, asphalt emulsion and machinery, equipment and supplies* used in the application of erosion control material, between points in Washington, Oregon, Idaho, Montana, and California, for 180 days. Supporting shipper: Environmental Erosion Control, 906–Fourth Street, NW., Puyallup, WA 98371. Send protests to: John M. Hall, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6049 Federal Office Building, Seattle, WA 98104.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.72-19623 Filed 11-14-72;8:51 am]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

NOVEMBER 10, 1972.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in

the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Montana Docket No. (Unknown) (Amendment), filed September 27, 1972, published in the FEDERAL REGISTER issue of October 12, 1972, amended October 31, 1972, and republished as amended this issue. Applicant: Big Sky Distributing Co., Route 1, Box 218–A, Sidney, MT 59270. Applicant's representative: John Berger (same address as applicant). Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *posts, lumber, and processed feed* in intrastate commerce between points and places in Sheridan, Roosevelt, Daniels, Valley, Garfield, Phillips, Richland, and Dawson Counties. Both intrastate and interstate authority sought. Hearing: Date, time, and place not shown. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Public Service Commission, State of Montana, 1227 Eleventh Avenue, Helena, MT 59601, and should not be directed to the Interstate Commerce Commission. The purpose of this amended notice of filing is to correct the original publication.

Iowa Docket No. H–5083, filed September 6, 1972. Applicant: PRANGE, INC., 1100 Highway, Pleasantville, IA. Applicant's representative: Robert R. Rydell, 900 Savings and Loan Building, Des Moines, IA 50309. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities*. Between: (A) Des Moines and Indianola, *except* for transportation of freight between Des Moines, Indianola, and points intermediate thereto, (B) Ivy, Prairie City, Monroe, Otley, and Pella and (C) Carlisle, Pleasantville, Knoxville, Attica, Marysville, Hamilton, Bussey, Lovilia, Hagerty *except* locally between Des Moines, Pleasantville, and points intermediate thereto. Both intrastate and interstate authority sought. Hearing: Date, time, and place, none required. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Iowa State Commerce Commission, State Capitol, Des Moines, Iowa 50319 and should not be directed to the Interstate Commerce Commission.

Tennessee Docket No. MC 5312 (Sub-No. 2), filed November 2, 1972. Applicant: S & D TRUCKING COMPANY, INC., Cherry Street, Dyersburg, Tenn. Applicant's representative: Barret Ashley, 322 Church Avenue, Post Office Box H, Dyersburg, TN 38024. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities*, except household goods, explosives, and commodities requiring special equipment, between Dyersburg and Trenton, to be used in conjunction with applicant's present authority and to remove the restrictions on the present authority under Certificate No. MC 5312 so as to allow interchange at Dyersburg. From Dyersburg, Tenn., to Trenton, Tenn., serving all intermediate points over U.S. Highway 51 to Newbern, over State Highway No. 77 from Newbern to Dyer and over State Highway 45–W from Dyer to Trenton and return over the same route with alternate authority from Dyersburg and Trenton over State Highway 104 and return over the same route serving all intermediate points, with authority to interchange at Trenton and all intermediate points. Applicant seeks coextensive interstate authority. Both intrastate and interstate authority sought.

Hearing: December 11, 1972 at the Commission's Court Room, C–1 Cordell Hull Building, Nashville, Tenn., at 9:30 a.m. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Tennessee Public Service Commission, Cordell Hull Building, Nashville, Tenn. 37219 and should not be directed to the Interstate Commerce Commission.

Virginia Docket No. CC–7132, filed September 15, 1972. Applicant: GROOME TRANSPORTATION, INC., Richard E. Byrd International Airport, Sandston, Va. 23150. Applicant's representative: John J. Wicker, Jr., % Wicker, Goodin & Duling, 706 Mutual Building, Richmond, VA 23219. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of passengers (limousine type service, 1–16 pass.), *baggage, mail, and express*, having a prior or subsequent journey by aircraft. The routes used are used as follows: Start Byrd Airport, Sandston, Va., Krouse Route No. U.S. 60 to Airport Access Road to I64 West to U.S. 33, East (Staples Mill Road) U.S. Route 250 West (Broad St.) to I64 East to I95 North to George Washington Memorial Parkway to Washington National Airport to George Washington Memorial Parkway to I495 South to Dulles Airport Access Highway to Dulles International Airport, Dulles Airport Access Highway to I495 South to I95 South to I64 West to U.S. 33 East (Staples Mill Road) to U.S. 250 West (Broad St.) to I64 East to Airport Access Road to U.S. 60 Krouse Road to Byrd Airport. Both intrastate and interstate authority sought.

Hearing: December 18, 1972, 10 a.m., Courtroom, State Corporation Commission, Blanton Building, Richmond, Va. Request for procedural information including the time for protests concerning this application should be addressed to the Commonwealth of Virginia, State Corporation Commission, Box 1197, Richmond, VA 23209 and should not be directed to the Interstate Commerce Commission.

Florida Docket No. 72614–CCT, filed November 2, 1972. Applicant: TROPICAL DISTRIBUTION INTERNATIONAL, INC., 1201 Northeast 45th Street, Oakland Park, FL 33308. Applicant's representative: Richard B. Austin, 5720 Southwest 17th Street, Miami, FL 33155. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *Motor vehicle parts, components and accessories* over irregular routes and schedules from, to, and between all points and places in Dade, Broward, Palm Beach, Monroe, Lee, and Collier Counties, Fla., and the City of Clewiston, Hendry County, Fla., and its commercial zone. Both intrastate and interstate authority sought.

Hearing: Date, time, and place unknown. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Florida Public Service Commission, 700 South Adams Street, Tallahassee, FL 32304 and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.72-19619 Filed 11-14-72;8:50 am]

[No. MC–C–7599]

PETITION OF TRAVENOL LABORATORIES, INC.

Petition Regarding Investment, Protective Service, Intervenous Solution; Extension of Time for Filing Comments

NOVEMBER 6, 1972.

At the requests of the National Small Shipments Traffic Conference and of the Drug and Toilet Preparation Conference the time for filing initial statements in the above-entitled proceeding has been extended from November 6, 1972, to November 20, 1972, and reply statements are now due December 11, 1972.

ROBERT L. OSWALD, *Secretary*.

[FR Doc.72-19624 Filed 11-14-72;8:51 am]

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PART II

ENVIRONMENTAL PROTECTION AGENCY

■

NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Control of Air Pollution

No. 221—Pt. II——1

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Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

PART 85—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

To facilitate the use of the motor vehicle regulations, and to eliminate confusion over the applicability of certain provisions to certain model years, all regulations applicable to new motor vehicles and new motor vehicle engines are herein republished in a new format.

Each subpart contains all the regulations applicable to a certain type of motor vehicle or motor vehicle engine, e.g., gasoline-fueled heavy duty engines. Within each subpart, general provisions are listed first, followed by regulations applicable to each successive model year. This recompilation begins with the 1973 model year, since the certification process for the 1972 model year is largely completed. Regulations applicable to the 1972 model year appear at 45 CFR Part 1201 (Supp. 1971), as amended at 36 F.R. 5342 (March 20, 1971) and at 36 F.R. 16905 (August 26, 1971).

The only substantive change contained in these regulations makes the definition of "model year", which the July 2, 1971, edition of the FEDERAL REGISTER (36 F.R. 12652) made applicable to the 1975 model year, applicable to the 1973 and 1974 model years as well. This change was prescribed by section 202 of the Clean Air Amendments of 1970 (Public Law 91-604), but was inadvertently omitted in prior publications.

Dated: November 9, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator.

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AUTHORITY: The provisions of this Part 85 issued under sections 202, 206, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 1857f-1, 1857f-5, and 1857g(a)).

Subpart A—Emission Regulations for New Gasoline-Fueled Light Duty Vehicles

§ 85.001 General applicability.

(a) For the 1973 and 1974 model years, the provisions of this subpart are applicable to new gasoline-fueled light duty motor vehicles, except motorcycles and vehicles with an engine displacement of less than 50 cubic inches.

(b) For 1975 and later model years, the provisions of this subpart are applicable to new gasoline-fueled light duty motor vehicles, except motorcycles.

§ 85.002 Definitions.

(a) As used in this subpart, all terms not defined herein shall have the meaning given them in the Act:

(1) "Act" means Part A of title II of the Clean Air Act, 42 U.S.C. 1857 f-1 through f-7, as amended by Public Law 91-604.

(2) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(3) "Model year" means the manufacturer's annual production period (as determined by the Administrator) which includes January 1 of such calendar year: *Provided*, That if the manufacturer has no annual production period,

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the term "model year" shall mean the calendar year.

(4) "Gross vehicle weight" means the manufacturer's gross weight rating for the individual vehicle.

(5) "Light duty vehicle" means any motor vehicle either designed primarily for transportation of property and rated at 6,000 pounds GVW or less or designed primarily for transportation of persons and having a capacity of 12 persons or less.

(6) "Off-road utility vehicle" means a light duty vehicle which incorporates special features for off-road operation such as four-wheel drive.

(7) "Motorcycle" means any light duty vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels (including any tricycle arrangement) in contact with the ground and weighing less than 1,500 pounds.

(8) "Vehicle curb weight" means the actual or the manufacturer's estimated weight of the vehicle in operational status with all standard equipment, and weight of fuel at nominal tank capacity, and the weight of optional equipment computed in accordance with § 85.073–5(g).

(9) "Loaded vehicle weight" means the vehicle curb weight of a light duty vehicle plus 300 pounds.

(10) "System" includes any motor vehicle engine modification which controls or causes the reduction of substances emitted from motor vehicles.

(11) "Engine family" means the basic classification unit of a manufacturer's product line used for the purpose of test fleet selection and determined in accordance with § 85.073–5(a).

(12) "Engine-system combination" means an engine family-exhaust emission control system-fuel evaporative emission control system (where applicable) combination.

(13) "Fuel system" means the combination of fuel tank, fuel pump, fuel lines, and carburetor, or fuel injection components, and includes all fuel system vents and fuel evaporative emission control systems.

(14) "Crankcase emissions" means airborne substances emitted to the atmosphere from any portion of the engine crankcase ventilation or lubrication systems.

(15) "Exhaust emissions" means substances emitted to the atmosphere from any opening downstream from the exhaust port of a motor vehicle engine.

(16) "Fuel evaporative emissions" means vaporized fuel emitted into the atmosphere from the fuel system of a motor vehicle.

(17) "Hot soak loss" means fuel evaporative emissions during the 1-hour hot soak period which begins immediately after the engine is turned off.

(18) "Diurnal breathing loss" means fuel evaporative emissions as a result of the daily range in temperature to which the fuel system is exposed.

(19) "Running loss" means fuel evaporative emissions resulting from an average trip in an urban area or the simulation of such a trip.

(20) "Tank fuel volume" means the volume of fuel in the fuel tank, prescribed to be 40 percent of nominal tank capacity rounded to the nearest whole U.S. gallon.

(21) Zero (0) miles means that point after initial engine starting (not to exceed 10 miles of vehicle operation) at which adjustments are completed.

(22) "Calibrating gas" means a gas of known concentration which is used to establish the response curve of an analyzer.

(23) "Span gas" means a gas of known concentration which is used routinely to set the output level of an analyzer.

(24) "Oxides of nitrogen" means the sum of the nitric oxide and nitrogen dioxide contained in a gas sample as if the nitric oxide were in the form of nitrogen dioxide.

(25) "Useful life" means a period of use of 5 years or 50,000 miles, whichever first occurs.

§ 85.003 Abbreviations.

The abbreviations used in this subpart have the following meanings in both capital and lowercase:

Accel.—Acceleration.
ASTM—American Society for Testing and Materials.
C.—Centigrade.
C.f.h.—Cubic feet per hour.
CO_2—Carbon dioxide.
CO—Carbon monoxide.
Conc.—Concentration.
C.f.m.—Cubic feet per minute.
Cu. in.—Cubic inch(es).
Decel.—Deceleration.
EP—End point.
Evap.—Evaporated.
F.—Fahrenheit.
Gal.—U.S. gallon(s).
Gm.—Gram(s).
GVW—Gross Vehicle Weight.
HC—Hydrocarbon(s).
Hg—Mercury.
Hi.—High.
HP.—Horsepower.
IBP—Initial boiling point.
ID—Internal diameter.
Lb.—Pound(s).
Lb.-ft.—Pound-feet.
Min.—Minute(s).
Ml.—Milliliter(s).
M.p.h.—Miles per hour.
Mm.—Millimeter(s).
Mv.—Millivolt(s).
N—Nitrogen.
NO—Nitric oxide.
NO_2—Nitrogen dioxide.
NO_x—Oxides of nitrogen.
No.—Number.
Pb—Lead.
P.p.m.—Parts per million by volume.
P.s.i.—Pounds per square inch.
P.s.i.g.—Pounds per square inch gauge.
R—Rankine.
R.p.m.—Revolutions per minute.
RVP—Reid vapor pressure.
S.A.E.—Society of Automotive Engineers.
Sec.—Second(s).
Sp.—Speed.
SS—Stainless steel.
TEL—Tetraethyl lead.
TML—Tetramethyl lead.
V.—Volts.
Vs.—Versus.
WOT.—Wide open throttle.
Wt.—Weight.
'—Feet.
''—Inches.
°—Degrees.
%—Percent.

§ 85.004 General standards; increase in emissions; unsafe conditions.

(a) (1) Every new motor vehicle manufactured for sale, sold, offered for sale, introduced or delivered for introduction into commerce, or imported into the United States for sale or resale which is subject to any of the standards prescribed in this subpart shall be covered by a certificate of conformity issued pursuant to sections 85.073–2 through 85.073–4 and 85.073–29 through 85.073–34 of this subpart.

(b) (1) Any system installed on or incorporated in a new motor vehicle to enable such vehicle to conform to standards imposed by this subpart:

(i) Shall not in its operation or function cause the emission into the ambient air of any noxious or toxic substance that would not be emitted in the operation of such vehicle without such system, except as specifically permitted by regulation; and

(ii) Shall not in its operation, function, or malfunction result in any unsafe condition endangering the motor vehicle, its occupants, or persons or property in close proximity to the vehicle.

(2) Every manufacturer of new motor vehicles subject to any of the standards imposed by this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicles in accordance with good engineering practice to ascertain that such test vehicles will meet the requirements of this section for the useful life of the vehicle.

§ 85.005 Hearings on certification.

(a) (1) After granting a request for a hearing under § 85.073–30, the Administrator will designate a Presiding Officer for the hearing.

(2) The General Counsel will represent the Environmental Protection Agency in any hearing under this section.

(3) If a time and place for the hearing have not been fixed by the Administrator under § 85.073–30, the hearing shall be held as soon as practicable at a time and place fixed by the Administrator or by the Presiding Officer.

(b) (1) Upon his appointment pursuant to paragraph (a) of this section, the Presiding Officer will establish a hearing file. The file shall consist of the notice issued by the Administrator under § 85.073–30, together with any accompanying material, the request for a hearing and the supporting data submitted therewith and all documents relating to the request for certification, including the application for certification and all documents submitted therewith, and correspondence and other data material to the hearing.

(2) The appeal file will be available for inspection by the applicant at the office of the Presiding Officer.

(c) An applicant may appear in person, or may be represented by counsel or by any other duly authorized representative.

(d) (1) The Presiding Officer upon the request of any party, or in his discretion, may arrange for a prehearing

conference at a time and place specified by him to consider the following:

(i) Simplification of the issues;

(ii) Stipulations, admissions of fact, and the introduction of documents;

(iii) Limitation of the number of expert witnesses;

(iv) Possibility of agreement disposing of all or any of the issues in dispute;

(v) Such other matters as may aid in the disposition of the hearing, including such additional tests as may be agreed upon by the parties.

(2) The results of the conference shall be reduced to writing by the Presiding Officer and made part of the record.

(e) (1) Hearings shall be conducted by the Presiding Officer in an informal but orderly and expeditious manner. The parties may offer oral or written evidence, subject to the exclusion by the Presiding Officer of irrelevant, immaterial, and repetitious evidence.

(2) Witnesses will not be required to testify under oath. However, the Presiding Officer shall call to the attention of witnesses that their statements may be subject to the provisions of title 18 U.S.C. 1001 which imposes penalties for knowingly making false statements or representations, or using false documents in any matter within the jurisdiction of any department or agency of the United States.

(3) Any witness may be examined or cross-examined by the Presiding Officer, the parties, or their representatives.

(4) Hearings shall be reported verbatim. Copies of transcripts of proceedings may be purchased by the applicant from the reporter.

(5) All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall, upon a showing satisfactory to the Presiding Officer of their authenticity, relevancy, and materiality, be received in evidence and shall constitute a part of the record.

(6) Oral argument may be permitted in the discretion of the Presiding Officer and shall be reported as part of the record unless otherwise ordered by him.

(f) (1) The Presiding Officer shall make an initial decision which shall include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law, or discretion presented on the record. The findings, conclusions, and written decision shall be provided to the parties and made a part of the record. The initial decision shall become the decision of the Administrator without further proceedings unless there is an appeal to the Administrator or motion for review by the Administrator within 20 days of the date the initial decision was filed.

(2) On appeal from or review of the initial decision the Administrator shall have all the powers which he would have in making the initial decision including the discretion to require or allow briefs, oral argument, the taking of additional evidence or the remanding to the Presiding Officer for additional proceedings. The decision by the Administrator shall include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law, or discretion presented on the appeal or considered in the review.

§ 85.006 Maintenance of records; submittal of information; right of entry.

(a) The manufacturer of any new motor vehicle subject to any of the standards prescribed in this subpart shall establish and maintain the following adequately organized and indexed records:

(1) Identification and description of all vehicles for which testing is required under this subpart.

(2) A description of all emission control systems which are installed on or incorporated in each vehicle.

(3) A description of the procedures used to test such vehicles.

(4) Test data on each emission data vehicle which will show its emissions at 0 and 4,000 miles.

(5) Test data on each durability vehicle which will show the performance of the systems installed on or incorporated in the vehicle during extended mileage as well as a record of all pertinent maintenance performed on the vehicle.

(b) The manufacturer of any new motor vehicle subject to any of the standards prescribed in this subpart shall submit to the Administrator at the time of issuance by the manufacturer copies of all instructions or explanations regarding the use, repair, adjustment, maintenance, or testing of such vehicle relevant to the control of crankcase, exhaust, or evaporative emissions, issued by the manufacturer for use by other manufacturers, assembly plants, distributors, dealers, and ultimate purchasers: *Provided*, That any material not translated into the English language need not be submitted unless specifically requested by the Administrator.

(c) The manufacturer of any new motor vehicle subject to any of the standards prescribed in this subpart shall permit officers or employees duly designated by the Administrator, upon presenting appropriate credentials and a written notice to the manufacturer:

(1) To enter, at reasonable times, any premises used during the certification procedures for purposes of monitoring tests and mileage accumulation procedures, observing maintenance procedures, and verifying correlation or calibration of test equipment, or

(2) To inspect, at reasonable times, records, files, and papers compiled by such manufacturer in accordance with paragraph (a) of this section.

A separate notice shall be given for each such inspection, but a separate notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness.

§ 85.073–1 Emission standards for 1973 model year vehicles.

(a) (1) Exhaust emissions from 1973 model year vehicles shall not exceed:

(i) *Hydrocarbons.* 3.4 grams per vehicle mile.

(ii) *Carbon monoxide.* 39.0 grams per vehicle mile.

(iii) *Oxides of nitrogen.* 3.0 grams per vehicle mile.

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over a driving schedule as set forth in § 85.073–9 through 85.073–27 and measured and calculated in accordance with those procedures.

(b) (1) Fuel evaporative emissions shall not exceed:

(1) Hydrocarbons. 2 grams per test.

(2) The standard set forth in paragraph (b)(1) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in § 85.073–9 through 85.073–27 and measured in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new motor vehicle subject to this subpart.

(d) Every manufacturer of new motor vehicles subject to the standards prescribed in this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicles in accordance with test procedures contained in § 85.073–9 through § 85.073–27 to ascertain that such test vehicles meet the requirements of paragraphs (a), (b), and (c) of this section, as applicable.

§ 85.073–2 Application for certification.

(a) An application for a certificate of conformity to the regulations applicable to any new motor vehicle shall be made to the Administrator by the manufacturer.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(1) Identification and description of the vehicles covered by the application and a description of their emission control systems.

(2) Projected U.S. sales data sufficient to enable the Administrator to select a test fleet representative of the vehicles for which certification is requested.

(3) A description of the test equipment and fuel proposed to be used.

(4) A description of the proposed mileage accumulation procedure for durability testing.

(5) A statement of recommended maintenance and procedures necessary to assure that the vehicles covered by a certificate of conformity in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(6) At the option of the manufacturer, the proposed composition of the emission data and durability data test fleet.

§ 85.073–3 Approval of procedure and equipment; test fleet selections.

Based upon the information provided in the application for certification, and any other information the Administrator may require, the Administrator will approve or disapprove in whole or in part

the mileage accumulation procedure and

istrator determines that they may be expected to have different emission char-

transmission type, fuel system, and inertia weight class.

will be added in computing curb weight. Optional equipment weighing less than 3

only with the advance approval of the Administrator.

all test data shall be compiled and provided to the Administrator in accordance

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the mileage accumulation procedure and equipment and fuel proposed by the manufacturer, and notify him in writing of such determination. Where any part of a proposal is disapproved, such notification will specify the reasons for disapproval. The Administrator will select a test fleet in accordance with § 85.073–5.

§ 85.073–4 Required data.

The manufacturer shall perform the tests required by the applicable test procedures, and submit to the Administrator the following information:

(a) Durability data on such vehicles tested in accordance with the applicable test procedures of this subpart, and in such numbers as therein specified, which will show the performance of the systems installed on or incorporated in the vehicle for extended mileage, as well as a record of all pertinent maintenance performed on the test vehicles.

(b) Emission data on such vehicles tested in accordance with the applicable emission test procedures of this subpart and in such numbers as therein specified, which will show their emissions after 0 miles and 4,000 miles of operation.

(c) A description of tests performed to ascertain compliance with the general standards in § 85.073–1 and the data derived from such tests.

(d) A statement that the test vehicles with respect to which data are submitted have been tested in accordance with the applicable test procedures, that they meet the requirement of such tests, and that, on the basis of such tests, they conform to the requirements of the regulations in this subpart. If such statements cannot be made with respect to any vehicle tested, the vehicle shall be identified, and all pertinent test data relating thereto shall be supplied.

85.073–5 Test vehicles.

(a) (1) The vehicles covered by the application for certification will be divided into groupings of vehicles whose engines are expected to have similar emission characteristics. Each group of engines with similar emission characteristics shall be defined as a separate engine family.

(2) To be classed in the same engine family, engines must be identical in all the following respects:

(i) The cylinder bore center to center dimensions.

(ii) The dimension from the centerline of the crankshaft to the centerline of the camshaft.

(iii) The dimension from the centerline of the crankshaft to the top of the cylinder block head face.

(iv) The cylinder block configuration (air-cooled or water-cooled; L–6, 90° V–8, etc.).

(v) The location of intake and exhaust valves and the valve sizes (within a $\frac{1}{16}$-inch range on the valve head diameter).

(vi) The method of air aspiration.

(vii) The combustion cycle.

(3) Engines identical in all the respects listed in subparagraph (2) of this paragraph may be further divided into different engine families if the Administrator determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of the following features of each engine:

(i) The bore and stroke.

(ii) The surface to volume ratio of the nominally dimensioned cylinder at the top dead center position.

(iii) The intake manifold induction port size and configuration.

(iv) The exhaust manifold port size and configuration.

(v) The intake and exhaust valve sizes.

(vi) The fuel system.

(vii) The camshaft timing and ignition timing characteristics.

(4) Where engines are of a type which cannot be divided into engine families based upon the criteria listed in subparagraphs (2) and (3) of this paragraph, the Administrator will establish families for those engines based upon the features most related to their emission characteristics.

(b) Emission data vehicles:

(1) Vehicles will be chosen to be operated and tested for emission data based upon the engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(2) Vehicles of each engine family will be divided into engine displacement-exhaust emission control system-evaporative emission control system combinations. A projected sales volume will be established for each combination for the 1973 model year. One vehicle of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of vehicles of that engine family is represented, or until a maximum of four vehicles is selected. If any single combination represents over 70 percent, then two vehicles of that combination will be selected. The vehicle selected for each combination will be specified by the Administrator as to transmission type, fuel system and inertia weight class.

(3) The Administrator may select a maximum of four additional vehicles within each engine family based upon features indicating that they may have the highest emission levels of the vehicles in that engine family. In selecting these vehicles, the Administrator will consider such features as the emission control system combination, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, compression ratio, inertia weight class, transmission options and axle ratios.

(4) If the vehicles selected in accordance with subparagraphs (2) and (3) of this paragraph do not represent each engine-system combination, then one vehicle of each engine-system combination not represented will be selected by the Administrator. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with the control system combination in the engine family and will be designated by the Administrator as to transmission type, fuel system, and inertia weight class.

(c) Durability data vehicles:

(1) A durability data vehicle will be selected by the Administrator to represent each engine-system combination. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with that control system combination in that engine family and will be designated by the Administrator as to transmission type, fuel system and inertia weight class.

(2) If an exhaust emission control system fuel evaporative emission control system combination is used in only one engine family, an additional vehicle using that combination in that family will be selected so that the durability data fleet shall contain at least two vehicles with each combination. The additional vehicle will be selected in the same manner as vehicles selected under subparagraph (1) of this paragraph.

(3) A manufacturer may elect to operate and test additional vehicles to represent any engine-system combination. The additional vehicles must be of the same engine displacement, transmission type, fuel system and inertia weight class as the vehicle selected for that engine-system combination in accordance with the provisions of subparagraph (1) of this paragraph. Notice of an intent to operate and test additional vehicles shall be given to the Administrator not later than 30 days following notification of the test fleet selection.

(d) For purposes of testing under § 85.073–7(g), the Administrator may require additional emission data vehicles and durability data vehicles identical in all material respects to vehicles selected in accordance with paragraphs (b) and (c) of this section: *Provided*, That the number of vehicles selected shall not increase the size of either the emission data fleet or the durability data fleet by more than 20 percent or one vehicle, whichever is greater.

(e) Any manufacturer whose projected sales of new motor vehicles subject to this subpart for the 1973 model year is less than 2,000 vehicles may request a reduction in the number of test vehicles determined in accordance with the foregoing provisions of this section. The Administrator may agree to such lesser number as he determines would meet the objectives of this procedure.

(f) In lieu of testing an emission data or durability data vehicle selected under paragraph (b) or (c) of this section, and submitting data therefor, a manufacturer may, with the prior written approval of the Administrator, submit data on a similar vehicle for which certification has previously been obtained.

(g) (1) Where it is expected that more than 33 percent of an engine family will be equipped with an optional item, the full estimated weight of that item shall be included in the curb weight computation for the entire engine family. Where it is expected that 33 percent or less of the vehicles in an engine family will be equipped with an item of optional equipment, no weight for that item

will be added in computing curb weight. Optional equipment weighing less than 3 pounds per item need not be considered.

(2) Where it is expected that more than 33 percent of an engine family will be equipped with an item of optional equipment that can reasonably be expected to influence exhaust or evaporative emissions, then such items of optional equipment shall actually be installed on all emission data and durability data vehicles for such engine family.

§ 85.073–6 Maintenance.

(a) (1) Maintenance on the engines and fuel systems of durability vehicles may be performed only under the following provisions:

(i) One major engine tuneup to manufacturer's specifications may be performed at 24,000 miles (±250 miles) of scheduled driving with the following exception: On a vehicle with an engine displacement of 150 cubic inches or less (or a rating of at least 1.20 maximum rated horsepower per cubic inch of displacement), major engine tuneups may be performed at 12,000, 24,000, and 36,000 miles (±250 miles) of scheduled driving. A major engine tuneup shall be restricted to the following:

(a) Replace spark plugs.

(b) Inspect ignition wiring and replace as required.

(c) Replace distributor breaker points and condenser as required.

(d) Lubricate distributor cam.

(e) Check distributor advance and breaker point dwell angle and adjust as required.

(f) Check automatic choke for free operation and correct as required.

(g) Adjust carburetor idle speed and mixture.

(h) Adjust drive belt tension on engine accessories.

(i) Adjust valve lash if required.

(j) Check exhaust heat control valve for free operation.

(k) Check engine bolt torque and tighten as required.

(ii) Spark plugs may be changed if a persistent misfire is detected.

(iii) Normal vehicle lubrication services (engine and transmission oil change and oil filter, fuel filter, and air filter servicing) will be allowed at manufacturer's recommended intervals.

(iv) The crankcase emission control system may be serviced at 12,000-mile intervals (±250 miles) of scheduled driving.

(v) The fuel evaporative emission control system may be serviced at 12,000-mile intervals (±250 miles) of scheduled driving.

(vi) Readjustment of the engine choke mechanism or idle settings may be performed only if there is a problem of stalling at stops.

(vii) Leaks in the fuel system, engine lubrication system, and cooling system may be repaired.

(viii) Engine idle speed may be adjusted at the 4,000-mile test point.

(ix) Any other engine or fuel system maintenance or repairs will be allowed only with the advance approval of the Administrator.

(2) Repairs to vehicle components of the durability data vehicle, other than the engine or fuel system, shall be performed only as a result of part failure or vehicle system malfunction.

(3) Allowable maintenance on emission data vehicles shall be limited to the adjustment of engine idle speed at the 4,000-mile test point, except that other maintenance or repairs may be allowed with the advance approval of the Administrator.

(4) Where the Administrator agrees under § 85.073–7 to a mileage accumulation of less than 50,000-miles for durability testing, he may modify the requirements of this paragraph.

(b) Complete emission tests (see §§ 85.073–10 through 85.073–27) shall be run before and after any vehicle maintenance which may reasonably be expected to affect emissions. These test data shall be supplied to the Administrator immediately after the tests, along with a complete record of all pertinent maintenance, including an engineering report of any malfunction diagnosis and the corrective action taken. In addition, all test data and maintenance reports shall be compiled and provided to the Administrator in accordance with § 85.073–4.

(c) If the Administrator determines that maintenance or repairs performed have resulted in a substantial change to the engine-system combination, the vehicle shall not be used as a durability data vehicle.

§ 85.073–7 Mileage accumulation and emission measurements.

The procedure for mileage accumulation will be the Durability Driving Schedule as specified in Appendix IV to this part. A modified procedure may also be used if approved in advance by the Administrator.

(a) Emission data vehicles: Each emission data vehicle shall be driven 4,000 miles with all emission control systems installed and operating. Emission tests shall be conducted at zero miles and 4,000 miles.

(b) Durability data vehicles: Each durability data vehicle shall be driven, with all emission control systems installed and operating, for 50,000 miles or such lesser distance as the Administrator may agree to as meeting the objectives of this procedure. Emission measurements from a cold start shall be made at zero miles and at each 4,000-mile interval.

(c) All tests required by this subpart to be conducted after 4,000 miles of driving or at any multiple of 4,000 miles may be conducted at any accumulated mileage within 250 miles of 4,000 miles or the appropriate multiple of 4,000 miles, respectively.

(d) The results of each emission test shall be supplied to the Administrator immediately after the test. Where a manufacturer conducts multiple tests at any test point or any tests between test points, data on these tests (including voided tests) shall be provided immediately to the Administrator. In addition, all test data shall be compiled and provided to the Administrator in accordance with § 85.073–4.

(e) Whenever the manufacturer proposes to operate and test a vehicle which may be used for emission or durability data, he shall provide the zero mile test data to the Administrator and make the vehicle available for such testing under § 85.073–29 as the Administrator may require before beginning to accumulate mileage on the vehicle. Failure to comply with this requirement will invalidate all test data submitted for this vehicle.

(f) Once a manufacturer begins to operate an emission data or durability data vehicle, as indicated by compliance with paragraph (e) of this section, he shall continue to run the vehicle to 4,000 miles or 50,000 miles, respectively, and the data from the vehicle will be used in the calculations under § 85.073–28. Discontinuation of a vehicle shall be allowed only with the written consent of the Administrator.

(g) (1) The Administrator may elect to operate and test any test vehicle during all or any part of the mileage accumulation and testing procedure. In such cases, the manufacturer shall provide the vehicle(s) to the Administrator with all information necessary to conduct this testing.

(2) The test procedures in §§ 85.073–10 through 85.073–27 will be followed by the Administrator. The Administrator will test the vehicles at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(3) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other vehicles of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall be used in the determination of deterioration factors.

§ 85.073–8 Special test procedures.

The Administrator may, on the basis of a written application therefor by a manufacturer, prescribe test procedures, other than those set forth in this subpart, for any motor vehicle which he determines is not susceptible to satisfactory testing by the procedures set forth herein.

§ 85.073–9 Test procedures.

The procedures described in this and subsequent sections will be the test program to determine the conformity of vehicles with the standards set forth in § 85.073–1.

(a) The test consists of prescribed sequences of fueling, parking, and operating conditions. The exhaust gases generated during vehicle operation are diluted with air and sampled continuously for subsequent analysis of specific components by prescribed analytical techniques. The fuel evaporative emissions are collected for subsequent weigh-

ing during both vehicle parking and

specifications approved by the Administrator, shall be used in exhaust and

(2) The design and installation of the necessary fittings shall not disturb the

tween 76° F. and 86° F. Upon admittance to the 76° F.–86° F. soak area, the pre-

during this phase of the test shall be reconnected for the following phase.

the above impractical), the cooling fan(s) shall be placed in a position to

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ing during both vehicle parking and operating events. The test applies to vehicles equipped with catalytic or direct-flame afterburners, induction system modifications, or other systems or to uncontrolled vehicles and engines.

(b) The exhaust emission test is designed to determine hydrocarbon, carbon monoxide and oxides of nitrogen mass emissions while simulating an average trip in an urban area of 7.5 miles from a cold start. The test consists of engine startup and vehicle operation on a chassis dynamometer through a specified driving schedule, as described in Appendix I to this part. A proportional part of the diluted exhaust emissions is collected continuously, for subsequent analysis, using a constant volume (variable dilution) sampler.

(c) The fuel evaporative emission test is designed to determine fuel hydrocarbon evaporative emissions to the atmosphere as a consequence of urban driving, and diurnal temperature fluctuations during parking. It is associated with a series of events representative of a motor vehicle's operation, which result in fuel vapor losses directly from the fuel tank and carburetor. Activated carbon traps are employed in collecting the vaporized fuel. The test procedure is specifically aimed at collecting and weighing:

(1) Diurnal breathing losses from the fuel tank and other parts of the fuel system when the fuel tank is subjected to a temperature increase representative of the diurnal range;

(2) Running losses from the fuel tank and carburetor resulting from a simulated trip from a cold start on a chassis dynamometer; and

(3) Hot soak losses from the fuel tank and carburetor which result when the vehicle is parked and the hot engine is turned off.

(d) All emission control systems installed on or incorporated in a new motor vehicle shall be functioning during all test procedures in this subpart.

§ 85.073–10 Gasoline fuel specifications.

(a) Fuel having the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in exhaust and evaporative emission testing. Where the Administrator determines that the vehicles represented by a test vehicle will be operated using fuels of a different lead content or octane rating than that prescribed in this paragraph, he may consent in writing to use of a fuel otherwise substantially equivalent to the following specifications but with a different lead content or octane rating.

Item	ASTM designation	Specifications
Octane, Research, min	D 1656	100
Pb. (organic), gm./U.S. gal	D 526	3.1–3.3
Distillation range	D 86	
IPB, ° F		75–95
10 percent point, ° F		120–135
50 percent point, ° F		200–230
90 percent point, ° F		300–325
EP, ° F. (max.)		415
Sulfur, wt. percent, max	D 1266	0.10
Phosphorus, theory		0.0
RVP,[1] lb	D 323	8.7–9.2
Hydrocarbon composition	D 1319	
Olefins, percent, max		10
Aromatics, percent, max		35
Saturates		Remainder

[1] For testing which is unrelated to fuel evaporative emission control, the specified range is: 8.0–9.2.

(b) Fuel having the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in mileage accumulation. The octane rating of the fuel used shall be in the range recommended by the vehicle or engine manufacturer. The Reid Vapor Pressure of the fuel used shall be characteristic of the seasonal motor fuel. Where the Administrator determines that the vehicles represented by a test vehicle will be operated using fuels of a different lead content than that prescribed in this paragraph, he may consent in writing to use of a fuel otherwise substantially equivalent to the following specifications but with a different lead content.

(c) The specifications of the fuel to be used under paragraph (b) of this section shall be reported in accordance with § 85.073–2(b)(3).

Item	ASTM Designation	Regular	Premium
Pb. (organic), gm./U.S. gal	D 526	2.1–3.2	2.1–3.2
Sulfur, wt. percent	D 1266	0.02–0.10	0.02–0.10
Hydrocarbon composition	D 1319		
Olefins, percent, max		30	15
Aromatics, percent, max		40	40
Saturates		Remainder	Remainder

§ 85.073–11 Vehicle and engine preparation (fuel evaporative emissions).

(a) (1) Apply appropriate leak-proof fittings to all fuel system external vents to permit collection of effluent vapors from these vents during the course of the prescribed tests. Since the prescribed test requires the temporary plugging of the inlet pipe to the air cleaner, it will be necessary to install a probe for collecting the normal effluents from this source. Where antisurge/vent filler caps are employed on the fuel tank, plug off the normal vent if it does not conveniently lend itself to the collection of vapors which emanate from it, and introduce a separate vent, with appropriate fitting, on the cap. Where the fuel tank vent line terminus is inaccessible, sever the line at a convenient point near the fuel tank and install the collection system in a closed circuit assembly with the severed ends. All fittings shall terminate in $\frac{5}{16}$-inch ID tube sections for ready connection to the collection systems and shall be designed for minimum dead space.

(2) The design and installation of the necessary fittings shall not disturb the normal function of the fuel system components or the normal pressure relationships in the system.

(b)(1) Inspect the fuel system carefully to insure the absence of any leaks to the atmosphere of either liquid or vapor which might affect the accuracy of the test or the performance of the control system. Corrective action, if any, shall be reported with the test results under § 85.073–4.

(2) Care should be exercised, in the application of any pressure tests, neither to purge nor load the evaporative emission control system.

(c) Prepare fuel tank for recording the temperature of the prescribed test fuel at its approximate midvolume.

(d) Provide additional fittings and adapters, as required to accommodate a fuel drain at the lowest point possible in the tank as installed on the vehicle.

§ 85.073–12 Vehicle preconditioning (fuel evaporative emissions).

Vehicles to be tested for compliance with the fuel evaporative emissions standard of this subpart shall be preconditioned as follows:

(a) The test vehicle shall be operated under the conditions prescribed for mileage accumulation, § 85.073–7, for 1 hour immediately prior to the operations prescribed below.

(b) The fuel tank shall be drained and specified test fuel (§ 85.073–10(a)) added. The evaporative emission control system or device shall not be abnormally purged or loaded as a result of draining or fueling the tank.

(c) The test vehicle shall be placed on the dynamometer and operated over a simulated trip, according to the applicable requirements and procedures of § 85.073–14 through § 85.073–19 except that the engine need not be cold when starting the run on the dynamometer operation. During the run the ambient temperature shall be between 68° F. and 86° F.

(d) The engine and cooling fan shall be stopped upon completion of the dynamometer operation and the vehicle permitted to soak either on or off the dynamometer stand at an ambient temperature between 76° F. and 86° F. for a period of not less than 1 hour prior to the soak period prescribed in §85.073–13(a)(1).

§ 85.073–13 Evaporative emission collection procedure.

The standard test procedure consists of three parts described below which shall be performed in sequence and without any interruption in the test conditions prescribed.

(a) *Diurnal breathing loss test.* (1) The test vehicle shall be allowed to "soak" in an area where the ambient temperature is maintained between 60° F. and 86° F. for a period of not less than 10 hours. (The vehicle preparation requirements of § 85.073–11 may be performed during this period.) It shall then be transferred to a soak area where the ambient temperature is maintained between 76° F. and 86° F. Upon admittance to the 76° F.–86° F. soak area, the prescribed fuel tank thermocouple shall be connected to the recorder and the fuel and ambient temperatures recorded at a chart speed of approximately 12 inches per hour (or equivalent record).

(2) The fuel tank of the prepared test vehicle, preconditioned according to § 85.073–12, shall be drained and recharged with the specified test fuel, § 85.073–10(a), to the prescribed "tank fuel volume," defined in § 85.002. The temperature of the fuel following the charge to the tank shall be 60° F.±2° F. Care should be exercised against abnormal loading of the evaporative emission control system or device as a result of fueling the tank.

(3) Immediately following the fuel charge to the tank, the exhaust pipe(s) and inlet pipe to the air cleaner shall be plugged and the prescribed vapor collection systems installed on all fuel system external vents. Multiple vents may be connected to a single collection trap provided that, where there is more than one external vent on a fuel system distinguishing between carburetor and tank vapors, separate collection systems shall be employed to trap the vapors from the separate sources. Every precaution shall be taken to minimize the lengths of the collection tubing employed and to avoid sharp bends across the entire system.

(4) Artificial means shall be employed to heat the fuel in the tank to 84° F.±2° F. The prescribed temperature of the fuel shall be achieved over a period of 60 minutes±10 minutes using a constant rate of heat input. After a minimum of 1 hour, following admittance to the 76° F.–86° F. soak area, the vehicle shall be moved onto the dynamometer stand for the subsequent part of the test. The fuel tank thermocouple may be temporarily disconnected to permit moving the test vehicle. Plugs shall be removed from the exhaust pipe(s) and inlet pipe to the air cleaner.

(b) *Running loss test.* (1) The vehicle shall be placed on the dynamometer and the fuel tank thermocouple reconnected. The fuel temperature and the ambient air temperature shall be recorded at a chart speed of approximately 12 inches per hour (or equivalent record).

(2) Where the only external vent(s) is located in the immediate vicinity of the carburetor air horn, such that any "running loss" emissions would be inducted into the engine, there is no requirement to collect any vapor losses during this part of the test and the vapor-loss measurement system shall be temporarily disconnected and clamped.

(3) The vehicle shall be operated on the dynamometer according to the requirements and procedures of § 85.073–14 through § 85.073–24. The engine and fan shall be turned off upon completion of the dynamometer run and the exhaust and air cleaner inlet pipes shall be replugged.

(4) Any vapor collection systems employed during this part of the test shall be left intact for their continued use during the following part. Any part of the vapor collection system disconnected during this phase of the test shall be reconnected for the following phase.

(c) *Hot soak test.* Upon completion of the dynamometer run, the test vehicle shall be permitted to soak with hood down for a period of 1 hour at an ambient temperature between 76° F. and 86° F. This operation completes the test. The traps are disconnected and weighed according to § 84.073–21.

§ 85.073–14 Dynamometer driving schedule.

(a) The dynamometer driving schedule to be followed consists of a nonrepetitive series of idle, acceleration, cruise, and deceleration modes of various time sequences and rates. The driving schedule is defined by a smooth transition through the speed vs. time relationships listed in Appendix I. The time sequence begins upon starting the vehicle according to the startup procedure described in § 85.073–19.

(b) The speed tolerance at any given time on the dynamometer driving schedule prescribed in Appendix I or as printed on a driver's aid chart approved by the Administrator is defined by upper and lower limits. The upper limit is 2 m.p.h. higher than the highest point on the trace within 1 second of the given time. The lower limit is 2 m.p.h. lower than the lowest point on the trace within 1 second of the given time. Speed variations greater than the tolerances (such as occur when shifting manual transmission vehicles) are acceptable provided they occur for less than 2 seconds on any one occasion. Speeds lower than those prescribed are acceptable provided the vehicle is operated at maximum available power during such occurrences. Further, speed deviations from those prescribed due to stalling are acceptable provided the provisions of § 85.073–19(f) are adhered to.

§ 85.073–15 Dynamometer procedure.

(a) The vehicle shall be tested from a cold start. Engine startup and operation over the driving schedule make a complete test run. Exhaust emissions are diluted with air to a constant volume and a portion is sampled continuously during the entire test run. The composite sample, collected in a bag, is analyzed for hydrocarbon, carbon monoxide, and oxides of nitrogen emissions. A parallel sample of the dilution air is similarly analyzed.

(b) During dynamometer operation, a fixed speed cooling fan shall be positioned so as to direct cooling air to the vehicle in an appropriate manner with the engine compartment cover open. The fan capacity shall normally not exceed 5,300 c.f.m. If, however, the manufacturer can show that during field operation the vehicle receives additional cooling, the fan capacity may be increased or additional fans used if approved in advance by the Administrator. In the case of vehicles with front engine compartments, the fan(s) shall be squarely positioned between 8 and 12 inches in front of the cooling air inlets (grill). In the case of vehicles with rear engine compartments (or if special designs make the above impractical), the cooling fan(s) shall be placed in a position to provide sufficient air to maintain engine cooling.

(c) The vehicle shall be nearly level when tested in order to prevent abnormal fuel distribution.

(d) Flywheels, electrical or other means of simulating inertia as shown in the following table shall be used. If the equivalent inertia specified is not available on the dynamometer being used, the next higher equivalent inertia (not to exceed 250 lbs.) available shall be used.

Loaded vehicle weight, pounds	Equivalent inertia weight, pounds	Road load power at 50 m.p.h. horsepower
Up to 1,125	1,000	5.9
1,126 to 1,375	1,000	6.5
1,376 to 1,625	1,500	7.1
1,626 to 1,875	1,750	7.7
1,876 to 2,125	2,000	8.3
2,126 to 2,375	2,250	8.8
2,376 to 2,625	2,500	9.4
2,626 to 2,875	2,750	9.9
2,876 to 3,250	3,000	10.3
3,251 to 3,750	3,500	11.2
3,751 to 4,250	4,000	12.0
4,251 to 4,750	4,500	12.7
4,751 to 5,250	5,000	13.4
5,251 to 5,750	5,500	13.9
5,751 to above	5,500	14.4

(e) Power absorption unit adjustment. (1) The power absorption unit shall be adjusted to reproduce road load power at 50 m.p.h. true speed. The indicated road load power setting shall take into account the dynamometer friction. The relationship between road load (absorbed) power and indicated road load power for a particular dynamometer shall be determined by the procedure outlined in Appendix II or other suitable means.

(2) The road load power listed in the table above shall be used or the vehicle manufacturer may determine the road load power by the following procedure and request its use:

(i) Measuring the absolute manifold pressure of a representative vehicle, of the same equivalent inertia weight class, when operated on a level road under balanced wind conditions at a true speed of 50 m.p.h., and

(ii) Noting the dynamometer indicated road load horsepower setting required to reproduce that manifold pressure when the same vehicle is operated on the dynamometer at a true speed of 50 m.p.h. The tests on the road and on the dynamometer shall be performed with the same vehicle ambient absolute pressure (usually barometric), i.e. within ±5 mm. Hg.

(iii) The road load power shall be determined according to the procedure outlined in Appendix II and adjusted according to the following if applicable.

(3) Where it is expected that more than 33 percent of the vehicles in an engine family will be equipped with air conditioning, the road load power listed above or as determined in paragraph 2 of this subsection shall be increased by 10 percent for testing all test vehicles representing such engine family.

(f) The vehicle speed (m.p.h.) as measured from the dynamometer rolls

shall be used for all conditions. A speed

(b) If transmission ratio in first gear

If failure to start is an operational

level; and a second particulate filter to remove charcoal particles from the air-

(14) Three-way solenoid valves (V1 and V2) to direct sample streams to

(1) Quick-connect leak-tight fitting (C3) to attach sample bags to analytical

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shall be used for all conditions. A speed vs. time recording, as evidence of dynamometer test validity, shall be supplied on request of the Administrator.

(g) Practice runs over the prescribed driving schedule may be performed to find the minimum throttle action to maintain the proper speed-time relationship.

NOTE. When using two-roll dynamometers a truer speed-time trace may be obtained by minimizing the rocking of the vehicle in the rolls. The rocking of the vehicle changes the tire rolling radius on each roll. The rocking may be minimized by restraining the vehicle horizontally (or nearly so) by using a cable and winch.

(h) The drive wheel tires may be inflated up to 45 p.s.i.g. in order to prevent tire damage. The drive wheel tire pressure shall be reported with the test results

§ 85.073–16 Three-speed manual transmissions.

(a) All test conditions except as noted shall be run in highest gear.

(b) Cars equipped with free wheeling or overdrive units shall be tested with this unit (free wheeling or overdrive) locked out of operation.

(c) Idle shall be run with transmission in gear and with clutch disengaged (except first idle; see § 85.073–19).

(d) The vehicle shall be driven with minimum throttle movement to maintain the desired speed.

(e) Acceleration modes shall be driven smoothly with the shift speeds as recommended by the manufacturer. If the manufacturer does not recommend shift speeds, the vehicle shall be shifted from first to second gear at 15 m.p.h. and from second to third gear at 25 m.p.h. The operator shall release the accelerator pedal during the shift, and accomplish the shift with minimum closed throttle time. If the vehicle cannot accelerate at the specified rates, the vehicle shall be accelerated at WOT until the vehicle speed reaches the speed at which it should be at that time during the test.

(f) The deceleration modes shall be run with clutch engaged and without shifting gears from the previous mode, using brakes or throttle as necessary to maintain the desired speed. For those modes which decelerate to zero, the clutch shall be depressed when the speed drops below 15 m.p.h., when engine roughness is evident, or when engine stalling is imminent.

(g) Downshifting is allowed at the beginning of or during a power mode if recommended by the manufacturer or if the engine obviously is lugging.

§ 85.073–17 Four-speed and five-speed manual transmissions.

(a) Use the same procedure as for three-speed manual transmissions for shifting from first to second gear and from second to third gear. If the manufacturer does not recommend shift speeds, the vehicle shall be shifted from third to fourth gear at 40 m.p.h. Fifth gear may be used at the manufacturer's option.

(b) If transmission ratio in first gear exceeds 5:1, follow the procedure for three- or four-speed manual transmission vehicles as if the first gear did not exist.

§ 85.073–18 Automatic transmissions.

(a) All test conditions shall be run with the transmission in "Drive" (highest gear). Automatic stick-shift transmissions may be shifted as manual transmissions at the option of the manufacturer.

(b) Idle modes shall be run with the transmission in "Drive" and the wheels braked (except first idle; see § 85.073–19).

(c) The vehicle shall be driven with minimum throttle movement to maintain the desired speed.

(d) Acceleration modes shall be driven smoothly allowing the tranmission to shift automatically through the normal sequence of gears. If the vehicle cannot accelerate at the specified rates, the vehicle shall be accelerated at WOT until the vehicle speed reaches the speed at which it should be at that time during the driving schedule.

(e) The deceleration modes shall be run in gear using brakes or throttle as necessary to maintain the desired speed.

§ 85.073–19 Engine starting and restarting.

(a) The engine shall be started according to the manufacturer's recommended starting procedures. The initial 20-second-idle period shall begin when the engine starts.

(b) Choke operation:

(1) Vehicles equipped with automatic chokes shall be operated according to the instructions which will be included in the manufacturer's operating or owner's manual including choke setting and "kick-down" from cold fast idle. If choke "kick-down" time is not specified, it shall be performed 13 seconds after the engine starts. The transmission shall be placed in gear 15 seconds after the engine is started. If necessary, braking may be employed to keep the drive wheels from turning.

(2) Vehicles equipped with manual chokes shall be operated according to the manufacturer's operating or owner's manual. If not specified, the choke shall be operated to maintain engine idle at 1,100±50 r.p.m. during the initial idle period and used where necessary during the remainder of the test to keep the engine running.

(c) The operator may use more choke, more throttle, etc., where necessary to keep the engine running.

(d) If the vehicle does not start after 10 seconds of cranking, cranking shall cease and the reason for failure to start determined. The revolution counter on the constant volume sampler (see § 85.-073–24, Dynamometer test runs) shall be turned off and the sample solenoid valves placed in the "dump" position during this diagnostic period. In addition, either the positive displacement pump should be turned off or the exhaust tube disconnected from the tailpipe during the diagnostic period. If failure to start is an operational error, the vehicle shall be rescheduled for testing from a cold start. If failure to start is caused by vehicle malfunction, corrective action of less than 30 minutes duration may be taken and the test continued. The sampling system shall be reactivated at the same time cranking is started. When the engine starts, the driving schedule timing sequence shall begin. If failure to start is caused by vehicle malfunction and the vehicle cannot be started, the test shall be voided, the vehicle removed from the dynamometer, corrective action taken, and the vehicle rescheduled for test. The reason for the malfunction (if determined) and the corrective action taken shall be reported.

(e) If the engine "false starts", the operator shall repeat the recommended starting procedure (such as resetting the choke, etc.).

(f) Stalling:

(1) If the engine stalls during an idle period, the engine shall be restarted immediately and the test continued. If the engine cannot be started soon enough to allow the vehicle to follow the next acceleration as prescribed, the driving schedule indicator shall be stopped. When the vehicle restarts, the driving schedule indicator shall be reactivated.

(2) If the engine stalls during some operating mode other than idle, the driving schedule indicator shall be stopped, the vehicle restarted, accelerated to the speed required at that point in the driving schedule and the test continued.

(3) If the vehicle will not restart within 1 minute, the test shall be voided, the vehicle removed from the dynamometer, corrective action taken, and the vehicle rescheduled for test. The reason for the malfunction (if determined) and the corrective action taken shall be reported.

§ 85.073–20 Sampling and analytical system (exhaust emissions).

(a) *Schematic drawings.* The following figures (Figs. A73–1 and A73–2) are schematic drawings of the exhaust gas sampling and analytical systems which will be used for testing under the regulations in this part. Additional components such as instruments, valves, solenoids, pumps, and switches may be used to provide additional information and coordinate the functions of the component systems. In particular, the HC and CO instruments may be connected in series instead of in parallel.

(b) *Component description (exhaust gas sampling system).* The following components will be used in the exhaust gas sampling system for testing under the regulations in this part. See Figure A73–1. Other types of constant volume samplers may be used if shown to yield equivalent results.

(1) A dilution air filter assembly consisting of a particulate (paper) filter to remove solid matter from the dilution air and thus increase the life of the charcoal filter; a charcoal filter to reduce and stabilize the background hydrocarbon

level; and a second particulate filter to remove charcoal particles from the airstream. The filters shall be of sufficient capacity and the duct which carries the dilution air to the point where the exhaust gas is added shall be of sufficient size so that the pressure at the mixing point is less than 1 inch of water pressure below ambient when the constant volume sampler is operating at its maximum flow rate.

(2) A flexible, leak-tight connector and tube to the vehicle tailpipe. The flexible tubing shall be sized and connected in such a manner that the static pressure variations in the vehicle tailpipe(s) remain within ±1 inch of water of the static pressure variations measured during a dynamometer driving cycle with no connections to the tailpipe(s).

(3) A heating system to preheat the heat exchanger to within ±10° F. of its operating temperature before the test begins.

(4) A heat exchanger capable of limiting the gas mixture temperature variation during the entire test to ±10° F. as measured at a point immediately ahead of the positive displacement pump.

(5) A positive displacement pump to pump the dilute exhaust mixture. The pump capacity (300 to 350 c.f.m. is sufficient for testing most vehicles) shall be large enough to virtually eliminate water condensation in the system. See Appendix III for flow calibration techniques.

(6) Temperature sensor (T1) with an accuracy of ±2° F. to allow continuous recording of the temperatures of the dilute exhaust mixture entering the positive displacement pump (see § 85.073–22 (1)).

(7) Gauge (G1) with an accuracy of ±3 mm. Hg to measure the pressure depression of the dilute exhaust mixture entering the positive displacement pump, relative to atmospheric pressure.

(8) Gauge (G2) with an accuracy of ±3 mm. Hg to measure the pressure increase across the positive displacement pump.

(9) Sample probes (S1 and S2) pointed upstream to collect samples from the dilution airstream and the dilute exhaust mixture. Additional sample probes may be used, for example, to obtain continuous concentration traces of the dilute exhaust stream. In such case the sample flow rate, in standard cubic feet per test, must be added to the calculated dilute exhaust volume. The position of the sample probe in Figure A73–1 is pictorial only.

(10) Filters (F1 and F2) to remove particulate matter from dilution air and dilute exhaust samples.

(11) Pumps (P1 and P2) to pump the dilution air and dilute exhaust into their respective sample collection bags.

(12) Flow control valves (N1 and N2) to regulate flows to sample collection bags, at constant flow rates. The minimum sample flow rate shall be 5 c.f.h.

(13) Flowmeters (FL1 and FL2) to insure, by visual observation, that constant flow rates are maintained throughout the test.

(14) Three-way solenoid valves (V1 and V2) to direct sample streams to either their respective bags or overboard.

(15) Quick-connect leak-tight fittings (C1 and C2), with automatic shutoff on bag side, to attach sample bags to sample system.

(16) Sample collection bags for dilution air and exhaust samples of sufficient capacity so as not to impede sample flow.

(17) A revolution counter to count the revolutions of the positive displacement pump while the test is in progress and samples are being collected.

(c) *Component description (exhaust gas analytical system).* The following components will be used in the exhaust gas analytical system for testing under the regulations in this part. The analytical system provides for the determination of hydrocarbon concentrations by flame ionization detector (FID) analysis, the determination of carbon monoxide concentrations by nondispersive infrared (NDIR) analysis and the determination of oxides of nitrogen concentration by chemiluminescence (C1) analysis in dilute exhaust samples. The chemiluminescence method of analysis requires that the nitrogen dioxide present in the sample be converted to nitric oxide before analysis. See Appendix V. Other types of analyzers may be used if shown to yield equivalent results and if approved in advance by the Administrator. See Figure A73–2.

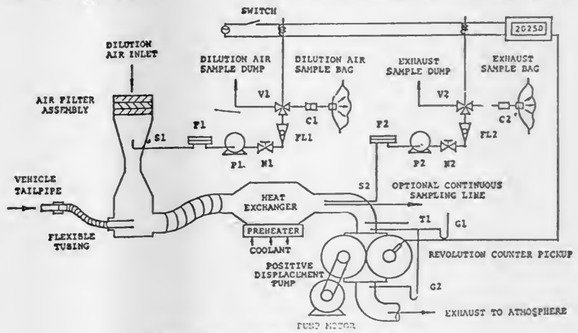

FIGURE A73–1.—Exhaust gas sampling system.

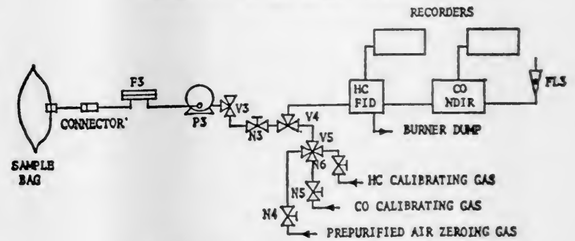

FIGURE A73–2.—Exhaust gas analytical system.

Surface area, min. (N_2 BET method)[1]	1,000 square meters per gram.	termining the net weight of the activated carbon trap, within an accuracy of

(f) Vehicle: Make—Vehicle identification number—Model year—Transmission

(2) Figure A73-3 represents an arrangement for collecting losses which emanate from the carburetor. Figure A73-4 depicts the means for separately collecting the vapors which emanate from the fuel tank vent line and filler cap. Figure A73-5 shows an arrangement for collecting the losses from a closed fuel system, vented to the atmosphere solely though the air cleaner, as might be the case with certain fuel evaporative emission control devices.

(3) Schematic drawings of arrangements to be employed shall be submitted in accordance with § 85.073-2(b)(3).

(b) *Collection equipment.* The following equipment shall be used for this collection of fuel evaporative emissions. (Item quantities are determined by individual test needs.)

(1) *Activated carbon trap.* See Figure A73-6 for specifications of one design; other configurations may be used: *Provided,* That they give demonstrably equivalent results.

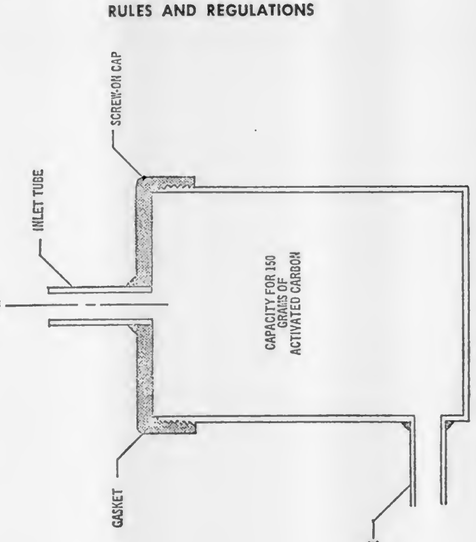

FIGURE A73-6.—Typical activated carbon trap (schematic).

(i) Canister—300±25 ml., cylindrical canister. The canister is designed to container having a length to diameter ratio of 1.4±0.1. An inlet tube, 5/16 inch ID and 1 inch long, is sealed into the top of the canister at its geometric center. A similar outlet tube is sealed into the wall ¼ inch from the bottom of the

withstand an air pressure of 2 p.s.i., when sealed, without evidence of leaking when immersed in water for 30 seconds.

(ii) Activated carbon—meeting the following specifications:

Surface area, min. (N_2 BET method).[1]	1,000 square meters per gram.
Adsorption capacity, min. (carbon tetrachloride).	60 percent, by weight.
Volatile material including adsorbed water vapor.	None.

Screen analysis size:	Percent
Less than 1.4 mm	0
1.7–2.4 mm	90–100
More than 3.0 mm	0

[1] Brunauer, Emmett & Teller; Journal of the American Chemical Society; Vol. 60, p. 309, 1938.

The activated carbon trap is prepared for the test by attaching clamped sections of vinyl tubing to the inlet and outlet tubes of the canister. The canister is then filled with 150±10 gm. hot activated carbon which had previously been oven-dried for 3 hours at 300° F. Loss of carbon through the inlet and outlet tubes is prevented through the use of wire screens of 0.7 mm. mesh or wads of loosely packed glass wool. The canister is closed immediately after filling and the carbon is allowed to cool while the trap is vented through a drying tube via the unclamped outlet arm.

(iii) The trap is sealed and weighed after cooling and the weight, to the nearest 0.1 gram, is inscribed on the canister body. Within 12 hours of the scheduled test, the weight of the trap is checked and if it has changed by more than 0.5 gm., it is redried to constant weight. This redrying operation is performed by passing dry nitrogen, heated to 275° F., through the trap, via the inlet tube, at a rate of 1 liter per minute until checks made at 30-minute intervals do not vary by more than 0.1 percent of the gross weight. The trap and its contents are allowed to cool to room temperature, while vented through a drying tube via the outlet arm, before use.

(2) *Auxiliary collection equipment.* (i) Drying tube—transparent, tubular body ¾ inch ID, 6 inches long, with serrated tips and removable caps.

(ii) Desiccant—indicating variety, 8 mesh. The drying tube is attached to the outlet tube of the collection traps to prevent ambient moisture from entering the trap. It is prepared by filling the empty drying tube with fresh desiccant using loose wad of glass wool to hold the desiccant in place. The desiccant is renewed when three-quarters spent, as indicated by color change.

(iii) Collection tubing—stainless steel or aluminum, 5/16 inch ID, for connecting the collection traps to the fuel system vents.

(iv) Polyvinyl chloride (vinyl) tubing—flexible tubing, 5/16 inch ID, for sealing butt-to-butt joints.

(v) Laboratory tubing—airtight flexible tubing 5/16 inch ID, attached to the outlet end of the drying tubes to equalize collection system pressure.

(vi) Clamps—hosecock, open side, for pinching off flexible tubing.

(c) *Weighing equipment.* The balance and weights used shall be capable of determining the net weight of the activated carbon trap within an accuracy of ±75 mg.

(d) *Temperature measuring equipment.* (1) Temperature recorder—multichannel, variable speed, potentiometric, or substantially equivalent recorder with a temperature range of 50° F. to 100° F. and capable of either simultaneous or sequential recording of the ambient air and fuel temperatures within an accuracy of ±1° F.

(2) Fuel tank thermocouples—iron-constantan (type J) construction.

(3) Other types of temperature sensing systems may be provided by the manufacturer if they record the information specified in subparagraph (1) of this paragraph with the required accuracy and if they are self-contained. Type J thermocouples are required for compatability with recording instruments used in Federal certification facilities.

(e) *Assembly and use of the activated carbon vapor collection system.* (1) The prepared activated carbon trap, dried to constant weight, cooled to the ambient temperature and sealed with clamped sections of vinyl tubing is carefully weighed to the nearest 20 milligrams and the weight recorded as the "tare weight."

(2) A drying tube is attached to the outlet tube and the clamp released, but not removed. A length of flexible tubing, for pressure equalization, is connected to the other end of the drying tube.

(3) The inlet tube of the adsorption trap and external vent(s) of the fuel system will be connected by minimal lengths of stainless steel or aluminum tubing and short sections of vinyl tubing. Butt-to-butt joints shall be made wherever possible and precautions taken against sharp bends in the connection lines, including any manifold systems employed to connect multiple vents to a single trap.

(4) The clamp on the inlet tube of the trap shall be released but not removed. Care shall be exercised to prevent heating the vapor collection trap by radiant or conductive heat from the engine.

(5) Upon completion of the collection sequence, the vinyl tubing sections on each arm of the collection trap shall be clamped tight and the collection system dismantled.

(6) The sealed vapor collection trap shall be weighed carefully to the nearest 20 milligrams. This constitutes the "gross weight," which is appropriately recorded. The difference between the "gross weight" and "tare weight" represents the "net weight" for purposes of calculating the fuel vapor losses.

§ 85.073–22 Information to be recorded.

The following information shall be recorded with respect to each test:

(a) Test number.

(b) System or device tested (brief description).

(c) Date and time of day for each part of the test schedule.

(d) Instrument operator.

(e) Driver or operator.

(f) Vehicle: Make—Vehicle identification number—Model year—Transmission type—Odometer reading—Engine displacement—Engine family—Idle r.p.m.—Nominal fuel tank capacity and location on vehicle—Number of carburetors—Number of carburetor barrels—Inertia loading—Actual road load HP at 50 m.p.h. and drive wheel tire pressure.

(g) Dynamometer serial number and indicated road load power absorption at 50 m.p.h.

(h) All pertinent instrument information such as tuning—gain—serial numbers—detector numbers—range.

(i) Recorder charts: Identify zero, span, exhaust gas, and dilution air sample traces.

(j) Barometric pressure, ambient temperature and humidity and the temperature of the air in front (from 6 to 12 inches from the grill) of the radiator during the test.

(k) Fuel temperatures, as prescribed.

(l) The temperature and pressure of the mixture of exhaust and dilution air entering the positive displacement pump and the pressure increases across the pump. The temperature of the mixture shall be recorded continuously or digitally at a rate often enough to determine temperature variations, or it may be controlled to ±5° F. of the set point of the temperature control system. In the last case only the set point need be recorded.

(m) The number of revolutions of the positive displacement pump accumulated while the test is in progress and exhaust flow samples are being collected.

§ 85.073–23 Analytical system calibration and sample handling.

(a) Calibrate the analytical assembly at least once every 30 days. Use the same flow rate as when analyzing samples.

(1) Adjust analyzers to optimize performance.

(2) Zero the hydrocarbon analyzer with zero grade air and the carbon monoxide and oxides of nitrogen analyzers with either zero grade air or nitrogen. The allowable zero gas impurity concentrations should not exceed 6 p.p.m. equivalent carbon response, 10 p.p.m. carbon monoxide and 1 p.p.m. nitric oxide .

(3) Set the CO analyzer gain to give the desired range. Select desired attenuation scale of the HC analyzer and set the sample capillary flow rate, by adjusting the back pressure regulator to give the desired range. Select the desired scale of the NO_x analyzer and adjust the phototube high voltage supply or amplifier gain to give the desired range. The operating range of the analyzers shall be such that the analyzer deflection which indicates an emission level equivalent to the respective standard is in the upper two-thirds of the scale.

(4) Calibrate the HC analyzer with propane (air diluent) gases having nominal concentrations of 50 and 100 percent of full scale. Calibrate the CO analyzer with carbon monoxide (nitrogen diluent) gases having nominal concentrations

§ 85.073-21 Sampling and analytical system (fuel evaporative emissions).

(a) *Schematic drawing.* (1) The following figures (Figures A73-3, A73-4, and A73-5) are flow diagrams of typical evaporative loss collection applications.

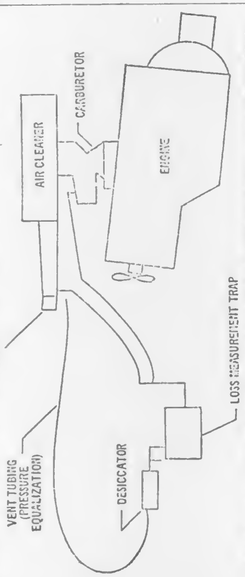

FIGURE A73-3.—Typical carburetor evaporative loss collection arrangement (schematic).

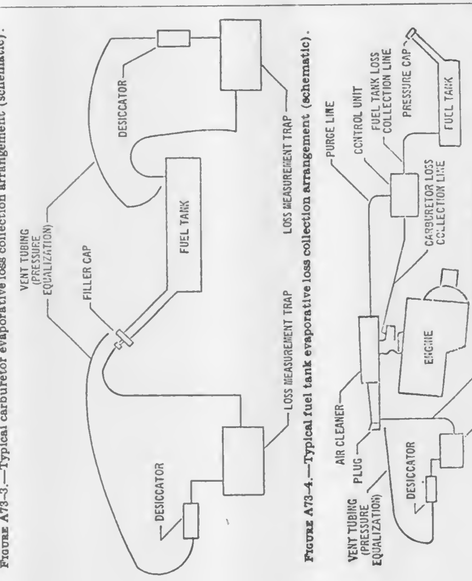

FIGURE A73-4.—Typical fuel tank evaporative loss collection arrangement (schematic).

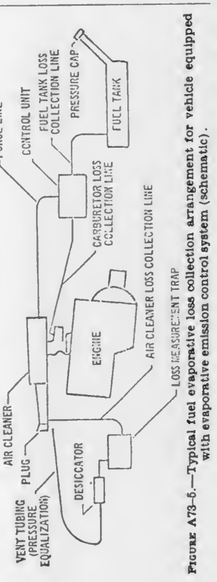

FIGURE A73-5.—Typical fuel evaporative loss collection arrangements for vehicle equipped with evaporative emission control system (schematic).

equal to 10, 25, 40, 50, 60, 70, 85, and 100 tion.) The following sequence of opera-

(7) Simultaneously start the revolu-

(c) Meaning of symbols:

HC_{conc}=Hydrocarbon emissions, in grams per

§ 85.073–27 Calculations (fuel evaporative emissions).

(i) The applicable results to be used in determining the deterioration factors

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equal to 10, 25, 40, 50, 60, 70, 85, and 100 percent of full scale. Calibrate the NO_x analyzer with nitric oxide (nitrogen diluent) gases having nominal concentrations equal to 50 and 100 percent of full scale. The actual concentrations should be known to within ±2 percent of the true values.

(5) Compare values obtained on the CO analyzer with previous calibration curves. Any significant change reflects some problem in the system. Locate and correct problem, and recalibrate. Use best judgment in selecting curves for data reduction.

(6) Check the NO_x to NO converter efficiency by the following procedure:

(i) Fill a sample bag (one not previously used to collect exhaust gas samples) with air (or oxygen) and NO span gas in proportions which result in a mix in the operating range of the analyzer. Provide enough oxygen for substantial conversion of NO to NO_2.

(ii) Knead bag and immediately connect the bag to the sample inlet and alternately measure the NO and NO_x concentration at 1-minute intervals by alternately passing the sample through the converter and the bypass (close valves N6 and N9 to minimize pump down rate of bag). After several minutes of operation, the recording of NO and NO_x will resemble Figure A73-7 if the converter is efficient. Even though the amount of NO_2 increases with time, the total NO_x ($NO+NO_2$) remains constant. A decay of NO_x with time indicates the converter is not essentially 100 percent efficient and the cause should be determined before the instrument is used.

(iii) The converter efficiency should be checked at least once weekly and preferably once daily.

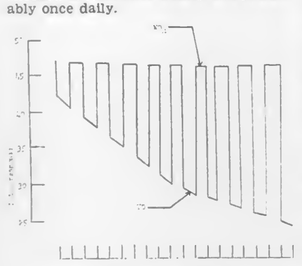

FIGURE A73-7.—Converter efficiency check response.

(b) HC, CO, and NO_x measurements: Allow a minimum of 20 minutes warmup for the HC analyzer and 2 hours for the CO and NO_x analyzers. (Power is normally left on infrared and chemiluminescence analyzers; but when not in use, the chopper motor of the infrared analyzer is turned off and the phototube high voltage supply of the chemiluminescence analyzer is placed in the standby position.) The following sequence of operations should be performed in conjunction with each series of measurements:

(1) Zero the analyzers. Obtain a stable zero on each amplifier meter and recorder. Recheck after test.

(2) Introduce span gases and set the CO analyzer gain, the HC analyzer sample capillary flow rate and the NO_x analyzer high voltage supply or amplifier gain to match the calibration curves. In order to avoid corrections, span and calibrate at the same flow rates used to analyze the test samples. Span gases should have concentrations equal to approximately 80 percent of full scale. If gain has shifted significantly on the CO analyzer, check tuning. If necessary, check calibration. Recheck after test. Show actual concentrations on chart.

(3) Check zeroes; repeat the procedure in subparagraphs (1) and (2) of this paragraph if required.

(4) Check flow rates and pressures.

(5) Measure HC, CO, and NO_x concentrations of samples. Prevent moisture from condensing in the sample collection bag.

(6) Check zero and span points.

(c) For the purposes of this paragraph, the term "zero grade air" includes artificial "air" consisting of a blend of nitrogen and oxygen with oxygen concentrations between 18 and 21 mole percent.

§ 85.073–24 Dynamometer test runs.

(a) The vehicle shall be allowed to stand with engine turned off for a period of not less than 12 hours before the exhaust emission test, at an ambient temperature as specified in §§ 85.073–12 and 85.073–13. The vehicle shall be stored prior to the emission tests in such a manner that precipitation (e.g., rain or dew) does not occur on the vehicle. During the run the ambient temperature shall be between 68° F. and 86° F. For exhaust emission testing which is unrelated to fuel evaporative emission control, the ambient temperature requirement during storage shall be between 60° F. and 86° F.

(b) The following steps shall be taken for each test:

(1) Place drive wheels of vehicle on dynamometer without starting engine.

(2) Start the cooling fan with the vehicle engine compartment cover open.

(3) With the sample solenoid valves in the "dump" position, connect evacuated sample collection bags to the dilute exhaust sample and the dilution air sample line connectors.

(4) Start the positive displacement pump (if not already on), the sample pumps and the temperature recorder. (The heat exchanger of the constant volume sampler should be preheated to its operating temperature before the test begins.)

(5) Adjust the sample flow rates to the desired flow rate (minimum of 5 c.f.h.).

(6) Attach the flexible exhaust tube to the vehicle tailpipe(s).

(7) Simultaneously start the revolution counter for the positive displacement pump, position the sample solenoid valves to direct the sample flows into the bags, and start cranking the engine.

(8) Fifteen seconds after the engine starts, place the transmission in gear.

(9) Twenty seconds after the engine starts, begin the initial vehicle acceleration of the driving schedule.

(10) Operate the vehicle according to the dynamometer driving schedule. (§ 85.073–14.)

(11) Five seconds after the last deceleration, simultaneously turn off the revolution counter and position the sample solenoid valve to the "dump" position.

(12) Immediately after the end of the sample period turn off the cooling fan and close the engine compartment cover.

(13) Immediately disconnect sample bags, transfer to analytical system and process samples according to § 85.073–23 as soon as practicable, and in no case longer than 10 minutes after the dynamometer run.

(14) Disconnect the exhaust tube from the vehicle tailpipe(s) and remove vehicle from dynamometer.

(15) The positive displacement pump may be turned off, if desired.

§ 85.073–25 Chart reading.

(a) Determine the HC, CO, and NO_x concentrations of the dilution air and dilute exhaust sample bags from the instrument deflection or recordings making use of appropriate calibration charts.

(b) Determine the average dilute exhaust mixture temperature from the temperature recorder trace if a recorder is used.

§ 85.072–26 Calculations (exhaust emissions).

The final reported test results shall be computed by use of the following formulae:

(a) For light duty vehicles, excluding off-road utility vehicles:

(1) Hydrocarbon mass:

$$HC_{mass}=V_{mix}\times Density_{HC}\times\frac{HC_{conc}}{1{,}000{,}000}$$

(2) Carbon monoxide mass:

$$CO_{mass}=V_{mix}\times Density_{CO}\times\frac{CO_{conc}}{100}$$

(3) Oxides of nitrogen mass:

$$NO_{x_{mass}}=V_{mix}\times Density_{NO_2}\times\frac{NO_{x_{conc}}}{1{,}000{,}000}\times K_H$$

(b) For off-road utility vehicles:

(1)

$$HC_{mass}=V_{mix}\times Density_{HC}\times\frac{HC_{conc}}{1{,}000{,}000}\times 0.85$$

(2)

$$CO_{mass}=V_{mix}\times Density_{CO}\times\frac{CO_{conc}}{100}\times 0.85$$

(3)

$$NO_{x_{mass}}=V_{mix}\times Density_{NO_2}\times\frac{NO_{x_{conc}}}{1{,}000{,}000}\times 0.85\times K_H$$

(c) Meaning of symbols:

HC_{mass} = Hydrocarbon emissions, in grams per vehicle mile.

$Density_{HC}$ = Density of hydrocarbons in the exhaust gas, assuming an average carbon to hydrogen ratio of 1:1.85, in grams per cubic foot at 68° F. and 760 mm. Hg pressure (16.33 gm./cu. ft.).

HC_{conc} = Hydrocarbon concentration of the dilute exhaust sample minus hydrocarbon concentration of the dilution air sample in p.p.m. carbon equivalent i.e. equivalent propane ×3.

CO_{mass} = Carbon monoxide emissions, in grams per vehicle mile.

$Density_{CO}$ = Density of carbon monoxide in grams per cubic foot at 68° F. and 760 mm. Hg pressure (32.97 gm./cu. ft.).

CO_{conc} = Carbon monoxide concentration of the dilute exhaust sample minus the carbon monoxide concentration of the dilution air sample, in volume present.

$NO_{x_{mass}}$ = Oxides of nitrogen emissions in grams per vehicle mile.

$Density_{NO_2}$ = Density of oxides of nitrogen in the exhaust gas assuming they are in the form of nitrogen oxide, in grams per cubic foot at 68° F. and 760 mm. Hg pressure (54.16 gm./cu. ft.).

$NO_{x_{conc}}$ = Oxides of nitrogen concentration of the dilute exhaust sample minus the oxides of nitrogen concentration of the dilution air sample, in p.p.m.

V_{mix} = Total dilute exhaust volume in cubic feet per mile, corrected to standard conditions (528° R and 760 mm. Hg).

$$V_{mix}=K_1\times V_s\times N\times\frac{P_B-P_1}{T_p}$$

where:

$K_1=\frac{528°\ R}{760\ mm.\ Hg\times 7.5\ miles}=0.09263.$

V_s = Volume of gas pumped by the positive displacement pump, in cubic feet per revolution. This volume is dependent on the pressure differential across the positive displacement pump.

N = Number of revolutions of the positive displacement pump during the test while samples are being collected.

P_B = Barometric pressure in mm. Hg.

P_1 = Pressure depression below atmosphere measured at the inlet to the positive displacement pump.

T_p = Average temperature of dilute exhaust entering positive displacement pump during test while samples are being collected, in degrees Rankine.

K_H = Humidity correction factor.

$$K_H=\frac{1}{1-0.0047\ (H-75)}$$

where:

H = Absolute humidity in grains of water per pound of dry air.

$$H=\frac{(43.478)\ R_a\times P_d}{P_B-(P_d\times R_a/100)}$$

R_a = Relative humidity of the ambient air, in percent.

P_d = Saturated vapor pressure, in mm. Hg at the ambient dry bulb temperature.

(d) Example calculation of mass emissions values:

Assume V_s=0.265 cu. ft. per revolution; N=20,250 revolutions; R_a 65%; P_B=754 mm. Hg; P_d=22.225 mm. Hg; P_1=24 mm.; Hg; T_p=550°R; HC_{conc}=160 p.p.m. carbon equivalent; CO_{conc}=0.09%; and $NO_{x_{conc}}$=70 p.p.m.

Then:

$$V_{mix}=(0.09263)(0.265)(20{,}250)\frac{(754-24)}{(550)}$$
$$=659.8\ \text{cu. ft. per mile.}$$

$$H=\frac{(43.478)(65)(22.225)}{754-(22.225\times 65/100)}=85\ \text{grains per pound of dry air.}$$

$$K_H=\frac{1}{1-0.0047\ (85-75)}=1.049.$$

(1) For a 1973 light duty vehicle.

$$HC_{mass}=659.8\times 16.33\times\frac{160}{1{,}000{,}000}$$
$$=1.72\ \text{grams per vehicle mile.}$$

$$NO_{x_{mass}}=659.8\times 54.16\times\frac{70}{1{,}000{,}000}\times 1.049$$
$$=2.62\ \text{grams per vehicle mile}$$

(2) For a 1973 off-road utility vehicle.

$$CO_{mass}=659.8\times 32.97\times\frac{0.09\times 0.85}{100}$$
$$=16.6\ \text{grams per vehicle mile.}$$

§ 85.073–27 Calculations (fuel evaporative emissions).

The net weights of the individual collection traps employed in § 85.073–13 shall be added together to determine compliance with the fuel evaporative emission standard.

§ 85.073–28 Compliance with emission standards.

(a) The exhaust and fuel evaporative emission standards in § 85.073–1 apply to the emissions of vehicles for their useful life.

(b) Since emission control efficiency decreases with mileage accumulated on the vehicle, the emission level of a vehicle which has accumulated 50,000 miles will be used as the basis for determining compliance with the standards.

(c) The procedure for determining compliance of a new light duty motor vehicle with exhaust and fuel evaporative emission standards is as follows:

(1) Separate emission deterioration factors shall be determined from the emission results of the durability data vehicles for each engine-system combination. A separate factor shall be established for the combination for exhaust HC, exhaust CO, exhaust NO_x, and fuel evaporative HC.

$$\text{factor}=\frac{\text{exhaust emissions interpolated to 50,000 miles}}{\text{exhaust emissions interpolated to 4,000 miles}}$$

(iv) An evaporative emission deterioration factor shall be calculated for each combination by subtracting the evaporative emissions interpolated to 4,000 miles from the evaporative emissions interpolated to 50,000 miles.

(2) (i) The exhaust emission test results for each emission data vehicle shall be multiplied by the appropriate deterioration factor: *Provided*, That if a deterioration factor as computed in subparagraph (1) (iii) of this paragraph is less than 1, that deterioration factor shall be one for the purposes of this subparagraph.

(ii) The evaporative emission test results for each combination shall be adjusted by addition of the appropriate deterioration factor: *Provided*, That if a deterioration factor as computed in subparagraph (1) (iv) of this paragraph is less than zero, that deterioration factor shall be zero for the purposes of this subparagraph.

(3) The emissions to compare with the standard shall be the adjusted emissions of subparagraph (2) (i) and (ii) of this paragraph for each emission data vehicle.

(4) Every test vehicle of an engine family must comply with all applicable standards, as determined in subparagraph (3) of this paragraph, before any vehicle in that family may be certified.

§ 85.073–29 Testing by the Administrator.

(a) The Administrator may require that any one or more of the test vehicles be submitted to him, at such place or places as he may designate, for the purpose of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(b) (1) Whenever the Administrator conducts a test on a test vehicle, the results of that test shall comprise the official data for the vehicle at that prescribed test point.

(2) Whenever the Administrator does not conduct a test on a test vehicle at a test point, the manufacturer's test data will be accepted as the official data for that test point: *Provided*, That if the Administrator makes a determination based on testing under paragraph (a) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer.

(3) If the Administrator determines that the test data developed under paragraph (a) of this section would cause a vehicle to fail due to excessive 4,000 mile or excessive deterioration, then the following procedure shall be observed:

(i) The applicable results to be used in determining the deterioration factors for each combination shall be:

(a) All emission data from the tests required under § 85.073–7(b), except the zero-mile tests. This shall include the official test results, as determined in § 85.073–29, for all tests conducted on all durability vehicles of the combination selected under § 85.073–5(c) (including all vehicles elected to be operated by the manufacturer under § 85.073–5(c)(3)). Where the Administrator has agreed to a mileage less than 50,000 miles in accordance with § 85.073–7(b), the data for mileages greater than that actually run will be determined by extrapolating the test data generated at lesser mileages.

(b) All emission data from the tests conducted before and after the maintenance provided in § 85.073–6(a)(1)(i).

(ii) All applicable results shall be plotted as a function of the mileage on the system, rounded to the nearest mile, and the best fit straight lines, fitted by the method of least squares, shall be drawn through these data points. The interpolated 4,000- and 50,000-mile points on this line must be within the standards provided in § 85.073–1 or the data will not be acceptable for use in calculation of a deterioration factor.

(iii) An exhaust emission deterioration factor shall be calculated for each combination as follows:

(i) The manufacturer may request a retest. Before the retest, the vehicle may

the certification test fleet do not meet applicable standards, he will notify the

(b) The Administrator may require the manufacturer to perform such tests

dition or change. If the Administrator determines that test data will be required,

§ 85.073–36 Submission of vehicle identification numbers.

(b) The maintenance instructions required by this section shall contain a

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(i) The manufacturer may request a retest. Before the retest, the vehicle may be adjusted to manufacturer's specifications, and parts may be replaced in accordance with § 85.073–6. All work on the vehicle shall be done at such location and under such conditions as the Administrator may prescribe.

(ii) The vehicle will be retested by the Administrator and the results of this test shall comprise the official data for that prescribed test point.

(4) If sufficient durability data is not available, at the time of any emission test conducted under paragraph (a) of this section, to enable the Administrator to determine whether a test vehicle would fail, the manufacturer may request a retest in accordance with the provisions of subparagraph (3) (i) and (ii) of this paragraph. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the vehicle from the test premises.

§ 85.073–30 Certification.

(a) (1) If, after a review of the test reports and data submitted by the manufacturer and data derived from any additional testing conducted pursuant to § 85.073–29, the Administrator determines that a test vehicle(s) conforms to the regulations of this subpart, he will issue a certificate of conformity with respect to such vehicle(s).

(2) Such certificate will be issued for such period not more than 1 year as the Administrator may determine and upon such terms as he may deem necessary to assure that any new motor vehicle covered by the certificate will meet the requirements of these regulations relating to durability and performance.

(b) (1) The Administrator will determine whether a vehicle covered by the application complies with applicable standards by observing the following relationships:

(i) A test vehicle selected under § 85.073–5(b) (2) or (4) shall represent all vehicles in the same engine family of the same engine displacement-exhaust emission control system-evaporative emission control system combination.

(ii) A test vehicle selected under § 85.073–5(b)(3) shall represent all vehicles in the same engine family of the same engine displacement-exhaust emission control system-transmission type-fuel system combination.

(iii) A test vehicle selected under § 85.073–5(c)(1) shall represent all vehicles of the same engine-system combination.

(2) The Administrator will proceed as in paragraph (a) of this section with respect to the vehicles belonging to an engine family all of which comply with applicable standards.

(3) If, after a review of the test reports and data submitted by the manufacturer and data derived from any additional testing conducted pursuant to § 85.073–29, the Administrator determines that one or more test vehicles of the certification test fleet do not meet applicable standards, he will notify the manufacturer in writing, setting forth the basis for his determination. Within 30 days following receipt of the notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determination, and data in support of such objections. If, after a review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 85.005 with respect to such issue.

(4) The manufacturer may, at his option, proceed with any of the following alternatives with respect to any engine family represented by a test vehicle(s) determined not in compliance with applicable standards:

(i) Request a hearing under § 85.005, or

(ii) Delete from the application for certification the vehicles represented by the failing test vehicle. (Vehicles so deleted may be included in a later request for certification under § 85.073–32.) The Administrator will then select in place of each failing vehicle an alternate vehicle chosen in accordance with selection criteria employed in selecting the vehicle that failed, or

(iii) Modify the test vehicle and demonstrate by testing that it meets applicable standards. Another vehicle which is in all material respects the same as the first vehicle, as modified, shall then be operated and tested in accordance with applicable test procedures.

(5) If the manufacturer does not request a hearing or present the required data under subparagraph (4) of this paragraph, the Administrator will deny certification.

§ 85.073–31 Separate certification.

Where possible a manufacturer should include in a single application for certification all vehicles for which certification is required. A manufacturer may, however, choose to apply separately for certification of part of his product line. The selection of test vehicles and the computation of test results will be determined separately for each application.

§ 85.073–32 Addition of a vehicle after certification.

(a) If a manufacturer proposes to add to his product line a vehicle of the same engine-system combination as vehicles previously certified but which was not described in the application for certification when the test vehicle(s) representing other vehicles of that combination was certified, he shall notify the Administrator. Such notification shall be in advance of the addition unless the manufacturer elects to follow the procedure described in § 85.073–34. This notification shall include a full description of the vehicle to be added.

(b) The Administrator may require the manufacturer to perform such tests on the test vehicle(s) representing the vehicle to be added which would have been required if the vehicle had been included in the original application for certification.

(c) If, after a review of the test reports and data submitted by the manufacturer, and data derived from any testing conducted under § 85.073–29, the Administrator determines that the test vehicle(s) meets all applicable standards, the appropriate certificate will be amended accordingly. If the Administrator determines that the test vehicle(s) does not meet applicable standards, he will proceed under § 85.073–30(b).

§ 85.073–33 Changes to a vehicle covered by certification.

(a) The manufacturer shall notify the Administrator of any change in production vehicles in respect to any of the parameters listed in § 85.073–5(a)(3), giving a full description of the change. Such notification shall be in advance of the change unless the manufacturer elects to follow the procedure described in § 85.073–34.

(b) Based upon the description of the change, and data derived from such testing as the Administrator may require or conduct, the Administrator will determine whether the vehicle, as modified, would still be covered by the certificate of conformity then in effect.

(c) If the Administrator determines that the outstanding certificate would cover the modified vehicles, he will notify the manufacturer in writing. Except as provided in § 85.073–34, the change may not be put into effect prior to the manufacturer's receiving this notification. If the Administrator determines that the modified vehicles would not be covered by the certificate then in effect, then the modified vehicles shall be treated as additions to the product line subject to § 85.073–32.

§ 85.073–34 Alternative procedure for notification of additions and changes.

(a) A manufacturer may, in lieu of notifying the Administrator in advance of an addition of a vehicle under § 85.073–32 or a change in a vehicle under § 85.073–33, notify him concurrently with the making of the change if the manufacturer believes the addition or change will not require any testing under the appropriate section. Upon notification to the Administrator, the manufacturer may proceed to put the addition or change into effect.

(b) The manufacturer may continue to produce vehicles as described in the notification to the Administrator for a maximum of 30 days, unless the Administrator grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Administrator determines, based upon a description of the addition or change, that no test data will be required, he will notify the manufacturer in writing of the acceptability of the addition or change. If the Administrator determines that test data will be required, he will notify the manufacturer to rescind the change within 5 days of receipt of the notification. The Administrator will then proceed as in § 85.073–32 (b) and (c), or § 85.073–33 (b) and (c) as appropriate.

(d) Election to produce vehicles under this section will be deemed to be a consent to recall all vehicles which the Administrator determines under § 85.073–32(c) do not meet applicable standards, and to cause such nonconformity to be remedied at no expense to the owner.

§ 85.073–35 Labeling.

(a)(1) The manufacturer of any light duty motor vehicle subject to the standards prescribed in § 85.073–1 shall, at the time of manufacture, affix a permanent, legible label, of the type and in the manner described below, containing the information hereinafter provided, to all production models of such vehicles available for sale to the public and covered by a certificate of conformity under § 85.073–30(a).

(2) A plastic or metal label shall be welded, riveted, or otherwise permanently attached in a readily visible position in the engine compartment.

(3) The label shall be affixed by the vehicle manufacturer, who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label, and shall not be affixed to any equipment which is easily detached from such vehicle.

(4) The label shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label:

(i) The label heading: Vehicle Emission Control Information;

(ii) Full corporate name and trademark of manufacturer;

(iii) Engine displacement (in cubic inches) and engine family identification;

(iv) Engine tuneup specifications and adjustments, as recommended by the manufacturer, including idle speed, ignition timing, and the idle air-fuel mixture setting procedure and value (e.g. idle CO, idle air-fuel ratio, idle speed drop). These specifications should indicate the proper transmission position during tuneup and what accessories (e.g., air-conditioner), if any should be in operation;

(v) The statement: "This Vehicle Conforms to U.S.E.P.A. Regulations Applicable to 1973 Model Year New Motor Vehicles."

(b) The provisions of this section shall not prevent a manufacturer from also reciting on the label that such vehicle conforms to any applicable State emission standards for new motor vehicles or any other information that such manufacturer deems necessary for, or useful to, the proper operation and satisfactory maintenance of the vehicle.

§ 85.073–36 Submission of vehicle identification numbers.

(a) The manufacturer of any light duty motor vehicle covered by a certificate of conformity under § 85.073–30(a) shall, not later than 60 days after its manufacture, submit to the Administrator the vehicle identification number of such vehicle: *Provided*, That this requirement shall not apply with respect to any vehicle manufactured within any State, as defined in section 302(d) of the Act.

(b) The requirements of this section may be waived with respect to any manufacturer who provides information satisfactory to the Administrator which will enable the Administrator to identify those vehicles which are covered by a certificate of conformity.

§ 85.073–37 Production vehicles.

(a) Any manufacturer obtaining certification under this subpart shall supply to the Administrator, upon his request, a reasonable number of production vehicles selected by the Administrator which are representative of the engines, emission control systems, fuel systems, and transmissions offered and typical of production models available for sale under the certificate. These vehicles shall be supplied for testing at such time and place and for such reasonable periods as the Administrator may require.

(b) Any manufacturer obtaining certification under this subpart shall notify the Administrator, on a quarterly basis, of the number of vehicles of each engine family - engine displacement - exhaust emission control system-fuel system-transmission type-inertia weight class combination produced for sale in the United States during the preceding quarter. A manufacturer may elect to provide this information every 60 days instead of quarterly, to combine it with the notification required under § 85.073–36.

(c) All light duty vehicles covered by a certificate of conformity under § 85.073–30(a) shall be adjusted by the manufacturer to the ignition timing specification detailed in § 85.073–35(a)(4)(iv).

§ 85.073–38 Maintenance instructions.

(a) The manufacturer shall furnish or cause to be furnished to the ultimate purchaser of each new motor vehicle subject to the standards prescribed in § 85.073–1, written instructions for the maintenance and use of the vehicle by the ultimate purchaser as may be reasonable and necessary to assure the proper functioning of emission control systems.

(1) Such instructions shall be provided for those vehicle and engine components listed in Appendix VI to this part (and for any other components) to the extent that maintenance of these components is necessary to assure the proper functioning of emission control systems.

(2) Such instructions shall be in clear, and to the extent practicable, nontechnical language.

(b) The maintenance instructions required by this section shall contain a general description of the documentation which the manufacturer will require from the ultimate purchaser or any subsequent purchaser as evidence of compliance with the instructions.

§ 85.073–39 Submission of maintenance instructions.

(a) The manufacturer shall provide to the Administrator, no later than the time of the submission required by § 85.073–4, a copy of the maintenance instructions which the manufacturer proposes to supply to the ultimate purchaser in accordance with § 85.073–38(a). The Administrator will review such instructions to determine whether they are reasonable and necessary to assure the proper functioning of the vehicle's emission control systems. The Administrator will notify the manufacturer of his determination whether such instructions are reasonable and necessary to assure the proper functioning of the emission control systems.

(b) Any revision to the maintenance instructions which will affect emissions shall be supplied to the Administrator at least 30 days before being supplied to the ultimate purchaser unless the Administrator consents to a lesser period of time.

§ 85.074–1 Emission standards for 1974 model year vehicles.

The standards and test procedures set forth in § 85.073 remain applicable for the 1974 model year.

§ 85.075–1 Emission standards for 1975 model year vehicles.

(a) (1) Exhaust emissions from 1975 model year vehicles shall not exceed:

(i) *Hydrocarbons*. 0.41 gram per vehicle mile.

(ii) *Carbon monoxide*. 3.4 grams per vehicle mile.

(iii) *Oxides of nitrogen*. 3.1 grams per vehicle mile.

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over a driving schedule as set forth in § 85.075–9 through § 85.075–27 and measured and calculated in accordance with those procedures.

(b) (1) Fuel evaporative emissions shall not exceed:

(i) *Hydrocarbons*—2 grams per test.

(2) The standard set forth in paragraph (b)(1) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in § 85.075–9 through § 85.075–27 and measured in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new motor vehicle subject to this subpart.

(d) Every manufacturer of new motor vehicles subject to the standards prescribed in this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicles in accordance

with test procedures contained in § 85.075–9 through § 85.075–27 to ascertain compliance with the general standards in § 85.075–1 and the data

Within each engine family, the requirements of this paragraph must be met.

class as the vehicle selected for that engine-system combination in accord-

A major engine tuneup shall be restricted to the following:

(c) If the Administrator determines that maintenance or repairs performed

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with test procedures contained in § 85.075–9 through § 85.075–27 to ascertain that such test vehicles meet the requirements of paragraphs (a), (b), and (c) of this section, as applicable.

§ 85.075–2 Application for certification.

(a) An application for a certificate of conformity to the regulations applicable to any new motor vehicle shall be made to the Administrator by the manufacturer.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(1) Identification and description of the vehicles covered by the application and a description of their emission control systems.

(2) Projected U.S. sales data sufficent to enable the Administrator to select a test fleet representative of the vehicles for which certification is requested.

(3) A description of the test equipment and fuel proposed to be used.

(4) A description of the proposed mileage accumulation procedure for durability testing.

(5) A statement of recommended maintenance and procedures necessary to assure that the vehicles covered by a certificate of conformity in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(6) At the option of the manufacturer, the proposed composition of the emission data and durability data test fleet.

§ 85.075–3 Approval of procedure and equipment; test fleet selections.

Based upon the information provided in the application for certification, and any other information the Administrator may require, the Administrator will approve or disapprove in whole or in part the mileage accumulation procedure and equipment and fuel proposed by the manufacturer, and notify him in writing of such determination. Where any part of a proposal is disapproved, such notification will specify the reasons for disapproval. The Administrator will select a test fleet in accordance with § 85.075–5.

§ 85.075–4 Required data.

The manufacturer shall perform the tests required by the applicable test procedures, and submit to the Administrator the following information:

(a) Durability data on such vehicles tested in accordance with the applicable test procedures of this subpart, and in such numbers as therein specified, which will show the performance of the systems installed on or incorporated in the vehicle for extended mileage, as well as a record of all pertinent maintenance performed on the test vehicles.

(b) Emission data on such vehicles tested in accordance with the applicable emission test procedures of this subpart and in such numbers as therein specified, which will show their emissions after zero miles and 4,000 miles of operation.

(c) A description of tests performed to ascertain compliance with the general standards in § 85.075–1 and the data derived from such tests.

(d) A statement that the test vehicles with respect to which data are submitted have been tested in accordance with the applicable test procedures, that they meet the requirement of such tests, and that, on the basis of such tests, they conform to the requirements of the regulations in this subpart. If such statements cannot be made with respect to any vehicle tested, the vehicle shall be identified, and all pertinent test data relating thereto shall be supplied.

§ 85.075–5 Test vehicles.

(a) (1) The vehicles covered by the application for certification will be divided into groupings of vehicles whose engines are expected to have similar emission characteristics. Each group of engines with similar emission characteristics shall be defined as a separate engine family.

(2) To be classed in the same engine family, engines must be identical in all the following respects:

(i) The cylinder bore center-to-center dimensions.

(ii) The dimension from the centerline of the crankshaft to the centerline of the camshaft.

(iii) The dimension from the centerline of the crankshaft to the top of the cylinder block head face.

(iv) The cylinder block configuration (air cooled or water cooled; L–6, 90° V–8, etc.).

(v) The location of intake and exhaust valves and the valve sizes (within a ⅛-inch range on the valve head diameter).

(vi) The method of air aspiration.

(vii) The combustion cycle.

(3) Engines identical in all the respects listed in subparagraph (2) of this paragraph may be further divided into different engine families if the Administrator determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of the following features of each engine:

(i) The bore and stroke.

(ii) The surface-to-volume ratio of the nominally dimensioned cylinder at the top dead center position.

(iii) The intake manifold induction port size and configuration.

(iv) The exhaust manifold port size and configuration.

(v) The intake and exhaust valve sizes.

(vi) The fuel system.

(vii) The camshaft timing and ignition timing characteristics.

(4) Where engines are of a type which cannot be divided into engine families based upon the criteria listed in subparagraphs (2) and (3) of this paragraph, the Administrator will establish families for those engines based upon the features most related to their emission characteristics.

(b) Emission data vehicles:

(1) Vehicles will be chosen to be operated and tested for emission data based upon the engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(2) Vehicles of each engine family will be divided into engine displacement-exhaust emission control system-evaporative emission control system combinations. A projected sales volume will be established for each combination for the 1975 model year. One vehicle of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of vehicles of that engine family is represented, or until a maximum of four vehicles is selected. If any single combination represents over 70 percent, then two vehicles of that combination will be selected. The vehicle selected for each combination will be specified by the Administrator as to transmission type, fuel system, and inertia weight class.

(3) The Administrator may select a maximum of four additional vehicles within each engine family based upon features indicating that they may have the highest emission levels of the vehicles in that engine family. In selecting these vehicles, the Administrator will consider such features as the emission control system combination, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, compression ratio, inertia weight class, transmission options, and axle ratios.

(4) If the vehicles selected in accordance with subparagraphs (2) and (3) of this paragraph do not represent each engine-system combination, then one vehicle of each engine-system combination not represented will be selected by the Administrator. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with the control system combination in the engine family and will be designated by the Administrator as to transmission type, fuel system, and inertia weight class.

(c) Durability data vehicles:

(1) A durability data vehicle will be selected by the Administrator to represent each engine-system combination. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with that control-system combination in that engine family and will be designated by the Administrator as to transmission type, fuel system, and inertia weight class.

(2) If an exhaust emission control system–fuel evaporative emission control system combination is used in only one engine family, an additional vehicle using that combination in that family will be selected so that the durability data fleet shall contain at least two vehicles with each combination. The additional vehicle will be selected in the same manner as vehicles selected under subparagraph (1) of this paragraph.

(3) A manufacturer may elect to operate and test additional vehicles to represent any engine-system combination. The additional vehicles must be of the same engine displacement, transmission type, fuel system, and inertia weight

class as the vehicle selected for that engine-system combination in accordance with the provisions of subparagraph (1) of this paragraph. Notice of an intent to operate and test additional vehicles shall be given to the Administrator not later than 30 days following notification of the test fleet selection.

(d) For purposes of testing under § 85.075–7(g), the Administrator may require additional emission data vehicles and durability data vehicles identical in all material respects to vehicles selected in accordance with paragraphs (b) and (c) of this section: *Provided*, That the number of vehicles selected shall not increase the size of either the emission data fleet or the durability data fleet by more than 20 percent or one vehicle, whichever is greater.

(e) Any manufacturer whose projected sales of new motor vehicles subject to this subpart for the 1975 model year is less than 2,000 vehicles may request a reduction in the number of test vehicles determined in accordance with the foregoing provisions of this section. The Administrator may agree to such lesser number as he determines would meet the objectives of this procedure.

(f) In lieu of testing an emission data or durability data vehicle selected under paragraph (b) or (c) of this section, and submitting data therefor, a manufacturer may, with the prior written approval of the Administrator, submit data on a similar vehicle for which certification has previously been obtained.

(g) (1) Where it is expected that more than 33 percent of an engine family will be equipped with an optional item, the full estimated weight of that item shall be included in the curb weight computation for the entire engine family. Where it is expected that 33 percent or less of the vehicles in an engine family will be equipped with an item of optional equipment, no weight for that item will be added in computing curb weight. Optional equipment weighing less than 3 pounds per item need not be considered.

(2) Where it is expected that more than 33 percent of an engine family will be equipped with an item of optional equipment that can reasonably be expected to influence exhaust or evaporative emissions, then such items of optional equipment shall actually be installed on all emission data and durability data vehicles for such engine family.

§ 85.075–6 Maintenance.

(a) (1) Maintenance on the engines and fuel systems of durability vehicles may be performed only under the following provisions:

(i) One major engine tuneup to manufacturer's specificatons may be performed at 24,000 miles (±250 miles) of scheduled driving with the following exception: On a vehicle with an engine displacement of 150 cubic inches or less (or a rating of at least 1.20 maximum rated horsepower per cubic inch of displacement), major engine tuneups may be performed at 12,000, 24,000 and 36,000 miles (±250 miles) of scheduled driving. A major engine tuneup shall be restricted to the following:

(*a*) Replace spark plugs.

(*b*) Inspect ignition wiring and replace as required.

(*c*) Replace distributor breaker points and condensor as required.

(*d*) Lubricate distributor cam.

(*e*) Check distributor advance and breaker point dwell angle and adjust as required.

(*f*) Check automatic choke for free operation and correct as required.

(*g*) Adjust carburetor idle speed and mixture.

(*h*) Adjust drive belt tension on engine accessories.

(*i*) Adjust valve lash if required.

(*j*) Check exhaust heat control valve for free operation.

(*k*) Check engine bolt torque and tighten as required.

(ii) Spark plugs may be changed if a persistent misfire is detected.

(iii) Normal vehicle lubrication services (engine and transmission oil change and oil filter, fuel filter, and air filter servicing) will be allowed at manufacturer's recommended intervals.

(iv) The crankcase emission control system may be serviced at 12,000-mile intervals (±250 miles) of scheduled driving.

(v) The fuel evaporative emission control system may be serviced at 12,000-mile intervals (±250 miles) of scheduled driving.

(vi) Readjustment of the engine choke mechanism or idle settings may be performed only if there is a problem of stalling at stops.

(vii) Leaks in the fuel system, engine lubrication system and cooling system may be repaired.

(viii) Engine idle speed may be adjusted at the 4,000-mile test point.

(ix) Any other engine or fuel system maintenance or repairs will be allowed only with the advance approval of the Administrator.

(2) Repairs to vehicle components of the durability data vehicle, other than the engine or fuel system, shall be performed only as a result of part failure or vehicle system malfunction.

(3) Allowable maintenance on emission data vehicles shall be limited to the adjustment of engine idle speed at the 4,000-mile test point.

(4) Where the Administrator agrees under § 85.075–7 to a mileage accumulation of less than 50,000 miles for durability testing, he may modify the requirements of this paragraph.

(b) Complete emission tests (see § 85.075–10 through § 85.075–27) shall be run before and after any vehicle maintenance which may reasonably be expected to affect emissions. These test data shall be supplied to the Administrator immediately after the tests, along with a complete record of all pertinent maintenance, including an engineering report of any malfunction diagnosis and the corrective action taken. In addition, all test data and maintenance reports shall be compiled and provided to the Administrator in accordance with § 85.075–4.

(c) If the Administrator determines that maintenance or repairs performed have resulted in a substantial change to the engine-system combination, the vehicle shall not be used as a durability data vehicle.

§ 85.075–7 Mileage accumulation and emission measurements.

The procedure for mileage accumulation will be the Durability Driving Schedule as specified in Appendix IV to this part. A modified procedure may also be used if approved in advance by the Administrator.

(a) Emission data vehicles: Each emission data vehicle shall be driven 4,000 miles with all emission control systems installed and operating. Emission tests shall be conducted at zero miles and 4,000 miles.

(b) Durability data vehicles: Each durability data vehicle shall be driven, with all emission control systems installed and operating, for 50,000 miles or such lesser distance as the Administrator may agree to as meeting the objectives of this procedure. Emission measurements from a cold start shall be made at zero miles and at each 4,000-mile interval.

(c) All tests required by this subpart to be conducted after 4,000 miles of driving or at any multiple of 4,000 miles may be conducted at any accumulated mileage within 250 miles of 4,000 miles or the appropriate multiple of 4,000 miles, respectively.

(d) The results of each emission test shall be supplied to the Administrator immediately after the test. Where a manufacturer conducts multiple tests at any test point or any tests between test points, data on these tests (including voided tests) shall be provided immediately to the Administrator. In addition, all test data shall be compiled and provided to the Administrator in accordance with § 85.075–4.

(e) Whenever the manufacturer proposes to operate and test a vehicle which may be used for emission or durability data, he shall provide the zero mile test data to the Administrator and make the vehicle available for such testing under § 85.075–29 as the Administrator may require before beginning to accumulate mileage on the vehicle. Failure to comply with this requirement will invalidate all test data submitted for this vehicle.

(f) Once a manufacturer begins to operate an emission data or durability data vehicle, as indicated by compliance with paragraph (e) of this section, he shall continue to run the vehicle to 4,000 miles or 50,000 miles, respectively, and the data from the vehicle will be used in the calculations under § 85.075–28. Discontinuation of a vehicle shall be allowed only with the written consent of the Administrator.

(g) (1) The Administrator may elect to operate and test any test vehicle during all or any part of the mileage accumulation and testing procedure. In such cases, the manufacturer shall provide the vehicle(s) to the Administrator with all information necessary to conduct this testing.

(2) The test procedures in §§ 85.075–10

(1) Diurnal breathing losses from the

vent line terminus is inaccessible, sever

(a) *Diurnal breathing loss test.* (1)

fan shall be turned off upon completion of the dynamometer run and the exhaust

vehicle in an appropriate manner with the engine compartment cover open. The

(2) The test procedures in §§ 85.075–10 through 85.075–27 will be followed by the Administrator. The Administrator will test the vehicles at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(3) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other vehicles of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall be used in the determination of deterioration factors.

§ 85.075–8 Special test procedures.

The Administrator may, on the basis of a written application therefor by a manufacturer, prescribe test procedures, other than those set forth in this subpart, for any motor vehicle which he determines is not susceptible to satisfactory testing by the procedures set forth herein.

§ 85.075–9 Test procedures.

The procedures described in this and subsequent sections will be the test program to determine the conformity of vehicles with the standards set forth in § 85.075–1.

(a) The test consists of prescribed sequences of fueling, parking, and operating conditions. The exhaust gases generated during vehicle operation are diluted with air and sampled continuously for subsequent analysis of specific components by prescribed analytical techniques. The fuel evaporative emissions are collected for subsequent weighing during both vehicle parking and operating events. The test applies to vehicles equipped with catalytic or direct-flame afterburners, induction system modifications, or other systems or to uncontrolled vehicles and engines.

(b) The exhaust emission test is designed to determine hydrocarbon, carbon monoxide, and oxides of nitrogen mass emissions while simulating an average trip in an urban area of 7.5 miles. The test consists of engine startups and vehicle operation on a chassis dynamometer through a specified driving schedule, as described in Appendix I to this part. A proportional part of the diluted exhaust emissions is collected continuously, for subsequent analysis, using a constant volume (variable dilution) sampler.

(c) The fuel evaporative emission test is designed to determine fuel hydrocarbon evaporative emissions to the atmosphere as a consequence of urban driving, and diurnal temperature fluctuations during parking. It is associated with a series of events representative of a motor vehicle's operation, which result in fuel vapor losses directly from the fuel tank and carburetor. Activated carbon traps are employed in collecting the vaporized fuel. The test procedure is specifically aimed at collecting and weighing:

(1) Diurnal breathing losses from the fuel tank and other parts of the fuel system when the fuel tank is subjected to a temperature increase representative of the diurnal range;

(2) Running losses from the fuel tank and carburetor resulting from a simulated trip on a chassis dynamometer; and

(3) Hot soak losses from the fuel tank and carburetor which result when the vehicle is parked and the hot engine is turned off.

(d) All emission control systems installed on or incorporated in a new motor vehicle shall be functioning during all test procedures in this subpart.

§ 85.075–10 Gasoline specifications.

(a) Fuel having the following specifications or substantially equivalent specifications approved by the Administrator, shall be used in exhaust and evaporative emission testing. The lead content and octane rating of the fuel shall be in the range recommended by the vehicle or engine manufacturer.

Item	ASTM designation	Specifications
Distillation range	D 86	
IBP, ° F		75–95
10 percent point, ° F		120–135
50 percent point, ° F		200–230
90 percent point, ° F		300–325
E.P., ° F (max.)		415
Sulfur, wt. percent, max	D 1266	0.10
Phosphorous, theory		0.0
RVP,[1] lb	D 323	8.7–9.2
Hydrocarbon composition	D 1319	
Olefins, percent, max		10
Aromatics, percent, max		35
Saturates		Remainder

[1] For testing which is unrelated to fuel evaporative emission control, the specified range is 8.0–9.2.

(b) Fuels representative of commercial fuels which will generally be available through retail outlets shall be used in mileage accumulation. The lead content and octane rating of the fuel used shall be in the range recommended by the vehicle or engine manufacturer. The Reid vapor pressure of the fuel used shall be characteristic of the motor fuel during the season during which the mileage accumulation takes place.

(c) The specification range of the fuels to be used under paragraph (b) of this section shall be reported in accordance with § 85.075–2(b)(3).

§ 85.075–11 Vehicle and engine preparation (fuel evaporative emissions).

(a) (1) Apply approximate leak-proof fittings to all fuel system external vents to permit collection of effluent vapors from these vents during the course of the prescribed tests. Since the prescribed test requires the temporary plugging of the inlet pipe to the air cleaner, it will be necessary to install a probe for collecting the normal effluents from this source. Where antisurge/vent filler caps are employed on the fuel tank, plug off the normal vent if it does not conveniently lend itself to the collection of vapors which emanate from it, and introduce a separate vent, with appropriate fitting, on the cap. Where the fuel tank vent line terminus is inaccessible, sever the line at a convenient point near the fuel tank and install the collection system in a closed circuit assembly with the severed ends. All fittings shall terminate in $\frac{5}{16}$-inch ID tube sections for ready connection to the collection systems and shall be designed for minimum dead space.

(2) The design and installation of the necessary fittings shall not disturb the normal function of the fuel system components or the normal pressure relationships in the system.

(b) (1) Inspect the fuel system carefully to insure the absence of any leaks to the atmosphere of either liquid or vapor which might affect the accuracy of the test or the performance of the control system. Corrective action, if any, shall be reported with the test results under § 85.075–4.

(2) Care should be exercised, in the application of any pressure tests, neither to purge nor load the evaporative emission control system.

(c) Prepare fuel tank for recording the temperature of the prescribed test fuel at its approximate midvolume.

(d) Provide additional fittings and adapters, as required, to accommodate a fuel drain at the lowest point possible in the tank as installed on the vehicle.

§ 85.075–12 Vehicle preconditioning (fuel evaporative emissions).

Vehicles to be tested for compliance with the fuel evaporative emissions standard of this subpart shall be preconditioned as follows:

(a) The test vehicle shall be operated under the conditions prescribed for mileage accumulation, § 85.075–7, for 1 hour immediately prior to the operations prescribed below.

(b) The fuel tank shall be drained and specified test fuel (§ 85.075–10(a)) added. The evaporative emission control system or device shall not be abnormally purged or loaded as a result of draining or fueling the tank.

(c) The test vehicle shall be placed on the dynamometer and operated over a simulated trip, according to the applicable requirements and procedures of §§ 85.075–14 through 85.075–19 except that the engine need not be cold when starting the run on the dynamometer and only a single trip of 7.5 miles shall be run. During the run the ambient temperature shall be between 68° F. and 86° F.

(d) The engine and cooling fan shall be stopped upon completion of the dynamometer operation and the vehicle permitted to soak either on or off the dynamometer stand at an ambient temperature between 76° F. and 86° F. for a period of not less than 1 hour prior to the soak period prescribed in § 85.075–13(a)(1).

§ 85.075–13 Evaporative emission collection procedure.

The standard test procedure consists of three parts described below which shall be performed in sequence and without any interruption in the test conditions prescribed.

(a) *Diurnal breathing loss test.* (1) The test vehicle shall be allowed to "soak" in an area where the ambient temperature is maintained between 60° F. and 86° F. for a period of not less than 10 hours. (The vehicle preparation requirements of § 85.075–11 may be performed during this period.) It shall then be transferred to a soak area where the ambient temperature is maintained between 76° F. and 86° F. Upon admittance to the 76° F.–86° F. soak area, the prescribed fuel tank thermocouple shall be connected to the recorder and the fuel and ambient temperatures recorded at a chart speed of approximately 12 inches per hour (or equivalent record).

(2) The fuel tank of the prepared test vehicle, preconditioned according to § 85.075–12, shall be drained and recharged with the specified test fuel, § 85.075–10(a), to the prescribed "tank fuel volume," defined in § 85.002. The temperature of the fuel following the charge to the tank shall be 60° F. ± 2° F. Care should be exercised against abnormal loading of the evaporative emission control system or device as a result of fueling the tank.

(3) Immediately following the fuel charge to the tank, the exhaust pipe(s) and inlet pipe to the air cleaner shall be plugged and the prescribed vapor collection systems installed on all fuel system external vents. Multiple vents may be connected to a single collection trap provided that, where there is more than one external vent on a fuel system distinguishing between carburetor and tank vapors, separate collection systems shall be employed to trap the vapors from the separate sources. Every precaution shall be taken to minimize the lengths of the collection tubing employed and to avoid sharp bends across the entire system.

(4) Artificial means shall be employed to heat the fuel in the tank to 84° F. ±2° F. The prescribed temperature of the fuel shall be achieved over a period of 60 minutes ± 10 minutes using a constant rate of heat input. After a minimum of 1 hour, following admittance to the 76° F.–86° F. soak area, the vehicle shall be moved onto the dynamometer stand for the subsequent part of the test. The fuel tank thermocouple may be temporarily disconnected to permit moving the test vehicle. Plugs shall be removed from the exhaust pipe(s) and inlet pipe to the air cleaner.

(b) *Running loss test.* (1) The vehicle shall be placed on the dynamometer and the fuel tank thermocouple reconnected. The fuel temperature and the ambient air temperature shall be recorded at a chart speed of approximately 12 inches per hour (or equivalent record).

(2) Where an external vent is located such that any "running loss" emissions would be inducted into the engine, the vapor loss measurement system shall be temporarily disconnected from that vent and clamped. Vapor losses from this vent need not be measured during this part of the test.

(3) The vehicle shall be operated on the dynamometer according to the requirements and procedures of §§ 85.075–14 through 85.075–24. The engine and fan shall be turned off upon completion of the dynamometer run and the exhaust and air cleaner inlet pipes shall be replugged.

(4) Vapor losses need not be measured during the 10-minute soak or 505-second "hot" start test. Any vapor loss collection system used during the cold start shall be temporarily disconnected and clamped. At the end of the hot start test, the vapor collection systems shall be reconnected for the following phase.

(c) *Hot soak test.* Upon completion of the dynamometer run, the test vehicle shall be permitted to soak with hood down for a period of 1 hour at an ambient temperature between 76° F. and 86° F. This operation completes the test. The traps are disconnected and weighed according to § 85.075–21.

§ 85.075–14 Dynamometer driving schedule.

(a) The dynamometer driving schedule to be followed consists of a nonrepetitive series of idle, acceleration, cruise, and deceleration modes of various time sequences and rates. The driving schedule is defined by a smooth transition through the speed vs. time relationships listed in Appendix I. The time sequence begins upon starting the vehicle according to the startup procedure described in § 85.075–19.

(b) A speed tolerance of ±2 m.p.h. and a time tolerance of ±1 second (or an algebraic combination of the two) from either the speed-time relationship prescribed in Appendix I or as printed on a driver's aid chart approved by the Administrator are acceptable. Speed tolerances greater than 2 m.p.h. (such as occur when shifting manual transmission vehicles) are acceptable provided they occur for less than 2 seconds on any one occasion. Speeds lower than those prescribed may be acceptable provided that the vehicle is operated at maximum available power during such occurrences. Further, speed deviations from those prescribed due to stalling are acceptable provided the provisions of § 85.075–19(f) are adhered to.

§ 85.075–15 Dynamometer procedure.

(a) The dynamometer run consists of two tests, a "cold" start test after a minimum 12-hour soak according to the provisions of §§ 85.075–12 and 85.075–13 and a "hot" start test with a 10-minute soak between the two tests. Engine startup, operation over the driving schedule, and engine shutdown make a complete cold start test. Engine startup and operation over the first 505 seconds of the driving schedule complete the hot start test. The exhaust emissions are diluted with air to a constant volume and a portion is sampled continuously during each test. The composite samples collected in bags are analyzed for hydrocarbons, carbon monoxide, carbon dioxide, and oxides of nitrogen. A parallel sample of the dilution air is similarly analyzed for hydrocarbon, carbon monoxide, and oxides of nitrogen.

(b) During dynamometer operation, a fixed speed cooling fan shall be positioned so as to direct cooling air to the vehicle in an appropriate manner with the engine compartment cover open. The fan capacity shall normally not exceed 5,300 c.f.m. If, however, the manufacturer can show that during field operation the vehicle receives additional cooling, the fan capacity may be increased or additional fans used if approved in advance by the Administrator. In the case of vehicles with front engine compartments, the fan(s) shall be squarely positioned between 8 and 12 inches in front of the cooling air inlets (grill). In the case of vehicles with rear engine compartments (or if special designs make the above impractical), the cooling fan(s) shall be placed in a position to provide sufficient air to maintain engine cooling.

(c) The vehicle shall be nearly level when tested in order to prevent abnormal fuel distribution.

(d) Flywheels, electrical or other means of simulating inertia as shown in the following table shall be used. If the equivalent inertia specified is not available on the dynamometer being used, the next higher equivalent inertia (not to exceed 250 lbs.) available shall be used.

Loaded vehicle weight, pounds	Equivalent inertia weight, pounds	Road load power @ 50 m.p.h., horsepower
Up to 1,125	1,000	5.9
1,126 to 1,375	1,000	6.5
1,376 to 1,625	1,500	7.1
1,626 to 1,875	1,750	7.7
1,876 to 2,125	2,000	8.3
2,126 to 2,375	2,250	8.8
2,376 to 2,625	2,500	9.4
2,626 to 2,875	2,750	9.9
2,876 to 3,250	3,000	10.3
3,251 to 3,750	3,500	11.2
3,751 to 4,250	4,000	12.0
4,251 to 4,750	4,500	12.7
4,751 to 5,250	5,000	13.4
5,251 to 5,750	5,500	13.9
5,751 to above	5,500	14.4

(e) Power absorption unit adjustment.

(1) The power absorption unit shall be adjusted to reproduce road load power at 50 m.p.h. true speed. The indicated road load power setting shall take into account the dynamometer friction. The relationship between road load (absorbed) power and indicated road load power for a particular dynamometer shall be determined by the procedure outlined in Appendix II or other suitable means.

(2) The road load power listed in the table above shall be used or the vehicle manufacturer may determine the road load power by the following procedure and request its use:

(i) Measuring the absolute manifold pressure of a representative vehicle, of the same equivalent inertia weight class, when operated on a level road under balanced wind conditions at a true speed of 50 m.p.h., and

(ii) Noting the dynamometer indicated road load horsepower setting required to reproduce that manifold pressure when the same vehicle is operated on the dynamometer at a true speed of 50 m.p.h. The tests on the road and on the dynamometer shall be performed with the same vehicle ambient absolute pressure (usually barometric), i.e. within ±5 mm. Hg.

(iii) The road load power shall be de-

roughness is evident, or when engine

more throttle, etc., where necessary to

to provide additional information and coordinate the functions of the compo-

(10) Filters (F1 and F2) to remove particulate matter from dilution air and

(1) Quick-connect leak-tight fitting (C4) to attach sample bags to analytical

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(iii) The road load power shall be determined according to the procedure outlined in Appendix II and adjusted according to the following if applicable.

(3) Where it is expected that more than 33 percent of the vehicles in an engine family will be equipped with air conditioning, the road load power listed above or as determined in paragraph 2 of this subsection shall be increased by 10 percent for testing all test vehicles representing such engine family.

(f) The vehicle speed (m.p.h.) as measured from the dynamometer rolls shall be used for all conditions. A speed vs. time recording, as evidence of dynamometer test validity, shall be supplied on request of the Administrator.

(g) Practice runs over the prescribed driving schedule may be performed to find the minimum throttle action to maintain the proper speed-time relationship.

NOTE: When using two-roll dynamometers a truer speed-time trace may be obtained by minimizing the rocking of the vehicle in the rolls. The rocking of the vehicle changes the tire rolling radius on each roll. The rocking may be minimized by restraining the vehicle horizontally (or nearly so) by using a cable and winch.

(h) The drive wheel tires may be inflated up to 45 p.s.i.g. in order to prevent tire damage. The drive wheel tire pressure shall be reported with the test results.

(i) If the dynamometer has not been operated during the 2-hour period immediately preceding the test it shall be warmed up for 15 minutes by operating it at 30 m.p.h. using a nontest vehicle.

§ 85.075–16 Three-speed manual transmissions.

(a) All test conditions except as noted shall be run in highest gear.

(b) Cars equipped with free wheeling or overdrive units shall be tested with this unit (free wheeling or overdrive) locked out of operation.

(c) Idle shall be run with transmission in gear and with clutch disengaged (except first idle; see § 85.075–19).

(d) The vehicle shall be driven with minimum throttle movement to maintain the desired speed.

(e) Acceleration modes shall be driven smoothly with the shift speeds as recommended by the manufacturer. If the manufacturer does not recommend shift speeds, the vehicle shall be shifted from first to second gear at 15 m.p.h. and from second to third gear at 25 m.p.h. The operator shall release the accelerator pedal during the shift, and accomplish the shift with minimum closed throttle time. If the vehicle cannot accelerate at the specified rates, the vehicle shall be accelerated at WOT until the vehicle speed reaches the speed at which it should be at that time during the test.

(f) The deceleration modes shall be run with clutch engaged and without shifting gears from the previous mode, using brakes or throttle as necessary to maintain the desired speed. For those modes which decelerate to zero, the clutch shall be depressed when the speed drops below 15 m.p.h., when engine roughness is evident, or when engine stalling is imminent.

(g) Downshifting is allowed at the beginning of or during a power mode if recommended by the manufacturer or if the engine obviously is lugging.

§ 85.075–17 Four-speed and five-speed manual transmissions.

(a) Use the same procedure as for three-speed manual transmissions for shifting from first to second gear and from second to third gear. If the manufacturer does not recommend shift speeds, the vehicle shall be shifted from third to fourth gear at 40 m.p.h. Fifth gear may be used at the manufacturer's option.

(b) If transmission ratio in first gear exceeds 5:1, follow the procedure for three- or four-speed manual transmission vehicles as if the first gear did not exist.

§ 85.075–18 Automatic transmissions.

(a) All test conditions shall be run with the transmission in "Drive" (highest gear). Automatic stick-shift transmissions may be shifted as manual transmissions at the option of the manufacturer.

(b) Idle modes shall be run with the transmission in "Drive" and the wheels braked (except first idle; see § 85.075–19).

(c) The vehicle shall be driven with minimum throttle movement to maintain the desired speed.

(d) Acceleration modes shall be driven smoothly allowing the transmission to shift automatically through the normal sequence of gears. If the vehicle cannot accelerate at the specified rates, the vehicle shall be accelerated at WOT until the vehicle speed reaches the speed at which it should be at that time during the driving schedule.

(e) The deceleration modes shall be run in gear using brakes or throttle as necessary to maintain the desired speed.

§ 85.075–19 Engine starting and restarting.

(a) The engine shall be started according to the manufacturer's recommended starting procedures. The initial 20-second-idle period shall begin when the engine starts.

(b) Choke operation:

(1) Vehicles equipped with automatic chokes shall be operated according to the manufacturer's operating or owner's manual including choke setting and "kick-down" from cold fast idle. If choke "kick-down" time is not specified, it shall be performed 13 seconds after the engine starts. The transmission shall be placed in gear 15 seconds after the engine is started. If necessary, braking may be employed to keep the drive wheels from turning.

(2) Vehicles equipped with manual chokes shall be operated according to the instructions which will be included in the manufacturer's operating or owner's manual. If not specified, the choke shall be operated to maintain engine idle at 1,100±50 r.p.m. during the initial idle period and used where necessary during the remainder of the test to keep the engine running.

(c) The operator may use more choke, more throttle, etc., where necessary to keep the engine running.

(d) If the manufacturer's operating or owner's manual does not specify a warm engine starting procedure, the engine (automatic and manual choke engines) shall be started by depressing the acceleration pedal about half way and cranking the engine until it starts.

(e) If the vehicle does not start after 10 seconds of cranking, cranking shall cease and the reason for failure to start determined. The revolution counter on the constant volume sampler (see § 85.075–24, Dynamometer test runs) shall be turned off and the sample solenoid valves placed in the "dump" position during this diagnostic period. In addition, either the positive displacement pump should be turned off or the exhaust tube disconnected from the tailpipe during the diagnostic period. If failure to start is an operational error, the vehicle shall be rescheduled for testing from a cold start. If failure to start is caused by vehicle malfunction, corrective action of less than 30 minutes duration may be taken and the test continued. The sampling system shall be reactivated at the same time cranking is started. When the engine starts, the driving schedule timing sequence shall begin. If failure to start is caused by vehicle malfunction and the vehicle cannot be started, the test shall be voided, the vehicle removed from the dynamometer, corrective action taken, and the vehicle rescheduled for test. The reason for the malfunction (if determined) and the corrective action taken shall be reported.

(e) If the engine "false starts", the operator shall repeat the recommended starting procedure (such as resetting the choke, etc.).

(f) Stalling:

(1) If the engine stalls during an idle period, the engine shall be restarted immediately and the test continued. If the engine cannot be started soon enough to allow the vehicle to follow the next acceleration as prescribed, the driving schedule indicator shall be stopped. When the vehicle restarts the driving schedule indicator shall be reactivated.

(2) If the engine stalls during some operating mode other than idle, the driving schedule indicator shall be stopped, the vehicle restarted, accelerated to the speed required at that point in the driving schedule and the test continued.

(3) If the vehicle will not restart within 1 minute, the test shall be voided, the vehicle removed from the dynamometer, corrective action taken, and the vehicle rescheduled for test. The reason for the malfunction (if determined) and the corrective action taken shall be reported.

§ 85.075–20 Sampling and analytical system (exhaust emissions).

(a) *Schematic drawings.* The following figures (Figs. A75–1 and A75–2) are schematic drawings of the exhaust gas sampling and analytical systems which will be used for testing under the regulations in this part. Additional components such as instruments, valves, solenoids, pumps, and switches may be used

to provide additional information and coordinate the functions of the component systems.

(b) *Component description (exhaust gas sampling system).* The following components will be used in the exhaust gas sampling system for testing under the regulations in this part. See Figure A75–1. Other types of constant volume samplers may be used if shown to yield equivalent results.

(1) A dilution air filter assembly consisting of a particulate (paper) filter to remove solid matter from the dilution air and thus increase the life of the charcoal filter; a charcoal filter to reduce and stabilize the background hydrocarbon level; and a second particulate filter to remove charcoal particles from the air stream. The filters shall be of sufficient capacity and the duct which carries the dilution air to the point where the exhaust gas is added shall be of sufficient size so that the pressure at the mixing point is less than 1 inch of water pressure below ambient when the constant volume sampler is operating at its maximum flow rate.

(2) A flexible, leak-tight connector and tube to the vehicle tailpipe. The flexible tubing shall be sized and connected in such a manner that the static pressure variations in the vehicle tailpipe(s) remain within ±1 inch of water of the static pressure variations measured during a dynamometer driving cycle with no connections to the tailpipe(s).

(3) A heating system to preheat the heat exchanger to within ±10° F. of its operating temperature before the test begins.

(4) A heat exchanger capable of limiting the gas mixture temperature variation during the entire test to ±10° F. as measured at a point immediately ahead of the positive displacement pump.

(5) A positive displacement pump to pump the dilute exhaust mixture. The pump capacity (300 to 350 c.f.m. is sufficient for testing most vehicles) shall be large enough to virtually eliminate water condensation in the system. See Appendix III for flow calibration techniques.

(6) Temperature sensor (T1) with an accuracy of ±2° F. to allow continuous recording of the temperature of the dilute exhaust mixture entering the positive displacement pump. (See § 85.075–22)(1).)

(7) Gauge (G1) with an accuracy of ±3 mm. Hg to measure the pressure depression of the dilute exhaust mixture entering the positive displacement pump, relative to atmospheric pressure.

(8) Gauge (G2) with an accuracy of ±3 mm. Hg to measure the pressure increase across the positive displacement pump.

(9) Sample probes (S1 and S2) pointed upstream to collect samples from the dilution air stream and the dilute exhaust mixture. Additional sample probes may be used, for example, to obtain continuous concentration traces of the dilute exhaust stream. In such case the sample flow rate, in standard cubic feet per test phase, must be added to the calculated dilute exhaust volume. The position of the sample probe in Figure A75–1 is pictorial only.

(10) Filters (F1 and F2) to remove particulate matter from dilution air and dilute exhaust samples.

(11) Pumps (P1 and P2) to pump the dilution air and dilute exhaust into their respective sample collection bags.

(12) Flow control valves (N1 and N2) to regulate flows to sample collection bags, at constant flow rates. The minimum sample flow rate shall be 10 c.f.h.

(13) Flowmeters (FL1 and FL2) to insure, by visual observation, that constant flow rates are maintained throughout the test.

(14) Three-way solenoid valves (V1, V2, V3, and V4) to direct sample streams to either their respective bags or overboard.

(15) Quick-connect, leak-tight fittings (C1, C2, C3, and C4) with automatic shutoff on bag side to attach sample bags to sample system.

(16) Sample collection bags for dilution air and exhaust samples of sufficient capacity so as not to impede sample flow.

(17) Revolution counters to count the revolutions of the positive displacement pump while each test phase is in progress and samples are being collected.

(c) *Component description (exhaust gas analytical system).* The following components will be used in the exhaust gas analytical system for testing under the regulations in this part. The analytical system provides for the determination of hydrocarbon concentrations by flame ionization detector (FID) analysis, the determination of carbon monoxide and carbon dioxide concentrations by nondispersive infrared (NDIR) analysis and the determination of oxides of nitrogen concentrations by chemiluminescence (CL) analysis in dilute exhaust samples. The chemiluminescence method of analysis requires that the nitrogen dioxide present in the sample be converted to nitric oxide before analysis. See Appendix V. Other types of analyzers may be used if shown to yield equivalent results and if approved in advance by the Administrator. See Figure A75–2.

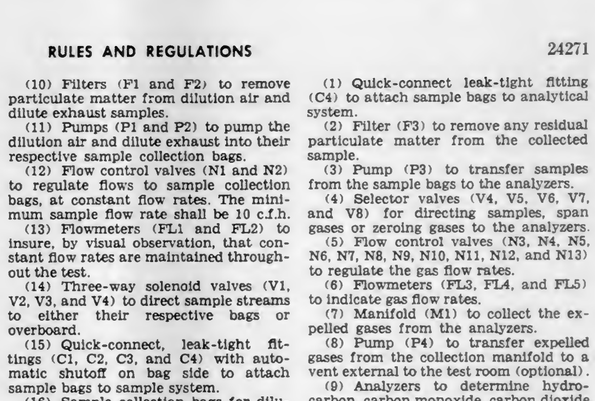

FIGURE A75–1.—Exhaust gas sampling system.

(2) Figure A75–3 represents an arrangement for collecting losses which

ments to be employed shall be submitted in accordance with § 85.075–2(b)(2)

do not vary by more than 0.1 percent of the gross weight. The trap and its

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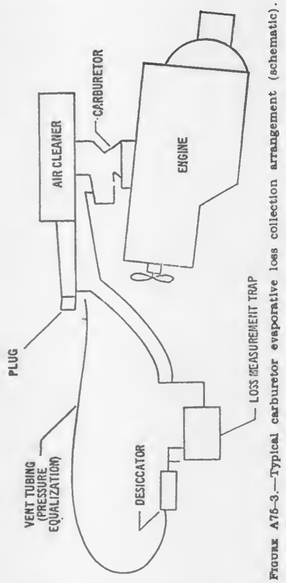

FIGURE A75-3.—Typical carburetor evaporative loss collection arrangement (schematic).

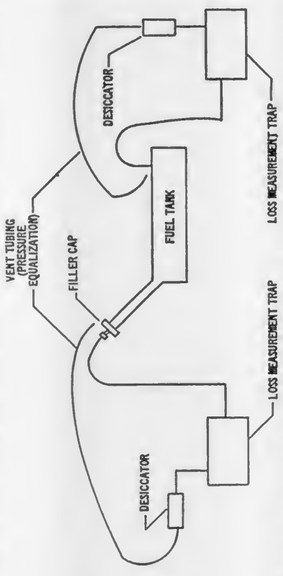

FIGURE A75-4.—Typical fuel tank evaporative loss collection arrangement (schematic).

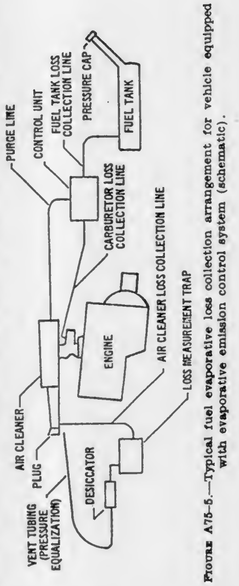

FIGURE A75-5.—Typical fuel evaporative loss collection arrangement for vehicle equipped with evaporative emission control system (schematic).

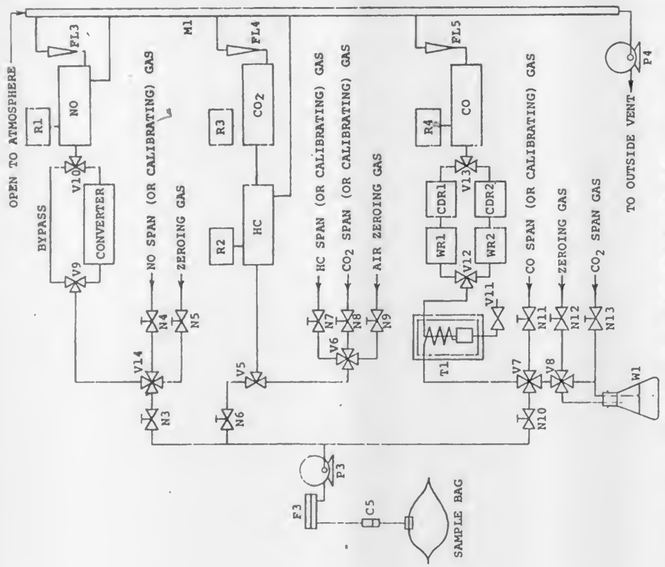

FIGURE A75-2.—Exhaust gas analytical system.

§ 85.075-21 Sampling and analytical system (fuel evaporative emissions).

(a) *Schematic drawing.* (1) The following figures (Figures A75-3, A75-4, and A75-5) are flow diagrams of typical evaporative loss collection applications.

(2) Figure A75-3 represents an arrangement for collecting losses which emanate from the carburetor. Figure A75-4 depicts the means for separately collecting the vapors which emanate from the fuel tank vent line and filler cap. Figure A75-5 shows an arrangement for collecting the losses from a closed fuel system, vented to the atmosphere solely through the air cleaner, as might be the case with certain fuel evaporative emission control devices.

(3) Schematic drawings of arrangements to be employed shall be submitted in accordance with § 85.075-2(b)(3).

(b) *Collection equipment.* The following equipment shall be used for this collection of fuel evaporative emissions. (Item quantities are determined by individual test needs.)

(1) *Activated carbon trap.* See Figure A75-6 for specifications of one design; other configurations may be used: *Provided,* That they give demonstrably equivalent results.

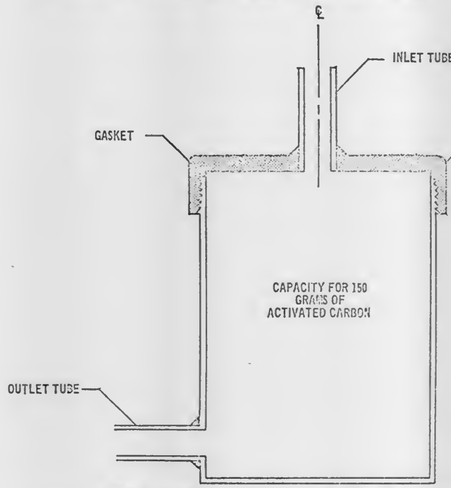

FIGURE A75-6.—Typical activated carbon trap (schematic).

(i) Canister—300±25 ml., cylindrical container having a length to diameter ratio of 1.4±0.1. An inlet tube, 5/16 inch ID and 1 inch long is sealed into the top of the canister, at its geometric center. A similar outlet tube is sealed into the wall ¼ inch from the bottom of the canister. The canister is designed to withstand an air pressure of 2 p.s.i., when sealed, without evidence of leaking when immersed in water for 30 seconds.

(ii) Activated carbon—meeting the following specifications:

Surface area, min. (N_2 BET method).[1]	1,000 square meters per gram.
Adsorption capacity, min. (carbon tetrachloride)	60 percent, by weight.
Volatile material including adsorbed water vapor.	None.
Screen analysis size:	*Percent*
Less than 1.4 mm	0
1.7–2.4 mm	90–100
More than 3.0 mm	0

[1] Brunauer, Emmett & Teller: Journal of the American Chemical Society, Vol. 60, p. 309, 1938.

The activated carbon trap is prepared for the test by attaching clamped sections of vinyl tubing to the inlet and outlet tubes of the canister. The canister is then filled with 150±10 gm. hot activated carbon which had previously been oven-dried for 3 hours at 300° F. Loss of carbon through the inlet and outlet tubes is prevented through the use of wire screens of 0.7 mm. mesh or wads of loosely packed glass wool. The canister is closed immediately after filling and the carbon is allowed to cool while the trap is vented through a drying tube via the unclamped outlet arm.

(iii) The trap is sealed and weighed after cooling and the weight, to the nearest 0.1 gram, is inscribed on the canister body. Within 12 hours of the scheduled test, the weight of the trap is checked and if it has changed by more than 0.5 gm., it is redried to constant weight. This redrying operation is performed by passing dry nitrogen, heated to 275° F., through the trap, via the inlet tube, at a rate of 1 liter per minute until checks made at 30-minute intervals do not vary by more than 0.1 percent of the gross weight. The trap and its contents are allowed to cool to room temperature, while vented through a drying tube via the outlet arm, before use.

(2) *Auxiliary collection equipment.* (i) Drying tube—transparent, tubular body ¾ inch ID, 6 inches long, with serrated tips and removable caps.

(ii) Desiccant—indicating variety, 8 mesh. The drying tube is attached to the outlet tube of the collection traps to prevent ambient moisture from entering the trap. It is prepared by filling the empty drying tube with fresh desiccant using loose wad of glass wool to hold the desiccant in place. The desiccant is renewed when three-quarters spent, as indicated by color change.

(iii) Collection tubing—stainless steel or aluminum, 5/16 inch ID, for connecting the collection traps to the fuel system vents.

(iv) Polyvinyl chloride (vinyl) tubing—flexible tubing, 5/16 inch ID, for sealing butt-to-butt joints.

(v) Laboratory tubing—air tight flexible tubing 5/16 inch ID, attached to the outlet end of the drying tubes to equalize collection system pressure.

(vi) Clamps—hosecock, openside, for pinching off flexible tubing.

(c) *Weighing equipment.* The balance and weights used shall be capable of determining the net weight of the activated carbon trap within an accuracy of ±75 mg.

(d) *Temperature measuring equipment.* (1) Temperature recorder—multichannel, variable speed, potentiometric, or substantially equivalent, recorder with a temperature range of 50° F. to 100° F. and capable of either simultaneous or sequential recording of the ambient air and fuel temperatures within an accuracy of ±1° F.

(2) Fuel tank thermocouples—iron-constantan (type J) construction.

(3) Other types of temperature sensing systems may be provided by the manufacturer if they record the information specified in subparagraph (1) of this paragraph with the required accuracy and if they are self-contained. Type J thermocouples are required for compatibility with recording instruments used in Federal certification facilities.

(e) *Assembly and use of the activated carbon vapor collection system.* (1) The prepared activated carbon trap, dried to constant weight, cooled to the ambient temperature and sealed with clamped sections of vinyl tubing is carefully weighed to the nearest 20 milligrams and the weight recorded as the "tare weight."

(2) A drying tube is attached to the outlet tube and the clamp released, but not removed. A length of flexible tubing, for pressure equalization, is connected to the other end of the drying tube.

(3) The inlet tube of the adsorption trap and external vent(s) of the fuel system will be connected by minimal lengths of stainless steel or aluminum tubing and short sections of vinyl tub-

ing. Butt-to-butt joints shall be made

§ 85.075-23 Analytical system calibra-

(iii) The converter efficiency should

(5) Measure HC, CO, CO_2, and NO_x concentrations of samples. Care should "transient" exhaust sample bag and the "transient" dilution air sample bag, and and dilute exhaust sample bags from the instrument deflections or recordings

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ing. Butt-to-butt joints shall be made wherever possible and precautions taken against sharp bends in the connection lines, including any manifold systems employed to connect multiple vents to a single trap.

(4) The clamp on the inlet tube of the trap shall be released but not removed. Care shall be exercised to prevent heating the vapor collection trap by radiant or conductive heat from the engine.

(5) Upon completion of the collection sequence, the vinyl tubing sections on each arm of the collection trap shall be clamped tight and the collection system dismantled.

(6) The sealed vapor collection trap shall be weighed carefully to the nearest 20 milligrams. This constitutes the "gross weight," which is appropriately recorded. The difference between the "gross weight" and "tare weight" represents the "net weight" for purposes of calculating the fuel vapor losses.

§ 85.075–22 Information to be recorded.

The following information shall be recorded with respect to each test:

(a) Test number.

(b) System or device tested (brief description).

(c) Date and time of day for each part of the test schedule.

(d) Instrument operator.

(e) Driver or operator.

(f) Vehicle: Make—Vehicle Identification number—Model year—Transmission type—Odometer reading—Engine displacement—Engine family—Idle r.p.m.—Nominal fuel tank capacity and location on vehicle—Number of carburetors—Number of carburetor barrels—Inertia loading—Actual road load HP. at 50 m.p.h. and drive wheel tire pressure.

(g) Dynamometer serial number and indicated road load power absorption at 50 m.p.h.

(h) All pertinent instrument information such as tuning—gain—serial numbers—detector numbers—range.

(i) Recorder charts: Identify zero, span, exhaust gas, and dilution air sample traces.

(j) Barometric pressure, ambient temperature and humidity and the temperature of the air in front (from 6 to 12 inches from the grill) of the radiator during the test.

(k) Fuel temperatures, as prescribed.

(l) The temperature and pressure of the mixture of exhaust and dilution air entering the positive displacement pump and the pressure increases across the pump. The temperature of the mixture shall be recorded continuously or digitally at a rate often enough to determine temperature variations, or it may be controlled to ±5° F. of the set point of the temperature control system. In the last case only the set point need be recorded.

(m) The number of revolutions of the positive displacement pump accumulated while the test is in progress and exhaust flow samples are being collected.

(n) The humidity of the dilution air.

§ 85.075–23 Analytical system calibration and sample handling.

(a) Calibrate the analytical assembly at least once every 30 days. Use the same flow rate as when analyzing samples.

(1) Adjust analyzers to optimize performance.

(2) Zero the hydrocarbon analyzer with zero grade air and the carbon monoxide, carbon dioxide, and oxides of nitrogen analyzers with zero grade nitrogen. The allowable zero gas impurity concentrations should not exceed 1 p.p.m. equivalent carbon response, 1 p.p.m. carbon monoxide, 300 p.p.m. (0.03 mole percent) carbon dioxide, and 0.1 p.p.m. nitric oxide.

(3) Set the CO and CO_2 analyzer gains to give the desired ranges. Select the desired attenuation scale of the HC analyzer and set the sample capillary flow rate, by adjusting the back pressure regulator, to give the desired range. Select the desired scale of the NO_x analyzer and adjust the phototube high voltage supply or the amplifier gain to give the desired range.

(4) Calibrate the HC analyzer with propane (air diluent) gases having nominal concentrations equal to 50 and 100 percent of full scale. Calibrate the CO analyzer with carbon monoxide (nitrogen diluent) gases and the CO_2 analyzer with carbon dioxide (nitrogen diluent) gases having nominal concentrations equal to 10, 25, 40, 50, 60, 70, 85, and 100 percent of full scale. Calibrate the NO_x analyzer with nitric oxide (nitrogen diluent) gases having nominal concentrations equal to 50 and 100 percent of full scale. The actual concentrations should be known to within ±2 percent of the true values.

(5) Compare values obtained on the CO and CO_2 analyzers with previous calibration curves. Any significant change reflects some problem in the system. Locate and correct problem, and recalibrate. Use best judgment in selecting curves for data reduction.

(6) Check the NO_x to NO converter efficiency by the following procedure:

(i) Fill a new (not previously used to collect exhaust gas samples) sample bag with air (or oxygen) and NO span gas in proportions which result in a mix in the operating range of the analyzer. Provide enough oxygen for substantial conversion of NO to NO_2.

(ii) Knead bag and immediately connect the bag to the sample inlet and alternately measure the NO and NO_x concentration at 1-minute intervals by alternately passing the sample through the converter and the bypass (close valves N6 and N10 to minimize pump down rate of bag). After several minutes of operation, the recording of NO and NO_x will resemble Figure A75–7 if the converter is efficient. Even though the amount of NO_2 increases with time, the total NO_x ($NO+NO_2$) remains constant. A decay of NO_x with time indicates the converter is not essentially 100 percent efficient and the cause should be determined before the instrument is used.

(iii) The converter efficiency should be checked at least once weekly and preferably once daily.

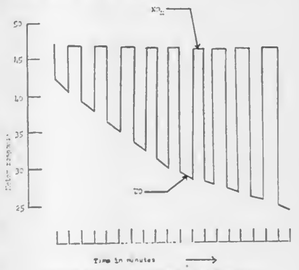

FIGURE A75–7.—Converter efficiency check response.

(7) Check the efficiency of the sample conditioning system by the following procedure:

(i) Zero and span the CO instrument on its most sensitive scale.

(ii) Recheck zero.

(iii) Bubble CO_2 span gas through water and then through the sample conditioning system into the CO instrument. If the CO instrument shows no response to the wet CO_2 the columns are in good condition.

(iv) If the CO instrument responds to wet CO_2, replace columns as necessary to bring response back to zero.

(v) The conditioning system efficiency should be checked daily.

(b) HC, CO, CO_2, and NO_x measurements: Allow a minimum of 20 minutes warmup for the HC analyzer and 2 hours for the CO, CO_2, and NO_x analyzers. (Power is normally left on infrared and chemiluminescence analyzers; but when not in use, the chopper motors of the infrared analyzers are turned off and the phototube high voltage supply of the chemiluminescence analyzer is placed in the standby position.) The following sequence of operations should be performed in conjunction with each series of measurements:

(1) Zero the analyzers. Obtain a stable zero on each amplifier meter and recorder. Recheck after tests.

(2) Introduce span gases and set the CO and CO_2 analyzer gains, the HC analyzer sample capillary flow rate and the NO_x analyzer high voltage supply or amplifier gain to match the calibration curves. In order to avoid corrections, span and calibrate at the same flow rates used to analyze the test samples. Span gases should have concentrations equal to approximately 80 percent of full scale. If gain has shifted significantly on the CO or CO_2 analyzers, check tuning. If necessary, check calibration. Recheck after test. Show actual concentrations on chart.

(3) Check zeroes; repeat the procedure in subparagraphs (1) and (2) of this paragraph if required.

(4) Check flow rates and pressures.

(5) Measure HC, CO, CO_2, and NO_x concentrations of samples. Care should be exercised to prevent moisture from condensing in the sample collection bag.

(6) Check zero and span points.

(c) For the purposes of this section, the term "zero grade air" includes artificial "air" consisting of a blend of nitrogen and oxygen with oxygen concentrations between 18 and 21 mole percent.

§ 85.075–24 Dynamometer test runs.

(a) The vehicle shall be allowed to stand with the engine turned off for a period of not less than 12 hours before the cold start exhaust emission test, at an ambient temperature as specified in §§ 85.075–12 and 85.075–13. The vehicle shall be stored prior to the emission tests in such a manner that precipitation (e.g. rain or dew) does not occur on the vehicle. The complete dynamometer test consists of a cold start drive of 7.5 miles and simulates a hot start drive of 7.5 miles. The vehicle is allowed to stand on the dynamometer during the 10-minute time period between the cold and hot start tests. The cold start test is divided into two periods. The first period, representing the cold start "transient" phase, terminates at the end of the deceleration which is scheduled to occur at 505 seconds of the driving schedule. The second period, representing the "stabilized" phase, consists of the remainder of the driving schedule including engine shutdown. The hot start test similarly consists of two periods. The first period, representing the hot start "transient" phase, terminates at the same point in the driving schedule as the first phase of the cold start test. The second period of the hot start test, "stabilized" phase, is assumed to be identical to the second period of the cold start test. Therefore, the hot start test terminates after the first period (505 seconds) is run. During the tests the ambient temperature shall be between 68° F. and 86° F.

(b) The following steps shall be taken for each test:

(1) Place drive wheels of vehicle on dynamometer without starting engine.

(2) Open the vehicle engine compartment cover and start the cooling fan.

(3) With the sample solenoid valves in the "dump" position connect evacuated sample collection bags to the two dilute exhaust sample connectors and to the two dilution air sample line connectors.

(4) Start the positive displacement pump (if not already on), the sample pumps, and the temperature recorder. (The heat exchanger of the constant volume sampler should be preheated to its operating temperature before the test begins.)

(5) Adjust the sample flow rates to the desired flow rate (minimum of 10 c.f.h.) and set the revolution counters to zero.

(6) Attach the flexible exhaust tube to the vehicle tailpipe(s).

(7) Simultaneously start the revolution counter for the positive displacement pump, position the sample solenoid valves to direct the sample flow into the "transient" exhaust sample bag and the "transient" dilution air sample bag, and start cranking the engine.

(8) Fifteen seconds after the engine starts, place the transmission in gear.

(9) Twenty seconds after the engine starts, begin the initial vehicle acceleration of the driving schedule.

(10) Operate the vehicle according to the dynamometer driving schedule (§ 85.075–14).

(11) At the end of the deceleration which is scheduled to occur at 505 seconds, simultaneously switch the sample flows from the "transient" bags to the "stabilized" bags, switch off revolution counter No. 1 and start counter No. 2. As soon as possible and in no case longer than 20 minutes after the end of this portion of the test disconnect the "transient" exhaust and dilution air sample bags, transfer them to the analytical system and process the samples according to § 85.075–23.

(12) Immediately after the end of the sample period turn off the cooling fan and close the engine compartment cover.

(13) Five seconds after the engine stops running, simultaneously turn off revolution counter No. 2 and position the sample solenoid valves to the "dump" position. As soon as possible and in no case longer than 20 minutes after the end of this portion of the test disconnect the "stabilized" exhaust and dilution air sample bags, transfer them to the analytical system and process the samples according to § 85.075–23.

(14) Immediately after the end of the sample period, disconnect the exhaust tube from the tailpipe(s), turn off the cooling fan and close the engine compartment cover.

(15) Turn off the positive displacement pump.

(16) Repeat the steps in subparagraphs (2) through (10) of this paragraph for the hot start test except only one evacuated sample bag is required for sampling exhaust gas and one for dilution air. The step in subparagraph (7) of this paragraph shall begin between 9 and 11 minutes after the end of the sample period for the cold start test.

(17) At the end of the deceleration which is scheduled to occur at 505 seconds, simultaneously turn off the No. 1 revolution counter and position the sample solenoid valve to the "dump" position. (Engine shutdown is not part of the hot start test sample period.)

(18) As soon as possible and in no case longer than 20 minutes after the end of this portion of the test disconnect the hot start "transient" exhaust and dilution air sample bags, transfer them to the analytical system and process the samples according to § 85.075–23.

(19) Disconnect the exhaust tube from the vehicle tailpipe(s) and remove vehicle from dynamometer.

(20) The positive displacement pump may be turned off, if desired.

§ 85.075–25 Chart reading.

(a) Determine the HC, CO, CO_2 and NO_x concentrations of the dilution air and dilute exhaust sample bags from the instrument deflections or recordings making use of appropriate calibration charts.

(b) Determine the average dilute exhaust mixture temperatures from the temperature recorder trace if a recorder is used.

§ 85.075–26 Calculations (exhaust emissions).

The final reported test results shall be computed by use of the following formulae:

(a) For light duty vehicles:

$$Y_{wm} = (0.43\,Y_{ct} + 0.57\,Y_{ht} + Y_s)/7.5$$

where:

Y_{wm} = Weighted mass emissions of each pollutant, i.e. HC, CO, or NO_x, in grams per vehicle mile.

Y_{ct} = Mass emissions as calculated from the "transient" phase of the cold start test, in grams per test phase.

Y_{ht} = Mass emissions as calculated from the "transient" phase of the hot start test, in grams per test phase.

Y_s = Mass emissions as calculated from the "stabilized" phase of the cold start test, in grams per test phase.

(b) The mass of each pollutant for each phase of both the cold start test and the hot start test is determined from the following:

(1) Hydrocarbon Mass:

$$HC_{mass} = V_{mix} \times \text{Density}_{HC} \times \frac{HC_{conc}}{1{,}000{,}000}$$

(2) Oxides of nitrogen Mass:

$$NO_{x_{mass}} = V_{mix} \times \text{Density}_{NO_x} \times \frac{NO_{x_{conc}}}{1{,}000{,}000} \times K_H$$

(3) Carbon monoxide Mass:

$$CO_{mass} = V_{mix} \times \text{Density}_{CO} \times \frac{CO_{conc}}{1{,}000{,}000}$$

(c) Meaning of symbols:

HC_{mass} = Hydrocarbon emissions, in grams per test phase.

Density_{HC} = Density of hydrocarbons in the exhaust gas, assuming an average carbon to hydrogen ratio of 1:1.85, in grams per cubic foot at 68° F. and 760 mm. Hg pressure (16.33 gm./cu. ft).

HC_{conc} = Hydrocarbon concentration of the dilute exhaust sample corrected for background, in p.p.m. carbon equivalent, i.e. equivalent propane × 3.

$$HC_{conc} = HC_e - HC_d(1 - 1/DF)$$

where:

HC_e = Hydrocarbon concentrations of the dilute exhaust sample as measured, in p.p.m. carbon equivalent.

HC_d = Hydrocarbon concentration of the dilution air as measured in p.p.m. carbon equivalent.

$NO_{x_{mass}}$ = Oxides of nitrogen emissions, in grams per test phase.

Density_{NO_x} = Density of oxides of nitrogen in the exhaust gas, assuming they are in the form of nitrogen dioxide, in grams per cubic foot at 68° F. and 760 mm. Hg pressure (54.16 gm./cu. ft.).

$NO_{x_{conc}}$ = Oxides of nitrogen concentration of the dilute exhaust sample corrected for background, in p.p.m.

$$NO_{x_{conc}} = NO_{x_e} - NO_{x_d}(1 - /vDF)$$

where:

(d) Example calculation of mass emission values:

mm. Hg; P_1=70 mm. Hg; T_p=570°R; HC_e=105.8 p.p.m. carbon equivalent;

less than one, that deterioration factor shall be one for the purposes of this

(4) If sufficient durability data is not available, at the time of any emission

trator finds that the request raises a substantial factual issue, he shall provide

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where:

NO_{x_r} = Oxides of nitrogen concentration of the dilute exhaust sample as measured, in p.p.m.

NO_{x_d} = Oxides of nitrogen concentration of the dilution air as measured, in p.p.m.

CO_{mass} = Carbon monoxide emissions, in grams per test phase.

Density$_{CO}$ = Density of carbon monoxide in grams per cubic foot at 68° F. and 760 mm. Hg pressure (32.97 gm./cu. ft.).

CO_{conc} = Carbon monoxide concentration of the dilute exhaust sample corrected for background, water vapor and CO_2 extraction, in p.p.m.

$$CO_{conc} = CO_r - CO_d(1 - 1/DF)$$

where:

CO_r = Carbon monoxide concentration of the dilute exhaust sample volume corrected for water vapor and carbon dioxide extraction, in p.p.m. The calculation assumes the carbon to hydrogen ratio of the fuel is 1:1.85.

$$CO_r = (1 - 0.01925CO_{f_r} - 0.00323R)\,CO_m$$

where:

CO_m = Carbon monoxide concentration of the dilute exhaust sample as measured in p.p.m.

CO_{f_r} = Carbon dioxide concentration of the dilute exhaust sample, in mole percent.

R = Relative humidity of the dilution air, in percent.

CO_d = Carbon monoxide concentration of the dilution air corrected for water vapor extraction, in p.p.m.

$$CO_d = (1 - 0.000323R)\,CO_{d_m}$$

where:

CO_{d_m} = Carbon monoxide concentration of the dilution air sample as measured, in p.p.m.

$$DF = \frac{13.4}{CO_{f_r} + (HC_r + CO_r) \times 10^{-4}}$$

V_{mix} = Total dilute exhaust volume in cubic feet per test phase corrected to standard conditions (528°R and 760 mm. Hg).

$$V_{mix} = V_s \times N \frac{(P_B - P_1)\,(528°R)}{(760\text{ mm. }Hg)\,(T_p)}$$

where:

V_s = Volume of gas pumped by the positive displacement pump, in cubic feet per revolution. This volume is dependent on the pressure differential across the positive displacement pump.

N = Number of revolutions of the positive displacement pump during the test phase while samples are being collected.

P_B = Barometric pressure in mm. Hg.

P_1 = Pressure depression below atmosphere measured at the inlet to the positive displacement pump.

T_p = Average temperature of dilute exhaust entering positive displacement pump during test while samples are being collected, in degrees Rankine.

K_H = Humidity correction factor.

$$K_H = \frac{1}{1 - 0.0047\,(H - 75)}$$

where:

H = Absolute humidity in grains of water per pound of dry air.

$$H = \frac{(43.478)\,R_a \times P_d}{P_B - P_d \times R_a/100)}$$

R_a = Relative humidity of the ambient air, in percent.

P_d = Saturated vapor pressure, in mm. Hg at the ambient dry bulb temperature.

(d) Example calculation of mass emission values:

(1) For the "transient" phase of the cold start test assume V_s=0.29344 cu. ft. per revolution; N=10,485; R=48.0%; R_a=48.2%; P_B=762 mm. Hg; P_d=22.225 mm. Hg; P_1=70 mm. Hg; T_p=570°R; HC_r=105.8 p.p.m. carbon equivalent; NO_{x_r}=11.2 p.p.m.; CO_m=306.6 p.p.m.; CO_{f_r}=1.43%; HC_d=12.1 p.p.m.; NO_{x_d}=0.8 p.p.m.; CO_{d_m}=15.3 p.p.m. Then:

$$V_{mix} = \frac{(0.29344)\,(10{,}485)\,(762 - 70)\,(528)}{(760)\,(570)} = 2595.0 \text{ cu. ft. per test phase.}$$

$$H = \frac{(43.478)\,(48.2)\,(22.225)}{762 - (22.225 \times 48.2/100)}$$

$$K_H = \frac{1}{1 - 0.0047\,(62 - 75)} = 0.9424.$$

$$CO_r = (1 - 0.01925\,(1.43) - 0.000323\,(48))\,306.0 = 293.4 \text{ p.p.m.}$$

$$CO_d = (1 - 0.000323\,(48))\,15.3 = 15.1 \text{ p.p.m.}$$

$$DF = \frac{13.4}{1.43 + (105.8 + 293.4) \times 10^{-4}} = 9.116.$$

$$HC_{conc} = 105.8 - 12.1\,(1 - 1/9.116) = 95.03.$$

$$HC_{mass} = (2595)\,(16.33)\,(95.03/1{,}000{,}000) = 4.027 \text{ grams per test phase.}$$

$$NO_{x_{conc}} = 11.2 - 0.8\,(1 - 1/9.116) = 10.49.$$

$$NO_{x_{mass}} = (2595)\,(54.16)\,(10.49/1{,}000{,}000)\,(0.9424) = 1.389 \text{ grams per test phase.}$$

$$CO_{conc} = 293.4 - 15.1\,(1 - 1/9.116) = 280.$$

$$CO_{mass} = (2595)\,(32.97)\,(280/1{,}000{,}000) = 23.96 \text{ grams per test phase.}$$

(2) For the "stabilized" portion of the cold start test assume that similar calculations resulted in HC_{mass}=0.62 grams per test phase; $NO_{x_{mass}}$=1.27 grams per test phase; and CO_{mass}=5.98 grams per test phase.

(3) For the "transient" portion of the hot start test assume that similar calculations resulted in HC_{mass}=0.51 grams per test phase; $NO_{x_{mass}}$=1.38 grams per test phase; and CO_{mass}=5.01 grams per test phase.

(4) For a 1975 light duty vehicle:

$$HC_{wm} = ((0.43)\,(4.027) + (0.57)\,(0.51) + 0.62)/7.5 = 0.352 \text{ gram per vehicle mile.}$$

$$NO_{x_{wm}} = ((0.43)\,(1.389) + (0.57)\,(1.38) + 1.27)/7.5 = 0.354 \text{ gram per vehicle mile.}$$

$$CO_{wm} = ((0.43)\,(23.96) + (0.57)\,(5.01) + 5.98)/7.5 = 2.55 \text{ grams per vehicle mile.}$$

§ 85.075–27 Calculations (fuel evaporative emissions).

The net weights of the individual collection traps employed in § 85.075–13 shall be added together to determine compliance with the fuel evaporative emission standard.

§ 85.075–28 Compliance with emission standards.

(a) The exhaust and fuel evaporative emission standards in § 85.075–1 apply to the emissions of vehicles for their useful life.

(b) Since emission control efficiency decreases with mileage accumulated on the vehicle, the emission level of a vehicle which has accumulated 50,000 miles will be used as the basis for determining compliance with the standards.

(c) The procedure for determining compliance of a new light duty motor vehicle with exhaust and fuel evaporative emission standards is as follows:

(1) Separate emission deterioration factors shall be determined from the emissions results of the durability data vehicles for each engine-system combination. A separate factor shall be established for the combination for exhaust *HC*, exhaust *CO*, exhaust NO_x, and fuel evaporative HC.

(i) The applicable results to be used in determining the deterioration factors for each combination shall be:

(*a*) All emission data from the tests required under § 85.075–7(b), except the zero mile tests. This shall include the official test results, as determined in § 85.075–29, for all tests conducted on all durability vehicles of the combination selected under § 85.075–5(c) (including all vehicles elected to be operated by the manufacturer under § 85.075–5(c)(3)). Where the Administrator has agreed to a mileage less than 50,000 miles in accordance with § 85.075–7(b), the data for mileages greater than that actually run will be determined by extrapolating the test data generated at lesser mileages.

(*b*) All emission data from the tests conducted before and after the maintenance provided in § 85.075–6(a)(1)(i).

(ii) All applicable results shall be plotted as a function of the mileage on the system, rounded to the nearest mile, and the best fit straight lines, fitted by the method of least squares, shall be drawn through these data points. The interpolated 4,000- and 50,000-mile points on this line must be within the standards provided in § 85.075–1 or the data will not be acceptable for use in calculation of a deterioration factor.

(iii) An exhaust emission deterioration factor shall be calculated for each combination as follows:

$$\text{factor} = \frac{\text{exhaust emissions interpolated to 50,000 miles}}{\text{exhaust emissions interpolated to 4,000 miles}}$$

(iv) An evaporative emission deterioration factor shall be calculated for each combination by subtracting the evaporative emissions interpolated to 4,000 miles from the evaporative emissions interpolated to 50,000 miles.

(2) (i) The exhaust emission test results for each emission data vehicle shall be multiplied by the appropriate deterioration factor: *Provided*, That if a deterioration factor as computed in subparagraph (1)(iii) of this paragraph is less than one, that deterioration factor shall be one for the purposes of this subparagraph.

(ii) The evaporative emission test results for each combination shall be adjusted by addition of the appropriate deterioration factor: *Provided*, That if a deterioration factor as computed in subparagraph (1)(iv) of this paragraph is less than zero, that deterioration factor shall be zero for the purposes of this subparagraph.

(3) The emissions to compare with the standard shall be the adjusted emissions of subparagraph (2) (i) and (ii) of this paragraph for each emission data vehicle.

(4) Every test vehicle of an engine family must comply with all applicable standards, as determined in subparagraph (3) of this paragraph, before any vehicle in that family may be certified.

§ 85.075–29 Testing by the Administrator.

(a) The Administrator may require that any one or more of the test vehicles be submited to him, at such place or places as he may designate, for the purpose of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(b)(1) Whenever the Administrator conducts a test on a test vehicle, the results of that test shall comprise the official data for the vehicle at that prescribed test point.

(2) Whenever the Administrator does not conduct a test on a test vehicle at a test point, the manufacturer's test data will be accepted as the official data for that test point: *Provided*, That if the Administrator makes a determination based on testing under paragraph (a) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer.

(3) If the Administrator determines that the test data developed under paragraph (a) of this section would cause a vehicle to fail due to excessive 4,000-mile or excessive deterioration, then the following procedure shall be observed:

(i) The manufacturer may request a retest. Before the retest, the vehicle may be adjusted to manufacturer's specifications, and parts may be replaced in accordance with § 85.075–6. All work on the vehicle shall be done at such location and under such conditions as the Administrator may prescribe.

(ii) The vehicle will be retested by the Administrator and the results of this test shall comprise the official data for that prescribed test point.

(4) If sufficient durability data is not available, at the time of any emission test conducted under paragraph (a) of this section, to enable the Administrator to determine whether a test vehicle would fail, the manufacturer may request a retest in accordance with the provisions of subparagraph (3) (i) and (ii) of this paragraph. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the vehicle from the test premises.

§ 85.075–30 Certification.

(a) (1) If, after a review of the test reports and data submitted by the manufacturer and data derived from any additional testing conducted pursuant to § 85.075–29, the Administrator determines that a test vehicle(s) conforms to the regulations of this subpart, he will issue a certificate of conformity with respect to such vehicle(s).

(2) Such certificate will be issued for such period not more than 1 year as the Administrator may determine and upon such terms as he may deem necessary to assure that any new motor vehicle covered by the certificate will meet the requirements of these regulations relating to durability and performance.

(b)(1) The Administrator will determine wther a vehicle covered by the application complies with applicable standards by observing the following relationships:

(i) A test vehicle selected under § 85.075–5(b)(2) or (4), shall represent all vehicles in the same engine family of the same engine displacement-exhaust emission control system-evaporative emission control system combination.

(ii) A test vehicle selected under § 85.075–5(b)(3), shall represent all vehicles in the same engine family of the same engine displacement-exhaust emission control system-transmission type-fuel system combination.

(iii) A test vehicle selected under § 85.075–5(c)(1), shall represent all vehicles of the same engine-system combination.

(2) The Administrator will proceed as in paragraph (a) of this section with respect to the vehicles belonging to an engine family all of which comply with applicable standards.

(3) If, after a review of the test reports and data submitted by the manufacturer and data derived from any additional testing conducted pursuant to § 85.075–29, the Administrator determines that one or more test vehicles of the certification test fleet do not meet applicable standards, he will notify the manufacturer in writing, setting forth the basis for his determination. Within 30 days following receipt of the notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determination, and data in support of such objections. If, after a review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 85.005 with respect to such issue.

(4) The manufacturer may, at his option, proceed with any of the following alternatives with respect to any engine family represented by a test vehicle(s) determined not in compliance with applicable standards:

(i) Request a hearing under § 85.005, or

(ii) Delete from the application for certification the vehicles represented by the failing test vehicle. (Vehicles so deleted may be included in a later request for certification under § 85.075–32.) The Administrator will then select in place of each failing vehicle an alternate vehicle chosen in accordance with selection criteria employed in selecting the vehicle that failed, or

(iii) Modify the test vehicle and demonstrate by testing that it meets applicable standards. Another vehicle which is in all material respects the same as the first vehicle, as modified, shall then be operated and tested in accordance with applicable test procedures.

(5) If the manufacturer does not request a hearing or present the required data under subparagraph (4) of this paragraph, the Administrator will deny certification.

§ 85.075–31 Separate certification.

Where possible a manufacturer should include in a single application for certification all vehicles for which certification is required. A manufacturer may, however, choose to apply separately for certification of part of his product line. The selection of test vehicles and the computation of test results will be determined separately for each application.

§ 85.075–32 Addition of a vehicle after certification.

(a) If a manufacturer proposes to add to his product line a vehicle of the same engine-system combination as vehicles previously certified but which was not described in the application for certification when the test vehicle(s) representing other vehicles of that combination was certified, he shall notify the Administrator. Such notification shall be in advance of the addition unless the manufacturer elects to follow the procedure described in § 85.075–34. This notification shall include a full description of the vehicle to be added.

(b) The Administrator may require the manufacturer to perform such tests on the test vehicle(s) representing the vehicle to be added which would have been required if the vehicle had been included in the original application for certification.

(c) If, after a review of the test reports and data submitted by the manufacturer, and data derived from any testing conducted under § 85.075–29, the Administrator determines that the test vehicle(s) meets all applicable standards, the appropriate certificate will be amended accordingly. If the Administrator determines that the test vehicle(s)

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does not meet applicable standards, he

§ 85.075–35 Labeling.

tions to determine whether they are reasonable and necessary to assure the

(7) "System" includes any motor vehicle engine modification which controls or causes the reduction of substances

Max.—Maximum.
Min.—Minimum.
N_x—Nitrogen.

does not meet applicable standards, he will proceed under § 85.075–30(b).

§ 85.075–33 Changes to a vehicle covered by certification.

(a) The manufacturer shall notify the Administrator of any change in production vehicles in respect to any of the parameters listed in § 85.075–5(a)(3), giving a full description of the chnage. Such notification shall be in advance of the change unless the manufacturer elects to follow the procedure described in § 85.075–34.

(b) Based upon the description of the change, and data derived from such testing as the Administrator many require or conduct, the Administrator will determine whether the vehicle, as modified, would still be covered by the certificate of conformity then in effect.

(c) If the Administrator determines that the outstanding certificate would cover the modified vehicles, he will notify the manufacturer in writing. Except as provided in § 85.075–34 the change may not be put into effect prior to the manufacturer's receiving this notification. If the Administrator determines that the modified vehicles would not be covered by the certificate then in effect, then the modified vehicles shall be treated as additions to the product line subject to § 85.075–32.

§ 85.075–34 Alternative procedure for notification of additions and changes.

(a) A manufacturer may, in lieu of notifying the Administrator in advance of an addition of a vehicle under § 85.075–32 or a change in a vehicle under § 85.075–33, notify him concurrently with the making of the change if the manufacturer believes the addition or change will not require any testing under the appropriate section. Upon notification to the Administrator, the manufacturer may proceed to put the addition or change into effect.

(b) The manufacturer may continue to produce vehicles as described in the notification to the Administrator for a maximum of 30 days, unless the Administrator grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Administrator determines, based upon a description of the addition or change, that no test data will be required, he will notify the manufacturer in writing of the acceptability of the addition or change. If the Administrator determines that test data will be required, he will notify the manufacturer to rescind the change within 5 days of receipt of the notification. The Administrator will then proceed as in § 85.075–32 (b) and (c), or § 85.075–33 (b) and (c) as appropriate.

(d) Election to produce vehicles under this section will be deemed to be a consent to recall all vehicles which the Administrator determined under § 85.075–32(c) do not meet applicable standards, and to cause such nonconformity to be remedied at no expense to the owner.

§ 85.075–35 Labeling.

(a) (1) The manufacturer of any light duty motor vehicle subject to the standards prescribed in § 85.075–1 shall, at the time of manufacture, affix a permanent, legible label, of the type and in the manner described below, containing the information hereinafter provided, to all production models of such vehicles available for sale to the public and covered by a certificate of conformity under § 85.075–30(a).

(2) A plastic or metal label shall be welded, riveted, or otherwise permanently attached in a readily visible position in the engine compartment.

(3) The label shall be affixed by the vehicle manufacturer, who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label, and shall not be affixed to any equipment which is easily detached from such vehicle.

(4) The label shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label:

(i) The label heading: Vehicle Emission Control Information;

(ii) Full corporate name and trademark of manufacturer;

(iii) Engine displacement (in cubic inches) and engine family identification:

(iv) Engine tuneup specifications and adjustments, as recommended by the manufacturer, including idle speed, ignition timing, and the idle air-fuel mixture setting procedure and value (e.g. idle CO, idle air-fuel ratio, idle speed drop). These specifications should indicate the proper transmission position during tuneup and what accessories (e.g., air-conditioner), if any, should be in operation;

(v) The statement: "This Vehicle Conforms to U.S.E.P.A. Regulations Applicable to 1975 Model Year New Motor Vehicles."

(b) The provisions of this section shall not prevent a manufacturer from also reciting on the label that such vehicle or engine conforms to any applicable State emission standards for new motor vehicles or any other information that such manufacturer deems necessary for, or useful to, the proper operation and satisfactory maintenance of the vehicle.

§ 85.075–36 Submission of vehicle identification numbers.

(a) The manufacturer of any light duty motor vehicle covered by a certificate of conformity under § 85.075–30(a) shall, not later than 60 days after its manufacture, submit to the Administrator the vehicle identification number of such vehicle: *Provided*, That this requirement shall not apply with respect to any vehicle manufactured within any State, as defined in section 302(d) of the Act.

(b) The requirements of this section may be waived with respect to any manufacturer who provides information satisfactory to the Administrator which will enable the Administrator to identify those vehicles which are covered by a certificate of conformity.

§ 85.075–37 Production vehicles.

(a) Any manufacturer obtaining certification under this subpart shall supply to the Administrator, upon his request, a reasonable number of production vehicles selected by the Administrator which are representative of the engines, emission control systems, fuel systems, and transmissions offered and typical of production models available for sale under the certificate. These vehicles shall be supplied for testing at such time and place and for such reasonable periods as the Administrator may require.

(b) Any manufacturer obtaining certification under this subpart shall notify the Administrator, on a quarterly basis, of the number of vehicles of each engine family-engine displacement-exhaust emission control system-fuel system-transmission type-inertia weight class combination produced for sale in the United States during the preceding quarter. A manufacturer may elect to provide this information every 60 days instead or quarterly, to combine it with the notification required under § 85.075–36.

(c) All light duty vehicles covered by a certificate of conformity under § 85.075–30(a) shall be adjusted by the manufacturer to the ignition timing specification detailed in § 85.072–35(a)(4)(iv).

§ 85.075–38 Maintenance instructions.

(a) The manufacturer shall furnish or cause to be furnished to the ultimate purchaser of each new motor vehicle subject to the standards prescribed in § 85.075–1, written instructions for the maintenance and use of the vehicle by the ultimate purchaser as may be reasonable and necessary to assure the proper functioning of emission control systems.

(1) Such instructions shall be provided for those vehicle and engine components listed in Appendix VI to this part (and for any other components) to the extent that maintenance of these components is necessary to assure the proper functioning of emission control systems.

(2) Such instructions shall be in clear, and to the extent practicable, nontechnical language.

(b) The maintenance instructions required by this section shall contain a general description of the documentation which the manufacturer will require from the ultimate purchaser or any subsequent purchaser as evidence of compliance with the instructions.

§ 85.075–39 Submission of maintenance instructions.

(a) The manufacturer shall provide to the Administrator, no later than the time of the submission required by § 85.075–4, a copy of the maintenance instructions which the manufacturer proposes to supply to the ultimate purchaser in accordance with § 85.075–38(a). The Administrator will review such instruc-

tions to determine whether they are reasonable and necessary to assure the proper functioning of the vehicle's emission control systems. The Administrator will notify the manufacturer of his determination whether such instructions are reasonable and necessary to assure the proper functioning of the emission control systems.

(b) Any revision to the maintenance instructions which will affect emissions shall be supplied to the Administrator at least 30 days before being supplied to the ultimate purchaser unless the Administrator consents to a lesser period of time.

§ 85.076–1 Emission standards for 1976 model year vehicles.

With the exception of the nitrogen oxides exhaust emission standard, the standards and test procedures set forth in § 85.075 remain applicable for the 1976 model year. Exhaust emissions from 1976 model year vehicles shall not exceed:

(a) *Hydrocarbons.* 0.41 gram per vehicle mile.

(b) *Carbon monoxide.* 3.4 grams per vehicle mile.

(c) *Oxides of nitrogen.* 0.40 gram per vehicle mile.

Subparts B–G [Reserved]

Subpart H—Emission Regulations for New Gasoline-Fueled Heavy Duty Engines

§ 85.701 General applicability.

The provisions of this subpart are applicable to new gasoline-fueled heavy duty engines beginning with the 1973 model year.

§ 85.702 Definitions.

(a) As used in this subpart, all terms not defined herein shall have the meaning given them in the Act:

(1) "Act" means Part A of Title II of the Clean Air Act, 42 U.S.C. 1857f–1 through f–7, as amended by Public Law 91–604.

(2) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(3) "Model year" means the manufacturer's annual production period (as determined by the Administrator) which includes January 1 of such calendar year: *Provided*, That if the manufacturer has no annual production period, the term "model year" shall mean the calendar year.

(4) "Gross vehicle weight" means the manufacturer's gross weight rating for the individual vehicle.

(5) "Heavy duty vehicle" means any motor vehicle either designed primarily for transportation of property and rated at more than 6,000 pounds GVW or designed primarily for transportation of persons and having a capacity of more than 12 persons.

(6) "Heavy duty engine" means any engine which the engine manufacturer could reasonably expect to be used for motive power in a heavy duty vehicle.

(7) "System" includes any motor vehicle engine modification which controls or causes the reduction of substances emitted from motor vehicle engines.

(8) "Engine family" means the basic classification unit of a manufacturer's product line used for the purpose of test fleet selection and determined in accordance with § 85.773–5(a).

(9) "Engine-system combination" means an engine family-exhaust emission control system-fuel evaporative emission control system (where applicable) combination.

(10) "Fuel system" means the combination of fuel tank, fuel pump, fuel lines, and carburetor, or fuel injection components, and includes all fuel system vents and fuel evaporative emission control systems.

(11) "Crankcase emissions" means airborne substances emitted to the atmosphere from any portion of the engine crankcase ventilation or lubrication systems.

(12) "Exhaust emissions" means substances emitted to the atmosphere from any opening downstream from the exhaust port of a motor vehicle engine.

(13) Zero (0) hours means that point after normal assembly line operations and adjustments and before one additional operating hour has been accumulated.

(14) "Calibrating gas" means a gas of known concentration which is used to establish the response curve of an analyzer.

(15) "Span gas" means a gas of known concentration which is used routinely to set the output level of an analyzer.

(16) "Oxides of Nitrogen" means the sum of the nitric oxide and nitrogen dioxide contained in a gas sample as if the nitric oxide were in the form of nitrogen dioxide.

(17) "Useful life" means a period of use of 5 years or of 50,000 miles of vehicle operation or 1,500 hours of engine operation (or an equivalent period of 1,500 hours of dynamometer operation), whichever first occurs.

§ 85.703 Abbreviations.

The abbreviations used in this subpart have the following meanings in both capital and lowercase:

ASTM—American Society for Testing and Materials.
BHP—Brake horsepower.
BSCO—Brake specific carbon monoxide.
BSHC—Brake specific hydrocarbons.
BSNO$_x$—Brake specific oxides of nitrogen.
C.—Centigrade.
C.f.h.—Cubic feet per hour.
CO_2—Carbon dioxide.
CO—Carbon monoxide.
Conc.—Concentration.
CT—Closed Throttle
C.f.m.—Cubic feet per minute.
EP—End point.
F.—Fahrenheit.
FL—Full load.
Gal.—U.S. Gallon(s).
Gm.—Gram(s)
GVW—Gross vehicle weight.
H_2O—Water.
HC—Hydrocarbon(s).
Hg—Mercury.
IBP—Initial boiling point.
Max.—Maximum.
Min.—Minimum.
N_2—Nitrogen.
NDIR—Nondispersive infrared.
NO—Nitric oxide.
NO_2—Nitrogen dioxide.
NO_x—Oxides of nitrogen.
Pb.—Lead.
P.p.m.—Parts per million by volume.
PTA—Parts throttle accel.
PTD—Part throttle decel.
R.p.m.—Revolutions per minute.
RVP—Reid vapor pressure.
Sec.—Second(s).
WOT—Wide open throttle.
"—Inches.
°—Degrees.
Σ—Summation.

§ 85.704 General standards; Increase in emissions; unsafe conditions.

(a) (1) Every new motor vehicle engine manufactured for sale, sold, offered for sale, introduced or delivered for introduction into commerce, or imported into the United States for sale or resale which is subject to any of the standards prescribed in this subpart shall be covered by a certificate of conformity issued pursuant to § 85.773–2 through § 85.773–4 and § 85.773–29 through § 85.773–34 of this subpart.

(2) No heavy duty vehicle manufacturer shall take any of the actions specified in section 203(a)(1) of the Act with respect to any gasoline-fueled heavy duty vehicle which uses an engine which has not been certified as meeting applicable standards. Such manufacturer shall provide to the Administrator prior to the beginning of each model year a statement signed by an authorized representative which includes the following information:

(i) A description of the vehicles which will be produced subject to this section;

(ii) Identification of the engines used in the vehicles;

(iii) Projected sales data on each vehicle engine combination;

(iv) A statement that the engines will not be modified by the vehicle manufacturer or a detailed specification of any changes which will be made. Changes made solely for the purpose of mounting an engine in a vehicle need not be included.

(b) (1) Any system installed on or incorporated in a new motor vehicle engine to enable such vehicle to conform to standards imposed by this subpart:

(i) Shall not in its operation or function cause the emission into the ambient air of any noxious or toxic substance that would not be emitted in the operation of such engine without such system, except as specifically permitted by regulation; and

(ii) Shall not in its operation, function, or malfunction result in any unsafe condition endangering the motor vehicle, its occupants, or persons or property in close proximity to the vehicle.

(2) Every manufacturer of new motor vehicle engines subject to any of the standards imposed by this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with good engineering practice to ascertain that such

test engines will meet the requirements

(4) Hearings shall be reported ver-

maintenance, or testing of such engine relevant to the control of crankcase or

§ 85.773–2 Application for certification.

applicable test procedures, that they meet the requirement of such tests, and that,

selected under subparagraph (1) of this paragraph.

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test engines will meet the requirements of this section for the useful life of the engine.

§ 85.705 Hearings on certification.

(a) (1) After granting a request for a hearing under § 85.773–30, the Administrator will designate a Presiding Officer for the hearing.

(2) The General Counsel will represent the Environmental Protection Agency in any hearing under this section.

(3) If a time and place for the hearing have not been fixed by the Administrator under § 85.773–30, the hearing shall be held as soon as practicable at a time and place fixed by the Administrator or by the Presiding Officer.

(b) (1) Upon his appointment pursuant to paragraph (a) of this section, the Presiding Officer will establish a hearing file. The file shall consist of the notice issued by the Administrator under § 85.773–30, together with any accompanying material, the request for a hearing and the supporting data submitted therewith and all documents relating to the request for certification, including the application for certification and all documents submitted therewith, and correspondence and other data material to the hearing.

(2) The appeal file will be available for inspection by the applicant at the office of the Presiding Officer.

(c) An applicant may appear in person, or may be represented by counsel or by any other duly authorized representative.

(d) (1) The Presiding Officer upon the request of any party, or in his discretion, may arrange for a prehearing conference at a time and place specified by him to consider the following:

(i) Simplification of the issues;

(ii) Stipulations, admissions of fact, and the introduction of documents;

(iii) Limitation of the number of expert witnesses;

(iv) Possibility of agreement disposing of all or any of the issues in dispute;

(v) Such other matters as may aid in the disposition of the hearing, including such additional tests as may be agreed upon by the parties.

(2) The results of the conference shall be reduced to writing by the Presiding Officer and made part of the record.

(e) (1) Hearings shall be conducted by the Presiding Officer in an informal but orderly and expeditious manner. The parties may offer oral or written evidence, subject to the exclusion by the Presiding Officer of irrelevant, immaterial, and repetitious evidence.

(2) Witnesses will not be required to testify under oath. However, the Presiding Officer shall call to the attention of witnesses that their statements may be subject to the provisions of title 18 U.S.C. 1001 which imposes penalties for knowingly making false statements or representations, or using false documents in any matter within the jurisdiction of any department or agency of the United States.

(3) Any witness may be examined or cross-examined by the Presiding Officer, the parties, or their representatives.

(4) Hearings shall be reported verbatim. Copies of transcripts of proceedings may be purchased by the applicant from the reporter.

(5) All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall, upon a showing satisfactory to the Presiding Officer of their authenticity, relevancy, and materiality, be received in evidence and shall constitute a part of the record.

(6) Oral argument may be permitted in the discretion of the Presiding Officer and shall be reported as part of the record unless otherwise ordered by him.

(f) (1) The Presiding Officer shall make an initial decision which shall include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law or discretion presented on the record. The findings, conclusions, and written decision shall be provided to the parties and made a part of the record. The initial decision shall become the decision of the Administrator without further proceedings unless there is an appeal to the Administrator or motion for review by the Administrator within 20 days of the date the initial decision was filed.

(2) On appeal from or review of the initial decision the Administrator shall have all the powers which he would have in making the initial decision including the discretion to require or allow briefs, oral argument, the taking of additional evidence or the remanding to the Presiding Officer for additional proceedings. The decision by the Administrator shall include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law, or discretion presented on the appeal or considered in the review.

§ 85.706 Maintenance of records; submittal of information; right of entry.

(a) The manufacturer of any new motor vehicle engine subject to any of the standards prescribed in this subpart shall establish and maintain the following adequately organized and indexed records:

(1) Identification and description of all engines for which testing is required under this subpart.

(2) A description of all emission control systems which are installed on or incorporated in each engine.

(3) A description of the procedures used to test such engines.

(4) Test data on each emission data engine which will show its emissions at zero and 125 hours.

(5) Test data on each durability engine which will show the performance of the systems installed on or incorporated in the engine during extended operation, as well as a record of all pertinent maintenance performed on the engine.

(b) The manufacturer of any new motor vehicle engine subject to any of the standards prescribed in this subpart shall submit to the Administrator at the time of issuance by the manufacturer copies of all instructions or explanations regarding the use, repair, adjustment, maintenance, or testing of such engine relevant to the control of crankcase or exhaust emissions, issued by the manufacturer for use by other manufacturers, assembly plants, distributors, dealers, and ultimate purchasers: *Provided*, That any material not translated into the English language need not be submitted unless specifically requested by the Administrator.

(c) The manufacturer of any new motor vehicle engine subject to any of the standards prescribed in this subpart shall permit officers or employees duly designated by the Administrator, upon presenting appropriate credentials and a written notice to the manufacturer:

(1) To enter, at reasonable times, any premises used during the certification procedure for purposes of monitoring tests and service accumulation procedures, observing maintenance procedures, and verifying correlation or calibration of test equipment, or

(2) To inspect, at reasonable times, records, files, and papers compiled by such manufacturer in accordance with paragraph (a) of this section.

A separate notice shall be given for each such inspection, but a separate notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness.

§ 85.773–1 Emission standards for 1973 model year engines.

(a) (1) Exhaust emissions from new gasoline-fueled heavy duty engines shall not exceed:

(i) *Hydrocarbons*—275 p.p.m.

(ii) *Carbon monoxide*—1.5 percent by volume.

(2) The standards set forth in paragraph (a)(1) of this section refer to a composite sample representing the operating cycles set forth in § 85.773–9 through § 85.773–18 and measured in accordance with those procedures.

(b) [Reserved]

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new motor vehicle engine subject to this subpart.

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with test procedures prescribed in § 85.773–9 through § 85.773–18 to ascertain that such test engines meet the requirements of paragraphs (a) and (c) of this section. If, pursuant to § 85.773–30(a), the Administrator issues a certificate of conformity for the class or classes of motor vehicle engines represented by such test engines, any new motor vehicle engine which is in all material respects of substantially the same construction as such test engines shall be deemed to be in conformity with the requirements of paragraphs (a) and (c) of this section.

§ 85.773–2 Application for certification.

(a) An application for a certificate of conformity to the regulations applicable to any new motor vehicle engine shall be made to the Administrator by the manufacturer.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(1) Identification and description of the engines covered by the application and a description of their emission control systems.

(2) Projected U.S. sales data sufficient to enable the Administrator to select a test fleet representative of the engines for which certification is requested.

(3) A description of the test equipment and fuel proposed to be used.

(4) A description of the proposed service accumulation procedure for durability testing.

(5) A statement of recommended maintenance and procedures necessary to assure that the engines covered by a certificate of conformity in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(6) At the option of the manufacturer, the proposed composition of the emission data and durability data test fleet.

§ 85.773–3 Approval of procedure and equipment; test fleet selections.

Based upon the information provided in the application for certification, and any other information the Administrator may require, the Administrator will approve or disapprove in whole or in part the service accumulation procedure and equipment and fuel proposed by the manufacturer, and notify him in writing of such determination. Where any part of a proposal is disapproved, such notification will specify the reasons for disapproval. The Administrator will select a test fleet in accordance with § 85.773–5.

§ 85.773–4 Required data.

The manufacturer shall perform the tests required by the applicable test procedures, and submit to the Administrator the following information:

(a) Durability data on such engines tested in accordance with the applicable test procedures of this subpart, and in such numbers as therein specified, which will show the performance of the systems installed on or incorporated in the engine for extended operation, as well as a record of all pertinent maintenance performed on the test engines.

(b) Emission data on such engines tested in accordance with the applicable emission test procedures of this subpart and in such numbers as therein specified, which will show their emissions after 0 hours and 125 hours of operations.

(c) A description of tests performed to ascertain compliance with the general standards in § 85.773–1 and the data derived from such tests.

(d) A statement that the test engines with respect to which data are submitted have been tested in accordance with the applicable test procedures, that they meet the requirement of such tests, and that, on the basis of such tests, they conform to the requirements of the regulations in this subpart. If such statements cannot be made with respect to any engine tested, the engine shall be identified, and all pertinent test data relating thereto shall be supplied.

§ 85.773–5 Test engines.

(a) The engines covered by the application for certification will be divided into engine families based upon the criteria outlined in § 85.073–5(a).

(b) Emission data engines:

(1) Engines will be chosen to be run for emission data based upon the engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(2) Engines of each engine family will be divided into engine displacement-exhaust emission control system combinations. A projected sales volume will be established for each combination for the model year for which certification is sought. One engine of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of engines of that family is represented, or until a maximum of four engines is selected. The engines selected for each combination will be specified by the Administrator as to fuel system.

(3) The Administrator may select a maximum of two additional engines within each engine family based upon features indicating that they may have the highest emission levels of the engines in that engine family. In selecting these engines, the Administrator will consider such features as the exhaust emission control system, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, and compression ratio.

(4) If the engines selected in accordance with subparagraphs (2) and (3) of this paragraph do not represent each engine-system combination, then one engine of each engine-system combination not represented shall be selected by the Administrator. The engine selected shall be of the displacement with the largest projected sales volume of engines with the exhaust emission control system in the family and will be designated by the Administrator as to fuel system.

(c) Durability data engines:

(1) A durability data engine will be selected by the Administrator to represent each engine-system combination. The engine selected shall be of the displacement with the largest projected sales volume of engines with that exhaust emission control system in that engine family and will be designated by the Administrator as to fuel system.

(2) If an exhaust emission control system is used in only one engine family, an additional engine using that control system in that family will be selected so that the durability data fleet shall contain at least two engines with each control system. The additional engine will be selected in the same manner as engines selected under subparagraph (1) of this paragraph.

(3) A manufacturer may elect to operate and test additional engines to represent any engine-system combination. The additional engines must be of the same engine displacement and fuel system as the engine selected for that combination in accordance with the provisions of subparagraph (1) of this paragraph. Notice of an intent to run additional engines shall be given to the Administrator not later than 30 days following notification of the test fleet selection.

(d) Any manufacturer whose projected sales of new motor vehicle engines subject to this subpart for the 1973 model year is less than 700 engines may request a reduction in the number of test engines determined in accordance with the foregoing provisions of this section. The Administrator may agree to such lesser number as he determines will meet the objectives of this procedure.

(e) In lieu of testing an emission data or durability data engine selected under paragraph (b) or (c) of this section and submitting data therefor, a manufacturer may, with the prior written approval of the Administrator, submit data on a similar engine for which certification has previously been obtained.

§ 85.773–6 Maintenance.

(a) (1) Maintenance on the engines and fuel systems of durability engines may be performed only under the following provisions:

(i) Two major engine tuneups to manufacturer's specifications may be performed at 500 and 1,000 hours (±8 hours) of scheduled dynamometer operation with the following exception: On engines with a displacement of 200 cubic inches or less, a major engine tuneup may be performed at 375, 750, and 1,125 hours (±8 hours) of scheduled dynamometer operation. A major engine tuneup shall be restricted to the following:

(*a*) Replace spark plugs.

(*b*) Inspect ignition wiring and replace as required.

(*c*) Replace distributor breaker points and condenser as required.

(*d*) Lubricate distributor cam.

(*e*) Check distributor advance and breaker point dwell angle and adjust as required.

(*f*) Check automatic choke for free operation and correct as required.

(*g*) Adjust carburetor idle speed and mixture.

(*h*) Adjust drive belt tension on engine accessories.

(*i*) Adjust valve lash if required.

(*j*) Check exhaust heat control valve for free operation.

(*k*) Check engine bolt torque and tighten as required.

(ii) Spark plugs may be changed if a persistent misfire is detected.

(iii) Normal services (engine oil change, and oil filter, fuel filter and air filter servicing) will be allowed at manufacturer's recommended intervals.

(iv) The crankcase emission control system may be serviced at 375-hour in-

tervals (±8 hours) of dynamometer operation.

hours or the appropriate multiple of 125 hours, respectively.

(d) All emission control systems installed on or incorporated in a new motor

Sequence No.	Mode	Manifold vacuum	Time in Mode-Secs.	Cumulative Time-Secs.	Weighting factors

(12) Pumps P1, P2, and P3 for pulling sample from source.

(13) Filters F1, F2, and F3 remove

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tervals (±8 hours) of dynamometer operation.

(v) Readjustment of the engine choke mechanism or idle settings may be performed only if there is a problem of stalling at idle.

(vi) Leaks in the fuel system, engine lubrication system and cooling system may be repaired.

(vii) Engine idle speed may be adjusted at the 125-hour test point.

(viii) Any other engine or fuel system maintenance or repairs will be allowed only with the advance approval of the Administrator.

(2) Allowable maintenance on emission data engines shall be limited to the adjustment of engine idle speed at the 125-hour test point, except that other maintenance or repairs may be allowed with the advance approval of the Administrator.

(b) Complete emission tests (see § 85.773–10 through § 85.773–18) shall be run before and after any engine maintenance which may reasonably be expected to affect emissions. These test data shall be supplied to the Administrator immediately after the tests, along with a complete record of all pertinent maintenance, including an engineering report of any malfunction diagnosis and the corrective action taken. In addition, all test data and maintenance reports shall be compiled and provided to the Administrator in accordance with § 85.773–4.

(c) If the Administrator determines that maintenance or repairs have resulted in a substantial change to the engine-system combination, the engine shall not be used as a durability data engine.

§ 85.773–7 Service accumulation and emission measurements.

The engine dynamometer service accumulation schedule will consist of several operating conditions which give the same percentage of time at various manifold vacuums and the modes as specified in the emission test cycle. The average speed shall be between 1,650 and 1,700 r.p.m. with some operation at 3,200 r.p.m. or governed speed, whichever is lower. Maximum cycle time shall be 15 minutes. A cycle approved in advance by the Administrator shall be used.

(a) Emission data engines: Each emission data engine shall be operated for 125 hours with all emission control systems installed and operating. Emission tests shall be conducted at zero and 125 hours.

(b) Durability data engines: Each durability data engine shall be operated, with all emission control systems installed and operating, for 1,500 hours. Emission measurements, as prescribed, shall be made at zero hours and at each 125-hour interval.

(c) All tests required by this subpart to be conducted after 125 hours of operation or at any multiple of 125 hours may be conducted at any accumulated number of hours within 8 hours of 125 hours or the appropriate multiple of 125 hours, respectively.

(d) The results of each emission test shall be supplied to the Administrator immediately after the test. In addition, all test data shall be compiled and provided to the Administrator in accordance with § 85.773–4.

(e) Whenever the manufacturer proposes to operate and test an engine which may be used for emission or durability data, he shall provide the zero-hour test data to the Administrator and make the engine available for such testing under § 85.773–29 as the Administrator may require, before beginning to accumulate hours on the engine. Failure to comply with this requirement will invalidate all test data later submitted for this engine.

(f) Once a manufacturer begins to operate an emission data or durability data engine, as indicated by compliance with paragraph (e) of this section, he shall continue to run the engine to 125 hours or 1,500 hours, respectively, and the data from the engine will be used in the calculations under § 85.773–19. Discontinuation of an engine shall be allowed only with the prior written consent of the Administrator.

§ 85.773–8 Special test procedures.

The Administrator may, on the basis of a written application therefor by a manufacturer, prescribe test procedures, other than those set forth in this subpart, for any motor vehicle engine which he determines is not susceptible to satisfactory testing by the procedures set forth herein.

§ 85.773–9 Test procedures.

The procedures described in this and subsequent sections will be the test program to determine the conformity of engines with the standards set forth in § 85.773–1.

(a) The test consists of prescribed sequences of engine operating conditions to be conducted on an engine dynamometer. The exhaust gases generated during engine operation are sampled continuously for specific component analysis through the analytical train. The test is applicable to engines equipped with catalytic or direct-flame afterburners, induction system modifications, or other systems, or to uncontrolled engines.

(b) The exhaust emission test is designed to determine hydrocarbon and carbon monoxide concentrations during a truck driving pattern in a metropolitan area as simulated on an engine dynamometer. The test consists of two warmup cycles and two hot cycles. The average concentrations for the warmup cycles and the hot cycles are combined to yield the reported values.

(c) When an engine is tested for exhaust emissions or is operated for durability testing on an engine dynamometer the complete engine shall be used with all accessories which might reasonably be expected to influence emissions to the atmosphere installed and functioning.

(d) All emission control systems installed on or incorporated in a new motor vehicle engine shall be functioning during all test procedures in this subpart.

§ 85.773–10 Gasoline fuel specifications.

(a) Fuel having the following specifications or substantially equivalent specifications approved by the Administrator shall be used in exhaust emission testing. Where the Administrator determines that the engines represented by a test engine will be operated using fuels of a different lead content or octane rating than that prescribed in this paragraph, he may consent in writing to use of a fuel otherwise substantially equivalent to the following specifications but with a different lead content or octane rating.

Item	ASTM designation	Specifications
Octane, Research, min	D 1656	100
Pb, (organic), gm./U.S. gal.	D 526	3.1–3.3
Distillation range	D 86	
IBP, °F		75–95
10 percent point, °F		120–135
50 percent point, °F		200–230
90 percent point, °F		300–325
EP, °F, (max.)		415
Sulfur, wt. percent max	D 1266	0.10
Phosphorus, theory		0.0
RVP, lb	D 323	8.7–9.2
Hydrocarbon composition	D 1319	
Olefins, percent, max		10
Aromatics, percent, max		35
Saturates		Remainder

(b) Fuel having the following specifications, or substantially equivalent specifications approved by the Administrator shall be used in service accumulation. The octane rating of the fuel used shall be in the range recommended by the engine manufacturer. The Reid vapor pressure of the fuel used shall be characteristic of the seasonal motor fuel. Where the Administrator determines that the engines represented by a test engine will be operated using fuels of a different lead content than that prescribed in this paragraph, he may consent in writing to use of a fuel otherwise substantially equivalent to the following specifications but with a different lead content.

Item	ASTM Designation	Regular	Premium
Pb, (organic), gm./U.S.	D 526	2.1–3.2	2.1–3.2
Sulfur, wt. percent	D 1266	0.02–0.10	0.02–0.10
Hydrocarbon composition	D 1319		
Olefins, percent, max		30	15
Aromatics, percent, max		40	40
Saturates		Remainder	Remainder

(c) The specifications of the fuel to be used under paragraph (b) of this section shall be reported in accordance with § 85.773–2(b)(3).

§ 85.773–11 Dynamometer operation cycle and equipment.

(a) (1) The following nine-mode cycle shall be followed in dynamometer operation tests of gasoline-fueled heavy duty engines.

Sequence No.	Mode	Manifold vacuum	Time in Mode-Secs.	Cumulative Time-Secs.	Weighting factors
1	Idle		70	70	0.036
2	Cruise	16′ Hg	23	93	.069
3	PTA	10′ Hg	44	137	.257
4	Cruise	16′ Hg	23	160	.069
5	PTD	19′ Hg	17	177	.047
6	Cruise	16′ Hg	23	200	.069
7	FL	3′ Hg	34	234	.353
8	Cruise	16′ Hg	23	257	.069
9	CT		43	300	.021

(2) The engine dynamometer shall be operated at a constant speed of 2,000 r.p.m.±100 r.p.m. (exception: representative engine speed for a given displacement engine as determined by its application, but not less than 1,800 r.p.m. nor greater than 2,500 r.p.m.).

(3) The idle operating mode shall be carried out at the manufacturer's recommended engine speed. The CT operating mode shall be carried out at the same engine speed as in subparagraph (2) of this paragraph.

(b) The following equipment shall be used for dynamometer tests.

(1) An engine dynamometer capable of maintaining constant speed±100 r.p.m. from full throttle to closed throttle motoring.

(2) A chassis-type exhaust system or substantially equivalent exhaust system, shall be used.

(3) A radiator typical of that used with the engine in a vehicle, or other means of engine cooling which will maintain the engine operating temperatures at approximately the same temperature as would the radiator, shall be used. An auxiliary fixed speed fan may be used to maintain engine cooling during sustained operation on the dynamometer.

§ 85.773–12 Dynamometer procedures.

An initial 5-minute idle, two warmup cycles, and two hot cycles constitute a a complete dynamometer run. Idle modes may be run at the beginning and end of each test, thus eliminating the need to change speed between cycles. One idle mode preceding the first cycle and one following the fourth cycle is sufficient. The results of the first idle shall be used for calculation of the second cycle emissions and the fourth idle results shall be used for calculation of the third cycle emissions.

§ 85.773–13 Sampling and analytical system for measuring exhaust emissions.

(a) *Schematic drawing.* The following (fig. H773–1) is a schematic drawing of the exhaust gas sampling and analytical system which shall be used for testing under the regulations in this subpart.

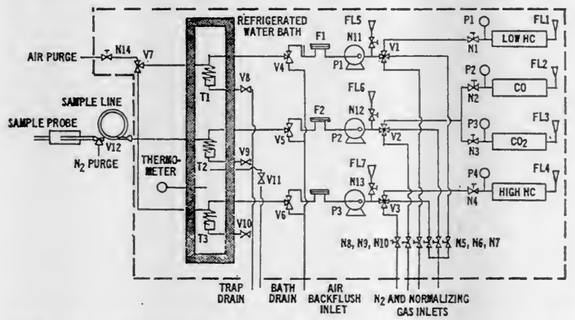

FIGURE H773–1.—Flow schematic of exhaust gas analysis system employed in Federal facilities.

(b) *Component description.* The following components shall be used in sampling and analytical systems for testing under the regulations in this part.

(1) Flowmeters FL1, FL2, FL3, and FL4 indicate the sample flow rate through the analyzers.

(2) Low range hydrocarbon analyzer.

(3) Carbon monoxide analyzer.

(4) Carbon dioxide analyzer.

(5) High range hydrocarbon analyzer.

(6) Pressure gauges P1, P2, and P3 indicate the analyzer sample pressure.

(7) Needle valves N1, N2, N3, and N4 regulate sample flow rate to the analyzers.

(8) Needle valves N5, N6, N7, N8, N9, and N10 regulate the flow rates of N_2 and normalizing gases to the analyzers.

(9) Ball valves V1, V2, and V3 for directing either sample or calibration gases to the analyzers.

(10) Needle valves N11, N12, and N13 regulate the sample flow rate through the bypass network.

(11) Flowmeters FL5, FL6, and FL7 indicate the flow rate through the bypass system.

(12) Pumps P1, P2, and P3 for pulling sample from source.

(13) Filters F1, F2, and F3 remove contaminants from sample prior to analysis.

(14) Ball valves V4, V5, and V6 for directing sample to the analyzer or directing air in the reverse direction as a backflush.

(15) Toggle valves V8, V9, V10, and V11 for draining condensate traps and refrigerated bath.

(16) Traps T1, T2, and T3 for condensing water vapor and cooling exhaust sample.

(17) Ball valve V7 for diverting air to low HC analyzer during periods of high hydrocarbon response.

(18) Needle valve N14 for regulating air flow to low hydrocarbon analyzer during purge conditions.

(19) Thermometer for indicating bath temperature.

(20) Refrigerated water bath for condensing water vapor and cooling exhaust sample.

(21) Sample line from vehicle to analysis system.

(22) Sample probe to extract exhaust gas sample downstream of muffler.

(23) Ball valve V12 for directing N_2 to hydrocarbon analyzers.

(c) *Hang up reduction.* Stringent methods to reduce hang up may be employed. All methods must be approved in advance by the Administrator.

§ 85.773–14 Information to be recorded on charts.

The following information shall be recorded with respect to each test:

(a) Test number.

(b) System tested (brief description).

(c) Date and time of day for each part of the test schedule.

(d) Instrument operator.

(e) Driver or operator.

(f) Engine make—identification number—date of manufacture—number of hours — engine displacement — engine family—idle r.p.m.—number of carburetors—number of carburetor venturis.

(g) All pertinent instrument information such as tuning—gain—serial numbers—detector numbers—range.

(h) Recorder charts: Identify zero, span, exhaust gas sample traces.

(i) Barometric pressure, intake air temperature, and humidity and, as applicable, the temperature of the air in front of the radiator during the test.

(j) A continuous trace of intake manifold vacuum and engine r.p.m., recorded on the same chart with an automatic marker indicating 1-second intervals.

§ 85.773–15 Calibration and instrument checks.

(a) The instrument assembly shall be calibrated at least once every 30 days, using the same flow rate as when sampling exhaust and proceeding as follows:

(1) Tune analyzers.

(2) Zero on nitrogen: Check each cylinder of N_2 for contamination with hydrocarbons. Set the instrument gain to

give the desired range. Normal operating

(3) Calibrate with the following nor-

For each warmup or hot cycle to be

(1) Separate emission deterioration

(b) All emission data from the tests

standards by observing the following relationships:

give the desired range. Normal operating ranges are as follows:

Low-range hydrocarbon analyzer.	0 to 1,000 p.p.m. hexane equivalent.
High-range hydrocarbon analyzer.	0 to 10,000 p.p.m. hexane equivalent.
CO analyzer	0 to 10 percent CO.
CO_2 analyzer	0 to 16 percent CO_2.

Low range HC analyzer	High range HC analyzer	CO and CO_2 analyzers Blend of CO and CO_2 containing:		
Hexane equivalent[1]	*Hexane equivalent*	*Mole percent CO*	Plus	*Mole percent CO_2*
100 p.p.m.	600 p.p.m.	0.5		16.0
200 p.p.m.	1,000 p.p.m.	1.0		15.0
300 p.p.m.	1,500 p.p.m.	2.0		14.0
400 p.p.m.	2,500 p.p.m.	3.0		13.0
600 p.p.m.	4,000 p.p.m.	4.0		12.0
800 p.p.m.	6,000 p.p.m.	6.0		10.0
1,000 p.p.m.	8,000 p.p.m.	8.0		8.0
	10,000 p.p.m.	10.0		6.0

[1] The hexane equivalent of propane, when used as the normalizing gas for calibrating nondispersive infrared analyzers, is prescribed to be 0.52 (Propane Concentration×0.52=Hexane Equivalent Concentration).

Minimum storage temperature of the cylinders shall be 60° F.; minimum use temperature shall be 68° F.

(4) Compare values with previous curves. Any significant change reflects some problem in the system. Locate and correct problem, and recalibrate. Use best judgment in selecting curve for data reduction.

(5) Check response of hydrocarbon analyzer to 100 percent CO_2. If response is greater than 0.5 percent full scale, refill filter cells with 100 percent CO_2 and recheck. Note any remaining response on chart. If response still exceeds 0.5 percent, replace detector.

(6) Check response of hydrocarbon analyzers to nitrogen saturated with water at ambient temperature. Record ambient temperature. If the low-range instrument response exceeds 5 percent of full scale with saturated nitrogen at 75° F., replace the detector. If the high-range response exceeds 0.5 percent of full scale, check detector on low-range instrument, then reject if response exceeds 5 percent of full scale at 75° F.

(b) The following daily instrument check shall be performed, allowing a minimum of 2 hours warmup for infrared analyzers. (Power is normally left on continuously; but, when instruments are not in use, chopper motor is turned off.):

(1) Zero on clean nitrogen introduced at analyzer inlet. Obtain a stable zero on the amplifier meter and recorder. Recheck after test.

(2) Introduce normalizing gas and set gain to match calibration curve. In order to avoid a correction for sample cell pressure, normalize and calibrate at the same flow rates used for exhaust sampling. Normalizing or span gases: (See paragraph (a)(3) of this section for allowable variation.)

Low-range hydrocarbon analyzer.	1,000 p.p.m. hexane equivalent in prepurified N_2.
High-range hydrocarbon analyzer.	10,000 p.p.m. hexane equivalent in prepurified N_2.
CO analyzer	10 percent CO in prepurified N_2.
CO_2 analyzer	12 to 16 percent CO_2 in prepurified N_2.

(3) Calibrate with the following normalizing gases. Flow rates should be set at 10 c.f.h. on the hydrocarbon analyzers and 5 c.f.h. on the carbon monoxide and carbon dioxide analyzers. The concentrations given indicate nominal concentrations, and actual concentrations should be known to within ±2 percent of true value. Prepurified N_2 is used as the diluent.

If gain has shifted significantly, check tuning. If necessary, check calibration. Recheck after test. Record actual concentrations on chart.

(3) Check nitrogen zero, repeat the procedure in subparagraphs (1) and (2) of this paragraph if required.

(4) Check flow rates and pressures.

§ 85.773–16 Dynamometer test run.

(a) The engine shall be allowed to stand with engine turned off for at least 1 hour before the exhaust emission test at an ambient temperature of 60° F. to 86° F. The engine shall be stored prior to the emission tests in such a manner that it is not exposed to precipitation or condensation. During the dynamometer run, the ambient temperature shall be between 68° F. and 86° F.

(b) The following steps shall be taken for each test:

(1) Mount test engine on the engine dynamometer.

(2) Calibrate exhaust emission analyzer assembly.

(3) Start cooling system, if it is to be used.

(4) Start engine and idle at 1,000–1,200 r.p.m. for 5 minutes.

(5) Obtain normal idle speed, record it, and start exhaust sampling.

(6) Run four 9-mode cycles.

(c) Upon completion of the test, purge the sample line with nitrogen to establish a constant hydrocarbon "hangup" level. The hydrocarbon concentration shall drop to 5 percent of scale in 10 seconds, and 3 percent of scale in 3 minutes, or the test is invalid. Check calibration of exhaust emission instruments. A drift in excess of ±2 percent of scale in the calibration of any one of the exhaust emission analyzers will invalidate the test results.

§ 85.773–17 Chart reading.

The recorder response for measuring exhaust gas concentrations always lags the engine's operation because of a variable exhaust system delay and a fixed sample system delay. Therefore, the concentrations for each mode will not be located on the charts at a point corresponding to the exact time of the mode. For each warmup or hot cycle to be evaluated, proceed as follows:

(a) Determine whether the cycle was run in accordance with the specified cycle timing by observing either chart pips, speed trace, manifold vacuum trace, or concentration traces. Deviation by more than 2 seconds from the specified time for the closed throttle mode (sequence 9) or deviation of more than ±0.2" Hg. from the specified mode vacuums during the last 10 seconds of a mode will invalidate the data.

(b) Time correlate the hydrocarbon, carbon monoxide, and carbon dioxide charts. Determine the location on the chart of concentrations corresponding to each mode. Determine and compensate for trace abnormalities.

(c) For all open throttle (3", 10", 16", and 19" Hg.) and idle modes, integrate the last 3 seconds of the HC, CO and CO_2 traces.

(d) The values recorded for the initial idle mode are used for both warmup cycles 1 and 2. The final idle mode values are applied to hot cycles 3 and 4.

(e) Integrate the complete HC, CO, and CO_2 traces during this 43-second closed throttle mode of each cycle.

(f) Direct computer analysis of analyzer output may be utilized provided that the analysis is sufficiently similar to the above procedures to result in comparable data results.

§ 85.773–18 Calculations.

The final reported test results shall be derived through the following steps:

(a) Determine composite hydrocarbon and carbon monoxide concentrations for the first and second cycles. Average the results of these two cycles.

(b) Determine composite hydrocarbon and carbon monoxide concentrations for the third and fourth cycles. Average the results of these two cycles.

(c) Combine the results of paragraphs (a) and (b) of this section according to the formula: 0.35(a) plus 0.65(b). Since hydrocarbon, carbon monoxide, and carbon dioxide are all measured with essentially the same moisture content, no moisture correction is required to convert the results to a dry basis. The correction factor:

$$\frac{14.5}{\%\ CO_2+(0.5)\%\ CO+(1.8\times6)\ \%\ HC}$$

shall be applied to the measured concentrations of hydrocarbon and carbon monoxide to correct these observed values for dilution of the exhaust.

§§ 85.773–19—85.773–27 [Reserved]

§ 85.773–28 Compliance with emission standards.

(a) The exhaust emission standards in § 85.773–1 apply to the emissions of engines for their useful life.

(b) Since emission control efficiency decreases with the accumulation of hours on the engine, the emission level of an engine which has accumulated 1,500 hours of dynamometer operation will be used as the basis for determining compliance with the standards.

(c) The procedure for determining compliance of a new engine with exhaust emission standards is as follows:

(1) Separate emission deterioration factors shall be determined from the emission results of the durability data engines for each engine-system combination. Separate factors shall be established for HC and CO for each combination.

(i) The applicable results to be used in determining the deterioration factors for each combination shall be:

(*a*) All emission data from the tests required under § 85.773–7(b), except the zero-hour tests. This shall include the official test results, as determined in § 85.773–29, for all tests conducted on all durability engines of the combination selected under § 85.773–5(c) (including all engines elected to be operated by the manufacturer under § 85.773–5(c)(3)).

(b) All emission data from the tests conducted before and after the maintenance provided in § 85.773–6(a)(1)(i).

(ii) All applicable results shall be plotted as a function of the hours on the system, rounded to the nearest hour, and the best fit straight lines, fitted by the method of least squares, shall be drawn through these data points. The interpolated 125- and 1,500-hour points on this line must be within the standard provided in § 85.773–1 or the data shall not be used in calculation of a deterioration factor.

(iii) An exhaust emision deterioration factor shall be calculated for each combination as follows:

$$\text{factor}=\frac{\text{exhaust emissions interpolated to 1,500 hours}}{\text{exhaust emissions interpolated to 125 hours}}$$

(2) The exhaust emission test results for each emission data engine shall be multiplied by the appropriate deterioration factor: *Provided*, That if a deterioration factor as computed in subparagraph (1) of this paragraph is less than one, that deterioration factor shall be one for the purposes of this subparagraph.

(3) The emissions to compare with the standard shall be the adjusted emissions of subparagraph (2) of this paragraph for each emission data engine.

(4) Every test engine of an engine family must comply with all applicable standards, as determined in subparagraph (3) of this paragraph, before any engine in that family will be certified.

§ 85.773–29 Testing by the Administrator.

(a) The Administrator may require that any one or more of the test engines be submitted to him, at such place or places as he may designate, for the purpose of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(b)(1) Whenever the Administrator conducts a test on a test engine, the results of that test shall comprise the official data for the engine at that prescribed test point.

(2) Whenever the Administrator does not conduct a test on a test engine at a test point, the manufacturer's test data will be accepted as the official data for that test point: *Provided*, That if the Administrator makes a determination based on testing under paragraph (a) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer.

(3) If the Administrator determines that the test data developed under paragraph (a) of this section would cause an engine to fail due to excessive 125-hour emissions or excessive deterioration, then the following procedure shall be observed:

(i) The manufacturer may request a retest. Before the retest, the engine may be adjusted to manufacturer's specifications, and parts may be replaced in accordance with § 85.773–6. All work on the engine shall be done at such location and under such conditions as the Administrator may prescribe.

(ii) The engine will be retested by the Administrator and the results of this test shall comprise the official data for that prescribed test point.

(4) If sufficient durability data is not available, at the time of any emission test conducted under paragraph (a) of this section, to enable the Administrator to determine whether a test engine would fail, the manufacturer may request a retest in accordance with the provisions of subparagraph (3) (i) and (ii) of this paragraph. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the engine from the test premises.

§ 85.773–30 Certification.

(a) (1) If, after a review of the test reports and data submitted by the manufacturer and data derived from any additional testing conducted pursuant to § 85.773–29, the Administrator determines that a test engine(s) conforms to the regulations of this subpart, he will issue a certificate of conformity with respect to such engine(s).

(2) Such certificate will be issued for such period not more than 1 year as the Administrator may determine and upon such terms as he may deem necessary to assure that any new motor vehicle engine covered by the certificate will meet the requirements of these regulations relating to durability and performance.

(b) (1) The Administrator will determine whether an engine covered by the application complies with applicable standards by observing the following relationships:

(i) A test engine selected under § 85.773–5(b)(2) or (4) shall represent all engines in the same engine family of the same engine displacement-exhaust emission control system combination.

(ii) A test engine selected under § 85.773–5(b)(3), shall represent all engines in the same engine family of the same engine displacement-exhaust emission control system-transmission type-fuel system combination.

(iii) A test engine selected under § 85.773–5(c)(1) shall represent all engines of the same engine-system combination.

(2) The Administrator will proceed as in paragraph (a) of this section with respect to the engines belonging to an engine family all of which comply with applicable standards.

(3) If, after a review of the test reports and data submitted by the manufacturer and data derived from any additional testing conducted pursuant to § 85.773–29, the Administrator determines that one or more test engines of the certification test fleet do not meet applicable standards, he will notify the manufacturer in writing, setting forth the basis for his determination. Within 30 days following receipt of the notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determination, and data in support of such objections. If, after a review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 85.705 with respect to such issue.

(4) The manufacturer may, at his option, proceed with any of the following alternatives with respect to any engine family represented by a test engine(s) determined not in compliance with applicable standards:

(i) Request a hearing under § 85.705, or

(ii) Delete from the application for certification the engines represented by the failing test engine. (Engines so deleted may be included in a later request for certification under § 85.773–32.) The Administrator will then select in place of each failing engine an alternate engine chosen in accordance with selection criteria employed in selecting the engine that failed, or

(iii) Modify the test engine and demonstrate by testing that it meets applicable standards. Another engine which is in all material respects the same as the first engine, as modified, shall then be operated and tested in accordance with applicable test procedures.

(5) If the manufacturer does not request a hearing or present the required data under subparagraph (4) of this paragraph, the Administrator will deny certification.

§ 85.773–31 Separate certification.

§ 85.773–34 Alternative procedure for

emission control systems. The Administ-

(6) At the option of the manufacturer,

gines of that family is represented. or until a maximum of four engines is

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§ 85.773–31 Separate certification.

Where possible a manufacturer should include in a single application for certification all engines for which certification is required. A manufacturer may, however, choose to apply separately for certification of part of his product line. The selection of test engines and the computation of test results will be determined separately for each application.

§ 85.773–32 Addition of an engine after certification.

(a) If a manufacturer proposes to add to his product line an engine of the same engine-system combination as engines previously certified but which was not described in the application for certification when the test engine(s) representing other engines of that combination was certified, he shall notify the Administrator. Such notification shall be in advance of the addition unless the manufacturer elects to follow the procedure described in § 85.773–34. This notification shall include a full description of the engine to be added.

(b) The Administrator may require the manufacturer to perform such tests on the test engine(s) representing the engine to be added which would have been required if the engine had been included in the original application for certification.

(c) If, after a review of the test reports and data submitted by the manufacturer, and data derived from any testing conducted under § 85.773–29, the Administrator determines that the test engine(s) meets all applicable standards, the appropriate certificate will be amended accordingly. If the Administrator determines that the test engine(s) does not meet applicable standards, he will proceed under § 85.773–30(b).

§ 85.773–33 Changes to an engine covered by certification.

(a) The manufacturer shall notify the Administrator of any change in production engines in respect to any of the parameters listed in § 85.073–5(a)(3), giving a full description of the change. Such notification shall be in advance of the change unless the manufacturer elects to follow the procedure described in § 85.773–34.

(b) Based upon the description of the change, and data derived from such testing as the Administrator may require or conduct, the Administrator will determine whether the engine, as modified, would still be covered by the certificate of conformity then in effect.

(c) If the Administrator determines that the outstanding certificate would cover the modified engines, he will notify the manufacturer in writing. Except as provided in § 85.773–34, the change may not be put into effect prior to the manufacturer's receiving this notification. If the Administrator determines that the modified engines would not be covered by the certificate then in effect, then the modified engines shall be treated as additions to the product line subject to § 85.773–32.

§ 85.773–34 Alternative procedure for notification of additions and changes.

(a) A manufacturer may, in lieu of notifying the Administrator in advance of an addition of an engine under § 85.773–32 or a change in an engine under § 85.773–33, notify him concurrently with the making of the change if the manufacturer believes the addition or change will not require any testing under the appropriate section. Upon notification to the Administrator, the manufacturer may proceed to put the addition or change into effect.

(b) The manufacturer may continue to produce engines as described in the notification to the Administrator for a maximum of 30 days, unless the Administrator grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Administrator determines, based upon a description of the addition or change, that no test data will be required, he will notify the manufacturer in writing of the acceptability of the addition or change. If the Administrator determines that test data will be required, he will notify the manufacturer to rescind the change within 5 days of receipt of the notification. The Administrator will then proceed as in § 85.773–32 (b) and (c), or § 85.773–33 (b) and (c) as appropriate.

(d) Election to produce engines under this section will be deemed to be a consent to recall all engines which the Administrator determines under § 85.773–32(c) do not meet applicable standards, and to cause such nonconformity to be remedied at no expense to the owner.

§ 85.773–35 Labeling.

(a) The manufacturer of any heavy duty gasoline-fueled engine subject to the standards prescribed in § 85.773–1 shall, at the time of manufacture, affix a permanent, legible plastic or metal label, containing the information hereinafter provided to all production models of such engines available for sale to the public, and covered by a certificate of conformity under § 85.773–30(a). The label shall be affixed at such a location that it will be readily accessible for inspection after the engine is installed in a vehicle and shall read as follows:

ENGINE EMISSION CERTIFICATION

This engine is, in all material respects, of substantially the same construction as test engines certified by the U.S. Environmental Protection Agency as conforming to Federal regulations pertaining to crankcase and exhaust emissions.
Engine family identification and engine displacement (in cubic inches)----------
Date of manufacture----------
(Month and year)
Name of manufacturer----------
(The information applicable to each engine is to be inserted on the appropriate line.)

(b) The provisions of this section shall not prevent a manufacturer from also reciting on the label that such engine conforms to any applicable State emission standards for new motor vehicle engines or any other information that such manufacturer deems necessary for, or useful to, the proper operation and satisfactory maintenance of the engine.

§ 85.773–36 [Reserved]

§ 85.773–37 Production engines.

(a) Any manufacturer obtaining certification under this subpart shall supply to the Administrator, upon his request, a reasonable number of production engines selected by the Administrator which are representative of the engines, emission control systems, fuel systems, and transmissions offered and typical of production models available for sale under the certificate. These engines shall be supplied for testing at such time and place and for such reasonable periods as the Administrator may require. Engines supplied under this paragraph may be required to be mounted in chassis and appropriately equipped for operation on a chassis dynamometer.

(b) Any manufacturer obtaining certification under this subpart shall notify the Administrator, on a quarterly basis, of the number of engines of each engine family-engine displacement-exhaust emission control system-fuel system combination produced for sale in the United States during the preceding quarter.

§ 85.773–38 Maintenance instructions.

(a) The manufacturer shall furnish or cause to be furnished to the ultimate purchaser of each new motor vehicle engine subject to the standards prescribed in § 85.773–1, written instructions for the maintenance and use of the engine by the ultimate purchaser as may be reasonable and necessary to assure the proper functioning of emission control systems.

(1) Such instructions shall be provided for those engine components listed in Appendix VI to this part (and for any other components) to the extent that maintenance of these components is necessary to assure the proper functioning of emission control systems.

(2) Such instructions shall be in clear, and to the extent practicable, nontechnical language.

(b) The maintenance instructions required by this section shall contain a general description of the documentation which the manufacturer will require from the ultimate purchaser or any subsequent purchaser as evidence of compliance with the instructions.

§ 85.773–39 Submission of maintenance instructions.

(a) The manufacturer shall provide to the Administrator, no later than the time of the submission required by § 85.773–4, a copy of the maintenance instructions which the manufacturer proposes to supply to the ultimate purchaser in accordance with § 85.773–38 (a). The Administrator will review such instructions to determine whether they are reasonable and necessary to assure the proper functioning of the engine's

emission control systems. The Administrator will notify the manufacturer of his determination whether such instructions are reasonable and necessary to assure the proper functioning of the emission control systems.

(b) Any revision to the maintenance instructions which will affect emissions shall be supplied to the Administrator at least 30 days before being supplied to the ultimate purchaser unless the Administrator consents to a lesser period of time.

§ 85.774–1 Emission standards for 1974 model year engines.

(a)(1) Exhaust emissions from new gasoline-fueled heavy duty engines shall not exceed:

(i) *Hydrocarbons plus oxides of nitrogen (as NO_2).* 16 grams per brake horsepower hour.

(ii) *Carbon monoxide.* 40 grams per brake horsepower hour.

(2) The standards set forth in paragraph (a)(1) of this section refer to a composite sample representing the operating cycle set forth in § 85.774–9 through § 85.774–18 and measured in accordance with those procedures.

(b) [Reserved]

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new motor vehicle engine subject to this subpart.

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with test procedures prescribed in § 85.774–9 through § 85.774–18 to ascertain that such test engines meet the requirements of paragraphs (a) and (c) of this section.

§ 85.774–2 Application for certification.

(a) An application for a certificate of conformity to the regulations applicable to any new motor vehicle engine shall be made to the Administrator by the manufacturer.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(1) Identification and description of the engines covered by the application and a description of their emission control systems.

(2) Projected U.S. sales data sufficient to enable the Administrator to select a test fleet representative of the engines for which certification is requested.

(3) A description of the test equipment and fuel proposed to be used.

(4) A description of the proposed service accumulation procedure for durability testing.

(5) A statement of recommended maintenance and procedures necessary to assure that the engines covered by a certificate of conformity in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(6) At the option of the manufacturer, the proposed composition of the emission data and durability data test fleet.

§ 85.774–3 Approval of procedure and equipment; test fleet selections.

Based upon the information provided in the application for certification, and any other information the Administrator may require, the Administrator will approve or disapprove in whole or in part the service accumulation procedure and equipment and fuel proposed by the manufacturer, and notify him in writing of such determination. Where any part of a proposal is disapproved, such notification will specify the reasons for disapproval. The Administrator will select a test fleet in accordance with § 85.774–5.

§ 85.774–4 Required data.

The manufacturer shall perform the tests required by the applicable test procedures, and submit to the Administrator the following information:

(a) Durability data on such engines tested in accordance with the applicable test procedures of this subpart, and in such numbers as therein specified, which will show the performance of the systems installed on or incorporated in the engine for extended operation, as well as a record of all pertinent maintenance performed on the test engines.

(b) Emission data on such engines tested in accordance with the applicable emission test procedures of this subpart and in such numbers as therein specified, which will show their emissions after 0 hours, and 125 hours of operation.

(c) A description of tests performed to ascertain compliance with the general standards in § 85.774–1 and the data derived from such tests.

(d) A statement that the test engines with respect to which data are submitted have been tested in accordance with the applicable test procedures, that they meet the requirement of such tests, and that, on the basis of such tests, they conform to the requirements of the regulations in this subpart. If such statements cannot be made with respect to any engine tested, the engine shall be identified, and all pertinent test data relating thereto shall be supplied.

§ 85.774–5 Test engines.

(a) The engines covered by the application for certification will be divided into engine families based upon the criteria outlined in § 85.073–5(a).

(b) Emission data engines:

(1) Engines will be chosen to be run for emission data based upon the engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(2) Engines of each engine family will be divided into engine displacement-exhaust emission control system combinations. A projected sales volume will be established for each combination for the 1974 model year. One engine of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of engines of that family is represented, or until a maximum of four engines is selected. The engines selected for each combination will be specified by the Administrator as to fuel system.

(3) The Administrator may select a maximum of two additional engines within each engine family based upon features indicating that they may have the highest emission levels of the engines in that engine family. In selecting these engines, the Administrator will consider such features as the exhaust emission control system, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, and compression ratio.

(4) If the engines selected in accordance with subparagraphs (2) and (3) of this paragraph do not represent each engine-system combination, then one engine of each engine-system combination not represented shall be selected by the Administrator. The engine selected shall be of the displacement with the largest projected sales volume of engines with the exhaust emission control system in the family and will be designated by the Administrator as to fuel system.

(c) Durability data engines:

(1) A durability data engine will be selected by the Administrator to represent each engine-system combination. The engine selected shall be of the displacement with the largest projected sales voulme of engines with that exhaust emission control system in that engine family and will be designated by the Administrator as to fuel system.

(2) If an exhaust emission control system is used in only one engine family, an additional engine using that control system in that family will be selected so that the durability data fleet shall contain at least two engines with each control system. The additional engine will be selected in the same manner as engines selected under subparagraph (1) of this paragraph.

(3) A manufacturer may elect to operate and test additional engines to represent any engine-system combination. The additional engines must be of the same engine displacement and fuel system as the engine selected for that combination in accordance with the provisions of subparagraph (1) of this paragraph. Notice of an intent to run additional engines shall be given to the Administrator not later than 30 days following notification of the test fleet selection.

(d) Any manufacturer whose projected sales of new motor vehicle engines subject to this subpart for the 1974 model year is less than 700 engines may request a reduction in the number of test engines determined in accordance with the foregoing provisions of this section. The Administrator may agree to such lesser number as he determines will meet the objectives of this procedure.

(e) In lieu of testing an emission data or durability data engine selected under paragraph (b) or (c) of this section and submitting data therefor, a manufacturer may, with the prior written approval of the Administrator, submit

data on a similar engine for which certification has been granted by the Administrator, or by the Environmental Protection Agency, or by a State with which the Administrator has entered into a reciprocal agreement, in lieu of testing under this subpart. Such data will be accepted by the Administrator if he determines that the engine for which data is submitted is sufficiently similar to the engine for which certification is sought. Such determination will be based on such factors as the displacement, the number of cylinders, the induction system, the ignition system, the fuel system, the exhaust system, the cooling system, the combustion chamber design, the valve system, the camshaft system, the rated horsepower, the rated torque, and the compression ratio of the engines involved.

(f) Any manufacturer may request that the Administrator test a specific engine in addition to those selected by the Administrator. The Administrator will comply with such request if he determines that the engine is sufficiently different from the engines selected by the Administrator to be a worthwhile test.

(g) The Administrator may require that any engine selected under this section be delivered to a location designated by the Administrator within 10 days of the selection.

§ 85.774–6 Test procedures.

(a) The test procedures for the 1974 model year are those described in the Federal Register publication of November 15, 1972.

(b) The test procedures for the 1975 model year are those described in the Federal Register publication of November 15, 1972.

§ 85.774–7 Test fuels.

(a) The gasoline fuel to be used for testing under this subpart shall have a minimum octane rating of 91 Research Octane Number and shall be commercially available.

(b) The diesel fuel to be used for testing under this subpart shall be commercially available.

consists of two warmup cycles and two

(c) The specifications of the fuel to be used under paragraph (b) of this section

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data on a similar engine for which certification has previously been obtained.

(f) For purposes of testing under § 85.774–7(g), the Administrator may require additional emission data engines and durability data engines identical in all material respects to engines selected in accordance with paragraphs (b) and (c) of this section: *Provided*, That the number of engines selected shall not increase the size of either the emission data fleet or the durability data fleet by more than 20 percent or one engine, whichever is greater.

§ 85.774–6 Maintenance.

(a) (1) Maintenance on the engines and fuel systems of durability engines may be performed only under the following provisions:

(i) Two major engine tuneups to manufacturer's specifications may be performed at 500 and 1,000 hours (±8 hours) of scheduled dynamometer operation with the following exception: On engines with a displacement of 200 cubic inches or less, a major engine tuneup may be performed at 75, 750, and 1,125 hours (±8 hours) of scheduled dynamometer operation. A major engine tuneup shall be restricted to the following:

(*a*) Replace spark plugs.

(*b*) Inspect ignition wiring and replace as required.

(*c*) Replace distributor breaker points and condensor as required.

(*d*) Lubricate distributor cam.

(*e*) Check distributor advance and breaker point dwell angle and adjust as required.

(*f*) Check automatic choke for free operation and correct as required.

(*g*) Adjust carburetor idle speed and mixture.

(*h*) Adjust drive belt tension on engine accessories.

(*i*) Adjust valve lash if required.

(*j*) Check exhaust heat control valve for free operation.

(*k*) Check engine bolt torque and tighten as required.

(ii) Spark plugs may be changed if a persistent misfire is detected.

(iii) Normal services (engine oil change, and oil filter, fuel filter, and air filter servicing) will be allowed at manufacturer's recommended intervals.

(iv) The crankcase emission control system may be serviced at 375 hour intervals (±8 hours) of dynamometer operation.

(v) Readjustment of the engine choke mechanism or idle settings may be performed only if there is a problem of stalling at idle.

(vi) Leaks in the fuel system, engine lubrication system and cooling system may be repaired.

(vii) Engine idle speed may be adjusted at the 125-hour test point.

(viii) Any other engine or fuel system maintenance or repairs will be allowed only with the advance approval of the Administrator.

(2) Allowable maintenance on emission data engines shall be limited to the adjustment of engine idle speed at the 125-hour test point, except that other maintenance or repairs may be allowed with the advance approval of the Administrator.

(b) Complete emission tests (see § 85.774–10 through § 85.774–18) shall be run before and after any engine maintenance which may reasonably be expected to affect emissions. These test data shall be supplied to the Administrator immediately after the tests, along with a complete record of all pertinent maintenance, including an engineering report of any malfunction diagnosis and the corrective action taken. In addition, all test data and maintenance reports shall be compiled and provided to the Administrator in accordance with § 85.774–4.

(c) If the Administrator determines that maintenance or repairs have resulted in a substantial change to the engine-system combination, the engine shall not be used as a durability data engine.

§ 85.774–7 Service accumulation and emission measurements.

The engine dynamometer service accumulation schedule will consist of several operating conditions which give the same percentage of time at various manifold vacuums and the modes as specified in the emission test cycle. The average speed shall be between 1,650 and 1,700 r.p.m. Subject to the requirements as to average speed, there must be operation at speeds in excess of 3,200 r.p.m. (but not in excess of governed speed for governed engines or rated speed for nongoverned engines) for a cumulative maximum of 0.5 percent of the actual cycle time, excluding time in transient conditions. Maximum cycle time shall be 15 minutes. A cycle approved in advance by the Administrator shall be used.

(a) Emission data engines: Each emission data engine shall be operated for 125 hours with all emission control systems installed and operating. Emission tests shall be conducted at zero and 125 hours. Evaporative emission controls need not be connected provided normal operating conditions are maintained in the engine induction system.

(b) Durability data engines: Each durability data engine shall be operated, with all emission control systems installed and operating, for 1,500 hours. Emission measurements, as prescribed, shall be made at zero hours and at each 125-hour interval. Evaporative emission controls need not be connected provided normal operating conditions are maintained in the induction systems.

(c) All tests required by this subpart to be conducted after 125 hours of operation or at any multiple of 125 hours may be conducted at any accumulated number of hours within 8 hours of 125 hours or the appropriate multiple of 125 hours, respectively.

(d) The results of each emission test shall be supplied to the Administrator immediately after the test. In addition, all test data shall be compiled and provided to the Administrator in accordance with § 85.774–4.

(e) Whenever the manufacturer proposes to operate and test an engine which may be used for emission or durability data, he shall provide the zero-hour test data to the Administrator and make the engine available for such testing under § 85.774–29 as the Administrator may require, before beginning to accumulate hours on the engine. Failure to comply with this requirement will invalidate all test data later submitted for this engine.

(f) Once a manufacturer begins to operate an emission data or durability data engine, as indicated by compliance with paragraph (e) of this section, he shall continue to run the engine to 125 hours or 1,500 hours, respectively, and the data from the engine will be used in the calculations under § 85.774–19. Discontinuation of an engine shall be allowed only with the prior written consent of the Administrator.

(g) (1) The Administrator may elect to operate and test any test engine during all or any part of the service accumulation and testing procedure. In such cases, the manufacturer shall provide the engine(s) to the Administrator with all information necessary to conduct the testing.

(2) The test procedures (§ 85.770–10 through §85.774–18) will be followed by the Administrator. The Administrator will test the engines at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(3) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other engines of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall be used in the determination of deterioration factors.

§ 85.774–8 Special test procedures.

The Administrator may, on the basis of a written application therefor by a manufacturer, prescribe test procedures, other than those set forth in this subpart, for any motor vehicle engine which he determines is not susceptible to satisfactory testing by the procedures set forth herein.

§ 85.774–9 Test procedures.

The procedures described in this and subsequent sections will be the test program to determine the conformity of engines with the standards set forth in § 85.774–1.

(a) The test consists of prescribed sequences of engine operating conditions to be conducted on an engine dynamometer. The exhaust gases generated during engine operation are sampled continuously for specific component analysis through the analytical train. The test is applicable to engines equipped with catalytic or direct-flame afterburners, induction system modifications, or other systems, or to uncontrolled engines.

(b) The exhaust emission test is designed to determine hydrocarbon, carbon monoxide, and oxides of nitrogen concentrations during a truck driving pattern in a metropolitan area as simulated on an engine dynamometer. The test

consists of two warmup cycles and two hot cycles. The average concentrations for the warmup cycles and the hot cycles are combined to yield the reported values.

(c) When an engine is tested for exhaust emissions or is operated for durability testing on an engine dynamometer, the complete engine shall be used with all accessories which might reasonably be expected to influence emissions to the atmosphere installed and functioning. Evaporative emission controls need not be connected provided normal operating conditions are maintained in the engine induction system.

§ 85.774–10 Gasoline fuel specifications.

(a) Fuel having the following specifications or substantially equivalent specifications approved by the Administrator shall be used in exhaust emission testing. Where the Administrator determines that the engines represented by a test engine will be operated using fuels of a different lead content or octane rating than that prescribed in this paragraph, he may consent in writing to use of a fuel otherwise substantially equivalent to the following specifications but with a different lead content or octane rating.

Item	ASTM designation	Specifications
Octane, Research, min	D 1656	100
Pb. (organic), gm./U.S. gal	D 526	3.1–3.3
Distillation range	D 86	
IBP, °F		75–95
10 percent point, °F		120–135
50 percent point, °F		200–230
90 percent point, °F		300–325
EP, °F. (max.)		415
Sulfur, wt. percent max	D 1266	0.10
Phosphorus, theory		0.0
RVP lb	D 323	8.7–9.7
Hydrocarbon composition	D 1319	
Olefins, percent, max		10
Aromatics, percent, max		35
Saturates		Remainder

(b) Fuel having the following specifications, or substantially equivalent specifications approved by the Administrator shall be used in service accumulation. The octane rating of the fuel used shall be in the range recommended by the engine manufacturer. The Reid Vapor Pressure of the fuel used shall be characteristic of the seasonal motor fuel. Where the Administrator determines that the engines represened by a test engine will be operated using fuels of a different lead content than that prescribed in this paragraph, he may consent in writing to use of a fuel otherwise substantially equivalent to the following specifications but with a different lead content.

Item	ASTM Designation	Regular	Premium
Pb. (organic), gm./U.S. gal.	D 526	2.1–3.2	2.1–3.2
Sulphur, wt. percent	D 1266	0.02–0.10	0.02–0.10
Hydrocarbon composition	D 1319		
Olefins, percent max		30	15
Aromatics, percent, max		40	40
Saturates		Remainder	Remainder

(c) The specifications of the fuel to be used under paragraph (b) of this section shall be reported in accordance with § 85.774–2(b)(3).

§ 85.774–11 Dynamometer operation cycle and equipment.

(a) (1) The following nine-mode cycle shall be followed in dynamometer operation tests of gasoline-fueled heavy duty engines.

Sequence No.	Mode	Manifold vacuum	Time in Mode-Secs.	Cumulative Time-Secs.	Weighting factors
1	Idle		70	70	0.232
2	Cruise	16″ Hg	23	93	.077
3	PTA	10″ Hg	44	137	.147
4	Cruise	16″ Hg	23	160	.077
5	PTD	19″ Hg	17	177	.057
6	Cruise	16″ Hg	23	200	.077
7	FL	3″ Hg	34	234	.113
8	Cruise	16″ Hg	23	257	.077
9	CT		43	300	.143

(2) The engine dynamometer shall be operated at a constant speed of 2,000 r.p.m.±100 r.p.m. (exception: representative engine speed for a given displacement engine as determined by its application, but not less than 1,800 r.p.m. nor greater than 2,500 r.p.m.).

(3) The idle operating mode shall be carried out at the manufacturer's recommended engine speed. The CT operating mode shall be carried out at the same engine speed as in subparagraph (2) of this paragraph.

(4) If the specified manifold vacuum can not be reached during the PTD mode, the engine shall be operated at closed throttle during that mode. If the specified manifold vacuum can not be reached during the FL mode, the engine shall be operated at wide open throttle during that mode.

(b) The following equipment shall be used for dynamometer tests.

(1) An engine dynamometer capable of maintaining constant speed±100 r.p.m. from full throttle to closed throttle motoring.

(2) A chassis-type exhaust system or substantially equivalent exhaust system shall be used.

(3) A radiator typical of that used with the engine in a vehicle, or other means of engine cooling which will maintain the engine operating temperatures at approximately the same temperature as would the radiator, shall be used. An auxiliary fixed speed fan may be used to maintain engine cooling during sustained operation on the dynamometer.

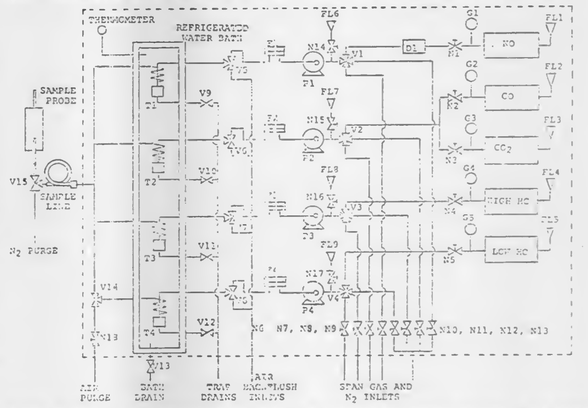

FIGURE H774–1.—Flow schematic of exhaust gas analysis system employed in Federal facilities.

§ 85.774–12 Dynamometer procedures.

An initial 5-minute idle, two warmup cycles, and two hot cycles constitute a complete dynamometer run. Idle modes may be run at the beginning and end of each test, thus eliminating the need to change speed between cycles. One idle mode preceding the first cycle and one following the fourth cycle is sufficient. The results of the first idle shall be used for calculation of the second cycle emissions and the fourth idle results shall be used for calculation of the third cycle emissions.

§ 85.774–13 Sampling and analytical system for measuring exhaust emissions.

(a) *Schematic drawing.* The following (fig. H774–1) is a schematic drawing of the exhaust gas sampling and analytical system which shall be used for testing under the regulations in this subpart.

(b) *Component description.* The following components shall be used in sam-

(f) Engine Make—identification number—date of manufacture—number of

(4) Compare values with previous curves. Any significant change reflects some problem in the system. Locate and

(5) Start cooling system, if it is to be used.

(1) $HC_{mass} = 10.8 \times 10^{-4} \times HC_{conc}$ (p.p.m.) $\times \frac{\text{Fuel consumption (gms./hr.)}}{TC}$

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maintenance or repairs may be allowed 125-hour test point, except that other

may be used for emission or durability data, he shall provide the zero-hour test on an engine dynamometer. The test

Saturates	Remainder	Remainder

FIGURE H774-1.—Flow schematic of exhaust gas analysis system employed in Federal facilities.

(b) *Component description.* The following components shall be used in sampling and analytical systems for testing under the regulations in this part.

(1) Flowmeters FL1, FL2, FL3, FL4, and FL5 for indicating the sample flow rate through the analyzers.

(2) Nitric oxide NDIR analyzer.

(3) Carbon monoxide NDIR analyzer.

(4) Carbon dioxide NDIR analyzer.

(5) High-range hydrocarbon NDIR analyzer.

(6) Low-range hydrocarbon NDIR analyzer.

(7) Pressure gauges G1, G2, G3, G4, and G5 for indicating the analyzer sample pressure.

(8) Needle valves N1, N2, N3, N4, and N5 for regulating the sample flow rate to the analyzers.

(9) Drier D1 for removing water vapor from the sample.

(10) Needle valves N6, N7, N8, N9, N10, N11, N12, and N13 for regulating the flow rates of N_2 and span gases to the analyzers.

(11) Ball valves V1, V2, V3, and V4 for directing either sample or span gases to the analyzers.

(12) Needle valves N14, N15, N16, and through the bypass system.

(13) Flowmeters FL6, FL7, FL8, and FL9 for indicating the flow rate through the bypass system.

(14) Pumps P1, P2, P3, and P4 for forcing the sample through the analyzers.

(15) Filters F1, F2, F3, and F4 for removing contaminants from sample prior N17 for regulating the sample flow rate to analysis.

(16) Ball valves V5, V6, V7, and V8 for directing sample gas to the analyzers or for backflushing the sampling system with air or nitrogen.

(17) Toggle valves V9, V10, V11, V12, and V13 for draining the condensate traps and the refrigerated bath.

(18) Traps T1, T2, T3, and T4 for separating condensed water vapor from the cooled sample gases.

(19) Ball valve V14 for diverting air to the low-range hydrocarbon analyzer during periods of high hydrocarbon concentrations in the exhaust sample.

(20) Needle valve N18 for regulating the air flow to the low-range hydrocarbon analyzer during purge conditions.

(21) Thermometer for indicating the bath temperature.

(22) Refrigerated water bath for cooling the sample gases.

(23) Sample line for connecting the analysis system to the sample probe.

(24) Sample probe for extracting a sample of the exhaust downstream of the muffler.

(25) Ball valve V15 for directing nitrogen through the sampling system.

§ 85.774–14 Information to be recorded.

The following information shall be recorded with respect to each test:

(a) Test number.

(b) System tested (brief description).

(c) Date and time of day for each part of the test schedule.

(d) Instrument Operator.

(e) Driver or Operator.

(f) Engine Make—identification number—date of manufacture—number of hours—engine displacement—engine family—idle r.p.m.—number carburetors—number of carburetor venturis.

(g) All pertinent instrument information such as tuning—gain—serial numbers—detector numbers—range.

(h) Barometric pressure, intake air temperature and humidity and, as applicable, the temperature of the air in front of the radiator during the test.

(i) Brake horsepower and fuel consumption.

(j) Analyzer responses, continuously recorded with zero, span and sample traces identified on each chart.

(k) Intake manifold vacuum and engine r.p.m. continuously recorded on the same chart with an automatic marker indicating one second intervals. Chart paper preprinted with one second intervals may be used in lieu of the automatic marker provided the use of the correct chart speed is verified on the chart for each test run.

§ 85.774–15 Calibration and instrument checks.

(a) The instrument assembly shall be calibrated at least once every 30 days, using the same flow rate as when sampling exhaust and proceeding as follows:

(1) Tune analyzers.

(2) Zero the analyzers with zero grade air or nitrogen. The allowable zero gas impurity concentrations should not exceed 10 p.p.m equivalent carbon response, 10 p.p.m. carbon monoxide and 1 p.p.m. nitric oxide. Set the instrument gain to give the desired range. Normal operating ranges are as follows:

Low-range hydrocarbon analyzer.	0–1,000 p.p.m. hexane equivalent.
High-range hydrocarbon analyzer.	0–10,000 p.p.m. hexane equivalent.
CO analyzer	0–10 percent CO.
CO_2 analyzer	0–16 percent CO.
NO analyzer	0–4,000 p.p.m. NO.

Lower operating ranges may be used as required.

(3) Calibrate with the following calibration gases. Flow rates should be set at 10 c.f.h. on the hydrocarbon and nitric oxide analyzers and 5 c.f.h. on the carbon monoxide and carbon dioxide analyzers. The concentrations given indicate nominal concentrations, and actual concentrations should be known to within ±2 percent of true value. Prepurified N_2 is used as the diluent.

Low range HC analyzer—Hexane equivalent[1]	High range HC analyzer—Hexane equivalent	NO analyzer—NO	CO and CO_2 analyzers—Blend of CO and CO_2 containing—	
			CO	plus CO_2
p.p.m.	*p.p.m.*	*p.p.m.*	*Mole percent*	*Mole percent*
100	600	250	0.5	16.0
200	1,000	500	1.0	15.0
300	1,500	750	2.0	14.0
400	2,500	1,000	3.0	13.0
600	4,000	1,500	4.0	12.0
800	6,000	2,000	6.0	10.0
1,000	8,000	2,500	8.0	8.0
	10,000	3,000	10.0	6.0
		3,500		
		4,000		

[1] The hexane equivalent of propane, when used as the normalizing gas for calibrating nondispersive infrared analyzers, is prescribed to be 0.52 (propane concentration × 0.52=hexane equivalent concentration). Minimum storage temperature of the cylinders shall be 60° F.; minimum use temperature shall be 68° F.

(4) Compare values with previous curves. Any significant change reflects some problem in the system. Locate and correct problem, and recalibrate. Use best judgment in selecting curve for data reduction.

(5) Check response of hydrocarbon analyzer to 100 percent CO_2. If response is greater than 0.5 percent full scale, refill filter cells with 100 percent CO_2 and recheck. Note any remaining response on chart. If response still exceeds 0.5 percent, replace detector.

(6) Check response of hydrocarbon analyzers to nitrogen saturated with water at ambient temperature. Record ambient temperature. If the low-range instrument response exceeds 5 percent of full scale with saturated nitrogen at 75° F., replace the detector. If the high-range response exceeds 0.5 percent of full scale, check detector on low-range instrument, then reject if response exceeds 5 percent of full scale at 75° F.

(b) The following daily instrument check shall be performed, allowing a minimum of 2 hours warmup for infrared analyzers. (Power is normally left on continuously; but, when instruments are not in use, chopper motor is turned off.):

(1) Zero on clean nitrogen introduced at analyzer inlet. Obtain a stable zero on the amplifier meter and recorder. Recheck after test.

(2) Introduce the span gas and set the analyzer gain to match the response to the value indicated by the calibration curve. In order to avoid a correction for sample cell pressure, use the same flow rate as that used to calibrate the analyzer. The span gas should produce a signal from 80 to 100 percent of the full scale response. The concentration of the span gas should be known within ±2 percent of the actual gain. If gain has shifted by more than 3 percent of scale, check tuning. If necessary, check calibration. Recheck after test. Record actual concentrations on chart.

(3) Check nitrogen zero, repeat the procedure in subparagraphs (1) and (2) of this paragraph if required.

(4) Check flow rates and pressures.

§ 85.774–16 Dynamometer test run.

(a) The engine shall be allowed to stand with engine turned off for at least 1 hour before the exhaust emission test at an ambient temperature of 60° F. to 86° F. The engine shall be stored prior to the emission tests in such a manner that it is not exposed to precipitation or condensation. During the dynamometer run, the ambient temperature shall be between 68° F. and 86° F.

(b) The following steps shall be taken for each test:

(1) Mount test engine on the engine dynamometer.

(2) Calibrate exhaust emission analyzer assembly.

(3) Check the condition of the drier in the nitric oxide analyzer sampling line. Replace the drying agent if necessary.

(4) Insert the sample line at least 2 feet into the tailpipe. When this is not possible, a tailpipe extension should be used.

(5) Start cooling system, if it is to be used.

(6) Start engine and idle at 1,000 to 1,200 r.p.m. for 5 minutes.

(7) Obtain normal idle speed, record it and start exhaust sampling.

(8) Run four 9-mode cycles.

(c) Upon completion of the test, purge the sample line with nitrogen to establish a constant hydrocarbon "hangup" level. The hydrocarbon concentration shall drop to 5 percent of scale in 10 seconds, and 3 percent of scale in 3 minutes, or the test is invalid. Check calibration of exhaust emission instruments. A drift in excess of ±2 percent of scale in the calibration of any one of the exhaust emission analyzers will invalidate the test results.

§ 85.774–17 Chart reading.

The recorder response for measuring exhaust gas concentrations always lags the engine's operation because of a variable exhaust system delay and a fixed sample system delay. Therefore, the concentrations for each mode will not be located on the charts at a point corresponding to the exact time of the mode. For each warmup or hot cycle to be evaluated, proceed as follows:

(a) Determine whether the cycle was run in accordance with the specified cycle timing by observing either chart pips, speed trace, manifold vacuum trace, or concentration traces. Deviation by more than 2 seconds from the specified time for the CT mode, or deviation of more than 0.3" Hg during the cruise and PTD modes, or more than 0.2" Hg during the PTA and FL modes, from the specified mode vacuums during the last 10 seconds of a mode will invalidate the data.

(b) Time correlate the hydrocarbon, carbon monoxide, carbon dioxide, and nitric oxide charts. Determine the location on the chart of concentrations corresponding to each mode. Determine and compensate for trace abnormalities.

(c) For all open throttle (3 inches, 10 inches, 16 inches, and 19 inches Hg) and idle modes, average the last 3 seconds of the HC, CO, CO_2 and NO traces.

(d) The values recorded for the initial idle mode are used for both warmup cycles 1 and 2. The final idle mode values are applied to hot cycles 3 and 4.

(e) Average the complete HC, CO, CO_2 and NO traces during the 43-second closed throttle mode of each cycle.

(f) Direct computer analysis of analyzer output may be utilized provided that the analysis is sufficiently similar to the above procedures to result in comparable data results.

§ 85.774–18 Calculations.

The final reported test results shall be derived through the following steps:

(a) Determine total carbon (TC) equivalent concentration in accordance with the following:

$$TC = \%CO_2 + \%CO + (1.8\times 6)\,\%HC$$

(b) Calculate the mass emission for HC (HC_{mass}), CO (CO_{mass}), and NO_x ($NO_{x\,mass}$) in grams per hour for each mode as follows:

$$(1)\quad HC_{mass} = 10.8\times 10^{-4}\times HC_{conc}\ (\text{p.p.m.}) \times \frac{\text{Fuel consumption (gms./hr.)}}{TC}$$

$$(2)\quad CO_{mass} = 2.02\times CO_{conc}(\%) \times \frac{\text{Fuel consumption (gms./hr.)}}{TC}$$

$$(3)\quad NO_{x_{mass}} = 3.32\times 10^{-4}\times NO_{conc}\ (\text{p.p.m.}) \times \frac{\text{Fuel consumption (gms./hr.)}}{TC}$$

(c) Multiply the HC_{mass}, CO_{mass}, and $NO_{x\,mass}$ values for each mode by the appropriate weighting factors.

(d) Multiply the measured brake horsepower values for each mode by the appropriate weighting factors. (Negative values are not used.)

(e) Calculate the brake specific emissions for HC, CO, and NO_x for each cycle as follows:

$$(1)\quad BSHC = \frac{\Sigma(HC_{mass}\times \text{WF})}{\Sigma(\text{Measured } BHP\times WF)}$$

$$(2)\quad BSCO = \frac{\Sigma(CO_{mass}\times \text{WF})}{\Sigma(\text{Measured } BHP\times WF)}$$

$$(3)\quad BSNO_x = \frac{\Sigma(NO_{x_{mass}}\times \text{WF})}{\Sigma(\text{Measured } BHP\times WF)}$$

(f) Average the composite BSHC, BSCO, $BSNO_x$ emissions of the first and second cycles.

(g) Average the composite BSHC, BSCO, and $BSNO_x$ emissions of the third and fourth cycles.

(h) Combine the results of (f) and (g) according to the formula: 0.35×composite of (f) +0.65×composite of (g).

(i) Correct the $BSNO_x$ value for the humidity at test conditions by multiplying by conversion factor "K" where:

$$K = 0.634 + 0.00654H - 0.0000222H^2$$

H = Humidity at test conditions, grain H_2O/lb. dry air.

§§ 85.774–19—85.774–27 [Reserved]

§ 85.774–28 Compliance with emission standards.

(a) The exhaust emission standards in § 85.774–1 apply to the emissions of engines for their useful life.

(b) Since emission control efficiency decreases with the accumulation of hours on the engine, the emission level of an engine which has accumulated 1,500 hours of dynamometer operation will be used as the basis for determining compliance with the standards.

(c) The procedure for determining compliance of a new engine with exhaust emission standards is as follows:

(1) Separate emission deterioration factors shall be determined from the emission results of the durability data engines for each engine-system combination. Separate factors shall be established for CO and for the combined emissions of HC and NO_x.

(i) The applicable results to be used in determining the deterioration factors for each combination shall be:

(*a*) All emission data from the tests required under § 85.774–7(b), except the zero-hour tests. This shall include the official test results, as determined in § 85.774–29, for all tests conducted on all durability engines of the combination selected under § 85.774–5(c) (including all engines elected to be operated by the manufacturer under § 85.774–5(c)(3)).

(*b*) All emission data from the tests conducted before and after maintenance provided in § 85.774–6(a)(1)(i).

(ii) All applicable results shall be plotted as a function of the hours on the system, rounded to the nearest hour, and the best fit straight lines, fitted by the method of least squares, shall be drawn through these data points. The interpolated 125- and 1,500-hour points on this line must be within the standard provided in § 85.774–1 or the data shall not be used in calculation of a deterioration factor.

(iii) An exhaust emission deterioration factor shall be calculated for each combination as follows:

Factor = Exhaust emissions interpolated to 1,500 hours minus the exhaust emissions interpolated to 125 hours.

(2) The appropriate deterioration factor shall be added to the exhaust emission test results for each emission data engine: *Provided*, That if a deterioration factor as computed in subparagraph (1) of this paragraph is negative, that deterioration factor shall be zero when comparing adjusted emissions to the standards.

(3) The emissions to compare with the standard shall be the adjusted emissions of subparagraph (2) of this paragraph for each emission data engine.

(4) Every test engine of an engine family must comply with all applicable standards, as determined in subparagraph (3) of this paragraph, before any engine in that family will be certified.

§ 85.774–29 Testing by the Administrator.

(a) The Administrator may require that any one or more of the test engines be submitted to him, at such place or places as he may designate, for the purpose of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(b)(1) Whenever the Administrator conducts a test on a test engine, the results of that test shall comprise the official data for the engine at that prescribed test point.

(2) Whenever the Administrator does not conduct a test on a test engine at a test point, the manufacturer's test data will be accepted as the official data for that test point: *Provided*, That if the Administrator makes a determination based on testing under paragraph (a) of this section, that there is a lack of cor-

relation between the manufacturer's test

gines of the same engine-system com-

engine-system combination as engines

notification to the Administrator for a maximum of 20 days, unless the Admin-

(b) The provisions of this section shall not prevent a manufacturer from also

§ 85.774–4, a copy of the maintenance instructions which the manufacturer pro-

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relation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer.

(3) If the Administrator determines that the test data developed under paragraph (a) of this section would cause an engine to fail due to excessive 125-hour emissions or excessive deterioration, then the following procedure shall be observed:

(i) The manufacturer may request a retest. Before the retest, the engine may be adjusted to manufacturer's specifications, and parts may be replaced in accordance with § 85.774–6. All work on the engine shall be done at such location and under such conditions at the Administrator may prescribe.

(ii) The engine will be retested by the Administrator and the results of this test shall comprise the official data for that prescribed test point.

(4) If sufficient durability data is not available, at the time of any emission test conducted under paragraph (a) of this section, to enable the Administrator to determine whether a test engine would fail, the manufacturer may request a retest in accordance with the provisions of subparagraph (3) (i) and (ii) of this paragraph. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the engine from the test premises.

§ 85.774–30 Certification.

(a) (1) If, after a review of the test reports and data submitted by the manufacturer and data derived from any additional testing conducted pursuant to § 85.774–29, the Administrator determines that a test engine(s) conforms to the regulations of this subpart, he will issue a certificate of conformity with respect to such engine(s).

(2) Such certificate will be issued for such period not more than 1 year as the Administrator may determine and upon such terms as he may deem necessary to assure that any new motor vehicle engine covered by the certificate will meet the requirements of these regulations relating to durability and performance.

(b) (1) The Administrator will determine whether an engine covered by the application complies with applicable standards by observing the following relationships:

(i) A test engine selected under § 85.774–5(b) (2) and (4), shall represent all engines in the same engine family of the same engine displacement-exhaust emission control system combination.

(ii) A test engine selected under § 85.774–5(b)(3), shall represent all engines in the same engine family of the same engine displacement-exhaust emission control system-transmission type-fuel system combination.

(iii) A test engine selected under § 85.774–5(c)(1), shall represent all engines of the same engine-system combination.

(2) The Administrator will proceed as in paragraph (a) of this section with respect to the engines belonging to an engine family all of which comply with applicable standards.

(3) If, after a review of the test reports and data submitted by the manufacturer and data derived from any additional testing conducted pursuant to § 85.774–29, the Administrator determines that one or more test engines of the certification test fleet do not meet applicable standards, he will notify the manufacturer in writing, setting forth the basis for his determination. Within 30 days following receipt of the notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determination, and data in support of such objections. If, after a review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 85.705 with respect to such issue.

(4) The manufacturer may, at his option, proceed with any of the following alternatives with respect to any engine family represented by a test engine(s) determined not in compliance with applicable standards:

(i) Request a hearing under § 85.705, or

(ii) Delete from the application for certification the engines represented by the failing test engine. (Engines so deleted may be included in a later request for certification under § 85.774–32.) The Administrator will then select in place of each failing engine an alternate engine chosen in accordance with selection criteria employed in selecting the engine that failed, or

(iii) Modify the test engine and demonstrate by testing that it meets applicable standards. Another engine which is in all material respects the same as the first engine, as modified, shall then be operated and tested in accordance with applicable test procedures.

(5) If the manufacturer does not request a hearing or present the required data under subparagraph (4) of this paragraph, the Administrator will deny certification.

§ 85.774–31 Separate certification.

Where possible a manufacturer should include in a single application for certification all engines for which certification is required. A manufacturer may, however, choose to apply separately for certification of part of his product line. The selection of test engines and the computation of test results will be determined separately for each application.

§ 85.774–32 Addition of an engine after certification.

(a) If a manufacturer proposes to add to his product line an engine of the same engine-system combination as engines previously certified but which was not described in the application for certification when the test engine(s) representing other engines of that combination was certified, he shall notify the Administrator. Such notification shall be in advance of the addition unless the manufacturer elects to follow the procedure described in § 85.774–34. This notification shall include a full description of the engine to be added.

(b) The Administrator may require the manufacturer to perform such tests on the engine(s) representing the engine to be added which would have been required if the engine had been included in the original application for certification.

(c) If, after a review of the test reports and data submitted by the manufacturer, and data derived from any testing conducted under § 85.774–29, the Administrator determines that the test engine(s) meets all applicable standards, the appropriate certificate will be amended accordingly. If the Administrator determines that the test engine(s) does not meet applicable standards, he will proceed under § 85.774–30(b).

§ 85.774–33 Changes to an engine covered by certification.

(a) The manufacturer shall notify the Administrator of any change in production engines in respect to any of the parameters listed in § 85.073–5(a)(3), giving a full description of the change. Such notification shall be in advance of the change unless the manufacturer elects to follow the procedure described in § 85.774–34.

(b) Based upon the description of the change, and data derived from such testing as the Administrator may require or conduct, the Administrator will determine whether the engine, as modified, would still be covered by the certificate of conformity then in effect.

(c) If the Administrator determines that the outstanding certificate would cover the modified engines, he will notify the manufacturer in writing. Except as provided in § 85.774–34, the change may not be put into effect prior to the manufacturer's receiving this notification. If the Administrator determines that the modified engines would not be covered by the certificate then in effect, then the modified engines engines shall be treated as additions to the product line subject to § 85.774–32.

§ 85.774–34 Alternative procedure for notification of additions and changes.

(a) A manufacturer may, in lieu of notifying the Administrator in advance of an addition of an engine under § 85.774–32 or a change in an engine under § 85.774–33, notify him concurrently with the making of the change if the manufacturer believes the addition or change will not require any testing under the appropriate section. Upon notification to the Administrator, the manufacturer may proceed to put the addition or change into effect.

(b) The manufacturer may continue to produce engines as described in the

notification to the Administrator for a maximum of 30 days, unless the Administrator grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Administrator determines, based upon a description of the addition or change, that no test data will be required, he will notify the manufacturer in writing of the acceptability of the addition or change. If the Administrator determines that test data will be required, he will notify the manufacturer to rescind the change within 5 days of receipt of the notification. The Administrator will then proceed as in § 85.774–32 (b) and (c), or § 85.774–33 (b) and (c) as appropriate.

(d) Election to produce engines under this section will be deemed to be a consent to recall all engines which the Administrator determines under § 85.774–32(c) do not meet applicable standards, and to cause such nonconformity to be remedied at no expense to the owner.

§ 85.774–35 Labeling.

(a) (1) The manufacturer of any heavy duty gasoline-fueled engine subject to the standards prescribed in § 85.744–1 shall, at the time of manufacture, affix a permanent, legible label, of the type and in the manner described below, containing the information hereinafter provided, to all production models of such engines available for sale to the public and covered by a certificate of conformity under § 85.774–30(a).

(2) The plastic or metal label shall be welded, bonded, or otherwise permanently attached to the engine in a position in which it will be readily visible after installation in the vehicle.

(3) The label shall be attached to an engine part necessary for normal engine operation and not normally requiring replacement during engine life.

(4) The label shall contain the following information lettered in the English language in block letters and numerals which shall be of a color that contrasts with the background of the label:

(i) The label heading: Engine Exhaust Emission Control Information;

(ii) Full corporate name and trademark of manufacturer;

(iii) Engine displacement (in cubic inches) and engine family identification;

(iv) Date of engine manufacture (month and year);

(v) Engine tuneup specifications and adjustments as recommended by the manufacturer, including idle speed, ignition timing, and the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop) and valve lash. These specifications should indicate the proper transmission position during tuneup and what accessories (e.g., air conditioner), if any, should be in operation;

(vi) The statement: "This Engine Conforms to U.S. Environmental Protection Agency Regulations Applicable to 1974 Model Year Gasoline-Fueled Heavy Duty Engines."

(b) The provisions of this section shall not prevent a manufacturer from also reciting on the label that such engine conforms to any applicable State emission standards for new motor vehicle engines or any other information that such manufacturer deems necessary for, or useful to, the proper operation and satisfactory maintenance of the vehicle or engine.

(c) The label may be made up of one or more pieces provided that all pieces are permanently attached to the same engine part.

§ 85.774–36 [Reserved]

§ 85.774–37 Production engines.

(a) Any manufacturer obtaining certification under this subpart shall supply to the Administrator, upon his request, a reasonable number of production engines selected by the Administrator which are representative of the engines, emission control systems, fuel systems, and transmissions offered and typical of production models available for sale under the certificate. These engines shall be supplied for testing at such time and place and for such reasonable periods as the Administrator may require. Engines supplied under this paragraph may be required to be mounted in chassis and appropriately equipped for operation on a chassis dynamometer.

(b) Any manufacturer obtaining certification under this subpart shall notify the Administrator, on a quarterly basis, of the number of engines of each engine family - engine displacement - exhaust emission control system-fuel system combination produced for sale in the United States during the preceding quarter.

§ 85.774–38 Maintenance instructions.

(a) The manufacturer shall furnish or cause to be furnished to the ultimate purchaser of each new motor vehicle engine subject to the standards prescribed in § 85.774–1, written instructions for the maintenance and use of the engine by the ultimate purchaser as may be reasonable and necessary to assure the proper functioning of emission control systems.

(1) Such instructions shall be provided for those engine components listed in Appendix VI to this part (and for any other components) to the extent that maintenance of these components is necessary to assure the proper functioning of emission control systems.

(2) Such instructions shall be in clear, and to the extent practicable, nontechnical language.

(b) The maintenance instructions required by this section shall contain a general description of the documentation which the manufacturer will require from the ultimate purchaser or any subsequent purchaser as evidence of compliance with the instructions.

§ 85.774–39 Submission of maintenance instructions.

(a) The manufacturer shall provide to the Administrator, no later than the time of the submission required by § 85.774–4, a copy of the maintenance instructions which the manufacturer proposes to supply to the ultimate purchaser in accordance with § 85.774–38(a). The Administrator will review such instructions to determine whether they are reasonable and necessary to assure the proper functioning of the engine's emission control systems. The Administrator will notify the manufacturer of his determination whether such instructions are reasonable and necessary to assure the proper functioning of the emission control systems.

(b) Any revision to the maintenance instructions which will affect emissions shall be supplied to the Administrator at least 30 days before being supplied to the ultimate purchaser unless the Administrator consents to a lesser period of time.

Subpart I—Engine Smoke Exhaust Emission Regulations for New Diesel Heavy Duty Engines

§ 85.801 General applicability.

The provisions of this subpart are applicable to new diesel heavy duty engines beginning with the 1973 model year.

§ 85.802 Definitions.

(a) As used in this subpart, all terms not defined herein shall have the meaning given them in the Act:

(1) "Act" means Part A of title II of the Clean Air Act, 42 U.S.C. 1857 f–1 through f–7, as amended by Public Law 91–604.

(2) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(3) "Model year" means the manufacturer's annual production period (as determined by the Administrator) which includes January 1 of such calendar year: *Provided*, That if the manufacturer has no annual production period, the term "model year" shall mean the calendar year.

(4) "Gross vehicle weight" means the manufacturer's gross weight rating for the individual vehicle.

(5) "Heavy duty vehicle" means any motor vehicle either designed primarily for transportation of property and rated at more than 6,000 pounds GVW or designed primarily for transportation of persons and having a capacity of more than 12 persons.

(6) "Heavy duty engine" means any engine which the engine manufacturer could reasonably expect to be used for motive power in a heavy duty vehicle.

(7) "System" includes any motor vehicle engine modification which controls or causes the reduction of substances emitted from motor vehicle engines.

(8) "Engine family" means the basic classification unit of a manufacturer's product line used for the purpose of test fleet selection and determined in accordance with § 85.873–5(a).

(9) "Engine-system combination" means an engine family–exhaust emis-

sion control system–fuel evaporative emission control system (where appli-

§ 85.804 General standards; increase in emissions; unsafe conditions.

place fixed by the Administrator or by the Presiding Officer.

(f) (1) The Presiding Officer shall make an initial decision which shall in-

(1) To enter, at reasonable times, any premises used during the certification

(3) A description of the test equipment and fuel proposed to be used.

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sion control system-fuel evaporative emission control system (where applicable) combination.

(10) "Fuel system" means the combination of fuel tank, fuel pump, fuel lines, and carburetor, or fuel injection components, and includes all fuel system vents and fuel evaporative emission control systems.

(11) "Crankcase emissions" means airborne substances emitted to the atmosphere from any portion of the engine crankcase ventilation or lubrication systems.

(12) "Exhaust emissions" means substances emitted to the atmosphere from any opening downstream from the exhaust port of a motor vehicle engine.

(13) "Smoke" means the matter in exhaust emissions which obscures the transmission of light.

(14) "Maximum rated horsepower" means the maximum brake horsepower output of an engine as stated by the manufacturer in his sales and service literature and his application for certification under § 85.873–2.

(15) "Rated speed" means the speed at which the manufacturer specifies the maximum rated horsepower of an engine.

(16) "Maximum rated torque" means the maximum torque produced by an engine as stated by the manufacturer in his sales and service literature and his application for certification under § 85.873–2.

(17) "Opacity" means the fraction of a beam of light, expressed in percent, which fails to penetrate a plume of smoke.

(18) Zero (0) hours means that point after initial engine starting (not to exceed 1 hour of engine operation) at which adjustments are completed [definition applicable to the 1973 model year].

(19) Zero (0) hours means that point after normal assembly line operations and adjustments and before 1 additional operating hour has been accumulated [definition applicable beginning with the 1974 model year].

(20) "Useful life" means a period of use of 5 years or 100,000 miles of vehicle operation or 3,000 hours of engine operation (or an equivalent period of 1,000 hours of dynamometer operation), whichever first occurs.

(21) "Peak torque speed" means the speed at which an engine develops maximum torque.

(22) "Military engine" means any engine manufactured solely for the Department of Defense to meet military specifications.

§ 85.803 Abbreviations.

The abbreviations used in this subpart have the following meanings in both capital and lowercase:

API—American Petroleum Institute.
ASTM—American Society for Testing and Materials.
EP—End point.
F—Fahrenheit.
Hg—Mercury.
IBP—Initial boiling point.
Min.—Minimum.
°—Degrees.

§ 85.804 General standards; increase in emissions; unsafe conditions.

(a) (1) Every new motor vehicle engine manufactured for sale, sold, offered for sale, introduced, or delivered for introduction into commerce, or imported into the United States for sale or resale which is subject to any of the standards prescribed in this subpart shall be covered by a certificate of conformity issued pursuant to § 85.873–2 through § 85.873–4 and § 85.873–29 through § 85.873–34 of this subpart.

(2) No heavy duty vehicle manufacturer shall take any of the actions specified in section 203(a)(1) of the Act with respect to any diesel-powered heavy duty vehicle which uses an engine which has not been certified as meeting applicable standards. Such manufacturer shall provide to the Administrator prior to the beginning of each model year a statement signed by an authorized representative which includes the following information:

(i) A description of the vehicles which will be produced subject to this section;

(ii) Identification of the engines used in the vehicles;

(iii) Projected sales data on each vehicle-engine combination;

(iv) A statement that the engines will not be modified by the vehicle manufacturer or a detailed specification of any changes which will be made. Changes made solely for the purpose of mounting an engine in a vehicle need not be included.

(b) (1) Any system installed on or incorporated in a new motor vehicle engine to enable such vehicle to conform to standards imposed by this subpart:

(i) Shall not in its operation or function cause the emission into the ambient air of any noxious or toxic substance that would not be emitted in the operation of such engine without such system, except as specifically permitted by regulation; and

(ii) Shall not in its operation, function, or malfunction result in any unsafe condition endangering the motor vehicle, its occupants, or persons or property in close proximity to the vehicle.

(2) Every manufacturer of new motor vehicle engines subject to any of the standards imposed by this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with good engineering practice to ascertain that such test engines will meet the requirements of this section for the useful life of the engine.

§ 85.805 Hearings on certification.

(a) (1) After granting a request for a hearing under § 85.873–30, the Administrator will designate a Presiding Officer for the hearing.

(2) The General Counsel will represent the Environmental Protection Agency in any hearing under this section.

(3) If a time and place for the hearing have not been fixed by the Administrator under § 85.873–30, the hearing shall be held as soon as practicable at a time and place fixed by the Administrator or by the Presiding Officer.

(b) (1) Upon his appointment pursuant to paragraph (a) of this section, the Presiding Officer will establish a hearing file. The file shall consist of the notice issued by the Administrator under § 85.873–30, together with any accompanying material, the request for a hearing and the supporting data submitted therewith and all documents relating to the request for certification, including the application for certification and all documents submitted therewith, and correspondence and other data material to the hearing.

(2) The appeal file will be available for inspection by the applicant at the office of the Presiding Officer.

(c) An applicant may appear in person, or may be represented by counsel or by any other duly authorized representative.

(d) (1) The Presiding Officer, upon the request of any party or in his discretion, may arrange for a prehearing conference at a time and place specified by him to consider the following:

(i) Simplification of the issues;

(ii) Stipulations, admissions of fact, and the introduction of documents;

(iii) Limitation of the number of expert witnesses;

(iv) Possibility of agreement disposing of all or any of the issues in dispute;

(v) Such other matters as may aid in the disposition of the hearing, including such additional tests as may be agreed upon by the parties.

(2) The results of the conference shall be reduced to writing by the Presiding Officer and made part of the record.

(e) (1) Hearings shall be conducted by the Presiding Officer in an informal but orderly and expeditious manner. The parties may offer oral or written evidence, subject to the exclusion by the Presiding Officer of irrelevant, immaterial, and repetitious evidence.

(2) Witnesses will not be required to testify under oath. However, the Presiding Officer shall call to the attention of witnesses that their statements may be subject to the provisions of title 18 U.S.C. 1001 which imposes penalties for knowingly making false statements or representations, or using false documents in any matter within the jurisdiction of any department or agency of the United States.

(3) Any witness may be examined or cross-examined by the Presiding Officer, the parties, or their representatives.

(4) Hearings shall be reported verbatim. Copies of transcripts of proceedings may be purchased by the applicant from the reporter.

(5) All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall, upon a showing satisfactory to the Presiding Officer of their authenticity, relevancy, and materiality, be received in evidence and shall constitute a part of the record.

(6) Oral argument may be permitted in the discretion of the Presiding Officer and shall be reported as part of the record unless otherwise ordered by him.

(f) (1) The Presiding Officer shall make an initial decision which shall include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law, or discretion presented on the record. The findings, conclusions, and written decision shall be provided to the parties and made a part of the record. The initial decision shall become the decision of the Administrator without further proceedings unless there is an appeal to the Administrator or motion for review by the Administrator within 20 days of the date the initial decision was filed.

(2) On appeal from or review of the initial decision the Administrator shall have all the powers which he would have in making the initial decision including the discretion to require or allow briefs, oral argument, the taking of additional evidence, or the remanding to the Presiding Officer for additional proceedings. The decision by the Administrator shall include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law, or discretion presented on the appeal or considered in the review.

§ 85.806 Maintenance of records; submittal of information; right of entry.

(a) The manufacturer of any new motor vehicle engine subject to any of the standards prescribed in this subpart shall establish and maintain the following adequately organized and indexed records:

(1) Identification and description of all engines for which testing is required under this subpart.

(2) A description of all emission control systems which are installed on or incorporated in each engine.

(3) A description of the procedures used to test such engines.

(4) Test data on each emission data engine which will show its emissions at 0 and 125 hours.

(5) Test data on each durability engine which will show the performance of the systems installed on or incorporated in the engine during extended operation, as well as a record of all pertinent maintenance performed on the engine.

(b) The manufacturer of any new motor vehicle engine subject to any of the standards prescribed in this subpart shall submit to the Administrator at the time of issuance by the manufacturer copies of all instructions or explanations regarding the use, repair, adjustment, maintenance, or testing of such engine relevant to the control of exhaust emissions, issued by the manufacturer for use by other manufacturers, assembly plants, distributors, dealers, and ultimate purchasers: *Provided*, That any material not translated into the English language need not be submitted unless specifically requested by the Administrator.

(c) The manufacturer of any new motor vehicle engine subject to any of the standards prescribed in this subpart shall permit officers or employees duly designated by the Administrator, upon presenting appropriate credentials and a written notice to the manufacturer:

(1) To enter, at reasonable times, any premises used during the certification procedure for purposes of monitoring tests and service accumulation procedures, observing maintenance procedures, and verifying correlation or calibration of test equipment, or

(2) To inspect, at reasonable times, records, files, and papers compiled by such manufacturer in accordance with paragraph (a) of this section.

A separate notice shall be given for each such inspection, but a separate notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness.

§ 85.873 Smoke exhaust emission standards for 1973 model year engines.

(a) (1) The opacity of smoke emissions from new diesel engines subject to this subpart shall not exceed:

(i) 40 percent during the engine acceleration mode.

(ii) 20 percent during the engine lugging mode.

(2) The standards set forth in paragraph (a)(1) of this section refer to exhaust smoke emissions generated under the conditions set forth in § 85.873–9 through § 85.873–18 and measured and calculated in accordance with those procedures.

(b) [Reserved]

(c) [Reserved]

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with test procedures prescribed in § 85.873–9 through § 85.873–18, to ascertain that such test engines meet the requirements of paragraph (a) of this section. If, pursuant to § 85.873–30(a), the Administrator issues a certificate of conformity for the class or classes of motor vehicle engines represented by such test engines, any motor vehicle engine which is in all material respects of substantially the same construction as such test engines shall be deemed to be in conformity with the requirements of paragraph (a) of this section.

§ 85.873–2 Application for certification.

(a) An application for a certificate of conformity to the regulations applicable to any new motor vehicle engine shall be made to the Administrator by the manufacturer.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(1) Identification and description of the engines covered by the application and a description of their emission control systems.

(2) Projected U.S. sales data sufficient to enable the Administrator to select a test fleet representative of the engines for which certification is requested.

(3) A description of the test equipment and fuel proposed to be used.

(4) A description of the proposed service accumulation procedure for durability testing.

(5) A statement of recommended maintenance and procedures necessary to assure that the engines covered by a certificate of conformity in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(6) At the option of the manufacturer, the proposed composition of the emission data and durability data test fleet.

§ 85.873–3 Approval of procedure and equipment; test fleet selections.

Based upon the information provided in the application for certification, and any other information the Administrator may require, the Administrator will approve or disapprove in whole or in part the service accumulation procedure and equipment and fuel proposed by the manufacturer, and notify him in writing of such determination. Where any part of a proposal is disapproved, such notification will specify the reasons for disapproval. The Administrator will select a test fleet in accordance with § 85.873–5.

§ 85.873–4 Required data.

The manufacturer shall perform the tests required by the applicable test procedures, and submit to the Administrator the following information:

(a) Durability data on such engines tested in accordance with the applicable test procedures of this subpart, and in such numbers as therein specified, which will show the performance of the systems installed on or incorporated in the engine for extended operation, as well as a record of all pertinent maintenance performed on the test engines.

(b) Emission data on such engines tested in accordance with the applicable emission test procedures of this subpart and in such numbers as therein specified, which will show their emissions after 0 hours and 125 hours of operation.

(c) A description of tests performed to ascertain compliance with the general standards in § 85.873–1 and the data derived from such tests.

(d) A statement that the test engines with respect to which data are submitted have been tested in accordance with the applicable test procedures, that they meet the requirement of such tests, and that, on the basis of such tests, they conform to the requirements of the regulations in this subpart. If such statements cannot be made with respect to any engine tested, the engine shall be identified, and all pertinent test data relating thereto shall be supplied.

§ 85.873–5 Test engines.

(a) The engines covered by the application for certification will be divided into engine families based upon the criteria outlined in § 85.073–5(a).

(b) Emission data engines:

proval of the Administrator, submit data on a similar engine for which certifica-

eter for 125 hours with the dynamometer and engine adjusted so that the engine is

§ 85.873–9 Test procedures.

The procedures described in this and

the standards. The engine is then returned to the idle condition and the ac-

moved rapidly to the closed position and the preselected load required to perform

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(b) Emission data engines:

(1) Engines will be chosen to be run for emission data based upon engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(2) Engines of each engine family will be divided into groups based upon exhaust emission control system. Two engines of each engine-system combination shall be run for smoke emission data as prescribed in § 85.872–7(a). Within each combination, the engines that feature the highest fuel feed per stroke, primarily at the speed of maximum rated torque and secondarily at rated speed, will be selected. In the case where more than one engine in an engine-system combination have the highest fuel feed per stroke, the engine with the highest maximum rated torque will be selected. If there are military engines with higher fuel rates than other engines in the same engine-system combination, then two military engines with the highest fuel feed per stroke shall be also selected.

(c) Durability data engines:

(1) One engine from each engine-system combination shall be tested as prescribed in § 85.872–7(b). Within each combination, the engine which features the highest fuel feed per stroke, primarily at rated speed and secondarily at the speed of maximum rated torque, will be selected for durability testing. In the case where more than one engine in an engine-system combination have the highest fuel feed per stroke, the engine with the highest maximum rated horsepower will be selected for durability testing. If an engine-system combination includes both military and nonmilitary engines, then the nonmilitary engine with the highest maximum rated horsepower will be selected for durability testing.

(2) A manufacturer may select to operate and test additional engines to represent any engine-system combination. The additional engines must be of the same model and fuel system as the engine selected in accordance with the provisions of subparagraph (1) of this paragraph. Notice of an intent to test additional engines shall be given to the Administrator not later than 30 days following notification of the test fleet selection. Deterioration factors calculated for each engine-system combination shall be applied separately to military and nonmilitary engines within the same engine-system combination.

(d) Any manufacturer whose projected sales of new motor vehicle engines subject to this subpart for the 1973 model year is less than 200 engines may request a reduction in the number of test engines determined in accordance with the foregoing provisions of this section. The Administrator may agree to such lesser number as he determines would meet the objectives of this procedure.

(e) In lieu of testing an emission data or durability data engine selected under paragraph (b) or (c) of this section and submitting data therefor, a manufacturer may, with the prior written approval of the Administrator, submit data on a similar engine for which certification has previously been obtained.

§ 85.873–6 Maintenance.

(a) (1) Maintenance on the engines and fuel systems of durability engines may be performed only under the following provisions:

(i) One major engine servicing to manufacturer's specifications may be performed at 500 hours (±8 hours) of dynamometer operation. A major engine servicing shall be restricted to the following:

(a) Adjust low idle speed.
(b) Adjust valve lash if required.
(c) Adjust injector timing.
(d) Adjust governor.
(e) Clean and service injector tips.

(ii) Injectors may be changed if a persistent misfire is detected.

(iii) Normal engine lubrication services (engine oil change and oil filter, fuel filter, and air filter servicing and adjustment of drive belt tension and engine bolt torque, as required) will be allowed at manufacturer's recommended intervals.

(iv) Readjustment of the engine fuel rates may be performed only if there is a problem of dropping below 95 percent of maximum rated horsepower at 95 to 100 percent rated speed.

(v) Leaks in the fuel system, engine lubrication system and cooling system may be repaired.

(vi) Engine low idle speed may be adjusted at the 125-hour test point.

(vii) Any other engine or fuel system maintenance or repair will be allowed only with the advance approval of the Administrator.

(2) Allowable maintenance on emission data engines shall be limited to the adjustment of engine low idle speed at the 125-hour test point, except that other maintenance or repair may be allowed with the advance approval of the Administrator.

(b) Complete emission tests (see § 85.873–10 through § 85.873–18) shall be run before and after any engine maintenance which may reasonably be expected to affect emissions. These test data shall be supplied to the Administrator immediately after the tests, along with a complete record of all pertinent maintenance, including an engineering report of any malfunction diagnosis and the corrective action taken. In addition, all test data and maintenance reports shall be compiled and provided to the Administrator in accordance with § 85.873–4.

(c) If the Administrator determines that maintenance or repairs performed have resulted in a substantial change to the engine-system combination, the engine shall not be used as a durability data engine.

§ 85.873–7 Service accumulation and emission measurements.

Service accumulation shall be accomplished by operation of an engine on a dynamometer.

(a) Emission data engines: Each engine shall be operated on a dynamometer for 125 hours with the dynamometer and engine adjusted so that the engine is operating at 95 to 100 percent of rated speed and at least 95 percent of maximum rated horsepower. During such operation, the engine shall be run at the exhaust back pressure specified in § 85.873–12(c) and the air inlet restriction specified in § 85.873–12(d) except that the tolerances shall be ±0.5 inches of Hg and ±3 inches of water respectively. Exhaust smoke tests shall be conducted at zero and 125 hours of operation.

(b) Durability data engines: Each engine shall be operated on a dynamometer for 1,000 hours with the dynamometer and engine adjusted so that the engine is operating at 95 to 100 percent of rated speed and at least 95 percent of maximum rated horsepower. During such operation, the engine shall be run at the exhaust back pressure specified in § 85.873–12(c) and the air inlet restriction specified in § 85.873–12(d) except that the tolerance shall be ±0.5 inches of Hg and ±3 inches of water respectively. Exhaust smoke measurements shall be made at zero hours and at each 125 hours of operation. All results except the zero hour results shall be used to establish the deterioration factors (see § 85.873–19).

(c) All tests required by this subpart to be conducted after 125 hours of dynamometer operation or at any multiple of 125 hours may be conducted at any accumulated hours within 8 hours of 125 hours or the appropriate multiple of 125 hours, respectively.

(d) The results of each emission test shall be supplied to the Administrator immediately after the test. In addition all test data shall be compiled and provided to the Administrator in accordance with § 85.873–4.

(e) Whenever the manufacturer proposes to operate and test an engine which may be used for emission or durability data, he shall provide the zero hour test data to the Administrator and make the engine available for such testing under § 85.873–29 as the Administrator may require before beginning to accumulate hours on the engine. Failure to comply with this requirement shall invalidate all test data submitted for this engine.

(f) Once a manufacturer begins to operate an emission data or durability data engine, as indicated by compliance with paragraph (e) of this section, he shall continue to run the engine to 125 hours or 1,000 hours, respectively, and the data from the engine shall be used in the calculations under § 85.873–19. Discontinuation of an engine shall be allowed only with the prior written consent of the Administrator.

§ 85.873–8 Special test procedures.

The Administrator may, on the basis of a written application therefor by a manufacturer, prescribe test procedures, other than those set forth in this subpart, for any motor vehicle engine which he determines is not susceptible to satisfactory testing by the procedures set forth herein.

§ 85.873–9 Test procedures.

The procedures described in this and subsequent sections will be the test program to determine the conformity of engines with the standards set forth in § 85.873–1.

(a) The test consists of a prescribed sequence of engine operating conditions on an engine dynamometer with continuous examination of the exhaust gases. The test is applicable equally to controlled engines equipped with means for preventing, controlling, or eliminating smoke emissions and to uncontrolled engines.

(b) The test is designed to determine the opacity of smoke in exhaust emissions during those engine operating conditions which tend to promote smoke from diesel-powered vehicles.

(c) The test procedure begins with a warm engine which is then run through preloading and preconditioning operations. After an idling period, the engine is operated through acceleration and lugging modes during which smoke emission measurements are made to compare with the standards. The engine is then returned to the idle condition and the acceleration and lugging modes are repeated. Three sequences of acceleration and lugging constitute the full set of operating conditions for smoke emission measurement.

(d) All emission control systems installed on or incorporated in a new motor vehicle engine shall be functioning during all test procedures in this subpart.

§ 85.873–10 Diesel fuel specifications.

(a) The diesel fuels employed shall be clean and bright, with pour and cloud points adequate for operability. The fuels may contain nonmetallic additives as follows: cetane improver, metal deactivator, antioxidant, dehazer, antirust, pour depressant, dye, and dispersant.

(b) Fuel meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in exhaust emission testing. The grade of fuel recommended by the engine manufacturer, commercially designated as "Type 1–D" or "Type 2–D", shall be used.

Item	ASTM test method No.	Type 1-D	Type 2-D
Cetane	D 613	48–54	42–50
Distillation range	D 86		
IBP, °F		330–390	340–400
10 percent point, °F		370–430	400–460
50 percent point, °F		410–480	470–540
90 percent point, °F		460–520	550–610
EP, °F		500–560	580–660
Gravity, °API	D 287	40–44	33–37
Total sulfur, percent	D 129 or D 2622	0.05–0.20	0.2–0.5
Hydrocarbon composition	D 1319		
Aromatics, percent		8–15	27 (Min.)
Paraffins, Naphthenes, Olefins		Remainder	Remainder
Flash point, °F (Min.)	D 93	130	130
Viscosity, centistokes	D 445	1.6–2.0	2.0–3.2

(c) Fuel meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in service accumulation. The grade of fuel recommended by the engine manufacturer, commercially designated as "Type 1–D" or "Type 2–D", shall be used.

Item	ASTM test method No.	Type 1-D	Type 2-D
Cetane	D 613	48–54	42–55
Distillation range	D 86		
IBP, °F		330–390	340–410
10 percent point, °F		370–430	400–470
50 percent point, °F		410–480	470–540
90 percent point, °F		460–520	550–610
EP, °F		500–560	580–660
Gravity, °API	D 287	40–44	33–40
Total sulfur, percent	D 129 or D 2622	0.05–0.20	0.2–0.5
Flash point, °F (Min.)	D 93	120	130
Viscosity, centistokes	D 445	1.6–2.0	2.0–3.2

(d) The type fuel, including additive and other specifications, used under paragraphs (b) and (c) of this section shall be reported in accordance with § 85.873–2(b)(3).

§ 85.873–11 Dynamometer operation cycle for smoke emission tests.

(a) The following sequence of operations shall be performed during engine dynamometer testing of smoke emissions, starting with the dynamometer preloading determined and the engine preconditioned (§ 85.873–16(c)).

(1) *Idle mode.* The engine is caused to idle for 5 to 5.5 minutes at the manufacturer's recommended low idle speed. The dynamometer controls shall be set to provide minimum load by turning the load switch to the "off" position or by adjusting the controls to the minimum load position.

(2) *Acceleration mode.* (i) The engine speed shall be increased to 200±50 r.p.m. above the manufacturer's recommended low idle speed within 3 seconds.

(ii) The engine shall be accelerated at full-throttle against the inertia of the engine and dynamometer or alternately against a preselected dynamometer load such that the engine speed reaches 85 to 90 percent of rated speed in 5±1.5 seconds.

(iii) When the engine reaches the speed required in subdivision (ii) of this subparagraph, the throttle shall be moved rapidly to the closed position and the preselected load required to perform the acceleration in subdivision (iv) of this subparagraph shall be applied. The engine speed shall be reduced to the speed of maximum rated torque or 60 percent of rated speed (whichever is higher), within ±50 r.p.m. Smoke emissions during this transitional mode are not used in determining smoke emissions to compare with the standard.

(iv) The throttle shall be moved rapidly to the full-throttle position and the engine accelerated against the preselected dynamometer load such that the engine speed reaches 95 to 100 percent of rated speed in 10±2 seconds.

(3) *Lugging mode.* (i) Proceeding from the acceleration mode, the dynamometer controls shall be adjusted to permit the engine to develop maximum horsepower at rated speed. Smoke emissions during this transitional mode are not used in determining smoke emissions to compare with the standard.

(ii) Without changing the throttle position, the dynamometer controls shall be adjusted gradually to slow the engine to the speed of maximum torque or to 60 percent of rated speed, whichever is higher. This engine lugging operation shall be performed smoothly over a period of 35±5 seconds. The rate of slowing of the engine shall be linear, within ±100 r.p.m.

(4) *Engine unloading.* After completion of the lugging mode in subparagraph (3)(ii) of this paragraph, the dynamometer and engine shall be returned to the idle condition described in subparagraph (1) of this paragraph.

(b) The procedures described in paragraph (a) (1) through (4) of this section shall be repeated until the entire cycle has been run three times.

§ 85.873–12 Dynamometer and engine equipment.

The following equipment shall be used for smoke emission testing of engines on engine dynamometers.

(a) An engine dynamometer with adequate characteristics to perform the test cycle described in § 85.873–10.

(b) An engine cooling system having sufficient capacity to maintain the engine at normal operating temperatures during conduct of the prescribed engine tests.

(c) A noninsulated exhaust system extending 12±2 feet from the exhaust manifold of the engine and presenting an exhaust back pressure within ±0.2 inches Hg. of the upper limit at maximum rated horsepower, as established by the engine manufacturer in his sales and service literature for vehicle application. A conventional automotive muffler of a size and type commonly used with the engine being tested shall be employed in the exhaust system during smoke emission testing. The terminal 2 feet of the exhaust pipe shall be of circular cross section and be free of elbows and bends. The end of the pipe shall be cut off squarely. The terminal 2 feet of the exhaust pipe shall

have a diameter in accordance with the engine being tested, as specified below:

smoke emissions because of such conditions.

(b) The governor and fuel system

½-second readings during the lugging mode of each dynamometer cycle.

factor shall be zero for the purposes of this subparagraph.

(3) Every test engine of an engine

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turer may, with the prior written approval of the Administrator, install such engine in a vehicle for the purpose of conducting the tests set forth herein.

have a diameter in accordance with the engine being tested, as specified below:

Maximum rated horsepower	Exhaust pipe size
Less than 101	2"
101 to 200	3"
201 to 300	4"
301 or more	5"

(d) An engine air inlet system presenting an air inlet restriction within ±1 inch of water of the upper limit for the engine operating condition which results in maximum air flow, as established by the engine manufacturer in his sales and service literature, for the engine being tested.

§ 85.873–13 Smoke measurement system.

(a) *Schematic drawing.* The following figure (fig. 1873–1) is a schematic drawing of the optical system of the light extinction meter.

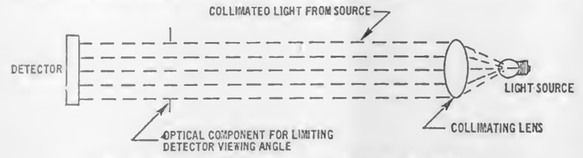

FIGURE 1873–1.—EPA smokemeter optical system (schematic).

(b) *Equipment.* The following equipment shall be used in the system:

(1) Adapter—the smokemeter optical unit may be mounted on a fixed or movable frame. The normal unrestricted shape of the exhaust plume shall not be modified by the adapter, the meter, or any ventilation system used to remove the exhaust from the test site.

(2) Smokemeter (light extinction meter)—continuous recording, full-flow light obscuration meter. It shall be positioned near the end of the exhaust pipe so that a built-in light beam traverses the exhaust smoke plume which issues from the pipe at right angles to the axis of the plume. The light source is an incandescent lamp operated at a constant voltage of not less than 15 percent of the manufacturer's specified voltage. The lamp output is collimated to a beam with a nominal diameter of 1.125 inches. The angle of divergence of the collimated beam shall be within 4° included angle. A light detector, directly opposed to the light source, measures the amount of light blocked by the smoke in the exhaust. The detector sensitivity is restricted to the visual range and comparable to that of the human eye. A collimating tube with apertures equal to the beam diameter is attached to the detector. It restricts the viewing angle of the detector to within 16° included angle. An amplified signal corresponding to the amount of light blocked is recorded continuously on a remote recorder. An air curtain across the light source and detector window assemblies may be used to minimize deposition of smoke particles on those surfaces provided that it does not measurably affect the opacity of the plume. The meter consists of two units, an optical unit, and a remote control unit. Light extinction meters employing substantially identical measurement principles and producing substantially equivalent results but which employ other electronic and optical techniques may be used only after having been approved in advance by the Administrator.

(3) Recorder—a continuous recorder, with variable chart speed over a minimal range of 0.5 to 8.0 inches per minute (or equivalent) and an automatic marker indicating 1-second intervals shall be used for continuously recording the transient conditions of exhaust gas opacity, engine r.p.m. and torque. The recorder scale for opacity shall be linear and calibrated to read from 0 to 100 percent opacity full scale. The opacity trace shall have a resolution within 1 percent opacity. The recorder scale for engine r.p.m. and the recorder scale for observed engine torque shall be linear and shall have full scale calibration such as to facilitate chart reading. The r.p.m. trace shall have a resolution within 30 r.p.m. The torque trace shall have a resolution within 10 lb.-ft. Any means other than strip chart recorder may be used provided it produces a permanent visual data record of quality equal to or better than that described above.

(4) The recorder used with the smokemeter shall be capable of full-scale deflection in 0.5 second or less. The smokemeter-recorder combination may be damped so that signals with a frequency higher than 10 cycles per second are attenuated. A separate low-pass electronic filter with the following performance characteristics may be installed between the smokemeter and the recorder to achieve the high-frequency attenuation.

(i) 3 decibel point—10 cycles per second.

(ii) Insertion loss—zero ±0.5 decibels.

(iii) Selectivity—12 decibels per octave above 10 cycles per second.

(iv) Attenuation—27 decibels down at 40 cycles per second minimum.

(c) *Assembling equipment.* (1) The optical unit of the smokemeter shall be mounted radially to the exhaust pipe so that the measurement will be made at right angles to the axis of the exhaust plume. The distance from the optical centerline to the exhaust pipe outlet shall be 1.0 to 1.5 pipe diameters but never less than 4 inches. The full flow of the exhaust stream shall be centered between the source and detector apertures (or windows and lenses) and on the axis of the light beam.

(2) Power shall be supplied to the control unit of the smokemeter in time (at least 15 minutes prior to testing) to allow for stabilization.

§ 85.873–14 Information to be recorded.

The following information shall be recorded with respect to each test:

(a) Test number.

(b) Date and time of day.

(c) Instrument operator.

(d) Engine operator.

(e) Engine Identification numbers—Date of manufacture—Number of hours of operation accumulated on engine—Engine Family—Exhaust pipe diameter—Fuel Injector type—Maximum measured fuel rate at maximum measured torque and horsepower—Air aspiration system—Low idle r.p.m.—Maximum governed r.p.m.—Maximum measured horsepower at r.p.m.—Maximum measured torque at r.p.m.—Exhaust system back pressure—Air inlet restriction.

(f) Smokemeter: Number—Zero control setting—Calibration control setting—Gain.

(g) Recorder chart: Identify zero traces—Calibration traces—Idle traces—Acceleration and lug-down test traces—Start and finish of each test.

(h) Ambient temperature in dynamometer testing room.

(i) Engine intake air temperature and humidity.

(j) Barometric pressure.

(k) Observed engine torque.

§ 85.873–15 Instrument checks.

(a) The smokemeter shall be checked according to the following procedure prior to each test:

(1) The optical surfaces of the optical section shall be checked to verify that they are clean and free of foreign material and fingerprints.

(2) The zero control shall be adjusted under conditions of "no smoke" to give a recorder trace of zero.

(3) Calibrated neutral density filters having approximately 20 percent and 40 percent opacity shall be employed to check the linearity of the instrument. The filter(s) shall be inserted in the light path perpendicular to the axis of the beam and adjacent to the opening from which the beam of light from the light source emanates, and the recorder response shall be noted. The nominal opacity value of the filter will be confirmed by the Administrator. Deviations in excess of 1 percent of the nominal opacity shall be corrected.

(b) The instruments for measuring and recording engine r.p.m., engine torque, air inlet restrictions, exhaust system back pressure, etc., which are used in the tests prescribed herein shall be calibrated from time to time in accordance with good technical practice.

§ 85.873–16 Test run.

(a) The temperature of the air supplied to the engine shall be between 68° F. and 86° F. The observed barometric pressure shall be between 28.5 inches and 31 inches Hg. Higher air temperature or lower barometric pressure may be used, if desired, but no allowance will be made for possible increased

smoke emissions because of such conditions.

(b) The governor and fuel system shall have been adjusted to provide engine performance at the levels specified by the engine manufacturer for maximum rated horsepower and maximum rated torque. These specifications shall be reported in accordance with § 85.873–2(b)(3).

(c) The following steps shall be taken for each test:

(1) Start cooling system.

(2) Starting with a warmed engine, determine by experimentation the dynamometer inertia and dynamometer load required to perform the acceleration in the dynamometer cycle for smoke emission tests (§ 85.873–11(a)(2)). In a manner appropriate for the dynamometer and controls being used, arrange to conduct the acceleration mode.

(3) Install smokemeter optical unit and connect it to the recorder. Connect the engine r.p.m. and torque sensing devices to the recorder.

(4) Turn on purge air to the optical unit of the smokemeter, if purge air is used.

(5) Check and record zero and span settings of the smokemeter recorder at a chart speed of approximately 1 inch per minute. (The optical unit shall be retracted from its position about the exhaust stream if the engine is left running.)

(6) Precondition the engine by operating it for 10 minutes at maximum rated horsepower.

(7) Proceed with the sequence of smoke emission measurements on the engine dynamometer as prescribed in § 85.873–11.

(8) During the test sequence of § 85.873–11, continuously record smoke measurements, engine r.p.m. and torque at a chart speed of approximately 1 inch per minute minimum during the idle mode and transitional modes and 8 inches per minute minimum during the acceleration and lugging modes.

(9) Turn off engine.

(10) Check zero and reset if necessary and check span of the smokemeter recorder by inserting neutral density filters. If either zero or span drift is in excess of 2 percent opacity, the test results shall be invalidated.

§ 85.873–17 Chart reading.

(a) The following procedures shall be employed in reading the smokemeter recorder chart.

(1) Locate the acceleration mode (§ 85.873–11(a)(2)) and the lugging mode (§ 85.873–11(a)(3)) on the chart. Divide each mode into ½-second intervals beginning at the start of each mode. Determine the average smoke reading during each ½-second interval except those recorded during the transitional portions of the acceleration mode (§ 85.873–11(a)(2)(iii)) and the lugging mode (§ 85.873–11(a)(3)(i)).

(2) Locate and record the 15 highest ½-second readings during the acceleration mode of each dynamometer cycle.

(3) Locate and record the five highest ½-second readings during the lugging mode of each dynamometer cycle.

§ 85.873–18 Calculations.

(a) Average the 45 readings in § 85.873–17(a)(2) and designate the value as "a."

(b) Average the 15 readings in § 85.873–17(a)(3) and designate the value as "b."

§§ 85.873–19—85.873–27 [Reserved]

§ 85.873–28 Compliance with emission standards.

(a) The emission standards in § 85.873–1 apply to the emissions of engines for their useful life.

(b) Since emission control efficiency decreases with the accumulation of hours on the engine, the emission level of an engine which has accumulated 1,000 hours of dynamometer operation will be used as the basis for determining compliance with the standards.

(c) The procedure for determining compliance with exhaust smoke emission standards in heavy duty diesel engines is as follows:

(1) Emission deterioration factors for the acceleration mode (designated as "A") and the lugging mode (designated as "B") shall be established separately for each engine-system combination.

(i) The applicable results to be used in determining the deterioration factors for each combination shall be:

(a) All emission data from the tests required under § 85.873–7(b), except the zero hour tests. This shall include the official test results, as determined in § 85.873–29, for all tests conducted on all durability engines of the combination selected under § 85.873–5(c) (including all engines elected to be operated by the manufacturer under § 85.873–5(c)(2)).

(b) All emission data from the tests conducted before and after the maintenance provided in § 85.873–6(a)(1)(i).

(ii) All applicable results shall be plotted as a function of the hours on the system, rounded to the nearest hour, and the best fit straight line, fitted by the method of least squares, shall be drawn through these data points. The interpolated 125- and 1,000-hour points on this line must be within the standard provided in § 85.873–1 or the data shall not be used in calculation of a deterioration factor.

(iii) The deterioration factors will be calculated as follows:

A—Percent opacity "a," interpolated to 1,000 hours, minus percent opacity "a," interpolated to 125 hours.

B—Percent opacity "b," interpolated to 1,000 hours, minus percent opacity "b," interpolated to 125 hours.

(2) The "percent opacity" values to compare with the standards shall be the opacity values "a" and "b" for each emission data engine within an engine-system combination to which are added the respective factors "A" and "B" of subparagraph (1) of this paragraph for that engine-system combination: *Provided*, That if a deterioration factor as computed in subparagraph (1) of this paragraph is less than zero, that deterioration factor shall be zero for the purposes of this subparagraph.

(3) Every test engine of an engine family must comply with all applicable standards, as determined in subparagraph (2) of this paragraph, before any engine in that family will be certified.

§ 85.873–29 Testing by the Administrator.

(a) The Administrator may require that any one or more of the test engines be submitted to him, at such place or places as he may designate, for the purpose of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(b) (1) Whenever the Administrator conducts a test on a test engine, the results of that test shall comprise the official data for the engine at that prescribed test point.

(2) Whenever the Administrator does not conduct a test on a test engine at a test point, the manufacturer's test data will be accepted as the official data for that test point: *Provided*, That if the Administrator makes a determination based on testing under paragraph (a) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer.

(3) If the Administrator determines that the test data developed under paragraph (a) of this section would cause an engine to fail due to excessive 125-hour emissions or excessive deterioration, then the following procedure shall be observed:

(i) The manufacturer may request a retest. Before the retest, the engine may be adjusted to manufacturer's specifications, and parts may be replaced in accordance with § 85.873–6. All work on the engine shall be done at such location and under such conditions as the Administrator may prescribe.

(ii) The engine will be retested by the Administrator and the results of this test shall comprise the official data for that prescribed test point.

(4) If sufficient durability data is not available, at the time of any emission test conducted under paragraph (a) of this section, to enable the Administrator to determine whether a test engine would fail, the manufacturer may request a retest in accordance with the provisions of subparagraph (3) (i) and (ii) of this paragraph. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the engine from the test premises.

§ 85.873–30 Certification.

each failing engine an alternate engine chosen in accordance with selection

would still be covered by the certificate of conformity then in effect.

regulations pertaining to exhaust smoke emission.

§ 85.873–39 Submission of maintenance instructions.

test fleet representative of the engines for which certification is requested.

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§ 85.873–30 Certification.

(a) (1) If, after a review of the test reports and data submitted by the manufacturer and data derived from any additional testing conducted pursuant to § 85.873–29, the Administrator determines that a test engine(s) conforms to the regulations of this subpart, he will issue a certificate of conformity with respect to such engine(s).

(2) Such certificate will be issued for such period not more than 1 year as the Administrator may determine and upon such terms as he may deem necessary to assure that any new motor vehicle engine covered by the certificate will meet the requirements of these regulations relating to durability and performance.

(b) (1) The Administrator will determine whether an engine covered by the application complies with applicable standards by observing the following relationships:

(i) A test engine selected under § 85.873–5(b) (2) or (4) shall represent all engines in the same engine family of the same engine displacement-exhaust emission control system combination.

(ii) [Reserved]

(iii) A test engine selected under § 85.873–5(c) (1) shall represent all engines of the same engine-system combination.

(2) The Administrator will proceed as in paragraph (a) of this section with respect to the engines belonging to an engine family all of which comply with applicable standards.

(3) If, after a review of the test reports and data submitted by the manufacturer and data derived from any additional testing conducted pursuant to § 85.873–29, the Administrator determines that one or more test engines of the certification test fleet do not meet applicable standards, he will notify the manufacturer in writing, setting forth the basis for his determination. Within 30 days following receipt of the notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determination and data in support of such objections. If, after a review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 85.805 with respect to such issue.

(4) The manufacturer may, at his option, proceed with any of the following alternatives with respect to any engine family represented by a test engine(s) determined not in compliance with applicable standards:

(i) Request a hearing under § 85.805, or

(ii) Delete from the application for certification, the engines represented by the failing test engine. (Engines so deleted may be included in a later request for certification under § 85.873–32.) The Administrator will then select in place of each failing engine an alternate engine chosen in accordance with selection criteria employed in selecting the engine that failed, or

(iii) Modify the test engine and demonstrate by testing that it meets applicable standards. Another engine which is in all material respects the same as the first engine, as modified, shall then be operated and tested in accordance with applicable test procedures.

(5) If the manufacturer does not request a hearing or present the required data under subparagraph (4) of this paragraph, the Administrator will deny certification.

§ 85.873–31 Separate certification.

Where possible a manufacturer should include in a single application for certification all engines for which certification is required. A manufacturer may, however, choose to apply separately for certification of part of his product line. The selection of test engines and the computation of test results will be determined separately for each application.

§ 85.873–32 Addition of an engine after certification.

(a) If a manufacturer proposes to add to his product line an engine of the same engine-system combination as engines previously certified but which was not described in the application for certification when the test engine(s) representing other engines of that combination was certified, he shall notify the Administrator. Such notification shall be in advance of the addition unless the manufacturer elects to follow the procedure described in § 85.873–34. This notification shall include a full description of the engine to be added.

(b) The Administrator may require the manufacturer to perform such tests on the test engine(s) representing the engine to be added which would have been required if the engine had been included in the original application for certification.

(c) If, after a review of the test reports and data submitted by the manufacturer, and data derived from any testing conduted under § 85.873–29, the Administrator determines that the test engine(s) meets all applicable standards, the appropriate certificate will be amended accordingly. If the Administrator determines that the test engine(s) does not meet applicable standards, he will proceed under § 85.873–30(b).

§ 85.873–33 Changes to an engine covered by certification.

(a) The manufacturer shall notify the Administrator of any change in production engines in respect to any of the parameters listed in § 85.073–5(a) (3), giving a full description of the change. Such notification shall be in advance of the change unless the manufacturer elects to follow the procedure described in § 85.873–34.

(b) Based upon the description of the change, and data derived from such testing as the Administrator may require or conduct, the Administrator will determine whether the engine, as modified, would still be covered by the certificate of conformity then in effect.

(c) If the Administrator determines that the outstanding certificate would cover the modified engines, he will notify the manufacturer in writing. Except as provided in § 85.873–34, the change may not be put into effect prior to the manufacturer's receiving this notification. If the Administrator determines that the modified engines would not be covered by the certificate then in effect, then the modified engines shall be treated as additions to the product line subject to § 85.873–32.

§ 85.873–34 Alternative procedure for notification of additions and changes.

(a) A manufacturer may, in lieu of notifying the Administrator in advance of an addition of an engine under § 85.873–32 or a change in an engine under § 85.873–33, notify him concurrently with the making of the change if the manufacturer believes the addition or change will not require any testing under the appropriate section. Upon notification to the Administrator, the manufacturer may proceed to put the addition or change into effect.

(b) The manufacturer may continue to produce engines as described in the notification to the Administrator for a maximum of 30 days, unless the Administrator grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Administrator determines, based upon a description of the addition or change, that no test data will be required, he will notify the manufacturer in writing of the acceptability of the addition or change. If the Administrator determines that test data will be required, he will notify the manufacturer to rescind the change within 5 days of receipt of the notification. The Administrator will then proceed as in § 85.873–32(b) and (c), or § 85.873–33(b) and (c), as appropriate.

(d) Election to produce engines under this section will be deemed to be a consent to recall all engines which the Administrator determines under § 85.873–32 (c) do not meet applicable standards, and to cause such nonconformity to be remedied at no expense to the owner.

§ 85.873–35 Labeling.

(a) The manufacturer of any heavy duty diesel engine subject to the standard prescribed in § 85.873–1 shall, at the time of manufacture, affix a permanent, legible plastic or metal label containing the information hereinafter provided to all production models of such engines available for sale to the public, and covered by a certificate of conformity under § 85.873–30(a). The label shall be affixed at such a location that it will be readily accessible for inspection after the engine is installed in a vehicle and shall read as follows:

ENGINE SMOKE EMISSION CERTIFICATION

This engine is, in all material respects, of substantially the same construction as test engines certified by the U.S. Environmental Protection Agency as conforming to Federal

regulations pertaining to exhaust smoke emission.

Engine family identification and model ----------

Date of manufacture ---------- (Month and year)

Name of manufacturer ----------

(The information applicable to each engine is to be inserted on the appropriate line.)

(b) The provisions of this section shall not prevent a manufacturer from also reciting on the label that such engine conforms to any applicable State emission standards for new motor vehicle engines or any other information that such manufacturer deems necessary for, or useful to, the proper operation and satisfactory maintenance of the engine.

§ 85.873–36 [Reserved]

§ 85.873–37 Production engines.

(a) Any manufacturer obtaining certification under this subpart shall supply to the Administrator, upon his request, a reasonable number of production engines selected by the Administrator which are representative of the engines, emission control systems, fuel systems, and transmissions offered and typical of production models available for sale under the certificate. These engines shall be supplied for testing at such time and place and for such reasonable periods as the Administrator may require. Engines supplied under this paragraph may be required to be mounted in chassis and appropriately equipped for operation on a chassis dynamometer.

(b) Any manufacturer obtaining certification under this subpart shall notify the Administrator, on a quarterly basis, of the number of engines of each engine family-engine displacement-exhaust emission control system-fuel system combination produced for sale in the United States during the preceding quarter.

§ 85.873–38 Maintenance instructions.

(a) The manufacturer shall furnish or cause to be furnished to the ultimate purchaser of each new engine subject to the standard prescribed in § 85.873–1, written instructions for the maintenance and use of the engine by the ultimate purchaser as may be reasonable and necessary to assure the proper functioning of emission control systems.

(1) Such instructions shall be provided for those engine components listed in Appendix VI to this part (and for any other components) to the extent that maintenance of these components is necessary to assure the proper functioning of emission control systems.

(2) Such instructions shall be in clear, and to the extent practicable, nontechnical language.

(b) The maintenance instructions required by this section shall contain a general description of the documentation which the manufacturer will require from the ultimate purchaser or any subsequent purchaser as evidence of compliance with the instructions.

§ 85.873–39 Submission of maintenance instructions.

(a) The manufacturer shall provide to the Administrator, no later than the time of the submission required by § 85.873–4, a copy of the maintenance instructions which the manufacturer proposes to supply to the ultimate purchaser in accordance with § 85.873–38(a). The Administrator will review such instructions to determine whether they are reasonable and necessary to assure the proper functioning of the engine's emission control systems. The Administrator will notify the manufacturer of his determination whether such instructions are reasonable and necessary to assure the proper functioning of the emission control systems.

(b) Any revision to the maintenance instructions which will affect emissions shall be supplied to the Administrator at least 30 days before being supplied to the ultimate purchaser unless the Administrator consents to a lesser period of time.

§ 85.874–1 Smoke exhaust emission standards for 1974 model year engines.

(a) (1) The opacity of smoke emissions from new diesel engines subject to this subpart shall not exceed:

(i) 20 percent during the engine acceleration mode.

(ii) 15 percent during the engine lugging mode.

(iii) 50 percent during the peaks in either mode.

(2) The standards set forth in paragraph (a)(1) of this section refer to exhaust smoke emissions generated under the conditions set forth in § 85.874–9 through § 85.874–18 and measured and calculated in accordance with those procedures.

(b) [Reserved]

(c) [Reserved]

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with test procedures prescribed in § 85.874–9 through § 85.874–18, to ascertain that such test engines meet the requirements of paragraph (a) of this section.

§ 85.874–2 Application for certification.

(a) An application for a certificate of conformity to the regulations applicable to any new motor vehicle engine shall be made to the Administrator by the manufacturer.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(1) Identification and description of the engines covered by the application and a description of their emission control systems.

(2) Projected U.S. sales data sufficient to enable the Administrator to select a test fleet representative of the engines for which certification is requested.

(3) A description of the test equipment and fuel proposed to be used.

(4) A description of the proposed service accumulation procedure for durability testing.

(5) A statement of recommended maintenance and procedures necessary to assure that the engines covered by a certificate of conformity in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(6) At the option of the manufacturer, the proposed composition of the emission data and durability data test fleet.

§ 85.874–3 Approval of procedure and equipment; test fleet selections.

Based upon the information provided in the application for certification, and any other information the Administrator may require, the Administrator will approve or disapprove in whole or in part the service accumulation procedure and equipment and fuel proposed by the manufacturer, and notify him in writing of such determination. Where any part of a proposal is disapproved, such notification will specify the reasons for disapproval. The Administrator will select a test fleet in accordance with § 85.874–5.

§ 85.874–4 Required data.

The manufacturer shall perform the tests required by the applicable test procedures, and submit to the Administrator the following information:

(a) Durability data on such engines tested in accordance with the applicable test procedures of this subpart, and in such numbers as therein specified, which will show the performance of the systems installed on or incorporated in the engine for extended operation, as well as a record of all pertinent maintenance performed on the test engines.

(b) Emission data on such engines tested in accordance with the applicable emission test procedures of this subpart and in such numbers as therein specified, which will show their emissions after 0 hours and 125 hours of operation.

(c) A description of tests performed to ascertain compliance with the general standards in § 85.874–1 and the data derived from such tests.

(d) A statement that the test engines with respect to which data are submitted have been tested in accordance with the applicable test procedures, that they meet the requirement of such tests, and that, on the basis of such tests, they conform to the requirements of the regulations in this subpart. If such statements cannot be made with respect to any engine tested, the engine shall be identified, and all pertinent test data relating thereto shall be supplied.

§ 85.874–5 Test engines.

(a) The engines covered by the application for certification will be divided

into engine families based upon the

proval of the Administrator, submit data

(c) If the Administrator determines

(g) Once a manufacturer begins to operate an emission data or durability

preloading and preconditioning operations. After an idling period, the engine is operated through acceleration and lug-

§ 85.874–10 Diesel fuel specifications.

(a) The diesel fuels employed shall be

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into engine families based upon the criteria outlined in § 85.073–5(a).

(b) Emission data engines:

(1) Engines will be chosen to be run for emission data based upon engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(2) Engines of each engine family will be divided into groups based upon exhaust emission control system. Two engines of each engine-system combination shall be run for smoke emission data as prescribed in § 85.874–7(a). Within each combination, the engines that feature the highest fuel feed per stroke, primarily at the speed of maximum rated torque and secondarily at rated speed, will be selected. In the case where more than one engine in an engine-system combination have the highest fuel feed per stroke, the engine with the highest maximum rated torque will be selected. If there are military engines with higher fuel rates than other engines in the same engine system combination, then two military engines with the highest fuel feed per stroke shall be also selected.

(c) Durability data engines:

(1) One engine from each engine-system combination shall be tested as prescribed in § 85.874–7(b). Within each combination, the engine which features the highest fuel feed per stroke, primarily at rated speed and secondarily at the speed of maximum rated torque, will be selected for durability testing. In the case where more than one engine in an engine-system combination has the highest fuel feed per stroke, the engine with the highest maximum rated horsepower will be selected for durability testing. If an engine system combination includes both military and nonmilitary engines, then the nonmilitary engine with the highest maximum rated horsepower will be selected for durability testing.

(2) A manufacturer may elect to operate and test additional engines to represent any engine-system combination. The additional engines must be of the same model and fuel system as the engine selected in accordance with the provisions of subparagraph (1) of this paragraph. Notice of an intent to test additional engines shall be given to the Administrator not later than 30 days following notification of the test fleet selection. Deterioration factors calculated for each engine-system combination shall be applied separately to military and nonmilitary engines within the same engine system combination.

(d) Any manufacturer whose projected sales of new motor vehicle engines subject to this subpart for the 1974 model year is less than 200 engines may request a reduction in the number of test engines determined in accordance with the foregoing provisions of this section. The Administrator may agree to such lesser number as he determines would meet the objectives of this procedure.

(e) In lieu of testing an emission data or durability data engine selected under paragraph (b) or (c) of this section and submitting data therefor, a manufacturer may, with the prior written approval of the Administrator, submit data on a similar engine for which certification has previously been obtained.

(f) For purposes of testing under § 85.874–7(g), the Administrator may require additional emission data engines and durability data engines identical in all material respects to engines selected in accordance with paragraphs (b) and (c) of this section: *Provided*, That the number of engines selected shall not increase the size of either the emission data fleet or the durability data fleet by more than 20 percent or one engine, whichever is greater.

§ 85.874–6 Maintenance.

(a) (1) Maintenance on the engines and fuel systems of durability engines may be performed only under the following provisions:

(i) One major engine servicing to manufacturer's specifications may be performed at 500 hours (±8 hours) of dynamometer operation. A major engine servicing shall be restricted to the following:

(*a*) Adjust low idle speed.
(*b*) Adjust valve lash if required.
(*c*) Adjust injector timing.
(*d*) Adjust governor.
(*e*) Clean and service injector tips.

(ii) Injectors may be changed if a persistent misfire is detected.

(iii) Normal engine lubrication services (engine oil change and oil filter, fuel filter, and air filter servicing and adjustment of drive belt tension and engine bolt torque, as required) will be allowed at manufacturer's recommended intervals.

(iv) Readjustment of the engine fuel rates may be performed only if there is a problem of dropping below 95 percent of maximum rated horsepower at 95–100 percent rated speed.

(v) Leaks in the fuel system, engine lubrication system and cooling system may be repaired.

(vi) Engine low-idle speed may be adjusted at the 125-hour test point.

(vii) Any other engine or fuel system maintenance or repair will be allowed only with the advance approval of the Administrator.

(2) Allowable maintenance on emission data engines shall be limited to the adjustment of engine low idle speed at the 125-hour test point, except that other maintenance or repair may be allowed with the advance approval of the Administrator.

(b) Complete emission tests (see §§ 85.874–10 through 85.874–18) shall be run before and after any engine maintenance which may reasonably be expected to affect emissions. These test data shall be supplied to the Administrator immediately after the tests, along with a complete record of all pertinent maintenance, including an engineering report of any malfunction diagnosis and the corrective action taken. In addition, all test data and maintenance reports shall be compiled and provided to the Administrator in accordance with § 85.874–4.

(c) If the Administrator determines that maintenance or repairs performed have resulted in a substantial change to the engine-system combination, the engine shall not be used as a durability data engine.

§ 85.874–7 Service accumulation and emission measurements.

Service accumulation shall be accomplished by operation of an engine on a dynamometer.

(a) Emission data engines: Each engine shall be operated on a dynamometer for 125 hours with the dynamometer and engine adjusted so that the engine is operating at 95–100 percent of rated speed and at least 95 percent of maximum rated horsepower. During such operation, the engine shall be run at the exhaust back pressure specified in § 85.874–12(c) and the air inlet restriction specified in § 85.874–12(d) except that the tolerances shall be ±0.5 inch of Hg and ±3 inches of water respectively. Exhaust emission tests shall be conducted at zero and 125 hours of operation.

(b) Durability data engines: Each engine shall be operated on a dynamometer for 1,000 hours with the dynamometer and engine adjusted so that the engine is operating at 95–100 percent of rated speed and at least 95 percent of maximum rated horsepower. During such operation, the engine shall be run at the exhaust back pressure specified in § 85.874–12(c) and the air inlet restriction specified in § 85.874–12(d) except that the tolerances shall be ±0.5 inch of Hg and ±3 inches of water respectively. Exhaust emission measurements shall be made at zero hours and at each 125 hours of operation. All results except the zero-hour results shall be used to establish the deterioration factors (see § 85.874–19).

(c) A break-in procedure, not to exceed 20 hours, may be run if approved in writing in advance by the Administrator. This procedure would be run after the zero-hour test; and the hours accumulated would not be counted as part of the service accumulation.

(d) All tests required by this subpart to be conducted after 125 hours of dynamometer operation or at any multiple of 125 hours may be conducted at any accumulated hours within 8 hours of 125 hours or the appropriate multiple of 125 hours, respectively.

(e) The results of each emission test shall be supplied to the Administrator immediately after the test. In addition, all test data shall be compiled and provided to the Administrator in accordance with § 85.874–4.

(f) Whenever the manufacturer proposes to operate and test an engine which may be used for emission or durability data, he shall provide the zero-hour test data to the Administrator and make the engine available for such testing under § 85.874–29 as the Administrator may require before beginning to accumulate hours on the engine. Failure to comply with this requirement shall invalidate all test data submitted for this engine.

(g) Once a manufacturer begins to operate an emission data or durability data engine, as indicated by compliance with paragraph (e) of this section, he shall continue to run the engine to 125 hours or 1,000 hours, respectively, and the data from the engine shall be used in the calculations under § 85.874–19. Discontinuation of an engine shall be allowed only with the prior written consent of the Administrator.

(h) (1) The Administrator may elect to operate and test any test engine during all or any part of the service accumulation and testing procedure. In such cases, the manufacturer shall provide the engine(s) to the Administrator with all information necessary to conduct the testing.

(2) The test procedures (§ 85.874–9 through § 85.874–18) will be followed by the Administrator. The Administrator will test the engines at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(3) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other engines of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall be used in the determination of deterioration factors.

(i) All emission control systems installed on or incorporated in a new motor vehicle engine shall be functioning during all test procedures in this subpart.

§ 85.874–8 Special test procedures.

The Administrator may, on the basis of a written application therefor by a manufacturer, prescribe test procedures, other than those set forth in this subpart, for any motor vehicle engine which he determines is not susceptible to satisfactory testing by the procedures set forth herein.

§ 85.874–9 Test procedures.

The procedures described in this and subsequent sections will be the test program to determine the conformity of engines with the standard set forth in § 85.874–1.

(a) The test consists of a prescribed sequence of engine operating conditions on an engine dynamometer with continuous examination of the exhaust gases. The test is applicable equally to controlled engines equipped with means for preventing, controlling, or eliminating smoke emissions and to uncontrolled engines.

(b) The test is designed to determine the opacity of smoke in exhaust emissions during those engine operating conditions which tend to promote smoke from diesel-powered vehicles.

(c) The test procedure begins with a warm engine which is then run through preloading and preconditioning operations. After an idling period, the engine is operated through acceleration and lugging modes during which smoke emission measurements are made to compare with the standards. The engine is then returned to the idle condition and the acceleration and lugging modes are repeated. Three sequences of acceleration and lugging constitute the full set of operating conditions for smoke emission measurement.

(d) All emission control systems installed on or incorporated in a new motor vehicle engine shall be functioning during all test procedures in this subpart.

Item	ASTM test method No.	Type 1–D	Type 2–D
Cetane	D 613	48–54	42–50
Distillation range	D 86		
IBP, ° F		330–390	340–400
10 percent point, ° F		370–430	400–460
50 percent point, ° F		410–480	470–540
90 percent point, ° F		460–520	550–610
EP, ° F		500–560	580–660
Gravity, ° API	D 287	40–44	33–37
Total sulfur, percent	D 129 or D 2622	0.05–0.20	0.2–0.5
Hydrocarbon composition	D 1319		
Aromatics, percent		8–15	27 (Min.)
Paraffins, Naphthenes, Olefins		Remainder	Remainder
Flash point, ° F (Min.)	D 93	120	130
Viscosity, centistokes	D 445	1.6–2.0	2.0–3.2

(c) Fuel meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in service accumulation. The grade of fuel recommended by the engine manufacturer, commercially designated as "Type 1–D" or "Type 2–D," shall be used.

Item	ASTM test method No.	Type 1–D	Type 2–D
Cetane	D 613	48–54	42–55
Distillation range	D 86		
IBP, ° F		330–390	340–410
10 percent point, ° F		370–430	400–470
50 percent point, ° F		410–480	470–540
90 percent point, ° F		460–520	550–610
EP, ° F		500–560	580–660
Gravity, ° API	D 287	40–44	33–40
Total sulfur, percent	D 129 or D 2622	0.05–0.20	0.2–0.5
Flash point, ° F (Min.)	D 93	120	130
Viscosity, centistokes	D 445	1.6–2.0	2.0–3.2

(d) The type fuel, including additive and other specifications, used under paragraphs (b) and (c) of this section shall be reported in accordance with § 85.874–2(b)(3).

§ 85.874–11 Dynamometer operation cycle for smoke emission tests.

(a) The following sequence of operations shall be performed during engine dynamometer testing of smoke emissions, starting with the dynamometer preloading determined and the engine preconditioned (§ 85.874–16(c)).

(1) *Idle mode.* The engine is caused to idle for 5 to 5.5 minutes at the manufacturer's recommended low idle speed. The dynamometer controls shall be set to provide minimum load by turning the load switch to the "off" position or by adjusting the controls to the minimum load position.

(2) *Acceleration mode.* (i) The engine speed shall be increased to 200±50 r.p.m. above the manufacturer's recommended low idle speed within 3 seconds.

(ii) The engine shall be accelerated at full-throttle against the inertia of the engine and dynamometer or alternately against a preselected dynamometer load such that the engine speed reaches 85 to 90 percent of rated speed in 5±1.5 seconds. This acceleration shall be linear within ±100 r.p.m.

(iii) When the engine reaches the speed required in subdivision (ii) of this subparagraph, the throttle shall be moved rapidly to the closed position and the preselected load required to perform the acceleration in subdivision (iv) of this subparagraph shall be applied. The engine speed shall be reduced to the speed of maximum rated torque or 60 percent of rated speed (whichever is higher), within ±50 r.p.m. Smoke emissions during this transitional mode are not used in determining smoke emissions to compare with the standard.

(iv) The throttle shall be moved rapidly to the full-throttle position and the engine accelerated against the preselected dynamometer load such that the engine speed reaches 95 to 100 percent of rated speed in 10±2 seconds.

§ 85.874–10 Diesel fuel specifications.

(a) The diesel fuels employed shall be clean and bright, with pour and cloud points adequate for operability. The fuels may contain nonmetallic additives as follows: cetane improver, metal deactivator, antioxidant, dehazer, antirust, pour depressant, dye, and dispersant.

(b) Fuel meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in exhaust emission testing. The grade of fuel recommended by the engine manufacturer, commercially designated as "Type 1–D" or "Type 2–D," shall be used.

(3) *Lugging mode.* (i) Proceeding

§ 85.874–13 Smoke measurement system.

measured torque at r.p.m.—Exhaust system back pressure—Air inlet restriction.

(4) Turn on purge air to the optical unit of the smokemeter, if purge air is

§ 85.874–28 Compliance with emission standards.

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(3) *Lugging mode.* (i) Proceeding from the acceleration mode, the dynamometer controls shall be adjusted to permit the engine to develop maximum horsepower at rated speed. Smoke emissions during this transitional mode are not used in determining smoke emissions to compare with the standard.

(ii) Without changing the throttle position, the dynamometer controls shall be adjusted gradually to slow the engine to the speed of maximum torque or to 60 percent of rated speed, whichever is higher. This engine lugging operation shall be performed smoothly over a period of 35±5 seconds. The rate of slowing of the engine shall be linear, within ±100 r.p.m.

(4) *Engine unloading.* After completion of the lugging mode in subparagraph (3)(ii) of this paragraph, the dynamometer and engine shall be returned to the idle condition described in subparagraph (1) of this paragraph.

(b) The procedures described in paragraph (a) (1) through (4) of this section shall be repeated until the entire cycle has been run three times.

§ 85.874–12 Dynamometer and engine equipment.

The following equipment shall be used for smoke emission testing of engines on engine dynamometers.

(a) An engine dynamometer with adequate characteristics to perform the test cycle described in §85.874–10.

(b) An engine cooling system having sufficient capacity to maintain the engine at normal operating temperatures during conduct of the prescribed engine tests.

(c) A noninsulated exhaust system extending 15±5 feet from the exhaust manifold, or the crossover junction in the case of Vee engines, and presenting an exhaust back pressure within ±0.2 inch Hg. of the upper limit at maximum rated horsepower, as established by the engine manufacturer in his sales and service literature for vehicle application. A conventional automotive muffler of a size and type commonly used with the engine being tested shall be employed in the exhaust system during smoke emission testing. The terminal 2 feet of the exhaust pipe shall be circular cross section and be free of elbows and bends. The end of the pipe shall be cut off squarely. The terminal 2 feet of the exhaust pipe shall have a diameter in accordance with the engine being tested, as specified below:

Maximum rated horsepower:	*Exhaust pipe diameter (inches)*
Less than 101	2
101–200	3
201–300	4
301 or more	5

(d) An engine air inlet system presenting an air inlet restriction within ±1 inch of water of the upper limit for the engine operating condition which results in maximum air flow, as established by the engine manufacturer in his sales and service literature, for the engine being tested.

§ 85.874–13 Smoke measurement system.

(a) *Schematic drawing.* The following figure (fig. I874–1) is a schematic drawing of the optical system of the light extinction meter.

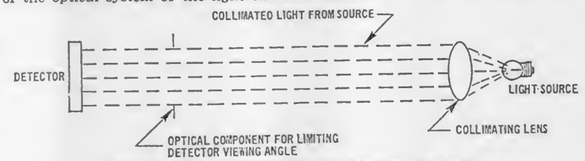

FIGURE I874–1.—EPA smokemeter optical system (schematic).

(b) *Equipment.* The following equipment shall be used in the system:

(1) Adapter—the smokemeter optical unit may be mounted on a fixed or movable frame. The normal unrestricted shape of the exhaust plume shall not be modified by the adapter, the meter, or any ventilation system used to remove the exhaust from the test site.

(2) Smokemeter (light extinction meter)—continuous recording, full-flow light obscuration meter. It shall be positioned near the end of the exhaust pipe so that a built-in light beam traverses the exhaust smoke plume which issues from the pipe at right angles to the axis of the plume. The light source is an incandescent lamp operated at a constant voltage of not less than 15 percent of the manufacturer's specified voltage. The lamp output is collimated to a beam with a nominal diameter of 1.125 inches. The angle of divergence of the collimated beam shall be within 4° included angle. A light detector, directly opposed to the light source, measures the amount of light blocked by the smoke in the exhaust. The detector sensitivity is restricted to the visual range and comparable to that of the human eye. A collimating tube with apertures equal to the beam diameter is attached to the detector. It restricts the viewing angle of the detector to within 16° included angle. An amplified signal corresponding to the amount of light blocked is recorded continuously on a remote recorder. An air curtain across the light source and detector window assemblies may be used to minimize deposition of smoke particles on those surfaces provided that it does not measurably affect the opacity of the plume. The meter consists of two units, an optical unit and a remote control unit. Light extinction meters employing substantially identical measurement principles and producing substantially equivalent results but which employ other electronic and optical techniques may be used only after having been approved in advance by the Administrator.

(3) Recorder—a continuous recorder, with variable chart speed over a minimal range of 0.5 to 8.0 inches per minute (or equivalent) and an automatic marker indicating 1-second intervals shall be used for continuously recording the transient conditions of exhaust gas opacity, engine r.p.m. and torque. The recorder scale for opacity shall be linear and calibrated to read from 0 to 100 percent opacity full scale. The opacity trace shall have a resolution within 1 percent opacity. The recorder scale for engine r.p.m. and the recorder scale for observed engine torque shall be linear and shall have full scale calibration such as to facilitate chart reading. The r.p.m. trace shall have a resolution within 30 r.p.m. The torque trace shall have a resolution within 10 lb.-ft. Any means other than strip chart recorder may be used provided it produces a permanent visual data record of quality equal to or better than that described above.

(4) The recorder used with the smokemeter shall be capable of full-scale deflection in 0.5 second or less. The smokemeter-recorder combination may be damped so that signals with a frequency higher than 10 cycles per second are attenuated. A separate low-pass electronic filter with the following performance characteristics may be installed between the smokemeter and the recorder to achieve the high-frequency attenuation.

(i) 3 decibel point—10 cycles per second.

(ii) Insertion loss-zero ±0.5 decibels.

(iii) Selectivity—12 decibels per octave above 10 cycles per second.

(iv) Attenuation—27 decibles down at 40 cycles per second minimum.

(c) *Assembling equipment.* (1) The optical unit of the smokemeter shall be mounted radially to the exhaust pipe so that the measurement will be made at right angles to the axis of the exhaust plume. The distance from the optical centerline to the exhaust pipe outlet shall be 5±1 inch. The full flow of the exhaust stream shall be centered between the source and detector apertures (or windows and lenses) and on the axis of the light beam.

(2) Power shall be supplied to the control unit of the smokemeter in time to allow at least 15 minutes for stabilization prior to testing.

§ 85.874–14 Information to be recorded.

The following information shall be recorded with respect to each test:

(a) Test number.
(b) Date and time of day.
(c) Instrument operator.
(d) Engine operator.
(e) Engine Identification numbers—Date of manufacture—Number of hours of operation accumulated on engine—Engine family—Exhaust pipe diameter—Fuel injector type—Maximum measured fuel rate at maximum measured torque and horsepower—Air aspiration system—Low idle r.p.m.—Maximum governed r.p.m.—Maximum measured horsepower at r.p.m.—Maximum measured torque at r.p.m.—Exhaust system back pressure—Air inlet restriction.

(f) Smokemeter: Number—Zero control setting—Calibration control setting—Gain.

(g) Recorder chart: Identify zero traces—Calibration traces—Idle traces—Acceleration and lug-down test traces—Start and finish of each test.

(h) Ambient temperature in dynamometer testing room.

(i) Engine intake air temperature and humidity.

(j) Barometric pressure.

(k) Observed engine torque.

§ 85.874–15 Instrument checks.

(a) The smokemeter shall be checked according to the following procedure prior to each test:

(1) The optical surfaces of the optical section shall be checked to verify that they are clean and free of foreign material and fingerprints.

(2) The zero control shall be adjusted under conditions of "no smoke" to give a recorder trace of zero.

(3) Calibrated neutral density filters having approximately 10, 20, and 40 percent opacity shall be employed to check the linearity of the instrument. The filter(s) shall be inserted in the light path perpendicular to the axis of the beam and adjacent to the opening from which the beam of light from the light source emanates, and the recorder response shall be noted. The nominal opacity value of the filter will be confirmed by the Administrator. Deviations in excess of 1 percent of the nominal opacity shall be corrected.

§ 85.874–16 Test run.

(a) The temperature of the air supplied to the engine shall be between 68° F. and 86° F. The observed barometric pressure shall be between 28.5 inches and 31 inches Hg. Higher air temperature or lower barometric pressure may be used, if desired, but no allowance will be made for possible increased smoke emissions because of such conditions.

(b) The governor and fuel system shall have been adjusted to provide engine performance at the levels specified by the engine manufacturer for maximum rated horsepower and maximum rated torque. These specifications shall be reported in accordance with § 85.874–2(b)(3).

(c) The following steps shall be taken for each test:

(1) Start cooling system.

(2) Starting with a warmed engine, determine by experimentation the dynamometer inertia and dynamometer load required to perform the acceleration in the dynamometer cycle for smoke emission tests (§ 85.874–11(a)(2)). In a manner appropriate for the dynamometer and controls being used, arrange to conduct the acceleration mode.

(3) Install smokemeter optical unit and connect it to the recorder. Connect the engine r.p.m. and torque sensing devices to the recorder.

(4) Turn on purge air to the optical unit of the smokemeter, if purge air is used.

(5) Check and record zero and span settings of the smokemeter recorder at a chart speed of approximately 1 inch per minute. (The optical unit shall be retracted from its position about the exhaust stream if the engine is left running.)

(6) Precondition the engine by operating it for 10 minutes at maximum rated horsepower.

(7) Proceed with the sequence of smoke emission measurements on the engine dynamometer as prescribed in § 85.874–11.

(8) During the test sequence of § 85.874–11, continuously record smoke measurements, engine r.p.m. and torque at a chart speed of 1 inch per minute minimum during the idle mode and transitional modes and 8 inches per minute minimum during the acceleration and lugging modes. The smokemeter zero and full scale recorder deflections may be rechecked during the idle mode of each test sequence. If either zero or full scale drift is in excess of 2 percent opacity, the smokemeter controls must be readjusted and the test must be repeated.

(9) Turn off engine.

(10) Check zero and reset if necessary and check span of the smokemeter recorder by inserting neutral density filters. If either zero or span drift is in excess of 2 percent opacity, the test results shall be invalidated.

§ 85.874–17 Chart reading.

(a) The following procedure shall be employed in reading the smokemeter recorder chart.

(1) Locate the acceleration mode (§ 85.874–11(a)(2)) and the lugging mode (§ 85.874–11(a)(3)) on the chart. Divide each mode into ½-second intervals beginning at the start of each mode. Determine the average smoke reading during each ½-second interval except those recorded during the transitional portions of the acceleration mode (§ 85.874–11(a)(2)(iii)) and the lugging mode (§ 85.874–11(a)(3)(i)).

(2) Locate and record the 15 highest ½-second readings during the acceleration mode of each dynamometer cycle.

(3) Locate and record the five highest ½-second readings during the lugging mode of each dynamometer cycle.

(4) Examine the average ½-second values which were determined in paragraphs (2) and (3) above and record the three highest values for each dynamometer cycle.

§ 85.874–18 Calculations.

(a) Average the 45 readings in § 85.874–17(a)(2) and designate the value as "a".

(b) Average the 15 readings in § 85.874–17(a)(3) and designate the value as "b".

(c) Average the nine readings in § 85.874–17(a)(4) and designate the value as "c".

§§ 85.874–19—85.874–27 [Reserved]

§ 85.874–28 Compliance with emission standards.

(a) The emission standards in § 85.874–1 apply to the emissions of engines for their useful life.

(b) Since emission control efficiency decreases with the accumulation of hours on the engine, the emission level of an engine which has accumulated 1,000 hours of dynamometer operation will be used as the basis for determining compliance with the standards.

(c) The procedure for determining compliance with exhaust smoke emission standards in heavy duty diesel engines is as follows:

(1) Emission deterioration factors for the acceleration mode (designated as "A"), the lugging mode (designated as "B"), and the peak opacity (designated as "C") shall be established separately for each engine-system combination.

(i) The applicable results to be used in determining the deterioration factors for each combination shall be:

(a) All emission data from the tests required under § 85.874–7(b), except the zero-hour tests. This shall include the official test results, as determined in § 85.874–29, for all tests conducted on all durability engines of the combination selected under § 85.874–5(c) (including all engines selected to be operated by the manufacturer under § 85.874–5(c)(2)).

(b) All emission data from the tests conducted before and after the maintenance provided in § 85.874–6(a)(1)(i).

(ii) All applicable results shall be plotted as a function of the hours on the system, rounded to the nearest hour, and the best fit-straight line, fitted by the method of least squares, shall be drawn through these data points. The interpolated 125- and 1,000-hour points on this line must be within the standard provided in § 85.874–1 or the data shall not be used in calculation of a deterioration factor.

(iii) The deterioration factors will be calculated as follows:

A—Percent opacity "a," interpolated to 1,000 hours, minus percent opacity "a," interpolated to 125 hours.

B—Percent opacity "b," interpolated to 1,000 hours, minus percent opacity "b," interpolated to 125 hours.

C—Percent opacity "c," interpolated to 1,000 hours, minus percent opacity "c," interpolated to 125 hours.

(2) The "percent opacity" values to compare with the standards shall be the opacity values "a," "b," and "c" for each emission data engine within an engine-system combination to which are added the respective factors "A," "B," and "C" of subparagraph (1) of this paragraph for that engine-system combination: *Provided*, That if a deterioration factor as computed in subparagraph (1) of this paragraph is less than zero, that deterioration factor shall be zero for the purposes of this subparagraph.

(2) Every test engine of an engine family must comply with all applicable standards, as determined in subparagraph (2) of this paragraph, before any engine in that family will be certified.

§ 85.874–29 Testing by the Administrator.

mines that a test engine(s) conforms to

(iii) Modify the test engine and dem-

would still be covered by the certificate

operation and not normally requiring re-

as may be reasonable and necessary to

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gine being tested.

corder scale for engine r.p.m. and the

ured horsepower at r.p.m.—Maximum

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§ 85.874–29 Testing by the Administrator.

(a) The Administrator may require that any one or more of the test engines be submitted to him, at such place or places as he may designate, for the purpose of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(b) (1) Whenever the Administrator conducts a test on a test engine, the results of that test shall comprise the official data for the engine at that prescribed test point.

(2) Whenever the Administrator does not conduct a test on a test engine at a test point, the manufacturer's test data will be accepted as the official data for that test point: *Provided*, That if the Administrator makes a determination based on testing under paragraph (a) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer.

(3) If the Administrator determines that the test data developed under paragraph (a) of this section would cause an engine to fail due to excessive 125-hour emissions or excessive deterioration, then the following procedure shall be observed:

(i) The manufacturer may request a retest. Before the retest, the engine may be adjusted to manufacturer's specifications, and parts may be replaced in accordance with § 85.874–6. All work on the engine shall be done at such location and under such conditions as the Administrator may prescribe.

(ii) The engine will be retested by the Administrator and the results of this test shall comprise the official data for that prescribed test point.

(4) If sufficient durability data is not available, at the time of any emission test conducted under paragraph (a) of this section, to enable the Administrator to determine whether a test engine would fail, the manufacturer may request a retest in accordance with the provisions of subparagraph (3) (i) and (ii) of this paragraph. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the engine from the test premises.

§ 85.874–30 Certification.

(a) (1) If, after a review of the test reports and data submitted by the manufacturer and data derived from any additional testing conducted pursuant to § 85.874–29, the Administrator determines that a test engine(s) conforms to the regulations of this subpart, he will issue a certificate of conformity with respect to such engine(s).

(2) Such certificate will be issued for such period not more than 1 year as the Administrator may determine and upon such terms as he may deem necessary to assure that any new motor engine covered by the certificate will meet the requirements of these regulations relating to durability and performance.

(b) (1) The Administrator will determine whether an engine covered by the application complies with applicable standards by observing the following relationships:

(i) A test engine selected under § 85.874–5(b) (2) or (4) shall represent all engines in the same engine family of the same engine displacement-exhaust emission control system combination.

(ii) [Reserved]

(iii) A test engine selected under § 85.874–5(c)(1) shall represent all engines of the same engine-system combination.

(2) The Administrator will proceed as in paragraph (a) of this section with respect to the engines belonging to an engine family all of which comply with applicable standards.

(3) If, after a review of the test reports and data submitted by the manufacturer and data derived from any additional testing conducted pursuant to § 85.874–29, the Administrator determines that one or more test engines of the certification test fleet do not meet applicable standards, he will notify the manufacturer in writing, setting forth the basis for his determination. Within 30 days following receipt of the notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer, and shall include a statement specifying the manufacturer's objections to the Administrator's determination, and data in support of such objections. If, after a review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 85.805 with respect to such issue.

(4) The manufacturer may, at his option, proceed with any of the following alternatives with respect to any engine family represented by a test engine(s) determined not in compliance with applicable standards:

(i) Request a hearing under § 85.805, or

(ii) Delete from the application for certification the engines represented by the failing test engine. (Engines so deleted may be included in a later request for certification under § 85.874–32.) The Administrator will then select in place of each failing engine an alternate engine chosen in accordance with selection criteria employed in selecting the engine that failed, or

(iii) Modify the test engine and demonstrate by testing that it meets applicable standards. Another engine which is in all material respects the same as the first engine, as modified, shall then be operated and tested in accordance with applicable test procedures.

(5) If the manufacturer does not request a hearing or present the required data under subparagraph (4) of this paragraph, the Administrator will deny certification.

§ 85.874–31 Separate certification.

Where possible, a manufacturer should include in a single application for certification all engines for which certification is required. A manufacturer may, however, choose to apply separately for certification of part of his product line. The selection of test engines and the computation of test results will be determined separately for each application.

§ 85.874–32 Addition of an engine after certification.

(a) If a manufacturer proposes to add to his product line an engine of the same engine-system combination as engines previously certified but which was not described in the application for certification when the test engine(s) representing other engines of that combination was certified, he shall notify the Administrator. Such notification shall be in advance of the addition unless the manufacturer elects to follow the procedure described in § 85.874–34. This notification shall include a full description of the engine to be added.

(b) The Administrator may require the manufacturer to perform such tests on the test engine(s) representing the engine to be added which would have been required if the engine had been included in the original application for certification.

(c) If, after a review of the test reports and data submitted by the manufacturer, and data derived from any testing conducted under § 85.874–29, the Administrator determines that the test engine(s) meets all applicable standards, the appropriate certificate will be amended accordingly. If the Administrator determines that the test engine(s) does not meet applicable standards, he will proceed under § 85.874–30(b).

§ 85.874–33 Changes to an engine covered by certification.

(a) The manufacturer shall notify the Administrator of any change in production engines in respect to any of the parameters listed in § 85.073–5(a)(3), giving a full description of the change. Such notification shall be in advance of the change unless the manufacturer elects to follow the procedure described in § 85.874–34.

(b) Based upon the description of the change, and data derived from such testing as the Administrator may require or conduct, the Administrator will determine whether the engine, as modified,

would still be covered by the certificate of conformity then in effect.

(c) If the Administrator determines that the outstanding certificate would cover the modified engines, he will notify the manufacturer in writing. Except as provided in § 85.874–34, the change may not be put into effect prior to the manufacturer's receiving this notification. If the Administrator determines that the modified engines would not be covered by the certificate then in effect, then the modified engines shall be treated as additions to the product line subject to § 85.874–32.

§ 85.874–34 Alternative procedure for notification of additions and changes.

(a) A manufacturer may, in lieu of notifying the Administrator in advance of an addition of an engine under § 85.874–32 or a change in an engine under § 85.874–33, notify him concurrently with the making of the change if the manufacturer believes the addition or change will not require any testing under the appropriate section. Upon notification to the Administrator, the manufacturer may proceed to put the addition or change into effect.

(b) The manufacturer may continue to produce engines as described in the notification to the Administrator for a maximum of 30 days, unless the Administrator grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Administrator determines, based upon a description of the addition or change, that no test data will be required, he will notify the manufacturer in writing of the acceptability of the addition or change. If the Administrator determines that test data will be required, he will notify the manufacturer to rescind the change within 5 days of receipt of the notification. The Administrator will then proceed as in § 85.874–32 (b) and (c), or § 85.874–33 (b) and (c) as appropriate.

(d) Election to produce engines under this section will be deemed to be a consent to recall all engines which the Administrator determines under § 85.874–32 (c) do not meet applicable standards, and to cause such nonconformity to be remedied at no expense to the owner.

§ 85.874–35 Labeling.

(a) (1) The manufacturer of any heavy duty diesel engine subject to the standards prescribed in § 85.874–1 shall, at the time of manufacture, affix a permanent, legible label, of the type and in the manner described below, containing the information hereinafter provided, to all production models of such engines available for sale to the public and covered by a certificate of conformity under § 85.874–30(a).

(2) A plastic or metal label shall be welded, bonded, or otherwise permanently attached to the engine in a position in which it will be readily visible after installation in the vehicle.

(3) The label shall be attached to an engine part necessary for normal engine operation and not normally requiring replacement during engine life.

(4) The label shall contain the following information lettered in the English language in block letters and numerals which shall be of a color that contrasts with the background of the label:

(i) The label heading: Engine Exhaust Emission Control Information;

(ii) Full corporate name and trademark of manufacturer;

(iii) Engine family identification and model;

(iv) Date of engine manufacture (month and year);

(v) Engine specification:

Advertised hp.———— @ ———— r.p.m.
Fuel rate @ advertised hp.—— mm.³/stroke.
Valve lash ———————— (inches)
Initial injection timing (if adjustable) ——
————————.
(The information applicable to each engine is to be inserted on the appropriate line.)

(vi) The statement: This engine conforms to U.S. Environmental Protection Agency Regulations applicable to 1974 model year heavy duty diesel engines.

(b) The provisions of this section shall not prevent a manufacturer from also reciting on the label that such engine conforms to any applicable State emission standards for new motor vehicle engines or any other information that such manufacturer deems necessary for, or useful to, the proper operation and satisfactory maintenance of the engine.

(c) The label may be made up of one or more pieces provided that all pieces are permanently attached to the same engine or vehicle part as applicable.

§ 85.874–36 [Reserved]

§ 85.874–37 Production engines.

(a) Any manufacturer obtaining certification under this subpart shall supply to the Administrator, upon his request, a reasonable number of production engines selected by the Administrator which are representative of the engines, emission control systems, fuel systems, and transmissions offered and typical of production models available for sale under the certificate. These engines shall be supplied for testing at such time and place and for such reasonable periods as the Administrator may require. Engines supplied under this paragraph may be required to be mounted in chassis and appropriately equipped for operation on a chassis dynamometer.

(b) Any manufacturer obtaining certification under this part shall notify the Administrator, on a quarterly basis, of the number of engines of each engine family-engine displacement-exhaust emission control system-fuel system combination produced for sale in the United States during the preceding quarter.

§ 85.874–38 Maintenance instructions.

(a) The manufacturer shall furnish or cause to be furnished to the ultimate purchaser of each new motor vehicle engine subject to the standards prescribed in § 85.874–1, written instructions for the maintenance and use of the engine by the ultimate purchaser as may be reasonable and necessary to assure the proper functioning of emission control systems.

(1) Such instructions shall be provided for those engine components listed in Appendix VI to this part (and for any other components) to the extent that maintenance of these components is necessary to assure the proper functioning of emission control systems.

(2) Such instructions shall be in clear, and to the extent practicable, nontechnical language.

(b) The maintenance instructions required by this section shall contain a general description of the documentation which the manufacturer will require from the ultimate purchaser or any subsequent purchaser as evidence of compliance with the instructions.

§ 85.874–39 Submission of maintenance instructions.

(a) The manufacturer shall provide to the Administrator, no later than the time of the submission required by § 85.874–4, a copy of the maintenance instructions which the manufacturer proposes to supply to the ultimate purchaser in accordance with § 85.874–38(a). The Administrator will review such instructions to determine whether they are reasonable and necessary to assure the proper functioning of the engine's emission control systems. The Administrator will notify the manufacturer of his determination whether such instructions are reasonable and necessary to assure the proper functioning of the emission control systems.

(b) Any revision to the maintenance instructions which will affect emissions shall be supplied to the Administrator at least 30 days before being supplied to the ultimate purchaser unless the Administrator consents to a lesser period of time.

Subpart J—Engine Exhaust Gaseous Emission Regulations for New Diesel Heavy Duty Engines

§ 85.901 General applicability.

The provisions of this subpart are applicable to new diesel heavy duty engines beginning with the 1974 model year.

§ 85.902 Definitions.

(a) As used in this subpart, all terms not defined herein shall have the meaning given them in the Act:

(1) "Act" means Part A of title II of the Clean Air Act, 42 U.S.C. 1357 f–1 through f–7, as amended by Public Law 91–604.

(2) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(3) "Model year" means the manufacturer's annual production period (as determined by the Administrator) which includes January 1 of such calendar year: *Provided*, That if the manufacturer has no annual production period, the term "model year" shall mean the calendar year.

(4) "Gross vehicle weight" means the

(20) "Percent load" means the frac-

to enable such vehicle to conform to standards imposed by this subpart;

(e) (1) Hearings shall be conducted by the Presiding Officer in an informal

(2) A description of all emission control systems which are installed on or

(d) Every manufacturer of new motor vehicle engines subject to the standards

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(4) "Gross vehicle weight" means the manufacturer's gross weight rating for the individual vehicle.

(5) "Heavy duty vehicle" means any motor vehicle either designed primarily for transportation of property and rated at more than 6,000 pounds GVW or designed primarily for transportation of persons and having a capacity of more than 12 persons.

(6) "Heavy duty engine" means any engine which the engine manufacturer could reasonably expect to be used for motive power in a heavy duty vehicle.

(7) "System" includes any motor vehicle engine modification which controls or causes the reduction of substances emitted from motor vehicle engines.

(8) "Engine family" means the basic classification unit of a manufacturer's product line used for the purpose of test fleet selection and determined in accordance with § 85.974–5(a).

(9) "Engine-system combination" means an engine family-exhaust emission control system-fuel evaporative emission control system (where applicable) combination.

(10) "Fuel system" means the combination of fuel tank, fuel pump, fuel lines, and carburetor, or fuel injection components, and includes all fuel system vents and fuel evaporative emission control systems.

(11) "Crankcase emissions" means airborne substances emitted to the atmosphere from any portion of the engine crankcase ventilation or lubrication systems.

(12) "Exhaust emissions" means substances emitted to the atmosphere from any opening downstream from the exhaust port of a motor vehicle engine.

(13) "Maximum rated horsepower" means the maximum brake horsepower output of an engine as stated by the manufacturer in his sales and service literature and his application for certification under § 85.874–2.

(14) "Rated speed" means the speed at which the manufacturer specifies the maximum rated horsepower of an engine.

(15) "Maximum rated torque" means the maximum torque produced by an engine as stated by the manufacturer in his sales and service literature and his application for certification under § 85.874–2.

(16) "Zero (O) hours" means that point after normal assembly line operations and adjustments and before one additional operating hour has been accumulated.

(17) "Oxides of Nitrogen" means the sum of the nitric oxide and nitrogen dioxide contained in a gas sample as if the nitric oxide were in the form of nitrogen dioxide.

(18) "Useful life" means a period of use of 5 years or 100,000 miles of vehicle operation or 3,000 hours of engine operation (or an equivalent period of 1,000 hours of dynamometer operation, whichever first occurs.

(19) "Peak torque speed" means the speed at which an engine develops maximum torque.

(20) "Percent load" means the fraction of the maximum available torque at an engine speed.

(21) "Intermediate speed" means the peak torque speed or 60 percent of rated speed, whichever is higher.

(22) "Military engine" means any engine manufactured solely for the Department of Defense to meet military specifications.

§ 85.903 Abbreviations.

The abbreviations used in this subpart have the following meanings in both capital and lower case:

ASTM—American Society for Testing and Materials.
BHP—Brake horsepower.
BSCO—Brake specific carbon monoxide.
BSHC—Brake specific hydrocarbons.
$BSNO_x$—Brake specific oxides of nitrogen.
CO—Carbon Monoxide.
Conc.—Concentration.
F—Fahrenheit.
GVW—Gross Vehicle Weight.
HC—Hydrocarbon(s).
Hg—Mercury.
HP.—Horsepower.
Hr.—Hour.
Lb.—Pound(s).
Min.—Minimum.
NO—Nitric Oxide.
NO_x—Oxides of Nitrogen.
R.p.m.—Revolutions per minute.
S.A.E.—Society of Automotive Engineers.
WF—Weighting factor.
°—Degrees.
%—Percent.
Σ—Summation.

§ 85.904 General standards: increase in emissions; unsafe conditions.

(a) (1) Every new motor vehicle engine manufactured for sale, sold, offered for sale, introduced or delivered for introduction into commerce, or imported into the United States for sale or resale which is subject to any of the standards prescribed in this subpart shall be covered by a certificate of conformity issued pursuant to § 85.974–2 through § 85.974–4 and § 85.974–29 and § 85.974–34 of this subpart.

(2) No heavy duty vehicle manufacturer shall take any of the actions specified in section 203(a)(1) of the Act with respect to any diesel-powered heavy duty vehicle which uses an engine which has not been certified as meeting applicable standards. Such manufacturer shall provide to the Administrator prior to the beginning of each model year a statement signed by an authorized representative which includes the following information:

(i) A description of the vehicles which will be produced subject to this section;

(ii) Identification of the engines used in the vehicles;

(iii) Projected sales data on each vehicle-engine combination;

(iv) A statement that the engines will not be modified by the vehicle manufacturer or a detailed specification of any changes which will be made. Changes made solely for the purpose of mounting an engine in a vehicle need not be included.

(b) (1) Any system installed on or incorporated in a new motor vehicle engine to enable such vehicle to conform to standards imposed by this subpart:

(i) Shall not in its operation or function cause the emission into the ambient air of any noxious or toxic substance that would not be emitted in the operation of such engine without such system, except as specifically permitted by regulation; and

(ii) Shall not in its operation, function, or malfunction result in any unsafe condition endangering the motor vehicle, its occupants, or persons or property in close proximity to the vehicle.

(2) Every manufacturer of new motor vehicle engines subject to any of the standards imposed by this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with good engineering practice to ascertain that such test engines will meet the requirements of this section for the useful life of the engine.

§ 85.905 Hearings on certification.

(a) (1) After granting a request for a hearing under § 85.974–30, the Administrator will designate a Presiding Officer for the hearing.

(2) The General Counsel will represent the Environmental Protection Agency in any hearing under this section.

(3) If a time and place for the hearing have not been fixed by the Administrator under § 85.974–30, the hearing shall be held as soon as practicable at a time and place fixed by the Administrator or by the Presiding Officer.

(b) (1) Upon his appointment pursuant to paragraph (a) of this section, the Presiding Officer will establish a hearing file. The file shall consist of the notice issued by the Administrator under § 85.974–30, together with any accompanying material, the request for a hearing and the supporting data submitted therewith and all documents relating to the request for certification, including the application for certification and all documents submitted therewith, and correspondence and other data material to the hearing.

(2) The appeal file will be available for inspection by the applicant at the office of the Presiding Officer.

(c) An applicant may appear in person, or may be represented by counsel or by any other duly authorized representative.

(d) (1) The Presiding Officer upon the request of any party, or in his discretion, may arrange for a prehearing conference at a time and place specified by him to consider the following:

(i) Simplification of the issues;

(ii) Stipulations, admissions of fact, and the introduction of documents;

(iii) Limitation of the number of expert witnesses;

(iv) Possibility of agreement disposing of all or any of the issues in dispute;

(v) Such other matters as may aid in the disposition of the hearing, including such additional tests as may be agreed upon by the parties.

(2) The results of the conference shall be reduced to writing by the Presiding Officer and made part of the record.

(e) (1) Hearings shall be conducted by the Presiding Officer in an informal but orderly and expeditious manner. The parties may offer oral or written evidence, subject to the exclusion by the Presiding Officer of irrelevant, immaterial, and repetitious evidence.

(2) Witnesses will not be required to testify under oath. However, the Presiding Officer shall call to the attention of witnesses that their statements may be subject to the provisions of title18 U.S.C. 1001 which imposes penalties for knowingly making false statements or representations, or using false documents in any matter within the jurisdiction of any department or agency of the United States.

(3) Any witness may be examined or cross-examined by the Presiding Officer, the parties, or their representatives.

(4) Hearings shall be reported verbatim. Copies of transcripts of proceedings may be purchased by the applicant from the reporter.

(5) All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall, upon a showing satisfactory to the Presiding Officer of their authenticity, relevancy, and materiality, be received in evidence and shall constitute a part of the record.

(6) Oral argument may be permitted in the discretion of the Presiding Officer and shall be reported as part of the record unless otherwise ordered by him.

(f) (1) The Presiding Officer shall make an initial decision which shall include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law or discretion presented on the record. The findings, conclusions, and written decision shall be provided to the parties and made a part of the record. The initial decision shall become the decision of the Administrator without further proceedings unless there is an appeal to the Administrator or motion for review by the Administrator within 20 days of the date the initial decision was filed.

(2) On appeal from or review of the initial decision the Administrator shall have all the powers which he would have in making the initial decision including the discretion to require or allow briefs, oral argument, the taking of additional evidence or the remanding to the Presiding Officer for additional proceedings. The decision by the Administrator shall include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law, or discretion presented on the appeal or considered in the review.

§ 85.906 Maintenance of records; submittal of information; right of entry.

(a) The manufacturer of any new motor vehicle engine subject to any of the standards prescribed in this subpart shall establish and maintain the following adequately organized and indexed records:

(1) Identification and description of all engines for which testing is required under this subpart.

(2) A description of all emission control systems which are installed on or incorporated in each engine.

(3) A description of the procedures used to test such engines.

(4) Test data on each emission data engine which will show its emissions at 0 and 125 hours.

(5) Test data on each durability engine which will show the performace of the systems installed on or incorporated in the engine during extended operation, as well as a record of all pertinent maintenance performed on the engine.

(b) The manufacturer of any new motor vehicle engine subject to any of the standards prescribed in this subpart shall submit to the Administrator at the time of issuance by the manufacturer copies of all instructions or explanations regarding the use, repair, adjustment, maintenance, or testing of such engine relevant to the control of exhaust emissions issued by the manufacturer for use by other manufacturers, assembly plants, distributors, dealers, and ultimate purchasers: *Provided*, That any material not translated in the English language need not be submitted unless specifically requested by the Administrator.

(c) The manufacturer of any new motor vehicle engine subject to any of the standards prescribed in this subpart shall permit officers or employees duly designated by the Administrator, upon presenting appropriate credentials and a written notice to the manufacturer:

(1) To enter, at reasonable times, any premises used during the certification procedure for purposes of monitoring tests and service accumulation procedures, observing maintenance procedures and verifying correlation or calibration of test equipment, or

(2) To inspect, at reasonable times, records, files, and papers compiled by such manufacturer in accordance with paragraph (a) of this section.

A separate notice shall be given for each such inspection, but a separate notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness.

§ 85.974–1 Exhaust gaseous emission standards for 1974 model year engines.

(a) (1) Exhaust gaseous emissions from new heavy duty diesel engines shall not exceed:

(i) *Hydrocarbons plus oxides of nitrogen* (as NO_2).—16 grams per brake horsepower hour.

(ii) *Carbon monoxide.*—40 grams per brake horsepower hour.

(2) The standards set forth in paragraph (a) of this section refer to exhaust gaseous emissions generated under the conditions set forth in § 85.974–9 through § 85.974–18 and measured and calculated in accordance with those procedures.

(b) [Reserved]

(c) [Reserved]

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with test procedures prescribed in § 85.974–9 through § 85.974–18 to ascertain that such test engines meet the requirements of paragraph (a) of this section.

§ 85.974–2 Application for certification.

(a) An application for a certificate of conformity to the regulations applicable to any new motor vehicle engine shall be made to the Administrator by the manufacturer.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(1) Identification and description of the engines covered by the application and a description of their emission control systems.

(2) Projected U.S. sales data sufficient to enable the Administrator to select a test fleet representative of the engines for which certification is requested.

(3) A description of the test equipment and fuel proposed to be used.

(4) A description of the proposed service accumulation procedure for durability testing.

(5) A statement of recommended maintenance and procedures necessary to assure that the engines covered by a certificate of conformity in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(6) At the option of the manufacturer, the proposed composition of the emission data and durability data test fleet.

§ 85.974–3 Approval of procedure and equipment; test fleet selections.

Based upon the information provided in the application for certification, and any other information the Administrator may require, the Administrator will approve or disapprove in whole or in part the service accumulation procedure and equipment and fuel proposed by the manufacturer, and notify him in writing of such determination. Where any part of a proposal is disaporoved, such notification will specify the reasons for disapproval. The Administrator will select a test fleet in accordance with § 85.974–5.

§ 85.974–4 Required data.

The manufacturer shall perform the tests required by the applicable test procedures, and submit to the Administrator the following information:

(a) Durability data on such engines tested in accordance with the applicable test procedures of this subpart, and in such numbers as therein specified, which will show the performance of the systems installed on or incorporated in the engine for extended operation, as well as a record of all pertinent maintenance performed on the test engines.

(b) Emission data on such engines tested in accordance with the applicable test procedures of this subpart, and in such numbers as therein specified, which will show the performance of the systems installed on or incorporated in the engine for extended operation, as well as a record of all pertinent maintenance performed on the test engines.

(c) Such other information as may be required by the Administrator to determine whether the engines may be expected to meet the requirements of this subpart during their useful life.

(d) All records, reports or information required by or submitted to the Administrator under this subpart shall be available during normal business hours for inspection by the Administrator or his authorized representative, and the manufacturer shall make available to the Administrator or his authorized representative such records, reports or information upon his request.

§ 85.974–5 Test fleet selection.

(a) Prior to the production of engines for which certification is requested, the manufacturer shall select a test fleet representative of the engines for which certification is requested. The selection of the test fleet shall be made in accordance with good engineering practice for the purpose of establishing that the engines in production will meet the requirements of this subpart during their useful life.

(b) The Administrator may reject any engine selected by the manufacturer for testing if he determines that such engine does not meet the requirements of paragraph (a) of this section. In such case, the Administrator will notify the manufacturer in writing of his reasons for rejecting the engine. Such notification must be made within 30 days after selection of the engine by the manufacturer.

(c) If the Administrator rejects any engine selected by the manufacturer for testing, the manufacturer shall select another engine for testing.

§ 85.974–6 Maintenance of engines prior to testing.

(a) Engines which are to be tested to determine conformity with the regulations in this subpart may be subjected to service accumulation and maintenance only in accordance with the manufacturer's written instructions and procedures.

(b) Any maintenance, modification, purging, or preconditioning of test engines beyond that specified in this subpart must be approved in advance by the Administrator.

§ 85.974–7 Emission data engines.

(a) Engines which are to be tested to determine conformity with the regulations in this subpart shall be operated for a sufficient period of time to stabilize emission levels. The period shall be established by the manufacturer in accordance with good engineering practice unless otherwise specified by the Administrator.

(b) Engines using fuel meeting specifications approved by the Administrator, shall be used in exhaust emission testing.

(c) Engines which are to be tested shall be equipped with all components required to meet the applicable emission standards during normal operation. Components which are not operational during normal engine operation shall be adjusted to their normal operational mode during testing.

(d) Engines which are to be tested shall be equipped with instrumentation for measuring engine torque, speed, fuel consumption, and air consumption. Instrumentation for measuring engine torque, speed, fuel consumption, and air consumption shall be of a design and accuracy approved by the Administrator.

§ 85.974–8 Test engine dynamometer.

(a) The engine dynamometer shall be capable of controlling engine speed and load within the limits specified in § 85.974–9.

(b) The engine dynamometer shall be capable of controlling engine speed and load within the limits specified in § 85.974–9.

§ 85.974–9 Engine dynamometer test procedure.

(a) The engine dynamometer test procedure is the 13-mode steady-state test cycle specified in the Society of Automotive Engineers Recommended Practice, "Engine Exhaust Measurement Procedure—Diesel Engines," SAE J177a, dated November 1970.

(b) The determination of the intake air flow rate, exhaust gas flow rate, and fuel flow rate shall be made in accordance with the Society of Automotive Engineers Recommended Practice, "Measurement of Diesel Exhaust," dated November 1970.

(b) Emission data on such engines tested in accordance with the applicable emission test procedures of this subpart and in such numbers as therein specified, which will show their emissions after 0 hours and 125 hours of operation.

(c) A description of tests performed to ascertain compliance with the general standards in § 85.974–1 and the data derived from such tests.

(d) A statement that the test engines with respect to which data are submitted have been tested in accordance with the applicable test procedures, that they meet the requirement of such tests, and that, on the basis of such tests, they conform to the requirements of the regulations in this subpart. If such statements cannot be made with respect to any engine tested, the engine shall be identified, and all pertinent test data relating thereto shall be supplied.

§ 85.974–5 Test engines.

The test engines selected for testing under § 85.874–5 shall be used as the test engines for this subpart. The engines may be tested with the test procedure in § 85.874 and the test procedure in § 85.-974–9 through § 85.974–18 consecutively at each test point irrespective of the requirements of § 85.874–19(b) and § 85.974–7(a).

§ 85.974–6 Maintenance.

(a) (1) Maintenance on the engines and fuel systems of durability engines may be performed only under the following provisions:

(i) One major engine servicing to manufacturer's specifications may be performed at 500 hours (±8 hours) of dynamometer operation. A major engine servicing shall be restricted to the following:

(a) Adjust low idle speed.
(b) Adjust valve lash if required.
(c) Adjust injector timing.
(d) Adjust governor.
(e) Clean and service injector tips.

(ii) Injectors may be changed if a persistent misfire is detected.

(iii) Normal engine lubrication services (engine oil change and oil filter, fuel filter, and air filter servicing and adjustment of drive belt tension and engine bolt torque, as required, will be allowed at manufacturer's recommended intervals.

(iv) Readjustment of the engine fuel rates may be performed only if there is a problem of dropping below 95 percent of maximum rated horsepower at 95–100 percent rated speed.

(v) Leaks in the fuel system, engine lubrication system and cooling system may be repaired.

(vi) Engine low-idle speed may be adjusted at the 125-hour test point.

(vii) Any other engine or fuel system maintenance or repair will be allowed only with the advance approval of the Administrator.

(2) Allowable maintenance on emission data engines shall be limited to the adjustment of engine low idle speed at the 125-hour test point, except that other maintenance or repair may be allowed with the advance approval of the Administrator.

(b) Complete emission tests (see § 85.974–10 through § 85.974–18) shall be run before and after any engine maintenance which may reasonably be expected to affect emissions. These test data shall be supplied to the Administrator immediately after the tests, along with a complete record of all pertinent maintenance, including an engineering report of any malfunction diagnosis and the corrective action taken. In addition, all test data and maintenance reports shall be compiled and provided to the Administrator in accordance with § 85.974–4.

(c) If the Administrator determines that maintenance or repairs performed have resulted in a substantial change to the engine-system combination, the engine shall not be used as a durability data engine.

§ 85.974–7 Service accumulation and emission measurements.

Service accumulation shall be accomplished by operation of an engine on a dynamometer.

(a) Emission data engines: Each engine shall be operated on a dynamometer for 125 hours with the dynamometer and engine adjusted so that the engine is operating at 95–100 percent of rated speed and at least 95 percent of maximum rated horsepower. During such operation, the engine shall be run at the exhaust back pressure specified in § 85.974–12(c) and the air inlet restriction specified in § 85.974–12(d) except that the tolerances shall be ±0.5 inches of Hg. and ±3 inches or water respectively. Exhaust smoke tests shall be conducted at zero and 125 hours of operation.

(b) Durability data engines: Each engine shall be operated on a dynamometer for 1,000 hours with the dynamometer and engine adjusted so that the engine is operating at 95–100 percent of rated speed and at least 95 percent of maximum rated horsepower. During such operation, the engine shall be run at the exhaust back pressure specified in § 85.974–12(c) and the air inlet restriction specified in § 85.974–12(d) except that the tolerances shall be ±0.5 inches of Hg. and ±3 inches of water respectively. Exhaust smoke measurements shall be made at zero hours and at each 125 hours of operation. All results except the zero hour results shall be used to establish the deterioration factors (see § 85.974–19).

(c) All tests required by this subpart to be conducted after 125 hours of dynamometer operation or at any multiple of 125 hours may be conducted at any accumulated hours within 8 hours of 125 hours or the appropriate multiple of 125 hours, respectively.

(d) The result of each emission test shall be supplied to the Administrator immediately after the test. In addition, all test data shall be compiled and provided to the Administrator in accordance with § 85.974–4.

(e) Whenever the manufacturer proposes to operate and test an engine which may be used for emission or durability data, he shall provide the zero hour test data to the Administrator and make the engine available for such testing under § 85.974–29 as the Administrator may require before beginning to accumulate hours on the engine. Failure to comply with this requirement shall invalidate all test data submitted for this engine.

(f) Once a manufacturer begins to operate an emission data or durability data engine, as indicated by compliance with paragraph (e) of this section, he shall continue to run the engine to 125 hours or 1,000 hours, respectively, and the data from the engine shall be used in the calculations under § 85.974–19. Discontinuation of an engine shall be allowed only with the prior written consent of the Administrator.

(g) All emission control systems installed on or incorporated in a new motor vehicle engine shall be functioning during all test procedures in this subpart.

§ 85.974–8 Special test procedures.

The Administrator may, on the basis of a written application therefor by a manufacturer, prescribe test procedures, other than those set forth in this subpart, for any motor vehicle engine which he determines is not susceptible to satisfactory testing by the procedures set forth herein.

§ 85.974–9 Test procedures.

The test procedures described in this and subsequent sections will be the test program to determine the conformity of engines with the standards set forth in § 85.974–1.

(a) The test procedure begins with a warm engine and consists of a prescribed sequence of engine operating conditions on an engine dynamometer with continuous examination of the exhaust gases.

(b) The test is designed to determine the brake-specific emissions of hydrocarbons, carbon monoxide and oxides of nitrogen when an engine is operated through a cycle which consists of three idle modes and five power modes at each of two speeds which span the typical operating range of diesel engines. The procedure requires the determination of the concentration of each pollutant, the exhaust flow and the power output during each mode. The measured values are weighted and used to calculate the grams of each pollutant emitted per brake-horsepower hour.

(c) When an engine is tested for exhaust emissions or is operated for durability testing on an engine dynamometer, the complete engine shall be tested with all standard accessories which might reasonably be expected to influence emissions to the atmosphere installed and functioning.

§ 85.974–10 Diesel fuel specifications.

(a) The diesel fuels employed shall be clean and bright, with pour and cloud points adequate for operability. The fuels may contain nonmetallic additives as follows: cetane improver, metal deactivator, antioxidant, dehazer, antirust, pour depressant, dye, and dispersant.

(b) Fuel meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in exhaust emission testing. The grade of fuel recommended by the engine manufacturer, commercially designated as "Type 1–D" or "Type 2–D", shall be used.

Item	ASTM test method No.	Type 1–D	Type 2–D
Cetane	D 613	48–54	42–50
Distillation range	D 86		
IBP, °F		330–390	340–400
10 percent point, °F		370–430	400–460
50 percent point, °F		410–480	470–540
90 percent point, °F		460–520	550–610
EP, °F		500–560	580–660
Gravity, ° API	D 287	40–44	33–37
Total sulfur, percent	D 129 or D 2622	0.05–0.20	0.2–0.5
Hydrocarbon composition	D 1319		
Aromatics, percent		8–15	27 (Min.)
Paraffins, Naphthenes, Olefins		Remainder	Remainder
Flash point, °F (Min.)	D 93	120	130
Viscosity, centistokes	D 445	1.6–2.0	2.0–3.2

(c) Fuel meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in service accumulation. The grade of fuel recommended by the engine manufacturer, commercially designated as "Type 1–D" or "Type 2–D", shall be used.

Item	ASTM test method No.	Type 1–D	Type 2–D
Cetane	D 613	48–54	42–55
Distillation range	D 86		
IBP, °F		330–390	340–410
10 percent point, °F		370–430	400–470
50 percent point, °F		410–480	470–540
90 percent point, °F		460–520	550–610
EP, °F		500–560	580–660
Gravity, °API	D 287	40–44	33–40
Total sulfur, percent	D 129 or D 2622	0.05–0.20	0.2–0.5
Flash point, °F (Min.)	D 93	120	130
Viscosity, centistokes	D 445	1.6–2.0	2.0–3.2

(d) The type fuel, including additive and other specifications, used under paragraphs (b) and (c) of this section shall be reported in accordance with § 85.974–2(b)(3).

§ 85.974–11 Dynamometer procedure.

(a) The following 13 mode cycle shall be followed in dynamometer operation tests of heavy-duty diesel engines:

Mode No.	Engine speed	Percent load
1	Low idle	0
2	Intermediate	2
3	do	25
4	do	50
5	do	75
6	do	100
7	Low idle	0
8	Rated	100
9	do	75
10	do	50
11	do	25
12	do	2
13	Low idle	0

(b) During each mode the specified speed shall be held to within 50 r.p.m. and the specified torque shall be held to within 2 percent of the maximum torque at the test speed. For example, the torque for mode 4 shall be between 48 and 52 percent of the maximum torque measured at the intermediate speed.

§ 85.974–12 Dynamometer and engine equipment.

The following equipment shall be used for emission testing of engines on engine dynamometers:

(a) An engine dynamometer with adequate characteristics to perform the test cycle described in § 85.974–11.

(b) An engine cooling system having sufficient capacity to maintain the engine at normal operating temperatures during conduct of the prescribed engine tests.

(c) A noninsulated exhaust system extending 15±5 feet from the exhaust manifold, or the crossover junction in the case of Vee engines, and presenting an exhaust back pressure within ±0.2 inch Hg. of the upper limit at maximum rated horsepower, as established by the engine manufacturer in his sales and service literature for vehicle application. A conventional automotive muffler of a size and type commonly used with the engine being tested shall be employed in the exhaust system during emission testing.

(d) An engine air inlet system presenting an air inlet restriction within ±1 inch of water of the upper limit for the engine operating condition which results in maximum airflow, as established by the engine manufacturer in his sales and service literature, for the engine being tested.

§ 85.974–13 Sampling and analytical methods.

(a) The determination of the carbon monoxide and nitric oxide concentrations shall be accomplished using sampling and analysis components as specified in sections 2.1 and 2.2 of SAE Recommended Practice No. J177 titled, "Measurement of Carbon Dioxide, Carbon Monoxide and Oxides of Nitrogen in Diesel Exhaust," dated June 1970.

(b) The determination of the hydrocarbon concentrations shall be accomplished using sampling and analysis components as specified in sections 2.1 and 2.2 of SAE Recommended Practice No. J215 titled, "Continuous Hydrocarbon Analysis of Diesel Exhaust," dated November 1970.

(c) The determination of the intake airflow or exhaust flow shall be accomplished using SAE Recommended Practice No. J244 titled, "The Measurement of Intake or Exhaust Flow in Diesel Engines," dated May 1971.

§ 85.974–14 Information.

The following information shall be recorded:

(a) Test number.
(b) Date and time of day.
(c) Instrument operator.
(d) Engine operator.
(e) Engine identification numbers—date of manufacture—number of hours of operation accumulated on engine—engine family—exhaust pipe diameter—fuel injector type—low idle r.p.m., governed speed, maximum power and torque speeds—maximum horsepower and torque—fuel consumption at maximum power and torque—air aspiration system—exhaust system back pressure—air inlet restriction.
(f) All pertinent instrument information such as tuning—gain—serial numbers—detector numbers—range.
(g) Recorder chart. Identify zero traces—calibration or span traces—emission concentration traces for each test mode—start and finish of each test.
(h) Ambient temperature in dynamometer testing room.
(i) Engine intake air temperature and humidity for each mode.
(j) Barometric pressure.
(k) Observed engine torque for each mode.
(l) Intake airflow or exhaust flow for each mode.
(m) Fuel flow and temperature for each mode.

§ 85.974–15 Calibration and instrument checks.

Calibration and instrument checks shall be performed according to section 2.3.1 of SAE Recommended Practice No. J177, dated June 1970, and sections 3 and 7 of SAE Recommended Practice No. J215, dated November 1970, except that the instrument zeros need not be checked after each analysis but as necessary to maintain test validity. Calibration and checks of other instruments used for the test shall be performed as necessary according to good practice.

§ 85.974–16 Test run.

(a) The temperature of the air supplied to the engine shall be between 68° F. and 86° F. The fuel temperature at the pump inlet shall be 100° F. ±10° F. The observed barometric pressure shall be between 28.5 inches and 31 inches Hg. Higher air temperature or lower barometric pressure may be used, if desired, but no allowance shall be made for increased emissions because of such conditions.

(b) The governor and fuel system shall have been adjusted to provide engine performance at the levels specified by the engine manufacturer for maximum rated horsepower and maximum rated torque. These specifications

shall be reported in accordance with

Where H is the humidity of the inlet air

not be used in calculation of a deteriora-

and under such conditions as the Administrator may prescribe.

objections. If, after a review of the request and supporting data, the Admin-

amended accordingly. If the Administrator determines that the test engine(s)

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shall be reported in accordance with § 85.974–2(b)(3).

(c) The following steps shall be taken for each test:

(1) Install instrumentation and sample probes as required.

(2) Start cooling system.

(3) Start the engine, warm it up and precondition it by running it at rated speed and maximum horsepower for 10 minutes or until all temperatures and pressures have reached equilibrium.

(4) Determine by experimentation the maximum torque at rated speed and intermediate speed to calculate the torque values for the specified test modes.

(5) Zero and span the emission analyzers.

(6) Start the test sequence of § 85.974–11. Operate the engine for 10 minutes in each mode, completing engine speed and load changes in the first minute. Record the responses of the analyzers on a strip chart recorder for the full 10 minutes with exhaust gas flowing through the analyzers at least during the last 5 minutes. Record the engine speed and load, intake air temperature and restriction, exhaust back pressure, fuel flow and air or exhaust flow during the last 5 minutes of each mode, making certain that the speed and load requirements of § 85.974–11(b) are met during the last minute of each mode. Fuel flow during idle or 2 percent load conditions may be determined just prior to or immediately following the dynamometer sequence if longer times are required for accurate measurements.

(7) Read and record any additional data as required for § 85.974–14.

(8) Check and reset the zero and span settings of the emission analyzers as required, but at least at the end of the second idle mode (mode No. 7) and at the end of the test. If a change of over 2 percent of full-scale response is observed, make necessary adjustments to the analyzers and repeat all test modes since the last zero and span check.

(9) Backflush condensate trap and replace filters as required.

§ 85.974–17 Chart reading.

(a) Locate the last 60 seconds of each mode and determine the average chart reading for HC, CO, and NO over the 1-minute period.

(b) Determine the concentration of HC, CO, NO during each mode from the average chart readings and the corresponding calibration data.

§ 85.974–18 Calculations.

The final reported test results shall be derived through the following steps:

(a) Determine the exhaust gas mass-flow rate for each mode according to the SAE Recommended Practice J244 dated May 1971.

(b) Convert the measured carbon monoxide and nitric oxide concentrations to a wet basis according to sections 4 and 5.4 of SAE Recommended Practice No. J177 (See § 85.974–13(a)).

(c) Multiply the corrected nitric oxide values by the following humidity correction factor.

$$\frac{1}{1-0.0025\,(H-75)}$$

Where H is the humidity of the inlet air measured as grains of H_2O per pound of dry air.

(d) Calculate the mass emissions of HC (HC_{mass}), CO (CO_{mass}), and NO_x ($NO_{x\,mass}$) in grams per hour for each mode as follows:

(1) $HC_{mass} = 0.0132 \times HC_{conc} \times$ exhaust mass (lb./min.).

(2) $CO_{mass} = 0.0263 \times CO_{conc} \times$ exhaust mass (lb. min.).

(3) $NO_{x_{mass}} = 0.0432 \times NO_{conc} \times$ exhaust mass (lb./min.).

(e) Calculate the weighted brake horsepower and HC, CO, and $NO_{x\,mass}$ values as follows:

(1) Multiply the average of the three idle values by a weighting factor of 0.2.

(2) Multiply the values for all of the other modes by a weighting factor of 0.08.

(f) Calculate the brake specific emissions for HC, CO, and NO_x for each set of data as follows:

$$BSHC = \frac{\Sigma(HC_{mass} \times WF)}{\Sigma(\text{Measured } BHP \times WF)}$$

$$BSCO = \frac{\Sigma(CO_{mass} \times WF)}{\Sigma(\text{Measured } BHP \times WF)}$$

$$BSNO_x = \frac{\Sigma(NO_{x_{mass}} \times WF)}{\Sigma(\text{Measured } BHP \times WF)}$$

§§ 85.974–19—85.974–27 [Reserved]

§ 85.974–28 Compliance with emission standards.

(a) The exhaust gaseous emission standards in § 85.974–1 apply to the emissions of engines for their useful life.

(b) Since emission control efficiency decreases with the accumulation of hours on the engine, the emission level of an engine which has accumulated 1,000 hours of dynamometer operation will be used as the basis for determining compliance with the standards.

(c) The procedure for determining compliance of a new engine with exhaust emission standards is as follows:

(1) Separate emission deterioration factors shall be determined from the emission results of the durability data engines for each engine-system combination. Separate factors shall be established for CO and for the combined emissions of HC and NO_x.

(i) The applicable results to be used in determining the deterioration factors for each combination shall be:

(*a*) All emission data from the tests required under § 85.874(b) except the zero-hour tests. This shall include the official test results, as determined in § 85.974–29, for all tests conducted on all durability engines of the combination selected under § 85.874–5(c) (including all engines selected to be operated by the manufacturer under § 85.874–5(c)(2)).

(*b*) All emission data from the tests conducted before and after the maintenance provided in § 85.874–6(a)(1)(i).

(ii) All applicable results shall be plotted as a function of the hours on the system, rounded to the nearest hour, and the best fit straight line, fitted by the method of least squares, shall be drawn through these data points. The interpolated 125- and 1,000-hour points on this line must be within the standard provided in § 85.974–1 or the data shall not be used in calculation of a deterioration factor.

(iii) An exhaust emission deterioration factor shall be calculated for each combination as follows:

factor = exhaust emissions interpolated to 1000 hours minus the exhaust emissions interpolated to 125 hours.

(2) The appropriate deterioration factor shall be added to the exhaust emissions test results for each emission data engine: *Provided*, That if a deterioration factor as computed in subparagraph (1) of this paragraph is negative, that deterioration factor shall be zero when comparing adjusted emissions to the standards.

(3) The emissions to compare with the standard shall be the adjusted emissions of subparagraph (2) of this paragraph for each emission data engine.

(4) Every test engine of an engine family must comply with all applicable standards, as determined in subparagraph (3) of this paragraph, before any engine in that family will be certified.

§ 85.974–29 Testing by the Administrator.

(a) The Administrator may require that any one or more of the test engines be submitted to him, at such place or places as he may designate, for the purpose of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(b)(1) Whenever the Administrator conducts a test on a test engine, the results of that test shall comprise the official data for the engine at that prescribed test point.

(2) Whenever the Administrator does not conduct a test on a test engine at a test point, the manufacturer's test data will be accepted as the official data for that test point: *Provided*, That if the Administrator makes a determination based on testing under paragraph (a) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer.

(3) If the Administrator determines that the test data developed under paragraph (a) of this section would cause an engine to fail due to excessive 125-hour emissions or excessive deterioration, then the following procedure shall be observed:

(i) The manufacturer may request a retest. Before the retest, the engine may be adjusted to manufacturer's specifications, and parts may be replaced in accordance with § 85.974–6. All work on the engine shall be done at such location

and under such conditions as the Administrator may prescribe.

(ii) The engine will be retested by the Administrator and the results of this test shall comprise the official data for that prescribed test point.

(4) If sufficient durability data is not available, at the time of any emission test conducted under paragraph (a) of this section, to enable the Administrator to determine whether a test engine would fail, the manufacturer may request a retest in accordance with the provisions of subparagraph (3) (i) and (ii) of this paragraph. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the engine from the test premises.

§ 85.974–30 Certification.

(a) (1) If, after a review of the test reports and data submitted by the manufacturer and data derived from any additional testing conducted pursuant to § 85.974–29, the Administrator determines that a test engine(s) conforms to the regulations of this subpart, he will issue a certificate of conformity with respect to such engine(s).

(2) Such certificate will be issued for such period not more than 1 year as the Administrator may determine and upon such terms as he may deem necessary to assure that any new motor vehicle engine covered by the certificate will meet the requirements of these regulations relating to durability and performance.

(b)(1) The Administrator will determine whether an engine covered by the application complies with applicable standards by observing the following relationships:

(i) A test engine selected under § 85.974–5(b)(2) or (4) shall represent all engines in the same engine family of the same engine displacement-exhaust emission control system combination.

(ii) [Reserved]

(iii) A test engine selected under § 85.974–5(c)(1) shall represent all engines of the same engine-system combination.

(2) The Administrator will proceed as in paragraph (a) of this section with respect to the engines belonging to an engine family all of which comply with applicable standards.

(3) If, after a review of the test reports and data submitted by the manufacturer and data derived from any additional testing conducted pursuant to § 85.974–29, the Administrator determines that one or more test engines of the certification test fleet do not meet applicable standards, he will notify the manufacturer in writing, setting forth the basis for his determination. Within 30 days following receipt of the notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determination, and data in support of such objections. If, after a review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 85.905 with respect to such issue.

(4) The manufacturer may, at his option, proceed with any of the following alternatives with respect to any engine family represented by a test engine(s) determined not in compliance with applicable standards:

(i) Request a hearing under § 85.905, or

(ii) Delete from the application for certification the engines represented by the failing test engine. (Engines so deleted may be included in a later request for certification under § 85.974–32.) The Administrator will then select in place of each failing engine an alternate engine chosen in accordance with selection criteria employed in selecting the engine that failed, or

(iii) Modify the test vehicle and demonstrate by testing that it meets applicable standards. Another engine which is in all material respects the same as the first engine, as modified, shall then be operated and tested in accordance with applicable test procedures.

(5) If the manufacturer does not request a hearing or present the required data under subparagraph (4) of this paragraph, the Administrator will deny certification.

§ 85.974–31 Separate certification.

Where possible a manufacturer should include in a single application for certification all engines for which certification is required. A manufacturer may, however, choose to apply separately for certification of part of his product line. The selection of test engines and the computation of test results will be determined separately for each application.

§ 85.974–32 Addition of an engine after certification.

(a) If a manufacturer proposes to add to his product line an engine of the same engine-system combination as engines previously certified but which was not described in the application for certification when the test engine(s) representing other engines of that combination was certified, he shall notify the Administrator. Such notification shall be in advance of the addition unless the manufacturer elects to follow the procedure described in § 85.974–34. This notification shall include a full description of the engine to be added.

(b) The Administrator may require the manufacturer to perform such tests on the test engine(s) representing the engine to be added which would have been required if the engine had been included in the original application for certification.

(c) If, after a review of the test reports and data submitted by the manufacturer, and data derived from any testing conducted under § 85.974–29, the Administrator determines that the test engine(s) meets all applicable standards, the appropriate certificate will be amended accordingly. If the Administrator determines that the test engine(s) does not meet applicable standards, he will proceed under § 85.974–30(b).

§ 85.974–33 Changes to an engine covered by certification.

(a) The manufacturer shall notify the Administrator of any change in production engines in respect to any of the parameters listed in § 85.073–5(a)(3), giving a full description of the change. Such notification shall be in advance of the change unless the manufacturer elects to follow the procedure described in § 85.974–34.

(b) Based upon the description of the change, and data derived from such testing as the Administrator may require or conduct, the Administrator will determine whether the engine, as modified, would still be covered by the certificate of conformity then in effect.

(c) If the Administrator determines that the outstanding certificate would cover the modified engines, he will notify the manufacturer in writing. Except as provided in § 85.974–34, the change may not be put into effect prior to the manufacturer's receiving this notification. If the Administrator determines that the modified engines would not be covered by the certificate then in effect, then the modified engines shall be treated as additions to the product line subject to § 85.974–32.

§ 85.974–34 Alternative procedure for notification of additions and changes.

(a) A manufacturer may, in lieu of notifying the Administrator in advance of an addition of an engine under § 85.974–32 or a change in an engine under § 85.974–33, notify him concurrently with the making of the change if the manufacturer believes the addition or change will not require any testing under the appropriate section. Upon notification to the Administrator, the manufacturer may proceed to put the addition or change into effect.

(b) The manufacturer may continue to produce engines as described in the notification to the Administrator for a maximum of 30 days, unless the Administrator grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Administrator determines, based upon a description of the addition or change, that no test data will be required, he will notify the manufacturer in writing of the acceptability of the addition or change. If the Administrator determines that test data will be required, he will notify the manufacturer to rescind the change within 5 days of receipt of the notification. The Administrator will then proceed as in § 85.974–32 (b) and (c), or § 85.974–33 (b) and (c) as appropriate.

(d) Election to produce engines under this section will be deemed to be a consent to recall all engines which the Administrator determines under § 85.974–32 (c) do not meet applicable standards, and to cause such nonconformity to be remedied at no expense to the owner.

§ 85.974–35 Labeling.

(a) (1) The manufacturer of any

appropriately equipped for operation on a chassis dynamometer.

new and used motor vehicles or engines manufactured after the effective date of

ported pursuant to 19 CFR 12.73(b)(5)(x) under a declaration that it is not

formity, and what modifications or testing, if any, are required to bring the

Subpart Q—Low-Emission Vehicles

§ 85.1601 Definitions.

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on this line must be within the standard provided in § 85.974–1 or the data shall

cordance with § 85.974–6. All work on the engine shall be done at such location

§ 85.974–35 Labeling.

(a) (1) The manufacturer of any heavy duty diesel engine subject to the standards prescribed in § 85.974–1 shall, at the time of manufacture, affix a permanent, legible label, of the type and in the manner described below, containing the information hereinafter provided, to all production models of such engines available for sale to the public and covered by a certificate of conformity under § 85.974–30(a).

(2) A plastic or metal label shall be welded, bonded, or otherwise permanently attached to the engine in a position in which it will be readily visible after installation in the vehicle.

(3) The label shall be attached to an engine part necessary for normal engine operation and not normally requiring replacement during engine life.

(4) The label shall contain the following information lettered in the English language in block letters and numerals which shall be of a color that contrasts with the background of the label:

(i) The label heading: Engine Exhaust Emission Control Information;

(ii) Full corporate name and trademark of manufacturer;

(iii) Engine family identification and model;

(iv) Date of engine manufacture (month and year);

(v) Engine specification:

Advertised hp. ------ @ ------ r.p.m.
Fuel rate @ advertised hp. ------ m.m.³/stroke.
Valve lash ------ (inches).
Initial injection timing (if adjustable) ------.
(The information applicable to each engine is to be inserted on the appropriate line.)

(vi) The statement: This Engine Conforms to U.S. Environmental Protection Agency Regulations Applicable to 1974 model year heavy duty diesel engines.

(b) The provisions of this section shall not prevent a manufacturer from also reciting on the label that such engine conforms to any applicable State emission standards for new motor vehicle engines or any other information that such manufacturer deems necessary for, or useful to the proper operation and satisfactory maintenance of the engine.

(c) The label may be made up of one or more pieces provided that all pieces are permanently attached to the same engine or vehicle part as applicable.

§ 85.974–36 [Reserved]

§ 85.974–37 Production engines.

(a) Any manufacturer obtaining certification under this subpart shall supply to the Administrator, upon his request, a reasonable number of production engines selected by the Administrator which are representative of the engines, emission control systems, fuel systems, and transmissions offered and typical of production models available for sale under the certificate. These engines shall be supplied for testing at such time and place and for such reasonable periods as the Administrator may require. Engines supplied under this paragraph may be required to be mounted in chassis and appropriately equipped for operation on a chassis dynamometer.

(b) Any manufacturer obtaining certification under this part shall notify the Administrator, on a quarterly basis, of the number of engines of each engine family-engine displacement-exhaust emission control system-fuel system combination produced for sale in the United States during the preceding quarter.

§ 85.974–38 Maintenance instructions.

(a) The manufacturer shall furnish or cause to be furnished to the ultimate purchaser of each new engine subject to the standards prescribed in § 85.974–1, written instructions for the maintenance and use of the vehicle or engine by the ultimate purchaser as may be reasonable and necessary to assure the proper functioning of emission control systems.

(1) Such instructions shall be provided for those engine components listed in Appendix VI to this part (and for any other components) to the extent that maintenance of these components is necessary to assure the proper functioning of emission control systems.

(2) Such instructions shall be in clear, and to the extent practicable, nontechnical language.

(b) The maintenance instruction required by this section shall contain a general description of the documentation which the manufacturer will require from the ultimate purchaser or any subsequent purchaser as evidence of compliance with the instructions.

§ 85.974–39 Submission of maintenance instructions.

(a) The manufacturer shall provide to the Administrator, no later than the time of the submission required by § 85.974–4, a copy of the maintenance instructions which the manufacturer proposes to supply to the ultimate purchaser in accordance with § 85.974–38(a). The Administrator will review such instructions to determine whether they are reasonable and necessary to assure the proper functioning of the engine's emission control systems. The Administrator will notify the manufacturer of his determination whether such instructions are reasonable and necessary to assure the proper functioning of the emission control systems.

(b) Any revision to the maintenance instructions which will affect emissions shall be supplied to the Administrator at least 30 days before being supplied to the ultimate purchaser unless the Administrator consents to a lesser period of time.

Subpart P—Importation of Motor Vehicles and Motor Vehicle Engines

§ 85.1501 Applicability.

(a) The provisions of this subpart are applicable to new motor vehicles and new motor vehicle engines which are offered for importation or imported into the United States by any person. As used in this subpart, "new motor vehicles" and "new motor vehicle engines" mean new and used motor vehicles or engines manufactured after the effective date of a regulation issued under section 202 of the Act which is applicable to such vehicles or engines (or which would have been applicable to such vehicles or engines had they been manufactured for importation into the United States). The term United States means the customs territory of the United States as defined in 19 U.S.C. 1202, and the Virgin Islands, Guam, and American Samoa.

(b) Regulations prescribing further procedures for entry of motor vehicles and motor vehicle engines into the customs territory of the United States, as defined in 19 U.S.C. 1202, are set forth in 19 CFR 12.73.

§ 85.1502 Admission for testing.

A motor vehicle or motor vehicle engine offered for importation or imported pursuant to 19 CFR 12.73(b)(5)(vi), solely for purposes of testing, may be operated on the public streets or highways for a period not to exceed 1 year from the date of importation if the importer or consignee receives prior written approval of such operation from the Administrator. Requests for such approval shall be in writing, and shall briefly describe the proposed testing program, including the estimated duration of such program.

§ 85.1503 Admission pending certification.

A motor vehicle or motor vehicle engine offered for importation or imported pursuant to 19 CFR 12.73(b)(5)(ix) under a declaration that it is one of a class of vehicles or engines represented by test vehicles or engines for which an application for certification of conformity with Federal motor vehicle emission standards is pending before the Administrator may be conditionally admitted into the United States, but shall be refused final admission unless:

(a) Not later than 5 days following such conditional admission the importer or consignee has submitted to the Administrator a written request that such vehicle or engine be permitted conditional admission pending certification of the test vehicle which represents the class of vehicles or engines to which such vehicle or engine belongs, which request shall contain the following:

(1) Identification of the test vehicle or engine which represents such vehicle or engine;

(2) Identification of the place where such vehicle or engine will be stored while the application for certification is pending before the Administrator: *Provided*, That such vehicle or engine shall not be stored on the premises of, or subject to access by or control of, any dealer;

(3) An acknowledgment of responsibility for the custody of the vehicle or engine while certification is pending; and

(b) The Administrator has issued the requested certificate of conformity.

§ 85.1504 Admission pending modification.

Any motor vehicle or motor vehicle engine offered for importation or imported pursuant to 19 CFR 12.73(b)(5)(x) under a declaration that it is not covered by a certificate of conformity with Federal motor vehicle emission standards may be conditionally admitted into the United States, but shall be refused final admission unless:

(a) Not later than 5 days following such conditional admission, the importer or consignee has submitted to the Administrator a written request that he be allowed to modify the vehicle or engine so that it will be in conformity with applicable emission standards, which request shall contain the following:

(1) A statement, acceptable to the Administrator, that specifies the modifications which are necessary to render the vehicle or engine in conformity with a test vehicle or engine for which a certificate of conformity has been issued; or, if the vehicle or engine cannot be modified to bring it within a class of vehicles or engines represented by a test vehicle or engine for which a certificate of conformity has been issued, the request shall state that the importer or consignee will demonstrate that the vehicle or engine is in conformity with applicable emission standards by testing the vehicle or engine or causing it to be tested in accordance with test procedures prescribed in 40 CFR Part 85;

(2) The date by which the modifications will be accomplished;

(3) Identification of the place where the vehicle or engine will be stored pending a determination of conformity under this paragraph: *Provided*, That such vehicle or engine shall not be stored on the premises of, or subject to access by or control of any dealer;

(4) An acknowledgment of responsibility for the custody of the vehicle or engine while the modifications are being made and while a determination of conformity is pending;

(5) Authorization for representatives of the Environmental Protection Agency to inspect or test the vehicle or engine at any reasonable time for the purpose of making a determination of conformity; and

(b) The Administrator has issued a written determination stating that the vehicle or engine is in conformity with Federal motor vehicle emission standards.

§ 85.1505 Admission pending receipt of information.

Any motor vehicle or motor vehicle engine offered for importation or imported pursuant to 19 CFR 12.73(b)(5)(xi) under a declaration that the importer or consignee does not possess sufficient information to make a knowledgeable declaration may be conditionally admitted into the United States, but shall be refused final admission unless:

(a) Not later than 5 days following such conditional admission, the importer or consignee has submitted to the Administrator a written request that such vehicle or engine be permitted entry pending receipt of sufficient information to determine whether such vehicle or engine is covered by a certificate of conformity, and what modifications or testing, if any, are required to bring the vehicle or engine into conformity with applicable emission standards, which request shall contain the following:

(1) Identification of the place where the vehicle or engine will be stored while the receipt of the information is pending: *Provided*, That such vehicle shall not be stored on the premises of or subject to access by or control of, any dealer; and

(2) An acknowledgment of responsibility for the custody of the vehicle or engine during the period; and

(b) The importer or consignee redeclares the vehicle in accordance with 19 CFR 12.73(b)(5)(i) through (x).

§ 85.1506 Waiver of conditions of admission.

Upon the written request of the importer or consignee, and for good cause shown, the Administrator may waive any of the conditions of admission set forth in §§ 85.1502, 85.1503(a), 85.1504(a), and 85.1505(a), and may give written consent to admission of a vehicle or engine upon such terms and conditions as the Administrator may specify.

§ 85.1507 Storage and prohibited operation or sale of vehicles or engines conditionally admitted.

A motor vehicle or engine conditionally admitted pursuant to § 85.1503, § 85.1504, or § 85.1505 shall be stored and shall not be operated on the public highways or sold until such vehicle or engine has been granted final admission. Failure to comply with this provision shall constitute a violation of section 203(a)(1) of the Clean Air Act, as amended.

§ 85.1508 Prohibited importation; penalties.

(a) The importation of any motor vehicle or motor vehicle engine otherwise than in accordance with any applicable provisions of this subpart and the bonding and entry regulations of the Bureau of Customs set forth in 19 CFR 12.73 is prohibited.

(b) Any vehicle or engine conditionally admitted pursuant to § 85.1503, § 85.1504, or § 85.1505 and not granted final admission within 90 days of such conditional admission, or within such additional time as the Bureau of Customs may allow for good cause shown pursuant to 19 CFR 12.73(c), shall be deemed to be unlawfully imported into the United States in violation of section 203(a)(1) of the Clean Air Act unless such vehicle or engine shall have been delivered to the Bureau of Customs for export or other disposition under applicable Customs laws and regulations. Any importer or consignee who violates section 203(a)(1) of the Clean Air Act is subject to a civil penalty of not more than $10,000 for each violation. In addition to the penalty provided in the Clean Air Act, any importer or consignee who fails to deliver such vehicle or engine to the Bureau of Customs is liable for liquidated damages in the amount of the bond required by applicable Customs laws and regulations.

Subpart Q—Low-Emission Vehicles

§ 85.1601 Definitions.

(a) As used in this subpart, all terms not defined herein shall have the meaning given them in the Clean Air Act (42 U.S.C. 1857f–1 et seq.) and in § 85.002:

(1) "Motor vehicle" means any self-propelled vehicle designed for use in the United States on the highways, other than a vehicle designed or used for military field training, combat, or tactical purposes.

(2) "Inherently low-polluting vehicle" means any low-emission vehicle which is powered by a propulsion system which does not require control devices, for exhaust emissions, external to the engine.

(3) "Anticipated certification period" means the 1-year period which begins 270 days after submission of a completed certification application to the Administrator.

(4) "Model year" as used in this subpart shall have the same meaning as that term has under section 202(b)(3)(A)(i) of the Clean Air Act.

(5) "Light duty motor vehicle" as used in this subpart means a motor vehicle which may be a suitable substitute for a class or model of light duty motor vehicles as defined at § 85.002(a)(5).

§ 85.1602 Low-emission vehicle.

(a) A "low-emission vehicle" for the purpose of being certified as a suitable substitute for any class or model of light duty motor vehicles means any motor vehicle for which a completed certification application has been filed in accordance with § 85.1603 and which—

(1) Meets the most stringent crankcase emission and fuel evaporative standards which will apply under section 202 of the Clean Air Act during any part of the anticipated certification period to motor vehicles of that type; and

(2) Produces exhaust emissions of (i) hydrocarbons or carbon monoxide which meet the emission standards applicable under section 202 of the Act to model year 1975 gasoline-fueled light duty vehicles, or (ii) oxides of nitrogen which meet the emission standard applicable under section 202 to model year 1976 gasoline-fueled light duty vehicles; and

(3) Does not exceed the following exhaust emission standards:

(i) *Hydrocarbons*. 3 grams per vehicle mile;

(ii) *Carbon monoxide*. 28 grams per

(iii) *Oxides of nitrogen*. 3.1 grams per vehicle mile; and

(4) Emits no air pollutant other than those pollutants which are emitted by any class or model of motor vehicles for which the applicant vehicle may be a suitable substitute, unless the Administrator determines that such other emissions will not contribute significantly to air pollution which causes or contributes to the endangerment of public health or welfare; and

(5) Does not significantly increase the

§ 400.4 of this title, the Administrator

tion, publish in the FEDERAL REGISTER

APPENDIX I—Continued

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(5) Does not significantly increase the emissions of any air pollutant not subject to an emission standard under section 202 of the Act by comparison to the emissions of such pollutant by any class or model of motor vehicles for which the applicant vehicle may be a suitable substitute.

(b) The applicable test procedures for determining compliance with the standards established by paragraph (a) of this section shall be those in effect under section 202 of the Act for 1975 model year gasoline-fueled light duty motor vehicles, except as provided in § 85.1603(b).

§ 85.1603 **Application for certification.**

(a) Any person desiring certification of a test vehicle under section 212 of the Clean Air Act shall submit to the Administrator a notice of intent to submit a certification application with respect to such vehicle. The notice of intent shall contain a description of the vehicle, including the propulsion system and the fuel used by it, and such other information as the Administrator may request. The Administrator will transmit a copy of the notice of intent to the Low-Emission Vehicle Certification Board.

(b) As soon as practicable after receipt of a notice of intent to submit a certification application for a vehicle, the Administrator shall determine whether the test procedures required under § 85.1602(b) are applicable to that vehicle. If he determines they are inapplicable, he shall, as soon as practicable thereafter, prescribe test procedures for determining whether such vehicle is a low-emission vehicle, and, if necessary, he shall establish emission standards equivalent to those in effect under paragraph (a) of § 85.1602. He shall also select test vehicles in accordance with § 85.1603.

(c) After completion of testing of all test vehicles in accordance with applicable test procedures and with § 85.1604, the person desiring certification shall submit to the Administrator a written application signed by an authorized representative of the applicant. The application shall contain all emission data from the tests of the emission and durability data test vehicles and all data required by the Board under § 400.4 of this title, relative to the following vehicle characteristics:

(1) Safety;
(2) Performance characteristics;
(3) Reliability potential;
(4) Serviceability;
(5) Fuel availability;
(6) Noise level; and
(7) Maintenance costs.

(d) Any certification application must be filed prior to July 8, 1972, in order for that vehicle to be eligible for certification, except that the Administrator may, after consultation with the Board, accept an application filed no later than December 31, 1972, if he determines that it is likely that the Board will be able to make the determination required by § 400.6 of this title no later than April 2, 1973.

(e) In addition to the information required under this section, and under § 400.4 of this title, the Administrator may require the applicant to submit any other information which the Administrator deems necessary in determining whether the test vehicle is a low-emission vehicle. The application for certification may be considered incomplete, unless all information required by the Administrator and the Low-Emission Vehicle Certification Board has been submitted.

(f) The Administrator shall, immediately upon receipt of a completed application for certification under paragraph (c) of this section, publish in the FEDERAL REGISTER notice of receipt of the application, the name of the applicant, a brief description of the propulsion system and fuel used by the applicant vehicle, and information concerning the method by which the public may have access to data relating to the emission characteristics of the applicant vehicle.

§ 85.1604 **Test vehicle selection.**

(a) The test vehicles covered by the application for certification shall be divided into engine families in accordance with § 85.073–5(a)(2) unless the Administrator approves an alternative procedure under § 85.1603(b).

(b) Except as the Administrator may require pursuant to § 85.1603(b), the applicant shall test or cause to be tested two durability data vehicles of each engine-system combination and four emission data vehicles of each engine family described in the notice of intent. The test vehicles shall be selected by the Administrator upon receipt of the notice of intent and after consultation with the Board to determine the models or classes of vehicles for which the test vehicle may be a suitable substitute.

§ 85.1605 **Data reporting.**

(a) All data on emission data and durability data test vehicles shall be reported in accordance with §§ 85.073–4(a), and 85.073–20(d).

(b) For the purpose of this subpart, § 85.073–7(e) shall not apply.

§ 85.1606 **Testing by the Administrator.**

The Administrator may require that any one or more of the applicant's test vehicles be submitted to him, at such place or places and at such time or times as he may designate for the purpose of conducting emission tests.

§ 85.1607 **Administrator's determination.**

(a) The Administrator shall, within 90 days after receipt of a completed application for certification, determine whether the applicant vehicle is a low-emission vehicle. Such determination shall be based upon an evaluation of the data provided to the Administrator in the application for certification, any supporting information the Administrator may obtain from the applicant, any relevant information obtained from the public, and the results of any testing the Administrator may have conducted in accordance with § 85.1606.

(b) The Administrator shall, immediately upon making the determination required in paragraph (a) of this section, publish in the FEDERAL REGISTER notice of such determination and the reasons therefor.

(c) The Administrator may make any recommendation which he deems appropriate concerning whether any applicant vehicle is an inherently low-polluting vehicle.

(d) If at any time after making an affirmative determination under paragraph (a) of this section but prior to certification by the Board, the Administrator obtains information which demonstrates that the applicant vehicle is not a low-emission vehicle, he may revoke such determination. The Administrator must immediately thereafter notify the Board and publish in the FEDERAL REGISTER notice of such revocation and the reasons therefor.

§ 85.1608 **Postcertification testing.**

The Administrator shall, at the request of the Board, test the emissions from certified low-emission vehicles purchased by the Federal Government. If these tests show that the emissions exceed the rates on which the Administrator based his determination under § 85.1607, the Administrator shall notify the Board.

APPENDIX I

EPA URBAN DYNAMOMETER DRIVING SCHEDULE
(Speed versus Time Sequence)

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
0	0.0	57	19.8	114	32.2
1	0.0	58	21.6	115	31.7
2	0.0	59	23.2	116	28.6
3	0.0	60	24.2	117	25.3
4	0.0	61	24.6	118	22.0
4	0.0	62	24.9	119	18.7
6	0.0	63	25.0	120	15.4
7	0.0	64	24.6	121	12.1
8	0.0	65	24.5	122	8.8
9	0.0	66	24.7	123	5.5
10	0.0	67	24.8	124	2.2
11	0.0	68	24.7	125	0.0
12	0.0	69	24.6	126	0.0
13	0.0	70	24.6	127	0.0
14	0.0	71	25.1	128	0.0
15	0.0	72	25.6	129	0.0
16	0.0	73	25.7	130	0.0
17	0.0	74	25.4	131	0.0
18	0.0	75	24.9	132	0.0
19	0.0	76	25.0	133	0.0
20	0.0	77	25.4	134	0.0
21	3.0	78	26.0	135	0.0
22	5.9	79	26.0	136	0.0
23	8.6	80	25.7	137	0.0
24	11.5	81	26.1	138	0.0
25	14.3	82	26.7	139	0.0
26	16.9	83	27.5	140	0.0
27	17.3	84	28.6	141	0.0
28	18.1	85	29.3	142	0.0
29	20.7	86	29.8	143	0.0
30	21.7	87	30.1	144	0.0
31	22.4	88	30.4	145	0.0
32	22.5	89	30.7	146	0.0
33	22.1	90	30.7	147	0.0
34	21.5	91	30.5	148	0.0
35	20.9	92	30.4	149	0.0
36	20.4	93	30.3	150	0.0
37	19.8	94	30.4	151	0.0
38	17.0	95	30.8	152	0.0
39	14.9	96	30.4	153	0.0
40	14.9	97	29.9	154	0.0
41	15.2	98	29.5	155	0.0
42	15.5	99	29.8	156	0.0
43	16.0	100	30.3	157	0.0
44	17.1	101	30.7	158	0.0
45	19.1	102	30.9	159	0.0
46	21.1	103	31.0	160	0.0
47	22.7	104	30.9	161	0.0
48	22.9	105	30.4	162	0.0
49	22.7	106	29.8	163	0.0
50	22.6	107	29.9	164	3.3
51	21.3	108	30.2	165	6.6
52	19.0	109	30.7	166	9.9
53	17.1	110	31.2	167	13.2
54	15.8	111	31.8	168	16.5
55	15.8	112	32.2	169	19.8
56	17.7	113	32.4	170	22.2

APPENDIX I—Continued

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
171	24.3	274	52.5	376	36.0
172	25.8	275	53.0	377	36.0
173	26.4	276	53.5	378	36.1
174	25.7	277	54.0	379	36.4
175	25.1	278	54.9	380	36.5
176	24.7	279	55.4	381	36.4
177	25.0	280	55.6	382	36.0
178	25.2	281	56.0	383	35.1
179	25.4	282	56.0	384	34.1
180	25.8	283	55.8	385	33.5
181	27.2	284	55.2	386	31.4
182	26.5	285	54.5	387	29.0
183	24.0	286	53.6	388	25.7
184	22.7	287	52.5	389	23.0
185	19.4	288	51.5	390	20.3
186	17.7	289	51.5	391	17.5
187	17.2	290	51.5	392	14.5
188	18.1	291	51.1	393	12.0
189	18.6	292	50.1	394	8.7
190	20.0	293	50.0	395	5.4
191	22.2	294	50.1	396	2.1
192	24.5	295	50.0	397	0.0
193	27.3	296	49.6	398	0.0
194	30.5	297	49.5	399	0.0
195	33.5	298	49.5	400	0.0
196	36.2	299	49.5	401	0.0
197	37.3	300	49.1	402	0.0
198	39.3	301	48.6	403	2.6
199	40.5	302	48.1	404	5.9
200	42.1	303	47.2	405	9.2
201	43.5	304	46.1	406	12.5
202	45.1	305	45.0	407	15.8
203	46.0	306	43.8	408	19.1
204	46.8	307	42.6	409	22.4
205	47.5	308	41.5	410	25.0
206	47.5	309	40.3	411	25.6
207	47.3	310	38.5	412	27.5
208	47.2	311	37.0	413	29.0
209	47.0	312	35.2	414	30.0
210	47.0	313	33.8	415	30.1
211	47.0	314	32.5	416	30.0
212	47.0	315	31.5	417	29.7
213	47.0	316	30.6	418	29.3
214	47.2	317	30.5	419	28.8
215	47.4	318	30.0	420	28.0
216	47.9	319	29.0	421	25.0
217	48.5	320	27.5	422	21.7
218	49.1	321	24.8	423	18.4
219	49.5	322	21.5	424	15.1
220	50.0	323	20.1	425	11.8
221	50.6	324	19.1	426	8.5
222	51.0	325	18.5	427	5.2
223	51.5	326	17.0	428	1.9
224	52.2	327	15.5	429	0.0
225	53.2	328	12.5	430	0.0
226	54.1	329	10.8	431	0.0
227	54.6	330	8.0	432	0.0
228	54.9	331	4.7	433	0.0
229	55.0	332	1.4	434	0.0
230	54.9	333	0.0	435	0.0
231	54.6	334	0.0	436	0.0
232	54.6	335	0.0	437	0.0
233	54.8	336	0.0	438	0.0
234	55.1	337	0.0	439	0.0
235	55.5	338	0.0	440	0.0
236	55.7	339	0.0	441	0.0
237	56.1	340	0.0	442	0.0
238	56.3	341	0.0	443	0.0
239	56.6	342	0.0	444	0.0
240	56.7	343	0.0	445	0.0
241	56.7	344	0.0	446	0.0
242	56.5	345	0.0	447	0.0
243	56.5	346	0.0	448	3.3
244	56.5	347	1.0	449	6.6
245	56.5	348	4.3	450	9.9
246	56.5	349	7.6	451	13.2
247	56.5	350	10.9	452	16.5
248	56.4	351	14.2	453	19.8
249	56.1	352	17.3	454	23.1
250	55.8	353	20.0	455	26.4
251	55.1	354	22.5	456	27.8
252	54.6	355	23.7	457	29.1
253	54.2	356	25.2	458	31.5
254	54.0	357	26.6	459	33.0
255	53.7	358	28.1	460	33.[illegible]
256	53.6	359	30.0	461	34.[illegible]
257	53.9	360	30.8	462	35.1
258	54.0	361	31.6	463	35.[illegible]
259	54.1	362	32.1	464	36.1
260	54.1	363	32.8	465	36.0
261	53.8	364	33.6	466	36.1
262	53.4	365	34.5	467	36.[illegible]
263	53.0	366	34.6	468	36.0
264	52.6	367	34.9	469	35.7
265	52.1	368	34.8	470	36.0
266	52.4	369	34.5	471	36.0
267	52.0	370	34.7	472	35.[illegible]
268	51.9	371	35.5	473	35.5
269	51.7	372	36.0	474	35.4
270	51.5			475	35.[illegible]
271	51.6	373	36.0	476	35.[illegible]
272	51.8	374	36.0	477	35.[illegible]
273	52.1	375	36.0	478	35.2

APPENDIX I—Continued

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
479	35.2	582	17.0	685	0.0
480	35.2	583	16.9	686	0.0
481	35.0	584	16.6	687	0.0
482	35.1	585	17.0	688	0.0
483	35.2	586	17.1	689	0.0
484	35.5	587	17.0	690	0.0
485	35.2	588	16.6	691	0.0
486	35.0	589	16.5	692	0.0
487	35.0	590	16.5	693	0.0
488	35.0	591	16.6	694	1.4
489	34.8	592	17.0	695	3.3
490	34.6	593	17.6	696	4.4
491	34.5	594	18.5	697	6.5
492	33.5	595	19.2	698	9.2
493	32.0	596	20.2	699	11.3
494	30.1	597	21.0	700	13.5
495	28.0	598	21.1	701	14.6
496	25.5	599	21.2	702	16.4
497	22.5	600	21.6	703	16.7
498	19.8	601	22.0	704	16.5
499	16.5	602	22.4	705	16.5
500	13.2	603	22.5	706	18.2
501	10.3	604	22.5	707	19.2
502	7.2	605	22.5	708	20.1
503	4.0	606	22.7	709	21.5
504	1.0	607	23.7	710	22.5
505	0.0	608	25.1	711	22.5
506	0.0	609	26.0	712	22.1
507	0.0	610	26.5	713	22.7
508	0.0	611	27.0	714	23.3
509	0.0	612	26.1	715	23.5
510	0.0	613	22.8	716	22.5
511	1.2	614	19.5	717	21.6
512	3.5	615	16.2	718	20.5
513	5.5	616	12.9	719	18.0
514	6.5	617	9.6	720	15.0
515	8.5	618	6.3	721	12.0
516	9.6	619	3.0	722	9.0
517	10.5	620	0.0	723	6.2
518	11.9	621	0.0	724	4.5
519	14.0	622	0.0	725	3.0
520	16.0	623	0.0	726	2.1
521	17.7	624	0.0	727	0.5
522	19.0	625	0.0	728	0.5
523	20.1	626	0.0	729	3.2
524	21.0	627	0.0	730	6.5
525	22.0	628	0.0	731	9.6
526	23.0	629	0.0	732	12.5
527	23.8	630	0.0	733	14.0
528	24.5	631	0.0	734	16.0
529	24.9	632	0.0	735	18.0
530	25.0	633	0.0	736	19.6
531	25.0	634	0.0	737	21.5
532	25.0	635	0.0	738	23.1
533	25.0	636	0.0	739	24.5
534	25.0	637	0.0	740	25.5
535	25.0	638	0.0	741	26.5
536	25.6	639	0.0	742	27.1
537	25.8	640	0.0	743	27.6
538	26.0	641	0.0	744	27.9
539	25.6	642	0.0	745	28.3
540	25.2	643	0.0	746	28.6
541	25.0	644	0.0	747	28.6
542	25.0	645	0.0	748	28.3
543	25.0	646	2.0	749	28.2
544	24.4	647	4.5	750	28.0
545	23.1	648	7.8	751	27.5
546	19.8	649	10.2	752	26.8
547	16.5	650	12.5	753	25.5
548	13.2	651	14.0	754	23.5
549	9.9	652	15.3	755	21.5
550	6.6	653	17.5	756	19.0
551	3.3	654	19.6	757	16.5
552	0.0	655	21.0	758	14.9
553	0.0	656	22.2	759	12.5
554	0.0	657	23.3	760	9.4
555	0.0	658	24.5	761	6.2
556	0.0	659	25.3	762	3.0
557	0.0	660	25.6	763	1.5
558	0.0	661	26.0	764	1.5
559	0.0	662	26.1	765	0.5
560	0.0	663	26.2	766	0.0
561	0.0	664	26.2	767	3.0
562	0.0	665	26.4	768	6.3
563	0.0	666	26.5	769	9.6
564	0.0	667	26.5	770	12.9
565	0.0	668	26.0	771	15.8
566	0.0	669	25.5	772	17.5
567	0.0	670	23.6	773	18.4
568	0.0	671	21.4	774	19.5
569	3.3	672	18.5	775	20.7
570	6.6	673	16.4	776	22.0
571	9.9	674	14.5	777	23.2
572	13.0	675	11.6	778	25.0
573	14.6	676	8.7	779	26.5
574	16.0	677	5.8	780	27.5
575	17.0	678	3.5	781	28.0
576	17.0	679	2.0	782	28.3
577	17.0	680	0.0	783	28.9
578	17.5	681	0.0	784	28.9
579	17.7	682	0.0	785	28.9
580	17.7	683	0.0	786	28.8
581	17.5	684	0.0	787	28.5

APPENDIX I—Continued

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
788	28.3	892	27.8	996	23.0
789	28.3	893	28.0	997	22.7
790	28.3	894	27.8	998	22.7
791	28.2	895	28.0	999	22.7
792	27.6	896	28.0	1,000	23.5
793	27.5	897	28.0	1,001	24.0
794	27.5	898	27.7	1,002	24.6
795	27.5	899	27.4	1,003	24.8
796	27.5	900	26.9	1,004	25.1
797	27.5	901	26.6	1,005	25.5
798	27.5	902	26.5	1,006	25.6
799	27.6	903	26.5	1,007	25.5
800	28.0	904	26.5	1,008	25.0
801	28.5	905	26.3	1,009	24.1
802	30.0	906	26.2	1,010	23.7
803	31.0	907	26.2	1,011	23.2
804	32.0	908	25.9	1,012	22.9
805	33.0	909	25.6	1,013	22.5
806	33.0	910	25.6	1,014	22.0
807	33.6	911	25.9	1,015	21.6
808	34.0	912	25.8	1,016	20.5
809	34.3	913	25.5	1,017	17.5
810	34.2	914	24.6	1,018	14.2
811	34.0	915	23.5	1,019	10.9
812	34.0	916	22.2	1,020	7.6
813	33.9	917	21.6	1,021	4.3
814	33.6	918	21.6	1,022	1.0
815	33.1	919	21.7	1,023	0.0
816	33.0	920	22.6	1,024	0.0
817	32.5	921	23.4	1,025	0.0
818	32.0	922	24.0	1,026	0.0
819	31.9	923	24.2	1,027	0.0
820	31.6	924	24.4	1,028	0.0
821	31.5	925	24.9	1,029	0.0
822	30.6	926	25.1	1,030	0.0
823	30.0	927	25.2	1,031	0.0
824	29.9	928	25.3	1,032	0.0
825	29.9	929	25.5	1,033	0.0
826	29.9	930	25.2	1,034	0.0
827	29.9	931	25.0	1,035	0.0
828	29.6	932	25.0	1,036	0.0
829	29.5	933	25.0	1,037	0.0
830	29.5	934	24.7	1,038	0.0
831	29.3	935	24.5	1,039	0.0
832	28.9	936	24.3	1,040	0.0
833	28.2	937	24.3	1,041	0.0
834	27.7	938	24.5	1,042	0.0
835	27.0	939	25.0	1,043	0.0
836	25.5	940	25.0	1,044	0.0
837	23.7	941	24.6	1,045	0.0
838	22.0	942	24.6	1,046	0.0
839	20.5	943	24.1	1,017	0.0
840	19.2	944	24.5	1,048	0.0
841	19.2	915	25.1	1,049	0.0
842	20.1	946	25.6	1,050	0.0
843	20.9	917	25.1	1,051	0.0
844	21.4	948	24.0	1,052	0.0
845	22.0	949	22.0	1,053	1.2
846	22.6	950	20.1	1,054	4.0
847	23.2	951	16.9	1,055	7.3
848	24.0	952	13.6	1,056	10.6
849	25.0	953	10.3	1,057	13.9
850	26.0	954	7.0	1,058	17.0
851	26.6	955	3.7	1,059	18.5
852	26.6	956	0.4	1,060	20.0
853	26.8	957	0.0	1,061	21.8
854	27.0	958	0.0	1,062	23.0
855	27.2	959	0.0	1,063	24.0
856	27.8	960	2.0	1,064	24.8
857	28.1	961	5.0	1,065	25.6
858	28.8	962	8.6	1,066	26.5
859	28.9	963	11.9	1,067	26.8
860	29.0	964	15.2	1,068	27.4
861	29.1	965	17.5	1,069	27.9
862	29.0	966	18.6	1,070	28.3
863	28.1	967	20.0	1,071	28.0
864	27.5	968	21.1	1,072	27.5
865	27.0	969	22.0	1,073	27.0
866	25.8	970	23.0	1,074	27.0
867	25.0	971	24.5	1,075	26.3
868	24.5	972	26.3	1,076	24.5
869	24.8	973	27.5	1,077	22.5
870	25.1	974	28.1	1,078	21.5
871	25.5	975	28.4	1,079	20.6
872	25.7	976	28.5	1,080	18.0
873	26.2	977	28.5	1,081	15.0
874	26.9	978	28.5	1,082	12.3
875	27.5	979	27.7	1,083	11.1
876	27.8	980	27.5	1,084	10.6
877	28.4	981	27.2	1,085	10.0
878	29.0	982	26.8	1,086	9.5
879	29.2	983	26.5	1,087	9.1
880	29.1	984	26.0	1,088	8.7
881	29.0	985	25.7	1,089	8.6
882	28.9	986	25.2	1,090	8.8
883	28.5	987	24.0	1,091	9.0
884	28.1	988	22.0	1,092	8.7
885	28.0	989	21.5	1,093	8.6
886	28.0	990	21.5	1,094	8.0
887	27.6	991	21.8	1,095	7.0
888	27.2	992	22.5	1,096	5.0
889	26.6	993	23.0	1,097	4.2
890	27.0	994	22.8	1,098	2.6
891	27.5	995	22.8	1,099	1.0

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APPENDIX I—Continued

The diagrams below show the range of | second time interval. The curve on the right

1. The pump inlet pressure depression during a typical test is determined.

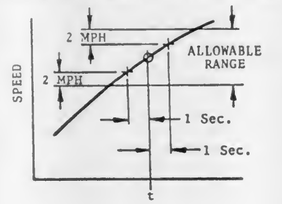
Lap   Speed—m.p.h.

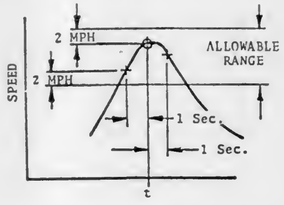
During each of the first nine laps there are 4 stops with 15 second idle. Normal accelera-

APPENDIX I—Continued

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
1,100	0.0	1,191	0.0	1,282	23.5
1,101	0.1	1,192	0.0	1,283	23.5
1,102	0.6	1,193	0.0	1,284	23.5
1,103	1.6	1,194	0.0	1,285	23.5
1,104	3.6	1,195	0.0	1,286	23.5
1,105	6.9	1,196	0.0	1,287	23.5
1,106	10.0	1,197	0.2	1,288	24.0
1,107	12.8	1,198	1.5	1,289	24.1
1,108	14.0	1,199	3.5	1,290	24.5
1,109	14.5	1,200	6.5	1,291	24.7
1,110	16.0	1,201	9.8	1,292	25.0
1,111	18.1	1,202	12.0	1,293	25.4
1,112	20.0	1,203	12.0	1,294	25.6
1,113	21.0	1,204	13.0	1,295	25.7
1,114	21.2	1,205	12.6	1,296	26.0
1,115	21.3	1,206	12.8	1,297	26.2
1,116	21.4	1,207	13.1	1,298	27.0
1,117	21.7	1,208	13.1	1,299	27.8
1,118	22.5	1,209	14.0	1,300	28.3
1,119	23.0	1,210	15.5	1,301	29.0
1,120	23.8	1,211	17.0	1,302	29.1
1,121	24.5	1,212	18.6	1,303	29.0
1,122	25.0	1,213	19.7	1,304	28.0
1,123	24.9	1,214	21.0	1,305	21.7
1,124	24.8	1,215	21.5	1,306	21.4
1,125	25.0	1,216	21.8	1,307	18.1
1,126	25.4	1,217	21.8	1,308	14.8
1,127	25.8	1,218	21.5	1,309	11.5
1,128	26.0	1,219	21.2	1,310	8.2
1,129	26.4	1,220	21.5	1,311	4.9
1,130	26.6	1,221	21.8	1,312	1.6
1,131	26.9	1,222	22.0	1,313	0 0
1,132	27.0	1,223	21.9	1,314	0 0
1,133	27.0	1,224	21.7	1,315	0 0
1,134	27.0	1,225	21.5	1,316	0 0
1,135	26.9	1,226	21.5	1,317	0 0
1,136	26.8	1,227	21.4	1,318	0 0
1,137	26.8	1,228	20.1	1,319	0 0
1,138	26.5	1,229	19.5	1,320	0.0
1,139	26.4	1,230	19.2	1,321	0.0
1,140	26.0	1,231	19.6	1,322	0.0
1,141	25.5	1,232	19.8	1,323	0.0
1,142	24.6	1,233	20.0	1,324	0.0
1,143	23.5	1,234	19.5	1,325	0.0
1,144	21.5	1,235	17.5	1,326	0.0
1,145	20.0	1,236	15.5	1,327	0.0
1,146	17.5	1,237	13.0	1,328	0.0
1,147	16.0	1,238	10.0	1,329	0.0
1,148	14.0	1,239	8.0	1,330	0.0
1,149	10.7	1,240	6.0	1,331	0.0
1,150	7.4	1,241	4.0	1,332	0.0
1,151	4.1	1,242	2.5	1,333	0.0
1,152	0.8	1,243	0.7	1,334	0.0
1,153	0.0	1,244	0 0	1,335	0.0
1,154	0.0	1,245	0.0	1,336	0.0
1,155	0.0	1,246	0.0	1,337	0.0
1,156	0.0	1,247	0.0	1,338	1.5
1,157	0.0	1,248	0.0	1,339	4.8
1,158	0.0	1,249	0.0	1,340	8.1
1,159	0.0	1,250	0.0	1,341	11.4
1,160	0.0	1,251	0.0	1,342	13.2
1,161	0.0	1,252	1.0	1,343	15.1
1,162	0.0	1,253	1.0	1,344	16.8
1,163	0.0	1,254	1.0	1,345	18.3
1,164	0.0	1,255	1.0	1,346	19.5
1,165	0.0	1,256	1.0	1,347	20.3
1,166	0.0	1,257	1.6	1,348	21.3
1,167	0.0	1,258	3.0	1,349	21.9
1,168	0.0	1,259	4.0	1,350	22.1
1,169	2.1	1,260	5.0	1,351	22.4
1,170	5.4	1,261	6.3	1,352	22.0
1,171	8.7	1,262	8.0	1,353	21.6
1,172	12.0	1,263	10.0	1,354	21.1
1,173	15.3	1,264	10.5	1,355	20.5
1,174	18.6	1,265	9.5	1,356	20.0
1,175	21.1	1,266	8.5	1,357	19.6
1,176	23.0	1,267	7.6	1,358	18.5
1,177	23.5	1,268	8.8	1,359	17.5
1,178	23.0	1,269	11.0	1,360	16.5
1,179	22.5	1,270	14.0	1,361	15.5
1,180	20.0	1,271	17.0	1,362	14.0
1,181	16.7	1,272	16.5	1,363	11.0
1,182	13.4	1,273	21.0	1,364	8.0
1,183	10.1	1,274	21.8	1,365	5.2
1,184	6.8	1,275	22.2	1,366	2.5
1,185	3.5	1,276	23.0	1,367	0.0
1,186	0.2	1,277	23.6	1,368	0.0
1,187	0.0	1,278	24.1	1,369	0.0
1,188	0.0	1,279	24.5	1,370	0.0
1,189	0.0	1,280	24.5	1,371	0.0
1,190	0.0	1,281	24.0	1,372	0.0

The diagrams below show the range of acceptable speed tolerances for typical points. The curve on the left is typical of portions of the speed curve which are increasing or decreasing throughout the two second time interval. The curve on the right is typical of portions of the speed curve which include a maximum or minimum value.





APPENDIX II

PROCEDURE FOR DYNAMOMETER ROAD HORSEPOWER CALIBRATION

This appendix describes the method for determining the road horsepower absorbed by a chassis dynamometer. The measured absorbed road horsepower includes the dynamometer friction as well as the power absorbed by the power absorption unit. The dynamometer is driven above the test speed range. The device used to drive the dynamometer is then disengaged from the dynamometer and the roll(s) is allowed to coast down. The kinetic energy of the system is dissipated by the dynamometer friction and absorption unit. This method neglects the variations in roll bearing friction due to the drive axle weight of the vehicle. The difference in coast down time of the free (rear) roll relative to the drive (front) roll may be neglected in the case of dynamometers with paired rolls.

These procedures shall be followed:

1. Devise a method to determine the speed of the drive roll if not already measured. A fifth wheel, revolution pickup or other suitable means may be used.

2. Place a vehicle on the dynamometer or devise another method of driving the dynamometer.

3. Engage inertia flywheel for the most common vehicle weight class for which the dynamometer is used.

4. Drive dynamometer up to 50 m.p.h.

5. Record indicated road horsepower.

6. Drive dynamometer up to 60 m.p.h.

7. Disengage the device used to drive the dynamometer.

8. Record the time for the dynamometer drive roll to coast down from 55 m.p.h. to 45 m.p.h.

9. Adjust the power absorption unit to a different level.

10. Repeat steps 4 to 9 above sufficient times to cover the range of road horsepower used.

11. Calculate absorbed road horsepower from:

$HP_6 = (1/2)\,(W_1/82.2)\,(V_1^2 - V_2^2)\,/\,(550t)$

$HP_4 = 0.06073\,(W_1/t)$

Where:

W_1 = Equivalent inertia in lb.

V_1 = Initial velocity in ft./sec. (55 m.p.h. = 80.67ft./sec.).

V_2 = Final velocity in ft./sec. (45 m.p.h. = 66 ft./sec.).

t = Elapsed time for rolls to coast from 55 m.p.h. to 45 m.p.h.

12. Plot indicated road load horsepower at 50 m.p.h. versus road load horsepower at 50 m.p.h.

EXAMPLE: Dynamometer calibration curve (Sec. No. CR-21a-R) 9-24-43

13. The road load horsepower reported in § 85.073–15 is obtained by entering the plot at the indicated road load horsepower determined in § 85.073–15(c)(1)(ii).

14. Once the road load horsepower at 50 m.p.h. is known for a vehicle, it may be tested on other dynamometers using a similar calibration.

APPENDIX III

CONSTANT VOLUME SAMPLER FLOW CALIBRATION

The following procedure is used in Federal laboratories to calibrate the gas flow of constant volume samplers which use positive displacement pumps. First, the gas flow as a function of the pressure increase across the pump is determined. Second, the whole system, including the instruments, is checked to determine if it accounts for an amount of pure propane or carbon monoxide (caution—carbon monoxide is extremely toxic) introduced into the system.

The following steps are followed to determine the gas flow as a function of the pressure increase across the pump in cubic feet per pump revolution.

1. The pump inlet pressure depression during a typical test is determined.

2. A variable flow restrictor, such as a slide valve, is attached to the CVS at a point upstream of the positive displacement pump. The dilution air filter system may or may not be in use during calibration, depending on the particular CVS design.

3. A flow measuring device (laminar flow element) is attached ahead of the flow restrictor.

4. The CVS is operated at several different pump inlet pressure settings (controlled by the flow restrictor) and the measurements as specified in § 85.073–22 (h), (j), (l), (m), the time per test, and the measurements related to the flow device are recorded. The data points are equally spaced around the normal operating condition.

5. The gas flow, Q, at each test point is calculated in standard cubic feet per minute from the flow device data.

6. The gas flow (at pump inlet pressure and temperature) is calculated in cubic feet per revolution from the following:

$$V_o = \frac{Q}{n} \times \frac{T_p}{528} \times \frac{760}{P_p}$$

Where:

Q = Gas flow in standard cubic feet per minute.

n = Pump speed in revolution per minute. See § 85.073–26 for remainder of definitions.

7. V_o is plotted versus the square root of the pressure increase across the pump, ΔP, and a linear fit is performed.

The following procedure is followed to check the CVS calibration using a known quantity of injected gas. It assumes a reliable analyzer calibration.

1. A small cylinder is charged with pure propane or carbon monoxide gas (caution—carbon monoxide is extremely toxic).

2. The cylinder is weighed to the nearest 0.01 gram.

3. The CVS is operated in the normal manner and a quantity of pure propane or carbon monoxide is released into the system.

4. The calculations of § 85.073–26 are performed in the normal way except the density of propane (17.30 grams/cu. ft./carbon atom) is used in place of the density of exhaust hydrocarbons.

5. The CVS measured mass is compared to the gravimetric measured mass.

6. The reason for any discrepancy is found and corrected.

APPENDIX IV

DURABILITY DRIVING SCHEDULE

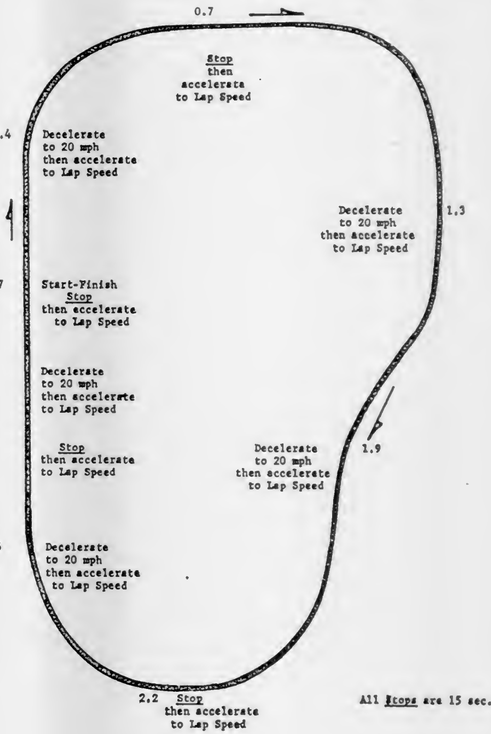
The schedule consists basically of 11 laps of 3.7 mile course. The basic vehicle speed for each lap is listed below:

Lap	Speed-m.p.h.
1	40
2	30
3	40
4	40
5	35
6	30
7	35
8	45
9	35
10	55
11	70

During each of the first nine laps there are 4 stops with 15 second idle. Normal accelerations and decelerations are used. In addition, there are 5 light decelerations each lap from the base speed to 20 m.p.h. followed by light accelerations to the base speed.

The 10th lap is run at a constant speed of 55 m.p.h.

The 11th lap is begun with a wide open throttle acceleration from stop to 70 m.p.h. A normal deceleration to idle followed by a second wide open throttle acceleration occurs at the midpoint of the lap.



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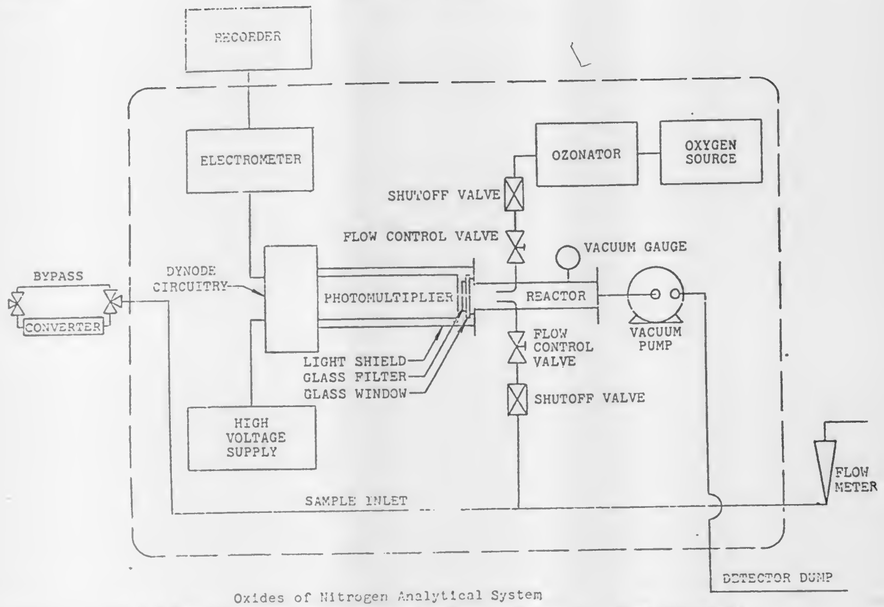

Oxides of Nitrogen Analytical System

APPENDIX V—OXIDES OF NITROGEN ANALYTICAL SYSTEM

The chemiluminescence method utilizes the principle that nitric oxide (NO) reacts with ozone (O_3) to give nitrogen dioxide (NO_2) and oxygen (O_2). Approximately 10 percent of the NO_2 is electronically excited. The transition of excited NO_2 to the ground state yields a detectable light emission (590-630 nanometer region) at low pressures. The intensity of this emission is proportional to the mass flow rate of NO into the reactor. The light emission can be measured utilizing a photomultiplier tube and associated electronics.

The method also utilizes the principle that the thermal decomposition of NO_2 ($2NO_2 \rightarrow 2NO + O_2$) is complete at about 600° C. The rate constant for the dissociation of NO_2 at 600° C. is approximately 10^4 (liters/mole-second). A 6-foot length of one-eighth inch outside diameter, 0.028 wall thickness, flawless stainless steel tubing resistance heated using a low voltage, high current power supply to a temperature of 650° C. (1200° F.) provides sufficient residence time at a sample flow rate of 700 cc. per minute (1.5 c.f.h.) for essentially complete conversion of nitrogen dioxide to nitric oxide. Other converter designs may be used if shown to yield essentially 100 percent conversion of NO_2 to NO.

The method permits continuous monitoring of NO_x concentrations over a wide range. Response time (2 to 4 seconds is typical) is primarily dependent on the mechanical pumping rate at the operating pressure of the reactor. The operating pressure of the reactor is generally less than 5 torr.

The following figure is a flow schematic illustrating one configuration of the major components required for the oxides of nitrogen analytical system.

APPENDIX VI

VEHICLE AND ENGINE COMPONENTS

A. Gasoline Fueled Light Duty Vehicles and Heavy Duty Engines.

I. Basic Mechanical Componente—Engine:
1. Intake and exhaust valves.
2. Drive belts.
3. Manifold and cylinder head bolts.
4. Engine oil and filter.
5. Engine coolant.
6. Cooling system hoses and connections.
7. Vacuum fittings, hoses and connections.

II. Fuel System
1. Fuel specification—octane rating, lead content.
2. Carburetor—idle r.p.m., mixture ratio.
3. Choke mechanism.
4. Fuel system filter and fuel system lines and connections.
5. Choke plate and linkage.

III. Ignition Components
1. Ignition timing and advance systems.
2. Distributer breaker points and condenser.
3. Spark plugs.
4. Ignition wiring.
5. Operating parts of distributor.

IV. Crankcase Ventilation System:
1. PCV valve.
2. Ventilation hoses.
3. Oil filler breather cap.
4. Manifold inlet (carburetor spacer, etc.).

V. External Exhaust Emission Control System:
1. Secondary air injection system hoses.
2. Air system manifolds.
3. Control valves and air pump.
4. Manifold reactors.
5. Catalytic mufflers.
6. Exhaust recirculation.
7. Water injection.

VI. Evaporative Emission Control System:
1. Engine compartment hose connections.
2. Carbon storage media.
3. Fuel tank pressure-relief valve operation.
4. Fuel vapor control valves.

VII. Air Inlet Components
1. Carburetor air cleaner filter.
2. Hot air control valve.

B. Heavy Duty Diesel Engines.

I. Engine Mechanical Components:
1. Valve train.
2. Cooling system.
   a. Coolant.
   b. Thermostat.
   c. Filter.
3. Lubrication.
   a. Oil Filter.
   b. Lubricant.

II. Fuel System:
1. Fuel type.
2. Fuel pump.
3. Fuel filters.
4. Injectors.
5. Governor.

III. Air Inlet Components:
1. Air cleaner.
2. Inlet ducting.

IV. External Exhaust Emission Control System:
1. Rack limiting devices (aneroid, throttle delay, etc.).
2. Manifold reactor.
3. Catalytic mufflers.
4. Exhaust recirculation.
5. Water injection.

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federal register

THURSDAY, NOVEMBER 16, 1972

WASHINGTON, D.C.

Volume 37 ■ Number 222

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Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $2.50 per month or $25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Japanese Beetle

MISCELLANEOUS AMENDMENTS

Pursuant to sections 8 and 9 of the Plant Quarantine Act, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), Notice of Quarantine No. 48 relating to the Japanese beetle and regulations supplemental to said quarantine (7 CFR 301.48, 301.48–1, 301.48–2, 301.48–3 et seq.), are hereby revised to read as follows:

QUARANTINE AND REGULATIONS

Sec.

301.48 Quarantine; restriction on interstate movement of specified regulated articles.
301.48–1 Definitions.
301.48–2 Authorization to designate, and terminate designation of, regulated areas and suppressive or generally infested areas; and to exempt articles from certification, permit or other requirements.
301.48–3 Conditions governing the interstate movement of regulated articles from quarantined States.
301.48–4 Issuance and cancellation of certificates and permits.
301.48–5 Compliance agreement, and cancellation thereof.
301.48–6 Assembly and inspection of regulated articles.
301.48–7 Attachment and disposition of certificates or permits.
301.48–8 Inspection and disposal of regulated articles and pests.
301.48–9 Movement of live Japanese beetles.
301.48–10 Nonliability of the Department.

§ 301.48 Quarantine; restriction on interstate movement of specified regulated articles.

(a) *Notice of quarantine.* (1) Pursuant to the provisions of sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), the Secretary of Agriculture heretofore determined after public hearing that it was necessary to quarantine the States [1] of Connecticut, Delaware, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia in order to prevent the spread of the Japanese beetle, a dangerous insect injurious to cultivated crops and not theretofore widely prevalent or distributed within and throughout the United States and accordingly quarantined said States.

(2) Pursuant to the said provisions and after public hearing the Secretary has now determined that it is necessary also to quarantine the States of Alabama and Missouri to prevent the spread of the Japanese beetle. Under the authority of said provisions, the Secretary hereby quarantines the States of Alabama and Missouri, and continues in effect the quarantine of the other specified States as aforesaid, with respect to the interstate movement from the quarantined States of the articles described in paragraph (b) of this section, issues the regulations in this subpart governing such movement, and gives notice of said quarantine and regulations.

(b) *Quarantine restrictions on interstate movement of specified regulated articles.* No common carrier or other person shall move interstate from any quarantined State any of the following articles (defined in § 301.48–1(o) as regulated articles), except in accordance with the conditions prescribed in this subpart:

(1) When moved from any generally infested area, or any area outside the regulated areas, in a quarantined State:

(i) Soil, compost, decomposed manure, humus, muck, and peat, separately or with other things;

(ii) Plants with roots, except soil-free aquatic plants, moss, and Lycopodium (clubmoss or ground pine or running pine);

(iii) Grass sod;

(iv) Plant crowns and roots for propagation;

(v) True bulbs, corms, rhizomes, and tubers of ornamental plants, when freshly harvested or uncured;

(vi) Used mechanized soil-moving equipment;

(vii) Any other products, articles, or means of conveyance of any character whatsoever, not covered by subdivisions (i) through (vi) of this subparagraph, when it is determined by an inspector that they present a hazard of spread of the Japanese beetle and the person in possession thereof has been so notified.

(2) When moved from any suppressive area in a quarantined State:

(i) Bulk soil.

(ii) Used mechanized soil-moving equipment.

(iii) Any other products, articles, or means of conveyance of any character whatsoever, not covered by subdivisions (i) and (ii) of this subparagraph, when it is determined by an inspector that they present a hazard of spread of the Japanese beetle and the person in possession thereof has been so notified.

§ 301.48–1 Definitions.

Terms used in the singular form in this subpart shall be deemed to import the plural and vice versa, as the case may demand. The following terms, when used in this subpart shall be construed respectively to mean:

(a) *Certificate.* A document issued or authorized to be issued under this subpart by an inspector to allow the interstate movement of regulated articles to any destination.

(b) *Compliance agreement.* A written agreement between a person engaged in growing, handling, or moving regulated articles, and the Plant Protection and Quarantine Programs, wherein the former agrees to comply with the requirements of this subpart identified in the agreement by the inspector who executes the agreement on behalf of the Plant Protection and Quarantine Programs as applicable to the operations of such person.

(c) *Deputy Administrator.* The Deputy Administrator of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or any other officer or employee of said Service to whom authority to act in his stead has been or may hereafter be delegated.

(d) *Generally infested area.* Any part of a regulated area not designated as a suppressive area in accordance with § 301.48–2.

(e) *Infestation.* The presence of the Japanese beetle or the existence of circumstances that make it reasonable to believe that the Japanese beetle is present.

(f) *Inspector.* Any employee of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator to enforce the provisions of the quarantine and regulations in this subpart.

(g) *Interstate.* From any State into or through any other State.

(h) *Japanese beetle.* The live insect known as the Japanese beetle (*Popillia japonica* Newm.) in any stage of development.

(i) *Limited permit.* A document issued or authorized to be issued by an inspector to allow the interstate movement of noncertifiable regulated articles to a specified destination for limited handling, utilization, or processing or for treatment.

(j) *Mechanized soil-moving equipment.* Mechanized equipment used to move or

[1] See definition of "State" in § 301.48–1(s).

transport soil—e.g., draglines, bulldozers, road scrapers, dumptrucks, etc.

(k) *Nursery stock.* Trees, shrubs, vines, cuttings, grafts, scions, buds, and other plants and parts of plants, for propagation.

(l) *Person.* Any individual, corporation, company, association, firm, partnership, society, joint stock company, or other legal entity.

(m) *Plant Protection and Quarantine Programs.* The Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture.

(n) *Quarantined State.* Any State quarantined under this subpart.

(o) *Regulated article.* Any article, product, or means of conveyance of any character whatsoever, not covered by subdivisions (i) through (vi) of this subparagraph, when it is determined by an inspector that they present a hazard of spread of the Japanese beetle and the person in possession thereof has been so notified.

(p) *Regulated area.* Any State, or any portion thereof, designated as such in accordance with § 301.48–2.

(q) *Specified destination.* The premises of a person who has a compliance agreement in effect and who desires to move interstate regulated articles which must be accompanied by a certificate or permit shall, as far in advance of the movement as practicable, notify the inspector assigned to the area in which the premises are located of the name and address of the person to whom the articles are to be delivered, the number of packages, and the kind of articles to be moved.

(r) *Suppressive area.* Any State, or any portion thereof, designated as such in accordance with § 301.48–2.

(s) *State.* Any State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

(t) *Treatment.* Any process, including fumigation, approved by the Deputy Administrator for the destruction or removal of the Japanese beetle.

(u) *Treatment manual.* The publication entitled "Treatments for Japanese Beetle and Other Insects Subject to Quarantine" which lists treatments for the Japanese beetle and other insects subject to quarantine.

(v) *Uncertificable article.* Any article which cannot be certified for interstate movement pursuant to this subpart or any other Federal quarantine and regulations.

(w) *Uncertificable area.* Any area quarantined by the Federal Government for the Japanese beetle or other insect which is not a regulated area under this subpart.

(x) *Uncertificable person.* Any person who is not entitled to receive a certificate or permit for the interstate movement of regulated articles because of failure to comply with the provisions of this subpart or any other Federal quarantine and regulations.

§ 301.48–2 Authorization to designate, and terminate designation of, regulated areas and suppressive or generally infested areas; and to exempt articles from certification, permit or other requirements.

(a) The Deputy Administrator shall list as regulated areas, in a supplemental regulation designated as a quarantine, each State, or each portion thereof, that is infested with the Japanese beetle or that must be regulated because of its proximity to infestation or its interstate relationship, and he shall list as suppressive areas or generally infested areas those regulated areas or portions thereof which meet the respective criteria for such areas set forth in this paragraph. The Deputy Administrator may designate any civil subdivision of a State as a regulated area or as a suppressive area or generally infested area, or may designate any portion of a civil subdivision as a regulated area or as a suppressive area, if less than the entire civil subdivision meets the criteria set forth in this paragraph for such designation. The Deputy Administrator may designate any noncontiguous land area as a regulated area or as a suppressive area or generally infested area, if the noncontiguous land area meets the criteria set forth in this paragraph for such designation. The Deputy Administrator may designate any land area as a regulated area or as a suppressive area or generally infested area, regardless of political boundaries, if the land area meets the criteria set forth in this paragraph for such designation. The Deputy Administrator may terminate the designation of any regulated area or any suppressive area or generally infested area, or any portion thereof, if he determines that the area or portion thereof no longer meets the criteria set forth in this paragraph for such designation. The Deputy Administrator may exempt any article from certification, permit or other requirements, if he determines that the article does not present a hazard of spread of the Japanese beetle.

(1) *Generally infested areas.* Each regulated area, or portion thereof, where the Deputy Administrator has determined that the Japanese beetle is established and generally distributed within the area, and that the Japanese beetle is not subject to applicable suppressive or control measures, shall be designated as a generally infested area.

(2) *Suppressive areas.* Each regulated area, or portion thereof, where the Deputy Administrator has determined that the Japanese beetle is established but not generally distributed within the area, and that the Japanese beetle is subject to applicable suppressive or control measures, shall be designated as a suppressive area.

(b) The Deputy Administrator shall list as regulated articles, in a supplemental regulation designated as a quarantine, each article, product, or means of conveyance, or group thereof, that he determines must be regulated because of its interstate relationship to the Japanese beetle, and he shall list as exempt articles those articles which he determines do not present a hazard of spread of the Japanese beetle. The Deputy Administrator may exempt any article from certification, permit or other requirements, if he determines that the article does not present a hazard of spread of the Japanese beetle. The Deputy Administrator may terminate the exemption of any article, product, or means of conveyance, or group thereof, if he determines that the article, product, or means of conveyance, or group thereof, no longer meets the criteria set forth in this paragraph for such exemption.

(c) The Deputy Administrator shall list as regulated articles, in a supplemental regulation designated as a quarantine, each article, product, or means of conveyance, or group thereof, that he determines must be regulated because of its interstate relationship to the Japanese beetle, and he shall list as exempt articles those articles which he determines do not present a hazard of spread of the Japanese beetle. The Deputy Administrator may exempt any article from certification, permit or other requirements, if he determines that the article does not present a hazard of spread of the Japanese beetle. The Deputy Administrator may terminate the exemption of any article, product, or means of conveyance, or group thereof, if he determines that the article, product, or means of conveyance, or group thereof, no longer meets the criteria set forth in this paragraph for such exemption.

laboratories approved [2] by the Deputy Administrator and so listed by him in a supplemental regulation.[3] A certificate or permit may be issued for the interstate movement of regulated articles to any destination when the Deputy Administrator determines that the articles are to be moved to a specified destination for treatment and the articles are to be moved in accordance with such additional conditions as will be necessary to prevent the spread of the Japanese beetle, and a compliance agreement has been entered into with the consignee. Each certificate or permit issued for the interstate movement of regulated articles to a specified destination for treatment shall state that the articles are to be moved to the specified destination for treatment, and shall state any other conditions governing the movement of such regulated articles which make it safe to so relieve such requirement as described in each specific case by the Deputy Administrator to prevent the spread of the Japanese beetle.

[2] See definition of "State" in § 301.48–1(s).

[3] See definition of "Treatment manual" in § 301.48–1(u).

transport soil—e.g., draglines, bulldozers, road scrapers, dumptrucks, etc.

(k) *Moved (movement, move)*. Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any means. "Movement" and "move" shall be construed accordingly.

(l) *Person*. Any individual, corporation, company, society, or association, or other organized group of any of the foregoing.

(m) *Plant protection and quarantine programs*. The organizational unit within the Animal and Plant Health Inspection Service delegated responsibility for enforcing provisions of the Plant Quarantine Act and Federal Plant Pest Act, and regulations promulgated thereunder.

(n) *Regulated area*. Any quarantined State, or any portion thereof, listed as a regulated area in § 301.48–2a or otherwise designated as a regulated area in accordance with § 301.48–2(b).

(o) *Regulated articles*. Any articles as described in § 301.48–2(b).

(p) *Restricted destination permit*. A document issued or authorized to be issued by an inspector to allow the interstate movement of regulated articles not certifiable under all applicable Federal domestic plant quarantines to a specified destination for other than scientific purposes.

(q) *Scientific permit*. A document issued by the Deputy Administrator to allow the interstate movement to a specified destination of regulated articles for scientific purposes.

(r) *Soil*. That part of the upper layer of earth in which plants can grow.

(s) *State*. Any State, territory, or district of the United States, including Puerto Rico.

(t) *Suppressive area*. That part of a regulated area where all establishments handling regulated articles, except products being produced on the farm, have been treated for eradication of the Japanese beetle and where eradication of the entire infestation in that part of the regulated area is undertaken as the objective, as designated by the Deputy Administrator under § 301.48–2(a).

(u) *Treatment manual*. The provisions currently contained in the "Manual of Administratively Authorized Procedures to be Used Under the Japanese Beetle Quarantine," the manual of "Procedures for Applying Soil Surface and Foliage Treatments for Regulatory Purposes," and the "Fumigation Procedures Manual." [1]

§ 301.48–2 Authorization to designate, and terminate designation of, regulated areas and suppressive or generally infested areas; and to exempt articles from certification, permit, or other requirements.

(a) *Regulated areas and suppressive or generally infested areas*. The Deputy Administrator shall list as regulated areas, in a supplemental regulation designated as § 301.48–2(a), each quarantined State; or each portion thereof in which Japanese beetle has been found or in which there is reason to believe that Japanese beetle is present or which it is deemed necessary to regulate because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities. The Deputy Administrator, in the supplemental regulation, may divide any regulated area into a suppressive area or a generally infested area in accordance with the definitions thereof in § 301.48–1. Less than an entire quarantined State will be designated as a regulated area only if the Deputy Administrator is of the opinion that:

(1) The State has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under this subpart; and

(2) The designation of less than the entire State as a regulated area will otherwise be adequate to prevent the interstate spread of the Japanese beetle.

(b) *Temporary designation of regulated areas and suppressive or generally infested areas*. The Deputy Administrator or an authorized inspector may temporarily designate any other premises in a quarantined State as a regulated area and a suppressive or generally infested area, in accordance with the criteria specified in paragraph (a) of this section for listing such area, by serving written notice thereof on the owner or person in possession of such premises, and thereafter the interstate movement of regulated articles from such premises by any person having notice of the designation shall be subject to the applicable provisions of this subpart. As soon as practicable, such premises shall be added to the list in § 301.48–2a if a basis then exists for their designation; otherwise the designation shall be terminated by the Deputy Administrator or an authorized inspector, and notice thereof shall be given to the owner or person in possession of the premises.

(c) *Termination of designation as a regulated area and a suppressive or generally infested area*. The Deputy Administrator shall terminate the designation provided for under paragraph (a) of this section of any area listed as a regulated area or suppressive or generally infested area when he determines that such designation is no longer required under the criteria specified in paragraph (a) of this section.

(d) *Exemption of articles from certification, permit, or other requirements*. The Deputy Administrator may, in a supplemental regulation designated as § 301.48–2b, list regulated articles or movements of regulated articles which shall be exempt from the certification, permit, or other requirements of this subpart under such conditions as he may prescribe, if he finds that facts exist as to the pest risk involved in the movement of such regulated articles which make it safe to so relieve such requirements.

§ 301.48–3 Conditions governing the interstate movement of regulated articles from quarantined States.[2]

(a) Any regulated articles except soil samples for processing, testing, or analysis may be moved interstate from any quarantined State under the following conditions:

(1) With certificate or permit issued and attached in accordance with §§ 301.48–4 and 301.48–7 if moved:

(i) From any generally infested area or any suppressive area into or through any point outside of the regulated areas; or

(ii) From any generally infested area into or through any suppressive area; or

(iii) Between any noncontiguous suppressive areas; or

(iv) Between contiguous suppressive areas when it is determined by an inspector that the regulated articles present a hazard of the spread of the Japanese beetle and the person in possession thereof has been so notified; or

(v) Through or reshipped from any regulated area when such movement is not authorized under subparagraph (2)(v) of this paragraph; or

(2) From any regulated area, without certificate or permit if moved:

(i) Under the provisions of § 301.48–2b which exempts certain articles from certificate and permit requirements; or

(ii) From a generally infested area to a contiguous generally infested area; or

(iii) From a suppressive area to a contiguous generally infested area; or

(iv) Between contiguous suppressive areas unless the person in possession of the articles has been notified by an inspector that a hazard of spread of the Japanese beetle exists; or

(v) Through or reshipped from any regulated area if the articles originated outside of any regulated area and if the point of origin of the articles is clearly indicated, their identity has been maintained, and they have been safeguarded against infestation while in the regulated area in a manner satisfactory to the inspector; or

(3) From any area outside the regulated areas, if moved:

(i) With a certificate or permit attached; or

(ii) Without a certificate or permit, if:

(a) The regulated articles are exempt from certification and permit requirements under the provisions of § 301.48–2b; or

(b) The point of origin of such movement is clearly indicated on the articles or shipping document which accompanies the articles and if the movement is not made through any regulated area.

(b) Unless specifically authorized by the Deputy Administrator in emergency situations, soil samples for processing, testing, or analysis may be moved interstate from any regulated area only to laboratories approved [3] by the Deputy Administrator and so listed by him in a supplemental regulation.[4] A certificate or permit will not be required to be attached to such soil samples except in those situations where the Deputy Administrator has authorized such movement only with a certificate or permit issued and attached in accordance with §§ 301.48–4 and 301.48–7. A certificate or permit will not be required to be attached to soil samples originating in areas outside of the regulated areas if the point of origin of such movement is clearly indicated on the articles or shipping document which accompanies the articles and if the movement is not made through any regulated area.

§ 301.48–4 Issuance and cancellation of certificates and permits.

(a) Certificates may be issued for any regulated articles by an inspector if he determines that they are eligible for certification for movement to any destination under all Federal domestic plant quarantines applicable to such articles and:

(1) Have originated in noninfested premises in a regulated area and have not been exposed to infestation while within the regulated areas; or

(2) Upon examination, have been found to be free of infestation; or

(3) Have been treated to destroy infestation in accordance with the treatment manual; or

(4) Have been grown, produced, manufactured, stored, or handled in such a manner that no infestation would be transmitted thereby.

(b) Limited permits may be issued by an inspector to allow interstate movement of regulated articles not eligible for certification under this subpart to specified destinations for limited handling, utilization, or processing, or for treatment in accordance with the treatment manual, when, upon evaluation of the circumstances involved in each specific case, he determines that such movement will not result in the spread of the Japanese beetle and requirements of other applicable Federal domestic plant quarantines have been met.

(c) Restricted destination permits may be issued by an inspector to allow the interstate movement (for other than scientific purposes) of regulated articles to any destination permitted under all applicable Federal domestic plant quarantines if such articles are not eligible for certification under all such quarantines but would otherwise qualify for certification under this subpart.

(d) Scientific permits to allow the interstate movement of regulated articles may be issued by the Deputy Administrator under such conditions as may be prescribed in each specific case by the Deputy Administrator to prevent the spread of the Japanese beetle.

(e) Certificate, limited permit, and restricted destination permit forms may be issued by an inspector to any person for use for subsequent shipments of regulated articles, provided such person is operating under a compliance agreement; and any such person may be authorized by an inspector to reproduce such forms on shipping containers or otherwise. Any such person may execute and issue the certificate forms, or reproductions of such forms, for the interstate movement of regulated articles from the premises of such person identified in the compliance agreement if such person has treated such regulated articles to destroy infestation in accordance with the treatment manual, and if such regulated articles are eligible for certification for movement to any destination under all Federal domestic plant quarantines applicable to such articles. Any such person may execute and issue the limited permit forms, or reproductions of such forms, for interstate movement of regulated articles to specified destinations when the inspector has made the determinations specified in paragraph (b) of this section. Any such person may execute and issue the restricted destination permit forms, or reproductions of such forms, for the interstate movement of regulated articles not eligible for certification under all Federal domestic plant quarantines applicable to such articles, under the condtions specified in paragraph (c) of this section.

(f) Any certificate or permit which has been issued or authorized may be withdrawn by the inspector or the Deputy Administrator if he determines that the holder thereof has not complied with any condition for the use of such document imposed by this subpart. Prior to such withdrawal, the holder of the certificate or permit shall be notified of the proposed action and the reason therefor and afforded reasonable opportunity to present his views thereon.

§ 301.48–5 Compliance agreement, and cancellation thereof.

(a) Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of such articles under this subpart. Compliance agreement forms may be obtained from the Deputy Administrator or an inspector.

(b) Any compliance agreement may be canceled by the inspector who is supervising its enforcement whenever he finds, after notice and reasonable opportunity to present views has been accorded to the other party thereto, that such other party has failed to comply with the conditions of the agreement.

§ 301.48–6 Assembly and inspection of regulated articles.

Persons (other than those authorized to use certificates, limited permits, or restricted destination permits, or reproductions thereof, under § 301.48–4(e)) who desire to move interstate regulated articles which must be accompanied by a certificate or permit shall, as far in advance as possible, request an inspector to examine the articles prior to movement. Such articles shall be assembled at such points and in such manner as the inspector designates to facilitate inspection.

§ 301.48–7 Attachment and disposition of certificates and permits.

(a) If a certificate or permit is required for the interstate movement of regulated articles, the certificate or permit shall be securely attached to the outside of the container in which such articles are moved, except that, where the certificate or permit is attached to the waybill or other shipping document, and the regulated articles are adequately described on the certificate, permit, or shipping document, the attachment of the certificate or permit to each container of the articles is not required.

(b) In all cases, certificates or permits shall be furnished by the carrier to the consignee at the destination of the shipment.

§ 301.48–8 Inspection and disposal of regulated articles and pests.

Any properly identified inspector is authorized to stop and inspect, and to seize, destroy, or otherwise dispose of or require disposal of regulated articles and Japanese beetles as provided in section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) in accordance with instructions issued by the Deputy Administrator.

§ 301.48–9 Movement of live Japanese beetles.

Regulations requiring a permit for and otherwise governing the movement of live Japanese beetles in interstate or foreign commerce are contained in the Federal Plant Pest Regulations in Part 330 of this chapter. Applications for permits for the movement of the pest may be made to the Deputy Administrator.

§ 301.48–10 Nonliability of the Department.

The U.S. Department of Agriculture disclaims liability for any costs incident to inspections or compliance with the provisions of the quarantine and regulations in this subpart other than for the services of the inspector.

Pursuant to a notice of hearing and proposed rule making published in the FEDERAL REGISTER on January 7, 1972 (37 F.R. 218), a public hearing was held in Memphis, Tenn., on February 15, 1972, regarding the proposed quarantining of the States of Alabama and Missouri on account of the Japanese beetle. After due consideration of all relevant information presented at the hearing or otherwise available in the Department, it has been decided to add Alabama and Missouri to the list of States quarantined because of Japanese beetle.

The foregoing revision differs from the notice of proposed rule making in some

[1] Pamphlets containing such provisions are available upon request to the Deputy Administrator, Plant Protection and Quarantine Programs, APHIS, U.S. Department of Agriculture, Washington, D.C. 20250, or from an inspector.

[2] Requirements under all other applicable Federal domestic plant quarantines must also be met.

[3] Pamphlets containing provisions for laboratory approval may be obtained from the Deputy Administrator, Plant Protection and Quarantine Program, APHIS, U.S. Department of Agriculture, Washington, D.C. 20250.

[4] For list of approved laboratories, see PP 639 (37 F.R. 7813, 15525, and amendments thereof).

respects. Appropriate changes are made to reflect the reorganization of the Ani-

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301.85–3 Conditions governing the interstate movement of regulated

(14) Any other products, articles, or means of conveyance of any character

soil tillage, including tillage attachments for farm tractors, e.g., tractors, disks, plows, harrows, planters, and subsoilers;

Administrator shall list as regulated areas, in a supplemental regulation designated as § 301.85–2a, each quarantined

of such regulated articles which make it safe to so relieve such requirements.

§ 301.85–3 Conditions governing the in-

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respects. Appropriate changes are made to reflect the reorganization of the Animal and Plant Health Inspection Service. The responsibility for enforcement of Federal domestic plant quarantines has been transferred from Animal and Plant Health Service to Animal and Plant Health Inspection Service. In addition § 301.48–4 was amended to restrict the issuance of certificates by a holder of a compliance agreement to the issuance of certificates based on compliance with treatment and other requirements. Various other changes are also made.

The revision of the quarantine makes more stringent Japanese beetle requirements than presently applied and it should be made effective promptly in order to prevent the spread of the Japanese beetle and to be of maximum benefit to the noninfested States.

Therefore, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that further notice of rule making and other public procedures with respect to the revision are impracticable and unnecessary, and good cause is found for making the revision effective less than 30 days after publication in the FEDERAL REGISTER. This revision will become effective upon publication in the FEDERAL REGISTER and shall supersede the quarantine and regulations contained in §§ 301.48, 301.48–1, 301.48–2, and §§ 301.48–3 through 301.48–10. The provisions in § 301.48–2b remain in effect. The provisions of § 301.48–2a are being revised by a separate document.

(Secs. 8 and 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 152, 150ee; 29 F.R. 16210, as amended, 37 F.R. 6505)

Done at Washington, D.C., this 10th day of November 1972.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72–19762 Filed 11–15–72;8:52 am]

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Golden Nematode

Pursuant to sections 8 and 9 of the Plant Quarantine Act, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), Notice of Quarantine No. 85 relating to the golden nematode and regulations supplemental to said Quarantine (7 CFR 301.85, 301.85–1, 301.85–2, 301.85–3 et seq.), are hereby revised to read as follows:

QUARANTINE AND REGULATIONS

Sec.

301.85 Quarantine; restriction on interstate movement of specified regulated articles.
301.85–1 Definitions.
301.85–2 Authorization to designate, and terminate designation of, regulated areas and suporessive or generally infested areas; and to exempt articles from certification, permit, or other requirements.
301.85–3 Conditions governing the interstate movement of regulated articles from quarantined States.
301.85–4 Issuance and cancellation of certificates and permits.
301.85–5 Compliance agreement, and cancellation thereof.
301.85–6 Assembly and inspection of regulated articles.
301.85–7 Attachment and disposition of certificates or permits.
301.85–8 Inspection and disposal of regulated articles and nests.
301.85–9 Movement of live golden nematodes.
301.85–10 Nonliability of the Department.

§ 301.85 Quarantine; restriction on interstate movement of specified regulated articles.

(a) *Notice of quarantine.* Pursuant to the provisions of sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), the Secretary of Agriculture heretofore determined after public hearing that it was necessary to quarantine the State of New York in order to prevent the spread of the golden nematode (*Heterodera rostochiensis*), which causes a dangerous disease of potatoes and certain other plants, and not theretofore widely prevalent or distributed within and throughout the United States. Therefore, under the authority of said provisions, the Secretary hereby continues to quarantine the State of New York, with respect to the interstate movement from the quarantined State of the articles described in paragraph (b) of this section, issues the regulations in this subpart governing such movement, and gives notice of said quarantine and regulations.

(b) *Quarantine restrictions on interstate movement of specified regulated articles.* No common carrier or other person shall move interstate from any quarantined State any of the following articles (defined in § 301.85–1(q) as regulated articles), except in accordance with the conditions prescribed in this subpart:

(1) Soil, compost, humus, muck, peat, and decomposed manure, separately or with other things.

(2) Plants with roots, except soil-free aquatic plants.

(3) Grass sod.

(4) Plant crowns and roats for propagation.

(5) True bulbs, corms, rhizomes, and tubers of ornamental plants.

(6) Irish potatoes and other root crops.

(7) Small grains and soybeans.

(8) Hay, straw, fodder, and plant litter, of any kind.

(9) Ear corn, except shucked ear corn.

(10) Used crates, boxes, and burlap bags, and other used farm products containers.

(11) Used farm tools.

(12) Used mechanized cultivating equipment and used harvesting equipment.

(13) Used mechanized soil-moving equipment.

(14) Any other products, articles, or means of conveyance of any character whatsoever, not covered by subparagraphs (1) through (13) of this paragraph, when it is determined by an inspector that they present a hazard of spread of golden nematode, and the person in possession thereof has been so notified.

§ 301.85–1 Definitions.

Terms used in the singular form in this subpart shall be deemed to import the plural and vice versa, as the case may demand. The following terms, when used in this subpart shall be construed respectively to mean:

(a) *Certificate.* A document issued or authorized to be issued under this subpart by an inspector to allow the interstate movement of regulated articles to any destination.

(b) *Compliance agreement.* A written agreement between a person engaged in growing, handling, or moving regulated articles, and the Plant Protection and Quarantine Programs, wherein the former agrees to comply with the requirements of this subpart identified in the agreement by the inspector who executes the agreement on behalf of the Plant Protection and Quarantine Programs as applicable to the operations of such person.

(c) *Deputy Administrator.* The Deputy Administrator of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or any other officer or employee of said service to whom authority to act in his stead has been or may hereafter be delegated.

(d) *Farm tools.* An instrument worked or used by hand, e.g., hoes, rakes, shovels, axes, hammers, and saws.

(e) *Generally infested area.* Any part of a regulated area not designated as a suppressive area in accordance with § 301.85–2.

(f) *Golden nematode.* The nematode known as the golden nematode (*Heterodera rostochiensis*), in any stage of development.

(g) *Infestation.* The presence of the golden nematode or the existence of circumstances that make it reasonable to believe that the golden nematode is present.

(h) *Inspector.* Any employee of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator to enforce the provisions of the Quarantine and regulations in this subpart.

(i) *Interstate.* From any State into or through any other State.

(j) *Limited permit.* A document issued or authorized to be issued by an inspector to allow the interstate movement of noncertifiable regulated articles to a specified destination for limited handling, utilization or processing or for treatment.

(k) *Mechanized cultivating equipment; and mechanized harvesting equipment.* Mechanized equipment used for soil tillage, including tillage attachments for farm tractors, e.g., tractors, disks, plows, harrows, planters, and subsoilers; mechanized equipment used for harvesting purposes, e.g., combines, potato conveyors, and harvesters and hay balers.

(l) *Mechanized soil-moving equipment.* Equipment used for moving or transporting soil, e.g., draglines, bulldozers, dump trucks, road scrapers, etc.

(m) *Moved (movement, move).* Shipped, offered for shipment to a common carrier, received for transportation or transpoted by a common carrier, or carried, transported, moved, or allowed to be moved by all means. "Movement" and "move" shall be constructed accordingly.

(n) *Person.* Any individual, corporation, company, society, or association, or other organized group of any of the foregoing.

(o) *Plant protection and quarantine programs.* The organizational unit within the Animal and Plant Health Inspection Service delegated responsibility for enforcing provisions of the Plant Quarantine Act and Federal Plant Pest Act, and regulations promulgated thereunder.

(p) *Regulated area.* Any quarantined State, or any portion thereof, listed as a regulated areas in § 301–85–2a, or otherwise designated as a regulated area in accordance with § 301.85–2(b).

(q) *Regulated article.* Any articles as described in § 301.85(b).

(r) *Restricted destination permit.* A document issued or authorized to be issued by an inspector to allow the interstate movement of regulated articles not certifiable under all applicable Federal domestic plant quarantines to a specified destination for other than scientific purposes.

(s) *Scientific permit.* A document issued by the Deputy Administrator to allow the interstate movement to a specified destination of regulated articles for scientific purposes.

(t) *Soil.* That part of the upper layer of earth in which plants can grow.

(u) *State.* Any State, territory, or district of the United States, including Puerto Rico.

(v) *Suppressive area.* That portion of a regulated area where eradication of infestation is undertaken as an objective, as designated under § 301.85–2(a).

(w) *Treatment manual.* The provisions currently contained in the "Manual of Administratively Authorized Procedures to be Used Under the Golden Nematode Quarantine" and the "Fumigation Procedures Manual."[1]

§ 301.85–2 Authorization to designate, and terminate designation of, regulated areas and suppressive or generally infested areas; and to exempt articles from certification, permit, or other requirements.

(a) *Regulated areas and suppressive or generally infested areas.* The Deputy Administrator shall list as regulated areas, in a supplemental regulation designated as § 301.85–2a, each quarantined State; or each portion thereof in which golden nematode has been found or in which there is reason to believe that golden nematode is present, or which it is deemed necessary to regulate because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities. The Deputy Administrator, in the supplemental regulation, may divide any regulated area into a suppressive area or a generally infested area in accordance with the definitions thereof in § 301.85–1. Less than an entire quarantined State will be designated as a regulated area only if the Deputy Administrator is of the opinion that:

(1) The State has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under this subpart; and

(2) The designation of less than the entire State as a regulated area will otherwise be adequate to prevent the interstate spread of the golden nematode.

(b) *Temporary designation of regulated areas and suppressive or generally infested areas.* The Deputy Administrator or an authorized inspector may temporarily designate any other premises in a quarantined State as a regulated area and a suppressive or generally infested area, in accordance with the criteria specified in paragraph (a) of this section for listing such area, by serving written notice thereof on the owner or person in possession of such premises, and thereafter the interstate movement of regulated articles from such premises by any person having notice of the designation shall be subject to the applicable provisions of this subpart. As soon as practicable, such premises shall be added to the list in § 301.85–2a if a basis then exists for their designation; otherwise the designation shall be terminated by the Deputy Administrator or an authorized inspector and notice thereof shall be given to the owner or person in possession of the premises.

(c) *Termination of designation as a regulated area and a suppressive or generally infested area.* The Deputy Administrator shall terminate the designation provided for under paragraph (a) of this section of any area listed as a regulated area and suppressive or generally infested area when he determines that such designation is no longer required under the criteria specified in paragraph (a) of this section.

(d) *Exemption of articles from certification, permit, or other requirements.* The Deputy Administrator may, in a supplemental regulation designated as § 301.85–2b, list regulated articles or movements of regulated articles which shall be exempt from the certification, permit, or other requirements of this subpart under such conditions as he may prescribe, if he finds that facts exist as to the pest risk involved in the movement of such regulated articles which make it safe to so relieve such requirements.

§ 301.85–3 Conditions governing the interstate movement of regulated articles from quarantined States.[2]

(a) Any regulated articles except soil samples for processing, testing, or analysis may be moved interstate from any quarantined State under the following conditions:

(1) With certificate or permit issued and attached in accordance with §§ 301.85–4 and 301.85–7 if moved:

(i) From any generally infested area or any suppressive area into or through any point outside of the regulated areas; or

(ii) From any generally infested area into or through any suppressive area; or

(iii) Between any noncontiguous suppressive areas; or

(iv) Between contiguous suppressive areas when it is determined by an inspector that the regulated articles present a hazard of the spread of the golden nematode and the person in possession thereof has been so notified; or

(v) Through or reshipped from any regulated area when such movement is not authorized under subparagraph (2) (v) of this paragraph; or

(2) From any regulated area, without certificate or permit if moved:

(i) Under the provisions of § 301.85–2b which exempts certain articles from certificate and permit requirements; or

(ii) From a generally infested area to a contiguous generally infested area; or

(iii) From a suppressive area to a contiguous generally infested area; or

(iv) Between contiguous suppressive areas unless the person in possession of the articles has been notified by an inspector that a hazard of spread of the golden nematode exists; or

(v) Through or reshipped from any regulated area if the articles originated outside of any regulated area and if the point of origin of the articles is clearly indicated, their identity has been maintained, and they have been safeguarded against infestation while in the regulated area in a manner satisfactory to the inspector; or

(3) From any area outside the regulated areas, if moved:

(i) With a certificate or permit attached; or

(ii) Without a certificate or permit, if:

(*a*) The regulated articles are exempt from certification and permit requirements under the provisions of § 301.85–2b; or

(*b*) The point of origin of such movement is clearly indicated on the articles or shipping document which accompanies the articles and if the movement is not made through any regulated area.

(b) Unless specifically authorized by the Deputy Administrator in emergency situations, soil samples for processing, testing or analysis may be moved interstate from any regulated area only to

[1] Pamphlets containing such provisions are available upon request to the Deputy Administrator, Plant Protection and Quarantine Programs Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, or from an inspector.

[2] Requirements under all other applicable Federal domestic plant quarantines must also be met.

laboratories approved[1] by the Deputy Administrator and so listed by him in a

(d) Scientific permits to allow the interstate movement of regulated articles

after notice and reasonable opportunity the other party thereto, that such other

specifically authorize the Deputy Administrator to terminate the designation of

keting agreement and order, and upon other available information, it is hereby found that the limitation of handling of

Title 6—ECONOMIC

laboratories approved[3] by the Deputy Administrator and so listed by him in a supplemental regulation.[4] A certificate or permit is not required to be attached to such soil samples except in those situations where the Deputy Administrator has authorized such movement only with a certificate or permit issued and attached in accordance with §§ 301.85–4 and 301.85–7. A certificate or permit is not required to be attached to soil samples originating in areas outside of the regulated areas if the point of origin of such movement is clearly indicated on the articles or shipping document which accompanies the articles and if the movement is not made through any regulated area.

§ 301.85–4 Issuance and cancellation of certificates and permits.

(a) Certificates may be issued for any regulated articles (except soil samples for processing, testing, or analysis) by an inspector if he determines that they are eligible for certification for movement to any destination under all Federal domestic plant quarantines applicable to such articles and:

(1) Have originated in noninfested premises in a regulated area and have not been exposed to infestation while within the regulated areas; or

(2) Have been treated to destroy infestation in accordance with the treatment manual; or

(3) Have been grown, produced, manufactured, stored, or handled in such a manner that no infestation would be transmitted thereby.

(b) Limited permits may be issued by an inspector to allow interstate movement of regulated articles (except soil samples for processing, testing or analysis) not eligible for certification under this subpart, to specified destinations for limited handling, utilization, or processing, or for treatment in accordance with the treatment manual, when, upon evaluation of the circumstances involved in each specific case he determines that such movement will not result in the spread of the golden nematode and requirements of other applicable Federal domestic plant quarantines have been met.

(c) Restricted destination permits may be issued by an inspector to allow the interstate movement (for other than scientific purposes) of regulated articles (except soil samples for processing, testing, or analysis) to any destination permitted under all applicable Federal domestic plant quarantines if such articles are not eligible for certification under all such quarantines but would otherwise qualify for certification under this subpart.

(d) Scientific permits to allow the interstate movement of regulated articles and certificates or permits to allow the movement of soil samples for processing, testing, or analysis in emergency situations may be issued by the Deputy Administrator under such conditions as may be prescribed in each specific case by the Deputy Administrator to prevent the spread of the golden nematode.

(e) Certificate, limited permit, and restricted destination permit forms may be issued by an inspector to any person for use for subsequent shipments of regulated articles (except for soil samples for processing, testing, or analysis) provided such person is operating under a compliance agreement; and any such person may be authorized by an inspector to reproduce such forms on shipping containers or otherwise. Any such person may execute and issue the certificate forms, or reproductions of such forms, for the interstate movement of regulated articles from the premises of such person identified in the compliance agreement if such person has treated such regulated articles to destroy infestation in accordance with the treatment manual, and if such regulated articles are eligible for certification for movement to any destination under all Federal domestic plant quarantines applicable to such articles. Any such person may execute and issue the limited permit forms, or reproductions of such forms, for interstate movement of regulated articles to specified destinations when the inspector has made the determinations specified in paragraph (b) of this section. Any such person may execute and issue the restricted destination permit forms, or reproductions of such forms, for the interstate movement of regulated articles not eligible for certification under all Federal domestic plant quarantines applicable to such articles, under the conditions specified in paragraph (c) of this section.

(f) Any certificate or permit which has been issued or authorized may be withdrawn by the inspector or the Deputy Administrator if he determines that the holder thereof has not complied with any condition for the use of such document imposed by this subpart. Prior to such withdrawal, the holder of the certificate of permit shall be notified of the proposed action and the reason therefor and afforded reasonable opportunity to present his views thereon.

§ 301.85–5 Compliance agreement, and cancellation thereof.

(a) Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of such articles under this subpart. Compliance agreement forms may be obtained from the Deputy Administrator or an inspector.

(b) Any compliance agreement may be canceled by the inspector who is superior to present views has been accorded to vising its enforcement whenever he finds, after notice and reasonable opportunity the other party thereto, that such other party has failed to comply with the conditions of the agreement.

§ 301.85–6 Assembly and inspection of regulated articles.

Persons (other than those authorized to use certificates, limited permits, or restricted destination permits, or reproductions thereof, under § 301.85–4(e)) who desire to move interstate regulated articles which must be accompanied by a certificate or permit shall, as far in advance as possible, request an inspector to examine the articles prior to movement. Such articles shall be assembled at such points and in such manner as the inspector designates to facilitate inspection.

§ 301.85–7 Attachment and disposition of certificates and permits.

(a) If a certificate or permit is required for the interstate movement of regulated articles, the certificate or permit shall be securely attached to the outside of the container in which such articles are moved, except that, where the certificate or permit is attached to the waybill or other shipping document, and the regulated articles are adequately described on the certificate, permit, or shipping document, the attachment of the certificate or permit to each container of the articles is not required.

(b) In all cases, certificates or permits shall be furnished by the carrier to the consignee at the destination of the shipment.

§ 301.85–8 Inspection and disposal of regulated articles and pests.

Any properly identified inspector is authorized to stop and inspect, and to seize, destroy, or otherwise dispose of, or require disposal of regulated articles and golden nematodes as provided in section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) in accordance with instructions issued by the Deputy Administrator.

§ 301.85–9 Movement of live golden nematodes.

Regulations requiring a permit for and otherwise governing the movement of live golden nematodes in interstate or foreign commerce are contained in the Federal Plant Pest Regulations in Part 330 of this chapter. Applications for permits for the movement of the pest may be made to the Deputy Administrator.

§ 301.85–10 Nonliability of the Department.

The U.S. Department of Agriculture disclaims liability for any costs incident to inspections or compliance with the provisions of the Quarantine and regulations in this subpart, other than for the services of the inspector.

The regulations have been revised to permit the Deputy Administrator or an inspector to designate generally infested and suppressive areas, and further,

[3] Pamphlets containing provisions for laboratory approval may be obtained from the Deputy Administrator, Plant Protection and Quarantine Programs, APHIS, U.S. Department of Agriculture, Washington, D.C. 20250.

[4] For list of approved laboratories, see PP 639 (37 F.R. 7813, 15525, and amendments thereof).

specifically authorize the Deputy Administrator to terminate the designation of regulated areas under specified criteria. Section 301.85–4 was amended to restrict the issuance of certificates by a holder of a compliance agreement to the issuance of certificates based on compliance with treatment and other requirements. Various other changes were also made.

Insofar as the revision of the quarantine makes more stringent requirements than presently applied it should be made effective promptly in order to prevent the spread of the golden nematode and to be of maximum benefit to the noninfested States. The other changes do not impose additional obligations on any person.

Therefore, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that further notice of rule making and other public procedures with respect to the revision are impracticable and unnecessary, and good cause is found for making the revision effective less than 30 days after publication in the FEDERAL REGISTER. This revision will become effective upon publication in the FEDERAL REGISTER (11–16–72) and shall supersede the quarantine and regulations contained in §§ 301.85, 301.85–1, 301.85–2, and §§ 301.85–3 through 301.85–10. The provisions in § 301.85–2b remain in effect. The provisions of § 301.85–2a as issued on September 27, 1972 (37 F.R. 20158) are hereby ratified and shall continue in effect as if issued under this revision.

(Secs. 8, 9, 37 Stat. 318, as amended, sec. 105, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee, 29 F.R. 16210, as amended, 37 F.R. 6327, 6505)

Done at Washington, D.C., this 10th day of November 1972.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72–19759 Filed 11–15–72;8:53 am]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Navel Orange Reg. 275]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.575 Navel Orange Regulation 275.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 14, 1972.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period November 17 through November 23, 1972, are hereby fixed as follows:

(i) District 1: 837,000 cartons;

(ii) District 2: unlimited;

(iii) District 3: 63,000 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 14, 1972.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72–19901 Filed 11–15–72;11:29 am]

Title 6—ECONOMIC STABILIZATION

Chapter III—Price Commission

PART 301—RENT STABILIZATION

Rent Adjustment: Annual Increment

This amendment makes more explicit the Price Commission's policy that (1) the 2½-percent annual increment by which lessors may raise residential rents above base rent, provided by § 301.101(a)(1), may be accumulated, and (2) the rent of any residence may be raised by the use of the 2½-percent annual increment only once in any 12-month period, regardless of whether all or only part of the total allowable increment is used in the increase.

Section 301.102(a)(1) of regulations published in the FEDERAL REGISTER on December 30, 1971 (36 F.R. 25389), prohibited the accumulation of the annual increment by which lessors may raise rents. This policy was later changed by the Commission in an amendment issued on March 31, 1972 (37 F.R. 6565), which deleted the parenthetical phrase in that section prohibiting such an accumulation of the increment.

When the rent stabilization regulations were republished on July 4, 1972 (37 F.R. 13226), § 301.102 was redesignated as § 301.101 with minor editorial changes.

Although no substantive change was intended, it appears that the republished provisions of that section have been misunderstood by some persons as a change in policy. To correct this misunderstanding, this amendment reaffirms the Commission's policy that all or any part of the annual increment may be accumulated, but that the annual increment can be used, in whole or in part, only once in any 12-month period (over which it must be prorated), to increase the rent of a residence.

Since this amendment provides immediate guidance and information for the effective implementation of the rent stabilization program, further notice and public procedure thereon is impracticable and good cause exists for making it effective less than 30 days after publication.

(Economic Stabilization Act of 1970, as amended, Public Law 91–379, 84 Stat. 799; Public Law 91–558, 84 Stat. 1468; Public Law 92–8, 85 Stat. 13; Public Law 92–15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92–210; Executive Order No. 11640, 37 F.R. 1213, Jan. 27, 1972; Cost of Living Council Order No. 4, 36 F.R. 20202, Oct. 16, 1971)

In consideration of the foregoing, § 301.101(a)(1) of Part 301 of Title 6 of the Code of Federal Regulations is amended as set forth below, effective November 13, 1972.

Issued in Washington, D.C., on November 13, 1972.

violation. A person served with notice of apparent liability will be given an opportunity to explain his position by means of an appeal prior to the issuance of a

practicable to issue such regulation with notice and public procedure thereon under section 553(b) of Title 5 of the United States Code or subject to the

southwesterly direction to State Highway 27; thence, following State Highway 27 in a southwesterly direction to State Highway 55 in Harnett County; thence

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Issued in Washington, D.C., on November 13, 1972.

C. JACKSON GRAYSON, JR.,
Chairman, Price Commission.

§ 301.101 Rent adjustments.

(a) • • •

(1) *Two and one-half percent annual increment.* A sum of no more than 2½ percent of the base rent, plus a sum of no more than 2½ percent of the base rent for each consecutive 12-month period which has elapsed since the effective date of the first rent increase based on the 2½-percent annual increment. Or, if the rent has not been increased based on the 2½-percent annual increment since December 28, 1971, a sum of no more than 2½ percent of the base rent, plus a sum of no more than 2½ percent of the base rent for each consecutive 12-month period which has elapsed since the effective date of the first lease entered into after December 28, 1971. Any increase in rent authorized under this subparagraph may be deferred in whole or in part by a lessor and the rent thereafter may be increased by any part of the deferred amount. However, the rent may not be increased based on the annual increment or any part thereof more than once in any 12-month period.

• • • • • •

[FR Doc.72-19816 Filed 11-15-72;8:52 am]

Chapter IV—Internal Revenue Service, Department of the Treasury

PART 401—PROCEDURAL RULES RELATING TO ECONOMIC STABILIZATION MATTERS

Notice of Apparent Liability for Rent Violations

In order to establish procedures relating to the issuance of notices of apparent liability by the Internal Revenue Service, the Internal Revenue Service procedural rules relating to economic stabilization (6 CFR Part 401) are amended as follows:

PARAGRAPH 1. Section 401.2 is amended by adding alphabetically a definition of "Notice of apparent liability" and "Final notice of apparent liability" to read as follows:

§ 401.2 Definitions and terms.

• • • • • •

"Notice of apparent liability" and "Final notice of apparent liability" mean a written statement issued in lieu of a notice of violation to a landlord by the Internal Revenue Service setting forth one or more charges of alleged violation of the President's Economic Stabilization Program, which may direct the landlord to:

(a) Make restitution to overcharged tenants,

(b) Roll back rents to the legal limits,

(c) Pay a penalty, and

(d) Sign a statement that no retaliatory action will be taken against any tenants who exercise their right under the program.

• • • • • •

PAR. 2. Section 401.502 is amended by revising paragraph (b) and by deleting paragraph (c), to read as follows:

§ 401.502 Violations.

• • • • • •

(b) *Civil and criminal action.* The Internal Revenue Service may recommend, to the full extent of sanctions available under the President's Economic Stabilization Program, with respect to the alleged violations, the institution of appropriate actions against a principal referred to in Subpart M of this part or a landlord referred to in Subpart N of this part.

(c) [Deleted]

PAR. 3. Section 401.601 is revised to read as follows:

§ 401.601 Right to appeal.

Any person who is—

(a) A person aggrieved (as defined in § 401.2), except a person aggrieved by a ruling, or

(b) Subject to any provision of an interpretation,

may appeal in the manner set forth in this subpart. A person is, for the purposes of paragraph (b) of this section, subject to such a provision only if the interpretation was issued to him, the action is adverse to him, and he has a substantial pecuniary interest. A principal referred to in Subpart M of this part or a landlord referred to in Subpart N of this part may not make an appeal pursuant to the provisions of this subpart with respect to the subject matter of the notice of violation or apparent liability, respectively, served upon him. Any appeal not in accordance with this subpart, may be rejected by the Office of the Chief Counsel (Stabilization Division).

PAR. 5. 6 CFR Part 401 is amended by adding new Subparts M and N after Subpart L, to read as follows:

Subpart M—Notice of Violation

§ 401.1021 Notice of violation.

A person served with a notice of violation will be given an opportunity to explain his position with respect to the alleged violation prior to the submission of the case by the district director to the U.S. Attorney unless compelling reasons exist to the contrary. (See § 401.5 for rules relating to service.) The principal (the person upon whom the notice was served) will be granted an interview if he makes a request to the appropriate district director within 2 ways after the date of receipt of the notice of violation. The interview will be held within a reasonable time after the receipt by the district director of the request for an interview, but in no event more than 5 days after the receipt of such request. At this interview, the principal may have counsel present and will be informed, by a general oral statement, of the features of his case which are alleged to show a violation of economic stabilization regulations and guidelines and, at the same time, there will be made available to the principal sufficient facts, figures, and legal analysis to acquaint him with the nature, basis, and other essential elements of the alleged violation. In his discretion, the district director, with the consent of the principal, may invite such other persons as are affected to participate in the conference. The principal may not file an appeal pursuant to the provisions of Subpart G of this part nor may he make a request for an interpretation or ruling with respect to the subject matter of the notice of violation.

Subpart N—Notice of Apparent Liability

§ 401.1031 Notice of apparent liability.

(a) *In general.* A notice of apparent liability informs the landlord that he has been charged with one or more violations of the President's Economic Stabilization Program and requests his compliance with the remedies (including the payment of any penalty) directed by the Internal Revenue Service. The final notice of apparent liability informs the landlord that unless he complies with remedies directed by the Internal Revenue Service in the final notice of apparent liability wihin 30 days (except that any penalty must be paid within 10 days), the case may subject the landlord to prosecution with respect to the charges alleged in the final notice of liability and the full amount of the civil or criminal penalties applicable thereto. The prosecution may be begun without the issuance of a notice of violation, since both the notice of apparent liability and the final notice of apparent liability are issued in lieu of a notice of violation. A person served with notice of apparent liability will be given an opportunity to explain his position by means of an appeal prior to the issuance of a final notice of apparent liability. (See § 401.5 for rules relating to service.)

(b) *Procedure if no appeal is taken.* If no appeal of a notice of apparent liability is taken, the district director shall issue a final notice of apparent liability.

(c) *Appeal procedure.* The landlord may appeal a notice of apparent liability to an Internal Revenue Service appeals representative if he makes a request to the appropriate district director within 10 days, or any extensions thereof, after the date of receipt of the notice of apparent liability. The appeal must be in writing and shall include:

(1) The landlord's name, address, and identifying number,

(2) A copy of the notice of apparent liability being appealed,

(3) A statement of the landlord's objections to the notice,

(4) A statement of the landlord's views as to the effect of the Economic Stabilization regulations and guidelines as they relate to the subject matter of the notice of apparent liability and the relevant authorities that support his views, and

(5) Whether a conference is desired.

(d) *Conference.* If a conference is requested, the landlord will be notified by the appeals representative of the time and place for such conference within 3 days of the receipt of the appeal in the district office. At such conference, the landlord may have counsel present and will have the opportunity to present evidence for the purpose of changing the findings of fact. Where substantial uncertainties exist either in law or in fact, or both, as to the correct application of the law to the whole record of controversy, the appeals representative will give serious consideration to an offer of settlement of the dispute on a basis which fairly reflects the relative merits of the opposing views in the light of the hazards which would prevail if the case were litigated.

(e) *Decision on appeal.* After the written appeal is received by the district director or after a conference has been requested and held by the appeals representative and the findings made as a result of such review are—

(1) Adverse in whole or in part to the landlord, the landlord will be served with a final notice of liability, or

(2) Not adverse to the landlord or settled, the landlord will be advised that no further action shall be taken.

(f) *Other participants at the conference.* With the consent of the landlord, such other persons as are affected may be invited to participate in the conference described in paragraph (d) of this section.

(g) *No further appeals.* The landlord may not make an appeal pursuant to the provisions of Subpart G of this part nor may he make a request for a determination with respect to the subject matter of the notice of apparent liability.

Because of the need for immediate guidance from the Internal Revenue Service with respect to the subject matter of this regulation, it is found impracticable to issue such regulation with notice and public procedure thereon under section 553(b) of Title 5 of the United States Code or subject to the effective date limitation of section 553(d) of such title.

(Economic Stabilization Act of 1970 as amended, Public Law 91-379; 84 Stat. 799; Public Law 91-558, 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38; Public Law 92-210, 85 Stat. 743; Executive Order 11640 (37 F.R. 1213 (1972)); Cost of Living Council Order No. 8 (37 F.R. 2727 (1972)); Price Commission Order No. 2 (37 F.R. 3212 (1972))

This regulation has been approved by the Cost of Living Council.

JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.
LEE H. HENKEL, JR.,
Chief Counsel for the Internal Revenue Service.

[FR Doc.72-19814 Filed 11-15-72;8:52 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS; EXTRAORDINARY EMERGENCY REGULATION OF INTRASTATE ACTIVITIES [1]

[Docket No. 72-580]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Release of Areas Quarantined

Pursuant to the provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, in paragraph (e)(6) relating to the State of North Carolina, subdivision (ii) relating to Johnston, Harnett, Cumberland, and Sampson Counties is amended to read:

(e) • • •

(6) *North Carolina.*

• • • • • •

(ii) The adjacent portions of Johnston, Harnett, Cumberland, and Sampson Counties bounded by a line beginning at the junction of State Highway 50 and State Highway 96 in Johnston County; thence, following State Highway 50 in a southwesterly direction to State Highway 27; thence, following State Highway 27 in a southwesterly direction to State Highway 55 in Harnett County; thence following State Highway 55 in a southeasterly direction to Secondary Road 2006; thence following Secondary Road 2006 in a southeasterly direction to Secondary Road 1769; thence, following Secondary Road 1769 in a northwesterly direction to the east bank of Thorntons Creek; thence, following the east bank of Thorntons Creek in a generally southeasterly direction to the north bank of Cape Fear River; thence, following the north bank of Cape Fear River in a generally southeasterly direction to dirt road extension of Secondary Road 1709 in Cumberland County; thence, following dirt road extension of Secondary Road 1709 in a northeasterly direction to Secondary Road 1709; thence, following Secondary Road 1709 in a northeasterly direction to Secondary Road 1802; thence, following Secondary Road 1802 in a southeasterly direction to U.S. Highway 301; thence, following U.S. Highway 301 in a northeasterly direction to Secondary Road 1813; thence, following Secondary Road 1813 in a southeasterly direction to Secondary Road 1819; thence, following Secondary Road 1819 in a southeasterly direction to U.S. Highway 13; thence, following U.S. Highway 13 in a southeasterly direction to Secondary Road 1820; thence, following Secondary Road 1820 in a southeasterly direction to Secondary Road 1825; thence, following Secondary Road 1825 in a southeasterly direction to Secondary Road 1818; thence, following Secondary Road 1818 in a southeasterly direction to Secondary Road 1006; thence, following Secondary Road 1006 in a northeasterly direction to Secondary Road 1338 in Sampson County; thence, following Secondary Road 1338 in a northwesterly direction to State Highway 242; thence, following State Highway 242 in a northwesterly direction to U.S. Highway 421; thence, following U.S. Highway 421 in a southwesterly direction to Secondary Road 1477; thence, following Secondary Road 1477 in a northwesterly direction to Secondary Road 1636; thence, following Secondary Road 1636 in a northwesterly direction to State Highway 55; thence, following State Highway 55 in a northwesterly direction to State Highway 96; thence, following State Highway 96 in a northwesterly direction to its junction with State Highway 50 in Johnston County.

2. In § 76.2, in paragraph (e)(8) relating to the State of Tennessee, subdivision (iii) relating to Knox County is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended; 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments exclude a portion of Knox County in Tennessee and portions

[1] See change in Subchapter C heading in F.R. Doc. 72-19702, *infra*.

of Cumberland, Sampson, and Johnston Counties in North Carolina from the

21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as

Sec.
90.1 Determination of extraordinary emer-

(i) *Poultry.* Chickens, ducks, geese, swans, turkeys, pigeons, doves, guinea

§ 90.5 Disposal of birds, products and articles.

Title 43—PUBLIC LANDS: INTERIOR

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of Cumberland, Sampson, and Johnston Counties in North Carolina from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas contained in 9 CFR Part 76, as amended, do not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 apply to the excluded areas.

The amendments relieve restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera and must be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to this Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and unnecessary, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 10th day of November 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-19760 Filed 11-15-72;8:52 am]

[Docket No. 72-579]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Release of Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, in paragraph (e)(7) relating to the State of Ohio, subdivision (iii) relating to Madison County is deleted.

2. In § 76.2, paragraph (f) is amended by adding thereto the name of the State of Nebraska.

(Secs. 4–7, 23 Stat. 32, as amended; secs 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended; 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments exclude a portion of Madison County in Ohio from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas contained in 9 CFR Part 76, as amended, do not apply to the excluded area, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 apply to the excluded area.

The amendments add Nebraska to the list of hog cholera Eradication States in § 76.2(f), and the special provisions pertaining to the interstate movement of swine and swine products from Eradication States are applicable to Nebraska.

The amendments relieve restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera and must be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to this Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and unnecessary, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 10th day of November 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-19761 Filed 11-15-72;8:52 am]

PART 90—EXTRAORDINARY EMERGENCY REGULATIONS

Certain Intrastate Activities Concerning Poultry and Other Birds in California

Pursuant to sections 2, 3, 5, and 11 of the act of July 2, 1962 (21 U.S.C. 134a, 134b, 134d, and 134f), and the Talmadge-Aiken Act of September 28, 1962 (7 U.S.C. 450), the heading for subchapter C is amended to read as set forth above, and a new part 90 is issued to read as follows:

Sec.
90.1 Determination of extraordinary emergency; related determinations.
90.2 Definitions.
90.3 Requirement of sentinel birds.
90.4 Inspections and seizures.
90.5 Disposal of birds, products and articles.
90.6 Cleaning and disinfecting requirements.

AUTHORITY: The provisions of this Part 90 issued under secs. 2, 3, 5 and 11, 76 Stat. 129, 130, 132; 76 Stat. 663; 21 U.S.C. 134a, 134b, 134d, and 134f; 7 U.S.C. 450, 29 F.R. 16210, as amended, 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505.

§ 90.1 Determination of extraordinary emergency; related determinations.

Exotic Newcastle disease is a dangerous, communicable disease of poultry and other birds and it is hereby determined that an extraordinary emergency exists because of outbreaks of the disease in California and that such outbreaks threaten the poultry of the United States and seriously burden interstate and foreign commerce. It is further determined that adequate measures to control such outbreaks are not being taken by the State of California and that the regulations in this part are necessary to enable the identification of poultry and other birds that are or have been affected with or exposed to such disease, and otherwise to carry out the provisions and purposes of the act of July 2, 1962 (21 U.S.C. 134–134h). The Governor of the State of California has been informed of these facts.

§ 90.2 Definitions.

As used in this part, the following terms shall have the meanings ascribed to them in this section.

(a) *The act.* The act of July 2, 1962 (21 U.S.C. 134–134h).

(b) *Administrator.* The Administrator, Animal and Plant Health Inspection Service of the Department, or any other official of said service to whom authority to act in his stead has been or may hereafter be delegated.

(c) *Commercial flock.* Any flock of poultry maintained for the purpose of commercial production of meat or eggs (whether the eggs are used for food or for hatching purposes), or for the purpose of exhibition.

(d) *Department.* The U.S. Department of Agriculture.

(e) *Exotic Newcastle disease.* The exotic, viscerotropic type of Newcastle disease, a contagious, infectious, and communicable disease of poultry and other birds.

(f) *Federal inspector.* An inspector employed in the Veterinary Services unit, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, and designated by the Administrator to perform specific functions under the regulations in this part.

(g) *Flock.* Any group of two or more poultry or other birds maintained in confinement, segregated from any other group for any purpose.

(h) *Other birds.* Psittacine and mynah birds and birds of all other species (except poultry), of all ages, which are under any form of confinement.

(i) *Poultry.* Chickens, ducks, geese, swans, turkeys, pigeons, doves, guinea fowl, and pea fowl, of all ages.

(j) *Sentinel bird.* A specific pathogen-free chicken which has not been infected with, exposed to, or immunized with any strain of Newcastle disease virus and is therefore susceptible to exotic Newcastle disease.

(k) *State inspector.* An inspector employed in livestock or poultry health work of the State of California, or a political subdivision thereof, who is authorized by such State or political subdivision and designated by the Administrator as a collaborator, to perform specific functions under the regulations in this part.

§ 90.3 Requirement of sentinel birds.

The owner of each commercial flock of poultry kept on any premises within any area quarantined in § 82.3 of this chapter shall accept into and maintain in such flock, such sentinel bird or birds as shall be provided by a Federal or State inspector to enable identification of any poultry and other birds on such premises that are or have been affected with or exposed to exotic Newcastle disease. This requirement shall also apply to any flock of poultry other than a commercial flock and to any flock of other birds, when the inspector has specific reason to believe that poultry or other birds that are or have been affected with or exposed to said disease may exist in such flock, and so notifies the owner of such flock. The owner of any such flock shall provide feed, water, and shelter adequate for the maintenance of such birds and allow them to associate freely with all other poultry in the flock in which they are placed by such inspector.

Sentinel birds shall not be moved, without authorization of a Federal or State inspector, from the premises or flock where they are placed by such an inspector, and no person shall vaccinate or otherwise administer any immunizing agent to, or kill any sentinel bird or do any other act which would have an adverse effect upon any such bird, or prevent the examination, or removal from the flock or premises, of any such bird, by such an inspector.

§ 90.4 Inspections and seizures.

(a) Federal or State inspectors designated by the Administrator, and identified by an official identification card shall have authority to enter, with a warrant obtained under section 5 of the act (21 U.S.C. 134d), upon any premises in any area quarantined in § 82.3 of this chapter or elsewhere in California, for the purpose of making inspections and seizures necessary under the act or the regulations in this part. Such inspectors may enter upon any premises without a warrant if the person in possession of the premises voluntarily consents to their entry.

§ 90.5 Disposal of birds, products and articles.

(a) Whenever the Administrator finds that any poultry or other birds upon any premises in any area quarantined in § 82.3 of this chapter or elsewhere in California are, or have been affected with, or exposed to, exotic Newcastle disease, or that any eggs, carcasses, or other products or articles were so related to such poultry or other birds as to be likely to be a means of disseminating the disease, he will order the owner thereof, or his agent in possession thereof, to maintain them in quarantine for such period and dispose of them within such time, and in such manner, as he shall prescribe in accordance with section 2 of the act (21 U.S.C. 134a). The order shall be served upon the owner of the birds, products or articles, or his agent, in person by a Federal or State inspector. If the owner or his agent does not comply with such order, after such notice thereof, the Administrator may seize, quarantine, and dispose of the birds, products, or articles as provided in said section 2.

(b) When any poultry, other birds, or products or articles are ordered to be quarantined on any premises under paragraph (a), they shall not be moved from such premises unless authorized by the Administrator.

§ 90.6 Cleaning and disinfecting requirements.

All pens, coops, and other facilities found by a Federal inspector to have been used in the handling of any poultry or other birds, or related products or articles, subject to an order under § 90.5, shall be cleaned and disinfected in accordance with the provisions in §§ 71.7(c), 71.10, and 71.11 of this subchapter, unless other disposal is ordered under § 90.5.

Effective date. The foregoing determinations and regulations shall become effective upon issuance. They do not affect in any way the interstate regulations in 9 CFR, Part 82.

The foregoing determinations and regulations impose certain restrictions necessary to prevent the spread of exotic Newcastle disease, a dangerous, communicable disease of poultry, and must be made effective immediately to accomplish their purpose in the public interest.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to these actions are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 10th day of November 1972.

RICHARD E. LYNG,
Acting Secretary of Agriculture.

[FR Doc.72-19702 Filed 11-15-72;8:48 am]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5263]

[Arizona 6451]

ARIZONA

Withdrawal of Lands for Protection of Recreation and Public Values

Correction

In F.R. Doc. 72-17006 appearing at page 20942 of the issue of Thursday, October 5, 1972, the third line from the bottom of the description, now reading, "T. 41 N., R. 14 W.,", should read, "T. 42 N., R. 14 W.,".

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z]

PART 226—TRUTH IN LENDING

Open End Credit; Credit Cards; Issuance and Liability

1. Effective June 1, 1973, §§ 226.5(a)(3), 226.7(a)(4), 226.7(b) (5) and (6), and 226.7(c) of Regulation Z are amended to read as set forth below, and §§ 226.702 and 226.704 are revoked; and

2. Effective December 15, 1972, §§ 206.-13(a)(4), (b), and (c) are amended to read as set forth below:

§ 226.5 Determination of annual percentage rate.

(a) *General rule—open end credit accounts.* * * *

(3) Where the finance charge imposed during the billing cycle is or includes:

(i) Any minimum, fixed, or other charge not due to the application of a periodic rate, other than a charge with respect to any specific transaction during the billing cycle, by dividing the total finance charge for the billing cycle by the amount of the balance(s) to which applicable and multiplying the quotient (expressed as a percentage) by the number of billing cycles in a year; or

(ii) Any charge with respect to any specific transaction during the billing cycle (even if the total finance charge also includes any other minimum, fixed or other charge not due to the application of a periodic rate), by dividing the total finance charge imposed during the billing cycle by the total of all balances and other amounts on which any finance charge was imposed during the billing cycle without duplication and multiplying the quotient (expressed as a percentage) by the number of billing

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cycles in a year,[5a] except that the annual percentage rate shall not be less than the largest rate determined by multiplying each periodic rate imposed during the billing cycle by the number of periods in a year; or

(iii) Any minimum, fixed, or other charge not due to the application of a periodic rate and the total finance charge imposed during the billing cycle does not exceed 50 cents for a monthly or longer billing cycle, or the pro rata part of 50 cents for a billing cycle shorter than monthly, at the creditor's option, by multiplying each applicable periodic rate by the number of periods in a year,

[5a] In determining the denominator of the fraction under § 226.5(a)(3)(ii) no amount will be used more than once when adding the sum of the balances to which periodic rates apply to the sum of the amounts financed to which specific transaction charges apply. In every case the full amount of transactions to which specific transaction charges apply shall be included in the denominator. Other balances or parts of balances shall be included according to the manner of determining the balance to which a periodic rate is applied, as illustrated in the following examples of accounts on monthly billing cycles:

1. Previous balance—none.

A specific transaction of $100 occurs on first day of the billing cycle. The average daily balance is $100. A specific transaction of 3 percent is applicable to the specific transactions. The periodic rate is 1½ percent applicable to the average daily balance. The numerator is the amount of the finance charge, which is $4.50. The denominator is the amount of the transaction (which is $100), plus the amount by which the balance to which the periodic rate applies exceeds the amount of specific transactions (such excess in this case is 0), totaling $100.

The annual percentage rate is the quotient (which is 4.5 percent) multiplied by 12 (the number of months in a year), i.e., 54 percent.

2. Previous balance—$100.

A specific transaction of $100 occurs at midpoint of the billing cycle. The average daily balance is $150. A specific transaction charge of 3 percent is applicable to the specific transaction. The periodic rate is 1½ percent applicable to the average daily balance. The numerator is the amount of finance charge which is $5.25. The denominator is the amount of the transaction (which is $100), plus the amount by which the balance to which the periodic rate applies exceeds the amounts of specific transactions (such excess in this case is $50), totaling $150.

As explained in example 1, the annual percentage rate is 3.5 percent × 12=42 percent.

3. If, in example 2, the periodic rate applies only to the previous balance, the numerator is $4.50 and the denominator is $200 (the amount of the transaction, $100, plus the balance to which only the periodic rate is applicable, the $100 previous balance). As explained in example 1, the annual percentage rate is 2.25 percent × 12=27 percent.

4. If, in example 2, the periodic rate applies only to an adjusted balance (previous balance less payments and credits) and the customer made a payment of $50 at midpoint of billing cycle, the numerator is $3.75 and the denominator is $150 (the amount of the transaction, $100, plus the balance to which only the periodic rate is applicable, the $50 adjusted balance). As explained in example 1, the annual percentage rate is 2.5 percent × 12=30 percent.

5. Previous balance—$100.

A specific transaction (check) of $100 occurs at the midpoint of the billing cycle. The average daily balance is $150. The specific transaction charge is 25 cents per check. The periodic rate is 1½ percent applied to the average daily balance. The numerator is the amount of the finance charge, which is $2.50 and includes the 25-cents check charge and the $2.25 resulting from the application of the periodic rate. The denominator is the full amount of the specific transaction (which is $100) plus the amount by which the average daily balance exceeds the amount of the specific transaction (which in this case is $50), totaling $150. As explained in example 1, the annual percentage rate would be 1⅔ percent × 12=20 percent.

[5b] A creditor imposing minimum charges is not required to adjust the disclosure of the range of balances to which each periodic rate would apply in order to reflect the range of the balances below which the minimum charge applies. If a creditor does not impose a finance charge when the outstanding balance is less than a certain amount, the creditor is not required to disclose that fact or the balance below which no such charge will be imposed.

notwithstanding the provisions of subdivisions (i) and (ii) of this subparagraph.

§ 226.7 Open end credit accounts—specific disclosures.

(a) *Opening new account.* * * *

(4) Where one or more periodic rates may be used to compute the finance charge, each such rate, the range of balances to which it is applicable, and the corresponding annual percentage rate determined by multiplying the periodic rate by the number of periods in a year.[5a]

* * * * * *

(b) *Periodic statements required.* * * *

(5) Each periodic rate, using the term "periodic rate" (or "rates"), that may be used to compute the finance charge (whether or not applied during the billing cycle), the range of balances to which it is applicable, and the corresponding annual percentage rate determined by multiplying the periodic rate by the number of periods in a year. The words "corresponding annual percentage rate," "corresponding nominal annual percentage rate," "nominal annual percentage rate" or "annual percentage rate" (or "rates") may be used to describe the corresponding annual percentage rate. The requirements of § 226.6(a) with respect to disclosing the term "annual percentage rate" more conspicuously than other required terminology shall not be applicable to the disclosure made under this subparagraph, although such term (or words incorporating such term) may, at the creditor's option, be shown as conspicuously as the terminology required under subparagraph 6 of this paragraph. Where a minimum charge may be applicable to the account, the amount of such minimum charge shall be disclosed.[5b]

(6) When a finance charge is imposed during the billing cycle, the annual percentage rate or rates determined under § 226.5(a) using the term "annual percentage rate" (or "rates").

* * * * * *

(c) *Location of disclosures.* The disclosures required by paragraph (b) of this section shall be made on the face of the periodic statement, except that, at the creditor's option:

(1) Itemization of the amount and date of each extension of credit (or the date such extension of credit was debited to the account) required to be disclosed under paragraph (b)(2) of this section and itemization of the amount of the "credits" disclosed under paragraph (b)(3) of this section, and of the amount of any finance charge required to be disclosed under paragraph (b)(4) of this section, may be made on the reverse side of the periodic statement or on a separate accompanying statement(s), provided that the totals of such respective amounts are disclosed on the face of the periodic statement; and

(2) The disclosures required under paragraph (b)(5) and (8) of this section, except the balance on which the finance charge was computed, may be made on the reverse side of the periodic statement or on the face of a single supplemental statement which shall accompany the periodic statement.

(3) If the creditor exercises any of the options provided under this paragraph, the face of the periodic statement shall contain one of the following notices, as applicable: "NOTICE: See reverse side for important information" or "NOTICE: See accompanying statement(s) for important information" or "NOTICE: See reverse side and accompanying statement(s) for important information," and the disclosures shall not be separated so as to confuse or mislead the customer or obscure or detract attention from the information required to be disclosed.

§ 226.13 Credit cards—issuance and liability.

(a) *Supplemental definitions applicable to this section.* * * *

(4) *"Cardholder"* means any person to whom a credit card is issued for personal, family, household, agricultural, business, or commercial purposes, or any person who has agreed with the card issuer to pay obligations arising from the issuance

[5a] A creditor imposing minimum charges is not required to adjust the disclosure of the range of balances to which each periodic rate would apply in order to reflect the range of the balances below which the minimum charge applies. If a creditor does not impose a finance charge when the outstanding balance is less than a certain amount, the creditor is not required to disclose that fact or the balance below which no such charge will be imposed.

of a credit card to another person for such purposes.

* * * * * *

(b) *Issuance of credit cards.* Regardless of whether a credit card is to be used for personal, family, household, agricultural, business, or commercial purposes, no credit card shall be issued to any person except:

(1) In response to a request or application therefor, or

(2) As a renewal of, or in substitution for, an accepted credit card whether such card is issued by the same or a successor card issuer.

(c) *Conditions of liability of cardholder.* A cardholder shall be liable for unauthorized use of each credit card issued only if, * * *

§ 226.702 [Revoked]

§ 226.704 [Revoked]

3. These amendments are promulgated pursuant to section 105 of the Truth in Lending Act (15 U.S.C. 1604). Notice of proposed rule making was published on July 6, 1972 (37 F.R. 13270) and August 12, 1972 (37 F.R. 16407). After consideration of all relevant matter submitted by interested parties, technical changes were made to §§ 226.5(a)(3)(ii), 226.5(a)(3)(iii), 226.7(c)(1), 226.13(a)(4), 226.13(b) and 226.13(c). Footnote 6a was added to § 226.7(a)(4).

4. The amendment to § 226.5(a)(3) relocates the formula for computing annual percentage rates in the case of finance charges imposed with respect to specific transactions during the billing cycle—for example, one-time fees on cash advances—to the section dealing with annual percentage rate computation. The formula was previously contained in § 226.7(b)(6) and Board interpretation § 226.704. The interpretation is hereby revoked as of the effective date of the amendment. This amendment also clarifies the fact that the regulation does not require computation of the annual percentage rate by the quotient method when the total finance charge, including charges with respect to specific transactions, does not exceed $0.50.

5. The amendment adds a requirement to § 226.7(b)(5) that the corresponding annual percentage rate for each periodic rate applicable to the account be shown on each periodic statement, whether or not a finance charge is imposed during the billing cycle. Many creditors have previously made this disclosure, which was permissible, although not required, under Regulation Z. A variety of specified wording may be used to describe these rates. The permitted use of optional wording is to allow creditors maximum freedom to choose wording to distinguish between rates which were actually applied during the billing cycle (required to be disclosed under § 226.7(b)(6)) and the prospective nominal rates required to be disclosed by this subparagraph, where those rates differ. The optional wording will also minimize the need for reprinting periodic statements where nominal rate disclosures have previously been made by the creditor. Whatever wording is chosen may, though need not be, used to satisfy the terminology requirements for the initial disclosures under § 226.7(a)(4) and advertising under § 226.10(c)(4). Although the "more conspicuous" requirement of § 226.6(a) for the term "annual percentage rate" will not be applicable to disclosures under § 226.7(b)(5), it will continue to apply to the term annual percentage rate in opening disclosures under § 226.7(a) and in advertising under § 226.10(c), even if the creditor chooses to make disclosures under § 226.7(a)(4) and § 226.10(c)(4) using optional wording which simply incorporates this term—e.g., "corresponding ANNUAL PERCENTAGE RATE."

Many open end creditors will not be affected by the amendment. In many open end credit plans, the annual percentage rate under § 226.7(b)(6) and the prospective nominal rate under § 226.7(b)(5) will always be identical. This situation will occur when a creditor imposes finance charges simply by the application of one or more periodic rates and does not use the "quotient" method of calculating an annual percentage rate under § 226.5(a)(1)(ii). In such cases, the requirements of both § 226.7(b)(5) and § 226.7(b)(6) could be satisfied by a single disclosure of such rates on the face of all billing statements using the term, which could be preprinted, "ANNUAL PERCENTAGE RATE" or "RATES."

The new provision also will require disclosure of minimum charges which may be imposed on accounts with balances below a certain amount. This new disclosure requirement does not compel creditors to disclose the range of balances to which the minimum charge may be applicable; creditors may continue to disclose ranges of balances to which periodic rates apply under § 226.7(a)(4) and § 226.7(b)(5) without specifically designating the portion of any such range to which the minimum charge, instead of the periodic rate, is applicable. For example, disclosure could be made that "a periodic rate of 1½ percent per month which is an annual percentage rate of 18 percent will be applied to balances from $0 to $500, with a minimum charge of $0.50."

6. The amendment to § 226.7(b)(6) consists of the addition of the opening phrase "when a finance charge is imposed during the billing cycle." In addition, the words "and, where there is more than one rate, the amount of the balance to which each rate is applicable" have been deleted since the applicable requirement is already contained in § 226.7(b)(5) which requires disclosure of the range of balances to which each rate is applicable. The amendment is primarily designed to clarify the fact that the annual percentage rate disclosures under this paragraph (as determined by § 226.5(a)) are only required when finance charges are imposed during the billing cycle. Material relating to computation of the annual percentage rate where transaction charges are imposed during the billing cycle has been removed from the provision and incorporated into the new § 226.5(a)(3)(ii).

7. The amendment of § 226.7(c), which deals with the location of required disclosures on periodic statements, will simplify placement of the disclosures in a way which is expected to be more meaningful and useful to the customer and minimize confusion. The amendment incorporates Board interpretation § 226.702, which is hereby revoked as of the effective date of the amendment.

8. The purpose of the amendments to §§ 226.13(a), 226.13(b), and 226.13(c) is to make clear that each credit card, regardless of whether issued or used for personal, family, household, agricultural, business or commercial purposes, and regardless of whether issued to a natural person, corporation, or other business entity, is covered by the act's maximum liability limit on unauthorized use and, by the same token, may not be distributed without an initial request. The amendment to § 226.13(c) is to make it clear that the maximum liability limit applies to each credit card issued to a cardholder; for example, a corporation with many cards from the same issuer would have a maximum liability limit for each card. A technical change has been made in the language of §§ 226.13(a)(4) and 226.13(b) published for comment. In view of the § 226.2(r) definition of "person," which includes both natural persons and organizations, §§ 226.13(a)(4) and 226.13(b) were changed to refer to "person" instead of "natural person or organization." No substantive change was intended. The amendments to § 226.13 would not affect the application of the business exemption in § 226.3 to the disclosure, rescission, and advertising requirements of Regulation Z for which it was intended.

9. Although the amendments to §§ 226.5(a), 226.7(a), 226.7(b), and 226.7(c) shall not become effective until June 1, 1973, any creditor may comply with the amended provisions prior to the effective date.

By order of the Board of Governors, November 2, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-19669 Filed 11-15-72;8:46 am]

[Reg. Z]

PART 226—TRUTH IN LENDING

Open End Credit—Variable Periodic Rates

§ 226.707 Disclosures—Variable Periodic Rates.

(a) Under the terms of some open end credit plans the periodic rates of finance charges and corresponding annual percentage rates are tied to a fluctuating base rate, for example, the "prime rate." Consequently, both the periodic rates and annual percentage rates may change from time to time with changes in the base rate. The question arises as to the proper disclosure, if any, which should

be made under § 226.7(a)(4), § 226.7(b)(5), § 226.7(b)(6), § 226.7(e), and § 226.10(c)(4) in connection with such plans.

(b) Where any creditor's open end credit plan provides that the account is subject to variations in any periodic rate of finance charge, the creditor need not comply with § 226.7(e) with respect to any prospective change in any periodic rate or corresponding annual percentage rate applicable to the account: *Provided*, That in connection with the disclosures made pursuant to paragraph 226.7(a)(4) the creditor has disclosed that such rates are subject to change, the conditions under which such rates may be changed, and, if applicable, the maximum and minimum limits of such rates. The requirements of § 226.7(b)(5) and § 226.10(c)(4) may be complied with by similarly disclosing the method of computing the periodic or annual percentage rates which are subject to variation. In disclosing an annual percentage rate or rates under § 226.7(b)(6) where there have been variations during the billing cycle, the computations as specified in § 226.5(a)(1)(ii), § 226.5(a)(2), § 226.5(a)(3)(i), or § 226.5(a)(3)(ii), as applicable, should be used.

(Interprets and applies 15 U.S.C. 1637)

By order of the Board of Governors, November 2, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary to the Board.

[FR Doc.72-19668 Filed 11-15-72;8:46 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 72-SO-114]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

The purpose of this amendment to part 71 of the Federal Aviation Regulations is to alter the Bay St. Louis, Miss., transition area.

The Bay St. Louis transition area is described in § 71.181 (37 F.R. 2143). In the description, reference is made to "Gulf Central-Stennis Field" and the transition area is effective from sunrise to sunset to accommodate daylight IFR operations only because of nonexisting runway lights. The name of the airport has been changed to "Stennis International Airport" and appropriate lighting equipment is now operational. It is necessary to alter the description to reflect the name change and delete the part-time proviso to redesignate the transition area on a continuous basis. Since these amendments are editorial and minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the Bay St. Louis, Miss., transition area is amended as follows:

"* * * Gulf Central-Stennis Field * * *" is deleted and "* * * Stennis International Airport * * *" is substituted therefor, and "* * * This transition area is effective from sunrise to sunset daily." is deleted from the description.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on November 7, 1972.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.72-19655 Filed 11-15-72;8:45 am]

[Docket No. 12342; Amdt. 838]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

This amendment to part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the standard instrument approach procedures (SIAP's) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAP's for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in amendment No. 97-696 (35 F.R. 5609).

SIAP's are available for examination at the rules docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAP's may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, DC 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP, effective November 8, 1972.

Hickory, N.C.—Hickory Municipal Airport, VOR Runway 24, Amdt. 14; Canceled; (Amdt. 13, effective 15 April 1971, remains in effect).

2. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's, effective December 28, 1972.

Walterboro, S.C.—Walterboro Municipal Airport, NDB Runway 23, Amdt. 2; Revised.
Wolf Point, Mont.—Wolf Point International Airport, NDB-A, Original; Established.

3. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP, effective November 23, 1972.

Detroit, Mich.—Detroit Metropolitan Wayne County Airport, NDB Runway 27, Amdt. 3; Revised.

4. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's, effective November 3, 1972.

Dayton, Ohio—James M. Cox-Dayton Municipal Airport, ILS Runway 18, Amdt. 1; Revised.
Oakland, Calif.—Metropolitan Oakland International Airport, ILS Runway 29, Amdt. 16; Revised.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510, sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c) and 5 U.S.C. 552(a)(1))

Issued in Washington, D.C., on November 9, 1972.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 approved by the Director of the Federal Register on May 12, 1969 (35 F.R. 5610).

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

[FR Doc.72-19654 Filed 11-15-72;8:45 am]

Chapter V—National Aeronautics and Space Administration

PART 1201—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

1. Part 1201 revised in its entirety as follows:

Subpart 1—Introduction

Sec.
1201.100 Creation and Authority.
1201.101 Purpose.
1201.102 Functions.
1201.103 Administration.

Subpart 2—Organization

1201.200 General.

Subpart 3—Boards and Committees

Sec.
1201.300 Boards and Committees.

Subpart 4—General Information

1201.400 NASA Procurement Program.
1201.401 Special Document Depositories.

AUTHORITY: The provisions of this Part 1201 issued pursuant to 5 U.S.C. 552, as amended.

Subpart 1—Introduction

§ 1201.100 Creation and Authority.

The National Aeronautics and Space Administration was established by the National Aeronautics and Space Act of 1958 (72 Stat. 426, 42 U.S.C. 2451 et seq.), as amended (hereafter called the "Act").

§ 1201.101 Purpose.

It is the purpose of the National Aeronautics and Space Administration under the Act to carry out the declared policy of the United States that aeronautical and space activities sponsored by the United States shall be the responsibility of, shall be directed by, and shall be under the control of a civilian agency, except to the extent that aeronautical and space activities are determined by the President to be peculiar to or primarily associated with the development of weapons systems, military operations, or the defense of the United States, which activities shall be the responsibility of the Department of Defense.

§ 1201.102 Functions.

In order to carry out the purposes of the Act, NASA is authorized to conduct research into the problems of flight within and outside the earth's atmosphere; to develop, construct, test, and operate aeronautical and space vehicles for research purposes; and to perform such other activities as may be required for the exploration of space. The term "aeronautical and space vehicles" means aircraft, missiles, satellites, and other space vehicles, manned and unmanned, together with related equipment, devices, components, and parts.

§ 1201.103 Administration.

(a) NASA is headed by an Administrator, who is appointed from civilian life by the President by and with the consent of the Senate. The Administrator is responsible, under the supervision and direction of the President, for exercising all powers and discharging all duties of NASA and has authority and control over all personnel and activities of the agency.

(b) The Deputy Administrator of NASA is also appointed by the President from civilian life by and with the consent of the Senate. The Deputy Administrator serves on a day-to-day basis as the agency's general manager, under delegations of authority and responsibility from the Administrator, and, in his absence, the Deputy Administrator serves as Acting Administrator.

Subpart 2—Organization

§ 1201.200 General.

Responsibility for overall planning, coordination, and control of NASA programs is vested in NASA Headquarters, located in Washington, D.C. Directors of NASA field installations and other component installations are responsible for execution of NASA's programs, largely through contracts with research, development, and manufacturing enterprises. Certain types of research and development activities are conducted at NASA field installations and other component installations by Government-employed scientists, engineers, and technicians. NASA's basic organization consists of the headquarters, nine field installations, the Jet Propulsion Laboratory (a Government-owned, contractor-operated facility), and several component installations which report to heads of field installations or headquarters offices. The NASA field installations are as follows:

(1) Ames Research Center, Moffett Field, Calif. 94035.
(2) Flight Research Center, Edwards, Calif. 93523.
(3) Goddard Space Flight Center, Greenbelt, Md. 20771.
(4) John F. Kennedy Space Center, Kennedy Space Center, Fla. 32899.
(5) Langley Research Center, Langley Station, Hampton, Va. 23365.
(6) Lewis Research Center, Cleveland, Ohio 44135.
(7) Manned Spacecraft Center, Houston, Tex. 77058.
(8) George C. Marshall Space Flight Center, Huntsville, Ala. 35812.
(9) Wallops Station, Wallops Island, Va. 23337.

For more detailed description of the organization and functions of the headquarters and field installations, see the "U.S. Government Organization Manual."

Subpart 3—Boards and Committees

§ 1201.300 Boards and Committees.

Various boards and committees have been established as part of the permanent organization structure of NASA. These include:

(a) *Board of Contract Appeals.* (1) The function of the Board is to adjudicate appeals arising from final decision by NASA contracting officers pursuant to the Disputes Clause of NASA contracts.

(2) The charter of the Board is set forth in subpart 1 of Part 1209 of this chapter. The Board's rules of procedure are set forth in 14 CFR Part 1241.

(3) The texts of decisions of the Board are published by Commerce Clearing House, Inc., in Board of Contract Appeals Decisions, and are hereby incorporated by reference. All decisions and orders are available for inspection and for purchase from the Recorder of the Board at NASA Headquarters, Washington, D.C. Decisions and orders issued after July 4, 1967, are available for inspection and for purchase at NASA information centers. An Index/Digest of Decisions is issued periodically with supplements published annually. These are available for inspection or purchase at the Office of the Chairman of the Board of Contract Appeals.

(b) *Contract Adjustment Board.* (1) The function of the Board is to consider and dispose of requests by NASA contractors for extraordinary contractual adjustments pursuant to Public Law 85-804 (50 U.S.C. 1431-35) and Executive Order 10789 dated November 14, 1958 (23 F.R. 8897).

(2) The charter of the Board is set forth at subpart 3 of Part 1209 of this chapter. The Board's rules of procedure are set forth at 41 CFR Part 18-17.

(3) The texts of decisions of the Board are available for inspection and for purchase from the Chairman of the Board, National Aeronautics and Space Administration, Washington, D.C. 20546.

(c) *Inventions and Contributions Board.* (1) The function of the Board is to consider and recommend to the Administrator the action to be taken with respect to: (i) Requests for waiver of rights to any invention or class of inventions made during the performance of NASA contracts, and (ii) applications for award for scientific and technical contributions determined to have significant value in the conduct of aeronautical and space activities pursuant to the National Aeronautics and Space Act, as amended (42 U.S.C. 2457(f), 2458), and the Government Employees Incentive Awards Act (5 U.S.C. 2121-23), respectively.

(2) The charter of the Board is set forth at Subpart 4 of Part 1209 of this chapter. The Board's rules of procedure are set forth at 14 CFR Parts 1209 and 1240.

(3) The texts of key decisions and an index of all decisions of the Board on requests for waiver are published in Petitions for Patent Waiver (NASA Handbook, NHB 5500.1A) and are hereby incorporated by reference. They are available for purchase from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

Subpart 4—General Information

§ 1201.400 NASA Procurement Program.

(a) The Office of Procurement, headed by the Director of Procurement, serves as a central point of control and contact for NASA procurements. Although the procurements may be made by the field installations, selected contracts and contracts of special types are required to be approved by the Director of Procurement prior to their execution. The Office of Procurement is also responsible for formulation of NASA procurement policies and provides overall assistance and guidance to NASA field installations to achieve uniformity in NASA procurement processes.

(b) The NASA procurement program is carried out principally at the NASA

field installations listed in the "U.S. Government Organization Manual." The Headquarters Contracts Division is re-

for reporting new gas reserves in the Texas Gulf Coast and Southern Louisiana Areas by the purchaser upon request

review of reserve estimates by making it easier to identify questionable reserve estimates requiring field review.

deficiency) for each purchaser, (5) application of the total excess provided in section 8.2.2 (a) and (d) of the UDC

pertinent excerpts from that proposal as an appendix to this order.

The Commission finds:

in the FEDERAL REGISTER of February 26, 1972 (37 F.R. 4095). The Commissioner of Food and Drugs proposed that the le-

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field installations listed in the "U.S. Government Organization Manual." The Headquarters Contracts Division is responsible for contracts with foreign governments and foreign commercial organizations, and the procurement of materials and services required by headquarters offices except for minor office supplies and services procured locally.

(c) All procurements are made in accordance with the NASA Procurement Regulations (41 CFR Ch. 18). With minor exceptions, every proposed procurement in excess of $10,000 is publicized promptly in the Commerce Business Daily "Synopsis of U.S. Government Proposed Procurement, Sales and Contract Awards." Copies of this publication are available from the U.S. Department of Commerce on an annual subscription basis.

§ 1201.401 Special Document Depositories.

NASA deposits its technical documents and bibliographic tools in 10 special regional libraries located in the organizations listed below. Each library is prepared to furnish the public such services as reference assistance, interlibrary loans, photocopy service, and assistance in obtaining copies of NASA documents for retention.

California: University of California Library, Berkeley.
Colorado: University of Colorado Libraries, Boulder.
District of Columbia: Library of Congress.
Georgia: Georgia Institute of Technology, Atlanta.
Illinois: The John Crerar Library, Chicago.
Massachusetts: Massachusetts Institute of Technology, Cambridge.
Missouri: Linda Hall Library, Kansas City.
New York: Columbia University, New York.
Pennsylvania: Carnegie Library of Pittsburgh.
Washington: University of Washington Library, Seattle.

Effective date. The provisions of this Part 1201 were effective June 30, 1972.

JAMES C. FLETCHER,
Administrator.

[FR Doc.72-19709 Filed 11-15-72;8:49 am]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

SUBCHAPTER G—APPROVED FORMS, NATURAL GAS ACT

[Docket No. R-433; Order 459]

PART 250—FORMS

Producers; Form for Reporting Reserves Dedication

NOVEMBER 10, 1972.

The Commission, on December 1, 1971, issued a notice of proposed rulemaking in this proceeding (36 F.R. 23635, December 11, 1971) proposing to establish a form for reporting new gas reserves in the Texas Gulf Coast and Southern Louisiana Areas by the purchaser upon request by the producer-seller for the purpose of implementing the refund credit and contingent rate escalation provisions of Opinion No. 595 issued May 6, 1971, in Docket No. AR64-2 and Opinion No. 598 issued July 16, 1971, in Dockets Nos. AR61-2 et al., respectively.[1] The form will enable the Commission to maintain adequate records pertaining to the reduction of each producer's refund obligation in each area, and to the date at which area rates in each area for sales under contracts dated prior to October 1, 1968, will be increased.

Responses to the notice, 14 in all, were filed by the Independent Natural Gas Association of America, Associated Gas Distributors (AGD), the Public Service Commission of the State of New York (New York) and certain producers[2] and pipelines. A conference was also held in this case on April 11, 1971.

In the form proposed in the December 1st notice, the American Petroleum Institute's definition of proved reserves of natural gas was used to define the term "new gas reserves." Amoco Production Co. (Amoco) and Humble, however, argue that use of the API definition is inconsistent with section 1.4 of the UDC settlement proposal which defines new gas reserves as "the estimated original recoverable reserves in place, less any prior production therefrom, * * *."[3] They contend that the UDC definition would permit the inclusion of reserves not allowed under the API definition.

Upon further consideration we have decided to revise the form so that, while it still provides for the reporting of reserves pursuant to the API definition (Item No. 14), it now also provides for the reporting of reserves (Item No. 15) that are outside the limits of the API definition but are in conformity with the UDC definition. The reporting of reserves in two segments will not only satisfy the requirements of the UDC settlement proposal,[4] but it will facilitate staff review of reserve estimates by making it easier to identify questionable reserve estimates requiring field review.

In accordance with the UDC settlement proposal, we have also revised the form to eliminate the provision for revision of previously reported new-gas reserves. In addition, we have changed the form so as to provide for a separate report by the reporting pipeline for each working interest owner, and have added instructions to the form which will clarify various matters.[5]

New York suggests a number of additional procedures which it believes will assure that the reserves reported are realistic. However, we do not believe it is necessary for producers to submit workpapers, except where otherwise specified in the form, when a report is filed. Nor do we think it necessary to have a petroleum consultant or geologist certify to the validity of the reserve estimate. We do agree, however, that producers should be required to maintain on file in their own offices the workpapers relating to the reserve estimates contained in each report, and they are so required. Producers shall make these working papers available to our staff for purposes of review if, and when the Commission should so require.

Some reports may contain new gas reserves in excess of the volume needed to discharge the producer's refund obligation to the purchaser filing the report. Under the procedure established in section 8.2.2(d) of the UDC settlement proposal, a producer may be permitted to allocate excess reserves to other purchasers in the area to whom refunds are owed by that producer. While these allocations normally would be shown on each report, we believe that initially, in view of the large number of expected filings, it is desirable to obviate the necessity of repeating such allocations with each filing. Accordingly, each report filed on or before April 2, 1973, involving an allocation of excess reserves need contain only a statement as to the new gas reserves in excess of the amount required to discharge the refund obligation to the purchaser filing the report,[6] but thereafter each producer involved in any such report shall submit, on or before May 7, 1973, a summary statement showing (1) the amount owed to each purchaser, (2) the volume of reserves needed to discharge each refund obligation, (3) the volume dedicated as of a specific time, (4) the balance (excess or

[1] The form will, of course, be filed whether the new reserves are certificated under the Optional Procedure provided for in Order No. 455, or not. The form will also be used to implement the refund credit provisions of Opinion No. 607-A which was issued Jan. 17, 1972, in Docket Nos. AR67-1 et al. (Other Southwest Area), subsequent to the issuance of the notice herein. That opinion, however, does not provide for any contingent rate escalations.

[2] The response of Humble Oil Co. (Humble) was joined in by 24 other producers.

[3] The UDC settlement proposal is the United Distribution Companies' Settlement Proposal for the Southern Louisiana Area contained in Appendix A to the Commission's Opinion No. 598.

[4] While the Commission is not obligated in areas outside Southern Louisiana to follow the provisions of the UDC settlement proposal, it is desirable from an administrative viewpoint, as well as otherwise, to utilize the same form for all areas, inasmuch as Southern Louisiana is the most important area involved.

[5] Where a producer has a refund obligation to a plant and the plant, in turn, has a refund obligation to a pipeline purchaser, if the producer desires to discharge its obligation (as well as the plant's obligation with respect to the resale of gas purchased from that producer) through the dedication of new reserves directly to the pipeline, it may seek to do so by the filing of a petition for special relief.

[6] Any report filed subsequent to Apr. 2, 1973, shall show the allocation of the excess reserves, if there are any, to other purchasers in the area.

deficiency) for each purchaser, (5) application of the total excess provided in section 8.2.2 (a) and (d) of the UDC settlement proposal, and (6) application of the remaining excess toward the contingent rate escalations.

In accordance with Exhibit H to the Office of Management and Budget Circular No. A-46, the form proposed in the December 1st notice provided for reporting the new gas reserve volumes at a 14.73 p.s.i.a. pressure base. However, as Humble points out in its comments:

> There is no apparent reason why reporting of new gas reserve commitments for purpose of refund discharge or contingent price escalations should be at a different pressure base than the related price levels. Stated differently, it appears anomalous to commit a "14.73" Mcf to discharge 1 cent of "15.025" Mcf refund in Southern Louisiana.

We agree with Humble's observations and shall therefore require, in addition to the use of the 14.73 p.s.i.a. base, that the volumes also be reported at the applicable area pressure base.[7] The volumes reported at the area pressure base will control for the purpose of determining the discharge of refund obligations and contingent escalation of area rates.

The instructions to the form provide that where reserves have previously been rejected by a prospective purchaser, the purchaser filing the report shall submit a statement, signed by both the producer and the rejecting purchaser, setting forth the estimated reserves and the reason for rejection. While it has been claimed that there is no need for the rejecting purchaser to supply a reserve estimate, we think it appropriate to require such an estimate in view of the fact that under section 8.2.2(c) of the UDC settlement proposal the reserves in certain situations may be used as a refund credit against the rejecting purchaser.

United Gas Pipe Line Co. seeks clarification as to whether oil well gas is includible within the term "new gas reserves" if such gas otherwise comports with the standards applicable thereto. Any distinction between oil well gas and gas well gas was eliminated in Opinions Nos. 595, 598, and 607. As a result, oil well gas properly may be included in reserve reports as "new gas reserves."

AGD requests that it be made clear that the form does not apply to reserves sold pursuant to short-term emergency contracts. In view of the special nature of these transactions, and since reports providing adequate information are already required the form shall not apply to such sales.

Copies of reserve reports submitted to this Commission will be available to the public in the Office of Public Information. Records, updated monthly, pertaining to reserves used to discharge producer refund obligations and those applied toward contingent area rate escalations will also be available in that office.

Finally, because the instructions to the form refer to portions of the UDC settlement proposal, we have attached pertinent excerpts from that proposal as an appendix[8] to this order.

The Commission finds:

(1) The notice and opportunity to participate in this rulemaking proceeding through the submission, in writing, of data, views, comments, and suggestions are in accordance with all procedural requirements therefor as prescribed in section 553, title 5 of the United States Code.

(2) The action taken herein is necessary and appropriate for the administration of the Natural Gas Act.

(3) Since the modifications adopted herein to the form proposed in the notice of this proceeding are consistent with the prime purpose of the proposed rulemaking herein, further notice thereof is unnecessary.

(4) Good cause exists that the form adopted herein become effective as of the date of issuance of this order.

The Commission, acting pursuant to the provisions of the Natural Gas Act, as amended, particularly sections 4, 5, 7, and 16 thereof (52 Stat. 822, 823, 824, 825, and 830; 56 Stat. 83, 84; 61 Stat. 459; 76 Stat. 72; 15 U.S.C. 717c, 717d, 717f, and 717o) *orders:*

(A) Part 250, Forms, in Subchapter G—Approved Forms, Natural Gas Act, Chapter I, Title 18 of the Code of Federal Regulations, is amended by adding a new § 250.13, prescribing a new form, Form No. 334, entitled "Reserves Dedication Report", as Follows:

§ 250.13 Reserves Dedication Report (Form No. 334).[9]

Form 334 provides a method of reporting dedications of new gas reserves in order to obtain credit toward the discharge of refund obligations of producers and toward the contingent escalation of area rates, as provided for in various area rate opinions and orders.

(B) The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

(C) The form adopted herein shall be effective as of the date of issuance of this order.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19694 Filed 11-15-72;8:55 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 135—NEW ANIMAL DRUGS

SUBPART B—STATEMENTS OF POLICY AND INTERPRETATION REGARDING ANIMAL DRUGS AND MEDICATED FEEDS

Corticosteroid Drugs

A notice of a proposed amendment to § 135.101 (21 CFR 135.101) was published in the FEDERAL REGISTER of February 26, 1972 (37 F.R. 4095). The Commissioner of Food and Drugs proposed that the labeling requirements for corticosteroid drugs provided for in § 135.101 (21 CFR 135.101) should be revised to include warnings regarding potentially serious side effects from the use of intramammary infusion products containing corticosteroid drugs.

Two firms responded to the proposal. Masti-Kure Products Co., Inc., Post Office Box 1188, 166 Yantic Street, Norwich, CT 06360, commented that the dosage level of the particular steroid (dexamethasone) included in the formulation administered in the study which prompted the proposed rule, is not comparable to the dosage level of the steroid (hydrocortisone) included in the formulations commonly administered by intramammary infusion in this country. Therefore, the proposed rule requiring a warning statement for all corticosteroids, including hydrocortisone, is not based on valid, comparable data. They also commented that there is a variation among corticosteroids with respect to their ability to induce abortion and premature birth at therapeutic dosage levels. So the proposed rule requiring a warning statement for all corticosteroids should be revised to limit the warning requirement specifically to those corticosteroids demonstrating a capability to induce abortion or premature birth at commonly used dosage levels. They also indicated that requiring the proposed warning to appear on the syringe label will create mechanical and space difficulties necessitating use of a type size so small as to preclude readability.

The Commissioner concludes that, although the data on which the proposal was based were generated using only one member of the corticosteroid group, namely dexamethasone, the entire group is suspect. In addition, conclusions by the firm drawn from a study of comparative potencies are not valid since there is no information on any correlation between the potency of the corticosteroid or anti-inflammatory activity of a particular steroid and its abortifacient effect. The Commissioner is aware of data which documents the teratogenic effect of corticoids, including hydrocortisone, when administered to pregnant rabbits via the ophthalmic route. The Commissioner concludes that the location of the warning statement should be prominent and included in the package label or labeling as defined by the Federal Food, Drug, and Cosmetic Act.

The Upjohn Co., 7000 Portage Road, Kalamazoo, MI 49001, also noted in their response that the corticosteroid used in the study which prompted the proposal was dexamethasone, and whereas this corticosteroid has been shown by other data to induce premature parturition, dexamethasone has not been employed in intramammary products in the United States. They also commented that the dose of dexamethasone employed per treated quarter (10 milligrams) was within the normally recommended dose for systemic therapeutic use, while the

[7] 15.025 p.s.i.a. in Southern Louisiana and 14.65 p.s.i.a. in Texas Gulf Coast.

[8] Appendix filed as part of the original document.

[9] Form and instructions filed as part of the original document.

total intramammary dose of hydrocortisone, when all four quarters are

Warning: Clinical and experimental data have demonstrated that corticosteroids administered orally or by injection to animals

357, 360b(n)) and under authority delegated to the Commissioner (21 CFR 2.120), part 149b is amended as follows:

Title 24—HOUSING AND

even though there may be more than one grant. The grant shall be made to the Governor's office or designee, who shall

831; 31 U.S.C. 200(c)), § 0.147 of Subpart X of Part 0 of Chapter I of Title

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total intramammary dose of hydrocortisone, when all four quarters are treated, is only 8.6 percent to 13 percent of the recommended parenteral therapeutic dose. The firm also contended that inclusion of the warning statement would in effect remove their product from the market in that labeling already restricts use of the drug to dry cows only and to administration prior to day 250 of the gestation period.

The Commissioner concludes that his response to the comments of Masti-Kure Products regarding the study upon which the proposal was based have equal applicability to the comments of the Upjohn Co.

Upjohn also stated that in spite of widespread use of corticosteroids, they have received no complaints related to abortion, premature parturition, retained placenta, or other adverse reproduction sequelae, and they conclude that such products are safe. Information on the cause-effect relationship between corticosteroid therapy and pregnancy problems in animals was not available until recently; the Commissioner concludes that when such pregnancy problems have been encountered in the field, they were often attributed to some other cause.

The Commissioner concludes that no adequate data were submitted to show that the corticosteroid warning is not needed, and it is concluded that the proposal should be adopted based on the information set forth in the proposal.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343–351; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135 is amended by revising § 135.101 to read as follows:

§ 135.101 Corticosteroids for oral, injectable, and intramammary use in animals; warnings; labeling requirements.

(a) The Food and Drug Administration has received reports concerning side effects associated with the oral, injectable, and intramammary use of corticosteroid drugs in animals. The use of these drugs has resulted in premature parturition when administered during the last trimester of pregnancy. Premature parturition may be followed by dystocia, fetal death, retained placenta, and metritis. These drugs, unless they are intended for intramammary use are required to carry the veterinary prescription legend and are subject to the labeling requirements of § 1.106(c) of this chapter.

(b) In view of these potentially serious side effects, the Commissioner of Food and Drugs has concluded that the labeling on or within the package from which the product is to be dispensed, and any other labeling furnishing or purporting to furnish information for the use of these preparations, should bear conspicuously;

(1) If subject to the labeling requirements of § 1.106(c) of this chapter the following warning statement:

Warning: Clinical and experimental data have demonstrated that corticosteroids administered orally or by injection to animals may induce the first stage of parturition when administered during the last trimester of pregnancy and may precipitate premature parturition followed by dystocia, fetal death, retained placenta, and metritis.

(2) If intended for intramammary use, the following warning statement:

Warning: Studies have demonstrated that corticosteroids may cause abortion or premature birth when given during the last third of pregnancy and also may lead to difficulty in giving birth, death of fetus, retained afterbirth and infection of the uterus. Therefore, to prevent these side effects, this preparation should not be administered during the last third of pregnancy.

The label revisions described above should be placed into effect at the earliest possible time and may be implemented without prior approval as provided for in § 135.13a (d) and (e).

(c) Approved new animal drug applications which have not been supplemented in accordance with paragraph (b) of this section within 60 days following the date of publication of this statement of policy in the FEDERAL REGISTER will be subject to provisions of section 512(e) of the Federal Food, Drug, and Cosmetic Act.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (11–16–72).

(Sec. 512, 82 Stat. 343–351; 21 U.S.C. 360b)

Dated: November 10, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–19661 Filed 11–15–72;8:45 am]

PART 149b—AMPICILLIN

Sterility Test Method Procedure for Ampicillin

In a notice of proposed rule making published in the FEDERAL REGISTER of June 13, 1972 (37 F.R. 11729), the Commissioner of Food and Drugs proposed that the antibiotic drug regulations be amended by revising paragraph (b)(2) of § 149b.2 and paragraph (b)(2) of § 149b.19. Interested persons were invited to submit their comments in response to the proposal within 60 days. No comments were received. However, a minor change has been made in the direct method of sterility testing by adding penicillinase to the medium used in that test. Our laboratories found that the addition of penicillinase improved the direct method and our findings were confirmed by the manufacturer of the drug. Accordingly, the Commissioner concludes that the antibiotic drug regulations should be amended, as set forth below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 507, 512(n), 59 Stat. 463, as amended, 82 Stat. 350–351; 21 U.S.C. 357, 360b(n)) and under authority delegated to the Commissioner (21 CFR 2.120), part 149b is amended as follows:

1. In § 149b.2 by revising paragraph (b)(2) to read as follows:

§ 149b.2 Sterile ampicillin trihydrate.

* * * * * *

(b) * * *

(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(1) of that section, except in lieu of paragraph (e)(1)(i)(*a*) of that section, prepare the sample for test as follows: From each of 10 immediate containers, aseptically transfer approximately 300 milligrams of sample into a sterile 500-milliliter Erlenmeyer flask containing approximately 400 milliliters of diluting fluid D. Add at least 200,000 Levy units[1] of penicillinase. Repeat the process using 10 additional containers. Swirl both of the stoppered flasks to completely solubilize the suspension prior to filtration and proceed as directed in paragraph (e)(1)(ii) of that section.

2. In § 149b.19 by revising paragraph (b)(2) to read as follows:

§ 149b.19 Sterile ampicillin trihydrate for suspension, veterinary.

* * * * * *

(b) * * *

(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(1) of that section, except in lieu of paragraph (e)(1)(i)(*a*), of that section, prepare the sample for test as follows: From each of 10 immediate containers, aseptically transfer approximately 300 milligrams of sample into a sterile 500-milliliter Erlenmeyer flask containing approximately 400 milliliters of diluting fluid D. Add at least 200,000 Levy units[1] of penicillinase.

Repeat the process using 10 additional containers. Swirl both of the stoppered flasks to completely solubilize the suspension prior to filtration and proceed as directed in paragraph (e)(1)(ii) of that section. If the formulation cannot be filtered, proceed as directed in § 141.2(e)(2) of this chapter, except use medium B in lieu of medium A and add at least 40,000 Levy units of penicillinase to both medium B and medium E.

* * * * * *

Effective date. This order shall become effective 30 days after date of publication in the FEDERAL REGISTER.

(Sec. 507, 512(n), 59 Stat. 463, as amended, 82 Stat. 350–351; 21 U.S.C. 357, 360(n).)

Dated: November 10, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–19662 Filed 11–15–72;8:45 am]

[1] One Levy unit of penicillinase inactivates 59.3 units of penicillin G in 1 hour at 25° C. and at a pH of 7.0 in a phosphate buffered solution of a pure alkali salt of penicillin G when the substrate is in sufficient concentration to maintain a zero order reaction.

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter VI—Office of Assistant Secretary for Community Planning and Management, Department of Housing and Urban Development

[Docket No. R–72–164]

PART 600—COMPREHENSIVE PLANNING ASSISTANCE

Miscellaneous Amendment

Part 600 of Title 24 of the Code of Federal Regulations was published on February 4, 1972 (37 F.R. 2665), to provide requirements and guidelines for filing a Comprehensive Planning Assistance grant application. Although effective upon publication, the rule invited interested persons to submit written comments or suggestions with respect to its provisions. Subsequently, certain technical changes were published April 1, 1972, in 37 F.R. 6667.

Section 600.10 is now being amended so that grant assistance will ordinarily cover a 12-month work period, but may cover a different period in appropriate cases.

Sections 600.95 and 600.105 are being changed to reflect departmental policy permitting the submission of application without an Overall Program Design (OPD) where the applicant is applying for the first time and the proposal includes the preparation of an OPD.

Since this amendment relaxes previous requirements with respect to the period for which Comprehensive Planning Assistance can be approved and also clarifies the requirements concerning the preparation of the OPD, we find that it is unnecessary to engage in public rule making procedures. Therefore, the revised regulations will become effective immediately upon publication in the FEDERAL REGISTER.

Subpart A—General Information

Section 600.10 is amended by adding a new subsection (c). As amended, section 600.10 reads as follows:

§ 600.10 Financial support.

* * * * * *

(c) Grant assistance will ordinarily cover a 12-month work period but may cover a different period in appropriate cases.

Subpart C—Procedural Requirements

Section 600.95 is amended to read as follows:

§ 600.95 Applications by States.

States are required to submit a single application (Overall Program Design) including statewide planning, nonmetropolitan assistance, and local planning and management services. States may request separate grants based upon one Overall Program Design, but there must be only one grant recipient per State even though there may be more than one grant. The grant shall be made to the Governor's office or designee, who shall be the single responsible party to HUD for the total grant.

Section 600.105 is amended to read as follows:

§ 600.105 Overall program design.

Each applicant shall prepare a concise Overall Program Design (OPD), which shall be the major part of its application, except for an applicant applying for the first time whose proposal includes the preparation of an OPD. The Overall Program Design is a multiyear work program statement which focuses on specific objectives to be achieved by the applicant. The OPD covers a minimum of 3 years and must be annually updated. The OPD includes all major planning and management objectives to be undertaken by the applicant, not merely those assisted by HUD and provides the applicant and HUD with a base line for evaluation of performance.

* * * * * *

AUTHORITY: The provisions of this Part 600 issued under sec. 701, Housing Act of 1954, 68 Stat. 640; 40 U.S.C. 461; Secretary's delegation of authority published at 36 F.R. 5004, effective March 8, 1971.

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER (11–16–72).

CLIFFORD W. GRAVES,
Deputy Assistant Secretary for Community Planning and Management.

[FR Doc.72–19730 Filed 11–15–72;8:53 am]

Title 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice

[Order 496–72]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart X—Authorizations With Respect to Personnel and Certain Administrative Matters

CERTIFICATION OF OBLIGATIONS

Under 31 U.S.C. 200(b), each agency head must report the amount of each appropriation remaining obligated but unexpended at the end of each fiscal year. Paragraph (c) of section 200 provides that the reports be supported by certifications of officials designated by the agency head. This order changes the official in the Bureau of Prisons authorized to certify obligations, to reflect changes in duties of positions in that Bureau.

§ 0.147 [Amended]

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, and section 1311(c) of the Supplemental Appropriation Act, 1955 (68 Stat. 831; 31 U.S.C. 200(c)), § 0.147 of Subpart X of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended by deleting "for the Bureau of Prisons, the Deputy Assistant Director, Administrative Services" and substituting the following: "for the Bureau of Prisons, the Assistant Director, Administrative Services Division."

Dated: November 9, 1972.

RICHARD G. KLEINDIENST,
Attorney General.

[FR Doc.72–19667 Filed 11–15–72;8:46 am]

Title 29—LABOR

Chapter XVII—Occupational Safety and Health Administration, Department of Labor

PART 1926—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION

Miscellaneous Amendments

On pages 15317 and 15318 of the FEDERAL REGISTER of July 29, 1972, there was published a notice of proposed rule making regarding amendments to Part 1926 of Title 29, Code of Federal Regulations, dealing with construction safety and health. Interested persons were given 30 days in which to submit written objections, data, views, and arguments concerning the proposed amendments. No objections have been received, and the proposed amendments are hereby adopted, for the reasons set forth in the July 29 notice, without change and are set forth below.

Effective date. These regulations shall be effective 30 days after publication in the FEDERAL REGISTER.

Signed at Washington, D.C., this 13th day of November 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

Part 1926 is amended as follows:

1. Section 1926.500(c)(2) is amended to read as follows:

§ 1926.500 Guardrails, handrails, and covers.

* * * * * *

(c) * * *

(2) An extension platform outside a wall opening onto which materials can be hoisted for handling shall have side rails or equivalent guards of standard specifications. One side of an extension platform may have removable railings in order to facilitate handling materials.

* * * * * *

2. Section 1926.652(h) is amended to read as follows:

§ 1926.652 Specific trenching requirements.

* * * * * *

(h) When employees are required to be in trenches 4 feet deep or more, an adequate means of exit such as a ladder

or steps, shall be provided and located so as to require no more than 25 feet of

17, which contains information and instructions relating to apartment house

Postal Data Center for deposit, unless other action may be in order.

public in transacting business or obtaining the services provided on property, is prohibited.

shall not be brought upon property for other than official purposes.

§ 243.3 [Revoked]

(k) *Vehicular and pedestrian traffic.*

II. In Part 243 § 243.3, *Solicitation of*

XUM V37-222 NOV 16 72 XUM

XUM

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XUM

or steps, shall be provided and located so as to require no more than 25 feet of lateral travel.

• • • • • •

3. Section 1926.700(e)(1)(ii) is amended to read as follows:

§ 1926.700 General provisions.

• • • • • •

(e)(1) • • •

(ii) The sills for shoring shall be sound, rigid, and capable of carrying the maximum intended load.

• • • • • •

4. Section 1926.900(k)(3) is amended to read as follows:

§ 1926.900 General provisions.

• • • • • •

(k) • • •

(3) (i) The prominent display of adequate signs warning against the use of mobile radio transmitters, on all roads within 1,000 feet of blasting operations. Whenever adherence to the 1,000-foot distance would create an operational handicap, a competent person shall be consulted to evaluate the particular situation, and alternative provisions may be made which are adequately designed to prevent any premature firing of electric blasting caps. A description of any such alternatives shall be reduced to writing and shall be certified as meeting the purposes of this subdivision by the competent person consulted. The description shall be maintained at the construction site during the duration of the work, and shall be available for inspection by representatives of the Secretary of Labor.

(ii) Specimens of signs which would meet the requirements of subdivision (i) of this subparagraph (3) are the following:

• • • • • •

(Sec. 1, 83 Stat. 96, 97, adding sec. 107 to Public Law 87-581, 76 Stat. 347, sec. 6, 84 Stat. 1593; 29 U.S.C. 655, 40 U.S.C. 333)

[FR Doc.72-19758 Filed 11-15-72;8:54 am]

Title 39—POSTAL SERVICE

Chapter I—U.S. Postal Service

MISCELLANEOUS AMENDMENTS

Regulations codified under Title 39, Code of Federal Regulations, are amended as hereinafter stated.

PART 155—CITY DELIVERY

Section 155.6(d) is amended to make reference to Postal Service Publication 17, which contains information and instructions relating to apartment house mail receptacles.

In § 155.6 *Apartment house receptacles*, amend paragraph (d) to read as follows:

§ 155.6 Apartment house receptacles.

• • • • • •

(d) *Installation, specifications, and approvals.* The conditions requiring installation, specifications for construction, installation procedures, and approval procedures for manufacturers are covered in Publication 17, "Apartment House Mail Receptacles, Regulations and Instructions."

PART 262—OPINIONS, ORDERS, ADMINISTRATIVE MANUALS, AND INSTRUCTIONS TO STAFF

Section 262.7(b) is amended to authorize reproduction of records by hand where reproduction equipment is not available in post offices.

In § 262.7 *Schedule of fees*, under paragraph (b), redesignate subparagraphs (2) and (3) as subparagraphs (3) and (4), respectively; and insert new subparagraph (2) to read as follows:

§ 262.7 Schedule of fees.

• • • • • •

(b) • • •

(2) Where reproduction equipment is not available at the post office, information or data which is sought may be reproduced on blank forms or paper as appropriate, by means of typewriting or handwriting. The reproduced document must carry the legend, "This is a copy," and be signed and dated by the employee who prepared the reproduction. The stated fees apply to such reproductions.

• • • • • •

PART 946—RULES OF PROCEDURE RELATING TO THE DISPOSITION OF MONEY OR OTHER PROPERTY RECOVERED BY POSTAL INSPECTORS

Section 946.1(h) is amended to establish a new procedure for the disposition of moneys lost or stolen from the mails and recovered by postal inspectors.

In § 946.1 *Disposition of money or other property recovered by postal inspectors*, amend paragraph (h) to read as follows:

§ 946.1 Disposition of money or other property recovered by postal inspectors.

• • • • • •

(h) Moneys lost or stolen from the mails and recovered by postal inspectors are disbursed by them to the postal customers suffering losses. If the postal customer cannot be identified or the postal inspector is unable to determine whether the recovered funds are to be paid to the sender or addressee, the funds are sent to the Director, New York Postal Data Center for deposit, unless other action may be in order.

• • • • • •

(39 U.S.C. 401, 404).

ROGER P. CRAIG,
Deputy General Counsel.

NOVEMBER 10, 1972.

[FR Doc.72-19696 Filed 11-15-72;8:48 am]

PART 232—POSTAL LOSSES AND OFFENSES

PART 243—CONDUCT OF OFFICES

Conduct on Postal Property

Regulations codified in Title 39, Code of Federal Regulations, are amended to include regulations governing conduct on postal property. These regulations, as set out below, shall apply without limitation to all buildings and areas owned or occupied by the Postal Service regardless of the jurisdictional status of the property.

Accordingly, Title 39, Code of Federal Regulations, is amended as follows:

I. In Part 232 new § 232.6 is added, reading as follows:

§ 232.6 Conduct on postal property.

(a) *Applicability.* This section applies to all real property under the charge and control of the Postal Service, to all tenant agencies, and to all persons entering in or on such property. This section shall be posted and kept posted at a conspicuous place on all such property.

(b) *Recording presence.* Except as otherwise ordered, properties shall be closed to the public after normal working hours. Properties shall also be closed to the public in emergency situations and at such other times as may be necessary for the orderly conduct of business. Admission to properties during periods when such properties are closed to the public will be limited to authorized individuals who may be required to sign the register and display identification documents when requested by security force personnel or other authorized individuals.

(c) *Preservation of property.* Improperly disposing of rubbish, spitting, creating any hazard to persons or things, throwing articles of any kind from a building, climbing upon the roof or any part of a building, or willfully destroying, damaging, or removing any property or any part thereof, is prohibited.

(d) *Conformity with signs and directions.* All persons in and on property shall comply with official signs of a prohibitory or directory nature, and with the directions of security force personnel or other authorized individuals.

(e) *Disturbances.* Disorderly conduct, or conduct which creates loud and unusual noise, or which obstructs the usual use of entrances, foyers, corridors, offices, elevators, stairways, and parking lots, or which otherwise tends to impede or disturb the public employees in the performance of their duties, or which otherwise impedes or disturbs the general

public in transacting business or obtaining the services provided on property, is prohibited.

(f) *Gambling.* Participating in games for money or other personal property, or the operation of gambling devices, the conduct of a lottery or pool, or the selling or purchasing of lottery tickets, is prohibited on postal premises.

(g) *Alcoholic beverages and drugs.* The entering on property, or the operating of a motor vehicle on property, by a person under the influence of alcoholic beverage or any drug which has been defined as a "controlled substance" is prohibited. The sale or use of any "controlled substance" (except as medically approved) or alcoholic beverage on postal premises is prohibited. The term "controlled substance" is defined in section 802 of title 21, United States Code.

(h) *Soliciting, vending, and debt collection.* (1) Soliciting alms and contributions or collecting private debts on postal premises is prohibited. Except for commercial activities performed under contract with the Postal Service or those authorized by § 243.2(g) of this chapter, commercial soliciting and vending and the display or distribution of commercial advertising on postal premises is prohibited. This rule does not apply to suitable union notices or to personal notices posted by employees on authorized bulletin boards.

(2) The American Red Cross may have stands in lobbies during its annual rollcalls or special fundraising campaigns, providing they do not interfere with the transaction of postal business or require the expenditure of time or equipment by the Postal Service or its employees. Other similar national organizations also solicit funds at the local community level for worthy humanitarian purposes. Such organizations may solicit funds at designated locations on postal premises only if their names appear on a list approved by the regional postmaster general for solicitation activities. Before any organization may solicit funds, the local postmaster or installation head shall enter into an agreement with the local representative of the organization to specify locations, number of solicitors, and any other necessary limitations. The local postmaster or installation head will rely on his reasoned business judgment to restrict any activities which may prevent, unduly impair, or interfere with the transaction of business or the provision of postal services to the public.

(i) *Photographs for news, advertising, or commercial purposes.* Except as prohibited by official signs or the directions of security force personnel or other authorized personnel, or a Federal court order or rule, photographs for news purposes may be taken in entrances, lobbies, foyers, corridors, or auditoriums when used for public meetings. Other photographs may be taken only with the permission of the local postmaster or installation head.

(j) *Dogs and other animals.* Dogs, except seeing-eye dogs, and other animals, shall not be brought upon property for other than official purposes.

(k) *Vehicular and pedestrian traffic.* (1) Drivers of all vehicles in or on property shall drive in a careful and safe manner at all times and shall comply with the signals and directions of security force personnel, other authorized individuals, and all posted traffic signs.

(2) The blocking of entrances, driveways, walks, loading platforms, or fire hydrants in or on property is prohibited.

(3) Parking without authority, parking in unauthorized locations or in locations reserved for other persons, or continuously in excess of 18 hours without permission, or contrary to the direction of posted signs is prohibited. This section may be supplemented by the postmaster or installation head from time to time by the issuance and posting of specific traffic directives as may be required. When so issued and posted such directives shall have the same force and effect as if made a part hereof.

(l) *Weapons and explosives.* No person while on property shall carry firearms, other dangerous or deadly weapons, or explosives, either openly or concealed, except for official purposes.

(m) *Nondiscrimination.* There shall be no discrimination by segregation or otherwise against any person or persons because of race, creed, color, sex, or national origin, in furnishing, or by refusing to furnish to such person or persons the use of any facility of a public nature, including all services, privileges, accommodations, and activities provided thereby on property.

(n) *Penalties and other law.* (1) Alleged violations of these rules and regulations are heard, and the penalties prescribed herein are imposed, either in a Federal district court or by a Federal magistrate in accordance with applicable court rules. Questions regarding such rules should be directed to the regional counsel for the region involved.

(2) Whoever shall be found guilty of violating the rules and regulations in this section while on property under the charge and control of the Postal Service is subject to fine of not more than $50 or imprisonment of not more than 30 days, or both. Nothing contained in these rules and regulations shall be construed to abrogate any other Federal laws or regulations of any State and local laws and regulations applicable to any area in which the property is situated.

(o) *Enforcement.* (1) Members of the U.S. Postal Service security force shall exercise the powers of special policemen provided by 40 U.S.C. 318 and shall be responsible for enforcing the regulations in this section in a manner that will protect Postal Service property.

(2) Local postmasters and installation heads may, pursuant to 40 U.S.C. 318b and with the approval of the chief postal inspector or his designee, enter into agreements with State and local enforcement agencies to insure that these rules and regulations are enforced in a manner that will protect Postal Service property.

§ 243.3 [Revoked]

II. In Part 243 § 243.3, *Solicitation of funds*, is revoked.

(39 U.S.C. 401; 40 U.S.C. 318, 318a, 318b, 318c; P.L. 92-351, title IV)

ROGER P. CRAIG,
Deputy General Counsel.

NOVEMBER 13, 1972.

[FR Doc.72-19717 Filed 11-15-72;8:50 am]

Title 45—PUBLIC WELFARE

Subtitle A—Department of Health, Education, and Welfare, General Administration

PART 73a—STANDARDS OF CONDUCT: FOOD AND DRUG ADMINISTRATION SUPPLEMENT

A new Part 73a is added to the regulations of the Department of Health, Education, and Welfare to set forth the Food and Drug Administration's supplement to the Department's Standards of Conduct published in Part 73. Authorization for such supplementation is contained in § 73.735-105 of Part 73. The sections of this Part 73a are not numbered in sequence, but in order to provide easy reference between Parts 73 and 73a, they bear numerical designations corresponding to the various sections in Part 73 to which they are related.

Subpart A—General Provisions

Sec.

73a.735-101 Principles and purpose.

Subpart B—Miscellaneous Provisions

73a.735-201 Control activity employees formerly associated with organiaztions subject to FDA regulation voluntary compliance.

Subpart D—Outside Employment

73a.735-401 General provisions.

Subpart E—Financial Interests

73a.735-501 General provisions.

73a.735-502 Employees in regulatory activities.

AUTHORITY: The provisions of this Part 73a are issued under 45 CFR 73.735-105.

Subpart A—General Provisions

§ 73a.735-101 Principles and purpose.

(a) To assure that the business of the Food and Drug Administration is conducted effectively, objectively, and without improper influence or appearance thereof, all employees must be persons of integrity and observe the highest standards of conduct. Because of FDA's special regulatory responsibilities to the consumer and industry, its employees must be especially alert to avoid any real or appearance of conflict of their private interests with their public duties. Their actions must be unquestionable and free from suspicion of partiality, favoritism, or any hint of conflicting interests. This supplement recognizes

FDA's public obligation to set reasonable

lic service, civic, or similar nonbusiness

(iii) The employee will avoid unrelated

for the Government in any particular matter relating to that financial interest.

Board to govern the operating-differential subsidy program with respect to bulk

(Act), governing the payment of operating-differential subsidy for U.S.-

FDA's public obligation to set reasonable and fair safeguards for the prevention of employee conflicts of interest. It is necessary to meet FDA's regulatory responsibilities and to otherwise assure full protection of the public confidence in the integrity of its employees.

(b) Since FDA is a unique consumer protection and regulatory agency within the Department, the DHEW Standards of Conduct need further supplementation to reflect this role. Therefore, for purposes of implementing the DHEW Standards of Conduct regulations within the Food and Drug Administration, this supplement provides interpretive definitions and additional requirements. As further guidance to its employees and supervisory officials, FDA will issue internal procedural instructions in accordance with this supplement.

Subpart B—Miscellaneous Provisions

§ 73a.735–201 Control activity employees formerly associated with organizations subject to FDA regulation/voluntary compliance.

(a) Within 1 year after employment has ceased with a regulated organization, a control activity employee may not participate in any regulatory action before FDA which involves the former employer organization.

(b) Any time after employment has ceased with a regulated organization, a control activity employee may not participate in a regulatory action before FDA in which he had participated personally and substantially directly for his former employer, e.g., drug investigations/applications, food additive petitions, and matters dealing with voluntary/mandatory compliance in the area of electronic products.

(c) Within 30 days after assignment to a control activity position, an employee shall submit to his supervisor detailed information concerning former industry employers, dates, and substance of involvements in such regulatory matters as shown in paragraph (b) of this section.

(d) The director of the regulatory program involved may grant individual exceptions or group waivers, whenever he determines that the strict application of this section would not be in the best interests of the United States or would cause an unreasonable and undue personal hardship. All such exceptions/waivers shall be documented with copies for each employee affected and the Director, Division of Personnel Management.

Subpart D—Outside Employment

§ 73a.735–401 General provisions.

(a) Employees of the Food and Drug Administration shall obtain advance approval for all outside employment, whether paid or unpaid. Employment, as used in this section, does not include:

(1) Memberships in charitable, religious, social, fraternal, recreational, public service, civic, or similar nonbusiness organizations.

(2) Memberships in professional organizations. (Officeholding, however, requires advance approval.)

(3) Performance of duties in the Armed Forces Reserve or National Guard.

(b) Control activity employees (defined in § 73a.735–502) will not generally be granted approval to:

(1) Manage or direct an organization whose activities are subject to FDA regulation, or

(2) Be employed in an organization whose business activities are subject to FDA regulation unless:

(i) The regulated activities of the organization are an insignificant part of its total operations, i.e., the regulated products of the organization constitute no more than 10 percent of its annual gross sales, and

(ii) The outside employment is in nonregulated activities of the organization.

(c) All other employees will generally be granted approval to engage in outside employment which is compatible with the full performance of their FDA duties and responsibilities and which will not give rise to a real or apparent conflict of interest. Such approval may be given even though the organization is one which is a significantly regulated organization provided the employment will have only a remote or inconsequential effect on FDA operations. Permissible employment includes but is not limited to:

(1) Employment where the sale of FDA-regulated products is incidental to the purpose of the establishment, e.g., hotels, theaters, bowling alleys, and sports arenas.

(2) Sales and clerical occupations relating to regulated products, e.g., supermarkets, drugstores, department stores, liquor stores.

(3) Trade, industrial, and service occupations relating to regulated products, e.g., gasoline service station attendant, line production or assembly work, cook, waiter, waitress, hospital attendant, snack bar vendor, warehouseman.

(d) All employees will generally be granted approval to engage in paid or unpaid outside employment which contributes to their technical or professional development, e.g.,

(1) Medical, dental, and veterinary practices.

(2) Pharmacy practice after meeting the following conditions which will serve to protect against possible conflicts or apparent conflicts of interest and to avoid other problems resulting in embarrassment to the employee or FDA:

(i) The primary purpose of the part-time employment is to contribute to the overall professional development of the employee and generally enhance his capability to better perform his current FDA duties.

(ii) The part-time duties will be confined generally to dispensing RX drugs and related professional pharmacy duties.

(iii) The employee will avoid unrelated nonprofessional duties such as supervision or management of store operations, contractual or purchasing responsibilities (except normal "out-of-stock" requisitioning) and repacking or relabeling of bulk items.

(iv) The employee will demonstrate a high degree of discretion and judgment in his contacts with customers and representatives of regulated industry and competitor firms so as to avoid giving the impression that:

(*a*) His part-time actions, recommendations, opinions, or remarks are official points of view;

(*b*) He is using his FDA position for private gain by oral misrepresentations and false claims of the company's products;

(*c*) He is making a Government decision outside official channels, e.g., to customers, prescribing physicians, buyers, distributors;

(*d*) He or other FDA representatives will give preferential treatment to any regulated organization or representatives of such organizations, or that FDA employees have not exercised complete independence or impartiality in carrying out their regulatory and consumer protection responsibilities; or

(*e*) His part-time work is creating an adverse effect on the image of FDA or discrediting the integrity of official FDA regulatory decisions.

Subpart E—Financial Interests

§ 73a.735–501 General provisions.

(a) There are no restrictions placed on ownership of diversified mutual funds.

(b) An FDA employee, other than a control activity employee (defined in § 73a.735–502), may have financial interests:

(1) In an organization whose FDA-regulated activities are an insignificant part of its total operations, i.e., no more than 10 percent of the organization's annual gross sales are in products regulated by FDA; or

(2) In an organization whose FDA-regulated business activities are a significant part of its total business operations: *Provided*,

(i) The holding is less than $5,000 (value or cost at time of initial reporting), and

(ii) The holding represents less than 1 percent of the total outstanding stock shares of that organization, and

(iii) No more than 50 percent of the employee's total investment value is concentrated in significantly regulated industries; or

(3) Of a type otherwise prohibited by this subparagraph if he makes a full disclosure thereof to his supervisor and receives an advance written determination from the supervisor that in the light of the duties and responsibilities of the employee, the interest is not likely to affect the integrity of his services to the Government. Such a disclosure does not constitute a waiver under 18 U.S.C. 208(b)(1) and the employee may not participate

for the Government in any particular matter relating to that financial interest.

§ 73a.735–502 Employees in regulatory activities.

(a) Employees in regulatory activities (control activities in FDA) shall not have financial interests in any organization whose business activities are subject to FDA regulations, unless the regulated activities of the organization are an insignificant part of its total business operations. To administer this provision within FDA, the following interpretations apply:

(1) A "control activity" employee means one who:

(i) Occupies a position classified at GS–16 and above (or equivalent), or

(ii) Occupies a professional or technical position with duties of a nature that the employee could cause an economic advantage for or handicap against a non-Federal enterprise in the discharge of his official duties and responsibilities (all inspectors and regulatory analysts are included), or

(iii) Occupies a management, administrative, or investigative position, in either regulatory or management echelons, where his actions are likely to have a significant impact on non-Federal enterprises.

(2) "Insignificant" (part of an organization's total business operations) means that the FDA-regulated products constitute no more than 10 percent of the organization's annual gross sales. As authorized by exemption provisions of 18 U.S.C. 208(b)(2), it is determined that such permissible financial interests (i.e., 10 percent or less regulated) are too remote and too inconsequential to affect the integrity of employees' services to the Government.

This supplement was approved by the Civil Service Commission on September 12, 1972 and it becomes effective 60 days after publication in the FEDERAL REGISTER.

Approved: November 10, 1972.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc.72–19720 Filed 11–15–72;8:55 am]

Title 46—SHIPPING

Chapter II—Maritime Administration, Department of Commerce

SUBCHAPTER C—REGULATIONS AFFECTING SUBSIDIZED VESSELS AND OPERATORS

[General Order 116]

PART 294—OPERATING-DIFFERENTIAL SUBSIDY FOR BULK CARGO VESSELS ENGAGED IN CARRYING BULK RAW AND PROCESSED AGRICULTURAL COMMODITIES FROM THE UNITED STATES TO THE UNION OF SOVIET SOCIALIST REPUBLICS

The following revised regulations have been adopted by the Maritime Subsidy Board to govern the operating-differential subsidy program with respect to bulk cargo vessels engaged in carrying export bulk raw and processed agricultural commodities from the United States to the Union of Soviet Socialist Republics. They supersede the regulations originally appearing in the FEDERAL REGISTER on October 21, 1972 (37 F.R. 22747), as corrected on October 27, 1972 (37 F.R. 22986).

These regulations are issued pursuant to the Merchant Marine Act, 1936, as amended (46 U.S.C. 1101–1294). The Secretary of Commerce is authorized under section 601(a) of the Act,

> • • • [T]o consider the application of any citizen of the United States for financial aid in the operation of a vessel or vessels, which are to be used in an essential service in the foreign commerce of the United States • • •

The meaning of the term "essential service" is described in section 211 of the Act as including:

> The bulk cargo carrying services that should, for the promotion, development, expansion, and maintenance of the foreign commerce of the United States and for the national defense or other national requirements be provided by United States-flag vessels • • •

The operating-differential subsidy provided in these regulations is deemed appropriate in light of the national requirements for participation by U.S. vessels in the carriage of export bulk raw and processed agricultural commodities during the period to July 1, 1973.

The authority for the operating-differential subsidy procedures covered by these regulations is set forth in section 603(b) of the Act which provides:

> • • • [T]he Secretary of Commerce may, with respect to any vessel in an essential bulk cargo carrying service as described in section 211(b) pay, in lieu of the operating-differential subsidy provided by this subsection (b), such sums as he shall determine to be necessary to make the cost of operating such vessel competitive with the cost of operating similar vessels under the registry of a foreign country.

Rule making involving the operating-differential subsidy program is exempt from the requirements of section 553 of title 5, United States Code. A new Part 294 is hereby added to Title 46, Chapter II, Code of Federal Regulation as follows:

Sec.
294.1 Purpose.
294.2 Applications.
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AUTHORITY: The provisions of this Part 294 issued under section 204, Merchant Marine Act, 1936, as amended (46 U.S.C. 1114).

§ 294.1 Purpose.

The regulations in this part prescribe rules in accordance with title VI of the Merchant Marine Act, 1936, as amended (Act), governing the payment of operating-differential subsidy for U.S.-flag bulk cargo vessels engaged in carrying export bulk raw and processed agricultural commodities from ports in the United States to ports in the Union of Soviet Socialist Republics (U.S.S.R.), or other permissible ports of discharge.

§ 294.2 Applications.

Applications for operating-differential subsidy contracts under this part may be obtained from the Secretary, Maritime Subsidy Board, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20235.

§ 294.3 Subsidy contract.

(a) *Expiration.* Contracts executed in accordance with the rules and regulations of this part shall expire on June 30, 1973, except that subsidized voyages in progress as of midnight of that date may continue to their termination as defined in § 294.5(c)(2) for purposes of the payment of operating-differential subsidy.

(b) *Renegotiation of contracts.* The operating-differential subsidy contract shall provide that amounts otherwise payable thereunder shall be subject to renegotiation if the Maritime Subsidy Board (Board) determines that the operator is earning excessive profits. In the determination of what constitutes excessive profits the Board shall consider the provisions of section 103 of the Renegotiation Act of 1951, as amended (50 U.S.C. App. 1213), and may take into consideration such other matters that the Board deems appropriate, including any other provision of said Renegotiation Act. The elimination of excessive profits shall be accomplished through the renegotiation of the operating-differential subsidy contract including withholding or recovering amounts paid or accrued with respect to any subsidized voyage. Payments received or accrued under other contracts between the operator and the Government shall not be taken into account for purposes of such renegotiation.

(c) *Subsidized voyage approval.* The operating-differential subsidy contract shall provide that each subsidized voyage must have the prior written approval of the Board. In acting upon a request for such approval, the Board will consider all pertinent facts, including the availability of appropriated funds, the most productive utilization of such funds, whether the charter rate is the maximum then obtainable, and the purposes and policies of the Act. The Board shall not approve retroactively the subsidization of a voyage which has already commenced.

§ 294.4 Voyage approval procedures.

(a) *Requests.* All requests for the approval of a subsidized voyage must be in writing. Telegrams are acceptable. The request must contain the following data:

(1) Name of operator;

(2) Operating-differential subsidy contract number;

(3) Vessel name;

(4) Charterer;
(5) Load and discharge ports;

port of loading at the time of such certification;

(ii) U.S. preference cargo, including that covered by 10 U.S.C. 2631, 46 U.S.C.

(ii) The fair and reasonable cost per operating day of maintenance and repair expenses for the subsidized vessel

est expense directly attributable to indebtedness incurred in connection with the construction, reconstruction or pur-

bulk raw and processed agricultural commodities from the United States to the U.S.S.R. will be made on U.S.-flag

(4) Charterer;
(5) Load and discharge ports;
(6) Lay days;
(7) Commodities and estimated tonnage;
(8) Charter rate and terms;
(9) The operator's certification to the best of its knowledge and belief of: The current charter market rate for third-flag vessels under a charter having the same terms and conditions, or, if it certifies that it knows of no such currently fixed third-flag vessel rates, then its best estimate of the current market charter rate based upon other charter fixtures appropriately adjusted to give effect to differences between such charters and the proposed fixture of the subsidized vessel together with a concise explanation of the basis on which the estimate was made;
(10) Expected date of commencing the voyage;
(11) Estimated duration of voyage;
(12) Similar data concerning U.S. import cargo if such carriage is contemplated; and
(13) Any other data as may be deemed necessary by the Board.

(b) *Finality.* Approvals and denials of requests for subsidized voyages are final and not subject to review or appeal, except that approvals may be canceled if the operator has knowingly or negligently provided incorrect or misleading data or information to the Board. Commencement of an approved subsidized voyage shall constitute the acceptance by the operator of all terms and conditions expressed in the approval.

§ 291.5 Definitions.

(a) *Bulk cargo vessels.* All vessels meeting the criteria in sections 601 and 610 of the act, whether dry-bulk, tanker, or break-bulk by design, shall be bulk cargo vessels for purposes of this part and, as such, eligible for participation in this operating-differential subsidy program.

(b) *Foreign-flag competition.* For purposes of establishing such sums as the Board determines are necessary to make the cost of operating U.S.-flag vessels competitive with the cost of operating similar vessels under the registry of a foreign country, the Board shall select a typical foreign-flag vessel which has actually participated in the carriage of export bulk raw and processed agricultural commodities from the United States to U.S.S.R. In the event that it is not possible to obtain actual cost data for a selected typical vessel which has engaged in that trade, the Board will establish such costs based upon the costs of a foreign-flag vessel which, in the opinion of the Board, has equivalent costs of operation.

(c) *Subsidized voyage.* (1) *Commencement.* A subsidized voyage shall commence at 0001 local time in the U.S. port of loading on the day the subsidized bulk cargo vessel:

(i) Is certified by the National Cargo Bureau, Inc., as being clean and ready to commence loading if it is at the port of loading at the time of such certification;

(ii) Arrives at the U.S. port of loading if the vessel has obtained such certification prior to its arrival at the port of loading; or

(iii) Commences loading if certification is subsequently obtained.

(2) *Termination.* A subsidized voyage shall terminate at 2400 local time on the day the subsidized bulk cargo vessel:

(i) Arrives at a U.S. port of call if it returns in ballast: *Provided*, If the vessel returns to a U.S. port of call different from that at which it loaded cargo, the subsidized voyage shall terminate at the time the vessel would normally have returned to the port of loading, if that time is earlier;

(ii) Completes discharge of inbound cargo in a U.S. port if it has engaged in the bulk carriage of U.S. import commerce and has not engaged in foreign-to-foreign commerce; or

(iii) Commerce deviation by deviating from the general track of the normal ballast return voyage if it engages in foreign-to-foreign commerce.

(3) *Limitation on subsidized voyage commencement and termination.* A subsidized vessel shall not commence and terminate a subsidized voyage on the same day.

(4) *Deviations to engage in U.S. import commerce.* A subsidized bulk cargo vessel shall be allowed only the following time in excess of the normal total steaming time for the ballast return voyage when the vessel engages in the bulk carriage of U.S. import commerce:

(i) A maximum of 3½ days steaming time; and (ii) loading and unloading time. For the purpose of determining the permissible deviation under this paragraph, the total steaming time of the inbound voyage shall be compared to the normal steaming time required for the ballast return voyage from the last port of discharge of the U.S. export cargo to the first port of discharge of the U.S. import cargo. This paragraph shall not apply to vessels which engage in foreign-to-foreign commerce during a subsidized voyage.

(5) *Idleness or delay.* The operator shall report promptly to the Board all facts and explanations thereof relating to periods of idleness or delay sustained on a subsidized voyage. The Board shall determine whether such idleness or delay could have been avoided through efficient and economical operation and whether subsidy shall be payable, in whole or in part, for such periods. If the delay was not caused by inefficient operation but it results in a reduction of operating costs, the Board shall determine the fair and reasonable amount of subsidy, if any, applicable to such period, taking into consideration the costs involved.

(6) *Ineligible voyages.* No voyage shall be eligible for subsidy during which the subsidized bulk cargo vessel carries:

(i) Cargo in the domestic commerce of the United States;

(ii) U.S. preference cargo, including that covered by 10 U.S.C. 2631, 46 U.S.C. 1241, and 15 U.S.C. 616a; or

(iii) Any other commercial cargo simultaneously with the export bulk raw and processed agricultural commodities being carried to the U.S.S.R., except equipment which may be needed to facilitate unloading of such agricultural commodities.

§ 294.6 Determination of subsidy.

(a) *In general.* For purposes of this part, the amount of operating-differential subsidy, as determined by the Board, shall not exceed the excess costs of U.S. wages of officers and crew; subsistence of officers and crew; maintenance and repairs; vessel insurance; stores, supplies, and expendable equipment; fuel; and other vessel expenses over the estimated costs of the same items of expense of the typical foreign-flag vessel. An additional operating-differential subsidy amount, as determined by the Board, shall be paid for the fair and reasonable depreciation and interest costs directly attributable to the subsidized vessel, such amount not to exceed the excess of the same costs of operating a similar foreign-flag vessel. The operating-differential subsidy comprised of such excess costs will be determined as a per diem amount and shall be subject to the limitations imposed by § 294.3(b) and by paragraph (e) of this section.

(b) *U.S. costs.* The following items shall be used to establish operating costs for each subsidized vessel:

(1) *Wages of officers and crew.* Actual wage costs, including voyage and port relief crew payrolls, contributions to pension and welfare plans, social security and other taxes, and other employment costs directly attributable to the subsidized voyage;

(2) *Subsistence of officers and crew.* The net costs of food and other edibles consumed by officers and crew, including port relief crews, during the subsidized voyage, including sales taxes, Government inspection fees and shipside delivery and loading costs incurred for the use of other than the crew and relief complements;

(3) *Maintenance and repairs.* The cost of maintenance and repairs attributable to the subsidized voyage shall be:

(i) The average cost per operating day of maintenance and repair expenses for the subsidized vessel, including costs of drydocking and special surveys, but excluding costs which are reimbursed and costs ineligible for subsidy pursuant to Part 272 of this subchapter (except for the costs identified in § 272.11(c) of this subchapter), for the 5-year period preceding the current year adjusted to the current cost level by the application of survey reports of the U.S. Salvage Association, Inc. and the U.S. Monthly Index Wages (hourly earnings in manufacturing) published by the U.S. Bureau of Labor Statistics, for vessels that have been owned by the operator, or a holding company, affiliate, subsidiary, or associate, for 5 years preceding the current year, or

(ii) The fair and reasonable cost per operating day of maintenance and repair expenses for the subsidized vessel as determined by the Board, for vessels that have not been under such ownership for the 5-year period;

(4) *Vessel insurance.* Vessel insurance including the following costs:

(i) The fair and reasonable insurance and associated net premium costs, after brokerage and owner's adjustments and including foreign stamp taxes, in effect for the subsidized voyage after taking into consideration the deductibles included in the policies in effect during the 3 years preceding the current year (or such lesser period as the vessel has been in operation) for protection and indemnity insurance, and the 5 years preceding the current year (or such lesser period as the vessel has been in operation) for hull and machinery insurance, and

(ii) The fair and reasonable cost of claims for death, injury, and illness of officers and crews absorbed by the operator under the deductible provision of protection and indemnity insurance policies attributable to the subsidized voyage as determined on the basis of the average cost per operating day for the subsidized vessel of such expenses paid during the 3-year period preceding the current year (or such lesser period as the vessel has been in operation);

(5) *Stores, supplies, and expendable equipment.* The fair and reasonable cost of stores, supplies, and expendable equipment attributable to the subsidized voyage as determined on the basis of the average cost per operating day of such expenses for the subsidized vessel over the 3-year period preceding the current year (or such lesser period as the vessel has been in operation) adjusted to the current cost level by application of U.S. Wholesale Price Index of Total Manufactures;

(6) *Fuel.* The actual cost of fuel consumed at sea and in port during the subsidized voyage, including taxes and delivery costs, after giving effect to bunkers on board upon commencement and termination of the subsidized voyage;

(7) *Other vessel expenses.* The actual cost of miscellaneous expenses directly attributable to the subsidized voyage and incident to the management and maintenance of the subsidized vessel, as exemplified in the partial list at § 282.764 of this subchapter;

(8) *Vessel depreciation.* The depreciation expense of the subsidized vessel for the period of the subsidized voyage shall be the actual unsubsidized construction cost, reconstruction cost, or purchase cost of the subsidized vessel depreciated on a straight-line basis over the economic life of the vessel actually used by the operator to depreciate such construction, reconstruction, or purchase cost, after giving effect to the actual residual value of the vessel, used by the operator for financial accounting purposes; and

(9) *Interest expense attributable to vessel indebtedness.* The current interest expense directly attributable to indebtedness incurred in connection with the construction, reconstruction, or purchase of the subsidized vessel for the period of the subsidized voyage determined in part by an analysis of the date and principal amount of the debt, the principal amortization schedule, the interest rate, and the scheduled payments of principal and interest during the period of the subsidy contract.

(c) The Board shall review the costs of each voyage for which subsidy is being sought and shall disallow for subsidy any costs resulting from inefficient or uneconomical operation.

(d) *Foreign costs.* The following items shall be used to establish operating costs of the typical foreign-flag vessel:

(1) *Actual cost items.* The following operating costs of the selected typical vessel shall be taken at current actual figures, and, if such data are not current, then they shall be adjusted to the current cost level by appropriate indices contained in the International Financial Statistics published by the International Monetary Fund or the Monthly Bulletin of Statistics published by the United Nations—

(i) Wages of officers and crew;
(ii) Subsistence of officers and crew;
(iii) Maintenance and repairs;
(iv) Vessel insurance;
(v) Stores, supplies, and expendable equipment;
(vi) Fuel; and
(vii) Other vessel expenses.

(2) *Vessel depreciation.* Depreciation expense shall be based on the cost of constructing or reconstructing the U.S. subsidized vessel in a representative foreign shipbuilding center or purchasing the vessel at world market price, which cost shall be depreciated on a straight-line basis over the same economic life actually used by the operator for the subsidized vessel in order to determine the foreign depreciation of such construction, reconstruction, or purchase cost, after giving effect to the residual value used by the operator; and

(3) *Interest expense attributable to vessel indebtedness.* Interest expense shall be determined by assuming the same interest rate, repayment term, and method of principal amortization as those that actually exist for the subsidized vessel, and applying those terms to obtain the interest which would be payable had the original principal of the debt been the same percentage of the foreign cost of construction, reconstruction, or purchase as the original construction, reconstruction, or purchase debt of the subsidized vessel was of its construction, reconstruction, or purchase cost.

(e) *Abatement of subsidy resulting from the rate of carriage.*—(1) *In general.* Under the terms of the Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding Certain Maritime Matters signed October 14, 1972, fixtures made prior to July 1, 1973, for shipments of bulk raw and processed agricultural commodities from the United States to the U.S.S.R. will be made on U.S.-flag vessels at the higher of:

(i) A rate for the cargo and route involved based upon the average of market charter rates for the years 1969, 1970, and 1971, as established under that Agreement and related letters; or

(ii) The current market charter rate for the cargo and route involved (where such market charter rates do not exist, a rate will be determined by adjusting current market charter rates for the most comparable cargo and route) plus a rate premium of 10 percent of such rate.

(2) *Abatement determination.* The operating-differential subsidy otherwise payable under this part shall be subject to abatement on a voyage basis when fixtures are made and carriage occurs at the rate referred to in subparagraph (1)(ii) of this paragraph. The abatement shall be comprised of two portions, one associated with the 10-percent rate premium and the second associated with the current market charter rate.

(i) To the extent that the freight rate exceeds the 3-year average rate for the cargo and route involved as established under that Agreement and related letters, the amount of the rate premium abatement shall be equal to 100 percent of the freight revenue per ton attributable to the 10-percent rate premium. The commission attributable to the amount subject to abatement will be deducted from the abatement. For example, if the current market charter rate is $7.80 per ton, the minimum rate under the Agreement is 110 percent of that amount or $8.58 per ton. The amount subject to abatement in this case would be $0.53 per ton, which is the amount by which the premium causes the freight rate to exceed the 3-year average rate of $8.05 per ton. The abatment would be reduced by the amount of commission paid by the operator which is attributable to the $0.53 per ton.

(ii) The amount of the current market charter rate abatement per ton shall be determined by multiplying the freight rate increments in the left hand column of the table below by the percentages in the right hand column. The commission attributable to the amount subject to abatement will be deducted from such abatement.

Freight rate increment	*Percentage*
For the first $0.95 per ton that the rate in subparagraph (1)(ii), exclusive of the rate premium, exceeds the rate in (1)(i), the percentage is	0
For the amount that such excess is between $0.95 per ton and $1.95 per ton, the percentage is	50
For the amount that such excess is over $1.95 per ton, the percentage is	75

(3) *Example.* The provisions of this paragraph are illustrated by the following example.

A vessel is fixed and carriage of U.S. export grain to the U.S.S.R. occurs at a charter rate of $12.10 per ton, F.I.O.T. consisting of $11 representing the current market charter rate

of $11 plus a rate premium of $1.10. The commission rate per the charter party is

§ 294.8 Payment of subsidy.

of officers and crew, subsistence of officers and crew, vessel insurance, fuel,

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additional service and should have an opportunity to cure the deficiency in com-

391 (1967). It contends that, if FM service in Adrian, Mich., is to remain any-

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of $11 plus a rate premium of $1.10. The commission rate per the charter party is 3¾ percent of freight revenue. The average market charter rate for such cargo and route for the years 1969, 1970, and 1971 as established under the Agreement and related letters is $8.05 per ton.

Subsidy abatement is determined as follows:

	Per ton f.i.o.t.
Current market charter rate	$11.00
Add 10% prelum	1.10
Fixture rate	12.10
Less average of market charter rates for the years 1969, 1970, and 1971	8.05
Difference	4.05
Abatement of subsidy per ton of cargo carried:	
Abatement attributable to the premium:	
Gross premium	$1.10
Less commissions at 3¾ percent	.04125
Net revenue	1.05875
Abatement percentage	100
Abatement per ton	$1.05875
Abatement attributable to the excess of the current market charter rate over the average of market charter rates for 1969, 1970, and 1971:	
Excess of $0.95 or less	$0.95
Less commissions at 3¾ percent	.035625
Net revenue	.914375
Abatement percentage	0
Abatement per ton	—0—
Excess between $0.95 and $1.95	$1.00
Less commissions at 3¾ percent	.0375
Net revenue	.9625
Abatement percentage	50
Abatement per ton	$0.48125
Excess over $1.95	1.00
Less commissions at 3¾ percent	.0375
Net revenue	.9625
Abatement percentage	75
Abatement per ton	$0.721875
Total abatement of subsidy per ton of cargo carried	2.261875

§ 294.7 **Sources of required data.**

(a) *U.S. costs.* The Board will establish the operating costs of the subsidized vessel based on statements, payrolls, invoices, and other data, certified as correct by an officer of the operator, and any other sources the Board considers appropriate.

(b) *Foreign costs.* The Board will establish the operating costs of the typical foreign-flag vessel from data obtained from the Maritime Administration's foreign representatives and any other sources the Board considers appropriate.

§ 294.8 **Payment of subsidy.**

(a) *Tentative per diem subsidy*—(1) *In general.* A tentative per diem subsidy amount (rounded to the nearest dollar) for each subsidized vessel will be incorporated in the operating-differential subsidy contract for wages of officers and crew, subsistence of officers and crew, vessel insurance, fuel, other vessel expenses, vessel depreciation, interest expense attributable to vessel indebtedness, maintenance and repairs and stores, supplies and expendable equipment. Such tentative subsidy amounts for maintenance and repairs and stores, supplies and expendable equipment also will be stated as differential percentages (rounded to two decimal places).

(2) *Partial payment.* After termination of an approved voyage, the operator shall be paid the following subsidy which first shall be abated by an amount determined pursuant to § 294.6(e):

(i) Ninety percent of the algebraic sum of the per diem amounts for wages of officers and crew, subsistance of officers and crew, vessel insurance, fuel, other vessel expenses, vessel depreciation and interest expense attributable to vessel indebtedness, less any negative per diem amounts for maintenance and repairs and stores, supplies and expandable equipment, for each approved voyage day, and

(ii) An amount determined by multiplying any positive differential percentages for maintenance and repairs or stores, supplies and expandable equipment by the costs incurred for such items by the operator in any of the United States or the Commonwealth of Puerto Rico subsequent to commencement of the approved voyage but not to exceed 90 percent of the tentative per diem amounts for such items for each approved voyage day.

(b) *Final per diem subsidy*—(1) *In general.* As soon as practicable after termination of an approved voyage, and after verification of historical cost data and expenses attributable to the approved voyage, a final per diem subsidy amount (rounded to the nearest dollar) for the vessel will be incorporated in the operating-differential subsidy contract for wages of officers and crew, subsistence of officers and crew, vessel insurance, fuel, other vessel expenses, vessel depreciation interest expense attributable to vessel indebtedness, maintenance and repairs and stores, supplies and expandable equipment. Such final subsidy amounts for maintenance and repairs and stores, supplies and expandable equipment also will be stated as differential percentages (rounded to two decimal places).

(2) *Final payment.* After final per diem amounts and differential percentages for the subsidized vessel on the approved voyage are incorporated in the operating-differential subsidy contract, the operator shall be paid subsidy as follows:

(i) The balance due of the algebraic sum of the per diem amounts for wages of officers and crew, subsistence of officers and crew, vessel insurance, fuel, other vessel expenses, vessel depreciation, and interest expense attributable to vessel indebtedness, less any negative per diem amounts for maintenance and repairs and stores, supplies and expandable equipment, for each approved voyage day, and

(ii) The balance due of an amount determined by multiplying any positive differential percentages for maintenance and repairs or stores, supplies and expendable equipment by the costs incurred for such items by the operator in any of the United States or the Commonwealth of Puerto Rico during the 5-year period following commencement of the approved voyage but not to exceed the total per diem amounts for such items for each approved voyage day. If the operator sells, transfers, or otherwise disposes of its interest in the subsidized vessel within such 5-year period, no outstanding accruals of such total per diem amounts shall be paid unless the Board executes a separate agreement governing such payments.

§ 294.9 **Chartered vessels.**

(a) *In general.* Section 601 of the Act provides that an applicant for operating-differential subsidy must own or lease the subsidized vessel. For purposes of this part of the term "leased vessels" includes only vessels leased under a bareboat charter party.

(b) *Calculation of vessel depreciation and interest expense attributable to vessel indebtedness*—(1) *In general.* For purposes of determining the U.S. costs of vessel depreciation and interest depreciation and interest expense attributable to vessel indebtedness in § 294.6(b)(8) and (9) for leased vessels, the appropriate data of the owner shall be used. In the event that the charterer cannot obtain such data from the owner, no subsidy will be paid in respect to those items.

(2) *Limitation.* In calculating the subsidy payable with respect to vessel depreciation and interest expense attributable to vessel indebtedness for leased vessels, U.S. costs for such items of expense in excess of the bareboat charter hire shall not be taken into account.

§ 294.10 **Effective period.**

The provisions of this part shall be effective on October 21, 1972, and shall terminate on June 30, 1973, except that they shall continue in effect for (a) the subsidized voyages in progress on the latter date and (b) the purposes of § 294.8(b).

Dated: November 13, 1972.

By order of the Assistant Secretary of Commerce for Maritime Affairs and the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.72-19767 Filed 11-15-72;8:54 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 19512; FCC 72-997]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Adrian, Mich.

First report and order. In the matter of amendment of § 73.202, Table of Assignments, FM Broadcast Stations (Adrian, Michigan, and West Lafayette, Ind.), RM-1820, RM-1822.

1. The Commission has before it the notice of proposed rule making, released May 23, 1972 (FCC 72-430), proposing an amendment of § 73.202(b) of the rules, the Table of FM Assignments, by assigning FM channels to three communities. By order, FCC 72-604, the petition filed by Gardner Broadcasting Co., Inc., for assignment of Channel 249A to Winchendon, Mass. (RM-1791) was severed from this proceeding and consolidated into Docket No. 19540. This report and order concerns only the petition filed for assignment of an FM channel to Adrian, Mich. At a later date, a report and order will be issued with respect to West Lafayette, Ind.

2. The rule making was instituted on a petition filed by Gerity Broadcasting Co. (Gerity) (RM-1820) for assignment of Channel 237A to Adrian, Mich. Adrian with a population of 20,382 is the seat of Lenawee County (population 81,609). It has a Class IV AM station, licensed to the petitioner, and an FM station (WLEN), licensed to Lenawee Broadcasting Co. (Lenawee). The notice pointed out that the channel could be assigned there without affecting other assignments. It would be the second Class A channel for Adrian. However, due to the requirements of the minimum mileage separation rules, the transmitter site would have to be located in an area approximately 7 miles southwest of Adrian. Although Lenawee had contended that there was no location from which Adrian can be served in its entirety with the minimum field strength of 70 dbu, a tentative finding was made that there were parcels of property available from which a station could serve the community in compliance with the technical regulations. It also pointed out that a Class A FM station operating with maximum facility would provide a first service to an area of 57.4 square miles and a second service to an area of 169 square miles within the 1 mv./m. contour.

3. As to Lenawee's objection that the assignment of a second FM channel to Adrian would do severe economic harm to its station, the notice stated that it has been the long-established Commission policy to make ultimate decisions with respect to Carroll issues at the time of an application for a specific station rather than in rule making proceedings. However, it agreed with Lenawee that Gerity had made no appropriate showing as to the need of the community for an additional service and should have an opportunity to cure the deficiency in comments responding to the notice of proposed rule making.

4. In its comments, Gerity sets forth the demographic, economic, political, and sociological characteristics of Adrian and Lenawee County. Gerity contends that 1,949 or 9.5 percent of Adrian's population and 3,515 or 4.3 percent of Lenawee County population are Spanish-surnamed Americans, and that, although the population of Adrian did not increase in the decade from 1960 to 1970, six other townships, which lie wholly or partially within the service area of Class A FM station, grew 5 percent or more during the decade. It asserts that Adrian is served by three railroads and 10 motor carriers; that, of more than 90 manufacturing and processing firms in the county, 53 are based in Adrian; that agriculture is also a major economic activity in the county; and that the retail sales for 1972 are estimated as $75 million for Adrian and $178 million for the county. Gerity states that Adrian is governed by six commissioners and a mayor with the affairs of the city managed by an administrator, and the county is governed by the Board of Commissioners consisting of 15 elected members, and that there are a number of public and private schools as well as special schools and two colleges, and a number of cultural resources for arts, dramatics, and music. As to possible transmitter site, Gerity contends that it has obtained an agreement to use a parcel of land 0.35 mile closer to Adrian than previously illustrated in its petition, and insists that the 70 dBu contour would include the city's entire populated area. Lenawee in its reply alleges that there is no showing of unmet needs and interests; that Station WLEN already provides the early morning service of farm programing and school closing and road condition bulletins; and that Lenawee County is already dominated by big city stations and has two local outlets.

5. Lenawee in its comments asserts that the examination of the Gerity proposal reveals, in addition to a coverage problem, a potential problem of shadowing, i.e., on a radial chosen by Gerity, approximately one-third of the city would be beneath the line of sight. In reply, Gerity states that no significant shadowing would occur in connection with the operation of an FM station from the site identified by Gerity in its comments as meeting all of the Commission's technical requirements and that any shadowing which might occur could be alleviated by raising the radiation center of the station's antenna.

6. Additionally, Lenawee asserts that it does not concur in the dismissal of the economic issue as being one more appropriate for consideration at time of an application rather than in rule making, and that such a position is contrary to precedent and the public interest, citing FM Channel Assignments, Gainesville, Fla., 11 RR 2d 1699 (1968); FM Channel Assignments, Phoenix, Ariz., 8 FCC 2d 391 (1967). It contends that, if FM service in Adrian, Mich., is to remain anything other than a satellite of the AM monopoly, then the Commission must give consideration and credence to the economics involved; that an additional FM channel in the county cannot be realistically justified on the basis of a separately owned and independently operated service; and that any reduction of advertising income caused by the addition of another FM channel in Adrian would force WLEN to effect severe and extensive cutbacks, affecting the station's present level of services to the community.

7. In reply to the Lenawee arguments on the economic issue, Gerity avers, citing Sanders Brothers Radio Station v. FCC, 309 U.S. 470 (1940), and Carroll Broadcasting Co. v. FCC, 258 F. 2d 440 (D.C. Cir. 1958), that if there is evidence indicating that a community may not be able to support another station, the ultimate question to be answered is whether the public will lose service as a result of the construction of a new station. This question, it urges, can only be decided when there are applicants for a station; and although Lenawee believes that Gerity is the only potential applican for Channel 237A at Adrian, this is not certain, and only when an application with specific programing proposals is filed can the Commission make a determination as to whether the public interest would suffer a net loss because of a cutback of service by WLEN.

8. We agree with these contentions of Gerity. The cases cited by Lenawee do not stand for the proposition that economic issues are to be resolved in rule making proceedings. In those cases the decisions concerning FM channel assignment were based on a consideration of public interest factors. Only in passing, and in the very broadest terms, did they advert to the economic question. Here, Gerity has shown that a Class A FM station, operating from an assumed site southwest of Adrian, would provide first and second FM services to the areas located within the projected 1 mv./m. contour now deprived of or limited to one FM service. Further, the preclusion study indicates that only Channel 237A would be affected by its assignment to Adrian, and the area where the channel can be utilized is limited to a small area near Adrian. It also appears that, although the siting of the station here would be critical, an FM station could be established conforming to all technical requirements of the rules. Thus, we are of the opinion that the assignment of Channel 237A to Adrian, Mich., would result in the efficient use of FM frequencies and would be in the public interest. In view of the foregoing, we will make this assignment.

9. Authority for the action taken herein is contained in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended.

10. *Accordingly, it is ordered.* That effective December 22, 1972, the Table of

FM Assignments (§ 73.202(b) of the rules) as amended as follows:

more relaxed rules on this subject are needed.

of the rule would be inconsistent with competent installation, servicing, or

Capital Area Transit Act of 1972 (Public Law 92-517), which approved amend-

Chapter X—Interstate Commerce Commission

§ 28.28 **Special regulations, public access, use, and recreation; for individual wildlife refuge areas.**

XUM V37-222 NOV 16 72 XUM

XUM

V37-222-NOV16-72 XUM

FM Assignments (§ 73.202(b) of the rules) as amended as follows:

City	Channel No.
Adrian, Mich.	237A, 280A

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: November 8, 1972.

Released: November 13, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-19712 Filed 11-15-72;8:49 am]

[Docket No. 19253; FCC 72-989]

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Servicing of Ship Radar Stations

Report and order. In the matter of amendment of § 83.164 of the rules to clarify and improve requirements concerning servicing of ship radar stations.

1. A notice of proposed rule making in the above-captioned matter was released on May 28, 1971. The dates for filing comments or replies thereto have passed.

2. Comments were filed by: The American Radio Association, AFL–CIO and the Radio Officer's Union, AFL–CIO (ARA/ROU); The American Institute of Merchant Shipping (AIMS); Sun Transport, Inc. (SUN); ITT Decca Marine, Inc. (ITT); the National Marine Electronics Association, Inc. (NMEA); The American Petroleum Institute (API); Kelvin Hughes; and the Radiomarine Corp. Reply comments were filed by ARA/ROU and NMEA.

3. ARA/ROU and NMEA supported the proposed rule amendments. ARA/ROU suggested that the rule be even further amended to prohibit fuse replacement except by a holder of a radio operator license with radar endorsement. AIMS addressed itself only to that portion of the proposed amendment which would prohibit replacement of "receiving-type" tubes except by a licensed radio operator with radar endorsement, which AIMS opposed. SUN opposed the proposed amendments on the grounds that they were inconsistent with progress being made in the state-of-the-art of radar maintenance, specifically regarding "plug-in modules." ITT opposed the proposed amendments, citing a shortage of qualified radio operators with radar endorsements. API opposed the proposed amendments on operational and technical grounds. Specifically, API also cited progress in the state-of-the-art and suggested that Intergovernmental Marine Consultative Organization (IMCO) design and operational standards for mandatory radar be considered in conjunction with any amendment of the rules regarding radar maintenance. Kelvin Hughes also opposed the proposed amendments and cited progress in the state-of-the-art and plug-in modules as developments warranting amendment of the rules. Radiomarine Corp. opposed the proposed amendments on the grounds that they would be unduly restrictive and suggested that new and more relaxed rules on this subject are needed.

4. Many of the comments went considerably beyond the intended scope of this proceeding. In releasing the notice of proposed rule making in this proceeding, it was not the intention of the Commission to examine the entire subject of radar maintenance requirements, standards, and procedures. Rather, this proceeding was primarily intended to clarify the intent of an existing policy, incorporated in § 83.164 of the rules, which requires that "adjustments or tests during or coincident with the installation, servicing, or maintenance" of a ship station radar be performed by, or under the immediate supervision of, a person properly licensed with the radar endorsement. In addition, many of the comments addressed areas which involve normal rendition of service rather than adjustments or tests during installation, servicing, or maintenance. Section 83.164 distinguishes between "normal rendition of service" and "installation, servicing, or maintenance" of the equipment. Normal rendition of service does not require a radio operator's license with radar endorsement and this area was not a subject of this notice of proposed rule making. Accordingly, to the extent that the comments submitted addressed the entire subject of radar maintenance or areas which involve normal rendition of service, they are not germane to the instant proceeding and will not be considered. The Commission is aware of developments in the state-of-the-art in the field of marine radars and intends to consider them, as well as the proceedings and findings of organizations such as IMCO and the Radio Technical Commission for Marine Services (RTCM) in any future amendments of its rules concerning radar maintenance.

5. We agree with those comments which opposed deletion of the proviso which permits unlicensed persons to replace receiving-type tubes. We know of no instances, nor have any been cited to us; where replacement of receiving-type tubes by unlicensed persons has resulted in improper operation of ship station radar equipment. Accordingly, we do not adopt the proposed rule amendment which would delete the words "or of receiving-type tubes" from the proviso clause of § 83.164(a)(2) of the rules.

6. We do adopt the proposed rule amendment to delete the words "while it is radiating energy" from § 83.164(a)(2) of the rules. In doing so, the Commission does not intend to make any substantial change in its requirements that only properly licensed persons with the radar endorsement, or persons under the immediate supervision of a person so licensed, be permitted to perform adjustments or tests during or coincident with the installation, servicing, or maintenance of radar equipment. The purpose of this deletion is to preclude a construction of the rule which would permit any such adjustments or tests to be made in any manner by any person merely because the equipment was not radiating energy at the time the tests or adjustments were made. Such a construction of the rule would be inconsistent with competent installation, servicing, or maintenance of radar equipment and with ongoing Commission policy relating thereto. An examination of broader matters relating to ship station radar requirements, standards and procedures is not appropriate in the context of this limited proceeding.

7. In view of the foregoing: *It is ordered*, That pursuant to the authority contained in sections 4(i) and 303 (f) and (r) of the Communications Act of 1934, as amended, Part 83 of the rules and regulations of the Commission is amended, effective December 22, 1972, as set forth below.

8. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: November 8, 1972.

Released: November 13, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

Section 83.164(a)(2) of the rules is amended as follows:

§ 83.164 Waivers of operator requirements.

(a) • • •

(2) All adjustments or tests during or coincident with the installation, servicing, or maintenance of the equipment must be performed by or under the immediate supervision and responsibility of a person holding a temporary limited radiotelegraph operator license or a first- or second-class commercial radio operator license, radiotelephone or radiotelegraph, containing a ship-radar endorsement, who shall be responsible for the proper functioning of the equipment in accordance with the radio law and the Commission's rules and regulations and for the avoidance and prevention of harmful interference from improper transmitter external effects: *Provided, however*, That nothing in this subparagraph shall be construed to prevent persons not holding such licenses, or not holding such licenses so endorsed, from making replacement of fuses or of receiving-type tubes.

• • • • •

[FR Doc.72-19711 Filed 11-15-72;8:49 am]

Title 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation

[OST Docket No. 1, Amdt. 1-63]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Urban Mass Transportation Administrator

The purpose of this amendment is to delegate to the Urban Mass Transportation Administrator certain authority vested in the Secretary by the National Capital Area Transit Act of 1972 (Public Law 92-517), which approved amendments to the Washington Metropolitan Area Transit Regulation Compact (D.C. Code section 1-1431 note) authorizing the Washington Metropolitan Area Transit Authority (WMATA) to acquire, improve, and operate the four privately owned bus companies providing mass transportation service in the National Capital Area, authorizing Federal financial assistance to WMATA therefor under the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), and authorizing Federal financing of an additional Metro station at Arlington National Cemetery and an additional entrance from the Mall to the Smithsonian Station of the Metro system.

Since this amendment relates to departmental management, procedures, and practices, notice and public procedure thereon is unnecessary and it may be made effective in less than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, effective October 31, 1972, § 1.50 of Title 49, Code of Federal Regulations, is amended by adding thereto a new paragraph (e) as follows:

§ 1.50 Delegations to Urban Mass Transportation Administrator.

• • • • • •

(e) The National Capital Area Transit Act of 1972 (Public Law 92-517).

(Sec. 9(e), Department of Transportation Act, 49 U.S.C. 1657(e))

Issued in Washington, D.C., on October 31, 1972.

JOHN A. VOLPE,
Secretary of Transportation.

[FR Doc.72-19688 Filed 11-15-72;8:48 am]

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 72-25; Notice 1]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

New Pneumatic Tires, Tire Selection, and Rims for Passenger Cars; Correction

In F.R. Doc. 72-17870 appearing at page 22620 in the issue for Friday, October 20, 1972, in Table I-V, appearing at page 22620, the maximum tire load (pounds) at 36 p.s.i. for the N50-15 tire size designation should be changed from "2860" to "2360."

This notice is issued pursuant to sections 103, 119, 201, 202 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392, 1407, 1421, 1422) and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.

Issued on November 10, 1972.

ROBERT L. CARTER,
Associate Administrator, Motor Vehicle Programs.

[FR Doc.72-19710 Filed 11-15-72;8:49 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. MC-43]

PART 1003—LIST OF FORMS

Lease and Interchange of Vehicles by Motor Carriers

Order. At a session of the Interstate Commerce Commission, Motor Carrier Leasing Board, held at its office in Washington, D.C., on the 3d day of August 1972.

Pursuant to section 204 of the Interstate Commerce Act, and good cause appearing thereof, the use of a new form for application for approval of contract carrier rental contract, under Part II of the act, being under consideration:

It is ordered, That Application Form B.M.C. 79, be, and it is hereby, vacated and revoked.

It is further ordered, That Application for Approval ofContract Carrier Rental Contract, Form BOp-79 (49 CFR 1003.1), which is attached hereto and incorporated into this order,[1] be, and it is hereby, prescribed and approved.

It is further ordered, That 49 CFR 1003.1, be, and it is hereby amended by deleting all references to Form B.M.C. 79 and replacing said matters with the following:

BOp-79. Application for approval of contract carrier rental contract under authority of § 1057.6(b) of Ex Parte No. MC-43.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission, Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Motor Carrier Leasing Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-19743 Filed 11-15-72;8:53 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Kenai National Moose Range, Alaska

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11-16-72).

[1] Filed as part of the original document.

§ 28.28 Special regulations, public access, use, and recreation; for individual wildlife refuge areas.

ALASKA

KENAI NATIONAL MOOSE RANGE

The operation of off-road vehicles commonly referred to as all-terrain vehicles (ATV's) is prohibited on the Kenai National Moose Range except the use of lightweight, motorized vehicles commonly identified by the general term "snowmobile" is authorized on certain designated areas of the Kenai National Moose Range and subject to the following special conditions:

1. Only "snowmobiles" with an overall width of 40 inches or less will be permitted.

2. The use of "snowmobiles" will be authorized during the period of December 1, 1972, through April 30, 1973, and only when snow depth is sufficient to protect underlying vegetation and terrain along the route of travel and when determined and announced by the refuge manager.

3. The use of "snowmobiles" is prohibited in those game management units of the Kenai National Moose Range, during any established moose hunting season. The use of "snowmobiles" as an aid in big game hunting or for transporting big game is not authorized.

4. The use of "snowmobiles" on maintained public roads within the moose range is prohibited.

5. That area above timberline located between Skilak Lake and Tustumena Lake is not authorized for "snowmobile" use.

6. The area within T. 4 N., R. 10 W., Secs. 5, 6, and 7 including the Soldotna Ski Hill, the cross-country ski trails, Headquarters Lake, and Nordic Lake is not a designated "snowmobile" area.

7. The use of "snowmobiles" for racing purposes is prohibited.

8. The Swanson River canoe route lakes and portages are closed to "snowmobile" use.

9. An area including the Swan Lake canoe route and several public recreational lakes is not a designated "snowmobile" area. That area closed to such use is bounded on the west by the Swanson River Road, bounded on the north by the Swan Lake Road, bounded on the east by the section line immediately west of Arrow Lake (which is located at the eastern terminus of Swan Lake Road open to the public) and proceeds south 5.8 miles to its intersection with the headwaters of Moose River (one-half mile southeast of the easternmost shore of Swan Lake), thence downstream along the west bank of Moose River, and bounded on the south by the Moose Range boundary.

The provisions of this special regulation supplement the regulations which govern public access, use, and recreation on wildlife refuge areas generally and which are set forth in Title 50, CFR Part

28, and are effective through November 30, 1973.

PART 33—SPORT FISHING

Crescent Lake National Wildlife

(5) Open fires are not permitted.

The provisions of this special regulation supplement the regulations which

Proposed Rule Making

28, and are effective through November 30, 1973.

JAMES B. MONNIE,
Refuge Manager, Kenai National Moose Range, Kenai, Alaska.

NOVEMBER 3, 1972.

[FR Doc.72-19677 Filed 11-15-72;8:47 am]

PART 32—HUNTING

Wichita Mountains Wildlife Refuge, Okla.; Correction

In F.R. Doc. 72-11812, appearing on page 15311 of the issue for Saturday, July 29, 1972, after subparagraph (3) under special conditions, herewith added is subparagraph (4) and reads as follows:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

OKLAHOMA

WICHITA MOUNTAINS WILDLIFE REFUGE

* * * * *

(4) Authorized hunters will comply with all official written refuge rules and regulations issued at mandatory hunter briefings.

ROGER D. JOHNSON,
Refuge Manager, Wichita Mountains Wildlife Refuge Cache, Okla.

NOVEMBER 8, 1972.

[FR Doc.72-19733 Filed 11-15-72;8:51 am]

PART 33—SPORT FISHING

Crescent Lake National Wildlife Refuge, Nebr.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11-16-72).

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

NEBRASKA

CRESCENT LAKE NATIONAL WILDLIFE REFUGE

Sport fishing on the Crescent Lake National Wildlife Refuge, Nebr., is permitted on Crane and Island Lakes only on the areas designated by signs as open to fishing. These open areas comprising about 800 acres, are delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from January 1 through September 30, 1972, inclusive.

(2) Boats propelled with poles, oars, or paddles only may be used for fishing.

(3) No person shall use minnows, fish, or parts thereof, for bait, nor have in possession any minnows or seine or net for capturing minnows.

(4) Overnight camping is not permitted.

(5) Open fires are not permitted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33, and are effective through September 30, 1973.

NORTH PLATTE NATIONAL WILDLIFE REFUGE

Sport fishing on the North Platte National Wildlife Refuge, Nebr., is permitted only on the areas designated by signs as open to fishing. This open area, comprising 3,300 acres, is delineated on maps available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from January 15 through September 30, 1973, inclusive.

(2) Boats, motorboats, and other floating craft may be used.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33, and are effective through September 30, 1973.

RONALD L. PERRY,
Refuge Manager.

NOVEMBER 9, 1972.

[FR Doc.72-19676 Filed 11-15-72;8:47 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1002]

[Docket No. AO-71-A65]

MILK IN NEW YORK-NEW JERSEY MARKETING AREA

Supplemental Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

This notice is supplemental to the notice of hearing which was issued on October 12, 1972 (37 F.R. 22000). Notice is hereby given that a second session of the aforesaid hearing will be held at Valle's Steak House, 2803 Erie Boulevard, East, Syracuse, NY, on November 20, 1972, beginning at 9:30 a.m. with respect to the proposed amendments previously announced to the tentative marketing agreement and to the order, regulating the handling of milk in the New York-New Jersey marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the previously announced proposed amendments, and any appropriate modificaions thereof, to the tentative marketing agreement and to the order.

Copies of this supplemental notice of hearing and the order may be procured from the Market Administrator, 205 East 42d Street, New York, NY 10017, or from the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

Signed at Washington, D.C., on November 14, 1972.

JOHN C. BLUM,
Deputy Administrator, Regulatory Programs.

[FR Doc.72-19807 Filed 11-15-72;8:52 am]

Office of the Secretary

[7 CFR Part 21]

UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES

Notice of Proposed Rule Making

Pursuant to the authority contained in 5 U.S.C. 301, and section 213 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894, 1900; 42 U.S.C. 4601, 4633 it is proposed to issue final regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, in Part 21 of Title 7 of the Code of Federal Regulations.

The Department of Agriculture published interim regulations implementing Public Law 91-646 by notice in the FEDERAL REGISTER on May 6, 1971 (36 F.R. 8433). Comments and suggestions for refinements of the interim regulations were invited at that time.

These proposed final regulations revise and replace the interim regulations and incorporate the changes promulgated in the Office of Management and Budget Circular No. A-103 dated May 1, 1972.

It is the policy of the Department of Agriculture whenever practicable to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections to the Office of Plant and Operations, Department of Agriculture, Washington, D.C. 20250, within 45 days after the date of publication of this notice in the FEDERAL REGISTER.

Dated: November 9, 1972.

FRANK B. ELLIOTT,
Assistant Secretary for Administration.

PART 21—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES

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§ 21.104 Appeal rights.

Any person aggrieved by a determina-

§ 21.107 Adjustments.

The agency head may make adjust-

§ 21.202 Business.

(a) Any unlawful activity, excepting a farm operation conducted primarily;

bathroom; hot and cold running water in both the bathroom and the kitchen; an adequate and safe wiring system for

§ 21.211 Family.

Two or more individuals living together in the same dwelling as a single

V37-222 NOV 16 72 XUM

Sec.
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AUTHORITY: The provisions of this Part 21 issued under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, 84 Stat. 1894.

Subpart A—Policies

§ 21.101 Purpose.

The regulations in this part prescribe policies and procedures for the U.S. Department of Agriculture in implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646 (84 Stat. 1894), herein called the Act, effective January 2, 1971. The Act provides for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal and Federal financially assisted programs and establishes uniform and equitable land acquisition policies for Federal and Federal financially assisted programs.

§ 21.102 Effective date.

(a) The regulations in this part shall be effective on date of publication.

(b) Any claims made under the Act shall be adjudicated on the basis of the regulations in effect when the claim was filed.

§ 21.103 Application for relocation assistance payment.

A displaced person, business, or farm operation must make proper application to the displacing agency for relocation assistance payments within 18 months from the date on which the move was made from the real property acquired or to be acquired, or the date on which the acquiring agency makes final payment of all costs of acquiring that real property, whichever is the later date. The displacing agency may extend this period upon showing of good cause. Prompt payment will be made after a move and submittal of proper application. Advanced payment may be made if the displacing agency determines that delaying payment until after the move will create a hardship.

§ 21.104 Appeal rights.

Any person aggrieved by a determination as to eligibility for a relocation payment, or the amount of a payment in a Federal project may have his application reviewed by the Secretary of Agriculture or his designee, or in the case of a project receiving Federal financial assistance, by the head of the displacing agency.

§ 21.105 Leasing to former owner or tenant.

The head of a displacing agency may permit use of or lease realty back to former owners or tenants for a period of not more than 1 year, and may also extend or renew such permits or leases for successive periods of not more than 1 year.

§ 21.106 Displacement prerequisites.

A displacing agency shall take no action that will result in a displacement until the following conditions are met.

(a) Assurance of comparable replacement dwelling. No phase of any project will be initiated or continued if that phase will cause the displacement of any individual or family from a dwelling until the displacing agency has determined on the basis of a current survey and analysis of available comparable replacement dwellings that prior to displacement a comparable replacement dwelling will be available for each such displaced individual or family.

(b) Displacement notice. Each individual, family, business, or farm operation to be displaced must be given a written notice of displacement. The notice shall be served personally or by certified or registered first-class mail not later than initiation of negotiations.

(c) Payment for real property. An owner will not be required to surrender possession of the real property acquired until the acquiring agency has paid the agreed purchase price, or deposited with the court for the benefit of the owner, an amount not less than the approved appraisal of the real property being acquired.

(d) Notice to vacate. The construction or development or a project will be so scheduled that to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling (assuming a comparable replacement dwelling will be available), or to move his business or farm operation without at least 90 days' written notice prior to the date on which such move is required. The notice shall be served personally or by certified or registered first-class mail. A notice of less than 90 days may be given only in an emergency or other extraordinary situations, or when the personal property to be moved is not associated with a displacement from a dwelling, business, or farm operation. When it is proposed to give an advance notice of less than 90 days, the prior approval of the agency head will be obtained.

§ 21.107 Adjustments.

The agency head may make adjustments in the requirements for decent, safe, and sanitary dwellings only in cases involving unusual circumstances or in unique geographic areas.

§ 21.108 Waiver.

The agency head may waive the requirements of § 21.106(a) in emergencies or other extraordinary situations where immediate possession of real property is crucial. Each waiver shall be supported by appropriate findings and a determination of the necessity for the waiver. These determinations shall be included in the annual report required by § 21.1101.

§ 21.109 Criteria for new construction and loans.

(a) If the agency head determines that adequate comparable replacement dwellings are not available, action may be taken by the agency head or he may approve action by a State agency to develop replacement dwellings. Any action taken or approved shall be in accordance with the guidelines issued by the Secretary of Housing and Urban Development (24 CFR Part 43).

(b) The agency head shall be guided by the criteria and procedures developed by the Secretary of Housing and Urban Development (24 CFR Part 43) when providing loans to eligible borrowers for planning and other preliminary expenses for additional housing for displaced persons.

§ 21.110 Coordination among agencies.

(a) When more than one Federal, departmental, or State agency, is causing the displacement in a community or an area, the displacing agency shall seek the cooperation of the other agency or agencies on the method for computing the replacement housing payment and on the use of uniform schedules of sale and rental housing in the community or area.

(b) When more than one agency is administering a relocation assistance advisory program which may be of assistance in the community or area to displaced persons all agencies shall cooperate so as to eliminate duplication while combining forces in assuring uniform application of the Act so that all displaced persons receive the maximum assistance available to them.

(c) An agency causing displacements from dwellings will provide the Housing and Urban Development regional or area office with information regarding the project which will cause displacement, and consult with such offices concerning the availability of housing.

Subpart B—Definitions

§ 21.201 Agency head.

The head of the agency of the department responsible for the project which requires land acquisition or displacement, or any individual authorized to act for him in implementing these regulations.

§ 21.202 Business.

(a) Any unlawful activity, excepting a farm operation, conducted primarily:

(1) For the purchase, sale, lease, and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(2) For the sale of services to the public;

(3) By a nonprofit organization; or

(4) Solely for the purposes of section 21.303, outdoor advertising signs erected and maintained for assisting in the purchase, sale, resale, manufacture, processing or marketing of products, commodities, personal property, or services whether or not located on the premises of the foregoing businesses.

(b) Part-time occupations must contribute at least:

(1) $2,500 net income or

(2) One-third of the net income of the displaced person or family to qualify as a business under these regulations.

(c) A warehouse or other facility acquired, which is operated in conjunction with a business not acquired, is not a business.

§ 21.203 Comparable replacement dwelling.

A comparable replacement dwelling is one which is decent, safe, and sanitary and is:

(a) Functionally equivalent and substantially the same as the acquired dwelling, but not excluding newly constructed housing.

(b) Open to all persons regardless of race, color, religion, sex, or national origin and consistent with the requirements of title VIII of the Civil Rights Act of 1968.

(c) In areas not generally less desirable than the dwelling to be acquired in regard to neighborhood conditions, including, but not limited to, municipal services and other environmental factors, and public, commercial, and community facilities.

(d) Reasonably accessible to the displaced person's place of employment.

(e) Available on the market to the displaced person at rents or prices within the financial means of the displaced person.

(f) Adequate in size to meet the needs of the displaced family or individual. At the option of the displaced person, a replacement dwelling may exceed his need when the replacement dwelling has the approximate square footage as the dwelling from which he was displaced.

§ 21.204 Decent, safe, and sanitary dwelling.

A dwelling which is clean, in good repair, and in sound and weather tight condition, which meets local housing codes, if any, and also meets the following requirements:

(a) *Housekeeping unit.* A housekeeping unit must include a kitchen with fully usable sink; a cooking stove, or connections for same; a separate complete bathroom; hot and cold running water in both the bathroom and the kitchen; an adequate and safe wiring system for lighting and other electrical services; and heating as required by climatic conditions and local codes. In the absence of local codes see § 21.107.

(b) *Nonhousekeeping unit.* A nonhousekeeping unit is one which meets local code standards for boarding houses, hotels, or other congregate living. In the absence of local code standards see § 21.107.

§ 21.205 Department.

The U.S. Department of Agriculture.

§ 21.206 Displacing agency.

The Department agency for a Federal project, and the State agency for a Federal financially assisted project, which acquires real property.

§ 21.207 Displaced person.

Any person who, on or after January 2, 1971, moves from real property, or moves his personal property from real property, as a result of the actual acquisition of such real property, in whole or in part, or as a result of a written order of the acquiring agency to vacate real property for a program or project undertaken by the Department or with Federal financial assistance provided by the Department. If a person moves as the result of such a notice, it makes no difference whether or not the real property actually is acquired.

§ 21.208 Displacement notice.

A displacement notice is a written notice given to persons that may be displaced as a result of a proposed acquisition. This notice shall state the acquiring agency's desire to acquire the property and notify the persons of their rights under the Act and these regulations if they are displaced. The notice shall be given to such persons not later than the initiation of negotiations for the property to be acquired.

§ 21.209 Dwelling.

Dwelling includes a single family building; a one family unit in a multifamily building; a unit of a condominum or cooperative housing project; any other residential unit, including a mobile home which is either considered to be real property under State law, or cannot be moved without substantial damage or unreasonable cost. For purposes of Subparts E, F, and G of this part the term "dwelling" shall mean the place of permanent abode of a person and does not include seasonal or parttime dwelling units such as beach houses, mountain or other vacation cabins.

§ 21.210 Economic rent.

Economic rent is the amount of rent the displaced person would have had to pay for a similar dwelling unit located in an area not generally less desirable than the location of the dwelling to be acquired.

§ 21.211 Family.

Two or more individuals living together in the same dwelling as a single family unit and who are related to each other by blood, marriage, adoption, or legal guardianship. Others who live together as a family unit will be treated as a family.

§ 21.212 Farm operation.

Any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to contribute materially to the operators support. The activity contributes materially if the value of the net sales and market value of home use contributes at least (a) $2,500 or (b) one-third of the total net income of the operator. (See § 21.308)

§ 21.213 Federal financially assisted program or project.

Any program or project administered by the Department or by a State agency in which a grant, loan, or contribution is provided to the State agency by the Department. Federal contracts of guaranty or insurance are excluded.

§ 21.214 Federal program or project.

Any program or project administered by the Department in which real property interest is acquired by, remains in, or is transferred to Federal ownership or control.

§ 21.215 Financial means.

Financial means is the ability of a displaced family or individual to afford a replacement dwelling without jeopardizing the other needs of the displaced family or individual such as food, clothing, child care, and medical expenses. For purposes of this regulation the average housing cost (monthly mortgage or rental payments, insurance for the dwelling unit, property taxes, utilities, and other reasonable recurring related expenses) which the displaced family or individual will be required to pay should generally be less than 25 percent of the monthly gross income or the present ratio of housing payment to income including supplemental payments made by public agencies.

§ 21.216 Initiation of negotiations.

The date the acquiring agency furnishes the property owner or his representative a written offer to purchase the real property.

§ 21.217 Mortgage.

Such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property under the law of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

§ 21.218 Notice to vacate.

A notice to vacate is a written notice

Commonwealth of Puerto Rico, any territory or possession of the United States,

both his dwelling and business or farm property is eligible for payments for

(2) The business cannot be relocated without a substantial loss of its existing patronage. The displacing agency will

(6) Removal, reinstallation, and reestablishment, including such modification as deemed necessary by the displac-

at the new location with a comparable item available on the market.

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§ 21.218 Notice to vacate.

A notice to vacate is a written notice to the persons to be displaced of the date on which they must have moved from the property being acquired.

§ 21.219 Owner.

A person who holds fee title, a life estate, a 99-year lease, or an interest in a cooperative housing project which includes the right of occupancy of a dwelling unit, or is the contract purchaser of any such estates or interest, or who is possessed of such other proprietary interest in the property acquired as, in the judgment of the displacing agency, warrants consideration as ownership. In the case of one who has succeeded to any of the foregoing interest by devise, bequest, inheritance or operation of law, the tenure of ownership, not occupancy, of the succeeding owner shall include the tenure of the preceding owner.

§ 21.220 Person.

Any individual, family, partnership, corporation, or association.

§ 21.221 Purchase of a replacement dwelling.

Purchase of a replacement dwelling shall mean (a) acquisition of an existing dwelling, (b) acquisition and rehabilitation of a substandard dwelling, (c) relocation, or relocation and rehabilitation of an existing dwelling, (d) construction of a new dwelling, (e) ocntract to purchase a dwelling to be constructed on a site provided by a builder or developer, or (f) contract for the construction of a dwelling on a site which the displaced person owns or acquires for this purpose. If construction or rehabilitation is required in the instances cited herein and completion of the construction or rehabilitation is delayed beyond the end of the 1-year period, the displacing agency may establish the date of occupancy as the date that the displaced person enters into a contract for such construction or rehabilitation or for the purchase upon completion of a dwelling to be constructed or rehabilitated on a site provided by a builder or developer: *Provided*, The displacing agency determines that the delay was for reasons not within the reasonable control of the displaced person, and the displaced person occupies the replacement dwelling when the construction or rehabilitation is completed. Payment by the displacing agency will not be made until the displaced person has occupied the replacement dwelling.

§ 21.222 Rental rate.

The amount paid or determined to be appropriate for the bare premises exclusive of such items as utilities and other services.

§ 21.223 Replacement dwelling.

A replacement dwelling is one which is at least decent, safe, and sanitary.

§ 21.224 State.

Any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, the Trust Territory of the Pacific Islands, and any political subdivision thereof.

§ 21.225 State agency.

Any department, agency, or instrumentality of a State or of a political subdivision of a State, or any department, agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States.

§ 21.226 Tenant.

A person who leases, rents, lawfully occupies or temporarily possesses real property, or a mobile home classified as personal property, of another by any kind of right.

Subpart C—Moving and Related Expenses

§ 21.301 Recipient eligibility.

A displaced person, business, or farm operation is eligible to receive payments for moving and related expenses described in § 21.303 or a fixed relocation payment described in § 21.304.

§ 21.302 Extent of eligibility.

(a) Each owner-occupant, tenant-occupant, or family, who is displaced from a dwelling may elect to receive either the payment described in § 21.303 (a) or the fixed payment described in § 21.304(a) except:

(1) Two or more persons, not a family, living together in a single-family dwelling who are displaced from the dwelling will be regarded as one displaced person insofar as their eligibility for receiving the fixed payment for moving expenses described in § 21.304(a). Each individual in such group is eligible to receive actual moving and related expenses described in § 21.303(a) if the group does not elect to receive the fixed payment.

(2) No member of a displaced person's family living in the same dwelling unit is eligible for separate payment for moving expenses.

(3) Any person, other than a member of the family, who is renting a room within the dwelling is eligible for moving expenses under § 21.303(a), but is not eligible to elect to receive the fixed payment in § 21.304(a).

(b) Any displaced business or farm operation may elect to receive either the payment described in § 21.303 or the payment described in § 21.304.

(c) Any displaced owner-occupant of a multifamily dwelling who earns income from such dwelling and qualifies as a business, is eligible for payments for actual moving and related expenses described in § 21.303, for both dwelling and business, or may elect to receive the fixed payments described in § 21.304, for both dwelling and business, or he may elect to receive payment for the dwelling under one alternate and payment for the business under the other alternate.

(d) A person who lives on his business or farm property and is displaced from both his dwelling and business or farm property is eligible for payments for actual moving and related expenses described in § 21.303 for both dwelling and business or farm operation, or may elect to receive the fixed payment described in § 21.304 for both dwelling and business, or farm operation, or he may elect to receive payment for the dwelling under one alternate and payment for business or farm operation under the other alternate.

(e) A person displaced from a business or farm operation which causes such person to move from other real property used for his dwelling may elect to receive either the actual expense payment described in § 21.303(a) or the fixed payment described in § 21.304(a). If the displacement causes such person to move other personal property associated with the displaced business or farm operation from real property not acquired, he is eligible for the moving cost of such personal property as a part of the cost of moving the displaced business or farm operation.

(f) Outdoor advertising signs as defined in § 21.202(a)(4) when not a part of a displaced business are only eligible for actual expense payments described in § 21.303.

§ 21.303 Actual expenses payment.

(a) Actual reasonable expenses specified in § 21.305 in moving himself, his family, business, farm operation, or other personal property;

(b) Actual direct losses specified in § 21.306 of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount determined by the displacing agency to be equal to the reasonable expenses that would have been required to relocate such property; and

(c) Actual reasonable expense specified in § 21.307 in searching for a replacement site for the business or farm operation.

§ 21.304 Fixed payment.

(a) A displaced person who must vacate a dwelling may elect to receive in lieu of reimbursement for actual expenses described in § 21.303(a), a moving expense allowance not to exceed $300 based on schedules for the area in which the displacement occurs maintained by State highway departments and approved by the Federal Highway Administration, plus a dislocation payment of $200.

(b) A person who is displaced from his place of business, whether he discontinues or reestablishes the business, may elect to receive, in lieu of reimbursement for actual expense specified in § 21.303, a fixed relocation payment equal to the average annual net earnings of the business as determined in accordance with § 21.308 provided:

(1) The business is not a part of a commercial enterprise having at least one other establishment that is not being acquired which is engaged in the same or similar business; and

(2) The business cannot be relocated without a substantial loss of its existing patronage. The displacing agency will consider all pertinent circumstances in determining whether the business meets this requirement, including the type of business, the nature of the clientele, the relative importance of the present and proposed locations to the displaced business, and the availability of a suitable replacement location for the displaced person.

(c) A person who is displaced from his farm operation, whether he discontinues or reestablishes such operation, may elect to receive, in lieu of reimbursement for actual expenses specified in § 21.303, a fixed relocation payment equal to the average annual net earnings of the farm operation as determined in accordance with § 21.308. Where a displaced person is displaced from only a part of his farm operation, the fixed payment shall be made only if the displacing agency determines that the property remaining after the acquisition can no longer meet the definition of a farm operation.

(d) A displaced nonprofit organization whether it discontinues or reestablishes its operation, may elect to receive, in lieu of reimbursement for actual expenses specified in § 21.303, a fixed relocation payment equal to the average annual net earnings of the nonprofit organization as determined in accordance with § 21.308 if the displacing agency determines that: (1) The nonprofit organization cannot be relocated without a substantial loss of its existing patronage which includes the persons, community, or clientele served or affected by its activities; and (2) the nonprofit organization is not a part of a commercial enterprise having at least one other establishment not being acquired which is engaged in the same or similar activity.

(e) The payment provided in paragraphs (b), (c), and (d) of this section shall be not less than $2,500 nor more than $10,000.

§ 21.305 Actual reasonable expenses in moving.

(a) Items to be included in determining reasonable expenses are:

(1) Transportation of individuals, families, and personal property from acquired site to the replacement site, not to exceed an airline distance of 50 miles, except where the displacing agency determines that relocation cannot be accomplished within such area.

(2) Packing, unpacking, crating, and uncrating of personal property.

(3) Advertising for packing, unpacking, crating, uncrating, and transportation when the displacing agency determines that advertising for any of these services is necessary.

(4) Storage of personal property for a period generally not to exceed 12 months when determined by the displacing agency to be necessary.

(5) Insurance premiums covering loss and damage of personal property while in transit or approved storage.

(6) Removal, reinstallation, and reestablishment, including such modification as deemed necessary by the displacing agency, of machinery, equipment, appliances, and other items not acquired as real property, and reconnection of utilities for such items. Prior to payment for any expenses for removal and reinstallation of such property, the displaced person shall be required to agree in writing that the property is personalty and the displacing agency is released from any payment for the property.

(7) Property lost, stolen, or damaged (not caused by the fault or neligence of the displaced person, his agents, or employees) in the process of moving, where insurance to cover such loss or damage is not obtainable.

(8) Such other reasonable expenses determined to be allowable by the agency head:

(b) Items to be excluded in determining reasonable expenses are:

(1) Additional expenses incurred because of living in a new location.

(2) Cost of moving structures and other improvements classed as real property in which the displaced person reserved ownership, except as otherwise provided by law.

(3) Improvements to the replacement site except when required by law.

(4) Interest on loans to cover moving expenses.

(5) Loss of goodwill.

(6) Loss of profits or income.

(7) Loss of trained employees.

(8) Personal injury.

(9) Cost of preparing the application for moving and related expenses.

(10) Payment for search cost in connection with locating a replacement dwelling.

(11) Such other items as the agency head determines should be excluded.

(c) Limitations are:

(1) If the displaced person moves himself, his family, business, farm operation, or other personal property by other than commercial means, the reimbursement allowance will not exceed the estimated cost of moving commercially based on the prevailing local rates for moving, unless the agency head determines that a greater amount is justified.

(2) If an item of personal property used in connection with a business or farm operation is not moved, but sold and replaced at the new location with a comparable item, reimbursement will not exceed the replacement cost minus the proceeds from the sale, or the estimated cost of moving whichever is less.

(3) If personal property used in connection with a displaced business or farm operation is of low value and high bulk, and the cost of removing, reinstalling, and reestablishing such property would be, in the judgment of the displacing agency, disproportionate in relation to its value, the allowable reimbursement for the expense of moving the personal property will not exceed the difference between the amount that would have been received for such item on liquidation and the cost of replacing the same at the new location with a comparable item available on the market.

§ 21.306 Actual direct losses—businesses or farm operations.

(a) Payments for actual direct losses of tangible personal property are allowable where a person displaced from his place of business or farm operation is entitled to relocate his property, but does not do so. These property losses may include such items as equipment, machinery, or fixtures which are no longer required, where the business or farm operation is to be discontinued or the property is not suitable for use at the new location.

(b) If the displaced person does not move personal property and he makes a bona fide effort to sell it he may be reimbursed for the reasonable costs incurred in his efforts to sell the property, but not to exceed the estimated cost to move the property to the new location but not to exceed 50 airline miles except that the amount allowed for this purpose shall not exceed the difference between the cumulative amount allowed under the following items and the estimated cost of moving such items.

(1) If the business or farm operation is discontinued, the actual direct loss is the difference between the fair market value of the personal property for continued use at its location prior to displacement and the sale proceeds but not to exceed the estimated cost of moving 50 miles.

(2) If personal property is abandoned, the actual direct loss is the lesser of the fair market value of the property for continued use at its location prior to displacement, or the estimated cost of moving to the new location, not to exceed 50 airline miles.

(c) The cost to the displacing agency of removing abandoned personal property shall not be offset against other payments to the displaced person.

§ 21.307 Actual reasonable expense in searching—business and farm operations.

A displaced person whose business or farm is acquired may be reimbursed for his actual reasonable expense of searching for a replacement business or farm location. The maximum amount allowable for searching expense is $500 for each displaced business or farm unless the agency head determines that a greater amount is justified based on the circumstances involved. Payment for these expenses are further limited to:

(a) Travel.

(1) Actual cost of common carrier.

(2) Eleven cents per mile for use of privately owned vehicle.

(b) Meals and lodging.

(1) Three dollars per meal but not to exceed $9 per day per individual.

(2) Actual cost of lodging, but not to exceed $20 per day per individual.

(c) Time. Time spent in searching at a flat rate of $3 per hour, or at the rate of the displaced person's salary or earnings, but not to exceed $10 per hour. The

maximum time allowed shall be 8 hours a day.

(d) Realtor assistance. Broker or real-

dwelling or has reviewed and approved the plans and specifications for construction or rehabilitation.

price or condemnation award for the acquired dwelling, or on the date on which he moves from the acquired dwell-

(4) Certification of structural soundness when required by lender, FHA, or VA.

(5) Credit report.

quired dwelling. If the displacing agency deems it advisable, more than 3 months may be used as a base for determining the average rental rate.

(iv) Certification of structural soundness when required by lender, FHA, or VA.

(v) Credit report.

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maximum time allowed shall be 8 hours a day.

(d) Realtor assistance. Broker or realtor fees to locate a replacement site for a displaced business or farm operation only when the displacing agency determines in advance that it is necessary.

§ 21.308 Determination of average annual net earnings.

The average annual net earnings will be one-half of any net earnings of the business or farm operation, before Federal, State, and local income taxes for the 2 taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period. Another period may be approved by the agency head if the business or farm operation was not in operation for the full 2-year period or if an unusually long time lag between public announcement of a project and the displacement results in a material reduction in the earnings of the business or farm operations for such 2-year period, or under other conditions clearly warranting a different period. The business or farm operation will be required to furnish pertinent portions of returns filed with the Internal Revenue Service for the applicable period, or other acceptable evidence of earnings if not required to file returns.

§ 21.309 Mobile home.

When a mobile home deemed personal property is moved from an acquired site the following reasonable costs as determined by the displacing agency are allowable:

(a) Moving the mobile home to a replacement site but not to exceed the cost of moving to a site 50 airline miles from the acquired site.

(b) Detaching and reattaching fixtures and appurtenances, where applicable.

Subpart D—Replacement Housing—General

§ 21.401 Certificate of eligibility.

Whenever a displaced person is eligible for a replacement housing payment except that he has not yet purchased a replacement dwelling, the displacing agency shall, at the request of the displaced person, provide a written statement to any interested person, financial institution or lending agency as to:

(a) The eligibility of the displaced person for a payment.

(b) The requirements that must be satisfied before such payment can be made.

(c) The amount of the payment to be made by the displacing agency, provided the proposed replacement dwelling has been selected, or plans and specifications for the construction or rehabilitation of a proposed replacement dwelling are available, and the displacing agency has inspected and approved the selected dwelling or has reviewed and approved the plans and specifications for construction or rehabilitation.

§ 21.402 Selecting a method for determining purchase price or rental rate for a comparable replacement dwelling.

(a) The displacing agency may determine the amount necessary to purchase or rent, as appropriate, a comparable replacement dwelling by:

(1) A schedule method in which the displacing agency establishes a schedule of reasonable acquisition costs or rental rates of comparable replacement dwellings. The schedule should be based on current analysis of the market; or by

(2) The comparative method in which the displacing agency determines the reasonable acquisition cost or rental rate by selecting one or more comparable replacement dwellings that are most representative of the dwelling acquired. A single dwelling shall be used only when additional comparable replacement dwellings are not available.

(b) When neither the schedule method nor the comparative method is feasible, the agency head may develop other methods for computing replacement housing payments, or approve in advance other methods proposed by the displacing agency.

§ 21.403 Other.

(a) Payment for replacement housing to a displaced owner-occupant who moves from a one-family unit of a multifamily building owned by such person will be based on the cost of a comparable one-family unit in a multifamily building or if not available, a single-family structure, without regard to the number of units in the acquired multifamily building.

(b) Payment for replacement housing will not affect the eligibility of the displaced person to receive a payment for business earnings attributable to rental ities conducted in portions of the units or other legitimate business activities conducted in portions of the building.

(c) Two or more individuals, living together in a single-family dwelling, displaced from the dwelling will be regarded as one displaced person for the purpose of replacement housing.

Subpart E—Replacement Housing for Homeowners (Over 180 Days) Displaced From Conventional Dwellings

§ 21.501 Eligibility.

This subpart is applicable to a displaced person who:

(a) Actually owned and occupied the acquired dwelling for not less than 180 days immediately prior to initiation of negotiations for the property, and

(b) Purchases and occupies a replacement dwelling not later than the end of the 1-year period beginning on the date on which he receives from the displacing agency final payment of the purchase price or condemnation award for the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

§ 21.502 Maximum payment.

The maximum payment which may be made by the displacing agency under this subpart is $15,000.

§ 21.503 Cost eligible for payment by displacing agency.

Costs eligible for payment by the displacing agency under this subpart are:

(a) The amount, if any, which when added to the acquisition cost of the dwelling acquired by the displacing agency, equals the reasonable cost of a comparable replacement dwelling.

(1) If the displaced person voluntarily purchases and occupies a replacement dwelling at a price less than the reasonable cost determined by the displacing agency for a comparable replacement dwelling, the displacing agency shall pay not more under this item than the difference between the acquisition price of the acquired dwelling and the actual purchase price of the replacement dwelling.

(2) If the displaced person voluntarily purchases and occupies a replacement dwelling at a price less than the acquisition price of the acquired dwelling, no payment is allowable under this paragraph (a).

(b) The amount, if any, which will compensate the displaced person for any increased interest cost and points which such person is required to pay for financing the acquisition of the replacement dwelling, provided that the acquired dwelling was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than 180 days prior to the initiation of negotiations for the acquisition of such dwelling. This amount shall be computed on the basis of and limited to:

(1) The amount of the unpaid debt at the time of acquisition of the real property;

(2) The length of the remaining term of the mortgage at the time of acquisition;

(3) The prevailing interest rate and points currently charged by mortgage lending institutions in the vicinity; and

(4) The present worth of the future payments of increased interest, computed at the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

(c) Reasonable expenses incurred by the displaced person for the following purposes except that no fee, cost, charge, or expense is reimbursable which is determined by the displacing agency to be prepaid expenses:

(1) Legal, closing, and related costs including title search, preparing conveyance instruments, notary fees, surveys, preparing plats, and charges incident to recordation.

(2) Lenders, FHA, or VA appraisal fee.

(3) FHA application fee.

(4) Certification of structural soundness when required by lender, FHA, or VA.

(5) Credit report.

(6) Title policy, certificate of title, or abstract of title.

(7) Escrow agent's fee.

(8) State revenue stamps, or sale or transfer taxes.

Subpart F—Replacement Housing for Tenants and Certain Others (Displaced From Conventional Dwellings)

§ 21.601 Eligibility.

(a) This subpart is applicable to a displaced person who:

(1) Is a tenant, or

(2) Is an owner-occupant who elects to lease or rent rather than purchase a replacement dwelling, or

(3) Is an owner-occupant who elects to purchase a replacement dwelling but has occupied the acquired dwelling for less than 180 days required by § 21.501 (a).

(b) A displaced person is eligible for a replacement housing payment under this subpart if he:

(1) Actually and lawfully occupied the acquired dwelling for not less than 90 days immediately prior to the initiation of negotiations for acquisition of the property.

(2) Purchases or rents and occupies a replacement dwelling not later than the end of the 1-year period beginning on the date on which he:

(i) If a tenant, moves from the acquired dwelling.

(ii) If an owner-occupant, receives from the displacing agency final payment of the purchase price or condemnation award for the acquired dwelling, or the date on which he moves from the acquired dwelling, whichever is the later date.

§ 21.602 Maximum payment.

The maximum payment which may be made by the displacing agency under this subpart is $4,000 except that when the payment is made in connection with the purchase of a replacement dwelling the amount of the payment by the displacing agency in excess of $2,000 must be matched by the displaced person.

§ 21.603 Computing rental payments for displaced tenants renting replacement housing.

(a) The displacing agency shall compute the amount of the payment to the tenant as follows:

(1) Multiply the monthly rental rate of the replacement dwelling or a comparable replacement dwelling, whichever is the lesser rate, by 48.

(2) Determine the average monthly rental rate paid by the displaced tenant for the acquired dwelling in the last 3 months prior to initiation of negotiations, provided such rent was reasonable. If such average rent paid was not reasonable, the displacing agency may use an economic rent amount for the acquired dwelling. If the displacing agency deems it advisable, more than 3 months may be used as a base for determining the average rental rate.

(3) Multiply the average monthly rental rate for the acquired dwelling as determined in subparagraph (2) of this paragraph, by 48.

(4) Subtract from the amount determined in subparagraph (1) of this paragraph, the amount determined in subparagraph (3) of this paragraph.

(b) If the displaced tenant is paying rent for the acquired dwelling to the displacing agency, economic rent shall be used in making the determination required by paragraph (a)(2) of this section.

§ 21.604 Computing rental payments for displaced owner-occupants renting replacement housing.

The displacing agency shall compute the amount of the rental payment to the displaced owner-occupant in the same manner as prescribed in § 21.603, except that economic rent shall be used in making the determination required by § 21.603(a)(2).

§ 21.605 Making payment to a displaced person who rents replacement housing.

(a) If the total rental payment to be made to the displaced person is in excess of $1,000, payment will be made in four equal annual installments at the beginning of each annual period, provided that the displacing agency determines that the displaced person is continuing to occupy decent, safe, and sanitary housing at the beginning of each annual period.

(b) If the total rental payment to be made to the displaced person is $1,000 or less, the payment shall be made in one lump sum at the beginning of occupancy of the replacement dwelling. The displacing agency need not thereafter determine whether occupancy of decent, safe and sanitary housing is continued.

§ 21.606 Purchase of a replacement dwelling.

(a) The amount of the payment shall be computed by determining the amount necessary to enable the displaced person to make a down payment and to cover expenses on the purchase of the replacement housing.

(1) The amount necessary for the down payment shall be based on the amount required for a conventional loan.

(2) Reasonable expenses incurred by the displaced person for the following purposes except that no fee, cost, charge, or expense is reimbursable which is determined by the displacing agency to be prepaid expenses;

(i) Legal, closing, and related costs including title search, preparing conveyance instruments, notary fees, surveys, preparing plats, and charges incident to recordation.

(ii) Lenders, FHA, or VA appraisal fee.

(iii) FHA application fee.

(iv) Certification of structural soundness when required by lender, FHA, or VA.

(v) Credit report.

(vi) Title policy, certificate of title, or abstract of title.

(vii) Escrow agent's fee.

(viii) State revenue stamps, or sale or transfer taxes.

(b) The full amount of the payment must be applied to the purchase price and incidental costs shown on the closing statement.

Subpart G—Replacement Housing for Mobile Home Occupants

§ 21.701 Eligibility.

(a) The occupant of a mobile home located on an acquired site is eligible for a replacement housing differential payment to the extent stated in § 21.702 if he meets the following requirements:

(1) The mobile home is acquired by the displacing agency, or the site of the mobile home is acquired which results in the mobile home being removed.

(2) The person actually occupied the mobile home on the acquired site for not less than 90 days immediately prior to initiation of negotiations or date of receipt of displacement notice whichever is later.

(3) The person vacated the mobile home or mobile homesite as a result of the acquisition of the property or receipt of a notice to vacate.

§ 21.702 Extent of eligibility.

(a) A person displaced from a mobile home who is eligible for replacement housing payments may elect a mobile home or a conventional dwelling to serve as a replacement dwelling.

(1) Such displaced occupant of a mobile home will be eligible for replacement housing benefits to the same extent and subject to the same conditions as provided in Subpart E or Subpart F of this part depending on the period of occupancy of the mobile home on the acquired site and the degree of interest held in the acquired mobile home.

(i) Period of occupancy shall be determined on the basis of the date of initiation of negotiations or the date of receipt of a displacement notice, whichever is later.

(ii) Degree of interest, i.e., owner or tenant, will be that of the displaced occupant in the mobile home, exclusive of the interest held in the homesite.

(2) When either type of replacement dwelling is elected, the maximum allowable under § 21.503(a) or § 21.603 shall be computed on the basis of the lesser of:

(i) The amount the displaced person pays for a replacement dwelling; or

(ii) The amount determined by the displacing agency as necessary to provide a comparable replacement mobile home.

(b) The occupant of a mobile home not acquired but moved from the acquired homesite is eligible for a replacement homesite.

(1) Such occupant will be eligible for replacement homesite benefits to the

same extent and subject to the same conditions as provided in Subpart E or Subpart F of this part depending on the period of occupancy of the mobile home on the acquired site and the degree of interest held in the acquired homesite.

(i) Period of occupancy shall be determined on the basis of the date of initiation of negotiations or the date of receipt of a displacement notice, whichever is the later.

(ii) Degree of interest, i.e., owner or tenant, will be that of the occupant in the homesite, exclusive of the interest held in the mobile home.

(2) The maximum allowable under § 21.503(a) or § 21.603 shall be computed on the basis of the lesser of:

(i) The amount the occupant of the mobile home pays for a replacement homesite; or

(ii) The amount determined by the displacing agency as necessary to provide a comparable replacement homesite.

Subpart H—Relocation Assistance Advisory Services

§ 21.801 Policy.

Whenever the acquisition of real property for a Federal or Federal financially assisted program or project will result in the displacement of any person, the displacing agency shall provide a relocation assistance advisory program for displaced persons. If such agency determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, that agency shall offer such person relocation assistance advisory services.

§ 21.802 Advisory services.

Each relocation assistance advisory program shall include such measures, facilities, or services as may be necessary or appropriate in order to:

(a) Determine the need, if any, of displaced persons for relocation assistance.

(b) Provide current and continuing information on the availability, prices and rentals of comparable sale and rental replacement housing, and of comparable commercial properties and locations for displaced businesses and farm operations.

(c) Assure that, within a reasonable period of time prior to displacement, comparable replacement dwellings will be available for those to be displaced from dwellings.

(d) Assist a person displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location.

(e) Supply information concerning housing programs, disaster loan programs, and other Federal or State programs offering assistance to displaced persons.

(f) Provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation.

(g) Advise displaced persons that they should notify the displacing agency before they move; and

(h) Inform affected persons of the benefits to which they may be entitled under the Act and these regulations.

§ 21.803 Contracting for advisory services.

The displacing agency may, by contract or otherwise, secure relocation assistance advisory services from any Federal, State, or local governmental agency or from any person or organization providing such service.

Subpart I—Federal Financially Assisted Projects

§ 21.901 Assurances by State agency.

(a) The agency head shall not approve a grant to or contract or agreement with a State agency unless he receives satisfactory assurances from such State agency that:

(1) Relocation payments, relocation assistance, and relocation assistance advisory services will be provided and comparable replacement dwellings will be available as provided in these regulations;

(2) In acquiring real property it will comply with the land acquisition policies provided in §§ 21.1001 through 21.1009 if compliance is legally possible under State law and in any event will reimburse owners for necessary expenses as specified in §§ 21.1006 and 21.1007; and

(3) It will furnish data for annual report required in § 21.1101.

(b) If a State agency maintains that it is legally unable to comply with the real property acquisition policies in §§ 21.1001 through 21.1006(b), and §§ 21.1008 through 21.1009, its statement to that effect shall be supported by an opinion of the chief legal officer of the State containing a full discussion of the facts and law involved. The agency head may accept this statement or the assurances so qualified as constituting compliance with this section.

(c) A grant to or contract or agreement with a State agency shall contain provisions requiring the State agency to comply with these regulations to the extent determined under this section.

§ 21.902 Execution and amendment of agreements.

Any grant to, or contract or agreement with a State agency under which Federal financial assistance is made available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after January 2, 1971, shall include or be amended to include the cost of providing payments and services set forth in these regulations.

§ 21.903 Project cost.

The cost to a State agency of providing payments and assistance pursuant to these regulations shall be included as part of the cost of a program or project for which the Department furnishes financial assistance. The State agency will be eligible for Federal financial assistance with respect to such payments and assistance in the same manner and to the same extent as other program or project costs.

§ 21.904 Exception.

No payment or assistance under these regulations will be required of a State agency, or include as a program or project cost if the displaced person receives a payment required by the State law of eminent domain which is determined by the agency head to have substantially the same purpose and effect as the payment and assistance required by these regulations.

§ 21.905 Advances by Department.

If the agency head determines that it is necessary for the expeditious completion of a project, he may advance to the State agency the Federal share of the cost of any payments or assistance required by these regulations.

§ 21.906 Housing standards.

The State agency will determine whether the replacement dwelling meets the standards prescribed under these regulations.

§ 21.907 Organization and facilities.

It will be the responsibility of the agency head to determine that the State agency provides adequate personnel and facilities to enable it to provide the payments and services required by these regulations.

§ 21.908 Compliance.

The Department will provide for the making of periodic inspections to ascertain whether payments and services are being provided and whether there is compliance otherwise with the assurances furnished.

§ 21.909 Records.

The grant to, or contract or agreement with the State agency shall provide that it will maintain such records as may be specified by the agency head for a period of 3 years and make them available to the agency head for inspection and audit at reasonable times.

§ 21.910 Performance by contract.

(a) The displacing agency may contract for the services specified in § 21.802 with any person or organization if it finds that such contract will prevent unnecessary expense, avoid duplication of functions, and promote uniform administration of relocation assistance programs.

(b) The solicitation of proposals, contract provisions, and administration shall be in accordance with State laws and with procedures prescribed by the agency head, but shall as a minimum include provisions:

(1) Required by Federal regulations implementing Title VI of the Civil Rights Act of 1964 (Public Law 82-352), and

(2) Requiring records relating to the contract to be maintained for a period

of not less than 3 years and be available for inspection by representatives of the State agency and the agency head.

(c) In furnishing housing to the extent authorized under criteria and procedures set forth in § 21.109, the State agency shall, whenever practicable, utilize the services of State or local housing agencies, or other agencies having experience in the administration and conduct of similiar housing assistance activities.

§ 21.911 Furnishing real property.

Whenever real property is acquired by a State agency and furnished as a required contribution to a Federal project, the agency head may not accept such property unless such State agency has made all payments and provided all assistance and assurances as are required of a State agency by these regulations. The cost of such requirements will be paid by the State agency, except the agency head will pay the full amount of the first $25,000 of the cost of providing such payments and assistance in connection with each displacement occurring prior to July 1, 1972.

§ 21.912 State agency acting as agent for federal project.

Whenever real property is acquired by a State agency at the request of the agency head for a Federal project, such acquisition shall be deemed for the purposes of these regulations as an acquisition by the agency head.

Subpart J—Real Property Acquisition

§ 21.1001 General.

(a) Application of this subpart to State agencies carrying out Federal financially assisted programs is mandatory where compliance is legally possible under State law and in any event State agencies will reimburse owners for necessary expenses as specified in §§ 21.1006(c) and 21.1007.

(b) The provisions of this subpart do not apply to donations of land or land exchanges.

§ 21.1002 Acquisition by agreement.

Every reasonable effort will be made to (a) acquire real property by agreements with owners based on negotiations, (b) assure consistent treatment for owners, and (c) accomplish negotiations expeditiously. In no event shall negotiations be deferred nor any other action coercive in nature taken in order to compel an agreement.

§ 21.1003 Appraisal.

(a) Prior to initiation of negotiations, an appraisal of the fair market value of the real property interest to be acquired will be made by a qualified land appraiser.

(b) The owner or his designated representative will be given a reasonable opportunity to accompany the appraiser during his inspection of the property.

(c) Any decrease or increase in the fair market value of the property prior to the date of the appraisal which is caused by the public improvement for which the property is acquired or by the likelihood that the property would be acquired for such improvement, other than due to physical deterioration within the reasonable control of the owner, will be disregarded in appraising the property.

(d) Where appropriate the estimate of the fair market value of the property to be acquired and the estimate of damages or offsetting benefits to the remaining property will be separately stated.

(e) Appraisers shall not give consideration to or include in their real property appraisals any allowances for the relocation benefits provided by these regulations.

(f) Each agency Head shall establish for all Federal or Federal financially assisted programs under his jurisdiction, criteria for determining the qualifications of appraisers and a system of review of appraisals by qualified appraisers. Standards for appraisals used in such programs shall be consistent with the Uniform Appraisal Standards for Federal Land Acquisitions published in 1972 by the Interagency Land Acquisition Conference.

§ 21.1004 Establishing just compensation.

(a) Prior to negotiations the displacing agency shall establish an amount it believes to be just compensation which in no event shall be less than the amount in the appraisal approved by the displacing agency.

(b) If the acquisition of only part of a property would leave its owner with an uneconomic remnant, the displacing agency shall offer to acquire the entire property.

§ 21.1005 Initiation of negotiations.

(a) When the just compensation has been established, a prompt offer will be made to acquire the real property for the full amount of the just compensation so established.

(b) When the offer is made, the owner of the real property will be provided with a written statement of (1) identification of the real property and the estate or interest therein to be acquired including the buildings, structures, and other improvements considered to be a part of the real property, (2) the amount of the estimated just compensation as determined by the acquiring agency and a summary statement of the basis therefore, and (3) if only a portion of the property is to be acquired, a separate statement of the estimated just compensation for the real property interest to be acquired and damages and benefits to the remaining real property, if any.

(c) The offer of just compensation does not preclude further negotiations with respect to the purchase price.

(d) Tenants occupying the property shall be given a displacement notice not later than when negotiations for the property are initiated with the owner.

(e) Contracts or options to purchase real property shall not provide for any payments for relocation costs or reference to such payments.

§ 21.1006 Condemnation.

(a) The time of condemnation will neither be advanced, nor negotiations, condemnation and the deposit of funds in court be deferred, nor any other action coercive in nature taken in order to compel an agreement on price.

(b) If the real property is to be acquired by condemnation, proceedings will be instituted promptly. No action will be taken intentionally which will make it necessary for an owner to institute legal proceedings to prove the taking of his real property.

(c) If the final judgment of the court in a condemnation case is that the acquiring agency cannot acquire the real property by condemnation, or if the proceeding in condemnation is abandoned by the acquiring agency, the acquiring agency must pay the owner of the property such sum as will reimburse the owner for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal and engineering fees actually incurred because of the condemnation proceedings. If this cost is not covered by a court order, nevertheless the acquiring agency shall pay to the owner such costs.

(d) When the declaration of taking is filed in a Federal condemnation proceeding, the estimated compensation shall be determined solely on the basis of the appraised value of the real property with no consideration being given to other payments provided for by these regulations.

§ 21.1007 Expenses incidental to transfer of title.

As soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award in a condemnation proceeding to acquire real property, the owner will be reimbursed to the extent the head of the displacing agency determines fair and reasonable, for expenses the owner necessarily incurred for:

(a) Recording fees, transfer taxes, and similar expenses incident to conveying the real property to the acquiring agency,

(b) Penalty costs for prepayment of any preexisting recorded mortgage entered into in good faith encumbering such real property, and

(c) The pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the acquiring agency, or the effective date of possession of such real property by the acquiring agency, whichever is earlier.

§ 21.1008 Buildings, structures and improvements.

(a) Whenever any interest in real property is acquired, the acquiring agency shall acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property which such acquiring agency requires to be removed from the real property, or which the acquiring agency determines will be adversely affected by

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the use to which such real property will be put.

(b) The following will apply in determining the just compensation for any such buildings, structures, or other improvements: (1) They will be deemed to be part of the real property to be acquired, notwithstanding the right or obligation of the tenant as against the owner of any other interest in the real property to remove them at the expiration of his term, and (2) the fair market value which such structures, buildings, or other improvements contribute to the fair market value of the real property to be acquired, or the fair market value of such buildings, structures, or other improvements for removal from the real property, whichever is greater, will be paid the tenant therefor, provided the tenant shall assign, transfer and release to the acquiring agency all his rights, title and interest in and to such improvements.

(c) Payments under this § 21.1008 will not be made: (1) Which result in duplication of any payments otherwise authorized by law, (2) unless the owner of the land involved disclaims all interest in such buildings, structures or other improvements of the tenant.

(d) A tenant may reject payment under this § 21.1008 and obtain payment for the buildings, structures, or other improvements in accordance with any other applicable law.

§ 21.1009 Lease to former owner or occupant.

If an owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term, or for a period subject to termination by the acquiring agency on short notice, the amount of rent required will not exceed the fair rental value of the property to a short term occupier.

Subpart K—Report

§ 21.1101 Annual report.

Each agency head shall prepare and submit an annual report, on a fiscal year basis, to the Secretary of Agriculture. The first report will cover the period January 2, 1971 through June 30, 1971, with the final report covering the period July 1, 1973 through June 30, 1974.

(a) Each such report will include narrative comments regarding:

(1) The effectiveness of the provisions of the Act assuring the availability of comparable replacement housing for displaced persons:

(2) Actions taken to achieve the objectives of the policies of Congress to provide uniform and equal treatment, to the greatest extent practicable, for all persons displaced by or having real property taken for Federal or Federal financially assisted programs;

(3) Views on the progress made to achieve the objectives stated in subparagraph (2) of this paragraph;

(4) Any indicated effects of such programs and policies on the public; and

(5) Recommendations for further improvements in relocation assistance and land acquisition programs, policies, and implementing laws, and regulations.

(b) Each such report will also include statistical data as prescribed by the Department.

(c) Summary statement on the waiver of assurances.

[FR Doc.72-19700 Filed 11-15-72;8:48 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Part 10]

[CGD 72-151P]

SECOND AND THIRD MATE; SECOND AND THIRD ASSISTANT ENGINEER

Licensing and Registration; Update of Examination Requirements

The Coast Guard is considering amendments to its licensing regulations consisting in a number of additions to examination subjects.

Interested persons are invited to submit written views, data, arguments, objections or comments to U.S. Coast Guard (CMC/82), Room 8234, 400 Seventh Street SW., Washington, DC 20590. All communications received within 45 days after the date of publication of this notice in the FEDERAL REGISTER will be fully considered before final action is taken on this notice. Each submission should identify the notice (CGD 72-151P) and the section, give reasons for any recommendations, and include proponent's name and address.

The proposed amendments may be changed in the light of comments received. No hearing is contemplated but will be held at a time and place set in a later notice in the FEDERAL REGISTER, if requested by any interested person desiring an opportunity to comment orally at a public hearing, and raising a genuine issue.

Copies of all written communications will be available for examination at U.S. Coast Guard Headquarters, in Room 8234, 400 Seventh Street SW., Washington, DC.

The purpose of the proposed amendments is to make changes in the examination requirements for second and third mate and second and third assistant engineer.

A few years ago, the USCG undertook a long-range project to modernize its licensing and certification program. A report, emanating from a contract let to an outside testing firm, resulted in some hard conclusions about the present testing program and specific suggestions on how to improve it.

Specifically, the present testing program was criticized for (1) containing obsolete material and (2) being too subjective in nature. Obsolescence, of course, is a common occurrence in testing programs which are not continually monitored to insure that the material which they cover is still part of the specifications of those jobs which they are evaluating. The subjectivity in the program resulted primarily from the fact that the present test contains essay questions which can be differentially interpreted by individuals grading the examination. Consequently, persons recording identical answers to essay questions can receive different grades if they are graded by different people. It was suggested, naturally, that the obsolete material and the subjectivity be removed from the examination program and be replaced by more current and objective material.

Consequently, beginning 1 July 1973, candidates for second and third mate licenses and second and third assistant engineer licenses should be prepared to pass an up-to-date and objective multiple choice examination before they become eligible to receive their licenses. (The upper level examinations will be completed later; possibly by July 1974.) This will be a closed-book examination except for that section covering rules and regulations. Publications covering these will be available in all offices concerned. The examination will be timed and will take approximately 3 days to complete. It should be stated here that the Coast Guard has been reviewing licensing statistics to determine if some offices can be eliminated from that group examining applicants for the major ocean licenses. Present information available indicates that such examinations may be discontinued at Albany, New York, Providence, R.I., Wilmington, N.C., Savannah, Ga., and Corpus Christi, Tex. Because of the very small number of applicants, the continuance of examinations for such major licenses at these offices may not be justified. However, all other licensing functions such as renewals, pilotage, operator's licenses, etc., would still be available at these offices.

More specific information concerning the new examinations, e.g., the type and format of the questions to be utilized, will be summarized in modified versions of CG-101 (Specimen Examinations for Merchant Marine Deck Officers) and CG-182 (Specimen Examinations for Merchant Marine Engineer Licenses) which should be available to the public by or before March 1973.

Input from all aspects of the maritime industry has been an essential, contributing factor in the development of the new standardized examinations. Unions, maritime schools, and maritime industries have provided examination item writers and have contributed personnel to review panels evaluating the validity of the items in terms of their relationship to job requirements. This process of writing and reviewing items has resulted in certain modifications to the examination specifications and requirements due to changes in job specifications and requirements.

The primary modifications concern the following:

(a) Basic questions on pollution have been phased into all the examinations

and these will be continued and expanded as more definitive regulations and reference books become available.

(b) Both third and second mates should possess a basic knowledge of the use of trim tables, ship construction, stability, and damage control. Coverage of these subjects will be very basic and not cover theory, etc., in any great depth.

(c) The second mate is now recognized as the navigator and as such will be responsible for all aspects of this subject, including Great Circle sailing (initial course, distance and vertex) as well as basic principles of compass compensation.

(d) Changing technology in engineering has made it necessary to examine both third and second assistant engineers, steam and motor, in the following additional subjects: air conditioning, ventilation, sanitary/sewage disposal and piping systems, hydraulics, engineering prints and tables, and basic electronics. Third and second assistant engineers of motor vessels will, in addition to the above, be examined in waste heat boilers.

In consideration of the foregoing, it is proposed to amend Title 46 of the Code of Federal Regulations as follows:

§ 10.05-45 [Amended]

1. In table 10.05-45(b), column headed "Third Mate, Ocean," by adding footnote "4" in lines 8 and 33; adding an X and footnote 4 in lines 9 and 23; in the column headed "Second Mate, Ocean," by adding an X and footnote 5 in line 10, line 16, and line 23, and adding footnote 5 in line 33; adding footnote 4 to read: "Effective 1 July 1973 the examination for licenses as third mate of ocean steam or motor vessels will include the following additional subjects: parallel sailing, mercator sailing, basic knowledge of the use of trim tables, stability, ship's construction, damage control, and pollution prevention"; and footnote 5 to read: "Effective 1 July 1973 the examination for licenses as second mate of ocean steam or motor vessels will include the following additional subjects: Great Circle sailing, basic magnetism, deviation and compass compensation, basic knowledge of stability, ship's construction, damage control, basic use of trim and stability booklet, and pollution prevention."

§ 10.10-4 [Amended]

2. In table 10.10-4(b), by adding footnote 3 preceding X on lines 4, 53, and 76, in the four columns headed "Assistant Engineer," "Steam," and "Motor"; by adding footnote 3 preceding X on line 61 in the two columns headed "Assistant Engineer," "Steam," and "Motor," "over 2,000 hp."; and by adding footnote 4 preceding X on line 41 in the column headed "Assistant Engineer," "Motor," "over 2,000 hp."; and adding footnote 3 to read: "Effective 1 July 1973 the examination for license as third and second assistant engineer of steam and/or motor vessels will include the following additional subjects; air conditioning, ventilation, sanitary/sewage disposal and piping systems, pollution prevention, hydraulics, engineering prints and tables, and basic electronics"; and footnote 4: Effective 1 July 1973, in addition to the above, the examination for licenses as third and second assistant engineer of motor vessels will include questions on waste heat boilers."

The amendments are proposed under the authority of 46 U.S.C. 224, 224a(a), 228, 229, 391a (3) and (4); 49 U.S.C. 1655(b); 49 CFR 1.4(b) and 1.46(b).

Dated: November 10, 1972.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.72-19731 Filed 11-15-72;8:53 am]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-RM-29]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations which would establish a transition area at Mohall, N. Dak.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, Park Hill Station Post Office Box 7213, Denver, CO 80207. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, CO 80010.

A new runway 31 instrument approach procedure is being developed for the Mohall Municipal Airport, Mohall, N. Dak. Accordingly, it is necessary to establish a 700-foot transition area to provide controlled airspace protection for aircraft executing this procedure.

In consideration of the foregoing, the FAA proposes the following airspace action:

In § 71.181 (F.R. 37, 2143) the description of the Mohall, N. Dak., transition area is designated to read:

MOHALL, N. DAK.

That airspace extending upward from 700 feet above the surface within a 7½-mile radius of Mohall Municipal Airport (latitude 48°46'01" N., longitude 101°32'04" W.).

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Aurora, Colo., on November 7, 1972.

M. M. MARTIN,
Director, Rocky Mountain Region.

[FR Doc.72-19656 Filed 11-15-72;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 72-RM-28]

CONTROL ZONE AND TRANSITION AREA

Proposed Establishment and Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations which would establish a control zone at Glasgow AFB, Glasgow, Mont., and alter the description of the transition area at Glasgow, Mont.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, Park Hill Station Post Office Box 7213, Denver, CO 80207. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, CO 80010.

The Department of the Air Force is reactivating the Glasgow AFB and installing a TACAN and instrument landing system (ILS) to support the flying mission at Glasgow. Instrument approach procedures have been developed for the air base.

To protect these procedures, additional controlled airspace must be designated. Accordingly, it is necessary to designate

a control zone and alter the Glasgow, Mont., transition area to adequately pro-

Broadcast Stations. (Stone Harbor-Avalon-Cape May Court House, New Jersey),

to sufficiently respond to Salt-Tee's contention to the extent that we should no-

12. Pursuant to applicable procedures set out in § 1.415 of the Commission's

3. In support of its request, petitioner states that the economic fiber of Union Springs and Bullock County consists of

proposing to assign Channel 240A to Tallassee and Channel 265A to Union Springs, provided that the transmitter

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a control zone and alter the Glasgow, Mont., transition area to adequately protect the aircraft executing the new approach and departure procedures.

The control zone will provide controlled airspace for aircraft executing ILS and TACAN approaches and for departing aircraft utilizing standard instrument departure procedures. The additional 700- and 1,200-foot transition areas are required for aircraft holding and transitioning from outer fixes and for aircraft executing approach/departure procedures.

In consideration of the foregoing, the FAA proposes the following airspace action:

In § 71.171 (37 F.R. 2056) the following control zone is added:

GLASGOW, MONT. (GLASGOW AFB)

Within a 5-mile radius of Glasgow AFB (latitude 48°25'21" N., longitude 106°31'55" W.); within 2 miles each side of the Glasgow AFB TACAN 292° radial extending from the 5-mile radius zone to 7 miles northwest of the TACAN; and within 2½ miles north and 2 miles south of the Glasgow AFB TACAN 125° radial extending from the 5-mile radius zone to 7 miles southeast of the TACAN.

In § 71.181 (37 F.R. 2143) the description of the Glasgow, Mont. transition area is amended to read:

GLASGOW, MONT.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Glasgow International Airport (latitude 48°12'50" N., longitude 106°37'10" W.); within a 9-mile radius of Glasgow AFB (latitude 48°25'21" N., longitude 106°31'55" W.); and that airspace extending upward from 1,200 feet above the surface within 4½ miles southwest and 9½ miles northeast of the Glasgow VOR 127° radial, extending from the VOR to 19½ miles southeast of the VOR; within a 25-mile radius of the Glasgow AFB TACAN; within 9½ miles north and 5½ miles south of the Glasgow AFB TACAN 125° radial extending from the 25-mile radius area to 33½ miles southeast of the TACAN; within 9½ miles south and 5½ miles north of the Glasgow AFB TACAN 292° radial extending from the 25-mile radius area to 33½ miles northwest of the TACAN.

This amendment is proposed under authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Aurora, Colo., on November 7, 1972.

M. M. MARTIN,
Director, Rocky Mountain Region.

[FR Doc.72-19657 Filed 11-15-72;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19629; FCC 72-996]

FM BROADCAST STATIONS

Proposed Table of Assignments, Certain Cities in New Jersey

In the matter of amendment of § 73.202 (b), Table of Assignments, FM Broadcast Stations. (Stone Harbor- Avalon-Cape May Court House, New Jersey), Docket No. 19629, RM-1903.

1. Notice of proposed rule making is hereby given with respect to amendment of the FM Table of Assignments (§ 73.202(b) of the Commission's rules) as concerns Stone Harbor-Avalon-Cape May Court House, New Jersey. This action is based on the petition of Ronald L. Oberholtzer proposing assignment of Channel 232A to Stone Harbor-Avalon-Cape May Court House. The petition is opposed by Salt-Tee Radio, Inc., the holder of a CP for Channel 292A at Ocean City, N.J. (WSLT-FM), based on economic grounds. The petitioner filed a reply to the opposition and a supplement to the petition for rule making.

2. The pertinent population of the communities involved, each of which is located in Cape May County, population 59,554, is as follows:

Community	*Population*
Stone Harbor	1,089
Avalon	1,283
Cape May Court House	2,062

All population figures are from the 1970 census, unless otherwise specified.

3. Petitioner, in effect, proposes a drop-in assignment of Channel 232A in the Stone Harbor-Avalon-Cape May Court House area. The named communities are located on the seashore of the southern part of the State of New Jersey and are 4 to 6 miles from each other. Cape May Court House, it might be noted, although the seat of Cape May County, is an unincorporated community.

4. Petitioner relies on the fact that none of these communities have any means of local expression either in terms of a daily or weekly newspaper or broadcast facility. The petitioner further relies on the fact that the total 1970 census population for the three communities does not properly reflect population because of the large number of tourists during the summer months in this well-known resort area.

5. As already noted, Salt-Tee Radio, Inc. (Salt-Tee) opposed the petition. This opposition was based on Salt-Tee being a licensee of AM Station WSLT, Ocean City-Somers Point, N.J., and the holder of a CP for Station WSLT-FM, Channel 292A, Ocean City, N.J. The latter contends that it would undergo economic injury and that petitioner has failed to make a requisite showing of need or that anyone would build on Channel 232A if allocated as petitioned for.

6. Oberholtzer in reply takes issue with Salt-Tee's standing to make allegations as to nominal and speculative economic injury flowing from mere assignment of a channel. This more or less accords with our view as to the meaning of FCC v. Sanders Bros. Radio Station, 309 U.S. 470 (1940), in allocation proceedings; see, e.g., the report and order in Docket No. 19074, 32 FCC 2d 937, 942 (1972). Petitioner's reply to Salt-Tee's opposition and supplement to the petition detailing how the public interest might be served by a station on Channel 232A, for which Oberholtzer says he would apply, appears to sufficiently respond to Salt-Tee's contention to the extent that we should notice the proposal (see par. 8).

7. The petition, the reply to the opposition, and the supplement to the petition clearly evidence that the petitioner feels that the three communities form a single area to which service should be furnished. However, it is not usual for the Commission to make an FM channel assignment to more than a single community, especially when an assignment of the channel to any one of the three would permit one to apply for use at either of the other two communities under the 10 mile provision set forth in § 73.203(b) of the Commission's rules. In these circumstances, it may not be appropriate to make the hyphenated assignment as proposed.

8. It appears that a sufficient basis has been made showing that the public interest, convenience, and necessity might be served at least to the extent of adopting a notice of proposed rule making. The petitioner and other parties to the proceeding should particularly address themselves to the question whether the assignment should be made to a single community or the three communities as originally proposed.

9. In the circumstances, the Commission will consider an amendment of the FM Table of Assignments (§ 73.202(b) of our rules) with respect to the communities listed below:

Community	*Channel proposed*
Stone Harbor-Avalon-Cape May Court House, New Jersey	232A
or	
Stone Harbor, New Jersey	232A
or	
Avalon, New Jersey	232A
or	
Cape May Court House, New Jersey	232A

Authority for this action is contained in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended.

10. *Showings required.* All parties, including those who support the proposal, should file comments with respect to the need of the proposed assignment. They may do so, in large part, by incorporating in their formal pleadings reference and statements previously made in support of or in opposition to the petition. Failure of the petitioner or other party supporting the proposal(s) to file any further pleading may lead to a denial of the request.

11. *Cut-off procedure.* The following procedures will govern:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered, if advanced in reply comments.

(b) With respect to petitions for rule making which conflict with the proposal(s) in this notice, they will be considered as comments in this proceeding, and public notice to that effect will be given, as long as filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision herein.

12. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before December 22, 1972, and reply comments on or before January 2, 1973. All submissions by parties to this proceeding or persons acting on behalf of such parties, shall be made in written comments, reply comments, or other appropriate pleadings.

13. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's public reference room at its headquarters, 1919 M Street NW., Washington, DC.

Adopted: November 8, 1972.

Released: November 13, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-19713 Filed 11-15-72;8:49 am]

[47 CFR Part 73]

[Docket No. 19828; FCC 72-995]

FM BROADCAST STATIONS IN UNION SPRINGS AND TALLASSEE, ALA.

Proposed Table of Assignments

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations (Union Springs and Tallassee, Ala.); Docket No. 19628, RM-1902, RM-2040.

1. The Commission has before it for consideration two petitions for rule making requesting amendment of the FM Table of Assignments. One requests the assignment of Channel 240A to Union Springs, Ala.; the other requests assignment of the same channel to neighboring Tallassee. Since the petitions are in conflict, they will be considered together. Each petitioner states that it will promptly file an application for the channel if it is assigned.

2. Union Springs, Ala. (RM-1902). Union Springs Broadcasting Co. (petitioner), filed a petition on January 4, 1972, proposing that Channel 240A be assigned to Union Springs, Ala. Union Springs (population 4,324) is the seat of Bullock County (population 11,824).[1] There are no aural broadcast stations in Union Springs or Bullock County. Petitioner states that Channel 240A could be assigned there in conformity with the Commission's minimum mileage separation rule and without affecting the FM Table of Assignments.

[1] Population figures are from the 1970 U.S. Census Reports.

3. In support of its request, petitioner states that the economic fiber of Union Springs and Bullock County consists of a mixture of light industry and agriculture. It says that representative industry includes a cotton mill, a communications equipment manufacturing plant, a carpet manufacturing plant, a poultry processing plant, a business forms plant, a lumber mill, and a toy factory. In addition, farming and forestry are major local industries. Petitioner also notes that Union Springs has two banks which have assets of $21 million, and approximately 80 varied retail businesses serving the city and county which have annual sales estimated to be $6 million. It further states that the economics of the area as well as its living standard may very well be advanced by the establishment of a first local FM station which would relay local news, entertainment, and other information of interest. In view of the above, we believe consideration of the proposal for the assignment of a first Class A FM channel to Union Springs, Ala., would be in the public interest.

4. Tallassee, Ala. (RM-2040). The NeLer Co., licensee of Station WTLS, Tallassee, Ala. (petitioner), filed a petition on August 17, 1972, proposing that Channel 240A be assigned to Tallassee, Ala. Tallassee (population 4,809), is located partly in Elmore County (population 33,535) and partly in Tallapoosa County (population 33,840). It has a daytime AM station licensed to the petitioner. Other broadcast stations in the two counties are located in Wetumpka, WETU(AM) (daytime), and Alexander City, WRFS (daytime), and WRFS-FM. Petitioner asserts that Channel 240A could be assigned to Tallassee in conformity with the Commission's minimum mileage separation rule and without affecting the FM Table of Assignments.

5. In support of its request, petitioner states that Tallassee is operated under the mayoral form of government with its own police and fire departments. The petitioner avers that the city has three elementary schools, two high schools and a public library, a community hospital, three banks with total assets in excess of $6,500,000, a Chamber of Commerce and a Junior Chamber of Commerce. It also states that the Lake Martin recreational area is located near Tallassee, that it is one of the largest manmade lakes in the world, and that it is a vacation spot. Petitioner asserts that in addition to providing the first local nighttime facility to Tallassee, the proposed FM assignment would provide a second local aural service at night to both Tallapoosa and Elmore Counties. In view of the foregoing, it appears that it would serve the public interest to consider the assignment of a Class A FM channel to Tallassee.

6. Since the distance between Tallassee and Union Springs is 28 miles, Channel 240A cannot be assigned to each of the two communities (required spacing is 65 miles). To resolve the conflict, we are proposing to assign Channel 240A to Tallassee and Channel 265A to Union Springs, provided that the transmitter site of a Union Springs station is located at least 4 miles southwest of the community in order to meet the spacing requirement with respect to Station WCJM at West Point, Ga., operating on Channel 265A.

7. In view of the foregoing and pursuant to authority found in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as follows:

City	Channel No.	
	Present	Proposed
Union Springs, Ala.		265A
Tallassee, Ala.		240A

8. Showings required. Comments are invited on the proposals set forth and discussed above. Proponents will be expected to answer whatever questions, if any, are raised in the notice and other questions that may be presented by the initial comments. The proponents are expected to file comments even if nothing more than to incorporate by reference their petitions, and are expected to state their intentions to apply for their respective channels, if assigned, and, if authorized, to promptly build the station. Failure to make this showing may result in the denial of the petition.

9. Cutoff procedure. As in other recent FM rule making proceedings, the following procedures will govern:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments.

(b) With respect to petitions for rule making which conflict with any of the proposals in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision herein.

10. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before December 22, 1972, and reply comments on or before January 2, 1973. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings.

11. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments, pleadings, briefs, or other documents shall be furnished the Commission.

12. All filings made in this proceeding will be available for examination by interested parties during regular business

hours in the Commission's Public Reference Room at its headquarters at 1919

the most likely supply was some 0.9 trillion cubic feet in 1971.[1]

the matters proposed herein. An original and 14 conformed copies should be filed

Notices

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hours in the Commission's Public Reference Room at its headquarters at 1919 M Street NW., Washington, DC.

Adopted: November 8, 1972.

Released: November 13, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-19714 Filed 11-15-72;8:50 am]

FEDERAL POWER COMMISSION

[18 CFR Part 2]

[Docket No. R-459]

NATURAL GAS PRESENTLY FLARED OR VENTED

Special Relief To Encourage Recovery

NOVEMBER 9, 1972.

1. Pursuant to 5 U.S.C. 551, et seq. and sections 4, 5, 7, 8, 15, and 16 of the Natural Gas Act (52 Stat. 822, 823, 824, 825, 829, 830; 56 Stat. 83, 48; 61 Stat. 459, 76 Stat. 72; 15 U.S.C. 717c, 717d, 717f, 717g, 717n, 717o), the Commission gives notice that it will consider adopting rules with respect to special pricing relief to encourage the recovery of natural gas, presently flared or vented, for sale in interstate commerce.

2. Producers at the present time may seek special relief with respect to existing producer sales for contractually authorized rate increases above the applicable area ceiling rate, Permian Basin Area Rate Proceeding, 34 F.P.C. 159 at 225 et seq. They may commence the sale of gas pursuant to the emergency provisions of Orders Nos. 402 and 402A (18 CFR 2.68; May 6, 1970, and June 3, 1970). They may seek either a limited term certificate with pregranted abandonment provision to Orders Nos. 431 and 431-A (18 CFR 2.70, April 15, 1971, and July 31, 1972), or a permanent certificate pursuant to the optional procedures provided in Orders Nos. 455 and 455-A (18 CFR 2.75, August 3, 1972, and September 8, 1972).

3. The Future Requirements Committee (FRC) estimates that the gap between the potential demand for gas and the most likely supply was some 0.9 trillion cubic feet in 1971.[1]

4. The volume of gas vented or flared in 1971 represents approximately one-third of the FRC estimate of supply-demand gap for 1972.[2]

5. Based on careful and comprehensive evaluation of all facts and information available, the Commission proposes to issue a rule providing that the forms of special relief previously mentioned are available to producers who undertake to recover natural gas, presently flared or vented, for sale in the interstate market.

6. We are hereby proposing to amend our General Rules of Practice and Procedure to insert § 2.77, Policy relating to special relief to encourage the recovery of natural gas presently flared or vented, for sale in interstate commerce, in Part 2, General Policy and Interpretations, Subchapter A, Chapter 1, Title 18 of the Code of Federal Regulations.

7. The new § 2.77 reads as follows:

§ 2.77 Policy relating to the availability of special relief to encourage the recovery of natural gas presently flared or vented for sale in interstate commerce.

To induce the recovery of natural gas, presently flared or vented, for sale in interstate commerce we propose that producers may apply for special relief from area rates or may seek to sell such gas pursuant to the provisions of Orders Nos. 418, 431, and 455, as amended.

8. In addition to the above, we solicit comment on any other methods which would encourage the recovery of gas presently flared or vented.

9. Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than December 26, 1972, views, comments, or suggestions in writing concerning all or part of the procedures proposed herein. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Washington, D.C. 20426, during regular business hours. The Commission will consider all such written submittals before action on the matters proposed herein. An original and 14 conformed copies should be filed with the Secretary of the Commission. Submittals to the Commission should indicate the name, title, mailing address, and telephone number of the person to whom communications concerning the proposal should be addressed and whether the person filing them requests a conference with the staff of the Federal Power Commission to discuss the matters involved herein. The staff, in its discretion, may grant or deny requests for conference.

10. The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

TABLE 1
NATURAL GAS VENTED AND FLARED[1] (MILLION CUBIC FEET AT 14.73 P.S.I.A.)

State	1969	1970	1971
Alabama			308
Alaska	32,543	34,808	33,880
Arizona			347
Arkansas	1,326	226	1,731
California	3,074	2,499	575
Colorado	1,326	7,126	2,843
Florida			355
Illinois	93	122	3,997
Indiana			
Kansas	2,666	2,713	2,669
Kentucky			
Louisiana	158,852	154,089	103,564
Maryland			
Michigan	808	809	
Mississippi	8,097	7,233	5,090
Missouri			
Montana	26,458	5,203	4,917
Nebraska			1,558
New Mexico	4,058	2,669	2,823
New York			
North Dakota	22,955	19,862	18,628
Ohio			
Oklahoma	130,766	129,629	39,799
Pennsylvania			
South Dakota			
Tennessee			408
Texas	111,490	100,305	70,222
Utah	2,892	2,852	2,926
Virginia			
West Virginia			
Wyoming	17,632	18,419	3,860
Other States[2]	795	656	
Total	525,750	489,460	300,503

[1] Partly estimated; includes direct losses on producing properties and residue blown to the air.
[2] Alabama, Arizona, Florida, Missouri, South Dakota, and Tennessee.
Source: Mineral Industry Surveys, Bureau of Mines.

[FR Doc.72-19608 Filed 11-15-72;8:45 am]

[1] Future Gas Requirements of the United States, Future Requirements Committee, Vol.——, No. 4, Oct. 1971, p. 3.
[2] See, Table 1 attached.

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Group 468]

ARIZONA

Notice of Filing of Plat of Survey and Order Providing for Opening of Public Lands

NOVEMBER 10, 1972.

1. Plat of survey of the lands described below will be officially filed in the Arizona State Office, Phoenix, Ariz., effective at 10 a.m. on December 15, 1972:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 34 N., R. 11 W.,
Sec. 1, lots 1, 2, 3, 4, S½N½, S½;
Sec. 2, lots 1, 2, 3, 4, S½N½, S½;
Sec. 3, lots 1, 2, 3, 4, S½N½, S½;
Sec. 4, lots 1, 2, 3, 4, S½N½, S½;
Sec. 5, lots 1, 2, 3, 4, S½N½, S½;
Sec. 6, lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, lots 1, 2, 3, 4, E½W½, E½;
Secs. 8, 9, 10, 11, 12, 13, 14, 15, 16, 17;
Sec. 18, lots 1, 2, 3, 4, E½W½, E½;
Sec. 19, lots 1, 2, 3, 4, E½W½, E½;
Secs. 20, 21, 22, 23, 24, 25, 26, 27, 28, 29;
Sec. 30, lots 1, 2, 3, 4, E½W½, E½;
Sec. 31, lots 1, 2, 3, 4, E½W½, E½;
Secs. 33, 34, 35, 36.

The area described aggregates 22,329.81 acres of public lands.

2. The area surveyed varies from gently rolling in the southern portion becoming progressively rougher and broken to the north. The soil varies from shallow clay loam to sandy clay loam. Scattered to dense cedar and piñon covers most of the township. Vegetation consists of sagebrush, cacti and grama grass.

3. All rights of the State of Arizona to sections 2, 16, and 36 have been conveyed to the United States.

4. The lands are classified for multiple-use management and will be opened only to such forms of disposition as are allowed under the provision of the multiple-use classification on the effective date of the filing of this plat.

5. The lands are closed to the operation of the mining laws but have been and still are subject to the mineral leasing laws. Inquiries concerning the lands should be addressed to the Arizona State Office, Bureau of Land Management, 3022 Federal Building, Phoenix, Ariz. 85025.

CHARLES G. BAZAN, Jr.,
Chief, Branch of Records and Data Management.

[FR Doc.72-19678 Filed 11-15-72;8:47 am]

CALIFORNIA

Notice of Filing of Plat of Survey

NOVEMBER 8, 1972.

1. A plat of survey of the lands described below accepted on July 20, 1972, will be officially filed in the California State Office, Bureau of Land Management, Sacramento, Calif., effective at 10 a.m. on December 20, 1972:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 33 N., R. 12 E.

A dependent resurvey of the north boundary and portions of the south and east boundaries and subdivisional lines and the survey of relicted lands along the east shore of Eagle Lake and survey of Tracts 37 through 42. The relicted lands are described as follows:
Sec. 19, lots 14, 15, and 16;
Sec. 30, lots 6, 7, and 9;
Sec. 31, lots 5, 6, 7, and 8.
Containing 59.05 acres not previously surveyed.

2. These surveys were executed to meet certain administrative needs of the Bureau. For the most part, the lands are mountainous in character suitable for grazing, wildlife, recreation, and timber production.

3. Subject to valid existing rights, the provisions of existing withdrawals and classifications, and the requirements of applicable law, the relicted lands listed above are hereby opened to such applications and petitions as may be permitted. All such valid applications received at or prior to 10 a.m. on December 20, 1972, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

4. Inquiries concerning the lands should be addressed to the California State Office, Bureau of Land Management, Federal Office Building, Room E-2841, 2800 Cottage Way, Sacramento, CA 95825.

ELEANOR K. WILKINSON,
Chief, Branch of Records and Data Management.

[FR Doc.72-19679 Filed 11-15-72;8:47 am]

Bureau of Mines

MINE WALL COATING (MIN-1943)

Notice of Availability of License for Invention

The Bureau of Mines of the U.S. Department of the Interior announces that the following invention is available for licensing pursuant to the Department's patent regulations, 43 CFR Part 6, Subpart B:

Mine Wall Coating (MIN-1943). A mine wall coating composition, for imparting increased strength, imperviousness, and fire resistance, is compounded from elemental sulfur, dicyclopentadiene, glass fiber, and talc. This composition is applied to mine walls by spraying a molten mixture of the composition.

Written inquiries should be addressed to:

Assistant Solicitor, Branch of Patents, U.S. Department of the Interior, Washington, DC. 20240.

G. A. MELVILLE,
Chief, Division of Procurement and Property Management.

[FR Doc.72-19695 Filed 11-15-72;8:48 am]

National Park Service

WESTERN REGIONAL ADVISORY COMMITTEE

Notice of Meeting

Notice is hereby given in accordance with Executive Order 11671 that a meeting of the Western Regional Advisory Committee of the National Park Service will be held between 9:30 a.m. and 4 p.m., on Tuesday, November 21, 1972. The meeting will be held in the National Park Service Conference Room, Room 14401, 450 Golden Gate Avenue, San Francisco, CA.

The Committee was established by the Secretary of the Interior pursuant to the authority contained in Public Law 91-383. The purpose of the Committee is to meet and consult with the Director, Western Region, National Park Service, on general policies and specific matters related to National Park Service activities in the western region. This region consists of the States of California, Nevada, Arizona, and Hawaii.

The members of the Committee are the following:

Ben F. Avery, Phoenix, Ariz.; David W. Baille, Jr., Lihue, Hawaii; Lewis S. Eaton, Fresno, Calif.; Frederick B. Eiseman, Jr., Scottsdale, Ariz.; Ed Fike, Las Vegas, Nev.; James R. Hooper, Crescent City, Calif.; Jack H. Walston, La Canada, Calif.; Todd Watkins, Bishop, Calif.; and C. Clifton Young, Reno, Nev.

This meeting is the first for the Committee, and will be devoted to organizational matters. There will be a general orientation, and consideration of matters relating to Committee procedures, including adoption of bylaws and election of officers.

Though space available for observation of the meeting is limited, members of the public will be accommodated on a first-come, first-served basis.

Further information may be obtained from the Office of the Director, Western

DEPARTMENT OF AGRICULTURE

of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as

for instruction in the basic principles of electron microscopy. Each of the foreign

Customs: July 12, 1972. Advice submitted by Department of Health, Edu-

Reasons: Each of the foreign articles provides a range of cutting speeds from

V37-222-NOV16-72 XUM

XUM

Further information may be obtained from the Office of the Director, Western Region, National Park Service, 450 Golden Gate Avenue, Box 36036, San Francisco, CA 94102 (area code 415, 556-4196).

STANLEY W. HULETT,
Associate Director,
National Park Service.

NOVEMBER 9, 1972.

[FR Doc 72-19737 Filed 11-15-72;8:51 am]

Office of Hearings and Appeals

[Docket No. M 73-1]

WASHINGTON IRRIGATION & DEVELOPMENT CO.

Notice Regarding Modification of Mandatory Safety Standard

In regard petition of Washington Irrigation and Development Co., for modification of Mandatory Safety Standard (30 CFR 77.1605(k)).

In accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. § 861(c) (1970)), notice is given that the Washington Irrigation and Development Co., has filed a petition to modify the application of 30 CFR 77.1605(k) to The Centralia Coal Mine.

30 CFR 77.1605(k) provides as follows:

(k) Berms or guards shall be provided on the outer bank of elevated roadways.

Petitioner asserts that the application of this standard to The Centralia Mine would create a greater hazard to its operators than that currently existing. Petitioner states that the main geological formation in the area is clay, which becomes very unstable when wet, and that berms along the haulage roads would retain water causing the road surface to deteriorate. Berms would prevent clearing the roads of mud which is now graded over the shoulder. The average rainfall is 47 inches. Berms holding mud and water on the roads would contribute to brake failures on haulage trucks. In addition, the berms required, 4- to 5-feet high, would flip over trucks striking them.

Parties interested in this petition should file their answers or comments within 30 days from the date of publication of this notice in the FEDERAL REGISTER with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 2800 Cottage Way, Room W-2426, Sacramento, CA 95825. Copies of the petition are available for inspection at that address.

JAMES M. DAY,
Director,
Office of Hearings and Appeals.

[FR Doc 72-19734 Filed 11-15-72;8:53 am]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

GEORGIA

Designation of Areas for Emergency Loans

It has been determined that property loss or damage or injury in certain counties in Georgia has resulted from natural disasters caused by prolonged drought from May until September 1972. Some counties had an unusually cold spring. The only general rainfall was during June from Hurricane Agnes which did additional damage to crops. The following counties of Georgia are affected by such natural disasters:

Baker.	Miller.
Baldwin.	Mitchell.
Effingham.	Montgomery
Emanuel	Screven.
Jefferson.	Telfair.
Jenkins.	Treutlen.
Johnson.	Washington.
Laurens.	Wheeler.

It has been further determined that in the above counties of Georgia a need for credit exists. Therefore, these counties are declared eligible for low-interest-rate disaster loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Laws 91-606 and 92-385. Applications for such loans must be received by this Department prior to July 1, 1973, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans.

The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 10th days of November, 1972.

EARL L. BUTZ,
Secretary.

[FR Doc.72-19701 Filed 11-15-72;8:48 am]

DEPARTMENT OF COMMERCE

Office of Import Programs

BROOKLYN COLLEGE AND MEDICAL COLLEGE OF GEORGIA

Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.). (See especially § 701.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, DC.

Docket No. 73-00009-99-46040. Applicant: Brooklyn College, Department of Biology, Bedford Avenue and Avenue "H," Brooklyn, NY 11210. Article: Electron microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in the courses: Biological electron microscopy (Biology U772G), and advanced study (Biology U791.1G, U792.2G), respectively, to familiarize graduate students with preparation of biological materials for electron microscopy and with operation of the electron microscope to examine such prepared material; and to study particle research problems as, for example, the development of chloroplasts in colorless Euglena. Application received by Commissioner of Customs: July 3, 1972. Advice submitted by Department of Health, Education, and Welfare on: October 27, 1972.

Docket No. 73-00017-33-46040. Applicant: Medical College of Georgia, Department of Anatomy, Augusta, Ga. 30902. Article: Electron miscroscope, Model EM 9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for various research projects. The principal research project will be a study of cultured liver cells treated with various carcinogenic agents. Other research projects will include studies of skin biopsies from patients with dermatological diseases as well as quantitative studies on the changes in zymogen granules in pancreatic cells in rats treated with pilocarpine. The article will also be used in the course designated Anatomy 814, Electron miscroscopy and cell ultrastructure for instruction in the techniques involved in preparing biological materials for electron microscopy and operation of the electron microscope. Application received by Commissioner of Customs: July 5, 1972. Advice submitted by Department of Health, Education, and Welfare on: October 27, 1972.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for such purposes as these articles are intended to be used, is being manufactured in the United States.

Reasons: Each applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. Each of the foreign articles to which the foregoing applications relate is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programing. The most closely comparable domestic instrument is the Model EMU-4C electron microscope which is a relatively complex instrument designed primarily for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare in its respectively cited memoranda, that the relative simplicity of design and ease of operation of the foreign articles described above are pertinent to the applicants' educational purposes. We, therefore, find that the Forgflo Model EMU-4C electron microscope is not of equivalent scientific value to any of the foreign articles described above for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-19703 Filed 11-15-72;8:49 am]

DEPARTMENT OF CHIEF MEDICAL EXAMINER-CORONER

Notice of Consolidated Decision on Applications for Duty-Free Entry of Ultramicrotomes

The following is a consolidated decision on applications for duty-free entry of ultramicrotomes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.). (See especially § 701.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 73-00019-33-46500. Applicant: Department of Chief Medical Examiner-Coroner, 104 North Mission Road, Los Angeles, CA 90033. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used in studies of biological, mainly human tissues, derived from actual coroner's cases, to determine at the fine structural levels the structural bases of transport of macromolecules into and across cells under physiological and pathological conditions. Application received by Commissioner of Customs: July 12, 1972. Advice submitted by Department of Health, Education, and Welfare on: October 27, 1972.

Docket No. 73-00021-33-46500. Applicant: Mayo Foundation, 200 First Street SW., Rochester, MN. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for the study of the fine structural alterations which occur in the early stages of experimental and human arteriosclerosis. As part of the education for advanced degrees in pathology, candidates for the master's and Ph. D. degrees will be taught to operate the article. Application received by Commissioner of Customs: July 12, 1972. Advice submitted by Department of Health, Education, and Welfare on: October 27, 1972.

Docket No. 73-00022-33-46500. Applicant: Dartmouth Medical School, Hanover, N.H. 03755. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used in investigations of biological materials, primarily normal and pathological tissues to shed further light on the cellular and subcellular derangements leading to the expression of developmental malformations in mammalian species, including man. The article will also be used for the instruction of medical and graduate students taking courses in microscopic anatomy, cytology, and experimental embryology. Application received by Commissioner of Customs: July 12, 1972. Advice submitted by Department of Health, Education, and Welfare on: October 27, 1972.

Docket No. 73-00024-33-46500. Applicant: Ambassador College, 300 West Green Street, Pasadena, CA 91105. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used in experiments conducted on cellular structures of healthy organ cells, various mesophile and thermophile flagella, normal and altered structures of DNA and its complexes to reveal the changes at the ultrastructural level of the cell due to controlled physiological and pathological conditions based on a normal nutritional standpoint. In addition, experiments will be conducted to study molecular structures of various biological polymers such as amylose and amylopectin in starch granules and studies on DNA, and flagella structures. The article will also be used as a teaching tool in a course on physical chemical techniques offered for advanced chemistry and biology students. Application received by Commissioner of Customs: July 12, 1972. Advice submitted by Department of Health, Education, and Welfare on: October 27, 1972.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, is being manufactured in the United States.

Reasons: Each of the foreign articles provides a range of cutting speeds from 0.1 to 20 millimeters per second. The most closely comparable domestic instrument is the Model MT-2B ultramicrotome which is manufactured by Ivan Sorvall, Inc. (Sorvall). The Model MT-2B has a range of cutting speeds from 0.09 to 3.2 millimeters per second. The conditions for obtaining high-quality sections that are uniform in thickness, depend to a large extent on the hardness, consistency, toughness, and other properties of the specimen materials, the properties of the embedding materials, and geometry of the block. In connection with a prior application (Docket No. 69-006665-33-46500), which relates to the duty-free entry of an article that is identical to those to which the foregoing applications relate, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle) is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with another prior application (Docket No. 70-00077-33-46500) which also relates to an article that is identical to those described above, HEW advises in its respectively cited of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that the "production of ultrathin serial sections of specimens that have a great variation in physical properties is very difficult." Accordingly, HEW advises in its respectively cited memoranda, that cutting speeds in excess of 4 millimeters per second are pertinent to the satisfactory sectioning of the specimen materials and the relevant embedding materials that will be used by the applicants in their respective experiments.

For these reasons, we find that the Sorvall Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-19704 Filed 11-15-72;8:49 am]

STANFORD UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of

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the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub-

tific article pursuant to section 6(c) of the Educational, Scientific, and Cultural

regulations issued thereunder as amended (37 F.R. 3892 et seq.).

his conclusions pursuant to the evaluation of a report received from the Na-

Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, a written appear-

(address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to pro-

the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00649-33-46040. Applicant: Stanford University, 820 Quarry Road, Palo Alto, CA 94304. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic Instruments, NVD, The Netherlands. Intended use of article: The article is intended to be used to elucidate the molecular structure of viruses, membranes, and complex protein and nucleic acid molecules in carrying out the following research projects:

(1) Studies of the synthesis of DNA,

(2) Studies of the structure of multiplication of viruses and the structure of their DNA,

(3) Investigation of the structure of chromosomes,

(4) Investigation of the mechanism of genetic recombination in viruses, and

(5) Studies of the structure of cell membranes.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated October 27, 1972 that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-19705 Filed 11-15-72;8:49 am]

UNIVERSITY OF PENNSYLVANIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00647-33-46040. Applicant: Stanford University, 820 Quarry Road, Palo Alto, CA 94304. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic Instruments, NVD, The Netherlands. Intended use of article: The article is intended to be used to elucidate the molecular structure of viruses, membranes, and complex protein and nucleic acid molecules in carrying out the following research projects:

(1) Studies of the synthesis of DNA,

(2) Studies of the structure of multiplication of viruses and the structure of their DNA,

(3) Investigation of the structure of chromosomes,

(4) Investigation of the mechanism of genetic recombination in viruses, and

(5) Studies of the structure of cell membranes.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated October 27, 1972 that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-19706 Filed 11-15-72;8:49 am]

UNIVERSITY OF WASHINGTON

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, DC.

Docket No. 72-00645-58-72500. Applicant: University of Washington, Department of Oceanography, Seattle, Wash. 98195. Article: Cartesian Diver Microrespirometer and accessories. Manufacturer: Ole Dich Instrumentmakers, Denmark. Intended use of the article: The article is intended to be used to measure respiration rates of very small marine organisms, some of them single-celled animals. Respiration rates of animals kept in culture and taken from the waters of Puget Sound will be measured. The article will also be used in Benthos Ecology to teach graduate students the various techniques in respirometry.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is an integrated system capable of measuring gas volume changes within the range of 0.001 —10 microliters with temperature regulation accurate to ±0.02° C. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated October 27, 1972, that the characteristics of the article described above are pertinent to the applicant's research studies. HEW further advises that it knows of no domestic system matching the pertinent features of the article.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-19707 Filed 11-15-72;8:49 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-526; NDA 13-217; DESI 9947]

A. H. ROBINS CO., INC.

Metaxalone Tablets; Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Application

In an announcement (DESI 9947), published in the FEDERAL REGISTER of February 6, 1970 (35 F.R. 2697), the Commissioner of Food and Drugs announced

his conclusions pursuant to the evaluation of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug:

Skelaxin Tablets containing metaxalone; A. H. Robins Co., Inc., 1407 Cummings Drive, Richmond, Va. 23220, (NDA 13-217).

The announcement stated that there is a lack of substantial evidence that this drug is effective for the initial phase of acute skeletal-muscle spasm related to sprains and strains, fractures, dislocations, and trauma to tendons and ligaments and that the Commissioner of Food and Drugs intended to initiate proceedings to withdraw approval of the new drug application. Interested persons were invited to submit any pertinent data bearing on the proposal within 30 days following publication of the announcement. No data providing substantial evidence of effectiveness have been received pursuant to the announcement.

Therefore, notice is given to the holder(s) of the new drug application(s) and to any other interested person that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the listed new drug application(s) and all amendments and supplements thereto on the grounds that new information before him with respect to the drug(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug(s) will have all the effects purported or represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application(s) reviewed. See 21 CFR 130.40 (37 F.R. 23185, October 31, 1972). Any manufacturer or distributor of such an identical, related, or similar product is an interested person who may in response to this notice submit data and information, request that the new drug application(s) not be withdrawn, request a hearing, and participate as a party in any hearing. Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD-300), 5600 Fishers Lane, Rockville, Md. 20852.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner hereby gives the applicant(s) and any other interested person an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER the applicant(s) and any other interested person is required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether or not to avail himself of the opportunity for a hearing. Failure of an applicant or any other interested person to file a written appearance of election within said 30 days will constitute an election by him not to avail himself of the opportunity for a hearing.

If no person elects to avail himself of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the application(s).

If an applicant or any other interested person elects to avail himself of the opportunity for a hearing, he must file, within 30 days after publication of this notice in the FEDERAL REGISTER, a written appearance requesting the hearing, giving the reasons why approval of the new drug application(s) should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data he is prepared to prove in support of his opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing (21 CFR 130.14(b)).

If review of the data submitted by an applicant or any other interested person warrants the conclusion that there exists substantial evidence demonstrating the effectiveness of the product(s) for the labeling claims involved, the Commissioner will rescind this notice of opportunity for hearing.

If review of the data in the application(s) and data submitted by the applicant(s) or any other interested person in a request for a hearing, together with the reasoning and factual analysis in a request for hearing, warrants the conclusions that no genuine and substantial issue of fact precludes the withdrawal of approval of the application(s), the Commissioner will enter an order of withdrawal making findings and conclusions on such data.

If, upon the request of the new drug applicant(s) or any other interested person, a hearing is justified, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence. All persons interested in identical, related, or similar products covered by the new drug application(s) will be afforded an opportunity to appear at the hearing, file briefs, present evidence, cross-examine witnesses, submit suggested findings of fact, and otherwise participate as a party. The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

Requests for a hearing and/or elections not to request a hearing may be seen in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-53, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: November 9, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-19660 Filed 11-15-72;8:45 am]

Office of the Secretary

HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 3 (Health Services and Mental Health Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (33 F.R. 15953, October 30, 1968), as amended, is hereby amended with regard to section 3-20, *Organization and Functions*, as follows:

Within the chapter alphabetically coded 3A-00—Office of the Administrator (3A00)—the functional statement for the Office of the Associate Administrator for Program Planning and Evaluation (3A31) is being amended to reflect the addition of the following functions:

(a) Oversees the Coordinating Committee for Health Data Systems, which exercises control over HSMHA statistical activities and makes recommendations to the Administrator for effectively responding to OMB and Secretary's requests; (b) provides economic expertise for all phases of HSMHA's health activities; and (c) operates the National Health Manpower Shortage Clearinghouse.

Functional statements for the three new staffs, Administrative Management Staff (3A3119), Planning Staff (3A3131), and Evaluation Staff (3A3133), are included.

Added to the present statement for the Office of the Assistant Administrator for Operations Analysis (3A3104) are the following functions:

(a) Directs and maintains the Administrator's Health data standardization program; (b) initiates, directs, and maintains the National Health Manpower Shortage Clearinghouse; (c) plans and coordinates HSMHA-wide programs for the development of the technological resources needed to improve the delivery of health care by identifying and evaluating technological and social changes as they impact on the health care system, by examining potential for increased automation and mechanization in public health programs and health care delivery, and by developing plans for and coordinating the implementation of improved techniques in technical resource utilization.

The paragraph entitled "Office of the Assistant Administrator for Resource De-

and outside HSMHA; (5) coordinates, and provides staff support for, the vari-

priorities and strategies; and (5) augments HSMHA's evaluation capabilities

the adoption of Administration goals necessary to fulfillment of its role; and

SECRETARY'S ADVISORY COMMITTEE ON POPULATION AFFAIRS

B. In the absence of the Assistant Secretary, the Deputy Assistant Secre-

XUM V37-1972-NOV16 XUM

The paragraph entitled "Office of the Assistant Administrator for Resource Development" (3A3106) is hereby deleted.

The changes indicated above result in deleting from chapter 3A-00 the paragraph coded 3A31, 3A3104, 3A3106, 3A3108 and replacing them with the following text:

Office of the Associate Administrator for Program Planning and Evaluation (3A31). Under the direction of the Associate Administrator for Program Planning and Evaluation who is a member of the Administrator's immediate staff: (1) Serves as the Administrator's principal staff arm for program planning, coordination, and evaluation, including the development of program alternatives and policy positions; (2) oversees planning, reporting, and analytical and evaluation functions in support of policy formulation and program implementation; (3) advises the Administrator and his immediate staff on program policy and operational implications arising from activities of the office; (4) collaborates with the Office of the Associate Administrator for Management in the development and implementation of the 5-year program and financial plan for HSMHA's program planning and budgeting system; (5) maintains liaison with other Federal and non-Federal health agencies; (6) coordinates and provides service to the Administrator's Office regarding HSMHA-wide programs of operations analysis (methods and applications), goal-oriented planning and program structure control, and related data management; (7) coordinates a continuing evaluation of HSMHA goals for improving health services to include analysis of trends and developments in this area and derivation of long-term projections for HSMHA activities; (8) plans and coordinates HSMHA-wide programs for the development of human and technological resources necessary to carry out the objectives and programs of HSMHA; (9) oversees the Coordinating Committee for Health Data Systems, which exercises control over HSMHA statistical activities and makes recommendations to the Administrator for effectively responding to requests from the Office of Management and Budget and from the Secretary; (10) provides economic expertise at all stages of HSMHA's health activities; (11) reviews and assesses HSMHA-wide ongoing programs dealing with health care of children; (12) operates the National Health Manpower Shortage Clearinghouse, and (13) assures program coordination and liaison in these areas between the Administrator and the operating program offices.

Immediate Office of the Associate Administrator for Program Planning and Evaluation (3A3101). (1) Administers the Office of Program Planning and Evaluation; (2) advises the Administrator on program planning and evaluation and related matters; (3) facilitates program coordination within HSMHA as well as between HSMHA programs and those administered elsewhere; (4) maintains program and staff liaison within and outside HSMHA; (5) coordinates, and provides staff support for, the various advisory groups within the Office of the Administrator; (6) plans and coordinates HSMHA-wide health manpower programs and the development of health manpower resources and directs the career development program in global community health; (7) monitors HSMHA's economic activities and functions in a liaison capacity with the Department in coordinating economic studies and analyses; (8) reviews and assesses HSMHA-wide ongoing programs dealing with health care of children and mothers and functions in a liaison capacity with the Department on these matters; and (9) directs the Administrator's health data standardization program.

Administrative management staff (3A3119). (1) Serves as principal adviser to the Associate Administrator for Program Planning and Evaluation in the development and implementation of administrative management plans, policies, and guidelines in support of the OPPE mission; (2) performs analyses of administrative resources of the Office of Program Planning and Evaluation to achieve maximum utilization; (3) assesses and identifies personnel management requirements and develops alternative actions for effective implementation; (4) provides technical guidance and information to key staff for budget formulation and execution; and (5) maintains close working relationships with the Office of the Associate Administrator for Management in the conduct of day-to-day administrative functions.

Planning staff (3A3131). (1) Develops and recommends administration program goals, objectives, and plans; (2) plans and directs studies to identify program needs and to develop innovative and alternative ways to achieve objectives; (3) develops general HSMHA planning strategy, and reviews, evaluates, and coordinates program plans in terms of effectiveness in achieving HSMHA's goals and for inclusion in the overall forward plan for departmental submission, (4) plans analyses of budgetary and other financial data to insure consistency with planning guidelines and to determine feasibility and efficacy of proposed programs; and (5) participates in developing and implementing the 5-year program and financial plan.

Evaluation staff (3A3133). (1) Facilitates development of an effective evaluation strategy; (2) coordinates evaluation activities with the Office of the Secretary and conceptualizes, implements, and coordinates HSMHA-wide evaluation strategy; (3) develops evaluation projects for OPPE, which include projects of a specific interest to the Administrator, projects that crosscut program lines, and projects involving HSMHA's interface with other inputs into the health care system; (4) provides advice and technical assistance to programs in developing their evaluation projects and strategies in relationship to HSMHA's priorities and strategies; and (5) augments HSMHA's evaluation capabilities with a training exchange program between HSMHA's personnel and university staff.

Office of the Assistant Administrator for Operations Analysis (3A3141). (1) Plans, develops, implements, and monitors the HSMHA operations analysis program, involving the coordinated application of scientific methods to the solution of planning, programing, and evaluation problems; (2) identifies for the Administrator the need for information and data for use in decisionmaking and administration of HSMHA programs; (3) directs and maintains the Administrator's health data standardization program; (4) fosters improved use of information and data, utilizing existing information sources or new information and data sources, and develops—in cooperation with the Office of Systems Management, other parts of the Office of the Administrator, the National Center for Health Statistics, or other HSMHA programs—such information and data sources required to encompass all HSMHA programs, related Federal activities, health services and resources, and health status; (5) initiates, directs, and maintains the National Health Manpower Shortage Clearinghouse; (6) plans and coordinates HSMHA-wide programs for the development of the technological resources needed to improve the delivery of health care by identifying and evaluating technological and social changes as they impact on the health care system, by examining potential for increased automation and mechanization in public health programs and health care delivery, and by developing plans for and coordinating the implementation of improved techniques in technical resource utilization; (7) directs priority projects in the data management area as requested by the Administrator; and (8) presents data and analyses for use in HSMHA decisionmaking at all organizational levels, Headquarters and field, in relationships with the Office of the Secretary, the Office of Management and Budget, other Federal agencies, the Congress, and State and local governments, and for use by the professional and general public in understanding and utilizing HSMHA program resources.

Office of the Assistant Administrator for Agency Goals (3A3145). Placing special emphasis upon direct participation by youth, directs a continuing evaluation and reevaluation of long-range objectives in terms of the health services needs and resources of the Nation; (1) Conducts long-range studies to identify national health services needs; (2) advises the Administrator on appropriate role of the Health Services and Mental Health Administration in meeting these needs, taking into account the proper functions and responsibilities of other Federal agencies, State and local governments, the views of medical and other student community organizations, and total available resources both public and private; (3) formulates and recommends

the adoption of Administration goals necessary to fulfillment of its role; and (4) continually evaluates the appropriateness of existing objectives and progress toward achieving broad goals.

Dated: October 30, 1972.

WAYNE M. WILSON,
Acting Deputy Assistant Secretary for Management.

[FR Doc.72-19692 Filed 11-15-72;8:48 am]

AD HOC INTERAGENCY COMMITTEE ON THIRD PARTY PREPAID PRESCRIPTION DRUG PROGRAMS

Notice of Public Meeting

Name. Ad Hoc Interagency Committee on Third Party Prepaid Prescription Drug Programs.

Purpose. The Committee will advise the Secretary concerning third party prepaid prescription drug programs and problems that arise in the areas of administration, reimbursement and antitrust. Problems as they now exist will be defined, and alternative solutions will be presented.

Date. November 21, 1972.

Time. 9:30 a.m. to 4 p.m.

Place. Georgetown Room, Key Bridge Marriott Hotel, Rosslyn, Va.

Agenda. Meeting will deal with a brief introduction into antitrust implications of Third Party Drug Insurance Programs. In addition, extended discussions regarding methods for determining reimbursement policy by drug insurers will be held.

This meeting will be open for public observation.

VINCENT R. GARDNER,
Staff Director,
Ad Hoc Interagency Committee.

NOVEMBER 8, 1972.

[FR Doc.72-19732 Filed 11-15-72;8:51 am]

ADVISORY COMMITTEE ON OLDER AMERICANS

Committee Meeting Announcement

The Advisory Committee on Older Americans was established by the Older Americans Act of 1965 for the purpose of advising the Secretary of Health, Education, and Welfare on matters bearing on his responsibilities under this Act and related activities of his Department.

The committee will hold a regular meeting on November 17, 9 a.m. to 4 p.m., HEW North Building, Room 4131, 330 Independence Avenue SW., Washington, DC. The committee will review final Congressional and Presidential actions on legislation affecting the elderly, consider a report on relationships between Government and voluntary aging sectors and develop recommendations for 1973 Federal legislation for older Americans. Meeting open to public observation.

CLEONICE TAVANI,
Staff Director.

NOVEMBER 9, 1972.

[FR Doc.72-19690 Filed 11-15-72;8:48 am]

SECRETARY'S ADVISORY COMMITTEE ON POPULATION AFFAIRS

Notice of Public Meeting

The Advisory Committee on Population Affairs, established to advise the Secretary regarding all significant aspects of family planning and population research activities coming under the purview of the Department of Health, Education, and Welfare, is scheduled to hold a meeting on November 21, 1972. The meeting will be held in the Department's North Building located at 330 Independence Avenue SW., Washington, DC, Room 5169. The meeting is scheduled to convene at 9 a.m. and adjourn at 5 p.m.

The Committee will discuss issues related to their first annual report to the Secretary on family planning and population research activities under the purview of the Department of Health, Education, and Welfare.

The meeting is open for public observation.

Dated: November 9, 1972.

LOUIS M. HELLMAN,
Chairman and Executive Secretary.

[FR Doc.72-19691 Filed 11-15-72;8:48 am]

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

Statement of Organization, Functions, and Delegations of Authority

In the statement of organization, functions, and delegations of authority of the Department, Chapter 2-110, entitled Office of Assistant Secretary for Health and Scientific Affairs (35 F.R. 1123 and 35 F.R. 3948) should be deleted and the following statement added:

SECTION 1N.00 MISSION.—The Assistant Secretary for Health is the principal advisor and assistant to the Secretary on health policy and all health-related activities in the Department. He is responsible for the direction of the health agencies of the Department, for providing leadership and policy guidance for health-related activities throughout the Department and for maintaining relationships with other governmental and private agencies concerned with health.

SEC. 1N.10 Organization.—A. Under the supervision of the Assistant Secretary, the Office of the Assistant Secretary for Health consists of the following principal operating components:

Deputy Assistant Secretary for Policy Implementation.
Deputy Assistant Secretary for Policy Development.
Deputy Assistant Secretary for Population Affairs.
The Surgeon General.
Special Assistant for Nursing Home Affairs.
Special Assistant for Science.
Special Assistant to the Secretary for Drug Abuse Activities.
Office of International Health.

B. In the absence of the Assistant Secretary, the Deputy Assistant Secretary for Policy Implementation functions as Acting Assistant Secretary.

SEC. 1N.20 Functions.—A. The Assistant Secretary for Health: (1) Directs the activities of the Public Health Service, which is composed of the Health Services and Mental Health Administration, the National Institutes of Health and the Food and Drug Administration; and (2) as the Secretary's principal advisor on health, provides leadership and guidance on all other health and health-related activities, including research and development, education and training, the organization, financing and delivery of health care services, and problems of public and environmental health. In addition, he is responsible for the direction of nursing home affairs throughout the Department directing coordination of drug abuse activities throughout the Department and providing the principal point of contact within the Department with the Special Action Office for Drug Abuse Prevention, and exercises specialized responsibilities in the areas of population affairs, international health and in the transportation and disposition of certain hazardous materials. He coordinates the health and health-related functions of the Department with those of other Federal agencies and provides advice and assistance on health matters to such agencies as requested.

B. The principal components of the Office of the Assistant Secretary for Health, operating under the general direction and supervision of the Assistant Secretary, have the following functions and responsibilities:

Deputy Assistant Secretary for Policy Implementation. Resolves, and advises on, day-to-day operating problems and is responsible for insuring that established health policy and objectives are effectively carried out through the budget, planning, and legislative processes and through program operations. Makes recommendations to the Assistant Secretary on budget, organizational, and management policies and problems.

Deputy Assistant Secretary for Policy Development. Advises on and conducts policy analysis and development and health policy planning; provides guidance for such activities within the health agencies and with respect to health and health-related issues throughout the Department. Coordinates health data activities, and assists in the evaluation of health and health-related programs. Maintains liasion with other public and nongovernmental health policy analysis and planning activities.

Deputy Assistant Secretary for Population Affairs. Advises on programs of national importance in the fields of population dynamics, fertility, sterility, and family planning. Directs population and family planning activities within the three health agencies of the Department.

Surgeon General. Advises and assists on professional medical matters, especially as they relate to personal, public,

and environmental health (including the transportation and disposition of certain hazardous materials), both nationally

struction Permit No. CPPR-71 and the proposed issuance of an operating license to the Power Authority of the

Notice is hereby given that a prehearing conference in the above entitled proceeding, previously scheduled for Octo-

(6) Availability of Electric Power Sources.

(7) Physical Independence of Safety

Please take further notice, that pursuant to the Prehearing Conference Order issued October 31, 1972, in this proceeding and in accordance to

On September 25, 1972, the Board, pursuant to Part 213 of the Board's Economic Regulations, adopted Order 72-10-19 disapproving certain of the sched-

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and environmental health (including the transportation and disposition of certain hazardous materials), both nationally and internationally. As the ranking officer of the Public Health Service Commissioned Corps, the Surgeon General functions as principal advisor on top Corps appointments and policies.

Special Assistant for Nursing Home Affairs. Serves as the departmental focal point for managing nursing home affairs. Directs and coordinates nursing home activities in both the health and nonhealth agencies.

Special Assistant for Science. Advises on matters pertaining to biomedical research and research training, drug research and development, environmental science, and related scientific problems. Serves as a focal point for liaison on matters of science with other Federal departments and agencies and with nongovernmental organizations.

Special Assistant to the Secretary for Drug Abuse. Serves as the principal departmental contact with the Special Action Office for Drug Abuse Prevention, receiving, referring and following-up on all major SAODAP requests, coordinates all intra-DHEW staff work on major drug abuse issues, leads and coordinates negotiation of all major policy issues with SAODAP, monitors the implementation of drug abuse legislation and progress toward achievement of defined objectives of drug abuse programs. With the Assistant Secretary for Health, brings directly to the attention of the Secretary major issues requiring Secretarial decision.

Office of International Health. Provides assistance and guidance on, and coordinates, the international health activities of the Department. Prepares analyses of selected international health policies and programs for the Department of State, maintains liaison with international institutions and organzations and other departments and agencies on international health matters and arranges international technical assistance in the health field at the request of other departments and agencies.

Date: November 9, 1972.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc.72-19719 Filed 11-15-72;8:50 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-333]

POWER AUTHORITY OF THE STATE OF NEW YORK

Availability of AEC Draft Environmental Statement, Applicant's Environmental Report, and Supplemental Environmental Reports

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in appendix D to 10 CFR Part 50, notice is hereby given that a draft environmental statement related to the continuation, modification, or termination of Construction Permit No. CPPR-71 and the proposed issuance of an operating license to the Power Authority of the State of New York for the James A. FitzPatrick Nuclear Power Plant, to be located in Oswego County, N.Y., has been prepared by the Commission's Directorate of Licensing. The draft statement is available for inspection by the public in the Commission's public document room at 1717 H Street NW., Washington, DC, and in the Oswego City Library, 120 East Second Street, Oswego, NY 13126. The draft statement is also being made available at the New York State Office of Planning Coordination, 488 Broadway, Albany, NY 12207 and at the Central New York Regional Planning and Development Board, 321 East Water Street, Syracuse, NY 13202. Copies of the Commission's draft environmental statement may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

An environmental report and supplements thereto (environmental reports) submitted by the Power Authority of the State of New York are also available for public inspection at the above-designated locations. Notice of availability of the environmental reports was published in the FEDERAL REGISTER on January 18, 1972 (37 F.R. 747).

Pursuant to 10 CFR Part 50, Appendix D, interested persons may, within forty-five (45) days from date of publication of this notice in the FEDERAL REGISTER, submit comments on the proposed action, the environmental reports, and the draft environmental statement for the Commission's consideration. Federal and State agencies are being provided with copies of the environmental reports and the draft environmental statement (local agencies may obtain these documents upon request) and, when any comments thereon by Federal, State, and local officials are received, they will be made available for public inspection at the above-designated locations. Comments on the draft environmental statement from interested members of the public should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 10th day of November 1972.

For the Atomic Energy Commission.

DANIEL R. MULLER,
Assistant Director for Environmental Projects, Directorate of Licensing.

[FR Doc. 72-19604 Filed 11-15-72;8:45 am]

[Docket No. 50-16]

POWER REACTOR DEVELOPMENT CO.

Notice of Rescheduled Prehearing Conference

NOVEMBER 14, 1972

In the matter of Power Reactor Development Co. (Enrico Fermi Atomic Power Plant No. 1).

Notice is hereby given that a prehearing conference in the above entitled proceeding, previously scheduled for October 31, 1972 and subsequently postponed (37 F.R. 23198), will now be held at 10 a.m. on Monday, November 20, 1972 in room 111 of the Lafayette Building, 811 Vermont Avenue NW., Washington, DC.

It is so ordered.

Issued at Washington, D.C., this 14th day of November 1972.

For the Atomic Safety and Licensing Board.

CHARLES A. HASKINS,
Chairman.

[FR Doc.72-19831 Filed 11-15-72;8:53 am]

SAFETY GUIDES

Notice of Issuance and Availability

The Atomic Energy Commission has issued a new safety guide which has been developed to provide guidance on acceptable methods of implementing the requirements of Commission regulations relating to water-cooled nuclear powerplants.

A total of 33 of these guides has been completed since the Commission, on November 13, 1970, announced development of a series of these guides.

The primary purpose of the safety guides is to make available to the industry positions that have been developed by the Regulatory Staff and the Commission's Advisory Committee on Reactor Safeguards on safety issues. Although the safety guides are not regulatory requirements, they do specifically identify safety issues that should be considered in the design and in the evaluation of water-cooled nuclear powerplants and describe a set of principles and specifications which will represent an acceptable solution to the Regulatory Staff and Advisory Committee on Reactor Safeguards on these issues. Their use by an applicant will expedite the licensing review process.

Title of the new guide is:

Safety Guide No. 33—Quality Assurance Program Requirements (Operation)

Comments and suggestions in connection with improvements in the guide are encouraged and should be sent to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff. Requests for copies of issued guides should be sent to the Director of Regulatory Standards, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Other safety guides currently being developed include the following:

(1) Control of Electroslag Welding.

(2) Design Phase Quality Assurance Requirements.

(3) Cleaning of Fluid Systems and Associated Components of Nuclear Powerplants.

(4) Monitoring and Reporting of Environmental Levels.

(5) Diesel Generator Protective Interlocks.

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(6) Availability of Electric Power Sources.

(7) Physical Independence of Safety Related Electric Systems.

(8) Operating Status Indication for Safety Related Systems.

(9) Postaccident and Incident Monitoring.

(10) Flood Design Bases.

(11) Inservice Surveillance of Ungrouted Prestressing Tendons.

(12) Design Loading Combinations for Fluid System Components.

(13) Isolating Low-Pressure Systems Connected to the Reactor Coolant Pressure Boundary and That Penetrate Primary Reactor Containment.

(14) Stainless Steel Overlay Welding.

(15) Preoperational Testing of Redundant Onsite Power Sources to Verify Design Independence.

(16) Quality Assurance Requirements for Packaging, Shipping, Receiving, Storage, and Handling of Items for Nuclear Powerplants.

(17) Housekeeping Requirements for Nuclear Powerplants.

(18) Requirements for Collection, Storage, and Maintenance of Quality Assurance Records for Nuclear Powerplants.

(19) Reactor Coolant Pressure Boundary Leakage Detection.

(20) Design Loading Combination for Primary Metal Containment Systems.

(21) Control of Lifting Equipment at Nuclear Powerplant Sites.

(22) Control of the Use of Sensitized Stainless Steel.

(23) Qualification Tests of Continuous-Duty Motors Installed Inside Containment of Nuclear Powerplants.

(24) Protection Against Pipe Whip Inside Containment.

(25) Control Rod Ejection Accident Assumptions for Pressurized Water Reactors.

(26) Shared Emergency and Shutdown Power Systems at Multiunit Sites.

(27) Protective Coatings for Nuclear Reactor Containment Facilities.

(28) Nonmetallic Thermal Insulation for Austenitic Stainless Steel.

(29) Reactor Vessel Closure Studs.

(5 U.S.C. 552(a))

Dated at Bethesda, Md., this 8th day of November 1972.

For the Atomic Energy Commission.

LESTER ROGERS,
Director of Regulatory Standards.

[FR Doc.72-19666 Filed 11-15-72;8:46 am]

[Dockets Nos. 50-361, 50-362]

SOUTHERN CALIFORNIA EDISON CO. AND SAN DIEGO GAS & ELECTRIC CO.

Further Notice and Order for Prehearing Conference

In the matter of Southern California Edison Co., San Diego Gas & Electric Co. (San Onofre Nuclear Generating Station, Units 2 and 3).

Please take further notice, that pursuant to the Prehearing Conference Order issued October 31, 1972, in this proceeding, and in accordance to § 2.752 of the rules of practice of the Atomic Energy Commission, and upon consideration of a motion to change the situs of prehearing conference, filed by Scenic Shoreline Preservation Conference, Inc., and Groups United Against Radiation Dangers, the proposed consolidated Intervenors, the further prehearing conference will be held in this proceeding on Tuesday, November 28, 1972, at 10 a.m., Room 520, U.S. Courthouse, 312 North Spring Street, Los Angeles, CA.

This further prehearing conference will consider:

(1) Further oral argument on the amended and consolidated Petition for Leave to Intervene filed by the proposed consolidated Intervenors, and consider amendments thereto;

(2) Simplification, clarification, and specification of the issues;

(3) The necessity or desirability of amending the pleadings;

(4) The obtaining of stipulations and admissions of fact and of the contents and authenticity of documents to avoid unnecessary proof;

(5) Identification of witnesses and the limitation of the number of expert witnesses, and other steps to expedite the presentation of evidence;

(6) The setting of a hearing schedule;

(7) Those matters included in paragraph J1 and J2 of the Prehearing Conference Order issued herein on October 31, 1972; and

(8) Such other matters as may aid in the orderly disposition of the proceeding.

Each party shall be represented at this prehearing conference by the attorney who expects to present the evidence at the formal hearing, except that, for good cause, parties may be represented by an attorney associated with the attorney who expects to appear at formal hearing. The attorneys who will appear at this prehearing conference are directed to be prepared to discuss the above-enumerated matters.

This Further Notice and Order for Prehearing Conference supersedes the Atomic Safety and Licensing Board's Notice and Order for Prehearing Conference issued in this proceeding on November 7, 1972.

By Order of the Atomic Safety and Licensing Board.

MICHAEL L. GLASER,
Chairman.

[FR Doc.72-19697 Filed 11-15-72;8:48 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24248; Order 72-11-39]

AEROLINEAS ARGENTINAS

Order Regarding Schedules

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 10th day of November 1972.

On September 25, 1972, the Board, pursuant to Part 213 of the Board's Economic Regulations, adopted Order 72-10-19 disapproving certain of the schedules filed by Aerolineas Argentinas on March 2, 1972, and amended on April 10, 1972. The order stated that the Board would consider an application for approval of a proposed schedule pursuant to section 213.3(e) of the Board's Economic Regulations to enable Aerolineas Argentinas to provide turnaround service at Miami by changing the day of operation of existing Flights 390 and 361. On October 30, 1972, Aerolineas filed an application with the Board requesting reinstatement of its entire existing schedule, or alternatively, approval of a proposed schedule. The Board will grant Aerolineas' application only to the extent that it relates to the change of the day of operation of Flights 390 and 361.

The carrier asserts that the Board's order disapproving certain of Aerolineas' schedules is invalid because the order was not "approved" by the President of the United States in accordance with his letter of February 20, 1969, in Docket 18769 (Order 69-2-112). However, subsequent to the issuance of the President's letter in that case, the President on June 3, 1970, approved the Board's enactment of Part 213 of the Economic Regulations amending the permits of certain foreign air carriers, including the permit of Aerolineas Argentinas, enabling the Board to disapprove schedules of foreign air carriers subject only to Presidential "disapproval" (Foreign Air Carrier Permit Terms Investigation, Docket 12063, ER-624, effective June 4, 1970). We have also considered and find unpersuasive the additional arguments advanced by the Argentine carrier in support of withdrawal or modification of our order disapproving certain of the carrier's schedules. Except where disapproved by Order 72-10-19 and approved by the instant order, Aerolineas' schedules, as filed with the Board on March 2, 1972, and amended on April 10, 1972, are authorized.

Accordingly, it is ordered, That:

1. Effective November 13, 1972, Aerolineas Argentinas shall be authorized to operate Flight 390 on Friday and Flight 361 (without Lima as an intermediate stop) on Saturday.

2. Except to the extent granted herein, Aerolineas' application is denied.

3. This order shall remain in effect until December 31, 1972, unless otherwise ordered by the Board.

4. This order shall be served on Aerolineas Argentinas and the Ambassador of Argentina in Washington, D.C.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-19740 Filed 11-15-72;8:53 am]

[Docket No. 22012; Order 72-11-34]

FRONTIER AIRLINES, INC.

point.' See also, Orders 72-1-93 and 70-10-21.

We have also examined the facts pre-

interest to require Air Midwest to undergo a certification proceeding in order to provide replacement services for Frontier

Kans., on the other hand; and two daily round trips between Great Bend and Hutchinson, Kans., on the one hand, and Denver,

[Docket No. 24909; Order 72-11-30]

DELTA AIR LINES, INC.

tivity of lounge aircraft is compared with the productivity of aircraft without lounges, it is clear that the unit costs

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[Docket No. 22012; Order 72-11-34]

FRONTIER AIRLINES, INC.

Order To Show Cause Regarding Application for Temporary Suspension Authority at Great Bend and Hutchinson, Kans.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 10th day of November 1972.

By application filed on June 12, 1972, Frontier Airlines, Inc. (Frontier), requests that the Board renew for a 2-year period Frontier's temporary suspension at Great Bend and Hutchinson, Kans., authorized by Order 70-8-31, August 10, 1970.[1] Frontier's suspension authority was conditioned upon the provision by Air Midwest, Inc. (Air Midwest), an air taxi operator, of a specified minimum level of service.[2]

In support of its renewal request Frontier asserts, inter alia, that it has been suspended at Great Bend and Hutchinson for almost 2 years and that it would be a financial burden for it to reinstitute service at this time, especially in light of the continued level of traffic boardings at the two cities since Frontier was suspended.

Air Midwest filed an answer in support of Frontier's application.[3]

Upon consideration of the pleadings and all of the relevant facts, we have decided to issue an order to show cause proposing to authorize Frontier to suspend service at Great Bend and Hutchinson, Kans., until August 10, 1974, conditioned upon the provision of replacement services by Air Midwest. For the same reasons we stated in Order 70-8-31, we are of the view that the suspension/replacement arrangement at Great Bend and Hutchinson is in the public interest from an overall transportation standpoint.[4] See also, Orders 72-1-93 and 70-10-21.

We have also examined the facts presented by Frontier's application in light of the A.L.P.A. v. C.A.B.[5] case wherein the Court indicated that the Board should consider whether the statutory conditions set out in section 416 of the Act for exemptions from certification still apply to the air taxi replacement operator. We tentatively find that, with respect to Air Midwest, the statutory conditions for exemption from certification for air taxi operations continue to exist.

Air Midwest, which provides the commuter replacement service at Hutchinson and Great Bend, has conducted air taxi operations since 1967, and now provides short-haul commuter air service to eight cities in addition to Great Bend and Hutchinson.[6]

In providing replacement service at the two cities in issue, Air Midwest carried 2,989 Great Bend-Denver passengers, 1,677 Great Bend-Wichita passengers, 2,474 Great Bend-Kansas City passengers, 1,249 Hutchinson-Denver passengers, 664 Hutchinson-Wichita passengers, and 3,322 Hutchinson-Kansas City passengers, in 1971. Systemwide, the carrier provided scheduled service for 32,881 passengers in 36 short-haul markets.[7] The carrier's total RPM's in that year amounted to only 0.9 percent of the average RPM's for each of the certificated local service carriers.

Air Midwest currently provides the following services to Hutchinson and Great Bend utilizing Beech-99 aircraft:

Markets:	Round-trip frequencies
Great Bend-Hutchinson	4
Great Bend Hutchinson-Wichita	4
Great Bend Hutchinson-Kansas City	3
Great Bend Hutchinson-Denver	2
Great Bend Hutchinson-Dodge City	2
Great Bend Hutchinson-Garden City	2
Great Bend Hutchinson-Hays	2
Great Bend Hutchinson-Salina	1½

In addition, the carrier maintains aircraft liability insurance required by the Board under Part 298 of the Board's Economic Regulations.

On the basis of the foregoing, and on the basis of the findings and conclusions set forth in Order 72-9-39, September 12, 1972, that the certification process is generally inappropriate for replacement commuter carriers, we tentatively conclude that it would not be in the public interest to require Air Midwest to undergo a certification proceeding in order to provide replacement services for Frontier at Great Bend and Hutchinson. Air Midwest's replacement services are neither of sufficient magnitude nor hold such prospects of economic success as to warrant separate certification.

We further tentatively find that certification would be an undue burden on Air Midwest by reason of the limited extent of, and unusual circumstances affecting, its operations. As described above, the carrier's operations are of limited extent in terms of both the replacement services involved and the overall scope of its operations. Furthermore, the very nature of the small aircraft to which Air Midwest is restricted makes the operations limited in extent. The accommodations on these aircraft not only limit the competitive capabilities of Air Midwest but also limit the amount of traffic it can carry and the length of the markets it can serve, compared with a certificated carrier operating large aircraft. Thus, the cost of certification procedures would impose a severe financial burden on the carrier wholly disproportionate to its existing and proposed operations. Moreover, enforcement of section 401 requirements would be an undue burden not only because of the substantial cost of certification procedures, but also because certification would deprive Air Midwest of the necessary operating flexibility it must have to conduct nonsubsidized services with small aircraft in short-haul, low-density markets.

We are also satisfied that there are no safety considerations which would warrant a determination that the substitution arrangement is contrary to the public interest.[8] Not only must Air Midwest conduct its operations in strict conformity with the Federal Aviation Regulations promulgated by the Secretary of Transportation, who is charged by law with insuring the highest degree of safety in air transportation, but Air Midwest has had a successful operating history.

Consequently, for the reasons set forth above, we tentatively find and conclude that Frontier Airlines, Inc., should be authorized to suspend service temporarily at Great Bend and Hutchinson, Kans., until Aug. 10, 1974, subject to the condition that such suspension shall immediately terminate if at any time during the suspension period the air taxi service to Great Bend and/or Hutchinson should for any reason cease or fall below the levels of service described below:

Three daily round trips between Great Bend and Hutchinson, Kans., on the one hand, and Kansas City, Mo., and Wichita, Kans., on the other hand; and two daily round trips between Great Bend and Hutchinson, Kans., on the one hand, and Denver, Colo., on the other hand (except one round trip between Great Bend and Hutchinson, on the one hand, and Denver, Kansas City, or Wichita, on the other hand, on Saturday, Sunday, and holidays).

Interested persons will be given 21 days following the service date of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to direct their objections, if any, to the specific facts in issue, and to support such objections with detailed economic or legal analysis.

Accordingly, it is ordered, That:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein, and granting the requested suspension;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and suspension authorization set forth herein shall within 21 days after service of a copy of this order, file with the Board and serve upon all persons listed in Appendix A attached hereto, a statement of objections together with such statistical data, and other materials and evidence relied upon to support the stated objections, answers to such objections shall be filed within 14 days, thereafter;

3. Any interested persons requesting an evidentiary hearing shall state in detail why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing. General, vague, or unsupported objections will not be entertained;

4. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board;

5. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action;

6. The motion for an evidentiary hearing of the Air Line Pilots Association in Docket 22012 be and it hereby is denied; and

7. A copy of this order shall be served upon all persons listed in Appendix A attached hereto.[1]

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-19741 Filed 11-15-72;8:53 am]

[1] Filed as part of the original.

[1] Frontier invoked the automatic extension provisions of 5 U.S.C. 558(c), formerly section 9(b) of the Administrative Procedure Act, and, consequently, the suspension authority remains in effect pending final decision by the Board.

[2] Order 70-8-31 specified the following minimum levels of service: Three daily round trips between Great Bend/Hutchinson and Denver, Kansas City, and Wichita. By Order 70-10-21, the Board approved a reduction in the minimum level of replacement service, permitting Air Midwest to provide only one round trip to Great Bend and Hutchinson on weekends and holidays. Order 72-1-93 further modified the suspension order so as to permit the replacement carrier to provide two, rather than three daily round trips between Great Bend and Hutchinson, on the one hand, and Denver, on the other hand.

[3] On Mar. 24, 1972, the Air Line Pilots Association, International, filed a motion in this docket, as well as in a number of other dockets, involving suspension/replacement arrangements, requesting that the matters be set down for evidentiary hearing. Frontier filed an answer opposing ALPA's motion. For the reasons stated herein and in Order 72-9-39, September 12, 1972, regarding the necessity of a hearing, we shall deny ALPA's request for an evidentiary hearing.

[4] Specifically, we found that suspension would reduce Frontier's subsidy need, and that neither Air Midwest's replacement service nor Frontier's suspension would result in any significant inconvenience to the traveling public.

[5] Air Line Pilots Association, International v. C.A.B., 458 F. 2d 848 (C.A.D.C. 1972).

[6] Denver, Dodge City, Garden City, Hays, Kansas City, Mo., Pueblo, Salina, Wichita.

[7] The traffic statistics submitted by commuter carriers are confidential for a period of 1 year. Accordingly, pursuant to sec. 298.66 of the Board's Economic Regulations, the Board, on its own motion, finds that it is in the public interest to disclose this information.

[8] We have informally checked with the FAA and they report that Air Midwest has excellent operations with good management, maintenance, and training and has had no safety or maintenance violations of FAA regulations during the last 12 months, with the exception of a $100 civil fine for operating a flight on Sept. 17, 1971, without the proper equipment.

[Docket No. 24909; Order 72-11-30]

DELTA AIR LINES, INC.

Order of Investigation and Suspension Regarding Reduced Coach Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 10th day of November 1972.

By tariff revisions[1] marked to become effective November 11, 1972, Delta Air Lines, Inc. (Delta) proposes to reduce by approximately 15 percent its day-coach fares in the Dallas-Los Angeles/San Francisco markets. The reduced fares are to apply on aircraft providing a seat pitch not to exceed 36 inches, with no lounge accommodations. The proposed fares may not be used to construct through fares or be combined with other fares, and do not apply to intermediate points. The proposed reductions would result in a fare of $74.07 (currently $87.04) between Dallas and Los Angeles and $86.11 for San Francisco (currently $100.93), and all the fares are marked to expire on March 31, 1973.

American Airlines, Inc. (American), and Continental Air Lines, Inc. (Continental), have filed defensive tariffs. However, in the latter case the filing goes beyond Delta's proposal. While American restricts the application of its reduced fares to loungeless aircraft, and to aircraft that do not have a seat pitch in excess of 36 inches, Continental's reduced fares would not be restricted in any way as to the cabin configuration and aircraft type to which they would apply.

In support of its proposal, Delta alleges that it is based on the same concept as its earlier proposal which was rejected by the Board,[2] that is, to meet the alleged adverse competitive impact of American's wide-bodied coach lounge. Delta alleges that the current justification has been meticulously designed to meet every deficiency which the Board found in the earlier proposal. The carrier alleges that the time is appropriate insofar as it has been 4 months since the Board decided Phase 6A,[3] that the Board has not yet acted on pending petitions for reconsideration, and that nearly 3 months have passed since Order 72-7-97 was issued. Furthermore, Delta contends that as soon as its earlier proposal had been rejected, American resumed its advertising campaign exploiting its competitive advantage over Delta in these two markets.

In support of its proposal, Delta alleges, inter alia, that when the productivity of lounge aircraft is compared with the productivity of aircraft without lounges, it is clear that the unit costs are automatically and materially higher on lounge equipment than on nonlounge equipment; and that the profit potential of the wide-bodied jet aircraft is reduced some 12 to 14 percent when configured with the uneconomic coach lounge. Delta estimates that the aggregate effect of the proposed fares upon Delta will be additional passenger revenues of approximately $1.6 million, constituting a recapture of at least some of the revenues Delta allegedly lost to American because of the latter's introduction of coach lounge services.

Delta further states that, in rejecting its earlier tariff filing, the Board said that Delta should compare total numbers of revenue passengers on comparably timed flights as a further showing of impact. Delta alleges, however, that such a comparison cannot be made by a loungeless operator; that the Board itself is in a position to make such a comparison internally by analyzing the segment-flow data which is reported to the Board by type of service, by flight, and by equipment type in these markets by both Delta and American; and that these data are not normally released to the carriers for 1 year by the Board.

American and Continental have filed complaints against the proposal requesting that it be suspended. The complainants allege that Delta has failed to establish that it has suffered "adverse economic impact" or has actually lost traffic as a result of American's lounge; that Delta's cost and revenue comparison between loungeless and lounge-equipped aircraft is meaningless as Delta's estimates were calculated on an available seat-mile basis which is valid only when aircraft are operated close to full capacity; and that this is not the proper forum for determining the Board's decision in Phase 6A.

American also alleges that Delta has failed to establish that Delta's proposed lower coach fares are reasonably related to cost; that Delta admits that the existing coach fare is the fare that is reasonably related to cost; that during the first 8 months of 1972, Delta has maintained a larger share of on-board passengers than American; and that advertising, per se, does not establish a case for competitive advantage without considering other factors such as frequency of service, identity in the markets, and service features.

Continental asserts that Delta has omitted any analysis of total schedules and their impact on market share; that out of a total of 27 one-way nonstop frequencies, there are only five wide-bodied departures, three of which are operated by Delta; that none of the wide-bodied jets compete head-to-head; and that American has an overwhelming edge

[1] Revisions to Airline Tariff Publishers, Inc., Agent, Tariff CAB No. 136.

[2] By Order 72-7-97, dated July 28, 1972, the Board rejected a similar tariff proposal by Delta due to the lack of adequate justification.

[3] Order 72-5-101.

with substantially greater identity at all three terminals.

In answer to the complaints,[1] Delta

ER-586[2] does not reveal a trend which supports Delta's claim of adverse competitive impact. During the time Amer-

determine and prescribe the lawful fares and provisions, and rules, regulations, or practices affecting such fares and

"Amendment Requirements for Pending Cable Television Applications and Pleadings," FCC 72-825, — FCC 2d —. In that

cants requesting immediate processing has been commenced. Such processing will proceed on an individual basis, apart

ion and Order issued in Docket No. 16495 on September 14, 1972 (FCC 72-807), the Commission has received some in-

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with substantially greater identity at all three terminals.

In answer to the complaints,[4] Delta alleges that its proposal is not premature, but long overdue; that Delta has demonstrated to the fullest extent possible the "adverse competitive impact" of American's lounges; that its justification meets every issue raised by American and Continental; and that neither complainant has shown the proposed 15-percent differential to be incorrect.

The Airline Passenger Association has filed an answer to American's complaint urging its dismissal and that the Board permit Delta's reduced fares to become effective.

Upon consideration of the tariff proposals, the complaints and answers thereto, and all other relevant matters the Board finds that the proposals may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the proposals should be suspended pending investigation.

In our view, neither Delta's justification nor data otherwise available to the Board demonstrate that American's wide-bodied lounges have had a significant adverse competitive impact on Delta's operations in the Dallas-west coast markets. To begin with, the Board in Phase 6A (Seating Configurations) of the "Domestic Passenger-Fare Investigation," Order 72-5-101, determined on the basis of the then available facts of record that any adverse impact on non-lounge operators by competing carriers operating and promoting coach lounges had not been demonstrated. Any carrier seeking to take advantage of the protective measures discussed in that decision has the initial burden of showing that the negative finding of Order 72-5-101 is no longer correct, as applied to a particular market or markets.

Here, Delta alleges that American's vigorous advertising of the coach lounge must be said to suggest that American itself is of the opinion that the coach lounge is a major passenger preference factor, and hence has a substantial adverse competitive impact, else American would not spend so much of its resources on advertising the lounge. While this may be an arguable point, particularly from the standpoint of American's promoting its system operations, it does not show or enable the Board to identify the degree of impact, if any, in the particular markets here involved. The same can be said of Delta's reference to a survey taken by Continental for use in the "Domestic Passenger-Fare Investigation," Docket 21866-6A, which indicates that a substantial portion of the respondents surveyed considered a coach lounge an important criterion in their selection.

An evaluation of Delta's proposal on the basis of the traffic-flow data submitted by the carriers pursuant to ER-586[5] does not reveal a trend which supports Delta's claim of adverse competitive impact. During the time American was operating B-747's, the two carriers' day-coach load factors were quite comparable, indicating no clear advantage for American. When both carriers have been competing with wide-bodied equipment, Delta has carried more passengers per flight in day-coach service than has American. Neither does a comparison of relative market share suggest that American's lounge has been a significant factor in these markets.

If anything, the data suggests that passengers in this market are opting for the greater frequencies provided by American with B-727 aircraft rather than either carrier's wide-bodied aircraft (with or without a lounge) or Delta's DC-8's, which provide fewer frequencies than the B-727 for a given number of seats. Both carriers' load factors on wide-bodied aircraft have consistently been significantly lower than those on their narrow-bodied equipment. See appendix A attached.[6]

American's participation with wide-bodied aircraft at present is very limited. From Dallas to Los Angeles, for example, American offers one DC-10 frequency and various frequencies with conventional equipment, compared to Delta's operation of two B-747 and five DC-8 frequencies, including two stretched versions. It would seem doubtful, as our analysis suggests, that one DC-10 round trip with a 10-passenger coach lounge in a market having 14 daily round-trip frequencies would give American such a competitive advantage as to compel Delta to reduce by 15 percent the coach fares for all seven of its frequencies. This conclusion is buttressed by the low load factors being experienced on wide-bodied equipment, which would appear to indicate only limited attractiveness of a lounge in these markets. Thus, we conclude in these circumstances that the proposed 15-percent reduction in fares is not warranted.[7]

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That:

1. An investigation be instituted to determine whether the fares and provisions described in appendix B hereto,[8] and rules, regulations, or practices affecting such fares and provisions, including subsequent revisions and reissues thereof, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, or practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in appendix B hereto are suspended and their use deferred to and including February 8, 1973, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. Except to the extent granted herein, the complaints in Dockets 24813, 24814, and 24861 are hereby dismissed;

4. The proceeding ordered herein be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated; and

5. Copies of this order will be filed in the aforesaid tariff and served upon American Airlines, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., and the Airline Passenger Association.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,[9]
Secretary.

[FR Doc.72-19742 Filed 11-15-72;8:53 am]

[4] Delta has also filed a complaint against American's proposal to match Delta's fares, which American has answered.

[5] These data summarize various traffic and capacity statistics by flight on a monthly basis.

[6] Filed as part of the original document.

[7] Moreover, although not pertinent to disposition of the matter, we have considerable concerns about the restrictions against the application of the fares, e.g., noncombinability, etc.

[8] Filed as part of the original document.

[9] Concurring statement of Murphy, member, filed as part of the original document.

MONTANA AND NORTH DAKOTA AERONAUTICS COMMISSIONS

Notice of Change in Meeting

Notice is hereby given that a meeting with the above Commissions will be held on November 28, 1972, at 2:30 p.m. (local time), in Room 10277, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, to discuss air service needs in Montana and North Dakota. This notice supersedes the one of November 9, 1972 (37 F.R. 23867), which only listed the Montana Aeronautics Commission.

Dated at Washington, D.C., November 13, 1972.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-19739 Filed 11-15-72;8:53 am]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 72-1012]

CABLE TELEVISION APPLICATIONS AND PLEADINGS

Revision of Amendment Requirements

NOVEMBER 9, 1972.

On September 14, 1972, the Commission issued a public notice entitled "Amendment Requirements for Pending Cable Television Applications and Pleadings," FCC 72-825, — FCC 2d —. In that notice, the Commission stated which of its amendments to the cable television rules adopted in its "Reconsideration of Cable Television Report and Order," FCC 72-530, 36 FCC 2d 326, would be applied retroactively to applications and pleadings filed before the effective date of the "Reconsideration," July 14, 1972, and which would not.

In that public notice, the Commission stated that § 76.13(b)(2) of the Commission's rules would not apply retroactively. In view of the need for the information contained in FCC Form 325, the Commission has now determined that § 76.13(b)(2) of the rules will be applied retroactively to March 31, 1972. Consequently, all applications filed on or after March 31, 1972, should be amended to supply the information required by § 76.13(b)(2) of the rules.

Action by the Commission November 9, 1972. Commissioners Burch (Chairman), Robert E. Lee, H. Rex Lee, Reid, and Wiley.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-19715 Filed 11-15-72;8:50 am]

[Docket No. 16495; FCC 72-992]

DOMESTIC SATELLITE SYSTEM FACILITIES

Procedures for Applications

NOVEMBER 9, 1972.

In response to paragraph 45(b) of the Second Report and Order (Second Report) issued in Docket No. 16495 (35 FCC 2d 844, 860) and the Memorandum Opinion and Order issued on September 14, 1972 (FCC 72-807), the Commission has received statements by the applicants for domestic satellite systems as to their present intentions with respect to pursuing pending applications.

Requests for immediate processing, prior to a resolution of issues raised by pending petitions for reconsideration of the Second Report and related pleadings of the parties, have been received from Western Union Telegraph Co. (Western Union); Hughes Aircraft Co., and GTE Satellite Corp. (Hughes/GTE); American Satellite Corp. (American Satellite), a newly formed corporation owned by Fairchild Industries, Inc. and Western Union International, Inc.; and RCA Global Communications, Inc. and RCA Alaska Communications, Inc. (the RCA applicants). Requests for deferral, pending a resolution of issues raised by pending pleadings or for other reasons, have been received from American Telephone & Telegraph Co. (A.T. & T.); Communications Satellite Corp. (Comsat); MCI Lockheed Satellite Corp. (MCIL); and Western Tele-Communications, Inc. (WTCI).

Immediate processing of system applicants. Processing of those system applicants requesting immediate processing has been commenced. Such processing will proceed on an individual basis, apart from the proceedings in Docket No. 16495, at a pace geared to the speed at which each applicant makes any additional showings or amendments (consistent with the Second Report) that may be required by the Commission or desired by the applicants, and may take account of the preference of the particular applicant as to the order in which various components of its proposed system are processed.[1] Basic findings, required by statute or as a result of the conditions of policy adopted in the Second Report, will be made in conjunction with Commission action on the first applications of each applicant that are considered, whether such applications constitute the entire system proposal of that applicant or only a portion thereof. Any grant will, of course, be fully subject to the outcome of Docket No. 16495 (see Memorandum Opinion and Order in Docket No. 16495 issued on September 14, 1972, FCC 72-807). However, it is not contemplated that parties to Docket No. 16495 will participate in the processing of applications for individual systems, except upon express invitation of the Commission and to the extent indicated in any such invitation.

Deferred processing of system applicants. Processing of those system applicants that have requested deferral will be held in abeyance pending a request by any such applicant for processing. Such request may be made at any time, according to the desires of the particular applicant in the light of evolving circumstances, and may encompass any modifications or amendments to the pending system applications that are consistent with the Second Report or any Commission action taken upon reconsideration. Upon receipt of any such request for processing, processing of the relevant applications will be commenced as promptly as possible, provided that the request is not contingent upon future events and the particular proposal involved is not determined by the Commission to be contrary to the policies adopted in the Second Report or any Commission action taken upon reconsideration.

Earth stations only. Applications for earth stations only, to be operated with space segment facilities owned by another entity subject to the Commission's jurisdiction, will be processed upon request filed after a construction permit for the relevant space segment has been issued. This procedure does not pertain to AT&T and GTE, whose applications for earth stations and other associated terrestrial facilities were filed as an integral part of the proposed system of the space segment applicant. As noted in paragraph 16 of the Memorandum Opinion and Order issued in Docket No. 16495 on September 14, 1972 (FCC 72-807), the Commission has received some informal expression of interest in the possibility of domestic earth stations to be operated on a temporary, experimental basis with the Canadian Telsat system. The statement of intent filed by American Satellite also contemplates this mode of operation for its proposed Phase I. In the event that the Canadian statute governing the Telsat system is amended to permit such use, applications for earth stations to operate in this manner may be submitted for the Commission's consideration. The Commission will resolve any broad policy issues associated with such proposals in conjunction with its action on the first application of this type that is ripe for Commisison consideration.

Orbital arc locations, frequency usage and polarization. The Second Report adopted paragraph 152a of the staff recommendation attached to the Memorandum Opinion and Order issued on March 17, 1972, in Docket No. 16495 which provided as follows (35 FCC 2d at 859; 34 FCC 2d 1, 72-73):

> The assignment of orbital arc locations will be made by subsequent order of the Commission. We will assign orbital locations for satellites authorized to serve Alaska and Hawaii in that portion of the orbital arc that is 5° or more west of the orbital locations that have been selected by Canada and is capable of illuminating those States as well as CONUS. Other authorized satellites will be assigned orbital locations in that portion of the orbital arc that is 5° or more east of the Canadian locations and is capable of illuminating CONUS. The orbital locations for satellites authorized to utilize 4 and 6 GHz frequencies, in whole or in part, will be separated by no more than 3° (or allow for intervening assignments separated by 3°) unless good cause is shown for a wider separation. In assigning orbital arc locations, the Commission would endeavor to make maximum allowance for the authorization of future satellites utilizing 4 and 6 GHz frequencies. The assignment of any orbital location for use by a particular satellite shall not grant the licensee any right to the use of that orbital location for another satellite.[2] Nor shall the initial assignments preclude the Commission from changing orbital location assignments during the life of the initially authorized satellites, as required by the public interest, convenience or necessity.[3]

[1] Applications for terrestrial interconnection facilities for earth stations will not be processed, in any event, until after the relevant earth station sites have been cleared from an interference standpoint.

[2] In determining whether a space segment licensee will be permitted to use the same orbital location for another satellite (such as an existing ground spare) to replace a satellite that has failed short of its design life, the Commission will be guided by the circumstances then prevailing (including the length of time, if any, the failed satellite was operational, the current state of the technology, and the then existing demands on that portion of the orbital arc available for assignment).

[3] In the event that changes in orbital location assignments are found necessary, the Commission will endeavor to make such reassignments in a manner which will be least prejudicial to the affected licensees, all relevant factors considered.

The assignment of orbital arc locations, including specification of frequency

quent applications are subject to the filing as well as the grant fees.

Action by the Commission November 8, 1972. Commissioners Burch (Chair-

Upon approval, the agreement is to remain in effect for a period of 1 year from the date of such approval, with the right

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,

The purpose of exchanging this information is to explore the possibility of establishing a rate agreement to be filed

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The assignment of orbital arc locations, including specification of frequency usage and polarization, will be made by the Commission after it has been finally determined, inter alia, upon consideration of the petitions for reconsideration, what domestic system or systems will be initially designated to provide service to Alaska and Hawaii.

Section 214 authorization. In the 1970 Report and Order in Docket No. 16495 inviting the submission of concrete applications to assist the Commission in formulating policy in the domestic satellite field, the Commission stated that potential common carrier applicants should request certification pursuant to section 214 of the Communications Act as well as make application for construction permits under title III (22 FCC 2d 86, 99 at paragraph 32). The pending system applications submitted in response to that invitation are very voluminous and only a limited number of copies were filed pursuant to paragraph 38 of the 1970 Report (22 FCC 2d at 103). Before processing of such applications is completed and any section 214 authorization is issued, the Commission must be furnished with sufficient copies of the application for certification pursuant to section 214 to enable it to comply with the service requirements of section 214(b).

Common carrier applicants for domestic satellite facilities that have already requested processing, or that in the future request processing, should submit (or resubmit) applications for Section 214 certification, separately from the applications for construction permits, in the form and with the number of copies specified by §§ 63.52 and 63.53 of the Commission's rules and regulations. Such separate application need not be accompanied by additional copies of the applications for construction permits, but should include a descriptive summary of the proposed system and the facilities for which application has been made, as well as the information specified in § 63.01 of the rules to the extent practicable. In the event that it appears to any applicant that some of the information specified by § 63.01 is not relevant to applications for facilities of this nature or should be submitted at some later stage (e.g., § 63.01(h)), a statement to that effect with supporting reasons will be sufficient for initial processing. Further, for good cause shown, construction permits may be issued prior to section 214 authorization, subject to the usual conditions. All necessary section 214 authorization will be required prior to the grant of authority to commence operations.

Filing fees. Pursuant to paragraph 38 of the 1970 Report in Docket No. 16495 and § 1.1113 (footnote 7) of the Commission's rules and regulations, and filing fees specified in the schedule for satellite communications services do not apply to initial applications for domestic systems to be considered in conjunction with that of Western Union in Docket No. 16495. However, the grant fees are applicable to any grant, and all subsequent applications are subject to the filing as well as the grant fees.

In light of the Commission's conclusions in paragraphs 16 and 17 of the Second Report, which have not been challenged in the petitions for reconsideration, the applications accepted for filing for consideration in conjunction with that of Western Union in Docket No. 16495 will now be processed on an individual basis. In order to avoid, insofar as practicable, placing those pending applicants who have already filed amendments in a disparate position as compared to those who have deferred filing amendments, we will treat the question of filing fees as follows.

The applicable grant fees will be charged for the authorization of any and all domestic satellite facilities. There will be no filing fee for amendments to facilities that were timely filed and accepted for consideration in Docket No. 16495. This exception includes amendments filed by new corporations or other entities that are successors in interest to the position of pending applicants before the Commission. However, where any amendment proposes new facilities, e.g., an additional earth station or space station, the filing fees will apply. Further, where any amendment constitutes in essence a proposal for a new system, with basically different facilities from those proposed in the pending applications, the filing fees will apply. New applications, submitted by new or pending applicants, will be subject to the filing fees.

Further processing procedures. The foregoing comprises the public notice concerning processing procedures contemplated by footnote 11 to paragraph 43(b) of the Second Report. As recognized in paragraph 15 of the Second Report, the "initial implementation of domestic satellites does not confront us with a normal or routine situation" and some "departure from conventional standards may be required if the public is to realize the potential benefits of this high capacity technology" (35 FCC 2d at 849–850). Rather than attempting to delineate in advance the kind of showings that may be required on such questions as financial qualification or the absence of potential burden or detriment to customers for essential communications services now provided by common carrier applicants, we think it preferable to consider the case of each applicant individually on the basis of its particular circumstances. In the course of processing, each applicant will be advised of any further information that may be required and of any additional procedures that appear appropriate in its instance. Should any question of general applicability arise in course of processing which appears to warrant clarification for the benefit of pending and/or future applicants, the Commission may issue a further public notice concerning processing procedures or take such other appropriate measures as in its judgment would best serve the public interest.

Action by the Commission November 8, 1972. Commissioners Burch (Chairman), Robert E. Lee, Johnson, H. Rex Lee, Wiley and Hooks, with Commissioner Reid concurring.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-19716 Filed 11-15-72;8:50 am]

FEDERAL MARITIME COMMISSION

AMERICAN EXPORT LINES, INC., ET AL.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

D. G Aldridge, executive vice president, United States Lines, Inc., 1 Broadway, New York, NY 10004.

Agreement No. 10022, among the above-named carriers, establishes the United States/Europe Discussion Agreement for the development and interchange of information relating to cargo movements, shipper requirements, cost of service, tariff rates and rules, practices in connection with the receipt and delivery of cargo and interchange with connecting land carriers with respect to the trades between Europe and all coasts of the United States.

Upon approval, the agreement is to remain in effect for a period of 1 year from the date of such approval, with the right to seek approval for an additional 6 months. No substantive agreement deriving from the discussions conducted is to be implemented unless filed with and approved by the Federal Maritime Commission.

Dated: November 13, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-19757 Filed 11-15-72;8:54 am]

AMERICAN GREAT LAKES-MEDITERRANEAN EASTBOUND FREIGHT CONFERENCE

Notice of Petition Filed

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 814).

Interested parties may inspect a copy of the proposed contract form and of the petition at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015, or at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to the proposed contract form and the petition including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, 1405 I Street NW., Washington, DC 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed contract system shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the proposed contract form and the petition (as indicated hereinafter), and the statement should indicate that this has been done.

Notice of agreement filed by:

Stanley O. Sher, Esq., Bebchick, Sher & Kushnick, 919 18th Street NW., Washington, DC 20006.

The American Great Lakes-Mediterranean Eastbound Conference, Agreement No. 9000, has filed an application for permission to institute an exclusive patronage (dual rate) contract system pursuant to section 14b of the Shipping Act, 1916.

Dated: November 13, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-19755 Filed 11-15-72;8:54 am]

UNIVERSAL ALCO LTD. ET AL.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Lebron Shields, Vice President, Universal Alco Ltd., 1001 North America Way, Dodge Island, Miami, FL 33132.

Agreement No. 10021, among Universal Alco Ltd., Tropical Shipping & Construction Co., Ltd., and Norwegian Caribbean Lines, common carriers by water operating in the trade between Florida ports and ports in the Bahama Islands provides for the establishment of a cooperative working agreement whereby the carriers agree to exchange information and to cooperate in developing information relating to:

1. Freight rates, handling charges, equipment demurrage charges and practices, warehousing and storage charges, and related data bearing on the rate structure of common carrier steamship services required by shippers;

2. Cost of service and tariff rules;

3. Practices in connection with the receipt and delivery of cargo and pickup and delivery charges including interchange with connecting land carriers and all other procedures outlined in their respective tariffs.

The purpose of exchanging this information is to explore the possibility of establishing a rate agreement to be filed with the Federal Maritime Commission for approval at a later date. Nothing in the agreement authorizes the parties thereto to carry out any substantive agreement which may be reached except upon the prior approval of the Commission. The agreement shall remain in effect for 1 year, however, its duration may be extended with the Commission's approval. It shall be canceled if a rate agreement is finally submitted and subsequently approved by the Commission.

Dated: November 13, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-19756 Filed 11-15-72;8:54 am]

INTERNATIONAL FREIGHT SERVICES ET AL.

Independent Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Joseph Di Malo, doing business as International Freight Services, 859 Cowan Road, Burlingame, CA 94010.

Surfacesair Multi-Modal Corp., c/o Frank De Martino, 175 West 13th Street, New York, NY 10011.

OFFICERS

Frank De Martino, president/treasurer; A. J. Therman, vice president/secretary.
Richard C. Claprood, Jr., 4920 East Fifth Avenue, Columbus, OH 43219.
Lawrence Diebold McCall, 620 National Avenue, Gretna, LA 70053.
Brag International, Inc., 25 Broadway, New York, NY 10004, Officer, Benjamin F. Butler, president.

Dated: November 13, 1972.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-19754 Filed 11-15-72; 8:54 am]

[Independent Ocean Freight Forwarder License 136]

J. S. STASS CO., INC.

Order of Revocation

NOVEMBER 10, 1972.

J. S. Stass Co., Inc., 1 World Trade Center, New York, N.Y. 10048, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 136 for

revocation because under a purchase agreement with Universal Transcontinental Corp., it will operate as a divi-

N.V. NEDERLANDSCH-AMERIKAANSCHE STOOMVAART-MAATSCHAPPIJ "HOLLAND-AMERIKA LIJN"

numerous accidents, from one to two lanes. At present, the road narrows at the underpass. Rockfill necessary to

person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition

Commission that as the sole beneficiary under the will of her deceased husband, W. P. Prentiss, she has been placed in

Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be sus-

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revocation because under a purchase agreement with Universal Transcontinental Corp., it will operate as a division of that corporation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) § 7.04(f) (dated May 1, 1972):

It is ordered, That Independent Ocean Freight Forwarder license No. 136 of J. S. Stass Co., Inc., be and is hereby revoked effective October 31, 1972.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon J. S. Stass Co., Inc.

AARON W. REESE,
Managing Director.

[FR Doc.72-19751 Filed 11-15-72;8:54 am]

JADRANSKA LINIJSKA PLOVIDBA—RIJEKA

Notice of Issuance of Certificate [Casualty]

Security for the protection of the public financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages.

Notice is hereby given that the following have been issued a certicate of financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages pursuant to the provisions of section 2, Public Law 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540):

Jadranska Linijska Plovidba—Rijeka ("Jadrolinija"), Rijeka, Palace "Jadran", Rijeka, Yugoslavia.

Dated: November 9, 1972.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-19752 Filed 11-15-72;8:54 am]

JADRANSKA LINIJSKA PLOVIDBA—RIJEKA

Notice of Issuance of Certificate [Performance]

Security for the protection of the public indemnification of passengers for nonperformance of transportation.

Notice is hereby given that the following have been issued a certificate of financial responsibility for indemnification of passengers for nonperformance of transportation pursuant to the provisions of section 3, Public Law 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Jadranska Linijska Plovidba—Rijeka ("Jadrolinija"), Rijeka, Palace "Jadran," Rijeka, Yugoslavia.

Dated: November 9, 1972.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-19753 Filed 11-15-72;8:54 am]

N.V. NEDERLANDSCH-AMERIKAANSCHE STOOMVAART-MAATSCHAPPIJ "HOLLAND-AMERIKA LIJN" (HOLLAND-AMERICA LINE)

Order of Revocation

Certificate of financial responsibility for indemnification of passengers for nonperformance of transportation No. P-9 and certificate of financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages No. C-1,016.

Whereas, N.V. Nederlandsch-Amerikaansche Stoomvaart-Maatschappij "Holland-Amerika Lijn" (Holland-America Line) Pier 40, North River, New York, NY 10014, has ceased to operate the passenger vessel *Ryndam*; and

Whereas, N.V. Nederlandsch-Amerikaansche Stoomvaart-Maatschappij "Holland-Amerika Lijn" (Holland-America Line) has returned Certificate (Performance) No. P-9 and Certificate (Casualty) No. C-1,016 for revocation.

It is ordered, That Certificate (Performance) No. P-9 and Certificate (Casualty) No. C-1,016 covering the S.S. *Ryndam* be and are hereby revoked effective November 7, 1972.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served on the certificant.

By the Commission:

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-19750 Filed 11-15-72;8:54 am]

FEDERAL POWER COMMISSION

[Project 2205]

CENTRAL VERMONT PUBLIC SERVICE CORP.

Notice of Application for Change in Land Rights

NOVEMBER 9, 1972.

Public notice is hereby given that an application was filed September 1, 1972, under the Federal Power Act (16 U.S.C. 791a-825r) by the Central Vermont Public Service Corp. (Correspondence to: Mr. Donald L. Rushford, General Counsel, Central Vermont Public Service Corp., 77 Grove Street, Rutland, VT 05701) for the approval of change in land rights for the Lamoille River Project No. 2205, located on the Lamoille River, a navigable waterway of the United States, in Franklin County, Vt.

Commission approval is sought for the granting of an easement to the State of Vermont Highway Department by the Central Vermont Public Service Corporation, licensee. The easement would give the Highway Department drainage rights over a parcel of land 0.35 acre in size located between State Highway 104A and the north shore of Arrowhead Mountain Lake on the Lamoille River. The purpose of the easement is to widen a railroad underpass, which has been the scene of numerous accidents, from one to two lanes. At present, the road narrows at the underpass. Rockfill necessary to stabilize a sloped area after the widening would encroach 15 to 20 feet into Arrowhead Mountain Lake and would affect approximately 250 feet of a 10 mile shoreline.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 29, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19722 Filed 11-15-72;8:50 am]

[Docket No. CI73-333]

DORCHESTER EXPLORATION, INC.

Notice of Application

NOVEMBER 13, 1972.

Take notice that on November 6, 1972, Dorchester Exploration, Inc. (Applicant), 1204 Vaughn Building, Midland, Tex. 79701, filed in Docket No. CI73-333 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Natural Gas Pipeline Co. of America in Eddy County, N. Mex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell up to 2,000 Mcf of natural gas per day at 35.0 cents per Mcf at 14.65 p.s.i.a. for 1 year within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 24, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any

person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19782 Filed 11-15-72;8:52 am]

[Docket No. CS71-828]

DOROTHEA B. PRENTISS

Notice of Redesignation

NOVEMBER 10, 1972.

By letter of September 11, 1972, Dorothea B. Prentiss has advised the Commission that as the sole beneficiary under the will of her deceased husband, W. P. Prentiss, she has been placed in possession of his estate by probate court orders and requests that the Commission redesignate the small producer certificate issued in Docket No. CS71-828 to the estate of W. P. Prentiss.

Accordingly, the small producer certificate of public convenience and necessity issued pursuant to section 7(c) of the Natural Gas Act in Docket No. CS71-828 to the estate of W. P. Prentiss is redesignated as that of Dorothea B. Prentiss.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19723 Filed 11-15-72;8:50 am]

[Docket Nos. RI73-81, etc.]

HUMBLE OIL & REFINING CO., ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes to Become Effective Subject to Refund [1]

NOVEMBER 9, 1972.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI73-81	Humble Oil & Refining Co.	132	10	West Texas Gathering Co. (Emjoner Field, Winkler County, Tex., Permain Basin).	$168,223	10-13-72		1-2-73	18.0675	19.0713	RI69-51.
	do	134	10	El Paso Natural Gas Co. (Vinegarone Field, Val Verde County, Tex., Permian Basin).	1,255	10-13-72		1-2-73	15.0563	16.5581	RI68-338.
	do	210	12	El Paso Natural Gas Co. (East La Barge Field, Lincoln and Sublette Counties, Wyo.).	4,812	10-13-72		6-1-73	[1] 19.7926	[2] 20.6538	RI72-76.
	do	249	11	El Paso Natural Gas Co. (Green River Bend Field, Lincoln and Sublette Counties, Wyo.).	1,018	10-13-72		6-1-73	[1] 19.7926	[2] 20.6538	RI70-870.
	do	345	6	Colorado Interstate Gas Co. (Wamsutter Field, Sweetwater County, Wyo.).	2,451	10-13-72		1-2-73	[3] 16.24	[3] 17.1275	RI70-469.
	do	362	3	Colorado Interstate Gas Co. (Desert Springs Field, Sweetwater County, Wyo.).	668	10-13-72		1-2-73	[3] 15.7325	[3] 16.6298	RI70-469.
	do	403	16	do	2,591	10-13-72		1-2-73	[3] 16.24	[3] 17.1275	RI70-469.
	do	411	6	El Paso Natural Gas Co. (Gomez Field, Pecos County, Tex., Permian Basin).	1,928	10-13-72		1-2-73	17.5656	18.5694	RI69-52.

APPENDIX A—Continued

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI73-82	Humble Oil & Refining Co.	135	10	El Paso Natural Gas Co. (Vinegarone Field, Val Verde County, Tex., Permian Basin).	$1,255	10-13-72		1-2-73	15.0563	16.5581	RI68-338.
	do	211	12	El Paso Natural Gas Co. (East La Barge Field, Lincoln and Sublette Counties, Wyo.).	4,812	10-13-72		6-1-73	[1] 19.7926	[2] 20.6538	RI72-76.
	do	250	11	El Paso Natural Gas Co. (Green River Bend Field, Lincoln and Sublette Counties, Wyo.).	1,018	10-13-72		6-1-73	[1] 19.7926	[2] 20.6538	RI70-870.
	do	346	6	Colorado Interstate Gas Co. (Wamsutter Field, Sweetwater County, Wyo.).	2,451	10-13-72		1-2-73	[3] 16.24	[3] 17.1275	RI70-469.
	do	363	3	Colorado Interstate Gas Co. (Desert Springs Field, Sweetwater County, Wyo.).	668	10-13-72		1-2-73	[3] 15.7325	[3] 16.6298	RI70-469.
	do	404	16	do	2,591	10-13-72		1-2-73	[3] 16.24	[3] 17.1275	RI70-469.
	do	412	6	El Paso Natural Gas Co. (Gomez Field, Pecos County, Tex., Permian Basin).	1,928	10-13-72		1-2-73	17.5656	18.5694	RI69-52.
RI73-83	Humble Oil & Refining Co.	136	10	El Paso Natural Gas Co. (Vinegarone Field, Val Verde County, Tex., Permian Basin).	1,255	10-13-72		1-2-73	15.0563	16.5581	RI68-338.
	do	212	12	El Paso Natural Gas Co. (East La Barge Field, Lincoln and Sublette Counties, Wyo.).	4,812	10-13-72		6-1-73	[1] 19.7926	[2] 20.6538	RI72-76.
	do	251	11	El Paso Natural Gas Co. (Green River Bend Field, Lincoln and Sublette Counties, Wyo.).	1,018	10-13-72		6-1-73	[1] 19.7926	[2] 20.6538	RI70-870.
	do	347	6	Colorado Interstate Gas Co. (Wamsutter Field, Sweetwater County, Wyo.).	2,451	10-13-72		1-2-73	[3] 16.24	[3] 17.1275	RI70-469.
	do	364	3	Colorado Interstate Gas Co. (Desert Springs Field, Sweetwater County, Wyo.).	668	10-13-72		1-2-73	[3] 15.7325	[3] 16.6298	RI70-469.
	do	405	16	do	2,591	10-13-72		1-2-73	[3] 16.24	[3] 17.1275	RI70-469.
	do	413	6	El Paso Natural Gas Co. (Gomez Field, Pecos County, Tex., Permian Basin).	1,928	10-13-72		1-2-73	17.5656	18.5694	RI69-52.

[1] Includes 1.0 cent per Mcf tax reimbursement.
[2] Includes 1.0 cent per Mcf tax reimbursement and 0.5 cent per Mcf gathering allowance.
[3] Includes 0.5 cent per Mcf gathering allowance.
* Unless otherwise stated, the pressure base is 14.65 p.s.i.a.

notice is hereby given that on November 1, 1972, McCulloch Interstate Gas Corp.

(1) The prehearing conference is postponed to December 12, 1972, at 10 a.m.,

or brokered by L. E. Lay & Co., Inc. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as

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Appendix A—Continued

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in dockets Nos.
...	...do	443	4	El Paso Natural Gas Co. (Mendel Field, Pecos County, Tex., Permian Basin).	[3]	10-13-72	.....	1-2-73	17.5656	18.5694	R169-732.
...	...do	447	7	West Texas Gathering Co. (Emperor Field, Winkler County, Tex., Permian Basin).	14,880	10-13-72	.....	1-2-73	18.0675	19.0713	R169-91.
...	...do	509	3	El Paso Natural Gas Co. (West Fort Chadbourne Field, Runnels County, Tex., Permian Basin).	1,080	10-13-72	.....	6-1-73	30.0	31.0	R173-39.
R173-82	Terra Resources, Inc.	33	1	Montana-Dakota Utilities Co. (Dyson Creek Unit, Fremont County, Wyo., Montana-Wyoming Area).	3,385	10-12-72	.....	4-12-73	[4] 22.75	[4] [5] 26.0	
R173-83	Pubco Petroleum Corp.	15	4	Colorado Interstate Gas Co. (Desert Springs Field, Sweetwater County, Wyo.).	12,630	10-16-72	.....	1-2-73	15.6163	16.6238	R170-1129.
R173-81	Thomas D. Bailey	1	[6]	El Paso Natural Gas Co. (San Juan Basin, N. Mex.).	...	10-16-72	11-16-72	[7] Accepted	.....	.....	
...	...do	...	7		6,312	10-16-72	.....	4-16-73	[8] 15.2693	[4] 22.0	R171-390.

* Unless otherwise stated, the pressure base is 14.65 p.s.i.a.
[1] Includes a double amount of contractually due tax reimbursement.
[2] Includes only the contractual amount of tax reimbursement for future sales of gas.
[3] No current sales of gas.
[4] Subject to B.t.u. adjustment.
[5] Increase from initial certificated rate to initial contract rate.
[6] Contract amendment.
[7] Accepted for filing to be effective on the date shown in the "Effective date" column.
[8] The pressure base is 15.025 p.s.i.a.

The proposed increases of Humble under its FPC Gas Rate Schedule Nos. 132, 134, 345, 362, 403, 411, 443, and 447, and the proposed increase of Pubco Petroleum Corp., do not exceed the rate limits for a 1-day suspension and are suspended for 1 day from the expiration of the 60-day notice period. The other increases involved here exceed the rate limits for a 1-day suspension and are suspended for 5 months from the expiration of the statutory notice period or the contractual effective date, whichever is later.

The producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR 2.56).

CERTIFICATION OF ABBREVIATED SUSPENSION

Pursuant to § 300.104(d)(3) of the Price Commission rules and regulations, 6 CFR Part 300 (1972), the Federal Power Commission certifies as to the abbreviated suspension period in this order as follows:

(1) This proceeding involves producer rates which are established on an area rather than company basis. This practice was established by Area Rate Proceeding, Docket No. AR61-1, et al., Opinion No. 468, 34 FPC 159 (1965), and affirmed by the Supreme Court in Permian Basin Area Rate Case, 390 U.S. 747 (1968). In such cases as this, producer rates are approved by this Commission if such rates are contractually authorized and are at or below the area ceiling.

(2) In the instant case, the requested increases do not exceed the ceiling rate for a 1-day suspension.

(3) By Order No. 423 (36 F.R. 3464) issued February 18, 1971, this Commission determined as a matter of general policy that it would suspend for only 1 day a change in rate filed by an independent producer under section 4(d) of the Natural Gas Act (15 U.S.C. 717c(d)) in a situation where the proposed rate exceeds the increased rate ceiling, but does not exceed the ceiling for a 1-day suspension.

(4) In the discharge of our responsibilities under the Natural Gas Act, this Commission has been confronted with conclusive evidence demonstrating a natural gas shortage. (See Opinion Nos. 595, 598, and 607, and Order No. 435). In these circumstances and for the reasons set forth in Order No. 423 the Commission is of the opinion in this case that the abbreviated suspension authorized herein will be consistent with the letter and intent of the Economic Stabilization Act of 1970, as amended, as well as the rules and regulations of the Price Commission, 6 CFR Part 300 (1972). Specifically, this Commission is of the opinion that the authorized suspension is required to assure continued, adequate, and safe service and will assist in providing for necessary expansion to meet present and future requirements of natural gas.

[FR Doc.72-19606 Filed 11-15-72;8:45 am]

INDIANA & MICHIGAN ELECTRIC CO.

[Docket No. E-7740]

Notice of Extension of Time

NOVEMBER 10, 1972.

On November 8, 1972, Commission staff counsel filed a motion for a postponement of the procedural dates established by the order issued August 11, 1972, in the above-designated matter. The dates proposed by staff counsel are as follows:

Staff service date	Dec. 14, 1972
Prehearing conference	Jan. 3, 1973
Intervener service date	Jan. 11, 1973
I & M rebuttal service date	Jan. 25, 1973
Hearing date	Feb. 6, 1973

The motion states that all parties have been contacted and raise no objection to the proposed staff service date of December 14, 1972, and the proposed prehearing conference date of January 3, 1973, and all but one agree with the remaining proposed dates. The Indiana and Michigan Municipal Distributor Group (IMMDG) objects to the last three dates and requests a further extension of time as follows:

Intervener service date	Jan. 16, 1973
I & M rebuttal service date	Jan. 30, 1973
Hearing date	Feb. 13, 1973

The motion further requests the tentative adoption of the proposed dates and that action be deferred on the request by IMMDG until all parties have had an opportunity to answer.

Upon consideration, notice is hereby given that:

(1) The procedural dates fixed by the order issued August 11, 1972, are postponed as follows:

Staff service date	Dec. 14, 1972
Prehearing conference	Jan. 3, 1973

(2) Answers may be filed on or before November 17, 1972, to the requested modification of the date for the service of evidence by interveners, the date for the service of rebuttal evidence by Indiana and Michigan Electric Co., and the date for the commencement of the hearing. Action with respect to those dates is deferred until after November 17, 1972.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19724 Filed 11-15-72;8:50 am]

[Docket No. CS68-1]

KKA CORP.

Notice of Redesignation

NOVEMBER 10, 1972.

By letter dated September 1, 1972, KKA Corp. has advised the Commission that it has undergone a corporate name change from Aminl Oil Corp. to KKA Corp.

Accordingly the small producer certificate of public convenience and necessity issued pursuant to section 7(c) of the Natural Gas Act in Docket No. CS68-1 to Aminl Oil Corp. is redesignated as that of KKA Corp.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19725 Filed 11-15-72;8:50 am]

[Docket No. RP72-110]

McCULLOCH INTERSTATE GAS CORP.

Notice of Filing of Proposed Stipulation and Agreement

NOVEMBER 10, 1972.

Pursuant to § 1.36(a) of the Commission's rules of practice and procedure, notice is hereby given that on November 1, 1972, McCulloch Interstate Gas Corp. (McCulloch) filed a proposed stipulation and agreement setting forth settlement of the proceedings in the above-styled docket.

On May 1, 1972, McCulloch Interstate tendered for filing proposed changes in its Rate Schedule PL-1 and Second Revised Sheet No. 11 to its FPC Gas Tariff Original Volume No. 1 to become effective on June 1, 1972. The proposed rates applicable to deliveries to Colorado Interstate Gas. Co. (McCulloch Interstate's only gas customer reselling gas in interstate commerce) constituted an increase in revenues of 2.69 cents per Mcf, or approximately $589,000 annually, based upon average estimated sales of 60,000 Mcf per day for the twelve (12) months ending December 31, 1971, as adjusted. This increase in revenues reflected an increase in rate of return to 9.62 percent and an increase in depreciation rate to 8.33 percent. The proposed increased rates became effective November 1, 1972, subject to refund.

The settlement agreement provides, inter alia, for a rate of return of 9.1875 percent and a rate of depreciation of 5.75 percent. The revenues under the settlement agreement would be 1.70 cents per Mcf, or approximately $372,300 annually.

The settlement agreement is on file with the Commission and is available for public inspection. Comments with respect to the settlement agreement may be filed with the Commission on or before November 24, 1972.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19726 Filed 11-15-72;8:51 am]

[Docket No. RP72-149]

MISSISSIPPI RIVER TRANSMISSION CORP.

Notice Postponing Prehearing Conference and Extending Time

NOVEMBER 10, 1972.

On October 24, 1972, the Missouri Public Service Commission filed a motion to postpone the prehearing conference from November 28, 1972, to December 5, 1972, for the reason that the date of November 28, 1972, conflicts with the NARUC Annual Convention. On November 6, 1972, Mississippi River Transmission Corp. filed an answer, stating that it does not oppose the motion but, that if the prehearing conference is to be postponed, it be postponed to at least December 12, 1972. On November 9, 1972, Laclede Gas Co. filed an answer stating that it has no objection to the December 12, 1972 date, but requests that the other scheduled dates be changed. The letter states that counsel for Mississippi River Transmission Corp., and Commission staff concur.

Upon consideration, notice is hereby given that the procedural dates fixed by the order of the Chief Administrative Law Judge on October 11, 1972, are changed as follows:

(1) The prehearing conference is postponed to December 12, 1972, at 10 a.m., e.s.t.

(2) Intervenors' evidence to be filed and served on or before December 28, 1972.

(3) Applicant's rebuttal evidence to be filed and served on or before January 12, 1973.

(4) The hearing is postponed to January 23, 1973, at 10 a.m., e.s.t.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19727 Filed 11-15-72;8:51 am]

[Docket No. CS72-739]

SOUTHERN HYDROCARBONS PRODUCTION CO., INC.

Notice of Redesignation

NOVEMBER 10, 1972.

By letter dated August 5, 1972, Southern Hydrocarbons Production Co., Inc., has informed the Commission that by amendment to the Articles of Incorporation, effective July 26, 1972, the corporate name of Sohyde Production Co., Inc., holder of a small producer certificate in Docket No. CS72-739, was changed to Southern Hydrocarbons Production Co., Inc.

Accordingly, the small producer certificate of public convenience and necessity issued pursuant to section 7(c) of the Natural Gas Act in Docket No. CS72-739 to Sohyde Production Co., Inc., is redesignated as that of Southern Hydrocarbons Production Co., Inc.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19728 Filed 11-15-72;8:51 am]

FEDERAL RESERVE SYSTEM

FIRST ARKANSAS BANKSTOCK CORP.

Notice of Amended Application

First Arkansas Bankstock Corp., Little Rock, Ark., has amended its application, filed pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of L. E. Lay & Co., Inc., Little Rock, Ark. Notice of the application was originally published in the FEDERAL REGISTER on September 12, 1972 (37 F.R. 18496).

The proposed subsidiary would engage in the activities of making or acquiring for its own account or for the account of others real estate mortgage loans and servicing such loans. Other activities would include acting as an insurance agent or broker with respect to insurance that is directly related to an extension of credit or the performance of other financial services by L. E. Lay & Co., Inc. Applicant states that substantially all of the insurance policies of L. E. Lay written to date have been accident and health or life insurance policies written in connection with the mortgages originated or brokered by L. E. Lay & Co., Inc. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

The effect of the amendment is to request separate Board consideration and authorization for the mortgage banking and insurance agency activities. Interested persons may express their views on the question whether consummation of the proposals can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Comments on the applications including any views or request for hearings should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 22, 1972.

Board of Governors of the Federal Reserve System, November 9, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-19670 Filed 11-15-72;8:46 am]

FIRST AT ORLANDO CORP.

Acquisition of Banks

First at Orlando Corp., Orlando, Fla., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of Guaranty Bank of Miami, Miami, Fla., and 90 percent or more of the voting shares of West Dade Bank, Miami, Fla. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the applications should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 6, 1972.

Board of Governors of the Federal Reserve System, November 9, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-19673 Filed 11-15-72;8:46 am]

FIRST FINANCIAL CORP.

Acquisition of Bank

application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Oakland Bancshares, Inc., has also ap-

activities: Making or acquiring for its own account or for the account of others, loans and other extensions of credit; and

Sec.	
101-47.312	Non-Federal interim use of property.
101-47.312-1	Disposal of easements to

1. Part 101-19—Management of Buildings and Grounds, of Title 41, Code of Federal Regulations, except Subpart

(3) Evaluate programs and projects carried out under this title and disseminate the results thereof; and

V37-2216 NOV 16 72 XUM

FIRST FINANCIAL CORP.

Acquisition of Bank

First Financial Corp., Tampa, Fla., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire not less than 80 percent of the voting shares of the Lee County Bank, Fort Myers, Fla. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 6, 1972.

Board of Governors of the Federal Reserve System, November 9, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-19672 Filed 11-15-72;8:46 am]

FIRST STEUBEN BANCORP, INC.

Acquisition of Bank

First Steuben Bancorp, Inc., Steubenville, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to the First National Bank of Hopedale, Hopedale, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 5, 1972.

Board of Governors of the Federal Reserve System, November 8, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-19671 Filed 11-15-72;8:46 am]

OAKLAND BANSHARES, INC.

Formation of Bank Holding Company and Proposed Retention of Insurance Agency

Oakland Banshares, Inc., Oakland, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 95.45 percent of the voting shares of Oakland Savings Bank, Oakland, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Oakland Banshares, Inc., has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to retain the assets of Spencer Insurance Agency, Oakland, Iowa. Notice of the application was published on August 17, 1972, in The Oakland Acorn, a newspaper circulated in Oakland, Iowa.

Applicant states that it engages in the activities of a general insurance agency in a community of less than 5,000 people. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 224.4(b).

Interested persons may express their views on the question whether consummation of the proposal under section 4(c)(8) can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 6, 1972.

Board of Governors of the Federal Reserve System, November 9, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-19674 Filed 11-15-72;8:47 am]

ORBANCO, INC.

Proposed Acquisition of Far West Securities Co.

Orbanco, Inc., Portland, Oreg., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Far West Securities Co., Spokane, Wash. Notices of the application were published on October 2, 1972, in the Spokane Daily Chronicle, a newspaper circulated in Spokane, Wash., and on October 5, 1972, in the Tri-City Herald, a newspaper circulated in Kennewick, Wash.

Applicant states that the proposed subsidiary would engage in the following activities: Making or acquiring for its own account or for the account of others, loans and other extensions of credit; and acting, directly or indirectly, as insurance agent or broker for insurance that is directly related to an extension of credit by any subsidiary of the Applicant. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 6, 1972.

Board of Governors of the Federal Reserve System November 9, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-19675 Filed 11-15-72;8:47 am]

POSTAL SERVICE

BUILDINGS AND GROUNDS; SURPLUS REAL PROPERTY

Management and Disposal; Restatement of Interim Regulations

In the daily issue of February 1, 1972 (37 F.R. 2471), the Postal Service published a notice adopting certain regulations codified in Title 41, Code of Federal Regulations, including regulations relating to conduct on Federal property, as interim regulations of the U.S. Postal Service. This was amended by publication of a notice in the daily issue of March 21, 1972 (37 F.R. 5776). Notice is hereby given that the regulations, "Conduct on Postal Property" set out elsewhere in this issue, are adopted as permanent regulations of the Postal Service, effective upon publication.

Accordingly, the notice published February 1, 1972 is revised to read as follows:

1. Part 101-19—Management of Buildings and Grounds, of Title 41, Code of Federal Regulations, except Subpart 101-19.3—Conduct on Federal Property, and Subpart 101-19.4—Standard Practices for Financing, shall apply, as modified below, to the management of buildings and grounds owned and leased by the Postal Service. Financing of the operation and maintenance of buildings and grounds occupied jointly by the Postal Service and other agencies shall be provided for by agreements between the other occupying agencies, or the General Services Administration, and the Postal Service.

The authorities and responsibilities vested in the General Services Administration and the Administrator of General Services by Part 101-19 with regard to Government-owned and Government-leased buildings and grounds are vested hereby in the U.S. Postal Service with regard to Postal Service-owned and Postal Service-leased buildings and grounds. Any reference in Part 101-19 to "GSA," "General Services Administration," or "Administrator" shall be construed in a manner consistent with the preceeding sentence for the purpose of applying Part 101-19 to Postal Service-owned and Postal Service-leased buildings and grounds. Any reference in Part 101-19 to "Federal" building(s) or to "building(s)," shall be construed to mean "Postal Service" building(s).

2. The sections listed below contained in Subpart 101-47.3—Surplus Real Property Disposal, Subpart 101-47.49—Illustrations, of Title 41, Code of Federal Regulations, shall apply, except as noted, to the management and disposal of surplus real property by the Postal Service:

Sec.	
101-47.303-3	Studies.
101-47.303-4	Appraisal.
101-47.304-1	Publicity.
101-47.304-2	Soliciting cooperation of local groups.
101-47.304-3	Information to interested persons.
101-47.304-4	Invitation for offers.
101-47.304-5	Inspection.
101-47.304-6	Submission of offers.
101-47.304-7	Advertised disposals.
101-47.304-8	Report of identical bids.
101-47.304-9	Negotiated disposals; except that paragraph (a)(5) shall not apply.
101-47.304-10	Disposals by brokers.
101-47.304-11	Documenting determinations to negotiate.
101-47.304-12	Explanatory statements; except that subsections (d), (e), and (f) shall not apply.
101-47.305-1	General.
101-47.305-2	Equal offers.
101-47.305-3	Notice to unsuccessful bidders.
101-47.306-1	Negotiations.
101-47.307-1	Form of deed or instrument of conveyance.
101-47.307-2	Conditions in disposal instruments.
101-47.309	Disposal of leases, permits, licenses, and similar instruments.
101-47.310	Disposal of structures and improvements on Government-owned land.
101-47.312	Non-Federal interim use of property.
101-47.313-1	Disposal of easements to owner of servient estate.
101-47.313-2	Grants of easements in or over Government property.
101-47.400	Scope of subpart.
101-47.401-1	Policy.
101-47.401-2	Definitions.
101-47.401-5	Improvements or alterations.
101-47.4911	Outline for explanatory statements for negotiated sales.
101-47.4913	Outline for protection and maintenance of excess and surplus real property.

The authorities and responsibilities vested in the General Services Administration and the Administrator of General Services under the above-listed sections are vested in the U.S. Postal Service for the purpose of applying the sections to the management and disposal of surplus real property by the Postal Service. Any reference in the sections to "GSA," "General Services Administration," "Administrator," "disposal agency," "head of the disposal agency," or "holding agency," shall be construed, for the purpose of applying the sections to the management and disposal of surplus real property by the Postal Service, to refer to the U.S. Postal Service. Any reference in the sections to "surplus real property" shall be construed, for the purpose of applying the sections to the management and disposal of real property by the Postal Service, to include any property of the Postal Service which is determinded to be excess to the needs of the Postal Service.

(39 U.S.C. 401, 410, 2008(c))

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.72-19718 Filed 11-15-72;8:50 am]

NATIONAL ADVISORY COUNCIL ON SUPPLEMENTARY CENTERS AND SERVICES

NOTICE OF PUBLIC MEETING

Notice is hereby given, pursuant to Executive Order 11671, that the next meeting of the National Advisory Council on Supplementary Centers and Services will be held on December 8 and 9, 1972, at 9 a.m., in Room 800, 2100 Pennsylvania Avenue NW., Washington, DC.

The National Advisory Council on Supplementary Centers and Services is established under section 309 of Public Law 91-230. The Council is directed to:

(1) Review the administration of, general regulations for, and operation of this title, including its effectiveness in meeting the purposes set forth in section 303;

(2) Review, evaluate, and transmit to the Congress and the President the reports submitted pursuant to section 305(a)(2)(E);

(3) Evaluate programs and projects carried out under this title and disseminate the results thereof; and

(4) Make recommendations for the improvement of this title, and its administration and operation.

The meeting of the Committee shall be open to the public. The proposed agenda includes a discussion of the annual report of the Council. Records shall be kept of all Council proceedings (and shall be available for public inspection at the office of the Council's Executive Secretary, located in Room 818, 2100 Pennsylvania Avenue NW., Washington, DC).

Signed at Washington, D.C., on November 10th, 1972.

GERALD J. KLUEMPKE,
Executive Secretary.

[FR Doc.72-19738 Filed 11-15-72;8:51 am]

SECURITIES AND EXCHANGE COMMISSION

[70-5259]

MIDDLE SOUTH UTILITIES, INC., ET AL.

Proposed Issue and Sale of Notes

NOVEMBER 10, 1972.

In the matter of Middle South Utilities, Inc., 280 Park Avenue, New York, NY 10017; System Fuels, Inc., 225 Baronne Street, New Orleans, LA 70112; Arkansas Power & Light Co., Ninth and Louisiana Streets, Little Rock, AR 72203; Louisiana Power & Light Co., 142 Delaronde Street, New Orleans, LA 70174; Mississippi Power & Light Co., Electric Building, Jackson, Miss. 39205; New Orleans Public Service Inc., Post Office Box 60340, New Orleans, LA 70160.

Notice is hereby given that Middle South Utilities, Inc. (MSU), a registered holding company, its public utility subsidiary companies, Arkansas Power & Light Co. (AP&L), Louisiana Power & Light Co. (LP&L), Mississippi Power & Light Co. (MP&L) and New Orleans Public Service, Inc. (NOPSI) (collectively referred to as "Operating Companies"), and System Fuels, Inc. (SFI), a joint nonutility subsidiary company of Operating Companies, have filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a), (7), 12(b), and 12(f) and Rules 45 and 50(a)(2) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

By order dated December 17, 1971 (Holding Company Act Release No. 17400), the Commission authorized Operating Companies to organize a new jointly owned subsidiary company, SFI, to plan and implement programs for the procurement of fuel supplies for the generating units of Operating Companies.

SFI estimates that to assure the availability to Operating Companies of an adequate supply of fuel, SFI will be required to invest approximately $100 million in fuel supply programs during the next 5 years. SFI proposes to finance its investments in fuel supply programs by the issuance and sale of its notes to banks from time to time prior to December 31, 1973, in an aggregate principal amount not to exceed $100 million outstanding at any one time. The notes will be issued pursuant to a credit agreement between SFI and a group of banks to be selected by SFI. The notes will mature not more than 5 years after the date of issuance and will bear interest at the prime commercial rate in effect from time to time. The notes will be prepayable at any time without premium.

SFI proposes to enter into a fuel supply agreement with each Operating Company pursuant to which SFI will undertake to provide fuel supply programs for the Operating Company and the Operating Company will undertake to pay SFI amounts sufficient to enable SFI to meet its obligations under the credit agreement. Each fuel supply agreement will provide that the Operating Company will pay SFI a fee for its services in connection with the fuel supply program. The fee will be determined by the Operating Company's proportionate share of the total investment in fuel supply programs by all Operating Companies.

Fees and expenses in connection with the proposed transactions are estimated at $50,000, including $10,000 for counsel fees. The declaration states that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than fifteen (15) days from the date of publication

or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the address specified above, a request for a hearing thereon, which request should state the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, said declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further action in this matter. Any such request will not be effective to grant such person a hearing upon the declaration unless specifically so ordered by the Commission. Any such person may be heard in person or by counsel at any such hearing.

It appears to the Commission that it is appropriate in the public interest and in the interest of investors and consumers that the applicants-declarants be permitted to file an amendment to the declaration herein not later than December 31, 1972, and that the Commission's jurisdiction be reserved over the proposed transactions, and that the declaration shall not become effective except pursuant to a further order of the Commission.

Notice is further given that any interested person may, not later than December 31, 1972, request that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said amendment which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after December 31, 1972, said declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further action in this matter. Any such request will not be effective to grant such person a hearing upon the declaration unless specifically so ordered by the Commission. Any such person may be heard in person or by counsel at any such hearing.

It is ordered, That the Commission's jurisdiction be reserved over the proposed transactions, and that the declaration shall not become effective except pursuant to a further order of the Commission.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[FR Doc.72-19676 Filed 11-15-72;8:47 am]

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V37-222-NOV16-72
XUM

SFI estimates that to assure the availability to Operating Companies of an adequate supply of fuel oil, it will be necessary for SFI to maintain an inventory of fuel oil varying between 1 million barrels and 3 million barrels, depending upon the requirements of Operating Companies as estimated from time to time. The maximum cost of the inventory fuel oil to be held in storage by SFI is estimated at approximately $12 million.

To finance the maintenance of the requisite inventory of fuel oil through December 31, 1974, SFI proposes to issue and sell its unsecured promissory notes (Notes), in an aggregate amount not exceeding $12 million outstanding at any one time, to The Hibernia National Bank in New Orleans (Hibernia) from time to time for a period of 2 years from the date of an agreement (Loan Agreement) among Hibernia, SFI, Operating Companies, and MSU.

A group of nine banks (Participating Banks) will participate to the extent of 80 percent of borrowings made under the Loan Agreement. The participation of each Participating Bank in the maximum borrowings under the Loan Agreement will be as follows:

Participating Bank	Participation in total $12,000,000 borrowing	
	Percent	Amount
Whitney National Bank of New Orleans, La.	20	$2,400,000
First National Bank of Commerce of New Orleans, La.	15	1,800,000
National American Bank of New Orleans, La.	10	1,200,000
Deposit Guaranty National Bank, Jackson, Miss.	10	1,200,000
First National Bank of Jackson, Miss.	10	1,200,000
First National Bank in Little Rock, Ark.	6	720,000
Commercial National Bank, Little Rock, Ark.	4	480,000
Simmons First National Bank of Pine Bluff, Ark.	3	360,000
Mississippi Bank & Trust Co., Jackson, Miss.	2	240,000
Total	80	9,600,000

Hibernia's participation in the total borrowings will be the balance of 20 percent, or $2,400,000.

The Notes will be dated as of the date of borrowing, and will mature 2 years from the date of the Loan Agreement with acceleration upon the happening of certain specified acts of default. Each note will bear interest, payable quarterly, at a rate per annum of three-quarters of 1 percent plus the average rate in effect at the three commercial banks having the largest participations in the borrowings for prime commercial loans of 90-day maturities. Adjustments are to be made from time to time, to reflect any change in such average prime commercial loan rates, any such adjustment to become effective on the first day of the month following the month in which any such change in the average occurs. The Notes will be prepayable at any time without premium or penalty, and are to be guaranteed by MSU as to principal and interest. Operating Companies will covenant and agree that, unless otherwise consented to by Hibernia, any existing or future indebtedness of SFI to any or all of them will be made subordinate as to interest and principal with respect to any promissory notes issued by SFI under the Loan Agreement: *Provided, however,* That so long as SFI is not in default of any of its obligations under the Loan Agreement, it may duly pay interest on such subordinated indebtedness and repay principal of any such indebtedness incurred for purchase of capital assets, so long as no proceeds from the Notes are used for such repayments.

It is stated that on or before September 30, 1974, a program for the financing of the fuel oil inventory after expiration of the Loan Agreement will be formulated by SFI and, to the extent necessary, will be the subject of future filings with the Commission.

Pursuant to the aforementioned Commission order of December 17, 1971, SFI may borrow from Operating Companies, from time to time through 1973, an aggregate amount not to exceed $30 million outstanding at any one time, for terms of not more than 10 years. SFI has represented it will at all times, unless the Commission shall otherwise expressly authorize, maintain the aggregate of its capital stock, surplus, and principal amount of its indebtedness to Operating Companies, at an amount equal to at least 35 percent of SFI's total capitalization.

Fees and expenses to be paid in connection with the proposed transactions are estimated at $8,500, including counsel fees of $6,000 and $500 for administrative services, at cost, performed by the system service company, Middle South Services, Inc. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 5, 1972, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective in the manner provided by Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof, or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19735 Filed 11-15-72;8:51 am]

[811-1374]

SECOND FEDERAL STREET FUND, INC.

Application for Order Declaring That Company Has Ceased To Be an Investment Company

NOVEMBER 10, 1972.

Notice is hereby given that the Second Federal Street Fund, Inc. (Second Federal), 225 Franklin Street, Boston, Mass. 02110, a Massachusetts corporation registered under the Investment Company Act of 1940 (Act) as a diversified, open-end management investment company, has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Second Federal has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein which are summarized below.

Second Federal asserts, among other things, that on September 13, 1972, it was merged with and into Federal Street Fund, Inc. (Federal), a Massachusetts corporation also registered under the Act as a diversified, open-end management investment company; that said merger was accomplished in accordance with Massachusetts law; that Federal remains as the surviving corporation; that Second Federal has not engaged in any business and has no securities outstanding; and that it has ceased to have a corporate existence through its merger with and into Federal.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than December 7, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally

or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19736 Filed 11-15-72;8:51 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 954]

ARIZONA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of October 1972, because of the effects of excessive rainfall and flooding, damage resulted to property located in the State of Arizona;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b) of the Small Business Act (15 U.S.C. 636(b)) as amended, may be received and considered by the office below indicated from persons or firms whose property situated in or adjacent to Graham and Greenlee Counties, Ariz., suffered damage or destruction resulting from excessive rainfall and flooding from October 18 through 22, 1972.

OFFICE

Small Business Administration District Office, 112 North Central Avenue, Phoenix, AZ 85004.

2. Temporary offices will be established at such areas as are necessary, addresses to be announced locally.

3. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to January 31, 1973.

Dated: October 27, 1972.

THOMAS S. KLEPPE, *Administrator.*

[FR Doc.72-19682 Filed 11-15-72;8:47 am]

[License No. 09/09-0162]

BRENTWOOD ASSOCIATES, INC.

Notice of Application for a Licensee as a Small Business Investment Company

Notice is hereby given concerning the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1972)) under the name of Brentwood Associates, Inc., 11661 San Vicente Boulevard, Los Angeles, CA 90049, for a license to operate in the State of California as a small business investment company under the provisions of the Small Business Investment Act of 1958 (Act), as amended (15 U.S.C. 661 et seq.).

The proposed officers, directors, and principal stockholders are:

Frederick J. Warren, 12319 19th Helena Drive, Los Angeles, CA 90063, Chairman of the Board of Directors.

Berge K. Hagopian, 11048 Cashmere Street, Los Angeles, CA 90049, Vice President and Director.

Timothy M. Pennington III, 1101 North Bundy Drive, Los Angeles, CA 90049, President, Treasurer, and Director.

Susan S. Kaplan, 6402 Graves Avenue, Van Nuys, CA 91406, Secretary.

Brentwood Associates, 11661 San Vicente Boulevard, Los Angeles, CA 90049, 100 percent.

Brentwood Associates (the applicant's parent), is a California limited partnership engaged in the business of venture capital investment. The voting securities of Brentwood Associates are held by its two general partners who will be two of the three directors of the applicant and two of its three officers. An employee of Brentwood Associates will be the applicant's third director and president.

In addition to the two general partners noted above, Brentwood Associates has 12 limited partners none of whom takes or is permitted to take any part in the management or control of the affairs or business of Brentwood Associates.

The company will begin operations with an initial capitalization of $510,000. No concentration in any particular industry is planned. The applicant intends to make investments in small business concerns, with growth potential, located primarily within the State of California.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and regulations.

Notice is further given that any interested person may, not later than fifteen (15) days from the date of publication of this notice, submit to SBA, in writing, relevant comments on the proposed company. Any communication should be addressed to: Associate Administrator for Operations and Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in Los Angeles, Calif.

Dated: November 8, 1972.

ANTHONY G. CHASE, *Deputy Administrator.*

[FR Doc.72-19684 Filed 11-15-72;8:47 am]

[Declaration of Disaster Loan Area 953]

COLORADO

Declaration of Disaster Loan Area

Whereas it has been reported that during the month of October 1972, because of heavy rainfall and flash flooding, damage resulted to property located in the State of Colorado;

Whereas the Small Business Administration has investigated and has received other reports of investigations of conditions in the area affected;

Whereas after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, Therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b) of the Small Business Act (15 U.S.C. 636(b)) as amended, may be received and considered by the offices below indicated from persons or firms whose property situated in La Plata County, Colo., with Durango the principal town affected, suffered damage or destruction resulting from heavy rains and flash flooding on October 20 and 21, 1972.

OFFICES

Small Business Administration Regional Office, 721 19th Street, Room 426A, Denver, CO 80202.

Chamber of Commerce, 2301 Main Avenue, Post Office Box 1311, Durango, CO 81301.

2. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to January 31, 1973.

Dated: October 27, 1972.

THOMAS S. KLEPPE, *Administrator.*

[FR Doc.72-19683 Filed 11-15-72;8:47 am]

[License No. 02/02-0131]

INVESTOR ENTERPRISES, INC.

Surrender of License

Notice is hereby given that Investor Enterprises, Inc., 295 Madison Avenue,

New York, NY 10017, incorporated under the laws of the State of New Jersey on

eral business reputation and character of the proposed new owners and manage-

A similar notice shall be published in a newspaper of general circulation in

contact Joseph P. Goldberg, Executive Secretary, Labor Research Advisory Council on (area code 202) 961-2247.

3. *Ammonia building.* Employee representatives have asserted that leakages of high concentrations of ammonia were

cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the

XUM V37-222 NOV 16 72 XUM

New York, NY 10017, incorporated under the laws of the State of New Jersey on May 18, 1961, has surrendered its License No. 02/02-0131, issued by the Small Business Administration (SBA) on December 29, 1961.

Investor Enterprises, Inc., has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the regulations promulgated thereunder, the surrender of the license of Investor Enterprises, Inc., is hereby accepted and it is no longer licensed to operate as a small business investment company.

Dated: November 8, 1972.

ANTHONY G. CHASE,
Deputy Administrator.

[FR Doc.72-19686 Filed 11-15-72;8:47 am]

KARR INVESTMENT CORP.

Application for Transfer of Control of Licensed Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.701 of the Regulations governing Small Business Investment Companies (13 CFR 107.701 (1972)) for transfer of control of Karr Investment Corp. (Karr), 1134 Corrugated Way, Columbus, OH 43201, a Federal licensee under the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.) (Act), License No. 05/06-0007.

Karr was licensed May 24, 1960, and its private capital is $151,800. The proposed transfer of control is subject to and contingent upon the approval of SBA.

Mr. William Karr, the sole stockholder, proposes to sell all of the issued and outstanding capital stock of Karr to Equity Resources Corp. (Equity), a bank holding company, 88 East Broad Street, Columbus, OH 43215. Simultaneously, Equity will resell 51 percent of the stock to Messrs. Simon Sokol and Richard H. Stowell in equal amounts.

At closing, Karr will have unencumbered cash in an amount equal to the debt which is outstanding to SBA. All other assets shall be retained by and all other liabilities shall be paid by Mr. William Karr as of the closing date at which time Equity, and Messrs. Sokol and Stowell will contribute $150,000 in the ratio of their equity interests.

The proposed officers and directors of Karr will be:

Richard H. Stowell, 314 South Drexel Avenue, Columbus, OH 43209, President and Director.

Simon Sokol, 2346 Fishinger Road, Columbus, OH 43221, Vice President, Secretary, Treasurer, and Director.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new owners and management, and the probability of successful operations of the company under such management (including adequate profitability and financial soundness) in accordance with the Act and regulations.

Notice is hereby given that any interested person may, not later than 15 days from the publication of this notice, submit to SBA in writing, relevant comments on the proposed transfer of control. Any such communication should be addressed to the Acting Associate Administration for Operations and Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

Dated: November 8, 1972.

ANTHONY G. CHASE,
Deputy Administrator.

[FR Doc.72-19685 Filed 11-15-72;8:47 am]

[License No. 01/02-0295]

NORTHERN BUSINESS CAPITAL CORP.

Notice of Filing of Application for Transfer of Control of Licensed Small Business Investment Company

Notice is hereby given that an application for transfer of control of Northern Business Capital Corp., 7-9 Isaac Street, South Norwalk, CT 06856, a Federal licensee under the Small Business Investment Act of 1958, as amended, has been filed with the Small Business Administration (SBA) pursuant to § 107.701 of the Regulations Governing Small Business Investment Companies (13 CFR 107.701 (1972)).

Northern Business Capital Corp. was licensed by SBA on August 14, 1963, and has 1,716 shares of capital stock issued and outstanding as follows:

	Shares	Percent
Mr. Joseph Kavanewsky	572	33⅓
Joseph Kavanewsky, Inc. (wholly owned by Joseph Kavanewsky)	572	33⅓
Kavanewsky & Kavanewsky, Inc. (wholly owned by Joseph Kavanewsky)	572	33⅓
Totals	1,716	100

Mr. Kavanewsky proposes to dissolve Joseph Kavanewsky, Inc. (a wholly owned corporate entity), in November 1972, and convey the stock of the licensee to himself.

There are no other changes involving SBA's consideration of the application for change of control.

Notice is further given that any interested person may submit their comments on the proposed transfer of control to the Associate Administrator for Operations and Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416, within 10 days after the date of publication of this notice.

A similar notice shall be published in a newspaper of general circulation in South Norwalk, Conn.

Dated: November 8, 1972.

ANTHONY G. CHASE,
Deputy Administrator.

[FR Doc.72-19687 Filed 11-15-72;8:47 am]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

LABOR RESEARCH ADVISORY COUNCIL COMMITTEE

Notice of Meetings and Agenda

The regular fall meetings of committees of the Labor Research Advisory Council will be held on November 28 and 29 in Room 4454, General Accounting Office Building, 441 G Street NW, Washington, DC.

The Labor Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of union research directors and staff members.

The schedule and agenda of the meetings are as follows:

TUESDAY, NOVEMBER 28

9:30 a.m. Committee on Prices and Living Conditions:
1. Progress report on Consumer Price Index Revision—concepts, surveys, and operations.
2. Export and import price indexes.
3. Discussion of quality change.

1:30 p.m. Committee on Wages and Industrial Relations:
1. General review of on-going projects.
2. Report of Subcommittee on the General Wage Index.
3. Proposed work for Employment Standards Administration.
4. Wages and industrial relations studies in the public sector.
5. Publication and uses of new union-non-union information.

WEDNESDAY, NOVEMBER 29

9:30 a.m. Committee on Productivity and Technology:
1. Manpower impact of government expenditures and policies.
2. BLS role in the project of measuring productivity in the Federal Government.
3. Work on output per man-hour indexes adjusted for effects of shifts in industrial composition.
4. Construction labor requirement studies.
5. Measures of international comparisons of output per man-hour and unit labor cost.

1:30 p.m. Committee on Manpower and Employment:
1. Transfer of Manpower Administration Programs to BLS.
2. Budget.
3. Establishment statistics program.
4. State manpower projections.
5. Labor force topics.

It is suggested that persons planning to attend these meetings as observers

contact Joseph P. Goldberg, Executive Secretary, Labor Research Advisory Council on (area code 202) 961-2247.

Signed at Washington, D.C., this 8th day of November 1972.

GEOFFREY H. MOORE,
Commissioner of Labor Statistics.

[FR Doc.72-19664 Filed 11-15-72;8:46 am]

Occupational Safety and Health Administration

DECISION OF THE REGIONAL ADMINISTRATOR, REGION II

Decision Concerning Inspection; Mobil Oil Refinery, Paulsboro, N.J.

Pursuant to section 8(f)(2) of the Occupational Safety and Health Act of 1970 (84 Stat. 1600; 29 U.S.C. 651 et seq.) and the regulations promulgated thereunder, 29 CFR § 1903.12(a) and 14(d), an informal conference was held at the Office of the Regional Administrator, OSHA, U.S. Department of Labor, 1515 Broadway, New York, NY, on April 17, 1972, to afford the Oil, Chemical, and Atomic Workers International Union, AFL-CIO, an opportunity to discuss its contention that the OSHA inspection of the Mobil Oil Refinery, Paulsboro, N.J., was deficient in that it failed to uncover and cite a number of alleged violations.

The inspection, which was the subject of the informal conference, occurred during October, November, and December 1971, and took 25 working days to complete. As a result three serious and 90 nonserious citations were issued against Mobil Oil Corp. There were 354 violations of 93 standards. Penalties totaling $7,350 were assessed against and paid by Mobil.

The inspection was well conducted. However, after a review of the testimony adduced at the informal hearing, it is my opinion that further investigation in the following areas is warranted, so as to insure that all violations were cited.

1. *Filter plant.* The original complaint mentioned reports of employee dizziness in the filter plant. Testing indicated no recordable gases or fumes. The obvious condition in this plant was the dust concentration. Air sample results indicated dust concentrations were within acceptable limits, that is, they did not exceed the standard. Although it was mutually agreed by employer and employee representatives that conditions were representative of normal operations in the plant during the test period, it is my opinion that retesting would be advisable so as to assure that no airborne contaminants exceed applicable standards.

2. *TCC No. 1.* Employee representatives have asserted that yellow fumes emanated from this unit. There is apparent agreement that these fumes occur only during the "turnaround" of this unit which occurs every several months. Inspection and testing of the fumes during this "turnaround" would be appropriate.

3. *Ammonia building.* Employee representatives have asserted that leakages of high concentrations of ammonia were creating a hazardous condition. Investigation indicated that there were high concentrations of ammonia present at the refinery, but only under emergency conditions, and that equipment was provided and satisfactorily used by employees when such emergency conditions existed. However, reinvestigation into excessive concentrations of ammonia is considered appropriate and the frequency of such emergencies and the adequacy of ventilation will be further considered.

4. *Maintenance asbestos operation.* Employee representatives have asserted that the conditions at the refinery at the time of inspection were not representative of normal operations. The asbestos cutting operation was evaluated and employee exposure to asbestos was well within acceptable limits; no retesting of this operation is appropriate. Intermittent operations in the plant where asbestos is applied to equipment will be evaluated.

5. *Conveyor system.* Employee representatives have asserted that not all buttons of the electrical system or the stoppage of the conveyor were tested. Although several buttons were tested and found satisfactory, additional tests will be performed on reinspection.

6. *Drum storage ramp area.* Employee representatives asserted that the ramp at the drum storage area was slippery and hazardous. Inspection had indicated that a nonslip aggregate material was applied to the ramp. However, so as to assure that in fact the condition of the ramp is not hazardous, reinspection of the maintenance of the ramp surface is considered appropriate.

The foregoing decision was issued at New York on the 27th day of July, 1972.

[Sec. 6(e), 84 Stat. 1597, 29 U.S.C. 655(e)]

ALFRED BARDEN,
Regional Administrator.

[FR Doc.72-19665 Filed 11-15-72;8:46 am]

INTERSTATE COMMERCE COMMISSION

[Notice 118]

ASSIGNMENT OF HEARINGS

NOVEMBER 13, 1972.

Cases assigned for hearinfi, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC-9269 Sub 15, Bestway Motorfreight, Inc., now assigned January 8, 1973, at Olympia, Wash., is postponed to February 26, 1973, at Olympia, Wash.

MC-F-11023, Dundee Truck Line, Inc.—Control—Modern Motor Express, Inc., MC 109914 Sub 27, Dundee Truck Line, Inc., and MC-F-11504, Indianhead Truck Line, Inc.—Control and Merger—Dundee Truck Line, Inc., et al, now being assigned hearing January 22, 1973 (1 week), at Columbus, Ohio, in a hearing room to be later designated.

MC 136611, Red & White Market & Transfer, Inc., now being assigned hearing February 1, 1973 (2 days), at Hastings, Nebr., in a hearing room to be later designated.

MC 124211 Sub 200, Hilt Truck Line, Inc., now being assigned hearing February 5, 1973 (2 days), at Omaha, Nebr., in a hearing room to be later designated.

MC 124211 Sub 218, Hilt Truck Line, Inc., MC 135874 Sub 1, LTL Perishables, Inc., now being assigned hearing February 7, 1973 (3 days), at Omaha, Nebr., in a hearing room to be later designated.

MC-60430 Sub 20, Friedman's Express, Inc., now being assigned hearing February 5, 1973 (1 week), at New York, N.Y., in a hearing room to be later designated.

MC 114019 Sub 236, Midwest Emery Freight System, Inc., now being assigned hearing December 11, 1972 (2 days), at Chicago, Ill., in Room 865, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC-F-11601, Motor Dispatch, Inc.—Control—Contract Carriers, Inc., now being assigned hearing December 13, 1972 (3 days), at Chicago, Ill., in Room 865, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC-F-11599, Helms Motor Express, Inc.—Purchase—Fox Transfer Co., now assigned December 6, 1972, at Washington, D.C., is postponed indefinitely.

AB-5 Sub 19, Philadelphia, Baltimore, and Washington Railroad Co., and George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Writz, trustees of the property of Penn Central Transportation Co., Debtor, abandonment between Wawa, Pa., Colora, Md., is continued to December 5, 1972 (4 days), at the New Garden Township Municipal Building, New Garden Township, Chester County, Pennsylvania Highway 41 South Avondale, Pa.

MC 127957 Sub 2, Dominick Spinelli, doing business as Direct Way Auto Shippers, now being assigned hearing January 15, 1973 (2 days), at Miami, Fla., in a hearing room to be later designated.

MC 125659 Sub 3, Ace Driveaway System, Inc., now being assigned hearing January 17, 1973 (3 days), at Miami, Fla., in a hearing room to be later designated.

MC 107107 Sub 414, Alterman Transport Lines, Inc., Extension—New Orleans, La., now being assigned hearing January 22, 1973 (1 day), at Miami, Fla., in a hearing room to be later designated.

MC 83539 Sub 327, C & H Transportation Co., Inc., now being assigned hearing January 23, 1973 (1 day), at Miami, Fla., in a hearing room to be later designated.

MC 117943 Sub 1, Joseph M. Booth, doing business as J. M. Booth Trucking, now being assigned continued hearing January 24, 1973 (3 days), at Miami, Fla., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-19749 Filed 11-15-72;8:52 am]

XUM V37-222-NOV16-72 XUM

[Notice 161]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceeding within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-7379. By order of November 6, 1972, the Motor Carrier Board approved the transfer to Stone Transfer & Storage Co., a corporation, Oklahoma City, Okla., of certificates Nos. MC-74077 and MC-74077(Sub-No. 3), issued to George L. Stone, doing business as Stone Transfer & Storage Co., Oklahoma City, Okla., authorizing the transportation of: Household goods and uncrated new household furniture, between Oklahoma City, Okla., and points within 150 miles, on the one hand, and, on the other, points in Arkansas, Kansas, Missouri, Nebraska, New Mexico, and Texas. Ted Holshouser, attorney, 817 Barbour, Norman, OK 73069.

No. MC-FC-74014. By order entered November 1, 1972, the Motor Carrier Board approved the transfer to Phillip D. Bloch, doing business as Phill's Truck Service, Missoula, Mont., of the operating rights set forth in certificates Nos. MC-84759 and MC-84759 (Sub-No. 6), issued June 24, 1971 and December 13, 1971, respectively, to Wilbur E. Ast, Gene Ast, Donald R. Ast, and Gerald Halman, doing business as Miller Brothers Truck Line, Salmon, Idaho, authorizing the transportation of general commodities, with the usual exceptions, between specified points in Idaho and Montana. Larry D. Ripley, Post Office Box 1559, Boise, ID 83701, attorney for applicants.

No. MC-FC-74022. By order of November 8, 1972, the Motor Carrier Board approved the transfer to Southwest Equipment Rental, Inc., doing business as Southwest Motor Freight, Pico Rivera, Calif., of the operating rights in certificates No. MC-40915 (Sub-No. 19), MC-40915 (Sub-No. 21), MC-40915 (Sub-No. 23), MC-40915 (Sub-No. 28), MC-40915 (Sub-No. 31), MC-40915 (Sub-No. 32), MC-40915 (Sub-No. 33), and MC-40915 (Sub-No. 42) issued April 27, 1971, May 11, 1971, June 16, 1971, January 10, 1972, August 24, 1971, June 2, 1971, May 11, 1971, and January 14, 1972 respectively to Boat Transit, Inc., Newport Beach, Calif., authorizing the transportation of various commodities from and to specified points and areas in the United States, except Hawaii and Alaska. Ernest D. Salm, 3846 Evans Street, Los Angeles, CA 90027, representative for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-19748 Filed 11-15-72;8:52 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 13, 1972.

Protests to the granting of an application must be prepared in accordance with § 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42569—*Joint water-rail container rates—Showa Shipping Co., Ltd.* Filed by Showa Shipping Co., Ltd. (No. 3), for itself and interested rail carriers. Rates on general commodities, between ports in Japan, Korea, Hong Kong, and Taiwan, on the one hand, and rail stations on the U.S. Atlantic and Gulf Seaboard, on the other.

Grounds for relief—Water competition.

FSA No. 42570—*Phosphatic feed supplements to Houston, Tex.* Filed by M. B. Hart, Jr., agent (No. A6327), for interested rail carriers. Rates on phosphatic feed supplements in carloads, as described in the application, from Bonnie, Coronet, and Occidental, Fla., to Houston, Tex.

Grounds for relief—Rail-barge and market competition.

Tariff—Supplement 99 to Southern Freight Association, agent, tariff ICC S-784. Rates are published to become effective on December 14, 1972.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-19744 Filed 11-15-72;8:51 am]

[Exception No. 3; Service Order No. 1112]

DENVER AND RIO GRANDE WESTERN RAILROAD CO. AND SOUTHERN PACIFIC TRANSPORTATION CO.

Exception of Service Order

It appearing, that the Denver and Rio Grande Western Railroad Co., owns 100 freight cars numbered 40,000-40,099, inclusive, and having AAR mechanical designation XM; that the Denver and Rio Grande Western Railroad Co., has no present need for such cars; and that there is need for such cars by shippers served by the Southern Pacific Transportation Co.

It is ordered, That, pursuant to the authority vested in the Railroad Service Board by Service Order No. 1112, section (a), paragraph (1), Part (xiv), the Southern Pacific Transportation Co., is hereby authorized to use cars of the Denver and Rio Grande Western Railroad Co., numbered 40,000-40,099, in common with cars owned by the Southern Pacific Transportation Co. Such Denver and Rio Grande Western Railroad Co. cars, while being used by the Southern Pacific Transportation Co., shall be subject to section (a)(1)(vii) Exception of Service Order No. 1112.

Effective Date: November 9, 1972.

Issued at Washington, D.C., November 9, 1972.

RAILROAD SERVICE BOARD,
[SEAL] ROBERT L. OSWALD, *Secretary.*

Members,
Pfahler, Teeple, and Byrne.

[FR Doc.72-19747 Filed 11-15-72;8:52 am]

[ICC Order No. 74; Rev. Service Order 994]

PENN CENTRAL TRANSPORTATION CO.

Rerouting or Diversion of Traffic

In the opinion of Lewis R. Teeple, Agent, the Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, Trustees, is unable to transport traffic to and from the following stations on its lines because of track damage caused by flooding:

Wilkes-Barre, Pa.
Lebanon, Pa.
Frederick, Md.

It is ordered, That:

(a) *Rerouting traffic.* The Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, Trustees, being unable to transport traffic to and from Wilkes-Barre, Pa., Lebanon, Pa., or Frederick, Md., because of track damage caused by flooding, that carrier and its connections are hereby authorized to reroute or divert such traffic via any available route to expedite the movement. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 11:59 p.m., November 15, 1972.

(g) *Expiration date.* This order shall expire at 11:59 p.m., January 31, 1973, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., November 10, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE, *Agent.*

[FR Doc.72-19746 Filed 11-15-72;8:52 am]

WESTERN MARYLAND RAILWAY CO.

[ICC Order No. 75; Rev. Service Order 994]

Rerouting Traffic

TO ALL RAILROADS: In the opinion of Lewis R. Teeple, agent, the Western Maryland Railway Co. is unable to transport certain traffic over its line between Westminster, Md., and Cedarhurst, Md., because of track damage caused by flooding.

It is ordered, That:

(a) The Western Maryland Railway Co., being unable to transport certain traffic over its line between Westminster, Md., and Cedarhurst, Md., because of track damage caused by flooding, that carrier is hereby authorized to reroute or divert such traffic via any available route to expedite the movement. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 11:59 p.m., November 15, 1972.

(g) *Expiration date.* This order shall expire at 11:59 p.m., January 31, 1973, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., November 10, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE, *Agent.*

[FR Doc.72-19745 Filed 11-15-72;8:52 am]

[Notice No. 93]

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER APPLICATIONS

NOVEMBER 10, 1972.

Important notice. The following applications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by Special Rule 1100.247 [1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

No. MC 808 (Sub-No. 46), filed August 29, 1972. Applicant: ANCHOR MOTOR

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

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FREIGHT, INC., 21111 Chagrin Boulevard, Cleveland, OH 44122. Applicant's representative: J. A. Kundtz, 1100 Na- Louis and return over the same route. Restriction: Restricted against the transportation of traffic originating at or authorized regular route authority, serving no intermediate points. NOTE: Common control may be involved. If a hear-

TRANSFER CO., a corporation, Box 666, Altavista, VA 24517. Applicant's representative: W. Barney Arthur, Box 551, Graham, Jr., 707 Security Federal Building, Columbia, S.C. 29201. Authority sought to operate as a *common carrier,* Moines, Iowa 50309. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transport-

FREIGHT, INC., 21111 Chagrin Boulevard, Cleveland, OH 44122. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles and automobile chassis*, from the plantsite of General Motors Corp. at Pontiac, Mich., to points in Ohio, Pennsylvania, New York, New Jersey, and West Virginia, under continuing contract or contracts with General Motors Corp. NOTE: Applicant states that no duplicating authority is being sought. Dual operations and common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 1263 (Sub-No. 17), filed October 17, 1972. Applicant: McCARTY TRUCK LINE, INC., 17th and Harris, Trenton, MO 64683. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, MO 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading) serving all points within 10 miles of St. Joseph, Mo., and 15 miles of Platte City, Mo., as off-route points in connection with McCarty's regular route operations between Kansas City and St. Joseph, Mo., for operating convenience only, serving no intermediate points. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 2202 (Sub-No. 420), filed October 10, 1972. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, OH 44309. Applicant's representative: James W. Connor (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment (1) between Davenport, Iowa, and the junction of U.S. Highways 54 and 40, serving the junction of U.S. Highways 54 and 40 for purposes of joinder only, from Davenport over U.S. Highway 61 to the junction of U.S. Highways 61 and 54, thence over U.S. Highway 54 to the junction of U.S. Highways 54 and 40, and return over the same route and (2) between Rock Island, Ill., and St. Louis, Mo., serving St. Louis, Mo., for purposes of joinder only, from Rock Island over U.S. Highway 67 to the junction of U.S. Highway 67 and Illinois Highway 125, thence over Illinois Highway 125 to the junction of Illinois Highways 125 and 78, thence over Illinois Highway 78 to the junction of Illinois Highway 78 and U.S. Highway 67, thence over U.S. Highway 67 to St. Louis and return over the same route. Restriction: Restricted against the transportation of traffic originating at or destined to points in Missouri, and points in the St. Louis, Mo., commercial zone. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 2202 (Sub-No. 421), filed October 19, 1972. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, OH 44309. Applicant's representative: James W. Conner, Post Office Box 471, Akron, OH 44309. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite and warehouse facilities of Hoffman Taff, Inc., located at or near Verona, Mo., as an off-route point in connection with applicant's presently authorized regular-route authority to and from Springfield, Mo. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Springfield, Mo., or Akron, Ohio.

No. MC 2202 (Sub.-No. 422), filed October 24, 1972. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, OH 44309. Applicant's representative: James W. Conner, Post Office Box 471, Akron, OH 44309. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite and warehouse facilities of Combustion Engineering, Inc., located in Forward Township, Allegheny County, Pa., in connection with applicant's presently authorized regular-route authority to and from Pittsburgh, Pa., serving no intermediate points. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 2202 (Sub-No. 423), filed October 24, 1972. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, OH 44309. Applicant's representative: James W. Conner, Post Office Box 471, Akron, OH 44309. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite and warehouse facilities of the Celotex Corp. located at Wayne County, N.C., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, South Carolina, and Tennessee. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Tampa, Fla.

No. MC 17051 (Sub-No. 9), filed October 19, 1972. Applicant: BARNET'S EXPRESS, INC., 758 Lidgerwood Avenue, Elizabeth, NJ 07202. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel, equipment materials and supplies* used or useful in the manufacture and sale of wearing apparel for account of Excelled Sportswear, between Somerset, N.J., New York, N.Y., and Athens, Tenn. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Newark, N.J.

No. MC 22301 (Sub-No. 14), filed October 9, 1972. Applicant: SIOUX TRANSPORTATION COMPANY, INC., 1230 Steuben Street, Sioux City IA 51105. Applicant's representative: Paul Beck (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, and except dangerous explosives, household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 MCC 467, commodities in bulk, and those requiring special equipment), serving the Western Electric Co., Material Management Center at or near Underwood, Iowa, as an off-route point in connection with carrier's otherwise authorized regular route operation to and from Omaha, Nebr. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 30237 (Sub-No. 24), filed October 14, 1972. Applicant: YEATTS TRANSFER CO., a corporation, Box 666, Altavista, VA 24517. Applicant's representative: W. Barney Arthur, Box 551, Altavista, VA 24517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, as defined in Appendix II to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209, from points in Monroe County, Mich.; Harrison County, Ind.; and Mercer County, Ohio, to points in Virginia and West Virginia. NOTE: Applicant states that the requested authority can be tacked at Altavista, Va., with service to all points serviced by present authority. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Cincinnati, Ohio, or Washington, D.C.

No. MC 30605 (Sub-No. 151), filed October 10, 1972. Applicant: THE SANTA FE TRAIL TRANSPORTATION COMPANY, a corporation, 433 East Waterman Street, Wichita, KS 67202. Applicant's representative: F. J. Steinbrecher, 80 East Jackson Boulevard, Chicago, IL 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except livestock, sand, coal, rock, hay, explosives, commodities exceeding capacity of equipment, and those prohibited by law from transportation in motor vehicles), serving the warehouse site of Western Electric Co., Inc., located at or near Underwood, Iowa, as an off-route point in connection with applicant's regular route operations to and from Omaha, Nebr. From Council Bluffs over Iowa Highway 191 approximately 12 miles northeast of Council Bluffs, Iowa, to the warehouse site of Western Electric Co., Inc., and return over the same route, serving no intermediate points and for operating convenience only. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Council Bluffs, Iowa.

No. MC 30887 (Sub-No. 183), filed October 13, 1972. Applicant: SHIPLEY TRANSFER, INC., 49 Main Street, Post Office Box 55, Reisterstown, MD 21136. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Natural latex*, in bulk, in tank vehicles, from Baltimore, Md., to Fulton, Ky. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 33426 (Sub-No. 2), filed October 11, 1972. Applicant: FULLER TRANSPORTATION, INC., Post Office Box 198, West Columbia, SC 29169. Applicant's representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, S.C. 29201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty containers*, from points in Charleston County, S.C., to points in Chatham County, Ga. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbia, S.C., Charleston, S.C., or Charlotte, N.C.

No. MC 42487 (Sub-No. 796), filed October 10, 1972. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Applicant's representative: Robert M. Bowden, Western Traffic Service, Post Office Box 3062, Portland, OR 97208. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods as defined by the Commission, classes A and B explosives, commodities in bulk, motor vehicles, commodities of unusual value, commodities requiring special equipment, and commodities in vehicles equipped with mechanical refrigeration), between Flagstaff, Ariz., and Liberal, Kans., from Flagstaff over Interstate Highway 40 to Albuquerque, N. Mex., thence over Interstate Highway 25 to Raton, N. Mex., thence over U.S. Highway 64 to Hooker, Okla., thence over U.S. Highway 54 to Liberal, and return over the same route, as an alternate route for operating convenience only, in connection with applicant's presently authorized regular-route authority, serving no intermediate points. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif., or Phoenix, Ariz.

No. MC 42487 (Sub-No. 797), filed October 11, 1972. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Applicant's representative: E. T. Liipfert, Suite 1100, 1660 L Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Kingsport, and Bristol, Tenn.-Va., over U.S. Highway 11–W, restricted to the transportation of traffic received from or delivered to connecting carrier terminals at Bristol, Tenn.-Va., or terminals of connecting carriers located on the above route. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 52110 (Sub-No. 129), filed October 10, 1972. Applicant: BRADY MOTORFRATE, INC., 2150 Grand Avenue, Des Moines, IA 50312. Applicant's representative: Cecil L. Goettsch, 11th Floor, Des Moines Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete construction forms, molds, tools, and accessories* necessary for their installation, between Des Moines, Iowa, Fort Wayne, Ind., Metuchen, N.J., Buffalo, N.Y., and Detroit, Mich., on the one hand, and, on the other, points in Delaware, Illinois, Iowa, Indiana, Kentucky, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: Applicant states that the requested authority duplicates that authority it presently holds in certificate No. MC 52110 and subs thereunder, authorizing the transportation of general commodities, over regular routes, between the places named above on the one hand, and, on the other, points throughout a 23-State area generally encompassing the northeast quarter of the United States. Applicant further states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Washington, D.C.

No. MC 52465 (Sub-No. 44), filed October 10, 1972. Applicant: RICE TRUCK LINES, 1627 Third Street NW., Great Falls, MT 59404. Applicant's representative: Ray F. Koby, 314 Montana Building, Great Falls, Mont. 59403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Distillers' dried grain*, with, or without solubles, from the United States-Canada international boundary line located at or near Oroville, Wash., to points in Washington, Idaho, Montana, Oregon, Utah, and California, restricted to traffic having a prior movement in foreign commerce. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held in any city in the States of Montana or Washington.

No. MC 55896 (Sub-No. 37), filed October 6, 1972. Applicant: R–W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Applicant's representative: Robert A. Sullivan, 1800 Buhl Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, aluminum tanks, knocked down, and aluminum plates*, from the plantsite of Chicago Bridge and Iron Co., at or near Indian Oaks, Ill., to points in Indiana, Michigan, Ohio, and St. Louis, Mo. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 59150 (Sub-No. 72), filed October 16, 1972. Applicant: WOOD TRANSPORT, INC., Post Office Box 1, Rockaway, NJ 07866. Applicant's representative: Alan Foss, 347 Prospect Avenue, Hackensack, NJ 07601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsite of Chicago Bridge and Iron Co., at or near Indian Oaks, Ill., to points in Indiana, Michigan, Ohio, and New York, N.Y., commercial zone, on the one

TRANSIT LINES, INC., 200 Colrain DIAMOND COMPANY, a corporation, cated in North Dakota and Montana, to

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No. MC 59150 (Sub-No. 72), filed October 16, 1972. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Jacksonville, FL 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except in vehicles equipped with mechanical refrigeration, household goods, furniture, alcoholic beverages, explosives and dangerous articles, and commodities of unusual value), in cargo vans and/or cargo containers, and empty cargo vans and cargo containers, between points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Jacksonville, Fla.

No. MC 59640 (Sub-No. 31), filed October 16, 1972. Applicant: PAULS TRUCKING CORPORATION, Three Commerce Drive, Cranford, NJ 07016. Applicant's representative: Charles J. Williams, 47 Lincoln Park, Newark, NJ 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, *equipment, materials and supplies* used in connection of such business (except commodities in bulk), between the warehouse facilities of Supermarkets General Corp. at Mahwah, N.J., on the one hand, and, on the other, points in Hudson, Middlesex, Union, and Essex Counties, N.J., restricted to traffic which has a prior or subsequent movement by water or rail; New York, N.Y., and points in Nassau, Westchester, Rockland, and Suffolk Counties, N.Y.; Parkesburg and Philadelphia, Pa., and points in Bucks, Delaware, Berks, Dauphin, Montgomery, Cumberland, York, Lehigh, and Northampton Counties, Pa.; New Milford, Conn., and points in Fairfield, New Haven, Hartford, and Middlesex Counties, Conn.; points in New Castle, Kent, and Sussex Counties, Del.; points in Wicomico County, Md., and the facilities of Supermarkets General Corp. at Baltimore, Md., and points in Hampden County, Mass., under a continuing contract or contracts with Supermarkets General Corp. NOTE: Applicant states that the authority sought herein is only to permit applicant to serve the new warehouse facilities of Supermarkets General Corp. at Mahwah, N.J., in the area it is now authorized to serve. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 65916 (Sub-No. 16), filed September 11, 1972. Applicant: WARD TRUCKING CORP., Second Avenue and Seventh Street, Greenwood, Altoona, Pa. 16603. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass and glass products*, from the facilities of PPG Industries, Inc., at or near Cumberland, Md., to points in that part of Pennsylvania on and north of U.S. Highway 22, and on and east of U.S. Highway 15. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Pittsburgh, Pa.

No. MC 69116 (Sub-No. 147), filed October 20, 1972. Applicant: SPECTOR FREIGHT SYSTEM, INC., 205 West Wacker Drive, Chicago, IL 60606. Applicant's representative: Allan C. Zuckerman, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood and plywood panels, moldings and accessories* used in the installation thereof, from Memphis, Tenn., to points in Minnesota, Wisconsin, Illinois, Indiana, Michigan, Ohio, Kentucky, West Virginia, Pennsylvania, New York, New Jersey, Delaware, Maryland, Virginia, and the District of Columbia, restricted to traffic originating at the plantsite and warehouse facilities of Evans Products Co., at Memphis, Tenn. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 76032 (Sub-No. 296), filed October 16, 1972. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, CO 80223. Applicant's representative: Kenneth A. Willhite (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the warehouse site of Western Electric located at or near Underwood, Iowa, as an off-route point in connection with applicant's presently held regular-route operations via Omaha, Nebr. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 79142 (Sub-No. 2), filed October 13, 1972. Applicant: T & T TRUCKING & TRANSPORTATION CO., INC., 43-06 54th Road, Maspeth, NY 11378. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Essential oils, aroma chemicals, and flavors* (except in bulk), between points in the New York, N.Y., commercial zone, on the one hand, and, on the other, Avenel, Belleville, Clifton, East Hanover, East Rutherford, Elizabeth, Maywood, Newark, Piscataway, and Totowa, N.J. NOTE: Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 80430 (Sub-No. 144), filed September 28, 1972. Applicant: GATEWAY TRANSPORTATION CO., INC., 455 Park Plaza Drive, La Crosse, WI 54601. Applicant's representative: Joseph E. Ludden (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel pipe and pipe fittings, including wrought iron and/or steel pipe; steel conduit, tubing and fittings*, from Sharon and Wheatland, Pa., to points in Iowa, Minnesota, and Wisconsin. NOTE: Applicant states that the requested authority can be tacked with its regular route authority between Sharon and Wheatland, Pa., on the one hand, and, on the other, various points in Iowa, Minnesota, and Wisconsin which exist in Docket MC 80430 as can be seen are tacked over Chicago. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 85465 (Sub-No. 49), filed October 5, 1972. Applicant: WEST NEBRASKA EXPRESS, INC., Box 952, Scottsbluff, NE 69361. Applicants' representative: Stockton and Lewis, The 1650 Grant Street Building, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, as described in section B of appendix I to report in *Descriptions in Motor Carrier Certificates*, 66 M.C.C. 273, from O'Neil, Nebr., to points in Pennsylvania, Illinois, Indiana, Ohio, Michigan, and Wisconsin. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 95540 (Sub-No. 862), filed October 13, 1972. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, FL 33801. Applicant's representative: Paul E. Weaver (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foods*, in vehicles requiring mechanical refrigeration, from LaFargeville, Arkport, and Binghamton, N.Y. to points in North Carolina, South Carolina, Georgia, and Florida. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 106603 (Sub-No. 125), filed October 2, 1972. Applicant: DIRECT

TRANSIT LINES, INC., 200 Colrain Street SW., Grand Rapids, MI 49508. Applicant's representative: Martin J. Leavitt, 1800 Buhl Building, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood particle or composition boards*, from Oxford, Miss., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Ohio, Missouri, Tennessee, and Wisconsin. NOTE: Applicant also holds contract carrier authority under MC 426240 and Subs, therefore dual operations and common control may be involved. Applicant further states that the requested authority can be tacked with its existing authority, but due to the circuitry which would be involved, does not intend to tack. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 110192 (Sub-No. 2) (Correction), filed September 11, 1972, published in the FEDERAL REGISTER issue of October 19, 1972, and republished as corrected this issue. Applicant: HIRAM LEIGH, doing business as SANDERS & LEIGH, Liberty, KY 42539. Applicant's representative: Fred F. Bradley, Post Office Box 773, Courthouse, Frankfort, KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, between points in Casey County, Ky. NOTE: Applicant states that the requested authority can be tacked with its existing authority at points in Casey County. The purpose of this republication is to correct the tacking information. If a hearing is deemed necessary, applicant requests it be held at Frankfort, Louisville, or Lexington, Ky.

No. MC 112063 (Sub-No. 16), filed October 10, 1972. Applicant: P. I. & I. MOTOR EXPRESS, INC., 2727 Freeland Road, Post Office Box 685, Sharon, PA 16146. Applicant's representative: Milan Tatalovich, 123 West Liberty Street, Post Office Box 166, Girard, OH 44420. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron or steel pipe, tubing, conduit and fittings, and accessories therefor*, which are unloaded by carrier's trailer mounted mechanical unloading devices, from the plantsite of Wheatland Tube Co., located at Chicago, Ill., to points in Indiana, Ohio, and the Lower Peninsula of Michigan; points in New York on or west of U.S. Highway 15, including the commercial zone of Rochester, N.Y.; and points in Pennsylvania on or west of U.S. Highway 219 beginning at its junction with New York border above Bradford, Pa., and continuing southward to its junction with the West Virginia border. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 113106 (Sub-No. 37), filed October 13, 1972. Applicant: THE BLUE DIAMOND COMPANY, a corporation, 4401 East Fairmount Avenue, Baltimore, MD 21224. Applicant's representative: Chester A. Zyblut, 1522 K Street, NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fertilizer and fertilizer materials;* and (2) *agricultural related chemicals and seed*, in containers, from points in East Hempfield Township, Lancaster County, Pa., to points in New York, New Jersey, Delaware, Maryland, Virginia, West Virginia, Ohio, and the District of Columbia. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 113362 (Sub-No. 248), filed October 16, 1972. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Applicant's representative: James Ellsworth, 4500 North State Line Road, Texarkana, AR 75501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe* and *plastic tubing*, with or without plastic fittings, from the plantsite of Tex-Tube Division, Detroit Steel Corp., Houston, Tex., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas or Houston, Tex.

No. MC 113362 (Sub-No. 249), filed October 10, 1972. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Applicant's representative: James Ellsworth, 4500 North State Line Road, Texarkana, AR 75501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by the R. T. French Co., from Springfield, Mo., to points in Arkansas, Illinois, Iowa, Kansas, Louisiana, Minnesota, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Springfield or Kansas City, Mo.

No. MC 113855 (Sub-No. 260), filed October 16, 1972. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road Southeast, Rochester, MN 55901. Applicant's representative: Alan Foss, 502 First National Bank Building, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Snowmobiles*, from ports of entry on the international boundary line between the United States and Canada located in North Dakota and Montana, to points in New Hampshire, New Jersey, New York, Vermont, Connecticut, Massachusetts, Rhode Island, Maine, Pennsylvania, Indiana, Iowa, Illinois, Ohio, Michigan, Wisconsin, Minnesota, North Dakota, South Dakota, Nebraska, Montana, Wyoming, Colorado, Idaho, Utah, Nevada, Washington, Oregon, and California. NOTE: Applicant states that tacking is possible but not intended. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 113865 (Sub-No. 17), filed September 7, 1972. Applicant: STAUFFER TRUCK SERVICE, INC., Rural Route No. 1, Taylor, MO 63471. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feed, dry animal and poultry mineral mixtures, and animal and poultry tonics, insecticides* (except agricultural), *livestock and poultry feeders and equipment, premiums and advertising matter relating to such products*, from Quincy, Ill., to points in Alabama, under a continuing contract or contracts with Moorman Mfg. Co. of Quincy, Ill. NOTE: Applicant presently holds common carrier authority in certificate No. MC 123245 and Subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Chicago or Springfield, Ill.

No. MC 114211 (Sub-No. 178), filed October 13, 1972. Applicant: WARREN TRANSPORT, INC., 324 Manhard Street, Post Office Box 420, Waterloo, IA 50704. Applicant's representative: Daniel Sullivan, 327 South La Salle, Chicago, IL 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood and prefinished paneling*, from the plantsite of Plywood Panels, Inc., and the port of entry located at or near New Orleans, La., to points in Alabama, Florida, Georgia, Mississippi, and Tennessee. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Memphis, Tenn.

No MC 114211 (Sub-No. 179), filed October 24, 1972. Applicant: WARREN TRANSPORT, INC., 324 Manhard Street, Post Office Box 420, Waterloo, IA 50704. Applicant's representative: Kenneth R. Nelson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (except truck tractors), *tractor parts* and *attachments thereof*, from the plant and warehouse site of Ford Motor Co. at Romeo, Mich., to points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa,

Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, the Upper Peninsula of Michigan, ports of entry on

TRANSPORT, INC., 1931 North Geyer Road, St. Louis, MO 63131. Applicant's representative: J. R. Ferris, 230 St. Clair

Tennessee, those in Louisiana north and west of a line beginning at the Texas-Louisiana State line at or near Merry-

Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont,

contract carrier authority in permit No. MC 34865 and Subs thereunder, therefore dual operations may be involved.

LIVERY SYSTEM, INC., 2201 Fenkell Avenue, Detroit, MI 48238. Applicant's representative: William B. Elmer, 23801

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XUM

V37-222-NOV16-72

XUM

Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, the Upper Peninsula of Michigan, ports of entry on the international boundary line between the United States and Canada at Detroit and Port Huron, Mich., Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, Wyoming, and the District of Columbia. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Applicant further states that no duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Chicago, Ill.

No. MC 114211 (Sub-No. 180), filed October 25, 1972. Applicant: WARREN TRANSPORT, INC., 324 Manhard Street, Post Office Box 420, Waterloo, IA 50704. Applicant's representative: Daniel Sullivan, 327 South LaSalle, Chicago, IL 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bulkheads and bulkhead accessories* from points in Douglas County, Nebr., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states no duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 114533 (Sub-No. 264), filed August 22, 1972. Applicant: BANKERS DISPATCH CORP., 4970 South Archer Avenue, Chicago, IL 60632. Applicant's representative: Warren W. Wallin, 330 South Jefferson Street, Chicago, IL 60606. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobile parts, accessories and supplies*, between St. Louis, Mo., on the one hand, and, on the other, points in Illinois lying in those counties on and south of the northern boundaries of Adams, Brown, Cass, Menard, Logan, De Witt, Piatt, Champaign, and Vermilion and points in Indiana lying in those counties on and west of the eastern boundaries of the counties of Parke, Clay, Green, Martin, Dubois, and Perry restricted to shipments weighing not more than 100 pounds. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 115331 (Sub-No. 334), filed September 29, 1972. Applicant: TRUCK TRANSPORT, INC., 1931 North Geyer Road, St. Louis, MO 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Grass seed*, in containers; *fertilizer and seed distributors; grass catchers; chemicals*, in containers; *mowers and mower parts; agricultural implements* weighing less than 50 pounds, *turf aerators; rubber or plastic products; lawn sprinklers; electric metal signs*, and *advertising displays and matters*; and (2) *commodities*, the transportation of which falls within the partial exemption of section 203 (b) (6) of the Interstate Commerce Act, when moving in mixed loads with commodities specified in (1) above, from Marysville, Ohio, to points in Arkansas, Georgia, Illinois, Iowa, Kansas, Louisiana, Mississippi, Florida, Minnesota, Missouri, Nebraska, North Carolina, Oklahoma, South Carolina, Texas, Tennessee, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Washington, D.C.

No. MC 115496 (Sub-No. 16), filed August 14, 1972. Applicant: LUMBER TRANSPORT, INC., Cochran, Ga. 31014. Applicant's representative: James L. Flemister, 1220 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the plantsites of Edmundson Griffin Lumber Co., located at Bleckley County, Ga., to points in North and South Carolina and Alabama. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 115840 (Sub-No. 80), filed October 10, 1972. Applicant: COLONIAL FAST FREIGHT LINES, INC., 1215 Bankhead Highway, Post Office Box 10327, Birmingham, AL 35202. Applicant's representative: C. E. Wesley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Pipe, and iron and steel articles*, from Anniston, Ala., to points in Tennessee, Georgia, Alabama, Florida, Mississippi, and those in Louisiana east of the Mississippi River; (b) *materials, and supplies* (except in bulk) used in the operations or production, processing, and transportation of pipe and iron and steel articles or foundries, from points in North Carolina, South Carolina, Tennessee, Arkansas, Alabama, Georgia, Florida, Mississippi, and those points in Louisiana on and east of the Mississippi River, to Anniston, Birmingham, and Bessemer, Ala.; and (2) *insulating materials and supplies* (except in bulk), and *mineral wool*, loose or in packages, from Birmingham, Ala., to points in Arkansas, Florida, Tennessee, those in Louisiana north and west of a line beginning at the Texas-Louisiana State line at or near Merryville, La., and extending along the U.S. Highway 190 to the Mississippi River, and thence northerly along the Mississippi River to the Louisiana-Mississippi State line at or near Angola, La., and those points in Mississippi north of U.S. Highway 80. NOTE: Common control may be involved. Applicant states it intends to tack the requested authority with its lead certificate and subs thereto. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala.

No. MC 115840 (Sub-No. 81), filed October 19, 1972. Applicant: COLONIAL FAST FREIGHT LINES, INC., 1215 Bankhead Highway, Post Office Box 10327, Birmingham, AL 35202. Applicant's representative: C. E. Wesley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, pipe and tubing*, from New Orleans, La., to points in Illinois, Indiana, Iowa, Kansas, Missouri, Ohio, Oklahoma, and Texas. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.; Gulfport or Jackson, Miss.

No. MC 117119 (Sub-No. 467), filed October 16, 1972. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., Post Office Box 188, Elm Springs, AR 72728. Applicant's representative: Bobby G. Shaw (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes, frozen vegetables and dehydrated potatoes* (except in bulk(, from Hart, Holland, and Lake Odessa, Mich., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia. NOTE: Applicant states that it holds authority which possibly could be tacked or joined, however, tacking is not intended. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho, or Washington, D.C.

No. MC 117883 (Sub-No. 174), filed October 16, 1972. Applicant: SUBLER TRANSFER, INC., 791 East Main Street, Versailles, OH 45380. Applicant's representative: Edward J. Subler, Post Office Box 62, Versailles, OH 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes, frozen vegetables, and dehydrated potatoes*, from Hart, Holland, and Lake Odessa, Mich., to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine,

Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. Restriction: Restricted to the transportation of traffic originating at the plantsite and storage facilities utilized by Ore-Ida Foods, Inc., at Hart, Holland, and Lake Odessa, Mich. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at the same time and place as other carriers filing similar applications.

No. MC 119435 (Sub-No. 3), filed October 13, 1972. Applicant: WADDELL TRANSFER, INC., Post Office Box 61, Hockett Street, Marion, VA 24354. Applicant's representative: R. Cameron Rollins, 321 East Center Street, Kingsport, TN 37660. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick, cinder block, concrete block, clay and clay products, shale and shale products, concrete and concrete products, mortar mixes and brick, block and tile raw materials*, (1) between Glasgow, Richland, and Richmond, Va., on the one hand, and on the other, points in Kentucky, Maryland, North Carolina, Tennessee, and West Virginia and (2) between Elizabethton, Johnson City, Kingsport and Knoxville, Tenn., on the one hand, and, on the other points in Kentucky, North Carolina, Virginia, and West Virginia, under contract with General Shale Products Corp., Johnson City, Tenn. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Nashville, Tenn.

No. MC 119493 (Sub-No. 94), filed October 10, 1972. Applicant: MONKEM COMPANY, INC., West 20th Street Road, Post Office Box 1196, Joplin, MO 64801. Applicant's representative: Ray F. Kempt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, and *advertising material* used in the sale and distribution of malt beverages, from the plant and warehouse facilities of Lone Star Brewing Co. at San Antonio, Tex., to points in Arkansas and Oklahoma. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states no duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 119522 (Sub-No. 18), filed October 6, 1972. Applicant: McLAIN TRUCKING, INC., 2425 Walton Street, Anderson, IN 46011. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automotive parts, rough stampings, and packing devices*, between Portland, Ind. and Detroit, Mich. NOTE: Applicant presently holds contract carrier authority in permit No. MC 34865 and Subs thereunder, therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 119656 (Sub-No. 8), filed October 13, 1972. Applicant: NORTH EXPRESS, INC., 219 East Main Street, Winamac, IN 46996. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dismantled railroad cars and equipment*, between Logansport, Ind., and Chicago, Ill., and from Logansport, Ind., to Joliet, Ill., and Youngstown, Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 119702 (Sub-No. 38), filed September 11, 1972. Applicant: STAHLY CARTAGE CO., a corporation, 130 A Hillsboro Avenue, Post Office Box 486, Edwardsville, IL 62025. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry fertilizer and liquid fertilizer*, in bulk, from Walcott, Iowa to points in Illinois and Wisconsin; (2) *Bagged fertilizer, dry fertilizer and liquid fertilizer*, in bulk, between Erie, Ill. on the one hand, and, on the other, points in Indiana, Iowa, and Wisconsin; (3) *Anhydrous ammonia*, from Bellevue, Iowa, to points in Illinois and Wisconsin; and (4) *Dry fertilizer and liquid fertilizer*, in bulk, from the plantsite of Hawkeye Chemical Co., near Clinton, Iowa, to points in Illinois and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 119767 (Sub-No. 297), filed September 18, 1972. Applicant: BEAVER TRANSPORT, CO., a corporation, Post Office Box 186, Pleasant Prairie, WI 53158. Applicant's representative: Fred H. Figge (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs*, from St. Louis, Mo., to points in Michigan; and (2) *Dairy products and by-products*, from St. Louis, Mo., to points in Indiana, Kentucky, Michigan, and Ohio. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 121082 (Sub-No. 5), filed October 10, 1972. Applicant: ALLIED DELIVERY SYSTEM, INC., 2201 Fenkell Avenue, Detroit, MI 48238. Applicant's representative: William B. Elmer, 23801 Gratiot Avenue, East Detroit, MI 48021. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Patterns*, from the plantsite of Simplicity Pattern Co., Inc., at Niles, Mich., to points in Ohio on and west of Ohio Highway 4 from Sandusky to Springfield, and on and north of U.S. Highway 40 from Springfield to the Indiana boundary; points in Indiana on and north of U.S. Highway 50; points in Illinois on and north and east of Interstate 74; points in Wisconsin on and south of U.S. Highway 18. NOTE: Applicant states that tacking is possible, but applicant has no present intention of tacking. Common control may be involved. The sole purpose of the instant application is to convert the Certificates of Registration in MC 121082 Sub-Nos. 1 and 2 to a Certificate of Public Convenience and Necessity. If a hearing is deemed necessary, applicant requests it be held at Lansing or Detroit, Mich.

No. MC 123383 (Sub-No. 62), filed October 16, 1972. Applicant: BOYLE BROTHERS, INC., 941 South Second Street, Camden, NJ 08103. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials, gypsum and gypsum products, composition boards, insulation materials, urethane and urethane products and related materials, supplies and accessories incidental thereto* (except commodities in bulk), from the plantsite and warehouse facilities of the Celotex Corp., located at points in Wayne County, N.C., to points in Virginia, Delaware, Maryland, New Jersey, New York, Pennsylvania, and the District of Columbia. NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Tampa, Fla.

No. MC 123695 (Sub-No. 5), filed July 5, 1972. Applicant: BRIGGS TRANS., INC., One Brownstone Avenue, Portland, OR 06480. Applicant's representative: John E. Fay, 342 North Main Street, West Hartford, CT 06117. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum lubricating oils, greases, waxes and antifreeze preparations*, in packages and containers and return of empty containers, having a prior movement by rail in a piggy-back service, between points in Massachusetts and

Connecticut, on the one hand, and, on

No. MC 124579 (Sub-No. 8), filed Octo-

ald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106.

contractor's equipment, materials, and supplies, between Indian Oaks, Ill. and

plywood paneling, dimensional lumber cut to size, woodmill products prefinished

rier, by motor vehicle, over irregular

Connecticut, on the one hand, and, on the other, points in Connecticut, Massachusetts, and New York, under contract with Cities Service Oil Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn. or New York, N.Y.

No. MC 124170 (Sub-No. 32), filed October 13, 1972. Applicant: FROSTWAYS, INC., 3900 Orleans, Detroit, MI 48207. Applicant's representative: Robert D. Schuler, One Woodward Avenue, Suite 1700, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foods and food products*, from points in Michigan on and south of U.S. Highway 10, and on and west of U.S. Highway 27 to points in Connecticut, Maryland, Massachusetts, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at the plantsites or Ore-Ida Foods, Inc., and/or warehouse facilities used by Ore-Ida Foods, Inc. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that it is authorized to serve supporting shipper's plantsites in Montcalm City, Mich., in its Sub 15, in transporting virtually the same commodities as here sought to the destination states that are here sought, so there is a partial duplication. Applicant offers to surrender Sub 15 for cancellation if this authority is granted in its entirety. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Washington, D.C.

No. MC 124266 (Sub-No. 1), filed October 5, 1972. Applicant: NELSON GWILLIM, Route 2, Box 144, Carlinville, IL 62626. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and processed meat, dairy and ice cream products, poultry, and other food products*, between points in Missouri, Minnesota, Colorado, Wisconsin, Iowa, Oklahoma, Texas, Arkansas, Georgia, Tennessee, Kentucky, Indiana, Michigan, and Illinois, under contract with Prairie Farms Dairy, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Springfield, Ill., or St. Louis, Mo.

No. MC 124511 (Sub-No. 9), filed October 10, 1972. Applicant: JOHN F. OLIVER, Post Office Box 223, Mexico, MO 65265. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, MO 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractory and refractory products*, from points in Audrain, Callaway and Montgomery Counties, Mo., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis or Kansas City, Mo.

No. MC 124579 (Sub-No. 8), filed October 13, 1972. Applicant: WIKEL BULK EXPRESS, INC., Route 1, Huron, OH 44839. Applicant's representative: Richard H. Brandon, 79 East State Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid sugar, invert sugar* and *blends of liquid and invert sugar and corn syrups*, in bulk, in tank vehicles, from Toledo, Ohio, to points in Indiana, Michigan, Pennsylvania, and New York; and (2) *contaminated, rejected, refused and returned shipments of commodities*, in bulk, in tank vehicles, named in (1) above, from destination points named in (1) above, to Toledo, Ohio, on return. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant now holds contract carrier authority under its No. MC 114377, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio or Washington, D.C.

No. MC 125254 (Sub-No. 16), filed October 16, 1972. Applicant: DONALD L. MORGAN, doing business as MORGAN TRUCKING CO., Post Office Box 714, 1201 East Fifth Street, Muscatine, IA 52761. Applicant's representative: Larry D. Knox, 910 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from La Crosse, Wis., to Muscatine, Iowa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 127042 (Sub-No. 102), filed October 13, 1972. Applicant: HAGEN, INC., 4120 Floyd Boulevard, Post Office Box 98, Leeds Station, Sioux City, IA 51108. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Shampoo, drugs, toilet preparations, cleaning compounds, and supplies and materials used by beauty supply businesses* (except commodities in bulk), from Brookfield, Mo., to points in Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Montana, Nebraska, Neveda, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City or St. Louis, Mo.

No. MC 127042 (Sub-No. 103), filed October 16, 1972. Applicant: HAGEN, INC., 4120 Floyd Boulevard, Post Office Box 98, Leeds Station, Sioux City, IA 51108. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning compounds* (except in bulk), from Chicago, Ill. to points in Washington, Oregon, California, Montana, Idaho, Utah, Colorado, North Dakota, South Dakota, Nebraska, Missouri, Kansas, Nevada, New Mexico, Wyoming, and Arizona. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 127042 (Sub-No. 104), filed October 24, 1972. Applicant: HAGEN, INC., 4120 Floyd Boulevard, Post Office Box 98, Leeds Station, Sioux City, IA 51108. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scented oils, cleaning compounds, toilet preparations, and supplies* (except in bulk), from Madrid, Iowa, to points in California, Wyoming, Colorado, Missouri, Kansas, Nebraska, Arizona, New Mexico, Washington, Oregon, Utah, Texas, Nevada, Idaho, and Montana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa or Omaha, Nebr.

No. MC 127834 (Sub-No. 82), filed October 13, 1972. Applicant: CHEROKEE HAULING & RIGGING, INC., 540-42 Merritt Avenue, Nashville, TN 37203. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, KY 42431. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials, gypsum and gypsum products, compositions boards, insulation materials, urethane and urethane products and related materials, supplies and accessories*, incidental thereto (except commodities in bulk), from Port Clinton, Ohio to points in Tennessee. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 128270 (Sub-No. 6), filed October 6, 1972. Applicant: REDEIHS INTERSTATE, INC., 7869 Melton Road, Gary, IN. Applicant's representative: James C. Hardman, 127 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles and contractor's equipment, materials, and supplies*, between Indian Oaks, Ill., and points in Missouri, Iowa, Wisconsin, Indiana, and Michigan. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 128273 (Sub-No. 133), filed October 9, 1972. Applicant: MIDWESTERN EXPRESS, INC., Post Office Box 189, Fort Scott, KS 66701. Applicant's representative: David C. Freeman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bedsprings, bedstead rails, cots and cot frames, unupholstered day beds, bed frames, springs, and spring assemblies, metal sleeper fixtures and materials* used in the manufacture of the foregoing commodities, between Hominy, Okla., on the one hand, and, on the other, points in Minnesota, Iowa, Missouri, Arkansas, Louisiana, Wisconsin, Illinois, Michigan, Indiana, Mississippi, Ohio, Kentucky, Tennessee, Alabama, Pennsylvania, Maryland, West Virginia, Virginia, North Carolina, South Carolina, and Georgia and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 128404 (Sub-No. 6), filed October 10, 1972. Applicant: BLACKWOOD CRANE & TRUCK SERVICE, INC., Post Office Box 3037, Knoxville, TN 37917. Applicant's representative: James N. Clay III, 2700 Sterick Building, Memphis, TN 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wood chips*, between Knoxville, Tenn. and points in Tennessee, Kentucky, Virginia, and North Carolina; (2) *Plastic conduit and pipe and accessories therefor*, between Knoxville, Tenn. and points in Alabama, Florida, Georgia, Kentucky, Maryland, Mississippi, Missouri, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia; (3) *Plastic conduit and pipe and accessories therefor*, from Toledo, Ohio to those destination points named in (2) above; and (4) *Precast and prestressed concrete products, and plastic conduit and pipe, and accessories therefor*, from Johnson City and Bristol, Tenn. to those destination points named in (2) above. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Knoxville, Tenn.

No. MC 128527 (Sub-No. 31), filed September 29, 1972. Applicant: MAY TRUCKING CO., a Corporation, Post Office Box 398, Payette, ID 83661. Applicant's representative: John K. Gatchel, Post Office Box 195, Payette, ID 83661. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood, plywood paneling, dimensional lumber cut to size, woodmill products prefinished molding, stiles, headers, jambs, laminated plastics and related articles*, packaged or bundled for the convenience of the shipper or consignee to be used in the manufacturing of mobile homes, motor homes, and recreational vehicles, from the site of Champion Home Builders distribution center, located at or near Weiser, Idaho, to the plantsites of Champion Home Builders located at points in California. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho.

No. MC 129749 (Sub-No. 2), filed October 16, 1972. Applicant: FOUNDRY SERVICE CORP., 11 South Third Street, Post Office Box 499, Hammonton, NJ 08037. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sand and gravel*, from points in Mauricetown and South Vineland, N.J., to points in Pennsylvania, New York, New Jersey, Connecticut, Rhode Island, Massachusetts, Delaware, Maryland, Virginia, and the District of Columbia, under contract with Jesse S. Morie and Son, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Philadelphia, Pa.

No. MC 133032 (Sub-No. 4), filed October 2, 1972. Applicant: BURKETT TRUCKING CO., INC., 2508 East Roosevelt Road, Little Rock, AR 72202. Applicant's representative: Donald R. Partney, 35 Glenmore Drive, Little Rock, AR 72204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fruit and vegetable shipping containers*, from Nashville, Ark., to points in Denver, Boulder, Weld, Adams, Arapahoe, Larimer, Jefferson, Douglas, Gilpin, Clear Creek, Park, Costilla, Alamosa, and Conejos Counties, Colo.; points in Florida and points in Texas on and east of a line beginning at the Texas-Mexico border at Del Rio, Tex., and extending north along U.S. Highway 377 to junction with U.S. Highway 90, thence west along U.S. Highway 90 to junction with U.S. Highway 285, thence north along U.S. Highway 285 to the Texas-New Mexico State line, under contract with Little Rock Crate & Basket Co., Little Rock, Ark. NOTE: Applicant holds common carrier authority under MC 118016, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark.

No. MC 134071 (Sub-No. 4), filed September 22, 1972. Applicant: MODULAR TRANSPORTATION CO., a corporation, 421 West Fulton Street, Grand Rapids, MI 48601. Applicant's representative: William D. Parsley, 1200 Bank of Lansing building, Lansing, MI 48933. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Modular buildings, component parts, materials, accessories, supplies, and other equipment* used in the erection, construction, or installation of such buildings, between the plantsite of Inland-Scholz Housing Systems Co. near Milan, Mich. on the one hand, and, on the other, Kansas City, Kans., and points in the United States east of the western State boundaries of Minnesota, Iowa, Missouri, Arkansas, and Louisiana, under a continuing contract or contracts with Inland-Scholz Housing Systems Co. of Milan, Mich. NOTE: Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Lansing or Detroit, Mich.

No. MC 134145 (Sub-No. 31), filed October 5, 1972. Applicant: NORTH STAR TRANSPORT, INC., Post Office Box 51, Thief River Falls, MN 56701. Applicant's representative: Robert P. Sack, Post Office Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Snowmobile clothing and related accessories*, from Seattle, Wash. to Aurera, Colo.; Idaho Falls, Idaho; Carol Stream, Ill.; Lansing and Trout Lake, Mich.; St. Paul and Thief River Falls, Minn.; Reno, Nev.; Rochester, N.Y.; Lockhaven, Pa.; Bethel and Randolph, Vt.; and Neenah, Wis., under a continuing contract or contracts with Arctic Enterprises, Inc. of Thief River Falls, Minn. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 135007 (Sub-No. 20), filed October 10, 1972. Applicant: AMERICAN TRANSPORT, INC., 108 East Renfro Circle, Millard, NE 68137. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Floor covering and rugs* from a point at or near Crow Agency, Mont., to points in Washington, Oregon, California, Idaho, Nevada, Utah, Arizona, Wyoming, Colorado, New Mexico, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Iowa, Missouri, and Louisiana, under continuing contract with William Volker & Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at San Francisco or Los Angeles, Calif.

No. MC 135067 (Sub-No. 3), filed October 5, 1972. Applicant: HANS. L. SANDBERG, doing business as: SANDBERG TRUCKING CO., 405 South McCoy, Granville, IL 61326. Applicant's representative: E. Stephen Heisley, Suite 805, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials*, from Newport, Ky.; Evansville, Ind.; Minneapolis and St. Paul, Minn.; Sheboygan, La Crosse, Monroe, and Potosi,

Wis., to Freeport, Peru, and Rockford, Ill. Restriction: The operations authorized herein are limited to a transportation

and republished as amended this issue. Applicant: JENSEN TRUCKING COMPANY, INC., 213 South Washington

North Carolina, Virginia, Maryland, Pennsylvania, New Jersey, New York, Tennessee, Kentucky, Ohio, Michigan,

business as HOLLIS WILLIAMS TRUCKING, 314 Oak Avenue, Sulphur Springs, TX 75482. Applicant's repre-

hicle, over irregular routes, transporting: *Industrial rolls or rollers*, uncrated, loose, and in open cradles, between Three Riv-

ing is deemed necessary, applicant requests it be held at Portland, Oreg.

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Wis., to Freeport, Peru, and Rockford, Ill. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract or contracts with the following shippers: Lassandro Distributing Co., De Fay & Son Beverage Co., and Rutgens Distributors, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 135936 (Sub-No. 10), filed October 5, 1972. Applicant: LIEBMANN TRANSPORTATION CO., INC., U.S. Highway 65 North, Iowa Falls, IA 50126. Applicant's representative: C. H. Rogers, Post Office Box 1022, Iowa Falls, IA 50126. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products; meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Denison, Carroll, and Iowa Falls, Iowa and Garden City, Kans., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Vermont, Virginia, West Virginia, Ohio, North Carolina, South Carolina, Georgia, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. 136212 (Sub-No. 2) (Amendment), filed July 3, 1972, published in the FEDERAL REGISTER issue of August 3, 1972, and republished as amended this issue. Applicant: JENSEN TRUCKING COMPANY, INC., 213 South Washington Street, Post Office Box 37, Papillion, NE 68406. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, Post Office Box 303806, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potato products and frozen vegetables*, from Monte Alto, Edinberg, San Antonio, Dallas, and Corpus Christi, Tex., and their respective commercial zones to points in Louisiana, Mississippi, Tennessee, Arkansas, North Carolina, South Carolina, Georgia, Florida, Alabama, Virginia, West Virginia, Maryland, New Jersey, Pennsylvania, New York, Indiana, Massachusetts, Connecticut, Kentucky, Ohio, Michigan, Illinois, Delaware, and Washington, D.C., restricted to traffic originating at the named origins. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this amendment is to correctly identify the product the supporting shipper sells and ships. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex., or Omaha, Nebr.

No. 136212 (Sub-No. 3) (Amendment), filed July 3, 1972, published in the FEDERAL REGISTER issue of August 3, 1972, and republished as amended this issue. Applicant: JENSEN TRUCKING COMPANY, INC., 213 South Washington Street, Post Office Box 37, Papillion, NE 68046. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potato products and frozen vegetables*, from Monte Alto, Edinberg, San Antonio, Dallas, and Corpus Christi, Tex., and their respective commercial zones to points in Arizona, New Mexico, Colorado, Utah, Nebraska, Iowa, Wisconsin, Minnesota, North Dakota, South Dakota, Kansas, Oklahoma, Missouri, and California, restricted to traffic originating at the named origins. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this amendment is to correctly identify the product that the supporting shipper sells and ships. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex., or Omaha, Nebr.

No. MC 136568 (Sub-No. 1), filed October 9, 1972. Applicant: MISSISSIPPI MOVING & STORAGE COMPANY, a corporation, 5570 North McRaven Road, Jackson, MS 39209. Applicant's representative: Donald B. Morrison, 717 Deposit Guaranty Bank Building, Post Office Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, as defined by the Commission, and *unaccompanied baggage and personal effects*, between Jackson and Meridian, Miss., on the one hand, and, on the other, points in Clarke, Copiah, Hinds, Issaquena, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Rankin, Scott, Sharkey, Simpson, Smith, Warren, and Yazoo Counties, Miss., and Choctaw, Greene, Hale, Marengo, and Sumter Counties, Ala., restricted to the transportation of traffic having a prior or subsequent movement in containers (except as to unaccompanied baggage and personal effects), beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such traffic. NOTE: If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss.

No. MC 136690 (Sub-No. 1), filed October 13, 1972. Applicant: J & S TRUCKING CO., INC., Route 2, Box 341, Carrollton, GA 30117. Applicant's representative: Monty Schumacher, Suite 310, 2045 Peachtree Road NE., Atlanta, GA 30309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fresh and frozen meat*, in vehicles equipped with mechanical refrigeration, from the plantsites of Duffey Boneless Beef Co. and Duffey Sausage Co., Inc., Carrollton, Ga., to points in Florida, South Carolina, North Carolina, Virginia, Maryland, Pennsylvania, New Jersey, New York, Tennessee, Kentucky, Ohio, Michigan, Minnesota, Wisconsin, Iowa, Illinois, Indiana, Missouri, Arkansas, Alabama, Mississippi, Louisiana, and Texas. Restriction: The operations sought above are limited to a transportation service to be performed, under a continuing contract, or contracts, with Duffey Boneless Beef Co., a division of Duffey Sausage Co., Inc., of Carrollton, Ga.; (2) (a) *fresh and frozen meats*, in vehicles equipped with mechanical refrigeration, from Carrollton, Ga., to points in North Carolina and South Carolina; (b) *fresh and frozen meats*, in vehicles equipped with mechanical refrigeration, from points in New Jersey and Massachusetts to the plantsite of Du-Gro Frozen Foods, Inc., Carrollton, Ga.; and (c) *french fried potatoes*, blanched and uncooked, in vehicles equipped with mechanical refrigeration, from points in Michigan to the plantsite of Du-Gro Frozen Foods, Inc., Carrollton, Ga. Restriction: The above described operations is limited to a transportation service to be performed, under a continuing contract, or contracts, with Du-Gro Frozen Foods, Inc., of Carrollton, Ga. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 136721 (Sub-No. 2) (Correction), filed September 27, 1972, published in the FEDERAL REGISTER, issue of November 2, 1972, and republished as corrected this issue. Applicant: FREEMAN C. COREY, doing business as FREEMAN C. COREY & SON, R.F.D. No. 1, Washburn, ME 04786. Applicant's representative: John M. Cleary, 914 Washington Building, Washington, D.C. 20005. NOTE: The FEDERAL REGISTER notice of November 2, 1972, states that the authority is "from the account of A. E. Staley Manufacturing Company, * * *." This should read "*for* the account * * *" etc. The rest of the notice remains as previously published.

No. MC 136810 (Sub-No. 1), filed September 11, 1972. Applicant: PROSPEX INDUSTRIES LIMITED, No. 703, 1112 West Pender Street, Vancouver, BC, Canada. Applicant's representative: Ray Pauls (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel plates, steel sheets and steel coils*, from the ports of entry on the international boundary line between the United States-Canada located at or near Lynden, Blaine, and Sumas, Wash., to points in Washington and Oregon, restricted to traffic having a prior movement in foreign commerce, under contract with Lambton Steel Ltd. NOTE: If a hearing is deemed necessary, applicant requests it be held at Seattle or Blaine, Wash.

No. MC 136905 (Amendment), filed June 26, 1972, published in the FEDERAL REGISTER issue of October 27, 1972, and republished as amended this issue. Applicant: HOLLIS WILLIAMS, doing

business as HOLLIS WILLIAMS TRUCKING, 314 Oak Avenue, Sulphur Springs, TX 75482. Applicant's representative: Ralph W. Pulley, Jr., Suite 4555, First National Bank Building, Dallas, Tex. 75202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Valves, valve blanks, valve components, valve materials, machinery and machinery parts* used in the manufacturing and servicing of valves, between the manufacturing and storage facilities of Rockwell Manufacturing Co., in Hopkins County, Tex., on the one hand, and, on the other, points in Texas, Louisiana, and Mississippi, under contract with Rockwell Manufacturing Co. NOTE: Applicant states that no single load transported shall exceed 3,500 pounds. The purpose of this republication is to add machinery to the commodity description and to eliminate an equipment limitation contained in the original application, also to reflect a change in applicant's representative. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tyler, or Texarkana, Tex.

No. MC 136932 (Amendment), filed July 26, 1972, published in the FEDERAL REGISTER issue of August 24, 1972, and republished as amended this issue. Applicant: MERCHANTS' SPEEDY DELIVERY LIMITED, 1716 Langlois Avenue, Windsor 14, ON, Canada. Applicant's representative: Frank J. Kerwin, Jr., 700 Canada Building, 374 Ouellette Avenue, Windsor 14, ON, Canada. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Dies and repair parts for use in industrial machinery, automobile parts, metal stampings, uncrated furniture, and appliances*, between the international boundary between the United States and Canada on the one hand, and, Detroit, Mich., on the other. Restricted (1) against transportation in bulk, in tank vehicles; (2) to shipments moving from one consignor to one consignee; (3) to traffic which originates in or is destined to the city of Windsor and the townships of Sandwich West and Sandwich South, Colchester North, Colchester South, Anderdon, and Malden in the county of Essex and Province of Ontario, and (4) restricted to an express type expedited service. NOTE: The purpose of this republication is to redescribe the authority sought. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 136942 (Sub-No. 2), filed October 4, 1972. Applicant: HOWARD SMITH, doing business as H. S. TRUCKING, 498 State Route 7, Steubenville, OH 43952. Applicant's representative: Paul F. Beery, 88 East Broad Street, Columbus, OH 43215. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Industrial rolls or rollers*, uncrated, loose, and in open cradles, between Three Rivers, Mich., on the one hand, and, on the other, Canton, Louisville, Steubenville, Toronto, Warren, Yorkville, and Youngstown, Ohio; Aliquippa, Allenport, Ambridge, Beaver Falls, Brackenridge, Butler, Clairton, Connellsville, Dravosburg, Duquesne, Grecnsburg, Homestead, Jeannette, Leechburg, Midland, Monessen, New Castle, New Kensington, Pittsburgh, Sharon, Vandergrift, Washington, and Zelienople, Pa.; and Beechbottom, Clarksburg, Fairmont, Follansbee, Weirton, Wellsburg, and Wheeling, W. Va., under a contract or contracts with Dayco Corp. of Dayton, Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 136944 (Sub-No. 3), filed October 2, 1972. Applicant: STANLEY E. MARSH, R.F.D. 3, Mount Vernon, MO. 65712. Applicant's representative: Turner White, 805 Woodruff Building, Springfield, MO 65806. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages* (except in bulk, in tank vehicles), from Peoria, Pekin, Lemont, and Plainfield, Ill., and St. Louis, Mo., to Oklahoma City, Okla., under contract with C & C Wholesale Liquor Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Oklahoma City or Tulsa, Okla.

No. MC 138100, filed September 18, 1972. Applicant: MELLOW TRUCK EXPRESS, INC., Post Office Box 17063, Portland, OR 97217. Applicant's representative: David C. White, 2400 Southwest Fourth Avenue, Portland, OR 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber* (including shakes, shingles, and roof panels), *wooden fencing, particleboard, chipboard, and hardboard* (except gypsum board, paperboard, and pulpboard), between points in Washington, Oregon, California, Idaho, and Nevada; (2) *prefabricated wooden buildings, wooden cabinets and doors*, from Portland, Oreg., to points in Oregon, Washington, Idaho, Montana, California, and Nevada; and (3) *feed, feed ingredients, and fertilizer* (except liquid commodities in bulk), from points in California to points in Oregon and Washington. NOTE: Applicant holds contract carrier authority under MC 128285 and subs thereunder. By the instant application, applicant seeks to convert its contract carrier permits to a certificate of public convenience and necessity. Applicant further states that no extension of authority is sought. Upon the grant of this application, applicant will surrender its permits for cancellation. Therefore no duplicating authority or dual operations will result. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 138129, filed October 3, 1972. Applicant: ELLIS TRANSPORT, INC., 2345½ West Kearney, Springfield, MO 65802. Applicant's representative: Turner White, 805 Woodruff Building, Springfield, Mo. 65806. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cups, plates, containers, and accessories*, from Springfield, Mo., to points in Minnesota, North Dakota, South Dakota, Iowa, Nebraska, Wisconsin, Colorado, Oklahoma, Texas, Arkansas, Kansas, Illinois, and New Mexico, under contract with Lily-Tulip Division, Owens-Illinois, Inc. NOTE: Applicant holds common carrier authority under 119766, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City or St. Louis, Mo.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 113908 (Sub-No. 241), filed October 6, 1972. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, Springfield, MO 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, in bulk, in tank and/or hopper-type containers and empty tank and hopper-type containers, between points in the United States including Alaska and Hawaii, restricted to shipments having prior or subsequent movement in interstate or foreign commerce. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant respectfully submits that the grant of the instant application will have a beneficial impact on the human environment.

No. MC 136727 (Sub-No. 2), filed September 14, 1972. Applicant: GRIFFIN TRANSFER & STORAGE CO., INC., Fleming Drive, Morganton, N.C. 28655. Applicant's representative: Joe M. Griffin (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Telephone equipment material and supplies including tools* used in the construction and maintenance of telephone system and communication, between Morganton, N.C., and points in the counties of Burke, McDowell, Yancey, Mitchell, Avery, Watauga, Caldwell, Alexander, and Catawba, N.C., under contract with Western Electric Co., Inc.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-19618 Filed 11-15-72;8:45 am]

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Order from Superintendent of Documents,
United States Government Printing Office,
Washington, D.C. 20402

FEDERAL REGISTER

Area Code 202 Phone 962–8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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[Price Commission Ruling 1972-275]

DEFINING FISCAL YEARS IN DETERMINING BASE PERIOD

Price Commission Ruling

Facts. A company uses a fiscal year ending June 30 for both accounting and tax purposes. On June 30, 1969, the company changes its fiscal year to the year ending December 31. However, its tax year does not change. Thus, the company has a 6-month fiscal year ending December 31, 1969, and a subsequent fiscal year ending December 31, 1970.

Issue. What are the company's "fiscal years" for determining profit margin during its base period?

Ruling. Economic Stabilization Regulations, 6 CFR 300.5 (1972) provides that "base period" means "any two, at the option of the person concerned, of that person's last 3 fiscal years ending before August 15, 1971 • • •." The term "fiscal years" means consecutive 12-month periods constituting a company's fiscal (accounting) years. Thus, the company's last 3 fiscal years for determining profit margin during its base period are the consecutive 12-month fiscal (accounting) years ending December 31, 1970, June 30, 1969, and June 30, 1968. Where a company has a taxable year different from its fiscal (accounting) year, the fiscal (accounting) year shall be used for determining profit margin during its base period.

Price Commission Ruling 1972-211, 37 F.R. 13650 (1972) holds that a short year cannot be used as a fiscal year for determining profit margin during the base period, and that the term "fiscal years" means consecutive 12-month periods constituting taxable years. Price Commission Ruling 1972-211 is hereby modified to the extent that it defines fiscal years in terms of taxable years.

Price Commission Ruling 1972-211 also states that if there had been a taxable short period within the last 3 taxable years only the 12-month taxable years ending since the short period are included within the base period. This portion of Price Commission Ruling 1972-211 is clarified by explaining that the base period may include, but is not limited to, the 12-month period or periods occurring after a short period. Thus, where a company has a short period occurring during its last 3 fiscal years, it shall use the 12-month periods occurring both before and after the short period in determining its last 3 fiscal (accounting) years if such periods end before August 15, 1971.

This ruling has been approved by the General Counsel of the Price Commission.

LEE H. HENKEL, JR.,
Chief Counsel,
Internal Revenue Service.

Approved: November 7, 1972.

SAMUEL R. PIERCE, JR.,
General Counsel,
Department of the Treasury.

[FR Doc.72-19777 Filed 11-16-72;8:50 am]

[Price Commission Ruling 1972-276]

CONTRACTS FOR THE SALE OF PRODUCTS OR SERVICES TO THE FEDERAL GOVERNMENT

Price Commission Ruling

Facts. Company A, a prenotification firm, is a manufacturer which enters into a contract with an agency of the Federal Government on September 1, 1972, for the sale of a product which A regularly sells to customers in the private sector. Under the terms of the contract A is able to obtain a slightly higher price from the Government than it charges to its private customers. A now wishes to charge its private customers the same price it charges the Government under the contract. A's opinion is that the price established in the contract is considered a prenotification and approval by the Price Commission under Economic Stabilization Regulations § 300.51(a), 37 F.R. 17476 (1972).

Issue. Does A have to specifically prenotify the Price Commission of the proposed price increase to its customers in the private sector?

Ruling. Yes. Section 300.51(a) relating to prenotification firms states in part that "[T]he entering into of a contract for purchase of a product or service by an agency of the Federal Government • • • is considered a prenotification and approval of the price stated in the contract • • •." This provision, however, means that the slightly higher price specified in the contract is considered approved by the Price Commission with respect to that contract only. It is inapplicable to other price increases contemplated by A which must be justified under Economic Stabilization Regulations, 6 CFR 300.12 (1972) and specifically prenotified in accordance with § 300.51(a).

This ruling has been approved by the General Counsel of the Price Commission.

LEE H. HENKEL, JR.,
Chief Counsel,
Internal Revenue Service.

Approved: November 6, 1972.

SAMUEL R. PIERCE, JR.,
General Counsel,
Department of the Treasury.

[FR Doc.72-19778 Filed 11-16-72;8:50 am]

[Price Commission Ruling 1972-277; Cost of Living Council Ruling 1972-119]

NEWLY ESTABLISHED RETAIL FIRM

Price Commission and Cost of Living Council Ruling

Facts. A new retailer A commences business in calendar year 1972. Retailer A is not a subsidiary or division of, or connected in any way with any other firm. Retailer A was established by two individuals, neither of whom had ever engaged in retail before.

Issue. By what method are A's price adjustments controlled under the Economic Stabilization Regulations?

Ruling. Unless it qualifies for exemption under the provisions of Economic Stabilization Regulations, 6 CFR 101.34 (j), 37 F.R. 3913 (1972), relating to price adjustments of retail firms, including restaurants, with annual sales or revenues of less than $100,000, or under the provisions of 6 CFR 101.51(b), 37 F.R. 8939 (1972), relating to price and pay adjustments (but not rent increases or adjustments) of a firm coming into existence on, or after January 1, 1972, with an average of 60 or fewer employees, price adjustments of firm A are controlled by the provisions of 6 CFR 300.13 (a), 37 F.R. 7621 (1972). See Cost of Living Council Ruling 1972-41, Price Commission Ruling 1972-118, March 24, 1972 (37 F.R. 6599, 1972), for the method of calculating a new firm's annual rate of sales or revenues on a quarterly basis.

Section 300.13(a) provides that a retailer may charge a price in excess of the base price whenever its customary initial percentage markup (CIPM) after November 13, 1971, is equal to or less than its last CIPM before November 14, 1971, or, at its option, its CIPM during its last fiscal year ending before August 15, 1971. It further provides that the aggregate effect of all its price changes shall not increase its profit margin over that which prevailed during the base period.

CIPM is defined in 6 CFR 300.5, 36 F.R. 23974 (1971), as the markup applied to cost (purchase price actually

exists for making this amendment effec-

Section 75.400 (37 F.R. 2400, 15293) is

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paid by the selling person and transportation charges to be allocated to the merchandise) of merchandise when first offered for sale determined on an item, product line, department, store, or other pricing unit basis, according to the person's customary pricing practice. Profit margin is the ratio that operating income bears to net sales, 6 CFR 300.5, 37 F.R. 3913 (1972). Base period means any two of the last 3 fiscal years ending before August 15, 1971, and in determining a base period for the purpose of computing a profit margin during a base period, a weighted average of its profits during the 2 years chosen shall be used. 6 CFR 300.5, 36 F.R. 23974 (1971).

A is a newly established retailer offering new property for sale, as defined in § 300.409(a)(1), and base price for each item of merchandise is determined by a computation based on the average prices received in a substantial number of transactions by persons selling comparable property in the same marketing area. 6 CFR 300.409(c)(2), 36 F.R. 23974 (1971). Since it is a newly established retailer, A does not have either a CIPM before November 14, 1971, or a base-period profit margin. Thus, the initial selling price for A's items of merchandise shall not be established at a price greater than base prices. Thereafter, the CIPM shall be the percentage difference between cost and the price when first offered for sale, determined on an item, product line, department, store, or other pricing basis, according to the pricing practice initially chosen by A, and subsequent price adjustments shall not be subjected to the profit margin limitation under § 300.13(a)(2). Retailer A does not have a base-period profit margin because it did not have any fiscal years ending prior to August 15, 1971, and for that reason, is unable to establish a base-period profit margin under §§ 300.5 and 300.13(a).

This ruling has been approved by the General Counsels of the Price Commission and Cost of Living Council.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: November 13, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-19779 Filed 11-16-72;8:50 am]

[Price Commission Ruling 1972-278]

RENT—ALLOWABLE COSTS—NEW RENTAL UNITS

Price Commission Ruling; Correction

Price Commission Ruling 1972-269 published at page 23320 in the FEDERAL REGISTER issue dated November 2, 1972, is corrected by changing the citation in the last sentence of the second paragraph of the "Ruling" from "6 CFR 301.33(a)(2)(ii)" to "6 CFR 101.33(a)(2)(ii)."

Dated: November 7, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: November 7, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-19780 Filed 11-16-72;8:50 am]

[Price Commission Ruling 1972-279]

COMMUNITY ANTENNA TELEVISION

Price Commission Ruling

Facts. X, a corporation, provides community antenna television (CATV) service to persons located within Y city limits. X obtained authority to furnish CATV service within the city limits when the Y city council enacted an ordinance providing X with the franchise to render CATV service within the city limits. Statutory and case law of the state Z, where Y city is situated, did not confer on the city council jurisdiction to regulate rates charged by X but X did agree to submit to the city council's regulatory authority as a condition of doing business. Furthermore, Z's public utility commission does not regulate X's activities.

Issue. Is X considered a public utility for Economic Stabilization purposes?

Ruling. X is considered a public utility for Economic Stabilization purposes. Economic Stabilization Regulation, 6 CFR 300.16 (1972) defined a public utility to mean, "a person that furnishes utility services to the public • • •." The same section defined "utility service" to mean, "any commodity or service affected with a public interest • • •". "In United States v. Southwestern Cable Co.", 392 U.S. 157 (1968), the Supreme Court held CATV is subject to the regulatory authority of the Federal Communications Commission since CATV provides a public service affected with a public interest.

Regulation § 300.16 was superseded on September 16, 1972, by Economic Stabilization Regulation § 300.301-311, 37 F.R. 18893 (1972). The new definition of public utility in § 300.302 is expansive in nature. Section 300.302 defines a public utility to mean, "a person that furnishes service to the public • • •". X furnishes a service to the public.

Furthermore, the general operation of CATV resembles a public utility operation. X must attract large quantities of capital for construction of its communication facilities. The prices charged by CATV for its service must be sufficient to provide an adequate rate of return in order to attract the necessary capital. Therefore, price increases by CATV could not be reconciled with Price Commission regulations applicable to service organizations, since service organizations may only raise prices above base price to reflect incurred allowable costs, not to insure an adequate rate of return.

Regulation § 300.302 lists "telephone, and telegraph • • • services" as examples of public utility activities. CATV closely resembles the operation of a telephone or telegraph company in that its cables often parallel the same routes used by telephone and telegraph wire. In addition, the CATV service area is restricted and CATV functions in a non-competitive atmosphere. (See Price Commission Ruling 1972-85, 37 F.R. 4371 (1972).)

Therefore, under both sets of regulations, CATV is considered a public utility. CATV cannot be considered a service organization since Economic Stabilization Regulation, 6 CFR 300.14 (1972) excludes public utilities from the definition of a service organization.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: November 8, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: November 8, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-19781 Filed 11-16-72;8:50 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS; EXTRAORDINARY EMERGENCY REGULATION OF INTRASTATE ACTIVITIES

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Area Released From Quarantine

Pursuant to the provisions of sections 1, 2, 3, and 4 of the Act of March 3, 1905, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, sections 4, 5, 6, and 7 of the Act of May 29, 1884, as amended, and sections 3 and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 112, 113, 115, 117, 120, 123, 124, 125, 126, 134b, and 134f), Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

In § 82.3, the reference to Colorado in the introductory portion of paragraph (a) and paragraph (a)(7) relating to the State of Colorado is deleted.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 115, 117, 120, 123-126, 134b, 134f; 29 F.R. 16210, as amended; 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505.)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment excludes a portion of Jefferson County in Colorado from the areas quarantined because of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded area. No area in Colorado remains under quarantine.

The amendment relieves certain restrictions presently imposed but no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to the affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 13th day of November 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-19811 Filed 11-16-72;8:46 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 72-SO-119, Amdt. 39-1559]

PART 39—AIRWORTHINESS DIRECTIVES

Grumman Model G-159 Airplanes

There have been failures of the attachment lugs of the elevator trim tab actuators on Grumman Model G-159 airplanes that could cause elevator flutter. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require inspection of the mounting lugs for cracks and remounting of the elevator trim tab actuators on Grumman Model G-159 airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

GRUMMAN. Applies to Model G-159 airplanes certificated in all categories.

Compliance required within 10 hours' time in service after the effective date of this AD unless already accomplished within the last 190 hours time in service and thereafter at intervals not to exceed 200 hours time in service from the last inspection.

To detect cracked mounting lugs of elevator trim tab actuators, Part Nos. 159SCC100-1 and 159SCC100-5 and to correct out-of-plane mounting, accomplish the following:

(a) Inspect the P/N 159SCC100-1 or 159SCC100-5 trim tab actuator mounting lugs for cracks and shim to correct any out-of-plane condition in accordance with Grumman Aerospace Corp. Gulfstream Customer Bulletin No. 208A through amendment 2 dated April 21, 1972 and Operational Summary No. 72-5B dated August 1972.

(b) If mounting lug cracks are found when conducting the inspections required by paragraph (a), before further flight, replace with a P/N 159SCC100-1, 159SCC100-5, or 159SCC100-11 actuator.

Compliance with this airworthiness directive is not required when the P/N 159SCC100-11 actuator is installed.

This amendment becomes effective November 24, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on November 9, 1972.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.72-19770 Filed 11-16-72;8:45 am]

[Airspace Docket No. 72-WA-58]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Area High Routes

The purpose of this amendment to Part 75 of the Federal Aviation Regulations is to change the reference facility for the second waypoint in area high route J812R. Changing the reference facility from Vero Beach, Fla., VORTAC to the Dayonta Beach, Fla., VORTAC will provide improved signal coverage on the segment of J812R involved.

Since this amendment is minor in nature with no substantive change in the regulation, notice, and public procedure thereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 4, 1973, as hereinafter set forth.

Section 75.400 (37 F.R. 2400, 15293) is amended as follows:

In J812R delete second waypoint information "Apopka, Fla. 28°25'30" N., 81°55'45" W., Vero Beach, Fla." and substitute "Apopka, Fla. 28°25'30" N., 81°55'45" W., Daytona Beach, Fla." therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 10, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-19771 Filed 11-16-72;8:45 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 135—NEW ANIMAL DRUGS

Subpart C—Sponsors of Approved Applications

PART 135a—NEW ANIMAL DRUGS FOR OPTHALMIC AND TOPICAL USE USE

Triethanolamine Polypeptide Oleate-Condensate

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (12-817V) filed by The Purdue Frederick Co., 99 Saw Mill River Road, Yonkers, NY 10701, proposing revised labeling for the safe and effective use of triethanolamine polypeptide oleate-condensate for the removal of earwax in cats and dogs. The supplemental application is approved.

To facilitate referencing, the firm is being assigned a code number and placed in the list of sponsors in § 135.501 (21 CFR 135.501).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135 and 135a are amended as follows:

1. Section 135.501 is amended in paragraph (c) by adding a new code No. 083 as follows:

§ 135.501 Names, addresses, and code numbers of sponsors of approved applications.

• • • • • •

(c) • • •

Code No.	Firm name and address
• • •	• • •
083	The Purdue Frederick Co., 99 Saw Mill River Road, Yonkers, NY 10701.

2. Part 135a is amended by adding a new section as follows:

V 37-223 NOV 17 72 XUM

§ 135a.44 Triethanolamine polypeptide oleate-condensate otic solution.

(a) *Specifications.* The drug contains 10 percent triethanolamine polypeptide oleate-condensate in propylene glycol with 0.5 percent chlorobutanol.

(b) *Sponsor.* See code No. 083 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) It is used in dogs and cats to help remove excess or impacted earwax.

(2) The animal's head is tilted to the side and the ear canal filled with the drug. A cotton plug is placed in the canal after instilling the drug and the fluid allowed to remain for 15 to 30 minutes. The ear canal is flushed gently with lukewarm water using a soft rubber syringe and the procedure repeated if required.

(3) A veterinarian should be consulted if the animal has a history of allergy including skin sensitivity or if ear irritation occurs or if earwax remains after three instillations of the drug.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (11-17-72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: November 6, 1972.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.72-19774 Filed 11-16-72;8:45 am]

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter I—Office of Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development

SUBCHAPTER A—FAIR HOUSING

[Docket No. R-72-173]

PART 106—FAIR HOUSING ADMINISTRATIVE MEETINGS UNDER TITLE VIII OF THE CIVIL RIGHTS ACT OF 1968

The purpose of this regulation is to establish procedures for the scheduling of public meetings to gather information to assist the Assistant Secretary for Equal Opportunity in achieving the aims and objectives of title VIII of the Civil Rights Act of 1968 for the promotion and assurance of fair housing and equal opportunity in housing without regard to race, color, religion, or national origin.

Notice of the proposed amendment to 24 CFR was published in the FEDERAL REGISTER on March 17, 1972 (37 F.R. 5637), and comments were received from several interested persons, organizations, and agencies. In response to the comments, § 106.3(b) has been revised to expand the list of persons who will be furnished copies of the notices of meetings. Section 106.9 has been amended to state that reports on meetings and recommendations of the Assistant Secretary may be made available to the public.

It should be noted that the meetings to be scheduled and held under this regulation are not hearings as are authorized to be held in connection with the investigation of title VIII complaints. In conducting investigations of title VIII complaints, subpenas may be used to require the appearance of witnesses and the production of documents. Subpenas will not be used in holding administrative meetings under this regulation.

Accordingly, Chapter I of 24 CFR is amended by adding a new Part 106 to read as follows:

Sec.
106.1 Purpose.
106.2 Definitions.
106.3 Initiation of meeting; notice.
106.4 Conduct of meetings.
106.5 Counsel and accompanying witnesses.
106.6 Intimidation of witnesses.
106.7 Transcript of meetings.
106.8 Attendance of news media at meetings.
106.9 Meeting report.

AUTHORITY: The provisions of this Part 106 issued under title 8 of the Civil Rights Act of 1968, 42 U.S.C. 3601, and section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

§ 106.1 Purpose.

The purpose of this part is to establish procedures for public meetings or conferences that may be used to assist the Assistant Secretary in achieving the aims of title VIII for the promotion and assurance of equal opportunity in housing without regard to race, color, religion, or national origin, and, specifically, to carry out those responsibilities delegated to him by the Secretary of Housing and Urban Development under sections 808 (e) (1), (2), and (3), and 809 of title VIII.

§ 106.2 Definitions.

As used in this part:

(a) "Assistant Secretary" means the Assistant Secretary for Equal Opportunity in the Department of Housing and Urban Development.

(b) "Meeting" means a public meeting or conference held under the authority of title VIII and this part.

(c) "Title VIII" means title VIII of the Civil Rights Act of 1968, Public Law 90-284, 42 U.S.C. 3601-3619.

§ 106.3 Initiation of meeting; notice.

(a) Proceedings pursuant to this part shall be initiated by a notice issued by the Assistant Secretary. At least 30 days prior to the commencement of a meeting under this part, the Assistant Secretary shall cause such notice to be published in the FEDERAL REGISTER, specifying the date on which such meeting is to commence, the place at which it is to be held, and the subject of the meeting.

(b) Copies of such notice shall be furnished to all persons who are expected to testify or submit statements or other evidence and to the Community Relations Service, U.S. Department of Justice, the Housing Section, Civil Rights Division, U.S. Department of Justice, the U.S. Commission on Civil Rights, other appropriate Federal, State, and local agencies concerned with housing and community development, and such private organizations and groups as may be deemed concerned with the subject of the meeting.

(c) Persons and organizations desiring to submit information concerning the subject of the meeting, or to testify at such meeting, should address such information to: Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, or such local address as may be specified in the notice.

§ 106.4 Conduct of meetings.

(a) The Assistant Secretary or his designee shall announce in an opening statement the subject of the meeting.

(b) The Assistant Secretary or his designee shall determine the order of presentation of evidence and appearance of witnesses, and announce the rules governing the meeting.

(c) Meetings shall be conducted with reasonable dispatch and due regard shall be had for the convenience of witnesses.

(d) The questioning of witnesses shall be conducted only by the Assistant Secretary or his designee, or by counsel for any person, organization, or witness on direct or cross-examination, as the Assistant Secretary or his designee may determine.

§ 106.5 Counsel and accompanying witnesses.

Any person agreeing to appear in person before the Assistant Secretary or his designee at a meeting will be accorded the right to be accompanied by persons he may designate, including counsel.

§ 106.6 Intimidation of witnesses.

Witnesses at meetings are protected from threats and intimidation by the provisions of 18 U.S.C. 1505 and 42 U.S.C. 3631 which provide for criminal penalties.

§ 106.7 Transcript of meetings.

(a) An accurate transcript shall be made of the testimony of all witnesses at meetings. Transcripts shall be recorded by any person designated by the Assistant Secretary.

(b) Transcript copies of testimony given at meetings may be obtained by the public upon the payment of the cost thereof.

(c) Any person who has testified at a meeting may, within 2 weeks after copies of the transcript are available, ask to correct errors in the transcript of his testimony or examination. Such requests shall be granted only to make the transcript conform to the testimony presented at the meeting.

§ 106.8 Attendance of news media at meetings.

Reasonable access, as determined by the Assistant Secretary or his designee,

shall be provided for coverage of meetings to the various means of communication, including newspapers, magazines, radio, newsreels, and television. However, no witness shall be televised, filmed, or photographed during the meetings without his consent, nor shall his testimony be broadcast or recorded for broadcasting if he objects.

§ 106.9 Meeting report.

Evidence and information obtained during a meeting will serve as the basis of a report on the meeting by the Assistant Secretary. The report will contain such material and recommendations as the Assistant Secretary may determine to publish or otherwise make available to the public.

Effective date. These regulations shall be effective as of December 15, 1972.

MALCOLM E. PEABODY, JR.,
Acting Assistant Secretary
for Equal Opportunity.

[FR Doc.72-19815 Filed 11-16-72;8:47 am]

Title 32—NATIONAL DEFENSE

Chapter XVI—Selective Service System

CLASSIFICATION PROCEDURES

Whereas, on October 12, 1972, the Director of Selective Service published a notice of proposed amendments to Selective Service Regulations, 37 F.R. 21544, of October 12, 1972, and

Whereas such publication complied with the publication requirement of section 13(b) of the Military Selective Service Act (50 App. U.S.C. sections 451 et seq.) in that more than 30 days have elapsed subsequent to such publication during which period comments from the public have been received and considered; and I certify that I have requested the views of officials named in section 2(a) of Executive Order 11623 and none of them has timely requested that the matter be referred to the President for decision.

Now therefore by virtue of the authority vested in me by the Military Selective Service Act, as amended (50 App. U.S.C. sections 451 et seq.) and Executive Order 11623 of October 12, 1971, the Selective Service Regulations, constituting a portion of Chapter XVI of Title 32 of the Code of Federal Regulations, are hereby amended, effective 11:59 p.m., e.s.t., on November 18, 1972, as follows:

PART 1611—DUTY AND RESPONSIBILITY TO REGISTER

§ 1611.2 [Amended]

Section 1611.2(c) is revoked.

PART 1624—APPEARANCE BEFORE LOCAL BOARD

Section 1624.4(b) is amended to read as follows:

§ 1624.4 Procedure during personal appearance before local board.

• • • • •

(b) At any such appearance, the registrant may present evidence, including witnesses, may discuss his classification, may point out the class or classes in which he thinks he should have been placed, and may direct attention to any information in his file which he believes the local board has overlooked or to which he believes it has not given sufficient weight. The registrant may present such further information as he believes will assist the local board in determining his proper classification. The information furnished should be as concise as possible under the circumstances. The registrant may summarize in writing the oral information that he or his witnesses presented. Such summary shall be placed in the registrant's file.

• • • • •

In § 1624.6 *Procedure of local board following personal appearance*, paragraph (a) is amended to read as follows:

§ 1624.6 Procedure of local board following personal appearance.

(a) After the registrant has appeared before the local board, it shall again classify the registrant and, as soon as practicable thereafter, it shall mail notice thereof on Notice of Classification (SSS Form 110) to the registrant. Only those members of the local board before whom the registrant appeared shall classify him. In the event that the local board classifies the registrant in a class other than that which he requested, it shall record its reasons therefor in his file. The local board shall inform the registrant of such reasons in writing at the time it mails his Notice of Classification (SSS Form 110).

• • • • •

PART 1626—APPEAL TO LOCAL BOARD

Section 1626.4(e) is amended to read as follows:

§ 1626.4 Review by appeal board.

• • • • •

(e) At any such personal appearance, there shall be present a quorum of the members of the board to which the registrant may present evidence, may discuss his classification, may point out the class or classes in which he thinks he should have been placed, and may direct attention to any information in his file which he believes the local board has overlooked or to which he believes it has not given sufficient weight. The registrant may present such further information as he believes will assist the board in determining his proper classification. The information furnished should be as concise as possible under the circumstances. The registrant may summarize in writing the oral information that he presented. Such summary shall be placed in the registrant's file.

• • • • •

PART 1627—APPEAL TO THE PRESIDENT

Section 1627.4(e) is amended to read as follows:

§ 1627.4 Procedures of the National Selective Service Appeal Board.

• • • • •

(e) At any such appearance, the registrant may discuss his classification, may point out the class or classes in which he thinks he should have been placed, and may direct attention to any information in his file which he believes the local board or the appeal board has overlooked or to which sufficient weight has not been given. The registrant may present such further information as he believes will assist the National Board in determining his proper classification. The information furnished should be as concise as possible under the circumstances. The registrant may summarize in writing the oral information that he presented. Such summary shall be placed in the registrant's file.

• • • • •

BYRON V. PEPITONE,
Acting Director.

NOVEMBER 13, 1972.

[FR Doc.72-19804 Filed 11-16-72;8:46 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER J—BRIDGES

[CGD 72-18R]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Saginaw River, Mich.

This amendment changes the regulations for the drawbridges across the Saginaw River at Bay City, Milwaukee, and Saginaw. This change was circulated as a public notice dated March 1, 1972, by the Commander, Ninth Coast Guard District and was published in the FEDERAL REGISTER as a notice of proposed rule making (CG 72-18) on February 2, 1972 (37 F.R. 2522). Six comments were received. Two had no objection or no comment. One objected to Saturday hours, however, vehicular traffic counts and bridge openings as shown by the drawtenders log for this period justifies this action. Three objected as a result of a newspaper article which inferred incorrectly that the Belinda Street Bridge would be closed to vessels. Letters of clarification were written to these objectors and no further comment was received.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.700 to read as follows:

V 37-223 NOV 17 72 XUM

§ 117.700 Saginaw River, Mich.; bridges.

(a) The owner of or agencies controlling each bridge shall provide the necessary drawtenders and the proper mechanical appliances for the safe, prompt opening of the draw for the passage of vessels.

(b) From March 16 through December 15 the draw of railroad bridges shall open as soon after receiving an opening signal as possible, however, passage of a vessel shall not be delayed for more than 15 minutes.

(c) Sound signals: These signals may be made by a whistle, horn, or other sound producing device or by shouting.

(1) The opening signal from a vessel is one long blast followed by one short blast.

(2) The acknowledging signal from the drawtender when the draw shall open is one long blast followed by one short blast.

(3) The acknowledging signal from the drawtender when the draw cannot open is four short, rapid blasts.

(d) Visual signals shall be used in conjunction with sound signals when sound signals cannot be heard.

(1) The vessel shall signal for an opening of the draw with a white flag by day or a green light at night, swung in full circles at arm's length in full sight of the bridge and facing the draw.

(2) When the draw will open, the drawtender shall acknowledge with a white flag by day or a green light at night, swung up and down vertically.

(3) When the draw cannot open, the drawtender shall acknowledge with a red flag by day or a red light at night, swung to and fro horizontally in full sight of the vessel until answered from the vessel by the same signal. In lieu of this procedure the drawtender may have two red lights mounted 30 inches between centers, horizontally, in an elevated position above the bridge and visible both upstream and downstream which will flash alternately when the draw cannot open.

(e) Public vessels of the United States, vessels in distress, and state or local government vessels used for public safety shall be passed through the draw of these bridges as soon as possible at any time, even though closed periods be in effect. Four short blasts is the opening signal from these vessels.

(f) Trains and vehicles shall not be stopped on a bridge for the purpose of delaying its opening, nor shall vessels be handled so as to hinder or delay the operation of the draw. All passages across or through a bridge shall be prompt to prevent unnecessary delay to either land or water traffic.

(g) The draw need not open to provide additional clearance for appurtenances unessential for navigation of the vessel, or for appurtenances essential for navigation but which may be altered by hinging, telescoping, collapsing, or otherwise, so as to require no greater clearance than the highest fixed and essentially unalterable point of the vessel.

(h) Bay City highway and railroad bridges:

(1) From December 16 through March 15 the draws of the highway bridges shall open on signal if at least 12 hours' notice has been given to the dispatcher, police department, Bay City.

(2) From March 16 through December 15 the draws of the Belinda Street, Third Street, Veterans Memorial and Lafayette Street Bridges shall open on signal, except that:

(i) From 6:30 a.m. to 8:30 a.m. and 3:30 p.m. to 5:30 p.m., the draws need not open for the passage of vessels of less than 50 gross tons, except on Sundays, and

(ii) From 7:30 a.m. to 8:30 a.m. and 4:30 p.m. to 5:30 p.m., the draws need not open for the passage of downbound vessels of over 50 gross tons, except on Sundays and legal holidays observed in the locality, and

(iii) From 8 a.m. to 8 p.m. the draw of the Belinda Street Bridge need not open for the passage of pleasure craft on Saturdays, Sundays, and legal holidays observed in the locality except from 3 minutes before to 3 minutes after the hour and half hour.

(3) The draws of the Detroit and Mackinac, and the Penn Central Railroad bridges shall open on signal from March 16 through December 15.

(i) The draws shall open on signal from December 16 through March 15 if at least 12 hours notice has been given.

(j) I–75 highway bridge at Milwaukee:

(1) The draw shall open on signal from December 16 through March 15 if at least 12 hours notice has been given.

(2) The draw shall open on signal from March 16 through December 15. However, vessels should schedule passages through the draw during other than peak vehicular traffic periods as determined by the Michigan State Highway Department.

(j) Bridges at Saginaw:

(1) Sixth Avenue: The draw shall open on signal from 7 a.m. to 11 p.m. from April 1 through November 15. At all other times the draw shall open on signal if at least 3 hours notice has been given.

(2) The draws of all bridges above the Sixth Avenue Bridge shall open on signal if at least 3 hours notice has been given.

(3) Advanced notice as required by this paragraph shall be given to the bridge operations officer, police department, Saginaw.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655 (g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05–1 (c)(4))

Effective date. This revision shall become effective on January 1, 1973.

Dated: November 10, 1972.

J. D. McCann,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.72-19817 Filed 11-16-72;8:48 am]

SUBCHAPTER S—BOATING SAFETY

[CGD 72-54CR]

PART 174—STATE NUMBERING AND CASUALTY REPORTING SYSTEMS

Owner or Operator Casualty Reporting Requirements; Correction

In F.R. Doc. 72-17045 published at page 21404 in the October 7, 1972, issue of the Federal Register, a reference to § 173.61 in paragraph (e) of § 174.105, was published in error. The text of the section referred to as § 173.61 was eliminated in the final stages of drafting the regulations; however, through oversight, the reference to the nonexistent section appeared in both the notice of proposed rule making (37 F.R. 7751) and the final rule in § 174.105(e). This document corrects that oversight.

Accordingly, Part 174 of Title 33, Code of Federal Regulations is amended as follows:

1. By revoking paragraph (e) of § 174.105.

(Secs. 18, 39, 85 Stat. 213, 220, 228; 46 U.S.C. 1451, 1467, 1488; 49 CFR 1.46(O)(1))

Effective date. This amendment becomes effective on July 1, 1973.

Dated: November 14, 1972.

A. C. Wagner,
Rear Admiral, U.S. Coast Guard Chief, Office of Boating Safety.

[FR Doc.72-19820 Filed 11-16-72;8:49 am]

Chapter II—Corps of Engineers, Department of the Army

PART 207—NAVIGATION REGULATIONS

Fox River, Wis.

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), § 207.460 governing the use, administration, and navigation of the locks and canals on the Fox River, Wis., is hereby amended with respect to the table in paragraph (a)(6)(iv) to reduce the hours when prior notice is required for operation of the lock at Rapide Croche and Little Kaukauna, Wis., effective on publication in the Federal Register (11–17–72), as follows:

§ 207.460 Fox River, Wis.

(a) *Use, administration and navigation of the locks and canals.* • • •

(6) *Provisions for lockage service.* • • •

(iv) • • •

Normal and Additional Lockage Times

Lock location	Normal lockage times without prior request	Additional lockage times with prior request (note 1)	Notes
Menasha	8 a.m. to 12 midnight.	None	None
Appleton	10 a.m. to 6 p.m.	8 a.m. to 10 a.m.	2
		6 p.m. to 12 midnight.	3-4
Cedars	do	do	3-4
Little Chute	do	do	3-4
Combined	do	do	3-4
Kaukauna	do	do	3-4
Rapide Croche	do	do	3-4
		8 a.m. to 10 a.m.	2
Little Kaukauna	do	6 p.m. to 12 midnight.	3, 4, 5
		8 a.m. to 10 a.m.	2
De Pere	8 a.m. to 12 midnight.	None	None

• • • • • •

[Regs., October 25, 1972, 1502-01 Fox River, Wis.—DAEN–CWO–N]

(Sec. 7, 40 Stat. 266; 33 U.S.C. 1)

For the Adjutant General.

E. W. Gannon,
Lieutenant Colonel, U.S. Army Chief, Plans Office, TAGO.

[FR Doc.72-19796 Filed 11-16-72;8:48 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 72-1009]

PART 76—CABLE TELEVISION SERVICE

Special Relief

Memorandum opinion and order. In the matter of amendment of Part 76, Subpart A of the Commission's rules and regulations concerning procedures in the Cable Television Service.

1. Section 76.27 of the rules requires that an objection to an application for certificate of compliance be filed within 30 days of public notice of its filing. Section 76.7 of the rules allows interested persons to petition for special relief, e.g., ask that the Commission waive a provision of the rules relating to cable television systems or impose additional or different requirements. There is no time limit on the filings of petitions for special relief. To allow a later filed petition for special relief filed pursuant to § 76.7 of the rules to have the same effect as a timely filed objection could have the practical effect of eliminating the 30-day filing limit of § 76.27 of the rules by encouraging objecting parties not to object pursuant to § 76.27 of the rules but instead to delay objection until Commission action seems close and then to object under § 76.7 of the rules.

2. It is impossible to prevent this procedure entirely since the Commission can hardly establish formal filing requirements which would shut it off from consideration of serious public interest allegations. On the other hand, it seems reasonable to try to discourage such tactics as much as possible. A similar problem used to occur in connection with petitions for reconsideration filed in connection with broadcast applications which had not been protested before Commission action. This problem was largely solved in the broadcast area by adoption of § 1.106(c) of the rules. We believe a similar procedure will be helpful in connection with petitions for special relief directed against applications for certificates of compliance. Consequently, we are adding a new paragraph (i) to § 76.7 of the rules to require that a person who files a petition for special relief pursuant to § 76.7 of the rules, which if timely filed could have been asserted in an objection under § 76.27 of the rules, must show either good cause for not filing under § 76.27 of the rules or that consideration of the facts is in the public interest. This action is consistent with our statement in "Plymouth CATV Services, Inc.," FCC 72–953, —, FCC 2d —, that we planned such a change.[1]

3. Since this amendment relates to Commission procedure, the prior notice provisions of section 4 of the Administrative Procedure Act, 5 U.S.C. 553, do not apply.

Authority for the rule amendment adopted herein is contained in sections 2, 3, 4 (i) and (j) of the Communications Act of 1934, as amended.

Accordingly, it is ordered, That effective November 22, 1972, Part 76 of the Commission's rules and regulations is amended as set forth below.

(Secs. 2, 3, 4, 48 Stat. as amended, 1064, 1065, 1066; 47 U.S.C. 152, 153, 154)

Adopted: November 8, 1972.

Released: November 13, 1972.

Federal Communications Commission,[2]
[SEAL] Ben F. Waple,
Secretary.

In § 76.7 a new paragraph (i) is added to read as follows:

§ 76.7 Special relief.

• • • • • •

(i) If the relief requested could have been earlier filed pursuant to § 76.27, the petition will be dismissed unless the petitioner shows that:

(1) The facts relied on relate to events which have occurred or circumstances which have changed since the last opportunity to present such matters pursuant to § 76.27.

(2) The facts relied on were unknown to petitioner until after his last opportunity to present such matters, and he could not through the exercise of ordinary diligence have learned of the facts in question prior to such opportunity.

(3) Consideration of the facts relied on is required in the public interest.

[FR Doc.72-19824 Filed 11-16-72;8:48 am]

[1] The amendment we adopt today does not apply to petitions now on file, but applies only perspectively from the effective date.

[2] Commissioners Johnson and Hooks absent; Commissioners H. Rex Lee, Reid, and Wiley concurring in the result.

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Moosehorn National Wildlife Refuge, Maine

The following special regulation is issued and is effective on date of publication in the Federal Register (11–17–72).

§ 28.7 Special regulations: Operation of vehicles.

Maine

MOOSEHORN NATIONAL WILDLIFE REFUGE

The use of snowmobiles is permitted on the Baring and Edmunds Units subject to the following special conditions:

(1) Use is restricted to the period December 1, 1972 through April 15, 1973.

(2) Use shall be in accordance with all applicable State laws and regulations governing snowmobiles.

(3) Use is limited to designated roads and trails delineated on maps available at refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective during the period specified herein.

Richard E. Griffith,
Regional Director, Bureau of Sport Fisheries and Wildlife.

November 8, 1972.

[FR Doc.72-19799 Filed 11-16-72;8:45 am]

PART 33—SPORT FISHING

Arrowwood National Wildlife Refuge, N. Dak.

The following special regulation is issued and is effective on date of publication in the Federal Register (11–17–72).

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

North Dakota

ARROWWOOD NATIONAL WILDLIFE REFUGE

Sport fishing on the Arrowwood National Wildlife Refuge, N. Dak., is permitted only on the areas designated by

B. In § 301.48–2a relating to the State

Huntington County. The entire county.

Tippecanoe County. The entire county.

Vanderburgh County. The entire county.

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signs as open to fishing. These areas comprising 1,550 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge shall extend from December 1, 1972 through March 25, 1973.

(2) The use of boats, without motors, is permitted.

The provisions of these special regulations supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33, and are effective through March 25, 1973.

EARL R. CUNNINGHAM,
Acting Refuge Manager, Arrowwood National Wildlife Refuge, Edmunds, N. Dak.

NOVEMBER 2, 1972.

[FR Doc.72-19801 Filed 11-16-72;8:46 am]

PART 33—SPORT FISHING

Horicon National Wildlife Refuge, Wis.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11-17-72).

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

WISCONSIN

HORICON NATIONAL WILDLIFE REFUGE

Sport fishing on the Horicon National Wildlife Refuge, Mayville, Wis., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 15 acres, are delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from January 1 through February 28, 1973, inclusive.

(2) Permit is required to take carp for sale.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33, and are effective through February 28, 1973.

ROBERT G. PERSONIUS,
Refuge Manager, Horicon National Wildlife Refuge, Mayville, Wisconsin

NOVEMBER 10, 1972.

[FR Doc.72-19800 Filed 11-16-72;8:45 am]

Title 7—AGRICULTURE

Chapter III—Animal and Plant Health Inspection Service, Department of Agriculture

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Japanese Beetle

REGULATED AREAS

Pursuant to the provisions of sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), and § 301.48–2 of the Japanese Beetle Quarantine regulations, 7 CFR 301.48–2, as amended, a supplemental regulation designating regulated areas, 7 CFR 301.48–2a, is hereby amended.

§ 301.48–2a Regulated areas; suppressive and generally infested areas.

The civil divisions and parts of civil divisions described below are designated as Japanese bettle regulated areas within the meaning of the provisions of this subpart, and such regulated areas are hereby divided into generally infested areas or suppressive areas as indicated below:

ALABAMA

(1) *Generally infested area.* None.

(2) *Suppressive area.*

Calhoun County. Sections 35 and 36, T. 15 S., R. 7 E.; and secs. 1, 2, 11, and 12, T. 16 S., R. 7 E.

Cleburne County. That portion of the county lying within the corporate limits of the city of Heflin.

Jackson County. That portion of the county lying within the corporate limits of the city of Scottsboro.

Jefferson County. Secs. 5, 6, 7, 8, 17, 18, 19, and 20, T. 17 S., R. 1 W.; and secs. 1, 12, 13, and 24, T. 17 S., R. 2 W.

Lee County. Secs. 7, 8, 17, 18, 19, and 20, T. 19 N., R. 27 E.

Winston County. Secs. 6 and 7, T. 10 S., R. 10 W.

* * * * *

A. In § 301.48–2a relating to the State of Georgia the entire description for that State is changed to read as follows:

GEORGIA

(1) *Generally infested area.*

Banks County. The entire county.

Barrow County. The entire county.

Bartow County. That portion of the county lying within 827 and 936 Georgia Militia Districts.

Bibb County. That portion of the county lying within an area bounded on the west by Georgia Highway 11, on the south by Rocky Creek, and on the east and north by Ocmulgee River.

Burke County. That portion of Georgia Militia District 66 lying north of Brier Creek, west of Highway 23, and north of Newberry Creek; that portion of Georgia Militia District 67 lying east of Highway 23 and 56; that portion of Georgia Militia District 65 lying north and west of the Keysville-Hephzibah Road, and that portion of Georgia Militia Districts 69 and 72 lying within a circle having a radius of 3 miles with the center at the intersection of the Savannah and Atlanta Railroad and the Georgia and Florida Railroad.

Cherokee County. The entire county, excluding Georgia Militia Districts 971, 960, 1028, and 817.

Clarke County. That portion of the county lying within Georgia Militia Districts 219, 1347, 241, and 216.

Clayton County. The entire county.

Cobb County. The entire county, excluding Georgia Militia Districts 851, 1318, and that portion of 991 lying southwest of U.S. Highway 41.

Columbia County. That portion of the county lying south of I-20 and east of Little Kiokee Creek.

Dawson County. The entire county.

De Kalb County. The entire county excluding that area lying south of Rockbridge Road and west of Panthersville Road and I-285.

Douglas County. That portion of the county lying within Georgia Militia Districts 1273, 784, 736, and 1272.

Elbert County. That portion of the county lying within Georgia Militia Districts 201, 197, and 315.

Fannin County. The entire county except Georgia Militia Districts 980 and 1130.

Fayette County. That portion of the county lying within Georgia Militia Districts 1248, 549, 496, 709, and 1262, and that portion of Georgia Militia District 496 lying north of State Highway 54, including the city of Fayetteville.

Forsyth County. The entire county.

Franklin County. The entire county.

Fulton County. The entire county, excluding Georgia Militia Districts 1165, 757, and 652.

Gilmer County. The entire county except Georgia Militia District 958.

Gordon County. That portion of the county lying within Georgia Militia Districts 1057 and 874.

Gwinnett County. The entire county.

Habersham County. The entire county.

Hall County. The entire county.

Hart County. The entire county.

Henry County. That portion of the county lying within Georgia Militia Districts 888, 775, and 622.

Jackson County. The entire county.

Lumpkin County. The entire county.

Madison County. The entire county.

Murray County. That portion of Georgia Military District 825 lying east of the L. & N. Railroad.

Newton County. That portion of the county lying within Georgia Militia District 462.

Oconee County. That portion of the county lying within Georgia Militia Districts 240, 239, and 224.

Oglethorpe County. That portion of the county lying within Georgia Militia Districts 226, 1303, 235, 236, and 227.

Paulding County. That portion of the county lying within Georgia Militia District 1596.

Pickens County. The entire county.

Rabun County. The entire county.

Richmond County. The entire county.

Spalding County. That portion of the county lying within the corporate limits of the city of Griffin and that area south of city to the county line lying east of Carver Road and west of Potato Creek.

Stephens County. The entire county.

Towns County. The entire county.

Union County. The entire county.

Walton County. That portion of the county lying within Georgia Militia Districts 250, 415, 421, 419, and 1663.

White County. The entire county.

(2) *Suppressive area.* None.

B. In § 301.48–2a relating to the State of Illinois under generally infested area in the counties of Cook and Iroquois, the following properties are added or redescribed as follows:

ILLINOIS

(1) *Generally infested area.*

* * * * *

Cook County. * * * and secs. 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, and 14, T. 35 N., R. 14 E.; and secs. 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, 31, and 32, T. 35 N., R. 15 E. (all in Bloom Township).

* * * * *

Iroquois County. That portion of the county lying east of State Highway 49, secs. 1 and 2, T. 26 N., R. 10 E.; secs. 25, 26, 27, 34, 35, and 36, T. 27 N., R. 10 E.; sec. 6, T. 26 N., R. 11 E.; secs. 30 and 31, T. 27 N., R. 11 E.; secs. 18, 19, 30, and 31, T. 27 N., R. 13 W.; and secs. 13, 14, 23, 24, 25, 26, 35, and 36, T. 27 N., R. 14 W.

* * * * *

C. In § 301.48–2a relating to the State of Indiana the entire description for that State is changed to read as follows:

INDIANA

(1) Generally infested area.

Allen County. The entire county.

Benton County. The entire county.

Boone County. The entire county.

Carroll County. The entire county.

Cass County. The entire county.

Clark County. That portion of the county bounded by a line beginning at a point where State Highway 62 intersects the Floyd-Clark County line; thence extending northeastward along said highway to the point where it junctions with State Highway 131; thence northeastward along said highway to the point where it intersects Interstate Highway 165; thence continuing in a northeastward direction along the bituminous surfaced road located on the northern boundary of secs. 20 and 21 to the point where it junctions with Allison Lane; thence southeastward along said lane to the Ohio River; thence westward along the Ohio River to the point where it intersects the Floyd-Clark County line; thence north along said line to the point of beginning.

Clay County. Secs. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 15, 16, 21, and 22, T. 13 N., R. 6 W. and secs. 1, 2, 3, 4, 9, 10, 11, 12, 14, 15, 16, 21, 22 and 23 T. 13 N., R. 7 W.

Clinton County. The entire county.

Daviess County. The entire county.

Dearborn County. T. 4 N., R. 1 W.; T. 5 N., R. 1 W.; T. 6 N., R. 1 W.; E½ and secs. 20, 21, 28, 29, 30, 31, 32, and 33, T. 7 N., R. 1 W.; secs. 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 16, and 17 T. 4 N., R. 2 W.; E½ and secs. 4, 5, 8, 9, 16, 17, 21, 28, and 33. T. 5 N., R. 2 W.; secs. 13 and 24, T. 6 N., R. 2 W.

De Kalb County. The entire county.

Delaware County. Secs. 2, 3, 10, 11, 14, and 15, T. 20 N., R. 10 E.

Dubois County. Secs. 16, 17, 18, 19, 20, 21, 27, 28, 29, 30, 31, 32, 33, and 34, T. 1 N., R. 3 W.; secs. 13, 14, 15, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36, T. 1 N., R. 4 W. lying within the county; secs. 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33, 34, 35, and 36, T. 1 N., R. 5 W.; secs. 5 and 6, T. 1 S., R. 3 W.; secs. 1, 2, 3, 4, 5, 6, 8, and 9, T. 1 S., R. 4 W.; and sec. 1, T. 1 S., R. 5 W.

Elkhart County. The entire county.

Fulton County. The entire county.

Greene County. Secs. 28, 29, 30, 31, 32, and 33, T. 6 N., R. 3 W. and secs. 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36, T. 6 N., R. 4 W.

Hendricks County. Secs. 1, 2, 3, 10, 11, 12, 13, 14, 15, 23, and 24, T. 15 N., R. 1 E.; and secs. 5, 6, 7, 8, 17, 18, 19, and 20, T. 15 N., R. 2 E.

Huntington County. The entire county.

Jackson County. Secs. 1, 2, 11, 12, 13, 14, 23, and 24, T. 4 N., R. 2 E.; secs. 11, 12, 13, 14, 23, 24, 25, 26, 35, and 36, T. 5 N., R. 2 E; secs. 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, and 24, T. 4 N., R. 3 E.; secs. 7, 8, 9, 16, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32, 33, and 34, T. 5 N., R. 3 E.; secs. 7, 18, and 19, T. 4 N., R. 4 E.; secs. 12, 13, and 24, T. 6 N., R. 5 E.; and secs. 7, 8, 9, 16, 17, 18, 19, 20, and 21, T. 6 N., R. 6 E.

Jasper County. The entire county.

Jefferson County. Secs. 1, 2, 11, 12, 13, 24, and 25, T. 3 N., R. 9 E.; secs. 5, 6, 7, 8, 17, 18, 19, 20, 29, and 30, T. 2 N., R. 10 E.; secs. 2, 3, 4, 5, 6, 7, 8, 18, 19, 30, 31, and 32, T. 3 N., R. 10 E.; secs. 20, 21, 22, 27, 28, 29, 32, 33, 34, and 35, T. 4 N., R. 10 E.; sec. 2, T. 3 N., R. 11 E.; and secs. 26, 27, 34, and 35, T. 4 N., R. 11 E.

Jennings County. Sec. 1, T. 5 N., R. 7 E.; sec. 6, T. 5 N., R. 8 E.; E½ and secs. 4, 5, 8, 9, 16, 17, 20, 21, 28, 29, 32, and 33, T. 6 N., R. 7 E.; secs. 22, 23, 25, 26, 27, 28, 32, 33, 34, 35, and 36, T. 7 N., R. 7 E.; sec. 6, T. 5 N., R. 8 E.; secs. 3, 4, 5, 6, 7, 18, 19, 20, 21, 28, 29, 30, and 31, T. 6 N., R. 8 E.; secs. 27, 28, 29, 30, 31, 32, 33, and 34, T. 7 N., R. 8 E.; and secs. 28, 29, 32, and 33, T. 7 N., R. 9 E.

Kosciusko County. The entire county.

Lagrange County. The entire county.

Lake County. The entire county.

La Porte County. The entire county.

Lawrence County. That portion of the county lying west and south of a line starting at the intersection of State Highway 37 and the Lawrence-Monroe County line, thence southerly along State Highway 37 to the junction of State Highways 37 and 58, thence southeasterly along said highway to the junction of State Highway 50, thence easterly along State Highway 50 to its intersection with the Lawrence-Jackson County line.

Marion County. The entire county.

Marshall County. The entire county.

Martin County. The entire county.

Miami County. The entire county.

Montgomery County. The entire county.

Newton County. The entire county.

Noble County. The entire county.

Ohio County. Secs. 1, 2, 3, 4, 9, 10, 11, 15, and 16, T. 3 N., R. 1 W.; and secs. 8, 9, 10, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33, 34, 35, and 36, T. 4 N., R. 1 W.

Orange County. T. 1 S., R. 2 W.; T. 1 N., R. 2 W.; T. 2 N., R. 2 W.; T. 3 N., R. 2 W.; secs. 1, 12, 15, 16, 21, 22, 27, and 28, T. 1 S., R. 1 W.; secs. 5, 6, 7, 8, 17, 18, 19, and 20, T. 1 N., R. 1 W.; secs. 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30, 31, and 32, T. 2 N., R. 1 W.; secs. 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, and 33, T. 3 N., R. 1 W.; and secs. 6 and 7, T. 1 S., R. 1 E.

Parke County. Secs. 34 and 35, T. 14 N., R. 6 W.; secs. 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36. T. 14 N., R. 7 W.; secs. 15 through 18 and S½ T. 14 N., R. 8 W.; secs. 13, 22, 23, 24, 25, 26, 27, 35, and 36, T. 14 N., R. 9 W.

Porter County. The entire county.

Pulaski County. The entire county.

Putnam County. Secs. 4, 5, 6, 7, 8, 9, T. 16 N., R. 3 W.; secs. 1, 2, 3, 10, 11, and 12, T. 16 N., R. 4 W.

St. Joseph County. The entire county.

Starke County. The entire county.

Steuben County. The entire county.

Sullivan County. Secs. 2 and 3, T. 8 N., R. 9 W. and secs. 25, 26, 27, 28, 33, 34, 35, and 36, T. 9 N., R. 9 W.

Switzerland County. Secs. 30 and 31, T. 2 N., R. 1 E.; sec. 6, T. 1 N., R. 1 W.; secs. 25, 26, 27, 28, 29, 31, 32, 33, 34, 35, and 36, T. 2 N., R. 1 W.; secs. 1, 2, 3, 4, 5, 6, 7, 8, 9, and 18, T. 1 N., R. 2 W.; and secs. 1, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 27, and 28, T. 2 N., R. 3 W.

Tippecanoe County. The entire county.

Vanderburgh County. The entire county.

Vigo County. The entire county.

Wabash County. The entire county.

Washington County. Secs. 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, and 24, T. 3 N., R. 2 E.; secs. 22, 23, 24, 25, 26, 27, 34, 35, and 36, T. 4 N., R. 2 E.; and secs. 17, 18, 19, 20, 29, and 30, T. 4 N., R. 3 E.

Wayne County. The entire county.

Wells County. The entire county.

White County. The entire county.

Whitley County. The entire county.

(2) *Suppressive area.* None.

D. In § 301.48–2a relating to the State of Kentucky under generally infested area, the following counties are added or redescribed and should be listed in alphabetical order as follows:

KENTUCKY

(1) *Generally infested area.*

* * * * *

Clark County. The entire county.

* * * * *

Daviess County. That portion of the county bounded by a line beginning at the junction of the L. & N. Railroad and the sewage treatment plant; thence east to the Ohio River; thence along the south bank of the Ohio River to the northeast boundary of the Elmer Smith powerplant; thence south and east along said boundary to the junction of U.S. Highway 60; thence south along U.S. Highway 60 to the junction of the L. & N. Railroad spur; thence south along the L. & N. Railroad spur to the L. & N. Railroad main line; thence west and north along the L. & N. Railroad main line to the point of beginning.

* * * * *

Fayette County. The entire county.

* * * * *

Jefferson County. The entire county.

* * * * *

Madison County. The entire county.

* * * * *

Oldham County. The entire county.

* * * * *

(2) *Suppressive area.* None.

E. In § 301.48–2a relating to the State of Michigan under generally infested area, the following counties are redescribed and should be listed in alphabetical order as follows:

MICHIGAN

(1) *Generally infested area.*

Barry County. Secs. 18, 19, 27, 28, 29, 30, 31, 32, 33, 34, T. 1 N., R. 7 W.; and secs. 23, 24, 25, 26, 27, 28, 33, 34, 35, and 36, T. 1 N., R. 8 W.

Berrien County. Secs. 1, 2, 3, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, and 24, T. 8 S., R. 17 W.; and secs. 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, and 24, T. 8 S., R. 18 W.; and secs. 13, 14, 15, 22, 23, and 24, T. 8 S., R. 19 W.

* * * * *

Cass County. Secs. 5, 6, 7, 8, 17, 18, 19, and 20, T. 7 S., R. 13 W.; secs. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, and 24, T. 8 S., R. 14 W.; secs. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, and 24, T. 8 S., R. 15 W.; secs. 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, and 34, T. 7 S., R. 16 W.; secs. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24, T. 8 S., R. 16 W.

* * * * *

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MISSOURI

(1) *Generally infested area.* None.

(2) *Suppressive area.*

City of St. Louis. That part of the city bounded by a line beginning at a point where the Mississippi River intersects an imaginary line extended from Humboldt Avenue; thence southwesterly along said imaginary line and Humboldt Avenue to a second projected imaginary line extending southwesterly from Humboldt Avenue across Bellefontaine Cemetery to a point where the second imaginary line intersects West Florissant Avenue and Kingshighway Memorial Boulevard; thence southerly along said boulevard to its intersection with Shaw Boulevard; thence easterly along Shaw Boulevard to its intersection with Grand Boulevard; thence southerly along Grand Boulevard to its intersection with Russell Boulevard; thence easterly along Russell Boulevard to its intersection with Russell Avenue; thence easterly along said avenue and a projected imaginary line to a point where the imaginary line intersects the Mississippi River; thence northerly along said river to point of beginning.

That part of the city bounded by a line beginning at a point where Utah Street intersects Gustine Street; thence southerly along Gustine Street to its intersection with Taft Street; thence westerly along Taft Street to its intersection with Gravois Avenue; thence southerly along Gravois Avenue to its intersection with Neosho Street; thence westerly along Neosho Street to its intersection with Ridgewood Avenue; thence northerly along Ridgewood Avenue to its intersection with Chippewa Street; thence west on Chippewa Street to its intersection with Kingshighway Memorial Boulevard; thence northerly along said boulevard to its intersection with Fyler Street; thence east along Fyler Street to its intersection with Morganford Road; thence north on Morganford Road to its intersection with Utah Street; thence east on Utah Street to the point of beginning.

That part of the city bounded by a line beginning at a point where the city limits intersect Southwest Avenue; thence easterly along Southwest Avenue to its intersection with Watson Road; thence southwesterly along Watson Road to its intersection with Pernod Avenue; thence westerly along Pernod Avenue and a projected imaginary line to a point where the imaginary line intersects the city limits; thence northerly along said city limits to point of beginning.

St. Louis County. That part of the county bounded by a line beginning at a point where the county line—St. Louis city limits intersect Southwest Avenue; thence westerly along Southwest Avenue to its intersection with Manchester Avenue; thence west along Manchester Avenue to its intersection with Laclede Station Road; thence south along Laclede Station Road to Deer Creek; thence easterly along Deer Creek to its intersection with the county line—St. Louis city limits thence northerly along said county line—city limits to point of beginning.

That part of the county bounded by a line beginning at a point where the Chicago, Rock Island and Pacific Railroad intersects U.S. Routes 40 and 61; thence northeasterly along the said railroad to its intersection with City Road; thence southeasterly along City Road to its intersection with Olive Boulevard; thence southwesterly along Olive Boulevard to its intersection with White Road; thence southeasterly along White Road to its intersection with Conway Road; thence westerly along Conway Road to its intersection with U.S. Routes 40 and 61; thence northwesterly along U.S. Routes 40 and 61 to point of beginning.

. . . . . .

F. In § 301.48–2a relating to the State of South Carolina under generally infested area, the following counties are added or redescribed and should be listed in alphabetical order as follows:

SOUTH CAROLINA

(1) *Generally infested area.*

. . . . . .

Anderson County. That portion of the county lying north of Interstate Highway 85.

Calhoun County. That portion of the county lying north and west of U.S. Highway 601.

. . . . . .

(2) *Suppressive area.* None.

G. In § 301.48–2a relating to the State of Tennessee under generally infested area, the following counties are added or redescribed and should be listed in alphabetical order as follows:

TENNESSEE

(1) *Generally infested area.*

. . . . . .

Carter County. The entire county.

. . . . . .

Hamblen County. That portion of the county lying east of Tennessee Highway 66 and south of U.S. Highway 11 East.

Hawkins County. That portion of the county lying within the incorporate city boundaries of Bulls Gap. That portion of the county bounded by a line beginning at the juncture of Federal Aid Secondary Road 2367 and U.S. Highway 11 West; thence northeast along U.S. Highway 11 West to its juncture with Federal Aid Secondary Road 2527; thence along said road to its juncture with Federal Aid Secondary Road 2462; thence northeast along said road to the Hawkins-Sullivan County line; thence south along said county line to its intersection with Federal Aid Secondary Road 2463; thence southwest and west along said road to a point where it junctures at the Holston River with Federal Aid Secondary Road 2367; thence west along said road to the point of beginning.

. . . . . .

Monroe County. . . . That portion of the county lying north of the Little Tennessee River.

Morgan County. That portion of the county bounded by a line beginning at a point where the Emory River intersects the Morgan-Roane County line; thence north along said river to the White Oak Creek; thence northwest along said creek where it terminates; thence diagonally across the Federal Aid Secondary Road 2590 to the first northbound gravel road; thence north along said road to where it junctures with the boundary of the Catoosa Wild Life Management Area; thence east along boundary of said Catoosa Wild Life Management Area to the point where it meets the Emory River at the point of the juncture of the Crooked Fork Creek; thence north along said creek to the point where it intersects U.S. Highway 27; thence south along said highway to the Morgan-Roane County line; thence west along said county line to the point of beginning.

Polk County. That portion of the county bounded on the south by a line beginning at the Georgia-North Carolina State line; thence west along Tennessee-Georgia State line to a point where State line intersects the Ocoee River; thence northwest along said river to a point where it junctures with the Hiwassee River; thence northwest along said river to the Polk-McMinn County line.

Roane County. That portion of the county bounded on the northwest by the south shoreline of the Tennessee River and on the northeast by U.S. Highway 70.

. . . . . .

Sullivan County. The entire county.

Unicoi County. The entire county.

. . . . . .

(2) *Suppressive area.* None.

. . . . . .

(Secs. 8, 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee; 29 F.R. 16210, as amended; 37 F.R. 6327, 6505, 10554; 35 F.R. 7001, 7 CFR 301.48–2)

This amendment shall become effective upon publication in the FEDERAL REGISTER (11–17–72).

The Deputy Administrator of the plant protection and quarantine programs has determined that infestations of the Japanese beetle exist or are likely to exist in the civil divisions and parts of civil divisions listed as regulated areas or that it is necessary to regulate such areas because of their proximity to Japanese beetle infestations or their inseparability for quarantine enforcement purposes from Japanese beetle infested localities.

The Deputy Administrator has further determined that each of the quarantined States, wherein only portions of the State have been designated as regulated areas, is enforcing a quarantine or regulation with restrictions on intrastate movement of the regulated articles substantially the same as the restrictions on interstate movement of such articles imposed by the quarantine and regulations in this subpart, and that designation of less than the entire State as a regulated area will otherwise be adequate to prevent the interstate spread of the Japanese beetle. Therefore, such civil divisions and parts of civil divisions listed above are designated as Japanese beetle regulated areas.

This amendment adds to the Japanese beetle regulated areas all or parts of the following previously nonregulated city and counties: Calhoun, Cleburne, Jackson, Jefferson, Lee, and Winston Counties in Alabama; Bartow, Burke, Columbia, Gordon, Murray, and Paulding Counties in Georgia; Sullivan, Dubois, and Greene Counties in Indiana; the City of St. Louis and St. Louis County in Missouri; Anderson County in South Carolina; Daviess, Madison, and Oldham Counties in Kentucky; and Hamblen and Morgan Counties in Tennessee. The Japanese beetle regulated area has been extended in some previously regulated counties.

This document imposes restrictions that are necessary in order to prevent the dissemination of the Japanese beetle and should be made effective promptly to accomplish its purpose in the public interest. Accordingly, it is found upon good cause, under the administrative procedure provisions of 5 U.S.C. 553, that notice and other public procedure with respect to the foregoing regulation are impracticable and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 10th day of November 1972.

LEO G. K. IVERSON,
Deputy Administrator, Plant Protection and Quarantine Programs.

[FR Doc.72-19763 Filed 11-16-72;8:45 am]

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 4]

PART 722—COTTON

Subpart—Base Acreage Allotments for 1971, 1972, and 1973 Crops of Upland Cotton

MISCELLANEOUS AMENDMENTS

On September 28, 1972, notice of proposed rule making regarding determinations with respect to base acreage allotments for 1971, 1972, and 1973 crops of upland cotton was published in the FEDERAL REGISTER (37 F.R. 20254). Interested persons were invited to submit written data, views, and recommendations regarding the determinations within 15 days. No comments were received in response to this notice.

This amendment is issued pursuant to applicable provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.). The purposes of the amendment are as follows:

1. To provide that planted and considered planted credit be given to cotton on federally-owned land when there is a restrictive lease in effect prohibiting its production and when leased back with uninterrupted possession to the former owner after acquisition under the right of eminent domain.

2. To provide for restructuring of the regulations relative to new farm eligibility for uniformity and to provide that the spouse's farm and nonfarm income be used in computing the income requirement for a new farm allotment.

3. To provide for the transfer from federally-owned land only in those cases where the land was leased back with uninterrupted possession to the former owner. Currently the regulations provide that no transfer is permitted from federally-owned land.

Since farmers are now making plans for their 1973 cotton crop, it is essential that these regulations be made effective at the earliest possible date. Accordingly, this document is being made effective upon date of its publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on November 10, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

1. Paragraph (f) of § 722.404 is amended by adding a new subparagraph (9) to read as follows:

§ 722.404 Definitions.

. . . . . .

(f) . . .

(9) Acreage on federally owned land having a restirctive lease in effect prohibiting production of upland cotton when the land is leased back with uninterrupted possession to the former owner after acquisition under the right of eminent domain.

. . . . . .

2. Section 722.407 is revised to read as follows:

§ 722.407 Base Acreage Allotments for new cotton farms.

(a) *Written application.* The farm owner or operator shall file an application for a new cotton farm base acreage allotment at the office of the county committee where the farm is administratively located on or before February 15 of the year for which such allotment is requested.

(b) *Eligibility requirements for owner or operator.* A new cotton farm base acreage allotment may be established if each of the following conditions are met:

(1) *Interest in another farm.* Neither the farm owner nor the farm operator shall own or operate any other farm in the United States for which an upland cotton base acreage allotment is established for the current year.

(2) *Availability of equipment and facilities.* The farm operator shall own, or have readily available, adequate equipment and any other facilities of production (including irrigation water in irrigation areas) necessary to the production of upland cotton on the farm.

(3) *Income requirement.* The operator must expect to obtain during the current year more than 50 percent of his income from the production of agricultural commodities or products from farming.

(i) *Computing operator's income.* The following shall be considered in computing operator's income:

(a) *Income from farming.* Income from farming shall include the estimated return from home gardens, livestock and livestock products, poultry, or other agricultural products produced for home consumption or other use on the farm(s) but shall not include estimated return from the production of any requested new cotton farm base acreage allotment.

(b) *Income from nonfarming.* Nonfarming income shall include but shall not be limited to salaries, commissions, pensions, social security payments, and unemployment compensations.

(c) *Spouse's income.* The spouse's farm and nonfarm income shall be used in the computation.

(ii) *Operator a partnership.* If the operator is a partnership, each partner must expect to obtain more than 50 percent of his current year income from farming.

(iii) *Operator a corporation.* If the operator is a corporation, it must have no other major corporate purpose other than ownership or operation of the farm(s). Farming must provide its officers and general manager with more than 50 percent of their expected income. Salaries and dividends from the corporation shall be considered as income from farming.

(iv) *Special provision for low-income farmers.* The county committee may waive the income provisions in this section provided the county committee determines that the farm operator's income, from both farm and nonfarm sources, will not provide a reasonable standard of living for the operator and his family, and a State committee representative approves such action. In waiving the income provisions the county committee must exercise good judgment to see that such determination is reasonable in the light of all pertinent factors, and that this special provision is made applicable only to those who qualify. In making such determination, the county committee shall consider such factors as size and type of farming operations, estimated net worth, estimated gross family farm income, estimated family off-farm income, number of dependents, and other factors affecting the individual's ability to provide a reasonable standard of living for himself and his family.

(c) *Eligibility requirements for the farm.* The eligibility requirements for the farm are as follows:

(1) *Available land, type of soil, and topography.* The available land, type of soil, and topography of the land on the farm must be suitable for cotton production. Also continuous production of cotton must not result in an undue erosion hazard.

(2) *Entire allotment permanently transferred by sale or owner.* A farm which includes land from which the entire cotton base-acreage allotment was permanently transferred by sale or owner shall not be eligible for a new cotton farm base-acreage allotment for a period of 5 years beginning with the year in which the transfer became effective.

(3) *Entire allotment permanently released.* A farm which includes land from which the entire cotton base-acreage allotment was permanently released shall not be eligible for a new cotton farm base-acreage allotment for a period of 3 years beginning with the year the release was effective.

(4) *Entire allotment designated by owner for a reconstitution.* A farm which includes land which has no upland cotton base-acreage allotment because the owner did not designate an allotment for such land when the parent farm was reconstituted pursuant to Part 719 of this chapter shall not be eligible for a new cotton farm base-acreage allotment for a period of 3 years beginning with the year in which the reconstitution became effective.

(5) *Eminent domain.* A farm which includes land acquired by an agency having the right of eminent domain for which the entire cotton base-acreage allotment was pooled pursuant to Part 719 of this chapter, which is subsequently returned to agricultural production, shall not be eligible for a new cotton farm base-acreage allotment for a period of 3 years from the date the former owner was displaced.

(d) *Establishment of base-acreage allotments for new cotton farms.* If the applicant's farm is eligible for a cotton base-acreage allotment, such base-acreage allotment shall be established by the county committee on the basis of land, labor, and equipment available for the production of cotton; crop-rotation practices; and the soil and other physical

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facilities affecting the production of cotton. The allotment so determined for any such farm shall not exceed the smallest of: (1) The factored base-acreage allotments established pursuant to § 722.406 for old cotton farms in the county which are similar except for the acreage planted to cotton during the farm-base years, (2) the base-acreage allotment requested, or (3) acreage of the requested commodity intended to be planted in the current year. The sum of the base-acreage allotments determined by the county committee for new cotton farms shall not exceed the reserves available for such farms in the county. The base-acreage allotments for new cotton farms shall be subject to review and approval by a representative of the State committee.

(e) *Reduction or cancellation of new cotton farm base-acreage allotments for misrepresentation.* If a new cotton farm base-acreage allotment is established under this section and it is later determined by the county committee or State committee, or the deputy administrator, that the new farm base-acreage allotment was obtained by misrepresentation by or on behalf of the farm operator or owner, the new farm base-acreage allotment established for the farm shall be canceled if the farm is not eligible for a new cotton farm base-acreage allotment or reduced to the amount which would be proper on the basis of the facts and a notice of revised allotment shall be issued. Any reduction or cancellation of a new cotton base-acreage allotment by the county committee shall be subject to the approval of the State committee. A cotton base-acreage allotment established for a farm in any year subsequent to the establishment of a new cotton farm base-acreage allotment for such farm shall be revised to reflect any reduction or cancellation of the new farm base-acreage allotment and a notice of revised allotment shall be issued.

3. Paragraph (h) of § 722.421 is revised to read as follows:

§ 722.421 Additional conditions and limitations.

* * * * *

(h) *Federally owned land.* No transfer under section 344a of the act shall be made from any land owned by the United States, or any agency or instrumentality wholly owned by the United States, except that the transfer may be approved in cases where the land is leased back with uninterrupted possession to the former owner after acquisition under right of eminent domain. For such transfers, the Government agency or instrumentality is not required to sign the record of transfer.

(Secs. 301, 344a, 350, 375, 52 Stat. 38, as amended, 79 Stat. 1197, as amended, 79 Stat. 1193, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1301, 1344b, 1350, 1375)

Effective date: Date of publication in the FEDERAL REGISTER (11–17–72).

[FR Doc.72–19851 Filed 11–16–72;8:51 am]

PART 722—COTTON

Subpart—1973 Crop of Upland Cotton; Base Acreage Allotments and National Production Goal

Sections 722.463 to 722.465 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.) (referred to as the "act"), with respect to the 1973 crop of upland cotton (referred to as "cotton"). The purpose of these provisions is to: (1) Proclaim a national production goal; (2) establish a national base acreage allotment; and (3) apportion the national base acreage allotment to States. Section 722.466 is issued pursuant to the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.), and provides for a cropland set-aside percentage of zero. The latest available statistics of the Federal Government have been used in making determinations under these provisions.

Notice that the Secretary was preparing to make determinations with respect to these provisions was published in the FEDERAL REGISTER on September 16, 1972 (37 F.R. 18923), in accordance with 5 U.S.C. 553. The views and recommendations received in response to such notice have been duly considered.

In order that State and county ASC committees may complete the necessary work for issuing farm allotment notices in a timely manner for cotton producers to complete their plans for the 1973 crop of cotton, it is essential that these provisions be made effective as soon as possible. Accordingly, §§ 722.463 to 722.466 shall be effective upon filing this document with the Director, Office of the Federal Register. The material previously appearing in these sections under centerhead "1972 Crop or Upland Cotton; Base Acreage Allotments" remains in full force and effect as to the crop to which it was applicable.

§ 722.463 National production goal for the 1973 crop of cotton.

The national production goal for the 1973 crop of cotton is hereby proclaimed to be in the amount of 12,075,000 standard bales of cotton determined in accordance with the formula prescribed under section 342a of the act, based on the following data:

	480 lbs., net weight bales
(1) Estimated domestic consumption, 1973–74 marketing year	8,000,000
(2) Estimated exports, 1973–74 marketing year	3,500,000
(3) Allowance for market expansion (5 percent of sum of (1) and (2))	575,000
(4) Adjustments to assure adequate stocks	0
Total	12,075,000
(5) 50 percent of the average offtake for the preceding 3 marketing years (1970, 1971, and estimated 1972)	5,824,750

§ 722.464 National base acreage allotment for the 1973 crop of cotton.

The national base acreage allotment for the 1973 crop of cotton shall be 10 million acres, determined in accordance with section 350(a) of the act.

§ 722.465 Apportionment of national base acreage allotment to the States.

The national base acreage allotment of 10 million acres is apportioned to the States in accordance with section 350 (b) of the act as follows:

States:	*State allotment (acres)*
Alabama	587,316
Arizona	208,060
Arkansas	831,428
California	462,725
Florida	18,893
Georgia	506,201
Illinois	1,771
Kansas	7
Kentucky	4,238
Louisiana	348,292
Mississippi	956,654
Missouri	223,759
Nevada	2,202
New Mexico	107,762
North Carolina	270,800
Oklahoma	464,480
South Carolina	413,183
Tennessee	332,009
Texas	4,250,719
Virginia	9,501

§ 722.466 Cropland set-aside percentage.

There will be no requirement for the 1973 crop of cotton that producers set aside an acreage of cropland equal to a percentage of the farm-base acreage allotment.

(Secs. 301, 342a, 350, 103; 52 Stat. 38, as amended, 84 Stat. 1371, 84 Stat. 1374; 7 U.S.C. 1301, 1342a, 1350, 1444)

Effective date. Date of filing this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on November 15, 1972.

EARL L. BUTZ,
Secretary.

[FR Doc.72–19938 Filed 11–15–72;4:11 pm]

[Amdt. 9]

PART 722—COTTON

Subpart—Acreage Allotments for the 1966 and Succeeding Crops of Extra Long Staple Cotton

MISCELLANEOUS AMENDMENTS

On September 28, 1972, notice of proposed rulemaking regarding determinations with respect to acreage allotments for 1966 and succeeding crops of extra long staple cotton was published in the FEDERAL REGISTER (37 F.R. 20255). Interested persons were invited to submit written data, views, and recommendations regarding the determinations within 15 days. No comments were received in response to this notice.

This amendment is issued pursuant to applicable provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.). The purposes of the amendment are as follows:

1. To provide for restructuring of the regulations relative to new farm eligibility for uniformity and to provide that the spouse's farm and nonfarm income be used in computing the income requirement for a new farm allotment.

2. To provide for the transfer from federally owned land only in those cases where the land was leased back with uninterrupted possession to the former owner. Currently the regulations provide that no transfer is permitted from federally owned land.

Since farmers are now making plans for their 1973 cotton crop, it is essential that these regulations be made effective at the earliest possible date. Accordingly, this document is being made effective upon date of its publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on November 10, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

1. Paragraphs (c), (d), and (e) of § 722.512 are redesignated (d), (e), and (f), respectively, and reference in redesignated paragraph (f) is changed to read "paragraph (d) of this section," and paragraphs (a) and (b) of § 722.512 are amended to read as follows:

§ 722.512 Allotments for new ELS cotton farms.

(a) *Written application.* The owner or operator shall file an application for a new farm allotment at the office of the county committee where the farm is administratively located on or before February 15 of the year for which the new farm allotment is requested.

(b) *Eligibility requirements for owner or operator.* A new farm allotment may be established if each of the following conditions are met:

(1) *Interest in another farm.* Neither the farmowner nor the farm operator shall own or operate any other farm in the United States for which an ELS cotton allotment is established for the current year.

(2) *Availability of equipment and facilities.* The operator must own, or have readily available, adequate equipment and any other facilities of production (including irrigation water in irrigation areas) necessary to the production of ELS cotton on the farm.

(3) *Income requirement.* The operator must expect to obtain during the current year more than 50 percent of his income from the production of agricultural commodities or products from farming.

(i) *Computing operator's income.* The following shall be considered in computing operator's income:

(*a*) *Income from farming.* Income from farming shall include the estimated return from home gardens, livestock and livestock products, poultry, or other agricultural products produced for home consumption or other use on the farm(s) but shall not include estimated return from the production of the requested new farm allotment.

(*b*) *Income from nonfarming.* Nonfarming income shall include but shall not be limited to salaries, commissions, pensions, social security payments, and unemployment compensations.

(*c*) *Spouse's income.* The spouse's farm and nonfarm income shall be used in the computation.

(ii) *Operator a partnership.* If the operator is a partnership, each partner must expect to obtain more than 50 percent of his current year income from farming.

(iii) *Operator a corporation.* If the operator is a corporation, it must have no other major corporate purpose other than ownership or operation of the farm(s). Farming must provide its officers and general manager with more than 50 percent of their expected income. Salaries and dividends from the corporation shall be considered as income from farming.

(iv) *Special provision for low-income farmers.* The county committee may waive the income provisions in this section provided the county committee determines that the farm operator's income, from both farm and nonfarm sources, will not provide a reasonable standard of living for the operator and his family, and a State committee representative approves such action. In waiving the income provisions the county committee must exercise good judgment to see that such determination is reasonable in the light of all pertinent factors, and that this special provision is made applicable only to those who qualify. In making such determination, the county committee shall consider such factors as size and type of farming operations, estimated net worth, estimated gross family farm income, estimated family off-farm income, number of dependents, and other factors affecting the individual's ability to provide a reasonable standard of living for himself and his family.

(c) *Eligibility requirements for the farm.* A new farm allotment may be established if each of the following conditions are met:

(1) *Available land, type of soil, and topography.* The available land, type of soil, and topography of the land on the farm must be suitable for ELS cotton production. Also continuous production of ELS cotton must not result in an undue erosion hazard.

(2) *Entire allotment permanently transferred by sale or owner.* A farm which includes land from which the entire ELS cotton allotment was permanently transferred by sale or owner shall not be eligible for a new farm allotment for a period of 5 years beginning with the year in which the transfer became effective.

(3) *Entire allotment permanently released.* A farm which includes land from which the entire ELS cotton allotment was permanently released shall not be eligible for a new farm allotment for a period of 3 years beginning with the year the release was effective.

(4) *Entire allotment designated by owner for a reconstitution.* A farm which includes land which has no ELS cotton allotment because the owner did not designate an ELS cotton allotment for such land when the parent farm was reconstituted pursuant to Part 719 of this chapter shall not be eligible for a new ELS cotton allotment for a period of 3 years beginning with the year in which the reconstitution became effective.

(5) *Eminent domain.* A farm which includes land acquired by an agency having the right of eminent domain for which the entire ELS cotton allotment was pooled pursuant to Part 719 of this chapter, which is subsequently returned to agricultural production, shall not be eligible for a new farm allotment for a period of 3 years from the date the former owner was displaced.

2. Paragraph (c) of § 722.530 is deleted. Paragraphs (d), (e), (f), (g), and (h) are redesignated (c), (d), (e), (f), and (g), respectively. The redesignated paragraph (g) is amended to read as follows:

§ 722.530 Additional conditions and limitations.

* * * * *

(g) *Federally owned land.* No transfer under §§ 722.526 to 722.531 shall be made from any land owned by the United States, or any agency or instrumentality wholly owned by the United States, except that the transfer may be approved in cases where the land is leased back with uninterrupted possession to the former owner after acquisition under right of eminent domain. For such transfers, the Government agency or instrumentality is not required to sign the record of transfer.

(Secs. 344, 347, 375, 63 Stat. 670, as amended, 675, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1344, 1347, 1375)

Effective date: Date of publication in the FEDERAL REGISTER (11–17–72).

[FR Doc.72–19850 Filed 11–16–72;8:51 am]

PART 730—RICE

Subpart—1972–73 Marketing Year

DETERMINATION OF COUNTY NORMAL YIELDS FOR 1972 CROP

The regulations contained in § 730.1507 are issued pursuant to and in conformity

LOUISIANA (PARISHES)—continued	TEXAS—continued	normal carryover inventory, as estimated
Lafayette	Hall	Hockley
Lafourche	Hamilton	Hood
Lincoln	Hansford	Hopkins
Livingston	Hardeman	Houston
Madison	Hardin	Howard
Morehouse	Harris	Hudspeth
Natchitoches	Harrison	Hunt
Orleans	Hartley	Hutchinson
Ouachita	Haskell	Irion
Plaquemines	Hays	Jack
Pointe Coupee	Hemphill	Jackson
Rapides	Henderson	Jasper
Red River	Hidalgo	Jeff Davis
Richland	Hill	Jefferson
Sabine	Hockley	Jim Hogg
St. Bernard	Hood	Jim Wells
St. Charles	Hopkins	Johnson
St. Helena	Houston	Jones
St. James	Howard	Karnes
St. John the Baptist	Hudspeth	Kaufman
St. Landry	Hunt	Kendall
St. Martin	Hutchinson	Kenedy
St. Mary	Irion	Kent
St. Tammany	Jack	Kerr
Tangipahoa	Jackson	Kimble
Tensas	Jasper	King
Terrebonne	Jeff Davis	Kinney
Union	Jefferson	Kleberg
Vermilion	Jim Hogg	Knox
Vernon	Jim Wells	La Salle
Washington	Johnson	Lamar
Webster	Jones	Lamb
West Baton Rouge	Karnes	Lampasas
West Carroll	Kaufman	Lavaca
West Feliciana	Kendall	Lee
Winn	Kenedy	Leon
	Kent	Liberty
TEXAS	Kerr	Limestone
Anderson	Kimble	Lipscomb
Andrews	King	Live Oak
Angelina	Kinney	Llano
Aransas	Kleberg	Loving
Archer	Knox	Lubbock
Armstrong	La Salle	Lynn
Atascosa	Lamar	McCulloch
Austin	Lamb	McLennan
Bailey	Lampasas	McMullen
Bandera	Lavaca	Madison
Bastrop	Lee	Marion
Baylor	Leon	Martin
Bee	Liberty	Mason
Bell	Limestone	Matagorda
Bexar	Lipscomb	Maverick
Blanco	Live Oak	Medina
Borden	Llano	Menard
Bosque	Loving	Midland
Bowie	Lubbock	Milam
Brazoria	Lynn	Mills
Brazos	McCulloch	Mitchell
Brewster	McLennan	Montague
Briscoe	McMullen	Montgomery
Brooks	Madison	Moore
Brown	Marion	Morris
Burleson	Martin	Motley
Burnet	Mason	Nacogdoches
Caldwell	Matagorda	Navarro
Calhoun	Maverick	Newton
Callahan	Medina	Nolan
Cameron	Menard	Nueces
Camp	Midland	Ochiltree
Carson	Milam	Oldham
Cass	Mills	Orange
Castro	Mitchell	Palo Pinto
Chambers	Montague	Panola
Cherokee	Montgomery	Parker
Childress	Moore	Parmer
Clay	Morris	Pecos
Cochran	Motley	Polk
Coke	Nacogdoches	Potter
Coleman	Navarro	Presidio
Collin	Newton	Rains
Collingsworth	Nolan	Randall
Colorado	Nueces	Reagan
Comal	Ochiltree	Real
Comanche	Oldham	Red River
Concho	Orange	Reeves
Cooke	Palo Pinto	Refugio
Coryell	Panola	Roberts
Cottle	Parker	Robertson
Crane	Parmer	Rockwall
Crockett	Pecos	Runnels
Crosby	Polk	Rusk
Culberson	Potter	Sabine
Dallam	Presidio	San Augustine
Dallas	Rains	San Jacinto
Dawson	Randall	San Patricio
Deaf Smith	Reagan	San Saba
Delta	Real	Schleicher
Denton	Red River	Scurry
De Witt	Reeves	Shackelford
Dickens	Refugio	Shelby
Dimmit	Roberts	Sherman
Donley	Robertson	Smith
Duval	Rockwall	Somervell
Eastland	Runnels	Starr
Ector	Rusk	Stephens
Edwards	Sabine	Sterling
Ellis	San Augustine	Stonewall
El Paso	San Jacinto	Sutton
Erath	San Patricio	Swisher
Falls	San Saba	Tarrant
Fannin	Schleicher	Taylor
Fayette	Scurry	Terrell
Fisher	Shackelford	Terry
Floyd	Shelby	Throckmorton
Foard	Sherman	Titus
Fort Bend	Smith	Tom Green
Franklin	Somervell	Travis
Freestone	Starr	Trinity
Frio	Stephens	Tyler
Gaines	Sterling	Upshur
Galveston	Stonewall	Upton
Garza	Sutton	Uvalde
Gillespie	Swisher	Val Verde
Glasscock	Tarrant	Van Zandt
Goliad	Taylor	Victoria
Gonzales	Terrell	Walker
Gray	Terry	Waller
Grayson	Throckmorton	Ward
Gregg	Titus	Washington
Grimes	Tom Green	Webb
Guadalupe	Travis	Wharton
Hale	Trinity	Wheeler
Hall	Tyler	Wichita
Hamilton	Upshur	Wilbarger
Hansford	Upton	Willacy
Hardeman	Uvalde	Williamson
Hardin	Val Verde	Wilson
Harris	Van Zandt	Winkler
Harrison	Victoria	Wise
Hartley	Walker	Wood
Haskell	Waller	Yoakum
Hays	Ward	Young
Hemphill	Washington	Zapata
Henderson	Webb	Zavala
Hidalgo	Wharton	
Hill	Wheeler	
	Wichita	
	Wilbarger	
	Willacy	
	Williamson	
	Wilson	
	Winkler	
	Wise	
	Wood	
	Yoakum	
	Young	
	Zapata	
	Zavala	

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with the rice marketing quota provisions of the Agricultural Adjustment Act of 1938, as amended. Section 301(b)(13), subparagraphs (D) and (F), of the Act provide definitions for county normal yields as follows:

(D) "Normal yield" for any county, in the case of rice * * * shall be the average yield per acre of rice * * * for the county during the 5 calendar years immediately preceding the year for which such normal yield is determined * * * adjusted for abnormal weather conditions and for trends in yields. If for any such year data are not available, or there is no actual yield, an appraised yield for such year, determined in accordance with regulations issued by the Secretary, taking into consideration the yields obtained in surrounding counties during such year and the yield in years for which data are available, shall be used as the actual yield for such year.

* * * * *

(F) In applying subparagraphs (D) and (E), if on account of drought, flood, insect pests, plant disease, or other uncontrollable natural cause the yield for any year of such 5-year period is less than 75 per centum of the average; 75 per centum of such average shall be substituted therefor in calculating the normal yield per acre. If, on account of abnormally favorable weather conditions, the yield for any year of such 5-year period is in excess of 125 per centum of the average, 125 per centum of such average shall be substituted therefor in calculating the normal yield per acre.

Prior to the issuance of the regulations for determining county normal yields for 1972 and the determination of county normal yields thereunder, public notice (36 F.R. 13838) was given in accordance with 5 U.S.C. 553. No data, views, or recommendations pertaining thereto were submitted pursuant to such notice. Since farmers will be harvesting rice in areas prior to the date that county normal yields would ordinarily become effective (30 days after publication in the FEDERAL REGISTER), it is hereby found that the proclamations and determinations herein shall become effective upon the date of filing of this document with the Director, Office of the Federal Register.

Section 730.1507 is issued to provide the regulations for determining county normal yields and to proclaim the yields for the 1972 crop of rice determined thereunder.

§ 730.1507 County normal yield for 1972 crop rice.

(a) *Regulations.* County normal yields for 1972 crop rice shall be determined by computing the average yield per harvested acre of rice for each county producing rice during the years 1967 through 1971, adjusted for abnormal weather conditions and other uncontrollable natural causes and for trends in yields. Where data for any year are not available, or there was no actual yield, an appraised yield for such year shall be determined on the basis of the yields obtained in surrounding counties during such year and the yield in years for which data are available. Adjustments for abnormal weather conditions and other uncontrollable natural causes shall be as follows: For any annual yield, including an appraised yield, which is less than 75 per centum of the 5-year (1967–71) average yield, 75 per centum of such average shall be substituted therefor; and for any annual yield, including an appraised yield, which is in excess of 125 per centum of the 5-year (1967–71) average yield, 125 per centum of such average shall be substituted therefor. The adjustment for trends in yields shall be made by adopting as the county normal yield the simple average of (1) the 1967–71 average yield per harvested acre of rice for the county, adjusted for abnormal weather conditions and other uncontrollable natural causes as provided in the preceding sentence, and (2) the 1970–71 average yield per harvested acre of rice for the county, similarly adjusted, except that no trend adjustment shall be made unless the 2-year adjusted average is higher than the 5-year adjusted average. Notwithstanding the adjustments as indicated above, no county normal yield shall be less than the unadjusted 5-year (1967–71) average yield.

(b) *Statistical data.* Section 301(c) of the Agricultural Adjustment Act of 1938, as amended, provides that "The latest available statistics of the Federal Government shall be used by the Secretary in making the determinations required to be made by the Secretary under this act." In accordance therewith, the annual yields of rice for counties in the States of Arkansas, California, Louisiana, Mississippi, Missouri, and Texas used in the determination of county normal yields in this section shall be the latest official yields determined by the Statistical Reporting Service of the Department, on the basis of its estimate of harvested acres and production of rice in applicable counties of those States during each of the years 1967 through 1971, except that if such a yield for any year is not available, an appraised yield shall be used for such year. In the minor rice-producing States of Florida, North Carolina, Oklahoma, South Carolina, and Tennessee where no official estimates of rice yields were available, the annual rice yields for the years 1967 through 1971 used in determining the county normal yields in this section for the applicable counties in these States shall be those obtained by special surveys covering all farms producing rice in any of the calendar years 1967 through 1971.

(c) *Proclamation of county normal yields.* County normal yields for 1972 crop rice, determined in accordance with paragraphs (a) and (b) of this section, are as follows:

1972 COUNTY NORMAL RICE YIELDS

ARKANSAS

County	Normal yield per harvested acre (pounds)
Arkansas	4,821
Ashley	4,569
Chicot	4,655
Clark	3,997
Clay	4,830
Conway	4,513
Craighead	5,052
Crittenden	4,482
Cross	5,076
Dallas	4,017
Desha	4,663
Drew	4,368
Faulkner	4,472
Grant	4,303
Greene	4,779
Hot Spring	4,178
Independence	4,678
Jackson	4,734
Jefferson	4,508
Lafayette	3,963
Lawrence	4,897
Lee	4,351
Lincoln	4,580
Little River	4,379
Lonoke	4,871
Miller	3,907
Mississippi	4,957
Monroe	4,639
Perry	4,499
Phillips	4,482
Poinsett	5,131
Prairie	4,702
Pulaski	4,575
Randolph	4,602
St. Francis	4,427
White	4,575
Woodruff	4,695
State	4,778

CALIFORNIA

Butte	5,205
Colusa	5,415
Fresno	4,695
Glenn	5,605
Imperial	4,000
Kern	4,360
Kings	4,519
Madera	4,700
Merced	5,405
Placer	5,395
Riverside	4,100
Sacramento	5,535
San Joaquin	5,610
Stanislaus	5,150
Sutter	5,580
Tulare	4,380
Yolo	5,340
Yuba	5,335
State	5,388

FLORIDA

Collier	1,182
Hardee	967
Hendry	2,200
Highlands	859
Hillsborough	1,200
Lee	1,182
Martin	900
Palm Beach	1,758
State	1,533

LOUISIANA (PARISHES)

Acadia	3,922
Allen	4,018
Ascension	3,364
Assumption	3,304
Avoyelles	3,943
Beauregard	3,719
Bossier	4,100
Calcasieu	3,368
Cameron	3,849
Catahoula	4,317
Concordia	4,020
East Carroll	3,660
Evangeline	4,092
Franklin	3,890
Grant	4,000
Iberia	3,373
Iberville	3,414
Jefferson Davis	3,873
Lafayette	3,765
Lafourche	2,798
Madison	4,039
Morehouse	4,559
Ouachita	4,200
Pointe Coupee	4,040
Rapides	4,098
Richland	4,252
St. Charles	2,975
St. James	3,289
St. John the Baptist	3,278
St. Landry	3,963
St. Martin	3,410
St. Mary	2,770
St. Tammany	2,894
Tensas	3,977
Terrebonne	3,177
Vermilion	3,715
West Baton Rouge	4,290
West Carroll	3,940
State	3,760

MISSISSIPPI

Bolivar	4,337
Coahoma	4,427
De Soto	4,200
Hancock	3,736
Humphreys	4,353
Issaquena	3,871
Laflore	4,435
Panola	4,104
Quitman	4,000
Sharkey	4,676
Sunflower	4,673
Tallahatchie	4,190
Tate	4,196
Tunica	4,270
Washington	4,414
State	4,378

MISSOURI

Butler	4,637
Lewis	2,800
Lincoln	3,800
Marion	4,290
Mississippi	4,099
New Madrid	4,432
Pemiscot	4,410
Ripley	4,488
St. Charles	4,151
Scott	4,599
Stoddard	4,782
State	4,590

NORTH CAROLINA

Brunswick	1,067
Hyde	1,841
State	1,738

OKLAHOMA

McCurtain	4,613

SOUTH CAROLINA

Berkeley	2,500
Charleston	2,237
Colleton	2,483
Georgetown	1,000
Horry	1,500
Jasper	2,000
Kershaw	1,593
State	2,115

TENNESSEE

Dyer	4,072
Lauderdale	4,236
State	4,174

TEXAS

Austin	4,909
Bowie	4,636
Brazoria	4,182
Calhoun	4,863
Chambers	4,292
Colorado	5,020
Fort Bend	4,904
Galveston	4,136
Hardin	3,809
Harris	4,740
Jackson	4,746
Jasper	4,100
Jefferson	4,174
Lavaca	4,920
Liberty	4,414
Matagorda	4,942
Newton	3,832
Orange	3,550
Polk	3,955
Travis	4,707
Victoria	4,973
Walker	3,873
Waller	4,834
Washington	4,284
Wharton	5,132
State	4,622

(Secs. 301, 375, 52 Stat. 38, as amended by 70 Stat. 212, 52 Stat. 66, as amended; 7 U.S.C. 1301, 1375)

Effective date: Upon filing with the Director, Office of the FEDERAL REGISTER.

Signed at Washington, D.C., on November 10, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-19852 Filed 11-16-72;8:51 am]

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER G—DETERMINATION OF PROPORTIONATE SHARES

[Docket No. SH-309]

PART 850—DOMESTIC BEET SUGAR PRODUCING AREA

Proportionate Shares for Farms for 1973 Crop of Sugar Beets Not Required

The following determination is issued pursuant to section 302 of the Sugar Act of 1948, as amended.

§ 850.233 Proportionate shares for the 1973 crop of sugar beets not required.

It is determined for the 1973 crop of sugar beets that, in the absence of proportionate shares, the production of sugar from such crop will not be greater than the quantity needed to enable the area to meet its quota for 1974, the calendar year during which the larger part of the sugar from such crop normally will be marketed, and provide a normal carryover inventory. Consequently, proportionate shares will not be in effect in the Domestic Beet Sugar Producing Area for the 1973 crop.

(Secs. 301, 302, 403, 61 Stat. 929, 930, as amended, 932; 7 U.S.C. 1131, 1132, 1153)

STATEMENT OF BASES AND CONSIDERATIONS

Section 302 of the Sugar Act, as amended, provides, in part, that the Secretary shall determine for each crop year whether the production of sugar from any crop of sugar beets will, in the absence of proportionate shares, be greater than the quantity needed to enable the area to meet its quota and provide a normal carryover inventory, as estimated by the Secretary for such area for the calendar year during which the larger part of the sugar from such crop normally would be marketed. Such determination may be made only after due notice and opportunity for an informal public hearing.

General. Sugar beet acreage has not been restricted since the 1966 crop, although restrictions on the 1970 crop were established in October 1969 and then rescinded in April 1970 because of lower than anticipated sugar production from the 1969 crop and indications that total plantings would be less than the acreage tentatively allotted for the 1970 crop.

Plantings to the 1971 crop were about 41,000 acres below those for the previous crop even though acreage restrictions were not established. Beet sugar production from the 1971 crop is expected to total at least 3,512,000 short tons, raw value, or about 58,000 tons more than the marketing opportunity for calendar year 1971. Thus, the effective inventory on January 1, 1972, was only about 74,000 tons higher than that of a year earlier and represented about 73.6 percent of the total 1972 quota for the area, as compared with 76.5 percent the previous year. These percentages are well below the range of 82 to 90 percent suggested as appropriate by Congress when the Sugar Act was amended in 1965.

Proportionate shares were not established for the 1972 crop of beets. Plantings to the 1972 crop of about 1,420,000 acres at average yields indicates sugar production of about 3,300,000 tons. This would be about 100,000 tons less than the adjusted 1972 marketing quota currently in effect for the area. Assuming the area markets its full adjusted quota in 1972, the effective inventory on January 1, 1973, would be reduced by an equivalent quantity.

Public hearing. At the public hearing held in Denver, Colo., on August 17, 1972, views and recommendations were requested on the need for establishing proportionate shares for the 1973 crop. In the notice of hearing, persons proposing the establishment of proportionate shares were asked to include recommendations on the details of a program.

Representatives testifying on behalf of sugar beet growers recommended that proportionate shares not be established for the 1973 sugar beet crop. They generally agreed that the Department's estimate of an effective inventory on January 1, 1973, of about 2,510,000 to 2,652,000 tons or 71 to 74 percent of the area's probable 1973 marketing quota is a reasonable expectation. The representatives restated their position that acreage should be restricted whenever the area can provide a normal carryover inventory. A representative of all sugar beet processors also recommended that farm proportionate shares not be established. An organization of farmers submitted a brief recommending that shares not be considered at this time.

Determination. This determination provides that proportionate shares will not be established for farms in the Domestic Beet Sugar Producing Area for the 1973 crop of sugar beets.

The effective inventory of beet sugar

§ 905.548 Tangelo Regulation 44.

(b) During the period beginning at

thereof in the continental United States,

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The effective inventory of beet sugar on January 1, 1972, was about 2,716,000 tons. Although the 1972 crop is unrestricted, the estimated production from the crop suggests that the effective inventory on January 1, 1973, will be lower than a year earlier by 100,000 tons if this year's adjusted marketing quota is fully marketed. The effective inventory would then represent less than 71 percent of the area's 1973 marketing opoprtunities if they are the same as this year's before they were adjusted downward. That level would be about 411,000 tons below the bottom of the range suggested as appropriate in legislative history.

After a thorough review of the latest information available, it is determined that the production of sugar from the 1973 crop of sugar beets, in the absence of proportionate shares, will not be greater than the quantity needed to enable the Domestic Beet Sugar Area to meet its quota and provide a normal carryover inventory.

Accordingly, I hereby find and conclude that the foregoing determination will effectuate the applicable provisions of the Sugar Act of 1948, as amended.

Effective date: Date of publication. (11-17-72).

Signed at Washington, D.C., on November 7, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-19812 Filed 11-16-72;8:46 am]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Orange Reg. 71, Amdt. 1; Grapefruit Reg. 73, Amdt. 1; Tangerine Reg. 44, Amdt. 1; Tangelo Reg. 44, Amdt. 1]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida; effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, grapefruit, tangerines and tangelos, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The recommendations by the committees reflect their appraisal of the potential marketing situation during the week in which Thanksgiving Day occurs and for the period immediately following. Historically, there has been heavy purchasing of fresh oranges, grapefruit, tangerines, and tangelos in the terminal markets prior to Thanksgiving Day followed by a period of slow movement immediately following the holiday. Inordinate shipments in the period of slow movement tend to depress market prices and returns to growers. Hence, the curtailment of such shipments, as hereinafter specified, is necessary to prevent a buildup of excess supplies in the markets during and immediately following the Thanksgiving Day week in order to prevent unduly depressed market prices and returns to growers.

(3) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of these amendments until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which these amendments are based became available and the time when these amendments must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective upon publication in the FEDERAL REGISTER. Domestic shipments of Florida oranges, grapefruit, tangerines, and tangelos are currently regulated pursuant to Orange Regulation 71 (37 F.R. 21799), Grapefruit Regulation 73 (37 F.R. 21799), Tangerine Regulation 44 (37 F.R. 21799), and Tangelo Regulation 44 (37 F.R. 21799) and, unless sooner terminated or modified, will continue to be so regulated through September 23, 1973; determinations as to the need for, and extent of, regulation under § 905.52(a)(3) of the order must await the development of the crops and the availability of information about the demand for such fruits; the recommendation and supporting information for limiting the total quantity of fresh oranges, grapefruit, tangerines, and tangelos by prohibiting shipments thereof, pursuant to said section, during the period herein provided, were promptly submitted to the Department after an open meeting of members of the Growers Administrative Committee on November 8, 1972, held to consider recommendations for such regulations, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; necessary supplemental information was submitted to the Department on November 8, 1972; information regarding the provisions of the regulations recommended by the committees has been disseminated among shippers of such fruits grown in the production area, and these regulations, including the effective time thereof, is identical with the recommendations of the committees; and compliance with these regulations will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective time hereof.

Order. 1. In § 905.545 (Orange Regulation 71; 37 F.R. 21799) the provisions of paragraph (a) preceding subparagraph (1) thereof are revised, paragraph (b) is redesignated as paragraph (c), and a new paragraph (b) is added to read as follows:

§ 905.545 Orange Regulation 71.

(a) Except as otherwise provided in paragraph (b) of this section, during the period October 16, 1972, through September 30, 1973, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

• • • • • •

(b) During the period beginning at 6 p.m., e.s.t., November 21, 1972, and ending at 12:01 a.m., e.s.t., November 24, 1972, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico, any oranges grown in the production area.

• • • • • •

2. In § 905.546 (Grapefruit Regulation 73; 37 F.R. 21799) the provisions of paragraph (a) preceding subparagraph (1) thereof are revised, paragraph (b) is redesignated as paragraph (c), and a new paragraph (b) is added to read as follows:

§ 905.546 Grapefruit Regulation 73.

(a) Except as otherwise provided in paragraph (b) of this section, during the period October 16, 1972, through September 30, 1973, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

• • • • • •

(b) During the period beginning at 6 p.m., e.s.t., November 21, 1972, and ending at 12:01 a.m., e.s.t., November 24, 1972, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico, any grapefruit grown in the production area.

• • • • • •

3. In § 905.547 (Tangerine Regulation 44; 37 F.R. 21799) the provisions of paragraph (a) preceding subparagraph (1) thereof are revised, paragraph (b) is redesignated as paragraph (c), and a new paragraph (b) is added to read as follows:

§ 905.547 Tangerine Regulation 44.

(a) Except as otherwise provided in paragraph (b) of this section, during the period October 16, 1972, through September 30, 1973, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

• • • • • •

(b) During the period beginning at 6 p.m., e.s.t., November 21, 1972, and ending at 12:01 a.m., e.s.t., November 24, 1972, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico, any tangerines grown in the production area.

• • • • • •

4. In § 905.548 (Tangelo Regulation 44; 37 F.R. 21799) the provisions of paragraph (a) preceding subparagraph (1) thereof are revised, paragraph (b) is redesignated as paragraph (c), and a new paragraph (b) is added to read as follows:

§ 905.548 Tangelo Regulation 44.

(a) Except as otherwise provided in paragraph (b) of this section, during the period October 16, 1972, through September 30, 1973, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

• • • • • •

(b) During the period beginning at 6 p.m., e.s.t., November 21, 1972, and ending at 12:01 a.m., e.s.t., November 24, 1972, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico, any tangelos grown in the production area.

• • • • • •

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated, November 13, 1972, to become effective upon publication in the FEDERAL REGISTER (11-17-72).

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-19813 Filed 11-16-72;8:46 am]

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Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[9 CFR Part 381]

POULTRY PRODUCTS INSPECTION

Poultry Slaughtered Under Kosher Exemptions

Statement of considerations. Pursuant to the Poultry Products Inspection Act, as amended (21 U.S.C. 451 et seq.), a notice was published in the December 14, 1971, issue of the FEDERAL REGISTER (36 F.R. 23728) regarding a request made on behalf of a Rabbinical Union to allow poultry slaughterers and processors who apply for a religious dietary exemption under the poultry products inspection regulations to be exempt from the feather removal requirements for dressed poultry in former §§ 81.1 and 81.49(d) of the regulations and the cooling and chilling requirements of former § 81.50 of said regulations. The request was based on the contention that the availability of fully feathered, warm-dressed poultry was necessary to enable compliance with a religious dietary requirement under rabbinical law by persons of the Jewish faith. It was contended that denial of the exemption would make it impossible for certain members of the Jewish faith to obtain such poultry.

The notice afforded interested persons an opportunity to present data, views, or arguments pertaining thereto not later than 30 days after its publication in the FEDERAL REGISTER, and consideration has been given to all comments received. A total of 26 comments were filed. Of this number, 23 supported the request and three were opposed. Some of the supporting comments were filed by Rabbis who stated that the regulations were in conflict with their religious requirements. However, a majority of those commenting in support merely expressed their view generally on religious exemptions and did not address themselves to the specific request. Of the three statements opposing the proposal, one was a statement from the head of the above mentioned Rabbinical Union indicating that full-feathered carcasses are not required by rabbinical law. Another comment stated the opinion of the writer as a member of the Jewish faith that the defeathering and cooling and chilling requirements would pose no religious burden to kosher slaughterers. The other comment made no reference to religious requirements but strongly opposed the proposed practice on the grounds of sanitation and product safety.

Section 15(a) (3) of the Act (21 U.S.C. 464(a) (3)) provides that the Secretary shall, by regulation and under such conditions as to sanitary standards, practices, and procedures as he may prescribe, exempt from specific provisions of the Act, persons slaughtering, processing, or otherwise handling poultry or poultry products which have been or are to be processed as required by recognized religious dietary laws, to the extent that the Secretary determines necessary to avoid conflict with such requirements while still effectuating the purposes of this Act.

However, the comments received raised question whether the rabbinical law is actually in conflict with the feather removal requirement and the cooling and chilling requirement. Moreover, many retail stores traditionally have sold live poultry to consumers for slaughter and preparation of the birds at their retail stores. These stores provide a source of supply for the purchaser who desires to observe the feathered, warm carcass in order to comply with any religious dietary laws requiring such observation.

One objective of the Poultry Products Inspection Act, as amended (21 U.S.C. 451 et seq.), is to prevent the distribution in commerce or otherwise subject to the Act of any diseased or otherwise adulterated slaughtered poultry capable of use as human food. The Administrator of the Animal and Plant Health Inspection Service has determined that the allowance of the request would not protect the health and welfare of consumers and therefore would not effectuate the purposes of the Act because it is not possible to detect certain otherwise detectable disease conditions or other types of adulteration in poultry on ante mortem inspection or on postmortem inspection of carcasses of birds which have not been defeathered; and without prompt removal of body heat, carcasses are more subject to the presence of adulterating byproducts caused by decomposition.

Therefore, after consideration of all relevant matters, including the comments on file, the request for the proposed exemptions is hereby denied under § 381.11 of the Poultry Products Inspection Regulations (9 CFR 381.11).

Done at Washington, D.C., on November 14, 1972.

RICHARD LYNG,
Assistant Secretary.

[FR Doc.72-19849 Filed 11-16-72;8:52 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 72-225P]

OAKLAND INNER HARBOR TIDAL CANAL, CALIF.

Proposed Drawbridge Operation Regulations

The Coast Guard is considering amending the regulations for the Department of the Army drawbridges at Fruitvale Avenue to permit closed periods during peak morning and evening vehicular traffic and rescinding the present regulations which prohibit passage except during slack water or when opposing the tidal flow. This change is being considered because of newly reconstructed bridges which eliminate the slack water or tidal flow requirement. These closed periods are also being considered for the Park Street and High Street bridges. A substantial increase in vehicular traffic during these periods warrants this consideration.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (OAN), 12th Coast Guard District, 630 Sansome Street, San Francisco, CA 94126. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, 12th Coast Guard District.

The Commander, 12th Coast Guard District, will forward any comments received before December 22, 1972, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising paragraph (d) of § 117.712 to read as follows:

§ 117.712 Tributaries of San Francisco Bay and San Pablo Bay, Calif.

• • • • •

(d) *Oakland Inner Harbor Tidal Canal; County of Alameda Highway*

bridges at Park and High Streets and Department of the Army highway and railroad bridges at Fruitvale Avenue. The draws shall open on signal except from 7 a.m. to 8:30 a.m. and 3:30 p.m. to 5:30 p.m., Monday through Friday, not including national holidays, at least 2 hours notice is required. In cases of emergency the draws shall open on signal at any time.

• • • • •

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Dated: November 13, 1972.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.72-19819 Filed 11-16-72;8:48 am]

[46 CFR Parts 50, 54, 55, 56, 57, 105, 162, 182]

[CGD 72-206PH]

MARINE ENGINEERING SYSTEMS AND COMPONENTS

Notice of Proposed Rule Making

The Coast Guard is considering amendments to its regulations for certain marine engineering systems and components, particularly nuclear vessels.

Interested persons are invited to submit written views, data, arguments, objections, or comments to U.S. Coast Guard (GCMC/82), Room 8234, 400 Seventh Street SW., Washington, DC 20590. All communications received before December 20, 1972, will be fully considered before final action is taken on this notice. Each submission should identify the notice (CGD 72-206) and the section, give reasons for any recommendations, and include proponent's name and address.

The proposed amendments may be changed in the light of comments received. The Coast Guard will hold a public hearing on December 12, 1972, at 0930 in Conference Room 8334, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC. Interested persons are invited to attend the hearing and present oral or written statements on this proposal.

Copies of all written communications will be available for examination at U.S. Coast Guard Headquarters, in Room 8234, 400 Seventh Street SW., Washington, DC.

Section III of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code, Nuclear Vessels, published by the American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, NY 10017, is adopted in the current Marine Engineering Regulations, 46 CFR Parts 50 through 63. The 1971 code which became effective July 1, 1971, entails several major revisions to section III. The present Marine Engineering Regulations are incompatible with the revised code and changes are proposed so that the regulations will be compatible with the July 1, 1971, code and the subsequent summer 1971, winter 1971, and summer 1972 Addenda.

The revised section III of the ASME Boiler and Pressure Vessel Code, Nuclear Powerplant Components, Division 1, Metal Components, has been expanded to include in one publication, piping, pumps, and valves, as well as pressure vessels. Definitive Coast Guard requirements for nuclear piping, pumps, and valves, have not previously appeared. An earlier thrust in this direction, the adoption of the new ANSI B31.7 Code, which was published in the 1971 Marine Council Public Hearing Agenda, was withdrawn in favor of this current action, it being considered more prudent to work with a code which is already adopted and which consolidates requirements for the entire nuclear powerplant. Ancillary to this is the proposed adoption of section V, Nondestructive Examination, of the ASME Code. With regard to the latter, the ASME is consolidating the nondestructive examination requirements currently found throughout the various sections of the code into the new section V. The adoption of section V is proposed now.

Part 55 of the Marine Engineering Regulations is retitled Nuclear Powerplant Components, and the nuclear items presently appearing in Part 56 are deleted and relocated to Part 55 with appropriate modifications and elaboration. Section 55.05, General Requirements, is changed to reflect the increased scope, to cover the added material on pumps, piping, and valves, and to properly resolve requirements for the owner and installer.

The most noteworthy change is that existing § 55.10-30(d), which indicates that the vessel manufacturer's quality assurance program need not be ASME approved, has been eliminated. Proposed changes to §§ 50.15-5(c) and 55.05-1(b) will require that all component manufacturers, with the exception of construction shipyards (insofar as they construct containment vessels (Class MC) and all classes of piping subassemblies), possess the ASME N-type symbol stamps and have an approved quality assurance program. Such stamps are not issued unless a society survey team approves of the applicant and his quality assurance program. A duplicating Coast Guard program of quality assurance checks would be expensive to the taxpayer if it is to be effective. There is no good technical reason not to use the existing ASME program except in the case of vessel (ship, barge, etc.) building facilities. Their quality assurance programs would be required to be accepted by the Coast Guard.

Class 2 pressure vessel requirements are identical to the former Class "C" but also permit the use of section VIII, Division 2, if prior approval is obtained from the Commandant. The existing requirements for piping, pumps, and valves found in 46 CFR 56.04-20 are vague and general, requiring detailed policy decisions which would be based on the new code. This change spells out these requirements in detail and hence promotes uniform application of the regulations.

Changes are also proposed in the methods prescribed for stamping data on certain thin-walled pressure vessels so as to preclude damage to the vessels. Additional relocations and cross-references and the following minor changes are also proposed.

(a) Use of rupture discs in lieu of safety valves for evaporators;

(b) Addition and deletion of adopted standards for piping system components;

(c) Use of bite type fittings in hydraulic systems. It is further proposed to clarify the requirements for the fire testing of hoses used in certain systems as required by Table 46 CFR 56.60-25(c) and 182.15-40 and 182.20-40. Changes are also proposed in Table 46 CFR 105.20-3(a)(1) permitting the limited use of aluminum as a tank material for gasoline and diesel cargo carried by commercial fishing vessels. It closely parallels recent changes to Subchapters F and T for independent fuel tanks.

Finally, it is proposed to modify 46 CFR 162.018-3 to permit the use of certain materials with a melting point below 1700° F. in the construction of liquefied compressed gas safety relief valves where their use can provide significant improvement in the operation of the valves.

In consideration of the foregoing, it is proposed to amend Parts 50, 54, 55, 56, 57, 105, 162, and 182 of Title 46 of the Code of Federal Regulations as follows:

PART 50—GENERAL PROVISIONS

1. Section 50.15-5 is amended by revising paragraph (a) and by adding a new paragraph (d) to read as follows:

§ 50.15-5 ASME Boiler and Pressure Vessel Code.

(a) The following sections of the "ASME Boiler and Pressure Vessel Code," published by The American Society of Mechanical Engineers (ASME), United Engineering Center, 345 East 47th Street, New York, NY, 10017, are adopted subject to modifications specified in this subchapter, which appear with the listing:

(1) Section I, Power Boilers (ASME, sec. I)

(2) Section II, Material Specifications (ASME, sec. II).

(3) Section III (Division1), Nuclear Powerplant Components, Metal Components (ASME, sec. III).

(4) Section IV, Heating Boilers (ASME, sec. IV).

(5) Section V, Nondestructive Examination (ASME, sec. V).

(6) Section VIII (Division 1), Pressure Vessels (ASME, sec. VIII).

(7) Section IX, Welding Qualifications (ASME, sec. IX).

• • • • •

(d) Fabricators constructing nuclear powerplant components, parts, piping subassemblies, and appurtenances for installation on vessels subject to the regulations in this subchapter shall possess an

owner's data report as required by NA-

that all components, parts, piping sub-

§ 55.10-30 Marking and stamping

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appropriate Code N-symbol stamp as described in paragraph NA–8230 of section III of the ASME Code. The building facility of the vessel on which the nuclear powerplant is to be installed need not possess the installer's stamp (NA–8233.7), or N-type symbol stamps for work related to the construction of a containment vessel (Class MC) and piping subassemblies of any class (see NA–2120) that are actually constructed by the building facility for the vessel's nuclear powerplant as provided for in § 55.05–1 (b) and (c) of this subchapter.

PART 54—PRESSURE VESSEL

§ 54.01–1 [Amended]

3. In Table 54.01–1(a), by striking out the words:

UG–116 modified by	54.10–20
UG–118 modified by	54.10–20

and inserting the words:

UG–116, except (k) replaced by	54.10–20(a).
UG–116(k) replaced by	54.10–20(b).
UG–117 replaced by	54.10–20(c).
UG–118 replaced by	54.10–20(a).
UG–119 modified by	54.10–20(d).

in place thereof.

§ 54.01–5 [Amended]

4. In Table 54.01–5(b), by adding to the heading of the fifth column, immediately after the words "treatment required," a superscript 5, and by adding at the bottom of the table the following footnote:

5 Specific requirements modifying Table UCS–56 of the ASME Code are found in § 54.25–7.

§ 54.10–20 [Amended]

5. By deleting in the heading of § 54.10–20 the words "(replaces UG–116 and UG–118).".

6. By adding to the heading of § 54.10–20(a) the words "(replaces UG–116, except paragraph (k), and UG–118)."

7. In § 54.10–20(b), by inserting after the heading the words "(replaces UG–116(k))."

8. By inserting in § 54.10–20(c) immediately after the heading "Stamping data" the following parenthetic phrase and sentence: "(replaces UG–117). Except as noted in paragraph (d) of this section, the data shall be stamped directly on the pressure vessel."

9. By adding to § 54.10–20 the following new paragraph at the end thereof:

(d) Thin walled vessels (modifies UG–119). In lieu of direct stamping on the pressure vessel, the information required by paragraph (a) of this section shall be stamped on a nameplate permanently attached to the pressure vessel when the pressure vessel is constructed of—

(1) Steel plate less than one-fourth inch thick; or

(2) Nonferrous plate less than one-half inch thick.

§ 54.15–15 [Amended]

10. By adding the following new sentence at the end of § 54.15–15(a): "Evaporators operating between atmospheric pressure and 15 p.s.i.g., may use a rupture disc as an alternative to the safety valve."

11. By adding the following new sentence at the end of § 54.15–15(b): "Rupture discs used in lieu of these safety valves, as provided for in paragraph (a) of this section, shall comply with the requirements of § 54.15–13."

PART 55—NUCLEAR POWERPLANT COMPONENTS

12. In Part 55, by revising the table of sections to read as follows:

Subpart 55.01—General Requirements

Sec.
55.01–1 Adoption of section III of the ASME Code.

Subpart 55.05—Responsibilities and Duties

55.05–1 General (modifies subsection NA).

Subpart 55.10—Class 1 Components

55.10–1 General (modifies subsection NB).
55.10–5 Design.
55.10–20 Welding and fabrication.
55.10–25 Quenched and tempered steels.
55.10–30 Marking and stamping (modifies NA–8000).
55.10–35 Manufacturers' data reports (modifies NA–8400).
55.10–40 Overpressure protection (modifies NB–7000).

Subpart 55.15—Class MC Components

55.15–1 General (modifies subsection NE).
55.15–3 Design (modifies NE–3100).
55.15–5 Welding and fabrication.
55.15–10 Stamping and reports (modifies NE–8000).
55.15–15 Overpressure and vacuum relief protection (modifies NE–7000).

Subpart 55.20—Class 2 Components

55.20–1 General (modifies subsection NC).
55.20–5 Weld production testing.
55.20–10 Overpressure protection.
55.20–20 Stamping (modifies NA–8000).

Subpart 55.25—Class 3 Components

55.25–1 General (modifies subsection ND).
55.25–10 Stamping (modifies NA–8000).

Subpart 55.01—General Requirements

13. In Subpart 55.01—General Requirements, in the introductory note, by striking out the word "vessels" in the second sentence and inserting the words "powerplant components" in place thereof.

§ 55.01–1 [Amended]

14. In § 55.01–1, by inserting the words "division 1" in the heading immediately after the words "section III."

15. In § 55.01–1(a), by striking out the words "pressure vessels" immediately after the first word "Nuclear" and inserting the words "powerplant components" in place thereof.

16. In Table 55.01–1, by inserting "division 1" immediately after the words "section III" in the heading.

17. In Table 55.01–1, by striking out the words

N–110 through N–914 modified by	55.10–1.
N–447 modified by	55.10–5(a).
N–552.1 modified by	55.10–20(a).
N–541 modified by	55.10–20(b).
N–612 replaced by	55.10–15.
N–810 through N–830 modified by	55.10–30.
N–832.2 modified by	55.10–30(d).
N–840 modified by	55.10–35.
N–910 through N–914 modified by	55.10–40.
N–1110 through N–1711.3 modified by	55.15–1.
N–2110 through N–2116 modified by	55.20–1.
N–2116 replaced by	55.20–20(a).

and inserting the words

NA–3000 modified by	55.05–1.
NA–8000 modified by	55.10–30.
NA–8400 modified by	55.10–35.
NB modified by	55.10–1.
NB–3111 modified by	55.10–5.
NB–4300 modified by	55.10–20(a).
NB–4330 and NB–4335 modified by	55.10–20(b).
NB–7000 modified by	55.10–40.
NB–7611 and NB–7612 modified by	55.10–40(b).
NB–7613, NB–7620, and NB–7630 modified by	55.10–40(c).
NB–7640 modified by	55.10–40(b).
NC–modified by	55.20–1.
NA–8000 modified by	55.20–20.
ND–modified by	55.25–1.
NA–8000 modified by	55.25–10.
NE–modified by	55.15–1.
NE–3100 modified by	55.15–3.
NE–7000 modified by	55.15–15.
NE–7116 modified by	55.15–15(a).
NE–8000 modified by	55.15–10.

in place thereof.

18. In footnote 1, Table 55.01–1, by striking out the words "The letter and number following the letter refer" and inserting the words "The second letter refers to the subsection of section III. The number refers" in place thereof.

19. In § 55.01–1(a)(1), by inserting "division 1" immediately after "section III."

20. In § 55.01–1(a)(1), by striking out the words "pressure vessels" and inserting the words "power plant components" in place thereof.

21. In § 55.01–1(b), by striking out the reference "N–130" and inserting "NA–1130" in place thereof.

22. In § 55.01–1(b), by striking out "1-Article 1" and inserting "A-Subsection NA" in place thereof.

23. In § 55.01–1(b), by striking out the words "130-paragraph within Article 1." and inserting the words "—1130-Paragraph within Subsection NA" in place thereof.

Subpart 55.05—Responsibilities and Duties

24. By revising Subpart 55.05 to read as follows:

§ 55.05–1 General (modifies Article NA–3000).

(a) The ship or barge owner or his agent shall comply with NA–3200 except that he need not possess the Society's certificate of authorization nor file an owner's data report as required by NA–3270. The owner or his agent shall submit to the Coast Guard (MMT) the following materials as a minimum:

(1) A preliminary design specification which lists the applicable design codes and standards; design criteria and requirements; materials specifications; quality control provisions; documentation to be provided together with identification of specific components and parts of the powerplant; packaging (if applicable) and cleaning. The specification shall apply to the complete powerplant including all components, parts, piping subassemblies, and appurtenances.

(2) Preliminary calculations which establish the tentative thickness of all pressure containing components.

(3) Joint design and methods proposed to assemble powerplant components, parts, piping subassemblies, and appurtenances at the construction site.

(4) Methods to be followed in the detailed stress calculations.

(5) Diagrammatic arrangement drawings of all pressure vessels and piping forming reactor coolant pressure boundary.

(6) When completed, the final design specification and stress reports as required by subsection NA (see NA–3250 and NA–3350) together with the final arrangement drawings shall be forwarded to the Coast Guard (MMT) for review.

(b) Each manufacturer shall comply with NA–3300 and shall have received a Certificate of Authorization from the Society as described in NA–3330, and shall have a Society-Approved Quality Assurance Program as required by NA–8120 prior to fabrication. The containment vessel (Class MC) and piping subassemblies of any class fabricated by the building facility of the vessel are exempted; however, such facilities shall have a Quality Assurance Program meeting NA–4000 accepted by the Coast Guard (MMT).

(c) The installer as used in Section III of the ASME Code is defined as the vessel's building facility. The installer shall comply with NA–3400 except that he need not possess the "NA" Code symbol stamp or Certificate of Authorization from the Society. The installer shall have a Quality Assurance Program meeting the requirements of NA–4000 and shall have it accepted by the Coast Guard (MMT).

(d) Inspection of nuclear power plant components of all classes for installation in vessels subject to inspection under the requirements of this subchapter shall be conducted by a marine inspector (see § 50.10–15 of this subchapter) in lieu of the Code authorized inspector defined in NA–5112, except that pumps, line valves, safety valves, and shop fabricated piping subassemblies which have an appropriate N-type Code symbol stamp (as illustrated in Table NA–3120–1), an appropriate data report as required by NA–8400, and inspection by a Code authorized inspector may also be accepted. The marine inspector at the power plant construction site shall insure that all components, parts, piping subassemblies and appurtenances bear proper stamping and documentation, and that each has been properly assembled into the complete system.

Subpart 55.10—Class 1 Components

25. By revising Subpart 55.10 to read as follows:

§ 55.10–1 General (modifies subsection NB).

(a) Class 1 components shall meet the requirements of articles NB–1000 through NB–8000 of section III of the ASME Code except as noted otherwise in this subpart.

§ 55.10–5 Design.

(a) *Additional loadings (modifies NB–3111).* The designer must consider loadings in addition to those listed in NB–3111 of the ASME Code, which are peculiar to the marine application. Loadings which must be determined for each application include but are not limited to—

(1) Loading imposed by vessel's attitude in roll, list, pitch, trim, yaw, sway, surge, and heave;

(2) Dynamic forces due to ship motions;

(3) Loading due to shielding; and

(b) *Foundations and supports.* The designer shall determine the natural frequency of the nuclear pressure vessel in its mode of support, considering the engine and propeller shaft speed, and account for it in the design, and shall investigate the support of other components.

§ 55.10–15 [Revoked]

26. By revoking § 55.10–15.

27. By revising § 55.10–20 to read as follows:

§ 55.10–20 Welding and fabrication.

(a) *Welding procedure and performance qualification (modifies NB–4300).* Weld procedure and performance qualifications shall be as required by Part 57 of this subchapter and NB–4300 of the ASME Code.

(b) *Production tests (modifies NB–4330).* NB–4330 of the ASME Code is modified by adding the following requirements:

(1) Weld production test plates are required for vessels. These shall meet the requirements of Subpart 57.06 of this subchapter.

(2) In addition to the Charpy V-notch testing required for weld procedure qualification by NB–4335.1 and NB–4335.2 of the ASME Code, Charpy V-notch production toughness tests of the weld metal and heat affected base metal are required for vessels at the same interval as described in Subpart 57.06 of this subchapter for production test plates. The test specimens and testing shall follow the requirements of NB–4335 of the ASME Code.

28. By revising § 55.10–30, paragraphs (a), (b), and (c) and revoking paragraph (d). As amended, § 55.10–30, would read as follows:

§ 55.10–30 Marking and stamping (modifies NA–8000).

(a) • • •

(4) The numeral 1 for Class 1 nuclear vessel.

(b) • • •

(3) The letters PT.

(4) The letter N for nuclear.

(5) The numeral 1 for Class 1 nuclear vessel.

(c) The markings for safety valves, pumps, piping, and line valves shall follow the requirements of NA–8200. For nuclear components and parts which are not inspected by a marine inspector, see § 55.05–1(d).

(d) [Revoked]

29. Section 55.10–35 by changing section reference in the heading and adding a new paragraph. As amended § 55.10–35 would read as follows:

§ 55.10–35 Manufacturers' data reports (modifies NA–8400).

• • • • • •

(c) Safety valves, pumps, piping, and line valves which are not inspected by a marine inspector shall meet the requirements of NA–8400 for the completion of the appropriate ASME data report.

30. By revising § 55.10–40 to read as follows:

§ 55.10–40 Overpressure protection (modifies NB–7000).

(a) The Overpressure Protection report required by NB–7300 shall be submitted to the Coast Guard for approval.

(b) (Modifies NB–7611, NB–7612, and NB–7640.) Automatic spring-loaded safety valves, and those valves equivalent to automatic spring-loaded safety valves as described in NB–7611, NB–7612, and NB–7640 shall comply with Subpart 162.001 of this chapter in addition to NB–7611, NB–7612, and NB–7640.

(c) (Modifies NB–7613, NB–7620, and NB–7630.) The use of antisimmer-type safety valves, pilot operated pressure relief valves, and power actuated pressure relief valves not equivalent to automatic spring loaded safety valves shall be described in the overpressure protection report and shall be specifically approved by the Commandant. Marking and stamping of valves shall be as described in NB–7900 or, if spring loaded, as required by Subpart 162.001 of this chapter.

Subpart 55.15—Class MC Components

31. By revising Subpart 55.15 to read as follows:

§ 55.15–1 General (modifies subsection NE).

(a) Containment provided via pressure vessel configuration is not mandatory, but, if utilized, shall meet the requirements of this subpart.

(b) Class MC components shall meet the requirements of subsection NE of section III of the ASME Code except as noted otherwise in this subpart.

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§ 55.15–3 Design (modifies NE–3100).

(a) Treatment of external loadings and supports shall also comply with § 55.10–5.

• • • • •

§ 55.15–5 Welding and fabrication (modifies NE–4300).

(a) *Weld procedure.* Weld procedure and performance qualification shall follow that for Class 1 components in § 55.10–20(a).

(b) *Production test.* Production tests must meet the requirements of Subpart 57.06 of this subchapter.

(c) *Charpy V-notch testing.* When Charpy V-notch testing is required by NE–4335 of the ASME Code, such testing shall be required for both procedure qualification for all components and for regular production welding for vessels as described in § 55.10–20(b)(2). The test temperature for procedure and production toughness testing shall be as required by NE–2330.

(d) *Quenched and tempered steels.* For vessel constructed of quenched and tempered steels refer to § 57.03–1(d) of this subchapter.

§ 55.15–10 Stamping and reports (modifies NE–8000).

(a) In addition to the requirements of NE–8100, the requirements of §§ 55.10–30 and 55.10–35 shall be followed for marking, stamping, and data reports.

(b) The letters "MC" shall be used for class designation.

(c) For components other than the containment vessel, refer to § 55.10–30(c).

§ 55.15–15 Overpressure and vacuum relief protection (modifies NE–7000).

(a) (*Modifies NE–7116.*) In lieu of the vacuum relief device required by NE–7116, consideration shall be given to designing the containment vessel to remain intact without collapse due to external pressure should sinking occur in a harbor or approach where salvage may be possible. Consideration shall be given to the prevention of pressure vessel crushing in the event of sinking in deep water by relieving external pressure by a method such as flooding. Design proposals shall be submitted to the Coast Guard (MMT) for approval.

Subpart 55.20—Class 2 Components

32. By revising Subpart 55.20 to read as follows:

§ 55.20–1 General (modifies subsection NC).

(a) Class 2 components shall meet the requirements of subsection NC of section III of the ASME Code except as noted otherwise in this subpart.

(b) (Modifies NC–1000.) Class 2 vessels shall be designed, fabricated, inspected, tested, and marked in accordance with the appropriate standards of Part 54 of this subchapter. The requirements of NC–3352 and NC–5200 for vessels shall apply in lieu of the joint design and nondestructive testing requirements of Table 54.01–5(b) of this subchapter. Design based on standards of Division 2 of section VIII of the ASME Code must receive prior approval by the Commandant.

§ 55.20–5 Weld production testing.

• • • Class 2 Vessels • • •

§ 55.20–10 Overpressure protection.

The requirements of NC–7000 shall apply in lieu of Subpart 54.15 of this subchapter. The overpressure protection analysis (NC–7300) shall be submitted to the Coast Guard (MMT) for review.

§ 55.20–20 Stamping (modifies NA–8000).

In lieu of the stamping required by NA–8000 of the ASME Code, vessels constructed in accordance with this subpart shall be stamped as required by § 55.10–20 with the addition of the symbols "N2" after the class. For components other than pressure vessels, refer to § 55.100–30(c).

Subpart 55.25—Class 3 Components

33. By adding a new subpart as follows:

§ 55.25–1 General (modifies subsection ND).

Class 3 components shall meet the requirements of subsection ND except that pressure vessels shall meet the requirements of Part 54 of this subchapter, in lieu of the requirements of subsection ND. However, the installation testing of piping and complete Class 3 nuclear systems shall meet the requirements of ND–6000.

§ 55.25–10 Stamping (modifies NA–8000).

In lieu of the stamping required by NA–8000, pressure vessels constructed in accordance with this subpart shall be stamped as required by § 54.10–20 of this subchapter with the addition of the symbols "N3" after the class. For components other than pressure vessels, refer to § 55.10–30(c).

PART 56—PIPING SYSTEMS AND APPURTENANCES

34. By revising § 56.04–1 to read as follows:

§ 56.04–1 Scope.

Piping shall be classified as shown in Table 56.04–1.

TABLE 56.04–1—PIPING CLASSIFICATIONS

Service	Class	Section in this part
Normal	I, II	56.04–2
Low temperature	I–L, II–L	56.50–105
Nuclear		See Part 55 of this subchapter.

§ 56.04–20 [Revoked]

35. By revoking § 56.04–20.

36. By revising § 56.30–25(f)(2) to read as follows:

§ 56.30–25 Flared, flareless, and compression joints.

• • • • •

(f) • • •

(2) Grip-type fittings that are tightened in accordance with the manufacturers' instructions need not be disassembled for checking. For combustible (§ 30.10–15 of this chapter) fluid service with the exception of hydraulic systems, and for flammable (§ 30.10–22 of this chapter) fluid service, flared fittings shall be used, except that flareless fittings of the nonbite type may be used when the tubing system is of steel, or nickel copper, or copper nickel alloy. When using copper or copper zinc alloys, flared fittings are required. See also §§ 56.50–70 and 56.50–75. In the case of hydraulic systems, flareless fittings of the bite type may be used provided the fittings have been accepted under the provisions of § 50.25–10 of this subchapter.

37. In table 56.60–1(b), by inserting the words "and Threaded." after "SW." in item B16.11, new items B16.23, 28, 29, and SP–44, and striking out SP–49, 50, 59, as revised the table would read as follows:

§ 56.60–1 Acceptable materials and specifications (replaces 123).

• • • • •

TABLE 56.60–1(B)—ADOPTED STANDARD APPLICABLE TO PIPING SYSTEMS (MODIFIES TABLE 126.1)

•	•	•	•	•	•	•
B16.11 Steel S.W. and Threaded Fittings.						
•	•	•	•	•	•	•
B16.23 Cast-Bronze Solder-Joint Drainage Fittings.						
•	•	•	•	•	•	•
B16.28 Wrought Steel Buttwelding Short Radius Elbows and Returns.						
B16.29 Wrought-Copper and Wrought-Copper Alloy Solder-Joint Drainage Fittings.						
•	•	•	•	•	•	•
SP–44 Steel Pipe Line Flanges.						
•	•	•	•	•	•	•
SP–49 [Revoked.]						
SP–50 [Revoked.]						
•	•	•	•	•	•	•
SP–59 [Revoked.]						
•	•	•	•	•	•	•

38. By revising Table 56.60–25(c) to read as follows:

§ 56.60–25 Nonmetallic materials.

• • • • • • •

TABLE 56.60–25(c)—INSTALLATION REQUIREMENTS FOR NONMETALLIC FLEXIBLE HOSE

•	•	•	•	•	•	•
Lube oil and fuel systems	do [1]	• • •		• • •		
Fluid power systems	do [1]	• • •		• • •		
•	•	•	•	•	•	•

[1] The hose assembly shall be capable of withstanding free burning gasoline for 2½ minutes (test details available from the Coast Guard (MMT)).

• • • • • • •

39. In § 56.85–10(a), by striking out Classes "I–N, II–N." As revised, the section would read as follows:

§ 56.85–10 Preheating.

(a) • • • Classes I, I–L, and II–L piping • • •.

• • • • •

40. In § 56.85–15(a) by striking out in lines 12 and 13 "I–N" and "II–N." As revised, the section would read as follows:

§ 56.85–15 Postheat treatment.

(a) • • • Classes I, I–L, and II–L piping • • •.

• • • • •

41. In Table 56.95–10, by striking out the second line and the related footnote 9, and renumbering footnotes 10 through 12, accordingly. As revised, the Table 56.95–10 would read as follows:

§ 56.95–10 Type and extent of examination required.

• • • • •

TABLE 56.95–10—MANDATORY MINIMUM NONDESTRUCTIVE TESTS FOR WELDS

•	•	•	•	•	•	•	•	•
• • •	I, I–L	• • •	• • •	• • •	• • •	• • •	• • •	(7,8).
I, I–L	• • •							
•	•	•	•	•	•	•	•	•

[1] Radiographic • • • (see § 56.70–15(b)(2)).
[7] When nominal • • •
[8] Use liquid • • •
[11] Any method • • •

42. In § 56.97–40(a)(5), by striking out class references "I–N, II–N, or III–N." As revised, the section would read as follows:

§ 56.97–40 Installation tests.

(a) • • •

(5) Any class I, I–L, II–L piping.

• • • • •

PART 57—WELDING AND BRAZING

43. In § 57.06–1(b), by changing class designations. As revised § 57.06–1 would read as follows:

§ 57.06–1 Production test plate requirements.

• • • • •

(b) Main power boilers and Class 1 nuclear vessels • • • MC nuclear vessels shall • • • 2 nuclear vessels shall • • •

• • • • •

44. In § 57.06–5(a), by changing class designations. As revised, § 57.06–5 would read as follows:

§ 57.06–5 Production toughness testing.

(a) • • • Class 1 • • • and for Class MC • • •

• • • • •

PART 105—COMMERCIAL FISHING VESSELS DISPENSING PETROLEUM PRODUCTS

45. By revising Table 105.20–3(a)(1) to read as follows:

§ 105.20–3 Cargo tanks.

(a) • • •

TABLE 105.20–3(a)(1)

•	•	•	•	•	•
Aluminum [4]	• • •	B209, Alloy	• • •	[5]5086	0.250 (USSG 3)
•	•	•	•	•	•

[4] Anodic to most common metals. Avoid dissimilar metal contact with tank body unless galvanically compatible.
[5] and other alloys acceptable to the Commandant.

• • • • •

PART 162—ENGINEERING EQUIPMENT

46. In § 162.001–2(a), by changing class reference. As revised, § 162.001–2 would read as follows:

§ 162.001–2 Scope.

(a) • • • Class 1 nuclear • • •

47. By revising § 162.018–3(b) to read as follows:

§ 162.018–3 Materials.

• • • • •

(b) All pressure containing external parts of valves must be constructed of materials melting above 1700° F. for liquefied flammable gas service. Consideration of lower melting materials for internal pressure-containing parts will be given if their use provides significant improvement to the general operation of the valve. Flange gaskets shall be metal or spiral wound asbestos.

• • • • •

PART 182—MACHINERY INSTALLATION

48. By revising § 182.15–40(a)(3) to read as follows:

§ 182.15–40 Gasoline fuel supply piping.

(a) • • •

(3) Flexible hose shall be fabricated with an inner tube and a cover of synthetic rubber or other suitable material reinforced with wire braid. The hose cover shall be adjudged self-extinguishing per ASTM D1692, and the hose assembly shall be capable of withstanding free burning gasoline for 2½ minutes (test details available from Coast Guard (MMT)). Details of other fire tests designed to demonstrate this capability shall be submitted to Coast Guard (MMT) for review.

• • • • •

49. By revising § 182.20–40(a)(2)(ii) to read as follows:

§ 182.20–40 Diesel fuel supply piping.

(a) • • •

(2) • • •

(ii) Flexible hose shall be fabricated with an inner tube and a cover of synthetic rubber or other suitable material reinforced with wire braid. The hose cover shall be adjudged self-extinguishing per ASTM D1692, and the hose assembly be capable of withstanding free burning gasoline for 2½ minutes (test details available from Coast Guard (MMT)). Details of other fire tests designed to demonstrate this capability shall be submitted to Coast Guard (MMT) for review.

• • • • •

These amendments are proposed under the authority of 14 U.S.C. 2, 633; 46 U.S.C. 363, 366, 367, 375, 390b, 391a, 404, 409, 411, 412, 416, 481, 526p; 49 CFR 1.4(b), 1.46(b).

Dated: November 10, 1972.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.72–19818 Filed 11–16–72,8:49 am]

[46 CFR Part 56]

[CGD 72–57P]

REMOTE VALVE CONTROLS

Proposed Requirements

This proposal clarifies the Coast Guard's design requirements for remote valve controls. The existing regulations have been misinterpreted as a requirement to equip reach rods with indicators when they are used to operate valves located in cargo tanks. This amendment makes clear that no indicators are required on either valves located in cargo tanks or at either end of reach rods. Power actuated remote valve controls are, however, required to have indicators.

Interested persons are invited to submit written data, views, or arguments regarding the proposal to the U.S. Coast Guard (GCMC/82), 400 Seventh Street SW., Washington DC 20590. Statements should include the docket number of this notice, CGD 72–57P and the name and address of the person. Where appropriate, comments should be directed to specific sections of the proposal. Persons submitting comments are encouraged to include information that supports any recommended change or objection to this proposal.

All communications received on or before December 19, 1972, will be fully considered and evaluated before final action is taken on this proposal. Copies of written statements submitted by the public in response to this proposal will be available for examination in room 8234, Department of Transportation, Nassif Building, 400 Seventh Street SW.,

Washington DC. Copies of written state-

under Customs seal is voluntary. This

(b) Any designation may be termi-

tained in §§ 422.2, 423.2, or 424.2 of this

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Washington, DC. Copies of written statements will be furnished interested persons upon request to U.S. Coast Guard (CCMC 82), Washington, D.C. 20590 in accordance with the payment provisions of 49 CFR 7.81.

The proposed amendment may be changed in light of comments received. No hearing is contemplated on this proposal, but one will be held at a time and place announced in a later notice in the FEDERAL REGISTER, if any interested person who requests a public hearing can show that the hearing will aid the Coast Guard in evaluating this proposal.

In consideration of the foregoing, Part 56 of Chapter I of Title 46 of the Code of Federal Regulations would be amended as follows:

§ 56.20–9 [Amended]

1. By amending § 56.20–9(a) by striking the words "as provided for in subparagraph 56.50–1(g)(2)." and inserting in their place the words "where valves are located in tanks."

2. By revising § 56.50–1(g)(2) to read as follows:

§ 56.50–1 General (replaces 122.6 through 122.10).

. . . . . .

(g) . . .

(2)(i) Remote valve controls that are not readily identifiable as to service must be fitted with nameplates.

(ii) Remote valve controls must be accessible under service conditions.

(iii) Remote valve controls, except reach rods, must be fitted with an indicator that shows whether the valve is open or closed.

(iv) Valve reach rods must be adequately protected.

(v) Solid reach rods must be used in tanks containing liquids, except that tank barges having plug cocks inside cargo tanks may have reach rods of extra-heavy pipe with the annular space between the lubricant tube and the pipe wall sealed with a nonsoluble material to prevent penetration of the cargo.

. . . . . .

(46 U.S.C. 363, 366, 367, 375, 390b, 391, 391a, 392, 395, 404–409, 411, 416, 489, 526p, 1333, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b), 49 CFR 1.46(o)(4) (37 F.R. 21943))

Dated: November 14, 1972.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc 72-19821 Filed 11-16-72;8:49 am]

[49 CFR Ch. IV]

[CGD 72-139P]

CERTIFICATION OF CARGO CONTAINERS AND ROAD VEHICLES FOR TRANSPORT UNDER CUSTOMS SEAL

Notice of Proposed Rule Making

The Coast Guard is considering amending the cargo container regulations to provide for the approval and certification of road vehicles for international transport of goods under Customs seal.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Coast Guard (CMC), Room 8234, 400 Seventh Street SW., Washington, DC 20590. Each person submitting comments should include his name and address, identify the notice (CGD 72–139), and give reasons for any recommendations. Comments received will be available for examination by interested persons in Room 8234, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC.

The Coast Guard will evaluate all communications received before December 19, 1972, and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

The regulations in Chapter IV of Title 49 of the Code of Federal Regulations govern the approval and certification of intermodal cargo containers for transport under Customs seal and implement the technical construction requirements of the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (TIR Convention), done at Geneva on January 15, 1959 (20 UST 184, TIAS 6633), that concern the approval and certification of containers and the technical construction requirements of the Customs Convention on Containers, done at Geneva on May 18, 1959 (20 UST 301, TIAS 6334). The regulations were issued under the authority of Executive Order 11459 (3 CFR, 1966–1970 Comp., p. 781 (1969)), and the delegation of authority contained in 49 CFR 1.46(f).

Although Executive Order 11459 authorizes the issuance of regulations for the approval and certification of containers and vehicles for international transport of goods under Customs seal pursuant to the Convention, the Coast Guard implemented only the provisions of the Conventions that concerned the approval and certification of containers. The decision to do so was made after the Coast Guard had informally polled the industry and learned that implementing regulations were primarily needed for the approval and certification of containers. Indications were that there was no pressing need for implementing regulations for the approval and certification of road vehicles.

Subsequent to the adoption of Parts 420, 421, 422, 423, and 424 of Title 49, Code of Federal Regulations, manufacturers have requested the Coast Guard to promulgate regulations for approval and certification of road vehicles for international transport of goods under Customs seal. The manufacturers have based their requests on the demand for such vehicles. The Coast Guard proposes the regulations in this document to allow the use of road vehicles in addition to the use of containers for such transportation under the terms of these conventions.

The following changes are proposed in Parts 420, 421, 422, 423, and 424 of Title 49, Code of Federal Regulations:

(a) The scope of the current regulations would be expanded to govern the approval and certification of road vehicles by adding the words "and road vehicles" after the word "container" wherever applicable in Part 420.

(b) Section 420.3 would be amended by adding the definition of "road vehicle" as contained in the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets and the definition of "Customs and TIR Plan" which means the drawing of a container that illustrates the requirements of the proposed § 423.3a or § 424.4 of Subchapter A, Title 49, Code of Federal Regulations.

(c) Oceanographic Society Inc., 17 Battery Place, New York, NY 10004, would be added as a certifying authority in § 421.1.

(d) Part 424 would be revised to add the proposed procedures for approval of individual road vehicles to Subchapter A.

(e) Section 423.3a would be added to Part 423 and § 424.4 would be included in the revised Part 424 to adopt by reference the applicable technical requirements in the Customs Convention on International Transport of Goods Under Cover of TIR Carnets (TIR Convention). The technical requirements for containers are in Annex 6 and the applicable requirements for road vehicles are in Annex 3.

(f) Editorial changes would be made to Parts 421, 422, and 423 to reflect the inclusion in Subchapter A of requirements for the approval and certification of road vehicles and to clarify current regulations.

In consideration of the foregoing, it is proposed to amend Subchapter A of Title 49, Code of Federal Regulations as follows:

SUBCHAPTER A—CARGO CONTAINER AND ROAD VEHICLE CERTIFICATION FOR TRANSPORT UNDER CUSTOMS SEAL

1. By revising the heading of Subchapter A to read as set forth above.

PART 420—CONTAINER AND ROAD VEHICLE CERTIFICATION—GENERAL

2. By revising the heading of Part 420 to read as set forth above.

3. By revising the authority citation of Part 420 to read as follows:

AUTHORITY: The provisions of this Part 420 issued under E.O. 11459, 3 CFR, 1966–1970 Comp., p. 781 (1969); and 49 CFR 1.46(f).

§§ 420.1, 420.3 [Amended]

4. By adding the words "and road vehicles" after the word "container" or "containers" wherever it appears in § 420.1 and § 420.3(a).

5. By revising § 420.2 to read as follows:

§ 420.2 Application and purpose.

(a) Certification of containers and road vehicles for international transport

under Customs seal is voluntary. This chapter does not require certification of containers and road vehicles.

(b) The Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (TIR Convention), January 15, 1959 (20 UST 184, TIAS 6633) requires that the approval of road vehicles be made by competent authorities of the country in which the owner or carrier is resident or established. The Customs Convention on Containers, May 18, 1956 (20 UST 301, TIAS 6334), requires that the approval of containers be made by competent authorities of the country in which the owner is resident or established or by those of the country where the container is used for the first time for transport under Customs seal. The procedures for applying for certification are contained in §§ 422.2, 423.2, and 424.2 of this chapter.

6. By adding new paragraphs (f) and (g) to § 420.3 to read as follows:

§ 420.3 Definitions.

. . . . . .

(f) "Road vehicle" as defined in Chapter I, Article I of the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (TIR Convention), January 15, 1959 (20 UST 184, TIAS 6633), means not only any road motor vehicle but also any trailer or semitrailer designed to be drawn by such a vehicle.

(g) "Customs and TIR Plan" means the drawing of a container that illustrates each requirement in § 423.3a or § 424.4 of this subchapter.

PART 421—CONTAINER AND ROAD VEHICLE CERTIFICATION—ADMINISTRATION

7. By revising the heading of Part 421 to read as set forth above.

8. By revising the authority citation of Part 421 to read as follows:

AUTHORITY: The provisions of this Part 421 issued under E.O. 11459, 3 CFR, 1969–1970 Comp., p. 781 (1969); and 49 CFR 1.46(f).

9. By revising § 421.1 to read as follows:

§ 421.1 Designated certifying authorities.

(a) The American Bureau of Shipping, 45 Broad St., New York, NY 10004.

(b) International Cargo Gear Bureau, Inc., 17 Battery Place, New York, NY 10004.

(c) The National Cargo Bureau, Inc., 99 John St., New York, NY 10038.

(d) Oceanographic Society, Inc., 17 Battery Place, New York, NY 10004.

5. By revising § 421.2 to read as follows:

§ 421.2 Designation of additional certifying authorities.

(a) The Commandant may designate as a certifying authority any nonprofit firm or association that he finds competent to carry out the functions of Subpart B of this part.

(b) Any designation may be terminated by the Commandant.

§ 421.10 [Amended]

10. By striking out the part reference "Part 424 of this chapter" in § 421.10 and inserting "§ 422.3a of this subchapter" in place thereof.

11. By amending Subpart B by revising §§ 421.11, 421.12, and 421.13 and adding § 421.14 to follow § 421.13, to read as follows:

§ 421.11 Examination of containers and road vehicles.

(a) Each certifying authority must inspect each container and each road vehicle submitted for certification for compliance with the requirements contained in §§ 423.3a or 424.4 of this subchapter as applicable.

(b) Each certifying authority must conduct the examination for containers by design type prescribed in § 422.4 of this subchapter. Each container must be in compliance with the requirements contained in § 422.3a of this subchapter.

§ 421.12 Certificate of approval by design type for a container.

A certifying authority issues a certificate of approval by design type for a container that is approved in accordance with the procedures contained in §§ 422.3 and 422.4 of this subchapter.

§ 421.13 Certificate of approval for a container.

A certifying authority issues or renews a certificate of approval for an individual container that complies with the requirements contained in § 423.3a of this subchapter.

§ 421.14 Certificates of approval for road vehicles.

A certifying authority issues or renews a certificate of approval for an individual road vehicle that complies with the requirements contained in § 424.4 of this subchapter.

§ 421.20 [Amended]

12. By striking the words "shall be approved" in the third sentence of § 421.20(a) and adding the words "are subject to approval" in place thereof.

13. By revising § 421.30 to read as follows:

§ 421.30 Records maintained by a certifying authority.

(a) Each certifying authority shall maintain—

(1) A copy of each certificate of approval of containers by design type that is issued, together with a copy of the plans and application to which the approval refers;

(2) A record of each serial number assigned and affixed by the manufacturer to the containers manufactured under a design type approval;

(3) A copy of each individual certificate of approval of a container or road vehicle that is issued; and

(4) All applications submitted in accordance with the requirements contained in §§ 422.2, 423.2, or 424.2 of this subchapter and any information submitted by a manufacturer for the certification of a container or a road vehicle.

(b) The Commandant or a representative of the Commandant may examine, at reasonable times, the certifying authority's files required by paragraph (a) of this section.

14. By revising § 421.31 to read as follows:

§ 421.31 Records to be furnished the Commandant.

Each certifying authority shall supply the Commandant (MHM), Room 8306, 400 Seventh Street SW., Washington, DC 20590, with—

(a) A copy of each issued certificate of approval for containers by design type and a copy of the plans and application to which the approval refers;

(b) A copy of each issued individual approval for a container or road vehicle; and

(c) Notification of each arrangement approved as an equivalent to the requirements of the Customs convention of the international transport of goods undercover of TIR carnets (TIR Convention), January 15, 1959 (20 UST 184, TIAS 633), as modified by applicable resolutions, as provided in §§ 422.3a(b), 423.3a(b), or 424.4(b) of this subchapter.

15. By adding a new § 421.31a to follow § 421.31 to read as follows:

§ 421.31a Meetings on program.

Each certifying authority's representative for certification functions shall meet after notice with the Commandant or his representatives to review their administration of the certification program.

16. By revising the heading of § 421.32 to read as follows:

§ 421.32 Reports by container manufacturer.

. . . . . .

17. By revising § 421.33 to read as follows:

§ 421.33 Notification of Certifying Authority prior to container production.

The manufacturer shall notify the certifying authority before each production run of containers to be built pursuant to a certificate of approval by design type in order that the certifying authority can schedule any necessary inspection.

18. By revising § 421.40 to read as follows:

§ 421.40 Appeal to Commandant.

(a) Any manufacturer, carrier, or owner may within 30 days after he has been notified by a certifying authority of a determination, including any review provided, appeal the determination to the Commandant.

(b) Any determination which is appealed remains in effect pending a decision by the Commandant.

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§ 421.50 [Revoked]

19. By revoking § 421.50.

PART 422—PROCEDURES FOR APPROVAL OF CONTAINERS BY DESIGN TYPE

20. By revising the authority of Part 422 to read as follows:

AUTHORITY: The provisions of this Part 422 issued under E.O. 11459, 3 CFR, 1966–70 COMP., p. 781 (1969); and 49 CFR 1.46(f).

21. By adding §§ 422.1a and 422.1b to follow § 422.1 and to read as follows:

§ 422.1a Eligibility.

Any manufacturer of containers that are being manufactured in a type series from a standard design and specifications so that each container has identical characteristics may apply for an approval by design type.

§ 422.1b Where to apply.

A manufacturer may apply for approval of a container by design type to a certifying authority of the country in which the owner is resident or established.

22. By revising §§ 422.2 and 422.3 to read as follows:

§ 422.2 Application for approval.

Each application by a manufacturer or an owner for certification of a container by design type must include—

(a) Four copies, each no larger than 3 feet by 4 feet, of the Customs and TIR plan;

(b) Customs and TIR plan number;

(c) Four copies of the specifications which include the following information:

(1) The name and address of the manufacturer or the owner; and

(2) A descripion of the container including the—

(i) Type of construction;

(ii) Dimensions;

(iii) Material of construction;

(iv) Coating system used;

(v) Identification marks and numbers; and

(vi) Tare weight;

(d) The location and date for inspection of the prototype; and

(e) A statement signed by the manufacturer that—

(1) A container of the design type concerned is available for inspection and approval by the certifying authority before, during, and after the production run;

(2) Notification will be given to the certifying authority of each change in the design before adoption; and

(3) Each container will be marked with—

(i) The metal plate required in § 422.5;

(ii) The identification numbers or letters of the design type assigned by the manufacturer; and

(iii) The serial number of the container assigned by the manufacturer.

§ 422.3 Plan review.

(a) A manufacturer who wants a container to be approved by design type must submit to the certifying authority the plans and specifications of the container.

(b) The certifying authority that examines the plans and specifications submitted in accordance with paragraph (a) of this section—

(1) Approves the plans and specifications in accordance with the requirements of § 422.3a and arranges to inspect a prototype in accordance with § 422.4; or

(2) Advises the manufacturer of any necessary changes to be made for compliance with the requirements of § 422.3a.

(c) If changes in design of the container are made during production but after approval of the plans and specifications by the certifying authority, the manufacturer must furnish "as-built" drawings of the container to the certifying authority before an inspection of the prototype is made.

23. By adding § 422.3a to follow § 422.3 and to read as follows:

§ 422.3a Technical requirements for containers by design type.

(a) The plans and specifications of a container that are submitted in accordance with the requirements contained in § 422.3 and the one or more containers that are inspected in accordance with the requirements of § 422.4 must comply with the requirements of Annex 6, as modified by applicable resolutions, of the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (TIR Convention), January 15, 1959 (20 UST 184, TIAS 6633). Copies of Annex 6, as modified by applicable resolutions, may be obtained from the Coast Guard (MHM), Room 8306, 400 7th Street SW., Washington, DC 20590.

(b) If any of the requirements in articles 1 through 3 of annex 6 are not compatible with the technical requirements that insulated and refrigerator containers, furniture containers, tank containers, and containers specially built for carriage by air must fulfill in use, the certifying authority may approve other arrangements that are equivalent to the requirements in annex 6 and serve the purpose for which the certification is intended.

24. By amending § 422.4 by deleting paragraph (b), and revising the heading of § 422.4 to read as follows:

§ 422.4 Examination, inspection, and testing.

* * * * *

PART 423—PROCEDURES FOR INDIVIDUAL APPROVAL OF CONTAINERS

25. By revising the authority citation of Part 423 to read as follows:

AUTHORITY: The provisions of this Part 423 issued under E.O. 11459, 3 CFR, 1966–70 COMP., p. 781 (1969); and 49 CFR 1.46(f).

§ 423.2 [Amended]

26. By amending the introductory text of § 423.2 by adding the word "written" after the first word "A" and striking the word "shall" and inserting "may" in place thereof, and striking the second "shall" and inserting "must" in place thereof.

27. By revising § 423.3 to read as follows:

§ 423.3 Eligibility.

Individual containers may be submitted for inspection by the owner to a certifying authority—

(a) In the country in which the owner is a resident or established; or

(b) In the country in which the container is used for the first time for transport under Customs seal.

28. By adding § 423.3a to follow § 423.3 and to read as follows:

§ 423.3a Technical requirements for containers.

(a) A container that is submitted for inspection for individual approval must comply with the requirements of Annex 6, as modified by applicable resolutions, of the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (TIR Convention), January 15, 1959 (20 UST 184, TIAS 6633). Copies of Annex 6, as modified by applicable resolutions, may be obtained from the Coast Guard (MHM), Room 8306, 400 Seventh Street SW., Washington, DC 20590.

(b) If any of the requirements in Articles 1 through 3 of Annex 6 are not compatible with the technical requirements that insulated and refrigerator containers, furniture containers, tank containers, and containers specially built for carriage by air must fulfill in use, the certifying authority may approve other arrangements that are equivalent to the requirements in Annex 6 and serve the purpose for which the certification is intended.

29. By revising § 423.4 to read as follows:

§ 423.4 Approval of individual containers.

The certifying authority issues an individual certificate of approval, valid for 2 years, for each container that meets the requirements in § 423.3a.

30. By adding a new § 423.4a to follow § 423.4 and to read as follows:

§ 423.4a Certificate of approval.

A certificate of approval framed as required in Article 1–4 of Annex 6, Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (TIR Convention), is evidence of approval if it remains sealed in the protective frame.

31. By revising §§ 423.5 and 423.6 to read as follows:

§ 423.5 Renewal of certificate.

A certificate of approval may be renewed if the Certifying Authority determines by inspection every 2 years that the container continues to comply with the applicable requirements in § 423.3a.

§ 423.6 Termination of approval.

Approval of a container terminates—

(a) Upon expiration of the certificate of approval;

(b) Upon a change in the container by a major repair or alteration of any of the essential features required in § 423.3a. Repairs by replacement in kind do not constitute a change of the essential features; or

(c) Upon a change of ownership.

PART 424—PROCEDURES FOR APPROVAL OF INDIVIDUAL ROAD VEHICLES

32. By revising the heading of Part 424 as set forth above, and by revising Part 424 to read as follows:

Sec.
424.1 General.
424.2 Application for approval.
424.3 Eligibility.
424.4 Technical requirements for road vehicles.
424.5 Approval of individual road vehicles.
424.6 Certificate of approval.
424.7 Renewal of certificate.
424.8 Termination of approval.

AUTHORITY: The provisions of this Part 424 issued under E.O. 11459, 3 CFR, 1966–1970 COMP., p. 781 (1969); and 49 CFR 1.46(f).

§ 424.1 General.

This part provides for the approval and certification of individual road vehicles that comply with the technical requirements in § 424.4.

§ 424.2 Application for approval.

A written request for approval of an individual road vehicle may be made by the manufacturer, owner, or carrier to a certifying authority and must include—

(a) Type of vehicle;

(b) Name and business address of owner or carrier;

(c) Name of the manufacturer;

(d) Chassis number;

(e) Engine number (if applicable);

(f) Registration number;

(g) Particulars of construction;

(h) Any photos or diagrams required by the certifying authority to facilitate approval; and

(i) A proposed place and date for inspection of the road vehicle.

§ 424.3 Eligibility.

A road vehicle may be submitted for inspection by the manufacturer, owner, or carrier to a certifying authority of the country in which the manufacturer, owner, or carrier, respectively, is resident or established.

§ 424.4 Technical requirements for road vehicles.

(a) A road vehicle that is submitted for inspection for individual approval must comply with the requirements of Annex 3, as modified by applicable resolutions, of the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (TIR Convention), January 15, 1959 (20 UST 184, TIAS 6633). Copies of Annex 3, as modified by applicable resolution, may be obtained from the Coast Guard (MHM), Room 8306, 400 Seventh Street SW., Washington, DC 20590.

(b) If any of the requirements in Articles 1 through 3 of Annex 3 are not compatible with the technical requirements that insulated vehicles, refrigerator vehicles, furniture vehicles, and tank vehicles must fulfill in use, the certifying authority may approve other arrangements that are equivalent to the requirements in Annex 3 and serve the purpose for which the certificate is intended.

§ 424.5 Approval of individual road vehicles.

The certifying authority issues a certificate of approval, valid for 2 years, to each road vehicle that complies with the applicable requirements in § 424.4.

§ 424.6 Certificate of approval.

A certificate of approval must be kept on the vehicle as evidence of approval.

§ 424.7 Renewal of certificate.

A certificate of approval may be renewed if the certifying authority determines by inspection every 2 years that the vehicle continues to comply with the applicable requirements in § 424.4.

§ 424.8 Termination of approval.

Approval of a road vehicle terminates—

(a) Upon expiration of the certificate of approval;

(b) Upon a change in the road vehicle by a major repair or alteration of any of the essential features required in § 424.4. Repairs by replacement in kind do not constitute a change of the essential features; or

(c) Upon a change of ownership.

These amendments are proposed under the authority of Executive Order 11459, 3 CFR, 1966–1970 COMP., p. 781 (1969); and 49 CFR 1.46(f).

Dated: November 14, 1972.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.72-19822 Filed 11-16-72;8:49 am]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-WE-44]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Yuma, Ariz., transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 92007, Worldway Postal Center, Los Angeles, CA 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the regional air traffic division chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of the comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 5651 West Manchester Avenue, Los Angeles, CA 90045.

A recent amendment was made to the Yuma, Ariz., transition area (ASD No. 72-WE-37) that will become effective December 7, 1972. Subsequent review of the airspace requirements revealed that due to the ceiling established for V-135 additional airspace is required to protect aircraft executing the HI-TACAN Runway 21R and HI-VORTAC Runway 17 instrument approach procedures to Yuma MCAS/Yuma International Airport. Action is proposed herein to affect this change.

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.181 (37 F.R. 2143) the description of the Yuma, Ariz., transition area as amended by (37 F.R. 22576) is further amended by adding "• • •, that airspace extending upward from 9,000 feet MSL bounded on the west by the west edge of V-135, on the east by R-2306C and R-2306A, extending from 20 miles north of the Yuma VORTAC to the arc of a 20-mile radius circle centered on the Blythe, Calif. VORTAC."

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Los Angeles, Calif., on November 8, 1972.

ROBERT O. BLANCHARD,
Acting Director, Western Region.

[FR Doc.72-19769 Filed 11-16-72;8:45 am]

V37-1723 NOV 17 72 XUM

Federal Railroad Administration

[49 CFR Part 215]

[Docket No. RSFC–2, Notice 1]

RAILROAD FREIGHT CARS

Lubrication of Journal Bearings

On September 15, 1972, the Federal Railroad Administration (FRA) issued a notice of proposed rule making to add a new Part 215 to the Code of Federal Regulations (37 F.R. 19821). Part 215 would set forth minimum Federal safety standards for railroad freight cars. The notice stated that in addition to the standards proposed at that time further rule making would be initiated to consider requirements for the lubrication of journal bearings. The FRA is initiating this separate proceeding to establish the lubrication requirements because they differ in nature from the rules proposed by the earlier notice for inclusion in Part 215.

The FRA accident statistics for the years 1968 through 1970, based on reports filed by the railroads involved, show that about 500 accidents per year were caused by the failure of journal bearings. Moreover, these accidents resulted in an extremely large amount of damage. For example, in 1969 the total cost of accidents reported to the FRA resulting from journal bearing failures was more than $20 million. This was approximately one half the cost of all train accidents caused by equipment failures reported to the FRA that year.

To reduce the number of journal bearing related accidents, the FRA is considering an amendment to the proposed Part 215 that would revise the stenciling requirements of § 215.11(b) and add a new subheading, entitled "Journal Bearing Lubrication," to subpart E. Two sections under the new subheading would require plain bearing boxes and roller bearings to be lubricated at recurring intervals in accordance with prescribed procedures. Each lubrication of plain bearing boxes would also entail maintenance which is necessary at that time. A third section would require that each railroad freight car be restenciled in accordance with § 215.11(b)(5) after its journal bearings are lubricated to update the lubrication information stenciled on the car. Under a fourth section, if any of the required stenciling relating to lubrication is missing, incorrect, or indistinct, the journal bearings on the car would have to be lubricated at once, or the car removed from service. Lubrication and stenciling would be carried out by whichever railroad has control of the car at the time lubrication is due.

The proposals for journal bearing lubrication contained in this notice are not new as far as the Nation's railroads are concerned. They are the first step toward codification of the railroad industry's own rules for cars in interchange. Unfortunately, not all railroads have complied with these self-imposed rules, as indicated by the large number of train accidents attributed to journal bearing failures. Consequently, the FRA is commencing this action to make the periodic lubrication of journal bearings a mandatory requirement subject to the penalty and injunctive relief provisions of the Federal Railroad Safety Act of 1970. Furthermore, the requirements would apply to all railroad freight cars and not merely those in interchange.

Under the proposed rules, the journal bearings on a new or newly reconditioned freight car that is placed in service after the effective date of the rules would be lubricated within a certain period subsequent to the time the car is built or reconditioned, and periodically thereafter. A new or reconditioned car would not have to be lubricated before being released for service because all new cars and cars which meet the definition of "reconditioned" under Part 215 would already be fully lubricated. As for those existing cars which meet the proposed lubrication requirements, the next lubrication would be due within a prescribed time after the bearings were last lubricated (including lubrication at the time of original construction or reconditioning) as indicated by the stenciling on the car. If there is no stenciling on a car to indicate the time it was last lubricated or the car does not otherwise meet the proposed lubrication requirements, then it would be lubricated as proposed or removed from service.

In consideration of the foregoing, it is proposed to amend Title 49 of the Code of Federal Regulations as follows:

1. By revising paragraph (b) of the proposed § 215.11 to read as follows:

§ 215.11 Stenciling.

* * * * *

(b) The following must be stenciled in letters and numbers at least 1 inch high on each side of each car body:

(1) The date of original construction, preceded by the word "built."

(2) If applicable, the date the car was last reconditioned, preceded by the word "reconditioned."

(3) If the car is equipped with plain bearing boxes—

(i) The symbol "RPKD"; or

(ii) In the case of boxes with rear seals, box lid seals, and journal stops, the symbol "RPKD–30."

(4) If the car is equipped with roller bearings, the symbol "LUB."

(5) Following the symbol stenciled under subparagraph (3) or (4) of this paragraph—

(i) The date all journal bearings were last lubricated;

(ii) The name of the railroad or other entity who performed the lubrication; and

(iii) The location where the bearings were lubricated.

2. By adding the following new centerheading and sections to the proposed Part 215:

JOURNAL BEARING LUBRICATION

§ 215.97 Plain bearing boxes.

(a) A railroad may not operate a railroad freight car which is equipped with plain bearing boxes unless within the preceding 24 months, or in the case of a car whose plain bearing boxes are equipped with rear seals, box lid seals, and journal stops, within the preceding 30 months—

(1) The plain bearing boxes were repacked as prescribed by paragraph (b) of this section; or

(2) The car was reconditioned or originally constructed.

(b) A plain bearing box must be repacked according to the following rules:

(1) Remove journal bearing, wedge, and lubricator, and thoroughly clean the box, including inside of lid and front of box that may contact the lubricator, without using waste material for cleaning purposes;

(2) Examine the journal, journal bearing, wedge, journal stop, and box lid seal, and replace each defective part;

(3) Replace old lubricator with a new one;

(4) Replace dust guard plug when missing or defective, and apply sealer to top of plug;

(5) In the case of a wooden dust guard plug, lock it securely in place;

(6) If car truck is dismantled, examine the rear seal and replace if defective; and

(7) Add free oil up to collar of journal to permit resaturation of the lubricator, then before the car is released for service, check to ensure that at least ½ inch of free oil is visible in the bottom of the box.

§ 215.99 Roller bearings.

(a) A railroad may not operate a railroad freight car which is equipped with roller bearings unless—

(1) The roller bearings have been lubricated as prescribed by the following chart and by paragraphs (b) and (c) of this section; or

(2) The car was reconditioned or originally constructed within the number of months prescribed in the chart for lubricating its roller bearings:

Description of bearing	Size of bearing	Amount of lubricant required	Lubricate bearings within the following number of months before car is operated
Oil lubricated	All	Fill to maximum level	12
Grease lubricated, and caps do not rotate.	12 inches	12 ounces	18
	11 inches or less	8 ounces	
Grease lubricated, and caps rotate.	All	16 ounces	36

(b) In the case of an oil lubricated roller bearing, the filling plug must be properly replaced after the bearing is lubricated.

(c) A grease lubricated roller bearing must be lubricated by—

(1) Cleaning the grease fitting immediately before the application of grease to prevent road dirt and foreign material from being forced into the bearing; and

(2) Using a properly calibrated dispensing device equipped with a strainer that is checked weekly to accurately measure ounces of grease.

(d) A pipe plug on a grease lubricated roller bearing must be replaced with a grease fitting.

§ 215.101 Restenciling required.

When the journal bearings on a railroad freight car are lubricated as prescribed by § 215.97 or § 215.99, the information stenciled on the car in accordance with § 215.11(b)(5) must be erased and replaced with new information which meets the requirements of that section.

§ 215.103 Missing, incorrect, or indistinct stenciling.

Whenever any portion of the information which must be stenciled on a railroad freight car under § 215.11(b)(3)–(5) is missing, incorrect, or indistinct, the journal bearings on that car must be lubricated as prescribed by § 215.97 or § 215.99.

Interested persons are invited to participate in making these safety standards by submitting written data, views, or comments. Communications should identify the docket number and notice number and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: Docket No. RSFC–2, 400 Seventh Street SW., Washington, DC 20590. Communications received before January 15, 1973, will be considered by the Federal Railroad Administrator before taking final action on the proposed standards. Comments received after that date will be considered so far as practicable. All comments received will be available for examination by interested persons at any time during regular working hours in Room 5428, Nassif Building, 400 Seventh Street SW., Washington, DC. The proposals contained in this notice may be changed in light of comment received.

In addition, to insure that all interested persons have an opportunity for oral presentation, the FRA will conduct a public hearing at 10 a.m. on January 24, 1973, in Room 5332, 400 Seventh Street SW., Washington, DC.

The hearing will be an informal one, not a judicial or evidentiary type of hearing. There will be no cross-examination of persons making statements. A staff member of the FRA will make an opening statement outlining the matter set for hearing. Interested persons will then have an opportunity to present their initial oral statements. At the completion of all initial oral statements, those persons who wish to make rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures for conducting the hearing will be announced at the hearing.

Interested persons may present oral or written statements at the hearing. All statements will be made a part of record of the hearing and be a matter of public record. Persons who wish to make oral statements at the hearing should notify the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20591, before January 24, 1973, stating the amount of time required for his initial statement.

This notice is issued under the authority of section 202, 84 Stat. 971, 45 U.S.C. 431; and § 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).

Issued in Washington, D.C. on November 13, 1972.

JOHN W. INGRAM,
Administrator.

[FR Doc.72-19827 Filed 11-16-72;8:49 am]

[49 CFR Part 215]

[Docket No. RSFC–3, Notice 1]

RAILROAD FREIGHT CARS

Prohibited Equipment

On September 15, 1972, the Federal Railroad Administration (FRA) issued a notice of proposed rulemaking to add a new Part 215 to the Code of Federal Regulations (37 F.R. 19821). Part 215 would set forth minimum Federal safety standards for railroad freight cars. The notice stated that in addition to the standards proposed at that time further rulemaking would be initiated to consider prohibiting the use of certain types and models of freight car components. The FRA is initiating this separate proceeding to propose these new requirements, because they differ in nature from the rules proposed by the earlier notice for inclusion in Part 215.

The new rule proposed by this notice would prohibit railroads from operating a railroad freight car which is equipped with any of the components listed hereafter in the proposed Appendix B. For the most part, Appendix B specifies modes or types of freight car components which have been prohibited by the Association of American Railroads from use on cars in interchange. The remainder of the components included in Appendix B are presently required by the industry rules to be removed from a car in interchange when its truck is dismantled or the car is otherwise repaired. It has been the industry practice to initially call for the gradual removal of a particular component before it is prohibited from use entirely. However, because unsafe equipment is involved, the FRA has combined these two categories into a single list of prohibited components.

In determining which components should be included in Appendix B, the FRA has examined comparative failure rates. For example, in 1971, out of 2,906 cars in service equipped with NSK roller bearings marked "AAR 11," there were 14 roller bearing failures. This is a failure rate of one for every 208 cars. On the other hand, the failure rate for 429,000 cars with Timken roller bearings was one for every 1,032 cars.

Although a component may be included in Appendix B, this should not hinder the development of a new design or material for that component. For example, section VIII a.(2) of Appendix B would prohibit the use of a truck frame cast from any material other than steel because at present only steel truck frames are considered safe to use. However, if it can be shown that a truck frame made from some other material is also safe, then the Administrator will consider permitting the use of the other material.

In addition to prohibiting railroads from operating a car equipped with any component listed in Appendix B, the proposed rule would also prohibit the operation of any car which is more than 50 years old. Fifty years is considered the age limit beyond which cars cannot be reasonably operated safely. Cars of this vintage have been prohibited in interchange by the AAR rules. Consequently, the proposal to remove them from service is not expected to cause a hardship on the industry. Nevertheless, if the proposed rule is adopted, any railroad that wishes to operate a car which is more than 50 years old could petition the Administrator for a waiver of compliance with the rule. The Administrator would grant a waiver only if he finds it in the public interest and consistent with railroad safety. (See the proposed section on waivers at 37 F.R. 19822.)

In recent years, cars with Duryea underframes manufactured prior to April 1, 1950, have had a high failure rate. The AAR rules require that these cars be removed from service by January 1, 1974. The FRA believes the problem requires more immediate action. Therefore, these cars have been included in the list of cars the proposed rule would prohibit from service.

It is important to note that the rule proposed by this notice would apply to all railroad freight cars and not merely those in interchange. Although the proposed rule is primarily a restatement of certain AAR rules, each railroad that wishes to comment on the proposal should consider the effect it may have on cars which are not operated in interchange.

In consideration of the foregoing, it is proposed to amend Title 49 of the Code of Federal Regulations by adding the following new section and appendix to the proposed Part 215:

§ 215.19 Prohibited cars.

No railroad may operate a railroad freight car which—

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(a) Is more than 50 years old, measured from the date of original construction;

(b) Was originally constructed before April 1, 1950, and is equipped with a Duryea underframe; or

(c) Is equipped with any model or type car component listed in Appendix B of this part.

APPENDIX B—PROHIBITED RAILROAD FREIGHT CAR COMPONENTS

I. *General.* This appendix identifies or describes components which are prohibited from use on railroad freight cars to which this part applies.

II. *Air brakes.* The "K" type air brake may not be used on any car.

III. *Axles.* The AAR alternate standard tubular type axle may not be used on any car.

IV. *Plain bearings.* The solid cartridge type plain bearing may not be used on any car.

V. *Roller bearings.* The following roller bearings may not be used on any car:

(1) Nippon Sieko Kabushiki Kaisha ("NSK") size 6½" by 12" (marked "AAR 11").

(2) Hyatt "Hy-Roll" cylindrical bearing, all sizes (marked "AAR 2").

(3) SKF "Piggybacker" spherical roller, size 6" by 11" (marked "AAR 7").

VI. *Couplers.* The following couplers may not be used on any car:

(1) AAR type D coupler, top or bottom operated.

(2) AAR type E coupler, 5" by 7" shank (E63, E63HT, and E63AHT).

VII. *Draft gears.* The Miner FR–16 and FR–19F draft gears may not be used on any car.

VIII. *Trucks.*

a. None of the following components may be used on a car truck:

(1) Arch bar.

(2) Frame cast from a material other than steel.

(3) Transom frame.

(4) Bolster cast from a material other than steel.

b. A car truck with a cast steel pedestal-type side frame, short wheelbase, and no bolster may not be used on any car.

IX. *Truck bolsters.* A car truck may not contain a bolster which—

(1) Was cast prior to 1927;

(2) Does not have an identification mark or pattern number; or

(3) Has any of the following pattern numbers listed under the name of the manufacturer:

A.S.F.	Dresser (Symington)	Birdsboro	Lenoir car works
21183-B	BO 5234	1488	CS–184
21183-N	BO 5263	1171	CS–611
21413-D	BO 7056	1494	
21648-C	BO 7076-A	1668	
22956-E	BO 7115		

X. *Truck side frames.* A car truck may not contain a side frame which—

(1) Was cast prior to 1927;

(2) Does not have an identification mark or pattern number;

(3) Has an "I", "T", or "L" section compression or tension member; or

(4) Has any of the following pattern numbers listed under the name of the manufacturer:

A.S.F.	National castings	Buckeye	Dominion
7273	33793-1B	3–1776	TF–5100
7323		F–420	
21362 (cast prior to June 1941).			

Pittsburgh Steel Foundry	Scullin Steel	Bettenforf	Canadian Steel Foundry
3–1673	42–CS–180	UT 456	26565
4–1862	4151		
3–1674	4665		
4–2015	4770		
12897	4942		
12921	5290		
21263	5361		
	5361–C.F.		
	5811–A		
	5869–B		
	6577–A		

XI. *Wheels.* The following wheels may not be used on any car:

(1) Cast iron wheel.

(2) Cast steel wheel marked "AAR X–2".

(3) Cast steel wheel marked "AAR X–4".

(4) Davis cast steel wheel.

(5) Southern cast steel wheel manufactured before May 7, 1958.

(6) Griffin cast steel wheel, 70 ton three-riser ball rim design.

(7) Wrought steel wheels manufactured before 1927.

(8) Griffin cast steel wheel, 70 and 50 ton, 33 inch tow wear, three riser (marked "X5" or "CS–2").

XII. *Yokes.* A yoke described as follows may not be used on any car:

(1) Riveted type;

(2) Keyless type;

(3) Vertical key type; or

(4) Has a Farlow draft attachment.

Interested persons are invited to participate in making these safety standards by submitting written data, views, or comments. Communications should identify the docket number and notice number and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: Docket No. RSFC–3, 400 7th Street SW., Washington, DC 20590. Communications received before January 15, 1973, will be considered by the Federal Railroad Administrator before taking final action on the proposed standards. Comments received after that date will be considered so far as practicable. All comments received will be available for examination by interested persons at any time during regular working hours in room 5428, Nassif Building, 400 7th Street SW., Washington, DC. The proposals contained in this notice may be changed in light of comment received.

In addition, to insure that all interested persons have an opportunity for oral presentation, the FRA will conduct a public hearing at 10 a.m. on January 25, 1973, in room 5332, 400 7th Street SW., Washington, DC.

The hearing will be an informal one, not a judicial or evidentiary type of hearing. There will be no cross-examination of persons making statements. A staff member of the FRA will make an opening statement outlining the matter set for hearing. Interested persons will then have an opportunity to present their oral statements. At the completion of all initial oral statements, those persons who wish to make rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures for conducting the hearing will be announced at the hearing.

Interested persons may present oral or written statements at the hearing. All statements will be made a part of record of the hearing and be a matter of public record. Persons who wish to make oral statements at the hearing should notify the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20591, before January 25, 1973, stating the amount of time required for his initial statement.

This notice is issued under the authority of section 202, 84 Stat. 971, 45 U.S.C. 431; and § 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).

Issued in Washington, D.C., on November 13, 1972.

JOHN W. INGRAM,
Administrator.

[FR Doc.72-19828 Filed 11-16-72;8:49 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 76]

[Docket No. 19554]

CABLECASTING OF PROGRAMS

Extension of Time for Filing Reply Comments

Order. In the matter of amendment of Part 76, Subpart G, of the Commission's rules and regulations pertaining to the cablecasting of programs for which a per-program of perchannel charge is made, Docket No. 19554.

1. In a petition filed jointly on behalf of the American Broadcasting Co., the Association of Maximum Service Telecasters, the National Association of Theatre Owners, and the National Association of Broadcasters, an extension of the date for filing reply comments in the captioned proceeding from November 15, 1972, to November 29, 1972, is requested.

2. In support of this request, petitioners state that 22 separate comments were filed totaling 651 pages and that more time is needed to adequately respond to the many policy questions raised. Petitioners indicate that counsel for the National Cable Television Association and the Program Suppliers have no objection to a grant of the requested extension.

3. It appears that good cause has been shown for a time extension for the filing of reply comments until November 29, 1972, and the request will accordingly be granted.

Accordingly, it is ordered, That the "Joint Petition for Extension of Time for Filing Reply Comments" filed November 8, 1972, by the American Broadcasting Co., the Association of Maximum Service Telecasters, the National Association of Theatre Owners, and the National Association of Broadcasters is granted and the date for filing reply comments in this proceeding is extended until November 29, 1972.

This action is taken by the Chief, Cable Television Bureau, pursuant to authority delegated by § 0.289(c)(4) of the Commission's rules.

Adopted: November 9, 1972.

Released: November 10, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] SOL SCHILDHAUSE,
Chief, Cable Television Bureau.

[FR Doc.72-19825 Filed 11-16-72;8:48 am]

FEDERAL POWER COMMISSION

[18 CFR Part 2]

[Docket No. R–362]

RELIABILITY AND ADEQUACY OF ELECTRIC SERVICE

Regional Bulk Power Supply Programs; Information To Be Reported

NOVEMBER 10, 1972.

Consistent with the purposes of the Commission's Order Nos. 383, issued June 25, 1969, 41 FPC 846 (34 F.R. 11200), 383–1, issued January 13, 1970, 43 FPC 37 (35 F.R. 3240), and 383–2, issued April 10, 1970, 43 FPC 515 (35 F.R. 6121), this order submits for public comment proposed revisions of the information to be submitted annually pursuant to § 2.11(c), Informational reporting, Part 2, General Policy and Interpretations, Chapter I, Title 18 of the Code of Federal Regulations. The changes would expand the reported load and capacity data from a forward projection of 10 years to a period of 20 years into the future. Similarly, the transmission network projections would extend 20 years ahead. The changes would also provide for the submission of increased annual energy requirements data; information relative to alternate fuel use capability of existing and proposed generating capacity; scheduled maintenance on generating capacity and the time relation to summer and winter peaks; data relative to transmission transfer capability within regions and among regions, operating reserve policies and interregional coordination in scheduled maintenance programs.

The Commission proposes that these changes be reflected in data to be submitted in the reporting by regional councils commencing with the calendar year 1972 data, reports filed not later than April 1973, and for years thereafter. § 2.11(c) states in part as follows:

• • • Advance planning and operating data from all segments of the industry, including those operated by the State or Federal Governments or political subdivisions, agencies, or instrumentalities thereof, and cooperatively owned associations, all reporting to and coordinated by regional councils, will assist in the accurate forecasting of power demands and in the appropriate and timely installation of generating and transmission facilities to meet these demands.

• • • • • •

Power pools and other utility groups that coordinate their planning and operations will report the coordinated data to their respective councils. Individual utilities that are not members of pools will, of course, report directly to their regional councils. Utilities that are not members of regional councils, or not interconnected with other utilities, are requested to furnish to the reliability council representing their geographic area as much of the information specified in appendix A as may be pertinent to their circumstances. Cooperation in this respect will lay the foundation for improvement in the reliability and adequacy of our national power supply.

Each change appears with marginal notation as set forth below. The changes may be seen from a comparative reading of appendix A as heretofore promulgated by Order No. 383–2 and the proposed revised appendix. When adopted, the revised appendix, to be designated as appendix A–1, would be in substitution for the appendix A as referred to in Order 383–2 and § 2.11 *Reliability and adequacy of electric service.*

APPENDIX A PER ORDER NO. 383–2

1. Estimates of monthly peak loads for the first 2 years of the projection; estimates of summer and winter peak loads for the remaining 8 years; and monthly energy requirements for the first 2 years if energy substantially influences planning and operation.

2. Itemization of all existing capacity resources in the region and new capacity resources (or retirements) as committed or projected for each year 10 years into the future; including, where known, in-service dates, locations, ownership, and types of future generating units, and capacity exchanges with others at the time of summer and winter peak demands.

3. For each year of the 10-year projection, show the indicated capacity margins for reserves at the time of summer and winter peak loads, based on Items (1) and (2) above, with an assessment of adequacy of reserves for the first 5 years of the projection. Include a statement of the criteria now being used in determining reserve requirements by the Council or its appropriate subdivisions.

4. For each steam generating unit of 300 mw. or more, and for which construction has begun; or is scheduled to begin within 2 years from the date of reporting, a status report on the proposed plan of cooling, and for fossil-fired plants, the fuels proposed and the plan for controlling stack emissions; also, the status of principal studies or model tests and the status of consultations with appropriate local, State, or Federal authorities concerned.

5. A plan of the bulk power transmission network of the region in service at the time of the report (including interties with adjoining regions) and the general routing of facilities committed or tentatively projected for service within 6 years including identification of principal substations, operating voltages and projected in-service dates. In addition, show the transmission facilities projected for the balance of the 10-year period based upon the best information available.

PROPOSED APPENDIX A–1

1. Estimates of monthly peak loads for the first 2 years of the projection; estimates of summer and winter peak loads for the following 8 years; and monthly energy requirements for the first 2 years and annual energy requirements the following eight.

2. Itemization of all existing capacity resources in the region and new capacity resources (or retirements) as committed or projected for each year 10 years into the future; including, where known, in-service dates, locations, ownership, types of future generating units, primary fuel, and capability for use of alternate fuels including handling and storage capacity, and capacity exchanges with others at the time of summer and winter peak demands.

3. For each year of the 10-year projection, show the indicated capacity margins for reserves at the time of summer and winter peak loads, based on items (1) and (2) above, with an assessment of adequacy of reserves for the first 5 years of the projection. Include a statement of the criteria now being used in determining reserve requirements by the Council or its appropriate subdivisions: Also include an estimate of capacity which will be scheduled out for maintenance at the time of the summer and winter peak for the next 5 years.

4. For each steam generating unit of 300 mw. or more, and for which construction has begun; or is scheduled to begin within 2 years from the date of reporting, a status report on the proposed plan of cooling, and for fossil-fired plants, the fuels proposed and the plan for controlling stack emissions; also, the status of principal studies or model tests and the status of consultations with appropriate local, State, or Federal authorities concerned.

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PROPOSED APPENDIX A–2

The proposed changes are designed to

SECURITIES AND EXCHANGE

Our staff is about to complete this

investment company securities. In the

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APPENDIX A PER ORDER NO. 383-2

6. A plotting and a description of the base case for load flow studies of the bulk power network of the region (or principal subdivisions) as it exists, substantially, at the time of reporting and as projected 4 to 6 years in the future; and a tabulation and brief statements on the results of a representative number of contingency cases studied; and similarly, information on stability analyses of the network, and including the criteria adopted by the regional council relating to network stability.

7. A description of the principal communication and control systems operating or planned within the region and listing of functions performed by such facilities. (To be reported initially and updated in subsequent reports when significant changes occur.)

8. For each transmission segment designed to operate at 230 kv. (nominal) or higher for which construction has begun or is scheduled to begin within 2 years from the date of the report, information on the status of consultations with affected local communities and groups, and status of applications to State or regional authorities, as appropriate.

9. Information on the following coordinated regional practices: (To be reported initially and updated in subsequent reports when significant changes occur.)

a. Load shedding programs, including estimated steps of load reduction at various steps in declining frequency.

b. Emergency power and shutdown facilities to prevent damage to equipment if station loses system power.

c. Power facilities available for unit startup in the event of total loss of system power.

d. Availability of continuous power independent of system sources for communication and control facilities.

e. Provisions for sustaining the operation of generating units on local loads.

f. Programs for scheduling maintenance outages of generation and transmission facilities.

g. Programs for the selection, setting, and maintenance of relays that affect the overall reliability of the interconnected network.

PROPOSED APPENDIX A-2

6. A plotting and a description of the base case for load flow studies of the bulk power network of the region (or principal subdivisions) as it exists substantially at the time of reporting and as projected 4 to 6 years in the future; and a tabulation of transfer limits between the region and adjacent regions and between subdivisions of the region where appropriate including limiting conditions and limiting facilities; and a tabulation and brief statements on the results of a representative number of contingency cases studied; and similarly, information on stability analyses of the network, and including the criteria adopted by the regional council relating to network stability.

7. A description of the principal communication and control systems operating or planned within the region and listing of functions performed by such facilities.

8. For each transmission segment designed to operate at 230 kv. (nominal) or higher for which construction has begun or is scheduled to begin within 2 years from the date of the report, information on the status of consultations with affected local communities and groups, and status of applications to State or regional authorities, as appropriate.

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a. Load shedding programs, including estimated steps of load reduction at various steps in declining frequency.

b. Emergency power and shutdown facilities to prevent damage to equipment if station loses system power.

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d. Availability of continuous power independent of system sources for communication and control facilities.

e. Provisions for sustaining the operation of generating units on local loads.

f. Programs for scheduling maintenance outages of generation and transmission facilities.

g. Programs for the selection, setting, and maintenance of relays that affect the overall reliability of the interconnected network.

h. Operating reserve policy.

i. Maintenance planning including interregional coordination of maintenance outages.

10. For each year in the period of 10 to 20 years in the future, show projected load and generation capability which will be necessary to serve this load. Include a statement as to projected size of units and the mix of generation (nuclear, fossil, hydro, pumped storage, and peaking).

11. For the 10th and 20th year, include a map which shows the general configuration of the transmission network both within the region and the ties with adjacent regions. This should give an estimate of the voltages to be used and an indication of the projected transfer capability between adjacent regions and between subdivisions of the region where appropriate.

The proposed changes are designed to further the objectives of the Federal Power Commission's program of reliability and adequacy of electric service throughtout the Nation, pursuant to section 202(a) of the Federal Power Act, 16 U.S.C. 824a(a).

As the Commission stated in Order No. 383-2, 43 FPC 518:

> we believe that the reported information will necessarily change from time to time and that flexibility in securing and collating the reported information is highly desirable.

Before promulgating the changes, the Commission is desirous of receiving the further views and comments of all interested parties, including the existing national and regional reliability councils, individual State commissions, and the National Association of Regulatory Utility Commissioners, the general public and others.

The basic authority of the Commission to initiate this proposed policy-making action is the Federal Power Act, 16 U.S.C. 791(a) et seq., particularly 16 U.S.C. 824a(a), 825h (49 Stat. 848, 858), and the Administrative Procedure Act, 5 U.S.C. 553.

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than December 26, 1972, data, views, comments, or suggestions, in writing, concerning all or part of the amendment proposed herein. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Washington, D.C., during regular business hours. Submittals to the Commission should indicate the name, title, mailing address, and telephone number of the person to whom communications concerning the proposal should be addressed, and whether the person filing requests a conference with the staff of the Federal Power Commission to discuss the proposed amendment. The staff, in its discretion, may grant or deny requests for a conference. The Commission will consider all written submittals before acting on the proposed amendment herein.

The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19729 Filed 11-16-72;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Ch. II]

[Releases Nos. 34-9848, IC-7475]

MUTUAL FUND DISTRIBUTION

Notice of Public Hearings

The Securities and Exchange Commission, having reviewed the Study of the Potential Economic Impact of the Repeal of Section 22(d) (of the Act, 15 U.S.C. 80a-22(d)) conducted by its Office of Policy Research and the Economic Study of the Distribution of Mutual Funds and Variable Annuities conducted for the National Association of Securities Dealers, Inc. (NASD), by Booz Allen & Hamilton, Inc., has determined that it would be appropriate to reexamine traditional administrative positions and to explore new possibilities in order that mutual funds may be marketed more efficiently at a reasonable cost to investors. Section 22(d) (of the Act) requires, in part, that in the sale of a mutual fund security to the public the principal underwriter and any dealer must sell the security at a current public offering price—net asset value plus stated sales charge—set forth in the prospectus.

In order to obtain a wide range of viewpoints with respect to the justification for this retail price maintenance provision in the distribution of mutual funds, as well as the options which would be open to the industry if section 22(d) (of the Act) were eliminated and how the industry would adjust to such a change, the Commission has determined to commence public hearings on December 11, 1972.

BACKGROUND

A. STUDY OF THE POTENTIAL ECONOMIC IMPACT OF THE REPEAL OF SECTION 22(d) OF THE ACT.

In the Investment Company Amendments Act of 1970 (the 1970 Act) (Public Law 91-547, 84 Stat. 1413) Congress took steps to improve the protection afforded mutual fund investors in the area of sales commissions. The Senate Committee on Banking, Housing and Urban Affairs indicated that "Partly because of section 22(d) (of the Act) and partly because of the way in which mutual fund shares are sold, competition has tended to operate in reverse in the sale of mutual fund shares—raising prices rather than lowering them."[1] The committee gave serious consideration to deleting section 22(d) (of the Act) from the Investment Company Act of 1940 (the "Act") (15 U.S.C. 80a-1 et seq.). However, it was uncertain what that would mean to the investing public and mutual fund sales organizations. Therefore, it requested that the Commission review the consequences of such a proposal and report to it as soon as reasonably practicable.

[1] S. Rept. 91-184, 91st Cong. 1st Sess. 8 (May 21, 1969).

Our staff is about to complete this study which will be released shortly. It deals among other things with the costs of distributing mutual funds, the earnings of those who sell mutual funds, the significance of revenue derived by brokerage firms from mutual fund sales and the significance of mutual fund sales to the securities markets. Before making any definitive recommendations to the Congress as to retail price maintenance, the Commission believes it imperative to have the views of all interested persons with respect to the staff's report and the impact on the industry of various changes in the distribution system that may be desirable.

B. NASD STUDY AND RULE PROPOSALS

The 1970 Act gave the NASD rule making authority to prevent mutual funds from being sold at a sales load which is "excessive." Under amended section 22(b) of the Act mutual fund sales charges must allow for reasonable compensation for sales personnel, broker-dealers, and underwriters, and reasonable sales loads to investors. The amendments also provide the Commission with the power to alter or supplement such NASD rules at any time after June 14, 1972—the effective date of this amendment. It was contemplated that during this period the NASD would study "all relevant factors" in order to provide a basis for its rule proposals. At the outset, the Commission made clear that the NASD study should consider ways in which the existing distribution system could be improved with the resulting efficiencies and lower costs passed on directly to benefit investors and that the Commission would consider the feasibility of achieving this result in connection with its staff study of the impact of eliminating section 22(d) from the Act.

The NASD has now completed its study and has drafted rule proposals based upon it. That study is, of course, a survey of mutual fund distribution as it has existed and the resulting rule proposals are premised on the continuation of that system and the existing regulatory framework. The authors of the study indicated that "If section 22(d) (of the Act) were repealed and sellers were able to set the prices of funds at levels other than their current offering price described in the prospectus, then the analysis presented • • • needs to be reevaluated."

C. OTHER DEVELOPMENTS

In our Statement on the Future Structure of the Securities Markets we announced that the practice of investment company managers using portfolio brokerage of mutual funds to reward broker-dealers for sales of fund shares must be terminated. The NASD has published for comment an amendment to Article III, section 26 of its rules of fair practice designed to implement this policy and is moving ahead expeditiously to adopt the necessary rule change.

The Commission recently liberalized the rules with respect to advertising of investment company securities. In the release announcing the changes we described them as a modest first step in this direction and requested further suggestions.[1] Several have been received and are now under consideration.

It also is timely now to renew consideration of group merchandising of fund shares at reduced sales loads, long a controversial subject. Rule 22d-1 (17 CFR 270.22d-1) permits quantity discounts to be provided in connection with the sale of a mutual fund to any person but excludes from the definition of "person" any group whose funds are combined for such purchase. In 1968, the Commission proposed a revision of this antigrouping provision.[2] That proposal was held in abeyance pending completion of our staff study of Section 22(d) (of the Act). The Commission has recently been asked to consider rule changes which would result in lower administrative costs on payroll deduction plans and other voluntary plans for accumulating mutual fund shares by means of periodic small purchases. These rules now require that shareholders receive individual notices, confirmations, dividend statements, and shareholder reports. Our staff is exploring whether these rules can be revised without diminishing the basic shareholder protections they provide as well as reexamining the earlier grouping proposal and the comments received on it.

ISSUES TO BE CONSIDERED

A. REPEAL OF SECTION 22(d) OF THE ACT

1. *Complete repeal.* The system of retail price maintenance under which mutual funds are distributed tends to raise rather than lower prices. Under it, fund distributors compete for the favor of dealers and salesmen through a system of sales incentives which creates a constant pressure to raise sales loads or reduce the principal underwriter's margin.

The question is whether there is any longer sufficient public interest in the continuation of this system as an exception to the general rule of free competition which prevails in most other segments of our economic life.

2. *Partial repeal.* Should retail price maintenance be retained but only for smaller sales, allowing negotiated rates and free competition to prevail on that portion of any purchase in excess of a fixed amount, for example, $300,000? Or, should a system of negotiated rates be instituted gradually over a period of time permitting data to be assembled as to the effects of repeal on various segments of the mutual fund market? If such gradual reductions are appropriate, can they be achieved under the Commission's exemptive power or would legislation be needed?

3. *Price competition within a limited range.* Should retail price maintenance be retained with respect to a minimum

[1] Securities Act Release No. 5248, May 9, 1972 (37 F.R. 10071).

[2] Investment Company Act Release No. 5507, Oct. 7, 1968 (33 F.R. 15262).

schedule of sales loads, with the statute

versification appears to be significantly

mum loads. Is this a desirable approach

E. GROUP SALES

permit brokers and dealers to charge a

of the securities laws, the issues are

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schedule of sales loads, with the statute also specifying a maximum sales load, but allowing for price competition in the range between the specified maximum and minimum loads?

4. *A current public offering price described in the prospectus.* Section 22(d) (of the Act) states that "no registered investment company shall sell any redeemable security * * * except either to or through a principal underwriter for distribution or at a current public offering price described in the prospectus." Dealers are also required to sell at "a current public offering price described in the prospectus." There is no explicit requirement that there be a single uniform offering price, though that has been the long-standing interpretation of the provision. Would the statute be satisfied if the prospectus described different offering prices for different dealers or in different situations and thus permitted price competition in a manner sanctioned by the investment company itself?

5. *Prohibit price competition from non-contract dealers.* Historically, a principal reason given for the enactment of section 22(d) (of the Act) was the need to prevent price competition and secondary or "bootleg" markets made by noncontract dealers. Such dealers allegedly undermined the distribution structure by obtaining fund shares from sources other than the principal underwriters and selling them for lower prices than contract dealers could. In this way they could short circuit the distribution process and destroy the underwriter's ability to promote the fund. Is it desirable or necessary to prevent this and, if so, if section 22(d) (of the Act) is repealed should the legislation also provide that only contract dealers would be entitled to sell shares at prices other than the current offering price described in the prospectus?

B. RULES UNDER SECTION 22(B) (OF THE ACT) AND OTHER PROVISIONS OF THE ACT

1. *Lower breakpoints reflecting the reduced cost of diversification on larger purchases.* Section 22(b) of the Act (15 U.S.C. 80a–122(b)) gives the NASD and the Commission rule making authority to prevent mutual funds being sold at a sales load which is excessive. Under that section, as amended, mutual fund sales charges must allow for "reasonable compensation for sales personnel, broker-dealers, and underwriters, and reasonable sales loads to investors." It is clear that, whether or not section 22(d) (of the Act) is repealed, mutual fund investors require the protection of a statutory ceiling on sales loads. One of the principles upon which the NASD study was based was that the cost of fund shares should not exceed the alternate cost of a similar investment. One measure of alternate cost used by the NASD's consultants was the round trip cost of purchasing a diversified stock portfolio. However, on purchases in excess of $5,000 the alternate cost of diversification appears to be significantly less than the load suggested by the NASD rule proposal. Sales in excess of $5,000 accounted for about 70 percent of the total volume of mutual fund sales in 1970. Should any NASD rules take into account the reduced cost of diversification on purchases above the $5,000 level?

2. *Regulation of the dealer-discount.* The Commission in its Statement on the Future Structure of the Securities Markets expressed its concern over the effect of varying sales incentives available from different funds. In theory there seems to be widespread agreement that it is undesirable to allow an individual salesman to participate in the brokerage generated by an investment company complex whose funds he sells. The same kind of problem exists when fund distributors pay different dealer discounts. When one fund offers a dealer discount of 6 percent and other 8 percent, sellers are invited to recommend the fund that pays them best rather than the one that is best for their client. This practice also contributes to the pressure to raise sales loads or reduce the distributor's margin. Is this an area of concern and, if so, does the Commission have authority to deal with it by classifying as an "underwriter" under section 2(a)(40) of the Act (15 U.S.C. 80a–2(a)(40)) anyone who receives more than the "usual and customary distributor's or seller's commission" on the sale of mutual fund shares? In the alternative, should the NASD or the Commission take action under section 22(b) (of the Act) to limit dealer discounts? If dealer discounts should be limited, in what respects?

3. *Continuous discounts.* Under existing sales load structures purchasers of large volumes of mutual fund shares receive a volume discount when purchases are made in amounts exceeding specified breakpoints, e.g., $10,000, $25,000 or $50,000. The reduced charge applies to the entire purchase, not merely to the portion in excess of the breakpoint. This means that for a fund with a basic sales charge of 8.5 percent which drops to 7.5 percent on purchases in excess of $10,000 or more, a $9,900 purchase will produce gross revenue of $841.50 for the selling organization. If the purchase were $100 greater, i.e., $10,000, total selling compensation drops to $750. Such a system discourages sellers from altering prospects to the economies produced by breakpoints and places ethical strains on dealers and salesmen. Should Rule 22d–1 be amended to require that volume discounts be provided only where continuous schedules are in effect under which reductions fall only on that portion of the order in excess of the breakpoints?

4. *The value of additional product features.* The NASD Study suggests that the maximum load be determined by the value of the product and that only those funds which offered certain product features—dividend reinvestment at net asset value, lower breakpoints for volume discounts and dividend reinvestment at net asset value—should charge the maximum loads. Is this a desirable approach in the light of the fact that a significant proportion of investors do not take advantage of these features? Is this approach desirable assuming a system of continuous discounts?

5. *Contractual plans.* The total sales loads on contractual plans and the breakpoints on such plans are higher than the typical loads and breakpoints on mutual funds generally. The effective load on contractual plans may be significantly higher when the effects of lapses and persistency is taken into account. Is it premature at this time to take any action with respect to maximum sales charges applicable to contractual plans in light of the changed conditions in which the plan industry now operates, and in view of the protections afforded to contractual planholders by amended section 27 of the Act (Public Law 91–547, 84 Stat. 1424–1426)?

C. FURTHER LIBERALIZATION OF ADVERTISING RULES

1. *Advertising.* Advertising, an effective and a relatively low-cost method of conveying information to prospective purchasers, has been confined to a minimal role in the marketing of investment company securities. Restrictions on advertising have made it difficult for the mutual fund industry to tell its story through the mass media. The Commission recently liberalized its rule with respect to the advertising of investment company securities. What further liberalization would be in order? Is legislation necessary in this area?

2. *Statement of policy.* The statement of policy which governs investment company advertising and sales literature has not been amended since 1957 (Rel. No. IC–2621, 22 F.R. 8977). A number of its basic approaches have been questioned over the years. These include limitations on projections, use of mountain charts to convey cumulative performance, prohibitions against a total yield approach, absence of data upon which to base conclusions as to average annual performance and variability of performance from year to year. To what extent are these elements of the statement of policy no longer appropriate?

D. SIMPLIFIED MORE READABLE MUTUAL FUND PROSPECTUSES

Advertising restrictions rest on the premise that the statutory prospectus will be the key selling document. However, selling practices typically relegate the prospectus to a secondary role and very often legal requirements result more in confusing the ordinary investor than assisting him in reaching an informed judgment. The Commission has designated an Advisory Committee to make suggestions with respect to this and related subjects. Assuming simple clear prospectuses geared to the ordinary mutual fund investor's needs, will the prospectus be used more extensively and earlier in the distribution process and will this affect selling?

E. GROUP SALES

Mutual fund sales charge schedules provide for quantity discounts on larger orders. But the Commission's rules under section 22(d) (of the Act) preclude the grouping or pooling of orders for the purpose of obtaining such discounts. Has this antigrouping rule, which superseded contrary administrative positions, outlived its usefulness?

F. REDUCING PAPERWORK IN SMALL TRANSACTIONS

Payroll deduction plans and other voluntary plans for accumulating mutual fund shares by means of periodic small purchases appear to offer great potential. Some of the present rules under the Federal securities laws make such plans expensive. The rules in question require that each fund shareholder receive such individual notices and services as individual confirmations, dividend statements and shareholder reports. To what extent can the Commission amend these rules to achieve lower costs on small transactions without diminishing the basic investor protections they provide?

G. NO-LOAD SALES

Under present administrative interpretations brokers and dealers have no direct incentive to recommend "no-load" funds, i.e., funds that sell their shares directly to the public free from any sales charge. The imposition of any charge for recommending the shares or for effecting the purchase of such a fund, especially if the fund encourages or has knowledge of the practice, has been viewed as an impermissible deviation from the prospectus representations as to no-load status as well as a violation of section 22(d) (of the Act). Should the Commission reexamine its present administrative interpretations in order to remove disincentives operating against recommending no-load funds? Should it permit brokers and dealers to charge a normal stock exchange commission for recommending and effecting an investment in a no-load fund?

H. DEVELOPMENT OF AN ADEQUATE ECONOMIC DATA BASE

If mutual fund sales charges are to be regulated, reliable data as to the industry's costs, profitability, and general economic structure is necessary. Such data should be available on a continuous basis so as to enable the regulators to monitor trends, thus avoiding the undue regulatory lag that has plagued other types of regulation. Is it possible to develop a system of cost allocation and other accounting procedures necessary to provide such data in a meaningful fashion? What burdens would be involved in moving the industry to such a uniform system?

PROCEDURES

The policy implications of these and other related questions are of great significance to the securities industry generally and particularly to investment companies, their principal underwriters, the broker dealers and salesmen who distribute them, and to the investing public. Accordingly, all persons interested in, affected by or concerned with the distribution of investment company shares and the role of investment companies in the securities markets are invited to provide their views to the Commission with respect to all such issues.

The proposed public hearings will be policy making proceedings. They are designed to give the Commission further insight into the major issues and alternatives facing the industry in the area of mutual fund distribution in order that the Commission may formulate its own legislative recommendations, propose new rules and amend existing rules to the extent appropriate under its present authority. Of course, as in so many areas of the securities laws, the issues are largely interrelated and actions in one respect may deeply affect others. Thus, the full impact of a particular rule or legislative change may be difficult to gage and all of the questions raised will not be resolved definitively at one time.

These hearings are concerned with the formulation and establishment of policy and the rules necessary to implement it. The procedures will be tailored to this end. Because of the wide ranging scope of the inquiry it appears appropriate and expeditious to require written submissions in the first instance. Comments should be addressed to the enumerated questions or other relevant issues the commentator may care to call to the Commission's attention. Persons commenting may feel free to submit any relevant data or other information relating to these issues, and reference may be made, where appropriate, to the Commission's staff study, the NASD study, to prior hearings, policy statements, or testimony. All such submissions will be available for public inspection. After the Commission has had a chance to review all submissions, brief oral statements will be invited from among those who have made submissions and requested to be heard. Persons making oral presentations should be prepared to respond to inquiries from the Commission and its staff.

Interested persons are requested to submit their views, any data or other comments or information in triplicate, to Allan S. Mostoff, Director, Division of Investment Company Regulation, Washington, D.C. 20549, no later than December 6, 1972. All such material should be designated "Mutual Fund Distribution Hearings," File No. 4–164.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

NOVEMBER 3, 1972.

[FR Doc.72–19790 Filed 11–16–72;8:47 am]

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Notices

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 372; Delegation of Authority 125]

DEPUTY UNDER SECRETARY FOR MANAGEMENT

Delegation of Functions Relating to Committee Management

Pursuant to the authority vested in me by section 4 of the Act of May 26, 1949 (63 Stat. 111, 22 U.S.C. 2658), as amended, I hereby delegate through the Deputy Secretary of State to the Deputy Under Secretary for Management, in addition to his committees management authority currently contained in 1 FAM 150 and 22 CFR 6.10 (37 F.R. 18617, September 14, 1972) the authority to perform the functions conferred upon me as agency head by Executive Order 11671, dated June 5, 1972 (37 F.R. 11307, June 7, 1972), Executive Order 11686, dated October 7, 1972 (37 F.R. 21421, October 11, 1972), and Public Law 92-463 approved October 6, 1972 (86 Stat. 770).

Dated: November 7, 1972.

[SEAL] WILLIAM P. ROGERS,
Secretary of State.

[FR Doc.72-19805 Filed 11-16-72;8:46 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Colorado 16211]

COLORADO

Notice of Proposed Withdrawal and Reservation of Lands; Correction

NOVEMBER 8, 1972.

In F.R. Doc. 72-9415 appearing at page 12330 in the issue for Thursday, June 22, 1972, the land description for the portion of the Marvine Creek Campground in section 31 should read "E¼ corner."

DALE R. ANDRUS,
State Director.

[FR Doc.72-19797 Filed 11-16-72;8:48 am]

[OR 9345]

OREGON

Notice of Proposed Withdrawal and Reservation of Lands

NOVEMBER 10, 1972.

The Department of Agriculture, on behalf of the Forest Service, has filed application, OR 9345, for the withdrawal of national forest land described below, from nonmetalliferous location and entry under the mining laws only (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, subject to valid existing rights.

The applicant desires the lands for use as a recreational thunderegg agate public digging area.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Post Office Box 2965 (729 Northeast Oregon Street), Portland, OR 97208.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate land needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place which will be announced.

The lands involved in the application are:

FREMONT NATIONAL FOREST

WILLAMETTE MERIDIAN

T. 40 S., R. 21 E.,
Sec. 8, all;
Sec. 17, N½.

The area described contains approximately 960 acres.

VIRGIL O. SEISER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.72-19798 Filed 11-16-72;8:48 am]

Office of Hearings and Appeals

[Docket No. M 73-11]

V-DAY COAL CO.

Notice Regarding Modification of Mandatory Safety Standard

In regard, petition of V-Day Coal Co. for modification of application of Mandatory Safety Standard (Sec. 305(d) of Act; and 30 CFR 75.507).

In accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. § 301 et seq.), notice is given that the V-Day Coal Co., Danville, Ill., has filed a petition to modify the application of section 305(d) of the Act and section 75-507 of the Secretary's implementing regulations (30 CFR 75.507) to its V-Day Mine at Danville, Ill.

Section 305(d) of the Act provides:

All power-connection points, except where permissible power connection units are used, outby the last open crosscut shall be in intake air.

Section 75.507 of the regulations provides:

Except where permissible power connection units are used all power-connection points outby the last open crosscut shall be in intake air.

Petitioner seeks a modification of the application of these standards so as to permit power connection points in return air under the following conditions:

Install a Bacharach Methane Monitor System Model 23-7052 immediately east of the bottom of the slope in the main return. This monitoring device will be set to deenergize at 1 percent methane content all power distributed to and through the shaft bottom. Monitors will have monthly functional checks with the result recorded. During all periods of monitor repair or replacement, a certified person will maintain manual methane checks until such repair or replacement is complete and the monitor is again functioning properly.

The petition states that the modification requested will achieve no less, or greater, safety protection for the miners than the safety standards provided in the above-cited sections of the Act and the regulations and that, if not so modified, the application of the cited standards will result in a diminution of safety in its mine.

Parties interested in this petition should file their answers or comments, within 30 days from the date of publication of this notice in the FEDERAL REGISTER, with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, VA 22203. Copies of the petition are available for inspection at that address.

JAMES M. DAY,
Director, Office of Hearings and Appeals.

NOVEMBER 10, 1972.

[FR Doc.72-19832 Filed 11-16-72;8:50 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-274; NADA No. 12-817V]

PURDUE FREDERICK CO.

Cerumenex Vet Drops; Order Vacating Opportunity for Hearing

A notice of opportunity for hearing proposing to withdraw approval of the new animal drug application (NADA) No. 12-817V for Cerumenex Vet Drops was published in the FEDERAL REGISTER of April 29, 1971 (36 F.R. 8065).

Drugs for Veterinary Medicine, Inc., 99-101 Saw Mill River Road, Yonkers, NY 10701, responded on May 27, 1971, to said notice by informing the Commissioner of Food and Drugs that the required data would be submitted as soon as possible. Drugs for Veterinary Medicine, Inc. subsequently notified the Commissioner on August 17, 1971, that the sponsorship of NADA No. 12-817V for Cerumenex Vet Drops had been transferred to The Purdue Frederick Co., 99 Saw Mill River Road, Yonkers, NY 10701.

The Purdue Frederick Co., holder of NADA No. 12-817V has submitted a supplemental new animal drug application with revised labeling. The Commissioner concludes that the labeling, evaluated together with the evidence available when the application was approved, shows that said drug (now known as Cerumenex-V Drops) is safe and effective for the removal of earwax in cats and dogs when administered in accordance with the conditions of use provided for by an order appearing elsewhere in this FEDERAL REGISTER (21 CFR 135a.44).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-351; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120), said notice of opportunity for a hearing is vacated for the drug Cerumenex Vet Drops, NADA No. 12-817V.

Dated: November 10, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-19775 Filed 11-16-72;8:45 am]

Health Services and Mental Health Administration

LONG TERM CARE FOR ELDERLY RESEARCH REVIEW AND ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Executive Order 11671, the Administrator, Health Services and Mental Health Administration, announces the meeting date and other required information for the following national advisory body scheduled to assemble the month of November 1972, in accordance with provisions set forth in section 13 (a) (1) and (2) of that Executive order:

Committee name. Long Term Care for the Elderly Research Review and Advisory Committee.

Date/Time/Place. November 28, 8 p.m., Holiday Inn, Woodmont West Room, 8120 Wisconsin Avenue, Bethesda, MD.

Type of meeting and/or contact person. Closed. Contact Elliott Lesser, Room 15-29, Parklawn Building, 5600 Fishers Lane, Rockville, MD, 301—443-2950.

Purpose. The Committee is charged with the review of research grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research and Development relating to research on long-term care, including research approaches for studying and improving the delivery of care in nursing homes and other long-term care facilities and for identifying alternatives to institutional care.

Agenda. The Committee will be performing only a review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Secretary of Health, Education, and Welfare pursuant to the provisions of Executive Order 11671, section 13(d).

Items for discussion are subject to change due to priorities as directed by the President of the United States, or the Secretary of Health, Education, and Welfare.

A roster of members may be obtained from the contact person listed above.

Dated: November 13, 1972.

ANDREW J. CARDINAL,
Acting Associate Administrator for Management, Health Services and Mental Health Administration.

[FR Doc.72-19776 Filed 11-16-72;8:45 am]

National Institutes of Health

NATIONAL HEART AND LUNG ADVISORY COUNCIL

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the National Heart and Lung Advisory Council, November 30, December 1 and 2, 1972, at 9 a.m., National Institutes of Health, Building 31, Conference Room 6. This meeting will be open to the public from 9 a.m. to 5 p.m. on November 30, to discuss policy and program issues and implementation of the new legislation (Public Law 92-423). It will be closed to the public all day December 1 and 2, 1972, to review, discuss, and evaluate and/or rank grant applications in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination.

Name of the person from whom rosters of the National Heart and Lung Advisory Council members and/or summary of the meeting may be obtained: Mrs. Rita W. Lyons, Building 31, Room 5A16, NIH, 496-5931. Substantive information may be obtained from Dr. Jerome Green, Westwood Building, Room 5A14, 496-7416.

Dated: November 10, 1972.

JOHN F. SHERMAN,
Deputy Director, National Institutes of Health.

[FR Doc.72-19633 Filed 11-16-72;8:50 am]

Office of the Secretary

ADVISORY COMMITTEE MEETINGS

Guidelines for Closing Meetings to Public

Notice is hereby given of a memorandum on closing advisory committee meetings to the public issued by the Secretary. The Secretary's memorandum reads as follows:

On October 6 the President approved Public Law 92-463, "The Federal Advisory Committee Act," revoked section 8(4) of Executive Order 11671, and directed that the remainder of the order remain in effect until superseded in 90 days by the new Act. The new law is substantially the same as the order and I do not anticipate the Department having difficulty in achieving full compliance with the intent of Congress in light of our experience under Executive Order 11671.

On September 27, pursuant to section 13(d) of Executive Order 11671, I approved a notice of determination [1] closing certain advisory committee meetings to the public.

The Determination recognizes that discussion of records maintained on a confidential or privileged basis by the regulation under the Freedom of Information Act must be held in closed session. Otherwise, the purpose of the regulation would be defeated. In addition, the determination permits closing a meeting, or portion thereof, which is held for the purpose of giving committee members an opportunity to express their individual viewpoints and/or finalize their recommendations.

The determination should be narrowly construed to result in the closing of as

[1] See 37 F.R. 20995, 10-5-72.

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few meetings as possible to public observation and/or participation. Meetings may be closed under the second part of the determination (relating to the internal memoranda exception of the Freedom of Information Act), only when the agency head determines it essential for the effective functioning of the committee, and such determination and reasons therefore, is concurred in by the Department committee management officer. In the case of the Office of the Secretary, the determination shall be made by the Assistant Secretary for Administration and Management. To assure adequate opportunity for sufficient review of such determinations, necessary data must be submitted to the Department committee management officer not less than fifteen (15) business days before the scheduled meeting date.

This process will be evaluated during the next 2 months and revised as required in light of any Office of Management and Budget guidelines which may be issued and the Department's experience.

Notices of all meetings, whether open or closed to the public, must be published in the FEDERAL REGISTER. Whenever feasible, the public ought to be given an opportunity to present relevant information and views to the committee in open session, and meetings should be closed, if at all, for the shortest time possible. Also, committee reports must be made available to the public within a reasonable period of time after their submission.

For further guidance in implementing the determination feel free to contact the Department committee management officer.

Dated: October 24, 1972.

RODNEY H. BRADY,
Assistant Secretary,
for Administration and Management.

[FR Doc.72-19806 Filed 11-16-72;8:46 am]

HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 3 (Health Services and Mental Health Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (33 F.R. 15953, October 30, 1968), as amended, is hereby amended with regard to SEC. 3-20, *Organization and Functions*, as follows:

Within the chapter alphabetically coded 3G-00—*Center for Disease Control* (3G45)—the functional statement for the Epidemiology Program (3G45) is being amended to incorporate the quarantine functions presently performed by the Foreign Quarantine Program (3G51), which is being abolished.

The revised statement for paragraph 3G45 reads as follows:

Epidemiology Program (3G45). (1) Maintains surveillance over communicable diseases and certain preventable conditions of national importance, and develops programs of international surveillance in collaboration with the Smallpox Eradication Program, the Department of State, the World Health Organization, and the Pan American Health Organization; (2) plans, directs, and conducts the national quarantine program which enforces quarantine regulations to protect the United States against the introduction of diseases from foreign countries; (3) implements the provisions of the International Sanitary Regulations; (4) enforces interstate quarantine regulations: (6) investigates special disease problems and recommends control measures; (6) evaluates experimental vaccines and immunizing agents and procedures; (7) provides epidemic aid and epidemiological services and consultation to States, Federal agencies, foreign countries, and other recipients; (8) recruits and trains public health epidemiologists; (9) collects, analyzes, and publishes reports of morbidity and mortality statistical data; and (10) serves as the WHO Regional Reference Laboratory for Rabies in the Americas.

The paragraph entitled Foreign Quarantine Program (3G51) is hereby deleted.

Dated: November 10, 1972.

STEVEN D. KOHLERT,
Deputy Assistant Secretary
for Management.

[FR Doc.72-19808 Filed 11-16-72;8:46 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-358]

CINCINNATI GAS & ELECTRIC CO. ET AL.

Notice for Additional Evidentiary Hearing

In the matter of Cincinnati Gas & Electric Co., Columbus & Southern Ohio Electric Co., Dayton Power & Light Co. (Wm. H. Zimmer Nuclear Power Station), Docket No. 50-358.

Pursuant to the Memorandum and Order of the Atomic Safety and Licensing Appeal Board, dated November 13, 1972, ALAB-79, and with agreement of the parties as to location and time, notice is hereby given that an additional Evidentiary Hearing will be held on November 21, 1972, at 10 a.m., local time, at the Vanguard Building; 1111 20th Street NW., Suite 720, Washington, DC 20210.

The hearing will be directed to the issue set forth in the above identified Memorandum and Order relating to feasibility of the dry cooling tower alternative.

Issued at Washington, D.C., this 15th day of November 1972.

It is so ordered.

ATOMIC SAFETY AND LICENSING BOARD,
JOHN B. FARMAKIDES,
Chairman.

[FR Doc.72-19926 Filed 11-16-72;8:54 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24918; Order 72-11-52]

AERO FLETES INTERNACIONALES, S.A.

Cancellation of Foreign Air Carrier Permit; Tentative Findings and Conclusions; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 14th day of November 1972.

By Order 68-9-147, adopted August 16, 1968, and approved by the President September 26, 1968, the Board issued a permit to Aero Fletes Internacionales, S.A. (AFISA), to engage in foreign air transportation with respect to property and mail between a point or points in the Republic of Panama and the terminal point Miami, Fla.

The Board has received a letter from the Office of Aviation of the Department of State stating that the Embassy of Panama has advised that the Civil Aeronautics Administration of the Republic of Panama has refused to renew AFISA's permit to operate air services.

Based upon the foregoing, the Board tentatively finds that the foreign air carrier permit now held by AFISA should be canceled, and that, unless objections are received within 20 days from the date of the service of this order, the Board should make such tentative findings final and submit to the President for his approval a final order canceling the said permit.

Accordingly, it is ordered, That:

1. All interested persons are directed to show cause why the Board should not issue an order which would make final the tentative findings and conclusions herein and which would, subject to the approval of the President, cancel the foreign air carrier permit held by AFISA;

2. Any interested person having objections to the issuance of such an order shall file with the Board a statement of objections supported by evidence within 20 days of service of this order; [1]

3. If timely and properly supported objections are filed, further consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

5. AFISA and the Ambassador of Panama in Washington shall be served copies of this order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-19844 Filed 11-16-72;8:50 am]

[1] Since provision is made for a response to this order, petitions for reconsideration of this order will not be entertained.

[Docket No. 20884; Order 72-11-35]

AIR PANAMA INTERNACIONAL, S.A.

Order To Show Cause Regarding Foreign Air Carrier Permit

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 10th day of November 1972.

Application of Air Panama Internacional, S.A. for a foreign air carrier permit pursuant to section 402 of the Federal Aviation Act of 1958.

By Order 69-10-93, approved October 17, 1969, the Board issued a foreign air carrier permit to Air Panama Internacional, S.A. authorizing the carrier for a period of 5 years to engage in foreign air transportation of passengers, cargo, and mail between Panama and Miami. Since the Panamanian carrier had no immediate plans to inaugurate service to New York, the Board deferred action on the portion of Air Panama's application seeking rights at New York.

On October 13, 1970 Air Panama filed a motion to reopen the record in this docket to consider the grant of a Panama-New York route which the carrier planned to operate pursuant to a wet lease agreement with the Spanish air carrier, Iberia. No action has been taken with respect to this motion. A second motion to reopen the record was filed on September 19, 1972, in which Air Panama requested the right to serve New York independently of any lease agreements with other foreign air carriers. No objections to this motion have been filed, and the motion will be granted.[1]

In granting Air Panama a Panama-Miami route, the Board found that the carrier met the fitness standards of the Act and that the Miami services were in the public interest. The only reason the Board did not include the requested grant of New York authority in the permit was the absence at the time of any affirmative plans by the carrier to commence New York operations. Therefore, consideration of New York rights was deferred.

Air Panama has performed its presently authorized services successfully for several years and, on the record before us (as supplemented by its motion), has demonstrated that the extension of its services to New York is in the public interest and that it possesses the necessary fitness to operate the new route independently. The authority to serve New York requested by Air Panama is provided for in the United States-Panama bilateral air transport agreement, and Air Panama has been designated by its government to operate services on the route. Air Panama states that it will conduct the Panama-New York operations with its own equipment and crews. To this end, the carrier has ordered and financed B-727 equipment, which it plans to introduce on the route this year in the event its application is granted.

In view of the facts of record and the matters set forth in Air Panama's motion, the Board tentatively finds and concludes that: (a) It is in the public interest to amend the foreign air carrier permit held by Air Panama Internacional, S.A., so as to authorize the carrier, through October 17, 1974, to engage in foreign air transportation of persons, property, and mail between a point or points in the Republic of Panama and the coterminal points Miami, Florida, and New York, N.Y.; (b) Air Panama is fit, willing, and able to provide the above-described foreign air transportation and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board thereunder; and (c) the public interest requires that the exercise of the privileges that would be granted in Air Panama's amended permit should be subject to the terms, conditions, and limitations contained in the attached proposed order and accompanying proposed form of permit, and to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

Accordingly, it is ordered, That:

1. Air Panama's motion to reopen the record filed on September 19, 1972, be and it hereby is granted, and Air Panama's motion to reopen the record filed on October 13, 1970, be and it hereby is dismissed;

2. All interested persons be and they hereby are directed to show cause why the Board should not make final the tentative findings and conclusions herein, and why an order and a foreign air carrier permit substantially in the forms attached to this order should not be issued, subject to the approval of the President pursuant to section 801 of the Act;

3. Any interested person having objections to the tentative findings and conclusions set forth herein or to the issuance of the proposed order or proposed foreign air carrier permit shall file such objections within 10 days after the date of service of this order, and file with the Board and serve on the persons named in paragraph 6 a memorandum of objection specifying the part or parts of the tentative findings and conclusions or order or permit objected to and stating the specific grounds of any such objections;[2]

4. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board: *Provided,* That the Board may proceed to enter an order in accordance with the tentative findings and conclusions herein if it determines that there are no factual issues presented that warrant the holding of an evidentiary hearing;

5. In the event no objections are filed, all further procedural steps shall be deemed waived, and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

6. Copies of this order shall be served upon the following: Air Panama Internacional, S.A., Iberia, Lineas Aereas de Espana, S.A., and the Bureau of Operating Rights of the Civil Aeronautics Board.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

SPECIMEN ORDER

CIVIL AERONAUTICS BOARD

[Docket No. 20884]

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the -----.

Application of Air Panama Internacional, S.A., for a foreign air carrier permit pursuant to section 402 of the Federal Aviation Act of 1958

It is ordered:

1. That an amended foreign air carrier permit in the form attached hereto be issued to Air Panama Internacional, S.A. (Air Panama);

2. That said permit shall be signed on behalf of the Board by its Secretary, shall have affixed thereto the seal of the Board, and shall be effective upon the effective date of this order;

3. That the exercise of the privileges granted by said permit issued to Air Panama and the foreign air carrier permit held by Iberia, Lineas Aereas de Espana, S.A. (Iberia) shall also be subject to the following conditions:

(a) Air Panama and Iberia shall file with the Board all written agreements, amendments to existing agreements, and memoranda setting forth the circumstances of oral agreements and understandings between them affecting, directly or indirectly, air services to the United States;

(b) Air Panama and Iberia shall not engage in joint public relations, advertising, publicity, or scheduling activities which tend to pass off the services of one carrier as the services of the other carrier or as part of a unified system of which each is a part;

(c) Where either Air Panama or Iberia provides general agency services for the other carrier at points in the United States served by Air Panama and Iberia, Air Panama or Iberia shall specifically identify all flights of either Air Panama or Iberia as flights of that carrier without reference to any relationship to the carrier performing the agency services;

(d) Telephone facilities to which the public has access at points served in the United States by Air Panama and Iberia shall preserve the identity of the individual carriers;

(e) Where joint traffic or sales facilities are maintained by Air Panama and Iberia in the United States, the separate identity of each carrier shall be maintained by reasonably comparable use of display advertising, desk space, personnel uniforms, and other facilities and activities;

(f) The respective personnel of Air Panama and Iberia shall preserve the individual identity of the respective carriers in all public dealings; and

[1] We will dismiss the Oct. 13, 1970 motion since it has been superseded by the motion of Sept. 19, 1972.

[2] Since provision is made for the filing of objections to this order, petitions for reconsideration of this order will not be entertained.

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4. That this order shall become effective upon the date of its approval by the President of the United States.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

SPECIMEN PERMIT

CIVIL AERONAUTICS BOARD

PERMIT TO FOREIGN AIR CARRIERS

(as amended)

Air Panama Internacional, S.A. is hereby authorized, subject to the provisions hereinafter set forth, the provisions of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued thereunder, to engage in foreign air transportation with respect to persons, property, and mail, as follows:

Between a point or points in the Republic of Panama and the coterminal points Miami, Fla., and New York, N.Y.

The holder shall be authorized to engage in charter trips in foreign air transportation subject to the terms, conditions, and limitations prescribed by Part 212 of the Board's Economic Regulations.

The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of Panama for Panamanian international air service.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Panama shall be parties.

By accepting this permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

The holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of $1 million or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation with respect to persons unless there is in effect liability insurance sufficient to cover the obligations assumed in CAB Agreement 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

The exercise of the privileges granted hereby shall be subject to such reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This permit shall be effective on ----------, and unless otherwise terminated as provided hereinafter, shall terminate on October 17, 1974. Prior to the termination of this permit on October 17, 1974, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement or amendment thereto, which shall have the effect of eliminating the route hereby authorized from the routes which may be operated by the airlines designated by the Government of Panama, or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of Panama in lieu of the holder hereof, or (3) upon the termination or expiration of the Air Transport Agreement between the Government of the United States and the Government of Panama effective April 14, 1949, as amended, effective June 3, 1952, and June 5, 1967: *Provided, however,* That clause (3) of this paragraph shall not apply if, prior to the events specified in clause (3), the operation of the foreign air transportation herein authorized becomes the subject of any treaty, convention, or agreement to which the United States and Panama are or shall become parties.

In witness whereof, the Civil Aeronautics Board has caused this permit to be executed by the Secretary of the Board, and the seal of the Board to be affixed hereto, on the ----------.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-19810 Filed 11-16-72;8:46 am]

[Docket No. 24072; Order 72-11-54]

BRANIFF AIRWAYS, INC.

Order Regarding Expanded Application of Category Z Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 14th day of November 1972.

By a tariff revision,[1] filed December 9, 1971, effective January 8, 1972, Braniff Airways, Inc., proposed to permit employees of the Army and Air Force Exchange System (AAFES) to travel on official business at category Z fares when requests for the transportation are made using AAFES form 1500-22 in lieu of Government transportation requests (GTR's), the use of which has been prohibited to exchange personnel.

These tariffs have already been ordered investigated and suspended.[2] However, Braniff was not made a party to the proceeding. We are therefore by this order making Braniff a party to the investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204 and 1002 thereof,

It is ordered, That:

1. Braniff Airways, Inc., is hereby made a party to this proceeding.

2. A copy of this order will be served upon all parties to Docket No. 24072, and Braniff Airways, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-19846 Filed 11-16-72;8:50 am]

[Docket No. 24488; Order 72-11-28]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Currency Matters

Issued under delegated authority November 9, 1972.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers and other carriers, embodied in the resolutions of the Joint Conferences of the International Air Transport Association (IATA). The agreement, which was adopted at the Passenger Traffic Conference held September to October 1972, in Torremolinos, Spain, has been assigned the above-designated agreement number.

The agreement would amend existing resolutions governing currency exchange matters for the purpose of local publication, sale, and rounding-off of passenger fares, by introducing currency provisions for the Nigerian Naira, as well as limiting sales, in Syrian pounds to Syria only. Additionally, the agreement would remove Okinawa from the country listing governing rounding-off of passenger fares.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the following resolutions, which are incorporated in Agreement C.A.B. 23366, are adverse to the public interest or in violation of the Act:

CAB Agreement 23366	IATA No.	Title	Application
R-1	021B	Rates of Exchange—Nigerian Naira (Amending)	1; 2; 3.
R-2	023a	Rounding-off Passenger Fares—Nigeria, Okinawa (Amending)	1; 2; 3; 1/2; 2/3; 3/1; 1/2/3.
R-3	021b	Rates of Exchange—Sales in Syrian Pounds (Amending)	1; 2; 3.

Accordingly, it is ordered, That:

Agreement C.A.B. 23366 be and hereby is approved.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

[1] Revision to International Air Traffic Tariffs Corp., Agent, Tariff C.A.B., No. 374.

[2] Orders 72-1-10 and 72-5-79, dated respectively January 6, 1972, and May 5, 1972.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-19843 Filed 11-16-72;8:50 am]

[Dockets Nos. 24488; 23780; Order 72-11-58]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Youth and Student Fares in Foreign Air Transportation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 14th day of November 1972.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of joint conferences 1-2 and 1-2-3 of the International Air Transport Association (IATA). The agreement, which was adopted by mail vote, has been designated C.A.B. Agreement 23301.

The agreement would establish individual and group youth fares for travel between the United States and Europe/Africa/Middle East for the period December 1, 1972, through March 31, 1973. These youth fares are proposed at levels ranging up to 21 percent higher than those currently in effect pursuant to Government orders, and are available to persons between the ages of 12 and 24. Confirmed reservations are not available until 7 days prior to the scheduled departure of the flight.

Both Pan American World Airways, Inc. (Pan American) and Trans World Airlines, Inc. (TWA) have filed comments in support of the agreement. Generally, both carriers indicate that the subject agreement represents an interim solution to the present mix of youth fares established pursuant to orders from various foreign governments, the terms and conditions of which vary considerably from one country to another and result in confusion to the traveling public and an administrative burden for the U.S. carriers who were forced to meet the fares in order to remain competitive. Pan American forecasts the average youth fare increase at 11 percent which, during the 4 month life of the agreement, would result in an improvement in operating profit of $280,000. TWA estimates an average fare increase of 10 percent, producing a net revenue improvement of $300,000.

The member carriers of the National Air Carrier Association (NACA)[1] urge that the Board approve the fares on an interim basis (i.e. for the term of the agreement until April 1, 1973) but at the same time take appropriate action to notify the foreign governments involved of dissatisfaction with the fares and indicate the Board's intention to suspend and investigate the fares if they are continued after March 31, 1973. NACA contends that the subject agreement represents some improvement over the present Government-ordered fares, and that disapproval by the Board, which would leave in effect the more destructive existing fares, would be counterproductive.

TWA, in its response to the NACA comments, points out that the request regarding the suspension of fares after March 31, 1973, is premature and that any action by the Board at this time pertaining to fares yet to be filed would constitute a prejudgment. TWA refers to its letter of jusification wherein it states that effective April 1, 1973, the age limitation will be reduced to 12 to 21 years of age, providing consistency with U.S. domestic youth fare requirements. Additionally, TWA refers to the ongoing investigation of youth/student fares,[2] and states that absent a showing of serious conditions warranting suspension, the Board should resolve the transatlantic youth fare question in that investigation.

Although this agreement raises the same questions of fare level, age eligibility and discrimination as posed by existing Government-ordered youth fares now under investigation, we will approve it for the agreed limited period of application because it does in fact represent an improvement. The agreement represents a step toward more realistic levels and reduces the age limit to 12 to 24 years. (The age limits now range as high as 29.) We will, however, include an investigation of the fares in Docket No. 23780.

We have concluded to deny NACA's requests at this time although we intend to bear their points in mind. The instant agreement, as indicated previously, raises the same questions of fare level and discrimination as are involved in currently effective fares already under investigation. As we still have before us NACA's complaint filed on April 10, 1972, which requests suspension of youth fares, NACA's present request will be considered in the ultimate disposition of their earlier complaint.

The Board, acting pursuant to sections 102, 204(a), 404(b), 412, and 1002 of the Act and pending investigation in Docket No. 23780, does not find that Agreement C.A.B. 23301, R-1 through R-5, is adverse to the public interest or in violation of the Act, provided that with respect to Resolution 092g:

(a) In the event a passenger discontinues his journey en route for any reason, the amount of the fare paid may be applied as a credit toward the purchase of transportation at the applicable fare calculated from the original point of origin.

(b) The amount of the forfeiture to be imposed in the event of cancellation by the group or members of the group prior to or at departure time for any reason shall not exceed 25 percent of the fare paid and after departure the forfeiture shall not exceed 25 percent of the excess of the price of the group fare ticket over the cost of normal fare transportation from the point of origin to the point of cancellation.

(c) Full refund shall be made in the event of death or illness of the passenger or of a member of the passenger's immediate family prior to travel.

(d) Full refund of the group fares paid shall be made in the event of cancellation of travel arrangements by a carrier on the ground that the group or any member of the group is ineligible for the group fares.

Accordingly, it is ordered, That:

1. Agreement C.A.B. 23301 be and hereby is approved subject to the conditions set forth herein;

2. An investigation is hereby instituted to determine whether Agreement C.A.B. 23301 is adverse to the public interest or in violation of the Federal Aviation Act of 1958, and whether the fares, rules, conditions, and provisions which are, or will be, established pursuant to this agreement or are or will be unjustly discriminatory, unduly preferential, or unduly prejudicial, and if such fares, rules, conditions, or provisions are found to be unjustly discriminatory, unduly preferential, or unduly prejudicial, to determine how such fares, rules, conditions, or provisions should be altered, or what order should be made to remove such discrimination, preference, or prejudice; and

3. The investigation ordered in paragraph 2 above is consolidated into that currently pending in Docket 23780.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-19845 Filed 11-16-72;8:50 am]

[Docket No. 24919; Order 72-11-53]

TRANS WORLD AIRLINES, INC.

Proposed Extension of Las Vegas GIT Fares; Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 14th day of November 1972.

By tariff revisions[1] marked to become effective November 15, 1972, Trans World Airlines, Inc. (TWA), proposes to extend its off-season Las Vegas GIT fares beyond their present expiry date of November 15, 1972, to June 14, 1973, and to increase the fares to reflect the recent 2.7-percent increase in regular fares. The fares provide discounts of 40 percent from the normal fares on all days except Sundays. A $15 surcharge applies on Sundays (in each direction) reducing the discount to 35 percent on that day.

[1] Overseas National Airways, Saturn Airways, Trans International Airlines and World Airways.

[2] Docket No. 23780.

[1] Revisions to Airline Tariff Publishers, Inc., Agent, Tariff CAB No. 136.

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The minimum group size is 15, stay requirements are 3 to 30 days, and a minimum purchase of $35 in ground arrangements is required.

United Air Lines, Inc. (United) has filed a complaint against the proposal requesting its investigation and suspension.[2] The carrier alleges that the proposed GIT fares are economically unsound in a period when the industry can ill afford a further decline in yield; that since a high proportion of Las Vegas traffic is GIT traffic, it makes economic sense to recover a higher portion of the cost; that substantial unnecessary revenue dilution results when the discount is greater than needed to promote and develop new traffic, as appears to be the case here; and that traffic generation last year was approximately the same under the 30-percent discount which applied during the summer as it was under the 40-percent off-season discount.

In answer to United's complaint and in support of the proposal, TWA alleges that the Las Vegas market is highly seasonal in nature and requires a seasonal fare differential to reduce the effect on costs of this seasonality; that the existing fares have been profitable despite unanticipated extra section requirements; that use of United's statistics is misleading since the 1971 base period was depressed by general economic conditions and does not set traffic growth in its proper perspective; that the market is still developing and to reduce the 40-percent off-season discount will have a substantial depressing effect on GIT traffic and the success of the program; and that promotional fares of this type should complement normal traffic fluctuations, not accentuate them, as would a single year-round level of GIT fares.

Upon consideration of the tariff filing, the complaint and answer thereto, and all relevant matters, the Board finds that the proposed fares may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board has also concluded to suspend the fares pending investigation.

In our view, the substantial volume of GIT traffic involved, together with a declining yield and planned capacity increases in the Chicago-Las Vegas market, raise strong doubts as to the reasonableness of the fares. TWA indicates that 27 percent of its traffic in the Chicago-Las Vegas market from October 1971 through May 1972 moved on the GIT fares, and United similarly states that the winter GIT fare was used by an average of 25 percent of its traffic in the Chicago/East markets, the volume ranging as high as 60 percent on particular days. The significance of this experience is heightened by the carriers' experienced yields and their planned schedule changes for the upcoming winter period.

A comparison of TWA's coach yields in the Chicago-Las Vegas market since the GIT fares were introduced shows a steady decline compared to the same month of the preceding year (before the introduction of the fares). The decline began in January 1972, and by May its yield had declined by more than 11 percent. This is apparently due primarily to use of the GIT fare, since we are not aware of any other major fare changes in the Chicago-Las Vegas market. A decline in yield of this magnitude at a time of rising costs cannot long continue. This is particularly true if, as it would appear, TWA's planned increase in schedules and seat capacity this winter season is, at least in part, due to traffic volume generated by the GIT fares. TWA's scheduled flights in the Chicago-Las Vegas market for November 1972, provide slightly more than twice the number of seats offered in 1971. In these circumstances, we seriously doubt the appropriateness of testing the fares against added costs as TWA would have us do.

We note that United has filed to extend the Las Vegas GIT fares for 1 year at a 30-percent discount, the same discount in effect during this past summer.[3] In view of the carriers' experience with these fares the reasonableness of GIT fares in this market even at a 30-percent discount is not wholly free from doubt.

Suspension of United's proposal would result in rather substantial increases in fares over those available last year, and would leave the Individual Inclusive Tour Basing fare at a 20-percent discount as the lowest available to a substantial portion of the traffic. At that level considerable traffic might be lost, with the possibility of a net revenue reduction. Accordingly, we will permit United's proposal to extend the GIT fares at a 30-percent discount for a 1-year period to become effective. However, we will require United, and any other carriers providing such fares, to submit reports of traffic generation and diversion, and revenue and expense data as set forth in Appendix A.[4] This report should also be accompanied by a written evaluation of the results of the experiment. In the absence of this information, the Board would not be prepared to consider any proposal to extend these or similar fares for a further period of effectiveness.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That:

1. An investigation is instituted to determine whether the fares and provisions described in Appendix B [4] and rules, regulations, or practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, and practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in Appendix B hereto are suspended and their use deferred to and including February 12, 1973, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. Except to the extent granted herein the complaint in Docket 24846 is dismissed;

4. The proceeding ordered herein will be assigned before an administrative law judge of the Board at a time and place hereafter to be designated; and

5. Copies of this order will be filed in the aforesaid tariffs and served upon Trans World Airlines, Inc., and United Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[5]

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-19847 Filed 11-16-72;8:50 am]

[2] United has filed a matching defensive tariff. Revisions to Airline Tariff Publishers, Inc., Agent, Tariff CAB No. 143.

[3] No complaints were filed against this proposal, which preceded its competitive filing to match TWA.

[4] Appendixes A and B filed as part of the original document.

[5] Members Minetti and Murphy issued a separate concurring statement, filed as part of the original document.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

FAA OFFICE AT MANILA, REPUBLIC OF THE PHILIPPINES

Notice of Establishment

Notice is hereby given that on or about November 15, 1972, an FAA office will be established at Manila, Republic of the Philippines. This office will be staffed with an FAA representative who will serve the aviation public by providing increased FAA surveillance of aviation activities in the Philippines. This information will be reflected in the FAA organization statement the next time it is reissued.

Issued in Honolulu, Hawaii, on November 7, 1972.

JACK G. WEBB,
Director, Pacific-Asia Region.

[FR Doc.72-19773 Filed 11-16-72;8:45 am]

FAA OFFICE AT SAIGON, SOUTH VIETNAM

Notice of Closing

Notice is hereby given that on or about November 14, 1972, the FAA office at Saigon, South Vietnam, will be closed. Services to the aviation public formerly provided by this office, will be provided by the Southeast Asian International Field Office at Agana, Guam. This information will be reflected in the FAA organization statement the next time it is reissued.

Issued in Honolulu, Hawaii, on November 7, 1972.

JACK G. WEBB,
Director, Pacific-Asia Region.

[FR Doc.72-19772 Filed 11-16-72;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RP73-61]

ALABAMA-TENNESSEE NATURAL GAS CO.

Notice of Proposed Changes in Rates and Charges

NOVEMBER 14, 1972.

Take notice that Alabama-Tennessee Natural Gas Co. (Alabama-Tennessee) on October 31, 1972, tendered for filing revised sheets to its FPC Gas Tariff, Second Revised Volume No. 1:

Fourth Revised Sheet No. 5 Superseding Third Revised Sheet No. 5.
Fourth Revised Sheet No. 11 Superseding Third Revised Sheet No. 11.
Fourth Revised Sheet No. 14 Superseding Third Revised Sheet No. 14.

The company states that the tariff sheets are designed solely to pass on to Alabama-Tennessee's jurisdictional customers the increased cost of gas to Alabama-Tennessee as a result of the increased rate filing of Tennessee Gas Pipeline Co., filed with the Commission on October 20, 1972, in Dockets Nos. RP71-6, RP71-57, and RP72-1.

Alabama-Tennessee requests that the rate filing be made effective on December 1, 1972, or such other date as Tennessee's rates, upon which this filing are based, are permitted to become effective.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 24, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19886 Filed 11-16-72;8:52 am]

[Docket No. CI73-337]

CHAMPLIN PETROLEUM CO.

Notice of Application

NOVEMBER 14, 1972.

Take notice that on November 8, 1972, Champlin Petroleum Co. (Applicant), Post Office Box 9365, Fort Worth, TX 76107, filed in Docket No. CI73-337 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and resale and delivery in interstate commerce to United Gas Pipe Line Co. of residue gas attributable to casinghead gas purchased and processed by Applicant in its Midland Gasoline Plant in the Conroe Field, Montgomery County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell up to 14,000 Mcf of gas per day at 35 cents per Mcf at 14.65 p.s.i.a. subject to upward and downward B.t.u. adjustment, for 1 year within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 27, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of certificate is required by the public convenience and necesssity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19887 Filed 11-16-72;8:52 am]

[Docket No. CS73-318]

WELLS, RICH, GREENE, INC. ET AL.

Notice of Applications for "Small Producer" Certificates [1]

NOVEMBER 8, 1972.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before December 4, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date filed	Name of applicant
CS73-318...	10-25-72	Wells, Rich, Greene, Inc., 2500 First National Bank Bldg., Denver, Colo. 80202.
CS73-319...	10-25-72	Dinero Oil Co., 600 Southwest Tower, Houston, Tex. 77002.
CS73-320...	10-25-72	Transcontinental Oil Corp., 500 Mid South Towers, Shreveport, La. 71101.
CS73-321...	10-25-72	Brookings, Moffatt & Waddle, 1802 Beck Bldg., Shreveport, La. 71101.
CS73-322...	10-26-72	David R. Key, Route 1, Box 695, Jefferson, TX 75670.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

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Docket No.	Date filed	Name of applicant
C-873-323	10-19-72	W. E. Hall Deceased and his heir Mrs. Virgil J. Hall et al., 1010 Mid South Tower, Shreveport, La. 71101.
C-873-324	10-25-72	Crate Ferris, Sr., Post Office Box 7061, Tulsa, OK 74105.
C-873-325	10-25-72	Transcontinental Oil Programs, Inc., 900 Mid South Towers, Shreveport, La. 71101.
C-873-326	10-25-72	Charles F. Foster, Post Office Box 731, Cushing, OK 74023.
C-873-327	10-26-72	Richard Abrons, 30 Wall St., New York, N.Y. 10005.
C-873-328	10-26-72	Fritz Markus, 30 Wall St., New York, NY 10005.
C-873-329	10-26-72	John Wallace, 30 Wall St., New York, NY 10005.
C-873-330	10-26-72	Arthur S. Zankel, 30 Wall St., New York, NY 10005.
C-873-331	10-24-72	F. A. Gillespie & Sons Co., Room 401, 1579 East 21, Tulsa, OK 74114.
C-873-332	10-24-72	F. A. Gillespie Trust No. 1, an inter vivos trust, Room 401, 1579 East 21, Tulsa, OK 74114.
C-873-333	10-24-72	F. A. Gillespie Trust No. 3, an inter vivos trust, Room 401, 1579 East 21, Tulsa, OK 74114.
C-873-334	10-27-72	G. L. Gallaher, 303 Hightower Bldg., Oklahoma City, Okla. 73102.
C-873-335	10-27-72	Jack P. Rayzor, Post Office Box 7533, Houston, TX 77007.
C-873-336	10-25-72	McGarr & Clutts, 2301 Ridgmar Plaza, Forth Worth, TX 76116.
C-873-337	10-24-72	Sterling W. Woolsey, 903 Wilson Bldg., Corpus Christi, TX 78401.
C-873-338	10-27-72	James P. Evans, Jr., et al., Post Office Box 1063, Jackson, MS 39205.
C-873-339	10-31-72	C. E. Hearn, 10824 Snow White Dr., Dallas, TX 75229.
C-873-340	10-27-72	H. L. Hawkins and H. L. Hawkins, Jr., Suite 907, 225 Baronne St., New Orleans, LA 70112.
C-873-341	10-26-72	George F. Scanlon, 7 Rebeni Dr., Larchmont, N.Y 10538.
C-873-342	10-30-72	Bryon Oil Co., 220 Mercantile Bank Bldg., Dallas, Tex. 75201.
C-873-343	10-30-72	Hi-Co Pavers, Inc., 4229 North Central Expressway, Dallas, TX 75206.
C-873-344	10-30-72	Gas Futures, Ltd., 1480, Suite 700, 2200 South Post Oak Rd., Houston, TX 77057.
C-873-345	10-30-72	Dr. R. M. Connell, 4304 Mill Run Rd., Dallas, TX 75234.
C-873-346	10-30-72	Ralph Spence, 514 Citizens First National Bank Bldg., Tyler, Tex. 75701.
C-873-347	10-30-72	Western Natural Gas Co., Post Office Box 830, Shelby, MT 59474.
C-873-348	10-30-72	Petroleum Associates Fund, Inc., 208 South La Salle St., Room 220, Chicago, IL 60604.
C-873-350	10-30-72	Wm. S. Richardson, Box 463, Duncan, OK 73533.
C-873-351	10-30-72	D. L. Hamilin, Post Office Box 182, Roswell, NM 88201.
C-873-352	10-30-72	Production Management Association, Post Office Box 536, Tampa, TX 75965.

[FR Doc.72-19721 Filed 11-16-72;8:45 am]

FEDERAL RESERVE SYSTEM

FEDERAL OPEN MARKET COMMITTEE

Current Economic Policy Directive

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Current Economic Policy directive issued at its meeting held on August 15, 1972.[1]

The information reviewed at this meeting indicates that real output of goods and services increased at a rapid rate in the second quarter, and continued though less rapid growth appears in prospect for the current quarter. The unemployment rate was lower in June and July, but it was still substantial. The pace of advance in wage rates has slowed on balance in recent months, and the rate of increase in average prices of all goods and services in the private economy moderated in the second quarter. In July, the rise in wholesale prices of industrial commodities slowed, but wholesale prices of farm and food products rose sharply further. Since mid-July foreign exchange market conditions have been quiet and the central bank reserves of most industrial countries have changed little. In June, the large excess of U.S. merchandise imports over exports persisted.

The narrowly defined money stock grew at an unusually rapid rate in July, following relatively slow growth in May and June. Growth in the broadly defined money stock remained substantial, although inflows of consumer-type time and savings deposits to banks slowed appreciably. The bank credit proxy expanded sharply in July, reflecting strength in both private demand deposits and large-denomination CD's. In recent weeks, interest rates on most market securities have declined somewhat on balance, and the Treasury completed a highly successful refunding.

In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster financial conditions conducive to sustainable real economic growth and increased employment, abatement of inflationary pressures, and attainment of reasonable equilibrium in the country's balance of payments.

To implement this policy, while taking account of developments in capital markets and international developments, the Committee seeks to achieve bank reserve and money market conditions that will support moderate growth in monetary aggregates over the months ahead.

By order of the Federal Open Market Committee, November 10, 1972.

ARTHUR L. BROIDA,
Deputy Secretary.

[FR Doc.72-19794 Filed 11-16-72;8:48 am]

[1] The Record of Policy Actions of the Committee for the meeting of August 15, 1972, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

FIRST NATIONAL FINANCIAL CORP.

Acquisition of Bank

First National Financial Corp., Kalamazoo, Mich., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of the successor by merger to The Commercial Bank of Stambaugh, Stambaugh, Mich. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 7, 1972.

Board of Governors of the Federal Reserve System, November 10, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-19792 Filed 11-16-72;8:47 am]

NORTHERN ILLINOIS BANCORP, INC.

Formation of Bank Holding Company

Northern Illinois Bancorp, Inc., Joliet, Ill., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Louis Joliet Bank, Joliet, Ill. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 11, 1972.

Board of Governors of the Federal Reserve System, November 13, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-19793 Filed 11-16-72;8:47 am]

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

CONSIDERATION OF ENVIRONMENTAL IMPACT AND PROVIDING OF PUBLIC INFORMATION

Operational Implementation Procedures

NOVEMBER 9, 1972.

Manual—Operational procedure for implementing section 102 of the "National Environmental Policy Act of 1969".

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APPENDICES

A. Guidelines, dated April 23, 1971, for statements on proposed Federal actions affecting the environment.
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The National Environmental Policy Act of 1969 (NEPA or the Act) (Public Law 91-190), Executive Order 11514 (E.O. 11514) dated March 5, 1970, and the Guidelines of the Council on Environmental Quality (CEQ or Council) dated April 23, 1971, provide that environmental considerations are to be given careful attention and appropriate weight in every recommendation or report on proposals for legislation and for other major Federal actions significantly affecting the quality of the human environment.

1. *Purpose and scope.* This manual provides general policies, procedures and guidance required by section 102 of the NEPA to:

(a) Identify actions requiring environmental impact statements;

(b) Obtain information and internal U.S. section review required for the preparation of environmental statements;

(c) Designate the official(s) who are to be responsible for preparation, review, and approval of the statements;

(d) Consult with and take into account the comments of appropriate Federal, State, and local agencies, as well as interested individuals, associations, and groups.

(e) Meet requirements for providing timely public information on proposals for legislation and for other major actions having a potential significant adverse effect on the human environment.

2. *Applicability.* This manual applies to all elements of this section concerned with the investigation, planning, development, construction, and management of projects (including leasing and licensing of land and issuing of permits in regard thereto) or activities that affect ecological systems and the human environment.

3. *References.* (a) Environmental Control—Message from the President (H. Doc. No. 91-225); Congressional Record, February 10, 1970, pp. H-743-748.

(b) Budget Message of the President, 1971; Congressional Record, February 2, 1970; see pages S-968, S-970, and S-973.

(c) The State of the Union Address by the President (H. Doc. No. 91-226); Congressional Record, January 22, 1970; pp. H-186-188.

(d) Executive Order No. 11507; Prevention, Control, and Abatement of Air and Water Pollution at Federal Facilities, February 4, 1970; 35 F.R. 2573 (Feb. 1970)—(supersedes Executive Orders Nos. 11282 and 11288).

(e) Executive Order 11514; Protection and Enhancement of Environmental Quality, March 5, 1970; 35 F.R. 4247 (March 7, 1970).

(f) National Environmental Policy Act of 1969 (Public Law 91-190).

(g) Water Quality Improvement Act of 1970 (Public Law 91-224).

(h) Section 309 of the Clean Air Act Amendments of 1970 (Public Law 91-604).

(i) Freedom of Information Act (5 U.S.C. 552).

(j) National Historic Preservation Act of 1966 (Public Law 89-665).

(k) Guidelines of the Council on Environmental Quality, April 23, 1971, pp. 7724-29.

(l) Bulletin No. 71-3, August 31, 1970, Executive Office of the President, Office of Management and Budget.

(m) Circular No. A-95, dated June 15, 1970, and all revisions thereto, Executive Office of the President, Office of Management and Budget.

(n) Memo entitled, "Federal Agencies with jurisdiction by law or special expertise to make comments with respect to various types of environmental impact of propsed actions," dated July 29, 1970, by Timothy Atkeson, General Counsel, Council on Environmental Quality.

(o) Memo entitled, "Environmental impact statements prepared by the International Boundary and Water Commission," dated April 21, 1971, by Timothy Atkeson, General Counsel, Council on Environmental Quality.

(p) Corps of Engineers procedure regarding preparation of environmental statements, 37 F.R. 2525 (Feb. 2, 1972).

(q) Memo entitled, "Recommendation for Improving Agency NEPA Procedures," dated May 16, 1972, by Timothy Atkeson, General Counsel, Council on Environmental Quality.

(r) Department of State Final Procedures for Compliance with Federal Environmental Statutes, 37 F.R. 19167 (Sept. 19, 1972).

(s) Forest Service NEPA procedures, 36 F.R. 23670 (1971).

(t) Water Resources Council "Proposed Principles and Standards for Planning Water and Related Land Resources," 36 F.R. 24159-62 (1971).

4. *Requirements of the National Environmental Policy Act of 1969.* Section 101 of the National Environmental Policy Act of 1969, hereinafter referred to as the Act or NEPA, establishes a broad Federal policy on environmental quality. Section 102 directs that policies, regulations, and public laws will be interpreted and administered to the fullest extent possible in accordance with the policies of the Act, and imposes upon all Federal agencies the requirement to—

(a) Utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment (sec. 102(2)(A)).

(b) Identify and develop methods and procedures which will give the environment appropriate consideration in decisionmaking along with economic and technical considerations (sec. 102(2)(B)).

(c) Include with every recommendation, report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed environmental statement (sec. 102(2)(C)).

(d) Study, develop, and describe appropriate alternatives (sec. 102(2)(D)).

(e) Recognize the worldwide and long-range character of environmental problems (sec. 102(2)(E)).

(f) Make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment (sec. 102(2)(F)).

(g) Initiate and utilize ecological information in the planning and development of resources-oriented projects (sec. 102(2)(G)).

(h) Assist the Council on Environmental Quality (sec. 102(2)H)).

Both section 102(2)(C), which requires a detailed five-point statement of environmental impact, and section 102(2)(D), which requires analysis of alternatives where unresolved conflicts occur, are interpreted to be applicable to feasibility reports and to requests for funds

are submitted to CEQ, the Council's

statements, using the prescribed format

ever, to the maximum extent feasible.

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to initiate construction of previously authorized projects. Under certain conditions they are also applicable to continuing construction and maintenance projects and to the granting of leases, licenses, and permits.

5. *Policy.* In formulating plans for construction, operation, and maintenance, water resource development or management, impact on the environment will be fully considered from the very initiation of preauthorization planning. Early and continuing search in cooperation with appropriate local, State, and Federal agencies, as well as interested individuals, associations, and groups, will be undertaken to develop alternatives and measures which will enhance, protect, and restore the quality of the environment, or, at least, minimize the mitigate unavoidable deleterious effects. Preparation of the five-point statement required by the Act will constitute an integral part of the preauthorization feasibility report process. The statement will serve as a summation of evaluations of the effects that alternative actions will have on the environment and as an explanation of the alternatives considered in arriving at the finally recommended plan.

6. *Responsibility within the U.S. section.* (a) The Chief, Planning and Reports Section, Engineering Division, under the supervision of Principal Engineer Supervising, is hereby designated as the responsible official within the meaning of section 102 of the Act and is responsible for the implementation of the requirements of the Act as they relate to the making of environmental assessments and the preparation of and the processing of environmental statements. When appropriate to supplement work in evaluating the environmental impact of a proposed action, he will solicit information from within the U.S. section, other Government agencies (Federal, State, and local) with jurisdiction by law or special expertise with respect to any environmental impact involved, and interested individuals, associations or groups. He shall consult with the Special Legal Assistant concerning legislative actions covered by the Act and for interpretations of the Act, the Executive orders and the guidelines, and for advice on legal requirements for filing environmental impact statements and on legal requirements regarding their contents.

In the case of an agency or agencies acting as agent for the U.S. section in the design and construction of a project (as distinguished from merely preparing an environmental statement for the Section's use) that agent will prepare, distribute, and coordinate the review of the statement according to its established procedures. This includes transmittal to Council on Environmental Quality. However, the agent has the responsibility to confer with the U.S. section and to keep it fully informed.

When uncertainty persists within the U.S. section as to the requirement in a specific case for filing an environmental impact statement, the Special Legal Assistant will initiate consultations with the Office of Environmental Affairs, (SCI/EN—Department of State) and the Assistant Legal Adviser for Environmental Affairs (L/EN—Department of State) and followthrough to a final determination. In every case where the U.S. section determines that no environmental impact settlement is required, it shall so inform SCI/EN.

(b) The Special Legal Assistant will be responsible for the publishing of the necessary notices in the FEDERAL REGISTER and shall act as coordinator of the U.S. section's activities.

7. *Procedure for preparation, planning, and coordination of the statement.*—(a) *Preparation.*—Statements to be meaningful for review and decisionmaking shall utilize, along with any other points the responsible official deems appropriate, the following categories of criteria:

(1) Describe physical and environmental aspects sufficiently to permit evaluation and independent appraisal of the favorable and adverse environmental effects of each proposal. They should be simple and concise, yet should include all pertinent facts. Length would depend upon the particular proposal and the nature of its impacts and the environmental setting.

(2) Be submitted as a separate document, not as an inclosure or appendix to other documents such as preauthorization studies or design memorandums. Such reports and design memorandums must contain adequate background information to support fully the conclusions and recommendations on environmental matters. The statements should not be construed as a further means for assisting or supporting project justification.

(3) Not be limited to ultimate conclusions, but should demonstrate that the U.S. section has adequately considered the potential impact of the proposal upon the environment. The statement should summarize information and cite sources of overall appraisals which are based upon judgments of complex matters (e.g., water quality by Environmental Protection Agency (EPA)). In most cases any activity that will significantly affect the quality of the following elements of the human environment will require an environmental statement:

(*a*) Rare and endangered species—plants or animals.

(*b*) Formally classified areas, such as wilderness areas, primitive areas, wild and scenic rivers, national recreation areas, natural areas, scenic areas, historical areas, archeological areas, geological areas, and national trails.

(*c*) Municipal watersheds.

(*d*) Shorelines.

(*e*) Open and green spaces.

(*f*) Large unroaded areas.

(*g*) Lakes.

(*h*) Beaches and shores.

(*i*) Scenic attractions, and other areas of natural beauty.

(*j*) Wetlands and estuaries.

(*k*) Adjacent national parks and monuments, wildlife refuges, or similar State and locally designated areas.

(*l*) Free-flowing streams.

(*m*) Air quality.

(*n*) Water quality.

(*o*) Key wildlife or fish areas.

(*p*) Prescribed burning program, including roller chopping, rock raking, shearing, cabling, etc.

(*q*) Rights-of-way permits for major transmission lines.

(*r*) Major sewage treatment facilities.

(*s*) Major acquisition or exchange.

(*t*) Estauries.

(*u*) Biological resources.

(*v*) Ecological systems.

A definitive list of activities requiring environmental statements cannot be specified. The above list is certainly not all-inclusive, nor will all plans and actions within the activities require statements. The responsible official must consider all available factors.

(4) In the final statement include and comment on the views of those opposing the proposal for environmental reasons, if any. The summarized views of agencies having environmental responsibilities, and with which the proposals have been coordinated, should be included.

(5) Include a full and objective appraisal of the environmental effects, good and bad, and of available alternatives. Where available, include the benefit-to-cost ratio of alternatives, or differences in annual costs. In no case will adverse effects, either real or potential, be ignored or slighted in an attempt to justify an action previously recommended. Similarly, care must be taken to avoid overstating favorable effects.

(6) Discuss the proposal's impact on environmental resources of regional significance (draw attention to national versus regional and local importance) whenever the impact extends beyond the immediate area.

(7) Discuss the significant relationships between the proposal and other developments (existing and authorized). For example, a statement on a project which would convert a free-flowing section of a stream into a reservoir should contain information on the amount of flowing and flat water available in the area. Draw attention to cumulative effects of many small actions, and the chain reactions or secondary effects of interrelated activities.

(8) Where possible, the statements should show an indication of the magnitude of the effect including short-term changes. This may include changes in flow in cubic feet per second for both peak- and low-flow periods or changes in dissolved oxygen or temperature, which are key parameters for measuring water quality, and other factors vital to the ecology of the area, such as degree of ecosystem disturbance—both onsite and offsite effects.

(9) Include an appropriate summary. Regardless of the type of summary used within the section for review purposes, when the statements (draft and final) are submitted to CEQ, the Council's prescribed format for a summary shall be utilized.

(10) Discuss the probable impact of the proposed action on the environment, including impact on ecological systems such as wildlife, fish, and marine life.

(11) Point out any probable adverse environmental effects which cannot be avoided.

(12) Review all reasonable alternatives to the proposed action, and the environmental impacts of each.

(13) Discuss the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity.

(14) Comment on any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

(15) Where appropriate, discuss problems and objections raised by other Federal, State, and local agencies and by interested individuals, associations, and groups, in the review process and the disposition of issues involved.

(16) Contain a bibliography to assist readers and reviewers to determine the sources of information used.

(17) Discuss any existing State or Federal legislation, program, or study that concerns the study area or would have an effect upon it. Examples of such legislation and studies are those dealing with wild and scenic rivers, wilderness or wild areas, national recreation areas, estuaries, or preservation of natural areas and Fish and Wildlife coordination.

(18) Indicate that (*a*) the National Register of Historic Places has been consulted and that no National Register properties will be affected by the project, or (*b*) a listing of the properties to be affected, an analysis of the nature of the effects, a discussion of the ways in which the effects were taken into account, and an account of steps taken to assure compliance with section 106 of the National Historic Preservation Act of 1966 (80 Stat. 915) in accordance with procedures of the Advisory Council on Historic Preservation as they appear in the FEDERAL REGISTER, February 20, 1971. In the case of properties under the control or jurisdiction of the U.S. Government, the statement should include a discussion of steps taken to comply with section 2(b) of Executive Order 11593 of May 13, 1971. The statement should contain evidence of contact with the State liaison officer for historic preservation for the State involved and a copy of his comments concerning the effect of the undertaking upon historical and archeological resources.

(19) Develop uniqueness or rareness of resources.

(20) Draw attention to scope of anticipated public involvement and controversy anticipated.

The guidelines dated April 23, 1971, of the Council on Environmental Quality, Appendix A, and the guidance contained in Appendix B will be considered and utilized in preparing environmental statements, using the prescribed format or any revision thereto.

In each instance where it is determined, after the necessary investigation and assessment, that no environmental impact statement will be prepared by the U.S. section, a memorandum will be prepared for U.S. section files indicating the extent of the investigation and assessment conducted and the reasons for the determination that no impact statement will be prepared. A list of such actions will be available to Government agencies or members of the public on request.

(b) *Planning relationships.* (1) In the development of new projects or proposals, the rationale of environmental statement and assessment of environmental considerations will be integrated into the planning process from the beginning. Preliminary identification and assessment of possible environmental impacts and effects will be made and fully discussed at an early milestone in the study. Even where it is clear from the start that a proposed action will not require an environmental impact statement, the results of that investigation will be an integral part of the decisionmaking process. When kept current, such an environmental assessment can provide valuable assistance in the investigation and study process. The first meeting with the public should be scheduled early in the development stages so that the environmental "pulse" may be felt from the beginning. Agencies and conservation associations will be advised of the initiation of the investigation, and be requested to provide environmental information for the area.

(2) Beginning with the formulation stage, all anticipated environmental impacts and effects of each solution under consideration will be identified and discussed. This may entail the preparation of an environmental memorandum. After consideration of all the preliminary factors, including those which may have been forthcoming as a result of the first meeting with the public, a second meeting with the public should be scheduled. Any environmental factors known to the U.S. section should be summarized and made available prior to the meeting. This will generate a meaningful and thorough discussion during the meeting. Interested citizens and citizen groups must be informed of the fact a public meeting is scheduled so that their views may be considered.

By the time the late stage in the planning has been reached the U.S. section's environmental position should have been formulated. A third meeting with the public should be scheduled so that the environmental discussions regarding any proposal and alternatives will be specific and thorough insofar as the environmental impacts and effects are concerned.

(3) On projects which were recommended, authorized, or under construction prior to the National Environmental Policy Act of 1969, the range of alternatives and the opportunity to study and evaluate them may be more limited. However, to the maximum extent feasible, alternative solutions and opportunities for environmental enhancement, preservation, and mitigation will be investigated prior to preparation of the statement. Regardless of the level at which formal coordination is to take place, the environmental impact of all reasonable alternatives will be carefully examined and evaluated in coordination with appropriate Federal, State, and local agencies prior to preparing a recommendation or an environmental statement.

(4) As a "followup" the public will be informed of the general content of all statements before or at the time that the recommendation or report is furnished to the Council by publishing of an appropriate notice in the FEDERAL REGISTER, by public notice to all parties known to be interested, by press release, or by a combination of such means. In addition, prior to formulation of recommendations and preparation of the statement, in all cases where public hearings are held, there will be presented a notice of the hearing and at the hearing a discussion setting forth the information upon which a statement is based will be conducted. The discussion will include a listing of alternatives; the environmental impacts—positive or negative—associated with each fundamental alternative; the nature of environmental tradeoff implied by various alternatives; including irretrievable commitments of each alternative; and the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity under the various alternatives. Whenever public announcement of recommendations or reports is made prior to submission of the statement to the Council, the announcement will contain an appropriate summary of the proposed statements and comments of other agencies. The draft statement may be provided interested agencies, groups, and citizens. In certain cases, where critical and sensitive environmental effects and widespread public concern have been identified, a pre-announcement clearance to hold a public meeting will be requested. Requests will be supported by full recitation of the problems at issue with analysis of the pros and cons of the proposed and alternative courses of action.

Section 2(b) of Executive Order 11514 envisions use of public hearings wherever appropriate. Public hearings will be employed by the U.S. section on any occasion where it is felt same will enable the taking of the "environmental pulse" unless it is determined that the requirements of carrying on international relations, including the constraints of time and the posture of the United States in negotiation, do not allow such hearings to be carried out without prejudice to the national interest. The provisions of the Administrative Procedures Act do not apply to hearings involving "foreign affairs functions"; however, in each case where hearings are employed in accordance with this paragraph, a public notice of the hearing indicating the time and

place of the hearing and the matters to be considered will be made available to

(30) day period and ninety (90) day period may run concurrently to the extent

(c) Section 101(b) of the NEPA indicates the broad range of aspects of the

considered differ significantly from those that have already been reviewed, an environmental statement should be pro-

sumed the agency consulted has no comments to make.

13. *Budget process.* The requirement of

dividual projects and activities, and the amounts of funds involved, that are considered subject to section 102(2)(C),

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place of the hearing and the matters to be considered will be made available to the public at least 15 days prior to the hearing. Chief, Planning and Reports, shall arrange for the hearing and the publication of the prescribed notice, and shall conduct the hearing. If such hearings cannot be carried out, arrangements should still be made, where practicable, for an expedited opportunity for members of the public to present their views orally.

(c) *Coordination of statement.* Coordination of the statement with Federal, State, and local agencies, as well as interested individuals, associations, and groups, will be in accordance with existing policies and the following clarification:

(1) Coordination with responsible agencies will include transmittal of draft environmental statements for their review and comment. Upon receipt, agency comments will be reviewed and summarized in the statement. Copies of the agency comments will be included as an attachment to the statement when forwarded for further action. The agency comments and the views expressed should be no older than 3 calendar years for previously authorized projects. More recent coordination will be required if significant changes in the proposal or in the associated environment have occurred in the meantime. Copies of the statement will be forwarded to the appropriate contact points listed in Appendix II, CEQ's Guidelines dated April 23, 1971, as well as to the field offices. The transmittal letter to field offices will advise that a statement has been furnished to the contact listed in Appendix II. Insofar as distribution of statements within a State is necessary, the clearinghouses established by Budget Circular No. A-95 dated June 15, 1970, or any revisions thereto, will be utilized.

(2) In the event environmental statements are being prepared on two or more units in the same area, the work on preparing statements will be scheduled and consolidated to result in one statement being transmitted to the Department and Council for all units in an area.

8. *Administrative action.* No administrative action—to the maximum extent practicable—is to be taken sooner than ninety (90) days after a draft environmental statement has been furnished to and received by the Council, circulated for comment, and, except where advance public disclosure will result in significantly increased cost of procurement to the Government, made available to the public pursuant to the guidelines. Further, no administrative action should be taken sooner than thirty (30) days after the final text of an environmental statement (together with comments) has been received by the Council and made available to the public. In the event the final text of an environmental statement is filed within ninety (90) days after a draft statement has been circulated for comment, received by the Council, and made public pursuant to this manual, the thirty (30) day period and ninety (90) day period may run concurrently to the extent that they overlap.

9. *Criteria for determining whether a Federal project or activity will significantly affect the quality of the human environment.* The following criteria will be employed in deciding whether a proposed action requires the preparation of an environmental statement:

(a) "Actions" include but are not limited to:

(1) Projects that are part of treaties and which significantly affect the quality of the human environment.

(2) Recommendations or reports to the Congress on proposals for legislation affecting U.S. section programs, including proposals to authorize projects.

(3) Recommendations or reports on proposals for authorization of projects except for emergency measures.

(4) Initiation of construction or land acquisition on projects which are not yet started for which funds have been appropriated or are provided by an Appropriation Act.

(5) Budget submissions requesting funds for the initiation of construction or real estate acquisition on authorized projects.

(6) Policy—and procedure making, especially proposed actions which are highly controversial.

(b) The statutory clause "major Federal actions significantly affecting the quality of the human environment" is to be construed with a view to the overall, cumulative impact of the action proposed (and of further actions contemplated) and reasonable alternatives thereto (including those not within the authority of the U.S. section). Such actions may be localized in their impact, but if there is potential that the quality of the human environment may be significantly affected, the statement is to be prepared. Proposed actions, the environmental impact of which is likely to be highly controversial or unresolved conflicts concerning alternative use of available resources exist, should be covered in all cases.

In considering what constitutes major action significantly affecting the quality of the human environment, U.S. section personnel should bear in mind that the effect of many Federal decisions about a project or complex of projects can be individually limited but cumulatively considerable. This can occur when one or more agencies over a period of years put into a project individually minor but collectively major resources, when one decision involving a limited amount of money is a precedent for action in much larger cases or represents a decision in principle about a future major course of action, or when several Government agencies individually make decisions about partial aspects of a major action. The lead agency should prepare an environmental statement if it is reasonable to anticipate a cumulatively significant effect on the quality of the human environment from the Federal action.

(c) Section 101(b) of the NEPA indicates the broad range of aspects of the environment to be surveyed in any assessment of significant effect. The NEPA also indicates that adverse significant effects include those that degrade the quality of the environment, curtail the range of beneficial uses of the environment or serve short-term, to the disadvantage of long-term, environmental goals. Significant effects can also include actions which may have both beneficial and detrimental effects, even if, on balance, the agency believes that the effect will be beneficial. Significant adverse effects on the quality of the human environment human beings and those that indirectly affect human beings through adverse effects on the environment.

(d) Not every U.S. section activity will be considered a major Federal action significantly affecting the quality of the human environment for the purposes of the Act. For example, the following general classes of actions ordinarily do not require the filing of an environmental impact statement:

(1) Participation in research or study projects.

(2) Mandatory actions required under any treaty or international agreement to which the United States is a party, or required by the decision of international organizations (including courts), authorities, or consultations in which the United States is a member or participant.

(3) Mapping and surveying activities.

(4) Stream gaging, routine hydrologic test drilling, well logging, aquifer response testing, and similar data-gathering activities in connection with water resources investigations.

(5) Operation and maintenance of project facilities, including dams, channels, floodways, powerplants, buildings, fences, gates, and other appurtenant facilities including but not limited to:

(a) Storage of waters in reservoirs and releases therefrom for both flood control and conservation purposes.

(b) Grazing leases.

(c) Licenses and permits for recreation facilities at existing projects.

(d) Maintaining low vegetative growth in floodways and channels.

(e) Sediment removal from river channels.

(f) Restoration and repair of banks at reservoirs and on rivers that may involve riprap activities.

(g) Restoration and repair of earth embankments.

(6) Administrative procurements (e.g., general supplies).

(7) Contract for personal services.

(8) Legislative proposals originating in another agency.

10. *Use of statements in U.S. section's review process; distribution to Council on Environmental Quality.* (a) The principle to be applied is to obtain views of other agencies at the earliest possible time in the development of a program and project proposals. Care should be exercised so as not to duplicate the clearance process, but when actions being

considered differ significantly from those that have already been reviewed, an environmental statement should be provided.

(b) Twelve (12) copies of draft environmental statements (when prepared) and twelve (12) copies of the final text of environmental statements (together with all comments received thereon by the responsible agency from Federal, State, and local agencies and from interested individuals, associations, and groups) shall be supplied to the Council in the Executive Office of the President. (This will serve as making environmental statements available to the President.) It is important that draft environmental statements be prepared and circulated for comment and furnished to the Council early enough in the agency review process before an action is taken in order to permit meaningful consideration of the environmental issues involved.

11. *Availability of environmental statement and comments to public.* The U.S. section, when it prepares the statement, is responsible for making such statement and the comments received available to the public pursuant to the provisions of the Freedom of Information Act (5 U.S.C.A. 552). Copies of the draft and final statements will be filed with the National Technical Information Service.

A copy of the final environmental statement will be furnished to each agency, individual, or association providing substantive comments on the draft statement.

12. *Publication in the* FEDERAL REGISTER. Notices will be placed in the FEDERAL REGISTER when:

(a) The draft statement has been approved by the Commissioner and transmitted to the Council on Environmental Quality.

(b) The final statement has been approved by the Commissioner and transmitted to the Council on Environmental Quality.

(c) Comments are received after the final statement has been approved, transmitted to Council on Environmental Quality, and publication regarding final statement has previously been published.

(d) Public meetings are held if deemed feasible.

The notice will contain sufficient information to inform those reading it of the location and purpose of a project, where copies of the statement may be obtained and where the meeting is to be held.

When comments are being sought by a publication, a time limit of not less than thirty (30) days may be established for local, State, and Federal agencies to reply. The U.S. section will, in all cases possible, allow private individuals sixty (60) days in which to comment. In cases where extensions of time are requested in which to comment, an endeavor will be made to comply with requests for extension of time up to fifteen (15) days. If no reply is received within the period allowed for comments, it will be presumed the agency consulted has no comments to make.

13. *Budget process.* The requirement of NEPA, Water Quality Improvement Act, Executive Order 11514, the Guidelines, and Office of Management and Budget Bulletin No. 72-6 shall be met through the U.S. section's budget process to the maximum extent practicable. The following requirements of the budget process will be met:

(a) *Legislation.* This section is responsible for identifying those of its legislative proposals, or favorable reports on bills on which it is the principal agency concerned, that would require the preparation of the statements and receipt of the comments required under section 102 of the Act. When there is doubt as to which is the principal agency concerned, Special Legal Assistant shall consult with the Office of Management and Budget's Legislative Reference Division.

The proposed section 102(2)(C) statements and the required comments shall accompany legislative proposals and reports when these are sent to the Office of Management and Budget for clearance. Copies of this material shall have been previously furnished directly to the Council for its information. As a part of the normal clearance process, the Office of Management and Budget will circulate the proposed statements, along with the proposals or reports, to appropriate Federal agencies, and will consult with the Council. In certain cases, the clearance process may disclose the need for a section 102(2)(C) statement where none has been prepared. In this event, the Office of Management and Budget will request the U.S. Section to develop and submit such a statement.

After differences with other agencies over the legislative proposal or report have been resolved, and after the legislative proposal or report has been cleared by the Office of Management and Budget, the final statement and comments shall accompany the proposal or report to the Congress as supporting material.

(b) *Annual budget estimates.* In the event the U.S. section has major program actions which significantly affect the quality of the human environment, annual budget estimates shall be accompanied by a special summary statement explaining generally the environmental impact expected to result from those activities and programs for which it is not possible to make an assessment of the potential impact on specific areas of the environment. Special summary statements shall include relevant information about general environmental impact and alternatives, and, to the extent possible, important environmental problems that may be caused by proposed actions but which still must be assessed as plans for programs and activities are further refined. The special summary statement shall also include, in the form illustrated in appendix C, the following information by appropriation or fund account:

Column A.—*Action, project, or activity.* Identify the agency actions and individual projects and activities, and the amounts of funds involved, that are considered subject to section 102(2)(C). Where the action is a part of a larger activity, identify only the project or action subject to section 102(2)(C) and the amount involved.

Column B.—*Final statement completed.* Check the appropriate category. If there are significant unresolved issues with other agencies, include a copy of the statement with the submission to the Office of Management and Budget.

Column C.—*Statement being prepared.* Give the status (e.g., awaiting comments from interested agencies) and estimated completion date.

Agencies that prepare section 102(2)(C) statements for annual authorizing legislation shall submit the proposed section 102(2)(C) statements in lieu of a special summary statement required by paragraph (b) above, except that the information required for the special summary exhibit shall be submitted along with the proposed section 102(2)(C) statement. Copies of the special summary statement or proposed section 102(2)(C) statement (accompanied by information for the special summary exhibit) shall be furnished directly to the Council on Environmental Quality.

14. *Lease, license, and permit applications.* As required by existing regulations, lease, license, and permit applications will be coordinated with Federal, State, and local agencies which are authorized to develop and enforce environmental standards, unless granting of the lease, license, or permit could not significantly affect the quality of the human environment. Comments from such agencies or from the U.S. section will be presented to the applicant who will be given the opportunity to modify his application so as to remove the cause, if any, for an agency's objection that there will be a significant effect on the quality of the human environment.

In the event an applicant does not take action to remove an objection, the U.S. section will prepare the statement required by section 102(2)(C) of NEPA. The applicant is required to carry out at his expense the necessary environmental assessment and investigation as may be required by the U.S. section for use in preparation of the statement, in addition to any information the applicant may wish to furnish in order to demonstrate that granting of the lease, license, or permit is in the public interest. A summary of the information on which the statement is based will be furnished to the public in the notice of public hearing and at the hearing, if one be held.

The granting of the lease, license, or permit is the "Federal action" which may require the statement. While applicant has the duty and responsibility to undertake the environmental assessment and investigation, the U.S. section has primary and nondelegable responsibility for determining environmental impact of an action at every distinctive and comprehensive stage. The preparation of a statement by an applicant and the

later adoption of same by the U.S. sec-

or amendments thereto. (Reference attached appendix D.)

proposals; however, it will be presumed that the agency has no comments to

time and the posture of the United States in negotiation, allow such hearings to be

be discussed. For projects on which initial formulation has been completed, much of

projects and alternatives proposed, under construction or in operation by any agency

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later adoption of same by the U.S. section would be abdication by the U.S. section of a significant part of its responsibility to determine environmental impact.

Failure of an applicant to furnish the requested information shall result in the denial of an application.

Leases, licenses, or permits granted or approved by the U.S. section will contain provisions to assure compliance with applicable air and water quality standards; to conserve and protect the environment; and to avoid, minimize or correct hazards to the public health and safety. The lessee, licensee, or permittee will be required to provide adequate measures to avoid, control, minimize, or correct erosion, contamination, or other abuses and damages to the environment within or without the premises under lease, license, or permit that may result from or have been caused by operations conducted on the premises.

Farming and grazing operations shall be conducted in accordance with recognized principles of good practice, conservation, and prudent management. Land use stipulations or conservation plans to define such use and the measures necessary for the conservation, protection, and control of the environment shall be incorporated in and made a part of the lease, license, or permit.

Commercial and industrial developments shall be constructed and operations conducted on the premises under lease, license, or permit to control and minimize environmental pollution and abuses so that the quality of the human environment will not be significantly affected. Leases, licenses, and permits shall contain provisions for the lessee, licensee, or permittee to submit, for advance approval, general and comprehensive plans of any proposed construction or developments for the use and conduct of operations as authorized for the premises prior to commencing any actual construction or development activities. Such plans, including architects' designs, construction specifications, machinery or equipment installation and operation or specifications for other operations or developments, shall provide measures necessary to protect, control, or abate environmental pollution or abuses and avoid, minimize, or correct hazards to the public health and safety.

Other uses as authorized by leases, licenses, or permits issued shall conform to the requirements and provisions formulated for each such use as adapted to local conditions and the environmental factors which are in need of protection and control measures.

Due to the nature of this section's leasing, licensing, and permit program, all factors are to be carefully considered before determining what is needed for the protection of the environment, conservation, and land use requirements.

Applications involving power transmission lines will be prepared in accordance with Bureau of Land Management, Department of the Interior, regulations as published in Subchapter B, Subpart but which involve the authority of EPA, EPA will be informed that no state-2850 of 43 CFR 2851.2–1 or any revisions or amendments thereto. (Reference attached appendix D.)

15. *Operations at construction sites.* Some operations that contribute to pollution and noise at construction sites and therefore require close surveillance, are enumerated in the following list:

(a) *Air pollution:*
(1) Burning;
(2) Earthmoving operations (dust);
(3) Sandblasting;
(4) Sprayed-on coatings;
(5) Soil stabilization operations (cement or lime);
(6) Concrete mixing plant (dust);
(7) Batch truck operation (dust);
(8) Winter heating equipment (smoke and fumes);
(9) Gunite operations (rebound); and
(10) Asphalt operations (dust—smoke—volatiles).

(b) *Water pollution:*
(1) Solid wastes;
(2) Earthmoving operations (runoff);
(3) Clearing operations (erosion);
(4) Core drilling and grouting operations (waste water);
(5) Well point system runoff (erosion);
(6) Concrete operations:
(a) Aggregate washing;
(b) Spillage;
(c) Water curing; and
(d) Washing of mixers and batch trucks.

(c) *Noise:*
(1) Pile-driving;
(2) Equipment noise;
(3) Drilling and blasting; and
(4) Rock crushing.

The construction engineer should ascertain that the contractor complies with:

(i) The current applicable Federal regulations;

(ii) The current applicable local regulations; and

(iii) Methods and restrictions of operations that are contract requirements.

On projects where regulations and contract requirements do not specifically outline procedures, the contractor's cooperation should be encouraged in an effort to run a clean and safe operation.

Appropriate provisions will be included in the contract specifications for the works to be performed requiring compliance with Federal, State, and local pollution laws, regulations, and rules. Examples of contract specifications are attached at appendix E.

16. *Section 309 of the Clean Air Act Amendments of 1970.* Section 8 of the Council's guidelines requires that, in addition to normal coordination procedures, the following rules apply to coordination with EPA:

(a) Comments of the Administrator or his designated representative will accompany each final statement on matters related to air or water quality, noise control, solid waste disposal, radiation criteria and standards, or other provisions relating to the authority of EPA.

(b) Copies of basic proposals (studies, proposed legislation, rules, leases, permits, etc.) will be furnished to EPA with each statement. For actions for which statements are not being prepared ment will be prepared and that comments are requested on the proposal.

(c) A period of 45 days will be allowed for EPA review of statements and/or proposals; however, it will be presumed that the agency has no comments to make only when the impacts or matters related to the authorities of EPA are minor, or the agency has indicated that it does not desire to comment.

Upon circulation of draft statement to the EPA, comments shall be requested under both the NEPA and section 309 of the Clean Air Act.

17. *Exceptions.* The nature of negotiations and relations at the international level may make it necessary to depart in some instances from the procedures in the guidelines. CEQ foresaw the need for such departures in CEQ Guidelines 4 and 10. Exceptions applicable to the U.S. section are set forth below.

(a) The statements which are written to comply with the Act should not normally include any classified or administratively controlled material, nor should they normally include statements with respect to positions other than the optimum position of the United States in any ensuing negotiation or discussion. Although environmental impact statements should, whenever possible, be unclassified and hence available to the public, there may be situations where such statements cannot adequately discuss environmental effects without disclosure of classified information. In these instances, the statement should be appropriately classified. Whenever possible, the classification should terminate on a specified date or upon the happening of a described event. Such statements, so long as they are classified, will not be made available to the public.

(b) Since final statements may not be available until the conclusion of negotiations for an agreement or of a discussion, the 30-day time delay between submission of such a document and final Federal action set out in CEQ Guideline 10(b) will not apply to actions taken in these situations. Every attempt will be made to comply with the 90-day period which guideline 10(b) requires between submission of the draft statement and final action. Where schedules of international conferences make this impossible, the U.S. Section will notify the Council on Environmental Quality as soon as possible of the circumstances, with the purpose of fulfilling the intent of the Act insofar as possible.

(c) In certain exceptional instances it may be necessary at times to reduce the 30-day period for agency comments set out in CEQ Guideline 7. When this is the case, all agencies to whom the draft statement has been sent will be informed by the U.S. Section of the reduced time period. The reduced time period must also be included in the public notice published in the FEDERAL REGISTER.

(d) Section 2(b) of Executive Order 11514 establishes requirements for providing public information on Federal actions and impact statements and envisions extensive use of public hearings. Public hearings will be employed by the U.S. Section only upon a determination by the U.S. Commissioner that the requirements of carrying on international relations, including the constraints of

time and the posture of the United States in negotiation, allow such hearings to be carried out without prejudice to the national interests.

(e) In those instances wherein the draft and/or final statement is submitted to the Department (SCI/EN) for concurrence before distribution outside the U.S. Section and no notification is received from the Department after the expiration of ten (10) days from the date of mailing by the U.S. Section, the U.S. Section will assume the Department has concurred and shall proceed on that basis.

18. *Effective date.* These procedures supersede any draft of proposed procedures which has been published in the FEDERAL REGISTER or circulated to other agencies (local, State, or Federal), interested individuals, associations, or groups. These procedures become effective upon the date of their publication in the FEDERAL REGISTER.

FRANK P. FULLERTON,
Special Legal Assistant.

APPENDIX A—GUIDELINES, DATED APRIL 23, 1971, FOR STATEMENTS ON PROPOSED FEDERAL ACTIONS AFFECTING THE ENVIRONMENT

NOTE: See pages 7724–7729 in the issue of Friday, October 23, 1971.

APPENDIX B—PREPARATION OF ENVIRONMENTAL STATEMENTS

1. *General.* Preparation of environmental statements will be based on considerations discussed in the procedures to which this appendix forms a part, the guidelines and the detailed guidance to follow. These directions are intended to assure consistency of effort in preparing statements and are not proposed to induce unthinking uniformity or limit flexibility when preparing statements. These statements have several levels of importance with reference to the decision-making process, U.S. Section relations with the public, and internal project planning activities. A careful, objective detailing of environmental impacts, alternatives, and implications of a proposed project should give reviewers both within and outside the U.S. Section insight into the particular tradeoffs and commitments associated with the action. The general public, environmental agencies, and congressional committees will all expect the statements to be a valid source of information on project effects, as well as a reflection of how this Section views environmental factors and seeks to accommodate them. Since the statements must be made available to the public and may receive broad exposure in the media, it can be assummed that they will receive careful scrutiny. Most importantly, preparation of the statements should cause systematic consideration of environmental impacts. An imaginative evaluation of alternatives and their implications should begin in the earliest stages of project formulation, with planners contemplating the criteria and range of information to be employed in preparation of final statements.

2. *Working papers.* In order to assure a comprehensive treatment of environmental concerns, a working document checklist of pertinent environmental elements should be compiled and periodically updated by the environmental planners. A discussion of these elements should establish their importance, placing emphasis on whether they are unique, endangered, old, popular, etc.—in essence, explore the ecological, aesthetic, cultural, and other values which appear to make the elements environmentally significant. The manner in which economic considerations affect those values should also be discussed. For projects on which initial formulation has been completed, much of the information needed to characterize the elements may already be contained in existing survey documents, designed memoranda and project files. Conversely, the organization of working papers at an early stage in the planning process will assist in subsequent survey studies and post-authorization design. Planners should keep abreast of current literature and information sources to aid in compiling environmental data.

3. *Environmental elements.* Logical categories and sample elements for the working papers follow.

(a) Geological elements: Land forms (mountains, canyons), rock and mineral features, paleontologic items (fossils), structures (faults, synclines). Related: Soils, erosion, strip mined areas, caves.

(b) Hydrological elements: Lakes, reservoirs, estuaries, rivers, subsurface water, marshes, valley storage, springs. Related: Turbidity, pollutants, aquifer recharge areas, surf.

(c) Botanical elements: Trees, shrubs, aquatic plants, microflora. Related: Seasonal colors, virgin forests.

(d) Zoological elements: Mammals, birds, amphibians, fish, shellfish, microfauna. Related: Migration routes, breeding characteristics.

(e) Archeological/historical/cultural elements: Ruins, artifact sites, ghost towns, battlefields, cemeteries, festival sites, ethnic colonies.

(f) Miscellaneous elements: Scientific areas, national parks or forests, hunting clubs, wildlife refuges, contemporary human features (buildings, transportation systems).

It should be noted that the elements under the last two categories are relevant to the human environment and are not strictly environmental in nature. Their consideration is essential to assure treatment responsive to the full concern of the NEPA.

4. *Format.* Environmental statements will constitute a separate document from other U.S. section papers. It will include a cover sheet and a summary statement and be prepared on 8½ x 11 white paper (without letterhead), with clear black type. The cover sheet identifying the project will contain the following:

Date_____

(Draft, Final) Environmental Statement
Official Project Name
associated water feature, State
prepared by
U.S. Section, International Boundary and Water Commission
El Paso, Tex.

5. *Content of statement.* The body of environmental statements will contain, as a minimum, the following eight separate sections (and attachment containing coordination letters) with the length of each being adequate to identify and develop the required information.

(a) *Project description.* Describe the proposal by name, specific location, purposes, authorizing document (if applicable), current status, and benefit-cost ratio. Generally delineate the project purpose and what the plan of the proposal entails.

(b) *Environmental setting without the project.* Describe the area, the present level of economic development, existing land and water uses, and other environmental determinants. Discuss the environmental setting without focusing only on the immediate area at the risk of ignoring important regional aspects critical to the assessment of environmental impacts. It is possible and often desirable to treat the project setting in relation to river basins, watersheds, or functional ecosystems. Discuss the interrelations of projects and alternatives proposed, under construction or in operation by any agency or organization.

(c) *The environmental impact of the proposed action.* (1) Identify environmental impacts, viewed as changes or conversions of environmental elements which result from the direct and indirect consequences of the proposed action. A thoughtful assessment of the environmental elements under both a "with" and "without the project" condition should aid in determining impacts. For example, the filling of a portion of the wetlands of an estuary would involve the obvious conversion of aquatic/marsh areas to terrestrial environments, the loss of wetland habitats and associated organisms, a gain in area for terrestrial organisms, a change in the nutrient regime of the runoff water entering that portion of the estuary, alteration of the hydrology of some given area, perhaps the introduction of buildings or roads, curtailment of certain commercial uses, disruption of water-based recreational pursuits, conversion of wildland esthetics to less pristine attributes, perhaps the removal of some portion of popular duck hunting grounds or unique bird nesting area, etc. Such impacts shall be detailed in a dispassionate manner to provide a basis for a meaningful treatment of the tradeoffs involved. Quantitative estimates of losses or gains (e.g., areas of marshland, number of ducks nesting or harvested) will be set forth whenever practicable.

(2) Discuss both the beneficial and detrimental aspects of the environmental changes or conversions placing some relative value on the impacts described. A distinction should be observed here, whereby the impacts (changes) were initially detailed without making value judgments which at this point are discussed in terms of their effects (who or what is affected by the changes). Identify the recipient (environmental element, interest group, industry, agency) of these effects and the nature and extent of the impacts on them. Discuss these effects not only with reference to the project area, but in relation to any applicable region, basin, watershed, or ecosystem. In the example given, the loss of wetland might have relevance to different areas depending on the uniqueness of the filled area, the developmental plans and state of adjacent and regional wetlands, and the extent of the secondary effects of the filling (alteration of estuarine salinity wedge, sedimentation effects on adjacent shellfish, the modification of the surficial and groundwater hydrology of contiguous marsh and upland areas, etc.).

(3) Identify remedial, protective, and mitigation measures which would be taken in response to adverse effects of environmental impacts. Such measures taken for the minor or short-lived negative aspects of the project will be discussed in this section. The adverse effects which cannot be satisfactorily dealt with will be considered in greater detail along with their abatement and mitigation measures in the following section.

(d) *Any adverse environmental effects which cannot be avoided should the proposal be implemented.* Discuss the unavoidable adverse effects that significantly affect the quality of the human environment and the implications thereof, and identify the abatement or mitigation measures proposed to rectify these and the extent of their effectiveness. The loss of a given acreage of wetland by filling may be mitigated by purchase of a comparable land area, but this does not eliminate the adverse effect. Certainly the effects on the altered elements will not disappear simply because additional land is purchased. Identify the nature and extent of the principal adverse effects and the parties affected. For example, the effects of the filled wetland might include the loss of shellfish through sedimentation actions (turbidity and burial), the loss of organisms

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through the leaching of toxic substances from polluted marsh sediments used in the fill, the loss of a popular/valuable waterfowl census site in the estuary or the burial of ancient Indian midden sites of indeterminate archeological value. Present and comment on the objections of all concerned parties.

(e) *Alternatives to the proposed action.* Describe the various alternatives considered, their general environmental impact, and the reason(s) why each was not recommended. Identify alternatives as to their beneficial and detrimental effects on the environmental elements, specifically taking into account the alternative of no action. This latter alternative requires a projection of the future environmental setting if the project is not accomplished. Discuss both natural and man-induced changes. Discuss economically justified alternatives predicated upon standard evaluation methods, but additionally, insofar as possible, identify and evaluate other ways of providing functions similar to those provided by the proposed project but which were specifically formulated with environmental quality objectives in mind. For example, the environmental tradeoffs involved in filling the marsh would be different for alternatives such as: Utilizing an inland site rather than filling in the marsh, hauling fill material from an upland borrow pit rather than dredging it from the estuary, or providing construction on piles or floats rather than on fill material.

(f) *The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity.* Assess the cumulative and long-term impacts of the proposed action with the view that each generation is a trustee of the environment for succeeding generations. Give special attention to considerations that would narrow the range of beneficial uses of the environment or pose long-term risks to health or safety. The propriety of any action should be weighed against the potential for damage to man's life support system—the biosphere—thereby guarding against the shortsighted foreclosure of future options or needs. It is appropriate to make such evaluations on land-use patterns and development, alterations in the organic productivity of biological communities and ecosystems, and modifications in the proportions of environmental components (water, uplands, wetland, vegetation, fauna) for a region or ecosystem. For example, if a coastal marsh is extensively filled, the ability of an associated estuary to support its normal biota might be seriously impaired. Altered sediment, nutrient, and biocide additions to the waters might well affect the inherent biological productivity of the estuary. In other words, if the estuary's marshes are modified enough to affect basic estuarine processes, certain amenities, biota, products, industry, and recreation opportunities could be lost. The long-term implications of these changes are directly related to the degree that the losses are sizable or unique.

(g) *Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.* Discuss irrevocable uses of resources, changes in land use, destruction of archeological or historical sites, unalterable disruptions in the ecosystem, and other effects that would curtail the diversity and range of beneficial uses of the environment should the proposal be implemented. For example, in filling a marsh there could be a number of potential irreversible or irretrievable effects. The particular aquatic habitat filled in the marsh would be permanently lost for aquatic organisms and fill would be removed from one area and deposited in another.

(h) *Coordination with other agencies.* List all Government and private entities with whom coordination has been acomplished, as well as a discussion of public participation efforts and specific coordination measures with environmental interests. All views expressed, both pro and con, concerning the environmental effects of the proposal should be summarized, identified, and included. When formal coordination measures have been accomplished, a copy of all comments received concerning the proposal will be attached to the statement. If formal comments are not included, state what coordination measures have been taken and the resultant comments.

APPENDIX C—STATUS OF SECTION 102(2) (C) STATEMENTS, U.S. SECTION, INTERNATIONAL BOUNDARY AND WATER COMMISSION

Appropriation or Fund Account
Account Identification code

Column A	Column B		Column C
	Final statement completed (check one column)		
Active project (Y/N)	a. Resolved issues	b. Unresolved issues	Statement being prepared

APPENDIX D—STATEMENTS INVOLVING POWER TRANSMISSION LINES—ENVIRONMENTAL CONSIDERATIONS

NOTE: See 43 CFR 2851.2-1(c)(6).

APPENDIX E—EXAMPLES OF CONTRACT SPECIFICATIONS

SC.—*Landscape preservation.*

(a) *General.* The Contractor shall exercise care to preserve the natural landscape and shall conduct his construction operations so as to prevent any unnecessary destruction, scarring, or defacing of the natural surroundings in the vicinity of the work. Except where clearing is required for permanent works, for approved construction roads and for excavation operations, all trees, native shrubbery, and vegetation shall be preserved and shall be protected from damage which may be caused by the Contractor's construction operations and equipment. Movement of crews and equipment within the right-of-way and over routes provided for access to the work shall be performed in a manner to prevent damage to grazing land, crops, or property.

No special reseeding or replanting will be required under these specifications; however, on completion of the work and in addition to the requirements of any general conditions of a contract, all work areas shall be smoothed and graded in a manner to conform to the natural appearance of the landscape. Where unnecessary destruction, scarring, damage, or defacing may occur as a result of the Contractor's operations, as determined by the Contracting Officer, the same shall be repaired, replanted, reseeded, or otherwise corrected at the Contractor's expense.

(b) *Construction roads.* The location, alinement, and grade of construction roads shall be subject to approval of the Contracting Officer. When no longer required by the Contractor, construction roads shall be made impassable to vehicular traffic and the surfaces shall be scarified and left in a condition which will facilitate natural revegetation.

(c) *Contractor's yard area.* The Contractor's shop, office, and yard area shall be located and arranged in a manner to preserve trees and vegetation to the maximum practicable extent. On abondonment all storage and construction buildings including concrete footings and slabs, and all construction materials and debris shall be removed from the site, or subject to the Contracting Officer's approval, may be buried on the site. The yard area shall be left in a neat and natural appearing condition.

(d) *Borrow areas and quarry sites.* Before being abandoned, the sides of borrow pits and quarry sites shall be brought to stable slopes with slope intersections rounded and shaped to provide a natural appearance. All rubbish, Contractor's equipment, and structures shall be removed from site. Waste piles shall be leveled and trimmed to regular lines and shaped to provide a neat appearance.

(e) *Blasting precautions.* In addition to the requirements of paragraph SC. —, the Contractor shall adopt precautions when using explosives which will prevent scattering of rocks, stumps, or other debris outside the work area.

(f) *Costs.* The cost of all work required by this paragraph shall be included in the price bid in the schedule for other items of work.

SC. — *Prevention of water pollution.*

The Contractor shall comply with applicable Federal and State laws, orders, and regulations concerning the control and abatement of water pollution.

The Contractor's construction activities shall be performed by methods that will prevent entrance, or accidental spillage, of solid matter, contaminants, debris, and other objectionable pollutants and wastes into streams, flowing or dry watercourses, lakes, and underground water sources. Such pollutants and wastes include, but are not restricted to, refuse, garbage, cement, concrete, sewage effluent, industrial waste, radioactive substances, oil, and other petroleum products, aggregate processing tailings, mineral salts, and thermal pollution. Sanitary wastes shall be disposed of in accordance with State and local laws and ordinances.

Unwatering work for structure foundations or earthwork operations near streams or watercourses shall be conducted in a manner to prevent excessive muddy water and eroded materials from entering the streams or watercourses by construction of intercepting ditches, bypass channels, barriers, settling ponds, or by other approved means.

Waste waters from aggregate processing, concrete batching, or other construction operations shall not enter streams, watercourses, or other surface waters without the use of such turbidity control methods as setting ponds, gravel-filter entrapment dikes, approved flocculating processes that are not harmful to fish, recirculation systems for washing of aggregates, or other approved methods. Any such waste waters discharged into surface waters shall be essentially free of settleable material. For the purpose of these specifications, settleable material is defined as that material which will settle from the water by gravity during a 1-hour quiescent detention period.

Sanitary facilities shall be provided and maintained in accordance with section III of the Corps of Engineers' Manual "General Safety Requirements."

The costs of complying with this paragraph shall be included in the prices bid in the schedule for the various items of work.

SC.—*Abatement of air pollution.*

The Contractor shall comply with applicable Federal, State, interstate, and local laws and regulations concerning the prevention and control of air pollution.

In conduct of construction activities and operation of equipment, the Contractor shall utilize such practicable methods and devices as are reasonably available to control, prevent, and otherwise minimize atmospheric emissions or discharges of air contaminants.

Equipment and vehicles that show excessive emissions shall not be operated until corrective repairs or adjustments are made.

The Contractor's methods of storing and handling cement and pozzolans shall include means of controlling atmospheric discharges of dust.

Burning of rubbish will not be permitted. Rubbish, trash, and combustible materials shall be removed from the site and disposed of in an approved manner.

During the performance of the work required by these specifications or any operations apurtenant thereto, whether on right-of-way provided by the Government or elsewhere, the Contractor shall furnish all the labor, equipment, materials, and means required, and shall carry out proper and efficient measures wherever and as often as necessary to reduce the dust nuisance, and to prevent dust which has originated from his operations from damaging land and dwellings, or causing a nuisance to persons. The Contractor will be held liable for any damage resulting from dust originating from his operations under these specifications on Government right-of-way or elsewhere.

The costs of complying with this paragraph, including the cost of sprinkling for dust control or other methods of reducing formation of air pollution shall be included in the prices bid in the schedule for the various items of work.

[FR Doc.72-19680 Filed 11-16-72;8:45 am]

OFFICE OF THE FEDERAL REGISTER

COMPUTER-PRODUCED DOCUMENTS

Consultation Regarding Preparation and Use

Recent growth in Federal Register documents (to a current level of 22,000 documents and 25,000 pages a year for the daily issue alone) makes it essential that more efficient production methods be explored. In this regard, each agency that processes by computer, data that will eventually be included in documents submitted for publication in the FEDERAL REGISTER, and that can furnish a magnetic tape of such material, is urged to consult with this office before preparation of such documents.

The purpose of the consultation is to determine whether it may be possible to use the agency tape as the basis for FEDERAL REGISTER publication. (For an example of a document produced from an agency computer tape, see 37 F.R. 21280, October 7, 1972.)

This consultation may also result in substantial benefits to agencies in their document preparation procedures since in many cases computer printouts submitted to the FEDERAL REGISTER may be acceptable as the original and copies of a document required by 1 CFR 16.1 (or § 18.1 of 1 CFR Ch. I which becomes effective on January 2, 1973).

FRED J. EMERY,
Director of the Federal Register.

NOVEMBER 15, 1972.

[FR Doc.72-19854 Filed 11-16-72;8:52 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 24SF-3943]

CONSOLIDATED MOGUL MINING CO., INC.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

NOVEMBER 8, 1972.

I. On September 7, 1972, Consolidated Mogul Mining Co., Inc. (Consolidated Mogul), 322 Newhouse Building, 10 Exchange Place, Salt Lake City, UT 84111, filed with the Commission a notification covering an offering of 3 million shares of common stock at $0.10 per share, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, pursuant to the provisions of section 3(b) thereof and Regulation A thereunder. The company was incorporated on May 6, 1970, for the purpose of conducting exploratory mining operations.

V. E. Anderson & Co., a broker-dealer having its principal place of business in Salt Lake City, Utah, was named as underwriter.

II. The Commission, on the basis of information reported to it by its staff, has reason to believe that:

1. The Regulation A exemption is not available to Consolidated Mogul pursuant to the prohibitions of Rule 252(d)(2) of Regulation A, in that the underwriter, V. E. Anderson & Co., is the subject of a permanent injunction for violations of section 17(a) of the Securities Exchange Act of 1934 entered on April 18, 1969, in the U.S. District Court for Utah.

2. The notification and offering circular of Consolidated Mogul omit to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading and contain untrue statements of material facts, particularly with respect to:

(a) The disposition of shares by Gregory Chachas and Charles Foote and the purchase of shares by J. William Pace and Thad B. Emery;

(b) The relationship between Gregory Chachas and Station Zebra, Inc., and transfers of mining claims between themselves and Consolidated Mogul; and

(c) The prior affiliation of Gregory Chachas with Consolidated Mogul as officer, director, promoter, and principal security holder.

3. The terms and conditions of Regulation A have not been complied with in that:

(a) Items 2 and 3 of the notification did not list Gregory Chachas as a predecessor and a promoter;

(b) Item 6 of the notification failed to describe the injunction against the underwriter, V. E. Anderson & Co.; and

(c) Item 9 of the notification failed to reflect certain transfers of its shares between former and present officers.

4. The offering, if made, would have been in violation of section 17 of the Securities Act of 1933.

III. It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be temporarily suspended,

It is ordered, Pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption of Consolidated Mogul Mining Co., Inc., under Regulation A be, and it hereby is, temporarily suspended and that Gregory Chachas be named as a cause of this suspension.

It is further ordered, Pursuant to Rule 7 of the Commission's rules of practice, that the issuer file an answer to the allegations contained in this order within 30 days of the entry thereof.

Notice is hereby given that any person having an interest in the matter may file with the Secretary of the Commission a written request for hearing within 30 days after the entry of this order; that within 20 days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission, for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; that, if no hearing is requested and none is ordered by the Commission, this order shall become permanent on the 30th day after the entry and shall remain in effect unless or until it is modified or vacated by the Commission; and that notice of the time and place for any hearing will be promptly given by the Commission.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-19783 Filed 11-16-72;8:47 am]

[File No. 500-1]

ECOLOGICAL SCIENCE CORP.

Order Suspending Trading

NOVEMBER 8, 1972.

The common stock, 2 cents par value, of Ecological Science Corp., being traded on the American Stock Exchange, the Philadelphia - Baltimore - Washington Stock Exchange, and Pacific Coast Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Ecological Science Corp., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

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It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above-mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 9, 1972, through November 18, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19788 Filed 11-16-72;8:47 am]

[File No. 500-1]

GOODWAY INC.

Order Suspending Trading

NOVEMBER 8, 1972.

The common stock, $0.10 par value of Goodway Inc., being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Goodway Inc., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above-mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 9, 1972, through November 18, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19787 Filed 11-16-72;8:47 am]

[812-3317]

INVESTORS DIVERSIFIED SERVICES, INC.

Notice of Filing of Application for Exemption and Order of Temporary Exemption Pending Determination of Application

NOVEMBER 9, 1972.

Notice is hereby given that Investors Diversified Services, Inc. (IDS), 800 Investors Building, Minneapolis, Minn. 55402, has filed an application pursuant to section 9(c) of the Investment Company Act of 1940 (the Act) for an order exempting IDS and all companies affiliated with IDS (hereinafter collectively referred to as "Applicants") from the provisions of section 9(a) of the Act, and for an order of temporary exemption from section 9(a) pending the Commission's determination of the application. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein which are summarized below.

Applicants state that IDS and its subsidiaries make up a diversified financial services organization which, among other things, serves as principal underwriter, investment adviser, or depositor of a number of registered investment companies with over 1 million customer accounts, as follows: (1) Seven open-end management investment companies (the "Funds"), i.e., Investors Mutual, Inc., Investors Stock Fund, Inc., Investors Selective Fund, Inc., Investors Variable Payment Fund, Inc., IDS New Dimensions Fund. Inc., IDS Progressive Fund, Inc., and IDS Growth Fund, Inc.; (2) two unit investment trusts, i.e., Investors Accumulation Plan. Inc., which offers periodic payment plan certificates for the accumulation of shares of Investors Stock Fund, Inc. (IAP Plans), and IIP Plans for the accumulation of IDS Growth Fund, Inc.; (3) Investors Syndicate Life Insurance and Annuity Company (ISL) Variable Annuity Fund A and Variable Annuity Fund B; (4) a face amount certificate company, Investors Syndicate of America, Inc. (ISA); (5) Nuveen Tax-Exempt Bond Funds, a series of unit investment trusts.

On December 2, 1970, the Securities and Exchange Commission commenced an action, pursuant to section 21(e) of the Securities Exchange Act of 1934 (Exchange Act), against Lum's, Inc., IDS, and five others (the "Lum's action") to enjoin alleged violations of section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder in connection with the sale of the common stock of Lum's, Inc. (now known as Caesars World, Inc.), by IDS New Dimensions Fund, Inc., and Investors Variable Payment Fund, Inc., two of the open-end investment companies for which IDS acts as investment adviser. On November 9, 1972, a stipulation of settlement was entered into between the plaintiff, Securities and Exchange Commission, and IDS and thereafter a final judgment of permanent injunction by consent was entered in the action, permanently enjoining IDS, its officers, agents, servants, and employees from recommending the purchase or sale of any security of Lum's, Inc. (now known as Caesars World, Inc.), in violation of section 10(b) and Rule 10b-5 and directing IDS to implement, and supervise its employees' compliance with, a written statement of policy with respect to the receipt and use of material inside (nonpublic) information.

Section 9(a)(2) of the Act, as here pertinent, makes it unlawful for any person who, by reason of any misconduct, is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security to serve or act in the capacity of investment adviser or depositor of any registered investment company, or principal underwriter for any registered open-end company, registered unit investment trust, or registered face-amount certificate company. Section 9(a)(3) makes it unlawful for a company, any affiliated person of which is ineligible by reason of section 9(a)(2), to serve or act in the enumerated capacities.

Section 9(c) provides that upon application the Commission by order shall grant an exemption from the provisions of section 9(a) either unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of section 9(a), as applied to the applicant, are unduly or disproportionately severe or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such application.

Applicants submit that the prohibitions of section 9(a) of the Act, to the extent applicable by virtue of the entry of the final judgment of permanent injunction by consent, would be unduly and disproportionately severe as applied to Applicants and that the conduct of IDS has been such as not to make it against the public interest or the protection of investors for the Commission to grant a permanent exemption from the provisions of section 9(a) of the Act. In support thereof Applicants state:

(1) The prohibitions of section 9(a) would deprive the Funds, IAP Plans, IIP Plans, ISL Variable Annuity Funds A and B, ISA, Nuveen Tax-Exempt Bond Funds, and their more than 1 million customer accounts of the services of their distributor, investment adviser, or depositor.

(2) The prohibitions of section 9(a) would deprive IDS of its underwriting and advisory functions that employ most of its 4,000 sales representatives and 3,000 employees, and would have a substantial adverse effect on the revenues and earnings of IDS and on the interests of its 11,000 public shareholders.

(3) The activities of IDS with regard to the sale of Lum's, Inc., common stock were for the benefit of the funds involved and not for the direct pecuniary benefit of IDS, and there was no intent to violate any law.

(4) IDS has distributed to its personnel involved with trading or investment recommendations a formal written statement of policy with respect to the receipt and use of material inside (nonpublic) information and will implement and supervise its employees' compliance with this policy.

(5) IDS has compliance programs, designed to assure compliance by IDS personnel with applicable Federal and State securities laws. IDS believes that its programs, particularly with respect to its distribution activities and its relations with the shareholders of the Funds and the holders of certificates, have been viewed favorably by regulatory authorities and have been emulated by its competitors.

(6) IDS has never before been required to seek exemption from provisions of section 9(a) of the Act.

(7) The application of the law regarding the nature and proscribed uses of material inside information is complex and uncertain. More than 6 months after the events complained of in the Lum's action, the Commission, on its own motion, ordered the review of a case concerning the sale of stock without disclosure of certain material inside information because:

> The legal issues raised respecting the obligations of "tippees" were important matters of first impression having significant implication as to which it was desirable that the Commission express • • • its own views. Matter of Investors Management Co., Inc. et al. Securities Exchange Act Release No. 8947, July 30, 1970.

The Commission's opinion on these matters, announced on July 29, 1971, set forth more definite criteria regarding application of the provisions of Rule 10b-5 than was available previously.

The Commission has considered the matter and finds that: (1) Insofar as it is desirable to assure the continuity of management operations of the registered companies affiliated with IDS, the prohibitions of section 9(a) might be unduly or disproportionately severe as applied to Applicants, and (2) the conduct of the Applicants has been such as not to make it against the public interest or protection of investors to grant the application for a temporary exemption from section 9(a) pending determination of the application.

Accordingly, It is ordered, Pursuant to section 9(c) of the Act that Applicants be and they are hereby temporarily exempted from the provisions of section 9(a) of the Act, operative as a result of the entry of the injunction against IDS in *Securities and Exchange Commission* v. *Lums, Inc. et al.*, pending determination by the Commission of Applicants' application for an order unconditionally exempting them from the provisions of section 9(a) operative as a result of the entry of such injunction.

Notice is further given that any interested person may, not later than December 4, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address set forth above. Proof of such service (by affidavit or in the case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided in Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19784 Filed 11-16-72;8:47 am]

[70-4961]

MIDDLE SOUTH UTILITIES, INC., AND ARKANSAS POWER & LIGHT CO.

Notice of Post-Effective Amendment Regarding Issue and Sale of Notes by Holding Company to Banks

NOVEMBER 9, 1972.

Notice is hereby given that Middle South Utilities, Inc. (Middle South), 280 Park Avenue, New York, NY 10017, a registered holding company, has filed with this Commission a fourth post-effective amendment to the application-declaration heretofore filed in this proceeding pursuant to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 (Act). All interested persons are referred to the application-declaration, as now amended, which is summarized below, for a complete statement of the proposed transaction.

The Commission has heretofore authorized Middle South, under an $80 million revolving credit agreement, to issue and sell to a group of named banks $60 million of unsecured promissory short-term notes (see Holding Company Act Release No. 17423, Jan. 6, 1972). The proceeds from the sale of these promissory notes were used by Middle South to purchase common stock of its subsidiary companies, Arkansas Power & Light Co., and Louisiana Power & Light Co. (Louisiana).

In order to purchase an additional 3,150,000 shares of common stock, without nominal or par value, of Louisiana (which transaction will be the subject of a separate application-declaration), Middle South now seeks authorization in this proceeding to increase the aggregate principal amount of short-term notes that may be outstanding with the named banks at any one time from $60 million to $80 million. The additional $20 million of borrowings will be made pro rata among such banks in accordance with their respective commitments under the credit agreement. All other terms of said agreement—including those covering the interest rate and maturity date—will remain unchanged.

It is represented that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. No separate or special expenses are anticipated in connection with the proposed transaction.

Notice is further given that any interested person may, not later than December 5, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said fourth post-effective amendment to the application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19786 Filed 11-16-72;8:47 am]

[812-3307]

VESTAUR SECURITIES, INC.

Notice of Filing of Application for Exemption

NOVEMBER 9, 1972.

Notice is hereby given that Vestaur Securities, Inc. (the "Applicant"), 1411 Walnut Street, Philadelphia, PA 19102, a diversified, closed-end management investment company registered under the Investment Company Act of 1940 (the "Act"), has filed an application for an order pursuant to section 6(c) of the Act declaring that Philip R. Reynolds, a Director of the Applicant, shall not be deemed an "interested person" of Applicant as that term is defined in section 2(a)(19) of the Act solely by reason of his status either as a Senior Vice President of the Travelers Corp. (Travelers), or as a Senior Vice President of its subsidiary, the Travelers Insurance Co. (Travelers Insurance). All interested persons are referred to the Application on file with the Commission for a statement of the representations made therein, which are summarized below.

Mr. Reynolds, a director of the Applicant, is a Senior Vice President of Travelers and Travelers Insurance. Travelers is the parent of five wholly owned, either directly or indirectly, subsidiaries which are broker-dealers registered under the Securities Exchange Act of 1934 (the 1934 Act) and members of the National Association of Securities Dealers, Inc.:

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above-mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 9, 1972, through November 18, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19788 Filed 11-16-72;8:47 am]

[File No. 500-1]

GOODWAY INC.

Order Suspending Trading

NOVEMBER 8, 1972.

The common stock, $0.10 par value of Goodway Inc., being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Goodway Inc., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above-mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 9, 1972, through November 18, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19787 Filed 11-16-72;8:47 am]

[812-3317]

INVESTORS DIVERSIFIED SERVICES, INC.

Notice of Filing of Application for Exemption and Order of Temporary Exemption Pending Determination of Application

NOVEMBER 9, 1972.

Notice is hereby given that Investors Diversified Services, Inc. (IDS), 800 Investors Building, Minneapolis, Minn. 55402, has filed an application pursuant to section 9(c) of the Investment Company Act of 1940 (the Act) for an order exempting IDS and all companies affiliated with IDS (hereinafter collectively referred to as "Applicants") from the provisions of section 9(a) of the Act, and for an order of temporary exemption from section 9(a) pending the Commission's determination of the application. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein which are summarized below.

Applicants state that IDS and its subsidiaries make up a diversified financial services organization which, among other things, serves as principal underwriter, investment adviser, or depositor of a number of registered investment companies with over 1 million customer accounts, as follows: (1) Seven open-end management investment companies (the "Funds"), i.e., Investors Mutual, Inc., Investors Stock Fund, Inc., Investors Selective Fund, Inc., Investors Variable Payment Fund, Inc., IDS New Dimensions Fund. Inc., IDS Progressive Fund, Inc., and IDS Growth Fund, Inc.; (2) two unit investment trusts, i.e., Investors Accumulation Plan. Inc., which offers periodic payment plan certificates for the accumulation of shares of Investors Stock Fund, Inc. (IAP Plans), and IIP Plans for the accumulation of IDS Growth Fund, Inc.; (3) Investors Syndicate Life Insurance and Annuity Company (ISL) Variable Annuity Fund A and Variable Annuity Fund B; (4) a face amount certificate company, Investors Syndicate of America, Inc. (ISA); (5) Nuveen Tax-Exempt Bond Funds, a series of unit investment trusts.

On December 2, 1970, the Securities and Exchange Commission commenced an action, pursuant to section 21(e) of the Securities Exchange Act of 1934 (Exchange Act), against Lum's, Inc., IDS, and five others (the "Lum's action") to enjoin alleged violations of section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder in connection with the sale of the common stock of Lum's, Inc. (now known as Caesars World, Inc.), by IDS New Dimensions Fund, Inc., and Investors Variable Payment Fund, Inc., two of the open-end investment companies for which IDS acts as investment adviser. On November 9, 1972, a stipulation of settlement was entered into between the plaintiff, Securities and Exchange Commission, and IDS and thereafter a final judgment of permanent injunction by consent was entered in the action, permanently enjoining IDS, its officers, agents, servants, and employees from recommending the purchase or sale of any security of Lum's, Inc. (now known as Caesars World, Inc.), in violation of section 10(b) and Rule 10b-5 and directing IDS to implement, and supervise its employees' compliance with, a written statement of policy with respect to the receipt and use of material inside (nonpublic) information.

Section 9(a)(2) of the Act, as here pertinent, makes it unlawful for any person who, by reason of any misconduct, is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security to serve or act in the capacity of investment adviser or depositor of any registered investment company, or principal underwriter for any registered open-end company, registered unit investment trust, or registered face-amount certificate company. Section 9(a)(3) makes it unlawful for a company, any affiliated person of which is ineligible by reason of section 9(a)(2), to serve or act in the enumerated capacities.

Section 9(c) provides that upon application the Commission by order shall grant an exemption from the provisions of section 9(a) either unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of section 9(a), as applied to the applicant, are unduly or disproportionately severe or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such application.

Applicants submit that the prohibitions of section 9(a) of the Act, to the extent applicable by virtue of the entry of the final judgment of permanent injunction by consent, would be unduly and disproportionately severe as applied to Applicants and that the conduct of IDS has been such as not to make it against the public interest or the protection of investors for the Commission to grant a permanent exemption from the provisions of section 9(a) of the Act. In support thereof Applicants state:

(1) The prohibitions of section 9(a) would deprive the Funds, IAP Plans, IIP Plans, ISL Variable Annuity Funds A and B, ISA, Nuveen Tax-Exempt Bond Funds, and their more than 1 million customer accounts of the services of their distributor, investment adviser, or depositor.

(2) The prohibitions of section 9(a) would deprive IDS of its underwriting and advisory functions that employ most of its 4,000 sales representatives and 3,000 employees, and would have a substantial adverse effect on the revenues and earnings of IDS and on the interests of its 11,000 public shareholders.

(3) The activities of IDS with regard to the sale of Lum's, Inc., common stock were for the benefit of the funds involved and not for the direct pecuniary benefit of IDS, and there was no intent to violate any law.

(4) IDS has distributed to its personnel involved with trading or investment recommendations a formal written statement of policy with respect to the receipt and use of material inside (nonpublic) information and will implement and supervise its employees' compliance with this policy.

(5) IDS has compliance programs, designed to assure compliance by IDS personnel with applicable Federal and State securities laws. IDS believes that its programs, particularly with respect to its distribution activities and its relations with the shareholders of the Funds and the holders of certificates, have been viewed favorably by regulatory authorities and have been emulated by its competitors.

(6) IDS has never before been required to seek exemption from provisions of section 9(a) of the Act.

(7) The application of the law regarding the nature and proscribed uses of material inside information is complex and uncertain. More than 6 months after the events complained of in the Lum's

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Travelers Insurance, Travelers Equities Sales, Inc. (Travelers Equities), the Massachusetts Co. Distributor, Inc., (Massachusetts Distributor), General Securities, Inc. (General Securities), and Travelers Securities Corp. (Travelers Securities).

The broker-dealer capabilities of Travelers Insurance were established and have been maintained for the sole purpose of executing transactions involving only the variable annuities of Travelers Insurance.

Travelers Equities is a wholly owned subsidiary of Travelers. Massachusetts Distributor & General Securities are wholly owned subsidiaries of the Massachusetts Co., Inc., which is a wholly owned subsidiary of Travelers. Any broker-dealer activities of such companies are limited to the execution of transactions involving mutual funds and variable annuities offered or sponsored by one or more subsidiaries of Travelers.

Travelers Securities, a wholly owned subsidiary of Travelers, is a member of the Philadelphia-Baltimore-Washington Stock Exchange. Mr. Reynolds is not an officer or director of Travelers Securities. The broker-dealer activities of Travelers Securities, although designed and operated for the purpose of engaging in transactions for the account of various subsidiaries of, or companies affiliated with, Travelers, have involved transactions for persons outside the Travelers' corporate complex. However, as a matter of internal policy, Travelers Securities does not follow, does not make markets in, and does not execute or clear transactions involving, securities of registered investment companies, such as the Applicant. The broker-dealer activities of Travelers Securities have traditionally been concentrated in transactions involving equity securities and when concerned with debt securities transactions have been so only to the extent of dealing in tax exempt bonds. Because its broker-dealer activities are so tailored, Travelers Securities has no expertise in, nor would it have occasion to, deal in the securities of the Applicant or to execute portfolio transactions for the Applicant whose investment objective is to buy and sell marketable debt securities.

Section 2(a)(19) of the Act, in pertinent part, defines an "interested person" of an investment company to include any broker or dealer registered under the 1934 Act or any affiliated person of such broker or dealer.

Section 2(a)(3) of the Act defines an affiliated person of another person to include any officer or Director of such other person.

Section 6(c) of the Act provides that the Commission may, upon application, conditionally or unconditionally exempt any person from any provision of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Under the definition of section 2(a)(19) of the 1940 Act, Mr. Reynolds may be deemed an "interested person" of the Applicant by virtue of his position as a Senior Vice President of Travelers Insurance, or his position as a Senior Vice President of Travelers.

Applicant asserts that Mr. Reynolds' position either as a Senior Vice President of Travelers or as a Senior Vice President of Travelers Insurance does not affect, and would not impair, his independence in acting on behalf of Applicant and its shareholders, and that the requested exemption is therefore consistent with the provisions of section 6(c) of the Act.

Notice is further given that any interested person may, not later than November 20, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

The period of public notification provided for herein is deemed reasonable in view of the nature of the application and Applicant's request that the application be resolved in time for a public offering of its shares to be made on or about November 22, 1972.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-19785 Filed 11-16-72;8:47 am]

[812-3276]

WINFIELD & CO., INC. ET AL.

Notice of Filing of Application for Exemption and Temporary Order of Exemption Pending Determination of the Application

NOVEMBER 8, 1972.

Notice is hereby given that Winfield & Co., Inc. (Winco), Applied Financial Systems, Inc. (AFS), Winfield Distributors, Inc. (WinDist), 155 Bovet Road, San Mateo, CA, Franklin Resources, Inc. (Resources), and Franklin Distributors, Inc. (FrankDist), 99 Wall Street, New York, NY, referred to collectively as Applicants, have filed an application pursuant to section 9(c) of the Investment Company Act of 1940 (Act) for an order exempting Applicants from the provisions of section 9(a) of the Act and, without prejudice to the Commission's consideration of such application, all of the Applicants, except Resources, have applied for a temporary order of exemption from section 9(a) pending the Commission's determination of the application for permanent exemption. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Winco is the investment adviser of Winfield Growth Fund, Inc., Wincap Fund, Inc., and Age Fund, Inc., open end investment companies (Winfield Funds). The Winfield Funds have net assets of more than $150 million and more than 100,000 stockholders.

AFS, a 62 percent owned subsidiary of Winco, acts as transfer agent for Winfield Funds and other investment companies and, while not admitting such, may be deemed to be a depositor. WinDist, a wholly owned subsidiary of Winco, is principal underwriter of the Winfield Funds, and acts as sponsor-depositor for Winfield Investment Programs (W.I.P.), a unit investment trust for the accumulation of shares of Winfield Growth Fund, Inc.

Resources owns, or has entered into a contract to purchase, subject to certain restrictions, approximately 52 percent of the voting stock of Winco. FrankDist, a wholly owned subsidiary of Resources, is the investment adviser and principal underwriter of Franklin Custodian Funds, Inc. (Franklin Funds), an open end investment company. Franklin Funds have net assets of approximately $70 million and 20,000 shareholders. FrankDist is also the sponsor-depositor for Franklin Investment Programs—Growth Series, and Franklin Investment Programs—Utilities Series, unit investment trusts for the accumulation of shares of Franklin Funds.

On November 8, 1972, the U.S. District Court for the Southern District of New York entered a Final Judgment of Permanent Injunction against Winco and Winfield Associates, Inc. (Associates), ("Securities and Exchange Commission v. Everest Management et al.", 71 Civ. Action No. 4932). Associates, a wholly owned subsidiary of Winco is presently in the process of dissolution. The judgment, among other things, enjoins Winco and Associates from violating section 17(a) of the Securities Act of 1933, section 10(b) of the Securities Exchange Act of 1934, and Rule 10b-5 thereunder, sections 206 (1) and (2) of the Investment Advisers Act of 1940, and sections 17(d), 17(e), 36, 36(a), and 37 of the Investment Company Act of 1940, and Rule 17d-1 thereunder.

Prior to the injunctive action Winco and WinDist and certain of their affiliates had been sanctioned by the Commission for violations of the securities laws (Securities Exchange Act Release No. 9478). That case is not related to the injunctive action.

Section 9(a) of the Act, insofar as is pertinent here, makes it unlawful for any person, or any company with which such person is affiliated, to act in the capacity of employee, officer, director, member of an advisory board, investment adviser, principal underwriter or depositor of any registered investment company if such person is by reason of any misconduct enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security.

Section 9(c) provides that upon application the Commission shall grant an exemption from the provisions of section 9(a) either unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of section 9(a), as applied to the applicant, are unduly or disproportionately severe or that the conduct of such persons has been such as not to make it against the public interest or protection of investors to grant such application.

Applicants contend that the standards for exemption, specified in section 9(c) of the Act, are entirely satisfied by the facts in this case.

Applicants represent that the complaint filed by the Commission did not allege violations of the Securities Acts with respect to any Applicant with the exception of Winco. All other applicants assert that they had no connection whatsoever with any of the activities alleged in the complaint.

Applicants represent that the allegations of the complaint charge that a former employee and officer of Winco and Associates, did, while so connected, engage in violations of the Federal securities laws for which Winco and Associates are chargeable, and that in the transactions leading to the Commission's injunctive action, Winco and Associates and its present officers and directors acted in good faith and without knowledge of the alleged activities of the former employee and officer.

Applicants represent further that Winco has made diligent efforts to prevent any recurrence of the kinds of violations charged by the Commission. Its Board of Directors has adopted formal rules and charged particular officers with enforcement responsibilities.

Applicants represent further that Winco has an agreement with Resources under which Winco will merge, subject to Winfield Funds shareholder approval, into a new subsidiary of Resources and that this proposed merger will transfer the control of Winco to persons which can in no way be charged with responsibilities for any wrongs which may have occurred in Winco's past.

Applicants also represent that the continued uninterrupted investment advisory, shareholder servicing and underwriting services rendered by Winco, WinDist, AFS, and FrankDist to the Winfield and Franklin Funds are essential for the protection and welfare of the Winfield and Franklin Funds, and their respective shareholders.

The Commission has considered the matter and finds that:

(1) The conduct of the Applicants has been such as not to make it against the public interest or protection of investors to grant the application by Winco, WinDist, AFS, and FrankDist for a temporary exemption from section 9(a) pending determination of the application, and

(2) In order to maintain uninterrupted management of the investment companies under the management of Winco, WinDist, AFS, and FrankDist, it is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act that the temporary order of exemption be issued forthwith.

Accordingly, it is ordered, Pursuant to section 9(c) of the Act that Winco, WinDist, AFS, and FrankDist be and they are hereby temporarily exempted from the provisions of section 9(a) of the Act, operative as a result of the entry of the injunction against Winco and Associates in "Securities and Exchange Commission v. Everest Management Corp. et al.", pending determination by the Commission of Applicants' application for an order unconditionally exempting them from the provisions of section 9(a) operative as a result of the entry of such injunction.

Notice is further given that any interested person may not later than November 28, 1972, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such a request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the addresses set forth above. Proof of such service (by affidavit or in the case of an attorney at law, by certificate shall be filed contemporaneously with the request. At any time after said date, as provided in Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-19789 Filed 11-16-72;8:47 am]

OFFICE OF EMERGENCY PREPAREDNESS

ILLINOIS

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Illinois, dated September 5, 1972, and published September 12, 1972 (37 F.R. 18500), and amended October 6, 1972, and published October 13, 1972 (37 F.R. 21668), is hereby further amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 4, 1972:

COUNTY

McHenry.

Dated: November 13, 1972.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[FR Doc.72-19809 Filed 11-16-72;8:46 am]

TARIFF COMMISSION

[337-L-55]

CONVERTIBLE GAME TABLES

Notice of Complaint Received

The U.S. Tariff Commission hereby gives notice of the receipt on October 26, 1972, of a complaint under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) filed by ATI Recreation, Inc., of Miami Lakes, Fla., alleging unfair methods of competition and unfair acts in the importation and sale of convertible game tables which are embraced within the claims of U.S. Design Patent No. 233,539 and are covered by U.S. trademark application 416,491 for the name TRIO owned by the complainant. In addition, complainant is the owner of U.S. trademark application 407,363 covering the name GAMBIT, but no allegations of infringement of this trademark have been made. Armac Enterprises, Inc., 3900 South Union Street, Chicago, IL 60609 and Sears, Roebuck & Co., 925 South Homan Avenue, Chicago, IL, have been named as either importing or offering for sale the subject product.

In accordance with the provisions of § 203.3 of its rules of practice and procedure (19 CFR 203.3), the Commission has initiated a preliminary inquiry into the allegations of the complaint for the purpose of determining whether there is good

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and sufficient reason for a full investigation, and if so whether the Commission should recommend to the President the issuance of a temporary exclusion from entry under section 337(f) of the Tariff Act.

A copy of the complaint is available for public inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, DC, and at the New York office of the Tariff Commission located in Room 437 of the Customhouse.

Information submitted by interested persons which is pertinent to the aforementioned preliminary inquiry will be considered by the Commission if it is received not later than December 28, 1972. Extensions of time for submitting information will not be granted unless good and sufficient cause is shown thereon. Such information should be sent to the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, DC 20436. A signed original and nineteen (19) true copies of each document must be filed.

Issued: November 14, 1972.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.72-19853 Filed 11-16-72;8:52 am]

TENNESSEE VALLEY AUTHORITY

WATTS BAR NUCLEAR PLANT

Notice of Availability of Final Environmental Statement

Notice is hereby given that a document entitled "Environmental Statement, Watts Bar Nuclear Plant Units 1 and 2" dated November 9, 1972, is being made available to the President, the Council on Environmental Quality, and to the public as required by section 102(2)(C) of the National Environmental Policy Act. The statement contains the comments and views of appropriate Federal and State agencies concerning the project. Copies of the document are being placed for public examination in the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, DC 20545, in the office of the Director of Information, Tennessee Valley Authority, 508 Union Avenue, Knoxville, TN 37902, and at TVA's Washington office, 435 Woodward Building, 15th and H Streets, Washington, DC 20444. The statement will also be available for examination in the Dayton Public Library, First Avenue, Dayton, Tenn. 37321.

Single copies of the final statement will be furnished upon request addressed to the Director of Information at the above address.

Dated at Knoxville, Tenn., this the 9th day of November 1972, for the Tennessee Valley Authority.

LYNN SEEBER, *General Manager.*

[FR Doc.72-19791 Filed 11-16-72;8:47 am]

DEPARTMENT OF LABOR

Office of the Secretary

RCA CORP.

Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under date of July 30, 1972, the U.S. Tariff Commission made a report of the results of its investigation (TEA-W-144) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to a petition for determination of eligibility to apply for adjustment assistance submitted on behalf of workers formerly employed by RCA Corp., at its Indianapolis and Rockville plants, Indianapolis, Ind. In this report, the Commission, being equally divided, made no finding with respect to whether articles like or directly competitive with the television yokes, tuners, and horizontal output transformers produced at the plants are, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision. The President subsequently decided, under the authority of section 330(d)(1) of the Tariff Act of 1930, as amended, to consider the findings of those Commissioners who found in the affirmative as the finding of the Commission.

Upon receipt of the President's authorization, the Department, through the Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs, instituted an investigation. Following this, the Director made a recommendation to me relating to the matter of certification (Notice of Delegation of Authority and Notice of Investigation, 34 F.R. 18342; 37 F.R. 2472, 21023; 29 CFR Part 90). In the recommendation she noted that imports by the company of articles like or directly competitive with the television tuners produced at the Rockville plant and the television yokes and horizontal output transformers produced at the Indianapolis plant increased substantially. As a result, the company cut back production of these imported articles and employment levels of workers engaged in producing these articles declined. Unemployment and underemployment directly related to import competition began in October 1969. Tuner production at the Rockville plant ceased at the end of March 1971; transformer production at the Indianapolis plant ceased at the end of December 1971. Yoke production at the Indianapolis plant stabilized in December 1971 and employment related to yoke production has remained constant since that time. After due consideration, I make the following certification:

All hourly and salaried employees of the Indianapolis plant of RCA Corp., Indianapolis, Ind., who became unemployed or underemployed after September 30, 1969, and before January 2, 1972, and all hourly and salaried workers of the Rockville plant of RCA Corp., Indianapolis, Ind., who became unemployed or underemployed after September 30, 1969, and before April 4, 1971, and who were employed in the production of television yokes, television tuners, or television horizontal output transformers or, who were employed in employment related to the production of television yokes, television tuners or television horizontal output transformers are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this 13th day of November 1972.

JOEL SEGALL, *Deputy Under Secretary, International Affairs.*

[FR Doc.72-19823 Filed 11-16-72;8:48 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 119]

ASSIGNMENT OF HEARINGS

NOVEMBER 14, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC-121303 Sub 3, O. K. Warehouse Co., Inc., extension used household goods in containers, now assigned December 11, 1972, will be held in Room 577, Federal Office Building, 300 East Eighth Street, Austin, TX.

MC 115703 Sub 6, Kreitz Motor Express, Inc., now assigned December 11, 1972, at Cleveland, Ohio, in Room 1455, 14th Floor, Federal Office Building, 1240 East Ninth Street.

MC 134738 Sub 1, Lawrence D. Willoughby and Robert Fritz doing business as Solon Equipment, now assigned December 13, 1972, at Cleveland, Ohio, in Room 1455, 14th Floor, Federal Office Building, 1240 East Ninth Street.

MC-F-11483, Lattavo Bros., Inc. Purchase—Crown Cartage & Storage Co., MC 45194 Sub 12, Lattavo Bros., Inc., now assigned December 18, 1972, at Columbus, Ohio, hearing will be held in Room 4, State Office Building, 65 South Front Street.

MC 51312 Sub 12, Bowling Green Transfer, Inc., now assigned December 20, 1972, at Columbus, Ohio, hearing will be held in Room 4, State Office Building, 65 South Front Street.

MC 109397 Sub 277, Tri-state Motor Transit Co., now assigned December 21, 1972, at Columbus, Ohio, hearing will be held in Room 4, State Office Building, 65 South Front Street.

MC 115162 Sub 238, Poole Truck Line, Inc., now assigned November 30, 1972, at Birmingham, Ala., hearing will be held in Room 428, Fourth Floor, Department of Labor, Ninth Avenue South.

MC-C-7776, Cooper Transfer Co., Inc.—Investigation and revocation of certificates, now assigned November 28, 1972, MC 73165 Sub 302, Eagle Mtr. Lines, Inc., now assigned December 4, 1972, MC 20783 Sub 85, Tompkins Motor Lines, Inc., now assigned December 5, 1972, at Birmingham, Ala., hearings will be held in Room 1931, Conference Room, Department of Labor, Ninth Avenue South.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-19835 Filed 11-16-72;8:50 am]

[Ex Parte 241, Rule 19; 7th Rev. Exemption 12]

ATLANTIC & WESTERN RAILWAY CO. ET AL.

Exemption From Mandatory Car Service Rules

It appearing, that the railroads named herein own numerous plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC R.E.R. No. 385, issued by W J. Trezise, or successive issues thereof, as having mechanical designation XM, and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1(a), 2(a), and 2(b).

Atlantic & Western Railway Co., Reporting marks: ATW.
Chicago & Illinois Midland Railway Co., Reporting marks: CIM.
The La Salle & Bureau County Railroad Co., Reporting marks: LSBC.
Louisville, New Albany & Corydon Railroad Co., Reporting marks: LNAC.
Manufacturers Railway Co., Reporting marks: MRS.
Richmond, Fredericksburg & Potomac Railroad Co., Reporting marks: RFP.
Toledo, Peoria & Western Railroad Co., Reporting marks: TPW.
Vermont Railway, Inc., Reporting marks: Rut or VTR.
Wellsville, Addison & Galeton Railroad Corp., Reporting marks: WAG.

Effective November 15, 1972, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., November 10, 1972.

INTERSTATE COMMERCE COMMISSION,
R. D. PFAHLER, *Agent.*

[FR Doc.72-19840 Filed 11-16-72;8:51 am]

[Ex Parte 241; Rule 19; Exemption 16, Amdt. 1]

EXEMPTION FROM MANDATORY CAR SERVICE RULES

Extension of Expiration Date

Upon further consideration of Exemption No. 16 issued August 9, 1972.[1]

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 16 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby, amended to expire January 31, 1973.

This amendment shall become effective November 15, 1972.

Issued at Washington, D.C., November 10, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER, *Agent.*

[FR Doc.72-19837 Filed 11-16-72;8:51 am]

[Ex Parte 241, Rule 19; Third Rev. Exemption 19]

BALTIMORE & OHIO RAILROAD CO. ET AL.

Exemption From Mandatory Car Service Rules

It appearing, that there has been a substantial increase in the movement of grain and grain products originating at stations on the railroads listed herein; that major harvests of corn, milo, and soybeans are commencing in the areas served by these railroads; that boxcar supplies available to these railroads are inadequate to meet all of the needs of the shippers served by them; that surpluses of plain boxcars exist on certain railroads; and that these railroads have consented to the use of their cars by the railroads listed herein.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC R.E.R. No. 384, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation XM, with inside length 44 feet 6 inches, or less and regardless of door width, owned by the following railroads:

The Baltimore & Ohio Railroad Co.
Bangor & Aroostook Railroad Co.
The Chesapeake & Ohio Railway Co.
Delaware & Hudson Railway Co.
The Denver & Rio Grande Western Railroad Co.

are exempt from the provisions of Car Service Rules 1 and 2 when located empty on, or loaded by, any of the lines named below:

Illinois Terminal Railroad Co. eliminated.
Toledo, Peoria & Western Railroad Co. eliminated.
The Atchison, Topeka & Santa Fe Railway Co.
Burlington Northern Inc.:
 The Colorado & Southern Railway Co.
 Fort Worth & Denver Railway Co.
Chicago & Eastern Illinois Railroad Co.
Chicago & North Western Railway Co.
Chicago, Milwaukee, St. Paul & Pacific Railroad Co.
Chicago, Rock Island & Pacific Railroad Co.
Illinois Central Gulf Railroad Co.
The Kansas City Southern Railway Co.
Missouri-Kansas-Texas Railroad Co.
Missouri Pacifiic Railroad Co.
Norfolk & Western Railway Co.:
 (Lines Connersville, Indiana, and Montpelier, Ohio, and west, including stations on line between Connersville and Montpelier via New Castle, Muncie, Bluffton, Kingsland, Fort Wayne, and Butler, Indiana)
St. Louis-San Francisco Railway Co.
St. Louis Southwestern Railway Co.
Soo Line Railroad Co.
Union Pacific Railroad Co.

Effective November 15, 1972.

Expires December 15, 1972.

Issued at Washington, D.C., November 10, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER, *Agent.*

[FR Doc.72-19839 Filed 11-16-72;8:51 am]

[Ex Parte 241, Rule 19; Rev. Exemption 21, Amdt. 1]

EXEMPTION FROM MANDATORY CAR SERVICE RULES

Extension of Expiration Date

Upon further consideration of Revised Exemption No. 21 issued October 12, 1972.

It is ordered, That, under authority vested in me by Car Service Rule 19, Revised Exemption No. 21 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby, amended to expire December 15, 1972.

This amendment shall become effective November 15, 1972.

Issued at Washington, D.C., November 10, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER, *Agent.*

[FR Doc.72-19836 Filed 11-16-72;8:50 am]

[Revised S.O. 994; ICC Order 70, Amdt. 3]

WELLSVILLE, ADDISON & GALETON RAILROAD CORP.

Rerouting or Diversion of Traffic

Upon further consideration of ICC Order No. 70 (Wellsville, Addison & Galeton Railroad Corp.) and good cause appearing therefor:

It is ordered, That:

ICC Order No. 70 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., March 15, 1973, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., November 15, 1972, and that this amendment shall be served upon the

[1] Published at 37 F.R. 16451, August 12, 1972.

Association of American Railroads, Car Service Division, as agent of all railroads

been made. The protests must be specific as to the service which such protestant

AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, NY 11040.

Grand Rapids, Benton Harbor, Port Huron, and Rockford, Mich.; Greenville and

REFRIGERATED CARGO, INC., Post Office Box 6188, 1612 Irving Boulevard,

State of Texas, on the one hand, and, on the other, points in New Mexico, having

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Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., November 10, 1972.

INTERSTATE COMMERCE COMMISSION
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.72-19838 Filed 11-16-72;8:51 am]

FOURTH SECTION APPLICATION FOR RELIEF

NOVEMBER 14, 1972.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42571—*Fine Coal to Terrell, N.C.* Filed by M. B. Hart, Jr., agent (No. A6328), for interested rail carriers. Rates on bituminous fine coal, in carloads, as described in the application, from mine origins in Kentucky and Virginia, to Terrell, N.C.

Grounds for relief—Rail carrier competition.

Tariff—Southern Freight Association, agent, tariff ICC S-1076.

Rates are published to become effective on January 1, 1973.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-19834 Filed 11-16-72;8:50 am]

[Notice 150]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 10, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 82841 (Sub-No. 103 TA), filed October 25, 1972. Applicant: HUNT TRANSPORTATION, INC., 10770 I Street, Omaha, NE 68127. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* as described in Appendix V of *Description in Motor Carrier Certificates*, Ex Parte No. MC-45, 64 M.C.C. 209, between Tulsa and the Port of Catoosa, Okla., on the one hand, and points in Idaho, on the other, for 180 days. Supporting shipper: Jones & Laughlin Steel Corp., 3 Gateway Center, Pittsburgh, Pa. 15230. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 106 South 15 Street, 711 Federal Office Building, Omaha, NE 68102.

No. MC 100666 (Sub-No. 229 TA), filed October 26, 1972. Applicant: MELTON TRUCK LINES, INC., Post Office Box 7666, 1129 Grimmett Drive, Shreveport, LA 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Center, 3535 Northwest 58th Street, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, plastic tubing, plastic conduit, valves, fittings, compound joint sealer, bonding cement and accessories and tools* used in the installation of such products, from the plantsite of Ethyl Corp. at Columbia, Miss., to points in Alabama, Arizona, Florida, Georgia, Louisiana, and Texas, for 180 days. Supporting shipper: Ethyl Corp., Ethyl Tower, 451 Florida Boulevard, Baton Rouge, LA 70801. Send protests to: Paul D. Collins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 103051 (Sub-No. 259 TA), filed October 24, 1972. Applicant: FLEET TRANSPORT COMPANY, INC., Post Office Box 90408, 934 44th Avenue N., Nashville, TN 37209. Applicant's representative: W. G. North (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, in bags, blocks, packages, and in bulk, in dump vehicles, from Cairo, Ga., to points in Alabama and Florida, for 180 days. Supporting shipper: Cargill, Inc., Salt Department, Cargill Building, Minneapolis, Minn. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 803—1808 West End Building, Nashville, Tenn. 37203.

No. MC 111729 (Sub-No. 362 TA), filed October 24, 1972. Applicant: AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, NY 11040. Applicant's representative: John M. Delany (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Business papers, records, and audit and accounting media of all kinds, and advertising material moving therewith*, (a) between Hicksville, N.Y., on the one hand, and, on the other, Atlantic City and Pennsauken, N.J., and Levittown, Pa.; (b) between Downers Grove, Ill., and Madison, Wis.; and (2) *business papers, records and adult and accounting media of all kinds, and advertising material moving therewith, and cardiac pacemakers and related accessories, instruction booklets, specification sheets and identification charts*, between New Orleans, La., on the one hand, and, on the other, points in Alabama, Arkansas, Mississippi, and Tennessee, and points in Florida, on and west of U.S. Highway 231, for 90 days. Supporting shippers: Major Computer Corp., 17 West Marie Street, Hicksville, NY; Medtronic, Inc., 4900 Veterans Boulevard, Suite 710, Security Homestead Building, Metairie, LA 70002; "Numbers", 1017 Burlington Street, Downers Grove, IL 60515. Send protests to: Thomas W. Hopp, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, NY 10007.

No. MC 111729 (Sub-No. 363 TA), filed October 24, 1972. Applicant: AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, NY 11040. Applicant's representative: John M. Delany (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Business papers, records and audit and accounting media of all kinds, and advertising material moving therewith*, between West Springfield, Mass., on the one hand, and, on the other, points in Connecticut, Maine, New Hampshire, New York, and Rhode Island, for 90 days. Supporting shipper: Agway Inc., Box 1333, Syracuse, NY 13201. Send protests to: Thomas W. Hopp, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, NY 10007.

No. MC 112801 (Sub-No. 138 TA), filed October 25, 1972. Applicant: TRANSPORT SERVICE CO., Post Office Box 50272, 5100 West 41st Street, Chicago, IL 60650. Applicant's representative: Albert A. Andrin, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic resins and synthetic latex*, liquid, in bulk, in tank vehicles, from the plant and warehouse facilities of Borden Chemical Co., at Illiopolis, Ill., to points in Georgia, Massachusetts, New York, Ohio, Pennsylvania, and Wisconsin; and to Demopolis and Mobile, Ala.; Boca Raton, Orlando, and Tampa, Fla.; Alexandria, Cediyerville, Richmond, and Wabash, Ind.; Hutchinson, Wichita, and Kansas City, Kans.; Louisville, Lexington, and Danville, Ky.; Battle Creek,

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

Grand Rapids, Benton Harbor, Port Huron, and Rockford, Mich.; Greenville and Picayune, Miss.; Grand Rapids, Cloquet, and St. Paul, Minn.; Carl Junction, Kansas City, St. Louis, and Kirkwood, Mo.; Newark and South Kearney, N.J.; Oklahoma City and Tulsa, Okla.; Nashville and Memphis, Tenn.; Dallas, Gainsville, Itasca, and Houston, Tex., for 180 days. Supporting shipper: Borden Chemical Co., Illiopolis, Ill. Send protests to: District Supervisor Robert G. Anderson, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, IL 60604.

No. MC 114533 (Sub-No. 263 TA), filed October 24, 1972. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, IL 60632. Applicant's representative: Stanley Komosa (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Audit media and other business records*, between Oakbrook, Ill., on the one hand, and, on the other, points in Indiana, Iowa, Ohio, Wisconsin, Michigan, and Missouri, between St. Joseph, Mich., on the one hand, and on the other, points in Illinois, Indiana, and Wisconsin: (2) *graphic arts material*, between St. Joseph, Mich., on the one hand, and, on the other, points in Illinois, Indiana, and Wisconsin and (3) *eyeglasses, frames, lenses, and parts thereof*, between Joliet, Ill., on the one hand, and, on the other, points in Indiana and Wisconsin, for 180 days. Supporting shippers: Prudential Property and Casualty Insurance Co., 2111 Enco Drive, Oak Brook, IL 60521; A & R Roe Printers, Wayne near Pleasant Street, St. Joseph, Mich. 49085; B & M Optical Co., 551 Columbia Street, Joliet, IL 60434. Send protests to: District Supervisor Robert G. Anderson, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chiacgo, IL 60604.

No. MC 117644 (Sub-No. 29 TA), filed October 27, 1972. Applicant: D & T TRUCKING CO., INC., 498 Northwest First Street, Post Office Box 2611, New Brighton, MN 55112. Applicant's representative: Robert Dolle (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products and other commodities distributed by dairies* (except commodities in bulk), from plantsites, warehouses, storage, and production facilities utilized by Land O'Lakes, Inc., in Minnesota, Eau Claire, Reedsburg, Spencer, and Whitehall, Wis., and Chicago, Ill., to points in Ohio and Louisville, Ky., for 180 days. Supporting shipper: Land O'Lakes, Inc., Minneapolis, Minn. Send protests to: District Supervisor Raymond T. Jones, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 119789 (Sub-No. 122 TA), filed October 24, 1972. Applicant: CARAVAN REFRIGERATED CARGO, INC., Post Office Box 6188, 1612 Irving Boulevard, Dallas, TX 75222. Applicant's representative: James N. Weatherly (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and bottled foodstuffs*, from Lafayette and New Iberia, La., to points in Illinois, Indiana, Michigan, Ohio, and Wisconsin, for 180 days. NOTE: Carrier does not intend to tack authority. Supporting shipper: B. F. Trappey's Sons, Inc., Locker Drawer 400, New Iberia, LA 70560. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, TX 75202.

No. MC 119934 (Sub-No. 185 TA), filed October 24, 1972. Applicant: ECOFF TRUCKING, INC., 625 East Broadway, Fortville, IN 46040. Applicant's representative: J. F. Crouch (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cupric chloride*, from Vincennes, Ind., to Elyria, Ohio, in bulk, in rubber-lined tank vehicles, for 180 days. Supporting shipper: Universal Scientific Co., Inc., 1312 South 13th Street, Vincennes, IN 47591. Send protests to: James W. Habermehl, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 802 Century Building, 36 South Penn Street, Indianapolis, IN 46204.

No. MC 123048 (Sub-No. 234 TA), filed October 27, 1972. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Post Office Box A (53401), Racine, WI 53403. Applicant's representative: Carl S. Pope (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors, forklifts, front-end loaders, self-propelled compactors, and attachments and parts*, from the plant and warehouse facilities of Bilco, Inc., at or near Grantsburg, Wis., to points in California, Georgia, New York, North Dakota, Texas, Vermont, Wisconsin, and Minnesota, for 180 days. Supporting shipper: Bilco Inc., Grantsburg, Wis. 54840 (George Zirnhelt, president). Send protests to: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 123829 (Sub-No. 1 TA), filed October 25, 1972. Applicant: LUBBOCK-AMARILLO ARMORED SERVICE, INC., 524 32d Street, Lubbock, TX 79408. Applicant's representative: John M. Delany, 2 Nevada Drive, Lake Success, NY 11040. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Radiopharmaceuticals, radioactive drugs, medical isotopes, medical kits, medical instruments, and replacement parts therefor*, restricted to articles or packages weighing in the aggregate less than 42 pounds, from one consignor to one consignee on any one day, between all airports in the State of Texas, on the one hand, and, on the other, points in New Mexico, having an immediately prior or subsequent movement by air, for 90 days. Supporting shipper: Thomas F. Moffitt, manager of operations, Abbott Laboratories, Radio-Pharmaceutical Products Division, Abbott Park Building 8 D-919, North Chicago, Ill. 60064. Send protests to: Haskell E. Ballard, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box H-4395, Herring Plaza, Amarillo, TX 79101.

No. MC 125154 (Sub-No. 53 TA), filed October 26, 1972. Applicant: WINGATE TRUCKING COMPANY, INC., 1004 21st Avenue, Post Office Box 645, Albany, GA 31702. Applicant's representative: Sol H. Proctor, 2501 Gulf Life Tower, Jacksonville, FL 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden textile bobbin blanks*, from Wheatley, Ark., to Greenville, S.C., for 180 days. Supporting shipper: Steele Heddle Manufacturing Co., Greenville, S.C. Send protests to: District Supervisor G. H. Fauss, Jr., Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 138101 (Sub-No. 1 TA), filed October 24, 1972. Applicant: DOUG AMORE, doing business as, AMORE'S HEAVY DUTY WRECKER SERVICE, 355 Gale Street, Oconto, WI 54153. Applicant's representative: John J. Keller, 145 West Wisconsin Avenue, Neenah, WI 54956. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trucks, tractors, and semitrailers* as replacement vehicles for wrecked or disabled trucks, tractors, and semitrailers and wrecked or disabled trucks, tractors, and semitrailers, between points in Brown, Marinette, Menominee, Oconto, and Shawano Counties, Wis., and points in the United States (excluding Alaska and Hawaii), for 180 days. Supporting shippers: Bond Pickle Co., Inc., Oconto, Wis. 54153 (J. McTavish, traffic manager); Carver Boat Corp., Pulaski, Wis. 54162 (Glen Nordin, vice president); Cruisers, Inc., Oconto, Wis. 54153; Stock Lumber Co., Oconto, Wis. 54153 (K. C. Stock); W. A. Rusch Leasing, Inc., Lena, Wis. 54139. Send protests to: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-19841 Filed 11-16-72;8:51 am]

[Notice 151]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 13, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate

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Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 CFR Part 1131) published in the FED-

16353. Applicant's representative: Arthur J. Diskin, 806 Frick Building, Pittsburgh, Pa. 15219. Authority sought to operate

TRANSPORTATION, INC., Post Office Box 31, Norfolk, NE 68701. Authority sought to operate as a *contract carrier*,

Inc., Shenandoah, Iowa 51601. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission,

ing shipper: Paul L. Klinvex, manager, traffic and transportation, National Aluminum Corp., 2800 Grant Building,

munications, between Chattanooga, Tenn., and points in the counties of Bledsoe, Bradley, Cumberland, Fentress,

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XUM

Commerce Act provided for under the new rules of Ex Parte No. MC–67, (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 123885 (Sub-No. 9 TA), filed October 27, 1972. Applicant: C AND R TRANSFER CO., 1315 West Blackhawk Street, Sioux Falls, SD 57104. Applicant's representative: James W. Olson, 506 West Boulevard, Rapid City, SD 57701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bags and in bulk, from points in Codington County, S. Dak., to points in Minnesota and North Dakota, and from Sioux Falls, S. Dak., to points in Dickinson County, Iowa; and Lamberton, Minn., for 180 days. Supporting shipper: South Dakota State Cement Plant, Rapid City, S. Dak. 57701, John E. Doane, Director of Transportation and Terminals. Send protests to: J. L. Hammond, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 124774 (Sub-No. 58 TA) (Correction), filed October 16, 1972, published in the FEDERAL REGISTER issue of November 3, 1972, corrected and republished in part as corrected this issue. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 3200 Highway 75 North, Post Office Box 536, Sioux City, IA 51101. Applicant's representative: Patrick E. Quinn, 300 NSEA Building, Lincoln, Nebr. 68501. NOTE: The purpose of this partial republication is to set forth the correct MC No. 124774 (Sub-No. 85 TA), in lieu of MC 124774 (Sub-No. 57 TA), shown in error in previous publication. The rest of the application remains the same.

No. MC 125279 (Sub-No. 4 TA), filed October 24, 1972. Applicant: TERRY P. KIEFER, Star Route 3, Tionesta, PA 16353. Applicant's representative: Arthur J. Diskin, 806 Frick Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Clarion County, Pa., to Dunkirk, N.Y., for 180 days. Supporting shippers: Ernest C. Dean Contractor, Inc., Post Office Box 161, New Bethlehem, PA 16242; The Sheridan Coal Sales Co., Inc., 2070 Sheridan Drive, Buffalo, NY. 14223. Send protests to: James C. Donaldson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 128075 (Sub-No. 25 TA), filed October 26, 1972. Applicant: LEON JOHNSRUD, Post Office Box 447, Highway 9 West Cresco, IA 52136. Applicant's representative: Cal M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Butter*, from Cresco and Little Cedar, Iowa, to Chicago, Ill., for 180 days. Supporting shipper: Land O'Lakes, Inc., Post Office Box 116, Minneapolis, MN 55440. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 128866 (Sub-No. 43 TA), filed October 25, 1972. Applicant: B & B TRUCKING, INC., Post Office Box 129, 9 Brade Lane, Cherry Hill, NJ 08034. Applicant's representative: J. Michael Farrell, Federal Bar Building, Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum food containers*, from the plantsite of Penny Plate, Inc., at Cherry Hill, N.J., Searcy, Ark., and Deerfield, Ill., to Patterson, Calif., for 180 days. Supporting shipper: Penny Plate, Inc., Post Office Box 458, Haddonfield, NJ 08033. Send protests to: Richard M. Regan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 129615 (Sub-No. 12 TA), filed October 27, 1972. Applicant: AMERICAN INTERNATIONAL DRIVE-AWAY, 2000 West 16th Street, Long Beach, CA 90813. Applicant's representative: E. D. Helmer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motorhomes and campers*, between points in Thomas County, Ga., Yamhill County, Oreg., and Cowley County, Kans., on the one hand, and, on the other, points in the United States, for 180 days. Supporting shipper: Skyline Corp., Corporate Office, 2520 By-Pass Road, Elkhart, IN 46514. Send protests to: John E. Nance, Officer in Charge, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 134734 (Sub-No. 7 TA), filed October 24, 1972. Applicant: NATIONAL TRANSPORTATION, INC., Post Office Box 31, Norfolk, NE 68701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cranberry products*, from North Chicago, Ill., and Kenosha, Wis., to Denver, Colo., Concordia, Kansas City, Topeka, and Wichita, Kans., Omaha, Lincoln, Norfolk, and Grand Island, Nebr., Kansas City, Mo., Oklahoma City and Tulsa, Okla., for 180 days. Supporting shipper: Ocean Spray Cranberries, Kenosha, Wis. Send protests to: Carroll Russell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 106 South 15th Street, 711 Federal Office Building, Omaha, NE 68102.

No. MC 135352 (Sub-No. 5 TA), filed October 26, 1972. Applicant: VANDER HART TRANSFER & STORAGE, INC., 1207 Franklin Street, Pella, IA 50219. Applicant's representative: Cecil L. Goethsch, 1100 Des Moines Building, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bagged insulation*, from Oskaloosa, Iowa, to points in Minnesota, North Dakota, South Dakota, Nebraska, Kansas, Missouri, Arkansas, Illinois, Wisconsin, and Michigan, north of the Straits of Mackinac, with *return of used paper* for recycling purposes only, for 180 days. Supporting shipper: Hagan Manufacturing Co., 601 First Avenue West, Oskaloosa, IA 52577. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 135751 (Sub-No. 3 TA), filed October 27, 1972. Applicant: ATLANTIC CARRIERS, INC., Post Office Box 284, First and Hazel Streets, Atlantic, IA 50022. Applicant's representative: Thomas E. Leahy, Jr., 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Grain bins, augers, and steel buildings*, from Mattoon, Ill., to points in that part of Iowa on and west of U.S. Highway 65 and on and south of U.S. Highway 30 and points in that part of Nebraska on and east of U.S. Highway 81 and on and south of Nebraska Highway 51, for 180 days. Supporting shipper: Anderson Construction Co., Lewis, Iowa. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 711 Federal Office Building, Omaha, Nebr. 68102.

No. MC 135751 (Sub-No. 4 TA), filed October 27, 1972. Applicant: ATLANTIC CARRIERS, INC., Post Office Box 284, First and Hazel Streets, Atlantic, IA 50022. Applicant's representative: Thomas E. Leahy, Jr., 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Shenandoah, Iowa to Wooster, Ohio, and Corsicana, Tex., for 180 days. Supporting shipper: Farmaster Products,

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

Inc., Shenandoah, Iowa 51601. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 711 Federal Office Building, Omaha, Nebr. 68102.

No. MC 135813 (Sub-No. 2 TA), filed October 19, 1972. Applicant: PARR TRUCKING SERVICE, INC., 829 Alsop Lane, Post Office Box 1308, Owensboro, KY 42301. Applicant's representative: George M. Catlett, 703–706 McClure Building, Frankfort, KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molten aluminum alloy*, from the plantsite of National Southwire Aluminum Co., in Hancock County, Ky., to Bedford, Ind., for 180 days. Supporting shipper: Paul L. Klinvex, manager, traffic and transportation, National Aluminum Corp., 2800 Grant Building, Pittsburgh, Pa. 15219. Send protests to: R. W. Schneiter, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 222 Bakhaus Building, 1500 West Main Street, Lexington, KY 40505.

No. MC 138131 TA, filed October 20, 1972. Applicant: ARROW TRANSFER & STORAGE CO. (a corporation), 1124 Market Street, Chattanooga, TN 37402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Telephone equipment, material, and supplies, including tools* used in the construction and maintenance of telephone systems and communications, between Chattanooga, Tenn., and points in the counties of Bledsoe, Bradley, Cumberland, Fentress, Grundy, Hamilton, McMinn, Marion, Meigs, Monroe, Overton, Pickett, Polk, Putnam, Sequatchie, Van Buren, and White, for 180 days. Supporting shipper: Western Electric, 6701 Roswell Road NE., Atlanta, GA 30328, J. F. Ballard, resident transportation manager. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite 803, 1808 West End Building, Nashville, Tenn. 37203.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.72-19842 Filed 11-16-72;8:51 am]

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federal register

FRIDAY, NOVEMBER 17, 1972

WASHINGTON, D.C.

Volume 37 ■ Number 223

PART II

DEPARTMENT OF LABOR

Employment Standards Administration

■

Minimum Wages for Federal and Federally Assisted Construction

Area Wage Determination Decisions, Modifications, and Supersedeas Decisions

No. 223—Pt. II——1

DEPARTMENT OF LABOR

limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the application of these rates is limited to Federal and federally assisted contracts subject to Executive Order 11246 or Executive Order 11375 which are entered into before the effective date of the decision. Modifications and supersedeas decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5 with the same limitation.

Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule

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DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Area Wage Determination Decisions and Modifications and Supersedeas Decisions

Area wage determination decisions. Area Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 F.R. 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

Area Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and supersedeas decisions to area wage determination decisions. Modifications and Supersedeas Decisions to Area Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 F.R. 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in foregoing Area Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule making procedures prescribed in 5 U.S.C. 553 has been set forth in the original Area Wage Determination Decision.

The following is a list of the Area Wage Determination Decision, Modifications, and Supersedeas Decisions which are set forth below in this document.

Area Wage Determination Decision No. AP-48 for the State of Ohio.

Modifications to Area Wage Determination Decisions for specified localities in the States of Alabama, Arkansas, California, Florida, Georgia, Illinois, Kentucky, Louisiana, Mississippi, Missouri, New Mexico, Pennsylvania, Tennessee, and Texas which were published in the FEDERAL REGISTER on the following dates:

Decision No.	*Date*
AM-475; AM-1,854; AM-1,859; AM-1,863; AM-1,864.	Aug. 20, 1971.
AM-8,568; AM-8,569; AM-8,590.	Mar. 17, 1972.
AM-8,618; AM-8,619	June 2, 1972.
AP-117; AP-119	Aug. 18, 1972.
AP-116; AP-118; AP-235; AP-322; AP-323.	Sept. 15, 1972.
AP-342; AP-343; AP-349; AP-421.	Sept. 29, 1972.
AP-132; AP-133; AP-246	Oct. 13, 1972.
AP-28; AP-29	Nov. 3, 1972.

Supersedeas Decisions to Area Wage Determination Decisions for specified localities in the States of Delaware, Florida, Kansas, Maryland, Missouri, Ohio, Oklahoma, Texas, Virginia, and the District of Columbia which were published in the FEDERAL REGISTER on the following dates:

Decision No.	*Date*
AM-411(AP-41); AM-416 (AP-46).	Aug. 11, 1971.
AM-404(AP-34); AM-405 (AP-35); AM-406(AP-36); AM-407(AP-37); AM-408 (AP-38); AM-410(AP-40); AM-412(AP-42); AM-413 (AP-43); AM-414(AP-44); AM-415(AP-45); AM-417 (AP-47).	Aug. 18, 1971.
AM-451(AP-128); AM-452 (AP-123); AM-453(AP-127); AM-455(AP-125); AM-457(AP-124); AM-461 (AP-126).	Aug. 20, 1971.
AM-6,724(AP-514)	April 28, 1972.
AM-6,728(AP-515)	May 19, 1972.
AM-8,614(AP-39)	May 26, 1972.
AM-9,699(AP-444)	June 30, 1972.
AP-409(AP-443); AP-411 (AP-442).	Aug. 4, 1972.
AP-306(AP-361); AP-308 (AP-360).	Aug. 11, 1972.

Supersedeas decision numbers are in parentheses following the number of the decision being superseded.

Signed at Washington, D.C., this 10th day of November 1972.

HORACE E. MENASCO,
Administrator,
Wage and Hour Division.

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H&W	PENSIONS	VACATION	APP. TR.	OTHR
Plasterers	$7.71	.55	.70		.02	
Plumbers	9.16	.25	.20		.005	
Roofers	9.76		.60			
Sheet metal workers	9.41	.40	.55		.01	
Soft floor layers (resilient)	8.06	.65	.65	1.00		
Terrazzo workers	9.10	.65	.25			
Tile setters	9.435					
Tile setters' helpers	9.32					

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Six paid holidays, A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay
Credit for employee who has worked in business more than 5 years.
Employer contributes 2% of regular hourly rate to Vacation Pay
Credit for employee who has worked in business less than 5 years.

c. Nine paid holidays, A through F plus Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

d. Eight paid holidays: New Year's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, The Friday after Thanksgiving, and Christmas Day.

NEW DECISION

STATE: Ohio
DECISION NO.: AP-48
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

COUNTY: Cuyahoga
DATE: Date of publication

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Asbestos workers	$10.31	.50	.85		.01	
Boilermakers	8.96	.65	.65	1.00		
Bricklayers & Stone masons	8.13	.65	.65		.01	
Carpenters	9.45	.40	.55		.01	
Millwrights	9.45	.40	.55		.01	
Piledrivermen	9.45	.40	.55		.01	
Cement masons:						
Building	9.61	.30	.42		.02	
Heavy & Highway	7.63	.42	.45		.02	
Electricians	9.53	.195	.32+17		.005	
Elevator constructors	9.435	.195	.20	2%+a&b	.005	
Elevator constructors' helpers	70%JR			2%+a&b		
Elevator constructors; helpers (prob)	50%JR					
Glaziers	9.11	.25	.55		.01	
Ironworkers, structural & ornamental	8.20	.50	.80	.90	.01	
Ironworkers, reinforcing	8.20	.50	.80	.90	.01	
Laborers:						
Laborers, construction	5.97	.25	.25			
Gunite operators	6.295	.25	.25			
Blasters, well cylinders, mine workers without air, cofferdams	6.295	.25	.25			
Muckers	6.17	.25	.25			
Jackhammers, acetylene burners, vibrator	6.17	.25	.25			
Sewer & utility laborers	6.12	.25	.25			
Swinging scaffolds	6.22	.25	.25			
Top man on free standing radial stack	6.47	.25	.25			
Powerdriven tools and vibrator	6.12	.25	.25			
Lathers	10.16	.15	1%		.01	
Loathtenders	9.91			c	.01	
Marble setters	8.13	.30	.65	1.00		
Marble setters' helpers	8.79	.65				
Painters:						
Brush & paperhangers Rollers & tarpers	8.71	.37	.34			
Structural steel & bridge	9.41	.37	.34			
Swing stage & boatn chair	9.01	.37	.34			
Sandblasters:						
Hydraulic nozzle	5.94	.25	.15	d	.01	
Spray painter	5.74	.25	.15	d	.01	
Pipefitters & Sprinkler fitters	9.25	.60	.65		.03	

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS:						
A-Frames, air compressor on steel erection, all rotary drills used on caisson for foundations and sub-structure work, boiler operator or compressor operator when compressor or boiler is mounted on crane (piggyback operation boom trucks (all types), cableways, cherry pickers, combination concrete mixer & tower, concrete pumps, cranes (all types), derricks (all types), draglines, elevating grader or euclid loader, floating equipment, gradalls, helicopter operator (hoisting builders materials), helicopter winch operator, (hoisting builders materials), hoes (all types), hoisting engines (two or more drums), lift slab or panel jack operators, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip form pavers, straddle carriers (building construction site), tower derricks, trench machines (over 24" wide)	$9.33	.38	.65		.09	
Asphalt paver, bulldozer, CMI type equipment, endloaders, kholman type loaders (dirt loading), mucking machines, power graders, power scoops, power scrapers	9.18	.38	.65		.09	
Air compressor (pressurizing shafts or tunnels), all asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boiler (over 15 lbs., pressure), pump operator installing or operating well points or other type of dewatering system, pump (4" and over discharge), submersible pumps (4" & over discharge), trenchers (24" & under)	9.03	.38	.65		.09	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS: (CONT'D)						
Compressors on building construction, conveyors (building material), gunite machines, mixers (cap., more than one bag), mixers (one bag cap., side loader), post driver, post hole digger, pavement breaker (hydraulic or cable), road widening trencher, rollers, welder operator	8.35	.38	.65		.09	
Backfillers and tamper, batch plant, bar & joint installing machine, bull floats burlap & curing machines, cleftplanters, concrete spreading machines, crushers, drum firemen (asphalt), farm type tractors (pulling attachment) finishing machines, form trenchers, high pressure pumps (over 3" discharge), hydro seeders, self propelled power spreader, self propelled sub-grader, tractor (pulling sheep foot roller or grader) tire repairman, vibratory compactors (with integral power)	8.03	.38	.65		.09	
Oiler, helper, signalmen, light plant oper., power driven heaters (oil fired), power boilers (less than 15 lbs, pressure), submersible pumps (under 4" discharge), pumps (under 4" discharge)	7.40	.38	.65		.09	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
TRUCK DRIVERS:						
Straight and dumps, including asphalt, warehousemen in bona fide warehouses for storage of construction material, straight fuel	$5.25	.30	.30	a+b		
Semi fuel, semi pole drivers hauling steel pipe and semi tractor drivers	5.40	.30	.30	a+b		
Ready-mix, agitator or bulk concrete drivers, dry batch truck	5.63	.30	.30	a+b		
Euclids, darts, tank asphalt spreaders, low boys, carry-all drivers, tournarockers, hi-lifts, fork lifts, extra long trailers & semi pole trailers (except when hauling steel pipe), double hook-up tractor trailers, including team track and railroad siding, semi tractor and tri-axle trailer, tandem tractor and tandem trailer and tri-axle trailer, tag along trailers, expandable trailers, loads requiring road permits	5.75	.30	.30	a+b		

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PAID HOLIDAYS (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES
a. One week's vacation for one year of service; two weeks for five years of service; three weeks for ten years of service and four weeks for seventeen years of service.

b. Seven paid holidays: A through F plus National Election Day.

MODIFICATIONS P. 1

DECISION #AM-475 - Mod. #2
(36 FR 16424 - August 20, 1971)
Bryan, Chatham and Liberty Counties, Georgia

Omit:

Schedule issued for Dredging Construction

Add:

Schedule Decision #AP-439 issued in 37 FR 22701 - October 20, 1972

DECISION #AM-8589 - Mod. #1
(37 FR 5654 - March 17, 1972)
Alabama, Arkansas, Florida (West of the Chattahoochee River), Kentucky, Louisiana, Mississippi, Missouri, Texas and Tennessee

Change:
Description of States to Read:

ALABAMA, ARKANSAS, FLORIDA (WEST OF THE AUCILLA RIVER), KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, TEXAS AND TENNESSEE

DECISION #AM-8590 - Mod. #1
(37 FR 5655 - March 17, 1972)
Atlantic Coast and Gulf Coast West to the Chattahoochee River and all Tributary Waterways, Florida.

Change:
Description of Area to read:
Atlantic Coast and Gulf Coast West to the Aucilla River and all Tributary Waterways, Florida

MODIFICATIONS P. 2

DECISION #AM-8588 - Mod. #2
(37 FR 5654 - March 17, 1972)
Arkansas, Louisiana, Mississippi, and Tennessee

Change:
FOR CONSTRUCTION OF ALL FLOOD CONTROL PROJECTS ON THE MISSISSIPPI RIVER AND IT'S TRIBUTARIES.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Laborers:					
Unskilled	$1.70				
Asphalt workers, rakers, tampers, shovelers, ironers, etc.	1.70				
Revetment hookers, weavers	1.70				
Revetment laborers & twisters	1.70				
Deckhand revetment	1.80				
Head deckhand, revetment	1.90				
Chain saw operator or filer	2.10				
Air tool operator	2.35				
Powderman	2.90				
Power Equipment Operators:					
Pile driver operator, mechanic (heavy equipment), cranes, derricks, draglines, welder, power shovels and backhoes, mixer (concrete, 21 cu. ft. & Over), asphalt plant operator, trenching machine (over 18")	4.25				.05
Bulldozer (finisher, push cat & on barges), motor patrol finisher, scrapers and like equipment, front end loader, backhoe (tractor mounted) asphalt finisher or spreading machine, well point system operator, self-propelled loader (conveyor type)	3.85				.05
Firemen (Heavy construction), pile driver leadsman, winchman	3.30				.05
Asphalt plant dryer operator, asphalt distributor, asphalt roller, bulldozer (rough, including disc, plow or roller) motor patrol (haul roads), trenching machine (18" and under), self propelled roller (except asphalt) end dump equipment (off highway), mixer (concrete up to 21 cu. ft.), bottom dump euclids (and like equipment)	3.05				.05
Oiler, pump, mechanic helper, greaser, welder helper, tractor (farm type including disc, plow or roller)	2.45				.05
Truck Drivers:					
1½ tons or less	1.85				
Over 1½ tons	1.95				

MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
DECISION #AP-116 - Mod. #1 (37 FR 18835 - September 15, 1972) Colbert, Lauderdale, Madison and Morgan Counties, Alabama Change: Description of Work to Read: Highway Construction, excluding Airports Construction						
DECISION #AP-117 - Mod. #1 (37 FR 16732 - August 18, 1972) Calhoun, Etowah, St. Clair, Shelby, Talladega, Tuscaloosa and Walker Counties, Alabama Change: Description of Work to Read: Highway Construction, excluding Airports Construction						
DECISION #AP-118 - Mod. #1 (37 FR 18836 - September 15, 1972) Baldwin and Montgomery Counties, Alabama Change: Description of Work to Read: Highway Construction, excluding Airports construction						

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
DECISION #AP-119 - Mod. #1 (37 FR 16733 - August 18, 1972) Autauga, Barbour, Bibb, Blount, Butler, Chambers, Cherokee, Chilton, Choctaw, Clarke, Clay, Cleburne, Coffee, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dale, DeKalb, Elmore, Escambia, Fayette, Franklin, Geneva, Greene, Hale, Henry, Houston, Jackson, Lamar, Larence, Lee, Limestone, Lowndes, Macon, Marengo, Marion, Marshall, Monroe, Perry, Pickens, Pike, Randolph, Russell, Sumter, Tallapoosa, Washington, Wilcox and Winston Counties, Alabama Change: Description of Work to Read: Highway Construction, excluding Airports Construction						
DECISION #AP-132 - Mod. #3 (37 FR 21763 - October 13, 1972) Jefferson County, Kentucky Change: Millwrights	$8.28	.30	.30			
Millwrights, when working 30' above ground or solid floor	8.78	.30	.30			
Sheet Metal Workers	8.55	.60	.60		.05	
DECISION #AP-133 - Mod. #3 (37 FR 21766 - October 13, 1972) Warren County, Kentucky Change: Building Construction: Line Construction: Lineman	$7.40		1%		½ of 1%	
Line truck, hole digger and cable splicer	7.90		1%		½ of 1%	
Groundmen	5.90		1%		½ of 1%	

MODIFICATIONS P. 5

DECISION #AP-235 - Mod. #1
(37 FR 18837 - September 15, 1972)
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Plumas, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Change:						
Bricklayers; Stonemasons:						
San Benito & Santa Clara Counties	$8.50	.70	.60	.60	.02	
Amador, Alpine, Calaveras, San Joaquin, Stanislaus and Tuolumne	7.77	.33	.15	1.00		
Tulare County	7.80	.40	.40	.30	.05	
Drywall Installers	8.45	.60	.55	.75	.04	
Elevator Constructors	8.99	.195	.20	2%+a		
Elevator Constructors' Helpers	70%JR	.195	.20	2%+a		
Painters:						
Lake, Marin, Mendocino, Monterey, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz & Sonoma Counties						
Brush	7.77	.64	.65	.80		
Spray	8.02	.64	.65	.80		
Tapers	8.27	.64	.65	.80		
Soft Floor Layers:						
Alpine, Amador, Butte, Calaveras, Colusa, Glenn, Lassen (excluding Honey Lake Area), Merced (east of the San Joaquin River), Plumas, San Joaquin, Shasta, Sacramento, Stanislaus, Sutter, Tehama, Trinity Tuolumne, Yolo & Yuba Counties, & those portions of El Dorado, Nevada, Placer & Sierra Counties (excluding Lake Tahoe Area)	7.455	.495	.45	1.00	.07	
Fresno, Kings, Madera & Tulare Cos.	7.65	.20				
Tile Setters:						
Alpine, Amador, Calaveras, San Joaquin Counties	7.02	.33		.65		
Add:						
Sheet Metal Workers:						
Yuba County	8.21	.36	.83		.07	

DECISION #AP-235 (cont'd)

MODIFICATIONS P. 6

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Change:						
HYDRAULIC SUCTION DREDGES						
BARGEMEN; Dachhand; Fireman; Leveehand; Oiler	$6.53	.62	.90	.60	.19	
WINCHMAN (stern winch on dredge)	7.08	.62	.90	.60	.19	
DECKMATE	7.15	.62	.90	.60	.19	
WATCH ENGINEER; Welder	7.67	.62	.90	.60	.19	
LEVERMAN	8.36	.62	.90	.60	.19	
CLAMSHELL & DIPPER DREDGES						
DECKHAND; Fireman; Oiler	6.63	.62	.90	.60	.19	
DECK ENGINEER	7.94	.62	.90	.60	.19	
WELDER; Mechanic welder	8.26	.62	.90	.60	.19	
CLAMSHELL OP. (up to & incl. 7 cu. yds. m.v.c.) (long boom pay)	8.83	.62	.90	.60	.19	
CLAMSHELL OP. (over 7 cu. yds. m.v.c) (long boom pay)	9.70	.62	.90	.60	.19	

MODIFICATIONS P. 7

DECISION #AP-246 - Mod. #1
(37 FR 21728 - October 13, 1972)
Alameda, Amador, Contra Costa, Fresno, Marin, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Solano, Sonoma, Sutter, Yolo and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Change:						
Bricklayers; Stonemasons:						
Santa Clara County	$8.50	.70	.60	.60	.02	
Amador and San Joaquin Counties	7.77	.33	.15	1.00		
Drywall Installers	8.45	.60	.55	.75	.04	
Painters:						
Marin, Monterey, San Francisco, San Mateo, Santa Clara and Sonoma Counties						
Brush	7.77	.64	.65	.80		
Spray	8.02	.64	.65	.80		
Tapers	8.27	.64	.65	.80		
Soft Floor Layers:						
Amador, Merced (east of the San Joaquin River), San Joaquin, Sacramento, Sutter, Yolo & Yuba Counties, & those portions of Nevada and Placer Cos. excluding Lake Tahoe Area	7.455	.495	.45	1.00	.07	
Fresno County	7.65	.20				
Tile Setters:						
Amador and San Joaquin Counties	7.02	.33		.65		
Add:						
Painters:						
Sutter and Yuba Counties						
Tapers	5.65	.25	.25	.65		
Sheet Metal Workers:						
Yuba County	8.21	.36	.83		.07	

MODIFICATIONS P. 8

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-28-Mod. #1						
(37 FR 23513 - November 3, 1972)						
Cook County, Illinois						
Add:						
Bricklayers & Stonemasons	$8.90	.40	.60		.03	
Change:						
Boilermakers	8.75	.40	.75	4%	.01	
Boilermakers' helpers	8.65	.40	.75	4%	.01	
Electricians	9.00	.405	.405	.39	.045	
Power Equipment Operators (Building Construction):						
Class I	9.55	.40	.50	.20	.02	
Class II	8.30	.40	.50	.20	.02	
Class III	7.30	.40	.50	.20	.02	
Class IV	6.15	.40	.50	.20	.02	
Power Equipment Operators (Heavy & Sewer Construction):						
Class I	8.90	.40	.40	.10	.02	
Class II	8.40	.40	.40	.10	.02	
Class III	7.80	.40	.40	.10	.02	
Class IV	6.85	.40	.40	.10	.02	
Class V	5.85	.40	.40	.10	.02	
DECISION #AP-29-Mod. #1						
(37 FR 23490 - November 3, 1972)						
Cook County, Illinois						
Add:						
Bricklayers & Stonemasons	8.90	.40	.60		.03	
Change:						
Boilermakers	8.75	.40	.75	4%	.01	
Boilermakers' helpers	8.65	.40	.75	4%	.01	
Electricians	9.00	.405	.405	.39	.045	
Power Equipment Operators:						
Class I	9.55	.40	.50	.20	.02	
Class II	8.30	.40	.50	.20	.02	
Class III	7.30	.40	.50	.20	.02	
Class IV	6.15	.40	.50	.20	.02	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-8618 - Mod. #4 (37 FR 11140 - June 2, 1972) Hinds County, Mississippi						
Change:						
Asbestos workers	$6.95	.30				
Bricklayers and Stonemasons	6.22				.02	
Cement Masons:						
Cement masons	5.05	.25				
Traveling and/or floating machine & power grinders' operators	5.25	.25				
Elevator Constructers' helpers (Prob.)	4.95					
Ironworkers:						
Structural, Ornamental and Reinforcing	6.15	.30	.15		.04	
Plasterers	5.70	.25				
Roofers	5.50					
Roofers' helpers	4.00					
DECISION #AM-8619 - Mod. #3 (37 FR 11142 - June 2, 1972) Harrison and Pearl River Counties, Mississippi						
Change:						
Asbestos Workers:	7.70	.395	.75	d	.02	
Harrison County	7.70	.395	.75	d	.02	
Pearl River County	6.65	.30	.70			
Bricklayers:						
Bricklayers and Stonemasons	6.50					
Marble setters, Blockmasons, Caulkers and Pointers	6.50					
Terrazzo workers	6.40					
Tile setters and Plasterers	6.40					
Cement masons	5.88					
Carpenters:						
Carpenters	6.10					
Millwrights	6.42					
Add:						
Footnote:						
d. Two paid holidays, Labor Day and Mardi Gras Day, provided the employee works at least one day out of the 3 work days prior to the paid holidays and the first work day after the paid holiday.						

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
DECISION #AP-322 - Mod. #2 (37 FR 18078 - September 15, 1972) Los Alamos County, New Mexico						
Change:						
General Building and Heavy Engineering Construction: Plumbers & pipefitters	$8.63	.36	.49		.09	
DECISION #AP-323 - Mod. #2 (37 FR 18079 - September 15, 1972) Bernalillo County, New Mexico						
Change:						
General Building and Heavy Engineering Construction: PLUMBERS - PIPEFITTERS:						
Zone (1) - 0 to 5 road miles from Albuquerque	8.00	.36	.49		.09	
Zone (2) - 5 to 13 road miles from Albuquerque	8.25	.36	.49		.09	
Zone(3) - 13 to 23 road miles from Albuquerque	8.50	.36	.49		.09	
Zone (4) - 23 to 35 road miles from Albuquerque	8.75	.36	.49		.09	
Zone (5) - 35 to 45 road miles from Albuquerque	9.25	.36	.49		.09	
Zone (6) - over 45 road miles from Albuquerque	9.50	.36	.49		.09	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-1,854 - Mod. #7 (36 FR 16272 - August 20, 1971) Franklin County, Pennsylvania						
Change:						
Heavy and Highway:						
Carpenters	$6.76	6%	3%			
Cement Masons	7.05	.423	.705			
Piledrivermen	7.96	5%	6%			
DECISION #AM-1,859 - Mod. #7 (36 FR 16299 - August 20, 1971) Mercer County, Pennsylvania						
Change:						
Heavy and Highway:						
Cement Masons	7.05	.423	.705			
DECISION #AM-1,863 - Mod. #6 (36 FR 16319 - August 20, 1971) Washington County, Pennsylvania						
Change:						
Heavy and Highway:						
Cement Masons	7.05	.423	.705			
DECISION #AM-1,864 - Mod. #7 (36 FR 16326 - August 20, 1971) Westmoreland County, Pennsylvania						
Change:						
Heavy and Highway:						
Cement Masons	7.05	.423	.705			
DECISION #AP-421 - Mod. #3 (37 FR 20647 - September 29, 1972) Allegheny County, Pennsylvania						
Change:						
Heavy and Highway:						
Cement Masons	7.05	.423	.705			

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-342 - Mod. #5 (37 FR 20485 - September 29, 1972) Nueces County, Texas						
Change:						
Building Construction:						
Bricklayers	$6.45	.15			.02	
DECISION #AP-343 - Mod. #5 (37 FR 20488 - September 29, 1972) Bexar County, Texas						
Change:						
Building Construction:						
Glaziers	5.20		.20			
Painters:						
Brush	5.20		.20			
Spray	5.45		.20			
Structural steel	5.45		.20			
Spray on structural steel; sandblaster	5.70		.20			
Sheet metal workers	7.05	.25	.25		.05	
DECISION #AP-349 - Mod. #6 (37 FR 20503 - September 29, 1972) Galveston County, Texas						
Change:						
Building Construction:						
Painters:						
Painters	5.675	.55	.45	.665	.02	
Painters on swinging stage work or using materials injurious to the skin	5.925	.55	.45	.665	.02	

SUPERSEDEAS DECISION

STATE: Washington, D. C.
DECISION NO.: AP-442 DATE: Date of Publication
Supersedes Decision No. AP-411, dated August 4, 1972, in 37 FR 15790.
DESCRIPTION OF WORK: Building Construction (excluding single family houses & garden type apartments up to & including 4-stories); Highway Construction, Sewer & Water Lines.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Asbestos workers	$8.65	.25	.15		.015	
Boilermakers - Blacksmiths	7.65	.30	.70	.20	.01	
Bricklayers	8.70	.37	.33			
Carpenters	7.77	.25	.29		.07	
Cement Masons:						
Cement Masons	7.75	.255	.20		.05	
Grinding Machine	8.00	.255	.20		.05	
Electricians	8.85	.35	1% + .30		.10	
Elevator Constructors:						
Elevator Constructors	8.58	.195	.20	½% + a&b	.005	
Elevator Constructors' Helpers	6.01	.195	.20	½% + a&b	.005	
Elevator Constructors' Helpers (Prob).	4.29					
Glaziers	7.58	.46	.40			
Ironworkers:						
Structural	8.00	.45	.35		.01	
Ornamental & chain link fence	8.00	.45	.35		.01	
Reinforcing	7.85	.35	.25		.03	
Laborers:						
Common laborers, landscapers	5.77	.25	.25		.03	
Acetylene burners used on wrecking	6.27	.25	.25		.03	
Air tool op., scaffold builders, pavement busters, townmasters, buggy mobiles, spaders, mortarman and scootcretes	5.92	.25	.25		.03	
Pipelayers	5.92	.25	.25		.03	
Plasterers' tenders	6.07	.32	.20		.03	
Plumbers' laborers	5.42	.30	.15		.03	
Powdermen	6.365	.25	.25		.03	
Powersaw, well points	5.44	.25	.25		.03	
Stone carvers	6.355	.175	.20			
Stone trimmers, fitters & cutters	6.30	.175	.20			
Lathers	7.225	.30	.30		.025	
Lead Burners	7.80	.30		c	.01	
Line Construction:						
Linemen, cable splicers, equipment ops.	9.36	.20	1%		½ of 1%	
Truck with winch, truck pole or steel handling	6.94	.20	1%		½ of 1%	
Groundmen (0 to 1 year)	5.52	.20	1%		½ of 1%	
Groundmen (1 to 2 years)	6.43	.20	1%		½ of 1%	
Groundmen (over 2 years)	6.68	.20	1%		½ of 1%	
Marble Setters	8.60	.35	.25			
Marble Setters' Helpers	7.35					
Millwrights	7.89	.25	.20		.07	
Painters:						
Brush, spray, paperhangers, tapers	7.46	.41	.18		.03	
Steel, sandblasting, swing stage, power brushing	7.79	.41	.18		.03	
Pildrivermen	7.905	.25	.29		.07	
Plasterers	7.515	.45	.25		.06	

BUILDING CONSTRUCTION,(Continued)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Plumbers	$8.93	.38	.25		.10	
Roofers:						
Composition	6.65	.35	.20			
Slate, tile mopmen, waterproofers, sprayers, sprandrel & ironite	7.15	.35	.20			
Helpers	4.85	.35	.20			
Sheet metal workers	8.03	.545	.545		.04	
Soft floor layers	7.77	.25	.29		.07	
Sprinkler fitters	8.75	.30	.50		.05	
Steamfitters, refrigeration & air conditioning mechanic	9.04	.30	.25		.07	
Stone masons	8.60	.35	.25			
Terrazzo & mosaic workers	8.10	e	.20			
Terrazzo workers' helpers	7.10	e	.20			
Tile setters	8.10	e	.20			
Tile setters' helpers	7.10	e	.20			
Truck Drivers:						
Boom trucks	4.10	.22	f	g		
Small dump, water sprinkler, grease & oil	3.85	.22	f	g		
Flat, pick-up hauling materials, small Euclids, dump over 8 wheels	3.95	.22	f	g		
Trailers, low-boys, tractor pulls	4.15	.22	f	g		
Helpers	3.70	.22	f	g		
Carryalls, large Euclids, water sprinkler, tunnel work ground	4.25	.22	f	g		
Mechanics	4.00	.22	f	g		
Concrete mixers	3.20	.12	.15	a		
Riggers & Welders - receive rates prescribed for crafts performing operations to which rigging & welding are incidental.						

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F.

b. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years service as Vacation Pay Credit.

c. Holidays: A through F, plus Washington's Birthday, Good Friday and Christmas Eve (providing employee has worked at least 45 full dys during the 120 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holiday).

e. Employer contributes $37.92 per man per month.

f. $6.00 per week when employee has worked 90 dyas and works 3 days in a work week.

g. Holidays: A - D - E and F (providing the employee works the regularly scheduled work days immediately preceding and following the holiday).

SEWER AND WATER LINES	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
Bricklayers	$8.70	.37	.33		.07	
Carpenters	7.77	.25	.29		.07	
Cement masons	7.75	.225	.20		.05	
Ironworkers, reinforcing	7.85	.35	.25		.03	
Piledrivermen	7.905	.25	.29		.07	
Plumbers	8.93	.38	.25		.10	
Power Equipment Operators:						
Backhoes, cableways, cranes, draglines, power shovels, tunnel shovels, tunnel mucking machines of 1 c.y. or above	6.54	.25	.25		.05	
Backhoes, cableways, cranes, derricks, draglines, power shovels, tunnel mucking machines up to 1 c.y. and boom cats, elevating graders, hoists, paving mixers, pile driving engines, batch plant, concrete pumps	6.29	.25	.25		.05	
Trenching machines (above 8'3")	6.09	.25	.25		.05	
Backhoes (hydraulic, under ½ c.y.)	6.17	.25	.25		.05	
Trenching machines (up to 8'3"), boilers skeleton, well drilling machines	5.99	.25	.25		.05	
Air Compressors, tunnel	5.96	.25	.25		.05	
Front end loaders (high lift)	5.94	.25	.25		.05	
Concrete mixers, power wheel scoops and scrapers, motor graders, tunnel motor men	5.84	.25	.25		.05	
Mechanics	5.82	.25	.25		.05	
Bulldozers, hydraulic tampers	5.74	.25	.25		.05	
Roller	5.64	.25	.25		.05	
Air compressors, pumps welding machines, well points	5.565	.25	.25		.05	
Apprentice Engineers:						
Firemen	5.10	.25	.25		.05	
Truck crane oilers	4.95	.25	.25		.05	
Oilers	4.90	.25	.25		.05	
Truck drivers:						
Dump trucks	2.75	.12	c			
Dump trucks over 8 wheels	2.85	.12	c			
Flat trucks	2.85	.12	c			
Trailers	2.95	.12	c			
Fuel and oil trucks	2.75	.12	c			
Euclids	3.10	.12	c			

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BUILDING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS			
		H & W	PENSIONS	VACATION	APP TR.
					OTHERS
Power Equipment Operators:	$8.285	.35	.35		.10
35 ton cranes & above, tower & climbing cranes					
Backhoes, bargemats, cableways, crusher, derricks, draglines, elevator (permanent) paving mixers, piledriving engines, power shovels, tunnel shovels, mucking machines, batch plants, concrete pumps, locomotives (standard narrow gauge), power driven wheel scoops & scrapers 50 cu. yds. struck capacity or above, multiple concrete conveyors	8.035	.35	.35		.10
Hydrocranes and all other hydraulic cranes 25 tons or under	7.985	.35	.35		.10
Hydrocrane backhoe under ½ yd., mounted on tractors	7.885	.35	.35		.10
Front end loader (over 3½ cu. yds.)	8.035	.35	.35		.10
Front end loader (over 2-3/4 cu. yds. to and including 3-½ cu. yds.)	7.885	.35	.35		.10
Front end loaders (Hi-lift), fork lifts	7.635	.35	.35		.10
Air compressors (on steel)	7.705	.35	.35		.10
Air compressors (except on steel), concrete mixers, mechanics & maintenance men, pumps, tunnel muckers, tunnel men, welding machines, well points	7.455	.35	.35		.10
Boilers (skeleton), trenching machines, tug boats, well drilling machines	7.625	.35	.35		.10
Power driven wheel scoops & scrapers under 50 cu. yds. struck capacity blade graders, bulldozers, motor graders	7.435	.35	.35		.10
Rollers, asphalt spreaders, bull float finishing machines, concrete spreaders, concrete finishing machines, fine graders, form graders, concrete saws	7.235	.35	.35		.10
Apprentice engineers:					
Firemen	6.575	.35	.35		.10
Truck crane oilers	6.455	.35	.35		.10
Oilers	6.405	.35	.35		.10

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HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS			
		H & W	PENSIONS	VACATION	APP TR.
					OTHERS
Asphalt shoveler	$4.15	.22	.15		
Asphalt raker	4.35	.22	.15		
Asphalt tamper	4.25	.22	.15		
Bricklayers	8.70	.37	.33		
Carpenters	7.77	.25	.29		.07
Cement masons	4.60	.22	.15		
Concrete saw operator	4.35	.22	.15		
Concrete shoveler	4.25	.22	.15		
Form setter	4.60	.22	.15		
Laborers:					
Jackhammer	4.10	.22	.15		
Jackhammer	4.30	.22	.15		
Hand burner operator	4.25	.22	.15		
Power Equipment Operators:					
Concrete spreader operator, finishing machine, roller (rough), compressor, rubber tired loader (1-½ cu. yds., or less), asphalt plant mixer	4.35	.22	.15		
Loader operator tracks (2-½ cu. yds. or less), burner planer, bulldozer, mechanical welder, rubber tired scraper (up to 15 cu. yds.)	4.55	.22	.15		
Asphalt spreader, hydraulic backhoe (¾ cu. yd. or less), asphalt plant engineer, asphalt roller op., concrete breaker (machine)	4.60	.22	.15		
Crane operator, concrete paving op.	4.75	.22	.15		
Shovel operator	4.85	.22	.15		
Gradall operator (1-½ cu. yds., or less), motor grader, loader op. tracks (over 2-½ cu. yds.)	5.50	.22	.15		
G-1000 Gradall operator (over 1-½ cu.yds.)	5.75	.22	.15		
Power broom, oiler	4.25	.22	.15		
Sand secker	4.60	.22	.15		
Truck Drivers:					
Truck drivers (standard)	4.10	.22	.15		
Tandem	4.22	.22	.15		
Tractor trailer (capable of moving heavy equipment)	4.60	.22	.15		

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BUILDING CONSTRUCTION, (Continued)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
					Others
	$8.03	.38	.25		.10
Plumbers	6.65	.35	.20		
Roofers:					
Composition	7.15	.35	.20		
Slate, tile mopmen, waterproofers, sprayers, sprandrel & ironite	8.03	.565	.20		.04
Helpers	4.85	.35	.20		.07
Sheet metal workers	7.77	.25	.29		.05
Soft floor layers	8.75	.30	.50		
Sprinkler fitters					
Steamfitters, refrigeration & air conditioning mechanic	9.04	.30	.25		.07
Stonemasons	8.60	.35	.25		
Terrazzo & mosaic workers	8.10	e	.20		
Terrazzo workers' helpers	7.10	e	.20		
Tile setters	8.10	e	.20		
Tile setters' helpers	7.10	e	.20		
Truck Drivers:					
Boom trucks	4.10	.22	f	g	
Small dump, water sprinkler, grease & oil trucks	3.85	.22	f	g	
Flats, pickup hauling materials, small trucks, dump trucks	3.95	.22	f	g	
Trailers, ice-boys, tractor pulls	4.15	.22	f	g	
Helpers	3.70	.22	f	g	
Carryalls, large Euclids, water sprinkler, tunnel work ground	4.25	.22	f	g	
Mechanics	4.00	.22	f	g	
Concrete mixers	3.20	.12	.15	a	
Riggers & Welders - receive rates prescribed for crafts performing operation to which rigging & welding are incidental.					

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BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
					Others
Asbestos workers	$8.65	.25	.15		.015
Boilermakers - Blacksmiths	7.65	.30	.70	.20	.01
Bricklayers	8.70	.37	.33		
Carpenters	7.77	.25	.29		.07
Cement Masons:					
Cement Masons	7.75	.25%	.20		.05
Concrete finishing machine	8.00	.25%	.20		.05
Elevator Constructors:	8.85	.35	1¼ + .30		.10
Elevator Constructors	8.58	.195	.20	¾ + a&b	.005
Elevator Constructors' Helpers	6.01	.195	.20	¾ + a&b	.005
Elevator Constructors' Helpers (Prob).	4.29				
Glaziers	7.58	.46	.40		
Ironworkers:					
Structural	8.00	.45	.35		.01
Ornamental & chain link fence	8.00	.45	.35		.01
Reinforcing	7.85	.35	.25		.03
Laborers:					
Common laborers, landscapers	5.77	.25	.25		.03
Acetylene burners used on wrecking	6.27	.25	.25		.03
Air tool op., scaffold builders, pavement busters, townmasters, buggy mobiles, spaders, mortarmen and scooocretes	5.92	.25	.25		.03
Pipelayers	5.92	.25	.25		.03
Plasterers' tenders	6.07	.32	.20		.03
Plumbers' laborers	5.42	.30	.15		.03
Powdermen	6.465	.25	.25		.03
Rock drillers, well points	5.465	.25	.25		.03
Stone derrickmen	6.355	.175	.20		
Stone trimmers, fitters & cutters	6.30	.175	.20		.025
Lathers	7.225	.30	.30		.01
Lead Burners	7.80			c	
Line Construction:					
Linemen, cable spliceers, equipment ops.	9.36	.20	1%		½ of 1%
Truck with winch, truck pole or steel handling (0 to 1 year)	6.94	.20	1%		½ of 1%
Groundmen (1 to 2 years)	5.52	.20	1%		½ of 1%
Groundmen (over 2 years)	6.68	.20	1%		½ of 1%
Marble Setters	8.60	.35	.25		
Marble Setters' Helpers	7.35				.07
Millwrights	7.89	.25	.29		
Painters:					
Brush, spray, paperhangers, tapers	7.46	.41	.18		.03
Steel, sandblasting, swing stage, power brushing	7.79	.41	.18		.03
Pildrivermen	7.905	.25	.29		.07
Plasterers	7.515	.45	.25		.06

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PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F.

b. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years service as Vacation Pay Credit.

c. Holidays: A through F, plus Washington's Birthday, Good Friday and Christmas Eve (providing employee has worked at least 45 full dys during the 120 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holiday).

e. Employer contributes $37.92 per man per month.

f. $6.00 per week when employee has worked 90 dyas and works 3 days in a work week.

g. Holidays: A - D - E and F (providing the employee works the regularly scheduled work days immediately preceding and following the holiday).

BUILDING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Power Equipment Operators:						
35 ton cranes & above, tower & climbing cranes	$8.285	.35	.35		.10	
Backhoes, boom cats, cableways, cranes or derricks, draglines, elevating graders, hoists, elevator (permanent) paving mixers, piledriving engines, power shovels, tunnel shovels, mucking machines, batch plants, concrete pumps, locomotives (standard narrow gauge), power driven wheel scoops & scrapers 50 cu. yds. struck capacity or above, multiple concrete conveyors	8.035	.35	.35		.10	
Hydrocrane, and all other hydraulic cranes 12 tons or under	7.985	.35	.35		.10	
Hydraulic backhoes, under ½ yd., mounted on tractors	7.885	.35	.35		.10	
Front end loader (over 3½ cu. yds.)	8.035	.35	.35		.10	
Front end loader (over 2-3/4 cu. yds. to and including 3-½ cu. yds.)	7.885	.35	.35		.10	
Front end loaders (Hi-lift), fork lifts	7.635	.35	.35		.10	
Air compressors (on steel)	7.705	.35	.35		.10	
Air compressors (except on steel), concrete mixers, mechanics & maintenance men, pumps, tunnel mechanics, tunnel motormen, welding machines, well points	7.455	.35	.35		.10	
Boilers (skeleton), trenching machines, tug boats, well drilling machines	7.625	.35	.35		.10	
Power driven wheel scoops & scrapers under 50 cu. yds. struck capacity blade graders, bulldozers, motor graders	7.435	.35	.35		.10	
Rollers, asphalt spreaders, bull float finishing machines, concrete spreaders, concrete finishing machines, fine graders, form graders, concrete saws	7.235	.35	.35		.10	
Apprentice engineers:						
Firemen	6.575	.35	.35		.10	
Truck crane oilers	6.455	.35	.35		.10	
Oilers	6.405	.35	.35		.10	

SUPERSEDEAS DECISION

STATE: Delaware COUNTY: Statewide
DECISION NO.: AP-444 DATE: Date of Publication
Supersedes Decision No. AM-9,699, dated June 30, 1972, in 37 FR 13023.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4-stories) heavy and highway construction.

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Asbestos workers	$8.55	.20	.50		.01	
Boilermakers (New Castle Co.)	8.50	.40	.90		.01	
Boilermakers (Kent and Sussex Cos.)	7.65	.30	.70	.20	.01	
Bricklayers	9.00	.30	.15			
Carpenters, Building and Heavy:						
New Castle and Kent Cos.:	8.65	.48	.40		.02	
Sussex Co.	6.80		.18			
Carpenters, Highway Construction	5.10	.25	.15	.15		
Cement masons	6.60	.485	.21			
Electricians	9.04	4%	4%		½of1%	
Elevator constructors	9.15	.195	.20	1-½%+a+b	.005	
Elevator constructors' helpers	6.405	.195	.20	1-½%+a+b	.005	
Elevator constructors' helpers (prob.)	4.575					
Glaziers	8.38	.35	.30		.01	
Ironworkers:						
Structural, ornamental, reinforcing, Riggers and machinery movers	7.15	f			.05	
Laborers: (New Castle Co., Bldg.)						
General construction, dumpmen & truck spotters	6.35	.30	.30			
Caulkers, opers. of pneumatic & electric tools, vibrating machines, concrete saws. pumps, pot tenders, sewer pipe layers, demolition (use of hand tools), driller (except core, diamond or multiple wagon), mason & plasterers tenders, cement workers, mobile buggy opers., opers., of power saws (portable), scaffold builders, hookup men, signal men, stripping of flat arch & form work & cleaning & oiling thereof, tool room attendant & welder	6.58	.30	.30			
Burners, driller (core, daimond, or multiple wagon) sandblaster (nozzleman)	6.95	.30	.30			
Blasters	7.60	.30	.30			
Gunite workers:						
Industrial fume stack men, nozzlemen & rodmen	6.85	.30	.30			
Laborers: (Kent & Sussex Co., Bldg.)						
General construction dumpmen & truck spotters	6.15	.30	.30			
Caulkers, opers., of pneumatic & electric tools, vibrating machines, concrete saws, pumps, pot tenders, sewer pipe layers, demolition (use of hand tools), driller (except core, diamond or multiple wagon), mason & plasterem tenders, cement workers, mobile buggy						

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
opers., opers., of power saws (portable), scaffoldbuilders, hookup men, signal men, stripping of flat arch & form work & cleaning & oiling thereof, tool room attendant & welder	$6.40	.30	.30			
Burners, driller (core, diamond, or multiple wagon) sandblaster (nozzleman)	6.45	.30	.30			
Blasters	7.40	.30	.30			
Gunite Workers:						
Industrial fume stack men, nozzlemen & rodmen	6.45	.30	.30			
Laborers (New Castle County - Heavy and Highway						
Common laborers; landscapers; planters seeders; aborists; asphalt tampers & rakers; concrete pitmen; puddlers; rubbers; magazine tenders; railroad trackmen; signal men	2.90	.10	.15			
Pipelayers	3.05	.10	.15			
Wagon drill; daimond point drill; gunnite nozzlemen; form setters (road); blasters; caisson & cofferdam, open-air, below 8'	3.20	.10	.15			
Laborers (Kent & Sessex Counties - Heavy and Highway						
Common laborers; landscapers; planters seeders; aborists; asphalt tampers & rakers; concrete pitmen; puddles, rubbers; magazine tenders; railroad trackmen; signal men	2.70	.10	.15			
Pipelayers	2.85	.10	.15			
Wagon drill; diamond point drill; gunnite nozzlemen, forms setters (road); blasters; caisson & cofferdam, oper air, below 8'	3.00	.10	.15			
Lathers	7.90	.20	.15		.01	
Line Construction:						
Line men, cable splicers	9.45	.15	1%		½%	
Winch truck operator	6.62	.15	1%		½%	
Groundmen	5.67	.15	1%		½%	
Marble setters	9.00	.30	.15			
Millwrights (New Castle & Kent Cos.)	9.37	.47	.52			
Painters:						
Brush	6.94	.50	.15		.01	
Tanks, sandblasting & spray	7.44	.50	.15		.01	
Piledrivermen, wharf & dock builders	9.22	1.08	.40		.07	
Plasterers	8.42	.25			.01	
Plumbers (New Castle Co. & Kent Co., North of the Southern Boundary of Dover City)	7.71	.50	.15	9% + j	.01	

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Plumbers (Sussex & Kent Cos., South of the Southern Boundary of Dover City)	$7.50	.45	.35	1.25%d	.02	
Roofers:						
Composition, damp and waterproofing	8.425	.80	.55	e		
Helper	4.70	.80	.55	e		
Sheet metal workers	8.40	.25	.20			
Soft floor layers (Sussex County)	6.80		.18			
Soft floor layers (New Castle and Kent Cos. only)	8.65	.48	.60		.02	
Sprinkler fitters	8.75	.70	.50		.05	
Steamfitters & pipe fitters (New Castle and Kent County, North of the Southern Boundary of Dover City)	8.77	.30	.55	.08%13%c	.05	
Steamfitters (Sussex Co. & Kent Co. South of the Southern Boundary of Dover City)	7.50	.45	.35	1.25%d	.02	
Stone masons	9.00	.30	.15			
Terrazzo workers	9.00	.30	.15			
Tile setters	8.725	.30	.15			
Truck Drivers: Building						
Fork lifts, pickups, panel trucks flatbody material truck, dump trucks, dumpsters, form trucks, rubber tired, truck helpers, material checkers receivers, greasers, tiremen, mechanical helpers	3.60	g	h			
Tandems & batch truck, A-frame, semi-trailers, low boy trucks, asphalt distributor trucks, agitator or mixer trucks, mechanics, dispatcher	3.75	g	h			
Specialized earth moving equipment, euclid or similar off-highway equipment, off-highway tandem back-dump, twin engine equipment, double-hitched equipment, water tank sprinkler trucks, winch trucks	3.85	g	h			
Truck Drivers: (New Castle County Only						
Heavy and Highway)						
Helpers, pickups, panels, flat material, dumps (single axle), dumpsters, greasers, tiremen & mechanic helpers, rubber-tired (towing or pushing flatbody vehicles, form trucks	2.75	g	h			
Tandems, batch trucks, mechanics, dispatchers, A-frame, semi-trailers, lowboys, asphalt distributors, agitators, mixers	2.90	g	h			
Special earth moving equipment (Euclids)	3.00	g	h			

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Truck Drivers (Kent and Sussex Counties Heavy and Highway)						
Helpers, pickups, panels flat material dumps (single axle), dumpsters, greasers, tiremen & mechanic helpers, rubber-tired (towing or pushing flatbed vehicles), form trucks	2.00					
Tandem, batch trucks, mechanics, dispatchers, A-frame, semi-trailers, low boys, asphalt distributors, agitators, mixers	2.40					
Special earth moving equipment (Euclids)	2.50					

PAID HOLIDAYS (Where Applicable)

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. 6 paid holidays: A through F.

c. One paid holiday: Labor Day, providing employee is currently on payroll and would be scheduled to work the holiday, also employee must work the day prior to and after the holiday.

d. A through F, provided that the employee worked the days preceding and following the holiday.

e. Election Day paid holiday.

f. Employer contributes $.90 to Health and Welfare and Pension Fund.

g. $4.00 per week for Health and Welfare and $1.00 per week for life insurance contribution.

h. $6.00 per week for those on the payroll for over 90 days.

j. Paid Holidays: A through F for employee currently employed by the employer at the time the holiday occurs, and who would otherwise be scheduled to work and would work on such day if it were not observed as a holiday, and who has worked under working conditions, the last regularly scheduled workday after the holiday.

POWER EQUIPMENT OPERATORS
BUILDING AND HEAVY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
WAGE GROUP I						
Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above	$9.24	4.6%	6.5%	a	.7%	
WAGE GROUP II						
Pile drivers or engineers working with dock builders and pile drivers, all types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, tranching machines, hoists with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum), gradalls, mucking machine in tunnel, all front end loaders 3-½ cu. yds. and over, tandem scrapers, pippin type backhoes, boat captains, batch plant operators (concrete), drills, self contained rotary drills, fork lifts, 20 ft. lift and over, machines similar to the above	8.95	4.6%	6.5%	a	.7%	
WAGE GROUP III						
Conveyors, building hoists (single drum), scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch winch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above	8.09	4.6%	6.5%	a	.7%	
WAGE GROUP IV						
Welding machines, well points, pumps, heaters, farm tractors, form line graders, fine grade machine, road finishing machines, concrete breaking machines, rollers, seaman pullverizing mixer, power broom, seeding spreader, tireman (for power equipment), machines similar to the above	7.33	4.6%	6.5%	a	.7%	
WAGE GROUP V						
Firemen, grease truck	6.87	4.6%	6.5%	a	.7%	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.	Others
WAGE GROUP I						
Dippin type backhoe, swirl-head loader, all types of cranes, all types of buckhoes, draglines, all types of shovels, key-stones, pavers 21c and over, trenching machines, cableways, all loaders 2 cu. yds. and over, machines similar to the above	$8.27	4.4%*	6.7%		.7%	
WAGE GROUP II						
Caterpillar, Thermopulls, asphalt spreaders, motor patrols, crawler pumps, asphalt plant mixers, well drillers, all bulldozers, tractors, maintenance engineer, welders, conveyor loader, all loaders under 2 cu. yds., machines similar to the above	7.47	4.6%	6.5%		.7%	
WAGE GROUP III						
Farm tractor, barn tractor, road finishing machine, concrete spreader, fine grade machines, compressors, pumps -- four inches or over, pumps -- two or more any size, well point pumps, concrete breaking machines, roller (grade fill and etc.) (skid), fireman, machines similar to the above	6.70	4.6%	6.5%		.7%	
WAGE GROUP IV						
Oilers	5.59	4.6%	6.5%		.7%	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.	Others
WAGE GROUP VI						
Oilers and deck hands (personnel boats), core drill helper	$5.97	4.4%	6.5%	a	.7%	
WAGE GROUP VII						
All machines with booms (including jibs, mast), leads only:						
100 ft. and over	9.69	4.4%	6.5%	a	.7%	
150 ft. and over	9.74	4.4%	6.5%	a	.7%	
200 ft. and over	9.99	4.4%	6.5%	a	.7%	

FOOTNOTE:
a. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christams Day, provided the employee works the day before and after the holiday

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.	Others
Roofers:						
Footers	7.75	.30	.10	.20		
Kettlemen	7.25	.30	.10	.20		
Helpers	1.60	.30	.10	.20		
Terrazzo workers helpers	1.60					
Tile setters helpers	1.60					
Truck Drivers	7.25	.25	.25		.01	
Soft floor layers	9.20	.45	.35		.02	
Sheet metal workers	7.64	.20	.30		.05 & .02	
Sprinkler fitters						
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

FOOTNOTES:
a. Six paid holidays: A through F

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

SUPERSEDEAS DECISION

STATE: Florida
DECISION NUMBER: AP-123
SUPERSEDES Decision No. AP-452 dated August 20, 1971 in 36 FR 16370
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and apartments up to and including 4 stories); Heavy and Highway Construction.

COUNTY: Broward
DATE: Date of Publication

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Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos Workers	$7.10	.25	.25		.01	
Boilermakers	7.25	.30	.50			
Bricklayers:						
Bricklayers	7.74	.20	.20		.01	
Stonemasons	7.74	.20	.20		.01	
Marble setters	7.74	.20	.20		.01	
Terrazzo workers	7.74	.20	.20		.01	
Tile setters	7.74	.20	.20		.01	
Plasterers	7.74	.20	.20		.01	
Cement Masons	7.74	.20	.20		.01	
Block layers	7.74	.20	.20		.01	
Carpenters	7.60	.45	.30		.02	
Electricians:						
Electricians	8.40	3%	12%40	4%	2%	
Cable splicers	8.90	3%	12%40	4%	2%	
Elevator constructors	7.55	.17	.185	11%4ab	.005	
Elevator constructors' helpers	7.05JR	.17	.185	11%4ab	.005	
(Const.)	50%JR					
Ironworkers:						
Structural	8.30	.30	.33		.03	
Ornamental	8.30	.30	.33		.03	
Reinforcing	8.30	.30	.33		.03	
Laborers:						
Laborers	5.35	.41				
Mason tenders	5.35	.41				
Plasterers' tenders	5.60	.41				
Mortar mixer operators	5.35	.41				
Power tool operators	5.35	.41				
Vibrators	5.35	.41				
Glaziers	4.25				.02	
Lathers	5.95	.30	.10			
Line Constructions:						
Lineman	7.56	3%	1%		1/4 of 1%	
Cable splicer	7.81	3%	1%		1/4 of 1%	
Groundman	4.54	3%	1%		1/4 of 1%	
1st Class operators	7.56	3%	1%		1/4 of 1%	
2nd Class operators	6.05	3%	1%		1/4 of 1%	
Painters:						
Brush	7.45	.25	.30		.01	
Spray	7.95	.25	.30		.01	
Structural steel	7.70	.25	.30		.01	
Plumbers:						
Plumbers	9.60	.50	.50		.05	
Steamfitters	9.60	.50	.50		.05	

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	Basic Hourly Rates	Fringe Benefits Payments H&W	Pensions	Vacation	App. Tr.	Other
HEAVY & HIGHWAY CONSTRUCTION						
Carpenters	$4.45					
Carpenters' Helpers	1.60					
Cement Masons	3.625					
Cement Masons' Helpers	1.60					
Ironworkers, Reinforcing	4.60					
Laborers:						
Unskilled	1.50					
Air tool operators	1.80					
Form setters	2.00					
Pipelayers (concrete & clay)	2.00					
Powderman	2.00					
Piledriverman	4.25					
Truck Drivers	1.85					

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	Basic Hourly Rates	Fringe Benefits Payments H&W	Pensions	Vacation	App. Tr.	Other
Building, Heavy & Highway Construction						
Power Equipment Operators:						
Asphalt Finishing Machines	$3.90					
Bulldozers	2.50					
Concrete Batch Scalemen	1.70					
Cranes, Derricks & Draglines	3.00					
Distributors	1.90					
Drill Rigs	1.84					
Earth movers	1.90					
Finishing machines	1.00					
Front end loaders	1.75					
Mechanics	2.00					
Mechanics' helpers	1.60					
Motor graders	3.00					
Oilers - firemen	2.80					
Piledrivers	2.60					
Pumps	1.60					
Rollers	2.25					
Scrapers	1.75					
Shovels, backhoes	3.05					
Tractors, crawler	1.925					

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Canals, Levees, Shore Work and Streets, Sewers (except Underground Construction not otherwise listed)	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H&W	PENSIONS	VACATION	APP. TR.	<
Air tool operators	1.60					
Blacksmith/Tenderman	1.60					
Brickmasons	2.40					
Carpenters	3.40					
Concrete finishers	2.40					
Ironworkers, reinforcing	3.00					
Laborers	1.60					
Motor boat operators	1.60					
Painters, brush	2.00					
Painters, spray	2.50					
Piledrivermen	2.40					
Pipelayer	1.60					
Sandblasters	2.50					
Truck Drivers	1.60					
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						
Power Equipment Operators:						
Air compressors	1.60					
Asphalt distributors	1.60					
Asphalt paving machines	1.75					
Batching plant operators	2.50					
Bulldozer	2.00					
Cranes, derricks, draglines, backhoes etc.	2.875					
Drill rigs	1.75					
Earth movers	1.75					
Finishing machines	2.00					
Gradall	2.875					
Loaders, front end	1.75					
Mechanics	2.00					
Mechanics helpers	1.60					
Motor graders	2.00					
Oilers	1.60					
Piledrivers	2.875					
Pumps	1.60					
Rollers	1.75					
Scrapers	2.00					
Tractors	1.75					
Trenching machines	2.00					

	Basic Hourly Rates	Fringe Benefits Payments H&W	Pensions	Vacation	App. Tr.	Other
Building, Heavy & Highway Construction						
Power Equipment Operators:						
Asphalt Finishing Machines	$3.90					
Bulldozers	2.50					
Concrete Batch Scalemen	1.70					
Cranes, Derricks & Draglines	3.00					
Distributors	1.90					
Drill Rigs	1.84					
Earth movers	1.90					
Finishing machines	1.00					
Front end loaders	1.75					
Mechanics	2.00					
Mechanics' helpers	1.60					
Motor graders	3.00					
Oilers - firemen	2.80					
Piledrivers	2.60					
Pumps	1.60					
Rollers	2.25					
Scrapers	1.75					
Shovels, backhoes	3.05					
Tractors, crawler	1.925					

Canals, Levees, Shore Work and Streets, Sewers (except Underground Construction not otherwise listed)	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H&W	PENSIONS	VACATION	APP. TR.	OTHERS
Air tool operators	1.60					
Blacksmith/Tenderman	1.60					
Brickmasons	2.40					
Carpenters	3.40					
Concrete finishers	2.40					
Ironworkers, reinforcing	3.00					
Laborers	1.60					
Motor boat operators	1.60					
Painters, brush	2.00					
Painters, spray	2.50					
Piledrivermen	2.40					
Pipelayer	1.60					
Sandblasters	2.50					
Truck Drivers	1.60					
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						
Power Equipment Operators:						
Air compressors	1.60					
Asphalt distributors	1.60					
Asphalt paving machines	1.75					
Batching plant operators	2.50					
Bulldozer	2.00					
Cranes, derricks, draglines, backhoes etc.	2.875					
Drill rigs	1.75					
Earth movers	1.75					
Finishing machines	2.00					
Gradall	2.875					
Loaders, front end	1.75					
Mechanics	2.00					
Mechanics helpers	1.60					
Motor graders	2.00					
Oilers	1.60					
Piledrivers	2.875					
Pumps	1.60					
Rollers	1.75					
Scrapers	2.00					
Tractors	1.75					
Trenching machines	2.00					

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SUPERSEDEAS DECISION

STATE: Florida
DECISION NUMBER: AP-124
Supersedes Decision No. AM-457 dated August 20, 1971 in 36 FR 16388
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

COUNTY: Monroe
DATE: Date of Publication

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Building, Heavy and Highway Construction	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS			
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Asbestos workers	9.50	.25	.25			
Boilermakers - Blacksmiths (Key West)						
Boilermakers-Blacksmiths	7.25	.30	.50		.01	
Boilermakers - Blacksmiths (Remdr. of County)						
Boilermakers-Blacksmiths	6.85	.40	.60		.01	
Bricklayers	3.50					
Carpenters & Soft floor layers	5.35	.20			.01	
Cement masons	3.40					
Electricians	9.25	4%	17+.20	7%	1%	
Elevator constructors	7.55	.17	.185	1½+a&b	.005	
Elevator constructors' helpers	5.28	.17	.185	1½+a&b	.005	
Elevator constructors' helpers (Prob)	3.775	.17	.185	1½+a&b	.005	
Glaziers	7.70	.30	.20		.01	
Ironworkers, structural & ornamental	8.30	.30	.33		.03	
Ironworkers, reinforcing	8.30	.30	.33		.03	
Laborers:						
Air tool op. (jackhammer, vibrator	1.60					
Laborers	1.60					
Concrete and unskilled	1.60					
Mason tenders	1.60					
Mortar mixer	1.60					
Pipe layers (concrete and clay)	1.60					
Plasterers tenders	1.675					
Lathers	8.20	.35	.10		.06	
Line construction:						
Linemen & heavy equipment op.	6.80	.20				
Cable splicers	7.05	.20				
Groundmen	3.65	.20				
Lintmen: Winch truck op.	5.40	.20				
Millwrights	5.60	.20			.01	
Painters:						
Brush	6.25	.25	.30		.01	
Steel	6.50	.25	.30		.01	
Spray	6.75	.25	.30		.01	
Piledrivermen	5.20	.20			.01	
Lead burners	6.35	.25	c			
Plasterers	3.50					
Plumbers (South of Pigon Key)	6.86					
Roofers, damp & waterproofers	7.77	.43	.25		.02	
Roofers, tile	8.02	.43	.25		.02	
Roofers, kettlemen	6.77	.30	.15			
Roofers, kettlemen helpers	6.07	.30	.15			
Sheet metal workers	9.20	.45	.35		.02	
Sprinkler fitters	8.21	.25	.40		.07	

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP TR.	OTHERS
Steamfitters	$9.16	.46	.61		.08	
Stonemasons	3.50					
Terrazzo workers	3.50					
Terrazzo workers' helpers	1.60					
Plumbers - Remainder of County	8.34	.40	.80		.07	
Marble setters	3.50					
Tile setters	3.50					
Tile setters' helpers	1.60					
Truck drivers	1.60					
Refrigeration & air conditioning mechanic	9.16	.46	.61		.08	
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						
POWER EQUIPMENT OPERATORS:						
Air Compressor	2.26					
Air Compressor on steel	2.76					
Blade graders	2.01					
Bulldozers	2.01					
Cranes, derricks	2.56					
Cranes, derricks on steel	2.95					
Draglines	2.56					
Distributors (bituminous)	2.01					
Hoists, 1 drum	2.56					
Hoists, 2 drums or more	2.76					
Hoist on steel	2.95					
Mixers (charger pan)	2.26					
Motor graders (finish)	2.56					
Piledrivers	2.75					
Firemen	1.85					
Oilers - helper -apprentices	1.85					
Pumps	2.26					
Rollers	2.01					
Scrapers	2.01					
Shovels	2.56					
Tractors (boom or shovel)	2.56					
Trenching machines	2.26					
Finishing machine paving	2.01					

FOOTNOTES:

PAID HOLIDAYS (Where Applicable):
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

a. Six paid holidays: A through F.
b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.
c. Eight paid holidays: A thru F plus Washington's Birthday and Good Friday.

SUPERSEDES DECISION

STATE: Florida
DECISION NUMBER: AP-125
Supersedes Decision No. AP-455 dated August 20, 1971 in 36 FR 16381
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

COUNTY: Hillsborough
DATE: Date of Publication

29 - Florida I (1-2)

Building Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	6.04	.25	.20		.01	
Boilermakers	6.85	.40	.60		.01	
Bricklayers:						
Bricklayers	6.20	.275	.20		.05	
Stone Masons	6.20	.275	.20		.05	
Marble masons	6.20	.275	.20		.05	
Terrazzo workers	6.20	.275	.20		.05	
Tile setters	6.20	.275	.20		.05	
Cement masons	5.75	.275	.20		.05	
Cement block layers	6.20	.275	.20		.05	
Carpenters	6.38	.30	.20		.02	
Millwrights	6.24	.30	.45			
Piledrivermen	6.63	.30	.20		.02	
Electricians	8.10	.15	1%		.05	
Cable splicers	8.45	.15	1%		.05	
Elevator constructors	6.255	.195	.20	2% + a&b	.005	
Elevator constructors' helpers	70%JR	.17	.185	2% + a&b	.005	
Elevator constructors' mechanics helpers (probationary)	50%JR					
Glaziers	4.65	.20				
Ironworkers:						
Structural	7.55	.45	.30	.075	.05	
Ornamental	7.55	.45	.30	.075	.05	
Reinforcing	7.55	.45	.30	.075	.05	
Sheeters	7.55	.45	.30	.075	.05	
Lathers	6.76	.21	.10		.035	
Laborers:						
Power tool operator	4.825	.125				
Mortar mixers	4.825	.125				
Pipelayers (concrete & clay)	4.825	.125				
Masons, plasterers' tenders	4.825	.125				
Common laborers	4.675	.125				
Lead burners	6.35	.25		c	.01	
Line Construction:						
Linemen & heavy equipment operator	7.36	.25	1%		¼	
Cable splicers	7.75	.25	1%		¼	
Cable splicers' helpers	7.36	.25	1%		¼	
Winch truck driver operator	5.75	.25	1%		¼	
Groundmen	4.30	.25	1%		¼	
Painters:						
Brush & roller	5.80	.25	.20			
Swing stage & window jacks, spray & sandblasting	6.05	.25	.20			
Dry wall tapers	6.65	.25	.20			
Structural steel, bridge & Ind.: Brush, roller, swing, stage, bos'n chair	6.40	.25	.20			
Spray & sandblasting	6.65	.25	.20			

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29 - Florida I (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Paperhangers	6.30	.25	.20			
Plumbers	7.70	.35	.40	.40	.05	
Steamfitters	7.70	.35	.40	.40	.05	
Roofers	6.10	.25	.15			
Roofers' helpers	3.25	.25	.15			
Roofers, Kettlemen	4.15	.25	.15			
Plasterers	7.06	.25	.30		.05	
Sheet metal workers	5.85	.20	.10			
Soft floor layers	6.38	.30	.20	.10	.02	
Sprinkler fitters	8.21	.25	.40		.07	
Terrazzo workers' helpers, tile setters helpers, and marble masons' helpers	4.05	.20				
terrazzo grinders	4.15	.20				
Base grinders	4.35	.20				
Truck drivers:						
Station wagons, pick-ups, single axle dumps, flat beds, stake bodies	3.67					
10-wheelers, pole trucks, low boys, semi-trailers, tractor-trailers, fork trucks up to but not including 4 tons	3.82					
For trucks 4 tons and over, road rollers, wabbly wheels, spreaders, winch trucks	4.32					
Sound Technicians	4.10					
Welders - receive rate prescribed for craft performing operation to which welding is incidental						

FOOTNOTES:

a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. Eight paid holidays: A through F, Washington's, Birthday, and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

PAID HOLIDAYS: (Where Applicable):
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

Building Construction

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
POWER EQUIPMENT OPERATORS						
Cat cranes, truck cranes, pile driver crane, derrick, dragline, material hoist with chicago boom, material hoist with two drums, hydraulic lift form, diesel electric and steam generators, motor grader, pumpcrete or similar machine, cherry picker, gradall, hypto and wheelabrator and mechanic, tractor back hoe, drill, rig & tack boom tractor	8.49	.225	.20		.02	
Trenching machine over 24", winch truck, material hoist (elevator type)	7.505	.225	.20		.02	
Tugger hoist	7.74	.225	.20		.02	
Crawler bulldozer, crawler tractor and turnapull, heavy huffcype front end loader, heavy DW-10 to DW-21 type rubber tired tractor, road roller, fireman, forklift, concrete batch plant operator	7.285	.225	.20		.02	
Wellpoint system and pumps, material hoist, front end loader other than heavy huff type, rubber tired tractor with attachments other than backhoe	5.475	.225	.20		.02	
Air compressor 125 cu. ft. or over	5.735	.225	.20		.02	
Concrete mixer, rubber tired tractor without attachments, trenching machines under 24", high lift, sand blasting machines, welding machine, air compressor, miscellaneous pumps	5.245	.225	.20		.02	

150' boom, including jib scale of top operator classification plus .25 per hour.
Tower crane operators .25 per above top operator classification not including long boom pay.

Building Construction

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
POWER EQUIPMENT OPERATORS On building sites and includes roads, parking lots, storm sewer systems, railroads, drain fields, settling basins, pipelines (concrete and/or clay), land cleaning, bulk heads and sea walls, and site preparation exclusive of excavation for buildings.						
HEAVY DUTY EQUIPMENT OPERATORS Cranes, shovels, draglines, pile-drivers (all types), concrete paving machines, ditching machines, mechanics, finish, motor grades, front end loaders, hoist (two drums or more), cherry pickers	$5.63	.225	.20		.02	
MEDIUM DUTY EQUIPMENT OPERATORS Motor patrols, bulldozers, rubber tired scrapers (all types), winch trucks, stabilizers, asphalt spreaders, rollers, asphalt rock crushers, concrete mixers (changer pan), light duty hydraulic tractor backhoe, and wellpoint pumps	5.355	.225	.20		.02	
LIGHT DUTY EQUIPMENT OPERATORS Finishing machine, bull floats, spray machines, subgraders, rollers on subgrade, pull cats (all types), form grader, bituminous distributor, hoist (less than two drums) and fireman	5.08	.225	.20		.02	

Heavy & Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Bricklayers	$1.60					
Carpenters	2.35					
Carpenters' helpers	1.60					
Concrete finishers	2.00					
Concrete finishers' helpers	1.60					
Form setter, paving & curb	1.60					
Form setters' Helpers	1.60					
Ironworkers, structural	3.16					
Ironworkers, reinforcing	2.00					
Laborers:						
Air tool operator	1.60					
Asphalt raker	1.60					
Concrete laborer	1.60					
Unskilled	1.60					
Landscapers	1.60					
Painters	2.50					
Piledrivers	2.45					
Piledriver leadsmen	2.05					
Piledriver laborer	1.50					
Pipelayers	1.60					
Plumbers	3.60					
Reinforcing ironworkers' helper	1.60					
Soil treaters	1.50					
Truck drivers:						
Single rear axle	1.60					
Multi rear axle	1.50					
Lowboy	1.60					
Weighter scale	1.60					
Power Equipment Operators:						
Air compressors	1.60					
Asphalt distributor, spreaders	1.60					
Bulldozers	2.00					
Cranes, derricks, draglines	2.00					
Concrete finishing machine	1.96					
Concrete paving machines	1.96					
Earth mover, rubber-tired	1.75					
Fireman	1.60					
Mechanics	1.82					
Mechanics' helper	1.60					
Mixers, concrete	1.60					
Motor grader	2.00					
Oilers-greasers	1.60					
Pumps	1.60					
Rollers	1.60					
Rollers, S.P., rubber-tired	1.60					
Rollers, finish	1.60					
Scrapers	1.60					

Heavy & Highway Construction (cont'd)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Power Equipment Operators (Cont'd)						
Tractors, over 80 HP	$1.60					
Tractors, light rubber-tired	1.60					
Front end loader	1.60					
Trenching machine	2.00					
Asphalt paving machine	1.60					
Welder	1.75					

SUPERSEDEAS DECISION

STATE: Florida
DECISION NUMBER: AP-126
Supersedes Decision No. A1-461
COUNTY: Pinellas
DATE: Date of Publication
dated August 20, 1971 in 36 FR 16401
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

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Building Construction	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHER
Asbestos workers	$6.04	.25	.20	.75	.02	
Boilermakers	6.83	.40	.60		.01	
Bricklayers	6.20	.275	.20		.05	
Carpenters:						
Carpenters	6.38	.30	.20	.10	.02	
Piledrivermen	6.63	.30	.20	.10	.02	
Soft floor layers	6.38	.30	.20	.10	.02	
Millwrights	5.92	.30	.45			
Cement masons	5.75	.275	.20		.05	
Electricians	8.00	.25	1%		3/4of1%	
Elevator constructors	5.39	.17	.185	2%+a&b	.005	
Elevator constructors' helpers	70%JR	.17	.185	2%+a&b	.005	
Elevator constructors' helpers (prob.)	50%JR					
Ironworkers, structural & ornamental	7.55	.45	.30	.075	.05	
Ironworkers, reinforcing	7.55	.45	.30	.075	.05	
Laborers:						
Air tool operator (jackhammer, vib.)	4.975	.225				
Mason tenders	4.975	.225				
Mortar mixers	4.975	.225				
Pipelayers (concrete & clay)	4.975	.225				
Plasterers' tenders	4.975	.225				
Common laborers	4.925	.225				
Lathers	6.76	.21	.10		.035	
Line Construction & Equipment Opr.:						
Class "A"	7.21		1%	a	1/10of1%	
Class "B"	5.70		1%	a	1/10of1%	
Cable splicers	7.71		1%	a	1/10of1%	
Groundmen	4.25		1%	a	1/10of1%	
Marble setters	6.20	.275	.20		.05	
Marble setters' helpers	4.05	.20				
Painters:						
Brush	5.80	.25	.20			
Structural steel	6.05	.25	.20			
Spray	6.05	.25	.20			
Sandblasting and tapers	6.05	.25	.20			
Paperhangers	6.30	.25	.20			
Glaziers	6.65	.20				
Plasterers	7.06	.25	.30		.05	
Plumbers and steamfitters	6.50	.25	.60		.025	
Roofers	6.10	.25	.15			
Roofers' helpers	3.25	.25	.15			
Roofers, kettlemen	4.15	.25	.15			
Sheet metal workers	5.85	.20	.10			
Sprinkler fitters	8.21	.25	.60		.07	
Stonemasons	6.20	.275	.20		.05	

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Terrazzo workers	$6.20	.275	.20		.05	
Terrazzo workers' helpers	4.05	.20				
Terrazzo grinders	4.15	.20				
Tile setters	6.20	.275	.20		.05	
Tile setters' helpers	4.05	.20				
Truck drivers	3.60					
Lead burners	6.35	.25		c	.01	
Sound Technicians	4.10					
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						
Terrazzo base grinders	4.35	.20				
Air conditioning or refirgeration mechanics	6.50	.25	.60		.025	

FOOTNOTES:

a. Six paid holidays, A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employer who has worked in business less than 5 years.

c. Eight paid holidays, A through F plus Washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

d. One-half day paid holiday: National General Election's Day.

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

Building Construction	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHER
POWER EQUIPMENT OPERATORS						
Cat cranes, truck cranes, pile driver crane, derrick, dragline, material hoist with chicago boom, material hoist with two drums, hydraulic lift form, diesel electric and steam generators, motor grader, pumpcrete or similar machine, cherry picker, gradall, hypto and wheelabrator and mechanic, tractor back hoe, drill, rig & tack boom tractor	8.49	.225	.20		.02	
Trenching machine over 24", winch truck, material hoist (elevator type)	7.505	.225	.20		.02	
Tugger hoist	7.74	.225	.20		.02	
Crawler bulldozer, crawler tractor and turnapull, heavy hufftype front end loader, heavy DW-10 to DW-21 type rubber tired tractor, road roller, fireman, forklift, concrete batch plant operator	7.285	.225	.20		.02	
Wellpoint system and pumps, material hoist, front end loader other than heavy huff type, rubber tired tractor with attachments other than backhoe	5.475	.225	.20		.02	
Air compressor 125 cu. ft. or over	5.735	.225	.20		.02	
Concrete mixer, rubber tired tractor without attachments, trenching machines under 24", high lift, sand blasting machines, welding machine, air compressor, miscellaneous pumps	5.245	.225	.20		.02	
150' boom, including jib scale of top operator classification plus .25 per hour. Tower crane operators .25 per above top operator classification not including long boom pay.						

Building Construction	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHER
POWER EQUIPMENT OPERATORS On building sites and includes roads, parking lots, storm sewer systems, railroads, drain fields, settling basins, pipelines (concrete and/or clay), land cleaning, bulk heads and sea walls, and site preparation exclusive of excavation for buildings.						
HEAVY DUTY EQUIPMENT OPERATORS Cranes, shovels, draglines, piledrivers (all types), concrete paving machines, ditching machines, mechanics, finish, motor grades, front end loaders, hoist (two drums or more), cherry pickers	$5.63	.225	.20		.02	
MEDIUM DUTY EQUIPMENT OPERATORS Motor patrols, bulldozers, rubber tired scrapers (all types), winch trucks, stabilizers, asphalt spreaders, rollers, asphalt rock crushers, concrete mixers (changer pan), light duty hydraulic tractor backhoe, and wellpoint pumps	5.355	.225	.20		.02	
LIGHT DUTY EQUIPMENT OPERATORS Finishing machine, bull floats, spray machines, subgraders, rollers on subgrade, pull cats (all types), form grader, bituminous distributor, hoist (less than two drums) and fireman	5.08	.225	.20		.02	

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Heavy & Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Bricklayers	$1.60					
Carpenters	2.35					
Carpenters' helpers	1.60					
Concrete finishers	2.00					
Concrete finishers' helpers	1.60					
Form setter, paving & curb	1.60					
Form setters' Helpers	1.60					
Ironworkers, structural	3.16					
Ironworkers, reinforcing	2.00					
Laborers:						
Air tool operator	1.60					
Asphalt raker	1.60					
Concrete laborer	1.60					
Unskilled	1.60					
Landscapers	1.60					
Painters	2.50					
Piledrivers	2.45					
Piledriver leadmen	2.05					
Piledriver laborer	1.50					
Pipelayers	1.60					
Plumbers	3.60					
Reinforcing ironworkers' helper	1.60					
Soil treaters	1.60					
Truck drivers:						
Single rear axle	1.60					
Multi rear axle	1.60					
Lowboy	1.60					
Weighter scale	1.60					
Power Equipment Operators:						
Air compressors	1.60					
Asphalt distributor, spreaders	1.60					
Bulldozers	2.00					
Cranes, derricks, draglines	2.00					
Concrete finishing machine	1.96					
Concrete paving machine	1.96					
Earth mover, rubber-tired	1.75					
Firemen	1.60					
Mechanics	1.82					
Mechanics' helper	1.60					
Mixers, concrete	1.60					
Motor grader	2.00					
Oilers-greasers	1.60					
Pumps	1.60					
Rollers	1.60					
Rollers, S.P., rubber-tired	1.60					
Rollers, finish	1.60					
Scrapers	1.60					

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Heavy & Highway Construction (cont'd)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Power Equipment Operators (Cont'd)						
Tractors, over 80 HP	$1.60					
Tractors, light rubber-tired	1.60					
Front end loader	1.60					
Trenching machine	2.00					
Asphalt paving machine	1.60					
Welder	1.75					

SUPERSEDEAS DECISION

STATE: Florida — COUNTY: Dade
DECISION NUMBER: AP-127 — DATE: Date of Publication
Supersedes Decision No. AM-453 dated August 20, 1971 in 36 FR 16373
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

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Building Construction

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS: H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Asbestos workers	$9.50	.25	.25			
Boilermakers	7.25	.30	.60		.01	
Bricklayer:						
Bricklayers	5.12	.20	.20			
Stonemasons	5.12	.20	.20			
Marble masons	5.12	.20	.20			
Terrazzo workers	5.12	.20	.20			
Tile setters	5.12	.20	.20			
Plasterers	5.12	.20	.20			
Cement masons	5.12	.20	.20			
Carpenters:						
Carpenters	7.95	.45	.30		.01	
Millwrights	8.20	.45	.30		.01	
Piledrivermen	7.95	.45	.30		.01	
Soft floor layers	7.95	.45	.30		.01	
Carpenters: (Marine Construction)						
Carpenters & piledrivermen	4.95	.20	.10		.01	
Millwrights	5.20	.20	.10		.01	
Electricians:						
Electricians, welders & equip. ops.:						
Zone 1 - 24½ mi. radius from the Dade County Courthouse	9.25	4%	1% + .20	7%	1%	
Zone 2 - 6 mi. radius from Zone 1	9.90	4%	1% + .20	7%	1%	
Zone 3 - 6 mi. radius from Zone 2	10.55	4%	1% + .20	7%	1%	
Zone 4 - 6 mi. radius from Zone 3	11.25	4%	1% + .20	7%	1%	
Cable splicers (25¢ an hour above JR)						
Elevator constructors	7.55	.17	.185	1½%+a&b	.005	
Elevator constructors' helpers	70%JR	.17	.185	1½%+a&b	.005	
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	7.70	.30	.20		.01	
Ironworkers:						
Structural & ornamental	8.30	.30	.33		.03	
Reinforcing	8.30	.30	.33		.03	
Laborers:						
Air tool operator	5.80	.10	.30			
Laborers (Common)	5.70	.10	.30			
Mason tenders	5.80	.10	.30			
Plasterers' tenders	5.98	.10	.30		.01	
Mortar mixers	5.80	.10	.30			
Pipelayers	5.80	.10	.30			
Lathers	8.20	.35	.10		.06	
Line Construction: Linemen	6.80	3%	.20		.5%	
Cable splicer	7.05	3%	.20		.5%	
Groundmen	3.65	3%	.20		.5%	
Heavy equipment operator	6.80	3%	.20		.5%	
Winch truck operator	5.40	3%	.20		.5%	

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS: H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Painters:						
Brush	7.45	.25	.30		.01	
Scaffold work	7.85	.25	.30		.01	
Spray	7.95	.25	.30		.01	
Tapers & paperhangers	7.70	.25	.30		.01	
Extension ladder & erected scaffold over 28'	7.70	.25	.30		.01	
Structural steel	7.70	.25	.30		.01	
Drywall taper mechanical	8.20	.25	.30		.01	
Plumbers	8.34	.40	.80		.07	
Refrigeration and air conditioning mechanic	9.16	.46	.61		.08	
Roofers:						
Roofers, damp and waterproofers	7.77	.43	.25		.02	
Tile	8.02	.43	.25		.02	
Kettlemen	6.77	.30	.15			
Kettlemen helpers	6.07	.30	.15			
Sheet metal workers	9.20	.45	.35		.02	
Sprinkler fitters	8.21	.25	.40		.07	
Steamfitters	9.16	.46	.61		.08	
Surfacing machine operator (marble and terrazzo):						
Base, curb, steps & wainscot surfacing	3.25					
Floor surfacing	3.00					
Helpers (Tile, Marble, & Terrazzo):						
More than 60 days experience	2.65					
Less than 60 days experience	2.30					
Truck Drivers	1.60					
Welders & riggers - receive rate prescribed for craft performing operation to which welding and rigging are incidental.						

FOOTNOTES:

a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

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Building Construction	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H&W	PENSIONS	VACATION	APP. TR.	OTHERS
POWER EQUIPMENT OPERATORS:						
Field mechanic, cranes, derricks, hoist (2 or more drums), oiler-fireman combination	$8.35	.35	.25			
Draglines, backhoes, gradalls, finish grader, welding machine, 1 drum hoist, fork lift, hopto machine, air compressor (above 125 CFM, more than one pump or combination of other equip., up to 5), winch trucks	7.71	.35	.25			
Bulldozers, distributors, scrapers, motor graders, trenching machines, front end loaders, pumps (3" or more), mixers	6.86	.35	.25			
Rollers, finishing machines, tractors, oilers & drivers, mechanic helpers	6.36	.35	.25			
Oiler on crawler cranes	5.36	.35	.25			

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HEAVY & HIGHWAY EXCEPT BRIDGE CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H&W	PENSIONS	VACATION	APP. TR.	OTHER
Bricklayers	22.25					
Carpenters	6.70	.30	.10		.01	
Cement finishers	5.12	.20	.20			
Cement finisher helper	1.60					
Form setter	1.75					
Form setter helper	1.60					
Ironworkers, structural	3.65					
Ironworkers, reinforcing	3.65					
Laborers:						
Air tool operator	1.60					
Asphalt raker	1.60					
Concrete	1.60					
Pipelayers	1.75					
Unskilled	1.60					
Truck drivers:						
Single rear axle	1.60					
Multi rear axle	1.65					
Lowboy	1.75					
Mulcher	2.23					
Painters, brush	3.37					
Power Equipment Operators:						
Air compressors	2.40					
Asphalt distributors, spreaders	2.06					
Asphalt paving machine	1.90					
Backhoes	2.75					
Bulldozers	2.00					
Cranes, derricks & draglines	3.40					
Concrete finishing machines	2.40					
Concrete paving machines	2.50					
Concrete spreader operator	2.05					
Concrete transverse screed operator	2.05					
Concrete longitudinal float operator	2.05					
Concrete joint machine operator	1.65					
Concrete belt machine operator	1.65					
Concrete curing spray machine op.	1.65					
Concrete sawing machine operator	1.65					
Earth movers	2.25					
Firemen	2.40					
Form grade operator	1.65					
Loaders, 1 cu. yd. or less	1.60					
Loaders, over 1 cu. yd.	1.85					
Mechanics	2.00					
Mechanics helpers	1.60					
Mixers, concrete	2.40					

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110 - Florida 2 of 2

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H&W	PENSIONS	VACATION	APP. TR.	OTH.
Motor patrols	$2.25					
Oilers, greasers	1.60					
Piledriver operator	3.90					
POWER EQUIPMENT OPERATORS:						
Pumps	2.05					
Rollers	1.75					
Rollers, finish	1.65					
Scrapers	1.85					
Subgrade machine operator	2.05					
Tractors, light, rubber tires	1.60					
Tractors, 80 HP or less	1.60					
Tractors, over 80 HP	1.85					
Trenching machine operator	2.10					
Batch plant operator	2.50					
Concrete joint machine operators helpers	1.60					
Well drillers	2.465					

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110 Fla. Bridge H

	Basic Hourly Rates	Fringe Benefits Payments H&W	Pensions	Vacation	App. Tr.	Other
Carpenters	$6.70	.30	.20		.01	
Cement finishers	5.12	.20	.20			
Electricians						
Electricians						
Zone 1 - 24½ mi. radius from the Dade County Court House	7.10	3%	20+1%	5%	1%	
Zone 2 - 6 mi. radius from Zone 1	7.34	3%	20+1%	5%	1%	
Zone 3 - 6 mi. radius from Zone 2	7.68	3%	20+1%	5%	1%	
Zone 4 - 6 mi. radius from Zone 3	4.06	3%	20+1%	5%	1%	
Cable splicers (25¢ an hour above JR)						
Ironworkers	6.90	.25	.28			
Laborers	1.60					
Piledrivermen	6.70	.30	.20		.01	
Truck drivers	1.75					
Crane and dragline operators	3.70					
Oilers	2.05					
Piledriver operator	3.90					

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Canals, levees, shore work and Streets, sewers, utilities, & Construction	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H&W	Pensions	Vacation	App. Tr.	Other
Air tool operators	$1.60					
Blaster-powderman	1.60					
Bricklayers	3.20					
Carpenters	4.80	.20	.10		.01	
Concrete finishers	3.20					
Ironworkers, reinforcing	3.65					
Laborers	1.60					
Painters, brush	2.00					
Painters, spray	2.50					
Pipelayer	1.60					
Sandblasters	2.50					
Truck drivers	1.60					
Welders	2.00					
POWER EQUIPMENT OPERATORS:						
Air compressors	1.60					
Asphalt distributors	1.60					
Asphalt paving machines	1.75					
Batching plant operators	2.50					
Bulldozer	2.00					
Cranes, derricks, draglines, backhoes, etc.	2.875					
Drill rigs	1.75					
Earth movers	1.75					
Finishing machines	2.00					
Gradall	2.875					
Loaders, front end	1.75					
Mechanics	2.00					
Mechanic helpers	1.60					
Motor graders	2.00					
Oilers	1.60					
Piledrivers	2.875					
Pumps	1.60					
Rollers	1.75					
Scrapers	2.00					
Tractors	1.75					
Trenching machines	2.00					

SUPERSEDEAS DECISION

STATE: Florida

COUNTIES: Brevard and Volusia (Cape Kennedy, Kennedy Space Flight Center and Patrick Air Force Base only).

DECISION NUMBER: AP-128

DATE: Date of Publication

Supersedes Decision No. AP-451 dated August 20, 1971 in 36 FR 16367

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

5 - Fla. (SP) Z 1-2

	Basic Hourly Rates	Fringe Benefits Payments H&W	Pensions	Vacation	App. Tr.	Other
Asbestos workers	$6.04	.25	.20	75	.02	
Boilermakers, blacksmiths	6.85	.40	.60		.01	
Bricklayers:						
Bricklayers	5.65	.20				
Blocklayers	5.65	.20				
Cement Masons	5.50	.20				
Masonry cutting or grinding machines	5.80	.20				
Plasterers & manhole bricklayers	5.65	.20				
Terrazzo workers	5.65	.20				
Tile Setters	5.65	.20				
Carpenters:						
Carpenters, gypsum dry-wall hangers	6.30	.20	.25		.01	
Millwrights	6.24	.30	.45			
Piledrivermen	6.55	.20	.25		.01	
Saw operators (radial)	5.70	.20	.25		.01	
Soft floor layers	6.30	.20	.25		.01	
Electricians:						
Electricians	7.35	.25	1%		1/2%	
Cable splicers	7.60	.25	1%		1/2%	
Elevator constructors	3.975					
Elevator constructors' helpers	2.78					
Elevator constructors' mechanic's helpers (prob) 50% of JR						
Glaziers	3.25					
Ironworkers:						
Structural, finishers, burners, rodmen, welders, riggers, machinery movers	6.30	.30	.25	.43	.01	
Sheeters	6.30	.30	.25	.43	.01	
Laborers:						
Common laborers	4.05	.20	.20		.01	
Hod carriers	4.20	.20	.20		.01	
Kettlemen	4.20	.20	.20		.01	
Mason tenders	4.20	.20	.20		.01	
Mortar mixers	4.20	.20	.20		.01	
Pipelayers (conc. & clay)	4.20	.20	.20		.01	
Plasterers tenders	4.20	.20	.20		.01	
Nozzlemen (handling the nozzle of cement gun)	4.37	.20	.20		.01	
Well point and dewatering	4.20	.20	.20		.01	
Air tool op. (vibrator)	4.20	.20	.20		.01	
Powdermen	4.20	.20	.20		.01	
Paving form setters	4.20	.20	.20		.01	
Curb & gutter form setters	4.20	.20	.20		.01	

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5 - Fla. (SP) Z 2-2

	Basic Hourly Rates	Fringe Benefits Payments H&W	Pensions	Vacation	App. Tr.	Other
Laborers (cont'd):						
Sidewalk	4.20	.20	.20		.01	
Concrete workers	4.20	.20	.20		.01	
Lathers	4.10					
Linemen:						
Linemen	6.30	.25	1%		½of 1%	
Cable splicer	6.55	.25	1%		½ of 1%	
Cable splicer's helper	6.30	.25	1%		½ of 1%	
Class "A" Operators	6.30	.25	1%		½ of 1%	
Class "B" Operators	4.66	.25	1%		½ of 1%	
Groundman over 1 year	3.47	.25	1%		½ of 1%	
Groundman under 1 year	2.90	.25	1%		½ of 1%	
Marble Helpers	1.80					
Marble Polishers	1.60					
Plumbers & Pipefitters	6.80	.25	.35		.03	
Roofers	4.85	.10	.05			
Helpers and tile tenders	2.75	.10	.05			
Kettlemen	3.40	.10	.05			
Sheet metal workers	8.60	.30	.25		.05	
Sprinkler fitters	8.25	.25	.40		.07	
Terrazzo grinders	1.90					
Terrazzo helpers	1.65					
Tile helpers	1.80					
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Apprentice Tr.	Others
Buses, jeeps, station wagons, pilot or escort cars, trucks up to 6 cu. yds. or 2-ton capacity, water trucks (single axle), dumpmen & tire repairmen	$4.40					
Dump trucks 6 cu. yds. to 13 cu. yds. capacity, transit mix trucks (single axle), 3 axle trucks	4.50					
Dump trucks 13 cu. yds. capacity, truck mechanic helper	4.60					
Asphalt distributor trucks, lumber carriers & similar type equipment, lift gate trucks, transit mix trucks (tandem axle), dump trucks 10 cu. yds. or more, fuel & grease trucks, and 4-axle trucks	4.65					
A-frame trucks, boom trucks, gin pole trucks, winch trucks (when used for hauling material & equipment), trucks with 5-axles or more, fork lift trucks	5.00					
Euclids, euclid water truck, caterpillars, or similar off highway earth moving equipment (not self-loaded), truck mechanic	5.10					

Painters:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Apprentice Tr.	Others
Commercial Repainting:						
Brush and roller	5.40		.20		.05	
Spray and Sandblasting	5.90		.20		.05	
All other painting:						
Brush and roller	5.80		.20		.05	
Spray	6.50		.20		.05	
Sandblasting	6.50		.20		.05	
Hand Drywall Taping and Finishing	5.80		.20		.05	
Drywall work using Ames tools or Automatic tapers	6.50		.20		.05	
Gloves and Mittens	6.50		.20		.05	
Paper hanging	6.50		.20		.05	
Steam Cleaning or Power Driven tools	6.50		.20		.05	
Grouting or Caulking	5.80		.20		.05	
Hot or cold tar materials Bitumastic, Martite, Flage mastic or any similar materials	6.50		.20		.05	
Asphalt Excluding Asphalt base aluminum and varnish	6.50		.20		.05	

POWERED EQUIPMENT OPERATORS:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS: H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Cranes, hydraulic or derrick on structural or reinforcing iron	$6.46	.25	.20			
Crane or derrick, Glam shell, Dragline, Piledriver operator (including auger & boring machine op. for drilling in piling), Backhoe (including hydraulic), Hydraulic crane Cradeall, Shovel, Motor patrol, Mechanic heavy equipment, Side boom cat & Multi-drum hoist	6.21	.25	.20			
Bulldozer & trenching machine, Bridge crane, Highlift, Straddle buggy, Hoist, Earth hauling scraper (regardless how powered), Pump crete & Front end loader	5.90	.25	.20			
Winch truck, Concrete/asphalt paver, Fork lift, Locomotive engineer, Boring machine, Well drilling machine & Mobile cleaning plant	5.49	.25	.20			
Tractor, Well point pump & installation man, Firemen, Lubrication engineer-equipment greaser & Air compressor	5.15	.25	.20			
Motor boat, Oiler, Mechanic helper, Pumpman (other than well point), Roller (steel & rubber tires) self-powered, Conveyor, Welding machine (three or more combustion engines) & Pulver mixer	4.53	.25	.20			

SUPERSEDEAS DECISION

STATE: Missouri & Kansas

COUNTIES: Cass, Clay, Jackson, Platte, & Ray, Missouri; Johnson & Wyandotte, Kansas

DECISION NO.: AP-514

DATE: Date of Publication

Supersedes Decision No. AM-6,724, dated April 28, 1972, in 37 FR 8642.

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

10 - Missouri - 1 c

BUILDING CONSTRUCTION "Cass, Clay, Jackson, Platte, & Ray Counties, Missouri"	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
ROOFERS HELPERS:						
1st 6 mos.	$4.55	.18	.40		.04	
2nd 6 mos.	4.86	.18	.40		.04	
3rd 6 mos.	5.21	.18	.40		.04	
4th 6 mos.	5.53	.18	.40		.04	
5th 6 mos.	5.86	.18	.40		.04	
TRUCK DRIVERS:						
Flat bed, pick-up, & dump-under 10 yds.	4.225					
Dump-10 yds. & over	4.30					
HEAVY & HIGHWAY CONSTRUCTION:						
CARPENTERS (not incl. Cass Co.)	8.205	.20	.45	.50	.05	
CARPENTERS (CASS CO., MO.)	7.67	.23	.15		.03	

"Cass, Clay, Jackson, Platte, & Ray Counties, Missouri"

AP-514 P. 2

10 - Missouri - 1 c (1-2)

BUILDING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHR
ASBESTOS WORKERS	$8.40	.30	.30		.02	
BOILERMAKERS	8.25	.30	1.00		.02	
BRICKLAYERS	7.725	.35	.35	.15		
CARPENTERS (CASS COUNTY)	7.30	.23	.15		.04	
CARPENTERS:						
Carpenters; millwrights; piledrivermen	7.55	.23	.15		.04	
CEMENT MASONS:						
Cement masons	6.025	.10	.15			
Composition	6.275	.10	.15			
ELECTRICIANS:						
Western half of Clay & Jackson Cos. not including Blue Springs; Northern half of Platte Co.; Northwestern portion of Cass Co. not including Pleasant Hill:						
Electricians (except residential)	7.10	.15	1%+.20	.55	.03	
Electricians (residential*)	5.72	.15	1%+.20	.55	.03	
Remainder of Clay, Jackson, Platte and Cass Counties:						
Electricians (contracts over $5,000 except residential)	7.95	.15	1%+.20	.70	.03	
Electricians (contracts under $5,000 except residential)	7.45	.15	1%+.20	.70	.03	
Electricians (residential*)	5.69	.15	1%+.20	.70	.03	
Ray County:						
Electricians (contracts over $5,000 except residential)	7.10	.15	1%+.20	.55	.03	
Electricians (contracts under $5,000 except residential)	6.05	.15	1%+.20	.55	.03	
Electricians (residential*)	5.17	.15	1%+.20	.55	.03	
ELEVATOR CONSTRUCTORS	7.29	.175	.20	2%+a+b		
ELEVATOR CONSTRUCTORS HELPERS	70%JR	.175	.20	2%+a+b		
ELEVATOR CONSTRUCTORS HELPERS (PROB.)	50%JR					
GLAZIERS	7.41	.35	.20	7% / d	.01	
IRONWORKERS:						
Structural; ornamental; riggers	8.50	.40	.40	.50	.05	
Reinforcing	8.50	.40	.40	.50	.05	
LATHERS	6.75	.20				
MARBLE, TERRAZZO, & TILE WORKERS	8.425	3.65%	3.25%			
MARBLE & TILE HELPERS	6.68					
TERRAZZO HELPERS	4.55					
TERRAZZO BASE MACHINE GRINDERS	4.90					
PAINTERS:						
Painters	7.52	.20	.20			
Paperhangers	8.02	.20	.20			
Bridges	8.27	.20	.20			
Structural Steel (exterior)	8.27	.20	.20			

AP-514 P. 3

10 - Missouri - 1 c (7-2)

BUILDING CONSTRUCTION"	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHR
PAINTERS (CONT'D)						
All interior surfaces over 27 ft. from the floor including structural steel	$8.27	.20	.20			
All exterior work performed on swing stages, window jacks or with belts (over 7 ft. above ground level)	8.27	.20	.20			
Storage bins and storage tanks (over 7 ft. above ground level)	8.27	.20	.20			
All work performed by air, steam aggregate and/or sandblasting	8.27	.20	.20			
Structural Steel, exterior over 75 ft. in height	8.52	.20	.20			
All work in elevator shafts above 27 ft.	8.27	.20	.20			
Tapers using power machine (Bazooka)	8.27	.20	.20			
Spray	9.27	.20	.20			
PLASTERERS	6.90	.20				
PIPEFITTERS	8.02	.38	.75		.06	
PLUMBERS	8.45	.30	.40		.06	
ROOFERS	6.51	.18	.40		.04	
SHEET METAL WORKERS	8.225	.25	.25			
SOFT FLOOR LAYERS	7.09	.35	.25	7%	.05	
SPRINKLER FITTERS	8.405	.25	.40		.05	
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.						

FOOTNOTES:

a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2% over 5 yrs. - 4% of basic hourly rates.
b - Paid Holidays - A through G.
c - Employees having one year continous service shall receive 1 week vacation with pay and employees having 3 years or more continous service shall receive 2 weeks vacation with pay.
d - Employers contribution of 3.02% for each hour paid plus fringes into the Paid Holiday Trust Fund - (7) paid holidays, A thru G.

* - Residential work shall be defined to mean the construction, maintenance and repair of single and multi-family dwellings not exceeding three stories in height.

PAID HOLIDAYS:

A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving.

AP-514 P. 4

CASS, CLAY, JACKSON, & PLATTE COS., MO

BUILDING CONSTRUCTION LABORERS:	Missouri - 3 - Jun - 1 - b Basic Hourly Rates	FRINGE BENEFITS PAYMENTS H & W	Pensions	Vacation	App Tr	Other
Common labor; wire mesh handlers or setters; carpenter tender; trackman; flagmen; signalmen; salamander tenders; window cleaners; floor cleaners; landscape men; sod layers; wrecker (for alterations or entire projects).	$5.71	.30	.15			
Plumber laborers (conduit pipe, sewer work, drain tile & duck lines, digging & back filling); power tool operators; pier hole diggers (over 10 ft.); vibrator, jackhammer & chipping hammer operators; chain saw operators; concrete saw operators; brush feeders on pulverizers; reinforcing steel handlers; air tamp operators; ditch witch operators; swinging scaffolds.	5.805	.30	.15			
Stonemason tenders; cutting torch or burner men; Georgia buggies (self-propelled); brick tenders; plasterer tenders; fork lift (up to 9 ft.); hoseman; insulation man.	5.905	.30	.15			
Mortar men (hod carriers); scaffolding (swinging or tubing) hod carriers.	6.00	.30	.15			
Barco, jackson or similar tamp operators; asphalt rakers; power men; mastic hot kettle men; sandblasting & gunite nozzle men; wagon & churn drill operators.	6.10	.30	.15			

Ray County, Missouri
Building Construction

LABORERS:	Missouri - 7 - Jun - 1 - b Basic Hourly Rates	FRINGE BENEFITS PAYMENTS H & W	Pensions	Vacation	App Tr	Other
Common labor; wire mesh handlers or setters; carpenter tender; track men; flagmen; signalmen; salamander tenders; floor cleaners; landscape men; sod layers; wreckers (for alterations or entire projects).	$5.55	.30	.15			
Plumber laborers (conduit pipe, sewer work, drain tile & duct lines, digging & back filling); power tool operators; pier hole diggers (over 10 ft.); vibrator, jackhammer & chipping hammer operators; chain saw operators; concrete saw operators; brush feeders on pulverizers; reinforcing steel handlers; air tamp operators; ditch witch operators; swinging scaffolds.	5.65	.30	.15			
Stonemason tenders; cutting torch or burner men; Georgia buggies (self-propelled); brick tenders; fork lift (up to 9 ft.); hoseman; insulation man.	5.725	.30	.15			
Mortar men (hod carriers); scaffolding (swinging or tubing) hod carriers.	5.80	.30	.15			
Barco, jackson or similar tamp operators; asphalt rakers; power men; mastic hot kettle men; sandblasting & gunite nozzle men; wagon & churn drill operators.	5.90	.30	.15			

"Cass, Clay, Jackson, Platte, & Ray Counties, Missouri"
Building Construction

AP-514 P. 5
No. 3-FEO-1-1 (1-2)

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTH
POWER EQUIPMENT OPERATORS: "A" Frame Trucks; Boilers (1); Broom-Power Operated (all types); Chip Spreader (frontman); Clef Plane Operators; Compressor (1) 105 feet or over; Concrete Saws, self-propelled; Conveyor Operator; Crab-power operated; Curb Finishing Machine; Elevator; Finishing Machine; Fireman on Rigs; Flex Plane; Floating Machine; Form Grader; Fork Lift - all types & sizes; Greaser; Hoist; Hoist, Endless Chain - power operated; Hopper - Power operated; Hydra Hammer (all types); Jad-A-Vator; Mixers (with Side Loaders); Pumps (with well points); Pump (water well points); Pump (Water) Rollers (all types); Siphons, Jets & Jennys; Sub Grader; Tractors over 50 h.p.	$6.90	.25	.25		.02	
Asphalt Paver & Spreader; Asphalt Plant Mixer Operator; Asphalt Plant Operator; Back Fillers; Back Hoe, all type; Barber-Greene Loader; Blase Paver, all types; Boats - Power; Boilers (2); Boring Machine (all types); Cableways; Cherry Pickers (all types); Chip Spreader; Clamshells; Combination Concrete Hoist & Mixer; such as mixers-mobile (with tower, 5C; per hour additional) Compressors (2) 105 feet or over not more than 20 feet apart; Compressors - tandem (any sizes); Compressors - Single, Truck Mounted; Concrete Ready-Mixed Plant, Portable (job site); Concrete Mixer Paver; Crane or Rigs (all types); Crane - overhead; Crusher; rock; Derricks & Derrick Cars (power operated); Ditching Machines; Dozers; Draglines; Dredges, any type power; Gradeall; Hoist, Endless Chain - Power Operated with Power Travel; Loaders - all types Locomotives - all types; Mechanic & welder; Mucking Machine; Orange Peels; Pile Drivers; Pumps - Material - all types; Push Cats; Scoops (all types); Self-propelled Rotary Drill; Shovel, Power; Side Booms; Skimmer Scoop; Testhole Machine; Throttle Man	7.15	.25	.25		.02	

AP-514 P. 6
"Building Construction" No. 3-FEO-1-1 (2-2)

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTH
POWER EQUIPMENT OPERATORS: (cont'd)						
Crane-tower or climbing	7.65	.25	.25		.02	
Clamshells, Crane or Rigs, Draglines & Pile Drivers with 60 feet of boom or over (including jib)	7.40	.25	.25		.02	
Crane or Rigs over 200 feet	7.65	.25	.25		.02	
Hoists - each additional drum over 1 drum	7.15	.25	.25		.02	
Master Mechanic	8.15	.25	.25		.02	
Master Mechanic - Assistant	7.90	.25	.25		.02	
Oiler; Tractors (except when hauling material) less than 50 h.p.	6.35	.25	.25		.02	
Oiler Driver - all types	6.60	.25	.25		.02	
Ready-Mixed Concrete Plants: Crane Operator	6.83	.25	.25		.02	
Conveyor; Loader Operator; Plant Man	6.63	.25	.25		.02	

Cass County, Missouri
HEAVY & HIGHWAY CONSTRUCTION
MO. 2 - TD - 2,3 (1-1)

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
Flat bed trucks - single axle	$7.33	.50	.50			
Flat bed trucks - tandem axle	7.48	.50	.50			
Station wagons	7.33	.50	.50			
Pickup trucks	7.33	.50	.50			
Material trucks - single axle	7.33	.50	.50			
Material trucks - tandem axle	7.48	.50	.50			
Semi and/or pole trailers	7.55	.50	.50			
Winch, fork and steel trucks	7.55	.50	.50			
Distributor drivers and operators	7.55	.50	.50			
Agitator and transit mix trucks	7.48	.50	.50			
Tank wagon - single axle	7.33	.50	.50			
Tank wagon - semi-trailer	7.55	.50	.50			
Tank wagon - tandem axle	7.48	.50	.50			
Ingley wagons, dumpsters, half-tracks, speedace, euclids, and other similar equipment	7.55	.50	.50			
A-frame and derrick trucks	7.55	.50	.50			
Float or low boy	7.55	.50	.50			
Warehouseman	7.23	.50	.50			

AP-514 P. 7
MO. 8-FEO 2,3, (1-2)

HEAVY & HIGHWAY CONSTRUCTION CASS COUNTY, MISSOURI	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
POWER EQUIPMENT OPERATORS						
Asphalt finishing machine & Trench widening spreader; Asphalt plant Console Op.; Autograder; Automatic slipform paver; Backhoe, Blade Op. - all type; Boat Op.-ten; Boilers-2; Central mix concrete plant Op.; Clamshell Op.; Concrete mixer paver; Crane Op.; Derrick or Derrick trucks; Ditching machine; Dozer Op.; Dragline Op.; Dredge booster pump; Dredge Engineman; Dredge Op.; Drill cat with Compressor mounted on Cat; Drilling or Boring machine rotary self-propelled; Highloader; Hoisting engine -2 active drums; Joachhammer wheel; Locomotive Op. - standard gauge; Mechanics and Welders; Mucking machine; Pileddriver Op.; Pitman Crane Op.; Push Cat Op.; Quad Trac; Scoop Op. - all types; Shovel Op.; Sideboom Cats; Skimmer scoop Op.; Trenching machine Op.; Truck crane	$9.10	.40	.40		.05	
A-Frame; Asphalt hot-mix silo; Asphalt plant fireman (drum or boiler); Asphalt plant man; Asphalt plant mixer Op.; Asphalt roller Op.; Backfiller Op.; Barber-Greene loader; Bont Op.(bridge & dams); Chip spreader; Compressor Maintenance Op. -2; Concrete mixer Op.; Skip loader; Concrete plant Op.; Concrete pump Op.; Crusher Op.; Dredge oiler; Elevating grader Op.; Fork lift; Greaser-fleet; Hoisting engine - 1; Locomotive Op. narrow gauge; Multiple compacter; Pavement breaker; Power-broom self-propelled; Power shield; Rooter; Side discharge concrete spreader; Slip form finishing machine; Stumpcutter machine; Throttle man; Tractor Op. (over 50 H.P.); Welding machine Maintenance Op. -2; Winch truck	8.90	.40	.40		.05	

AP-514 P. 8
MO. 8-FEO 2,3 (2-2)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Boilers - 1; Chip Spreader (front man); Churn Drill Op.; Clef Plane Op.; Compressor Maintenance Op. -1; Concrete Saw Op. (self-propelled); Conveyor Op.; Curb Finishing Machine; Distributor Op.; Finishing Machine Op.; Fireman-Rig; Flex Plane Op.; Float Op.; Form Grader Op.; Generator-Maintenance Op.; Light Plant - Maintenance Op.; Maintenance Op.; Oiler Driver; Pugmill Op.; Pump Maintenance Op. (other than Dredge); Roller Op., other than high type asphalt; Screening & Washing Plant Op.; Siphons & Jets; Sub-grading Machine Operator; Spreader Box Op., self-propelled (not asphalt); Tank Car Heater Op. (Combination Roller & Booster); Tractor Op. (50 H.P. or less); Ulmer, Ulric or similar spreader; Vibrating Machine Op., Welding Machine Maintenance Op. - 1	8.70	.40	.40		.05
Oiler	7.95	.40	.40		.05
Clamshells, 3 yds. or over; Crane, Rigs or Piledrivers 100' to 200' of boom (including jib); Draglines, 3 yds. or over; Hoists - each additional active drum over 2 drums; Shovels, 3 yds. or over	9.35	.40	.40		.05
Tandem Scoop; Crane, Rigs or Piledrivers 200' of boom or over (including jib)	9.60	.40	.40		.05

"Cass County, Missouri"

HEAVY & HIGHWAY CONSTRUCTION

MO. 22 Lab 2,3

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
LABORERS:						
General Labor Carpenter tenders; Salamander tenders; Dump man and ticket takers on stock piles; Flagmen; Loading trucks under bins, hoppers and conveyors; Track men and all other general laborers	6.975	.40	.40		.10	
First Semi-Skill Air tool operator; Cement handler-bulk or sack; Dump man on earth fill; Georgie buggie man; Material batch hopper man; Scale man; Spreader on asphalt machine; Material mixer man (except on manholes); Coffer dams; Riprap pavers-rock, block or brick; Signal man; Scaffolds over ten feet not self-supported from ground up; Skipman on concrete paving; All work in connection with sewer, water, gas, gasolire, oil, drainage pipe, conduit pipe, tile & duct lines and all other pipe lines; Power tool operator; All work in connection with hydraulic or general dredging operations; Form setter helpers; Puddlers (paving only); Straw blower nozzleman; Wire mesh setters on concrete paving.	7.125	.40	.40		.10	
Second Semi-Skill Asphalt plant platform man; Chuck tender; Crusher feeder; Men handling creosote ties on creosote materials; Men working with and handling epoxy material or materials (where special protection is required); Head pipe layer on sewer work; Topper of standing trees; Batter board man on pipe and ditch work; Vibrator man; Feeder man on wood pulverizers; Board and willow mat weavers and cable tiers on river work; Deck hands; Pile dike and revetment work; All laborers working on underground tunnels less than 25 feet where compressed air is not used; Abutment and pier hole men working six (6) feet or more below ground; Men working in Coffer dams for bridge piers and footings in the river.	7.275	.40	.40		.10	

MO. 22-LAB 2,3

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Third Semi-Skill Laser beam man; Asphalt rakers; Barco tamper; Jackson or any other similar tamp; Wagon driller; Churn drills; Air track drills; All other similar drills; Cutting torch man; Form setters; Liners and stringline man on concrete paving, curb, gutters, etc.; Hot mastic kettleman; Hot tar applicator; Hand blade operators; Manhole builder helpers and mortar men on brick or block manhole; Sandblasting & gunite nozzle men; Rubbing concrete; Air tool Operator in tunnels; Caulker and lead man; Screed man on asphalt machine; Chain on concrete saw; Cliff scalers working from scaffolds, Bosuns' Chairs or platforms on dams or power plants over ten (10) feet above ground; Grade checker on cuts and fills.	7.475	.40	.40		.10	
Fourth Semi-Skill Manhole builders-brick or block; Dynamite and powder man; Welder	7.725	.40	.40		.10	

"Clay, Jackson, Platte, & Ray Counties, Missouri"

HEAVY & HIGHWAY CONSTRUCTION

10 - Missouri - LAB - 2,3 (1-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
LABORERS:						
General Laborer Carpenter Tenders; Salamander Tenders; Dump Man & Ticket Takers on Stock Piles; Flagmen; Loading Trucks under Bins, Hoppers and Conveyors; Track men and all other General Laborers	$7.00	.40	.40	.50	.10	
First Semi-Skill Air Tool Operator; Cement Handler (Bulk or Sack); Chain or Concrete Saw; Deck Hands; Dump man on Earth Fill; Grade Checkers on Cuts and Fills; Georgie Buggies Man; Material Batch Hopper Man; Scale Man; Material Mixer Man (except on Manholes, Coifer Dams, Abutments and Pierhole men working below ground); Riprap Pavers Rock, Block or Brick; Signal Man; Scaffolds over 10 ft. not self-supported from ground up; Skipman on concrete paving; Vibrator man; Wire mesh setters on concrete paving; all work in connection with Sewer, Water, Gas, Gasoline, Oil, Drainage Pipe, Conduit Pipe, Tile & Duct lines and all other pipe lines; Power Tool Operator; all work in connection with Hydraulic or General Dredging Operations; Form Setter Helpers; Pudlers (paving only)	7.15	.40	.40	.50	.10	
Second Semi-Skill Crusher Feeder; Men handling creosote ties or creosote materials; Men working with and handling epoxy materials (where special protection is required); Head Pipe Layer on Sewer work; Topper of Standing trees; Batter Board man on Pipe & Ditch Work; Feeder Man on Wood Pulverizers; Board and Willow Mat Weavers and Cable Tiers on River work; all Laborers working on underground tunnels where compressed air is not used	7.30	.40	.40	.50	.10	

10 - Missouri - LAB - 2,3 (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
LABORERS (CONT'D):						
Third Semi-Skill Spreader or Screed man on Asphalt Machine; Asphalt Raker; Laser Beam Man; Barco Tamper; Jackson or any other similar Tamp; Wagon Driller, Churn Drills, Air Track Drill and all other similar drills; Cutting Torch Man; Form Setter; Liners and Stringline Men on Concrete Paving, Curb, Gutters and etc.; Hot Mastic Kettleman; Hot Tar Applicator; Hand Blade Operators; Manhole Builders Helpers and Mortar Men on Brick or Block Manholes; Sand Blasting and Gunnite Nozzle Men; Rubbing Concrete; Air Tool Operator in Tunnels	7.50	.40	.40	.50	.10	
Fourth Semi-Skill Manhole Builder (Brick or Block); Dynamite and Powder Men;	7.80	.40	.40	.50	.10	

"Clay, Jackson, Platte, & Ray Cos., No.

HEAVY & HIGHWAY CONSTRUCTION

10 - Missouri - TD - 2,3

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
TRUCK DRIVERS:						
One Team; Station Wagons; Pickups; Material, Single Axle; Tank Wagon, Single Axle	$7.39	.50	.50	.50		
Two Teams; Material, Tandem; Semi-Trailers; Winch; Fork; Distributor Drivers and Operators; Agitator and Transit Mix; Tank Wagon, Tandem or Semi-Trailer; Insley Wagons; Dump; Excavating, 5 cu. yds. & over; Dumpsters; Half-Tracks; Speedace; Euclids and other similar excavating equipment	7.59	.50	.50	.50		
A-Frame; Low Boy; Boom	7.90	.50	.50	.50		
Mechanics & Welders	8.05	.50	.50	.50		
Mechanic's Helpers, Oilers & Greasers	7.165	.50	.50	.50		

"Clay, Jackson, Platte, & Ray Cos., Mo. HEAVY & HIGHWAY CONSTRUCTION

AP-514 P. 13 10 - Missouri - PEO - 2,3 (1-2)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Group I Asphalt Paver and Spreader; Asphalt Plant Console Operator; Auto Grader; Back Hoe; Blade Operator, all types; Boilers-2; Booster Pump on Dredge; Boring Machine (Truck or Crane Mounted); Bulldozer Operator; Clamshell Operator; Compressor Maintenance Operator-2; Concrete Plant Operator, Central Mix; Concrete Mixer Paver; Crane Operator; Derrick or Derrick Trucks; Ditching Machine; Dragline Operator; Dredge Engineman; Dredge Operator; Drillcat with Compressor Mounted on Cat; Drilling or Boring Machine, Rotary, Self-propelled; High Loader-Fork Lift; Hoisting Engine-2 active drums; Locomotive Operator, Standard Gauge; Mechanics and Welders, Field or Shop; Maintenance Operator; Mucking Machine; Pile Driver Operator; Pitman Crane Operator; Pump-2; Quad-Trac; Scoop Operator-all types; Scoops in Tandem; Self-Propelled Rotary Drill(Leroy or Equal-not Air Tool); Shovel Operator; Side Discharge Spreader; Sideboom Cats; Skimmer Scoop Operator; Slip-form Paver (CMI, REX, or Equal); Throttle Man; Truck Crane; Welding Machine Maintenance Operator-2	$8.50	.40	.40	.50	.10	
Group II "A" Frame Truck; Asphalt Hot Mix Silo; Asphalt Plant Fireman, Drum or Boiler; Asphalt Plant Mixer Operator; Asphalt Plant Man; Asphalt Roller Operator; Backfiller Operator; Chip Spreader; Concrete Batch Plant, Dry, Power Operated; Concrete Mixer Operator, Skip Loader; Concrete Pump Operator; Crusher Operator; Elevating Grader Operator; Greaser; Hoisting Engine-1 drum; LaTourneau Rooter; Multiple Compactor; Pavement Breaker, Self-Propelled, of the Hydra-Hammer or Similar Type; Power Shield; Pug Mill Operator; Stump Cutting Machine; Towboat Operator; Tractor Operator-Over 50 HP	8.25	.40	.40	.50	.10	

AP-514 P. 14 10 - Missouri - PEO - 2,3 (2-2)

POWER EQUIPMENT OPERATORS (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Group III Boilers-1; Chip Spreader(Front Man); Churn Drill Operator; Compressor Maintenance Operator-1; Concrete Saws, Self-Propelled; Conveyor Operator; Distributor Operator; Finishing Machine Operator; Fireman, Rig; Float Operator; Form Grader Operator; Oiler Driver, all types; Pump; Pump Maintenance Operator, other than Dredge; Roller Operator, other than high type asphalt; Screening and Washing Plant Operator; Self Propelled Street Broom or Sweeper; Siphons and Jets; Sub-Grading Machine Operator; Tank Car Heater Operator-Combination Boiler and Booster; Tractor, 50 HP or less, without attachments; Vibrating Machine Operator, not hand; Welding Machine Maintenance Operator-1	8.00	.40	.40	.50	.10	
Group IV Mechanic's Helper, Oiler	7.50	.40	.40	.50	.10	
Clamshells, 3-yd. capacity or over	8.75	.40	.40	.50	.10	
Crane or Rigs, 80 ft. of boom or over (including jib)	8.75	.40	.40	.50	.10	
Crane or Rigs, over 200 ft. of boom (including jib)	9.00	.40	.40	.50	.10	
Draglines, 3-yd. capacity or over	8.75	.40	.40	.50	.10	
Pile Drivers, 80 ft. of boom or over (including jib)	8.75	.40	.40	.50	.10	
Shovels, 3-yd. capacity or over	8.75	.40	.40	.50	.10	

AP-514 P. 15 Line Construction - 1 - 6

"JACKSON, PLATTE, RAY, CLAY, & CASS COUNTIES, MISSOURI"	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
LINEMAN	$7.95	.15	1%+.15		1%	
LINEMAN OPERATOR	7.50	.15	1%+.15		1%	
LINEMAN MECHANIC	6.37	.15	1%+.15		1%	
GROUNDMAN FOREMAN	5.47	.15	1%+.15		1%	
GROUNDMAN	5.19	.15	1%+.15		1%	
GROUNDMAN (1st year)	5.79	.15	1%+.15		1%	

Johnson & Wyandotte Cos., Kans.

AP-514 P. 16 20-Kansas-1-c (1-2)

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
ASBESTOS WORKERS	$8.40	.30	.30		.02	
BOILERMAKERS	8.23	.30	1.00		.02	
BRICKLAYERS; Stonemasons	6.325	.20	.30			
CARPENTERS: Carpenters; Millwrights; Piledrivermen	7.55	.23	.15		.04	
CEMENT MASONS: Cement masons	6.025	.10	.15			
Composition	6.275	.10	.15			
ELECTRICIANS	7.95	.15	1%+.20	.70	.03	
ELEVATOR CONSTRUCTORS	7.29	.175	.20	2%+b		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.175	.20	2%+b		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
GLAZIERS	7.41	.35	.20	7%+c	.01	
IRONWORKERS: Ornamental; Reinforcing; Riggers; Structural	8.50	.40	.40	.50	.05	
LATHERS	6.75	.20				
MARBLE SETTERS	8.425	3.65%	3.25%			
MARBLE SETTERS' HELPERS	6.68					
PAINTERS: Painters	7.52	.20	.20			
Paperhangers	8.02	.20	.20			
All interior surfaces over 27' from the floor including structural steel; All exterior work performed on swing stages, with jacks or with belts (Over 7' above ground level); Storage bins and storage tanks (Over 7' above ground level); All work performed by air, steam, Aggregate and/or sand-blasting; All work in elevator shafts above 27'; Bridges; Structural steel (exterior); Structural steel, exterior over 75' in height; Tapers using power machine (Bazooka)	8.27	.20	.20			
Spray	9.27	.20	.20			
PIPEFITTERS	8.02	.38	.75		.06	
PLASTERERS	6.90	.20				
PLUMBERS	8.45	.30	.40		.06	
ROOFERS	6.51	.18	.40		.04	
SHEET METAL WORKERS	8.225	.25	.25			
SOFT FLOOR LAYERS	7.09	.35	.25	7%	.05	
SPRINKLER FITTERS	8.485	.25	.40		.05	
TERRAZZO WORKERS; Tile setters	8.425	3.65%	3.25%			
TERRAZZO HELPERS' HELPERS	4.55					
TERRAZZO BASE GRINDERS	4.90					
[illegible]	6.68					
[illegible] (Heavy & Highway Const.)	8.905	.20	.45	.50	.05	

XUM

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving Day.

FOOTNOTES:
a. 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate.
b. Paid Holidays: A through F.
c. Paid Holidays: A through G.

"Johnson & Wyandotte Counties, Kansas

KAN - 1 - TD - 1 - h

BUILDING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
TRUCK DRIVERS:						
Warehousemen and stock man	$4.175					
Flat beds	4.225					
Pick-ups	4.225					
Dump trucks, under 10 yards	4.225					
Dump trucks, 10 yards and over	4.30					
Straddle trucks	4.425					
Wheel tractors (when used for towing)	4.425					
Steel trucks	4.30					
Hydro lift trucks	4.425					
Hydraulically operated serial lifts	4.425					
Distributor truck drivers and operators	4.325					
Semi-truck drivers	4.30					
Heavy hauling, A-frame winch and fork lifts	4.425					
Heavy excavating (dumpter, Euclid, etc.)	4.425					
Oilers, greasers and mechanics' helpers	4.325					
Mechanics	4.525					
Transit mix, 5 yards and over	4.375					
Transit mix, under 5 yards	4.275					
Double bottom units (20 tons cap & over)	4.425					

Johnson & Wyandotte Cos., Kans.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefit Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
LABORERS:						
Common labor, Wire mesh handlers or setters; Carpenter tender; Truck men; Flagman; Signalman; Salamander tenders; Window cleaners; Floor cleaners; Landscape man; Sod layers; Wrecker (for alterations or entire projects)	$5.71	.30	.15			
Plumber laborers (conduit pipe, sewer work, drain tile & duck lines, digging & back filling), Power tool operators; Pier hole diggers (over 10 ft.); Vibrator, jackhammer, & Chipping hammer operators; Chain saw operators; Concrete saw operators; Brush feeders on pulverizers; Reinforcing steel handlers; Air tamp operators; Ditch witch operators; Swinging scaffolds	5.805	.30	.15			
Stone mason tenders; Cutting torch or burner man; Georgia buggies (self-propelled); brick tenders; Plasterers tenders; Fork lift (up to 9 ft.); Roseman; Insulation man	5.905	.30	.15			
Mortar men (Hod carriers); scaffolding (swinging or tubing) Hod carriers	6.00	.30	.15			
Barco, jackson or similar tamp operators; Asphalt rakers; Powder man; Mastic hot kettle man; Sandblasting & gunite nozzle man; Wagon & Churn drill operators	6.10	.30	.15			

Johnson & Wyandotte Counties, Kansas

KAN - 10 - PTO - 1 - h (2-2)

BUILDING CONSTRUCTION	Basic Hourly Rate	Fringe Benefit Payments				
		H & W	Pension	Vacation	App. Tr.	Other
POWER EQUIPMENT OPERATORS:						
"A" Frame Trucks; Boilers (1); Brooms Power Operated (all types); Chip Spreader (front man); Clef Plane Op.; Compressor (1) 105 feet or over; Concrete Saws, Self-propelled; Conveyor Operator; Crab-power operated; Curb Finishing Machine; Elevator; Finishing Machine; Firemen on Rigs; Flex Plane; Floating Machine; Form Grader; Fork Lift - all types & sizes; Greaser; Hoist, Endless Chain - power operated; Hopper - Power Operated; Hydra Hammer (all types); Lad-A-Vator; Mixers (with Side Loaders); Pumps (with well points); Pump (water) Rollers (all types); Siphons, Jets & Jennys; Sub Grader; Tractors over 50 H.P.	$6.90	.25	.25		.02	
Asphalt Paver & Spreader; Asphalt Plant Mixer Operator; Asphalt Plant Operator Back Fillers; Back Hoe, all types; Barber-Greene Loader; Blade - Power, all types; Boats - Power; Boiler (2); Boring Machine (all types); Cableways; Cherry Pickers (all types); Chip Spreader; Clamshells; Combination Concrete Hoist & Mixer, such as mixer-mobile (with tower, 50¢ per hour additional) Compressors (2) 105 feet or over not more than 20 feet apart; Compressors - tandem (any sizes); Compressors - Single, Truck Mounted; Concrete Ready-Mixed Plant, Portable (job site); Concrete Mixer Paver; Crane or Rigs (all types); Crane - overhead; Crusher, rock; Derricks & Derrick Cars (Power operated); Ditching Machines; Dozers; Draglines; Dredges, any type power; Gradeall; Hoist, Endless Chain-Power Operated with Power Travel; Loaders - all types Locomotives - all types; Mechanic & Welder; Mucking Machine; Orange Peels; Pile Drivers; Pumps - material - all types; Push Cats; Scoops (all types); Self-propelled Rotary Drill; Shovel Power; Side Boom; Skimmer Scoop; Testhole Machine; Throttle Man	7.15	.25	.25		.02	
Crane-tower or climbing	7.65	.25	.25		.02	

KAN - 10 - PTO - 1 - h (2-2)

BUILDING CONSTRUCTION	Basic Hourly Rate	Fringe Benefit Payments				
		H & W	Pension	Vacation	App. Tr.	Other
POWER EQUIPMENT OPERATORS: (cont'd)						
Clamshells, crane or rigs, draglines & Pile Drivers with 80 feet of boom or over (including jib)	$7.40	.25	.25		.02	
Crane or Rigs over 200 feet	7.65	.25	.25		.02	
Hoists - each additional drum over 1 drum	7.15	.25	.25		.02	
Master Mechanic	8.15	.25	.25		.02	
Master Mechanic - Assistant	7.90	.25	.25		.02	
Oiler; Tractors (except when hauling material) less than 50 H.P.	6.35	.25	.25		.02	
Oiler Driver - all types	6.60	.25	.25		.02	
Ready-Mixed Concrete Plants:						
Crane Operator	6.83	.25	.25		.02	
Conveyor; loader operator; plant man	6.63	.25	.25		.02	

Johnson & Wyandotte Counties, Kansas AP-514 P. 21

"Site Preparation & Grading, Heavy & Highway Construction"

100 - KAN PIC 2 - 3 - h (1-2)

	Basic Hourly Rate	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
POWER EQUIPMENT OPERATORS						
Group I						
Asphalt Paver and Spreader; Auto Grader; Back Hoe; Blade Operator, all types; Boilers - 2; Booster Pump on Dredge; Boring Machine (Truck or Crane Mounted); Bulldozer Operator; Clamshell Operator; Compressor Maintenance Operator - 2; Concrete Plant Operator - Central Mix; Concrete Mixer Paver; Crane Operator; Derrick or Derrick trucks; Ditching Machine; Dragline Operator; Dredge Engineman; Dredge Operator; Drillcat with Compresser Mounted on Cat; Drilling or Boring Machine, Rotary, self-propelled; High Loader - Fork Lift; Locomotive Operator, Standard Gauge; Mechanics and Welders; Maintenance Operator; Mucking Machine; Pile Driver Operator; Pitman Crane Operator; Pump - 2; Quad-Trac; Scoop Operator - all types; Scoops in Tandem; Self-Propelled Rotary Drill (Leroy or Equal - not Air Trac); Shovel Operator; Side Discharge Spreader; Sideboom Cats; Skimmer Scoop Operator; Throttle Man; Truck Crane; Welding Machine Maintenance Operator - 2; Hoisting Engine-2 active drums	$8.50	.40	.40	.50	.10	
Group II						
"A" Frame Truck; Asphalt Hot Mix Silo; Asphalt Plant Fireman, Drum or Boiler; Asphalt Plant Mixer Operator; Asphalt Plant Operator; Asphalt Roller Operators; Backfiller Operator; Chip Spreader; Concrete Batch Plant, dry - Power Operated; Concrete Mixer Operator, Skip Loader; Concrete Pump Operator; Crusher Operator; Elevating Grader Operator; Greaser; Hoisting Engine - 1 drum; LaTourneau Rooter; Multiple Compactor; Pavement Breaker, Self-Propelled, of the Hydra-Hammer or Similar Type; Power Shield; Stump Cutting Machine; Towboat Operator; Tractor Operator - over 50 HP	8.25	.40	.40	.50	.10	
Group III						
Boilers - 1; Chip Spreader (Front Man); Churn Drill Operator; Compressor Maintenance Operator - 1; Concrete Saws, Self-Propelled; Conveyor Operator; Distributor Operator; Finishing Machine Operator; Fireman, Rig; Float Operator; Form Grader Operator; Oiler Driver, all types; Pump; Pump Maintenance Operator, other than Dredge; Roller Operator, other than High Type Asphalt; Screening and Washing Plant Operator	8.00	.40	.40	.50	.10	

AP-514 P. 22

100 - KAN PIC 2 - 3 - h (2-2)

	Basic Hourly Rate	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
POWER EQUIPMENT OPERATORS (CONT'D)						
Group III (Cont'd)						
Self-Propelled Street Broom or Sweeper; Siphons and Jetes; Sub-Grading Machine Operator; Tank Car Heater Operator - Combination Boiler and Booster; Tractor - 50 HP or less, without attachments; Vibrating Machine Operator, not hand; Welding Machine Maintenance Operator - 1	8.00	.40	.40	.50	.10	
Group IV						
Mechanic's Helper; Oiler	7.50	.40	.40	.50	.10	
Clamshells, 3 yards or over	8.75	.40	.40	.50	.10	
Crane or Rigs, 80 feet of boom or over (including jib)	8.75	.40	.40	.50	.10	
Crane or Rigs 200 feet of boom or over	9.00	.40	.40	.50	.10	
Dragline, 3 yards or over	8.75	.40	.40	.50	.10	
Pile drivers, 80 feet of boom or over (including jib)	8.75	.40	.40	.50	.10	
Shovels, 3 yards or over	8.75	.40	.40	.50	.10	

Men working in tunnels or shafts (not air shafts or coffer dams) of twenty-five (25) feet or more in length or depth will be paid fifty (50) cents per hour above the regular classification.

Johnson & Wyandotte Cos., Kans. AP-514 P. 23

Site, Preparation & Grading, Heavy & Highway Construction

100-KAN-LAB-2-3-H (1-2)

	Basic Hourly Rate	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
LABORERS						
GENERAL LABORER						
Carpenter Tenders, Salamander Tenders, Dump Man & Ticket Takers on Stock Piles, Flagmen, Loading Trucks under Bins, Hoppers and Conveyors, Track men and all other General Laborers	7.00	.40	.40	.50	.10	
FIRST SEMI-SKILL						
Air Tool Operator, Cement Handler (Bulk or Sack), Chain or Concrete Saw, Deck Hands, Dump man on earth fill, Grade checkers on Cuts and Fills, Georgie Buggies Man, Material Batch Hopper man, Scale man, Material Mixer Man (except on Manholes, Coffer Dams, Abutments and Pier Hole men working below ground, Riprap Pavers Rock, Block or Brick, Signal man, Scaffolds over 10 ft. not self-supported from ground up, Skipman on concrete paving, Vibrator man, Wire mesh setters on concrete paving, all work in connection with Sewer, Water, Gas, Gasoline, Oil, Drainage Pipe, Conduit Pipe, Tile & Duct Lines and all other pipe lines, Power Tool Operator, all work in connection with Hydaulic or General Dredging Operations, Form Setter Helpers Pudlers (paving only)	7.15	.40	.40	.50	.10	
SECOND SEMI-SKILL						
Crusher Feeder, Men Handling creosote Ties or creosote materials, Men working with and handling epoxy material or materials (where special protection is required), Head Pipe Layer on Sewer work, Topper of Standing trees, Batter Board man on Pipe & Ditch work, Feeder Man on Wood Pulverizers, Lagard and Willow Mat Weavers and Cable Tiers on River Work, all Laborers working on underground tunnels where compressed air is not used	7.30	.40	.40	.50	.10	
THIRD SEMI-SKILL						
Spreader or Screed man on Asphalt Machine, Asphalt Raker, Laser Beam Man, Barco Tamper, Jackson or any other similar Tamp, Wagon Driller, Churn Drills, Air Track Drills and all other similar Drills, Cutting Torch Man, Form Setters, Liners and Stringline Men on Concrete Paving, Curb, Gutters and etc., Hot Mastic Kettleman, Hot Tar Applicator, Hand Blade Operators, Manhole Builders Helpers and Mortar Men on Brick or Block Manholes, Sand Blasting and Gunnite Nozzle Men, Rubbing Concrete, Air Tool Operator in Tunnels	7.50	.40	.40	.50	.10	

AP-514 P. 24

100-KAN-LAB-2-3-H (2-2)

	Basic Hourly Rate	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
LABORERS						
FOURTH SEMI-SKILL						
Manhole Builder (Brick or Block), Dynamite and Powder Men, Welder, Leadman or Working Foreman, Tunnel Leadman or Working Foreman	7.80	.40	.40	.50	.10	

Kansas Line Construction #2

"Johnson & Wyandotte Cos., Kansas"	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
LINE CONSTRUCTION:						
Lineman	$7.95	.15	1¼+.15		½%	
Lineman operator	7.50	.15	1¼+.15		½%	
Lineman mechanic	6.37	.15	1¼+.15		½%	
Groundman powderman	5.47	.15	1¼+.15		½%	
Groundman	5.19	.15	1¼+.15		½%	
Groundman (1st year)	4.79	.15	1¼+.15		½%	

Johnson & Wyandotte Counties, Kans.

Site Preparation & Grading, Heavy, & Highway Construction

100 - Kansas TD 2, 3 d

	Basic Hourly Rate	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
TRUCK DRIVERS:						
One Team; Station Wagons; Pickup Trucks; Material Trucks, Single Axle; Tank Wagon Drivers, Single Axle	$7.39	.50	.50	.50		
Material Trucks, Tandem; Two Teams; Semi-Trailers; Winch Truck--Fork Trucks; Distributor Drivers and Operators; Agitator and Transit Mix; Tank Wagon Drivers, Tandem or Semi-Trailer; Insley Wagons; Dump Trucks excavation 5 cu. yds. and over; Dumpsters; Half-Tracks; Speedace; Euclids and other similar excavating equipment	7.59	.50	.50	.50		
A Frame-Low Boy-Boom truck drivers	7.90	.50	.50	.50		
Mechanics & Welders	8.05	.50	.50	.50		
Mechanics' Helpers, Oilers & Greasers	7.165	.50	.50	.50		

FR DOC. 72-19223 Filed 11-16-72; 8:45 am

SUPERSEDEAS DECISION

STATE: Missouri & Kansas

COUNTIES: Cass, Clay, Jackson, Platte, & Ray, Missouri; Johnson & Wyandotte, Kansas

DECISION NO.: AP-515

DATE: Date of Publication

Supersedes Decision No. AU-6,728, dated May 19, 1972, in 37 FR 10253.

DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

Line Construction - 1 - c

"JACKSON, PLATTE, RAY, CLAY, & CASS COUNTIES, MISSOURI"	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
LINEMAN	$7.95	.15	1%+.15		3%	
LINEMAN OPERATOR	7.50	.15	1%+.15		3%	
LINEMAN MECHANIC	6.37	.15	1%+.15		3%	
GROUNDMAN FOREMAN	5.47	.15	1%+.15		3%	
GROUNDMAN	5.19	.15	1%+.15		3%	
GROUNDMAN (1st year)	5.79	.15	1%+.15		3%	

AP-515 P. 2

10 - Missouri - 1a (1-2)

"JACKSON, PLATTE, RAY, CLAY, & CASS COUNTIES, MISSOURI"

BUILDING CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
ASBESTOS WORKERS	$8.40	.30	.30		.02	
BOILERMAKERS	8.25	.30	1.00		.02	
BRICKLAYERS	7.725	.35	.35	.15		
CARPENTERS (Jackson, Platte, Ray, & Clay Cos.):						
Carpenters; Millwrights; Piledriver men	7.55	.23	.15		.04	
Carpenters (Cass County);						
Carpenters	7.30	.23	.15		.04	
Millwrights & Piledrivermen	7.55	.23	.15		.04	
CEMENT MASONS:						
Cement masons	6.025	.10	.15			
Composition	6.275	.10	.15			
ELECTRICIANS:						
Western half of Clay & Jackson Cos. not including Blue Springs; Northern half of Platte Co.; Northwestern portion of Cass Co. not including Pleasant Hill	6.29	.15	1%+.20	.70	.03	
Remainder of Clay, Jackson, Platte, and Cass Counties	5.69	.15	1%+.20	.70	.03	
Ray County	5.69	.15	1%+.20	.70	.03	
ELEVATOR CONSTRUCTORS	7.29	.175	.20	2%+a+b		
ELEVATOR CONSTRUCTORS HELPERS	70%JR	.175	.20	2%+a+b		
ELEVATOR CONSTRUCTORS HELPERS (PROB.)	50%JR					
GLAZIERS	7.41	.35	.20	7%+d	.01	
IRONWORKERS:						
Structural; ornamental; riggers	8.50	.40	.40	.50	.05	
Reinforcing	8.50	.40	.40	.50	.05	
LATHERS	6.75	.20				
MARBLE, TERRAZZO & TILE WORKERS	8.425	3.65%	3.25%			
MARBLE & TILE & HELPERS	6.68					
TERRAZZO HELPERS	4.55					
TERRAZZO BASE MACHINE GRINDERS	4.90					
PAINTERS:						
Painters	7.52	.20	.20			
Paperhangers	8.02	.20	.20			
Bridges	8.27	.20	.20			
Structural Steel (exterior)	8.27	.20	.20			
All interior surfaces over 27 ft. from the floor including structural steel	8.27	.20	.20			
All exterior work performed on swing stages, window jacks or with belts (over 7 ft. above ground level)	8.27	.20	.20			
Storage bins and storage tanks (over 7 ft. above ground level	8.27	.20	.20			

AP-515 P. 3

10 - Missouri 1a

PAINTERS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
All work performed by air, steam aggregate and/or sandblasting	8.27	.20	.20			
Structural steel, exterior over 75 ft. in height	8.52	.20	.20			
All work in elevator shafts above 27 ft.	8.27	.20	.20			
Tapers using power machine(Bazooka)	8.27	.20	.20			
Spray	8.52	.20	.20			
PLASTERERS	6.90	.20				
PIPEFITTERS	8.02	.38	.75		.06	
PLUMBERS	8.45	.30	.40		.06	
ROOFERS	6.51	.18	.40		.04	
SHEET METAL WORKERS	8.225	.25	.25			
SOFT FLOOR LAYERS	7.09	.35	.25	7%		
SPRINKLER FITTERS	8.485	.25	.40		.05	
HEAVY & HIGHWAY CONSTRUCTION (CASS. CO.):						
Carpenters & Piledrivermen	6.92	.23	.15			
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.						

FOOTNOTES:

a. 1st 6 mos. - none; 6 mos. to 5 years - 2%; over 5 yrs. - 4% of basic hourly rates.
b. Paid Holidays - A through F.
d. Paid Holidays - A through G.
* Residential work shall be defined to mean the construction, maintenance and and repair of single and multi-family dwellings not exceeding three stories in height.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day F-Christmas Day; G-Friday after Thanksgiving Day.

AP-515 P. 4

CASS, CLAY, JACKSON, & PLATTE COS., MO

BUILDING CONSTRUCTION

Missouri - 3 - [illegible] - 1 - b

LABORERS:

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Common labor; wire mesh handlers or setters; carpenter tenders; trackmen; flagmen; signalmen; salamander tenders; window cleaners; floor cleaners; landscape men; sod layers; wrecker (for alterations or entire projects).	$5.71	.30	.15			
Plumber laborers (conduit pipe, sewer work, drain tile & duck lines, digging & back filling); power tool operators; pier hole diggers (over 10 ft.); vibrator, jackhammer & chipping hammer operators; chain saw operators; concrete saw operators; brush feeders on pulverizers; reinforcing steel handlers; air tamp operators; ditch witch operators; swinging scaffolds.	5.805	.30	.15			
Stonemason tenders; cutting torch or burner men; Georgia buggies (self-propelled); brick tenders; plasterer tenders; fork lift (up to 9 ft.); hoseman; insulation men.	5.905	.30	.15			
Mortar men (hod carriers); scaffolding (swinging or tubing) hod carriers.	6.00	.30	.15			
Barco, Jackson or similar tamp operators; asphalt rakers; powder men; mastic hot kettle men; sandblasting & gunite nozzle men; wagon & churn drill operators.	6.10	.30	.15			

AP-515 P. 5

Missouri - 7 - LAB - 1 - b

Ray County, Missouri
Building Construction

	Basic Hourly Rate	Fringe Benefits Payments H&W	Pensions	Vacation	App. Tr.	Other
LABORERS:						
Common laber; wire mesh handlers or setters; carpenter tender; track men; flagmen; signalmen; salamander tenders; floor cleaners; landscape men; sod layers; wreckers (for alterations or entire projects).	$5.55	.30	.15			
Plumber laborers (conduit pipe, sewer work, drain tile & duct lines, digging & back filling); power tool operators; pipe layer diggers (over 10 ft.); vibrator, jackhammer & chipping hammer operators; chain saw operators; concrete saw operators; brush feeders on pulverizers; reinforcing steel handlers; air tamp operators; ditch witch operators; swinging scaffolds.	5.65	.30	.15			
Stonemason tenders; cutting torch or burner men; Georgia buggies (self-propelled); brick tenders; fork lift (up to 9 ft.); boseman; insulation man.	5.725	.30	.15			
Mortar men (hod carriers); scaffolding (swinging or tubing) hod carriers.	5.80	.30	.15			
Barco, jackson or similar tamp operators; asphalt rakers; roofer men; mastic hot kettle men; sandblasting & gunite nozzle men; wagon & churn drill operators.	5.90	.30	.15			

"Jackson, Clay, Cass, Ray, & Platte Counties, Missouri"
Building Construction

AP-515 P. 6
No. 3-F60-1-1 (1-2)

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTH
POWER EQUIPMENT OPERATORS: "A" Frame Trucks; Boilers (1); Brooms-Power Operated (all types); Chip Spreader (frontman); Clef Plane Operators; Compressor (1) 105 feet or over; Concrete Saws, self-propelled; Conveyor Operator; Crab-power operated; Curb Finishing Machine; Elevator; Finishing Machine; Firemen on Rigs; Flex Plane; Floating Machine; Form Grader; Fork Lift - all types & sizes; Groomer; Hoist; Hoist, Endless Chain - power operated; Hopper - Power operated; Hydra Hammer (all types); Lo-Boy-Vator; Mixers (with Side Loaders); Pumps (with well points); Pump (water well points); Pump (Water) Rollers (all types); Siphons, Jets & Jennys; Sub Grader; Tractors over 50 h.p.	$6.90	.25	.25		.02	
Asphalt Paver & Spreader; Asphalt Plant Mixer Operator; Asphalt Plant Operator; Back Fillers; Back Hoe, all types; Barber-Greene Loader; Blade Power, all types; Boats - Power; Boilers (2); Boring Machine (all types); Cableways; Cherry Pickers (all types); Chip Spreader; Clamshells; Combination Concrete Hoist & Mixer; such as mixers-mobile (with tower, 50% per hour additional) Compressors (2) 105 feet or over not more than 20 feet apart; Compressors - tandem (any sizes); Compressors - Single, Truck Mounted; Concrete Ready-Mixed Plant, Portable (job site); Concrete Mixer Paver; Crane or Rigs (all types); Crane - overhead; Crusher; rock; Derricks & Derrick Cars (power operated); Ditching Machines; Dozers; Draglines; Dredges, any type power; Gradeall; Hoist, Endless Chain - Power Operated with Power Travel; Loaders - all types Locomotives - all types; Mechanic & welder; Mucking Machine; Orange Peels; Pile Drivers; Pumps - material - all types; Push Cats; Scoops (all types); Self-propelled Rotary Drill; Shovel, Power; Side Boom; Skimmer Scoop; Testhole Machine; Throttle Man	7.15	.25	.25		.02	

"Building Construction"

AP-515 P. 7
No. 3-F60-1-3 (2-2)

POWER EQUIPMENT OPERATORS: (cont'd	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTH
Crane-tower or climbing	$7.65	.25	.25		.02	
Clamshells, Crane or Rigs, Draglines & Pile Drivers with 80 feet of boom or over (including jib)	7.40	.25	.25		.02	
Crane or Rigs over 200 feet	7.65	.25	.25		.02	
Hoists - each additional drum over 1 drum	7.15	.25	.25		.02	
Master Mechanic	8.15	.25	.25		.02	
Master Mechanic - Assistant	7.90	.25	.25		.02	
Oiler; Tractors (except when hauling material) less than 50 h.p.	6.35	.25	.25		.02	
Oiler Driver - all types	6.60	.25	.25		.02	
Ready-Mixed Concrete Plants: Crane Operator	6.83	.25	.25		.02	
Conveyor; Loader Operator; Plant Man	6.63	.25	.25		.02	

AP-515 P. 8

Jackson, Platte, Ray, & Clay Counties, Missouri"
HEAVY & HIGHWAY CONSTRUCTION
10 - Missouri - LAB - 2,3 (1-2)

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
General Laborer Carpenter Tenders; Salamander Tenders; Dump Man & Ticket Takers on Stock Piles; Flagmen; Loading Trucks under Bins, Hoppers and Conveyors; Track men and all other General Laborers	$7.00	.40	.40	.50	.10	
First Semi-Skill Air Tool Operator; Cement Handler (Bulk or Sack); Chain or Concrete Saw; Deck Hands; Dump man on Earth Fill; Grade Checkers on Cuts and Fills; Georgie Buggies Man; Material Batch Hopper Man; Scale Man; Material Mixer Man (except on Manholes, Coffer Dams, Abutments and PierHole men working below ground); Riprap Pavers Rock, Block or Brick; Signal Man; Scaffolds over 10 ft. not self-supported from ground up; Skipman on concrete paving; Vibrator man; Wire mesh setters on concrete paving; all work in connection with Sewer, Water, Gas, Gasoline, Oil, Drainage Pipe, Conduit Pipe, Tile & Duct lines and all other pipe lines; Power Tool Operator; all work in connection with Hydraulic or General Dredging Operations; Form Setter Helpers; Pudlers (paving only)	7.15	.40	.40	.50	.10	
Second Semi-Skill Crusher Feeder; Men handling creosote ties or creosote materials; Men working with and handling epoxy materials (where special protection is required); Head Pipe Layer on Sewer work; Topper of Standing trees; Batter Board man on Pipe & Ditch work; Feeder Man on Wood Pulverizers; Board and Willow Mat Weavers and Cable Tiers on River work; all Laborers working on underground tunnels where compressed air is not used	7.30	.40	.40	.50	.10	

LABORERS (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Third Semi-Skill						
Spreader or Screed man on Asphalt Machine; Asphalt Raker; Laser Beam Man; Barco Tamper; Jackson or any other similar Tamp; Wagon Driller, Churn Drills, Air Track Drill and all other similar drills; Cutting Torch Man; Form Setter; Liners and Stringline Men on Concrete Paving, Curb, Gutters and etc.; Hot Mastic Kettleman; Hot Tar Applicator; Hand Blade Operators; Manhole Builders Helpers and Mortar Men on Brick or Block Manholes; Sand Blasting and Gunnite Nozzle Men; Rubbing Concrete; Air Tool Operator in Tunnels	7.50	.40	.40	.50	.10	
Fourth Semi-Skill						
Manhole Builder (Brick or Block); Dynamite and Powder Men;	7.80	.40	.40	.50	.10	

Jackson, Platte, Ray, & Clay Cos., Mo. 10 - Missouri - TD - 2,3

HEAVY & HIGHWAY CONSTRUCTION TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
One Team; Station Wagons; Pickups; Material, Single Axle; Tank Wagon, Single Axle	$7.39	.50	.50	.50		
Two Teams; Material, Tandem; Semi-Trailers; Winch; Fork; Distributor Drivers and Operators; Agitator and Transit Mix; Tank Wagon, Tandem or Semi-Trailer; Insley Wagons; Dump; Excavating, 5 cu. yds. & over; Dumpsters; Half-Tracks; Speedace; Euclids and other similar excavating equipment	7.59	.50	.50	.50		
A-Frame; Low Boy; Boom	7.90	.50	.50	.50		
Mechanics & Welders	8.05	.50	.50	.50		
Mechanic's Helpers, Oilers & Greasers	7.165	.50	.50	.50		

"Jackson, Platte, Ray, & Clay Cos., Mo.

HEAVY & HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Group I						
Asphalt Paver and Spreader; Asphalt Plant Console Operator; Auto Grader; Back Hoe; Blade Operator, all types; Boilers-2; booster Pump on Dredge; Boring Machine (Truck or Crane Mounted); Bulldozer Operator; Clamshell Operator; Compressor Maintenance Operator-2; Concrete Plant Operator, Central Mix; Concrete Mixer Paver; Crane Operator; Derrick or Derrick Trucks; Ditching Machine; Dragline Operator; Dredge Engineman; Dredge Operator; Drillcat with Compressor Mounted on Cat; Drilling or Boring Machine, Rotary, Self-propelled; High Loader-Fork Lift; Hoisting Engine-2 active drums; Locomotive Operator, Standard Gauge; Mechanics and Welders, Field or Shop; Maintenance Operator; Mucking Machine; Pile Driver Operator; Pitman Crane Operator; Pump-2; Quad-Trac; Scoop Operator-all types; Scoops in Tandem; Self-Propelled Rotary Drill(Leroy or Equal-not Air Trac); Shovel Operator; Side Discharge Spreader; Sideboom Cats; Skimmer Scoop Operator; Slip-form Paver (CMI, REX, or Equal); Throttle Man; Truck Crane; Welding Machine Maintenance Operator-2	$8.50	.40	.40	.50	.10	
Group II						
"A" Frame Truck; Asphalt Hot Mix Silo; Asphalt Plant Fireman, Drum or Boiler; Asphalt Plant Mixer Operator; Asphalt Plant Man; Asphalt Roller Operator; Backfiller Operator; Chip Spreader; Concrete Batch Plant, Dry, Power Operated; Concrete Mixer Operator, Skip Loader; Concrete Pump Operator; Crusher Operator; Elevating Grader Operator; Greaser; Hoisting Engine-1 drum; LaTourneau Rooter; Multiple Compactor; Pavement Breaker, Self-Propelled, of the Hydra-Hammer or Similar Type; Power Shield; Pug Mill Operator; Stump Cutting Machine; Towboat Operator; Tractor Operator-Over 50 HP	8.25	.40	.40	.50	.10	

POWER EQUIPMENT OPERATORS (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Group III						
Boilers-1; Chip Spreader(Front Man); Churn Drill Operator; Compressor Maintenance Operator-1; Concrete Saws, Self-Propelled; Conveyor Operator; Distributor Operator; Finishing Machine Operator; Fireman, Rig; Float Operator; Form Grader Operator; Oiler Driver, all types; Pump; Pump Maintenance Operator, other than Dredge; Roller Operator, other than high type asphalt; Screening and Washing Plant Operator; Self Propelled Street Broom or Sweeper; Siphons and Jets; Sub-Grading Machine Operator; Tank Car Heater Operator-Combination Boiler and Booster; Tractor, 50 HP or less, without attachments; Vibrating Machine Operator, not hand; Welding Machine Maintenance Operator-1	8.00	.40	.40	.50	.10	
Group IV						
Mechanic's Helper, Oiler	7.50	.40	.40	.50	.10	
Clamshells, 3-yd. capacity or over Crane or Rigs, 80 ft. of boom or over (including jib)	8.75	.40	.40	.50	.10	
Crane or Rigs, over 200 ft. of boom (including jib)	8.75	.40	.40	.50	.10	
Draglines, 3-yd. capacity or over	9.00	.40	.40	.50	.10	
Pile Drivers, 80 ft. of boom or over (including jib)	8.75	.40	.40	.50	.10	
Shovels, 3-yd. capacity or over	8.75	.40	.40	.50	.10	

HEAVY & HIGHWAY CONSTRUCTION CASS COUNTY, MISSOURI POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Asphalt finishing machine & Trench widening spreader; Asphalt plant Console Op.; Autograder; Automatic slipform paver; Backhoe, Blade Op. - all types; Boat Op.-tow; Boilers-2; Central mix concrete plant Op.; Clamshell Op.; Concrete mixer paver; Crane Op.; Derrick or Derrick trucks; Ditching machine; Dozer Op.; Dragline Op.; Dredge booster pump; Dredge Engineman; Dredge Op.; Drill cat with Compressor mounted on Cat; Drilling or Boring machine rotary self-propelled; Highloader; Hoisting engine -2 active drums; Lauchhammer wheel; Locomotive Op. - Standard gauge; Mechanics and Welders; Mucking machine; Piledriver Op.; Pitman Crane Op.; Push Cat Op.; Quad Trac; Scoop Op. - all types; Shovel Op.; Sideboom Cats; Skimmer scoop Op.; Trenching machine Op.; Truck crane	$9.10	.40	.40		.05	
A-Frame; Asphalt hot-mix silo; Asphalt plant fireman (drum or boiler); Asphalt plant man; Asphalt plant mixer Op.; Asphalt roller Op.; Backfiller Op.; Barber-Greene loader; Boat Op.(Dredges & dams); Chip spreader; Compressor Maintenance Op. -2; Concrete mixer Op.; Skip loader; Concrete plant Op.; Concrete pump Op.; Crusher Op.; Dredge oiler; Elevating grader Op.; Fork lift; Greaser-oiler; Hoisting engine - 1; Locomotive Op. narrow gauge; Multiple compactor; Pavement breaker; Power-broom self-propelled; Power shield; Rooter; Side discharge concrete spreader; Slip form finishing machine; Stumpcutter machine; Throttle man; Tractor Op. (over 50 H.P.); Welding machine Maintenance Op. -2; Winch truck	8.90	.40	.40		.05	

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
Boilers - 1; Chip Spreader (front man); Chain Drill Op.; Clef Plane Op.; Compressor Maintenance Op. -1; Concrete Saw Op. (self-propelled); Conveyor Op.; Curb Finishing Machine; Distributor Op.; Finishing Machine Op.; Fireman-Rig; Flex Plane Op.; Float Op.; Form Grader Op.; Generator-Maintenance Op.; Light Plant - Maintenance Op.; Maintenance Op.; Oiler Driver; Paydill Op.; Pump Maintenance Op. (other than Dredge); Roller Op., other than high type asphalt; Screening & Washing Plant Op.; Siphons & Jets; Sub-grading Machine Operator; Spreader Box Op., self-propelled (not asphalt); Tank Car Heater Op. (Combination Boiler & Booster); Tractor Op. (50 H.P. or less); Ulmer, Ulric or similar spreader; Vibrating Machine Op.; Welding Machine Maintenance Op. - 1	8.70	.40	.40		.05	
Oiler	7.95	.40	.40		.05	
Clamshell, 3 yds. or over; Crane, Rigs or Piledrivers 100' to 200' of boom (including jib); Draglines, 3 yds, or over; Hoists - each additional active drum over 2 drums; Shovels, 3 yds. or over	9.35	.40	.40		.05	
Tandem Scoop; Crane, Rigs or Piledrivers 200' of boom or over (including jib)	9.60	.40	.40		.05	

Cass County, Missouri — MO. 22 Lab 2,3

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
LABORERS:						
General Labor: Carpenter tenders; Salamander tender; Dump man and ticket takers on stock piles; Flagmen; Loading trucks under bins, hoppers and conveyors; Track men and all other general laborers	6.975	.40	.40		.10	
First Semi-Skill: Air tool operator; Cement handler-bulk or sack; Dump man on earth fill; Georgie buggie man; Material batch hopper man; Scale man; Spreader on asphalt machine; Material mixer man (except on manholes); Coffer dams; Riprap pavers-rock, block or brick; Signal man; Scaffolds over ten feet not self-supported from ground up; Skipman on concrete paving; All work in connection with sewer, water, gas, gasoline, oil, drainage pipe, conduit pipe, tile & duct lines and all other pipe lines; Power tool operator; All work in connection with hydraulic or general dredging operations; Form setter helpers; Puddlers (paving only); Straw blower nozzleman; Wire mesh setters on concrete paving.	7.125	.40	.40		.10	
Second Semi-Skill: Asphalt plant platform man; Chuck tender; Crusher feeder; Men handling creosote ties on creosote materials; Men working with and handling epoxy material or materials (where special protection is required); Head pipe layer on sewer work; Topper of standing trees; Batter board man on pipe and ditch work; Vibrator man; Feeder man on wood pulverizers; Board and willow mat weavers and cable tiers on river work; Deck hands; Pile dike and revetment work; All laborers working on underground tunnels less than 25 feet where compressed air is not used; Abutment and pier hole men working six (6) feet or more below ground; Men working in Coffer dams for bridge piers and footings in the river.	7.275	.40	.40		.10	

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
Third Semi-Skill: Laser beam man; Asphalt rakers; Barco tamper; Jackson or any other similar tamp; Wagon driller; Churn drills; Air track drills; All other similar drills; Cutting torch man; Form setters; Liners and stringline man on concrete paving, curb, gutters, etc.; Hot mastic kettleman; Hot tar applicator; Hand blade operators; Manhole builder helpers and mortar man on brick or block manholes; Sandblasting & gunite nozzle men; Rubbing concrete; Air tool Operator in tunnels; Caulker and lead man; Screed man on asphalt machine; Chain on concrete saw; Cliff scalers working from scaffolds, Bosuns' Chairs or platforms on dams or power plants over ten (10) feet above ground; Grade checker on cuts and fills.	7.475	.40	.40		.10	
Fourth Semi-Skill: Manhole builders-brick or block; Dynamite and powder man; Welder	7.725	.40	.40		.10	

Cass County, Missouri — MO. 2 - TD - 2,3 (1-3)

HEAVY & HIGHWAY CONSTRUCTION TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Flat bed trucks - single axle	$7.33	.50	.50			
Flat bed trucks - tandem axle	7.48	.50	.50			
Station wagons	7.33	.50	.50			
Pickup trucks	7.33	.50	.50			
Material trucks - single axle	7.33	.50	.50			
Material trucks - tandem axle	7.48	.50	.50			
Semi and/or pole trailers	7.55	.50	.50			
Winch, fork and steel trucks	7.55	.50	.50			
Distributor drivers and operators	7.55	.50	.50			
Agitator and transit mix trucks	7.44	.50	.50			
Tank wagon - single axle	7.33	.50	.50			
Tank wagon - semi-trailer	7.55	.50	.50			
Tank wagon - tandem axle	7.48	.50	.50			
Trailer mixers, dumpsters, half-tracks, speeders, euclids, and other similar equipment	7.55	.50	.50			
A-frame and derrick trucks	7.55	.50	.50			
Float or lowboy	7.55	.50	.50			
Warehouseman	7.23	.50	.50			

"WYANDOTTE & JOHNSON COUNTIES, KANSAS — 20-Kansas-1-×

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
ASBESTOS WORKERS	$8.40	.30	.30		.02	
BOILERMAKERS	8.25	.30	1.00		.02	
BRICKLAYERS; Stonemasons	6.325	.20	.30			
CARPENTERS:						
Carpenters; Millwrights; Piledrivermen	7.55	.23	.15		.04	
CEMENT MASONS:						
Cement masons	6.025	.10	.15			
Composition	6.275	.10	.15			
ELECTRICIANS:						
Johnson County:						
That portion of Johnson Co. west of Aubry, Oxford and Shawnee Townships	8.00	.25	1%+.30		2/10%	
Remainder of County	6.29	.15	1%+.20	.70	.03	
Wyandotte County	6.29	.15	1%+.20	.70	.03	
ELEVATOR CONSTRUCTORS	7.29	.175	.20	2%+a+b		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.175	.20	2%+a+b		
ELEVATOR CONSTRUCTORS' HELPERS(PROB.)	50%JR					
GLAZIERS	7.41	.35	.20	7%+c	.01	
IRONWORKERS:						
Ornamental; Reinforcing; Riggers; Structural	8.50	.40	.40	.50	.05	
LATHERS	6.75	.20				
MARBLE SETTERS	8.405	3.65%	3.25%			
MARBLE SETTERS' HELPERS	6.68					
PAINTERS:						
Painters	7.52	.20	.20			
Paperhangers	8.02	.20	.20			
All interior surfaces over 27' from the floor including structural steel; All exterior work performed on swing stages, with jacks or with belts (over 7' above ground level); Storage bins and storage tanks (over 7' above ground level); All work performed by air, steam, aggregate and/or sandblasting; All work in elevator shafts above 27'; Bridges; Structural steel (exterior); Structural steel, exterior over 75' in height; tapers using power machine (Bazooka)	8.27	.20	.20			
Spray	9.27	.20	.20			
PIPEFITTERS	8.02	.38	.75		.06	
PLASTERERS	6.90	.20				
PLUMBERS	8.45	.30	.40		.06	
ROOFERS	6.51	.18	.40		.04	
SHEET METAL WORKERS	8.225	.25	.25			

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20-Kansas-1-x

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
SOFT FLOOR LAYERS	7.40	.25	.25	7%	.05	
SPRINKLER FITTERS	8.615	.25	.40		.05	
TERRAZZO WORKERS; Tile setters	8.625	3.05%	3.25%			
TERRAZZO WORKERS' HELPERS	4.55					
TERRAZZO BASE GRINDERS	4.90					
TILE SETTERS' HELPERS	6.68					

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving Day.

FOOTNOTES:
a. 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. 4% of basic hourly rate.
b. Paid Holidays: A through F.
c. Paid Holidays: A through G.

AP-515 P. 18

Johnson & Wyandotte Counties, Kansas

Kansas 20 1cb - 1 - h

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
LABORERS:						
Common labor, Mire rash handlers or setters; Carpenter tenders; Track men; Flagmen; Signalmen; Scaffold tenders; Window cleaners; Floor cleaners; Landscape man; Sod layers; Wrecker (for alterations or entire projects)	$5.71	.30	.15			
Plumber laborers (conduit pipe, sewer work, drain tile & duct lines, digging & back filling), Power tool operators; Pier hole diggers (over 10 ft.); Vibrator, jackhammer, & Chipping hammer operators; Chain saw operators; Concrete saw operators; Brush feeders on pulverizers; Reinforcing steel handlers; Air tamp operators; Ditch witch operators; Swinging scaffolds	5.805	.30	.15			
Stone mason tenders; Cutting torch or burner man; Georgia buggies (self-propelled); Brick tenders; Plasterers tenders; Fork lift (up to 9 ft.); Reseman; Insulation man	5.905	.30	.15			
Morter men (Hod carriers); scaffolding (swinging or tubing) Hod carriers	6.00	.30	.15			
Barco, jackson or similar tamp operators; Asphalt rakers; Powder men; Mastic hot kettle man; Sandblasting & gunite nozzle man; Wagon & Churn drill operators	6.10	.30	.15			

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Wyandotte & Johnson Counties, Kansas

KAN - 10 - PEO - 1 - h (1-2)

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
POWER EQUIPMENT OPERATORS:						
"A" Frame Trucks; Boilers (1); Brooms Power Operated (all types); Chip Spreader (front man); Clef Plane Op.; Compressor (1) 105 feet or over; Concrete Saws, Self-propelled; Conveyor Operator; Crab-power operated; Curb Finishing Machine; Elevator; Finishing Machine; Firemen on Rigs; Flex Plane; Floating Machine; Form Grader; Fork Lift - all types & sizes; Greaser; Hoist, Endless Chain - power operated; Hopper - Power Operated; Hydra Hammer (all types); Lad-A-Vator; Mixers (with Side Loaders); Pumps (with well points); Pump (water) Rollers (all types); Siphons, Jets & Jennys; Sub Grader; Tractors over 50 H.P.	$6.90	.25	.25		.02	
Asphalt Paver & Spreader; Asphalt Plant Mixer Operator; Asphalt Plant Operator Back Fillers; Back Hoe, all types; Barber-Greene Loader; Blade - Power, all types; Boats - Power; Boiler (2); Boring Machine (all types); Cableways; Cherry Pickers (all types); Chip Spreader; Clamshells; Combination Concrete Hoist & Mixer, such as mixer-mobile (with tower, 50¢ per hour additional) Compressors (2) 105 feet or over not more than 20 feet apart; Compressors - tandem (any sizes); Compressors - Single, Truck Mounted; Concrete Ready-Mixed Plant, Portable (job site); Concrete Mixer Paver; Crane or Rigs (all types); Crane - overhead; Crusher, rock; Derricks & Derrick Cars (Power operated); Ditching Machines; Dozers; Draglines; Dredges, any type power; Gradeall; Hoist, Endless Chain-Power Operated with Power Travel; Loaders - all types Locomotives - all types; Mechanic & Welder; Mucking Machine; Orange Peels; Pile Drivers; Pumps - material - all types; Push Cats; Scoops (all types); Self-propelled Rotary Drill; Shovel Power; Side Boom; Skimmer Scoop; Testhole Machine; Throttle Man	7.15	.25	.25		.02	
Crane-tower or climbing	7.65	.25	.25		.02	

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KAN - 10 - PEO - 1 - h (2-2)

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
POWER EQUIPMENT OPERATORS: (cont'd)						
Clamshells, crane or rigs, draglines & Pile Drivers with 80 feet of boom or over (including jib)	$7.40	.25	.25		.02	
Crane or Rigs over 200 feet	7.65	.25	.25		.02	
Hoists - each additional drum over 1 drum	7.15	.25	.25		.02	
Master Mechanic	8.15	.25	.25		.02	
Master Mechanic - Assistant	7.90	.25	.25		.02	
Oiler; Tractors (except when hauling material) less than 50 H.P.	6.35	.25	.25		.02	
Oiler Driver - all types	6.60	.25	.25		.02	
Ready-Mixed Concrete Plants:						
Crane Operator	6.83	.25	.25		.02	
Conveyor; loader operator; plant man	6.63	.25	.25		.02	

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Wyandotte & Johnson Counties, Kans.

KAN - 1 - 70 - 1 - h

BUILDING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTH
TRUCK DRIVERS:						
Warehousemen and stock man	$4.175					
Flat beds	4.225					
Pick-ups	4.225					
Dump trucks, under 10 yards	4.225					
Dump trucks, 10 yards and over	4.30					
Straddle trucks	4.425					
Wheel tractors (when used for towing)	4.425					
Steel trucks	4.30					
Hydro lift trucks	4.425					
Hydraulically operated aerial lifts	4.425					
Distributor truck drivers and operators	4.325					
Semi-truck drivers	4.30					
Heavy hauling, A-frame winch and fork lifts	4.425					
Heavy excavating (dumper, Euclid, etc.)	4.425					
Oilers, greasers and mechanics' helpers	4.325					
Mechanics	4.525					
Transit mix, 5 yards and over	4.375					
Transit mix, under 5 yards	4.275					
Double bottom units (20 tons cap & over)	4.425					

Wyandotte & Johnson Counties, Kans. AP-515 P. 22

100-KAN-LAB-2-3-H (1-2)

Site Preparation & Grading

LABORERS	Basic Hourly Rates	FRINGE BENEFITS PAYMENTS H & W	Pensions	Vacation	Apr. Tr.	Other
GENERAL LABORER						
Carpenter Tenders, Salamander Tenders, Dump Man & Ticket Takers on Stock Piles, Flagmen, Loading Trucks under Bins, Hoppers and Conveyors, Track men and all other General Laborers	7.00	.40	.40	.50	.10	
FIRST SEMI-SKILL						
Air Tool Operator, Cement Handler (Bulk or Sack), Chain or Concrete Saw, Deck Hands, Dump man on earth fill, Grade checkers on Cuts and Fills, Georgie Buggies Man, Material Batch Hopper man, Scale man, Material Mixer Man (except on Manholes, Coffer Dams, Abutments and Pier Hole men working below ground, Riprap Pavers Rock, Block or Brick, Signal man, Scaffolds over 10 ft. not self-supported from ground up, Skipman on concrete paving, Vibrator man, Wire mesh setters on concrete paving, All work in connection with Sewer, Water, Gas, Gasoline, Oil, Drainage Pipe, Conduit Pipe, Tile & Duct Lines and all other pipe lines, Power Tool Operator, all work in connection with Hydaulic or General Dredging Operations, Form Setter Helpers Puddlers (paving only)	7.15	.40	.40	.50	.10	
SECOND SEMI-SKILL						
Crusher Feeder, Men Handling creosote Ties or creosote materials, Men working with and handling epoxy material or materials (where special protection is required), Head Pipe Layer on Sewer work, Topper of Standing trees, Batter Board men on Pipe & Ditch work, Feeder Man on Wood Pulverizers, Lead and Willow Mat Weavers and Cable Tiers on River Work, all Laborers working on underground tunnels where compressed air is not used	7.30	.40	.40	.50	.10	
THIRD SEMI-SKILL						
Spreader or Screed man on Asphalt Machine, Asphalt Raker, Laser Beam Man, Barco Tamper, Jackson or any other similar Tamp, Wagon Driller, Churn Drills, Air Track Drills and all other similar Drills, Cutting Torch Man, Form Setters, Liners and Stringline Men on Concrete Paving, Curb, Gutters and etc., Hot Mastic Kettleman, Hot Tar Applicator, Hand Blade Operators, Manhole Builders Helpers and Mortar Men on Brick or Block Manholes, Sand Blasting and Gunnite Nozzle Men, Rubbing Concrete, Air Tool Operator in Tunnels	7.50	.40	.40	.50	.10	

AP-515 P. 23

100-KAN-LAB-2-3-H (2-2)

LABORERS	Basic Hourly Rates	FRINGE BENEFITS PAYMENTS H & W	Pensions	Vacation	Apr. Tr.	Other
FOURTH SEMI-SKILL						
Manhole Builder (Brick or Block), Dynamite and Powder Men, Welder, Leadman or Working Foreman, Tunnel Leadman or Working Foreman	7.80	.40	.40	.50	.10	

Wyandotte & Johnson Counties, Kans.

100 - Kansas TD 2, 3 d

Site Preparation & Grading

TRUCK DRIVERS:	Basic Hourly Rates	FRINGE BENEFITS PAYMENTS H & W	Pensions	Vacation	Apr. Tr.	Other
One Team; Station Wagons; Pickup Trucks; Material Trucks, Single Axle; Tank Wagon Drivers, Single Axle	$7.39	.50	.50	.50		
Material Trucks, Tandem; Two Teams; Semi-Trailers; Winch Truck--Fork Trucks; Distributor Drivers and Operators; Agitator and Transit Mix; Tank Wagon Drivers, Tandem or Semi-Trailer; Insley Wagons; Dump Trucks excavation 5 cu. yds. and over; Dumpsters; Half-Tracks; Speedace; Euclids and other similar excavating equipment	7.59	.50	.50	.50		
A Frame-Low Boy-Boom truck drivers	7.90	.50	.50	.50		
Mechanics & Welders	8.05	.50	.50	.50		
Mechanics' Helpers, Oilers & Greasers	7.165	.50	.50	.50		

Wyandotte & Johnson Counties, Kans. AP-515 P. 24

100 - KAN PTO 2 - 3 - h (1-2)

Site Preparation & Grading

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	FRINGE BENEFITS PAYMENTS H & W	Pensions	Vacation	Apr. Tr.	Other
Group I						
Asphalt Paver and Spreader; Auto Grader; Back Hoe; Blade Operator, all types; Boilers - 2; Booster Pump on Dredge; Boring Machine (Truck or Crane Mounted); Bulldozer Operator; Clamshell Operator; Compressor Maintenance Operator - 2; Concrete Plant Operator - Central Mix; Concrete Mixer Paver; Crane Operator; Derrick or Derrick Trucks; Ditching Machine; Dragline Operator; Dredge Engineman; Dredge Operator; Drillcat with Compressor Mounted on Cat; Drilling or Boring Machine, Rotary, self-propelled; High Loader - Fork Lift; Locomotive Operator, Standard Gauge; Mechanics and Welders; Maintenance Operator; Mucking Machine; Pile Driver Operator; Pitman Crane Operator; Pump - 2; Quad-Trac; Scoop Operator - all types; Scoops in Tandem; Self-Propelled Rotary Drill (Leroy or Equal - not Air Trac); Shovel Operator; Side Discharge Spreader; Sidebeam Cats; Skimmer Scoop Operator; Throttle Man; Truck Crane; Welding Machine Maintenance Operator - 2; Hoisting Engine-2 active drums	$8.50	.40	.40	.50	.10	
Group II						
"A" Frame Truck; Asphalt Hot Mix Silo; Asphalt Plant Fireman, Drum or Boiler; Asphalt Plant Mixer Operator; Asphalt Plant Operator; Asphalt Roller Operators; Backfiller Operator; Chip Spreader; Concrete Batch Plant, dry - Power Operated; Concrete Mixer Operator, Skip Loader; Concrete Pump Operator; Crusher Operator; Elevating Grader Operator; Greaser; Hoisting Engine - 1 drum; LaTourneau Rooter; Multiple Compactor; Pavement Breaker, Self-Propelled, of the Hydra-Hammer or Similar Type; Power Shield; Stump Cutting Machine; Towboat Operator; Tractor Operator - over 50 HP	8.25	.40	.40	.50	.10	
Group III						
Boilers - 1; Chip Spreader (Front Man); Churn Drill Operator; Compressor Maintenance Operator - 1; Concrete Saws, Self-Propelled; Conveyor Operator; Distributor Operator; Finishing Machine Operator; Fireman, Rig; Float Operator; Form Grader Operator; Oiler Driver, all types; Pump; Pump Maintenance Operator, other than Dredge; Roller Operator, other than High Type Asphalt; Screening and Washing Plant Operator	8.00	.40	.40	.50	.10	

100 - KAN PER (2 - 3 - h (2-2)

POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Group III (Cont'd) Self-Propelled Street Broom or Sweeper; Siphons and Jets; Sub-Grading Machine Operator; Tank Car Heater Operator - Combination Boiler and Booster; Tractor - 50 HP or less, without attachments; Vibrating Machine Operator, not hand; Welding Machine Maintenance Operator - 1	8.00	.40	.40	.50	.10	
Group IV Mechanic's Helper; Oiler	7.50	.40	.40	.50	.10	
Clamshells, 3 yards or over	8.75	.40	.40	.50	.10	
Crane or Rigs, 80 feet of boom or over (including jib)	8.75	.40	.40	.50	.10	
Crane or Rigs 200 feet of boom or over	9.00	.40	.40	.50	.10	
Dragline, 3 yards or over	8.75	.40	.40	.50	.10	
Pile drivers, 80 feet of boom or over (including jib)	8.75	.40	.40	.50	.10	
Shovels, 3 yards or over	8.75	.40	.40	.50	.10	
Men working in tunnels or shafts (not air shafts or coffer dams) of twenty-five (25) feet or more in length or depth will be paid fifty (50) cents per hour above the regular classification.						

SUPERSEDEAS DECISION

STATE: OHIO
DECISION NUMBER: AP-34
Supersedes Decision No. AM-404 dated August 18, 1971 in 36 FR 15897
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

COUNTY: BUTLER
DATE: Date of Publication

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Asbestos Workers:						
Middletown & vicinity	$9.02	.25	.30		.01	
Balance of County	9.26	.25	.30		.02	
Boilermakers	7.95	.30	.60	.02	.01	
Boilermakers' helpers	7.70	.30	.60		.01	
Bricklayers	9.385	.45				
Carpenters:						
N.E. corner of County	8.70	.40	.55		.025	
Remainder of County	6.95	.20	.25		.025	
Cement masons (bldg. Const.)	8.845	.30	.50		.02	
Cement masons (Hvy. & Hwy.)	6.93	.42			.02	
Electricians:						
Electricians	8.70	.30	17+.30		1/8of1%	
Cable splicers	9.20	.30	17+.30		1/8of1%	
Elevator Constructors	8.53	.195	.20	2%+a&b	.005	
Elevator Constructors' helpers	70%JR	.195	.20	2%+a&b	.005	
Elevator Constructors' helpers (prob.)	50%JR					
Glaziers:						
Hamilton & vicinity	8.45		.25		.005	
Middletown & vicinity	8.58				.01	
Ironworkers, structrual, ornamental & reinforcing:						
Middletown & Northeastern part of Co.	8.85	.40	.65		.02	
Oxford, Hamilton & Balance of Co.); Structural & Ornamental Reinforcing	8.995	.40	.55		.015	
	8.695	.40	.85		.02	
Laborers (Building Const.)						
Common laborers	6.75	.35	.15			
Asphalt rakers, tamper, smoother, hand air pump, hand air tamper, chisel, vibrator power tamper operator	6.85	.35	.15			
Gunnite operators, sandblasters, concrete pumps & hose men	7.10	.35	.15			
Mason tenders, mortar mixers & scaffold builders	7.08	.35	.15			
Lathers	8.24		.20		.01	
Lead burners	7.80	.30		d	.01	
Marble setters' helpers	8.035					
Millwrights	9.29	.30	.25		.05	
Marble setters	8.90	.45				

AP-34 Pg. 2

9 - Ohio Z 2 of 3

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	O
Painters:						
Industrial						
Brush	$7.58					
Spray	8.08					
Commercial						
Brush	7.43					
Spray	7.93					
Heavy and Highway; Brush	7.58					
Sandblasting and hopper tender, bridges when the highest point of clearance is 60' or more	8.08					
Piledrivermen:						
N.E. corner of County	8.70	.40	.55		.05	
Remainder of County	6.95	.20	.25		.025	
Plasterers	9.245		.30		.01	
Plumbers & Steamfitters:						
North ½ of Co.	9.09	.20	.50		.05	
South ½ of Co.	8.87	.40	.65		.01	
Roofers:						
Composition, damp & waterproof	8.55	.45	.25			
Slate, tile & asbestos	8.77	.45	.25			
Sheet metal workers	8.64	.25	.40		.10	
Soft floor layers:						
N.E. corner of County	7.80	.40	.40		.05	
Remainder of County	6.95	.20	.25		.025	
Sprinkler fitters	9.25	.30	.50		.05	
Stone masons	9.385	.45	.50			
Terrazzo workers	8.90	.45				
Terrazzo workers' helpers	7.985					
Tile setters	8.90	.45				
Tile setters' helpers	7.935					
Truck drivers: (Northern ½ of Co.)						
Tandemaxle trucks, tandem axle dump trucks, winch trucks, fork lift trucks	5.59	c6.00	e10.00			
Single axle trucks & jeeps, pick-ups	5.44	c6.00	e10.00			
Euclid trucks & mechanics	5.89	c6.00	e10.00			
Lowboys & drags	5.85	c6.00	e10.00			
Semi-comb. & comb of hauling units	5.69	c6.00	e10.00			
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. 6 paid holidays; A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Per week, Per employee, providing employee has been on payroll at least 30 days.

d. Nine paid holidays, A through F plus Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holidays, and the regular scheduled work days immediately and following the holiday.

e. Per week per employee, providing employee has been on payroll 300 hours.

BUILDING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
POWER EQUIPMENT OPERATORS:						
A-Frames, air compressor on steel erection, all rotary drills used on caisson work for foundations and substructure work, boiler operator or compressor operator when compressor or boiler is mounted on crane (piggy back operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, elevating grader or euclid loader, floating equipment, gradalls, helicopter operator hoisting building materials, helicopter winch operator hoisting builders materials, hoes (all ypes), hoisting engines (two or more drums), lift slab or panel jack operators, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip form pavers, straddle carriers (building construction on site), tower derricks, trench machines (over 24" wide)	$8.63	.38	.65		.09	
Asphalt paver, bulldozer, CMI type equipment, endloaders, kohlman type loaders (dirt loading), mucking machines, power grader, power scoops, power scrapers, push cats	8.56	.38	.65		.09	
Air compressor (presurizing shafts or tunnels), all asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs., pressure), pump operator installing or operating well points or other type of dewatering system, pumps (4" & over discharge), submersible pumps (4" & over discharge), trenchers (24" and under)	8.41	.38	.65		.09	

POWER EQUIPMENT OPERATORS:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
Compressors on building construction, conveyors (building material), gunite machines, mixers (capacity more than one bag), mixers (one bag capacity side loader), post driver, post driver, post hole digger, pavement breaker (hydraulic or cable), road widening trencher, rollers welder operator	7.75	.38	.65		.09	
Backfillers & tampers, batch plant, bar & joint installing machine, bull floats, burlap & curing machines, clefplanes, concrete spreading machines, crushers, drum fireman (asphalt), farm type tractor (pulling attachments), finishing machines form trenchers, high pressure pumps (over 4" discharge), hydro seeders, self propelled power spreaders, self propelled sub-grader, tire repairman, tractors pulling sheep foot roller or grader, vibratory compactors (with integral power)	7.44	.38	.65		.09	
Oiler, helper, signalman, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs. pressure), pumps (under 4" discharge), submersible pumps (under 4" discharge)	6.82	.38	.65		.09	

BUILDING CONSTRUCTION REMAINDER OF COUNTY TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
Tractor trailer combinations and drags	$5.42	a12.50	a13.00	b & c		
Drivers	5.21	a12.50	a13.00	b & c		
Helpers	5.16	a12.50	a13.00	b & c		

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Per week per employee on payroll for 30 days.

b. Paid vacations: 1 year of employment 1 week; 2 years 2 weeks; 10 years 3 weeks; 15 years 4 weeks.

c. Six paid holidays: A thru F.

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HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth
LABORERS:						
GROUP 1						
Laborers (construction), plant laborers or gardener, high-of-way laborer, landscape laborer, utility man or handyman, joint setter, flagman, carpenter helper, waterproofing laboier, slurry seal, seal coating, surface treatment or road mix laborer, riprap laborer and grouter, asphalt laborer, dump man (batch trucks), guardrail and fence installers, mesh handlers and placers, concrete curing applicator, scaffold erector	$5.33	.45	.20		.02	
GROUP 2						
Asphalt raker, concrete puddler, kettle man (pipeline), all machine driven tools (gas, electric, air), mason tender, mortar mixer, sheeting and shoring man, surface grinder man, power buggy or power wheelbarrow	5.455	.45	.20		.02	
GROUP 3						
Form setter, bottom man, welder helper (pipeline), concrete saw man, cutting with burning torch, pipe layer, hand spiker (railroad), car pusher (without air), underground man (working in sewer and waterline, cleaning, repairing and reconditioning), tunnel laborer (without air) and caisson, cofferdam (below 25 feet deep), air track and wagon drill	5.53	.45	.20		.02	
GROUP 4						
Blaster and powder man, muckers, wrencher (mechanical joints and utility pipeline), yarner, top lander	5.68	.45	.20		.02	
GROUP 5						
Curb setter and cutter, miner (without air), concrete crew in tunnels utility pipeline tapper, gunnite nozzle man, waterline caulker	5.98	.45	.20		.02	

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HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Othe
POWER EQUIPMENT OPERATORS:						
CLASS I						
Air compressor on steel erection, boiler operator on compressor or generator when mounted on a rig, cableways, combination concrete mixer and tower, concrete plans (over 4 yd. capacity), concrete pumps, cranes (all types, including A frames, boom trucks, cherry pickers), derricks, draglines, dredge (dipper, clam or suction), elevating grader or euclid loader, floating equipment (all types), helicopter crew (operator-hoist or winch), hoes (all types), hoisting engi engines, hoisting engines on shaft or tunnel work, industrial-type tractor, jet engine dryer (D8 or D9) diesel tractor, locomotives (standard gauge), maintenance operator Class A, mixer, paving (single or double drum), mucking machines, multiple scraper, piledriving machines (all types), power shovels, Quad 9 (double pusher), refrigerating machine (freezer operation), rotary drill on caisson work, slip-form paver, survey crew party chief, tower derricks, tree shredder, trench machines (over 24 " wide), truck mounted concrete pumps, tug boat, tunnel machine, wheel excavator	$6.81	.38	.65		.09	
CLASS II						
Asphalt paver, automatic subgrade machine, self-propelled (CMI type), bulldozers, endoloader, kolman loader (production type - dirt), lead grease man, maintenance operator Class B, power grader, power scoop - 2 scrapers, push cat, trench machines (24" wide and under	6.74	.38	.65		.09	
CLASS III						
Air compressors on tunnel work (low pressure), asphalt plant engineer, locomotive (narrow gauge), mixers, concrete (more than one bag capacity), mixers, one bag capacity (side loader), power boilers over 15 lb. pressure, pump operator installing and operating well points, pumps (6" and over discharge), rollers - asphalt, utility operator (small equipment), welding machines and generators	6.43	.38	.65		.09	

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POWER EQUIPMENT OPERATORS: (CONTD)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Othe
CLASS IV						
Back fillers, bar, joint and mesh installing machines, batch plant, bull floats, burlap and curing machines, compressors (portable, sewer, heavy and highway), concrete plant (capacity 4 yd, and under), concrete saw (multiple), conveyors (highway), crushers, deckhand, drill highway (with integral power), farm-type tractors with attachments (highway), finishing machines, fireman, floating equipment (all types), fork lift (highway), form trenchers, hydro seeders, plant mixers, post mixers, post hole digger (power auger), power brush burner, power form handling equipment, road widening trencher, rollers (brick, grade, macandam), self-propelled power spreaders, self-propelled power subgraders, steam fireman, survey instrument man, tractor(pulling sheepfoot roller or grader), vibratory compactors (with integral power)	$6.16	.38	.65		.09	
CLASS V						
Drum fireman (asphalt plant), helper, inboard-outboard motor boat-launch, oil heaters (asphalt plant), oilers, power driven heaters, pumps (under 4" discharge), signalmen, survey rodmen or chainmen, tire repairmen	5.48	.38	.65		.09	

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HEAVY & HIGHWAY, CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS: H & W	PENSIONS	VACATION	APP. TR.	OTHE
TRUCK DRIVERS						
4-wheel service trucks, 4-wheel dump trucks	$5.41	a $6.00				
Batch trucks, oil distributors, asphalt distributors	5.41	a $6.00				
Tandem trucks	5.46	a $6.00				
Tractor-trailer combinations: Semitractor trucks, pole trailers, readymix trucks, fuel trucks	5.51	a $6.00				
Asphalt-oil spray-bar man, when operated from cab	5.71	a $6.00				
Euclid wagons, Euclid end-dumps, lowboys, heavy duty equipment over 12 cu. yds., capacity (irrespective of load carried) when used exclusively for transportation, truck mechanics	5.88	a $6.00				
All trucks five axle and over	5.61	a $6.00				

FOOTNOTES:

a. Per week per employee.

SUPERSEDEAS DECISION

STATE: OHIO
DECISION NUMBER: AP-35
Superseding Decision No. AS-405 dated August 18, 1971 in 36 FR 15902
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

COUNTY: CLARK
DATE: Date of Publication

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$9.02	.25	.30		.01	
Boilermakers	7.95	.30	.60		.01	
Boilermakers' helpers	7.70	.30	.60		.01	
Bricklayers	8.40					
Stonemasons	8.40					
Carpenters	7.90	.30	.35		.01	
Millwrights	8.25	.30	.35		.01	
Piledrivermen	8.25	.30	.35		.01	
Cement masons (building)	8.40					
Cement masons (Heavy and highway)	6.69	.42			.02	
Electricians	8.50	.35	1%		1/10of1%	
Elevator constructors	8.82	.195	.20	2%+a&b	.005	
Elevator constructors' helpers	70%JR	.195	.20	2%+a&b	.005	
Elevator constructors' helpers (prob)	50%JR					
Glaziers	8.58				.01	
Laborers:						
Laborers-general, carpenters' tenders, vibrator, air spade & other small tools, sewer pipe layers & bottom man, asphalt raker & tampers water boys, flagmen & signalmen	5.88	.45	.20		.02	
Plasterers' tenders, mason tenders, mortar mixer, air & machine driven tool oprs., jackhammer, barko & chain saw, wagon drill, hand spikers, power conc. & buggies, power man & blaster, gunnite machine oprs. & Nozzleman, miners for tunnel & caisson, muckers for tunnel & caisson	6.13	.45	.20		.02	
Lathers	8.15		.10		.01	
Lead Burners	7.80	.30		c	.01	
Linemen, cable splicers & equipment operators	9.56	1%			½ of 1%	
Marble setters	8.40					
Painters, brush	6.90		.25			
Structural Steel	7.45		.25			
Swing stage	7.25		.25			
Sandblasting	7.70		.25			
Spray	7.60		.25			
Plasterers	8.45					
Plumbers	8.87	.33	.45		.02	

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Ironworkers- structural, ornamental and reinforcing West 3/4 of county	8.70	.40	.65		.02	
Ironworkers-structural, ornamental and reinforcing East 1/4 of county	9.10	.40	.85		.01	
Roofers, composition & waterproofing	8.77	.45	.25			
Roofers, slate, tile & asbestos	8.55	.45	.25			
Sheet metal workers	8.64	.25	.40		.10	
Soft floor layers	7.90	.30	.35		.01	
Sprinkler fitters	9.25	.30	.40		.05	
Steamfitters	8.87	.33	.45		.02	
Terra-zo workers	8.40					
Tile setters	8.40					

Welders - receive rate prescribe for craft performing operation to which welding is incidental.

PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Six paid holidays: A through F

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Nine paid holidays, A through F plus Washington's Birthday, Good Friday, and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work immediately preceding and following the holiday.

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BUILDING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
POWER EQUIPMENT OPERATORS:						
A-Frames, air compressor on steel erection, all rotary drills used on caisson work for foundations and substructure work, boiler operator or compressor operator when compressor or boiler is mounted on crane (piggy back operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, elevating grader or euclid loader, floating equipment, gradalls, helicopter operator hoisting building materials, helicopter winch operator hoisting builders materials, hoes (all ypes), hoisting engines (two or more drums), lift slab or panel jack operators, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip form pavers, straddle carriers (building construction on site), tower derricks, trench machines (over 24" wide)	$8.63	.38	.65		.09	
Asphalt paver, bulldozer, CMI type equipment, endloaders, kohlman type loaders (dirt loading), mucking machines, power grader, power scoops, power scrapers, push cats	8.56	.38	.65		.09	
Air compressor (presurizing shafts or tunnels), all asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs., pressure), pump operator installing or operating well points or other type of dewatering system, pumps (4" & over discharge), submersible pumps (4" & over discharge). trenchers (24" and under)	8.41	.38	.65		.09	

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
POWER EQUIPMENT OPERATORS:						
Compressors on building construction, conveyors (building material), gunite machines, mixers (capacity more than one bag), mixers (one bag capacity side loader), post driver, post driver, post hole digger, pavement breaker (hydraulic or cable), road widening trencher, rollers welder operator	7.75	.38	.65		.09	
Backfillers & tampers, batch plant, bar & joint installing machine, bull floats, burlap & curing machines, clefplanes, concrete spreading machines, crushers, drum fireman (asphalt), farm type tractor (pulling attachments), finishing machines form trenchers, high pressure pumps (over ½" discharge), hydro seeders, self propelled power spreaders, self propelled sub-grader, tire repairman, tractors pulling sheep foot roller or grader, vibratory compactors (with integral power)	7.44	.38	.65		.09	
Oiler, helper, signalman, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs. pressure), pumps (under 4" discharge), submersible pumps (under 4" discharge)	6.82	.38	.65		.09	

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HEAVY AND HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
LABORERS:						
GROUP 1						
Laborers (construction), plant laborers or yardmen, righ-of-way laborer, landscape laborer, utility man or handyman, joint setter, flagman, carpenter helper, waterproofing laborer, slurry seal, seal coating, surface treatment or road mix laborer, riprap laborer and grouter, asphalt laborer, dump man (batch trucks), guardrail and fence installers, mesh handlers and placers, concrete curing applicator, scaffold erector	$5.33	.45	.20		.02	
GROUP 2						
Asphalt raker, concrete puddler, kettle man (pipeline), all machine driven tools (gas, electric, air), mason tender, mortar mixer, sheeting and shoring man, surface grinder man, power buggy or power wheelbarrow	5.455	.45	.20		.02	
GROUP 3						
Form setter, bottom man, welder helper (pipeline), concrete saw man, cutting with burning torch, pipe layer, hand spiker (railroad), car pusher (without air), underground man (working in sewer and waterline, cleaning, repairing and reconditioning), tunnel laborer (without air) and caisson, cofferdam (below 25 feet deep), air track and wagon drill	5.53	.45	.20		.02	
GROUP 4						
Blaster and powder man, muckers, wrencher (mechanical joints and utility pipeline), yarner, top lander	5.68	.45	.20		.02	
GROUP 5						
Curb setter and cutter, miner (without air), concrete crew in tunnels utility pipeline tapper, gunnite nozzle man, waterline caulker	5.98	.45	.20		.02	

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HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS:						
CLASS I						
Air compressor on steel erection, boiler operator on compressor or generator when mounted on a rig, cableways, combination concrete mixer and tower, concrete plans (over 4 yd. capacity), concrete pumps, cranes (all types, including A frames, boom trucks, cherry pickers), derricks, draglines, dredge (dipper, clam or suction), elevating grader or euclid loader, floating equipment (all types), helicopter crew (operator-hoist or winch), hoes (all types), hoisting engi engines, hoisting engines on shaft or tunnel work, industrial-type tractor, jet engine dryer (D8 or D9) diesel tractor, locomotives (standard gauge), maintenance operator Class A, mixer, paving (single or double drum), mucking machines, multiple scraper, piledriving machines (all types), power shovels, Quad 9 (double pusher), refrigerating machine (freezer operation), rotary drill on caisson work, slip-form paver, survey crew party chief, tower derricks, tree shredder, trench machines (over 24 " wide), truck mounted concrete pumps, tug boat, tunnel machine, wheel excavator	$6.81	.38	.65		.09	
CLASS II						
Asphalt paver, automatic subgrade machine, self-propelled (CMI type), bulldozers, endloader, kolman loader (production type - dirt), lead grease man, maintenance operator Class B, power grader, power scoops and scrapers, push cat, trench machines (24" wide and under	6.74	.38	.65		.09	
CLASS III						
Air compressors on tunnel work (low pressure), asphalt plant engineer, locomotive (narrow gauge), mixers, concrete (more than one bag capacity), mixers, one bag capacity (side loader), power boilers over 15 lb. pressure, pump operator installing and operating well points, pumps (4" and over discharge), rollers - asphalt, utility operator (small equipment), welding machines and generators	6.43	.38	.65		.09	

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS: (CONTD)						
CLASS IV						
Back fillers, bar, joint and mesh installing machines, batch plant, bull floats, burlap and curing machines, compressors (portable, sewer, heavy and highway), concrete plant (capacity 4 yd. and under), concrete saw (multiple), conveyors (highway), crushers, deckhand, drill highway (with integral power), farm-type tractors with attachments (highway), finishing machines, fireman, floating equipment (all types), fork lift (highway), form trenchers, hydro seeders, plant mixers, post mixers, post hole digger (power auger), power brush burner, power form handling equipment, road widening trencher, rollers (brick, grade, macamdam), self-propelled power spreaders, self-propelled power subgraders, steam fireman, survey instrument man, tractor(pulling sheepfoot roller or grader), vibratory compactors (with integral power)	$6.16	.38	.65		.09	
CLASS V						
Drum fireman (asphalt plant), helper, inboard-outboard motor boat-launch, oil heaters (asphalt plant), oilers, power driven heaters, pumps (under 4" discharge), signalmen, survey rodmen or chainmen, tire repairmen	5.48	.38	.65		.09	

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HEAVY & HIGHWAY CONSTRUCTION

BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
	H & W	PENSIONS	VACATION	APP. TR.	OTHE
TRUCK DRIVERS					
4-wheel service trucks, 4-wheel dump trucks	$5.41	a $6.00			
Batch trucks, oil distributors, asphalt distributors	5.41	a $6.00			
Tandem trucks	5.46	a $6.00			
Tractor-trailer combinations:					
Semitractor trucks, pole trailers, readymix trucks, fuel trucks	5.51	a $6.00			
Asphalt-oil spray-bar man, when operated from cab	5.71	a $6.00			
Euclid wagons, Euclid end-dumps, lowboys, heavy duty equipment over 12 cu. yds., capacity (irrespective of load carried) when used exclusively for transportation, truck mechanics	5.88	a $6.00			
All trucks five axle and over	5.61	a $6.00			

FOOTNOTES:

a. Per week per employee.

SUPERSEDEAS DECISION

STATE: OHIO
DECISION NUMBER: AP-36
Supersedes Decision No. AP-496 dated August 18, 1971 in 36 FR 15906
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

COUNTY: CUYAHOGA
DATE: Date of Publication

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$10.31					
Boilermakers	8.96	.50	.85		.01	
Bricklayers & Stone masons	8.13	.65	.65	1.00		
Carpenters	9.45	.40	.55		.01	
Millwrights	9.45	.40	.55		.01	
Piledrivermen	9.45	.40	.55		.01	
Cement masons:						
Building	9.61	.30				
Heavy & Highway	7.63	.42			.02	
Electricians	9.53	.45	.32+1%		.02	
Elevator constructors	9.435	.195	.20	2%+a&b	.005	
Elevator constructors' helpers	70%JR	.195	.20	2%+a&b	.005	
Elevator constructors; helpers (prob)	50%JR					
Glaziers	9.11	.25	.55		.01	
Ironworkers, structural & ornamental	8.20	.50	.80	.90	.01	
Ironworkers, reinforcing	8.20	.50	.80	.90	.01	
Laborers:						
Laborers, construction	5.97	.25	.25			
Gunite operator	6.295	.25	.25			
Blasters and shooters	6.295	.25	.25			
Caisson, well cylinders, mine workers without air, cofferdams	6.295	.25	.25			
Muckers	6.17	.25	.25			
Jackhammers, acetylene burners, vibrator	6.17	.25	.25			
Sewer & utility laborers	6.12	.25	.25			
Swinging scaffolds	6.22	.25	.25			
Top man on free standing radial stack	6.47	.25	.25			
Powerdriven tools and vibrator	6.12	.25	.25			
Linemen	10.16	.15	1%			
Lathers	9.91				.01	
Leadburners	7.80	.30		c	.01	
Marble setters	8.13	.65	.65	1.00		
Marble setters' helpers	8.79					
Painters:						
Brush & paperhangers Rollers & tarpers	8.71	.37	.34			
Structural steel & Bridge	9.41	.37	.34			
Swing stage & bos'n chair	9.01	.37	.34			
Sign Painters:						
Display builder	5.94	.25	.15	d	.01	
Spray painter	5.74	.25	.15	d	.01	
Pipefitters & Sprinkler fitters	9.25	.60	.65		.03	

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BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
	H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Plasterers	$7.71				
Plumbers	9.16	.55	.70	.02	
Roofers	9.76	.25	.30	.005	
Sheet metal workers	9.71		.60		
Soft floor layers (resilient)	9.45	.40	.55	.01	
Terrazzo workers	8.06	.65	.65	1.00	
Terrazzo workers' helpers	9.10		.25		
Tile setters	9.435				
Tile setters' helpers	9.32				

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Six paid holidays, A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. Nine paid holidays, A through F plus Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

d. Eight paid holidays: New Year's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, The Friday after Thanksgiving, and Christmas Day.

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BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS:						
A-Frames, air compressor on steel erection, all rotary drills used on caisson for foundations and sub-structure work, boiler operator or compressor operator when compressor or boiler is mounted on crane (piggyback operation boom trucks (all types), cableways, cherry pickers, combination concrete mixer & tower, concrete pumps, cranes (all types), derricks (all types), draglines, elevating grader or euclid loader, floating equipment, gradalls, helicopter operator (hoisting builders materials), helicopter winch oper., (hoisting builders materials), hoes (all types), hoisting engines (two or more drums), lift slab or panel jack operators, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip form pavers, straddle carriers (building construction site), tower derricks, trench machines (over 24" wide)	$9.33	.38	.65		.09	
Asphalt paver, bulldozer, CMI type equipment, endloaders, kholman type loaders (dirt loading), mucking machines, power graders, power scoops, power scrapers	9.18	.38	.65		.09	
Air compressor (pressurizing shafts or tunnels), all asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boiler (over 15 lbs., pressure), pump operator installing or operating well points or other type of dewatering system, pump (4" and over discharge), submersible pumps (4" & over discharge), trenchers (24" & under)	9.03	.38	.65		.09	

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS: (CONT'D)						
Compressors on building construction, conveyors (building material), gunite machines, mixers (cap., more than one bag), mixers (one bag cap., side loader), post driver, post hole digger, pavement breaker (hydraulic or cable), road widening trencher, rollers, welder operator	8.35	.38	.65		.09	
Backfillers and tamper, batch plant, bar & joint installing machine, bull floats burlap & curing machines, clefplanters, concrete spreading machines, crushers, drum firemen (asphalt), farm type tractors (pulling attachment) finishing machines, form trenchers, high pressure pumps (over 3" discharge), hydro seeders, self propelled power spreader, self propelled sub-grader, tractor (pulling sheep foot roller or grader) tire repairman, vibratory compactors (with integral power)	8.03	.38	.65		.09	
Oiler, helper, signalmen, light plant oper., power driven heaters (oil fired), power boilers (less than 15 lbs, pressure), submersible pumps (under 4" discharge), pumps (under 4" discharge)	7.40	.38	.65		.09	

HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
LABORERS:						
GROUP 1						
Laborers (construction), plant laborers or yardmen, right-of-way laborer, landscape laborer, utility man or handyman, joint setter, flagman, carpenter helper, waterproofing laborer, slurry seal, seal coating, surface treatment or road mix laborer, riprap laborer and grouter, asphalt laborer, dump man (batch trucks), guardrail and fence installers, mesh handlers and placers, concrete curing applicator, scaffold erector	$6.64	.45	.20		.02	
GROUP 2						
Asphalt raker, concrete puddler, kettle man (pipeline), all machine driven tools (gas, electric, air), mason tender, mortar mixer, sheeting and shoring man, surface grinder man, power wheelbarrow	6.765	.45	.20		.02	
GROUP 3						
Form setter, bottom man, welder helper (pipeline), concrete saw man, cutting with burning torch, pipe layer, hand spiker (railroad), car pusher (without air), underground man (working in sewer and waterline, cleaning, repairing and reconditioning), tunnel laborer (without air) and caisson, cofferdam (below 25 feet deep), air track and wagon drill	6.84	.45	.20		.02	
GROUP 4						
Blaster and powder man, mucker, wrencher (mechanical joints and utility pipeline), yarner, top lander	6.99	.45	.20		.02	
GROUP 5						
Curb setter and cutter, miner without air, concrete crew in tunnels, utility pipeline tapper, gunnite nozzle man, waterline caulker	7.29	.45	.20		.02	

HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
POWER EQUIPMENT OPERATORS:						
CLASS I						
Air compressor on steel erection, asphalt plant engineers, boiler operator, compressor or generator when mounted on a rig, cableways, combination concrete mixer and tower, concrete plants (over 4 yd. capacity), concrete pumps, cranes (all types, including A frames, boom trucks, cherry pickers), derricks, draglines, dredge (dipper, clam or suction), elevating grader or euclid loader, floating equipment (all types), helicopter crew (operator-hoist or winch), hoes (all types), hoisting engines, hoisting engines on shaft or tunnel work, industrial-type tractor, locomotives (standard gauge), maintenance operator Class A, mixer, paving (single or double drum), mucking machines, multiple scraper, pile-driving machines (all types), power shovels, Quad 9 (double pusher), refrigerating machine (freezer operation), rotary drill on caisson work, slip-form paver, survey crew party chief, tower derricks, tree shredder, trench machines over 24" wide), truck mounted concrete pumps, tug boat, tunnel machine, wheel excavator	$7.52	.38	.65		.09	
CLASS II						
Asphalt paver, automatic subgrade machine, self-propelled (CMI type), bulldozers, endloader, kolman loader (production type - dirt), lead grease man, maintenance operator Class B, power grader, power scoops and scrapers, push cat, trench machines (24" wide and under)	7.42	.38	.65		.09	
CLASS III						
Air compressors on tunnel work (low pressure), asphalt plant engineer, locomotive (narrow gauge), mixers, concrete more than one bag capacity), mixers, one bag capacity (side loader), power boilers over 15 lb. pressure, pump operator installing and operating well points, pumps (4" and over discharge), rollers - asphalt, utility operator (small equipment), welding machines and generators	7.15	.38	.65		.09	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS: (CONTD)						
CLASS IV						
Back fillers, bar, joint and mesh installing machines, batch plant, bull floats, burlap and curing machines, compressors (portable, sewer, heavy and highway), concrete plant (capacity 4 yd. and under), concrete saw (multiple), conveyors (highway), crushers, deckhand, drill highway (with integral power), farm-type tractors with attachments (highway), finishing machines, fireman, floating equipment (all types), fork lift (highway), form trenchers, hydro seeders, plant mixers, post driver, post hole digger (power auger), power brush burner, power form handling equipment, road widening trencher, rollers (brick, grade, macadam), self-propelled power spreaders, self-propelled power subgraders, steam fireman, survey instrument man, tractor (pulling sheepfoot roller or grader), vibratory compactors (with integral power)	$6.85	.38	.65		.09	
CLASS V						
Drum fireman (asphalt plant), helpers, inboard-outboard motor boat-launch, oil heaters (asphalt plant), oilers, power driven heaters, pumps (under 4" discharge), signalmen, survey rodmen or chainmen, tire repairmen	6.43	.38	.65		.09	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
TRUCK DRIVERS:						
Straight and dumps, including asphalt, warehousemen in bona fide warehouses for storage of construction material, straight fuel	$5.25	.30	.30	a+b		
Semi fuel, semi pole drivers hauling steel pipe and semi tractor drivers	5.40	.30	.30	a+b		
Ready-mix, agitator or bulk concrete drivers, dry batch truck	5.63	.30	.30	a+b		
Euclids, darts, tank asphalt spreaders, low boys, carry-all drivers, tournarockers, hi-lifts, fork lifts, extra long trailers & semi pole trailers (except when hauling steel pipe), double hook-up tractor trailers, including team track and railroad siding, semi tractor and tri-axle trailer, tandem tractor and tandem trailer and tri-axle trailer, tag along trailers, expandable trailers, loads requiring road permits	5.75	.30	.30	a+b		

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PAID HOLIDAYS (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES
a. One week's vacation for one year of service; two weeks for five years of service; three weeks for ten years of service and four weeks for seventeen years of service.

b. Seven paid holidays: A through F plus National Election Day.

SUPERSEDEAS DECISION

STATE: OH
DECISION NUMBER: AP-37
Supersedes Decision No. AM-407 dated August 18, 1971 in 36 FR 15911
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

COUNTY: FRANKLIN & PICKAWAY
DATE: Date of Publication

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$9.77	.25	.10		.03	
Boilermakers	7.95	.30	.60		.01	
Boilermakers' helpers	7.70	.30	.60		.01	
Bricklayers	7.60	.30	.45		.02	
Carpenters	7.11	.20	.20		.005	
Millwrights	7.36	.20	.20		.005	
Piledrivermen	7.36	.20	.20		.005	
Cement masons:						
Building	7.65	.40	.20		.01	
Heavy & Highway	6.69	.42			.02	
Electricians - Pickaway Co.; the Townships of Deer Creek, Perry, Pickaway, Salt Creek & Wayne	8.10	.28	1%		.02	
Electricians - Franklin Co., and the remainder of Pickaway Co.	8.63	.28	1%+.60		.06	
Elevator constructors	8.82	.195	.20	2%+a&b	.005	
Elevator constructors' helpers	70%JR	.195	.20	2%+a&b	.005	
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	8.09		.22		.005	
Ironworkers (Franklin)	9.35	.40	.85		.01	
Ironworkers (Pickaway)	9.50	.40	.85		.01	
Laborers:						
Laborers	6.06	.45	.20			
Mortar mixers	6.76	.45	.20			
Mason & Plasterers' tenders	6.76	.45	.20			
Asphalt & black top rakers	6.76	.45	.20			
Scaffold builders	6.76	.45	.20			
Jackhammer operator	6.76	.45	.20			
Air or electric pneumatic tool op.	6.76	.45	.20			
Power driven tool & power buggy	6.76	.45	.20			
Power wheel barrow operator	6.76	.45	.20			
Wreckers & barmen	6.76	.45	.20			
Lathers	8.15		.10		.01	
Leadburners	7.80	.30		c	.01	
Linemen	9.56		1%		% of 1%	
Marble setter	7.55					
Marble setter' helpers	5.65					
Painters:						
Brush, paperhanger, wall washer & rollers	7.70	.15	.15			

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Painters: (cont'd)						
Structural steel & swing stage	$8.00	.15	.15			
Spray	8.20	.15	.15			
Sandblast & steam clean, bridges, hvy, & hwy	8.40	.15	.15			
Dry wall tapers & finishers	8.10	.15	.15			
Plasterers	7.75	.30	.10		.01	
Plumbers & Steamfitters	9.67	.40	.65		.05	
Roofers	8.74	.325	.30		.02	
Sheet metal workers	8.13	.36	.30		.04	
Soft floor layers	7.11	.20	.20		.005	
Sprinkler fitters	9.25	.30	.50		.05	
Stonemasons	7.05	.30	.45			
Terrazzo workers	7.55					
Terrazzo workers' helpers	5.65					
Terrazzo base grinder	5.90					
Terrazzo floor grinder	5.75					
Tile setters	7.55					
Tile setters' helpers	5.65					
Truck drivers:						
Dump and straight	6.36					
Tandems, Farm tractor	6.44					
Lowboys	6.54					

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Nine paid holidays, A through F plus Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

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Ohio - 6 - PEO Q 1 of 2

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
BUILDING CONSTRUCTION						
POWER EQUIPMENT OPERATORS:						
A-Frames, air compressor on steel erection, all rotary drills used on caisson work for foundations and substructure work, boiler operator or compressor operator when compressor or boiler is mounted on crane (piggy back operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, elevating grader or euclid loader, floating equipment, gradalls, helicopter: operator hoisting building materials, helicopter winch operator hoisting builders materials, hoes (all ypes), hoisting engines (two or more drums), lift slab or panel jack operators, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip form pavers, straddle carriers (building construction on site), tower derricks, trench machines (over 24" wide)	$8.63	.38	.65		.09	
Asphalt paver, bulldozer, CMI type equipment, endloaders, kohlman type loadera (dirt loading), mucking machines, power grader, power scoops, power scrapers, push cats	8.56	.38	.65		.09	
Air compressor (presurizing shafts or tunnels), all asphalt rollers, fork liifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs., pressure), pump operator installing or operating well points or other type of dewatering system, pumps (4" & over discharge), submersible pumps (4" & over discharge), trenchers (24" and under)	8.41	.38	.65		.09	

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
POWER EQUIPMENT OPERATORS:						
Compressors on building construction, conveyors (building material), gunite machines, mixers (capacity more than one bag), mixers (one bag capacity side loader), post driver, post driver, post hole digger, pavement breaker (hydraulic or cable), road widening trencher, rollers welder operator	7.75	.38	.65		.09	
Backfillers & tampers, batch plant, bar & joint installing machine, bull floats, burlap & curing machines, clefplanes, concrete spreading machines, crushers, drum fireman (asphalt), farm type tractor (pulling attachments), finishing machines form trenchers, high pressure pumps (over ½" discharge), hydro seeders, self propelled power spreaders, self propelled sub-grader, tire repairman, tractors pulling sheep foot roller or grader, vibratory compactors (with integral power)	7.44	.38	.65		.09	
Oiler, helper, signalman, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs. pressure), pumps (under 4" discharge), submersible pumps (under 4" discharge)	6.82	.38	.65		.09	

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HEAVY & HIGHWAY CONSTRUCTION

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS:						
CLASS I						
Air compressor on steel erection, boiler operator on compressor or generator when mounted on a rig, cableways, combination concrete mixer and tower, concrete plans (over 4 yd. capacity), concrete pumps, cranes (all types, including A frames, boom trucks, cherry pickers), derricks, draglines, dradge (dipper, clam or suction), elevating grader or euclid loader, floating equipment (all types), helicopter crew (operator-hoist or winch), hoes (all types), hoisting engi engines, hoisting engines on shaft or tunnel work, industrial-type tractor, jet engine dryer (D8 or D9) diesel tractor, locomotives (standard gauge), maintenance operator Class A, mixer, paving (single or double drum), mucking machines, multiple scraper, piledriving machines (all types), power shovels, Quad 9 (double pusher), refrigerating machine (freezer operation), rotary drill on caisson work, slip-form paver, survey crew party chief, tower derricks, tree shredder, trench machines (over 24 " wide), truck mounted concrete pumps, tug boat, tunnel machine, wheel excavator	$6.81	.38	.65		.09	
CLASS II						
Asphalt paver, automatic subgrade machine, self-propelled (CMI type), bulldosers, endloader, kolman loader (production type - dirt), lead grease man, maintenance operator Class B, power grader, power scoops and scrapers, push cat, trench machines (24" wide and under	6.74	.38	.65		.09	
CLASS III						
Air compressors on tunnel work (low pressure), asphalt plant engineer, locomotive (narrow gauge), mixers, concrete (more than one bag capacity), mixers, one bag capacity (side loader), power boilers over 15 lb. pressure, pump operator installing and operating well points, pumps (4" and over discharge), rollers - asphalt, utility operator (small equipment), welding machines and generators	6.43	.38	.65		.09	

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS: (CONTD)						
CLASS IV						
Back fillers, bar, joint and mesh installing machines, batch plant, bull floats, burlap and curing machines, compressors (portable, sewer, heavy and highway), concrete plant (capacity 4 yd. and under), concrete saw (multiple), conveyors (highway), crushers, deckhand, drill highway (with integral power), farm-type tractors with attachments (highway), finishing machines, fireman, floating equipment (all types), fork lift (highway), form trenchers, hydro seeders, plant mixers, post mixers, post hole digger (power auger), power brush burner, power form handling equipment, road widening trencher, rollers (brick, grade, macamdam), self-propelled power spreaders, self-propelled power subgraders, steam fireman, survey instrument man, tractor(pulling sheepfoot roller or grader), vibratory compactors (with integral power)	$6.16	.38	.65		.09	
CLASS V						
Drum fireman (asphalt plant), helper, inboard-outboard motor boat-launch, oil heaters (asphalt plant), oilers, power driven heaters, pumps (under 4" discharge), signalmen, survey rodmen or chainmen, tire repairmen	5.48	.38	.65		.09	

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HEAVY & HIGHWAY CONSTRUCTION

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
LABORERS:						
GROUP 1						
Laborers (construction), plant laborers or yardmen, right-of-way laborer, landscape laborer, utility man or handyman, joint setter, flagman, carpenter helper, waterproofing laborer, slurry seal, seal coating, surface treatment or road mix laborer, riprap laborer and grouter, asphalt laborer, dump man (batch trucks), guardrail and fence installers, mesh handlers and placers, concrete curing applicator, scaffold erector	$5.33	.45	.20		.02	
GROUP 2						
Asphalt raker, concrete puddler, kettle man (pipeline), all machine driven tools (gas, electric, air), mason tender, mortar mixer, sheeting and shoring man, surface grinder man, power buggy or power wheelbarrow	5.455	.45	.20		.02	
GROUP 3						
Form setter, bottom man, welder helper (pipeline), concrete saw man, cutting with burning torch, pipe layer, hand spiker (railroad), car pusher (without air), underground man (working in sewer and waterline, cleaning, repairing and reconditioning), tunnel laborer (without air) and caisson, cofferdam (below 25 feet deep), air track and wagon drill	5.53	.45	.20		.02	
GROUP 4						
Blaster and powder man, muckers, trencher (mechanical joints and utility pipeline), yarner, top lander	5.68	.45	.20		.02	
GROUP 5						
Curb setter and cutter, miner (without air), concrete crew in tunnels utility pipeline tapper, gunnite nozzle man, waterline caulker	5.98	.45	.20		.02	

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HEAVY & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
TRUCK DRIVERS						
4-wheel service trucks, 4-wheel dump trucks	$5.41	a $6.00				
Batch trucks, oil distributors, asphalt distributors	5.41	a $6.00				
Tandem trucks	5.46	a $6.00				
Tractor-trailer combinations:						
Semitractor trucks, pole trailers, readymix trucks, fuel trucks	5.51	a $6.00				
Asphalt-oil spray-bar man, when operated from cab	5.71	a $6.00				
Euclid wagons, Euclid end-dumps, lowboys, heavy duty equipment over 12 cu. yds., capacity (irrespective of load carried) when used exclusively for transportation, truck mechanics	5.88	a $6.00				
All trucks five axle and over	5.61	a $6.00				

FOOTNOTES:

a. Per week per employee.

SUPERSEDEAS DECISION

STATE: OHIO
DECISION NUMBER: AP-38
Supersedes Decision No. AM-408 dated August 18, 1971 in 36 FR 15015
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

COUNTY: GREENE & MONTGOMERY
DATE: Date of Publication

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Asbestos workers	$9.02	.25	.30		.01	
Boilermakers	7.95	.30	.60		.01	
Boilermakers' helpers	7.70	.30	.60		.01	
Bricklayers	8.50	.40	.50			
Stonemasons	8.50	.40	.50			
Carpenters	7.87	.32	.65			
Millwrights	8.29	.47	.10			
Piledrivermen	7.87	.32	.65			
Cement masons, building	6.23	.20				
Cement masons, heavy & highway	6.93	.42			.02	
Electricians, Communication installer and lineman within 11 mi. radius from 3rd and Main Streets, Dayton	8.96	.35	1%+.60		5%	
Electricians, Communications installer and lineman beyond 11 mi. radius of 3rd and Mainstreets, Dayton	9.19	.35	1%+.60		5%	
Elevator constructors	8.53	.195	.20	2%+a&b	.005	
Elevator constructors' helpers	70%JR	.195	.20	2%+a&b	.005	
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	8.58				.01	
Ironworkers: (Within 15 mi. of Dayton) Structural, ornamental, reinforcing	8.70	.40	.65		.02	
Ironworkers: (Beyond 15 mi. of Dayton) Structural, ornamental, reinforcing	8.85	.40	.65		.02	
Laborers:						
Unskilled	6.44	.20	.15			
All machine tools, jackhammer vibrator	6.59	.20	.15			
Sewer pipe layers (non-metallic)	6.64	.20	.15			
Bottom men	6.64	.20	.15			
Railroad spikers (by hand)	6.59	.20	.15			
Torchmen on wrecking	6.74	.20	.15			
Gunnite operator	6.94	.20	.15			
Swing scaffold over 15 ft.	6.59	.20	.15			
Lathers	8.24		.20		.01	
Lead burners	7.80	.30		e	.01	
Marble setters	7.76	.40				
Painters:						
Brush	8.19	.24	.20		.02	
Structural steel & swing stage	8.59	.24	.20		.02	
Spray & sandblasting	8.69	.24	.20		.02	
Paperhanging	8.44	.24	.20		.02	
Rollers	8.19	.24	.20		.02	
Plasterers	8.45					

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Plumbers & steamfitters:						
Townships of Miami, Cedarville, Ross, Jefferson, Caesar Creek & New Jasper in Greene County	8.87	.33	.45		.02	
Remainder of Greene County & all of Montgomery County	8.85	.35	.45		.05	
Roofers, composition, damp & waterproof	8.55	.45	.25			
Roofers, slate, tile and asbestos	8.77	.45	.25			
Sheet metal workers	8.64	.25	.40		.10	
Soft floor layers - resilient floor layer	7.81	.12	.10			
Sprinkler fitters	9.25	.30	.50		.05	
Terrazzo base grinder	5.38	.15				
Terrazzo workers	7.76	.40				
Tile setters	7.76	.40				
Truck drivers:						
Straight flat & dump truck, winch truck	5.20	c	d	f		
Tandem truck & tractor trailer combination	5.31	c	d	f		

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

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PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Six paid holidays, A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. $6.00 per week to health & welfare fund.

d. Employer contributes $8.00 per week to pension fund.

e. Nine paid holidays, A through F, plus Washington's Birthday, Good Friday and Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

f. 1 year of employment, 1 week's vacation. Seven years of employment, 2 weeks vacation, providing the employee has been on payroll for u months during the previous 12-month period.

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BUILDING CONSTRUCTION

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
POWER EQUIPMENT OPERATORS:						
A-Frames, air compressor on steel erection, all rotary drills used on caisson work for foundations and substructure work, boiler operator or compressor operator when compressor or boiler is mounted on crane (piggy back operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, elevating grader or euclid loader, floating equipment, gradalls, helicopter operator hoisting building materials, helicopter winch operator hoisting builders materials, hoes (all ypes), hoisting engines (two or more drums), lift slab or panel jack operators, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip form pavers, straddle carriers (building construction on site), tower derricks, trench machines (over 24" wide)	$8.63	.38	.65		.09	
Asphalt paver, bulldozer, CMI type equipment, endloaders, kohlman type loaders (dirt loading), mucking machines, power grader, power scoops, power scrapers, push cats	8.56	.38	.65		.09	
Air compressor (presurizing shafts or tunnels), all asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs., pressure), pump operator installing or operating well points or other type of dewatering system, pumps (4" & over discharge), submersible pumps (4" & over discharge), trenchers (24" and under)	8.41	.38	.65		.09	

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HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	Apr. Tr.	Oth
LABORERS:						
GROUP 1						
Laborers (construction); plant laborers or yardmen, high-oxygen laborer, landscape laborer, utility man or handyman, joint setter, flagman, concrete saw operator, concrete laborer, slurry seal coating laborer, surface treatment or road mix laborer, riprap laborer and grouter, asphalt laborer, dump man (batch trucks), guardrail and fence installers, mesh handlers and placers, concrete curing applicator, scaffold erector	$5.53	.45	.20		.02	
GROUP 2						
Asphalt raker, concrete puddler, ketchman (pipeline), air machine, drill man (pipeline), electric, acetylene welder), mason tender, power driver, shoring and sloring man, surface grinder man, power buggy or power wheelbarrow	5.655	.45	.20		.02	
GROUP 3						
Form setter, bottom man, welder helper (pipeline), concrete saw man, cutting with burning torch, pipe layer, hand spiker (railroad), car pusher (without air), underground man (working in sewer and waterline, cleaning, repairing and reconditioning), tunnel laborer (free air), timber and caisson, cofferdam (below 25 feet deep), air track and wagon drill	5.73	.45	.20		.02	
GROUP 4						
Blaster and powder man, muckers, wrencher (mechanical joints and utility pipeline), yarner, top lander	5.88	.45	.20		.02	
GROUP 5						
Curb setter and cutter, miner (without air), concrete crew in tunnels utility pipeline tapper, gunnite nozzle man, waterline caulker	6.18	.45	.20		.02	

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POWER EQUIPMENT OPERATORS:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
Compressors on building construction, conveyors (building material), gunite machines, mixers (capacity more than one bag), mixers (one bag capacity or less), post drivers, post hole diggers, pavement breaker (hydraulic or cable), road widening trencher, rollers welder operator	7.75	.38	.65		.09	
Backfillers & tampers, batch plant, bar & joint installing machine, bull floats, burlap & curing machines, cleanlanes, concrete spreading machines, curb & gutter machine (asphalt), farm type tractor (pulling attachments), finishing machines form trenchers, high pressure pumps (over 3" discharge), hydro seeders, self propelled power spreaders, self propelled sub-grader, tire repairman, tractors pulling sheep foot roller or grader, vibratory compactors (with integral power)	7.44	.38	.65		.09	
Oiler, helper, signalman, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs. pressure), pumps (under 4" discharge), submersible pumps (under 4" discharge)	6.82	.38	.65		.09	

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POWER EQUIPMENT OPERATORS: (CONTD)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
CLASS IV						
Back fillers, bar, joint and mesh installing machines, batch plant, bull floats, burlap and curing machines, compressors (portable, sewer, heavy and highway), concrete plant (capacity 4 yd. and under), concrete saw (multiple), concrete spreaders, curb & gutter machine, drill highway (with integral power), farm-type tractors with attachments (highway), finishing machines, fireman, floating equipment (all types), fork lift (highway), form trenchers, hydro seeders, plant mixers, post mixers, post hole digger (power auger), power brush burner, power form handling equipment, road widening trencher, rollers (hand, grade, macadam), self-propelled power subgraders, tractor-pulled power subgraders, transit fireman, survey instrument man, tractor(pulling sheepfoot roller or grader), vibratory compactors (with integral power)	$6.16	.38	.65		.09	
CLASS V						
Drum fireman (asphalt plant), helper, inboard-outboard motor boat-launch, oil heaters (asphalt plant), oilers, power driven heaters, pumps (under 4" discharge), signalman, survey rodmen or chainmen, tire repairmen	5.48	.38	.65		.09	

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HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS:						
CLASS I						
Air compressor on steel erection, boiler operator on compressor or generator when mounted on a rig, cableways, combination concrete mixer and pump (over 16 cu. ft. capacity), concrete plants (over 4 yd. capacity), cranes (all types, including A frames, boom trucks, cherry pickers), derricks, dragline, dredge (dipper, clam or suction), elevating grader or euclid loader, floating equipment (all types), helicopter crew (operator-hoist or winch), hoes (all types), hoisting engi engines, hoisting engines on shaft or tunnel work, industrial-type tractor, jet engine dryer (no rig), lo-boy tractor, locomotive (standard gauge), mainline operator Class A, mixer, paving machines (single or double drum), mucking machines (all types), power shovels, Quad 9 (double pusher), refrigerating machine (freezer operation), rotary drill on caisson work, slip-form paver, survey crew party chief, tower derricks, tree shredder, trench machines (over 24" wide), truck crane oiler, truck mounted concrete pump, tug boat, tunnel machine, wheel excavator	$6.81	.38	.65		.09	
CLASS II						
Asphalt paver, automatic subgrade machine, self-propelled (CMI type), bulldozers, endloader, koiman loader (production type - dirt), lead grease man, maintenance operator Class B, power grader, power scraper, side boom tractor, push cat, trench machines (24" wide and under	6.74	.38	.65		.09	
CLASS III						
Air compressors on tunnel work (low pressure), asphalt plant engineer, locomotive (narrow gauge), mixers, concrete (more than one bag capacity), mixers, one bag capacity (side loader), power boilers over 15 lb. pressure, pump operator (concrete placing), well points, pumps (15 and under discharge), pumps (submersible type), rollers asphalt, utility operator (small equipment), welding machines and generators	6.43	.38	.65		.09	

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HEAVY & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
TRUCK DRIVERS						
4-wheel service trucks, 4-wheel dump trucks	$5.41	a $6.00				
Batch trucks, oil distributors, asphalt distributors	5.41	a $6.00				
Tandem trucks	5.46	a $6.00				
Tractor-trailer combinations: Semitractor trucks, pole trailers, readymix trucks, fuel trucks	5.51	a $6.00				
Asphalt-oil spray-bar man, when operated from cab	5.71	a $6.00				
Euclid wagons, Euclid end-dumps, low-boys, heavy duty equipment over 12 cu. yds., capacity (irrespective of load carried) when used exclusively for transportation, truck mechanics	5.88	a $6.00				
All trucks five axle and over	5.61	a $6.00				

FOOTNOTES:

a. Per week per employee.

SUPERSEDEAS DECISION

STATE: OHIO
DECISION NUMBER: AP-39
Supersedes Decision No. AH-9614 dated May 26, 1972 in 37 FR 10697
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

COUNTY: HAMILTON
DATE: Date of Publication

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$9.26	.25	.50		.02	
Boilermakers	7.95	.30	.60		.01	
Boilermakers' helpers	7.70	.30	.60		.01	
Bricklayers	9.395	.45				
Carpenters	8.70	.40	.55		.025	
Millwrights	9.29	.30	.25		.05	
Piledrivenmen	8.70	.40	.55		.025	
Cement masons:						
Cement masons	8.845	.30	.50		.02	
Cement masons (heavy & highway)	6.93	.42			.02	
Electricians	8.75	.50	1%+.30		½ of 1%	
Elevator constuctors	8.53	.195	.20	2%+a&b	.005	
Elevator constructors' helpers	70% JR	.195	.20	2%+a&b	.005	
Elevator constructors' helpers (prob.)	50% JR					
Glaziers	8.45		.25		.005	
Ironworkers, structural & ornamental	8.995	.40	.55		.015	
Ironworkers, reinforcing	8.695	.40	.85		.02	
Laborers: (Demolition)						
Wrecking laborers	7.32	.35	.20			
Jackhammer ioerators	7.47	.35	.20			
Wallmen	7.47	.35	.20			
Burners	7.47	.35	.20			
Lathers	9.495				.015	
Lead burners	7.80	.30		c	.01	
Marble setters	9.085					
Marble setters' helpers	8.035					
Painters, brush:						
Commercial	8.03	.35	.15			
Industrial	8.18	.35	.15			
Painters, spray:						
Commercial	8.28	.35	.15			
Industrial	8.43	.35	.15			
Painters (heavy & highway):						
Brush	8.18	.35	.15			
Spray	8.43	.35	.15			
Bridges (highest point of clearance 60' or more)	9.18	.35	.15			
Linemen	8.75	.50	1% +.30		.5%	
Pipefitters	8.81	.60	.775		.04	
Plasterers	9.245		.30		.01	
Plumb & gas fitters	9.055	.38	.65		.05	
Roofers	9.395		.30			
Sheet metal workers	8.525	.40	.70		.02	

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Resilient floor layers	7.80	.40	.40		.05	
Sprinkler fitters	9.25	.30	.50		.05	
Terrazzo workers:						
Terrazzo workers	9.085	.45				
Terrazzo workers' helpers & grinders	7.985					
Terrazzo base grinder	8.405					
Tile setters	9.085	.45				
Tile setters' helpers	7.935					
Tile setters' helpers (prob.)	75% JR					

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Six paid holidays; A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Nine paid holidays: A through F plus Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

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Ohio 15 - LAB

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
LABORERS:		H & W	Pensions	Vacation	App. Tr.	Other
Common laborers, cement masons helpers, hand operated mechanical mule, mechanical sweeper, signal man	$7.60	.35	.20			
Bottom man, pipe layers	7.70	.35	.20			
Burning torch operator, jack hammer, mechanical and air tamper operator, mechanical concrete buggies, power operated mechanical mule, concrete pump hose man, vibrator man	7.75	.35	.20			
Plasterers's tender, mason tender, stone mason tender, bottom jackhammer man	7.80	.35	.20			
Plaster mixer pump operator	7.95	.35	.20			
Tunnel laborer	8.10	.35	.20			
Gunnite nozzle operator	8.35	.35	.20			

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Ohio - 6 - PEO 1 of 2

BUILDING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
POWER EQUIPMENT OPERATORS:		H & W	PENSIONS	VACATION	APP. TR.	OTH
A-Frames, air compressor on steel erection, all rotary drills used on caisson work for foundations and substructure work, boiler operator or compressor operator when compressor or boiler is mounted on crane (piggy back operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, elevating grader or euclid loader, floating equipment, gradalls, helicopter operator hoisting building materials, helicopter winch operator hoisting builders materials, hoes (all ypes), hoisting engines (two or more drums), lift slab or panel jack operators, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip form pavers, straddle carriers (building construction on site), tower derricks, trench machines (over 24" wide)	$8.63	.38	.65		.09	
Asphalt paver, bulldozer, CMI type equipment, endloaders, kohlman type loaders (dirt loading), mucking machines, power grader, power scoops, power scrapers, push cats	8.56	.38	.65		.09	
Air compressor (presurizing shafts or tunnels), all asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs., pressure), pump operator installing or operating well points or other type of dewatering system, pumps (4" & over discharge), submersible pumps (4" & over discharge), trenchers (24" and under)	8.41	.38	.65		.09	

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Ohio - 6 - PEO 2 of 2

POWER EQUIPMENT OPERATORS:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
Compressors on building construction, conveyors (building material), gunite machines, mixers (capacity more than one bag), mixers (one bag capacity side loader), post driver, post driver, post hole digger, pavement breaker (hydraulic or cable), road widening trencher, rollers welder operator	7.75	.38	.65		.09	
Backfillers & tampers, batch plant, bar & joint installing machine, bull floats, burlap & curing machines, clefplanes, concrete spreading machines, crushers, drum fireman (asphalt), farm type tractor (pulling attachments), finishing machines form trenchers, high pressure pumps (over ½" discharge), hydro seeders, self propelled power spreaders, self propelled sub-grader, tire repairman, tractors pulling sheep foot roller or grader, vibratory compactors (with integral power)	7.44	.38	.65		.09	
Oiler, helper, signalman, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs. pressure), pumps (under 4" discharge), submersible pumps (under 4" discharge)	6.82	.38	.65		.09	

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OHIO - 31 - TD M

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
TRUCK DRIVERS:		H & W	Pensions	Vacation	App. Tr.	Othe
Tractor trailer combinations and drags	$5.42	a12.50	a13.00	b & c		
Drivers	5.21	a12.50	a13.00	b & c		
Helpers	5.16	a12.50	a13.00	b & c		

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Per week per employee on payroll for 30 days.

b. Paid vacations: 1 year of employment 1 week; 2 years 2 weeks; 10 years 3 weeks; 15 years 4 weeks.

c. Six paid holidays: A thru F.

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Ohio - 6 - LAB J

HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
LABORERS:						
GROUP 1						
Laborers (construction), plant laborers or yardmen, right-of-way laborer, landscape laborer, utility man or handyman, joint setter, flagman, carpenter helper, waterproofing laborer, slurry seal, seal coating, surface treatment or road mix laborer, riprap laborer and grouter, asphalt laborer, dump man (batch trucks), guardrail and fence installers, mesh handlers and placers, concrete curing applicator, scaffold erector	$5.53	.45	.20		.02	
GROUP 2						
Asphalt raker, concrete puddler, kettle man (pipeline), all machine driven tools (gas, electric, air), mason tender, mortar mixer, sheeting and shoring man, surface grinder man, power buggy or power wheelbarrow	5.655	.45	.20		.02	
GROUP 3						
Form setter, bottom man, welder helper (pipeline), concrete saw man, cutting with burning torch, pipe layer, hand spiker (railroad), car pusher (without air), underground man (working in sewer and waterline, cleaning, repairing and reconditioning), tunnel laborer (without air) and caisson, cofferdam (below 25 feet deep), air track and wagon drill	5.73	.45	.20		.02	
GROUP 4						
Blaster and powder man, muckers, wrencher (mechanical joints and utility pipeline), yarner, top lander	5.88	.45	.20		.02	
GROUP 5						
Curb setter and cutter, miner (without air), concrete crew in tunnels utility pipeline tapper, gunnite nozzle man, waterline caulker	6.18	.45	.20		.02	

HEAVY & HIGHWAY CONSTRUCTION

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Ohio - 1 - PEO L 1 of 2

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS:						
CLASS I						
Air compressor on steel erection, boiler operator on compressor or generator when mounted on a rig, cableways, combination concrete mixer and tower, concrete plans (over 4 yd. capacity), concrete pumps, cranes (all types, including A frames, boom trucks, cherry pickers), derricks, draglines, dredge (dipper, clam or suction), elevating grader or euclid loader, floating equipment (all types), helicopter crew (operator-hoist or winch), hoes (all types), hoisting engines, hoisting engines on shaft or tunnel work, industrial-type tractor, jet engine dryer (D8 or D9) diesel tractor, locomotives (standard gauge), maintenance operator Class A, mixer, paving (single or double drum), mucking machines, multiple scraper, piledriving machines (all types), power shovels, Quad 9 (double pusher), refrigerating machine (freezer operation), rotary drill on caisson work, slip-form paver, survey crew party chief, tower derricks, tree shredder, trench machines (over 24" wide), truck mounted concrete pumps, tug boat, tunnel machine, wheel excavator	$6.81	.38	.65		.09	
CLASS II						
Asphalt paver, automatic subgrade machine, self-propelled (CMI type), bulldozers, endloader, koiman loader (production type - dirt), lead grease man, maintenance operator Class B, power grader, power scoops and scrapers, push cat, trench machines (24" wide and under	6.74	.38	.65		.09	
CLASS III						
Air compressors on tunnel work (low pressure), asphalt plant engineer, locomotive (narrow gauge), mixers, concrete (more than one bag capacity), mixers, one bag capacity (side loader), power boilers over 15 lb. pressure, pump operator installing and operating well points, pumps (4" and over discharge), rollers - asphalt, utility operator (small equipment), welding machines and generators	6.43	.38	.65		.09	

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POWER EQUIPMENT OPERATORS: (CONTD)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
CLASS IV						
Back fillers, bar, joint and mesh installing machines, batch plant, bull floats, burlap and curing machines, compressors (portable, sewer, heavy and highway), concrete plant (capacity 4 yd. and under), concrete saw (multiple), conveyors (highway), crushers, deckhand, drill highway (with integral power), farm-type tractors with attachments (highway), finishing machines, fireman, floating equipment (all types), fork lift (highway), form trenchers, hydro seeders, plant mixers, post mixers, post hole digger (power auger), power brush burner, power form handling equipment, road widening trencher, rollers (brick, grade, macamdam), self-propelled power spreaders, self-propelled power subgraders, steam fireman, survey instrument man, tractor(pulling sheepfoot roller or grader), vibratory compactors (with integral power)	$6.16	.38	.65		.09	
CLASS V						
Drum fireman (asphalt plant), helper, inboard-outboard motor boat-launch, oil heaters (asphalt plant), oilers, power driven heaters, pumps (under 4" discharge), signalmen, survey rodmen or chainmen, tire repairmen	5.48	.38	.65		.09	

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HEAVY & HIGHWAY CONSTRUCTION

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	AFP. TR.	OTHE
TRUCK DRIVERS						
4-wheel service trucks, 4-wheel dump trucks	$5.41	a $6.00				
Batch trucks, oil distributors, asphalt distributors	5.41	a $6.00				
Tandem trucks	5.46	a $6.00				
Tractor-trailer combinations: Semitractor trucks, pole trailers, readymix trucks, fuel trucks	5.51	a $6.00				
Asphalt-oil spray-bar man, when operated from cab	5.71	a $6.00				
Euclid wagons, Euclid end-dumps, low-boys, heavy duty equipment over 12 cu. yds., capacity (irrespective of load carried) when used exclusively for transportation, truck mechanics	5.88	a $6.00				
All trucks five axle and over	5.61	a $6.00				

FOOTNOTES:

a. Per week per employee.

SUPERSEDEAS DECISION

STATE: OHIO
DECISION NUMBER: AP-40
Supersedes Decision No. AM-410 dated August 18, 1972 in 36 FR 15925
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

COUNTY: LICKING
DATE: Date of Publication

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Asbestos workers	$9.77	.25	.10		.03	
Boilermakers	7.95	.30	.60		.01	
Boilermakers' helpers	7.70	.30	.60		.01	
Bricklayers	8.10	.45	.25		.02	
Stonemasons	8.10	.45	.25		.02	
Carpenters	7.65	.20	.20			
Millwrights	8.21	.20	.20			
Piledrivermen	8.21	.20	.20			
Cement masons (building)	7.65	.40	.20		.01	
Cement masons (Heavy & Highway)	6.69	.42			.02	
Electricians	8.50	.28	1%		.03	
Elevator constructors	8.82	.195	.20	2%+a&b	.005	
Elevator constructors' helpers	70% JR	.195	.20	2%+a&b	.005	
Elevator constructors' helpers (prob.)	50% JR					
Glaziers	8.09		.22		.005	
Ironworkers, structural & ornamental	8.70	.40	.65		.01	
Ironworkers, reinforcing	8.70	.40	.65		.01	
Laborers	5.65	.30	.15	.15		
Air tool operator (jackhammer, vibrator)	5.85	.30	.15	.15		
Mason tender, Hod carriers, scaffold builders	5.85	.30	.15	.15		
Mortar mixers, and Mortar Mixer Operator	5.85	.30	.15	.15		
Pipelayers	5.85	.30	.15	.15		
Plasterers' tenders	5.85	.30	.15	.15		
Powerdriven tool and power buggy	5.85	.30	.15	.15		
Lathers	8.15		.10		.01	
Lead burners	7.80	.30		c	.01	
Linemen	8.55	.25	1%		½ of 1%	
Painters:						
Brush	5.25					
Stack & towers	5.90					
Window jacks & swing stage	5.90					
Window jacks & swing over 40'	6.40					
Bridge	5.90					
Plasterers	7.75	.30	.10		.01	
Plumbers	8.18				.02	
Roofers	8.74	.32½	.30		.02	
Sheet metal workers	8.13	.36	.30		.04	

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Soft floor layers-resilient floor layer	7.65	.20	.20			
Steam fitters	8.18				.02	
Tile setters	8.10	.40	.25		.02	
Truck drivers:						
Dumps, water wagons, stake body, flats, flat bottom, pick-ups and warehousemen	2.95					
Semi-ready mix tandems, semi-water wagons, fuel trucks	3.20					
Euclids, carts, tank asphalt spreaders tournarockers, hi-lifts, extra long trailers, double hook-up tractor trailers	3.40					
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Six paid holidays, A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. and 2% for employee who has worked in business less than 5 years.

c. Nine paid holidays, A through F plus Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work day immediately preceding and following the holiday.

Ohio - 6 - PEO 1 of 2

BUILDING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
POWER EQUIPMENT OPERATORS:						
A-Frames, air compressor on steel erection, all rotary drills used on caisson work for foundations and substructure work, boiler operator or compressor operator when compressor or boiler is mounted on crane (piggy back operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, elevating grader or euclid loader, floating equipment, gradalls, helicopter operator hoisting building materials, helicopter winch operator hoisting builders materials, hoes (all ypes), hoisting engines (two or more drums), lift slab or panel jack operators, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip form pavers, straddle carriers (building construction on site), tower derricks, trench machines (over 24" wide)	$8.63	.38	.65		.09	
Asphalt paver, bulldozer, CMI type equipment, endloaders, kohlman type loaders (dirt loading), mucking machines, power grader, power scoops, power scrapers, push cats	8.56	.38	.65		.09	
Air compressor (presurizing shafts or tunnels), all asphalt rollers, fork liifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs., pressure), pump operator installing or operating well points or other type of dewatering system, pumps (4" & over discharge), submersible pumps (4" & over discharge), trenchers (24" and under)	8.41	.38	.65		.09	

Ohio - 6 - PEO 2 of 2

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
POWER EQUIPMENT OPERATORS:						
Compressors on building construction, conveyors (building material), gunite machines, mixers (capacity more than one bag), mixers (one bag capacity side loader), post driver, post driver, post hole digger, pavement breaker (hydraulic or cable), road widening trencher, rollers welder operator	7.75	.38	.65		.09	
Backfillers & tampers, batch plant, bar & joint installing machine, bull floats, burlap & curing machines, clefplanes, concrete spreading machines, crushers, drum fireman (asphalt), farm type tractor (pulling attachments), finishing machines form trenchers, high pressure pumps (over 4" discharge), hydro seeders, self propelled power spreaders, self propelled sub-grader, tire repairman, tractors pulling sheep foot roller or grader, vibratory compactors (with integral power)	7.44	.38	.65		.09	
Oiler, helper, signalman, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs. pressure), pumps (under 4" discharge), submersible pumps (under 4" discharge)	6.82	.38	.65		.09	

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Ohio - 10 - LAB - L

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rate	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
LABORERS:						
GROUP 1						
Laborers (construction), plant laborers or yardmen, right-of-way laborer, landscape laborer, utility man or handyman, joint setter, flagman, carpenter helper, waterproofing laborer, slurry seal, seal coating, surface treatment or road mix laborer, riprap laborer and grouter, asphalt laborer, dump man (batch trucks), guardrail and fence installers, mesh handlers and placers, concrete curing applicator, scaffold erector	$5.33	.45	.20		.02	
GROUP 2						
Asphalt raker, concrete puddler, kettle man (pipeline), all machine driven tools (gas, electric, air), mason tender, mortar mixer, sheeting and shoring man, surface grinder man, power buggy or power wheelbarrow	5.455	.45	.20		.02	
GROUP 3						
Form setter, bottom man, welder helper (pipeline), concrete saw man, cutting with burning torch, pipe layer, hand spiker (railroad), car pusher (without air), underground man (working in sewer and waterline, cleaning, repairing and reconditioning), tunnel laborer (without air) and caisson, cofferdam (below 25 feet deep), air track and wagon drill	5.53	.45	.20		.02	
GROUP 4						
Blaster and powder man, muckers, wrencher (mechanical joints and utility pipeline), yarner, top lander	5.68	.45	.20		.02	
GROUP 5						
Curb setter and cutter, miner (without air), concrete crew in tunnels utility pipeline tapper, gunnite nozzle man, waterline caulker	5.98	.45	.20		.02	

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Ohio - 1 - PEO L 1 of 2

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS:						
CLASS I						
Air compressor on steel erection, boiler operator on compressor or generator when mounted on a rig, cableways, combination concrete mixer and tower, concrete plans (over 4 yd. capacity), concrete pumps, cranes (all types, including A frames, boom trucks, cherry pickers), derricks, draglines, dredge (dipper, clam or suction), elevating grader or euclid loader, floating equipment (all types), helicopter crew (operator-hoist or winch), hoes (all types), hoisting engi engines, hoisting engines on shaft or tunnel work, industrial-type tractor, jet engine dryer (D8 or D9) diesel tractor, locomotives (standard gauge), maintenance operator Class A, mixer, paving (single or double drum), mucking machines, multiple scraper, piledriving machines (all types), power shovels, Quad 9 (double pusher), refrigerating machine (freezer operation), rotary drill on caisson work, slip-form paver, survey crew party chief, tower derricks, tree shredder, trench machines (over 24" wide), truck mounted concrete pumps, tug boat, tunnel machine, wheel excavator	$6.81	.38	.65		.09	
CLASS II						
Asphalt paver, automatic subgrade machine, self-propelled (CMI type), bulldozers, endloader, kolman loader (production type - dirt), lead grease man, maintenance operator Class B, power grader, power scoops and scrapers, push cat, trench machines (24" wide and under	6.74	.38	.65		.09	
CLASS III						
Air compressors on tunnel work (low pressure), asphalt plant engineer, locomotive (narrow gauge), mixers, concrete (more than one bag capacity), mixers, one bag capacity (side loader), power boilers over 15 lb. pressure, pump operator installing and operating well points, pumps (4" and over discharge), rollers - asphalt, utility operator (small equipment), welding machines and generators	6.43	.38	.65		.09	

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POWER EQUIPMENT OPERATORS: (CONTD)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
CLASS IV						
Back fillers, bar, joint and mesh installing machines, batch plant, bull floats, burlap and curing machines, compressors (portable, sewer, heavy and highway), concrete plant (capacity 4 yd. and under), concrete saw (multiple), conveyors (highway), crushers, deckhand, drill highway (with integral power), farm-type tractors with attachments (highway), finishing machines, fireman, floating equipment (all types), fork lift (highway), form trenchers, hydro seeders, plant mixers, post mixers, post hole digger (power auger), power brush burner, power form handling equipment, road widening trencher, rollers (brick, grade, macamdam), self-propelled power spreaders, self-propelled power subgraders, steam fireman, survey instrument man, tractor(pulling sheepfoot roller or grader), vibratory compactors (with integral power)	$6.16	.38	.65		.09	
CLASS V						
Drum fireman (asphalt plant), helper, inboard-outboard motor boat-launch, oil heaters (asphalt plant), oilers, power driven heaters, pumps (under 4" discharge), signalmen, survey rodmen or chainmen, tire repairmen	5.48	.38	.65		.09	

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HEAVY & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
TRUCK DRIVERS						
4-wheel service trucks, 4-wheel dump trucks	$5.41	a. $6.00				
Batch trucks, oil distributors, asphalt distributors	5.41	a $6.00				
Tandem trucks	5.46	a $6.00				
Tractor-trailer combinations: Semitractor trucks, pole trailers, readymix trucks, fuel trucks	5.51	a $6.00				
Asphalt-oil spray-bar man, when operated from cab	5.71	a $6.00				
Euclid wagons, Euclid end-dumps, low-boys, heavy duty equipment over 12 cu. yds., capacity (irrespective of load carried) when used exclusively for transportation, truck mechanics	5.88	a $6.00				
All trucks five axle and over	5.61	a $6.00				

FOOTNOTES:

a. Per week per employee.

SUPERSEDEAS DECISION

STATE: OHIO
DECISION NUMBER: AP-41
Supersedes Decision No. AP-411 dated August 11, 1971 in 36 FR 15929
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

COUNTY: LUCAS
DATE: Date of Publication

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$8.89	.20	.15		.02	
Boilermakers	10.65	.30	.50		.01	
Bricklayers & Stone masons	9.125	.50	.35		.01	
Carpenters	8.78	.25	.25		.025	
Millwrights	8.78	.25	.25		.025	
Piledrivenmen	8.78	.25	.25		.025	
Cement masons:						
Building	9.54	.40			.02	
Heavy & Highway	7.22	.42			.02	
Electricians	9.84	.30	1%+.55		.1%	
Elevator constructors	9.31	.195	.20	2%+b&c	.005	
Elevator constructors' helpers	70% JR	.195	.20	2%+b&c	.005	
Elevator constructors helpers (prob.)	50% JR					
Glaziers	7.775	.15	.35		.01	
Ironworkers, structural & ornamental	9.15	.50	7%		1-2/3¢	
Ironworkers, reinforcing	9.15	.50	7%		1-2/3¢	
Lathers	8.55	.25	.10		.01	
Lead burners	7.80	.30		c	.01	
Linemen	8.05	.15	1%		.25%	
Cable splicers	8.30	.15	1%		.25%	
Groundmen & truck drivers w/winch	75% JR	.15	1%		.25%	
Hole digger operator	85% JR	.15	1%		.25%	
Marble setters	9.125	.50	.35		.01	
Marble setters' helpers	6.80	.35	.25	.50		
Painters:						
Brush, paperhangers, drywall tapers	7.59	.35	.15			
Bridge railings (brush), power-houses, refinery tanks	8.84	.35	.15			
Spray, sandblasting & pressure cleaning	8.14	.35	.15			
Plasterers	9.10	.50			.01	
Plumbers & Steamfitters	9.285	.45	.70	j	.025	
Roofers	8.39	.25	.20		.01	
Sheet metal workers	8.975	.35	.40		.02	
Soft floor layers	7.08	.35	.35		.005	
Sprinkler fitters	9.25	.30	.50		.05	
Terrazzo workers	8.08	.35	.25			
Terrazzo workers' helpers	6.80	.35	.25	.50		
Tile setters	8.08	.35	.25			

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Tile setters' helpers	$6.80	.35	.25	.50		
Truck drivers:						
Single axle tandem axle or semi	7.13	K5675	13.00	g & h		
Heavy duty, 5 axle or over, winch trucks, carry - alls or low boys	7.36	K5675	13.00	g & h		
Welders - receive rate prescribes for craft performing operation to which welding is incidental						

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PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years

c. Nine paid holidays, A through F plus Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

e. Per week per employee.

g. 5 paid holidays: (providing the employee worked the last scheduled work days preceeding the holiday and the first scheduled work day after the holiday), Memorial Day, Independence Day, Labor Day, Thanksgiving Day & Christmas Day.

h. Employees in service at least one year, 1 week's paid vacation.

j. One paid holiday: Labor Day.

Ohio - 29 - LAB R 1 of 1

BUILDING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
LABORERS:						
Unskilled laborers	$7.61	.25	.10		.01	
Mason tenders	7.74	.25	.10		.01	
Gunnite pot men, mortar mixers	7.81	.25	.10		.01	
Concrete pump nozzle man, all power driven tools and power buggies, burners & torchmen	7.765	.25	.10		.01	
Pipe layers, bellman & bottom man for fire brick work only	7.865	.25	.10		.01	
Nozzle operators for gunnite work	8.32	.25	.10		.01	
Caisson, cofferdam, tunnel, cylinder, shaft sewer, water, conduit, gas-oil and pipe lines except main lines:						
Pipe layers, bottom men (over 6'); shoring and cribbing	7.865	.25	.10		.01	
Mason tenders, winch operators	7.74	.25	.10		.01	
Mortar mixers	7.81	.25	.10		.01	
Caisson (over 25')	8.07	.25	.10		.01	
Miners (without pressure)	8.32	.25	.10		.01	
Muckers (without pressure)	8.05	.25	.10		.01	
Car pushers	7.95	.25	.10		.01	
Unskilled laborers	7.61	.25	.10		.01	

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BUILDING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
POWER EQUIPMENT OPERATORS:						
A-Frame, air compressor on steel erection, all rotary drills used on caisson work for foundations and substructure work, boiler operator or compressor operator when compressor or boiler is mounted on crane (piggy back operation), boom truck (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, elevating grader or euclid loader, floating equipment, gradalls, helicopter oper., hoisting builders materials, helicopter winch operator hoisting builders materials, hoes (all types), hoisting engines (two or more drums), lift slab or panel jack operators, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum) mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip form pavers, straddle carriers (building construction on site), tower derricks, trench machines (over 24" wide)	$8.98	.38	.65		.09	
Asphalt paver, bulldozer, DMI type equipment, endloader, kohlman type loaders (dirt loading), mucking machines, power grader, power scoops, power scrapers, push cats	8.83	.38	.65		.09	
Air compressor (pressurizing shafts or tunnels), all asphalt rollers, fork lifts, hoists (one drum), house elevators, man lift, power boilers (over 15 lbs., pressure), pump oper., installing or operating well points or other type of dewatering system, pumps (4" & over discharge), submersible pumps (4" & over discharge), trenches (24" and under)	8.68	.38	.65		.09	

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
POWER EQUIPMENT OPERATORS: (CONT'D)						
Compressor on building construction, conveyors building material, gunite machines, mixers (cap., more than one bag), mixers (one bag cap., side loader) post hole digger, pavement breaker (hydraulic or cable), road widening trencher, rollers, welder operator post driver	8.00	.38	.65		.09	
Backfillers & tamper, batch plant, bar & jointing installing machine, bull floats, burlap & curing machines, clefplanes, concrete spreading machines, crushers, drum firemen (asphalt) farm type tractors (pulling attachments), finishing machine, form trenchers, high pressure pumps, (over ¾" discharge, hydro seeders, self propelled power spreader, self propelled sub-grader, tire repairman, tractors (pulling sheep foot roller or grader), vibratory compactors (with integral power)	7.69	.38	.65		.09	
Oiler, helper, signalman, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs., pressure), pumps (under 4" discharge), submersible pumps (under 4" discharge)	7.06	.38	.65		.09	

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Ohio - 3 - LAB 3

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
LABORERS:						
GROUP 1						
Laborers (construction), plant laborers or gardener, right-of-way laborer, landscape laborer, utility man or handyman, joint setter, flagman, carpenter helper, waterproofing laborer, slurry seal, seal coating, surface treatment or road mix laborer, riprap laborer and grouter, asphalt laborer, dump man (batch trucks), guardrail and fence installers, mesh handlers and placers, concrete curing applicator, scaffold erector	$5.78	.45	.20		.02	
GROUP 2						
Asphalt raker, concrete puddler, kettle man (pipeline), all machine driven tools (gas, electric, air), mason tender, mortar mixer, sheeting and shoring man, surface grinder man, power buggy or power wheelbarrow	5.905	.45	.20		.02	
GROUP 3						
Form setter, bottom man, welder helper (pipeline), concrete saw man, cutting with burning torch, pipe layer, hand spiker (railroad), car pusher (without air), underground man (working in sewer and waterline, cleaning, repairing and reconditioning), tunnel laborer (without air) and caisson, cofferdam (below 25 feet deep), air track and wagon drill	5.98	.45	.20		.02	
GROUP 4						
Blaster and powder man, muckers, wrencher (mechanical joints and utility pipeline), yarner, top lander	6.13	.45	.20		.02	
GROUP 5						
Curb setter and cutter, miner (without air), concrete crew in tunnels utility pipeline tapper, gunnite nozzle man, waterline caulker	6.43	.45	.20		.02	

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Ohio - 1 - PEO 1 of 2

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS:						
CLASS I						
Air compressor on steel erection, boiler operator on compressor or generator when mounted on a rig, cableways, combination concrete mixer and tower, concrete plans (over 4 yd. capacity), concrete pumps, cranes (all types, including A frames, boom trucks, cherry pickers), derricks, draglines, dredge (dipper, clam or suction), elevating grader or euclid loader, floating equipment (all types), helicopter crew (operator-hoist or winch), hoes (all types), hoisting engi engines, hoisting engines on shaft or tunnel work, industrial-type tractor, jet engine dryer (D8 or D9) diesel tractor, locomotives (standard gauge), maintenance operator Class A, mixer, paving (single or double drum), mucking machines, multiple scraper, piledriving machines (all types), power shovels, Quad 9 (double pusher), refrigerating machine (freezer operation), rotary drill on caisson work, slip-form paver, survey crew party chief, tower derricks, tree shredder, trench machines (over 24 " wide), truck mounted concrete pumps, tug boat, tunnel machine, wheel excavator	$6.81	.38	.65		.09	
CLASS II						
Asphalt paver, automatic subgrade machine, self-propelled (CMI type), bulldozers, endloader, kolman loader (production type - dirt), lead grease man, maintenance operator Class B, power grader, power scoops and scrapers, push cat, trench machines (24" wide and under	6.74	.38	.65		.09	
CLASS III						
Air compressors on tunnel work (low pressure), asphalt plant engineer, locomotive (narrow gauge), mixers, concrete (more than one bag capacity), mixers, one bag capacity (side loader), power boilers over 15 lb. pressure, pump operator installing and operating well points, pumps (4" and over discharge), rollers - asphalt, utility operator (small equipment), welding machines and generators	6.43	.38	.65		.09	

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POWER EQUIPMENT OPERATORS: (CONTD)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
CLASS IV						
Back fillers, bar, joint and mesh installing machines, batch plant, bull floats, burlap and curing machines, compressors (portable, sewer, heavy and highway), concrete plant (capacity 4 yd. and under), concrete saw (multiple), conveyors (highway), crushers, deckhand, drill highway (with integral power), farm-type tractors with attachments (highway), finishing machines, fireman, floating equipment (all types), fork lift (highway), form trenchers, hydro seeders, plant mixers, post mixers, post hole digger (power auger), power brush burner, power form handling equipment, road widening trencher, rollers (brick, grade, macamdam), self-propelled power spreaders, self-propelled power subgraders, steam fireman, survey instrument man, tractor(pulling sheepsfoot roller or grader), vibratory compactors (with integral power)	$6.16	.38	.65		.09	
CLASS V						
Drum fireman (asphalt plant), helper, inboard-outboard motor boat-launch, oil heaters (asphalt plant), oilers, power driven heaters, pumps (under 4" discharge), signalmen, survey rodmen or chainmen, tire repairmen	5.48	.38	.65		.09	

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HEAVY & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHE
TRUCK DRIVERS						
4-wheel service trucks, 4-wheel dump trucks	$5.41	a $6.00				
Batch trucks, oil distributors, asphalt distributors	5.41	a $6.00				
Tandem trucks	5.46	a $6.00				
Tractor-trailer combinations: Semitractor trucks, pole trailers, readymix trucks, fuel trucks	5.51	a $6.00				
Asphalt-oil spray-bar man, when operated from cab	5.71	a $6.00				
Euclid wagons, Euclid end-dumps, low-boys, heavy duty equipment over 12 cu. yds., capacity (irrespective of load carried) when used exclusively for transportation, truck mechanics	5.88	a $6.00				
All trucks five axle and over	5.61	a $6.00				

FOOTNOTES:

a. Per week per employee.

SUPERSEDEAS DECISION

STATE: OHIO
COUNTY: MAHONING
DECISION NUMBER: AP-42
DATE: Date of Publication
Supersedes Decision No. AM-412 dated August 18, 1971 in 36 FR 15934
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$9.27	.30	.25			.02
Boilermakers	8.96	.50	.85		.01	
Bricklayers & Stonemasons (Township of Smith)	8.50	.30	.25			
Bricklayers & Stonemasons (Remainder od County)	7.90	.20	.15		.02	
Carpenters	7.21	.30	.50		.02	
Millwrights	7.91	.30	.50		.02	
Pildrivermen	7.91	.30	.50		.02	
Cement masons (building)	7.765	.30				
Cement masons (heavy & highway)	7.22	.42			.02	
Electricians:						
Milton - Township	9.38	.35	5%		1/10of1%	
Smith - Township	8.90	.25	1%		2/10of1%	
Remainder of County	9.07	.35	5%		3/10of1%	
Elevator constructors	8.45	.195	.20	2%+a&b	.005	
Elevator constructors' helpers	70% JR	.195	.20	2%+a&b	.005	
Elevator constructors' helpers (prob.)	50% JR					
Glaziers	8.57	.35	.20		.01	
Ironworkers, structural, ornamental & reinforcing	9.37	.35	.10		.03	
Laborers:						
Building & constructions laborers	6.43	.30	.10			
Jackhammer op. (all machine driven tools, electric, gas or air & gas buggies)	6.55	.30	.10			
Morter mixers (hand or machine)	6.55	.30	.10			
Trenching & shaft excavations (7' or more)	6.53	.30	.10			
Jackhammer op. in trench & shaft excavation (7' or more)	6.65	.30	.10			
Powder & dynamite	6.73	.30	.10			
Sewer pipelayers	6.73	.30	.10			
Asphalt paving	6.43	.30	.10			
Scrap iron burning	6.53	.30	.10			
Gunnite nozzlemen	7.04	.30	.10			
Gunnite scaffoldman (over 25')	6.63	.30	.10			
Gunnite, gunman	7.04	.30	.10			
Gunnite, mixerman	6.53	.30	.10			
Plasterers hod carriers & tenders	6.73	.20	.15			
Lanscape laborers	2.95	.07	.10		.005	
Lathers	4.725	.15	.10			
Lead burners	7.80	.30		c	.01	
Marble setters	7,815					
Marble setters' helpers	7.015					
Linemen & Cable splicer	9.34		1%			

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Painters:						
Commercial:						
Brush	8.215	.35	.30			
Panerhanging waterproof, & wall washing	8.215	.35	.30			
Dry wall taping	8.365	.35	.30			
Spray	8.515	.35	.30			
Industiral:						
Brush & Bridges	8.42	.35	.30			
Spray & sandblasting	8.92	.35	.30			
Plumbers	8.11	.30	.40	1.00	.02	
Plasterers	7.45	.30				
Roofers	7.52	.35	.50		.01	
Roofers' helpers	65%JR	.35	.40		.01	
Sheet metal workers	8.90	.20	.25		.01	
Soft floor layers	7.03	.30	.50		.02	
Sprinkler fitters	9.25	.30	.50		.05	
Steamfitters	8.11	.30	.40	1.00	.02	
Terrazzo workers	7.815					
Terrazzo workers' helpers	7.015					
Tile setters	7.815					
Tile setters' helpers	7.015					
Truck drivers:						
Dump, flat bottoms	4.735	.15				
Stake body and batch	4.735	.15				
Semi-dumps	4.955	.15				
Tandems and mixers	4.955	.15				
Euclid wagons & DW 10 caterpillar or equivalent & carry-alls	5.205	.15				

Welders - receive rate prescrived for craft performing operation to which welding is incidental.

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PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; H-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Nine paid holidays, A through F plus Washington's Birthday, Good Friday and Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

POWER EQUIPMENT OPERATORS

	Basic Hourly Rate	Fringe Benefit Payments: H & W	Pensions	Vacation	App. Tr.	Other
Class I Asphalt planer heater, Austin western & similar type, Back hoe, Batch plant-central mix, Batch plant-portable concrete, Berm builder -automatic, Backfiller with drag attachment, Boat-derrick, Boat-tug, Boring mach. when attached to tractor, Bullclam, Bulldozer, C.M.I. road builder and similar types, Cable placer & layer, Carrier-straddle, Carryall or scraper or scoop, Chicago boom, Compactor with blade attached, Concrete spreader finisher combination, Crane, Crane-stationary or climbing, Crane-electric overhead, Crane-side boom, Crane-truck, Crane-tower, Derrick-boom, Derrick-car, Diggers-wheel (not trencher or road widener), Double nine, Drag line, Dredge, Drill-Kenny or similar type, Electromatic, Fork lift, Frankie pile, Gradall, Grader-power, Gurry, Gurry-self propelled, High lift, Hoist-monorail, Hoist-stationary & mobile tractor, Hoist-2 or 3 drum, Jackall, Jumbo mach., Kocal or Kuhlman, Land-seagoing vehicle, Loader-Elevating, Loader-front end, Locomotive, Mechanic as welder, Metro clip harvester w/boom, Mucking machine, Paver-asphalt finishing machine, Paver-road concrete, Paver-slip form, Place crete mach, Post driver, Power driven hydraulic pumps and jacks, Pump crete machine, Regulator-ballast, Rigs-drilling, Shovel, Spikemaster, Stonecrusher, Tie puller & loader, Tie tamper, Tractor-double boom, Tractor w/attachments, Trucks-boom, Truck-tire-assigned to job, Trench machine, Tunnel machine (Mark 21 Jawa or similar), Whiley	$8.07	.35	.50		.10
Class II Asphalt plant, Bending machine, Boring machine, Chip harvester w/o boom, Cleaning Mach.-pipeline type, Coating Mach.-pipeline type, Concrete belt placer, Concrete finisher, Concrete planer or asphalt, Concrete spreader, Elevator, Fork lift-home Bldg. only, Fork lift walk behind, Form line machine, Grease truck operator, Grout pump, Gunnite machine, Huck bolting Mach., Hydraulic scaffold, Paving breaker, Pipe dream, Pot fireman, Power broom, Refrigeration plant, Sasgen derrick, Seeding Mach., Self-propelled mobile vibrator compactor or roller, Hoist-single drum with or without tower, Soil stabilizer (pump type), Spray cure Mach.-self propelled, Straw blower Mach., Sub-grader, Tube finisher or broom C.M.I. or similar type, Tugger Hoist	7.68	.35	.50		.10

	Basic Hourly Rate	Fringe Benefit Payments: H & W	Pensions	Vacation	App. Tr.	Other
Class III Batch plant-job related, Boiler operator, Compressor (125 CFM or over), Curb builder (self propelled), Generator-steam, Jack-hydraulic-power driven, Mixer-concrete, Mulching Mach., Pin puller, Pulverizer, Pump, Road finishing mach. (pull type), Roller, Saw-concrete-self propelled-Hwy. work, Signal man, Spray cure Mach.-motor powered, Spreader (side deliver shoulder attachment), Tractor, Trencher-form, Water blaster	7.47	.35	.50		.10
Class IV Brake man, Compressor under 125 CFM, Conveyor, Conveyor 12 feet or under other than servicing brick layers, Deck hand, Drill wagon, Fireman, Generator sets, Heaters-portable power (2 to 5), Helper-mechanic, Jacks Hydraulic (railroad), Ladavator, Roller (walk behind 1 ton or over), Steam jenny, Syphons, Vibrator-gasoline, Welding machines (2) (fuel burning)	7.11	.35	.50		.10
Oiler	7.00	.35	.50		.10
Rigs-pile driving or cassion type	8.34	.35	.50		.10

HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
LABORERS: GROUP 1 Laborers (construction), plant laborers or yardmen, righ-of-way laborer, landscape laborer, utility man or handyman, joint setter, flagman, carpenter helper, waterproofing laborer, slurry seal, seal coating, surface treatment or road mix laborer, riprap laborer and grouter, asphalt laborer, dump man (batch trucks), guardrail and fence installers, mesh handlers and placers, concrete curing applicator, scaffold erector	$5.78	.45	.20		.02	
GROUP 2 Asphalt raker, concrete puddler, kettle man (pipeline), all machine driven tools (gas, electric, air), mason tender, mortar mixer, sheeting and shoring man, surface grinder man, power buggy or power wheelbarrow	5.905	.45	.20		.02	
GROUP 3 Form setter, bottom man, welder helper (pipeline), concrete saw man, cutting with burning torch, pipe layer, hand spiker (railroad), car pusher (without air), underground man (working in sewer and waterline, cleaning, repairing and reconditioning), tunnel laborer (without air) and caisson, cofferdam (below 25 feet deep), air track and wagon drill	5.98	.45	.20		.02	
GROUP 4 Blaster and powder man, muckers, wrencher (mechanical joints and utility pipeline), yarner, top lander	6.13	.45	.20		.02	
GROUP 5 Curb setter and cutter, miner (without air), concrete crew in tunnels utility pipeline tapper, gunnite nozzle man, waterline caulker	6.43	.45	.20		.02	

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CLASSIFICATIONS	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H&W	PENSIONS	VACATION	APPR. TR.	OTHR
HEAVY & HIGHWAY CONSTRUCTION						
TRUCK DRIVERS						
4-wheel service trucks, 4-wheel dump trucks	$5.41	a $6.00				
Batch trucks, oil distributors, asphalt distributors	5.41	a $6.00				
Tandem trucks	5.46	a $6.00				
Tractor-trailer combinations: Semitractor trucks, pole trailers, readymix trucks, fuel trucks	5.51	a $6.00				
Asphalt-oil spray-bar man, when operated alone	5.71	a $6.00				
Euclid (rigid frame) Euclid end-dumps, loaders, heavy duty equipment over 12 cu. yds., capacity (irrespective of load carried) when used exclusively for transportation, truck mechanics	5.88	a $6.00				
All trucks five axle and over	5.61	a $6.00				

FOOTNOTES:

a. Per week per employee.

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Classifications	Basic Hourly Rates	Fringe Benefits Payments H&W	Pensions	Vacation	App. Tr.	Others
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E- Thanksgiving Day; F- Christmas Day.

FOOTNOTES:

a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Bacation Pay Credit for employee who has worked in business less than 5 years.

c. Nine paid holidays, A through F plus Washington's Birthday, Good Friday and Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

SUPERSEDEAS DECISION

STATE: OHIO
DECISION NUMBER: AP-43
Supersedes Decision No. AP-413 dated August 18, 1971 in 36 FR 15930
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

COUNTY: MUSKINGUM
DATE: Date of Publication

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Classifications	Basic Hourly Rates	Fringe Benefits Payments H&W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$9.77	.25	.10		.03	
Boilermakers	7.75	.30	.60		.01	
Bricklayers' helpers	7.70	.30	.60		.01	
Bricklayers	8.20	.45				
Stonemasons	8.20	.45				
Carpenters	7.65	.20	.20			
Millwrights	8.21	.20	.20			
Piledrivermen	8.21	.20	.20			
Cement masons (building)	7.65	.40	.20		.01	
Cement masons (heavy & highway)	6.69	.42			.02	
Electricians:						
Jobs 1,500 hrs. or less	7.40	.13	1%		.02	
Jobs over 1,500 hrs.	7.70	.13	1%		.02	
Elevator constructors	8.82	.195	.20	2%+a&b	.005	
Elevator constructors' helpers	70%JR	.195	.20	2%+a&b	.005	
Elevator constructors' helpers (Prob.)	50%JR					
Ironworkers, structural & ornamental	8.80	.40	.65		.01	
Ironworkers, reinforcing	8.80	.40	.65		.01	
Lathers	8.15		.10		.01	
Leadburners	7.80	.30		c	.01	
Line Construction:						
Lineman	7.55	.13	1%			
Truck driver	5.15	.13	1%			
Groundman	4.90	.13	1%			
Equipment operator	7.55	.13	1%			
Marble setters	8.20	.45				
Painters:						
Brush	4.00					
Spray	4.25					
Brush-heavy & highway	4.75					
Plasterers	7.75	.25	.10		.01	
Pipefitters & Steamfitters	8.20	.35			.02	
Roofers	7.89	.38	.20			
Sheet metal workers	8.13	.36	.30		.04	
Soft floor layers	7.65	.20	.20			
Sprinkler fitters	9.25	.30	.50		.05	
Terrazzo workers	8.20	.45				
Tile setters	8.20	.45				
Truck Drivers:						
Dumps, water wagons, flats, pickups	2.95					
Semi & stake trucks & tandems	3.20					
Euclids, darts, tourarockers, tank asphalt spreaders, extra long trailers	3.40					

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BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
LABORERS:						
Brick droppers, lock tenders, miners (tunnel & caisson), powdermen or blasters	$6.38	.35	.15		.02	
Air & machine driven tool operator, asphalt plant affrementer operator, asphalt plant mixer men, asphalt rakers, tampers, forkers, shoveler, brick slingers, car pushers & tunnel laborers, caulkers, yarners & wrenchmen, cement handlers, concrete puddlers (behind mixers), curb cutters & setters, cutting with burning torches, dumpmen (batch trucks), hand spilers op., jackhammer op., muckers (tunnels & caissons), mason tenders, mortar mixers, pipelayers, proportioning plant op., pump men (under 4"), road form setters, sewer bottom men, stone mason tenders, sheeting & shoring men, vibrator op., plasterers' tenders.	6.23	.35	.15		.02	
Planters (landscape), tree trimmers, plumbers' helpers, carpenters' tenders, building & construction laborers	6.13	.35	.15		.02	

BUILDING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
POWER EQUIPMENT OPERATORS:						
A-Frames, air compressor on steel erection, all rotary drills used on caisson work for foundations and substructure work, boiler operator or compressor operator when compressor or boiler is mounted on crane (piggy back operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, elevating grader or euclid loader, floating equipment, gradalls, helicopter operater hoisting building materials, helicopter winch operator hoisting builders materials, hoes (all ypes), hoisting engines (two or more drums), lift slab or panel jack operators, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip form pavers, straddle carriers (building construction on site), tower derricks, trench machines (over 24" wide)	$8.63	.38	.65		.09	
Asphalt paver, bulldozer, CMI type equipment, endloaders, kohlman type loaders (dirt loading), mucking machines, power grader, power scoops, power scrapers, push cats	8.56	.38	.65		.09	
Air compressor (presurizing shafts or tunnels), all asphalt rollers, fork llifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs., pressure), pump operator installing or operating well points or other type of dewatering system, pumps (4" & over discharge), submersible pumps (4" & over discharge), trenchers (24" and under)	8.41	.38	.65		.09	

POWER EQUIPMENT OPERATORS:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
Compressors on building construction, conveyors (building material), gunite machines, mixers (capacity more than one bag), mixers (one bag capacity side loader), post driver, post driver, post hole digger, pavement breaker (hydraulic or cable), road widening trencher, rollers welder operator	7.75	.38	.65		.09	
Backfillers & tampers, batch plant, bar & joint installing machine, bull floats, burlap & curing machines, clefplanes, concrete spreading machines, crushers, drum fireman (asphalt), farm type tractor (pulling attachments), finishing machines form trenchers, high pressure pumps (over ½" discharge), hydro seeders, self propelled power spreaders, self propelled sub-grader, tire repairman, tractors pulling sheep foot roller or grader, vibratory compactors (with integral power)	7.44	.38	.65		.09	
Oiler, helper, signalman, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs. pressure), pumps (under 6" discharge), submersible pumps (under 6" discharge)	6.82	.38	.65		.09	

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
LABORERS:						
GROUP 1						
Laborers (construction), plant laborers or yardmen, righ-of-way laborer, landscape laborer, utility man or handyman, joint setter, flagman, carpenter helper, waterproofing laborer, slurry seal, seal coating, surface treatment or road mix laborer, riprap laborer and grouter, asphalt laborer, dump man (batch trucks), guardrail and fence installers, mesh handlers and placers, concrete curing applicator, scaffold erector	$5.33	.45	.20		.02	
GROUP 2						
Asphalt raker, concrete puddler, kettle man (pipeline), all machine driven tools (gas, electric, air), mason tender, mortar mixer, sheeting and shoring man, surface grinder man, power buggy or power wheelbarrow	5.455	.45	.20		.02	
GROUP 3						
Form setter, bottom man, welder helper (pipeline), concrete saw man, cutting with burning torch, pipe layer, hand spiker (railroad), car pusher (without air), underground man (working in sewer and waterline, cleaning, repairing and reconditioning), tunnel laborer (without air) and caisson, cofferdam (below 25 feet deep), air track and wagon drill	5.53	.45	.20		.02	
GROUP 4						
Blaster and powder man, muckers, wrencher (mechanical joints and utility pipeline), yarner, top lander	5.68	.45	.20		.02	
GROUP 5						
Curb setter and cutter, miner (without air), concrete crew in tunnels utility pipeline tapper, gunnite nozzle man, waterline caulker	5.98	.45	.20		.02	

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HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS:						
CLASS I						
Air compressor on steel erection, boiler operator on compressor or generator when mounted on a rig, cableways, combination concrete mixer and tower, concrete plans (over 4 yd. capacity), concrete pumps, cranes (all types, including A frames, boom trucks, cherry pickers), derricks, draglines, dredge (dipper, clam or suction), elevating grader or euclid loader, floating equipment (all types), helicopter crew (operator-hoist or winch), hoes (all types), hoisting engi engines, hoisting engines on shaft or tunnel work, industrial-type tractor, jet engine dryer (D8 or D9) diesel tractor, locomotives (standard gauge), maintenance operator Class A, mixer, paving (single or double drum), mucking machines, multiple scraper, piledriving machines (all types), power shovels, Quad 9 (double pusher), refrigerating machine (freezer operation), rotary drill on caisson work, slip-form paver, survey crew party chief, tower derricks, tree shredder, trench machines (over 24 " wide), truck mounted concrete pumps, tug boat, tunnel machine, wheel excavator	$6.81	.38	.65		.09	
CLASS II						
Asphalt paver, automatic subgrade machine, self-propelled (CMI type), bulldozers, endloader, kolman loader (production type - dirt), lead grease man, maintenance operator Class B, power grader, power scoops and scrapers, push cat, trench machines (24" wide and under	6.74	.38	.65		.09	
CLASS III						
Air compressors on tunnel work (low pressure), asphalt plant engineer, locomotive (narrow gauge), mixers, concrete (more than one bag capacity), mixers, one bag capacity (side loader), power boilers over 15 lb. pressure, pump operator installing and operating well points, pumps (4" and over discharge), rollers - asphalt, utility operator (small equipment), welding machines and generators	6.43	.38	.65		.09	

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
POWER EQUIPMENT OPERATORS: (CONTD)						
CLASS IV						
Back fillers, bar, joint and mesh installing machines, batch plant, bull floats, burlap and curing machines, compressors (portable, sewer, heavy and highway), concrete plant (capacity 4 yd. and under), concrete saw (multiple), conveyors (highway), crushers, deckhand, drill highway (with integral power), farm-type tractors with attachments (highway), finishing machines, fireman, floating equipment (all types), fork lift (highway), form trenchers, hydro seeders, plant mixers, post mixers, post hole digger (power auger), power brush burner, power form handling equipment, road widening trencher, rollers (brick, grade, macamdam), self-propelled power spreaders, self-propelled power subgraders, steam fireman, survey instrument man, tractor(pulling sheepfoot roller or grader), vibratory compactors (with integral power)	$6.16	.38	.65		.09	
CLASS V						
Drum fireman (asphalt plant), helper, inboard-outboard motor boat-launch, oil heaters (asphalt plant), oilers, power driven heaters, pumps (under 4" discharge), signalmen, survey rodmen or chainmen, tire repairmen	5.48	.38	.65		.09	

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HEAVY & HIGHWAY CONSTRUCTION

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
TRUCK DRIVERS						
4-wheel service trucks, 4-wheel dump trucks	$5.41	a $6.00				
Batch trucks, oil distributors, asphalt distributors	5.41	a $6.00				
Tandem trucks	5.46	a $6.00				
Tractor-trailer combinations: Semitractor trucks, pole trailers, readymix trucks, fuel trucks	5.51	a $6.00				
Asphalt-oil spray-bar man, when operated from cab	5.71	a $6.00				
Euclid wagons, Euclid end-dumps, lowboys, heavy duty equipment over 12 cu. yds., capacity (irrespective of load carried) when used exclusively for transportation, truck mechanics	5.88	a $6.00				
All trucks five axle and over	5.61	a $6.00				

FOOTNOTES:

a. Per week per employee.

SUPERSEDEAS DECISION

STATE: OHIO
DECISION NUMBER: AP-44
Supersedes Decision No. AM-414 dated August 18, 1971 in 36 FR 15943
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

COUNTY: PORTAGE
DATE: Date of Publication

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Asbestos workers	$9.075	.30	.80		.08	
Boilermakers	8.96	.50	.85		.01	
Bricklayers	9.39	.45	.20		.01	
Carpenters	8.79	.30	.30			
Millwrights	9.00	.35	.55		.01	
Piledrivermen	9.00	.35	.55		.01	
Cement masons (building)	8.00	.30	.35		.015	
Cement masons (heavy & highway)	7.22	.42			.02	
Electricians - Townships of Charleston Edinburg, Freedom, Hiram, Nelson, Palmyra, Paris & Windham	9.38	.35	5%		1/10of1%	
Electricians & Linemen (Remainder of County)	9.10	.27	1%+.50		1/10of1%	
Elevator constructors	8.135	.17	.185	1%+a&b	.005	
Elevator constructers' helpers	70%JR	.17	.185	1%+a&b	.005	
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	7.81	.62	.38		.01	
Ironworkers:						
Ravena Ordance Depot						
Structural, Reinforcing & Ornamental	9.37	.35	.10		.10	
Remainder of County						
Structural, Reinforcing & Ornamental	8.20	.50	.80	.90	.01	
Lathers	8.05	.30	.15		.01	
Lead burners	7.80	.30		c	.01	
Line Construction:						
Linemen - Townships of Charleston, Edinburg, Freedom, Hiram, Nelson, Palmyra, Paris & Windham	9.85		1%			
Marble setters	7.60	.42				
Marble setters' helpers	7.10	.42				
Painters:						
West 1/3 of County:						
Brush	7.64	.30	.20			
Structural steel	7.89	.30	.20			
Spray	8.14	.30	.20			
North of East West Turnpike:						
Brush	8.71	.37	.34			
Structural steel	9.41	.37	.34			
Ravena & Windham Townships:						
Brush	7.865	.35	.30			
Scructural steel	8.08	.35	.30			
Spray	8.165	.35	.30			

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Plasterers	$7.91	.30	.36		.01	
Plumbers & steamfitters	9.25	.54	.50		.04	
Roofers	8.34	.40	.30		.02	
Roofers' helpers:						
1st year	60%JR	.40	.30		.02	
2nd year	70%JR	.40	.30		.02	
3rd year	80%JR	.40	.30		.02	
Sheet metal workers	8.60	.45	.45		.02	
Soft floor layers	8.50	.20	.29			
Sprinkler fitters	8.50	.25	.40		.05	
Stonemasons	9.39	.45	.20		.01	
Terrazzo workers	7.60	.42				
Terrazzo workers' helpers	7.10	.42				
Tile setters	7.60	.42				
Tile setters' helpers	7.10	.42				

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. six paid holidays, A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. Nine paid holidays, A through F, plus Washington's Brithday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular schedule work days immediately preceding and following the holiday.

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS: H & W	PENSIONS	VACATION	APP. TR.	OTH
LABORERS						
BUILDING CONSTRUCTION						
Gunite nozzel man, tunnel miner, water line caulker, dynamite man, structural precast welder & layout	$6.74	.30				
Barco type tamper, pipe layer, rock driller, mucker - tunnel, burner, form setter, power saw, jack hammer, bottom man & hod carrier	6.44	.30				
Air driven boring machine, tamper operator, asphalt raker, paving bed maker, concrete puddler on highway, building and heavy work, concrete batch dumper on highway work, material mixer, wire mesh handler, hook-up man on demolition work, scaffold erector, structural precast erector, power tools - air, gas or electric	6.39	.30				
Construction laborer, welder's helper, carpenter's helper, landscape laborer and mason tender	6.24	.30				
Plasterers' laborers:						
Laborer	6.24	.30				
Hod carrier, scaffold erector & mixer	6.44	.30				
Pump machine operator	6.54	.30				

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BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
TRUCK DRIVERS:						
Trucks under 1-1/2 tons	$4.705	.14				
Dump trucks (over 1-1/2 tons), water wagons, stake body trucks, fuel trucks	4.805	.14				
Semi-, ready-mix trucks, tanden drive trucks, semi-water wagons	4.855	.14				
Semi-pole double hook-up tractor trailers	5.15	.14				

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BUILDING CONSTRUCTION

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
A-frames, air compressor on steel erection, all rotary drills used on caisson work for foundation and substructure work, boiler operator or compressor operator when compressor or boiler is mounted on crane (piggyback operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types) draglines, elevating grader or euclid loader, floating equipment, gradall, helicopter oper. (Hoisting builders materials), Helicopter winch oper. (hoisting builders materials), hoes, (all types), hoisting engines (two or more drums), lift slab or panel jack oper., locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shoveis, side booms, slip form pavers, straddle carriers (building construction on site), tower derricks, trench machines (over 24" wide)	$8.98	.38	.65		.09	
Asphalt paver, buildozer, CMI type equipment, endloaders, kohlman type loaders (dirt loading), mucking machines, power grader, power scoops, power scrapers, push cats	8.83	.38	.65		.09	
Air compressor, pressurizing shafts or tunnels, all asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs., pressure), pump operator installing or operating well points or other type of dewatering system, pumps (4" and over discharge), submersible pumps (4" and over discharge) trenches (24" and under)	8.68	.38	.65		.09	

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POWER EQUIPMENT OPERATORS: Cont'd	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Compressors on building construction, conveyors building material, gunite machines, mixers (exp., more than one bag), mixers, (one bag cap., side loader), post driver, post hole digger, pavement breaker (hydraulic or cable), road widening trencher, rollers, welder operator	8.00	.38	.65		.09	
Backfillers and tamper, batch plant, bar & joint installing machines, bull floats, burlap and curing machines, clefplanes, concrete spreading machine, crushers, drum fireman (asphalt), farm type tractors, pulling attachments, finishing machines, form trenchers, high pressure pumps (over ½" discharge) hydro seeders, self propelled power spreader, self propelled sub-grader, tire repairman, tractor (pulling sheep foot roller or grader), vibratory compactors (with integral power)	7.69	.38	.65		.09	
Oiler, helper, signalman, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs., pressure), pumps (under 4" discharge submersible pumps (under 4" discharge)	7.06	.38	.65		.09	

HEAVY & HIGHWAY CONSTRUCTION

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Ohio - 2-LAB J

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth.
GROUP 1						
Laborers (construction), plant laborers or yardmen, righ-of-way laborer, landscape laborer, utility man or handyman, joint setter, flagman, carpenter helper, waterproofing laborer, slurry seal, seal coating, surface treatment or road mix laborer, riprap laborer and grouter, asphalt laborer, dump man (batch trucks), guardrail and fence installers, mesh handlers and placers, concrete curing applicator, scaffold erector	$5.96	.45	.20		.02	
GROUP 2						
Asphalt raker, concrete puddler, kettle man (pipeline), all machine driven tools (gas, electric, air), mason tender, mortar mixer, sheeting and shoring man, surface grinder man, power buggy or power wheelbarrow	6.085	.45	.20		.02	
GROUP 3						
Form setter, bottom man, welder helper (pipeline), concrete saw man, cutting with burning torch, pipe layer, hand spiker (railroad), car pusher (without air), underground man (working in sewer and waterline, cleaning, repairing and reconditioning), tunnel laborer (without air) and caisson, cofferdam (below 25 feet deep), air track and wagon drill	6.16	.45	.20		.02	
GROUP 4						
Blaster and powder man, muckers, wrencher (mechanical joints end utility pipeline), yarner, top lander	6.31	.45	.20		.02	
GROUP 5						
Curb setter and cutter, miner (without air), concrete crew in tunnels utility pipeline tapper, gunnite nozzle man, waterline caulker	6.61	.45	.20		.02	

HEAVY & HIGHWAY CONSTRUCTION

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POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
CLASS I						
Air compressor on steel erection, boiler operator on compressor or generator when mounted on a rig, cableways, combination concrete mixer and tower, concrete plans (over 4 yd. capacity), concrete pumps, cranes (all types, including A frames, boom trucks, cherry pickers), derricks, draglines, dredge (dipper, clam or suction), elevating grader or euclid loader, floating equipment (all types), helicopter crew (operator-hoist or winch), hoes (all types), hoisting engi engines, hoisting engines on shaft or tunnel work, industrial-type tractor, jet engine dryer (D8 or D9) diesel tractor, locomotives (standard gauge), maintenance operator Class A, mixer, paving (single or double drum), mucking machines, multiple scraper, piledriving machines (all types), power shovels, Quad 9 (double pusher), refrigerating machine (freezer operation), rotary drill on caisson work, slip-form paver, survey crew party chief, tower derricks, tree shredder, trench machines (over 24" wide), truck mounted concrete pumps, tug boat, tunnel machine, wheel excavator	$6.81	.38	.65		.09	
CLASS II						
Asphalt paver, automatic subgrade machine, self-propelled (CMI type), bulldozers, endloader, kolman loader (production type - dirt), lead grease man, maintenance operator Class B, power grader, power scoops and scrapers, push cat, trench machines (24" wide and under	6.74	.38	.65		.09	
CLASS III						
Air compressors on tunnel work (low pressure), asphalt plant engineer, locomotive (narrow gauge), mixers, concrete (more than one bag capacity), mixers, one bag capacity (side loader), power boilers over 15 lb. pressure, pump operator installing and operating well points, pumps (4" and over discharge), rollers - asphalt, utility operator (small equipment), welding machines and generators	6.43	.38	.65		.09	

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POWER EQUIPMENT OPERATORS: (CONTD)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Othe
CLASS IV						
Back fillers, bar, joint and mesh installing machines, batch plant, bull floats, burlap and curing machines, compressors (portable, sewer, heavy and highway), concrete plant (capacity 4 yd. and under), concrete saw (multiple), conveyors (highway), crushers, deckhand, drill highway (with integral power), farm-type tractors with attachments (highway), finishing machines, fireman, floating equipment (all types), fork lift (highway), form trenchers, hydro seeders, plant mixers, post mixers, post hole digger (power auger), power brush burner, power form handling equipment, road widening trencher, rollers (brick, grade, macamdam), self-propelled power spreaders, self-propelled power subgraders, steam (fireman, survey instrument man, tractor(pulling sheepfoot roller or grader), vibratory compactors (with integral power)	$6.16	.38	.65		.09	
CLASS V						
Drum fireman (asphalt plant), helper, inboard-outboard motor boat-launch, oil heaters (asphalt plant), oilers, power driven heaters, pumps (under 4" discharge), signalmen, survey rodmen or chainmen, tire repairmen	5.48	.38	.65		.09	

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HEAVY & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHE
TRUCK DRIVERS						
4-wheel service trucks, 4-wheel dump trucks	$5.41	a $6.00				
Batch trucks, oil distributors, asphalt distributors	5.41	a $6.00				
Tandem trucks	5.46	a $6.00				
Tractor-trailer combinations: Semitractor trucks, pole trailers, readymix trucks, fuel trucks	5.51	a $6.00				
Asphalt-oil spray-bar man, when operated from cab	5.71	a $6.00				
Euclid wagons, Euclid end-dumps, low-boys, heavy duty equipment over 12 cu. yds., capacity (irrespective of load carried) when used exclusively for transportation, truck mechanics	5.88	a $6.00				
All trucks five axle and over	5.61	a $6.00				

FOOTNOTES:

a. Per week per employee.

SUPERSEDEAS DECISION

STATE: OHIO
DECISION NUMBER: AP-45
Supersedes Decision No. AM-415 dated August 18, 1971 in 36 FR 15948
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

COUNTY: STARK
DATE: Date of Publication

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$9.075	.30	.80		.08	
Boilermakers	8.96	.50	.85		.01	
Bricklayers & Stonemasons	8.60	.30	.25			
Carpenters	7.525	.30	.20			
Millwrights	7.91	.30	.20		.02	
Piledrivermen	7.91	.30	.20		.02	
Cement Masons:						
Building	8.00	.30	.35		.015	
Heavy & Highway	7.22	.42			.02	
Electricians	8.90	.25	1%		.2%	
Elevator constructors	8.135	.17	.185	1%a&b	.005	
Elevator constructors' helpers	70%JR	.17	.185	1%a&b	.005	
Elevator constructors' helpers (prob)	50%JR					
Glaziers	6.12	.19				
Ironworkers, structural & ornamental	8.65	.40	.40		.02	
Ironworkers, reinforcing	8.65	.40	.40		.02	
Laborers: (East of Woodlawn Ave.)						
Laborers	5.75	.35	.15			
Air tool op. (jackhammer, vibrator)	5.90	.35	.15			
Mason tenders	5.75	.35	.15			
Mortar mixers	5.90	.35	.15			
Pipelayers, sewer	6.00	.35	.15			
Plasterers' tenders & Hod carriers	5.95	.35	.15			
Barco tampers	6.00	.35	.15			
Gunnite nozzlemen	6.20	.35	.15			
All power-driven tools	5.90	.35	.15			
Sewer diggers 6 ft. deep & under	5.75	.35	.15			
Sewer diggers 6 ft. deep & over	5.90	.35	.15			
Laborers: (West of Woodlawn Ave.)						
Hod carriers & plasterers' Tenders	6.38	.35	.15		.02	
Mortar mixer (hand or machine), mason tender, scaffold builder, all power driven tools, jackhammer, air drills, sewer digger over 6' deep	6.33	.35	.15		.02	
Laborer unskilled, sewer-gas conduit, sewers, water sewer digger (6'deep)	6.18	.35	.15		.02	
Gunnite nozzlemen	6.63	.35	.15		.02	
Sewer pipe layer, barco tamper	6.43	.35	.15		.02	
Lathers	7.50					
Lead burners	7.80	.30		c	.01	
Line Construction:						
Linemen	8.90	.25	1%		of 1%	
Line equipment operators	8.90	.25	1%		of 1%	

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Truck drivers	$6.25	.25	1%		of 1%	
Groundmen over 1 yr.	5.80	.25	1%		of 1%	
Groundmen under 1 yr.	5.35	.25	1%		of 1%	
Marble Setters	7.58	.40	.25			
Painters:						
Brush	6.12	.30	.20		.02	
Paperhangers	6.22	.30	.20		.02	
Spray	6.42	.30	.20		.02	
Industrial:						
Brush & roller	6.42	.30	.20		.02	
Spray	6.72	.30	.20		.02	
Sandblasting & bridge	6.92	.30	.20		.02	
Structural steel	7.14	.30	.20		.02	
Plasterers	7.91	.30	.34		.01	
Plumbers & Steamfitters:						
Canton & vicinity	8.57	.25	.20	f	.02	
Massillion & vicinity	8.37	.40	.25			
Roofers	8.34	.40	.30		.02	
Roofers' helpers:						
1st year	60%JR	.40	.30		.02	
2nd year	70%JR	.40	.30		.02	
3rd year	80%JR	.40	.30		.02	
Sheet metal workers	8.60	.45	.45		.02	
Soft floor layers	6.58	.30	.20	g		
Sprinkler fitters	9.25	.30	.50		.05	
Terrazzo workers	7.53	.40	.25			
Terrazzo workers' helpers	6.73	.40	.25			
Terrazzo workers' grinders	7.03	.40	.25			
Tile Setters	7.43	.40	.25			
Tile setters helpers	6.63	.40	.25			
Truck drivers:						
Straight and semi	4.75	e6.00				
Double trucks	4.85	36.00				
Equipment movers	4.85	e6.00				
Helpers	4.65	e6.00				
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS: Where Applicable
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in the business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in the business less than 5 years.

c. Nine paid holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

d. Per year

e. Per week, per employee.

f. One paid holiday: Labor Day, providing the employee has worked 5 consecutive days before and after the holiday.

g. One year of service, 1 weeks paid vacation; 2 or more years of service, 2 weeks paid vacation.

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BUILDING CONSTRUCTION

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
A-frames, air compressor on steel erection, all rotary drills used on caisson work for foundation and substructure work, boiler operator or compressor operator when compressor or boiler is mounted on crane (piggyback operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types) draglines, elevating grader or euclid loader, floating equipment, gradall, helicopter oper. (hoisting builders materials), Helicopter winch oper. (hoisting builders materials), hoes, (all types), hoisting engines (two or more drums), lift slab or panel jack oper., locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip form pavers, straddle carriers (building construction on site), tower derricks, trench machines (over 24" wide)	$8.98	.38	.65		.09	
Asphalt paver, bulldozer, CMI type equipment, endloaders, kohlman type loaders (dirt loading), mucking machines, power grader, power scoops, power scrapers, push cats	8.83	.38	.65		.09	
Air compressor, pressurizing shafts or tunnels, all asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs., pressure), pump operator installing or operating well points or other type of dewatering system, pumps (4" and over discharge), submergible pumps (4" and over discharge) trenches (24" and under)	8.68	.38	.65		.09	

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POWER EQUIPMENT OPERATORS: Cont'd	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Compressors on building construction, conveyors building material, gunite machines, mixers (cap., more than one bag), mixers, (one bag cap., side loader), post driver, post hole digger, pavement breaker (hydraulic or cable), road widening trencher, rollers, welder operator	8.00	.38	.65		.09	
Backfillers and tamper, batch plant, bar & joint installing machines, bull floats, burlap and curing machine, clefplanes, concrete spreading machine, crushers, drum fireman (asphalt), farm type tractors, pulling attachments, finishing machines, form trenchers, high pressure pumps (over 3" discharge) hydro seeders, self propelled power spreader, self propelled sub-grader, tire repairman, tractor (pulling sheep foot roller or grader), vibratory compactors (with integral power)	7.69	.38	.65		.09	
Oiler, helper, signalman, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs., pressure), pumps (under 4" discharge submersible pumps (umder 4" discharge)	7.06	.38	.65		.09	

Ohio - 3 - LAB J

HEAVY AND HIGHWAY CONSTRUCTION

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
GROUP 1						
Laborers (construction), plant laborers or yardmen, righ-of-way laborer, landscape laborer, utility man or handyman, joint setter, flagman, carpenter helper, waterproofing laborer, slurry seal, seal coating, surface treatment or read mix laborer, riprap laborer and grouter, asphalt laborer, dump man (batch trucks), guardrail and fence installers, mesh handlers and placers, concrete curing applicator, scaffold erector	$5.78	.45	.20		.02	
GROUP 2						
Asphalt raker, concrete puddler, kettle man (pipeline), all machine driven tools (gas, electric, air), mason tender, mortar mixer, sheeting and shoring man, surface grinder man, power buggy or power wheelbarrow	5.905	.45	.20		.02	
GROUP 3						
Form setter, bottom man, welder helper (pipeline), concrete saw man, cutting with burning torch, pipe layer, hand spiker (railroad), car pusher (without air), underground man (working in sewer and waterline, cleaning, repairing and reconditioning), tunnel laborer (without air) and caisson, cofferdam (below 25 feet deep), air track and wagon drill	5.98	.45	.20		.02	
GROUP 4						
Blaster and powder man, muckers, wrencher (mechanical joints and utility pipeline), yarner, top lander	6.13	.45	.20		.02	
GROUP 5						
Curb setter and cutter, miner (without air), concrete crew in tunnels utility pipeline tapper, gunnite nozzle man, waterline caulker	6.43	.45	.20		.02	

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HEAVY AND HIGHWAY CONSTRUCTION

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
CLASS I						
Air compresser on steel erection, boiler operator on compressor or generator when mounted on a rig, cableways, combination concrete mixer and tower, concrete plans (over 4 yd. capacity), concrete pumps, cranes (all types, including A frames, boom trucks, cherry pickers), derricks, draglines, dredge (dipper, clam or suction), elevating grader or euclid loader, floating equipment (all types), helicopter crew (operator-hoist or winch), hoes (all types), hoisting engi engines, hoisting engines on shaft or tunnel work, industrial-type tractor, jet engine dryer (D8 or D9) diesel tractor, locomotives (standard gauge), maintenance operator Class A, mixer, paving (single or double drum), mucking machines, multiple scraper, piledriving machines (all types), power shovels, Quad 9 (double pusher), refrigerating machine (freezer operation), rotary drill on caisson work, slip-form paver, survey crew party chief, tower derricks, tree shredder, trench machines (over 24" wide), truck mounted concrete pumps, tug boat, tunnel machine, wheel excavator	$6.81	.38	.65		.09	
CLASS II						
Asphalt paver, automatic subgrade machine, self-propelled (Oil type), bulldozers, endloader, kolman loader (production type - dirt), lead grease man, maintenance operator Class B, power grader, power scoops and scrapers, push cat, trench machines (24" wide and under	6.74	.38	.65		.09	
CLASS III						
Air compressors on tunnel work (low pressure), asphalt plant engineer, locomotive (narrow gauge), mixers, concrete (more than one bag capacity), mixers, one bag capacity (side loader), power boilers over 15 lb. pressure, pump operator installing and operating well points, pumps (4" and over discharge), rollers - asphalt, utility operator (small equipment), welding machines and generators	6.43	.38	.65		.09	

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POWER EQUIPMENT OPERATORS: (CONTD)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
CLASS IV						
Back fillers, bar, joint and mesh installing machines, batch plant, bull floats, burlap and curing machines, compressors (portable, sewer, heavy and highway), concrete plant (capacity 4 yd. and under), concrete saw (multiple), conveyors (highway), crushers, deckhand, drill highway (with integral power), farm-type tractors with attachments (highway), finishing machines, fireman, floating equipment (all types), fork lift (highway), form trenchers, hydro seeders, plant mixers, post mixers, post hole digger (power auger), power brush burner, power form handling equipment, road widening trencher, rollers (brick, grade, macadam), self-propelled power spreaders, self-propelled power subgraders, steam fireman, survey instrument man, tractor(pulling sheepfoot roller or grader), vibratory compactors (with integral power)	$6.16	.38	.65		.09	
CLASS V						
Drum fireman (asphalt plant), helper, inboard-outboard motor boat-launch, oil heaters (asphalt plant), oilers, power driven heaters, pumps (under 4" discharge), signalmen, survey rodmen or chainmen, tire repairmen	5.48	.38	.65		.09	

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HEAVY AND HIGHWAY CONSTRUCTION

TRUCK DRIVERS	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHER
4-wheel service trucks, 4-wheel dump trucks	$5.41	a $6.00				
Batch trucks, oil distributors, asphalt distributors	5.41	a $6.00				
Tandem trucks	5.46	a $6.00				
Tractor-trailer combinations: Semitractor trucks, pole trailers, readymix trucks, fuel trucks	5.51	a $6.00				
Asphalt-oil spray-bar man, when operated from cab	5.71	a $6.00				
Euclid wagons, Euclid end-dumps, lowboys, heavy duty equipment over 12 cu. yds., capacity (irrespective of load carried) when used exclusively for transportation, truck mechanics	5.88	a $6.00				
All trucks five axle and over	5.61	a $6.00				

FOOTNOTES:

a. Per week per employee.

SUPERSEDEAS DECISION

STATE: OHIO
COUNTY: SUMMIT
DECISION NUMBER: AP-46
DATE: Date of Publication
Supersedes Decision No. AH-416 dated August 11, 1971 in 36 FR15953
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Asbestos workers	$9.075	.30	.80		.08	
Boilermakers	8.96	.50	.85		.01	
Bricklayers & Stonemasons	9.38	.45	.20		.02	
Bricklayers, sewer	9.63	.45	.20		.02	
Carpenters	8.79	.30	.30			
Millwrights	9.45	.40	.55		.01	
Piledrivermen	9.45	.40	.55		.01	
Cement masons (Building)	8.00	.30	.35		.01	
Cement masons (Heavy & Highway)	7.22	.42			.02	
Electricians & Linemen	9.10	.27	12+.50		.1%	
Cabel splicers	9.60	.27	12+.50		.1%	
Elevator constructors	8.135	.17	.185	1%+a&b	.005	
Elevator constructors' helper	70% JR	.17	.185	1%+a&b	.005	
Glaziers	7.81	.62	.38			
Ironworkers, structural & ornamental	8.20	.50	.80	.90	.01	
Ironworkers, reinforcing	8.20	.50	.80	.90	.01	
Lathers (Southern portion of Co.)	8.05	.30	.15		.01	
Lathers (Northern portion of Co.)	9.91				.01	
Lead burners	7.80	.30		c	.01	
Marble setters	7.60	.42				
Marble setters' helper	7.10	.42				
Painters: South of and including the East West Turnpike:						
Brush, rollers & paperhangers	7.64	.30	.20			
Structural steel	7.89	.30	.20			
Spray steel	8.14	.30	.20			
Painters: North of the East West Turnpike:						
Brush, rollers & paperhangers	8.71	.37	.34			
Structural steel & bridges	9.41	.37	.34			
Plasterers	7.91	.30	.34		.01	
Plumbers & Steamfitters - South of Rte 303	9.25	.54	.50		.04	
Plumbers - North of Rte 303	9.16	.55	.70		.02	
Roofers	8.34	.40	.30		.02	
Roofers' helpers						
1st year	60% JR	.40	.30		.02	
2nd year	70% JR	.40	.30		.02	
3rd year	80% JR	.40	.30		.02	
Sheet metal workers	8.60	.45	.45		.02	
Soft floor layers	8.50	.20	.29			
Sprinkler fitters	9.25	.30	.50		.05	

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
Terrazzo workers	$7.60	.42				
Terrazzo workers' helpers	7.10	.42				
Tile setters	7.60	.42				
Tile setters' helpers	7.10	.42				

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Nine paid holidays, A through F, plus Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
LABORERS						
BUILDING CONSTRUCTION						
Gunite nozzel man, tunnel miner, water line caulker, dynamite man, structural precast welder & layout	$6.74	.30				
Barco type tamper, pipe layer, rock driller, mucker - tunnel, burner, form setter, power saw, jack hammer, bottom man & hod carrier	6.44	.30				
Air driven boring machine, tamper operator, asphalt raker, paving bed maker, concrete puddler on highway, building and heavy work, concrete batch dumper on highway work, material mixer, wire mesh handler, hook-up man on demolition work, scaffold erector, structural precast erector, power tools - air, gas or electric	6.39	.30				
Construction laborer, welder's helper, carpenter's helper, landscape laborer and rasen tender	6.24	.30				
Plasterers' laborers:						
Laborer	6.24	.30				
Hod carrier, scaffold erector & mixer	6.44	.30				
Pump machine operator	6.54	.30				

OHIO-8-TD F

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
TRUCK DRIVERS:						
Trucks under 1-1/2 tons	$4.705	.14				
Dump trucks (over 1-1/2 tons), water wagons, stake body trucks, fuel trucks	4.805	.14				
Semi-, ready-mix trucks, tandem drive trucks, semi-water wagons	4.855	.14				
Semi-pole double hook-up tractor trailers	5.15	.14				

BUILDING CONSTRUCTION

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POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
A-frames, air compressor on steel erection, all rotary drills used on caisson work for foundation and substructure work, boiler operator or compressor operator when compressor or boiler is mounted on crane (piggyback operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types) draglines, elevating grader or euclid loader, floating equipment, gradall, helicopter oper. (hoisting builders materials), Helicopter winch oper. (hoisting builders materials), hoes, (all types), hoisting engines (two or more drums), lift slab or panel jack oper., locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multipic drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip form pavers, straddle carriers (building construction on site), tower derricks, trench machines (over 24" wide)	$8.98	.38	.65		.09	
Asphalt paver, bulldozer, CMI type equipment, endloaders, kohlman type loaders (dirt loading), mucking machines, power grader, power scoops, power scrapers, push cats	8.83	.38	.65		.09	
Air compressor, pressurizing shafts or tunnels, all asphalt rollers, tork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs., pressure), pump operator installing or operating wall points or other type of dewatering system, pumps (4" and over discharge), submersible pumps (4" and over discharge) trenches (24" and under)	8.68	.38	.65		.09	

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POWER EQUIPMENT OPERATORS: Cont'd	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Othr
Compressors on building construction, conveyors building material, gunite machines, mixers (cap., more than one bag), mixers, (one bag cap., side loader), post driver, post hole digger, pavement breaker (hydraulic or cable), road widening trencher, rollers, welder operator	8.00	.38	.65		.09	
Backfillers and tamper, batch plant, bar & joint installing machines, bull floats, burlap and curing machines, clefplanes, concrete spreading machine, crushers, drum fireman (asphalt), farm type tractors, pulling attachments, finishing machines, form trenchers, high pressure pumps (over 4" discharge) hydro sedders, self propelled power spreader, self propelled sub-grader, tire repairman, tractor (pulling sheep foot roller or grader), vibratory compactors (with integral power)	7.69	.38	.65		.09	
Oiler, helper, signalman, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs., pressure), pumps (under 4" discharge submersible pumps (under 4" discharge)	7.06	.38	.65		.09	

HEAVY & HIGHWAY CONSTRUCTION

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Ohio - 2-LAB J

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth.
GROUP 1						
Laborers (construction), plant laborers or yardmen, righ-of-way laborer, landscape laborer, utility man or hardyman, joint setter, flagman, carpenter helper, waterproofing laborer, slurry seal, seal coating, surface treatment or road mix laborer, riprap laborer and grouter, asphalt laborer, dump man (batch trucks), guardrail and fence installers, mesh handlers and placers, concrete curing applicator, scaffold erector	$5.96	.45	.20		.02	
GROUP 2						
Asphalt raker, concrete puddler, kettle man (pipeline), all machine driven tools (gas, electric, air), mason tender, mortar mixer, sheeting and shoring man, surface grinder man, power buggy or power wheelbarrow	6.085	.45	.20		.02	
GROUP 3						
Form setter, bottom man, welder helper (pipeline), concrete saw man, cutting with burning torch, pipe layer, hand spiker (railroad), car pusher (without air), underground man (working in sewer and waterline, cleaning, repairing and reconditioning), tunnel laborer (without air) and caisson, cofferdam (below 25 feet deep), air track and wagon drill	6.16	.45	.20		.02	
GROUP 4						
Blaster and powder man, muckers, wrencher (mechanical joints and utility pipeline), yarner, top lander	6.31	.45	.20		.02	
GROUP 5						
Curb setter and cutter, miner (without air), concrete crew in tunnels utility pipeline tapper, gunnite nozzle man, waterline caulker	6.61	.45	.20		.02	

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HEAVY & HIGHWAY CONSTRUCTION

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
CLASS I						
Air compressor on steel erection, boiler operator on compressor or generator when mounted on a rig, cableways, combination concrete mixer and tower, concrete plans (over 4 yd. capacity), concrete pumps, cranes (all types, including A frames, boom trucks, cherry pickers), derricks, draglines, dredge (dipper, clam or suction), elevating grader or euclid loader, floating equipment (all types), helicopter crew (operator-hoist or winch), hoes (all types), hoisting engi engines, hoisting engines on shaft or tunnel work, industrial-type tractor, jet engine dryer (D8 or D9) diesel tractor, locomotives (standard gauge), maintenance operator Class A, mixer, paving (single or double drum), mucking machines, multiple scraper, piledriving machines (all types), power shovels, Quad 9 (double pusher), refrigerating machine (freezer operation), rotary drill on caisson work, slip-form paver, survey crew party chief, tower derricks, tree shredder, trench machines (over 24" wide), truck mounted concrete pumps, tug boat, tunnel machine, wheel excavator	$6.81	.38	.65		.09	
CLASS II						
Asphalt paver, automatic subgrade machine, self-propelled (CMI type), bulldozers, endloader, kolman loader (production type - dirt), lead grease man, maintenance operator Class B, power grader, power scoops and scrapers, push cat, trench machines (24" wide and under	6.74	.38	.65		.09	
CLASS III						
Air compressors on tunnel work (low pressure), asphalt plant engineer, locomotive (narrow gauge), mixers, concrete (more than one bag capacity), mixers, one bag capacity (side loader), power boilers over 15 lb. pressure, pump operator installing and operating well points, pumps (4" and over discharge), rollers - asphalt, utility operator (small equipment), welding machines and generators	6.43	.38	.65		.09	

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POWER EQUIPMENT OPERATORS: (CONTD)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
CLASS IV						
Back fillers, bar, joint and mesh installing machines, batch plant, bull floats, burlap and curing machines, compressors (portable, sewer, heavy and highway), concrete plant (capacity 4 yd. and under), concrete saw (multiple), conveyors (highway), crushers, deckhand, drill highway (with integral power), farm-type tractors with attachments (highway), finishing machines, fireman, floating equipment (all types), fork lift (highway), form trenchers, hydro seeders, plant mixers, post mixers, post hole digger (power auger), power brush burner, power form handling equipment, road widening trencher, rollers (brick, grade, macamdam), self-propelled power spreaders, self-propelled power subgraders, steam fireman, survey instrument man, tractor(pulling sheepfoot roller or grader), vibratory compactors (with integral power)	$6.16	.38	.65		.09	
CLASS V						
Drum fireman (asphalt plant), helper, inboard-outboard motor boat-launch, oil heaters (asphalt plant), oilers, power driven heaters, pumps (under 4" discharge), signalmen, survey rodmen or chainmen, tire repairmen	5.48	.38	.65		.09	

HEAVY & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHER
TRUCK DRIVERS						
4-wheel service trucks, 4-wheel dump trucks	$5.41	a $6.00				
Batch trucks, oil distributors, asphalt distributors	5.41	a $6.00				
Tandem trucks	5.46	a $6.00				
Tractor-trailer combinations:						
Semitractor trucks, pole trailers, readymix trucks, fuel trucks	5.51	a $6.00				
Asphalt-oil spray-bar man, when operated from cab	5.71	a $6.00				
Euclid wagons, Euclid end-dumps, lowboys, heavy duty equipment over 12 cu. yds., capacity (irrespective of load carried) when used exclusively for transportation, truck mechanics	5.88	a $6.00				
All trucks five axle and over	5.61	a $6.00				

FOOTNOTES:

a. Per week per employee.

SUPERSEDES DECISION

STATE: OHIO COUNTY: TRUMBULL
DECISION NUMBER: AP-47 DATE: Date of Publication
Supersedes Decision No. AH-417 dated August 18, 1971 in 36 FR 15958
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Asbestos worker	$9.27	.30	.25		.02	
Boilermakers	8.96	.50	.70	.85	.01	
Bricklayers	7.85	.20	.20			
Bricklayers sewer & saw men	8.15	.20	.20			
Stonemasons	7.85	.20	.20			
Carpenters	7.21	.30	.50		.02	
Millwrights	7.91	.30	.50		.02	
Piledrivermen	7.91	.30	.50		.02	
Cement masons (Liberty & Hubbard Twsp.)	7.765	.30			.02	
Cement masons (Heavy & Highway)	7.22	.42				
Cement masons (Remainer of County)	7.65	.15				
Electricians (Townships of Liberty & Hubbard:	8.56	.20	1%+4%		3/10of%	
Electricians (Remainder of County)	9.38	.35	5%		.1%	
Elevator Constructors	8.45	.195	.20	2%+a&b	.005	
Elevator Constructors' helpers	70%JR	.195	.20	2%+a&b	.005	
Elevator Constructors' helpers	50%JR					
Glaziers	8.57	.35	.20			
Ironworkers, structural, ornamental & reinforcing	9.37	.35	.10		.10	
Laborers:						
Laborers & carpenters' tenders	6.69	.45	.20			
Burning scrap iron	6.76	.45	.20			
Mortar mixers, mason tenders, jackhammer op. (all machine driven tools, electric, gas, or air and operation of all pumps under 4"), spikers, work 7 or more feet in depth, concrete work (pouring, puddling, raking, & conveying)	6.815	.45	.20			
Mod carriers	6.88	.45	.20			
Pipe layers, muckers (tunnels & caisons), powder and dynamite	7.015	.45	.20			
Cunniting and sandblasting	7.24	.45	.20			
Landscape laborers	2.85	.07	.10	.005		
Lathers	6.175	.15	.'0		.01	
Lead burners	7.80	.30		c	.01	
Linemen, cable splicers & poledigging equipment operator	9.85		1%			
Painters (Commercial):						
Brush	8.215	.35	.30			
Spray	8.515	.35	.30			
Painters (Industrial):						
Brush	8.42					
Spray	8.42	.35	.30			

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Plumbers & Stramfitters (Remainder of Co	9.00	.57	.55		.01	
Roofers	7.52	.35	.50		.01	
Roofers' helpers	65%JR	.35	.50		.01	
Sheet metal workers	8.90	.20	.25		.01	
Soft floor layers	7.03	.30	.50		.02	
Sprinkler fitters	9.25	.30	.50		.05	
Truck drivers:						
Dump,flat bottoms, stake body and batch	4.735	.15				
Semi-tandem mixers, semi-water wagon, semi-dumps, fuel trucks	4.955	.15				
Euclids wagon drivers and DW 10 caterpillars or equivalent, carryalls	5.205	.15				
Plumbers & steamfitters (twps of Liberty & Hubbard)	8.11	.30	.40	1.00	.02	
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS: (Where Applicable):
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Six paid hilidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay. Credit for employee who has worked in business less than 5 years.

c. Nine paid hilidays, A through F plus Washington's Birthday, Good Friday and Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regualr scheculed work days immediately preceding and following the hiliday.

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POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	FRINGE BENEFITS PAYMENTS H & W	Pensions	Vacation	App. Tr.	Other
Class I						
Asphalt planer heater, Austin western & similar type, Back hoe, Batch plant-central mix, Batch plant-portable concrete, Berm builder -automatic, Backfiller with drag attachment, Boat-derrick, Boat-tug, Boring mach. when attached to tractor, Bullclam, Bulldozer, C.M.I. road builder and similar types, Cable placer & layer, Carrier-straddle, Carryall or scraper or scoop, Chicago boom, Compactor with blade attached, Concrete spreader finisher combination, Crane, Crane-stationary or climbing, Crane-electric overhead, Crane-side boom, Crane-truck, Crane-tower, Derrick-boom, Derrick-car, Diggers-wheel (not trencher or road widener), Double nine, Drag line, Dredge, Drill-Kenny or similar type, Electromatic, Fork lift, Frankie pile, Gradall, Grader-power, Curry, Curry-self propelled, High lift, Hoist-monorail, Hoist-stationary & mobile tractor, Hoist-2 or 3 drum, Jackall, Jumbo mach., Kocal or Kuhlman, Land-seagoing vehicle, Loader-Elevating, Loader-front end, Locomotive, Mechanic as welder, Metro clip harvester w/boom, Mucking machine, Paver-asphalt finishing machine, Paver-road concrete, Paver-slip form, Place crete mach, Post driver, Power driven hydraulic pumps and jacks, Pump crete machine, Regulator-ballast, Rigs-drilling, Shovel, Spikemaster, Stonecrusher, Tie puller & loader, Tie tamper, Tractor-double boom, Tractor w/attachments, Trucks-boom, Truck-tire-assigned to job, Trench machine, Tunnel machine (Mark 21 Java or similar), Whiley	$8.07	.35	.50		.10	
Class II						
Asphalt plant, Bending machine, Boring machine, Chip harvester w/o boom, Cleaning Mach.-pipeline type, Coating Mach.-pipeline type, Concrete belt placer, Concrete finisher, Concrete planer or asphalt, Concrete spreader, Elevator, Fork lift-home Bldg. only, Fork lift walk behind, Form line machine, Grease truck operator, Grout pump, Gunnite machine, Huck bolting Mach., Hydraulic scaffold, Paving breaker, Pipe dream, Pot fireman, Power broom, Refrigeration plant, Sasgen derrick, Seeding Mach., Self-propelled mobile vibrator compactor or roller, Hoist-single drum with or without tower, Soil stabilizer (pump type), Spray cure Mach.-self propelled, Straw blower Mach., Sub-grader, Tube fininsher or broom C.M.I. or similar type, Tugger Hoist	7.68	.35	.50		.10	

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	Basic Hourly Rates	FRINGE BENEFITS PAYMENTS H & W	Pensions	Vacation	App. Tr.	Other
Class III						
Batch plant-job related, Boiler operator, Compressor (125 CFM or over), Curb builder (self propelled), Generator-steam, Jack-hydraulic-power driven, Mixer-concrete, Mulching Mach., Pin puller, Pulverizer, Pump, Road finishing mach. (pull type), Roller, Saw-concrete-self propelled-Hwy. work, Signal man, Spray cure Mach.-motor powered, Spreader (side deliver shoulder attachment), Tractor, Trencher-form, Water blaster	7.47	.35	.50		.10	
Class IV						
Brake man, Compressor under 125 CFM, Conveyor, Conveyor 12 feet or under other than servicing brick layers, Deck hand, Drill wagon, Fireman, Generator sets, Heaters-portable power (2 to 5), Helper-mechanic, Jacks Hydraulic (railroad), Ladavator, Roller (walk behind 1 ton or over), Steam Jenny, Syphons, Vibrator-gasoline, Welding machines (2) (fuel burning)	7.11	.35	.50		.10	
Oiler	7.00	.35	.50		.10	
Rigs-pile driving or cassion type	8.34	.35	.50		.10	

Ohio - 3 - LAB J

HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
LABORERS:						
GROUP 1						
Laborers (construction), plant laborers or yardman, righ-of-way laborer, landscape laborer, utility man or handyman, joint setter, flagman, carpenter helper, waterproofing laborer, slurry seal, seal coating, surface treatment or road mix laborer, riprap laborer and grouter, asphalt laborer, dump man (batch trucks), guardrail and fence installers, mesh handlers and placers, concrete curing applicator, scaffold erector	$5.78	.45	.20		.02	
GROUP 2						
Asphalt raker, concrete puddler, kettle man (pipeline), all machine driven tools (gas, electric, air), mason tender, mortar mixer, sheeting and shoring man, surface grinder man, power buggy or power wheelbarrow	5.905	.45	.20		.02	
GROUP 3						
Form setter, bottom man, welder helper (pipeline), concrete saw man, cutting with burning torch, pipe layer, hand spiker (railroad), car pusher (without air), underground man (working in sewer and waterline, cleaning, repairing and reconditioning), tunnel laborer (without air) and caisson, cofferdam (below 25 feet deep), air track and wagon drill	5.98	.45	.20		.02	
GROUP 4						
Blaster and powder man, muckers, wrencher (mechanical joints and utility pipeline), yarner, top lander	6.13	.45	.20		.02	
GROUP 5						
Curb setter and cutter, miner (without air), concrete crew in tunnels utility pipeline tapper, gunnite nozzle man, waterline caulker	6.43	.45	.20		.02	

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HEAVY & HIGHWAY CONSTRUCTION

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHE
TRUCK DRIVERS						
4-wheel service trucks, 4-wheel dump trucks	$5.41	a $6.00				
Batch trucks, oil distributors, asphalt distributors	5.41	a $6.00				
Tandem trucks	5.46	a $6.00				
Tractor-trailer combinations: Semitractor trucks, pole trailers, readymix trucks, fuel trucks	5.51	a $6.00				
Asphalt-oil spray-bar man, when operated from cab	5.71	a $6.00				
Euclid wagons, Euclid end-dumps, low-boys, heavy duty equipment over 12 cu. yds., capacity (irrespective of load carried) when used exclusively for transportation, truck mechanics	5.88	a $6.00				
All trucks five axle and over	5.61	a $6.00				

FOOTNOTES:

a. Per week per employee.

SUPERSEDEAS DECISION

STATE: Oklahoma
DECISION NO.: AP-360
Supersedeas Decision No. AP-308, dated August 11, 1972, in 37 FR 16354.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

COUNTY: Oklahoma
DATE: Date of Publication

10 - Oklahoma-1-U (1-2)

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
ASBESTOS WORKERS	$7.45	.25	.30		.02	
BOILERMAKERS	6.80	.30	.50		.02	
BRICKLAYERS - STONEMASONS	7.37	.10	.45		.05	
CARPENTERS:						
Carpenters	6.40	.20			.02	
Millwrights	6.65	.20			.02	
Piledrivermen & Power Saw Operator	6.65	.20			.02	
CEMENT MASONS	6.65					
ELECTRICIANS:						
Electricians:						
Zone(1)- 0 - 10 miles radius of Oklahoma City Main Post Office	7.20	.30	3%+.10		1%	
Zone (2)- 10 - 30 miles radius of Oklahoma City Main Post Office	7.45	.30	3%+.10		1%	
Cable Splicers:						
Zone (1) - 0 - 10 miles radius of Oklahoma City Main Post Office	7.45	.30	3%+.10		1%	
Zone (2) - 10 - 30 miles radius of Oklahoma City Main Post Office	7.70	.30	3%+.10		1%	
ELEVATOR CONSTRUCTORS	6.67	.17	.185	2%+a+b		
ELEVATOR CONSTRUCTORS' Helpers	70%	.17	.185	2%+a+b		
ELEVATOR CONSTRUCTORS' Helpers (Probationary)	50%					
GLAZIERS	6.12					
IRONWORKERS:						
Structural; Ornamental; Reinforcing	7.44	.30	.25		.04	
LABORERS:						
Air tool operator (jackhammer, vibrator); mason tenders; mortar mixers; pipelayers (concrete & clay); plasterers' tenders	4.18					
Unskilled	4.03					
LATHERS	7.475				.01	
MARBLE MASONS	5.60					
PAINTERS:						
Brush, tipping & bedding	5.25	.15	.20	.15	.01	
Spray painting & sandblasting under 30 feet	5.75	.15	.20	.15	.01	
Spray painting and sandblasting over 30 feet	6.25	.15	.20	.15	.01	
Paperhangers	6.25	.15	.20	.15	.01	
Hazardous work	5.75	.15	.20	.15	.01	
PLASTERERS	7.475				.01	
PLUMBERS - STEAMFITTERS	7.45	.45	.40		.10	
ROOFERS	5.85	.20	.25	.15	.04	
SHEET METAL WORKERS	6.35	.25	.15		.01	

10-Oklahoma 1-U (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth.
SOFT FLOOR LAYERS:						
Resilient floor layers	6.05	.30				
Carpet layers	6.05	.30				
SPRINKLER FITTERS	8.35	.30	.50		.05	
TERRAZZO WORKERS	5.05					
TERRAZZO WORKERS' HELPERS	3.90					
TERRAZZO FLOOR MACHINE MAN	4.05					
TERRAZZO BASE MACHINE MAN	4.25					
TILE SETTERS	5.25					
TILE AND MARBLE HELPERS:						
Intermediate helpers	3.60					
Experienced helpers	3.75					
TRUCK DRIVERS:						
Truck drivers for heavy equipment, such as lowboys, heavy winch & floats	4.90					
Heavy earth moving equipment such as euclids, Mississippi wagons, 10 yds. and tail dumps	5.10					
Truck drivers and swampers, such as dump trucks, flat beds, stake bodies and 3/4 and 1 ton pick-up trucks	4.80					

FOOTNOTES:
a. 1st 6 mos. - none; 6 mos. to 5 yrs, - 2%; over 5 yrs. - 4% of basic hourly rate.

b. Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

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POWER EQUIPMENT OPERATORS

	Basic Hourly Rate	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
All Crane Type equipment with 100' of boom or over (including jib), all Tower Cranes and all Cranes type equipment of 3 cu. yd. or more	$7.25	.35	.25		.07	
Heavy Duty Mechanic; Welder; Crane-Hook & Overhead Monorail; Whirley; Derrick; Piledriver Engineer; Dragline; Shovel; Clamshell; Backhoe; Sideboom; Cradell; Hydro Crane; Hoists while operationg 2 or more drums; Cherry picker	7.00	.35	.25		.07	
Motor Patrol (Blade); Dozer (Engine H.P. 65 or more); Scraper type equipment; Tournapull; DW 10, 15, 16, 20, 21, & similar rubber-tired equipment; Euclid, TS-24 and similar; Loader Operator or Hi-Lift (Engine H.P. 65 or over); Asphalt Lay Machine; Tail Boom; Conveyor-Multiple, Panel Board Control; Power Driver Hole Digger; Trenching Machine; Fordson Tractor or like equipment with hoe or loader equipment or ditcher	6.75	.35	.25		.07	
Locomotive Engineer; Boring Machine; Tug Boat; Mixer, 18 cu. ft. and over; Sand Barge; Dredging Machine; Tugger; Hoist-when operating one drum; Welding Machine, 3 to 6; Air Compressor, 3 to 6, 500 cu. ft. and under; Air Compressor, over 500 cu. ft. (1); Pumps, Battery, 3 to 6; Forklift and similar equipment; Generator Plant Engineers, Diesel Elec; Winch Truck with A-Frame; Pumps, Battery, 3 to 6; Batch Plant Operator (Portable); Roller, all types; Elevator, building type or personnel hoist; Concrete Buster or Tamper; Heaters under jurisdiction of Op. Engrs.; Fireman; Boiler Operator; Crushing Plants; Oiler Distributor; Pulvimixer; Farm Tractor - with or without attachments; Conveyor Operator - dual, continuous or Belt-Bulk Handling; Screed Operator; Concrete Pump; Form Grader; Screening Plant; Well Point Pump Operator; Signal Man on Large whirleys when 6 if required	6.50	.35	.25		.07	
Operator for rotary drilling machines when operated from console or machine	6.50	.35	.25		.07	
Concrete mixer, with hopper less than 13 cu. ft.; Air Compressor, 500 cu. ft. & under (1 or 2); Welding Machine (1 or 2); Pump (1 or 2); Fuelman; Conveyor Operator - Single - Continuous Belt Bulk Handling	6.00	.35	.25		.07	

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	Basic Hourly Rate	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
POWER EQUIPMENT OPERATOR (Cont'd):						
Creasor; Tilt Top Trailer Operator	$6.10	.35	.25		.07	
Asphalt Lay Machine Back End Man; Helpers	5.80	.35	.25		.07	
Track crane oiler or Truck crane driver	5.70	.35	.25		.07	

Engineers for machine not listed under the above classifications shall receive the scale comparable to these classifications.

Engineers of all classifications when working in caverns or tunnels shall receive 25¢ per hour above all the above listed rates.

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LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Lineman	$6.50		1%		1/2%	
Cable splicers	6.94		1%		1/2%	
Pole digger operator	5.93		1%		1/2%	
Heavy equipment operator (or pole cats equivalent)	5.81		1%		1/2%	
Line truck driver (winch op.)	5.35		1%		1/2%	
Light truck driver	4.80		1%		1/2%	
Lineman	5.93		1%		1/2%	
Truck driver (flat bed, ton and half and under)	4.60		1%		1/2%	
Groundman	4.25		1%		1/2%	

STATE: Texas

COUNTIES: Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Parker, Rockwall, Tarrant and Wise

DECISION NO.: AP-361

DATE: Date of Publication

Supersedes Decision No. AP-306, dated August 11, 1972, in 37 FR 16365.

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS	$7.14	.30	.51		.025	
BOILERMAKERS	6.80	.30	.50		.02	
BRICKLAYERS-STONEMASONS:						
Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Counties	7.385	.25	.40		.03	
Denton, Hood, Johnson, Palo Pinto, Parker, Tarrant & Wise Counties	7.09	.20	.40		.015	
Grayson County	6.80					
CARPENTERS:						
Carpenters:						
Grayson County	6.40				.005	
Collin, Dallas, Ellis, Hunt, Kaufman, Rockwall, Denton, Hood, Johnson, Palo Pinto, Parker, Tarrant & Wise Counties	7.02	.25	.30		.02	
Power saw operators:						
Grayson County	6.65				.005	
Collin, Dallas, Ellis, Hunt, Kaufman, Rockwall, Denton, Hood, Johnson, Palo Pinto, Parker, Tarrant & Wise Counties	7.145	.25	.30		.02	
Millwrights:						
Grayson County	6.80				.005	
Collin, Dallas, Ellis, Hunt, Kaufman, Rockwall, Denton, Hood, Johnson, Palo Pinto, Parker, Tarrant & Wise Counties	7.90				.02	
Piledrivermen:						
Grayson County	6.90				.005	
CEMENT MASONS:						
Grayson County	6.16					
Denton, Hood, Johnson, Palo Pinto, Parker, Tarrant & Wise Counties	6.705	.25	.45			
Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Counties	6.895	.25	.25		.01	
ELECTRICIANS:						
Electricians:						
Grayson County	7.145		1%		.02	
Denton, Hood, Johnson, Palo Pinto, Parker, Tarrant & Wise Counties	7.50	4%	1%		7/10%	

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
ELECTRICIANS (CONT'D):						
Electricians (Cont'd):						
Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Counties:						
Zone A - Dallas County	$6.965	4%	1%		.70 of 1%	
Zone B - All work outside Dallas up to a 40 mile radius from Dallas City Hall	7.235	4%	1%		.70 of 1%	
Zone C - All work outside Zones A & B	7.485	4%	1%		.70 of 1%	
Cable splicers:						
Denton, Hood, Johnson, Palo Pinto, Parker, Tarrant & Wise Counties	7.75	4%	1%		7/10%	
Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Counties:						
Zone A - Dallas County	7.6835	4%	1%		.70 of 1%	
Zone B - All work outside Dallas up to a 40 mile radius from Dallas City Hall	7.9585	4%	1%		.70 of 1%	
Zone C - All work outside Zones A & B	8.2335	4%	1%		.70 of 1%	
ELEVATOR CONSTRUCTORS	6.20	.175	.20	2%+a+b		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.175	.20	2%+a+b		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
GLAZIERS:						
Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Counties	6.00	.15	.15			
IRONWORKERS	6.635	.40	.40		.03	
LABORERS:						
Grayson County:						
Unskilled laborers	4.78	.225	.20			
Air tool operator (jackhammer, vibrator), mason tenders & mortar mixers, pipelayers	5.03	.225	.20			
Collin, Dallas, Ellis, Hunt, Kaufman, Rockwall, Denton, Hood, Johnson, Palo Pinto, Parker, Tarrant & Wise Counties:						
General laborer, excavation, concrete work, carpenter tender, reinforcing-shoring, digging, loading, unloading, slip form jack operator, wrecking buildings, scaffold builder, asphalt ironer, asphalt raker, waterproofing tender, tool room tender, dumper, spotter, concrete pumpcrete pipe (handling & laying)	4.78	.225	.20		.02	

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BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
LABORERS (CONT'D):						
Collin, Dallas, Ellis, Hunt, Kaufman, Rockwall, Denton, Hood, Johnson, Palo Pinto, Parker, Tarrant & Wise Counties (Cont'd):						
Power tool operator, vibrator, cutting torch man, concrete grademan, power buggy operator, wagon drill operator, well driller, well driller tender, drilling rig tender, cement finisher tender, metal pan & steel form men	$4.95	.225	.20		.02	
Concrete pipe (handling & laying), tile & marble, terrazzo helper, mason handler, scaffold builder, mason tenders, hod carrier, mortar mixer, lather tender, plaster tender, pier hole and ditch men	5.03	.225	.20		.02	
Sand blaster, blaster, powderman, gunite nozzleman and terrazzo grinder worker	5.18	.225	.20		.02	
LATHERS:						
Grayson, Collin, Dallas, Denton, Ellis, Hunt, Kaufman & Rockwall Counties	7.19	.20		.50	.04	
Hood, Johnson, Palo Pinto, Parker, Tarrant & Wise Counties	7.72	.20			.01	
MARBLE SETTERS:						
Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Counties	6.50					
PAINTERS:						
Grayson, Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Counties:						
Brush	6.735	.30	.20		.04	
All wall covering work; paper, fabric, sheeting, flexwood, etc.	6.86	.30	.20		.04	
Ames tools operator	6.86	.30	.20		.04	
Structural steel, stage work, bosun chair, spray gun, sandblasting and window jacks, fire escapes	7.11	.30	.20		.04	
Denton County:						
Brush, hand roller	6.00					
All wall covering work	6.125					
Structural steel; stage & bosun chair work, window jack, spraying, sandblasting & power tool work	6.25					

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
PAINTERS (CONT'D):						
Hood, Johnson, Palo Pinto, Parker, Tarrant & Wise Counties:						
Brush	$7.055		.20		.02	
Spray work, pressure rollers, sandblasting, structural steel, bosun chair, any window painted on window sill or window jack, stage work, painting of fire escapes, or steel storage tanks, paperhanging or vinyl work, taping and bedding	7.305		.20		.02	
Steeple jack work (classified as: radio and TV towers, smoke stacks, and water towers and similar facilities and chimneys located closer to the edge of the building than the height of the pole) and work performed with materials such as creosote, coal tar products or similar materials containing ingredients similary injurious to the skin	8.305		.20		.02	
PLASTERERS:						
Grayson County	6.05					
Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Counties	7.045	.35		.50	.03	
Denton, Hood, Johnson, Palo Pinto, Parker, Tarrant & Wise Counties	7.915				.01	
PLUMBERS-STEAMFITTERS	7.45	.28	.73		.06	
ROOFERS:						
Grayson, Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Counties:						
Slate & tile	6.725					
Composition and built-up roofing, damp proofing & bituminous waterproofing	6.575					
Denton, Hood, Johnson, Palo Pinto, Parker, Tarrant & Wise Counties:						
Slate, tile, asbestos, roofing & siding	6.695				.03	
Composition, built-up, damp & waterproofing, kettlemen	6.545				.03	
SHEET METAL WORKERS:						
Grayson, Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Counties	7.245	.35	.25		.01	
Denton, Hood, Johnson, Palo Pinto, Parker, Tarrant & Wise Counties	7.375	.25	.20		.025	
SOFT FLOOR LAYERS	6.69	.25	.20		.03	
SPRINKLER FITTERS	8.35	.30	.50		.05	

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
TILE SETTERS:						
Collin, Dallas, Hunt, Kaufman & Rockwall Counties	$6.20					
TILE SETTERS' HELPERS:						
Collin, Dallas, Hunt, Kaufman & Rockwall Counties	4.28					
TRUCK DRIVERS:						
Grayson County	1.75					
Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Counties	4.25					
Denton, Hood, Johnson, Palo Pinto, Parker, Tarrant & Wise Counties	4.00					
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.						

FOOTNOTES:
a - 1st 6 mos. -none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rates.
b - Paid Holidays - A through F.

PAID HOLIDAYS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS:						
Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Counties:						
Oilers	$5.625	.30	.40			
Air compressors; Blade grader, towed; Flex plane; Form grader; Concrete mixer, less than 14 cu. ft.; Water pumps-2½' or over & 2 or more pumps; Pulsometer; Welding machines, gasoline or diesel driven (2 to 6 machines); Wagon drill operator; Conveyor; Hoist, single drum; Scraper, 3 cu. yd. or less; Generator, gasoline or diesel driven (over 1500 watts); Fob cat with loader; All other equipment of similar nature coming under the light equipment class, when power operated	6.41k	.30	.40			
Heavy duty mechanic (foreman); Asphalt mixer operator on job; Blade grader, self-propelled; Bull clam; Backfiller; Bulldozer & all cat type tractors; Backhoe; Concrete mixers, over 14 cu. ft.; Crusher operator on job; Concrete batch plant operator; Clam shell; Cranes (all types); truck mounted on crawler requires oiler including groves (hydraulic) or similar type over 12½ ton capacity; Escalated rate on crane and derricks booms; .01k per hour, per ft., over 90' including jib.; draglines; derricks, power operated (all types); DW-10 Caterpillar, S-8 Euclid and similar tractors; Elevating grader, self-propelled; Foundation drilling machine (all); Forklifts, used in handling machinery on construction; Grade all; Hoist, motor driven, 2 drums or more; Locomotive crane; Mixmobile; Paving mixers (all types); Pile drivers; Pumpcrete machines; Pneumatic rollers, self-propelled; Shovels, power operated; Scrapers, over 3 cu. yd.; Scoopmobile; Trenching machines, all types; Winch trucks, when pole and winch is used; Water well drilling machines, used on construction; Well point pumps; Welding machines (7 to 13 machines); All other equipment of similar nature coming under heavy equipment class, when power operated	6.81k	.30	.40			

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS (CONT'D):						
Denton, Hood, Johnson, Palo Pinto, Parker, Tarrant & Wise Counties:						
Oilers (all types)	$5.425	.30	.50		.10	
Air compressor (1); Pump (1); Pulsometer; Conveyor; Throttle valves; Wagon drill; Elevators building; Form graders; Hoist, single drum; Mixers, less than 14 cu. ft.; Screening plants; Welding machine gas & diesel (2 or more); Crushing plants; Fork lifts (short, under 25 feet); Concrete pumps (all types); Bobcat type equipment	6.21	.30	.50		.10	
Ford tractor or like with any attachments (except backhoe); Drilling machines (all types); Scoopmobile; Hoist, two drums or more; Forklifts (over 25 feet); Winch trucks; Six wheel truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixer, 14 cu. ft. or over; Blade graders, self-propelled; Cableways; Cranes-power operated to 100 feet; Fordson type backhoe; Derricks, power operated (all types); Gradall; Hy-Ho; Hop-To; Paving mixers (all types); Pile drivers; Mobile concrete mixers, over 14 cu. ft.; Bulldozers, loaders, tractovators; Scrapers and pulls; Welders; Trenching machines; Roller, ten tons or over; Air compressors, three; Air compressors & 1 pump; Pump, three or more; Air compressor & air tugger; Rollers, two or more fired by one man; Heavy duty mechanic	6.61	.30	.50		.10	

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS (CONT'D):						
Grayson County:						
Oilers (all types)	$5.425	.30	.50		.10	
Air compressors (1); Pump (1); Pulsometer; Conveyor; Throttle valves; Wagon drill; Elevators building; Form graders; Hoist, single drum; Mixers, less than 14 cubic feet; Screening plants; Welding machines gas & diesel (2 or more); Crushing plants; Fork lifts (short, under 25 feet); Concrete pumps (all types); Bobcat type equipment	6.21	.30	.50		.10	
Ford tractor or like with any attachments (except backhoe); Drilling machines (all types); Scoopmobile; Hoist, two drum or more; Forklifts (over 25 feet); Winch truck; Six wheel truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixers, 14 cubic feet or over; Blade graders, self-propelled; Cableways; Cranes - power operated to 100 feet; Fordson type backhoe; Derricks, power operated (all types); Gradall; Hy-Ho; Hop-To; Paving mixers (all types); Pile drivers; Mobile concrete mixers over 14 cubic feet; Bulldozers, loaders, tractovators; Scrapers and pulls; Welders; Trenching machines; Roller, ten tons or over; Air compressors, three, Air compressors & 1 pump; Pump, three or more; Air Compressor & air tugger; Rollers, two or more fired by one man; Heavy duty mechanic	6.61	.30	.50		.10	

INCIDENTAL PAVING (TARRANT COUNTY) INCIDENTAL PAVING & UTILITIES (COLLIN, DALLAS, DENTON, ELLIS, GRAYSON, HOOD, HUNT, JOHNSON, KAUFMAN, PALO PINTO, PARKER, ROCKWALL & WISE COUNTIES)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Air Tool Man	$2.55					
Asphalt Heaterman	2.75					
Asphalt Raker	3.25					
Asphalt Shoveler	2.60					
Batching Plant Scaleman	3.00					
Carpenter	3.50					
Carpenter Helper	2.50					
Concrete Finisher (Paving)	3.50					
Concrete Finisher Helper (Paving)	2.85					
Concrete Finisher (Structures)	3.50					
Concrete Finisher Helper (Structures)	3.00					
Concrete Rubber	2.75					
Form Builder (Structures)	3.50					
Form Builder Helper (Structures)	2.50					
Form Liner (Paving and Curb)	3.50					
Form Setter (Paving and Curb)	3.25					
Form Setter Helper (Paving and Curb)	2.75					
Form Setter (Structures)	3.55					
Form Setter Helper (Structures)	2.75					
Laborer, Common	2.25					
Laborer, Utility Man	2.35					
Mechanic	3.50					
Mechanic Helper	2.75					
Oiler	3.00					
Serviceman	2.85					
Pipelayer	3.25					
Powderman	3.00					
Reinforcing Steel Setter (Paving)	2.25					
Reinforcing Steel Setter (Structures)	3.55					
Sign Erector	3.00					
Sign Erector Helper	2.50					
Spreader Box Man	3.25					
Power Equipment Operators:						
Asphalt Distributor	3.15					
Asphalt Paving Machine	3.50					
Bulldozer, 150 H.P. and Less	3.25					
Bulldozer, over 150 H.P.	3.50					
Concrete Paving Curing Machine	3.00					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ C.Y.)	3.25					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ C.Y. and Over)	3.50					

INCIDENTAL PAVING (TARRANT COUNTY) INCIDENTAL PAVING & UTILITIES (COLLIN, DALLAS, DENTON, ELLIS, GRAYSON, HOOD, HUNT, JOHNSON, KAUFMAN, PALO PINTO, PARKER, ROCKWALL & WISE COUNTIES)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators (Cont'd):						
Foundation Drill Operator (Truck Mounted)	$4.05					
Foundation Drill Helper	3.00					
Front End Loader (2½ C.Y. and Less)	3.25					
Front End Loader (Over 2½ C.Y.)	3.50					
Motor Grader Operator, Fine Grade	3.50					
Motor Grader Operator	3.25					
Roller, Steel Wheel (Plant-Mix Pavements)	3.25					
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	2.50					
Roller, Pneumatic (Self-Propelled)	2.50					
Scrapers (17 C.Y. and Less)	3.25					
Scrapers (Over 17 C.Y.)	3.50					
Tractor (Crawler Type) 150 H.P. and Less	2.75					
Tractor (Crawler Type) over 150 H.P.	3.00					
Tractor (Pneumatic) 80 H.P. and Less	2.85					
Tractor (Pneumatic) over 80 H.P.	3.20					
Traveling Mixer	2.85					
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.00					
Truck Drivers:						
Single Axle, Light	2.50					
Single Axle, Heavy	2.50					
Tandem Axle or Semitrailer	3.00					
Welder	3.35					

LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Linemen	$7.26		1%		1/2%	
Cable splicers	7.51		1%		1/2%	
Equipment operators	7.26		1%		1/2%	
Groundman	4.91		1%		1/2%	

[FR Doc.72-19552 Filed 11-16-72;8:45 am]

FRIDAY, NOVEMBER 17, 1972
WASHINGTON, D.C.

federal register

FRIDAY, NOVEMBER 17, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 223

PART III

SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION

■

CONFIDENTIALITY OF DRUG ABUSE PATIENT RECORDS

No. 223—Pt. III——1

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Title 21—FOOD AND DRUGS

Chapter III—Special Action Office for Drug Abuse Prevention

PART 401—CONFIDENTIALITY OF DRUG ABUSE PATIENT RECORDS

The Special Action Office for Drug Abuse Prevention has received numerous requests for interpretations of section 408 of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1175). That section deals with the confidentiality of patient records maintained by treatment organizations. On the basis of the authority conferred by that Act, as well as other provisions of law, the Special Action Office, in consultation with the Department of Justice and the Department of Health, Education, and Welfare, has prepared the accompanying interpretative regulation to deal comprehensively with both substantive and procedural issues arising under section 408.

The rationale underlying the policy of section 408 is simple and compelling. Drug abuse in our society, at least with heroin, inevitably involves unlawful possession of drugs as a minimum criminal complication, and the very high cost of the heroin required to maintain a full-blown habit leads in many instances to a pattern of crimes against property. Socially, there is no more crushing a stigma than to be known as a junkie. If society is to make significant progress in the struggle against drug abuse, it is imperative that all unnecessary impediments to voluntary treatment be removed. There is clear agreement among drug abuse treatment program operators that their ability to assure patients and prospective patients of anonymity is essential to the success of their programs. The identification of a person as a patient of a general practitioner or hospital clinic is not ordinarily of great significance, but the identification of a person as an enrollee in a narcotic treatment program can, in and of itself, have profoundly adverse consequences.

It was in recognition of these considerations, among others, that Congress enacted section 408 of Public Law 92–255 (21 U.S.C. 1175). It must be emphasized that the operation of this section in no way creates a sanctuary for criminals. The enrollment of an addict in a treatment program takes away nothing, immunizes nothing, that would be available to law enforcement authorities if the program did not exist or the addict did not enroll in it. The only effect of his enrollment is to diminish the likelihood of his continued criminal conduct, and if the price of this is to isolate the records generated by the enrollment itself, this is a small price indeed in the light of the social benefits.

A threshold question is the scope of the section in terms of the programs and activities covered. By its terms, section 408 applies to patient records "maintained in connection with the performance of any drug abuse prevention function authorized or assisted under any provision of this Act. • • •" Under section 221 of the Act (21 U.S.C. 1131), the Director is required to provide overall planning and policy for all Federal drug abuse prevention functions, and under section 222 (21 U.S.C. 1132), he is given plenary budgetary authority with respect to all such functions for the express purpose of implementing his authority under section 221. Thus, all drug abuse prevention functions carried on with Federal authorization or support are subject to the Director's authority under section 221, and therefore fall within the scope of section 408. This result appears consistent with the thrust of the Act read as a whole: It is clear from the conference report (H. Rept. No. 92–920, p. 33) that the conferees attached great importance to section 408, and it is entirely reasonable to construe the scope of this section as coextensive with that of section 221. Section 401.01 of the regulation so provides.

While the legislative history of section 408 makes clear the intent of Congress that patient records should not be used to the patients' disadvantage, from the Act read as a whole the intention is equally clear to encourage the social and occupational rehabilitation of drug abusers. Under the regulation, the terms "benefit" and "governmental personnel" are construed in this light.

Although the statute makes no mention of disclosure to a patient's attorney, either with or without his consent, it is clear that an absolute prohibition on disclosure to counsel would raise grave constitutional questions, as well as be at variance with the remedial purposes of the Act. The constitutionally protected right to counsel, to be meaningful, must necessarily include the concept of informed counsel, and this can only be given on the basis of facts. Section 401.25 interprets the statute in the light of these principles.

Employment is an indispensable element of successful rehabilitation. Gainful employment in the case of a known former addict may be impossible to secure unless the prospective employer has some evidence that the individual either is currently enrolled in a treatment program or has successfully completed one. On the other hand, employers generally neither desire nor are capable of interpreting the raw data in the treatment program records. In recognition of this need, provisions have been included to permit treatment program operators to work with employers who have indicated their willingness to cooperate with drug rehabilitation programs.

Similar reasoning applies in the case of communications with members of a patient's family. In those cases where such information will help the family to aid in the treatment or rehabilitation process, and the patient desires that it be given to them, evaluations or status reports may be furnished to members of a patient's family under that section.

To aid the Director of the Special Action Office for Drug Abuse Prevention in determining whether this regulation should be amended, revoked, or reissued after interested persons have been given an opportunity to participate, interested persons are invited to submit written data, views, and arguments. Any such material should be submitted to the General Counsel, Special Action Office for Drug Abuse Prevention, 726 Jackson Place NW., Washington, DC 20506, to be received not later than January 15, 1973. Such material will be made available for inspection and copying upon request.

The Special Action Office is informed that litigation is now pending whose outcome could seriously affect treatment programs throughout the country. In addition, uncertainties as to the interpretation and application of section 408 are creating difficulties and hardships for many such programs and their patients. On the one hand, treatment program counsellors are uncertain of the extent to which they can assure patients and prospective patients of the confidentiality of treatment records; on the other hand, efforts to promote occupational rehabilitation by working with actual or prospective employers, with the consent of the patients, are being frustrated in some instances by interpretations which have been placed on section 408.

In view of the foregoing circumstances, it is hereby found that good cause exists to make this regulation effective immediately, and that notice and public procedure thereon prior to its effectiveness are impracticable, unnecessary, and contrary to the public interest, and it is hereby ordered that Title 21 of the Code of Federal Regulations be amended by adding at the end thereof a new chapter, as hereinafter set forth, effective upon publication in the FEDERAL REGISTER (11–17–72).

By order of the Director of the Special Action Office for Drug Abuse Prevention, November 15, 1972.

GRASTY CREWS II,
General Counsel.

PART 400—[RESERVED]

GENERAL PROVISIONS

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401.01 Definitions.
401.02 Applicability.
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401.06 Extent of disclosure.

DISCLOSURES WITHOUT COURT AUTHORIZATION AND WITH CONSENT OF PATIENT

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401.22 Disclosure to medical personnel.
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DISCLOSURES WITHOUT COURT AUTHORIZATION AND WITHOUT CONSENT OF PATIENT

Sec.
401.41 Disclosure without consent in general.
401.42 Medical emergency.
401.43 Records maintained in connection with chemotherapeutic treatment.
401.44 Research, audits, and program evaluation.

CRIMINAL PENALTIES

401.51 Penalty for unauthorized disclosure.

INTERPRETATION OF SECTION 408(b)(2)(C) IN RELATION TO OTHER LAWS

401.61 Relationship of section 408(b)(2)(C) to other provisions of section 408 and to other legislation generally.
401.62 Scope of orders; relationship to confidentiality provisions of Public Law 91–513.

INTERPRETATIVE GUIDELINES FOR APPLICATIONS AND ORDERS UNDER SECTION 408(b)(2)(C)

401.71 Applications for orders should be restricted to records of specified patients.
401.72 Information which should be furnished in support of application.
401.73 Suggested safeguards against unnecessary disclosures.

AUTHORITY: The provisions of this Part 401 are authorized under sections 213, 221, 222, and 408 of the Drug Abuse Office and Treatment Act of 1972 (Public Law 92–255; 21 U.S.C. 1122, 1131, 1132, and 1175), and other relevant provisions of law.

GENERAL PROVISIONS

§ 401.01 Definitions.

For the purposes of this part, the following words shall have the meanings indicated:

(a) The term "Act" means the Drug Abuse Office and Treatment Act of 1972 (Public Law 92–255) including such amendments thereto as may be in effect at the time the provision referring to it is applied.

(b) The term "Director" means the Director of the Special Action Office for Drug Abuse Prevention.

(c) The term "drug abuse prevention function" means any program or activity relating to drug abuse education, training, treatment, rehabilitation, or research, and includes any such function even when performed by an organization whose primary mission is in the field of drug traffic prevention functions (as defined in 21 U.S.C. 1103(c)), or is unrelated to drugs.

(d) The term "drug abuse prevention function authorized or assisted under any provision of the Act or any act amended by the Act" means any drug abuse prevention function—

(1) Which is conducted in whole or in part by any department, agency, or instrumentality of the United States, or

(2) For the lawful conduct of which in whole or part any license, permit, or other authorization is required to be granted by any department or agency of the United States.

(e) The term "patient" means any person who is or has been interviewed, examined, diagnosed, treated, or rehabilitated in connection with any drug abuse prevention function.

(f) The term "governmental personnel" means those persons who are employed by the U.S. Government, by any State government, or by any agency or political subdivision of either, and includes Veterans Administration personnel as described in § 401.23(b).

(g) The term "medical personnel" includes physicians, nurses, psychologists, counselors, and supporting clerical and technical personnel.

§ 401.02 Applicability.

(a) Except as provided in paragraph (b) of this section, this part applies to records or any part thereof made on or after March 21, 1972, of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any drug abuse prevention function authorized or assisted under the Act or any act amended by the Act.

(b) The provisions of section 408 of the Act (21 U.S.C. 1175) and the remaining provisions of this part do not apply to any interchange of records entirely within the Armed Forces, within those components of the Veterans Administration furnishing health care to veterans, or between such components and the Armed Forces, but otherwise such section and this part apply to any communication to or from any person outside the Armed Forces or such components of the Veterans Administration.

§ 401.03 General rules regarding confidentiality.

Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any drug abuse prevention function shall be confidential, may be disclosed only as authorized by this part, and may not otherwise be divulged in any civil, criminal, administrative, or legislative proceeding conducted by any Federal, State, or local authority, whether such proceeding is commenced before or after the effective date of this part.

§ 401.04 Incompetent or deceased patients.

In any case in which disclosure is authorized with the consent of the patient, such consent may be given by a guardian, conservator, or other court-appointed designee in the case of an incompetent patient, and by an executor, administrator, or other personal representative in the case of a deceased patient.

§ 401.05 Security precautions.

(a) Appropriate precautions should be taken for the security of records to which this part applies. The succeeding paragraphs of this section set forth examples of such precautions, but these should be added to or may be modified in the light of individual circumstances.

(b) The file of each patient maintained in connection with the performance of any drug abuse prevention function should be marked "Confidential Patient Information," as should any record identifying an individual as a drug abuse patient, including photographs, fingerprints, reports of skin abrasions indicating drug use, or other documentation of patient identification.

(c) Each file drawer, cabinet, or other container in which such files are kept should be conspicuously labeled with a cautionary statement such as the following:

CONFIDENTIAL PATIENT INFORMATION
Any unauthorized disclosure is a Federal offense.

§ 401.06 Extent of disclosure.

Any disclosure made under this part, whether with or without the patient's consent, shall be limited to information necessary in the light of the need or purpose for the disclosure.

DISCLOSURES WITHOUT COURT AUTHORIZATION AND WITH CONSENT OF PATIENT

§ 401.21 Form of consent.

(a) Where disclosure is authorized with the consent of the patient, such consent must, except as otherwise provided, be in writing and signed by the patient. Such consent must state—

(1) The name of the person or organization to whom disclosure is to be made,

(2) The specific type of information to be disclosed, and

(3) The purpose or need for such disclosure.

§ 401.22 Disclosure to medical personnel.

With the patient's consent, disclosure to medical personnel is authorized for the purposes of diagnosis or treatment. The consent must be in writing and in the form prescribed in § 401.21. All medical personnel to whom disclosure is made shall be subject to all of the rules on confidentiality as set forth in this part.

§ 401.23 Disclosure to governmental personnel for purpose of obtaining benefits.

(a) With the written consent of a patient, disclosure is authorized to governmental personnel for the purpose of obtaining benefits to which the patient is entitled. For the purposes of this section, benefits to which a patient is entitled include, but are not limited to, any welfare, medicare, or other public financial assistance authorized by Federal, State, or local law, the suspension of prosecution, the granting of probation or parole, public pension or retirement benefits, and any other benefit conferred by lawful authority.

(b) Disclosure may be made to Veterans Administration personnel for the purpose of determining a patient's eligibility for hospitalization, pension, or other veterans' benefits. For the purpose of this section, Veterans Administration personnel includes any personnel (whether or not employed or compensated by the Veterans Administration) authorized by the Veterans Administration to assist patients in the preparation and submission of their claims.

DISCLOSURES WITHOUT COURT AUTHORIZATION AND WITH CONSENT OF PATIENT

Sec.
401.27 Disclosure to qualified personnel for research, audit, or program evaluation.

CRIMINAL PENALTIES

401.31 Penalty for unauthorized disclosure.

INTERPRETATION OF SECTION 408(b)(2)(C) IN RELATION TO OTHER LAWS

401.41 Relationship of section 408(b)(2)(C) to other provisions of section 408 and to other legislation generally.
401.42 Scope of orders; relationship to confidentiality provisions of Public Law 91–513.

INTERPRETATIVE GUIDELINES FOR APPLICATIONS AND ORDERS UNDER SECTION 408(b)(2)(C)

401.51 Applications for orders should be restricted to records of specified patients.
401.52 Information which should be furnished in support of application.
401.53 Suggested safeguards against unnecessary disclosures.

AUTHORITY: The provisions of this Part 401 are authorized under sections 213, 221, 222, and 408 of the Drug Abuse Office and Treatment Act of 1972 (Public Law 92–255; 21 U.S.C. 1122, 1131, 1132, and 1175), and other relevant provisions of law.

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(c) The term "drug abuse prevention function" means any program or activity relating to drug abuse education, training, treatment, rehabilitation, or research, and includes any such function even when performed by an organization whose primary mission is in the field of drug traffic prevention functions (as defined in 21 U.S.C. 1103(c)), or is unrelated to drugs.

(d) The term "drug abuse prevention function authorized or assisted under any provision of the Act or any act amended by the Act" means any drug abuse prevention function—

(1) Which is conducted in whole or in part by any department, agency, or instrumentality of the United States, or

(2) For the lawful conduct of which in whole or part any license, permit, or other authorization is required to be granted by any department or agency of the United States.

(e) The term "patient" means any person who is or has been interviewed, examined, diagnosed, treated, or rehabilitated in connection with any drug abuse prevention function.

(f) The term "governmental personnel" means those persons who are employed by the U.S. Government, by any State government, or by any agency or political subdivision of either, and includes Veterans Administration personnel as described in § 401.23(b).

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§ 401.02 Applicability.

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(b) The provisions of section 408 of the Act (21 U.S.C. 1175) and the remaining provisions of this part do not apply to any interchange of records entirely within the Armed Forces, within those components of the Veterans Administration furnishing health care to veterans, or between such components and the Armed Forces, but otherwise such section and this part apply to any communication to or from any person outside the Armed Forces or such components of the Veterans Administration.

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§ 401.04 Incompetent or deceased patients.

In any case in which disclosure is authorized with the consent of the patient, such consent may be given by a guardian, conservator, or other court-appointed designee in the case of an incompetent patient, and by an executor, administrator, or other personal representative in the case of a deceased patient.

§ 401.05 Security precautions.

(a) Appropriate precautions should be taken for the security of records to which this part applies. The succeeding paragraphs of this section set forth examples of such precautions, but these should be added to or may be modified in the light of individual circumstances.

(b) The file of each patient maintained in connection with the performance of any drug abuse prevention function should be marked "Confidential Patient Information," as should any record identifying an individual as a drug abuse patient, including photographs, fingerprints, reports of skin abrasions indicating drug use, or other documentation of patient identification.

(c) Each file drawer, cabinet, or other container in which such files are kept should be conspicuously labeled with a cautionary statement such as the following:

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§ 401.06 Extent of disclosure.

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DISCLOSURES WITHOUT COURT AUTHORIZATION AND WITH CONSENT OF PATIENT

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§ 401.22 Disclosure to medical personnel.

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§ 401.23 Disclosure to governmental personnel for purpose of obtaining benefits.

(a) With the written consent of a patient, disclosure is authorized to governmental personnel for the purpose of obtaining benefits to which the patient is entitled. For the purposes of this section, benefits to which a patient is entitled include, but are not limited to, any welfare, medicare, or other public financial assistance authorized by Federal, State, or local law, the suspension of prosecution, the granting of probation or parole, public pension or retirement benefits, and any other benefit conferred by lawful authority.

(b) Disclosure may be made to Veterans Administration personnel for the purpose of determining a patient's eligibility for hospitalization, pension, or other veterans' benefits. For the purpose of this section, Veterans Administration personnel includes any personnel (whether or not employed or compensated by the Veterans Administration) authorized by the Veterans Administration to assist patients in the preparation and submission of their claims.

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(c) The term "drug abuse prevention function" means any program or activity relating to drug abuse education, training, treatment, rehabilitation, or research, and includes any such function even when performed by an organization whose primary mission is in the field of drug traffic prevention functions (as defined in 21 U.S.C. 1103(c)), or is unrelated to drugs.

(d) The term "drug abuse prevention function authorized or assisted under any provision of the Act or any act amended by the Act" means any drug abuse prevention function—

(1) Which is conducted in whole or in part by any department, agency, or instrumentality of the United States, or

(2) For the lawful conduct of which in whole or part any license, permit, or other authorization is required to be granted by any department or agency of the United States.

(e) The term "patient" means any person who is or has been interviewed, examined, diagnosed, treated, or rehabilitated in connection with any drug abuse prevention function.

(f) The term "governmental personnel" means those persons who are employed by the U.S. Government, by any State government, or by any agency or political subdivision of either, and includes Veterans Administration personnel as described in § 401.23(b).

(g) The term "medical personnel" includes physicians, nurses, psychologists, counselors, and supporting clerical and technical personnel.

§ 401.02 Applicability.

(a) Except as provided in paragraph (b) of this section, this part applies to records or any part thereof made on or after March 21, 1972, of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any drug abuse prevention function authorized or assisted under the Act or any act amended by the Act.

(b) The provisions of section 408 of the Act (21 U.S.C. 1175) and the remaining provisions of this part do not apply to any interchange of records entirely within the Armed Forces, within those components of the Veterans Administration furnishing health care to veterans, or between such components and the Armed Forces, but otherwise such section and this part apply to any communication to or from any person outside the Armed Forces or such components of the Veterans Administration.

§ 401.03 General rules regarding confidentiality.

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§ 401.04 Incompetent or deceased patients.

In any case in which disclosure is authorized with the consent of the patient, such consent may be given by a guardian, conservator, or other court-appointed designee in the case of an incompetent patient, and by an executor, administrator, or other personal representative in the case of a deceased patient.

§ 401.05 Security precautions.

(a) Appropriate precautions should be taken for the security of records to which this part applies. The succeeding paragraphs of this section set forth examples of such precautions, but these should be added to or may be modified in the light of individual circumstances.

(b) The file of each patient maintained in connection with the performance of any drug abuse prevention function should be marked "Confidential Patient Information," as should any record identifying an individual as a drug abuse patient, including photographs, fingerprints, reports of skin abrasions indicating drug use, or other documentation of patient identification.

(c) Each file drawer, cabinet, or other container in which such files are kept should be conspicuously labeled with a cautionary statement such as the following:

CONFIDENTIAL PATIENT INFORMATION
Any unauthorized disclosure is a Federal offense.

§ 401.06 Extent of disclosure.

Any disclosure made under this part, whether with or without the patient's consent, shall be limited to information necessary in the light of the need or purpose for the disclosure.

DISCLOSURES WITHOUT COURT AUTHORIZATION AND WITH CONSENT OF PATIENT

§ 401.21 Form of consent.

(a) Where disclosure is authorized with the consent of the patient, such consent must, except as otherwise provided, be in writing and signed by the patient. Such consent must state—

(1) The name of the person or organization to whom disclosure is to be made,

(2) The specific type of information to be disclosed, and

(3) The purpose or need for such disclosure.

§ 401.22 Disclosure to medical personnel.

With the patient's consent, disclosure to medical personnel is authorized for the purposes of diagnosis or treatment. The consent must be in writing and in the form prescribed in § 401.21. All medical personnel to whom disclosure is made shall be subject to all of the rules on confidentiality as set forth in this part.

§ 401.23 Disclosure to governmental personnel for purpose of obtaining benefits.

(a) With the written consent of a patient, disclosure is authorized to governmental personnel for the purpose of obtaining benefits to which the patient is entitled. For the purposes of this section, benefits to which a patient is entitled include, but are not limited to, any welfare, medicare, or other public financial assistance authorized by Federal, State, or local law, the suspension of prosecution, the granting of probation or parole, public pension or retirement benefits, and any other benefit conferred by lawful authority.

(b) Disclosure may be made to Veterans Administration personnel for the purpose of determining a patient's eligibility for hospitalization, pension, or other veterans' benefits. For the purpose of this section, Veterans Administration personnel includes any personnel (whether or not employed or compensated by the Veterans Administration) authorized by the Veterans Administration to assist patients in the preparation and submission of their claims.

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(c) Where treatment for drug abuse has been made a condition to the granting or continuation of a welfare or other public benefit, disclosure is authorized to governmental personnel responsible for the administration or determination of such benefits.

§ 401.24 Disclosure in connection with parole, probation, or suspension of prosecution.

(a) In the case of a drug abuser charged with a criminal offense or who is subject to parole or other probationary action and who has agreed to participate in a drug abuse prevention treatment program as a condition of release from confinement or as a condition to the dropping, deferral, or suspension of charges or judgment, disclosure of such person's treatment records in connection with such program is authorized if the patient consents in writing to participate in such program and consents to disclosure in accordance with § 401.21.

(b) Disclosure pursuant to this section shall be limited to the patient's attorney and to governmental personnel having responsibility with respect to the prosecution of the patient or for supervising his probation or parole.

§ 401.25 Disclosure to legal counsel.

(a) In any situation in which disclosure is permitted with the patient's consent for one or more of the authorized purposes as stated in this part and the patient has secured the advice of legal counsel, disclosure may be made to the patient's attorney upon the written application of the patient endorsed by the attorney.

(b) In any situation in which a patient seeks the advice of legal counsel on the question of waiving confidentiality, disclosure is authorized to the extent necessary to render such advice, if written application for such disclosure is made by the patient and endorsed by the attorney.

§ 401.26 Evaluations in connection with rehabilitation.

(a) Whenever a patient or former patient has been employed or been accepted for employment conditioned upon his progress or status in a treatment program, an evaluation of such progress or status by a qualified physician or counsellor may be furnished to the employer subject to all of the following conditions and requirements:

(1) The request for such an evaluation must be in writing and signed by the patient.

(2) The request must identify the employer (or official therein) cooperating in the patient's rehabilitation program.

(3) The treatment organization must vertify the authenticity of the request by telephone or other means of communication and ascertain the extent that the information is needed to vertify the patient's treatment status.

(4) The information shall be limited to that reasonably necessary in view of the type of employment involved.

(5) No information may be furnished by a treatment organization unless the organization is satisfied on the basis of past experience or other credible information (which may in appropriate cases consist of a written statement by the employer) that such information will be used for the purpose of assisting in the rehabilitation of the patient and not for the purpose of identifying the individual as a patient in order to deny him employment or advancement because of his history of drug abuse.

(b) Information in the nature of a general evaluation of a patient's present or past status in a treatment program may be furnished to members of the patient's family if, in the judgment of a qualified physician or counsellor, such information would be helpful in treatment or rehabilitation of the patient and the patient makes a written request for such information to be furnished.

DISCLOSURES WITHOUT COURT AUTHORIZATION AND WITHOUT CONSENT OF PATIENT

§ 401.41 Disclosure without consent in general.

(a) Disclosure of a patient's records may be made without the consent of the patient and without authority of a court order as follows:

(1) To medical personnel to meet a medical emergency; and

(2) To qualified personnel for purposes of research, audits, or program evaluation.

§ 401.42 Medical emergency.

Disclosure to medical personnel, either private or governmental, is authorized without the consent of a patient only when necessary to meet a bona fide medical emergency and only to the extent necessary to meet such emergency. For the purposes of this section a bona fide emergency may be considered to exist whenever competent medical authority has determined that the life or health of the patient involved may be impaired and medical treatment without the record could be detrimental to the patient's health. Where, for example, a person is incarcerated and claims to be a patient in a methadone treatment program, this claim may be verified by inquiry to the treatment center administering the program or to a registry such as is referred to in § 401.43 in order to avoid overdose on the one hand, or the danger of untreated withdrawal on the other.

§ 401.43 Records maintained in connection with chemotherapeutic treatment.

The communication of information relating to patient identity and dosage between or among programs approved by the Commissioner of Food and Drugs pursuant to § 130.44 of this title, or between such programs and a registry serving them, shall not be considered as a disclosure in violation of section 408(a) of the Act (21 U.S.C. 1175(a)), but any such information received by any such registry shall be fully subject to section 408 of the Act and to the provisions of this part.

§ 401.44 Research, audits, and program evaluation.

(a) Disclosure without consent is authorized to qualified personnel for the purpose of conducting scientific research, management, or financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner. Information so obtained may be used in enforcing lawful requirements imposed with respect to the operation of treatment programs employing controlled substances, but section 408(c) of the Act (21 U.S.C. 1175(c)) specifically prohibits the use of patient records to initiate or substantiate any criminal charges against a patient or to conduct any investigation of a patient, except as authorized under a court order granted under section 408(b)(2)(C) (21 U.S.C. 1175(b)(2)(C)).

CRIMINAL PENALTIES

§ 401.51 Penalty for unauthorized disclosure.

Subsection (e) of section 408 of the Act (21 U.S.C. 1175) provides that except as authorized under subsection (b) of that section, any person who discloses the contents of any record referred to in subsection (a) of that section shall be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense.

INTERPRETATION OF SECTION 408(b)(2)(C) IN RELATION TO OTHER LAWS

§ 401.61 Relationship of section 408(b)(2)(C) to other provisions of section 408 and to other legislation generally.

Section 408(b)(2)(C) of the Act (21 U.S.C. 1175(b)(2)(C)) empowers the courts, in appropriate circumstances, to authorize disclosures which would otherwise be prohibited by section 408(a). Both the positioning of this authority in the bill as initially passed by the Senate and the explicit crossreference in section 408(a) of the final Act make clear the congressional intent that section 408(b)(2)(C) operate as a mechanism for the relief of the 408(a) strictures and not as an affirmative grant of jurisdiction to authorize disclosures prohibited by other provisions of law, whether Federal or State. By the same token, it should be noted that the authority which section 408(b)(2)(C) of the Act (21 U.S.C. 1175(b)(2)(C)) confers on courts to issue orders authorizing the disclosure of records applies only to records referred to in section 408(a) (21 U.S.C. 1175(a))—that is, the records maintained by operating treatment or research programs, and not to secondary records generated by the disclosure of the 408(a) records to researchers, auditors, or evaluators pursuant to section 408(b)(2)(B).

§ 401.62 Scope of orders; relationship to confidentiality provisions of Public Law 91-513.

(a) It is abundantly clear that section 408(b)(2)(C) was not intended to confer

jurisdiction on any court to compel disclosure of any information, but solely to authorize such disclosure. An order or provision of an order based on some other authority, or a subpena, or other appropriate legal process, is required to compel disclosure. To illustrate, if a person who maintains records subject to section 408(a) of the Act is merely requested, or is even served with a subpena, to disclose information contained therein which is a type whose disclosure is not authorized under section 408 of the Act or any of the foregoing provisions of this part, he must refuse such a request unless, and until, an order is issued under section 408(b)(2)(C). Such an order could authorize, but could not, of its own force, require disclosure. If there were no subpena or other compulsory process, the custodian of the records would have the discretion as to whether to disclose the information sought unless and until disclosure were ordered by means of appropriate legal process, the authority for which would have to be found in some source other than section 408 of the Act. This result is compelled by the language of section 408(b)(2) itself. The words used, "the content of such record may be disclosed * * * if authorized by an appropriate order" are too explicit and too well established as words of art to be interpreted as meaning "the content of such record shall be disclosed if required by an appropriate order."

(b)(1) This interpretation of the permissible scope of a 408(b)(2)(C) order is not only appropriate in the light of the purposes, language, and legislative history of the Act in which it appears, but also is necessary in order to harmonize that section with other legislation dealing with a narrower aspect of the same subject matter. By sections 3(a) and 502(c) of the Comprehensive Drug Abuse Control and Treatment Act of 1970 (42 U.S.C. 242a(a); 21 U.S.C. 872(c)), Congress conferred on the Secretary of Health, Education, and Welfare and on the Attorney General, respectively, power to authorize persons engaged in durg research to withhold names and other identifying characteristics of persons who are the subject of such research, and expressly provided that when such authority has been obtained, its holder may not be compelled to disclose identifying information "in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings * * *"

(2) If section 408 of the 1972 Act were to be interpreted as an independent grant of authority to compel testimony, it would obviously be in direct conflict with the provisions of the 1970 Act discussed above. This becomes significant, for example, in the case of methadone, which for the purpose of treating opiate addiction on a longer-range basis is classified as an experimental drug which may not be administered except in connection with research. Nothing in either the language or the legislative history of the Act indicates any intent on the part of Congress to amend the provisions of the 1970 Act or to reduce the protection which can be afforded under them. Since the language of section 408 permits, if it does not require, a construction which harmonizes with the 1970 Act, it clearly should not be construed to authorize a court order in derogation of any exercise of the authority of the Secretary of Health, Education, and Welfare under section 242a(a) of title 42, United States Code, or the Attorney General under section 872(c) of title 21, United States Code.

INTERPRETATIVE GUIDELINES FOR APPLICATIONS AND ORDERS UNDER SECTION 408(b)(2)(C)

§ 401.71 Applications for orders should be restricted to records of specified patients.

Section 408(b)(2)(C) empowers courts of competent jurisdiction to authorize disclosure only on a showing of good cause. That section expressly provides that in assessing whether good cause exists, the court must weight the public interest and the need for disclosure against the injury (a) to the patient, (b) to the physician-patient relationship, and (c) to the treatment services. Because these factors can only be weighted with respect to the particular patient involved, any application for such an order should relate only to the records (or a part thereof) of a specific patient and should include an identification of the patient and an indication whether the application is being made with or without his consent. This conclusion is buttressed by the form of section 408, which appears to have been deliberately cast in terms of the individual patient, e.g. section 408(b)(1), "If the patient * * * gives his written consent * * *." and 408(b)(2), "If the patient * * * does not give his written consent * * *", suggesting an intention that the disclosure order be limited to the records of a particular patient who either did or did not consent to the disclosure.

§ 401.72 Information which should be furnished in support of application.

In those cases in which an application is not made by or with the consent of the patient, or is not joined in or consented to by the person or organization responsible for the records to which it relates, the Act implicitly requires that such application be supported by adequate information to enable the court to make the following findings:

(a) The nature of the public interest that would be served by granting the application;

(b) Any actual or potential injury, either economic or social, that could result to the patient or to the relationship of the patient to his physician;

(c) The effect that an order of disclosure would have on the administration of the drug-abuse prevention program; and

(d) A clear showing that the interests of the public are substantial in relation to possible injury to the patient or to the patient-physician relationship.

§ 401.73 Suggested safeguards against unnecessary disclosures.

Section 408(b)(2)(C) implicitly negatives any court order requiring unlimited disclosure when limited disclosure would serve the purpose. It states that "in determining the extent to which any disclosure of all or any part of any record is necessary," the court is required to impose appropriate safeguards against unauthorized disclosure. To facilitate compliance with this requirement, it would be within the intent and spirit of this provision of section 408 that any such court order:

(a) Limit disclosure to those parts of the patient's record deemed essential to fulfill the objective for which the order was granted;

(b) Limit disclosure to those persons whose need for the information is the basis for the order;

(c) Require, where appropriate, that all information disclosed be held in camera; and

(d) Include any other appropriate measures to keep disclosure to a minimum, consistent with the protection of the patient ,the physician-patient relationship and the administration of the drug-abuse prevention program.

[FR Doc.72-19925 Filed 11-16-72;8:54 am]

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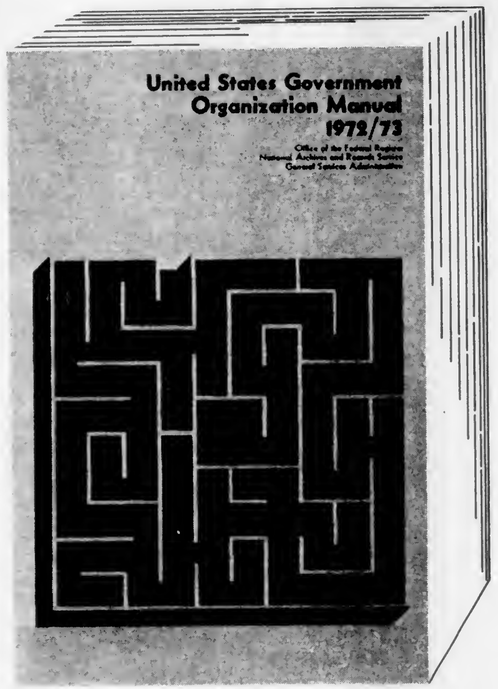

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federal register

SATURDAY, NOVEMBER 18, 1972

WASHINGTON, D.C.

Volume 37 ■ Number 224

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CODE OF FEDERAL REGULATIONS

(Revised as of October 1, 1972)

Title 49—Transportation (Part 1300–End)---------- $2.00

[A Cumulative checklist of CFR issuances for 1972 appears in the first issue of the Federal Register each month under Title 1]

Order from Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402

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Area Code 202 Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Title 3—The President

PROCLAMATION 4170

Thanksgiving Day, 1972

By the President of the United States of America

A Proclamation

When the first settlers gathered to offer their thanks to the God who had protected them on the edge of a wilderness, they established anew on American shores a thanksgiving tradition as old as Western man himself.

From Moses at the Red Sea to Jesus preparing to feed the multitudes, the Scriptures summon us to words and deeds of gratitude, even before divine blessings are fully perceived. From Washington kneeling at Valley Forge to the prayer of an astronaut circling the moon, our own history repeats that summons and proves its practicality.

Today, in an age of too much fashionable despair, the world more than ever needs to hear America's perennial harvest message: "Take heart! Give thanks! To see clearly about us is to rejoice; and to rejoice is to worship the Father; and to worship Him is to receive more blessings still."

At this Thanksgiving time our country can look back with special gratitude across the events of a year which has brought more progress toward lasting peace than any other year for a generation past; and we can look forward with trust in Divine Providence toward the opportunities which peace will bring.

Truly our cup runs over with the bounty of God—our lives, our liberties, and our loved ones; our worldly goods and our spiritual heritage; the beauty of our land, the breadth of our horizons, and the promise of peace that crowns it all. For all of this, let us now humbly give thanks.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, in consonance with Section 6103 of Title 5 of the United States Code designating the fourth Thursday of November in each year as Thanksgiving Day, do hereby proclaim Thursday, November 23, 1972, as a day of national thanksgiving. I call upon all Americans to assemble in homes and places of worship on this day, to join in offering gratitude for the countless blessings our people enjoy, and to embrace the elderly and less fortunate as special celebrants in the day's events, loving them as we have been loved.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of November, in the year of our Lord nineteen hundred seventy-two, and of the Independence of the United States of America the one hundred ninety-seventh.

Richard Nixon

[FR Doc.72-20101 Filed 11-17-72;12:27 pm]

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PROCLAMATION 4171

National Farm-City Week, 1972

By the President of the United States of America

A Proclamation

The breadwinners of our national family—those whose hard work helps to provide the rest of us with food to eat and clothes to wear—are America's nearly 3 million farmers.

American agriculture leads our own economy and the world in productivity. The bounty of our farms is an indispensable element in the steadily rising standard of living for our cities—indeed for every American community large or small. This is the strong bond of interdependence and mutual benefit which links farm people to city people throughout this country, and to peoples in other countries all over the globe, wherever the agricultural exports of our heartland alleviate hunger and so promote the cause of peace.

National Farm-City Week is an occasion for wider recognition of this interdependence and for new efforts to increase cooperation between farm and city people. It is a time for renewal of our commitment to balanced national growth and to assuring the farmer of a fair share in the national prosperity to which he contributes so much.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate the week of November 17 through November 23, 1972, as National Farm-City Week. I encourage all citizens, especially leaders of agricultural organizations, business groups, labor unions, youth and women's clubs, schools, and other interested groups, to participate in this observance. I urge the Department of Agriculture, land-grant educational institutions, and all appropriate organizations and Government officials to mark the significance of National Farm-City Week with special events and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of November, in the year of our Lord nineteen hundred seventy-two, and of the Indepedence of the United States of America the one hundred ninety-seventh.

Richard Nixon

[FR Doc.72-20102 Filed 11-17-72;12:27 pm]

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MEMORANDUM OF NOVEMBER 1, 1972

[Presidential Determination No. 73-5]

Presidential Determination—The Republic of Korea, Turkey, and Jordan

Memorandum for the Secretary of State

THE WHITE HOUSE,
Washington, November 1, 1972.

In accordance with the recommendation in your memorandum of August 7, 1972, I hereby:

(a) Determine, pursuant to Section 504(a) of the Foreign Assistance Act of 1961, as amended, that the furnishing of sophisticated weapons systems in FY 1973 to the Republic of Korea, Turkey, and Jordan is important to the national security of the United States.

(b) Determine, pursuant to Section 4 of the Foreign Military Sales Act, as amended, that the financing of the sale of sophisticated weapons systems to Jordan is important to the security of the United States.

You are requested on my behalf to report this determination to the Senate and the House of Representatives as required by law.

This determination shall be published in the FEDERAL REGISTER.

Richard Nixon

[FR Doc.72-20001 Filed 11-16-72; 1:38 pm]

Rules and Regulations

Title 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Lemon Reg. 560]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.860 Lemon Regulation 560.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 36 F.R. 9061), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 14, 1972.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period November 19 through November 25, 1972, is hereby fixed at 175,000 cartons.

(2) As used in this section, "handled", and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 15, 1972.

ARTHUR E. BROWNE,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-19980 Filed 11-17-72;8:53 am]

Chapter XIV—Commodity Credit Corporation

SUBCHAPTER C—EXPORT PROGRAMS

PART 1488—FINANCING OF SALES OF AGRICULTURAL COMMODITIES

Subpart A—Financing of Export Sales of Agricultural Commodities From Private Stocks Under CCC Export Credit Sales Program (GSM–4, Revision II)

CCC DRAFTS

On page 20038 of the FEDERAL REGISTER of September 23, 1972, there was published a notice of proposed rule making to amend § 1488.5 of GSM–4, Revision II, Regulations Covering Export Financing of Sales of Agricultural Commodities under the CCC Export Credit Sales Program.

The effect of this amendment is to change procedures under letters of credit by providing for the use of one draft in effecting repayments under the CCC Export Credit Sales Program.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections related to the proposed amendment. No comments have been received. Therefore, the proposed amendment, with clarifying language, is adopted without substantive change as set forth below.

Effective date. Shall be effective upon publication in the FEDERAL REGISTER (11–18–72).

Dated: November 10, 1972.

LAUREL C. MEADE,
Vice President, Commodity Credit Corporation, General Sales Manager, Export Marketing Service.

Amendment of § 1488.5 provides for the use of one draft in effecting repayments under the CCC export credit sales program. As amended, § 1488.5 will read as follows:

§ 1488.5 CCC drafts.

Under bank obligations, CCC will draw one draft for the amount due. If any portion of a CCC draft is dishonored, the U.S. bank or branch bank shall return the dishonored draft together with its statement of the reason for nonpayment. If a draft which is drawn under a partially confirmed bank obligation is dishonored, at the request of the confirming bank CCC will replace the draft with separate drafts for the confirmed and unconfirmed portions. Such replacement shall not alter the confirming bank's obligation for timely payment to CCC of the confirmed portion of the credit. For confirmed amounts, except as provided in § 1488.4 (c) and (d), a U.S. or branch bank may request refund from CCC of the amount paid if it certifies to CCC that it is unable to recover funds from the foreign bank due to a stipulated political risk which existed on the date payment was made to CCC under the draft. On approval by CCC of such request, the refund shall be promptly made together with interest at the Federal Reserve Bank of New York discount rate from the date payment was originally made to CCC to but not including the date of refund by CCC. For unconfirmed amounts, remittance to CCC shall be considered final, and the U.S. bank or branch bank shall not thereafter have recourse to CCC.

[FR Doc.72-19903 Filed 11-17-72;8:49 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-2298]

PART 13—PROHIBITED TRADE PRACTICES

American Home Products Corp. and Cunningham and Walsh, Inc.

Subpart—Advertising falsely or misleadingly: § 13.10 *Advertising falsely or*

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misleadingly; § 13.20 *Comparative data or merits:* 13.20–20 Competitors' products; § 13.175 *Quality of product or service;* § 13.265 *Tests and investigations.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1575 *Comparative data or merits;* § 13.1710 *Qualities or properties;* § 13.1762 *Tests, purported.* Subpart—Using deceptive techniques in advertising: § 13.2275 *Using deceptive techniques in advertising;* 13.2275–70 Television depictions.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C 45) [Cease and desist order, American Home Products Corp, et al., New York, N.Y., Docket No. C–2298, October 6, 1972]

In the Matter of American Home Products Corp., a Corporation, and Cunningham & Walsh, Inc., a Corporation

Consent order requiring a New York City seller and distributor of household products and its New York City advertising agency, among other things to cease advertising any consumer commodity by the use of or referral to a demonstration, test, or experiment that appears or purports to prove superiority of such products over competitive products when such demonstration, test, or experiment does not constitute proof thereof.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

I. *It is ordered,* That respondent American Home Products Corp., a corporation, its successors and assigns and respondent's officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale, or distribution of: (i) Any ironing aid or fabric conditioner including Easy-On Speed Starch or any other household consumer commodity consumed or expended in the laundering, ironing, or treatment of garments or other fabrics usually found in the house; (ii) any insecticide including Black Flag Ant & Roach Killer used in whole or in part within the house or any other household consumer commodity consumed or expended to control insects, pests or weeds or to fertilize earth in and around the house; (iii) any household consumer commodity consumed or expended to freshen or deodorize the air within the house or to light fires in and around the house; (iv) any product used to cool foods or beverages; (v) any household window cleaner including Easy-Off Liquid Window Cleaner or any household floor polish, including Aerowax Floor Wax; or (vi) any other household consumer commodity consumed or expended in cleaning, maintaining, repairing, or polishing the house and its usual furnishings, fixtures, or objects; or (vii) any aerosol shaving cream products; or (viii) any shoe care product; in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Advertising any such consumer commodity by presenting or referring to a demonstration, test, or experiment that appears or purports to be proof of any fact or product feature that is material to inducing the sale of the commodity, such as but not limited to comparative superiority of one commodity over another, when, in fact, such demonstration, test, or experiment does not constitute actual proof thereof.

II. *It is further ordered,* That respondent Cunningham & Walsh, Inc., a corporation, its successors and assigns and respondent's officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale, or distribution of: (i) Any ironing aid or fabric conditioner including Easy-On Speed Starch or any American Home Products Corp. household consumer commodity consumed or expended in the laundering, ironing, or treatment of garments or other fabrics usually found in the house; (ii) any insecticide including Black Flag Ant & Roach Killer used in whole or in part within the house or any American Home Products Corp. household consumer commodity consumed or expended to control insects, pests, or weeds or to fertilize earth in and around the house; (iii) any American Home Products Corp. household consumer commodity consumed or expended to freshen or deodorize the air within the house or to light fires in and around the house; (iv) any American Home Products Corp. product used to cool foods or beverages; (v) any household window cleaner including Easy-Off Liquid Window Cleaner; or (vi) any American Home Products Corp. household consumer commodity consumed or expended in cleaning, maintaining, repairing, or polishing the house and its usual furnishings, fixtures, or objects; or (vii) any American Home Products Corp. aerosol shaving cream product; or (viii) any American Home Products Corp. shoe care product; in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Advertising any such consumer commodity by presenting or referring to a demonstration, test, or experiment that appears or purports to be proof of any fact or product feature that is material to inducing the sale of the commodity, such as but not limited to comparative superiority of one commodity over another, when, in fact, such demonstration, test, or experiment does not constitute actual proof thereof, and respondent knew or should have known that such was the case.

It is further ordered, That respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That respondents herein shall, within sixty (60) days after the order becomes final, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

Issued: October 6, 1972.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72–19859 Filed 11–17–72;8:45 am]

[Docket No. C–2299]

PART 13—PROHIBITED TRADE PRACTICES

Regal Ware, Inc., and James D. Reigle

Subpart—Advertising falsely or misleadingly: § 13.70 *Fictitious or misleading guarantees;* § 13.135 *Nature of product or service;* § 13.170 *Qualities or properties of product or service.* Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception.* Subpart—Misrepresenting oneself and goods—Business Status, Advantages or connections: § 13.1520 *Personnel or staff*—Goods: § 13.1647 *Guarantees;* § 13.1685 *Nature;* § 13.1710 *Qualities or properties.* Subpart—Neglecting, unfairly, or deceptively, to make material disclosure: § 13.1905 *Terms and conditions.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Regal Ware, Inc., et al., Kewaskum, Wis., Docket No. C–2299, October 6, 1972]

In the Matter of Regal Ware, Inc., a Corporation, and James D. Reigle, Individually and as an Officer of Said Corporation

Consent order requiring a Kewaskum, Wis., distributor and seller of cooking utensils, among other things to cease misrepresenting the nature and properties of its products; representing respondents' sales personnel as members of its advertising department; and representing its guarantees as unconditional without revealing, in advertising, any conditions to which they are subject.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Regal Ware, Inc., a corporation, its successors and assigns and officers, and James D. Reigle, individually and as an officer of said corporation, and respondents' officers, agents, representatives, and employees directly or through any corporation, subsidiary, division, or other device, in connection with the offering for

sale, sale, distribution, or advertising of stainless steel or aluminum cookware, coated or uncoated, presently in respondents' line of products, or any other cookware products of substantially similar properties which they may offer for sale in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, orally or in writing, that:

(a) When their cooking utensils are covered with the lids supplied therefor, a vapor "seal" or "lock" is formed or that no vapor loss occurs during the cooking of food in said utensils, except that such representations may be used when expressly limited to that portion of the cooking time after the heat is turned down in the method of cooking recommended by respondents.

(b) The use of said cookware products will enable users to realize substantial savings in time spent in the kitchen in connection with the cooking of food.

(c) The sales agents and representatives of respondents' dealers, distributors, and franchisees are members of respondents' advertising department; that such persons are conducting an advertising campaign, or that such persons are other than salesmen whose purpose is to sell said cookware products.

2. Representing, directly or by implication, orally or in writing, that any product or service is guaranteed unless:

(a) The nature and extent of the guarantee, the identity of the guarantor, and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed, and

(b) The guarantor does in fact perform all of the actual and represented obligations under the terms of the guarantee.

3. Failing to disclose, clearly and conspicuously, in offers of free gifts or other promotional offers seeking leads to prospective purchasers of cookware products which are sold through sales representatives, that prospective purchasers may be visited by sales representatives.

4. Supplying to or placing in the hands of any distributor, dealer, franchisee, or salesman brochures, sales manuals, charts, pamphlets, or any other advertising material which are displayed or may be displayed to the purchasing public which contain any of the representations prohibited in paragraphs 1, 2, and 3 hereof.

5. Failing to deliver a copy of this order to cease and desist to all of respondents' present and future salesmen, distributors, dealers, and franchisees engaged in the sale of respondents' cookware products, and failing to secure from such persons a signed statement acknowledging receipt of said order.

It is further ordered, That the aforesaid respondents shall direct all of respondents' salesmen, distributors, dealers, or franchisees possessing repondents' products to remove and destroy all brochures, sales manuals, flip-charts, pamphlets, or any other advertising material which are displayed, or may be displayed, to the purchasing public which contain any of the representations or practices prohibited in paragraphs 1, 2, and 3 hereof; and in the event any such salesman, distributor, dealer, or franchisee refuses to, or does not, cooperate fully with respondents in this regard, respondents shall in that event cease to furnish and supply such salesman, distributor, dealer, or franchisee their products for resale to the public until such time as he does so cooperate.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of a subsidiary or any other change in the corporation which may affect compliance obligations arising out of the order, provided, however, that if respondents do not have thirty (30) days lead time between proposal of such change and its consummation, respondents shall notify the Commission thereof at the earliest feasible time before consummation and any entity which may succeed to any part of the business covered by this order will have been advised of every provision of this order and will have agreed to be bound thereby.

It is further ordered, That respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

Issued: October 6, 1972.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72–19860 Filed 11–17–72;8:45 am]

[Docket No. C–2297]

PART 13—PROHIBITED TRADE PRACTICES

Tallman Piano Stores, Inc. et al.

Subpart—Advertising falsely or misleadingly: § 13.73 *Formal regulatory and statutory requirements:* 13.73–92 Truth in Lending Act; § 13.140 *Old, reclaimed, or reused product being new;* § 13.155 *Prices;* 13.155–15 Comparative; 13.155–40 Exaggerated as regular and customary; 13.155–95 Terms and conditions; 13.155–95(a) Truth in Lending Act; 13.155–100 Usual as reduced, special, etc. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements;* 13.1623–95 Truth in Lending Act; § 13.1695 *Old, secondhand, reclaimed, or reconstructed as new;*—Prices: § 13.1805 *Exaggerated as regular and customary;* § 13.1823 *Terms and conditions;* 13.1823–20 Truth in Lending Act; § 13.1825 *Usual as reduced or to be increased.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements;* 13.1852–75 Truth in Lending Act; § 13.1905 *Terms and conditions;* 13.1905–60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601–1605) [Cease and desist order, Tallman Piano Stores, Inc. et al., Salem, Oreg., Docket No. C–2297, Oct. 5, 1972]

In the Matter of Tallman Piano Stores, Inc., Tallman Pianos-Organs, Inc., and Piano Organ Acceptance Corporation, Corporations, and Richard L. Taw, Individually and as an Officer of Said Corporation

Consent order requiring Salem, Oreg., and Burien, Wash., sellers and distributors of new and used pianos and organs, among other things to cease representing used merchandise as new; misrepresenting prices as regular or customary; representing any price as special or reduced unless such reduction in price is substantial; and failing to disclose to customers such information as required by Regulation Z of the Truth in Lending Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

I. *It is ordered,* That respondents Tallman Piano Stores, Inc., Tallman Pianos-Organs, Inc., and Piano Organ Acceptance Corp., corporations, their successors and assigns, and their officers, and Richard L. Taw, individually and as an officer, and respondents' agents, representatives and employees directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of pianos, organs or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, orally, in writing, or visually, that a used piano or organ is new; failing to disclose that a used piano or organ is not new.

2. Representing, directly or by implication, orally, in writing, or visually, that an amount, including but not limited to the manufacturer's suggested list price, is respondents' regular and customary retail price for a piano or organ, unless such amount is the price at which such item has been sold in substantial quantities by respondents in the recent regular course of their business; or

3. Misrepresenting, directly or by implication, orally, in writing, or visually, that any price for a piano or organ, however described, is the customary retail price for that piano or organ in a particular trade area.

4. Representing, directly or by implication, orally, in writing, or visually, that one of respondents' stores has a particular number of pianos and organs available for sale unless the represented number is in that store's physical inventory at the time the representation is made.

5. Representing, directly or by implication, orally, in writing, or visually, that

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respondents' products are guaranteed unless the nature and extent of the guarantee, the identity of the guarantor, and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed in immediate conjunction therewith.

6. Representing, directly or by implication, orally, in writing, or visually, that any price for respondents' products is a special and reduced price, unless such price constitutes a significant reduction from an established selling price at which such products have been sold in substantial quantities by respondents in the recent regular course of their business; or misrepresenting, in any manner, the savings available to purchasers.

7. Failing to maintain adequate records: (a) Which disclose facts upon which any savings claims, including former pricing claims and comparative value claims, and similar representations of the type described in paragraph 6 of this order are based, and (b) from which the validity of any savings claims, including former pricing claims and comparative value claims, and similar representations of the type described in paragraph 6 of this order can be determined.

II. *It is ordered*, That respondents Tallman Piano Stores, Inc., Tallman Pianos-Organs, Inc., and Piano Organ Acceptance Corp., corporations, their successors and assigns, and their officers, and Richard L. Taw, individually and as an officer, and respondents' agents, representatives and employees directly or through any corporation, subsidiary, division or other device, in connection with any consumer credit sale, as "consumer credit" and "credit sale" are defined in Regulation Z (12 CFR 226) of the Truth in Lending Act (Public Law 90-321.L. 90-321, 15 U.S.C. 1601 *et seq.*), do forthwith cease and desist from:

1. Failing to disclose the price at which respondents, in the regular course of business, offer to sell for cash the property or services which are the subject of the credit sale, and to describe that price as the "cash price", as required by § 226.8(c)(1) of Regulation Z.

2. Failing to disclose the amount of any downpayment in money, and to describe that amount as the "cash downpayment" as required by §226.8(c)(2) of Regulation Z.

3. Failing to disclose the amount of any downpayment in property, and to describe that amount as the "trade-in", as required by § 226.8(c)(2) of Regulation Z.

4. Failing to disclose the sum of the "cash downpayment" and the "trade-in", and to describe that sum as the "total downpayment", as required by § 226.8(c)(2) of Regulation Z.

5. Failing to disclose the difference between the "cash price" and the "total downpayment", and to describe that difference as the "unpaid balance of cash price", as required by § 226.8(c)(3) of Regulation Z.

6. Failing to disclose all charges which are not part of the "finance charge" but are included in the amount financed, and to itemize each such charge individually, as required by § 226.8(c)(4) of Regulation Z.

7. Failing to disclose the sum of the "unpaid balance of cash price" and all other amounts itemized individually, which are part of the amount financed but which are not included in the finance charge, and to describe that amount as the "unpaid balance", as required by § 226.8(c)(5) of Regulation Z.

8. Failing to disclose the amount of credit extended, and to describe that amount as the "amount financed", as required by § 226.8(c)(7) of Regulation Z.

9. Failing to disclose the sum of all charges made to the customer which are required by § 226.4 of Regulation Z to be included in the finance charge, and to describe that sum as the "finance charge", as required by § 226.8(c)(8)(i) of Regulation Z.

10. Failing to disclose accurately the sum of the cash price, all charges which are included in the amount financed but which are not part of the finance charge, and the finance charge, and to describe that sum as the "deferred payment price", as required by § 226.8(c)(8)(ii) of Regulation Z.

11. Failing to disclose the date the finance charge begins to accrue in any transaction in which that date is different from the date of the transaction, as required by § 226.8(b)(1) of Regulation Z.

12. Failing to disclose the annual percentage rate accurately to the nearest quarter of 1 percent, in accordance with § 226.8(b)(2) of Regulation Z.

13. Failing to disclose the number, amount, and due dates or periods of payments scheduled to repay the indebtedness, and to describe any payment which is more than twice the amount of an otherwise regularly scheduled equal payment as a "balloon payment", as required by § 226.8(b)(3) of Regulation Z.

14. Failing to disclose the sum of the payments scheduled to repay the indebtedness, and to describe the sum as the "total of payments" as required by § 226.8(b)(3) of Regulation Z.

15. Failing to describe the type of any security interest in property held, or to be retained or acquired in connection with any extension of credit, or to describe or identify the property to which that security interest relates, as required by § 226.8(b)(5) of Regulation Z.

16. Failing to identify the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation, or failing to state the amount or method of computation of any charge that may be deducted from the amount of any rebate of such finance charge that will be credited to the obligation or refunded to the customer, whether by failing to state that such charge will be deducted before or after computation of the unearned portion or otherwise, as required by § 226.8(b)(7) of Regulation Z.

17. Stating, in any advertisement, the rate of any finance charge unless respondents state the rate of that charge expressed as an "annual percentage rate", as required by § 226.10(d)(1) of Regulation Z.

18. Stating, in any advertisement, the amount of downpayment required or that no downpayment is required, the amount of any installment payment, the number of installments or the period of repayment, or that there is no charge for credit, in connection with a consumer credit transaction, without also stating all of the following items, in the terminology prescribed under § 226.08 of Regulation Z, as required by § 226.10(d)(2) thereof:

(i) The cash price;

(ii) The amount of the downpayment required or that no downpayment is required, as applicable;

(iii) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;

(iv) The amount of the finance charge expressed as an annual percentage rate; and

(v) The deferred payment price.

19. Failing, in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with §§ 226.4 and 226.5 of Regulation Z, in the manner, form and amount required by §§ 226.6, 226.7, 226.8, 226.9, and 226.10 of Regulation Z.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the consummation of any extension of consumer credit or in any aspect of preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in corporate respondents, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation or partnership, the creation or dissolution of subsidiaries, or other organizational change which may affect compliance obligations arising out of this order.

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a written report setting forth in detail the manner and form of their compliance with this order.

By the Commission.

Issued: October 5, 1972.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-19861 Filed 11-17-72;8:46 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS; EXTRAORDINARY EMERGENCY, REGULATION OF INTRASTATE ACTIVITIES

[Docket No. 72-581]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Release of Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, in subparagraph (e)(8) relating to the State of Tennessee, subdivision (ii) relating to Cumberland and Fentress Counties is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended, 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505.)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment excludes portions of Cumberland and Fentress Counties in Tennessee from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas contained in 9 CFR Part 76, as amended, do not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 apply to the excluded areas.

The amendment relieves restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera, and it should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to this Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 14th day of November 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-19937 Filed 11-17-72;8:52 am]

[Docket No. 72-582]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, in subparagraph (e)(2) relating to the State of Indiana, a new subdivision (v) relating to Wells County is added to read:

(e) • • •

(2) *Indiana.*

• • • • •

(v) That portion of Wells County bounded by a line beginning at the junction of the Wells-Allen County line and State Highway 303; thence, following the Wells-Allen County line in an easterly direction to the junction of the Wells-Allen-Adams County lines; thence, following the Wells-Adams County line in a southerly direction to County Road 200 N; thence, following County Road 200 N in a westerly direction to State Highway 303; thence, following State Highway 303 in a northerly direction to its junction with the Wells-Allen County line.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264–1265, as amended; sec. 1; 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended, 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment quarantines a portion of Wells County in Indiana because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined area.

The amendment imposes certain further restrictions necessary to prevent the interstate spread of hog cholera, and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 14th day of November 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Docs.72-19936 Filed 11-17-72;8:52 am]

PART 78—BRUCELLOSIS

Subpart D—Designation of Modified Certified Brucellosis Areas, Public Stockyards, Specifically Approved Stockyards, and Slaughtering Establishments

MODIFIED CERTIFIED BRUCELLOSIS AREAS

Pursuant to § 78.16 of the regulations in Part 78, as amended, Title 9, Code of Federal Regulations, containing restrictions on the interstate movement of animals because of brucellosis, under sections 4, 5 and 13 of the Act of May 29, 1884, as amended; sections 1 and 2 of the Act of February 2, 1903, as amended; and section 3 of the Act of March 3, 1905, as amended (21 U.S.C. 111–113, 114a–1, 120, 121, 125), § 78.13 of said regulations designating Modified Certified Brucellosis Areas is hereby amended to read as follows:

§ 78.13 **Modified certified brucellosis areas.**

The following States, or specified portions thereof, are hereby designated as Modified Certified Brucellosis Areas:

Alabama. The entire State;
Alaska. The entire State;
Arizona. The entire State;
Arkansas. The entire State;
California. The entire State;
Colorado. The entire State;
Connecticut. The entire State;
Delaware. The entire State;
Florida. The entire State;
Georgia. The entire State;
Hawaii. The entire State;
Idaho. The entire State;
Illinois. The entire State;
Indiana. The entire State;
Iowa. The entire State;
Kansas. The entire State;
Kentucky. The entire State.
Louisiana. The entire State;
Maine. The entire State;
Maryland. The entire State;
Massachusetts. The entire State;
Michigan. The entire State;
Minnesota. The entire State;

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Mississippi. The entire State;
Missouri. The entire State;
Montana. The entire State;
Nebraska. Adams, Antelope, Arthur, Banner, Blaine, Boone, Box Butte, Boyd, Brown, Buffalo, Burt, Butler, Cass, Cedar, Chase, Cherry, Cheyenne, Clay, Colfax, Cuming, Dakota, Dawes, Dawson, Deuel, Dixon, Dodge, Douglas, Dundy, Fillmore, Franklin, Frontier, Furnas, Gage, Garden, Garfield, Gosper, Grant, Greeley, Hall, Hamilton, Harlan, Hayes, Hitchock, Hooker, Howard, Jefferson, Johnson, Kearney, Keith, Keya Paha, Kimball, Knox, Lancaster, Logan, Madison, McPherson, Merrick, Morrill, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Perkins, Pierce, Polk, Red Willow, Richardson, Rock, Saline, Sarpy, Saunders, Scotts, Bluff, Seward, Sherman, Sioux, Stanton, Thayer, Thomas, Thurston, Valley Washington, Wayne, Webster, Wheeler, and York Counties;
Nevada. The entire State;
New Hampshire. The entire State;
New Jersey. The entire State;
New Mexico. The entire State;
New York. The entire State;
North Carolina. The entire State;
North Dakota. The entire State;
Ohio. The entire State;
Oklahoma. The entire State;
Oregon. The entire State;
Pennsylvania. The entire State;
Rhode Island. The entire State;
South Carolina. The entire State;
South Dakota. Aurora, Beadle, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Fault, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Jones, Kingsbury, Lawrence, Lincoln, Lyman, Marshall, McCook, McPherson, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Stanley, Sully, Todd, Tripp, Union, Walworth, Washabaugh, Yankton, and Ziebach Counties; and Crow Creek Indian Reservation.
Tennessee. The entire State;
Texas. Anderson, Andrews, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Bowie, Brazoria, Brazos, Brewster, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Childress, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comal, Comanche, Concho, Cooke, Coryell, Cattle, Crane, Crockett, Crosby, Culberson, Dallam, Dallas, Dawson, Deaf Smith, Delta Denton, DeWitt, Dickens, Dimmit, Donley, Duval, Eastland, Ector, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Glasscock, Goliad, Gonzales, Gray, Grayson, Gregg, Grimes, Guadelupe, Hale, Hall, Hamilton, Hansford, Hardeman, Hardin, Harris, Harrison, Hartley, Haskell, Hays, Hemphill, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hudspeth, Hunt, Hutchinson, Irion, Jack, Jackson, Jasper, Jeff Davis, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kenedy, Kent, Kerr, Kimble, King, Kinney, Klegerg, Knox, Lamar, Lamb, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Lipscomb, Live Oak, Llano, Loving, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Martin, Mason, Matagorda, Maverick, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Moore, Morris, Motley, Nacogdoches, Navarro, Newton, Nolan, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Pecos, Polk, Potter, Presidio, Raina, Randall, Regan, Real, Red River, Reeves, Refugio, Roberts, Robertson, Rockwall, Runnels, Ruak, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Starr, Stephens, Sterling, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terrell, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upehur, Upton, Uvalde, Val Verde, Van Zandt, Victoria, Walker, Waller, Ward, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Winkler, Wise, Wood, Yoakum, Young, Zapata, and Zavala Counties;
Utah. The entire State;
Vermont. The entire State;
Virginia. The entire State;
Washington. The entire State;
West Virginia. The entire State;
Wisconsin. The entire State;
Wyoming. The entire State;
Puerto Rico. The entire area; and
Virgin Islands of the United States. The entire area.

(Secs. 4, 5, 23 Stat. 32, as amended; secs. 1, 2, 32, Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; 21 U.S.C. 111–113, 114a–1, 120, 121, 125; 29 F.R. 16210, as amended; 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505, 9 CFR 78.16)

Effective date. The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER (11–18–72).

The amendment deletes Lake and Turner Counties in South Dakota from the list of areas designated as Modified Certified Brucellosis Areas because it has been determined that such areas no longer come within the definition of § 78.1(l).

Beadle and Shannon Counties in South Dakota and Dawson, Knox, and Terry Counties in Texas were deleted from the list of Modified Certified Brucellosis Areas on October 11, 1972. Since said date, it has been determined that these counties again come within the definition of § 78.1(l); and, therefore, they have been redesignated as Modified Certified Brucellosis Areas.

The amendment adds the following additional area to the list of areas designated as Modified Certified Brucellosis Areas because it has been determined that such area comes within the definition of § 78.1(l): Kenedy County in Texas.

The amendment imposes certain restrictions necessary to prevent the spread of brucellosis in cattle and relieves certain restrictions presently imposed. It should be made effective promptly in order to accomplish its purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under the administrative procedures provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect to the amendment are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 14th day of November 1972.

DONALD MILLER,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.72–19939 Filed 11–17–72;8:52 am]

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

Addition to List of Countries Determined To Be Free of Hog Cholera

Pursuant to section 2 of the Act of February 2, 1903, as amended, and sections 2, 3, 4, and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 134a, 134b, 134c, 134f), Part 94, Title 9, Code of Federal Regulations, is hereby amended as follows:

1. Section 94.9(a) is amended by deleting in both instances "England" and substituting "Great Britain (England, Scotland, Wales, and Isle of Man)" therefor, and by adding, "Iceland" after "Great Britain."

2. Section 94.10 is amended by deleting "England" and substituting "Great Britain (England, Scotland, Wales, and Isle of Man)" therefor, and by adding, "Iceland" after "Great Britain."

(Sec. 2, 32 Stat. 792, as amended; secs. 2, 3, 4, and 11, 76 Stat. 129, 130, 132; 21 U.S.C. 111, 134a, 134b, 134c, 134f; 29 F.R. 16210, as amended; 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments delete "England" and substitute "Great Britain (England, Scotland, Wales, and Isle of Man)" therefor, and add Iceland, in the list of countries determined to be free of hog cholera and from which swine, pork and pork products may be imported into the United States without complying with §§ 94.9 and 94.10 but subject to other applicable restrictions.

The amendments relieve certain restrictions presently imposed but no longer deemed necessary to prevent the introduction and dissemination of the contagion of hog cholera, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and unnecessary, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 14th day of November 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72–19940 Filed 11–17–72;8:52 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 72–RM–19]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

On October 6, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 21174) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the description of the Watertown, S. Dak., control zone and transition area.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. These amendments shall be effective 0901 G.m.t., February 1, 1973.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Aurora, Colo., on November 9, 1972.

M. M. MARTIN,
Director, Rocky Mountain Region.

In § 71.171 (37 F.R. 2056) the description of the Watertown, S. Dak., control zone is amended to read as follows:

WATERTOWN, S. DAK.

Within a 5-mile radius of Watertown Municipal Airport (latitude 44°54'51" N., longitude 97°09'16" W.); within 1.5 miles each side of the Watertown VORTAC 001° radial, extending from the 5-mile radius zone to 2.5 miles north of the VORTAC; and within 1 mile each side of the Watertown VORTAC 181° radial, extending from the 5-mile radius zone to 10.5 miles south of the VORTAC.

In § 71.181 (37 F.R. 2143) the description of the Watertown, S. Dak., transition area is amended to read as follows:

WATERTOWN, S. DAK.

That airspace extending upward from 700 feet above the surface within a 14.5-mile radius of the Watertown VORTAC extending clockwise from the 238° radial to the 066° radial; within a 26-mile radius of the Watertown VORTAC extending clockwise from the 066° radial to a line located parallel to and 4.5 miles west of the 181° radial; and within 6 miles east and 9.5 miles west of the Watertown VORTAC 001° radial extending from the VORTAC to 21 miles north; and that airspace extending upward from 1,200 feet above the surface within 9.5 miles east and 7 miles west of the 181° radial extending from the VORTAC to 31.5 miles south; and within a 26-mile radius of the Watertown VORTAC extending clockwise from a line 7 miles west of and parallel to the 181° radial to the 238° radial.

[FR Doc.72–19897 Filed 11–17–72;8:49 am]

[Airspace Docket No. 72–RM–24]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On October 3, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 20727) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Missoula, Mont., transition area.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received, and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.m.t., February 1, 1973.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act 49 U.S.C. 1655(c))

Issued in Aurora, Colo., on November 10, 1972.

M. M. MARTIN,
Director, Rocky Mountain Region.

In § 71.181 (37 F.R. 2143) the description of the Missoula, Mont., transition area is amended to read as follows:

That airspace extending upward from 700 feet above the surface within 8 miles southwest of the Missoula, Mont. VORTAC 296° radial extending from the VORTAC to 21 miles northwest; and within 8.5 miles southwest and 5.5 miles northeast of the Missoula VORTAC 311° radial extending from the VORTAC to 38 miles northwest; and that airspace extending upward from 1,200 feet above the surface within a 13-mile radius of the Missoula, Mont. VORTAC (latitude 46°54'29" N., longitude 114°04'58" W.); within a 32-mile radius of the Missoula, Mont. VORTAC extending clockwise from the 256° radial to the 357° radial; within 9.5 miles southwest of the Missoula, Mont. VORTAC 298° radial extending from the VORTAC to 38 miles northwest; and within 9 miles southwest and 6 miles northeast of the Missoula, Mont. VORTAC 113° radial extending from the VORTAC to 19 miles southeast.

[FR Doc.72–19898 Filed 11–17–72;8:49 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER–779; Amdt. 18]

PART 221—CONSTRUCTION, PUBLICATION, FILING, AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Notice of Liability Limitations

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 14th day of November 1972.

By circulation of notice of proposed rule making EDR–230,[1] the Board gave notice that it had under consideration modification of the provisions of Part 221 of the Economic Regulations (14 CFR Part 221) which require standard notices of the limitations on liability provided by the Warsaw Convention. Because of the recent devaluation of the dollar in relation to gold, the dollar limitations specified in these notices no longer reflect the minimum liability requirements of the Convention, which are based on a gold standard. Therefore, it was proposed to amend the liability notices prescribed in §§ 221.175 and 221.176 (a) and (b) to require air carriers and foreign air carriers which avail themselves of limitations on liability for death or personal injury, or for loss or damage to baggage, as provided by the Warsaw Convention, to accurately state, in their ticket and sign notices of such limitations, the dollar limitations currently allowable under the Convention.

Interested persons have been afforded an opportunity to participate in this proceeding, but no comments have been filed in response to the rule making notice. Accordingly, we have determined to adopt the rules as proposed, and we incorporate herein the tentative findings made in EDR–230.

Since carriers have only recently been required to order new ticket stock, in implementation of the Board's regulation requiring notice of baggage liability limitations,[2] we will, as contemplated in the rule making notice, allow carriers until March 15, 1973, to revise their ticket notices to reflect the aforedescribed dollar limitations. The revision to the standard sign notice shall be made within 30 days after publication of this rule in the FEDERAL REGISTER.[3]

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 221 of the Economic Regulations (14 CFR Part 221) effective December 18, 1972, as follows:

[1] September 12, 1972, 37 F.R. 18926, Docket 24750.
[2] ER–708, Jan. 1, 1972.
[3] These amendments to the regulations in no manner affect the issues before the U.S. Court of Appeals for the District of Columbia Circuit in the pending case, Deutsche Lufthansa Aktiengesellschaft v. Civil Aeronautics Board, C.A.D.C. No. 72–1052, filed Jan. 17, 1972.

terest to prescribe new accounting treatment for these items, consider it compelling as cost allocations

PART 101—UNIFORM SYSTEM OF

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1. Amend paragraph (a) of § 221.175, the paragraph as amended to read as follows:

§ 221.175 Special notice of limited liability for death or injury under the Warsaw Convention.

(a) In addition to the aforesaid requirements of this subpart, each air carrier and foreign air carrier which, to any extent, avails itself of the limitation on liability to passengers provided by the Warsaw Convention, shall, at the time of delivery of the ticket, furnish to each passenger whose transportation is governed by the Convention and whose place of departure or place of destination is in the United States, the following statement in writing:

ADVICE TO INTERNATIONAL PASSENGERS ON LIMITATION OF LIABILITY

Passengers embarking upon a journey involving an ultimate destination or a stop in a country other than the country of departure are advised that the provisions of a treaty known as the Warsaw Convention may be applicable to their entire journey including the portion entirely within the countries of departure and destination. The Convention governs and in most cases limits the liability of carriers to passengers for death or personal injury to approximately $9,000.

Additional protection can usually be obtained by purchasing insurance from a private company. Such insurance is not affected by any limitation of the carrier's liability under the Warsaw Convention. For further information please consult your airline or insurance company representative.

Provided, however, That when the carrier elects to agree to a higher limit of liability to passengers than that provided in Article 22(1) of the Warsaw Convention, such statement shall be modified to reflect the higher limit. The statement prescribed herein shall be printed in type at least as large as 10-point modern type and in ink contrasting with the stock on: (1) Each ticket; (2) a piece of paper either placed in the ticket envelope with the ticket or attached to the ticket; or (3) the ticket envelope; *And provided further,* That, until March 15, 1973, a carrier may substitute the sum of "$8,290" in place of the sum of "$9,000" in the text of the statement prescribed by this paragraph.

* * * * *

2. Amend paragraphs (a) and (b) of § 221.176, the paragraphs as amended to read as follows:

§ 221.176 Notice of limited liability for baggage; alternative consolidated notice of liability limitations.

(a) Each air carrier and foreign air carrier which, to any extent, avails itself of limitations on liability for loss of, damage to, or delay in delivery of baggage shall cause to be displayed continuously in a conspicuous public place at each desk, station, and position in the United States which is in the charge of a person employed exclusively by it or by it jointly with another person, or by any agent employed by such air carrier or foreign air carrier to sell tickets to passengers or accept baggage for checking, a sign which shall have printed thereon the following statement:

NOTICE OF LIMITED LIABILITY FOR BAGGAGE

Liability for loss, delay, or damage to baggage is limited as follows unless a higher value is declared and an extra charge is paid: (1) For most international travel (including domestic portions of international journeys) to approximately $8.16 per pound for checked baggage and $360 per passenger for unchecked baggage; (2) for travel wholly between U.S. points, to $500 per passenger on most carriers. Special rules may apply to valuables. Consult your carrier for details.

Provided, however, That an air carrier or foreign air carrier which provides a higher limitation of liability for death or personal injury than that set forth in the Warsaw Convention and has signed a counterpart of the agreement approved by the Board by Order E-23680, dated May 13, 1966 (31 F.R. 7302, May 19, 1966), may use the following notice in full compliance with the posting requirements of this paragraph and of § 221.175 (b) of this chapter:

ADVICE TO PASSENGERS ON LIMITATIONS OF LIABILITY

Airline liability for death or personal injury may be limited by the Warsaw Convention and tariff provisions in the case of travel to or from a foreign country.

Liability for loss, delay, or damage to baggage is limited as follows unless a higher value is declared and an extra charge is paid: (1) For most international travel (including domestic portions of international journeys) to approximately $8.16 per pound for checked baggage and $360 per passenger for unchecked baggage; (2) for travel wholly between U.S. points, to $500 per passenger for most carriers. Special rules may apply to valuable articles.

See the notice with your ticket or consult your airline or travel agent for further information.

Provided, further, That carriers may include in the notice the parenthetical phrase "($18.00 per kilo)" after the phrase "$8.16 per pound" in referring to the baggage liability limitation for most international travel. Such statements shall be printed in boldface type at least one-fourth of an inch high and shall be so located as to be clearly visible and clearly readable to the traveling public.

(b) Each air carrier and foreign air carrier which, to any extent, avails itself of limitations of liability for loss of, damage to, or delay in delivery of, baggage shall include on each ticket issued in the United States or in a foreign country by it or its authorized agent, the following notice printed in at least 10-point type:

NOTICE OF BAGGAGE LIABILITY LIMITATIONS

Liability for loss, delay, or damage to baggage is limited as follows unless a higher value is declared in advance and additional charges are paid: (1) For most international travel (including domestic portions of international journeys) to approximately $8.16 per pound for checked baggage and $360 per passenger for unchecked baggage; (2) for travel wholly between U.S. points, to $500 per passenger on most carriers (a few have lower limits). Excess valuation may not be declared on certain types of valuable articles. Carriers assume no liability for fragile or perishable articles. Further information may be obtained from the carrier.

Provided, however, That carriers may include in their ticket notice the parenthetical phrase "($18.00 per kilo)" after the phrase "$8.16 per pound" in referring to the baggage liability limitation for most international travel. *And provided further,* That, until March 15, 1973, a carrier may (i) substitute the sums "$7.50" and "$330," respectively, in place of the sums "$8.16" and "$360," respectively, in the statement prescribed by this paragraph, and (ii) substitute the sums "$16.58" and "$7.50," respectively, in place of the sums "$18.00" and "$8.16," respectively, in the optional language permitted by the first proviso to this paragraph.

* * * * *

(Sections 204(a), 403, and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758, and 771 as amended; 49 U.S.C. 1323, 1373, and 1386)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-19927 Filed 11-17-72;8:50 am]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Docket No. R-445 Order 460]

UNIFORM SYSTEM OF ACCOUNTS; STATEMENT AND REPORTS (SCHEDULES)

Accounting Procedures for Merchandising, Jobbing, and Contract Work

NOVEMBER 13, 1972.

On June 14, 1972, the Commission issued a notice of proposed rule making in this proceeding (37 F.R. 12159, June 20, 1972) proposing to amend its Uniform Systems of Accounts for Classes A, B, C, and D Public Utilities and Licensees, and FPC Form No. 1, Annual Report for Public Utilities and Licensees and Others (Class A and Class B); and FPC Form No. 2, Annual Report for Natural Gas Companies (Class A and Class B) consistent with the amendments to the Uniform System of Accounts.

Comments were invited from interested parties to be submitted by July 31, 1972.

In response to the notice of rule making, the Commission received comments from 11 respondents.[1]

The amendments to the Uniform Systems of Accounts and Annual Report Forms evolve from the Commission's in-

[1] Haskins & Sells, Allegheny Power Service Corp., American Electric Power Service Corp., Arizona Public Service Co., Commonwealth Edison Co., Detroit Edison Co., the Gulf States Utilities Co., Public Service of Indiana, Wisconsin Power & Light Co., Iowa-Illinois Gas & Electric Co., and Robert E. Stromberg.

terest to prescribe new accounting treatment for revenues, costs, and expenses relating to merchandising, jobbing, and contract work.[2] This new treatment would require that the privilege of optional accounting be abolished and that all future related revenues, costs, and expenses be accounted for below-the-line, since the item is considered essentially nonoperating in nature.

Upon consideration of the comments from interested parties, the Commission has decided to implement the proposals basically as put forth in the proposed rulemaking Docket No. R-445, with the exception of the proposed effective date of January 1, 1972. Considering the hardship that would be involved in retroactive accounting it is determined a more realistic effective date would be January 1, 1973. Additionally, any reference to Account 915 now in Accounts 913, Advertising Expenses (Classes A and B), 924, Property Insurance (Classes A, B, and C), and 932, Maintenance of General Plant (935 Class C), although not mentioned in the rule making, will necessarily have to be deleted.

Three respondents commented they could see no need for the proposed change. The fundamental concern of two of these three respondents, neither of whom were a regulated utility or State commission, was that other regulatory bodies that have primary responsibility for establishing rates for many companies reporting both to the Commission and the local regulatory body, may require different treatment for ratemaking and accounting purposes. The Commission was aware of this fact and considered it before proposing rule making. In this connection, it is not the Commission's intent to create additional burdens for other regulatory commissions or the regulated utilities. On the other hand, the Commission believes strongly the item in question has no place in utility operating income from an equitable point of view nor should optional type accounting be allowed in those cases where it can be avoided.

The remaining objecting respondent believed that in light of the additional "bookkeeping" in order to properly allocate costs, plus the fact that revenues and expenses are now readily identifiable and further result in an insignificant effect on net operating income of individual companies and the industry in total, the proposal should be abandoned. After considering the comment we do not consider it compelling as cost allocations are also necessary when following the prescriptions of the Uniform Systems of Accounts, whether accounting for the item above or below-the-line. As to the remainder of the comment, the principle of equity and uniformity involved is overriding.

Two responses received confirmed there is a difference of interpretation as to the proper accounting for installment sales interest income. To resolve this inconsistency, we are amending Account 415, Merchandising, Jobbing, and Contract Work, to prescribe that interest income related to installment sales shall be accounted for in Account 419, Interest and Dividend Income. We are making this amendment, even though it was not included in the proposed rulemaking due to the need for clarity in this area and that it is considered minor in nature.

The Commission finds:

(1) The notice and opportunity to participate in this rule making proceeding with respect to the matters presently before this Commission through the submission, in writing, of data, views, comments, and suggestions in the manner described above, are consistent and in accordance with the procedural requirements prescribed by 5 U.S.C. 553.

(2) The amendments to Parts 101 and 104 of the Commission's Uniform System of Accounts for Public Utilities and Licensees, and Annual Report Form No. 1 prescribed by § 141.1 in Chapter I, Title 18 of the Code of Federal Regulations, herein prescribed, are necessary and appropriate for the administration of the Federal Power Act.

(3) The amendments to Parts 201 and 204 of the Commission's Uniform System of Accounts for Natural Gas Companies, and Annual Report Form No. 2 prescribed by § 260.1 in Chapter I, Title 18 of the Code of Federal Regulations, herein prescribed, are necessary and appropriate for the administration of the Natural Gas Act.

(4) Since the amendments prescribed herein, which were not included in the notice of this proceeding, are of a minor nature and consistent with the prime purpose of the proposed rule making, further compliance with the notice provision of 5 U.S.C. 553 is unnecessary.

(5) Good cause exists for making the amendments to the Uniform Systems of Accounts for Public Utilities and Licensees and Natural Gas Companies ordered herein, effective January 1, 1973, and the amendments to FPC Annual Report Forms No. 1 and No. 2 ordered herein, effective for the reporting year 1973. The Commission, acting pursuant to the provisions of the Federal Power Act, as amended, particularly sections 301, 302, 303, 304, and 309 thereof (49 Stat. 854, 855, 856, 858, 859; 16 U.S.C. 825, 825a, 825b, 825c, 825h) and of the Natural Gas Act, as amended, particularly sections 8, 9, 10, and 16 thereof (52 Stat. 825, 826, 830; 15 U.S.C. 717g, 717h, 717i, 717o), orders:

[2] Presently accounted for in Accounts 415, Revenues from Merchandising, Jobbing, and Contract Work, and 416, Costs and Expenses of Merchandising, Jobbing, and Contract Work, if a State regulatory body having rate jurisdiction requires the net income therefrom to be reported as other income; otherwise in Accounts 914 and 915 if such regulatory body requires the net income to be reported as an operating income or expense item. In the absence of such a requirement, the utility may use either Accounts 415 and 416 or 914 and 916 at their option.

PART 101—UNIFORM SYSTEM OF ACCOUNTS FOR PUBLIC UTILITIES AND LICENSEES (CLASS A AND CLASS B)

A. The Commission's Uniform System of Accounts for Class A and Class B Public Utilities and Licensees prescribed by Part 101, Chapter I, Title 18 of the Code of Federal Regulations is amended as follows:

1. In the text of Income Accounts, amend paragraph A by adding a final sentence and revising Note A to Accounts "415, Revenues from merchandising, jobbing, and contract work," and "416, Costs and expenses of merchandising, jobbing, and contract work." As so revised, the text will read:

Income Accounts

* * * * *

2. OTHER INCOME AND DEDUCTIONS

415 Revenues from merchandising, jobbing, and contract work.

416 Costs and expenses of merchandising, jobbing, and contract work.

A. * * * Interest related income from installment sales shall be recorded in Account 419, Interest and Dividend income.

* * * * *

NOTE A: The classification of revenues, costs, and expenses of merchandising, jobbing, and contract work as nonoperating, and thus inclusion in this account, is for accounting purposes. It does not preclude consideration of justification to the contrary for ratemaking or other purposes.

* * * * *

2. Amend the chart of the Operation and Maintenance Expense Accounts by revoking account titles "914, Revenues from merchandising, jobbing, and contract work," and "915, Costs and expenses of merchandising, jobbing, and contract work." As so amended, the chart of accounts will read:

Operation and Maintenance Expense Accounts

* * * * *

5. SALES EXPENSES

Operation

* * * * *

914 [Revoked]
915 [Revoked]

* * * * *

3. Amend the text of the Operation and Maintenance Expense Accounts by:

a. Deleting "or 915, as appropriate," from the last sentence of "Note A" and from "Note B" to Account "913, Advertising Expenses."

b. Revoking Accounts "914, Revenues from merchandising, jobbing, and contract work," and "915, Costs and expenses of merchandising, jobbing, and contract work."

c. Deleting "or Account 915, as appropriate," from the end of the sentence of "Note B:(5)" to Account "924, Property insurance."

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d. Deleting "or 915" from the list of accounts referred to in paragraph "B" of Account "932, Maintenance of general plant."

As so amended, the text will read:

Operation and Maintenance Expense Accounts

. . . . .

5. SALES EXPENSES

Operation

. . . . .

913 Advertising expenses.

. . . . .

NOTE A: • • • However, advertisements which are limited to specific makes of appliances sold by the utility and prices, terms, etc., thereof, without referring to the value or advantages of utility service, shall be considered as merchandise advertising and the cost shall be charged to Cost and Expenses of Merchandising, Jobbing and Contract Work, Account 416.

NOTE B: Advertisements which substantially mention or refer to the value or advantages of utility service, together with specific reference to makes of appliances sold by the utility and the price, terms, etc., thereof, and designed for the joint purpose of increasing the use of utility service and the sales of appliances, shall be considered as a combination advertisement and the costs shall be distributed between this account and Accounts 416 on the basis of space, time, or other proportional factors.

. . . . .

914 [Revoked]

915 [Revoked]

. . . . .

6. ADMINISTRATIVE AND GENERAL EXPENSES

Operation

. . . . .

924 Property insurance.

. . . . .

(C) • • •

ITEMS

. . . . .

(5) Merchandise and jobbing property, to Account 416, Costs and Expenses of Merchandising, Jobbing and Contract Work.

Maintenance

932 Maintenance and general plant.

. . . . .

B. • • •

Steam Power Generation, Account 514.
Nuclear Power Generation, Account 532.
Hydraulic Power Generation, Account 545.
Other Power Generation, Account 554.
Transmission, Account 573.
Distribution, Account 598.
Merchandise and Jobbing, Account 416.

. . . . .

PART 104—UNIFORM SYSTEM OF ACCOUNTS FOR PUBLIC UTILITIES AND LICENSEES (CLASS C)

B. The Commission's Uniform System of Accounts for Class C Public Utilities and Licensees prescribed by Part 104, Chapter I, Title 18 of the Code of Federal Regulations is amended as follows:

1. In the text of the Income Accounts, amend paragraph A by adding a final sentence and revising Note A to accounts "415, Revenues from merchandising, jobbing and contract work," and "416, Costs and expenses of merchandising, jobbing and contract work." As so revised, the text will read:

Income Accounts

. . . . .

2. OTHER INCOME AND DEDUCTIONS

415 Revenues from merchandising, jobbing and contract work.

416 Costs and expenses of merchandising, jobbing and contract work.

A. • • • Interest related income from installment sales shall be recorded in Account 419, Interest and Dividend Income.

. . . . .

NOTE A: The classification of revenues, costs and expenses of merchandising, jobbing, and contract work as nonoperating, and thus inclusion in this account, is for accounting purposes. It does not preclude consideration of justification to the contrary for ratemaking or other purposes.

. . . . .

2. Amend the chart of the Operation and Maintenance Expense Accounts by revoking account titled "914, Revenues from merchandising, jobbing and contract work," and "915, Costs and expenses of merchandising, jobbing and contract work." As so amended, the chart of accounts will read:

Operation and Maintenance Expense Accounts

. . . . .

5. SALES EXPENSES

Operation

. . . . .

914 [Revoked]

915 [Revoked]

. . . . .

6. ADMINISTRATIVE AND GENERAL EXPENSES

Operation

. . . . .

924 Property insurance.

. . . . .

(C) • • •

ITEMS

. . . . .

(5) Merchandise and jobbing property to account 416, Costs and Expenses of Merchandising, Jobbing and Contract Work.

Maintenance

935 Maintenance of general plant.

B. • • •

Steam generation, Account 506.
Hydraulic generation, Account 535.
Other generation, Account 543.
Transmission, Account 553.
Distribution, Account 576.
Merchandising and jobbing, Account 416.
Garages, shops, etc., appropriate general expense or clearing account.

. . . . .

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

C. Schedule page 419, Electric Operation and Maintenance Expenses (Continued) in F.P.C. Form No. 1, Annual Report for Electric Utilities and Licensees and Others (Class A and Class B), prescribed by § 141.1, Chapter I, Title 18 of the Code of Federal Regulations are amended as set forth in Attachment A.[1]

PART 201—UNIFORM SYSTEM OF ACCOUNTS FOR NATURAL GAS COMPANIES (CLASS A AND CLASS B)

D. The Commission's Uniform System of Accounts for Class A and Class B Natural Gas Companies prescribed by Part 201, Chapter I, Title 18 of the Code of Federal Regulations is amended as follows:

1. In the text of the Income Accounts, amend paragraph A by adding a final sentence and revising Note A to accounts "415, Revenues from merchandising, jobbing and contract work," and "416, Costs and expenses of merchandising, jobbing and contract work." As so revised, the text will read:

Income Accounts

. . . . .

2. OTHER INCOME AND DEDUCTIONS

415 Revenues from merchandising, jobbing and contract work.

416 Costs and expenses of merchandising, jobbing and contract work.

A. • • • Interest related income from installment sales shall be recorded in

[1] Attachment A filed as part of the original document.

Account 419, Interest and Dividend Income.

. . . . .

NOTE A: The classification of revenues, costs and expenses of merchandising, jobbing and contract work as nonoperating, and thus inclusion in this account, is for accounting purposes. It does not preclude consideration for justification to the contrary for ratemaking or other purpose.

. . . . .

2. Amend the chart of the Operation and Maintenance Expense Accounts by revoking account titles "914, Revenues from merchandising, jobbing and contract work," and "915, Costs and expenses of merchandising, jobbing and contract work." As so amended, the chart of accounts will read:

Operation and Maintenance Expense Accounts

. . . . .

6. SALES EXPENSES

Operation

. . . . .

914 [Revoked]

915 [Revoked]

. . . . .

3. Amend the text of the Operation and Maintenance Expense Accounts by:

a. Deleting "or 915, as appropriate," from the last sentence of "Note A" and from "Note B" to account "913, Advertising expenses."

b. Revoking accounts "914, Revenues from merchandising, jobbing and contract work," and "915, Costs and expenses of merchandising, jobbing and contract work."

c. Deleting "or account 915, as appropriate," from the end of the sentence of "Note B:(5)" to account "924, Property insurance."

d. Deleting "or 915" from the list of accounts referred to in paragraph "B" of Account "932, Maintenance of general plant."

As so amended the text will read:

Operation and Maintenance Expense Accounts

. . . . .

6. SALES EXPENSES

Operation

. . . . .

913 Advertising expenses.

NOTE A: • • • However, advertisements which are limited to specific makes of appliances sold by the utility and prices, terms, etc., thereof, without referring to the value or advantages of utility service, shall be considered as merchandise advertising and the cost shall be charged to Costs and Expenses of Merchandising, Jobbing and Contract Work, account 416.

NOTE B: Advertisements which substantially mention or refer to the value or advantages of utility service, together with specific reference to makes of appliances sold by the utility and the price, terms, etc., thereof, and designed for the joint purpose of increasing the use of utility service and the sales of appliances, shall be considered as a combination advertisement and the costs shall be distributed between this account and account 416 on the basis of space, time, or other proportional factors.

. . . . .

914 [Revoked]

915 [Revoked]

. . . . .

7. ADMINISTRATIVE AND GENERAL EXPENSES

Operation

. . . . .

924 Property insurance.

. . . . .

(C) • • •

ITEMS

. . . . .

(5) Merchandise and jobbing property, to account 416, Costs and Expenses of Merchandising, Jobbing and Contract Work.

. . . . .

Maintenance

932 Maintenance of general plant.

. . . . .

B. • • •

Manufactured Gas Production, Account 708, 742.
Natural Gas Production and Gathering, Account 769.
Natural Gas Products Extraction, Account 791.
Underground Storage, Account 837.
Local Storage, Account 846.
Transmission Expenses, Account 867.
Distribution Expenses, Account 894.
Merchandise and Jobbing, Account 416.

. . . . .

PART 204—UNIFORM SYSTEM OF ACCOUNTS FOR NATURAL GAS COMPANIES (CLASS C)

E. The Commission's Uniform System of Accounts for Class C Natural Gas Companies, prescribed by Part 204, Chapter I, Title 18 of the Code of Federal Regulations is amended as follows:

1. In the text of the Income Accounts, amend paragraph A by adding a final sentence and revising Note A to accounts "415, Revenues from merchandising, jobbing and contract work," and "416, Costs and expenses of merchandising, jobbing and contract work." As so revised, the text will read:

Income Accounts

. . . . .

2. OTHER INCOME AND DEDUCTIONS

415 Revenues from merchandising, jobbing and contract work.

416 Costs and expenses of merchandising, jobbing and contract work.

A. • • • Interest related income from installment sales shall be recorded in account 419, Interest and Dividend Income.

. . . . .

NOTE A: The classification of revenues, costs and expenses of merchandising, jobbing and contract work as nonoperating, and thus inclusion in this account is for accounting purposes. It does not preclude consideration of justification to the contrary for ratemaking or other purposes.

. . . . .

2. Amend the chart of the Operation and Maintenance Expense Accounts by revoking account titles "914, Revenues from merchandising, jobbing and contract work," and "915, Costs and expenses of merchandising, jobbing and contract work." As so amended, the chart of accounts will read:

Operation and Maintenance Expense Accounts

. . . . .

9. SALES EXPENSES

Operation

. . . . .

914 [Revoked]

915 [Revoked]

. . . . .

3. Amend the text of the Operation and Maintenance Expense Accounts by:

a. Revoking accounts "914, Revenues from merchandising, jobbing and contract work," and "915, Costs and expenses of merchandising, jobbing and contract work."

b. Deleting "or account 915, as appropriate." from the end of the sentence of "Note B:(5)" to account "924, Property insurance."

c. Deleting "or 915" from the list of accounts referred to in paragraph "B" of account "935, Maintenance of general plant."

As so amended the text will read:

Operation and Maintenance Expense Accounts

. . . . .

9. SALES EXPENSES

914 [Revoked]

915 [Revoked]

. . . . .

10. ADMINISTRATIVE AND GENERAL EXPENSES

924 Property insurance.

. . . . .

(C) • • •

(5) Merchandise and jobbing property, to account 416, Costs and Expenses of Merchandising, Jobbing and Contract Work.

935 Maintenance of general plant.

. . . . .

B. • • •

Manufactured gas production, Account 706.
Natural gas production and gathering, Account 719.
Storage, Account 746 or 747.
Transmission, Account 757.
Distribution, Account 769.
Merchandise and jobbing, Account 416.

. . . . .

PART 260—STATEMENT AND REPORTS (SCHEDULES)

F. Schedule page 531, Gas Operation and Maintenance Expenses (Continued) in F.P.C. Form No. 2, Annual Report for Natural Gas Companies (Class A and Class B), prescribed by § 260.1, Chapter I, Title 18 of the Code of Federal Regulations are amended as set forth in Attachment B.[1]

[1] Filed as part of the original document.

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G. This order is effective January 1, 1973.

H. The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-19888 Filed 11-17-72;8:48 am]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration
PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

VENEREAL DISEASE, ALCOHOLISM AND DRUG USAGE

On page 20335 of the FEDERAL REGISTER of September 29, 1972, there was published a notice of proposed regulatory development to amend § 3.301(c), Title 38, Code of Federal Regulations relating to willful misconduct as a factor in alcoholism, venereal disease and drug usage. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulation.

One written comment was received which objected generally to the proposed regulatory change. The objection was considered but it was determined the beneficial objectives outweighed the stated objections and the proposed regulation is hereby adopted without change as set forth below.

Effective date. In § 3.301(c), subparagraph (2) is effective August 13, 1964, and subparagraphs (1) and (3) are effective November 14, 1972.

Approved: November 14, 1972.

By direction of the Administrator.

RUFUS H. WILSON, *Associate Deputy Administrator.*

Paragraph (c) of § 3.301 is amended as follows:

§ 3.301 Line of duty and misconduct.

* * * * *

(c) *Specific applications.* For the purpose of determining entitlement to service-connected and nonservice-connected benefits the definitions in § 3.1 (m) and (n) apply except as modified within the following subparagraphs. The provisions of subparagraphs (2) and (3) of this paragraph are subject to the provisions of § 3.302 where applicable.

(1) *Venereal disease.* The residuals of venereal disease are not to be considered the result of willful misconduct. Consideration of service connection for residuals of venereal disease as having been incurred in service requires that the initial infection must have occurred during active service. Increase in service of manifestations of venereal disease will usually be held due to natural progress unless the facts of record indicate the increase in manifestations was precipitated by trauma or by the conditions of the veteran's service, in which event service connection may be established by aggravation. Medical principles pertaining to the incubation period and its relation to the course of the disease; i.e., initial or acute manifestation, or period and course of secondary and late residuals manifested, will be considered when time of incurrence of venereal disease prior to or after entry into service is at issue. In the issue of service connection, whether the veteran complied with service regulations and directives for reporting the disease and undergoing treatment is immaterial after November 14, 1972, and the service department characterization of acquisition of the disease as "willful misconduct" or as "not in line of duty" will not govern.

(2) *Alcoholism.* The simple drinking of alcoholic beverage is not of itself willful misconduct. The deliberate drinking of a known poisonous substance or under conditions which would raise a presumption to that effect will be considered willful misconduct. If, in the drinking of a beverage to enjoy its intoxicating effects, intoxication results proximately and immediately in disability or death, the disability or death will be considered the result of the person's willful misconduct. Organic diseases and disabilities which are a secondary result of the chronic use of alcohol as a beverage, whether out of compulsion or otherwise, will not be considered of willful misconduct origin.

(3) *Drug usage.* The isolated and infrequent use of drugs by itself will not be considered willful misconduct; however, the progressive and frequent use of drugs to the point of addiction will be considered willful misconduct. Where drugs are used to enjoy or experience their effects and the effects result proximately and immediately in disability or death, such disability or death will be considered the result of the person's willful misconduct. Organic diseases and disabilities which are a secondary result of the chronic use of drugs and infections coinciding with the injection of drugs will not be considered of willful misconduct origin. Similarly, where drugs are used for therapeutic purposes or where use of drugs or addiction thereto, results from a service-connected disability, it will not be considered of misconduct origin. (38 U.S.C. 105, 310, 321, 331, 401, and 521(a))

[FR Doc.72-19919 Filed 11-17-72;8:53 am]

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

ELIGIBILITY FOR LOAN GUARANTY BENEFITS

The following regulatory change provides that, as a factor of eligibility in claims for loan guaranty benefits, the requirement is that the widow be unmarried and implements a liberalization provided by Public Law 91-376 (84 Stat. 787) for widow's benefits. Prior to Public Law 91-376 the requirement was that the widow be unremarried. The liberalization provided by Public Law 91-376 restores rights to benefits as widow of the veteran when a widow's subsequent remarriage is terminated.

Compliance with the provisions of § 1.12 of this chapter, as to notice of proposed regulatory development and delayed effective date, is unnecessary in this instance and would serve no useful purpose because this amendment merely corrects an inconsistency in VA regulations.

In § 3.805, paragraph (e) is amended and immediately following § 3.805, cross references are added to read as follows:

§ 3.805 Loan guaranty for widows; certification.

A certification of loan guaranty benefits may be extended to widows based on an application filed on or after January 1, 1959, if:

* * * * *

(e) The veteran's widow is unmarried; and

* * * * *

CROSS REFERENCES: Widow. See § 3.50(b). Terminated marital relationships. See § 3.55.

(72 Stat. 1114; 38 U.S.C. 210)

This VA regulation is effective January 1, 1971.

By direction of the Administrator.

Approved: November 6, 1972.

[SEAL] FRED B. RHODES, *Deputy Administrator.*

[FR Doc.72-19918 Filed 11-17-72;8:53 am]

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter II—Office of Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner [Federal Housing Administration]

[Docket No. R-72-178]

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

Eligibility Requirement for Homes for Lower Income Families

On page 7166 of the FEDERAL REGISTER of April 11, 1972, there was published a notice of proposed rule making to amend § 235.20 of the Department's regulations by expanding the eligibility requirements for lower income families in existing condominium projects.

Since the rule was published for notice, questions have arisen concerning the standards which the Commissioner may prescribe as eligibility requirements for existing condominium projects. In addition to the usual condominium requirements which are provided in §235.20 (b), (c), (d), (e), and (f) of the regulations, eligible units must be existing public housing units concerning which there has been established a condominium which meets such other standards as the Commissioner may prescribe and for which the mortgagor qualifies as a family occupying low rent public housing.

One other comment was received after the deadline of May 12, 1972, questioning the reason for the existing 11 or less unit exception. The rule change does not affect condominium projects of 11 or less units which are not required to be financed under a mortgage insured under certain of the HUD-FHA multifamily programs.

The rule, as adopted, has been rephrased to limit eligible units to existing public housing units where the mortgagor qualifies as a family occupying low-rent public housing and where an approved condominium has been established for such units.

The full text of the amendment to § 235.20, as finally adopted, is as follows:

§ 235.20 Requirements for family unit in condominium.

* * * * *

(a) *Family unit eligibility.* The family unit must be located in a project which has been financed with a mortgage which is or has been insured under any of the FHA-multifamily housing programs other than sections 213(a) (1) and (2) of the National Housing Act: *Provided* That, this FHA mortgage financing rule does not apply to projects involving 11 or less units nor to existing public housing units concerning which there has been established a condominium which meets such standards as the Commissioner may prescribe and for which the mortgagor qualifies as a family occupying low-rent public housing.

* * * * *

Effective date. This regulation shall be effective on December 18, 1972.

EUGENE A. GULLEDGE, *Assistant Secretary for Housing Production and Mortgage Credit-FHA Commissioner.*

[FR Doc.72-19917 Filed 11-17-72;8:53 am]

Chapter VI—Office of Assistant Secretary for Community Planning and Management, Department of Housing and Urban Development

[Docket No. R-72-164]

PART 600—COMPREHENSIVE PLANNING ASSISTANCE

Subpart A—General Information

WAIVERS

Section 600.59 is being added to 24 CFR Part 600 to permit the Assistant Secretary for Community Planning and Management to waive any administrative requirement of that part. Such waiver will be conditioned upon a finding that a disaster, emergency, or other extraordinary situation necessitates waiver in order to avoid undue hardship and to carry out the purposes of section 701 of the Housing Act of 1954, as amended.

Since this amendment relaxes previous requirements with respect to the eligibility of certain applicants, we find that it is unnecessary to provide for comment and public procedure and good cause exists for making this amendment effective upon publication.

Subpart A is amended by adding a new § 600.59 to read as follows:

§ 600.59 Waivers.

The Assistant Secretary for Community Planning and Management may waive any administrative requirement of these regulations whenever he determines that due to the occurrence of a disaster or emergency or other extraordinary situation, the waiver is necessary to avoid undue hardship and to carry out the purposes of section 701 of the Housing Act of 1954, as amended.

(Sec. 701, Housing Act of 1954, as amended, 68 Stat. 640; 40 U.S.C. 461; Secretary's delegation of authority published at 36 F.R. 5004, effective March 8, 1971)

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER (11-18-72).

CLIFFORD W. GRAVES, *Deputy Assistant Secretary for Community Planning and Management.*

[FR Doc.72-19941 Filed 11-17-72;8:53 am]

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Chapter X—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 **Status of participating communities.**

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
• • •	• • •	• • •	• • •	• • •	• • •	• • •
Illinois	Cook	Buffalo Grove Village.				Nov. 17, 1972. Emergency.
Maine	Oxford	Mexico				Do.
Massachusetts	Essex	Salisbury				Do.
New Jersey	Hunterdon	West Amwell Township.				
New York	Suffolk	Islip	I 36 103 2920 11 through I 36 103 2920 32	New York State Department of Environmental Conservation, Division of Resources Management Services, Bureau of Water Management, Albany, N.Y. 12201. New York State Insurance Department, 123 William St., New York, NY 10038, and 324 State St., Albany, NY 12210.	Office of the Town Clerk, Brookwood Hall, 50 Irish Lane, East Islip, NY 11730.	Oct. 17, 1970. Emergency. Nov. 17, 1972. Regular.
North Carolina	Brunswick	Ocean Isle Beach	I 37 019 3414 01 through I 37 019 3414 08	North Carolina Office of Water and Air Resources, Department of Natural and Economic Resources, Post Office Box 27687, Raleigh, NC 27611. North Carolina Insurance Department, Post Office Box 26387, Raleigh, NC 27611.	Town Hall, Ocean Isle Realty Bldg., Ocean Isle Beach, Shalotte, N.C. 28459.	July 16, 1971. Emergency. Nov. 17, 1972. Regular.
Do	do	Sunset Beach	I 37 019 4724 01 through I 37 019 4724 09	do	Office of the Town Clerk, Town Hall, Sunset Beach, N.C. 28459.	Oct. 19, 1971. Emergency. Nov. 17, 1972. Regular.
Pennsylvania	Adams	East Berlin Borough.				Nov. 17, 1972. Emergency.
Do	Bradford	Athens Borough				Do.
Do	Clinton	Lock Haven				Do.
Do	Lackawanna	Moosic Borough				Do.
Do	Mifflin	Lewiston Borough.				Do.
Do	Montgomery	Lower Moreland Township.				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: November 10, 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.72–19829 Filed 11–17–72;8:45 am]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 **List of communities with special hazard areas.**

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
• • •	• • •	• • •	• • •	• • •	• • •	• • •
Illinois	Cook	Buffalo Grove Village.				Nov. 17, 1972.
Maine	Oxford	Mexico				Do.
Massachusetts	Essex	Salisbury				Do.
New Jersey	Hunterdon	West Amwell Township.				Do.
New York	Suffolk	Islip	H 36 103 2920 11 through H 36 103 2920 32	New York State Department of Environmental Conservation, Division of Resources Management Services, Bureau of Water Management, Albany, N.Y. 12201. New York State Insurance Department, 123 William St., New York, N.Y. 10038, and 324 State St., Albany, NY 12210.	Office of the Town Clerk, Brookwood Hall, 50 Irish Lane, East Islip, NY 11730.	Oct. 17, 1970.
North Carolina	Brunswick	Ocean Isle Beach	H 37 019 3414 01 through H 37 019 3414 08	North Carolina Office of Water and Air Resources, Department of Natural and Economic Resources, Post Office Box 27687, Raleigh, NC 27611. North Carolina Insurance Department, Post Office Box 26387, Raleigh, NC 27611.	Town Hall, Ocean Isle Realty Bldg., Ocean Isle Beach, Shalotte, N.C. 28459.	July 16, 1971.
Do	do	Sunset Beach	H 37 019 4724 01 through H 37 019 4724 09	do	Office of the Town Clerk, Town Hall, Sunset Beach, N.C. 28459.	Oct. 19, 1971.
Pennsylvania	Adams	East Berlin Borough.				Nov. 17, 1972.
Do	Bradford	Athens Borough				Do.
Do	Clinton	Lock Haven				Do.
Do	Lackawanna	Moosic Borough				Do.
Do	Mifflin	Lewiston Borough.				Do.
Do	Montgomery	Lower Moreland Township.				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: November 10, 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.72–19830 Filed 11–17–72;8:45 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations

SUBCHAPTER F—TELECOMMUNICATIONS AND PUBLIC UTILITIES

PART 101–35—TELECOMMUNICATIONS

Subpart 101–35.3—Utilization and Ordering of Telecommunications Services

TELEPHONE SERVICE

This regulation prescribes the use of Standard Form 145, Order for Telephone Service, and Standard Form 145A, Continuation Sheet—Order for Telephone Service.

Section 101–35.303 is revised to read as follows:

§ 101–35.303 **Telephone service.**

(a) *Form for ordering service.* Standard Form 145, Order for Telephone Service, and Standard Form 145A, Continuation Sheet—Order for Telephone Service, are prescribed for use by Federal agencies in ordering telephone service from Government joint-use and GSA-operated of GSA-managed switchboards. Federal Government agencies with service from GSA-operated or GSA-managed switchboards shall forward all requests for telephone service to the serving switchboard. No other form or ordering procedure shall be used unless it is expressly permitted or authorized by GSA. Agencies may use this form also as the basis for managing their own internal telephone systems.

(b) *Preparation of orders.* Instructions for the preparation of Standard Form 145, Order for Telephone Service, are provided on the flyleaf of each pad of forms. Any necessary supplemental or clarifying instructions will be issued by GSA regional offices.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER (11–18–72).

Dated: November 13, 1972.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

[FR Doc.72–19923 Filed 11–17–72;8:50 am]

SUBCHAPTER H—UTILIZATION AND DISPOSAL

PART 101–45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

Submission of Bids

This amendment adds a new Subpart 101–45.7 which prescribes policies and methods relating to bids submitted in advertised sales of Government personal property.

Part 101–45 is amended by adding a new Subpart 101–45.7, as follows:

§ 51.101 **Applicability.**

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Subpart 101–45.7—Submission of Bids

Sec.
101–45.700 Scope of subpart.
101–45.701 Responsiveness of bids.
101–45.702 Time of bid submission.
101–45.703 Late bids.
101–45.703–1 General.
101–45.703–2 Consideration for award.
101–45.703–3 Telegraphic bids.
101–45.703–4 Hand-carried bids.
101–45.703–5 Disposition of late bids.
101–45.703–6 Records.
101–45.704 Modification or withdrawal of bids.
101–45.705 Late modifications and withdrawals.

AUTHORITY: The provisions of this Subpart 101–45.7 are issued under Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 101–45.7—Submission of Bids

§ 101–45.700 Scope of subpart.

This subpart prescribes policies and methods relating to bids submitted in advertised sales of Government personal property and includes the treatment of late bids received in connection with such sales.

§ 101–45.701 Responsiveness of bids.

(a) To be considered for award, a bid must comply in all material respects with the invitation for bids so that, both as to the method and timeliness of submission and as to the substance of any resulting contract, all bidders may stand on an equal footing and the integrity of the formal advertising system may be maintained.

(b) Telegraphic or telephonic bids shall not be considered unless otherwise provided in the invitation for bids. (See § 101–45.4904, item number 3 entitled "Consideration of Bids.")

(c) Bids shall be filled out, executed, and submitted in accordance with the instructions contained in the invitation for bids. If a bidder uses his own bid form or a letter to submit a bid, the bid may be considered only if (1) the bidder accepts all the terms and conditions of the invitation for bids and (2) award on the bid would result in a binding contract, the terms and conditions of which do not vary from the terms and conditions of the invitation.

§ 101–45.702 Time of bid submission.

Bids shall be submitted so as to be received by the contracting officer not later than the exact time set for opening of bids. Where telegraphic bids are authorized, a telegraphic bid received by telephone from the receiving telegraph office not later than the time set for opening of bids shall be considered if such bid is confirmed by the telegraph company by sending a copy of the telegram which formed the basis for the telephone call.

§ 101–45.703 Late bids.

§ 101–45.703–1 General.

Bids received by the contracting officer after the exact time set for bid opening are late bids. (See §§ 101–45.4904–1, 101–45.4904–2, and 101–45.4904–3 for item entitled "Consideration of Late Bids, Modifications, or Withdrawals.") Late bids shall not be considered for award except as authorized in this § 101–45.703.

§ 101–45.703–2 Consideration for award.

(a) A late bid shall be considered for award only:

(1) In the instance of sealed bid sales, if the bid submitted by mail was received by the contracting officer prior to award, was mailed and, in fact, delivered to the address specified in the invitation in sufficient time to have been received by the contracting officer by the time and date set forth in the invitation for opening of bids, and except for delay attributable to personnel of the sales office or their designees would have been received on time; or

(2) In the instance of spot bid and auction sales, if the bid submitted by mail (where authorized) was received by the contracting officer after the time and date set forth in the invitation for receipt of bids but before the time set for the start of the sale, and was mailed and, in fact, delivered to the address specified in the invitation in sufficient time to have been received by the contracting officer by the time and date set forth in the invitation for receipt of bids, and except for delay attributable to personnel of the sales office or their designees would have been received on time.

(b) The only evidence acceptable to establish timely receipt of bids at the address designated in the invitation for bids is documentary evidence of receipt at such address within the control of the selling agency. Such evidence could be a date or time stamp, or a log entry.

§ 101–45.703–3 Telegraphic bids.

A late bid submitted by telegraph (where authorized) received before award shall not be considered for award regardless of the cause of the late receipt, including delays caused by the telegraph company, except for a telegraphic bid delayed solely because of mishandling on the part of the Government in its transmittal to the office designated in the invitation for bids for the receipt of bids.

§ 101–45.703–4 Hand-carried bids.

A late hand-carried bid or any other late bid not submitted by mail or telegram shall not be considered for award.

§ 101–45.703–5 Disposition of late bids.

A late bid which is not for consideration shall be returned to the bidder as promptly as possible (unless other disposition is requested or agreed to by the bidder). However, an unidentified late bid may be opened solely for the purpose of identification and then only by the contracting officer or his authorized representative. Late bids opened for identification purposes or by mistake shall be resealed in the envelope. The contracting officer or his authorized representative shall immediately write on the envelope his signature and position, date and time opened, invitation for bids number, and an explanation of the opening. No information contained therein shall be disclosed to anyone.

§ 101–45.703–6 Records.

To the extent available, the following information shall be included in the contract case files with respect to each late bid:

(a) A statement of the date and hour of mailing or filing;

(b) A statement of the date and hour of receipt;

(c) A mechanical reproduction of the envelope, or other covering, if the late bid was returned, in lieu of paragraphs (a) and (b) of this section;

(d) The determination of whether the late bid was considered for award, with supporting facts;

(e) A statement of the disposition of the late bid; and

(f) The envelope, or other covering, if the late bid was considered for award.

§ 101–45.704 Modification or withdrawal of bids.

(a) Bids may be modified or withdrawn by written or telegraphic notice received by the contracting officer not later than the exact time set for opening of bids (in the instance of sealed bid sales) or not later than the exact time set for the receipt of mailed-in or telegraphic bids (in the instance of spot bid and auction sales where such bids are authorized). A telegraphic modification or withdrawal of a bid received by telephone from the receiving telegraph office not later than the time set for opening of bids shall be considered if such message is confirmed by the telegraph company by sending a copy of the written telegram which formed the basis for the telephone call. Modifications received by telegram (including a record of those telephoned by the telegraph company) shall be sealed in an envelope by a proper official who shall write thereon the date and time of receipt and by whom, the invitation for bids number, and his signature. No information contained therein shall be disclosed before the time set for bid opening or for the start of the sale.

(b) A bid may be withdrawn in person by a bidder or his authorized representative, provided his identity is made known and he signs a receipt for the bid, but only if the withdrawal is prior to the exact time set for the opening of bids (in the instance of sealed bid sales) or the exact time set for the start of the sale (in the instance of spot bid and auction sales).

§ 101–45.705 Late modifications and withdrawals.

(a) Modifications of bids and requests for withdrawal of bids which are received by the contracting officer after the exact time set for bid opening (in sealed bid sales) or after the exact time set for the receipt of bids (in spot bid or auction sales) are "late modifications" and "late withdrawals", respectively. A late modification or late withdrawal shall be subject to the provisions of § 101–45.703.

However, a late modification of the otherwise successful bid shall be opened at any time it is received; and if in the judgment of the contracting officer it makes the terms of the bid more favorable to the Government, it shall be considered.

(b) Mailed-in and telegraphic modifications or withdrawals which are received by the contracting officer after the time set for the start of a spot bid or auction sale shall not be considered, regardless of the cause of delay.

Effective date. This amendment is effective upon publication in the FEDERAL REGISTER (11–18–72).

Dated: November 13, 1972.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

[FR Doc.72–19924 Filed 11–17–72;8:50 am]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER D—GRANTS

PART 51—GRANTS TO STATES FOR COMPREHENSIVE HEALTH PLANNING AND PUBLIC HEALTH SERVICES

Subpart B—Grants to States for Comprehensive Public Health Services

In the FEDERAL REGISTER of February 19, 1972 (37 F.R. 3759 et seq.) the Administrator, Health Services and Mental Health Administration, with the approval of the Secretary of the Department of Health, Education, and Welfare, proposed to revise Subpart B of Part 51 of Title 42, CFR, governing grants to States for comprehensive public health services under section 314(d) of the Public Health Service Act (42 U.S.C. 246(d)). The purpose of the revision was to implement the Health Services and Mental Health Administration simplified state plan review system for this program, to implement amendments to section 314 (d) of the Public Health Service Act made during the 91st Congress, and to make other technical and conforming amendments. Public comment was invited.

Responses were received from three State health and mental health authorities requesting clarification of: (1) The new procedures for submission of the simplified State plan certification and budget that incorporates other required documentation by reference, which documents are to be retained in the State agency offices for review by HEW Regional Office staff; and (2) the proposed State funding requirements with respect to drug abuse and drug dependence and alcohol abuse and alcoholism. The proposed regulation has been modified to clarify the appropriate portions.

Section 314(d) of the Public Health Service Act has been further amended since the publication of the notice of proposed rule making on February 19, 1972. Section 403(a) of Public Law 92–255 amended subsection 314(d)(2)(K), adding to the State plan requirements, two new provisions with respect to drug abuse and drug dependence. Subsection 51.104 (h) of the regulations has been revised by adding paragraphs (2) and (3) to conform it with these two new provisions added by Public Law 92–255.

A copy of the proposed revision of § 51.104(h) was mailed to all State and territorial health and mental health authorities together with an invitation to submit any comments they might wish to make and an invitation to attend a conference to discuss any questions they might have. As required by section 314 (g) of the Public Health Service Act, the Health Services and Mental Health Administration consulted with a conference of State health and mental health authorities on August 21, 1972, regarding this proposed revision of § 51.104(h). No suggestions for substantial changes in the proposal were made in writing or at the conference, but § 51.104(h) has been modified to clarify questions raised thereby. Inasmuch as this revision of § 51.104(h) is required by section 403(a) of Public Law 92–255, and was brought before the conference with State health and mental health authorities as required by section 314(g) of the Public Health Service Act, the Secretary has determined that such revision may be incorporated in the present regulation rather than first being separately published as a notice of proposed rule making.

Therefore, having evaluated the comments received and all other relevant material, the proposed regulation, with changes, as set forth below, is hereby adopted effective on the date of publication in the FEDERAL REGISTER (11–18–72).

Dated: October 24, 1972.

VERNON E. WILSON,
Administrator, Health Services and Mental Health Administration.

Approved: November 15, 1972.

ROBERT O. BEATTY,
Acting Secretary.

Subpart B—Grants to States for Comprehensive Public Health Services

Sec.
51.101 Applicability.
51.102 Definitions.
51.103 Submission of State plans.
51.104 State plan requirements.
51.105 State allotments.
51.106 Allocation of allotments for mental health.
51.107 Allocation of allotments to support services in communities.
51.108 Expenditures and payments.
51.109 Equipment, supplies or personnel in lieu of cash.
51.110 Nondiscrimination.

AUTHORITY: The provisions of this Subpart B issued under secs. 215, 314 of the Public Health Service Act as amended; 58 Stat. 690, 80 Stat. 1180; 42 U.S.C. 216, 246.

§ 51.101 Applicability.

The regulations of this subpart apply to grants to State health and mental health authorities to assist the States, including the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands, in establishing and maintaining adequate public health services, including the training of personnel for State and local health work, as authorized by section 314(d) of the Public Health Service Act, as amended.

§ 51.102 Definitions.

All terms not defined herein shall have the same meanings as given them in the Act. As used in this subpart:

(a) "Act" means section 314 of the Public Health Service Act, as amended (42 U.S.C. 246).

(b) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved may be delegated.

(c) "State plan" refers to the information, proposals, and assurances submitted by the State authority pursuant to section 314(d) of the Act and the regulations of this subpart for public health activities of the State and political subdivisions, and of other public and private nonprofit agencies to whom Federal or State funds are made available.

(d) "State authority" means the State health, or with respect to mental health, the State mental health authority.

§ 51.103 Submission of State plans.

In order to receive funds from an allotment under this subpart, a State must submit to and have approved by the Secretary a State plan which contains or, as required by these regulations, incorporates by reference the information and meets the requirements specified in the Act and in the regulations of this subpart. Such plan shall be submitted by the State health authority, or in the case of mental health, by the State mental health authority, after reasonable opportunity has been provided to the Governor of the State for his review and comment. Documents incorporated by reference become a part of the State plan as though fully set forth therein. Such documents must be (a) clearly identified as to subject, date, and location, (b) officially adopted and disseminated in accordance with applicable procedures, and (c) made available to the Secretary and to the public for inspection.

§ 51.104 State plan requirements.

(a) *Responsibility of State authority.* The plan must incorporate by reference documents describing the methods by which the State authority will either administer or supervise the administration of the activities to be carried out under the State plan. In providing funds to any activity which it does not administer, the State authority shall apply criteria and require conformance to standards which

(2) The plan must incorporate by ref-

(4) Provide for maintaining an ade-

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would assure no lower quality for services to be supported than maintained for activities which it undertakes to conduct directly.

(b) *Evaluation of activities.* The plan must incorporate by reference documents setting forth methods of evaluating the performance of activities being carried out under the plan to assure that they meet the standards set forth in the plan and those prescribed in the regulations of this subpart.

(c) *Providing and strengthening public health services.* The plan must—

(1) Incorporate by reference written policies and procedures by which other governmental and nonprofit private agencies, institutions, and organizations will be made aware of the availability of Federal and State funds for the conduct of public health activities, including those locally initiated or sponsored, under the State plan, and by which requests for commitment of such funds will be evaluated and approved; and

(2) Contain or be supported by an assurance that the funds paid to the State for the activities to be carried out under it will be used to provide and strengthen public health services in the various political subdivisions in order to improve the health of the people of the State. The plan must incorporate by reference written policies and procedures under which the State will consider, in expending such funds, (i) the extent to which services provided under the State plan are made available to all people in all areas of the State, and (ii) the extent to which such funds and services represent a strengthening of public health services in such areas, including expansion or improved alignment of services.

(d) *Participation by local, regional, metropolitan, and other public or private nonprofit agencies.* (1) The State plan shall contain or be supported by assurances that:

(i) In accordance with the standards and criteria required in paragraph (a) of this section, funds will be made available by the State authority to other public or nonprofit private agencies, institutions and organizations initiating, sponsoring, or providing public health services which qualify for inclusion in and support under the State plan;

(ii) Such agencies, institutions, and organizations to which funds are made available are required to participate in the costs of such services;

(iii) In determining to which agencies, institutions, and organizations funds are to be made available, and the amount of funds which are to be made available to each, the State authority will consider the extent to which the services to be provided will be directed to public health programs of high priority, will be of high quality, and will reach the people in local communities in greatest need of such services;

(iv) In its evaluation of requests for such funds the State authority will provide a period for review and will consider any comments relating to such requests of the regional, metropolitan, or local area comprehensive health planning agency serving the area, if such agency exists.

(2) The State plan must incorporate by reference written identification of local, regional, metropolitan, and other public or private nonprofit agencies receiving funds under the State plan, identified as public or private nonprofit agencies.

(e) *Federal funds to supplement non-Federal funds otherwise available.* The State plan must contain or be supported by assurances that Federal funds will not supplant non-Federal funds otherwise available for providing the services and carrying out the activities under the plan and that such funds will, to the extent practical, be used to increase the level of funds otherwise available for such services and activities. Substantial compliance with such assurances will be deemed to have been met if the Secretary finds that:

(1) The level of State funds available to and spent by the State authority for those public health services under the approved State plan (including State funds allocated to other public or nonprofit private agencies, institutions and organizations) is at least no lower for any fiscal year than it was for the immediately preceding fiscal year, except that the Secretary may also take into consideration the extent to which the level of such funds for any fiscal year may have included funds for an activity of a nonrecurring nature, and the extent to which reductions in population or per capita income may affect the availability of such non-Federal funds. In any case no State shall be required to share in the approved State plan in excess of the minimum requirement as determined in accordance with subsections 314(a) (5) and (6) of the Act.

(2) The aggregate level of non-Federal funds (other than State funds allocated by the State authority) available to and spent by other public or nonprofit private agencies, institutions, and organizations to which Federal grant funds are made available under the State plan from the State's allotment is no lower for any fiscal year than it was for the immediately preceding fiscal year.

(f) *Accord with comprehensive planning.* (1) Where a State comprehensive health planning agency has been designated pursuant to section 314(a) of the Act, and where such agency has adopted planning recommendations pertaining to services to be provided under the State plan for public health services, the State plan must contain an assurance that such services will be furnished in accordance with such recommendations.

(2) If the State comprehensive health planning agency has not adopted or incorporated into its planning recommendations State mental health plans, the State plan must contain an assurance that mental health services under the approved plan for this part will be consistent with such other current statewide plans for mental health planning in the State as have been adopted by the State mental health authority.

(g) *Compatability with total health program of State.* The plan shall contain or be supported by an assurance that the services to be provided under the plan are compatible with the total health program of the State.

(h) *Drug abuse and drug dependence, and alcohol abuse and alcoholism.* (1) The State plan must incorporate by reference written provision for the delivery and funding of services for prevention and treatment of (i) drug abuse and drug dependence and (ii) alcohol abuse and alcoholism. Such services for drug abuse and drug dependence shall be consistent with the State plan, if any, developed pursuant to section 409(e) of the Drug Abuse Office and Treatment Act of 1972 (86 Stat. 65; 21 U.S.C. 1176(e)), and such services for alcohol abuse and alcoholism shall be consistent with the State plan, if any, developed pursuant to section 303 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (84 Stat. 1850; 42 U.S.C. 4573). The provisions shall also be in accordance with the plans described in paragraph (f) of this section. In assessing such provisions for drug abuse and drug dependence and alcohol abuse and alcoholism services, the Secretary shall consider the extent to which the services and funding to be provided under the plans are commensurate with the relative extent of the drug abuse and drug dependence problem and the alcohol abuse and alcoholism problem, respectively, in the State when compared to the general need for public health services in such State.

(2) The State plan must incorporate by reference provision for the procedures and standards for licensing or accreditation of treatment and rehabilitation facilities for persons with drug abuse and drug dependence problems, which shall be consistent with those set forth in the State plan, if any, which has been developed pursuant to section 409(e) of the Drug Abuse Office and Treatment Act of 1972 (86 Stat. 65; 21 U.S.C. 1176(e)).

(3) The State plan must also incorporate by reference provisions for the expansion of State mental health and other prevention and treatment programs for persons with drug abuse and drug dependence problems, which shall be consistent with those set forth in the State plan, if any, which has been developed pursuant to section 409(e) of the Drug Abuse Office and Treatment Act of 1972 (86 Stat. 65; 21 U.S.C. 1176(e)).

(i) *Scope and quality of services.* The following standards shall be applicable to services furnished under the plan:

(1) The plan must incorporate by reference documents showing that preventive, diagnostic, treatment, and rehabilitative programs will include special attention to the health needs of high risk population groups in terms of age, economic status, geographic location, or other relevant factors. In addition, preventive services shall be based on sound epidemiologic principles.

(2) The plan must incorporate by reference documents showing (i) the anticipated impact on the health of the people in terms of the specific objectives toward which the activities are directed and (ii) the methods by which such services will be evaluated to determine whether such specific objectives have been achieved.

(3) Services under the plan must be provided by or supervised by qualified personnel, such qualification to be determined by reference to merit system occupational standards, State and local licensing laws and specialty Board requirements for health professionals, which standards, laws and requirements shall be incorporated by reference in the plan.

(j) *Methods of personnel administration.* The State plan shall provide for the establishment and maintenance of personnel standards on a merit basis for persons employed by the State authority, and by official local health and mental health departments, to provide or supervise the provision of public health services under the approved State plan, and of State agency supervision of compliance with such standards by official local health and mental health departments. Conformity with Standards for a Merit System of Personnel Administration, 45 CFR Part 70, issued by the Secretary of Health, Education, and Welfare, including any amendments thereto, and any standards prescribed by the U.S. Civil Service Commission pursuant to section 208 of the Intergovernmental Personnel Act of 1970 (Public Law 91-648; 84 Stat. 1915) modifying or superseding such Standards, will be deemed to meet this requirement as determined by said Commission. Laws, rules, regulations and policy statements, and amendments thereto, effectuating such methods of personnel administration and State agency supervision shall be incorporated by reference in the State plan.

(k) *Professional consultation.* The State plan must contain an assurance that the State authority will provide professional consultation as appropriate to agencies, institutions, or organizations other than the State authority providing services under the State plan.

(l) *Location of services.* The State plan must incorporate by reference written procedures for informing the general public in the State of the kinds and locations of services which are available under the State plan.

(m) *Review and modification.* The State plan must contain an assurance that the State authority will review and evaluate its approved plan at least once annually and submit appropriate modifications thereof to the Secretary. As a minimum, the State authority shall make annual modifications of the plan which will (1) reflect budgetary and expenditure requirements for the new fiscal year and (2) update any assurances or other informational requirements included in the State plan.

(n) *Reports and records.* The State plan must contain an assurance that in addition to any other reports or records required by the regulations of this subpart or which may reasonably be required by the Secretary under the Act:

(1) The State authority shall maintain adequate records to show the disposition of all funds (Federal and non-Federal) expended for activities under the approved State plan.

(2) The State authority shall make annual expenditure reports.

(3) All records required by the Act and the regulations of this subpart shall be retained for 3 years after the submission of the annual expenditure report required by subparagraph (2) of this paragraph: *Provided*, That, (i) all records pertaining to audit questions which have arisen before the end of such 3-year period shall be retained until the resolution of all such questions; and (ii) records for nonexpendable property which was acquired under the State plan shall be retained for 3 years after the final distribution of such property.

(4) All records required by the Act and the regulations of this subpart shall be available to the Comptroller General of the United States and the Secretary, or their authorized representatives, for purposes of making audits, examinations, excerpts and transcriptions.

(o) *Accounting procedures.* The State plan shall incorporate by reference such written fiscal control and fund accounting procedures as are necessary to assure the proper disbursement of and accounting for funds paid to the State under this subpart. Such procedures shall provide for an accurate and timely recording of receipts of Federal funds paid to the State for expenditures incurred or to be incurred under the approved plan, of the amounts and purposes of expenditures made in carrying out such plan and of any unearned balances of Federal funds paid to the State. In addition, such procedures must:

(1) Provide for the determination of allowability and the allocation of costs in accordance with Chapter 5-60 of the Department of Health, Education, and Welfare Grants Administration Manual;[1]

(2) Provide for the separation of allowable expenditures as between the State plan for public health services and the State plan for mental health services and for the separation of allowable expenditures under each State plan between those which are for the provision of health services in communities of the State and those which are for other purposes;

(3) Provide adequate information to show exclusion from expenditures claimed for Federal participation of those costs for which payments have been received or are due under other Federal grants or contracts or which are required or used to match other Federal funds;

(4) Provide for maintaining an adequate record of refunds, proceeds from the sale of equipment, fees, and other similar adjustments received. These adjustments shall be deducted from total expenditures in order to arrive at the expenditures available for Federal participation under the State plan. In addition, when any equipment purchased from funds under the approved State plan is transferred or otherwise disposed of to an activity which would not be eligible for support under this program, a portion of its fair market value at the time of transfer shall be deducted for the same purpose. Such portion shall be in the same proportion as participation of the Federal funds was in the expenditures under the State plan in the year in which such equipment was purchased.

(5) Provide for the maintenance of payroll and inventory records in accordance with Chapters 1-71 and 1-410, respectively, of the Department of Health, Education, and Welfare Grants Administration Manual.

§ 51.105 State allotments.

The allotments for Federal fiscal years 1971, 1972, and 1973 shall be determined in the following manner:

(a) On the basis of population (as determined from the latest available estimate from the Department of Commerce), $3 per person up to a maximum of 100,000 persons, plus;

(b) Fifty percent of the remainder of the amount available on the basis of population (as determined for purposes of paragraph (a) of this section) and 50 percent on the basis of population weighted by financial need (as determined by the latest available estimates of per capita personal income from the Department of Commerce), adjusted so that the total allotment to any State under paragraph (a) of this section plus this paragraph (b) will not be less than the total of the amounts allotted to it under formula grants for cancer control, plus other allotments under section 314 of the Public Health Service Act prior to its amendment by Public Law 89-749, for the fiscal year ending June 30, 1967.

(c) For the purposes of these computations, American Samoa and the Trust Territory of the Pacific Islands shall each be considered to have had total allotments for fiscal year 1967 equal to the lowest total allotments of any other State for that year.

§ 51.106 Allocation of allotments for mental health.

(a) *General.* The Secretary shall allocate 15 percent of each State's allotment for each fiscal year to the State mental health authority and 85 percent to the State health authority, except that when, in any case, 15 percent of the State's allotment is less than the amount of that State's fiscal year 1967 allotment for mental health services, the percentage allocated to the mental health authority of such State shall be increased to that percentage which will provide that such allocation for the year will

[1] The Department Grants Administration Manual is available for inspection at the Public Information Office of the several Department Regional Offices and available for purchase at the Government Printing Office, GPO Document No. 894-523.

significant source and reservoir of hea- portation under Part 71 and the Com- mitted under conditions specified by the

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equal the fiscal year 1967 allotment to that State for mental health services, and the percentage allocation for the year to the State health authority of such State shall be correspondingly reduced.

(b) *Exception.* If recommended concurrently by the State health authority and the State mental health authority, or by the Governor, for any fiscal year, the Secretary may allocate a higher percentage to the State mental health authority and a correspondingly lower percentage to the State health authority.

§ 51.107 Allocation of allotments to support services in communities.

For each fiscal year, an amount equal to at least 70 percent of the funds allotted to the State health authority and to the State mental health authority, respectively, under section 314(d) of the Act shall be available only for the provision of health services in communities of the State. Such services in communities shall include all eligible activities conducted under the State plan which, in the judgment of the Secretary or his delegate, are directly involved in the provision of services to people, in the training of personnel for community services, and in the prevention or alleviation of health, mental health, or environmental health problems in communities, whether such activities are provided by State or local agencies, but shall not include such activities as administration, planning, consultation, and data collection and analysis activities conducted by the State agency for statewide planning and administrative purposes not directly involved in the provision of services to people. The cost of data collection and analysis activities conducted by the State agency which are an integral part of services provided directly to people may be included as a part of the allotment available only for the provision of health services in communities.

§ 51.108 Expenditures and payments.

(a) *Federal share.* Each State for which a State plan for public health services has been approved shall be paid from its allotment for the fiscal year an amount which equals its "Federal share" (as defined and computed within the limits of the allotment in accordance with subsection 314(d) (5) and (6) of the Act) of the expenditures incurred by such State or a political subdivision thereof during such fiscal year under its approved State plan. The Secretary shall make such adjustments in amounts of payments as may be necessary to correct under or over payments previously made (including expenditures which are disallowed on the basis of audit findings). A State shall not be entitled to payments from any fiscal year allotment for expenditures incurred in a prior or subsequent year. Payments will be made where practicable through a letter of credit system or, when such system is not practicable, on the basis of payment requests from the State to meet its current needs.

(b) *Eligible costs.* Federal participation in providing "Public Health Services" under a State plan may include the costs of any physical, mental, or environmental health service which the State authority is authorized to undertake or support, or the costs of training, including in-service and specialized or short-term training of personnel for State and local health work, except that the following costs of services and training shall not be included:

(1) The provision of air pollution control activities to the extent such costs are precluded by the Clean Air Act (42 U.S.C. 1857 et seq.) as amended;

(2) The provision of inpatient care in hospitals or other institutions, except where the Secretary determines that such care during a limited period of time is necessary for effective evaluation, demonstration, or extension of new or improved public health procedures;

(3) Research activities, other than those which are a part of health service programs or demonstrations, or of health surveys, epidemiologic studies, or case findings;

(4) The acquisition of land or construction or acquisition of buildings;

(5) Such other costs as the Secretary may find to be inconsistent with the Act or the regulations of this subpart.

(c) *Expenditures by nonprofit private agencies.* For the purposes of determining the Federal share for any State, expenditures made by nonprofit private agencies, organizations, and groups shall be regarded as expenditures by such State or political subdivision thereof, subject to the following conditions and limitations:

(1) Such expenditures may be included only when made by such an agency, institution, or organization to which the State authority has made available funds from Federal or State sources for carrying out services to be provided under the approved State plan for the fiscal year;

(2) The amount of expenditures by such nonprofit agency which may be included for any fiscal year does not exceed the amount of the funds made available to such agency by the State under the plan plus not more than an equal amount of expenditure by such agency from nongovernmental funds;

(3) The records of the expenditures by a nonprofit private agency, in carrying out the State plan, shall be maintained and be available for inspection and audit for the period specified in § 51.104(l)(3).

§ 51.109 Equipment, supplies, or personnel in lieu of cash.

At the request of and for the convenience of a State authority, the Secretary may, in lieu of cash payments, furnish to such authority equipment or supplies or detail officers or employees of the Department of Health, Education, and Welfare when he finds that such equipment, supplies, or personnel would be used in carrying out the approved State plan for public health services. In such cases, the Secretary shall reduce the payments to which such State authority would otherwise be entitled from its allotment for the fiscal year by an amount which equals the fair market value of the equipment or supplies furnished and by the amount of the pay, allowances, traveling expenses, and other costs in connection with such detail of officers or employees. For purposes of determining the amount of the expenditures for any fiscal year made in carrying out the approved State plan and the Federal share of such expenditures, the costs incurred by the Secretary in furnishing such equipment or supplies and in detailing such personnel to the State agency during the fiscal year shall be considered as expenditures made by and funds paid to the State.

§ 51.110 Nondiscrimination.

(a) Attention is called to the requirements of title VI of the Civil Rights Act of 1964 (42 U.SC. 2000d; 78 Stat. 252), which provides that no person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such title VI has been issued by the Secretary of Health, Education, and Welfare with the approval of the President (45 CFR Part 80). Such regulation is applicable to services and programs provided under approved State plans for public health services receiving Federal assistance under section 314(d) of the Act, and requires receipt and acceptance by the Secretary of the applicable documentation set forth therein.

(b) All services provided under the State plan shall be made available without discrimination on the grounds of sex, creed, marital status, or duration of residence.

[FR Doc.72-19910 Filed 11-17-72;8:51 am]

SUBCHAPTER F—QUARANTINE, INSPECTION, LICENSING

PART 71—FOREIGN QUARANTINE

PART 72—INTERSTATE QUARANTINE

Prohibition on Importation of Turtles, Tortoises, and Terrapins; Bacteriological Testing and Certification for Interstate Shipment

A notice was published in the FEDERAL REGISTER of April 7, 1972 (37 F.R. 7005), in which the Administrator of the Health Services and Mental Health Administration with the approval of the Secretary, and the Commissioner of Food and Drugs proposed to amend Parts 71 and 72 respectively of Title 42, Code of Federal Regulations, to: (1) Provide a general prohibition on the importation of small pet turtles, tortoises, terrapins, and other members of the order *Testudinata*, and (2) set bacteriological standards for such animals in interstate shipments.

The proposal was based upon epidemiological investigations that have shown that small pet turtles are a particularly significant source and reservoir of bacteria of the genus *Salmonella* and bacteria of the genus *Arizona* affecting humans.

On the basis of results of these investigations, it is estimated that each year in the United States, 280,000 human cases of salmonellosis are turtle associated. Most of these cases occur in children. While few fatalities are thought to be associated with infection acquired from turtles, the *Salmonella* and *Arizona* bacteria typically produce an acute febrile gastroenteritis (abdominal pain, nausea, fever, diarrhea) which may require hospitalization. There are also reports of associated meningitis and brain abscesses.

Each year an estimated 15 million small turtles are sold as pets in the United States. Approximately 90 percent of turtles sold as pets are produced on commercial turtle farms or captured in the wild in the United States. The remaining 800,000 to 1,500,000 turtles are imported following their capture in the wild.

Turtles and their relatives are particularly well adapted hosts for *Salmonella* and *Arizona* bacteria. Characteristically, infection does not produce any apparent disease, but it may persist for long periods of time, if not for the life of the turtle. Contaminated breeding and holding environments, the practice of feeding turtles salmonella-contaminated animal offal, and transovarial transmission (infection of the egg) all serve to perpetuate the transmission cycle.

Repeated bacteriological examination of turtles collected at breeding farms, at the time of importation, and in trade consistently reveal the ubiquitous distribution of *Salmonella* and *Arizona* bacteria associated with turtles.

The Administrator and the Commissioner felt that considerations of public health compelled: (1) Imposition of a general prohibition on the importation of small turtles and (2) provision for both the bacteriological testing and the certification of freedom from infectious diseases for small turtles shipped in interstate commerce. However, importation of small turtles and interstate shipment of uncertified small turtles for bona fide scientific purpose, or for use in educational institutions, and for exhibition, under circumstances such that the numbers of turtles are limited and the turtles are handled and maintained under conditions that minimize risks to the public health, should be permitted.

The April 7, 1972, notice allowed a 60-day period for the filing of comments thereon by interested persons. Of the 48 comments received from individuals, a consumer interest organization, State and local government agencies, a Member of Congress, turtle fanciers and hobbyist clubs and societies, wildlife societies, dealers and importers of such animals, and a trade association, 25 expressed full or partial support for the proposal. The principal points raised in the other comments, together with the Administrator's response to those concerning the proposed prohibition of importation under Part 71 and the Commissioner's response to those concerning the proposed bacteriological testing and certification for interstate shipment under Part 72, and the Administrator's and Commissioner's joint response to those concerning both Parts 71 and 72, are as follows:

1. Several comments questioned the inclusion of tortoises and terrapins in the definition of the term "turtles" as used in the proposed regulations. The Administrator and the Commissioner conclude that such inclusion is necessary because the distinction between turtles, tortoises, and terrapins cannot invariably be made except by highly trained taxonomists. However, the Administrator and the Commissioner have concluded that the regulations should be revised as set forth below to exempt the eggs of marine turtles from the requirements of the regulations since such eggs are imported for use in restocking certain areas of the coast of the United States with those species.

2. A number of comments received, protested the application of the proposed regulations to all turtles with a carapace length of less than 6 inches. Some recommended that the size of the turtles subject to the proposed regulations be reduced from the proposed carapace length of less than 6 inches to 3 inches in length while others recommended that the requirements of the proposed regulations apply only to "baby green turtles" or "red ear sliders". Most of the recommendations offered explanatory comments that the 6-inch carapace designation would severely limit the number of breeding-size turtles and that the smaller (3 inches or less) species are the more common pet varieties purchased for, or by children. In response to these comments the Administrator and Commissioner conclude that the regulations should be revised to apply only to turtles with a carapace length of less than 4 inches.

As a total ban on the importation of turtles with a carapace length of less than 4 inches would prohibit all persons entering the United States from bringing with them their pet turtles or turtle eggs and would prohibit fanciers of rare turtles from importing such species, the Administrator concludes that an exception should be made (as set forth under 42 CFR 71.173) to permit such importation of turtles and/or turtle eggs in any combination not to exceed six. The Administrator concludes that this exemption would not constitute a significant hazard to public health because of the severely restricted size of such importations. For similar reasons the Commissioner concludes that a similar exemption should be provided (as set forth under 42 CFR 72.26 (d)) to permit interstate shipment of rare species of turtles and privately owned pet turtles or turtle eggs in any combination not to exceed six.

3. One comment questioned whether a ban on importation of turtles would be discriminatory since the interstate shipment of domestic turtles would be permitted under conditions specified by the proposed amendment to Part 72. The Administrator concludes that a ban against the importation of turtles, as set forth below, is necessary since adequate laboratory facilities do not exist in all turtle-exporting countries which could effectively establish that shipments of imported turtles would be free of contamination.

4. Ten comments either objected to the Part 72 test procedure as being inhumane or expressed concern over the number of turtles which would be sacrificed in the test. The main objection to the proposed test procedure is the provision which requires placing 60 turtles from each lot being tested into sterile containers with a specified amount of water and holding for 72 hours. The reason for this requirement is to determine not only if the turtles bear *Salmonella* and/or *Arizona* externally, but also whether they are shedders of these bacteria (i.e., whether or not the feces or other body discharges contain these bacteria). In response to these comments and in addition to reducing the size of the turtles subject to the test, the Commissioner has revised the test procedure to provide that larger capacity glass containers shall be employed whenever necessary to avoid overcrowding of the turtles being tested. Data have shown, however, that the number of turtles specified in the test is necessary to obtain adequate representation of the lot and reasonable assurance that a lot is free of *Salmonella* and *Arizona*; this remains unchanged.

5. Another comment claimed that imported turtles are less often contaminated than domestic turtles. The Administrator finds this has been disproved in extensive studies carried out by the Center for Disease Control on large samples of imported turtles, two-thirds of which were found to be contaminated.

6. Eight comments recommended that turtles offered for sale bear a warning legend regarding the potential health hazard or that warning signs be posted at place of sale. The Administrator and the Commissioner have adequate evidence that the majority of the cases of turtle associated *Salmonellosis* occur in children. Because children are more frequently affected, as well as being the purchasers of these pets, warning legends regarding *Salmonella* and *Arizona*, whether placed at point of purchase or accompanying the purchase, are considered unmeaningful to the purchaser and therefore ineffective.

7. Three comments recommended that an age limitation be established for purchase of turtles in order that informed adults will be the sole purchasers of turtles, and five comments recommended that education of the public would be either preferable to the regulations or should be accomplished in addition to the regulations. Since data show that there are an estimated 280,000 turtle associated cases of *Salmonellosis* yearly and 15 million small turtles are sold as pets annually, the Administrator and the Commissioner conclude that greater

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protection of the public can be achieved by regulation at the source of origin, i.e., assuring that turtles shipped are free of *Salmonella* and *Arizona* bacteria. However, in addition to the regulations, FDA educational programs will issue information regarding holding and feeding practices in an attempt to limit perpetuation of the bacterial cycle.

8. Other comments included a recommendation for the development of a drug that will destroy *Salmonella* and *Arizona* and a recommendation that the scope of the regulations be expanded to include snakes. The Administrator and the Commissioner conclude that public health considerations do not permit delaying issuance of the proposed regulations pending feasibility of use of such a drug and that the recommendation to include snakes goes beyond the scope of the proposal and cannot be implemented by these regulations. Whenever experience and or new information indicate a need for change, the Administrator and or Commissioner will amend or revise these regulations or issue additional regulations as appropriate.

Having considered the comments the Commissioner and the Administrator conclude that the proposal with revisions and changes made for clarification, should be adopted as set forth below. A paragraph concerning enforcement has been added by the Commissioner of Food and Drugs, to clarify the criminal consequences of violation of 42 CFR 72.26 and the legal status of turtles and turtle eggs which may cause the spread of *Salmonella* or *Arizona* infection or which otherwise violate § 72.26, and to assure that the right to a hearing and other fundamental requirements of due process will be accorded before destruction of violative turtles or turtle eggs. Therefore, pursuant to provisions of the Public Health Service Act (sec. 361, 58 Stat. 703; 42 U.S.C. 264) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120) and to the Administrator of the Health Services and Mental Health Administration (33 F.R. 15963), Parts 71 and 72 are amended as follows:

1. In Part 71, a new Subpart J–2 is established immediately after Subpart J–1 as follows:

Subpart J–2—Importation of Turtles, Tortoises, Terrapins

Sec
71.171 Definitions.
71.172 Importation; general prohibition.
71.173 Exceptions.
71.174 Application for permits.
71.175 Issuance of permits; criteria.
71.176 Penalties.

AUTHORITY: The provisions of this Subpart J issued under sec. 361, 58 Stat. 703; 42 U.S.C. 264

Subpart J–2—Importation of Turtles, Tortoises, Terrapins

§ 71.171 Definitions.

As used in this subpart:

(a) "Turtles" includes all animals commonly known as turtles, tortoises, terrapins and all other animals of the order *Testudinata*, class *Reptilia* except marine species (Families *Dermochelidae* and *Cheloniidae*).

(b) "Director" means the Director, Center for Disease Control, Health Services and Mental Health Administration, Department of Health, Education, and Welfare, Atlanta, Ga. 30333.

§ 71.172 Importation; general prohibition.

Except as otherwise provided in this subpart, viable turtle eggs and live turtles with a carapace length of less than 4 inches may not be imported into the United States.

§ 71.173 Exceptions.

(a) Live turtles with a carapace length of less than 4 inches and viable turtle eggs may be imported into the United States: *Provided*, That such importation is limited to lots of less than seven (7) live turtles or less than seven (7) viable turtle eggs, or any combination of such turtles and turtle eggs totalling less than seven (7), for any entry.

(b) Lots of seven (7) or more viable turtle eggs or seven (7) or more live turtles with a carapace length of less than 4 inches, or any combination of such turtles and turtle eggs totaling seven (7) or more, may be imported into the United States for bona fide scientific or educational purposes or for exhibition when accompanied by a permit issued by the Director.

(c) The requirements in paragraph (a) and (b) of this section shall not apply to the eggs of marine turtles excluded from this regulation under § 71.171(a).

§ 71.174 Application for permits.

Application for permits to import lots of seven (7) or more viable turtle eggs or seven (7) or more live turtles with a carapace length of less than 4 inches, or any combination of such turtles and turtle eggs totaling seven (7) or more, for the purposes set forth in § 71.173 shall be made by letter to the Director, and shall contain, identify, or describe the name and address of the applicant, the number of specimens, and the common and scientific names of each species to be imported, the holding facilities; the intended use of the turtles following their importation, the precautions to be undertaken to prevent infection of members of the public with bacteria of the *Salmonella* and *Arizona* genera and such other information and assurances as the Director may deem necessary to protect the public health.

§ 71.175 Issuance of permits; criteria.

A permit may be issued upon a determination that the holder of the permit will isolate or otherwise confine the turtles and will take such other precautions as may be determined by the Director to be necessary to avoid infection of members of the public with bacteria of the *Salmonella* and *Arizona* genera and on condition that the holder of the permit will provide such reports as may be required by the Director to protect the public health.

§ 71.176 Penalties.

Any person violating any provision of this subpart shall be subject to a fine of not more than $1,000 or imprisonment for not more than 1 year, or both, as provided in section 368 of the Public Health Service Act (42 U.S.C. 271).

2. Part 72 is amended by adding a new section, as follows:

§ 72.26 Turtles.

(a) *Definitions.* As used in this section:

(1) The term "turtles" includes all animals commonly known as turtles, tortoises, terrapins, and all other animals of the order *Testudinata*, class *Reptilia* except marine species (families *Dermachelidae* and *Cheloniidae*).

(2) The term "State of origin" as used in paragraph (b) of this section means the State or possession in which the turtles or turtle eggs were originally hatched or produced.

(b) *Interstate shipment; general prohibition.* Except as otherwise provided in this section, viable turtle eggs and live turtles with a carapace length of less than 4 inches shall not be transported or offered for sale after shipment in interstate commerce, unless the shipment is accompanied by a certificate issued by the health authority of the State of origin certifying that each shipment of live turtles or viable turtle eggs is free of bacteria of the *Salmonella* and *Arizona* genera. After shipment in interstate commerce the same intact shipment of live turtles or viable turtle eggs shall not require further such certification under provisions of this section; however, if at any subsequent point in its distribution such shipment becomes commingled or intermingled with a lot that has not been so certified, then such turtles or turtle eggs shall not be offered for sale or further transported in interstate commerce unless the entire lot has been tested and certified free of bacteria of the *Salmonella* and *Arizona* genera by the health authority of the State or possession in which such commingling or intermingling occurred.

(c) *Certification; test procedures.* Certification of freedom from bacteria of the *Salmonella* and *Arizona* genera may be issued by the health authority of the appropriate State or possession on the basis of the examination of 60 turtles or 60 turtle eggs from each shipment, regardless of the size of the shipment. The examination shall be conducted in a laboratory licensed in microbiology pursuant to section 353 of the Public Health Service Act and shall utilize the following procedure adapted from "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th edition, sections 41.024–41.040, pages 845–851:

(1) Place five turtles in each of 12 sterile glass containers with a capacity of

1,000 milliliters (larger capacity containers should be used if necessary to avoid overcrowding).

(2) Add 50 milliliters of sterile distilled water to each of the containers of turtles.

(3) Cover each container with sterile aluminum foil and hold the turtles in the containers at room temperature (about 25° C.) for at least 72 hours.

(4) Do not remove the foil cover or add food, water, or other materials to the containers during the holding period.

(5) After a minimum of 72 hours remove the turtles from the containers using a sterile forceps.

(6) For each of the 12 containers transfer 1 milliliter of the residual water into a separate tube containing 10 milliliters of tetrathionate broth (with iodine and brilliant green) and incubate these 12 tetrathionate enrichment cultures for 24 hours at 35° to 37° C.

(7) After 24 hours incubation, subculture each of the 12 tetrathionate enrichment cultures to brilliant green agar and complete isolation and identification according to methods specified in "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Edition section 41.024–41.040, pages 845–851.

(8) In the examination of turtle eggs, rinse 60 eggs with sterile distilled water to remove visible extraneous matter from the shells. Place the 60 cleansed eggs into a sterile blender cup. Replace blender lid and homogenize eggs for 2 minutes at low speed. Transfer 1 milliliter of the blended egg material into 10 milliliters of tetrathionate broth, and proceed as in subparagraphs (6) and (7) of this paragraph.

(9) Upon completion of the laboratory examination, the examining laboratory shall submit a report to the health officer of the appropriate State or possession, or his delegated representative. The laboratory report shall specify the name and address of the producer or shipper (consignor) and of the consignee, the number and species of turtles or turtle eggs intended for interstate shipment, and the results of the examination, and it shall be signed by the examining microbiologist or director of the examining laboratory. Certification of freedom from bacteria of the *Salmonella* and *Arizona* genera may be issued if, to the satisfaction of the health authority of the appropriate State or possession, the laboratory examination has been performed according to the procedure specified in this section, and all specimens examined were free of bacteria of the *Salmonella* and *Arizona* genera.

(d) *Destruction of turtles or turtle eggs; criminal penalties*—(1) *Destruction.* Any live turtles or viable turtle eggs which have been transported in interstate commerce without a certificate required by paragraph (b) of this section, and any live turtles or viable turtle eggs which are held for sale or offered for any other type of commercial or public distribution and are found to contain bacteria of the *Salmonella* or *Arizona* genera when sampled and tested by a method appropriate for determination of the presence of such bacteria in the turtles or turtle eggs, and any live turtles or viable turtle eggs which are held for sale or offered for any other type of commercial or public distribution and are found to be held in water which contains bacteria of the *Salmonella* or *Arizona* genera when tested by an appropriate method, shall be subject to destruction, by or under the supervision of an officer or employee of the Food and Drug Administration in accordance with the following procedures:

(i) Any District Office of the Food and Drug Administration, upon detecting live turtles or viable turtle eggs which have been transported in interstate commerce without a certificate required by paragraph (b) of this section, or which are held for sale or offered for any other type of commercial or public distribution and which contain, or are held in water containing, bacteria of the *Salmonella* or *Arizona* genera, shall serve upon the person in whose possession such turtles or turtle eggs are found a written demand that such turtles or turtle eggs be destroyed, under the supervision of said District Office, within 10 working days from the date of promulgation of the demand. The demand shall recite with particularity the facts which justify the demand. After service of the demand, the person in possession of the turtles or turtle eggs shall not sell, distribute, or otherwise dispose of any of the turtles or turtle eggs except to destroy them under the supervision of the District Office, unless and until the Director of the Bureau of Foods withdraws the demand for destruction after an appeal pursuant to subdivision (ii) of this subparagraph.

(ii) The person on whom the demand for destruction is served may either comply with the demand or, within 10 working days from the date of its promulgation, appeal the demand for destruction to the Director of the Bureau of Foods, Food and Drug Administration. The demand for destruction may also be appealed, within the same period of 10 working days, by any other person having a pecuniary interest in such turtles or turtle eggs. In the event of such an appeal, the Bureau Director shall provide an opportunity for a hearing, by written notice to the appellant(s) specifying a time and place for the hearing, to be held within 14 days from the date of the notice but not within less than 7 days unless by agreement with the appellant(s).

(iii) Appearance by any appellant at the hearing may be by mail or in person, with or without counsel. The hearing shall be conducted by the Bureau Director or his designee, and a written summary of the proceedings shall be prepared by the person presiding. Any appellant shall have the right to hear and to question the evidence on which the demand for destruction is based, including the right to cross-examine witnesses, and he may present oral or written evidence in response to the demand.

(iv) If, based on the evidence presented at the hearing, the Bureau Director finds that the turtles or turtle eggs were transported in interstate commerce without a certificate in violation of this section, or that the turtles or turtle eggs were held for sale or offered for any other type of commercial or public distribution and that they contain, or are held in water which contains, bacteria of the *Salmonella* or *Arizona* genera, the Bureau Director shall affirm the demand that they be destroyed under the supervision of an officer or employee of the Food and Drug Administration; otherwise, the Bureau Director shall issue a written notice that the prior demand by the District Office is withdrawn. If the Bureau Director affirms the demand for destruction he shall order that the destruction be accomplished within 10 working days from the date of the promulgation of his decision. The Bureau Director's decision shall be accompanied by a statement of the reasons for the decision. The decision of the Bureau Director shall constitute final Agency action, appealable in the courts.

(v) If there is no appeal to the Director of the Bureau of Foods from the demand by the FDA District Office and the person in possession of the turtles or turtle eggs fails to destroy them within 10 working days, or if the demand is affirmed by the Director of the Bureau of Foods after an appeal and the person in possession of the turtles or turtle eggs fails to destroy them within 10 working days, the District Office shall designate an officer or employee to destroy the turtles or turtle eggs. It shall be unlawful to prevent or to attempt to prevent such destruction of turtles or turtle eggs by the officer or employee designated by the District Office. Such destruction will be stayed if so ordered by a court pursuant to an appeal in the courts as provided in subdivision (iv) of this subparagraph.

(2) *Criminal penalties.* Any person who violates any provision of this section, including but not limited to any person who transports live turtles or viable turtle eggs in interstate commerce without a certificate required by paragraph (b) of this section, or who offers for sale, live turtles or viable turtle eggs which have been transported in interstate commerce without such a certificate, or who refuses to comply with a valid final demand for destruction of turtles or turtle eggs (either an unappealed demand by an FDA District Office or a demand which has been affirmed by the Director of the Bureau of Foods pursuant to appeal), shall be subject to a fine of not more than $1,000 or imprisonment for not more than 1 year, or both, for each violation, in accordance with section 368 of the Public Health Service Act (42 U.S.C. 271).

(e) *Exceptions.* The provisions of this section are not applicable to:

(1) Live turtles and viable turtle eggs used for bona fide scientific, educational, or exhibitional purposes, other than use as pets.

(2) Lots of less than seven (7) live turtles or less than seven (7) viable turtle eggs or any combination of such turtles and turtle eggs totaling less than seven (7).

(3) Marine turtles excluded from this regulation under the provisions of paragraph (a)(1) of this section and eggs of such turtles.

Effective date. This order shall become effective 30 days after its date of publication in the FEDERAL REGISTER.

(Sec. 361, 58 Stat. 703; 42 U.S.C. 264)

Dated: November 6, 1972.

NOTE: Incorporation by reference provisions approved by the Director of the Federal Register September 25, 1972.

VERNON E. WILSON,
Administrator, Health Services and Mental Health Administration.

Approved: November 15, 1972.

ROBERT O. BEATTY,
Acting Secretary.

Dated: October 31, 1972.

CHARLES C. EDWARDS,
Commisioner, Food and Drug Administration.

[FR Doc.72-19909 Filed 11-17-72;8:50 am]

Title 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation

[OST Docket No. 1; Amdt. 1-64]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Delegation of Authority With Respect to Safety of Liquid Pipelines

The purpose of this amendment is to revoke the delegation to the Federal Railroad Administrator to carry out the liquid pipeline safety functions under 18 U.S.C. 831-835 and to delegate that authority to the Assistant Secretary for Safety and Consumer Affairs.

Since this amendment relates to Departmental management, procedures, and practices, notice and public procedure thereon is unnecessary and it may be made effective in less than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended, effective November 7, 1972, as follows:

§ 1.24 [Amended]

1. Section 1.24(e) is amended by deleting the words "of natural and other toxic gas".

2. Section 1.49(f) is revised to read as follows:

§ 1.49 Delegations to Federal Railroad Administrator.

* * * * *

(f) Carry out the functions of the Secretary under sections 831-835 of title 18, United States Code, relating generally to explosives and other dangerous articles, so far as they pertain to railroads.

* * * * *

3. Section 1.58(d) is revised to read as follows:

§ 1.58 Delegations to Assistant Secretary for Safety and Consumer Affairs.

* * * * *

(d) Carry out the functions vested in the Secretary by the following statutes:

(1) The Natural Gas Pipeline Safety Act of 1968 (82 Stat. 720, 49 U.S.C. 1671).

(2) Sections 831-835 of title 18, United States Code, so far as they pertain to pipelines.

* * * * *

This amendment is issued under the authority of section 9 of the Department of Transportation Act (49 U.S.C. 1657).

Issued in Washington, D.C., on November 7, 1972.

JOHN A. VOLPE,
Secretary of Transportation.

NOVEMBER 7, 1972.

[FR Doc.72-19896 Filed 11-17-72;8:49 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 906]

ORANGES AND GRAPEFRUIT GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

Proposed Container, Pack, and Container Marking Regulations

Consideration is being given to the following proposal, applicable to § 906.340 *Container, pack, and container marking regulations* (7 CFR 906.340; 37 F.R. 2765; 4707; 21800; 23626), recommended by the Texas Valley Citrus Committee, established pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906) regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

All persons who desire to submit written data, views, or arguments in connection with the proposal should file the same with the Hearing Clerk, Room 112A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than the seventh day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

This action reflects the committee's appraisal of the need for restricting the use of containers and pack sizes to those most suitable for the packing and handling of fruit to promote orderly marketing, so as to provide consumers with good quality fruit, while improving returns to producers pursuant to the declared policy of the act. The proposed amendment would update the language of paragraph (a)(2)(i) in § 906.340, so that it conforms to the current U.S. Standards for Oranges (Texas and States other than Florida, California, and Arizona). Such standards were revised effective October 1, 1969. Specifically, the proposed amendment would (1) specify, except as otherwise provided by regulations issued pursuant to this part, that oranges shall be packed within the diameter limits specified in § 51.691 (c) of the U.S. Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona); (2) require oranges when packed in boxes or cartons to be packed in accordance with the requirements of standard pack; and (3) specify that the packing tolerances set forth in the U.S. Standards for Oranges shall apply to the pack requirements for Navel oranges and Valencia and similar late type oranges, and make a few nonsubstantive changes in such provisions.

The proposal is that the provisions of paragraph (a)(2)(i) of § 906.340 (7 CFR 906.340; 37 F.R. 2765; 4707; 21800; 23626) be amended to read as follows:

§ 906.340 Container, pack, and container marking regulations.

(a) * * *

(2) * * *

(i) *Oranges.* (*a*) Oranges, except Navel oranges and Valencia and similar late type oranges, when packed in any box, bag, or carton shall, except as otherwise provided by regulations issued pursuant to this part, be within the diameter limits specified for the various pack sizes in § 51.691(c) of the U.S. Standards for Oranges (Texas and States other than Florida, California, and Arizona);

(*b*) Oranges, except Navel oranges and Valencia and similar late-type oranges, when packed in boxes or cartons shall be packed in accordance with the requirements of standard pack; and

(*c*) Navel oranges and Valencia and similar late type oranges, when placed packed in any box or carton shall be sized in accordance with the sizes set forth in the following table I, except as otherwise provided by regulations issued pursuant to this part, and otherwise meet the requirements of standard pack; and when in containers not packed according to a definite pattern shall be sized in accordance with the sizes set forth in the following table I and otherwise meet the requirements of standard sizing: *Provided*, That the packing tolerances, which are set forth in the U.S. Standards for Oranges, shall be applicable to fruit so packed: And *provided further*, That the variation from the smallest to the largest fruit in any container is not more than the following applicable amount:

(*1*) 46, 54, 64, 70 or 72, or 80 sizes—not more than eight-sixteenths inch in diameter;

(*2*) 100, 112, or 125 sizes—not more than six-sixteenths inch in diameter;

(*3*) 163, or 200 sizes—not more than five-sixteenths inch in diameter; and

(*4*) 252, 288, or 324 sizes—not more than four-sixteenths inch in diameter.

TABLE I—1⅑ BUSHEL BOX
(DIAMETER IN INCHES)

Pack size	Minimum	Maximum
46	4 3/16	5
54	4	4 3/16
64	3 13/16	4 3/16
70 or 72	3 13/16	4 3/16
80	3 9/16	4 3/16
100	3 5/16	3 13/16
112	3 3/16	3 11/16
125	3 1/16	3 5/16
163	2 13/16	3 1/16
200	2 9/16	2 13/16
252	2 3/16	2 5/16
288	2 1/16	2 3/16
324	2 1/16	2 3/16

* * * * *

Dated: November 14, 1972.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-19902 Filed 11-17-72;8:49 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[45 CFR Part 16]

DEPARTMENT GRANT APPEALS PROCESS

Notice of Proposed Departmental Grant Appeals Board

Pursuant to the authority contained in sections 1, 5, 6, and 7 of Reorganization Plan Number 1 of 1953 (18 F.R. 2053, 67 Stat. 631) and the authority implicit in the separate statutes authorizing the provision of assistance through grants as set forth in the appendices to the rule proposed herein, the Secretary of Health, Education, and Welfare, with the concurrence and approval of the concerned agency heads, hereby proposes to amend Title 45 of the Code of Federal Regulations by adding a new Part 16, as set forth below.

The new Part 16 would establish a Departmental Grant Appeals Board from which Grant Appeals Panels would be selected for the purpose of reviewing and providing hearings upon post-award disputes which may arise in the administration of certain grant programs by constituent agencies of the Department of Health, Education, and Welfare.

Part 16 would insure fair and impartial review or reconsideration of such disputes by establishing review procedures at the Department level.

(3) The disapproval of a grantee's re-

determines that such requirements have

findings of fact and conclusions based

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Grantees will have access to these procedures on the basis of certain adverse determinations by cognizant officers or employees of the constituent agencies. Following proceedings before the Board of a formal or informal nature (depending upon the nature of the issues of the case), the Board will render an initial decision in writing which will be sent directly to each party to the proceeding and to the head of the constituent agency involved in the case before it. Each party will have the opportunity to submit written comments on the initial decision to the head of the constituent agency.

The initial decision of the Board (or the Panel thereof assigned to a case) will become the final decision of the constituent agency, unless, within a prescribed time, the head of the constituent agency determines to review such decision and, upon such review, it is modified. If modified such decision will not be served before affording the Secretary an opportunity to study it. (The parties will not have an appeal "as of right" to the agency head; the agency head may decline to review the initial decision of the Board.)

This decision and review structure follows procedures customarily used by Federal agencies for review of hearing decisions under the Administrative Procedure Act and is designed to afford to aggrieved grantees maximum due process and to the heads of the constituent agencies the benefit of a full record before a final decision is made in disputes between grantees and employees or officers of the agency.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed new Part 16 to the U.S. Secretary of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, DC 20201, within 45 days from the date of publication of this notice in the FEDERAL REGISTER. Comments received in response to the notice will be available for public inspection at Room 4808, 400 6th Street SW., Washington, DC 20201 from 9 a.m. to 4:30 p.m., Monday through Friday.

Dated: October 19, 1972.

ELLIOT L. RICHARDSON,
Secretary.

PART 16—DEPARTMENTAL GRANT APPEALS BOARD

Sec.
16.1 Purpose.
16.2 Scope.
16.3 Definitions.
16.4 Grant appeals board; grant appeals panel.
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16.9 Hearing before panel or a hearing officer.
16.10 Initial decision; final decision.
16.11 Separation of functions.

AUTHORITY: The provisions of this Part 16 issued under sections 1, 5, 6, and 7 of Reorganization Plan No. 1 of 1953, 18 F.R. 2053, 67 Stat. 631 and the individual authorities cited in the Appendices.

§ 16.1 Purpose.

This part establishes a Departmental Grant Appeals Board, for the purpose of reviewing and providing hearings upon post-award disputes which may arise in the administration of or carrying out of grants under grant programs (as described in § 16.2) and which are submitted to the Board as provided in § 16.6.

§ 16.2 Scope.

(a) This part applies to certain determinations (as set forth in § 16.5), made after the effective date of this part, with respect to grants awarded by a constituent agency of the Department of Health, Education, and Welfare pursuant to: (1) Any program which authorizes the making of direct, discretionary project grants or (2) any other program (including any State plan, formula program) which the head of the constituent agency, with the approval of the Secretary, may designate in whole or in part.

(b) Notwithstanding paragraph (a) of this section, this part shall not be applicable to a determination: (1) If the grantee is entitled to an opportunity for hearing with respect to such determination pursuant to 5 U.S.C. sec. 554 or (2) if, in order to meet special needs applicable to a particular program, the constituent agency has established an appropriate alternative procedure (which is available to the grantee) for the review or resolution of such determination and the Secretary has approved such procedure as an alternative to the procedures under this part.

(c) Programs to which this part is applicable shall be listed in the Appendixes to this part. With the approval of the Secretary, a program not so listed may be made subject to this part through an appropriate designation by the head of the constituent agency concerned. The Appendixes referred to in the preceding sentence shall be promptly updated to reflect such designations.

(d) This part does not apply to any action taken pursuant to title VI of the Civil Rights Act of 1964, Part 80 of this title, and Executive Order No. 11246.

§ 16.3 Definitions.

For purposes of this part:

(a) "Board" means the Departmental Grant Appeals Board, as described in paragraph (a) of § 16.4.

(b) "Board Chairman" means the Board member designated by the Secretary to serve as Chairman of the Board.

(c) "Panel" means a Grant Appeals Panel, as described in paragraph (b) of § 16.4.

(d) "Panel Chairman" means a member of a Grant Appeals Panel who has been designated as Chairman of such Panel by the Board Chairman.

(e) "Constituent agency" means the Office of Education, the Health Services and Mental Health Administration, the Social and Rehabilitation Service, the Office of Child Development, the National Institutes of Health, the Food and Drug Administration, the Office of Grant Administration Policy, or any other organizational component of the Department which the Secretary may designate.

(f) "Head of the constituent agency" means, as appropriate, the Commissioner of Education, the Administrator, Health Services and Mental Health Administration, the Administrator of the Social and Rehabilitation Service, the Director of the Office of Child Development, the Director of the National Institutes of Health, the Commissioner of the Food and Drug Administration, the Deputy Assistant Secretary for Grant Administration Policy, or the head of any organizational component designated by the Secretary pursuant to paragraph (e) of this section.

(g) The terms "Department" and "Departmental" refer to the U.S. Department of Health, Education, and Welfare.

(h) "Secretary" means the U.S. Secretary of Health, Education, and Welfare.

(i) "Termination" of a grant means the termination of the grantee's authority to charge allowable costs to a grant prior to the grant expiration date in the grant award document.

§ 16.4 Grant Appeals Board; Grant Appeals Panel.

(a) There is established, within the Office of the Secretary, a Departmental Grant Appeals Board consisting of not more than nine members appointed by the Secretary, for such terms as may be designated by him, to perform the functions described in this part. Persons who are not otherwise employees or officers of the Department or of any of its constituent agencies (as well as such employees or officers) may be appointed to the Board.

(b) The Secretary shall designate one of the members of the Board to be Chairman. The Board Chairman shall designate Grant Appeals Panels for the consideration of one or more cases submitted to the Board. Each such Panel shall consist of not less than three members of the Board. The Board Chairman may, at his discretion, constitute the entire Board to sit for any case or class of cases. The Board Chairman shall designate himself or any other member of a Panel to serve as Chairman.

§ 16.5 Determinations subject to the jurisdiction of the Board.

(a) Subject to § 16.2 and paragraph (b) of this section, the Board shall have jurisdiction over the following determinations of a cognizant officer or employee of a constituent agency adverse to a grantee:

(1) Termination, in whole or in part, of a grant for failure of the grantee to conform with grant terms and conditions.

(2) A determination that an expenditure not allowable under the grant has been charged to the grant or that the grantee has otherwise failed to discharge its obligation to account for grant funds.

(3) The disapproval of a grantee's request for permission to incur an expenditure during the term of a grant.

(4) A determination that a grant is void.

(5) Establishment of indirect cost or research patient hospital care rates (except where the grantee has appealed to the Armed Services Board of Contract Appeals with respect to such determination under a contract with the Department).

(b) A determination described in paragraph (a) of this section may not be reviewed by the Board unless: (1) An officer or employee of the constituent agency has notified the grantee in writing of such determination and (2) such informal procedures as the agency has established by regulation for the resolution (prior to submission to the Board) of issues related to such determination have been exhausted. A notification described in subparagraph (1) of this paragraph shall set forth the reasons for the determination in sufficient detail to enable the grantee to respond and shall inform the grantee of his opportunity for review under this part. In the case of a determination under paragraph (a) (3) of this section, the failure of a constituent agency to approve a grantee's request within a reasonable time shall be deemed by the Board a notification for purposes of this paragraph.

§ 16.6 Submission.

(a) *Application for review.* (1) A grantee with respect to whom a determination described in § 16.5 has been made and who desires review may file with the Board an application for review of such determination. The grantee's application for review must be postmarked no later than 30 days after the postmark date of notification provided pursuant to § 16.5(b)(1) except when (i) the head of the constituent agency, by regulation, establishes a different period of time for any class of cases or (ii) the Board Chairman grants an extension of time for good cause shown.

(2) Although the application for review need not follow any prescribed form, it shall clearly identify the question or questions in dispute and contain a full statement of the grantee's position with respect to such question or questions, and the pertinent facts and reasons in support of such position. The grantee shall attach to his submission a copy of the agency notification described in § 16.5(b)(1). (b) *Action by Board on application for review.*

(1) The Board Chairman shall promptly send a copy of the grantee's application to the appropriate constituent agency.

(2) If the Board Chairman determines, after receipt of an application for review, that the requirements of § 16.5 have been satisfied, he shall promptly refer the application to a Grant Appeals Panel designated pursuant to § 16.4(b) for further proceedings under this part. If he determines that such requirements have not been met, the Board Chairman shall advise the grantee of the reasons for the rejection of the application.

§ 16.7 Effect of submission.

When an application has been filed with the Board with respect to a determination, no action may be taken by the constituent agency pursuant to such determination until such application has been disposed of, except that the filing of the application shall not affect the authority which the constituent agency may have to suspend assistance under a grant during proceedings under this part or otherwise to withhold or defer payments under the grant.

§ 16.8 Substantive and procedural rules.

(a) *Substantive rules.* The Panel shall be bound by all applicable laws and regulations.

(b) *Procedural rules.* (1) With respect to cases involving, in the opinion of the Panel, no dispute as to a material fact the resolution of which would be materially assisted by oral testimony, the Panel shall take appropriate steps to afford to each party to the proceeding an opportunity for presenting his case at the option of the Panel (i) in whole or in part in writing or (ii) in an informal conference before the Panel which shall afford each party: (*a*) Sufficient notice of the issues to be considered (where such notice has not previously been afforded); and (*b*) an opportunity to be represented by counsel.

(2) With respect to cases involving a dispute as to a material fact the resolution of which would be materially assisted by oral testimony, the Panel shall afford each party an opportunity for a hearing, which shall include, in addition to provisions required by subparagraph (1)(ii) of this paragraph provisions designed to assure to each party the following:

(i) A transcript of the proceedings;

(ii) An opportunity to present witnesses on his behalf; and

(iii) An opportunity to cross-examine other witnesses either orally or through written interrogatories.

(3) After consultation with the constituent agencies, the Board shall, with the approval of the Secretary, promulgate and publish rules of procedure, including rules respecting opportunity for intervention by interested third parties, relating to proceedings under this part.

§ 16.9 Hearing before Panel or a Hearing Officer.

A hearing pursuant to § 16.8(b)(2) shall be conducted, as determined by the Panel Chairman, either before the Panel or a hearing officer. The hearing officer may be (a) one of the members of the Panel or (b) a nonmember who is appointed as a hearing examiner under 5 U.S.C. 3105.

§ 16.10 Initial decision; final decision.

(a) The Panel shall prepare an initial written decision, which shall include findings of fact and conclusions based thereon. When a hearing is conducted before a hearing officer alone, the hearing officer shall separately find and state the facts and conclusions which shall be incorporated in the initial decision prepared by the Panel.

(b) Copies of the initial decision shall be mailed promptly by the Panel to each party, or his counsel and to the Secretary with a notice affording such party an opportunity to submit written comments thereon to the head of the appropriate constituent agency within a specified reasonable time.

(c) The initial decision of the Panel shall be transmitted to the head of the constituent agency and shall become the final decision of the constituent agency, unless, within 25 days after the expiration of the time for receipt of written comments, the head of the appropriate constituent agency signifies his determination to review such decision.

(d) In any case in which the head of the constituent agency modifies or reverses the initial decision of the Panel, he shall accompany such action by written statement of the grounds for such modification or reversal, which shall promptly be filed with the Secretary and the Board. In order to afford the Secretary an opportunity to study such decision of the agency head, it shall be served upon the parties no earlier than 30 days after such filing. Such decision shall not become final until it is served upon the grantee involved or his attorney.

(e) The authority to review initial decisions shall not be delegated. Review of any initial decision by the head of the constituent agency shall be based upon such decision, the written record, if any, of the Panel's proceedings, and written comments or oral arguments by the parties, or by their counsel, to the proceeding.

§ 16.11 Separation of functions.

No person who participated in prior administrative consideration, or in the preparation or presentation of, a case submitted to the Board shall advise or consult with, and no person having an interest in such case shall make or cause to be made an ex parte communication to, the Panel, Board, or head of the constituent agency with respect to such case, unless all parties to the case are given timely and adequate notice of such advice, consultation, or communication, and reasonable opportunity to respond is given all parties.

APPENDICES

This part is issued under sections 1, 5, 6, and 7 of Reorganization Plan No. 1 of 1953, 18 F.R. 2053, 67 Stat. 631 and is applicable to programs carried out under the following authorities:

APPENDIX A—EDUCATION PROGRAMS

(1) Sec. 306 of the Elementary and Secondary Education Act (20 U.S.C. 844b);

(2) Parts B and C and section 505 of Title V of the Elementary and Secondary Education Act (except as to matters governed by part E of such title) (20 U.S.C. 866, 867, 869, 869a);

In consideration of the foregoing, it is

will be considered before final action is

Persons making statements will be no-

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(3) Title VII of the Elementary and Secondary Education Act (20 U.S.C. 880b);
(4) Title VIII of the Elementary and Secondary Education Act (20 U.S.C. 887, 887a, 887b);
(5) Parts C, D, E, F, and G of the Education of the Handicapped Act (20 U.S.C. 1421, 1431, 1441, 1451, and 1461);
(6) Sec. 309 of the Adult Education Act (20 U.S.C. 1208);
(7) Title IV of the Civil Rights Act of 1964 (42 U.S.C. 2000c–2000c–9);
(8) The Cooperative Research Act (20 U.S.C. 331a–332b);
(9) Secs. 131(a), 142(c), and 191 of the Vocational Education Act (20 U.S.C. 1281(a), 1302(d); 1391);
(10) Parts A and B of Title II of the Higher Education Act (20 U.S.C. 1021, 1031);
(11) Title III of the Higher Education Act (20 U.S.C. 1051);
(12) Sec. 408 of the Higher Education Act of 1965 (20 U.S.C. 1068);
(13) Title IV–D of the Higher Education Act (20 U.S.C. 1087);
(14) Parts B–1, C, D, and E of the Education Professions Development Act (20 U.S.C. 1101, 1111, 1119, 1119b, 1119c);
(15) Title VI of the National Defense Education Act (20 U.S.C. 511);
(16) The Environmental Education Act (20 U.S.C. 1531);
(17) The Drug Abuse Education Act (21 U.S.C. 1001);
(18) Part IV of Title III of the Communications Act of 1934 (47 U.S.C. 390);
(19) Sec. 411 of the General Education Provisions Act (20 U.S.C. 1222);
(20) International Education Act of 1966;
(21) Direct project grants under Secs. 231 (a), 241, 251, 309 of the Manpower Development and Training Act (42 U.S.C. 2601(a), 2610a, 2610b, 2619).

APPENDIX B—SOCIAL AND REHABILITATION SERVICES AND CHILD DEVELOPMENT PROGRAMS

(1) The Headstart program under Sec. 222(a)(1) of the Economic Opportunity Act (42 U.S.C. 2809(a)(2)).
(2) Sec. 426 of the Social Security Act (42 U.S.C. 626).
(3) Sec. 707 of the Social Security Act (42 U.S.C. 908).
(4) Secs. 101, 102, 132, 201, 301, 302, and 303 of the Juvenile Delinquency Prevention and Control Act of 1968 (42 U.S.C. 3811, 3812, 3842, 3861, 3871, 3872 and 3874).
(5) Secs. 4(a), 12, 13(a), 13(b), and 17 of the Vocational Rehabilitation Act. (29 U.S.C 34, 41a, 41b(a), 41b(b), and 42b).
(6) Secs. 121, 122, 141 of the Developmental Disabilities Services and Facilities Construction Act (42 U.S.C. 2661, 2661a, 2678).
(7) Sec. 1908(e) of the Social Security Act (42 U.S.C. 1398g(e)).
(8) Sec. 1110 of the Social Security Act (42 U.S.C. 1310).
(9) Sec. 1115 of the Social Security Act (42 U.S.C. 1315).
(10) Secs. 305, 401, and 501 of the Older Americans Act of 1964 (42 U.S.C. 3024a, 3031, 3041).

APPENDIX C—PUBLIC HEALTH PROGRAMS

(1) Sec. 301 of the Public Health Service Act (42 U.S.C. 241).
(2) Sec. 302 of the Public Health Service Act (42 U.S.C. 242).
(3) Sec. 303 of the Public Health Service Act (42 U.S.C. 242a).
(4) Sec. 304 of the Public Health Service Act (42 U.S.C. 242b).
(5) Sec. 306 of the Public Health Service Act (42 U.S.C. 242d).
(6) Sec. 308 of the Public Health Service Act (42 U.S.C. 242f).
(7) Sec. 309 of the Public Health Service Act (42 U.S.C. 242g).
(8) Sec. 310 of the Public Health Service Act (42 U.S.C. 242h).
(9) Sec. 314 (b), (c), and (e) of the Public Health Service Act (42 U.S.C. 246 (b), (c), and (e)).
(10) Sec. 317 of the Public Health Service Act (42 U.S.C. 247b).
(11) Sec. 393 of the Public Health Service Act (42 U.S.C. 280b–3).
(12) Sec. 394 of the Public Health Service Act (42 U.S.C. 280b–4).
(13) Sec. 395 of the Public Health Service Act (42 U.S.C. 280b–5, 6).
(14) Sec. 396 of the Public Health Service Act (42 U.S.C. 280b–7).
(15) Sec. 397 of the Public Health Service Act (42 U.S.C. 280b–8).
(16) Sec. 398 of the Public Health Service Act (42 U.S.C. 280b–9).
(17) Sec. 402 of the Public Health Service Act (42 U.S.C. 282).
(18) Sec. 412 of the Public Health Service Act (42 U.S.C. 287a).
(19) Sec. 422 of the Public Health Service Act (42 U.S.C. 288a).
(20) Sec. 431 of the Public Health Service Act (42 U.S.C. 289a).
(21) Sec. 441 of the Public Health Service Act (42 U.S.C. 289d).
(22) Sec. 442 of the Public Health Service Act (42 U.S.C. 289e).
(23) Sec. 451 of the Public Health Service Act (42 U.S.C. 289j).
(24) Sec. 704 of the Public Health Service Act (42 U.S.C. 292c).
(25) Sec. 720 of the Public Health Service Act (42 U.S.C. 293).
(26) Sec. 769 of the Public Health Service Act (§ 107 Public Law 92–157).
(27) Sec. 769A of the Public Health Service Act (§ 107 Public Law 92–157).
(28) Sec. 770 of the Public Health Service Act (§ 104 Public Law 92–157).
(29) Sec. 771(a) of the Public Health Service Act (§ 104 Public Law 92–157).
(30) Sec. 772 of the Public Health Service Act (§ 104 Public Law 92–157).
(31) Sec. 773 of the Public Health Service Act (§ 104 Public Law 92–157).
(32) Sec. 774 of the Public Health Service Act (§ 104 Public Law 92–157).
(33) Sec. 784 of the Public Health Service Act (§ 106(c) Public Law 92–157).
(34) Sec. 791 of the Public Health Service Act (42 U.S.C. 295h).
(35) Sec. 792 of the Public Health Service Act (42 U.S.C. 295h–1).
(36) Sec. 793 of the Public Health Service Act (42 U.S.C. 295h–2).
(37) Sec. 794A of the Public Health Service Act (42 U.S.C. 295h–3a).
(38) Sec. 794B of the Public Health Service Act (42 U.S.C. 295h–3b).
(39) Sec. 794C of the Public Health Service Act (42 U.S.C. 295h–3c).
(40) Sec. 802 of the Public Health Service Act (42 U.S.C. 296a).
(41) Sec. 805 of the Public Health Service Act (42 U.S.C. 296d).
(42) Sec. 810 of the Public Health Service Act (42 U.S.C. 296l).
(43) Sec. 821 of the Public Health Service Act (42 U.S.C. 297).
(44) Sec. 868 of the Public Health Service Act (42 U.S.C. 298c–7).
(45) Sec. 903 of the Public Health Service Act (42 U.S.C. 299c).
(46) Sec. 904 of the Public Health Service Act (42 U.S.C. 299d).
(47) Sec. 1001 of the Public Health Service Act (42 U.S.C. 300).
(48) Sec. 1003 of the Public Health Service Act (42 U.S.C. 300a–1).
(49) Sec. 1004 of the Public Health Service Act (42 U.S.C. 300a–2).
(50) Sec. 1101 of the Public Health Service Act (§ 3, P.L. 92–294).
(51) Sec. 1102 of the Public Health Service Act (§ 3, P.L. 92–294).
(52) Sec. 220 of the Community Mental Health Centers Act (42 U.S.C. 2688).
(53) Sec. 241 of the Community Mental Health Centers Act (42 U.S.C. 2688f).
(54) Sec. 242 of the Community Mental Health Centers Act (42 U.S.C. 2688g).
(55) Sec. 243 of the Community Mental Health Centers Act (42 U.S.C. 2688h).
(56) Sec. 246 of the Community Mental Health Centers Act (42 U.S.C. 2688j–1).
(57) Sec. 247 of the Community Mental Health Centers Act (42 U.S.C. 2688j–2).
(58) Sec. 251 of the Community Mental Health Centers Act (42 U.S.C. 2688k).
(59) Sec. 252 of the Community Mental Health Centers Act (42 U.S.C. 2688l).
(60) Sec. 253 of the Community Mental Health Centers Act (42 U.S.C. 2688l–1).
(61) Sec. 256 of the Community Mental Health Centers Act (42 U.S.C. 2688n–1).
(62) Sec. 264 of the Community Mental Health Centers Act (42 U.S.C. 2688r).
(63) Sec. 271 of the Community Mental Health Centers Act (42 U.S.C. 2688u).
(64) Sec. 272 of the Community Mental Health Centers Act (42 U.S.C. 2688v).
(65) Sec. 410 of Public Law 92–255—The Drug Abuse Office and Treatment Act of 1972.
(66) Sec. 501 of the Coal Mine Health and Safety Act (30 U.S.C. 951).
(67) Sec. 20 of the Occupational Health and Safety Act (29 U.S.C. 669).
(68) Sec. 21 of the Occupational Health and Safety Act (29 U.S.C. 670).

[FR Doc.72–19911 Filed 11–17–72;8:50 am]

DEPARTMENT OF TRANSPORTATION

Hazardous Materials Regulations Board

[49 CFR Parts 171, 174, 175]

[Docket No. HM–22; Notice No. 72–12]

MATTER INCORPORATED BY REFERENCE

Notice of Proposed Rule Making

The Hazardous Materials Regulations Board of the Department of Transportation is considering amending the Hazardous Materials Regulations to update the following references:

1. The addenda to sections VIII (Division I) and IX of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code.
2. CGA Pamphlet C–8, "Standard for Requalification of DOT–3HT Cylinders."
3. NFPA No. 58, "Storage and Handling Liquefied Petroleum Gases."

In addition, it is proposed to add a reference to NACE Standard TM–01–60, "Test Method Laboratory Corrosion Testing of Metals for the Process Industries," which was omitted in Docket HM–57 (37 F.R. 5946), and remove the title of the Bureau of Explosives' Pamphlet No. 22 in §§ 174.600(a) and 175.655(j)(3) Note 2 since the pamphlet is now incorporated in Part 171.

Petitions have been received by the Board requesting these changes.

In consideration of the foregoing, it is proposed to amend 49 CFR Parts 171, 174, and 175 as follows:

PART 171—GENERAL INFORMATION AND REGULATIONS

In § 171.7, subparagraphs (d)(1), (d)(3)(iii), and (d)(6) would be amended; subparagraph (d)(9) would be added to read as follows:

§ 171.7 Matter incorporated by reference.

. . . . . .

(d) • • •

(1) ASME Code means sections VIII (Division I) and IX of the 1971 edition of the "American Society of Mechanical Engineers Boiler and Pressure Vessel Code," and addenda thereto through June 30, 1972.

. . . . . .

(3) • • •

(iii) CGA Pamphlet C–8 is titled, "Standard for Requalification of DOT–3HT Cylinders," 1972 edition.

. . . . . .

(6) NFPA Pamphlet No. 58 is titled, "Standard for the Storage and Handling of Liquefied Petroleum Gases," 1972 edition.

. . . . . .

(9) NACE Standard TM–01–69 is titled, "Test Method Laboratory Corrosion Testing of Metals for the Process Industries," 1969 edition.

PART 174—CARRIERS BY RAIL FREIGHT

In § 174.600, paragraph (a) would be amended to read as follows:

§ 174.600 In case of a wreck.

(a) Details involving the handling of hazardous materials in the event of a wreck may be found in Bureau of Explosives Pamphlet No. 22:

. . . . . .

PART 175—CARRIERS BY RAIL EXPRESS

In § 175.655, Note 2 following subparagraph (j)(3) would be amended to read as follows:

§ 175.655 Protection of packages.

(j) • • •

(3) • • •

NOTE 2: Details involving the handling of radio-active materials in the event of an accident can be found in Bureau of Explosives Pamphlet No. 22.

. . . . . .

Interested persons are invited to give their views on this proposal. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, 400 Sixth Street, SW., Washington, DC 20590. Communications received on or before December 19, 1972, will be considered before final action is taken on the proopsal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

This proposal is made under the authority of sections 831–835, title 18, United States Code, section 9 of the Department of Transportation Act (49 U.S.C. 1657), and title VI and section 902(h) of the Federal Aviation Act of 1958 (49 U.S.C. 1421–1430 and 1472(h)).

Issued in Washington, D.C., on November 14, 1972.

W. J. BURNS,
Director,
Office of Hazardous Materials.

[FR Doc.72–19894 Filed 11–17–72;8:49 am]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Part 338]

FAIR HOUSING LENDING PRACTICES

Notice of Hearing on Proposed Rule Making

On September 14, 1972, the Federal Deposit Insurance Corporation, by action of its Board of Directors, caused to be published in the FEDERAL REGISTER of September 20, 1972 (37 F.R. 19385), a proposed Part 338 of its regulations, entitled Fair Housing Lending Practices. The notice of proposed rule making solicited comments on the proposal and stated (1) that a hearing would be held to solicit further views and (2) that at least 30 days' notice would be accorded as to the time and place of the hearing.

Notice is hereby given that a hearing will be held on Tuesday, December 19, 1972, at the New Executive Office Building, Room 2008, 17th and H Streets NW., Washington, D.C., beginning at 10 a.m. Each person or representative of a group who wishes to make an oral presentation must make a request in writing addressed to the Secretary, Federal Deposit Insurance Corporation, at 550 17th Street NW., Washington, DC 20429, on or before December 5, 1972. A written copy of the statement, or a summary of points to be covered, must accompany the request.

Oral presentations will be limited to no more than 30 minutes per person or group representative unless the Board further limits the time for oral presentations in the interests of expediting the hearing or prior approval of the Board is obtained for additional time. A request for additional time, setting forth the amount of additional time required and the reasons therefor, should be made in writing and should accompany the request to be heard.

The Board of Directors or its representative may exclude testimony and related data or material which is deemed improper, irrelevant, or repetitive.

Persons making statements will be notified by December 15, 1972, of their order of appearance and of the amount of time to be allotted them for their presentation. A list of all persons who will be speaking, the order of their appearance, and the written statement or summary submitted by them will be available in the Secretary's Office for inspection from December 15, 1972.

The hearing will be an informal public hearing conducted by the Board of Directors of the Federal Deposit Insurance Corporation or a representative designated by the Board. Participants will not be permitted to examine or cross-examine other participants. However, the members of the Board of Directors or its representative may question those appearing for the purpose of obtaining a fuller exposition of their views. Also, persons may, should they so desire, submit questions in writing to be asked of speakers by the presiding officer if, in his discretion, he believes such questions would contribute to a more complete airing of the issues.

After all initial statements have been completed, the Board of Directors or its representative may allow rebuttal statements.

In the light of written comments received in support of the proposed regulation, some of which recommended additions thereto, the Corporation would like comments at the hearing on its authority for, and the desirability of, expanding the scope of the proposed regulation to include:

(1) A prohibition against any lending discrimination based on sex;

(2) A prohibition against discrimination in any lending practice, not simply mortgage lending. The argument has been made that discrimination in other kinds of bank services tends to discourage persons from making applications for mortgage loans.

The Corporation has also received comments questioning the desirability and the effect of asking for racial or ethnic data by use of the Fair Housing Informational Statement described in § 338.6 of the proposed regulation. The argument made in these comments is that excluding such data from such forms is the best way to prevent conscious or unconscious racial discrimination in mortgage lending and is consistent with efforts made over time by minority groups to exclude such data. The Corporation would appreciate comments, including any surveys, particularly from representatives of minority groups or individual members of minorities, regarding the attitude of members of such groups toward providing the information required by the aforementioned Informational Statement.

In addition, written comments have been received by the Corporation from those who oppose the use of the Fair Housing Informational Statement because it would serve little or no useful purpose in areas of low minority concentration. The Corporation, therefore,

(f) *Adopted child.* Date of adoption

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would welcome comments at the hearing concerning:

(1) The feasibility of applying § 338.6 of the proposed regulation on an experimental basis in limited geographical areas;

(2) The feasibility of exempting from the requirements of § 338.6 of the proposed regulation State nonmember banks located in areas of low minority concentration; and

(3) Constructive alternatives to the Informational Statement that would provide reliable data indicating the existence or absence of discrimination in the mortgage lending practices of State nonmember banks without the administrative problems and expense inherent in the use of such a Statement.

Persons planning to appear at the hearing are encouraged to review the public file in the Office of the Secretary of the Corporation, Room 6110, 550 17th Street NW., Washington, DC, to understand the comments on the proposed regulation received by the Corporation.

Dated at Washington, D.C., this 15th day of November 1972.

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] E. F. DOWNEY,
Secretary.

[FR Doc.72-19900 Filed 11-17-72;8:52 am]

VETERANS ADMINISTRATION

[38 CFR Part 3]

ADJUDICATION; DEFINITIONS

"Wife", "Widow" and "Legally Adopted Child"

Public Law 92-540, enacted October 24, 1972, provides that the term "child" in 38 U.S.C. 101(4) now includes a person who has been placed for adoption under an agreement entered into by the adopting parent (or parents) with any agency authorized by law to so act provided that the child remains in the custody of the adopting parent (or parents) during the period of placement for adoption under such agreement. In addition this law changes the definition of the term "wife" and "widow" in 37 U.S.C. 102(b) to include any husband or widower of a female veteran. Previously the term "wife" or "widow" included the husband or widower of a female veteran only if such individual was permanently incapable of self-support due to mental or physical disability. To implement these provisions of the law it is proposed to amend 38 CFR Part 3 as set forth below.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (232H), Veterans Administration, Central Office, 810 Vermont Avenue NW., Washington, DC 20420. All relevant material received not later than 30 days after publication of this notice in the FEDERAL REGISTER will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays), during the mentioned 30-day period and for 10 days thereafter. Any persons visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Assistance Unit in Room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and will be furnished the address and the above room number.

Notice is also given that it is proposed to make these regulatory changes effective October 24, 1972.

1. Section 3.51 is revised to read as follows:

§ 3.51 Husband or widower.

(a) *General.* The term "wife" includes the husband of a female veteran and the term "widow" includes the widower of a female veteran.

(38 U.S.C. 102(b))

(b) *Entitlement.* A husband or widower is in the same status as a wife or widow of a male veteran and is eligible to receive the same benefits, if otherwise entitled, in a claim for pension, compensation, or dependency and indemnity compensation.

2. In § 3.57, paragraph (c) is amended to read as follows:

§ 3.57 Child.

* * * * *

(c) *Legally adopted child.* The term means a child adopted pursuant to a final decree of adoption, a child adopted pursuant to an unrescinded interlocutory decree of adoption while remaining in the custody of the adopting parent (or parents) during the interlocutory period, and a child who has been placed for adoption under an agreement entered into by the adopting parent (or parents) with any agency authorized under law to so act, unless and until such agreement is terminated, while the child remains in the custody of the adopting parent (or parents) during the period of placement for adoption under such agreement. The term includes, as of the date of death of a veteran, such a child who

(1) Was under age 18 and living in the veteran's household at the time of his death, and

(2) Was adopted by the veteran's spouse under a decree issued within 2 years after August 25, 1959, or the veteran's death whichever is later, and

(3) Was not receiving from an individual other than the veteran or his spouse, or from a welfare organization which furnishes services or assistance for children, recurring contributions of sufficient size to constitute the major portion of the child's support.

3. In § 3.210, the introductory portion of paragraph (c) preceding subparagraph (1) is amended to read as follows:

§ 3.210 Child's relationship.

* * * * *

(c) *Adopted child.* Except as provided in subparagraph (1) of this paragraph evidence of relationship will include a certified copy of the decree of adoption or a copy of the adoptive placement agreement and such other evidence as may be necessary.

* * * * *

4. Section 3.315 is revised to read as follows:

§ 3.315 Basic eligibility determinations; dependents, loans, education.

(a) *Child over 18 years.* A child of a veteran may be considered a "child" after age 18 for purposes of benefits under title 38, United States Code (except ch. 19 and sec. 5202(b) of ch. 85), if found by a rating determination to have become, prior to age 18, permanently incapable of self-support.

(38 U.S.C. 101(4)(B))

(b) *Loans.* Where a World War II veteran or a Korean conflict veteran had less than 90 days' service, or a veteran who served on or after February 1, 1955, had less than 181 days' service on active duty as defined in §§ 36.4301(gg) and 36.4501(o) of this chapter, eligibility of the veteran for a home, farm, or business loan under 38 U.S.C. ch. 37 requires a determination that the veteran was discharged or released because of a service-connected disability or that the official service department records show that he had at the time of separation from service a service-connected disability which in medical judgment would have warranted a discharge for disability. These determinations are subject to the presumption of incurrence under § 3.304(b). Determinations based on World War II, Korean conflict and Vietnam era service are also subject to the presumption of aggravation under § 3.306(b) while determinations based on service on or after February 1, 1955, and before August 5, 1964 are subject to the presumption of aggravation under § 3.306 (a) and (c). The provisions of this paragraph are also applicable, regardless of length of service, in determining eligibility to the maximum period of entitlement based on discharge or release for a service-connected disability.

(38 U.S.C. 1802, 1818)

(c) *Veterans' educational assistance.* Where a veteran who served on or after February 1, 1955, had less than 181 days service on active duty, as defined in § 21.1040 of this chapter, eligibility for educational assistance under 38 U.S.C. ch. 34 requires a determination that the veteran was discharged or released because of a service-connected disability or that the official service department records show that he had at the time of separation from service a service-connected disability which in medical judgment would have warranted a discharge for disability. These determinations are subject to the presumptions of incurrence

under § 3.304(b) and aggravation under § 3.306 (a) and (c), based on service rendered on or after February 1, 1955 and before August 5, 1964, and under § 3.306 (b), based on service rendered during the Vietnam era.

(38 U.S.C. 1852(a))

5. In § 3.356, paragraph (a) and the introductory portion and subparagraphs (1) and (2) of paragraph (b) are amended to read as follows:

§ 3.356 Conditions which determine permanent incapacity for self-support.

(a) *Basic determinations.* A child must be shown to be permanently incapable of self-support by reason of mental or physical defect at the date of attaining the age of 18 years.

(b) *Rating criteria.* Rating determinations will be made solely on the basis of whether the child is permanently incapable of self-support through his own efforts by reason of physical or mental defects. The question of permanent incapacity for self-support is one of fact for determination by the rating agency on competent evidence of record in the individual case. Rating criteria applicable to disabled veterans are not controlling. Principal factors for consideration are:

(1) The fact that a claimant is earning his or her own support is prima facie evidence that he or she is not incapable of self-support. Incapacity for self-support will not be considered to exist when the child by his or her own efforts is provided with sufficient income for his or her reasonable support.

(2) A child shown by proper evidence to have been permanently incapable of self-support prior to the date of attaining the age of 18 years, may be so held at a later date even though there may have been a short intervening period or periods when his or her condition was such that he or she was employed, provided the cause of incapacity is the same as that upon which the original determination was made and there were no intervening diseases or injuries that could be considered as major factors. Employment which was only casual, intermittent, tryout, unsuccessful, or terminated after a short period by reason of disability, should not be considered as rebutting permanent incapability of self-support otherwise established.

* * * * *

6. In § 3.403, paragraph (f) is amended to read as follows:

§ 3.403 Children.

Awards of pension, compensation, or dependency and indemnity compensation, to or for a child, or to or for a veteran or widow on behalf of such child, will be effective as follows:

* * * * *

(f) *Adopted child.* Date of adoption either interlocutory or final or date of adoptive placement agreement, but not earlier than the date from which benefits are otherwise payable.

7. In § 3.503, paragraph (j) is amended to read as follows:

§ 3.503 Children.

The effective date of discontinuance of pension, compensation, or dependency and indemnity compensation to or for a child, or to or for a veteran or widow on behalf of such child, will be the earliest of the dates stated in this section. Where an award is reduced, the reduced rate will be payable the day following the date of discontinuance of the greater benefit.

* * * * *

(j) *Interlocutory adoption decree or adoptive placement agreement.* Date child left custody of adopting parent during the interlocutory period or during adoptive placement agreement, or date of rescission of the decree or date of termination of the adoptive placement agreement, whichever first occurs.

Approved: November 14, 1972.

By direction of the Administrator.

[SEAL] RUFUS H. WILSON,
Associate Deputy Administrator.

[FR Doc.72-19920 Filed 11-17-72;8:50 am]

acceptable surety bond as required in 43

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 3C

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 5

V37-224 NOV 18 72 XUM

Notices

DEPARTMENT OF DEFENSE

Department of the Navy

NAVAL PETROLEUM AND OIL SHALE RESERVES

Notice of Boundary Description of Naval Petroleum Reserve No. 4; Correction

A notice of the boundary description of Naval Petroleum Reserve No. 4 was published in the FEDERAL REGISTER Friday, May 19, 1972 (37 F.R. 10088). Due to an undetected typographical inadvertence appearing in the middle of the second column at page 10089, the western tip of Kulgurak Island located at approximate latitude 71°09'32" N., longitude 155°05'53" W. was erroneously described at approximate latitude 70°-09'32" N., longitude 155°05'53" W. Accordingly, the latitude should read 71°09'32" N. and not 70°09'32" N.

Dated: November 13, 1972.

[SEAL] MERLIN H. STARING,
Rear Admiral, JAGC, U.S. Navy,
Judge Advocate General of the Navy.

[FR Doc.72-19895 Filed 11-17-72;8:49 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

OUTER CONTINENTAL SHELF OFF LOUISIANA

Oil and Gas Lease Sale

Bid submission procedures. 1. Pursuant to section 8 of the Outer Continental Shelf Lands Act (67 Stat. 462; 43 U.S.C. 1331 et seq.) and the regulations issued thereunder (43 CFR Part 3300), sealed bids addressed to the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, The Plaza Tower Building, Suite 3200, 1001 Howard Avenue, New Orleans, LA 70113, will be received until 9:30 a.m., c.s.t., on December 19, 1972, for the lease of oil and gas in the tracts, described in paragraph 12 herein, in areas of the Outer Continental Shelf adjacent to the State of Louisiana. On December 19, 1972, bids may also be delivered in person to the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, at the Grand Ballroom in the Sheraton Charles Hotel between 8:30 a.m., c.s.t., and 9:30 a.m., c.s.t. Bids delivered by mail or in person after 9:30 a.m., c.s.t., on that date will be returned to the bidders unopened. Bids may not be modified or withdrawn unless written modifications or withdrawals are received by the Manager by 9:30 a.m., c.s.t., December 19, 1972. All bids must be submitted in accordance with applicable regulations, including 43 CFR 3302.1, 3302.4, and 3302.5.

Form of bid. 2. A separate bid in a separate envelope must be submitted for each tract. The envelope should be endorsed "Sealed Bid for Oil and Gas Lease, Louisiana (insert number of tract) not to be opened until 10 a.m., c.s.t., December 19, 1972." A suggested form of bid is set out in paragraph 15. Bidders must submit with each bid one-fifth of the amount bid in cash or by cashier's check, bank draft, certified check, or money order, payable to the order of the Bureau of Land Management. Oil payment, overriding royalty, logarithmic or sliding scale bids may not be submitted. No bid for less than a full tract as listed in paragraph 12 will be considered. Bidders are warned against violation of section 1860 in title 18 U.S.C. prohibiting unlawful combination or intimidation of bidders.

3. Each bidder must have submitted by 9:30 a.m., c.s.t., December 19, 1972, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375, on Form 1140-1 (November 1969) and Form 1140-7 (December 1971).

4. Official leasing maps in a set of 26, which contains the maps on which the tracts being offered for lease may be located, can be purchased for $5 per set. The official leasing maps and copies of the Compliance Report Certification Form 1140-1 (November 1969) and copies of the Affirmative Action Program Representation Form 1140-7 (December 1971) may be obtained from the Manager, New Orleans Outer Continental Shelf Office, or the Manager, Eastern States Land Office, 7981 Eastern Avenue, Silver Spring, MD 20910.

Bid opening. 5. Bids will be opened on December 19, 1972, at 10 a.m., c.s.t., in the Grand Ballroom, Sheraton Charles Hotel, 211 St. Charles Street, New Orleans, LA. The opening of bids is for the sole purpose of publicly announcing and recording bids received and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight December 19, 1972, that bid will be returned unopened to the bidder as soon thereafter as possible.

6. Any cash, checks, drafts, or money orders submitted with the bids may be deposited in an unearned escrow account in the Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bids on behalf of the United States.

Acceptance or rejection of bids. 7. No bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless the bidder has complied with all requirements of this notice, his bid is the highest valid cash bonus bid for that tract, and the amount of the bonus bid has been determined to be adequate by the United States. No bid will be considered for acceptance unless it offers a cash bonus in the amount of $25 or more per acre or fraction thereof. The United States reserves the right to reject any bid submitted, including, but not by way of limitation, the right to reject any bid for inadequacy even though the bonus bid is in the amount of $25 or more per acre or fraction thereof.

Lease terms. 8. Leases issued as a result of this sale will be on Form 3300-1 (February 1971), as modified in accordance with paragraphs 9 and 10 of this notice. Attention is directed to the Equal Opportunity Clause in section 3(h) and the Certification of Nonsegregated Facilities Clause in section 3(i) of the lease. Copies of the lease form are available from the Manager, New Orleans Outer Continental Shelf Office, or the Manager, Eastern States Land Office.

9. Leases issued as a result of this sale will contain the following stipulation:

Upon discovery of any site, structure, or object of historical, architectural, or archeological significance, the operator in charge of any OCS petroleum related activity, including but not limited to, well-drilling and pipeline and platform construction, shall immediately report the finding to the Area Supervisor, Geological Survey, and make every reasonable effort to preserve and protect the site, structure, or object from damage during the course of his operations.

10. Leases issued for Tracts No. La. 2325, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, and 2434 will contain the following additional stipulation:

Structures for drilling or production shall be kept to the minimum necessary for the proper exploration, development, and production of this leased area, and to the greatest extent consistent with the proper exploration, development, and production of this leased area, shall be placed so as not to interfere with other significant uses of the leased area, including commercial fishing. To this end, no structure for drilling or production may be erected within the leased area until the Area Supervisor, Geological Survey, has found that the structure is necessary, on the basis of existing geological and engineering data, for the proper exploration, development and production of the leased area. The lessee's exploratory and development plans, filed under 30 CFR 250.34, shall identify the anticipated placement and grouping of necessary structures, showing how such placement and grouping will have the minimum practicable effect on other significant uses of the leased area, including commercial fishing.

11. Leases will provide for a royalty rate of one-sixth, and a yearly rental or minimum royalty of $3 per acre or fraction thereof. The successful bidder will be required to pay the remainder of the bid and the first year's rental of $3 per acre or fraction thereof and furnish an

acceptable surety bond as required in 43 CFR 3304.1 prior to the issuance of each lease.

Tract description. 12. The tracts offered for bid are as follows:

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 1
(Approved June 8, 1954; Revised July 22, 1954; April 28, 1966)
West Cameron Area

Tract No.	Block	Description	Acreage
La. 2325	134	E½	2500

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 1B
(Approved Sept. 8, 1959; Revised Apr. 28, 1966)
West Cameron Area—South Addition

Tract No.	Block	Description	Acreage
La. 2326	479	All	5000
La. 2327	480	do	5000
La. 2328	485	do	5000
La. 2329	486	do	5000
La. 2330	488	do	5000
La. 2331	531	do	5000
La. 2332	532	do	5000
La. 2333	533	do	5000
La. 2334	534	do	5000
La. 2335	535	do	5000
La. 2336	590	do	4146.38
La. 2337	591	do	3242.38
La. 2338	604	do	5000
La. 2339	605	do	5000
La. 2340	606	do	5000
La. 2341	619	do	5000
La. 2342	620	do	5000
La. 2343	621	do	5000
La. 2344	624	do	5000
La. 2345	625	do	5000
La. 2346	633	do	5530.38
La. 2347	634	do	4626.39
La. 2348	642	do	5000
La. 2349	643	do	5000
La. 2350	650	do	5000
La. 2351	651	do	5000
La. 2352	656	do	5000
La. 2353	657	do	5000
La. 2354	660	do	5000
La. 2355	661	do	5000

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 2A
(Approved Sept. 8, 1959; Revised Apr. 28, 1966)
East Cameron Area—South Addition

Tract No.	Block	Description	Acreage
La. 2356	303	All	5000
La. 2357	304	do	5000
La. 2358	305	do	5000
La. 2359	306	do	2500
La. 2360	308	do	3379.75
La. 2361	309	do	2500
La. 2362	310	do	5000
La. 2363	322	do	5000
La. 2364	323	do	5000
La. 2365	324	do	2500
La. 2366	325	do	3323.65
La. 2367	326	do	3267.54
La. 2368	327	do	2500
La. 2369	328	do	5000
La. 2370	329	do	5000
La. 2371	351	do	5000
La. 2372	352	do	5000
La. 2373	353	do	5000
La. 2374	354	do	5000
La. 2375	370	do	5000
La. 2376	371	do	5000

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 3B
(Approved Sept. 8, 1959; Revised Apr. 28, 1966)
Vermilion Area—South Addition

Tract No.	Block	Description	Acreage
La. 2377	323	All	3321.95
La. 2378	344	do	3378.05
La. 2379	345	do	3431.15
La. 2380	347	do	5000
La. 2381	348	do	5000
La. 2382	363	do	5000
La. 2383	364	do	5000
La. 2384	369	do	5000
La. 2385	370	do	5000
La. 2386	371	do	5000
La. 2387	384	do	5000
La. 2388	385	do	5000
La. 2389	386	do	5000

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 3C
(Approved Sept. 8, 1959; Revised Apr. 28, 1966)
South Marsh Island Area—South Addition

Tract No.	Block	Description	Acreage
La. 2390	105	S½	2500
La. 2391	106	S½	2500
La. 2392	130	All	5000
La. 2393	131	do	5000
La. 2394	132	do	5000
La. 2395	151	do	3365.50
La. 2396	152	do	2500
La. 2397	153	do	5000
La. 2398	164	do	5000
La. 2399	165	do	2500
La. 2400	166	do	3401.60
La. 2401	167	do	3437.70
La. 2402	170	do	5000
La. 2403	171	do	5000
La. 2404	175	do	2647.51
La. 2405	176	do	5000
La. 2406	178	do	5000
La. 2407	179	do	5000
La. 2408	184	do	2500
La. 2409	185	do	5000
La. 2410	189	do	5000
La. 2411	190	do	2624.83
La. 2412	196	do	5000
La. 2413	197	do	2500

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 3D
(Approved Apr. 16, 1971; Revised Jan. 18, 1972)
South Marsh Island Area—North Addition

Tract No.	Block	Description	Acreage
La. 2414	232[1]	All	4988.48
	233[1]	do	
La. 2415	234[1]	do	4556.40
	235[1]	do	
La. 2416	249	do	5000
La. 2417	250	do	5000
La. 2418	257	do	5000
La. 2419	258	do	5000
La. 2420	259	do	5000
La. 2421	260	do	4963.08
La. 2422	261	do	4999.17
La. 2423	262	do	5000
La. 2424	266	do	5000
La. 2425	267	do	3259.83
La. 2426	268	do	3237.16
La. 2427	269	do	5000
La. 2428	273	do	5000
La. 2429	274	do	5085.27
La. 2430	275	do	5071.37
La. 2431	285	do	5000
La. 2432	287	do	5000
La. 2433	288	do	3169.12

[1] That portion located more than 3 nautical leagues seaward of a line extending from a point on Shell Keys at latitude 29°24'32.15" N., longitude 91°51'16.59" W. (x=1,834,019.00, y=270,301), northwesterly in a straight line to Tiger Point at latitude 29°32'23.13" N., longitude 92°14'57.15" W. (x=1,708,756, y=318,661). The coordinates used refer to the Louisiana Plane Coordinate System, South Zone.

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 4
(Approved June 8, 1954; Revised July 22, 1954; Apr. 28, 1966)
Eugene Island Area

Tract No.	Block	Description	Acreage
La. 2434	157	All	5000

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 4A
(Approved September 8, 1959; Revised April 28, 1966)
Eugene Island Area—South Addition

Tract No.	Block	Description	Acreage
La. 2435	333	All	5000
La. 2436	339	do	5000
La. 2437	342	do	5000
La. 2438	343	do	5000
La. 2439	348	do	5000
La. 2440	349	do	5000
La. 2441	360	do	5000
La. 2442	361	do	5000
La. 2443	370	do	5000
La. 2444	371	do	5000
La. 2445	380	do	5000
La. 2446	381	do	5000
La. 2447	385	do	5000
La. 2448	390	do	5000
La. 2449	391	do	5000
La. 2450	392	do	5000

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 5
(Approved June 8, 1954; Revised Apr. 28, 1966; July 22, 1968)
Ship Shoal Area

Tract No.	Block	Description	Acreage
La. 2451	228	All	5000

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 5A
(Approved Sept. 8, 1959; Revised Apr. 28, 1966)
Ship Shoal Area—South Addition

Tract No.	Block	Description	Acreage
La. 2452	349	All	5000
La. 2453	350	do	5000

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 6A
(Approved Sept. 8, 1959; Revised Apr. 28, 1966; July 22, 1968)
South Timbalier Area—South Addition

Tract No.	Block	Description	Acreage
La. 2454	226	All	5000

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 10A
(Approved Sept. 8, 1959; Revised Apr. 28, 1966)
Main Pass Area—South and East Addition

Tract No.	Block	Description	Acreage
La. 2455	285	All	4560.81
La. 2456	286	do	4560.81

13. Some of the tracts offered for lease may fall in fairway areas (including the prolongations thereof) or anchorage areas, or both, as designated by the District Engineer, New Orleans District, Corps of Engineers, U.S. Army. For the location of those areas and for operational restrictions imposed by that agency, the District Engineer should be consulted.

WITHDRAWAL OF TRACTS

14. The United States reserves the right to withdraw any tract from this sale prior to the acceptance of a bid for that tract.

SUGGESTED BID FORM

15. It is suggested that bidders submit their bids in the following form:

Manager, Outer Continental Shelf Office,
Bureau of Land Management, Department of the Interior, The Plaza Tower Building, Suite 3200, 1001 Howard Avenue, New Orleans, LA. 70113.

OIL AND GAS BID

The following bid is submitted for an oil and gas lease on the land of the Outer Continental Shelf specified below.

Area _____; Official Leasing Map No. _____

Tract No.	Total amount bid	Amount per acre	Amount submitted with bid

No. Misc. No. _____

_____ (Signature)
(Please type signer's name under signature)
Percent _____
_____ (Company)
_____ (Address)

IMPORTANT

The bid must be accompanied by one-fifth of the total amount bid. This amount may be paid in cash or by money order, cashier's check, certified check, or bank draft. A separate bid must be made for each tract.

IRVING SENZEL,
Acting Director,
Bureau of Land Management.

Approved: November 15, 1972.

HARRISON LOESCH,
Assistant Secretary
of the Interior.

[FR Doc.72-19904 Filed 11-17-72;8:53 am]

UNIVERSITY OF GEORGIA

Statement of Organization, Functions, and Delegations of Authority

Pursuant to the requirements of section 552(a)(1) of title 5 of the United States Code, the University of Georgia hereby publishes the following statement of organization, functions, and delegations of authority.

The University of Georgia is a public institution of higher education established by the Georgia General Assembly in 1785 and chartered in 1801. It is governed by the Board of Regents of the University System of Georgia, which is composed of 15 members appointed by the Governor of Georgia. The Board of Regents has delegated to the President of the University of Georgia the authority to administer the University. The President is assisted by a staff of administrative officers and by the Faculty Senate, which is composed of elected representatives of the faculty. The President has delegated to the Vice President for Academic Affairs the authority to administer the academic programs of the University. The Vice President for Academic Affairs is assisted by the Graduate School, the Undergraduate Instruction Committee, and the Graduate Instruction Committee. The Graduate School is administered by the Dean of the Graduate School, who is assisted by the Graduate Council, which is composed of elected representatives of the faculty. The Undergraduate Instruction Committee and the Graduate Instruction Committee are administered by the Vice President for Academic Affairs, who is assisted by the Undergraduate Instruction Committee and the Graduate Instruction Committee, which are composed of elected representatives of the faculty.

The University of Georgia is organized into 17 schools and colleges, each of which is administered by a dean who is assisted by a faculty council composed of elected representatives of the faculty. The schools and colleges are:

1. College of Agriculture
2. College of Arts and Sciences
3. College of Business Administration
4. College of Education
5. College of Engineering
6. College of Forest Resources
7. College of Home Economics
8. College of Journalism
9. College of Law
10. College of Pharmacy
11. College of Veterinary Medicine
12. Graduate School
13. School of Dentistry
14. School of Medicine
15. School of Nursing
16. School of Public Health
17. School of Social Work

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15. School of Nursing
16. School of Public Health
17. School of Social Work

Department of Commerce, at the Special Auxiliaries. Date of denial without prej-

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-310]

ACADEMY TANKERS, INC.

Notice of Application

Notice is hereby given that application has been filed under the Merchant Marine Act of 1936, as amended, for operating-differential subsidy with respect to bulk cargo carrying service in the U.S. foreign trade, principally between the United States and the Union of Soviet Socialist Republics, to expire on June 30, 1973 (unless extended only for subsidized voyages in progress on that date). Inasmuch as the below listed applicant, and/or related persons or firms, employ ships in the domestic, intercoastal or coastwise service, written permission of the Maritime Administration under section 805(a) of the Merchant Marine Act, 1936, as amended, will be required for each such applicant if its application for operating-differential subsidy is granted.

The following applicant has requested permission involving the domestic, intercoastal, or coastwise services described below:

Name of applicant: Academy Tankers, Inc. (Academy).

Description of domestic service and vessels: The applicant, Academy, owns and operates the vessels listed hereafter, which vessels have operated in the domestic, intercoastal and/or coastwise service, and Academy's parent, Petrolane, Inc., also owns the Arthur Levy Boat Service which comprises a number of corporations owning or leasing vessels operating in domestic commerce serving offshore oil drilling rigs. Academy has requested written permission to continue its domestic operations as well as those of its various sister corporations:

THOMAS A.
THOMAS M.
THOMAS Q.

Written permission is now required by the applicant, Academy, notwithstanding that a voyage in the proposed service for which subsidy is sought would not be eligible for subsidy if the vessels carried domestic commerce of the United States on that voyage.

Interested parties may inspect this application in the Office of the Secretary, Maritime Administration, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20235.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in the application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit comments or views concerning the application must, by close of business on November 27, 1972, file same with the Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled for 10 a.m., November 29, 1972, in Room 4896, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20235. The purpose of the hearing will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal services, or (b) would be prejudicial to the objects and policy of the Act.

Dated: November 16, 1972.

By order of the Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.72-20063 Filed 11-17-72;8:52 am]

Office of Import Programs

GEORGETOWN UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00103-65-28200. Applicant: Georgetown University, 37th and O Streets NW., Washington, DC 20007. Article: Electron spin resonance spectrometer. Manufacturer: Japan Electron Optics Laboratory Co., Japan. Intended use of article: The article will be used in the following experiments: (1) Determination of ESR spectra of powders, single crystals, solutions and gases at different temperature; (2) flow-mixing experiments of kinetic studies; (3) ultraviolet irradiation of samples in cavity; and (4) electrolytic generation of paramagnetic species in cavity. The article will also be used in teaching courses in biochemical techniques and physical chemistry laboratory to graduate and undergraduate students.

Comments: Comments dated December 17, 1971 have been received from Varian Associates (Varian) which state inter alia that the Varian E-line spectrometer systems, specifically the Varian E-9, E-12 or E-15 EPR (ESR) spectrometers, are of greater or equivalent scientific value to the foreign article for the purposes for which the article is intended to be used.

Decision: Application denied. An instrument of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: In reply to question 8 the applicant alleges the following as pertinent specifications of the foreign article: (1) A sample marker which allows a sample (Mn^{++} in MgO), for calibration of both g and hyperfine splitting, to be inserted simultaneously with the sample to be measured in the standard cavity. (This avoids contamination of the sample.) (2) A copper, standard cavity with a gold-plated interior. (This permits use at high temperatures and ready clearing when contaminated.) (3) 100 percent effective UV irradiation of samples in the standard cavity by means of a window that permits direct focusing on to the sample. (4) Magnetic field sweep rates 1, 2.5, 5, 10, and 25 seconds. (5) All sweep widths, sweep times, field modulation, and filter adjustments which are utilized for recording on the chart are synchronized with the oscilloscope presentation. (6) A flow-mixing kit consisting of four precision machined mixing chambers, two large volume injection syringes, stopcocks, and pressure bar housed in a glass fronted cabinet. (7) Although not ordered at this time, an electrolytic cell which is compatible with the variable temperature accessory of the article, may be ordered. The National Bureau of Standards (NBS) advises in its memorandum dated June 15, 1972 that specifications (1) through (6) above are pertinent specifications within the meaning of § 701.2(n) of the regulations. Specification (7) was not ordered with the article and therefore cannot be considered in the determination of scientific equivalency according to §§ 701.2(d) and 701.6(a)(3) of the regulations. NBS further advises that the Varian E-line spectrometers satisfies all the pertinent specifications in the following manner:

Specification 1. Varian offers a dual cavity accessory as well as their standard cavity permitting simultaneous insertion of a reference sample and the sample to be measured. Contamination can be prevented by appropriate choice of a capsule material such as quartz.

Specification 2. Varian cavities may be used in excess of 700° C. and are easily cleaned.

Specification 3. Varian provides optical transmission cavity accessories.

Specification 4. Varian provides a rapid scan accessory capable of sweep rates from 0.025 to 100 seconds.

Specification 5. Varian provides for oscilloscope presentation.

Specification 6. Varian provides a flow mixing chamber which would be capable of modification upon special order to the applicant's specifications.

Accordingly, we find that the Varian E-line spectrometers are of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-19905 Filed 11-17-72;8:49 am]

UNIVERSITY OF GEORGIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 73-00014-63-73610. Applicant: University of Georgia, Department of Plant Pathology and Genetics, No. 215 Food Science Building, Athens, Ga. 30601. Article: Volumetric recording spore trap. Manufacturer: Burkard Scientific (Sales), Ltd., United Kingdom. Intended use of article: The article is intended to be used to determine air spora in experimental conditions favoring buildup of disease. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is designed to continuously sample airborne particles and provide a record of the quantity of particles collected at a given time over a period of 7 days. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated October 27, 1972, that the ability to record for 7 days is pertinent to the applicant's research studies. HEW further advises that it knows of no domestic sampling apparatus with this necessary characteristic.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-19906 Filed 11-17-72;8:49 am]

WESTERN SCHOOL CORP. ET AL.

Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

The following is a consolidated decision on applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C.

Decision: Applications denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles, for such purposes as the foreign articles are intended to be used, are not being manufactured in the United States.

Reasons: Section 701.8 of the regulations provides in pertinent part:

> The applicant shall on or before the 20th day following the date of such notice, inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article for the same intended purposes to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Deputy Assistant Secretary in writing prior to the expiration of the 90-day period. • • • If the applicant fails, within the applicable time periods specified above, to either (a) inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (b) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final decision by the Deputy Assistant Secretary on the application within the context of § 701.11.

The meaning of the subsection is that should an applicant either fail to notify the Deputy Assistant Secretary of its intent to resubmit another application for the same article to which the denial without prejudice relates within the 20-day period, or fails to resubmit a new application within the 90-day period, the prior denial without prejudice to resubmission will have the effect of a final denial of the application.

None of the applicants to which this consolidated decision relates has satisfied the requirements set forth above, therefore, the prior denials without prejudice have the effect of a final decision denying their respective applications.

Section 701.8 further provides:

> • • • the Deputy Assistant Secretary shall transmit a summary of the prior denial without prejudice to resubmission to the FEDERAL REGISTER for publication, to the Commissioner of Customs, and to the applicant.

Each of the prior denials without prejudice to resubmission to which this consolidated decision relates was based on the failure of the respective applicants to submit the required documentation, including a completely executed application form, in sufficient detail to allow the issue of "scientific equivalency" to be determined by the Deputy Assistant Secretary.

Docket No. 71-00324-16-16800. Applicant: Western School Corp., Russiaville, Ind. 46979. Article: Planetarium, Model Mercury. Date of denial without prejudice to resubmission: July 25, 1972.

Docket No. 71-00356-16-61800. Applicant: Norwood City School District, 2132 Williams Avenue, Norwood, OH 45212. Article: Planetarium, Model Venus and Auxiliaries. Date of denial without prejudice to resubmission: July 25, 1972.

Docket No. 72-00024-01-77040. Applicant: University of California, 1438 South 10th Street, Richmond, CA 94804. Article: Mass spectrometer, Model MS 1201. Date of denial without prejudice to resubmission: July 10, 1972.

Docket No. 72-00227-01-56000. Applicant: Masonic Medical Research Laboratory, Bleecker Street, Utica, N.Y. 13501. Date of denial without prejudice to resubmission: July 6, 1972.

Docket No. 72-00251-33-29900. Applicant: Cold Spring Harbor Laboratory, Post Office Box 100, Cold Spring Harbor, NY 11724. Article: Filter apparatus. Date of denial without prejudice to resubmission: July 6, 1972.

Docket No. 72-00319-99-66700. Applicant: University of Notre Dame, Computing Center, Notre Dame, Ind. 46556. Article: Teleprinter projector, Model 2510T. Date of denial without prejudice to resubmission: July 24, 1972.

Docket No. 72-00354-33-46595. Applicant: Mount Sinai Hospital, Madison Avenue and 100th Street, New York, N.Y. 10029. Article: Pyramitome. Date of denial without prejudice to resubmission: July 14, 1972.

Docket No. 72-00365-99-66700. Applicant: Kansas State University, Cardwell Hall, Manhattan, Kan. 66502. Article: Teleprinter projector, Model 2510T. Date of denial without prejudice to resubmission: July 14, 1972.

Docket No. 72-00379-33-43400. Applicant: Veterans Administration Hospital, Archer Road, Gainesville, Fla. 32601. Article: Hydraulic micromanipulator. Date of denial without prejudice to resubmission: July 24, 1972.

Docket No. 72-00384-33-90500. Applicant: Swedish Covenant Hospital, Department of Pathology, 5145 North California Avenue, Chicago, IL 60625. Article: Lanco assembly apparatus. Date of denial without prejudice to resubmission: July 21, 1972.

Docket No. 72-00385-05-01200. Applicant: University of Hawaii, Department of Linguistics, 1890 East-West Road, Honolulu, HI 96822. Article: Intensity meter. Date of denial without prejudice to resubmission: July 14, 1972.

Docket No. 72-00386-05-01200. Applicant: University of Hawaii, Department of Linguistics, 1890 East-West Road, Honolulu, HI 96822. Article: Audio frequency filter. Date of denial without prejudice to resubmission: July 14, 1972.

Docket No. 72-00560-65-46070. Applicant: The Pennsylvania State University, Department of Purchases, 219 Shields Building, University Park, PA 16802. Article: Scanning electron microscope, Model JSM-50A. Date of denial without prejudice to resubmission: July 6, 1972.

Docket No. 72-00606-25-31000. Applicant: Michigan State University, WKAR-TV, 600 Kalamazoo Street, East Lansing, MI 48823. Article: Videoskop III and sideband adapter. Date of denial without prejudice: July 6, 1972.

Docket No. 72-00608-25-07700. Applicant: Educational Broadcasting Corp.,

V37-224-NOV18-72 XUM

304 West 58th Street, New York, NY 10019. Article: six Sony TV cameras-series AV3100 and four Sonv TV monitors series PVM76L. Date of denial without prejudice to resubmission: July 6, 1972.

Docket No. 72-00636-99-26000. Applicant: El Centro College, 100 North Austin, Dallas, TX 75202. Article: Dr. Clemenz standard construction device for the theory of electricity. Date of denial without prejudice: July 21, 1972.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-19907 Filed 11-17-72;8:49 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office for Civil Rights

NONDISCRIMINATION UNDER FEDERAL CONTRACTS

Higher Education Guidelines

A copy of the following memorandum and attached guidelines and appendices was sent by the Director, Office for Civil Rights, to more than 2,500 university and college presidents, on October 1, 1972:

MEMORANDUM TO COLLEGE AND UNIVERSITY PRESIDENTS

OCTOBER 1, 1972.

As the new academic year begins, I wish to bring to your attention the requirement that all universities and colleges with Federal contracts comply with Executive Order 11246, "Nondiscrimination Under Federal Contracts." We expect that all affected colleges and universities will henceforth be in compliance with the Order and its implementing regulations as stated in the following guidelines.

While these guidelines address themselves to compliance with the Executive order, for your information we have also attached as appendices other civil rights laws affecting institutions of higher education and over which this Office has enforcement responsibility.

We hope that you will become familiar with these guidelines and laws and direct your staff and faculty to make every effort to abide by them.

The Department of Health, Education, and Welfare stands ready to assist in every way possible so that all institutions of higher education will be able to meet the requirements of the Executive order and other Federal requirements regarding nondiscriminatory treatment.

Additional copies of these guidelines are available from the Regional Office for Civil Rights in your area or from the Public Information Office, Office for Civil Rights, Department of Health, Education, and Welfare, Washington, D.C. 20201.

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I. LEGAL PROVISIONS

The Office for Civil Rights (OCR) in the Department of Health, Education, and Welfare (HEW) is responsible for the enforcement in institutions of higher education of Executive Order 11246, as amended by Executive Order 11375 (Tab A), which imposes equal employment opportunity requirements upon Federal contractors, and upon construction contractors on projects receiving Federal assistance from HEW.

EXECUTIVE ORDER 11246, AS AMENDED

In signing a Government contract or subcontract in excess of $10,000 the contractor agrees that it "will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin," and that it "will take affirmative action to ensure that applicants are employed and that employees are treated during employment" without regard to these factors. In the event of the contractor's noncompliance with the nondiscrimination clauses of the contract, or with the rules and regulations of the Secretary of Labor, the contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts.

Part II of the Executive order sets forth other contractor obligations, enforcement procedures, and administrative responsibilities. Part III of the Executive order describes the equal opportunity obligations of applicants for Federal assistance involving construction.

The equal employment opportunity obligations of Federal contractors apply to all employment by a contractor, and not solely to employment associated with the receipt or use of Federal funds. The specific obligations of nondiscrimination and affirmative action associated with the Executive order apply and are enforceable by the Office for Civil Rights only in the case of contracts, not grants.[1]

REGULATIONS OF THE DEPARTMENT OF LABOR

The requirements of the Executive order are implemented by the regulations of the Department of Labor (41 Code of Federal Regulations Chapter 60). Part 60-1, "Obligations of Contractors and Subcontractors" (Tab B) sets forth matters of general applicability, including the scope of coverage of the Executive order, the obligations of employers subject to that coverage, administrative requirements applicable to Federal agencies, steps in investigation and enforcement of compliance with the order, and guidance for filing complaints of discrimination. Sanctions and OCR investigative procedures are discussed at Tab I.

REVISED ORDER NO. 4 AND NON-PUBLIC INSTITUTIONS

Revised Order No. 4 (Part 60-2) (Tab C), which implements and supplements Section 60-1.40 of Part 60-1, requires each private institution contracor with 50 or more employees and a contract in excess of $50,000 to develop and maintain a written affirmative action program within 120 days of receipt of such a contract. Section 60-1.40 and Revised Order No. 4 set forth the required contents of such a program, including directions for analyses of the contractor's work force and employment practices, steps to be taken to improve recruitment, hiring, and promotion of minority persons and women, and other specific procedures to assure equal employment opportunity.

REVISED ORDER NO. 4 AND PUBLIC INSTITUTIONS

While all contractors, both public and private, are required to implement an affirmative action program, at present the basic requirement of Revised Order No. 4 that a contractor maintain a written affirmative action plan is not applicable to public institutions (those under State or local control) (see 41 CFR 60-1.5(a)(4)). Public institutions are nevertheless required to take action to ensure nondiscrimination and to comply with the Executive order and regulations other than Order No. 4. In our judgment, a public institution can best carry out these obligations by conducting the kinds of analyses required of nonpublic institutions, and organizing in written form its plans to overcome problems of past discrimination.

In addition, the regulations which set forth the procedures for conducting compliance reviews of all contractors, including public institutions, require written commitments as to "the precise actions to be taken and

[1] Where a grantee of funds for construction participates in construction under the grant, its employment is subject to the requirements of the equal opportunity clause during the term of participation. When such grantee or applicant for Federal funds is an agency or instrumentality of a State or local government, only such agency or instrumentality is subject to the clause.

dates for completion" to overcome any deficiencies which a compliance review identifies (41 CFR 60-1.20). These "precise actions" and "dates for completion," which must be provided in writing by a public institution following an HEW compliance review, will ordinarily be similar in content to the written affirmative action commitments required as a matter of regulation of nonpublic institutions (41 CFR 60-2.11).

On October 4, 1972, the Department of Labor will announce in the FEDERAL REGISTER its intention to amend the regulations to remove the present exemption of public educational institutions from the requirement of maintaining a written affirmative action plan. When effective, all educational institutions, both public and private, will have the same affirmative action obligations under the Executive order.

NONDISCRIMINATION AND AFFIRMATIVE ACTION IN THE EXECUTIVE ORDER

Executive Order 11246 embodies two concepts: nondiscrimination and affirmative action.

"Nondiscrimination" requires the elimination of all existing discriminatory conditions, whether purposeful or inadvertent. A university contractor must carefully and systematically examine all of its employment policies to be sure that they do not, if implemented as stated, operate to the detriment of any persons on grounds of race, color, religion, sex, or national origin. The contractor must also ensure that the practices of those responsible in matters of employment, including all supervisors, are nondiscriminatory.

"Affirmative action" requires the contractor to do more than ensure employment neutrality with regard to race, color, religion, sex, and national origin. As the phrase implies, affirmative action requires the employer to make additional efforts to recruit, employ, and promote qualified members of groups formerly excluded, even if that exclusion cannot be traced to particular discriminatory actions on the part of the employer. The premise of the affirmative action concept of the Executive order is that unless positive action is undertaken to overcome the effects of systemic institutional forms of exclusion and discrimination, a benign neutrality in employment practices will tend to perpetuate the "status quo ante" indefinitely.

WHO IS PROTECTED BY THE EXECUTIVE ORDER

The "nondiscrimination" requirements of the Executive order apply to all persons, whether or not the individual is a member of a conventionally defined "minority group." In other words, no person may be denied employment or related benefits on grounds of his or her race, color, religion, sex, and national origin.

The "affirmative action" requirements of determining underutilization, setting goals and timetables and taking related action as detailed in Revised Order No. 4 were designed to further employment opportunity for women and minorities. Minorities are defined by the Department of Labor as Negroes, Spanish-surnamed, American Indians, and Orientals.

GOALS AND TIMETABLES

As a part of the affirmative action obligation, Revised Order No. 4 requires a contractor to determine whether women and minorities are "underutilized" in its employee work force and, if that is the case, to develop as a part of its affirmative action program specific goals and timetables designed to overcome that underutilization. (See Tab J.) Underutilization is defined in the regulations as "having fewer women or minorities in a particular job than would reasonably be expected by their availability."

Goals are projected levels of achievement resulting from an analysis by the contractor of its deficiencies, and of what it can reasonably do to remedy them, given the availability of qualified minorities and women and the expected turnover in its work force. Establishing goals should be coupled with the adoption of genuine and effective techniques and procedures to locate qualified members of groups which have previously been denied opportunities for employment or advancement and to eliminate obstacles within the structure and operation of the institution (e.g. discriminatory hiring or promotion standards) which have prevented members of certain groups from securing employment or advancement.

The achievement of goals is not the sole measurement of a contractor's compliance, but represents a primary threshold for determining a contractor's level of performance and whether an issue of compliance exists. If the contractor falls short of its goals at the end of the period it has set, that failure in itself does not require a conclusion of noncompliance. It does, however, require a determination by the contractor as to why the failure occurred. If the goals were not met because the number of employment openings was inaccurately estimated, or because of changed employment market conditions or the unavailability of women and minorities with the specific qualifications needed, but the record discloses that the contractor followed its affirmative action program, it has complied with the letter and spirit of the Executive order. If, on the other hand, it appears that the cause for failure was an inattention to the nondiscrimination and affirmative action policies and procedures set by the contractor, then the contractor may be found out of compliance. It should be emphasized that while goals are required, quotas are neither required nor permitted by the Executive order. When used correctly, goals are an indicator of probable compliance and achievement, not a rigid or exclusive measure of performance.

Nothing in the Executive order requires that a university contractor eliminate or dilute standards which are necessary to the successful performance of the institution's educational and research functions. The affirmative action concept does not require that a university employ or promote any persons who are unqualified. The concept does require, however, that any standards or criteria which have had the effect of excluding women and minorities be eliminated, unless the contractor can demonstrate that such criteria are conditions of successful performance in the particular position involved.

II. PERSONNEL POLICIES AND PRACTICES

An employer must establish in reasonable detail and make available upon request the standards and procedures which govern all employment practices in the operation of each organizational unit, including any tests in use and the criteria by which qualifications for appointment, retention, or promotion are judged. It should be determined whether such standards and criteria are valid predictors of job performance, including whether they are relevant to the duties of the particular position in question. This requirement should not ignore or obviate the range of permissible discretion which has characterized employment judgments, particularly in the academic area. Where such discretion appears to have operated to deny equality of opportunity, however, it must be subjected to rigorous examination and its discriminatory effects eliminated. There are real and proper limits on the extent to which criteria for academic employment can be explicitly articulated; however, the absence of any articulation of such criteria provides opportunities for arbitrary and discriminatory employment decisions.

RECRUITMENT

Recruitment is the process by which an institution or department within an institution develops an applicant pool from which hiring decisions are made. Recruitment may be an active process, in which the institution seeks to communicate its employment needs to candidates through advertisement, word-of-mouth notification to graduate schools or other training programs, disciplinary conventions, or job registers. Recruitment may also be the passive function of including in the applicant pool those persons who on their own initiative or by unsolicited recommendation apply to the institution for a position.

In both academic and nonacademic areas, universities must recruit women and minority persons as actively as they have recruited white males. Some universities, for example, have tended to recruit heavily at institutions graduating exclusively or predominantly nonminority males, and have failed to advertise in media which would reach the minority and female communities, or have relied upon personal contacts and friendships which have had the effect of excluding from consideration women and minority group persons.

In the academic area, the informality of word-of-mouth recruiting and its reliance on factors outside the knowledge or control of the university makes this method particularly susceptible to abuse. In addition, since women and minorities are often not in word-of-mouth channels of recruitment, their candidacies may not be advanced with the same frequency or strength of endorsement as they merit, and as their white male colleagues receive.

The university contractor must examine the recruitment activities and policies of each unit responsible for recruiting. Where such an examination reveals a significantly lower representation of women or minorities in the university's applicant pool than would reasonably be expected from their availability in the work force, the contractor must modify or supplement its recruiting policies by vigorous and systematic efforts to locate and encourage the candidacy of qualified women and minorities. Where policies have the effect of excluding qualified women or minorities, and where their effects cannot be mitigated by the implementation of additional policies, such policies must be eliminated.

An expanded search network should include not only the traditional avenues through which promising candidates have been located (e.g., in the case of academic appointments, direct letters to graduate departments, or in the case of nonacademic appointments, advertising in community newspapers). In addition, to the extent that it is necessary to overcome underutilization, the university should search in areas and channels previously unexplored.

Certain organizations such as those mentioned in Revised Order No. 4 may be prepared to refer women and minority applicants. For faculty and administrative appointments, disciplinary and professional associations, including committees and caucus groups, should be contacted and their facilities for employee location and referral used.

Particularly in the case of academic personnel, potentially fruitful channels of recruitment include the following:

a. Advertisements in appropriate professional journals and job registries;

b. Unsolicited applications or inquiries;

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c. Women teaching at predominantly women's colleges, minorities teaching at predominantly minority colleges;

d. Minorities or women professional engaged in nonacademic positions, such as industry, government, law firms, hospitals;

e. Professional women and minorities working at independent research institutions and libraries;

f. Professional minorities and women who have received significant grants or professional recognition;

g. Women and minorities already at the institution and elsewhere working in research or other capacities not on the academic ladder;

h. Minority and women doctoral recipients, from the contractor's own institution and from other institutions, who are not presently using their professional training;

i. Women and minorities presently candidates for graduate degrees at the institution and elsewhere who show promise of outstanding achievement (some institutions have developed programs of support for completion of doctoral programs with a related possibility of future appointment);

j. Minorities and women listed in relevant professional files, registries and data banks, including those which have made a particularly conscientious effort to locate women and minority persons.

It should be noted that a contractor is required to make explicit its commitment to equal employment opportunity in all recruiting announcements or advertisements. It may do this by indicating that it is an "equal opportunity employer." It is a violation of the Executive order, however, for a prospective employer to state that only members of a particular minority group or sex will be considered.

Where search committees are used to locate candidates for appointment, they can best carry out the above measures when they are composed of persons willing and able to explore new avenues of recruitment. Effective search committees should, if possible, include among their members women and minority persons.

Policies which exclude recruitment at predominantly minority colleges and universities restrict the pool of qualified minority faculty from which prospective appointees may be chosen. Even if the intent of such policies may be to prevent the so-called "raiding" of minority faculty by predominantly white institutions, such policies violate the nondiscrimination provision of the Executive order since their effect is to deny opportunity for employment on grounds relating to race. Such policies have operated to the serious disadvantage of students and teachers at minority institutions by denying them notice of research and teaching opportunities, assistantships, endowed professorships, and many other programs which might enhance their potential for advancement, whether they choose to stay at a predominantly minority institution or move to a nonminority institution.

Minorities and women are frequently recruited only for positions thought to be for minorities and women, such as equal employment programs, ethnic studies, or women's studies. While these positions may have a particular suitability for minority persons and women, institutions must not restrict consideration of women and minorities to such areas, but should actively recruit them for any position for which they may be qualified.

HIRING

Once a nondiscriminatory applicant pool has been established through recruitment, the process of selection from that pool must also carefully follow procedures designed to insure nondiscrimination. In all cases, standards and criteria for employment should be made reasonably explicit, and should be accessible to all employees and applicants. Such standards may not overtly draw a distinction based on race, sex, color, religion, or national origin, nor may they be applied inconsistently to deny equality of opportunity on these bases.

In hiring decisions, assignment to a particular title or rank may be discriminatory. For example, in many institutions women are more often assigned initially to lower academic ranks than are men. A study by one disciplinary association showed that women tend to be offered a first appointment at the rank of instructor rather than the rank of assistant professor three times more often than men with identical qualifications. Where there is no valid basis for such differential treatment, such a practice is in violation of the Executive order.

Recruiting and hiring decisions which are governed by unverified assumptions about a particular individual's willingness or ability to relocate because of his or her race or sex are in violation of the Executive order. For example, university personnel responsible for employment decisions should not assume that a woman will be unwilling to accept an offer because of her marital status, or that a minority person will be unwilling to live in a predominantly white community.

Institutional policies regarding the employment of an institution's own graduates must not be applied in any manner which would deny opportunities to women and minorities. A university must give equal consideration to its graduate students regardless of their race or sex for future faculty positions, if the institution employs its own graduates.

In the area of academic appointments, a nondiscriminatory selection process does not mean that an institution should indulge in "reverse discrimination" or "preferential treatment" which leads to the selection of unqualified persons over qualified ones. Indeed, to take such aciton on grounds of race, ethnicity, sex, or religion constitutes discrimination in the violation of the Executive order.

It should also be pointed out that nothing in the Executive order requires or permits a contractor to fire, demote, or displace persons on grounds of race, color, sex, religion, or national origin in order to fulfill the affirmative action concept of the Executive order. Again, to do so would violate the Executive order. Affirmative action goals are to be sought through recruitment and hiring for vacancies created by normal growth and attrition in existing positions.

Unfortunately, a number of university officials have chosen to explain dismissals, transfers, alterations of job descriptions, changes in promotion potential or fringe benefits, and refusals to hire not on the basis of merit or some objective sought by the university administration aside from the Executive order, but on grounds that such actions and other "preferential treatment regardless of merit" are now required by Federal law. Such statements constitute either a misunderstanding of the law or a willful distortion of it. In either case, where they actually reflect decisions not to employ or promote on grounds of race, color, sex, religion, or national origin, they constitute a violation of the Executive order and other Federal laws.

ANTINEPOTISM POLICIES

Policies or practices which prohibit or limit the simultaneous employment of two members of the same family and which have an adverse impact upon one sex or the other are in violation of the Executive order. For example, because men have traditionally been favored in employment over women, antinepotism regulations in most cases operate to deny employment opportunity to a wife rather than to a husband.

If an institution's regulations against the simultaneous employment of husband and wife are discriminatory on their face (e.g., applicable to "faculty wives"), or if they have in practice served in most instances to deny a wife rather than a husbnad employment or promotion opportunity, salary increases, or other employment benefits, they should be altered or abolished in order to mitigate their discriminatory impact.

Stated or imolied presumptions against the consideration of more than one member of the same family for employment by the same institution or within the same academic department also tends to limit the opportunities available to women more than to men.

If an individual has been denied "opportunity" for employment, advancement, or benefits on the basis of an antinepotism rule or practice, that action is discriminatory and is prohibited under the Executive order. Institutional regulations which set reasonable restrictions on an individual's capacity to function as judge or advocate in specific situations involving a member of his or her immediate family are permissible where they do not have the effect of denying equal employment opportunity to one sex over the other[2].

PLACEMENT, JOB CLASSIFICATION, AND ASSIGNMENT

A contractor must examine carefully its job category assignments and treatment of individuals within a single job classification. Experience shows that individuals of one sex or race frequently tend to be "clustered" in certain job classifications, or in certain departments or divisions within an institution. Most often those classifications or departments in which women or minorities are found tend to be lower paid, and have less opportunity for advancement than those to which nonminority males are assigned.

Where there are no valid or substantial differences in duties or qualifications between different job classifications, and where persons in the classifications are segregated by race, color, religion, sex, or national origin, those separate classifications must be eliminated or merged. For example, where male administrative aides and female administrative assistants are performing the same duties and bear the same responsibilities, but are accorded different salaries and advancement opportunities, and where the separate classifications upon examination yield no valid distinctions, the separate classifications must be eliminated or merged.

In academic employment, minorities and women have sometimes been classified as "research associates," "lecturers," or similar categories of employment which do not carry with them the benefits and protections of regular academic appointment, and from which promotion is rare, while men with the same qualifications are appointed to regular faculty positions. Such sex- or minority-segregated classification is discriminatory and must be eliminated. In addition, appropriate remedies must be afforded those persons previously assigned to such classifications.

[2] For an indication of what should constitute "reasonable restriction," see the policy statement of the American Association of University Professors on "Faculty Appointment and Family Relationship," which suggests that "faculty members should neither initiate or participate in institutional decisions involving a direct benefit (initial appointment, retention, promotion, salary, leave of absence, etc.) to members of their immediate families."

TRAINING

To eliminate discrimination and assure equal opportunity in promotion, an employer should initiate necessary remedial, job training, and work study programs aimed at upgrading specific skills. This is generally applicable in the case of nonacademic employees, but may also be relevant in the case of academic employees as, for example, in providing opportunities to participate in research projects, or to gain new professional skills through leave policies or special programs offered by the institution.

In institutions where in-service training programs are one of the ladders to administrative positions, minorities and women must be admitted into these programs on an equal basis with nonminority men. Furthermore, opportunities for training may not be limited to positions which are occupied by nonminorities and males.

The employment of students by an institution is subject to the same considerations of nondiscrimination and affirmative action as is all other employment in an institution.

PROMOTION

A contractor's policies and practices on promotion should be made reasonably explicit, and administered to ensure that women and minorities are not at a disadvantage. A contractor is also obligated to make special efforts to ensure that women and minorities in its work force are given equal opportunity for promotion. Specifically, 41 CFR 60–2.24 states that this result may be achieved through remedial, work study and job training programs; through career counseling programs; through the posting and announcement of promotion opportunities; and by the validation of all criteria for promotion.

TERMINATION

Where action to terminate has a disproportionate effect upon women or minorities and the employer is unable to demonstrate reasons for the decision to terminate unrelated to race, religion, color, national origin, or sex, such actions are discriminatory. Seniority is an acceptable standard for termination, with one exception: where an incumbent has been found to have been the victim of discrimination and as a result has less actual seniority than he or she would have had but for such discrimination, either seniority cannot be used as the primary basis for termination, or the incumbent must be presumed to have the seniority which he or she would have had in the absence of discrimination.

CONDITIONS OF WORK

A university employer must ensure nondiscrimination in all terms and conditions of employment, including work assignments, educational and training opportunities, research opportunities, use of facilities, and opportunities to serve on committees or decision-making bodies.

Intentional policy or practice which subjects persons of a particular sex or minority status to heavier teaching loads, less desirable class assignments, and fewer opportunities to serve on key decision-making bodies or to apply for research grants or leaves of absence for professional purposes, is in violation of the Executive order.

Similarly, institutional facilities such as dining halls or faculty clubs have sometimes restricted their services to men only. Where such services are a part of the ordinary benefits of employment for certain classifications of employees, no members of such classifications can be denied them on the basis of race, color, national origin, sex, or religion.

RIGHTS AND BENEFITS-SALARY

The Executive order requires that universities adhere carefully to the concept of equal pay for equal work.

In many situations persons who hold the same or equivalent positions, with the same or equivalent qualifications, are not paid similar salaries, and disparities are identifiable along lines of race, color, national origin, sex, or religion.

An institution should set forth with reasonable particularity criteria for determining salary for each job classification and within each job classification. These criteria should be made available to all present and potential employees.

The question is often raised as to whether a person who applies for a position within a given job classification may be given a higher or lower rate of pay at entry based upon his or her pay in another position, or upon market factors defined outside the context of the institution's determination of rates of pay. Where reference to external market factors results in a disparate effect upon women or minority group persons, a reference to those rates of pay is prohibited. For example, if a minority or female applicant applies for a position as an assistant professor, and the salary range of those entering that position is from $10,000 to $12,000, the fact that the applicant's former position paid only $8,000 cannot be used to deny him or her the minimum pay for the new position, when nonminority men in a comparable situation are given an entry salary at or above the minimum stipulated area. In this example, the applicant's level of pay must be determined on the basis of capability and record of performance, not former salary.

BACK PAY

Back pay awards are authorized and widely used as a remedy under title VII of the Civil Rights Act of 1964, the Equal Pay Act, and the National Labor Relations Act. Universities, like other employers, are subject to the provisions of these statutes.

This means that evidence of discrimination that would require back pay as a remedy will be referred to the appropriate Federal enforcement agency if the Office for Civil Rights is not able to negotiate a voluntary settlement with a university. At the direction of the Department of Labor, the Office for Civil Rights will continue to pursue back pay settlements only in cases involving employees who, while protected by the Executive order, were not protected by the three statutes mentioned above at the time violation occurred.

Contractors continue to have the prospective obligation to include in an affirmative action program whatever payments are necessary to remove existing differentials in pay (based on race or sex) identified in the analyses required under the Executive order.

LEAVE POLICIES

A university contractor must not discriminate against employees in its leave policies, including paid and unpaid leave for educational or professional purposes, sick leave, annual leave, temporary disability, and leave for purposes of personal necessity.

EMPLOYMENT POLICIES RELATING TO PREGNANCY AND CHILDBIRTH

41 CFR 60-20 (Sex Discrimination Guidelines) (Tab D) provides that "women shall not be penalized in their conditions of employment because they require time away from work on account of childbearing." Pregnancy and childbearing must be considered as a justification of a leave of absence for a female employee regardless of marital status, for a reasonable length of time, and for reinstatement following childbirth without loss of seniority or accrued benefits.

A. *Eligibility.* If an employer has a policy on eligibility for leave, a female employee may not be required to serve longer than the minimum length of service required for other types of leave in order to qualify for maternity leave. If the employer has no leave policy, childbearing must nevertheless be considered as a justification for a leave of absence for a female employee for a reasonable length of time.

B. *Mandatory period of leave.* Any policy requiring a mandatory leave of absence violates the Executive order unless it is based on individual medical or job characteristics. In such cases the employer must clearly demonstrate an overriding need based on medical safety or "business necessity," i.e., that the successful performance of the position or job in question requires the leave. For example, service in a radiation laboratory may constitute a demonstrable hazard to the expectant mother or her child. A mandatory period of leave should not, however, be stipulated by the university; the length of leave, whether mandatory or voluntary, should be based on a bona fide medical need related to pregnancy or childbirth.

C. *Eligibility for and conditions of return.* Following the end of leave warranted by childbirth, a female employee must be offered reinstatement to her original position or one of like status and pay without loss of seniority or accrued benefits.

D. *Other conditions of leave.* Department of Labor guidelines provide that the conditions related to pregnancy leave, i.e., salary, accrual of seniority, and other benefits, reinstatement rights, etc., must be in accordance with the employer's general leave policy.

On April 5, 1972, the Equal Employment Opportunity Commission, under title VII of the Civil Rights Act of 1964, issued revised guidelines on sex discrimination, 37 F.R. 6835, which differ substantially from the present Department of Labor guidelines under the Executive order. The Labor Department has not adopted the rules of the EEOC as its own, although universities are subject to them. However, serious consideration is now being given to revising the Labor Department guidelines to equate disabilities caused by pregnancy and childbirth with all other temporary disabilities for which an employer might provide leave time, insurance pay, and other benefits.

E. *Child care leave.* If employees are generally granted leave for personal reasons, such as for a year or more, leave for purposes relating to child care should be considered grounds for such leave, and should be available to men and women on an equal basis. A faculty member should not be required to have such leave time counted toward the completion of a term as a probationary faculty member, unless personal leave for other reasons is so considered. Nor should such leave time be subtracted from a stated term of appointment, or serve as a basis for nonrenewal of contract.

FRINGE BENEFITS

Fringe benefits are defined to include medical, hospital, accident, life insurance, and retirement benefits; profit-sharing and bonus plans; leave, and other terms and conditions of employment.

The university should carefully examine its fringe benefit programs for possible discriminatory effects. For example, it is unlawful for an employer to establish a retirement or pension plan which establishes different optional or mandatory retirement ages for men and for women.

Where an employer conditions benefits available to employees and their spouses and

U.S.C. 552(b)(4). Compliance agencies also Act of 1964 which forbids discrimination on ices of the United States or the merchant

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families on whether the employee is the "head of the household" or "principal wage earner" in the family unit, such benefits cannot be made available only to male employees and their families. The employer also must not presume that a married man is the "head of the household" or "principal wage earner"; this is a matter which must be determined by the employee and his or her family.

It is also unlawful for an employer to make benefits available to the wives and families of male employees where the same benefits are not available to the husbands and families of female employees.

With regard to retirement benefits and insurance, pensions, and other welfare programs, Department of Labor Sex Discrimination Guidelines provide that benefits must be equal for both sexes, or that the employer's contribution must be equal for both sexes. This means that a different rate of retirement benefits for men and women does not violate the Executive order if the employer's contributions for both sexes are equal. It is not a violation of the Executive order if the employer, in seeking to equalize benefits for men and women employees, contributes more for one sex than the other.[3]

CHILD CARE

41 CFR 60–2.24 states that an employer should, as part of his affirmative action program, encourage child care programs appropriately designed to improve the employment opportunities of minorities and women. An increasing number of institutions have established child care programs for their male and female employees and students, and we commend such efforts to all institutions. As part of an affirmative action program, such programs may improve the employment opportunities of all employees, not only women and minorities, and contribute significantly to an institution's affirmative action profile.

GRIEVANCE PROCEDURES

As of March 1972 and pursuant to the provisions of the Equal Employment Opportunity Act of 1972, the Equal Employment Opportunity Commission has jurisdiction over individual complaints of discrimination by academic as well as nonacademic employees of educational institutions.

Pursuant to formal agreement between OCR and EEOC, and to avoid duplication of effort, individual complaints of discrimination will be investigated and remedied by EEOC. Class complaints, groups of individual complaints or other information which indicates possible institutional patterns of discrimination (as opposed to isolated cases) will remain subject to investigation by OCR. In such cases, retrospective relief for individuals within such classes or groups will remain within the jurisdiction of EEOC.

Where an employer has established sound standards of due process for the hearing of employee grievances, and has undertaken a prompt and good faith effort to identify and provide relief for grievances, a duplicative assumption of jurisdiction by the Federal Government has not always proven necessary. We therefore urge the development of sound grievance procedures for all employees, academic and nonacademic alike, in order to insure the fair treatment of individual cases where discrimination is alleged, and to maintain the integrity of the employer's internal employment system.

Institutional grievance procedures which provide for prompt and equitable hearing of employee grievances relating to employment discrimination should be written and available to all present and prospective employees.

III. DEVELOPMENT OF AFFIRMATIVE ACTION PROGRAMS

Effective affirmative action programs shall contain, but not necessarily be limited to, the following ingredients:

1. *Development or reaffirmation of the contractor's equal employment opportunity policy.* Each institution should have a clear written statement over the signature of the chief administrative officer which sets forth the institution's legal obligation and policy for the guidance of all supervisory personnel, both academic and nonacademic, for all employees and for the community served by the institution. The policy statement should reflect the institution's affirmative commitment to equal employment opportunity, as well as its commitment to eliminate discrimination in employment on the basis of race, color, sex, religion and national origin.

2. *Dissemination of the policy.* Internal communication of the institution's policy in writing to all supervisory personnel is essential to their understanding, cooperation and compliance. All persons responsible for personnel decisions must know what the law requires, what the institution's policy is, and how to interpret the policy and implement the program within the area of their responsibility. Formal and informal external dissemination of the policy is necessary to inform and secure the cooperation of organizations within the community, including civil rights groups, professional associations, women's groups, and various sources of referral within the recruitment area of the institution.

The employer should communicate to all present and prospective employees the existence of the affirmative action program, and make available such elements of the program as will enable them to know of and avail themselves of its benefits.

3. *Responsibility for implementation.* An administrative procedure must be set up to organize and monitor the affirmative action program. 41 CFR 60–2.22 provides that an executive of the contractor should be appointed as director of EEO programs, and that he or she should be given "the necessary top management support and staffing to execute the assignment." (See the remainder of § 2.22 for details of the responsibilities of the Equal Employment Opportunity Officer.) This should be a person knowledgeable of and sensitive to the problems of women and minority groups. Depending upon the size of the institution, this may be his or her sole responsibility, and necessary authority and staff should be accorded the position to ensure the proper implementation of the program.

In several institutions the EEO officer has been assisted by one or more task forces composed in substantial part of women and minority persons. This has usually facilitated the task of the EEO officer and enhanced the prospects of success for the affirmative action program in the institution.

4. *Identification of problem areas by organizational units and job classifications.* In this section the contractor should address itself to the issues discussed in sections I and II above. The questions involved in data gathering and analysis are treated in appendix J.

Once an inventory is completed, the data should be coded and controlled in strict confidence so that access is limited to those persons involved in administering and reviewing the Equal Employment Opportunity Program. Some State and local laws may prohibit the collection and retention of data relating to the race, sex, color, religion, or national origin of employees and applicants for employment. Under the principle of Federal supremacy, requirements for such inventories and recordkeeping under the Executive order supersede any conflicting State or local law, and the existence of such laws is not an acceptable excuse for failure to collect or supply such information as required under the Executive order.

5. *Internal audit and reporting systems.* An institution must include in its administrative operation a system of audit and reporting to assist in the implementation and monitoring of the affirmative action program, and in periodic evaluations of its effectiveness. In some cases a reporting system has taken the form of a monitoring of all personnel actions, so that department heads and other supervisors must make periodic reports on affirmative action efforts to a central office. In most cases all new appointments must be accompanied by documentation of an energetic and systematic search for women and minorities.

Reporting and monitoring systems will differ from institution to institution according to the nature of the goals and programs established, but all should be sufficiently organized to provide a ready indication of whether or not the program is succeeding, and particularly whether or not good faith efforts have been made to insure fair treatment of women and minority group persons before and during employment. Reporting systems should include a method of evaluating applicant flow; referral and hiring rate; and an application retention system to allow the development of an inventory of available skills.

At least once annually the institution must prepare a formal report to OCR on the results of its affirmative action compliance program. The evaluation necessary to prepare such a report will serve as a basis for updating the program, taking into consideration changes in the institution's work force (e.g., expansion, contraction, turnover), changes in the availability of minorities and women through improved educational opportunities, and changes in the comparative availability of women as opposed to men as a result of changing interest levels in different types of work.

6. *Publication of affirmative action programs.* In accordance with 41 CFR 60–2.21 (11), which states that the contractor should "communicate to his employees the existence of the contractor's affirmative action program and make available such elements of his program as will enable such employees to know of and avail themselves of its benefits," the Office for Civil Rights urges institutions to make public their affirmative action plans. University contractors should also be aware that affirmative action plans accepted by the Office for Civil Rights are subject to disclosure to the public under the Freedom of Information Act, 5 U.S.C. 552. Subject to certain exemptions, disclosure ordinarily will include broad utilization analyses, proposed remedial steps, goals and timetables, policies on recruitment, hiring, promotion, termination, grievance procedures, and other affirmative measures to be taken. Other types of documents which must be released by the Government upon a request for disclosure include the contractor's validation studies of tests and other preemployment selection methods.

Exempt from disclosure are those portions of the plan which contain confidential information about employees, the disclosure of which may constitute an invasion of privacy, information in the nature of trade secrets, and confidential commercial or financial information within the meaning of 5

[3] Benefits which are different for men and women have been declared in violation of title VII of the Civil Rights Act of 1964 in recent guidelines published by the Equal Employment Opportunity Commission. These guidelines also state that it is no defense against a charge of sex discrimination that the cost of such benefit is greater for one sex than for the other.

U.S.C. 552(b)(4). Compliance agencies also are not authorized to disclose the Standard Form 100 (EEO–1) or similar reporting forms or information about individuals.

7. *Developing a plan.* The Office for Civil Rights recognizes that in an institution of higher education, and particularly in the academic staff, responsibility for matters concerning personnel decisions is diffused among many persons at a number of different levels. The success of a university's affirmative action program may be dependent in large part upon the willingness and ability of the faculty to assist in its development and implementation. Therefore, the Office for Civil Rights urges that university administrators involve members of their faculty, as well as other supervisory personnel in their work force, in the process of developing an information base, determining potential employee availability, the establishment of goals and timetables, monitoring and evaluating the effectiveness of the plan, and in all other appropriate elements of a plan. A number of institutions have successfully established faculty or joint faculty-staff commissions or task forces to assist in the preparation and administration of its affirmative action obligations. We therefore recommend to university contractors that particular attention be given the need to bring into the deliberative and decisionmaking process those within the academic community who have a responsibility in personnel matters.

The Office for Civil Rights stands ready to the fullest extent possible to assist university contractors in meeting their equal employment opportunity obligations.

Tab A: Tab A of the October 1, 1972, Memorandum and Guidelines was a copy of Presidential Executive Order 11246, as amended by Executive Order 11375 and Executive Order 11478.

Tab B: Tab B of the October 1, 1972, Memorandum and Guidelines was a copy of 41 Code of Federal Regulations Part 60–1.

Tab C: Tab C of the October 1, 1972, Memorandum and Guidelines was a copy of 41 Code of Federal Regulations Part 60–2.

Tab D: Tab D of the October 1, 1972, Memorandum and Guidelines was a copy of 41 Code of Federal Regulations Part 60–20.

Tab E: Tab E of the October 1, 1972, Memorandum and Guidelines was a copy of 41 Code of Federal Regulations Part 60–3.

Tab F: Tab F of the October 1, 1972, Memorandum and Guidelines was a copy of Title VI of the Civil Rights Act of 1964, Public Law 88–352, 88th Congress, H.R. 7152, July 2, 1964.

TAB G: MEMORANDUM TO PRESIDENTS OF INSTITUTIONS OF HIGHER EDUCATION PARTICIPATING IN FEDERAL ASSISTANCE PROGRAMS

AUGUST 1972.

As you may know, on June 23, 1972, the President signed into law the "Education Amendments of 1972" (effective July 1, 1972). Title IX of this Act prohibits sex discrimination in all federally assisted education programs and amends certain portions of the Civil Rights Act of 1964. The Office for Civil Rights, Department of Health, Education, and Welfare, is presently in the process of developing regulations and guidelines to implement title IX. For your immediate information, however, I have set forth below a brief summary of the pertinent provisions of title IX, and have attached a copy of the law.

A. *Basic provision.* Title IX of the Higher Education Act states:

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance * * *."

This sex discrimination provision of title IX is patterned after title VI of the Civil Rights Act of 1964 which forbids discrimination on the basis of race, color, and national origin in all federally assisted programs. By specific exemption, the prohibitions of title VI do not reach employment practices (except where the primary objective of the Federal aid is to provide employment). However, there is no similar exemption for employment in title IX.

Therefore, effective July 1, as a condition of receiving Federal assistance, your institution must make all benefits and services available to students without discrimination on the basis of sex. As indicated below, there are exemptions to and a deferment in implementing the admissions provision. However, all other requirements of this title are presently in effect.

B. *Which institutions are covered.* All educational programs and activities which are offered by any institution or organization and which receive Federal financial assistance by way of grant, loan, or contract other than a contract of insurance or guaranty are covered. Title IX specifically lists the types of educational institutions which are covered. These include public and private preschools, elementary and secondary schools, institutions of vocational education, professional education, and undergraduate and graduate higher education.

C. *Provisions concerning admissions to schools and colleges.* 1. Certain educational institutions covered by title IX are prohibited from sex discrimination in all of their programs and activities, including admissions to their institutions. These institutions include:

a. Institutions of vocational education (public and private).

b. Institutions of professional education (public and private).

c. Institutions of graduate higher education (public and private).

d. Public undergraduate institutions of higher education (except those which have been traditionally and continually single-sex).

2. Exemptions from the admissions provisions.

Some educational institutions covered under title IX are exempted from complying with the prohibition against discrimination in admissions. These institutions are:

a. Private undergraduate institutions of higher education.

b. Elementary and secondary schools other than secondary vocational schools whose primary purpose is to train students in vocational and technical areas.

c. Public institutions of undergraduate higher education which have been traditionally and continually single-sex.

Schools of vocational, professional, graduate higher education, and public undergraduate higher education which are in transition from single-sex institutions to coeducational institutions are exempt from nondiscrimination in admissions for specified periods of time provided each is carrying out a plan approved by HEW, under which the transition will be completed. Although all these institutions are exempt from the requirement of immediately admitting students of the previously excluded sex, they are required not to discriminate, as of the effective date of the Act (July 1, 1972), against any admitted students in any educational program or activity offered by the educational institutions.

D. *Other exemptions*—1. *Religious institutions.* Institutions controlled by religious organizations are exempt if the application of the antidiscrimination provisions is not consistent with the religious tenets of such organizations.

2. *Military schools.* Those educational institutions whose primary purpose is the training of individuals for the military services of the United States or the merchant marine are exempt.

E. *Provisions relating to living facilities.* The Act allows institutions receiving Federal funds to maintain separate living facilities for persons of different sexes.

F. *Who enforces the Act.* The Federal departments empowered to extend aid to educational institutions have the enforcement responsibility. (The enforcement provisions are virtually identical to those of title VI of the Civil Rights Act of 1964.) Reviews can be conducted whether or not a complaint has been filed. We presently are in the process of developing procedures under which this agency will represent all Federal agencies in the administration of title IX, as is presently the case under title VI of the Civil Rights Act of 1964.

G. *Who can file charges.* Individuals and organizations can challenge any unlawful discriminatory practice in a Federal program or activity by filing a complaint with the appropriate Federal agency. During the review process, names of complainants are kept confidential if possible.

H. *What happens when a complaint is filed.* An investigation is conducted, if warranted, and if a violation is found, informal conciliation and persuasion are first used to eliminate the discriminatory practices.

I. *Formal enforcement procedures.* If persuasion fails, the Act provides for formal hearings conducted by the Federal agency(s) involved. Such action can result in the termination or withholding of Federal financial assistance. In some instances, cases can be referred to the Department of Justice with a recommendation that formal legal action be taken. Recipients of Federal moneys which have been terminated or withheld can seek judicial review of the final order issued by the agency.

J. *Preferential treatment.* Institutions cannot be required to establish quotas or grant "preferential or disparate" treatment to members of one sex when an imbalance exists with respect to the number or percentage of persons of one sex participating in or receiving the benefits of federally assisted educational programs or activities. This provision is analogous to the racial imbalance provision in title VI which states that the absence of a racial balance is not in itself proof of discrimination. However, these provisions do not mean that corrective actions may not be required to overcome past discrimination.

K. *Provision concerning blind students.* Students cannot be denied admission on the grounds of blindness or severely impaired vision to any federally assisted education program or activity. The institution, however, is not required to provide special services for such persons.

We will provide more specific guidance on the requirements of title IX in the near future. In the interim, should you have any questions relating to this matter, please feel free to write to me.

J. STANLEY POTTINGER,
Director, Office for Civil Rights.

(The remainder of Tab G was a copy of title IX of the Education Amendments of 1972, Public Law 92–318, 92d Cong., S. 659, June 23, 1972.)

TAB H: Tab H of the October 1, 1972, Memorandum and Guidelines was a copy of the Equal Employment Opportunity Act of 1972, Public Law 92–261, 92nd Congress, H.R. 1746, March 24, 1972.

TAB I: OFFICE FOR CIVIL RIGHTS COMPLIANCE PROCEDURES

Section 206 of the Executive order authorizes the Secretary of Labor to investigate the employment practices of any Government contractor to determine whether or not it is

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in compliance with the nondiscrimination and affirmative action provisions contained therein. The Secretary of Labor may also receive and investigate complaints from employees or prospective employees which allege discrimination in violation of the Executive order. To implement these provisions, the Secretary of Labor has directed that government agencies with compliance responsibility for specific types of Federal contractors institute programs for conducting regular compliance reviews, and institute a prompt investigation of each complaint filed with it or referred to it.

The Office of Civil Rights within the Department of Health, Education, and Welfare has been assigned responsibility by the Secretary of Labor for conducting reviews and investigations in institutions of higher education "regardless of the agency which awards the contract." Reviews and investigations are undertaken by the ten Regional Offices for Civil Rights, which have the responsibility for determining in the first instance whether a contractor is in compliance, and of recommending possible enforcement action to the Director of the Office for Civil Rights in Washington.

Section 211 of the Executive order provides that the Secretary of Labor may direct contracting agencies not to enter into contracts unless the prospective contractor has satisfactorily complied with the provisions of the Executive order, or has submitted a program for comoliance acceptable to the Secretary of Labor. To implement this directive, the Secretary of Labor has provided that no contract of $1 million or more shall be awarded unless a pre-award clearance has been conducted by the comoliance agency at least 12 months prior to the award, and unless that review has found the prospective contractor to be in comoliance or able to comoly as the result of the submission of an acceotable affirmative action plan. Government contracting agencies may also be separately notified by the Secretary of Labor that a contractor or prospective contractor is unable to comoly with the equal employment opportunity clause for the ourpose of all future awards or extensions or renewals of existing contracts.

Types of reviews. There are a variety of circumstances which may prompt the Regional Office for Civil Rights to schedule a review or investigation of the employment practices of a college or university.

1. *Pre-award reviews.* When any agency of the Federal Government identifies an institution of higher education as the prospective recipient of a contract of $1 million or more, the Office for Civil Rights is responsible for conducting a review of the institution's compliance status. The requirement applies in the case of a modification of an existing contract when the amount of additional funds is $1 million or more, as well as to the extension of an existing contract or award of a new contract in this amount.

2. *Reviews directed by Office of Federal Contract Compliance.* The Director, Office of Federal Contract Compliance, Department of Labor, may direct the Office for Civil Rights to conduct a compliance review. For example, a specific review may be requested as a part of a coordinated Government-wide review of all contractors in a specific geographical area, or may be based on the receipt by the Director of information from public or private sources indicating that a specific problem of discrimination may exist within an institution's work force.

3. *Complaint investigations.* Until the summer of 1972, the Office for Civil Rights had been responsible for investigating complaints from professional employees against an institution received directly by the Office for Civil Rights or referred to it by the Director, Office of Federal Contract Compliance. The U.S. Equal Employment Opportunity Commission, with its district offices throughout the nation, now has this responsibility. (See guidelines.)

Institutions of higher education are subject to the provisions of title VII of the Civil Rights Act of 1964, which prohibits discrimination in employment whether or not the employer receives Federal financial assistance. The Equal Employment Opportunity Commission is responsible for enforcing title VII. The Office for Civil Rights continues to investigate complaints seeking relief for an affected class as well as general allegations of patterns of discrimination at an institution. Such class complaints or allegations may be factors in determining which institutions will be scheduled for review.

4. *Regular compliance reviews.* Reviews are also undertaken as part of a systematic program of the Office for Civil Rights to examine the employment practices of contractors for which it is assigned responsibility. Most of these reviews are routinely scheduled, although it should be noted that they may be given a higher priority as a result of information received from either public or private sources that a specific problem of discrimination against a class or classes of persons exists within the institution.

Except for pre-award clearances, all reviews and investigations are scheduled by the Regional Offices on a quarterly basis. Since the number and location of pre-award reviews cannot be anticipated by the Office for Civil Rights sufficiently in advance to permit planned scheduling, they are scheduled as required.[4]

Access to information. In conducting a compliance review, the Office for Civil Rights must have adequate information about the contractor's employment practices. Such information includes data reflecting generally the employment status of existing employees and specific information on the contractor's recruitment and hiring patterns, and on its employment criteria, policies, and procedures. (See Appendix J on data requirements.) It may also be necessary in particular instances to have access to specific information pertinent to employment decisions. It may also be necessary to compare the treatment of a number of individuals in order to determine factors which have affected relevant employment decisions.

Examination of individual records could conclusively demonstrate the existence of discrimination if, for example, there is overt mention in a personnel file that race, color, national origin, religion, or sex was improperly considered in an employment decision. In such a case, examination of more general statistical data might serve as a gauge of the extent of discrimination and the scope of the required remedy. A similar approach would be warranted where initial comparison of personnel files of similarly situated employees indicates significantly different treatment corresponding with the race, color, ethnicity, religion, or sex of the employees involved. Where the focal point of an investigation becomes an individual or class instance of discrimination, the examination of certain personnel records will in most cases be necessary.

It should be made clear that access by the Office for Civil Rights to personnel information is limited to its obligation to identify and eliminate discrimination prohibited by the Executive Order, and to secure required affirmative action. The Office has no intention or authority to seek information for any other purpose. With this in mind, we expect the full cooperation of institutions of higher education in providing the Office for Civil Rights information necessary to evaluate the contractor's compliance status. See 41 CFR 60–1.7(a) (3) and 60–1.43, and paragraph (5) of the equal opportunity clause.

In addition, the Office for Civil Rights' investigative responsibilities require that it have access to employees of contractors, as sources of information. The Office is therefore authorized to interview any employee, without the presence of a contractor representative, in the course of investigation or compliance activities, subject, of course, to reasonable procedures on time, place, and manner. (See 41 CFR 60–1.20, 60–1.24, and 60–1.32.)

The Office will request information in reasonable form, and will not demand access to information and copying of records except during normal business hours. Failure to provide information or permit access to and copying of pertinent records constitutes noncompliance with the contractor's obligations under the Executive Order, and subjects the contractor to enforcement action, including a hearing before an independent hearing examiner. During the course of an enforcement hearing the contractor has an opportunity to contest the Office for Civil Rights' determination as to the necessity and pertinence of information it seeks.

Consistent with its limited responsibilities, the Office for Civil Rights will not publicly disclose information gathered during the course of a compliance review except as indicated in the guidelines.

Conduct of compliance reviews[5]—1. *Notice to the institution.* Once an institution has been selected and scheduled for review, a letter is sent by the Regional Civil Rights Director to the head of the institution advising him of the anticipated date for commencement of the review. This notification will be sent to the institution as far in advance as possible, but ordinarily at least six weeks prior to the initiation of the compliance review.[6] The notice will request the institution to prepare and make available either prior to or at the beginning of the review certain information which is necessary to a determination of compliance. This information ordinarily will consist of:

1. For private institutions which are subject to Revised Order No. 4, a copy of the original affirmative action program including all of the base data, analyses, documents and supporting data which were used in preparing the program. If the program has been in effect for more than 6 months, the updated affirmative action program and the evaluation of the program's operation since it was originally developed should be included, as well as all actions taken to correct any problems of discrimination or underutilization.

[4] Allegations of discrimination filed by campus organizations, or by advocacy groups such as NOW, WEAL, NAACP, and The National Urban League, which do not contain the signature of any alleged victim of the discrimination or of an authorized representative of such an individual will be handled as part of a general compliance review.

[5] This section describes procedures normally followed, in the absence of unforeseen circumstances.

[6] An exception to this minimum notice period will be in the case of a pre-award review where the anticipated date of award of the contract or modification will not permit such notice. In these circumstances, as much advance notice as possible will be given to the institution. We have found that the normal prior notice period can generally be no more than one week in these cases. However, in most circumstances, because an institution is directly involved in contract negotiations with the government, it can anticipate the need for an Office for Civil Rights pre-award review sufficiently in advance of the receipt of notice to proceed with preparing the information necessary for the review.

If either the original or updated program has been in effect for less than 6 months, and if the institution believes that actions taken under it would affect a determination of its compliance, the university may, of course, include such information in its report.

2. For public institutions specifically exempted from Order No. 4 and for private institutions which have not previously held contracts covered by the Executive order, the notice will request that the institution prepare the basic employment information described. If such institutions have drawn conclusions from the data as to discrimination or underutilization, the institutions are free to include the information, and we strongly encourage them to do so. Information on any programs and policies which have been developed pursuant to the contractor's affirmative action obligations should also be included.

3. If the institution, whether public or private, has been previously reviewed by the Office for Civil Rights, a full report, both narrative and statistical, indicating all actions taken to correct any problems which may have been reported to the institution as a result of the prior review should be provided.

The Regional Office may request that the above described information be submitted to it prior to commencement of the on-site review, or it may request that it be available when its review team arrives to begin the on-site review. Although it would be preferable to schedule the review sufficiently in advance to permit the institution to prepare the information and forward it to the Regional Office, this will not always be possible, particularly in the case of a mandatory pre-award review.

2. *On-site review.* The purpose of a compliance review is to determine whether or not the institution is fulfilling its contractual obligations of nondiscrimination and affirmative action. In most instances, prior to any review, it is helpful for the Regional Office to have the benefit of the contractor's own analysis of its employment practices, its own evaluation of its utilization of minorities and females and its own plans and programs for overcoming problems which it has identified through these self-evaluation procedures. Indeed, if the contractor has fully complied with its obligations under 41 CFR Part 60–1, 60–2, 60–3, and 60–20, the review may consist of no more than an evaluation by the Regional Office of the adequacy of the contractor's analyses and conclusions and of the plans and programs which he has developed to overcome problems of discrimination and underutilization. The scope of the review will to a great extent depend on the quality of self-evaluation engaged in by the contractor prior to the on-site review.

On the basis of a review of the data prepared by the contractor, the Regional Office will select for review specific departments or other organizational units, specific job categories across departmental or organizational lines, and specific personnel practices or policies applicable within the institution as a whole. If the review team deems it necessary for the purpose of determining compliance, the review will involve the detailed examination of formal and informal personnel procedures and policies, as well as individual personnel records of employees, former employees, and applicants for employment in the organizational units and job categories being analyzed. During the course of the review, the Regional Office team may wish to conduct interviews with employees, former employees, and applicants for employment in those job categories or organizational units being examined and with personnel responsible for participating in the personnel decisions affecting the selected job categories or organizational units. Interviews may also be conducted with representatives of organizations active on the campus and community organizations which have an interest in equal employment opportunity. It should be emphasized that the organizational examination may be expanded during the review if any information is developed which in the judgment of the Regional Office requires further evaluation and examination.

Based on the information gathered through these processes preliminary findings will be developed by the review team and presented to the head of the institution or his designated representative at an exit conference. Suggestions will be offered as to how the institution can correct or remedy any problems of discrimination or underutilization discovered during the review. While it is expected that the review team will keep the contractor's representatives fully informed of problems as they are discovered during the review, the formal exit conference will assure that the contractor is fully apprised of the likely findings of the review.

The exit interview does not represent a formal presentation of the findings, but provides the contractor an opportunity to review and react to the probable findings, to submit any additional documentation, and to discuss any additional factors which may not have been brought to the reviewers' attention during the review.

3. *Compliance letter.* Within approximately 30 days of the on-site review and the exit conference, the head of the institution will receive a formal letter from the Regional Civil Rights Director. The letter will include an evaluation of the institution's compliance status in each organizational unit, job category, or personnel policy or procedure examined during the review. The letter will include an identification and discussion of all facts considered. The letter may also indicate specifically what must be accomplished by the contractor, suggestions as to what additional actions the contractor might take, and a maximum period of time within which the remedy must be effected.

This letter may be presented either in person by a member of the Regional Office staff or mailed to the contractor. If major problems are found, the letter will be discussed in detail with the responsible administrative officers of the institution.

4. *Response by the contractor.* Within approximately 30 days of receipt of a compliance letter the contractor will be expected to respond in writing to the Regional Civil Rights Director. This response must address itself to each citation contained in the compliance letter and indicate in detail what action has been taken or is planned by the contractor on each point, including the period within which he intends to take action. If the action differs from that set forth as acceptable in the compliance letter, a full justification for the alternative must be set forth, including evidence that the alternative will be effective. If the time limit for effective action differs from that indicated in the compliance letter, the contractor must also provide evidence to support his conclusion that the action cannot be effected within the time specified by the Regional Office.

If the contractor disagrees with a finding made by the Regional Civil Rights Director, its response must state in detail the basis for disagreement and provide evidence to refute the validity of the facts upon which the finding was based, or demonstrate that the finding itself was based on an erroneous interpretation of the facts. In any such case it is expected that the contractor will provide any additional documentation which it considers appropriate to support its position.

Exceptions to the exit conference, compliance letters, and response procedures will in most cases be required in preaward reviews which carry a requirement that notice be given to the government contracting agency regarding the prospective contractor's compliance status within 30 days of the request for clearance. In such instances every effort will be made by the Regional Office to issue the formal letter within 3 weeks of the request, which would allow the contractor 1 week for response. If the contractor is unable for reasons beyond his control to respond within the 1-week period, an extension of the 30-day clearance period will be requested by the Office for Civil Rights from the contracting agency. However, if the contractor elects not to respond within the 1 week or an extension cannot be secured from the contracting agency, the Office for Civil Rights will be unable to make the positive certification required for the award.

5. *Evaluation of the response.* Within approximately 30 days of receipt of the institution's response, the Regional Civil Rights Director will notify the head of the institution of the results of his evaluation of the response. If the response appears to the Regional Office to be satisfactory, or if the response is sufficient to alter a previous finding, the notification will indicate the Regional Office's tentative acceptance of the response and will advise the institution that it has been forwarded to the Washington Office with a recommendation for final acceptance.

If the response is not acceptable to the Regional Office, the notification will indicate the areas of unacceptability and usually will request a conference with the contractor to attempt to resolve the differences. If a resolution cannot be achieved within approximately 30 days following this notification, the matter will be forwarded to the Washington Office with appropriate recommendations for additional conciliation efforts or enforcement action. If such recommendations are made by a Regional Office, the head of the institution will be so advised in writing by the Regional Civil Rights Director. When a case is not resolved at the level of the Regional Office, the Washington Office may determine that additional conciliation efforts are necessary before taking enforcement action. In such cases, the Director of the Office for Civil Rights will inform the institution of its opportunity to meet with the Director or his representatives for further discussion of the unresolved issues.

Conduct of class complaint investigations—1. *Notice of the institution.* Within approximately 10 days of the filing of a class complaint, a notice will be sent by the Regional Civil Rights Director to the head of the institution advising him of the receipt of a complaint. This notice will include the date, place, and circumstances of the alleged unlawful employment practice. Notification of a scheduled review will be sent to the institution as far in advance as possible but at least 2 weeks prior to the initiation of the investigation.

2. *On-site investigation.* At the opening of an investigation a copy of the complaint will be provided to the institution, and the institution will be advised of the procedures to be followed by the reviewer conducting the investigation. The institution will also be advised at this time of the particular personnel processes and the organizational units or job categories which will be reviewed as a part of the investigation. The investigation may involve, according to the discretion of the compliance review team, an examination of relevant data and information concerning present employees, former employees, or applicants for employment in the organization units and job categories associated with the complaint. It may also include an analysis of formal and informal personnel procedures and policies associated with the particular practice being examined;

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C. REQUIRED ANALYSIS

upon which it draws is significantly different

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interviews with employees, former employees or applicants for employment.

Based on the information gathered during the investigation, preliminary findings will be developed by the investigative team and presented to the head of the institution or his designated representative at an exit conference. As in the case of regular reviews, the exit interview does not represent a formal presentation of the findings but provides the contractor an opportunity to submit any additional documentation and discuss any additional factors which may not have been brought to the reviewers' attention during the review and which it wishes the reviewers to consider in preparing their formal findings. If the preliminary finding is that the allegations are valid, the investigative team will advise the institution as to the specific corrective action which may be required by the contractor to remedy the discriminatory treatment, and of the date by which such actions should be taken. It should be noted that while a formal finding is not made at the exit conference, this should not preclude the contractor's acting to remedy a matter brought to his attention during the exit conference, prior to receipt of formal findings.

It should be emphasized that the law protects individuals who have complained of discrimination from harassment by the employer because of that complaint. Instances of harassment or reprisals brought to the attention of the Office for Civil Rights may be considered a basis for enforcement action. The same criteria apply to relatives of complainants and to those who aid in a government inquiry.

Steps following noncompliance determinations show cause notices. When the Director of the Office for Civil Rights has reasonable cause to believe that a contractor has violated the equal opportunity clause, he may issue a notice requiring the contractor to show cause, within 30 days, why monitoring, enforcement procedures or other appropriate action to insure compliance should not be instituted. (See 41 CFR 60–1.28.) A show cause notice will in all cases be issued to the contractor when it is found that a contractor does not have an affirmative action program or that the program is not acceptable under the standards contained in 41 CFR 60–2.10 through 60–2.32. The Department of Labor recently issued a notice of proposed rule making to require that a show cause notice be issued when there is a substantial deviation from an affirmative action program (37 F.R. 17766). In other enforcement circumstances, a show cause notice is not required and its use is at the sole discretion of the Director, Office of Federal Contract Compliance, Department of Labor.

Show cause notices may also be issued by the Regional Civil Rights Director as a part of letters of findings following either a compliance review or a complaint investigation if it is found that an institution which is required to have developed an affirmative action program has not done so, or that the affirmative action program which has been developed by the institution does not conform to the guidelines contained in 41 CFR 60–2.10 through 60–2.32.

Sanctions and penalties. The Executive order authorizes the imposition of the following sanctions and penalties against contractors who have failed to comply with the provisions of the Executive order and the implementing regulations:

1. Publication of the name of the noncomplying contractor.

2. Cancellation, termination, and suspension of contracts or portions of contracts.

3. Debarment from future contracts or extensions or modifications of existing contracts.

In addition, the Director, Office of Federal Contract Compliance, may in some cases recommend to the Department of Justice or the Equal Employment Opportunity Commission the initiation of appropriate judicial proceedings, including criminal proceedings by the Department of Justice for providing false information.

Prior to the imposition of any sanctions and penalties, reasonable efforts within a reasonable time must be made to secure compliance through conference, conciliation, mediation and persuasion, and the contractor must be afforded an opportunity for a hearing. We have briefly described the processes of conference, conciliation, mediation, and persuasion above in outlining the compliance review and compliant investigation procedures. When these efforts fail to produce corrective action adequate to overcome any instance of noncompliance, appropriate administrative proceedings leading to the imposition of sanctions and penalties will be initiated. The first step in this process will be a letter giving contractors 10 days in which to comply or request a hearing before an impartial hearing officer. The procedures for imposition of the sanctions and penalties are detailed in 41 CFR 60–1.26, 60–1.27, 60–1.30 and 60–1.31.

A hearing adjudicates whether the contractor is out of compliance with the requirements of the Executive order and its regulations. Except to the extent that applicable law provides otherwise, the burden of proving noncompliance is on the Government. Hearings are conducted in accordance with the Department's rules for such proceedings, published at 45 CFR Part 82 and 37 F.R. 7323. These rules also prescribe the procedures for intervention of interested parties in these proceedings (§ 82.6), and for review within the Department of the decision of the hearing officer (§ 82.37).

The Office for Civil Rights is responsible for advising HEW contracting agencies as to whether contractors for which they are responsible can comply with the requirements of the equal employment opportunity clause contained in each Federal contract over $10,000. Such advice is binding upon the contracting officers in their determinations of the responsibility of prospective contractors. OFCC is responsible for advising other agencies on the contractor's compliance status. Such advice is ordinarily based upon the information and findings of the OCR review.

If the Office for Civil Rights has determined, pursuant to the review and enforcement procedures outlined in this and the preceding section, that a contractor is unable to comply with its equal employment opportunity obligations, the Director may so advise all contracting agencies.[7] This notification may or may not occur in the context of a response to a request for clearance of a new award or of the modification or extension of an existing contract.[8]

Notification of "inability to comply" to contracting agencies by the Director of the Office for Civil Rights has the effect of denying or deferring the extension of an existing contract or the award of a new contract which may arise. In such cases, the contractor is entitled to have an immediate hearing on its compliance status concurrent with the second denial or deferral of a contract award.

Procedures for a formal hearing, including those for cancellation or termination of existing contracts and debarment from further contracts, are set forth in detail in 41 CFR 60–1.26(b) (Tab B), and in chapter 27–10 of the Department of Health, Education, and Welfare General Administration Manual (34 F.R. 1276).

Tab J: Data Gathering and Analysis—Suggested Procedures

A necessary prerequisite to the development of a meaningful affirmative action program is the identification and analysis of problem areas inherent in minority and female employment, and an evaluation of the opportunities for utilization of minorities and women in the contractor's workforce. (See Guidelines p. 2 for an explanation of the obligations of public contractors.)

The first step in the contractor's analysis of his work force is to determine where policies and practices have had the effect of denying equal employment opportunity and benefits to certain groups of persons on a discriminatory basis. This will necessitate the development of a comprehensive inventory of all employees.

An employer must then organize this inventory so as to determine:

1. Any patterns of job classification and assignment identifiable by sex or minority group;

2. Any job classification or organizational unit where women and minorities are not employed or are underutilized (see Guidelines p. 3 for a definition of underutilization); and

3. Any patterns of difference in rate of pay, status, type of appointment, termination, or rates of advancement within job classifications or organizational units which are identifiable by sex or minority group.

The results of a contractor's analysis should be shared and discussed with personnel relations staff, with department and divisional heads and with other supervisors responsible for academic and nonacademic personnel to determine whether patterns suggesting deficiencies in equal employment exist and, if so, why. At this stage of evaluation, some institutions have set up task forces to assist in identifying discriminatory patterns and practices. This has proven particularly useful in the area of academic employment, where the faculty has traditionally had a principal responsibility for matters relating to faculty status.

A. Basic data file

The contractor must first establish a basic data file on its employees. This is the primary source material of the institution and need not be submitted to the Office for Civil Rights, although the contractor may be required at some time to supply OCR with this information in order to determine the accuracy in the compilation of the data.

The basic file should contain the following for each employee:

(1) Name and/or identification number (See discussion below).
(2) Sex.
(3) Ethnic identification (Negro, Spanish-surnamed, American Indian, Oriental. All others, including Caucasians, should be identified as "other").
(4) Year or date of birth, or age.
(5) Current salary (full-time annual equivalent).
(6) Current job family or generic job family.
(7) Current job title.
(8) Personnel action resulting in current job title (new hire, promotion, transfer, demotion).
(9) Date of personnel action resulting in current title (years in current job).
(10) Previous job title.
(11) Employment status (full-time, part-time, tenured, non-tenured, etc.).
(12) Educational level.
(13) Organizational unit where employed.
(14) Date of hire.

The contractor may wish to compile this basic data in the form of a master list, or computer printout, arranged by department, within department by job classification, and within job classification by length of service and salary. The Office for Civil Rights will not normally require that these printouts be submitted, if the summaries described below are compiled in such a way as to be sufficient to determine compliance.

In collecting data on employees, it is not necessary to identify the employees by name. Where there is an objection raised by an individual to providing data on his or her race or sex, it should be made clear that individuals are not themselves legally bound to report such information. Where an inventory by voluntary submission of such data on the part of employees is not obtained, however, employers must rely on their supervisors to make identification on the basis of their "best knowledge" of employees. It is clear that no inventory method, and particularly the latter one, will provide perfect accuracy. Nevertheless, the institution must devise some method which will produce reasonably accurate data upon which to base its identification of problems or deficiencies and to develop a responsive affirmative action program.

B. Organization

The basic data on all employees must be summarized for ready analysis in the following manner:

1. By department, a list of each job classification in descending order (e.g. professor, associate professor; secretary 1, secretary 2, etc.) showing the numbers by sex for each racial and ethnic group, as well as cumulative figures for minorities and for females generally.

2. By job classification, within the entire institution, showing the numbers by sex for each ethnic group, as well as cumulative figures for minorities and for females generally. In order to satisfy this requirement an institution must establish an organization chart, broken down by career ladders; it must also classify all job titles and organize them into career ladders. The duties, educational requirements, experiential requirements and pay ranges for each position must be made reasonably explicit.

3. By department, the mean salary in each job classification, by sex for each racial and ethnic group.

4. By job classification, across department lines, the mean salary in each classification, by sex for each racial and ethnic group.

C. Required analysis

1. *Availability of women and minorities.* A unique aspect of equal employment opportunity under the Executive order is the required compilation of availability data on women and minorities for use as a measure of the contractor's equal employment opportunity. By comparing availability data with current employees, the contractor has an indication of how representative its workforce is of the persons qualified for employment in its institution.

The Department of Labor's Revised Order No. 4 (41 CFR 60–2.11(a) (1 and 2)) contains explicit guidelines for constructing an availability index for minorities and an availability index for women. These indices are particularly applicable in the case of nonacademic personnel.

The demographic data needed to develop these estimates can generally be secured through the Census Bureau, the Department of Labor's Bureau of Labor Statistics and its Women's Bureau, and from city, county and state governments, including planning commissions and public employment agencies. Estimates concerning minority population, workforce and requisite skills may often be obtained from local Chambers of Commerce, union organizations, and minority and women's advocacy groups such as the Urban League and NOW. The community organizations serving minorities and women will often be the closest to the situation and thus should be contacted by the contractor in preparing estimates of availability.

For academic personnel the development of availability figures is slightly different, because the recruiting area will vary from institution to institution. It may be a national or even international one. Because the skills required for a particular position are often quite specialized, accurate information on availability may be more difficult to obtain.

OCR recommends the following procedure for determining availability figures for women and minorities for academic positions:

Many disciplinary associations and professional groups have data that show percentages of racial and national origin minorities available in certain fields, and a 1968 study by the Ford Foundation (Office of Reports) provides percentages of Negroes holding doctorates. To determine the number of women available for senior level positions, the Office recommends that the contractor use data available from the National Register of Scientific and Technical Personnel prepared by the National Science Foundation, and the U.S. Office of Education's annual reports on earned degrees. Another source is the National Research Council of the National Academy of Science. This data has been compiled by sex, but is now being compiled by race, as well. The NSF data is broken down by sex, specialty and subspecialty, highest degree, years of professional experience, and primary work activity. The OE data is broken down by sex, degree earned, school granting degree, and specialty. For women in junior positions, the Office recommends that the contractor consider the OE annual report of earned degrees for the last 5 years and current graduate school enrollments.

To the extent that an institution makes a practice of employing its own graduates, the number and percentage of graduate degrees which it has itself awarded to women and minorities in the past 10 years or so should be reflected in the goals which it sets for its future faculty appointments.

For academic employees the basic national data on earned doctoral degrees will provide the basis for a utilization analysis of a contractor's work force, unless the contractor can otherwise demonstrate that the labor market upon which it draws is significantly different from this base. For example, some institutions appoint a large number of new faculty from a particular group of graduate schools; such institutions may use data obtained from these schools to determine the availability of women and minorities. If the annual output of women and minorities from the primary feeder schools exceeds the national average, the contractor will be expected to use higher figures to determine availability. If the output from the feeder schools is less than the national average, the institution will be expected to justify its use of such recruitment sources, or use the higher figures to determine eligibility.

2. *Comparison of current work force with availability data.* The next step for the contractor is to compare the number of women and minorities in its current work force with their availability in the market from which it can reasonably recruit. This comparison must be by comparable job categories. Wherever the comparison reveals that a hiring unit of the university (a department or other section) is not employing minorities and women to the extent that they are available and qualified for work, it is then required to set goals to overcome this situation.

Goals should be set so as to overcome deficiencies in the utilization of minorities and women within a reasonable time. In many cases this can be accomplished within 5 years; in others more time or less time will be required.

Goals may be set in numbers or percentages, and should reflect not only the number of new hires but also the projected overall composition of the work force in the given unit.

It is necessary to set goals that will overcome underutilization in the institution's work force within a reasonable period of time, not merely to set goals for new hires based on current availability.

In many institutions the appropriate unit for goals is the school or division, rather than the department. While estimates of availability in academic employment can best be determined on a disciplinary basis, anticipated turnover and vacancies can usually be calculated on a wider basis. While a school, division or college may be the organizational unit which assumes responsibility for setting and achieving goals, departments which have traditionally excluded women or minorities from their ranks are expected to make particular efforts to recruit, hire and promote women and minorities. In other words, the Office for Civil Rights will be concerned not only with whether a school meets its overall goals, but also whether apparent general success has been achieved only by strenuous efforts on the part of a few departments.

3. *Salary analysis.* A salary analysis is required for all employees. The basic question to be answered by such an analysis is whether there is a difference in the salary of employees with the same job title that can be attributed to their sex or minority status. However, before this analysis is done, job titles must be compared and overlapping ones merged so that persons doing the same work with different job titles benefit from the salary analysis.

The most effective means of undertaking a meaningful salary analysis may vary from institution to institution. Factors which are taken into consideration in determining salary may vary among and even within institutions. The purpose and function of every salary analysis should be to determine whether women or minority group persons are being paid lower wages for performing the same or essentially the same duties.

[7] 41 CFR 60–2.2 provides in part that "[A]ny contractor required . . . to develop an affirmative action program . . . who has not complied fully * * * is not in compliance with Executive Order 11246 * * *" and "is unable to comply with the equal employment opportunity clause" unless the Government can "otherwise affirmatively determine that the contractor is able to comply with his equal employment obligations or, unless, upon review, it is determined by the Director [Office of Federal Contract Compliance] that substantial issues of law or fact exist as to the contractor's responsibility to the extent that a hearing is, in his sole judgment, required prior to determination * * *"

[8] 41 CFR 60–1.20(d) provides that contracts of $1 million or more, including modifications or extensions of existing contracts which involve the allocation of additional funds in the amount of $1 million or more, cannot be awarded without a finding that the prospective contractor is complying with the provisions of the Executive order and the implementing regulations.

D. ADDITIONAL TYPES OF ANALYSES WHICH ARE

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Report of Subcommittee on Research and Program Development.

more than twice that for a curie of any other radionuclide (i.e., 3.7×10^{10}), and

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D. ADDITIONAL TYPES OF ANALYSES WHICH ARE USEFUL IN DETERMINING COMPLIANCE

1. *Locations analysis.* In an attempt to prevent the development of segregated job titles in any physical location, a locations report is suggested. This report should examine the race-sex-national origin composition of each job title in each major organizational unit of the institution, e.g., athletic department, health services, hospitals, central administration, deans' offices, building and grounds, etc.

This analysis may not be revealing where the units involved are small or where the numbers of minorities or women in the job title are few. But where a university discovers that it has one minority or sex group clustered in any one unit, even though there are members of the opposite sex or of other minorities in the same job title clustered elsewhere, corrective action must be taken. If a university discovers the reason for this concentration, it can prevent it from recurring or continuing by altering its policies.

This type of analysis may also be useful in determining at what point in the organizational structure women or minorities cease to move upward, and what obstacles to upward mobility may exist within the contractor's organizational structure.

2. *Promotion analysis.* A university may also compile data to determine the success or failure of women and minorities in attaining promotion or tenure. One possible method is to compare the time spent prior to gaining promotion or tenure by males and by females of similar experience or by minorities and by others of similar experience. Another comparison could show the percentage in each group eligible for and those granted promotion or tenure. Wide variance among sex-ethnic-racial groups would necessitate further analysis.

E. TESTING AND TEST VALIDATION

41 CFR Part 60-3 ("Employee Testing and Other Selection Procedures") requires all contractors to validate tests used as a basis for employment decisions, in order to make certain they are not discriminatory, and provides that contractors may be required to validate other employee selection techniques.

The term "test" is defined as any paper-and-pencil or performance measure used as a basis for any employment decision and all other formal, scored, quantified or standardized techniques of assessing job suitability.

The latter techniques include personal history and background requirements which are specifically used as a basis for qualifying or disqualifying applicants or employees, specific educational or work history requirements, scored interviews, biographical information blanks, interviewer's rating scales, and scored application forms.

If a test or selection technique is determined to have a disproportionate impact on minority persons or women, such test or selection technique must be validated pursuant to the regulations cited above.

A testing report should contain the following data: Name of test, publisher, and publication date of the test, the groups on whom it was validated and when and where the groups to whom it is administered by the contractor and in what employment decisions it is used, the average score, the standard deviation for each race-sex group taking the test and the number of people in each race-sex group taking the test. Data should be kept indicating the scores, standard deviation, and number of people in each race-sex group who took the test and subsequently received a favorable personnel action (hired, promoted, placed in new job) in part because of their test scores. Based on the analysis of this data, the contractor must determine where tests must be eliminated or modified.

Dated: November 13, 1972.

J. STANLEY POTTINGER,
Director, Office for Civil Rights.

[FR Doc.72-19908 Filed 11-17-72;8:50 am]

Office of the Secretary

CHILD AND FAMILY DEVELOPMENT RESEARCH REVIEW COMMITTEE

Notice of Early Childhood Study Section Meeting

The Early Childhood Study Section of the Child and Family Development Research Review Committee will meet on November 28, 29, and 30, 1972. Each day the study section will meet from 9 a.m. until 5:30 p.m. in the cabinet room of the Shoreham Hotel, 2500 Calvert Avenue NW., Washington, DC. The meetings will be closed to the public. The purpose of the Child and Family Development Research Review Committee is to review applications of research and demonstration projects and to make recommendations to the Director of the Office of Child Development as to which projects should be funded. A list of Committee members and a summary of the meeting may be obtained from:

Barbara Rosengard, Research and Evaluation Division, Office of Child Development, Post Office Box 1182, Washington, DC 20013, 202—755—7758.

Dated: November 9, 1972.

BARBARA ROSENGARD,
Executive Secretary.

[FR Doc.72-19915 Filed 11-17-72;8:51 am]

CHILD AND FAMILY DEVELOPMENT RESEARCH REVIEW COMMITTEE

Notice of Family and Youth Study Section Meeting

The Family and Youth Study Section of the Child and Family Development Research Review Committee will meet on December 4, 5, and 6, 1972. Each day the study section will meet from 9 a.m. until 5:30 p.m. in the cabinet room of the Shoreham Hotel, 2500 Calvert Avenue NW., Washington, DC. The meetings will be closed to the public. The purpose of the Child and Family Development Research Review Committee is to review applications of research and demonstration projects and to make recommendations to the Director of the Office of Child Development as to which projects should be funded. A list of Committee members and a summary of the meeting may be obtained from:

Barbara Rosengard, Research and Evaluation Division, Office of Child Development, Post Office Box 1182, Washington, DC 20013, 202-755-7758.

Dated: November 9, 1972.

BARBARA ROSENGARD,
Executive Secretary.

[FR Doc.72-19914 Filed 11-17-72;8:51 am]

HEAD START NATIONAL ADVISORY COMMITTEE

Notice of Committee Meeting

There will be a meeting of the Head Start National Advisory Committee on Monday, Tuesday, and Wednesday, December 4, 5, and 6, 1972. The meeting will be held at the Holiday Inn, 8777 Georgia Avenue, Silver Spring, MD, from 9 a.m. until 5 p.m., and is open to the public. The purpose of the Head Start National Advisory Committee is to advise the Director of Project Head Start on matters related to the planning, conduct, and direction of Head Start. The agenda for the upcoming meeting will include: Reports from the bylaws and program review subcommittees; adoption of the bylaws; briefings on the status of Head Start legislation and appropriations, and on projects and programs currently being emphasized by the Office of Child Development; election of officers; and subcommittee meetings.

Dated: November 8, 1972.

CLEMENTINE B. BROWN,
Acting Executive Secretary.

[FR Doc.72-19913 Filed 11-17-72;8:51 am]

Social Security Administration

HEALTH INSURANCE BENEFITS ADVISORY COUNCIL

Notice of Public Meeting

Notice is hereby given, pursuant to Executive Order No. 11671, published in the FEDERAL REGISTER of June 7, 1972 (37 F.R. 11307), that the Health Insurance Benefits Advisory Council, established pursuant to section 1867 of the Social Security Act, as amended, which advises the Secretary of the Department of Health, Education, and Welfare on medicare and medicaid matters, will meet on Friday, December 1, 1972, and Saturday, December 2, 1972, at 9 a.m. in Room G-10, East Building, Social Security Administration, Woodlawn, Baltimore County, MD. The various committees may meet Thursday evening, November 30, 1972, and, if so, will report to the Council on Saturday. The meetings are open to the public. The Council will consider matters relating to the medicare and medicaid programs.

Further information on the Council may be obtained from Mr. Max Perlman, Executive Secretary, Health Insurance Benefits Advisory Council, Room 585, East Building, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, telephone 301—594-9134. Members of the public planning to attend should send written notice of intent to the Executive Secretary.

Dated: November 13, 1972.

MAX PERLMAN,
Executive Secretary, Health Insurance Benefits, Advisory Council.

[FR Doc.72-19916 Filed 11-17-72;8:52 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE

Notice of Public Meeting

On November 29 and 30, 1972, the National Highway Safety Advisory Committee will hold open meetings in Arlington, Va., and Washington, D.C.

The National Highway Safety Advisory Committee is composed of 35 members appointed by the president in accordance with the Highway Safety Act of 1966 (23 U.S.C. 401 et seq.). The Committee consists of representatives of State and local governments, State legislatures, public and private interests contributing to, affected by, or concerned with highway safety, other public and private agencies, organizations, and groups demonstrating an active interest in highway safety, and research scientists and other experts in highway safety.

The Advisory Committee advises, consults with, and makes recommendations to the Secretary of Transportation on matters relating to the activities of the Department in the field of highway safety. The Committee is specifically authorized (1) to review research projects or programs, and (2) to review, prior to issuance, standards proposed to be issued by the Secretary under the national highway safety program.

The following meetings will be held:

The full committee will meet from 9 a.m. to 12 noon on November 29 in Salon B of the Crystal City Marriott Motor Hotel, 1999 Jefferson Davis Highway, Arlington, VA, with the following agenda:

Report of Executive Subcommittee.
Report on Traffic Court Adjudication Problems Related to Drunk Driving Cases.
Status Report on Federal Agencies' Implementation of Highway Safety Standards.
Status Report on Standards Revision.

From 1:30 p.m. to 4 p.m., the two subcommittees will meet with the following agenda:

Subcommittee on Standards Implementation.
Status Report on "Report Card".
Discussion on Federal Agencies' Implementation of Highway Safety Standards.
Discussion and Status Report on Regional Highway Safety Conference.
Plans for Legislative Liaison: Meetings Between Committee Members and State Legislators.
New business.

Subcommittee on Research and Program Development.
GAO Report on Highway Safety Improvement program.
Discussion on Standards Revision.
Briefing on Driver Control Programs and Research.
Status Report on States' Implementation of Single State Agency Requirements.
New business.

On November 30, the full committee will meet from 9 a.m. until 12 noon in room 2230 of the DOT Headquarters Building, with the following agenda:

Report of Subcommittee on Standards Implementation.
Report of Subcommittee on Research and Program Development.
New business.

Further information may be obtained from the Executive Secretariat, National Highway Traffic Safety Administration, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, 202—426-2872.

This notice is given pursuant to section 13 of Executive Order 11671, June 5, 1972.

Issued on: November 14, 1972.

CALVIN BURKHART,
Executive Secretary.

[FR Doc.72-19899 Filed 11-17-72;8:51 am]

ATOMIC ENERGY COMMISSION

[Docket Nos. 50-329; 50-330]

CONSUMERS POWER CO. (MIDLAND PLANT, UNITS 1 AND 2)

Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this proceeding to consist of the following members:

Alan S. Rosenthal, Chairman.
Dr. John H. Buck.
Mr. William Parler.

Dated: November 13, 1972.

WILLIAM L. WOODARD,
Executive Secretary, Atomic Safety and Licensing Appeal Panel.

[FR Doc.72-19855 Filed 11-17-72;8:45 am]

[Docket No. PRM-20-3]

GENERAL ELECTRIC CO.

Filing of Petition

Notice is hereby given that the General Electric Co., 175 Curtner Avenue, San Jose, CA, by letter dated October 30, 1972, has filed with the Atomic Energy Commission a petition for rule making to amend 10 CFR Part 20 by the deletion of § 20.5(c)(1) and the revision of the maximum permissible concentrations for natural uranium and natural thorium in Appendix B to those based on a curie, defined as 3.7×10^{10} disintegrations per second.

For purposes of the Commission's standards for protection against radiation, § 20.5(c)(1) defines 1 curie of natural uranium as the sum of 3.7×10^{10} disintegrations per second from U^{238} plus 3.7×10^{10} dis/sec. from U^{234} plus 1.7×10^{9} dis/sec. from U^{235}. Also, it defines 1 curie of natural thorium as the sum of 3.7×10^{10} dis/sec. from Th^{232} plus 3.7×10^{10} dis/sec. from Th^{228}.

The petition notes that this definition results in a value which is slightly more than twice that for a curie of any other radionuclide (i.e., 3.7×10^{10}), and that the maximum permissible concentrations of natural uranium and natural thorium in Appendix B of 10 CFR Part 20 are expressed in terms of the curie as defined in § 20.5(c)(1).

The petition states that this definition causes serious misunderstanding and erroneous interpretation of certain measurement results while serving no real purpose related to safety.

The petition also states that deletion of this definition, and revision of the maximum permissible concentration values based on a natural uranium curie, as well as on a natural thorium curie, defined as 3.7×10^{10} disintegrations per second, will eliminate confusion, is authorized by law, and will not result in undue hazard to life and property.

A copy of the petition for rule making is available for public inspection in the Commission's Public Document Room at 1717 H Street NW., Washington, DC. A copy of the petition may be obtained by writing the Rules and Proceedings Branch at the below address.

All interested persons who desire to submit written comments or suggestions concerning the petition for rule making should send their comments to the Rules and Proceedings Branch, Office of Administration, Office of the Director of Regulation, U.S. Atomic Energy Commission, Washington, D.C. 20545, within 60 days after publication of this notice in the FEDERAL REGISTER.

Dated at Germantown, Md., this 10th day of November 1972.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.72-19856 Filed 11-17-72;8:45 am]

[Dockets Nos. 50-400, 50-401, 50-402, and 50-403]

CAROLINA POWER & LIGHT CO.

Establishment of Atomic Safety and Licensing Board

On September 29, 1972, the Commission published in the FEDERAL REGISTER, 37 F.R. 20344, a notice of hearing to consider the applications filed by the Carolina Power & Light Co. for construction permits for the Shearon Harris Nuclear Power Plant, Units 1; 2, 3, and 4. The notice indicated that the Safety and Licensing Board for this proceeding would be designated at a later date, and that notice of its membership would be published in the FEDERAL REGISTER.

Pursuant to the Atomic Energy Act of 1954, as amended, the regulations of Title 10, Code of Federal Regulations, Part 2, Rules of Practice, and the notice of hearing referred to above, notice is hereby given that the Safety and Licensing Board in this proceeding will consist of Mr. Glenn O. Bright, Dr. J. V. Leeds, Jr., and Mr. Thomas W. Reilly, Esq., Chairman. Dr. David L. Hetrick has been designated as a technically qualified alternate and Mr. Hugh K. Clark, Esq., has

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been designated as an alternate qualified in the conduct of administrative proceedings.

The positions and mailing addresses of the Board members are as follows:

1. Mr. Thomas W. Reilly, Chairman, an attorney member of the Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545.
2. Mr. Glenn O. Bright, a technical member of the Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545.
3. Dr. J. V. Leeds, Jr., associate professor, Environment and Electrical Engineering, Rice University, mailing address—Post Office Box 941, Houston, TX 77001.
4. Mr. Hugh K. Clark, alternate chairman, retired attorney, E. I. du Pont de Nemours Co., mailing address—Post Office Box 127A, Kennedyville, MD 21645.
5. Dr. David L. Hetrick, alternate, professor, Department of Nuclear Engineering, College of Engineering, The University of Arizona, Tucson, Ariz. 85721.

As provided in the notice of hearing, the date and place of a prehearing conference and of a hearing will be scheduled by the Board and will be published in the FEDERAL REGISTER.

Dated at Washington, D.C., this 15th day of November 1972.

JAMES R. YORE,
Executive Secretary, Atomic Safety and Licensing Board Panel.

[FR Doc.72-19973 Filed 11-17-72;8:53 am]

[Docket No. 50-309]

MAINE YANKEE ATOMIC POWER CO.

Notice of Oral Argument

In the matter of Maine Yankee Atomic Power Co. (Maine Yankee Atomic Power Station), Docket No. 50-309.

Take notice, that pursuant to § 2.730 (d) of the rules and regulations of the Atomic Energy Commission, and as further agreed to among the parties, oral argument by the parties on their proposed findings of fact and conclusions of law will be held at 9:30 a.m., local time, on November 29, 1972, at the Federal Post Office Building, 125 Forest Avenue, Room 258, Portland, ME 04101.

It is so ordered.

Issued at Washington, D.C., this 15th day of November 1972.

ATOMIC SAFETY AND LICENSING BOARD,
JOHN B. FARMAKIDES,
Chairman.

[FR Doc.72-19972 Filed 11-17-72;8:53 am]

[Docket No. 50-410]

NIAGARA MOHAWK POWER CORP.

Establishment of Atomic Safety and Licensing Board

On September 23, 1972, the Commission published in the FEDERAL REGISTER, 37 F.R. 20089, a notice of hearing to consider the application filed by the Niagara Mohawk Power Corp. for a construction permit for the Nine Mile Point, Unit No. 2. The notice indicated that the Safety and Licensing Board for this proceeding would be designated at a later date, and that notice of its membership would be published in the FEDERAL REGISTER.

Pursuant to the Atomic Energy Act of 1954, as amended, the regulations of Title 10, Code of Federal Regulations, Part 2, Rules of Practice, and the notice of hearing referred to above, notice is hereby given that the Safety and Licensing Board in this proceeding will consist of Dr. Marvin M. Mann, Dr. William E. Martin, and Mr. Daniel M. Head, Esq., Chairman. Mr. Gustave A. Linenberger has been designated as a technically qualified alternate and Mr. Joseph F. Tubridy, Esq., has been designated as an alternate qualified in the conduct of administrative proceedings.

The positions and mailing addresses of the Board members are as follows:

1. Mr. Daniel M. Head, Chairman, an attorney member of the Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545.
2. Dr. Marvin M. Mann, a technical member of the Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545.
3. Dr. William E. Martin, Senior Ecologist, Battelle Memorial Institute, Columbus, Ohio 43201.
4. Mr. Joseph F. Tubridy, Alternate Chairman, a retired attorney, U.S. Department of Justice, mailing address—4100 Cathedral Avenue NW., Washington, DC 20016.
5. Mr. Gustave A. Linenberger, Alternate, a technical member of the Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545.

As provided in the notice of hearing, the date and place of a prehearing conference and of a hearing will be scheduled by the Board and will be published in the FEDERAL REGISTER.

Dated at Washington, D.C., this 15th day of November 1972.

JAMES R. YORE,
Executive Secretary, Atomic Safety and Licensing Board Panel.

[FR Doc.72-19974 Filed 11-17-72;8:53 am]

[Dockets Nos. 50-387, 50-388]

PENNSYLVANIA POWER & LIGHT CO.

Establishment of Atomic Safety and Licensing Board

On September 23, 1972, the Commission published in the FEDERAL REGISTER, 37 F.R. 20090, a notice of hearing to consider the application filed by The Pennsylvania Power & Light Co. for construction permits for the Susquehanna Steam Electric Station Units 1 and 2. The notice indicated that the Safety and Licensing Board for this proceeding would be designated at a later date, and that notice of its membership would be published in the FEDERAL REGISTER.

Pursuant to the Atomic Energy Act of 1954, as amended, the regulations of Title 10, Code of Federal Regulations, Part 2, Rules of Practice, and the notice of hearing referred to above, notice is hereby given that the Safety and Licensing Board in this proceeding will consist of Dr. Cadet H. Hand, Jr., Dr. Forrest J. Remick, and Robert M. Lazo, Esq., Chairman. Dr. Stuart G. Forbes has been designated as a technically qualified alternate and Jerome Garfinkel, Esq., has been designated as an alternate qualified in the conduct of administrative proceedings.

The positions and mailing addresses of the Board members are as follows:

1. Robert M. Lazo, Esq., Chairman, an attorney member of the Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545.
2. Dr. Cadet H. Hand, Jr., Director, Bodega Marine Laboratory, University of California, Post Office Box 247, Bodega Bay, CA 94923.
3. Dr. Forrest J. Remick, physicist, Pennsylvania State University, 207 Old Main Building, University Park, PA 16802.
4. Jerome Garfinkel, Esq., Alternate Chairman, an attorney member of the Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, DC 20545.
5. Dr. Stuart G. Forbes, Alternate, physicist, TRW Systems Group, Redondo Beach, Calif.—mailing address, 100 Tennessee Avenue, Apt. 37, Redlands, CA 92373.

As provided in the notice of hearing, the date and place of a prehearing conference and of a hearing will be scheduled by the Board and will be published in the FEDERAL REGISTER.

Dated at Washington, D.C., this 15th day of November 1972.

JAMES R. YORE,
Executive Secretary, Atomic Safety and Licensing Board Panel.

[FR Doc.72-19975 Filed 11-17-72;8:53 am]

[Docket No. 50-397]

WASHINGTON PUBLIC POWER SUPPLY SYSTEM

Establishment of Atomic Safety and Licensing Board

On September 28, 1972, the Commission published in the FEDERAL REGISTER, 37 F.R. 20271, a notice of hearing to consider the application filed by the Washington Public Power Supply System for a construction permit for the Hanford No. 2 Nuclear Powerplant. The notice indicated that the Safety and Licensing Board for this proceeding would be designated at a later date, and that notice of its membership would be published in the FEDERAL REGISTER.

Pursuant to the Atomic Energy Act of 1954, as amended, the regulations of Title 10, Code of Federal Regulations, Part 2, rules of practice, and the notice of hearing referred to above, notice is hereby given that the Safety and Licensing Board in this proceeding will consist of Mr. Lester Kornblith, Jr., Dr. Gerard A. Rohlich, and Mr. Edward Luton, Esq., Chairman. Mr. Frederick J. Shon has been designated as a technically qualified alternate and Mr. John B. Farmakides, Esq., has been designated as an alternate qualified in the conduct of administrative proceedings.

The positions and mailing addresses of the Board members are as follows:

1. Mr. Edward Luton, Chairman, an attorney member of the Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545.
2. Mr. Lester Kornblith, Jr., a technical member of the Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545.
3. Dr. Gerard A. Rohlich, Professor of Environmental Engineering, Department of Civil Engineering, University of Texas, Austin, Tex. 78712.
4. Mr. John B. Farmakides, Alternate Chairman, attorney member of the Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545.
5. Mr. Frederick J. Shon, Alternate, technical member of the Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545.

As provided in the notice of hearing, the date and place of a prehearing conference and of a hearing will be scheduled by the Board and will be published in the FEDERAL REGISTER.

Dated at Washington, D.C., this 15th day of November 1972.

JAMES R. YORE,
Executive Secretary, Atomic Safety and Licensing Board Panel.

[FR Doc.72-19976 Filed 11-17-72;8:53 am]

[Docket No. 50-395]

SOUTH CAROLINA ELECTRIC AND GAS CO.

Establishment of Atomic Safety and Licensing Board

On September 27, 1972, the Commission published in the FEDERAL REGISTER, 37 F.R. 20190, a notice of hearing to consider the application filed by the South Carolina Electric and Gas Co. for a construction permit for the Virgil C. Summer Nuclear Station. The notice indicated that the Safety and Licensing Board for this proceeding would be designated at a later date, and that notice of its membership would be published in the FEDERAL REGISTER.

Pursuant to the Atomic Energy Act of 1954, as amended, the regulations of Title 10, Code of Federal Regulations, Part 2 rules of practice and the notice of hearing referred to above, notice is hereby given that the Safety and Licensing Board in this proceeding will consist of Dr. John R. Lyman, Mr. Frederick J. Shon, and Mr. Daniel M. Head, Esq., Chairman. Dr. Kenneth A. McCollom has been designated as a technically qualified alternate and Mr. Walter W. K. Bennett, Esq., has been designated as an alternate qualified in the conduct of administrative proceedings.

The positions and mailing addresses of the Board members are as follows:

1. Mr. Daniel M. Head, Chairman, an attorney member of the Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545.
2. Dr. John R. Lyman, Head of the Office of Marine Sciences and Professor of Oceanography, Department of Environmental Sciences and Engineering, University of North Carolina, Chapel Hill, N.C. 27514.
3. Mr. Frederick J. Shon, a physicist and technical member of the Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545.
4. Mr. Walter W. K. Bennett, Alternate Chairman, an attorney and retired Administrative Law Judge of the Federal Trade Commission, mailing address—Post Office Box 185, Pinehurst, NC 28374.
5. Dr. Kenneth A. McCollum, Assistant Dean, College of Engineering, Oklahoma State University, Stillwater, Okla.

As provided in the notice of hearing, the date and place of a prehearing conference and of a hearing will be scheduled by the Board and will be published in the FEDERAL REGISTER.

Dated at Washington, D.C., this 14th day of November 1972.

JAMES R. YORE,
Executive Secretary, Atomic Safety and Licensing Board Panel.

[FR Doc.72-19857 Filed 11-17-72;8:45 am]

UNDERGROUND NUCLEAR TEST PROGRAM, NEVADA TEST SITE

Notice of Availability of the General Manager's Draft Environmental Statement

Notice is hereby given that a document entitled "Draft Environmental Statement—Underground Nuclear Test Program—Nevada Test Site" issued pursuant to the Atomic Energy Commission's implementation of section 102(2)(c) of the National Environmental Policy Act of 1969 is being placed in the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20545, and in the Commission's Albuquerque Operations Office, Post Office Box 5400, Albuquerque, NM 87115; Chicago Operations Office, 9500 South Cass Avenue, Argonne, IL 60439; Grand Junction Office, Post Office Box 2567, Grand Junction, CO 81501; Idaho Operations Office, Post Office 2108, Idaho Falls, ID 83401; New York Office, 376 Hudson Street, New York, NY 10014; Oak Ridge Operations Office, Post Office Box E, Oak Ridge, TN 37830; San Francisco Operations Office, 2111 Bancroft Way, Berkeley, CA 94704. This statement was prepared in support of legislative action related to the Commission's underground nuclear tests at the test site in Nevada of 1 megaton or less for weapons development, nuclear effects studies and PLOWSHARE development.

The draft environmental statement will be furnished upon request addressed to the Director, Division of Environmental Affairs, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Comments on the draft environmental statement from members of the public shall be considered in the final environmental statement if received by the Director, Division of Environmental Affairs, within forty-five (45) calendar days from the date of publication of this notice in the FEDERAL REGISTER.

Dated at Germantown, Md., this 13th day of November 1972.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.72-19858 Filed 11-17-72;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24488; Order 72-11-55]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Passenger Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 14th day of November 1972.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of Traffic Conference 1 of the International Air Transport Association (IATA). The agreement, adopted for expedited November 1, 1972 effectiveness at the Worldwide Passenger Conference held September-October 1972, in Torremolinos, Spain, expires on April 30, 1973.

The agreement would establish group inclusive tour fares between Miami and Port au Prince at $92 and $82 peak and basic seasons, respectively. The agreement would also specify normal first-class and economy fares for travel between Brasilia and Guayaquil/Lima/Quito, and excursion fares for travel between Brasilia and Lima. Additionally, the agreement encompasses the adoption of a new resolution governing group inclusive tour fares from Port of Spain to Belem/Fortaleza/Manaus. We are approving the agreement to the extent that it involves fares directly applicable in air transportation, and normal first-class and economy fares, as well as excursion fares, which are combinable with fares to/from U.S. points and which thus have indirect application in air transportation as defined by the Act. Group inclusive tour fares not involving travel to or from the United States, on the other hand, are not similarly combinable and we are herein disclaiming jurisdiction with respect to that aspect of the agreement.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, makes the following findings:

1. It is not found that the following resolution, which is incorporated in Agreement CAB 23341 as indicated, is adverse to the public interest or in violation of the Act:

FEDERAL COMMUNICATIONS

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Agreement CAB	IATA No.	Title	Application
23341 R–4	088	TC1 14 Day Group Inclusive Tour Fares—Caribbean and Bermuda (Amending).	1.

2. It is not found that the following resolutions, which are incorporated in Agreement CAB 23341 as indicated and which do not directly affect air transportation within the meaning of the Act, are adverse to the public interest or in violation of the Act:

Agreement CAB	IATA No.	Title	Application
23341 R–1	051	TC1 First Class Fares (Amending)	1.
R–2	061	TC1 Economy Class Fares (Amending)	1.
R–3	070	TC1 Excursion Fares (Amending)	1.

3. It is not found that the following resolution, which is incorporated in Agreement CAB 23341 as indicated, affects air transportation within the meaning of the Act:

Agreement CAB	IATA No.	Title	Application
23341 R–5	084v	TC1 Group Inclusive Tour Fares—Port of Spain—Brazil (New).	1.

Accordingly, it is ordered, That:

1. Agreement CAB 23341, R–1 through R–4 be and hereby is approved; and
2. Jurisdiction is disclaimed with respect to Agreement CAB 23341, R–5.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-19929 Filed 11-17-72;8:51 am]

[Docket No. 23333; Order 72-11-36]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority, November 10, 1972.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement, adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated November 3, 1972, names additional specific commodity rates as set forth in the attachment hereto.[1] These rates reflect reductions from the otherwise applicable general cargo rates.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the condition hereinafter ordered.

Accordingly, it is ordered, That:

Agreement C.A.B. 23371, R–1 through R–4, be and hereby is approved, provided that approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications, provided further that tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-19928 Filed 11-17-72;8:50 am]

[1] Filed as part of the original document.

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 622]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

NOVEMBER 13, 1972.

Pursuant to §§ 1.227(b)(3) and 21.30(b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE, *Secretary.*

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

[2] The above alternative cutoff rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio, and Local Television Transmission Services (Part 21 of the rules).

RURAL RADIO SERVICE—continued

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

102-C2-P-(2)-73—United Business Service, Inc. (New), for a new two-way station to be located at San Rafael Hill, end of Chula Vista Drive, San Rafael, Calif., to operate on 454.000 and 454.225 MHz.

3190-C2-P-73—Mobil Phone Services (New), for a new two-way station to operate on 152.24 MHz at 1.8 miles southeast of Mount Pleasant, Tex.

3191-C2-P-(3)-73—Same (KGA502), for additional facilities to operate on 152.21 MHz base and 459.150 MHz mobile at location No. 1, Monitor Ridge, 4.25 miles northeast of Danville, Pa., and add 459.150 MHz for control facilities at location No. 2: 406 West Main Street, Bloomburg, PA.

3193-C2-P-73—E & J Mobile Radio Service (New), for a new two-way station to operate on 454.025 MHz at Route No. 41, 3.2 miles south of South Solon, Ohio.

3201-C2-P-73—Brandenburg Telephone Co. (New), for a new one-way station to operate on 152.84 MHz at 316 West Lincoln Trail Boulevard, Radcliff, KY.

3202-C2-P-73—Fennimore Telephone Co. (New), for a new one-way station to operate on 158.10 MHz at 0.8 mile southeast of Fennimore, Wis.

3203-C2-P-73—Burlington, Brighton & Wheatland Telephone Co. (New), for a new one-way station to operate on 158.10 MHz at 2 miles south of Burlington, Wis.

3204-C2-P-73—Stockbridge & Sherwood Telephone Co. (New), for a new one-way station to operate on 152.84 MHz at 1.8 miles southwest of Sherwood, Wis.

3205-C2-P-73—Dodge County Telephone Co. (New), for a new one-way station to operate on 158.10 MHz at 1.8 miles southwest of Reeseville, Wis.

3206-C2-P-73—Mosel & Centerville Telephone Co. (New), for a new one-way station to operate on 152.84 MHz at 4 miles northwest of Howards Grove, Wis.

3207-C2-P-73—The Pacific Telephone & Telegraph Co. (KMM586), replace transmitter and change the antenna system located at Rocky Hill, 3 miles east of Exeter, Calif., operating on 152.54 MHz.

3208-C2-P-(5)-73—Southern Bell Telephone & Telegraph Co. (KIG292), change the antenna system and relocate facilities operating on 152.51, 153.57, 152.66, 152.72, and 152.78 MHz at 325 Gardenia Street, West Palm Beach, FL (same location).

3299-C2-P-(2)-73—Gulf Mobilphone Alabama, Inc. (KTS206), to reduce the height of antenna operating on 454.075 and 454.125 MHz located at the First National Bank Building, Mobile, Ala.

3300-C2-AL-(2)-73—Moore's Service; consent to assignment of license from Allen C. Moore, doing business as Moore's Service, assignor, to Moore's Service, Inc., assignee, stations: KSJ628 and KLF692 (one way), Fort Wayne, Ind.

Correction

2853-C2-P/ML-73—Communications Equipment & Service Co. (KWA832), correct to read: Channels 152.03 and 152.09 MHz at location No. 1: Ester Dome, Alaska, only. See Report No. 621, dated November 6, 1972.

RURAL RADIO SERVICE

3188-C1-MP/L-73—RCA Alaska Communications, Inc. (WOG23), change the antenna system and add 454.45 MHz at Frontier Camp, 190 miles east-southeast of Barrow, Alaska.

3189-C1-P/L-73—Same for a new interoffice fixed station to operate on 459.45 MHz at Franklin Bluffs, 22 miles north of Sagwon Airport, Alaska.

3192-C1-P/ML-73—Pacific Northwest Bell Telephone Co. (KZA73), change frequency to 157.86 MHz communicating with Klamath Falls, Oreg. (KOP342). Subscriber and location: Round Lake Ranch, 5.5 miles north-northeast of Keno, Oreg.

3209-C1-P-73—RCA Alaska Communications, Inc. (New), for a new central office station to operate on 152.54, 152.63, 152.69, and 152.81 MHz at the remote mountaintop, Tuklung Mountain, Alaska.

3210-C1-P-73—Same as above, except, for a new rural subscriber station to operate on 157.80, 157.89, 157.95, and 158.07 MHz at Manokotak Village, 20 miles west-southwest of Dillingham, Alaska.

3211-C1-P-73—Same, except, to be located at Togiak Village, 60 miles west of Dillingham, Alaska.

3212-C1-P-73—Same, except, to be located at Twin Hills Village, 62 miles west of Dillingham, Alaska.

3213-C1-P-73—Same, except, to be located at Ekuk Village, 18 miles south of Dillingham, Alaska.

3214-C1-P-73—Same, except, to be located at Clarks Point Village, 15 miles south of Dillingham, Alaska.

3215-C1-P-73—Same, except, for a central office to operate on 152.54, 152.63, and 152.69 MHz at Kakaket Creek WAGS, Alaska.

3216-C1-P-73—Same, except, for a rural subscriber station to operate on 157.80, 157.89, and 157.95 MHz at Koyuktuk Village, 25 miles west-northwest of Galena AFS, Alaska.

3217-C1-P-73—Same, except, to be located Nulato Village, 35 miles west of Galena AFS, Alaska.

3218-C1-P-73—Same, except, to be located at Ruby Village, 43 miles east of Galena AFS, Alaska.

3219-C1-P-73—Same, except, for a central office to operate on 152.54, 152.63, 152.69, and 152.81 MHz at Muklung Hills, Alaska.

3220-C1-P-73—Same, except, for a rural subscriber station to be located at Ekwok Village, 45 miles northeast of Dillingham, Alaska, to operate on 157.80, 157.89, 157.95, and 158.07 MHz.

3221-C1-P-73—Same, except, to be located at Koliganak Village, 70 miles northeast of Dillingham, Alaska.

3222-C1-P-73—Same, except, to be located at New Stuyahok Village, 55 miles northeast of Dillingham, Alaska.

3223-C1-P-73—Same, except, to be located at Aleknagik Village, 15 miles north-northwest of Dillingham, Alaska.

3224-C1-P-73—Same, except, to be located at Portage Creek Village, 32 miles east of Dillingham, Alaska.

3291-C1-P-73—Same, except, for a central office to operate on 152.54, 152.63, and 152.69 MHz at Indian Mountain AFS, Alaska.

3292-C1-P-73—Same, except, to be located at Alakaket Village, 123 miles northeast of Galena AFS, Alaska.

3293-C1-P-73—Same, except, to be located at Hughes Village, 120 miles northwest of Galena AFS, Alaska.

3294-C1-P-73—Same, except, to be located at Huslia Village, 60 miles north of Galena AFS, Alaska.

3301-C1-P-73—Somerset Telephone Co. (KOE39), replace transmitter operating on 152.51 MHz at Eustis Ridge Road, Eustis, Maine.

3302-C1-P-73—Same (KOE40), replace transmitter operating on 157.77 MHz at Coburn Gore, Maine.

POINT-TO-POINT MICROWAVE RADIO SERVICE

3182-C1-MP-73—Western Tele-Communications, Inc. (WKR45), station at Woodson Mountain, 7 miles west-southwest of Ramona, Calif. Latitude 33°00'31" N, longitude 116°-58'15" W, MP to change polarization of frequency 5990 MHz to horizontal toward Toro Peak, Calif., azimuth 41°36'.

2795-C1-ML-73—Southern Bell Telephone & Telegraph Co. (KIN54), 3.2 miles southwest of Waxhaw, N.C. Latitude 34°53'14" N, longitude 80°46'59" W. Modification of license to change polarization from H to V on frequencies 3760, 3830, 3910, 3990, and 4070 MHz toward Graniteville, N.C.

2796-C1-ML-72—Same (KJ765), 900 Franklin Avenue, Graniteville, N.C. Latitude 35°-15'07" N., longitude 80°49'45" W. Modification of license to change polarization from H to V on frequencies 3710, 3790, 3870, 3950, and 4030 MHz toward Waxhaw, N.C.

3195-C1-ML-73—The Western Union Telegraph Co. (KNK84), Central Tower Building, San Francisco, Calif. Latitude 37°47'14" N., longitude 122°24'08" W. Modification of license to increase the authorized emission designator only of the Western Union Type MLD-431 from 6100F9 to 10,560F9 for 600 FDM channel loading.

3196-C1-ML-73—Same (KNK85), Western Union Building, 126 12th Street, Oakland, CA. Latitude 37°47'59" N., longitude 122°15'47" W. Modification of license to increase the authorized emission designator only of the Western Union Type MLD-431 from 6100F9 to 10,560F9 for 600 FDM channel loading.

The National Industry Advisory Com-

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POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

3315-C1-P-73—Same (New), 4.6 miles east-southeast of Hempstead, Tex. Latitude 30°04'32" N., longitude 96°00'34" W. C.P. for a new station on frequency 6123.1V MHz toward Rosehill, Tex.

3316-C1-P-73—Same (New), 0.1 miles north of Cypress, Rosehill, Tex. Latitude 30°03'51" N., longitude 95°42'29" W. C.P. for a new station on frequency 6197.2V MHz toward Spring, Tex.

3317-C1-P-73—Same (New), 2.9 miles north of Spring, Tex. Latitude 30°07'14" N., longitude 95°25'33" W. C.P. for a new station on frequency 6019.3V MHz toward Crosby, Tex.

3318-C1-P-73—Same (New), 2 miles north-northeast of Crosby, Tex. Latitude 29°56'26" N., longitude 95°03'27" W. C.P. for a new station on frequency 6330.7H MHz toward Ames, Tex.

3319-C1-P-73—Same (New), 2.3 miles south of Ames, Tex. Latitude 30°01'05" N., longitude 94°44'05" W. C.P. for a new station on frequency 6108.3V MHz toward Sour Lake, Tex.

3320-C1-P-73—Same (New), 2.9 miles west-northwest of Sour Lake, Tex. Latitude 30°09'17" N., longitude 94°27'47" W. C.P. for a new station on frequency 6212.0H MHz toward Beaumont, Tex.

3323-C1-P-73—Midwestern Relay Co. (WLJ47), 2.5 miles east of North Prairie, Wis. Latitude 42°55'52" N., longitude 88°21'06" W. C.P. to add frequency 11,095H MHz toward new point of communication at Jefferson (WLJ68), Wis., on azimuth 279°05'.

3324-C1-P-73—Same (WLJ68), Jefferson, 5 miles northwest of Fort Atkinson, Wis. Latitude 42°59'36" N., longitude 88°53'49" W. C.P. (a) to add frequencies 5974.8H MHz, 6034.2H MHz, and 6093.5H MHz toward Madison (WLJ69), on azimuth 278°01' and (b) to add frequency 6034.2H MHz toward Rubicon (WLJ48), Wis., on azimuth 41°13'.

3325-C1-P-73—Same (WLJ48), 1 mile northwest of Rubicon, Wis. Latitude 43°20'53" N., longitude 88°28'15" W. C.P. (a) to add frequencies 6345.5H MHz and 6404.8H MHz toward Jefferson (WLJ68) on azimuth 221°31'; (b) to add frequencies 6345.5V MHz, 6375.2H MHz, and 6404.8V MHz toward Engle (WKR91), Wis., on azimuth 298°22'; and (c) to add frequencies 6345.5H MHz and 6375.2V MHz toward Graham Corner (WLJ49), on azimuth 30°07'.

3326-C1-P-73—Same (WLJ49), 1 mile northeast of Graham Corner, Wis. Latitude 43°44'15" N., longitude 88°09'32" W. C.P. (a) to add frequencies 6123.1H MHz and 6152.8V MHz toward Stockbridge (WLJ50), Wis., on azimuth 348°01' and (b) to change frequency from 6123.1H MHz to 5974.8H MHz toward Rubicon (WLJ48) on azimuth 210°20'.

3327-C1-P-73—Same (WLJ50), 2 miles east of Stockbridge, Wis. Latitude 44°04'20" N., longitude 88°15'27" W. C.P. (a) to add frequencies 6956.5V MHz and 6315.9V MHz toward new point of communication at Appleton, Wis., on azimuth 330°25' and (b) to change frequency from 6315.9V MHz to 6404.8V MHz toward Graham Corner (WLJ49) on azimuth 167°56'.

3328-C1-P-73—Same (WKR91), Engle, Wis. Latitude 43°36'49" N., longitude 89°09'10" W. C.P. to add frequencies 6093.5V MHz, 6123.1H MHz, and 6152.8V MHz toward Davis Corner (WKR92), Wis., on azimuth 292°50'.

3329-C1-P-73—Same (WKR92), Davis Corner, Wis. Latitude 43°46'26" N., longitude 89°40'52" W. C.P. to add frequencies 6197.2V MHz, 6345.5H MHz, and 6404.8H MHz toward Hancock (WKS59), Wis., on azimuth 15°53'.

3330-C1-P-73—Same (WKS59), Hancock, Wis. Latitude 44°05'55" N., longitude 89°33'10" W. C.P. (a) to add frequencies 11,175V MHz, 11,015V MHz, and 10,775V MHz toward new point of communication at Wisconsin Rapids, Wis., on azimuth 336°37' and (b) to add frequencies 11,175H MHz, 11,015H MHz, and 10,775H MHz toward Stevens Point (WLJ54), Wis., on azimuth 356°22'.

3331-C1-P-73—Same (WLJ54), Stevens Point, Wis. Latitude 44°33'10" N., longitude 89°35'35" W. C.P. (a) to add frequencies 6197.2H MHz and 6315.9H MHz toward new point of communication at Marshfield, Wis., on azimuth 291°55' and (b) to add frequencies 6197.2H MHz and 6315.9H MHz toward new point of communication at Wausau, Wis., on azimuth 04°44'.

3332-C1-P-73—Same (WIV61), 3.8 miles west of Hinckley, Minn. Latitude 45°01'28" N., longitude 93°01'21" W. C.P. to add frequency 6315.9H MHz toward Duquette (WIV62), Minn., on azimuth 42°47'.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

3333-C1-P-73—Same (WIV62), 1 mile northeast of Duquette, Minn. Latitude 46°22'53" N., longitude 92°32'38" W. C.P. to add frequency 6137.9V MHz toward Duluth (WIV63), Minn., on azimuth 35°51'. (*Informative:* Midwestern proposes to provide the television signals of stations (a) WMVS and WVTV, both of Milwaukee, Wis., to CATV systems serving Marshfield, Merrill, and Wausau, Wis.; (b) WGN (Chicago), WMVS, and WVTV to CATV systems serving Madison and Wisconsin Rapids, Wis.; (c) WGN and WVTV to CATV system serving Appleton, Wis.; (d) WGN and WMVS to CATV system serving Stevens Point, Wis.; and (e) WTCN-TV, Minneapolis, Minn., to CATV system serving Duluth, Minn. A waiver of section 21.701(f) of the FCC rules is requested by Midwestern. See also File No. 6876-C1-P-66, this public notice.).

3334-C1-P-73—American Television & Communications Corp. (New), 1.6 miles east of Mastins Corners, Va. Latitude 38°11'53" N., longitude 77°44'47" W. C.P. for a new station—frequencies 6197.2V and 6256.5V MHz toward Bells Cross Roads, Va., on azimuth 228°05'.

3335-C1-P-73—Same (New), 0.3 mile southwest of Bells Cross Roads, Va. Latitude 37°-57'12" N., longitude 78°05'24" W. C.P. for a new station—frequencies 5974.8V and 6034.2V MHz toward Charlottesville, Va., on azimuth 283°06'.

3336-C1-P-73—Same (New), Charlottesville, Va. Latitude 38°01'56" N., longitude 78°-31'23" W. C.P. for a new station—frequencies 6226.9H and 6286.2H MHz toward Tower Hill, Va., on azimuth 198°10'.

3337-C1-P-73—Same (New), 4.8 miles northeast of Tower Hill, Va. Latitude 37°32'51" N., longitude 78°43'22" W. C.P. for a new station—frequencies 5945.2V and 6004.5V MHz toward Lynchburg, Va., on azimuth 240°54'.

3338-C1-P-73—Same (New), 2 miles northeast of Lynchburg, Va. Latitude 37°20'58" N., longitude 79°10'06" W. C.P. for a new station—frequencies 6226.9H and 6345.5H MHz toward Brights, Va., on azimuth 223°28'.

3339-C1-P-73—Same (New), 6 miles west of Brights, Va. Latitude 37°02'57" N., longitude 97°31'38" W. C.P. for a new station—frequencies 6004.5H and 6063.8H MHz toward Danville, Va., on azimuth 169°26'.

3340-C1-P-73—Same (New), 1.5 miles northwest of Danville, Va. Latitude 36°36'35" N., longitude 79°25'26" W. C.P. for a new station—frequencies 6197.2V and 6256.5V MHz toward Reidsville, N.C., on azimuth 222°03'.

3341-C1-P-73—Same (New), 1 mile north of Reidsville, N.C. Latitude 36°23'46" N., longitude 79°39'43" W. C.P. for a new station—frequencies 5989.7V and 6049.0V MHz toward Greensboro, N.C., on azimuth 200°27'.

3342-C1-P-73—Same (New), Greensboro, N.C. Latitude 36°03'46" N., longitude 79°48'54" W. C.P. for a new station—frequencies 6256.5V and 6197.2V MHz toward High Point, N.C. Latitude 36°09'54" N., longitude 80°15'13" W., on azimuth 235°41'. (*Informative:* ATC proposes to provide the signals of WTTG and WDCA-TV, Washington, D.C., to CATV system serving High Point, N.C. A waiver of section 21.701(f) FCC rules is requested by ATC.)

Correction

5801-C1-P-70—United Video, Inc. (New), Avant, Okla. Correct to read: Frequency 6197.2V MHz on azimuth 49°38' toward Nowata, Okla. For particulars see PN dated October 30, 1972.

Major Amendment

6876-C1-P-66—Midwestern Relay Company (New), 4 miles east of Wausau, Wis. Latitude 44°58'26" N., longitude 89°32'38" W. Application amended: (a) To change transmitters; (b) to increase output power to 10 watts; to change frequencies to 6004.5V and 6063.8V MHz; and (c) to change azimuth to 320°40' toward Merrill, Wis. Latitude 45°08'22" N., longitude 89°44'09" W.

[FR Doc.72-19826 Filed 11-17-72;8:45 am]

DRAFTING COMMITTEE OF SPECIAL NIAC WORKING GROUP

Notice of Meeting

NOVEMBER 17, 1972.

A Drafting Committee of the Special NIAC Working Group—Priority of Use and Restoration of Leased Intercity Private Line Services—will meet at 1 p.m., Monday, November 20, 1972, in Room 205, Federal Communications Commission Annex, 1229 20th Street NW., Washington, DC., to consider proposed revisions to FCC Form 915. Request for certification for Priority of Restoration of Leased Private Line Communication Service.

The National Industry Advisory Commitee (NIAC) is made up of broadcasters and industrial users of communications. Formed in 1958 to advise the Commission on matters relating to emergency communications, its function is to develop plans for use in specific fields of industry covering a broad range of emergency contingencies.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-20070 Filed 11-17-72;10:05 am]

ENVIRONMENTAL PROTECTION AGENCY

ENVIRONMENTAL IMPACT STATEMENTS

Availability of Agency Comments

Appendix I contains a listing of draft environmental impact statements which the Environmental Protection Agency (EPA) has reviewed and commented upon in writing during the period from October 16, 1972, to October 31, 1972, as required by section 102(2)(C) of the National Environmental Policy Act of 1969 and section 309 of the Clean Air Act, as amended. The listing includes the Federal agency responsible for the statement, the number assigned by EPA to the statement, the title of the statement, the classification of the nature of EPA's comments, and the source for copies of the comments.

Appendix II contains definitions of the four classifications of EPA's comments. Copies of EPA's comments on these draft environmental impact statements are available to the public from the EPA offices noted.

Appendix III contains a listing of the addresses of the sources for copies of EPA comments listed in Appendix I.

Copies of the draft environmental impact statements are available from the Federal department or agency which prepared the draft statement or from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

Dated: November 8, 1972.

SHELDON MEYERS,
Director,
Office of Federal Activities.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

3197-C1-ML-73—Same (KNK56), 2.5 miles west of Pleasanton, Calif. Latitude 37°39'34" N., longitude 121°55'58" W. Modification of license to increase the authorized emission designator only of the Western Union Type MLD-4B from 6100F9 to 10,560F9 for 600 FDM channel loading.

3198-C1-ML-73—Same (KNK57), Calaveras Peak, 4.5 miles southeast of San Jose Mission, Calif. Latitude 37°29'56" N., longitude 121°51'05" W. Modification of license to increase the authorized emission designator only of the Western Union Type MLD-4B from 6100F9 to 10,560F9 for 600 FDM channel loading.

3199-C1-ML-73—Same (KNK49), Pine Ridge, 6 miles south of Mount Hamilton, Calif. Latitude 37°15'30" N., longitude 121°36'47" W. Modification of license to increase the authorized emission designator only of the Western Union Type MLD-4B from 6100F9 to 10,560F9 for 600 FDM channel loading.

3200-C1-ML-73—Same (KNG47), 10.3 miles east-northeast of Hollister, Calif. Latitude 36°54'32" N., longitude 121°13'21" W. Modification of license to increase the authorized emission designator only of the Western Union Type MLD-4B from 6100F9 to 10,560F9 for 600 FDM channel loading.

3303-C1-MP-73—MCI-New York West, Inc. (WLJ40), 1801 Raymond Boulevard, Newark, N.J. Latitude 40°44'13" N., longitude 74°10'15" W. Modification of license to change antenna system, power, points of communication, and alarm center location, replace transmitter on frequencies 10,735.0V and 11,135.0V MHz toward West Orange, N.J.; frequencies 10,775.0V and 11,175.0V MHz toward New York City, N.Y.; frequencies 10,735.0V and 11,135.0V MHz toward New York City, N.Y.

3304-C1-MP-73—Same (WLJ42), 1301 Avenue of the Americas, New York City, NY. Latitude 40°45'42" N., longitude 73°58'48" W. Modification of license to change antenna system, location, power, alarm center location, and replace transmitter on frequencies 11,265.0H and 11,665.0H MHz toward Newark, N.J.

INFORMATIVE: The above-referenced applications were filed to maintain on file those facilities deleted from applications File No. 5881/5882-C1-P-70; 5884/5885-C1-P-70; 5887/5888-C1-P-70; 5890 through 5892-C1-P-70; 5894 through 5902-C1-P-70; and 5904 through 5905-C1-P-70.

3305-C1-P-73—CPI Microwave, Inc. (New), 312 Houston Street, Dallas, TX. Latitude 32°-46'36" N., longitude 96°48'22" W. C.P. for a new station on frequency 6093.5H MHz toward Midlothian, Tex.

3306-C1-P-73—CPI Microwave Inc. (New), 2.4 miles north-northeast of Midlothian (Ellis), Tex. Latitude 32°30'44" N., longitude 96°58'28" W. C.P. for a new station on frequency 6189.6V MHz toward Midway, Tex.

3307-C1-P-73—Same (New), 4 miles southwest of Milford, Midway (Hill), Tex. Latitude 32°05'56" N., longitude 97°00'20" W. C.P. for a new station on frequency 6167.6H MHz toward Axtell, Tex.

3308-C1-P-73—Same (New), 2.7 miles west of Axtell (McLennan), Tex. Latitude 31°38'18.6" N., longitude 96°59'49" W. C.P. for a new station on frequency 6182.0V MHz toward Lott, Tex.

3309-C1-P-73—Same (New), 4.5 miles west-northwest of Lott (Falls), Tex. Latitude 31°-13'02" N., longitude 97°07'08" W. C.P. for a new station on frequency 6034.1V MHz toward Holland, Tex.

3310-C1-P-73—Same (New), 2.15 miles west-southwest of Holland (Bell), Tex. Latitude 30°52'08" N., longitude 97°26'25" W. C.P. for a new station on frequency 6360.3V MHz toward Cele, Tex.

3311-C1-P-73—Same (New), 5.75 miles east-northeast of Pflugerville, Cele (Travis), Tex. Latitude 30°27'49" N., longitude 97°31'56" W. C.P. for a new station on frequency 5989.7H MHz toward Bastrop, Tex.

3312-C1-P-73—Same (New), 2.3 miles east-southeast of Bastrop (Bastrop), Tex. Latitude 30°06'28" N., longitude 97°17'19" W. C.P. for a new station on frequency 6360.3H MHz toward Giddings, Tex.; frequency 6212.0H MHz toward Buda, Tex.

3313-C1-P-73—GPI Microwave, Inc. (New), 2.3 miles southeast of Giddings, Tex. Latitude 30°09'06" N., longitude 96°54'40" W. C.P. for a new station on frequency 6108.3H MHz toward Welcome, Tex.

3314-C1-P-73—Same (New), 3.5 miles southeast of Wesley, Welcome, Tex. Latitude 30°-02'49" N., longitude 96°26'32" W. C.P. for a new station on frequency 6390.0V MHz toward Hempstead, Tex.

the statement should indicate that this has been done.

Notice of agreement filed by:

tained in Articles 7 through 20 of the

V37-2402 NOV 18 72 XUM

APPENDIX I—ENVIRONMENTAL IMPACT STATEMENTS FOR WHICH COMMENTS WERE ISSUED BETWEEN OCTOBER 16, 1972, AND OCTOBER 31, 1972

Responsible Federal Agency	Title and Identifying Number	General nature of comments	Source for copies of comments
Corps of Engineers	D-COE-32391-07: Maintenance of Bay Bridge and Red Hook Channels, New York navigation project.	1	C
Do	D-COE-36162-15: Buena Vista, Va. local flood protection.	1	D
Do	D-COE-34047-11: Proposed reservoir Trexler Lake Jordon Creek, Lehigh County, Pa.	3	D
Do	D-COE-34052-22: John Hollis Bankhead Lock and Dam, Warrior River Basin, Ala.	2	E
Do	D-COE-35041-27: McGee Creek drainage and levee District Brown and Pike Counties, Ill.	2	F
Do	D-COE-30164-32: Wister Lake, Poteau River, Okla.	1	G
Do	D-COE-32390-39: Harry S. Truman Dam and Reservoir, Mo.	2	H
Do	D-COE-35034-46: Operations and maintenance San Francisco Bay drift removal fiscal year 1973, Calif.	2	J
Do	D-COE-25032-46: Linda and Olivehurst Levee and channel improvements, Bear River, Calif.	2	J
Do	D-COE-30040-46: Las Tunes Beach Park Los Angeles County, Calif.	2	J
Department of Agriculture	D-DOA-61076-55: Freezeout Road N-38, Wallowa-Whitman National Forest, Oreg.	1	K
Department of the Interior	D-DOI-00660-14: Revisions to synthetic fuels process pilot plant CRESAP, W. Va.	2	D
Department of Transportation	D-DOT-41472-02: U.S. Route from Bennington to Manchester, N.H.	2	B
Do	D-DOT-41486-11: L.R. 1021 Butler County, Pa.	1	B
Do	D-DOT-41488-11: L.R. 16034 Clairton, Pa.	1	D
Do	D-DOT-41469-11: Yatesville connector Luzern County, Pa.	2	D
Do	D-COT-41462-13: South Chapel Street relocation, New Castle, Del.	2	D
Do	D-DOT-41489-11: L.R. 1022 through five Pennsylvania counties.	2	D
Do	D-DOT-41492-11: Marshall County Airport, Moundsville, W. Va.	1	D
Do	D-DOT-41512-14: I-470 Wheeling, W. Va.	2	D
Do	D-DOT-41485-11: L.R. 1022, Somerset County, Pa.	2	D
Do	D-DOT-41487-17: Louisville-Adair County Airport, Ky.	2	E
Do	D-DOT-41497-21: Alachua County, Fla., State Road 329.	2	E
Do	D-DOT-41499-23: Loudon County, Tenn., State Road 95.	2	E
Do	D-DOT-41473-21: Palm Beach County, State Road, Blue Heron Bridge, Fla.	2	E
Do	D-DOT-41483-21: State Road 35, Polk County, Fla.	2	E
Do	D-DOT-41482-19: Extension of Dunbar Street, S.C.	2	E
Do	D-DOT-41481-18: Jackson and Swain Counties, U.S. 441, Gateway to Cherokee.	2	E
Do	D-DOT-41454-27: Farm Route 2, U.S. Route 51, McLean County, Ill.	1	F
Do	D-DOT-41482-29: State Route 18, Defiance County, Ohio.	1	F
Do	D-DOT-41451-29: State Route 43 and 9, Carroll County, Ohio.	2	F
Do	D-DOT-41410-26: S.T.H. 23 Fond Du Lac and Sheboygan Counties, Wis.	1	F
Do	D-DOT-41471-29: State Routes Number 157 and 13, Knot and Licking Counties, Ohio.	2	F
Do	D-DOT-41540-20: U.S.H. 6 and 34, Furnas, Harlan, Phelps Counties, Nebr.	1	H
Do	D-DOT-41458-43: Highway 1-90-4(14) Wyoming.	1	I
Federal Power Commission	D-FPC-03405-30: Chippewa Reservoir Project, Number 4108 Sawyer County, Wis.	2	F
Do	D-FPC-03027-25: Dome Liquid Hydrocarbon Pipeline Project, Wayne County, Mich.	2	F
Do	D-FPC-03110-25: Escanaba Paper Co. Project, Delta County, Mich.	2	F
Department of Health, Education, and Welfare	D-HEW-81105-24: Indian Health Service Hospital, Philadelphia, Mich.	2	E
Department of Housing and Urban Development	D-HUD-34050-46: Water storage, treatment and distribution facilities, Goleta, Calif.	2	J

APPENDIX II

DEFINITION OF CODES FOR THE GENERAL NATURE OF EPA COMMENTS

(1) *General agreement/lack of objections:* The agency generally:

(a) Has no objections to the proposed action as described in the draft impact statement;

(b) Suggests only minor changes in the proposed action or the draft impact statement; or

(c) Has no comments on the draft impact statement or the proposed action.

(2) *Inadequate information:* The agency feels that the draft impact statement does not contain adequate information to assess fully the environmental impact of the proposed action. The agency's comments call for more information about the potential environmental hazards addressed in the statement, or ask that a potential environmental hazard be addressed since it was not addressed in the draft statement.

(3) *Major changes necessary:* The agency believes that the proposed action, as described in the draft impact statement, needs major revisions or major additional safeguards to adequately protect the environment.

(4) *Unsatisfactory:* The agency believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the agency believes that the safeguards which might be utilized may not adequately protect the environment from the hazards arising from this action. The agency therefore recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

APPENDIX III

SOURCES FOR COPIES OF EPA COMMENTS

A. Director, Office of Public Affairs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

B. Director of Public Affairs, Region I, Environmental Protection Agency, Room 2303, John F. Kennedy Federal Building, Boston, Mass. 02203.

C. Director of Public Affairs, Region II, Environmental Protection Agency, Room 847, 26 Federal Plaza, New York, NY 10007.

D. Director of Public Affairs, Region III, Environmental Protection Agency, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106.

E. Director of Public Affairs, Region IV, Environmental Protection Agency, Suite 300, 1421 Peachtree Street NE., Atlanta, GA 30309.

F. Director of Public Affairs, Region V, Environmental Protection Agency, 1 North Wacker Drive, Chicago, IL 60606.

G. Director of Public Affairs, Region VI, Environmental Protection Agency, 1600 Patterson Street, Dallas, TX 75201.

H. Director of Public Affairs, Region VII, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, MO 64108.

I. Director of Public Affairs, Region VIII, Environmental Protection Agency, Lincoln Tower, Room 916, 1860 Lincoln Street, Denver, CO 80203.

J. Director of Public Affairs, Region IX, Environmental Protection Agency, 100 California Street, San Francisco, CA 94102.

K. Director of Public Affairs, Region X, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101.

[FR Doc.72-19848 Filed 11-16-72;8:45 am]

FEDERAL MARITIME COMMISSION

LASH-SEABEE AGREEMENT NO. 9980

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

R. J. Finnan, Rate Analyst, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, La. 70130.

Agreement No. 9980-1, between Central Gulf Steamship Corp., Combi Line (A Joint Service of Hapag Lloyd, A.G. and Holland America Line), and Lykes Bros. Steamship Co., Inc., amends Article 3 of LASH/SEABEE Agreement No. 9980, covering a cooperative working arrangement between said carriers in connection with their operation of LASH/SEABEE vessels, to provide that any carriers which furnishes evidence of ability and intention in good faith to institute and maintain such services, and agrees to abide by all the terms and conditions of said agreement, may become a party thereto. The agreement presently requires that a carrier must be regularly operating in the trade in order to become a participant in the agreement.

Dated: November 14, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-19930 Filed 11-17-72;8:51 am]

NORTH ATLANTIC CONTINENTAL FREIGHT CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Howard A. Levy, Attorney, North Atlantic Continental Freight Conference, 17 Battery Place, New York, NY 10004.

Agreement No. 9214-8, among the member lines of the above-named conference, deletes the self-policing provisions enumerated in Article 18 of the basic agreement and incorporates by reference the self-policing provisions contained in Articles 7 through 20 of the Associated North Atlantic Freight Conference Agreement No. 9978, pursuant to the Commission's order of March 9, 1972.

By order of the Federal Maritime Commission.

Dated: November 15, 1972.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.19933 Filed 11-17-72;8:51 am]

NORTH ATLANTIC FRENCH ATLANTIC FREIGHT CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Howard A. Levy, Attorney, North Atlantic French Atlantic Freight Conference, 17 Battery Place, New York, NY 10004.

Agreement No. 7770-9, among the member lines of the above-named conference, deletes the self-policing provisions enumerated in Article 17 of the basic agreement and incorporates by reference the self-policing provisions contained in Articles 7 through 20 of the Associated North Atlantic Freight Conference Agreement No. 9978, pursuant to the Commission's order of March 9, 1972.

By order of the Federal Maritime Commission.

Dated: November 15, 1972.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-19931 Filed 11-17-72;8:51 am]

NORTH ATLANTIC UNITED KINGDOM FREIGHT CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Howard A. Levy, Attorney, North Atlantic United Kingdom Freight Conference, 17 Battery Place, New York, NY 10004.

Agreement No. 7100-14, among the member lines of the above-named conference, deletes the self-policing provisions enumerated in Article 18 of the basic agreement and incorporates by reference the self-policing provisions contained in Articles 7 through 20 of the Associated North Atlantic Freight Conference Agreement No. 9978, pursuant to the Commission's order of March 9, 1972.

By order of the Federal Maritime Commission.

Dated: November 15, 1972.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-19934 Filed 11-17-72;8:51 am]

V37-224-NOV18-72 XUM

NORTH ATLANTIC WESTBOUND FREIGHT ASSOCIATION

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Howard A. Levy, Attorney, North Atlantic Westbound Freight Association, 17 Battery Place, New York, NY 10004.

Agreement No. 5850–20, among the member lines of the above-named conference, deletes the self-policing provisions enumerated in Article 18 of the basic agreement and incorporates by reference the self-policing provisions contained in Articles 7 through 20 of the Associated North Atlantic Freight Conference Agreement No. 9978, pursuant to the Commission's order of March 9, 1972.

By order of the Federal Maritime Commission.

Dated: November 15, 1972.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72–19932 Filed 11–17–72;8:51 am]

[No. 72–58]

DISCRIMINATORY PORT DETENTION SURCHARGE IN THE U.S. ATLANTIC AND GULF/SOUTH AND EAST AFRICAN TRADE ON CARGO DESTINED TO MOMBASA, KENYA

Revision of Filing Schedule

Respondent conference has temporarily suspended the port detention surcharge which is the subject of the show cause order in this proceeding. Respondent has also requested a stay of proceedings until December 31, 1972, pending development by it of in-depth information concerning conditions of detention at Mombasa, Kenya. Hearing Counsel support respondent's request and propose to submit a report to the Commission by December 31. 1972, on the prospective status of the surcharge.

Upon consideration of these developments, the Commission has determined to alter the filing schedule in this proceeding.

Respondent's affidavits of fact and memoranda of law, and Hearing Counsel's status report, and any requests for hearing shall be filed on or before January 2, 1973. Reply affidavits of fact and memoranda of law shall be filed by Hearing Counsel on or before January 17, 1973.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.72–19935 Filed 11–17–72;8:51 am]

FEDERAL POWER COMMISSION

[Docket No. CP73–127]

MANCHESTER GAS CO.

Notice of Application

NOVEMBER 15, 1972.

Take notice that on November 10, 1972, Manchester Gas Co. (Applicant), 1260 Elm Street, Manchester, NH 03101, filed in Docket No. CP73–127 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the over-the-road transportation by cryogenic semitrailer of liquefied natural gas (LNG) from Tewksbury, Mass., to Manchester, N.H., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant intends to purchase from New England LNG Co., Inc. (New England), a volume of LNG equivalent to 8,250 Mcf of vaporous gas [1] from October 1, 1972, through March 31, 1973, and herein proposes to transport said LNG from New England's storage facility in Tewksbury, Mass., to Applicant's facilities in Manchester, N.H. Applicant proposes to transport up to two 11,000-gallon trailer loads of LNG per day purchased from New England. New England has filed in Docket No. CP73–74 an application for a certificate authorizing the sale of LNG to Applicant to assist Applicant in meeting the requirements of its customers at times of peak demand during the 1973–74 winter season.

Applicant states that it is a natural gas distribution company not subject to the jurisdiction of the Commission and requests the Commission to recognize that the proposed transportation of LNG for Applicant's own use will not prejudice its otherwise non-jurisdictional status under the Natural Gas Act.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 27, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission of this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–19977 Filed 11–17–72;8:53 am]

[Docket No. CP73–111]

NORTHERN NATURAL GAS CO.

Notice of Application

NOVEMBER 13, 1972.

Take notice that on October 24, 1972, Northern Natural Gas Co. (Applicant) 2223 Dodge Street, Omaha, NE 68102, filed in Docket No. CP73–111 a budget-type application pursuant to sections 7 (c) and 7(b) of the Natural Gas Act, as implemented by §§ 157.7(b) and 157.7(e) of the Commission's regulations thereunder, for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1973, and operation of certain natural gas sales and transportation facilities and for permission and approval to abandon, during the calendar year 1973, certain direct service and facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget type application is to augment Applicant's ability to supply the natural gas requirements of its distributors and small direct customers and to abandon certain natural gas service and facilities with the least possible delay.

The total cost of the facilities proposed herein is not to exceed $300,000, which Applicant plans to finance from cash on hand.

Applicant requests a waiver of § 157.7 (c) (1) (ii) which prohibits the filing of an budget-type application when a distributor is required to make a contribution to the Applicant for cost of construction of facilities. Applicant states that it has been its practice to require distributors to make a contribution to the cost of constructing measuring and regulating facilities and appurtenances where no additional contract demand is being purchased by such distributors and that such policy is contained in its FPC Gas Tariff, Third Revised Volume No. 1, on file with the Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 5, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–19889 Filed 11–17–72;8:48 am]

[1] Equivalent to 99.858 gallons of LNG at 12.104 gallons per Mcf of vaporous gas.

[Dockets Nos. E–7781, E–7782]

SAN DIEGO GAS & ELECTRIC CO.

Notice of Applications

NOVEMBER 13, 1972.

Take notice that San Diego Gas & Electric Co. (Applicant) has filed with the Federal Power Commission: (1) An application in Docket No. E–7782 for an order, pursuant to section 202(e) of the Federal Power Act, authorizing the transmission of electric energy from the United States to Mexico; and (2) an application in Docket No. E–7781 for a permit, pursuant to Executive Order No. 10485, dated September 3, 1953, for the construction and operation at the international border between the United States and Mexico of certain facilities for the transmission of electric energy between the United States and Mexico. Applicant is incorporated under the laws of the State of California, with its principal place of business at San Diego, Calif.

Applicant proposes to export electric energy to Mexico for sale and delivery to Comision Federal de Electricidad (CFE), an agency of the Republic of Mexico, by means of a 12,000 volt overhead transmission line which Applicant proposes to construct and operate at the United States-Mexican Border in the vicinity of Jacumba, Calif., U.S.A., and Jacume, Baja California, Mexico, where connection will be made with similar transmission facilities of CFE. Accordingly, Applicant seeks: (1) An order (Docket No. E–7782) authorizing the exportation of energy to Mexico at a rate of transmission not to exceed 1,000 kw.; and (2) a permit (Docket No. E–7781) authorizing the construction and operation of the 12,000 volt line at the international border as described above.

The electric energy to be exported will be sold by Applicant to CFE in accordance with the terms and conditions and at the rates set forth and included in the "Agreement For Sale Of Electric Energy To Comision Federal De Electricidad," dated September 15, 1972, a copy of which was submitted as an exhibit to the application in Docket No. E–7782. The energy purchased from Applicant by CFE will be resold and distributed by CFE to its customers in and around the towns of Jacume, and La Rumorosa, Baja California, Mexico.

Any person desiring to be heard or to make any protest with reference to said applications should on or before December 1, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The applications are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–19890 Filed 11–17–72;8:48 am]

[Docket No. CI73–336]

TENNECO OIL CO.

Notice of Application

NOVEMBER 14, 1972.

Take notice that on November 8, 1972, Tenneco Oil Co. (Applicant), Post Office Box 2511, Houston, TX 77001, filed in Docket No. CI73–336 an application pursuant to section 7(c) of the Natural Gas Act and § 2.75 of the Commission's general policy and interpretations (18 CFR 2.75) for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), from the East Cameron Block 271 Area, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes under the optional gas pricing procedure to sell natural gas to Tennessee from East Cameron Blocks 271, 272, 254, and 255, offshore Louisiana, at an initial rate of 45 cents per Mcf subject to B.t.u. adjustment. The subject contract with Tennessee dated October 12, 1972, provides for price escalations of 1 cent per Mcf annually for the 20-year term of the contract.

Applicant asserts that the 45 cents per Mcf rate with annual escalations is significantly lower than comparative prices for the following:

1. Imported liquefied natural gas sales approved by the Commission or pending before it;
2. Proposed domestic sales of synthetic pipeline gas;
3. Future sales of Alaskan gas;
4. Domestic coal gasification proposals;
5. Recent intrastate gas sales in the southern Louisiana area; and
6. Certain intrastate gas sales as evidenced by reports that certain companies have contracted to sell their gas at rates of 52 cents and 73 cents per Mcf in Oklahoma and Ohio, respectively.

Applicant further asserts that the instant proposal is justified in light of the proposed increase in new gas prices to 50 cents per Mcf in the Appalachian Area and of the finding of the Oklahoma Corporation Commission that the "present intrinsic value of Oklahoma gas is more than 60 cents per Mcf at the wellhead." Applicant believes that approval of this application will encourage the producing industry, including Applicant itself, to accelerate exploration, development, and commitment of new gas reserves for the interstate market.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 1972, file with the Federal Power

Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–19891 Filed 11–17–72;8:48 am]

ber 18, 1972, to transport and exchange

lieves that a formal hearing is required.

The notes proposed to be issued and sold to banks will be in the form of up-

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Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19891 Filed 11-17-72;8:48 am]

[Docket No. CP73-112]

TEXAS GAS TRANSMISSION CORP. AND TRUNKLINE GAS CO.

Notice of Application

NOVEMBER 13, 1972.

Take notice that on October 25, 1972, Texas Gas Transmission Corp. (Texas Gas), Post Office Box 1160, Owensboro, KY 42301, and Trunkline Gas Co. (Trunkline), Post Office Box 1642, Houston, TX 77001, filed in Docket No. CP73-112 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas and the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose, pursuant to a gas exchange agreement dated October 5, 1972, to exchange natural gas until November 1, 1977, or such later point in time should Trunkline for some reason fail to redeliver the deferred volumes of natural gas by such date, in the following manner:

1. With the commencement of the exchange until November 1, 1973, Texas Gas shall deliver or cause to be delivered to Trunkline up to 50,000 Mcf of natural gas per day for deferred redelivery, that is, such gas shall be redelivered during a period subsequent to the receipt of the gas;

2. During the period November 1, 1973, to November 1, 1974, Texas Gas will deliver or cause to be delivered to Trunkline up to 50,000 Mcf of natural gas per day for deferred or simultaneous redelivery or both, as long as the aggregate volumes delivered by Texas Gas do not exceed 50,000 Mcf per day; and

3. During the period November 1, 1974, to November 1, 1977, Trunkline shall redeliver or cause to be redelivered to Texas Gas volumes of gas delivered to Trunkline for redelivery.

Applicants state that deliveries by Texas Gas to Trunkline will be made by Transcontinental Gas Pipe Line Corp. (Transco) for the account of Trunkline at the interconnection of the facilities of Consolidated Gas Supply Corp. (Consolidated) and Transco near Egan, Acadia Parish, La., and points of redelivery by Trunkline to Texas Gas will be in the vicinity of China, Jefferson Davis Parish, La., at the interconnection of Texas Gas' and Trunkline's pipelines in Caldwell Parish, La., at the tailgate of Texaco Inc.'s Henry Gasoline Plant, Vermilion Parish, La., and other mutually agreeable points.

To accomplish the delivery and redelivery of natural gas applicants propose that Texas Gas install tap and flange connections on its facilities at the interconnection of the facilities of Trunkline and Texas Gas at the China redelivery point and measurement facilities and connection pipelines between the facilities of Trunkline and Texas Gas at the Caldwell Parish redelivery point. Applicants also propose that Trunkline install tap and flange connections on its facilities at the Caldwell Parish redelivery point and install measurement facilities and connecting pipelines between the facilities of Texas Gas and Trunkline at the China redelivery point.

Applicants estimate the total cost of the facilities to be constructed by Texas Gas at $55,300 and by Trunkline at $67,000, which applicants propose to finance from funds on hand.

The subject exchange agreement provides that Trunkline and Texas Gas shall pay 32 cents per Mcf for the gas delivered and redelivered as part of the deferred volumes except that Texas Gas shall pay Trunkline a 4-cent per Mcf transportation charge for the deferred volumes redelivered at the Caldwell Parish redelivered point. Said agreement also provides that Texas Gas shall pay the 4-cents per Mcf transportation charge for all simultaneous gas redelivered at the Caldwell Parish redelivery point.

Applicants state that the gas reserves which Texas Gas will utilize for the exchange proposed herein are reserves under contract to Texas Gas and Texas Gas Exploration Corp. in the Eugene Island Area, offshore Louisiana, for which transportation service will be rendered by Columbia Gulf Transmission Co. to onshore Louisiana. Applicants also indicate that Consolidated plans to render transportation service for Texas Gas which will originate at the western terminus of Columbia's Blue Water System near Egan, La., and will terminate at the point where the facilities of Consolidated interconnect with the facilities of Transco, approximately 1½ miles from the western terminus of the Blue Water System.

Applicants indicate that the proposed exchange arrangements are designated to help insure an adequate supply of natural gas for Trunkline during the period ending November 1, 1974.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 5, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19892 Filed 11-17-72;8:48 am]

[Docket No. CP73-113]

TRANSWESTERN PIPELINE CO.

Notice of Application

NOVEMBER 13, 1972.

Take notice that on October 26, 1972, Transwestern Pipeline Co. (Applicant), Post Office Box 2521, Houston, TX 77002, filed in Docket No. CP73-113 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and the transportation and exchange of natural gas with Phillips Petroleum Co. (Phillips) in Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes pursuant to a letter exchange agreement dated September 18, 1972, to transport and exchange natural gas with Phillips on an equivalent B.t.u. basis for a period of 5 years. Said agreement provides for the delivery of natural gas to Phillips at delivery points to be installed on Applicant's 6-inch pipeline in Roberts County, Tex., and its 10-inch pipeline in Sherman County, Tex., and for Phillips to deliver simultaneously to Applicant quantities of natural gas at the outlet of Phillips' Gray Plant in Gray County, Tex. Said agreement also provides that Applicant may interrupt such deliveries of gas if in its sole judgment the delivery of such gas might interfere with its obligations to the sellers of such gas or its commitments to its own customers.

Applicant states that this exchange will permit the pressure in its pipeline to be lowered, thereby increasing the deliverability of low pressure wells presently connected to its pipeline system in the area and resulting in more efficient use of its existing system.

Applicant further states that in order to implement such an exchange, it will be necessary to install taps and related side-valves on its pipeline, at an estimated cost of $14,000, for which Phillips will reimburse Applicant. Additionally, Applicant indicates that Phillips will convey to it, subject to certain conditions upon the termination of the exchange requiring the conveying back to Phillips, certain metering, regulating and interconnecting facilities at the Gray Plant, connecting said plant to Applicant's Lefors Station. Phillips has filed an application in Docket No. CI73-309 to implement its part of the exchange agreement.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 5, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19893 Filed 11-17-72;8:48 am]

SECURITIES AND EXCHANGE COMMISSION

[70-5265]

ARKANSAS POWER & LIGHT CO.

Notice of Proposed Issue and Sale of Notes to Banks and to Dealer in Commercial Paper and Exception From Competitive Bidding

NOVEMBER 13, 1972.

Notice is hereby given that Arkansas Power & Light Co. (Arkansas), Ninth and Louisiana Streets, Little Rock, Ark. 72203, a subsidiary company of Middle South Utilities, Inc., a registered holding company, has filed a declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a) and 7 of the Act and Rule 50(a)(2) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

By order dated August 4, 1971 (Holding Company Act Release No. 17218), the Commission authorized Arkansas to issue and sell from time to time through May 31, 1973, unsecured short-term promissory notes (including commercial paper) to various commercial banks and/or a dealer in commercial paper, in an aggregate principal amount not exceeding $45 million outstanding at any one time.

Arkansas now proposes to revise this program and to issue and sell from time to time through May 31, 1974 (with possible extension of such period for an additional year, upon the filing of a post-effective amendment to this declaration and upon issuance of a further order of the Commission permitting such amendment to become effective), its unsecured short-term promissory notes (including commercial paper) to various commercial banks and/or a dealer in commercial paper in an aggregate principal amount outstanding at any one time of not more than $60 million, of which not more than $40 million will consist of commercial paper outstanding at any one time. Subject to these limitations, Arkansas states that the nature of each issue of such notes (including commercial paper) will be determined in the light of the then prevailing market conditions and other factors so as to achieve the lowest effective cost of money.

The notes proposed to be issued and sold to banks will be in the form of unsecured promissory notes payable not more than 9 months from the date of issue with right of renewal; will bear interest at the prime rate in effect at the lending bank at the date of issue or renewal or from time to time depending upon the requirements of the lending bank; and will, at the option of Arkansas, be prepayable, in whole or in part, at any time without premium or penalty. While no commitments have been made, it is expected that the banks to which such notes will be issued and sold, and the maximum amount to be issued and outstanding at any one time to each such bank, will be substantially as follows:

First National Bank of Eastern Arkansas, Forrest City, Ark.	$275,000
Arkansas Bank & Trust Co., Hot Springs, Ark.	750,000
First National Bank of Hot Springs, Ark.	350,000
The Commercial National Bank, Little Rock, Ark.	700,000
First National Bank in Little Rock, Ark.	3,000,000
Union National Bank, Little Rock, Ark.	1,000,000
Worthen Bank & Trust Co., Little Rock, Ark.	2,100,000
Manufacturers Hanover Trust Co., New York, N.Y.	20,000,000
National Bank of Commerce, Pine Bluff, Ark.	750,000
Simmons First National Bank, Pine Bluff, Ark.	5,000,000
Peoples Bank & Trust Co., Russellville, Ark.	200,000
Total	$34,125,000

The filing states that, except as indicated above, Arkansas will not effect borrowings from banks pursuant to this declaration until it shall have filed an amendment hereto setting forth the name or names of the banks from which such other borrowings are to be effected and the amount thereof and such borrowings shall have been authorized by order of the Commission.

Arkansas maintains a working balance with each of the above-named Arkansas banks of approximately 10 percent of the above-proposed borrowings, and states that if such balances were maintained solely to satisfy compensating balance requirements, the effective interest cost on such borrowings, assuming a 6 percent prime rate, would be 6.7 percent. The above-named New York bank may require a compensating balance of up to 20 percent of the amount of outstanding loans from that bank to Arkansas, the exact amount of the compensating balance being negotiated at the time the loans are made. Assuming a 6 percent prime rate and a 20 percent compensating balance, the effective interest cost on loans from the New York bank would be 7.5 percent.

The proposed commercial paper, with maturities not exceeding 270 days, will be issued and sold to Salomon Bros., a dealer in commercial paper. The commercial paper will be sold at a discount rate which will not be in excess of the discount rate per annum prevailing at the date of issuance for commercial pa-

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per of comparable quality of that particular maturity. The commercial paper will be in denominations of not less than $50,000 and will not be payable prior to maturity. The filing states that the rate for commercial paper will not exceed the commercial bank rate which, on the date of issue, Arkansas could obtain from commercial banks on notes of equal principal amounts except for commercial paper of a maturity not exceeding 60 days issued to refund outstanding commercial paper if, in Arkansas' judgment, it would be impractical to borrow from commercial banks to refund such outstanding commercial paper.

No commission or fee will be payable by Arkansas in connection with the issuance and sale of the commercial paper. The dealer, as principal, will reoffer and sell the commercial paper at a discount rate of one-eighth of 1 percent per annum less than the prevailing discount rate to the company, in such a manner as not to constitute a public offering. The dealer in reoffering the commercial paper will limit the reoffer and sale to a nonpublic customer list of not more than 200 buyers of commercial paper. The filing states that it is anticipated that the commercial paper will be held by the buyers to maturity; however, the dealer may, if desired by a buyer, repurchase the commercial paper for resale to others on the list of customers.

Arkansas requests exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of commercial paper. The company states that the proposed commercial paper will have a maturity not in excess of 270 days, that current rates for commercial paper for such prime borrowers as Arkansas are published daily in financial publications, and that it is not practical to invite bids for commercial paper.

The net proceeds from the proposed transactions, together with other funds available from time to time to Arkansas from its operations or derived from the issuance and sale of long-term and/or equity securities, will be applied to Arkansas' construction program which is expected to require expenditures of approximately $118,500,000 in 1972 and $155,800,000 in 1973.

As the proposed promissory notes mature, they will be renewed (but to mature not later than February 28, 1975) or repaid out of funds then available to Arkansas from its operations or derived from the issuance and sale of similar securities or long-term debt and/or equity securities.

The declaration further states that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions and that the fees and expenses to be incurred in connection therewith are estimated not to exceed $5,000.

Arkansas also proposes that the Rule 24 certificates of notification regarding the issuance and sale of the notes and commercial paper be filed on quarterly basis.

Notice is further given that any interested person may, not later than December 8, 1972, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit, or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective in the manner provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof, or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19873 Filed 11-17-72;8:47 am]

[File No. 500-1]

CAMIN INDUSTRIES CORP.

Order Amending Order Suspending Trading

NOVEMBER 7, 1972.

The Commission having determined to amend its order of October 26, 1972, summarily suspending trading in the securities of Camin Industries Corporation for the period from 11:25 a.m., e.s.t., on November 1, 1972, through November 10, 1972:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in the common stock, $0.01 par value, and all other securities of Camin Industries Corporation being traded otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 11:25 a.m., e.s.t., on November 1, 1972, through 10 a.m., e.s.t., on November 9, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19877 Filed 11-17-72;8:47 am]

[File No. 500-1]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

NOVEMBER 10, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10¢ par value, of Continental Vending Machine Corporation, and the 6 percent convertible subordinated debentures due Septembr 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 11, 1972, through November 20, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19878 Filed 11-17-72;8:47 am]

[File No. 500-1]

CRYSTALOGRAPHY CORP.

Order Suspending Trading

NOVEMBER 10, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.01 par value, and all other securities of Crystalography Corp, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 10, 1972, through November 19, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19879 Filed 11-17-72;8:47 am]

[File No. 500-1]

MERIDIAN FAST FOOD SERVICES, INC.

Order Suspending Trading

NOVEMBER 10, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, of Meridian Fast Food Services, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 12, 1972, through November 21, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19881 Filed 11-17-72;8:48 am]

[File No. 500-1]

MINUTE APPROVED CREDIT PLAN, INC.

Order Suspending Trading

NOVEMBER 10, 1972.

It appearing to the Securities and Exchange Commision that the summary suspension of trading in the common stock, $0.05 par value, and all other securities of Minute Approved Credit Plan, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange, be summarily suspended, this order to be effective for the period from November 10, 1972, through November 19, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19882 Filed 11-17-72;8:48 am]

[File No. 500-1]

MONARCH GENERAL, INC.

Order Suspending Trading

NOVEMBER 10, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.01 par value, and all other securities of Monarch General, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 12, 1972, through November 21, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19883 Filed 11-17-72;8:48 am]

MUTUAL FUND DISTRIBUTION AND POTENTIAL IMPACT OF REPEAL

Order Directing Public Proceeding

NOVEMBER 1, 1972.

I. The Commission has reviewed the information contained in the study of the potential economic impact of the repeal of section 22(d) of the Investment Company Act ("Act") conducted by the Commission's Office of Policy Research and the Economic Study of the Distribution of Mutual Funds and Variable Annuities conducted for the National Association of Securities Dealers, Inc. ("NASD") by Booz, Allen & Hamilton, Inc., as well as the comments received in connection with the adoption of rule changes relating to investment company advertising (Securities Act Release No. 5248). Based upon this review the Commission has determined that it would be appropriate to seek a wide range of viewpoints with respect to the justification for retail price maintenance in the distribution of mutual funds, the options which would be open if section 22(d) of the Act were eliminated and how the industry would adjust to such a change. It also believes that it would be appropriate to reexamine some of its traditional administrative positions and to explore new possibilities in order that mutual funds may be marketed more efficiently at a reasonable cost to investors.

II. *Accordingly, it is ordered,* Pursuant to sections 6, 7, 10, and 19(a) of the Securities Act, section 15(b)(10) of the Securities Exchange Act, sections 12(b), 14(b), 22(b) and (c), 38(a), and 46(a) of the Investment Company Act, and Rule 4(b) of the rules of practice of the Commission, that a public rule-making proceeding be held to afford the Commission a wide range of views with respect to: (1) The potential impact of the repeal of section 22(d) of the Act: (2) What changes in the Commission's rules affecting the present system of mutual fund distribution may be desirable; (3) The matters set forth in section III below; and (4) Possible legislation as may appear necessary to the Commission in the public interest and for the protection of investors.

III. Specifically the matters to be considered in such public proceeding will include:

A. Whether there is any longer sufficient public interest to justify the continuation of the system of retail price maintenance under which mutual fund shares are sold as an exception to the general rule of free competition which prevails in most other segments of our economic life.

B. Whether rules under section 22(b) of the Investment Company Act of 1940 should require increased volume discounts for larger purchases. Whether such discounts should be continuous and include proportionately lower sales charges as quantities purchased increase. Whether, and in what respect, that portion of the sales charge retained by dealers should be limited. Whether pursuant to any rules under section 22(b) of the Act maximum sales loads should be permitted to be charged only by those funds which offer certain product features. Whether the same maximum limitations should apply to periodic payment contractual plans as are applied to mutual fund sales generally.

C. Whether further liberlization of the Commission's advertising rules for mutual funds would be appropriate. If so, is legislation necessary in this area? Whether the statement of policy should be revised.

D. Assuming a simple clear prospectus geared to the ordinary mutual fund investor's needs, will the prospectus be used more extensively and earlier in the distribution process and will this affect selling?

E. Whether Rule 22d-1 or other Commission rules should be revised to permit additional group merchandising of fund shares at reduced loads.

F. To what extent can the Commission amend its rules such as Rules 19a-1, 22c-1, and 30d-1 under the Investment Company Act and Rules 15c1-4 and 17a-3 under the Securities Exchange Act of 1934 to reduce the cost of servicing small mutual fund transactions without diminishing the basic investor protections provided by such rules, particularly those which require that each fund shareholder receive individual notices and services such as individual confirmations, dividend statements, and shareholder reports.

G. Whether the Commission should reexamine its present administrative interpretations in order to remove disincentives operating against recommending no-load funds. Whether it should permit brokers and dealers to charge a normal stock exchange commission for recommending and effecting an investment in a no-load fund.

H. Is it possible to develop a system of cost allocation and other accounting procedures necessary to provide data with respect to the costs, profitability, and general economic structure of investment company advisers and distributors in a meaningful fashion. What burdens would be involved in moving the industry to such a uniform system.

For a more detailed discussion of the issues to be considered, see Investment Company Act Release No. 7475, November 3, 1972, which is incorporated herein by reference.

IV. *It is further ordered,* That a public hearing in connection with the proceeding shall commence on December 11, 1972, at 10 a.m., Eastern Standard Time, in Room 776 at the Headquarters Office of the Commission, 500 North Capitol Street NW., Washington, DC 20549 and continue thereafter at such times and places as the Hearing Officer may determine.

It is further ordered, Pursuant to the provisions of section 42(b) of the Investment Company Act that for purposes of such public proceeding each of the following: Allan S. Mostoff, Director, Anne

plicant has requested an exemption from

of the application herein may be issued after the written notice of the exercise

[File No. 500-1]

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P. Jones, Associate Director, and Lewis J. Mendelson, Assistant Director, Division of Investment Company Regulation, and Bernard Wexler, Director of the Office of Policy Planning be and hereby are designated as Hearing Officers to preside individually at such proceeding as necessary to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, require production of any books, papers, and correspondence and memoranda and other records deemed relevant or material to the inquiry and to perform all other duties in connection therewith authorized by law.

It is further ordered, That interested persons wishing to submit written statements of their views relating to the matters described in Sections I, II, and III, may do so by submitting such statements to Allan S. Mostoff, Director, Division of Investment Company Regulation, 500 North Capitol Street NW., Washington, DC 20549 on or before December 6, 1972. All such statements shall become part of the public record in this proceeding.

It is further ordered, That any interested person who has made a written submission and who wishes to appear and give an oral presentation of his views at the hearing may do so at the sole discretion of a hearing officer based on the relevance and materiality of the presentation and on the similarity of presentations already made or scheduled to be made. Such oral presentations shall be scheduled by a Hearing Officer during the period of the proceeding and shall be subject to the following procedures:

1. Oral statements may be limited in time. Persons desiring specified time should accompany their request with an adequate explanation of their need.

2. The written text of the oral statement to be given generally must be received no later than December 6, 1972.

3. Persons making an oral presentation should be prepared to respond to inquiries from the Hearing Officer and the Commission staff.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19872 Filed 11-17-72;8:47 am]

[812-3281]

MUTUAL OF OMAHA GROWTH FUND, INC.

Notice of Filing of An Application for An Order Exempting A Proposed Exchange of Shares

NOVEMBER 13, 1972.

Notice is hereby given that Mutual of Omaha Growth Fund, Inc. (Applicant), 3102 Farnam Street, Omaha, NE 68131, a Nebraska corporation registered under the Investment Company Act of 1940 (Act), as an open-end diversified management investment company, has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission exempting from the provisions of sections 22(c) and 22(d) of the Act and Rule 22c-1 thereunder a proposed transaction in which Applicant's redeemable securities will be issued at a price other than the current public offering price described in the prospectus in exchange for substantially all the assets of First Security Growth Fund, Inc. (Security). All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Security is an open-end diversified, management investment company incorporated under the laws of the State of Delaware. As of August 31, 1972, the net assets of Security amounted to $3,495,629, consisting almost entirely of cash and marketable securities. As of that date there were approximately 733,074 shares outstanding of Security stock owned by approximately 1,200 shareholders.

Pursuant to the Agreement and Plan of Reorganization (Plan) between Applicant and Security, Applicant will acquire all of the net assets of Security in exchange for shares of Applicant's common stock. The number of Applicant's shares to be issued in exchange for the net assets of Security is to be determined by dividing the aggregate market value of the assets of Security to be transferred to Applicant by Applicant's then net asset value per share subject to a certain adjustment which would reflect the respective proportion of assets of Security and Applicant representing realized and undistributed gains (or losses), as well as unrealized appreciation as of the valuation time. If the valuation under the Plan had taken place at the close of business on August 31, 1972, the tax adjustment would have increased the market value of the assets of Security by $45,088. When received by Security, the Applicant's shares are to be distributed to Security stockholders in complete liquidation of Security, in proportion to their respective stock ownership in Security.

SECTION 22(d)

Applicant's shares are currently offered to the public on a continuous basis at net asset value plus varying sales charges, ranging from 8 percent on sales of less than $10,000 to 1 percent on sales of $100,000 or more, as disclosed in Applicant's prospectus. Pursuant to the terms of the plan no sales charge will be added to the net asset value of Applicant in determining the number of Applicant's shares to be issued. Applicant seeks an order pursuant to section 6(c) of the Act exempting the transaction from section 22(d). Section 22(d) prohibits a registered investment company from selling its shares at a price which differs from the offering price described in the company's prospectus.

Section 22(d) further provides that "nothing in this subsection shall prevent a sale made (1) pursuant to an offer of exchange permitted by section 11 including any offer made pursuant to section 11(b)." Although the plan may be deemed to be a reorganization within the meaning of section 11(b) of the Act, Applicant has requested an exemption from 22(d) in order to avoid any question of the applicability of that section.

Applicant represents that its board of directors has approved the plan as being in the best interests of its stockholders, taking all relevant considerations into account, including, among others, the assets to be acquired, the investment policies and objectives of Applicant, and the fact that the resulting increase in assets will tend to reduce slightly per share expenses. Applicant further represents that no affiliation existed between Security or its officers or directors and Applicant, its officers and directors at the time of negotiation of the plan, and that the plan was negotiated at arm's length by the two corporations.

SECTION 22(c)

The plan provides that the time for valuing the net assets of Security, as well as the net asset value of the shares of Applicant to be exchanged pusuant to the plan, shall be 3:30 p.m. on such date as may be mutually agreed upon by Security and Applicant, but in no event later than ten (10) business days after the stockholders of Security have approved the plan. The actual exchange of net assets of Security for shares of Applicant shall be made at 10 a.m. on the second business day following the valuation time.

Section 22(c) of the Act and Rule 22c-1 thereunder inter alia prohibit registered investment companies from issuing their redeemable securities except at a price based on the current net asset value of such security which is next computed after receipt of an order to purchase the security.

Section 6(c) permits the Commission, upon application, to exempt any transaction from any provision or provisions of the Act or from any rule or regulation thereunder if it finds that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 6, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing

of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19874 Filed 11-17-72;8:47 am]

[812-3282]

NEL EQUITY FUND, INC. ET AL.

Notice of Application for an Order Exempting Applicants

NOVEMBER 13, 1972.

Notice is hereby given that NEL Equity Fund, Inc., NEL Growth Fund, Inc., and New England Life Side Fund, Inc. (collectively the "Funds"), all of which are open-end diversified management investment companies registered under the Investment Company Act of 1940 (Act), and NEL Equity Services Corp. (NELESCO), 501 Boylston Street, Boston, MA 02117, the principal underwriter for each of the Funds (hereinafter collectively called "Applicants") have filed an application pursuant to section 6(c) of the Act for an order exempting applicants from section 22(d) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made herein, which are summarized below.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus.

Applicants propose to offer to persons who redeem shares of any of the Funds a one-time privilege to (1) reinstate their accounts by repurchasing shares at net asset value without a sales charge up to the amount redeemed or (2) purchase, under the exchange privilege available generally to shareholders of the Funds, shares of any other of the Funds at net asset value without a sales charge up to the amount of the redemption proceeds.

It is contemplated that notice of this proposed privilege will be given to eligible persons in writing or by telephone as part of the processing of their redemption request. To be effective, written notice from such eligible persons of the exercise of the privilege must be received by NELESCO or by State Street Bank and Trust Co., transfer agent for the Funds, or postmarked within 15 days after the redemption request is received. The reinstatement or exchange will be made at net asset value next determined after the written notice of the exercise of the privilege is received.

Applicants state that in order to minimize the possibility of shareholder abuse through speculation on a possible short-term decline in the net asset value of a Fund's shares, the reinvestment privilege will be offered on a one-time basis and must be exercised within the relatively short period of time specified.

Applicants state that no sales commission will be received by NELESCO or sales representatives on such purchases. All costs involved in giving notice of the proposed privilege will be borne by NELESCO. It is not expected that additional bookkeeping costs incurred by the Funds in reversing redemptions will be significant. A $5 service fee will be charged to all shareholders exercising the exchange privilege.

Applicants submit that, in some instances, shareholders may mistakenly redeem their Fund shares because they either misunderstand, are unaware of, or overlook certain opportunities available to them as shareholders.

Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any person or transaction from any provisions of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 6, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19875 Filed 11-17-72;8:47 am]

[File No. 500-1]

NORTH AMERICAN PLANNING CORP.

Order Suspending Trading

NOVEMBER 10, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the Class B nonvoting common stock, $0.01 par value and all other securities of North American Planning Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 11, 1972, through November 20, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19884 Filed 11-17-72;8:48 am]

[File No. 500-1]

OCEANOGRAPHY MARICULTURE INDUSTRIES, INC.

Order Amending Order Suspending Trading

OCTOBER 31, 1972.

The Commission having determined to amend its order of October 26, 1972, summarily suspending trading in the securities of Oceanography Mariculture Industries, Inc., for the period from October 27, 1972, through November 5, 1972.

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in the common stock, $0.01 par value, and all other securities of Oceanography Mariculture Industries, Inc., being traded otherwise than on a national securities exchange be summarily suspended for the period from October 27, 1972, through 10 a.m., e.s.t., on November 2, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19880 Filed 11-17-72;8:47 am]

[File No. 500-1]

TIDAL MARINE INTERNATIONAL CORP.

Order Suspending Trading

NOVEMBER 13, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.05 par value, and all other securities of Tidal Marine International Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors.

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of

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1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 10 a.m., e.s.t., November 13, 1972, through November 22, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19885 Filed 11-17-72;8:48 am]

[811-651]

UNITED FUNDS CANADA-INTERNATIONAL LTD.

Notice of Filing of Application for Order Declaring That Company has Ceased To Be an Investment Company

NOVEMBER 13, 1972.

Notice is hereby given that United Funds Canada-International Ltd. (Applicant), Suite 2100, York Centre, 145 King Street West, Toronto 110, Ontario, registered under the Investment Company Act of 1940 (Act) as a diversified, open-end management investment company, has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that the Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein, which are summarized below.

Applicant represents, among other things, that pursuant to an Agreement and Plan of Reorganization (the Plan) dated September 18, 1972, between Applicant and United Continental Growth Fund, Inc. (the Growth Fund), which Plan was approved by the shareholders of Applicant on that date, substantially all of its assets were, on October 14, 1972, transferred to the Growth Fund in exchange for its shares which were thereupon distributed to the shareholders of Applicant; that Applicant has no securities outstanding at the present time; that it has no assets at the present time other than a minimal sum of cash to meet final liabilities; that the public offering of its shares has been terminated; and that it is in the process of liquidation and dissolution.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than December 8, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19876 Filed 11-17-72;8:47 am]

SMALL BUSINESS ADMINISTRATION

FOOTHILL VENTURE CORP.

Notice of Filing of an Application for Exemption With Respect to Conflict-of-Interest Transaction

Notice is hereby given that Foothill Venture Corp. (FVC), 8383 Wilshire Boulevard, Beverly Hills, CA 90211, a Federal licensee under the Small Business Investment Act of 1958, as amended (the Act), has filed an application pursuant to § 107.1004 of the Small Business Administration (SBA) rules and regulations (13 CFR 107.1004 (1972)) for an exemption with respect to a conflict-of-interest transaction covered by section 312 of the Act.

FVC proposes to invest $100,000, in Natel Electronics Industries, Inc. (Natel), 1800 Avenue of the Stars, Suite 753, Los Angeles, CA 90067. This investment comes within the purview of the above-cited regulation because Messrs. Don Gevirtz and John Nickoll are both officers and directors of FVC and directors of Natel. In addition, McCarty Investment Co., 8383 Wilshire Boulevard, Beverly Hills, CA 90211, a partnership in which The Foothill Group, Inc., 8333 Wilshire Boulevard, Beverly Hills, CA 90211, is the general partner, has an investment of over 10 percent of the common stock of Natel. The Foothill Group, Inc., is the parent of FVC.

In addition to his above affiliations Mr. Gevirtz is the chairman of the board, president, and chief executive officer of The Foothill Group, Inc., and a limited partner in the McCarty Investment Co. Mr. Nickoll is the vice chairman of the board, and executive vice president of The Foothill Group, Inc., and a limited partner in the McCarty Investment Co.

The application represents the following:

1. The investment will be a $100,000, 5-year convertible debenture.

2. The proceeds of the debenture will be used for product development and working capital.

3. This investment must be approved by the California Corporations Commissioner who must pass on the fairness and equity of this transaction with respect to the stockholders of both the issuer and the purchaser.

4. FVC's Board of Directors voted unanimously to make this investment.

5. The investment will enable a small aerospace company to expand soundly and profitably.

Notice is further given that any interested person may, not later than 15 days from the publication of this notice, submit to SBA, in writing relevant comments on this transaction. Any such communication should be addressed to the Associate Administrator for Operations and Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416. After the aforementioned 15-day period, SBA may, under the regulations, dispose of the application upon the basis of the information stated in said application and other relevant data.

Dated: November 10, 1972.

ANTHONY G. CHASE, *Deputy Administrator.*

[FR Doc.72-19866 Filed 11-17-72;8:46 am]

[Delegation of Authority 11-A]

DEPUTY GENERAL COUNSEL; OFFICE OF GENERAL COUNSEL

Redelegation on Legal Activities

I. Pursuant to the authority delegated by the Administrator to the General Counsel in Delegation of Authority No. 11 (37 F.R. 20751), the following authority is hereby redelegated to the specific positions as indicated herein:

Deputy General Counsel. To approve or decline fees relating to the closing of loans for attorneys retained by SBA.

To approve or decline fees and expenses relating to the closing of investment company and development company loans for attorneys retained by SBA, and to approve or decline fees and expenses arising out of small business investment company matters relating to litigation and liquidation matters for attorneys retained by SBA, trustees under deeds of trust, receivers, title examinations and reports, advertising, and other necessary litigation expenses.

Associate General Counsel, Office of Litigation. Except as relates to small business investment company matters, to approve or decline fees and expenses relating to litigation and liquidation matters for attorneys retained by SBA, trustees under deeds of trust, receivers, title examinations and reports, advertising and other necessary litigation expenses.

II. The specific authorities delegated herein may not be redelegated.

III. All authority delegated herein may be exercised by any SBA employee designated as acting in that position.

IV. All authority previously delegated by the General Counsel and other officials under his jurisdiction is hereby rescinded without prejudice to actions taken under such delegations prior to the date hereof.

Effective date: September 15, 1972.

JOHN A. KNEBEL, *General Counsel.*

[FR Doc.72-19867 Filed 11-17-72;8:46 am]

[Delegation of Authority 12-A]

DEPUTY ASSOCIATE ADMINISTRATOR ET AL.

Redelegation on Financial Assistance

I. Pursuant to the authority delegated by the Administrator to the Associate Administrator for Financial Assistance in Delegation of Authority No. 12 (37 F.R. 20751), the following authority is hereby delegated to the specific positions as indicated herein:

A. *Deputy Associate Administrator for Financial Assistance.* 1. To perform any and all acts which I, as Associate Administrator for Financial Assistance, am authorized to perform under the aforementioned Delegation of Authority.

B. *Director, Office of Financing.* 1. To approve or decline business, economic opportunity, and all types of disaster loan applications, including reconsiderations applications, including reconsiderations thereof, and to execute authorizations and amendments pertaining to such loans.

2. To cancel, reinstate, modify, and amend authorizations for fully or partially undisbursed loans.

3. To determine eligibility of business, economic opportunity, and all types of disaster loan applicants.

C. *Chief, Program Operations Division.* 1. To approve or decline business, economic opportunity, and all types of disaster loan applications, including reconsiderations thereof, and to execute authorizations and amendments pertaining to such loans.

2. To cancel, reinstate, modify, and amend authorizations for fully or partially undisbursed loans.

3. To determine eligibility of business, economic opportunity, and all types of disaster loan applicants.

D. *Director, Office of Loan Administration.* 1. To take all necessary action in connection with the servicing, administration, collection, and liquidation of all loans, other obligations and acquired property, with the exception of those loans classified as in litigation, but is not authorized:

(a) To sell any primary obligation or other evidence of indebtedness, exclusive of property acquired, owed to the Agency for a sum less than the total amount due thereon.

(b) To accept or reject a compromise settlement of an indebtedness owed to the Agency for a sum less than the total amount due thereon.

(c) To deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the initiation of suit for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

2. To take all necessary actions in connection with the liquidation of SBIC's and EDA loans for the Department of Commerce.

3. To take all necessary actions in connection with the servicing (financial aspects) of certificates of competency and, as appropriate, financial aspects of contracts let by SBA under section 8(a) of the Small Business Act, as amended.

E. *Chiefs, Operations Assistance Division and Program and Systems Division.* 1. To take all necessary action in connection with the servicing, collection, or liquidation of fully disbursed loans not in litigation and other obligations and acquired property within all loan programs of the Small Business Administration, but is not authorized:

a. To sell any primary obligation or other evidence of indebtedness, exclusive of property acquired, owed to the Agency for a sum less than the total amount due thereon.

b. To accept or reject a compromise settlement of an indebtedness owed to the Agency for a sum less than the total amount due thereon.

c. To deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the initiation of suit for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

2. To take all necessary actions in connection with the liquidation of SBIC's and EDA loans for the Department of Commerce.

3. To take all necessary actions in connection with the servicing (financial aspects) of certificates of competency and, as appropriate, financial aspects of contracts let by SBA under section 8(a) of the Small Business Act, as amended.

F. *Director, Office of Community Development.* 1. To approve or decline development company (sections 501 and 502) loan applications, including reconsiderations thereof, and to executive authorizations and modifications pertaining to such loans.

2. To cancel, reinstate, modify, and amend authorizations for fully undisbursed loans.

3. To determine eligibility of development company loan, lease guarantee, and surety bond applicants.

4. To approve or decline applications for the guarantee of the payment of rents under a lease where aggregate rentals do not exceed the lesser of $15,000 per month or $2,500,000 over the term guaranteed.

5. To enter into reinsurance agreements with participating insurance companies and to modify and revise the same whenever necessary.

6. To approve or decline applications for reinsured guarantees received from participating insurance companies for the payment of rents under a lease where the SBA share of such participation does not exceed the lesser of $15,000 per month or $2,500,000 over the term guaranteed.

7. To approve the investment of moneys in the lease guarantee revolving fund not needed for the payment of current operating expenses for the payment of claims arising under the lease guarantee program, in bonds or other obligations guaranteed as to principal and interest by the United States.

8. To guarantee sureties of small business against portions of losses resulting from the breach of bid, payment, or performance bonds on contracts up to $500,000.

9. To make size determinations for the purpose of the lease guarantee and surety bond programs.

G. *Chief, Development Company Loan Division.* 1. To approve or decline development company (sections 501 and 502) loan applications, including reconsiderations thereof, and to execute authorizations and modifications pertaining to such loans.

2. To cancel, reinstate, modify, and amend authorizations for fully undisbursed loans.

3. To determine eligibility of development company loan applicants.

H. *Chief, Underwriting Division.* 1. To approve or decline applications for the guarantee of the payment of rents under a lease where aggregate rentals do not exceed the lesser of $15,000 per month or $2,500,000 over the term guaranteed.

2. To enter into reinsurance agreements with participating insurance companies and to modify and revise the same whenever necessary.

3. To approve or decline applicants for reinsured guarantees received from participating insurance companies for the payment of rents under a lease where the SBA share of such participation does not exceed the lesser of $15,000 per month or $2,500,000 over the term guaranteed.

4. To guarantee sureties of small business against portions of losses resulting from the breach of bid, payment of performance bonds on contracts up to $500,000.

5. To determine eligibility of lease guaranty and surety bond applicants.

I. *Central Office Claims Review Committee.* 1. This committee shall consist of the Director, Office of Loan Administration, acting as chairman; Director, Office of Financing; and Associate General Counsel, Office of Litigation.

2. This committee shall meet and consider reasonable and properly supported compromise proposals provided the decision of the committee is unanimous.

II. The authority delegated herein may not be redelegated.

III. All authority delegated herein may be exercised by any Small Business

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The agenda for the meeting follows:

is hereby given that Martin N. Gronvold,

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Administration employee designated as acting in that position.

Effective date: September 15, 1972.

ANTHONY S. STASIO,
Acting Associate Administrator for Financial Assistance.

[FR Doc.72-19868 Filed 11-17-72;8:46 am]

[Delegation of Authority 13-A]

DIRECTOR, OFFICE OF BUSINESS DEVELOPMENT AND CHIEF, GOVERNMENT CONTRACTS DIVISION

Redelegation on Procurement and Management Assistance

I. Pursuant to the authority delegated by the Administrator to the Associate Administrator for Procurement and Management Assistance by Delegation of Authority No. 13 (37 F.R. 20752), the following authority is hereby delegated to the specific positions as indicated herein:

A. *Director, Office of Business Development.* 1. To enter into contracts on behalf of the Small Business Administration with the U.S. Government and any department, agency, or officer thereof having procurement powers, obligating the Small Business Administration to furnish articles, equipment, supplies, or materials to the Government and agreeing as to the terms and conditions of such contracts.

2. To certify to any officer of the Government having procurement powers that the Small Business Administration is competent to perform any specific Government procurement contract to be let by any such officer.

3. To arrange for the performance of such contracts by negotiating or otherwise letting subcontracts to small business concerns or others for the manufacture, supply, or assembly of such articles, equipment, supplies, or materials, or parts thereof, or servicing or processing in connection therewith, or such management services as may be necessary to enable the Small Business Administration to perform such contracts.

B. *Chief, Government Contracts Division.* 1. To enter into contracts on behalf of the Small Business Administration with the U.S. Government and any department, agency, or officer thereof having procurement powers, obligating the Small Business Administration to furnish articles, equipment, supplies, or materials to the Government and agreeing as to the terms and conditions of such contracts.

2. To certify to any officer of the Government having procurement powers that the Small Business Administration is competent to perform any specific Government procurement contract to be let by any such officer.

3. To arrange for the performance of such contracts by negotiating or otherwise letting subcontracts to small business concerns or others for the manufacture, supply, or assembly of such articles, equipment, supplies, or materials, or parts thereof, or servicing or processing in connection therewith, or such management services as may be necessary to enable the Small Business Administration to perform such contracts.

II. The specific authorities delegated herein may not be redelegated.

III. All authority delegated herein may be exercised by any SBA employee designated as acting in that position.

Effective date: September 15, 1972.

MARSHALL J. PARKER,
Associate Administrator for Procurement and Management Assistance.

[FR Doc.72-19869 Filed 11-17-72;8:46 am]

[Delegation of Authority 15-A]

DIRECTOR, OFFICE OF MANAGEMENT SYSTEMS, ET AL.

Redelegation of Administrative and Financial Activities

I. Pursuant to the authority delegated by the Administrator to the Assistant Administrator for Administration in Delegation of Authority No. 15 (37 F.R. 20753), the following authority is hereby redelegated to the specific positions as indicated herein:

A. *Administrative Services*—1. *Director, Office of Management Systems.* a. To contract for supplies, materials and equipment, printing, transportation, communications, space, and special services for the agency pursuant to chapter 4 of title 41, United States Code, subject to the limitations contained in section 257 (a) and (b) of that chapter.

b. To rent temporarily, within the District of Columbia or elsewhere, such hotel or other accommodations as are needed to facilitate the conduct of meetings of SBA advisory councils.

2. *Chief, Administrative Services Division.* a. To contract for supplies, materials and equipment, printing, transportation, communications, space, and special services for the agency pursuant to chapter 4 of title 41, United States Code, subject to the limitations contained in section 257 (a) and (b) of that chapter.

b. To rent temporarily, within the District of Columbia or elsewhere, such hotel or other accommodations as are needed to facilitate the conduct of meetings of SBA advisory councils.

3. *Assistant Chief, Administrative Services Division.* a. To contract for supplies, materials and equipment, printing, transportation, communications, space, and special services for the agency pursuant to chapter 4 of title 41, United States Code, subject to the limitations contained in section 257 (a) and (b) of that chapter.

b. To rent temporarily, within the District of Columbia or elsewhere, such hotel or other accommodations as are needed to facilitate the conduct of meetings of SBA advisory councils.

c. To issue government bills of lading, printing and binding orders, purchase orders, work orders, telephone orders, and tax exemption certificates.

4. *Chief, Procurement and Supply Branch.* a. To contract for supplies, materials and equipment, printing, and special services pursuant to chapter 4 of title 41, United States Code, subject to the limitations contained in section 257 (a) and (b) of that chapter.

b. To issue government bills of lading, printing and binding orders, purchase orders, work orders, telephone orders, and tax exemption certificates.

5. *Assistant Chief, Procurement and Supply Branch.* a. To issue government bills of lading, printing and binding orders, purchase orders, and tax exemption certificates as they relate to chapter 4 of title 41, United States Code, subject to the limitations contained in section 257 (a) and (b) of that chapter.

6. *Warehouse Foreman, Procurement and Supply Branch.* a. To issue government bills of lading.

7. *Chief, Office Services Branch.* a. To issue work orders, telephone orders, and authorize and approve repairs to machinery and equipment.

B. *Financial Management*—1. *Director, Office of Budget and Finance.* a. To assign, endorse, transfer, deliver, or release (but in all cases without representation, recourse, or warranty) promissory notes, bonds, debentures, and other obligating instruments on all loans or investments made or serviced by SBA when paid in full or when transferred to the Department of Justice for liquidation.

2. *Chief, Accounting Operations Branch.* a. Same as B.1.a., above.

3. *Chief, Fiscal Branch.* a. Same as B.1.a., above.

II. The specific authorities delegated herein may not be redelegated.

III. All authority delegated herein may be exercised by any SBA employee designated as acting in that position.

Effective date: September 15, 1972.

RONALD G. COLEMAN,
Assistant Administrator for Administration.

[FR Doc.72-19870 Filed 11-17-72;8:46 am]

[Delegation of Authority 16-A]

DIRECTOR, OFFICE OF GOVERNMENT AND INDUSTRY RELATIONS

Delegation of Authority for Minority Enterprise Activities

I. Pursuant to authority delegated to the Assistant Administrator for Minority Enterprise by Delegation of Authority No. 16 (37 F.R. 20753), authority is hereby delegated to the positions as indicated below:

A. *Director, Office of Government and Industry Relations.* 1. To execute grants, agreements, and contracts providing financial assistance to public or private organizations to pay all or part of the costs of technical and management assistance projects designed to furnish centralized services with regard to public services and government programs, including programs authorized under section 402 of the Economic Opportunity Act of 1964, as amended, with special attention to small business concerns located in urban areas of high concentration of unemployed or low-income individuals or owned by low-income individuals.

II. This authority may not be redelegated.

III. This authority may be exercised by any person designated as Acting Director, Office of Minority Industry Relations.

Effective date: September 15, 1972.

NICK ORTIZ,
Acting Assistant Administrator for Minority Enterprise.

[FR Doc. 72-19871 Filed 11-17-72;8:47 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

AGRICULTURAL SUBCOMMITTEE ON PESTICIDES

Notice of Public Meeting

Notice is hereby given that the Agricultural Subcommittee on Pesticides of the Standards Advisory Committee on Agriculture, established under section 7 (b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1597; 29 U.S.C. 656) and 29 CFR Part 1912, will meet at 9 a.m. on Tuesday, November 21, 1972, in Room 107A of the Main Labor Building, 14th and Constitution Avenue NW., Washington DC.

The subcommittee will take up matters pertaining to the establishment of standards to provide protection to agricultural workers who may be exposed to potentially toxic pesticides in the course of their employment, and, particularly, matters relating to field reentry periods after certain crops have been treated with certain pesticides.

The meeting shall be open to the public.

Signed at Washington, D.C., this 15th day of November, 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-19985 Filed 11-17-72;8:52 am]

Office of Labor-Management and Welfare Pension Reports

ADVISORY COUNCIL ON EMPLOYEE WELFARE AND PENSION BENEFIT PLANS

Notice of Meeting

Pursuant to section 14 of the Welfare and Pension Plans Disclosure Act (29 U.S.C. 308e), a meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on Tuesday, November 28, 1972, at 10 a.m. in Conference Room 102, Department of Labor Building, 14th and Constitution Avenue NW., Washington, DC. The meeting will be open to members of the public who signify an intention to attend.

The agenda for the meeting follows:

1. Administration of oath of new members.
2. Approval of minutes of last meeting.
3. Bonding experience under the Welfare and Pension Plans Disclosure Act.
4. "Know Your Pension Rights"—a technical assistance pamphlet which suggests questions participants should ask about their plans.

Persons desiring to attend should notify Mr. Edward F. Lysczek, Executive Secretary to the Advisory Council, 301—495-4291.

Signed at Washington, D.C., this 14th day of November 1972.

W. J. USERY, JR.,
Assistant Secretary for Labor-Management Relations.

[FR Doc.72-19865 Filed 11-17-72;8:46 am]

Office of the Secretary

NEW JERSEY

Notice of Determination of "Temporary Off" Indicator and Ending of Temporary Compensation Period

Pursuant to the provisions of section 202 of the Emergency Unemployment Compensation Act of 1971 (Public Law 92-224, title II), hereinafter referred to as the Act, and 20 CFR 617.13(a), I hereby give notice of my determination that there is a "temporary off" indicator for the week ending October 7, 1972, in the State of New Jersey.

As provided in section 202(c)(3)(A)(i)(II) of the Act and 20 CFR 617.5 (b) and (c), the temporary compensation period in this State shall end on October 28, 1972, the last day of the third week following the week for which there is a "temporary off" indicator in that State. Under the Act, temporary compensation is not payable in the State of New Jersey for any week of unemployment which begins after October 28, 1972.

Signed at Washington, D.C., this 14th day of November 1972.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.72-19862 Filed 11-17-72;8:46 am]

NORTH DAKOTA

Notice of Termination of Extended Unemployment Compensation

The Federal-State Extended Unemployment Compensation Act of 1970, title II, Public Law 91-373, establishes a program of payment to unemployed workers who have received all of the regular compensation to which they are entitled, commencing when unemployment is high (according to indicators set forth in the law) and terminating when unemployment ceases to be high (according to indicators set forth in the law). Pursuant to section 203(b)(2) of the Act, notice is hereby given that Martin N. Gronvold, executive director of the North Dakota Employment Security Bureau, has determined that there was a State "off" indicator in North Dakota for the week beginning September 3, 1972, and that an extended benefit period terminated in the State with the week beginning September 24, 1972.

Signed at Washington, D.C., this 14th day of November 1972.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.72-19864 Filed 11-17-72;8:46 am]

RHODE ISLAND

Notice of Determination of "Temporary Off" Indicator and Ending of Temporary Compensation Period

Pursuant to the provisions of section 202 of the Emergency Unemployment Compensation Act of 1971 (Public Law 92-224, title II), hereinafter referred to as the Act, and 20 CFR 617.13(a), I hereby give notice of my determination that there is a "temporary off" indicator for the week ending October 14, 1972, in Rhode Island.

As provided in section 202(c)(3)(A)(i)(II) of the Act and 20 CFR 617.5 (b) and (c), the temporary compensation period in the State of Rhode Island shall end on November 4, 1972, the last day of the third week following the week for which there is a "temporary off" indicator in Rhode Island. Under the Act, temporary compensation is not payable in this State for any week of unemployment which begins after November 4, 1972.

Signed at Washington, D.C., this 14th day of November 1972.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.72-19863 Filed 11-17-72;8:46 am]

INTERSTATE COMMERCE COMMISSION

[Notice 162]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following

50704, Send protests to: Herbert W. Al- Office Box 1209, 28201, Charlotte, NC. DISPATCH CORPORATION, 4970 South

numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-74023. By order of November 6, 1972, the Motor Carrier Board approved the transfer to Richard Willey, doing business as E. J. Pelletier and Son, Movers, Laconia, N.H., of the operating rights in Certificates Nos. MC-76814, MC-76814 (sub-No. 2), and MC-76814 (sub-No. 3) issued October 31, 1956, February 12, 1947, and July 18, 1947, respectively, to Ernest J. Pelletier, doing business as Ernest J. Pelletier and Son, Laconia, N.H., authorizing the transportation of household goods, between points in Belknap County, N.H., on the one hand, and, on the other, points in Vermont, Massachusetts, Rhode Island, Connecticut, Maine, and New York, and such merchandise as is dealt in by wholesale, retail, and chain grocery stores and food business houses, from Laconia, N.H., to points in Belknap, Carroll, Grafton, Merrimack, and Strafford Counties, N.H. Richard P. Brouillard, 16 Academy Street, Laconia, NH 03246, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-19921 Filed 11-17-72;8:50 am]

[Notice 152]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 14, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

MOTOR CARRIERS OF PROPERTY

No. MC 3255 (Sub-No. 12 TA) (Amendment), filed October 2, 1972, published in the FEDERAL REGISTER issue of November 1, 1972, amended and republished in part as amended this issue. Applicant: PEP TRUCKING CO., INC., 386 Henderson Street, Jersey City, NJ 07302. Applicant's representative: George A. Olsen, 60 Tonnele Avenue, Jersey City, NJ 07306. NOTE: The purpose of this partial republication is to change the authority sought from contract carrier to *common carrier*, and reassign a new MC No. *325* (Sub-No. *12* TA), in lieu of MC No. 138077 TA. The rest of the application remains the same.

No. MC 5326 (Sub-No. 15 TA), filed October 26, 1972. Applicant: WILSON B. DILL, CARL M. DILL, SR., and ARTHUR B. DILL, doing business as DILL BROS. COMPANY, Galena, Md. 21635. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed*, from Delmar, Del., to points in Cecil, Kent, Queen Annes, Talbot, and Caroline Counties, Md., for 180 days. Supporting shipper: George W. Brinsfield, Red-White Mills, Inc., Delmar, Del. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 814-B Federal Building, Baltimore, Md. 21201.

No. MC 9269 (Sub-No. 16 TA), filed October 30, 1972. Applicant: BEST WAY MOTOR FREIGHT, INC. (Wash. Corp.), 1765 Sixth Avenue South, Seattle, WA 98134. Applicant's representative: George R. LaBissoniere, 1424 Washington Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except articles of unusual value, commodities in bulk, household goods as defined by the Commission, and articles which because of their size or weight require the use of special equipment, between Moses Lake, Wash., and Ephrata, Wash., via State Highway 282 and thence via State Highway 28 to Soap Lake, Wash., and thence via Highway 17 to the junction of State Highway 282, from Ephrata over State Highway 28 to Quincy, Wash., and return over the same route also via State Highway 281 to its junction with Interstate Highway 90 as an alternate route via Interstate Highway 90 to Moses Lake for operating convenience only, for 180 days. NOTE: Authority requested to tack with existing authority authorized in Docket MC 9269 (Sub-No. 14 TA), which is unrestricted as to tacking or interlining and also for permission to interline with other carriers at Moses Lake, Wash. Supported by: There are approximately 25 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: L. D. Boone, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6049 Federal Office Building, Seattle, Wash. 98104.

No. MC 19227 (Sub-No. 172 TA), filed October 25, 1972. Applicant: LEONARD BROS. TRUCKING CO., INC., 2595 Northwest 20th Street, Miami, FL 33142. Applicant's representative: J. Fred Dewhurst (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Equipment shelters*, from Port Jervis, N.Y., to Austin, Tex., for 180 days. Supporting shipper: Skvdyne, Division of Brooks & Perkins, Inc., River Road, Port Jervis, N.Y. 12771. Send protests to: District Supervisor, Joseph B. Teichert, Bureau of Operations, Interstate Commerce Commission, 5720 Southwest 17th Street, Room 105, Miami, FL 33155.

No. MC 29821 (Sub-No. 4 TA), filed October 30, 1972. Applicant: NEWBERG AUTO FREIGHT, INC., 408 West First Street, Newberg, OR 97132. Applicant's representative: Lawrence V. Smart, Jr., 419 Northwest 23d Avenue, Portland, OR 97210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper-mill machine parts*, between Newberg, Oreg., and points in King and Cowlitz Counties, Wash., for 180 days. Supporting shipper: Publishers Paper, Post Office Box 70, Newberg, OR 97132. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 30844 (Sub-No. 436 TA), filed October 24, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Zip 50702, Post Office Box 500, Waterloo, IA 50704. Applicant's representative: Paul Rhodes (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, from Quincy, Ill., to Solon, Ohio, for 180 days. Supporting shipper: Stouffer Foods, 5750 Harper Road, Solon, OH 44139. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 30844 (Sub-No. 437 TA), filed October 30, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Zip 50702, Post Office Box 500, Waterloo, IA 50704. Applicant's representative: Paul Rhodes (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plant machinery, equipment, materials and supplies, metal and plastic boxes, metal cabinets, metal chests, and hospital carts*, between Waterloo, Iowa, and Pocahontas, Ark., for 180 days. Supporting shipper: Waterloo Industries, Inc., Post Office Box 209, Waterloo, IA

50704. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 32367 (Sub-No. 21 TA), filed October 31, 1972. Applicant: RED & WHITE MARKET & TRANSFER, INC., (Nebr. Corp.), 607 South Burlington Avenue, Hastings, NE 68901. Applicant's representative: Gailyn L. Larsen, Box 80806, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Engines and parts and accessories thereof*, from Port Huron, Lansing, and Farmington, Mich., to Hastings, Nebr.; and (2) *fabricated sheet metal*, from Auto Sheet Metal Co., a Division of Leer Ziegler, at or near, Detroit, Mich., to Hastings, Nebr., for 180 days. Supporting shipper: Charles C. Osborne, President Industrial-Irrigation Services, 221 East J Street, Hastings, NE 68901. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 320 Federal Building, and Courthouse, Lincoln, NE 68508.

No. MC 35807 (Sub-No. 26 TA), filed November 6, 1972. Applicant: WELLS FARGO ARMORED SERVICE CORPORATION, Mailing: Post Office Box 4313 (30302), 210 Baker Street NW., Atlanta, GA 30313. Applicant's representative: Melvin E. Ballet (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, and written instruments* (except coin, currency, and negotiable securities) as are used in banking operations, between Philadelphia, Pa., on the one hand, and, on the other, points in Delaware and those in Mercer, Burlington, Ocean, Camden, Gloucester, Atlantic, Salem, Cumberland, and Cape May Counties, N.J., for 180 days. Supporting shipper: Federal Reserve Bank of Philadelphia, Philadelphia, Pa. 19101. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 42146 (Sub-No. 14 TA), filed October 28, 1972. Applicant: A. G. BOONE COMPANY, 1117 South Clarkson Street, Charlotte, NC 28208. Applicant's representative: A. G. Boone (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, *equipment, materials and supplies* used in the conduct of such business, between points in North Carolina, on the one hand, and, on the other, points in Duval County, Fla., Chatham, Glynn, and Walker Counties, Ga., Beaufort County, S.C., and Anderson, Blount, Hamblen, Hamilton, Knox, McMinn, and Roane Counties, Tenn., for 180 days. Supporting shipper: The Great Atlantic and Pacific Tea Co., Inc., 2024 Thrift Road, Post Office Box 1209, 28201, Charlotte, NC. Send protests to: Frank H. Wait, Jr., Interstate Commerce Commission, Bureau of Operations, Suite 417, BSR Building, 316 East Morehead Street, Charlotte, NC 28202.

No. MC 44639 (Sub-No. 61 TA), filed October 26, 1972. Applicant: L. & M. EXPRESS CO., INC., 220 Ridge Road, Lyndhurst, NJ 07071. Applicant's representative: Herman B. J. Weckstein, 60 Park Place, Newark, NJ 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials and supplies* used in the manufacture of wearing apparel, between Boydton, Va., on the one hand, and, on the other, Crewe, Va., and New York, N.Y., commercial zone, for 180 days. NOTE: Applicant states it does intend to tack with the authority in MC 44639 at New York, N.Y. Supporting shipper: Tarri Towne Casuals, Inc., 1370 Broadway, New York, NY 10018. Send protests to: District Supervisor Robert E. Johnston, Interstate Commerce Commission, Bureau of Operations, 970 Broad Street, Newark, NJ 07102.

No. MC 103993 (Sub-No. 737 TA), filed October 24, 1972. Applicant: MORGAN DRIVE-AWAY, INC., 2800 Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul D. Borghesani (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from points in Herkimer County, N.Y., to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Highland Homes, Inc., 340 Harter Street, Herkimer, NY. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne Street, Room 204, Fort Wayne, IN 46802.

No. MC 113908 (Sub-No. 243 TA), filed October 25, 1972. Applicant: ERICKSON TRANSPORT CORPORATION, Post Office Box 3180, Glenstone Station, 2105 East Dale Street, Springfield, MO 65804. Applicant's representative: B. B. Whitehead (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors*, in bulk, in tank vehicles, from Auburndale, Lake Alfred, and Winterhaven, Fla., to Peoria, Ill., and Schaefferstown, Pa. (except brandy and wine from Lake Alfred, Fla., to Peoria, Ill., and *brandy, wine, and rum* from Lake Alfred, Fla., to Schaefferstown, Pa.), *refused and/or rejected shipments on return*, for 180 days. Supporting shipper: Hiram Walker & Sons, Inc., foot of Edmond Street, Peoria, Ill. 61601. Send protests to: John V. Barry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 114553 (Sub-No. 265 TA), filed October 30, 1972. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, IL 60632. Applicant's representative: Stanley Komosa (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Graphic arts material*, between Topeka, Kans., on the one hand, and, on the other, points in Platte, Jackson, Clay, Cass, Newton, Jasper, Greene, Cole, Boone, and Callaway Counties, Mo., Osage, Tulsa, Creek, Washington, Oklahoma, McLaire, and Canadian Counties, Okla., Lancaster, Douglas, Sarphy, and Richardson Counties, Nebr., for 180 days. Supporting shipper: General Printing & Paper, Inc., 305 East 17th Street, Post Office Box 268, Topeka, KS. Send protests to: District Supervisor R. G. Anderson, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 115814 (Sub-No. 8 TA), filed October 25, 1972. Applicant: MARK TRUCKING, INC., Trella Street, Post Office Box 5701, Belleville, PA 17004. Applicant's representative: James W. Hagar, 100 Pine Street, Harrisburg, PA 17108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs and food preparations*, from Belleville, Pa., to points in New Jersey and Conshocton, Ohio, under a continuing contract with Abbotts Dairies, Division of Fairmont Foods Corp.; (2) *salt*, except in bulk, from Watkins Glen, N.Y., and *dicalcium phosphate*, except in bulk, from Camden, N.J., to Reedsville, Pa., under a continuing contract with Belleville Flour Mills Co.; and (3) *salt*, except in bulk, from Watkins Glen, N.Y., *and dicalcium phospate*, except in bulk, from Camden, N.J., to Reedsville, Pa., under a continuing contract with Reedsville Milling Co., for 180 days. Supporting shippers: Abbotts Dairies Co., Belleville, Pa. 17004; Belleville Flour Mills Co., Belleville, Pa. 17004; Reedsville Milling Co., Reedsville, Pa. 17084. Send protests to: Robert W. Ritenour, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 508 Federal Building, Post Office Box 869, Harrisburg, PA 17108.

No. MC 124078 (Sub-No. 532 TA), filed October 13, 1972. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215, Applicant's representative. Richard H. Prevette (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground limestone*, in bulk, from Cartersville, Ga., to Romeo, Mich., for 180 days. Supporting shipper: Thompson, Weinman & Co., Post Office Box 130, Cartersville, GA 30120 (Willis S. Brunson, Traffic Manager). Send protests to: District Supervisor John E. Ryden, Bureau of Operations, Interstate Commerce Commission, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 128217 (Sub-No. 6 TA), filed October 25, 1972. Applicant: REINHART MAYER, doing business as MAYER

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TRUCK LINE, 1203 South Riverside Drive, Jamestown, ND 58401. Applicant's representative: James B. Hovland, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* for the account of Richardton Machine & Manufacturing Co., Inc., from the Chicago, Ill., Minneapolis, Minn., and Duluth, Minn., commercial zones to Richardton, N. Dak., for 180 days. Supporting shipper: Richardton Machine & Manufacturing Co., Inc., Richardton, N. Dak. 58652. Send protests to: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 2340, Fargo, N. Dak. 58102.

No. MC 129594 (Sub-No. 3 TA), filed October 24, 1972. Applicant: TRIPLE "D" CARTAGE, INC., 1004 11th Street NE., Mason City, IA 50401. Applicant's representative: Clayton L. Wornson, 206 Brick & Tile Building, Mason City, Iowa 50401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, except in bulk, and in connection therewith, *equipment, materials and supplies* used in the conduct of such business, except in bulk, from Mason City, Iowa, to points in that part of Minnesota on and north of Minnesota Highway 19 and on and south of a line extending from Ortonville, Minn., on the west; thence over U.S. Highway 12 easterly to Benson, Minn.; thence over Minnesota Highway 9 to New London, Minn.; thence over Minnesota Highway 23 to its intersection with Minnesota Highway 48 south of Hinckley, Minn.; thence over Highway 48 to the Minnesota-Wisconsin border (except Litchfield and St. Cloud, Minn., heretofore authorized), *with return of the same commodities* from Ortonville, Cokato, St. Cloud, Glencoe, New Prague, Hastings, Arlington, LeSuer, Faribault, Forest Lake, and Minneapolis-St. Paul commercial zone, Minn., to Mason City, Iowa, for 180 days. Supporting shipper: Farm House Foods Corp., Post Office Box 1377, Mason City, IA 50401. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 133097 (Sub-No. 1 TA), filed October 16, 1972. Applicant: HAHN TRANSPORTATION, INC., New Market, Md. 21774. Applicant's representative: Francis J. Ortman, 1100 17th Street NW., Suite 613, Washington, DC 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gasoline*, in bulk, in tank vehicles, from Baltimore, Md., to the gasoline stations of Cheker Oil Co. in Winchester, Va., and Harrisburg, Pa., for 180 days. Supporting shipper: Cheker Oil Co., 2701 Jackson Avenue, Post Office Box 216, South Chicago Heights, IL 60411. Send protests to: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th Street and Constitution Avenue NW., Washington, D.C. 20423.

No. MC 134588 (Sub-No. 3 TA), filed October 12, 1972. Applicant: VIKING WAY, INC., Post Office Box 2256, Office: 131 West Seventh Street, Ogden, UT 84404. Applicant's representative: Philip C. Pugsley, 315 East Second South Street, Salt Lake City, UT. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and dairy products*, in refrigerated vans, from Logan, Utah, to Los Angeles, Sacramento, and San Francisco, Calif., and *return shipments of occasionally rejected or unsatisfactory cheese and dairy products* in refrigerated vans, for 180 days. Supporting shipper: Dairy Distributors, Inc., 1000 North Tenth West, Logan, UT 84321 (Edwin Gossner, President). Send protests to: District Supervisor Lyle D. Helfer, Bureau of Operations, Interstate Commerce Commission, 5239 Federal Building, 125 South State Street, Salt Lake City, UT 84111.

MOTOR CARRIERS OF PASSENGERS

No. MC 2890 (Sub-No. 46 TA), filed October 30, 1972. Applicant: AMERICAN BUSLINES, INC., Post Office Box 730, Office: 300 South Broadway Avenue, Wichita, KS 67201. Applicant's representative: C. Zimmerman, Brown Building, Wichita, Kans. 67201. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, in the same vehicle, in special operations, between Fort Leonard Wood, Mo., and Memphis, Tenn., from Fort Leonard Wood, Mo., over Missouri Highway A–W to junction Missouri State Highway 17, thence over Missouri State Highway 17 to junction U.S. Highway 63 at Houston, Mo., thence over U.S. Highway 63 to junction Interstate Highway 55 at Turrell Junction, Ark., thence over Interstate Highway 55 to Memphis, Tenn., serving no intermediate points, and returning over the same route, for 60 days. NOTE: Applicant will interline with other carriers at Memphis, Tenn. Supported by: Several Service Men. Send Protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, Kans. 67202.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-19922 Filed 11-17-72;8:50 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

TAX TREATMENT OF CONTRIBUTIONS OF APPRECIATED PROPERTY TO COMMITTEES OF POLITICAL PARTIES

Notice of Extension of Time for Comments

A notice permitting the submission of written comments or suggestions relating to the tax treatment of contributions of appreciated property to committees of political parties appeared in the FEDERAL REGISTER for Thursday, October 19, 1972 (37 F.R. 22427).

Written comments or suggestions were required by November 20, 1972. The time for submission of written comments or suggestions pertaining to the above-mentioned subject is hereby extended to December 15, 1972.

LEE H. HENKEL, JR., *Chief Counsel.*

[FR Doc.72-20097 Filed 11-17-72;11:07 am]

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during November.

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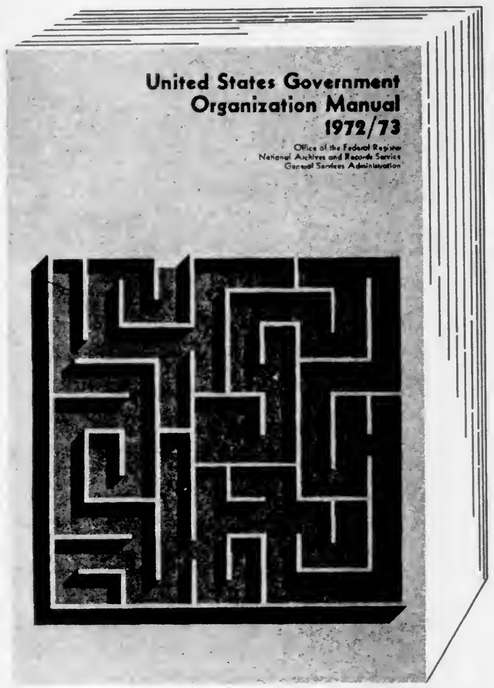

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federal register

TUESDAY, NOVEMBER 21, 1972

WASHINGTON, D.C.

Volume 37 ■ Number 225

Pages 24725–24806

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Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Title 3—The President

PROCLAMATION 4172

National Family Week

By the President of the United States of America

A Proclamation

As prospects brighten for a lasting peace in the world, we can hope to approach more closely the age-old ideal of a single, harmonious family of man.

As we work toward that great goal, however, we must never forget that our starting point—the center of our affections and the wellspring of our self-renewal—must be the basic family circle. Parent and child, husband and wife, brother and sister, all truly mean "home" to every human being.

No institution can ever take the family's place in giving meaning to human life and a stable structure to society; indeed, as a wise philosopher observed thousands of years ago, "the root of the state is in the family." The pressures of our modern age make this a time of challenge for families in America, but every community has its inspiring examples of families which have risen to the demand and made the time of challenge a time of glory.

Our long-cherished American observances of Mother's Day and Father's Day are fittingly complemented by this new idea of a National Family Week, which this year will coincide with the Thanksgiving holiday—a time when families traditionally reunite, and when the family unit itself should stand high on that list of blessings for which we offer our thanks to God.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, in consonance with House Joint Resolution 135, do hereby proclaim the week beginning Sunday, November 19, 1972, as National Family Week. I invite the Governors of the several States, the chief officials of local governments, and all the people of the United States to mark this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of November, in the year of our Lord nineteen hundred seventy-two, and of the Independence of the United States of America the one hundred ninety-seventh.

Richard Nixon

[FR Doc.72-20207 Filed 11-20-72;11:55 am]

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MEMORANDUM OF NOVEMBER 13, 1972

[Presidential Determination No. 73-7]

Presidential Determination—Spain

Memorandum for the Secretary of State

THE WHITE HOUSE,
Washington, November 13, 1972.

In accordance with the recommendation in your memorandum of August 7, I hereby:

(a) Determine, pursuant to Section 614(a) of the Foreign Assistance Act of 1961, as amended, that authorization of the use of up to $10 million of funds available in FY 1973 for the grant of defense articles and services, together with excess defense articles, to Spain without regard to the limitation of Section 620(m) of the Act is important to the Security of the United States; and

(b) Authorize, pursuant to Section 614(a) of the Act, such use of up to $10 million of funds for the grant of defense articles and services, together with excess defense articles, to Spain without regard to the limitation of Section 620(m) of the Act.

You are requested on my behalf to report this determination to the Senate and the House of Representatives within thirty days.

Richard Nixon

[FR Doc.72-20179 Filed 11-20-72;11:11 am]

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Rules and Regulations

Title 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Lemon Reg. 559, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 36 F.R. 9061), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

(b) *Order, as amended.* The provision in paragraph (b) (1) of § 910.859 (Lemon Regulation 559, 37 F.R. 24025) during the period November 12 through November 18, 1972, is hereby amended to read as follows:

§ 910.859 Lemon Regulation 559.

* * * * *

(b) *Order.* (1) * * * 190,000 cartons.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 15, 1972.

ARTHUR E. BROWNE,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-19981 Filed 11-20-72;8:48 am]

[Amdt. 1]

PART 966—TOMATOES GROWN IN FLORIDA

Limitation of Shipments

Notice of rule making with respect to a proposed amendment to the limitation of shipments regulation, to be made effective under Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR Part 966), regulating the handling of tomatoes grown in the Florida production area, was published in the FEDERAL REGISTER of November 4, 1972 (37 F.R. 23552). This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

The notice afforded interested persons an opportunity to file written data, views, or arguments pertaining thereto not later than November 10, 1972. None was filed.

After consideration of all relevant matters, including the proposal set forth in the aforesaid notice, which was recommended by the Florida Tomato Committee, established pursuant to said marketing agreement and order, it is hereby found and determined that this amendment will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this amendment until 30 days after its publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) Tomatoes grown in the production area are now being marketed and increased volume of shipments is expected beginning on or about the effective date hereof; (2) compliance with this amendment will not require any special preparation by handlers which cannot be completed by the effective date; and (3) notice hereof has been made available to interested persons and by publication in the FEDERAL REGISTER of November 4, 1972.

This amendment reduces the minimum and maximum diameters of each size classification presently in effect by 1/32 of an inch. This reduction will result in the Florida tomato industry's size classifications becoming closer to those used in other tomato producing areas while still remaining within the size arrangements set forth in § 51.1860 of the United States Standards for Grades of Tomatoes.

Regulation, as amended. In § 966.310 (37 F.R. 21423), the size classification paragraphs are amended to read as follows:

§ 966.310 Limitation of shipments.

* * * * *

(a) * * *

(1) * * *

Size classification:	*Diameter (inches)*
7 by 8	2 1/32 and smaller.
7 by 7	Over 2 1/32 to 2 9/32, inclusive.
6 by 7	Over 2 9/32 to 2 17/32, inclusive.
6 by 6	Over 2 17/32 to 2 27/32, inclusive.
5 by 6 and larger	Over 2 27/32.

Measurement of diameters shall be in accordance with the methods prescribed in the U.S. Standards for Grades of Fresh Tomatoes (§§ 51.1855 to 51.1877 of this title).

(2) Tomatoes of designated sizes may not be commingled unless they are over 2 17/32 inches in diameter and each container shall be marked to indicate the designated size.

(3) To allow for variations incident to proper sizing, not more than a total of ten (10) percent, by count, of the tomatoes in any lot may be smaller than the specified minimum diameter or larger than the maximum diameter.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: To become effective November 27, 1972.

Dated: November 16, 1972.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-20056 Filed 11-20-72;8:54 am]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., 1972-Crop Peanut Farm-Stored Loan and Purchase Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Peanut Loan and Purchase Program; Correction

F.R. Document 72-15960, published at page 19352 in the issue dated September 20, 1972, is corrected by changing the "Dollars per ton" for "Southwest Spanish" in the table under § 1421.294 (a) from "274" to "276."

Signed at Washington, D.C., on November 14, 1972.

KENNETH E. FRICK,
Executive Vice President, Commodity Credit Corporation.

[FR Doc.72-20059 Filed 11-20-72;8:55 am]

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Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS; EXTRAORDINARY EMERGENCY REGULATION OF INTRASTATE ACTIVITIES

[Docket No. 72-583]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, a new paragraph (e)(4) relating to the State of New Jersey is added to read:

(e) • • •

(4) *New Jersey.* That portion of the State of New Jersey comprised of all of Gloucester County.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended, 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment quarantines all of Gloucester County, N.J., because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined area.

The amendment imposes certain further restrictions necessary to prevent the interstate spread of hog cholera, and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rule-making proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable, unnecessary and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 16th day of November 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-20060 Filed 11-20-72;8:55 am]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 2—RULES OF PRACTICE

Time for Filing Proposed Findings of Fact and Conclusions of Law

The Atomic Energy Commission has adopted an amendment to its rules of practice, 10 CFR Part 2, pertaining to the time within which parties to an adjudicatory proceeding must file proposed findings of fact and conclusions of law after the close of the record.

The rules of practice now provide § 2.754 for the filing of such proposed findings and conclusions and briefs within 20 days after the record is closed by the party who has the burden of proof, such as a license applicant. Other parties then have 20 days thereafter to file proposed findings and conclusions and briefs, except that the regulatory staff has 25 days. The party who has the burden of proof may reply within 10 days after service of proposed findings and conclusions and briefs by other parties.

Section 2.754 has been amended to provide that the party who has the burden of proof shall file proposed findings of fact and conclusions of law and briefs within 15 days after the close of the record, while other parties, except the regulatory staff, may file such proposed findings and conclusions and briefs within 25 days after the close of the record. The regulatory staff has 30 days after the close of the record to file proposed findings and conclusions and briefs. The party who has the burden of proof may reply within 5 days after service of the proposed findings and conclusions and briefs of the other parties. Conforming amendments have been made to appendix A of Part 2. The amendments are expected to result in greater expedition in Commission adjudicatory proceedings without impairing the rights of any party.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 2, are published as a document subject to codification to be effective 30 days after publication in the FEDERAL REGISTER.

1. Paragraph (b) of § 2.754 is amended to read as follows:

§ 2.754 Proposed findings and conclusions.

• • • • •

(b) Except as otherwise ordered by the presiding officer:

(1) The party who has the burden of proof shall, within fifteen (15) days after the record is closed, file proposed findings of fact and conclusions of law and briefs, and a proposed form of order or decision.

(2) Other parties may file proposed findings, conclusions of law and briefs within twenty-five (25) days after the record is closed. However, the regulatory staff may file such proposed findings, conclusions of law and briefs within thirty (30) days after the record is closed.

(3) A party who has the burden of proof may reply within five (5) days after service of proposed findings and conclusions of law and briefs by other parties.

• • • • •

2. Paragraph (g)(3) of section V of appendix A is amended to read as follows:

V. THE HEARING

• • • • •

(g) Close of hearing:

• • • • •

(3) A schedule should be set by the board and recorded, either in the transcript or by written order, of the dates upon which the parties are directed by the board to file proposed findings of fact and conclusions of law. In uncontested cases, the proposed findings will ordinarily be extremely brief. In contested proceedings, proposed findings of fact and conclusions of law submitted by the parties may be more detailed. While brevity in such submissions is encouraged, the proposed findings and conclusions should be such as to reflect the position of parties submitting them, and the technical and factual basis therefor.

• • • • •

(Sec. 161; 68 Stat. 948, as amended; 42 U.S.C. 2201)

Dated at Germantown, Md., this 6th day of November 1972.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.72-19942 Filed 11-20-72;8:45 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 72-GL-58]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to revise the La Crosse, Wis., control zone.

The non-Federal owned RBN at La Crosse, Wis., has been decommissioned and the instrument approach procedure based on this NAVAID has been canceled. This action will require revision of the La Crosse control zone deleting the portion based on the RBN.

Since this alteration will reduce the amount of designated controlled airspace at La Crosse, Wis., it will not impose any additional burden on any person. Therefore, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective immediately, as hereinafter set forth:

In § 71.171 (37 F.R. 2056), the following control zone is amended to read:

LA CROSSE, WIS.

That airspace within a 5-mile radius of La Crosse Municipal Airport (latitude 43°52'-38" N., longitude 91°15'21" W.); within 3 miles each side of the La Crosse VOR 322° radial extending from the 5-mile-radius zone to 11½ miles northwest of the VOR; and within 2½ miles each side of the La Crosse VOR 185° radial extending from the 5-mile-radius zone to 5½ miles south of the VOR; and within 2 miles each side of the La Crosse ILS localizer north course, extending from the 5-mile-radius zone to 9 miles north of the airport.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Des Plaines, Ill., on October 31, 1972.

LYLE K. BROWN,
Director, Great Lakes Region.

[FR Doc.72-19962 Filed 11-20-72;8:47 am]

[Airspace Docket No. 72-NW-19]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

On September 30, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 20572) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Pocatello, Idaho control zone.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. Due consideration was given to all relevant matter presented.

Objections were received from several interested parties including the Power County Airport Board and the State of Idaho Department of Aeronautics. The objections concerned the inclusion of the American Falls Airport into the Pocatello control zone. The substance of the objections was in regard to the difference in weather conditions between the two airports. They said the American Falls Airport often has VFR weather when the Pocatello Municipal Airport has IFR weather due to local conditions at Pocatello.

A review of the proposed amendment disclosed that the deletion of the American Falls Airport from the description of the control zone would have no adverse effect upon the IFR operations using the Pocatello Municipal Airport LOC/DME (BC) Runway 3 Approach.

Accordingly that airspace within 1-mile radius of the American Falls Airport is deleted from the amendment. Since this change is less restrictive in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, the proposed amendment is hereby adopted subject to the following change:

After the phrase, "• • • southwest of the VORTAC" delete "and" and substitute "excluding" therefor.

Effective date. This amendment shall be effective 0901 G.m.t., February 1, 1973.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Seattle, Wash., on November 9, 1972.

C. B. WALK, JR.,
Director, Northwest Region.

In § 71.171 (37 F.R. 2056) the description of the Pocatello, Idaho control zone is amended as follows:

To the existing description add "• • • that airspace within 5 miles each side of the Pocatello VORTAC 225 radial extending from the 5-mile radius to 10½ miles southwest of the VORTAC excluding that airspace within a 1-mile radius of the American Falls Airport (latitude 42°48'00" N., longitude 112°49'30" W.), American Falls, Idaho."

[FR Doc.72-19961 Filed 11-20-72;8:46 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-2305]

PART 13—PROHIBITED TRADE PRACTICES

AAMCO Automatic Transmissions, Inc.

Subpart—Cutting off access to customers or market: § 13.535 *Contracts restricting customers' handling of competing products;* § 13.540 *Forcing goods.* Subpart—Cutting off supplies or service: § 13.655 *Threatening disciplinary action or otherwise.* Subpart—Dealing on exclusive and tying basis: § 13.670 *Dealing on exclusive and tying basis:* 13.670–20 Federal Trade Commission Act. Subpart—Enforcing dealings or payments wrongfully: § 13.1045 *Enforcing dealings or payments wrongfully.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, AAMCO Automatic Transmissions, Inc., Bridgeport, Pa., Docket No. C-2305, Oct. 18, 1972]

In the Matter of AAMCO Automatic Transmissions, Inc., a Corporation

Consent order requiring a Bridgeport, Pa., franchisor of automobile automatic transmissions and related parts and services, among other things to cease requiring its franchisees to purchase the parts, equipment, merchandise, or services used by such franchisees in the establishment and operation of their businesses solely from respondent. The order further requires respondent to compile an approved vendor list and to allow franchisees to purchase from any vendor on it, provided said vendors comply with the quality control program set forth in the order.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

I. *It is ordered,* That respondent, AAMCO Automatic Transmissions, Inc. (AAMCO), a corporation, its successors, assigns, officers, directors, agents, representatives, directly or through any corporate or other device, in connection with the franchising of automotive transmission repair franchisees and the operation of an automotive repair franchisor business, such franchising and operation constituting commerce, as "commerce" is defined in the Federal Trade Commission Act, forthwith cease and desist from requiring, in any manner or by any means, directly or indirectly, its franchisees to purchase the automotive parts, new or rebuilt, equipment, merchandise or services used by such franchisees in the establishment and operation of their automotive repair businesses from AAMCO or from any other source except as hereinafter provided.

II. *It is further ordered,* That respondent take all necessary action to effect the cancellation of each provision of every contract between it and its franchisees which is contrary to or inconsistent with any provision of this order.

III. *It is provided,* That nothing in the order shall prohibit AAMCO, a corporation, its successors, assigns, officers, directors, agents, representatives, and employees, from restricting the sources from which the franchisees of AAMCO are permitted to purchase the new or rebuilt automotive parts, equipment or merchandise used in their operations as franchisees of AAMCO in accordance with the following quality control program.

A. (1) Respondent shall compile a list of approved new automobile transmission parts vendors. All such vendors who desire to be placed on the approved vendor list, who certify in writing to AAMCO that their secondary level of parts inspection is equivalent to AAMCO's and who actually perform a secondary level of parts inspection equivalent to that performed by AAMCO, as described in AAMCO's Quality Control Manual, which shall be made available to prospective vendors, shall be placed on the approved vendor list. For the purposes of this order, a "secondary level of inspection" is defined as a quality control procedure whereby automobile transmission parts are tested and inspected by the vendor prior to their sale. Those vendors who manufacture any of the parts which they sell shall be considered to

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have the required secondary level of inspection if they have a quality control procedure whereby their parts prior to sale are subjected to an inspection equivalent to that performed by AAMCO.

(a) In order to allow AAMCO to ascertain the comparability of the secondary level of inspection of a vendor who desires to be placed on the approved vendor list, AAMCO shall be allowed to require that such vendor permit AAMCO to make a reasonable inspection of its quality control program.

(b) Any question as to the equivalency of a vendor's secondary level of inspection which is raised at any time by AAMCO shall be resolved by the determination of an independent testing laboratory, selected by the Commission, with the costs being borne by the vendor. AAMCO shall raise such question only when there is a reasonable basis therefore and after AAMCO has inspected the vendor's quality control program. Whenever such a question is raised by AAMCO, respondent shall submit to the Commission a statement as to what basis exists upon which to question the equivalency of the vendor's secondary level of inspection. When such a question is raised by AAMCO the vendor shall not be placed on the approved list pending the resolution of the question of the comparability of the vendor's secondary level of inspection. A vendor who is found not to have the requisite inspection program shall be afforded an opportunity to cure any defects in his program and to request at that time that he be placed on the approved vendor list subject to the criteria enumerated heretofore.

(c) Respondent shall forward a copy of the initial approved vendor list to the franchisees of AAMCO and shall publish such list every six (6) months in a publication, such as the "Twin Post," which is periodically sent to every franchisee of AAMCO.

(2) Respondent shall allow the franchisees of AAMCO to purchase from AAMCO or any person on the approved vendor list the new automobile transmission parts used in their businesses which comply with AAMCO's published specifications. In addition, AAMCO shall allow its franchisees to purchase new automobile transmission parts from all vendors who have qualified to be placed on the approved vendor list prior to the next publication of the list. Such specifications shall be made available to any vendor who is on, or desires to be placed on the approved vendor list.

(a) Any disputes as to whether an approved vendor's parts comply with AAMCO's published specifications, such disputes to be raised by AAMCO only where a reasonable basis for such dispute exists, shall be settled by testing by an independent testing laboratory selected by the Commission at the vendor's expense. Respondent shall submit a statement as to the basis for such question to the Commission. Pending the results of such tests, AAMCO may prohibit its franchisees from purchasing or using the specific parts whose compliance with AAMCO's published specifications is questioned. Vendors shall be given an opportunity to cure any noncompliance by resubmitting the parts in question to an independent testing laboratory selected by the Commission for testing at the Vendor's expense.

(b) The purchase contracts and/or purchase orders between the AAMCO franchisees and the vendors from whom they purchase such parts, and the invoices of such vendors, shall specify that such parts comply with AAMCO's published specifications and that they have undergone the requisite secondary level of inspections.

(3) None of the above provisions shall prohibit respondent from requiring that the franchisees of AAMCO purchase in kit form new automobile transmission parts. Respondent shall provide every vendor who desires to be placed on the approved vendor list with information as to the composition of kits then sold by respondent. Respondent shall also inform all vendors on the approved vendor list of all changes in the composition of kits sold by respondent.

(4) In order to be placed on the approved vendor list and to sell new automobile transmission parts to AAMCO franchisees, a vendor shall not be required by respondent: To perform a quality control program different than that which AAMCO performs on the parts which AAMCO sells to its franchisees; to sell in kit form those parts which AAMCO sells to its franchisees in other than kit form; to sell kits whose composition is different than the kits AAMCO sells; or to comply with AAMCO's published specifications for specific parts where AAMCO does not itself comply with its own published specifications for these parts which it sells to its franchisees.

B. (1) Respondent shall formulate, establish, and publish reasonable standards and specifications for equipment, merchandise, and rebuilt automotive transmission parts, i.e., those parts, such as torque converters, which are customarily rebuilt and which are customarily purchased by AAMCO franchisees for use in transmission repairs, indicating the quality which they desire for such parts, equipment and merchandise in order to protect and maintain the quality of rebuilt parts, equipment, and merchandise used by franchisees of AAMCO. Respondent shall forthwith forward any such standards and specifications to the persons named in Attachment A, as well as make such standards and specifications available to any manufacturer or wholesaler of rebuilt automotive parts, equipment, or merchandise requesting same.

(2) Respondent shall formulate, establish, and publish a list of approved manufacturers whose rebuilt parts, equipment, or merchandise comply with respondent's published standards and specifications and indicate which of such manufacturers' rebuilt parts, equipment, or merchandise are in compliance. Such list shall be forthwith forwarded to the persons named in Attachment A. Such list shall be published every six (6) months in the "Twin Post," or any publication which is periodically sent to every franchisee of AAMCO, and, in addition, be made available to any manufacturer or wholesaler of rebuilt automotive parts, equipment, or merchandise requesting same.

(a) The manufacturers of rebuilt automotive parts, equipment, or merchandise whose parts, equipment, or merchandise AAMCO, as of the date this order becomes effective, buys, or whose rebuilt parts, equipment, or merchandise are distributed by AAMCO, as of the date this order becomes effective, shall be placed on the approved manufacturers list for such parts, equipment, or merchandise as are purchased or distributed by AAMCO.

(b) Respondent shall place on the approved manufacturer list all manufacturers of rebuilt automotive parts, equipment, or merchandise, in addition to those described above in (a), who comply with the following:

(i) Such manufacturers desiring to be placed on the approved manufacturers list shall represent to AAMCO that the rebuilt parts, equipment, or merchandise for which they desire to be approved meet AAMCO's published standards and specifications.

(ii) Any disputes as to whether a manufacturer's equipment, merchandise, or rebuilt parts substantially comply with AAMCO's published specifications, such disputes to be raised by AAMCO only where a reason for such dispute exists, shall be settled by an independent testing laboratory chosen by the Federal Trade Commission at the manufacturer's expense. Respondent shall submit a statement as to the basis for such question to the Commission.

(iii) All such manufacturers shall be placed on AAMCO's approved manufacturer list for the rebuilt parts, equipment, or merchandise involved if such parts, equipment, or merchandise of the manufacturer are found to comply with AAMCO's published standards and specifications.

(3) If at any time the respondent has a reasonable basis upon which to question whether the equipment, merchandise, or rebuilt parts of an approved manufacturer comply with AAMCO's published specifications, said manufacturer shall be removed from the approved manufacturer list for the specific equipment, merchandise, or rebuilt parts involved. Respondents shall submit a statement as to the basis for such question to the Commission.

(a) Any dispute as to whether an approved manufacturer's equipment, merchandise, or rebuilt parts comply with AAMCO's published specifications shall

be settled by testing at the manufacturer's expense by an independent testing laboratory, selected by the Commission. Such manufacturer shall be afforded the opportunity for cure established heretofore in III A(2)(a) of this order.

(4) In order to be placed on the approved manufacturer list and to sell specific equipment, merchandise, or rebuilt parts to AAMCO franchisees, a manufacturer shall not be required by respondent to comply with AAMCO's published specifications for specific equipment, merchandise, or rebuilt parts where AAMCO does not itself comply with its own published specifications for these items which it sells to its franchisees.

(5) Respondent shall allow franchisees of AAMCO to purchase the rebuilt parts, equipment, or merchandise of a manufacturer who is on the approved manufacturers list for such parts, equipment, or merchandise. In addition, AAMCO shall allow its franchisees to purchase rebuilt parts, equipment, or merchandise from all manufacturers who have qualified to be placed on the approved manufacturer list prior to the next publication of the list. The purchase contracts and/or purchase orders between AAMCO franchisees and the sources from which they purchase approved rebuilt automotive parts, equipment, or merchandise shall specify that the rebuilt parts, equipment, or merchandise being purchased are manufactured by a company on the approved manufacturers list for such parts, equipment, or merchandise. The invoices of the sources from which AAMCO franchisees purchase approved parts, equipment, or merchandise shall specify that such parts, equipment, or merchandise are manufactured by a company on the approved manufacturer list for such parts, equipment, or merchandise.

IV. Respondent shall be allowed to require that the franchisees of AAMCO submit to AAMCO sufficient information to enable AAMCO to determine if the individual franchisees are using equipment, merchandise, and new and rebuilt transmission parts which comply with the procedures set forth in this order. Respondent shall also be allowed to require compliance with this provision in a reasonable manner.

V. *It is further ordered*, That respondent shall forthwith forward a copy of this order and of attached letter "A" to each present and future franchisee of AAMCO and to the persons named in Attachment A.

VI. *It is further ordered*, That respondent within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

VII. *It is further ordered*, That respondent notify the Commission at least thirty (30) days after any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

Issued: October 18, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

ATTACHMENT A

Ajac Trans., 50 Lawrence Avenue, Brooklyn, NY.
All-O-Matic, 2009 Jericho Turnpike, New Hyde Park, NY.
Alloy, 3205 South Shields Avenue, Chicago, IL.
Anchor Industries, Inc., 1725 London Road, Cleveland, OH 44112.
Approved Machinery Corp., Post Office Box 1231, Natchez, MS 39120.
Ashco Automotive, Inc., 528 East Second Street, Muscle Shoals, AL 35660.
Autolite Ford Parts Division, Private Brand Sales, Post Office Box 3000, Livonia MI.
Barney & White Auto Parts Co., 1009 McKinley Avenue, Columbus, OH.
Borg Warner Service Parts Co., 11045 Gage Avenue, Franklin Park, IL 60131.
C. E. Conover (Parker Products), 2800 Bristol Pike, Cornwell Heights, PA 19020.
Chicago Rawhide, 900 North State Street, Elgin, IL 60121.
Clevite Graphite Bronze, Division of Replacement Sales, 17000 St. Claire Avenue, Cleveland, OH.
Duro Engineering & Manufacturing Division, Republic Corp., 14108 Towne Avenue, Los Angeles, CA 90061.
Excell & Trio Auto Parts, 3984 Mayfield, Cleveland, OH.
Excell & West Side Auto, 622 West Main, Springfield, OH.
F. D. Farnum Co., Post Office Box 327, Necedah, WI 54646.
Federal Mogul Division, Post Office Box 1966, Detroit, MI 48235.
Fleet Transmission, 4960 Rising Sun Avenue, Philadelphia, PA.
General Transmission Co., 1622 Grand River, Detroit, MI.
Hayden Trans. Cooler Co., Post Office Box 4278, Riverside, CA.
Holley Carburetor, 11955 East Nine Mile Road, Warren, MI.
Johnson Bronze, New Castle, PA.
Kelsey Hayes, 3848 Huron River Road, Romulus, MI.
Lempco Industries, Inc., 5490 Dunham Road, Cleveland, OH.
Lovell Manufacturing Co., 1301 French Street, Erie, PA.
National Seal, Post Office Box 1966, Detroit, MI.
One Stop Auto Parts, 12 Colvin Avenue, Albany, NY.
Portland Transmission Warehouse, 1016 Southeast Hawthorne Boulevard, Portland, OR.
Ravbestos Division, Bridgeport, Conn.
Republic Gear, 20200 East Nine Mile Run, St. Clair Shores, MI 48083.
Robert S. Greenfield Corp., 218-26 Hempstead Avenue, Queens Village, NY.
Sealed Power Corp., 2001 Sanford Street, Muskegon, MI.
United Motors Service, 1735 Jersey Avenue, North Brunswick, NJ.
Van Buren Automotive Products, Inc., Route 112 Port Jefferson Station, Long Island, NY.
Vasco Sales Co., Post Office Box 38, Vassar, MI.
Wausau Motor Parts, Schofield, Wis.
X-Cell Industries, 505 West Nine Mile Road, Hazel Park, MI.

LETTER "A"

(OFFICIAL AAMCO STATIONERY)

GENTLEMEN: The Federal Trade Commission has entered an order against AAMCO Automatic Transmissions, Inc. (AAMCO) which prohibits it from requiring its transmission franchisees to purchase only from AAMCO the mechanical equipment and transmission parts our franchisees use in their automotive transmission business. A copy of this order is attached.

The order permits AAMCO to require its franchisees to limit their purchases of parts and equipment to those parties who qualify under the following AAMCO Quality Control Program or to purchase such parts and equipment from AAMCO. We shall formulate and publish standards for a quality control program whereby the transmission parts are tested and inspected by vendors prior to sale. In addition we will publish specifications for new and rebuilt transmission parts and equipment. A description of the quality control program and the specifications shall be made available to manufacturers and suppliers which request them. Companies which follow the quality control procedures and specifications shall be placed on an approved manufacturer's list for such parts or equipment. This list will be published in an AAMCO publication every 6 months.

The AAMCO franchisees are required to submit to AAMCO sufficient information to enable AAMCO to determine if such franchisees are using equipment, merchandise, and new and rebuilt transmission parts which comply with the procedures set forth in this order.

AAMCO's franchisees are free to purchase parts and equipment only from those vendors on the approved manufacturers list and from AAMCO.

Sincerely yours,

ROBERT MORGAN.

[FR Doc.72-19947 Filed 11-20-72;8:45 am]

[Docket C-2303]

PART 13—PROHIBITED TRADE PRACTICES

Danube Carpet Mills, Inc., and Carl D. Hagaman

Subpart—Importing, manufacturing, selling, or transporting flammable wear: § 13.1060 *Importing, manufacturing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Danube Carpet Mills, Inc. et al., Fort Oglethorpe, Ga., Docket No. C-2303, Oct. 13, 1972]

In the Matter of Danube Carpet Mills, Inc., a Corporation, and Carl D. Hagaman, Individually and as an Officer of the Corporation

Consent order requiring a Fort Oglethorpe, Ga., manufacturer and seller of carpets and rugs, among other things to cease manufacturing for sale, selling, importing, or distributing any product, fabric, or related material, which fails to conform to an applicable standard of flammability or regulation issued or amended under the provisions of the Flammable Fabrics Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

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It is ordered, That respondent Danube Carpet Mills, Inc., a corporation, its successors and assigns, and its officers, and respondent Carl D. Hagaman, individually and as an officer of said corporation, and respondents' agents, representatives, and employees directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling, or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric," and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to this complaint, of the flammable nature of said products and effect the recall of said products from such customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order.

This special report shall also advise the Commission fully and specifically concerning: (1) The identity of the products which gave rise to the complaint, (2) the identity of the purchasers of said products, (3) the amount of said products on hand and in the channels of commerce, (4) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and the results thereof, (5) any disposition of said products since April 27, 1972, and (6) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or to destroy said products, and the results of such action. Respondents will submit with their report, a complete description of each style of carpet or rug currently in inventory or production. Upon request, respondents will forward to the Commission for testing a sample of any such carpet or rug.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, filed with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: October 13, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-19948 Filed 11-20-72;8:45 am]

[Docket No. C-2304]

PART 13—PROHIBITED TRADE PRACTICES

Kefalas Bros. et al.

Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* 13.1108-45 Fur Products Labeling Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185-30 Fur Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212-30 Fur Products Labeling Act; § 13.1255 *Manufacture or preparation:* 13.1255-30 Fur Products Labeling Act. Subpart—Misrepresenting oneself and goods—Goods: § 13.1590 *Composition:* 13.1590-30 Fur Products Labeling Act; § 13.1623 *Formal regulatory and statutory requirements:* 13.1623-30 Fur Products Labeling Act; § 13.1685 *Nature:* 13.1685-35 Fur Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-35 Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Kefalas Bros. et al., New York, N.Y., Docket No. C-2304, Oct. 16, 1972]

In the Matter of Kefalas Bros., a Partnership, and John Kefalas and Harry Kefalas Individually and as Copartners Trading as Kefalas Bros.

Consent order requiring a New York City manufacturer of fur products, among other things to cease misbranding and falsely invoicing its merchandise.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Kefalas Bros., a partnership, and John Kefalas and Harry Kefalas, individually, and as copartners, trading as Kefalas Bros., or any other name or names and respondents' representatives, agents, and employees, directly or through any corporate or other device in connection with the introduction, or manufacture for introduction, into commerce, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation or distribution of any fur product, which is made in whole, or in part of fur, which has been shipped or received in commerce, as the terms "commerce," "fur," and "fur product," are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

1. Representing, directly or by implication, on labels that the fur contained in any fur product is natural when the fur contained therein is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

2. Failing to affix labels to fur products showing in words and figures plainly legible all of the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act.

3. Failing to set forth on a label the item number or mark assigned to such fur product.

B. Falsely or deceptively invoicing any fur product by failing to set forth on an invoice the item number or mark assigned to such fur product.

It is further ordered, That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business or employment in which they are engaged as well as a description of their duties and responsibilities.

It is further ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order.

Issued: October 16, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-19949 Filed 11-20-72;8:45 am]

[Docket No. C-2301]

PART 13—PROHIBITED TRADE PRACTICES

Sanford Levinson et al.

Subpart—Advertising falsely or misleading: § *Business status, advantages, or connections:* 13.15-265 Service; 13.15-275 Stock, product, or service; § 13.70 *Fictitious or misleading guarantees;* § 13.73 *Formal regulatory and statutory requirements;* 13.73-92 Truth in Lending Act; § 13.155 *Prices;* 13.155-33 Demonstration reductions; 13.155-40 Exaggerated as regular and customary; 13.155-95 Terms and conditions: 13.155-95(a) Truth in Lending Act; § 13.180 *Quantity;* 13.180-30 In stock; § 13.225 Services. Subpart—Misrepresenting oneself and goods—Business Status, Advantages, or Connections: § 13.1553 *Services;* § 13.1560 *Stock, product, or service;* —Goods: § 13.1623 *Formal regulatory and statutory requirements:* 13.1623-95 Truth in Lending Act; § 13.1647 *Guarantees;* § 13.1720 *Quantity;* —Prices: § 13.1805 *Exaggerated as regular and customary;* § 13.1823 *Terms and conditions:* 13.1823-20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-75 Truth in Lending Act; § 13.1857 *Instruments' sale to finance companies;* § 13.1892 *Sales contract, right-to-cancel provision;* § 13.1905 *Terms and conditions:* 13.1905-60 Truth in Lending Act. Subpart—Offering unfair, improper, and deceptive inducements to purchase or deal: § 13.1985 *Individual's special selection or situation.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Cease and desist order, Sanford Levinson, etc., Akron, Ohio, Docket No. C-2301, Oct. 6, 1972]

In the Matter of Sanford Levinson, Also Known as Morris Cohen, Stanley Lewis, etc., an Individual, Trading and Doing Business as Shangri-La Industries, Modern Decorators American Distributors and Decorators, etc.

Consent order requiring a retailer of swimming pools and other articles of merchandise, whose last known place of business was in Akron, Ohio, among other things to cease misrepresenting his stock on hand and willingness to perform advertised services; disparaging or refusing to sell any products or services advertised; using deceptive or misleading representations to obtain prospective customers; misrepresenting prices as usual or customary unless the representation is true; and failing to disclose to customers such information as is required by Regulation Z of the Truth in Lending Act. Respondent is also required to include on the face of its notes a notice that a subsequent holder may take over the note and the customer may still be required to pay the instrument of indebtedness even if the purchase contract is not fulfilled.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

COUNT I. *It is ordered*, That respondent Sanford Levinson, also known as Morris Cohen, Stanley Lewis, or any other assumed name or names, an individual trading and doing business as Shangri-La Industries, Modern Decorators, American Distributors and Decorators, or any other trade name or names, and respondent's agents, representatives, and employees, directly or indirectly, orally or in writing, or through any corporate or other device in connection with the advertising, offering for sale, distribution and installation of swimming pools or any other product or service, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Advertising or offering any swimming pools or any other products or services for sale for the purpose of obtaining leads or prospects for the sale of different products or services, unless respondent maintains an adequate and readily available stock of said products or is ready, willing and able to perform said services.

2. Disparaging, in any manner, or refusing to sell, any swimming pool, or any other products or services advertised by respondent.

3. Using any advertising, sales plan or procedure involving the use of false, deceptive or misleading statements or representations which are designed to obtain leads or prospects for the sale of swimming pools or any other product or service.

4. Representing that any swimming pools or other products or services are offered for sale when such offer is not a bona fide offer to sell said swimming pools or other products or services.

5. Representing that the special swimming pool decks which are advertised are available for sale from respondent's salesmen.

6. Representing that the swimming pools, or any other products or services are nationally advertised in leading magazines, unless magazine advertisements featuring such products are circulated to a national market.

7. Representing that any amount is respondent's usual and customary retail price of swimming pools or any other product or service, unless the amount is the price at which the merchandise has been usually sold at retail by respondent in the regular course of business.

8. Repesenting that the swimming pools, or any other products are maintenance free, or words of similar meaning and import.

9. Representing that the Aquamate Swimming Pool can be used as an ice skating pond during the winter months, or that any product can be used for other than its primary purpose, unless the respondent fully discloses all problems related to such secondary uses.

10. Representing that the home of any of respondent's customers or prospective customers for swimming pools or other products or services has been selected to be used or will be used as a "model home" or otherwise for advertising or sales purposes.

11. Representing that any allowance, discount or commission, in the form of cash, merchandise or services, is granted by respondent to purchasers of swimming pools or any other product or service in return for permitting the premises on which respondent's products are installed or services are performed to be used for "model home" or demonstration purposes.

12. Using the term "guarantee" or any term of similar import or meaning in any advertising or sales presentation for swimming pools or other products or services, unless the purchaser of such swimming pool or other products or services is accorded full satisfaction including the right to cancel the contract and obtain a full refund for failure to honor the guarantee.

13. Representing that any of respondent's products and installations are guaranteed, unless the nature and extent of the guarantee, the identity of the guarantor, and the manner in which the guarantor will perform thereunder are fully and conspicuously disclosed in immediate conjunction therewith; or making any direct or implied representation that any of respondent's products or installations are guaranteed unless, in each instance, a written guarantee is given to the purchaser containing provisions fully equivalent to those contained in such representations, and unless respondent promptly fulfills all of his obligations under the represented terms of such guarantee.

14. Representing that respondent will honor the guarantee by providing service for any defects in the swimming pool or its related equipment, or any other product or service unless respondent has provided for the manpower, tools, equipment, and other facilities necessary to honor such guarantees, and unless respondent does, in fact, honor such guarantees.

15. Failing to incorporate the following statement on the fact of all sales contracts, all notes, or other instruments of indebtedness executed by or on behalf of respondent's customers, with such conspicuousness and clarity as is likely to be read and understood by the purchaser:

"NOTICE

"If you are obtaining credit in connection with this purchase, you will be required to sign a promissory note, a sales contract, or other instrument of indebtedness, which may be purchased from the seller by a bank, finance company, or any other third party. If such is the case, you will be required to make your payments to someone other than the seller. You should be aware that if this happens you may have to pay the note, contract, or other instrument of indebtedness in full to the new owner even if your purchase contract is not fulfilled."

[Docket No. C-2305]

PART 13—PROHIBITED TRADE PRACTICES

Lewis Furniture Co., Inc., et al.

Subpart—Advertising falsely or misleading: § 13.155 *Prices:* 13.155-33 Demonstration reductions; 13.155-40 Exaggerated as regular and customary; 13.155-95 Terms and conditions: 13.155-95(a) Truth in Lending Act; § 13.180 *Quantity:* 13.180-30 In stock; § 13.225 Services. Subpart—Misrepresenting oneself and goods—Business Status, Advantages, or Connections: § 13.1553 *Services;* § 13.1560 *Stock, product, or service;* —Goods: § 13.1623 *Formal regulatory and statutory requirements:* 13.1623-95 Truth in Lending Act; § 13.1647 *Guarantees;* § 13.1720 *Quantity;* —Prices: § 13.1805 *Exaggerated as regular and customary;* § 13.1823 *Terms and conditions:* 13.1823-20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-75 Truth in Lending Act; § 13.1857 *Instruments' sale to finance companies;* § 13.1892 *Sales contract, right-to-cancel provision;* § 13.1905 *Terms and conditions:* 13.1905-60 Truth in Lending Act. Subpart—Offering unfair, improper, and deceptive inducements to purchase or deal: § 13.1985 *Individual's special selection or situation.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Cease and desist order, Lewis Furniture Co., Inc., et al., Akron, Ohio, Docket No. C-2305, Oct. 6, 1972]

In the Matter of Lewis Furniture Co., Inc., a Corporation, and Sanford Levinson, Also Known as Morris Cohen, Stanley Lewis, etc., an Individual, Trading and Doing Business as Shangri-La Industries, Modern Decorators American Distributors and Decorators, etc.

Consent order requiring a retailer of swimming pools and other articles of merchandise, whose last known place of business was in Akron, Ohio, among other things to cease misrepresenting his stock on hand and willingness to perform advertised services; disparaging or refusing to sell any products or services advertised; using deceptive or misleading representations to obtain prospective customers; misrepresenting prices as usual or customary unless the representation is true; and failing to disclose to customers such information as is required by Regulation Z of the Truth in Lending Act. Respondent is also required to include on the face of its notes a notice that a subsequent holder may take over the note and the customer may still be required to pay the instrument of indebtedness even if the purchase contract is not fulfilled.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

COUNT I. *It is ordered*, That respondent Lewis Furniture Co., Inc., a corporation, and its officers, and respondent Sanford Levinson, also known as Morris Cohen, Stanley Lewis, or any other assumed name or names, an individual trading and doing business as Shangri-La Industries, Modern Decorators, American Distributors and Decorators, or any other trade name or names, and respondent's agents, representatives, and employees, directly or indirectly, orally or in writing, or through any corporate or other device in connection with the advertising, offering for sale, distribution and installation of swimming pools or any other product or service, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Advertising or offering any swimming pools or any other products or services for sale for the purpose of obtaining leads or prospects for the sale of different products or services, unless respondent maintains an adequate and readily available stock of said products or is ready, willing and able to perform said services.

2. Disparaging, in any manner, or refusing to sell, any swimming pool, or any other products or services advertised by respondent.

3. Using any advertising, sales plan or procedure involving the use of false, deceptive or misleading statements or representations which are designed to obtain leads or prospects for the sale of swimming pools or any other product or service.

4. Representing that any swimming pools or other products or services are offered for sale when such offer is not a bona fide offer to sell said swimming pools or other products or services.

5. Representing that the special swimming pool decks which are advertised are available for sale from respondent's salesmen.

6. Representing that the swimming pools, or any other products or services are nationally advertised in leading magazines, unless magazine advertisements featuring such products are circulated to a national market.

7. Representing that any amount is respondent's usual and customary retail price of swimming pools or any other product or service, unless the amount is the price at which the merchandise has been usually sold at retail by respondent in the regular course of business.

8. Repesenting that the swimming pools, or any other products are maintenance free, or words of similar meaning and import.

9. Representing that the Aquamate Swimming Pool can be used as an ice skating pond during the winter months, or that any product can be used for other than its primary purpose, unless the respondent fully discloses all problems related to such secondary uses.

10. Representing that the home of any of respondent's customers or prospective customers for swimming pools or other products or services has been selected to be used or will be used as a "model home" or otherwise for advertising or sales purposes.

11. Representing that any allowance, discount or commission, in the form of cash, merchandise or services, is granted by respondent to purchasers of swimming pools or any other product or service in return for permitting the premises on which respondent's products are installed or services are performed to be used for "model home" or demonstration purposes.

12. Using the term "guarantee" or any term of similar import or meaning in any advertising or sales presentation for swimming pools or other products or services, unless the purchaser of such swimming pool or other products or services is accorded full satisfaction including the right to cancel the contract and obtain a full refund for failure to honor the guarantee.

13. Representing that any of respondent's products and installations are guaranteed, unless the nature and extent of the guarantee, the identity of the guarantor, and the manner in which the guarantor will perform thereunder are fully and conspicuously disclosed in immediate conjunction therewith; or making any direct or implied representation that any of respondent's products or installations are guaranteed unless, in each instance, a written guarantee is given to the purchaser containing provisions fully equivalent to those contained in such representations, and unless respondent promptly fulfills all of his obligations under the represented terms of such guarantee.

14. Representing that respondent will honor the guarantee by providing service for any defects in the swimming pool or its related equipment, or any other product or service unless respondent has provided for the manpower, tools, equipment, and other facilities necessary to honor such guarantees, and unless respondent does, in fact, honor such guarantees.

15. Failing to incorporate the following statement on the fact of all sales contracts, all notes, or other instruments of indebtedness executed by or on behalf of respondent's customers, with such conspicuousness and clarity as is likely to be read and understood by the purchaser:

"NOTICE

"If you are obtaining credit in connection with this purchase, you will be required to sign a promissory note, a sales contract, or other instrument of indebtedness, which may be purchased from the seller by a bank, finance company, or any other third party. If such is the case, you will be required to make your payments to someone other than the seller. You should be aware that if this happens you may have to pay the note, contract, or other instrument of indebtedness in full to the new owner even if your purchase contract is not fulfilled."

[Docket No. C-2306]

PART 13—PROHIBITED TRADE PRACTICES

Shangri-La Industries, Inc., et al.

Subpart—Advertising falsely or misleading: § 13.155 *Prices:* 13.155-33 Demonstration reductions; 13.155-40 Exaggerated as regular and customary; 13.155-95 Terms and conditions: 13.155-95(a) Truth in Lending Act; § 13.180 *Quantity:* 13.180-30 In stock; § 13.225 Services. Subpart—Misrepresenting oneself and goods—Business Status, Advantages, or Connections: § 13.1553 *Services;* § 13.1560 *Stock, product, or service;* —Goods: § 13.1623 *Formal regulatory and statutory requirements:* 13.1623-95 Truth in Lending Act; § 13.1647 *Guarantees;* § 13.1720 *Quantity;* —Prices: § 13.1805 *Exaggerated as regular and customary;* § 13.1823 *Terms and conditions:* 13.1823-20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-75 Truth in Lending Act; § 13.1857 *Instruments' sale to finance companies;* § 13.1892 *Sales contract, right-to-cancel provision;* § 13.1905 *Terms and conditions:* 13.1905-60 Truth in Lending Act. Subpart—Offering unfair, improper, and deceptive inducements to purchase or deal: § 13.1985 *Individual's special selection or situation.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Cease and desist order, Shangri-La Industries, Inc., et al., Akron, Ohio, Docket No. C-2306, Oct. 6, 1972]

In the Matter of Shangri-La Industries, Inc., a Corporation, and Sanford Levinson, Also Known as Morris Cohen, Stanley Lewis, etc., an Individual, Trading and Doing Business as Shangri-La Industries, Modern Decorators American Distributors and Decorators, etc.

Consent order requiring a retailer of swimming pools and other articles of merchandise, whose last known place of business was in Akron, Ohio, among other things to cease misrepresenting his stock on hand and willingness to perform advertised services; disparaging or refusing to sell any products or services advertised; using deceptive or misleading representations to obtain prospective customers; misrepresenting prices as usual or customary unless the representation is true; and failing to disclose to customers such information as is required by Regulation Z of the Truth in Lending Act. Respondent is also required to include on the face of its notes a notice that a subsequent holder may take over the note and the customer may still be required to pay the instrument of indebtedness even if the purchase contract is not fulfilled.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

COUNT I. *It is ordered*, That respondent Shangri-La Industries, Inc., a corporation, and its officers, and respondent Sanford Levinson, also known as Morris Cohen, Stanley Lewis, or any other assumed name or names, an individual trading and doing business as Shangri-La Industries, Modern Decorators, American Distributors and Decorators, or any other trade name or names, and respondent's agents, representatives, and employees, directly or indirectly, orally or in writing, or through any corporate or other device in connection with the advertising, offering for sale, distribution and installation of swimming pools or any other product or service, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Advertising or offering any swimming pools or any other products or services for sale for the purpose of obtaining leads or prospects for the sale of different products or services, unless respondent maintains an adequate and readily available stock of said products or is ready, willing and able to perform said services.

2. Disparaging, in any manner, or refusing to sell, any swimming pool, or any other products or services advertised by respondent.

3. Using any advertising, sales plan or procedure involving the use of false, deceptive or misleading statements or representations which are designed to obtain leads or prospects for the sale of swimming pools or any other product or service.

4. Representing that any swimming pools or other products or services are offered for sale when such offer is not a bona fide offer to sell said swimming pools or other products or services.

5. Representing that the special swimming pool decks which are advertised are available for sale from respondent's salesmen.

6. Representing that the swimming pools, or any other products or services are nationally advertised in leading magazines, unless magazine advertisements featuring such products are circulated to a national market.

7. Representing that any amount is respondent's usual and customary retail price of swimming pools or any other product or service, unless the amount is the price at which the merchandise has been usually sold at retail by respondent in the regular course of business.

8. Repesenting that the swimming pools, or any other products are maintenance free, or words of similar meaning and import.

9. Representing that the Aquamate Swimming Pool can be used as an ice skating pond during the winter months, or that any product can be used for other than its primary purpose, unless the respondent fully discloses all problems related to such secondary uses.

10. Representing that the home of any of respondent's customers or prospective customers for swimming pools or other products or services has been selected to be used or will be used as a "model home" or otherwise for advertising or sales purposes.

11. Representing that any allowance, discount or commission, in the form of cash, merchandise or services, is granted by respondent to purchasers of swimming pools or any other product or service in return for permitting the premises on which respondent's products are installed or services are performed to be used for "model home" or demonstration purposes.

12. Using the term "guarantee" or any term of similar import or meaning in any advertising or sales presentation for swimming pools or other products or services, unless the purchaser of such swimming pool or other products or services is accorded full satisfaction including the right to cancel the contract and obtain a full refund for failure to honor the guarantee.

13. Representing that any of respondent's products and installations are guaranteed, unless the nature and extent of the guarantee, the identity of the guarantor, and the manner in which the guarantor will perform thereunder are fully and conspicuously disclosed in immediate conjunction therewith; or making any direct or implied representation that any of respondent's products or installations are guaranteed unless, in each instance, a written guarantee is given to the purchaser containing provisions fully equivalent to those contained in such representations, and unless respondent promptly fulfills all of his obligations under the represented terms of such guarantee.

14. Representing that respondent will honor the guarantee by providing service for any defects in the swimming pool or its related equipment, or any other product or service unless respondent has provided for the manpower, tools, equipment, and other facilities necessary to honor such guarantees, and unless respondent does, in fact, honor such guarantees.

15. Failing to incorporate the following statement on the fact of all sales contracts, all notes, or other instruments of indebtedness executed by or on behalf of respondent's customers, with such conspicuousness and clarity as is likely to be read and understood by the purchaser:

"NOTICE

"If you are obtaining credit in connection with this purchase, you will be required to sign a promissory note, a sales contract, or other instrument of indebtedness, which may be purchased from the seller by a bank, finance company, or any other third party. If such is the case, you will be required to make your payments to someone other than the seller. You should be aware that if this happens you may have to pay the note, contract, or other instrument of indebtedness in full to the new owner even if your purchase contract is not fulfilled."

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It is further ordered, That respondent devote twenty-five percent (25%) of all advertising in newspapers, magazines, and other such media as may be used to advertise swimming pools or any other product or service, to a statement that the Federal Trade Commission has questioned respondent's advertising practices, such statement to appear in all advertising for 1 year after the effective date of this order.

COUNT II. *It is ordered*, That respondent Sanford Levinson, also known as Morris Cohen, Stanley Lewis, or any other assumed name or names, an individual trading and doing business as Shangri-La Industries, Modern Decorators, American Distributors and Decorators, or any other trade name or names, and respondent's agents, representatives, and employees, directly or through any corporate or other device in connection with the extension of consumer credit or advertisement to aid, promote, or assist, directly or indirectly, in any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (Public Law 90–321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to disclose the date on which the finance charge begins to accrue if different from the date of the transaction, as prescribed by § 226.8(b)(1) of Regulation Z.

2. Failing to disclose the annual percentage rate, computed in accordance with § 226.5 of Regulation Z, as prescribed by § 226.8(b)(2) of Regulation Z.

3. Failing to use the term "cash downpayment" to describe the downpayment in money made in connection with the credit sale, as prescribed by § 226.8(c)(2) of Regulation Z.

4. Failing to use the term "unpaid balance of cash price" to describe the difference between the cash price and the total downpayment, as prescribed by § 226.8(c)(3) of Regulation Z.

5. Failing to use the term "finance charge" to describe the sum of all charges required by § 226.4 of Regulation Z to be included therein, as prescribed by § 226.8(c)(8)(i) of Regulation Z.

6. Failing to disclose the sum of the cash price, all charges which are included in the amount financed but which are not part of the finance charge, and the finance charge, and to describe that sum as the "deferred payment price," as prescribed by § 226.8(b)(8)(ii) of Regulation Z.

7. Failing to obtain a specifically dated and separately signed, affirmative, written statement from the customer indicating his desire to obtain insurance coverage, after the customer received written disclosure of the cost of such insurance, as prescribed by § 226.4(a)(5)(ii) of Regulation Z.

8. Failing to give notice of the customer's right to rescind the transaction by furnishing the customer with two copies of the notice in the form as set forth in § 226.9(b) of Regulation Z, as prescribed by § 226.9 of Regulation Z.

9. Failing to delay performance of the subject matter of the transaction, as prescribed by § 226.9(c)(4) of Regulation Z.

10. Failing, in any consumer credit transaction or advertising, to make all disclosures determined in accordance with § 226.4 and § 226.5 of Regulation Z at the time and in the manner, form and amount prescribed by §§ 226.6, 226.8, and 226.10 of Regulation Z.

It is further ordered, That respondent shall forthwith deliver a copy of this order to cease and desist to all present and future personnel engaged in the offering for sale or sale of swimming pools, swimming pool accessories, services, or other products, and in the consummation of any extension of consumer credit, or in any aspect of preparation, creation, or placing of advertising, and that respondent secure a signed statement acknowledging the receipt of said order from each such person.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged, as well as a description of his duties and responsibilities.

It is further ordered, That respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with the order to cease and desist contained herein.

By the Commission.

Issued: October 6, 1972.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72–19950 Filed 11–20–72;8:45 am]

[Docket No. C–2302]

PART 13—PROHIBITED TRADE PRACTICES

U.S. Homes, Inc., and Robert G. Sandler

Subpart—Advertising falsely or misleadingly: § 13.70 *Fictitious or misleading guarantees.* Subpart—Misrepresenting oneself and goods—Goods: § 13 1647 *Guarantees.* Subpart—Offering unfair, improper, and deceptive inducements to purchase or deal: § 13.1980 *Guarantee, / in general.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, U.S. Homes, Inc. et al., Des Moines, Iowa, Docket No. C–2302, Oct. 11, 1972]

In the Matter of U.S. Homes, Inc , a Corporation, and Robert G. Sandler, Individually and as an Officer of Said Corporation

Consent order requiring a Des Moines, Iowa, firm selling custom-built homes and/or "package homes," among other things to cease representing that its products are guaranteed unless the nature, extent, and duration of the guarantee and the identity of and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents U.S. Homes, Inc., a corporation, and its officers, and Robert G. Sandler, individually and as an officer of said corporation, and respondents' agents, representatives, employees, successors, and assigns, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale, or distribution of custom built homes and/or "package homes," or other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Representing by any means, directly or by implication, that respondents' products are guaranteed unless the nature, extent, and duration of the guarantee, the identity of the guarantor and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed; and unless respondents promptly and fully perform all of their obligations and requirements, directly or impliedly represented, under the terms of each such guarantee.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

Issued: October 11, 1972.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72–19951 Filed 11–20–72;8:45 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 72–258]

PART 8—LIABILITY FOR DUTIES; ENTRY OF IMPORTED MERCHANDISE

Deposit of Estimated Duties; Correction

Treasury Decision 72–258, published in the FEDERAL REGISTER on September 27, 1972 (37 F.R. 20170), gave notice of the adoption of the revision of Part 158, relating to relief from duties on merchandise lost, damaged, abandoned, or exported, and conforming changes in other parts of the Customs regulations.

At the end of the document under Part 8—Liability for Duties; Entry of Imported Merchandise, the statement in the second line of amendatory paragraph 2, referring to § 8.28(b)r, "subpart A of section 158" is corrected to read "subpart A of Part 158."

[SEAL] LEONARD LEHMAN, *Acting Commissioner of Customs.*

Approved: November 10, 1972.

EUGENE T. ROSSIDES, *Assistant Secretary of the Treasury.*

[FR Doc.72–20041 Filed 11–20–72;8:53 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER A—GENERAL

PART 2—ADMINISTRATION FUNCTIONS, PRACTICES, AND PROCEDURES

Subpart H—Delegations of Authority

DELEGATIONS REGARDING INFORMAL HEARINGS AND REVIEW BOARDS

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 701 (a), 52 Stat. 1055; 21 U.S.C. 371(a)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), § 2.121 is amended in paragraph (b) to expand and clarify the delegations of authority in accordance with Food and Drug Administration policy and the assignment of new functions.

Accordingly, § 2.121 is amended by revising paragraph (b) as follows:

§ 2.121 Redelegations of authority from the Commissioner to other officers of the Administration.

• • • • •

(b) *Delegations regarding informal hearings and review boards.* (1) The Directors and Deputy Directors of Bureaus, Regional Food and Drug Directors, and Deputy Regional Food and Drug Directors are authorized to designate officials to hold informal hearings which relate to their assigned functions under sections 305, 404(b), and 801(a) of the Federal Food, Drug, and Cosmetic Act, sections 7 and 14 of the Federal Hazardous Substances Act, and section 5 of the Federal Import Milk Act. Officials so designated are delegated authority contemplated by section 1 of the Act of January 31, 1925 (ch. 124, 43 Stat. 803); sections 12 to 15 of Reorganization Plan No. IV, effective June 30, 1940; Reorganization Plan No. 1 of 1953, effective April 11, 1953; and section 556(c) of title 5 U.S.C. (80 Stat. 386), to administer to or take from any person an oath, affirmation, affidavit, or deposition for use in any prosecution or proceeding under or in enforcement of any law as cited in this section.

(2) The Director and Deputy Director of the Bureau of Biologics are authorized to appoint review boards as provided by § 273.233 of this title (21 CFR 273.233).

• • • • •

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (11–21–72).

(Sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a))

Dated: November 14, 1972.

SAM D. FINE, *Associate Commissioner for Compliance.*

[FR Doc.72–19954 Filed 11–20–72;8:46 am]

PART 2—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

Subpart H—Delegations of Authority

DISCLOSURE OF OFFICIAL RECORDS

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 701 (a), 52 Stat. 1055; 21 U.S.C. 371(a)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), § 2.121, is amended in paragraph (e) to update the delegations of authority regarding the disclosure of official records required by changes in the titles of some organizations and the addition of new organizations.

Accordingly, § 2.121 is amended by revising paragraph (e) as follows:

§ 2.121 Redelegations of authority from the Commissioner to other officers of the Administration.

• • • • •

(e) *Delegations regarding disclosure of official records.* (1) The following officials are authorized to make determinations to disclose official records and information in accordance with § 4.1 of this chapter.

(i) The Director and Deputy Director of the Bureau of Drugs, the Director and Deputy Director of the Office of Compliance of that Bureau, and the Director and Deputy Director of the Division of Regulatory Operations of the Office of Compliance of that Bureau.

(ii) The Director and Deputy Director of the Bureau of Foods, the Director and Associate Director of the Office of Compliance of that Bureau, and the Director of the Division of Regulatory Guidance of the Office of Compliance of that Bureau.

(iii) The Director and Deputy Director of the Bureau of Veterinary Medicine and the Director and Deputy Director of the Division of Compliance of that Bureau.

(iv) The Director and Deputy Director of the Bureau of Product Safety and the Director of the Division of Compliance of that Bureau.

(v) The Director and Deputy Director, Bureau of Radiological Health, the Director of the Division of Electronic Products, and the Director of the Office of Criteria and Standards of that Bureau.

(vi) The Director and Deputy Director of the Bureau of Biologics, the Associate Director for Regulatory and Administrative Management, and the Director of the Office of Compliance of that Bureau.

(2) The Chief of the Drug Registration Section of the Division of Regulatory Operations, Office of Compliance, Bureau of Drugs, is authorized to sign affidavits regarding the presence or absence of records of Registration of Drug Establishments.

(3) The Chief of the Records Section of the Administrative Services Branch, Division of General Services, Office of the Associate Commissioner for Administration, is authorized to sign affidavits regarding the presence or absence of records in the files of that section.

• • • • •

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (11–21–72).

(Sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a))

Dated: November 14, 1972.

SAM D. FINE, *Associate Commissioner for Compliance.*

[FR Doc.72–19952 Filed 11–20–72;8:46 am]

SUBCHAPTER C—DRUGS

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Ipronidazole

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (43–477V) filed by Hoffmann La Roche, Inc., Nutley, N.J. 07110, proposing amendments to the regulation for ipronidazole to provide for its additional use in turkey feed for the treatment of blackhead. A change was also proposed in the assay limits for finished feed containing the higher treatment level of the drug. The supplemental application is approved.

The regulation is also amended to clarify the conditions of use for the drug and to delete the restriction on the use of bentonite with the drug in turkey feeds.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), § 135e.56 is amended in paragraph (c), the text in paragraph (e) is deleted and reserved for future use, and the table in paragraph (f) is amended as follows:

§ 135e.56 Ipronidazole.

• • • • •

(c) *Assay limits.* Finished feed containing 0.00625 percent ipronidazole not less than 75 percent nor more than 125 percent of labeled amount. Finished feed containing 0.025 percent ipronidazole not less than 80 percent nor more than 120 percent of labeled amount. Premix not less than 98 percent nor more than 115 percent of labeled amount.

• • • • •

(e) [Reserved]

(f) *Conditions of use.* It is used as follows:

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Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
1. Ipronidazole	...	...	...	For turkeys; withdraw 4 days before slaughter. Do not feed to turkeys producing eggs for food.	...
2. Ipronidazole	...	...	...	For turkeys; withdraw 4 days before slaughter. Do not feed to turkeys producing eggs for food.	...
3. Ipronidazole	227 (0.025%)			For turkeys; withdraw 4 days before slaughter. Do not feed to turkeys producing eggs for food. Feed for 7 days at the 0.025 percent level. Follow treatment with the preventive level (0.00625 percent) of ipronidazole.	For the treatment of blackhead (histomoniasis) in turkeys.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (11-21-72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: November 14, 1972.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.72-19953 Filed 11-20-72;8:46 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7220]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Recoveries of Damages for Antitrust Violations, Etc.

On April 29, 1972, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) to reflect the addition of section 186 to the Internal Revenue Code of 1954 by section 904 of the Tax Reform Act of 1969 (83 Stat. 711) was published in the FEDERAL REGISTER (37 F.R. 8674). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted, subject to the changes set forth below:

Paragraphs (c)(2), (c)(3)(i), (d)(2), (d)(3), and (e)(1) of § 1.186-1, as set forth in the notice of proposed rule making of April 29, 1972, are revised to read as set forth below.

(Sec. 7805 of the Internal Revenue Code of 1954; 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: November 15, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

§ 1.186-1 Recoveries of damages for antitrust violations, etc.

(a) *Allowance of deduction.* Under section 186, when a compensatory amount which is included in gross income is received or accrued during a taxable year for a compensable injury, a deduction is allowed in an amount equal to the lesser of (1) such compensatory amount, or (2) the unrecovered losses sustained as a result of such compensable injury.

(b) *Compensable injury*—(1) *In general.* For purposes of this section, the term "compensable injury" means any of the injuries described in subparagraph (2), (3), or (4) of this paragraph.

(2) *Patent infringement.* An injury sustained as a result of an infringement of a patent issued by the United States (whether or not issued to the taxpayer or another person or persons) constitutes a compensable injury. The term "patent issued by the United States" means any patent issued or granted by the United States under the authority of the Commissioner of Patents pursuant to 35 U.S.C. 153.

(3) *Breach of contract or of fiduciary duty or relationship.* An injury sustained as a result of a breach of contract (including an injury sustained by a third party beneficiary) or a breach of fiduciary duty or relationship constitutes a compensable injury.

(4) *Injury suffered under certain antitrust law violations.* An injury sustained in business, or to property, by reason of any conduct forbidden in the antitrust laws for which a civil action may be brought under section 4 of the Act of October 15, 1914 (15 U.S.C. 15), commonly known as the Clayton Act, constitutes a compensable injury.

(c) *Compensatory amount*—(1) *In general.* For purposes of this section, the term "compensatory amount" means any amount received or accrued during the taxable year as damages as a result of an award in, or in settlement of, a civil action for recovery for a compensable injury, reduced by any amounts paid or incurred in the taxable year in securing such award or settlement. The term "compensatory amount" includes only amounts compensating for actual economic injury. Thus, additional amounts representing punitive, exemplary, or treble damages are not included within the term. Where, for example, a taxpayer recovers treble damages under section 4 of the Clayton Act, only one-third of the recovery representing economic injury constitutes a compensatory amount. In the absence of any indication to the contrary, amounts received in settlement of an action shall be deemed to be a recovery for an actual economic injury except to the extent such settlement amounts exceed actual damages claimed by the taxpayer in such action.

(2) *Interest on a compensatory amount.* Interest attributable to a compensatory amount shall not be included within the term "compensatory amount."

(3) *Settlement of a civil action for damages*—(i) *Necessity for an action.* The term "compensatory amount" does not include an amount received or accrued in settlement of a claim for a compensable injury if the amount is received or accrued prior to institution of an action. An action shall be considered as instituted upon completion of service of process, in accordance with the laws and rules of the court in which the action has been commenced or to which the action has been removed, upon all defendants who pay or incur an obligation to pay a compensatory amount.

(ii) *Specifications of the parties.* If an action for a compensable injury is settled, the specifications of the parties will generally determine compensatory amounts unless such specifications are not reasonably supported by the facts and circumstances of the case. For example, the parties may provide that the sum of $1,000 represents actual damages sustained as the result of antitrust violations and that the total amount of the settlement after the trebling of damages is $3,000. In such case, only the sum of $1,000 would be a compensatory amount. In the absence of specifications of the parties, the complaint filed by the taxpayer may be considered in determining what portion of the amount of the settlement is a compensatory amount.

(4) *Amounts paid or incurred in securing the award or settlement.* For purposes of this section, the term "amounts paid or incurred in the taxable year in securing such award or settlement" shall include legal expenses such as attorney's fees, witness fees, accountant fees, and court costs. Expenses incurred in securing a recovery of both a compensatory amount and other amounts from the same action shall be allocated among such amounts in the ratio each of such amounts bears to the total recovery. For instance, where a taxpayer incurs attorney's fees and other expenses of $3,000 in recovering $10,000 as a compensatory amount, $5,000 as a return of capital, and $25,000 as punitive damages from the same action, the taxpayer shall allocate $750 of the expenses to the compensatory amount (10,000/40,000×3,000), $375 to the return of capital (5,000/40,000×3,000), and $1,875 to

the punitive damages (25,000/40,000×3,000).

(d) *Unrecovered losses*—(1) *In general.* For purposes of this section, the term "unrecovered losses sustained as a result of such compensable injury" means the sum of the amounts of the net operating losses for each taxable year in whole or in part within the injury period, to the extent that such net operating losses are attributable to such compensable injury, reduced by (i) the sum of any amounts of such net operating losses which were allowed as a net operating loss carryback or carryover for any prior taxable year under the provisions of section 172, and (ii) the sum of any amounts allowed as deductions under section 186(a) and this section for all prior taxable years with respect to the same compensable injury. Accordingly, a deduction is permitted under section 186(a) and this section with respect to net operating losses whether or not the period for carryover under section 172 has expired.

(2) *Injury period.* For purposes of this section, the term "injury period" means (i) with respect to an infringement of a patent, the period during which the infringement of the patent continued, (ii) with respect to a breach of contract or breach of fiduciary duty or relationship, the period during which amounts would have been received or accrued but for such breach of contract or breach of fiduciary duty or relationship, or (iii) with respect to injuries sustained by reason of a violation of section 4 of the Clayton Act, the period during which such injuries were sustained. The injury period will be determined on the basis of the facts and circumstances of the taxpayer's situation. The injury period may include a periods before and after the period covered by the civil action instituted.

(3) *Net operating losses attributable to compensable injuries.* A net operating loss for any taxable year shall be treated as attributable (whether actually attributable or not) to a compensable injury to the extent the compensable injury is sustained during the taxable year. For purposes of determining the extent of the compensable injury sustained during a taxable year, a judgment for a compensable injury apportioning the amount of the recovery (not reduced by any amounts paid or incurred in securing such recovery) to specific taxable years within the injury period will be conclusive. If a judgment for a compensable injury does not apportion the amount of the recovery to specific taxable years within the injury period, the amount of the recovery will be prorated among the years within the injury period in the proportion that the net operating loss sustained in each of such years bear to the total net operating losses sustained for all such years. If an action is settled, the specifications of the parties will generally determine the apportionment of the amount of the recovery unless such specifications are not reasonably supported by the facts and circumstances of the case. In the absence of specifications of the parties, the amount of the recovery will be prorated among the years within the injury period in the proportion that the net operating loss sustained in each of such years bears to the total net operating losses sustained for all such years.

(4) *Application of losses attributable to a compensable injury.* If only a portion of a net operating loss for any taxable year is attributable to a compensable injury, such portion shall (in applying section 172 for purposes of this section) be considered to be a separate net operating loss for such year to be applied after the other portion of such net operating loss. If, for example, in the year of the compensable injury the net operating loss was $1,000 and the amount of the compensable injury was $600, the amount of $400 not attributable to the compensable injury would be used first to offset profits in the carryover or carryback periods as prescribed by section 172. After the amount not attributable to the compensable injury is used to offset profits in other years, then the amount attributable to the compensable injury will be applied against profits in the carryover or carryback periods.

(e) *Effect on net operating loss carryovers*—(1) *In general.* Under section 186(e) if for the taxable year in which a compensatory amount is received or accrued any portion of the net operating loss carryovers to such year is attributable to the compensable injury for which such amount is received or accrued, such portion of the net operating loss carryovers must be reduced by the excess, if any, of (i) the amount computed under section 186(e)(1) with respect to such compensatory amount, over (ii) the amount computed under section 186(e)(2) with respect to such compensable injury.

(2) *Amount computed under section 186(e)(1).* The amount computed under section 186(e)(1) is equal to the deduction allowed under section 186(a) with respect to the compensatory amount received or accrued for the taxable year.

(3) *Amount computed under section 186(e)(2).* The amount computed under section 186(e)(2) is equal to that portion of the unrecovered losses sustained as a result of the compensable injury with respect to which, as of the beginning of the taxable year, the period for carryover under section 172 has expired without benefit to the taxpayer, but only to the extent that such portion of the unrecovered losses did not reduce an amount computed under section 186(e)(1) for any prior taxable year.

(4) *Increase in income under section 172(b)(2).* If there is a reduction for any taxable year under subparagraph (1) of this paragraph in the portion of the net operating loss carryovers to such year attributable to a compensable injury, then, solely for purposes of determining the amount of such portion which may be carried to subsequent taxable years, the income of such taxable year, as computed under section 172(b)(2), shall be increased by the amount of the reduction computed under subparagraph (1) of this paragraph, for such year.

(f) *Illustration.* The provisions of section 186 and this section may be illustrated by the following example:

Example. (i) As of the beginning of his taxable year 1969, taxpayer A has a net operating loss carryover from his taxable year 1966 of $550 of which $250 is attributable to a compensable injury. In addition, he has a net operating loss attributable to the compensable injury of $150 with respect to which the period for carryover under section 172 has expired without benefit to the taxpayer. In 1969, he receives a $100 compensatory amount with respect to that injury and he has $75 in other income. Thus, A has gross income of $175 and he is entitled to a $100 deduction (the compensatory amount received) under section 186(a) and this section since this amount is less than the unrecovered losses sustained as a result of the compensable injury ($250+$150=$400). No portion of the net operating loss carryover to the current taxable year attributable to the compensable injury is reduced under section 186(e) since the amount determined under section 186(e)(1) ($100) does not exceed the amount determined under section 186(e)(2) ($150). Therefore, A applies a net operating loss carryover of $550 against his remaining income of $75 and retains a net operating loss carryover of $475 to following years of which amount $250 remains attributable to the compensable injury. In addition, he retains $50 of net operating losses attributable to the compensable injury with respect to which the period for carryover under section 172 has expired without benefit to the taxpayer.

(ii) In 1970, A receives a $200 compensatory amount with respect to the same compensable injury and has $75 of other income. Thus, A has gross income of $275 and he is entitled to a $200 deduction (the compensatory amount received) under section 186(a) and this section since this amount is less than the remaining unrecovered loss sustained as a result of the compensable injury ($250+$50=$300). The net operating loss carryover to the current taxable year of $250 attributable to the compensable injury is reduced under section 186(e) by $150, which is the excess of the amount determined under section 186(e)(1) ($200) over the amount determined under section 186(e)(2) ($50). Therefore, A applies net operating loss carryovers of $325 ($225 not attributable to the compensable injury, +$100 attributable to such injury) against his remaining income of $75. A retains net operating loss carryovers of $250 for following years, of which amount $100 is attributable to the compensable injury. A has used all of his net operating losses attributable to the compensable injury with respect to which the period for carryover under section 172 has expired without benefit to the taxpayer.

(iii) In 1971, A receives a $200 compensatory amount with respect to the same compensable injury and has $75 of other income. Thus, A has gross income of $275 and he is entitled to a $100 deduction (the amount of unrecovered losses) under section 186(a) and this section since this amount is less than the compensatory amount received ($200). The net operating loss carryover to the current taxable year of $100 attributable to the compensable injury is reduced under section 186(e) by $100, which is the excess of the amount determined under section 186(e)(1) ($100) over the amount determined under section 186(e)(2) ($0). Therefore, A applies net operating loss carryovers of $150 against his remaining income of $175 ($100 compensatory amount plus $75 other income) which leaves $25 taxable income. No net operating loss carryover remains for following years.

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(g) *Effective date.* The provisions of this section are applicable as to compensatory amounts received or accrued in taxable years beginning after December 31, 1968, even though the compensable injury was sustained in taxable years beginning before such date.

[FR Doc.72-20005 Filed 11-20-72;8:50 am]

[T.D. 7221]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Effect of Depreciation on Earnings and Profits

On August 23, 1972, there was published in the FEDERAL REGISTER (37 F.R. 16945) a notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under sections 312, 964, and 1248 of the Internal Revenue Code of 1954 to conform such regulations to changes made by section 442 of the Tax Reform Act of 1969 (83 Stat. 628). After consideration of all such relevant matters as were presented by interested persons regarding the rules proposed, the amendment to the regulations as proposed is hereby adopted.

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: November 15, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) under sections 312, 964, and 1248 of the Internal Revenue Code of 1954 to section 442 of the Tax Reform Act of 1969 (83 Stat. 628), such regulations are amended as follows:

PARAGRAPH 1. Section 1.312 is amended by adding new subsections (k), (l), and (m) to section 312 and by revising the historical note. These revised and added provisions read as follows:

§ 1.312 Statutory provisions; effect on earnings and profits.

SEC. 312. *Effect on earnings and profits.*

* * *

(k) *Special adjustment on disposition of antitrust stock received as a dividend.* If a corporation received antitrust stock (as defined in section 301(f)) in a distribution to which section 301 applied, and the amount of the distribution determined under section 301(f)(2) exceeded the basis of the stock determined under section 301(f)(3), then proper adjustment shall be made, under regulations prescribed by the Secretary or his delegate, to the earnings and profits of such corporation at the time such stock (or other property the basis of which is determined by reference to the basis of such stock) is disposed of by such corporation.

(l) *Earnings and profits of foreign investment companies*—(1) *Allocation within affiliated group.* In the case of a sale or exchange of stock in a foreign investment company (as defined in section 1246(b)) by a United States person (as defined in section 7701(a)(30)), if such company is a member of an affiliated group, then the accumulated earnings and profits of all members of such affiliated group shall be allocated, under regulations prescribed by the Secretary or his delegate, in such manner as is proper to carry out the purposes of section 1246.

(2) *Affiliated group defined.* For purposes of paragraph (1) of this subsection, the term "affiliated group" has the meaning assigned to such term by section 1504(a); except that (A) "more than 50 percent" shall be substituted for "80 percent or more", and (B) all corporations shall be treated as includible corporations (without regard to the provisions of section 1504(b)).

(3) *Partial liquidations and redemptions*—(A) *In general.* If a foreign investment company (as defined in section 1246) distributes amounts in partial liquidation or in a redemption to which section 302(a) or 303 applies, the part of such distribution which is properly chargeable to earnings and profits shall be an amount which is not in excess of the ratable share of the earnings and profits of the company accumulated after February 28, 1913, attributable to the stock so redeemed.

(B) *Effective date.* Subparagraph (A) shall apply only with respect to distributions made after December 31, 1962.

(m) *Effect of depreciation on earnings and profits*—(1) *General rule.* For purposes of computing the earnings and profits of a corporation, for any taxable year beginning after June 30, 1972, the allowance for depreciation (and amortization, if any) shall be deemed to be the amount which would be allowable for such year if the straight line method of depreciation had been used for each taxable year beginning after June 30, 1972.

(2) *Exception.* If for any taxable year beginning after June 30, 1972, a method of depreciation was used by the taxpayer which the Secretary or his delegate has determined results in a reasonable allowance under section 167(a), and which is not—

(A) A declining balance method,

(B) The sum of the years-digits method, or

(C) Any other method allowable solely by reason of the application of subsection (b)(4) or (j)(1)(C) of section 167,

then the adjustment to earnings and profits for depreciation for such year shall be determined under the method so used (in lieu of under the straight line method).

(3) *Certain foreign corporations.* The provisions of paragraph (1) shall not apply in computing the earnings and profits of a foreign corporation for any taxable year for which less than 20 percent of the gross income from all sources of such corporation is derived from sources within the United States.

[Sec. 312 as amended by sec. 3(a), Act of February 2, 1962 (76 Stat. 6); secs. 13(f)(3), 14(b)(1), Rev. Act 1962 (76 Stat. 1035, 1040); sec. 231(b)(3), Rev. Act 1964 (78 Stat. 105); sec. 1(b)(1), Act of August 22, 1964 (78 Stat. 597); sec. 1(b)(3), Act of September 12, 1966 (80 Stat. 762); secs. 211(b)(3), 442(a), 905(b)(2), Tax Reform Act 1969 (83 Stat. 570, 628, 714)]

PAR. 2. Section 1.312-7 is amended by revising the last sentence of paragraph (c)(1) and adding a new example at the end of paragraph (c)(2). The revised and added provisions read as follows:

§ 1.312-7 Effect on earnings and profits of gain or loss realized after February 28, 1913.

* * * * *

(c)(1) * * * The adjustments provided by such third sentence reflect the treatment provided by §§1.312-6 and 1.312-15 relative to cases where the deductions for depletion and depreciation in computing taxable income (or net income, as the case may be) differ from the deductions proper for the purpose of computing earnings and profits.

(2) * * *

Example (3). On January 1, 1973, corporation X purchased for $10,000 a depreciable asset with an estimated useful life of 20 years and no salvage value. In computing depreciation on the asset, corporation X used the declining balance method with a rate twice the straight line rate. On December 31, 1976, the asset was sold for $9,000. Under section 1016(a)(2), the basis of the asset is adjusted for depreciation allowed for the years 1973 through 1976, or a total of $3,439. Thus, X realizes a gain of $2,439 (the excess of the amount realized, $9,000, over the adjusted basis, $6,561). However, the proper adjustment to basis for the purpose of determining earnings and profits is only $2,000, i.e., the total amount which, under § 1.312-15, was applied in the computation of earnings and profits for the years 1973-76. Hence, upon sale of the asset, earnings and profits are increased by only $1,000, i.e., the excess of the amount realized, $9,000, over the adjusted basis for earnings and profits purposes, $8,000.

* * * * *

PAR. 3. After § 1.312-12, the following sections are added:

§ 1.312-13 [Reserved]

§ 1.312-14 [Reserved]

§ 1.312-15 Effect of depreciation on earnings and profits.

(a) *Depreciation for taxable years beginning after June 30, 1972*—(1) *In general.* Except as provided in subparagraph (2) of this paragraph and paragraph (c) of this section, for purposes of computing the earnings and profits of a corporation (including a real estate investment trust as defined in section 856) for any taxable year beginning after June 30, 1972, the allowance for depreciation (and amortization, if any) shall be deemed to be the amount which would be allowable for such year if the straight line method of depreciation had been used for all property for which depreciation is allowable for each taxable year beginning after June 30, 1972. Thus, for taxable years beginning after June 30, 1972, in determining the earnings and profits of a corporation, depreciation must be computed under the straight line method, notwithstanding that in determining taxable income the corporation uses an accelerated method of depreciation described in subparagraph (A), (B), or (C) of section 312(m)(2) or elects to amortize the basis of property under section 169, 184, 187, or 188, or any similar provision.

(2) *Exception.* (i) If, for any taxable year beginning after June 30, 1972, a

method of depreciation is used by a corporation in computing taxable income which the Secretary or his delegate has determined results in a reasonable allowance under section 167(a) and which is not a declining balance method of depreciation (described in § 1.167(b)-2), the sum of the years-digits method (described in § 1.167(b)-3), or any other method allowed solely by reason of the application of subsection (b)(4) or (j)(1)(C) of section 167, then the adjustment to earnings and profits for depreciation for such year shall be determined under the method so used (in lieu of the straight line method).

(ii) The Commissioner has determined that the "unit of production" (see § 1.167(b)-0(b)), and the "machine hour" methods of depreciation, when properly used under appropriate circumstances, meet the requirements of subdivision (i) of this subparagraph. Thus, the adjustment to earnings and profits for depreciation (for the taxable year for which either of such methods is properly used under appropriate circumstances) shall be determined under whichever of such methods is used to compute taxable income.

(3) *Determinations under straight line method.* (i) In the case of property with respect to which an allowance for depreciation is claimed in computing taxable income, the determination of the amount which would be allowable under the straight line method shall be based on the manner in which the corporation computes depreciation in determining taxable income. Thus, if an election under § 1.167(a)-11 is in effect with respect to the property, the amount of depreciation which would be allowable under the straight line method shall be determined under § 1.167(a)-11(g)(3). On the other hand, if property is not depreciated under the provisions of § 1.167(a)-11, the amount of depreciation which would be allowable under the straight line method shall be determined under § 1.167(b)-1. Any election made under section 167(f), with respect to reducing the amount of salvage value taken into account in computing the depreciation allowance for certain property, or any convention adopted under § 1.167(a)-10(b) or § 1.167(a)-11(c)(2), with respect to additions and retirements from multiple asset accounts, which is used in computing depreciation for taxable income shall be used in computing depreciation for earnings and profits purposes.

(ii) In the case of property with respect to which an election to amortize is in effect under section 169, 184, 187, or 188, or any similar provision, the amount which would be allowable under the straight line method of depreciation shall be determined under the provisions of § 1.167(b)-1. Thus, the cost or other basis of the property, less its estimated salvage value, is to be deducted in equal annual amounts over the period of the estimated useful life of the property. In computing the amount of depreciation for earnings and profits purposes, a taxpayer may utilize the provisions of section 167(f) (relating to the reduction in the amount of salvage value taken into account in computing the depreciation allowance for certain property) and any convention which could have been adopted for such property under § 1.167(a)-10(b) (relating to additions and retirements from multiple asset accounts).

(b) *Transitional rules*—(1) *Depreciation.* If, for the taxable year which includes June 30, 1972, (i) the allowance for depreciation of any property is computed under a method other than the straight line method or a method described in paragraph (a)(2) of this section, and (ii) paragraph (a)(1) of this section applies to such property for the first taxable year beginning after June 30, 1972, then adjustments to earnings and profits for depreciation of such property for taxable years beginning after June 30, 1972, shall be determined as if the corporation changed to the straight line method with respect to such property as of the first day of the first taxable year beginning after June 30, 1972. Thus, if an election under § 1.167(a)-11 is in effect with respect to the property, the change shall be made under the provisions of § 1.167(a)-11(c)(1)(iii), except that no statement setting forth the vintage accounts for which the change is made shall be furnished with the income tax return of the year of change if the change is only for purposes of computing earnings and profits. In all other cases, the unrecovered cost or other basis of the property (less a reasonable estimate for salvage) as of such first day shall be recovered through equal annual allowances over the estimated remaining useful life determined in accordance with the circumstances existing at that time. See paragraph (a)(3)(i) of this section for rules relating to the applicability of section 167(f) in determining salvage value.

(2) *Amortization.* If, for the taxable year which includes June 30, 1972, the basis of any property is amortized under section 169, 184, 187, or 188, or any similar provision, then adjustments to earnings and profits for depreciation or amortization of such property for taxable years beginning after June 30, 1972, shall be determined as if the unrecovered cost or other basis of the property (less a reasonable estimate for salvage) as of the first day of the first taxable year beginning after June 30, 1972, were recovered through equal annual allowances over the estimated remaining useful life of the property determined in accordance with the circumstances existing at that time. See paragraph (a)(3)(ii) of this section for rules relating to the applicability of section 167(f).

(c) *Certain foreign corporations.* Paragraphs (a) and (b) of this section shall not apply in computing the earnings and profits of a foreign corporation for any taxable year for which less than 20 percent of the gross income from all sources of such corporation is derived from sources within the United States.

(d) *Books and records.* Wherever different methods of depreciation are used for taxable income and earnings and profits purposes, records shall be maintained which show the depreciation taken for earnings and profits purposes each year and which will allow computation of the adjusted basis of the property in each account using the depreciation taken for earnings and profits purposes.

§ 1.964 [Amended]

PAR. 4. Section 1.964 is amended by striking out "For purposes of this subpart," and inserting in lieu thereof "Except as provided in section 312(m)(3), for purposes of this subpart" in section 964(a), and by adding "; amended by sec. 442(b)(1), Tax Reform Act 1969 (83 Stat. 628)" immediately after "(76 Stat. 1006)" in the historical note.

PAR. 5. Paragraph (c)(1)(iii) of § 1.964-1 is amended to read as follows:

§ 1.964-1 Determination of the earnings and profits of a foreign corporation.

* * * * *

(c) *Tax adjustments*—(1) *In general.*

* * *

(iii) *Depreciation.* Depreciation shall be computed as follows:

(*a*) For any taxable year beginning before July 1, 1972, depreciation shall be computed in accordance with section 167 and the regulations thereunder.

(*b*) If, for any taxable year beginning after June 30, 1972, 20 percent or more of the gross income from all sources of the corporation is derived from sources within the United States, then depreciation shall be computed in accordance with the provisions of § 1.312-15.

(*c*) If, for any taxable year beginning after June 30, 1972, less than 20 percent of the gross income from all sources of the corporation is derived from sources within the United States, then depreciation shall be computed in accordance with section 167 and the regulations thereunder.

* * * * *

§ 1.1248 [Amended]

PAR. 6. Section 1.1248 is amended by striking out "For purposes of this section," and inserting in lieu thereof "Except as provided in section 312(m)(3), for purposes of this section" in section 1248(c)(1), and by adding "; amended by sec. 442(b)(2), Tax Reform Act 1969 (83 Stat. 628)" immediately after "(76 Stat. 1041)" in the historical note.

[FR Doc.72-20002 Filed 11-20-72;8:50 am]

[T.D. 7223]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Elimination of Filing Requirement

In order to eliminate the filing requirement for Forms 2950 and 2950SE, relating to employees' pension, etc., plans, the Income Tax Regulations (26 CFR Part 1) under sections 404 and 6033 of the Internal Revenue Code of 1954 are amended as follows:

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PARAGRAPH 1. Paragraphs (b) and (c) of § 1.404(a)–2A are amended to read as follows:

§ 1.404(a)–2A Information to be furnished by employer; taxable years ending on or after December 31, 1971.

* * * * *

(b) *Forms.* The forms prescribed by this section are:

(1) Form 4848, generally relating to information concerning the qualification of the plan, and deductions for contributions made on behalf of employees or self-employed individuals,

(2) Form 4849, generally relating to the financial position of the trust, fund, or custodial or fiduciary account which is a part of the plan, and

(3) For any taxable year ending on or after December 31, 1971, and before December 31, 1972, Forms 2950 and 2950SE, relating to the identification of plans to which an employer has made a contribution and information with respect to a deduction for a contribution made on behalf of a self-employed individual, respectively.

(c) *Filing requirements.* (1) Form 4848 shall be filed by the employer for each taxable year during which he maintains a pension, annuity, stock bonus, profit-sharing, or other funded plan of deferred compensation. Such form shall be filed on or before the 15th day of the 5th month following the close of the employer's taxable year. For rules relating to the extension of time for filing, see section 6081 and the regulations thereunder and the instructions for Form 4848.

(2) Form 4849 shall be filed by the employer as an attachment to Form 4848 for each taxable year during which he maintains a pension, annuity, stock bonus, profit-sharing, or other funded plan of deferred compensation unless the employer (i) has been notified in writing that Form 4849 will be filed by the fiduciary for such plan as an attachment to Form 990–P or (ii) is not required to file Form 4849 under the instructions relating thereto.

(3) For any taxable year ending on or after December 31, 1971, and before December 31, 1972, Form 2950 shall be filed with the employer's tax return for any such taxable year during which a pension, annuity, stock bonus, profit-sharing, or other funded plan of deferred compensation is maintained.

(4) For any taxable year ending on or after December 31, 1971, and before December 31, 1972, Form 2950SE shall be filed by each self-employed individual with his income tax return for any such taxable year in which he claims a deduction for contributions made on his behalf.

* * * * * *

PAR. 2. Section 1.6033–2(a)(2)(ii)(f) is amended to read as follows:

§ 1.6033–2 Returns by exempt organizations; taxable years beginning after December 31, 1969.

(a) *In general.* * * *

(2) * * *

(ii) * * *

(f) For any taxable year ending on or after December 31, 1971, such information as is required by Forms 4848 and 4849 and, only with respect to any such taxable year ending before December 31, 1972, such information as is required by Form 2950. Such forms are required by this section to be filed by an organization exempt from tax under section 501(a) which is an employer who maintains a funded pension or annuity plan for its employees. See paragraph (g) of this section for exceptions from filing. Form 4849 need not be filed by the organization if the fiduciary for the plan has given written notification to the organization that such form will be filed as an attachment to Form 990–P filed by the fiduciary. Form 4848 (and Form 4849 if required to be filed by the organization) shall be filed as a separate return on or before the due date for Form 990. For rules relating to the extension of time for filing, see section 6081 and the regulations thereunder and the instructions for Form 4848. A central organization which files Form 990 as a group return under paragraph (d) of this section may also file Form 4848 as a group return. The rules provided by paragraph (d) of this section with respect to a group return filed on Form 990 shall apply to a group return filed on Form 4848. Unless otherwise expressly provided therein, an authorization to include a local organization in a group for purposes of filing Form 990 as a group return shall be treated as an authorization to include such local organization in a group for purposes of filing Form 4848 as a group return. A group return on Form 4848 shall be filed in accordance with this section and the instructions to Form 4848 and shall be considered the return of each local organization included therein. In addition to the information required to be furnished by Forms 4848 and 4849, the district director may require any further information that he considers necessary to determine qualification of the plan under section 401 or the taxability under section 403(b) of a beneficiary under an annuity purchased by a section 501(c)(3) organization.

* * * * * *

Because of the need for immediate promulgation of revised forms with respect to provisions contained in this Treasury decision and because such provisions do not adversely affect any taxpayer, it is found impracticable and unnecessary to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: November 15, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

[FR Doc.72–20007 Filed 11–20–72;8:50 am]

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 7218]

PART 53—FOUNDATION EXCISE TAXES

Foreign Private Foundations

Correction

In F.R. Doc. 72–19374 appearing at page 23918 of the issue for Friday, November 10, 1972, in the 22d line of § 53.4948–1(a) insert the phrase "and will be paid annually" immediately following "section 6033 for the taxable year,".

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 7222]

PART 301—PROCEDURE AND ADMINISTRATION

Notice of Executors or Receivers

In order to revise the regulations on procedure and administration (26 CFR Part 301) under section 6036 of the Internal Revenue Code of 1954, such regulations are amended as follows:

Paragraph (a) of § 301.6036–1 is amended by revising subparagraph (4) (i) and (ii) thereof, and by adding a new subdivision (iii). These amended and added provisions read as follows:

§ 301.6036–1 Notice required of executor or of receiver or other like fiduciary.

(a) *Receivers and other like fiduciaries.* * * *

(4) *Contents of notice*—(i) *Bankruptcy and other proceedings.* * * *

(*b*) The name, address, and, for notices filed after December 21, 1972, the taxpayer identification number of the debtor or other person whose assets are controlled. * * *

(ii) *Assignment for benefit of creditors.* * * *

(*b*) The name, address, and, for notice filed after December 21, 1972, the taxpayer identification number of the debtor whose assets were assigned. * * *

(iii) The notice required by this section shall be sent to the attention of the Chief, Special Procedures Staff, of the district office to which it is required to be sent.

* * * * * *

Because this Treasury decision relates to general rules of procedure or practice, it is found unnecessary to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b), or subject to the effective date limitation of 5 U.S.C. 553(d).

(Sec. 7805, Internal Revenue Code of 1954, 68 Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: November 15, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

[FR Doc.72–20004 Filed 11–20–72;8:50 am]

Title 29—LABOR

Chapter XVII—Occupational Safety and Health Administration, Department of Labor

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Coal Tar Pitch Volatiles

Pursuant to section 8(g) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1600; 29 U.S.C. 657), Part 1910 of Title 29, Code of Federal Regulations, is amended by adding thereto a new § 1910.93b. The new section interprets the term, "coal tar pitch volatiles," as used in § 1910.93 (Table G–1). Although the term suggests that it only refers to the distillation residues of coal, it is considered to include other hydrocarbons with the same chemical composition. The term "coal tar pitch volatiles," thus denotes the complete class of fused polycyclic hydrocarbons which volatilize from the distillation residues of organic matter rather than from the distillation residues of coal alone. Since all of these volatiles have the same basic chemical composition and since all of them present the same dangers to a person's health, the standard prescribed by § 1910.93, is applied to the use of all of them.

Because the amendment is considered an interpretative rule, no notice and public procedure or delay in effective date are provided.

The new § 1910.93b reads as follows:

§ 1910.93b Coal tar pitch volatiles; interpretation of term.

As used in § 1910.93 (Table G–1), coal tar pitch volatiles include the fused polycyclic hydrocarbons which volatilize from the distillation residues of coal, petroleum, wood, and other organic matter.

(Sec. 8(g). 84 Stat. 1600, 29 U.S.C. 657)

Effective date. This amendment shall become effective upon publication in the FEDERAL REGISTER (11–21–72).

Signed at Washington, D.C., this 15th day of November 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72–19983 Filed 11–20–72;8:48 am]

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Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Part 12]

FOREIGN-MADE PLEASURE BOATS AND EQUIPMENT

Importation and Safety Requirements

Notice is hereby given that under the authority of 5 U.S.C. 301, Revised Statute 251, as amended (19 U.S.C. 66), sections 623, 624, 46 Stat. 759, as amended (19 U.S.C. 1623, 1624), and sections 5, 11, 85 Stat. 215, 217 (46 U.S.C. 1454, 1460), it is proposed to amend Part 12 of the Customs Regulations to reflect and implement those sections of the Coast Guard Regulations (33 CFR Parts 181, 183), which specify safety standards to be imposed upon certain foreign-made pleasure boats imported into the United States after November 1, 1972.

The proposed amendments to the Customs Regulations incorporate certain definitions found in Public Law 92–75, approved August 10, 1971 (section 3, 85 Stat. 214; 46 U.S.C. 1452), and specify entry and general importation procedures and requirements for the subject boats and equipment.

Accordingly, it is proposed to amend Part 12 of the Customs Regulations by the insertion of a new center heading and § 12.85 to read as follows:

SAFETY STANDARDS FOR BOATS AND ASSOCIATED EQUIPMENT

§ 12.85 Coast Guard boat and associated equipment safety standards.

(a) *Applicability of standards prescribed by the Commandant, U.S. Coast Guard.* Boats and associated equipment (as hereinafter defined) are subject to U.S. Coast Guard safety regulations and standards when imported or, under certain conditions, brought into the United States after November 1, 1972. Those regulations and standards are prescribed by the Commandant, U.S. Coast Guard, pursuant to section 5, Federal Boat Safety Act of 1971 (46 U.S.C. 1454), as set forth in 33 CFR Parts 181, 183.

(1) The term "boats" includes:

(i) All vessels manufactured or used primarily for noncommercial use.

(ii) All vessels leased, rented, or chartered to another for the latter's noncommercial use.

(iii) All vessels engaged in the carrying of six or fewer passengers (see section 4.80 of this chapter on prohibitions against foreign vessels transporting passengers in the coastwise trade).

(2) The term "boats" does not include:

(i) Foreign vessels temporarily using waters subject to U.S. jurisdiction.

(ii) Military or public vessels of the United States, except recreational type public vessels.

(iii) A vessel whose owner is a State or subdivision thereof, which is principally used for governmental purposes, and which is clearly identifiable as such.

(iv) Ships' lifeboats.

(3) The term "associated equipment" includes:

(i) Any system, part, or component of a boat as originally manufactured, or a similar part or component manufactured or sold for replacement, repair, or improvement of such system, part, or component.

(ii) Any accessory or equipment for, or appurtenance to, a boat.

(iii) Any marine safety article, accessory, or equipment intended for use by a person on board a boat.

(4) The term "associated equipment" does not include radio equipment.

(5) The term "product" as used in this section, includes the terms "boats" and "associated equipment" as defined in subparagraphs (1) and (3) of this paragraph.

(b) *Prohibition against entry of nonconforming products.* Subject to the provisions of paragraph (d) of this section, no product shall be permitted entry into the United States unless it is in conformity with applicable safety standards in effect at the time of importation.

(c) *Evidence of compliance with general standards as condition of entry.* A product for which entry is sought into the Customs territory of the United States will, subject to the exceptions specified in paragraph (d) of this section, be permitted entry only if accompanied by evidence of compliance with standards as follows:

(1) Products subject to standards prescribed in 33 CFR Part 183 will bear a compliance certification label in accordance with the requirements of Subpart B, 33 CFR Part 181.

(2) Boat hulls subject to Subpart C, 33 CFR Part 181 will bear a hull identification number affixed by the importer or the original manufacturer. The number shall comply with the format requirements of Subpart C, 33 CFR Part 181.

(d) *Products not in compliance with standards: Alternative evidence required as condition of entry and release.* Certain products shall be permitted entry and release without a certificate of compliance or hull identification required by Subparts B and C, 33 CFR Part 181, if they fall within one of the following categories, and if the conditions for entry and release specified for each category of product are met:

(1) *Certain products manufactured before standards.* For certain products manufactured before standards were in force, a declaration will be filed in accordance with the requirements of paragraph (e) of this section. The declaration will state that the product was manufactured on a date when there were no applicable safety standards in force and that the Coast Guard has determined that alteration of the product is not required. If the district director believes that it is necessary in a particular case, he should communicate with the nearest Coast Guard district commander by the most expedient means to ascertain that Coast Guard has made that determination. A verbal declaration is acceptable at the option of the district director for products entering from Canada or Mexico otherwise than by sea.

(2) *Products in conformity and not offered for sale.* In the case of products in conformity but not to be offered for sale, a declaration will be filed in accordance with the requirements of paragraph (e) of this section. The declaration will state that the product is not being imported for sale and will state that it was either manufactured in conformity with applicable safety standards, or it was not manufactured in conformity with applicable safety standards, but has since been brought into conformity. The declaration should be accompanied by a statement of original compliance from the product's manufacturer, or a statement of the firm or person who has brought the product into conformity, which describes the nature and extent of the work performed. If it is not possible to obtain such a statement, the importer or consignee must present a statement identifying the manufacturer who constructed the boat in conformity with the standards, or identifying the firm or person who has brought the product into conformity with the standards and describing the nature and extent of the work performed. Bond for production of a statement under this subparagraph may be accepted in accordance with paragraph (f)(1)(i) of this section.

(3) *Products to be brought into conformity.* In the case of products that are not in conformity at the time of entry but will be brought into conformity, a declaration will be filed in accordance with paragraph (e) of this section. The declaration will state that the product does not conform with applicable safety standards and regulations, but that the importer or consignee will bring the product into conformity with safety standards and regulations, and will also state that the product will not be sold or offered for sale until the bond has been satisfied with respect to this obligation. To secure entry under this provision, bond must be given in accordance with paragraph (f)(1)(ii) of this section.

(4) *Certain products entering the United States for repair or alteration.* In the case of a nonresident of the United States who wishes to enter a product for the purpose of making repairs or alterations to it for a period not exceeding 60 days from the date of entry, a declaration will be filed in accordance with paragraph (e) of this section. The declaration shall state that the importer or consignee is a nonresident of the United States, that the product is being brought in for the purpose of making repairs or alterations to it, and that it will not remain in the Customs territory of the United States for more than 60 days following the date of the entry, and that it will not be sold or used for pleasure purposes in U.S. waters during that time. However, the declaration required by this subparagraph shall be waived for persons regularly entering the United States from Canada or Mexico otherwise than by sea who obtain, by application to the district director, an appropriate means of identification that has been affixed to the boat to serve in place of the declaration.

(5) *Products owned by certain foreign government or international organization personnel.* In the case of an importer or consignee employed in one of the capacities set forth in this subparagraph, a declaration will be filed in accordance with paragraph (e) of this section. The declaration shall state that the importer or consignee is either a member of the armed forces of a foreign country on assignment in the United States, or is a member of the Secretariat of a public international organization so designated pursuant to section 1 of the International Organizations Immunities Act of December 29, 1945 (22 U.S.C. 288), on assignment in the United States, or is a member of the personnel of a foreign government on assignment in the United States who comes within the class of persons for whom free entry of boats has been authorized by the Department of State, and that he is importing the product for purposes other than resale.

(6) *Certain products entered for tests or experimentation.* In the case of an importer or consignee seeking to enter a product, for tests or experimentation for a period not to exceed 1 year, that will not be sold in the United States, a declaration will be filed in accordance with the requirements of paragraph (e) of this section. The declaration will state that the importer or consignee is importing the product solely for the purpose of tests or experiments and it will not be sold or operated in the United States, except where such operation is an integral part of the tests and experiments for which the product was imported. The importer will attach to the declaration a description of the tests and experiments for which the product is being imported, the time period estimated to complete the tests, and the disposition to be made of the product after the tests and experiments are completed. Entry under this subparagraph may be authorized for a period not to exceed 1 year.

(e) *Declaration requirements.* All declarations submitted under paragraph (d) of this section, except verbal declarations submitted pursuant to paragraph (d)(1) of this section, must:

(1) Be filed with the entry, in duplicate.

(2) Be signed by the importer or consignee.

(3) State the name and U.S. address of the importer or consignee.

(4) State the entry number and date.

(5) Provide the make, model, and hull identification number of any boat, and a description of any equipment or component.

(6) Identify, if known, the city or State in which the product will be principally located.

The district director shall immediately forward the original of a declaration to the Commandant, U.S. Coast Guard, 400 Seventh Street SW., Washington, DC 20590.

(f) *Release under bond*—(1) *When bond required.* A bond in the amount prescribed by § 25.4(a) of this chapter will be required of the importer or consignee on Customs Form 7551, 7553, or 7595 in the following cases:

(i) *Failure to produce statement when products in conformity and not offered for sale.* When the importer or consignee of a product alleged to be in conformity and not to be offered for sale seeks entry of the product under paragraph (c)(2) of this section, but is unable to submit the statement under that subparagraph, the entry shall be accepted only if bond is given for the production of a statement in accordance with that subparagraph.

(ii) *When a declaration is made that a product is to be brought into conformity.* When the importer or consignee of a product declares that it will be brought into conformity before being sold or offered for sale, and seeks entry of the product under paragraph (d)(3) of this section, the entry shall be accepted only if bond is given for the production of a statement by either the importer or the consignee that the product described in the declaration is in conformity with applicable safety standards. The statement shall identify the person or firm who has brought the product into conformity with the standards and shall describe the nature and extent of the work performed.

(2) *Time limitation to produce statement for which bond is obligated.* Within 90 days after entry, or any additional period as the district director may allow for good cause shown, the importer or consignee shall deliver to both the district director and the Commandant, U.S. Coast Guard, a copy of the statement for production of which the bond was obligated. If the statement is not delivered to the district director for the port of entry of the product within 90 days after the date of entry or within an additional period allowed by the district director for good cause shown, the importer or consignee shall deliver or cause to be delivered to the district director those products which were released in accordance with this paragraph.

(3) *Damages to be assessed against bond.* In the event that any product is not redelivered within 5 days following the date required by subparagraph (2) of this paragraph, liquidated damages shall be assessed in the full amount of the bond given on Customs Form 7551. When the transaction has been charged against a bond given on Customs Form 7553 or 7595, liquidated damages shall be assessed in the amount that would be demanded under the preceding sentence if the merchandise had been released under a bond given on Customs Form 7551.

(g) *Merchandise refused entry.* If a product is denied entry under the provisions of this section, the district director shall refuse to release the merchandise for entry into the United States and shall issue a notice of the refusal to the importer or consignee.

(h) *Disposition of merchandise refused entry into the United States; redelivered merchandise.* Products which are denied entry under paragraph (b) or (c) of this section, or which are redelivered in accordance with paragraph (f)(2) of this section, and which are not exported under Customs supervision within 90 days from the date of notice of refusal of admission or date of redelivery, shall be disposed of under Customs laws and regulations. However, no such disposition shall result in an introduction into the United States of a product in violation of the Federal Boat Safety Act of 1971 (46 U.S.C. 1450–1489).

(Sec. 623, 46 Stat. 759, as amended, secs. 5, 11, 84 Stat. 215, 217, secs. 6, 7, 15, 85 Stat. 216, 219; 19 U.S.C. 1623, 46 U.S.C. 1454, 1455, 1456, 1460, 1464)

Data, views, or arguments with respect to the foregoing proposal may be addressed to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20226. To ensure consideration of those communications, they must be received in the Bureau of Customs not later than 15 days from the date of publication of this notice in the FEDERAL REGISTER.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.3(b) of the Customs Regulations (19 CFR 103.3(b)), at the Regulations Division, Bureau of Customs, Washington, D.C., during regular business hours.

[SEAL] LEONARD LEHMAN,
Acting Commissioner of Customs.

Approved: October 18, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

Approved: November 14, 1972.

AUSTIN C. WAGNER,
Chief, Office of Boating Safety, U.S. Coast Guard.

[FR Doc.72-20042 Filed 11-20-72;8:53 am]

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Fiscal Service

[31 CFR Part 205]

FEDERAL GRANTS AND OTHER PROGRAMS

Funding; Letters of Credit

The Department of the Treasury finds that it is necessary to amend, by a complete revision, its existing regulations governing the withdrawal of cash from the Treasury for advances under Federal grant and other programs at 31 CFR Part 205 (also appearing as Department Circular 1075, 2d Revision). The primary reasons include the need for authorizing and fostering the use of the single letter of credit to replace numerous letters from the same Federal program agencies in favor of the same recipient organizations and to direct such agencies to require funding on a reimbursable basis or working capital basis for the operations of recipient organizations which prematurely draw on grant funds available by letter of credit or Treasury checks.

Accordingly, notice is hereby given pursuant to 5 U.S.C. 553 that the Secretary of the Treasury is considering the revision effective December 15, 1972, under authority of 5 U.S.C. 301 and 42 U.S.C. 4213, of Part 205, Subchapter A, Chapter II of Title 31 of the Code of Federal Regulations, so as to read:

PART 205—WITHDRAWAL OF CASH FROM THE TREASURY FOR ADVANCES UNDER FEDERAL GRANT AND OTHER PROGRAMS

Sec.

205.1 Purpose.
205.2 Scope of regulations.
205.3 General policy.
205.4 Treasury check.
205.5 Letter of credit.
205.6 Secondary recipients.
205.7 Termination of advance methods of financing grant programs.
205.8 Single letter of credit.
205.9 Responsibility of program agencies.
205.10 Implementing instructions.
205.11 Waivers.

AUTHORITY: The provisions of this Part 205 issued under 5 U.S.C. 301 and sec. 203, 82 Stat. 1101, 42 U.S.C. 4213.

SOURCE: The provisions of this part contained in Department Circular 1075, 3d Revision, 37 F.R. ----, Dec. --, 1972.

§ 205.1 Purpose.

Federal grant and other programs involving advances to various organizations outside the Federal Government constitute a significant portion of the Federal budget. Advances of cash from the Treasury to such organizations (hereinafter called recipient organizations) for the purpose of financing their current operations under the Federal programs have a substantial impact on Treasury financing costs and the level of the public debt. The purpose of this part is to prescribe the timing of such advances and the procedures to be observed to assure that cash withdrawals from the Treasury occur only when essential to meet the needs of a recipient organization for its actual disbursements.

§ 205.2 Scope of regulations.

(a) The regulations in this part cover disbursement practices for all cash advances to recipient organizations (including States and local governments, educational institutions, international organizations, and any other public and private organizations) under Federal grant or other programs. The regulations also establish guidelines to be observed by Federal program agencies with respect to their responsibilities in executing grant and other programs, including their review of recipient organization practices in obtaining cash advances by drawing on letters of credit and otherwise. Coverage applies to any Federal program requiring advances to finance the recipient organization's activities in carrying out the program, whether by contract, grant, contribution, or other form of agreement. Although these regulations are not generally applicable to loan programs, the letter-of-credit method described in § 205.5 should be considered by program agencies for application to loans carrying interest rates which are lower than Treasury borrowing rates.

(b) These regulations are not intended to apply to Government disbursements made to reimburse an organization for work already performed and financed with the organization's own working capital. However, these regulations do apply to reimbursable grant programs involving nonprofit organizations participating in the single letter-of-credit funding system as outlined in § 205.8. Any other specific application of features of these regulations to reimbursement payments will be considered by the Department of the Treasury if requested by a program agency.

§ 205.3 General policy.

Regardless of the particular method used, advances to a recipient organization shall be limited to the minimum amounts needed and shall be timed to be in accord only with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipient organization for direct program costs and the proportionate share of any allowable indirect costs.

§ 205.4 Treasury check.

When the annual advance to a recipient organization is less than $250,000 or if the annual advance to a recipient organization aggregates more than $250,000 but there is not a continuing relationship for at least 1 year, the advance shall ordinarily be made by Treasury check. Advances by Treasury check shall be made only in amounts necessary to meet current disbursement needs. Program agencies shall schedule advances made by Treasury check so that the funds are available to the recipient organization only immediately prior to their disbursement by the organization. Therefore, if disbursements are made by the recipient organization on a monthly, biweekly, or any other regular cycle, and the amounts involved would so warrant, the issuance of Treasury checks shall be similarly timed.

§ 205.5 Letter of credit.

(a) If a program agency has, or expects to have a continuing relationship with a recipient organization for at least 1 year, involving annual advances aggregating at least $250,000, the agency shall use the letter-of-credit method.

(b) This method provides program agencies, recipient organizations, and the Department of the Treasury with mechanics specifically designed to enable a recipient organization to obtain cash from Treasury promptly and with such frequency as may be necessary based upon its own determination of when and how much is actually needed for its disbursements.

(c) A letter of credit, which must be executed by an authorized certifying officer of the program agency concerned, gives the recipient organization the authority to draw directly on the Treasury, through its commercial bank (acting as its agent) and either a Federal Reserve Bank (acting as agent of the Treasury) or the Cash Division, Office of the Treasurer of the United States, subject to any monetary and other limits established by the program agency. Withdrawals must be made by authorized officials of the recipient organization designated by it and approved by the program agency's certifying officer.

(d) A letter of credit is irrevocable (the equivalent of cash available to the recipient organization) to the extent the recipient organization has obligated funds in good faith thereunder in executing the authorized Federal program in accordance with the grant, contract, or other agreement.

(e) Use of letters of credit shall be covered by a clause in the grant, contract, or other financing agreement whereby the recipient organization commits itself to (1) the practice of initiating cash drawdowns only when actually needed for its disbursements, (2) the timely reporting of cash disbursements and balances as required by the program agency, and (3) the imposition of the same standards of timing and amount upon any secondary recipients including the furnishing of reports of cash disbursements and balances, with the understanding that failure to adhere to these provisions may cause the unobligated portion of the letter of credit to be revoked by the program agency or by the Department of the Treasury. As provided for in Attachment G of OMB Circular A-102, the financial management system of the recipient organization shall provide for effective control over and accountability for all Federal funds.

(f) Drawdowns shall not ordinarily be made more frequently than daily, or be in amounts less than $10,000 or more than $1 million, but in no case more than $5 million unless so stated on the letter of credit.

(g) Since the letter-of-credit method enables the recipient organization to withdraw cash from the Treasury concurrently with and as frequently as disbursements are made by the recipient, there need be no time lag between drawdowns from the Treasury and disbursements by the recipient organization. Therefore, there is no necessity for the recipient organization to maintain balances of Federal cash other than the small balances necessary to accommodate the minimum limitation on individual drawdowns as provided for in paragraph (f) of this section and to provide for an element of bank float.

(h) In general, agreements shall provide for a recipient organization to initiate each drawdown at approximately the same time that checks are issued by the organization in payment of program liabilities, including those for allowable indirect costs, and in an amount approximately equal to the Federal share of such payments. In order to take advantage of the float on checks outstanding, program agencies wherever possible should arrange for recipient organizations to delay drawdowns on letters of credit until after the checks issued for program disbursements have been forwarded to the payees.

(i) In specific instances, as determined mutually by the Department of the Treasury and the program agency, a recipient organization may be requested to authorize its commercial bank to draw on a letter of credit in its behalf when checks issued by the recipient organization (covering disbursements of Federal funds) are presented to the bank for payment.

§ 205.6 Secondary recipients.

(a) Advances made by primary recipient organizations (those which receive payments directly from the Federal Government) to secondary recipients shall conform substantially to the same standards of timing and amount as apply to advances by Federal agencies to primary recipient organizations.

(b) Federal program agencies should encourage primary recipient organizations to develop procedures, similar to the Federal letter of credit, whereby secondary recipients can draw on the primary recipient as funds are needed for disbursement, in lieu of the primary organization advancing funds to the secondary recipient organization.

§ 205.7 Termination of advance methods of financing grant programs.

(a) When a recipient organization receiving advances by a letter of credit or by Treasury check has demonstrated to a program agency an unwillingness or inability to establish procedures that will minimize the time elapsing between advances and the disbursement thereof, the program agency, if permitted by the statutes governing the grant(s) in question, shall require the recipient organization to finance its operations with its own working capital, and payments to the recipient organization shall be made by Treasury check to reimburse it for actual cash disbursements. Program agencies shall process such reimbursements expeditiously so as to minimize the time elapsing between disbursement by and payment to the recipient organization.

(b) In those cases when the reimbursement method described in paragraph (a) of this section is not feasible, arrangements may be made whereby the operations of the recipient organization are financed on a working capital advance basis. On this basis, funds may be advanced to the recipient organization to cover its estimated disbursement needs for a given initial period. Thereafter, the recipient organization would be reimbursed for the amount of its actual cash disbursements. The amount of the initial advance shall be geared to the reimbursement cycle so that after the initial period the advance approximately equals the average amount of the recipient organization's unreimbursed program payments.

§ 205.8 Single letter of credit.

(a) The single letter of credit is basically the replacement of numerous letters of credit held by a recipient organization with one letter of credit administered centrally. It provides the mechanics for a single flow of funds between the Federal Government and the particular recipient organization.

(b) Each Federal program agency should work toward the objective of establishing a single letter of credit with each State government. As a first step, each program agency should consolidate its own internal procedures to provide for a single letter of credit being issued to each State to fund all the programs of that Federal agency as a whole. In addition, each program agency should join with the Department of the Treasury in efforts to achieve a single letter of credit from the Federal Government as a whole to each of the States.

(c) When a single letter of credit is established with a State, Federal program agencies may include in the single letter of credit, subject to the provisions of paragraph (d) of this section, reimbursable grant programs and also smaller grant programs which do not meet the $250,000 yearly limitation otherwise required in the use of letters of credit.

(d) The implementation of a single letter of credit with a State shall first be approved by Treasury and must be covered by a written agreement whereby the State obligates itself to the provisions outlined in § 205.5(e). The agreement must also indicate that the Department of the Treasury reserves the right to revoke the letter of credit in the event of noncompliance with any of these provisions.

(e) If requested by a program agency, the Department of the Treasury will consider extension of the single letter of credit to include recipient organizations other than State governments.

(f) The single letter of credit is a significant step in the simplification of Federal grant-in-aid funding and provides for a more effective means of administering the letter-of-credit method of funding grant-in-aid programs. The single letter of credit, as designed, will minimize the cash flow from Treasury with substantial savings and will facilitate sound cash management principles on the part of the recipient organizations.

§ 205.9 Responsibility of program agencies.

Regardless of the particular method used to advance funds, the program agency is responsible for (a) making such reviews of the financial practices of recipient organizations, both primary and secondary, as are necessary to insure that the provisions of this Part 205 are being complied with, and (b) instituting such remedial measures as may be necessary in the event that a recipient organization demonstrates its unwillingness or inability to comply with these provisions. Implementing procedures of program agencies shall specify the methods employed to carry out these responsibilities. Also, each program agency shall furnish the Department of the Treasury with reports, semiannually, showing cash balances in the hands of the recipient organizations as of each June 30 and December 31.

§ 205.10 Implementing instructions.

Implementing procedural requirements under this part will be promulgated by the Commissioner of Accounts in the Treasury Fiscal Requirements Manual for Guidance of Departments and Agencies.

§ 205.11 Waivers.

Any waivers of provisions of this part previously granted to program agencies are hereby revoked. Requests for waivers of specific provisions of this part shall be presented in writing to the Commissioner of Accounts.

Prior to adoption of the proposed revision, consideration will be given to any data, views, or arguments submitted to the Commissioner of Accounts, U.S. Department of the Treasury, Washington, D.C. 20226, and received not later than 30 days from the date of the publication of this notice in the FEDERAL REGISTER.

Dated: November 15, 1972.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[FR Doc.72-20040 Filed 11-20-72;8:53 am]

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Accounting for Long-Term Contracts and Advance Payments

Notice is hereby given that the regulations with respect to accounting for advance payments proposed to be prescribed under section 451 of the Internal

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Revenue Code of 1954 which were published in tentative form with a notice of proposed rule making in the FEDERAL REGISTER for July 22, 1971 (36 F.R. 13605), and the regulations with respect to accounting for long-term contracts proposed to be prescribed under section 451 of the Internal Revenue Code of 1954 which were published in tentative form with a notice of proposed rule making in the FEDERAL REGISTER for December 15, 1971 (36 F.R. 23805), are withdrawn and that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue. Attention: CC:LR:T, Washington, D.C. 20224, by January 20, 1973. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by January 20, 1973. In such case, a public hearing will be held, and notice of the time, place, and date, will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

In order to clarify the Income Tax Regulations (26 CFR Part 1) under sections 451 and 471 of the Internal Revenue Code of 1954, such regulations are amended as follows:

PARAGRAPH 1. Section 1.451-3 is amended to read as follows:

§ 1.451-3 Long-term contracts.

(a) *In general.* (1) Income from a long-term contract (as defined in paragraph (b)(1) of this section) may be included in gross income in accordance with one of the two long-term contract methods, namely, the percentage of completion method (as described in paragraph (c) of this section) or the completed contract method (as described in paragraph (d) of this section), if the method chosen clearly reflects income. Whichever method is chosen, it must be applied consistently to all long-term contracts within the same trade or business except that a taxpayer who has long-term contracts (as defined in paragraph (b)(1) of this section) of substantial duration and long-term contracts of less than substantial duration in the same trade or business may report the income from all the contracts of substantial duration on the same long-term contract method, and report the income from the contracts of less than substantial duration pursuant to another proper method of accounting. For example, if a manufacturer of heavy machinery has special-order contracts of a type that generally take 15 months to complete and also has contracts of a type that generally take 3 months to complete, the manufacturer may use a long-term contract method for the 15-month contracts and a proper inventory method pursuant to section 471 and the regulations thereunder for the 3-month contracts.

(2) When a taxpayer reports income under the percentage of completion method or the completed contract method, a statement to that effect shall be attached to his income tax return.

(3) The percentage of completion method and the completed contract method apply only to the accounting for income and expenses attributable to long-term contracts. Other income and expense items, such as investment income or expenses not attributable to such contracts, shall be accounted for under a proper method of accounting. See sections 446(c) and 1.446-1(c).

(b) *Definitions.* (1) (i) Except as provided in subdivision (ii) of this subparagraph, the term "long-term contract" means a building, installation, construction, or manufacturing contract, which is not completed within the taxable year in which it is entered into.

(ii) Notwithstanding subdivision (i) of this subparagraph, a manufacturing contract is a "long-term contract" within the meaning of this subparagraph only if such contract involves the manufacture of: (*a*) Unique items of a type which is not normally carried in the finished goods inventory of the taxpayer, or (*b*) items which normally require more than 12 calendar months to complete (regardless of the duration of the actual contract). Thus, for example, a contract to manufacture a unit of industrial machinery specifically designed for the needs of a customer and not normally carried in the taxpayer's inventory or a contract to manufacture machinery which will require more than 12 calendar months to complete are long-term contracts within the meaning of this subparagraph; however, a contract to manufacture 15,000 folding chairs which take 3 days each to manufacture is not a long-term contract within the meaning of this subparagraph even though it takes more than 12 calendar months to manufacture all 15,000 chairs and the contract is not completed within the taxable year it is entered into.

(2) For purposes of this section, a long-term contract ordinarily will not be considered "completed" until final completion and acceptance have occurred. Nevertheless, a taxpayer may not delay the completion of a contract for the principal purpose of deferring Federal income tax. However, see paragraph (d)(1) of this section for the treatment of disputes existing on or after tender of the subject matter of the long-term contract.

(3) "Costs which are properly associated with a long-term contract" shall be determined by applying the principles of § 1.471-11 (a), (b), and (c) [to be proposed ----------]. "Costs which are properly associated with a long-term contract" do not include costs incurred with respect to any guarantee, warranty, maintenance, or other service agreement, relating to the subject matter of the long-term contract.

(c) *Percentage of completion method.* (1) Under the percentage of completion method, the portion of the gross contract price which corresponds to the percentage of the entire contract which has been completed during the taxable year must be included in gross income for such taxable year.

(2) The determination of the percentage of completion of a contract generally may be made on either of the following methods:

(i) By comparing the costs incurred with respect to the contract as of the end of the taxable year with the estimated total costs, or

(ii) By comparing the work performed on the contract as of the end of the taxable year with the estimated total work to be performed.

In determining the percentage of completion pursuant to subdivision (i) of this subparagraph with respect to a long-term contract, a taxpayer may use any method of cost comparisons (such as comparisons of total direct and indirect costs incurred to date to estimated total direct and indirect costs, of total direct costs incurred to date to estimated total direct costs, or of direct labor costs incurred to date to estimated total direct labor costs) so long as such method is used consistently with respect to such contract and such method clearly reflects income. In determining the percentage of completion pursuant to subdivision (ii) of this subparagraph, the criteria used to compare the work performed on a contract as of the end of the taxable year with the estimated total work to be performed must clearly reflect the earning of income with respect to the contract. Thus, for example, in the case of a roadbuilder, a standard of completion based solely upon miles of roadway completed in a case where the terrain is substantially different with respect to roadway completed during one taxable year as compared with roadway completed during another taxable year may not clearly reflect the earning of income with respect to the contract. If the method described in subdivision (ii) of this subparagraph is used, certificates of architects or engineers or other appropriate documentation showing the percentage of completion of each contract during the taxable year must be available at the principal place of business of the taxpayer for inspection in connection with an examination of the income tax return.

(3) Under the percentage of completion method, all costs which are properly associated with a long-term contract (determined pursuant to paragraph (b)(3) of this section) incurred during the taxable year in connection with the contract (account being taken of the material and supplies on hand at the beginning and the endi of the taxable year for use in the contract) must be deducted.

(d) *Completed contract method*—(1) *In general.* Except in cases to which subparagraph (2) of this paragraph applies, under the completed contract method, gross income derived from long-term contracts must be reported by including the gross contract price of each contract in gross income for the taxable year in which such contract is completed (as defined in paragraph (b)(2) of this section). All costs which are properly associated with a long-term contract (determined pursuant to paragraph (b)(3) of this section) must be deducted from gross income for the taxable year in which the contract is completed. In addition, account must be taken of any material and supplies charged to the contract but remaining on hand at the time of completion.

(2) *Contracts with disputes.* (i) This subparagraph applies in any case where, on or after a taxpayer tenders the subject matter of a long-term contract, a dispute exists with respect to the work to be performed or the price to be paid under such contract. Any item of income or deduction which is properly associated with such contract and which is not included in or deducted from gross income in a prior taxable year pursuant to subdivisions (ii), (iii), (iv), or (v) of this subparagraph shall be included in or deducted from gross income in the taxable year in which the dispute is resolved.

(ii) If such dispute affects so much of the contract price that it is not possible to determine whether a profit or loss will ultimately be realized on such contract, then no item of income or deduction which is properly associated with such contract shall be included in or deducted from gross income in the taxable year in which such contract is completed (without regard to such dispute).

(iii) In all other cases, the entire amount of the gross contract price reduced by an amount equal to the amount reasonably in dispute shall be included in gross income in the taxable year in which such contract is completed (without regard to the dispute).

(iv) If the taxpayer is assured of a profit on such contract regardless of the outcome of the dispute, then all costs which are properly associated with such contract and which have been incurred prior to the end of the taxable year in which such contract is completed (without regard to the dispute) shall be deducted in such year.

(v) If the taxpayer is assured of a loss on such contract regardless of the outcome of the dispute, then there shall be deducted in the taxable year in which such contract is completed (without regard to the dispute) the total amount of costs properly associated with such contract which are incurred prior to end of such year reduced by the amount referred to in subdivision (iii) of this subparagraph which is reasonably in dispute. All other costs which are properly associated with such contract shall be deducted in the taxable year in which incurred.

(vi) For purposes of this paragraph, where there is additional work to be performed with respect to a contract in dispute, the term "taxable year in which the dispute is resolved" means the taxable year in which such work is completed rather than the taxable year in which the outcome of the dispute is determined by agreement, decision, or otherwise.

(3) *Examples.* The application of subparagraph (2) of this paragraph may be illustrated by the following examples:

Example (1). X, a calendar year taxpayer utilizing the completed contract method of accounting, constructs a building for Y pursuant to a long-term contract. According to the terms of the contract, the gross contract price is $2 million. X finishes construction of the building in 1972 at a cost of $1,900,000. Y examines the building and is dissatisfied with the construction. He demands either alterations or a $500,000 reduction in the gross contract price. This dispute affects so much of the contract price that X is unable to determine whether a profit or a loss will ultimately be realized on such contract. Accordingly, pursuant to subparagraph (2) of this paragraph, X does not include any portion of the gross contract price in gross income and does not deduct any costs which are properly associated with the contract until the taxable year in which the dispute is resolved.

Example (2). A, a calendar year taxpayer utilizing the completed contract method of accounting, constructs a bridge for B pursuant to a long-term contract. The terms of the contract provide for a $10 million gross contract price. A finishes construction of the bridge in 1972 at a cost of $9,500,000. When B examines the bridge, he insists that either certain girders be repainted or that the contract price be reduced $100,000. Since under the terms of the contract, A would be assured of a profit of at least $400,000 ($10,000,000—[$9,500,000+$100,000]) even if the dispute were resolved unfavorably to A, $9,900,000 ($10,000,000—$100,000 in dispute) of the gross contract price must be included in A's gross income in 1972 and $9,500,000 of costs must be deducted from A's gross income in 1972 pursuant to subparagraph (2) of this paragraph. In 1973 A and B resolve the dispute. A repaints certain girders at a cost to A of $60,000, and A and B agree that the contract price is not to be reduced. In 1973 A must include $100,000 ($10,000,000—$9,900,000) in gross income and must deduct $60,000 from gross income.

Example (3). M, a calendar year taxpayer utilizing the completed contract method of accounting, constructs a plant for N pursuant to a long-term contract. Under the terms of the contract M is entitled to receive $1 million upon completion of the plant. M finishes construction of the plant in 1973 at a cost of $1,200,000. N examines the plant and determines that an elevator operates unsatisfactorily and insists that M either replace the elevator or that the contract price be reduced $100,000. Under the terms of the contract M would be assured of a loss of at least $200,000 ($1,200,000—$1,000,000) even if the dispute were resolved in favor of M. Pursuant to subparagraph (2) of this paragraph, M must include $900,000 ($1,000,000—$100,000) in gross income for 1973 and must deduct $1,100,000 ($1,200,000—$100,000) from gross income in 1973. In 1974 the dispute is resolved, and M replaces certain components of the elevator at a cost of $50,000. M must include $100,000 ($1,000,000—$900,000) in gross income for 1974 and must deduct $150,000 ($100,000 of previously undeducted costs plus $50,000 of additional costs) from gross income in 1974.

Example (4). Assume the same facts as in Example (3) except that N is insisting that the contract price be reduced by $100,000 because an elevator has insufficient capacity and that in 1974 the dispute is resolved by a reduction in the gross contract price of $40,000 (from $1 million to $960,000). By the end of 1973, M is assured of a loss of at least $200,000 ($1,200,000—$1,000,000) under the terms of the contract even if the dispute were resolved in favor of M. Pursuant to subparagraph (2) of this subparagraph, M must include in gross income for 1973 $900,000 ($1,000,000—$100,000) and must deduct from gross income in such year $1,100,000 ($1,200,000—$100,000). In 1974, when the dispute is resolved, M must include $60,000 ($960,000—$900,000) in gross income and must deduct $100,000 ($1,200,000—$1,100,000) from gross income.

(e) *Severing and aggregating contracts.* (1) For the purpose of clearly reflecting income, it may be necessary in some instances either to treat one agreement as several contracts or to treat several agreements as one contract. Whether an agreement should be so severed or several agreements so aggregated will depend on all the facts and circumstances. Generally, one agreement will not be treated as several contracts unless such agreement contemplates separate delivery or separate acceptance of portions of the subject matter of the contract or unless there is no business purpose for entering into one agreement rather than several agreements. Several agreements will not generally be aggregated unless the several agreements would be treated as one contract under customary commercial practice in a taxpayer's trade or business or unless there is no business purpose for entering into several agreements rather than one agreement. An example of a factor which is evidence that two contracts entered into between the same parties should be aggregated is that one of the contracts would not have been entered into containing the terms agreed upon but for the entering into of the other contract.

(2) The application of this paragraph may be illustrated by the following examples:

Example (1). X, a calendar year taxpayer engaged in the construction business and using a long-term contract method, enters into one contract in 1972 with A, a real estate developer, to build three houses of different designs in three suburbs of a large city. The houses are to be completed, accepted, and put into service in 1973, 1974, and 1975. The portion of the total contract price attributable to each house can reasonably be determined. In these circumstances, the contract should be severed and treated as if the agreement to build each house were a separate contract for purposes of applying X's long-term contract method.

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Example (2). Y, a calendar year shipbuilder using a long-term contract method, enters into two contracts at about the same time during 1972 with M. These contracts are the product of a single negotiation. Under each contract, the taxpayer is to construct for M a submarine of the same class. Although the specifications for each submarine are similar, it is anticipated that, since the taxpayer has never constructed this class of submarine before, the costs incurred in constructing the first submarine (to be delivered in 1973) will be substantially greater than the costs incurred in constructing the second submarine (to be delivered in 1974). If the contracts are treated as separate contracts, it is estimated that the first contract would result in little or no gain, while the second contract would result in substantial profits. It is unlikely that Y would have entered into the contract to construct the first submarine for the price specified without entering into the contract to construct the second submarine. In these circumstances, the two contracts must be treated as one contract for purposes of applying Y's long-term contract method.

(f) *Changing to or from a long-term method of accounting.* A taxpayer may change to or from the percentage of completion method or the completed contract method only with the consent of the Commissioner. See section 446(e) and § 1.446–1(e).

PAR. 2. Section 1.451–5 is amended by revising paragraph (b), by revising that part of paragraph (c)(1)(i) that precedes (*b*), by revising paragraph (c)(1)(ii), (2), and (3), by revising paragraphs (d), (e), and (f), and by adding a new paragraph (g). These amended and added provisions read as follows:

§ 1.451–5 Advance payments for goods and long-term contracts.

* * * * *

(b) *Taxable year of inclusion.* (1) Advance payments may be included in income:

(i) In the taxable year of receipt; or

(ii) Except as provided in paragraph (c) of this section,

(*a*) In the taxable year in which properly accruable under the taxpayer's method of accounting for tax purposes if such method results in including advance payments in gross receipts no later than the time such advance payments are included in gross receipts for purposes of all of his reports (including consolidated financial statements) to shareholders, partners, beneficiaries, other proprietors, and for credit purposes, or

(*b*) If the taxpayer's method of accounting for purposes of such reports results in advance payments (or any portion of such payments) being included in gross receipts earlier than for tax purposes, in the taxable year in which includable in gross receipts pursuant to his method of accounting for purposes of such reports.

(2) This paragraph may be illustrated by the following examples:

Example (*1*). S, a retailer who uses for tax purposes and for purposes of the reports referred to in subparagraph (1)(ii)(*a*) of this paragraph, an accrual method of accounting under which it accounts for its sales of goods when the goods are shipped, receives advance payments for such goods. Such advance payments may be included in gross receipts for tax purposes in the taxable year such goods are shipped (except as provided in paragraph (c) of this section).

Example (*2*). T, an aircraft manufacturer, is a calendar year taxpayer who uses the percentage of completion method for purposes of its financial reports (referred to in subparagraph (1)(ii)(*a*) of this paragraph) and an accrual-shipments method (under which the income is accrued when, and costs are accumulated until, the subject matter of the contract is shipped) for tax purposes. In 1974, T receives an advance payment of $1,000 from X with respect to an airplane to be manufactured for X for a total price of $2,000. The airplane is to be delivered in 1975. At the end of 1974, T determines that the airplane has been 30 percent completed and includes $600 in gross income for purposes of its financial reports. As a result of this contract, T must include $600 in its gross income for tax purposes in 1974 pursuant to subparagraph (1)(ii)(*b*) of this paragraph. In 1975, the airplane is completed and shipped to X. T includes $1,400, the remainder of the contract price, in gross income for 1975 for purposes of his financial reports. As a result of this contract, for tax purposes T must include in gross income in 1975 the balance of the advance payment, $400, plus the remaining $1,000 of the contract price.

(3) In the case of a taxpayer accounting for advance payments for tax purposes pursuant to a long-term contract method of accounting under § 1.451–3, advance payments shall be included in income in the taxable year in which properly included in gross receipts pursuant to such long-term contract method of accounting (without regard to the financial reporting requirement contained in subparagraph (1)(ii)(*a*) or (*b*) of this paragraph).

(4) The financial reporting requirement of subparagraph (1)(ii)(*a*) or (*b*) of this paragraph shall not be construed to prevent the use of the installment method under section 453. See § 1.446–1(c)(1)(ii).

(c) *Exception for inventoriable goods.* (1)(i) If a taxpayer receives an advance payment in a taxable year with respect to an agreement for the sale of goods properly includable in his inventory, or with respect to an agreement (such as a gift certificate) which can be satisfied with goods or a type of goods that cannot be identified in such taxable year, and on the last day of such taxable year the taxpayer—

(*a*) Is accounting for advance payments pursuant to a method described in paragraph (b)(1)(ii) of this section for tax purposes.

* * * * *

(ii) If advance payments are required to be included in income in a taxable year solely by reason of subdivision (i) of this subparagraph, the taxpayer must take into account in such taxable year the costs and expenditures included in inventory at the end of such year with respect to such goods (or substantially similar goods) on hand or, if no such goods are on hand by the last day of such second taxable year, the estimated cost of goods necessary to satisfy the agreement.

* * * * *

(2) If subparagraph (1)(i) of this paragraph is applicable to advance payments received with respect to an agreement, any advance payments received with respect to such agreement subsequent to such second taxable year must be included in gross income in the taxable year of receipt. To the extent estimated costs of goods are taken into account in a taxable year pursuant to subparagraph (1)(ii) of this paragraph, such costs may not again be taken into account in another year. In addition, any variances between the costs or estimated costs taken into account pursuant to subparagraph (1)(ii) of this paragraph and the costs actually incurred in fulfilling the taxpayer's obligations under the agreement must be taken into account as an adjustment to the cost of goods sold in the year the taxpayer completes his obligations under such agreement.

(3) For purposes of subparagraph (1) of this paragraph, a taxpayer will be considered to have received "substantial advance payments" with respect to an agreement by the last day of a taxable year if the advance payments received with respect to such agreement during such taxable year plus the advance payments received prior to such taxable year pursuant to such agreement, equal or exceed the total costs and expenditures reasonably estimated as includible in inventory with respect to such agreement. Advance payments received in a taxable year with respect to an agreement (such as a gift certificate) under which the goods or type of goods to be sold are not identifiable in such year shall be treated as "substantial advance payments" when received.

* * * * *

(d) *Information schedule.* If a taxpayer accounts for advance payments pursuant to paragraph (b)(1)(ii) of this section, he must attach to his income tax return for each taxable year to which such provision applies an annual information schedule reflecting the total amount of advance payments received in the taxable year, the total amount of advance payments received in prior taxable years which has not been included in gross income before the current taxable year, and the total amount of such payments received in prior taxable years which has been included in gross income for the current taxable year.

(e) *Adoption of method.* (1) For taxable years ending on or after December 31, 1969, and before January 1, 1971, a taxpayer (even if he has already filed an income tax return for a taxable year ending within such period) may secure the consent of the Commissioner to change his method of accounting for such year to a method prescribed in paragraph (b)(1)(ii) of this section in the manner prescribed in section 446 and the regulations thereunder, if an application to secure such consent is filed on Form 3115 within 180 days after March 23, 1971.

(2) A taxpayer who is already reporting his income in accordance with a method prescribed in paragraph (b)(1)(ii)(*a*) of this section need not secure

the consent of the Commissioner to continue to utilize this method. However, such a taxpayer, for all taxable years ending after March 23, 1971, must comply with the requirements of paragraphs (b)(1)(ii)(*a*) (including the financial reporting requirement) and (d) (relating to an annual information schedule) of this section.

(f) *Cessation of taxpayer's liability.* If a taxpayer has adopted a method prescribed in paragraph (b)(1)(ii) of this section, and if in a taxable year the taxpayer dies, ceases to exist in a transaction other than one to which section 381(a) applies, or his liability under the agreement otherwise ends, then so much of the advance payment as was not includible in his gross income in preceding taxable years shall be included in his gross income for such taxable year.

(g) *Special rule for certain transactions concerning natural resources.* A transaction which is treated as creating a mortgage loan pursuant to section 636 and the regulations thereunder rather than as a sale shall not be considered a "sale or other disposition" within the meaning of paragraph (a)(1) of this section. Consequently, any payment received pursuant to such a transaction, which payment would otherwise qualify as an "advance payment", will not be treated as an "advance payment" for purposes of this section.

PAR. 3. There is inserted immediately after § 1.471–9 the following new section:

§ 1.471–10 Applicability of long-term contract methods.

For optional rules providing for application of the long-term contract methods to certain manufacturing contracts, see § 1.451–3.

[FR Doc.72–20003 Filed 11–20–72;8:50 am]

[26 CFR Part 1]

INCOME TAX

Requirements for Reporting Certain Information on Forms W–3, W–2, 1096, 1099, and 1042S

Notice is hereby given that the regulations with respect to the requirement for reporting certain information with respect to employees on Forms W–3 and W–2 which were published in tentative form with a notice of proposed rule making in the FEDERAL REGISTER for January 31, 1967 (32 F.R. 1091), are withdrawn and that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by December 21, 1972. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by December 21, 1972. In such case, a public hearing will be held, and notice of the time, place, and date, will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

In order to require the reporting by employers and others of certain information on Forms W–3, W–2, 1096, 1099, and 1042S, the Income Tax Regulations (26 CFR Part 1) under sections 1461, 6041, 6052, 6071, and 6091 of the Internal Revenue Code are amended as follows:

PARAGRAPH 1. Section 1.1461–2 is amended by revising paragraph (c)(1) to read as follows:

§ 1.1461–2 Return of tax withheld.

* * * * *

(c) *Form 1042S*—(1) *Filing requirement.* Every withholding agent shall make on or before March 15 an annual information return on Form 1042S of all items of income specified in § 1.1441–2 paid during the previous calendar year to nonresident alien individuals, foreign partnerships, or foreign corporations if such items consist of—

(i) Amounts upon which tax was required to be withheld under chapter 3 of the Code,

(ii) Amounts upon which tax would have been required to be withheld under such chapter but for an exclusion from gross income applicable under any income tax convention to which the United States is a party.

(iii) Amounts upon which tax would have been required to be withheld under such chapter but for the provisions of any specific exemption from withholding applicable under the authority of any regulation under this title or any ruling or procedure of the Commissioner, or

(iv) Amounts in respect of which tax withheld under such chapter has, pursuant to such authority, been released or refunded to the payee by the withholding agent.

Notwithstanding subdivisions (i) through (iv) of this subparagraph, income paid to nonresident alien individuals, foreign partnerships, or foreign corporations and required to be shown on Form W–2, or in the case of income paid prior to January 1, 1972, on Form 1001 (or on any special variation of Form 1001 referred to in paragraph (i) of § 1.1461–1, or the substitute thereof) is not required to be shown on Form 1042S. However, a return under this subparagraph is required on Form 1042S (rather than on Form W–2) in respect of amounts which otherwise would be required to be shown on Form W–2 solely by reason of § 1.6041–2 (relating to return of information as to payments to employees) or § 1.6052–1 (relating to information regarding payments of wages in the form of group-term life insurance). The original and duplicate copies of Form 1042S shall accompany Form 1042 and shall be filed with the Director of International Operations, Internal Revenue Service, Washington, D.C. 20225.

* * * * *

PAR. 2. Section 1.6041–1 is amended by revising paragraphs (a) and (g) to read as follows:

§ 1.6041–1 Return of information as to payments of $600 or more.

(a) *General rule.* (1) Except as provided in § 1.6041–3, every person engaged in a trade or business shall make an information return for each calendar year with respect to payments made by him during the calendar year in the course of his trade or business to another person of fixed or determinable—

(i) Salaries, wages, commissions, fees, and other forms of compensation for services rendered aggregating $600 or more;

(ii) Interest, rents, royalties, annuities, pensions, and other gains, profits, and income aggregating $600 or more; or

(iii) Foreign items, as defined in § 1.6041–4, aggregating $600 or more.

The payments described in subdivisions (i), (ii), and (iii) of this subparagraph shall not include any payments with respect to which a statement is required by, or may be required under authority of, section 6042(a) (relating to dividends), section 6043(a)(2) (relating to distributions in liquidation) section 6044(a) (relating to patronage dividends), section 6045 (relating to brokers' transactions with customers), or section 6049(a)(1) and (2) (relating to interest). Thus, the term "interest", as used in subdivision (ii) of this subparagraph, includes all interest other than that coming within the definition of interest provided in § 1.6049–2. For example, a closely held corporation borrows money from one of its officers on a promissory note not in registered form the yearly interest on which is $300. It also pays royalties to such officer amounting to $400 a year. An information return is required under subdivision (ii) of this subparagraph with respect to the payments to such officer since the interest does not come within the definition of interest provided in § 1.6049–2 and the aggregate of the interest and royalty payments is in excess of $600.

(2) *Prescribed form.* The return required by subparagraph (1) of this paragraph shall be made on Forms 1096 and 1099 except that (i) the return with respect to distributions to beneficiaries of a trust or of an estate shall be made on

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Form 1041, and (ii) the return with respect to certain payments of compensation to an employee by his employer shall be made on Forms W–3 and W–2 under the provisions of § 1.6041–2 (relating to return of information as to payments to employees). See, however, § 1.6041–2(a)(2) for special election applicable to the reporting of commissions paid to full-time life insurance salesmen. Where Form 1099 is required to be filed under this section, a separate Form 1099 shall be furnished for each person to whom payments described in subdivision (i), (ii), or (iii) of subparagraph (1) of this paragraph are made. For time and place for filing Forms 1096 and 1099, see § 1.6041–6.

. . . . . .

(g) *Payments made by the United States or a State.* Information returns on—

(1) Forms 1096 and 1099 and

(2) Forms W–3 and W–2 (when made under the provisions of § 1.6041–2)

of payments made by the United States or a State, or political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing, shall be made by the officer or employee of the United States, or of such State, or political subdivision, or of the District of Columbia, or of such agency or instrumentality, as the case may be, having control of such payments or by the officer or employee appropriately designated to make such returns.

PAR. 3. Section 1.6041–2 is amended to read as follows:

§ 1.6041–2 Return of information as to payments to employees.

(a)(1) *In general.* Wages, as defined in section 3401, paid to an employee are required to be reported on Form W–2. See section 6011 and the Employment Tax Regulations thereunder. Except as otherwise provided in subparagraph (2) of this paragraph, all other payments of compensation, including the cash value of payments made in any medium other than cash, to an employee by his employer in the course of the trade or business of the employer must also be reported on Form W–2 if the total of such payments and the amount of the employee's wages (as defined in section 3401), if any, required to be reported on Form W–2 aggregates $600 or more in a calendar year. For example, if a payment of $700 was made to an employee and $400 thereof represents wages subject to withholding under section 3402 and the remaining $300 represents compensation not subject to withholding, such wages and compensation must both be reported on Form W–2. A separate Form W–2 shall be furnished for each employee for whom a return must be made. At the election of the employer, components of amounts required to be reported on Form W–2 pursuant to the provisions of this subparagraph may be reported on more than one Form W–2.

(2) *Certain payments by a life insurance company.* All payments of commissions by a life insurance company to its full-time life insurance salesmen (within the meaning of section 3121(d)(3)(B)) may, at the election of the payer, be reported on Forms 1096 and 1099 rather than on Forms W–3 and W–2. A separate Form 1099 shall be furnished for each employee for whom a return must be made. For contents and time and place for filing Forms 1096 and 1099, see § 1.6041–6.

(3) *Transmittal form.* The transmittal form for a return on Form W–2 made pursuant to the provisions of subparagraph (1) of this paragraph shall be Form W–3. In a case where an employer must file a Form W–3 under this paragraph and also under § 31.6011(a)–4 or § 31.6011(a)–5 of this chapter (Employment Tax Regulations), the Form W–3 filed under such § 31.6011(a)–4 or § 31.6011(a)–5 shall also be used as the transmittal form for a return on Form W–2 made pursuant to the provisions of this paragraph.

(4) *Time for filing*—(i) *General rule.* In a case where an employer must file Forms W–3 and W–2 under this paragraph and also under § 31.6011(a)–4 or § 31.6011(a)–5 of this chapter (Employment Tax Regulations), the time for filing such forms under this paragraph shall be the same as the time (including extensions thereof) for filing such forms under § 31.6011(a)–4 or § 31.6011(a)–5.

(ii) *Exception.* In a case where an employer is not required to file Forms W–3 and W–2 under § 31.6011(a)–4 or § 31.6011(a)–5 of this chapter (Employment Tax Regulations), returns on Forms W–3 and W–2 required under this paragraph for any calendar year shall be filed on or before February 28 of the following year.

(iii) *Cross reference.* For extensions of time for filing returns, see section 6081 and the regulations thereunder.

(5) *Place for filing.* The returns on Forms W–3 and W–2 required under this paragraph shall be filed pursuant to the rules contained in § 31.6091–1 of this chapter (Employment Tax Regulations), relating to the place for filing certain returns.

(b) *Distributions under employees' trust or plan.* (1) Amounts which are—

(i) Distributed or made available to a beneficiary, and to which section 402 (relating to employees' trusts) or section 403 (relating to employee annuity plans) applies, or

(ii) Described in section 72(m)(3)(B), shall be reported on Forms 1096 and 1099 to the extent such amounts are includible in the gross income of such beneficiary if the amounts so includible aggregate $600 or more in any calendar year. In addition, every trust described in section 501(c)(17) which makes one or more payments (including separation and sick and accident benefits) totaling $600 or more in 1 year to an individual must file an annual information return on Form 1096, accompanied by a statement on Form 1099, for each such individual. Payments made by an employer or a person other than the trustee of the trust should not be considered in determining whether the $600 minimum has been paid by the trustee. The provisions of this subparagraph shall not be applicable to payments of supplemental unemployment compensation benefits made after December 31, 1970, which are treated as if they were wages for purposes of section 3401(a). Such amounts are required to be reported on Forms W–3 and W–2. See paragraph (b)(14) of § 31.3401(a)–1 of this chapter (Employment Tax Regulations).

(2) Any amount with respect to which a statement is required by § 1.6047–1, relating to employee retirement plans covering owner-employees, shall not be included in amounts required to be reported under section 6041.

(c) *Special rule for calendar years before 1972.* For calendar years before 1972, the provisions of this section will be deemed to have been complied with if the returns for such years were filed in accordance with the provisions of this section in effect prior to [insert date on which final regulations under this section are published in the FEDERAL REGISTER] or with the instructions applicable to the appropriate forms.

PAR. 4. Section 1.6041–3 is amended by revising paragraph (a) to read as follows:

§ 1.6041–3 Payments for which no return of information is required under section 6041.

. . . . . .

(a) Payments of income required to be reported on Forms 1042, 1042S, 1000, 1001 (including all special variations thereof), 1120–S, 941, W–3, and W–2 (however, see § 1.6041–2 with respect to Forms W–3 and W–2);

. . . . . .

PAR. 5. Section 1.6041–6 is amended to read as follows:

§ 1.6041–6 Returns made on Forms 1096 and 1099 under section 6041; contents and time and place for filing.

Returns made under section 6041 on Forms 1096 and 1099 for any calendar year shall be filed on or before February 28 of the following year with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for such forms. The name and address of the person making the payment and the name and address of the recipient of the payment shall be stated on Form 1099. If the present address of the recipient is not available, the last known post office address must be given. See section 6109 and the regulations thereunder for rules requiring the inclusion of identifying numbers in Form 1099.

PAR. 6. Section 1.6052–1 is amended by revising paragraphs (a) and (b), by redesignating paragraphs (c) and (d) as paragraphs (d) and (e), and by inserting after paragraph (b) a new paragraph

(c). These amended and added provisions read as follows:

§ 1.6052–1 Information returns regarding payment of wages in the form of group-term life insurance.

(a) *Requirement of reporting*—(1) *In general.* (i) Every employer, who during any calendar year provides any one of his employees remuneration for services in the form of group-term life insurance on the life of such employee any part of the cost of which is to be included in such employee's gross income as set forth in paragraph (a)(2) of § 1.79–1, shall make a separate return on Form W–2 with respect to each such employee for such year which includes the following information:

(a) Name, address, and identifying number of the employer;

(b) Name, address, and social security number of the employee; and

(c) Total amount includible in the employee's gross income by reason of the provisions of section 79(a), computed as if each employee reported his income on the basis of a calendar year (determined as if the employer making such return is the only employer paying the employee remuneration in the form of group-term life insurance on his life which is includible in his gross income under section 79(a)).

Returns on Form W–2 required to be filed pursuant to the provisions of this section shall be transmitted by Form W–3. In a case where, with respect to the same employee, an employer must make a return on Form W–2 under this section and also under § 31.6011(a)–4 or § 31.6011(a)–5 of this chapter (Employment Tax Regulations), or under § 1.6041–2 (relating to return of information as to payments to employees), such employer may make such returns on the same Form W–2 or on separate Forms W–2. In a case where an employer must file a Form W–3 under this section and also under § 31.6011(a)–4 or § 31.6011(a)–5 of this chapter (Employment Tax Regulations), the Form W–3 filed under such § 31.6011(a)–4 or § 31.6011(a)–5 shall also be used as the transmittal form for a return on Form W–2 made pursuant to the provisions of this section.

(ii) Notwithstanding subdivision (i) of this subparagraph, if a life insurance company has elected, as provided by § 1.6041–2(a)(2), to report all payments of commissions to its full-time life insurance salesmen on Forms 1096 and 1099 rather than on Forms W–3 and W–2, remuneration for services in the form of group-term life insurance on the lives of such salesmen shall be reported on Forms 1096 and 1099. Returns on Form 1099 required to be filed pursuant to the provisions of this section shall include the information prescribed by subdivision (i)(c) of this subparagraph and shall be transmitted by Form 1096. In a case where, with respect to the same full-time life insurance salesman, a life insurance company is required to make a return on Form 1099 under this section and also under § 1.6041–2(a)(2) (relating to return of information as to payments to employees), the life insurance company may make such returns on the same Form 1099 or on separate Forms 1099. See § 1.6041–6 for contents and time and place for filing Forms 1096 and 1099.

(2) *Definitions.* Terms used in subparagraph (1) of this paragraph which are defined in paragraph (b) of § 1.79–1 have the meaning ascribed to them in such paragraph (b).

(b) *Time and place for filing*—(1) *Time for filing*—(i) *General rule.* In a case where an employer must file Forms W–3 and W–2 under this section and also under § 31.6011(a)–4 or § 31.6011(a)–5 of this chapter (Employment Tax Regulations), the time for filing such forms under this section shall be the same as the time (including extensions thereof) for filing such forms under § 31.6011(a)–4 or § 31.6011(a)–5.

(ii) *Exception.* In a case where an employer is not required to file Forms W–3 and W–2 under § 31.6011(a)–4 or § 31.6011(a)–5 of this chapter (Employment Tax Regulations), returns on Forms W–3 and W–2 required under paragraph (a) of this section for any calendar year shall be filed on or before February 28 of the following year.

(iii) *Cross reference.* For extensions of time for filing returns, see action 6081 and the regulations thereunder.

(2) *Place for filing.* The returns on Forms W–3 and W–2 required under paragraph (a) of this section shall be filed pursuant to the rules contained in § 31.6091–1 of this chapter (Employment Tax Regulations), relating to the place for filing certain returns.

(c) *Special rule for calendar years before 1972.* For calendar years before 1972, the provisions of this section will be deemed to have been complied with if the returns for such years were filed in accordance with the provisions of this section in effect prior to (insert date on which final regulations under this section are published in the FEDERAL REGISTER) or with the instructions applicable to the appropriate forms.

. . . . . .

PAR. 7. Section 1.6052–2 is amended by redesignating paragraph (d) as paragraph (e), by redesignating paragraph (e) as paragraph (f), by inserting after paragraph (c) a new paragraph (d), and by inserting after paragraph (f) a new paragraph (g). These amended and revised provisions read as follows:

§ 1.6052–2 Statements to be furnished employees with respect to wages paid in the form of group-term life insurance.

. . . . . .

(d) *Special rule where Form W–2 or Form 1099 is used.* The provisions of this paragraph shall apply notwithstanding anything to the contrary in paragraph (b) or (c) of this section. The requirement of this section for the furnishing of a statement to an employee may be satisfied by furnishing to such employee the employee's copy of Form W–2 filed pursuant to § 1.6052–1 in respect of such employee, or, in the case of an election by a life insurance company pursuant to the provisions of § 1.6041–2(a)(2), by furnishing to the full-time life insurance salesman a copy of Form 1099 filed pursuant to § 1.6052–1(a)(1). In a case where the statement furnished by an employer to an employee for purposes of complying with this section is the employee's copy of a Form W–2, or in the case of certain full-time life insurance salesmen a copy of Form 1099, then the rules in § 31.6051–1 of this chapter (Employment Tax Regulations) shall apply with respect to the means and time (including extensions thereof) for furnishing such statements to the employee and making corrections on such form.

. . . . . .

(g) *Special rule for calendar years before 1972.* For calendar years before 1972, the provisions of this section will be deemed to have been complied with if the statements for such years were furnished in accordance with the provisions of this section in effect prior to [insert date on which final regulations under this section are published in the FEDERAL REGISTER] or with the instructions applicable to the appropriate forms.

PAR. 8. Paragraph (c)(7) of § 1.6071–1 is amended to read as follows:

§ 1.6071–1 Time for filing returns and other documents.

. . . . . .

(c) *Time for filing certain information returns.* • • •

(7) For provisions relating to the time for filing information returns by persons making certain payments, see paragraph (a)(4) of § 1.6041–2 and § 1.6041–6.

. . . . . .

PAR. 9. Paragraph (b)(7) of § 1.6091–1 is amended to read as follows:

§ 1.6091–1 Place for filing returns or other documents.

. . . . . .

(b) *Place for filing certain information returns.* • • •

(7) For the place for filing returns of information reporting certain payments, see paragraph (a)(5) of § 1.6041–2 and § 1.6041–6.

[FR Doc.72–20006 Filed 11–20–72;8:50 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 58]

BUTTER

Withdrawal of Proposed Standards for Grades

On October 7, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 2133) regarding a proposed amendment of U.S.

(d) "State" means a State of the

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Standards for Grades of Butter, Subpart P, §§ 58.2627(b) and 58.2635(a). Interested persons were given until November 7, 1972, to submit written data, views, or arguments in connection with that proposal. In response to the publication of the proposal, several comments were received from the industry and consumer representatives. The American Butter Institute representing the majority of the industry was of the opinion that a more complete study of the standard should be made so that many of the provisions of the standard may be reconfirmed or, if indicated, changed.

As a result of this and other views submitted, the Department has decided to review the standard more extensively. Therefore the proposal as published October 7, 1972, is hereby withdrawn from further consideration at this time.

Done at Washington, D.C., this 16th day of November 1972.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.72-20055 Filed 11-20-72;8:54 am]

[7 CFR Part 1099]

[Docket No. AO 183-A28]

MILK IN PADUCAH, KY., MARKETING AREA

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Notice is hereby given of a public hearing to be held at the Holiday Inn, 727 Joe Clifton Drive, Paducah, KY, beginning at 9:30 a.m., local time, on December 12, 1972, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Paducah, Ky., marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

PROPOSED BY THE SOUTHLAND CORP.

PROPOSAL NO. 1

Amend paragraph (a) of § 1099.51 to read as follows:

§ 1099.51 Class prices.

* * * * * *

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.70.

* * * * * *

PROPOSED BY THE DAIRY DIVISION, AGRICULTURAL MARKETING SERVICE

PROPOSAL NO. 2

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, Fred L. Shipley, 2550 Schuetz Road, Post Office Box 1485, Maryland Heights, MO 63043, or from the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

Signed at Washington, D.C., on November 15, 1972.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.72-20058 Filed 11-20-72;8:55 am]

[7 CFR Part 1103]

[Docket No. AO 346-A16]

MILK IN MISSISSIPPI MARKETING AREA

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Notice is hereby given of a public hearing to be held at Paul's Northside Restaurant, Sheraton Motor Inn, 4641 Highway 55 North, Jackson, MS, beginning at 9:30 a.m., local time, on December 11, 1972, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Mississippi marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

PROPOSED BY BOARD OF TRUSTEES OF MENTAL INSTITUTIONS, STATE OF MISSISSIPPI

PROPOSAL NO. 1

In § 1103.46(a)(3)(iii), delete the semicolon and add the following language immediately after the word "Order": "Or from a plant exempt pursuant to 1103.60(b);"

PROPOSAL NO. 2

Redesignate § 1103.60 as "Exemptions."

PROPOSAL NO. 3

Designate the existing paragraph of § 1103.60:

"(a) Producer-handler:"

PROPOSAL NO. 4

Add the following new paragraph to § 1103.60:

"(b) None of the provisions of this part except § 1103.12 shall apply to a plant operated by a governmental agency."

PROPOSED BY THE DAIRY DIVISION, AGRICULTURAL MARKETING SERVICE

PROPOSAL NO. 5

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, William J. Larzelere, Post Office Box 9747, Northside Station, Jackson, MS 39206, or from the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

Signed at Washington, D.C., on November 15, 1972.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.72-20057 Filed 11-20-72;8:55 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services and Mental Health Administration

[42 CFR Part 86]

GRANTS FOR EDUCATION PROGRAMS IN OCCUPATIONAL SAFETY AND HEALTH

Notice of Proposed Rule Making

Section 21(a)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 670(a)(1)) authorizes the Secretary of Health, Education, and Welfare to make grants for the conduct of education programs to provide an adequate supply of qualified personnel to carry out the purposes of the Act.

Notice is hereby given that the Administrator, Health Services and Mental Health Administration, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend Title 42, Code of Federal Regulations by adding a new Part 86 which sets forth the conditions and procedures for awarding traineeships and training grants for short- and long-term training in occupational safety and health.

A traineeship under these proposed regulations is an award of stipends and allowances directly to the individual who is being trained. A training grant is a grant of a lump sum to a training institution so that it may either award individual traineeships or defray the institution's costs of providing training, or both. Under the proposed regulations, training grants may be utilized to provide either long- or short-term training. Grants for long-term training projects are intended to provide training in the fields of, among others, occupational medicine, industrial hygiene, industrial nursing, and occupational safety engineering, while short-term training project grants involve postprofessional training programs for individuals who have satisfactorily completed basic professional preparation for employment in one of the occupational safety and health professions.

The Secretary has determined that the purposes of the Act will be achieved in a more effective and expeditious manner if the training grants awarded under this part are limited to public and private nonprofit agencies and institutions.

Written comments concerning the proposed regulations are invited from interested persons. Inquiries may be addressed, and data, views, and arguments relating to the proposed regulations may be presented in writing, in triplicate, to the Office of Extramural Activities, National Institute of Occupational Safety and Health, 1014 Broadway, Cincinnati, OH 45202. All material received within 30 days after publication of this notice will be considered before further action is taken on the proposal. All comments received in response to this publication will be available for public inspection during normal business hours at the foregoing address.

It is therefore proposed to adopt the following new Part 86 to be effective on the date of its republication in the FEDERAL REGISTER.

Dated: October 4, 1972.

VERNON E. WILSON,
Administrator, Health Services and Mental Health Administration.

Approved: November 8, 1972.

ELLIOT L. RICHARDSON,
Secretary.

PART 86—GRANTS FOR EDUCATION PROGRAMS IN OCCUPATIONAL SAFETY AND HEALTH

Subpart A—General

Sec.
86.1 Applicability.
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Subpart B—Occupational Safety and Health Training Grants

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Subpart C—Occupational Safety and Health Traineeships

86.30 Nature and purpose of traineeships.
86.31 Eligibility; minimum requirements.
86.32 Application for traineeship.
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86.34 Benefits: Stipends, dependency allowances, travel allowances, vacations.
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86.38 Duration and continuation.
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AUTHORITY: The provisions of this Part 86 issued under sec. 6(g), 84 Stat. 1600; 29 U.S.C. 657(g), sec. 21(a), 84 Stat. 1612; 29 U.S.C. 670(a).

Subpart A—General

§ 86.1 Applicability.

The regulations of this part are applicable to the award of training grants and traineeships pursuant to section 21(a)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 670(a)(1)) to assist in providing an adequate supply of qualified personnel to carry out the purposes of the Act.

§ 86.2 Definitions.

Any term not defined herein shall have the same meaning as given it in the Act. As used in this part:

(a) "Act" means the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(b) "Nonprofit agency or institution" means an agency, corporation, or association no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(c) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(d) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

(e) "Training" means job-specific skill development, the purpose of which is to provide qualified personnel to carry out the purposes of the Act.

§ 86.3 Inventions and discoveries.

Any grant award pursuant to § 86.14 or § 86.33 is subject to the regulations of the Department of Health, Education, and Welfare as set forth in 45 CFR Parts 6 and 8, as amended. Such regulations shall apply to any activity for which grant funds are in fact used whether within the scope of the project as approved or otherwise. Appropriate measures shall be taken by the grantee and by the Secretary to assure that no contracts, assignments or other arrangements inconsistent with the grant obligation are continued or entered into and that all personnel involved in the supported activity are aware of and comply with such obligations. Laboratory notes, related technical data, and information pertaining to inventions and discoveries shall be maintained for such periods, and filed with or otherwise made available to the Secretary, or those he may designate at such times and in such manner, as he may determine necessary to carry out such Department regulations.

§ 86.4 Publications and copyrights.

Except as may otherwise be provided under the terms and conditions of the award, the grantee may copyright without prior approval any publications, films or similar materials developed or resulting from a project supported by a grant under this part, subject, however, to a royalty-free, nonexclusive, and irrevocable license or right in the Government to reproduce, translate, publish, use, disseminate, and dispose, of such materials and to authorize others to do so.

Subpart B—Occupational Safety and Health Training Grants

§ 86.10 Nature and purpose of training grants.

(a) *Long-term training project grant.* A long-term training project grant is an award of funds to an eligible institution or agency, hereinafter called the "grantee," to pay part or all of the costs of organized identifiable activities, hereinafter termed the "project," that are undertaken to establish, strengthen, or expand graduate, undergraduate, or special training, of persons in the field of occupational safety and health. Such grants may include training in occupational medicine, industrial hygiene, industrial nursing and occupational safety engineering and the training of technicians and paraprofessionals in such areas.

(b) *Short-term training project grant.* A short-term training project grant is an award of funds to an eligible institution or agency, hereinafter called the

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"grantee," to pay part or all of the costs of organized identifiable activities, hereinafter termed the "project," that are undertaken to provide intensive training programs of less than 1 year for any one or a combination of the following purposes:

(1) To provide specialized instruction for occupational safety and health professional personnel which will increase their competence in an area in their respective fields.

(2) To prepare or expand the capabilities of occupational safety and health professionals for leadership roles as administrators or supervisors, and

(3) To prepare or expand the teaching capabilities of occupational safety and health professionals.

§ 86.11 Eligibility.

(a) *Eligible applicants.* Any public or nonprofit educational or training agency or institution located in a State is eligible to apply for a grant under this subpart.

(b) *Projects eligible for long-term or short-term training grants.* Any project found by the Secretary to be a long-term training project within the meaning of § 86.10(a) or a short-term training project within the meaning of § 86.10(b), shall be eligible for a grant award.

§ 86.12 Application for a grant.

(a) An application for a grant under this subpart shall be submitted to the Secretary at such time and in such form and manner as the Secretary may prescribe.[1] The application shall contain a full and adequate description of the project and of the manner in which the applicant intends to conduct the project in accordance with the requirements of this subpart, and a budget and justification of the amount of grant funds requested, and such other pertinent information as the Secretary may require.

(b) The application shall be executed by an individual authorized to act for the applicant and to assume for the applicant the obligations imposed by the regulations of this subpart and any additional conditions of the grant.

§ 86.13 Project requirements.

(a) An approvable application for a long-term training grant must contain each of the following, unless the Secretary determines that the applicant has established good cause for its omission.

(1) Provision of a method for development of the training curriculum and any attendant training materials and resources;

(2) Provision of a method for implementation of the needed training;

(3) Provision of an evaluation methodology, including the manner in which such methodology will be employed, to measure the achievement of the objectives of the training program; and

(4) Provision of a method by which trainees will be selected.

(b) In addition to the requirements set forth in paragraph (a) of this section, an approvable application for a short-term training grant must contain each of the following, unless the Secretary determines that the applicant has established good cause for its omission.

(1) Provision of a methodology to assess the particular skills, or knowledge that prospective trainees need to develop;

(2) Provision of at least 18 hours of formal instruction for a period of not less than 2½ days and not more than 1 academic year; and

(3) Assurances that no portion of the Federal funds will be used for (i) in-service training courses designed only for employees of a single agency, institution, or organization; (ii) correspondence courses; (iii) regular courses usually given for academic credit; or (iv) training the grantee's financial officers, program director, or the official who executed the application.

§ 86.14 Evaluation and grant award.

Within the limits of funds available for such purpose the Secretary may award grants to assist in the establishment and operation of those projects which will in his judgment best promote the purposes of section 21(a)(1) of the Act, taking into account:

(a) In the case of long-term training grants:

(1) The need for training in the area or areas of study outlined in the application;

(2) The degree to which the proposal represents a strengthening or expansion of the applicant's program in such areas;

(3) The record of the applicant's effectiveness in training in these or related areas as indicated, among other things, by the placement of its graduates;

(4) The competence of the project staff in relation to the service to be provided;

(5) The reasonableness of the budget in relation to the proposed project;

(6) The applicant's resources, including equipment, facilities, and funds, available for the project;

(7) The current and potential availability of students in the area of study to be offered and their prospective employability as a result of the proposed training;

(8) The extent to which the applicant expects to absorb faculty positions initiated as a result of the grant; and

(9) The degree to which the project adequately provides for the requirements set forth in § 86.13(a).

(b) In the case of short-term training:

(1) The relationship of the contents of the course to the purposes of the Act and to the current and emergency training needs to carry out such purposes;

(2) The qualifications of the instructional staff;

(3) The speed with which the training can be put to use by the persons proposed to be trained;

(4) The reasonableness of the budget in relation to the proposed project;

(5) The success of previous offerings of this course, or related courses;

(6) Evidence of ability to recruit trainees and the estimated number to be enrolled during each course offering; and

(7) The degree to which the proposed project adequately provides for the requirements set forth in § 86.13(b).

(c) The amount of any award shall be determined by the Secretary on the basis of his estimate of the sum necessary for all or a designated portion of direct project costs plus an additional amount for indirect costs, if any, which will be calculated by the Secretary either (1) on the basis of his estimate of the actual indirect costs reasonably related to the project, or (2) on the basis of a percentage, not to exceed 8 percent, of all, or a portion of, the estimated direct costs of the project when there are reasonable assurances that the use of such percentage will not exceed the approximate actual indirect costs or for designated direct costs. Such award may include an estimated provisional amount for indirect costs or for designated direct costs (such as travel or supply costs) subject to upward (within the limits of available funds) as well as downward adjustments to actual costs when the amount properly expended by the grantee for provisional items has been determined by the Secretary.

(d) Except as may otherwise be provided by the regulations of this subpart, the identification of direct and indirect costs will be consistent with the generally accepted and established accounting practices that the grantee applies to its own activities and in conformance with the applicable principles set forth in chapters 1–76, 3–60, 3–80, and 5–60 of the Department of Health, Education, and Welfare Grants Administration Manual.[2]

(e) All grant awards shall be in writing, shall set forth the amount of funds granted and the period for which support is recommended.

(f) Neither the approval of any project nor any grant award shall commit or obligate the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved project or portion thereof. For continuation support, grantees must make separate application annually at such times and in such form as the Secretary may direct.

§ 86.15 Payments.

The Secretary shall from time to time make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement for expenses incurred or to be incurred

[1] Applications and instructions may be obtained from the Office of Extramural Programs, National Institute for Occupational Safety and Health, 1014 Broadway, Cincinnati, Ohio 45202.

[2] The Department Grants Administration Manual is available for inspection at the Public Information Office of the several Department Regional Offices and available for purchase at the Government Printing Office, GPO Document No. 894–523.

in the performance of the project to the extent he determines such payments necessary to promote prompt initiation and advancement of the approved project.

§ 86.16 Use of project funds.

(a) Any funds granted pursuant to this subpart as well as other funds to be used in performance of the approved project shall be expended solely for carrying out the approved project in accordance with section 21(a) of the Act, the regulations of this subpart, the terms and conditions of the award, and, except as may otherwise be provided in this subpart, the cost principles set forth in the Department of Health, Education, and Welfare Grants Administration Manual.

(b) Prior written approval by the Secretary of revision of the budget and project plan is required whenever there is to be a significant change in the scope or nature of project activities, which in the case of short term training grants, includes any change in the course dates or training sites.

(c) Grant funds are available for trainee stipends and for tuition, including fees and instructional materials, for travel costs related to training, and for dependency allowances. Stipends and allowances may not be increased or be paid beyond the term of the stipend on account of vacation an individual might have been entitled to but did not take.

(d) Stipends may only be paid to a trainee who is a citizen of the United States, an alien lawfully admitted to the United States for permanent residence, or a permanent resident of Guam, American Samoa, or the Trust Territory of the Pacific Islands.

(e) In the case of short term training grants, stipends may not be paid to persons receiving lecture fees, salary, travel expenses, or payment in any form as members of the course instructional staff.

§ 86.17 Civil rights.

Attention is called to the requirements of title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d et seq.) and in particular section 601 of such Act which provides that no person in the United States shall on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to, discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such title VI, which applies to grants made under this subpart, has been issued by the Secretary of Health, Education, and Welfare with the approval of the President (45 CFR Part 80).

§ 86.18 Grantee accountability.

(a) *Accounting for grant award payments.* All payments made by the Secretary shall be recorded by the grantee in accounting records separate from the records of all other grant funds, including funds derived from other grant awards. With respect to each approved project the grantee shall account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for direct and indirect costs meeting the requirements of this part: *Provided, however,* That when the amount awarded for indirect costs was based on a predetermined fixed-percentage of estimated direct costs, the amount allowed for indirect costs shall be computed on the basis of such predetermined fixed-percentage rates applied to the total, or a selected element thereof, of the reimbursable direct costs incurred.

(b) *Accounting for equipment.* As used in this section the term "equipment" means an article of property procured or fabricated which is complete in itself, is of a durable nature, and has an expected service life of more than 1 year. Equipment on hand on the date of termination for which accounting is required in accordance with the procedures set forth in chapter 1–410–50 of the Department of Health, Education, and Welfare Grants Administration Manual shall be identified and reported by the grantee in accordance with such procedures, and, accounted for by one or a combination of the following methods, as determined by the Secretary:

(1) *Retention of equipment for other occupational safety and health training projects.* Equipment may be used, without adjustment of accounts on other grant-supported projects (whether or not federally supported) within the scope of section 21 of the Act, and no other accounting for such equipment shall be required: *Provided, however,* (i) That during such period of use no charge for depreciation, amortization, or for other use of the equipment shall be made against any existing or future Federal grant or contract, and (ii) if, within the period of its useful life, the equipment is transferred by sale or otherwise for use outside the scope of section 21 of the Act, the Federal portion of the fair market value at the time of transfer shall be refunded to the Federal Government.

(2) *Sale or other disposition of equipment, crediting of proceeds or value.* The equipment may be sold by the grantee and the net proceeds of the sale credited to the grant account for project use, or they may be used or disposed of in any manner by the grantee by crediting to the grant account the Federal share of the fair market value on the termination date. To the extent equipment purchased from grant funds is used for credit or trade-in on the purchase of new equipment, the accounting obligation shall apply to the same extent to such new equipment.

(3) *Return or transfer of equipment.* The equipment may be returned to the Federal Government by the grantee or, in accordance with the provisions of chapter 1–410–50B of the Department of Health, Education, and Welfare Grants Administration Manual, may be transferred to another grantee for the purpose of continuing the project for which the equipment was purchased.

(c) *Accounting for grant-related income.*—(1) *Interest.* Pursuant to section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), a State will not be held accountable for interest earned on grant funds, pending their disbursement for grant purposes. A State, as defined in section 102 of the Intergovernmental Cooperation Act, means any one of the several States, the District of Columbia, Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, but does not include the governments of the political subdivisions of the State. All grantees other than a State, as defined in this subsection, must return all interest earned on grant funds to the Federal Government.

(2) *Royalties.* Royalties earned from publications or similar material produced from a grant must first be used to reduce the Federal share of the grant to cover the costs of publishing or producing the materials. Royalties in excess of the costs of publishing or producing the materials shall be distributed as in subparagraph (3) of this paragraph.

(3) *Other income.* Other income earned by the grantee shall be disposed of in accordance with one of the alternatives specified in chapter 1–420 of the Grants Administration Manual as determined by the Secretary in the grant award.

(d) *Grant closeout.*—(1) *Date of final accounting.* A grantee shall render, with respect to each approved project, a full account, as provided herein, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of:

(i) Any amount not accounted for pursuant to § 86.18(a);

(ii) Any credits for equipment on hand as provided in § 86.18(b);

(iii) Any credits for earned interest pursuant to § 86.18(c)(1);

(iv) Any other settlements required pursuant to § 86.18(c) (2) and (3).

Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assignees by setoff or other action as provided by law.

§ 86.19 Records, reports, inspection, and audit.

(a) *Records and reports.* Each grant awarded pursuant to this subpart shall be subject to the condition that the grantee shall maintain such operational and accounting records, identifiable by grant number, and file with the Secretary such operational and fiscal reports relating to the use of grant funds as the Secretary may find necessary to carry out the purposes of the Act and the regulations. All records shall be retained for 3 years after the close of the budget period. Such records may be destroyed

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at the end of such 3-year period if the grantee has been notified of the completion of the Federal audit by such time. If the grantee has not been so notified, such records shall be retained (1) for 5 years after the close of the budget period or (2) until the grantee is notified of the completion of the Federal audit, whichever comes first. In all cases where audit questions have arisen before the expiration of such 5-year period, records shall be retained until resolution of all such questions.

(b) *Inspection and audit.* Any application for a grant under this subpart shall constitute the consent of the applicant to inspections of the facilities, equipment and other resources of the applicant at reasonable times by persons designated by the Secretary and to interview with principal staff members to the extent that such resources and personnel are, or will be, part of the project. In addition, the acceptance of any grant under this subpart shall constitute the consent of the grantee to inspections and fiscal audits by such persons of the supported activity and of records relating to the use of grant funds.

§ 86.20 Additional conditions.

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the approved project, the interests of public health, or the conservation of grant funds.

§ 86.21 Early termination and withholding of payments.

Whenever the Secretary finds that a grantee has failed in a material respect to comply with the Act, the regulations of this subpart, or the terms of the grant, he may, on reasonable notice to the grantee, withhold further payments, and take such other action, including the termination of the grant, as he finds appropriate to carry out the purposes of the Act and regulations. Noncancellable obligations of the grantee properly incurred prior to the receipt of the notice of termination will be honored. The grantee shall be promptly notified of such termination in writing and given the reasons therefor.

Subpart C—Occupational Safety and Health Traineeships

§ 86.30 Nature and purpose of traineeships.

A traineeship is an award of funds to an individual (herein called the "trainee") for his subsistence and other expenses during a period in which he is acquiring training (a) in the occupational safety and health professions, (b) for research relating to occupational safety and health, or (c) for teaching in occupational safety and health.

§ 86.31 Eligibility; minimum requirements.

In order to be eligible for an award under this subpart an applicant must:

(a) Have been accepted by a public or other nonprofit institution for the purpose of the activity for which the traineeship is sought.

(b) Be a U.S. citizen, an alien lawfully admitted to the United States for permanent resident or a permanent resident of Guam, American Samoa, or the Trust Territory of the Pacific Islands.

§ 86.32 Application for traineeship.

An application for a traineeship under this subpart shall be submitted to the Secretary at such times and in such form and manner as he may prescribe.[1] In addition to the information supplied by the applicant in his application, such further information may be required as is necessary to determine his or her qualifications.

§ 86.33 Evaluation and award of traineeships.

Within the limits of funds available for such purpose and subject to the regulations of this part, the Secretary may award traineeships to those qualified applicants who are in his judgment best able to carry out the purpose of the traineeships taking into consideration the need for training in the area of study specified in the application.

§ 86.34 Benefits: stipends, dependency allowances, travel allowances, vacations.

Individuals awarded traineeships shall be entitled to the following benefits:

(a) Stipends;

(b) Dependency allowances;

(c) Trainee travel expenses essential to the training; and

(d) Vacations; stipends and allowances will not be increased or be paid beyond the term of a traineeship on account of vacation an individual might have been entitled to but did not take.

§ 86.35 Payments: stipends, dependency allowances, travel allowances.

Payments for stipends, dependency allowances, and the travel allowances specified in § 86.34 may be made directly to the trainee or to the sponsoring institution for payment to the trainee.

§ 86.36 Benefits: tuition and other expenses.

The Secretary may authorize allowances for payment of expenses, in whole or in part, of tuition, fees, equipment, supplies, attendance at meetings required to carry out the purposes of the traineeships, or other expenses of the activities of the trainee.

§ 86.37 Payments—Tuition and other expenses.

(a) *Tuition and fees.* Allowances for tuition and fees may be made to the trainee or sponsoring institution.

(b) *Other expenses; standard or maximum allowances.* Any allowances for equipment, supplies, attendance at meetings, and other expenses shall, except as may otherwise be prescribed herein or by the Secretary, be paid to the sponsoring institution. The Secretary may establish a standard allowance or a maximum allowance for payment to the sponsoring institution for such expenses.

(c) *Attendance at meetings.* Allowances for expenses of attendance at meetings by trainees may be paid directly to such trainees.

(d) *Installments.* Payments to sponsoring institutions and to trainees under this section and § 86.35 may be made in advance or by reimbursement and in monthly installments.

§ 86.38 Duration and continuation.

Traineeship awards may be made for varying periods not in excess of 2 years. The Secretary may make one or more continuation awards for an additional period if he finds that satisfactory progress is being made toward accomplishment of the purpose of the initial traineeship award. Additional support may be provided on appropriate justification after expiration of the period of support in the previous award.

§ 86.39 Terms and conditions.

All traineeship awards shall be subject to the following terms and conditions:

(a) Training must be carried out at an institution found by the Secretary to provide a well-rounded course of instruction in the particular area of training for which the traineeship is awarded.

(b) No traineeship may be utilized to compensate any trainee for personal services or employment on behalf of the United States or any person.

§ 86.40 Accountability.

In addition to any other requirements relating to accountability which the Secretary may require, each grantee shall account for the sum total of all amounts paid to him by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures.

§ 86.41 Termination of traineeship.

(a) The Secretary may terminate a traineeship at any time upon request of the trainee.

(b) The Secretary may terminate any traineeship prior to the date it would otherwise expire upon a determination, after reasonable notice to the trainee and opportunity to present his or her views and evidence, that the trainee's performance is unsatisfactory, that the trainee is no longer attending the sponsoring institution, or that he or she is unfit or unable to carry out the purpose of the traineeship.

(1) The views and evidence of the trainee shall be presented in writing unless the Secretary determines that an oral presentation is desirable.

(2) Such views and evidence shall be limited to whether the trainee's performance is unsatisfactory, whether the trainee is no longer attending the sponsoring institution, or whether he or she is unfit or unable to carry out the purpose of the traineeship, as the case may be.

[FR Doc.72-19912 Filed 11-20-72;8:53 am]

[1] Applications and instructions may be obtained from the Office of Extramural Programs, National Institute for Occupational Safety and Health, 1014 Broadway, Cincinnati, OH 45202.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Part 1270]

LOW-RENT HOUSING HOMEOWNERSHIP OPPORTUNITIES

Notice of Proposed Rule Making

Correction

In F.R. Doc. 72-18845 appearing at page 23553 of the issue for Saturday, November 4, 1972, the following changes should be made:

1. In § 1270.109 the material designated as paragraphs (e) through (f) should be transposed to appear between paragraphs (d) and (h) in § 1270.110.

2. In § 1270.110, the reference in the last two lines of paragraph (a) to "paragraphs (c) and (d) of this section.", should read "paragraph (d) of this section and paragraph (c) of § 1270.111."

3. In Appendix I to § 1270.309, the second line should be transferred to appear immediately above "persons, residents of --------,".

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-EA-100]

CONTROL ZONE

Proposed Alteration

Correction

In F.R. Doc. 72-19481 appearing on page 24121 of the issue for Tuesday, November 14, 1972, the figure "30" in the 13th line of the control zone description should read "39".

[14 CFR Part 71]

[Airspace Docket No. 72-EA-109]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the State College, Pa., transition area (37 F.R. 2143).

A review of the terminal airspace for State College, Pa., indicates that additional airspace is required to protect aircraft making instrument approaches and departures at University Park Airport and State College Air Depot Airport.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of State College, Pa., proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the State College, Pa., 700-foot-floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 12-mile radius of the center, 40°51'05" N., 77°51'00" W., of University Park Airport, State College, Pa., extending clockwise from a 020° bearing to a 130° bearing from the airport; within a 13.5-mile radius of the center of University Park Airport, extending clockwise from a 130° bearing to a 165° bearing from the airport; within a 5-mile radius of the center of University Park Airport, extending clockwise from a 165° bearing to a 210° bearing from the airport; within a 7-mile radius of the center of University Park Airport, extending clockwise from a 210°bearing to a 280° bearing from the airport; within a 13.5-mile radius of the center of University Park Airport, extending clockwise from a 280° bearing to a 020° bearing from the airport; within a 5-mile radius of the center, 40°46'15" N., 77°52'45" W., of State College Air Depot Airport, State College, Pa., extending clockwise from a 010° bearing to a 045° bearing from the airport; within a 12-mile radius of the center of State College Air Depot Airport, extending clockwise from a 045° bearing to a 080° bearing from the airport; within a 13.5-mile radius of the center of State College Air Depot Airport. extending clockwise from a 080° bearing to a 230° bearing from the airport; within a 6.5-mile radius of the center of State College Air Depot Airport, extending clockwise from a 230° bearing to a 260° bearing from the airport; and within a 14.5-mile radius of the center of State College Air Depot Airport, extending clockwise from a 260° bearing to a 010° bearing from the airport, excluding the portion that coincides with the Philipsburg, Pa., and Reedsville, Pa., transition areas.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on November 7, 1972.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.72-19969 Filed 11-20-72;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 72-EA-111]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a Summersville, W. Va., transition area over Summersville Airport, Summersville, W. Va.

A new NDB instrument approach procedure has been developed for Summersville Airport, Summersville, W. Va., and will require designation of a 700-foot-floor transition area to provide controlled airspace protection for IFR arrivals and departures at Summersville Airport.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn.: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Summersville, W. Va., proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a Summersville, W. Va., 700-foot-floor transition area as follows:

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center 38°13'50" N., 80°52'15" W., of Summersville Airport, Summersville, W. Va., extending clockwise from a 244° bearing to a 304° bearing from the airport;

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within a 7-mile radius of the center of the airport, extending clockwise from a 304° bearing to a 337° bearing from the airport; within a 9.5-mile radius of the center of the airport, extending clockwise from a 337° bearing to a 018° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 018° bearing to a 056° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 056° bearing to a 070° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 070° bearing to a 083° bearing from the airport; within a 12-mile radius of the center of the airport, extending clockwise from a 083° bearing to a 100° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 100° bearing to a 109° bearing from the airport; within a 22-mile radius of the center of the airport, extending clockwise from a 109° bearing to a 132° bearing from the airport; within a 19-mile radius of the center of the airport, extending clockwise from a 132° bearing to a 147° bearing from the airport; within a 17.5-mile radius of the center of the airport, extending clockwise from a 147° bearing to a 163° bearing from the airport; within a 12-mile radius of the center of the airport, extending clockwise from a 163° bearing to a 190° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 190° bearing to a 212° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 212° bearing to a 244° bearing from the airport; and within 4.5 miles southeast and 8 miles northwest of a 221° bearing from the Summersville, W. Va. RBN 38°13'46'' N., 80°52'14'' W., extending from the RBN to 11.5 miles southwest of the RBN excluding the portion that coincides with Lewisburg, W. Va., transition area.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on November 8, 1972.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.72-19970 Filed 11-20-72;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 72-CE-27]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Pella, Iowa.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106.

A new public use instrument approach procedure is being developed for the Pella, Iowa, municipal airport. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a 700-foot transition area at Pella, Iowa.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (37 F.R. 2143), the following transition area is added:

PELLA, IOWA

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Pella Municipal Airport (latitude 41°24'10'' N., longitude 92°56'40'' W.); and within 3 miles each side of the 176° bearing from the Pella Municipal Airport extending from the 5-mile radius to 8 miles south of the airport.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348); and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on October 20, 1972.

CHESTER W. WELLS,
Acting Director, Central Region.

[FR Doc.72-19963 Filed 11-20-72;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 72-GL-55]

CONTROL ZONE AND TRANSITION AREA

Proposed Designation and Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a control zone and alter the transition area at Danville, Ill.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, 2300 East Devon Avenue, Des Plaines, IL 60018. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

Since designation of the controlled airspace at Danville, Ill., the approach procedures for the Vermilion County Airport have been revised and a control tower has been planned to be opened in April of 1973. Accordingly, it is necessary to alter the transition area at Danville to protect aircraft executing these revised procedures and a control zone must be established for the protection of IFR air traffic utilizing the Vermilion County Airport.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.171 (37 F.R. 2056), the following control zone is added:

DANVILLE, ILL.

That airspace within a 5-mile radius of Vermilion County Airport (latitude 40°11'54'' N.; longitude 87°35'49'' W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

In § 71.181 (37 F.R. 2143), the following transition area is amended to read:

DANVILLE, ILL.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Vermilion County Airport (latitude 40°11'54'' N.; longitude 87°35'49'' W.); and within 2 miles each side of the Danville VORTAC 196° radial extending from the 6½-mile radius to the VORTAC.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348); and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Ill., on October 31, 1972.

LYLE K. BROWN,
Director, Great Lakes Region.

[FR Doc.72-19964 Filed 11-20-72;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 72-GL-59]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Port Clinton, Ohio.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

A new public instrument approach procedure has been developed for Keller Field, Port Clinton, Ohio. In addition, the criteria for designation of transition areas have been changed. Accordingly, it is necessary to alter the Port Clinton, Ohio, transition area to adequately protect the aircraft executing the new approach procedure.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (37 F.R. 2143), the following transition area is amended to read:

PORT CLINTON, OHIO

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Carl R. Keller Field, Port Clinton, Ohio (latitude 41°30'57'' N., longitude 82°51'58'' W.) within 3 miles each side of the 082° bearing from the airport extending from the 7-mile radius to 8 miles east of the airport.

This amendment is proposed under the authority of sections 307(a), of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C 1655(c)).

Issued in Des Plaines, Ill., on October 31, 1972.

LYLE K. BROWN,
Director, Great Lakes Region.

[FR Doc.72-19965 Filed 11-20-72;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 72-GL-60]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at DeKalb, Ill.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, 2300 East Devon Avenue, Federal Aviation Administration, Des Plaines, IL 60018. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

A new public use instrument approach procedure has been established for the DeKalb, Ill., Municipal Airport, based on the new airport NDB. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at DeKalb, Ill. The new procedure will become effective concurrently with the designation of the transition area.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation regulations as hereinafter set forth:

In § 71.181 (37 F.R. 2143), the following transition area is added:

DEKALB, ILL.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the DeKalb Municipal Airport (latitude 41°55'45'' N.; longitude 88°43'00'' W.); and within 3.5 miles each side of the 097° bearing from the DeKalb Municipal Airport, extending from the 5-mile radius to 11.5 miles east of the airport; excluding that airspace that overlies the Chicago, Ill., transition area.

This amendment is proposed under the authority of section 307(a), of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)).

Issued in Des Plaines, Ill., on October 31, 1972.

LYLE K. BROWN,
Director, Great Lakes Region.

[FR Doc.72-19966 Filed 11-20-72;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 72-GL-61]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Frankfort, Ill.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, 2300 East Devon Avenue, Federal Aviation Administration, Des Plaines, IL 60018. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

A new public use instrument approach procedure has been established for the Frankfort, Ill., airport, based on the Chicago Heights VORTAC. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Frankfort, Ill. The new procedure will become effective concurrently with the designation of the transition area.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

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In § 71.181 (37 F.R. 2143), the following transition area is added:

FRANKFORT, ILL.

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of the Frankfort Airport (latitude 41°29'00" N.; longitude 87°51'00" W.); and within 3½ miles either side of the 261° radial from Chicago Heights VORTAC extending from the 5½-mile radius to 8½ miles east of the airport, excluding that portion that overlies the Chicago, Ill., transition area.

This amendment is proposed under the authority of section 307(a), of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Ill., on October 31, 1972.

LYLE K. BROWN,
Director, Great Lakes Region.

[FR Doc. 72-19967 Filed 11-20-72; 8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 72-GL-62]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Marquette, Mich.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

New public use instrument approach procedures have been developed for the Marquette, Mich., county airport. Accordingly, it is necessary to alter the Marquette transition area to adequately protect the aircraft executing the new approach procedures.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (37 F.R. 2143), the following transition area is amended to read:

MARQUETTE, MICH.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Marquette County Airport (latitude 46°32'-03" N., longitude 87°33'35" W.); within 4½ miles north and 9½ miles south of the Marquette ILS localizer west course extending from the 7-mile radius to 16 miles west; within 4½ miles north and 4½ miles south of the Marquette ILS localizer east course extending from the 7-mile radius to 16½ miles east; within an 8-mile radius of K. I. Sawyer AFB (latitude 46°21'15" N., longitude 87°23'40" W.); within 2 miles each side of the K. I. Sawyer AFB ILS localizer course extending from the 8-mile radius area to 12 miles south of the LOM; within 2 miles each side of the K. I. Sawyer AFB TACAN 183° radial, extending from the 8-mile radius area to 12 miles south of the TACAN; and within 2 miles east and 5 miles west of the K. I. Sawyer AFB TACAN 015° radial, extending from the 8-mile radius area to 12 miles north of the TACAN; and that airspace extending upward from 1,200 feet above the surface within a 40-mile radius of K. I. Sawyer AFB, excluding the portion which overlies the Escanaba, Mich., transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Ill., on October 31, 1972.

LYLE K. BROWN,
Director, Great Lakes Region.

[FR Doc.72-19968 Filed 11-20-72; 8:47 am]

[14 CFR Part 73]

[Airspace Docket No. 72-WA-56]

TEMPORARY RESTRICTED AREAS

Proposed Extension

The Federal Aviation Administration (FAA) is considering an amendment to Part 73 of the Federal Aviation Regulations which would extend the period of designation of temporary Restricted Areas R-5116 A and B at White Sands Proving Grounds, N. Mex.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101.

All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket also will be available for examination at the Office of the Regional Air Traffic Division Chief.

On August 5, 1972, an amendment to Part 73 of the Federal Aviation Regulations was published in the FEDERAL REGISTER (37 F.R. 15857) which designated temporary Restricted Areas R-5116 A and B for the period October 1, 1972, through March 31, 1973.

Subsequent to the publication of the rule, the Department of the Air Force submitted a further request for the designation of R-5116 A and B, from sunrise to sunset, for the period April 1, 1973, through June 30, 1973. The area would be activated for only a period of minutes during each launching of a Hound Dog Missile and the same procedures which are currently in effect would apply to this proposed designation. These procedures include: (1) Advance notification to the public, through all available news media and scheduled Flight Service Station broadcasts, of the activation of these areas, and (2) coordination by the Air Force with the Albuquerque ARTC Center so the missile launchings will have a minimum impact on air traffic operations.

The proposed amendment would extend the time of designation of Restricted Areas R-5116 A and B from April 1, 1973, through June 30, 1973.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on November 14, 1972.

PAUL W. ROBINSON,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-19971 Filed 11-20-72; 8:47 am]

Federal Railroad Administration

[49 CFR Part 215]

[Docket RSFC-1; Notice 2]

RAILROAD FREIGHT CARS

Proposed Minimum Safety Standards; Extension of Time for Filing Comments; Notice of Public Hearing

On September 22, 1972, the Federal Railroad Administration published in the FEDERAL REGISTER a notice of proposed rule making to amend Chapter II of Subtitle B of Title 49 of the Code of Federal Regulations by adding a new Part 215 to provide minimum Federal safety standards for railroad freight cars (37 F.R. 19821). Proposed Part 215 also includes inspection requirements for railroad freight cars. December 1, 1972, was set as the date by which all written data, views, or comments were to be submitted to the Federal Railroad Administration.

The Association of American Railroads and the Railway Progress Institute have requested a 90-day extension of the date for the submission of written comments. In consideration of these requests, the Federal Railroad Administration has decided to extend the comment period 45 days. Accordingly, comments received before January 15, 1973, will be considered by the Federal Railroad Administrator before taking final action on the proposed standards.

Communications should identify the regulatory docket number and notice number and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: Docket No. RSFC-1, 400 Seventh Street SW., Washington, DC 20590. All comments received will be available for examination by interested persons at any time during regular working hours in Room 5428, Nassif Building, 400 Seventh Street SW., Washington, DC. The proposals contained in the notice of proposed rule making may be changed in light of comments received.

In light of the extension of time granted for receipt of comments, the dates prescribed in proposed §§ 215.23 and 215.25 must be changed as follows: (1) The date after which railroad freight cars must be visually inspected, as provided in § 215.23(a), shall be six (6) months after the effective date of the proposed new part; (2) the date by which each railroad shall submit three copies of its instructions for visual inspection of railroad freight cars, as provided in § 215.23(b), shall be 30 days after the effective date of the proposed new part; and (3) the date by which each railroad shall submit three copies of its program for periodic inspection of railroad freight cars, as provided in § 215.25(c), shall be 30 days after the effective date of the proposed new part.

In addition, to provide all interested persons an opportunity for oral presentation, the FRA will conduct a public hearing at 10 a.m. on January 23, 1973, in room 5332, Nassif Building, 400 Seventh Street SW., Washington, DC.

The hearing will be an informal one, not a judicial or evidentiary type of hearing. There will be no cross-examination of persons making statements. A staff member of the FRA will make an opening statement outlining the matter set for hearing. Interested persons will then have an opportunity to present their oral statements. At the completion of all initial oral statements, those persons who wish to make rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures for conducting the hearing will be announced at the hearing.

Interested persons may present oral or written statements at the hearing. All statements will be made a part of record of the hearing and be a matter of public record. Persons who wish to make oral statements at the hearing should notify the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590, before January 23, 1973, stating the amount of time required for initial statement.

This notice is issued under the authority of the Federal Railroad Safety Act of 1970, 84 Stat. 971 et seq., 45 U.S.C. 421 et seq.; and § 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).

Issued in Washington, D.C., on November 16, 1972.

HENRI F. RUSH, Jr.,
Deputy Federal Railroad Administrator.

[FR Doc.72-20008 Filed 11-20-72; 8:53 am]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 207, 208, 212, 214]

[Docket No. 24788; EDR-233A]

FOREIGN ROUTE AIR CARRIERS AND FOREIGN CHARTER AIR CARRIERS

Protection of Customers' Deposits; Extension of Time

NOVEMBER 16, 1972.

The Board, by circulation of notice of proposed rule making EDR-233, dated September 28, 1972, and published at 37 F.R. 21347, gave notice that it had under consideration proposed amendments to Parts 207, 208, 212, and 214 of its Economic Regulations (14 CFR Parts 207, 208, 212, 214). These proposals would require supplemental air carriers, certificated route air carriers, and, to the extent that they operate charter trips originating in the United States, foreign route air carriers and foreign charter air carriers, to provide security protection for customers' deposits made with said carriers as advance payment for charter flights in the manner prescribed therein. Interested persons were invited to participate by submission of twelve (12) copies of written data, views, or arguments pertaining thereto to the Docket Section of the Board on or before November 20, 1972.

On November 13, 1972, counsel for Overseas National Airways, Inc. (ONA), requested a 30-day extension of time for filing comments. The request alleges that additional time is needed to circulate, to various supplemental carriers, draft comments which ONA hopes will form the basis for a joint submission by the supplemental industry. It is further maintained that the present filing deadline does not allow sufficient time for carriers to obtain from banks and other financial intermediaries information which, it asserts, is necessary for the preparation of meaningful comments. Counsel for Saturn Airways, Inc., has submitted a letter which also requests a 30-day extension of time to file comments.

The undersigned finds that good cause has been shown for an extension of time for filing comments, but for only 21 days. An extension of time beyond December 11, 1972, is not warranted and would hamper considerably the Board's desire to promulgate a final rule in this matter well in advance of the 1973 summer charter season. It is believed that an extension to December 11, which will provide a total of 65 days for responding, should be sufficient to enable carriers to gather the data they need to prepare comments.

Accordingly, pursuant to the authority delegated in § 385.20(d) of the Board's Organization Regulations, the undersigned hereby extends the time for submitting comments to December 11, 1972.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324)

[SEAL] ARTHUR H. SIMMS,
Associate General Counsel, Rules and Rates.

[FR Doc.72-20039 Filed 11-20-72; 8:53 am]

FEDERAL MARITIME COMMISSION

[46 CFR Ch. IV]

[Docket No. 72-41]

TRUCK DETENTION AT THE PORT OF NEW YORK

Enlargement of Time To File Replies

Upon consideration of Docket No. 72-41 published at 37 F.R. 16980, Wednesday, August 23, 1972.

Upon request of counsel for New York Terminal Conference, and good cause appearing, time within which replies to initial comments may be filed in this proceeding is enlarged to and including November 27, 1972.

The remainder of the filing schedule is correspondingly revised. Accordingly, Hearing Counsel's response to initial and reply comments shall be filed on or before December 12, 1972, and replies to Hearing Counsel shall be filed on or before December 27, 1972.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-20052 Filed 11-20-72; 8:55 am]

FEDERAL POWER COMMISSION

[18 CFR Parts 141, 260]

[Docket No. R-443]

CERTAIN ANNUAL REPORTS

Information on Future Finance Requirements; Postponement of Staff Conference

NOVEMBER 14, 1972.

In regard proposed revisions of FPC Annual Report Form No. 1 and No. 2 to obtain information on future finance requirements.[1]

[1] See 37 F.R. 11192.

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Due to intervening circumstances, the date of the staff conference on proposed rule making,[2] Docket No. R-443 is being changed to December 12, 1972, rather than December 7, as had been previously announced. The location and time of the conference remain the same: 10 a.m., GAO Auditorium, 441 G Street NW., Washington, DC.

JEFFREY A. MEITH,
Commission Staff Counsel.

[FR Doc.72-20000 Filed 11-20-72;8:49 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 270]

[Release No. IC-7486]

BOOKS AND RECORDS OF REGISTERED INVESTMENT COMPANIES

Use of Microfilming Process for Initial Maintenance and Preservation

Notice is hereby given, that the Securities and Exchange Commission has under consideration a proposal to amend Rule 31a-2(f) (17 CFR 270.31a-2(f)) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) to permit, under certain specified conditions, the books and records of registered investment companies to be initially maintained and preserved in the form of microfilm in lieu of hard copy paper printout.

In its present form, Rule 31a-2 requires the preservation in hard copy form of all records required to be maintained and preserved by Rule 31a-1 (17 CFR 270.31 a-1), except that the provisions of paragraph (f)(1) of Rule 31a-2 permit the substitution of microfilm after a period of 3 years following the creation of hard copy record.

By the proposed amendment, the hard copy maintenance and preservation requirements would be relaxed to permit the microfilming process to be used for the initial maintenance of records, and to authorize compliance with the preservation requirements of Rule 31a-2 in the form of immediate microfilm substitution for the hard copy record. It would be a condition of the amendment as proposed that a registered investment company availing itself of this procedure, or on whose behalf such procedure is employed, shall have readily available at all times appropriate reader-printer equipment for examination of the records by the Commission or by the directors of the investment company, as well as equipment for hard copy reproduction to be promptly furnished upon request of the directors or of the Commission and its examiners or other representatives. Moreover, as added protection against possible loss of records, the proposed amendment provides that a duplicate copy be made of all microfilm on a current basis and that such copy be stored separately from the original.

Books and records required to be maintained and preserved by investment advisers to registered investment companies pursuant to paragraphs (e) and (f) of Rule 31a-1 and paragraphs (d) and (e) of Rule 31a-2 would not be encompassed by the proposed amendment to Rule 31a-2(f). The books and records of such investment advisers are presently encompassed by the microfilm substitution provision in existing paragraph (f)(1) of Rule 31a-2 and they would, as a result of the proposed amendment to Rule 31a-2(f), become subject to the maintenance provisions of paragraph (g) of Rule 204-2 (17 CFR 275.204-2) under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.). That rule permits the substitution of microfilm for hard copy books and records of all registered investment advisers after a period of 2 years following the creation of the hard copy record.

Since subparagraph (1) of proposed Rule 31a-2(f) is substantially similar to the present Rule 17a-4(f) (17 CFR 240.17 a-4) under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), interested persons should refer to Securities Exchange Act Releases Nos. 8835 and 8875 (35 F.R. 4649, 7643) dealing with the proposal and the adoption of Rule 17a-4(f).

Persons who desire to avail themselves of the provisions of the proposed rule might, for general guidance on the matter of microfilm quality and care, refer to items 5 (g) and (h) under the caption, "General Instructions" contained in the Commission's Accounting Series Release No. 84 (17 CFR 257.315).

As proposed, amended Rule 31a-2(f) would read as follows:

Commission action. Part 270 of Chapter II of Title 17 of the Code of Federal Regulations is amended by revising paragraph (f) of § 270.31a-2.

As amended, § 270.31a-2(f) would read as follows:

§ 270.31a-2 Records to be preserved by registered investment companies, certain majority-owned subsidiaries thereof, and other persons having transactions with registered investment companies.

* * * * *

(f) (1) The records required to be maintained and preserved pursuant to paragraphs (a) through (d) of § 270.31a-1 and paragraphs (a) through (c) of this section may be immediately produced or reproduced on microfilm and be maintained and preserved for the required time in that form. If such microfilm substitution for hard copy is made by, or on behalf of, an investment company, such investment company shall: (i) At all times have available for examination of its records by the Commission, pursuant to section 31 of the Investment Company Act of 1940, or by the directors of such investment company, facilities for immediate, easily readable projection of the microfilm and for producing easily readable facsimile enlargements, (ii) arrange the records and index and file the films in such a manner as to permit the immediate location of any particular record, (iii) be ready at all times to provide, and immediately provide, any facsimile enlargement which the Commission, by its examiners or other representatives, or the directors of such investment company may request, and (iv) store separately from the original one other copy of the microfilm for the time required.

(2) Notwithstanding the provisions of paragraphs (a) through (e) of this section, any record, book, or other document may be destroyed in accordance with a plan previously submitted to and approved by the Commission. A plan shall be deemed to have been approved by the Commission if notice to the contrary has not been received within 90 days after submission of the plan to the Commission.

The amendment is proposed pursuant to the authority granted to the Commission in sections 31 (a) and (c) and 38(a) of the Investment Act of 1940, 15 U.S.C. 80a-30(a), 80a-30(c), and 80a-37(a).

All interested persons are invited to submit their views and comments on the above proposal in writing, to the Securities and Exchange Commission, Washington, D.C. 20549, on or before January 12, 1973. All such communications will be considered available for public inspection.

By the Commission, November 9, 1972.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-19959 Filed 11-20-72;8:46 am]

[2] See 37 F.R. 23850.

Notices

DEPARTMENT OF STATE

Agency for International Development

HOUSING GUARANTY PROGRAM FOR DOMINICAN REPUBLIC

Information for Investors

The Agency for International Development (AID) has advised Banco Nacional de la Vivienda (the Borrower), an instrumentality of the Government of the Dominical Republic, that upon execution by an eligible U.S. investor acceptable to AID of an agreement to loan the Borrower an amount not to exceed $4 million, and subject to the satisfaction of certain further terms and conditions by the Borrower, AID will guarantee repayment to the investor of the principal and interest on such loan. The guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority contained in section 222 of the Foreign Assistance Act of 1961, as amended (the Act). Proceeds of the loan will be used to construct housing projects in the Dominican Republic.

Eligible investors interested in extending a guaranteed loan to the Borrower should communicate promptly with:

John C. Peters, Esq., Kutak, Rock, Cohen, Campbell & Peters, 1700 Woodman Tower, Omaha, Nebr. 68102.

Investors eligible to receive a guaranty are those specified in section 238(c) of the Act. They are: (1) U.S. citizens; (2) domestic corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and (4) foreign partnerships or associations wholly owned by U.S. citizens.

The estimated disbursement for the loan would be an initial disbursement on or before November 1, 1974, approximately nine intermediate disbursements of $300,000 each and the final disbursement on or before July 1, 1976. This disbursement schedule is approximate and will depend upon the progress of the housing projects.

To be eligible for a guaranty, the loan must be repayable in full no later than the 20th anniversary of the final disbursement of the principal amount thereof and the interest rate may be no higher than the maximum rate to be established by AID. AID will charge a guarantee fee equal to one-half of 1 percent per annum on the outstanding guaranteed principal amount of the loan.

Information as to eligibility of investors and other aspects of the AID-housing guaranty program can be obtained from:

Director, Office of Housing, Agency for International Development, Room 508, SA-16, Washington, D.C. 20523.

This notice is not an offer by AID or by the Borrower. The Borrower and not AID will select a lender and negotiate the terms of the proposed loan.

STANLEY BARUCH,
Director, Office of Housing, Agency for International Development.

NOVEMBER 9, 1972.

[FR Doc.72-19958 Filed 11-20-72;8:46 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

PIG IRON FROM BRAZIL

Notice of Tentative Negative Determination

NOVEMBER 17, 1972.

Information was received on March 6, 1972, that pig iron from Brazil was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of April 12, 1972, on page 7262.

I hereby make a tentative determination that pig iron from Brazil is not being, nor likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

Statement of reasons on which this tentative determination is based. Information currently before the Bureau reveals that there are sufficient sales of pig iron in the home market to provide an adequate basis of comparison for fair value purposes.

Accordingly, the basis of comparison for fair value purposes was between purchase price or exporter's sales price, as appropriate, and the adjusted home market price of such or similar merchandise.

Purchase price was calculated by adding to the exfactory sales price, with no deductions, the Brazilian sales tax which was not collected by reason of exportation of the merchandise to the United States.

Exporter's sales price was calculated by deducting from the resale price of the related firm to purchasers in the United States, selling expenses, handling, and Customs clearance costs, ocean freight and insurance, and Brazilian and United States transportation charges. An addition was made for the Brazilian sales tax which was not collected by reason of exportation of the merchandise to the United States.

Adjusted home market price was calculated on the basis an exfactory price, including the Brazilian sales tax, with deductions for finance costs, commissions, and advertising costs, as applicable.

Comparisons between purchase price and exporter's sales price, as appropriate, and the adjusted home market price, revealed that purchase price or exporter's sales price was not lower than the adjusted home market price.

In accordance with § 153.33(b), Customs Regulations (19 CFR 153.33(b)), interested parties may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, DC 20226, in time to be received by his office not later than 10 calendar days from the date of publication of this notice in the FEDERAL REGISTER.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

This tentative determination and the statement of reasons therefor are published pursuant to § 153.33 of the Customs Regulations (19 CFR 153.33).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-20155 Filed 11-20-72;9:30 am]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[INT FES 72-40]

AUTHORIZED AUBURN-FOLSOM SOUTH UNIT, CENTRAL VALLEY PROJECT, CALIF.

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the authorized Auburn-Folsom South Unit, Central Valley Project, Calif. The environmental statement concerns a proposed flood control, power, water supply, and recreation project consisting of a dam and appurtenant facilities on the American River near Auburn, Placer

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County, Calif., and a diversion canal downstream at existing Nimbus Dam near Folsom, extending into Sacramento and San Joaquin Counties.

Copies are available for inspection at the following locations:

Office of Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, telephone (202) 343-4991.

Division of Engineering Support, Technical Services Branch, E. & R. Center, Denver Federal Center, Denver, Colo. 80225, telephone (303) 234-3007.

Office of the Regional Director, Bureau of Reclamation, Mid-Pacific Region, 2800 Cottage Way, Sacramento, CA 95825, telephone (916) 481-6100.

Auburn-Folsom South Unit CVP Construction Office, Bureau of Reclamation, Post Office Box 1308, Auburn, CA 95603, telephone (916) 885-7546.

Single copies of the final environmental statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. In addition, copies may be purchased from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151. Please refer to the statement number above.

Dated: November 13, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-19946 Filed 11-20-72;8:45 am]

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

MENDOTA WATERSHED PROJECT, ILLINOIS

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental statement for the Mendota watershed project, LaSalle County, Ill., USDA-SCS-ES-WS-(ADM)-73-20(D).

The environmental statement concerns a plan for watershed protection and flood prevention. The planned works of improvement include conservation land treatment, supplemented by one floodwater retarding structure, four floodwater detention structures and 4,600 feet of channel modification.

This draft environmental statement was transmitted to the Council on Environmental Quality on November 14, 1972.

Copies are available during regular working hours at the following locations:

Soil Conservation Service, USDA, South Agriculture Building, Room 5227, 14th and Independence Avenue SW., Washington, D.C. 20250

Soil Conservation Service, USDA, Illinois State Office, Post Office Box 678, 200 West Church Street, Champaign, Ill. 61820

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

Mendota Watershed Project, Illinois, Notice of Availability of Draft Environmental Statement

Please use name and number of statement above when ordering. The estimated cost is $3.25.

Copies of the draft environmental statement have been sent for comment to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments concerning the proposed action or requests for additional information should be addressed to Howard W. Busch, State Conservationist, Post Office Box 678, 200 West Church Street, Champaign, Ill. 61820.

Comments must be received within 60 days of the date the statement was transmitted to CEQ in order to be considered in the preparation of the final environment statement.

EUGENE C. BUIE,
Acting Deputy Administrator for Watersheds, Soil Conservation Service.

NOVEMBER 15, 1972.

[FR Doc.72-20061 Filed 11-20-72;8:55 am]

UPPER MULBERRY RIVER WATERSHED PROJECT, GEORGIA

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental statement for the Upper Mulberry River watershed project, Barrow, Gwinnett, Hall, and Jackson Counties, Ga., USDA-SCS-ES-WS-(ADM)-72-29(D).

The environmental statement concerns a plan for watershed protection, flood prevention, and municipal water supply. The planned works of improvement include conservation land treatment, supplemented by seven floodwater retarding structures, two multiple-purpose reservoirs with municipal and industrial water storage capacity, approximately 8,750 feet of channel clearing and snagging, about 16.3 miles of stream bank protection, and 241 acres of road bank stabilization.

This draft environmental statement was transmitted to CEQ on September 26, 1972.

Copies are available during regular working hours at the following locations:

Soil Conservation Service, USDA, South Agriculture Building, Room 5227, 14th and Independence Avenue SW., Washington, D.C. 20250

Soil Conservation Service, USDA, Heritage Building, 468 North Milledge Avenue, Post Office Box 832, Athens, GA 30601

Upper Mulberry River Watershed Project, Georgia; Notice of Availability of Draft Environmental Statement.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please use the name and number of statement above when ordering. The estimated cost is $3.25.

Copies of the draft environmental statement have been sent for comment to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments must be received within 30 days of the date of this notice in order to be considered in the preparation of the final environmental statement.

EUGENE C. BUIE,
Acting Deputy Administrator for Watersheds, Soil Conservation Service.

NOVEMBER 16, 1972.

[FR Doc.72-20062 Filed 11-20-72;8:55 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-311]

AMERICAN TRADING TRANSPORTATION CO., INC.

Notice of Application

Notice is hereby given that application has been filed under the Merchant Marine Act of 1936, as amended, for operating-differential subsidy with respect to bulk cargo carrying service in the U.S. foreign trade, principally between the United States and the Union of Soviet Socialist Republics, to expire on June 30, 1973 (unless extended only for subsidized voyages in progress on that date). Inasmuch as the below listed applicant, and/or related persons or firms, employ ships in the domestic, intercoastal, or coastwise service, written permission of the Maritime Administration under section 805(a) of the Merchant Marine Act, 1936, as amended, will be required for each such applicant if its application for operating-differential subsidy is granted.

The following applicant has requested permisson involving the domestic, intercoastal, or coastwise services described below:

Name of applicant: American Trading Transportation Co., Inc. (Attco).

Description of domestic service and vessels: The applicant, Attco, is a subsidiary of American Trading and Production Corp. (Atapcorp), which company and other related companies operate in the domestic trades shown below, and requests written permission for the continuance of such services with the

right to move any vessel from one domestic trade to another and/or from a foreign trade to a domestic trade.

The following U.S. flag vessels of the applicant, all have coastwise privileges, operate or may operate in various domestic trades, commercially, under charter to the Military Sealift Command (MSC) or others:

American Trader (MSC).
Texas Trader (MSC).
Maryland Trader (MSC).
Baltimore Trader.
Virginia Trader.
Washington Trader.

Atapcorp also has substantial stock interests in Standard Oil Co. (Indiana) and Standard Oil Co. (New Jersey) and is the largest stockholder of Crown Central Petroleum Corp. The first two companies and their affiliates own and charter vessels for carriage of petroleum and its products in the domestic trade and the third occasionally charters vessels for domestic carriage of petroleum and its products. Atapcorp exercises no control over the ownership, operation, or charter of any tankers by any of these three companies.

Written permission is now required by the applicant, Attco, notwithstanding that a voyage in the proposed service for which subsidy is sought would not be eligible for subsidy if the vessels carried domestic commerce of the United States on that voyage.

Interested parties may inspect this application in the Office of the Secretary, Maritime Administration, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20235.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in the application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit comments or views concerning the application must, by close of business on November 29, 1972, file same with the Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administrator will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled for 10 a.m., December 1, 1972, in Room 4896, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20235. The purpose of the hearing will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal services, or (b) would be prejudicial to the objects and policy of the Act.

By order of the Maritime Administration.

Dated: November 17, 1972

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.72-20153 Filed 11-20-72;8:56 am]

National Bureau of Standards

COLOR MARKING FOR ANESTHETIC GAS CYLINDERS

Notice of Intent To Withdraw Voluntary Product Standard

In accordance with § 10.12 of the Department of Commerce Procedures for the Development of Voluntary Product Standards (15 CFR Part 10, as revised, 35 F.R. 8349 dated May 28, 1970), notice is hereby given of the Department's intent to withdraw Simplified Practice Recommendation SPR 176-41, "Color Marking for Anesthetic Gas Cylinders." It has been tentatively determined, with the concurrence of the majority of the Standing Committee for SPR 176-41, that the standard is no longer generally acceptable to and used by the industry, is inconsistent with established policy, and revision is not feasible or would serve no useful purpose. The basis for this determination is primarily the existence of the following more current standards which relate to the identification and safety aspects for medical gas containers:

American National Standards Institute (ANSI) Z 48.1-1954 (1970), "Methods for Marketing Portable Compressed Gas Containers to Identify the Material Contained".

ANSI B 57.1-1965, "Compressed Gas Cylinder Valve Outlet and Inlet Connections (pin-index safety system)".

National Fire Protection Association (NFPA) 56 A-1971, "Inhalation Anesthetics (Flammable and Nonflammable)".

Military Standard 1018, Dec. 1970, "Color Code for Pipelines and Compressed Gas Cylinders".

Compressed Gas Association C-7, "Guide to the Preparation of Precautionary Labeling and Marketing of Compressed Gas Containers".

Department of the Army Technical Bulletin TB 34-9-127, "Colors for Medical Gas Cylinders".

International Organization for Standardization (ISO) R 32, "Identification of Medical Gas Cylinders".

Any comments or objections concerning the intended withdrawal of SPR 176-41 should be made in writing and directed to the Office of Engineering Standards Services, National Bureau of Standards, Washington, D.C. 20234, within 45 days of the publication of this notice. The effective date of withdrawal will be not less than 60 days after the final notice of withdrawal. Withdrawal action will terminate the authority to refer to the standard as a voluntary standard developed under the Department of Commerce procedures, from the effective date of the withdrawal.

Dated: November 16, 1972.

LAWRENCE N. KUSHNER,
Acting Director, National Bureau of Standards.

[FR Doc.72-20053 Filed 11-20-72;8:54 am]

CERTAIN HOSPITAL SUPPLIES

Notice of Intent To Withdraw Voluntary Product Standards

In accordance with § 10.12 of the Department of Commerce Procedures for the Development of Voluntary Product Standards (15 CFR Part 10, as revised, 35 F.R. 8349 dated May 28, 1970), notice is hereby given of the Department's intent to withdraw the 12 standards identified below. As a result of a review of these standards with interested industry and hospital groups, it has been tentatively determined that each of these Commercial Standards (CS) and Simplified Practice Recommendations (SPR) are obsolete, no longer technically adequate, and no longer generally acceptable to and used by the interested groups. Also it has been tentatively determined that revision of the standards would serve no useful purpose because of the existence of current Federal specifications for the products. (SPR 239-50 is also covered by U.S. Pharmacopeia.)

CS ------	54-35	Mattresses for hospitals.
CS ------	55-35	Mattresses for institutions.
CS ------	114-43	Hospital sheeting for mattresses protection.
CS ------	136-48	Blankets for hospitals (wool, and wool and cotton).
CS ------	146-47	Gowns for hospital patients.
SPR ----	24-37	Hospital beds.
SPR ----	85-52	Adhesive plaster.
SPR ----	86-52	Surgical gauze.
SPR ----	133-57	Surgical dressings.
SPR ----	224-47	Medical and surgical hypodermic needles (for hospital use).
SPR ----	239-50	Surgical sutures—Nonboilable type (catgut, silk, nylon).
SPR ----	240-50	Clinical utensils (aluminum, enameled steel, stainless steel).

Any comments or objections concerning the intended withdrawal of any of these standards should be made in writing and directed to the Office of Engineering Standards Services, National Bureau of Standards, Washington, D.C. 20234, within 45 days of the publication of this notice. The effective date of withdrawal will be not less than 60 days after the final notice of withdrawal. Withdrawal action will terminate the authority to refer to the standards as voluntary standards developed under the Department of Commerce procedures, from the effective date of the withdrawal.

Dated: November 16, 1972.

LAWRENCE M. KUSHNER,
Acting Director, National Bureau of Standards.

[FR Doc.72-20054 Filed 11-20-72;8:54 am]

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National Oceanic and Atmospheric Administration

CHESAPEAKE BAY, MD.

Determination of Commercial Fishery Failure Due to Resource Disaster

Whereas, many individuals and firms in Maryland are engaged in harvesting, processing, and marketing oysters and softshell clams; and

Whereas, the oyster and softshell clam resources in the Maryland waters of Chesapeake Bay make an important contribution to the economy of the State, with an annual potential of 2,800,000 bushels of oysters valued at about $50 million and 508,000 bushels of softshell clams valued at nearly $18 million; and

Whereas, damage and destruction to the oyster and softshell clam resources from an extended period of low salinity waters, an extended period of high water temperatures, and die-off of shellfish food resulting from Hurricane Agnes, a natural cause, ranged from about a 30 percent mortality in the oyster crop to a nearly total loss of the softshell clam resource; and

Whereas, total economic losses over the next 4 years are projected at more than $130 million unless immediate measures are taken to restore the affected resources; and

Whereas, effective measures to restore the oyster and softshell clam resources are possible through transplants of brood stock, artificial propagation, and shell planting;

Now, therefore, as the authorized representative of the Secretary of Commerce, I hereby determine that the foregoing circumstances constitute a commercial fishery failure due to a resource disaster arising from natural causes within the meaning of subsection 4(b) of the Commercial Fisheries Research and Development Act as amended. Pursuant to this determination, I hereby authorize the use of funds under the Act to restore and put back into production the damaged oyster and softshell clam resources in the Maryland waters of the Chesapeake Bay.

ROBERT M. WHITE,
Administrator, National Oceanic and Atmospheric Administration.

[FR Doc.72-19943 Filed 11-20-72;8:45 am]

CHESAPEAKE BAY, VA.

Determination of Commercial Fishery Failure Due to Resource Disaster

Whereas, many individuals and firms in Virginia are engaged in harvesting, processing, and marketing oysters to meet consumer demand; and

Whereas, the oyster resources in the Virginia waters of Chesapeake Bay and tributaries make an important contribution to the economy of the State with an annual production potential of more than 1 million bushels of oysters with a dockside value of about $5 million; and

Whereas, mortalities of oyster stocks from prolonged exposure to fresh water resulting from Hurricane Agnes, a natural cause, ranged up to 90 percent in the major growing and seed areas of the Potomac, York, and James Rivers; and

Whereas, it is known that the damaged oyster resource can be effectively and economically restored through transplants of brood stock, shell planting, and planting of hatchery produced seed;

Now, therefore, as the authorized representative of the Secretary of Commerce, I hereby determine that the foregoing circumstances constitute a commercial fishery failure due to a resource disaster arising from natural causes within the meaning of subsection 4(b) of the Commercial Fisheries Research and Development Act as amended. Pursuant to this determination, I hereby authorize the use of funds under the Act to restore and put back into production the damaged oyster resource in the Virginia waters of the Chesapeake Bay and tributaries.

ROBERT M. WHITE,
Administrator, National Oceanic and Atmospheric Administration.

[FR Doc.72-19944 Filed 11-20-72;8:45 am]

Office of Import Programs

THOMAS JEFFERSON UNIVERSITY ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act as published in the February 24, 1972, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 73-00204-33-46040. Applicant: Stein Research Center, Jefferson Medical College, Thomas Jefferson University, 920 Chancellor Street, Philadelphia, PA 19107. Article: Electron microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used to study transplacental activity, and yolk sac morphology, and to further elucidate the mechanism by which abnormal development proceeds. The article will also be used as an educational tool for predoctoral, postdoctoral, and medical students in electron microscopy techniques. Application received by Commissioner of Customs: October 25, 1972.

Docket No. 73-00205-01-77030. Applicant: University of Vermont, Burlington, Vt, 05401. Article: NMR spectrometer, Model JNM-C-60-HL. Manufacturer: JEOL, Ltd., Japan. Intended use of article: The article is intended to be used in the following research studies:

1. Phosphorus-nitrogen chemistry; structure and bonding from ^{19}F and ^{31}P nmr data.
2. Structural chemistry via ^{13}C nmr with proton noise decoupling.
3. Bonding studies involving phenylphosphorus bonding studied by ^{13}C nmr.
4. 60 MHz proton nmr experiments.
5. Organic stereochemistry by ^{19}F nmr of induced $-CF_3$ groups; and
6. Stereochemistry of six-coordinate tin complexes with fluorinated ligands.

The article will also be used for education in chemistry courses for graduate and undergraduate students. Application received by Commissioner of Customs: October 26, 1972.

Docket No. 73-00206-33-77040. Applicant: Harvard University, Purchasing Department, 75 Mount Auburn Street, Cambridge, MA 02138. Article: X-ray Microanalyzer, Cameca Model MS 46. Manufacturer: CAMECA, France. Intended use of article: The article is intended to be used for the following general purposes:

1. To establish techniques for preparation and analysis of liquid samples of less than 0.1 nanoliters.
2. To establish techniques for preparation and analysis of tissue samples which preserve the subcellular localization of endogeneous soluble compounds and ionic species.
3. To establish techniques for identification and quantification of histochemical reaction products and electron dense materials produced by both new and conventional techniques.
4. To establish a "cold-tracer" methodology, analyzing the distribution within tissues of typical biological compounds bearing elemental labels.
5. To determine the instrumental requirements unique to biomedical electron probe work through experience, and to achieve these through equipment modification and development of specifications.
6. To speed the introduction of even newer microanalytical methods, such as direct-imaging mass spectroscopy (the "ion probe") and nonionic imaging devices, by serving as a link between medical scientists and instrumental research programs at MIT and elsewhere.

Specific research aims are as follows:

(1) Study of the intracellular ionic composition of kidney tubules in different diuretic states and in hypertension due to cadmium;

(2) Analysis of the elemental content of various fluids which occur within the early embryo and its immediate environment;

(3) Study of fluorine distribution and the effect of trace metals in binding fluorine to apatite;

(4) Study of localization of zinc and cadmium in spermatozoa, spermatogenesis and the accessory glands of the male reproduction tract;

(5) Study of the role of calcium turnover in uterine and ovarian tissue and the effects of gonadotrophin and prostaglandin;

(6) Study of the gastrointestinal tract (localization of zinc in pancreas, the localization in the mucosa of the actual agents used to experimentally disrupt the gastric barrier);

(7) Attempt to quantify standard ultrastructural cytochemical techniques which utilize metals as capture reagents;

(8) Defining the composition of renal ultrafiltrate and determining whether the filtrate composition changes in responses to circulating hormones; and

(9) Test of blood cells homogeneity with regard to ion distribution and chemical composition of the cell membrane.

B. BLANKENHEIMER,
Acting Director, Office of Import Programs.

[FR Doc.72-19982 Filed 11-20-72;8:48 am]

Office of the Secretary

STATISTICS ON STEEL IMPORTS

Availability of New Information Series

The Department of Commerce, in cooperation with the Departments of State and the Treasury, announces that it will issue a new statistical information series on importation of steel mill products covered by (1) the May 4, 1972, declaration of the Japan Iron and Steel Exporters' Association of its intention to extend through December 31, 1974, its limitations on exports of steel mill products to the United States, and (2) the May 2, 1972, declaration of the Association of the Steel Producers of the European Coal and Steel Community and the Association of Steel Producers of the United Kingdom of their intention to limit through December 31, 1974, exports of steel mill products to the United States.

Data will be collected and processed by the Bureau of Customs of the Department of the Treasury and the Bureau of the Census of the Department of Commerce. The data will show imports by country of origin of stainless steel, tool steel, alloy steel, carbon steel, fabricated structural steels, and cold finished bars; category groupings and product mix; and regional areas of entry. All statistics will be based on date of exportation and will be shown in metric tons. These data will be accompanied by an analysis prepared by the Department of Commerce.

A limited number of copies of these statistical reports will be available from the Commerce and Treasury Departments in Washington, D.C. No mailing list will be maintained. Address inquiries to U.S. Department of Commerce, Office of Import Programs, Washington, D.C. 20230, or to the Department of the Treasury, Office of Tariff and Trade Affairs, Washington, D.C. 20220.

A reference copy of these statistical reports also will be available in selected Business Services Field Offices of the Department of Commerce as listed below:

Atlanta, GA 30309, Suite 523, 1401 Peachtree Street NE.
Baltimore, MD 21202, 415 U.S. Customhouse, Gay and Lombard Streets.
Birmingham, AL 35205, Suite 200-201, 908 South 20th Street.
Boston, MA 02116, 10th Floor, 441 Stuart Street.
Buffalo, NY 14202, 910 Federal Building, 111 West Huron Street.
Charleston, SC 29403, Federal Building, Suite 631, 334 Meeting Street.
Charleston, WV 25301, 3000 New Federal Office Building, 500 Quarrier Street.
Chicago, IL 60604, Room 1486, New Federal Building, 219 South Dearborn Street.
Cincinnati, OH 45202, 8028 Federal Office Building, 550 Main Street.
Cleveland, OH 44114, Room 600, 666 Euclid Avenue.
Dallas, TX 75202, Room 3E7, 1100 Commerce Street.
Detroit, Mich. 48226, 445 Federal Building.
Houston, TX 77002, 1017 Old Federal Building, 201 Pannin Street.
Los Angeles, CA 90024, 11201 Federal Building, 11000 Wilshire Boulevard.
New York, NY 10007, 41st Floor, Federal Office Building, 26 eFderal Plaza, Foley Square.
New Orleans, LA 70130, 909 Federal Office Building, South 610 South Street.
Philadelphia, PA 19107, Jefferson Building, 1015 Chestnut Street.
Pittsburgh, PA 15222, 431 Federal Building, 1000 Liberty Avenue.
San Francisco, CA 94102, Federal Building, Box 36013, 450 Golden Gate Avenue.

Dated: November 17, 1972.

STANLEY NEHMER,
Deputy Assistant Secretary, and Director, Bureau of Resources Trade Assistance.

[FR Doc.72-20154 Filed 11-20-72;9:13 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[FAP 1B2643]

FULLER-O'BRIEN CORP.

Notice of Withdrawal of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Fuller-O'Brien Corp., 450 East Grand Avenue, South San Francisco, CA 94080, has withdrawn its petition (FAP 1B2643), notice of which was published in the FEDERAL REGISTER of May 1, 1971 (36 F.R. 8269), proposing that § 121.2550 *Closures with sealing gaskets for food containers* (21 CFR 121.2550) be amended by increasing the concentration of di-2-ethylhexyl sebacate in a closure-sealing gasket composition from 2 percent by weight to 40 percent when limited to use in contact with distilled alcoholic beverages.

Dated: November 10, 1972.

ALBERT C. KOLBYE, JR.,
Acting Director, Bureau of Foods.

[FR Doc.72-19955 Filed 11-20-72;8:46 am]

[FAP 3B2844]

GULF OIL CORP.

Notice of Filing of Petition for Food Additive

Purchase price was calculated by add-Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 3B2844) has been filed by Gulf Oil Corp., Gulf Building, Pittsburgh, Pa. 15230, proposing that § 121.2566 *Antioxidants and/or stabilizers* (21 CFR 121.2566) be amended to provide for the additional safe use of 2,6-di-*tert* butyl-4-ethylphenol as an antioxidant and/or stabilizer at a level of 0.04 milligram per square inch of ethylene polymer and copolymer articles having a thickness not to exceed 0.025 inch.

Dated: November 10, 1972.

ALBERT C. KOLBYE, JR.,
Acting Director, Bureau of Foods.

[FR Doc.72-19956 Filed 11-20-72;8:46 am]

[FAP 1B2628]

HAZLETON LABORATORIES, INC.

Notice of Withdrawal of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Hazleton Laboratories, Inc., Post Office Box 30, Falls Church, VA 22046, has withdrawn its petition (FAP 1B2628), notice of which was published in the FEDERAL REGISTER of February 13, 1971 (36 F.R. 3022), proposing that § 121.2566 *Antioxidants and/or stabilizers for polymers* (21 CFR 121.2566) be amended in paragraph (b) to provide for the safe use of trisnonyl phenyl phosphite/formaldehyde polymer as a stabilizer in impact polystyrene intended for food-contact use.

Dated: November 10, 1972.

ALBERT C. KOLBYE, JR.,
Acting Director, Bureau of Foods.

[FR Doc.72-19957 Filed 11-20-72;8:46 am]

Railroad Administration pursuant to 45

A notice dated October 24, 1972, pub-

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National Institutes of Health

LIPID METABOLISM AND NATIONAL BLOOD RESOURCE PROGRAM ADVISORY COMMITTEES

Notice of Meetings

Pursuant to Executive Order 11671 notice is hereby given of meetings of the following committees and the executive secretaries from whom substantive information may be obtained.

Committee, Date, Time, and Location of Meeting
Lipid Metabolism Advisory Committee, December 7, 1972, 9 a.m.–5 p.m., NIH Building 31, Room 5A24, Bethesda, Md.
Mrs. Edna Wilkerson, 496–1681, NIH Building 31, Room 4A19, Bethesda, Md.
National Blood Resource Program Advisory Committee, December 18–19, 1972, 9 a.m.–5 p.m., Main Campus, University of Arizona, Board of Regents Conference Room, Tucson, Ariz.
Dr. James M. Stengle, 496–9511, NIH Building 31, Room 4A03, Bethesda, Md.

Dr. Jerome G. Green, Director, Division of Extramural Affairs, National Heart and Lung Institute, Westwood Building, Room 5A14, NIH, 496–7416, will furnish summaries of the meetings and rosters of the committee members.

These meetings shall be closed to the public in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination, in order to review, discuss and evaluate and/or rank contract proposals.

Dated: November 13, 1972.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.72–20025 Filed 11–20–72;8:55 am]

MEDICAL DEVICES APPLICATIONS COMMITTEE

Notice of Public Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the Medical Devices Applications Committee, December 18, 1972, at 9 a.m., National Institutes of Health, Building 31, Conference Room 6. The agenda will include reports from the staff on a number of activities of the Division of Technological Applications, and a discussion of how the artificial heart program is viewed by the scientific community and the public. The meeting will be open to the public from 9 a.m. to 5 p.m.

Mr. Hugh Jackson, Information Officer, NHLI, Building 31, Room 4A10, National Institutes of Health, 496–4236, will furnish summaries of the meeting and rosters of the committee members. Substantive information may also be obtained from the Executive Secretary, Mr. Philip Janus, NHLI, Building 31, Room 5A04, NIH, 496–2395.

Dated: November 13, 1972.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.72–20026 Filed 11–20–72;8:55 am]

NATIONAL EYE INSTITUTE BOARD OF SCIENTIFIC COUNSELORS

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the Board of Scientific Counselors, NEI, December 4–5, 1972, at 9 a.m., National Institutes of Health, Building 31, Room 6A–21. This meeting will be open to the public from 9 a.m. to 10 a.m., December 4, at which time Dr. Carl Kupfer, Director, National Eye Institute, will present an overview of Institute intramural research activities. The meeting will be closed to the public 10 a.m. to 5 p.m., December 4 and 9 a.m. to 4 p.m., December 5 to review specific intramural research projects under consideration or in progress and to consider and formulate advice on the intramural research programs. This portion will be closed in accordance with the Secretary's Determination of September 27, 1972.

Mr. Julian Morris, Information Officer, NEI, Building 31, Room 6A–27, National Institutes of Health, 496–5248, will furnish summaries of the meeting and rosters of the committee members. Substantive information may also be obtained from Dr. Carl Kupfer, Director, NEI, Building 31, Room 6A–03, National Institutes of Health, 496–2234.

Dated: November 13, 1972.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.72–20028 Filed 11–20–72;8:56 am]

SICKLE CELL DISEASE ADVISORY COMMITTEE

Notice of Public Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the Sickle Cell Disease Advisory Committee, December 14 and 15, 1972, National Institutes of Health, Building 31, Conference Room 6. The agenda items will generate discussion on subcommittee reports and program staff reports. The meeting will be open to the public from 10:30 a.m. to 5:30 p.m. on December 14, and from 8:30 a.m. to 5:30 p.m. on December 15.

Mr. Hugh Jackson, Information Officer, NHLI, Building 31, Room 4A10, National Institutes of Health, 496–4236, will furnish summaries of the meeting and rosters of the committee members. Substantive information may also be obtained from the Executive Secretary, Mr. Howard F. Manly, NHLI, Building 31, Room 5A21, NIH, 496–6931.

Dated: November 13, 1972.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.72–20027 Filed 11–20–72;8:55 am]

Public Health Service

NATIONAL INSTITUTE OF ARTHRITIS, METABOLISM, AND DIGESTIVE DISEASES

Establishment of Program of Digestive Diseases and Nutrition Centers

Notice is hereby given that the National Institute of Arthritis, Metabolism, and Digestive Diseases, under authority of section 301 and Title IV, Part D of the Public Health Service Act, as amended (42 U.S.C. 241, 289 et seq.), intends to support a number of Digestive Diseases and Nutrition Centers. Initially, only centers in which the research emphasis is in the areas of obesity, peptic ulcer, and hepatitis and cirrhosis will be supported. The scientific community will be informed when the support is expanded to centers in other areas of research.

The objectives of the Digestive Diseases and Nutrition Centers are to establish environments for the development of new and multidisciplinary research approaches to human digestive and nutritional diseases and for the acquisition of new knowledge essential for improved diagnosis, treatment, and prevention of these diseases. The centers are conceived as supporting scientific personnel, administration, conduct of research, and central support services to accomplish research goals that would not otherwise be possible.

A center grant application, prepared on Form PHS 398 "Application for Research Grant," will be reviewed by a special study section of the Division of Research Grants, composed of NIH consultants, and by the National Arthritis, Metabolism, and Digestive Diseases Advisory Council. A grant-supported center will also receive continuing review and evaluation by NIH staff and consultants.

In order that applications may be eligible for funding during the present fiscal year, a special deadline of April 1, 1973, has been established for the receipt of applications for Digestive Diseases and Nutrition Centers. To facilitate the planning of the review of these applications a "letter of intent" to submit an application should be sent to the Associate Director for Digestive Diseases and Nutrition, NIAMDD (address below), by January 1, 1973. Subsequently, new Center applications will be reviewed only once annually with a deadline of October 1, for receipt of applications.

Additional information and applications may be obtained by writing:

Associate Director for Digestive Diseases and Nutrition, Westwood Building, Room 603, National Institute of Arthritis, Metabolism, and Digestive Diseases, National Institutes of Health, Bethesda, Md. 20014. Telephone: Area Code 301—496–7455.

Dated: November 8, 1972.

ROBERT Q. MARSTON,
Director,
National Institutes of Health.

[FR Doc.72–20029 Filed 11–20–72;8:56 am]

Office of the Secretary

SECRETARY'S COMMISSION ON MEDICAL MALPRACTICE

Notice of Public Meeting

The Secretary's Commission on Medical Malpractice, established to advise the Secretary on the entire range of problems surrounding the medical malpractice phenomenon, will meet Friday, Saturday, and Sunday, December 1–3, 1972, from 9 a.m. to 5 p.m., each day, in a public meeting room of the Embassy Row Hotel, 2015 Massachusetts Avenue NW., Washington, DC.

Issues to be covered will include: Malpractice insurance matters; patients' rights; contingent legal fee system; claims screening and handling; psychosocial factors contributing to the malpractice problem; medicare program and the malpractice problem; medical experimentation using human subjects; and other issues.

The meeting will be open to the public.

Dated: November 13, 1972.

ELI P. BERNZWEIG,
Executive Director.

[FR Doc. 72–20023 Filed 11–20–72; 8:53 am]

SECRETARY'S COMMISSION ON MEDICAL MALPRACTICE

Notice of Public Meeting

The Secretary's Commission on Medical Malpractice, established to advise the Secretary on the entire range of problems surrounding the medical malpractice phenomenon, will meet Friday, Saturday, and Sunday, December 15–17, 1972, from 9 a.m. to 5 p.m., each day, in a public meeting room of the Embassy Row Hotel, 2015 Massachusetts Avenue NW., Washington, DC. Issues to be covered will include: consumer involvement in the malpractice problem; no-fault and other medical injury compensation systems; implementation of Commission recommendations; and other issues. The meeting will be open to the public.

Dated: November 13, 1972.

ELI P. BERNZWEIG,
Executive Director.

[FR Doc.72–20024 Filed 11–20–72;8:53 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA–Pet–No. 67]

EAST JERSEY RAILROAD AND TERMINAL CO.

Notice of Petition for Hours of Service Exemption

NOVEMBER 16, 1972.

The East Jersey Railroad and Terminal Co. has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for an exemption, with respect to certain employees, from the Hours of Service Act, 45 U.S.C. secs. 61, 62, 63, and 64.

Interested persons are invited to participate by submitting written data, views, or comments. Communications should identify the docket number and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: Docket FRA–Pet–No. 67, 400 Seventh Street SW., Washington, DC 20590. Communications received before December 22, 1972, will be considered by the Federal Railroad Administrator before taking final action. All comments received will be available for examination by interested persons at any time during regular working hours in Room 5428, Nassif Building, 400 Seventh Street SW., Washington, DC.

EDWARD F. CONWAY, JR.,
Acting Assistant Chief Counsel for Safety Regulation.

[FR Doc.72–20009 Filed 11–20–72;8:51 am]

Hazardous Materials Regulations Board

SHIPMENT OF HAZARDOUS MATERIALS

Special Permits Issued

Correction

In F.R. Doc. 72–19392, appearing on page 24055, in the issue of Saturday, November 11, 1972, in the first line in the table, the number "MC–31", should read "MC–312".

ATOMIC ENERGY COMMISSION

[Docket No. 50–382]

LOUISIANA POWER & LIGHT CO.

Notice and Order for Prehearing Conference

The Atomic Energy Commission, by a notice of hearing dated August 7, 1972, and published in the FEDERAL REGISTER on August 16, 1972, at volume 37, page 16562, gave notice that a hearing would be held, at a time and place to be set in the future by an atomic safety and licensing board, to consider an application filed under the Atomic Energy Act of 1954 by Louisiana Power & Light Co. The application is for a construction permit for a pressurized water nuclear power reactor designated as the Waterford Steam Electric Station, Unit 3, to be located on the west bank of the Mississippi River near the town of Taft in St. Charles Parish, about 20 miles west of New Orleans, La. As indicated in that notice of hearing, the issues to be determined by the atomic safety and licensing board are those identified in the notice pursuant to the Atomic Energy Act of 1954 and the National Environmental Policy Act of 1969.

A notice dated October 24, 1972, published in the FEDERAL REGISTER on October 26, 1972 at volume 37, page 22895, announced the appointment of an atomic safety and licensing board in this proceeding consisting of Dr. Emmeth A. Luebke, Dr. Gerard A. Rohlich, and Sidney G. Kingsley, Chairman, with Dr. J. V. Leeds, Jr., as a technically qualified alternate and Thomas W. Reilly as alternate chairman.

Both the notice of hearing and the notice of appointment of the atomic safety and licensing board announced that the date and place of a prehearing conference and of a hearing would be scheduled by the atomic safety and licensing board and would be published in the FEDERAL REGISTER.

Please take notice that a special prehearing conference will be held pursuant to § 2.751a of the Commission's rules of practice (Title 10, Code of Federal Regulations, Part 2) at 9 a.m. local time on December 20, 1972, at Room 209, 600 Camp Street, New Orleans, LA, to:

1. Permit identification of the key issues in the proceeding;
2. Take any steps necessary for further identification of the issues;
3. Hear oral argument on and consider petitions for intervention, in order to allow the atomic safety and licensing board to make such preliminary or final determinations as to the parties in the proceeding as may be appropriate;
4. Establish a schedule for further actions in the proceeding.

In addition to the purposes which have been specified, the special prehearing conference will take such further action as may be appropriate and practicable at that time, pursuant to § 2.752 of the rules of practice, to consider:

1. Simplification, clarification, and specification of the issues;
2. The necessity or desirability of amending the pleadings;
3. Stipulations and admissions of fact and of the contents and authenticity of documents in order to avoid unnecessary proof;
4. Identification of witnesses and the limitation of the number of expert witnesses, and other steps to expedite the presentation of evidence;
5. Establishment of a hearing schedule; and
6. Such other action as may aid in the orderly disposition of the proceeding.

Members of the public are entitled to attend this special prehearing conference and any later prehearing conferences, as well as the evidentiary hearing to be held at a later date to be fixed by the atomic safety and licensing board.

The special prehearing conference will be limited to the purposes specified, in preparation for the later evidentiary hearing. No evidence will be received at this prehearing conference, nor will there be an opportunity at the prehearing conference to present statements by members of the public who wish to make limited appearances for that purpose. All applications for permission to make limited appearances for the purpose of

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making such statements will be ruled upon by the atomic safety and licensing board at the evidentiary hearing to be held later.

It is ordered, That counsel for the applicant, the regulatory staff of the Commission, and applicants for intervention shall conduct such informal conferences, including telephone conferences, to the extent that they may be practicable, to expedite the proceeding and in particular to advance the purposes of the special prehearing conference.

Dated this 16th day of November 1972 at Washington, D.C.

ATOMIC SAFETY AND LICENSING BOARD,
SIDNEY G. KINGSLEY,
Chairman.

[FR Doc.72-20094 Filed 11-20-72;8:56 am]

[Dockets Nos. 50-361, 50-362]

SOUTHERN CALIFORNIA EDISON CO. AND SAN DIEGO GAS AND ELECTRIC CO.

Notice of Availability of Draft Environmental Statement For the San Onofre Nuclear Generating Station

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in appendix D to 10 CFR Part 50, notice is hereby given that a document entitled "Draft Environmental Statement by the Directorate of Licensing, U.S. Atomic Energy Commission, Related to the proposed construction of the San Onofre Nuclear Generating Station, Units 2 and 3, Dockets Nos. 50-361 and 50-362," is being placed in the following locations where it will be available for inspection by members of the public: the Commission's Public Document Room at 1717 H Street NW., Washington, DC 20545, and at the San Clemente Public Library, 233 Granada Street, San Clemente, CA 92672. The report is also being made available at the Office of the Lieutenant Governor, Office of Intergovernmental Management, 1400 10th Street, Room 108, Sacramento, CA 95814, and at the San Diego County Comprehensive Planning Organization, County Administration Center, 1600 Pacific Highway, San Diego, CA 92101. Copies of the Commission's draft environmental statement may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

The applicant's environmental report, supplemental environmental report, and amendment thereto are also availble for public inspection at the above-named locations. The notice of availability of applicant's environmental report and supplemental environmental report was published in the FEDERAL REGISTER on January 18, 1972 (36 F.R. 748).

Pursuant to Appendix D to 10 CFR 50, interested persons may, within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, submit comments for the Commission's consideration on the proposed actions, environmental report, supplemental environmental report, and amendment thereto, and the draft environmental statement. Federal and State agencies are being provided with copies of these reports and the draft environmental statement (local agencies may obtain these documents upon request) and, when any comments thereon by Federal, State, and local officials are received, they will be made available for public inspection at the above-designated locations. Comments on the draft environmental statement from interested members of the public should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 15th day of November 1972.

For the Atomic Energy Commission.

DANIEL R. MULLER,
Assistant Director for Environmental Projects, Directorate of Licensing.

[FR Doc.72-20036 Filed 11-20-72;8:53 am]

[Dockets Nos. 50-361, 50-362]

SOUTHERN CALIFORNIA EDISON CO., AND SAN DIEGO GAS & ELECTRIC CO.

Amended Notice and Order for Prehearing Conference

In the matter of Southern California Edison Co. and San Diego Gas & Electric Co. (San Onofre Nuclear Generating Station, Units 2 and 3).

Please take notice, that the prehearing conference order issued herein on November 10, 1972, is amended to specify a new room location for the further prehearing conference to be held on Tuesday, November 28, 1972, at 10 a.m. in the U.S. Courthouse, 312 North Spring Street, Los Angeles, CA. The new room location is 1345 instead of 520.

The further notice and order for prehearing conference issued November 10, 1972, is not amended in any other respect.

By order of the Atomic Safety and Licensing Board.

Issued: November 16, 1972.

MICHAEL L. GLASER,
Chairman.

[FR Doc.72-20109 Filed 11-20-72;8:56 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24883]

AIRCADIA, LTD.

Notice of Prehearing Conference and Hearing Regarding Foreign Air Carrier Permit, Canada-United States

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on December 19, 1972, at 10 a.m. (local time) in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Administrative Law Judge Joseph L. Fitzmaurice.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before December 12, 1972.

Dated at Washington, D.C., November 16, 1972.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.72-20038 Filed 11-20-72;8:53 am]

MONTANA AND NORTH DAKOTA AERONAUTICS COMMISSIONS

Notice of Change in Meeting

Correction

In F.R. Doc. 72-19739 appearing on page 24382 of the issue for Thursday, November 16, 1972, the room number in the fourth line reading "Room 10277" should read "Room 1027".

[Docket No. 24897]

MILLARDAIR, LTD.

Notice of Prehearing Conference and Hearing Regarding Foreign Air Carrier Permit Renewal, Canada-United States

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on December 13, 1972, at 10 a.m. (local time) in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Administrative Law Judge Frank M. Whiting.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before December 6, 1972.

Dated at Washington, D.C., November 16, 1972.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.72-20037 Filed 11-20-72;8:53 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Availability

Environmental impact statements received by the Council from November 6 through November 10, 1972.

NOTE: At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

DEPARTMENT OF AGRICULTURE

Contact: Dr. T. C. Byerly, Office of the Secretary, Washington, DC 20250, 202—388-7803.

FOREST SERVICE

Draft, November 2
Herbicide use, Oregon National Forests, Oreg. The statement refers to the proposed use of the herbicides Amitrole, Dicamba, 2,4,5-T, 2,4-D, Silvex, and Picloram on the Deschutes, Fremont, Ochoco, and Winema National Forests. The purposes of the action include the control of vegetation which interferes with crop trees, is poisonous to livestock, or is classified as noxious on agricultural land. Additional purposes are the improvement of wildlife habitat and the reduction of rodent populations. The use of these chemicals will put herbicide residues into the environment in varying amounts; nontarget species will be hit. Very little is known about what effect these herbicides will have on the plant and wildlife community. (Approx. 350 pages) (ELR Order No. 05575) (NTIS Order No. EIS-72 5575-D)

ATOMIC ENERGY COMMISSION

Contact: For nonregulatory matters: Mr. Robert J. Catlin, Director, Division of Environmental Affairs, Washington, D.C. 20545, 202—973-5391.
For regulatory matters: Mr. A. Giambusso, Deputy Director for Reactor Projects, Directorate of Licensing, Washington, D.C. 20545, 202—973-7373.

Draft, November 6
Cooper Nuclear Station, Nemaha County, Nebr. The statement refers to the proposed continuation of a construction permit and the issuance of an operating permit to the Nebraska Public Power District for the new station. The station will employ a boiling water reactor to produce 2,381 MWT and 778 MWE (net), with future levels of 2,486 MWT and 813 MWE anticipated. Cooling water will be drawn from and discharged to the Missouri River (at 18° F. above ambient). The estimated release of radioactive effluents is higher than that considered acceptable by AEC for long-term operation; the estimated potential doses from radioactive iodine near the site boundary are also higher than those which AEC considers acceptable. (174 pages) (ELR Order No. 05596) (NTIS Order No. EIS-72 5596-D)

Draft, November 10
Underground Nuclear Test Program (NTS), Nye County, Nev. The statement refers to NTS for fiscal years 1974 and 1975. The program includes tests of 1 megaton or less, for nuclear weapons development, Department of Defense sponsored nuclear effects tests, and Plowshare tests to develop nuclear explosives for peaceful uses. All tests will be conducted at the Nevada test site. Improved containment design is expected to minimize the number of tests that vent radioactivity to the atmosphere and the amount of radioactivity that reaches offsite locations. (62 pages) (ELR Order No. 05614) (NTIS Order No. EIS-72 5614-D)

DEPARTMENT OF DEFENSE
ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attention: DAEN-PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, DC 20314, 202—693-7168.

Draft, November 3
Carters Dam and Lake, Murray, Gilmer, and Gordon Counties, Ga. The statement refers to the complete construction and operation of a multipurpose (flood control, hydroelectric power, and recreation) reservoir project on the Coosawattee River. Approximately 8,900 acres have been acquired for the project. Of that amount 4,250 acres (mostly forest and agricultural lands), will be inundated. (32 pages) (ELR Order No. 05577) (NTIS Order No. EIS-72 5577-D)

Draft, November 2
Michoud Canal, La. The statement refers to the proposed construction of the Mississippi River-Gulf Outlet, Michoud Canal. The purpose of the action is the improvement of navigation to industrial areas along the Canal. Approximately 2.5 miles of canal will be dredged to a depth of 36 feet mean low gulf, and a width of 250 feet. Wildlife habitat will be damaged at the sites of spoil deposit; aquatic life will be adversely affected. (52 pages) (ELR Order No. 05558) (NTIS Order No. EIS-72 5558-D)
Mooring facilities, Ohio River, Ohio. The statement refers to the proposed construction and maintenance of mooring facilities at various sites in the Ohio River system. The anchorage would be primarily for use in emergency situations. An unspecified amount of riparian habitat would be committed to the action. (18 pages) (ELR Order No. 05569) (NTIS Order No. EIS-72 5569-D)

Draft, November 9
Pawtuxent Cove, R.I. The proposed project is the maintenance dredging of the Federal navigation project in the cove, for the purpose of maintaining the Federal channel and anchorage basin at their authorized dimensions. Approximately 45,000 cubic yards of shoal material will be removed and disposed of at an approved spoil site. Temporary disruption of marine biota and smothering and burial of some sessile organism and nonburrowing benthic forms will occur. (25 pages) (ELR Order No. 05601) (NTIS Order No. EIS-72 5601-D)

Final, November 6
Beach erosion project, Brevard County, Fla. The statement refers to the partial restoration of 2.8 miles of shoreline at Cape Canaveral and 2 miles of shoreline at Indialantic and Melbourne Beach. A total of 1,511,000 cubic yards of material would be dredged for the two sites; marine biota will be damaged. (32 pages) Comments made by USDA, USCG, EPA, DOI, DOT, State, and local agencies (ELR Order No. 05590) (NTIS Order No. EIS-75 5590-F)
Bal Harbour, Dade County, Fla. The statement refers to a beach erosion and hurricane protection project which would partially restore an 0.85 mile reach of protective and recreational beach. Approximately 1.8 million cubic yards of sand would be dredged from an offshore borrow bit; there would be adverse impact on marine biota. (49 pages) Comments made by USDA, EPA, HEW, HUD, DOI, USCG, DOT, DOC, State, and local agencies. (ELR Order No. 05591) (NTIS Order No. EIS-72 5591-F)
Monroe Floodwall, La. The proposed action is the closing of a 1,750-foot gap in the existing flood protection facility on the east bank of the Ouachita River. The closure will be a folding wall structure which will be in a vertical position only during flood conditions. (17 pages) Comments made by EPA, HUD, DOI, State, and local agencies. (ELR Order No. 05585) (NTIS Order No. EIS-72 5585-F)
Choctaw Bayou, Pointe Coupee, and West Baton Rouge Counties, La. The statement refers to the proposed construction of an improved drainage outlet for Choctaw Bayou and its tributaries. The purpose of the project is that of providing flood control for agricultural lands. Approximately 1,700 acres of forest will be lost, with resulting impacts upon local wildlife populations. (48 pages) Comments made by USDA, DOI, EPA, State agencies of Florida and Louisiana and concerned citizens. (ELR Order No. 05588) (NTIS Order No. EIS-72 5588-F)
South Branch Rahway River, N.J. The statement refers to the proposed construction of a flood control project, consisting of channel works, levees, floodwalls, a pumping station, etc., along a 0.4 mile stretch of the river. The project would protect the site of a HUD urban renewal project. Approximately 15 acres of tidal mudflats would be filled by the project. (25 pages) Comments made by USDA, EPA, DOC, DOT, and State agencies. (ELR Order No. 05587) (NTIS Order No. EIS-72 5587-F)
Wellsville Protection Project, Allegany County, N.Y. The project, which is located in Wellsville, near the confluence of Dyke Creek and the Genesee River, consists of modifications to the existing channel to contain flood flows within the river channel at reduced velocities, and to decrease future bank erosion. The project is designed to rectify the deficiencies in the existing completed local flood protection project. Fishery habitat will be disturbed during construction. (17 pages) Comments made by EPA, and DOI, (ELR Order No. 05586) (NTIS order No. EIS 72-5586-F)

NAVY

Contact: Mr. Joseph A. Grimes, Jr., Special Civilian Assistant to the Secretary of the Navy, Washington, D.C. 20350, 202—697-0892.

Final, November 9
Fort McArthur, Los Angeles County, Calif. The statement refers to the proposed construction of 340 units of Navy family housing on two tracts of Department of the Navy land in the San Pedro area of Los Angeles. The project differs significantly from that discussed in the draft statement; earlier plans called for 700 units on four tracts of land. The addition of children in the new housing will exceed the present capacity of the local school system. (Approx. 350 pages) Comments made by EPA, HUD, HEW, DOI, and DOT. (ELR Order No. 05597) (NTIS Order No. EIS 72-5597-F)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Sheldon Meyers, Director, Office of Federal Activities, Room 3630 Waterside Mall, Washington, D.C. 20460, 202—755-0940.

Final, November 3
Wastewater Treatment, Hot Springs, Garland County, Ark. The statement refers to proposed Federal assistance, in the amount of $10,569,000, to aid in the construction of wastewater transportation and treatment facilities. New 20 MGD capacity biological/chemical facilities, with advanced wastewater treatment processes, outfall lines, lift stations, and sanitary sewer interceptors would be included; rehabilitation of the existing sewer network is also contemplated. Adverse effects would include construction disruption, noise, odor, and unsightliness. (400 pages) Comments made by USDA, COE, DOI, and OEO. (ELR Order No. 05579) (NTIS Order No. EIS-72 5579-F)

S.R. 260, Navajo County, Ariz. This addendum to the final statement refers to the proposed construction of a 4.5 mile segment of S.R. 260 between Show Low and Pinetop-Lakeside. The addendum discusses the proposed location of the highway, which would be on a new alignment. (Approx. 50 pages) Comments made by USDA, DOI, DOT, HEW, HUD, and State agencies. (ELR Order No. 05594) (NTIS Order No. EIS-72 5594-F)

Final, November 6
Interstate 40, Tennessee. The statement refers to the proposed construction of a 4.5 mile segment of Interstate 40 between Memphis and Nashville. The project would require the relocation of 2 miles of the Loosahatchie River. (Approx. 50 pages) Comments made by USDA, DOI, DOT, HEW, HUD, and State agencies. (ELR Order No. 05595) (NTIS Order No. EIS-72 5595-F)

Final, November 9
Interstate 40, Tennessee. The statement refers to the proposed construction of a 4.5 mile segment of Interstate 40 between Memphis and Nashville. The project would require the relocation of 2 miles of the Loosahatchie River. (Approx. 50 pages) Comments made by USDA, DOI, DOT, HEW, HUD, and State agencies. (ELR Order No. 05595) (NTIS Order No. EIS-72 5595-F)

Final, November 10
Underground Nuclear Test Program (NTS), Nye County, Nev. The statement refers to NTS for fiscal years 1974 and 1975. The program includes tests of 1 megaton or less, for nuclear weapons development, Department of Defense sponsored nuclear effects tests, and Plowshare tests to develop nuclear explosives for peaceful uses. All tests will be conducted at the Nevada test site. Improved containment design is expected to minimize the number of tests that vent radioactivity to the atmosphere and the amount of radioactivity that reaches offsite locations. (62 pages) (ELR Order No. 05614) (NTIS Order No. EIS-72 5614-D)

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Final, November 10
City of Richland, Wash. The statement refers to the proposed modification of the existing Richland sewage treatment plant, the installation of alarm reporting systems at lift stations, and the construction of a lift station to serve the Badger Mountain area, a 7,000-acre area south of the Yakima River. At issue is the question of whether the city should develop Badger Mountain into a residential district. Opponents of the action have voiced concern over possible impact upon wildlife, land use, and local policies. (234 pages) Comments made by COE, HUD, DOI, HEW, OEO, DOT, State, and local agencies and concerned citizens. (ELR Order No. 05609) (NTIS Order No. EIS–72 5609–F)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Rod Kreger, Acting Administrator, GSA–AD, Washington, D.C. 20405, 202—343–6077.

Final, November 10
Mitchell Air Force Base, Nassau County, N.Y. The statement considers an exchange of land between the county of Nassau and the Federal Government. Approximately 55.42 acres of land at the former Air Force base would be conveyed to the county in exchange for 38 acres of county-owned land. The stated reason for the exchange is that the land now owned by the Government is suitable for the development planned by the county and the land now owned by the county is better suited for the development planned by the Government. No significant and adverse effects upon the environment are foreseen. (30 pages) Comments made by EPA and HUD. (ELR Order No. 05613) (NTIS Order No. EIS–72 5613–F)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Environmental and Land Use, Planning Division, Washington, D.C. 20410, 202—755–6186.

Draft, November 2
Fair Oaks Apartments, Henrico County, Va. The statement refers to the proposed construction of a 13 building, 100 apartment complex for low and moderate income housing under section 236 of the National Housing Act. The site lies within CNR Noise Zone 2 of the Richard E. Byrd Airport; this will have effects upon residents of the complex. The area is one of poor water drainage; structural measures will be needed to facilitate water removal. (36 pages) (ELR Order No. 05568) (NTIS Order No. EIS–72 5568–D)

DEPARTMENT OF THE INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202—343–3891.

Draft, November 9
International Convention on World Heritage. The statement refers to the proposed international convention on a world heritage. An agreement by the convention would lead to the establishment of an international system for identifying, protecting, conserving, preserving, and transmitting to future generations natural and cultural heritage that is of outstanding universal value. The international system would function within UNESCO at Paris, and will be considered at UNESCO's 17th General Conference, in November 1972. (14 pages) (ELR Order No. 05604) (NTIS Order No. EIS–72 5604–D)

Allamuchy Mountain State Park, Sussex, and Warren Counties, N.J. The statement refers to the proposed granting of a request by the State of New Jersey for assistance from the Federal Land and Water Conservation Fund in purchasing 3,604.6 acres to be added to the park. Approximately 2,800 acres would be left in its natural state for low intensity recreational use. A ski area will be developed in the future. (18 pages) (ELR Order No. 05602) (NTIS Order No. EIS–72 5607–D)

BUREAU OF SPORTS FISHERIES AND WILDLIFE

Draft, November 2
Crescent Lake National Wildlife Refuge, Garden County, Nebr. The statement refers to the proposed legislative designation of 24,502 acres of the refuge as wilderness within the National Wilderness Preservation System. The refuge is a significant breeding ground and resting area for migratory waterfowl. Wilderness designation would commit the area to the forces of nature and remove options for future development and intensified management. (30 pages) (ELR Order No. 05567) (NTIS Order No. EIS–72 5567–D)

Final, November 6
San Juan National Wildlife Refuge San Juan, and Skagit Counties, Wash. The statement refers to the proposed designation of Puffin, Colville, Bare, and Buck Islands, and Bird and Williamson Rocks (totaling 28 acres), plus 140 acres of Matia Island, as wilderness within the National Wilderness Preservation System. No adverse impacts are anticipated. (35 pages) Comments made by USDA, DOC, DOD, EPA, DOI, and one state agency. (ELR Order No. 05582) (NTIS Order No. EIS–72 5582–F)

NATIONAL PARK SERVICE

Draft, November 9
Willow Creek Recreation Site, Rio Arriba County, N. Mex. The statement refers to the proposed construction of roads, parking areas, underground utilities, a well, and a sewage lagoon at the recreation area, which is a boating facility at Lake Heron. The completion of the project would draw large numbers of people to what would be an incomplete development site. Sanitation, safety, and resource protection problems would be aggravated. (37 pages) (ELR Order No. 05603) (NTIS Order No. EIS–72 5603–D)

INTERNATIONAL BOUNDARY AND WATER COMMISSION

Final, November 3
Restoration—Arroyo, Colo., Hidalgo, and Cameron Counties, Tex. The statement refers to the proposed construction of a low earth sill in the entrance of the North Floodway in order to restore the historic low flow diversion to the Arroyo Colorado. Former drainage conditions will thereby be restored, and flooding reduced. Aproximately 27 acres of land will be periodically inundated. (46 pages) Comments made by USDA, COE, EPA, HEW, DOI, State and local agencies and concerned citizens. (ELR Order No. 05578) (NTIS Order No. EIS–72 5578–F)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 Seventh Street SW., Washington, DC 20590, 202—426–4355.

FEDERAL AVIATION ADMINISTRATION

Draft, November 6
Biddeford Municipal Airport, York County, Maine. The proposed project contemplates the acquisition of land for the widening, strengthening, lighting, and extension of Runway 6–24 (from 2,000 feet by 75 feet to 5,000 feet by 100 feet); the construction of a parallel taxiway and access road; and the installation of security fencing, VASI–2, and approach clearing and/or obstruction lighting. The expanded airport will be capable of accommodating aircraft of the business jet type and smaller. The noise level will increase. (33 pages) (ELR Order No. 05592) (NTIS Order No. EIS–72 5592–D)

Draft, November 2
Jackson County Airport, Jackson County, N.C. The proposed project involves the purchase of approximately 154 acres of land to develop a new basic utility airport capable of accommodating all propeller aircraft of less than 12,500 pounds. Initial construction will consist of grading and paving a 3,400- by 50-foot runway, a 300- by 150-foot aircraft parking apron, a 250- by 30-foot stub taxiway, the installation of a medium intensity lighting system, a 36-inch rotating beacon, four hazard beacons, and a terminal building. Ultimate development consists of expanding initial development and constructing T-hangars, parking apron, a 2501 by 30-foot stub pollution levels will increase. (28 pages) (ELR Order No. 05572) (NTIS Order No. EIS–72 5572–D)

Draft, November 9
Will Rogers Municipal Airport, Rogers County, Okla. The statement refers to the proposed construction of a new municipal airport southwest of Claremore. The project contemplates construction of a runway (3,400 feet by 60 feet); construction of a taxiway (175 feet by 30 feet); construction of an aircraft parking apron (315 feet x 240 feet); installation of a VASI, and medium intensity lighting; and construction of supporting facilities to consist of a parking lot, fencing, an access road, etc. The purpose of the project is to replace the existing airport which cannot be expanded because of surrounding land uses. Air and noise pollution levels will increase (56 pages). (ELR Order No. 05599) (NTIS Order No. EIS–72 5599–D)

Draft, November 2
The Tomahawk Airport, Lincoln County, Wis. The statement refers to the proposed development of a general utility airport to serve the city of Tomahawk and the surrounding area. The project contemplates the acquisition of land (420 acres); the construction of the east/west primary runway; the construction of an apron and connecting taxiway; the installation of a medium intensity lighting system; the relocation of a town road and the construction of an entrance road, auto parking area, etc. Adverse affects include the proximity of an active bald eagle nest to the project site) (46 pages). (ELR Order No. 05571) (NTIS Order No. EIS–72 5571–D)

Final, November 6
Edgar County Airport, Edgar County, Ill. The statement refers to the proposed development of a new general aviation facility to serve the Paris/Edgar community. The project contemplates acquisition of land (120 acres) for the construction of a runway, taxiway, apron, terminal building, access road, and other accessory and/or incidental items. Aircraft noise will be introduced in an area where none currently exists (64 pages). Comments made by USDA, COE, DOC, EPA, DOI, State and local agencies. (ELR Order No. 05583) (NTIS Order No. EIS–72 5583–F)

Final, November 9
Warroad Municipal Airport, Roseau County, Minn. The statement refers to the proposed acquisition of 190 acres for the construction of new airport facilities at an existing turf strip. New construction would include a 3,700- by 75-foot runway with taxiway and apron, safety fencing, an access road, and a parking lot. (35 pages) Comments made by USDA, DOC, EPA, DOI, DOT, State and local agencies. (ELR Order No. 05598) (NTIS Order No. EIS–72 5598–F)

Final, November 6
Seward Municipal Airport, Seward County, Nebr. The statement refers to the proposed development of a new airport to serve the Seward community. The project involves acquisition of 260 acres (fee) and 8 acres (easement) for airport development; construction of a 3,600- by 60-foot northwest/southeast primary runway, a 3,400- by 150-foot turf secondary runway, turf aprons, taxiways and other associated developments. The existing airport cannot be expanded due to area obstructions (36 pages) Comments made by USDA, DOC, COE, EPA, HUD, DOI, State, local and regional agencies. (ELR Order No. 05593) (NTIS Order No. EIS–72 5593–F)

FEDERAL HIGHWAY ADMINISTRATION

Draft, November 6
I–10–1(35) Mobile, and Baldwin Counties, Ala. The proposed project is the construction of 8 miles of projects I–10–1 (35) and F–346(9). The projects include a bridge which will traverse the Mobile Bay Delta. A section 4(f) statement has been filed for land acquisition from the Meaher State Park. (41 pages) (ELR Order No. 05584) (NTIS Order No. EIS–72 5584–D)

Draft, November 7
Relocation of Du Pont Road, New Castle County, Del. The proposed action is the reconstruction and relocation of Du Pont Road (State Route 100) beginning at the Maryland Avenue-Du Pont Road intersection and ending north of New Road (Delaware Route 2). The project consists of four lanes and a bridge over Little Mill Creek and the B&O Railroad. The number of displacements and the length of the project will depend upon the route selected. (109 pages) (ELR Order No. 05610) (NTIS Order No. EIS–72 5610–D)

Draft, November 2
State Route 21, Chatham County, Ga. The proposed project is the widening of State Route 21. Length of the project would be 7.5 miles. Approximately 10 families and 11 businesses may be displaced, depending upon the route chosen. Adverse effects will consist of increased noise pollution after construction. (66 pages) (ELR Order No. 05570) (NTIS Order No. EIS–72 5570–D)

PAU Route 8825, Winnebago County, Ill. The proposed project is the construction of 0.455 mile of PAU Route 8825. Land acquisition will include 6.4 acres. Increases in noise, air and water pollution are expected after construction. One hundred and fifty trees will be removed, causing displacement of wildlife. (35 pages) (ELR Order No. 05576) (NTIS Order No. EIS–72 5576–F)

Draft, November 6
N.C. 268 (Elkin Bypass), Surry, Yadkin, and Wilkes Counties, N.C. The proposed project is the 8-mile construction of the N.C. 268 Bypass of Elkin. Three-hundred acres of land will be acquired; 35 residences, five businesses, a State Highway Patrol Station, and a church will be displaced. The project will traverse the Yadkin and Elkin Rivers causing siltation. Other adverse effects will include loss of wildlife and increases of noise and air pollution after construction. (22 pages) (ELR Order No. 05589) (NTIS Order No. EIS–72 5589–D)

Shaw Freeway, Sumter County, S.C. The proposed project is the construction of Shaw Freeway, which is approximately 7 miles in length, on new location. Six families and six businesses would be displaced. Adverse effects will include increases of noise and air pollution after construction, and erosion and siltation. (13 pages) (ELR Order No. 05595) (NTIS Order No. EIS–72 5595–D)

Draft, November 10
U.S. 82, Grayson County, Tex. The statement refers to the proposed construction of a connector between existing U.S. 82 and proposed U.S. 82. Project length is 1.4 miles. Adverse effects include acquiring additional grass and wooded area for right-of-way and displacing two homes. (34 pages) (ELR Order No. 05611) (NTIS Order No. EIS–72 5611–D)

U.S. 59, Polk County, Tex. The statement refers to the proposed construction of a U.S. 59 bypass around the west side of the city of Livingston. The project consists of a four-lane divided highway facility with two-way frontage roads on each side; grade separation interchanges for connection with existing U.S. 59, and overpasses for the Southern Pacific Railroad. Nine families and five businesses will be displaced; 326 acres of land will be committed to right-of-way. (40 pages) (ELR Order No. 05612) (NTIS Order No. EIS–72 5612–D)

Draft, November 6
Route 265 (Danville Expressway), Pittsylvania County, Va. The proposed project is the construction of Route 265 (Danville Expressway). The expressway will displace 49 families and 17 businesses. The project will traverse the Dan River, causing erosion and siltation. The only adverse effect after construction will be an increase in noise pollution. (62 pages) (ELR Order No. 05594) (NTIS Order No. EIS–72 5594–D)

Final, November 2
Tutuila Perimeter Road, American Samoa. The statement refers to the proposed construction of 2.88 miles of roadway between the villages of Vatia and Alfono, on the north side of Tutuila Island. There is presently no vehicular access to the two villages. The project will introduce noise and air pollution where it presently does not exist. Two or three fales (dwelling units), and an unspecified number of graves will require relocation; family ties being exceptionally strong on Samoa, this aspect of social impact will be of significance (49 pages). Comments made by USDA, EPA, DOI and DOT. (ELR Order No. 05560) (NTIS Order No. EIS–72 5560–F)

Tutuila Perimeter Road, American Samoa. The statement is concerned with the proposed construction of 3.37 miles of two-lane roadway, on the north side of the island, between the villages of Afono and Masefu. There is presently no means of vehicular access to the villages. The project will require an unspecified amount of land for right-of-way; several individual gravesites will be relocated; noise and air pollution will be introduced where they do not presently exist (53 pages). Comments made by USDA, EPA, DOI, DOC, and DOT. (ELR Order No. 05565) (NTIS Order No. EIS–72 5565–F)

S.R. 260, Navajo County, Ariz. This addendum to the final statement (filed June 7, 1971, NTIS Order No. PB–199 747–F) refers to a 2-mile line change in the Clay Springs section of the project. The alinement change will diminish adverse impacts on Cottonwood, Wash (10 pages). Comments made by USDA and DOI. (ELR Order No. 05561) (NTIS Order No. EIS–72 5561–F)

Fourth Street and County Avenue, Yuma County, Ariz. The statement considers the proposed joint Yuma City-Yuma County construction of two 36-foot roadways over both new and existing alinement. Total project length is approximately 3 miles. One apartment building and two family residences will be displaced. An unspecified amount of agricultural land will be committed to the action. (42 pages) Comments made by DOI. (ELR Order No. 05562) (NTIS Order No. EIS–72 5562–F)

Final, November 6
State Road 516 (U.S. 192), Brevard County, Fla. The proposed project is the addition of two lanes to the existing causeway State Road 516 (U.S. 192). The project's length is 2.4 miles. Adverse effects will be upon marine life. Increases of noise pollution are expected. (169 pages) Comments made by COE, DOC, DOI, EPA, HEW, HUD, State and regional agencies. (ELR Order No. 05580) (NTIS Order No. EIS–72 5580–F)

Final, November 9
Lafitte-La Rose Highway, Jefferson and Lafourche Counties, La. The statement refers to the proposed construction of approximately 28 miles of highway on new location between La Rosa and the Village of Estelle. The project consists of an ultimate four-lane, full access, land service, rural-type facility with fixed high-level bridges at Bayou Perot, Kerner Ferry, and Wagner Ferry. Initial construction will provide a two-lane, two-way facility. Approximately 1,018 acres, of which 130 acres is residential, 636 acres fresh or salt water marsh, and 252 acres is swampland, will be committed to right of way. Nineteen families and two businesses will be displaced. (85 pages) Comments made by USDA, COE, DOC, DOI, DOT, EPA, and State agencies. (ELR Order No. 05608) (NTIS Order No. EIS–72 5608–F)

Final, November 2
U.S. 191, Gallatin and Madison Counties, Mont. The proposed project is located on U.S. Route 191. Total length of the project is 9.7 miles. There will be no displacements. One hundred and fifty acres of land will be acquired. Adverse effects will be upon wildlife, particularly deer, and the water table. (Approx. 470 pages) Comments made by USDA, COE, DOI, EPA, HEW, HUD, State, regional, and local agencies and concerned citizens. (ELD Order No. 05574) (NTIS Order No. EIS–72 5574–F)

Route 9D—Beacon Arterial, Dutchess County, N.Y. The statement refers to a corridor study for the reconstruction of a segment of Route 9D between Dutchess Junction and I–84. Project length is approximately 3.5 miles. The number of displacements and the amount of right-of-way required will depend upon the route chosen. Wildlife, fish, and waterfowl populations will be disturbed during construction of a bridge over Fishkill Creek. A 4(f) statement for Hudson Highland State Park and the Southern Dutchess Country Club is part of this report. (80 pages) Comments made by EPA, HUD, DOI, DOT, and State agencies. (ELR Order No. 05559) (NTIS Order No. EIS–72 5559–F)

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U.S. 64—relocated, Nash County, N.C. The proposed project is the 11 mile relocation of U.S. 64. Four-hundred and seventy-five acres of woodland and 175 acres of agricultural land will be acquired. Five families and one business will be displaced. Several waterways will be traversed. Construction will have an adverse effect upon Far River, which is an important fish spawning area. Other adverse effects, include the lowering of the water table and increases in noise and air pollution. (74 pages) Comments made by USDA, COE, DOI, DOT, EPA, GSA, and State agencies. (ELR Order No. 05568) (NTIS Order No. EIS–72 5586–F)

U.S. WATER RESOURCES COUNCIL

Final, November 2

Wabash River Basin Study, Illinois, Indiana, and Ohio. The statement refers to a study of the problems and needs of the river basin, with proposed projects and programs. Structural features of the project would include 13 major multiple-purpose reservoirs. (120 pages) Comments made by AEC, EPA, FPC, USCG, HEW, DOI, HUD, DOC, COE, USDA, and State agencies of several States. (ELR Order No. 05573) (NTIS Order No. EIS–72 5573–F)

Final, November 6

Kanawha River Basin Study, North Carolina, West Virginia and Virginia. The statement refers to a study of the problems and needs of the river basin, along with proposed projects and programs. (90 pages) Comments made by USDA, AEC, COE, DOC, EPA, FPC, USCG, HEW, HUD, DOI, and State agencies of several States. (ELR Order No. 05581) (NTIS Order No. EIS–72 5581–F)

TIMOTHY ATKESON,
General Counsel.

[FR Doc.72–19945 Filed 11–20–72;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[Docket No. 57]

CANCELLATION OF REGISTRATION OF PESTICIDE DDT

Notice of Objection and Request for Hearing

Notice is hereby given, pursuant to § 164.20 of the rules of practice (37 F.R. 9476) issued pursuant is the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.), that objections and request for a public hearing were filed by Crop King Co., Yakima, Wash., in connection with the cancellation of a registration of a pesticide containing DDT. For information concerning the issues involved and other details of this proceeding, interested persons are referred to the docket of this proceeding on file with the Hearing Clerk, Environmental Protection Agency, Room 3902 A, Waterside Mall, 401 M Street SW., Washington, DC.

WILLIAM D. RUCKELSHAUS,
Administrator.

NOVEMBER 16, 1972.

[FR Doc.72–20043 Filed 11–20–72;8:53 am]

[Dockets No. 63, etc.]

CANCELLATION OF REGISTRATION OF PESTICIDE DDT

Notice of Public Hearing

Notice is hereby given, pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.), as amended by the Federal Environmental Pesticide Control Act of 1972 (Public Law 92–516), that a public hearing in the consolidated DDT proceedings reopened by intervenors Louisiana Sweet Potato Association et al. and H. P. Cannon & Son, Inc., and involving the use of the pesticide DDT to control weevils on stored sweet potatoes and the European corn borer on green peppers grown on the Delmarva Peninsula will be held on November 28, 1972, at 9:30 a.m., local time, in the Old Court of Appeals Courtroom, Room 416, Wildlife and Fishery Building, 400 Royal Street, New Orleans, LA, and on December 12, 1972, and January 9, 1973, at 9:30 a.m., local time, in the E.P.A. Hearing Room, Room 3906, Waterside Mall, 401 M Street, SW., Washington, DC.

For information concerning the issues involved and other details of these proceedings, interested persons are referred to the dockets of these proceedings on file with the Hearing Clerk, Environmental Protection Agency, Room 3902 A, Waterside Mall, 401 M Street SW., Washington, DC.

WILLIAM D. RUCKELSHAUS,
Administrator.

NOVEMBER 16, 1972.

[FR Doc.72–20044 Filed 11–20–72;8:53 am]

PROPOSED IMPLEMENTATION PLAN REGULATIONS

Notice of Public Hearing

On October 28, 1972 (37 F.R. 23125), the Administrator published a notice setting forth the dates, times, and places of public hearings on proposed regulations to correct deficiencies in State Implementation plans submitted by the States of New York and California under provisions of the Clean Air Act. The following information was inadvertently omitted:

CALIFORNIA

November 15 at 9 a.m., Ceremonial Courtroom, 19th Floor, U.S. Courthouse, 450 Golden Gate Boulevard, San Francisco. Hearing Officer: Cassandra Dunn.

The Environmental Protection Agency's Regional Office has already made an announcement of this hearing through the news media.

Dated: November 16, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc.72–20045 Filed 11–20–72;8:53 am]

FEDERAL MARITIME COMMISSION

ASSOCIATED NORTH ATLANTIC FREIGHT CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Howard A. Levy, Attorney, Associated North Atlantic Freight Conferences, Suite 631, 17 Battery Place, New York, NY 10004

Agreement No. 9978–1, among the Associated North Atlantic Conferences, modifies the basic agreement to allow an accused member line to admit or not contest the allegations brought against it in any complaint under the self-policing procedure. Such admission or no contest plea may be considered in mitigation of any penalty to be imposed and any appeal in such cases must be limited to a review of the amount of fine imposed.

Dated: November 15, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72–20051 Filed 11–20–72;8:54 am]

NORTH ATLANTIC BALTIC FREIGHT CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the

Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Howard A. Levy, Counsel, North Atlantic Baltic Freight Conference, 17 Battery Place, New York, NY 10004.

Agreement No. 7670–8, among the member lines of the above-named conference, expands the scope of the basic agreement to include traffic moving through Scandinavia and Baltic ports to interior points whether or not under a through bill of lading.

Dated: November 16, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72–20046 Filed 11–20–72;8:45 am]

NORTH ATLANTIC CONTINENTAL FREIGHT CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Howard A. Levy, Attorney, North Atlantic Continental Freight Conference, 17 Battery Place, New York, NY 10004.

Agreement No. 9214–6, among the member lines of the above-named conference, notice of which was originally published on June 12, 1972, would modify the Conference's organic agreement to include within its scope cargo moving via ports in the Hamburg/Dunkirk range to interior points in continental Europe. The member lines have now requested that this amendment be modified to show that the Conference's jurisdiction extends to interior points in continental Europe whether the cargo moves under a through bill of lading or otherwise. It has also been modified to provide for termination of the inland jurisdiction on September 30, 1973, with further extension subject to Commission approval.

Dated: November 16, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72–20047 Filed 11–20–72;8:54 am]

NORTH ATLANTIC FRENCH ATLANTIC FREIGHT CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Howard A. Levy, Counsel, North Atlantic French Atlantic Freight Conference, 17 Battery Place, New York, NY 10004.

Agreement No. 7770–10, among the member lines of the above-named conference, clarifies the basic agreement's jurisdiction over cargo moving through French Atlantic ports to interior points in France as including all cargo whether moving under a through bill of lading or otherwise.

Dated: November 16, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72–20048 Filed 11–20–72;8:54 am]

JAPAN-ATLANTIC AND GULF FREIGHT CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

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A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Charles F. Warren, Esq., 1100 Connecticut Avenue NW., Washington, DC 20036

Agreement No. 3103-51 modifies the basic agreement of the Japan-Atlantic and Gulf Freight Conference by amending Article 10(a) to provide that a quorum being present, decisions under the agreement are to be determined by a two-thirds (⅔) majority of all votes actually cast; Article 10(b) providing that decisions on matters voted on by telephone shall be made by a two-thirds (⅔) majority of all votes actually cast; and Article 11 permitting vote abstentions on all confernce matters except as to rates, changes in rates, and rules and regulations applicable thereto, however, in no event shall an abstention be considered as a vote cast.

Dated: November 16, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-20050 Filed 11-20-72;8:54 am]

TRANS-PACIFIC FREIGHT CONFERENCE OF JAPAN

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 10573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Charles F. Warren, Esq., 1100 Connecticut Avenue NW., Washington, DC 20036

Agreement No. 150-56 modifies the basic agreement of the Trans-Pacific Freight Conference of Japan by amending Article 10(a) to permit vote abstentions on all conference matters except as to rates, changes in rates, and rules and regulations applicable thereto, however, to provide that an abstention in no event shall be considered as a vote cast; Article 10(c) a quorum being present, decisions under the agreement are to be determined by a two-thirds (⅔) majority of all votes cast; and Article 10(d) providing that decisions on matters voted on by telephone shall be made by a two-thirds (⅔) majority of all votes cast.

Dated: November 16, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-20049 Filed 11-20-72;8:54 am]

FEDERAL POWER COMMISSION

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON FUELS

Order Designating Additional Member

NOVEMBER 15, 1972.

The Federal Power Commission, by order issued September 28, 1972, established the National Power Survey Technical Advisory Committee on Fuels.

2. *Membership.* An additional member to the Technical Advisory Committee on Fuels, as selected by the Chairman of the Commission, with the approval of the Commission, is as follows:

Stephen J. Gage, Member; Federal Impact Evaluation Staff; Council on Environmental Quality.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-20011 Filed 11-20-72;8:51 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON RESEARCH AND DEVELOPMENT

Order Designating Additional Member

NOVEMBER 15, 1972.

The Federal Power Commission, by order issued September 28, 1972, established the National Power Survey Technical Advisory Committee on Research and Development.

2. *Membership.* An additional member to the Technical Advisory Committee on Research and Development, as selected by the Chairman of the Commission, with the approval of the Commission, is as follows:

Stephen J. Gage, Member; Federal Impact Evaluation Staff; Council on Environmental Quality.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-20012 Filed 11-20-72;8:51 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON POWER SUPPLY

Order Designating Additional Members

NOVEMBER 15, 1972.

The Federal Power Commission, by order issued September 28, 1972, established the National Power Survey Technical Advisory Committee on Power Supply.

2. *Membership.* Additional members to the Technical Advisory Committee on Power Supply, as selected by the Chairman of the Commission, with the approval of the Commission, are as follows:

William Dircks, Member, Federal Impact Evaluation Staff, Council on Environmental Quality.
Anthony Innamorati, Member, Assistant Commissioner for Buildings Management, General Services Administration.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-20013 Filed 11-20-72;8:51 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON FINANCE

Order Designating Additional Members

NOVEMBER 15, 1972.

The Federal Power Commission, by order issued September 28, 1972, established the National Power Survey Technical Advisory Committee on Finance.

2. *Membership.* Additional members to the Technical Advisory Committee on Finance, as selected by the Chairman of the Commission, with the approval of the Commission are as follows:

Eric Zausner, Member, Program Development Staff, Council on Environmental Quality.
Robert M. O'Mahoney, Member, Special Assistant to the Administrator, General Services Administration.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-20014 Filed 11-20-72;8:51 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON CONSERVATION OF ENERGY

Order Designating Additional Members

NOVEMBER 15, 1972.

The Federal Power Commission, by order issued September 28, 1972, established the National Power Survey Technical Advisory Committee on Conservation of Energy.

2. *Membership.* Additional members to the Technical Advisory Committee on Conservation of Energy, as selected by the Chairman of the Commission, with the approval of the Commission, are as follows:

Steve Rattien, Member; Program Development Staff; Council on Environmental Quality.
Walter Meisen, Member; Assistant Commissioner for Construction Management; Public Buildings Service, General Services Administration.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-20015 Filed 11-20-72;8:51 am]

[Docket No. CP73-119]

ALABAMA-TENNESSEE NATURAL GAS CO.

Notice of Application

NOVEMBER 16, 1972.

Take notice that on November 3, 1972, Alabama-Tennessee Natural Gas Co. (applicant), Post Office Box 918, Florence, AL 35630, filed in Docket No. CP 73-119 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of vaporous natural gas facilities and liquefied natural gas (LNG) facilities and an increase in peak day sales of natural gas to certain existing customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate a 0.9-mile 6⅝-inch OD crossover pipeline connecting its 10¾-inch OD pipeline with its 12¾-inch and 16-inch pipelines at its Sheffield Compressor Station in Colbert County, Ala., and LNG facilities for the liquefaction, storage, and vaporization of natural gas to be located near Greenbrier, Limestone County, Ala., in order to meet the estimated increased natural gas requirements of its customers. Applicant states that such LNG facilities will include a liquefaction plant having a design capacity of 2,000 Mcf of vaporous gas per day, a storage tank with a capacity of 400,000 Mcf of vaporous gas and two vaporizers, each with a send-out rating of 15,000 Mcf of vaporous gas per day.

Applicant further states that it has entered in contracts with its direct industrial customers and precedent agreements with its resale customers providing for increased peak day sales volumes of 18,600 Mcf of natural gas per day commencing in the winter of 1974-75. Applicant indicates that these increased sales will not require an increase in the maximum daily quantity of natural gas presently authorized for purchase from Tennessee Gas Pipeline Co., a division of Tenneco Inc., its sole supplier.

Applicant estimates the total cost of the proposed facilities at $3,935,000, which it plans to finance by means of first mortgage bonds to be sold in 1974 and funds from retained earnings over the period 1973-75.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 11, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-20010 Filed 11-20-72;8:51 am]

[Docket No. CP73-125]

ALGONQUIN GAS TRANSMISSION CO.

Notice of Application

NOVEMBER 16, 1972.

Take notice that on November 10, 1972, Algonquin Gas Transmission Co. (applicant), 1284 Soldiers Field Road, Boston, MA 02135, filed in Docket No. CP73-125 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas for the benefit of Buzzards Bay Gas Co. (Buzzards Bay), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Buzzards Bay has made arrangements for the purchase of liquefied natural gas (LNG) from New England LNG Co., Inc., and for the storage of such gas by Connecticut Natural Gas Corp. (CNG) at CNG's LNG facility in Rocky Hill, Conn. Applicant asserts that in order for Buzzards Bay to have the use of this gas this winter, it is necessary for it to assist Buzzards Bay.

Applicant proposes, pursuant to the terms of a temporary transportation agreement between it and Buzzards Bay dated November 9, 1972, to reduce its deliveries of natural gas to CNG at the existing Cromwell point of interconnection in Connecticut between applicant and CNG, where applicant regularly sells and delivers natural gas to CNG, and to deliver concurrently the equivalent volumes of gas to Buzzards Bay. Said agreement provides that the approximate quantities of gas to be delivered by applicant shall not exceed 500,000 Mcf.

Applicant proposes to charge Buzzards Bay 10 cents for each Mcf of gas delivered.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 28, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the

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Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19979 Filed 11-20-72;8:48 am]

[Docket No. RP73-43]

MID LOUISIANA GAS CO.

Notice of Proposed Purchased Gas Adjustment Clause

NOVEMBER 16, 1972.

Take notice that Mid Louisiana Gas Co. (Mid Louisiana), on October 30, 1972, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1. The filing consists of the following tariff sheets:

Original Sheet No. 3a, First Revised Sheet No. 3a (superseding Original Sheet No. 3a), Original Sheet No. 26a, Original Sheet No. 26b, Original Sheet No. 26c, and Original Sheet No. 26d.

Mid Louisiana avers that this supplemental filing is for the purpose of making the provisions for flow-through of supplier refunds and the tracking of supplier decreases and increases which Mid Louisiana assumed in Dockets Nos. RP71-101 and CP72-42, conform to the requirements of the Commission Orders Nos. 452 and 452-A in Docket No. R-406.

Mid Louisiana proposes that the PGA clause be effective as of August 13, 1972.

Mid Louisiana has also requested waiver of the Commission's notice requirements, pursuant to § 154.51 so that there will be continuity in both Mid Louisiana's agreeemnt to track supplier decreases and increases and its obligation to flow-through supplier refunds.

Mid Louisiana has also stated that due to the limited nature of this filing which they state conforms Mid Louisiana's tariff with its prior rate provisions concerning tracking of supplier rate changes and flow-through of supplier refunds, certain statements, schedules, and workpapers have been omitted and a waiver of the Commission's regulations has been requested to the extent necessary.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 28, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing have been served on all Mid Louisiana's resale customers and interested State commissions. In addition, copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19978 Filed 11-20-72;8:48 am]

[Docket No. CP73-118]

TRUNKLINE GAS CO. AND TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

NOVEMBER 14, 1972.

Take notice that on November 2, 1972, Trunkline Gas Co. (Trunkline), Post Office Box 1642, Houston, TX 77001, and Transcontinental Gas Pipe Line Corp. (Transco), Post Office Box 1396, Houston, TX 77001, filed in Docket No. CP73-118 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities and the exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to exchange natural gas by Trunkline's causing of Texas Gas Transmission Corp. (Texas Gas) to deliver up to 50,000 Mcf of gas per day to Transco at a point of interconnection between the facilities of Transco and Consolidated Gas Supply Corp. in Acadia Parish, La., and by Transco's and Trunkline's use of their best efforts to redeliver and receive up to 15,000 Mcf of gas per day through existing facilities at the tailgate of the Continental Oil Co. Egan Plant in Acadia Parish and Transco's redelivery or causing the redelivery of the remaining portion of the gas to Trunkline at the tailgate of the Mobil Oil Corp. Cow Island Plant in Vermilion Parish, La., through measuring facilities to be installed and operated by Trunkline. Applicants state that the instant exchange is necessary to enable Trunkline to effectuate a delayed exchange agreement with Texas Gas in order to assure maintenance of adequate natural gas service on Trunkline's pipeline system. The exchange agreement between applicants is for a term from November 1, 1972, to November 1, 1974.

Applicants state that no new facilities are required for the delivery of gas to Transco or the redelivery of gas to Trunkline at the Egan Plant. Trunkline proposes to construct and operate a skid-mounted meter run, side valves, and approximately 400 feet of pipeline at a cost of $135,000 for redeliveries at the Cow Island Plant. The gas redelivered at the Cow Island Plant will be compressed by others at a cost to Trunkline of approximately 0.8 cent per Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19996 Filed 11-20-72;8:49 am]

[Docket No. CP73-122]

ALGONQUIN GAS TRANSMISSION CO.

Notice of Application

NOVEMBER 15, 1972.

Take notice that on November 3, 1972, Algonquin Gas Transmission Co. (applicant), 1284 Soldiers Field Road, Boston, MA 02135, filed in Docket No. CP73-122 an application pursuant to section 7(b) of the Natural Gas Act to abandon by sale to Boston Gas Co. (Boston) a natural gas pipeline in Everett, Mass., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon and sell to Boston 992 feet of a 16-inch pipeline which lies downstream of the Algonquin meter and regulator station in Everett, Mass. Applicant states that the construction of this line was financed by a contribution in aid of construction from Boston, that the line is located on rights-of-way owned by Boston, which operates and maintains the line, and that all gas flowing in the line is the property of Boston. Applicant indicates that this proposal will allow Boston to provide service to its customers in the immediate area of the line by permitting direct taps along the line, rather than constructing a distribution line to the desired service points.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 11, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19989 Filed 11-20-72;8:48 am]

[Docket No. CP73-91]

C. B. GAS GATHERING, INC.

Notice of Application

NOVEMBER 13, 1972.

Take notice that on September 1, 1972, C. B. Gas Gathering, Inc. (Applicant), Post Office Box 1873, Corpus Christi, TX 78403, filed in Docket No. CP73-91 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continuation of the transportation and sales of natural gas in interstate commerce formerly made by Bluebonnet Gas Corp. (Bluebonnet) all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that by an instrument of assignment captioned "Sale of Assets" dated June 30, 1972, it acquired all of the assets and properties of Bluebonnet. Bluebonnet was authorized to gather natural gas from certain independent producers and transport and sell such gas to Florida Gas Transmission Co. Applicant herein seeks authorization to continue the activities heretofore performed by Bluebonnet.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 5, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19990 Filed 11-20-72;8:48 am]

[Docket No. CP73-120]

COLUMBIA GAS TRANSMISSION CORP.

Notice of Application

NOVEMBER 14, 1972.

Take notice that on November 3, 1972, Columbia Gas Transmission Corp. (Applicant), 20 Montchanin Road, Wilmington, DE 19807, filed in Docket No. CP73-120 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities replacing certain segments of its existing pipeline system and for permission and approval to abandon certain other pipeline and compressor facilities no longer used or useful in its transmission operations, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate the following facilities:

(1) Approximately 5.3 miles of 4-inch-transmission pipeline replacing a like amount of 3-inch pipeline in Fayette, Greene, and Madison Counties, Ohio;

(2) Approximately 1.1 miles of 20-inch-transmission pipeline replacing a like amount of 12-inch pipeline in Richland County, Ohio;

(3) Approximately 0.7 mile of 6-inch-transmission pipeline replacing a like amount of 4-inch pipeline in Medina County, Ohio;

(4) Approximately 1.9 miles of 4-inch-transmission pipeline replacing a like amount of 3-inch pipeline in Jefferson County, Ohio;

(5) Approximately 1.4 miles of 10-inch-transmission pipeline replacing a like amount of 8-inch pipeline in Lawrence County, Pa.;

(6) Approximately 3.5 miles of 6-inch-transmission pipeline replacing a like amount of 12-inch pipeline in Mineral County, W. Va.; and

(7) Approximately 7.3 miles of 36-inch-transmission pipeline replacing a like amount of two parallel 26-inch pipelines in Upshur County, W. Va.

Applicant states that the above described existing pipeline segments, because of their age and corroded condition and on the basis of operating and maintenance experience, must be replaced with cathodically protected pipe in order to assure continued sale and reliable service.

The cost of the proposed construction, inclusive of filing fees, is estimated by Applicant to be $2,839,100, which cost Applicant proposes to finance with internally generated funds.

Applicant proposes to abandon the following facilities because, it states, they are no longer used or useful:

(1) Two 1,000 horsepower units and two 1,300 horsepower units at Kenova Compressor Station in Wayne County, W. Va.;

(2) Approximately 0.8 mile of 20-inch-transmission pipeline in Kanawha County, W. Va.;

(3) Approximately 0.6 mile of 10-inch and 12-inch-transmission pipeline crossing the Ohio River in Meigs County, Ohio, and Jackson County, W. Va.;

(4) Approximately 13.4 miles of 10-inch-transmission pipeline in Washington County, Pa.;

(5) Approximately 1.3 miles of 16-inch and 20-inch and 4.4 miles of 12-inch-transmission pipeline in Allegheny and Washington Counties, Pa.;

(6) Approximately 1.8 miles of 10-inch-transmission pipeline in Washington County, Pa.; and

(7) Approximately 3.1 miles of 10-inch-transmission pipeline in York County, Pa.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements

direct preferred interruptible and direct ments or protests as to whether the

Mississippi, Tennessee, Kentucky, Indi-

for leave to intervene is timely filed, or

GP states that it has received a notice

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of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc 72-19991 Filed 11-20-72;8:49 am]

[Docket No. RP66-4, RP68-1]

FLORIDA GAS TRANSMISSION CO.

Order Accepting Filing as Compliance Filing but Rejecting Proposed Tariff Sheets

NOVEMBER 14, 1972.

On October 16, 1972, Florida Gas Transmission Co. (Florida Gas) tendered for filing proposed changes in its FPC gas tariff, Original Volume No. 1[1] which would establish volumetric limitations on Florida Gas' service to its customers, to become effective November 15, 1972. The proposed tariff changes result from Opinion No. 611, ordering paragraphs (F) and (G) which read as follows:

(F) On or before September 1, 1972, and after soliciting comments from its jurisdictional customers with respect to volumetric limitations, Florida Gas shall file a revised I rate schedule deleting the restrictive provisions discussed above, with a volume limitation on sales, and containing a revised definition of commercial service in accordance with this opinion.

(G) On and after September 1, 1972, Florida Gas shall not increase its sales to resale customers, direct firm customers, direct preferred interruptible and direct intermediate interruptible customers, above the levels set forth in the applicable service agreements as of that date, without prior Commission authorization.

Six protests and three petitions to intervene were filed.[2] In summary, the protests alleged that Florida Gas had discriminated against its resale customers by allowing increases beyond September 1, 1972, levels in the volumes allocated to the direct customers while not allowing such increases in the I—schedule service to the resale customers. Requests for a hearing and 5 months suspension were also made.

Under the proposed revised tariff sheets, Florida Gas would establish volume entitlements for the interruptible I Rate Schedule at September 1, 1972, levels as ordered by the Commission. However, deliveries under its G Rate Schedule and under contracts for sales to its direct industrial customers allow for adjustments above the September 1, 1972, levels in contravention of the Commission's Opinion No. 611.

Therefore, it is reasonable and appropriate that Florida Gas, tendered filing be accepted as a compliance filing, but that the proposed revised tariff sheets be rejected and Florida Gas be required to file within 10 days of the issuance of this order substitute tariff sheets showing volumetric limitations based on its contractual obligations as of September 1, 1972, to firm resale customers taking under Rate Schedule G and to all direct customers as reflected in service agreements and contracts on file with the Commission. Within 30 days from the issuance of this order, all customers of Florida Gas will have the right to challenge whether the volumes allocated to it by Florida Gas in fact represent contractual obligations as of September 1, 1972.

The Commission finds:

(1) It is reasonable and appropriate in the public interest to aid in the enforcement of the Natural Gas Act that the tendered filing be treated as hereinafter ordered and conditioned.

(2) The participation of the petitioners listed in Footnote 2 in these proceedings may be in the public interest.

The Commission orders:

(A) Florida Gas' filing of October 16, 1972, is hereby accepted as a compliance filing but the proposed revised tariff sheets tendered therewith are rejected.

(B) Within 10 days of the issuance of this order, Florida Gas shall file proposed volumetric limitations based on its contractual obligations as of September 1, 1972, for its firm resale (Rate Schedule G) customers and all I–Schedule and direct customers as reflected in service agreements and contracts on file with the Commission.

(C) Within 30 days of the issuance of this order, all customers shall file comments or protests as to whether the volumes allocated to them are equal to Florida Gas' contractual obligations as of September 1, 1972.

(D) The volumetric limitations reflecting the actual contractual obligations of Florida Gas as of September 1, 1972, shall be effective as of November 15, 1972.

(E) The petitioners listed in Footnote 2 are hereby permitted to intervene in these proceedings, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting rights and interests specifically set forth in the respective petition to intervene: *And provided further,* That the admission of such intervenors shall not be construed as recognition that they or any of them might be aggrieved because of any order or orders issued by the Commission in these proceedings.

(F) Pursuant to § 2.59(c) of the Commission's rules of practice and procedure, Florida Gas Transmission Co. shall promptly serve copies of its filing upon the above-mentioned intervenors, unless such service has already been effected pursuant to Part 154 of the regulations under the Natural Gas Act.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

APPENDIX A

PROPOSED REVISED TARIFF SHEETS

Original Sheet Nos.: 9–A, 22–F, 22–G, 22–H, 22–I, 22–J, 22–K, 22–L.

First Revised Sheet Nos.: 5, 6, 9, 10, 13, 23, 24, 25, 28, 29.

Tenth Revised Sheet No. 8.

[FR Doc.72-19987 Filed 11-20-72;8:48 am]

[Docket No. CP73-114]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Application

NOVEMBER 14, 1972.

Take notice that on October 27, 1972, Michigan Wisconsin Pipe Line Co. (Applicant), 1 Woodward Avenue, Detroit, MI 48226, filed in Docket No. CP73-114 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that its customers have nominated an increase of 187,928 Mcf of natural gas in their maximum daily quantities commencing September 1, 1973 and Applicant proposes to transport and deliver increased quantities of natural gas from its supplies on its pipeline system by the construction and operation of the following new facilities:

1. 209.9 miles of 30- and 36-inch loop lines on its Louisiana main line system in the States of Louisiana, Arkansas, Mississippi, Tennessee, Kentucky, Indiana, and Ohio;

2. Two 12,000 horsepower class compressor units at its North Tepetate Compressor Station in Louisiana;

3. One 12,000 horsepower class compressor unit at each of its La Grange and St. John Compressor Stations in Indiana and its Sandwich Compressor Station in Illinois;

4. One 1,100 horsepower class compressor unit at a proposed new Weyauwega Compressor Station in Wisconsin;

5. 6.5 miles of 12-inch loop line on its Beloit lateral in Wisconsin; and

6. Two new delivery points for existing customers, Fountaintown Gas Co. at Carthage, Ind., and St. Joseph Light & Power Co. at Maryville, Mo.

Applicant states that it has available an additional annual sales volume of 27,895,000 Mcf of natural gas through the continued development of underground storage plus increased pipeline throughput, utilizing newly acquired offshore Louisiana reserves. Applicant intends to reserve 520,000 Mcf of this volume to meet in full the increased annual requirements of its small general service customers and to allocate the remaining 27,375,000 Mcf among customers purchasing gas under its ACQ and MDQ rate schedules in the ratio of their respective current annual gas purchase entitlements.

Applicant estimates the total cost of the proposed facilities at $66,201,180, which it plans to finance initially with treasury funds, retained earnings, and other funds generated internally, together with borrowings from banks under short term lines of credit as required.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19992 Filed 11-20-72;8:49 am]

[Dockets Nos. CI72-834; CP72-274]

NAVARRO GAS PRODUCTION CO. ET AL.

Order Denying Issuance of Temporary Certificate; Motion for Reconsideration

NOVEMBER 10, 1972.

Navarro Gas Production Co. and Louisiana Gas Production Co., a Division of Commercial Solvents Corp.; and Georgia Pacific Corp.

On October 30, 1972, Georgia Pacific Corp. (GP) filed a motion for reconsideration and in the alternative for issuance of temporary certificate of public convenience and necessity and for rescheduling of procedural dates and other relief.

On October 20, 1972, the Commission issued an order in the above dockets consolidating the proceedings for formal hearing and establishing procedures which required GP and Navarro to serve testimony on November 10, and formal hearing to commence on November 14, 1972. On November 6, 1972, notice was issued by the Commission herein postponing the above procedural dates pending disposition of the instant motion.

These applications involve a proposal by GP to extend its industrial pipeline into the Monroe Field so as to purchase gas from Navarro for transportation to Crossett, Ark. for use in a papermill. GP operates its own pipeline and presently has an attached gas supply which was certificated in CP72-50 on November 15, 1971. Georgia Pacific also has an interruptible gas purchase contract with Mississippi River Transmission Corp. for 40,000 Mcf/d.

Navarro is presently selling gas, which is the subject of application, to Mid-Louisiana Gas Co. through existing facilities. The short term sale to Mid-Louisiana expires on December 1, 1972. Navarro states that upon expiration it will resume using this gas in its own industrial plants in Sterlington, La. Mid-Louisiana states that it is interested in continuing to purchase this gas after December 1, and objects to the extension of Georgia Pacific's pipeline into the Monroe Field, because to do so would reduce the amount of gas available to pipelines presently in the Monroe Field, which have existing capacity more than adequate to handle the declining volume of available gas.

GP states that it has received a notice of cancellation of its gas purchase contract with Navarro, which has a term of 3 years, for the purchase of 11,000 Mcf/d from the Monroe Field. GP further states that it must obtain authorization in Docket No. CP72-274 on or prior to November 18, 1972, or the gas purchase contract is of no further force and effect and that it must, therefore, receive the authorization pursuant to the shortened procedure or through the issuance of a temporary certificate of public convenience and necessity. Issuance of a temporary certificate under the circumstances outlined by GP, and as set forth in the pleadings, do not meet the statutory requirements for issuance of a temporary certificate. Furthermore, as stated in the order issued in these dockets on October 20, 1972, an evidentiary record should be made to develop the public interest issues involved in issuing a certificate of public convenience and necessity to GP, including the proposed end-use of natural gas.

GP submits that there are no issues involved in this application which require a formal hearing. Mid-Louisiana has however objected to the issuance of a certificate to GP because of the dwindling sources of natural gas in the Monroe Field and questions whether the Commission should authorize a new industrial pipeline into the area in view of the reduction in available supplies to existing purchasers in the Monroe Field.

The Commission finds:

(1) The motion of GP for reconsideration of the Commission order issued October 20, 1972, is not well taken and should be denied; and

(2) The motion of GP for issuance of a temporary certificate of public convenience and necessity is not required in these circumstances.

The Commission orders:

(A) The motion of Georgia Pacific Corp. for reconsideration of the Commission's order in these proceedings issued October 20 and other relief is denied;

(B) The procedural dates for filing of testimony and commencement of formal hearing set forth in the order of October 20 (paragraph B, C, and D) are hereby changed to: November 20 for filing of testimony by applicants: November 27 for filing of testimony by other parties; and November 30 for commencement of hearing.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc. 72-19999 Filed 11-20-72;8:49 am]

[Docket No. E-7795]

PHILADELPHIA ELECTRIC CO.

Filing of Rate Schedule; Extension of Time

NOVEMBER 13, 1972.

On November 10, 1972, the Borough of Lansdale, Pa., filed a motion for an extension of time within which to file

[1] See Appendix A.

[2] Protests were filed by Peoples Gas System, Inc., City Gas Co., and Central Florida Gas Corp. Protests and petitions to intervene were filed by Plant City Natural Gas Co., West Florida Natural Gas Co., and Indiantown Gas Co.

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protests or petitions to intervene in the above-designated matter.[1]

Upon consideration, notice is hereby given that the time is extended to and including November 15, 1972, within which protests or petitions to intervene may be filed in the above-designated matter.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19998 Filed 11-20-72;8:49 am]

[Docket No. RP73-47]

SEA ROBIN PIPELINE CO.

Order Accepting for Filing and Suspending Proposed Tariff Changes and Permitting Intervention

NOVEMBER 13, 1972.

On September 29, 1972, Sea Robin Pipeline Co. (Sea Robin) tendered for filing nine tariff sheets to its FPC Gas Tariff, Original Volume Nos. 1 and 2. The proposed changes would appear at sheet No. 3 of Original Volume No. 1; and sheets Nos. 4–6, 20–22, 39, and 64 of Original Volume No. 2.

The proposed changes would increase revenues from jurisdictional sales and service by $30,789,109 based on a 12-month period ending June 30, 1972, as adjusted for changes known and measurable through March 15, 1973. Sea Robin alleges that the rate changes are necessary to compensate Sea Robin for an alleged jurisdictional revenue deficiency of $30,789,109 under the cost of service for the aforementioned test period. Sea Robin also proposes a composite book depreciation rate of 8.33, an increase of 4.33 percentage points over the present rate being used. Sea Robin proposes a rate of return of 9.75 which they maintain is necessary in order to properly provide financing for its pipeline operations.

Sea Robin avers that the proposed rate increase would offset increased costs which reflect an increased rate base, increased cost of capital, increased cost of operation and maintenance, increased cost of depreciation, and increased taxes.

The notice of proposed changes in rates and charges was issued October 13, 1972, and set a final filing date of November 3, 1972, for petitions to intervene and protests. Petitions to intervene or notices of intervention have been filed by the Public Service Commission of the State of New York, Alabama Gas Corp., Mississippi Valley Gas Co., South Carolina Electric & Gas Co., Southern Natural Gas Co., and Columbia Gas Transmission Co.

In accepting the proposed rates for filing, we note that Sea Robin utilizes a fixed and variable classification system in the allocation of its cost of service. In view of the fact that in our opinion 600–A we adopted an unmodified Seaboard method of cost allocation and that we called for a reappraisal of the pricing mechanisms of interstate pipeline companies, we intend to review such pricing mechanisms including cost classification, allocation, and rate design as they pertain to Sea Robin in this proceeding. To the extent that the commodity component of Sea Robin's two-part rates and its straight line rate claimed in Docket No. RP73-47 do not recover fully allocated Seaboard costs, as may be determined herein, Sea Robin may be required to absorb the impact of any undercollections under these rates as may occur.

Sea Robin has also included approximately $23 million of noncertificated facilities in its rate base, and therefore, requests waiver of § 154.63(e)(2)(ii) of the Commission's regulations to permit inclusion of such costs. In the event these facilities are not placed in service prior to April 15, 1973, Sea Robin shall file revised tariff sheets adjusting its rates to reflect elimination of noncertificated facilities and shall also file supplemental cost and revenue data which reflects the elimination of these noncertificated facilities from its section 4(e) application in these proceedings.

Review of the filing indicates that it raises certain issues which may require development in an evidentiary hearing. The proposed increases in rates and charges have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discrimnatory or preferential, or otherwise unlawful.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Sea Robin's FPC Gas Tariff, as proposed to be amended in this docket, and that the tendered tariff sheets be accepted for filing and suspended as hereinafter provided.

(2) The disposition of this proceeding should be expedited in accordance with the procedure set forth below.

(3) In the event this proceeding is not concluded prior to the termination of the suspension period herein ordered, the placing of the tariff changes applied for in this proceeding into effect, subject to refund with interest while pending Commission determination as to their justness and reasonableness, is consistent with the purpose of the Economic Stabilization Act of 1970, as amended.

(4) Participation of the above-named petitioners for intervention in this proceeding may be in the public interest.

(5) Waiver of § 154.63(e)(2)(ii) of the Commission's regulations subject to the conditions herein specified may be in the public interest.

The Commission orders:

(A) The tendered tariff sheets are accepted for filing subject to the conditions stated in this Order.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, ch. I), a public hearing shall be held, commencing with a prehearing conference on April 10, 1973 at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, concerning the lawfulness of the rates, charges, classification, and services contained in Sea Robin's FPC Gas Tariff, as proposed to be amended herein.

(C) At the prehearing conference on April 10, 1973, Sea Robin's prepared testimony (statement P) together with its entire rate filing shall be admitted to the record as its complete case-in-chief subject to appropriate motions, if any, by parties to the proceeding. All parties will be expected to come to this conference prepared to effectuate the provisions of §§ 1.18 and 2.59 of the Commission's rules of practice and procedure.

(D) On or before March 15, 1973, the Commission staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of all intervenors shall be served on or before March 29, 1973. Any rebuttal evidence by Sea Robin shall be served on or before April 13, 1973. The public hearing herein ordered shall convene on April 24, 1972, at 10 a.m., e.s.t.

(E) A presiding administrative law judge to be designated by the chief administrative law judge for that purpose (18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in § 2.59 of the Commission's rules of practice and procedure.

(F) Pending hearing and a decision thereon Sea Robin's tariff sheets are suspended for 5 months and the use thereof deferred until April 15, 1973 and until such further time as they are made effective in the manner provided in the Natural Gas Act.

(G) The aforementioned petitioners for intervention are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That participation of the intervenors shall be limited to the matters affecting asserted rights and interests specifically set forth in the petitions to intervene: and *Provided, further,* That admission of the intervenors shall not be construed as recognition by the Commission that the intervenors may be aggrieved by any order entered in the proceeding.

(H) Waiver of § 154.63(e)(2)(ii) of the Commission's regulations is hereby granted to Sea Robin, subject to the conditions specified herein.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19986 Filed 11-20-72;8:48 am]

[1] See 37 F.R. 23750.

[Docket No. CP73-115]

TENNESSEE GAS PIPELINE CO.

Notice of Application

NOVEMBER 14, 1972.

Take notice that on October 31, 1972, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Applicant), Post Office Box 2511, Houston, TX 77001, filed in Docket No. CP73-115 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct the following additions to its system:

1. 56.6 miles of 36-inch loop lines in Louisiana, Mississippi, Alabama, and Tennessee,

2. 14.7 miles of 42-inch loop line in Kentucky,

3. A 2,500 horsepower addition to its Collinwood Compressor Station, and

4. A 10,000 horsepower additional to its Ysclosky Compressor Station.

Applicant states that construction of the facilities proposed herein will increase its authorized system design capacity by 53,000 Mcf to a total of 3,835,000 Mcf and will provide only sufficient increased capacity to enable it to continue to provide presently authorized service.

Applicant estimates the cost of the proposed facilities at $27,845,000, which it plans to finance initially from general funds of the company and/or from borrowings under the company's revolving credit agreements.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19993 Filed 11-20-72;8:49 am]

[Docket No. CS71-383]

TEXAS GULF, INC., ET AL.

Notice of Redesignation

NOVEMBER 13, 1972.

By letter dated August 10, 1972, Texas Gulf Inc. has advised the Commission that its corporate name has been changed from Texas Gulf Sulphur Co. effective April 28, 1972.

Accordingly, the small producer certificate of public convenience and necessity issued pursuant to section 7(c) of the Natural Gas Act to Texas Gulf Sulphur Co. (Operator), et al., is redesignated as that of Texas Gulf, Inc., et al.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19995 Filed 11-20-72;8:49 am]

[Docket No. CI73-335]

TEXACO INC.

Notice of Application

NOVEMBER 15, 1972.

Take notice that on November 8, 1972, Texaco Inc. (Applicant), Post Office Box 60252, New Orleans, LA 70160, filed in Docket No. CI73-335 an application pursuant to section 7(c) of the Natural Gas Act and § 2.75 of the Commission's general policy and interpretations (18 CFR 2.75) for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), from the East Cameron Block 271 Field, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes under the optional gas pricing procedure to sell natural gas to Tennessee from East Cameron Blocks, 254, 255, 271, and 272 at an initial rate of 45.0 cents per Mcf, subject to upward and downward B.t.u. adjustment, at 15.025 p.s.i.a. The subject contract with Tennessee dated October 6, 1972, provides for reimbursement to the seller for 100 percent of any new or increased taxes, for price escalations of 1.0 cent per Mcf annually, and for a term of 20 years.

Applicant asserts that the 45.0-cent per Mcf initial rate is significantly lower than prices for sales of liquefied natural gas to be used as base load supplements and for peak shaving purposes for which applications are pending or have been approved by the Commission, lower than the estimated prices for sales of synthetic pipeline gas, gas produced by coal gasification plants and Alaskan gas, and lower than the proposed new ceiling rate of 50.0 cents per Mcf for the Applachian area, which has received wide support. Applicant further asserts that the 45.0-cent price compares favorably with the prices at which new gas suppliers from Canada will be priced in the years ahead. Applicant contends that the least cost alternative concept is a proper device for testing whether the price for the subject sale is justified, and that the instance price, including all fixed escalations, is significantly less than that for the otherwise available alternatives from nonconventional sources.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 11, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19994 Filed 11-20-72;8:49 am]

[Docket No. CI73-343]

UNION TEXAS PETROLEUM

Notice of Application

NOVEMBER 15, 1972.

Take notice that on November 9, 1972, Union Texas Petroleum, a division of

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Allied Chemical Corp. (Applicant), Post Office Box 2120, Houston, TX 77001, filed in Docket No. CI73-343 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Columbia Gas Transmission Corp. (Columbia) from Block 273, East Cameron Area, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell gas to Columbia at 45 cents per Mcf at 15.025 p.s.i.a. Applicant states that the proposed sale is subject to its option to receive 25 percent of the average daily quantity of gas produced and made available by Applicant to Columbia from Block 273.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 11, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-19997 Filed 11-20-72;8:49 am]

FEDERAL RESERVE SYSTEM

AMERICAN BANCORPORATION

Order Denying Formation of Bank Holding Company

American Bancorporation, Los Angeles, Calif., has applied for the Board's approval, under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)), of formation of a bank holding company through acquisition of 50 percent, plus one share, of the outstanding voting shares of Ranchers Bank, Quartz Hill, Calif.

Notice of receipt of the application has been given in accordance with section 3(b) of the Act, and the time for filing comments and views has expired. The Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

On the basis of the record, the application is denied for the reasons set forth in the Board's statement[1] of this date.

By order of the Board of Governors,[2] effective November 14, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-20030 Filed 11-20-72;8:50 am]

FIRST FINANCIAL CORP.

Order Approving Acquisition of Bank

First Financial Corp., Tampa, Fla., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire not less than 90 percent of the voting shares of First Financial National Bank of Tampa, Tampa, Fla. (Bank), a proposed new bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls 10 banks with aggregate deposits of $555 million, representing 3.4 percent of the total commercial bank deposits in the State, and is the sixth largest banking organization and bank holding company in Florida. (All banking data are as of December 31, 1971, unless otherwise noted, adjusted to reflect all bank holding company acquisitions and formations approved by the Board through October 31, 1972.) Since Bank is a proposed new bank, no existing competition would be eliminated nor would concentration be increased in any relevant area.

Bank would be located in a fast growing area north of Tampa, with an estimated population of 55,000, and would be competing in the Tampa banking market, in which applicant controls 32.9 percent of deposits. Applicant presently operates three subsidiary banks in the Tampa banking market, the closest being applicant's lead bank, the First National Bank of Tampa, located about 9 miles south of the proposed site of Bank. The ninth and seventh largest banking organizations in Florida rank second and third in the Tampa banking market and control 25.0 and 13.5 percent, respectively, of market deposits. Subsidiaries of five other bank holding companies also compete in the Tampa market, four of which are among the State's 10 largest banking organizations. Additionally, there are numerous intervening banks. It appears that consummation of the proposal herein would not alter adversely the competitive situation nor the concentration of resources in the market, nor is there any evidence in the record that applicant's proposal is an attempt to preempt a site before there is a need for a bank.

The financial and managerial resources and the future prospects of applicant and its subsidiaries are regarded as generally satisfactory. Prospects for Bank appear favorable since it would have capable and experienced management and would be adequately capitalized. Bank would be able to provide an additional source of full banking services in an area which is experiencing rapid growth. Considerations relating to the convenience and needs of the area to be served lend slight support to, and are consistent with, approval of the application. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, and (c) First Financial National Bank of Tampa, Tampa, Fla., shall be opened for business not later than 6 months after the effective date of this order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] effective November 14, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-20032 Filed 11-20-72;8:50 am]

NBC CO.

Order Approving Acquisition of Mutual Savings Company

NBC Co., Lincoln, Nebr., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to acquire all of the voting shares of Mutual Savings Co., Lincoln, Nebr. (Mutual), a company that engages in the operation of an industrial loan company in the manner authorized by Nebraska law and neither accepts demand deposits nor makes commercial loans. Such activity has been determined by the Board to be closely related to banking (12 CFR 225.4(a)(2)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (37 F.R. 15347). The time for filing comments and views has expired, and none has been timely received.

Applicant's banking subsidiary, National Bank of Commerce Trust and Savings Association (Bank), is the second largest of the 11 banks located in Lincoln, Nebr., and held deposits of $158.6 million, as of December 31, 1971. Mutual issues "certificates of indebtedness" and with funds derived thereby, makes small personal loans secured primarily by automobiles, household goods, and second mortgages on real estate. With total assets of $786,000, Mutual operates out of a single office in Lincoln, Nebr., and is the smallest of the three industrial loan companies in Lincoln.

The proposed transaction would have no significant adverse effect on existing competition in the market for lendable funds. Whereas Bank offers the usual range of deposit services offered by commercial banks, Mutual offers "certificates of indebtedness" which, though similar to certificates of deposit, represent a higher risk, due to their uninsured character, than do deposits received by Bank. This is reflected in higher interest rates paid by Mutual on such funds, than are paid by Bank for its deposit liabilities and by the fact that a substantial portion of the holders of Mutual's "certificates of indebtedness" also maintain savings deposits at insured institutions. Barriers to entry into the banking business and legal requirements that Bank, as a national bank, maintain the insured character of its deposits and comply with limitations upon the payment of interest on deposits established by the Board's Regulation Q (12 CFR Part 217) suggest that future significant development of competition between Mutual and Bank in the market for such lendable funds is unlikley. The major portion of Mutual's loan portfolio is secured by second mortgages on real estate. Bank is generally prohibited by section 24 of the Federal Reserve Act (12 U.S.C. 371) from making loans in primary reliance on a second mortgage on real estate as security. However, some slight competition may exist between Mutual and Bank in the making of other consumer loans. Nevertheless, consummation of the proposed transaction would have only an insignificant adverse effect upon competition in the Lincoln consumer loan market in view of Mutual's relatively slight position in that market.

There is no evidence in the record indicating that consummation of the proposed transaction would result in any undue concentration of resources, unfair competition, unsound banking practices, or other adverse effects on the public interest. It is anticipated that Mutual's affiliation with applicant will strengthen Mutual's ability to compete vis a vis the two other industrial loan companies in Lincoln, both of which are substantially larger than Mutual. To the extent that consummation of the proposed transaction will strengthen Mutual as a competitive alternative in Lincoln and enable Mutual to accommodate certain borrowers which Mutual is presently unable to serve, public benefits would derive from consummation of the transaction.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in section 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[2] effective November 14, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-20034 Filed 11-20-72;8:51 am]

NORTHERN STATES FINANCIAL CORP. AND TWIN GATES CORP.

Order Approving Acquisition of Bank

Northern States Financial Corp., Detroit, Mich. (Northern States), a bank holding company within the meaning of the Bank Holding Company Act, and Twin Gates Corp., Wilmington, Del. (Twin Gates), a registered bank holding company owning directly 22.48 percent of the voting share of Northern States[1] have applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares of the successor by merger to Bank of Lansing, Lansing, Mich. (Bank). The applications state that the acquisition will be made directly by Northern States. The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of all the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the applications, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the applications and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Northern States is the seventh largest banking organization in Michigan, and controls one bank, City National Bank of Detroit, Detroit, Mich. (City National), with total deposits of $529.2 million, representing 2.3 percent of total commercial bank deposits in the State. (Unless otherwise indicated, banking data are as of December 31, 1971, adjusted to reflect holding company formations and acquisitions approved by the Board through October 31, 1972.) Upon acquisition of Bank ($130 million deposits), Northern States' share of deposits would increase by 0.6 percent, and Northern States would become the sixth largest banking organization in Michigan.

Bank, which operates seven offices in the city of Lansing and environs, holds 17.3 percent of the total commercial bank deposits in the Lansing market, and is the third largest bank in the market. The two larger banks in the market hold, respectively, 38.3 percent and 20.5 percent of the deposits in the market. (Market data are as of June 30, 1970.) It does not appear that any significant existing competition between Bank and the subsidiaries of Northern States and Twin Gates would be eliminated as a result of consummation of the proposal. The nearest banking office of City National or Rochester Bank is located 58 miles east of an office of Bank. Furthermore, in view of the distances involved, the large number of banking alternatives available, and the restrictions placed on branching by Michigan laws, it appears unlikely that any significant competition between the banking institutions would develop in the future.

While Northern States possesses the resources to enter the market de novo or through acquisition of a smaller bank, the elimination of such potential competition does not appear to be significantly adverse in view of the fact that Bank does not occupy a dominant position in the market. On the basis of the

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of San Francisco.

[2] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns.

[1] Voting for this action: Chairman Burns and Governors Robertson, Sheehan, and Bucher. Absent and not voting: Governors Mitchell, Daane, and Brimmer.

[2] Voting for this action: Chairman Burns and Governors Robertson, Sheehan, and Bucher. Absent and not voting: Governors Mitchell, Daane, and Brimmer.

[1] In addition, 10 separate trusts established for the benefit of the shareholders of Twin Gates hold an additional 15.8 percent of the voting shares of Northern States. Control of said shares is attributed to Twin Gates by virtue of sec. 2(g)(2) of the Act. Twin Gates and Northern States control indirectly, as a result of the profit-sharing trust of the banking subsidiary of Northern States, 13.2 percent of the voting shares of National Bank of Rochester, Rochester, Mich. (Rochester Bank). Twin Gates also directly owns an additional 20 percent of the voting shares of Rochester Bank, which is thus deemed to be a subsidiary of Twin Gates.

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foregoing and the facts of record, the Board concludes that consummation of the proposal would not eliminate significant existing competition nor foreclose the development of significant potential competition.

In view of plans to improve the capital position of City National Bank,[2] it appears that Northern States and its subsidiary bank are in generally satisfactory financial condition; their managements are capable, and prospects for each appear favorable. The financial and managerial resources of Twin Gates appear satisfactory, and its prospects are considered favorable. In reviewing the financial condition and prospects of Banks, the Board notes that Bank has experienced loan losses and is in need of additional capital. Northern States plans to immediately augment Bank's equity capital by $5 million. As a result of the implementation of this program and the technical assistance that Northern States would be able to provide Bank's management, the financial condition of Bank would be strengthened and its prospects enhanced. Thus, considerations relating to the banking factors as they relate to Bank lend weight to approval of the application. It appears that the banking needs of the Lansing banking market are being met; however, in view of the improved financial strength of Bank resulting from its affiliation with Northern States, Bank should be able to improve and expand its banking services. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and that the applications should be approved.

On the basis of the record, the applications are approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[3] effective November 14, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-20033 Filed 11-20-72;8:51 am]

[2] The Board's approval on Aug. 22, 1972, of Northern States' application to become a bank holding company was based, in part, on Northern States' proposal to increase the capital account of City National by $25 million. (1972 Federal Reserve Bulletin 827.)

[3] Voting for this action: Chairman Burns and Governors Robertson, Sheehan, and Bucher. Absent and not voting: Governors Mitchell, Daane, and Brimmer.

NORTHWEST KANSAS INSURANCE AGENCY, INC.

Order Approving Merger of Bank Holding Companies and Acquisition Through Merger of Insurance Agency

Northwest Kansas Insurance Agency, Inc., Colby, Kans., has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge bank holding companies and, thereby, to acquire 41.5 percent or more additional voting shares of The Thomas County National Bank, Colby, Kans. (Bank).

The proposed acquisition of Bank is to be accomplished by means of a statutory merger of Applicant with the Hi-Plains Insurance Agency, Inc., Colby, Kans., a bank holding company under common control with applicant. The application to acquire Bank, therefore, is under the jurisdiction of section 3(a)(5) of the Act, which provision requires the Board's prior approval "for any bank holding company to merge or consolidate with any other bank holding company." The Board has considered this application on that basis.

At the same time applicant has applied for the Board's approval under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y to engage in insurance agency activities through the acquisition, by merger, of the insurance agency business formerly conducted by the Hi-Plains Insurance Agency, Inc. (Hi-Plains Agency), to be named The Thomas County Insurance Agency, Inc., each of Colby, Kans.

Notice of receipt of the applications has been given in accordance with sections 3 and 4 of the Act (37 F.R. 21017), and the time for filing comments and views has expired. The Board has considered the applications in the light of the facts set forth in section 3(c) of the Act (12 U.S.C. 1842(c)), and the considerations specified in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and finds that:

Applicant is a one-bank holding company by virtue of its ownership of 41 percent of the outstanding voting shares of Bank; and the Hi-Plains Insurance Agency, Inc. (Hi-Plains), is a one-bank holding company by virtue of its ownership of 41.5 percent of Bank. In addition, applicant and Hi-Plains each own and operate a general insurance agency on the premises of Bank. Through these applications, applicant proposes to acquire 41.5 percent additional voting shares of Bank and succeed to the insurance agency business formerly conducted by Hi-Plains. Apolicant would accomplish this restructuring of corporate ownership of Bank and Hi-Plains Agency by merging Hi-Plains into applicant. Accordingly, no significant issues are presented by these applications.

Bank, with deposits of $11.5 million,[1] is the smaller of two commercial banks in Colby, Kans. Upon approval of this application, applicant would own 82.5 percent of Bank's voting shares. No existing or potential competition would be eliminated upon consummation of this proposal.

The financial and managerial resources of applicant, Bank, and Hi-Plains Agency are considered sound, and the future prospects of the respective organizations appear favorable. Consolidation of the structure under which Bank and Hi-Plains Agency operate could improve the internal operating efficiency of the respective organizations. It appears that consummation of applicant's proposal would not have any immediate effects on the convenience and needs of the communities to be served. Applicant, would, however, be more able, through increased resources, to offer expanded services to the community as such needs arise. Considerations relating to the convenience and needs of the communities to be served are, therefore, consistent with approval of the applications. It is the Board's judgment that the proposed transaction is consistent with the public interest and should be approved.

Applicant and Hi-Plains each currently operate separate general insurance agencies on Bank's premises. Applicant would acquire the insurance business formerly conducted by Hi-Plains Agency through its proposed acquisition by merger of Hi-Plains. Both Agencies compete with seven other insurance agencies in Colby, Kans., and Hi-Plains Agency engages in a general insurance agency business. Hi-Plains Agency sells life, credit life, fire, casualty, crop-hail insurance, and short term grain fire insurance.

Colby, Kans., is a town of approximately 4,700; acting as a general insurance agent or broker in a community of less than 5 000 people is an activity that the Board has previously determined by regulation to be closely related to banking (12 CFR 225.4(a)(9)). No existing or potential competition would be eliminated upon consummation of this proposal, since it represents only a restructuring of corporate ownership.

There is no evidence in the record indicating that consummation of the proposal would result in any undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices, or other adverse effects on the public interest. Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors that the Board is required to consider regarding the acquisition of Hi-Plains Agency under § 4(c)(8) is favorable and that the application should be approved.

[1] Banking data are as of June 30, 1972.

On the basis of the record, the applications to acquire Bank and Agency are approved for the reasons summarized above. The acquisition of Bank shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority. The determination as to Agency's activities is subject to the Board's authority to require reports by, and make examinations of, holding companies and their subsidiaries and to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[1] effective November 14, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-20031 Filed 11-20-72;8:50 am]

[1] Voting for this action: Chairman Burns and Governors Robertson, Sheehan, and Bucher. Absent and not voting: Governors Mitchell, Daane, and Brimmer.

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs. Temporary Reg. F-161]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the Federal Government in an electric service rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the California Public Utilities Commission in a proceeding (Application No. 53185) involving electric service rates provided by the Pacific Gas and Electric Co.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

NOVEMBER 14, 1972.

[FR Doc.72-20035 Filed 11-20-72;8:50 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 9849]

CENTRAL CERTIFICATE SERVICE, INC.

Proposals Released for Public Comment

NOVEMBER 8, 1972.

The Securities and Exchange Commission announced that Central Certificate Service, Inc. (CCS, Inc.), a wholly owned subsidiary of the New York Stock Exchange (NYSE), has submitted to the Commission pursuant to Rule 17a-8 under the Securities Exchange Act of 1934,[1] a proposed package[2] in anticipation of the eventual transfer of the operations of CCS, Inc., to trust company status with multiple ownership. The Commission is requesting public comment on these proposals and is making them publicly available in the manner described herein.

BACKGROUND OF THE PROPOSALS

CCS, Inc., has provided the Commission with the following background information on its proposal:

Recently as part of an internal reorganization of the clearing facility of the New York Stock Exchange, Central Certificate Service (CCS), which was a division of that NYSE clearing facility, became a wholly owned subsidiary of the NYSE operating under substantially the same rules and procedures applicable to CCS. Plans for CCS, Inc.'s development as a securities depository provide for it to evolve in stages from sole ownership and control by the NYSE to a separate and independent entity whereby ownership will be based upon the use of the depository by its participants. This evolution would follow the path outlined in a memorandum of understanding of September 1971 among the members of the Banking and Securities Industry Committee (BASIC). BASIC, which is sponsored by the NYSE, American Stock Exchange (Amex), the National Association of Securities Dealers, and 11 New York Clearing House Banks, is devoted to the solution of interindustry problems. One of the primary objectives of BASIC has been to expand CCS into a Comprehensive Securities Depository System which will serve all brokers, banks, and other financial institutions such as insurance companies and investment companies. The September memorandum signed by the sponsors of BASIC, among other things, commits each of the signatories to employ its best efforts to create a comprehensive depository in New York for stocks and other securities.

It is contemplated that CCS, Inc., would exist as a business corporation for only a matter of months until its business could be transferred to a limited purpose trust company chartered by the New York State Banking Department. The trust company would seek membership in the Federal Reserve System and would function under new rules which CCS, Inc., has submitted to the Commission and are a part of this package. These rules are not being reviewed by the Commission and as previously indicated, your comment is invited on them. The NYSE would be the sole owner of the trust company initially, and the Board of Directors of CCS, Inc., would become the Board of the trust company.

At such time as amendments in various States to section 8-102(3) of the Uniform Commercial Code make it possible for a depository to be owned by entities in addition to a national securities exchange, it is contemplated that ownership of the shares of CCS, Inc., in its trust company form will be widened to reflect the intention that it become a user-owned entity. At that time it is expected that several New York Clearing House Banks, the Amex, and NASD would purchase stock in the trust company from the NYSE. Ownership of the trust company's stock threafter would be determined annually based on the extent to which participants in the depository used its services during the previous year. The Board of CCS, Inc., has affirmed its commitment to the goal of user-based ownership. However, the time required to obtain necessary State law changes means that user-based ownership of the trust company successor of CCS, Inc., will not be possible before 1974.

A description of the proposed package now follows:

CERTIFICATE OF INCORPORATION OF CCS, INC.

CCS, Inc., has submitted a newly proposed corporate charter which contains the following principal provisions:

1. A purpose clause setting forth the purposes for which CCS, Inc., is formed. The new charter, as submitted, specifically precludes CCS, Inc., from acting as a transfer agent.

2. Voting and quorum requirements necessary for the Board of Directors to act on various matters.

3. Provision is made for election of directors by cumulative voting in the new charter.

[1] Under Rule 17a-8, exchange depositories are required to file proposed rule changes with the Commission for its review and comment. The term rule includes the constitution, articles of incorporation, bylaws, or rules or instruments corresponding thereto whatever the name, and stated policies.

[2] The package consists of a proposed certificate of incorporation, and proposed bylaws, rules, manual of operating procedures, form agreements, and certain corporate resolutions.

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4. The charter submitted also differs from the present CCS, Inc., charter in having provisions regarding stock ownership in CCS, Inc. Stock ownership is available to banking organizations, insurance companies, investment companies, and to national securities exchanges or associations as representatives of broker-dealers. The proposed charter does not allow broker-dealers to own stock in CCS, Inc.

BYLAWS OF CCS, INC.

In general, the bylaws of CCS, Inc., cover the following principal matters:

1. Meetings of shareholders, including the time, place, notice required for special and annual meetings, quorum requirements, and voting, in person or by proxy.

2. Directors including the number and term of office, special and annual meetings of the Board, quorum requirements, committees of the Board and their authority, and director compensation.

3. Officers of the corporation including their title, duties, and manner of choosing and compensating them.

4. Indemnification of officers and directors.

5. Authority of the board of directors to prescribe and amend the rules of CCS, Inc.

RULES OF CCS, INC.

In general the rules of CCS, Inc., contain the following principal provisions:

Rules 2–3. Those permitted to be participants in CCS, Inc., are corporations engaged in clearance and settlement activities or a member or member organization of such corporation, depositories, banks or trust companies, insurance companies, investment companies, pension funds and any other entity of such type as CCS, Inc., may determine it has the capability to serve. Such prospective participant must file an application which must be approved by the corporation "which approval shall only be given upon a determination by the corporation that it has the existing capability to perform its services for such entity and that such entity has demonstrated and continues to possess the character, financial ability, and operational history and capability necessary to fulfill its commitments in an efficient and businesslike manner consistent with the interests of the corporation and other participants and pledgees and has the capability to conform to any condition and requirement which the corporation deems necessary for its protection and the protection of other participants and pledgees * * *."

Rule 4. A participant's fund will require deposits by participants upon the basis of a formula established by CCS, Inc., based upon usage. The minimum contribution is $10,000. The fund is available for the uses specified in the rules including for the purposes of its business.

Rule 5. CCS, Inc., plans to accept an issue of securities as eligible securities only upon a determination by it that it has the existing capability to continue successfully to provide its services to participants and pledgees when securities of such issue are deposited. In seeking the addition of issues of securities to its list of eligible securities, CCS, Inc., states that it will also be guided by the extent to which the addition of those issues will produce the maximum benefit to the processing of securities transactions.

Rule 6. Services to be performed by CCS, Inc., for its participants and pledgees include acceptance of eligible securities from participants for deposit; effecting transfers by a participant of its deposited securities to another participant; effecting pledges by a participant of its deposited securities to a pledgee; effecting the release of such pledges; delivering to a participant its deposited securities; delivering dividends, distributions, rights, securities, proxy material, etc.; disbursing money to, and receiving money from, participants and pledgees in connection with related securities transactions; and providing participants and pledgees information and statements of account regarding their business with CCS, Inc.

Rule 7. Each participant which does not appoint another participant as its agent is required to make operational arrangements satisfactory to CCS, Inc., to deliver to, and receive from, an office, agency, or custodian of CCS, Inc., securities, instructions, and other documents. Also, if required by CCS, Inc., because of the location of the participant, the participant shall arrange communications facilities between the participant and CCS, Inc., which shall be satisfactory to CCS, Inc.

Rule 9. Money payments between CCS, Inc., and participants or pledgees and between participants or pledgees and other participants or pledgees arising out of transactions delivery with respect to which is effected through the facilities of CCS, Inc., are to be made through CCS, Inc. In addition, it should be noted that balances due CCS, Inc., from a participant or pledgee shall be paid by check payable in New York clearinghouse funds.

Rules 11–13. These rules describe the circumstances under which CCS, Inc., may cease to act for a participant either with respect to a particular transaction or transactions or with respect to transactions generally and the effects thereof.

Rule 19. CCS, Inc. may fine a participant for violating the rules or procedures, for errors, delays, or other conduct detrimental to the operations of CCS, Inc., or for not providing adequate facilities for its business with CCS, Inc. The fine for any given offense is limited to $1,000. In addition to or in lieu of a fine, CCS, Inc., may impose penalties on a participant. The fine or penalty (and the amount thereof) may be imposed by the chairman of the board, the president or any executive vice president of CCS, Inc.

Rule 20. A participant or pledgee or an applicant to become such shall have the right to appeal any decision of CCS, Inc., (a) which denies such applicant's application to become a participant or a pledgee, (b) to cease to act for such participant, or (c) to terminate its agreement with such pledgee. The rule also describes the manner in which such decision shall be appealed.

OPERATING PROCEDURES OF CCS, INC.

These are detailed technical procedures which deserve special attention by those familiar with the processing of security transactions.

CORPORATE RESOLUTIONS OF CCS, INC.

The corporate resolutions provide that when the stock of CCS, Inc., is owned by more than one person, users who are eligible to purchase its shares under the charter will be encouraged to become owners. Ownership will be determined annually based on the extent to which participants in the depository used its services during the previous year. The resolutions also provide that CCS, Inc., will seek a limited profit. Its objective in pricing its services to users is to charge the lowest fees possible consistent with coverage of normal operating costs, foreseeable needs for new equipment and capital improvements, and a surplus position. It will pay limited annual dividends to shareholders.

FOUR BASIC FORM AGREEMENTS

We have been provided with four basic form agreements which must be signed by prospective participants, pledgees and custodians. These are:

1. Participants agreements.
2. Participants fund agreement.
3. Pledgee agreement.
4. Custodian bank agreement.

These documents should be reviewed by interested persons.

PUBLIC AVAILABILITY OF DOCUMENTS

It should be noted that the release does not attempt to fully describe the provisions of any of the aforementioned documents nor has the Commission or its staff in any way passed upon the merits of the proposals. Since the proposal and accompanying documents may have a significant impact upon the financial community, the public and the Commission's regulatory oversight over depositories which are trust companies and are not wholly owned subsidiaries of an exchange, the Commission believes it appropriate that all interested persons have an opportunity to comment on these proposals.[3]

A copy of the certificate of incorporation, bylaws, rules, operating procedures, two corporate resolutions and four basic form agreements are available for inspection at the Commission headquarters office and its regional offices. The September memorandum of understanding

[3] In its Aug. 23, 1972 report of the Study of the Securities Industry at p. 110, the House Subcommittee on Commerce and Finance of the Committee on Interstate and Foreign Commerce expresses its view in support of exposing important NYSE rule proposals for public comment.

is also available for inspection. In addition, any person may, upon request, receive a copy of the proposed rules, certificate of incorporation and corporate ffficate of incorporation and corporate resolutions from the Commission. Inasmuch as the release does not touch upon all the details contained in the various documents and may omit reference to provisions which may be of significance to certain parties, it is recommended that the documents be reviewed.

All interested persons are invited to submit their views and comments on the proposals in writing to Lee A. Pickard, Associate Director, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, DC 20549, on or before December 12, 1972. All such communications will be available for public inspection.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-19960 Filed 11-20-72;8:46 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

TUDOR ENGINEERING CO. AND ST. JOE MINERALS CORP.

Grants of Variances

Tudor Engineering Company:

I. *Background.* Tudor Engineering Co. made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596) and 29 CFR Part 1905 for a variance from the safety and health standard prescribed in 29 CFR 1910.27, requiring that a caged ladder have a maximum length of 30 feet between landing platforms. Notice of the application for variance made by Tudor Engineering Co. was published in the FEDERAL REGISTER on May 31, 1972 (37 F.R. 10820). The notice invited interested persons, including affected employers and employees, to submit written data, views, and arguments regarding the grant or denial of the variance requested. In addition, affected employers and employees were permitted to request a hearing on the application for a variance. No written comments and no request for a hearing have been received.

II. *Facts.* The applicant has installed supplemental navigation lights and appurtenant facilities for the Umatilla Toll Bridge at Umatilla, Oreg. The bridge, which is owned by Umatilla County, crosses the Columbia River and connects Umatilla County, Oreg., with Benton County, Wash.

Applicant has installed one fixture each on the upstream and downstream faces of the bridge piers, which are concrete structures with vertical faces. The light fixtures are located at an elevation prescribed by the U.S. Coast Guard, which is approximately 30 feet below the top of the piers involved. Tudor states that the most convenient arrangement for servicing the light fixtures would be from a platform located 4 feet below the fixture. The applicant argues that another landing platform 4 feet above the working platform, which would be required by § 1910.27(d)(2), would serve no safety purpose, especially since the ladders would be used only two or three times a year for servicing the fixtures. Accordingly, applicant would use four ladders in order to provide access to the new navigation lights. The ladders, two 34 foot-length and two 35 foot-length are fixed vertical metal ladders with cages.

III. *Decision.* Section 1910.27(d)(2) requires landing platforms to be provided for each 30 feet of height, or fraction thereof, when ladders with cages are used to ascend heights exceeding 20 feet. The primary purpose of the standard is to limit the height to which an employee may be required to ascend using a ladder before there can be a break or stop in his ascent. A landing platform provides a stopping point which an employee may use for rest or emergency.

The light fixtures of the applicant are installed on the upstream and downstream faces of the bridge piers at an elevation prescribed by the U.S. Coast Guard. Since this elevation is approximately 30 feet below the top of the bridge piers the most convenient arrangement is to service the fixtures from a platform that is located about 4 feet below the fixtures. Such a platform requires ladders which are approximately 34 feet long. In view of the fact that the ladders will exceed the length allowed without a landing platform by only 4 or 5 feet, and of the fact that few workers will use the ladders, and, then, only two or three times a year, we believe the ladders will be just as safe as they would be with another landing platform 4 feet above the working platform. Therefore,

IV. *Order.* Pursuant to authority in section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970, 29 CFR Part 1905, and in Secretary of Labor's Order No. 12–71 (36 F.R. 8754), *It is ordered,* That Tudor Engineering Co. be, and it is hereby, authorized to use two 34-foot and two 35-foot fixed vertical metal ladders with cages to provide access to the new supplemental navigation lights and appurtenant facilities, for the servicing of the light and facilities, on the Umatilla Toll Bridge at Umatilla, Oreg., without the landing platform otherwise required by 29 CFR 1910.27(d).

As soon as possible, Tudor Engineering Co. shall give notice to affected employees of the terms of this order by the same means required to be used to inform them of the application for variance.

St. Joe Minerals Corp.:

I. *Background.* St. Joe Minerals Corp. made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596), section 41 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 941) and 29 CFR Part 1905, for a variance from 29 CFR 1918.74(a)(9) concerning load indicating devices for cranes used to load or unload vessels. Notice of the application was published in the FEDERAL REGISTER on May 31, 1972 (37 F.R. 10820). The notice invited interested persons, including affected employers and employees, to submit written data, views, and arguments regarding the grant or denial of the variance requested. In addition, affected employers and employees were permitted to request a hearing on the application for a variance. No written comments and no request for a hearing have been received.

II. *Facts.* The applicant uses a crane for loading and unloading zinc metal bars and zinc ingots into river barges on the Ohio River. The work is performed at applicant's Zinc Smelting Division which is located on the Ohio River about 30 miles downstream from Pittsburgh, Pa. The applicant's variance request concerns the requirement of load indicating devices on cranes used for loading and unloading vessels. Applicant requests to be permitted to use cranes without load indicating devices.

The applicant has posted the manufacturer's rated load capacity of 12 tons in the cab of the crane. Loads are not containerized so that they are plainly visible to all employees involved in the operation. Each load to be lifted by the crane is accurately weighed and the weight is marked on a weight ticket which is then attached to the load itself. In addition, applicant insures that the maximum weight of a load lifted is within the rated load capacity of the crane by hoisting the zinc metal bars inside a steel lifting frame designed to limit the weight of the total load to 9 tons. Since each load is weighed before it is hoisted and the lifting frame is designed to limit the total weight of the load to 9 tons, the applicant argues that its loading and unloading operation is just as safe as it would be if the crane were equipped with a load-sensing device.

III. *Decision.* The longshoring standard, from which a variance is sought, requires load-indicating devices or alternative devices on cranes used to load or discharge cargo into or out of a vessel, 29 CFR 1918.74(a)(9). The primary purpose of a load-indicating device is to indicate to a crane operator the weight of a lift before the lift is made, to insure that it is within the capacity of the crane. Without such information the crane could attempt to lift loads in excess of its capacity, in which case it may overturn or drop the load, and injure employees engaged in the operations.

It appears from the application and a supporting statement of an accredited cargo gear surveyor that the operator of the applicant's crane is informed of the weight of each load. Each load is accurately weighed, and the weight is marked on a current weight ticket which is attached to the load. In addition, it appears that zinc bars, the usual load, are hoisted inside a steel lifting frame which

with Car Service Rules 1 and 2 would on the N. & W. within the switching dis- with Rule 16 (49 CFR 1100.16 relating to

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is so designed that the weight of the total load is limited to a maximum of 9 tons. When zinc ingots are occasionally lifted, they are lifted one at a time, and weigh about 1,000 pounds each. Therefore, the maximum weight of each load lifted by the crane is known to the operator and in addition is at least 2 tons less than the rated load capacity (12 tons) of the crane at maximum reach. Thus, a load indicating device on the crane would only repeat the information already obtained by actual weighing. It follows that applicant's operation of loading and unloading zinc bars and ingots by means of a crane without a load indicating device or other alternatives required by 29 CFR 1910.74(a)(9) is at least as safe as it would be if the crane were equipped with such a device. Therefore,

IV. *Order.* Pursuant to authority in section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970, section 41 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 941), 29 CFR Part 1920, 29 CFR Part 1905, and in Secretary of Labor's Order No. 12–71 (36 F.R. 8754), *It is ordered,* That St. Joe Minerals Corp. be, and it is hereby, authorized to use cranes for loading and unloading zinc bars and ingots into and out of vessels, without any load indicating device or alternative device required by 29 CFR 1918.74(a)(9), provided that (a) the rated capacities of the cranes are made known to the crane operators and (b) the weight of each load is made known to the operators before it is lifted.

As soon as possible, St. Joe Minerals Corp. shall give notice to affected employees of the terms of this order by the same means required to be used to inform them of the application for variance.

Effective dates. These orders shall become effective on November 21, 1972, and shall remain in effect until modified or revoked in accordance with section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970.

Signed at Washington, DC this 15th day of November 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-19984 Filed 11-20-72;8:48 am]

INTERSTATE COMMERCE COMMISSION

[Notice 120]

ASSIGNMENT OF HEARINGS

NOVEMBER 16, 1972.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

AB 49, Ann Arbor Railroad Co. abandonment entire line of railroad, including all of its car ferry routes, in Benzie County, Mich., and Kewaunee and Manitowoc Counties, Wis., now assigned December 4, 1972, at Frankfort, Mich., hearing will be held in the Eagle Hall, Highway M–22, East End.

MC 124606 Sub 3, Ford Truck Line, Inc., now assigned December 11, 1972, at Memphis, Tenn., hearing will be held in Room 914, Federal Office Building, 167 North Main Street.

No. 35558, Arkansas Intrastate Freight Rates and Charges—1972, now assigned December 18, 1972, at Little Rock, Ark., hearing will be held in Room 5404, Federal Office Building.

MC–124211 Sub 217, Hilt Truck Line, Inc., now assigned December 4, 1972, will be held in Room 1630, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, IL.

FD–26835, Cadillac & Lake City Railway Co. reorganization, now assigned December 11, 1972, will be held in the First National Bank Building, Cadillac, Mich.

MC–20783 Sub 88, Tomokins Motor Lines, Inc., now assigned December 13, 1972, will be held in Room 204, Federal Office Building, 167 North Main Street, Memphis, TN.

I&S 8773, Transit, vegetable and animal oils, midwest to west, now assigned December 6, 1972, at Chicago, Ill., hearing is postponed to February 7, 1973, at Chicago, Ill., in a hearing room to be later designated.

MC 73165 Sub 305, Eagle Motor Lines, Inc., now assigned November 27, 1972, at Birmingham, Ala., is canceled and the application is dismissed.

MC 136750 Sub 1, New England Finishing & Furniture Haulers, Inc., now assigned January 24, 1973, at Boston, Mass., is advanced to January 22, 1973, at Boston, Mass., in a hearing room to be later designated.

MC–51146 Sub 211, Schneider Transport & Storage, Inc., now assigned December 18, 1972, will be held in Room 1010, Federal Building, 230 North First Avenue, Phoenix, AZ.

MC 55898 Sub 48, Harry A. Decato, doing business as Decato Bros. Trucking Co., now assigned January 22, 1973, at Boston, Mass., hearing is postponed indefinitely.

AB–5 Sub 10, George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, Trustees of the property of the Penn Central Transportation Co. Debtor, abandonment Catskill Mountain Branch between Kingston and Bloomville, in Delaware, Schoharie and Ulster Counties, N.Y., now assigned December 11, 1972, will be held at the Village Hall, Main Street, Stamford, N.Y.

MC–119632 Sub 54, Reed Lines, Inc., now assigned January 8, 1973, at Columbus, Ohio, is canceled and Application Dismissed.

MC–P 11530, John R. Remis, Bernard Sacharoff, John Roncoroni, Louis Geik, Henry Bono, Nicholas Accardi, New Deal Delivery Service, Inc., Eastern Transportation Co., Inc. and Airfreight Transportation Corporation of New Jersey—Investigation of control, MC–FC–71876, Resil Trucking Corp., Transferee and Eastern Transportation Co., Inc., Transferor, now assigned December 13, 1972, at New York, N.Y., hearing will be held in Room A–238, Court of Claims, 26 Federal Plaza.

MC 98964 Sub 10, Palmer Brothers, now being assigned hearing January 15, 1973 (1 week), at Salt Lake City, Utah, in a hearing room to be later designated.

MC 135524 Subs 6 and 7, G. F. Trucking Co., now being assigned hearing January 8, 1973 (1 day), in Courtroom 4, State Office Building, 65 South Front Street, Columbus, OH.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-20017 Filed 11-20-72;8:52 am]

[Ex Parte 241; Rule 19, Exemption 24]

EMERGENCY MOVEMENT OF MILITARY IMPEDIMENTA

Exemption from Mandatory Car Service Rules

It appearing, that there is an emergency movement of military impedimenta from Army depot, Georgia, to Mobile, Ala.; that the originating carrier has insufficient system cars of suitable dimensions immediately available for loading with this traffic; that sufficient cars of other ownerships having suitable dimensions are available on the lines of the originating carrier and on its connections; and that compliance with Car Service Rules 1 and 2 would prevent the timely assembly and use of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, the Car Service Division of the Association of American Railroads is authorized to direct the movement to the Southern Railway Co., the railroads designated by the Car Service Division are authorized to move to, and the Southern Railway Co. is authorized to accept, assemble, and load not to exceed twelve (12) empty cars with military impedimenta from Army depot, Georgia, to Mobile, Ala., regardless of the provisions of Car Service Rules 1(b), 2(c), 2(d), or 2(e).

Effective November 10, 1972.

Expires November 20, 1972.

Issued at Washington, D.C., November 10, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.72-20021 Filed 11-20-72;8:52 am]

[Ex Parte 241; Rule 19, Exemption 25]

EMERGENCY MOVEMENT OF MILITARY IMPEDIMENTA

Exemption from Mandatory Car Service Rules

It appearing that there is an emergency movement of military impedimenta from Leland (Sunny Point), N.C., to Fort Estill, Ky.; that the originating carrier has insufficient system cars of suitable dimensions immediately available for loading with this traffic; that sufficient cars of other ownerships having suitable dimensions are available on the lines of the originating carrier and on its connections; and that compliance with Car Service Rules 1 and 2 would prevent the timely assembly and use of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, the Car Service Division of the Association of American Railroads is authorized to direct the movement to the Seaboard Coast Line Railroad Co., the railroads designated by the Car Service Division are authorized to move to, and the Seaboard Coast Line Railroad Co. is authorized to accept, assemble, and load not to exceed twenty-five (25) empty cars with military impedimenta from Leland (Sunny Point), N.C., to Fort Estill, Kentucky, regardless of the provisions of Car Service Rules 1(b), 2(c), 2(d), or 2(e).

Effective November 10, 1972.

Expires November 20, 1972.

Issued at Washington, D.C., November 10, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.72-20022 Filed 11-20-72;8:52 am]

[Ex Parte 241; Rule 19, Exemption 23]

NORFOLK AND WESTERN RAILWAY CO.

Exemption From Mandatory Car Service Rules

It appearing that there is a substantial short-time movement of grain traffic in intraterminal switching service within the Toledo, Ohio, switching district of the Norfolk and Western Railway Co. (N. & W.); that the N. & W. is unable to supply sufficient plain boxcars of its system ownership to fully meet the car supply needs of this traffic; that there is a regular movement of empty foreign boxcars of eastern railroad ownership, en route to owners via the Toledo, Ohio, terminals of the N. & W., that use of such cars for a single trip in intraterminal grain traffic within the Toledo, Ohio, terminal of the N. & W. will enable that line to protect fully the freight car requirements of the shippers originating this traffic; and that such limited use of eastern line boxcars by the N. & W. would have no significant effect on the boxcar supplies of the car owners.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, cars listed in the Official Railway Equipment Register, I.C.C. R.E.R. No. 385, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation XM, with inside length 49 ft. 8 in., equipped with doors 8 ft. wide or less, and bearing reporting marks assigned to railroads not serving Toledo, Ohio, which are classified by the Car Service Division, Association of American Railroads, Supplement No. 113 to Circular CCS–1, as being in the eastern district, may be loaded for one trip only with grain originating and terminating on the N. & W. within the switching district of Toledo, Ohio.

When so loaded, such cars shall be exempt from the provisions of Car Service Rule 2; and

It is further ordered, That after being unloaded at Toledo, Ohio, after a single trip in the aforementioned intraterminal movements of grain, such cars shall be subject to all of the provisions of Car Service Rule 2.

Effective November 10, 1972.

Expires January 15, 1973.

Issued at Washington, D.C., November 10, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.72-20020 Filed 11-20-72;8:52 am]

[Ex Parte No. MC–19 (Sub-No. 19)]

PRACTICES OF MOTOR COMMON CARRIERS OF HOUSEHOLD GOODS

Denial of Petition for Reconsideration

Order. At a session of the Interstate Commerce Commission, Division 1, Acting as an Appellate Division, held at its office in Washington, D.C., on the 15th day of November 1972.

Upon consideration of the record in the above-entitled proceeding, of the petition, filed November 7, 1972, of Grace Polk Stern for reconsideration of the procedural order of Commissioner Murphy entered herein on October 31, 1972, embracing a motion seeking review of the involved procedural matters by the entire Commission, and of the comments of Consumers Union of the United States, Inc., in support thereof; and

It appearing, that by notice dated July 28, 1972, and published in the FEDERAL REGISTER (37 F.R. 15466) on April 2, 1972, in this proceeding, the Commission invited representations by all interested persons in favor of, or against, the relief sought by petitioner, the Department of Transportation, and requested the Department to supply for the record the information and data upon which its petition is based; that the date for filing representations in this proceeding has been twice extended and is now fixed as December 11, 1972; and that to date, representations have been filed on behalf of, among others, the persons, organizations, associations, and carriers listed below; that contrary to the contention of petitioner, this list demonstrates that individuals and consumer groups have responded to the Commission's invitation, have not met with any resistance of their participation, and are well represented in this proceeding;

It further appearing, that the above-described notice directed interested persons to serve a single copy of their representation upon DOT and to serve an original and 15 copies upon this Commission; that this Commission calls for copies of representations in conformity with Rule 16 (49 CFR 1100.16 relating to number of copies) so that each of the 11 Commissioners and appropriate staff have a copy available for consideration; that Rule 15 of the Commission's rules of practice (49 CFR 1100.15 relating to typographical and other physical specifications) is designed to ensure that legible documents are received for placement in the docket in each proceeding which is then made available to any interested member of the public;

It further appearing, that by motion filed October 18, 1972, Grace Polk Stern sought waiver of these procedural requirements, set forth in Rules 15 and 16 of the Commission's rules of practice; that by order of Commissioner Murphy, dated October 31, 1972, this motion was denied, but the order stated that individual requests for waivers of any of the requirements of said rules will be considered when the document to which the request pertains is submitted; and that the reasons for this action are: (1) the broad nature of the request, which would have required this Commission to accept all representations in this proceeding regardless of their legibility, length, or relevancy, leaves considerable doubt as to the effect or impact on Commission procedures of a grant of the requested waivers, and (2) it could not be determined from the motion how great a burden approval of the requested waivers would place upon the Commission's limited staff and budget;

It further appearing, that the order hereunder review expressed this Commission's willingness and desire to consider waiver requests on an individual basis (whether express or implied from all the circumstances) and when accompanied by the tendered documents to which the requests pertain; and that the involved order, in our judgment, was just and equitable and indicates clearly that the public participation in this proceeding is indeed invited and welcome;

It further appearing, that, contrary to petitioner's contentions, the prior order of Commissioner Murphy plainly established that the criteria which will govern the disposition of all such waiver requests are those stated in Rule 2 of the Commission's rules of practice (49 CFR 1100.2), viz., that the rules "shall be liberally construed to secure just, speedy, and inexpensive determination of the issues presented";

It further appearing, that in this proceeding the Commission is attempting to obtain the views of as many individual members of the public as possible, and that there is no intent to hinder any individual from presenting views, arguments, or any other representations that will assist the Commission in any action which it may wish to take herein; that in order to assure that all interested persons are heard in this proceeding, and in accordance with Rule 2 described above, all representations received by this Commission not in complete compliance with Rules 15 or 16 will be treated as though accompanied by an implied waiver of these rules; and that the Commission will seek to permit all legible and

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reasonably sized pleadings into evidence in this proceeding; that this procedure assures that no undue burden will be placed upon any persons seeking to make their views known to this Commission and having such views considered; and good cause appearing therefor:

It is ordered, That, subject to the further explanation set forth above, the petition and embraced motions be, and they are hereby, denied and overruled, respectively, for the reasons (1) that the order of Commissioner Murphy, entered herein on October 31, 1972, is in accordance with the evidence and the applicable law, and (2) that no proper or sufficient cause appears for reopening this matter for reconsideration or for granting any of the relief sought.

By the Commission, Division 1, Acting as an Appellate Division.

[SEAL] ROBERT L. OSWALD, *Secretary.*

Virginia H. Knauer, White House, Office of Consumer Affairs
Consumer Federation of America
Department of Weights, Measures and Consumer Affairs of the County of Santa Clara, Calif.
Lehn & Fink Products Co.
Consumers Union
Office of Consumer Affairs of the City of New Orleans, La.
University of Kansas Continuing Education
Virginia Citizens Consumer Council, Inc.
Mr. E. Scott Chronister (an individual)
Mrs. Kathryn L. Carlisle (an individual)
Mrs. John P. Zilko (an individual)
Professor Frederic B. Shipley II (an individual)
Mr. & Mrs. Jim G. Schissler (individuals)
Dawn Moving & Storage Co., Inc.
Household Goods Carriers' Bureau
Movers' & Warehousemen's Association of America, Inc.
American Movers Conference
Wheaton Van Lines, Inc.
Garrison Van & Warehouse Corp.
The Wm. Fridrich Moving & Storage Co.

[FR Doc.72-20016 Filed 11-20-72;8:51 am]

[Notice 163]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73850. By order of November 9, 1972, the Motor Carrier Board approved the transfer to Intercity Bus Lines, Inc., Roanoke, Va., of that portion of the Certificate of Registration in No. MC-121564 (Sub-No. 1) issued July 19, 1965, to Abbott Bus Lines, Inc., Roanoke, Va., which relates to that portion of Certificate No. P-2301 dated April 7, 1964, issued by the Virginia State Corporation Commission authorizing the transportation of passenger service including baggage, mail, light express, and newspapers, between Roanoke and Clifton Forge, via Fincastle and Eagle Rock, Va. Calvin F. Major, 200 West Grace Street, Richmond, VA 23220, attorney for applicants.

No. MC-FC-73965. By order of November 9, 1972, the Motor Carrier Board approved the transfer to Joseph Ruffin, doing business as Ruffin's Motor Freight, Yeadon, Pa., of Permit No. MC-30561 issued April 14, 1970, to Michael J. Bobb Warehouse Corp., Philadelphia, Pa., authorizing the transportation of such merchandise as is dealt in by wholesalers and distributors of hardware, electrical appliances, tools, radios, sound equipment, sporting goods, household furnishings, and automobile accessories and such merchandise as is dealt in by wholesalers and distributors of hardware, subject to Keystone restrictions, from, to, and between Philadelphia, Pa., and New York, N.Y., and points in Delaware, Maryland, New Jersey, and the District of Columbia, and steel wire springs and component parts, from the Sterling Wire Products Co. in Philadelphia, Pa., to Washington, D.C., Baltimore, Md., Wilmington, Del., New York, N.Y., and points in New Jersey. Maurice M. Green, 1530 Chestnut Street, Philadelphia, PA 19102, applicant's attorney.

No. MC-FC-74038. By order of November 10, 1972, the Motor Carrier Board approved the transfer to Wright Motor Freight, Inc., Jackson, Mich., of a portion of the operating rights set forth in Certificate No. MC-112590 (Sub-No. 1) issued by the Commission September 13, 1961, in the name of United Motor Freight, Inc., Lansing, Mich., and acquired by Raben Wright, Munith, Mich., pursuant to No. MC-FC-73838, consummated September 15, 1972, and assigned Certificate No. MC-136931, authorizing the transportation of general commodities, with exceptions, between Jackson, Mich. and the Willow Run Airport and the Wayne Major Airport, both located near Detroit, Mich. Eugene C. Ewald, Suite 1700, 1 Woodward Avenue, Detroit, MI 48226, attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-20019 Filed 11-20-72;8:52 am]

[Notice 153]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 15, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rulues of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 5326 (Sub-No. 15 TA), filed October 26, 1972. Applicant: WILSON B. DILL, CARL M. DILL, SR., AND ARTHUR B. DILL, doing business as DILL BROS. COMPANY, Galena, Md. 21635. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed*, from Delmar, Del., to points in Cecil, Kent, Queen Annes, Talbot, and Caroline Counties, Md., for 180 days. Supporting shipper: Mr. George W. Brinsfield, Red-White Mills, Inc., Delmar, Del. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 814-B Federal Building, Baltimore, Md. 21201.

No. MC 47791 (Sub-No. 4 TA), filed October 30, 1972. Applicant: HAMILTON TRUCKING COMPANY, INC., 106 Carpenter Street, Blossburg, PA 16912. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, PA 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand and gravel*, in dump type semitrailers, from town of Barton, N.Y., to points in Bradford and Tioga Counties, Pa., for 150 days. Supporting shipper: The General Crushed Stone Co., Easton, Pa. 18042. Send protests to: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 309 U.S. Post Office Building, Scranton, PA 18503.

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 107496 (Sub-No. 864 TA), filed October 30, 1972. Applicant: RUAN TRANSPORT CORPORATION, Third at Keosauqua Way, Post Office Box 855, Des Moines, IA 50304. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite clay*, in bulk, in tank vehicles, having a prior movement by rail, from Des Moines, Iowa, to Saylorville Damsite, Iowa, for 150 days. Supporting shipper: American Colloid Co., 5100 Suffield Court, Skokie, IL 60076. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 107496 (Sub-No. 865 TA), filed October 30, 1972. Applicant: RUAN TRANSPORT CORPORATION, Third at Keosauqua Way, Post Office Box 855, Des Moines, IA 50304. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid feed and liquid feed supplements*, in bulk, in tank vehicles, from Madison, Wis., to points in Illinois, Iowa, and Minnesota for 150 days. Supporting shipper: International Multi Foods, 1401 Stoughton Road, Madison, WI 53716. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 117565 (Sub-No. 68 TA), filed October 26, 1972. Applicant: MOTOR SERVICE COMPANY, INC., Post Office Box 448, Route 3, Coshocton, OH 43812. Applicant's representative: John R. Hafner (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor homes*, in driveaway service, from the plantsite of Skyline Corp., near Arkansas City, Kans., to points in Arizona, Arkansas, Colorado, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Montana, Mississippi, Missouri, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Utah, Wisconsin, and Wyoming, for 180 days. Supporting shipper: Skyline Corp., Escapade Motor Homes Division, 2520 Bypass Road, Elkhart, IN 46514. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 255 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 119774 (Sub-No. 57 TA), filed October 19, 1972. Applicant: EAGLE TRUCKING COMPANY, Post Office Box 471, 301 East Main Street, Kilgore, TX 75662. Applicant's representative Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, between the storage facilities and dock facilities of the Port of Muskogee at Muskogee, Okla., to points in Arkansas, Kansas, Missouri, Oklahoma, and that part of Texas, on and north of U.S. Highway 80, for 180 days. NOTE: Carrier does intend to tack the authority. Possibility exists wherein proposed service could be joined with applicants MC 119774 Sub-No. 3, Sub-No. 12, Sub-No. 11, Sub-No. 16, and Sub-No. 30. Supporting shipper: Willbros Terminal Co., Port of Muskogee, R.F.D. 5, Port 50, Muskogee, OK 74401. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, TX 75202.

No. MC 126102 (Sub-No. 15 TA), filed October 30, 1972. Applicant: ANDERSON MOTOR LINES, INC., Post Office Box 1808, 86 Washington Street, Plainville, MA 02762. Applicant's representative: Robert G. Parks, 306 Dartmouth Street, Boston, MA 02116. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are sold or used in drugstores, chain, discount, and department stores, and *returned shipments of such commodities*, from Walpole, Mass., to points in Alabama, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, Vermont, and Wisconsin, for 180 days. Supporting shipper: D. W. Jewelry Co., Inc., 50 Providence Highway, East Walpole, MA 02032. Send protests to: Gerald H. Curry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 187 Westminster Street, Providence, RI 02903.

No. MC 133713 (Sub-No. 7 TA), filed October 17, 1972. Applicant: UELAND TRUCKING, INC., Route 1, Box 25 B, Shakopee, MN 55379. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ammonium nitrate* from Pine Bend, Minn., to points in upper Michigan, for 180 days. Supporting shipper: St. Paul Ammonia Products, Inc., Post Office Box 418, South St. Paul, MN. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building, and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 133966 (Sub-No. 20 TA), filed October 24, 1972. Applicant: NORTH EAST EXPRESS, INC., Post Office Box 61, Mountaintop, PA 18707. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mineral wool, mineral wool products, insulation and insulation materials*, (except commodities in bulk), from Wright Township, Luzerne County, Pa., to points in Kentucky, for 180 days. Supporting shipper: Certain-Teed Saint Gobain Insulation Corp., Valley Forge, Pa. 19481. Send protests to: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 133966 (Sub-No. 22 TA), filed October 26, 1972. Applicant: NORTH EAST EXPRESS, INC., Post Office Box 61, Mountaintop, PA 18707. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, PA 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers*, from South Rockwood, Mich., to Malvern, Pa., for 180 days. Supporting shipper: Better Plastics, Inc., Post Office Box 434, Malvern, PA 19355. Send protests to: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 136371 (Sub-No. 5 TA), filed October 30, 1972. Applicant: CONCORD TRUCKING CO., INC., 30 Pulaski Street, Bayonne, NJ 07002. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *such commodities* as are dealt in by discount or department stores, for the account of Unishops, Inc., between the facilities of Unishops, Inc., their divisions and subsidiaries, located in Jersey City and Bayonne, N.J., on the one hand, and, on the other, Adrian, Mich.; Lincoln, Nebr.; Bailey Cross Roads, Va.; and Fairfax, Va., for 180 days. Supporting shipper: Unishops, Inc., 21 Craven Point Avenue, Jersey City, NJ 07305. Send protests to: District Supervisor Robert E. Johnston, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 138080 (Sub-No. 1 TA), filed October 24, 1972. Applicant: EDWARD R. WOLFE, doing business as WOLFE TRUCKING, 6725 Doncaster Drive, Gladstone, OR 97027. Applicant's representative: Edward R. Wolfe, Gladstone, Oreg. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Expanded shale rock*, from points in Washington County, Oreg., to points in Washington, for 180 days. Supporting shipper: Empire Building Material Co., 9255 Northeast Halsey, Post Office Box 20086, Portland, OR 97220. Send protests to: District Superisor A. E. Odoms, Interstate Commerce Commission, Bureau of

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Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR.

No. MC 138091 (Sub-No. 2 TA), filed October 6, 1972. Applicant: L. HODGINS, doing business as L. HODGINS TRUCKMAN, 1325 Adams Street, Hoboken, NJ 07030. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Burlap*, for account of New Yorker-Peters Corp., from piers in New York Harbor, N.Y., to Elizabeth and Lyndhurst, N.J., for 180 days. Supporting shipper: New Yorker-Peters Corp., 805 East Grand Street, Elizabeth, NJ 07201. Send protests to: District Supervisor Robert E. Johnson, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 138097 (Sub-No. 1 TA), filed October 30, 1972. Applicant: PERCY KAGEL, doing business as KAGEL TRUCKING, 404 Fifth Avenue, Ironton, MN 56455. Applicant's representative: A. R. Fowler, 2288 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber and wood products*, from points in Minnesota in and north of the counties of Wilkin, Grant, Douglass, Todd, Morrison, Mille Lacs, Kanabec, and Pine, to points in Illinois, Iowa, North Dakota, South Dakota, and Wisconsin; and (2) *lumber*, from points in the Upper Peninsula of Michigan, and those in Wisconsin on and north of a line extending from Hudson, Wis., along U.S. Highway 12 to junction with Wisconsin Highway 29, thence along Wisconsin Highway 29 to Green Bay, to points in Iowa and Minnesota, for 180 days. Supporting shipper: Woodland Container Co., Aitkin, Minn. 56431. Send protests to: District Supervisor Raymond T. Jones, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 138102 (Sub-No. 1 TA), filed October 31, 1972. Applicant: CARSON D. BOUTWELL, doing business as BOUTWELL TRUCK LINES, Route 3, Box 338, Jay, FL 32565. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, tranporting: *Dry bulk fertilizer*, in compartmentized side-unloading bulk transports or in dump trucks, from Cottondale and Pensacola, Fla., to points in Alabama and Mississippi, for 180 days. Supporting shipper: Kerr-McGee Corp., Kerr-McGee Building, Oklahoma City, Okla. 73102. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 814, 2121 Building, Birmingham, Ala. 35203.

No. MC 138103 (Sub-No. 1 TA), filed October 19, 1972. Applicant: MINI-HAUL, INC., Post Office Box 1025, Sanford, NC 27330. Applicant's representative: L. L. Beckham (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, between Raleigh-Durham Airport, Wake County, N.C., on the one hand, and, on the other, points in Lee County, N.C., restricted to shipments having prior or subsequent movements by air, for 180 days. Supporting shippers: Carnes Corp., 200 Williams Street, Sanford, NC 27330; Eaton Corp., Valvue Division, Sanford Plant, Post Office Box 2487, Sanford, NC 27330; A. J. Schneierson & Son, Inc. (Dress Division), Post Office Box 2297, Sanford, NC 27330; Texfi Counterknits, Post Office Box 2580, Sanford, NC 27330; Trion, Inc., Box 760, Sanford, NC 27330. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Post Office Box 26896, Raleigh, NC 27611.

No. MC 138122 (Sub-No. 1 TA), filed October 12, 1972. Applicant: MODULAR HAULERS, INC., 1608 Presidential Drive, New Haven, IN 46774. Applicant's representative: Don E. Girardot (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Modular housing units*, from Fort Wayne, Ind., to points in Illinois, Michigan, and Ohio, restricted to transportation performed under a continuing contract or contracts with Domino Homes, Inc., Fort Wayne, Ind., for 180 days. Supporting shipper: Domino Homes, Inc., 4301 Bluffton Road, Fort Wayne, IN 46809. Send protests to: District Supervisor J. H. Gray, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne Street, Room 204, Fort Wayne, IN 46802.

No. MC 138124 (Sub-No. 1 TA), filed October 19, 1972. Applicant: ROCKO TRANSPORTATION, INC., Post Office Box 608, San Marcos, CA 92069. Applicant's representative: Ernest D. Salm, 8179 Havasu Circle, Buena Park, CA 90621. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rock*, in bulk, in dump trucks and trailers, from McVay Quarry, near Brookings, Oreg., to Crescent City Harbor, Crescent City, Calif., for 180 days. Supporting shipper: Silberger Constructors, Inc., Post Office Box 845, Carlsbad, CA 92008. Send protests to: John E. Nance, Officer in Charge, Bureau of Operations, Interstate Commerce Commission, 300 North Los Angeles Street, Room 7708, Los Angeles, CA 90012.

No. MC 138128 (Sub-No. 1 TA), filed October 20, 1972. Applicant: LEMMONS & CO., INC., 535 South Second Street, Boonville, IN 47061. Applicant's representative: James D. Collins, 143 North Meridian Street, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Jefferson and Saline Counties, Ill., to points in Warrick and Vanderburg Counties, Ind., for 180 days. Supporting shippers: Whirlpool Corp., Evansville, Ind.; G. Heileman Brewing Co., Inc., 925 South Third Street, La Crosse, Wis.; Arkla Air Conditioning Co., Evansville, Ind. Send protests to: District Supervisor James W. Habermehl, Interstate Commerce Commission, Bueau of Operations, 802 Century Building, 36 South Penn Street, Indianapolis, IN 46204.

No. MC 138132 TA, filed October 20, 1972. Applicant: JAMES AND SONS, INC., Post Office Box 3387, Durango, CO 81301. Applicant's representative: John Thompson, 450 Capitol Life Building, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry animal feed*, from Commerce City, Colo., to points in San Juan County, N. Mex.; (2) *dry animal feed ingredients*, from points in Montezuma County, Colo., to points in Bernalillo County, N. Mex., and Maricopa County, Ariz.; and (3) *cottonseed meal and cottonseed cake*, from points in Arizona and Texas to points in San Juan County, N. Mex., for 180 days. Supporting shippers: D & C Hardware & Feed Co., Inc., Box 186, Bloomfield, N. Mex. 87413; General Supply & Storage, 201 East Main, Farmington, NM 87401. Send protests to: District Supervisor Herbert C. Ruoff, Interstate Commerce Commission, Bureau of Operations 2022 Federal Building, Denver, Colo. 80202.

No. MC 138133 TA, filed October 11, 1972. Applicant: GENERAL CRANE SERVICE, doing business as GENERAL CRANE AND TRUCKING SERVICE, 1038 East North Avenue, Fresno, CA 93725. Applicant's representative: John Paul Fischer, 140 Montgomery Street, San Francisco, CA 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, which because of size or weight requre special equipment, between points in the California counties of Merced, Madera, Fresno, Kings, Tulare, Kern, and Mariposa, for 180 days. NOTE: Applicant will interline with any motor carrier or rail carrier at all points within the requested territory. Supporting shippers: Pacific Gas & Electric Co., 77 Beale Street, San Francisco, CA 94106; Southern California Edison Co., Post Office Box 800, Rosemead, CA 91770; American Forest Products, Post Office Box 112, Fresno, CA 93707; River Rock Products, Post Office Box 1349, Fresno, CA 93715; New England Sheet Metal Works, Inc., Post Office Box 2107, Fresno, CA 93719; Santa Fe Equipment Co., 20104 Industrial Parkway, Southwest Hayward, CA 94544; Backer Commodities, Inc., Post Office Box 487, Kerman, CA 93630; Griffith-Dyer Co., 1477 North Thesta, Fresno, CA 93703. Send protests to: District Supervisor Claud W. Reeves, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, CA 94102.

No. MC 138134 TA, filed October 13, 1972. Applicant: DONALD HOLLAND TRUCKING, INC., 1300 Main Street,

Keokuk, IA 52632. Applicant's representative: George L. Norman, 30 North Fourth Street, Keokuk, IA 52632. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Silicon metal, manganese metal, ferro alloys, and pig iron*, in dump vehicles and flatbed trailers, from Keokuk, Iowa, to points in Minnesota, Wisconsin, Illinois, and Missouri, with return of *scrap metal*, from points in Minnesota, Wisconsin, Illinois, and Missouri to Keokuk, Iowa, for 180 days. Supporting shipper: Foote Mineral Co., Route 100, Exton, PA 19341. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 138135 TA, filed October 19, 1972. Applicant: WALTER SWAN WAREHOUSE & TRANSPORTATION CO., INC., Bethpage-Sweet Hollow Road, Old Bethpage, N.Y. 11804. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household appliances and air conditioners*, from carrier's warehouse in Old Bethpage, N.Y., to New York, N.Y., and points in Nassau and Suffolk Counties, N.Y., *returned and exchanged household appliances and air conditioners*, in the opposite direction, for 180 days. NOTE: Applicant states it does intend to interline with other carriers at applicant's warehouse at Old Bethpage, N.Y. Supporting shipper: Hmieleski Trucking Corp., 108 New Era Drive, South Plainfield, NJ 07080. Send protests to: Thomas W. Hopp, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 138148 TA, filed October 27, 1972. Applicant: JOSEPH J. SCHMIDT, 7499 Montevideo Court, Jessup, MD 20794. Applicant's representative: William J. Little, Suite 1110, 10 East Baltimore Street, Baltimore, MD 21202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beer and malt beverages*, from Cranston, R.I., and Fort Wayne, Ind., to Upper Marlboro, Md., and *return of empty beer and malt beverage containers*, from Upper Marlboro, Md., to Cranston, R.I., and Fort Wayne, Ind., for 180 days. Supporting shipper: William C. Plitt, A. Genderson & Sons, Inc., 10 Crain Highway, Upper Marlboro, MD 20870. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 814-B Federal Building, Baltimore, Md. 21201.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.72-20018 Filed 11-20-72;8:52 am]

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federal register

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WASHINGTON, D.C.

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FEDERAL REGISTER
Area Code 202 Phone 962–8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Rules and Regulations

Title 6—ECONOMIC STABILIZATION

Chapter III—Price Commission

PART 300—PRICE STABILIZATION

Forms PC–50 and PC–51; Certification

The purpose of this amendment is to restate the certification of no price increase set forth in the instructions for the preparation of Forms PC–50 and PC–51 appearing in Appendix II to Part 300 of the Price Commission regulations.

On November 15, 1972, the Commission published (37 F.R. 24188) a revision of the certification appearing in the second paragraph of the "Who Must File" part of the instructions for the preparation of Forms PC–50 and PC–51 to cover special regulation No. 1, the custom products rule of § 300.410, and the volatile pricing rule of § 300.51(f). The certification provided in part as follows:

> • • • I further certify that this firm has not (1) determined a base price for any custom product or service under § 300.410 of the regulations of the Price Commission, or, if it has determined such a price, that the annual revenues attributable to that product or service represent less than $1 million and less than 1 percent of the firm's total annual revenues • • •.

In order to make it clear that a firm that has determined a base price for a custom product or service may execute the certification, only if the revenues from all of its custom products or services total less than $1 million and less than 1 percent of its total annual revenues, the words "the annual revenues attributable to that product or service" in the certification as published on November 15, 1972 are changed to read, "the annual revenues attributable to all its custom products or services."

For the convenience of interested persons, the certification as amended is set forth in full in this amendment.

Because the purpose of this amendment is to provide guidance and information that is needed immediately for compliance with the Price Stabilization Program, notice and public procedure is impracticable and good cause exists for making it effective in less than 30 days after publication in the FEDERAL REGISTER.

(Economic Stabilization Act of 1970, as amended, Public Law 91–379, 84 Stat. 799; Public Law 91–558, 84 Stat. 1468; Public Law 92–8, 85 Stat. 13; Public Law 92–15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92–210; Executive Order No. 11640, 37 F.R. 1213, January 27, 1972; Cost of Living Council Order No. 4, 36 F.R. 20202, October 16, 1971)

In consideration of the foregoing, the certification appearing in the second paragraph of the "Who Must File" part of the "Instructions for the preparation of Form PC–50" and of the "Instructions for the preparation of Form PC–51," is amended to read as follows, effective November 20, 1972:

> I certify that as of (last day in firm's fiscal quarter), (name of firm) has not at any time since November 13, 1971, charged a price in excess of base price established for any property or service under the regulations of the Price Commission, or if such a price was charged, that the firm has complied with all of the requirements of special regulation No. 1 and since that time has not increased a price above base price. I further certify that this firm has not (1) determined a base price for any custom product or service under § 300.410 of the regulations of the Price Commission, or, if it has determined such a price, that the annual revenues attributable to all its custom products or services represent less than $1 million and less than 1 percent of the firm's total annual revenues, and (2) increased a price pursuant to the special rule for volatile pricing under § 300.51(f) of the regulations of the Price Commission.
>
> ---
> Chief Executive Officer (or other authorized executive officer)

Issued in Washington, D.C., on November 18, 1972.

By direction of the Commission.

JAMES B. MINOR,
General Counsel,
Price Commission.

[FR Doc.72–20157 Filed 11–21–72;8:53 am]

Title 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspection, Marketing Practices), Department of Agriculture

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—U.S. Standards for Grades of Canned Plums

Correction

In F.R. Doc. 72–19106 appearing at page 23807 of the issue for Thursday, November 9, 1972, the following changes should be made:

1. In § 52.1788(c) the symbols reading "LWLx" and "LRLx", respectively, should read "LWLx" and "LRLx", respectively.

2. In the second part of table III in § 52.1788 the following heading should be inserted between the sixth and seventh horizontal rows: "Green-Yellow Plums, Whole, Unpeeled".

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 722—COTTON

Subpart—1973 Crop of Extra-Long Staple Cotton; Acreage Allotments and Marketing Quotas

STATE RESERVES AND COUNTY ALLOTMENTS

Section 722.562 is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.). This section establishes the State reserves and allocation thereof among uses for the 1973 crop of extra-long staple cotton. It also establishes the county allotments. Such determinations were made initially by the respective State committees and are hereby approved and made effective by the Administrator, ASCS, pursuant to delegated authority (35 F.R. 19798, 36 F.R. 6907).

Notice that the Secretary was preparing to establish State and county allotments was published in the FEDERAL REGISTER on September 6, 1972 (37 F.R. 18039) in accordance with 5 U.S.C. 553. The views and recommendations received in response to such notice have been duly considered.

In order that farmers may be informed as soon as possible of 1973 farm allotments so that they may make plans accordingly, it is essential that this section be made effective as soon as possible. Accordingly, it is hereby found and determined that compliance with the 30-day effective date requirement of 5 U.S.C. 553 is impracticable and contrary to the public interest, and § 722.562 shall be effective upon filing this document with the Director, Office of the Federal Register.

§ 722.562 State reserves and county allotments for the 1973 crop of extra-long staple cotton.

(a) *State reserves.* The State reserves for each State shall be established and allocated among uses for the 1973 crop of extra-long staple cotton pursuant to § 722.508 of the Regulations for Acreage Allotments for 1966 and Succeeding Crops of Extra-Long Staple Cotton (31 F.R. 6247, 13530, 32 F.R. 5416, 33 F.R. 8427, 16066, 16435, 34 F.R. 5, 808, 37 F.R. 9202, 11965). Pursuant to this authority, the 1973 State acreage reserve for Florida has been approved by the Deputy Administrator, State and County Operations, to be in excess of 2 percent but not more than 10 percent of the State allotment available for distribution to

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counties in the State. It is hereby determined that no State reserve is required for trends, abnormal conditions, inequities and hardships or small farms. The following table sets forth the State reserve for each State. The table also sets forth the allotment in the State productivity pool which shall not be allocated to counties and farms, as required under § 722.509(a) of the Regulations for Acreage Allotments for 1966 and Succeeding Crops of Extra-Long Staple Cotton.

State	State productivity pool	Total State reserve	Allocation from State reserve for new farms and corrections of errors
Arizona	666	10.0	10.0
California		15.5	15.5
Florida			
Georgia		10.8	10.8
New Mexico	−43		
Texas	171		
U.S. total	794	36.3	36.3

(b) *County allotments.* County allotments are established for the 1973 crop of extra-long staple cotton in accordance with § 722.509 of the Regulations for Acreage Allotments for 1966 and Succeeding Crops of Extra-Long Staple Cotton. The following table sets forth the county allotments:

County	County allotment (acres)
ARIZONA	
Cochise	2,080.0
Gila	18.4
Graham	14,132.7
Maricopa	17,918.7
Pima	3,107.7
Pinal	11,447.9
Yuma	1,708.6
State	50,414.0
CALIFORNIA	
Imperial	147.4
Riverside	629.6
State	777.0
FLORIDA	
Alachua	64.7
Hamilton	3.3
Jefferson	1.7
Madison	29.8
Marion	0
Suwannee	2.4
Union	55.6
State	157.5
GEORGIA	
Berrien	122.4
Cook	34.6
State	157.0
NEW MEXICO	
Chaves	74.1
Dona Ana	22,255.6
Eddy	182.7
Hidalgo	40.4
Luna	1,108.3
Otero	46.2
Sierra	245.9
State	23,953.2
TEXAS	
Brewster	17.0
Culberson	407.4
El Paso	26,954.7
Hudspeth	3,609.8
Jeff Davis	87.3
Loving	13.6
Pecos	1,273.9
Presidio	99.5
Reeves	8,354.5
Ward	617.3
State	41,435.0

(Secs. 344, 347, 375, 63 Stat. 670, as amended, 675, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1344, 1347, 1375)

Effective date: Date of filing this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on November 17, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-20093 Filed 11-17-72;10:40 am]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Amdt. 14]

PART 906—ORANGES AND GRAPEFRUIT GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

Container, Pack, and Container Marking Regulations

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the Texas Valley Citrus Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation on the handling of Texas oranges and grapefruit, as hereinafter set forth, is in accordance with the provisions of said marketing agreement and order, and will tend to effectuate the declared policy of the act.

(2) This action reflects the Department's appraisal of the need for restricting the use of containers and pack sizes to those most suitable for the packing and handling of fruit to promote orderly marketing, so as to provide consumers with good quality fruit, while improving returns to producers pursuant to the declared policy of the act. The amendment adds four containers to those currently authorized under paragraph (a)(1) of § 906.340 (7 CFR 906.340; 37 F.R. 2765; 4707; 21800; 23262) for the shipment of Texas oranges and grapefruit. These containers are four different types of bulk bins, on which the committee has conducted suitability tests under the research provisions of paragraph (a)(1)(ix) of § 906.340. The wire crib would be authorized for an indefinite period, while the two plywood bins and the corrugated fiberboard carton would be authorized through July 31, 1973. Under the amendment, handlers who use bulk bins would be required to use new liners in these containers each time they are filled for shipment. Such requirement is necessary to prevent contamination and spoilage of the fruit during shipment.

(3) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (i) the handling of fruit is now in progress and to be of maximum benefit the provisions of this amendment should be effective upon the date hereinafter specified, (ii) the effective date hereof will not require of handlers any preparation that cannot be completed prior thereto, (iii) this amendment was recommended by members of the Texas Valley Citrus Committee in an open meeting at which all interested persons were afforded opportunity to submit their views, (iv) the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and (v) this amendment relieves restrictions on the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas.

Order. Therefore, it is ordered, That the provisions of paragraph (a)(1) of § 906.340 (7 CFR 906.340; 37 F.R. 2765; 4707; 21800; 23626) be revised by deleting subdivision (x), and adding the following new subdivisions (x), (xi), (xii), and (xiii) to read as follows:

§ 906.340 Container, pack, and container marking regulations.

(a) • • •

(1) • • •

(x) Wire crib with inside dimensions of 46½ by 37 by 30 inches: *Provided,* That such cribs be constructed of either 4 by 4 inch mesh wire at least 0 gage, or 2 by 2 inch mesh wire at least 2 gage; and *Provided further,* That a new liner shall be placed in this container each time it is filled for shipment;

(xi) For the period November 20, 1972, through July 31, 1973, corrugated fiberboard carton with inside dimensions of 47¼ by 39¼ by 28 inches: *Provided,* That the container has a Mullen or Cady test of at least 1,100 pounds; and *Provided further,* That a new liner shall be placed in this container each time it is filled for shipment;

(xii) For the period November 20, 1972, through July 31, 1973, plywood bin with inside dimensions of 45 by 36 by 32 inches: *Provided,* That a new liner shall be placed in this container each time it is filled for shipment; and

(xiii) For the period November 20, 1972, through July 31, 1973, plywood bin with inside dimensions of 46¼ by 41⅛ by 21½ inches: *Provided,* That a new liner shall be placed in this container each time it is filled for shipment.

• • • • • •

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated November 17, 1972, to become effective November 20, 1972.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-20138 Filed 11-21-72;6:51 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 72-SO-90]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation regulations is to alter the Swainsboro, Ga., transition area.

The Swainsboro transition area is described in § 71.181 (37 F.R. 2143). In the description, an extension is predicated on the Swainsboro TVOR 315° radial. Because of a change in the final approach radial of VOR runway 13 instrument approach procedure it is necessary to alter the description to redesignate the extension and predicate it on the Swainsboro TVOR 294° radial. Since this amendment is minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation regulations is amended, effective December 7, 1972, as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the Swainsboro, Ga., transition area is amended as follows:

"• • • 315° • • •" is deleted and "• • • 294° • • •" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on November 13, 1972.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.72-20065 Filed 11-21-72;8:45 am]

[Airspace Docket No. 72-WE-39]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On October 6, 1972 a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 21175) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation regulations that would alter the description of the Las Vegas, Nev., transition area.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.m.t., January 4, 1973.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on November 13, 1972.

ROBERT O. BLANCHARD,
Acting Director, Western Region.

In § 71.181 (37 F.R. 2143) the description of the Las Vegas, Nev. transition area is amended in part as follows: Beginning in line 6 delete "• • •, latitude 36°16'00" N., longitude 115°32'00" W., • • •" and substitute "• • •, latitude 36°16'00" N., longitude 115°55'00" N., to latitude 36°58'00" N., longitude 115°55'00" W., • • •" therefor.

[FR Doc.72-20064 Filed 11-21-72;8:45 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

SUBCHAPTER D—TRADE REGULATION RULES

PART 423—CARE LABELING OF TEXTILE WEARING APPAREL

Amendment to Trade Regulation Rule

The Federal Trade Commission pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41, et seq., and the provisions of Part I, Subpart B of the Commission's procedures and rules of practice, 16 CFR 1.11 et seq., proposed and amendment to example 4 of the trade regulation rule relating to the care labeling of textile wearing apparel. The rule, published in the FEDERAL REGISTER on December 16, 1971, became effective on July 3, 1972. Notice of the proposed amendment was published in the FEDERAL REGISTER on July 11, 1972 (37 F.R. 13560). The proposed amendment was to change example 4 of the rule to read: "4. Professional dry clean only." Example 4 of the rule as originally promulgated read: "4. Dry clean only. Do not use petroleum solvents, or the coin operated method of drycleaning." Interested parties were thereafter afforded opportunity to comment on the proposed amendment through the submission of written data and to express their approval or disapproval of the proposed amendment or to recommend revisions thereof.

The Commission has now considered all matters of fact, law, policy, and discretion, including the data and views submitted for the record by interested parties in response to the notice, as prescribed by law, and has determined that example 4 to the care labeling rule be amended as proposed with the exception that the word "professional" not be included. On the basis of the recommendations in the record, the Commission concluded that inclusion of the word "professional" in the amendment would serve only to confuse those for whose benefit the rule was originally promulgated. Otherwise, the record unanimously supported the amendment as proposed in the notice.

Accordingly, example 4 of the trade regulation rule relating to the care labeling of textile wearing apparel now reads:

§ 423.1 The rule.

• • • • • •

Examples: • • •

4. Dry clean only.

(38 Stat. 717, as amended; 15 U.S.C. 41–58)

Effective: November 22, 1972.

Promulgated: November 22, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.72-20137 Filed 11-21-72;8:52 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER A—GENERAL

PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

"Cents-Off" and "Economy Size" Package Promotions; Stay in Part of Confirmation of Effective Date

In the FEDERAL REGISTER of December 30, 1971 (36 F.R. 25219), a final order was published which established new enforcement regulations (21 CFR 1.1d, 1.1e) to control "cents-off," "economy size," and other savings representations.

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This order was confirmed in the FEDERAL REGISTER of Saturday, July 15, 1972 (37 F.R. 13976).

Grocery Manufacturers of America, Inc., and a number of adversely affected persons have petitioned the U.S. Court of Appeals for the District of Columbia Circuit and for the Ninth Circuit for review of the order entered on July 15, 1972, denying requests for hearing and confirming the effectiveness of regulations governing "cents-off," "coupon," or other savings representations, (21 CFR 1.1d), published in the FEDERAL REGISTER of December 30, 1971 (36 F.R. 25219), and confirmed in the FEDERAL REGISTER of July 15, 1972 (37 F.R. 13976).

The Commissioner of Food and Drugs, having considered the request by Grocery Manufacturers of America, Inc., to stay the effectiveness of those provisions of the regulations (21 CFR 1.1d) which apply to coupon promotions pending judicial review, orders that the request for a stay be, and is hereby granted.

Effective date. This stay is effective upon publication in the FEDERAL REGISTER (11–22–72).

Dated: November 16, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–20069 Filed 11–21–72;8:45 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

MOLECULAR SIEVE RESINS

The Commissioner of Food and Drugs, having evaluated data in a petition (FAP 1A2644) filed by Energy Products Department, Stauffer Chemical Co., 7505 Washington Avenue S., Edina, MN 55435, formerly ENRG International Corp., 4570 West 77th Street, Minneapolis, MN 55435, and other relevant material, concludes that the food additive regulations should be amended, as set forth below, to provide for the safe use of molecular sieve resins consisting of purified dextrans cross-linked with epichlorohydrin in the final purification of partially delactosed whey.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended by adding a new section to Subpart D as follows:

§ 121.1246 Molecular sieve resins.

Molecular sieve resins may be safely used in the processing of food under the following prescribed conditions:

(a) The molecular sieve resins consist of purified dextran having an average molecular weight of 40,000, cross-linked with epichlorohydrin in a ratio of 1 part of dextran to 10 parts of epichlorohydrin, to give a stable three dimensional structure. The resins have a pore size of 2.0 to 3.0 milliliters per gram of dry resin (expressed in terms of water regain), and a particle size of 10 to 300 microns.

(b) The molecular sieve resins are thoroughly washed with potable water prior to their first use in contact with food.

(c) Molecular sieve resins are used as the gel filtration media in the final purification of partially delactosed whey. The gel bed shall be maintained in a sanitary manner in accordance with good manufacturing practice so as to prevent microbial build-up on the bed and adulteration of the product.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (11–22–72).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: November 16, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–20141 Filed 11–21–72;8:52 am]

SUBCHAPTER C—DRUGS

PART 135—NEW ANIMAL DRUGS

Subpart C—Sponsors of Approved Applications

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Bunamidine Hydrochloride

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (35–016V) filed by Cooper U.S.A., Inc., 1909 North Clifton Avenue, Chicago, IL 60614, proposing the safe and effective use of bunamidine hydrochloride tablets in different strengths than those presently provided for, for the treatment of tapeworm infections in dogs and cats. The supplemental application is approved.

The firm changed the corporate name from William Cooper & Nephews, Inc. to Cooper U.S.A., Inc. and an appropriate change is being made in Part 135 in § 135.501 to reflect the new corporate name. A change is also being made in Part 135c in § 135c.27 to identify said firm by their code number to be consistent with other sections in that part.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135 and 135c are amended as follows:

1. Part 135 is amended in § 135.501 (c) by revising the name and address for the firm identified by Code No. 010 as follows:

§ 135.501 Names, addresses, and code numbers of sponsors of approved applications.

* * * * *

(c) * * *

Code No.	*Firm name and address*
* * *	* * *
010	Cooper U.S.A., Inc., 1909 North Clifton Avenue, Chicago, IL 60614.
* * *	* * *

2. Part 135c is amended in § 135c.27 in paragraphs (b) and (c) as follows:

§ 135c.27 Bunamidine hydrochloride.

* * * * *

(b) *Specifications.* The drug is an oral tablet containing bunamidine hydrochloride.

(c) *Sponsor.* See Code No. 010 in § 135.501(c) of this subchapter.

* * * * *

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (11–22–72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: November 15, 1972.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.72–20068 Filed 11–21–72;8:45 am]

PART 148w—CEPHALOSPORIN

Cephalexin Monohydrate Tablets

The Commissioner has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act, with respect to approval of the antibiotic drug cephalexin monohydrate tablets.

He concludes that data supplied by the manufacturer concerning the subject antibiotic drug is adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended to provide for the certification of this drug.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commission (21 CFR 2.120), Part 148w (21 CFR 148w) is amended to provide for the certification of the antibiotic cephalexin monohydrate tablets by adding the following new section:

§ 148w.9 Cephalexin monohydrate tablets.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Cephalexin monohydrate tablets are composed of cephalexin monohydrate and one or more suitable and harmless diluents, binders, lubricants, colorings, and coating substances. Each tablet contains cephalexin monohyrate equivalent to 500 milligrams of cephalexin. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of cephalexin that it is represented to contain. Its moisture content is not more than 9 percent. The tablets disintegrate within 30 minutes. The cephalexin monohydrate used conforms to the standards prescribed by § 148w.6 (a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this subchapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this subchapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The cephalexin monohydrate used in making the batch for potency, safety, moisture, pH, absorptivity, identity, and crystallinity.

(*b*) The batch for potency, moisture, and disintegration time.

(ii) Samples required:

(*a*) The cephalexin monohydrate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 36 tablets.

(*b*) *Tests and methods of assay—*(1) *Potency.* Use either of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Place a representative number of tablets into a high-speed glass blender jar containing sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Further dilute with solution 1 to the reference concentration of 20.0 micrograms of cephalexin per milliliter (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 141.506 of this chapter, preparing the sample as follows: Blend a representative number of tablets in a high-speed glass blender with sufficient distilled water to give a stock solution of convenient concentration. Further dilute with distilled water to the prescribed concentration of cephalexin. NOTE: The 10.0 milliliters of 0.01*N* iodine must be added within 20 seconds after the addition of the 2.0 milliliters of 1.2*N* hydrochloric acid, and the assay should be completed within 1 hour after the sample and standard are first put into solution.

(2) *Moisture.* Proceed as directed in § 141.502 of this subchapter.

(3) *Disintegration time.* Proceed as directed in § 141.540 of this subchapter, using the procedure described in paragraph (e)(1) of that section.

Since the conditions prerequisite to providing for certification of subject antibiotic have been complied with and since the matter is noncontroversial, notice and public procedures and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (11–22–72).

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: November 14, 1972.

MARY A. MCENIRY,
Assistant to the Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc.72–20066 Filed 11–22–72;8:45 am]

PART 150g—MINOCYCLINE HYDROCHLORIDE

Minocycline Hydrochloride Oral Suspension

The Commissioner has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act, with respect to approval of the antibiotic drug minocycline hydrochloride oral suspension.

He concludes that data supplied by the manufacturer concerning the subject antibiotic drug is adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended to provide for the certification of this drug.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner (21 CFR 2.120), Part 150g (21 CFR 150g) is amended to provide for the certification of the antibiotic minocycline hydrochloride oral suspension by adding the following new section:

§ 150g.13 Minocycline hydrochloride oral suspension.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Minocycline hydrochloride oral suspension is minocycline hydrochloride with one or more suitable flavorings, wetting agents, preservatives, and diluents in an aqueous vehicle. Each milliliter contains minocycline hydrochloride equivalent to 10 milligrams of minocycline. Its potency is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of milligrams of minocycline that it is represented to contain. Its pH is not less than 7.0 and not more than 9.0. The minocycline hydrochloride used conforms to the standards prescribed by § 150g.1(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this subchapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The minocycline hydrochloride used in making the batch for potency, safety, moisture, pH, minocycline content, identity, and crystallinity.

(*b*) The batch for potency and pH.

(ii) Samples required:

(*a*) The minocycline hydrochloride used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of five immediate containers.

(*b*) *Tests and methods of assay—*(1) *Potency.* Proceed as directed in § 141.111 of this chapter, preparing the sample for assay as follows: Dissolve an accurately measured representative aliquot of the well shaken suspension in sufficient 0.1*N* hydrochloric acid to give a stock solution of convenient concentration containing not less than 150 micrograms of minocycline per milliliter (estimated). Remove an aliquot and dilute with 0.1*M* potassium phosphate buffer, pH 4.5 (solution 4), to the reference concentration of 0.100 microgram of minocycline per milliliter (estimated).

(2) *pH.* Proceed as directed in § 141.503 of this subchapter, using the undiluted sample.

Since the conditions prerequisite to providing for certification of subject antibiotic have been complied with and since the matter is noncontroversial, notice and public procedures and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (11–22–72).

(Sec. 507, 59 Stat. 465, as amended; 21 U.S.C. 357)

Dated: November 14, 1972.

MARY A. MCENIRY,
Assistant to the Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc.72–20067 Filed 11–21–72;8:45 am]

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

[Dept. Reg. 108.679]

PART 2—PROTECTION OF FOREIGN DIGNITARIES AND OTHER OFFICIAL PERSONNEL

Designation of Foreign Officials and Official Guests

Part 2 of Title 22 of the Code of Federal Regulations is amended as set forth below:

New §§ 2.2 through 2.5 are added to read as follows:

§ 2.2 Purpose.

Section 1116(b)(2) of title 18 of the United States Code, as added by Public

Law 92–539, approved October 24, 1972, authorizes the Secretary of State to protect the person of a foreign official, official guest, or internationally protected person in the United States and, within the limits of his authority, the family of such person. Any inquiries by law enforcement officers

(3) Accouterments are those belong-

Sec. (1) Was the property of the sponsor § 803.12 Screening, cleaning, and re-

Law 92-539, An Act for the Protection of Foreign Officials and Official Guests of the United States (86 Stat. 1071), defines the term "foreign official" for purposes of that Act as "any person of a foreign nationality who is duly notified to the United States as an officer or employee of a foreign government or international organization, and who is in the United States on official business, and any member of his family whose presence in the United States is in connection with the presence of such officer or employee." Section 1116(c)(4) of the same Act defines the term "official guest" for the purposes of that Act as "a citizen or national of a foreign country present in the United States as an official guest of the Government of the United States pursuant to designation as such by the Secretary of State." It is the purpose of this regulation to specify the officer of the Department of State who shall be responsible for receiving notifications of foreign officials under the Act and determining whether persons are "duly notified" to the United States and who shall be responsible for processing official guest designations by the Secretary of State.

§ 2.3 Notification of foreign officials.

Any notification of a foreign official for purposes of section 1116(b)(2) of title 18 of the United States Code shall be directed by the foreign government or international organization concerned to the Chief of Protocol, Department of State, Washington, D.C. 20520. For persons normally accredited to the United States in diplomatic or consular capacities and also for persons normally accredited to the United Nations and other international organizations and in turn notified to the Department of State, the procedure for placing a person in the statutory category of being "duly notified to the United States" shall be the current procedure for accreditation, with notification in turn when applicable. The Chief of the Office of Protocol will place on the roster of persons "duly notified to the United States" the names of all persons currently accredited and, when applicable, notified in turn, and will maintain the roster as part of the official files of the Department of State adding to and deleting therefrom as changes in accreditations occur.

For those persons not normally accredited, the Chief of Protocol shall determine upon receipt of notification, by letter from the foreign government or international organization concerned, whether any person who is the subject of such a notification has been duly notified under the Act. Any inquiries by law enforcement officers or other persons as to whether a person has been duly notified shall be directed to the Chief of Protocol. The determination of the Chief of Protocol that a person has been duly notified is final.

§ 2.4 Designation of official guests.

The Chief of Protocol shall also maintain a roster of persons designated by the Secretary of State as official guests. Any inquiries by law enforcement officers or other persons as to whether a person has been so designated shall be directed to the Chief of Protocol. The designation of a person as an official guest is final. Pursuant to section 2658 of title 22 of the United States Code, the authority of the Secretary of State to perform the function of designation of official guests is hereby delegated through the Deputy Secretary of State to the Deputy Under Secretary of State for Management.

§ 2.5 Records.

The Chief of Protocol shall maintain as a part of the official files of the Department of State a cumulative roster of all persons who have been duly notified as foreign officials or designated as official guests under this Part. The roster will reflect the name, position, nationality, and foreign government or international organization concerned or purpose of visit as an official guest and reflect the date the person was accorded recognition as being "duly notified to the United States" or designated as an official guest and the date, if any, of termination of such status.

(18, U.S.C. 1116(b)(2), 1116(c)(4); sec. 4 of the Act of May 26, 1949, as amended (22 U.S.C. 2658))

Effective date. These amendments shall be effective upon publication in the FEDERAL REGISTER (11-22-72).

[SEAL] WILLIAM P. ROGERS,
Secretary of State.

NOVEMBER 18, 1972.

[FR Doc.72-20209 Filed 11-21-72;8:53 am]

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER A—ADMINISTRATION

PART 803—DISPOSITION OF PERSONAL PROPERTY

Part 803, Subchapter A of Chapter VII of Title 32 of the Code of Federal Regulations is revised to read as follows:

Sec.
803.0 Purpose.

Subpart A—General Provisions
803.1 Definitions.
803.2 Responsibility of the commander.
803.3 Authority for shipping property of a deceased or missing person.

Subpart B—Property of Deceased Active Duty Military Personnel
803.10 Who is responsible for disposing of personal property.
803.11 Persons entitled to receive property.
803.12 Screening, cleaning, and repairing personal effects.
803.13 Withdrawal of personal uniform items.
803.14 Handling of mail.
803.15 Disposal of funds, commercial instruments, stocks, and bonds.
803.16 When the legal representative or next of kin is present.
803.17 When the legal representative or next of kin is known but not present.
803.18 When no legal representative or next of kin can be located.

Subpart C—Property of Deceased U.S. Civilians
803.20 Which civilians are covered.
803.21 When the legal representative or next of kin is present.
803.22 When the legal representative or next of kin is not present.

Subpart D—Property of Foreign Nationals
803.30 Property of foreign nationals training in the United States.
803.31 Property of foreign civilian employees.

Subpart E—Property of Missing and Captured Persons
803.40 Waiting period before disposal of the property.

Subpart F—Property of Indigent Persons Who Die on Air Force Installations
803.50 Disposition of property under Air Force jurisdiction.

Subpart G—Assignment of Responsibility for Effects Offices
803.60 Establishment of an effects office.
803.61 Responsibility for disposing of effects.
803.62 Paying and collecting debts.

Subpart H—Procedures for Disposing of the Effects of Deceased Persons
803.70 Classes of effects.
803.71 Inventory of effects.
803.72 Disposal of funds.
803.73 Disposal of identification tags.
803.74 Shipping effects.

Subpart I—Procedures for Disposing of the Effects of Allied Personnel
803.80 Effects of allied dead.
803.81 Unclaimed and miscellaneous effects, and effects of other than known deceased.

AUTHORITY: The provisions of this Part 803 issued under 10 U.S.C. 8012, except as otherwise noted.

§ 803.0 Purpose.

(a) This part explains the procedures of disposition of the personal property of certain deceased and missing Air Force military personnel and civilians when that property is under Air Force jurisdiction. It also explains the handling of personal property of foreign nationals. It assigns responsibility to the commander for safeguarding the property from pilferage, and for protecting the property from damage or loss.

(b) Part 806 of this Chapter states basis policies and instructions of release to the public of Air Force records, manuals, and regulations.

Subpart A—General Provisions

§ 803.1 Definitions.

(a) *Personal property.* This term includes:

(1) Household goods and household effects.

(2) Personal effects and property or estate, except real property that is temporary, movable, and subject to personal use or ownership.

(3) Accouterments are those belongings which are worn on the person (such as jewelry, rings, watches, tie pins, and similar items).

(4) A privately owned motor vehicle. Any self-propelled wheeled motor conveyance that is primarily for use as a passenger-carrying vehicle, and similar vehicles; jeeps; motorcycles and motorscooters; pickup and panel trucks, including those which have been converted to "campers" (subject to the condition in Joint Travel Regulations (JTR) par M11002-2); small autobuses of the Volkswagen, Micro, and similar types (not to exceed nine-passenger capacity); and other passenger-carrying or multipurpose motor vehicles designed for overland ground transportation and owned by the member, and which, even though not specifically mentioned here, may be found to qualify for shipment on the basis of the member's written certification that the vehicle was for his personal use as a passenger-carrying vehicle.

(5) House trailers and contents thereof, in lieu of the shipment of household goods.

(b) *Continental United States (CONUS).* U.S. territory, including the adjacent territorial waters located within the North American continent between Canada and Mexico.

(c) *Missing person.* One reported as missing under the Missing Persons Act, as amended (50 U.S.C. App. 1001-1016). (If there is a question as to whether a person is subject to this Act, a determination will be requested from the Staff Judge Advocate.)

§ 803.2 Responsibility of the commander.

The commander of any Air Force activity that is responsible for collecting, inventorying, storing, or forwarding any personal property of a deceased or missing person will take positive steps to insure that all personal property is safeguarded, at all times, to prevent any pilferage and to see to it that it is adequately protected against loss or damage.

§ 803.3 Authority for shipping property of a deceased or missing person.

(a) *Authority and weight limit.* Under AFM 75-4 and the JTR, personal property of a deceased or missing person will be shipped at the expense of the Government. The weight limits are as follows:

(1) *Military member.* A weight limit of 13,500 pounds net. This does not apply to privately owned motor vehicles, professional books, papers and equipment, except for Military Affiliate Radio System (MARS) equipment, which is limited to 3,000 pounds. The maximum payable by law for shipping a house trailer is 74 cents per mile.

(2) *Civilian employee.* A weight limit as outlined in JTR, volume II.

(b) *Motor vehicles.* One privately owned motor vehicle may be shipped at Government expense as personal property, if it:

(1) Was the property of the sponsor or his lawful dependent, and the ownership can be legally established;

(2) Was moved to its current location, or lawfully procured there, by the member or his lawful dependent before the date of the issuance of the official status report; and

(3) Is in good operating condition.

Subpart B—Property of Deceased Active Duty Military Personnel

§ 803.10 Who is responsible for disposing of personal property.

(a) The commander of the activity at (or nearest to) the place where the personal property is located will collect, safeguard, and immediately dispose of property that is under Air Force jurisdiction.

(1) If the legal representative or next of kin is not present to receive the property, the commander responsible for the disposing of it will appoint a summary court to dispose of it as stated here.

(2) If the property is located at two or more widely separated locations, the commander at each location will appoint a summary court, to work with the commander of the organization to which the deceased was assigned, to dispose of the property.

(3) If appropriate, accouterments taken from remains after death will be placed in the transfer case/casket with the remains, by the mortuary officer of the shipping installation.

(b) If the property belongs to a person who dies aboard an air or water transport, the aircraft (or troop) commander will have the personal property collected, inventoried, and safeguarded, and turn it over to the commander of the Air Force activity at (or nearest to) the base or port where the remains are offloaded.

§ 803.11 Persons entitled to receive property.

(a) The following persons, listed in the order of precedence, are entitled to receive the property of a deceased military member (that is, the recipient):

(1) Surviving spouse or legal representative.
(2) Son.
(3) Daughter.
(4) Father (if he had not abandoned support of his family).
(5) Mother.
(6) Brother.
(7) Sister.
(8) Next of kin.
(9) Beneficiary named in the will of the deceased.

(b) If a dispute or question arises, or is expected to arise, over who is to be the recipient, legal assistance will be requested from a staff judge advocate in making the determination.

(c) When the recipient is a minor, the property will be forwarded in care of the surviving parent, guardian, or adoptive parent.

§ 803.12 Screening, cleaning, and repairing personal effects.

The commander who is responsible for handling personal effects must insure that the following actions are taken before delivery or shipment to the recipient.

(a) Removal and destruction of any item that:

(1) Is obnoxious or may embarrass the recipient.

(2) Obviously has no intrinsic or sentimental value. This includes partly used cakes of soap, and tubes of toothpaste or creams; newspapers; magazines; used bottles of shoe polish, ink, lotions, tonics; candy; tobacco, and lighter fluid.

(b) Using Government facilities, all bloodstained or mutilated items whose condition might distress the recipient will be cleaned (or made presentable). If an item cannot be made presentable and would be offensive to the recipient, it will be destroyed and a record kept to the item.

(c) Organizational clothing and equipment will be turned in to the responsible supply officer; this action will be recorded on the proper form and credited to the member's records for the items withdrawn.

(d) Standard Form (SF) 46, "U.S. Government Vehicle Operators Identification Card," will be withdrawn and destroyed (AFM 77-1). Department of Defense (DD) Form 2AF (green), "Armed Forces Identification Card," and DD Form 528, "Geneva Convention Identification Card," will be withdrawn and forwarded to the personnel records custodian for disposition. (See Part 809 of this subchapter.)

(e) Examination will be made of all military information or documents. Any classified material, or material that may need classification, will be submitted to the proper authority for disposition under Part 852 of Subchapter E of this chapter, or applicable security regulations.

§ 803.13 Withdrawal of personal uniform items.

Withdrawal will be made of only enough personal uniform items to provide clothing for burial.

§ 803.14 Handling the mail.

Mail received personally by the addressee before death will be treated as personal property. If there is mail that has not been delivered, it will be disposed of by the unit mail clerk as directed in AFR 182-11.

§ 803.15 Disposal of funds, commercial instruments, stocks, and bonds.

(a) If the legal representative or next of kin is present, delivery will be made of all currency, stocks, bonds, checks, and commercial papers to him except the following:

(1) *Funds beonging to the Government.* If funds are found on or with the deceased and appear to be Government

funds (for example, funds that are en-

that person is present at the time or has

(1) DD Form 1299, "Application for

(1) *With a receipt.* After the recipi-

account of all transactions of the sum-

diction. Unless otherwise directed, the

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funds (for example, funds that are entrusted to the agent of a finance officer), they will be turned over to the accounting and finance officer, to be held in special deposits until it can be determined which amount belongs to the Government and which to the individual.

(2) *Government checks and military payment orders.* If a U.S. Treasury check or military payment order was not delivered to the payee before his death, it will be treated as an unclaimed check and delivered to the local accounting and finance officer. The proceeds of the check will be included in the settlement of the deceased member's final pay account.

(b) If the legal representative or next of kin is not present, the summary court will dispose of currencies, commercial papers, checks, etc., as follows:

(1) *U.S. currency.* If there is less than $5, it will be included with other personal property. If there is more than $5, it will be turned in to the nearest accounting and finance officer, who will issue a U.S. Treasury check and forward it to the recipient by U.S. mail. This transaction will be recorded on AF 1122a, "Personal Property Inventory (Continuation Sheet)," including the date and number of the check.

(2) *Foreign currency.* This will be included with other personal property. It is considered souvenir money.

(3) *Bank books, stocks, bonds, or negotiable instruments.* Although these are considered personal property, they will be handled as follows:

(i) Bank deposit books, stocks, bonds, or other negotiable instruments, including traveler's checks, money orders, etc. (except checks drawn on the Treasurer of the United States or on foreign depositories and military payment orders) will be sent to the recipient by registered mail.

(ii) If a local debtor has made payable to the deceased a negotiable instrument in settlement of a debt, it may be indorsed by the summary court for collection and the proceeds disposed of the same as currency.

(4) *Military payment certificate.* This is to be converted into a U.S. Treasury check and forwarded to the recipient by U.S. mail. This transaction will be recorded on AF Form 1122a as explained in subparagraph (1) of this paragraph. If the certificate totals less than $5, it will be presented to the accounting and finance officer for conversion into proper currency and included with the other personal property.

(5) *Funds belonging to the Government.* The procedures given in paragraph (a)(1) of this section will be followed.

(6) *Government checks and military payment orders.* The procedures in paragraph (a)(2) of this section will be followed.

§ 803.16 When the legal representative or next of kin is present.

(a) *Precautions.* The release of property to a relative or friend of the deceased will not be made simply because that person is present at the time or has traveled to the place of death to claim the property.

(b) *Procedure.* All property in quarters or at the decedent's duty station must be released to the legal recipient as defined in § 803.11, unless that recipient has requested, in writing (or otherwise approved), its release to another person. The following procedures will be used:

(1) Delivery of all currency, commercial papers, stocks, bonds, checks (except the funds, checks, and military payment orders that must be handled as described in § 803.15), will be made to the legal recipient.

(2) AF Form 1122, "Personal Property Inventory" (front and reverse), will be prepared in duplicate for the property that is in Air Force custody. The recipient will be required to sign the original of the form. The original copy will be filed as directed in Part 804 of this subchapter, and the second copy will be given to the recipient.

(c) *Shipping.* Arrangements will be made with the transportation officer to have the property packed and shipped at Government expense as authorized and requested by the legal representative or next of kin.

§ 803.17 When the legal representative or next of kin is known but not present.

The summary court will work closely with the transportation office in forwarding property to the recipient as quickly as possible, and no later than 4 weeks from the date of death. The shipment will not be delayed pending the sale of a motor vehicle, or the collection of outstanding debts. Instead, at the time the first shipment is made, the recipient will be informed of any actions pending and the approximate date they will be completed. The following procedures will be used:

(a) *Inventory.* An inventory will be made of the property and five copies of AF Form 1122 prepared. Distribution of these copies are explained in the following paragraphs of this section.

(b) *Preparation for shipment.* The transportation officer will assist in packing the property properly and securely for shipment to protect it against pilferage, loss, or damage.

(1) The contents of the packages will be checked against the inventory, and the total number of packages entered on AF Form 1122, and one copy of the inventory form placed inside the package. Then, the packages will be sealed.

(2) The name and address of both the consignee and the sender will be clearly marked on one side and one end of the package. If the name of the addressee cannot be shown on the package, a wirestrung shipping tag will be marked and attached securely to the container.

(c) *Shipping procedure.* The following documents will be given to the transportation officer who will ship the property:

(1) DD Form 1299, "Application for Shipment of Household Goods."

(2) Copy of orders appointing the summary court.

(3) Copy of AF Form 1122.

(4) Complete shipping instructions to enable the transportation officer to ship the property promptly and properly.

(d) *Shipping notification.* When the property is shipped, a letter and two copies of AF Form 1122 will be sent to the addressee, giving the date and method of shipment and the anticipated date of arrival at destination. This letter will also state that the property is being shipped as required by Federal law, and that the vesting of title thereto is dependent upon the laws of the State of the decedent's legal residence. A self-addressed envelope will be enclosed and the recipient will be requested to sign the original and one copy of AF Form 1122 upon receipt of the property. Both copies are to be returned to the summary court.

(e) *Financial settlement action.* At the same time the property is being prepared for shipment, the summary court will take the following actions:

(1) *Debt collection.* To the extent feasible, all local debts due the decedent will be collected.

(2) *Payment of debts.* Undisputed local creditors will be paid with any available cash belonging to the decedent and receipts for such payments obtained.

(3) *Funds.* Funds (including proceeds from the sale of property), commercial instruments, stocks, bonds, etc., will be disposed of as directed in § 803.15(b).

(4) *Cash records.* Each sale and cash transaction will be recorded on AF Form 1122a (in three copies). A certified copy of each bill of sale and each receipt of payment of a creditor will be attached to one copy of AF Form 1122a and mailed to the recipient.

(f) *Unfinished settlement action.* When the property has been shipped and the financial settlement action taken as explained here, the recipient will be advised of the settlement action that is still pending. A letter of explanation will be sent to the recipient, as follows:

(1) Describing and listing all known unsettled debts that were owed by or due to the decedent.

(2) If there are any items that cannot be shipped at Government expense, they will be described and the recipient will be asked either to arrange for their disposal or to authorize the summary court to dispose of them through public or private sale. (For example, these might include items that are prohibited by U.S. customs laws from entry into the United States; motor vehicles that do not conform to the explanation given in § 803.1(a)(3); airplanes, boats, or outboard motors; or more than one vehicle allowed by this part.)

(g) *Closing a case and filing the records.* The following procedures will be used, depending on whether the summary court has been able to obtain a receipt for the property:

(1) *With a receipt.* After the recipient has signed and returned AF Forms 1122, the original signed copy and AF Form 1122a are given, with a detailed account of all transactions of the summary court, to the commander for approval and signature.

(i) The original signed form, together with the account of the transactions of the summary court, will be placed in the file established according to Part 804 of this subchapter.

(ii) The duplicate will become part of the records of the summary court.

(2) *Without a receipt.* After reasonable but unsuccessful efforts to obtain signed copies of AF Form 1122, the case may be closed. A statement of all action taken to obtain the receipts will be prepared and given to the commander for approval and signature.

(i) The original signed form, with the account of the transactions of the summary court, will be placed in the file established according to Part 804 of this subchapter.

(ii) The duplicate will become part of the records of the summary court.

(3) The account of the summary court transactions will be a detailed chronological report of each action taken, and supported by documentary evidence, as applicable.

§ 803.18 When no legal representative or next of kin can be located.

The summary court will take the following action.

(a) The property will be inventoried and three copies of AF Form 1122 prepared.

(b) After collection from local debtors and payment of undisputed local creditors of the deceased are made, all property except the following will be sold: Articles having value chiefly as keepsakes (as defined in 10 U.S.C. 9712(e)), stocks, bonds, evidence of bank accounts, or other forms of purely commercial paper.

(1) Property will be sold only when the summary court, after diligent effort, has not been able to discover the existence or address of any of the persons entitled to receive the property and has stated this formally in writing.

(2) Property will not be sold for at least 30 days after the death of the person to whom it belongs.

(c) Any remaining undisputed local creditors of the deceased will be paid with funds derived from sale of the property.

(d) All sales and cash transactions will be recorded on AF Form 1122a in three copies.

(e) All cash and checks remaining after the settlement of debts will be forwarded (with the original and two copies of AF Form 1122a) to the local accounting and finance officer, for deposit as prescribed in AFM 177–108. The accounting and finance officer will indicate receipt of the funds by signing and returning all copies of AF Form 1122a.

(f) The original and two copies of AF Forms 1122 and 1122a and a detailed account of all transactions of the summary court will be given to the commander for his approval and signature.

(1) The signed original form, with the account of the transactions of the summary court will be placed in the file established in accordance with Part 804 of this subchapter.

(2) One copy of each form, with any insignia, decorations, medals, other articles valuable chiefly as keepsakes, and all purely commercial papers, such as stocks, bonds, evidence of bank accounts, etc., will be forwarded to the U.S. Soldiers' Home, Washington, D.C. 20315, under the provisions of 10 U.S.C. 9712(f).

(3) The remaining copy will be retained for the record of the summary court.

(4) The account of the summary court transactions will be a detailed chronological report of each action taken, and supported by documentary evidence as applicable.

Subpart C—Property of Deceased U.S. Civilians

§ 803.20 Which civilians are covered.

Any civilian serving with, employed by, or accompanying U.S. Armed Forces personnel at a place or commander under the jurisdiction of the Air Force.

§ 803.21 When the legal representative or next of kin is present.

The legal representative or next of kin will be permitted to take possession of the property. The procedure in § 803.15 will be used, as applicable.

§ 803.22 When the legal representative or next of kin is not present.

(a) *In the United States or U.S. possessions.* If property cannot be delivered or not claimed within a reasonable time, it will be delivered with all available information to the recipient (in this case, the person designated by the judicial officer or by the local civil government with jurisdiction over the estates of deceased persons; see § 803.15). If the deceased had personal property that is located outside the Conus, it may be shipped to the place designated by the local civil official, at his request, as directed in § 803.3, and AFM 75–4.

(b) *In a foreign country.* The commander will collect and safeguard the property, and request the nearest U.S. consulate to take possession and dispose of it in accordance with State Department procedures (and § 803.15, as applicable). Upon request of the State Department official concerned, personal property may be shipped to the place he designates, as directed in § 803.3 and AFM 75–4.

Subpart D—Property of Foreign Nationals

§ 803.30 Property of foreign nationals training in the United States.

None of this part applies to deceased foreign nationals who are training in the United States under Air Force jurisdiction. Unless otherwise directed, the following procedures will be used.

(a) The personal property of the deceased person will be forwarded to the appropriate Military Assistance Advisory Group (MAAG) for turnover to the country air force. Articles will be disposed of that cannot be shipped (for example, automobiles) in accordance with instructions of the appropriate country representative. Completed AF Forms 1122 and 1122a, in duplicate, must accompany this property; the recipient will be asked to sign and return the original (a self-addressed envelope will be enclosed).

(b) If the deceased had been issued DD Form 1173, "Uniformed Services Identification and Privilege Card," it will be withdrawn and forwarded to the issuing agency (shown on item 16 of the card) for disposition (see procedure in Part 809 of this subchapter).

§ 803.31 Property of foreign civilian employees.

The personal property will be delivered to the legal representative or next of kin promptly, as explained in this part, with the proper precautions taken to protect it from pilferage, damage, or loss.

(a) If the deceased person had been issued a DD Form 1173, it will be withdrawn and forwarded to the issuing agency (shown in item 16 of the card) for disposition (see Part 809 of this subchapter).

(b) If the property cannot be delivered, or it is not claimed, within a reasonable time, it will be delivered, with all available information about the decedent, to the person designated by the judicial officer of the local civil government that has jurisdiction over the estates of deceased persons.

(c) The proper receipts will be obtained, as directed by this part, and filed according to Part 804 of this subchapter, with a complete statement of action taken.

Subpart E—Property of Missing and Captured Persons

§ 803.40 Waiting period before disposal of the property.

The personal property of a missing or captured person will be held and safeguarded for 30 days before any action is taken to dispose of it; if circumstances warrant, the property may be held longer than 30 days. However, when the person's status:

(a) Has been changed from missing to captured, the property will be transferred to the custody of the person who would be legally entitled to receive it upon the person's death.

(b) Has been changed from missing to dead, the property will be disposed of under the procedures given here (Subparts B, C, and D) for deceased persons.

(c) Continues to be missing, the property will be transferred to the custody of the person who would be legally entitled to receive it upon the person's death.

enough to warrant investigating the con-

pared. Place of recovery will be noted on

§ 930.2 Concept of the program.

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Subpart F—Property of Indigent Persons Who Die on Air Force Installations

§ 803.50 Disposition of property under Air Force jurisdiction.

When no legal representative or next of kin can be located, and the appointment of a summary court-martial is not authorized under 10 U.S.C. 9712, the commander of the activity where the personal property is located will:

(a) Collect and safeguard the property and notify the State official who is responsible for the administration of the estate of persons who die without a designated legal representative, or known next of kin.

(b) Request the advice of the local staff judge advocate in the case.

Subpart G—Assignment of Responsibility for Effects Offices

§ 803.60 Establishment of an effects office.

(a) When combat conditions make it impracticable to ship personal effects direct to the recipient, the Commander, Air Force Logistics Command, will be responsible for the receipt of bulk or individual shipments of personal effects of deceased and missing persons, and will process them for delivery to the recipient.

(b) A command effects office may be established, at the discretion of the local commander, to receive, store, and dispose of personal effects. (If possible, he will assign this function to an existing organization.) The command effects office may appoint a summary court (in addition to the one appointed under § 803.10) to dispose of personal effects.

§ 803.61 Responsibility for disposing of effects.

Responsibility for collecting, inventorying, safeguarding, and disposing of personal effects and property will be as follows:

(a) *In forward areas.*

(1) The unit commander will recover and dispose of personal effects of members of his command who are reported dead. Unless combat conditions make it impractical, he will forward effects direct to the person entitled to receive them (see Subpart B); if direct shipment is not feasible, he will forward effects to the command effects office.

(2) In places where collection of effects is not feasible, burial details are authorized to bury remains without removing or inventorying effects. When the remains are moved to a collecting point or cemetery, all personnel involved are responsible for safeguarding the effects. Effects will be removed from the remains only temporarily, for identification purposes.

(3) Graves registration personnel at cemetery will inventory and dispose of effects received with remains.

(b) *In rear areas.*

(1) The unit commander will dispose of the personal effects of members of his command who are reported dead. He will forward the effects direct to the person entitled to receive them according to Subpart B; if conditions make direct shipment impossible, he will forward the effects to the command effects office.

(2) The hospital commander will dispose of personal effects of deceased personnel per subparagraph (1) of this paragraph.

§ 803.62 Paying and collecting debts.

The summary court appointed under § 803.10 is legally authorized to pay undisputed local creditors and collect local debts due the deceased. When circumstances or distance make it impossible for him to collect property, liquidate accounts, and pay outstanding debts, the summary court appointed by the command effects office (see § 803.60) will assume further action in this respect.

Subpart H—Procedures for Disposing of the Effects of Deceased Persons

§ 803.70 Classes of effects.

When disposing of effects, they will be separated into the following classes:

(a) *Personal effects having intrinsic or sentimental value.* Includes jewelry, fountain pens, mechanical pencils, spectacles, cameras, wallets, billfolds, medals, insignia, money orders, traveler's checks, personal letters, diaries, keepsakes, Bibles, books, religious articles, and similar items; these items will not be withheld because they are stained or contaminated. They may often be restored by the command effects office or the CONUS Air Force Effects Office (see paragraph (a) of § 803.60). These items will be wrapped or packaged to avoid contaminating other items; flints and fluids removed from lighters and ink from fountain pens.

(b) *Items of no intrinsic or sentimental value.* These items (including those listed in § 803.12(a)(2)) and items of doubtful value will be forwarded so that the Effects Office may determine whether they have intrinsic or sentimental value.

(c) *Explosives and highly combustible items.* Such items will be withdrawn.

§ 803.71 Inventory of effects.

When effects are to be disposed of through the Air Force Effects Office, three copies of AF Form 1122 will be prepared. The original will be placed in the personal effects container; a copy retained for the originating unit, and one copy forwarded directly to the Air Force Effects Office. (A copy of this inventory will not be sent to the next of kin of the deceased.)

§ 803.72 Disposal of funds.

(a) *Found in effects.* If the amount exceeds $5, the money will be turned in to the nearest accounting and finance officer (this includes Military Payment Certificates; foreign currencies that do not exceed 1 month of the decedent's basic pay and allowances; and amounts collected from debtors and authorized sales of effects). Money in amounts less than $5 will be forwarded with the effects.

(b) *Accounting and finance officer.* A check for the amount turned in (see paragraph (a) of this section) will be prepared, payable to the Air Force effects officer; the object for which drawn "Exchange for cash—personal effects," will be shown. This check will be given to the effects officer or summary court.

(c) *Transmittal sheet.* When a check is drawn for funds of more than one person, the names and service numbers of the persons and the amount belonging to each will be listed on the transmittal sheet accompanying the check. This will enable the Air Force Effects Office to identify the funds readily.

(d) *Description of check.* Before mailing the check, the command effects officer or summary court will enter a brief description of the check (that is, the number, date, total amount, and symbol) on the original and all copies of AF Form 1122a. He will then forward the check by the fastest means to the Air Force Effects Office.

(e) *Listing of amounts.* In addition to the total amount on the check, a separate listing will be made on AF Form 1122a of the amount found with the effects. This will enable the Air Force Effects Office to determine the amount found with the effects of each person.

(f) *Undelivered Treasury Checks.* An undelivered U.S. Treasury Check, or a Military Payment Order will be disposed of as directed in § 803.15.

(g) *Mutilated currency refused by an accounting and finance officer.* Mutilated currency will be forwarded (in an envelope) to the command effects office (with the decedent's personal effects) and a statement inserted identifying the deceased. Disposition of the mutilated currency will be shown on AF Form 1122a.

§ 803.73 Disposal of identification tags.

Identification tags are items of military equipment and are not considered personal effects.

§ 803.74 Shipping effects.

(a) *Determining the recipient.* The Air Force Effects Office will determine the recipient of effects forwarded to the command effects office, unless the theater effects officer determines that it is more practicable to transmit the effects direct to the recipient at Government expense, because the recipient resides within the country in which the effects are located. In this case, he will give the Air Force Effects Office a detailed report of the action taken, including the date, name and address of the addressee, and two copies of a completed AF Form 1122.

(b) *Package markings.* Each package or box containing effects will be plainly marked with the owner's full name, grade, service number, and organization; if more than one package or box is required, each container will be numbered: Box No. —— of —— boxes.

(c) *Damaged packages.* If a container has been tampered with, or is damaged

enough to warrant investigating the contents, the receiving officer will immediately open it, examine the contents, and check them against the enclosed inventory list; if there is any shortage or damage, he will investigate further and include information about the shortage or damage in the container with the effects. Also, he will forward results of the investigation through channels to the Air Force Effects Office.

(d) *Shipping at Government expense.* Effects will be shipped to the United States (or owner, as in paragraph (a) of this section) at Government expense by any available means; receipts will be obtained at all points of shipment and transshipment.

(1) Small packages will be put into one large container to prevent loss or pilferage; on the outside of the large container the number of individual packages it contains will be noted.

(2) Effects will be kept in separate, locked compartments under the control of the security officer while en route to the United States.

Subpart I—Procedures for Disposing of the Effects of Allied Personnel

§ 803.80 Effects of allied dead.

Personal effects of allied dead will be handled and safeguarded the same as effects of U.S. military dead, but payment and collection of debts will not be made.

(a) The effects will be forwarded to the command headquarters responsible for arranging with the country concerned to dispose of them. A receipt will be obtained which will become a permanent part of the records of the unit responsible for making the burial.

(b) One copy of each personal effects inventory, conspicuously marked ALLIED, will be forwarded to command headquarters (not to the Air Force Effects Office) for later transmission to the liaison officer.

(c) When the remains are delivered to a civilian cemetery for burial, the effects will be listed on a memorandum advising the graves registration officer of higher headquarters of burial.

(d) Money will not be turned in to the accounting and finance officer. It will be forwarded with other effects to command headquarters. Packages containing such effects will be clearly marked "Allied Dead."

§ 803.81 Unclaimed and miscellaneous effects, and effects of other than known deceased.

(a) *Time held in command.* The command will hold for 120 days unclaimed or miscellaneous effects of persons interned, captured, or missing in action. If the effects are still unclaimed after this period and efforts to locate missing persons fail, the effects will be forwarded to the Air Force Effects Office.

(b) *Packaging and disposition.* Personal effects found in places other than on the remains or in storage will be forwarded to the command effects office. Two copies of AF Form 1122 will be prepared. Place of recovery will be noted on the list of items; the items packaged; labeled "MISC EFFECTS"; and forwarded. Such effects will not be delivered to a collecting point or cemetery operated by graves registration personnel.

(c) *Lost property.* Lost property left at military installations or on trains or other common carriers will be forwarded to the command effects office. If the property is determined to belong to a deceased person, it will be disposed of as directed in § 803.72. If the property belongs to a person who is not a casualty, it will be disposed of in accordance with theater policy.

(d) *Return of missing person.* When a missing person returns, he will make a written request to the officer in charge of the command effects office that his funds and effects be returned to him.

(e) *Classified matter.* Organizational property, diaries, and records containing classified information will be disposed of as directed by higher authority.

By order of the Secretary of the Air Force.

JOHN W. FAHRNEY,
Colonel, USAF Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.72-20073 Filed 11-21-72;8:49 am]

SUBCHAPTER M—ANIMALS

PART 930—USAF SENTRY DOG PROGRAM

WORKING DOG PROGRAM

Part 930, Subchapter M of Chapter VII of Title 32 of the Code of Federal Regulations is retitled and revised to read as follows:

PART 930—USAF MILITARY WORKING DOG PROGAM

Sec.
930.1 Purpose.
930.2 Concept of the program.
930.3 Use of military working dogs.
930.4 Restrictions in the use of military working dogs.
930.5 Posting of areas.
930.6 How the program works.

AUTHORITY: The provisions of this Part 930 issued under 10 U.S.C. 8012.

§ 930.1 Purpose.

(a) This part governs the use of military working dogs by USAF Security Police operations in providing protection for USAF resources, assisting in the defense of USAF installations, and assisting in the enforcement of laws and regulations. It applies to all Air Force activities worldwide, engaged in the employment of military working dogs.

(b) Part 806 of this chapter states basic policies and instructions of release to the public of Air Force records, manuals, and regulations.

§ 930.2 Concept of the program.

Military working dogs (patrol, sentry, drug detection) are special items of equipment used to increase the effectiveness of USAF Security Policemen. The patrol dog is the basic type of dog used by Security Police. The patrol dog is used under the control of a handler who requires specialized training. The patrol dog's chief values are:

(a) The ability, through superior sensory capabilities, to increase the effectiveness of a Security Policeman in providing protection for USAF resources.

(b) Providing an effective psychological deterrent to potential offenders. Patrol dogs can be effectively used during both daylight and darkness, as vehicle or foot patrols. They may be used to scout, track, search, and observe from listening or observation posts. They are additionally trained to pursue, attack, hold, and release an offender upon the command of the handler.

§ 930.3 Use of military working dogs.

Patrol dogs may be effectively used in all aspects of Security Police operations:

(a) AFM 206-1, Local Ground Defense of U.S. Air Force Bases: Patrol dogs are used to increase the detection and surveillance capability of the ground defense forces by patrolling, scouting, or tracking; to enhance the capability of sentries on observation or listening posts; and as a physical and psychological deterrent.

(b) AFM 207-1, Aerospace Systems Security: Patrol dogs are used to increase detection and surveillance capabilities, to provide a psychological deterrence, and to increase the ability to control intruders.

(c) AFR 35-6, Illegal or Improper Use of Drugs: Patrol dogs may be trained to detect marihuana in order to support the USAF Drug Abuse Control Program.

(d) Part 851 of Subchapter E of this chapter, Protection of USAF Resources: Patrol dogs are used to protect resources and property by providing increased area surveillance, assist in building security checks, protecting funds in transit, as an aid to the security policeman in normal patrol activity, and in the prevention of theft and vandalism. In the investigative role they may be used for stakeouts, tracking, and article and building searches.

(e) Part 809a of Subchapter A of this chapter, Enforcement of Order at Air Force Installations, Control of Civil Disturbance and Support of Disaster Relief Operations and Special Consideration for Oversea Area: Patrol dogs may be used to protect vital resources and provide security for critical facilities. Patrol dogs may also be used to patrol disturbed areas under certain situations. They provide protection to foot patrols, and add to the psychological effect of show of force. Caution must be used when employing patrol dogs. As a general rule, dogs should not be used to confront demonstrators directly.

Manual, Definitive Designs of Air Force

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§ 930.4 **Restrictions in the use of military working dogs.**

(a) When employed, dogs will always be accompanied by a handler and worked on a leash unless released to search or attack. The handler will be able to maintain control over the actions of the dog when it is off leash.

(b) The handler will insure that the requirements of AFR 125–26, Use of Force by Personnel Engaged in Law Enforcement and Security Duties, have been complied with prior to the release of a military working dog.

(c) A military working dog team consists of one handler permanently assigned with one dog. HQ USAF/IGSM must approve any deviation from the single handler concept.

(d) Air Force units will only use dogs procured in accordance with AFR 400–8, Department of Defense Dog Program, or dogs furnished through negotiation with foreign governments. Other dogs will not be trained or used in any manner that would make the Air Force responsible for their care or actions.

(e) Military working dogs will not be left unattended whether in kennels or in the field. A qualified dog handler will be assigned to attendant duties to insure proper care and safety of military working dogs at all times.

(f) The installation's local stray dog pound will not be operated as a part of the military working dog facility. It will not be located in the immediate or adjacent area, and military working dog handlers will not be used to support the functions of the stray dog pound.

(g) Privately owned pets will not be permitted within the confines of the military working dog facility with the exception of those being evaluated for the Department of Defense at designated procurement locations.

(h) Dogs trained in the detection of drugs will, in addition to their normal patrol functions, be restricted to:

(1) Assisting in searches for illegal drugs in instances authorized by the appropriate commander based upon probable cause, or when the search is based upon voluntary consent.

(2) Searching dormitories and other Air Force facilities specifically for the confiscation of illegal drugs, whether or not the drugs confiscated may be admissible as evidence in a court of law.

(3) Searches during border clearance embarkations and debarkations. In the continental United Sttates, dogs may be used to further search military aircraft, freight, baggage, and personnel once they have been cleared by the U.S. Customs Bureau. At special foreign clearance bases, where U.S. Customs inspections are performed by security police, dogs may be used, except when searching civilian personnel or their baggage.

§ 930.5 **Posting of areas.**

Warning signs will be appropriately displayed at each gate and around the perimeter of the base. The signs will be so mounted as to be easily read by persons approaching on foot or in vehicles. In foreign countries, the wording will be in English and the local language.

§ 930.6 **How the program works.**

(a) *Procurement, training, and retraining of dogs.* (1) AFLC procures all military working dogs required by the Air Force. Requisitions for military working dogs must arrive concurrently with the entry of the handler into the ATC training program.

(2) Military working dogs will be initially trained by formal USAF training schools.

(3) The using unit will schedule dogs for replacement as they reach 9 years of age. Dogs reaching this age, however, may be continued on duty if the chief of security police and the attending veterinarian determine that the dog is performing effectively and is in good health.

(4) If the death of a dog creates an urgent requirement for replacement that cannot be satisfied by normal programing, a replacement may be obtained from HQ USAF for the continental United States, and through Pacific and European training schools for oversea units. Special short courses are available to provide previously trained handlers with new dogs.

(5) The emergency establishment of new military working dog sections may occur during the fiscal year because of unforeseen mission changes. The major command will arrange for the procurement of dogs and the training quotas required.

(6) Military working dogs which become excess to the needs of the using command will be disposed of as stated in AFR 400–8, attachment 1, paragraph 9.

(b) *Selection, training, and use of dog handlers.* (1) Personnel selected for training and duty as military working dog handlers are drawn from authorized security police career field manpower resources of the using installation, or upon command request from pipeline graduates of the basic security police courses. It is preferable that the handler be a volunteer, but in all instances, he must be recommended by his superior. Desirable traits to be demonstrated by potential handlers are resourcefulness, patience, intelligence, and a marked degree of dependability.

(2) Once an individual has been trained as a military working dog handler, he will perform duty in that capacity for at least 24 months. Therefore, no one should be selected for such training unless his current military obligation is for 24 months or longer.

(3) Personnel selected to perform duties as kennel master or instructor/trainer will be graduates of the patrol dog supervisors course, or will be scheduled to attend the course upon assignment to such duties. The primary function of the kennel master is to insure that all military dogs assigned to his kennel are proficient in the performance of their duty. The duty hours of the kennel master will normally conform to those hours when the majority of the military working dogs are on duty. Additionally, the kennel master, through his assistant and kennel attendants, will insure that the health, safety, and well being of the dogs assigned are provided for.

(4) To maintain proficiency, each dog team will normally be rotated through the available posts on a frequent basis. The kennel master or K–9 squad leader, as appropriate, will be the rating official for all assigned dog handlers. However, it is the responsibility of the security or law enforcement flight supervisor to insure effective utilization of the dog teams assigned to his flight for duty.

(c) *Veterinary medical support.* Detailed guidance concerning veterinary medical support is contained in AFR 163–1, Veterinary Services. The Air Force Surgeon General, through the Veterinary Service, provides professional support for the military working-dog program, including medical care and treatment of military working dogs at the training locations and bases of assignment; professional review of plans for new construction and modification of kennels, support buildings, and sites; sanitary inspection of kennel areas; the training and instruction of military working dog handlers and supervisors in the care, feeding, and first aid of military working dogs. Special studies in matters affecting the health and welfare of military working dogs are conducted as required. The director of base medical services will include veterinary requirements for medical material used in the treatment of military working dogs in the medical services budget. Civilian veterinary care for military working dogs is authorized in emergencies where a military veterinarian is not available or when the medical requirements for care are beyond the capabilities of the local military treatment facility.

(d) *Equipment and rations.* (1) TA–538, "Security Police Activities, Organizational Small Arms Equipment, Military Dogs, Associated Equipment, and Civil Disturbance Equipment", lists equipment allowances for the military working-dog program. An initial issue of items is shipped with each dog to the training site or the unit of assignment.

(2) The standard basic ration for all USAF military working dogs is "Feed, High Caloric, For Military Working Dogs." The feed is classified by General Services Administration (GSA) as a "store stock item," category 95, and is procured through supply channels. Delivery is made direct to the user by the processor.

(3) The veterinary officer may have specific uses for specially formulated diets in the feeding of dogs with certain types of illnesses. Special diets may be procured and fed to individual animals when the veterinarian indicates that other than the standard diet is required.

(e) *Kennel and support facilities.* (1) Definitive design AD–39–19–01–R4 as shown in AFM 88–2, Air Force Design Manual, Definitive Designs of Air Force Structures, is the standard Air Force design. This design and AFM 86–4, standard facility requirements, will be used as guides when constructing military working-dog facilities. New construction or modification of existing canine kennels and support buildings will not be initiated without professional veterinary review as stated in AFR 163–1.

(2) Military dog facilities will be placed (so far as practicable), in areas where there will be the least distraction to the dogs and where dogs will not become a nuisance to personnel, but as close as possible to existing base water, electrical, and sewage outlets. Typical locations which will be avoided are the vicinity of motor pools, POL areas, runways, engine test stands, runup areas where the noise level exceeds 85 decibels, near firing ranges, and officer, family or troop housing areas. The kennel area will be posted with off-limits signs.

(f) *Records and reports.* When each military working dog is procured, a permanent administrative record file will be initiated which thereafter will accompany the dog. The veterinary support unit at the procurement facility will initiate a permanent health record. Together, the administrative record and the health record constitute the permanent field record. This field record will accompany the dog on every transfer, and will be kept current by the organization to which the dog is assigned. Upon death of the dog, the permanent field record will be forwarded to the Central Repository for Military Dog Records.

(1) *Administrative records.* (i) DD Form 323, "Military Dog Record." This form is used as a history of the dog's military service.

(ii) AF Form 321, "Military Dog Training and Utilization Record." Record of the daily training activities to show the continuation training given the dog and to provide a daily record of the employment of each military dog.

(2) *Medical records.* The preparation and maintenance of medical records for military working dogs is the responsibility of the support veterinarian and are maintained in accordance with AFR 163–1, Veterinary Service, USAF.

(g) *Disposition of military working dogs.* (1) AFM 67–1, volume VI, USAF Supply Manual, and AFR 400–8, provide relief from property accountability for military working dogs that die or are euthanized. Military working dogs are not to be euthanized due to being excess to current local or command requirements. Military working dogs may be euthanized: To terminate suffering from disease, injury, or permanent physical disability; to prevent the spread of contagious disease; when they are no longer able to perform duty because of age, incurable disease, or permanent physical disability; or when they are temperamentally unsuited to perform the function for which procured.

(2) Appropriate commanders must give written approval for euthanasia. Veterinary officers must issue supporting statements if there is medical reason for euthanasia.

(3) In emergency cases to prevent suffering, veterinary officers may perform euthanasia at their discretion.

By order of the Secretary of the Air Force.

JOHN W. FAHRNEY,
Colonel, USAF Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.72–20072 Filed 11–21–72;8:49 am]

Chapter XIV—Renegotiation Board

SUBCHAPTER B—RENEGOTIATION BOARD REGULATIONS UNDER THE 1951 ACT

CONTRACTORS

Assignment, Conduct and Forms; Correction

F.R. Doc. 72–19551, appearing at pages 24108–24112 of the FEDERAL REGISTER of November 14, 1972, is corrected as follows:

PART 1471—ASSIGNMENT OF CONTRACTORS FOR RENEGOTIATION

1. Under Part 1471 Assignment of Contractors for Renegotiation, paragraph 1 of the amendment to § 1471.2 is corrected to read as follows:

1. Paragraph (b) is amended by deleting the third and fifth sentences thereof.

PART 1472—CONDUCT OF RENEGOTIATION

2. Under Part 1472 Conduct of Renegotiation, § 1472.3(j) is corrected by changing "explored by" to "explored with" in the second sentence thereof; § 1472.4(a)(1) is corrected by changing "§ 1472.2(a)" to "§ 1473.2(a)"; and paragraph 4 of § 1472.5 is corrected by deleting "(d)" before the new sentence provided therein.

PART 1498—FORM RELATING TO AGREEMENTS AND ORDERS

3. Under Part 1498 Forms Relating to Agreements and Orders, the notice form set forth in § 1498.7 is corrected by inserting "excessive" before "profits" in the first paragraph thereof.

Dated: November 17, 1972.

RICHARD T. BURRESS,
Chairman.

[FR Doc.72–20116 Filed 11–21–72;8:49 am]

Title 39—POSTAL SERVICE

Chapter I—U.S. Postal Service

PART 123—NONMAILABLE MATTER

Solicitations by Mail in the Guise of Bills or Statements of Account

In the daily issue of October 13, 1972 (37 F.R. 21641) the Postal Service, complying voluntarily with the advance notice requirement of the Administrative Procedure Act (5 U.S.C. 553 (b), (c)) regarding proposed rule making, published a proposed revision of § 123.4(e) of Title 39, Code of Federal Regulations, dealing with solicitations in the guise of bills or statements of account, with a view to improving the implementation of section 3001(d) of Title 39, United States Code. Interested members of the public were given 30 days within which to submit written data, views, or arguments concerning the proposed revision. After consideration of all comments received, the Postal Service has determined to adopt the proposal without change.

Accordingly, the following amendments to the regulations of the Postal Service are hereby made, to be effective on the 30th day following the date of this publication in the FEDERAL REGISTER.

In § 123.4 paragraph (e) is redesignated as paragraph (f) and amended to read as follows:

§ 123.4 **Lotteries, false representations, libelous matter and solicitations in the guise of bills or statements of account.**

* * * * *

(f) *Solicitations in the guise of bills or statements of account (39 U.S.C. 3001(d)).* Any otherwise mailable matter which reasonably could be considered a bill, invoice, or statement of account due, but is in fact a solicitation for an order, is nonmailable unless it conforms to the following requirements:

(1) Each such solicitation shall bear the notice: THIS IS NOT A BILL. The notice shall appear on the face of such solicitation in boldface capital letters of a color prominently contrasting with the background against which it appears, including all other print thereon, and at least as large and as bold as any other print thereon but not smaller than 30-point type. The notice shall be located in accordance with one of the following options:

(i) On the center of the diagonal described by a straight line drawn from the vertex of the lower left corner to the vertex of the upper right corner; or

(ii) Overprinting each portion of the solicitation which reasonably could be considered to specify a monetary amount due and payable by the recipient.

(2) In addition to the requirements of subparagraph (1) of this paragraph, such solicitation shall bear on its face the following disclaimer:

This is a solicitation. You are under no obligation to pay unless you accept this offer.

(3) The disclaimer required by subparagraph (2) of this paragraph shall meet the following requirements:

(i) It shall be surrounded by clear space of at least one-quarter inch;

(ii) It shall appear in boldface capital letters no smaller than 18-point type and of the same color as the notice required by subparagraph (1) of this paragraph; and

(iii) It shall not, by folding or any

Target Rock Road, Lloyd Neck, Hunting-

of Federal Regulations, Part 33, and are

V37-226 NOV 22 72 XUM

(iii) It shall not, by folding or any other device, be rendered less prominent than any other information on the face of the solicitation.

(4) Any solicitation which states that it has been approved by the Postal Service or by the Postmaster General or that it conforms to any postal law or regulation is nonmailable.

(39 U.S.C. 401, 3001(d))

LOUIS A. COX,
General Counsel.

[FR Doc.72-20071 Filed 11-21-72;8:45 am]

Title 49—TRANSPORTATION

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 71-1; Notice 4]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Glazing Materials; Response to Petitions for Reconsideration

Correction

In F.R. Doc. 72-19487, appearing at page 24035, in the issue of Saturday, November 11, 1972, on page 24036, directly under paragraph 3., the number "S5.1.2.2" should read "S5.1.1.2".

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 28—PUBLIC ACCESS, USE AND RECREATION

Amagansett National Wildlife Refuge, N.Y.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11-22-72).

§ 28.28 Special regulations, public access, use and recreation; for individual wildlife refuge areas.

NEW YORK

AMAGANSETT NATIONAL WILDLIFE REFUGE

Pedestrian access along the refuge beachfront is permitted during daylight hours for the purpose of nature study, photography, shell collecting, and hiking. Access beyond the beachfront for the purpose of environmental education studies is permitted by Special Use Permit on a reservation basis. Permits may be obtained from the Refuge Manager, Target Rock National Wildlife Refuge, Target Rock Road, Lloyd Neck, Huntington, N.Y. 11743, or Refuge Manager, Morton National Wildlife Refuge, Rural Delivery 359, Noyac Road, Sag Harbor, N.Y. 11963. The use of motorized vehicles on the refuge is prohibited. Parking is limited to designated Town of East Hampton parking areas in accordance with town regulations. Pets are not permitted on the refuge.

The refuge, comprising 35.8 acres, is delineated on a map available from the Refuge Manager, Target Rock National Wildlife Refuge, Target Rock Road, Lloyd Neck, Huntington, N.Y. 11743, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1972.

RICHARD E. GRIFFITH,
Regional Director, Bureau of Sport Fisheries and Wildlife.

NOVEMBER 9, 1972.

[FR Doc.72-20084 Filed 11-21-72;8:46 am]

PART 33—SPORT FISHING

Necedah National Wildlife Refuge, Wisconsin

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11-22-72).

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

WISCONSIN

NECEDAH NATIONAL WILDLIFE REFUGE

Sport fishing on the Necedah National Wildlife Refuge, Necedah, Wis., is permitted from December 15, 1972, through December 31, 1972, but only on that area designated as open to fishing. The open area, comprising approximately 38,000 acres, is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Sport fishing on the entire Necedah National Wildlife Refuge, Necedah, Wis., is permitted from January 1, 1973 through March 15, 1973. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through March 15, 1973.

GERALD H. UPDIKE,
Refuge Manager, Necedah National Wildlife Refuge, Necedah, Wis.

NOVEMBER 14, 1972.

[FR Doc.72-20083 Filed 11-21-72;8:46 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 72-322]

PART 153—ANTIDUMPING

Bicycle Speedometers From Japan

NOVEMBER 17, 1972.

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160 (a)), gives the Secretary of the Treasury responsibility for determination of sales at less than fair value. Pursuant to this authority the Secretary of the Treasury has determined that bicycle speedometers from Japan are being, or are likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). (Published in the FEDERAL REGISTER of June 24, 1972 (37 F.R. 12912, F.R. Doc. 72-9565).)

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160 (a)), gives the U.S. Tariff Commission responsibility for determination of injury or likelihood of injury. The U.S. Tariff Commission has determined, and on September 22, 1972, it notified the Secretary of the Treasury that an industry in the United States is being injured by reason of the importation of bicycle speedometers from Japan sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. (Published in the FEDERAL REGISTER of September 28, 1972 (37 F.R. 20288, F.R. Doc. 72-16526).)

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to bicycle speedometers from Japan.

Section 153.43 of the Customs regulations is amended by adding the following to the list of findings of dumping currently in effect:

Merchandise	Country	T.D.
Bicycle speedometers	Japan	72-322

(Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173.)

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-20334 Filed 11-21-72;8:52 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 905]

ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Proposed Rules and Regulations

Notice is hereby given that the Department is considering a proposed addition, as hereinafter set forth, to the rules and regulations (Subpart—Rules and Regulations; 7 CFR 905.120 et seq.) currently in effect pursuant to the marketing agreement, as amended, and Order No. 905, as amended, (7 CFR Part 905) regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The aforesaid rules and regulations were proposed by the Growers Administrative Committee, established under said amended marketing agreement and order as the agency to administer the terms and provisions thereof. The proposal is designed to permit tourists to bring fresh fruit home without the expense and inconvenience of having the fruit inspected and an inspection certificate issued. The committee believes that it is not necessary to regulate these small quantities of fruits to attain the objectives of the program. The proposal is as follows:

§ 905.141 Minimum exemption.

Any shipment of fruit which meets each of the following requirements may be transported from the production area during any one day by any person or by the occupants of one vehicle exempt from the requirements of §§ 905.52 and 905.53 and regulations issued thereunder:

(a) The shipment does not exceed a total of 7½ standard packed boxes (12 bushels) of fruit, either a single fruit or a combination of two or more fruits;

(b) The shipment consists of fruit not for resale; and

(c) Such exempted quantity is not included as a part of a shipment exceeding 7½ standard packed boxes (12 bushels) of fruit.

* * * * *

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed rules and regulations shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the fifth day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: November 16, 1972.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-20098 Filed 11-28-72;8:48 am]

[7 CFR Part 971]

LETTUCE GROWN IN LOWER RIO GRANDE VALLEY IN SOUTH TEXAS

Notice of Proposed Expenses and Rate of Assessment

Consideration is being given to approval of the proposed expenses and rate of assessment, hereinafter set forth, which were recommended by the South Texas Lettuce Committee, established pursuant to Marketing Agreement No. 144 and Marketing Order 971 (7 CFR Part 971). This marketing order program regulates the handling of lettuce grown in the Lower Rio Grande Valley in south Texas and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

All persons who desire to submit written data, views, or arguments in connection with these proposals may file the same with the Hearing Clerk, Room 112-A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than the 15th day after publication in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). The proposals are as follows:

§ 971.212 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending July 31, 1973, by the South Texas Lettuce Committee for its maintenance and functioning and for such purposes as the Secretary determines to be appropriate will amount to $24,000.

(b) The rate of assessment to be paid by each handler in accordance with the marketing agreement and this part shall be two cents ($0.02) per carton of lettuce handled by him as the first handler thereof during said fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period ending July 31, 1973, may be carried over as a reserve.

(d) Terms used in this section have the same meaning as when used in the said marketing agreement and this part.

Dated: November 16, 1972.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-20099 Filed 11-21-72;8:48 am]

Agricultural Stabilization and Conservation Service

[7 CFR Part 711]

REVIEW COMMITTEE MEMBER

Extension of Office Term

Notice is hereby given that pursuant to authority contained in the applicable provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301, 1364, 1375), the Department proposes to amend the Marketing Quota Review Regulations.

The purpose of this amendment is to change the length of the term of office for serving as a member of a marketing quota review committee panel. Currently each panel member is appointed or reappointed annually by the Secretary for a period of 1 calendar year. It is proposed that effective for the 1973 calendar year each panel member be appointed for 3 consecutive calendar years and be subject to reappointment for succeeding terms.

Section 711.10 be amended to read as follows:

§ 711.10 Term of office.

Appointment as a member of a review committee panel shall be for a term of 3 calendar years. A member may be reappointed for succeeding terms. Notwithstanding the foregoing, a review committee shall continue in office to conclude hearings before it which are begun during such 3-year term and make final determinations thereof, or to hold a reopened hearing, or to conclude a hearing remanded to it by a court.

Prior to the issuance of this amendment any data, views, or recommendations pertaining thereto which are submitted in writing to the Director, Commodity Stabilization Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, will be given consideration provided such submissions are submitted within 15 days from date of publication of this notice. To be sure of consideration, such submission should be postmarked not later than 15 days after the date of publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this

notice will be made available for public

tion 109(a)(1) of the Act in determining

Sec.

evaluation of the six criteria set forth

committed or omitted conduct which

the notice of violation or prompt corrective action initiated during the course of

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notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Signed at Washington, D.C., on November 17, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-20139 Filed 11-21-72;8:51 am]

DEPARTMENT OF THE INTERIOR

Bureau of Mines

[30 CFR Part 100]

COAL MINE HEALTH AND SAFETY

Civil Penalties for Violations; Assessments and Procedures

In the FEDERAL REGISTER for August 26, 1972 (37 F.R. 17395), there was published a notice of proposed rule making which would have amended Part 100, Subchapter O, Chapter I, Title 30, Code of Federal Regulations by: (1) Requiring operators of coal mines or miners charged with liability for a civil penalty to fully utilize the informal protest procedure administered by the Bureau of Mines' Office of Assessment and Compliance Assistance prior to appealing for public hearing and formal adjudication of a proposed order of assessment to the departmental office of hearings and appeals; (2) providing for assignment of assessment officers in the field in order to permit and encourage convenient, inexpensive contact between all persons involved in the informal protest procedure, and to facilitate the information gathering process needed for effective performance by assessment officers; (3) deleting appendix A to Part 100, entitled "Guidelines for Assessment of Penalties"; and (4) establishing policy guidelines to be utilized by assessment officers in their consideration and application of the six statutory criteria set forth in section 109(a)(1) of the Federal Coal Mine Health and Safety Act of 1969.

The written comments, suggestions, and objections submitted to the Bureau of Mines concerning these proposed amendments to Part 100 have been carefully reviewed and evaluated. In response thereto, it is deemed advisable to withdraw the amendments proposed on August 26, 1972, and to propose a totally revised Part 100, as set forth below. The intent of this total revision is the same as that of the August 26 proposal, that is, to ensure that the informal protest procedure is utilized to reduce the vast number of petitions for public hearing and formal adjudication in connection with the assessment of civil penalties under section 109(a) of the Act, and to ensure that the Office of Assessment and Compliance Assistance has adequate information and data to fully and properly consider the six statutory criteria of section 109(a)(1) of the Act in determining the proposed amount of civil penalty.

Although Part 100, as set forth below, would permit an operator or miner against whom a civil penalty has been proposed to elect to petition for a public hearing and formal adjudication to the departmental office of hearings and appeals rather than protest a proposed order of assessment to the assessment officer, it is believed that the proper use of the guidelines contained in § 100.3(b) and the requirement that the assessment officer's worksheet (used as the basis for determining the amount of the proposed civil penalty) be furnished to the operator or miner charged, will make the protest procedure the most desirable procedure in most instances. In addition, the period of time for filing a protest or to petition for public hearing and formal adjudication would be lengthened from 20 to 30 days.

Four district assessment offices have been established in major coal mining areas, in addition to the Office of Assessment and Compliance Assistance located in Washington, D.C. These district offices are located at:

Bristol, Va.
Lexington, Ky.
Charleston, W. Va.
Uniontown, Pa.

Other district assessment offices may be established as demand requires.

Appendix A to Part 100, "Guidelines for Assessment of Penalties" would still be deleted in its entirety.

The guidelines contained in § 100.3(b) below, which are to be utilized by the assessment officers in their consideration of the six statutory criteria contained in section 109(a)(1) of the Act, have been revised for clarification, and, in many instances, to indicate that the presence or absence of various factors will justify a higher or lower proposed penalty.

Notice is hereby given that in accordance with the provisions of section 109(a) of the Federal Coal Mine Health and Safety Act of 1969, and pursuant to the authority vested in the Secretary of the Interior under section 508 of the Act, it is proposed, for the reasons set forth above, to revise Part 100, Subchapter O of Chapter I, Title 30, Code of Federal Regulations as set forth below.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons are invited to submit written comments, suggestions, or objections regarding these proposed amendments to the Director, Bureau of Mines, Washington, D.C. 20240, within 45 days after date of publication of this notice in the FEDERAL REGISTER.

HOLLIS M. DOLE,
Assistant Secretary of the Interior.

NOVEMBER 16, 1972.

Sec.
100.1 Purpose.
100.2 Occurrence of violation; review of notices and orders; prima facie liability.
100.3 Assessment of civil penalties; general.
100.4 Procedures for assessment of civil penalties; protest procedures; appeal procedures.
100.5 Hearing procedures.
100.6 Formal penalty assessment.

AUTHORITY: The provisions of this Part 100 issued under secs. 109 and 508, Federal Coal Mine Health and Safety Act of 1969, as amended (83 Stat. 756, 803; 30 U.S.C. 819, 957).

§ 100.1 Purpose.

The assessment of civil penalties under section 109(a) of the Federal Coal Mine Health and Safety Act of 1969 shall be made for the purpose of maintaining the health and safety of the miner and of insuring the maximum compliance effort on the part of the coal mining industry.

§ 100.2 Occurrence of violation; review of notices and orders; prima facie liability.

(a) Each notice of violation and order of withdrawal issued in accordance with the provisions of the Act will be reviewed by an assement officer, appointed by and responsible to the Director, Bureau of Mines. The purpose of this review will be to determine prima facie the liability of the operator or miner for a civil penalty and the amount of penalty to be proposed.

(b) Where more than one violation is cited in a notice or order issued in accordance with the provisions of the Act, the assessment officer shall consider all violations so cited, and shall separately assess each such violation.

(c) If, after reviewing a notice of violation or order of withdrawal the assessment officer determines prima facie that the operator or miner is liable for a civil penalty, the procedures set forth in §§ 100.3 through 100.6 shall be applicable, as appropriate.

§ 100.3 Assessment of civil penalties; general.

(a) Upon determining that the operator is prima facie liable for a civil penalty, the assessment officer shall determine the amount of penalty to be proposed after taking into consideration: (1) The operator's history of previous violations, (2) the appropriateness of the penalty to the size of the operator's business, (3) whether the operator was negligent, (4) the effect on the operator's ability to continue in business, (5) the gravity of the violation, and (6) the demonstrated good faith of the operator in attempting to achieve rapid compliance after notification of violation. All six criteria must be considered in arriving at the amount of the proposed penalty, and no one criterion shall, in and of itself, be determinative of such amount.

(b) The guidelines specified in subparagraphs (1) through (6) of this paragraph, as set forth below, shall be utilized by the assessment officer in his evaluation of the six criteria set forth in paragraph (a) of this section.

(1) *History of previous violations.* (i) The assessment officer should take into account and utilize an operator's previous history of all violations concerning the mine in question. In addition, the operator's overall history of violations for all mines operated by him should receive consideration. History of the same or similar violations in the mine in question, or other mines, if any, of the particular operator should also be weighed. If the overall history of violations increases, or does not show a decrease, a higher proposed penalty is justified. However, if the overall history of violations decreases, a lower proposed penalty is justified. Regardless of whether the overall history of violations increases or decreases, an increase in the incidence of the same or similar violations justifies a higher proposed penalty; and a decrease or absence of the same or similar violations justifies a lower proposed penalty.

(ii) The period of time which elapses between the same or similar violations should also be considered. If a short period of time elapses between the same or similar violations, a higher proposed penalty may be justified; conversely if a lengthy period of time elapses between such violations, a lower proposed penalty may be justified.

(2) *The appropriateness of the penalty to the size of the operator's business.* The size of the operator's business should be considered in conjunction with the effect on the operator's ability to continue in business, since both criteria are so closely related to the remedial impact of the proposed penalty on the operator. Such remedial impact should ensure that each operator is penalized in proportion to the size of his business and his ability to continue in business. The number of tons of coal produced and number of miners employed by the operator should be included in the evaluation of this criterion.

(3) *Effect on the operator's ability to continue in business.* Since the Bureau does not ordinarily have available the operator's detailed financial records, it should be assumed, in the absence of documentation to the contrary, that a given penalty will not adversely affect an operator's ability to continue in business. In this regard, the burden of showing an adverse effect of a penalty is on the operator. Only verified financial statements should be considered. Additionally, where an operator operates more than one mine, the operator's total ability to pay a penalty should be considered rather than the effect of a penalty on a given mine. In connection with the criteria set forth in subparagraph (2) of this paragraph and this subparagraph it is assumed that the operator who produces large tonnages of coal and employs a large number of miners is, in the absence of evidence to the contrary, more able to pay a higher penalty and continue in business.

(4) *Whether the operator was negligent.* (i) Negligence generally means committed or omitted conduct which falls below a standard of conduct established by law to protect persons against the risk of harm. The standard of conduct established by the Federal Coal Mine Health and Safety Act of 1969 is that the operator of a coal mine owes a high degree of care to the miners employed by him (91st Con., First Sess., H.R. Conf. Rep. No. 91-761, p. 71); and consequently a rebuttable presumption of negligence should be considered to exist, unless the authorized representative of the Secretary indicates to the contrary on the order or notice. The presence of negligence justifies a higher proposed penalty; conversely, the absence of negligence justifies a lower proposed penalty.

(ii) In the case of notices or orders arising out of the unwarrantable failure of an operator to comply with a mandatory health or safety standard, issued in accordance with section 104(c) of the Act, a rebuttable presumption exists that not only has the operator been negligent, but also that the operator has failed to exercise a high degree of care. Failure to exercise a high degree of care (section 104(c) notice or order) may justify a higher proposed penalty than a penalty for a section 104(b) or (i) notice or order.

(iii) Depending on information supplied by the authorized representative of the Secretary and stated on the notice or order, other tests which may be applied in considering negligence are whether, in the opinion of the authorized representative who issued the notice or order, the condition or practice cited was known by the operator or should have been known by the operator; the length of time during which the condition or practice existed; and whether there were impediments to the operator obtaining the necessary equipment and/or personnel.

(5) *Gravity of the violation.* (i) Gravity should be determined by ascertaining the probability or likelihood that death, physical harm, or occupational disease could reasonably be expected to result from a given violation or combination of violations and by considering the probable severity of such physical harm or occupational disease. The length of time during which the miners were exposed to the hazard in question should also be considered.

(ii) Violation of a mandatory standard which results in an imminent danger order of withdrawal issued pursuant to section 104(a) of the Act, or violation of a standard which results in a notice or order issued pursuant to the unwarrantable failure provisions of section 104(c) of the Act should be considered prima facie grave.

(iii) While one violation standing alone may not be viewed as grave, a group of such violations existing simultaneously, when viewed together, may all be considered grave in the context of a given factual situation.

(6) *Good faith of the operator in attempting to achieve rapid compliance.* Abatement within the time specified by the notice of violation or prompt corrective action initiated during the course of an inspection, should generally be considered as indicating a good faith effort to achieve rapid compliance and should operate as a mitigating factor in determining the amount of the proposed penalty. The more rapid the compliance within the time specified (as noted by the authorized representative of the Secretary on the notice of abatement) the more mitigating the effect should be. Failure to abate a violation within the time specified, without a period for extension, should generally be equated with lack of a good faith effort to achieve rapid compliance, thereby justifying a higher proposed penalty. Even when the time specified for abatement is extended, however, the assessment officer should examine the reasons for the extension in his consideration of this criterion. Furthermore, if the method of abating the violation is unique, not generally known, complex, or very expensive, failure to abate a violation within the specified time may not necessarily indicate lack of good faith.

§ 100.4 Procedures for assessment of civil penalties; protest procedures; appeal procedures.

(a)(1) The assessment officer shall serve, by certified mail, return receipt requested, a proposed order of assessment upon the operator or miner charged.

(2) The proposed order of assessment shall specify the notice of violation or order of withdrawal (including the underlying violation involved therein) for which the liability of the operator or miner for a penalty has been initially determined, and shall state the amount of the proposed civil penalty. A copy of the assessment officer's worksheet, used as the basis for determining the amount of the proposed civil penalty, shall be attached to the proposed order of assessment.

(3) The proposed order of assessment shall also advise the operator or miner charged that he has 30 days from the date of receipt of the proposed order of assessment to either protest the proposed order, in part or in its entirety, to the assessment officer who issued the order, or petition for public hearing and formal adjudication to the Office of Hearings and Appeals.

(4) The operator or miner issued a proposed order of assessment must file with the particular assessment office issuing the proposed order, all protests, requests for informal conferences and extensions of time, copies of petitions filed with the Office of Hearings and Appeals, and all other correspondence relative to the proposed assessment.

(5) Where an operator or miner fails to either timely protest a proposed order of assessmest or petition for a hearing, he shall be deemed to have waived his right of protest and his right to a public hearing and formal adjudication, and the proposed order of assessment shall become the final assessment order of the Secretary of the Interior.

Sec.
§ 141.544 Nonaqueous titrations.
(iii) *Hydroxylamine colorimetric as-*
(solution 3) to the reference concentra-

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(b) The protest to the proposed order of assessment shall be in writing and shall state any facts, explanations, and arguments denying the charges of violation, or demonstrating any extenuating or mitigating circumstances, error in the proposed order of assessment, or other reason why the penalty should not be imposed, and may request the revision or modification of the proposed penalty.

(c) Where an operator or miner timely protests the proposed order of assessment, the assessment officer will provide opportunity for informal consultation and discussion between himself and said miner or operator: *Provided*, The request for the consultation is included with the protest specifying a suggested date and time of meeting and issues to be discussed.

(d)(1) The assessment officer may extend, in writing, the time within which the operator or miner has to protest the proposed order of assessment.

(2) Upon receipt of a protest, the assessment officer shall reconsider the proposed order of assessment and may amend, reissue or vacate the proposed order of assessment.

(3) When reconsideration is completed, the assessment officer shall notify the operator or miner, by certified mail, return receipt requested, of the results thereof. Such notice of reconsideration shall incorporate the amended or reissued proposed order of assessment, if any, and shall advise the operator or miner that he has 30 days from the date of receipt of such notice to petition for public hearing and formal adjudication of the proposed order of assessment, either in part or in its entirety, to the Office of Hearings and Appeals. Additionally, where a proposed order of assessment has been amended, such notice shall be accompanied by a copy of the assessment officer's worksheet used as the basis for determining the amount of the amended proposed order of assessment.

(4) Where an operator or miner fails to timely file a petition for public hearing and formal adjudication with the Office of Hearings and Appeals, he shall be deemed to have waived his right to a public hearing and formal adjudication, and the proposed order of assessment shall become the final assessment order of the Secretary.

§ 100.5 Hearing procedures.

An operator or miner who desires a hearing and formal adjudication shall file a petition for hearing with the Office of Hearings and Appeals in accordance with the procedures set forth in Title 43, Part 4, §§ 4.540 et seq. The address of the Office of Hearings and Appeals is 4015 Wilson Boulevard, Arlington, VA 22203.

§ 100.6 Formal penalty assessment.

(a) In accordance with the procedural rules provided in Part 4, Title 43, Code of Federal Regulations, an Administrative Law Judge or the Board of Mine Operations Appeals (both in the Office of Hearings and Appeals) shall thereafter issue an order based on findings of fact and conclusions of law.

(b) In assessing a civil penalty against an operator or miner, an Administrative Law Judge or the Board of Mine Operations Appeals shall determine de novo the amount of the civil penalty for each violation in any amount not to exceed in the case of an operator, $10,000, and in the case of a miner, $250.

(c) In determining the existence of a violation or assessing a civil penalty thereon, neither the Administrative Law Judge nor the Board is bound by the provisions or guidelines in this part relating to the issuance of proposed assessments.

[FR Doc.72-20108 Filed 11-21-72;8:49 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 135c, 141, 141a, 146a, 149b]

AMPICILLIN

Recodification and Name Change

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), it is proposed that Parts 135c, 141, 141a, 146a, and 149b be revised to provide for the recodification and technical revisions of the ampicillin monographs. In addition, it is also proposed that for all ampicillin trihydrate products the designation "trihydrate" be deleted from the nonproprietary name and that the word "chewable" be excluded from the names of both the anhydrous and trihydrate dosage forms to conform with the policy of the official compendia.

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

1. It is proposed that Part 135c be amended in § 135c.47 by revising paragraph (a) to read as follows:

§ 135c.47 Ampicillin trihydrate capsules, veterinary.

(a) *Specifications.* The drug is in capsule form and conforms to the certification requirements of § 149b.17 of this chapter.

* * * * *

PART 141—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

2. It is proposed that Part 141 be amended by adding a new section to read as follows:

§ 141.544 Nonaqueous titrations.

(a) *Ampicillin content*—(1) *Acid titration.* Transfer an accurately weighed sample of about 400 milligrams to a 125-milliliter flask, add 50 milliliters of dimethylformamide, swirl until dissolved, then stir magnetically and while stirring, titrate with 0.1*N* lithium methoxide (previously standardized against benzoic acid dissolved in 50 milliliters of dimethylformamide), using as indicator four drops of 0.5 percent solution of bromothymol blue in dimethylformamide. Each milliliter of 0.1*N* lithium methoxide is equivalent to 34.94 milligrams of ampicillin. Calculate the ampicillin content to the anhydrous basis.

(2) *Amine titration.* Transfer an accurately weighed 400–500 milligram sample to a 250-milliliter Erlenmeyer flask, add 50 milliliters of glacial acetic acid, and, while stirring, warm in a 70° C. water bath until the sample is completely dissolved. Add three drops of a 0.5 percent solution of crystal violet in glacial acetic acid as indicator, and titrate with 0.1*N* perchloric acid in glacial acetic acid (previously standardized against diphenylguanidine) to the first clear green endpoint. Each milliliter of 0.1*N* perchloric acid is equivalent to 34.94 milligrams of ampicillin. Calculate the ampicillin content on the anhydrous basis.

PART 141a—PENICILLIN AND PENICILLIN-CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

§§ 141a.111, 141a.112, 141a.122, 141a.123, 141a.127, 141a.128, and 141a.129 [Revoked]

3. It is proposed that Part 141a be amended by revoking §§ 141a.111, 141a.112, 141a.122, 141a.123, 141a.127, 141a.128, and 141a.129 and reserving them for future use.

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

§§ 146a.6, 146a.7, 146a.118, 146a.119, 146a.123, 146a.124, and 146a.125 [Revoked]

4. It is proposed that Part 146a be amended by revoking §§ 146a.6, 146a.7, 146a.118, 146a.119, 146a.123, 146a.124, and 146a.125 and reserving them for future use.

5. It is proposed that Part 149b be revised as follows:

PART 149b—AMPICILLIN

Sec.
149b.1 Ampicillin trihydrate.
149b.2 Sterile ampicillin trihydrate.
149b.3 Ampicillin.
149b.4 Sterile sodium ampicillin.
149b.5—149b.10 [Reserved]
149b.11 Ampicillin trihydrate capsules.
149b.12 Ampicillin trihydrate chewable tablets.

Sec.
149b.13 Ampicillin tablets.
149b.14 Ampicillin for oral suspension.
149b.15 Ampicillin trihydrate for oral suspension.
149b.16 Ampicillin capsules.
149b.17 Ampicillin trihydrate capsules, veterinary.
149b.18 Ampicillin chewable tablets.
149b.19 Sterile ampicillin trihydrate for suspension, veterinary.
149b.20 Sterile ampicillin trihydrate for suspension.

AUTHORITY: The provisions of this Part 149b issued under sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357.

§ 149b.1 Ampicillin trihydrate.

(a) *Requirement for certification*—(1) *Standards of identity, strength, quality, and purity.* Ampicillin trihydrate is the trihydrate form of D(−)α-aminobenzyl penicillin. It is also purified and dried that:

(i) It contains not less than 900 micrograms of ampicillin per milligram on an anhydrous basis.

(ii) It passes the safety test.

(iii) Its loss on drying is not less than 12 percent and not more than 15 percent.

(iv) Its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 3.5 and not more than 6.0.

(v) Its ampicillin content is not less than 90 percent on an anhydrous basis.

(vi) It is crystalline.

(vii) It gives a positive identity test for ampicillin trihydrate.

(2) *Labeling.* In addition to the labeling requirements prescribed by § 148.3(b) of this chapter, this drug shall be labeled "ampicillin" and each package shall bear on its outside wrapper or container and the immediate container the following statement "For use in the manufacture of nonparenteral drugs only".

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, loss on drying, pH, ampicillin content, crystallinity, and identity.

(ii) Samples required: 10 packages, each containing approximately 300 milligrams.

(b) *Tests and methods of assay*—(1) *Potency.* Use any of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed portion of the sample in sufficient sterile distilled water to give a stock solution containing 0.1 milligram of ampicillin per milliliter (estimated). Further dilute an aliquot of the stock solution with 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to the reference concentration of 0.1 microgram of ampicillin per milliliter (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 141.506 of this chapter.

(iii) *Hydroxylamine colorimetric assay.* Proceed as directed in § 141.507 of this chapter.

(2) *Safety.* Proceed as directed in § 141.5 of this chapter.

(3) *Loss on drying.* Proceed as directed in § 141.501(a) of this chapter.

(4) *pH.* Proceed as directed in § 141.503 of this chapter, using an aqueous solution containing 10 milligrams per milliliter.

(5) *Ampicillin content.* Proceed as directed in § 141.544 of this chapter.

(6) *Crystallinity.* Proceed as directed in § 141.504(a) of this chapter.

(7) *Identity.* Proceed as directed in § 141.521 of this chapter, using a 0.5 percent potassium bromide disc, prepared as described in paragraph (b)(1) of that section.

§ 149b.2 Sterile ampicillin trihydrate.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Ampicillin trihydrate is the trihydrate form of D(−)α-aminobenzyl penicillin. It is so purified and dried that:

(i) It contains not less than 900 micrograms of ampicillin per milligram on an anhydrous basis.

(ii) It is sterile.

(iii) It is nonpyrogenic.

(iv) It passes the safety test.

(v) Its loss on drying is not less than 12 percent and not more than 15 percent.

(vi) Its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 3.5 and not more than 6.0.

(vii) Its ampicillin content is not less than 90 percent on an anhydrous basis.

(viii) It is crystalline.

(ix) It gives a positive identity test for ampicillin trihydrate.

(2) *Labeling.* In addition to the labeling requirements prescribed by § 148.3 (b) of this chapter, this drug shall be labeled "ampicillin."

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, sterility, pyrogens, safety, loss on drying, pH, ampicillin content, crystallinity, and identity.

(ii) Samples required:

(*a*) For all tests except sterility: 10 packages, each containing approximately 300 milligrams.

(*b*) For sterility testing: 20 packages, each containing approximately 300 milligrams.

(b) *Tests and methods of assay*—(1) *Potency.* Use any of the following methods; however, the results obtained from the microbiological agar diffusion assay be conclusive:

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed portion of the sample in sufficient sterile distilled water to give a stock solution containing 0.1 milligrams of ampicillin per milliliter. Further dilute an aliquot of the stock soluton with 0.1 *M* potassium phosphate buffer, pH 8.0 (solution 3) to the reference concentration of 0.1 microgram of ampicillin per milliliter (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 141.506 of this chapter.

(iii) *Hydroxylamine colorimetric assay.* Proceed as directed in § 141.507 of this chapter.

(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(1) of that section, except in lieu of paragraph (e)(1)(i)(*a*), prepare the sample for test as follows: From each of 10 immediate containers, aseptically transfer approximately 300 milligrams of sample into a sterile 500-milliliter Erlenmeyer flask containing approximately 400 milliliters of diluting fluid D. Add at least 200,000 Levy units[1] of penicillinase. Repeat the process using 10 additional containers. Swirl both of the stoppered flasks to completely solubilize the suspension prior to filtration and proceed as directed in paragraph (e)(1)(ii) of that section.

(3) *Pyrogens.* Proceed as directed in § 141.4(f) of this chapter, using a solution containing 20 milligrams of ampicillin per milliliter.

(4) *Safety.* Proceed as directed in § 141.5 of this chapter.

(5) *Loss on drying.* Proceed as directed in § 141.501(a) of this chapter.

(6) *pH.* Proceed as directed in § 141.503 of this chapter, using an aqueous solution containing 10 milligrams per milliliter.

(7) *Ampicillin content.* Proceed as directed in § 141.544 of this chapter.

(8) *Crystallinity.* Proceed as directed in § 141.504(a) of this chapter.

(9) *Identity.* Proceed as directed in § 141.521 of this chapter, using a 0.5 percent potassium bromide disc.

§ 149b.3 Ampicillin.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Ampicillin is 6-[D-α-aminobenzyl] penicillin. It is a white powder. It is so purified and dried that:

(i) It contains not less than 900 micrograms of ampicillin per milligram.

(ii) It passes the safety test.

(iii) Its loss on drying is not more than 2.0 percent.

(iv) Its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 3.5 and not more than 6.0.

(v) Its ampicillin content is not less than 90 percent on an anhydrous basis.

(vi) It is crystalline.

(vii) It gives a positive identity test for ampicillin.

(2) *Labeling.* In addition to the labeling requirements prescribed by § 148.3(b) of this chapter, each package shall bear on its outside wrapper or container and the immediate container the following statement "For use in the manufacture of nonparenteral drugs only".

[1] One Levy unit of penicillinase inactivates 59.3 units of penicillin G in 1 hour at 25° C. and at a pH of 7.0 in a phosphate buffered solution of a pure alkali salt of penicillin G when the substrate is in sufficient concentration to maintain a zero order reaction.

(2) *Requests for certification; samples.* (viii) It is crystalline.

(c) *Hydroxylamine colorimetric assay.*

loss on drying, pH, ampicillin content, crystallinity, and identity.

(ii) Samples required:

(*a*) The ampicillin trihydrate used in

from the microbiological agar diffusion assay shall be conclusive.

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(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, loss on drying, pH, ampicillin content, crystallinity, and identity.

(ii) Samples required: 10 packages, each containing approximately 300 milligrams.

(b) *Tests and methods of assay*—(1) *Potency.* Assay for potency by any of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed portion of the sample in sufficient sterile distilled water to give a stock solution containing 0.1 milligram of ampicillin per milliliter (estimated). Further dilute an aliquot of the stock solution with 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to the reference concentration of 0.1 microgram of ampicillin per milliliter (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 141.506 of this chapter.

(iii) *Hydroxylamine colorimetric assay.* Proceed as directed in § 141.507 of this chapter.

(2) *Safety.* Proceed as directed in § 141.5 of this chapter.

(3) *Loss on drying.* Proceed as directed in § 141.501(a) of this chapter.

(4) *pH.* Proceed as directed in § 141.503 of this chapter, using an aqueous solution containing 10 milligrams per milliliter.

(5) *Ampicillin content.* Proceed as directed in § 141.544 of this chapter.

(6) *Crystallinity.* Proceed as directed in § 141.504(a) of this chapter.

(7) *Identity.* Proceed as directed in § 141.521 of this chapter, using a 0.5 percent potassium bromide disc, prepared as described in paragraph (b)(1) of that section.

§ 149b.4 Sterile sodium ampicillin.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Sterile sodium ampicillin is the sodium salt or D(-)α-aminobenzyl penicillin. It is so purified and dried that:

(i) It contains not less than 845 micrograms of ampicillin per milligram. If it is packaged for dispensing, its potency is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of ampicillin that it is represented to contain.

(ii) It is sterile.

(iii) It is nonpyrogenic.

(iv) It passes the safety test.

(v) Its moisture content is not more than 2 percent.

(vi) Its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 8.0 and not more than 10.0.

(vii) Its sodium ampicillin content is not less than 90 percent.

(viii) It is crystalline.

(ix) It passes the identity test for sodium ampicillin.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, sterility, pyrogens, safety, moisture, pH, sodium ampicillin content, crystallinity, and identity.

(ii) Samples required:

(*a*) If the batch is packaged for repacking or for use in manufacturing another drug:

(*1*) For all tests except sterility: 10 packages, each containing approximately 300 milligrams.

(*2*) For sterility testing: 20 packages each containing approximately 300 milligrams.

(*b*) If the batch is packaged for dispensing:

(*1*) For all tests except sterility: A minimum of 15 immediate containers or if each vial contains 250 milligrams or less of ampicillin a minimum of 24 vials.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Sample preparation.* Dissolve an accurately weighed sample in sufficient sterile distilled water to give a stock solution containing 0.1 milligram of ampicillin per milliliter (estimated), for the microbiological agar diffusion assay and in distilled water for the iodometric assay or for the hydroxylamine colorimetric assay to give a stock solution of convenient concentration; and also, if it is packaged for dispensing, reconstitute as directed in the labeling. Then using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single dose container, or if the labeling specifies the amount of potency in a given volume of the resultant preparation remove an accurately measured representative portion from each container. Dilute with either sterile distilled water or distilled water to give a stock solution as specified above.

(ii) *Assay procedure.* Use any of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(*a*) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this chapter, diluting an aliquot of the stock solution with 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to the reference concentration of 0.1 microgram of ampicillin per milliliter (estimated).

(*b*) *Iodometric assay.* Proceed as directed in § 141.506 of this chapter, diluting an aliquot of the stock solution with distilled water to the prescribed concentration.

(c) *Hydroxylamine colorimetric assay.* Proceed as directed in § 141.507 of this chapter.

(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 141.4(b) of this chapter, using a solution containing 20 milligrams of ampicillin per milliliter.

(4) *Safety.* Proceed as directed in § 141.5 of this chapter.

(5) *Moisture.* Proceed as directed in § 141.502 of this chapter.

(6) *pH.* Proceed as directed in § 141.503 of this chapter, using an aqueous solution containing 10 milligrams of ampicillin per milliliter.

(7) *Sodium ampicillin content.* Transfer an accurately weighed 400- to 500-milligram sample to a 125-milliliter Erlenmeyer flask; add 3 milliliters of formic acid, 50 milliliters of glacial acetic acid, three drops of a 0.5 percent solution of crystal violet in glacial acetic acid (as an indicator), and titrate with 0.1*N* perchloric acid in glacial acetic acid to the first clear green endpoint. Calculate the sodium ampicillin content on the anhydrous basis, with each milliliter of 0.1*N* perchloric acid being equivalent to 18.57 milligrams of sodium ampicillin.

(8) *Crystallinity.* Proceed as directed in § 141.504(a) of this chapter.

(9) *Identity.* Proceed as directed in § 141.521 of this chapter, using the method described in paragraph (b)(2) of that section.

§§ 149b.5—149b.10 [Reserved]

§ 149b.11 Ampicillin trihydrate capsules.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Ampicillin trihydrate capsules are composed of ampicillin trihydrate with or without one or more buffer substances, diluents, binders, lubricants, vegetable oils, colorings, and flavorings, enclosed in a gelatin capsule. Each capsule contains ampicillin trihydrate equivalent to 250 milligrams or 500 milligrams of ampicillin. Its potency is satisfactory if it contains not less than 90 percent and not more than 120 percent of the number of milligrams of ampicillin that it is represented to contain. Its loss on drying is not less than 10 percent and not more than 15 percent. The ampicillin trihydrate used conforms to the standards prescribed by § 149b.1(a)(1).

(2) *Labeling.* In addition to the labeling requirements prescribed by § 148.3 of this chapter, this drug shall be labeled "ampicillin capsules."

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The ampicillin trihydrate used in making the batch for potency, safety, loss on drying, pH, ampicillin content, crystallinity, and identity.

(*b*) The batch for potency and loss on drying.

(ii) Samples required:

(*a*) The ampicillin trihydrate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 30 capsules.

(b) *Tests and methods of assay*—(1) *Potency.* Assay for potency by either of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Place a representative number of capsules into a high-speed glass blender jar with sufficient 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to give a convenient concentration. Blend for 3 to 5 minutes. Remove an aliquot and further dilute with solution 3 to the reference concentration of 0.1 microgram of ampicillin per milliliter (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 141.506 of this chapter, preparing the sample as follows: Place the contents of a representative number of capsules into a high-speed glass blender jar, and add sufficient distilled water to give a convenient concentration. Blend for 3 to 5 minutes. Filter through Whatman No. 2 filter paper. Further dilute an aliquot of the filtrate with distilled water to the prescribed concentration.

(2) *Loss on drying.* Proceed as directed in § 141.501(a) of this chapter.

§ 149b.12 Ampicillin trihydrate chewable tablets.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Ampicillin trihydrate chewable tablets are composed of ampicillin trihydrate with or without one or more suitable diluents, lubricants, preservatives, and flavorings. Each tablet contains ampicillin trihydrate equivalent to 125 or 250 milligrams of ampicillin. Its potency is satisfactory if it contains not less than 90 percent and not more than 120 percent of the number of milligrams of ampicillin that it is represented to contain. Its moisture content is not more than 5.0 percent. The ampicillin trihydrate used conforms to the standards prescribed by § 149b.1(a)(1).

(2) *Labeling.* In addition to the labeling requirements prescribed by § 148.3 of this chapter, this drug shall be labeled "ampicillin tablets."

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The ampicillin trihydrate used in making the batch for potency, safety, loss on drying, pH, ampicillin content, crystallinity, and identity.

(*b*) The batch for potency and moisture.

(ii) Samples required:

(*a*) The ampicillin trihydrate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 30 tablets.

(b) *Tests and methods of assay*—(1) *Potency.* Use either of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Place a representative number of tablets into a high-speed glass blender jar with sufficient 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Remove an aliquot and further dilute with solution 3 to the reference concentration of 0.1 microgram of ampicillin per milliliter (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 141.506 of this chapter, preparing the sample as follows: Place a representative number of tablets into a high-speed glass blender jar containing sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a convenient concentration. Blend for 5 minutes. Further dilute to the prescribed concentration.

(2) *Moisture.* Proceed as directed in § 141.502 of this chapter.

§ 149b.13 Ampicillin tablets.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Ampicillin tablets are composed of ampicillin with one or more suitable and harmless diluents and lubricants. Each tablet contains 250 or 500 milligrams of ampicillin. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of ampicillin that it is represented to contain. Its loss on drying is not more than 4 percent. The tablets disintegrate within 15 minutes. The ampicillin used conforms to the standards prescribed by § 149b.3(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The ampicillin used in making the batch for potency, safety, loss on drying, pH, ampicillin content, crystallinity, and identity.

(*b*) The batch for potency, loss on drying, and disintegration time.

(ii) Samples required:

(*a*) The ampicillin used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 36 tablets.

(b) *Tests and methods of assay*—(1) *Potency.* Use either of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Place a representative number of tablets into a high-speed glass blender jar with sufficient 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Remove an aliquot and further dilute with solution 3 to the reference concentration of 0.1 microgram of ampicillin per milliliter (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 141.506 of this chapter, preparing the sample as follows: Place a representative number of tablets into a high-speed glass blender jar containing approximately 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a convenient concentration. Blend for 5 minutes. Further dilute to the prescribed concentration.

(2) *Moisture.* Proceed as directed in § 141.502 of this chapter.

§ 149b.14 Ampicillin for oral suspension.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Ampicillin for oral suspension is a mixture of ampicillin with one or more suitable and harmless colorings, flavorings, buffer substances, sweetening ingredients, and preservatives. When reconstituted as directed in the labeling, it contains either 25 milligrams or 50 milligrams of ampicillin per milliliter. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of ampicillin that it is represented to contain. Its moisture content is not more than 2.5 percent. When reconstituted as directed in the labeling, its pH is not less than 5.0 and not more than 7.5. The ampicillin used conforms to the standards prescribed by § 149b.3(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The ampicillin used in making the batch for potency, safety, loss on drying, pH, ampicillin content, crystallinity, and identity.

(*b*) The batch for potency, moisture, and pH.

(ii) Samples required:

(*a*) The ampicillin used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 6 immediate containers.

(b) *Tests and methods of assay*—(1) *Potency.* Assay for potency by either of

(3) *Labeling.* In addition to the label-

the requirements prescribed by § 1.106

drying, pH, ampicillin content, crystal-

(*a*) The ampicillin used in making the

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the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Reconstitute the drug as directed in the labeling. Place an accurately measured representative portion of the sample into a suitable volumetric flask and dilute to volume with 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to give a convenient concentration. Mix well. Further dilute an aliquot with solution 3 to the reference concentration of 0.1 microgram of ampicillin per milliliter (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 141.506 of this chapter, preparing the sample as follows: Reconstitute the drug as directed in the labeling. Place an accurately measured aliquot (usually a single dose) into an appropriate-sized volumetric flask and dilute to volume with 1 percent potassium phosphate buffer, pH 6.0 (solution 1). Mix well. Further dilute with solution 1 to the prescribed concentration.

(2) *Moisture.* Proceed as directed in § 141.502 of this chapter.

(3) *pH.* Proceed as directed in § 141.503 of this chapter, using the drug reconstituted as directed in the labeling.

(b) *Tests and methods of assay—*(1) *Potency.* Assay for potency by either of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Reconstitute the drug as directed in the labeling. Place an accurately measured representative portion of the sample into a suitable volumetric flask and dilute to volume with 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to give a convenient concentration. Mix well. Further dilute an aliquot with solution 3 to the reference concentration of 0.1 microgram of ampicillin per milliliter (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 141.506 of this chapter, preparing the sample as follows: Reconstitute the drug as directed in the labeling. Place an accurately measured aliquot (usually a single dose) into an appropriate-sized volumetric flask and dilute to volume with 1 percent potassium phosphate buffer, pH 6.0 (solution 1). Mix well. Further dilute with solution 1 to the prescribed concentration.

(2) *Loss on drying.* Proceed as directed in § 141.501(a) of this chapter.

§ 149b.15 Ampicillin trihydrate for oral suspension.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Ampicillin trihydrate for oral suspension is a mixture of ampicillin trihydrate with one or more suitable and harmless colorings, flavorings, buffers, sweetening ingredients, and preservatives. When reconstituted as directed in the labeling, it contains ampicillin trihydrate equivalent to either 25, 50, or 100 milligrams of ampicillin per milliliter. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of ampicillin that it is represented to contain: Its moisture content is:

(i) Not more than 2.5 percent if it contains sugar and is intended to contain the equivalent of 25 or 50 milligrams of ampicillin per milliliter when reconstituted as directed in the labeling; or

(ii) Not more than 5 percent if it contains sugar and is intended to contain the equivalent of 100 milligrams of ampicillin per milliliter when reconstituted as directed in the labeling; or

(iii) Not more than 8 percent if it is sugarless and is intended to contain the equivalent of 25 milligrams of ampicillin per milliliter when reconstituted as directed in the labeling; or

(iv) Not more than 12 percent if it is sugarless and is intended to contain the equivalent of 100 milligrams of ampicillin per milliliter when reconstituted as directed in the labeling. Its pH, when reconstituted as directed in the labeling, is not less than 5.0 and is not more than 7.5. The ampicillin trihydrate used conforms to the standards prescribed by § 149b.1(a)(1).

(2) *Labeling.* In addition to the labeling requirements prescribed by § 148.3 of this chapter, this drug shall be labeled "ampicillin for oral suspension."

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The ampicillin trihydrate used in making the batch for potency, safety, loss on drying, pH, ampicillin content, crystallinity, and identity.

(*b*) The batch for potency, moisture, and pH.

(ii) Samples required:

(*a*) The ampicillin trihydrate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of six immediate containers.

§ 149b.16 Ampicillin capsules.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Ampicillin capsules are composed of ampicillin with or without one or more buffer substances, diluents, binders, lubricants, vegetable oils, colorings, and flavorings, enclosed in a gelatin capsule. Each capsule contains 125 milligrams, 250 milligrams, or 500 milligrams of ampicillin. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of ampicillin that it is represented to contain. The loss on drying is not more than 4.0 percent. The ampicillin used conforms to the standards prescribed by § 149b.3(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The ampicillin used in making the batch for potency, safety, loss on drying, pH, ampicillin content, crystallinity, and identity.

(*b*) The batch for potency and loss on drying.

(ii) Samples required:

(*a*) The ampicillin used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 30 capsules.

(b) *Tests and methods of assay—*(1) *Potency.* Assay for potency by either of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Place a representative number of capsules into a high-speed glass blender jar with sufficient 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to give a convenient concentration. Blend for 3 to 5 minutes. Remove an aliquot and further dilute with solution 3 to the reference concentration of 0.1 microgram of ampicillin per milliliter (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 141.506 of this chapter, preparing the sample as follows: Place the contents of a representative number of capsules into a high-speed glass blender jar, and add sufficient distilled water to give a convenient concentration. Blend for 3 to 5 minutes. Filter through Whatman No. 2 filter paper. Further dilute an aliquot of the filtrate with distilled water to the prescribed concentration.

(2) *Loss on drying.* Proceed as directed in § 141.501(a) of this chapter.

§ 149b.17 Ampicillin trihydrate capsules, veterinary.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Ampicillin trihydrate capsules are composed of ampicillin trihydrate with or without one or more diluents, binders, or lubricants, enclosed in a gelatin capsule. Each capsule contains ampicillin trihydrate equivalent to 125, 250, or 500 milligrams of ampicillin. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of ampicillin that it is represented to contain. Its loss on drying is not less than 10 percent and not more than 15 percent. The ampicillin trihydrate used conforms to the standards prescribed by § 149b.1(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter, except that in lieu of the requirements of § 148.3(a)(1), it shall be labeled in accordance with the requirements prescribed by § 1.106(c) of this chapter, issued under section 507(f) of the Act, and, in addition, this drug shall be labeled "ampicillin capsules, veterinary."

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The ampicillin trihydrate used in making the batch for potency, safety, loss on drying, pH, ampicillin content, crystallinity, and identity.

(*b*) The batch for potency and loss on drying.

(ii) Samples required:

(*a*) The ampicillin trihydrate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 30 capsules.

(b) *Tests and methods of assay—*(1) *Potency.* Assay for potency by either of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Place a representative number of capsules into a high-speed glass blender jar with sufficient 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to give a convenient concentration. Blend for 3 to 5 minutes. Remove an aliquot and further dilute with solution 3 to the reference concentration of 0.1 microgram of ampicillin per milliliter (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 141.506 of this chapter, preparing the sample as follows: Place the contents of a representative number of capsules into a blending jar and add sufficient distilled water to give a stock solution of convenient concentration. Blend for 3 minutes. Filter through Whatman No. 2 filter paper. Further dilute an aliquot of the filtrate with distilled water to the prescribed concentration.

(2) *Loss on drying.* Proceed as directed in § 141.501(a) of this chapter.

§ 149b.18 Ampicillin chewable tablets.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Each ampicillin chewable tablet contains 125 milligrams of ampicillin with suitable binders, lubricants, flavorings, and colorings. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of ampicillin that it is represented to contain. Its loss on drying is not more than 3 percent. The ampicillin used conforms to the standards prescribed by § 149b.3(a)(1) of this chapter.

(2) *Labeling.* In addition to the labeling requirements prescribed by § 148.3 of this chapter, this drug shall be labeled "ampicillin tablets".

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) The results of tests and assays on:

(*a*) The ampicillin used in making the batch for potency, safety, loss on drying, pH, ampicillin content, crystallinity, and identity.

(*b*) The batch for potency and loss on drying.

(ii) Samples required:

(*a*) The ampicillin used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 30 tablets.

(b) *Tests and methods of assay—*(1) *Potency.* Use either of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Place a representative number of tablets into a high-speed glass blender jar with sufficient 0.1*M.* potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Remove an aliquot and further dilute with solution 3 to the reference concentration of 0.1 microgram of ampicillin per milliliter (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 141.506 of this chapter, preparing the sample as follows: Blend a representative number of tablets in a high-speed blender with sufficient distilled water to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with distilled water to the prescribed concentration.

(2) *Loss on drying.* Proceed as directed in § 141.501(a) of this chapter.

§ 149b.19 Sterile ampicillin trihydrate for suspension, veterinary.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Sterile ampicillin trihydrate for suspension, veterinary, is a dry mixture of ampicillin trihydrate and one or more suitable and harmless buffer substances, stabilizers, suspending agents, and preservatives. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of ampicillin that it is represented to contain. It is sterile. It is nonpyrogenic. It passes the safety test. Its loss on drying is not less than 11.4 percent and not more than 14.0 percent. When reconstituted as directed in the labeling, its pH is not less than 5.0 and not more than 7.0. The ampicillin trihydrate used conforms to the requirements of § 149b.2.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter, except that in lieu of the requirements of § 148.3(a)(1), it shall be labeled in accordance with the requirements prescribed by § 1.106(c) of this chapter, and in addition, this drug shall be labeled "sterile ampicillin for suspension, veterinary".

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The ampicillin trihydrate used in making the batch for potency, loss on drying, pH, ampicillin content, crystallinity, and identity.

(*b*) The batch for potency, sterility, pyrogens, safety, loss on drying, and pH.

(ii) Samples required:

(*a*) The ampicillin trihydrate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of 12 immediate containers.

(2) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay—*(1) *Potency—*(i) *Sample preparation.* Reconstitute as directed in the labeling. Using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single dose container or, if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Dilute the resultant solution with 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), for the microbiological agar diffusion assay, or distilled water for the iodometric assay, to give a stock solution of convenient concentration.

(ii) *Assay procedure.* Use either of the folowing methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(*a*) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this chapter, diluting an aliquot of the stock solution with solution 3 to the reference concentration of 0.1 microgram of ampicillin per milliliter (estimated).

(*b*) *Iodometric assay.* Proceed as directed in § 141.506 of this chapter, diluting an aliquot of the stock solution with distilled water to the prescribed concentration.

(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(1) of that section, except in lieu of paragraph (e)(1)(i)(*a*), prepare the sample for test as follows: From each of 10 immediate containers, aseptically transfer approximately 300 milligrams of sample into a sterile 500-milliliter Erlenmeyer flask containing approximately 400 milliliters of diluting fluid D. Add at least 200,000 Levy units[1] of penicillinase. Repeat the process using 10 additional containers. Swirl both of the stoppered flasks to completely solubilize the suspension prior to filtration and proceed as directed in paragraph (e)(1)(ii) of that section. If the formulation cannot be filtered, proceed as directed in § 141.2(e)(2), except use medium B in lieu of medium A and add at least 40,000 Levy units of penicillinase to both medium B and medium E.

(3) *Pyrogens.* Proceed as directed in § 141.4(f) of this chapter, using a solution containing 20 milligrams of ampicillin per milliliter.

[1] One Levy unit of penicillinase inactivates 59.3 units of penicillin G in 1 hour at 25° C. and at a pH of 7.0 in a phosphate buffered solution of a pure alkali salt of penicillin G when the substrate is in sufficient concentration to maintain a zero order reaction.

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DEPARTMENT OF

PRICE COMMISSION

of profit margin calculations for those

(Economic Stabilization Act of 1970, as amended, Public Law 91-379, 84 Stat. 799;

(4) *Safety.* Proceed as directed in § 141.5 of this chapter.

(5) *Loss on drying.* Proceed as directed in § 141.501(a) of this chapter.

(6) *pH.* Proceed as directed in § 141.503 of this chapter, using the solution obtained when the product is reconstituted as directed in the labeling.

§ 149b.20 Sterile ampicillin trihydrate for suspension.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Sterile ampicillin trihydrate for suspension is a dry mixture of ampicillin trihydrate and one or more suitable and harmless buffer substances, stabilizers, suspending agents, and preservatives. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of ampicillin that it is represented to contain. It is sterile. It is nonpyrogenic. It passes the safety test. Its loss on drying is not less than 11.4 percent and not more than 14.0 percent. When reconstituted as directed in the labeling, its pH is not less than 5.0 and not more than 7.0. The ampicillin trihydrate used conforms to the standards prescribed by § 149b.2(a)(1) of this chapter.

(2) *Labeling.* In addition to the labeling requirements prescribed by § 148.3 of this chapter, this drug shall be labeled "sterile ampicillin for suspension."

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The ampicillin trihydrate used in making the batch for potency, loss on drying, pH, ampicillin content, crystallinity, and identity.

(*b*) The batch for potency, sterility, pyrogens, safety, loss on drying, and pH.

(ii) Samples required:

(*a*) The ampicillin trihydrate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of 12 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay—*(1) *Potency—*(i) *Sample preparation.* Reconstitute as directed in the labeling. Using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single dose container, or if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Dilute the resultant solution with 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), for the microbiological agar diffusion assay, or distilled water for the iodometric assay, to give a stock solution of convenient concentration.

(ii) *Assay procedure.* Use either of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(*a*) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this chapter, diluting an aliquot of the stock solution with solution 3 to the reference concentration of 0.1 microgram of ampicillin per milliliter.

(*b*) *Todometric assay.* Proceed as directed in § 141.506 of this chapter, diluting an aliquot of the stock solution with distilled water to the prescribed concentration.

(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(1) of that section, except in lieu of (e)(1)(i)(*a*), prepare the sample for test as follows: From each of 10 immediate containers, aseptically transfer approximately 300 milligrams of sample into a sterile 500-milliliter Erlenmeyer flask containing approximately 400 milliliters of diluting fluid D. Add at least 200,000 Levy units[1] of both of the stoppered flasks to completely solubilize the suspension prior to filtration and proceed as directed in paragraph (e)(1)(ii) of that section. If the formulation cannot be filtered, proceed as directed in § 141.2(e)(2), except use medium B in lieu of medium A.

(3) *Pyrogens.* Proceed as directed in § 141.4(f) of this chapter, using a solution containing 20 milligrams of ampicillin per milliliter.

(4) *Safety.* Proceed as directed in § 141.5 of this chapter.

(5) *Loss on drying.* Proceed as directed in § 141.501(a) of this chapter.

(6) *pH.* Proceed as directed in § 141.503 of this chapter, using the solution obtained when the product is reconstituted as directed in the labeling.

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: November 16, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-20140 Filed 11-21-72;8:52 am]

[1] One Levy unit of penicillinase inactivates 59.3 units of penicillin G in 1 hour at 25° C. and at a pH of 7.0 in a phosphate buffered solution of a pure alkali salt of penicillin G when the substrate is in sufficient concentration to maintain a zero order reaction.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 69-18; Notice 13]

LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Modification of Proposed Effective Date

The purpose of this notice is to modify the effective date of the proposed amendment of Standard No. 108, 49 CFR 571.108, applicable to turn signal and hazard warning signal flashers.

In Notice 12, Docket No. 69-18 (Nov. 3, 1972; 37 F.R. 23460), this agency proposed reinstatement of the requirements applicable to turn signal and hazard warning signal flashers set aside by the U.S. Court of Appeals on August 29, 1972. An effective date of January 1, 1973, was proposed for the new requirements. Wagner Electric Corp. has asked the NHTSA to provide an effective date of September 1, 1973, to allow greater time for testing, certification by State authorities, and modifications in design or other features that may prove necessary. In accordance with Wagner's request, the NHTSA hereby modifies Notices 12 to propose an effective date of September 1, 1973, with permissible optional compliance prior to that date.

In consideration of the foregoing, the notice of proposed amendments of Standard No. 108, 49 CFR 571.108, published as Notice 12 of Docket 69-18 (Nov. 3, 1972; 37 F.R. 23460) is changed as follows:

1. Item 2. is modified to read:

A new paragraph S4.1.1.1 would be added to read: "Each passenger car, multipurpose passenger vehicle, truck, and bus shall be equipped with a turn signal flasher and a hazard warning signal flasher. Each motorcycle shall be equipped with a turn signal flasher. Flashers on vehicles manufactured before September 1, 1973, shall meet either the requirements of table I or table III as applicable, or the requirements of paragraph S4.6 of this standard. Flashers on vehicles manufactured on or after September 1, 1973, shall meet the requirements of paragraph S4.6."

2. In item 3., the date of deletion of turn signal and hazard warning signal flasher from tables I and III would be September 1, 1973.

This notice is issued under the authority of section 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1392, 1407, and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.

Issued on November 17, 1972.

ROBERT L. CARTER,
Associate Administrator, Motor Vehicle Programs.

[FR Doc.72-20117 Filed 11-17-72;3:29 am]

PRICE COMMISSION

[6 CFR Part 300]

[Reference Notice 72-2]

PRICE STABILIZATION

Profit Margin Calculation for Lumber Firms Formerly Exempted From Control; Withdrawal of Notice of Proposed Rule Making

The purpose of this notice is to withdraw Notice 72-2 issued by the Price Commission on September 13, 1972 (37 F.R. 18745), soliciting comments of the industry regarding alternative methods of profit margin calculations for those lumber wholesalers, retailers, or manufacturers whose exemption from the Economic Stabilization Program was eliminated by the Cost of Living Council on July 17, 1972.

Upon reconsideration of the proposal in the light of the comments received the Price Commission has determined that no further rule making action should be taken on that proposal. Accordingly, Notice 72-2 published in the FEDERAL REGISTER on September 15, 1972 (37 F.R. 18745), entitled "Profit Margin Calculation for Lumber Firms Formerly Exempted From Control" is hereby withdrawn.

(Economic Stabilization Act of 1970, as amended, Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92-210; Executive Order No. 11640, 37 F.R. 1213, Jan. 27, 1972; Cost of Living Council Order No. 4, 36 F.R. 20202, Oct. 16, 1971)

Issued in Washington, D.C., on November 17, 1972.

By direction of the Commission.

JAMES B. MINOR,
General Counsel, Price Commission.

[FR Doc.72-20156 Filed 11-21-72;8:53 am]

T. 2 N., R. 21 E.,
Every smallest legal subdivision along the

The effective date of this cancellation is March 14, 1973.

such purposes as this article is intended to be used, is being manufactured in the

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Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

CHROMIC ACID FROM AUSTRALIA

Notice of Intent To Revoke Finding of Dumping

NOVEMBER 17, 1972.

A finding of dumping with respect to chromic acid from Australia was made in Treasury Decision 56130 which was published in the FEDERAL REGISTER on March 21, 1964 (29 F.R. 3596).

After due investigation, I find that chromic acid from Australia is no longer being, nor likely to be, sold in the United States at less than fair value. Supporting that finding are the facts that there have been no importations of chromic acid from Australia since 1963 and that the foreign supplier of this merchandise has given assurance that any future sales of chromic acid to the United States will not be made at less than fair value. Accordingly, pursuant to § 153.41(c) of the Customs regulations (19 CFR 153.41(c)), notice is hereby given that the Treasury Department intends to revoke the dumping finding as to chromic acid from Australia.

Prior to the issuance of the proposed revocation, consideration will be given to any relevant data, views, or arguments which are submitted in writing by interested parties to the Commissioner of Customs, 2100 K Street NW., Washington, DC 20226, and received not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-20236 Filed 11-21-72;8:52 am]

Office of the Secretary

WELDED STAINLESS STEEL PIPE AND TUBING FROM JAPAN

Notice of Discontinuance of Antidumping Investigation

NOVEMBER 17, 1972.

On August 4, 1972, there was published in the FEDERAL REGISTER a "Notice of Intent to Discontinue Antidumping Investigation" of welded stainless steel pipe and tubing from Japan.

The statement of reasons for intending to discontinue this investigation was published in the above-mentioned notice, and interested parties were afforded an opportunity to make written submissions and to present oral views in connection with the intended action.

No written submissions or requests having been received and for the reasons stated in the "Notice of Intent to Discontinue Antidumping Investigation," I hereby discontinue the antidumping investigation of welded stainless steel pipe and tubing from Japan.

This "Notice of Discontinuance of Antidumping Investigation" is published pursuant to § 153.15(b) of the Customs regulations (19 CFR 153.15(b)).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-20235 Filed 11-21-72;8:52 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Notice of Filing of Plat of Survey

1. Plat of survey of the lands described below will be officially filed in the Anchorage Land Office, Anchorage, Alaska, effective at 10 a.m., December 18, 1972.

SEWARD MERIDIAN, ALASKA

T. 16 N., R. 3 E.,
Sec. 4, lots 1 and 2;
Sec. 5, lots 1, 2, 3, and 4, $NW\frac{1}{4}SW\frac{1}{4}$, $S\frac{1}{2}S\frac{1}{2}$;
Sec. 8, $N\frac{1}{2}NE\frac{1}{4}$;
Sec. 9, lots 1, 2, 3, and 4, $SW\frac{1}{4}NE\frac{1}{4}$, $NW\frac{1}{4}NW\frac{1}{4}$, $S\frac{1}{2}NW\frac{1}{4}$, $S\frac{1}{2}$;
Sec. 10, lots 1, 2, 3, 4, 5, and 6, $W\frac{1}{2}SW\frac{1}{4}$, $SE\frac{1}{4}SW\frac{1}{4}$, $W\frac{1}{2}SW\frac{1}{4}SE\frac{1}{4}$;
Sec. 14, lots 1, 2, 3, 4, and 5, $SW\frac{1}{4}SW\frac{1}{4}$;
Sec. 15, lot 1, $NW\frac{1}{4}NE\frac{1}{4}$, $S\frac{1}{2}NE\frac{1}{4}$, $NW\frac{1}{4}$, $SE\frac{1}{4}$;
Sec. 16, $E\frac{1}{2}NE\frac{1}{4}$;
Sec. 23, lots 1 and 2, $S\frac{1}{2}NE\frac{1}{4}$, $NW\frac{1}{4}$, $SE\frac{1}{4}$;
Sec. 24, lots 1, 2, 3, and 4, $S\frac{1}{2}$;
Sec. 25, $N\frac{1}{2}N\frac{1}{2}$;
Containing 2,951.23 acres.

2. The land encompassing this survey is bordered on the north by the Knik River and on the south by the Chugach Mountain Range.

The soil is a thin sandy loam covered with a good growth of cottonwood, birch, and spruce, dispersed with alders, rose, willow brush and devil's club.

The elevation ranges from 100 to 1,500 feet above sea level.

The main access is an improved dirt road that enters the survey in section 5, traversing southeasterly and exiting the township in section 25.

The area is located approximately 12 miles southeast of Palmer, Alaska.

3. The public lands affected by this order are hereby restored to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, rules, and regulations.

4. Inquiries concerning the lands should be addressed to the Manager, Anchorage Land Office, 555 Cordova Street, Anchorage, AK 99501.

CLARK R. NOBLE,
Land Office Manager.

NOVEMBER 14, 1972.

[FR Doc. 72-20082 Filed 11-21-72;8:46 am]

Office of the Secretary

[FES 72-41]

TERMINATION OF HELIUM PURCHASE CONTRACTS

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Mines, Department of the Interior, has prepared a final environmental statement entitled "Termination of Helium Purchase Contracts." Single copies may be obtained from the Director, Bureau of Mines, U.S. Department of the Interior, Washington, D.C. 20240.

In requesting this document, please refer to the statement number above.

Dated: November 13, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-20100 Filed 11-21-72;8:47 am]

Geological Survey

[Power Site Cancellation 239]

GREEN RIVER, UTAH

Cancellation of Power Site

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and 220 Departmental Manual 6.1, Power Site Classification 411 of November 9, 1950, is hereby canceled to the extent that it affects the following described land:

SALT LAKE MERIDIAN, UTAH

T. 2 N., R. 20 E.,
Sec. 2, lots 1 to 8, inclusive, $SE\frac{1}{4}NE\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}$, $NE\frac{1}{4}SW\frac{1}{4}$, and $NE\frac{1}{4}SE\frac{1}{4}$;
Sec. 10, lots 1 and 2, and $NE\frac{1}{4}NE\frac{1}{4}$;
Sec. 11, lots 6 to 16, inclusive, $N\frac{1}{2}NW\frac{1}{4}$, and $SW\frac{1}{4}NW\frac{1}{4}$;
Sec. 12, lot 2;
Sec. 13, lots 4 to 9, inclusive, $SW\frac{1}{4}NW\frac{1}{4}$, $NW\frac{1}{4}SW\frac{1}{4}$, and $SE\frac{1}{4}SW\frac{1}{4}$;
Sec. 14, lot 1, $NW\frac{1}{4}NE\frac{1}{4}$, and $N\frac{1}{2}NW\frac{1}{4}$;
Sec. 24, lots 2, 3, and 4.
T. 3 N., R. 20 E.,
Sec. 28, $SE\frac{1}{4}SW\frac{1}{4}$ and $SW\frac{1}{4}SE\frac{1}{4}$.

T. 2 N., R. 21 E.,
Every smallest legal subdivision along the right bank (south bank) of Green River any portion of which, when surveyed, will be at an elevation of 5,900 feet or less above mean sea level and as shown by the map entitled "Plan and Profile, Green River, Green River, Utah, to Green River, Wyoming" published by the U.S. Geological Survey in 1924. Protraction of land net from existing surveys indicates that the land will be in sections 12, 13, 14, 15, 19, 20, 21, 22, and 23.
T. 2 N., R. 22 E.,
Sec. 7, lots 9, 10, and 11;
Sec. 9, lots 5 and 6;
Sec. 10, lots 2 and 3;
Sec. 15, lots 5 to 12, inclusive, $SE\frac{1}{4}NW\frac{1}{4}$, and $NE\frac{1}{4}SW\frac{1}{4}$;
Sec. 16, lots 2 to 8, inclusive, and $SW\frac{1}{4}NW\frac{1}{4}$;
Sec. 17, lots 4 to 8, inclusive, and $S\frac{1}{2}NE\frac{1}{4}$;
Sec. 18, lots 6 to 9, inclusive, lots 11 and 12, and $SE\frac{1}{4}SW\frac{1}{4}$.

The land described aggregates about 3,909 acres.

The effective date of this cancellation is March 14, 1973.

Dated: November 14, 1972.

W. A. RADLINSKI,
Acting Director.

[FR Doc.72-20085 Filed 11-21-72;8:46 am]

[Power Site Cancellation 275]

SNAKE RIVER BASIN, IDAHO

Cancellation of Power Site

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and 220 Departmental Manual 6.1, Power Site Classification 365 of August 10, 1944, is hereby canceled to the extent that it affects the following described land:

BOISE MERIDIAN

T. 6 S., R. 6 E.,
Sec. 1, $SW\frac{1}{4}NW\frac{1}{4}$;
Sec. 2, $N\frac{1}{2}SE\frac{1}{4}$;
Sec. 5, $N\frac{1}{2}S\frac{1}{2}$.

The area described aggregates 280 acres.

The effective date of this cancellation is March 14, 1973.

Dated: November 14, 1972.

W. A. RADLINSKI,
Acting Director.

[FR Doc.72-20086 Filed 11-21-72;8:47 am]

[Power Site Cancellation 313]

MERCED RIVER BASIN, CALIF.

Cancellation of Power Site

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and 220 Department Manual 6.1, Power Site Classification 267 of August 24, 1933, is hereby canceled to the extent that it affects the following described land:

MOUNT DIABLO MERIDIAN

T. 3 S., R. 15 E.,
Sec. 35, $SW\frac{1}{4}SE\frac{1}{4}$.

The land described aggregates 40 acres.

The effective date of this cancellation is March 14, 1973.

Dated: November 14, 1972.

W. A. RADLINSKI,
Acting Director.

[FR Doc. 72-20087 Filed 11-21-72;8:47 am]

DEPARTMENT OF COMMERCE

Office of Import Programs

NORTH CAROLINA DEPARTMENT OF MENTAL HEALTH ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

Correction

In F.R. Doc. 72-19095 appearing at page 23740 of the issue for Wednesday, November 8, 1972, in Docket No. 73-00190-33-46040 the figure "295" in the sixth line should read "275".

HARVARD UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 73-00025-46040. Applicant: Harvard University, Purchasing Department, 75 Mount Auburn Street, Cambridge, MA 02138. Article: Electron microscope, Model Elmiskop 101. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is intended to be used for structural studies of cellular membranes accompanied by X-ray and neutron diffraction, biochemical and genetic studies in a cooperative effort of several investigators. Other experiments will include structural analysis of isolated gap junctions from mammalian liver and correlated X-ray diffraction and electron microscope studies with nerve myelin. The article will also be used as a teaching instrument for graduate students and postdoctoral fellows in training in the methods of electron microscopy in addition to other aspects of cell biology.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated November 3, 1972 that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-20149 Filed 11-21-72;8:52 am]

UNIVERSITY OF COLORADO

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 73-00036-22-26200. Applicant: University of Colorado, Purchasing Department, Regent Hall, Box 8, Boulder, CO 80302. Article: Two (2) Custom built and designed trigger units, 1972 Modified JCSMR-ANU, R.M.T. Schmitt trigger unit, rack mounted and one (1) modular rack. Manufacturer: R. M. Tupper, Australia. Intended use of article: The article is intended to be used in a project to study receptive field organization of the retina and lateral geniculate nucleus of the cat. The major objective of the

project is to correlate the behavior of ... treated as additional information under ... sity, Ann Arbor, MI 48104. Article: Elec-

The Department of Commerce knows

National Institutes of Health

MEDICAL EDUCATION REVIEW

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project is to correlate the behavior of single neurons with known anatomy.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The use in the study and recording of action potentials from single cat neurons as obtained from microelectrodes requires a specific design so that the results will be compatible with the applicant's techniques, apparatus and experience. The custom built foreign article provides the specific design. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated November 3, 1972 that the capability described above is pertinent to the purposes for which the article is intended to be used. HEW further advises that it knows of no comparable domestic instrument of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-20150 Filed 11-21-72;8:52 am]

UNIVERSITY OF COLORADO

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00262-01-77030. Applicant: University of Colorado, Purchasing Services Department, Regent Hall, Room 122, Boulder, CO 80302. Article: NMR spectrometer, Model PS-100 and accessories. Manufacturer: JEOLCO, Ltd., Japan. Intended use of article: The article is intended to be used in physical chemical and structural studies on organic and inorganic compounds containing H^1, F^{19}, C^{13} and Si^{29} in natural abundance and ultimately Si^{30}, H^3 (deuterium), p^{31} and other magnetic nuclei.

Comments: No comments have been received with respect to this application. A letter dated March 20, 1972 from Varian Associates, Palo Alto, Calif. is treated as additional information under section 701.10(a) of the regulations.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The National Bureau of Standards (NBS) stated in its memorandum dated October 17, 1972 that a method of comparing the pulse power of the foreign and comparable domestic instruments is to compare their 90 degree pulse width for C^{13}. The foreign article has a guaranteed specification of 10 microseconds. The most closely comparable domestic instrument, the Varian Model XL100 and accessories, provides a guaranteed specification of 40 microseconds which is significantly longer. NBS advised that the requirement for high pulse power at least equal to that of the foreign article is pertinent to the purposes for which the article is intended to be used i.e. T_1 (Spin relaxation time) measurements on solutions with paramagnetic ions. NBS also advised that it knows of no domestic instrument which is scientifically equivalent to the foreign article for the applicant's intended use.

For these reasons, we find the Model XL100 and accessories are not of equivalent scientific value to the foreign article for the purposes for which the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-20151 Filed 11-21-72;8:52 am]

UNIVERSITY OF MICHIGAN AND KENTUCKY STATE COLLEGE

Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.). (See especially § 701.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 73-00027-33-46040. Applicant: The University of Michigan, School of Dentistry, 1011 North University, Ann Arbor, MI 48104. Article: Electron microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used to observe ultrastructural morphology of oral-facial tissues of mice, rats, rabbits, and humans consisting of abnormally developed cleft lip and palatal material and compare to normal tissues. Tooth tissues will also be observed to better understand the relationship of dentin development related to neural growth. The article will also be used in instructing graduate students in the methods of electron microscopy. Application received by Commissioner of Customs: July 12, 1972. Advice submitted by Department of Health, Education, and Welfare on: November 3, 1972.

Docket No. 73-00041-33-46040. Applicant: Kentucky State College-Biology, Carver Hall, Room 188, East Main Street, Frankfort, Ky. 40601. Article: Electron microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for ultrastructural studies of human and animal tissues in respect to their cellular structure and characteristics to determine the effect of malnutrition upon normal cellular structure. The article will also be used in the course Cell Biology—Electron Microscopy to train a large number of students in analytical techniques. Application received by Commissioner of Customs: July 18, 1972. Advice submitted by Department of Health, Education, and Welfare on: November 3, 1972.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for such purposes as these articles are intended to be used, is being manufactured in the United States.

Reasons: Each applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. Each of the foreign articles to which the foregoing applications relate is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programming. The most closely comparable domestic instrument is the Model EMU-4C electron microscope which is a relatively complex instrument designed primarily for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare in its respectively cited memoranda, that the relative simplicity of design and ease of operation of the foreign articles described above are pertinent to the applicants' educational purposes. We, therefore, find that the Forgflo Model EMU-4C electron microscope is not of equivalent scientific value to any of the foreign articles described above for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-20152 Filed 11-21-72;8:52 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

NATIONAL ADVISORY FOOD COMMITTEE

Notice of Meetings

Pursuant to Executive Order 11671, the Food and Drug Administration announces the following public advisory committee meetings and other required information in accordance with provisions set forth in section 13(a) (1) and (2) of the order:

Committee name	Date, time, place	Type of meeting and contact person
National Advisory Food Committee.	Nov. 27 and 28, 9:00 a.m., Conference Room M, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open—Nov. 27, open—Nov. 28, 9:00 a.m. to 10:30 a.m., closed Nov. 28 after 10:30 a.m.; Robert A. Littleford, Ph. D., Room 7-67, 5600 Fishers Lane, Rockville, MD 20852, 301—443-4463.

Purpose. Advises the Commissioner of Food and Drugs on policy matters of national significance relating to safety of foods. Reviews and makes recommendations on applications for grants-in-aid.

Agenda. GRAS review, International Symposium on Benefit-Risk Evaluation, and nutrition labeling activities. Grant review portion of meeting will be closed to the public in accordance with the determination by the Secretary of Health, Education, and Welfare pursuant to the provisions of Executive Order 11671, section 13(d).

Agenda items are subject to change as priorities dictate.

A list of committee members and summary minutes of the meetings may be obtained from the contact person for the committee both for meetings open to public participation and those meetings closed to the public in accordance with section 13(d) of Executive Order 11671 and the Secretary's notice of determination of September 27, 1972, published in the FEDERAL REGISTER of October 5, 1972 (37 F.R. 20995).

Dated: November 16, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-20142 Filed 11-21-72;8:52 am]

National Institutes of Health

ARTIFICIAL KIDNEY-CHRONIC UREMIA ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the Artificial Kidney-Chronic Uremia Advisory Committee, December 11, 1972, at 8:45 a.m., National Institutes of Health, Building 31, Conference Room 4. This meeting will be open to the public from 8:45 a.m. to 9:45 a.m. on December 11 to discuss the current status of the artificial kidney program, and closed to the public from 9:45 a.m. to 5 p.m. on December 11, to review, discuss, and evaluate and/or rank grant applications in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination.

Name of the person from whom rosters of committee members, summary of the meeting, and other information pertaining to the meeting may be obtained: Mr. Victor Wartofsky, Information Officer, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Md., 301—496-3583.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

NOVEMBER 14, 1972.

[FR Doc.72-20078 Filed 11-21-72;8:46 am]

DENTAL EDUCATION REVIEW COMMITTEE

Notice of Meeting

Pursuant to Executive Order 11671 notice is hereby given of meeting of the following committee and the executive secretary from whom summaries of meeting may be obtained.

Committee, date, time, and location of committee
Dental Education Review Committee; December 12, 1972; 8:30 a.m. to 5:30 p.m.; NIH, Building 31, Conference Room 8.

1. The Executive Secretary who will furnish summaries of the closed meeting and rosters of committee members: Leonard P. Wheat, National Institutes of Health, Building 31, Room 4B-44, phone 496-6641, and

2. The Executive Secretary from whom substantive information may be obtained: Leonard P. Wheat, National Institutes of Health, Building 31, Room 4B-44, phone 496-6641.

This meeting shall be closed to the public in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination, in order to review, discuss, and evaluate and/or rank grant applications.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

NOVEMBER 15, 1972.

[FR Doc.72-20080 Filed 11-21-72;8:46 am]

MEDICAL EDUCATION REVIEW COMMITTEE

Notice of Meetings

Pursuant to Executive Order 11671 notice is hereby given of meetings of the following committee and the executive secretary from whom summaries of meetings may be obtained.

Committee, date, time, and location
Medical Education Review Committee; December 13-14, 1972; 9 a.m.-5 p.m.; Building 31, Conference Room 10.

Names, addresses, room numbers, and phone numbers of:

1. The Executive Secretary who will furnish summaries of the meeting and roster of committee members is:

Mr. Theodore Lorenzen, National Institutes of Health, Building 31, Room 4C-07, Extension 66801, Exchange 49, Area Code 301, IDS Code 14.

2. The Executive Secretary from whom substantive information may be obtained is:

Mr. Theodore Lorenzen, National Institutes of Health, Building 31, Room 4C-07, Extension 66801, Exchange 49, Area Code 301, IDS Code 14.

These meetings shall be closed to the public in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination, in order to review, discuss, and evaluate and/or rank grant applications.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

NOVEMBER 15, 1972.

[FR Doc.72-20079 Filed 11-21-72;8:46 am]

NATIONAL ADVISORY PUBLIC HEALTH TRAINING COUNCIL

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the National Advisory Public Health Training Council, December 12, 1972, at 9 a.m., National Institutes of Health, Building 31, Conference Room 6. This meeting will be open to the public from 9 a.m., to 5 p.m., December 12, to discuss the status of current legislation and appropriations, revisions in grant program policy documents, evaluation plans for selected grant programs, and the supply and requirements for public health personnel; and closed to the public from 9 a.m. to adjournment, December 13, to review performance of ongoing contracts and to review and rank grant applications in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination.

Summaries of this meeting may be obtained from the Executive Secretary, Mr. Thomas D. Hatch, Director, Division of Allied Health Manpower, Bureau of Health Manpower Education, National Institutes of Health, PHS, Building 31, Room 3C-39, 9000 Rockville Pike,

Bethesda, MD 20014. Telephone: and in Wake County Public Library, 104

Atomic Energy Commission's regulations

[Docket No. 50-322]

with public notice given. The procedures to be considered on November 30 will be

Dated at Washington, D.C., November 16, 1972.

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Bethesda, MD 20014, Telephone: 496–6975.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

NOVEMBER 15, 1972.

[FR Doc.72–20081 Filed 11–21–72;8:46 am]

Office of the Secretary

NATIONAL ADVISORY HEALTH COUNCIL

Notice of Public Meeting

The National Advisory Health Council, established to advise the Secretary regarding all major aspects of the health problems of the Nation and the programs designed to meet these problems which come under the purview of the Department of Health, Education, and Welfare, is scheduled to meet on December 13–14, 1972. The meeting will be held in the Food and Drug Administration Building located at 200 C Street SW., Washington, DC, Room 1409. The meeting is scheduled to convene at 1 p.m. on December 13, and will continue until 5 p.m.; and at 9 a.m. on December 14 and will adjourn at 12:30 p.m.

The Council will discuss the problems of health manpower with respect to maldistribution both by geographic area and by specialty; and how the Federal Government can best contribute to the solution of these problems. The Council will present its views, also, as to which of the Nation's health problems should receive major attention in the course of the next 5 years.

The meeting is open for public observation.

Dated: November 16, 1972.

MELVIN L. DOLLAR,
Executive Secretary.

[FR Doc.72–20122 Filed 11–21–72;8:50 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50–400, 50–401, 50–402, 50–403]

CAROLINA POWER AND LIGHT CO.

Notice of Availability of Applicant's Environmental Report, Supplemental Environmental Reports, and Draft Environmental Statement

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations set forth in appendix D to 10 CFR Part 50, notice is hereby given that documents entitled "Applicant's Environmental Report and Amendments to Environmental Report" (collectively known as the "reports"), submitted by the Carolina Power and Light Co. have been placed in the Commission's Public Document Room at 1717 H Street NW., Washington, DC and in Wake County Public Library, 104 Fayetteville Street, Raleigh, NC 27601. The reports are also available at the Clearinghouse and Information Center, 116 West James Street, Raleigh, NC 27603. Research Triangle Regional Planning Commission, Post Office Box 12255, Research Triangle Park, NC 27709.

Notice of availability of the applicant's environmental report was published in the FEDERAL REGISTER on December 7, 1971 (36 F.R. 23262).

The reports have been analyzed by the Commission's Directorate of Licensing, and a draft environmental statement, related to the proposed issuance of a construction license for the Shearon Harris Nuclear Power Plant Units 1, 2, 3, and 4 located in Wake and Chatham Counties, N.C., has been prepared and is available for public inspection at the locations designated above. Copies of the Commission's draft environmental statement may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Pursuant to appendix D to 10 CFR Part 50, interested persons may, within forty-five (45) days from the date of publication of this notice in the FEDERAL REGISTER, submit comments for the Commission's consideration on the report and supplements, on the draft environmental statement, and on the proposed action. Federal and State agencies are being provided with copies of the draft environmental statement (local agencies may obtain this document on request), and when comments thereon of the Federal, State, and local officials are received, they will be made available for public inspection at the above designated locations. Comments on the draft environmental statement from interested members of the public should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 16th day of November 1972.

For the Atomic Energy Commission.

DANIEL R. MULLER,
Assistant Director for Environmental Projects, Directorate of Licensing.

[FR Doc.72–20095 Filed 11–21–72;8:47 am]

[Docket No. 50–331]

IOWA ELECTRIC LIGHT AND POWER CO.

Notice of Availability of Applicant's Amendments to Environmental Report and Draft Environmental Statement

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations set forth in Appendix D to 10 CFR Part 50, notice is hereby given that documents entitled "Applicant's Amendment No. 1 through Amendment No. 2 to Environmental Report" (collectively known as the "reports"), submitted by Iowa Electric Light & Power Co. have been placed in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. and in Cedar Rapids Public Library, 428 Third Avenue SE., Cedar Rapids, IA 52401. The reports are also available at the Office of Planning and Programing, State Capitol, Des Moines, Iowa 50319 and the Linn County Regional Planning Commission, Courthouse, Cedar Rapids, Iowa 52401.

Notice of availability of the applicant's Environmental Report was published in the FEDERAL REGISTER on January 11, 1972 (37 F.R. 410).

The reports have been analyzed by the Commission's Directorate of Licensing, and a Draft Environmental Statement, dated November 1972, related to the proposed Continuation of Construction Permit No. CPPR–70 and the proposed issuance of operating licenses for the Duane Arnold Energy Center located in Linn County, Iowa, has been prepared and has been made available for public inspection at the locations designated above. Copies of the Commission's Draft Environmental Statement may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Pursuant to Appendix D to CFR Part 50, interested persons may, within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER submit comments for the Commission's consideration on the Report and Supplements, on the Draft Environmental Statement, and on the proposed action. Federal and State agencies are being provided with copies of the Draft Environmental Statement (local agencies may obtain this document on request), and when comments thereon of the Federal, State, and local officials are received, they will be made available for public inspection at the above designated locations. Comments on the Draft Environmental Statement from interested members of the public should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Maryland, this 15th day of November 1972.

For the Atomic Energy Commission.

DANIEL R. MULLER,
Assistant Director for Environmental Projects, Directorate of Licensing.

[FR Doc.72–20096 Filed 11–21–72;8:47 am]

[Docket No. 50–322]

LONG ISLAND LIGHTING CO.

Schedule for Prehearing Conference and for Evidentiary Hearing

In the matter of Long Island Lighting Co. (Shoreham Nuclear Power Station).

A prehearing conference in the above proceeding will be held on Tuesday, November 28, 1972, 9:30 a.m., local time, at the Holiday Inn (Capri Room), 100–15 Ditmars Boulevard, East Elmhurst, NY 11379 (near La Guardia Airport).

The evidentiary hearing will begin on Monday, December 4, 1972, at 10 a.m., local time, at the Holiday Inn, 4089 Nesconset-Port Jefferson Highway, Centereach, NY 11720.

For the Atomic Safety and Licensing Board.

Dated at: Washington, D.C., this 20th day of November 1972.

JAMES R. YORE,
Chairman.

[FR Doc.72–20211 Filed 11–21–72;8:53 am]

[Docket No. 50–397]

WASHINGTON PUBLIC POWER SUPPLY SYSTEM

Order Scheduling Prehearing Conference

On September 28, 1972, the Atomic Energy Commission published in the FEDERAL REGISTER (37 F.R. 20271) a notice of hearing to consider the application filed under the Atomic Energy Act of 1954, as amended, by the Washington Public Power Supply System (Applicant) for a construction permit for a boiling water nuclear reactor designated as the Hanford No. 2 Nuclear Power Plant. That notice provided that an Atomic Safety and Licensing Board (which has been designated by the Atomic Safety and Licensing Board Panel on November 15, 1972) would conduct a public hearing, specified the issues to be determined by the Board and provided opportunity for the filing of petitions for leave to intervene. In addition, the notice provided the opportunity to make limited appearances to other persons who wish to make a statement in the proceeding but who do not wish to intervene.

Pursuant to such authorization, notice is hereby given that a prehearing conference in the captioned proceeding will be held on November 30, 1972.

All members of the public are entitled to attend this prehearing conference and any subsequent prehearing conferences as well as the full evidentiary sessions of the hearing in this proceeding. The prehearing conference on November 30, 1972, however, will be conducted in accordance with § 2.751a of 10 CFR Part 2 of the Commission's rules of practice which provide for the development of procedures for the evidentiary hearing which will be scheduled for a later time with public notice given. The procedures to be considered on November 30 will be limited to the identification of parties and key issues in the proceeding, and the establishment of a schedule for further actions in the proceeding.

No evidence will be received at the prehearing conference on November 30, nor will there be an opportunity at that time for the presentation of statements from members of the public who desire to make limited appearances. All statements by members of the public in this proceeding by way of limited appearances pursuant to § 2.715 of the rules of practice will be received on the initial day or days of the evidentiary hearing which will be scheduled at a later date, public notice of which will be given, both by publication in the FEDERAL REGISTER and by notice sent by mail directly to all members of the public who have requested to be notified.

Wherefore, it is ordered, In accordance with the Atomic Energy Act of 1954, as amended, and the rules of practice of the Commission, that a prehearing conference in this proceeding shall convene at 2 p.m., local time, on Thursday, November 30, 1972, in the Post Office and Court House Auditorium; 25 Jadwin Avenue, Richland, WA 99352.

Issued at Washington, D.C., this 20th day of November 1972.

ATOMIC SAFETY AND LICENSING BOARD,
ROBERT M. LAZO,
Chairman.

[FR Doc.72–20276 Filed 11–21–72;11:11 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24909]

DELTA AIR LINES, INC.

Dallas-California Reduced Coach Fares; Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on December 19, 1972, at 10 a.m. (local time) in Room 1031, North Universal Building, 1875 Connecticut Avenue NW., Washington, DC, before Administrative Law Judge Richard M. Hartsock.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and four copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statement of positions of parties; and (5) proposed procedural dates. The Bureau of Economics will circulate its material on or before December 7, 1972, and the other parties on or before December 14, 1972. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Economics, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., November 16, 1972.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.72–20123 Filed 11–21–72;8:50 am]

[Docket No. 20213; Order 72–11–29]

FRONTIER AIRLINES, INC.

Order to Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the ninth day of November 1972.

By order 70–11–25, November 5, 1970, the Board authorized Frontier Airlines, Inc., (Frontier), to suspend service temporarily at McAlester, Okla., until July 30, 1972.[1] The Board provided that the suspension authority would terminate should the Sedalia-Marshall-Boonville Stage Lines (SMB) fail to provide a specified minimum level of service.[2]

On May 30, 1972, Frontier filed an application for renewal of its suspension authorization at McAlester for an additional 2-year period, until August 1, 1974. In support of its application, Frontier states that it has been suspended at McAlester for almost 4 years, and alleges that it would be a financial burden for it to reinstitute service to McAlester at this time. Frontier contends that the city boarded an average of only 6.2 passengers per day during the last calendar year of Frontier's service at the city, and that there is convenient alternative surface transportation available.

No answers to Frontier's application have been filed.[3]

Upon consideration of the pleadings and all the relevant facts, we have decided to authorize Frontier to suspend service temporarily at McAlester, Okla., until August 1, 1974, conditioned upon the provision of replacement services by SMB. As we noted in Order 70–11–25, the Board is of the view that the suspension/replacement arrangement at McAlester is in the public interest from an

[1] Frontier was originally granted authority to suspend service at McAlester by Order 68–10–180, Oct. 31, 1968. Order 70–11–25 extending that suspension authorization also permitted Frontier to suspend service temporarily at Muskogee, Okla., and Paris, Tex.

[2] Orders 71–6–150, June 29, 1971, and 72–3–95, Mar. 29, 1972, approved a reduction in the minimum level of replacement service required. Consequently, SMB must now provide one afternoon round trip 7 days a week between McAlester and Dallas, Tex., using Beech–99 or comparable equipment and one southbound trip 6 days a week from Tulsa to McAlester, using at least Piper Aztec or comparable equipment.

[3] On Mar. 24, 1972, the Air Line Pilots Association, International filed a motion in this docket, as well as in a number of other dockets involving suspension/substitution arrangements, requesting that the matters be set down for evidentiary hearing. Frontier filed an answer opposing ALPA's motion. For the reasons stated herein, and in Order 72–9–39, Sept. 12, 1972, which denied the motion with respect to three other suspension/replacement situations, we shall deny ALPA's request for an evidentiary hearing.

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overall transportation standpoint.[4] As set forth above, the arrangement provides for daily round-trip commuter service to Dallas and southbound service from Tulsa to McAlester.

We have also examined the facts presented by Frontier's application in light of findings in a recent court case[5] involving air taxi replacement services where the court indicated that the Board should consider whether the statutory conditions for exemption from certification set out in section 416 continue to exist. As discussed below, we tentatively find that, with respect to SMB, the statutory conditions for exemption from certification continue to exist.

SMB, which provides the commuter replacement services at McAlester, has conducted air taxi operations since September 1967 and now provides short-haul commuter air services at four cities in addition to McAlester.[6] While traffic statistics are not available for SMB's commuter service, it is apparent that the size of SMB's short-haul passenger operations in the 154-mile McAlester-Dallas and 90-mile McAlester-Tulsa markets, measured in terms of revenue passenger miles, is quite limited when compared to the average RPM's generated by the local service industry. Indeed, SMB's total passenger operations involve only three daily flights.[7]

SMB has been providing replacement service for Frontier at McAlester since Frontier was first suspended at this point in 1968. SMB currently operates the following service pattern for McAlester with Beech-99 equipment: one southbound flight—Tulsa-Muskogee-McAlester-Paris-Dallas/Fort Worth, and one northbound flight—Dallas/Forth Worth-Paris-McAlester-Muskogee. The carrier maintains aircraft liability insurance required by the Board under Part 298 of the Board's economic regulations.

On the basis of the foregoing, and on the basis of our findings set forth in Order 72-9-39, September 12, 1972, and our conclusion therein that the certification process is generally inappropriate for replacement commuter carriers, we tentatively conclude that it would not be in the public interest to require SMB to undergo a certification proceeding in order to provide replacement services for Frontier at McAlester. SMB's replacement services are neither of sufficient magnitude nor do they hold such prospects of economic success as to warrant their separate certification.[8]

We further tentatively find that certification would be an undue burden on SMB by reason of the limited extent of, and unusual circumstances affecting, its operations. As described above, the carrier's operations are of limited extent in terms of both the replacement services involved and the overall scope of its operations. Furthermore, the very nature of the small aircaft to which SMB is restricted makes the operations limited in extent. The accommodations on these aircraft not only limit the competitive capabilities of SMB but also limit the amount of traffic it can carry and the length of the markets it can serve, compared with a certificated carrier operating large aircraft. Thus, the cost of certificate procedures would impose a severe financial burden on SMB wholly disproportionate to its existing and proposed operations. Moreover, enforcement of sec 401 requirements would be an undue burden not only because of the substantial cost of certification procedures, but also because certification would deprive SMB of the necessary operating flexibility it must have to conduct nonsubsidized services with small aircraft in short-haul, low-density markets.

We are also satisfied that there are no safety considerations which would warrant a determination that the substitution arrangement is contrary to the public interest. Not only must SMB conduct its operations in strict conformity with the Federal Aviation regulations promulgated by the Secretary of Transportation, who is charged by law with insuring the highest degree of safety in air transportation, but SMB has had a successful operation history.[9]

Consequently, for the reasons set forth above, we tentatively find and conclude that:

1. Frontier Airlines, Inc., should be authorized to suspend service temporarily at McAlester, Okla., subject to the condition that such suspension shall immediately terminate if, at any time, Sedalia-Marshall-Boonville Stage Lines, Inc., fails to operate at least:

(a) One afternoon round trip 7 days a week between McAlester and Dallas using Beech-99 or comparable equipment; and

(b) One southbound trip 6 days a week from Tulsa to McAlester, using at least Piper Aztec or comparable equipment; and

2. The authority granted in ordering paragraph 1 should expire on August 1, 1974.

Interested persons will be given 21 days following the service date of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to direct their objections, if any, to the specific facts in issue, and to support such objections with detailed economic or legal analysis.

Accordingly, it is ordered, That:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein, and granting the requested suspension;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and suspension authorization set forth herein shall within 21 days after service of a copy of this order, file with the Board and serve upon all persons listed in appendix A,[10] a statement of objections together with such statistical data, and other materials and evidence relied upon to support the stated objections; answers to such objections shall be filed within 14 days, thereafter;

3. Any interested persons requesting an evidentiary hearing shall state in detail why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing. General, vague, or unsupported objections will not be entertained;

4. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board;

5. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action;

6. The motion of the Air Line Pilots Association, International to reopen the record for an evidentiary hearing filed in this docket be and it hereby is denied; and

7. A copy of this order shall be served upon all persons listed in appendix A.

[4] Specifically, we found that the suspension would reduce Frontier's subsidy need and, with the replacement service by SMB, would not result in any significant inconvenience to the traveling public.

We have also taken account of the facts that McAlester is one of three points on the Dallas-Tulsa leg of Frontier's segment 18 and Frontier has applied for authority to terminate its services at the other two points, Muskogee and Paris. Our proposed action herein only continues the status quo at McAlester and should not impair our flexibility to deal with the remaining applications. In processing those applications, we will give full consideration to the effect of any action on McAlester.

[5] Air Line Pilots Association, International v. CAB, 458 F.2d 846 (C.A.D.C. 1972).

[6] The cities are: Tulsa and Muskogee, Okla., and Dallas/Fort Worth and Paris, Tex.

[7] In addition to its commuter services, SMB provides independent air taxi mail-only services. SMB's mail operations in 1971 included service to eight communities in Nebraska and in Kansas, seven in Iowa, five in both Missouri and Texas, three in North Dakota, two in Illinois, and one each in Arkansas, Indiana, Kentucky, Louisiana, Minnesota, Ohio, Oklahoma, South Dakota, and Wisconsin. However, since SMB provides noncertificated service and, consequently, to some extent a demand-type service, the carrier served some of the above cities for only a brief period during 1971.

[8] In this connection, we note that we have approved reductions in the minimum replacement service requirements at McAlester (Orders 71-6-150 and 72-3-95) because SMB was incurring onerating losses due to a lack of traffic response to its services at McAlester. Specifically, McAlester boarded less than five passengers per day in 1970, and approximately 3.8 passengers per day during the first 3 months of 1971, a reduction of 17 percent from the first quarter of 1970.

[9] We have informally checked with the FAA and they report that SMB has excellent operations with good management, maintenance, and training, and, with the exception of one accident on Aug. 9, 1972 involving a mail-only flight which was caused by mechanical failure and resulted in no fatalities, SMB has had a good safety record, and no safety or maintenance violations of FAA regulations during the last 12 months.

[10] Filed as part of the original document.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-20125 Filed 11-21-72;8:50 am]

[Dockets Nos. 24905; 24715]

PURDUE AIRLINES, INC. AND PRAIRIE AVENUE GOSPEL CENTER

Notice of Prehearing Conference

Purdue Airlines, Inc., certificates of public convenience and necessity investigation, Docket No. 24905.

Prairie Avenue Gospel Center, doing business as, Fiesta Air acquisition of Purdue Airlines, Inc., Docket No. 24715.

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on December 19, 1972, at 10 a.m. (local time), in Room 726, Universal Building, 1825 Connecticut Avenue, NW., Washington, DC, before Associate Chief Administrative Law Judge Robert L. Park.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and four copies to the judge of (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statement of positions of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before December 5, 1972, and the other parties on or before December 12, 1972. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., November 16, 1972.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.20124 Filed 11-21-72;8:50 am]

[Dockets Nos. 24588, 24589; Order 72-11-69]

SOUTHERN AIRWAYS, INC.

Order To Show Cause and Granting Temporary Exemption

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of November 1972.

On July 3, 1972, Southern Airways, Inc. (Southern) filed a petition in Docket 24589 requesting the Board to issue an order to show cause why its application filed concurrently therewith in Docket 24588, requesting that its certificate for route 98 be amended so as to delete Pascagoula from segments 1 and 3, and to redesignate Mobile as "Mobile, Ala.-Pascagoula, Miss.," should not be granted. Pending final action on the requested show cause order, the carrier seeks authority to suspend service at Pascagoula's Jackson County Airport and an exemption to permit it to serve Pascagoula through Mobile's Bates Field. As an alternative, Southern requests authority to temporarily suspend service at Pascagoula until 60 days after Board decision on its certificate amendment application to permanently delete Pascagoula and hyphenate it with Mobile.[1]

In support of its application, Southern alleges as follows: that the civic interests do not object to the loss of home-airport service at Pascagoula; that superior air service is available at two alternative airports;[2] that the uneconomically low level of traffic at Pascagoula has continued to decline and shows no tendency to improve; that Southern will offer improved service to other communities on its system by eliminating the unnecessary stop at Pascagoula; that the elimination of this stop will produce an additional 1,319 passangers through stimulation; that by overflying Pascagoula, it expects to retain 73 percent of the anticipated 2,990 local passengers to be generated by Pascagoula in fiscal year 1973; that the grant of the application will result in a substantial subsidy-need reduction;[3] and that the subsidy payments which Southern receives for service to Pascagoula (more than $45 per passenger) are far out of proportion to those for the balance of its system.

No answers in opposition to the application have been filed.[4]

Upon consideration of Southern's request and all the relevant facts, we have decided to issue an order to show cause proposing to amend Southern's certificate as requested. We will further amend Southern's certificate so as to redesignate Mobile as the hyphenated point "Mobile, Ala.-Pascagoula, Miss." each time is appears in the certificate. That amendment places Southern under an obligation to "hold out" Pascagoula service over additional segments but will have no practical effect in terms of the carrier's aircraft routings since all flights will serve only Mobile's Bates Field. However, the amendment will eliminate the confusion inherent in having conflicting designations in the carrier's certificate.[5] We will also grant Southern authority to temporarily suspend service at Pascagoula, and have decided to grant Southern an exemption from the provisions of section 401 of the Act to the extent they would prohibit the carrier from serving Mobile and Pascagoula through a single point designated Mobile, Ala.-Pascagoula, Miss.[6]

In support of the foregoing, we tentatively find and conclude as follows: that elimination of service at Pascagoula's Jackson County Airport will not result in serious inconvenience to the traveling public; that service at Pascagoula has generated low levels of traffic; that termination of service at Pascagoula will reduce Southern's need for subsidy; and that hyphenation of Pascagoula with Mobile will result in a more efficient and economic operation for Southern. We further tentatively find and conclude that the public convenience and necessity require the amendment of Southern's certificate for Route 98, as requested in this application, and the redesignation of "Mobile" as "Mobile, Ala.-Pascagoula, Miss." on segments 6 and 7 of Southern's certificate, and we find that the applicant is fit, willing, and able to perform this new authority and to conform to the provisions of the Act.[7]

Interested persons will be given 20 days following service of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to support their objections, if any, with detailed answers, specifically setting

[1] Filed in Docket 24588 on July 3, 1972.

[2] Mobile's Bates Field and Gulfport-Biloxi Airport. Jet service, unavailable at Pascagoula, is offered at both alternate airports to a large number of points.

[3] The carrier estimates a net financial improvement—exclusive of the effect of subsidy payments—in excess of $180,000.

[4] Southern submitted letters from the city of Pascagoula and the Pascagoula-Moss Point Area Chamber of Commerce and a resolution of the Board of Supervisors of Jackson County, Miss., indicating in each case that the respective body would not oppose Southern's application.

[5] If we granted only the relief requested one segment would have the point Mobile-Pascagoula while other segments would have the point Mobile.

[6] In view of our tentative findings herein and the lack of opposition by civic interests, we have decided to grant such temporary relief rather than waiting for final action on the show cause order. The matters set forth below establish that a temporary suspension of service by Southern will not significantly inconvenience the public and will benefit the carrier. We further find that while Southern will be temporarily relieved of the obligation to serve Pascagoula through its own airport it would be an undue burden to deprive the carrier of the financial and other benefits it would enjoy during this period from holding out service to Pascagoula through Bates Field. Accordingly, we find that enforcement of the provisions of the Act and the Board's regulations, to the extent it would prohibit such service would not be in the public interest and would be an undue burden on Southern by reason of the unusual circumstances affecting its operations.

[7] Pascagoula is situated in the southeastern corner of Mississippi, 34 highway-miles west of Mobile's Bates Field; driving time is approximately 30–45 minutes over Interstate 10 or other four-lane highways; taxi service is available between Pascagoula and the Mobile Airport at a charge of approximately $20 per person; scheduled bus service (34 trips daily) is available between Pascagoula and both Mobile and New Orleans, for fares of $2.60 and $5.45, respectively; air service at Mobile is furnished by Eastern, National, Southern, and Southeast Commuter Airlines, with frequent direct flights to principal traffic centers, such as New York, Washington, Chicago, Houston, St. Louis, Atlanta, and Birmingham; Southern provides service at Gulfport-Biloxi Airport, situated 35 miles west of Pascagoula with a driving time of 45–50 minutes; and, while departures are not as numerous as at Mobile, direct service to Gulfport is offered to such points as Washington, New York, New Orleans, Memphis, and Atlanta.

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forth the findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law, and should be supported by legal precedent or detailed economic analysis. If an evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material facts he would expect to establish through such a hearing. General, vague, or unsupported objections will not be entertained.

Accordingly, it is Ordered, That:

1. All interested persons are directed to show cause why the Board should not issue an order (a) making final the tentative findings and conclusions stated herein, (b) amending Southern Airways, Inc.'s certificate of public convenience and necessity for route 98 so as to redesignate Pascagoula on segments 1 and 3, and "Mobile" on segments 1, 3, 6, and 7 as "Mobile, Ala.-Pascagoula, Miss. (to be served through Bates Field, Mobile)," (c) reissuing the certificate in the form attached hereto, and (d) amending appendix B to Order 69-9-132, as amended by Orders 70-9-19, 71-1-38, and 71-10-40, by deleting references to "Mobile" from paragraph 3 thereof and substituting "Mobile, Ala.-Pascagoula, Miss." in place thereof;

2. Any interested persons having objections to the issuance of an order making final the proposed findings, conclusions, and certificate amendments set forth herein shall, within 20 days after service of a copy of this order, file with the Board and serve upon all persons made parties to this proceeding a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections; *

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein;

5. Southern Airways, Inc. be and it hereby is (a) granted authority to suspend service at Pascagoula, Miss., and (b) granted an exemption from the provisions of the Federal Aviation Act and the regulations of the Board pursuant thereto to the extent necessary to permit it to serve Mobile, Ala., and Pascagoula, Miss., as a single point, designated "Mobile, Ala.-Pascagoula, Miss.," service to be provided through Bates Field, Mobile;

6. The authority granted by paragraph "5" supra, is effective immediately and will terminate 60 days following final action by the Board on Southern's application in Docket 24588;

7. Any other relief requested by Southern Airways, Inc. in Dockets 24588 and 24589 that has not otherwise been granted be and it hereby is denied;

8. A copy of this order shall be served upon the parties listed in the appendix; * and

9. This order may be amended or revoked at any time in the discretion of the Board without a hearing.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

CIVIL AERONAUTICS BOARD

SPECIMEN CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR LOCAL OR FEEDER SERVICE (AS AMENDED) FOR ROUTE 98

Southern Airways, Inc., is hereby authorized, subject to the provisions hereinafter set forth, the provisions of title IV of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued thereunder, to engage in air transportation with respect to persons, property, and mail as follows:

1. Between the terminal point Charleston, S.C., the intermediate points Columbia, S.C., Charlotte, N.C., Greenville-Spartanburg, Anderson, and Greenwood, S.C., and Athens and Atlanta, Ga., and (a) beyond Atlanta, the intermediate points Huntsville, Ala., and Chattanooga and Shelbyville-Tullahoma, Tenn., and the terminal point Nashville, Tenn., and (b) beyond Atlanta, the intermediate points Anniston, Gadsden, Birmingham, and Tuscaloosa, Ala., and (i) beyond Tuscaloosa, the intermediate points Columbus and Tupelo, Miss., and the terminal point Memphis, Tenn., and (ii) beyond Tuscaloosa, the intermediate points Meridian, Jackson-Vicksburg (to be served through the Jackson Municipal Airport), Laurel, and Hattiesburg, Miss., Mobile, Ala.-Pascagoula, Miss. (to be served through Bates Field), and Gulfport-Biloxi, Miss., and the terminal point New Orleans, La.;

2. Between the terminal point Memphis, Tenn., the intermediate points Florence-Sheffield-Tuscumbia, Decatur, and Huntsville, Ala., and (a) beyond Huntsville, the alternate intermediate points Birmingham, Ala., or Atlanta, Ga., the intermediate points Columbus, Albany, Moultrie-Thomasville, and Valdosta, Ga., and the terminal point Jacksonville, Fla., and (b) beyond Huntsville, the intermediate points Birmingham, Montgomery, and Dothan, Ala., and Eglin Air Force Base, Panama City, and Tallahassee, Fla., and the terminal point Jacksonville, Fla.;

3. Between the terminal point Memphis, Tenn., the intermediate points University-Oxford, Tupelo, Columbus, Greenwood, and Greenville, Miss., Monroe, La., Jackson-Vicksburg (to be served through the Jackson Municipal Airport), Meridian, Laurel, Natchez, and Hattiesburg, Miss., Mobile, Ala.-Pascagoula, Miss. (to be served through Bates Field) and Gulfport-Biloxi, Miss., and Baton Rouge, La., and the terminal point New Orleans, La.;

4. Between the terminal point Memphis, Tenn., the intermediate points Jackson, Tenn., Florence-Sheffield-Tuscumbia and Huntsville, Ala., and Chattanooga, Shelbyville-Tullahoma, Nashville, Crossville, and Knoxville, Tenn., and the terminal point Bristol, Va.-Tenn.-Kingsport-Johnson City, Tenn.;

5. Between the terminal point Atlanta, Ga., the intermediate points Columbus and Albany, Ga., Dothan, Ala., and Panama City and Eglin Air Force Base, Fla., and the terminal point New Orleans, La.;

6. Between the terminal point Nashville, Tenn., the intermediate points Huntsville and Birmingham, Ala., Jackson-Vicksburg, Miss. (to be served through the Jackson Municipal Airport), and Mobile, Ala.-Pascagoula, Miss. (to be served through Bates Field), and the terminal point New Orleans, La.;

7. Between the terminal point Gulfport-Biloxi, Miss., the intermediate points Mobile, Ala.-Pascagoula, Miss. (to be served through Bates Field), Eglin Air Force Base, Fla., Dothan, Ala., Columbus, Ga., and Washington, D.C. (to be served through Dulles International Airport), and the terminal point New York, N.Y.-Newark, N.J.;

8. Between the terminal point Memphis, Tenn., and the terminal point St. Louis, Mo.;

9. Between the terminal point Memphis, Tenn., and the terminal point Chicago, Ill.

The service herein authorized is subject to the following terms, conditions, and limitations:

(1) The holder shall render service to and from each of the points named herein, except as temporary suspensions of service may be authorized by the Board; and may begin or terminate, or begin and terminate, trips at points short of terminal points.

(2) The holder may continue to serve regularly any point named herein through the airport last regularly used by the holder to serve such point prior to the effective date of this certificate. Upon compliance with such procedure relating thereto as may be prescribed by the Board, the holder may, in addition to the service hereinabove expressly prescribed, regularly serve a point named herein, other than a point required to be served through an airport named herein, through any airport convenient thereto.

(3) On each trip operated by the holder over all or part of one of the nine numbered route segments in this certificate, the holder shall stop at each point named between the point of origin and point of termination of such trip on such segment, except a point or points with respect to which (a) the Board, pursuant to such procedure as the Board may from time to time prescribe, may by order relieve the holder from the requirements of such condition, (b) the holder is authorized by the Board to suspend service, (c) the holder is unable to render service on such trip because of adverse weather conditions or other conditions which the holder could not reasonably have been expected to foresee or control, or (d) paragraph (4) or (5) below is applicable.

(4) If the holder has scheduled two daily round trips to a given point on any segment, the holder may omit such point on any additional trip scheduled over all or part of such segment, subject to the following limitations:

(a) The holder shall schedule service to a minimum of two intermediate points between the following pairs of points:

Charlotte, N.C., or Greenville-Spartanburg, S.C., on the one hand, and Nashville, Tenn., on the other.

Chicago, Ill., or St. Louis, Mo., on the one hand, and Tallahassee, Fla., on the other (exclusive of Memphis, Tenn.).

New Orleans, La., or Panama City, Fla., on the one hand, and Washington, D.C., or New York, N.Y.-Newark, N.J., on the other.

(b) The holder shall schedule service to a minimum of one intermediate point between the following pairs of points:

* All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further such motions, requests, or petitions for reconsideration of this order will be entertained.

* Filed as part of the original document.

Atlanta, Ga., and Charleston, S.C., Charlotte, N.C., Jacksonville, Fla., Memphis or Nashville, Tenn., or New Orleans, La.

Birmingham, Ala., and New Orleans, La.

Memphis, Tenn., and Nashville, Tenn.

(5) If the holder has scheduled one daily round trip to Crossville, Tenn., on segment 4, or Dothan, Ala., on segment 2, the holder may omit service to such point on any additional flights scheduled over all or part of such segment.

(6) The holder shall not provide single-plane service between Atlanta, Ga., or Jacksonville, Fla., on the one hand, and Washington, D.C., or New York, N.Y.-Newark, N.J., on the other.

(7) The holder shall not schedule turnaround service between the following pairs of points:

Atlanta, Ga., and Birmingham, Ala., or Columbia, S.C.

Bristol, Va.-Tenn.-Kingsport-Johnson City, Tenn., and Knoxville, Tenn.

New York, N.Y.-Newark, N.J., and Washington, D.C.

(8) The holder is authorized to render flag-stop service by omitting the physical landing of its aircraft at any intermediate point scheduled to be served on a particular flight: *Provided*, That there are no persons, property, or mail on the aircraft destined for such point, and no such traffic available at such point for the flight at the scheduled time of departure.

(9) The holder's authority to engage in the transportation of mail with respect to those operations set forth in Appendix B to Order 69-9-132, as amended by Orders 70-9-19, 71-1-38, 71-10-40 and is limited to the carriage of mail on a nonsubsidy basis, i.e., on a service mail rate to be paid entirely by the Postmaster General, and the holder shall not be entitled to any subsidy with respect to such operations.

The exercise of the privileges granted by this certificate shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

The services authorized by this certificate were originally established pursuant to a determination of policy by the Civil Aeronautics Board that in the discharge of its obligation to encourage and develop air transportation under the Civil Aeronautics Act, as amended, it is in the public interest to establish certain air carriers who will be primarily engaged in short-haul air transportation as distinguished from the service rendered by trunkline air carriers. In accepting this certificate, the holder acknowledges and agrees that the primary purpose of this certificate is to authorize and require it to offer short-haul, local or feeder, air transportation service of the character described above.

The holder acknowledges and agrees that it is entitled to receive only service mail pay for the mail service rendered or to be rendered solely in connection with operations specified in paragraph (9), and that it is not authorized to request or receive any compensation for mail service rendered or to be rendered for such operations in excess of the amount payable by the Postmaster General.

This certificate shall be effective on ------ ------ *Provided, however*, That the effective date of said certificate shall be automatically postponed until further Board order if the appropriate license fee is not paid pursuant to section 389.21(b) of the regulations.

The authorization to serve Crossville, Tenn., shall expire on February 4, 1969.[1]

[1] On Aug. 1, 1968, the holder filed an application in Docket 20070 for renewal of this authorization.

In witness whereof, the Civil Aeronautics Board has caused this certificate to be executed by the Secretary of the Board, and the seal of the Board to be affixed hereto, on the ----------.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-20126 Filed 11-21-72;8:50 am]

FEDERAL COMMUNICATIONS COMMISSION

DIALER DEVICES ADVISORY SUBCOMMITTEE

Notice of Public Meeting

NOVEMBER 14, 1972.

In accordance with Executive Order No. 11671, dated June 7, 1972, announcement is made of a public meeting of the Dialer Devices Subcommittee, to be held Tuesday, December 19, and continuing through Thursday, December 21, 1972. The subcommittee will meet at 1229 20th Street NW., Washington, DC, Room A-110 at 9:30 a.m.

1. *Purposes.* To prepare and submit recommended standards and procedures to the FCC, in order to permit the interconnection of dialer devices to the telephone system without the need for carrier provided connecting arrangements.

2. *Membership.* The subcommittee is chaired by Jack Dempsey and is composed of the following: John Albus, D. L. Byers, Donald Briggs, Bryan McNeil, Arnold Dorfman, Robert Webb, Albert Hardy, J. W. Kissel, James McNabb, Donald Moehlenkamp, Richard Reichter, Robin Mosely, Frederic Hildebrandt, Stephen Speltz, Ludwig Walch, Thomas Warner, M. S. Adler, William Wertz, Ronald Binks, Jurgen Kok, H. Marcheschi, Ken Rosenburg, John P. Lekas, William Lindgren, Brendan McShane, John Rison, Amos R. Jackson, and John R. Mineo.

3. *Activities.* As at prior meetings, subcommittee members and observers present their suggestions and recommendations regarding the various technical criteria and standards that should be considered with respect to the interconnection of dialer devices to the public telephone network. Subcommittee members include representatives of the Federal Government, State regulatory bodies, manufacturers, carriers, and users.

4. *Agenda.* The agenda for the December 19–21 meeting will include:

a. Review of enforcement procedures;

b. Test equipment and inspection standards revisions;

c. Considerations of combining equipment and inspection standards with the enforcement criteria in one document; and

d. Considerations of quality control.

It is suggested that those desiring more specific information about the meeting call the Domestic Rates Division 202—632–6457.

FEDERAL COMMUNICATIONS COMMISSION,
BEN F. WAPLE,
Secretary.

[FR Doc.72-20104 Filed 11-21-72;8:48 am]

TECHNICAL ADVISORY COMMITTEE

Notice of Open Meeting

NOVEMBER 13, 1972.

Panel 4 (Class II Cable Television Channels) of the Cable Television Technical Advisory Committee will hold an open meeting on December 4, 1972, at 10 a.m. The meeting will be held in Room 847S of the main FCC building at 1919 M Street NW., Washington, DC.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-20103 Filed 11-21-72;8:48 am]

POLITICAL BROADCASTING/ CABLECASTING REPORTS

Notice of Required Filing Date

NOVEMBER 9, 1972.

All broadcast stations are required to file a political broadcasting report (FCC Form 322) with the Commission by November 30, 1972.

Cable TV systems originating political programing are also required to file.

(Forms have been distributed to all broadcast licensees and cable TV systems.)

Broadcast stations and cable TV systems must report on use of their facilities by or on behalf of candidates for political office during primary and general elections for the period January 1, 1972, through election day.

The reports will be tabulated and a complete summary, broken down into individual candidate categories, will be issued next spring.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-20106 Filed 11-21-72;8:48 am]

[Docket Nos. 19606, 19607; File Nos. 33-A-L-42, 6-A-L-72]

YES! AND FLITELINE SERVICES

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Vermillion Enterprises, Inc., doing business as YES!, Docket No. 19606, File No. 33-A-L-42; James E. Wilkinson, doing business as Fliteline Services, Docket No. 19607, File No. 6-A-L-72; for an aeronautical advisory radio station to serve the Snohomish County Airport (Paine Field), Everett, Wash.

FEDERAL MARITIME

matters upon which they desire to ad-

submitted to the Secretary, Federal Mar-

on the proposed agreement shall provide a clear and concise statement of the

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1. The Commission's rules (§ 87.251 (a)) provide that only one aeronautical advisory station may be authorized to operate at a landing area. The above-captioned applications both seek Commission authority to operate an aeronautical advisory station at the same landing area (Snohomish County Airport (Paine Field), Everett, Wash.) and are, therefore, mutually exclusive. Accordingly, it is necessary to designate the applications for comparative hearing in order to determine which application should be granted. Except for the issues specified herein, each applicant is otherwise qualified.

2. In view of the foregoing: *It is ordered*, That pursuant to the provisions of section 309(e) of the Communication Act of 1934, as amended, and § 0.331(b)-(21) of the Commission rules, the above-captioned applications are hereby designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent order on the following issues:

a. To determine which applicant would provide the public with better aeronautical advisory service based on the following considerations:

(1) Location of the fixed-base operation and proposed radio station in relation to the landing area and traffic patterns;

(2) Hours of operation;

(3) Personnel available to provide advisory service;

(4) Experience of applicant and employees in aviation and aviation communications;

(5) Ability to provide information pertaining to primary and secondary communications as specified in § 87.257 of the Commission's rules;

(6) Proposed radio system including control and dispatch points; and

(7) The availability of the radio facilities to other fixed-base operators.

b. To determine in light of the evidence adduced on the foregoing issues which, if either, of the applications should be granted.

3. *It is further ordered*, That to avail themselves of an opportunity to be heard, James E. Wilkinson, doing business as Fliteline Services, Terminal Building, Paine Field, Everett, Wash. 98204, and Vermillion Enterprises, Inc., doing business as YES!, Box 7485, Seattle, Wash. 98133, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

Adopted: November 13, 1972.

Released: November 14, 1972.

[SEAL] JAMES E. BARR,
Chief, Safety and Special Radio Services Bureau.

[FR Doc.72-20107 Filed 11-21-72;8:48 am]

FEDERAL MARITIME COMMISSION

AERO-NAUTICS FORWARDERS, INC., ET AL.

Independent Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Aero-Nautics Forwarders, Inc., 1167 Northwest 22d Street, Miami, FA 33127. Officers: Stanley N. Burger, president/director; Carol Burger, secretary/treasurer.

Independent Forwarding Service, Inc., 46 Northwest 172d Street, North Miami Beach, FA 33162. Officers: Miguel A. Gonzalez, president; Dulce M. Gonzalez, treasurer; Manuel J. Gonzalez, secretary.

Associated Transportation Center, Inc., Building 41, Pier 91, Seattle, Wash. 98119. Officers and directors: William M. Crawford, president/director; Barbara E. Haro, secretary; Robert E. Metcalf, director; Joseph J. Ewing, director.

Cargo Export Corp., 158-18 Rockaway Boulevard, Jamaica, NY 11434. Officers: Eugene V. Pagano, president; Paul G. Munsch, secretary; Al Wright, treasurer.

Thomas Mantis, 206 East 8th Street, Brooklyn, NY 11223.

Ramon Arguelles doing business as Miami Cargo Services, 6471 Southwest 42d Street, Miami, FA 33155.

By the Commission.

Dated: November 17, 1972.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-20147 Filed 11-21-72;8:52 am]

JAPAN-ATLANTIC & GULF FREIGHT CONFERENCE

Notice of Petition Filed

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 814).

Interested parties may inspect a copy of the proposed contract form and of the petition at the Washington office of the Federal Maritime Commission, 1405 I Street NW., room 1015, or at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to the proposed contract form and the petition including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, 1405 I Street NW., Washington, DC 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed contract system shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the proposed contract form and the petition (as indicated hereinafter), and the statement should indicate that this has been done.

Notice of proposed modification of an approved dual rate agreement filed by:

Charles F. Warren, Esq., 1100 Connecticut Avenue, NW., Washington, DC 20036.

Agreement No. 3103 DR-2 is a proposed modification to the Japan-Atlantic & Gulf Freight Conference's basic dual rate agreement permitting the conference to modify its currently authorized contract rate spread of fifteen (15) percent to permit establishment of contract rates in the trade lower than the non-contract rates set forth in the conference tariffs by a percentage ranging between fifteen (15) percent and nine and one-half (9.5) percent now permitted by the Fair Trade Commission of the Government of Japan.

Dated: November 17, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-20143 Filed 11-21-72;8:51 am]

MARYLAND PORT ADMINISTRATION AND RAMSAY, SCARLETT & CO., INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Philip G. Kraemer, Director of Transportation, Maryland Port Administration, 19 South Charles Street, Baltimore, Md 21201.

Agreement No. T-2715, between the Maryland Port Administration (MPA) and Ramsay, Scarlett & Co., Inc. (Ramsay), provides for the 10-year sublease (with renewal option for an additional 10-year term) to Ramsay of Pier 4-5, Locust Point, Baltimore, Md., which is to be used as a marine terminal for the receiving, handling, processing, storage, warehousing, and delivery of waterborne freight and uses incidental thereto. As compensation for the initial term of the agreement, MPA is to receive $380,000 annually. Should Ramsay exercise its option for a second 10-year term, annual rental is not to exceed $456,000 annually. Agreement No. T-2715 is subject to all of the terms, provisions, and conditions of Agreement No. T-32, between the MPA and the Baltimore & Ohio Railroad. The agreement further provides that Ramsay will file its tariffs with the Commission, containing a provision that no change therein or supplement thereto or reissue thereof shall become effective until 30 days after such filing, unless good cause exists for the effectiveness thereof upon a shorter notice.

Dated: November 17, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-20144 Filed 11-21-72;8:51 am]

TRANS-PACIFIC FREIGHT CONFERENCE OF JAPAN

Notice of Petition Filed

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 814).

Interested parties may inspect a copy of the proposed contract form and of the petition at the Washington office of the Federal Maritime Commission, 1405 I Street NW., room 1015, or at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed contract system shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Philip G. Kraemer, Director of Transportation, Maryland Port Administration, 19 South Charles Street, Baltimore, Md 21201.

Agreement No. T-2715, between the Maryland Port Administration (MPA) and Ramsay, Scarlett & Co., Inc. (Ramsay), provides for the 10-year sublease (with renewal option for an additional 10-year term) to Ramsay of Pier 4-5, Locust Point, Baltimore, Md., which is to be used as a marine terminal for the receiving, handling, processing, storage, warehousing, and delivery of waterborne freight and uses incidental thereto. As compensation for the initial term of the agreement, MPA is to receive $380,000 annually. Should Ramsay exercise its option for a second 10-year term, annual rental is not to exceed $456,000 annually. Agreement No. T-2715 is subject to all of the terms, provisions, and conditions of Agreement No. T-32, between the MPA and the Baltimore & Ohio Railroad. The agreement further provides that Ramsay will file its tariffs with the Commission, containing a provision that no change therein or supplement thereto or reissue thereof shall become effective until 30 days after such filing, unless good cause exists for the effectiveness thereof upon a shorter notice.

Dated: November 17, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-20145 Filed 11-21-72;8:51 am]

U.S. ATLANTIC & GULF-HAITI CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, NY., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

C. D. Marshall, Chairman, U.S. Atlantic & Gulf-Haiti Conference, 11 Broadway, New York, NY 10004.

Agreement No. 8120-14, entered into by the member lines of the U.S. Atlantic & Gulf-Haiti Conference, amends Article 2 of their basic conference agreement (No. 8120, as amended) to provide that the member lines shall pay a commission to bona fide freight forwarders as may be agreed but not less than 1¼ percent of the freight charges specified in the applicable tariff regulations. Article 2 of the conference agreement presently provides that any member line may, at its discretion, pay a commission not in excess of 1¼ percent of the freight and charges to bona fide freight forwarders.

Dated: November 17, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-20146 Filed 11-21-72;8:52 am]

FEDERAL POWER COMMISSION

[Docket No. CS73-348, etc.]

NANCY ANN ASFAHL ET AL.

Notice of Applications for "Small Producer" Certificates [1]

NOVEMBER 14, 1972.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

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applications should on or before December 11, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date filed	Name of applicant
CS73-348...	11-2-72	Nancy Ann Asfahl, 611 Beacon Bldg., Tulsa, Okla. 74103.
CS73-353...	11-1-72	Frances G. Jahn, Box 842, Aztec, NM 87410.
CS73-354...	11-2-72	Breckenridge Gasoline Co., Drawer 1272, Breckenridge, TX 76024.
CS73-355...	11-3-72	Donald E. Jarvis, 2010 One Main Pl., Dallas, TX 75250.
CS73-356...	11-2-72	David S. Gottesman, 30 Wall St., New York, NY 10005.
CS73-357...	11-2-72	W. C. Bradford, 313 Hightower Bldg., Oklahoma City, Okla. 73102.
CS73-358...	11-6-72	E. C. Butts, Post Office Box 1513, Shreveport, LA 70102.
CS73-359...	11-6-72	H. A. Bornefeld, Jr., 4022 One Shell Plaza, Houston, TX 77002.
CS73-360...	11-6-72	Borger Enterprises, Post Office Box 1086, Borger, TX 79007.
CS73-361...	11-6-72	United Oil & Gas Co., 518 Praetorian Bldg., Dallas, Tex. 75201.
CS73-362...	11-6-72	MYCO Industries, Inc., 207 South Fourth St., Artesia, NM 88210.
CS73-363...	11-6-72	ABO Petroleum Corp., 207 South Fourth St., Artesia, NM 88210.
CS73-364...	11-3-72	Charles C. Peppers, Post Office Box 147, Edmond, OK 73034.
CS73-365...	11-6-72	Wilson Production Co., 409 First Federal Bldg., Fort Smith, Ark. 72901.
CS73-366...	11-6-72	Josaline Production Co., 1719 First National Center West, Oklahoma City, Okla. 73102.
CS73-367...	11-6-72	Singer-Fleischaker Royalty Co., 1719 First National Center West, Oklahoma City, Okla. 73102.

Docket No.	Date filed	Name of applicant
CS73-368...	11-6-72	Singer Bros., 1719 First National Center West, Oklahoma City, Okla. 73102.
CS73-369...	11-6-72	Pedestal Co., 1719 First National Bldg., Oklahoma City, Okla. 73101.
CS73-370...	11-6-72	Joe L. Singer, 1719 First National Center West, Oklahoma City, Okla. 73102.
CS73-371...	11-6-72	Alex Singer, 1719 First National Center West, Oklahoma City, Okla. 73102.
CS73-372...	11-7-72	Natural Gas Compression Corp., Box 788, Perryton, TX 79070.
CS73-373...	11-6-72	Jerry Pinkley Transports, Inc., 1606 First National Center, Oklahoma City, Okla. 73102.
CS73-374...	11-7-72	Ermyl W. Bloyd, Post Office Box 127, Hanover, IN 47243.
CS73-375...	11-6-72	J. K. Hannifan, 1606 First National Center West, Oklahoma City, Okla. 73102.
CS73-376...	11-6-72	Hannifan Oil Corp., 1606 First National Center West, Oklahoma City, Okla. 73102.
CS73-377...	11-8-72	James A. Justice, 1400 Main St., Dallas, TX 75202.
CS73-378...	11-8-72	Dudley R. Stanley, Post Office Box 7586, Amarillo, TX 79109.
CS73-379...	11-8-72	Dwight S. Ramay, Post Office Box 52027, Lafayette, LA 70502.
CS73-380...	11-9-72	Watson Oil Corp., 1407 Main, Suite 1300, Dallas, TX 75202.
CS73-381...	11-9-72	A. G. Kirschner, Post Office Box 3536, Amarillo, TX 79106.

[FR Doc.72-19988 Filed 11-21-72;8:45 am]

[Docket No. E-7809]

IOWA PUBLIC SERVICE CO.

Notice of Application

NOVEMBER 20, 1972.

Take notice that on November 8, 1972, Iowa Public Service Co. (Applicant) filed an application with this Commission seeking authorization to enter into a Guaranty Agreement with the Trustee of Pollution Control Revenue Bonds to be issued by the Town of Salix, Iowa, in the amount of $6 million which bonds, taking into account market conditions, will be sold by the town as soon as possible after obtaining approval of this Guaranty.

Applicant is incorporated under the laws of the State of Iowa, with its principal business office in Sioux City, Iowa, and is engaged in the electric utility business in northwestern, north central, and east central Iowa and a few small communities in South Dakota.

The bonds of the town will be sold to purchase and construct pollution abatement equipment at Iowa Public Service Co.'s George Neal Steam Electric Generating Station near Salix, Iowa, installation of which is expected to be completed in mid-1973. Said equipment will be leased by the town to the Applicant and payments under said lease will be sufficient to pay principal, premium if any, and interest due on said bonds. The bonds will not be issued by the Applicant. The rate of interest will be negotiated at a private sale of the bonds between the town and the underwriters.

The authorization sought is for Applicant to issue an independent Guaranty to the trustee and holders of the bonds of payment of principal, premium if any, and interest on said bonds. No payments will be required under the Guaranty if all payments are made pursuant to the lease.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 29, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72-20110 Filed 11-21-72;8:49 am]

[Docket No. E-7808]

IOWA PUBLIC SERVICE CO.

Notice of Application

NOVEMBER 20, 1972.

Take notice that on November 8, 1972, Iowa Public Service Co. (Applicant) filed an application with this Commission seeking authorization to enter into a Guaranty Agreement with the Trustee of Pollution Control Revenue Bonds to be issued by the City of Waterloo, Iowa, in the amount of $2 million which bonds, taking into account market conditions, will be sold by the city as soon as possible after obtaining approval of this Guaranty.

Applicant is incorporated under the laws of the State of Iowa, with its principal business office in Sioux City, Iowa, and is engaged in the electric utility business in northwestern, north central, and east central Iowa and a few small communities in South Dakota.

The bonds of the city will be sold to purchase and construct pollution abatement equipment at Iowa Public Service Co.'s Maynard Steam Electric Generating Station at Waterloo, Iowa, installation of which is expected to be completed in mid-1973. Said equipment will be leased by the city to the Applicant and payments under said lease will be sufficient to pay principal, premium if any, and interest due on said bonds. The bonds will not be issued by the Applicant. The rate of interest will be negotiated at a private sale of the bonds between the city and the underwriters.

The authorization sought is for Applicant to issue an independent Guaranty to the trustees and holders of the bonds of payment of principal, premium if any, and interest on said bonds. No payments will be required under the Guaranty if

all payments are made pursuant to the lease.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 29, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72-20111 Filed 11-21-72;8:49 am]

[Docket No. CI73-356]

LOUISIANA GAS PURCHASING CORP.

Notice of Application

NOVEMBER 20, 1972.

Take notice that on November 14, 1972, Louisiana Gas Purchasing Corp. (Applicant), 1704 Esperson Building, Houston, Tex. 77002, filed in Docket No. CI73-356 an application pursuant to section 7(b) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to United Gas Pipe Line Co. from the West Bryceland and Driscoll Fields, Bienville Parish, La., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of natural gas on September 28, 1972, within the contemplation of section 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and that it proposes to continue said sale for 1 year from the end of the 60-day emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to sell up to 2,500 Mcf of gas per day at 35.0 cents per Mcf at 15.025 p.s.i.a.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 30, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72-20112 Filed 11-21-72;8:49 am]

[Docket No. CI73-357]

LOUISIANA GAS PURCHASING CORP.

Notice of Application

NOVEMBER 20, 1972.

Take notice that on November 14, 1972, Louisiana Gas Purchasing Corp. (Applicant), 1704 Esperson Building, Houston, Tex. 77002, filed in Docket No. CI73-357 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to United Gas Pipe Line Company from the Ada Field, Bienville Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of natural gas on September 30, 1972, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and that it proposes to continue said sale for 1 year from the end of the 60-day emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to sell up to 1,000 Mcf of gas per day at 35.0 cents per Mcf at 15.025 p.s.i.a.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 30, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72-20113 Filed 11-21-72;8:49 am]

[Docket No. E-7678]

OTTER TAIL POWER CO.

Notice of Application

NOVEMBER 20, 1972.

Take notice that on October 30, 1972, Otter Tail Power Co. (Applicant) of Fergus Falls, Minn., filed an application seeking an order for approval of the issuance of short-term obligations in the form of short-term obligations in the notes to be issued on or before March 31, 1974, with a final maturity date of not later than March 31, 1975, and in the form of commercial paper to commercial paper dealers, such commercial paper to be issued on or before March 31, 1974, and to have a maturity date of not to exceed 9 months from the date of issue.

The net proceeds from the notes and from the sale of commercial paper will be used to provide general funds for the company's construction program.

Any person desiring to be heard or to make any protest with reference to such application should, on or before November 29, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the

Commission will be considered by it in

The application may be inspected at

FIRST TENNESSEE NATIONAL CORP.

Board of Governors of the Federal Re-

Whereas, the Puerto Rico Industrial

Avenue, New York, NY 10022, a reg-

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Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72-20114 Filed 11-21-72;8:49 am]

FEDERAL RESERVE SYSTEM

COUNTY NATIONAL BANCORPORATION

Proposed Acquisition of General Mortgage Company of St. Louis

County National Bancorporation, Clayton, Mo., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of General Mortgage Company of St. Louis, St. Ann, Mo. Notice of the application was published on November 7, 1972, in The St. Louis Countian, a newspaper circulated in St. Louis, Mo.

Applicant states that the proposed subsidiary would engage in the origination and servicing of real estate mortgage loans for its own account and others. Such activity has been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b). Applicant further states that the proposed subsidiary would act as broker or agent with respect to life, hazard, health, and accident insurance placed in connection with loans originated or serviced by the subsidiary. Under certain circumstances specified in § 225.4(a)(9) of Regulation Y and 12 CFR 225.128, such activities may be permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 12, 1972.

Board of Governors of the Federal Reserve System, November 15, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-20077 Filed 11-21-72;8:46 am]

ELLIS BANKING CORP.

Acquisition of Bank

Ellis Banking Corp., Bradenton, Fla., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Ellis National Bank of Clearwater, Clearwater, Fla., a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than December 8, 1972.

Board of Governors of the Federal Reserve System, November 14, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-20075 Filed 11-21-72;8:45 am]

ELLIS BANKING CORP.

Acquisition of Bank

Ellis Banking Corp., Bradenton, Fla., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 51 percent or more of the voting shares of First Park Bank, Pinellas Park, Fla. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 12, 1972.

Board of Governors of the Federal Reserve System, November 15, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-20074 Filed 11-21-72;8:45 am]

FIRST TENNESSEE NATIONAL CORP.

Proposed Acquisition of Crown Finance Corp.

First Tennessee National Corp., Memphis, Tenn., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Crown Finance Corp., St. Louis County, Mo. Notice of the application was published in newspapers circulated in Illinois, Indiana, Iowa, Kansas, Missouri, Oklahoma, and Ohio, in the communities where offices of the proposed subsidiary are located.

Applicant states that the proposed subsidiary would engage in the following activities: Making or acquiring, for its own account, interest-bearing and discount loans and other extensions of credit; and acting as agent or broker with respect to insurance that is directly related to an extension of credit by a company or its subsidiaries. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Applicant further states that the proposed subsidiary would engage in the activity of underwriting, as reinsurer, credit life, accident, and health insurance in connection with loans made by credit-extending subsidiaries of the company. The Board has not yet determined this to be a permissible activity for bank holding companies. In making a decision on this application, the Board will take into account the record of its March 24, 1972, hearing involving the underwriting of credit life, accident and health insurance.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Banks of St. Louis, Chicago, Kansas City, and Cleveland.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 11, 1972.

Board of Governors of the Federal Reserve System, November 14, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-20076 Filed 11-21-72;8:46 am]

FEDERAL TRADE COMMISSION

LAUNDERING PROCEDURES FOR CARPETS AND RUGS

Extension of Requirement

The Commission by notice published in the FEDERAL REGISTER on May 19, 1972 (37 F.R. 10104), announced that it had determined to suspend temporarily the present washing requirement under DOC FF 1-70 for carpets containing alumina trihydrate in the backing until September 15, 1972, during which time public hearings would be held for the purpose of (1) considering the possible need for an alternative washing procedure, (2) considering the adoption of specified alternative procedures proposed in the course of the hearings, and (3) obtaining information concerning alumina trihydrate and other substances possessing flame retardant properties and their utilization and characterization as fire retardant treatments. (The suspension of washing procedures did not apply to carpets that are subject to DOC FF 2-70.)

To permit further consideration of the matter, the Commission by notice published in the FEDERAL REGISTER on September 21, 1972 (37 F.R. 19674) extended its suspension of the present washing requirement under DOC FF 1-70 carpets containing alumina trihydrate in the backing until November 3, 1972.

To permit further consideration of the matter and in order to complete laboratory experiments and studies presently in process on carpeting submitted by affected industry members, the Commission has determined to extend its suspension of the present washing requirement under DOC FF 1-70 for carpets containing alumina trihydrate in the backing until January 2, 1973.

By direction of the Commission dated November 15, 1972.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.72-20105 Filed 11-21-72;8:52 am]

FOREIGN-TRADE ZONES BOARD

[Foreign-Trade Zone 7; Order 91]

MAYAGUEZ, PUERTO RICO

Notice of Contiguous Expansion

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) has adopted the following order:

Whereas, the Puerto Rico Industrial Development Co. (PRIDCO), Grantee of Foreign-Trade Zone No. 7, Mayaguez, Puerto Rico, was issued a grant for the establishment, operation, and maintenance of Foreign-Trade Zone No. 7, Mayaguez, on June 27, 1960 (Board Order No. 50);

Whereas, PRIDCO filed with the Board on January 20, 1972, an application requesting authority to expand, by the addition of 12 contiguous acres, the existing authorized zone area;

Whereas, notice of said application was published in the FEDERAL REGISTER on January 29, 1972 (37 F.R. 1507) and opportunity has been afforded all interested parties to submit their views;

Whereas, an examiners committee has investigated the application in accordance with the regulations and recommends approval thereof;

Whereas, the requested expansion of the zone area is necessary to accommodate zone users and for more efficient operation of the zone; and,

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the regulations are satisfied and that approval of the application is in the public interest;

Now, therefore, the Foreign-Trade Zones Board *hereby orders:*

That the grantee is authorized to contiguously expand the boundary of Foreign-Trade Zone No. 7, Mayaguez, in conformity with exhibits 1–13 of the application filed with the Board on January 20, 1972. The authority given in this order is subject to local approval of the district director of Customs and the district Army engineer regarding compliance with their requirements relating to foreign-trade zones. The grantee shall prenotify the Board's executive secretary for clearance concerning any proposal to use the expanded zone area for manufacturing operations prior to their commencement.

Signed at Washington, D.C., this 16th day of November 1972.

PETER G. PETERSON,
Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

Attest:

JOHN J. DA PONTE, JR.,
Executive Secretary.

[FR Doc.72-20148 Filed 11-21-72;8:52 am]

SECURITIES AND EXCHANGE COMMISSION

[70-5263]

ALLEGHENY POWER SYSTEM, INC. ET AL.

Proposed Issue and Sale of Common Stock

NOVEMBER 15, 1972.

Notice is hereby given that Allegheny Power System, Inc. ("APS"), 320 Park Avenue, New York, NY 10022, a registered holding company, and its wholly-owned electric utility subsidiary companies, Monongahela Power Co. ("Monongahela") and West Penn Power Co. ("West Penn"), have filed a joint application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6, 7, 9, and 10 thereof and Rule 43 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the joint application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Each of the subsidiary companies proposes to issue and sell to APS, and APS proposes to acquire, prior to December 31, 1972, additional shares of their common stock for cash consideration equal to the aggregate par or stated values thereof, as follows:

Subsidiary company and title of issue	Proposed to be issued	Cash consideration
	Shares	*Millions*
Monongahela Common stock, $50 par value	120,000	$6
West Penn Common stock, no par value (stated value, $20)	1,100,000	22

APS states that the funds necessary to purchase the stock will be obtained through internal sources and short-term borrowings. The net proceeds from the sale of the stock, together with other corporate funds, are to be used by the subsidiary companies to finance their construction programs. Construction expenditures for 1972 and 1973 are estimated at $112,000,000 for Monongahela and $161,000,000 for West Penn. All of the presently outstanding shares of common stock of Monongahela and West Penn is owned by APS.

APS proposes to pledge with Chemical Bank, trustee under the trust indenture dated as of September 1, 1949, as supplemented, securing its 3½ percent sinking fund collateral trust bonds, all of the acquired common stock of Monongahela and West Penn.

The fees and expenses, including legal fees, to be paid in connection with the issue and sale of the additional shares of the subsidiary companies' common stock are estimated not to exceed $500. It is stated that the Pennsylvania Public Utility Commission and the Public Utilities Commission of Ohio have jurisdiction over the issue and sale of the common stock of West Penn and Monongahela, respectively. The orders of these commissions will be filed by amendment. No other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 3, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or

law raised by said joint application-

Notice is further given that any inter-

law). Pursuant to section 203(b)(2) of

Signed at Washington, D.C., this 17th

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law raised by said joint application-declaration, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit, or in case of an attorney at law, by certificate) should be filed with the request. At any time, after said date, the joint application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20091 Filed 11-21-72;8:47 am]

[File No. 500-1]

MARKETING COMMUNICATIONS, INC.

Order Amending Order Suspending Trading

NOVEMBER 13, 1972.

The Commission having determined to amend its order of November 3, 1972, summarily suspending trading in the securities of Marketing Communication, Inc. for the period from November 6, 1972 through November 15, 1972:

It is ordered, Pursuant to section 15 (c)(5) of the Securities Exchange Act of 1934, that trading in the common stock, no par value, and all other securities of Marketing Communication, Inc. being traded otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 6, 1972 through 10 a.m. (e.s.t.) on November 14, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20090 Filed 11-21-72;8:47 am]

[File No. 500-1]

POWER CONVERSION, INC.

Order Suspending Trading

NOVEMBER 14, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.01 par value, and all other securities of Power Conversion, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15 (c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 15, 1972, through November 24, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20088 Filed 11-21-72;8:47 am]

[File No. 500-1]

TOPPER CORP.

Order Suspending Trading

NOVEMBER 14, 1972.

The common stock, $1 par value of Topper Corp. being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Topper Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to sections 19 (a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 15, 1972 through November 24, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc 72-20089 Filed 11-21-72;8:47 am]

[70-5267]

WESTERN MASSACHUSETTS ELECTRIC CO.

Proposed Amendment of First Mortgage Indenture

NOVEMBER 15, 1972.

Notice is hereby given that Western Massachusetts Electric Co. ("WMECO"), 174 Brush Avenue, West Springfield, MA 01089, an electric utility subsidiary of Northeast Utilities, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7 and 12(e) of the Act and Rules 62 and 65 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

WMECO proposes to amend its First Mortgage Indenture and Deed of Trust, dated as of August 1, 1954, as heretofore supplemented and amended by 34 supplemental indentures ("Indenture") to The First National Bank of Boston, as successor by merger to Old Colony Trust Co., as trustee. Pursuant to a 35th supplemental indenture, WMECO proposes to effect five changes in the indenture. Four of the five proposed changes, relating to "Permitted Encumbrances," "Fundable Property," "Possession," and "Certification of Available Net Property Additions," are stated to be modifications and clarifications of relatively minor provisions concerning matters of no direct significance to holders of bonds issued and outstanding under the indenture. It is further stated that the fifth proposed change, relating to the "Earnings Certificate," may be of greater significance to the bondholders.

In the computation of net earnings available for interest, the earnings certificate of the indenture at present (i) requires that miscellaneous interest (i.e., all interest except interest on the bonds and on other long-term debt ranking equally or prior to the bonds) be included in operating expenses, and (ii) excludes net nonoperating income. The proposed amendment to the earnings certificate would exclude miscellaneous interest from operating expenses and include net nonoperating income (not exceeding 10 percent of net operating income) in net earnings available for interest. It is stated that this proposed amendment is in accordance with sound accounting practice and with the Commission's statement of policy ("SOP") regarding first mortgage bonds subject to the Act; and that the effect would be to help improve WMECO's earnings coverages and thus tend to increase the amount of new bonds issuable under the indenture. All other substantive requirements of the earnings certificate, including the minimum earnings coverage test prescribed by the SOP, will remain unchanged.

The proposed amendments of the indenture will require the written consent of holders of at least 70 percent in principal amount of WMECO's outstanding first mortgage bonds (estimated as of July 31, 1972 to be $137,000,000). WMECO proposes to solicit the consent of its bondholders through the use of solicitation material submitted herein.

Estimates of the fees and expenses to be incurred in connection with the proposed transactions will be filed by amendment. The declaration states that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

WMECO has requested that the effectiveness of its declaration with respect to the solicitation of consent from its bondholders be accelerated as provided in Rule 62.

Notice is further given that any interested person may, not later than December 15, 1972, request in writing that a hearing be held with respect to the proposed amendment to the indenture, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing to the Commission that the declaration regarding the proposed solicitation of the bondholders' consent should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered, That the declaration regarding the proposed solicitation of the bondholders' consent be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20092 Filed 11-21-72;8:47 am]

DEPARTMENT OF LABOR

Office of the Secretary

PENNSYLVANIA

Notice of Termination of Extended Unemployment Compensation

The Federal-State Extended Unemployment Compensation Act of 1970, title II of Public Law 91-373, establishes a program of payment to unemployed workers who have received all of the regular compensation to which they are entitled, commencing when unemployment is high (according to indicators set forth in the law) and terminating when unemployment ceases to be high (according to indicators set forth in the law). Pursuant to section 203(b)(2) of the Act, notice is hereby given that John M. Clark, Executive Director of the Pennsylvania Bureau of Employment Security, has determined that there was a State "off" indicator in Pennsylvania for the week beginning October 1, 1972, and that an extended benefit period terminated in the State with the week beginning October 22, 1972.

Signed at Washington, D.C., this 17th day of November 1972.

J. D. HODGSON, *Secretary of Labor.*

[FR Doc.72-20120 Filed 11-21-72;8:49 am]

PUERTO RICO

Notice of Termination of Extended Unemployment Compensation

The Federal-State Extended Unemployment Compensation Act of 1970, Title II of Public Law 91-373, establishes a program of payment to unemployed workers who have received all of the regular compensation to which they are entitled, commencing when unemployment is high (according to indicators set forth in the law) and terminating when unemployment ceases to be high (according to indicators set forth in the law). Pursuant to section 203(b)(2) of the Act, notice is hereby given that Manuel Rivera, Director of the Department of Labor, Bureau of Employment Security of Puerto Rico, has determined that there was an "off" indicator in Puerto Rico for the week ending September 30, 1972, and that an extended benefit period terminated in Puerto Rico with the week ending October 21, 1972.

Signed at Washington, D.C., this 17th day of November 1972.

J. D. HODGSON, *Secretary of Labor.*

[FR Doc.72-20119 Filed 11-21-72;8:49 am]

VERMONT

Notice of Termination of Extended Unemployment Compensation

The Federal-State Extended Unemployment Compensation Act of 1970, Title II of Public Law 91-373, establishes a program of payment to unemployed workers who have received all of the regular compensation to which they are entitled, commencing when unemployment is high (according to indicators set forth in the law) and terminating when unemployment ceases to be high (according to indicators set forth in the law). Pursuant to section 203(b)(2) of the Act, notice is hereby given that Stella B. Hackel, Commissioner of the Vermont Department of Employment Security, has determined that there was a State "off" indicator in Vermont for the week beginning October 1, 1972, and that an extended benefit period terminated in the State with the week beginning October 22, 1972.

Signed at Washington, D.C., this 17th day of November 1972.

J. D. HODGSON, *Secretary of Labor.*

[FR Doc.72-20121 Filed 11-21-72;8:50 am]

INTERSTATE COMMERCE COMMISSION

[Notice 121]

ASSIGNMENT OF HEARINGS

NOVEMBER 16, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC-1367 Sub 5, Owl Transfer & Storage Co., Inc., now being assigned for continued hearing December 18, 1972 (3 days), at Seattle, Wash., in a hearing room to be later designated.

MC 102616 Sub 869, Coastal Tank Lines, Inc., now assigned January 29, 1973, at Chicago, Ill., is postponed indefinitely.

MC 107515 Sub 764, Refrigerated Transport Co., Inc., now assigned November 27, 1972, at New York, N.Y., will be held at the City Squire Motor Inn, 55th Street and Broadway, instead of Room E-2222, 26 Federal Plaza.

MC-134513 Sub 3, Polar Transit, Inc., application dismissed.

MC-C-7909, Red Ball Van Lines, Inc., investigation and revocation of certificates, now being assigned hearing January 15, 1973 (2 weeks), at Miami, Fla., in a hearing room to be later designated.

MC 117557 Sub 16, Matson, Inc., now being assigned hearing January 22, 1973 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC-FC-73782, Beal's Express, Inc., Thurmont, Md., transferee, and Western Express, Inc., Baltimore, Md., transferor, now being assigned hearing December 20, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

I&S 8753, and I&S 8753 Sub 1, revised bargeload rates, inland waterways, now assigned February 26, 1973, at Washington, D.C., is postponed to March 12, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-C-7874, United Van Lines, Inc., investigation and revocation of certificate, now being assigned hearing January 8, 1973 (2 days), at St. Louis, Mo., January 11, 1973 (2 days), at Chicago, Ill., January 15, 1973 (1 day), at Dallas, Tex., January 16, 1973 (1 day), at Denver, Colo., January 18, 1973 (2 days), at Los Angeles, Calif., January 22, 1973, at St. Louis, Mo., until conclusion of respondent's case, in hearing rooms to be later designated.

may be filed with the Interstate Com-

thence over New York Highway 17 to

way 209, thence over U.S. Highway 209

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FD 27139, Cooper-Jarrett, Inc., notes, now being assigned hearing November 29, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-20128 Filed 11-21-72;8:50 am]

FOURTH SECTION APPLICATION FOR RELIEF

NOVEMBER 17, 1972.

Protests to the granting of an application must be prepared in accordance with § 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42572—*Phosphatic feed supplements from Occidental, Fla.* Filed by M. B. Hart, Jr., agent (No. A6329), for interested rail carriers. Rates on phosphatic feed supplements, in carloads, as described in the application, from Occidental, Fla., to specified points in Minnesota.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 100 to Southern Freight Association, agent, tariff ICC S-784. Rates are published to become effective on December 21, 1972.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-20130 Filed 11-21-72;8:50 am]

[Rev. S.O. 994; ICC Order 76]

READING CO.

Rerouting or Diversion of Traffic

In the opinion of R. D. Pfahler, agent, the Reading Co., Richardson Dilworth and Andrew L. Lewis, Jr., trustees, is unable to transport traffic over portions of its Reading and Columbia, Gettysburg and Harrisburg, Middletown and Hummelstown, Frackville, and Bloomsburg branches because of track damage caused by flooding.

It is ordered, That:

(a) The Reading Co., Richardson Dilworth and Andrew L. Lewis, Jr., trustees, being unable to transport traffic over portions of its Reading and Columbia, Gettysburg and Harrisburg, Middletown and Hummelstown, Frackville, and Bloomsburg branches because of track damage, that carrier is hereby authorized to reroute or divert such traffic via any available route to expedite the movement. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) Concurrence of receiving roads to be obtained. The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) Notification to shippers. Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date. This order shall become effective at 11:59 p.m., November 15, 1972.

(g) Expiration date. This order shall expire at 11:59 p.m., December 15, 1972, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., November 15, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.72-20129 Filed 11-21-72;8:50 am]

[Notice 31]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

NOVEMBER 17, 1972.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC-60325 (Deviation No. 5), JEFFERSON LINES, INC., 1114 Currie Avenue, Minneapolis, MN 55403, filed October 18, 1972. Carrier's representative: Elvin S. Douglas, Jr., Post Office Box 280, Professional Building, Harrisonville, MO 64701. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Little Rock, Ark., over Interstate Highway 30 to North Little Rock, Ark., thence over Interstate Highway 40 to Van Buren, Ark., thence over Interstate Highway 540 to Fort Smith, Ark., with the following access route: from Alma, Ark., over U.S. Highway 71 to junction Interstate Highway 40, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: from Fort Smith, Ark., over U.S. Highway 71 to junction Arkansas Highway 10, thence over Arkansas Highway 10 to Little Rock, Ark., and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-20131 Filed 11-21-72;8:50 am]

[Notice 33]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

NOVEMBER 17, 1972.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described

may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-26739 (Deviation No. 34), CROUCH BROS., INC., Post Office Box 1059, St. Joseph, MO 64502, filed October 13, 1972. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over deviation routes as follows: (1) From junction Interstate Highway 80 and Ohio Highway 5 (also known as the Ohio Turnpike Gate 14), over Ohio Highway 5 to junction Ohio Highway 82, thence over Ohio Highway 82 to junction U.S. Highway 62, thence over U.S. Highway 62 to junction Pennsylvania Highway 518 (near Sharon, Pa.), thence over Pennsylvania Highway 518 to junction Pennsylvania Highway 18, thence over Pennsylvania Highway 18 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 209, thence over U.S. Highway 209 to junction Interstate Highway 84, thence over Interstate Highway 84 to junction New York Highway 121, thence over New York Highway 121 to junction New York Highway 116, thence over New York Highway 116 to the New York-Connecticut State line, thence over Connecticut Highway 33 to junction U.S. Highway 1, (2) from junction U.S. Highway 224 and Interstate Highway 76 (also known as Interstate Highway 80–S) (near Akron, Ohio), over Interstate Highway 76 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 209, thence over U.S. Highway 209 to junction Interstate Highway 84, thence over Interstate Highway 84 to junction New York Highway 121, thence over New York Highway 121 to junction New York Highway 116, thence over New York Highway 116 to the New York-Connecticut State line, thence over Connecticut Highway 33 to junction U.S. Highway 1.

(3) From junction Interstate Highway 80 and Ohio Highway 5 (also known as Ohio Turnpike Gate 14) over Ohio Highway 5 to junction Ohio Highway 82, thence over Ohio Highway 82 to junction U.S. Highway 62, thence over U.S. Highway 62 to junction Pennsylvania Highway 518 (near Sharon, Pa.), thence over Pennsylvania Highway 518 to junction Pennsylvania Highway 18, thence over Pennsylvania Highway 18 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 209, thence over U.S. Highway 209 to junction New York Highway 17, thence over New York Highway 17 to junction New York Highway 17K, thence over New York Highway 17K to junction Interstate Highway 84, thence over New York Highway 121 to junction New York Highway 116, thence over New York Highway 116 to the New York-Connecticut State line, thence over Connecticut Highway 33 to junction U.S. Highway 1, (4) from junction U.S. Highway 224 and Interstate Highway 76 (also known as Interstate Highway 80S), (near Akron, Ohio), over Interstate Highway 76 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 209, thence over U.S. Highway 209 to junction New York Highway 17, thence over New York Highway 17 to junction New York Highway 17K, thence over New York Highway 17K to junction Interstate Highway 84, thence over Interstate Highway 84 to junction New York Highway 121, thence over New York Highway 121 to junction New York Highway 116, thence over New York Highway 116 to the New York-Connecticut State line, thence over Connecticut Highway 33 to junction U.S. Highway 1.

(5) From junction Interstate Highway 80 and Ohio Highway 5 (also known as Ohio Turnpike Gate 14) over Ohio Highway 5 to junction Ohio Highway 82, thence over Ohio Highway 82 to junction U.S. Highway 62, thence over U.S. Highway 62 to junction Pennsylvania Highway 518 (near Sharon, Pa.), thence over Pennsylvania Highway 518 to junction Pennsylvania Highway 18, thence over Pennsylvania Highway 18 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 209, thence over U.S. Highway 209 to junction Interstate Highway 84, thence over Interstate Highway 84 to junction New York Highway 121, thence over New York Highway 121 to junction New York Highway 116, thence over New York Highway 116 to the New York-Connecticut State line, thence over Connecticut Highway 33 to junction U.S. Highway 1.

(7) From junction Interstate Highway 80 and Ohio Highway 5 (also known as Ohio Turnpike Gate 14), over Ohio Highway 5 to junction Ohio Highway 82, thence over Ohio Highway 82 to junction U.S. Highway 62, thence over U.S. Highway 62 to junction Pennsylvania Highway 518 (near Sharon, Pa.), thence over Pennsylvania Highway 518 to junction Pennsylvania Highway 18, thence over Pennsylvania Highway 18 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 209, thence over U.S. Highway 209 to junction New York Highway 17, thence over New York Highway 17 to junction New York Highway 17K, thence over New York Highway 17K to junction Interstate Highway 84, thence over New York Highway 121 to junction New York Highway 116, thence over New York Highway 116 to the New York-Connecticut State line, thence over Connecticut Highway 33 to junction U.S. Highway 1, (8) from junction U.S. Highway 224 and Interstate Highway 76 (also known as Interstate Highway 80–S) (near Akron, Ohio), over Interstate Highway 76 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 209, thence over U.S. Highway 209 to junction New York Highway 17, thence over New York Highway 17 to junction New York Highway 17K, thence over New York Highway 17K to junction Interstate Highway 84, thence over Interstate Highway 84 to junction U.S. Highway 7 (near Danbury, Conn.), thence over U.S. Highway 7 to junction Connecticut Highway 33, thence over Connecticut Highway 33 to junction U.S. Highway 1.

(9) From junction Interstate Highway 80 and Ohio Highway 5 (also known as Ohio Turnpike Gate 14), over Ohio Highway 5 to junction Ohio Highway 82, thence over Ohio Highway 82 to junction U.S. Highway 62, thence over U.S. Highway 62 to junction Pennsylvania Highway 518 (near Sharon, Pa.), thence over Pennsylvania Highway 518 to junction Pennsylvania Highway 18, thence over Pennsylvania Highway 18 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 209, thence over U.S. Highway 209 to junction Interstate Highway 84, thence over Interstate Highway 84 to junction New York Highway 17, thence over New York Highway 17 to junction New York Highway 17K, thence over New York Highway 17K to junction Interstate Highway 84, thence over Interstate Highway 84 to junction U.S. Highway 7 (near Danbury, Conn.), thence over U.S. Highway 7 to junction Connecticut Highway 33, thence over Connecticut Highway 33 to junction U.S. Highway 1, (10) from junction U.S. Highway 224 and Interstate Highway 76 (also known as Interstate Highway 80S) (near Akron, Ohio), over Interstate Highway 76 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 209, thence over U.S. Highway 209 to junction Interstate Highway 84, thence over Interstate Highway 84 to junction Connecticut Highway 25, thence over Connecticut Highway 25 to Bridgeport, Conn., (11) from junction U.S. Highway 224 and Interstate Highway 76 (also known as Interstate Highway 80–S) (near Akron, Ohio), over Interstate Highway 76 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 209, thence over U.S. Highway 209 to junction Interstate Highway 84, thence over Interstate Highway 84 to junction Connecticut Highway 25, thence over Connecticut Highway 25 to Bridgeport, Conn.

(11) From junction Interstate Highway 80 and Ohio Highway 5 (also known as Ohio Turnpike Gate 14) over Ohio Highway 5 to junction Ohio Highway 82, thence over Ohio Highway 82 to junction U.S. Highway 62, thence over U.S. Highway 62 to junction Pennsylvania Highway 518 (near Sharon, Pa.), thence over Pennsylvania Highway 518 to junction Pennsylvania Highway 18, thence over Pennsylvania Highway 18 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 209, thence over U.S. Highway 209 to junction New York Highway 17, thence over New York Highway 17 to junction New York Highway 17K, thence

95 to junction Interstate Highway 91, thence over Interstate Highway 91 to junction Interstate Highway 84, thence over Interstate Highway 84 to junction New York Highway 121, thence over New York Highway 121 to junction New York Highway 116, thence over New York Highway 116 to the New York-Connecticut State line, thence over Connecticut Highway 33 to junction U.S. Highway 1, (2) from junction U.S. Highway 224 and Interstate Highway 76 (also known as Interstate Highway 80–S) (near Akron, Ohio), over Interstate Highway 76 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 209, thence over U.S. Highway 209 to junction Interstate Highway 84, thence over Interstate Highway 84 to junction New York Highway 121, thence over New York Highway 121 to junction New York Highway 116, thence over New York Highway 116 to the New York-Connecticut State line, thence over Connecticut Highway 33 to junction U.S. Highway 1, (3) from junction Interstate Highway 80 and Ohio Highway 5 (also known as Ohio Turnpike Gate 14) over Ohio Highway 5 to junction Ohio Highway 82, thence over Ohio Highway 82 to junction U.S. Highway 62, thence over U.S. Highway 62 to junction Pennsylvania Highway 518 (near Sharon, Pa.), thence over Pennsylvania Highway 518 to junction Pennsylvania Highway 18, thence over Pennsylvania Highway 18 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 209, thence over U.S. Highway 209 to junction New York Highway 17, thence over New York Highway 17 to junction New York Highway 17K, thence over New York Highway 17K to junction Interstate Highway 84, thence over New York Highway 121 to junction New York Highway 116, thence over New York Highway 116 to the New York-Connecticut State line, thence over Connecticut Highway 33 to junction U.S. Highway 1, (4) from junction U.S. Highway 224 and Interstate Highway 76 (also known as Interstate Highway 80S), (near Akron, Ohio), over Interstate Highway 76 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 209, thence over U.S. Highway 209 to junction New York Highway 17, thence over New York Highway 17 to junction New York Highway 17K, thence over New York Highway 17K to junction Interstate Highway 84, thence over New York Highway 121 to junction New York Highway 116, thence over New York Highway 116 to the New York-Connecticut State line, thence over Connecticut Highway 33 to junction U.S. Highway 1, (5) from junction Interstate Highway 80 and Ohio Highway 5 (also known as Ohio Turnpike Gate 14) over Ohio Highway 5 to junction Ohio Highway 82, thence over Ohio Highway 82 to junction U.S. Highway 62, thence over U.S. Highway 62 to junction Pennsylvania Highway 518 (near Sharon, Pa.), thence over Pennsylvania Highway 518 to junction Pennsylvania Highway 18, thence over Pennsylvania Highway 18 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 209, thence over U.S. Highway 209 to junction Interstate Highway 84, thence over Interstate Highway 84 to junction New York Highway 121, thence over New York Highway 121 to junction New York Highway 116, thence over New York Highway 116 to the New York-Connecticut State line, thence over Connecticut Highway 33 to junction U.S. Highway 1, (6) from junction U.S. Highway 224 and Interstate Highway 76 (also known as Interstate Highway 80–S) (near Akron, Ohio), over Interstate Highway 76 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 209, thence over U.S. Highway 209 to junction Interstate Highway 84, thence over Interstate Highway 84 to junction New York Highway 121, thence over New York Highway 121 to junction New York Highway 116, thence over New York Highway 116 to the New York-Connecticut State line, thence over Connecticut Highway 33 to junction U.S. Highway 1, (7) from junction Interstate Highway 80 and Ohio Highway 5 (also known as Ohio Turnpike Gate 14), over Ohio Highway 5 to junction Ohio Highway 82, thence over Ohio Highway 82 to junction U.S. Highway 62, thence over U.S. Highway 62 to junction Pennsylvania Highway 518 (near Sharon, Pa.), thence over Pennsylvania Highway 518 to junction Pennsylvania Highway 18, thence over Pennsylvania Highway 18 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S.. Highway 209, thence over U.S. Highway 209 to junction Interstate Highway 84, thence over Interstate Highway 84 to junction New York Highway 17, thence over New York Highway 17 to junction New York Highway 17K, thence over New York Highway 17K to junction Interstate Highway 84, thence over New York Highway 121 to junction New York Highway 116, thence over New York Highway 116 to the New York-Connecticut State line, thence over Connecticut Highway 33 to junction U.S. Highway 1, (8) from junction U.S. Highway 224 and Interstate Highway 76 (also known as Interstate Highway 80–S) (near Akron, Ohio), over Interstate Highway 76 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 209, thence over U.S. Highway 209 to junction New York Highway 17, thence over New York Highway 17 to junction New York Highway 17K, thence over New York Highway 17K to junction Interstate Highway 84, thence over Interstate Highway 84 to junction U.S. Highway 7 (near Danbury, Conn.), thence over U.S. Highway 7 to junction Connecticut Highway 33, thence over Connecticut Highway 33 to junction U.S. Highway 1, (9) from junction Interstate Highway 80 and Ohio Highway 5 (also known as Ohio Turnpike Gate 14), over Ohio Highway 5 to junction Ohio Highway 82, thence over Ohio Highway 82 to junction U.S. Highway 62, thence over U.S. Highway 62 to junction Pennsylvania Highway 518 (near Sharon, Pa.), thence over Pennsylvania Highway 518 to junction Pennsylvania Highway 18, thence over Pennsylvania Highway 18 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 209, thence over U.S. Highway 209 to junction Interstate Highway 84, thence over Interstate Highway 84 to junction Connecticut Highway 25, thence over Connecticut Highway 25 to Bridgeport, Conn., (10) from junction U.S. Highway 224 and Interstate Highway 76 (also known as Interstate Highway 80S) (near Akron, Ohio), over Interstate Highway 76 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 209, thence over U.S. Highway 209 to junction Interstate Highway 84, thence over Interstate Highway 84 to junction Connecticut Highway 25, thence over Connecticut Highway 25 to Bridgeport, Conn.

(11) From junction Interstate Highway 80 and Ohio Highway 5 (also known as Ohio Turnpike Gate 14) over Ohio Highway 5 to junction Ohio Highway 82, thence over Ohio Highway 82 to junction U.S. Highway 62, thence over U.S. Highway 62 to junction Pennsylvania Highway 518 (near Sharon, Pa.), thence over Pennsylvania Highway 518 to junction Pennsylvania Highway 18, thence over Pennsylvania Highway 18 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 209, thence over U.S. Highway 209 to junction New York Highway 17, thence over New York Highway 17 to junction New York Highway 17K, thence

Highway 90 (also known as Gate 10), over Indiana Highway 152 to junction

177 to junction U.S. Highway 77, thence

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over New York Highway 17K to junction Interstate Highway 84, thence over Interstate Highway 84 to junction Connecticut Highway 25, thence over Connecticut Highway 25 to Bridgeport, Conn., (12) from junction U.S. Highway 224 and Interstate Highway 76 (also known as Interstate Highway 80S) (near Akron, Ohio), over Interstate Highway 76 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 209, thence over U.S. Highway 209 to junction New York Highway 17, thence over New York Highway 17 to junction New York Highway 17K, thence over New York Highway 17K to junction Interstate Highway 84, thence over Interstate Highway 84 to junction Connecticut Highway 25, thence over Connecticut Highway 25 to Bridgeport, Conn.

(13) From Chicago, Ill., over Interstate Highway 90 (also called Chicago Skyway) to junction Interstate Highways 90–80, thence over Interstate Highways 90–80 (also known as the Indiana Toll Road or Indiana Turnpike) to junction Ohio Turnpike and U.S. Highway 20, (14) from junction U.S. Highway 6 and U.S. Highway 23 over U.S. Highway 23 to junction Ohio Highway 18, thence over Ohio Highway 18 to junction U.S. Highway 224, thence over U.S. Highway 224 to junction Interstate Highway 76 (also known as Interstate Highway 80S) (near Akron, Ohio), thence over Interstate Highway 76 to junction Interstate Highway 80, thence over Interstate Highway 80 (including highways connecting Interstate Highway 80 where Interstate Highway 80 is not complete) to junction Interstate Highway 95, thence over Interstate Highway 95 to junction Interstate Highway 91, thence over Interstate Highway 91 to junction Interstate Highway 86 (also known as Connecticut Highway 15), thence over Interstate Highway 86 to junction Interstate Highway 90 (also known as Gate 9 of the Massachusetts Turnpike), thence over Interstate Highway 90 to junction Massachusetts Highway 9 (near Boston, Mass.), thence over Massachusetts Highway 9 to Boston, Mass.

(15) From Chicago, Ill., over Interstate Highway 90 (also called Chicago Skyway) to junction Interstate Highway 80, thence over Interstate Highway 80 (also known as the Indiana Toll Road or Indiana Turnpike) to the Indiana-Ohio State line (then known as the Ohio Turnpike) to junction Ohio Highway 5 (also known as Gate 14), thence over Ohio Highway 5 to junction Ohio Highway 82, thence over Ohio Highway 82 to junction U.S. Highway 62, thence over U.S. Highway 62 to junction Pennsylvania Highway 518 (near Sharon, Pa.), thence over Pennsylvania Highway 518 to junction Pennsylvania Highway 18, thence over Pennsylvania Highway 18 to junction Interstate Highway 80, thence over Interstate Highway 80 (including highways connecting Interstate Highway 80 where Interstate Highway 80 is not complete) to junction Interstate Highway 95, thence over Interstate Highway 95 to junction Interstate Highway 91, thence over Interstate Highway 91 to junction Interstate Highway 86 (also known as Connecticut Highway 15), thence over Interstate Highway 86 to junction Interstate Highway 90 (also known as Gate 9 on the Massachusetts Turnpike), thence over Interstate Highway 90 to junction Massachusetts Highway 9 (near Boston, Mass.), thence over Massachusetts Highway 9 to Boston, Mass.

(16) From junction U.S. Highway 6 and U.S. Highway 23, over U.S. Highway 23 to junction Ohio Highway 18, thence over Ohio Highway 18 to junction U.S. Highway 224, thence over U.S. Highway 224 to junction Interstate Highway 76 (also known as Interstate Highway 80S) (near Akron, Ohio), thence over Interstate Highway 76 to junction Interstate Highway 80, thence over Interstate Highway 80 (including highways connecting Interstate Highway 80 where Interstate Highway 80 is not completed) to junction Interstate Highway 95, thence over Interstate Highway 95 to junction Interstate Highway 91, thence over Interstate Highway 91 to junction Interstate Highway 86 (also known as Connecticut Highway 15), thence over Interstate Highway 86 to junction U.S. Highway 20, thence over U.S. Highway 20 to junction Massachusetts Highway 9, thence over Massachusetts Highway 9 to Boston, Mass.

(17) From Chicago, Ill., over Interstate Highway 90 (also called Chicago Skyway) to junction Interstate Highway 80 (also known as the Indiana Toll Road or Indiana Turnpike) to the Indiana-Ohio State line (then known as the Ohio Turnpike) to junction Ohio Highway 5 (also known as Gate 14), thence over Ohio Highway 5 to junction Ohio Highway 82, thence over Ohio Highway 82 to junction U.S. Highway 62, thence over U.S. Highway 62 to junction Pennsylvania Highway 518 (near Sharon, Pa.), thence over Pennsylvania Highway 518 to junction Pennsylvania Highway 18, thence over Pennsylvania Highway 18 to junction Interstate Highway 80, thence over Interstate Highway 80 (including highways connecting Interstate Highway 80 where Interstate Highway 80 is not completed) to junction Interstate Highway 95, thence over Interstate Highway 95 to junction Interstate Highway 91, thence over Interstate Highway 91 to junction Interstate Highway 86 (also known as Connecticut Highway 15), thence over Interstate Highway 86 to junction Interstate Highway 90 (also known as Gate 9 on the Massachusetts Turnpike), thence over Interstate Highway 90 to junction Massachusetts Highway 9 (also known as Gate 12 on the Massachusetts Turnpike), thence over Massachusetts Highway 9 to Boston, Mass., (18) from junction U.S. Highway 6 and U.S. Highway 23 over U.S. Highway 23 to junction Ohio Highway 18, thence over Ohio Highway 18 to junction U.S. Highway 224, thence over U.S. Highway 224 to junction Interstate Highway 76 (also known as Interstate Highway 80–S) (near Akron, Ohio), thence over Interstate Highway 76 to junction Interstate Highway 80 (including highways connecting Interstate Highway 80 where Interstate Highway 80 is not completed) to junction Interstate Highway 95, thence over Interstate Highway 95 to junction Interstate Highway 91, thence over Interstate Highway 91 to junction Interstate Highway 86 (also known as Connecticut Highway 15), thence over Interstate Highway 86 to junction Interstate Highway 90 (also known as Gate 9 of the Massachusetts Turnpike), thence over Interstate Highway 90 to junction Massachusetts Highway 9 (also known as Gate 12 on the Massachusetts Turnpike), thence over Massachusetts Highway 9 to Boston, Mass., (19) From Chicago, Ill., over Interstate Highway 90 (also called Chicago Skyway) to junction Interstate Highway 80, thence over Interstate Highway 80 (also known as the Indiana Toll Road or Indiana Turnpike) to the Indiana-Ohio State line (it is then known as the Ohio Turnpike) to junction Ohio Highway 5 (also known as Gate 14), thence over Ohio Highway 5 to junction Ohio Highway 82, thence over Ohio Highway 82 to junction U.S. Highway 62, thence over U.S. Highway 62 to junction Pennsylvania Highway 518 (near Sharon, Pa.), thence over Pennsylvania Highway 518 to junction Pennsylvania Highway 18, thence over Pennsylvania Highway 18 to junction Interstate Highway 80, thence over Interstate Highway 80 (including highways connecting Interstate Highway 80 where Interstate Highway 80 is not completed) to junction Interstate Highway 95, thence over Interstate Highway 95 to junction Interstate Highway 91, thence over Interstate Highway 91 to junction Interstate Highway 86 (also known as Connecticut Highway 15), thence over Interstate Highway 86 to junction Interstate Highway 90 (also known as Gate 12 on the Massachusetts Turnpike), thence over Massachusetts Highway 9 to Boston, Mass., (20) from junction U.S. Highway 6 and U.S. Highway 23 over U.S. Highway 23 to junction Ohio Highway 18, thence over Ohio Highway 18 to junction U.S. Highway 224, thence over U.S. Highway 224 to junction Interstate Highway 76 (also known as Interstate Highway 80–S) (near Akron, Ohio), thence over Interstate Highway 76 to junction Interstate Highway 80 (including highways connecting Interstate Highway 80 where Interstate Highway 80 is not completed) to junction Interstate Highway 95, thence over Interstate Highway 95 to junction U.S. Highway 1 (north of Milford, Conn.), thence over U.S. Highway 1 to junction U.S. Highway 5, thence over U.S. Highway 5 to junction Interstate Highway 86 (also known as Connecticut Highway 15), thence over Interstate Highway 86 to junction U.S. Highway 20, thence over Massachusetts Highway 12 to junction Interstate

Highway 90 (also known as Gate 10), thence over Interstate Highway 90 to junction Massachusetts Highway 9 (also known as Gate 12), thence over Massachusetts Highway 9 to Boston, Mass., and

(21) From Chicago, Ill., over Interstate Highway 90 (also called Chicago Skyway) to junction Interstate Highway 80, thence over Interstate Highway 80 (also known as the Indiana Toll Road or Indiana Turnpike) to the Indiana-Ohio State line (and is then known as the Ohio Turnpike) to junction Ohio Highway 5 (also known as Gate 14), thence over Ohio Highway 5 to junction Ohio Highway 82, thence over Ohio Highway 82 to junction U.S. Highway 62, thence over U.S. Highway 62 to junction Pennsylvania Highway 518 (near Sharon, Pa.), thence over Pennsylvania Highway 518 to junction Pennsylvania Highway 18, thence over Pennsylvania Highway 18 to junction Interstate Highway 80, thence over Interstate Highway 80 (including highway connecting Interstate Highway 80 where Interstate Highway 80 is not completed) to junction Interstate Highway 95, thence over Interstate Highway 95 to junction U.S. Highway 1 (north of Milford, Conn.), thence over U.S. Highway 1 to junction U.S. Highway 5, thence over U.S. Highway 5 to junction Interstate Highway 86 (also known as Connecticut Highway 15), thence over Interstate Highway 86 to junction U.S. Highway 20, thence over Massachusetts Highway 12 to junction Interstate Highway 90 (also known as Gate 10), thence over Massachusetts Highway 12 to junction Interstate Highway 90 to junction Massachusetts Highway 9 (also known as Gate 12), thence over Massachusetts Highway 9 to Boston, Mass., over Indiana Highway 152 to junction U.S. Highway 6, thence over U.S. Highway 6 to junction Ohio Highway 300, thence over Ohio Highway 300 to junction U.S. Highway 20, thence over U.S. Highway 20 to junction Ohio Highway 10, thence over Ohio Highway 10 to Cleveland, Ohio, thence over Ohio Highway 2 to junction U.S. Highway 20, thence over U.S. Highway 20 to junction Pennsylvania Highway 5 near Erie, Pa., thence over Pennsylvania Highway 5 to the Pennsylvania-New York State line, thence over New York Highway 5 to junction U.S. Highway 20 near Silver Creek, N.Y. (also from junction U.S. Highway 20 and Pennsylvania Highway 5 over U.S. Highway 20 to junction New York Highway 5), thence over U.S. Highway 20 to Auburn, N.Y., thence over New York Highway 5 to Albany, N.Y., thence over U.S. Highway 20 to Boston, Mass., and return over the same routes.

No. MC–29910 (Deviation No. 19), ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Post Office Box 48, Fort Smith, AR 72901, filed October 25, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities* with certain exceptions, over a deviation route as follows: From Hope, Ark., over Arkansas Highway 4 to junction Interstate Highway 30, thence over Interstate Highway 30 to Texarkana, Ark.-Tex., thence over U.S. Highway 59 to junction Interstate Highway 20, near Marshall, Tex., thence over Interstate Highway 20 to Shreveport, La., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Hope, Ark., over Arkansas Highway 29 to the Arkansas-Louisiana State line, thence over Louisiana Highway 3 to junction U.S. Highway 80, thence over U.S. Highway 80 to Shreveport, La., and return over the same route.

No. MC–30605 (Deviation No. 20), THE SANTA FE TRAIL TRANSPORTATION COMPANY, 433 East Waterman Street, Wichita, KS 67201, filed October 25, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction U.S. Highway 81 and Interstate Highway 70 over Interstate Highway 70 to junction U.S. Highway 156, thence over U.S. Highway 156 to junction U.S. Highway 56, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Omaha, Nebr., over U.S. Highway 6 to Lincoln, Nebr., thence over U.S. Highway 77 via Beatrice, Nebr., to Randolph, Kans., thence over Kansas Highway 13 to Manhattan, Kans., thence over U.S. Highway 40 to Salina, Kans., thence over U.S. Highway 81 to South Haven, Kans., thence over U.S. Highway 177 to junction U.S. Highway 77, thence over U.S. Highway 77 to Oklahoma City, Okla., (2) from Concordia, Kans., over U.S. Highway 81 to Salina, Kans., (3) from Topeka, Kans., over Kansas Highway 4 via Herington, Kans., to junction U.S. Highway 81, (4) from Topeka, Kans., over Kansas Highway 4 to Herington, Kans., thence over U.S. Highway 56 (formerly U.S. Highway 50–N) to Lyons, Kans., (5) from Hutchinson, Kans., over Kansas Highway 96 to Lyons, Kans., thence over U.S. Highway 56 (formerly U.S. Highway 50–N) to junction U.S. Highway 156 (formerly U.S. Highway 50–N), thence over U.S. Highway 156 to Jetmore, Kans., thence over U.S. Highway 283 to Dodge City, Kans., and (6) from Salina, Kans., over U.S. Highway 40 to junction U.S. Highway 156 (formerly Kansas Highway 45), thence over U.S. Highway 156 to Great Bend, Kans., and return over the same routes.

No. MC–48958 (Deviation No. 39), ILLINOIS-CALIFORNIA EXPRESS, INC., Post Office Box 9050, Amarillo, TX 79105, filed October 25, 1972. Carrier's representative: Morris G. Cobb., same address as applicant. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Prescott, Ariz., over Arizona Highway 69 to junction Interstate Highway 17, thence over Interstate Highway 17 to Phoenix, Ariz., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Colton, Calif., over U.S. Highway 99 to Indio, Calif., thence over U.S. Highway 60 to Wickenburg, Ariz., thence over U.S. Highway 89 to Ashfork, Ariz., and (2) from Wickenburg, Ariz., over U.S. Highway 89 to Phoenix, Ariz., and return over the same routes.

No. MC–48958 (Deviation No. 40), ILLINOIS - CALIFORNIA EXPRESS, INC., Post Office Box 9050, Amarillo, TX 79105, filed October 27, 1972. Carrier's representative: Morris G. Cobb, same address as applicant. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Dallas, Tex., over Texas Highway 183 to Fort Worth, Tex., thence over U.S. Highway 180 to junction U.S. Highway 281, thence over U.S. Highway 281 to junction Interstate Highway 20 (U.S. Highway 80), thence over Interstate Highway 20 (U.S. Highway 80) to Abilene, Tex., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Wichita Falls, Tex., over U.S. Highway 281 to Jacksboro, Tex., thence over Texas Highway 199 to Fort Worth, Tex., thence over U.S. Highway 80 to Dallas, Tex., (2) from Jacksboro, Tex., over Texas Highway 199 to Seymour, Tex., thence over

U.S. Highway 283 to the Texas-Okla-

vannah, Mo., thence over U.S. Highways

to junction U.S. Highway 14, thence over

junction U.S. Highway 12, thence over

Prior Avenue North, St. Paul., MN 55113,

highway (formerly U.S. Highway 66)

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U.S. Highway 283 to the Texas-Oklahoma State line, (3) from Olney, Tex., over Texas Highway 199 to Jean, Tex., thence over Texas Farm or Ranch Road 1769 to junction Texas Highway 24, thence over Texas Highway 24 to Graham, Tex., (4) from New Castle, Tex., over Texas Highway 24 to Throckmorton, Tex., (5) from Abilene, Tex., over Texas Highway 351 to junction U.S. Highway 180, thence over U.S. Highway 180 to Albany, Tex., thence over U.S. Highway 283 to Throckmorton, Tex., and (6) from Graham, Tex., over Texas Highway 24 to New Castle, Tex., thence over Texas Highway 251 to Olney, Tex., thence over Texas Highway 79 to Wichita Falls, Tex., and return over the same routes.

No. MC-48958 (Deviation No. 41), ILLINOIS - CALIFORNIA EXPRESS, INC., Post Office Box 9050, Amarillo, TX 79105, filed November 3, 1972. Carrier's representative: Morris G. Cobb, same address as applicant. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Dallas, Tex., over the Dallas-Fort Worth, Tex., toll road (U.S. Highway 80) to Fort Worth, Tex., thence over U.S. Highway 180 to junction U.S. Highway 183, thence over U.S. Highway 183 to junction Interstate Highway 20 (U.S. Highway 80), thence over Interstate Highway 20 (U.S. Highway 80) to Abilene, Tex., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Wichita Falls, Tex., over U.S. Highway 281 to Jacksboro, Tex., thence over Texas Highway 199 to Fort Worth, Tex., thence over U.S. Highway 80 to Dallas, Tex., (2) from Jacksboro, Tex., over Texas Highway 199 to Seymour, Tex., thence over U.S. Highway 283 to the Texas-Oklahoma State line, (3) from Olney, Tex., over Texas Highway 199 to Jean, Tex., thence over Texas Farm or Ranch Road 1769 to junction Texas Highway 24, thence over Texas Highway 24 to Graham, Tex, (4) from New Castle, Tex., over Texas Highway 24 to Throckmorton, Tex., (5) from Abilene, Tex., over Texas Highway 351 to junction U.S. Highway 180, thence over U.S. Highway 180 to Albany, Tex., thence over U.S. Highway 283 to Throckmorton, Tex., and (6) from Graham, Tex., over Texas Highway 24 to New Castle, Tex., thence over Texas Highway 251 to Olney, Tex., thence over Texas Highway 79 to Wichita Falls, Tex., and return over the same routes.

No. MC-52709 (Deviation No. 26), RINGSBY TRUCK LINES, INC., Post Office Box 109, 5773 South Prince Street, Littleton, CO 80120, filed November 3, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Kansas City, Mo., over Interstate Highway 29 to junction combined U.S. Highways 59-275, just west of Savannah, Mo., thence over U.S. Highways 59-275 to junction U.S. Highway 136 near Tarkio, Mo., thence over U.S. Highway 136 to Auburn, Nebr., thence over U.S. Highway 75 to Nebraska City, Nebr., thence over Nebraska Highway 2 to Lincoln, Nebr., and (2) from Kansas City, Mo., over Interstate Highway 29 to junction Iowa Highway 2, thence over Iowa Highway 2 to the Iowa-Nebraska State line, thence over Nebraska Highway 2 to Lincoln, Nebr., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Kansas City, Mo., over U.S. Highway 71 to junction U.S. Highway 36, thence over U.S. Highway 36 to junction U.S. Highway 77, thence over U.S. Highway 77 to Lincoln, Nebr., and return over the same route.

No. MC-75320 (Deviation No. 38), CAMPBELL SIXTY-SIX EXPRESS, INC., Post Office Box 807, Springfield, MO 65801, filed October 25, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From St. Louis, Mo., over Interstate Highway 70 to Effingham, Ill., thence over Interstate Highway 57 to Chicago, Ill., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Springfield, Mo., over U.S. Highway 66 via St. Louis, Mo., to Gardner, Ill., thence over Illinois Highway 53 (formerly Alternate U.S. Highway 66) to junction U.S. Highway 66, thence over U.S. Highway 66 to Chicago, Ill., and return over the same route.

No. MC 103435 (Deviation No. 23), UNITED-BUCKINGHAM FREIGHT LINES, INC., Post Office Box 192, Littleton, CO 80120, filed October 25, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Minneapolis, Minn., over U.S. Highway 10 to Forsyth, Mont., thence over U.S. Highway 12 to Helena, Mont., and return over the same route, for convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From St. Paul, Minn., over city streets to Minneapolis, Minn., thence over U.S. Highway 212 to Redfield, S. Dak., thence over U.S. Highway 281 to junction South Dakota Highway 26, thence over South Dakota Highway 26 to junction South Dakota Highway 45, hence over South Dakota Highway 45 to Miller, S. Dak., (2) from Montevideo, Minn., over Minnesota Highway 7 to Minneapolis, Minn., (3) from Miller, S. Dak., over U.S. Highway 14 to junction South Dakota Highway 73, thence over South Dakota Highway 73 to Philip Junction, S. Dak., thence over unnumbered highway at or near Cottonwood, S. Dak., to junction U.S. Highway 14, thence over U.S. Highway 13 to Sturgis, S. Dak., (4) from Rapid City, S. Dak., over South Dakota Highway 79 to junction South Dakota Highway 36, thence over South Dakota Highway 36 to junction Alternate U.S. Highway 16, thence over Alternate U.S. Highway 16 to Custer, S. Dak., thence over U.S. Highway 385 to Hot Springs, S. Dak., (5) from Sturgis, S. Dak., over Alternate U.S. Highway 14 to Deadwood, S. Dak., thence over U.S. Highway 85 to Belle Fourche, S. Dak., (6) from Redfield, S. Dak., over U.S. Highway 212 to juction South Dakota Highway 79, (7) from junction South Dakota Highway 45 and U.S. Highway 212 over South Dakota Highway 45 to junction South Dakota Highway 26.

(8) from Rapid City, S. Dak., over South Dakota Highway 79 to junction South Dakota Highway 36, thence over South Dakota Highway 36 to junction Alternate U.S. Highway 16, thence over Alternate U.S. Highway 16 to Custer, S. Dak., (9) from Custer, S. Dak., over U.S. Highway 16 to Newcastle, Wyo., (10) from Newcastle, Wyo., over U.S. Highway 16 to Ucross, Wyo., thence over U.S. Highway 14 to Sheridan, Wyo., (11) from Sturgis, S. Dak., over South Dakota Highway 34 to junction South Dakota Highway 79, thence over South Dakota Highway 79 to junction U.S. Highway 212, thence over U.S. Highway 212 to Belle Fourche, S. Dak., (12) from Sturgis, S. Dak., over South Dakota Highway 34 to junction U.S. Highway 85, thence over U.S. Highwav 85 to Deadwood, S. Dak., (13) from Moorcroft, Wyo., over U.S. Highway 14 to Spearfish, S. Dak., (14) from Broadus, Mont., over U.S. Highway 212 to junction unnumbered highway, thence over unnumbered highway via Biddle, Mont., to junction U.S. Highway 16, thence over U.S. Highway 16 to Gillette, Wyo., (15) from Broadus, Mont., over U.S. Highway 212 to junction Montana Highway 8, thence over Montana Highway 8 to Crow Agency, Mont., thence over U.S. Highway 86 to Billings, Mont., (16) from Sheridan, Wyo., over U.S. Highway 87 to Acme, Wyo., thence over unnumbered highways to the Wyoming-Montana State line, thence over unnumbered highwavs via Decker, Mont., to Birney, Mont., (17) from Sheridan, Wyo., over U.S. Highway 87 to junction Montana Highway 8 near Crow Agency, Mont., (18) from Missoula, Mont., over U.S. Highway 10 via Garrison and Three Forks, Mont., to Billings, Mont.

(19) From Missoula, Mont., over U.S. Highway 10 to Garrison Mont., thence over U.S. Highway 12 to junction Montana Highway 287, thence over Montana Highway 287 to junction U.S. Highway 10 at or near Three Forks, Mont., thence over U.S. Highway 10 to Billings, Mont., (20) from Missoula, Mont., over U.S. Highway 10 to Garrison, Mont., thence over U.S. Highway 12 via Townsend, Mont., to junction Montana Highway 3 approximately 6 miles east of Slayton, Mont., thence over Montana Highway 3 to Billings, Mont., (21) from Billings, Mont., over unnumbered highway via Action and Broadview, Mont., to junction U.S. Highway 12, thence over U.S. Highway 12 via Townsend, Mont., to Helena, Mont., (22) from Billings, Mont., over unnumbered highway via Action and Broadview, Mont., to junction U.S. Highway 12, thence over U.S. Highway 12 to Harlowton, Mont., (23) from Minneapolis, Minn., over U.S. Highway 12 to Hettinger, N. Dak., (24) from Reeder, N. Dak., over U.S. Highway 12 to Hettinger, N. Dak., (25) from Bowman, N. Dak., over U.S. Highway 12 to Miles City, Mont., (26) from Belle Fourche, S. Dak., over U.S. Highway 85 to Belfield, N. Dak., thence over U.S. Highway 10 to Bismarck, N Dak., (27) from Minneapolis, Minn., over U.S. Highway 52 to Fargo, N. Dak., (28) from St. Paul, Minn., over U.S. Highway 10 to Fargo, N. Dak., (29) from Devils Lake, N. Dak., over U.S. Highway 2 to Grand Forks, N. Dak., thence over U.S. Highway 81 to Fargo, N Dak., thence over U.S. Highway 10 to Anoka, Minn., thence over U.S. Highway 169 to Minneapolis, Minn.

(30) from Devils Lake, N. Dak., to Fargo, N. Dak., as specified immediately above, thence over U.S. Highway 52 via Evansville, Minn., to Minneapolis, Minn., (31) from Moorhead, Minn., over U.S. Highway 75 to Crookston, Minn., (32) from Devils Lake, N. Dak., over U.S. Highway 2 via Grand Forks, N. Dak., to junction U.S. Highway 59, thence over U.S. Highway 59 to Elbow Lake, Minn., thence over Minnesota Highway 79 to Evansville, Minn., thence over U.S. Highway 52 to Minneapolis, Minn., (33) from South St. Paul, Minn., over city streets to St. Paul, Minn., thence over U.S. Highway 10 to Detroit Lakes, Minn., thence over U.S. Highway 59 to Erskine, Minn., thence over U.S. Highway 2 to Devils Lake, N. Dak., thence over North Dakota Highway 20 to Starkweather, N. Dak., thence over North Dakota Highway 17 to Cando, N. Dak., thence over U.S. Highway 281 to junction North Dakota Highway 5, thence over North Dakota Highway 5 to Bottineau, N. Dak., (34) from Fargo, N. Dak., over U.S. Highway 10 to Bismarck, N. Dak., (35) from Jamestown, N. Dak., over U.S Highway 52 to Minot, N Dak., (36) from Fargo, N. Dak., over U.S. Highway 81 to Hamliton, N. Dak., thence over North Dakota Highway 5 to junction North Dakota Highway 18, thence over North Dakota Highway 18 to junction North Dakota Highway 55, thence over North Dakota Highway 55 to Pembina, N. Dak., (37) from Minot, N. Dak., over U.S. Highway 2 to Culbertson, Mont., (38) from Williston, N. Dak., over U.S. Highway 2 to Glasgow, Mont., (39) from Havre, Mont., over U.S. Highway 2 to Glasgow, Mont. (40) from Great Falls, Mont., over U.S. Highway 87 to junction unnumbered highway just south of Havre, Mont., thence over unnumbered highway to Havre, Mont., and (41) from Great Falls, Mont., over U.S. Highway 91 to Helena, Mont., and return over the same routes.

No. MC-108835 (Deviation No. 3), HYMAN FREIGHTWAYS, INC., 2690 Prior Avenue North, St. Paul., MN 55113, filed October 25, 1972. Carrier's representative; Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, Minn. 55402. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction Minnesota Highways 55 and 5, over Minnesota Highway 5 to junction Interstate Highway 494, thence over Interstate Highway 494 to junction Interstate Highway 35-W and U.S. Highway 65, thence over Interstate Highway 35-W and U.S. Highway 65 to junction Minnesota Highway 13, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent regular route as follows: From Minneapolis, Minn., over Minnesota Highway 55 to junction Minnesota Highway 13, thence over Minnesota Highway 13 to junction U.S. Highway 65, thence over U.S. Highway 65 to Owatonna, Minn., and return over the same route.

No. MC-112713 (Deviation No. 19), YELLOW FREIGHT SYSTEM, INC., Post Office Box 8462, 92d at State Line, Kansas City, MO 64114, filed October 25, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Indianapolis, Ind., over Interstate Highway 70 to junction Interstate Highway 57 near Effingham, Ill., thence over Interstate Highway 57 to junction Interstate Highway 55 near Sikeston, Mo., thence over Interstate Highway 55 to junction Interstate Highway 40 near West Memphis, Ark., thence over Interstate Highway 40 to junction Interstate Highway 30, thence over Interstate Highway 30 to Dallas, Tex., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows:

(1) From St. Louis, Mo., over U.S. Highway 40 to junction Alternate U.S. Highway 40 (formerly U.S. Highway 40), thence over Alternate U.S. Highway 40 via Hagarstown and Vandalia, Ill., to junction U.S. Highway 40, thence over U.S. Highway 40 to junction unnumbered highway (formerly U.S. Highway 40), thence over unnumbered highway via Marshall, Ill., to junction U.S. Highway 40, thence over U.S. Highway 40 to Indianapolis, Ind., (2) from St. Louis, Mo., over U.S. Highway 50 to junction Illinois Highway 37, thence over Illinois Highway 37 to junction U.S. Highway 45, thence over U.S. Highway 45 to junction U.S. Highway 40, thence over the route specified in (1) above to Indianapolis, Ind., (3) from St. Louis, Mo., over U.S. Highway 66 to junction U.S. Highway 63 (formerly U.S. Highway 66) near Rolla, Mo., thence over U.S. Highway 63 to Rolla, thence over unnumbered highway (formerly U.S. Highway 66) to junction U.S. Highway 66, thence over U.S. Highway 66 to junction unnumbered highway (formerly U.S. Highway 66) near Waynesville, Mo., thence over unnumbered highway to Waynesville, thence over Missouri Highway 17 (formerly U.S. Highway 66) to junction U.S. Highway 66, thence over U.S. Highway 66 to junction unnumbered highway (formerly U.S. Highway 66) near Conway, Mo., thence over unnumbered highway via Conway to junction U.S. Highway 66, thence over U.S. Highway 66 to Baxter Springs, Kans., (4) from Kansas City, Mo., over U.S. Highway 69 to junction Kansas Highway 26, thence over Kansas Highway 26 to junction U.S. Highway 66, thence over U.S. Highway 66 to junction Oklahoma Highway 66 (formerly U.S. Highway 66) near Edmond, Okla., thence over Oklahoma Highway 66 (formerly U.S. Highway 66) to Oklahoma City, Okla., thence over U.S. Highway 77 to Dallas, Tex., thence over U.S. Highway 75 to Houston, Tex., and (5) from Vinita, Okla., over U.S. Highway 69 to Atoka, Okla., thence over U.S. Highway 75 to Dallas, Tex., and return over the same routes.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-20133 Filed 11-21-72;8:51 am]

[Notice 94]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

NOVEMBER 17, 1972.

The following publications are governed by the new § 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.[1]

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 117119 (Sub-No. 448) (Amendment), filed January 3, 1972, published in the FEDERAL REGISTER, issue of February 3, 1972, and republished as amended this issue. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., Post Office Box 188, Elm Springs, AR 72728. Applicant's representative: Bobby G. Shaw (same address as applicant). Authority sought to operate as a *common carrier*, by motor

[1] Except as otherwise specifically noted, each applicant (on applications) filed after Mar. 27, 1972, states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

vehicle, over irregular routes, transport-

ness as, TURNER EXPEDITING SERV-

the plantsites and warehouses of Hill

inclusive; (h) U.S. Highway 50 between

taraugus Counties, Vendee is authorized

Wichita, Kans., and Kansas City, Mo.,

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vehicle, over irregular routes, transporting: (1) *Candy, confectionery products, nuts and snack foods*, except in bulk; (2) *advertising materials and premium merchandise*, moving in mixed loads with candy, confectionery products, nuts and snack foods, except commodities in bulk, from Chicago, Ill., to points in Arizona, California, Montana, Nevada, Texas, Oklahoma, Oregon, Utah, and Washington. NOTE: Applicant states it presently holds authority under its Sub 343 to transport candy and confectionery, from Salt Lake City, Utah, which could possibly be tacked to serve New Mexico, although tacking is not intended. Common control may be involved. The purpose of this republication is to show that application was amended at the hearing to include nuts and snack foods, and to include the State of Texas.

HEARING: January 15, 1973, at Chicago, Ill. Location of hearing room will be by subsequent notice.

No. MC 124211 (Sub-No. 205) (Republication), filed November 18, 1971, published in the FEDERAL REGISTER issue of December 23, 1971, and republished this issue. Applicant: HILT TRUCK LINE, INC., Post Office Box 988 D.T.S., Omaha, NE 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). An order of the Commission, Review Board Number 2, dated October 24, 1972, and served November 8, 1972, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, (1) of alcoholic beverages, (a) from Chicago, Ill., to Omaha, Nebr., restricted to the transportation of shipments destined to Omaha, Nebr., and (b) from Minneapolis., Minn., to Omaha, Nebr., and (2) of malt beverages, (a) from Peoria, Ill., and Milwaukee, Wis., to Council Bluffs, Iowa, and (b) from Belleville, Ill., and Sheboygan and La Crosse, Wis., to Omaha, Nebr.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate protest or other pleading.

No. MC 126537 (Sub-No. 23) (Republication), filed November 2, 1970, published in the FEDERAL REGISTER issue of December 3, 1970, and republished this issue. Applicant: KENT I. TURNER, KENNETH E. TURNER, AND ERVIN L. TURNER, a partnership, doing business as, TURNER EXPEDITING SERVICE, Post Office Box 21333, Standiford Field, Louisville, KY 40221. Applicant's representative: George M. Catlett, 703–706 McClure Building, Frankfort, Ky. 40601. An order of the Commission, Division 1, Acting as an Appellate Division, dated October 27, 1972, and served November 2, 1972, finds that by recommended order served February 24, 1972, the examiner recommended that applicant be granted authority to transport general commodities (with exception) between O'Hare Field, Chicago, Ill., on the one hand, and, on the other, points in the Chicago, Ill., commercial zone, restricted to the handling of traffic originating at or destined to the plantsite of American Greetings Corp. near Danville, Ky.; and that by stay decision and order entered March 14, 1972, the Commission, Review Board No. 2, modified the examiner's findings by deleting the abovementioned restriction; and that said stay decision and order of March 14, 1972, be, and it is hereby, modified, to authorize: Operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the plantsite of American Greeting Corp. near Danville, Ky., on the one hand, and, on the other, Chicago, Ill., restricted to the transportation of traffic originating at or destined to the said plantsite. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE FOR FILING PETITION

No. MC 133984 (Sub-No. 2) (Notice of filing of petition to modify and amend permit, and add additional shipper), filed November 9, 1972. Petitioner: M. A. POPPERT, doing business as POPPERT TRUCKING COMPANY, El Monte, Calif. Petitioner's representative: Gerold von Pahlen-Fedoroff, Beverly Hills Financial Center, 10th Floor, 9401 Wilshire Boulevard, Beverly Hills, CA 90212. Petitioner states that it holds a permit in MC 133984 Sub–2 authorizing and evidencing operations as a motor contract carrier, over irregular routes, in the transportation of: (1) *Store fixtures and equipment*, crated, when moving in mixed loads with store fixtures and equipment, uncrated, and (2) *store fixtures and equipment*, uncrated, when moving in mixed loads with store fixtures and equipment, crated, between the plantsites and warehouses of Hill Refrigeration Corp., at points in Los Angeles County, Calif., on the one hand, and, on the other, points in Arizona, Colorado, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming, restricted and limited to a transportation service to be performed under a continuing contract, or contracts, with Hill Refrigeration Corp. of Glendale, Calif. By the instant petitioner, petitioner seeks to (a) add the name of Merchandising Equipment Group, Inc., as an additional contracting shipper, and (b) amend the commodities to be transported, and area to service to read as follows: *Commercial, institutional, and store fixtures, and equipment, and, climate control equipment, and parts thereof*, (1) between points in Arizona, California, Nevada, Oregon, Idaho, and Washington; and (2) between points in California, on the one hand, and, on the other, points in Colorado, Montana, New Mexico, Texas, Utah, and Wyoming. Any interested person or persons desiring to participate and to be heard in the matter may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATION UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 54567 (Sub–No. 12), filed September 25, 1972. Applicant: RELIANCE TRUCK CO., a corporation, 2500 North 24th Avenue, Phoenix, AZ 85009. Applicant's representative: A. Michael Bernstein, 1327 United Bank Building, Phoenix, Ariz. 85012. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *Construction materials, equipment and supplies; machinery and machinery parts; iron and steel products; self-propelled vehicles* (excluding automobiles and over the highway trucks); *weight require the use of special equipment; pipe and pipe fittings;* Regular routes: On and within 50 (fifty) miles laterally of the following described highways: (a) U.S. Highways 101 and 101 By-Pass between California-Oregon State line and California-Mexico line, inclusive; (b) U.S. Highway 99, 99–E and 99–W between California-Oregon State line and California-Mexico line, inclusive; (c) U.S. Highway 299 between Redding and Alturas, Calif., inclusive; (d) U.S. Highway 395 between California-Oregon State line and California-Nevada State line, inclusive, by way of Alturas and Johnstonville, Calif.; (e) State Highway 36 between junction U.S. Highway 99–E near Red Bluff, Calif., and junction U.S. Highway 395 at Johnstonville, Calif., inclusive; (f) State Highway 20 between Marysville, Calif., and junction U.S. Highway 40, inclusive; (g) U.S. Highway 40 between San Francisco, Calif., and California-Nevada State line, inclusive; (h) U.S. Highway 50 between Sacramento, Calif., and California-Nevada State line, inclusive; (i) U.S. Highway 395 between California-Nevada State line at Topaz Lake, Calif., and junction U.S. Highway 66, inclusive; (j) U.S. Highway 66 between Los Angeles and Needles, Calif., inclusive; (k) U.S. Highway 60 between Los Angeles, Calif., and California-Arizona State line, inclusive; (l) U.S. Highways 91 and 466 between Barstaw, Calif., and California-Nevada State line, inclusive; (m) U.S. Highway 80 between San Diego, Calif., and California-Arizona State line, inclusive; and (n) State Highway 127 between Baker, Calif., and California-Nevada State line, inclusive: Irregular routes: Over irregular routes in the area described by the above listed highways and within 50 miles thereof. NOTE: The instant application is a matter directly related to No. MC–F 11673 published in the FEDERAL REGISTER issue of October 12, 1972. Applicant states that by this application it seeks authority into the States of Oregon, Nevada, and Arizona at all border crossings and seeks authority to serve Yuma, Ehrenberg, Parker, and Topock, Ariz., so as to enable tacking with present authority. If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz., or Los Angeles, Calif.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240.)

MOTOR CARRIERS OF PROPERTY

MOTOR CARRIER TRANSFER PROCEEDING

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC–F–11712. Authority sought for purchase by CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025, of the operating rights and property of RAPID DELIVERY SERVICE, INC., Post Office Box No. 727, Jamestown, NY 14701, and for acquisition by CONSOLIDATED FREIGHTWAYS, INC., 601 California Street, San Francisco, CA 94108, of control of such rights and property through the purchase. Applicants' attorneys: Kenneth T. Johnson and Ronald W. Malin, Bankers Trust Building, Jamestown, N.Y. 14701. Operating rights sought to be transferred are set forth in the certificate of registration solely within the State of New York as a *common carrier*, of *General Commodities*, as defined in section 800.1 of title 16 of the Official Compilation of Codes, Rules and Regulations of the State of New York, between all points in Chautauqua and Cattaraugus Counties. Vendee is authorized to operate as a common carrier in California, Oregon, Washington, Illinois, Minnesota, Wisconsin, Montana, Colorado, Utah, Wyoming, Idaho, Indiana, Nevada, Ohio, Iowa, Michigan, Arizona, Kansas, Maryland, North Dakota, South Carolina, Georgia, Alabama, Kentucky, North Carolina, New York, Massachusetts, Oklahoma, Missouri, Texas, Louisiana, Pennsylvania, South Dakota, New Mexico, Nebraska, West Virginia, Mississippi, New Jersey, Connecticut, Alaska, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11713. Authority sought for control and merger by BRIGGS TRANSPORTATION CO., 2360 West County Road C, St. Paul, MN 55113, of the operating rights and property of CLAMAR, INC., 720, Fifth Street NE., Cedar Rapids, IA 52406, and for acquisition by GEORGE E. BRIGGS AND MICHAEL P. WARDWELL, both of 2360 West County Road C, St. Paul, MN 55113, of control of such rights and property through the merger. Applicants' attorney: Axelrod, Goodman, Steiner & Bazelon, 39 South LaSalle Street, Chicago, IL 60603. Operating rights sought to be controlled and merged are set forth in certificate of registration solely within the State of Iowa as a *common carrier*, of *General Commodities*, over regular routes, between Cedar Rapids, Iowa, and Ottumwa, Iowa, serving the intermediate points of Amana, Fairfax, Hedrick, Martinsburg, North English, Parnell, Sigourney, South English, Walford, Webster, and Williamsburg, as well as all points intermediate to the above points located on said highways, and the off-route points of Conroy, Delta, Fremont, Hayesville, High Amana, Oskaloosa, Rose Hill, Rutledge, South Amana and the U.S. Naval Reserve Aviation Base (also known as Ottumwa Airport): From Cedar Rapids over Iowa Highway 149 to junction U.S. Highway 63 about 5 miles west of Hedrick, Iowa, thence over U.S. Highway 63 to Ottumwa, and return over the same route. Vendee is authorized to operate as a *common carrier* in Minnesota, Illinois, Wisconsin, Iowa, Nebraska, Indiana, and Missouri. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11714. Authority sought for control by ROCOR INTERNATIONAL, 2800 West Bayshore Road, Palo Alto, CA 94303, of CROUCH BROS., INC., Highway 36 West, Post Office Box 1059, St. Joseph, MO 64502, and for acquisition by DAVID P. ROUSH AND DIANE G. ROUSH, both of 2800 West Bayshore Road, Palo Alto, CA 94303, through the acquisition by ROCOR INTERNATIONAL. Applicants' attorneys: Roland Rice, 1111 E Street NW., Washington, DC 20004, and Thomas W. Van Dyke, 900 Walnut Street, Kansas City, MO 64106. Operating rights sought to be controlled: Crouch Bros., Inc., operates as a *common carrier* of *General commodities* with the usual exceptions, primarily over regular routes to Omaha, Nebraska, and Wichita, Kans., and Kansas City, Mo., on the west, Chicago, Ill., on the north, and New York, N.Y., and Boston, Mass., on the east, and of specified commodities over irregular routes, in Texas, Oklahoma, Louisiana, Arkansas, Missouri, Kansas, Nebraska, Iowa, Ohio, Indiana, Illinois, Minnesota, Massachusetts, and Connecticut. ROCOR INTERNATIONAL holds no authority from this Commission, however it owns all the capital stock of (1) O.N.C. Freight Systems, a *common carrier*, operating in Washington, Oregon, California, Nevada, Idaho, Montana, Wyoming, Utah, Colorado, Arizona, and New Mexico; (2) United Truck Service, a *common carrier*, operating over irregular routes in California; (3) O.N.C. Forwarding, a freight forwarder, operating in California, Idaho, Montana, Nevada, Utah, Wyoming, and Colorado. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11715. Authority sought for merger into HERMANN FORWARDING COMPANY, Post Office Box 1, North Brunswick, NJ 08902, of the operating rights and property of THE EL DORADO TRANSPORTATION COMPANY, INC., Post Office Box 1, North Brunswick, NJ 08902, and for acquisition by RICHARD W. HERMANN and ALBERT W. HERMANN, both of Post Office Box 1, North Brunswick, NJ 08902, of control through HERMANN SERVICES, INC., a holding company. Applicants' attorney: Maxwell A. Howell, 1100 Investment Building, Washington, D.C. 20005. Operating rights sought to be merged: *General Commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between New Haven, Conn., and New York, N.Y., between Middletown, Conn., and Springfield, Mass., and between Spencer, Mass., and Springfield, Mass., serving certain intermediate and off-route points; *General Commodities*, excepting, among others, household goods and commodities in bulk, over irregular routes, between points in the New York, N.Y., commercial zone, as defined by the Commission; between New Haven and Windsor Locks, Conn., on the one hand, and, on the other, points in Connecticut; *iron and steel articles*, from Elizabeth, N.J., to Harrisburg, and Park View, Pa.; *resin compounds*, from Grasselli, N.J., to Waterbury, Conn., and points in Suffolk County, N.Y.; *turpentine, chocolates, candies, road signals, iron and steel articles, plumber supplies and equipment, paint, patterns, hardware, cast iron pipe and fittings*, and *iron castings*, from Newark, N.J., to points in that part of Connecticut on and west of U.S. Highway 5; and *automobile parts and accessories*, and *batteries*, between Bloomfield, N.J., and New York, N.Y., on the one hand, and, on the other, points in Connecticut. HERMANN FORWARDING COMPANY operates as a *common carrier*, in New Jersey, New York, Pennsylvania, and Delaware. Application has not been filed for temporary authority under Section 210a(b). NOTE: HERMANN

MC–108908, issued April 28, 1960, to

[Notice 154]

and in connection therewith, equipment,

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FORWARDING COMPANY controls THE EL DORADO TRANSPORTATION COMPANY, INC., through ownership of capital stock pursuant to authority granted in No. MC–F–10450, by order of December 4, 1969.

No. MC–F–11716. Authority sought for purchase by SMITH'S TRANSFER CORPORATION, Post Office Box 1000, Staunton, VA 24401, of the operating rights of TRANS-ILLINOIS EXPRESS, INC., 1045 East Arlington, Decatur, IL 62526, and for acquisition by R. R. Smith and R. P. Harrison, both of Post Office Box 1000, Staunton, VA 24401, of control of such rights through the purchase. Applicants' attorney: Francis W. McInerny, 1000 16th Street NW., Washington, DC 20036. Operating rights sought to be transferred are described in the certificate of registration solely within Illinois, covering transportation of unexplosive chemicals, farm products, livestock, rock, building materials, limestone, hardware, freight, farm machinery, household goods, seed and feed within a fifty (50) mile radius of a point five (5) miles East of East St. Louis, Ill., and to transport such property to or from any point outside of such authorized area of operation for a shipper or shippers within such area; also, unexplosive chemicals, farm products, livestock, rock, building materials, limestone, hardware, freight, farm machinery, household goods, seed and feed to or from any point or points within the State of Illinois. Vendee is authorized to operate as a *common carrier* in Virginia, West Virginia, Kentucky, South Carolina, New York, Pennsylvania, New Jersey, Maryland, District of Columbia, Massachusetts, Connecticut, Rhode Island, Maine, New Hampshire, Vermont, Delaware, Indiana, Tennessee, Georgia, Illinois, Ohio, Missouri, Michigan, Kansas, Wisconsin, Minnesota, and North Carolina. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11717. Authority sought for purchase by HERMANN FORWARDING COMPANY, Post Office Box 1, North Brunswick, NJ 08902, of the operating rights of LAND-SEA-AIR SERVICES, INC., 166 Northern Avenue, Boston, MA 02210, and for acquisition by RICHARD W. HERMANN and ALBERT W. HERMANN, both of Post Office Box 1, North Brunswick, NJ 08902, of control of such rights through the purchase. Applicants' attorney: Maxwell A. Howell, 1100 Investment Building, 1511 K Street NW., Washington, DC 20005. Operating rights sought to be transferred are described in the certificate of registration, over irregular routes of *General Commodities*, in Massachusetts. Vendee is authorized to operate as a *common carrier* in New Jersey, New York, Pennsylvania, Delaware. Vendee controls The El Dorado Transportation Co., Inc., operating as a *common carrier*, in New York, Connecticut, Massachusetts, New Jersey. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11718. Authority sought for purchase by EDMIER TRANSPORTATION, INC., 1500 South Cicero Avenue, Cicero, IL 60650, of a portion of the operating rights of DAN LODESKY TRUCKING, INC., Post Office Box 236, Gurnee, IL 60031, and for acquisition by THOMAS EDMIER, WILLIAM L. EDMIER, JAMES EDMIER, and JOHN L. EDMIER, all of 1500 South Cicero Avenue, Cicero, IL 60650, of control of such rights through the purchase. Applicants' attorneys: Axelrod, Goodman, Steiner, and Bazelon, 39 South La Salle Street, Chicago, IL 60603. Operating rights sought to be transferred: *Gypsum products*, in bulk, in tank vehicles, from East Chicago, Ind., to points in Boone, Bureau, Carroll, Champaign, Cook, De Kalb, Du Page, Ford, Grundy, Henry, Iroquois, Jo Daviess, Kane, Kankakee, Kendall, Knox, Lake, La Salle, Lee, Livingston, Marshall, McHenry, McLean, Ogle, Peoria, Putnam, Stark, Stephenson, Tazewell, Vermillion, Whiteside, Will, Winnebago, and Woodford Counties, Ill., and Dane, Green, Iowa, Jefferson, Kenosha, Lafayette, Milwaukee, Racine, Rock, Walworth, and Waukesha Counties, Wis.; *Gypsum products*, in bulk, in tank vehicles, from East Chicago, Ind., to points in Adams, Brown, Calumet, Columbia, Crawford, Dodge, Door, Fond du Lac, Grant, Green Lake, Jackson, Juneau, Kewaunee, La Cross, Manitowoc, Marathon, Marienette, Marquette, Monroe, Oconto, Outagamie, Ozaukee, Portage, Richland, Sauk, Shawano, Sheboygan, Vernon, Washington, Waupaca, Waushara, Winnebago, and Wood Counties, Wis. Vendee is authorized to operate as a *common carrier* in Illinois, Wisconsin, and Indiana. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11720. Authority sought for purchase by OVERLAND STAGE COACHES, INC., of 20 Main Street, Melville, MA 01529, of a portion of the operating rights and certain property of THE GRAY LINE, INC., 25 Webber Street, Roxbury, MA 02119, and for acquisition by DANIEL WEINER, 20 Main Street, Melville, MA 01529, of control of such rights and property through the purchase. Applicants' attorney: Charles W. Singer, 2440 East Commercial Boulevard, Fort Lauderdale, FL 33308. Operating rights sought to be transferred: *Passengers and their baggage and express and newspapers in the same vehicle with passengers*, over regular routes, between Boston, Mass., and Woonsocket, R.I., between Boston, Mass., and Milford, Mass., between junction Interstate Highway 90 and Massachusetts Highway 128 and junction Massachusetts Highway 109 and Massachusetts Highway 128, between Framingham, Mass., and junction unnumbered highway and Massachusetts Highway 126, between Hollistown, Mass., and Milford, Mass., between junction unnumbered highway and Massachusetts Highway 140 west of Franklin, Mass., and Franklin, Mass., between junction Massachusetts Highway 16 and unnumbered highway southwest of Hollistown, Mass., and junction Massachusetts Highway 140 and unumbered highway west of Franklin, Mass., and between junction Massachusetts Highways 16 and 126 and junction Massachusetts Highways 16 and 109 near Milford, Mass., serving all intermediate points along the routes. Vendee operates as a *common carrier* of passengers and their baggage in Rhode Island and Massachusetts. Application has been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-20134 Filed 11-21-72;8:51 am]

[Notice 164]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–73902. By order of November 16, 1972, the Motor Carrier Board approved the transfer to Edmund Stefenson, doing business as Stefenson & Sons, New York, N.Y., of the operating rights in Certificate No. MC–102529 issued August 20, 1970, to Alfred Paolillo, doing business as Kiraly Moving & Storage Co., New York, N.Y., authorizing the transportation of household goods, as defined by the Commission, between New York, N.Y., on the one hand, and, on the other, points in Connecticut, New Jersey, New York, and Pennsylvania; and between New York, N.Y., on the one hand, and, on the other, points in Rhode Island, Massachusetts, Delaware, Maryland, and the District of Columbia. Stephen Fraidin, 120 Broadway, New York, NY 10005, attorney for applicants.

No. MC–FC–73968. By order entered November 10, 1972, the Motor Carrier Board approved the transfer to Kerdell Wittmier, doing business as Wittmier Trucking, Napoleon, N. Dak., of the operating rights set forth in Certificate No. MC–108908, issued April 28, 1960, to Thomas Aberle, doing business as Aberle Truck Line, Napoleon, N. Dak., authorizing the transportation of: General commodities, except classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment, from Moorehead, Minn., and Fargo, N. Dak., to Napoleon, Kintyre, Braddock, and Burnstad, N. Dak.; emigrant movables, and household goods, and used farm machinery, between points in Emmons, Logan, and McIntosh, Counties, N. Dak., on the one hand, and, on the other, points in Minnesota and South Dakota; agricultural implements and machinery and parts thereof, from Aberleen, S. Dak. to Kintyre, Braddock, Napoleon, and Hazelton, N. Dak.; livestock, from Streeter, N. Dak., and points in Emmons, Logan, and McIntosh Counties, N. Dak., to South St. Paul and New Port, Minn.; and heavy farm machinery, from South St. Paul, New Port, St. Paul, and Minneapolis, Minn., to the immediately above-specified origin points. Kerdell Wittmier, Napoleon, N. Dak. 58561, representative for transferee, and Thomas Aberle, Napoleon, N. Dak. 58561, for transferor.

No. MC–FC–73969. By order of November 8, 1972, the Motor Carrier Board approved the transfer to Canyon Lines Transportation Co., Inc., Bozeman, Mont. of Certificate No. MC–57795 (Sub-No. 6), issued May 11, 1972, to Wm. C. Bardon, Jr., doing business as Canyon Transportation Co., Helena, Mont., authorizing the transportation of: Passengers and their baggage in the same vehicle with passengers, in round-trip charter operations, beginning and ending at points in Lewis and Clark County, Mont., and extending to points in Nevada, North Dakota, Oregon, Washington, and Wyoming. Don Lanphear, Chairman of the Board, Canyon Lines Transportation Co., Inc., 821 West Mendenhall, Bozeman, MT 59715, applicant's representative.

No. MC–FC–74028. By order of November 10, 1972, the Motor Carrier Board approved the transfer to Richard Payne Trucking Co., a Delaware corporation, Gary, Ind., of the operating rights in Certificate No. MC–83403 issued August 16, 1971, to Richard Payne Trucking Co., an Illinois corporation, Hinsdale, Ill., authorizing the transportation of general commodities, with certain exceptions, between Sorento, Ill., and St. Louis, Mo., serving specified intermediate and off-route points. Richard A. Kerwin, 127 North Dearborn Street, Chicago, IL 60602, attorney for applicants.

[SEAL] ROBERT H. OSWALD, *Secretary.*

[FR Doc.72-20136 Filed 11-21-72;8:51 am]

[Notice 154]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 16, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC–67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 49304 (Sub-No. 30 TA) (Correction), filed October 13, 1972, published in the FEDERAL REGISTER November 4, 1972, corrected and republished in part as corrected this issue. Applicant: BOWMAN TRUCKING COMPANY, INC., Post Office Box 6, Stephens City, VA 22655. Applicant's representative: James L. Bowman (same address as above). NOTE: The purpose of this partial republication is to show the correct docket number as MC 49304 (Sub-No. 30 TA), in lieu of MC 49304 TA. The rest of the application remains the same.

No. MC 59640 (Sub-No. 30 TA) (Correction), filed October 16, 1972, published in the FEDERAL REGISTER November 4, 1972, corrected and republished as corrected this issue. Applicant: PAULS TRUCKING CORPORATION, 3 Commerce Drive, Cranford, NJ. Applicant's representative: Charles J. Williams, 47 Lincoln Park, Newark, NJ 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, equipment, materials and supplies used in the conduct of such business (except commodities in bulk), between the warehouse facilities of Supermarkets General Corp. at Mahwah, N.J., on the one hand, and, on the other, points in Hudson, Middlesex, Union, and Essex Counties, N.J., restricted to traffic which has a prior or subsequent movement by water or rail; New York, N.Y., and points in Nassau, Westchester, Rockland, and Suffolk Counties, N.Y.; Parkesburg and Philadelphia, Pa.; and points in Bucks, Delaware, Berks, Dauphin, Montgomery, Cumberland, York, Lehigh, and Northampton Counties, Pa.; New Milford, Conn., and points in Fairfield, New Haven, Hartford, and Middlesex Counties, Conn.; New Castle, Kent, and Sussex Counties, Del.; points in Wicomico County, Md., and the facilities of Supermarkets General Corp. at Baltimore, Md., and Hampden County, Mass. Restriction: The authority herein is limited to a transportation service to be performed under a continuing contract, or contracts, with Supermarkets General Corp. NOTE: The authority sought herein is only to permit applicant to serve the new warehouse facilities of Supermarkets General Corp. at Mahwah, N.J., in the area it is now authorized to serve. Supporting shipper: Supermarkets General Corp., 3 Commerce Drive, Cranford, NJ 07016. Send protests to: District Supervisor Robert E. Johnston, Interstate Commerce Commission, Bureau of Operations, 970 Broad Street, Newark, NJ 07102. NOTE: The purpose of this republication is to set forth the correct counties of Connecticut, in lieu of Delaware, and to add the correct docket number as 59640 (Sub-No. 30 TA), in lieu of MC 5964 TA, and to broaden the territorial scope.

No. MC 60186 (Sub-No. 46 TA) (Correction), filed October 16, 1972, published in the FEDERAL REGISTER November 4, 1972, corrected and republished in part as corrected this issue. Applicant: NELSON FREIGHTWAYS, INC., 47 East Street, Rockville, CT 06066. NOTE: The purpose of this partial republication is to show the correct docket number as MC 60186 (Sub-No. 46 TA), in lieu of MC 60186 TA. The rest of the application remains the same.

No. MC 61825 (Sub-No. 54 TA) (Correction), filed October 13, 1972, published in the FEDERAL REGISTER November 4, 1972, corrected and republished in part as corrected this issue. Applicant: ROY STONE TRANSFER CORPORATION, Post Office Box 385, V.C. Drive, Collinsville, VA 24078. NOTE: The purpose of this partial republication is to show the correct docket number as MC 61825 (Sub-No. 54 TA), in lieu of MC 61825 TA. The rest of the application remains the same.

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

telephone systems and communication, protests and requests for information for filing protests concerning this ap-

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No. MC 102982 (Sub-No. 27 TA) (Correction), filed August 24, 1972, published in the FEDERAL REGISTER issue of September 16, 1972, corrected and republished as corrected this issue. Applicant: GEORGE W. KUGLER, INC., 2800 East Waterloo Road, Post Office Box 6064, Ellet Station, Akron, OH 44312. Applicant's representative: George P. McMahon, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Clay and refractory products and fittings, attachments, materials and supplies* used in the installation thereof, from Somerville, N.J., to points in Pennsylvania, New York, Connecticut, Massachusetts, Rhode Island, Maine, Vermont, New Hampshire, Delaware, Maryland, Virginia, West Virginia, Ohio, North Carolina, Indiana, Michigan, Illinois, Kentucky, Wisconsin, Tennessee, and the District of Columbia; and (2) *materials and supplies* used in the manufacture, packaging and distribution of clay and refractory products and fittings, attachments, materials, and supplies used in the installation thereof, from points in the destination territory specified above to Somerville, N.J., for 180 days. Supporting shipper: Clow Corp., Robinson/Streator Division, Valley Road, Post Office Box 1073, Somerville, NJ 08876. Send protests to: Franklin D. Ball, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, OH. NOTE: The purpose of this republication is to redescribe the authority sought.

No. MC 105159 (Sub-No. 26 TA) (Correction), filed October 12, 1972, published in the FEDERAL REGISTER November 4, 1972, corrected and republished in part as corrected this issue. Applicant: KNUDSEN TRUCKING, INC., 1320 West Main Street, Red Wing, MN 55066. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, Minn. 55402. NOTE: The purpose of this partial republication is to show the correct docket number as MC 105159 (Sub-No. 26 TA), in lieu of MC 105159 TA. The rest of the application remains the same.

No. MC 108449 (Sub-No. 345 TA) (Correction), filed October 11, 1972, published in the FEDERAL REGISTER November 4, 1972, corrected and republished in part as corrected this issue. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road "C", St. Paul, MN 55113. Applicant's representative: W. A. Myllenbeck (same address as above). NOTE: The purpose of this partial republication is to show the correct docket number as MC 108449 (Sub-No. 345 TA), in lieu of MC 108449 TA. The rest of the application remains the same.

No. MC 117153 (Sub-No. 7 TA), filed October 30, 1972. Applicant: H. G. SNYDER TRUCKING, INC., 1111 Pittfield Boulevard, St. Laurent, 384, PQ, Canada. Applicant's representative: Julius Braun, Room 21, Albany Port Administration Building, Albany, N.Y. 12202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Spring water*, in plastic bottles, in cases or cartons in temperature controlled vehicles, from Champlain, N.Y., to Jacksonville, Miami, and Tampa, Fla., for 180 days. Supporting shipper, Twincraft, Ltd., 5860 Cote St. Francois, St. Laurent, Montreal 385, PQ, Canada. Send protests to: District Supervisor Martin P. Monaghan, Jr., Bureau of Operations, Interstate Commerce Commission, 52 State Street, Room 5, Montpelier, VT 05602.

No. MC 135561 TA (Correction), filed September 26, 1972, published in the FEDERAL REGISTER issue of October 17, 1972, corrected and republished in part as corrected this issue. Applicant: N. E. FINCH CO., 1120 West Camp Street, East Peoria, IL 61611. Applicant's representative: Robert T. Lawley, 300 Reisch Building, 4 West Old State Capitol Plaza, Springfield, IL. NOTE: The purpose of this partial republication is to show the correct spelling of the supporting shipper, as *Bowaters* Southern Paper Corp., in lieu of Nowaters Southern Paper Corp. The rest of the application remains the same.

No. MC 136703 (Sub-No. 2 TA), filed October 16, 1972. Applicant: S. A. NORWOOD, doing business as, NORWOOD TRUCK LINE, 701 South Main Street, Emporia, VA 23847. Applicant's representative: William L. Jeffries, Jr., 721 East Main Street, Richmond, VA 23219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Prefab houses and component parts*, from Emporia, Va., to points in North Carolina, for 180 days. Supporting shipper: Miller Manufacturing Co., Inc., Post Office Box 1356, Richmond, VA 23211. Send protests to: Robert W. Waldron, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 10–502 Federal Building, Richmond, Va. 23240.

No. MC 138022 TA (Amendment), filed September 8, 1972, published in the FEDERAL REGISTER September 23, 1972, amended and republished as amended this issue. Applicant: CARDINAL MOVING & STORAGE, INC., 1721 Del Monte Boulevard, Seaside, CA 93955. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, as defined by the Commission, between points in the Counties of Monterey, Santa Cruz, San Benito, San Luis Obispo, Santa Clara, San Mateo, San Francisco, and Alameda, Calif., restricted to traffic having a prior or subsequent movement beyond said points in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, or decontainerization of such traffic, for 180 days. Supporting shippers: Door to Door International, Inc., 308 Northeast 72d Street, Seattle, WA 98115; Home-Pack Transport, Inc., 57–48 49th Street, Maspeth, NY 11378. Send protests to: Claud W. Reeves, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, CA 94102. NOTE: The purpose of this republication is to set forth the applicant's correct name, and to broaden the territorial scope.

No MC 138130 TA, filed October 16, 1972. Applicant: AIRPORT COURTESY SERVICE, INC., 101 Naylor Avenue, St. Louis, MO 63121. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Delayed, misplaced, or re-routed baggage* originally intended to accompany the passenger, between St. Louis International Airport, St. Louis, Mo., on the one hand, and, on the other, points in Bond, Clinton, Fayette, Franklin, Green, Jefferson, Monroe, Montgomery, Perry, Randolph, St. Clair, and Washington Counties, Ill., and Scott Field and Pierre Marquette, Ill., for 180 days. Supporting shippers: Trans World Airlines, Inc., Box 10128, Lambert Field, St. Louis, Mo. 63145; Allegheny Airlines, Greater Pittsburgh Airport, Pittsburgh, Pa. 15231; Ozark Air Lines, Lambert Field, St. Louis, Mo. 63145; American Airlines, Box 10098, Lambert-St. Louis International Airport, St. Louis, Mo. 63145. Send protests to: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, 210 North 12th Street, Room 1465, St. Louis, MO 63101.

No. MC 138136 TA, filed October 17, 1972. Applicant: MERLIN L. BLACK, doing business as TAB TRUCKING CO., North 9515 Wall, Spokane, WA 99208. Applicant's representative: Donald A. Ericson, Suite 708, Old National Bank Building, Spokane, Wash. 99201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Welded and woven wire fencing and steel fence posts*, from Georgetown, Conn., and Blue Island, Ill., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, Oregon, Utah, Wyoming, New Mexico, and Washington, for 180 days. Supporting shipper: The Gilbert & Bennett Manufacturing Co., Georgetown, Conn. 06829. Send protests to: District Supervisor John M. Hall, Bureau of Operations, Interstate Commerce Commission, 6049 Federal Office Building, Seattle, Wash. 98104.

No. MC 138149 TA, filed October 27, 1972. Applicant: ECK MILLER MOVING AND STORAGE, INC., 1101 Sweeney Street, Owensboro, KY 42301. Applicant's representative: Edward A. Clark (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Telephone equipment, material and supplies, including tools* used in the construction and maintenance of

telephone systems and communication, between Owensboro, Ky., and points in the Counties of Breckinridge, Daviess, Grayson, Hancock, Henderson, Hopkins, McLean, Muhlenberg, Ohio, Union, and Webster, for 180 days. Supporting shipper: J. F. Ballard, Resident Transportation Manager, Southern Region, Western Electric, 6701 Roswell Road NE., Atlanta, GA 30328. Send protests to: R. W. Schneiter, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 222 Bakhaus Building, 1500 West Main Street, Lexington, KY 40505.

No. MC 138150 TA, filed October 26, 1972. Applicant: RONALD FITZGERALD, doing business as G. & M. CARRIERS, Sabin, Minn. 56580. Applicant's representative: J. W. Hendrickson, 403 Black Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising material*, from Milwaukee, Wis., to Grand Forks, N. Dak., and *empty malt beverage containers on return*, for 180 days. Supporting shipper: Nodak Sales Co., 715 Lewis Boulevard, Grand Forks, ND 58201. Send protests to: Joseph H. Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Post Office Box 2340, Fargo, ND 58102.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-20135 Filed 11-21-72;8:51 am]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

NOVEMBER 17, 1972.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by § 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Kansas Docket No. M, Route No. 80, filed October 18, 1972. Applicant: WINTERS TRUCK LINE, INC., 2620 McCormick, Wichita, Kans. 672213. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66603. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment. (1) Serving Pretty Prairie, Kans., as an off-route point to carrier's authorized service. (2) Between Wichita, Kans., and Arkansas City, Kans. From Wichita, Kans., via Kansas Highway 15 to Udall, Kans., thence south via county highway to its intersection with U.S. Highway 160 (approximately 5 miles west of Winfield, Kans.), thence via U.S. Highway 160 to its intersection with U.S. Highway 77 at Winfield, Kans., thence south via U.S. Highway 77 to Arkansas City, Kans., and return over the same route, as an alternate route for operating convenience only, with no service to intermediate points. (3) Between Wichita, Kans., and Arkansas City, Kans. From Wichita, Kans., via Kansas Highway 15 to Udall, Kans., thence east via Kansas Highway 55 to its intersetcion with U.S. Highway 77 (approximately 6 miles east tof Udall, Kans.) proximately 6 miles east of Udall, Kans.), thence south via U.S. Highway 77 to Arkansas City, Kans., and return over the same route, as an alternate route for operating convenience only, with no service to intermediate points. Both intrastate and interstate authority sought.

HEARING: Tuesday January 9, 1973, at 10 a.m., State Office Building, fourth floor, Topeka, Kans. Requests for procedural information including the time for filing protests concerning this application should be addressed to the State Corporation Commission, Transportation, Division, Topeka, Kans. 66612 and should not be directed to the Interstate Commerce Commission.

Florida Docket No. 72562–CCT, filed October 9, 1972. Applicant: A.B.C. BAG & CRATE COMPANY OF BELLE GLADE, INC., doing business as A.B.C. TRANSFER, 1040 12th Street, Belle Glade, FL. Applicant's representative: John P. Bond, 30 Giralda Avenue, Coral Gables, FL 33134. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities*, except articles of unusual value, class A and B explosives, commodities requiring refrigeration, commodities which because of size or weight require special handling and special equipment, household goods and commodities in bulk between points in Dade, Broward, Palm Beach, and Martin Counties on the one hand, and, on the other, points in Palm Beach, Okeechobee, Glades, and Hendry Counties and in addition thereto, to, from and between points and places in Glades, Hendry, Palm Beach, and Okeechobee Counties, over regular routes and irregular schedules. The carrier shall operate over the following routes and all other roads in said counties as alternate routes serving all off-route points: (1) U.S. Highway 1; (2) U.S. 27; (3) U.S. 441; (4) U.S. 98; (5) State Road 80; (6) State Road 84; and (7) State Road 76. *Provided, however*, that all shipments to be delivered in Palm Beach County will be restricted to points west of the Florida State Turnpike. Both intrastate and interstate authority sought.

HEARING: Date, time, and place unknown. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Florida Public Service Commission, 700 South Adams Street, Tallahassee, FL 32304 and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-20132 Filed 11-21-72;8:51 am]

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[Second Revised Edition—1971]

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Compiled by Office of the Federal Register, National Archives and Records Service, General Services Administration

[Published by the Committee on the Judiciary, House of Representatives]

Order from Superintendent of Documents, U.S. Government Printing Office Washington, D.C. 20402

FEDERAL REGISTER

Area Code 202 Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Chapter III—Price Commission

PART 300—PRICE STABILIZATION

Windfall Profits; Renegotiation of Construction Contracts

The purpose of this amendment to § 300.58 of the regulations of the Price Commission is to broaden the applicability of the section to cover all construction contracts, all or part of which are performed by construction workers whose wages and salaries are subject to review by the Construction Industry Stabilization Committee (CISC).

Section 300.58, issued on June 15, 1972 (37 F.R. 11870), relating to construction industry payments in which wages and salaries of construction workers are affected by action of CISC, is currently applicable only to construction contracts entered into after March 29, 1971, the date on which CISC was established. The limiting provision is being deleted since it does not reflect the original intent of the Commission to require renegotiation of all construction contracts affected by CISC, whose jurisdiction is not limited to contracts entered into after March 29, 1971.

Because the purpose of this amendment is to provide immediate guidance and information as to price stabilization rules for construction contracts, it is hereby found that notice and procedure thereon is impracticable and that good cause exists for making it effective less than 30 days after publication.

(Economic Stabilization Act of 1970, as amended, Public Law 91-379, 84 Stat. 799; Public Law 91-558; 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92-210; Executive Order No. 11640, 37 F.R. 1213, January 27, 1972; Cost of Living Council Order No. 4, 36 F.R. 20202, October 16, 1971)

In consideration of the foregoing, § 300.58 of Part 300 of Title 6 of the Code of Federal Regulations is amended to read as follows, effective November 22, 1972:

§ 300.58 Windfall profits: Renegotiation of construction contracts by reason of actions taken by the Construction Industry Stabilization Committee (CISC).

In addition to any other provision of this part relating to profit margins or allowable cost, the final payments under any construction contract, all or part of which contract is performed by construction workers whose wages and salaries are subject to review by the Construction Industry Stabilization Committee (CISC) pursuant to Executive Order No. 11588 (3 CFR Comp., 36 F.R. 6339), shall be renegotiated if the wage and salary level of construction workers used in determining the final payment is reduced pursuant to a decision of the CISC. The renegotiation shall be conducted pursuant to the provisions of the contract concerned relating to renegotiation, or if there are no such provisions in the contract, pursuant to customary renegotiation procedures and practices of the construction industry. The amount by which the final payment with respect to any contract shall be reduced as a result of the renegotiation must fairly reflect the results of the CISC action, including any allowable cost increases resulting therefrom.

Issued in Washington, D.C., on November 21, 1972.

By direction of the Commission.

CARLETON S. JONES,
Deputy General Counsel,
Price Commission.

[FR Doc.72-20285 Filed 11-21-72;11:48 am]

PART 300—PRICE STABILIZATION

Average Annual Productivity Rates

The purpose of this amendment is to revise the list of average annual rates of productivity gain in Appendix III to Part 300 of the Price Commission's regulations to reflect refinements in certain of those rates based upon the most recent data available to the Price Commission.

Productivity is generally defined in terms of the relationship between physical or real output of goods and services and the corresponding physical or real quantities of one or all associated inputs. In the case of industry productivity, it is expressed as "output per man-hour."

The measure of productivity used in Appendix III is the ratio of total volume of physical output to the number of man-hours worked to produce these outputs. Although this measure relates output to employment and man-hours, it does not measure the specific contributions of labor, capital, or any other factor of production. Rather, it reflects the joint effect of a number of interrelated influences, such as changes in technology, capital investment per worker, changes in the level of output, utilization of capacity, material usage, managerial skill, and skills and effort of the work force.

Indexes of output per man-hour for each industry are derived by dividing an output index by an index of aggregate man-hours. Output indexes measure gross output. That is, they take into account purchased and intermediate materials as well as value added (which includes depreciation, labor costs, interest payments, indirect business taxes).[1]

The "output indexes" used in preparing Appendix III were based upon the physical output of the products of the industry, combined with fixed period weights, when available. When adequate physical production data were not available, other measures of production were used. The most common alternative measure used is an index of deflated value of production derived by dividing an industry's value of production by an appropriate price index. A Federal Reserve Board index of industrial production was used as a measure of output for crude petroleum and natural gas (SIC 13) and an index of net tons of coal production, based on Bureau of Mines data, was used for the coal industry (SIC 11, 12).

"Indexes of man-hours and employment" were derived from basic data compiled by the Bureau of Census or the Bureau of Labor Statistics. Annual man-hour estimates were derived from published employment data and estimates of average annual hours. When available, indexes of "all employee man-hours" were used as the measure of labor input for the industry measures of output per man-hour. When these indexes were not available, indexes of production worker man-hours, employment or man-days were used. The latter measure of labor input was used for the coal industry.

The productivity index for a given year and industry was calculated as the ratio of the appropriate output and labor input indexes. From these productivity figures for each industry, the productivity rates were calculated. The rates of productivity change listed in Appendix III represent the industries long-term trend rate of productivity change over the period 1958-69 and have been calculated using a standard log linear regression technique.

Since the publication of Appendix III earlier this year, a number of refinements have been made in the output per man-hour indexes used in the original calculations. In keeping with the Price Commission's policy to use the best available information for implementing the price stabilization program, changes are being made in 215 of the 441 average annual productivity rates listed in Appendix III. The majority (125) of the changes (215) are in the magnitude of

[1] For more detailed information on concepts, methods, data sources, etc., see U.S. Government, Bureau of Labor Statistics, "The Meaning and Measurement of Productivity," BLS Bulletin 1714, "Indexes of Output per Man-hour, Selected Industries 1972 edition," BLS Bulletin 1758.

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0.1 percent and are about equally divided between increases (67) and decreases (58). Among the more significant of the 90 larger changes are:

DECREASES

Electronic computing equipment.	Down 3 to 5.7 percent.
Anthracite mining	Down 2.2 to 3.2 percent.
Manifold business forms.	Down 1.5 to 4.1 percent.
Lace goods	Down 1.2 to 3.4 percent.
Flour and other grain mill products.	Down 1.1 to 4.7 percent.
Bookbinding and related work.	Down 0.9 to 1.7 percent.
Medicinals and botanicals.	Down 0.8 to 10.0 percent.
Household appliances (S.e.c.).	Down 0.7 to 5.2 percent.
Bituminous coal and lignite mining.	Down 0.7 to 4.9 percent.
Nonmetallic minerals, except fuels.	Down 0.6 to 3.9 percent.
Robes and dressing gowns.	Down 0.6 to 4.5 percent.
Fresh or frozen packaged fish.	Down 0.5 to 2.9 percent.
Fiber cans, drums and related material.	Down 0.5 to 5.3 percent.
Abrasive products	Down 0.5 to 2.8 percent.
Hard surface floor coverings.	Down 0.5 to 6.2 percent.

INCREASES

Wirebound boxes and crates.	Up 1 to 6.9 percent.
Nailed wooden boxes and shook.	Up 0.6 to 3.9 percent.
Die cut paper and board	Up 0.6 to 4.0 percent.
Plastics materials and resins.	Up 0.6 to 6.6 percent.
Miscellaneous plastics products.	Up 0.4 to 5.6 percent.
Copper rolling and drawing.	Up 0.4 to 3.6 percent.
Metal barrels, drums, and pails.	Up 0.4 to 0.8 percent.
Fabricated pipe and fittings.	Up 0.4 to 1.4 percent.
Measuring and dispensing pumps.	Up 0.4 to 0.4 percent.
Electronic components (not elsewhere classified).	Up 0.4 to 7.5 percent.
Musical instruments and parts.	Up 0.4 to 1.5 percent.

To facilitate the introduction of the revised rates into the price stabilization program, § 300.11a(d) is being revised to provide that with respect to Forms PC–1 now pending before the Price Commission and those received during the 10 days immediately after the effective date of this amendment, the Commission will correct productivity entries as necessary rather than return the forms to their originating firms for correction and resubmission.

Because the purpose of this amendment is to provide immediate guidance and information as to compliance with the provisions of the price stabilization regulations and to provide guidance for reports required thereunder, it is hereby found that notice and public procedure thereon is impracticable and that good cause exists for making it effective in less than 30 days after publication.

(Economic Stabilization Act of 1970, as amended, Public Law 91–379, 84 Stat. 799; Public Law 91–558; 84 Stat. 1468; Public Law 92–8, 85 Stat. 13; Public Law 92–15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92–210; Executive Order No. 11640, 37 F.R. 1213, Jan. 27, 1972; Cost of Living Council Order No. 4, 36 F.R. 20202, Oct. 16, 1971)

In consideration of the foregoing Part 300 of Title 6 of the Code of Federal Regulations is amended as set forth below effective November 24, 1972.

Issued in Washington, D.C., on November 20, 1972.

By direction of the Commission.

JAMES B. MINOR,
General Counsel,
Price Commission.

1. Section 300.11a(d) is amended to reads as follows:

§ 300.11a Calculation of productivity gains by manufacturers and construction contractors.

* * * * *

(d) *Filings received before December 4, 1972.* In the case of a Form PC–1 received from a prenotification or reporting firm by the Price Commission before December 4, 1972, the Price Commission will revise entries calculated on the basis of the table in Appendix III to this part as required to conform the Form to this section. A Form PC–1 received after that date which does not comply with this section will be returned for correction to the person making the submission.

2. Appendix III is revised to read as follows:

APPENDIX III—AVERAGE ANNUAL RATE OF PRODUCTIVITY GAIN BY STANDARD INDUSTRIAL CLASSIFICATION (SIC)

	SIC Code (1967 [1])	Rate (percent) [2]
Iron ores	101	3.9
Copper ores	102	2.4
Lead and zinc ores	103	2.4
Gold and silver ores	104	2.4
Bauxite and other aluminum ores	105	2.4
Ferroalloy ores, except vanadium	106	2.4
Metal mining services	108	2.4
Miscellaneous metal ores	109	2.4
Anthracite mining	11	3.2
Bituminous coal and lignite mining	12	4.9
Oil and gas extraction	13	3.8
Nonmetallic minerals, except fuels	14	3.9
Contract construction:	15, 16, 17	
Residential structures (public and private)		2.0
Nonresidential (except highways and sewers)		1.5
Highways		1.0
Sewers		1.5
Ordnance and accessories (except 1925, 1931, 1941)	19	2.4
Complete guided missiles	1925	2.9
Tank and tank components	1931	4.2
Sighting and fire control equipment	1941	4.4
Meat packing plants	2011	4.7
Sausages and other prepared meats	2013	2.1
Poultry dressing plants	2015	2.1
Creamery butter	2021	6.6
Cheese, natural and processed	2022	2.4
Condensed and evaporated milk	2023	2.5
Ice cream and frozen desserts	2024	4.2
Fluid milk	2026	3.2
Canned and cured sea foods	2031	2.8
Canned specialties	2032	3.5
Canned fruits and vegetables	2033	3.6
Dehydrated food products	2034	1.8
Pickles, sauces, salad dressings	2035	3.0
Fresh or frozen packaged fish	2036	2.9
Frozen fruits and vegetables	2037	2.6

See footnotes at end of table.

APPENDIX III—AVERAGE ANNUAL RATE OF PRODUCTIVITY GAIN BY STANDARD INDUSTRIAL CLASSIFICATION (SIC)—Continued

	SIC Code (1967 [1])	Rate (percent) [2]
Flour and other grain mill products	2041	4.7
Prepared feeds for animals and fowls	2042	4.6
Cereal preparations	2043	2.8
Rice milling	2044	5.9
Blended and prepared flour	2045	1.1
Wet corn milling	2046	4.6
Bread, cake and related products	2051	3.2
Cookies and crackers	2052	3.2
Raw cane sugar	2061	4.4
Cane sugar refining	2062	6.2
Beet sugar	2063	2.9
Confectionery products	2071	3.4
Chocolate and cocoa products	2072	2.5
Chewing gum	2073	3.8
Malt liquors	2082	6.2
Malt	2083	2.0
Wines, brandy, and brandy spirits	2084	2.2
Distilled liquor, except brandy	2085	6.2
Bottled and canned soft drinks	2086	4.2
Flavoring extracts and syrups, n.e.c.	2087	4.4
Cottonseed oil mills	2091	4.3
Soybean oil mills	2092	6.9
Vegetable oil mills, n.e.c.	2093	0.0
Animal and marine fats and oils	2094	6.7
Roasted coffee	2095	1.6
Shortening and cooking oils	2096	1.5
Manufactured ice	2097	1.6
Macaroni and spaghetti	2098	0.7
Food preparations, n.e.c.	2099	1.6
Cigarettes	2111	1.9
Cigars	2121	5.0
Chewing and smoking tobacco	2131	0.0
Tobacco stemming and redrying	2141	0.0
Weaving mills, cotton	2211	3.0
Weaving mills, synthetics	2221	3.5
Weaving and finishing mills, wool	2231	2.9
Narrow fabric mills	2241	2.6
Women's hosiery, except socks	2251	6.0
Hosiery, n.e.c.	2252	6.0
Knit outerwear mills	2253	2.0
Knit underwear mills	2254	2.7
Knit fabric mills	2256	6.2
Knitting mills, n.e.c.	2259	3.2
Finishing plants, cotton	2261	3.8
Finishing plants, synthetic	2262	2.6
Finishing plants, n.e.c.	2269	2.9
Woven carpets and rugs	2271	4.1
Tufted carpets and rugs	2272	6.7
Carpets and rugs, n.e.c.	2279	8.8
Yarn mills, except wool	2281	4.2
Throwing and winding mills	2282	8.6
Wool yarn mills	2283	3.5
Thread mills	2284	2.6
Felt goods, n.e.c.	2291	2.5
Lace goods	2292	3.4
Paddings and upholstery filling	2293	2.6
Processed textile waste	2294	1.1
Coated fabrics, not rubberized	2295	3.6
Tire cord and fabric	2296	6.0
Scouring and combing plants	2297	2.2
Cordage and twine	2298	1.9
Textile goods, n.e.c.	2299	3.6
Men's and boys' suits and coats	2311	0.4
Men's and boys' shirts and nightwear	2321	1.8
Men's and boys' underwear	2322	3.1
Men's and boys' neckwear	2323	3.2
Men's and boys' separate trousers	2327	3.3
Men's and boys' work clothing	2328	2.1
Men's and boys' clothing, n.e.c.	2329	2.8
Women's and misses' blouses and waists	2331	2.2
Women's and misses' dresses	2335	2.9
Women's and misses' suits and coats	2337	2.1
Women's and misses' outerwear, n.e.c.	2339	2.6
Women's and children's underwear	2341	2.0
Corsets and allied garments	2342	3.6
Millinery	2351	3.1
Hats and caps, except millinery	2352	2.3
Children's dresses and blouses	2361	1.6
Children's coats and suits	2363	2.2
Children's outerwear, n.e.c.	2369	2.1
Fur goods	2371	3.3
Fabric dress and work gloves	2381	2.2
Robes and dressing gowns	2384	4.5
Waterproof outer garments	2385	4.1
Leather and sheep lined clothing	2386	1.9
Apparel belts	2387	4.8
Apparel and accessories, n.e.c.	2389	3.7
Curtains and draperies	2391	3.2
Housefurnishings, n.e.c.	2392	1.0
Textile bags	2393	1.8
Canvas products	2394	2.0
Pleating and stitching	2395	4.1
Automotive and apparel trimmings	2396	4.4
Schiffli machine embroideries	2397	4.0
Fabricated textile products, n.e.c.	2399	3.0
Logging camps, and logging contractors	2411	3.5
Sawmills and planing mills, general	2421	3.7
Hardwood dimension and flooring	2426	0.5
Special product sawmills, n.e.c.	2429	3.2

APPENDIX III—AVERAGE ANNUAL RATE OF PRODUCTIVITY GAIN BY STANDARD INDUSTRIAL CLASSIFICATION (SIC)—Continued

	SIC Code (1967 [1])	Rate (percent) [2]
Millwork	2431	1.6
Veneer and plywood	2432	5.2
Prefabricated wood structures	2433	1.5
Nailed wooden boxes and shook	2441	3.9
Wirebound boxes and crates	2442	6.9
Veneer and plywood containers	2443	5.3
Cooperage	2445	2.7
Wood preserving	2491	3.0
Wood products, n.e.c.	2499	3.2
Wood household furniture	2511	2.0
Upholstered household furniture	2512	1.6
Metal household furniture	2514	2.5
Mattresses and bedsprings	2515	2.6
Household furniture, n.e.c.	2519	1.9
Wood office furniture	2521	3.2
Metal office furniture	2522	2.5
Public building furniture	2531	2.7
Wood partitions and fixtures	2541	2.9
Metal partitions and fixtures	2542	2.9
Venetian blinds and shades	2591	2.7
Furniture and fixtures, n.e.c.	2599	2.2
Pulp mills	2611	4.5
Paper mills, except building paper	2621	4.6
Paperboard mills	2631	4.5
Paper coating and glazing	2641	2.7
Envelopes	2642	3.1
Bags, except textile bags	2643	2.2
Wallpaper	2644	3.1
Die cut paper and board	2645	4.0
Pressed and molded pulp goods	2646	1.9
Sanitary paper products	2647	2.6
Converted paper products, n.e.c.	2649	2.5
Folding paper boxes	2651	3.4
Setup paperboard boxes	2652	1.5
Corrugated and solid fiber boxes	2653	3.2
Sanitary food containers	2654	3.3
Fiber cans, drums, and related material	2655	5.3
Building paper and board mills	2661	4.8
Newspapers	2711	2.0
Periodicals	2721	3.1
Book publishing	2731	2.9
Book printing	2732	1.8
Miscellaneous publishing	2741	0.0
Commercial printing, excluding lithographic	2751	2.6
Commercial printing, lithographic	2752	2.6
Engraving and plate printing	2753	4.6
Manifold business forms	2761	4.1
Greeting card publishing	2771	2.9
Blankbooks and looseleaf binders	2782	1.4
Bookbinding and related work	2789	1.7
Typesetting	2791	1.7
Photoengraving	2793	2.3
Electrotyping and stereotyping	2794	2.2
Alkalies and chlorine	2812	4.2
Industrial gases	2813	6.4
Cyclic intermediates and crudes	2815	6.9
Inorganic pigments	2816	1.9
Industrial organic chemicals, n.e.c.	2818	6.9
Industrial inorganic chemicals, n.e.c.	2819	4.6
Plastics materials and resins	2821	6.6
Synthetic rubber	2822	2.7
Cellulosic manmade fibers	2823	5.7
Organic fibers noncellulosic	2824	2.9
Biological products	2831	4.6
Medicinals and botanicals	2833	10.0
Pharmaceutical preparations	2834	5.8
Soap and other detergents	2841	4.8
Polishes and sanitation goods	2842	4.4
Surface active agents	2843	4.4
Toilet preparations	2844	4.9
Paints and allied products	2851	2.6
Gum and wood chemicals	2861	3.4
Fertilizers	2871	5.3
Fertilizers, mixing only	2872	5.3
Agricultural chemicals, n.e.c.	2879	6.4
Adhesives and gelatin	2891	5.8
Explosives	2892	0.3
Printing ink	2893	3.5
Carbon black	2895	6.6
Chemical preparations, n.e.c.	2899	0.9
Petroleum refining	2911	6.6
Paving mixtures and blocks	2951	4.4
Asphalt felts and coatings	2952	3.4
Lubricating oils and greases	2992	5.1
Petroleum and coal products, n.e.c.	2999	5.8
Tires and inner tubes	3011	4.8
Rubber footwear	3021	2.1
Reclaimed rubber	3031	3.9
Fabricated rubber products, n.e.c.	3069	3.2
Miscellaneous plastics products	3079	5.6
Leather tanning and finishing	3111	1.5
Industrial leather belting	3121	1.1
Footwear cut stock	3131	1.4
Shoes, except rubber	3141	0.5
House slippers	3142	0.5
Leather gloves and mittens	3151	2.3

See footnotes at end of table.

APPENDIX III—AVERAGE ANNUAL RATE OF PRODUCTIVITY GAIN BY STANDARD INDUSTRIAL CLASSIFICATION (SIC)—Continued

	SIC Code (1967 [1])	Rate (percent) [2]
Luggage	3161	3.0
Women's handbags and purses	3171	1.7
Personal leather goods	3172	4.2
Leather goods, n.e.c.	3199	2.7
Flat glass	3211	3.9
Glass containers	3221	2.9
Pressed and blown glass, n.e.c.	3229	2.9
Products of purchased glass	3231	2.6
Cement, hydraulic	3241	4.8
Brick and structural clay tile	3251	2.3
Ceramic wall and floor tile	3253	3.6
Clay refractories	3255	3.2
Structural clay products, n.e.c.	3259	3.7
Vitreous plumbing fixtures	3261	4.2
Vitreous china food utensils	3262	1.5
Fine earthenware food utensils	3263	0.2
Porcelain electrical supplies	3264	3.8
Pottery products, n.e.c.	3269	3.3
Concrete block and brick	3271	4.1
Concrete products, n.e.c.	3272	4.1
Ready-mixed concrete	3273	2.5
Lime	3274	2.7
Gypsum products	3275	1.9
Cut stone and stone products	3281	2.6
Abrasive products	3291	2.8
Asbestos products	3292	1.3
Gaskets and insulations	3293	3.0
Minerals, ground or treated	3295	1.4
Mineral wool	3296	4.4
Nonclay refractories	3297	4.0
Nonmetallic mineral products, n.e.c.	3299	2.5
Blast furnaces and steel mills	3312	2.7
Electrometallurgical products	3313	2.7
Steel wire and related products	3315	2.7
Cold finishing of steel shapes	3316	2.7
Steel pipe and tubes	3317	2.7
Gray iron foundries	3321	2.6
Malleable iron foundries	3322	3.3
Steel foundries	3323	2.3
Primary copper	3331	2.3
Primary lead	3332	2.3
Primary zinc	3333	2.3
Primary aluminum	3334	5.3
Primary nonferrous metals, n.e.c.	3339	0.0
Secondary nonferrous metals	3341	3.9
Copper rolling and drawing	3351	3.6
Aluminum rolling and drawing	3353	5.4
Nonferrous rolling and drawing, n.e.c.	3356	4.0
Nonferrous wire drawing and insulating	3357	3.2
Aluminum castings	3361	2.1
Brass bronze and copper castings	3362	2.1
Nonferrous castings, n.e.c.	3369	2.1
Iron and steel forgings	3391	4.0
Nonferrous forgings	3392	2.6
Primary metal products, n.e.c.	3399	2.9
Metal cans	3411	2.0
Cutlery	3421	4.5
Hand and edge tools, n.e.c.	3423	3.0
Hand saws and saw blades	3425	3.3
Hardware, n.e.c.	3429	3.5
Metal sanitary ware	3431	4.6
Plumbing fittings, brass goods	3432	1.3
Heating equipment except electric	3433	3.5
Fabricated structural steel	3441	2.2
Metal doors, sash and trim	3442	2.8
Fabricated plate work (boiler shops)	3443	3.3
Sheet metal work	3444	4.1
Architectural metal work	3446	4.5
Miscellaneous metal work	3449	4.5
Screw machine products	3451	0.3
Bolts, nuts, rivets and washers	3452	0.3
Metal stampings	3461	1.6
Plating and polishing	3471	1.0
Metal coating and allied services	3479	1.0
Miscellaneous fabricated wire products	3481	2.7
Metal barrels, drums and pails	3491	0.8
Safes and vaults	3492	2.6
Steel springs	3493	2.7
Valves and pipe fittings	3494	2.1
Collapsible tubes	3495	2.8
Metal foil and leaf	3497	3.2
Fabricated pipe and fittings	3498	1.4
Fabricated metal products, n.e.c.	3499	2.4
Steam engines and turbines	3511	4.5
Internal combustion engines, n.e.c.	3519	3.1
Farm machinery	3522	2.4
Construction machinery	3531	2.4
Mining machinery	3532	2.0
Oil field machinery	3533	1.7
Elevators and moving stairways	3534	0.0
Conveyors and conveying equipment	3535	2.4
Hoists, cranes and monorails	3536	2.8
Industrial trucks and tractors	3537	3.6
Metal-cutting machine tools	3541	3.0
Metal-forming machine tools	3542	2.0
Special dies, tools, jigs, and fixtures	3544	2.3

APPENDIX III—AVERAGE ANNUAL RATE OF PRODUCTIVITY GAIN BY STANDARD INDUSTRIAL CLASSIFICATION (SIC)—Continued

	SIC Code (1967 [1])	Rate (percent) [2]
Machine tool accessories	3545	2.6
Metalworking machinery, n.e.c.	3548	1.4
Food products machinery	3551	2.3
Textile machinery	3552	3.6
Woodworking machinery	3553	2.7
Paper industries machinery	3554	2.7
Printing trades machinery	3555	2.8
Special industry machinery, n.e.c.	3559	2.7
Pumps and compressors	3561	2.6
Ball and roller bearings	3562	5.7
Blowers and fans	3564	3.6
Industrial patterns	3565	4.2
Power transmission equipment	3566	1.8
Industrial furnaces and ovens	3567	1.6
General industrial machinery, n.e.c.	3569	1.7
Typewriters	3572	7.6
Electronic computing equipment	3573	5.7
Calculating and accounting machines	3574	6.7
Scales and balances	3576	3.7
Office machines, n.e.c.	3579	2.2
Automatic merchandising machines	3581	2.2
Commercial laundry equipment	3582	3.7
Refrigeration machinery	3585	6.3
Measuring and dispensing pumps	3586	0.4
Service industry machines, n.e.c.	3589	4.8
Miscellaneous machinery, except electrical	3599	1.5
Electric measuring instruments	3611	2.0
Transformers	3612	5.4
Switchgear and switchboard apparatus	3613	2.7
Motors and generators	3621	4.4
Industrial controls	3622	2.3
Welding apparatus	3623	3.4
Carbon and graphite products	3624	3.5
Electrical industrial apparatus, n.e.c.	3629	3.9
Household cooking equipment	3631	5.9
Household refrigerators and freezers	3632	5.9
Household laundry equipment	3633	5.9
Electric housewares and fans	3634	4.4
Household vacuum cleaners	3635	5.9
Sewing machines	3636	6.2
Household appliances, n.e.c.	3639	5.2
Electric lamps	3641	2.8
Lighting fixtures	3642	3.6
Current-carrying wiring devices	3643	3.0
Noncurrent-carrying wiring devices	3644	2.6
Radio and TV receiving sets	3651	6.2
Phonograph records	3652	0.1
Telephone and telegraph apparatus	3661	3.7
Radio and TV communication equipment	3662	3.7
Electron tubes, receiving type	3671	2.7
Cathode ray picture tubes	3672	11.7
Electron tubes, transmitting	3673	7.3
Semiconductors	3674	7.5
Electronic components, n.e.c.	3679	7.5
Storage batteries	3691	2.7
Primary batteries, dry and wet	3692	4.6
X-ray apparatus and tubes	3693	3.8
Engine electrical equipment	3694	2.9
Electrical equipment, n.e.c.	3699	2.9
Motor vehicles	3711	4.2
Passenger car bodies	3712	4.2
Truck and bus bodies	3713	4.2
Motor vehicle parts and accessories	3714	4.2
Truck trailers	3715	4.2
Aircraft	3721	4.5
Aircraft engines and engine parts	3722	2.3
Aircraft propellers and parts	3723	2.8
Aircraft equipment, n.e.c.	3729	2.8
Ship building and repairing	3731	1.3
Boat building and repairing	3732	3.0
Locomotives and parts	3741	4.3
Railroad and street cars	3742	4.3
Motorcycles, bicycles, and parts	3751	5.1
Trailer coaches	3791	2.6
Transportation equipment, n.e.c.	3799	2.4
Engineering and scientific instruments	3811	2.8
Mechanical measuring devices	3821	2.2
Automatic temperature controls	3822	1.9
Optical instruments and lenses	3831	3.8
Surgical and medical instruments	3841	3.7
Surgical appliances and supplies	3842	1.9
Dental equipment and supplies	3843	3.7
Ophthalmic goods	3851	4.9
Photographic equipment and supplies	3861	6.4
Watches and clocks	3871	4.9
Watchcases	3872	3.8
Jewelry, precious metal	3911	4.8
Jewelers' findings and materials	3912	3.9
Lapidary work	3913	3.9
Silverware and plated ware	3914	0.7
Musical instruments and parts	3931	1.5
Games and toys	3941	4.7
Dolls	3942	2.8
Children's vehicles, except bicycles	3943	2.7

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APPENDIX III—AVERAGE ANNUAL RATE OF PRODUCTIVITY GAIN BY STANDARD INDUSTRIAL CLASSIFICATION (SIC)—Continued

	SIC Code (1967 [1])	Rate (percent) [1]
Sporting and athletic goods, n.e.c.	3949	0.3
Pens and mechanical pencils	3951	2.9
Lead pencils and art goods	3952	2.9
Marking devices	3953	4.5
Carbon paper and inked ribbons	3955	4.3
Costume jewelry	3961	4.6
Artificial flowers	3962	5.0
Buttons	3963	3.9
Needles, pins, and fasteners	3964	4.5
Brooms and brushes	3991	2.1
Signs and advertising displays	3993	3.4
Morticians' goods	3995	3.4
Hard surface floor coverings	3996	6.2
Manufactures, n.e.c.	3999	2.3
The following productivity rates are included herewith only as guidelines for use by regulatory agencies.		
Railroad transportation-revenue traffic	401	6.3
Trucking, except local	4213	2.3
Air transportation	451	8.5
Petroleum pipelines	461	10.0
Electric utilities	491	7.0
Gas utilities	492	5.4
Gas and electric utilities	493	6.4

[1] The standard industrial classification codes (SIC) shown in this appendix were taken from the Standard Industrial Classification Manual, 1967, which now is out of print. Copies of the 1972 manual are available from the U.S. Government Printing Office, Washington, D.C. 20402 at a cost of $6.75 per copy). Appendix G of the 1972 manual contains the tables to convert 1972 SIC codes to 1967 SIC codes.

[2] Log-linear trend calculation of annual rate of productivity change over 12 years, 1958-69.

NOTE: N.e.c means "not elsewhere classified."

[FR Doc.72-20205 Filed 11-20-72;12:35 pm]

Rulings—Internal Revenue Service, Department of the Treasury

[Cost of Living Council Ruling 1972-118]

EXEMPTION OF ORE BOUGHT FOR EXPORT

Cost of Living Council

Facts. X company certifies to its suppliers of ores, concentrates, and other nickel-containing materials that the sale of the nickel to be extracted from such materials is for export sale. The price paid to the supplier of the nickel-containing material is established only upon the export sale. X puts the extracted nickel into ingot form, rather than into finished products. The other metals extracted from the ore are not necessarily for export sale. The prices X pays for them are separately set from the price X pays for the nickel. Economic Stabilization Regulations, 6 CFR 101.34(d)(1)(1972) provides that exports, including products sold to a domestic purchaser who certifies that the product is for export, are exempt from the Economic Stabilization Program.

Issue. Does § 101.34(d)(1) of the Economic Stabilization Regulations apply so as to exempt from price controls the division between X company and its suppliers of the proceeds ultimately realized on the export sale of the nickel?

Ruling. Yes. Since the nickel contained in the ore purchased by X company has been separately priced from the other metals contained in the ore, and since X company has certified that it is to be exported, the price X company pays to its ore suppliers for the nickel component of the ore is exempt from the coverage of the Economic Stabilization Program. The fact that the nickel is removed from the ore and is cast into ingots through an extracting process, and the fact the price to be paid to the supplier of the ore is established only upon the export sale, do not alter the application of § 101.34(d)(1) which provides that exports, including products sold to a domestic purchaser who certifies that the product is for export, are exempt from the Economic Stabilization Program.

This ruling has been approved by the General Council of the Cost of Living Council.

Dated: November 16, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: November 16, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-20166 Filed 11-22-72;8:50 am]

[Price Commission Ruling 1972-280]

PROPER USE OF ALLOWABLE COSTS TO JUSTIFY PRICE INCREASES BY LOW PROFIT FIRMS

Price Commission Ruling

Facts. X manufacturing firm elected to raise the price of product Y under the low profit regulation, Economic Stabilization Regulations, 6 CFR 300.31 (1972), on July 1, 1972. The most recent price increase for product Y had been on June 1, 1972. During the period June 1, 1972, to September 1, 1972, X incurred an increase in allowable costs attributable to the manufacture of product Y. X wishes to increase its price for product Y in order to reflect the increase in allowable costs.

Issue. Can a firm which has increased the price for a product under § 300.31 subsequently increase the price for that item in order to reflect the allowable cost increases incurred since that price increase by applying the allowable cost increases to the price justified under § 300.31?

Ruling. No. However, if by using allowable cost increases incurred since the last price increase under Economic Stabilization Regulations, 6 CFR 300.12 (1972), the firm can cost justify the entire amount by which the product's new price is to exceed the base price or the price previously authorized under § 300.12 then the firm may charge the new price.

Section 300.31 provides that a low profit firm engaged in manufacturing may increase any of its prices by an amount reasonably calculated to result in a profit margin not exceeding that permitted by that section. However, "No manufacturer may in the course of any of its fiscal years increase the price of any of its products under this section by more than 8 percent of the base price or the price which was legally in effect on the day before the day on which the firm elected to be subject to this section, whichever is higher." Section 300.31(e), 37 F.R. 19378 (1972). Price Commission Ruling 1972-137, 37 F.R. 7998 (1972), states that § 300.31 is a relief provision and is intended to liberalize the regulations as to qualifying firms. Thus, X manufacturing firm is free to elect to use this provision. However, while this election is in effect, a cost justified increase cannot be added onto the increase allowed by the § 300.31 election. Such a cost justified increase will not be allowed unless all increases in the product's price above the base price or price previously authorized under § 300.12 are cost justified under the general rule set forth in § 300.12. The use of § 300.12 effectively revokes the prior election to use § 300.31 and the phrase, "allowable costs that it incurred since the last price increase," refers to the last price increase allowable under § 300.12.

If a firm is able to cost justify all increases in a product's price above its base price or the price previously authorized under § 300.12, the firm may reelect to apply § 300.31 to implement an increase in that product's price to the extent that the firm has not already instituted the 8 percent maximum price increase on the product during the particular fiscal year.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: November 17, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: November 17, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-20167 Filed 11-22-72;8:50 am]

Title 29—LABOR

Chapter XVII—Occupational Safety and Health Administration, Department of Labor

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

PART 1926—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION

Power Transmission and Distribution; Use of Helicopters; Aerial Lifts; Sanitation Facilities for Mobile Crews

On January 20, 1972, the Construction Safety Advisory Committee submitted its recommendations to the Assistant Secretary for Occupational Safety and

Health concerning the promulgation of occupational safety and health regulations for power transmission and distribution lines and equipment, use of helicopters in construction, aerial lifts, and for sanitation facilities for mobile crews.

On May 10, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 9440) inviting interested persons to submit both orally and in writing, data, views, and arguments concerning the proposal.

Pursuant to the notice of rule making, a legislative-type hearing was held on June 27 and 28, 1972, for the purpose of receiving oral data, views, and arguments concerning the proposed regulations. On or about August 23, 1972, the presiding hearing examiner certified the record of the proceeding. In brief, the record includes transcripts of the meetings of the Advisory Committee, prehearing written comments, a transcript of the oral presentations made at the hearing, and numerous exhibits received during the course of the hearing or within the time period allowed after the close of the hearing for the submission of exhibits.

The proposed standards dealt primarily with: (1) The use of helicopters in construction; (2) the use of aerial lifts; (3) the construction of, or the alteration, conversion, or improvement of existing power transmission and distribution lines and equipment.

Each of these major proposals elicited numerous comments, all of which have been carefully examined and considered.

I. HELICOPTERS

A. *Applicability of FAA regulations.* The comments point out that there is some confusion with regard to the applicability of FAA regulations. The adopted standard has been modified to clearly state that it is expected that the applicable FAA regulations would be complied with, although there will be no duplication of FAA regulations here.

B. *Static charge.* The proposed § 1926.551(k) would require that any static charge on the load be dissipated with a grounding device before ground personnel are permitted to touch the suspended load.

Numerous objections and alternative proposals have been made, with regard to the required grounding of the rotorcraft load. In summary, it is recommended that ground personnel be permitted to use rubber gloves for insulation and protection from the static charge encountered in releasing loads from the helicopters. These recommendations point out that the use of rubber gloves is an alternative to grounding of the load.

No one questions the need to protect employees from the static charge associated with the hovering rotorcraft. Objections are made to the required grounding of the rotocraft for protection of employees from the static charge. Some of the objections state that in many rocky or arid areas it is difficult to obtain a satisfactory ground. Others point out that the grounding of the load, which requires an employee to connect the ground lead to the suspended load, will expose employees to additional hazards. One such hazard is that ground leads may be drawn up into the rotor. It is argued that the alternative, which would allow the ground personnel to wear rubber gloves as insulation from the static charge, would be less hazardous in situations where ground rods and long ground leads are necessary for grounding, and could prevent employees from tripping over the rods.

It is concluded that the alternative use of rubber gloves by ground personnel for protection from the static charge may be more adequate or less hazardous than the use of a grounding device under certain operating conditions. Therefore, since it is undisputed that protection of employees from the static charge associated with the hovering rotorcraft is necessary for the safety of employees and that rubber gloves may be used as insulation from the static charge, the proposal is modified accordingly to permit the use of rubber gloves by ground personnel in helicopter operations as an alternative to the use of a grounding device on the load.

II. AERIAL LIFTS

A. *Compliance with ANSI A92.2-1969.* Under the terms of the proposed § 1926.556(a) all aerial lift equipment acquired by an employer after the effective date of the standard would have to comply with the American National Standards Institute (ANSI) A92.2-1969 "Vehicle-Mounted Elevating and Rotating Work Platforms" standard, including the appendix thereof. Vehicles acquired before the effective date of the standard would be allowed to be retained in service, even though such vehicles may not meet the ANSI A92.2-1969 standard, until January 1, 1976.

The proposed delay in the effective date for the modification of equipment acquired before the effective date of this section that does not meet the ANSI A92.2-1969 standard is primarily based upon the recommendations of the Construction Safety Advisory Committee that such a period of time is necessary for the modification of equipment acquired before the effective date of this section.

Comments were received supporting the delay in effective date. However, at least one comment takes exception to the proposed delay and recommends that because of the safety factors involved, all equipment should be required to conform to the ANSI A92.2-1969 standard within 1 year of the effective date of this section. Further justification for the recommendations is said to be based upon the fact that the ANSI standard has been in existence since 1969.

In considering the comments opposing and supporting the proposal the Advisory Committee's recommendation is accepted as a reasonable estimate of the time required for the modifications.

However, the importance of upper and lower controls (dual controls are prescribed by ANSI A92.2-1969) for articulating and extensible boom platforms, designed primarily as personnel carriers, is deemed of sufficient magnitude to require their use on all such equipment upon the effective date of Subpart V. Therefore no extended delay in effective date is provided for these items. In addition all aerial lifts used for bare-hand live-line work covered by Subpart V of 29 CFR Part 1926 must have dual controls (upper and lower). This requirement also takes effect upon the effective date of Subpart V.

B. *Electrical tests.* Many persons point out that high voltage testing of insulated aerial lift devices may be conducted with a d.c. test as an equivalent to the proposed a.c. test. It is urged that both tests provide the safety protection sought with varying degrees of accuracy.

The recommendations have merit and the proposed standard has been modified accordingly.

C. *Bursting safety factor.* The proposed standard would have required a bursting safety factor of 4 to 1 for all hydraulic and pneumatic components of aerial lifts.

The comments make a counterproposal to exclude aerial lift components such as hose assemblies and metal tubing from the required bursting safety factor of 4 to 1. One comment points out that these necessary components are not critical to the safety of employees. The comment recommends that noncritical components be required to have a safety factor of only 2 to 1. Another comment objects to the proposed bursting safety factor on the ground that the noncritical components are not generally available with bursting pressures at the 4-to-1 level without the use of oversized designs.

The adopted standard takes the objections into consideration. It requires a bursting safety factor of 4 to 1 for all critical hydraulic and pneumatic components are required by the provisions of ANSI A92.2-1969. The standard defines the critical components of aerial lift devices in order that a precise delineation can be made between critical and noncritical components. The standard has been modified to permit noncritical components to have a minimum bursting safety factor of 2 to 1.

D. *Field modification.* Comments indicate that the proposed aerial lift requirements are too restrictive in that they make no provision for so-called "field modifications" of such equipment. It is argued that often modifications actually improve employee safety in performing specialized tasks for which there is no specially designed equipment. It is recommended that field modifications be authorized if the modifications are approved by a qualified engineer or the manufacturer.

Comments opposing the addition of a "field-modification" provision focus on the lack of specific criteria for determining who would be qualified to give the approval, and the fact that changes may make the equipment dangerous.

It is concluded that field modifications should be allowed subject to the condition that either the manufacturer of the

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equipment or similarly qualified entities certify in writing that the modifications are in conformity with all applicable provisions of ANSI A92.2–1969 and are at least as safe as the equipment was before modification.

These conditions not only preserve the safety of the equipment, but in cases of old equipment, may even improve the safety of such equipment by requiring the modifications to adhere to applicable ANSI A92.2–1969 standards.

III. Power Transmission and Distribution Lines and Equipment

A. *Applicability.* The proposed occupational safety and health standards contained in Subpart V are applicable to the construction of electric transmission and distribution lines and equipment. Some comments were received which recommended that the standards be extended to maintenance work. The comments go beyond the subject matter of this proceeding which is addressed to the erection of new electric transmission and distribution lines and equipment, and the alteration, conversion, and improvement of existing transmission and distribution lines and equipment.

B. *Switches and disconnectors.* The proposed § 1926.950(d)(1)(ii) would require notification and assurance from the employee designated for this purpose that all switches and disconnectors through which electric energy may be supplied to the particular section of the line or equipment to be worked on have been rendered inoperable, deenergized, and plainly tagged indicating that men are at work.

Objections point out that certain types of disconnecting devices, such as single blade switches, are so designed that the switches cannot be rendered inoperable by any satisfactory method. One comment explains that certain switches cannot be rendered inoperable because the design of the switches prevents the removal of the switch blades, which are permanently attached to one end of the switch. The comments suggest requiring only the tagging of such switches in order to protect employees from the accidental closing of these switches. It is contended that proper tagging procedures without rendering the switches inoperable is a safe procedure that is accepted and verified by years of operating experience.

It is concluded that the proper tagging of switches and disconnectors, which, because of their design cannot be rendered inoperable, is a more appropriate safety procedure than possibly makeshift attempts to render such switches inoperable.

C. *Hydraulic fluids.* The proposed § 1926.950(f) would have required that all hydraulic fluids used in derrick trucks, aerial lifts, or hydraulic tools used on or around energized lines and equipment be of an insulating type.

Numerous comments assert that to require hydraulic fluids of an insulating type in powered hydraulic handtools would conflict with the provisions of 29 CFR 1926.302(d)(1) which requires fire-resistant fluids approved under Schedule 30 of the U.S. Bureau of Mines, Department of Interior (30 CFR Part 35) to be used in such tools. It is asserted that a hydraulic fluid containing both the necessary insulating characteristics and fire resistant characteristics is not generally available.

In order to avoid the apparent conflict it is determined that hydraulic handtools used on or near energized lines and equipment need not comply with the provisions of 29 CFR 1926.302(d)(1), but instead must be supplied with an insulating-type hydraulic fluid.

In addition, the standard is clarified to require such fluids only in insulated sections of the derrick trucks, aerial lifts, or hydraulic tools. Thus, the standard does not require that an aerial lift's hydraulic brake fluid be of an insulating type.

D. *Backup warning devices.* The proposed § 1926.952(a)(3) would have required audible backup warning devices on utility vehicles as provided in 29 CFR 1926.601(b)(4).

Several persons object to the proposal on the ground that it is more restrictive for utility trucks than the general requirements for construction trucks. It is contended that the same alternatives to backup warning devices provided for construction trucks would adequately protect the safety of employees using utility trucks.

The objections are based on a misunderstanding of the proposal. The adopted standard makes it clear that only utility trucks having an obstructed view to the rear need have either a reverse signal alarm audible above the surrounding noise level, or an observer to signal when it is safe to back up the vehicle.

E. *Material handling*—(1) *Storage.* The proposed § 1926.953(c) would prohibit the storage of materials and equipment under or near energized buses, energized lines or energized equipment, if it is practical to store such materials elsewhere. The proposal would have required that extreme caution be exercised when moving materials near energized buses, lines or equipment and that the clearances in Table V–1 of Subpart V be maintained during any such material handling.

Comments point out that hazards are often created by such storage; and it is recommended that all such storage be prohibited by the standard.

While the standard as proposed and adopted recognizes the hazards involved in storing materials under or near energized buses, lines and equipment, it also takes into account the fact that under certain conditions it may not be feasible to store materials elsewhere. This is especially true during work in congested urban areas. However, it is intended that storage of materials under or near energized buses, lines and equipment will be the exception and that every effort will be made to store materials away from such facilities. It should also be emphasized that the standard requires that whenever storage of materials fall within the exception, the clearances of Table V–1 must be complied with.

(2) *Attaching the load.* The proposal would have prohibited the wrapping of the hoist rope around the load.

It is argued that for purposes of setting or removing poles the practice of wrapping the hoist rope around the pole actually provides greater safety than the utilization of other methods.

An exception to the general prohibition against wrapping the hoist rope around the load is adopted. For purposes of setting and removing poles such a practice can be used without affecting the safety of the employees.

F. *Grounding for protection of employees—New Construction.* The proposed § 1926.954(b) would permit new construction to be treated and worked as deenergized provided adequate clearance was maintained and the lines and equipment were grounded.

Comments objecting to the proposal argue that new lines and equipment are constructed in remote areas where there is no possibility of to accidental contact with other energized lines and equipment beacuse there are none presently located in the area. It is recommended that new lines and equipment be treated and worked as deenergized where either the hazard of induced voltage is not present and adequate clearance is maintained or the lines and equipment are grounded.

The contentions have merit. It must be emphasized, however, that the provisions are intended to apply in those circumstances where the hazards of induced voltage and contact with energized lines and equipment are not present.

G. *Overhead lines*—(1) *Metal tower construction.* The proposed § 1926.955(b)(6)(iii) would have required that the tower section be adequately secured at each leg connection before the load line is detached from the tower.

Several written comments point out that a tower section is adequately secured when only three legs of a four-leg tower have been fitted and that the load line may be detached prior to securing the fourth leg. It is recommended that detaching of the load line after the tower section has been adequately secured be permitted. The contentions have merit and the adopted standard has been modified accordingly.

(2) *Pulling tension.* The proposed § 1926.955(c)(7)(ii) would have required a safety factor at least three times the maximum pulling tension for stringing lines, pulling lines, sock connections and all load-bearing hardware and accessories.

As adopted, the standard relies upon the load ratings of the manufacturer.

H. *Underground lines*—(1) *Guarding and ventilating street openings used for access to underground electric lines or equipment.* The proposed § 1926.956(a) would have required that when work was to be performed in street openings such as manholes or unvented vaults that the atmosphere be tested for harmful gases and fumes before entry.

Several comments point out the difficulties and practical problems in testing for all possible gases and fumes. In addition, the comments emphasize that if adequate forced ventilation were maintained in the manholes or unvented vaults there would be no danger from fumes or gases. Recommendations focus on changing the provisions to require

testing only when working in unventilated vaults or unvented manholes.

Comments supporting the proposal argue that testing be done even in openings with adequate ventilation because of possible failure in the effectiveness of the venting system.

It is concluded that it is not feasible to test for the presence of all harmful fumes or gases and that such tests are not necessary if adequate forced ventilation is maintained.

(2) *Work in manholes.* The proposed § 1926.956(b) would have required an additional employee in the immediate vicinity of the manhole opening, who is available to render assistance to the employee within the manhole if such assistance were required.

Some objections to the proposal point out that two-man crews are commonly used to perform work in manholes with one employee providing assistance from the surface who may occasionally enter the manhole to help with work such as bending cables or lifting conductors. It is recommended that the second man be permitted to enter the manhole to periodically assist in the work, provided there is constant communication with employees in other manholes or on the surface. It is argued that an employee, in addition to a crew, may be unnecessary since one of the crew members would be available for assistance on the surface, if necessary.

Some comments recommend that an additional employee remain on the surface and be in constant communication with the employee in the manhole. In support of this recommendation, one comment points out that if the additional employee is permitted to enter the manhole and an emergency arises in the manhole, he will not be available to render assistance from the surface. Others object to the requirement of an additional employee because it is misleading, and recommend that an employee should be stationed on the surface in the immediate vicinity to render assistance when necessary.

It is not disputed that an employee should be available in the immediate vicinity to render assistance when necessary. The dispute centers around the requirement that an additional employee be provided. The requirement that an additional employee be provided has been deleted. It is concluded that the safety of employees is protected provided an employee is available in the immediate vicinity to render emergency assistance, whether or not he is a member of the work crew or is used for rescue purposes only. Consideration has been given to the requirement that this employee always remain on the surface in the immediate vicinity of the manhole. However, the necessity for this employee to occasionally and briefly enter the manhole for work purposes is also recognized.

The issues discussed above are believed to be the significant issues raised in this rule making proceeding. There were other issues presented, the disposition of which and the reasons therefor should be apparent from the adopted standard.

Accordingly, after consideration of all materials presented and pursuant to sections 6(b) and 8(g) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1600; 29 U.S.C. 655, 657), section 107 of the Contract Work Hours and Safety Standards Act (83 Stat. 96; 40 U.S.C. 333), 29 CFR Part 1911, and Secretary of Labor's Order No. 12–71 (36 F.R. 8754), Parts 1910 and 1926 of Title 29 of the Code of Federal Regulations are amended as set forth below.

Effective date. Except as provided in the new §1926.556(a) and in the new § 1926.959(a), these amendments shall become effective 60 days following publication in the Federal Register.

Signed at Washington, D.C., this 17th day of November 1972.

G. C. Guenther,
Assistant Secretary of Labor.

A. Amendments to Part 1910 of Title 29, Code of Federal Regulations:

1. Section 1910.12 is amended by adding thereto a new paragraph (d) reading as follows:

§ 1910.12 Construction work.

* * * * * *

(d) For the purposes of this part, to the extent that it may not already be included in paragraph (b) of this section, "construction work" includes the erection of new electric transmission and distribution lines and equipment, and the alteration, conversion, and improvement of the existing transmission and distribution lines and equipment.

B. Amendments to Part 1926 of Title 29, Code of Federal Regulations:

1. Section 1926.51 is amended by adding thereto a new paragraph (c)(4) reading as follows:

§ 1926.51 Sanitation.

* * * * * *

(c) * * *

(4) The requirements of this paragraph (c) for sanitation facilities shall not apply to mobile crews having transportation readily available to nearby toilet facilities.

* * * * * *

2. In § 1926.400, paragraph (a) is revised to read as follows:

§ 1926.400 General requirements.

(a) All electrical work, installation, and wire capacities shall be in accordance with the pertinent provisions of the National Electrical Code, NFPA 70–1971; ANSI C1–1971 (Rev. of 1968), unless otherwise provided by regulations of this part.

* * * * * *

3. In § 1926.451, paragraph (f) is revised to read as follows:

§ 1926.451 Scaffolding.

* * * * * *

(f) *Elevating and rotating work platforms.* Applicable requirements of American National Standards Institute A92.2–1969, Vehicle Mounted Elevating and Rotating Work Platforms, shall be complied with for such equipment, as required by the provisions of § 1926.556.

* * * * * *

4. Section 1926.551 is revised to read as follows:

§ 1926.551 Helicopters.

(a) *Helicopter regulations.* Helicopter cranes shall be expected to comply with any applicable regulations of the Federal Aviation Administration.

(b) *Briefing.* Prior to each day's operation a briefing shall be conducted. This briefing shall set forth the plan of operation for the pilot and ground personnel.

(c) *Slings and tag lines.* Load shall be properly slung. Tag lines shall be of a length that will not permit their being drawn up into rotors. Pressed sleeve, swedged eyes, or equivalent means shall be used for all freely suspended loads to prevent hand splices from spinning open or cable clamps from loosening.

(d) *Cargo hooks.* All electrically operated cargo hooks shall have the electrical activating device so designed and installed as to prevent inadvertent operation. In addition, these cargo hooks shall be equipped with an emergency mechanical control for releasing the load. The hooks shall be tested prior to each day's operation to determine that the release functions properly, both electrically and mechanically.

(e) *Personal protective equipment.* (1) Personal protective equipment for employees receiving the load shall consist of complete eye protection and hard hats secured by chinstraps.

(2) Loose-fitting clothing likely to flap in the downwash and thus be snagged on hoist line, shall not be worn.

(f) *Loose gear and objects.* Every practical precaution shall be taken to provide for the protection of the employees from flying objects in the rotor downwash. All loose gear within 100 feet of the place of lifting the load, depositing the load, and all other areas susceptible to rotor downwash shall be secured or removed.

(g) *Housekeeping.* Good housekeeping shall be maintained in all helicopter loading and unloading areas.

(h) *Operator responsibility.* The helicopter operator shall be responsible for size, weight, and manner in which loads are connected to the helicopter. If, for any reason, the helicopter operator believes the lift cannot be made safely, the lift shall not be made.

(i) *Hooking and unhooking loads.* When employees are required to perform work under hovering craft a safe means of access shall be provided for employees to reach the hoist line hook and engage or disengage cargo slings. Employees shall not perform work under hovering craft except when necessary to hook or unhook loads.

(j) *Static charge.* Static charge on the suspended load shall be dissipated with a grounding device before ground personnel touch the suspended load, or protective rubber gloves shall be worn by all ground personnel touching the suspended load.

(k) *Weight limitation.* The weight of an external load shall not exceed the manufacturer's rating.

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(l) *Ground lines.* Hoist wires or other gear, except for pulling lines or conductors that are allowed to "pay out" from a container or roll off a reel shall not be attached to any fixed ground structure, or allowed to foul on any fixed structure.

(m) *Visibility.* When visibility is reduced by dust or other conditions, ground personnel shall exercise special caution to keep clear of main and stabilizing rotors. Precautions shall also be taken by the employer to eliminate as far as practical reduced visibility.

(n) *Signal systems.* Signal systems between aircrew and ground personnel shall be understood and checked in advance of hoisting the load. This applies to either radio or hand signal systems. Hand signals shall be as shown in Figure N–1.

(o) *Approach distance.* No unauthorized person shall be allowed to approach within 50 feet of the helicopter when the rotor blades are turning.

(p) *Approaching helicopter.* Whenever approaching or leaving a helicopter with blades rotating, all employees shall remain in full view of the pilot and keep in a crouched position. Employees shall avoid the area from the cockpit or cabin rearward unless authorized by the helicopter operator to work there.

(q) *Personnel.* Sufficient ground personnel shall be provided when required for safe helicopter loading and unloading operations.

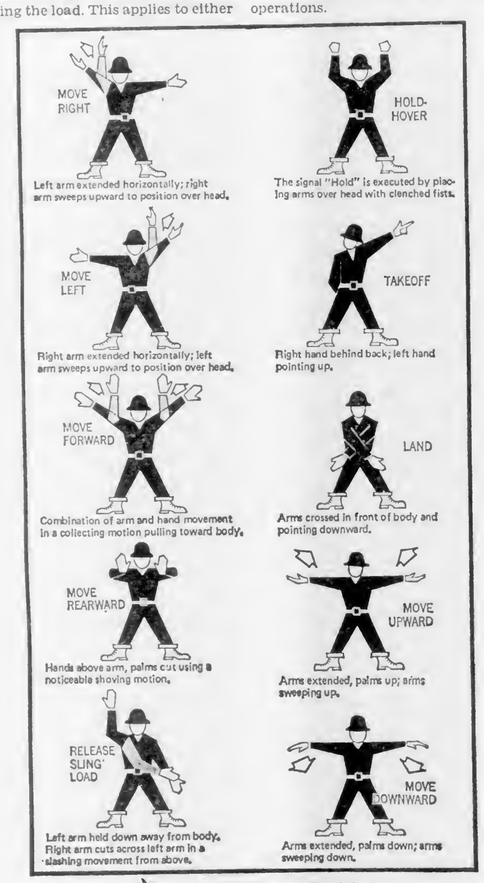

FIGURE N-1 HELICOPTER HAND SIGNAL

(r) *Communications.* There shall be constant reliable communication between the pilot, and a designated employee of the ground crew who acts as a signalman during the period of loading and unloading. This signalman shall be distinctly recognizable from other ground personnel.

(s) *Fires.* Open fires shall not be permitted in an area that could result in such fires being spread by the rotor downwash.

5. Part 1926 is amended by adding thereto a new § 1926.556 reading as follows:

§ 1926.556 Aerial lifts.

(a) *General requirements.* (1) Unless otherwise provided in this section aerial lifts acquired for use on or after the effective date of this section shall be designed and constructed in conformance with the applicable requirements of the American National Standard for "Vehicle Mounted Elevating and Rotating Work Platforms," (ANSI) ANSI A92.2–1969, including appendix. Aerial lifts acquired before the effective date of this section, which do not meet the requirements of ANSI A92.2–1969, may not be used after January 1, 1976, unless they shall have been modified so as to conform with the applicable design and construction requirements of ANSI A92.2–1969. Aerial lifts include the following types of vehicle-mounted aerial devices used to elevate personnel to jobsites above ground: (i) Extensible boom platforms, (ii) aerial ladders, (iii) articulating boom platforms, (iv) vertical towers, and (v) a combination of any of the above. Aerial equipment may be made of metal, wood, fiberglass reinforced plastic (FRP), or other material, may be powered or manually operated; and are deemed to be aerial lifts whether or not they are capable of rotating about a substantially vertical axis.

(2) Aerial lifts may be "field modified" for uses other than those intended by the manufacturer provided the modification has been certified in writing by the manufacturer or by any other equivalent entity, such as a nationally recognized testing laboratory, to be in conformity with all applicable provisions of ANSI A92.2–1969 and this section and to be at least as safe as the equipment was before modification.

(b) *Specific requirements*—(1) *Ladder trucks and tower trucks.* Aerial ladders shall be secured in the lower traveling position by the locking device on top of the truck cab, and the manually operated device at the base of the ladder before the truck is moved for highway travel.

(2) *Extensible and articulating boom platforms.* (i) Lift controls shall be tested each day prior to use to determine that such controls are in safe working condition.

(ii) Only authorized persons shall operate an aerial lift.

(iii) Belting off to an adjacent pole, structure, or equipment while working from an aerial lift shall not be permitted.

(iv) Employees shall always stand firmly on the floor of the basket, and shall not sit or climb on the edge of the basket or use planks, ladders, or other devices for a work position.

(v) A body belt shall be worn and a lanyard attached to the boom or basket when working from an aerial lift.

(vi) Boom and basket load limits specified by the manufacturer shall not be exceeded.

(vii) The brakes shall be set and when outriggers are used, they shall be positioned on pads or a solid surface. Wheel chocks shall be installed before using an aerial lift on an incline, provided they can be safely installed.

(viii) An aerial lift truck shall not be moved when the boom is elevated in a working position with men in the basket, except for equipment which is specifically designed for this type of operation in accordance with the provisions of subparagraphs (1) and (2) of paragraph (a) of this section.

(ix) Articulating boom and extensible boom platforms, primarily designed as personnel carriers, shall have both platform (upper) and lower controls. Upper controls shall be in or beside the platform within easy reach of the operator. Lower controls shall provide for overriding the upper controls. Controls shall be plainly marked as to their function. Lower level controls shall not be operated unless permission has been obtained from the employee in the lift, except in case of emergency.

(x) Climbers shall not be worn while performing work from an aerial lift.

(xi) The insulated portion of an aerial lift shall not be altered in any manner that might reduce its insulating value.

(xii) Before moving an aerial lift for travel, the boom(s) shall be inspected to see that it is properly cradled and outriggers are in stowed position except as provided in subdivision (viii) of this subparagraph.

(3) *Electrical tests.* All electrical tests shall conform to the requirements of ANSI A92.2–1969 section 5. However equivalent d.c. voltage tests may be used in lieu of the a.c. voltage specified in A92.2–1969; d.c. voltage tests which are approved by the equipment manufacturer or equivalent entity shall be considered an equivalent test for the purpose of this subparagraph (3).

(4) *Bursting safety factor.* The provisions of the American National Standards Institute standard ANSI A92.2–1969, section 4.9 Bursting Safety Factor shall apply to all critical hydraulic and pneumatic components. Critical components are those in which a failure would result in a free fall or free rotation of the boom. All noncritical components shall have a bursting safety factor of at least 2 to 1.

(5) *Welding standards.* All welding shall conform to the following standards as applicable:

(i) Standard Qualification Procedure, AWS B3.0–41.

(ii) Recommended Practices for Automotive Welding Design, AWS D8.4–61.

(iii) Standard Qualification of Welding Procedures and Welders for Piping and Tubing, AWS D10.9–69.

(iv) Specifications for Welding Highway and Railway Bridges, AWS D2.0–69.

6. Part 1926 is hereby amended by adding thereto a new Subpart V reading as follows:

Subpart V—Power Transmission and Distribution

Sec.
1926.950 General requirements.
1926.951 Tools and protective equipment.
1926.952 Mechanical equipment.
1926.953 Material handling.
1926.954 Grounding for protection of employees.
1926.955 Overhead lines.
1926.956 Underground lines.
1926.957 Construction in energized substations.
1926.958 External load helicopters.
1926.959 Lineman's body belts, safety straps, and lanyards.
1926.960 Definitions for Subpart V.

AUTHORITY: The provisions of this Subpart V issued under section 6(b) and 8(g), 84 Stat. 1593, 1600; 29 U.S.C. 655, 657; sec. 107, 83 Stat. 96; 40 U.S.C. 333.

Subpart V—Power Transmission and Distribution

§ 1926.950 General requirements.

(a) *Application.* The occupational safety and health standards contained in this Subpart V shall apply to the construction of electric transmission and distribution lines and equipment.

(1) As used in this Subpart V the term "construction" includes the erection of new electric transmission and distribution lines and equipment, and the alteration, conversion, and improvement of existing electric transmission and distribution lines and equipment.

(2) Existing electric transmission and distribution lines and electrical equipment need not be modified to conform to the requirements of applicable standards in this Subpart V, until such work as described in subparagraph (1) of this paragraph is to be performed on such lines or equipment.

(3) The standards set forth in this Subpart V provide minimum requirements for safety and health. Employers may require adherence to additional standards which are not in conflict with the standards contained in this Subpart V.

(b) *Initial inspections, tests, or determinations.* (1) Existing conditions shall be determined before starting work, by an inspection or a test. Such conditions shall include, but not be limited to, energized lines and equipment, conditions of poles, and the location of circuits and equipment, including power and communication lines, CATV and fire alarm circuits.

(2) Electric equipment and lines shall be considered energized until determined to be deenergized by tests or other appropriate methods or means.

(3) Operating voltage of equipment and lines shall be determined before working on or near energized parts.

(c) *Clearances.* The provisions of subparagraph (1) or (2) of this paragraph shall be observed.

(1) No employee shall be permitted to approach or take any conductive object, without an approved insulating handle, closer to exposed energized parts than shown in Table V–1, unless:

(i) The employee is insulated or guarded from the energized part (gloves or gloves with sleeves rated for the voltage involved shall be considered insulation of the employee from the energized part), or

(ii) The energized part is insulated or guarded from him and any other conductive object at a different potential, or

(iii) The employee is isolated, insulated, or guarded from any other conductive object(s), as during live-line bare-hand work.

(2) (i) The minimum working distance and minimum clear hot stick distances stated in Table V–1 shall not be violated. The minimum clear hot stick distance is that for the use of live-line tools held by linemen when performing live-line work.

(ii) Conductor support tools, such as link sticks, strain carriers, and insulator cradles, may be used: *Provided*, That the clear insulation is at least as long as the insulator string or the minimum distance specified in Table V–1 for the operating voltage.

TABLE V–1

ALTERNATING CURRENT—MINIMUM DISTANCES

Voltage range (phase to phase) kilovolt	Minimum working and clear hot stick distance
2.1 to 15	2 ft. 0 in.
15.1 to 35	2 ft. 4 in.
35.1 to 46	2 ft. 6 in.
46.1 to 72.5	3 ft. 0 in.
72.6 to 121	3 ft. 4 in.
138 to 145	3 ft. 6 in.
161 to 169	3 ft. 8 in.
230 to 242	5 ft. 0 in.
345 to 362	[1] 7 ft. 0 in.
500 to 552	[1] 11 ft. 0 in.
700 to 765	[1] 15 ft. 0 in.

[1] NOTE: For 345–362 kv., 500–552 kv., and 700–765 kv., the minimum working distance and the minimum clear hot stick distance may be reduced provided that such distances are not less than the shortest distance between the energized part and a grounded surface.

(d) *Deenergizing lines and equipment.* (1) When deenergizing lines and equipment operated in excess of 600 volts, and the means of disconnecting from electric energy is not visibly open or visibly locked out, the provisions of subdivisions (i) through (vii) of this subparagraph shall be complied with:

(i) The particular section of line or equipment to be deenergized shall be clearly identified, and it shall be isolated from all sources of voltage.

(ii) Notification and assurance from the designated employee shall be obtained that:

(a) All switches and disconnectors through which electric energy may be supplied to the particular section of line or equipment to be worked have been deenergized;

(b) All switches and disconnectors are plainly tagged indicating that men are at work;

(c) And that where design of such switches and disconnectors permits, they have been rendered inoperable.

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(iii) After all designated switches and disconnectors have been opened, rendered inoperable, and tagged, visual inspection or tests shall be conducted to insure that equipment or lines have been deenergized.

(iv) Protective grounds shall be applied on the disconnected lines or equipment to be worked on.

(v) Guards or barriers shall be erected as necessary to adjacent energized lines.

(vi) When more than one independent crew requires the same line or equipment to be deenergized, a prominent tag for each such independent crew shall be placed on the line or equipment by the designated employee in charge.

(vii) Upon completion of work on deenergized lines or equipment, each designated employee in charge shall determine that all employees in his crew are clear, that protective grounds installed by his crew have been removed, and he shall report to the designated authority that all tags protecting his crew may be removed.

(2) When a crew working on a line or equipment can clearly see that the means of disconnecting from electric energy are visibly open or visibly locked-out, the provisions of subdivisions (i), and (ii) of this subparagraph shall apply:

(i) Guards or barriers shall be erected as necessary to adjacent energized lines.

(ii) Upon completion of work on deenergized lines or equipment; each designated employee in charge shall determine that all employees in his crew are clear, that protective grounds installed by his crew have been removed, and he shall report to the designated authority that all tags protecting his crew may be removed.

(e) *Emergency procedures and first aid.* (1) The employer shall provide training or require that his employees are knowledgeable and proficient in:

(i) Procedures involving emergency situations, and

(ii) First-aid fundamentals including resuscitation.

(2) In lieu of subparagraph (1) of this paragraph the employer may comply with the provisions of § 1926.50(c) regarding first-aid requirements.

(f) *Night work.* When working at night, spotlights or portable lights for emergency lighting shall be provided as needed to perform the work safely.

(g) *Work near and over water.* When crews are engaged in work over or near water and when danger of drowning exists, suitable protection shall be provided as stated in § 1926.104, or § 1926.105, or § 1926.106.

(h) *Sanitation facilities.* The requirements of § 1926.51 of Subpart D of this part shall be complied with for sanitation facilities.

(i) *Hydraulic fluids.* All hydraulic fluids used for the insulated sections of derrick trucks, aerial lifts, and hydraulic tools which are used on or around energized lines and equipment shall be of the insulating type. The requirements for fire resistant fluids of § 1926.302(d)(1) do not apply to hydraulic tools covered by this paragraph.

§ 1926.951 Tools and protective equipment.

(a) *Protective equipment.* (1) (i) Rubber protective equipment shall be in accordance with the provisions of the American National Standards Institute (ANSI), ANSI J6 series, as follows:

Item	*Standard*
Rubber insulating gloves	J6.6–1971.
Rubber matting for use around electric apparatus	J6.7–1935 (R1971).
Rubber insulating blankets	J6.4–1971.
Rubber insulating hoods	J6.2–1950 (R1971).
Rubber insulating line hose	J6.1–1950 (R1971).
Rubber insulating sleeves	J6.5–1971.

(ii) Rubber protective equipment shall be visually inspected prior to use.

(iii) In addition, an "air" test shall be performed for rubber gloves prior to use.

(iv) Protective equipment of material other than rubber shall provide equal or better electrical and mechanical protection.

(2) Protective hats shall be in accordance with the provisions of ANSI Z89.2–1971 Industrial Protective Helmets for Electrical Workers, Class B, and shall be worn at the jobsite by employees who are exposed to the hazards of falling objects, electric shock, or burns.

(b) *Personal climbing equipment.* (1) Body belts with straps or lanyards shall be worn to protect employees working at elevated locations on poles, towers, or other structures except where such use creates a greater hazard to the safety of the employees, in which case other safeguards shall be employed.

(2) Body belts and safety straps shall meet the requirements of § 1926.959. In addition to being used as an employee safeguarding item, body belts with approved tool loops may be used for the purpose of holding tools. Body belts shall be free from additional metal hooks and tool loops other than those permitted in § 1926.959.

(3) Body belts and straps shall be inspected before use each day to determine that they are in safe working condition.

(4) (i) Life lines and lanyards shall comply with the provisions of § 1926.104.

(ii) Safety lines are not intended to be subjected to shock loading and are used for emergency rescue such as lowering a man to the ground. Such safety lines shall be a minimum of one-half-inch diameter and three or four strand first-grade manila or its equivalent in strength (2,650 lb.) and durability.

(5) Defective ropes shall be replaced.

(c) *Ladders.* (1) Portable metal or conductive ladders shall not be used near energized lines or equipment except as may be necessary in specialized work such as in high voltage substations where nonconductive ladders might present a greater hazard than conductive ladders. Conductive or metal ladders shall be prominently marked as conductive and all necessary precautions shall be taken when used in specialized work.

(2) Hook or other type ladders used in structures shall be positively secured to prevent the ladder from being accidentally displaced.

(d) *Live-line tools.* (1) Only live-line tool poles having a manufacturer's certification to withstand the following minimum tests shall be used:

(i) 100,000 volts per foot of length for 5 minutes when the tool is made of fiberglass; or

(ii) 75,000 volts per foot of length for 3 minutes when the tool is made of wood; or

(iii) Other tests equivalent to subdivision (i) or (ii) of this subparagraph as appropriate.

(2) All live-line tools shall be visually inspected before use each day. Tools to be used shall be wiped clean and if any hazardous defects are indicated such tools shall be removed from service.

(e) *Measuring tapes or measuring ropes.* Measuring tapes or measuring ropes which are metal or contain conductive strands shall not be used when working on or near energized parts.

(f) *Handtools.* (1) Switches for all powered hand tools shall comply with § 1926.300(d).

(2) All portable electric handtools shall:

(i) Be equipped with three-wire cord having the ground wire permanently connected to the tool frame and means for grounding the other end; or

(ii) Be of the double insulated type and permanently labeled as "Double Insulated"; or

(iii) Be connected to the power supply by means of an isolating transformer, or other isolated power supply.

(3) All hydraulic tools which are used on or around energized lines or equipment shall use nonconducting hoses having adequate strength for the normal operating pressures. It should be noted that the provisions of § 1926.302(d)(2) shall also apply.

(4) All pneumatic tools which are used on or around energized lines or equipment shall:

(i) Have nonconducting hoses having adequate strength for the normal operating pressures, and

(ii) Have an accumulator on the compressor to collect moisture.

§ 1926.952 Mechanical equipment.

(a) *General.* (1) Visual inspections shall be made of the equipment to determine that it is in good condition each day the equipment is to be used.

(2) Tests shall be made at the beginning of each shift during which the equipment is to be used to determine that the brakes and operating systems are in proper working condition.

(3) No employer shall use any motor vehicle equipment having an obstructed view to the rear unless:

(i) The vehicle has a reverse signal alarm audible above the surrounding noise level or:

(ii) The vehicle is backed up only when an observer signals that it is safe to do so.

(b) *Acrial lifts.* (1) The provisions of § 1926.556, Subpart N of this part, shall apply to the utilization of aerial lifts.

(2) When working near energized lines or equipment, aerial lift trucks shall be grounded or barricaded and considered as energized equipment, or the aerial lift truck shall be insulated for the work being performed.

(3) Equipment or material shall not be passed between a pole or structure and an aerial lift while an employee working from the basket is within reaching distance of energized conductors or equipment that are not covered with insulating protective equipment.

(c) *Derrick trucks, cranes and other lifting equipment.* (1) All derrick trucks, cranes and other lifting equipment shall comply with Subpart N and O of this part except:

(i) As stated in § 1926.550(a)(15) (i) and (ii) relating to clearance (for clearances in this subpart see Table V–1) and

(ii) Derrick truck (electric line trucks) shall not be required to comply with § 1926.550 (a)(7)(vi), (a)(17), (b)(2), and (e).

(2) With the exception of equipment certified for work on the proper voltage, mechanical equipment shall not be operated closer to any energized line or equipment than the clearances set forth in § 1926.950(c) unless:

(i) An insulated barrier is installed between the energized part and the mechanical equipment, or

(ii) The mechanical equipment is grounded, or

(iii) The mechanical equipment is insulated, or

(iv) The mechanical equipment is considered as energized.

§ 1926.953 Material handling.

(a) *Unloading.* Prior to unloading steel, poles, cross arms and similar material, the load shall be thoroughly examined to ascertain if the load has shifted, binders or stakes have broken or the load is otherwise hazardous to employees.

(b) *Pole hauling.* (1) During pole hauling operations, all loads shall be secured to prevent displacement and a red flag shall be displayed at the trailing end of the longest pole.

(2) Precautions shall be exercised to prevent blocking of roadways or endangering other traffic.

(3) When hauling poles during the hours of darkness, illuminated warning devices shall be attached to the trailing end of the longest pole.

(c) *Storage.* (1) No materials or equipment shall be stored under energized bus, energized lines, or near energized equipment, if it is practical to store them elsewhere.

(2) When materials or equipment are stored under energized lines or near energized equipment, applicable clearances shall be maintained as stated in Table V–1; and extraordinary caution shall be exercised when moving materials near such energized equipment.

(d) *Tag line.* Where hazards to employees exist tag lines or other suitable devices shall be used to control loads being handled by hoisting equipment.

(e) *Oil filled equipment.* During construction or repair of oil filled equipment the oil may be stored in temporary containers other than these required in § 1926.152, such as pillow tanks.

(f) *Framing.* During framing operations, employees shall not work under a pole or a structure suspended by a crane, A-frame or similar equipment unless the pole or structure is adequately supported.

(g) *Attaching the load.* The hoist rope shall not be wrapped around the load. This provision shall not apply to electric construction crews when setting or removing poles.

§ 1926.954 Grounding for protection of employees.

(a) *General.* All conductors and equipment shall be treated as energized until tested or otherwise determined to be deenergized or until grounded.

(b) *New construction.* New lines or equipment may be considered deenergized and worked as such where:

(1) The lines or equipment are grounded, or

(2) The hazard of induced voltages is not present, and adequate clearances or other means are implemented to prevent contact with energized lines or equipment and the new lines or equipment.

(c) *Communication conductors.* Bare wire communication conductors on power poles or structures shall be treated as energized lines unless protected by insulating materials.

(d) *Voltage testing.* Deenergized conductors and equipment which are to be grounded shall be tested for voltage. Results of this voltage test shall determine the subsequent procedures as required in § 1926.950(d).

(e) *Attaching grounds.* (1) When attaching grounds, the ground end shall be attached first, and the other end shall be attached and removed by means of insulated tools or other suitable devices.

(2) When removing grounds, the grounding device shall first be removed from the line or equipment using insulating tools or other suitable devices.

(f) Grounds shall be placed between work location and all sources of energy and as close as practicable to the work location, or grounds shall be placed at the work location. If work is to be performed at more than one location in a line section, the line section must be grounded and short circuited at one location in the line section and the conductor to be worked on shall be grounded at each work location. The minimum distance shown in Table V–1 shall be maintained from ungrounded conductors at the work location. Where the making of a ground is impracticable, or the conditions resulting therefrom would be more hazardous than working on the lines or equipment without grounding, the grounds may be omitted and the line or equipment worked as energized.

(g) *Testing without grounds.* Grounds may be temporarily removed only when necessary for test purposes and extreme caution shall be exercised during the test procedures.

(h) *Grounding electrode.* When grounding electrodes are utilized, such electrodes shall have a resistance to ground low enough to remove the danger of harm to personnel or permit prompt operation of protective devices.

(i) *Grounding to tower.* Grounding to tower shall be made with a tower clamp capable of conducting the anticipated fault current.

(j) *Ground lead.* A ground lead, to be attached to either a tower ground or driven ground, shall be capable of conducting the anticipated fault current and shall have a minimum conductance of No. 2 AWG copper.

§ 1926.955 Overhead lines.

(a) *Overhead lines.* (1) When working on or with overhead lines the provisions of subparagraphs (2) through (8) of this paragraph shall be complied with in addition to other applicable provisions of this subpart.

(2) Prior to climbing poles, ladders, scaffolds, or other elevated structures, an inspection shall be made to determine that the structures are capable of sustaining the additional or unbalanced stresses to which they will be subjected.

(3) Where poles or structures may be unsafe for climbing, they shall not be climbed until made safe by guying, bracing, or other adequate means.

(4) Before installing or removing wire or cable, strains to which poles and structures will be subjected shall be considered and necessary action taken to prevent failure of supporting structures.

(5) (i) When setting, moving, or removing poles using cranes, derricks, gin poles, A-frames, or other mechanized equipment near energized lines or equipment, precautions shall be taken to avoid contact with energized lines or equipment, except in bare-hand live-line work, or where barriers or protective devices are used.

(ii) Equipment and machinery operating adjacent to energized lines or equipment shall comply with § 1926.952(c)(2).

(6) (i) Unless using suitable protective equipment for the voltage involved, employees standing on the ground shall avoid contacting equipment or machinery working adjacent to energized lines or equipment.

(ii) Lifting equipment shall be bonded to an effective ground or it shall be considered energized and barricaded when utilized near energized equipment or lines.

(7) Pole holes shall not be left unattended or unguarded in areas where employees are currently working.

(8) Tag lines shall be of a nonconductive type when used near energized lines.

(b) *Metal tower construction.* (1) When working in unstable material the excavation for pad- or pile-type footings in excess of 5 feet deep shall be either sloped to the angle of repose as required in § 1926.652 or shored if entry is required. Ladders shall be provided for access to pad- or pile-type footing excavations in excess of 4 feet.

(2) When working in unstable material provision shall be made for cleaning out auger-type footings without requiring an employee to enter the footing unless shoring is used to protect the employee.

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(3) (i) A designated employee shall be used in directing mobile equipment adjacent to footing excavations.

(ii) No one shall be permitted to remain in the footing while equipment is being spotted for placement.

(iii) Where necessary to assure the stability of mobile equipment the location of use for such equipment shall be graded and leveled.

(4) (i) Tower assembly shall be carried out with a minimum exposure of employees to falling objects when working at two or more levels on a tower.

(ii) Guy lines shall be used as necessary to maintain sections or parts of sections in position and to reduce the possibility of tipping.

(iii) Members and sections being assembled shall be adequately supported.

(5) When assembling and erecting towers the provisions of subdivisions (i), (ii), and (iii) of this subparagraph shall be complied with:

(i) The construction of transmission towers and the erecting of poles, hoisting machinery, site preparation machinery, and other types of construction machinery shall conform to the applicable requirements of this part.

(ii) No one shall be permitted under a tower which is in the process of erection or assembly, except as may be required to guide and secure the section being set.

(iii) When erecting towers using hoisting equipment adjacent to energized transmission lines, the lines shall be deenergized when practical. If the lines are not deenergized, extraordinary caution shall be exercised to maintain the minimum clearance distances required by § 1926.950(c), including Table V–1.

(6) (i) Erection cranes shall be set on firm level foundations and when the cranes are so equipped outriggers shall be used.

(ii) Tag lines shall be utilized to maintain control of tower sections being raised and positioned, except where the use of such lines would create a greater hazard.

(iii) The loadline shall not be detached from a tower section until the section is adequately secured.

(iv) Except during emergency restoration procedures erection shall be discontinued in the event of high wind or other adverse weather conditions which would make the work hazardous.

(v) Equipment and rigging shall be regularly inspected and maintained in safe operating condition.

(7) Adequate traffic control shall be maintained when crossing highways and railways with equipment as required by the provisions of § 1926.200(g) (1) and (2).

(8) A designated employee shall be utilized to determine that required clearance is maintained in moving equipment under or near energized lines.

(c) *Stringing or removing deenergized conductors.* (1) When stringing or removing deenergized conductors, the provisions of subparagarph (2) through (12) of this paragraph shall be complied with.

(2) Prior to stringing operations a briefing shall be held setting forth the plan of operation and specifying the type of equipment to be used, grounding devices and procedures to be followed, crossover methods to be employed, and the clearance authorization required.

(3) Where there is a possibility of the conductor accidentally contacting an energized circuit or receiving a dangerous induced voltage buildup, to further protect the employee from the hazards of the conductor, the conductor being installed or removed shall be grounded or provisions made to insulate or isolate the employee.

(4) (i) If the existing line is deenergized, proper clearance authorization shall be secured and the line grounded on both sides of the crossover or, the line being strung or removed shall be considered and worked as energized.

(ii) When crossing over energized conductors in excess of 600 volts, rope nets or guard structures shall be installed unless provision is made to isolate or insulate the workman or the energized conductor. Where practical the automatic reclosing feature of the circuit interrupting device shall be made inoperative. In addition, the line being strung shall be grounded on either side of the crossover or considered and worked as energized.

(5) Conductors being strung in or removed shall be kept under positive control by the use of adequate tension reels, guard structures, tielines, or other means to prevent accidental contact with energized circuits.

(6) Guard structure members shall be sound and of adequate dimension and strength, and adequately supported.

(7) (i) Catch-off anchors, rigging, and hoists shall be of ample capacity to prevent loss of the lines.

(ii) The manufacturer's load rating shall not be exceeded for stringing lines, pulling lines, sock connections, and all load-bearing hardware and accessories.

(iii) Pulling lines and accessories shall be inspected regularly and replaced or repaired when damaged or when dependability is doubtful. The provisions of § 1926.251(c)(4)(ii) (concerning splices) shall not apply.

(8) Conductor grips shall not be used on wire rope unless designed for this application.

(9) While the conductor or pulling line is being pulled (in motion) employees shall not be permitted directly under overhead operations, nor shall any employee be permitted on the crossarm.

(10) A transmission clipping crew shall have a minimum of two structures clipped in between the crew and the conductor being sagged. When working on bare conductors, clipping and tying crews shall work between grounds at all times. The grounds shall remain intact until the conductors are clipped in, except on dead end structures.

(11) (i) Except during emergency restoration procedures, work from structures shall be discontinued when adverse weather (such as high wind or ice on structures) makes the work hazardous.

(ii) Stringing and clipping operations shall be discontinued during the progress of an electrical storm in the immediate vicinity.

(12) (i) Reel handling equipment, including pulling and braking machines, shall have ample capacity, operate smoothly, and oe leveled and aligned in accordance with the manufacturer's operating instructions.

(ii) Reliable communications between the reel tender and pulling rig operator shall be provided.

(iii) Each pull shall be snubbed or dead ended at both ends before subsequent pulls.

(d) *Stringing adjacent to energized lines.* (1) Prior to stringing parallel to an existing energized transmission line a competent determination shall be made to ascertain whether dangerous induced voltage buildups will occur, particularly during switching and ground fault conditions. When there is a possibility that such dangerous induced voltage may exist the employer shall comply with the provisions of subparagraphs (2) through (9) of this paragraph in addition to the provisions of paragraph (c) of this § 1926.955, unless the line is worked as energized.

(2) When stringing adjacent to energized lines the tension stringing method or other methods which preclude unintentional contact between the lines being pulled and any employee shall be used.

(3) All pulling and tensioning equipment shall be isolated, insulated, or effectively grounded.

(4) A ground shall be installed between the tensioning reel setup and the first structure in order to ground each bare conductor, subconductor, and overhead ground conductor during stringing operations.

(5) During stringing operations, each bare conductor, subconductor, and overhead ground conductor shall be grounded at the first tower adjacent to both the tensioning and pulling setup and in increments so that no point is more than 2 miles from a ground.

(i) The grounds shall be left in place until conductor installation is completed.

(ii) Such grounds shall be removed as the last phase of aerial cleanup.

(iii) Except for moving type grounds, the grounds shall be placed and removed with a hot stick.

(6) Conductors, subconductors, and overhead ground conductors shall be grounded at all dead-end or catch-off points.

(7) A ground shall be located at each side and within 10 feet of working areas where conductors, subconductors, or overhead ground conductors are being spliced at ground level. The two ends to be spliced shall be bonded to each other. It is recommended that splicing be carried out on either an insulated platform or on a conductive metallic grounding mat bonded to both grounds. When a grounding mat is used, it is recommended that the grounding mat be roped off and an insulated walkway provided for access to the mat.

(8) (i) All conductors, subconductors, and overhead ground conductors shall be bonded to the tower at any isolated tower where it may be necessary to complete work on the transmission line.

(ii) Work on dead-end towers shall require grounding on all deenergized lines.

(iii) Grounds may be removed as soon as the work is completed: *Provided*, That the line is not left open circuited at the isolated tower at which work is being completed.

(9) When performing work from the structures, clipping crews and all others working on conductors, subconductors, or overhead ground conductors shall be protected by individual grounds installed at every work location.

(e) *Live-line bare-hand work.* In addition to any other applicable standards contained elsewhere in this subpart all live-line bare-hand work shall be performed in accordance with the following requirements.

(1) Employees shall be instructed and trained in the live-line bare-hand technique and the safety requirements pertinent thereto before being permitted to use the technique on energized circuits.

(2) Before using the live-line bare-hand technique on energized high-voltage conductors or parts, a check shall be made of:

(i) The voltage rating of the circuit on which the work is to be performed;

(ii) The clearances to ground of lines and other energized parts on which work is to be performed; and

(iii) The voltage limitations of the aerial-lift equipment intended to be used.

(3) Only equipment designed, tested, and intended for live-line bare-hand work shall be used.

(4) All work shall be personally supervised by a person trained and qualified to perform live-line bare-hand work.

(5) The automatic reclosing feature of circuit interrupting devices shall be made inoperative where practical before working on any energized line or equipment.

(6) Work shall not be performed during the progress of an electrical storm in the immediate vicinity.

(7) A conductive bucket liner or other suitable conductive device shall be provided for bonding the insulated aerial device to the energized line or equipment.

(i) The employee shall be connected to the bucket liner by use of conductive shoes, leg clips, or other suitable means.

(ii) Where necessary, adequate electrostatic shielding for the voltage being worked or conductive clothing shall be provided.

(8) Only tools and equipment intended for live-line bare-hand work shall be used, and such tools and equipment shall be kept clean and dry.

(9) Before the boom is elevated, the outriggers on the aerial truck shall be extended and adjusted to stabilize the truck and the body of the truck shall be bonded to an effective ground, or barricaded and considered as energized equipment.

(10) Before moving the aerial lift into the work position, all controls (ground level and bucket) shall be checked and tested to determine that they are in proper working condition.

(11) Arm current tests shall be made before starting work each day, each time during the day when higher voltage is going to be worked and when changed conditions indicate a need for additional tests. Aerial buckets used for bare-hand live-line work shall be subjected to an arm current test. This test shall consist of placing the bucket in contact with an energized source equal to the voltage to be worked upon for a minimum time of three (3) minutes. The leakage current shall not exceed 1 microampere per kilovolt of nominal line-to-line voltage. Work operations shall be suspended immediately upon any indication of a malfunction in the equipment.

(12) All aerial lifts to be used for live-line bare-hand work shall have dual controls (lower and upper) as required by subdivisions (i) and (ii) of this subparagraph.

(i) The upper controls shall be within easy reach of the employee in the basket. If a two basket type lift is used access to the controls shall be within easy reach from either basket.

(ii) The lower set of controls shall be located near base of the boom that will permit over-ride operation of equipment at any time.

(13) Ground level lift control shall not be operated unless permission has been obtained from the employee in lift, except in case of emergency.

(14) Before the employee contacts the energized part to be worked on, the conductive bucket liner shall be bonded to the energized conductor by means of a positive connection which shall remain attached to the energized conductor until the work on the energized circuit is completed.

(15) The minimum clearance distances for live-line bare-hand work shall be as specified in Table V–2. These minimum clearance distances shall be maintained from all grounded objects and from lines and equipment at a different potential than that to which the insulated aerial device is bonded unless such grounded objects or other lines and equipment are covered by insulated guards. These distances shall be maintained when approaching, leaving, and when bonded to the energized circuit.

TABLE V-2

MINIMUM CLEARANCE DISTANCES FOR LIVE-LINE BARE-HAND WORK (ALTERNATING CURRENT)

Voltage range (phase-to-phase) kilovolts	Distance in feet and inches for maximum voltage	
	Phase to ground	Phase to phase
2.1–15	2'0"	2'0"
15.1–35	2'4"	2'4"
35.1–46	2'6"	2'6"
46.1–72.5	3'0"	3'0"
72.6–121	3'4"	4'0"
138–145	3'6"	5'0"
161–169	3'8"	5'0"
230–242	5'0"	8'4"
345–362	[1] 7'0"	[1] 13'4"
500–552	[1] 11'0"	[1] 20'0"
700–765	[1] 15'0"	[1] 31'0"

[1] NOTE: For 345–362kv., 500–552kv., and 700–765kv., the minimum clearance distance may be reduced provided the distances are not made less than the shortest distance between the energized part and a grounded surface.

(16) When approaching, leaving, or bonding to an energized circuit the minimum distances in Table V–2 shall be maintained between all parts of the insulated boom assembly and any grounded parts (including the lower arm or portions of the truck).

(17) When positioning the bucket alongside an energized bushing or insulator string, the minimum line-to-ground clearances of Table V–2 must be maintained between all parts of the bucket and the grounded end of the bushing or insulator string.

(18) (i) The use of handlines between buckets, booms, and the ground is prohibited.

(ii) No conductive materials over 36 inches long shall be placed in the bucket, except for appropriate length jumpers, armor rods, and tools.

(iii) Nonconductive-type handlines may be used from line to ground when not supported from the bucket.

(19) The bucket and upper insulated boom shall not be overstressed by attempting to lift or support weights in excess of the manufacturer's rating.

(20) (i) A minimum clearance table (as shown in table V–2) shall be printed on a plate of durable nonconductive material, and mounted in the buckets or its vicinity so as to be visible to the operator of the boom.

(ii) It is recommended that insulated measuring sticks be used to verify clearance distances.

§ 1926.956 Underground lines.

(a) *Guarding and ventilating street opening used for access to underground lines or equipment.* (1) Appropriate warning signs shall be promptly placed when covers of manholes, handholes, or vaults are removed. What is an appropriate warning sign is dependent upon the nature and location of the hazards involved.

(2) Before an employee enters a street opening, such as a manhole or an unvented vault, it shall be promptly protected with a barrier, temporary cover, or other suitable guard.

(3) When work is to be performed in a manhole or unvented vault:

(i) No entry shall be permitted unless forced ventilation is provided or the atmosphere is found to be safe by testing for oxygen deficiency and the presence of explosive gases or fumes;

(ii) Where unsafe conditions are detected, by testing or other means, the work area shall be ventilated and otherwise made safe before entry;

(iii) Provisions shall be made for an adequate continuous supply of air.

(b) *Work in manholes.* (1) While work is being performed in manholes, an employee shall be available in the immediate vicinity to render emergency assistance as may be required. This shall not preclude the employee in the immediate vicinity from occasionally entering a manhole to provide assistance, other than emergency. This requirement does not preclude a qualified employee, working alone, from entering for brief periods of time, a manhole where energized cables or equipment are in service, for the purpose of inspection, housekeeping, taking

readings, or similar work if such work can be performed safely.

(2) When open flames must be used or smoking is permitted in manholes, extra precautions shall be taken to provide adequate ventilation.

(3) Before using open flames in a manhole or excavation in an area where combustible gases or liquids may be present, such as near a gasoline service station, the atmosphere of the manhole or excavation shall be tested and found safe or cleared of the combustible gases or liquids.

(c) *Trenching and excavating.* (1) During excavation or trenching in order to prevent the exposure of employees to the hazards created by damage to dangerous underground facilities efforts shall be made to determine the location of such facilities and work conducted in a manner designed to avoid damage.

(2) Trenching and excavation operations shall comply with §§ 1926.651 and 1926.652.

(3) When underground facilities are exposed (electric, gas, water, telephone, etc.) they shall be protected as necessary to avoid damage.

(4) Where multiple cables exist in an excavation, cables other than the one being worked on shall be protected as necessary.

(5) When multiple cables exist in an excavation, the cable to be worked on shall be identified by electrical means unless its identity is obvious by reason of distinctive appearance.

(6) Before cutting into a cable or opening a splice, the cable shall be identified and verified to be the proper cable.

(7) When working on buried cable or on cable in manholes, metallic sheath continuity shall be maintained by bonding across the opening or by equivalent means.

§ 1926.957 Construction in energized substations.

(a) *Work near energized equipment facilities.* (1) When construction work is performed in an energized substation, authorization shall be obtained from the designated, authorized person before work is started.

(2) When work is to be done in an energized substation, the following shall be determined:

(i) What facilities are energized, and

(ii) What protective equipment and precautions are necessary for the safety of personnel.

(3) Extraordinary caution shall be exercised in the handling of busbars, tower steel, materials, and equipment in the vicinity of energized facilities. The requirements set forth in § 1926.950(c), shall be complied with.

(b) *Deenergized equipment or lines.* When it is necessary to deenergize equipment or lines for protection of employees, the requirements of § 1926.950(d) shall be complied with.

(c) *Barricades and barriers.* (1) Barricades or barriers shall be installed to prevent accidental contact with energized lines or equipment.

(2) Where appropriate, signs indicating the hazard shall be posted near the barricade or barrier. These signs shall comply with § 1926.200.

(d) *Control panels.* (1) Work on or adjacent to energized control panels shall be performed by designated employees.

(2) Precaution shall be taken to prevent accidental operation of relays or other protective devices due to jarring, vibration, or improper wiring.

(e) *Mechanized equipment.* (1) Use of vehicles, gin poles, cranes, and other equipment in restricted or hazardous areas shall at all times be controlled by designated employees.

(2) All mobile cranes and derricks shall be effectively grounded when being moved or operated in close proximity to energized lines or equipment, or the equipment shall be considered energized.

(3) Fenders shall not be required for lowboys used for transporting large electrical equipment, transformers, or breakers.

(f) *Storage.* The storage requirements of § 1926.953(c) shall be complied with.

(g) *Substation fences.* (1) When a substation fence must be expanded or removed for construction purposes, a temporary fence affording similar protection, when the site is unattended, shall be provided. Adequate interconnection with ground shall be maintained between temporary fence and permanent fence.

(2) All gates to all unattended substations shall be locked, except when work is in progress.

(h) *Footing excavation.* (1) Excavation for auger, pad and piling type footings for structures and towers shall require the same precautions as for metal tower construction (see § 1926.955(b)(1)).

(2) No employee shall be permitted to enter an unsupported auger-type excavation in unstable material for any purpose. Necessary clean-out in such cases shall be accomplished without entry.

§ 1926.958 External load helicopters.

In all operations performed using a rotorcraft for moving or placing external loads, the provisions of § 1926.551 of Subpart N of this part shall be complied with.

§ 1926.959 Lineman's body belts, safety straps, and lanyards.

(a) *General requirements.* The requirements of paragraphs (a) and (b) of this section shall be complied with for all lineman's body belts, safety straps and lanyards acquired for use after the effective date of this subpart.

(1) Hardware for lineman's body belts, safety straps, and lanyards shall be drop forged or pressed steel and have a corrosive resistive finish tested to American Society for Testing and Materials B117-64 (50-hour test). Surfaces shall be smooth and free of sharp edges.

• • • • •

(2) All buckles shall withstand a 2,000-pound tensile test with a maximum permanent deformation no greater than one sixty-fourth inch.

(3) D rings shall withstand a 5,000-pound tensile test without failure. Failure of a D ring shall be considered cracking or breaking.

(4) Snaphooks shall withstand a 5,000-pound tensile test without failure. Failure of a snaphook shall be distortion sufficient to release the keeper.

(b) *Specific requirements.* (1) (i) All fabric used for safety straps shall withstand an A.C. dielectric test of not less than 25,000 volts per foot "dry" for 3 minutes, without visible deterioration.

(ii) All fabric and leather used shall be tested for leakage current and shall not exceed 1 milliampere when a potention of 3,000 volts is applied to the electrodes positioned 12 inches apart.

(iii) Direct current tests may be permitted in lieu of alternating current tests.

(2) The cushion part of the body belt shall:

(i) Contain no exposed rivets on the inside;

(ii) Be at least three (3) inches in width;

(iii) Be at least five thirty-seconds ($\frac{5}{32}$) inch thick, if made of leather; and

(iv) Have pocket tabs that extended at least 1½ inches down and three (3) inches back of the inside of circle of each D ring for riveting on plier or tool pockets. On shifting D belts, this measurement for pocket tabs shall be taken when the D ring section is centered.

(3) A maximum of four (4) tool loops shall be so situated on the body belt that four (4) inches of the body belt in the center of the back, measuring from D ring to D ring, shall be free of tool loops, and any other attachments.

(4) Suitable copper, steel, or equivalent liners shall be used around bar of D rings to prevent wear between these members and the leather or fabric enclosing them.

(5) All stitching shall be of a minimum 42-pound weight nylon or equivalent thread and shall be lock stitched. Stitching parallel to an edge shall not be less than three-sixteenths ($\frac{3}{16}$) inch from edge of narrowest member caught by the thread. The use of cross stitching on leather is prohibited.

(6) The keeper of snaphooks shall have a spring tension that will not allow the keeper to begin to open with a weight of 2½ pounds or less, but the keeper of snaphooks shall begin to open with a weight of four (4) pounds, when the weight is supported on the keeper against the end of the nose.

(7) Testing of lineman's safety straps, body belts and lanyards shall be in accordance with the following procedure:

(i) Attach one end of the safety strap or lanyard to a rigid support, the other end shall be attached to a 250-pound canvas bag of sand;

(ii) Allow the 250-pound canvas bag of sand to free fall 4 feet for (safety strap test) and 6 feet for (lanyard test); in each case stopping the fall of the 250-pound bag;

(iii) Failure of the strap or lanyard shall be indicated by any breakage, or

slippage sufficient to permit the bag to fall free of the strap or lanyard. The entire "body belt assembly" shall be tested using one D ring. A safety strap or lanyard shall be used that is capable of passing the "impact loading test" and attached as required in subdivision (i) of this subparagraph. The body belt shall be secured to the 250-pound bag of sand at a point to simulate the waist of a man and allowed to drop as stated in subdivision (ii) of this subparagraph. Failure of the body belt shall be indicated by any breakage, or slippage sufficient to permit the bag to fall free of the body belt.

§ 1926.960 Definitions for Subpart V.

(a) *Alive or live (energized).* The term means electrically connected to a source of potential difference, or electrically charged so as to have a potential significantly different from that of the earth in the vicinity. The term "live" is sometimes used in place of the term "current-carrying," where the intent is clear, to avoid repetition of the longer term.

(b) *Automatic circuit recloser.* The term means a self-controlled device for automatically interrupting and reclosing an alternating current circuit with a predetermined sequence of opening and reclosing followed by resetting, hold closed, or lockout operation.

(c) *Barrier.* The term means a physical obstruction which is intended to prevent contact with energized lines or equipment.

(d) *Barricade.* The term means a physical obstruction such as tapes, screens, or cones intended to warn and limit access to a hazardous area.

(e) *Bond.* The term means an electrical connection from one conductive element to another for the purpose of minimizing potential differences or providing suitable conductivity for fault current or for mitigation of leakage current and electrolytic action.

(f) *Bushing.* The term means an insulating structure including a through conductor, or providing a passageway for such a conductor, with provision for mounting on a barrier, conducting or otherwise, for the purpose of insulating the conductor from the barrier and conducting current from one side of the barrier to the other.

(g) *Cable.* The term means a conductor with insulation, or a stranded conductor with or without insulation and other coverings (single-conductor cable) or a combination of conductors insulated from one another (multiple-conductor cable).

(h) *Cable sheath.* The term means a protective covering applied to cables.

NOTE: A cable sheath may consist of multiple layers of which one or more is conductive.

(i) *Circuit.* The term means a conductor or system of conductors through which an electric current is intended to flow.

(j) *Communication lines.* The term means the conductors and their supporting or containing structures which are used for public or private signal or communication service, and which operate at potentials not exceeding 400 volts to ground or 750 volts between any two points of the circuit, and the transmitted power of which does not exceed 150 watts. When operating at less than 150 volts no limit is placed on the capacity of the system.

NOTE: Telephone, telegraph, railroad signal, data, clock, fire, police-alarm, community television antenna, and other systems conforming with the above are included. Lines used for signaling purposes, but not included under the above definition, are considered as supply lines of the same voltage and are to be so run.

(k) *Conductor.* The term means a material, usually in the form of a wire, cable, or bus bar suitable for carrying an electric current.

(l) *Conductor shielding.* The term means an envelope which encloses the conductor of a cable and provides an equipotential surface in contact with the cable insulation.

(m) *Current-carrying part.* The term means a conducting part intended to be connected in an electric circuit to a source of voltage. Non-current-carrying parts are those not intended to be so connected.

(n) *Dead (deenergized).* The term means free from any electrical connection to a source of potential difference and from electrical charges: Not having a potential difference from that of earth.

NOTE: The term is used only with reference to current-carrying parts which are sometimes alive (energized).

(o) *Designated employee.* The term means a qualified person delegated to perform specific duties under the conditions existing.

(p) *Effectively grounded.* The term means intentionally connected to earth through a ground connection or connections of sufficiently low impedance and having sufficient current-carrying capacity to prevent the buildup of voltages which may result in undue hazard to connected equipment or to persons.

(q) *Electric line trucks.* The term means a truck used to transport men, tools, and material, and to serve as a traveling workshop for electric power line construction and maintenance work. It is sometimes equipped with a boom and auxiliary equipment for setting poles, digging holes, and elevating material or men.

(r) *Enclosed.* The term means surrounded by a case, cage, or fence, which will protect the contained equipment and prevent accidental contact of a person with live parts.

(s) *Equipment.* This is a general term which includes fittings, devices, appliances, fixtures, apparatus, and the like, used as part of, or in connection with, an electrical power transmission and distribution system, or communication systems.

(t) *Exposed.* The term means not isolated or guarded.

(u) *Electric supply lines.* The term means those conductors used to transmit electric energy and their necessary supporting or containing structures. Signal lines of more than 400 volts to ground are always supply lines within the meaning of the rules, and those of less than 400 volts to ground may be considered as supply lines, if so run and operated throughout.

(v) *Guarded.* The term means protected by personnel, covered, fenced, or enclosed by means of suitable casings, barrier rails, screens mats, platforms, or other suitable devices in accordance with standard barricading techniques designed to prevent dangerous approach or contact by persons or objects.

NOTE: Wires, which are insulated but not otherwise protected, are not considered as guarded.

(w) *Ground. (Reference).* The term means that conductive body, usually earth, to which an electric potential is referenced.

(x) *Ground (as a noun).* The term means a conductive connection whether intentional or accidental, by which an electric circuit or equipment is connected to reference ground.

(y) *Ground (as a verb).* The term means the connecting or establishment of a connection, whether by intention or accident of an electric circuit or equipment to reference ground.

(z) *Grounding electrode (ground electrode).* The term grounding electrode means a conductor embedded in the earth, used for maintaining ground potential on conductors connected to it, and for dissipating into the earth current conducted to it.

(aa) *Grounding electrode resistance.* The term means the resistance of the grounding electrode to earth.

(bb) *Grounding electrode conductor (grounding conductor).* The term means a conductor used to connect equipment or the grounded circuit of a wiring system to a grounding electrode.

(cc) *Grounded conductor.* The term means a system or circuit conductor which is intentionally grounded.

(dd) *Grounded system.* The term means a system of conductors in which at least one conductor or point (usually the middle wire, or neutral point of transformer or generator windings) is intentionally grounded, either solidly or through a current-limiting device (not a current-interrupting device).

(ee) *Hotline tools and ropes.* The term means those tools and ropes which are especially designed for work on energized high voltage lines and equipment. Insulated aerial equipment especially designed for work on energized high voltage lines and equipment shall be considered hot line.

(ff) *Insulated.* The term means separated from other conducting surfaces by a dielectric substance (including air space) offering a high resistance to the passage of current.

NOTE: When any object is said to be insulated, it is understood to be insulated in suitable manner for the conditions to which it is subjected. Otherwise, it is within the purpose of this subpart, uninsulated. Insulating covering of conductors is one means of making the conductor insulated.

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(gg) *Insulation (as applied to cable).* The term means that which is relied upon to insulate the conductor from other conductors or conducting parts or from ground.

(hh) *Insulation shielding.* The term means an envelope which encloses the insulation of a cable and provides an equipotential surface in contact with cable insulation.

(ii) *Isolated.* The term means an object that is not readily accessible to persons unless special means of access are used.

(jj) *Manhole.* The term means a subsurface enclosure which personnel may enter and which is used for the purpose of installing, operating, and maintaining equipment and/or cable.

(kk) *Pulling tension.* The term means the longitudinal force exerted on a cable during installation.

(ll) *Qualified person.* The term means a person who by reason of experience or training is familiar with the operation to be performed and the hazards involved.

(mm) *Switch.* The term means a device for opening and closing or changing the connection of a circuit. In these rules, a switch is understood to be manually operable, unless otherwise stated.

(nn) *Tag.* The term means a system or method of identifying circuits, systems or equipment for the purpose of alerting persons that the circuit, system or equipment is being worked on.

(oo) *Unstable material.* The term means earth material, other than running, that because of its nature or the influence of related conditions, cannot be depended upon to remain in place without extra support, such as would be furnished by a system of shoring.

(pp) *Vault.* The term means an enclosure above or below ground which personnel may enter and is used for the purpose of installing, operating, and/or maintaining equipment and/or cable.

(qq) *Voltage.* The term means the effective (rms) potential difference between any two conductors or between a conductor and ground. Voltages are expressed in nominal values. The nominal voltage of a system or circuit is the value assigned to a system or circuit of a given voltage class for the purpose of convenient designation. The operating voltage of the system may vary above or below this value.

(rr) *Voltage of an effectively grounded circuit.* The term means the voltage between any conductor and ground unless otherwise indicated.

(ss) *Voltage of a circuit not effectively grounded.* The term means the voltage between any two conductors. If one circuit is directly connected to and supplied from another circuit of higher voltage (as in the case of an autotransformer), both are considered as of the higher voltage, unless the circuit of lower voltage is effectively grounded, in which case its voltage is not determined by the circuit of higher voltage. Direct connection implies electric connection as distinguished from connection merely through electromagnetic or electrostatic induction.

(Secs. 6(b) and 8(g), 84 Stat. 1593, 1600; 29 U.S.C. 655, 657; sec. 107, 83 Stat. 96; 40 U.S.C. 333)

[FR Doc.72-20118 Filed 11-22-72;8:45 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS; EXTRAORDINARY EMERGENCY REGULATION OF INTRASTATE ACTIVITIES

[Docket No. 72-584]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Release of Area Quarantined

Pursuant to the provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, in paragraph (e)(7) relating to the State of Ohio, subdivision (i) relating to Clark County is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended, 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment excludes a portion of Clark County in Ohio from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas contained in 9 CFR Part 76, as amended, do not apply to the excluded area, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 apply to the excluded area.

The amendment relieves restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera and must be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to this Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 17th day of November 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-20226 Filed 11-22-72;8:51 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 72-SO-116]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Valdosta, Ga. (Moody AFB), control zone.

The Valdosta (Moody AFB) control zone is described in § 71.171 (37 F.R. 2056 and 14691). In the description, an extension predicated on Moody VOR 007° radial has a width of 3 miles and a length of 5.5 miles. Because of the alteration of VOR Runway 18L instrument approach procedure, it is necessary to alter the control zone to increase this extension 3 miles in width and 3 miles in length. Since this amendment is minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.171 (37 F.R. 2056), the Valdosta, Ga. (Moody AFB), control zone (37 F.R. 14691) is amended as follows:

• • • within 1.5 miles each side of Moody VOR 007° radial extending from the 5-mile-radius zone to 5.5 • • • is deleted and • • • within 3 miles each side of Moody VOR 007° radial, extending from the 5-mile-radius zone to 8.5 • • • is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on November 14, 1972.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.72-20162 Filed 11-22-72;8:45 am]

[Airspace Docket No. 72-SO-117]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Raleigh, N.C., transition area.

The Raleigh transition area is described in § 71.181 (37 F.R. 2143 and 14223). In the description, a 5-mile radius of Raleigh Muncipal Airport exists, which was designated to provide controlled airspace protection for IFR operations. The Raleigh Muncipal Airport is permanently closed and the instrument approach procedure to this airport, utilizing the Raleigh VORTAC, has been canceled. The controlled airspace protection is no longer required. It is necessary to alter the description to reflect this change. Since this amendment lessens the burden on the public, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the Raleigh, N.C., transition area (37 F.R. 14223) is amended as follows:

• • • within a 5-mile radius of Raleigh Municipal Airport (lat. 35°44'05" N., long. 78°39'23" W.) • • • is deleted.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348(a) sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on November 14, 1972.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.72-20161 Filed 11-22-72;8:45 am]

[Airspace Docket No. 72-WA-28]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Terminal; Control Area at New York, N.Y.

On May 20, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 10388) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the New York, N.Y., terminal control area (TCA) by:

1. Reducing the size of the Flushing cutout.

2. Lowering the TCA floor to 1,200 feet over the Flushing Airport.

3. Lowering the TCA floor to 3,000 feet in the vicinity of the Grumman-Bethpage Airport.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. Four comments were received in response to this proposal. Air Transport Association noted an editorial error in the description of Area B boundary. Action is taken herein to correct this error. The one objection received suggested the use of prominent landmarks to define the boundaries of Area J (Flushing cutout) instead of radio aids, as were used in the notice of proposed rule making. This comment has merit and, where possible, prominent landmarks have been used in the boundary description of Area J. The commenter also objected to lowering the floor of Area J to 1,200 feet over the Flushing Airport, because of the expected impact on VFR aircraft operating to and from Flushing. While it was not possible to entirely eliminate the 1,200-foot lowering, adjustment was made by moving proposed boundary westerly to the Throggs Neck Bridge and the Clearview Expressway thus providing a better visual reference and allowing the retention of 1,500 feet in the vicinity of Little Neck Bay for use by Flushing Airport arrivals and departures.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 4, 1973, as hereinafter set forth.

In § 71.401(a) (37 F.R. 2327 and 8440) the New York, N.Y., Terminal Control Area is amended to read as follows:

1. *Area A.* That airspace extending upward from the surface to and including 7,000 feet MSL within an 8-mile radius circle of Kennedy (JFK) VORTAC; within a 4-mile radius circle centered at Lat. 40°41'30" N., Long. 74°10'00" W.; and within a 6-mile radius circle of La Guardia (LGA) VOR; excluding the airspace within and below Areas B, D and J hereinafter described and excluding that airspace east of Flushing Airport bounded by a line beginning at the point of intersection of the LGA VOR 071° radial and the 6-mile arc of the LGA VOR, thence clockwise along the LGA VOR 6-mile arc to and counterclockwise along the 8-mile arc of the JFK VORTAC to and north along the Clearview Expressway to the north stanchion of the Throggs Neck Bridge, thence to the point of beginning.

2. *Area B.* That airspace extending upward from above 500 feet MSL to and including 7,000 feet MSL within an 8-mile radius circle of JFK VORTAC south of a line beginning at the intersection of the JFK VORTAC 237° radial and the Atlantic Ocean shoreline, thence easterly along the shoreline to its intersection with the JFK VORTAC 125° radial 6-mile DME fix, thence northerly along the 5-mile DME arc to and easterly along the JFK VORTAC 094° radial to the 8-mile radius circle of JFK VORTAC; that airspace within a 6-mile radius circle of LGA VOR bounded by a line beginning at the intersection of the 6-mile radius circle and the LGA VOR 039° radial, thence southwesterly along the LGA VOR 039° radial to and southerly along the Bronx shoreline to the north stanchion of the Throggs Neck Bridge, thence direct to the intersection of the LGA VOR 071° radial and the 6-mile radius circle of LGA VOR, thence counterclockwise along the 6-mile radius circle to the point of beginning; and that airspace between the 4-mile and the 6.5-mile radii of a circle centered at Lat. 40°41'30" N., Long. 74°10'00" W.; excluding the airspace within and below Areas C, D and J hereinafter described.

3. *Area C.* That airspace extending upward from above 800 feet MSL to and including 7,000 feet MSL within a 6.5-mile radius circle centered at Lat. 40°41'30" N., Long. 74°10'00" W., and bounded by a line beginning at the point where the 6.5-mile radius circle intersects U.S. Highway No. 1, thence northeast along U.S. Highway No. 1 to its point of intersection with a 4-mile radius circle centered at Lat. 40°41'30" N., Long. 74°10'00" W., at the Esso Research Center, thence direct to the public service powerplant, thence direct to the Staten Island Expressway at its point of intersection with the 4-mile radius circle, thence east via the Staten Island Expressway to Richmond Avenue, thence south along Richmond Avenue to the 6.5-mile radius circle, thence clockwise along the 6.5-mile radius circle to the point of beginning.

4. *Area D.* That airspace extending upward from above 1,100 feet MSL to and including 7,000 feet MSL within the 6-mile radius circle of LGA VOR west of the east bank of the Hudson River; that airspace between the east and west banks of the East River southwest of the north end of Welfare Island; and that airspace within the 6.5-mile radius circle centered at Lat. 40°41'30" N., Long. 74°10'00" W., east of the Colts Neck VORTAC 012° radial.

5. *Area E.* That airspace extending upward from 1,500 feet MSL to and including 7,000 feet MSL within the area bounded by a line beginning at the intersection of the 20-mile radius circle of JFK VORTAC and the JFK VORTAC 208° radial, thence counterclockwise along the 20-mile arc to its intersection with the Long Island shoreline, thence southwest along the Long Island shoreline to and counterclockwise along the 13-mile radius circle of JFK VORTAC to and counterclockwise along the 11-mile radius circle of LGA VOR to the LGA VOR 351° radial, thence direct to the LGA VOR 283° radial at the LGA VOR 17-mile DME fix, thence counterclockwise along a 10-mile radius circle centered at Lat. 40°41'30" N., Long. 74°10'00" W., to its intersection with the Colts Neck VORTAC 005° radial, thence direct to the intersection of the Colts Neck VORTAC 034° radial and the New Jersey shoreline at Sandy Hook, thence south along the New Jersey shoreline to the point of beginning; and that airspace within 2 miles each side of the Newark ILS Runway 4L localizer course, extending from the Chelsea outer marker to 6 miles southwest of the outer marker. Excluding that airspace within and below Areas A, B, C, and D previously described; and excluding the airspace within and below Areas F and J hereinafter described.

6. *Area F.* That airspace extending upward from 1,800 feet MSL to and including 7,000 feet MSL within an area bounded by a line beginning at the intersection of the LGA VOR 337° radial and the Erie Lackawanna Railroad tracks, thence south along the railroad tracks to the east branch of the Hackensack River, thence south and west along the river to the LGA VOR 299° radial, thence direct to the intersection of the six-mile radius circle of LGA VOR and the LGA VOR 264° radial, thence south along the west bank of the Hudson River to its intersection with, then counterclockwise along the 6.5-mile radius circle centered at Lat. 40°41'30"

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N., Long. 74°10'00" W., to and southwest along the New Jersey Highway Route No. 22 to and clockwise along a 10-mile radius circle centered at Lat. 40°41'30" N., Long. 74°10'00" W., to LGA VOR 283° radial, thence direct to the point of beginning.

7. *Area G.* That airspace extending upward from 3,000 feet MSL to and including 7,000 feet MSL within a 20-mile radius circle centered at Lat. 40°41'30" N., Long. 74°10'00" W., within a 20-mile radius circle of JFK VORTAC; and within a 20-mile radius circle of LGA VOR, excluding the airspace within and below Areas A, B, C, D, E, and F previously described and excluding the airspace within and below Areas H and J hereinafter described.

8. *Area H.* That airspace extending upward from 4,000 feet MSL to and including 7,000 feet MSL between the 13- and 20-mile radii circles of JFK VORTAC bounded on the north by the JFK VORTAC 050° radial and on the south by the Long Island shoreline, excluding that airspace north of Hempstead Turnpike and west of the Seaford-Oyster Bay Expressway.

9. *Area J.* That airspace extending upward from above 1,200 feet MSL to and including 7,000 feet MSL within a 6.5-mile radius circle centered at Lat. 40°41'30" N., Long. 74°10'00" W., and bounded by a line beginning at the intersection of the 6.5-mile radius circle and the tracks of the Central Railroad of New Jersey, thence eastward along the railroad tracks to their point of intersection with the 4-mile radius circle centered at Lat. 40°41'30" N., Long. 74°10'00" W., thence counterclockwise along the 4-mile radius circle to U.S. Highway No. 1 thence southwest along U.S. Highway No. 1 to the 6.5-mile radius circle, thence clockwise along the 6.5-mile radius circle to the point of beginning; and that airspace beginning at the north stanchion of the Throggs Neck Bridge, thence westerly to the Kennedy VORTAC 341° radial 10-mile DME fix, thence southerly to the Kennedy VORTAC 340° radial 9-mile DME fix, thence easterly to the intersection of the 8-mile arc of the Kennedy VORTAC and the Clearview Expressway, thence northerly along the expressway and the Throggs Neck Bridge to the point of beginning.

(Sec. 307(a) of the Federal Aviation Act of 1958; 49 U.S.C. 1348(a), sec. 6(c), Department of Transportation Act 49 U.S.C. 1655 (c))

Issued in Washington, D.C., on November 17, 1972.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-20163 Filed 11-22-72;8:45 am]

[Airspace Docket No. 71-WA-3B]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Area High Routes

On November 2, 1972, F.R. Doc. No. 72-18668 was published in the FEDERAL REGISTER (37 F.R. 23330) which amends Part 75 of the Federal Aviation Regulations, effective 0901 G.m.t., January 4, 1973, by adding area high routes J913R and J920R with six other routes.

Malad City, Utah, was erroneously listed as the reference facility for the last two waypoints in J913R. This reference facility is Malad City, Idaho. The reference facility for the first waypoint in J920R is Lewistown, Mont., rather than Lewiston, Mont., as listed in the rule.

Since this amendment is editorial in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary and good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, effective upon publication in the FEDERAL REGISTER (11-23-72), F.R. Doc. 72-18668 (37 F.R. 23330) is amended as hereinafter set forth.

1. In J913R "Lake Shore, Utah, 41°25'55"/113°05'27" Malad City, Utah" is deleted and "Lake Shore, Utah, 41°25'55"/113°05'27" Malad City, Idaho" is substituted therefor.

2. In J920R "Millegan, Mont., 47°02'01"/111°24'11" Lewiston, Mont." is deleted and "Millegan, Mont., 40°02'01"/111°24'11" Lewistown, Mont." is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 16, 1972.

CLAUDE FEATHERSTONE,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-20164 Filed 11-22-72;8:45 am]

[Docket No. 12380, Amdt. 839]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAP's) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAP's for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 F.R. 5609).

SIAP's are available for examination at the rules docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAP's may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, DC 20591, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's, effective January 4, 1973.

Coatesville, Pa.—Chester County/G. O. Carlson Airport; VOR Runway 29, Original; Established.
Dubuque, Iowa—Dubuque Municipal Airport; VOR Runway 13, Amdt. 3; Revised.
Dubuque, Iowa—Dubuque Municipal Airport; VOR Runway 31, Amdt. 4; Revised.
Farmingdale, N.Y.—Republic Airport; VOR-A, Amdt. 4; Revised.
Helena, Mont.—Helena Airport; VOR-A, Amdt. 7; Revised.
Oklahoma City, Okla.—Wiley Post Airport; VOR-A, Amdt. 10; Revised.
Oklahoma City, Okla.—Wiley Post Airport; VOR Runway 17L, Amdt. 2; Revised.
Oklahoma City, Okla.—Wiley Post Airport VOR Runway 35R, Amdt. 2; Revised.
Pago Pago, Tutuila Island, American Samoa—Pago Pago International Airport; VOR Runway 5, Amdt. 7; Canceled.
Pago Pago, Tutuila Island, American Samoa—Pago Pago International Airport; VOR-A, Original; Established.
Pago Pago, Tutuila Island, American Samoa—Pago Pago International Airport; VORTAC-A, Original; Established.
Pago Pago, Tutuila Island, American Samoa—Pago Pago International Airport; VORTAC-B, Original; Established.
Pocahontas, Ark.—Pocahontas Municipal Airport; VOR Runway 36, Amdt. 2; Revised.
Trenton, N.J.—Mercer County Airport; VOR Runway 24, Original; Established.
West Memphis, Ark.—West Memphis Municipal Airport; VOR/DME-A, Amdt. 2; Revised.
West Memphis, Ark.—West Memphis Municipal Airport; VOR/DME-B, Amdt. 2; Revised.

2. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's effective December 21, 1972.

Bunkie, La.—Bunkie Municipal Airport; VOR/DME-A, Original; Established.

3. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's, effective December 7, 1972.

Miami, Okla.—Miami Municipal Airport; VOR/DME-A, Original; Established.

4. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's, effective November 30, 1972.

Eau Claire, Wis.—Eau Claire Municipal Airport; VOR/DME Runway 4, Amdt. 1; Canceled.

5. Section 97.25 is amended by establishing, revising, or canceling the following SDF-LOC-LDA SIAP's, effective January 4, 1973.

Islip, N.Y.—Islip MacArthur Airport; LOC (BC) Runway 24, Amdt. 3; Revised.

6. Section 97.25 is amended by establishing, revising, or canceling the following SDF-LOC-LDA SIAP's, effective November 15, 1972.

Benton Harbor, Mich.—Ross Field; LOC Runway 27, Amdt. 3; Revised.

7. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's, effective January 4, 1973.

Blackstone, Va.—Blackstone AAF; NDB-A, Amdt. 5; Revised.
Crossville, Tenn.—Crossville Memorial Airport; NDB Runway 25, Amdt. 3; Revised.
Dubuque, Iowa—Dubuque Municipal Airport; NDB Runway 31, Amdt. 1; Revised.
Farmingdale, N.Y.—Republic Airport; NDB Runway 1, Amdt. 9; Revised.
Islip, N.Y.—Islip MacArthur Airport; NDB Runway 6, Amdt. 12; Revised.
Pago Pago, Tutuila Island, American Samoa—Pago Pago International Airport; NDB(ADF) Runway 5, Amdt. 1; Canceled.
Pago Pago, Tutuila Island, American Samoa—Pago Pago International Airport; NDB-A, Original; Established.
Perryton, Tex.—Perryton Municipal Airport; NDB-A, Amdt. 2; Revised.
Salem, Oreg.—McNary Field; NDB Runway 31, Amdt. 9; Revised.
West Memphis, Ark.—West Memphis Municipal Airport; NDB Runway 17, Amdt. 4; Revised.
West Memphis, Ark.—West Memphis Municipal Airport; NDB Runway 35, Amdt. 3; Revised.

8. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's, effective December 7, 1972.

Lawrence, Kans.—Municipal Airport; NDB-A, Original; Established.
Miami, Okla.—Miami Municipal Airport; NDB Runway 17, Original; Established.

9. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's, effective November 30, 1972.

Gainesville, Fla.—Gainesville Municipal Airport; NDB Runway 28, Amdt. 2; Revised.

10. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's, effective November 10, 1972.

Cadillac, Mich.—Wexford County Airport; NDB Runway 7, Amdt. 3; Revised.

11. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's, effective January 4, 1973.

Dubuque, Iowa—Dubuque Municipal Airport; ILS Runway 31; Amdt. 2; Revised.
Everett, Wash.—Snohomish County (Paine Field); ILS Runway 16; Amdt. 12; Revised.
Islip, N.Y.—Islip MacArthur Airport; ILS Runway 6; Amdt. 13; Revised.
Salem, Oreg.—McNary Field; ILS Runway 31; Amdt. 14; Revised.

12. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's effective November 30, 1972.

Gainesville, Fla.—Gainesville Municipal Airport; ILS Runway 28; Original; Established.

13. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's, effective November 14, 1972.

Parkersburg, W. Va.—Wood County Airport/Gill Robb Wilson Field; ILS Runway 3; Amdt. 1; Revised.

14. Section 97.31 is amended by establishing, revising, or canceling the following Radar SIAP's, effective January 4, 1973.

Savannah, Ga.—Savannah Municipal Airport; Radar A; Amdt. 5; Revised.

15. Section 97.33 is amended by establishing, revising, or canceling the following RNAV SIAP's, effective January 4, 1973.

Baxley, Ga.—Baxley Municipal Airport; RNAV Runway 7, Original; Established.
Erie, Pa.—Erie International Airport; RNAV Runway 24; Amdt. 2; Revised.
Truckee, Calif.—Truckee-Tahoe Airport; RNAV-A; Original; Established.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510, sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c) and 5 U.S.C. 552(a)(1))

Issued in Washington, D.C., on November 16, 1971.

J. A. FERRARESE,
Acting Director, Flight Standards Service.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 F.R. 5610), approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.72-20160 Filed 11-22-72;8:45 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release Nos. IA-347, IC-7484]

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

Definition of "Specified Period" Over Which Asset Value of Company or Fund Under Management is Averaged

On July 13, 1972, the Securities and Exchange Commission published notice (Investment Advisers Act Release No. 323 (37 F.R. 15007)) that it had under consideration the adoption of Rule 205-2 (17 CFR 275. 250-2) under the Investment Advisers Act of 1940 (Act) (15 U.S.C. 80b-1, et seq.), as amended by the Investment Company Amendments Act of 1940 (P. 4 91-547, 84 Stat. 1432-1433). All interested persons were invited to comment on the proposal. The Commission has considered all of the comments and suggestions received and has determined to adopt Rule 205-2 in the form set forth below. The rule is adopted pursuant to the authority granted the Commission in sections 205, 206A and 211 of the Act (15 U.S.C. 80b-5, 80b-6a, 80b-11).

Under section 205 of the Act, as amended, performance fees are prohibited unless compensation based on the asset value of the company or fund under management is averaged over a specified period and increases and decreases proportionately with investment performance of the company over a specified period in relation to the investment record of an appropriate index of securities prices or such other measure of investment performance as the Commission by rule, regulation or order may specify. The point from which increases and decreases in compensation are measured must be the fee which is paid or earned when the investment performance of the company is equivalent to that of the index.

Section 211 of the Act gives the Commission authority to issue such rules and regulations as are necessary or appropriate to the exercise of the functions and powers conferred upon it under the Act.

Section 206A of the Act authorizes the Commission by rules and regulations to conditionally or unconditionally exempt any transaction from any provision of the Act or of any rule or regulation thereunder if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

The rule requires that, under a contract containing an incentive fee arrangement, assets should be averaged over the same period performance is computed. An exemption from contracts providing for a "rolling period" is contained in paragraph (c) of the rule. It permits the specified period over which the asset value of the company or fund is averaged for computing the "fulcrum fee" to differ from the period over which asset value is averaged for computing the performance related portion of the fee. Under this exemption the fulcrum fee may be computed on the basis of asset values averaged over the most recent subperiod of the rolling period. For example, this exemption would permit a fee structure under which the performance related portion of the fee could be based upon a 12 quarter "rolling period" and the "fulcrum fee" could be computed on the basis of the most recent quarter of such rolling period. It would also permit a rolling period of 365 days and daily computation of the performance related portion of the fee and of the fulcrum fee. Of course, as stated in Investment Company Act Release No. 7113 [37 F.R. 7690], interim payments greater than the minimum fee are not permitted under any incentive arrangements.

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Although the rule would permit the fulcrum fee to relate more closely to current assets than the interpretation contained in Investment Company Act Release No. 7113, the rule, like the interpretation, requires that the performance portion of the fee be based upon the assets upon which such performance was achieved and that the amount of compensation paid for performance not be influenced unduly by the amount of sales (or redemptions).

Commission action. Part 275 of Chapter II of Title 17 of the Code of Federal Regulations is amended by adding a new § 275.205–2 reading as follows:

§ 275.205–2 Definition of "specified period" over which the asset value of the company or fund under management is averaged.

(a) For purposes of this rule:

(1) "Fulcrum fee" shall mean the fee which is paid or earned when the investment company's performance is equivalent to that of the index or other measure of performance.

(2) "Rolling period" shall mean a period consisting of a specified number of subperiods of definite length in which the most recent subperiod is substituted for the earliest subperiod as time passes.

(b) The specified period over which the asset value of the company or fund under management is averaged shall mean the period over which the investment performance of the company or fund and the investment record of an appropriate index of securities prices or such other measure of investment performance are computed.

(c) Nothwithstanding paragraph (b) of this section, the specified period over which the asset value of the company or fund is averaged for the purpose of computing the fulcrum fee may differ from the period over which the asset value is averaged for computing the performance related portion of the fee, only if

(1) The performance related portion of the fee is computed over a rolling period and the total fee is payable at the end of each subperiod of the rolling period; and

(2) The fulcrum fee is computed on the basis of the asset value averaged over the most recent subperiod or subperiods of the rolling period.

(Secs. 205, 206A, 211; 54 Stat. 852, 855; 84 Stat. 1433, 15 U.S.C. 80b–5, 80b–6a, 80b–11)

In order not to disrupt existing contractual relationships and to permit an orderly change in existing incentive fee arrangements consonant with this rule and with Rule 205–1 under the Act (17 CFR 275.205–1), the rule will become effective on December 1, 1973, or, with respect to any particular investment company, within 60 days after its next regular meeting of shareholders held after December 1, 1972, whichever is sooner.

By the Commission, November 10, 1972.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-20190 Filed 11-22 72;8:47 am]

Title 31—MONEY AND FINANCE: TREASURY

Chapter I—Monetary Offices, Department of the Treasury

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

Interpretations and Exemptions

NOVEMBER 17, 1972.

Advice has been requested by persons subject to these regulations concerning the conclusions of the Treasury Department on the application of the law and the regulations, and requests have been received for exemptions from various requirements of the regulations which were published on April 5, 1970, 37 F.R. 6912 (1972), pursuant to the authority contained in § 103.45 of the regulations. Interpretations made and exemptions granted up to this time are set forth below. Additional interpretations and exmptions will appear from time to time as the occasion warrants. Identifying details and confidential information have been deletd to prevent unwarranted invasions of privacy and to comply with statutory requirements concerning disclosure of information obtained from members of the public.

Section 103.11 *Exemption from.* 1. The definition of a bank as appears in § 103.11 (a)(7) was not intended to include a company which is wholly engaged in financing inventories and retail installment sales of automobile dealers. Such a company requested and was granted an exemption from the recordkeeping and reporting requirements of Part 103, Title 31, Code of Federal Regulations. However, if said company is a "financial institution" within the meaning of § 103.11 (other than as a "bank") it would, of course, have to comply with those provisions of this part relating to financial institutions other than banks.

Section 103.23 *Interpretations.* 1. Unless a transaction in foreign currency for clients who are nonresidents of the United States and performed through brokers outside the United States involves the physical transportation, mailing, or shipment of currency, bearer investment securities or negotiable instruments in bearer form into or out of the United States in amounts exceeding $5,000 on any one occasion, there is no duty to report the transfer. A transfer of funds by means of bank check, bank draft, or wire transfer need not be reported.

2. A bank is not required to prepare Form 4790 if the bank receives such items over the counter from a person who may have transported them into the United States or if the bank delivers such items over the counter to a person who may transport them out of the United States. However, if a bank knows that such items have been transported into the country, it must file a report on Form 4790 if a complete and truthful report has not been filed by the customer.

3. Section 103.23(c) provides that a bank is not required to report currency or other monetary instruments mailed or shipped through the postal service or by common carrier. When a trust company is acting as a corporate executor or corporate trustee, no report need be filed with respect to currency or bearer monetary instruments mailed or shipped through the postal service.

4. In the case where a trust company acts as custodian for individual executors and trustees who maintain custody accounts for those estates and trusts where they are named fiduciary, it will be necessary to file a Form 4790, Report of International Transportation of Currency or Monetary Instruments, under the circumstances described in § 103.23(a).

5. A private courier service does not qualify as a "common carrier" under the regulations.

Section 103.23 *Exemptions from.* 1. A bank whose employees physically transport currency across the Canadian border on a weekly basis for deposit with a Canadian bank which is only a few hundred yards away requested an exemption from the requirements of § 103.23. Due to the special circumstances, the Department granted the request provided that an accurate record of such transfers is maintained by the bank.

2. A bank in Maine, which for a period of more than 20 years, has used its personnel to physically transport sums of currency and checks in excess of $5,000 to and from a bank in a contiguous Canadian town several times a month, requested and was granted an exemption from the reporting requirements of § 103.23 due to the special circumstances involved. The Department, however, does require the bank to maintain an accurate account of such transfers.

3. An exemption is granted to any merchant shipping company from the requirement to report the transportation into or out of the United States of currency or bearer instruments in amounts in excess of $5,000 with respect to currency or bearer instruments placed on board ship by the owner or operator in order to provide for reasonable shipping needs. Records of such moneys placed on board are to be maintained by the shipping companies.

4. A company that transports sealed packages containing money and valuables under written bilateral contracts for banks, brokerage houses, and security dealers requested an exemption from the requirements of this section. Under the provisions of § 103.23(c)(7), such companies are exempt from reporting the transportation of currency or monetary instruments overland between established offices of banks or brokers or dealers in securities and foreign banks. The company in question is further granted an exemption from reporting overland shipments between domestic banks, brokers, or security dealers and foreign persons. However, all firms engaged in international carriage of valuables by air must continue to file with the Bureau of Customs reports of international air shipments.

Section 103.33(a) *Interpretation.* 1. This regulation requires the keeping of records, the majority of which are already kept by financial institutions. The typical loan application form asks the applicant to state the purpose of the loan, so it would seem normal in the case of each extension of credit in an amount in excess of $5,000 for the record to contain a reference to the nature or the purpose of the loan. However, if it is a passbook loan, for example, the entry "passbook loan" would suffice.

Section 103.34(a) *Interpretations.* 1. Any citizen residing or doing business in the United States and any citizen of the United States who opens an account with a financial institution after June 30, 1972, must provide that institution with his taxpayer identification number at the time the account is opened. For individuals, the taxpayer identification number is his social security number; for corporations, partnerships, and other entities, it is the IRS employer identification number.

Banks, savings and loan associations, building and loan associations, savings banks, credit unions, and brokers and dealers in securities are included in this requirement. If an account is opened in more than one individual's name, the financial institution is required to secure and maintain the social security number of at least one individual having a financial interest in that account.

If the customer does not have a taxpayer identification number or has lost his card and is unaware of his number, the account may be opened provided the customer (or if under 18 years of age, his guardian) authorizes the Social Security Administration to furnish his social security number to both the customer and the financial institution, or the customer, regardless of age, authorizes the Internal Revenue Service to furnish his employer identification number to both the customer and the financial institution.

With respect to accounts opened for trusts, charitable organizations, clubs, and similar entities the financial institution should secure the employer identification number of the entity. An employer identification number must be obtained for this purpose even though an organization might not otherwise require one. See instructions published July 6, 1972 (37 F.R. 13279).

2. This requirement of a taxpayer identification number does not apply to aliens who are ambassadors, ministers, career diplomatic or consular officers, or to naval, military and other attachés of foreign embassies and legations, and the members of their immediate families, nor to aliens who are accredited representatives to international organizations entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act of December 29, 1945 (22 U.S.C. 288), and the members of their immediate families.

3. In regard to determining the proper identifying number to be furnished by accounts opened in more than one name, the bank should follow the regulations and rulings issued by the Internal Revenue Service under section 6109 of the Internal Revenue Code. These rules are outlined on the back of IRS Form 3435. However, the bank should not use Form 3435 to apply for a taxpayer identification number for a new account, but should instead use Form SS–4 or SS–5.

4. The bankruptcy estate of an individual or partnership is considered as a separate entity from the individual or partnership. However, the Treasury Department does not regard the estate of a corporation in bankruptcy as an entity separate from the corporation. Accordingly, the trustee of a corporation in bankruptcy should use the identification number of the corporation. Upon completion of the IRS Form SS–4 with an appropriate authorization to furnish the employer identification number to the institution, a trustee will be permitted to make deposits. He need not wait until the employer identification number is obtained.

5. All accounts that are primarily savings or checking accounts, with the exception of mortgage escrow accounts, are deposit accounts and are subject to the requirements of this section.

6. Where a person purchases a money order directly from the bank or through an agent of the bank and the bank maintains only a consolidated account with no separate record by customer, no deposit account has been opened by the customer and only those recordkeeping requirements normally applicable to cashiers' checks would apply.

7. Where a person reopens a checking account after June 30, 1972, the bank is required to secure the social security number just as with a new account, and the same would apply to the automatic extension of a certificate of deposit.

8. A certificate of deposit sold in bearer form is an interest-bearing form of commercial paper, which need not be purchased from the bank, but is available in the money market. It is not a deposit account as that term is used in the regulations and no identification number need be obtained. In the case of registered certificates of deposit, the taxpayer identification number must be secured.

9. A credit card program operated by a bank does not involve a deposit account and is not, therefore, subject to the requirements of this section.

10. Section 103.34(a) exempts nonresident aliens not doing business in the United States from the requirement to furnish the bank with a taxpayer identification number. If an alien asserts that he is neither residing nor doing business in the United States a bank therefore may open the account without obtaining a taxpayer identification number, provided that it secures a statement from the person to that effect and provided the bank is unaware of any facts inconsistent with that statement. Normal banking practices for ascertaining identity and location of customers should be followed. All nonresident aliens in the United States should have one of the following U.S. Immigration and Naturalization Service forms:

1. Form I–151 (Alien Registration Receipt Card).

2. Form I–185 (Nonresident Alien Canadian Border Crossing Card).

3. Form I–186 (Nonresident Alien Mexican Border Crossing Card).

4. Form I–94 (Arrival-Departure Record).

5. Form I–95A (Alien Crewman's Landing Permit).

6. Form I–184 (Alien Crewman's Landing Permit and Identification Card).

The bank should maintain a record of the applicant's country of citizenship and the number assigned him on his INS form or other official document issued by the applicant's government.

11. In regard to a business firm opening an account in the name of employees who are foreign nationals not residing in the United States, the bank may open the account for them without securing a taxpayer identification number pursuant to this section provided that the bank is satisfied that the persons are nonresident aliens not doing business in the United States. The bank should verify the identity and whereabouts of such persons and require the business firm to supply for each such account a statement to the effect that the employee is a nonresident alien not doing business in the United States.

12. It is acknowledged that the "Old Order Amish" people do not accept social security benefits or pay self-employment tax. In 1965, the Internal Revenue Code was amended to provide an exemption from self-employment tax if a person can show that he is a member of a recognized religious sect which follows the practice of making reasonable provisions for its dependent members. While the Amish people are opposed to and exempted from the social security program, they do pay their Federal taxes. A bank should explain to its Amish customers that the number required to open any account is merely a taxpayer identification number and in no way obligates such person to the social security system. However, if a depositor still objects on religious grounds to applying for a social security number, Form SS–4, Application for an Employer Identification Number, can be used instead.

13. If a new business has applied for an employer identification number, but has not yet received it when it seeks to open a bank account, the bank may open the account if it secures a completed Form SS–4 in accordance with the instructions issued by Treasury. The completed Form should not be sent to IRS but simply retained as evidence that an application for a number is pending. Since in the above instance the bank will not automatically receive the number, it must follow up with the customer to insure that the number is furnished within a reasonable time. Generally speaking, the Internal Revenue Service furnishes an employer identification number to an applicant within 45 days.

Section 103.34(a) *Exemptions from.* 1. An exemption from the requirements of this subsection is granted with respect to all accounts opened as part of a school savings program for school savers up to 18 years of age, provided that the amount of interest earned on such accounts is $10 or less. Children over 18 years of age may apply for a social security number without parental authorization and payments of interest aggregating $10 or more are required by section 6049, Internal Revenue Code of 1954, to be reported on Form 1099, together with the depositor's social security number. Banks having a school savings program should set up appropriate procedures to obtain numbers for account held by persons aged 18 years or older and for all accounts earning interest of $10 or more annually. 2. An exemption from the requirements of this subsection is granted with respect to Christmas Club accounts, provided the annual interest is not anticipated to exceed $10.

Section 103.34(b) *Interpretations.* 1. If there is no check or draft corresponding to a preauthorized paper entry, it will be sufficient to maintain the customer's authorization to charge his account and the memorandum list of entries for a period of 5 years.

2. Insurance companies commonly issue drafts in settlement of claims or for other purposes which are payable through a particular bank, but which are drawn on the company itself and not on a deposit account. However, drafts which are issued by insurance companies are treated as checks throughout the financial system, despite the fact that they are not drawn on a deposit account, and are, therefore, subject to the requirements of § 103.34(b)(3). If these drafts meet the volume and purpose requirements of this section, no copy need be retained. If they do not meet these standards, it will be necessary for the bank to retain a copy of the draft as required by this section and to retain the records required by § 103.34(b)(10) for a period of 2 years.

3. Clean drafts, including "cash item drafts", are drawn "payable through" or "payable at" a particular bank. The bank receives them and presents them to its customer who reviews them and pays for those it accepts. The majority of such items should be eligible for exemption under § 103.34(b)(3), those which are not eligible should be microfilmed or copied before they are released to the customer.

4. Section 103.34(b)(10) does not require a receiving bank to copy or be able to produce an item drawn on another bank. Furthermore, a bank need not be able to supply a description of a deposited check if it can trace a check through its domestic processing system.

Section 103.36 *Interpretation.* 1. A bank must retain for a period of 5 years checks drawn on itself. However, the proof and entry run tapes, which allow a bank to reconstruct an account, need only be retained for a period of 2 years.

Section 103.37 *Interpretation.* 1. The term "temporarily" used in this section should be

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interpreted as a vacation or business assignment expected to last less than 6 months.

Section 103.42 *Interpretation.* 1. This section provides that nothing contained herein shall require or authorize the microfilming or other reproduction of currency or obligation or security of the United States as defined in 18 U.S.C. 8 or any obligation or security of any foreign government. However, government checks may be microfilmed, but not copied, for the purpose of tracing or identifying a transaction.

Section 103.45 *Exemptions.* 1. A bank, whose employees physically transport currency across the Canadian border on a weekly basis for deposit with a Canadian bank which is only a few hundred yards away, requested an exemption from the requirements of § 103.23. Due to the special circumstances, the Department granted the request provided that an accurate record of such transfers is maintained by the bank.

2. A bank in Maine, which for a period of more than 20 years has used its personnel to physically transport sums of currency and checks in excess of $5,000 to and from a bank in a contiguous Canadian town several times a month, requested and was granted an exemption from the reporting requirements of § 103.23 due to the special circumstances involved. The Department, however, does require the bank to maintain an accurate record of such transfers.

3. An exemption is granted to any merchant shipping company from the requirement to report the transportation into or out of the United States of currency or bearer instruments in amounts in excess of $5,000 with respect to currency or bearer instruments placed on board ship by the owner or operator in order to provide for reasonable shipping needs. Records of such monies placed on board are to be maintained by the shipping companies.

4. A company wholly engaged in financing inventories and retail installment sales of automobile dealers which came within the definition of a "bank" in § 103.11(a)(7) requested and was granted an exemption from the recordkeeping and reporting requirements of Part 103, Title 31, Code of Federal Regulations. However, if said company is a "financial institution" within the meaning of § 103.11 (other than as a "bank") it would, of course, have to comply with those provisions of this part relating to financial institutions other than banks.

5. An exemption from the requirements of § 103.34(a) is granted with respect to all accounts opened as part of a school savings program for school savers up to 18 years of age, provided that the amount of interest earned on such accounts is $10 or less. Children over 18 years of age may apply for a social security number without parental authorization and payments of interest aggregating $10 or more are required by section 6049, Internal Revenue Code of 1954, to be reported on Form 1099, together with the depositor's social security number. Banks having a school savings program should set up appropriate procedures to obtain numbers for accounts held by persons aged 18 years or older and for all accounts earning interest of $10 or more annually.

6. An exemption from the provisions of Part 103, Title 31, Code of Federal Regulations, is granted to those persons who are registered with the Securities and Exchange Commission as broker-dealers solely in order to offer and sell variable annuity contracts issued by life insurance companies. However, if a person so registered at any time offers and sells other types of securities in addition to variable annuity contracts, this exemption does not apply to any part of his business. This exemption will in no way affect recordkeeping regulations or other requirements promulgated under the Securities and Exchange Act of 1934, as amended.

7. An exemption from the requirements of § 103.34(a) is granted with respect to Christmas Club accounts, provided the annual interest is not anticipated to exceed $10.

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary for Enforcement, Tariff and Trade Affairs and Operations.

[FR Doc.72-20208 Filed 11-22-72;8:52 am]

Title 32—NATIONAL DEFENSE

Chapter XVI—Selective Service System

PART 1660—ALTERNATE SERVICE

Miscellaneous Amendments

Whereas, on October 13, 1972, the Director of Selective Service published a notice of proposed amendments of Selective Service Regulations (37 F.R. 21653) of October 13, 1972; and

Whereas more than 30 days have elapsed subsequent to such publication during which period comments from the public have been received and considered.

Now therefore by virtue of the authority vested in me by section 6(j) of the Military Selective Service Act, as amended (50 App. U.S.C. sections 451 et seq.), the Selective Service Regulations, constituting a portion of Chapter XVI of Title 32 of the Code of Federal Regulations, are hereby amended, effective 11:59 p.m. e.s.t. on November 30, 1972, as follows:

Section 1660.2 *Examination of registrants* is amended to read as follows:

§ 1660.2 Examination of registrants.

A registrant classified in Class 1–O shall be ordered to report for Armed Forces examination in accord with the provisions of Part 1628 of this chapter. If he fails to report for or submit to this examination, or if he is found to be qualified for military service, he will be selected for alternate service in accord with § 1660.4.

Section 1660.3 *Volunteer for alternate service* is amended to read as follows:

§ 1660.3 Volunteer for alternate service.

Only registrants classified in Class 1–O may volunteer for alternate service in lieu of induction. Any registrant in Class 1–O may submit Application of Volunteer for Alternate Service (SSS Form 151) to his local board. If the volunteer wishes to propose jobs which he feels would be approved for his alternate service he will submit each job on an Employer's Statement of Availability of a Job as Alternate Service (SSS Form 156) simultaneously with his completed Application of Volunteer for Alternate Service (SSS Form 151). The State Director will approve or disapprove the proposed jobs. If the registrant fails to locate a suitable job or if the jobs submitted on the Employer's Statement of Availability of a Job as Alternate Service (SSS Form 156) are not approved, the State Director will not request the issuance of the Order to Report for Alternate Service (SSS Form 153) until the registrant would have been issued an Order to Report for Alternate Service (SSS Form 153) in accordance with § 1660.4 had he not volunteered.

Section 1660.4 *Selection of nonvolunteer for alternate service,* is amended to read as follows:

§ 1660.4 Selection of nonvolunteer for alternate service.

(a) A registrant classified in Class 1–O will be issued an Order to Report for Alternate Service (SSS Form 153) by the Executive Secretary or clerk, if so authorized, or a member of the registrant's local board together with Conscientious Objectors Skills Questionnaire (SSS Form 152) and three copies of Employer's Statement of Availability of a Job as Alternate Service (SSS Form 156) at the same time that he would be issued an Order to Report for Induction (SSS Form 252) were he classified in Class 1–A or 1–A–O. Such Order to Report for Alternate Service (SSS Form 153) shall specify the place and a date on which the registrant is to report for alternate service in accord with the instructions of the State Director. The date specified shall be not earlier than 70 days after such order is mailed.

(b) If a registrant to whom an Order to Report for Alternate Service (SSS Form 153) has been issued submits within 60 days after the issuance of such order a proposed job that is approved by the State Director, a suitable Amendment to Order to Report for Alternate Service (SSS Form 153A) will be issued by the registrant's local board in accord with instructions of the State Director.

(c) When a registrant in the medical, dental, or allied specialist category is classified in Class 1–O, he will be ordered to alternate service in lieu of induction at the time that he would have been called for induction if he were in Class 1–A or 1–A–O.

Section 1660.7 *Assigning alternate service,* is amended to read as follows:

§ 1660.7 Assigning alternate service.

(a) A registrant who has been classified in Class 1–O will be furnished Conscientious Objectors Skills Questionnaire (SSS Form 152) within 15 days after such classification.

(b) A registrant classified in Class 1–O may submit Employer's Statement of Availability of a Job as Alternate Service (SSS Form 156) or a letter from an employer to the State director at any time within 60 days following the issuance to him of an Order to Report for Alternate Service (SSS Form 153). The State director will determine whether the proposed job is acceptable. When a job is approved, the registrant's local board will issue an appropriate Amendment to Order to Report for Alternate Service (SSS Form 153A) in accord with instructions of the State director.

(c) Any time the State director disapproves a job proposed by the registrant in accord with paragraph (b) of this section, he will inform the registrant of his decision within 15 days after the State director receives such form. The registrant may request that the State director's decision(s) be reviewed by the Director. The registrant's case will be considered by the Director on only one occasion in accordance with this paragraph, but the registrant may request a review of as many as three adverse decisions on jobs in this one review. If the Director approves a job proposed by the registrant he shall direct the registrant's local board to issue an appropriate Amendment to Order to Report for Alternate Service (SSS Form 153A).

(d) A registrant classified in Class 1–O may take a job anticipating that it might later be approved as alternate service. If such a job is approved, the registrant will be credited with having performed acceptable service, when in fact he has performed such service, from the date he started the job, or the date he was classified in Class 1–O, whichever is later.

(e) An order to report for alternate service will be deemed an order to report for induction within the meaning of § 1632.2 of this chapter.

Paragraphs (c) and (d) of § 1660.9 *Administration of alternate service,* are amended and a new paragraph (f) is added to read as follows:

§ 1660.9 Administration of alternate service.

* * * * *

(c) If, after completing the investigation in accord with paragraph (b) of this section, the State director finds no failure of the registrant to perform satisfactorily he will request the registrant's local board to order the registrant to another job as quickly as possible by issuing an appropriate Amendment to Order to Report for Alternate Service (SSS Form 153A). If the registrant complies with the order to report to the new job, the intervening time between jobs will not constitute a break in the required period of alternate service.

(d) The State director may reassign a working registrant at any time that he determines the job to which the registrant is assigned ceases to be acceptable as alternate service as defined in § 1660.6 or upon the request of the registrant by requesting the registrant's local board to issue an appropriate Amendment to Order to Report for Alternate Service (SSS Form 153A). Prior to the issuance of an Amendment to Order to Report for Alternate Service (SSS Form 153A) in accord with this paragraph, the registrant is required to continue in the alternate service to which he had been ordered most recently.

* * * * *

(f) No action shall be required of a registrant by an Amendment to Order to Report for Alternate Service (SSS Form 153A) within 10 days after the issuance of such form without his consent.

BYRON V. PEPITONE,
Acting Director.

NOVEMBER 20, 1972.

[FR Doc.72-20222 Filed 11-22-72;8:51 am]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 50—NATIONAL CAPITAL PARKS REGULATIONS

Public Gatherings

The Department of the Interior has received a letter dated November 14, 1972, from the U.S. Attorney for the District of Columbia in the litigation styled "A Quaker Action Group, et al. v. Rogers C. B. Morton, et al.", U.S. District Court for the District of Columbia Civil Action No. 688–69, which sets forth the following:

This is in regard to the conduct by organizations of simultaneous demonstration activities on the White House sidewalk and in Lafayette Park under 36 CFR 50.19, insofar as that regulation is operative under the Court of Appeals pendente lite mandate in this case. (See 460 F. 2d at 863–864.)

The Department of the Interior, through National Capital Parks (NCP), with the concurrence of the U.S. Secret Service and the Department of Justice, has been since about March 1971 administering the court-imposed pendente lite 15-day-advance-notice-system (substituted in place of the NCP permit system) under 36 CFR 50.19 in the following manner:

NCP has been encouraging voluntary cooperation, and has been interposing no court objection to organizations conducting demonstration activities on the White House sidewalk, in Lafayette Park and on the Ellipse at the same time, where the organization agrees to limit the number of participants to 100 persons on the White House sidewalk, and 500 persons in Lafayette Park, subject to the self-discipline condition the Court of Appeals prescribed in its order entered March 19, 1971, on Appeal No. 1210–71, relative to the "14–21 Coordinating Committee" and certain other connected organizations. * * *

To obviate all further controversy on this point, we informed the Court and opposing counsel at the pretrial conference held November 10, 1972, that the Secretary of the Interior would now issue an amendment to 36 CFR 50.19(g)(4)—to take effect immediately—which will incorporate this current simultaneous use practice, subject to the self-discipline safeguard the Court of Appeals prescribed in the Government's interest on March 19, 1971.

We annex hereto a suggested revision to 36 CFR 50.19(g)(4). It incorporates the self-discipline safeguard prescribed by the Court of Appeals. This amendment is of course ameliorative in nature. Accordingly, we perceive no sound reason why this amendment should not be made effective immediately.

By its order entered March 19, 1971, on Appeal No. 1210–71, the U.S. Court of Appeals for the District of Columbia Circuit, in modifying the District Court order, provided as follows:

(A) The organizations, in carrying on demonstration activities "in front of, or in the vicinity of the White House, including any sidewalk which borders the White House grounds, the Executive Office Building, or on any street or passageway adjacent thereto or in Lafayette Park, or on the sidewalks bounding Lafayette Park," were enjoined not to exceed the following limitations:

"(1) No more than 100 persons shall be permitted to conduct a public gathering on the White House sidewalk at any one time.

(2) No more than 500 persons shall be permitted to conduct a public gathering on the White House sidewalk and in Lafayette Park at any one time."

However, the organizations were authorized to carry on their peaceable demonstration activities "without limitation as to numbers, in the park area known as the Ellipse (bounded on the North by E Street NW.; on the South by Constitution Avenue NW.; on the East by 15th Street NW.; and on the West by 17th Street NW.), subject to such reasonable detailed arrangements for use of the Ellipse as they shall work out in advance with the appropriate representatives of the National Park Service, U.S. Department of the Interior."

(B) The organizations were "directed to take all action which may be necessary to insure that * * * [the indicated numerical limitations were observed] * * * including appropriate notice to the membership and all persons associated with each organization of the terms of * * * [the] * * * Order, and the provisions of sufficient marshals to insure the self-dis[c]ipline of the public gathering."

The Secret Service Director has informally expressed his judgment that this modification to 36 CFR 50.19(g)(4) occasions no additional significant adverse effect upon the vital security interest operative in the White House area. The Department of the Interior has determined that this modification does not occasion any increased detriment to the park considerations also operative in that area.

In light of the U.S. Attorney's request, the National Capital Parks' administrative practice in this regard, which has been in effect since about March 1971, and the fact that this amendment is less restrictive on the public, it is the Secretary's determination that good cause exists in the public interest to have the following amendment to 36 CFR 50.19(g)(4) take effect immediately upon its publication in the FEDERAL REGISTER (11–23–72), subject, of course, to the present suspensive operation of the "Quaker Action" modified preliminary injunction order, pending further court order in that regard.

(5 U.S.C. 553; 39 Stat. 535; 16 U.S.C. 1, et seq.; and see the other authorities as to park policies set forth at 35 F.R. 11489, July 17, 1970)

Dated: November 20, 1972.

ROGERS C. B. MORTON,
Secretary of the Interior.

Section 50.19(g)(4), 36 CFR, is amended to read as follows:

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§ 50.19 Public gatherings.

• • • • • •

(g) • • •

(4) No permit shall be issued to an organization, group, or other sponsor to conduct public gathering activities on the White House sidewalk and in Lafayette Park at the same time, except under the following conditions:

(i) Any overage above subparagraphs (2) and (3) of this paragraph shall proceed to the Ellipse via 15th Street and/or 17th Street (or shall proceed to some other agreed-upon designated park site) and shall there conduct public gathering activities; and

(ii) The organization, group, or other sponsor of such public gathering activities shall undertake in good faith all reasonable action—including the provision of sufficient marshals—to insure good order and self-discipline in carrying on such public gathering activities, including any necessary movements of persons, so that the numerical limitations prescribed under subparagraphs (2) and (3) of this paragraph shall be observed at all times on the White House sidewalk and in Lafayette Park.

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[FR Doc.72-20291 Filed 11-22-72;8:52 am]

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

SUBCHAPTER E—PESTICIDES PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

S-[2-(Ethylsulfinyl)Ethyl] O,O-Dimethyl Phosphorothioate

A petition (PP 9F0806) was filed by Chemagro Corp., Post Office Box 4913, Kansas City, MO 64120, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of tolerances for residues of the insecticide *S*-[2-(ethylsulfinyl)ethyl] *O,O*-dimethyl phosphorothioate in or on the raw agricultural commodities corn fodder and forage and sugar beet tops at 5 parts per million; leaf lettuce and strawberries at 1.75 parts per million; apples and turnip tops at 1.5 parts per million; blackberries, cabbage, cucumbers, eggplants, grapefruit, head lettuce, lemons, oranges, plums (prunes), raspberries, and summer squash at 1 part per million; peppers at 0.75 part per million; corn (kernels plus cob with husk removed) at 0.5 part per million; melons, pears, pumpkins, sugar beets, turnip roots, walnuts, and winter squash at 0.3 part per million; and cottonseed and potatoes at 0.1 part per million.

Subsequently, the petitioner amended the petition by:

a. Withdrawing the requested tolerances for apples and leaf lettuce.

b. Reducing the requested tolerances for corn fodder and forage from 5 parts per million to 3 parts per million; sugar beet tops from 5 parts per million to 0.5 part per million; strawberries from 1.75 parts per million to 1 part per million; and turnip tops from 1.5 parts per million to 1 part per million.

c. Requesting tolerances for alfalfa (hay and chaff when grown for seed) and clover (hay and chaff when grown for seed) at 11 parts per million; alfalfa (green) and clover (green) at 5 parts per million; broccoli, brussels sprouts, and cauliflower at 1 part per million; and watermelons at 0.3 part per million.

Prior to December 2, 1970, the Secretary of Agriculture certified that this pesticide chemical is useful for the purpose for which the tolerances are being established, and the Fish and Wildlife Service, U.S. Department of the Interior, stated that it had no objections to the proposed tolerances.

Interim tolerances for residues of the pesticide were established (37 F.R. 17554; August 30, 1972) on all of the commodities for which tolerances are being established, except alfalfa (green, hay, and chaff) and clover (green, hay, and chaff), pending establishment of regular tolerances.

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

2. The tolerances established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), Part 180 is amended as follows:

1. In § 180.3(e)(5), by alphabetically inserting in the list of cholinesterase-inhibiting pesticides a new item as follows:

§ 180.3 Tolerances for related pesticide chemicals.

• • • • • •

(e) • • •

(5) • • •

S-[2-(Ethylsulfinyl)ethyl] *O,O*-dimethyl phosphorothioate and its cholinesterase-inhibiting metabolites, (primarily *S*-[2-(ethylsulfonyl)ethyl] *O,O*-dimethyl phosphorothioate).

• • • • • • • •

2. In Subpart C, by adding a new section as follows:

§ 180.330 *S*-[2-(Ethylsulfinyl)ethyl] *O,O*-dimethyl phosphorothioate; tolerances for residues.

Tolerances are established for residues of the insecticide *S*-[2-(ethylsulfinyl)ethyl] *O,O*-dimethyl phosphorothioate and its cholinesterase-inhibiting metabolites as follows:

11 parts per million in or on alfalfa (hay and chaff when grown for seed) and clover (hay and chaff when grown for seed).

5 parts per million in or on alfalfa (green) and clover (green).

3 parts per million in or on corn fodder and forage.

1 part per million in or on blackberries, broccoli, brussels sprouts, cabbage, cauliflower, cucumbers, eggplant, grapefruit, head lettuce, lemons, oranges, plums (fresh prunes), raspberries, strawberries, summer squash, and turnip tops.

0.75 part per million in or on peppers.

0.5 part per million in or on corn grain, fresh corn including sweet corn (kernels plus cob with husk removed), and sugar beet tops.

0.3 part per million in or on melons, pears, pumpkins, sugar beets, turnips, walnuts, and winter squash.

0.1 part per million in or on cottonseed and potatoes.

§ 180.319 [Amended]

3. In § 180.319 *Interim tolerances*, by deleting from the table the item "*S*-[2-(Ethylsulfinyl)ethyl] *O,O*-dimethyl phosphorothioate".

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3902A, Fourth and M Streets SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (11-23-72).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: November 16, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-20174 Filed 11-22-72;8:46 am]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

2-Ethylthio-4,6-bis(isopropylamino)-s-triazine

A petition (PP 2F1284) was filed by Ciba-Geigy Corp., Ardsley, N.Y. 10502, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of a tolerance for negligible residues of the herbicide 2-ethylthio-4,6-bis(isopropylamino)-*s*-triazine in or on the raw agricultural commodity cottonseed at 0.1 part per million.

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The herbicide is useful for the purpose for which the tolerance is being established.

2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

3. The tolerance established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), Part 180 is amended by adding the following new section to Subpart C:

§ 180.329 2-Ethylthio-4,6-bis(isopropylamino)-s-triazine; tolerances for residues.

A tolerance of 0.1 part per million is established for negligible residues of the herbicide 2-ethylthio-4,6-bis(isopropylamino)-*s*-triazine in or on the raw agricultural commodity cottonseed.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3902A, Fourth and M Streets SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (11-23-72).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: November 16, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-20173 Filed 11-22-72;8:46 am]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

4-Amino-6-*tert*-butyl-3-(methylthio)-as-triazin-5-(4*H*)-one

A petition (PP 2F1274) was filed by Chemagro Corp., Post Office Box 4913, Kansas City, MO 64120, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of a tolerance for combined residues of the herbicide 4-amino-6-*tert*-butyl-3-(methylthio)-*as*-triazin-5-(4*H*)-one and its deaminated diketo metabolite in or on soybeans at 0.1 part per million.

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The herbicide is useful for the purpose for which the tolerance is being established.

2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

3. The tolerance established by this order will protect the public health.

4. The 0.1 part per million tolerance is a negligible residue.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (36 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), Part 180 is amended by adding the following new section to Subpart C:

§ 180.332 4-Amino-6-*tert*-butyl-3-(methylthio)-*as*-triazin-5-(4*H*)-one; tolerances for residues.

A tolerance of 0.1 part per million is established for the combined negligible residues of the herbicide 4-amino-6-*tert*-butyl-3-(methylthio)-*as*-triazin-5-(4*H*)-one and its deaminated diketo metabolite in or on soybeans.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3902A, Fourth and M Streets SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (11-23-72).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: November 16, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-20172 Filed 11-22-72;8:46 am]

Title 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation

[OST Docket No. 1, Amdt. 1-65]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Redelegation of Authority With Respect to Safety of Liquid Pipelines

The purpose of this amendment is to publish in Appendix A to Part 1 of the Regulations of the Office of the Secretary of Transportation an amended redelegation of authority to the Director of the Office of Pipeline Safety which includes authority to regulate safety of liquid pipelines.

Since this amendment relates to departmental management, procedures, and practices, notice and public procedure thereon is unnecessary and it may be made effective in less than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Appendix A to Part 1 of Title 49, Code of Federal Regulations is amended, effective immediately, by revising section 1 as set forth below.

(Sec. 9, Department of Transportation Act, 49 U.S.C. 1657; § 1.52(b)(1) Regulations of the Office of the Secretary of Transportation, 49 CFR 1.52(b)(1))

Issued in Washington, D.C., on November 7, 1972.

BENJAMIN O. DAVIS,
Assistant Secretary of Transportation for Safety and Consumer Affairs.

APPENDIX A—DELEGATIONS AND REDELEGATIONS BY SECRETARIAL OFFICERS

1. *Director, Office of Pipeline Safety.*

OFFICE OF THE SECRETARY

DIRECTOR, OFFICE OF PIPELINE SAFETY

Redelegation of Pipeline Safety Authority

Pursuant to the authority delegated to me by § 1.58(d) of the Regulations of the Office of the Secretary of Transportation (49 CFR Part 1), the authority to carry out the functions vested in the Secretary by the following statutes is hereby redelegated to the Director, Office of Pipeline Safety:

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(1) The Natural Gas Pipeline Safety Act of 1968 (82 Stat. 720, 49 U.S.C. 1671).
(2) Title 18, U.S.C. sections 831–835 so far as they pertain to pipelines.

[FR Doc.72-20159 Filed 11-22-72;8:45 am]

Chapter III—Federal Highway Administration, Department of Transportation

SUBCHAPTER B—MOTOR CARRIER SAFETY REGULATIONS

[Docket No. MC-40; Notice 72-22]

PART 391—QUALIFICATIONS OF DRIVERS

Disqualification for Loss of Driving Privileges

The Director of the Bureau of Motor Carrier Safety is issuing a revision of § 391.15 of the Motor Carrier Safety Regulations, pertaining to disqualification of persons to serve as drivers of commercial motor vehicles operated in interstate or foreign commerce.

A proposal to revise § 391.15, together with certain provisions of the rules relating to physical qualifications of drivers, was issued on July 25, 1972 (37 F.R. 15708). A large number of comments was received in response to that proposal. The comments indicated that the two aspects of the proposal raised quite distinct and separable issues and that each should be dealt with separately. The Director has, therefore, decided to proceed with further action in the area of driver disqualification at this time and to act on the medical-waiver features of the proposal at a later date.

The bulk of the comments criticized two features of the proposal. First, both labor organizations and members of the trucking industry attacked the notion that conviction of certain criminal offenses committed while a person is operating his private automobile should thereafter disqualify that person from serving as the driver of a commercial motor vehicle. Second, many persons who filed comments argued against adopting a procedure under which a driver who is otherwise disqualified for an extended period of time could obtain administrative review of his disqualification and could continue to drive while his appeal is pending. In both cases, the Director has decided not to adopt the concept put forward in the proposal, although not necessarily for the reasons cited in the comments.

The principal area of controversy involves the driver who has been convicted of driving his private automobile while intoxicated. Disqualification of such drivers to operate commercial motor vehicles in interstate or foreign commerce has been attacked as unconstitutional and arbitrary, on the one hand, and has been defended as a salutary step towards ridding the industry of undesirable, accident-prone, and irresponsible individuals, on the other. In 1969 and 1970, when the Administrator considered the disqualification rule, there was considerable evidence that intoxicated drivers posed a critical safety problem. In light of the hazards that those drivers represented, the Administrator determined that a person who is convicted of driving while intoxicated should thereafter be precluded from driving commercial motor vehicles, even though the offense was committed in a personal motor vehicle. Commission of the offense the Administrator said, "indicates that the perpetrator is unfit to drive a commercial vehicle irrespective of whether the offense was committed while on duty." (35 F.R. 6459.)

Since that time, additional work in the area has produced a trend towards rehabilitating, rather than punishing, drinking drivers. The Department's National Highway Traffic Safety Administration is emphasizing the establishment of special treatment programs for identifying and treating drivers who suffer from alcoholism or have serious drinking problems.

Study of the available materials has convinced the Director that automatic disqualification of drivers who are convicted of driving while intoxicated is out of phase with the current approach toward identification and treating these drivers, at least insofar as drivers who are convicted of driving personal vehicles while intoxicated are concerned. Experience in administering the driver disqualification rule has indicated that it tends to inhibit ready identification of drivers who should be in rehabilitation programs. Reports from all over the Nation have indicated that local judges and others involved in criminal law have been reluctant to enter guilty verdicts against professional drivers charged with disqualifying offenses, even where the evidence clearly justifies that result, because conviction would result in disqualification of the defendant and subsequent loss of employment. Convictions have been set aside for the same reason. This trend is counterproductive in the context of a nationwide, Federal program which aims at identification and rehabilitation of drivers who suffer from drinking problems.

Another persuasive, though not dispositive, factor is the absence of data which would either prove or disprove a statistical correlation between conviction of driving while intoxicated in a noncommercial vehicle and bad driving performance in a commercial motor vehicle. The Bureau's records contain many case histories showing that drivers who were involved in serious chargeable accidents had poor prior driving records, both on and off duty. However, the data are insufficient to indicate that, as a class, persons convicted of driving while intoxicated in their personal vehicles have a greater tendency to involvement in serious commercial vehicle accidents than drivers in general.

In the case of a driver who is convicted of this offense, and other serious offenses, arising out of his operation of a commercial motor vehicle there is, of course, a direct connection with undesirable behavior behind the wheel of a commercial vehicle. The conviction establishes, ipso facto, violation of §§ 392.4 or 392.5 of the regulations. The Director has therefore, decided to retain the disqualification for specified criminal offenses committed while the driver is operating a commercial motor vehicle. It should be noted, moreover, that an offense committed while the driver is driving a commercial motor vehicle will be disqualifying, whether or not the vehicle was operating in interstate or foreign commerce. There is no valid basis for distinguishing between a driver who is intoxicated while operating a commercial vehicle on an intrastate trip and one who is intoxicated while conducting an interstate operation.

The Director has also decided to incorporate in the rule a concept advanced in the notice of proposed rule making: Variable penalties dependent upon the frequency with which a driver is convicted. Persons who filed comments generally expressed approval of this idea. The 3-year disqualification will apply only to subsequent offenders. Drivers who are convicted of a disqualifying offense for the first time will be disqualified for a period of 1 year. The notion of variable penalties is endemic in contemporary views of how to treat persons who display evidence of alcohol-related problems. Since rehabilitation is the objective, it is felt that persons who are first-time offenders should incur a penalty sufficient to indicate that they can be treated and subsequently returned to service.

The notice of proposed rule making also suggested that drivers otherwise disqualified under the rule might be given an opportunity for an administrative hearing at which they could adduce evidence indicating that the penalty imposed by the regulations should be mitigated or reduced. Further analysis, however, has shown that it is not administratively feasible to establish such a program at the present time. The number of potential cases is so large in comparison to the resources available that it would not be practicable to establish a nationwide system of providing hearings for drivers who are disqualified.

Furthermore, the 1-year period of disqualification for first offenders which the Director is now introducing closely parallels the mandatory period for loss of driving privileges upon conviction of driving while intoxicated or a similar offense imposed by many States. Hence, the Director finds that reduction in the severity of the penalty has tended to reduce the need for administrative proceedings to mitigate or reduce the consequences imposed by the general rule.

In consideration of the foregoing, § 391.15 of the Motor Carrier Safety Regulations (Subchapter B in Chapter III of Title 49 CFR) is revised to read as set forth below.

This revision is effective on December 25, 1972. However, this revision applies to all drivers who have been disqualified under § 391.15 prior to this issuance.

This amendment to the Motor Carrier Safety Regulations is issued under the authority of the Interstate Commerce Act, as amended, 49 U.S.C. 304, section 6 of the Department of Transportation Act, 49 U.S.C. 1655, and the delegations of authority from the Secretary of Transportation and the Federal Highway Administrator at 49 CFR 1.48 and 389.4 respectively.

Issued on November 20, 1972.

ROBERT A. KAYE,
Director,
Bureau of Motor Carrier Safety.

§ 391.15 Disqualification of drivers.

(a) *General.* A driver who is disqualified shall not drive a commercial motor vehicle. A motor carrier shall not require or permit a driver who is disqualified to drive a commercial motor vehicle.

(b) *Disqualification for loss of driving privileges.* A driver is disqualified for the duration of his loss of his privilege to operate a commercial motor vehicle on public highways, either temporarily or permanently, by reason of the revocation, suspension, withdrawal, or denial of an operator's license, permit, or privilege, until that operator's license, permit, or privilege is restored by the authority that revoked, suspended, withdrew, or denied it.

(c) *Disqualification for criminal misconduct*—(1) *General rule.* A driver who is convicted of, or forfeits bond or collateral upon a charge of, a disqualifying offense specified in subparagraph (2) of this paragraph is disqualified for the period of time specified in subparagraph (3) of this paragraph if—

(i) The offense was committed after December 31, 1970; and

(ii) The offense was committed while the driver was driving a motor vehicle in the employ of a motor carrier or in furtherance of a commercial enterprise in interstate, intrastate, or foreign commerce.

(2) *Disqualifying offenses.* The following offenses are disqualifying offenses:

(i) Operating a motor vehicle while under the influence of alcohol, an amphetamine, a narcotic drug, a formulation of an amphetamine, or a derivative of a narcotic drug.

(ii) A crime involving the knowing transportation, knowing possession, or unlawful use of amphetamines, narcotic drugs, formulations of an amphetamine, or derivatives of narcotic drugs.

(iii) Leaving the scene of an accident which resulted in personal injury or death.

(iv) A felony involving the use of a motor vehicle.

(3) *Duration of disqualification for criminal misconduct*—(i) *First offenders.* A driver is disqualified for 1 year after the date of his conviction or forfeiture of bond or collateral if, during the 3 years preceding that date, he was not convicted of, and did not forfeit bond or collateral upon a charge of, an offense that would disqualify him under the rules of this section.

(ii) *Subsequent offenders.* A driver is disqualified for 3 years after the date of his conviction or forfeiture of bond or collateral if, during the 3 years preceding that date, he was convicted of, or forfeited bond or collateral upon a charge of, an offense that would disqualify him under the rules in this section.

[FR Doc.72-20292 Filed 11-22-72;8:52 am]

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 69-7; Notice 25]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Chest and Femur Injury Criteria

The purpose of this notice is to amend the injury criteria specified for the chest and femur under sections S6.3 and S6.4 of Motor Vehicle Safety Standard No. 208, Occupant Crash Protection, 49 CFR 571.208. The amendments adopted hereby are those proposed in a notice of proposed rule making published on October 28, 1972 (Notice 24; 37 F.R. 23115).

The injury criterion for the chest is amended with respect to all vehicles manufactured before August 15, 1975, by substituting a severity index value of 1,000 as the measure of injury potential in place of the criterion of 60g's for 3 milliseconds. The substitution had previously been made for vehicles equipped with seatbelt systems manufactured before August 15, 1975. The amendment made hereby is based on a finding that the severity index is an acceptable interim measure for restraint systems other than belt systems.

Several comments noted an oversight in Notice 24 concerning the application of the modified chest criterion to multipurpose passenger vehicles and trucks having GVWR's of 10,000 pounds or less. As a result of a previous notice (Notice 23; 37 F.R. 22871, October 26, 1972), these vehicles had been permitted to meet the modified criterion until August 15, 1977. Notice 24 failed to reflect this change. The omission has been corrected in the amended version of S6.3, and a parallel extension has been made for vehicles other than passenger cars that have restraint systems other than belts.

The injury criterion for the upper legs is amended to specify a maximum force of 1,700 pounds on each femur rather than the previously specified force of 1,400 pounds. The new requirement is considered to provide a good level of protection in crashes in the 30 m.p.h. range and allows manufacturers greater latitude in designing systems for protection at higher speeds.

None of the comments disagreed with the proposal for an increase in force level, although the Ford Motor Co. suggested a further amendment that would permit higher forces for a cumulative interval of not more than 3 milliseconds, thereby disregarding extremely short period acceleration peaks which Ford considers to be artificial products of the dummy's metallic structure. A similar request has been made by General Motors in a recent petition for rule making. The agency has not yet completed its evaluation of this issue. If favorable action is decided upon, a notice of proposed rule making will be issued to permit additional comment.

In consideration of the foregoing, Motor Vehicle Safety Standard No. 208, Occupant Crash Protection, 49 CFR 571.208, is amended as set forth below. Because this amendment relieves a restriction and imposes no additional burden, an immediate effective date is found to be in the public interest.

1. S6.3 is amended to read as follows:

S6.3 The resultant acceleration at the center of gravity of the upper thorax shall not exceed 60g's, except for intervals whose cumulative duration is not more than 3 milliseconds. However, in the case of a passenger car manufactured before August 15, 1975, or a truck or multipurpose passenger vehicle with a GVWR of 10,000 pounds or less manufactured before August 15, 1977, the resultant acceleration at the center of gravity of the upper thorax shall be such that the severity index calculated by the method described in SAE Information Report J885a, October 1966, shall not exceed 1,000.

2. S6.4 is amended to read as follows:

S6.4 The force transmitted axially through each upper leg shall not exceed 1,700 pounds.

Effective date: November 23, 1972.

(Secs. 103, 119, National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1407; delegation of authority, 49 CFR 1.51)

Issued on November 20, 1972.

CHARLES H. HARTMAN,
Acting Administrator.

[FR Doc.72-20247 Filed 11-21-72;9:51 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Iroquois National Wildlife Refuge, N.Y.

The following special regulation is issued and is effective on the date of publication in the FEDERAL REGISTER (11–23–72).

§ 28.28 Special regulations; recreation; for the individual wildlife refuge areas.

NEW YORK

IROQUOIS NATIONAL WILDLIFE REFUGE

Travel on foot or by motor vehicle is permitted on designated travel routes, for the purpose of nature study, photography, hiking, and sightseeing during daylight hours. Pets are permitted if on

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a leash not over 10 feet in length. Fishing and hunting may be permitted under special regulations.

The refuge area, comprising 10,818 acres, is delineated on maps available at refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office and Courthouse, Boston, Mass. 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1973.

WILLARD M. SPAULDING, JR.,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

NOVEMBER 15, 1972.

[FR Doc.72-20212 Filed 11-22-72;8:50 am]

PART 33—SPORT FISHING

Crab Orchard National Wildlife Refuge, Ill.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11-23-72).

§ 33.5 Special regulations; sport fishing; for individual wildlife refuges.

ILLINOIS

CRAB ORCHARD NATIONAL WILDLIFE REFUGE

Sport fishing on the Crab Orchard National Wildlife Refuge, Ill., is permitted only on the areas designated by signs as open to fishing. These open areas comprising 8,800 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from January 1, 1973, through December 31, 1973, in areas designated on map as I and III; and from March 15, 1973, through September 30, 1973, daylight hours only, in area designated on map as II; except bank fishing is permitted from the Wolf Creek Road and State Highway 148 causeways, during daylight hours, from January 1, 1973, through December 31, 1973.

(2) The use of boats and motors is permitted, except that use of a boat with a motor larger than ten (10) horsepower is prohibited on Devil's Kitchen Lake and on Little Grassy Lake.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33, and are effective through December 31, 1973.

L. A. MEHRHOFF, JR.,
Project Manager, Crab Orchard National Wildlife Refuge, Carterville, Illinois.

NOVEMBER 16, 1972.

[FR Doc.72-20181 Filed 11-22-72;8:47 am]

Title 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Navel Orange Reg. 276]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.576 Navel Orange Regulation 276.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 21, 1972.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period November 24, through November 30, 1972, are hereby fixed as follows:

(i) District 1: 773,000 Cartons;
(ii) District 2: 54,000 Cartons;
(iii) District 3: 77,000 Cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 22, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-20353 Filed 11-22-72;11:44 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 915]

AVOCADOS GROWN IN SOUTH FLORIDA

Proposed Limitations of Handling

Notice is hereby given that the Department is giving consideration to the following proposal submitted by the Avocado Administrative Committee, established under the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The proposal reflects the committee's current appraisal of present and prospective marketing conditions for avocados. Seasonal shipments of avocados in heavy volume are now in progress. The Avocado Administrative Committee on November 8, 1972, held a meeting to consider the current crop and marketing conditions for avocados. It was brought to the committee's attention that avocados being handled for commercial processing into products, pursuant to marketing order § 915.55 *Avocados not subject to regulations*, exempt from assessments, regulations, inspection, and certification are being packed and handled in containers prescribed in § 915.305 (Avocado Order 5; 7 CFR 915.305; Subpart-Container Regulation). It was concluded that shipments of such uninspected avocados in the prescribed containers make it difficult for the committee to assure that avocados handled for processing are not entering the fresh market. In addition, such handling makes it more difficult for the committee to assure that avocados handled in the containers for the fresh market are in compliance with assessment, regulation, inspection, and certification provisions of the order. Therefore, the committee unanimously recommended that the container regulation, currently in effect, be amended to prevent the handling of exempt avocados in containers, prescribed therein, as follows:

It is proposed that the provisions of paragraph (a) (1) of § 915.305 (Avocado Order 5; 7 CFR 915.305; 37 F.R. 11314; 37 F.R. 16930) be amended to read as follows:

§ 915.305 Avocado Order 5.

(a) *Order.* (1) On and after December 16, 1972, no handler shall handle between the production area and any point outside thereof any variety of avocados in containers having a capacity of more than 4 pounds of avocados, unless such avocados are handled in containers meeting the following specifications and conform to all other applicable requirements of this section: *Provided*, That avocados handled pursuant to § 915.55 (c) of this part, for commercial processing into products, shall not be handled in any of the containers specified in this § 915.305 Avocado Order 5, as amended:

* * * * * *

All persons who desire to submit written data, views, or arguments for consideration in connection with the aforesaid proposal may do so, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the close of business on the 15th day after publication thereof in FEDERAL REGISTER. All such communications will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: November 17, 1972.

ARTHUR E. BROWNE,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-20186 Filed 11-22-72;8:47 am]

[7 CFR Part 1121]

[Docket No. AO-364-A6]

MILK IN SOUTH TEXAS MARKETING AREA

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Notice is hereby given of a public hearing to be held at the Host Airport Hotel-Houston, Houston Intercontinental Airport, 18700 Kennedy Boulevard, Houston, Tex., beginning at 9:30 a.m., December 19, 1972 with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the South Texas marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

PROPOSED BY ASSOCIATED MILK PRODUCERS, INC.

PROPOSAL NO. 1

A. In § 1121.61, revise paragraph (b) (5) to read as follows:

§ 1121.61 Obligation of handler operating a partially regulated distributing plant.

* * * * * *

(b) * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price) subtract its value at the uniform price applicable at such location plus 5 cents (not to be less than the Class II price) and add for the quantity of reconstituted skim milk specified in subparagraph (3), of this paragraph, its value computed at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price) less the value of such skim milk at the Class II price.

B. Revise § 1121.63 to read as follows:

§ 1121.63 Producer-handler.

Sections 1121.40 through 1121.46, 1121.50 through 1121.55, 1121.70 through 1121.72, 1121.80 through 1121.89, and 1121.110 through 1121.122 shall not apply to a producer-handler.

C. In § 1121.72, add a new paragraph (c–1) as follows:

§ 1121.72 Computation of the uniform price.

* * * * * *

(c–1) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

* * * * * *

D. In § 1121.84, revise paragraph (b) (2) to read as follows:

§ 1121.84 Payments to the producer-settlement fund.

* * * * * *

(b) * * *

(2) The value at the uniform price(s) applicable at the location of the plant(s) from which received plus 5 cents (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1121.70(e).

E. Immediately following § 1121.88, add a new centerhead and new §§ 1121.110 through 1121.122 are added as follows:

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ADVERTISING AND PROMOTION PROGRAM

§ 1121.110 Agency.

"Agency" means an agency organized by producers and producers cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1121.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1121.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1121.113(b), is authorized one Agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1121.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one Agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one Agency representative. For the purpose of the Agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1121.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the Agency representatives.

§ 1121.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1121.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of the section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative, who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1121.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order and annually thereafter the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for Agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1121.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1121.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1121.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1121.110 and 1121.117.

§ 1121.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business,

(b) programs and projects pursuant to §§ 1121.110 and 1121.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1121.117 Advertising, research, education, and promotion program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1121.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1121.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or

for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1121.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of wilful misconduct, gross negligence, or those which are criminal in nature.

§ 1121.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1121.121 Duties of the market administrator.

Except as specified in § 1121.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1121.113(c).

(b) Set aside the amounts subtracted under § 1121.71(c-1) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1121.71(c-1).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1121.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1121.71(c-1) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1121.110 through 1121.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1121.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1121.83.

PROPOSED BY THE DAIRY DIVISION, AGRICULTURAL MARKETING SERVICE

PROPOSAL NO. 2

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, Post Office Box 10738, Houston, TX 77018, or from the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

Signed at Washington, D.C., on November 20, 1972.

JOHN C. BLUM,
Deputy Administrator, Regulatory Programs.

[FR Doc. 72-20278 Filed 11-22-72;8:52 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[24 CFR Part 1270]

[Docket No. R-72-218]

LOW-RENT HOUSING HOMEOWNERSHIP OPPORTUNITIES

Turnkey III Program Description; Correction

In the FEDERAL REGISTER for Saturday, November 4, 1972, the following changes should be made:

1. On page 23554, § 1270.101, paragraph (b)(2)(ii), 6 lines from end of paragraph, the word "schedule" should be added after the words "each purchase price".

2. On page 23559, § 1270.113, paragraph (a)—the fifth line now reads: "1270.107(d)" and should read "1270.107(l)" (letter (l) rather than (d)).

R. C. VAN DUSEN,
Under Secretary of Housing and Urban Development.

[FR Doc.72-20182 Filed 11-22-72;8:47 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-SO-115]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Rome, Ga., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented

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during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, Ga.

The Rome transition area described in § 71.181 (37 F.R. 2143) would be amended as follows:

"• • • 12-mile radius area to the VOR • • •" would be deleted and "• • • 12-mile radius to the VOR; within a 9.5-mile radius of Tom B. David Field, Calhoun, Ga. (Lat. 34°27'18" N., Long. 84°56'24" W.); excluding the portion within the Dalton, Ga., transition area • • •" would be substituted therefor.

The proposed alteration is required to provide controlled airspace protection for IFR operations at Tom B. David Field, Calhoun, Ga. A prescribed instrument approach procedure to this airport, utilizing the McDaniels (private) VOR, is proposed in conjunction with the alteration of this transition area.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on November 13, 1972.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.72-20165 Filed 11-22-72;8:45 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 72-26; Notice 1]

MOTOR VEHICLE SAFETY STANDARDS

Advance Notice of Requirements for Foam-Filled Tires

This is an advance notice of proposed rule making, to advise the interested public that the NHTSA is considering amending Motor Vehicle Safety Standard No. 109, "New Pneumatic Tires" (49 CFR 571.109) and proposed Standard No. 119, "Tires for Vehicles other than Passenger Cars" (37 F.R. 13481, July 8, 1972) to specify labeling requirements for tires filled with cellular foam. A more specific notice of proposed rule making will be issued, with opportunity for comment, before the final rule is promulgated.

This agency has determined that although foam-filled tires contain material in addition to "the gas or fluid that sustains the load" as specified in S3 of Standard No. 109, they should be considered "pneumatic tires" for the purposes of the application of Federal standards. The reasons for this decision are the fact that their foam filling contains a substantial proportion of gas under pressure, and their general similarity to conventional tires in regard to appearance, use, and load-deflection characteristics. The NHTSA has also concluded that these tires have desirable performance capabilities and should be available to the public, subject to conditions to insure their safe use, for the special purposes for which they are designed.

Requirements for specific labeling are under consideration, to be molded into or onto a tire that has been filled with cellular synthetic rubber or similar foam-type material. This proposed labeling appears to be necessary, because the heat-generating properties of the cellular material require speed restrictions on the tire based on the intended usage. Comments are requested, therefore, regarding the content and methods of labeling of foam-filled tires. Comments are also requested on the types of materials that should be allowed in tire casings to support the load instead of "gas or fluid," and the recommended time and speed limitations, based on tire construction, simulated inflation pressure and load range, for continuous, intermittent, or emergency operations. Information from manufacturers of such tires regarding tire repair, including degree of difficulty and methods, are also requested.

Comments should refer to the docket number and be submitted to the Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted, not later than the close of business on February 21, 1973. The Administration will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

This advance notice of proposed rule making is issued under the authority of sections 103, 112, 119, and 201 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392, 1401, 1407, 1421), and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.

Issued on November 16, 1972.

ROBERT L. CARTER,
Associate Administrator, Motor Vehicle Programs.

[FR Doc.72-20206 Filed 11-20-72;11:54 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

CAPTAN

Proposed Tolerance for Pesticide Chemicals in or on Raw Agricultural Commodities

Dr. C. C. Compton, Interregional Research Project No. 4, State Agricultural Experiment Station, Rutgers University, New Brunswick, N.J. 08903, on behalf of the Agricultural Experiment Station of Hawaii submitted a petition (PP 2E1215) proposing establishment of a tolerance for residues of the fungicide captan (*N*-trichloromethylthio-4-cyclohexene-1, 2-dicarboximide) in or on the raw agricultural commodity taro at 0.25 part per million.

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The fungicide is useful for the purpose for which the tolerance is proposed.
2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.
3. The proposed tolerance will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), it is proposed that § 180.103 be amended by revising the introductory paragraph and by inserting a new paragraph after the paragraph "2 parts per million in or on beets • • •", as follows:

§ 180.103 Captan; tolerances for residues.

Tolerances for residues of the fungicide captan (*N*-trichloromethylthio-4-cyclohexene-1,2-dicarboximide) in or on the raw agricultural commodities from preharvest and postharvest uses or combinations of such uses are established as follows:

• • • • •

0.25 part per million in or on taro (corm).

• • • • •

Any person who has registered or submitted an application for the registration of an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act containing any of the ingredients listed herein may request, within 30 days after publication hereof in the FEDERAL REGISTER, that this proposal be referred to an advisory committee in accordance with section 408(e) of the act.

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Environmental Protection Agency, Room 3902A, Fourth and M Streets SW., Waterside Mall, Washington, D.C. 20460, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. All written submissions made pursuant to this proposal will be made available for public inspection at the office of the Hearing Clerk.

Dated: November 16, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-20175 Filed 11-22-72;8:46 am]

FEDERAL MARITIME COMMISSION

[46 CFR Part 547]

[Docket No. 72-54]

NATIONAL ENVIRONMENTAL POLICY ACT OF 1969
Implementation Procedures; Comments

Good cause appearing, the notice of proposed rule making in this proceeding is hereby amended to require Hearing Counsel to reply to comments and allow commentors to answer Hearing Counsel's reply, by adding after the final paragraph the following:

The Federal Maritime Commission, Bureau of Hearing Counsel, shall participate in the proceeding and shall file reply to comments on or before December 11, 1972, serving an original and 15 copies on the Federal Maritime Commission and one copy on each party who filed written comments. Answers to Hearing Counsel's replies shall be submitted to the Federal Maritime Commission on or before December 20, 1972.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-20215 Filed 11-22-72;8:50 am]

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Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[M 070204]

MONTANA

Notice of Termination of Proposed Withdrawal and Reservation of Lands

NOVEMBER 16, 1972.

Notice of a Bureau of Reclamation, Department of the Interior, application M 070204, for withdrawal and reservation of lands for military purposes, was published as FEDERAL REGISTER Document No. 65-5813, on page 7401 of the issue for June 4, 1965. The applicant agency has canceled its application insofar as it involved the lands described below. Therefore, pursuant to the regulations contained in 43 CFR, Group 2300, such lands will be, at 10 a.m., December 26, 1972, relieved of the segregative effect of the above-mentioned application.

PRINCIPAL MERIDIAN, MONTANA

PUBLIC DOMAIN LANDS

T. 6 S., R. 9 W.,
Sec. 7, $NE\frac{1}{4}$;
Sec. 8, $SW\frac{1}{4}NE\frac{1}{4}$, $SW\frac{1}{4}$, and $NW\frac{1}{4}SE\frac{1}{4}$;
Sec. 17, $NW\frac{1}{4}NW\frac{1}{4}$; and
Sec. 18, $N\frac{1}{2}NE\frac{1}{4}$.

BEAVERHEAD NATIONAL FOREST LANDS

T. 4 S., R. 10 W.,
Sec. 18, $SW\frac{1}{4}SE\frac{1}{4}$;
Sec. 19, $W\frac{1}{2}NE\frac{1}{4}$, $N\frac{1}{2}SE\frac{1}{4}$, and $SE\frac{1}{4}SE\frac{1}{4}$;
Sec. 20, $SW\frac{1}{4}SW\frac{1}{4}$;
Sec. 29, $NW\frac{1}{4}NW\frac{1}{4}$, $N\frac{1}{2}SW\frac{1}{4}$, and $SE\frac{1}{4}SW\frac{1}{4}$;
Sec. 30, $NE\frac{1}{4}$, $E\frac{1}{2}NW\frac{1}{4}$, $NE\frac{1}{4}SW\frac{1}{4}$, $N\frac{1}{2}SE\frac{1}{4}$; and
Sec. 32, $W\frac{1}{2}E\frac{1}{2}$ and $E\frac{1}{2}W\frac{1}{2}$.
T. 5 S., R. 10 W.,
Sec. 5, lots 1 and 2, and $SW\frac{1}{4}NE\frac{1}{4}$.
The areas described aggregate 1,762.14 acres.

LEIGH W. FREEMAN,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.72-20223 Filed 11-22-72;8:51 am]

Bureau of Reclamation

ENVIRONMENTAL STATEMENT

Instructions for Preparation

On January 25, 1972, the Bureau of Reclamation published procedures (37 F.R. 1126) to implement the policy and directives of section 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 91-190, 83 Stat. 852, January 1, 1970); section 2(f) of Executive Order 11514; the guidelines issued by the Council on Environmental Quality (36 F.R. 7724, April 23, 1971); Office of Management and Budget Bulletin No. 72-6; and Departmental Manual Chapter 516.2.

These procedures have been revised to describe the use of negative determination statements, to require public hearings on environmental statements, to cover changes in project plans or design after the final environmental statement has been filed, and to include several modifications of internal procedures.

The revised procedures are published in Reclamation Instructions Chapter 376.5 entitled "Statement of Environmental Impact." The numbering system used is that of Reclamation Instructions.[1]

Dated: November 16, 1972.

W. H. KEATING,
Acting Commissioner.

[Series 350 General Instructions]

RECLAMATION INSTRUCTIONS—PART 376 ENVIRONMENTAL QUALITY—PRESERVATION AND ENHANCEMENT

CHAPTER 5—STATEMENT OF ENVIRONMENTAL IMPACT

.1 *Requirement.* This chapter sets forth requirements and procedures for preparing and processing statements of the environmental impact of Bureau activities. These instructions implement applicable provisions of section 102(2)(C) of the National Environmental Act of 1969 (Public Law 91-190, 83 Stat. 852, January 1, 1970), hereafter referred to as the Act; section 2(f) of Executive Order No. 11514 (March 5, 1970); and guidelines issued by the Council on Environmental Quality (36 F.R. 7724, April 23, 1971), Office of Management and Budget Bulletin No. 72-6, and Departmental Manual Part 516.

The Act requires that environmental statements be prepared and submitted with every recommendation or report on proposals for legislation and for other major Federal actions significantly affecting the quality of the environment. Environmental statements are required for proposed actions with major environmental impacts or which are or may be highly controversial.

Each Reclamation activity that authorizes or otherwise provides for modification of the environment, including the legal and administrative protection afforded to it, must be carefully analyzed and assessed in regard to its environmental impact. Environmental statements will be submitted to the Council on Environmental Quality (CEQ) on all legislation or other proposed major actions which may result in significant changes in the quality of the environment. The study and analysis supporting each environmental statement will utilize a systematic interdisciplinary approach that draws heavily on the natural and social sciences, the environmental design arts, and current evaluation procedures.

.2 *Applicability—A. Actions initiated after January 1, 1970.* All Bureau activities after the effective date of the Act (January 1, 1970) which significantly affect the environment, either by modifying it or by changing its legal or administrative protection, are subject to the provisions of this chapter. If a feasibility report enviromental statement has not been prepared, an environmental statement shall be prepared for the definite plan report. Where the feasibility report environmental statement has been prepared, individual feature statements will be required only when it is not adequately covered in the overall environmental statement, or is materially changed from the planning report.

B. *Actions initiated before January 1, 1970.* The provisions of this chapter apply to continuing major Bureau actions having a significant effect on the environment even though they arise from projects or programs initiated prior to enactment of the Act.

Where it is not practicable to reassess the basic course of action, continuing major actions must be shaped to minimize adverse environmental consequences. It is also important in continuing actions that account be taken of environmental consequences not fully evaluated at the outset of the project or program. Ongoing programs or uncompleted features of projects which were authorized prior to January 1, 1970, must be reconsidered to determine whether they constitute major Federal actions significantly affecting the environment. If the ongoing program or uncompleted feature of a project has significant environmental impact, alternatives must be considered and an environmental statement must be prepared.

It is essential that the Act be applied as effectively as possible. The application may require alterations in features of the project to which resources have not yet been unalterably committed. The ongoing program or uncompleted feature of a project need not be stopped or delayed pending preparation of the statement. However, if an ongoing project entails individual major features or separable operating entities not yet authorized or not yet funded for start of construction, an environmental statement is necessary if it is determined that any of the incremental features have a significant environmental impact.

In deciding between an overall project environmental statement or an individual feature environmental statement, the rule to apply is that the overall project environmental statement is preferred.

C. *Major Federal actions having minimal environmental impact.* If the environmental impact of a major Federal action is expected to be insignificant, a negative determination statement may be prepared. The purpose of the negative determination statement is to include in the written record evidence that the proposed action was evaluated and a determination made as to the significance of the environmental impact. The determination should be based on the information developed during the preconstruction or preoperation studies and coordinated with local, State, or Federal agencies, as appropriate.

D. *Changes after filing a final statement.* When, following the filing of a final environmental statement with CEQ, additional information comes to light or changes occur in project plans or design, action as follows is required according to the nature of the resulting environmental impact:

[1] Included in the Reclamation Instructions Chapter, but not published in this notice, are various format and tabular illustrations.

Nature of impact	*Action required*
(1) Environmental impact of change is insignificant.	Prepare a negative determination statement (see .12E).
(2) Environmental impact is significant; net effect on project's environmental impact is essentially unchanged.	Process a supplement to final environmental statement (see .4F).
(3) Environmental impact is significant; changes the magnitude of impact of a segment of the project.	Prepare new draft environmental statement for affected segment of the project.
(4) Environmental impact is significant; changes the magnitude of impact of the overall project.	Prepare new draft environmental statement for the project.

.3 *Purpose of statement.* The environmental impact statement provides a means for giving environmental impact careful and appropriate review in the decisionmaking process. Environmental statements summarize the salient features of a proposed project or action program. They describe the environmental setting and provide concise, factual information concerning "Alternatives to the Proposed Action" where unresolved environmental issues are raised. The environmental statement must have sufficient detail to allow responsible officials to understand the effects of a proposed action and to make accurate decisions regarding protection and enhancement of environmental values. The statement should reflect the measures taken to create and maintain conditions under which man and nature can exist in productive harmony.

.4 *Definitions—A. "Major Federal actions significantly affecting the quality of the human environment"* (quoted from the Act) is to be construed with a view to the overall "cumulative impact" of the action proposed, and of further actions contemplated. Such actions may be "localized in their impact," but, if the components of the environment or its uniqueness may be significantly affected, the statement is to be prepared.

Significant effects include those that degrade or enhance the quality of the environment; curtail or extend the range of beneonment; curtail or extend the range of beneficial uses of the environment; or serve short-term, to the disadvantage of long-term, environmental goals. Significant effects can also include actions which may be both beneficial and detrimental. Significant effects on the quality of the human environment include impacts that directly and indirectly affect human beings.

B. *Draft environmental statement.* This document, to be as complete as possible, is circulated to Federal, State, and local agencies and to any public or private entity having an expressed interest, for their review and comment as to its accuracy and completeness. It should accompany a proposed action document through the Bureau's review process. It may be circulated concurrently with the review process as long as final decisions are not made prior to Departmental clearance or the Final Environmental Statement (see .4C below).

C. *Final environmental statement.* This should be complete in all elements and must incorporate review comments, including discussions of unresolved issues. A copy of the review comments of each agency and interested party is included with the Final Environmental Statement (see Appendix A-7). The final environmental statement should accompany a proposed action document through the Department's final decisionmaking process.

D. *Lead Agency.* "Lead Agency" is the Federal agency having primary authority for committing the Federal Government to a course of action. An "agency" is usually thought to mean the Departmental level. The definition of "lead bureau" within an "agency" would be identical to that of "lead agency." Where the authority of agencies or bureaus is more or less equal, the consequences are major for each, a determination will be sought by the Office of the Commissioner through the Assistant Secretary—Program Policy.

E. *Negative determination.* This is a written document (see .14) which:

(1) May be prepared following an environmental assessment of an anticipated major Federal action, where it has been determined that the action would not significantly affect the human environment; or

(2) Supports a major deviation from an action already covered in a final environmental statement, which does not result in a significant impact.

.5 *Responsibility.* Responsibility with regard to environmental statements follows the delineation of functional responsibilities in DM 155 (included in the Bureau's Executive Manual as D155) and the following:

A. *Regions and E&R Center.* (1) Regional Directors, the Chief Division of Atmospheric Water Resources Management, the Chief, Division of General Research, and the Chief, Western U.S. Water Plan, each within his area of principal functional responsibility, determine the need for and prepare an environmental statement, supplements to a final environmental statement, or a negative determination.

(2) The E&R Center divisions, under the coordination of Code 800, review draft environmental statements directed to them and assist the regions, when requested, by providing information for environmental statements.

B. *Office of the Commissioner.* (1) The division of functional concern in the Office of the Commissioner is responsible for review and processing of environmental statements.

(2) The Office of Assistant to the Commissioner—Ecology provides coordination and advice on environmental statements, and responds to requests from other agencies and individuals for copies of Reclamation environmental statements.

.6 *Bureau actions requiring environmental statements.* Bureau plans and actions of the following types may require environmental impact statements. This list is, in itself, neither mandatory nor all inclusive, and the responsible official must base his judgment on the criteria in .7 below.

A. Recommendations or favorable reports to the Congress relating to legislation that changes the legal or administrative status afforded to the environment and legislation relating to appropriations for programs or projects that result in significant impact on the environment.

B. Projects, programs, and continuing activities including research:

(1) Directly undertaken by the Bureau of Reclamation.

(2) Supported in whole or in part through Federal contracts, grants, subsidies, loans, or other forms of financial assistance.

(3) Involving a Federal lease, permit, license, certificate, or other entitlement for use.

C. Recommendation or adoption of policies, principles, standards, procedures, regulations, and plans which affect the environment through changes in management, operation or maintenance of facilities or which modify the legal or administrative protection afforded environmental resources.

D. Actions relating to natural or cultural resources:

(1) Acquisition or disposal of the resources.

(2) Regulation, permission, prohibition, or other institutional control of their use.

(3) Their operational or physical management.

(4) Construction or operation of various structures to manage them.

(5) Recommendations of comprehensive, program, or project plans for their management for which immediate authorization is anticipated based on recommendations made.

E. Activities that will significantly affect the following will require an environmental statement:

(1) Rare or endangered species—plant, animal, or fish.

(2) Formally classified areas such as Wilderness Areas, Primitive Areas, Wild and Scenic Rivers, National Recreation Areas, Scenic Areas, Historical Areas, Archeological Areas, Geological Areas, National Trails, National Wildlife Refuges, State Wildlife Refuges or Management Areas, parks or similar locally designated areas, and areas being studied for classification for such purposes.

(3) Municipal watersheds.

(4) Reservoir operation (major changes).

(5) Large roadless areas.

(6) Scenic attractions.

(7) Wetlands and estuaries.

(8) Free-flowing streams or major changes in regulated streams.

(9) Air quality.

(10) Water quality.

(11) Key wildlife or fish habitat.

F. Planning Federal water and related land resources projects and programs. Examples: irrigation, municipal and/or industrial water, hydroelectric projects, and atmospheric water resources management programs.

G. Research or investigations where the on-the-ground tests involve treatment or modification of natural resources.

H. Construction activities on Federal water and related land resources projects and programs. Examples: Irrigation, municipal and/or industrial water; hydroelectric projects which have not been covered by a prior environmental statement, or where there has been a major change in design from that presented in the authorization report and environmental statement accompanying that report; and major new transmission lines or transmission line relocations.

I. Other activities such as:

(1) Changes in river operation or reservoir operation procedures.

(2) Major dam modification programs.

(3) Major canal modification programs.

(4) Vegetative management programs.

(5) Major acquisition leases, exchanges, or disposals of lands.

(6) Major public service developments, such as recreation facilities developed after the initial construction period.

(7) Major powerplant modification programs.

.7 *General criteria.* The following criteria as they pertain to effects on the environment should be applied in determining whether a statement is required:

(1) Degree of disturbance on the components of the ecosystem. Both onsite and offsite effects should be recognized.

(2) Irreversible effects on basic resources; short-term versus long-term commitments.

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(3) Cumulative effects of many small actions.

(4) Chain reactions or secondary effects of interrelated activities.

(5) Whether the action is of national, regional, or local importance.

(6) A demonstrated or proven uniqueness or rareness of the resource affected.

(7) Precedent-setting cases.

(8) Scope of anticipated public involvement and controversy anticipated.

8. *Interagency and intergovernmental coordination.* In addition to the procedures set forth herein, existing mechanisms for obtaining the views of departmental bureaus and offices and of other Federal, State, and local agencies will be utilized to the maximum extent practicable in the preparation and subsequent review of draft environmental statements. When seeking assistance and comments on such statements, the Bureau should request that the views expressed should be guided by the National Policy as expressed in Public Law 91–190 "• • • to use all practical means and measures, including financial, and technical assistance in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations of Americans."

A. *Departmental bureaus and offices.* A number of offices and bureaus within Interior may have inputs into the preparation of the draft environmental statement. Accordingly, working-level consultations will be initiated early in the development of the proposal and during the preparation of the draft environmental statement.

The draft environmental statement will be circulated for review and comments, to all Interior entities which have delegated jurisdiction or special environmental expertise. Comments received from these bureaus and offices will be attached to the final environmental statement.

The Advisory Council on Historic Preservation and the National Park Service have taken steps to implement the National Historical Preservation Act of 1966 (80 Stat. 915, 16 U.S.C. 470) and they should be consulted to determine if a National Registry property is involved in the undertaking.

B. *Other Federal agencies.* (1) Those Federal agencies having "jurisdiction by law or special expertise with respect to any environmental impact involved" or "which are authorized to develop and enforce environmental standards" must be consulted in the preparation of environmental statements. The CEQ Guidelines, section 7, set forth the agencies to be consulted and from whom formal comments will, where appropriate, be solicited in the review of the draft statement. The offices to which drafts are to be sent for official agency review and comment are listed in the CEQ Guidelines, Appendix III; except for Small Reclamation Projects Act loans which are circulated only at the regional level.

(2) The Environmental Protection Agency will be invited to review each draft statement on matters related to air or water quality standards, noise control, solid waste disposal, pesticide regulation, radiation criteria and standards, or other matters within its authority.

(3) A period of not less than 45 days will normally be established for reply, after which it may be presumed, unless an extension is requested, that the agency consulted has no comment. Whenever feasible, extensions of time of up to 15 days should be granted. In exceptional cases, where time is critical, a review time limit of 30 days may be established. A period of 45 days shall be allowed for EPA review. The review period will officially start on the date of notice of availability is published in the FEDERAL REGISTER.

C. *State and local agencies.* (1) Where no public hearing was held to invite State and local review, and where review of the proposed action by State and local agencies authorized to develop and enforce environmental standards is relevant, State and local review shall be provided as follows:

(a) For Federal water and related land resources plans, projects, and programs, review by State and local governments will be through procedures set forth by the Water Resources Council (section IIIE of Policies, Standards, and Procedures in the Formulation, Evaluation, and Review of Plans for Use and Development of Water and Related Land Resources, approved by the President on May 15, 1962, and printed as Senate Document 97, 87th Congress; Handbook for Coordination of Planning Studies and Reports, June 1969).

(b) For direct Federal development projects, including water and related land resource projects, and for projects assisted under programs listed in Attachment D of Office of Management and Budget Circular A–95, review by State and local governments will be through State and Regional or Metropolitan Clearinghouses in accordance with Circular A–95 and implementing Bureau instructions.

(c) For actions affecting the cultural or historic components of the environment, review by State and local agencies will be through procedures set forth by the Advisory Council on Historic Preservation (36 F.R. 3310), and draft environmental statements will reflect consultations with the State Liaison Officer for Historic Preservation and with the State Archeologist.

(d) For actions having an impact on Indian lands or communities, review by State and local agencies will also include review by local Indian tribal governing bodies.

(2) Where the procedures in C(1) above are not appropriate, review and comment by State and local agencies authorized to develop and enforce environmental standards may be obtained by distributing the draft environmental statement to the appropriate State or Regional or Metropolitan Clearinghouses, unless the Governor of the State has designated some other point for obtaining this review.

(3) Clearinghouse procedures allow State and local agencies 30 days for initial comment, with an extension of 30 days upon request. The review period will officially start on the date the Notice of Availability is published in the FEDERAL REGISTER.

D. *Special situations.* When a proposed grant, leasing, or similar program does not entail approval by other agencies, the views of Federal, State, and local agencies in the legislative, and possibly the appropriation, process may have to suffice. The principle to be applied is to obtain views of other agencies at the earliest feasible time in the development of program and project proposals.

.9 *Public participation and availability of statements.* The public must be provided timely information and material sufficient for an understanding of plans and programs with their environmental impact in order to obtain the views of interested parties. The public must also be provided information on alternative courses of action.

A. *Public hearings.*—(1) *Requirement.* Public hearings shall be held in connection with proposed major Federal action significantly affecting the environment, except when:

(a) The draft environmental statement covers a legislative action; or

(b) The Commissioner determines that a public hearing is not warranted because of emergency circumstances, overriding considerations of expense to the Government, or impaired program effectiveness.

(2) *Timing.* The public hearing will be held either: (a) To gather information for the preparation of a draft environmental statement or (b) in conjunction with the release of a draft environmental statement for official use. If (b), the statement shall be made available to the public at least 30 days before the hearing date.

(3) *Hearing procedures.* Hearings shall be planned and conducted in accordance with 455 DM 1 (see Appendix D–1).

(4) *Public notices.* Notice of hearings will include publication in the FEDERAL REGISTER no less than 30 days before the hearing date and such other notice as the Regional Director or responsible E&R Center official deems appropriate. An original and 5 copies of the FEDERAL REGISTER Notice of Public Hearing (see Appendix D–2 for sample Notice) will accompany the 100 copies of the draft environmental statement (Step 4, Appendix C).

The Notice of Public Hearing will be sent to the FEDERAL REGISTER by the Commissioner following notification that the draft environmental statement has been sent to CEQ by the Department. If the Bureau has requested assistance with the hearing from the Office of Hearings and Appeals:

(a) The Office of the Commissioner will submit the Notice to the Office of Hearings and Appeals for approval before publication; and

(b) The Regional Director, or other appropriate official, will send 30 copies of the printed Notice to the representative of the Office of Hearings and Appeals for his use prior to the hearing.

(5) *Records.* The final environmental statement will be revised and expanded to accommodate the comments received at the public hearing. The transcript and written comments generated by the public hearing will be available for public inspection at the locations in .9B below, but will not be attached to the final environmental statement. A summary of the main points raised in the public hearing, together with a discussion of how the comments were handled, will appear in the Consultation and Coordination part of the final environmental statement.

B. *Public inspection.* A complete record of a public hearing, negative determination, draft, and final environmental statement, including required attachments (see Appendix A–7), will be available for public inspection at the following locations:

(1) The Department's Office of Communications (for statements considered especially newsworthy by the Director of Communications; otherwise that office will assist the public in locating and inspecting such statements).

(2) Office of Assistant to the Commissioner—Ecology. (This office also maintains review comments and a complete record of hearings.)

(3) Division of Engineering Support, Technical Services Branch, E&R Center. (This office also maintains review comments and a complete record of hearings.)

(4) Any involved regional office. (The involved regional office also maintains review comments and a complete record of hearings.)

(5) Involved field offices as appropriate. (Those offices with primary involvement maintain review comments and a complete record of hearings.)

(6) State and Regional or Metropolitan Clearinghouses, where appropriate.

(7) A local public meeting place, such as a county courthouse or public library, in the immediate vicinity of the proposed action, where appropriate.

C. *Charges for copies.* Whenever possible, copies of draft and final environmental statements, including required attachments, will be made available to the public at no cost. In those cases where the cost of reproduction of such statements is prohibitive, or when an unreasonably large number are requested by a single entity, the public may be charged a fee no greater than the incremental cost of reproduction (43 CFR 2.3).

D. *Notifying the public.*—(1) *Federal Register publication.* Notices of availability of draft and final environmental statements will be made in the FEDERAL REGISTER at the time of transmittal of the statement to CEQ. Format is shown in Appendix B.

(2) *Local mailing list.* Regional Directors and the Division of Engineering Support, Technical Services Branch, E&R Center, will develop and maintain a mailing list of local environmental, conservation, and other groups who have expressed an interest in reviewing draft environmental statements during the concurrent review process.

(3) *News releases.* News releases at the Commissioner, regional, and/or E&R Center levels will be made when appropriate with respect to the draft and final environmental statement.

.10 *General Procedures—A. Administrative Action (see .13 Appendix C).* (1) Administrative actions are defined as any proposed action subject to section 102(2)(C) of the Act other than proposals for legislation to the Congress or reports on legislation. (Examples: Planning report process on projects that will make a significant impact on the environment; award of contracts on actions that make a significant impact on the environment.)

(2) To the maximum extent practicable, no action is to be taken before the expiration of 90 days after a draft environmental statement has been furnished to CEQ, circulated for comment, and publicly announced in the FEDERAL REGISTER, whichever is later.

(3) To the maximum extent practicable, no action is to be taken sooner than 30 days after a final environmental statement has been made available to CEQ and to the public, and a Notice of Availability has been published in the FEDERAL REGISTER. If the final statement is filed within the 90-day period in (2) above, the two periods may run concurrently to the extent that they overlap.

(4) Where, in the opinion of the Commissioner, emergency circumstances which override considerations of expense to the Government or impaired program effectiveness make it necessary to take an action having significant environmental impact without observing the time limitations in (2) and (3) above, the Commissioner will consult with the Assistant Secretary—Program Policy, who will in turn consult with CEQ, concerning alternative arrangements.

B. *Legislative proposals and favorable reports on legislation.* (Also see Appendix C.) (1) The Bureau is responsible for preparing environmental statements for its legislative proposals which have significant impact upon the environment, and for any necessary consultations with appropriate Federal, State, and local agencies in the course of preparing and reviewing such statements. State and local agency consultations are not required unless there is a specific impact in the jurisdiction of a State or local agency.

(a) Information copies of approved draft or final environmental statements will accompany all such legislative proposals when submitted by the Bureau to the Legislative Counsel for circulation within the Department, and will be circulated with such proposals.

(b) Information copies of approved draft or final environmental statements will accompany the Legislative Counsel's submittals of such legislative proposals to OMB for clearance.

(2) In referring introduced legislation to the Bureau of Reclamation for comment, the Legislative Counsel, in consultation with the Assistant Secretary—Program Policy, will indicate whether an environmental statement will be required in the event of a proposed favorable report; and, if required, will designate the bureau or office responsible for its preparation.

(a) If Reclamation is designated to prepare the environmental statement, the Bureau will submit the proposed draft environmental statement to the Legislative Counsel along with comments on the introduced legislation. This proposed draft environmental statement will accompany the proposed favorable report on its "2-day wait" period within the Department.

(b) The approved draft environmental statement will be circulated by Reclamation for official review and comment at the same time that the Legislative Counsel submits the Department's proposed favorable report, accompanied by information copies of the statement, to OMB for clearance. The Assistant Secretary—Program Policy will clear the statement, assign a control number, date it, and transmit 10 copies to CEQ prior to Reclamation sending it out for review and comment. No FEDERAL REGISTER notice is required.

(3) Final environmental statements for legislative proposals and for favorable reports on legislation, and draft environmental statements, where appropriate under Section 10(c) of the CEQ Guidelines, will be sent to the Congress by the Legislative Counsel. Reclamation will transmit 15 copies through the Assistant Secretary—Water and Power Resources, to the Assistant Secretary—Program Policy, who will endorse the statement, number and date it, and transmit copies to CEQ and the Director of Communications. A FEDERAL REGISTER notice is required.

(4) The Legislative Counsel may permit deviation from the above procedures if undue delay in the presentation of Departmental views to the Congress would result.

C. *Annual budget estimates.* (1) Environmental statements and summary lists for annual budget estimates shall be handled in accordance with OMB Bulletin 72–6 and Appendix C of this chapter, as modified below.

(2) Draft environmental statements for projects and programs included in annual budget estimates will be prepared and circulated for review and comment by August 1 of the fiscal year preceding the year under consideration. The draft statements to be circulated should therefore be based on the proposed program used in the spring review and the environmental statement information would be available for the Annual Program Conference. When the Presidential allowances are known, the Office of the Commissioner will notify the Regional Director or the Division Chief in the E&R Center of the final environmental statements which will be needed for transmittal to the Congress and CEQ prior to Congressional hearings.

(3) Final environmental statements for projects and programs included in the budget will be transmitted to the Congress by the Assistant Secretary—Management and Budget and to CEQ by the Assistant Secretary—Program Policy following the President's budget transmittal to the Congress and before congressional hearings.

(4) Regional Directors or the responsible E&R Center Division Chief shall furnish the following budget material in response to the annual budget call letter:

(a) A tabulation in format of Exhibit 1 to OMB Bulletin 72–6.

(b) A narrative, by appropriation, for the Bureau's Summary Statement. In the case of programs for which it is not possible to make an assessment of the potential impact on the environment, or to identify environmental statements that will be required, the narrative may include a statement about general environmental impact and the expected timing of decisions regarding the need for environmental statements.

(5) For major Federal actions which do not have a significant environmental impact, witness statements and materials furnished in response to (4) above will be supported by the documentation provided in the negative determination.

.11 *Preparation of statements.* Unless otherwise determined by the Office of the Commissioner, statements shall be prepared by an entity responsible to officials designated in .5A, who shall form a multiple-disciplinary team as may be needed for a properly balanced statement. Information helpful to the preparation of the statement may be obtained from all appropriate sources, including contractors, study reports submitted by applicants for grants, contracts, loans, leases, licenses, or permits, and study reports of bureaus or offices within the Department, other Federal agencies or States. However, the environmental statement is a Bureau of Reclamation product, and the official designated in .5A is fully responsible for its content.

Each statement shall contain the following:

(1) Cover sheet—see Appendix A–1 for draft statement; Appendix A–2 for final statement.

(2) Summary sheet—see Appendix A–3 for draft statement; Appendix A–4 for final statement.

(3) Body of the statement, containing eight sections in the order shown in Appendix A–5.

(4) Consultation and coordination with others—see Appendix A–6.

(5) Attachments—see Appendix A–7.

For cover sheet of negative determination statements, see Appendix E; for format and content of supplements to final environmental statements, see Appendixes F–1 through F–4.

Draft statements shall be double spaced and final statements shall be single spaced.

.12 *Processing environmental statements.*—A. *General.* The Regional Director or the E&R Center division chief with principal functional interest in the action should identify the stage or stages of a series of actions at which the provisions of this chapter will be applied. Environmental statements may be necessary both in the development of a national program and in the review of proposed projects within the national program. Care should be taken not to duplicate the review process, but when actions being considered differ significantly from those that have already been reviewed pursuant to this chapter, an environmental statement shall be provided.

B. *Specific procedures.* The several steps for the review, clearance, and approval of draft and final environmental statements are set forth in tabular form in Appendix C.

C. *Advance copies of statements.* Since a substantial number of copies of both the draft and the final statements is to be transmitted to Washington, it is requested that advance copies of each statement be sent to the Commissioner for final review and approval before the statement is reproduced in numbers. If during the review process, and after consultation with the Regional Director, the Commissioner determines that the environmental impact does not appear significant enough to warrant further

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processing of the environmental statement, he will notify the responsible office to modify the heading. Include a section on the basis for the negative determination, and process it as a negative determination.

Advance copies should also be sent to the E&R Center, Code 800, for review and comment, and to the respective Regional Solicitor's office for information.

D *Federal agencies having jurisdiction by law or special expertise.* The Federal agencies to which statements are to be referred in accordance with Appendix C, Steps 8 and 28, include the following:

Department of Agriculture—Office of the Secretary.
Department of Commerce—Deputy Assistant Secretary for Environmental Affairs.
Department of Defense—Assistant Secretary for Defense.
Department of Health, Education and Welfare—Assistant Secretary for Health and Science Affairs.
Department of Housing and Urban Development (HUD has delegated review authority to its regional offices).
Department of State—Special Assistant to the Secretary for Environmental Affairs.
Department of Transportation—Assistant Secretary for Environmental and Urban Systems.
Atomic Energy Commission—Director, Office of Environmental Affairs.
Federal Power Commission—Commission's Adviser on Environmental Quality.
Environmental Protection Agency (EPA has delegated review authority to its regional offices).
Office of Economic Opportunity—Director.
Department of the Army—Executive Director of Civil Works, Office of the Chief of Engineers.

E. *Supplement to final environmental statement.* The supplement will be processed the same as a final environmental statement, with copies distributed to recipients of the final statement. Implementation of the proposal must be withheld for 30 days following the filing of the supplement on the affected portion of the proposed work. (See Appendixes F-1 through F-4 for format and content of supplement.)

.13 *Special requirements of reclamation programs—A. Planning reports—(1) Feasibility reports.* (a) The Regional Director's proposed and final feasibility reports shall contain a chapter on environmental aspects associated with the proposal. The chapter should contain environmental information not available elsewhere in the report and should include the following four basic areas:

Environmental impacts.
Adverse environmental effects.
Short- and long-term environmental uses.
Irreversible and irretrievable commitments of resources.

Mitigation measures or alternatives and their environmental impacts should be discussed if not covered elsewhere in the report; also, alternatives beyond the normal scope of the Bureau, such as desalting and plans by other agencies. This chapter should be more detailed than the environmental statement and at least equal in scope to other sections of the report.

(b) A proposed draft environmental statement shall accompany the Regional Director's proposed feasibility report when it is transmitted for field level review. The proposed draft does not have to be cleared through the Department before it is sent for field level review. The Commissioner will send an information copy of the proposed report and draft environmental statement to the Assistant Secretary—Program Policy and CEQ.

(c) The Regional Director's feasibility report when transmitted to the Commissioner shall be accompanied by a draft environmental statement. This draft statement will accompany the Secretary's proposed planning report when the Bureau sends it, on behalf of the Secretary of the Interior, for review by the States and Federal agencies. The draft statement also will be sent to local agencies, conservation/environmental groups, and the public. At that time it will also be sent to other bureaus and offices within Interior. Concurrently, copies of the draft environmental statement will be sent to the Council on Environmental Quality by the Assistant Secretary—Program Policy, and a notice of availability will be published in the FEDERAL REGISTER.

The final environmental statement will accompany the Secretary's final planning report when it is sent to the President for advice as to the relationship of the proposal to his program. At that time, the final environmental statement will be sent by the Assistant Secretary—Program Policy to the Council on Environmental Quality and a notice published in the FEDERAL REGISTER.

(2) *Reconnaissance and definite plan reports.* Environmental statements shall accompany significant favorable reconnaissance reports as determined by the Regional Director in consultation with the Office of the Commissioner. Environmental statements should not accompany definite plan reports if an adequate environmental statement was prepared for a feasibility report and the plan has not changed significantly since the feasibility report. Both reconnaissance and definite plan reports will have an environmental impact chapter at least equal in scope to other sections of the report (see (1) above for coverage).

B. *Small reclamation projects loan applications.* Processing of environmental statements for Small Reclamation Projects Loan Program will generally follow the procedures in Appendix C, with the following modifications. Loan applicants will prepare an environmental impact study report in consultation with appropriate Federal, State, and local agencies. The draft environmental statement will be prepared by the Regional Director using the study report as appropriate, and advance copies will be furnished the E&R Center and the Commissioner for review and approval before reproduction.

In Appendix C, Step 4, only 50 copies of environmental statements for loan applications should be sent to the Commissioner, attention 700. After clearance by the Assistant Secretary—Program Policy, the control number and date will be furnished the Regional Director for concurrent distribution of the draft statement.

The distribution and review called for in Appendix C, Steps 8 to 10, should be modified as necessary to follow procedures applicable to the loan program. Comments on the draft environmental statement will be requested by the Regional Director from the Washington-level bureaus within the Department of the Interior and other Washington-level Federal agencies. The regional office should contact the State Liaison Officer in the affected State to determine if properties are being considered for nomination to the National Register of Historic Places.

The procedures with respect to comments and the final environmental statement are the same as in Appendix C, except Step 28 which will be done by the Regional Director.

.14 *Negative Determination Statements—A. Content.* Appendix E illustrates the format and content of a negative determination statement.

B. *Processing.* The initiating office (see .5A(1) above) will send an original and four copies of the negative determination statement to the Commissioner, with a copy to Washington, Code 150, and two copies to E&R Center, Code 800.

Before initiating a major Federal action, as covered in the negative determination, the Commissioner's signature shall be obtained on the original statement.

The Washington divisions will process determinations for the Commissioner. The Assistant to the Commissioner-Ecology will number negative determinations and will maintain a record of those concurred in by the Commissioner.

C. *Availability.* Negative determination statements will be available for public inspection (see .9B above) but will not be circulated for review and comment nor processed through the Department to CEQ. Environmental studies or assessments leading to a negative determination may be circulated for review and comment.

D. *Rescission.* The initiating office, in consultation with the Office of the Commissioner, may rescind a negative determination and prepare and process an environmental statement if in its judgment significant impacts have been identified which were not previously considered.

[FR Doc.72-20180 Filed 11-22-72;8:46 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

FRESH PEACHES GROWN IN GEORGIA

Order Directing That Referendum Be Conducted; Designation of Referendum Agent To Conduct Such Referendum; and Determination of Representative Period

Pursuant to the applicable provisions of Marketing Agreement No. 99, as amended, and Order No. 918, as amended (7 CFR Part 918), and the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601–674), it is hereby directed that a referendum be conducted among the growers who, during the period January 1, 1972 through October 31, 1972 (which period is hereby determined to be a representative period for the purpose of such referendum), were engaged, in Georgia, in the production of peaches for market to determine whether such growers favor the termination of the said amended marketing agreement and order. M. F. Miller of the Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Post Office Box 9, Lakeland, FL 33802, is designated as the referendum agent to conduct said referendum.

The procedure applicable to the referendum shall be the "Procedure for the Conduct of Referenda in Connection with Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" (7 CFR 900.400 et seq.).

Copies of the text of the aforesaid marketing order may be examined in the office of the referendum agent or of the Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Ballots to be cast in the referendum may be obtained from the referendum agent and any appointee hereunder.

Dated: November 17, 1972.

RICHARD E. LYNG,
Acting Secretary.

[FR Doc.72-20187 Filed 11-22-72;8:47 am]

Agricultural Stabilization and Conservation Service

[Docket No. SH-312]

SUGAR BEET PRODUCING AREA

Notice of Hearings on Wages and Prices, and Designation of Presiding Officers

Pursuant to the authority contained in sections 301(c)(1) and 301(c)(2) of the Sugar Act of 1948, as amended (61 Stat. 929; 7 U.S.C. 1131), and in accordance with the rules of practice and procedure applicable to wage and price proceedings (7 CFR 802.1 et. seq.), notice is hereby given that public hearings will be held as follows:

At Ann Arbor, Mich., on December 4, 1972, at the Howard Johnson Motor Lodge, 2380 Carpenter Road, beginning at 9:30 a.m.;

At Fargo, N. Dak., on December 6, 1972, in the Center Ball Room of the Holiday Inn, I–29 and 13th Avenue South, beginning at 2 p.m.;

At Billings, Mont., on December 8, 1972, in the Carter Room of the Northern Hotel, beginning at 9:30 a.m.;

At San Francisco, Calif., on December 11, 1972, in Room 7343, Federal Building, 450 Golden Gate Avenue, beginning at 9:30 a.m.;

At Mercedes, Tex., on December 13, 1972, in the auditorium of the Magic Valley Electric Co-op, Mile 1¾ West and Highway 83, beginning at 9:30 a.m.

The purpose of these hearings is to receive evidence likely to be of assistance to the Secretary of Agriculture in determining, (1) pursuant to the provisions of section 301(c)(1) of the act, whether the wage rates established for sugar beet fieldworkers in the wage determination which became effective April 24, 1972 (37 F.R. 7578), continue to be fair and reasonable under existing circumstances, or whether such determination should be amended; and (2) pursuant to the provisions of section 301(c)(2) of the act, fair and reasonable prices for the 1973 crop of sugar beets to be paid, under either purchase or toll agreements, by producers who process sugar beets grown by other producers and who apply for payments under the act on their own sugar beet production.

In the interest of obtaining the best possible information, all interested persons are requested to appear at one of the hearings to express their views and present appropriate data in regard to wages and prices. While testimony on all pertinent points is desired, it is especially requested that witnesses be prepared to offer information and recommendations on the following matters regarding fair wages for sugar beet fieldworkers:

I. *Hand labor operations.* Several recommendations have been made in recent years by representatives of both producers and workers. The following operations are proposed for consideration:

A. Thinning: Removing excess beets.
B. Thinning and weeding: Removing excess beets and weeds.
C. Weeding: Removing weeds, as (1) a first operation in fields that have been completely machine thinned and on which chemical herbicides have been applied, or (2) as a subsequent operation following A, B, or C(1) above.

II. *Payment of wages.* Because of difficulties which may be encountered by workers due to long intervals between wage payments, the Department is considering a proposal that the worker be paid upon completion of work on a farm or every 2 weeks, whichever occurs first.

III. *Cash advances.* In some instances, producers loan money to workers prior to their departure from their home base. These cash advances amount to as much as one-sixth of the seasonal earnings from sugar beet work. The Department is considering a proposal that any cash advances be prorated on the basis of the number of weeks during which employment is expected, and that a pro rata portion of the advance be deducted from the worker's earnings each pay period or upon completion of work on an individual farm, if sooner, until the indebtedness is satisfied. The producer and worker would be required to agree in writing on the method of prorating the deduction of advances over the employment period.

All written submissions made pursuant to this notice will be available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27 (b)).

The hearings, after being called to order at the times and places mentioned herein, may be continued from day to day within the discretion of the presiding officers and may be adjourned to a later day or to a different place without notice other than the announcement thereof at the hearings by the presiding officers.

LeoL. Sommerville, Robert R. Stansberry, Jr., James E. Agnew, Jr., Harry A. Sullivan, and William H. Ragsdale are hereby designated as presiding officers to conduct either jointly or severally the foregoing hearings.

Signed at Washington, D.C., on November 21, 1972.

KENNETH E. FRICK,
Administrator, Agriculture Stabilization and Conservation Service.

[FR Doc.72-20322 Filed 11-22-72;9:22 am]

Commodity Credit Corporation

UNRESTRICTED USE GRAIN AND SOYBEANS SALES POLICY

Proposed Determinations for the 1973–74 Marketing Year

Notice is hereby given of proposed determinations with respect to the Commodity Credit Corporation's (CCC) unrestricted use sales price policy for the 1973–74 marketing year for grain (wheat, corn, grain sorghum, barley, oats, and rye) and soybeans under the provisions of section 407 of the Agricultural Act of 1949, as amended, 7 U.S.C. 1427 prior determinations of this kind appear in 37 F.R. 13352. Section 407 provides that CCC shall not sell for unrestricted use any of its stocks of grain at less than 115 percent of the current national average loan rate, adjusted for such current market differentials reflecting grade, quality, location and other value factors as the Secretary of Agriculture determines appropriate, plus reasonable carrying charges. Section 407 provides further that sales of soybeans for unrestricted use shall not be made at less than 5 percent above its current price, plus reasonable carrying charges. Section 407 also provides for certain exemptions from these minimum pricing requirements.

Before determining the prices at which these commodities will be sold for unrestricted use, consideration will be given to any data, views, and recommendations which are submitted in writing to the Director, Grain Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. In order to permit farmers the benefit of the knowledge of CCC's pricing sales policies with respect to these commodities at the time of planning crop plantings, it is determined impracticable and contrary to the public interest to permit the normal 30-day period for submission of views. Consequently, to assure consideration, all submissions must be received not later than 15 days after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday in Room 5741, South Building, 14th and Independence Avenue SW., Washington, D.C.

Signed at Washington, D.C., on November 17, 1972.

KENNETH E. FRICK,
Executive Vice President, Commodity Credit Corporation.

[FR Doc.72-20188 Filed 11-22-72;8:47 am]

Farmers Home Administration

STATE ADVISORY COMMITTEES

Functions

The following change in item 2 under "Functions" of the State Advisory Committees, published at 37 F.R. 8124,

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amends that part pertaining to problems of agricultural credit and other needs of operators of family-type farms by further identification of the types of rural residents involved.

As amended, item 2 reads as follows:

Composition. • • •
Functions. • • •

• • • • •

2. To consider the problems and advise the State Director concerning agricultural credit and other needs of operators of family-type farms, the needs of rural residents (including minority and low-income people), and of rural communities in the State; and to suggest ways for the FHA to meet these needs more effectively.

Effective date. This amendment shall be effective upon publication in the FEDERAL REGISTER (11-23-72).

Dated: November 17, 1972.

DARREL A. DUNN,
Acting Administrator,
Farmers Home Administration.

[FR Doc.72-20227 Filed 11-22-72;8:52 am]

Rural Electrification Administration

BLUE RIDGE ELECTRIC MEMBERSHIP CORP.

Availability of Final Environmental Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Final Environmental Statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a loan application from Blue Ridge Electric Membership Corp., Post Office Box 112, Lenoir, N.C. This loan application, together with funds from other sources, includes financing for 22 miles of 230 kv. transmission line and conversion of 26.5 miles of 46 kv. line to 100 kv.

Additional information may be secured on request, submitted to the Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The Final Environmental Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue SW., Washington, DC., Room 4310 or at the borrower address indicated above.

Final REA action with respect to this matter (including any release of funds) may be taken after thirty (30) days, but only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 16th day of November 1972.

E. C. WEITZELL,
Acting Administrator, Rural Electrification Administration.

[FR Doc.72-20189 Filed 11-22-72;8:47 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. S-592]

JESS E. RICHMOND AND MARGARET H. RICHMOND

Notice of Loan Application

NOVEMBER 17, 1972.

Jess E. Richmond and Margaret H. Richmond, Route 2, Box 1908, Port Angeles, Wash. 98362, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new wood vessel, about 50-foot in length, to engage in the fishery for salmon, tuna, bottomfish, Dungeness crab, and shrimp off the coasts of Washington, Oregon, and California.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

ROBERT N. SCHONING,
Acting Director.

[FR Doc.72-20170 Filed 11-22-72;8:45 am]

[Docket No. S-593]

VERNON D. & DONNA L. PAPENFUS

Notice of Loan Application

NOVEMBER 17, 1972.

Vernon D. Papenfus and Donna L. Papenfus, 455 Ford Street SE, Salem, OR 97301, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new steel vessel, about 54-foot in length, to engage in the fishery for salmon, Dungeness crab, albacore, shrimp, and bottomfish off the coasts of California, Oregon, and Washington.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

ROBERT W. SCHONING,
Acting Director.

[FR Doc.72-20171 Filed 11-22-72;8:46 am]

[Docket No. B-549]

WALTER F. LEEMAN

Notice of Loan Application

NOVEMBER 17, 1972.

Walter F. Leeman, Box 51, Bailey Island, Maine 04003, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new fiber glass vessel, about 42 feet in length, to engage in the fishery for lobsters, groundfish (cod, cusk, haddock, hake, ocean perch, and pollock), scallops, and herring.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as maybe available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

ROBERT W. SCHONING,
Acting Director.

[FR Doc.72-20169 Filed 11-22-72;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services and Mental Health Administration

CLINICAL LABORATORIES

Notice of Determination Concerning Stringency of New York State Standards—Letters of Exemption

On April 14, 1972, the Director, Center for Disease Control, Health Services and Mental Health Administration, Department of Health, Education, and Welfare, determined that the standards provided for under the laws of the State of New York are equal to or more stringent than the provisions of the Clinical Laboratories Improvement Act of 1967, section 353 of the Public Health Service Act, 42 U.S.C. 263a, or than the rules and regulations issued thereunder (42 CFR Part 74), and so notified the Commissioner, Department of Health, State of New York. Following such notice, comments were received by the Center for Disease Control concerning the determination. The Director, Center for Disease Control, proposes to afford interested parties generally an opportunity to comment on such determination on a continuing basis. Accordingly, interested persons may, at any time, submit written comments, suggestions or objections in triplicate to the Director, Center for Disease Control, 1600 Clifton Road NE., Atlanta, GA 30333. Any comments received will be considered in the Director's review of the State standards. All comments received will be available for public inspection in Building E, Room 110, Center for Disease Control, 1600 Clifton Road NE., Atlanta, GA 30333.

Under the Clinical Laboratories Improvement Act of 1967, section 353 of the Public Health Service Act, 42 U.S.C. 263a, and the implementing regulations, 42 CFR Part 74, no person may accept human specimens, in interstate commerce for laboratory examination or other procedures, unless there is in effect a license for such laboratory issued under § 353 (or a letter of exemption for accredited laboratories, as provided in § 74.46 of Part 74, or for laboratories accepting no more than 100 specimens, in a particular category, per calendar year, as provided in § 74.2(b)(1) of Part 74). The Act provides criminal penalties for violations. Section 353(1) of the Public Health Service Act, 42 U.S.C. 263a(1), provides that where a State has enacted or hereafter enacts laws relating to matters covered by § 353, "which provide for standards equal to or more stringent than the provisions of this section or than the rules and regulations issued under this section, the Secretary may exempt clinical laboratories in that State from compliance with this section." Under § 74.2(b)(4) of Part 74, licensing and other requirements, do not, except as otherwise provided, apply to clinical laboratories exempted pursuant to section 353(1).

The determination of April 14, 1972, was based upon a review of standards described in letters from the Pathologist-Director, Clinical Laboratory Center, State of New York, dated April 29, 1971, September 8, 1971, December 22, 1971, January 13 and March 14, 1972, and from the Director, Division of Laboratories and Research, State of New York, dated March 31, 1972, and supporting documents dated and captioned as follows:

1. Title V of Article 5 of the Public Health Law of the State of New York entitled "Laboratory Services."

2. Title II of Article 2 of the Public Health Law of the State of New York entitled "The Public Health Council," sections 220 and 225, as amended by Chapter 626, Section 1 of the laws of New York dated June 22, 1971.

3. Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York. Chapter I, Part 11, "Qualifications of Public Health Personnel." Chapter II, Part 58, "Clinical Laboratories."

4. Quality Control Standards.

5. Proficiency Testing Program 1972–73, New York State Department of Health, Division of Laboratories and Research, Clinical Laboratory Center, Albany, N.Y., transmitted by letter of March 14, 1972, from the Pathologist-Director, Clinical Laboratory Center.

All such letters and other documents are available for public inspection in Building E, Room 110, Center for Disease Control.

1. Under such determination, the requirement for a license, issued under Section 353 or for a letter of exemption issued pursuant to § 74.46 of Part 74 (for accredited laboratories) or pursuant to § 74.2(b)(1) of Part 74 (for laboratories accepting no more than 100 specimens per calendar year) does not apply to any clinical laboratory, located within the State of New York, which holds a currently effective laboratory permit issued by the State of New York and a currently effective letter of exemption issued pursuant to the provisions of § 353(1) of the Public Health Service Act and § 74.2(b)(4) of Part 74, by the Director, Center for Disease Control.

2. The determination is subject to the following terms and conditions:

(a) All provisions, requirements, standards, and conditions contained in, or imposed under, the laws, regulations, programs, and policies of the State of New York, cited above, shall be applied to laboratories throughout the State (including laboratories located within New York City). State permits shall not be issued or continued in effect except upon inspections made and except upon a determination by the State that applicant laboratories will be operated in accordance with such provisions, requirements, standards, and conditions. Testing for proficiency shall be conducted by the State of New York: *Provided*, That tests for proficiency testing in the subcategory of virology shall be conducted by the Center for Disease Control.

(b) The State of New York shall furnish to the Director, Center for Disease Control, such reports and notices as may be necessary to carry out the purposes of § 353(1) of the Public Health Service Act, including—

(1) Written notice of each laboratory permit issued pursuant to the provisions of Title V of Article 5, New York Public Health Law (unless the laboratory is a laboratory to which the regulations contained in 42 CFR Part 74, are not applicable under the provisions of § 74.2(b)(2) and (3) of Part 74), containing the name and address of such laboratory, the date of issuance and the date of expiration of the permit, and the procedures to which such permit is applicable, within 10 days after publication of this notice in the FEDERAL REGISTER or after issuance of the permit, whichever is later.

(2) Immediate telegraphic notice of each adverse action on permits, indicating the name and address of the laboratory involved and the nature of the action (revocation, suspension or limitation (or equivalent action)), and a copy of the written decision within 5 days after the final decision is rendered. Such adverse actions against laboratories, including laboratories located in New York City, shall be conducted by the State of New York.

(3) With respect to proficiency testing, written notice of (i) the name and address of each laboratory which participates in proficiency testing; (ii) the procedures and the results within 60 days after the submission of laboratory reports of results on proficiency testing samples; (iii) the name and address of each laboratory which fails to submit results to the State by the due date or fails otherwise to participate in proficiency testing in accordance with procedures and standards prescribed by the State of New York for laboratories located within the State; and (iv) the name and address of each laboratory serving as a reference laboratory in proficiency testing.

3. The Director, Center for Disease Control, may issue a letter of exemption to a laboratory upon application by the owner, operator, or authorized representative of such laboratory which shall include an agreement to permit inspection by the Director, to make its records available for inspection, and to submit reports and such other relevant information as may be required by the Director.

4. Notwithstanding the issuance of letters of exemption, under paragraph 3, above, laboratories located within the State of New York, shall be subject to such provisions of the regulations in Part 74 as the Director may prescribe, other than the provisions relating to licensing.

5. A separate application for a letter of exemption must be filed for each laboratory location. In case of a change in the location of a laboratory, specimens may not be accepted for examination at such new location unless a letter of exemption, applicable to such new location, has first been obtained.

6. Letters of exemption shall be issued to be applicable to one or more of the following procedures or categories of procedures except upon application for a limited letter of exemption:

(1) Microbiology:
(i) Bacteriology.
(ii) Mycology.
(iii) Parasitology.
(iv) Virology.
(v) Serology (syphilis).
(vi) Serology (nonsyphilis).
(2) Clinical chemistry:

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(i) Blood and cerebrospinal fluid chemistry.
(ii) Endocrinology.
(iii) Toxicology.
(iv) Urinalysis.
(3) Immuno-hematology.
(4) Hematology.
(5) Pathology:
(i) Exfoliative cytology.
(ii) Histopathology.
(iii) Oral pathology.
(6) Radiobioassay.

7. An application for the renewal of a letter of exemption shall be submitted not less than 30 days nor more than 60 days prior to the expiration of the period for which the letter of exemption was issued.

8. A letter of exemption issued pursuant to § 353(1) may be revoked, suspended, or limited, whenever the Director after reasonable notice and opportunity for hearing (except as provided below for immediate applicability of licensure requirements) finds that the owner, operator, or any employee—

(a) Has been guilty of misrepresentation in obtaining the letter of exemption.

(b) Has engaged or attempted to engage in the performance of or represented himself or the laboratory as entitled to perform any laboratory procedures not authorized in the letter of exemption.

(c) Has failed to comply with the standards prescribed by the State.

(d) Has failed to comply with any of the terms or conditions prescribed herein or which may be prescribed pursuant to the Act or regulations.

(e) Has violated or aided and abetted in the violation of any provision of the applicable law and regulations of the State of New York, section 353 of the Public Health Service Act, the rules and regulations issued thereunder, or the terms and conditions prescribed herein or which may be prescribed pursuant to the Act or regulations.

9. A letter of exemption issued pursuant to section 353(1) shall be deemed revoked, suspended, or limited, as may be appropriate, and the licensure requirements of section 353 of the Public Health Service Act and Part 74 of Title 42, or the requirements for a letter of exemption under § 74.2(b)(1) of Part 74, as may be appropriate, immediately applicable, without notice and without further action on the part of the Director, upon the effective date of revocation, suspension, or limitation (or equivalent action, however denominated) of a permit issued by the State.

The Director, Center for Disease Control, proposes to conduct an initial examination of each clinical laboratory in the State of New York which applies for a letter of exemption as prescribed herein, to conduct annual examinations thereafter of such laboratories as may be deemed necessary to carry out the purposes of section 353 of the Public Health Service Act, and to conduct an annual review thereafter of the standards, requirements, practices, and procedures of the State of New York in issuing permits for clinical laboratories and for assuring continued compliance.

The determination of April 14, 1972, is effective for the period July 1, 1972–June 30, 1973, except that if the Director, Center for Disease Control, determines, on the basis of a review of the standards applied in the issuance of permits to clinical laboratories within the State, evidence of violations of such standards, inspections, or other relevant factors, that the standards applied by the State are not equal to or more stringent than the provisions of section 353 or the rules and regulations issued thereunder, or that the provision of the State for requirements, practices, and procedures for assuring that such standards continue to be met by laboratories is inadequate, he shall give notice thereof to the Commissioner of Health of the State of New York and shall provide a reasonable period for revision of standards, requirements, practices, and procedures and for submittal to the Director of satisfactory evidence (1) that the State has adopted and effectively applied equivalent or more stringent standards to laboratories in determining whether to issue permits to such laboratories and (2) that there is adequate provision for assuring that such standards continue to be met by laboratories. Upon expiration of such period and notice to the Commissioner of Health of the determination that he has not submitted satisfactory evidence, which notice shall contain a specification of the basis for the determination, the provisions of section 353 of the Act requiring licensing shall apply effective 30 days after the date of receipt of such notice by the Commissioner.

As indicated above, acceptance of specimens for laboratory examination, in interstate commerce, is prohibited and subject to criminal penalties unless there is in effect for such laboratory a license or a letter of exemption. Application forms and information may be obtained from the Office of the Chief, Laboratory Licensure Section, Building E, Room 110, Center for Disease Control, 1600 Clifton Road NE., Atlanta, GA 30333.

Dated: November 10, 1972.

DAVID J. SENCER,
Director, Center for Disease Control, Health Services and Mental Health Administration.

[FR Doc.72-20210 Filed 11-22-72;8:50 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23333; Order 72-11-38]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority November 10, 1972.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 1 of the International Air Transport Association (IATA). The agreement, which was adopted by the 32d meeting of the TC1 Specific Commodity Rates Board held in Miami on September 14, 1972, has been assigned CAB agreement No. 23337.

The agreement proposes revisions to the specific commodity rate structure applicable within the Western Hemisphere. These revisions, insofar as they would affect air transportation, encompass numerous additional rates under existing commodity descriptions, the cancellation of 18 commodity rates and numerous increases and reductions of existing commodity rates (as set forth in Attachment 1) as well as several new rates under new commodity descriptions (as reflected in Attachment 2).[1]

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the condition hereinafter ordered.

Accordingly, it is ordered, That:

Agreement CAB 23337 be and hereby is approved, provided that approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication: *Provided further,* That tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-20225 Filed 11-22-72;8:51 am]

[Docket No. 24488; Order 72-11-68]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Passenger Fares

Issued under delegated authority November 16, 1972.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations between various air carriers,

[1] Filed as part of the original document.

foreign air carriers, and other carriers embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreement, which has been assigned CAB Agreement No. 23367, was adopted for expedited effectiveness at the Worldwide Passenger Conference held in Torremolinos, Spain, September-October 1972, for a limited period December 1, 1972, through March 31, 1973.

The agreement would add proportional fares to points in Africa for combination with South Atlantic normal fares. We are approving the agreement to the extent that it involves normal first-class and economy fares, which are combinable with fares to/from U.S. points and thus have indirect application in air transportation as defined by the Act.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14:

1. It is not found that the following resolutions, which are incorporated in Agreement CAB 23367 as indicated and which do not directly affect air transportation within the meaning of the Act, are adverse to the public interest or in violation of the Act:

Agreement CAB	IATA No.	Title	Application
23367:			
R-1	054c	South Atlantic Normal First Class Fares	1; 2.
R-2	064c	South Atlantic Economy Class Fares	1; 2.

Accordingly, it is ordered, That:

Agreement CAB 23367, R–1 and R–2, be and hereby is approved.

Persons entitled to petition the Board for review of this order pursuant to the board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc. 72-20224 Filed 11-22-72;8:51 am]

FEDERAL MARITIME COMMISSION

BAHAMA ISLANDS RATE AGREEMENT

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Stephen Doolos, Secretary, Bahama Islands Rate Agreement, 1 World Trade Center, New York, NY 10048.

Agreement No. 9558–2, between Atlantic Lines, Ltd., and Royal Netherlands Steamship Co., amends paragraph 1 of the Preamble of the Bahama Islands Rate Agreement so that it will read as follows:

PREAMBLE; SCOPE OF AGREEMENT

Whereas, the parties signatory hereto are common carriers operating in the trade between ports in the Bahama Islands as named in the tariff and U.S. Ports north of Cape Hatteras (hereinafter referred to as "the trade"). And,

Paragraph 1 of the Preamble presently provides that the agreement covers the trade between ports in the Bahama Islands and Atlantic and gulf ports of the United States.

Dated: November 20, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-20213 Filed 11-22-72;8:49 am]

UNITED KINGDOM/UNITED STATES OF AMERICA GULF WESTBOUND RATE AGREEMENT

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

J. Sewell, Secretary, United Kingdom/United States of America Gulf Westbound Rate Agreement, 3d Floor, Cunard Building, Liverpool L3 1DS, England.

Agreement No. 8770–4 modifies the geographic scope of the above-named agreement to cover the transportation of cargo from inland points or ports in the United Kingdom and selected base ports other than the ocean vessels' port of loading whether or not the cargo is carried on a single carrier liability through bill of lading to ports, places, and points on inland waterways tributary to the U.S. gulf coast.

Dated: November 20, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-20214 Filed 11-22-72;8:50 am]

FEDERAL POWER COMMISSION

NATURAL GAS SURVEY SUPPLY-TECHNICAL ADVISORY FORCE-NATURAL GAS TECHNOLOGY

Notice of Meeting and Its Agenda

Agenda, meeting, Supply-Technical Advisory Task Force-Natural Gas Technology to be held in Conference Room 2043 of the Federal Power Commission, 441 G Street NW., Washington, DC, December 7 and 8, 1972—9 a.m. Presiding: Dr. Paul J. Root, TF FPC Survey Coordinating Representative and Secretary.

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1. Call to order and introductory remarks—Dr. Root.
2. Review of developments since the last meeting—Mr. Lloyd E. Elkins, Director—Supply-Technical Advisory Task Force-Natural Gas Technology.
3. Review of individual assignments for drafting sections of the final report—Mr. Elkins.
4. Discussion of coverage of environmental aspects of task force work programs—Mr. Elkins.
5. Status of assigned work programs and estimated date for completion—Mr. Elkins.
6. Other business.
7. Adjournment—Dr. Root.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72 20230 Filed 11-22-72;8:51 am]

[Project No. 642-Florida]

TALLAHASSEE MERIDIAN, FLA.

Order Denying Request for Partial Vacation of Land Withdrawal

NOVEMBER 17, 1972.

Application has been filed by Charles Wilford McCormick and Sandra Fay McCormick with the Bureau of Land Management for the release of the reservation under section 24 of the Federal Power Act contained in Patent No. 1157275, pertaining to the following described land:

TALLAHASSEE MERIDIAN, FLORIDA

T. 1 S., R. 21 E., sec. 36 fractional.

This land comprises approximately 35.98 acres. The reservation was placed in the patent in accordance with DA-6-Florida, issued by the Commission on October 13, 1947.

The land lies along the north prong of the St. Marys River, aboue 5 miles north of the town of Macclenny, Baker County, Fla., and is reserved pursuant to the filing on August 27, 1925, by Ernest L. Hill and C. Lyman Spencer of an application for preliminary permit for Project No. 642. The proceedings for this project ended without the filing of an application for license.

The land would be flooded by the development of the proposed Macclenny damsite located about three-fourths of a mile downstream from the confluence of the north and south prongs of the St. Marys River. The Macclenny site has been studied as a conventional development, as a pumped storage project, and as a project utilizing the diversion of flow from the Suwannee River.

The Commission considered the Macclenny site in its review of the 1965 Corps of Engineers report on the Satilla, St. Marys, and Suwannee Rivers. It was found that the most feasible project was a conventional development which would have a capacity of approximately 18,000 kw. and a reservoir with a normal pool elevation of 110 feet above mean sea level. This project and an alternate pumped storage project which would have approximately 87,000 kw. of reversible capacity have marginal economic feasibility under present conditions.

While there are no known plans for development of the Macclenny site at this time the Commission has advised the U.S. Corps of Engineers that this project should be considered as a possible future source of power and should be restudied in any future investigations of the basin.

The Commission finds:

The subject land has power value and the request for partial vacation of the land withdrawal for Project No. 642 is hereby denied.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-20229 Filed 11-22-72;8:51 am]

[Dockets Nos. CP73-45, CP73-49, CP73-14]

MICHIGAN WISCONSIN PIPE LINE CO. ET AL.

Order Consolidating Proceedings, Granting Interventions, Ordering Filing of Evidence, Setting Prehearing Conference and Hearing Dates, and Denying Application To Continue Deliveries

NOVEMBER 16, 1972.

On August 14, 1972, Michigan Wisconsin Pipe Line Co. (Mich-Wis) filed in Docket No. CP73-45, and Southern Natural Gas Co. (Southern) filed in Docket No. CP73-49, applications for certificates of public convenience and necessity authorizing a deferred exchange of natural gas, pursuant to section 7 of the Natural Gas Act. By an agreement dated July 1, 1972, they have agreed to exchange approximately 3,600,000 Mcf of gas over a 3-year period. Deliveries from Southern to Mich-Wis commenced on July 28, 1972, under the emergency provisions of § 157.22 of the regulations and are scheduled to be completed by December 1, 1972. Redelivery of the gas from Mich-Wis to Southern would be made during the periods of December 1, 1973 through March 31, 1974, and December 1, 1974 through March 31, 1975, with one-fourth of the volume exchanged to be returned during the first period, and the remainder during the second period.

The applicants allege that this exchange is required by the public convenience and necessity for the following reasons: (1) Deliveries by Southern will enable Mich-Wis to replace throughput of gas while some of its facilities are out of service during construction; (2) Redeliveries by Mich-Wis to Southern would be made at times of peak requirements on Southern's system, and would help Southern meet these requirements, and would avoid the costs involved in injection, storage, and withdrawal of the quantities of gas redelivered.

Notice of these applications issued on August 30, 1972, and September 25, 1972, was set as the final date on which protests, petitions to intervene, and notices of intervention could be filed in this matter. Timely petitions to intervene were filed on September 8, 1972, by the Carolina Pipeline Co. (Carolina) and on September 19, 1972, by the Water, Light, and Sinking Fund Commission of the city of Dalton, Ga. (Dalton). A timely protest and petition to intervene was filed on September 25, 1972, by the Atlanta Gas Light Co. (Atlanta) and a timely protest and notice of intervention was filed on September 21, 1972, by the Georgia Public Service Commission (GPSC).

Dalton and Atlanta, customers of Southern, object to the exchange agreement because it would result in Southern's delivering gas to Mich-Wis at a time when Southern is curtailing deliveries to its own customers. Atlanta, as well as the GPSC, object further because while Southern is in curtailment, it would be delivering gas to Mich-Wis which is in a position to expand its market. Atlanta and the GPSC also express the fear that gas delivered to Mich-Wis by Southern will be put to an end use inferior to Southern's planned use of the gas were an exchange not to occur. Carolina objects because it fears that gas redelivered to Southern by Mich-Wis will be allocated to Southern's interruptible sales customers by a method less advantageous to them than the one in effect at the time of Southern's deliveries to Mich-Wis. Thus, these customers believe they may receive less gas if the exchange occurs than they would if it did not take place.

On July 17, 1972, Florida Gas Transmission Co. (Florida) and Southern, pursuant to section 7 of the Natural Gas Act, filed a joint application in Docket No. CP73-14 for a certificate of public convenience and necessity for an exchange of natural gas. They seek approval of an agreement entered into by them on June 28, 1972, for the exchange from time to time over a 3-year period, of quantities of natural gas, not to exceed 50,000 Mcf during any one 24-hour period, at an existing point of connection between their two systems in Washington Parish, La. They allege that differences in their respective operating requirements enable each to make gas available to the other to meet temporary shortages during certain periods of the year without impairing their ability to meet their present service obligations to others. Deliveries from Southern to Florida will be limited generally but not exclusively to the 7-month, April through October, period of the year and deliveries from Florida to Southern will be limited generally but not exclusively to the 5 month, November through March period of the year, with deliveries to be made at the sole discretion of the delivering party. Southern and Florida commenced the actual exchange of gas on August 1, 1972, under the emergency delivery provisions of § 157.22 of the regulations.

Notice of this application was issued on August 3, 1972, and August 28, 1972, was set as the final date on which protests and petitions to intervene could be filed in this matter. Timely petitions to intervene were filed by Alabama Gas

Corp. (Alabama) on August 23, 1972, and by Carolina Pipeline Co. (Carolina) on August 28, 1972. An untimely protest and petition to intervene was filed on August 29, 1972, by the Atlanta Gas Light Co. No opposition to the untimely petition has been raised and it does not appear that any delay in the proceedings will result from granting that petition. Thus, in the light of the significant interest of Atlanta in this matter, it appears that good cause exists for permitting its intervention.

Alabama, Southern's second largest customer, states that because Southern is presently curtailing service to many of its customers including Alabama, the exchange agreement might be detrimental to the gas supply situation on the Southern system. Carolina objects on the same grounds that it raised in objecting to the exchange between Southern and Mich-Wis, above. Atlanta objects to the exchange because it would result in Southern's delivering gas to Florida at a time when it is curtailing deliveries to Atlanta. Atlanta also fails to see any benefits in the exchange for Southern, and feels that the end use of the gas delivered to Florida by Southern should be determined, since it might be inferior to the use to which the gas would be put if the exchange never took place.

Because the issues raised by the intervenors in these dockets revolve around the impact of these exchanges on Southern's customer allocations during its existing curtailments, the applications of Southern and Mich-Wis in Dockets Nos. CP73-49 and CP73-45, respectively, and the joint application of Southern and Florida in Docket No. CP73-14 are interdependent and should be consolidated and heard together.

The following issues must be considered on the record before a decision can be made on these applications: (1) What present and future benefits and liabilities will these exchange agreements incur for Southern, Mich-Wis, and Florida; (2) What effect will these agreements have on present and future deliveries of gas to the customers of each company; (3) What will be the end use of the gas exchanged under these agreements? Is this use inferior to the use to which the gas would have been put if the exchange had not been made?

One final matter is before us at this time in this proceeding. On September 29, 1972, Southern and Florida jointly filed an application to continue delivering gas pursuant to their exchange agreement, beyond the 60-day time limitation imposed by § 157.22 of the regulations. In support of this motion they refer to the justifications cited in their certificate application, and add only that the delivery of gas needed by Florida because of temporary shortage on its system has not been completed. On October 16, 1972, the Atlanta Gas Light Co. filed an answer opposing this motion. Atlanta argues that Southern and Florida never demonstrated an emergency justifying the implementation of § 157.22 in the first place, and a fortiori have not justified the waiver of the time limitation imposed by that section.

On October 19, 1972, we denied a similar request by Southern relating to their exchange with Mich-Wis in Dockets Nos. CP73-45 and CP73-49 because an emergency sufficient to justify waiver of the time limitation had not been shown. We find that with respect to the present waiver application Southern and Florida have also failed to demonstrate an emergency sufficient to justify waiver, and, accordingly, we deny their application.

The Commission finds:

(1) The applications in Dockets Nos. CP73-14, CP73-45, and CP73-49 are interdependent and should therefore be consolidated.

(2) It is desirable and in the public interest to allow all of the above named petitioners to intervene in order that they may establish the facts and the law from which the nature and validity of their alleged rights and interests may be determined and show what further action may be appropriate under the circumstances in the administration of the Natural Gas Act.

(3) The expeditious disposition of these proceedings will be furthered by the filing of evidence on the relevant issues by the applicants on or before December 7, 1972, and by convening a prehearing conference in these proceedings on December 20, 1972, and by the commencement of a hearing on this matter on January 16, 1973.

(4) A review of the filings before us fails to disclose an emergency sufficient to justify the waiver requested by Florida and Southern in Docket No. CP73-14 of the time limitation imposed by § 157.22 of the regulations. Thus, the application to continue deliveries beyond the sixth day limit should be denied.

The Commission orders:

(A) The applications of Michigan Wisconsin Pipe Line Co. and Southern Natural Gas Co., filed in Dockets Nos. CP73-45 and CP73-49, respectively, and the joint application of Southern Natural Gas Co. and Florida Gas Transmission Co. filed in Docket No. CP73-14 are hereby consolidated.

(B) The above named petitioners are hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission: *provided, however,* That the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in said petition for leave to intervene: And *provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(C) Michigan Wisconsin Pipe Line Co., Southern Natural Gas Co., and Florida Gas Transmission Co. shall file testimony and exhibits comprising their cases-in-chief on or before December 7, 1972.

(D) Pursuant to § 2.62(c) of the Commission rules of practice and procedure, the Applicants shall serve copies of their filings upon all intervenors promptly unless such service has already been effected pursuant to Part 157 of the regulations of the Natural Gas Act.

(E) Pursuant to the provisions of § 1.18 of the Commission's rules of practice and procedure, a prehearing conference before a duly designated Administrative Law Judge shall commence at 10 a.m e.s.t. on December 20, 1972, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, for the purpose of effectuating the expeditious disposition of this consolidated proceeding.

The purpose of such conference shall be to consider all matters at issue in the above dockets and to consider any and all matters which might contribute to an expeditious disposition of this proceeding. The Applicants, the Commission Staff, and all parties who have been permitted to intervene by the Commission shall be entitled to participate in that conference.

(F) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, on January 16, 1973, concerning the matters involved in and the issues presented by these consolidated applications.

(G) The application of Southern Natural Gas Co. and Florida Gas Transmission Co. filed in Docket No. CP73-14 to continue deliveries of gas commenced under § 157.22 of the regulations of the Natural Gas Act, beyond the 60-day limit imposed by that section is hereby denied.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-20231 Filed 11-22-72;8:51 am]

[Docket Nos. CP72-100, CP72-101]

TECON GASIFICATION CO. AND TEXAS EASTERN TRANSMISSION CORP.

Notice of Amendments to Applications

NOVEMBER 17, 1972.

Take notice that on November 2, 1972, Tecon Gasification Co.[1] (Tecon), Southern Natural Bank Building, Houston, Tex. 77001, filed in Docket No. CP72-100 and Texas Eastern Transmission Corporation (Texas Eastern), Post Office Box 2521, Houston, TX 77001, filed in Docket No. CP72-101 amendments to their applications in said dockets pursuant to sections 7(b) and 7(c) of the Natural Gas Act by authorizing in Docket No. CP72-100 the construction and operation of certain natural gas pipeline, compression and gasification facilities different from those originally proposed, and in Docket No. CP72-101 the construction of certain natural gas facilities different than those

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originally proposed and the deletion from the application of certain facilities originally proposed to be abandoned, all designed for the sale of 500,000 Mcf of natural gas per day to Texas Eastern by Tecon at a proposed liquid hydrocarbon plant in Ascension Parish, La., as more fully set forth in the applications and in the amendments to the applications which are on file with the Commission and open to public inspection.

Tecon in Docket No. CP72-100 originally requested authorization to construct and operate a liquid hydrocarbon gasification plant in South Plainfield, N.J., to gasify liquid hydrocarbons and to sell its 500,000 Mcf of natural gas per day estimated plant output to Texas Eastern and Consolidated Gas Supply Corp. (Consolidated). Tecon states that it has been necessary to move its proposed plant site from South Plainfield to Ascension Parish due to long delays which would result from the opposition to the project of environment groups, local authorities, and residents of South Plainfield and adjoining communities. Additionally, Tecon states that it was unable to obtain various permits and authorizations from local authorities to install its plant facilities at the location originally planned.

Tecon herein proposed to build its liquid hydrocarbon plant in Ascension Parish, in the vicinity of the Mississippi River, along with terminal facilities consisting of a two-ship dock, unloading line, header system, and liquid hydrocarbon storage tanks and other related facilities. Tecon states that the docking facilities will be accessible to regular ocean-going tankers and no change is contemplated with respect to the manner of delivering liquid hydrocarbons to the terminal. Tecon indicates that it will be able to take advantage of a larger tract of land at the Ascension Parish site than the South Plainfield site. Tecon also proposes to sell its planned output of 500,000 Mcf of natural gas per day to Texas Eastern, in lieu of the originally 200,000 Mcf per day to Consolidated Gas Supply Corp. (Consolidated) and the 300,000 Mcf per day to Texas Eastern. Tecon asserts that Texas Eastern needs the entire 500,000 Mcf per day in order to assure maintenance of adequate service to its customers particularly because United Gas Pipe Line Co. has been curtailing its deliveries to Texas Eastern and it is reasonable to assume such curtailments will continue.

Tecon estimates the total cost of the Ascension Parish project at $141,233,000, which it plans to finance initially under a revolving credit agreement and later by issuance of bonds and capital stock.

Texas Eastern in Docket No. CP72-101 originally requested authorization to abandon certain pipeline facilities in New York and New Jersey and to enlarge its Hanover loop line. These proposals are withdrawn because of Tecon's change of plantsites. Texas Eastern now proposes to construct and operate approximately 6 miles of 30-inch pipeline from Tecon's plantsite in Ascension Parish, to Texas Eastern's 36-inch Venice pipeline at the White Castle Compressor Station in Iberville Parish, La.; approximately 37.25 miles of 36-inch loop pipeline in Mississippi and Louisiana on its southern portion of its pipeline; and other related facilities in lieu of the originally proposed facilities. Texas Eastern also proposes to purchase the entire Tecon plant output of 500,000 Mcf of natural gas per day and withdraws its request for authorization to deliver quantities of gas to Consolidated in exchange for the quantities of gas previously proposed to be purchased by Consolidated from Tecon and delivered into Texas Eastern's pipeline for Consolidated's account.[3]

Texas Eastern estimates the cost of its proposed revised facilities at $15,630,000, which it plans to finance initially under a revolving credit agreement.

Any person desiring to be heard or to make any protest with reference to said applications, as amended, should on or before December 11, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons who have heretofore filed petitions to intervene or protests need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-20232 Filed 11-22-72;8:51 am]

[1] 100 percent of the outstanding voting securities of Tecon will be owned by Fammin Square Corp., a wholly owned subsidiary of Texas Eastern Transmission Corp.

[3] By letter agreement dated Oct. 18, 1972, and accepted and agreed to on Oct. 27, 1972, Consolidated and Tecon canceled the letter agreement between them dated Sept. 28, 1971, providing for the sale of gas produced from Tecon's proposed South Plainfield plant to Consolidated.

RAILROAD RETIREMENT BOARD

RAILROAD UNEMPLOYMENT INSURANCE ACCOUNT

Announcement of Deficit

Pursuant to section 8(a) of the Railroad Unemployment Insurance Act, as amended, the Railroad Retirement Board had determined, and hereby proclaims, that as of the close of business on September 30, 1972, there was a deficit of $31,212,062.61 in the railroad unemployment insurance account. The underlying figures relating to the computation of this deficit follow:

Unexpended amount in the railroad unemployment insurance account	$910,982.07	
Deduct:		
Amounts borrowed from the Railroad Retirement Account which have not been repaid	−37,459,000.00	
Accrued interest on such borrowed amounts	−552,774.18	
Deficit in railroad unemployment insurance account proper	37,100,792.11	(D)
Add:		
Balance in railroad unemployment insurance administration fund	+5,888,729.50	
Deficit in railroad unemployment insurance account	$31,212,062.61	(D)

In witness whereof the members of the Railroad Retirement Board have hereunto set their hands and caused its seal to be affixed.

Done at Chicago, Ill., this 17th day of November 1972.

By the Railroad Retirement Board.

[SEAL] JAMES L. COWEN,
Chairman.

NEIL P. SPEIRS,
Member.

WYTHE D. QUARLES, JR.,
Member.

R. F. BUTLER,
Secretary of the Board.

[FR Doc.72-20184 Filed 11-22-72;2:47 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

ACCURATE CALCULATOR CORP.

Order Suspending Trading

NOVEMBER 15, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Accurate Calculator Corp., being traded otherwise than on a national securities exchange, is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15 (c) (5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from

November 16, 1972, through November 25, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-20197 Filed 11-22-72;8:48 am]

[File No. 500-1]

CLINTON OIL CO.

Order Suspending Trading

NOVEMBER 16, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.03⅓ par value, and all other securities of Clinton Oil Co., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15 (c) (5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 18, 1972, through November 27, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-20198 Filed 11-22-72;8:48 am]

[70-5272]

COLUMBIA GAS TRANSMISSION CORP. ET AL.

Notice of Proposed Merger of Nonutility Subsidiary Companies

NOVEMBER 16, 1972.

Notice is hereby given that the Columbia Gas System, Inc., 20 Montchanin Road, Wilmington, DE 19807 (Columbia), a registered holding company, and two of its wholly owned nonutility subsidiary companies, Columbia Gas Transmission Corp. (Transmission), and the Preston Oil Co., 1600 Dublin Road, Columbus, OH 43212 (Preston), have filed a joint application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6, 7, 9, 10, and 12(f) and Rule 43 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the joint application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Pursuant to orders of this Commission dated October 24, 1969, and March 4, 1970, Preston has heretofore transferred its natural gas operations in the States of Louisiana and Texas to what is now Columbia Gas Development Corp., a subsidiary company of Columbia. (Holding Company Act Releases Nos. 16503 and 16624). Preston is now and has for many years been engaged in the business of producing, purchasing, storing, and selling oil in the States of Kentucky, Ohio, Pennsylvania, and West Virginia. Historically, Preston's operations have been conducted incident to the System's gas business.

In the States named above, as well as other States in the Appalachian Basin, Transmission is engaged in the business of producing, purchasing, transporting, and selling natural gas at wholesale, as an incident to the System's overall gas business.

It is stated that oil production in Preston's present area has been declining; that Preston has been operating at a deficit for some time; that the liquidation of Preston has been decided upon; that to date the process of liquidation has consisted principally in the sale of its properties outside of the Columbia System pursuant to sales by sealed bidding; and that certain other properties of Preston have been transferred to Transmission where necessary to protect Transmission's gas storage rights or gas exploration drilling rights.

Preston and Transmission now propose to enter into an agreement to merge Preston into Transmission. As surviving corporation of the merger, Transmission is to acquire all of Preston's property rights and liabilities. Columbia, as sole stockholder of both corporations, will approve the agreement of merger.

At the effective time of the merger, outstanding certificates for shares of the capital stock of Preston are to be deemed to be evidence of ownership of the proportionate number of shares of the capital stock of Transmission. Columbia will convert each of the outstanding shares of the capital stock of Preston into fully paid and nonassessable shares of the capital stock of Transmission.

It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. Fees, commissions, and expenses in connection with the proposed transaction are estimated to be $5,600 for Preston and $6,400 for Transmission, each of these amounts including fees of $1,500 for services, at cost, of Columbia Gas System Service Corp., a service company subsidiary of Columbia.

Notice is further given that any interested person may, not later than December 11, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-20191 Filed 11-22-72;8:47 am]

[File No. 500-1]

ECOLOGICAL SCIENCE CORP.

Order Suspending Trading

NOVEMBER 16, 1972.

The common stock, 2 cents par value, of Ecological Science Corp. being traded on the American Stock Exchange, the Philadelphia-Baltimore-Washington Stock Exchange and Pacific Coast Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Ecological Science Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15 (c) (5) and 19(a) (4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 19, 1972, through November 28, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-20199 Filed 11-22-72;8:48 am]

[File No. 500-1]

FIRST LEISURE CORP.

Order Suspending Trading

NOVEMBER 16, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.10 par value and all other securities of First Leisure Corp., being traded otherwise than on a national securities

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exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 17, 1972, through November 26, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20200 Filed 11-22-72;8:48 am]

[File No. 500-1]

FIRST WORLD CORP.

Order Suspending Trading

NOVEMBER 15, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the Class A and Class B common stocks, $0.15 par value, and all other securities of First World Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 16, 1972, through November 25, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20201 Filed 11-22-72;8:48 am]

[File No. 500-1]

GOODWAY, INC.

Order Suspending Trading

NOVEMBER 16, 1972.

The common stock, $0.10 par value of Goodway, Inc., being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Goodway, Inc., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 19, 1972, through November 28, 1972.

By the Commission.

RONALD F. HUNT, *Secretary.*

[FR Doc.72-20202 Filed 11-22-72;8:48 am]

[812-3309]

E. F. HUTTON & COMPANY INC. AND SHEARSON, HAMMILL & CO., INC.

Notice of Filing of Application

NOVEMBER 16, 1972.

Notice is hereby given that E. F. Hutton & Company Inc., 1 Battery Park Plaza, New York, N.Y. 10004, and Shearson, Hammill & Co. Inc., 14 Wall Street, New York, NY 10005 (Applicants), prospecive representatives of a group of underwriters of a proposed offering of shares of common stock, par value $1 per share (the "Common Stock"), of USLIFE Income Fund, Inc. (the "Fund"), a registered closed-end investment company, have filed an application pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act") for an order exempting Applicants and their counderwriters from section 30(f) of the Act to the extent that section adopts section 16(b) of the Securities Exchange Act of 1934 (the "Exchange Act") in respect of their transactions incident to the distribution of Fund's shares. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Shares of the Fund's Common Stock are to be purchased by a group of underwriters pursuant to an underwriting agreement (the "Underwriting Agreement") to be entered into between Fund and the underwriters represented by Applicants and pursuant to an agreement among the underwriters (the "Agreement Among Underwriters"). It is intended that the several underwriters will make a public offering of all the shares of the Fund's Common Stock which such underwriters are to purchase under the Underwriting Agreement, at the price therein specified, as soon on or after the effective date of Fund's Registration Statement on Form S-4 (the "Form S-4") under the Securities Act of 1933 (the "Securities Act") as the Applicants deem advisable, and such shares are initially to be offered to the public in accordance with the formula for the determination of the per share public offering price, underwriting commission, and dealer concessions to be specified in the Underwriting Agreement, at the time the Form S-4 becomes effective under the Securities Act.

The overall purpose of the Underwriting Agreement is to enable the Fund to issue and sell 4 million shares of its Common Stock (the "Firm Shares") to the public and to evolve underwriting arrangements designed to achieve such a result. The Underwriting Agreement therefore contemplates a public distribution of a substantial block of securities effected by the several underwriters who, in each case, will be engaged in the business of distributing securities and will be participating in this distribution in good faith and in the ordinary course of such business. However, due to the nature of the underwriting business, the Underwriting Agreement provides that individual transactions by the underwriters of purchase and sale will be effected in order to achieve a successful underwriting of this issue for the Fund. It is also possible, under the Underwriting Agreement and the Agreement Among Underwriters, for the same reasons, that it may be necessary for the several underwriters, or some of them, or either or both of the Applicants, to purchase shares of Common Stock of the Fund for the purpose of stabilizing the market price of the shares of Common Stock of the Fund being distributed, or to cover an overallotment or other short position created in connection with such distribution, or to sell shares of Common Stock of the Fund purchased in connection with stabilizing transactions. Moreover, it is proposed that the underwriters will have the right to purchase, on or before 30 days after the effective date of the Form S-4, all or any portion of an additional 400,000 shares of its Common Stock for the sole purpose of covering overallotments in the sale of the Firm Shares, and accordingly, upon the exercise of this right by the underwriters, the several underwriters, or some of them, or either or both of the Applicants, may purchase up to an additional 400,000 shares of the Fund's Common Stock (the "Optional Shares").

Although effectiveness of the Form S-4 is anticipated in the reasonably near future, Applicants state that it is not yet possible to determine the ultimate composition of the underwriters or the respective participation of any of the underwriters, including the participation of either of the Applicants. In addition, it is possible that the participation, to be specified in the Underwriting Agreement, in shares of Common Stock of the Fund of any of the underwriters, including the Applicants, may be increased by reason of the Underwriting Agreement, whether or not the particular underwriter consents thereto. It is possible, therefore, that, as a result of the formation of the ultimate group of underwriters or by the operation of the provisions of the Underwriting Agreement, (i) certain of the underwriters, including possibly either or both of the Applicants, may individually become obligated to purchase more than 10 percent of the aggregate amount of Common Stock of the Fund to be outstanding after either or both payment to the Fund for and receipt of the Firm Shares and payment to the Fund for and receipt of the Optional Shares, and (ii) the aggregate participation in the initial public offering of the Fund's Common Stock by the underwriters, who are obligated through the

Underwriting Agreement to purchase more than 10 percent of the aggregate amount of the Fund's Common Stock to be outstanding after either or both payment to the Fund for and receipt of the Firm Shares and payment to the Fund for and receipt of the Optional Shares, may exceed 50 percent of the number of shares of the Fund's Common Stock being so offered. Moreover, it is possible that one or more of the underwriters, including possibly either or both of the Applicants, even though they are obligated through the Underwriting Agreement to purchase 10 percent or less of the aggregate amount of the Fund's Common Stock to be outstanding after either or both payment to the Fund for and receipt of the Firm Shares and payment to the Fund for and receipt of the Optional Shares, may, as a consequence of defaults or withdrawals by other underwriters, become obligated to purchase more than 10 percent of the aggregate amount of the Fund's Common Stock to be so outstanding.

Rule 16b-2 under the Exchange Act exempts certain transactions in connection with a distribution of securities from the operation of section 16(b) of the Exchange Act. Applicants state that the purpose of the purchases by the Applicants and the other underwriters is for resale in connection with the initial distribution of shares of the Fund. The purchases and sales will thus be transactions effected in connection with a distribution of a substantial block of securities within the purpose and spirit of Rule 16b-2.

It is possible, however, that Applicants and their counderwriters will not be exempted from section 16(b) by the operation of Rule 16b-2, as they may fail to meet the requirement stated in paragraph (a)(3) of Rule 16b-2 that the aggregate participation of persons not within the purview of section 16(b) of the Exchange Act be at least equal to the participation of persons receiving the exemption under Rule 16b-2, since it is possible that one or more of the underwriters who pursuant to the Underwriting Agreement will purchase more than 10 percent of the shares of the Fund may be obligated to purchase more than 50 percent of the shares of the Fund being offered pursuant to the Underwriting Agreement.

Applicants submit that they believe that the exemption requested is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants further state that there is no inside information in existence since the Fund, prior to the initial distribution of the shares, will have no assets and that all information material to investors will be set forth in the final prospectus in compliance with the Securities Act and, accordingly, the several underwriters, including Applicants will not be privy to "inside information."

Section 6(c) of the Act authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 1, 1972, submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the Applicants at the addresses stated above. Proof of such service (by affidavit or, in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponement thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20192 Filed 11-22-72;8:47 am]

[70-5269]

MAINE YANKEE ATOMIC POWER CO.

Notice of Proposed Issue and Sale of First Mortgage Bonds and Preferred Stock

NOVEMBER 16, 1972.

Notice is hereby given that Maine Yankee Atomic Power Co., 9 Green Street, Augusta, ME 04330 (Maine Yankee), an electric utility company and an indirect subsidiary company of both Northeast Utilities and New England Electric System, registered holding companies, has filed an application-declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6, 7, and 12 of the Act and Rules 50 and 62(b) promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Maine Yankee is constructing a nuclear-powered electric generating plant with a net expected capacity of approximately 800 megawatts. The total capital cost of the plant, excluding the cost of the initial inventory of nuclear fuel of about $26 million, is estimated at $224,500,000. Its 11 sponsor companies are committed by capital fund agreements and power contracts to provide Maine Yankee, in accordance with their stock percentages, the capital required by Maine Yankee, and to purchase a like percentage of the capacity and power output of the Maine Yankee plant on a cost-of-service basis, which includes an appropriate return on their investment.

Maine Yankee presently proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $15 million principal amount of first mortgage bonds, —— percent Series C, due 2002. The interest rate (which shall be a multiple of one-eighth of or one-tenth of 1 percent) and the price, exclusive of accrued interest, to be paid to Maine Yankee (which shall be not less than 99 percent and not more than 102.75 percent of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under the provisions of the first mortgage indenture dated as of November 1, 1970, between Maine Yankee and Old Colony Trust Co., as trustee, as heretofore supplemented and as to be further supplemented by a supplemental indenture, which includes a prohibition until December 1, 1977, against refunding the bonds with the proceeds of funds borrowed at a lower effective interest cost. The bonds will be secured by the physical properties of Maine Yankee and by an assignment to the indenture trustee of its interest in the power contracts and capital funds agreements with the sponsors, as specified in the indenture. The indenture further provides for a sinking fund, sufficient to retire $525,000 principal amount of bonds annually, commencing on May 1, 1974, or 98 percent prior to maturity.

Maine Yankee also proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, 150,000 shares of its cumulative preferred stock, —— percent series (Sinking Fund), par value $100 per share. The dividend rate of the preferred stock (which shall be a multiple of one twenty-fifth of 1 percent) and the price to be paid to Maine Yankee (which shall be not less than $100 nor more than $102.75 per share) will be determined by competitive bidding. The terms of the preferred stock include a prohibition against refunding the preferred stock prior to December 1, 1977, directly or indirectly, with funds derived from the issue of debt securities at a lower effective interest cost or preferred stock at a lower effective

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dividend cost. The preferred stock will be redeemable at par plus accrued and unpaid dividends pursuant to a mandatory sinking fund requiring the redemption of 6,000 shares of preferred stock annually commencing on December 1, 1977. In addition, on each mandatory redemption date, Maine Yankee will have the noncumulative option to redeem at the same price not more than 6,000 additional shares of preferred stock.

Sale of the bonds is contingent upon sale of the preferred stock, but sale of the preferred stock is not dependent upon sale of the bonds. The proceeds from the issue and sale of the bonds will be deposited with the trustee in a construction fund, as provided in the first mortgage indenture, and will be withdrawn to meet current and future construction costs. Proceeds from the issue and sale of preferred stock will be applied towards repayment of $5,600,000 subordinated notes due the sponsors, bank loans presently outstanding in the amount of $14,750,000, and for other corporate purposes.

In addition, Maine Yankee proposes to amend its articles of incorporation to provide for the pro rata redemption of common stock at a price per share equal to the sum of the aggregate par value of the common stock plus capital surplus divided by the number of shares outstanding, provided that after such redemption, common stock equity is not less than 30 percent of total capitalization and the number of common shares outstanding is not less than 5,000 shares. At present, 50,000 shares of common stock are outstanding.

The fees and expense to be incurred in connection with the proposed transactions will be filed by amendment. It is stated that the Maine Public Utilities Commission has jurisdiction over the proposed transaction and that no other State commission and no Federal commission, other than this Commission has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 29, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20193 Filed 11-22-72;8:48 am]

[File Nos. (81-121-1), (1-5194)]

MARATHON INTERNATIONAL FINANCE CO.

Notice of Application and Opportunity for Hearing

NOVEMBER 15, 1972.

Notice is hereby given that Marathon International Finance Co., Dakota City, Neb. 68731 (applicant) has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (Act), for a finding that an exemption from the requirement to file Act would not be inconsistent with the reports pursuant to section 13(a) of the public interest or the protection of investors.

Section 12(h) empowers the Commission to exempt, in whole or in part, any issuer or class of issuers from the registration, periodic reporting, and proxy solicitation provisions and to grant exemptions from the insider reporting and trading provisions of the Act if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors.

The applicant's application states, in part:

1. The applicant, a Delaware corporation, is a wholly-owned consolidated subsidiary of Marathon Oil Co. (Marathon), existing for the principal purpose of obtaining and furnishing funds for the foreign operations of the subsidiaries of Marathon and other companies in which Marathon has or may acquire an interest.

2. In March 1966 applicant issued and sold $25 million, principal amount, of 4½ percent Guaranteed Sinking Fund Debentures due 1986 (Debentures). Such Debentures are, and since August 1, 1967 have been, convertible into common shares of Marathon.

3. The Debentures were and continue to be listed on the New York Stock Exchange and such securities are registered with the Commission under section 12 (b) of the Act. As a consequence of such registration, applicant is required to file periodic reports pursuant to section 13 (a) of the Act.

4. As of May 15, 1972 Debentures aggregating, in principal amount, $20,282,000 (or over 80 percent) have been converted into 643,697 common shares of Marathon. The total principal amount of Debentures thus remaining unconverted as of May 15, 1972 was $4,718,000, held by a maximum of 4,718 Debentureholders.

5. The common shares of Marathon into which the Debentures are convertible are listed on the New York, Midwest, and Pacific Coast Stock Exchanges and such securities are registered with the Commission under section 12(b) of the Act. As a consequence of such registration, Marathon is required to file periodic reports pursuant to section 13(a) of the Act.

6. Since 1969 there has been an almost total absence of trading activity in applicant's remaining unconverted Debentures on the New York Stock Exchange.

7. The Debenture trustee reports that as at June 5, 1972 none of the Debentureholders had filed his name and address with the trustee for the purpose of receiving summaries of reports filed by applicant with the Commission pursuant to section 13(a) of the Act or had sought to inspect any of the reports, all of which were filed with the trustee.

8. Accordingly, the applicant believes that in view of the facts that a trading market in its Debentures is unlikely to become sufficiently significant; that Debentureholders, if interested in any reports filed pursuant to section 13 of the Act would be interested in those filed by Marathon and not those filed by applicant; and that the Debentureholders' disinterestedness with respect to reports filed by applicant constitutes clear and convincing evidence that such reports are irrelevant to such persons, that applicant should not continue to be subjected to the not insubstantial burden of complying with section 13(a) of the Act.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, DC.

Notice is further given that any interested person not later than December 11, 1972, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, DC 20549 and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application in whole or in part may be issued upon request or upon the Commission's own motion. If prior to said date no submission from interested persons is received, the Commission may thereafter issue an order granting the application subject to the following conditions:

1. That applicant file with the Commission current reports on Form 8-K under the Securities Exchange Act of 1934 (Exchange Act) disclosing any material change in the legal rights of the holders of applicant's 4½ percent Guaranteed Sinking Fund Debentures Due 1986 (debentures) from those rights recited in the application presently on file with the Commission;

2. That applicant file with the Commission reports on form 8-K under the Exchange Act disclosing any material change in the trading activity in the debentures from the activity recited in the application presently on file with the Commission;

3. That the indenture trustee for the debentures may apply to the Commission at any time for reconsideration of the 12(h) exemption; and

4. That jurisdiction to reconsider the exemption be reserved to the Commission in the event of any material change in the facts recited in the application presently on file with the Commission or in the event that changes take place in the Commission's rules and regulations relating to disclosures by companies subject to section 12(b) under the Exchange Act.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20194 Filed 11-22-72;8:48 am]

[70-5264]

PENNSYLVANIA POWER CO. AND OHIO EDISON CO.

Notice of Proposed Issue and Sale of Common Stock to Holding Company and Proposed Increase in Authorized Number of Common Shares

NOVEMBER 16, 1972.

Notice is hereby given that Ohio Edison Co., 47 North Main Street, Akron, OH 44308 (Ohio Edison), a registered holding company, and its electric utility subsidiary company, Pennsylvania Power Co. (Pennsylvania), have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a)(2), 6(b), 9(a), 10, and 12(f) of the Act and Rule 43 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Pennsylvania proposes to issue and sell to Ohio Edison, its sole common stockholder, 170,000 additional shares of its authorized and unissued common stock, par value $30 per share, and Ohio Edison proposes to acquire these shares for cash at par, or for a total consideration of $5,100,000. It is proposed that the 170,000 shares be issued and sold on or about December 15, 1972.

Pennsylvania further proposes to increase its authorized number of shares of common stock of the par value of $30 per share from 1,290,000 (all of which have been issued) to 1,800,000 shares. Pennsylvania must seek the consent and approval of its sole voting stockholder Ohio Edison, and Ohio Edison proposes to give such consent and approval.

The proceeds from the sale of the common stock will be used by Pennsylvania to construct and acquire new facilities, for the betterment of existing facilities, and to reimburse its treasury in part for moneys expended for such purposes. Pennsylvania estimates that its plant additions for 1972 will aggregate $26,678,699.

It is stated that the Pennsylvania Public Utility Commission has jurisdiction over the proposed issue and sale of the common stock and that such Commission's order will be supplied by amendment. It is represented that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. The fees and expenses to be incurred in connection with the issue and sale of the common stock are estimated at $4,750, including counsel fee of $2,500.

Notice is further given that any interested person may, not later than December 5, 1972, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20195 Filed 11-22-72;8:48 am]

[File No. 500-1]

ROOSEVELT MARINA, INC.

Order Suspending Trading

NOVEMBER 16, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, no par value, and all other securities of Roosevelt Marina, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 18, 1972, through November 27, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20203 Filed 11-22-72;8:49 am]

[812-3298]

RAUSCHER-PIERCE SECURITIES CORP. AND TEXAS-SOUTHWESTERN MUNICIPAL BOND FUND, SERIES 1 AND SUBSEQUENT SERIES

Notice of Filing of Application for Exemptions

NOVEMBER 16, 1972.

Notice is hereby given that Texas-Southwestern Municipal Bond Fund, Series 1 and subsequent Series, 400 Travis Park West, San Antonio, TX 78205 (hereinafter called the "Funds" or "Applicants"), registered under the Investment Company Act of 1940 (the "Act") as unit investment trusts, have filed an application pursuant to section 6(c) of the Act for an order (i) exempting them from the provisions of section 14(a) of the Act insofar as such provisions would require the Sponsors and underwriters of each Fund to take for their own account, or place privately with not more than 25 other persons, $100,000 or more worth of Units under investment letters; (ii) exempting them from the provisions of Rule 19b-1 under the Act with regard to distribution of capital gains more than once in a taxable year; and (iii) exempting them during the initial offering period from that portion of Rule 22c-1 which requires that net assets are to be determined as of the time of the close of trading on the New York Stock Exchange and exempting them in secondary market trading from the provisions of Rule 22c-1 as required by Applicants' proposed operations. All interested persons are referred to the application on file with the Commission for a statement of the Applicants' representations contained therein which are summarized below.

The Applicants consist of Texas-Southwestern Municipal Bond Fund, Series 1 and subsequent Series of Funds,

each of which will be registered under the Act as a unit investment trust. Applicants propose to offer Units for sale to the public through Rauscher-Pierce Securities Corp. (Rauscher-Pierce) and other broker-dealers who have entered into agreements with Rauscher-Pierce.

Each Fund will consist of a portfolio of tax-exempt municipal bonds selected by Rauscher-Pierce. Each Fund will be divided into 400 Units of fractional undivided interest. The minimum purchase will be $1,000 of Units. Each Unit will represent a fractional undivided interest in the principal and net income of the Fund. Units will be offered to the public at a price based on the aggregate bid price of the bonds in the Fund plus a sales charge of 4.9 percent of the public offering price. Rauscher-Pierce will act as Sponsor of each Fund and will maintain a secondary market for the Units. Applicants state that the Units will be redeemable at any time at a price based on the aggregate bid price of the bonds in the Fund. Applicants state that the Units will be redeemable at any time at a price based on the aggregate bid price of the bonds in the Fund. Applicants state that the Units will be redeemable at any time at a price based on the aggregate bid price of the bonds in the Fund.

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each of which is an unmanaged Fund, with a portfolio consisting of municipal bonds. Each Fund is created under New York law pursuant to a trust agreement (Trust Agreement) among Rauscher Pierce Securities Corp. and Rowles, Winston & Co., Inc. (collectively, the "Sponsors"), United States Trust Company of New York (the "Trustee") and Standard & Poor's Corp. (the "Evaluator"). There are provisions for the liquidation of bonds in the portfolio upon the occurrence of certain credit factors and other enumerated events, and the number of Units of undivided interest in a Series may not be increased after the date of deposit. The Units are distributed by the Sponsors during the initial offering period at a 4 percent sales charge (equal to 4.167 percent of the value of the underlying bonds). The Applicants seek to follow the policies of (i) making no private placement of $100,000 worth of securities, (ii) making monthly distributions to Unitholders of combined principal (representing proceeds from the disposition of bonds, including capital gains) and interest, and (iii) determining net assets of the Funds, regardless of the time of the close of trading on the New York Stock Exchange, (a) during the initial offering period as of 3:30 p.m., effective for all transactions during the preceding 24-hour period and (b) after the completion of the initial public offering, as of 3:30 p.m. on the last business day of each week effective for all trades during the following week.

The Sponsors intend that, for a period of at least 16 months from the time of the initial public offering of Units of the various Series, at least one of them will maintain a market for such Units and continuously offer to purchase such Units at prices, subject to change at any time, which are based upon the supply of and demand for Units, but which in no event will be less than the aggregate bid side evaluation of the underlying bonds in the various Funds. Such market making activities would cease if the Trust Agreement for such Fund were terminated or the right of redemption for such Fund were suspended. The Sponsors further intend to resell such Units at a public offering price computed in the same manner as is applicable to sales during the initial public offering period. The Sponsors state that they may discontinue such purchases of Units in the secondary market if the supply of such Units should exceed demand, or for other business reasons. During the initial offering period and thereafter, the price offered by the Sponsors for the purchase of a Unit must be an amount not less than the redemption price of such Unit, which is based on the aggregate bid side evaluation of the underlying bonds on the date on which such Unit is tendered for redemption.

SECTION 14(a)

Section 14(a) provides, in part, that no registered investment company may make a public offering of its securities unless (i) such company has a net worth of at least $100,000 or (ii) provision is made in connection with the registration of such securities which insures that firm agreements will have been made by which not more than 25 persons will privately purchase securities issued by the company for an aggregate amount which, when added to the then net worth of the company, if any, will equal at least $100,000.

The applicants assert that section 14(a) of the Act is intended to limit the formation of undercapitalized investment companies. Applicants state that it is intended that each Fund, at the date of deposit and before any Unit is offered to the public, will have a net worth far in excess of $100,000, that the Sponsors intend to sell all Units to the public at an offering price disclosed in the Prospectus, that it is intended that a secondary market for the Units be maintained, as described above, and that interest rates and other applicable information concerning the underlying bonds will be discussed in the Prospectus.

The Sponsors have agreed to the requested exemption being subject to the condition that the Sponsors and any other underwriters or dealers participating in the distribution of each Fund will refund, on demand and without deduction, all sales charges paid by purchasers of Units in the initial public offering if, within 90 days from the time that the Registration Statement relating to such Fund becomes effective, either (i) the net worth of such Fund shall be reduced to less than $100,000 or (ii) such Fund shall have been terminated. The Sponsors have further agreed to instruct the Trustee on the date of deposit of each Fund to terminate such Fund in the manner provided in the Trust Agreement and distribute the assets of the Fund to the Unitholders in the event redemption by the Sponsors of unsold Units results in such Fund having a net worth of less than 40 percent of the principal amount of the initial portfolio.

RULE 19b–1

Rule 19b–1(b) provides, in part, that no registered investment company which is not a "regulated investment company" as defined in section 851 of the Internal Revenue Code shall make more than one distribution of long-term capital gains in any one taxable year.

Applicants seek to follow the course of distributing principal, including any capital gains, and interest on each of the Funds to Unitholders each month. Applicants state that distributions of principal constituting capital gains to Unitholders are anticipated to arise in the following circumstances: (1) If an issuer calls or redeems an issue held in the portfolio and (2) if bonds are liquidated in order to provide funds necessary to meet redemptions.

Applicants state that the dangers against which Rule 19b–1 is intended to guard will not exist in connection with the Funds since neither the Funds nor the Sponsors have control over the events which could trigger capital gains. The Applicants seek to make a combined distribution of principal, including capital gains, and interest each month, and state that any capital gains in such distribution will be clearly indicated as such in the accompanying report by the Trustee to Unitholders. The Applicants state that it would be to the detriment of Unitholders if the Funds were forced to withhold moneys constituting capital gains from such Unitholders until the end of the year.

Applicants point out that paragraph (b) of Rule 19b–1 provides that a unit investment trust may distribute capital gains dividends received from a regulated investment company within a reasonable time after receipt. Applicants contend that the purpose behind this provision is to avoid requiring such trusts to accumulate valid distributions received throughout the year until the yearend, and they contend that their situation is within the intended objectives of such provision.

RULE 22c–1

Rule 22c–1 provides, in part, that redeemable securities of registered investment companies may be sold, redeemed, or repurchased at a price based on the current net asset value (computed on each day during which the New York Stock Exchange is open for trading not less frequently than once daily as of the time of the close of trading on such exchange) which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Applicants state that the rule has two purposes: (1) To eliminate or reduce any dilution of the value of outstanding redeemable securities of registered investment companies which would occur through the redemption or repurchase of such securities at a price above their net asset value or the sale of such securities at a price based on a previously established net asset value which would permit a potential investor to take advantage of an upswing in the market and the accompanying increase in the net asset value of the securities; and (2) to minimize speculative trading practices in the securities of registered investment companies.

Applicants state that transactions in Units of the Funds in the secondary market cannot dilute the value of outstanding securities since each Fund consists of a stable portfolio of bonds and each Unit represents a fractional undivided interest in that portfolio. By the terms of the Trust Agreement for each Fund, the number of Units may not be increased, and therefore the Applicants state that the price at which Units are sold or repurchased does not affect the value of either the underlying bonds or the fractional undivided interest in those bonds which is represented by each outstanding Unit. Applicants state further that the only instance in which Fund assets are involved in a secondary market transaction is upon redemption of a Unit, and in the case of redemption the Funds will follow the practice of daily pricing and forward pricing set forth in Rule 22c–1.

Applicants further assert that secondary market trading in the Funds is not attractive to speculators. They state that the Funds are designed for investors who desire fixed income, as reflected in the Prospectus. Applicants further state that it might be possible for a speculator to recover the costs of approximating the statistical techniques used by the Evaluator in evaluating the portfolio of a Fund only by making very large trades in the secondary market. Applicants state that they anticipate that the number of Units available in the secondary market will be very limited.

Applicants state that the application of Rule 22c–1 to the Funds, causing additional evaluations of the Funds by the independent Evaluator who is paid for each evaluation, would be so costly as to be significantly detrimental to the interests of the Unitholders, particularly in light of the anticipated low volume of secondary market activity.

Applicants state that "backward pricing" is necessary in order that the Sponsors are able to quote a price at which it will purchase Units. Trade accomplished at a price to be determined several days in the future, the Applicants contend, would be unsatisfactory to the Unitholders as well as to the Sponsors.

Rule 22c–1, in addition, requires that net asset value be determined as of the time of the close of trading at the New York Stock Exchange (presently, 3:30 p.m., e.s.t.). The Sponsors state that it is anticipated that many of the bonds in the portfolios of the various Funds will be traded either exclusively or principally in the over-the-counter market, and the time of the close of trading on the New York Stock Exchange is therefore not necessarily related to the evaluation procedures used in determining net asset value of the Funds. The Sponsors state also that the Evaluator has indicated that 3:30 p.m. is the proper time to obtain reliable evaluations, regardless of the time of the close of trading on the New York Stock Exchange, Inc.

Notice is further given that any interested person may, not later than December 7, 1972, at 5:30 p.m., submit to the Commission in writing a request for hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72–20196 Filed 11–22–72;8:48 am]

[File No. 500–1]

TRANS-EAST AIR, INC.

Order Suspending Trading

NOVEMBER 15, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.50 par value, and all other securities of Trans-East Air, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 16, 1972 through November 25, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72–20204 Filed 11–22–72;8:49 am]

CONSTRUCTION INDUSTRY STABILIZATION COMMITTEE

WINDFALL PROFITS

Renegotiated Construction Contracts

On June 15, 1972, the Price Commission published in the FEDERAL REGISTER (37 F.R. 11870) its regulations concerning the renegotiation of construction contracts when contractors receive windfall profits resulting from deferred wage increase disapprovals by the Construction Industry Stabilization Committee (6 CFR 300.58).

To assist interested parties in carrying out these regulations, a list of the local unions by area which have had deferred increases disapproved may be inspected or reviewed at the offices of the Construction Industry Stabilization Committee, U.S. Department of Labor, Washington, D.C. 20210.

Signed at Washington, D.C., this 17th day of November 1972.

JOHN T. DUNLOP, *Chairman, Construction Industry Stabilization Committee.*

[FR Doc.72–20233 Filed 11–22–72;8:51 am]

ENVIRONMENTAL PROTECTION AGENCY

2-SEC-BUTYLAMINO-4-ETHYL-AMINO-6-METHOXY-S-TRIAZINE

Notice of Reextension of Temporary Tolerance

The Ciba-Geigy Corp., Ardsley, N.Y. 10502, was granted a temporary tolerance for combined residues of the herbicide 2-*sec*-butylamino-4-ethylamino-6-methoxy-*s*-triazine and its metabolites 2-*sec*-butylamino-4-amino-6-methoxy-*s*-triazine, 2-amino-4-ethylamino-6-methoxy-*s*-triazine, and 2,4-diamino-6-methoxy-*s*-triazine in or on the raw agricultural commodities fresh alfalfa and alfalfa hay at 1 part per million on June 16, 1970 (notice was published in the FEDERAL REGISTER of June 23, 1970 (35 F.R. 10237)). The temporary tolerance was extended October 8, 1971 (notice was published in the FEDERAL REGISTER of October 16, 1971 (36 F.R. 20187)).

The firm has requested a 1-year reextension to obtain additional experimental data. It is concluded that such reextension will protect the public health. A condition under which this temporary tolerance is re-extended is that the herbicide will be used in accordance with the temporary permit which is being issued concurrently and which provides for distribution under the Ciba-Geigy Corp. name.

This temporary tolerance expires June 16, 1973.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038).

Dated: November 16, 1972.

EDWIN L. JOHNSON, *Acting Deputy Assistant Administrator for Pesticides Programs.*

[FR Doc.72–20178 Filed 11–22–72;8:46 am]

V 37-227 NOV 23 72 XUM

CHEVRON CHEMICAL CO.

Notice of Establishment of Temporary Tolerances

Chevron Chemical Co., 940 Hensley Street, Richmond, CA 94801, submitted a petition (PP 2F1248) requesting establishment of temporary tolerances for combined residues of the insecticide *O,S*-dimethyl acetylphosphoramidothioate and its metabolite *O,S*-dimethyl phosphoramidothioate in or on the raw agricultural commodities broccoli at 15 parts per million, head lettuce at 10 parts per million, tomatoes at 5 parts per million, and potatoes at 0.5 part per million.

It has been determined that these temporary tolerances are safe and will protect the public health. They are therefore established as requested on condition that the insecticide be used in accordance with the temporary permit being issued concurrently by the Environmental Protection Agency and which provides for distribution under the Chevron Chemical Co. name.

These temporary tolerances expire November 16, 1973.

This action is being taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038).

Dated: November 16, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-20177 Filed 11-22-72;8:46 am]

CIBA-GEIGY CORP.

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 3F1323) has been filed by Ciba-Geigy Corp., Ardsley, N.Y. 10502, proposing establishment of tolerances (40 CFR Part 180) for residues of the insecticide *O,O*-dimethyl phosphorodithioate, S-ester with 4-(mercaptomethyl)-2-methoxy-Δ^2-1,3,4-thiadiazolin-5-one in or on the raw agricultural commodities potatoes and tomatoes at 0.1 part per million.

The analytical method proposed in the petition for determining residues of the insecticide is a gas-liquid chromatographic procedure using flame photometric detectors for either phosphorous or sulfur.

Dated: November 16, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-20176 Filed 11-22-72;8:46 am]

INTERSTATE COMMERCE COMMISSION

[Notice 165]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by Division 3 of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73696. By order of November 3, 1972, the Motor Carrier Board approved the transfer to Aaron Smith Trucking Co., Inc., Dudley, N.C., of certificate No. MC-126139 issued March 9, 1965, to Vernon S. Aycock, doing business as Aycock Truck Line, Fremont, N.C., authorizing the transportation of fertilizer in bags, from Norfolk, Va., to points in Wayne and Wilson Counties, N.C. William A. Dees, Jr., 105 South John Street, Post Office Box 12, Goldsboro, NC 27530, attorney for applicants.

No. MC-FC-73746. By order entered November 12, 1972, the Motor Carrier Board approved the transfer to Abrams Hardware, Inc., Kendrick, Idaho, of the operating rights set forth in certificate No. MC-93518, issued March 11, 1941, to Walter E. Brocke, doing business as Kendrick-Lewiston Auto Freight, Kendrick, Idaho, authorizing the transportation of: General commodities, except commodities of excessive value, those requiring refrigeration, petroleum products, in bulk, articles which exceed the capacity of equipment, and commodities contaminating to other lading, over a regular route, between Clarkston, Wash., and Kendrick, Idaho, serving all intermediate points, and off-route points within 15 miles of Kendrick. Dennis Paul Abrams, Post Office Box D, Kendrick, ID 83537, representative for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-20218 Filed 11-22-72;8:50 am]

[Notice 166]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73697. By order entered November 11, 1972, Division 3, acting as an Appellate Division, approved the transfer to C & R Transfer Co., Sioux Falls, S. Dak., of the operating rights set forth in permit No. MC-124576 (Sub-No. 6), issued May 21, 1968, to Williams Transportation, Inc., Belle Fourche, S. Dak., authorizing the transportation of: Posts, poles, pilings, and lumber, from points in Lawrence County, S. Dak., and Crook County, Wyo., to points in Iowa, Minnesota, Colorado, Montana, Nebraska North Dakota, South Dakota, and Wyoming, limited to a transportation service to be performed under a continuing contract, or contracts, with Whitewood Post and Pole Co., Whitewood, S. Dak. Dual operations authorized. James R. Becker, 412 West Ninth Street, Sioux Falls, SD 57104, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-20217 Filed 11-22-72;8:50 am]

[Notice 155]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 17, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can

and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 74321 (Sub-No. 61 TA), filed October 31, 1972. Applicant: B. F. WALKER, INC., 650 17th Street, Denver, CO 80202. Applicant's representative: J. Marshall Forsyth (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cooling towers and fluid coolers*, which because of size or weight, require the use of special equipment, and *cooling towers, fluid coolers and accessories* for cooling towers and fluid coolers which do not require the use of special equipment, when moving in the same vehicle with cooling towers and fluid coolers which because of size or weight require the use of special equipment, from the plantsite of the Marley Co. at or near Louisville, Ky., to points in Alabama, Arkansas, Arizona, California, Colorado, Florida, Georgia, Idaho, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming, for 180 days. Supporting shipper: The Marley Co., Mission, Kans. Send protests to: District Supervisor Roger L. Buchanan, Bureau of Operations, Interstate Commerce Commission, 2022 Federal Building, 1961 Stout Street, Denver, CO 80202.

No. MC 103993 (Sub-No. 738 TA), filed October 31, 1972. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul D. Borghesani (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings and sections of buildings*, on undercarriages, from points in Wake County, N.C., to points in Maryland, for 180 days. Supporting shipper: Globe Industries, Inc., Route No. 1, Box 535A, Morrisville (Raleigh), N.C. 27500. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne Street, Room 204, Fort Wayne, IN 46802.

No. MC 107496 (Sub-No. 866 TA), filed November 3, 1972. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, Post Office Box 855, 50304, Des Moines, IA 50309. Applicant's representative: E. Check (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid feed supplements*, in bulk, in tank vehicles, from the Pro-Flo, Inc., plantsite near Cameron, Ill., to points in Iowa, for 150 days. Supporting shipper: Pro-Flo, Inc. Rural Route 2, Cameron, Ill. 61432. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 110988 (Sub-No. 288 TA), filed November 3, 1972. Applicant: SCHNEIDER TANK LINES, INC., 200 West Cecil Street, Neenah, WI 54956. Applicant's representative: David A. Petersen (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, in bulk, in hopper-type vehicles, from Albion, Mich., to points in Illinois and Wisconsin, for 180 days. Supporting shipper: American Colloid Co., 5100 Suffield Court, Skokie, IL 60076 (Robert N. Garity). Send protests to: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 117940 (Sub-No. 82 TA), filed October 31, 1972. Applicant: NATIONWIDE CARRIERS, INC., Post Office Box 104, Maple Plain, MN 55359. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and accessories and commodities* used in the operations of department stores, from the facilities of Holly Stores, Inc., located in North Bergen, N.J., to Allentown, Altoona, New Kensington, and Rochester, Pa., Austintown and Highland Heights, Ohio; Elkhart, Fort Wayne, Hammond, and Mishawaka, Ind., Ann Arbor, Detroit (and points in its commercial zone), Flint, Livonia, Monroe, Pontiac, and Westland, Mich., Chicago (and points in its commerical zone), Downers Grove, Elgin, Joliet, and Kankakee, Ill., Cedar Rapids, Des Moines, and Iowa City, Iowa; Lincoln and Omaha, Nebr., Colorado Springs, Denver (and points in its commercial zone), Fort Collins, Greeley, and Pueblo, Colo., Albuquerque, N. Mex., Phoenix and Scottsdale, Ariz., Bakersfield, Escondido, Lancaster, Los Angeles (and points in its commercial zone), Oxnard, Riverside, and San Francisco, Calif., service is restricted to traffic originating at the named facilities, and is further restricted against service to any facilities owned or used by Minnesota Mining and Manufacturing Co., General Floor Covering Co., or Minnesota Tile Supply Co., for 180 days. Supporting shipper: Holly Stores, Inc., 7373 Westside Avenue, North Bergen, NJ 07047. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 119160 (Sub-No. 6 TA), filed November 7, 1972. Applicant: H. E. SPANN AND COMPANY, INC., Post Office Box 1111, Highway 49E, Mount Pleasant, TX 75455. Applicant's representative: Paul D. Angenend, Post Office Box 2207, Austin, TX 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferro alloys*, in bulk, in dump trucks or trailers with dump bodies, from Pine Bluff, Ark., to Lone Star, Tex., for 180 days. NOTE: Applicant does not intend to tack authority. Supporting shipper: Titan Industrial Corp., 777 Third Avenue, New York, NY 10017. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas TX 75202.

No. MC 123993 (Sub-No. 24 TA), filed November 2, 1972. Applicant: FOGLEMAN TRUCK LINE, INC., Post Office Drawer 1504, Crowley, LA 70526. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbon black*, in railroad owned trailers, having subsequent movement by rail, from Sterlington, La., to Meridian, Miss., return empty trailers, from Meridian, Miss., to Sterlington, La., for 180 days. Supporting shipper: R. T. Vanderbilt Co., Inc., 230 Park Avenue, New York, NY 10017. Send protests to: Paul D. Collins, Interstate Commerce Commission, Bureau of Operations, T-9038 Federal Building, 701 Lozola Avenue, New Orleans, LA 70113.

No. MC 125521 (Sub-No. 22 TA), filed October 31, 1972. Applicant: FUNK MOTOR TRANSPORTATION, INC., Box 75, Bridge Street, Grand Rapids, OH 43522. Applicant's representative: Arthur R. Cline, 420 Security Building, Toledo, Ohio 43604. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Newport, Ky., and Evansville, Ind., to Port Clinton, Ohio; Bowling Green, Ohio, and points within three (3) miles thereof; Tiffin, Ohio; Fostoria, Ohio, and points within four (4) miles thereof; *and empty containers or such other incidental facilities* used in transporting the above commodities from Bowling Green, Ohio, and points within three (3) miles thereof; Port Clinton, Ohio; Tiffin, Ohio; and Fostoria, Ohio and points within four (4) miles thereof, to Newport, Ky., and Evansville, Ind., for 150 days. Supporting shippers: Heineman Beverages, Inc., an Ohio corporation, 301 West Second Street, Port Clinton, OH 43452; Bowling Green Beverage, Inc., an Ohio corporation, Nims Road at North Dixie Highway, Bowling Green, Ohio 43402; The Tiffin Beverage Co., an Ohio corporation, 114 Miami Street, Tiffin, OH 44883; Hanson Distributing Co., doing business as Beerco, an Ohio corporation, State Route 12 West, Rural Route 2, Washington Township, Post Office Box 590, Fostoria, OH 44830. Send protests to: Keith D. Warner, District Supervisor, Interstate Commerce Commission,

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

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Bureau of Operations, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 125855 (Sub-No. 1 TA), filed November 2, 1972. Applicant: WALTER V. COVERT, 2444 Pattie, Wichita, KS 67216. Applicant's representative: John E. Jandera, 641 Harrison, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mill feeds*, from Wichita, Kans., to points in Newton, Barry, Stone, Lawrence, McDonald, and Taney Counties, Mo., Benton, Washington, Madison, Crawford, Carroll, Newton, Sebastian, Boone, and Logan Counties, Ark., Ottawa, Delaware, Adair, and Tulsa Counties, Okla., for 180 days. Supporting shipper: Wichita Flour Mills, Inc., 701 East 17th Street, Wichita, KS 67214. Send protests to: M. E. Taylor, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 126889 (Sub-No. 59 TA), filed November 1, 1972. Applicant: USHER TRANSPORT, INC., 3925 Old Benton Road, Post Office Box 3051, Paducah, KY 42001. Applicant's representative: George M. Catlett, Suite 703–706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lubricating oils, industrial and technical oils, greases, wax, charcoal lighter, and lighter fluids*, in drums and packages *and empty barrels on return*, from the plantsite of City Service Co., packaging plant, Cicero, Ill., to Ashland, Bardstown, Barlow, Benton, Berea, Bowling Green, Cadiz, Campbellsville, Carrollton, Central City, Danville, Elizabethtown, Eminence, Frankfort, Franklin, Glasgow, Hartford, Hawesville, Hopkinsville, Irvington, Leitchfield, Lexington, Madisonville, Marion, Maysville, Morganfield, Mt. Sterling, Munfordville, Murray, Olive Hill, Owensboro, Paducah, Princeton, Russellville, and Williamstown, Ky., Alamo, Dyersburg, Huntingdon, and Martin, Tenn., for 180 days. Supporting shipper: Gulf Oil Co., U.S., Post Office Box 7245, Station C, Atlanta, GA 30309. Send protests to: Floyd A. Johnson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 933 Federal Office Building, 167 North Main Street, Memphis, TN 38103.

No. MC 127450 (Sub-No. 8 TA), filed November 2, 1972. Applicant: T. G. GARLAND, doing business as B & W FREIGHT LINES, 200 North Buchanan Street, Post Office Box 2884, 79105, Amarillo, TX 79107. Applicant's representative: T. G. Garland (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except household goods as defined by the Commission, those of unusual value, classes A and B explosives, and those requiring special equipment, between Amarillo, Tex., and Oklahoma City, Okla., via the following routes: From Amarillo, Tex., via U.S. Highway 287 to Hedley, Tex., thence Texas Highway 203 to the Oklahoma State line; thence Oklahoma Highway 9 to Chickasha, Okla., thence the H. E. Bailey Turnpike to Oklahoma City, Okla., and return over the same route, serving the termini and points on the route from the Texas-Oklahoma State line to Chickasha, Okla., and serving the off-route points as described by the following: Points in Oklahoma bound by Oklahoma Highway 9 on the north, U.S. Highway 81 on the east, and the Oklahoma-Texas State line on the south and west, excluding points in the area authorized in Certificate MC–127450 Sub 6, viz: All points on U.S. Highway 62 from the Texas-Oklahoma State line on the west to and including Lawton, Okla., and the off-route points of Frederick, Mangum, and Tipton. Restriction: Restricted against handling any traffic between Oklahoma City on the one hand, and any other points in Oklahoma on the other, for 180 days. NOTE: Applicant states it will interline with other carriers at Amarillo, Tex., and Oklahoma City, Okla., and tack with MC 127450, Sub 6. Supported by: There are approximately 20 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H–4395 Herring Plaza, Amarillo, TX 79101.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-20216 Filed 11-22-72;8:50 am]

[Notice 167]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 20, 1972.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and transfer rules, 49 CFR Part 1132:

No. MC–FC–74084. By application filed November 14, 1972, NEBRASKA-IOWA XPRESS, INC., 3219 Nebraska Avenue, Council Bluffs, IA 51501, seeks temporary authority to lease the operating rights of JOHNNIE O. ROBERSON, Valley Falls, Kans. 66088, under section 210a(b). The transfer to NEBRASKA-IOWA XPRESS, INC., of the operating rights of JOHNNIE O. ROBERSON is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-20219 Filed 11-22-72;8:50 am]

[S.O. 994; ICC Order 77]

ERIE LACKAWANNA RAILWAY CO.

Rerouting or Diversion of Traffic

In the opinion of Lewis R. Teeple, agent, the Erie Lackawanna Railway Co., Thomas F. Patton and Ralph S. Tyler, Jr., trustees, is unable to transport traffic over its line to and from Watkins Glen, N.Y., and to interchange traffic at Elmira, N.Y., with the Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees, because of track damage caused by flooding.

It is ordered, That:

(a) The Erie Lackawanna Railway Co., Thomas F. Patton and Ralph S. Tyler, Jr., trustees, being unable to transport traffic over its line to and from Watkins Glen, N.Y., and to interchange traffic at Elmira, N.Y., with the Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees, because of track damage caused by flooding, that carrier is hereby authorized to reroute or divert such traffic via any available route to expedite the movement. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) Concurrence of receiving roads to be obtained. The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) Notification to shippers. Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon the failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date. This order shall become effective at 12:01 a.m., November 16, 1972.

(g) Expiration date. This order shall expire at 11:59 p.m., January 31, 1973, unless otherwise modified, changed or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., November 16, 1972.

INTERSTATE COMMERCE COMMISSION
[SEAL] LEWIS R. TEEPLE, *Agent.*

[FR Doc.72-20221 Filed 11-22-72;8:50 am]

[Sec. 5a Application 61, Amdt. 2]

NATIONAL CLASSIFICATION COMMITTEE—AGREEMENT

Application for Approval of Amendments; Correction

NOVEMBER 16, 1972.

The above-entitled notice of application for approval of amendments dated August 9, 1972, published in the FEDERAL REGISTER on November 8, 1972 (37 F.R. 23769), incorrectly showed the amendment number as Amendment No. 22 instead of the correct number, Amendment No. 2.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-20220 Filed 11-22-72;8:50 am]

[Notice 95]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

NOVEMBER 17, 1972.

The following applications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further procesisng steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

No. MC 1872 (Sub-No. 79), filed October 6, 1972. Applicant: ASHWORTH TRANSFER, INC., 1526 South 600 West, Salt Lake City, UT. Applicant's representative: Keith E. Taylor, 520 Kearns Building, Salt Lake City, Utah. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, in cargo containers and cargo vans; and *empty cargo containers and cargo vans*, between all points in the United States (including Alaska but excluding Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Los Angeles or San Francisco, Calif., or Washington, D.C.

No. MC 2202 (Sub-No. 418), filed October 5, 1972. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, OH 44309. Applicant's representative: James W. Conner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Grand Haven, Mich., as an off-route point in connection with applicant's present authority between Grand Rapids and Muskegon, Mich. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Lansing or Detroit, Mich., or Washington, D.C.

No. MC 5326 (Sub-No. 14), filed October 13, 1972. Applicant: WILSON B. DILL, CARL M. DILL, SR., and ARTHUR B. DILL, a partnership, doing business as, DILL BROS. COMPANY, Galena, Md. 21635. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed*, from Delmar, Del., to points in Cecil, Kent, Queen Annes, Talbot, and Caroline Counties, Md. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority.

No. MC 8472 (Sub-No. 2), filed September 22, 1972. Applicant: SOUTH END CARTAGE, INC., 4222 South Knox Street, Chicago, IL. Applicant's representative: Philip A. Lee, 33 North Dearborn, Suite 1801, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas, coconuts, and pineapples*, from Chicago, Ill., to points in Indiana, Michigan, Wisconsin, Illinois, Minnesota, and Iowa, restricted to the transportation of traffic moving in chassis mounted containers and restricted to the transportation of traffic having an immediate prior or subsequent movement by rail. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 11207 (Sub-No. 320), filed October 13, 1972. Applicant: DEATON, INC., 317 Avenue West, Post Office Box 938, Birmingham, AL 35201. Applicant's representative: A. Alvis Layne, 915 Pennsylvania Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials, gypsum and gypsum products, composition board, insulating material, urethane and urethane products and related materials, supplies and accessories incidental thereto* (except commodities in bulk), from the plantsite and warehouse facilities of the Celotex Corp. located at Memphis, Tenn., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, and South Carolina. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Tampa, Fla.

No. MC 41404 (Sub-No. 108), filed September 12, 1972. Applicant: ARGO-COLLIER TRUCK LINES CORPORATION, Post Office Box 440, Fulton Highway, Martin, TN 38237. Applicant's

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

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representative: Tom D. Copeland (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk or liquid form in tank vehicles), having a prior movement by water, from Gulfport, Miss., and New Orleans, La., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Mississippi, North Carolina, Ohio, South Carolina, Tennessee, Texas, and Wisconsin. NOTE: Dual operations and common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or New Orleans, La.

No. MC 59150 (Sub-No. 73), filed October 19, 1972. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Jacksonville, FL 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials, gypsum and gypsum products and such materials, equipment, and supplies* as are used in the manufacture, packaging, installation or distribution of such commodities (except liquid commodities in bulk), between the plantsite and facilities of United States Gypsum Co. at Jacksonville, Fla., on the one hand, and, on the other, points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia, restricted to traffic originating or terminating at the plantsite and warehouse facilities of United States Gypsum Co. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Jacksonville, Fla., or Atlanta, Ga.

No. MC 59367 (Sub-No. 83), filed October 13, 1972. Applicant: DECKER TRUCK LINE, INC., Post Office Box 915, Fort Dodge, IA 50501. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from the plantsites and storage facilities of Farmland Foods, Inc., located at or near Carroll, Denison, and Iowa Falls, Iowa, to points in Illinois, Michigan, Minnesota, and Wisconsin. Restriction: Restricted to traffic originating at the named plantsites and destined to the named destination States.

No. MC 59396 (Sub-No. 21) (Amendment), filed September 28, 1972, published in the FEDERAL REGISTER issue of October 27, 1972, and republished this issue. Applicant: BUILDERS EXPRESS, INC., Limecrest Road, Rural Delivery, Lafayette, N.J. 07848. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing granules*, in bulk, in hard top closed dump and pneumatic trailers, from Belle Mead and Bound Brook, N.J., to Baltimore, Md., York, Philadelphia, and Harrisburg, Pa., Walpole and Millis, Mass., Stratford, Conn., and Schenectady, N.Y. NOTE: Applicant states that it currently holds authority to transport contractors materials and therefore duplicating authority may be involved. Applicant further states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to add the destination point of Schenectady, N.Y. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 59531 (Sub-No. 96), filed October 13, 1972. Applicant: ESTATE OF HARRY E. STEWART, PETER P. STEWART, HENRY EXALL, JR. PETER STEWART TRUST A-E, WALDO E. STEWART TRUST 1-5, and IAN, INC., a partnership doing business as AUTO CONVOY CO., 3020 South Kaskell Avenue, Dallas, TX 75223. Applicant's representative: Walter N. Bieneman, Suite 1700, 1 Woodward Avenue, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles, trucks, and buses*, as described in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, and *parts thereof* moving therewith, in secondary movements, in truckaway service, from Dallas, Tex., to points in Colorado. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 64932 (Sub-No. 508), filed October 18, 1972. Applicant: ROGERS CARTAGE CO., a Corporation, 10735 South Cicero Avenue, Oak Lawn, IL 60453. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt syrup*, in bulk, in tank vehicles, from Peoria, Ill., to points in Arkansas, Georgia, Illinois, Indiana, Kentucky, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, and Wisconsin; and (2) *chemicals*, in bulk, in tank vehicles, from Peoria, Ill., to points in Georgia, Louisiana, New York, Oklahoma, North Carolina, and South Carolina. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 66886 (Sub-No. 37), filed October 18, 1972. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut Street, Kansas City, MO 64108. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, MO 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cooling towers and fluid coolers*, which because of size or weight require the use of special equipment, and *cooling towers, fluid coolers* and *accessories* for cooling towers and *fluid coolers* which do not require the use of special equipment, when moving in the *ers* and *accessories* for cooling towers and fluid coolers, which because of size or weight, require the use of special equipment, and *supplies, machinery and equipment* used in the manufacture of cooling towers and fluid coolers, between the plant site of The Marley Co., Louisville, Ky., on the one hand, and, on the other, points in Alabama, Arkansas, Arizona, California, Colorado, Florida, Georgia, Idaho, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky.

No. MC 81908 (Sub-No. 4), filed October 17, 1972. Applicant: GARNER TRUCKING, INC., Route No. 4, Findlay, Ohio. Applicant's representative: James R. Stiverson, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food stuffs* (except commodities in bulk) (1) from the distribution center site of Heinz U.S.A. Division, H. J. Heinz Co., located at or near Toledo, Ohio, and the plantsites and storage facilities of Heinz U.S.A. Division located at or near Bowling Green and Fremont, Ohio, to points in Indiana, Michigan, and Ohio; and (2) from the plantsite and storage facilities of Heinz U.S.A. Division located at or near Holland, Mich., to the distribution center site of Heinz U.S.A. Division located at or near Toledo, Ohio, restricted to traffic originating at and destined to the specified points in (1) and (2) above. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 82841 (Sub-No. 104), filed October 19, 1972. Applicant: HUNT TRANSPORTATION, INC., 10770 I Street, Omaha, NE 68127. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a

common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as described in Appendix V of *Descriptions in Motor Carrier Certificates*, Ex Parte No. MC 45, 64 M.C.C. 209, between Tulsa and the Port of Catoosa, Okla., on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Iowa, Kansas, Louisiana, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Tennessee, Texas, Utah, Washington, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Pittsburgh, Pa.

No. MC 82841 (Sub-No. 105), filed October 20, 1972. Applicant: HUNT TRANSPORTATION, INC., 10770 I Street, Omaha, NE 68127. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bulkheads and bulkhead accessories*, from Douglas County, Nebr., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 83539 (Sub-No. 358), filed October 24, 1972. Applicant: C & H TRANSPORTATION CO., INC., 1936–2010 West Commerce Street (Post Office Box 5976), Dallas, TX 75222. Applicant's representative: Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailer and trailer chassis*, other than those designed to be drawn by passenger automobiles, in initial movement, from the plantsite and warehouse facilities of Lufkin Industries, Inc., at or near Lufkin, Tex., to points in the United States (except Alaska and Hawaii). NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 93840 (Sub-No. 10), filed October 20, 1972. Applicant: W. W. GLESS, doing business as, GLESS BROS., Blue Grass, Iowa 52726. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid feed, liquid feed supplements, and molasses*, in bulk, from the plantsite of Cargill, Ind., located in Scott County, Iowa, to points in Illinois, Iowa, Minnesota, Missouri, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 95743 (Sub-No. 26), filed November 10, 1972. Applicant: WILLIAM F. MEHRING & SONS, INC., Route No. 1, Keymar, MD 21757. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, from Warfordsburg and Mount Cydonia, Pa., and from points in Morgan County, W. Va., to points in Frederick County, Md. NOTE: Applicant presently holds contract carrier authority in permit No. MC 126300 authorizing transportation of wooden stair part from Taneytown, Md., to specified points and states, therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 97310 (Sub-No. 11), filed September 26, 1972. Applicant: BELL TRANSFER COMPANY, INC., 1600 B Street, Post Office Box 5636, Meridian, MS 39301. Applicant's representative: Paul O. Miller, 512 East Pearl Street, Post Office Box 2366, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except class A and B explosives, livestock, commodities of unusual value, commodities in bulk or requiring special equipment, and those injurious to other lading), (1) Between Vicksburg, Miss., and Monroe, La.; from Vicksburg, Miss., over U.S. Highway 80 and Interstate Highway 20 to Monroe, La., and return over the same route, serving all intermediate points; (2) between Vicksburg, Miss., and New Orleans, La.; from Vicksburg, Miss., over U.S. Highway 61 to New Orleans, La., and return over the same route, serving all intermediate points and serving as off-route points in Warren, Claiborne, Jefferson, Adams, Wilkinson, Amite, and Franklin Counties, Miss., and points in West Feliciana, East Feliciana, East Baton Rouge, Ascension, St. James, St. John the Baptist, and St. Charles Parishes, La.; (3) between Jackson, Miss., and New Orleans, La.; from Jackson, Miss., over U.S. Highway 51 and Interstate Highway 55 to the intersection of U.S. Highway 51 and U.S. Highway 61 at Laplace, La.; thence over U.S. Highway 61 and Interstate Highway 10 to New Orleans, La., and return over the same route, serving all intermediate points and serving as off-route points in Hinds, Copiah, Lincoln, Pike, Amite, Rankin, Walthall, Lawrence, and Simpson; and points in St. Helena, Tangipahoa, Washington, Livingston, St. John the Baptist, and Charles Parishes, La.; (4) between Meridian, Miss., and New Orleans, La.; from Meridian, Miss., over U.S. Highway 11 and Interstate Highway 59 to the intersection of U.S. Highway 90 and Interstate Highway 10; thence over U.S. Highway 90 and Interstate Highway 10 to New Orleans, La., and return over the same route, serving all intermediate points and serving as off-route points in Lauderdale, Jefferson, Clarke, Jones, Forrest, Lamar, Pearl River, and Hancock Counties, Miss.; and points in Washington and St. Tammany Parishes, La.; (5) between Baton Rouge, La., and the intersection of U.S. Highway 90 and Interstate Highway 10; from Baton Rouge, La., over U.S. Highway 190 and Interstate Highway 12 to the intersection of U.S. Highway 90 and Interstate Highway 10, and return over the same route, serving all intermediate points and serving as off-route points in St. Tammany, Tangipahoa, Livingston, and East Baton Rouge Parishes, La.; (6) between New Orleans, La., and Mobile, Ala.; from New Orleans, La., over U.S. Highway 90 and Interstate Highway 10 to Mobile, Ala., and return over the same route, serving all intermediate points and serving as off-route points in St. Tammany Parish, La.; points in Jackson, Harrison, and Hancock Counties, Miss.; and points in Mobile County, Ala.;

(7) Between Mobile, Ala., and Pensacola, Fla.; from Mobile, Ala., over U.S. Highway 90 and Interstate Highway 10 to Pensacola, Fla., and return over the same route, serving all intermediate points and serving as off-route points in Mobile and Baldwin Counties, Ala., and points in Escambia County, Fla.; (8) between Jackson, Miss., and Biloxi, Miss.; from Jackson, Miss., over U.S. Highway 49 to the intersection of U.S. Highway 49 and U.S. Highway 90; thence over U.S. Highway 90 to Biloxi, Miss., and return over the same route, serving all intermediate points and serving as off-route points in Rankin, Simpson, Smith, Covington, Marion, Lamar, Forrest, Stone, and Harrison Counties, Miss.; (9) between Natchez, Miss., and Perdue Hill; from Natchez, Miss., over U.S. Highway 84 to Perdue Hill, Ala., and return over the same route, serving all intermediate points, and serving as off-route points in Adams, Franklin, Lawrence, Jefferson Davis, Covington, Jones, and Wayne Counties, Miss.; (10) between Natchez, Miss., and Mobile, Ala.; from Natchez, Miss., over U.S. Highway 98 to Mobile, Ala., and return over the same route, serving all intermediate points and serving as off-route points in Adams, Franklin, Pike, Walthall, Marion, Lamar, Forrest, Perry, Greene, and George Counties, Miss., and points in Mobile County, Ala.; (11) between Meridian, Miss., and Mobile, Ala.; from Meridian, Miss., over U.S. Highway 45 to Mobile, Ala., and return over the same route, serving all intermediate points and serving as off-route points in Lauderdale, Clarke, Wayne, and Greene Counties, Miss., and points in Mobile County, Ala.; (12) between York, Ala., and Mobile, Ala.; from

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York, Ala., over Alabama Highway 17 to the intersection of Alabama Highway 17 and U.S. Highway 45; thence over U.S. Highway 45 to Mobile, Ala., and return over the same route, serving all intermediate points; (13) between Mobile, Ala., and the intersection of U.S. Highway 43 and U.S. Highway 80; from Mobile, Ala., over U.S. Highway 43 to the intersection of U.S. Highway 43 and U.S. Highway 80 and return over the same route, serving all intermediate points, and serving Jackson, Ala., as an off-route point;

(14) Between Catherine, Ala., and the intersection of Alabama Highway 5 and U.S. Highway 43; Catherine, Ala., over Alabama Highway 5 to the intersection of Alabama Highway 5 and U.S. Highway 43 and return over the same route; (15) between Mobile, Ala., and the intersection of Alabama Highway 21 and U.S. Highway 84; from Mobile, Ala., over U.S. Highway 31 to Atmore, Ala.; thence over Alabama Highway 21 to the intersection of Alabama Highway 21 and U.S. Highway 84, and return over the same route, serving all intermediate points; (16) between Pensacola, Fla., and Atmore, Ala.; from Pensacola, Fla., over U.S. Highway 29 to the intersection of U.S. Highway 29 and Florida Highway 97; thence over Florida Highway 97 to the Alabama-Florida State line; thence over Alabama Highway 21 to Atmore, Ala., and return over the same route, serving no intermediate points; (17) serving Canton, Miss., as an off-route point in connection with applicant's presently authorized service; (18) serving points south of U.S. Highway 80 and Warren, Hinds, Rankin, Scott, Smith, Newton, Jasper, and Lauderdale Counties, Miss., as off-route points in connection with applicant's presently authorized service; and (19) (a) between Montgomery, Ala., and Atmore, Ala.; from Montgomery, Ala., over U.S. Highway 31 and Interstate Highway 65 to Atmore, Ala., and return over the same route; (b) between Demopolis, Ala., and Eutaw, Ala.; from Demopolis, Ala., over U.S. Highway 43 to Eutaw, Ala., and return over the same route, serving as alternate routes for operating convenience only. NOTE: Applicant states it intends to tack and join at all service points presently authorized in MC-97310 and all subs issued thereunder. If a hearing is deemed necessary, applicant requests it be held at either (1) Birmingham, Ala.; (2) Mobile, Ala.; (3) Meridian, Miss.; (4) Jackson, Miss.; or (5) New Orleans, La.

No. MC 97310 (Sub-No. 12), filed October 24, 1972. Applicant: BELL TRANSFER COMPANY, INC., 1600 "B" Street, Post Office Box 5636, Meridian, MS 39301. Applicant's representative: Paul O. Miller III, 512 East Pearl Street, Post Office Box 2366, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, commodities in bulk or requiring special equipment and those injurious to other lading), (1) between New Orleans, La., and Pensacola, Fla., from New Orleans over U.S. Highway 90 and also Interstate Highway 10 to Pensacola, and return over the same route, serving no intermediate points; (2) between Jackson, Miss., and Pensacola, Fla., from Jackson over U.S. Highway 49 to junction U.S. Highway 98; thence over U.S. Highway 98 to junction U.S. Highway 90; thence over U.S. Highway 90 to Pensacola, and return over the same route, serving no intermediate points; (3) between Meridian, Miss., and Pensacola, Fla., from Meridian over U.S. Highway 45 to junction U.S. Highway 98; thence over U.S. Highway 98 to junction U.S. Highway 90; thence over U.S. Highway 90 to Pensacola, and return over the same route, serving no intermediate points; (4) between Montogmery, Ala., and junction U.S. Highways 231 and 90, over U.S. Highway 231, and return over the same route, serving no intermediate points; (5) between Pensacola, Fla., and junction U.S. Highways 90 and 231, over U.S. Highway 90, and return over the same route, serving all intermediate points; (6) between Tallahassee, Fla., and junction U.S. Highways 90 and 231, over U.S. Highway 90, and return over the same route, serving no intermediate points; (7) between Pensacola and Panama City, Fla., over U.S. Highway 98, and return over the same route, serving all intermediate points; (8) between Panama City and Tallahassee, Fla., from Panama City over U.S. Highway 231 to junction U.S. Highway 231 and Florida Highway 20; thence over Florida Highway 20 to Tallahassee, and return over the same route, serving all intermediate points;

(9) Between Miami, Fla., and junction U.S. Highways 41 and 90, over U.S. Highway 41, and return over the same route, serving all intermediate points and also serving the off-route points of Clearwater, St. Petersburg, Miami Beach, Hialeah, North Miami, Miami Shores, Miami Springs, South Miami, and Coral Gables, Fla.; (10) between Williston and Orlando, Fla., from Williston over U.S. Highway 27 to junction U.S. Highway 441; thence over U.S. Highway 441 to Orlando, and return over the same route, serving all intermediate points; (11) between Orlando and Miami, Fla., from Orlando over U.S. Highway 441 to junction U.S. Highway 192; thence over U.S. Highway 192 to junction U.S. Highway 1; thence over U.S. Highway 1 to Miami, and return over the same route, serving all intermediate points and serving the off-route points of Miami Beach, Hialeah, North Miami, Miami Springs, Miami Shores, South Miami, and Coral Gables, Fla.; and (12) between Tallahassee and Jacksonville, Fla., over U.S. Highway 90 and also Interstate 10, and return over the same route, serving all intermediate points. Alternate routes for operating convenience only: Between Orlando and Tampa, Fla., over U.S. Highway 92, and return over the same route, serving no intermediate points, in connection with applicant's regular route operations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., New Orleans, La., or Tampa or Jacksonville, Fla.

No. MC 99284 (Sub-No. 6), filed October 12, 1972. Applicant: SULLIVAN'S MOTOR DELIVERY, INC., 711 South First Street, Milwaukee, WI 53204. Applicant's representative: Richard W. Darrow (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, in shipments weighing less than 50 pounds per shipment and not more than 108 inches in circumference, between the commercial zones of Chicago, Waukegan, North Chicago, Lake Bluff, Lake Forest, and Highland Park, Ill., on the one hand, and, on the other, the commercial zones of Kenosha, Racine, Milwaukee, West Bend, Fond Du Lac, Oshkosh, Neenah, Menasha, Appleton, De Pere, Green Bay, Two Rivers, Manitowoc, Sheboygan, Port Washington, Cedarburg, and Grafton, Wis. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. It a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis., or Chicago, Ill.

No. MC 101186 (Sub-No. 12) (Clarification), filed September 6, 1972, published in the FEDERAL REGISTER issue of September 28, 1972, and republished, as clarified this issue. Applicant: ARLEDGE TRANSFER INCORPORATED, Post Office Box 157, Burlington, IA 52601. Applicant's representative: Thomas F. Kilroy, Post Office Box 624, Springfield, VA 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) Between Cedar Rapids, Iowa, and Milwaukee, Wis.; from Cedar Rapids, Iowa, over U.S. Highway 151 to its junction with Interstate Highway 94 to Milwaukee, Wis., and return over the same route; (2) Between Cedar Rapids, Iowa, and Dixon, Ill.; from Cedar Rapids, Iowa, over U.S. Highway 30 to its junction with Illinois Highway 2 (formerly Alternate U.S. Highway 30) thence over Illinois Highway 2 to Dixon, Ill., and return over the same route; serving as alternate routes for operating convenience only in (1) and (2) above, in connection with carrier's authorized regular route operations, serving no intermediate points. NOTE: The purpose of this republication is to clarify the route descriptions of the authority sought herein. If a hearing is deemed necessary, applicant requests it be held at Burlington, Iowa, or Chicago, Ill.

No. MC 105813 (Sub-No. 187), filed October 24, 1972. Applicant: BELFORD TRUCKING CO., INC., 3500 North West, 79th Avenue, Miami, FL 33148. Applicant's representative: Arnold L. Burke, 127 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsite and storage facilities utilized by Michigan Lloyd J. Harris Pie Co., at or near Saugatuck and Holland, Mich., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Texas, restricted to traffic originating at the named origins. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 106644 (Sub-No. 143), filed October 17, 1972. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road NW., Post Office Box 916, Atlanta, GA 30301. Applicant's representative: Fred Coffman, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Valves, hydrants, parts, attachments, and accessories* and (b) *Materials, equipment, and supplies* used in the manufacture thereof (except commodities in bulk), between Jefferson County, Tex., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Applicant holds contract carrier authority under MC 104724 (Sub-No. 13), therefore, dual operations may be involved. Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no *present* intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex., or Washington, D.C.

No. MC 106644 (Sub-No. 144), filed October 17, 1972. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road NW., Post Office Box 916, Atlanta, GA 30301. Applicant's representative: Fred Coffman, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roadbuilding, earthmoving, construction, mining, and contractors' machinery and equipment, and parts thereof* when moving at the same time or separately, from Chattanooga, Tenn., to points in the United States (including Alaska but excluding Hawaii). NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no *present* intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Applicant now holds contract carrier authority under its No. MC 104724 and subs, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Washington, D.C.

No. MC 107010 (Sub-No. 45), filed October 16, 1972. Applicant: BULK CARRIERS, INC., 1201 North J Street, Auburn, NE 68305. Applicant's representative: David R. Parker, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Road construction materials*, in bulk, in tank vehicles, from Omaha, Nebr., to points in Iowa; and (2) *asphalt*, in bulk, in tank vehicles, from Kansas City, Kans., to points in Missouri. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr. or Kansas City, Mo.

No. MC 107037 (Sub-No. 1), filed October 18, 1972. Applicant: BROWN TRANSFER COMPANY, a corporation, 1202 East 26th Street, Kearney, NE 68847. Applicant's representative: James E. Ryan, 214 Sharp Building, Lincoln, Nebr. 68508. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving the warehouse site of Western Electric located at or near Underwood, Iowa as an off-route point in connection with applicant's presently authorized regular route operations via Omaha, Nebr., serving no intermediate points. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 107818 (Sub-No. 65), filed October 13, 1972. Applicant: GREENSTEIN TRUCKING COMPANY, a corporation, 280 Northwest 12th Avenue, Post Office Box 608, Pompano Beach, FL 33061. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products, yogurt, and prepared desserts*, from Walton, N.Y., and Hagerstown, Md., to points in North Carolina, South Carolina, Georgia, and Florida. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., Chicago, Ill., or Washington, D.C.

No. MC 107838 (Sub-No. 4), filed October 18, 1972. Applicant: H. & S. MOTOR FREIGHT, INC., North and Franklin Streets, Post Office Box 88, Eldon, MO 65026. Applicant's representative: Herman W. Huber, 101 East High Street, Jefferson City, MO 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, and except dangerous explosives, household goods as defined in Practices of Motor Common Carriers of household goods 17 M.C.C. 467, commodities in bulk, and those requiring special equipment), (1) between Jefferson City, Mo., and Macks Creek, Mo., from Jefferson City, Mo., over U.S. Highway 54, and return over the same route, serving all intermediate points; (2) between Springfield and Brazito, Mo., from Springfield, Mo., over U.S. Highway 65 to junction Missouri Highway 32, thence over Missouri Highway 32 to junction Missouri Highway 73, thence over Missouri Highway 73 to junction U.S. Highway 54 to Brazito, and return over the same route, serving Macks Creek, Mo., and all intermediate points between Macks Creek and Brazito, Mo.; and (3) by joinder at Eldon, Mo., and Camdenton, Mo., authority is also sought to serve between Jefferson City, Mo., and Springfield, Mo., on the one hand, and, on the other, (a) all points between Eldon, Mo., and Cole Camp, Mo., (b) all points between Camdenton and Versailles, Mo., over applicant's presently authorized regular-routes and (c) the off-route point of Tuscumbia and those points located on the Lake of the Ozarks between the above-described routes. Restriction: No service is sought to be rendered between Springfield, Mo., and Jefferson City, Mo., or between those points on the one hand, and, on the other, St. Louis, Mo., or Kansas City, Mo. NOTE: Applicant states that it does not seek to remove its present restriction against service between St. Louis, Mo.-East St. Louis, Ill., and Kansas City, Mo.-Kansas City, Kans. If a hearing is deemed necessary, applicant requests it be held at Jefferson City, Mo.

No. MC 108449 (Sub-No. 346), filed October 19, 1972. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, MN 55113. Applicant's representative: Adolph J. Bieberstein, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from the plantsite of the Chicago Bridge and Iron Co., near Indian Oaks, Ill., to points in Colorado, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Tennessee, Nebraska, New York, Ohio, Pennsylvania, West Virginia, Wisconsin, and Wyoming; and (2) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), from points in Colorado, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Nebraska, New York, Ohio, Pennsylvania, West Virginia, Tennessee, Wisconsin, and Wyoming to the plantsite of the Chicago Bridge and Iron Co., near Indian Oaks, Ill. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed

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necessary, applicant requests it be held at Chicago, Ill., or Minneapolis, Minn.

No. MC 109540 (Sub-No. 26), filed October 18, 1972. Applicant: YEARY TRANSFER COMPANY, INC., 2171 Christian Road, Lexington, KY 40504. Applicant's representative: Fred F. Bradley, Post Office Box 773, Courthouse, Frankfort, KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Homogenized, reconstituted or reconstructed tobacco*, from Spotswood, N.J., and Ancram, N.Y., to points in Durham County, N.C. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Lexington, or Frankfort, Ky.

No. MC 110563 (Sub-No. 92), filed October 16, 1972. Applicant: COLDWAY FOOD EXPRESS, INC., Post Office Box 747, Sidney, OH 45365. Applicant's representative: Joseph M. Scanlan, 111 West Washington, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Buffalo, N.Y., to points in Pennsylvania, Delaware, Maryland, Massachusetts, Connecticut, New Hampshire, New Jersey, Ohio, Indiana, Minnesota, and Washington, D.C. NOTE: Applicant states that the requested authority can be tacked with its existing authority at Cleveland, Ohio, however applicant states that it does not presently intend to do so. If a hearing is deemed necessary, applicant requests it be held at Buffalo or New York, N.Y.

No. MC 110563 (Sub-No. 93), filed October 16, 1972. Applicant: COLDWAY FOOD EXPRESS, INC., Post Office Box 747, Sidney, OH 45365. Applicant's representative: Joseph M. Scanlan, 111 West Washington, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except hides and skins and commodity in bulk, from Coldwater, Mich., to points in Maryland, Pennsylvania, New Jersey, New York, Ohio, Kentucky, Illinois, Connecticut, Massachusetts, and Tennessee. NOTE: Applicant states that the requested authority can be tacked with its existing authority at Cleveland, Ohio, and Chicago, Ill., however applicant states it does not presently intend to do so. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Chicago, Ill.

No. MC 110563 (Sub-No. 94), filed October 16, 1972. Applicant: COLDWAY FOOD EXPRESS, INC., Post Office Box 747, Sidney, OH 45365. Applicant's representative: Joseph M. Scanlan, 111 West Washington, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, between Aurora, Nebr., on the one hand, and, on the other, points in the United States (except Hawaii and Alaska). Restriction: Restricted to traffic originating at and destined to Aurora, Nebr. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lincoln or Omaha, Nebr.

No. MC 110563 (Sub-No. 95), filed October 16, 1972. Applicant: COLDWAY FOOD EXPRESS, INC., Ohio Building, Sidney, Ohio 45365. Applicant's representative: Joseph M. Scanlan, 111 West Washington, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carriers Certificates* 61 M.C.C. 209 and 766 (except hides, skins, and commodities in bulk), from Hastings, Nebr., to points in Pennsylvania, Ohio, Indiana, Illinois, Missouri, Iowa, Wisconsin, Minnesota, Texas, and Tennessee. NOTE: Applicant states that the requested authority could be tacked with its existing authority at Cleveland, Ohio and Chicago, Ill., but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Lincoln or Omaha, Nebr.

No. MC 111170 (Sub-No. 197), filed October 10, 1972. Applicant: WHEELING PIPE LINE, INC., Post Office Box 1718, El Dorado, AR 71730. Applicant's representative: Tom E. Moore (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Feed and ingredients*, in bulk and bags, from Van Buren, Ark., to points in Arkansas, Colorado, Kansas, Louisiana, Mississippi, Missouri, Nebraska, Oklahoma, and Texas; (2) *Dibromopropanol*, in bulk, from El Dorado, Ark., to St. Louis, Mich., and (3) *Asphalt*, in bulk, from El Dorado, Ark., to Coplant, Nebr. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark., or Memphis, Tenn.

No. MC 111545 (Sub-No. 175), filed October 16, 1972. Applicant: HOME TRANSPORTATION COMPANY, INC., 1425 Franklin Road, Marietta, GA 30062. Applicant's representative: Robert E. Born, Post Office Box 6426, Station A, Marietta, GA 30062. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles in initial movements, and *buildings, in sections*, moving on undercarriages, from Durham, N.C., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority can be joined with other authority now pending, but has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Applicant further states no duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 111594 (Sub-No. 56), filed October 16, 1972. Applicant: C W TRANSPORT, INC., 610 High Street, Wisconsin Rapids, WI 54494. Applicant's representative: T. D. O'Connor (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between the plantsite and storage facilities of the Dana Corp., located at or near Edgerton, Wis., on the one hand, and, on the other, points in Indiana, Illinois, Kentucky, Michigan, Minnesota, Missouri, Ohio, Pennsylvania, Tennessee, West Virginia, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 111729 (Sub-No. 364), filed October 19, 1972. Applicant: AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, NY 11040. Applicant's representative: John M. Delany (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Emergency parts for earth-moving equipment*, used in construction, road building, and mining operations, restricted to articles or packages weighing in the aggregate less than 75 pounds, from one consignor to one consignee on any one day, between Palatine, Ill., on the one hand, and, on the other, points in Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, and Wisconsin. NOTE: Applicant holds contract carrier authority under MC 112750 and subs thereunder, therefore dual operations may be involved. Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no *present* intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 113678 (Sub-No. 469), filed October 16, 1972. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Applicant's representative: Richard A. Peterson, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives and those requiring special equipment), which are at the time moving on bills of lading of freight forwarders under Part IV of the Interstate Commerce Act, between the facilities of ABC Freight Forwarding Corp., Midland Forwarding Corp., and National Carloading Corp., at Chicago, Ill., and St. Louis, Mo., on the one hand, and points in California on the other hand. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.; New York, N.Y., or Washington, D.C.

No. MC 113678 (Sub-No. 470), filed October 16, 1972. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Applicant's representative: Richard A. Peterson, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, and those requiring special equipment), which are at the time moving on bills of lading of freight forwarders under Part IV of the Interstate Commerce Act, from the facilities of ABC Freight Forwarding, Corp., Midland Forwarding Corp., and National Carloading Corp., at Detroit, Mich.; Cleveland, Columbus, Cincinnati, and Dayton, Ohio; Louisville, Ky; and Indianapolis, Ind., to Denver, Colo. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.; New York, N.Y.; or Washington, D.C.

No. MC 113678 (Sub-No. 471), filed October 16, 1972. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Applicant's representative: Richard A. Peterson, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, and those requiring special equipment), which are at the time moving on bills of lading of freight forwarders under Part IV of the Interstate Commerce Act, from the facilities of Action Industries, at Cheswick, Pa., Houston, Tex., and Compton, Calif., restricted to shipments originating at or destined to plantsites or shipping facilities of Action Industries and its affiliates or subsidiaries. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., Pittsburgh, Pa., or Denver, Colo.

No. MC 113843 (Sub-No. 189), filed October 17, 1972. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, MA 02210. Applicant's representative: William J. Boyd, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from New Hampton, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. Restriction: The above authority is restricted to the transportation of traffic originating at the plantsite and storage facilities of the Kitchens of Sara Lee at New Hampton, Iowa, and destined to the named States. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Boston, Mass.

No. MC 114211 (Sub-No. 181), filed October 19, 1972. Applicant: WARREN TRANSPORT, INC., 324 Manhard Street, Post Office Box 420, Waterloo, IA 50704. Applicant's representative: Daniel Sullivan, 327 South La Salle Street, Chicago, IL 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Grading, paving and finishing machinery and equipment, contractor's equipment, parts, accessories and attachments;* and (2) *materials, equipment and supplies* used in the manufacture or distribution of the commodities described in (1) above (except commodities in bulk), between Ida Grove, Iowa, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Chicago, Ill.

No. MC 114211 (Sub-No. 182), filed October 26, 1972. Applicant: WARREN TRANSPORT, INC., 324 Manhard Street, Post Office Box 420, Waterloo, IA 50704. Applicant's representative: Daniel Sullivan, 327 South La Salle, Chicago, IL 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Tractors* (except those with vehicle beds, bed frames, and fifth wheels); (b) *equipment* designed for use in conjunction with tractors; (c) *agricultural, industrial, and construction machinery and equipment;* (d) *trailers* designed for the transportation of the above-described commodities (except those trailers designed to be drawn by passenger automobiles); (e) *attachments* for the above-described commodities; (f) *internal combustion engines* and; (g) *parts* of the above-described commodities, from the plants, warehouse sites and experimental farms of Deere & Co., at points in Black Hawk and Dubuque Counties, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia; and (2) *returned shipments of the above-described commodities*, on return. Restriction: Restricted in (1) above to the transportation of traffic originating at the plantsites, warehouse sites, and experimental farms of Deere & Co., and in (2) above to the transportation of traffic destined to said facilities. NOTE: Applicant states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114632 (Sub-No. 53), filed October 19, 1972. Applicant: APPLE LINES, INC., Post Office Box 507, Madison, SD 57042. Applicant's representative: Val Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes and frozen potato products*, from Minneapolis-St. Paul, Minn., to points in Illinois, Iowa, Kansas, Missouri, Nebraska, and Oklahoma. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant now holds contract carrier authority

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under its No. MC 129706, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis-St. Paul, Minn., or Chicago, Ill.

No. MC 115491 (Sub-No. 125), filed October 18, 1972. Applicant: COMMERCIAL CARRIER CORPORATION, 502 East Bridgers Avenue, Post Office Box 67, Auburndale, FL 33823. Applicant's representative: Tony G. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials, gypsum and gypsum products and such materials, equipment and supplies* as are used in the manufacture, packaging, installation, or distribution of such commodities (except liquid commodities in bulk), between the plantsite and facilities of United States Gypsum Co. at Jacksonville, Fla., on the one hand, and on the other, points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia, restricted to traffic originating or terminating at the plantsite and warehouse facilities of United States Gypsum Co. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Tampa, Fla.

No. MC 115840 (Sub-No. 82), filed October 19, 1972. Applicant: COLONIAL FAST FREIGHT LINES, INC., 1215 Bankhead Highway (Post Office Box 10327), Birmingham, AL 35202. Applicant's representative: C. E. Wesley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Motor vehicles* knocked down; and (2) *motor vehicles parts, attachments, and accessories;* and (3) *materials, supplies, and equipment* used in connection with manufacture of the commodities named in parts (1) and (2) above (except in bulk), between Kosciusko, Miss., on the one hand, and, on the other, points in the United States including Alaska (but excluding Hawaii). NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., Chattanooga, Tenn., or Louisville, Ky.

No. MC 115841 (Sub-No. 444), filed October 19, 1972. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 Bankhead Highway West, Birmingham, AL 35204. Applicant's representative: Roger M. Shaner, Post Office Box 168, Concord, TN 37720. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foods, foodstuffs, and food preparations* (except bananas and commodities in bulk), and *advertising premiums and display materials* when moving therewith, in vehicles equipped with mechanical refrigeration, from points in Middlesex County to points in Union or Essex County, N.J., for the purpose of joinder only. NOTE: Common control may be involved. Applicant states that it intends to tack the requested authority with its existing authority in MC 115841 (Sub-No. 320) at Union or Essex County to serve points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Nebraska, Ohio, Wisconsin, West Virginia, Pennsylvania on and west of U.S. Highway 15. If a hearing is deemed necessary, applicant requests it be held at New York City, N.Y., or Washington, D.C.

No. MC 116004 (Sub-No. 28), filed October 17, 1972. Applicant: TEXAS-OKLAHOMA EXPRESS, INC., Post Office Box 743, Dallas, TX 75221. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Dallas, Tex., and Henryetta, Okla., from Dallas over U.S. Highway 75 to Atoka, Okla., thence over U.S. Highway 69 to junction with Indian Nation Turnpike, thence over Indian Nation Turnpike to Henryetta, and return over the same route, serving no intermediate points. NOTE: If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Oklahoma City, Okla.

No. MC 116254 (Sub-No. 132), filed November 6, 1972. Applicant: CHEM-HAULERS, INC., Post Office Drawer M, Sheffield, AL 35660. Applicant's representative: Walter Harwood, 1822 Parkway Towers, Nashville, TN 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Silica sand*, in bulk, in tank vehicles, from Ottawa, Ill., to Huntsville, Ala., and (2) *iron oxide*, in bulk, in tank vehicles, from Gadsden, Ala., to points in Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Birmingham, Ala.

No. MC 116982 (Sub-No. 13), filed August 24, 1972. Applicant: FUCHS, INC., Rural Route 1, Box 576, Sauk City, WI 53583. Applicant's representative: Michael J. Wyngaard, 125 West Doty Street, Madison, WI 53703. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment and supplies* which are used or useful in the manufacture, sale, distribution, erection, or completion of *building and housing units*, complete, knocked down, or in sections, and *component parts* thereof, *wood products, composition wood products, laminated products*, and *parts and accessories* for the above-named products, from points in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, North Dakota, and South Dakota to the plants and warehouse facilities of Wick Building System, Inc., at Mazomanie, Wis. Restrictions: (1) Restricted against transportation of the named commodities in bulk; and (2) the operations herein are limited to a transportation service to be performed under a continuing contract, or contracts, with Wick Building Systems, Inc., of Mazomanie, Wis. NOTE: If a hearing is deemed necessary, applicant requests it be held at Madison or Milwaukee, Wis.

No. MC 117557 (Sub-No. 17), filed October 18, 1972. Applicant: MATSON, INC., Post Office Box 43, Cedar Rapids, IA 52406. Applicant's representative: Kenneth F. Dudley, 611 Church Street, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road building, earthmoving, construction and contractor's machinery and parts* when moving at the same time or separately, from Winona, Minn., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: Applicant states that the requested authority can be tacked with its existing authority but does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 117574 (Sub-No. 219), filed October 19, 1972. Applicant: DAILY EXPRESS, INC., Post Office Box 39, Carlisle, PA 17013. Applicant's representative: James W. Hagar, Post Office Box 1166, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass and glass glazing units*, from Clinton and Laurinburg, N.C., to points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 117639 (Sub-No. 6) (amendment), filed August 30, 1972, published in the FEDERAL REGISTER issue of September 21, 1972, and republished in part, as amended, this issue. Applicant: JACK S. OCHSNER, doing business as PICK'S PACK HAULER, 607 South Burlington, Hastings, NE 68901. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. NOTE: The sole purpose of this partial republication is to add to destination territory requested to be served, points in Lake County, Ind. The rest of the application remains as previously published.

No. MC 118838 (Sub-No. 12), filed October 16, 1972. Applicant: GABOR TRUCKING, INC., Post Office Box 646, Detroit Lakes, MN 56501. Applicant's *representative: Alan Foss, 502 First National* Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed and animal and poultry feed ingredients* (except liquid commodities in bulk), between ports of entry on the international boundary line between the United States and Canada located in Minnesota, North Dakota, and Montana, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Applicant states that duplicating authority may be involved with certificate No. MC 118838 (Sub-No. 10), authorizing service to and from points in Minnesota, Iowa, Nebraska, North Dakota, South Dakota, and Wisconsin. Applicant further states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 119315 (Sub-No. 17), filed October 19, 1972. Applicant: FREIGHTWAY CORPORATION, 131 Matzinger Road, Toledo, OH 43612. Applicant's representative: Paul F. Beery, 88 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Equipment, materials, and supplies used in the manufacture of glass fiber and glass fiber products* (except commodities in bulk), from points in Illinois, Indiana, Michigan, Ohio, Pennsylvania, Wisconsin, Arkansas, Minnesota, Tennessee, Missouri, Kentucky, Iowa, Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Rhode Island, Virginia, Florida, Alabama, Mississippi, Louisiana, Maine, New Hampshire, and Vermont, to the plantsite or warehouse of Johns-Manville Fiber Glass, Inc., located in Wood County, W. Va. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 119441 (Sub-No. 30), filed October 19, 1972. Applicant: BAKER HIWAY EXPRESS, INC., Box 484, Dover, OH 44622. Applicant's representative: Richard H. Brandon, 79 East State Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and conduit, hydrants*, and *materials and supplies* necessary for the installation thereof, from Buckhannon, W. Va., to points in Illinois, Indiana, Michigan, New York, Ohio, Pennsylvania, and Wisconsin. Restricted to traffic originating at the plantsite and warehouse facilities of Clow Corp., located at or near Buckhannon, W. Va. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 119632 (Sub-No. 55), filed October 18, 1972. Applicant: REED LINES, INC., 634 Ralston Avenue, Defiance, OH 43512. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food, food products, and beverages* (except fresh meat, frozen foods, and commodities in bulk in tank vehicles), from the plantsites and warehouses of Pet, Inc., at Greenville, Ill., to points in Ohio, Pennsylvania, New York, West Virginia, and the Lower Peninsula of Michigan, restricted to the transportation of shipments originating at said plant or warehouse sites, and returned shipments on return from the above-named destinations to the above-named origin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 119774 (Sub-No. 58), filed October 16, 1972. Applicant: EAGLE TRUCKING COMPANY, a Corporation, Post Office Box 471, Kilgore, TX 75662. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials, gypsum and gypsum products, composition boards, insulation materials, urethane and urethane products, and related materials, supplies, and accessories* incidental thereto (except commodities in bulk), from the plantsite and warehouse facilities of the Celotex Corp. located at Marrero, La., to points in Alabama, Mississippi, Georgia, Florida, North Carolina, South Carolina, Tennessee, Arkansas, Missouri, Illinois, Kentucky, Indiana, Ohio, West Virginia, Virginia, Pennsylvania, Maryland, Delaware, New Jersey, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Tampa, Fla., or Washington, D.C.

No. MC 119774 (Sub-No. 59), filed October 16, 1972. Applicant: EAGLE TRUCKING COMPANY, a corporation, Post Office Box 471, Kilgore, TX 75662. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulation materials*, from North Birmingham, Ala., to points in Arkansas, Louisiana, and Mississippi, restricted to traffic originating at the plantsite and storage facilities of U.S. Pipe & Foundry Co. at Birmingham, Ala. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Tampa, Fla., or Washington, D.C.

No. MC 119774 (Sub-No. 63), filed October 16, 1972. Applicant: EAGLE TRUCKING COMPANY, a Corporation, Post Office Box 471, Kilgore, TX 75662. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials, gypsum and gypsum products, composition boards, insulation materials, urethane and urethane products, and related materials, supplies, and accessories*, incidental thereto (except commodities in bulk) from the plantsite and warehouse facilities of the Celotex Corp., located at Port Clinton, Ohio, to points in Indiana, Illinois, Kentucky, Tennessee, Virginia, west Virginia, Maryland, and Pennsylvania. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Tampa, Fla., or Washington, D.C.

No. MC 119789 (Sub-No. 123), filed October 18, 1972. Applicant: CARAVAN REFRIGERATED CARGO, INC., Post Office Box 6188 (1612 East Irving Boulevard), Dallas, TX 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*,

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by motor vehicle, over irregular routes, transporting: *Canned and bottled foodstuffs*, from Lafayette and New Iberia, La., to points in Illinois, Indiana, Michigan, Ohio, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Washington, D.C.

No. MC 119789 (Sub-No. 124), filed October 18, 1972. Applicant: CARAVAN REFRIGERATED CARGO, INC., Post Office Box 6188 (1612 East Irving Boulevard), Dallas, TX 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and bottled foodstuffs* from Lafayette and New Iberia, La., to points in Oregon and Washington. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Washington, D.C.

No. MC 119789 (Sub-No. 125), filed October 24, 1972. Applicant: CARAVAN REFRIGERATED CARGO, INC., Post Office Box 6188, Dallas, TX 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Juvenile furniture, plastic housewares and toys*, from Worcester, Boston, Leominster, Mass.; Kingston, Pa.; Laona and Wausau, Wis.; and Union Springs, Ala., to points in California. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif., or Dallas, Tex.

No. MC 119789 (Sub-No. 126), filed November 1, 1972. Applicant: CARAVAN REFRIGERATED CARGO, INC., Post Office Box 6188 (1612 East Irving Boulevard), Dallas, TX 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Columbus, Ohio, to points in Texas, Oklahoma, Arkansas, Louisiana, Kansas, Missouri, Arizona, New Mexico, California, Oregon, Washington, and Colorado. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 119864 (Sub-No. 51), filed September 28, 1972. Applicant: HOFER MOTOR TRANSPORTATION CO., a Corporation, 26740 Eckel Road, Perrysburg, OH 43551. Applicant's representative: Dale K. Craig (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products, meat, meat products, and meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from the East St. Louis, Ill. commercial zone and the St. Louis, Mo. commercial zone to points in Indiana, Michigan, Ohio, and Louisville, Ky. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 119968 (Sub-No. 6) (Clarification), filed October 2, 1972, published in the FEDERAL REGISTER issue of November 9, 1972, and republished this issue. Applicant: A. J. WEIGAND, INC., 1046 North Tuscarawas Avenue, Dover, OH 44622. Applicant's representative: Jacob P. Billig, 1108 16th Street, NW., Washington, DC 20036 (and), Paul F. Beery, 88 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are manufactured, sold, dealt in, or utilized by chemical manufacturing plants, from Dover Ohio, to points in Illinois, Indiana, Kentucky, Ohio, West Virginia, New York, Pennsylvania, Massachusetts, Rhode Island, Connecticut, New Jersey, Delaware, Maryland, and the southern peninsula of Michigan; and (2) *Such commodities* as are manufactured, sold, dealt in, or utilized by chemical manufacturing plants, from points in Illinois, Indiana, Kentucky, Ohio, West Virginia, New York, Pennsylvania, Massachusetts, Rhode Island, Connecticut, New Jersey, Delaware, Maryland, and the southern peninsula of Michigan to Dover, Ohio. Applicant states that it intends to tack at Dover, Ohio, the authority sought in (1) and (2) above. NOTE: Applicant states that the requested authority duplicates that authority it holds in certificate No. MC 119968, authorizing transportation of: (1) *Such commodities* as are manufactured and sold by chemical manufacturing plants (except petroleum products, in bulk, in tank vehicles) between the same above-named destinations and origins; and (2) *machinery, equipment, materials, and supplies* used by chemical manufacturing plants, from points in Illinois, Indiana, Kentucky, Ohio, West Virginia, New York, Pennsylvania, Massachusetts, Rhode Island, Connecticut, New Jersey, Delaware, Maryland, and the lower peninsula of Michigan, to Dover, Ohio. Applicant further states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to clarify portions of the authority requested in the previous publication. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 119974 (Sub-No. 39), filed October 4, 1972. Applicant: L. C. L. TRANSIT COMPANY, a corporation, 949 Advance Street, Green Bay, WI 54305. Applicant's representative: Charles E. Dye (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes, frozen vegetables, and dehydrated potatoes*, from Hart, Mich., to points in Indiana, Illinois, Iowa, Minnesota, Wisconsin, points in the Upper Peninsula of Michigan and St. Louis, Mo. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 119988 (Sub-No. 52), filed October 20, 1972. Applicant: GREAT WESTERN TRUCKING CO., INC., Route 3, Box 870, Post Office Box 1384, Lufkin, TX 75901. Applicant's representative: Bennie W. Haskins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Printed advertising matter* and (2) *newspaper supplements* otherwise exempt from economic regulation under section 203(b)(7) of the Act when transported in mixed loads with printed advertising matter from points in Angelina County, Tex., to Los Angeles and San Francisco, Calif., and (3) *newsprint*, from the plantsite of Southland Paper Mills, Inc., at or near Sheldon, Tex., to points in Angelina County, Tex., serving points in Angelina County, Tex., for purposes of joinder only. NOTE: Applicant states that the requested authority can be tacked with its existing authority at a point in Angelina County, Tex., and provide service (a) from points in Kansas, and Tulsa, Okla., to Los Angeles and San Francisco, Calif., and (b) from Sheldon, Tex., to points in Alabama, Florida, Kentucky, Mississippi, Tennessee, Kansas, Oklahoma, Louisiana (except New Orleans, Baton Rouge, and Alexandria and points in their commercial zones), Arkansas (except Texarkana, Fort Smith, Little Rock, North Little Rock, Pine Bluff, Crossett, Eldorado, Monticello, West Memphis, and points in their commercial zones). If a hearing is deemed necessary, applicant requests it be held at Houston or Dallas, Tex.

No. MC 123048 (Sub-No. 235), filed October 20, 1972. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, WI 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers*, from points in Union County, Ill., to points in the United States (except Hawaii) and (2) *materials, equipment, and supplies* used or usefui in the manufacture, sale, and distribution of trailers, from points in the United States (except Hawaii), to points in Union County, Ill. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing

is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 123993 (Sub-No. 22), filed October 17, 1972. Applicant: FOGELMAN TRUCK LINE, INC., Post Office Box 1504, Crowley, LA 70526. Applicant's representative: Austin L. Hatchell, 1102 Perry Brooks Building, Austin, TX 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn syrup and blends thereof; and blends of liquid sugar and corn syrup*, in bulk, from points in Louisiana to points in Alabama, Arkansas, Florida, Mississippi, Tennessee, and Texas. NOTE: Applicant holds contract carrier authority under MC 41116 and subs, therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 124796 (Sub-No. 97) (Clarification), filed May 22, 1972, published in the FEDERAL REGISTER issue of July 7, 1972, amended September 14, 1972 and republished, as clarified this issue. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 East Salt Lake Avenue, City of Industry, CA 91747. Applicant's representative: J. Max Harding, Post Office Box 82028, Lincoln, NE 68501. NOTE: The purpose of this partial republication is to clarify the route description under (2) (a), (b) and (c) of the application which should read as follows: (2) (a) *Pulpboard and pulpboard products*, from Rittman, Youngstown, Middletown, and Cuyahoga Falls, Ohio; Filer City, Plymouth, Kalamazoo, Detroit, and Grand Rapids, Mich.; Stroudsburg, Lancaster, and Trexlertown, Pa.; Quincy and Chicago, Ill.; Tama and Marshalltown, Iowa; Mentor, Ohio; Hutchinson and Kansas City, Kans.; St. Louis, Mo.; Denver Colo.; Counce and Jackson, Tenn.; Vincennes, Ind.; Colby and Burlington, Wis.; Minneapolis, Minn.; Lockport and Syracuse, N.Y.; Northampton, Mass.; Clifton and Garfield, N.J.; Harrisonburg, Va.; Salt Lake City, Utah; Arlington, Abilene, and San Antonio, Tex.; and Omaha, Nebr.; to points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico; (b) *molded pulp products*, from Griffith, Ind., and Macon, Ga., to points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico; and (c) *plastic products* from Madison, Wis.; Frederick, Md.; and Vincennes, Ind., to points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico. The rest of the notice remains as previously published.

No. MC 124839 (Sub-No. 19), filed October 18, 1972. Applicant: BUILDERS TRANSPORT, INC., Post Office Box 7057, Savannah, GA 31408. Applicant's representative: William P. Sullivan, 1819 H Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips, waste paper, paper and paper products*, between Morristown, Tenn., and points in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Virginia, under a continuing contract or contracts with Union Camp Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 125049 (Sub-No. 3), filed September 25, 1972. Applicant: TROINA TRUCKING COMPANY, INC., 24 Entwistle Avenue, Nutley, NJ 07110. Applicant's representative: Thomas F. X. Foley, 744 Broad Street, Newark, NJ 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automobile parts and tools* used in the installation of automobile parts, crated and uncrated, and *display materials* used in connection with the sale of automobile parts, from Dayton, N.J. to New York, N.Y., points in Nassau, Suffolk, Rockland, and Westchester Counties, N.Y., Bucks, Chester, Delaware, Lehigh, Monroe, Montgomery, Northhampton, and Philadelphia Counties, Pa., and points in Connecticut, under a continuing contract or contracts with Goerlich's, Division of Questor Corp.; AP Parts Corp., a subsidiary of Questor Corp.; Columbus Parts Division of AP Parts Corp., and Merit Industries, Division of AP Parts Corp., Toledo, Ohio, and Dayton, N.J. NOTE: Applicant states it presently transports above noted commodities from Clifton, N.J. to points hereinabove mentioned for Goerlich's, Division of Questor Corp. of Toledo, Ohio. The proposed authority will extend such services to AP Parts Corp., a subsidiary of Questor Corp. Columbus Parts Division and Merit Industries, Inc. are divisions of AP Parts Corp. Applicant further states it will cease operating from Clifton, N.J. upon completion of transfer of Questor's facilities from Clifton, N.J. to Dayton, N.J. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 126063 (Sub-No. 10), filed October 16, 1972. Applicant: BIRD TRUCKING, INC., 1370 Swanner Road, Salt Lake City, Utah 84104. Applicant's representative: Lon Rodney Kump, 720 Newhouse Building, Salt Lake City, UT 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plumbing supplies* from La Habra and points in Los Angeles and Orange Counties, Calif., to points in Utah and Idaho under contract with Indico, a Utah corporation; and (2) *soaps, detergents, brighteners, and caustic sodas* from Stockton, Calif., to points in Utah, Idaho, Oregon, and Washington under contracts with Beaver Chemical Co., Inc., and Walters Chemical Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah or San Francisco, Calif.

No. MC 126159 (Sub-No. 6), filed October 10, 1972. Applicant: ROC-SALT TRANSPORT, INC., 1551 South Carferry Drive, Milwaukee, WI 53207. Applicant's representative: Frank M. Coyne, 25 West Main Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, from Cincinnati, Ohio, to points in Illinois, Indiana, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 126206 (Sub-No. 2), filed September 14, 1972. Applicant: NEWCOMB, INC., 520 North Jefferson Street, Post Office Box 832, Albany, GA 31702. Applicant's representative: Norman J. Bolinger, 1729 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Dougherty, Crawford, Taylor, Marion, Schley, Webster, Stewart, Chattahoochee, Quitman, Baker, Macon, Peach, Houston, Twiggs, Talbot, Bleckley, Pulaski, Dodge, Wilcox, Telfair, Irwin, Coffee, Berrien, Atkinson, Lanier, Lowndes, Brooks, Thomas, Sumter, Dooly, Crisp, Randolph, Terrell, Lee, Worth, Turner, Ben Hill, Clay, Calhoun, Tift, Early, Mitchell, Colquitt, Cook, Miller, Seminole, Decatur, and Grady Counties, Ga., on the one hand, and, on the other, points in Alabama, Florida, North Carolina, South Carolina, and Tennessee. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Albany, Ga.

No. MC 129059 (Sub-No. 1), filed September 11, 1972. Applicant: WILSON DRIVEAWAY, INC., 3125 North Broadway, Chicago, IL 60657. Applicant's representatives: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602 and Murray Chotiner, 1701 Pennsylvania Avenue, NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles, with or without baggage, sporting equipment, and personal effects of the owners*, in secondary movements, in driveaway service, between points in New York, New Jersey, Pennsylvania, Connecticut, Illinois (except Chicago), California, and Florida, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). Restriction: Restricted against the transportation of traffic (1) for or on behalf of manufacturers of automobiles, (2) moving on United States Government bills of lading, or (3) having a prior or subsequent movement by rail or water. NOTE: Applicant states that the requested authority could be tacked at Chicago, Ill., with the authority it presently holds in certificate No. MC 129059, authorizing operations between Chicago, Ill., on the one hand, and, on the other, points in the United States, excluding Alaska and Hawaii. If a hearing is deemed necessary, applicant requests it

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be held at Chicago, Ill., Los Angeles, Calif., or New York, N.Y.

No. MC 129111 (Sub-No. 3), filed September 21, 1972. Applicant: FIGENSHOW TRANSPORTATION, INC., Post Office Box 7733, Tonasket, WA 98855. Applicant's representative: Donald A. Ericson, 708 Old National Bank Building, Spokane, Wash. 99201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, plywood, timbers, and furniture and mill work stock*, between points in Okanogan County, Wash., and port of entry on the international boundary line between the United States and Canada at or near Oroville, Wash., restricted to the transportation of traffic having a prior or subsequent movement in foreign commerce. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Spokane or Seattle, Wash.

No. MC 129149 (Sub-No. 7), filed August 28, 1972. Applicant: ELLIS HAINES, doing business as HAINES TRUCK LINES, 995 Washington Street, Bushnell, IL 61422. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed*, prepared, in bags, from Bushnell, Ill., to points in Arkansas, Indiana, Iowa, Kansas, Kentucky, Michigan, Missouri, Minnesota, New York, Nebraska, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, West Virginia, and Wisconsin, under contract with Lauhoff Grain Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., Chicago, or Springfield, Ill.

No. MC 129510 (Sub-No. 5) (amendment), filed July 5, published in the FEDERAL REGISTER issue of August 3, 1972 and republished in part, as amended, this issue. Applicant: CHESTER W. ENGLUND, doing business as C. W. ENGLUND CO., 740 Old State Road, Salinas, CA 93901. Applicant's representative: John Paul Fischer, 140 Montgomery Street, San Francisco, CA 94104. NOTE: The purpose of this partial republication is to reflect a change in the commodity description only of part (4) as previously published, and to add a new part (10), as follows: "(4) *caulking compounds* in drums, pails or boxes (not in bulk), * * *", and (10) *glass sheets*, from Oneonta, N.Y., to the plantsite of Industrial Materials, Inc., at Los Angeles, Calif. The rest of the application remains as previously published.

No. MC 133534 (Sub-No. 6), filed September 11, 1972. Applicant: ROBERT V. MARKT, Box 85, Station A, St. Joseph, MO 64503. Applicant's representative: Tom B. Kretsinger, 450 Professional Building, Kansas City, MO 64106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* (except hides and commodities in bulk), as described in sections A and C of Appendix I to the report in *Descriptions of Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite, and/or warehouse facilities of, or utilized by Farmland Foods, Inc., at or near Carroll, Denison, and Iowa Falls, Iowa, to points in Arkansas, Iowa, Illinois, Kansas, Louisiana, Minnesota, Missouri, Nebraska, Oklahoma, South Dakota, Texas, and Wisconsin, restricted to traffic originating at the above named origin points and destined to the States named above. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 133689 (Sub-No. 24), filed August 28, 1972. Applicant: OVERLAND EXPRESS, INC., 651 First Street SW., Post Office Box 2667, New Brighton, MN 55112. Applicant's representatives: James F. Sexton (same address as above) and Charles W. Singer, Suite 1000, 327 South La Salle Street, Chicago, IL 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from New Hampton, Iowa, and Deerfield, Ill., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at the plants and warehouses utilized by the Kitchens of Sara Lee at the above-named origins, and traffic from Deerfield, Ill., further restricted to shipments moving in the same vehicle with shipments originating at New Hampton, Iowa. NOTE: Applicant holds contract carrier authority in permit No. MC 76025 and Subs thereunder, therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Minneapolis, Minn.

No. MC 133708 (Sub-No. 5), filed September 25, 1972. Applicant: FIKSE BROS., INC. 12647 East South Street, Artesia, CA 90701. Applicant's representative: Carl H. Fritze, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, in bulk, from the plants and mine sites of Simplot Silica Products at or near Overton, Nev., to points in California in and South of San Luis Obispo, Kern, and San Bernardino Counties and Arizona. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 134323 (Sub-No. 33), filed October 24, 1972. Applicant: JAY LINES, INC., 720 North Grand Street, Amarillo, TX 79102. Applicant's representative: Gailyn Larson, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Household appliances, furnaces, air cleaners and conditioners, humidifiers, dehumidifiers and related items* (except those items, which because of size or weight require the use of special equipment), from the plantsite and warehouse facilities of Fedders Corp. at Edison, N.J., and Effingham, Ill., to points in California, Oregon, Washington, Arizona, Nevada, and Utah, under contract with Fedders Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or San Francisco, Calif.

No. MC 134511 (Sub-No. 1), filed October 30, 1972. Applicant: BEASLEY TRANSPORT, INC., Colerain, N.C. 27924. Applicant's representative: W. L. Cooke, Pritchett, Cooke & Burch, South King Street, Windsor, N.C. 27983. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Gasoline, kerosene, No. 2 fuel oil and diesel fuel*, in bulk, in tank vehicles, from Norfolk and Williamston, Va., and Selma, N.C., to points in Washington, Martin, Tyrrell, and Dare Counties, N.C.; (2) *LP gas or propane gas*, in bulk, in tank vehicles, from Yorktown and Norfolk, Va., and Apex, N.C., to points in Bertie, Hertford, Martin, Washington, Tyrrell, and Dare Counties, N.C.; and (3) *motor oil and grease*, in drums or cases, from Norfolk, Va., to points in Bertie, Hertford, Martin, Washington, Tyrrell, and Dare Counties, N.C., with (1), (2), and (3) above performed under a contract or contracts with Plymouth Oil Co. of Washington County, Inc., located at Plymouth, N.C. NOTE: Common control may be involved. Applicant states that the requested authority could be tacked with authority it presently holds in certificate No. MC 134511, authorizing the transportation of *gasoline, kerosene, No. 2 fuel oil and diesel fuel*, in bulk, in tank vehicles, from Norfolk, Va., and Williamson, N.C., to points in Bertie and Hertford Counties, N.C. If a hearing is deemed necessary, applicant requests it be held at Raleigh, N.C., any other city in North Carolina, or Richmond, Va.

No. MC 134938 (Sub-No. 1), filed October 27, 1972. Applicant: CASSWAYS TRUCKING CORPORATION, 643 South Avenue, Garwood, NJ 07027. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Boiler cleaning compound*, in containers, from Avenel, N.J., to New York, N.Y., Newark, Jersey City, Bayonne, Edgewater, Elizabeth, Carteret, and Perth Amboy, N.J., Philadelphia and Chester, Pa., Wilmington, Del., Baltimore, Md., and Norfolk, Newport News, and Portsmouth, Va., with no transportation for compensation on return except as otherwise authorized; (2)

cleaning and polishing compounds, liquid rust preventing compounds, disinfectants, and metallic soaps, in containers and *advertising matter and premiums* in mixed loads with such commodities, from Avenel, N.J., to points in that part of the New York, N.Y., commercial zone, as defined in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemptions of section 203(b)(8) of the Act (the "exempt" zone) Nassau and Westchester Counties, N.Y., Essex County, N.J., Philadelphia and Chester, Pa., Wilmington, Del., Baltimore, Md., Norfolk, Newport News, and Portsmouth, Va., and the District of Columbia, with no transportation for compensation on return except as otherwise authorized, restricted to shipments originating at the facilities of Magnus Chemical Co., a subsidiary of Economic Labs, Inc., of Avenel, N.J.;

(3) *Cleaning and polishing compounds*, liquid or dry, *liquid rust preventing compounds, disinfectants*, liquid or dry, and *metallic soaps* for lubricating purposes, and *advertising matter and premiums*, moving in connection with such commodities, from Garwood, N.J., to points in the New York, N.Y., commercial zone, as defined in *New York, N.Y., Commercial Zone*, 1 M.C.C. 665, points in Essex County, N.J., and Nassau and Westchester Counties, N.Y., Philadelphia and Chester, Pa., Wilmington, Del., Baltimore, Md., and Norfolk, Newport News, and Portsmouth, Va.; (4) *empty containers* for the commodities specified in (3) above, from the destination points listed in (3) above to Garwood, with authority to traverse the District of Columbia for operating convenience only; (5) *plastic granules*, in containers, from the plantsite of Cary Page Chemicals, Inc., at Edison, N.J., to points in Fairfield County, Conn., Orange, Rockland, Westchester, Bronx, New York, Richmond, and Queens Counties, N.Y., and points in New Jersey, within that part of the New York, N.Y., commercial zone, as defined in the fifth supplemental report in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, within which local operations may be conducted under the exemption provided by section 203(b)(8) of the Interstate Commerce Act (the exempt zone), with no transportation for compensation on return except as otherwise authorized, restricted to shipments from the facilities of Cary Page Chemical, Inc., of Edison, N.J.; (6) *boilers, furnaces, radiators, air-conditioning equipment, and parts* therefor, from Garwood, N.J., to New York, N.Y., Wilmington, Del., Baltimore, Md., Washington, D.C., Nassau, Suffolk, and Westchester Counties, N.Y., and points in Pennsylvania within 150 miles of Garwood, with no transportation for compensation on return; (7) *heating and air-conditioning equipment*, between Garwood, N.J., on the one hand, and, on the other, points in that part of Connecticut west of the Connecticut River; and (8) *boiler cleaning compound*, liquid or dry, in containers, from Garwood, N.J., to New York, N.Y., Newark, Jersey City, Bayonne, Edgewater, Elizabeth, Carteret, and Perth Amboy, N.J., Philadelphia and Chester, Pa., Wilmington, Del., Baltimore, Md., and Norfolk, Newport News, and Portsmouth, Va., with no transportation for compensation on return except as otherwise authorized. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York N.Y.

No. MC 135660 (Sub-No. 5), filed October 16, 1972. Applicant: BROWNSBERGER ENTERPRISES, INC., R.F.D. No. 1, Post Office Box 243, Butler, MO. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, plastic tubing, plastic conduit, plastic molding, valves, fittings, compounds, joint sealers, bonding cement, thinner, vinyl, and accessories* used in the installation of such products, from Linn Creek, Mo., to points in Colorado and New Mexico, under contract with Central Missouri Pipe Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 135716 (Sub-No. 1), filed September 24, 1972. Applicant: STAN'S VANS, INC., 114 Adeline Street, Oakland, CA 94607. Applicant's representative: W. S. Pilling, 100 Bush Street, San Francisco, CA 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such traffic, (1) between points in Fresno, Merced, Monterey, San Benito, and San Cruz Counties, Calif., and (2) between points in the above counties on the one hand, and, on the other, points in Alameda, Contra Costa, Mapa, Marin, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Solano, Sonoma, Stanislaus, Sutter, Yuba, and Yolo Counties, Calif. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 135725 (Sub-No. 7), filed October 18, 1972. Applicant: FRY TRUCKING, INC., Wilton, Iowa 52778. Applicant's representative: Kenneth F. Dudley, 611 Church Street, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Feed*, from Minneapolis, Minn., to points in Alabama, Georgia, Iowa, Louisiana, Maryland, Mississippi, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin; (2)(a) *feed ingredients*, from points in Illinois, Indiana, Iowa, Michigan, Minnesota, and Nebraska to Richland, Mo., and (b) *Feed*, from Richland, Mo., to points in Alabama and Florida and (3) *feed supplements and fertilizer compounds*, from Marion, Iowa; Rock Island, Ill.; and Mankoto, Minn., to points in Illinois, Iowa, Minnesota, Missouri, Nebraska, South Dakota, and Wisconsin. NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no *present* intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., Minneapolis, Minn., or Kansas City, Mo.

No. MC 135726 (Sub-No. 2) (correction), filed June 12, 1972, published in the FEDERAL REGISTER issue of July 20, 1972 and republished in part as corrected this issue. Applicant: GUST HRONIS, doing business as: LANG TRUCKING SERVICE, Route 1, Box 176, West Bend, WI 53095. Applicant's representative: William L. Slover, 1224 17th Street NW., Washington DC 20036. NOTE: The purpose of this partial republication is to show the correct docket number as MC No. 135726 (Sub-No. 2) in lieu of MC 13726 (Sub-No. 2) which was erroneously published in the FEDERAL REGISTER. The rest of the application remains as previously published.

No. MC 135899 (Sub-No. 2), filed October 16, 1972. Applicant: HOWARD S. CULVER, Post Office Box 135, Hebron, MD 21830. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington DC 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings*, complete or in sections, from the plantsite of Delmarva Modular Housing Corp. at or near Princess Anne, Md., to points in North Carolina, South Carolina, New Jersey, New York, Pennsylvania, Ohio, West Virginia, and Connecticut, under contract with Delmarva Modular Housing Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 136500 (Sub-No. 1), filed October 24, 1972. Applicant: HARRY D. DIEPHOLZ doing business as: DIEPHOLZ TRUCKING, 3453 Western Avenue, Mattoon, IL 61938. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Rollover protective structures*, from Mattoon, Ill., to points in the United States (except Alaska and Hawaii), and (2) *commodities used in the manufacture of rollover protective structures*, (a) from Mattoon, Ill., to Portland, Oreg., and (b) from points in the United States (except

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Alaska and Hawaii), to Mattoon, Ill., under contract with Tube-Lok Products. NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., Chicago, Ill., or Springfield, Ill.

No. MC 136647 (Sub-No. 5), filed October 18, 1972. Applicant: GREEN MOUNTAIN CARRIERS, INC., Post Office Box 1319, Albany, NY 12201. Applicant's representative: Wilmot E. James, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pharmaceutical products*, except in bulk, restricted to the use of vehicles with mechanical temperature control and also restricted to a transportation service to be performed at plantsites, warehouses, or suppliers of Ayerst Laboratories, (1) between Rouses Point, N.Y., on the one hand, and, on the other, Chicago, Ill., Cleveland, Ohio, and Baltimore, Md., in connection with stopoff privileges to partially load or unload at Little Falls and Clifton, N.J., Albany, N.Y., and Detroit, Mich., (2) from Rouses Point, N.Y., to Chamblee, Ga., with stopoff privileges to partially load or unload at Little Falls and Clifton, N.J., Albany, N.Y., and Baltimore, Md. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Plattsburgh or Albany, N.Y.

No. MC 136647 (Sub-No. 6), filed October 18, 1972. Applicant: GREEN MOUNTAIN CARRIERS, INC., Post Office Box 1319, Albany, NY 12201. Applicant's representative: Wilmot E. James, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except commodities in bulk, between Champlain, N.Y., on the one hand, and, on the other, points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Vermont, and Rhode Island. Between Champlain, N.Y., on the one hand, and, on the other, the United States-Canada boundary line at or near Highgate Springs, Vt. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Montpelier, Vt., or Albany, N.Y.

No. MC 136709 (Sub-No. 1), filed October 16, 1972. Applicant: WALLACE TRUCKING COMPANY, a corporation, Route 4, Box A71, Laurinburg, NC 28352. Applicant's representative: John Arch Wallace (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Telephone equipment, and material and supplies*, including tools, used in the construction and maintenance of telephone systems and communications, between Laurinburg, N.C. and Scotland, Richmond, Robeson, Moore, Hoke, and Cumberland Counties, N.C., under a continuing contract or contracts with Western Electric Co., Inc. of Atlanta, Ga. NOTE: If a hearing is deemed necessary, applicant requests it be held at Laurinburg or Charlotte, N.C.

No. MC 136711 (Sub-No. 4), filed October 10, 1972. Applicant: DAVID G. McCORKLE, doing business as McCORKLE TRUCK LINE, 2840 South High, Oklahoma City, OK 73109 Applicant's representative: Dean Williamson, 280 National Foundation Life Center, 3535 North West 58th, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand, crushed rock, gravel, asphaltic mix, and dirt*, from the facilities of Arkhola Sand and Gravel Co., at or near Alma and Jenny Lind, Ark., to points in Oklahoma on and east of U.S. Highway 69. NOTE: If a hearing is deemed necessary, applicant requests it be held at Oklahoma City or Tulsa, Okla.

No. MC 136866 (Sub-No. 1), filed October 19, 1972. Applicant: WARREN D. FLETCHER, Box 209, Midland, Va. 22728. Applicant's representative: Daniel B. Johnson, 716 Perpetual Building, 1111 E Street NW., Washington, DC 20004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Crushed stone* from points in Fauquier County, Va., to points in Montgomery and Prince Georges County, Md., and the District of Columbia, under contract with Sanders Quarry, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 136956 (Sub-No. 2), filed October 19, 1972. Applicant: ROYAL TRANSPORTS, INC., Post Office Box 1451, Kansas City, KS 66101. Applicant's representative: J. Max Harding, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fuel oil*, in bulk, in tank vehicles, from the refinery and distribution facilities of Phillips Petroleum Co. at Kansas City, Kans., to Jackson, Clay, and Buchanan Counties, Mo., under a continuing contract or contracts with Consolidated Fuel Oil Co., Inc., of Kansas City, Kans. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 136961 (Sub-No. 2), filed October 19, 1972. Applicant: LAKE CRYSTAL TRANSPORTATION COMPANY, a corporation, Post Office Box 1149, Ogden, UT 84402. Applicant's representative: William S. Richards, 900 Walker Bank Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, from points in Utah to points in Washington, Oregon, Idaho, Montana, Wyoming, Nevada, California, Colorado, New Mexico, Arizona, and Utah, under contract with Lake Crystal Salt Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

No. MC 139027 (Sub-No. 2), filed October 20, 1972. Applicant: BANNER, INC., 1205 South Denver, Tulsa, OK 74119. Applicant's representative: Dean Williamson, 280 National Foundation Life Building, 3535 Northwest 58th Street, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from the mining facilities of Sierra Coal Co., Inc., located at or near Porum, Okla., to the loading facilities of Sierra Coal Co., Inc., located on the Arkansas River at or near Webbers Falls, Okla. NOTE: If a hearing is deemed necessary, applicant requests it be held at Oklahoma City or Tulsa, Okla.

No. MC 138042 (correction), filed September 12, 1972, published FEDERAL REGISTER, issue of October 5, 1972, and republished as corrected this issue. Applicant: MARK INTERSTATE CARRIERS CO., INC., 58–19 Maspeth Avenue, Maspeth, NY 11378. Applicant's representative: Morris Honig, 150 Broadway, New York, NY 10038. NOTE: The purpose of this republication is to show applicant's correct name as shown above, in lieu of Mark Carriers Co., Inc. The rest of the previously published notice remains the same.

No. MC 138081, filed September 11, 1972. Applicant: AGWAY SYSTEMS INC., Motor Freight Division, AGWAY MOTOR LINE, Chetham Lane, Post Office Box 989, Baton Rouge, LA 70821. Applicant's representative: L. F. Aguillard (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* between Baton Rouge, La., on the one hand, and, on the other, those points in that portion of Louisiana bounded by a line beginning at Baton Rouge and extending along U.S. Highway 61 to Sorento, La., thence along Louisiana Highway 22 to junction unnumbered highway near Union, La., thence along unnumbered highway to junction Louisiana Highway 18, thence along Louisiana Highway 18 to junction Louisiana Highway 1, and thence along Louisiana Highway 1 to Baton Rouge, including points on said highways. Applicant states that the service will be performed in connection with rail piggyback; export, import and, coastwise through the port of Baton Rouge; storage in transit at Baton Rouge, La. NOTE: If a hearing is deemed necessary, applicant requests it be held at Baton Rouge, La.

No. MC 138135 (Sub-No. 1), filed October 19, 1972. Applicant: WALTER SWAN WAREHOUSE & TRANSPORTATION CO., INC., Bethpage, Sweet Hollow Road, Old Bethpage, NY 11804. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1)

Household appliances and air conditioners, from carrier's warehouse in Old Bethpage, N.Y., to New York, N.Y., and points in Nassau and Suffolk Counties, N.Y., and (2) *returned, exchanged household appliances and air conditioners*, on return. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 138139, filed October 2, 1972. Applicant: FRANCIS NORRIS REYELL, doing business as NORRIS REYELL & SONS, Route 2, West Chazy, N.Y. 12992. Applicant's representative: Lawrence B. Lennon, 48 Court Street, Post Office Box 1009, Plattsburgh, NY 12901. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial fertilizer* (except commodities in bulk, in tank vehicles), from ports of entry on the international boundary line between the United States and Canada at or near Champlain and Massena, N.Y., to points in Clinton and Essex Counties, N.Y., under a continuing contract with Plattsburgh Agway Co-op, Inc., Plattsburgh, N.Y. NOTE: If a hearing is deemed necessary, applicant requests it be held at Plattsburgh, N.Y., Montpelier, Vt., or Albany, N.Y.

No. MC 138140, filed September 20, 1972. Applicant: ALLIANCE VAN LINES, INC., 210 East Main, Hobbs, NM 88240. Applicant's representative: Joe G. Fender, 802 Houston First Savings Building, Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, in cargo containers and/or cargo vans and *empty cargo containers and empty cargo vans*, between the port facilities at Galveston, Tex., on the one hand, and, on the other, points in Texas, Oklahoma, Louisiana, and Arkansas. NOTE: Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Galveston or Houston, Tex.

No. MC 138142, filed October 16, 1972. Applicant: THIGPEN TRUCKING, INC., Route No. 2, Box 139, Franklinton, LA 70438. Applicant's representative: Theodore Polydoroff Suite 600, 1250 Connecticut Avenue, NW., Washington, DC 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Hydrolized animal and vegetable fat and animal feed supplement*, in bulk, tank vehicles, from the plantsite of Adams Laboratories, Inc., at or near Franklinton (Washington Parish), La., to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Maryland, Mississippi, Missouri, Nebraska, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia and (2) *Materials and supplies* used in the manufacture of hydrolized animal and vegetable fat and *materials and supplies* used in the manufacture of animal feed supplements, in bulk, in tank vehicles, from points in the above-named destination territory to the plantsite of Adams Laboratories, Inc., at or near Franklinton (Washington Parish), La. Restriction: The above service is restricted to the operations authorized herein or limited to a transportation service to be performed under a continuing contract with Adams Laboratories, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 138143, filed September 18, 1972. Applicant: SPECIALIZED CARTAGE, INC., 1400 East Anaheim Street, Wilmington, CA 90744. Applicant's representative: Donald Murchison, 9454 Wilshire Boulevard, Suite 400, Beverly Hills, CA 90212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel, iron and steel articles, aluminum, aluminum articles, lumber, and forest products*, between points in California, Oregon, Washington, Idaho, Utah, Nevada, Colorado, New Mexico, Oklahoma, Texas, and Arizona, under contract with Goehring Lumber Co., Inc.; Marcrest Pacific Co., Inc.; and Crest Steel Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 138153, filed September 13, 1972. Applicant: SWANSON TRUCKING AND PIGGYBACK SERVICE, INC., 3801 Sandra Drive, Fayetteville, NC 28304. Applicant's representative: Harold D. Downing, 110½ Gillespie Street, Fayetteville, NC 28301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, between points in North Carolina. NOTE: If a hearing is deemed necessary, applicant requests it be held at Fayetteville, N.C.

No. MC 138154, filed October 17, 1972. Applicant: TIDEWATER DISTRIBUTION SERVICES, INC., 47 Sixth Street, East Brunswick, NJ 08816. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Packaging materials, equipment and supplies*, between the facilities of Jiffy Manufacturing Co., at or near Clyde, N.J., on the one hand, and, on the other, points in New York, N.Y., commercial zone as defined by the Commission; points in Nassau, Suffolk, Westchester, Orange, and Rockland Counties, N.Y., and points in Fairfield County, Conn. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Newark, N.J.

No. MC 138155, filed October 19, 1972. Applicant: CITY TOWING SERVICE, INC., 1060 Bay Street, Springfield, MA 01109. Applicant's representative: David M. Marshall, 135 State Street, Suite 200, Springfield, MA 01103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, stolen, disabled, repossessed, and abandoned motor vehicles*, by towing or otherwise, between points in Massachusetts, on the one hand, and, on the other, points in Connecticut, Rhode Island, New Hampshire, Vermont, Maine, New York, and New Jersey. NOTE: If a hearing is deemed necessary, applicant requests it be held at Springfield, Mass.; Hartford, Conn.; Boston, Mass., or Albany, N.Y.

No. MC 138156, filed October 18, 1972. Applicant: JOE McILVAINE, doing business as JOE McILVAINE TRUCKING, 191 Main Street, Creston, OH 44217. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, DC 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) *Feed supplements*, in bags, from Rogers, Minn., to points in Illinois, Indiana, Michigan, Ohio, Pennsylvania, Kentucky, Wisconsin, Maryland, New Jersey, New York, Vermont, Connecticut, Tennessee, Alabama, Florida, and Massachusetts and (b) *Soybean meal*, in bags, from Decatur, Ill., and Cedar Rapids, Iowa to Rogers, Minn., under contract with K & K Manufacturing, Inc. NOTE: If a hearing is deemed necessary, applicant requests modified procedure.

MOTOR CARRIER OF PASSENGERS

No. MC 138141, filed September 25, 1972. Applicant: LOUIS SANTORA, JR., doing business as AAA UNITED LIMOUSINE SERVICE, Post Office Box 144, Raritan, NJ 08869. Applicant's representative: Paul J. Keeler, Post Office Box 253, South Plainfield, NJ 07080. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in special operations in nonscheduled door-to-door service of not more than seven passengers in any one vehicle not including the driver thereof, between points in Middlesex, Somerset, Hunterdon, Mercer, and Morris Counties, N.J., on the one hand, and, on the other, LaGuardia Airport, John F. Kennedy International Airport, and the Borough of Manhattan, New York, N.Y. NOTE: If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

APPLICATIONS FOR FREIGHT FORWARDERS

No. FF-369 (Sub-No. 2) (KAREVAN, INC. EXTENSION—DOMESTIC SERVICE), filed November 7, 1972. Applicant: KAREVAN, INC., Pier 91, Building 41, Seattle, Wash. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. Authority sought under section 410, Part IV of the Interstate Commerce Act for an amended permit authorizing new operations as a freight forwarder in the forwarding of *used household goods and unaccompanied baggage*, between points in the United States (including Hawaii, but excluding Alaska), in domestic service, without restriction to import-export traffic.

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APPLICATION FOR FILING WATER CARRIERS

No. W-81 (Sub-No. 3) (McALLISTER LIGHTERAGE LINE, INC. EXTENSION—INTERCOASTAL), filed November 10, 1972. Applicant: McALLISTER LIGHTERAGE LINE, INC., 17 Battery Place, New York, NY 10004. Applicant's representative: Gordon P. MacDougall, 705 Ring Building, Washington, D.C. 20036. By application filed November 10, 1972, applicant seeks revision of certificate (No. WC-81), to cover the following proposed changes: Extension of operation as a *common carrier* by water, in interstate or foreign commerce, (1) by non-self-propelled vessels with the use of separate towing vessels in the transportation of *oversized articles*, and by towing vessels in the performance of towage in the transportation of *oversized articles*, between ports and points along the Pacific coast and tributary waterways, on the one hand, and, on the other, ports and points within applicant's existing operating authority; and (2) by self-propelled vessels in the transportation of *oversized articles*, between ports and points along the Pacific coast and tributary waterways, on the one hand, and, on the other, points within applicant's existing authority.

No. W-457 (Sub-No. 6) (McALLISTER BROTHERS, INC. EXTENSION—INTERCOASTAL), filed November 10, 1972. Applicant: McALLISTER BROTHERS, INC., 17 Battery Place, New York, NY 10004. Applicant's representative: Gordon P. MacDougall, 705 Ring Building, Washington, D.C. 20036. By application filed November 10, 1972, applicant seeks a revision of certificate (No. WC-457), to cover the following proposed changes: Extension of operation as a common carrier by towing vessels, in interstate or foreign commerce, in the performance of towage in the transportation of *articles* exceeding 19 feet in width, or 90 feet in height, or 12 feet in width, or 90 feet in length, or 100 net tons in weight, *component parts thereof*, and *related equipment* (hereinafter called "oversized articles"), between ports and points along the Pacific coast and tributary waterways, on the one hand, and, on the other, ports and points within applicant's existing towing authority.

APPLICATION FOR FILING OF POSTAL CERTIFICATE

Interstate Commerce Commission, No. MC-137021 (Notice of Filing an Application for a Postal Certificate of Public Convenience and Necessity), filed November 1, 1972. Applicant: ELMER KRUEGER, Box 808, Norfolk, NE 68701. By application filed November 1, 1972, applicant seeks a Postal Certificate of Public Convenience and Necessity to transport *Mail* in the following territory: Between Norfolk and O'Neill, Nebr., from Norfolk over U.S. Highway 275 to junction U.S. Highway 20, thence over U.S. Highway 20 to O'Neill, and return over the same routes, serving all intermediate points, and the off-route point of Battle Creek, Nebr. NOTE: Appended to the application is a copy of a postal contract held by applicant which was in effect on July 1, 1971, the critical "grandfather" date: Route No. 68737 relating to service between Norfolk and O'Neill, Nebr.

Any interested person desiring to oppose the application may file with the Commission an original and one copy of his written representations, views, or arguments in opposition to the application within 30 days from the date of this publication in the FEDERAL REGISTER. A copy of each such pleading should be served upon applicant.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-20127 Filed 11-22-72;8:49 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR MATHEMATICAL SCIENCES

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given that a meeting of the Advisory Panel for Mathematical Sciences will be held at 9 a.m. on December 8, 1972, in Room 338, 1800 G Street NW., Washington, DC 20550. The purpose of this panel is to provide advice and recommendations (a) concerning support for research in the mathematical sciences; and (b) as part of the review and evaluation process for specific proposals and projects.

The agenda for this meeting will include:

1. Introduction and opening remarks by the Head, Mathematical Sciences Section.
2. Section activities in fiscal year 72—discussion led by the Section Head, Mathematical Sciences Section.
3. Remarks on the NSF fiscal year 1973 budget by the Division Director, Division of Mathematical and Physical Sciences.
4. Operating alternatives within a level budget—Division Director, Division of Mathematical and Physical Sciences.
5. Graduate Fellowships; Funding for Science Education—Acting Division Director, Division of Graduate Education in Science.
6. Executive Order 11671 and the role of advisory committees and panels—comments by the Deputy Assistant Director for Research.
7. Review and evaluation of pending proposals.

The meeting will be open to public observation through the period covered by agenda items 1 through 6 only. The remainder of the meeting will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated August 23, 1972, pursuant to the provisions of Executive Order 11671, section 13(d).

Further information concerning this panel may be obtained from Dr. William H. Pell, Head, Mathematical Sciences Section, Division of Mathematical and Physical Sciences, Room 303, 1800 G Street NW., Washington, DC 20550. Summary minutes relative to this meeting may be obtained by contacting the Management Analysis Office, Room 245, 1800 G Street NW., Washington, DC 20550.

T. E. JENKINS,
Assistant Director for Administration.

NOVEMBER 16, 1972.

[FR Doc.72-20352 Filed 11-22-72;11:32 am]

INTERNATIONAL DECADE OF OCEAN EXPLORATION PROPOSAL REVIEW PANEL

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given that a meeting of the International Decade of Ocean Exploration Proposal Review Panel will be held at 8:30 a.m. on December 5-7, 1972, in Room 642, 1800 G Street NW., Washington, DC 20550. The purpose of this panel is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects.

The agenda will be devoted to the review and evaluation of research proposals or projects, therefore, the meeting will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated August 23, 1972, pursuant to the provisions of Executive Order 11671, section 13(d).

For further information relative to this panel, contact Mr. Feenan Jennings, Head, International Decade of Ocean Exploration, Room 710, 1800 G Street NW., Washington, DC 20550.

T. E. JENKINS,
Assistant Director for Administration.

NOVEMBER 16, 1972.

[FR Doc.72-20351 Filed 11-22-72;11:32 am]

NATIONAL MAGNET LABORATORY VISITING COMMITTEE

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given that a meeting of the National Magnet Laboratory Visiting Committee will be held at 9:15 a.m. on December 4 and 5, 1972, at the Francis Bitter National Magnet Laboratory, 170 Albany Street, Cambridge, MA 02139. The purpose of the committee is to review, evaluate, and provide advice and recommendations concerning the research and management operations of the National Magnet Laboratory.

The agenda for this meeting will include:

DECEMBER 4 SESSION

1. Welcoming Remarks—Vice President for Research, Massachusetts Institute of Technology.
2. Status and Future of the Laboratory—Director, National Magnet Laboratory.

Presentations of Scientific Research Program:

3. Magnetic Semiconductors — Project Leader, Ultrasonics.
4. Magnetism and Superconductivity—Project Leader, Theory of Magnetism and Superconductivity.
5. Quantum Magnet-Optics—Project Leader, Quantum Optics.
6. Soft X-ray and Plasma Studies—Project Leader and Staff Member, Soft X-rays.
7. Magnet Technology—Staff Member, Soft X-rays.
8. Magnetic Separation and Magneplane—Coproject Leader, Applied Magnetism.
9. Tour of the Laboratory.

DECEMBER 5 SESSION

Evaluation of the Laboratory's management and programs.

The December 4 session will be open to the public. The December 5 session will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated August 23, 1972, pursuant to the provisions of Executive Order 11671, section 13(d). Persons who desire to attend the open portion of the meeting should notify Dr. Howard W. Etzel, Deputy Division Director, Division of Materials Research, by telephone (202—632-7414), or by mail (Room 336, 1800 G Street NW., Washington, DC 20550), prior to the meeting.

For further information relative to this committee, contact Dr. Howard W. Etzel at the above address. Summary minutes of this meeting may be obtained from the Management Analysis Office, Room 245, 1800 G Street NW., Washington, DC 20550.

T. E. JENKINS,
Assistant Director for Administration.

NOVEMBER 16, 1972.

[FR Doc.72-20350 Filed 11-22-72;11:32 am]

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federal register

THURSDAY, NOVEMBER 23, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 227

PART II

PAY BOARD

■

ECONOMIC STABILIZATION

Revision of Regulations

No. 227—Pt. II——1

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Title 6—ECONOMIC STABILIZATION

Chapter II—Pay Board

REVISION OF CHAPTER

On July 20, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 14531). That notice proposed to revise and republish Parts 201 and 202 of Pay Board regulations. Interested persons were allowed to submit written comments or suggestions to the Board within the period of 30 days from the date of publication of the proposed regulations. In addition, public hearings on the provisions of the proposed revision were scheduled and conducted during the month of August in Chicago, Ill.; San Francisco, Calif.; Atlanta, Ga.; and Washington, D.C. Persons who desired to make oral presentations were given an opportunity to do so in accordance with the notice of hearing (37 F.R. 14531).

During the course of the recodification hearings more than 60 presentations were made. In addition to this oral testimony over 1,200 pages of written submissions were received. The Pay Board then reviewed the extensive submissions and, in the process of this review, considered the totality of its regulations. Policy decisions were reached affecting the regulations (both substantive and procedural).

The revision of Parts 201 and 202 as previously proposed is hereby adopted with certain modifications as set forth below. Because of the revision of Parts 201 and 202, it proved necessary to make certain conforming changes to other parts not published for comment. In view of this, the Board determined that these other parts, together with the Board's rulings and delegations, should also be reviewed, and in some cases revised, in the light of a year's experience. Accordingly, this document contains all Pay Board regulations, delegations, and rulings, updated and revised in a single publication for the convenience of the public.

The discussion which follows highlights significant changes. While not an exhaustive outline, it has been prepared for the convenience of the public by reference to parts, subparts, sections, appendices, etc., in the following order: Part 200 (information), Part 201 (stabilization of wages and salaries), Part 202 (prenotification and reporting), Part 205 (procedures), appendix (special regulations), and orders (delegations of authority).

PART 200

Technical and substantive changes have been made in Part 200. The purpose of these changes is to clarify existing Pay Board policy with respect to requesting and obtaining information from the Board under the Freedom of Information Act, 5 U.S.C. 552. For the guidance and convenience of the public, a list of items has been included to indicate those items generally available for inspection and copying (§ 200.21). In addition, information and records not required to be disclosed have been enumerated (§ 200.22). New provisions with respect to authentication of records have been added (§ 200.23) and the section with respect to fees has been revised (§ 200.28).

PART 201

Part 201, as set forth in the notice of proposed rule making on July 20, 1972, contained a complete revision of format. Subsequent to that publication the Board amended existing regulations to carry out immediate changes in Board policy. These changes continued to reflect the old numbering system. With these recodified final regulations additional minor changes have been made to the numbering system for Subparts A, B, E, and G. Accordingly, to properly explain the changes made in certain situations it becomes necessary to identify three separate sets of numbers. Wherever reference is made to an "old" section number, the reference means the regulations in effect immediately prior to this recodification. Whenever reference is made to a "proposed" section number, the reference means the numbering system incorporated in the notice of proposed rule making, published July 20, 1972. Reference to a "new" section number means as recodified in the regulations which follow.

SUBPART A

Section 201.1 *Purpose and scope.* New § 201.1 substantially incorporates the provisions of proposed § 201.1, except for minor changes of a technical or clarifying nature. Old §§ 201.12 and 201.16 were incorporated in proposed § 201.1 and are carried into new § 201.1 except that a sentence has been deleted. Since regulations in effect for Phase I dealing with wages and salaries have now been superseded, that sentence has been deleted.

Section 201.2 *Definitions.* Old § 201.2 has been deleted because all Phase I rules applicable to wages and salaries are now considered to have been superseded by the rules prescribed in this chapter. Old § 201.3, relating to definitions, has been renumbered as new § 201.2. New definitions have been added for the terms "average hourly benefit rate", "average hourly included benefit rate", "average hourly qualified benefit rate", "employee", "employer", and "pay adjustment". The definition of "tandem relationship" has been incorporated (as proposed) in new § 201.32(d). The definitions of "included benefit" and "qualified benefit" have been revised to conform to new §§ 201.58 and 201.59. The definition of "wages and salaries" has been altered to reflect that payments to (or on behalf of) retirees are wages and salaries within the meaning of the regulations. New definitions of "employee" and "employer" are also added to clarify the Board's rules as to coverage by this chapter.

SUBPART B

Section 201.10 *General wage and salary standard.* Paragraph (a) of this section contains minor changes of a clarifying nature. Paragraph (c) of this section has been added to clarify the fact that the Pay Board or its delegate retains authority under the Act to limit increases in particular cases other than as provided in the standard.

Section 201.11 *Exceptions.* Old § 201.11 contained all exceptions prescribed by the Board and the procedural rules applicable thereto. Under recodification each subparagraph of paragraph (a) of such section has been republished as a new section. Proposed § 201.29 has been deleted in favor of incorporating the specific procedural provisions within the particular section. Old § 201.11(b), relating to the overall limitation on exceptions, has been revised to include examples which make clear that although two or more exceptions might apply, the maximum permissible increase is only that available under any one of such exceptions. Moreover, each new exception section contains a rule with respect to the limitation of increases applicable under such exception. This rule does not represent any change in the substance of Pay Board policies with respect to these exceptions. New paragraph (c) of § 201.11 provides a cross reference to reporting requirements and procedures in Parts 202 and 205, respectively. Old § 201.11(d) has been retained as a cross reference to new § 201.30 which incorporates the rules with respect to exceptions on a case-by-case basis. A new paragraph (e) has been added to make clear that in applying for any exception to the standard the burden of proof is on the applicant.

Section 201.12 *Exception for certain tandem wage and salary increases.* Old § 201.12 has been deleted and the substance of such rule incorporated into new § 201.1. New § 201.12 incorporates the exception previously contained in old § 201.11(a)(1) with a liberalizing substantive change. Under the old rule, a tandem exception could not be claimed with respect to tandem second year increases in a contract because of the 6-month limitation in old § 201.11(a)(1)(i)(b). New § 201.12(a)(4) provides that the 6-month lag period runs from the effective date of a wage and salary increase in the leader unit rather than from the effective date of the contract or pay practice applicable to the leader unit. The format of the exception has also been altered to provide greater clarity.

Section 201.13 *Exception for certain tandem qualified benefit relationships.* Old § 201.13 contained rules with respect to retroactivity now incorporated in several sections of Subpart C. Proposed § 201.13 has been renumbered as new § 201.14 in order to set forth both tandem exceptions in numerical order. Thus, proposed § 201.17 has been renumbered as new § 201.13 and substantially incorporates the rules contained in old

§ 201.11(a)(7). This new section has been revised for substantially the same reasons set forth above with respect to the exception for tandem wage and salary increases.

Section 201.14 *Exception for essential employees.* Old § 201.14 contained rules with respect to deferred increases now provided in new § 201.35. Proposed § 201.14 has been renumbered as new § 201.15. New § 201.14 substantially incorporates the rules prescribed in § 201.11(a)(2) and has only been revised to reflect a change in format, including the procedures and limitation provisions previously applicable.

Section 201.15 *Exception for certain catch-up increases.* Old § 201.15 contained rules with respect to wage and salary increases payable under section 203(c)(3) of the Economic Stabilization Act of 1970, as amended. These rules are now incorporated in new § 201.36. Proposed § 201.15 has been renumbered as new § 201.16. New § 201.15 contains all of the provisions in old § 201.11(a)(3) and technical and conforming changes with respect to procedures and the limitation.

Section 201.16 *Exception for qualified merit plans.* Old § 201.16 has been substantially incorporated into new § 201.1 except for the sentence preserving the Phase I rule. Proposed § 201.16 has been renumbered as new § 201.17. New § 201.16 contains all of the provisions in old § 201.11(a)(5), as recently amended to discontinue the exception for new control years, and technical and conforming changes with respect to procedures and the limitation.

Section 201.17 *Exception for governmental wage determinations.* Old § 201.17 has been substantially incorporated into new § 201.41. Proposed § 201.17 has been renumbered as new § 201.13. New § 201.17 contains all of the provisions in old § 201.11(a)(6) and technical and conforming changes with respect to procedures and the limitation. In addition, a provision has been added to make clear that the exception relates to wage determinations applicable only to private sector employees.

Section 201.18 *Exception for intra-unit inequities.* New § 201.18 contains all of the provisions in old § 201.11(a)(8) and proposed § 201.18. A technical and conforming change has been added with respect to procedures.

Section 201.19 *Exception for low wage employees.* New § 201.19 contains all of the provisions in old § 201.11(a)(9). Examples have been added and minor technical and conforming changes have been made.

Section 201.30 *Exceptions on a case-by-case determination.* New § 201.30 contains all of the provisions in old § 201.11(d) and proposed § 201.30. Only changes of a clarifying or technical and conforming nature have been made with respect to procedures and the limitation. New paragraph (a) makes clear that notwithstanding the 7 percent limitation on a particular exception, the Board in a particular case may consider treating a request for exception in excess of the percentage limitation as a separate request under § 201.30 upon proper showing by an applicant. Such new paragraph (a) also delineates between criteria for exceptions not covered in Subpart B and exceptions covered but subject to the limitation of 7 percent.

SUBPART C

Section 201.31 *Retroactive increases pursuant to § 203(c)(2) of the Act.* New § 201.31 incorporates the provisions of old § 201.13 (a)–(c) and is adopted as proposed with minor technical and conforming changes. In addition, a new substantive rule has been adopted that provides for the treatment of certain wage reopeners scheduled to take place between August 15 and November 14, 1971. This new policy has the effect of revoking Pay Board Ruling 1972–51 (36 F.R. 13276).

Section 201.32 *Retroactivity pursuant to certain consecutive agreements or practices and certain tandem relationships.* New § 201.32 incorporates the provisions of old § 201.13 (e) and (f), and is adopted as proposed with minor technical and conforming changes.

Section 201.33 *Retroactivity for certain low wage employees and for certain one-time benefits.* New § 201.33 incorporates the provisions of old § 201.13(g), and is adopted as proposed.

Section 201.34 *Increases in wages and salaries scheduled after November 13, 1971, for services rendered in certain periods on or before such date.* New § 201.34 incorporates the provisions of old § 201.18, and is adopted as proposed with minor technical and conforming changes.

Section 201.35 *Wage and salary increases effective after November 13, 1971.* New § 201.35 incorporates the provisions of old § 201.14, and is adopted with clarifying, technical and conforming changes. In addition, a new substantive policy, set forth in paragraph (c), has been adopted providing for the treatment of certain wage reopeners scheduled to take place after November 13, 1971, under contracts agreed to before August 15, 1971. Increases pursuant to these wage reopeners are treated as deferred increases, with certain special procedural requirements. A clarifying change has been made with respect to the "expiration" of pay practices previously set forth. All wage and salary increases pursuant to pay practices in any control year beginning on or after November 14, 1972, will be subject to the general wage and salary standard and exceptions thereto. Special clarifying rules are provided for those "pay practices previously set forth" within the meaning of Subpart F.

Section 201.36 *Funds raised or provided prior to August 15, 1971, for wage and salary increases on and after such date.* New § 201.36 incorporates the provisions of old § 201.15, and is adopted as proposed with minor clarifying changes. Paragraph (d) of new § 201.36 incorporates the provisions of old § 201.13(d).

Section 201.40 *Retroactivity on a case-by-case determination.* New §201.40 is an expansion of the rule provided in old § 201.13(h) and proposed § 201.40. However, the expansion has been further revised to reflect clarifying, technical and conforming changes similar to those in new § 201.30.

SUBPART D

Section 201.41 *Violations.* New § 201.41 incorporates the provisions of old § 201.17, and is adopted as proposed with clarifying, technical, and conforming changes, including two additional examples.

Sections 201.42 and 201.43 *Criminal fine and civil penalty.* New §§ 201.42 and 201.43 are adopted as proposed in the notice of rule making.

SUBPART E

Generally, in addition to changes of a technical and conforming nature, revisions of proposed Subpart E (formerly Subpart C) Computation Rules have been made in order to attain the following objectives:

(1) Provide the method of computation necessitated by the Pay Board's adoption of the "short-form" PB–3A;

(2) Simplify the explanation of each adjustment which may be required with respect to the average straight-time hourly rate;

(3) Separate, for greater clarity, the average hourly benefit rate into its components—the average hourly included benefit rate and the average hourly qualified benefit rate;

(4) Prescribe rules covering new jobs, job classifications or positions, and apprenticeship and probationary programs;

(5) Set forth special computational rules relating to reductions in hours worked per day or per week; modifications of certain longevity or automatic progression plans; changes of appropriate employee units; and retroactive payments; and

(6) Add illustrative examples of the application of the regulations in this subpart.

More specifically, the following is a section-by-section analysis of revised Subpart E:

Section 201.51 *General.* New § 201.51 incorporates the provisions of old § 201.51, and is adopted as proposed with minor technical, clarifying, and conforming changes, except with respect to proposed § 201.51(d), relating to cost-of-living adjustments. That provision has been incorporated as a special computational rule in new § 201.64.

Section 201.52 *Determination of control year.* Old and proposed § 201.52 have been renumbered as § 201.53. New § 201.52 adopts proposed § 201.53 with certain changes, including the addition of examples in new paragraph (g). Changes of a clarifying and technical nature have been made in new paragraphs (c)(3), (d), and (e). Paragraph (c)(3) has been revised to cover contracts without a fixed expiration date. Paragraph (d) has been revised to make clear the prohibition against changing control years. Paragraph (e) has been revised to make clear that control year elections may only be made with respect to the first control year.

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have also been made in this section. In

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Section 201.53 *Formula for computation of annual aggregate increase in the base compensation rate.* Old and proposed § 201.53 have been renumbered as § 201.52. New § 201.53 revises old and proposed § 201.52 to more accurately reflect the formulas prescribed on form PB–3 and the new "short-form" PB–3A. Other changes conform to the separation of the average hourly benefit rate into its components (new §§ 201.58 and 201.59). New paragraph (b) has been added to prescribe the formula for use with respect to Category III pay adjustments where the optional "short form" method has been elected.

Section 201.54 *Base compensation rate.* New § 201.54 adopts, with conforming changes, the provisions of old and proposed § 201.54.

Section 201.55 *Average straight-time hourly rate and adjustment thereto.* Proposed § 201.55 included all the rules for determining, and computing adjustments to, the average straight-time hourly rate. Many of these rules are now included in new §§ 201.56 and 201.57. New § 201.55 contains substantially the same rules with respect to items included and excluded in determining total straight-time payroll expenditures but with a revised format. Other changes in that section are of a clarifying, technical, and conforming nature.

Section 201.56 *Computation method; average straight-time hourly rate; certain merit adjustments.* Old and proposed § 201.56 have been renumbered as new §§ 201.58 and 201.59. New § 201.56 contains substantially the same rules as proposed §§ 201.55(b)(1) and 201.55(c) with certain clarifying, conforming, and technical changes. In addition, a new substantive rule has been added to extend the "double snapshot" computation to appropriate employee units coming into existence for the first time after November 14, 1971, as part of a new company, new plant, or other business activity if they adopt merit plans. Furthermore, the rule with respect to compensating adjustments has been clarified to indicate that compensating adjustments are not available if the change in average skill levels or length of service has been reflected by exclusions for promotion, longevity, automatic progression, or apprenticeship or probationary increases during the same control year.

Section 201.57 *Computation method; average straight-time hourly rate; other than certain merit adjustments.* Old and proposed § 201.57 have been renumbered as new § 201.60. New § 201.57 contains substantially the same rules as proposed §§ 201.55(b)(2) and 201.55(c)(2) with certain clarifying, conforming, and technical changes. This "ice cube" method of computation applies to appropriate employee units existing on November 13, 1971, which did not have merit plans in effect on such date. Such method also applies to such existing units which adopt merit plans after November 13, 1971, for the first time and to new units formed after November 13, 1971, which have not adopted merit plans.

Section 201.58 *Average hourly included benefit rate and adjustments thereto.* Old and proposed § 201.58 have been incorporated in new § 201.59. New § 201.58 reflects the separation of old § 201.56 into specific benefits as set forth in the method of computation on forms PB–3 and PB–3A. Such new section contains substantially the same rules as proposed in § 201.56 with respect to included benefits, and contains certain clarifying, conforming, and technical changes including examples in new paragraph (e). New paragraph (d) has been drafted to clarify that included benefit cost savings may be offset against increases in certain included benefit costs, including those resulting from the secondary effect of increases in the average straight-time hourly rate.

Section 201.59 *Average hourly qualified benefit rate and adjustments thereto.* Old and proposed § 201.59 have been renumbered as new § 201.61. New § 201.59 reflects the separation of old § 201.56 into specific benefits and includes the rules contained in old and proposed § 201.58 with certain clarifying, conforming, and technical changes. New paragraph (h) has been drafted to clarify that qualified benefit cost savings may be offset against increases in certain qualified benefit costs, including those resulting from the secondary effect of increases in the average straight-time hourly rate. Such paragraph also establishes a modified rule on cost savings attributable to changes in actuarial assumptions. In addition, a new substantive rule has been added to provide that in the case of qualified profit sharing plans the contribution for a control year shall not be charged as an adjustment to the extent that it is in excess of the base year contribution, where the total contribution is less than the highest contribution made during any one of the last 3 full plan years ending prior to the control year. A proration formula is provided for use in this exclusion. The Pay Board policy under the old regulations, that both discretionary and formula qualified profit sharing plans are subject to the qualified benefit standard and the 5.5-percent standard, has also been restated in clearer fashion.

Section 201.60 *Exclusions from adjustment computations.* New § 201.60 adopts old and proposed § 201.57 with certain clarifying, technical, and conforming changes. In addition, new paragraph (e) expands the exclusion to include not only the Fair Labor Standards Act, but also various Federal and State employment discrimination laws. New paragraph (f) includes a clarifying change with respect to the nonapplicability of the wage determination exclusion to Government employees. This change parallels the clarifying change made in new § 201.17. In addition, an exclusion has been added to cover qualified apprenticeship and probationary programs.

Section 201.61 *Productivity incentive programs.* New § 201.61 adopts old and proposed § 201.59 with certain clarifying, technical, and conforming changes. New paragraph (f) has been revised to clarify the inapplicability of new § 201.61 to any variable compensation plan or practice which is based on company profits or which reflects factors in major part related to the efforts of employees not covered by the plan or practice.

Section 201.62 *New jobs, job classifications, or positions.* New § 201.62 adopts with modification the substance of a "comparability" rule issued during Phase I. See OEP Circular No. 101 (36 F.R. 18739), section 502(9). The new section provides rules for the creation of new jobs within existing units, but specifically excludes from those rules the reclassification of jobs within existing units. In addition, the new section provides rules with respect to the creation of new jobs in an appropriate employee unit which did not previously exist and the establishment of job rates for the new jobs in the new unit.

Section 201.63 *Qualified apprenticeship and probationary programs.* New § 201.63 adopts with minor modification the substance of the rules covering apprenticeship and probationary programs that were issued during Phase I. See OEP Circular No. 101 (36 F.R. 18739), section 503(4); and OEP Circular No. 102 (36 F.R. 20482), section 503(3). The probationary period has been extended from 3 to 6 months and the rules apply to programs established after Phase I.

Section 201.64 *Special computational rules.* New § 201.64 contains several special rules. Paragraph (a) adopts the rules with respect to computation of cost of living adjustments found in old § 201.11(a)(4) and proposed § 201.51(d). An example has been added. Paragraph (b) contains a clarifying rule that provides a method of computing pay adjustments attributable to a reduction in hours worked without a corresponding reduction in pay rates. An example is provided to illustrate the computation. If such method is not appropriate in a particular case, the Board will prescribe a more appropriate method. Paragraph (c) contains clarifying rules for the computation of chargeable increases attributable to longevity or automatic progression plan changes adopted after November 13, 1971. Paragraph (d) contains a clarifying rule that prohibits changing the determination of an appropriate employee unit unless prior approval is obtained from the Pay Board or its delegate. A self-executing exception to that rule has been provided for changes required because of an intervening, substantial revision of this historical or contractual wage and salary relationship which renders the former unit no longer appropriate. Paragraph (e) contains a rule clarifying the method of calculating increases in the base compensation rate where allowable retroactive payments are included in the base compensation rate. These payments are required to be included in both the divisor and dividend of the computations made pursuant to § 201.53 (a)(1), (2), and (3).

SUBPART F

The executive and variable compensation regulations deal, for the most part, with forms of pay and pay plans which because of their nature, are unlike other wages and salaries and therefore require special rules to assure control. In addition to changes to clarify the regulations, certain computational rules have been added to reflect policy decisions. Because the "old" section numbers and the "proposed" ones are the same, in this discussion of changes reference has been made to the proposed Subpart F.

Section 201.71 *Scope.* The reference in § 201.71(b) to sales or commission plans or practices or production incentive programs in the context of "existing contracts" and "pay practices previously set forth" has been eliminated, reflecting the parallel treatment of these plans, practices and programs under § 201.77 of the regulations.

Section 201.72 *Definitions.* To the definition of "job perquisite" has been added a reference to financial consulting or advisory services paid for by an employer. The "incentive compensation" definition has been altered to make reference to performance share awards and to set forth that stock bonus plans, whether or not tax qualified, are to be treated as incentive compensation.

Section 201.73 *Executive salaries and job prequisites.* The provisions of proposed § 201.73 have been incorporated with minor clarifying changes.

Section 201.74 *Incentive compensation plans (other than stock options).* New § 201.74 makes specific reference to, and provision for, those incentive compensation arrangements which are (or were) operating under § 201.35. Thus, the definition of "base year amount" and the calculation of "allowable amounts" for these arrangements upon their expiration as "existing contracts" or "pay practices previously set forth" have been revised. Provision has also been made for plan years of all incentive compensation plans (other than stock options) after the first plan year controlled. An increase in the allowable amount of payment under a bonus plan has been provided for in paragraph (b)(3), increasing that amount in subsequent plan years by the sum of the previous allowable amount and that amount multiplied by the standard established in § 201.10(a). In addition, the new paragraph (b)(5) reflects a policy decision to provide for growth or contraction in incentive compensation plans. In essence, an adjustment factor has been set forth as: the aggregate base salaries in the base year plus the base salaries of new employees added to the plan unit minus the base salaries of those who terminated from the plan unit divided by the base year aggregate salaries. The rules provide that this adjustment factor is to be multiplied by the otherwise allowable amount to reflect increases or decreases in plan participants since the base year. In light of these changes in the computational method, the provision for credits to wages and salaries for amounts granted less than the allowable amount has been deleted.

In new § 201.74(c)(3)(ii) a valuation has been provided for "performance share" awards. It has been indicated, however, that this valuation only applies upon Pay Board approval of the incentive compensation plan under which the "performance share" awards are made.

Section 201.75 *Incentive compensation practices (other than stock options).* Because the computations under incentive compensation practices mirror those under incentive compensation plans, those rule changes reflected in § 201.74 have also been made in this section. In addition, in those practices where a definite method or clear formula is not utilized in determining the aggregate amount of incentive compensation attributable to a practice year, a formula has been implied in new paragraph (a)(1). Thus, a formula of the base year amount selected, divided by the profits prior to Federal taxes in the base year, is deemed to apply in such a circumstance. This formula must be continued in application and utilized as a limitation upon permissible payment during controls independent of the computational provisions for determining the allowable amount of incentive compensation for the practice year.

Section 201.76 *Stock options.* New § 201.76 reflects a policy decision to alter the method of determining the aggregate share limitation applicable to those stock options which are deemed not to increase wages and salaries. In essence, the revised calculation set forth in paragraph (b)(1)(iii) extends the base period to cover all fiscal years during which the plan operated that ends before the fiscal year for which determination is made. Provision has been made that the average number of shares subject to option grant be calculated and that amount be subject to a self-executing adjustment for growth and contraction whereby such average is to be multiplied by a fraction, consisting of the number of current plan participants over the average number of plan unit participants during the base period. For those plans under which no options were granted during any of the fiscal years in the base period the limitation has been set forth in paragraph (c)(1)(i) at 25 percent of the total shares authorized for issuance at the time the plan was first adopted, or if amended to increase share authorization, at the time the plan was last amended. These rules are applicable to fiscal years beginning on or after November 14, 1972. For other fiscal years the current rules incorporated in the new section continue to apply. In addition, provision has been made for plans in pay practices previously set forth and contracts which cease to operate under § 201.35. These provisions reflect a similar treatment of such plans in the nonstock options areas covered by §§ 201.74 and 201.75.

Section 201.77 *Sales or commission plans or practices and certain production incentive programs.* In addition to clarifying changes, reference has been made in paragraph (b) to a change in a sales or commission plan or practice or a production incentive program which is not considered as increasing the aggregate amount of compensation, i.e., the downward revision of a rate or formula.

Section 201.78 *New or revised plans, practices or programs.* Some examples have been added in paragraph (b) to reflect modifications or revisions of incentive compensation plans which must be submitted to the Pay Board for prior approval. Reference has been made in paragraph (c) to performance share plans and to the required prior approval of such plans before the valuation set forth in § 201.74 can be utilized for awards under this type of incentive compensation plan. The treatment of plans, practices or programs which operate (or operated) under § 201.35 has been set forth in paragraph (d). Therein, it has been provided that, to the extent incentive compensation attributable to these pay systems is not treated as wages and salaries under Subpart F, such incentive compensation is not to be included in computing the base compensation rate of any appropriate employee unit. New paragraph (f) contains a discussion of the criteria the Board will consider in applications submitted for prior approval or for exception to the provisions of Subpart F.

Section 201.79 *New organizations and changes in organizational form.* Certain clarifying changes have been made. A new paragraph has been added to deal specifically with mergers and other similar reorganizations. With regard to these reorganizations, rules have been added that apply to the addition of employees to existing plans including the necessity in some circumstances for securing prior Pay Board approval.

SUBPART G

This subpart has been substantially revised to reflect a different format. There is no longer any reference to the March 28, 1971, or November 14, 1971, dates for purposes of computing the maximum permissible increase. In addition, a provision has been included that is consistent with new § 201.10(c) which would enable the Board to limit an increase in a particular case other than as provided in the standard. All other changes are of a clarifying technical and conforming nature.

SUBPART H

This subpart was not included in the notice of rule making published July 20, 1972. The old subpart was published on September 30, 1972 (37 F.R. 20530) and contained §§ 201.91 through 201.95 which have been recodified in this document. In accordance with a July 1972, policy decision of the Pay Board, a new § 201.96 has been added, relating to State mandated pay adjustments. Examples have been included in that section to illustrate its applicability. Conforming and technical changes have been made in new § 201.93(f) and in new § 201.94(a) as necessitated by new § 201.96. In addition § 201.93(a) has been revised to require as part of the certification a statement of the approximate number of employees in the units covered by the certification.

APPENDIX

Old Appendix A has been deleted by decision of the Pay Board as no longer necessary. Accordingly, proposed Appendix B now appears as the new Appendix and has been updated to reflect changed section numbers from regulations in effect prior to November 14, 1972.

PART 202

Part 202, as set forth in the notice of proposed rule making on July 20, 1972, was substantially similar to Part 202 of the regulations then in effect. Since the publication of the proposed Part 202, policy changes in other substantive areas

REVISION OF CHAPTER

by law are available for inspection and limited to records containing information

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have required amendments to existing regulations. Section numbers have not been changed.

SUBPART A—INTRODUCTION

Section 202.1 *Purpose.* New § 202.1 is adopted as proposed, except that certain general material, duplicating material in § 201.1 which is applicable to the entire chapter, has been deleted from the section.

Section 202.2 *Classification and reclassification.* New § 202.2 is adopted as proposed, with technical and conforming changes and an additional provision classifying State mandated pay adjustments as Category I. The additional provision was added to old § 202.2 prior to this document.

Section 202.3 *Definitions.* New § 202.3 is adopted as proposed, with clarifying, technical, and conforming changes.

SUBPART B—CATEGORY I PAY ADJUSTMENTS

Section 202.10 *Prenotification and reporting requirements.* New § 202.10 incorporates the provisions of proposed § 202.10, with clarifying, technical, and conforming changes and certain additional material. Paragraph (a)(2) establishes a requirement that Category I prenotification include copies of collective bargaining agreements and a summary of pay adjustments. Paragraph (b)(1) has been revised to conform to regulations concerning certification of pay adjustments (§ 201.93). Paragraph (b)(6), relating to wage increases which apply to individual employees, reduces the number of separate prenotifications required from 2 to 1 per year if the increases are budgeted in advance of the year, and prescribes the scope and content of each prenotification. Paragraph (b)(7), relating to cost of living allowance increases, requires an initial prenotification containing estimates of the expected amounts of such increases, and further prenotification only if the actual amounts of the cost of living allowance increases, as proposed, will exceed the previously estimated amounts.

SUBPART C—CATEGORY II PAY ADJUSTMENTS

Section 202.20 *Prenotification and reporting requirements.* New § 202.20 incorporates the provisions of proposed § 202.20, with clarifying, technical, and conforming changes and certain additional material. Paragraph (a)(2) establishes a requirement that Category II reports include copies of collective bargaining agreements and summaries of pay adjustments. Paragraph (b)(1) has been revised to conform to regulations concerning certification of pay adjustments (§ 201.93). Paragraph (b)(6), relating to wage increases which apply to individual employees, reduces the number of separate reports required from three to one or two per year if the increases are budgeted in advance of the year, and in certain cases, from three to two per year if the increases are not so budgeted. This paragraph also prescribes the scope and content of each report. Paragraph (b)(8), relating to cost of living allowance increases, permits the advance submission of estimates of such increases, with a further report required only if the actual increases exceed the estimates as previously reported.

SUBPART D—CATEGORY III PAY ADJUSTMENTS

Section 202.30 *Prenotification and reporting requirements.* New § 202.30 incorporates the provisions of proposed § 202.30, with clarifying, technical, and conforming changes and certain additional material. Paragraph (b)(6) has been added to conform to regulations concerning certification of pay adjustments (§ 201.93) and to set forth the reporting requirements applicable to pay adjustments for certain public officials (§ 201.94). Paragraph (b)(7) reflects recent policy changes with respect to certain wage reopening provisions (§ 201.35).

PART 205

Section number references to Part 201 have been changed to reflect the new numbers in that part. In addition, both technical and substantive changes have been made in Part 205. Significant modifications and additions are as follows: The definitions of "adverse action" and "person aggrieved" (§ 205.2) have been revised so that appeals from IRS adverse actions with respect to interpretations and rulings are no longer ex parte proceedings.

NOTE: This is already the case in pay adjustment proceedings.

The requirement in § 205.4(b) to serve copies of documents filed with the Board on the other party at interest (in collective bargaining situations) has been expanded to apply to all documents filed by such parties with the Board. Section 205.6(e), which requires service of determinations, decisions and orders on all parties at interest, has been expanded by making that provision applicable to appeals from IRS adverse actions in cases involving interpretations and rulings.

NOTE: In addition, the section continues to apply to pay adjustment cases.

The provisions contained in new § 205.9 govern requests for subpenas. More specifically, that section provides that the Board may issue a subpena, at the request of a party at interest, or otherwise, but the Board will not issue a subpena to a party at interest for use by the party. Procedures for requesting the Board to issue a subpena are fully set out in new § 205.9. New § 205.10 governs motions to quash the issuance of a subpena and new § 205.11 allows persons submitting documents to the Board, in response to a subpena or otherwise, to request confidentiality, and provides for disclosure of such documents to a party at interest if confidentiality is not requested. If confidentiality is requested, the merits of such request will be considered carefully on a case-by-case basis. This new rule on disclosure relates only to release of information to a party at interest directly affected by a Board proceeding and in no way restricts, expands, or otherwise affects, disclosure to the public of information pursuant to Subpart B, Part 200, Pay Board Public Information Regulations. Section 205.21 has been revised to provide that a determination of violation by IRS may not be appealed to the Pay Board. Sections 205.22, 205.23, and 205.26 have been revised to provide that appeals to the Pay Board from IRS adverse actions must now be filed with the appropriate district director who issued the adverse action being appealed. The appropriate district director will then attach the appeal to the case file and forward them both to the Pay Board for disposition. Section 205.29 which was previously entitled "Further review" has now been completely revised so as to conform to the review sections contained in Subpart C. Section 205.41 (Reconsideration) has been deleted since it unnecessarily duplicated the review provisions contained in §§ 205.34 through 205.40. Subpart E (Formal Hearings) has been revised to provide that the Chairman will be the presiding officer at formal hearings unless a Hearing Officer is specifically appointed (§ 205.61). In addition, the powers of the presiding officer have been listed in § 205.63.

APPENDIX TO CHAPTER II

Special Regulation No. 1, published August 10, 1972 (37 F.R. 16091) relating to modification of the small business exemption in the lumber industry, has been recodified with conforming and technical changes as an appendix to Chapter II of Title 6.

DELEGATION ORDERS

The Pay Board delegations of authority have been modified to show changed section numbers resulting from recodification. In addition, Delegation Orders No. 3 (to the Chairman) and No. 3A (to the Executive Director) have been expanded to reflect resolutions of the Pay Board, and Order No. 4 (to the Secretary of the Treasury) has been revised to more clearly indicate the authority previously delegated under that order. Since this revision is essential to the expeditious implementation of the Economic Stabilization Act of 1970, as amended, and Executive Order No. 11640, as amended, the Board finds that the time for submission of written comments by interested persons in accordance with the usual rule making procedure is impracticable and that good cause exists for promulgating this revision in less than 30 days. Interested persons may submit written comments regarding this revision within 20 days after publication of this document. Communications should be addressed to the Office of General Counsel, Pay Board, Washington, D.C. 20508.

The regulations, delegations of authority, and rulings republished in this document supersede all previous regulations, delegations of authority, and rulings previously issued by the Board prior to this document. The regulations, delegations of authority and rulings hereby superseded remain in full force and effect with respect to any completed actions taken during periods prior to the effective date of this document.

Effective date. Unless otherwise provided herein, the provisions of this document are effective November 14, 1972.

By direction of the Board.

GEORGE H. BOLDT,
Chairman.

REVISION OF CHAPTER
PART 200—INFORMATION

Subpart A—[Reserved]

Subpart B—Public Information

Sec.
200.20 Purpose.
200.21 Information and records available to the public.
200.22 Information and records not required to be disclosed.
200.23 Authentication of records.
200.24 Request for inspection of records.
200.25 Determination of availability of records.
200.26 Request for review of nonavailability.
200.27 Final determination of availability.
200.28 Fees.

Subpart C—Use of Information

200.50 Purpose and scope.
200.51 Definitions.
200.52 Use of economic stabilization information.

AUTHORITY: The provisions of this Part 200 are issued under the Economic Stabilization Act of 1970, as amended, Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38; Public Law 92-210, 85 Stat. 743; Executive Order No. 11640 (37 F.R. 1213, Jan. 27, 1972), as amended; Cost of Living Council Orders No. 3 (36 F.R. 20202, Oct. 16, 1971) and No. 6 (37 F.R. 2727, Feb. 4, 1972); 26 U.S.C. 7602; and 5 U.S.C. 552.

Subpart A—[Reserved]

Subpart B—Public Information

§ 200.20 Purpose.

This subpart sets forth the policies and procedures of the Pay Board governing public access to information contained in the files, documents, and records of the Pay Board. In accordance with the spirit as well as the letter of the Freedom of Information Act, 5 U.S.C. 552, it is the policy of the Pay Board that disclosure is to be the general rule rather than the exception. This policy in favor of disclosure extends in many instances to information technically exempt from disclosure under the law where such disclosure would not adversely affect some legitimate public or private interest intended to be protected by law, would not otherwise violate law, and would not impose an unreasonable administrative burden on the Pay Board. Similarly, this subpart recognizes that the soundness and fairness of Pay Board actions depend, in large measure, upon the reliability of technical and business information submitted by parties at interest. Since the release of such information may jeopardize the competitive business position of such parties, it is the policy of the Pay Board to consider carefully the merits of any request for confidentiality.

§ 200.21 Information and records available to the public.

(a) *In general.* All Pay Board information and records which are not exempt by law are available for inspection and copying by members of the public (for exempt records, see § 200.22). In addition, the Chairman of the Pay Board, or his delegate, is authorized, in his discretion, to make exempt information and records available for inspection and copying if he deems disclosure to be in the public interest, and disclosure is not otherwise prohibited by law.

(b) *Information and records available.* For the guidance and convenience of the public, a list of items are included which are generally available for inspection and copying. An identifiable item not listed may nevertheless be available upon request. Conversely, an item included herein may be withheld, in whole or in part, because a portion of it is exempt. The list is as follows:

(1) Published regulations, rulings and delegations of authority;

(2) Pay Board resolutions;

(3) Pay Board minutes;

(4) Final votes of Pay Board members on specific cases before the Board;

(5) Pay Board agenda;

(6) News releases;

(7) Official speeches by Pay Board staff when there is a prepared text;

(8) Testimony of Pay Board members and staff before congressional committees;

(9) Prepared statistical releases on Agency activities;

(10) Organizational and functional statements;

(11) Economic research studies of a general nature (completed);

(12) Decisions and orders;

(13) Pay Board public use forms (blank); and

(14) Names and positions of Pay Board staff.

(c) *Proceedings before the Board.* Supplemental rules governing requests for information by a party at interest to a proceeding before the Board are contained in §§ 205.4 (b) and (c) (documents filed with the Board by a party at interest which are required to be served on the other party at interest), 205.6(e) (service by Board of decisions and orders), 205.9 (requests for subpenas), and 205.11 (disclosure of information and requests for confidentiality) of this chapter.

§ 200.22 Information and records not required to be disclosed.

(a) *In general.* In accordance with 5 U.S.C. 552(b), this subpart does not require disclosure of the following records:

(1) Records specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy;

(2) Records related solely to the internal personnel rules and practices of the Board;

(3) Records specifically exempted from disclosure by statute, including but not limited to records containing information referred to in section 205 of the Economic Stabilization Act of 1970, as amended;

(4) Records containing trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Interagency or intragency memoranda or letters which would not be available by law to a party other than an agency in litigation with the Board;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Investigatory files compiled for law enforcement purposes, except to the extent available by law to a party other than an agency, and except that the Chairman of the Pay Board, or his delegate, is specifically authorized to divulge or disclose to a complainant, or to an individual with specific knowledge of a complaint, the nature and result of the investigation of such complaint in circumstances where no violation has been found; or

(8) Records contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

(b) *Identifiable record.* The Pay Board will, on occasion, not be able to honor a request for inspection and copying because the record requested cannot be identified. In such an event, the request will be returned to the person who initiated it and he will be advised why the record is not identifiable and what additional clarification, if any, he may submit to assist in its identification.

(c) *Possession of record.* If the record is not in the Pay Board's possession or does not exist, the person initiating the request will be so notified.

(d) *Record of other agency.* A person who requests a record which belongs to another agency, but which is currently in the custody and control of the Pay Board, should submit his request to the agency to which the record belongs. If the agency to which the record belongs consents, in writing, to making the record available, it will be disclosed in accordance with the provisions of this subpart.

(e) *Identifying details omitted.* Information furnished to requesting members of the public may have identifying details omitted to avoid unwarranted invasions of personal privacy, or violation of 18 U.S.C. 1905. That statute imposes criminal penalties for the disclosure of trade secrets, financial data, and other confidential information.

§ 200.23 Authentication of records.

(a) *True copies.* The Executive Director of the Pay Board will designate an

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official custodian who will have authority to attest or otherwise authenticate copies of records made available under the provisions of this subpart.

(b) *Existence of records.* The Executive Director or the official custodian may issue such statements, certificates, or other documents as may be required to show that after a diligent search, no record or entry of the tenor specified in a request has been found to exist. (See Rule 44, Federal Rules of Civil Procedure.)

§ 200.24 Request for inspection of records.

(a) *Place, time, etc.* A request for inspection and copying of records may be filed, in person or by mail, with the Director of the Case Information Center, Pay Board, 2025 M Street NW., Washington, DC 20508 between 8:30 a.m. and 5 p.m., Monday through Friday, except holidays.

(b) *Forms, identification of information.* Such requests shall be made on a specified Pay Board form, and should identify with specificity the documents or other information sought. Copies of that form are available in the Case Information Center of the Pay Board.

§ 200.25 Determination of availability of records.

If the record is of the nature described in § 200.22, the requesting party will be informed in writing of the specific reason(s) why the record may not be disclosed.

§ 200.26 Request for review of nonavailability.

Any person, whose request to inspect a record has been denied in accordance with § 200.25, may request a review of the initial denial. Such review will be made by the Chairman of the Pay Board, and will be based upon the original request, the denial, and any written argument submitted by the person requesting the review.

§ 200.27 Final determination of availability.

The decision upon review, as provided for in § 200.26, will be promptly made in writing and transmitted to the person requesting such review. If the decision is wholly or partly in favor of said person, the requested record to that extent will be made available for inspection. To the extent that the decision is adverse to the request, the reason(s) for the denial will be stated. A decision upon review as provided herein shall constitute the final action of the Board as to the availability of a requested record.

§ 200.28 Fees.

(a) *Establishment of fees.* The Administrative Director of the Pay Board may establish such fees and charges for record searching, reproduction, and related expenses incurred with respect to records made available to the public as are deemed reasonable and appropriate.

(b) *No charge for certain records and documents.* It has been determined that certain records and documents, which may be furnished without significant disruption of other business activities (and the record or document may otherwise be disclosed), may be made available without charge.

(c) *Schedule of authorized fees.* For copies of documents other than those duplicated and distributed for no fee:

Each page	$0.15

Time in excess of the first half-hour spent in searching for, or producing, the requested record or document will be charged at the following rate:

Per hour	$4.00

(d) *No charge to Federal agency.* When the request for copies of any record or document, available for inspection pursuant to the provisions of this part, is made by a Federal agency or instrumentality thereof, copies as requested will be made available without charge.

Subpart C—Use of Information

§ 200.50 Purpose and scope.

This subpart sets forth the policies and procedures of the Pay Board for the use of economic stabilization information, obtained from or on behalf of the Board for economic stabilization purposes, by the Internal Revenue Service.

§ 200.51 Definitions.

For the purpose of this subpart—"Economic stabilization information" includes—

(a) The amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association obtained in connection with economic stabilization matters;

(b) Any schedule, list, written statement, or other written document filed by or on behalf of any person with the Pay Board, any body under its jurisdiction, or the Internal Revenue Service, in connection with economic stabilization matters; and

(c) All other reports, oral or written information, factual data, documents, papers, abstracts, memoranda, or evidence taken, or any part thereof, relating to any person and held by the Pay Board, any body under its jurisdiction, or the Internal Revenue Service, in connection with economic stabilization matters. "Person" has the meaning given by section 7701(a)(1) of the Internal Revenue Code of 1954 (68 Stat. 911; 26 U.S.C. 7701(a)(1)).

§ 200.52 Use of economic stabilization information.

Any information which is acquired by the Internal Revenue Service, or the Pay Board, or any body under the jurisdiction of the Pay Board, for stabilization purposes, may be used by the Internal Revenue Service or the Pay Board in the performance of any of their duties or in connection with any proceeding conducted under the Economic Stabilization Act of 1970, as amended.

PART 201—STABILIZATION OF WAGES AND SALARIES

Subpart A—Introduction

Sec.
201.1 Purpose and scope.
201.2 Definitions.

Subpart B—General Pay Standard and Exceptions

201.10 General wage and salary standard.
201.11 Exceptions.
201.12 Exception for certain tandem wage and salary relationships.
201.13 Exception for certain tandem qualified benefit relationships.
201.14 Exception for essential employees.
201.15 Exception for certain catchup increases.
201.16 Exception for qualified merit plans.
201.17 Exception for governmental wage determinations.
201.18 Exception for intraunit inequities.
201.19 Exception for low wage employees.
201.30 Exceptions on a case-by-case determination.

Subpart C—Retroactive and Deferred Increases

201.31 Retroactive increases pursuant to section 203(c)(2) of the Act.
201.32 Retroactivity pursuant to certain consecutive agreements or practices and certain tandem relationships.
201.33 Retroactivity for certain low wage employees and for certain one-time benefits.
201.34 Increases in wages and salaries scheduled after November 13, 1971, for services rendered in certain periods on or before such date.
201.35 Wage and salary increases effective after November 13, 1971.
201.36 Funds raised or provided prior to August 15, 1971, for wage and salary increases on and after such date.
201.40 Retroactivity on a case-by-case determination.

Subpart D—Violations, Sanctions, Fines, and Penalties

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201.42 Criminal fine.
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Subpart E—Computation Rules

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201.52 Determination of control year.
201.53 Formula for computation of annual aggregate increase in the base compensation rate.
201.54 Base compensation rate.
201.55 Average straight-time hourly rate and adjustment thereto.
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201.57 Computation method; average straight-time hourly rate; other than certain merit adjustments.
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201.60 Exclusions from adjustment computations.
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Subpart F—Executive and Variable Compensation

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201.73 Executive salaries and job prerequisites.
201.74 Incentive compensation plans (other than stock options).
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201.76 Stock options.
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Subpart G—Nonunion Construction

201.81 Scope.
201.82 Definitions.
201.83 Excluded nonunion construction employees.
201.84 Included nonunion construction employees.
201.85 Percentage relationship to standard.
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201.87 New labor market area.
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Subpart H—State and Local Governments

201.91 Scope.
201.92 Definitions.
201.93 Certification of pay adjustments.
201.94 Certain public officials.
201.95 Qualified public employee benefit plans.
201.96 State mandated pay adjustments.
Appendix—Cross-Reference Table

AUTHORITY: The provisions of this Part 201 issued under Economic Stabilization Act of 1970, as amended; Public Law 92-210, 85 Stat. 743; Executive Order No. 11640, 37 F.R. 1213 (1972), as amended by Executive Order No. 11660, 37 F.R. 6175 (1972); and Cost of Living Council Order No. 3, 36 F.R. 20202 (1972), as amended.

Subpart A—Introduction

§ 201.1 Purpose and scope.

The purpose of the regulations in this chapter is to establish rules and standards to stabilize wages and salaries, as defined in § 201.2, in accordance with the provisions of Executive Order No. 11640 37 F.R. 1213 (1972), as amended. No reduction in the amount of wages and salaries being paid on November 13, 1971, will be required pursuant to this part unless and to the extent that such wages and salaries were increased in violation of the Economic Stabilization Act of 1970, as amended, and orders and regulations issued pursuant thereto. Any collective-bargaining agreement subject to Executive Order No. 11588, 36 F.R. 6339 (1971), relating to the stabilization of wages and salaries in the construction industry, as amended by Executive Order No. 11640, further providing for the stabilization of the economy, shall be subject to Pay Board regulations as provided in Amended Pay Board Order No. 2. All persons are required by law to comply, and are expected to do so voluntarily, with the provisions of the Economic Stabilization Act of 1970, as amended, and the regulations, rulings, and orders issued thereunder. The regulations in this chapter shall be construed in a manner consistent with the policies of the Act, and every person subject to the provisions of such regulations shall be required to interpret and apply such provisions in good faith to carry out such policies.

§ 201.2 Definitions.

As used in this part, unless the context indicates otherwise, the term:

"Act" means the Economic Stabilization Act of 1970, as amended.

"Appropriate employee unit" means a group composed of all employees in a bargaining unit or in a recognized employee category. Such bargaining unit or employee category may exist in a plant or other establishment or in a department thereof, or in a company, or in an industry, or in a governmental unit or in an agency or instrumentality thereof, and shall be determined so as to preserve, as nearly as possible, contractual or historical wage and salary relationships.

"Average hourly benefit rate" means the sum of the average hourly included benefit rate and the average hourly qualified benefit rate.

"Average hourly included benefit rate" means the rate determined pursuant to § 201.58.

"Average hourly qualified benefit rate" means the rate determined pursuant to § 201.59.

"Base date" means, with respect to an appropriate employee unit, the day prior to the first day of a control year.

"Base payroll period" means, with respect to an appropriate employee unit, the most recent payroll period which ends on or before the base date, or, if such payroll period is not representative because of seasonal variations or for other valid reasons, the most recent payroll period prior to the base date which, under all the facts and circumstances, fairly represents the base year. A payroll period may be a week, 2 weeks, month, or other accepted time period, in accordance with demonstrated practices.

"Base year" means, with respect to an appropriate employee unit, the 12-month period ending on the base date.

"Chargeable increases" means those wage and salary increases or adjustments in the average straight-time hourly rate or average hourly benefit rate which are included in the amount used to determine whether the maximum permissible annual aggregate wage and salary increase has been exceeded with respect to an appropriate employee unit.

"Code" means the Internal Revenue Code of 1954, as amended.

"Control year" means, with respect to an appropriate employee unit, the period of time determined pursuant to § 201.52.

"Employee" includes any individual residing in a State or the District of Columbia who is either an employee within the meaning of section 3121(d) of the Code, or an agent-driver or commission-driver engaged in the distribution of milk for his principal, or an employee within the meaning of the National Labor Relations Act, as amended, 29 U.S.C. §§ 151 et seq.

"Employer" means any person which employs one or more individuals who are employees within the meaning of this section.

"Employment contract" or "contract" means a collective bargaining agreement or an individual contract of employment.

"Freeze" means the period of economic stabilization beginning on August 16, 1971, and ending on November 13, 1971.

"Included benefit" means any benefit (other than a qualified benefit) the cost of which is taken into account in determining the total cost of included benefits and adjustments therein pursuant to § 201.58.

"Maximum permissible annual aggregate wage and salary increase" means, with respect to an appropriate employee unit during any control year, the limitation on increases in the base compensation rate. This limitation is the general wage and salary standard described in § 201.10(a), or, if appropriate, any exception thereto pursuant to Subpart B, including any decision of the Pay Board or its delegate relating to such unit pursuant to § 201.10(c) or 201.30.

"Party at interest" means:

(1) A bargaining representative of employers who could be required to pay the wages and salaries in question, or in the absence of such bargaining representative, an employer who could be required to pay the wages and salaries in question; or

(2) A bargaining representative of employees who could receive payment of wages and salaries in question, or in the absence of such bargaining representative, an employee who could receive payment of the wages and salaries in question.

"Pay adjustment" means an increase in wages and salaries.

"Pay Board" or "Board" means the Pay Board established pursuant to Executive Order No. 11640, 37 F.R. 1213 (1972), as amended, or its delegate.

"Person" includes any individual, estate, trust, sole proprietorship, partnership, association, company, joint venture, corporation, fiduciary, labor organization, State or local governmental unit or instrumentality of such governmental unit, or a charitable, educational, or other such institution; however, the term does not include a foreign or domestic corporation in a foreign country, or an organization that includes within its membership foreign governments or instrumentalities thereof, or a foreign government, or an instrumentality thereof, except to the extent that such instrumentality is doing business in the United States.

"Qualified benefit" means any benefit which is taken into account in determining the total cost of qualified benefits and adjustments therein, pursuant to § 201.59.

"Wages and salaries" includes all forms of direct and indirect remuneration or inducement to employees by their employers for personal services, which are reasonably subject to valuation, including but not limited to: Vacation and holiday payments; bonuses; layoff and severance pay plans; supplemental unemployment benefits; night shift, overtime, and incentive pay; employer

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contributions for insurance plans (but not including Federal public plans, e.g. old-age, survivors, health, and disability insurance under the social security system, Railroad Retirement Acts, Federal Insurance Contributions Acts, Federal Unemployment Tax Acts, and Civil Service Retirement Acts, and not including any workman's compensation or unemployment insurance plan pursuant to State law whether the participation of the employer is optional or obligatory), savings, pension, profit sharing, annuity funds, and other deferred compensation and welfare benefits (including payments to or on behalf of retirees); payments in kind; job perquisites; housing allowances; uniform and other work clothing allowances (but not including employer-required uniforms and work clothing whether or not for safety purposes); cost-of-living allowances; commission rates; stock options; fringe benefits; and benefits which result in more pay per hour or other unit of work or production (e.g. by shortening the workday without a proportionate decrease in pay).

Subpart B—General Pay Standard and Exceptions

§ 201.10 General wage and salary standard.

(a) *Standard.* The general wage and salary standard (hereinafter the "standard") is established at 5.5 percent. The standard shall apply to any wage and salary increase payable with respect to an appropriate employee unit pursuant to an employment contract entered into or modified after November 13, 1971, or to a pay practice established, modified, or administered with discretion after November 13, 1971. Except as otherwise provided in this title or by decision of the Pay Board or its delegate, the standard shall be the maximum permissible annual aggregate wage and salary increase for such an appropriate employee unit during a control year.

(b) *Criteria for standard.* The appropriateness of the standard will be reviewed periodically by the Pay Board to insure that the standard—

(1) Is generally fair and equitable;

(2) Generally fosters orderly economic growth and generally prevents gross inequities, hardships, serious market disruptions, domestic shortages of raw materials, localized shortages of labor, and windfall profits;

(3) Takes into account such factors as changes in productivity and the cost of living, as well as other factors consistent with the purposes of the Act; and

(4) Calls for generally comparable sacrifices by business and labor as well as other segments of the economy.

(c) *Increases other than the standard.* Notwithstanding the provisions of paragraph (a) of this section, an increase in wages and salaries for an appropriate employee unit may be otherwise limited during a contract or control year or other period of time to an amount determined by the Pay Board or its delegate to be necessary to preserve ongoing collective bargaining relationships, to foster orderly economic growth, or to prevent gross inequities, hardships, serious market disruptions, or localized shortages of labor.

§ 201.11 Exceptions.

(a) *In general.* This subpart provides rules under which certain wage and salary increases in excess of the standard may be permitted with respect to an appropriate employee unit for a control year.

(b) *Limitation on exceptions*—(1) *If two or more exceptions are applicable.* If two or more of the exceptions provided in this subpart are applicable to an appropriate employee unit, the maximum permissible annual aggregate wage and salary increase for such unit shall be the maximum increase for which such unit qualifies under any one of such exceptions.

(2) *Overall limitation.* Except as provided in §§ 201.13, 201.16(c), 201.17, 201.19, and 201.30, the maximum permissible annual aggregate wage and salary increase with respect to an appropriate employee unit, whether any or all of the exceptions described in this subpart are applicable, shall not exceed 7 percent.

(3) *Application illustrated.* The application of this paragraph may be illustrated by the following examples.

Example (1). An appropriate employee unit qualifies under § 201.12 for an annual aggregate wage and salary increase of 6.8 percent on the basis of a tandem wage and salary relationship. The unit also qualifies under § 201.14 for an increase of 6.4 percent to attract or retain essential employees. Under the limitation of § 201.11(b)(1), the maximum permissible annual aggregate wage and salary increase for this unit is 6.8 percent.

Example (2). An appropriate employee unit qualifies under § 201.12 for an annual aggregate wage and salary increase of 7 percent on the basis of a tandem wage and salary relationship. The unit also qualifies under § 201.14 for an increase of 7 percent to attract or retain essential employees. Under the limitation of § 201.11(b)(2), the maximum permissible annual aggregate wage and salary increase for this unit is 7 percent.

(c) *Reporting requirements; procedures.* An application for approval of a wage and salary increase under the provisions of this subpart, or a report of a pay adjustment, if required, shall be made in accordance with the provisions of Part 202 of this chapter. Any submission to the Pay Board shall be subject to the procedural rules of Part 205 of this chapter.

(d) *Exceptions on a case-by-case basis.* An application for approval of a wage and salary increase in excess of the standard which is not within the provisions of any other section in this subpart, or which is in excess of the maximum permissible annual aggregate increase provided under any other section in this subpart, may be submitted to the Pay Board or its delegate in accordance with the provisions of § 201.30.

(e) *Burden of proof.* In any case in which application is made to the Pay Board or its delegate for approval of a wage and salary increase in excess of the standard, the burden of establishing sufficient and proper cause to justify approval of such increase under the applicable criteria shall be on the party or parties seeking such approval.

§ 201.12 Exception for certain tandem wage and salary relationships.

(a) *Conditions for exception.* A wage and salary increase in excess of the standard may be permitted as an exception to the standard pursuant to the normal and historical operation of a tandem wage and salary relationship if a party at interest demonstrates that—

(1) *Tandem wage and salary relationship.* The amount and nature of the wage and salary increases in a follower unit have been generally equal in value to, and the timing of such increases has been directly related to, the amount, nature, and timing of increases in a leader unit of employees of the same employer or of other employers within a commonly recognized industry or local labor market area;

(2) *Past practice.* The same tandem wage and salary relationship between the follower unit and the leader unit has been established as a past practice—

(i) In the case of a pay practice in the follower unit, for the 5 prior consecutive years; or

(ii) In the case of a collective bargaining agreement in the follower unit, for the immediately preceding two collective bargaining agreements;

(3) *Increase in excess of standard.* Maintenance of the tandem wage and salary relationship between such follower unit and such leader unit in accordance with the historical pattern would, because of a wage and salary increase in such leader unit, result in a wage and salary increase in excess of the standard in such follower unit; and

(4) *Maximum 6-month lag period.* Such wage and salary increase in such leader unit became effective not more than 6 months prior to the proposed effective date of the wage and salary increase in such follower unit.

(b) *Definitions*—(1) *Leader unit.* For purposes of this section, the term "leader unit" means an appropriate employee unit to which a tandem wage and salary relationship is claimed.

(2) *Follower unit.* For purposes of this section, the term "follower unit" means the appropriate employee unit claiming a tandem wage and salary relationship.

(c) *Limitation on exception.* The maximum permissible annual aggregate wage and salary increase for a follower unit under the provisions of this section shall be the lesser of—

(1) The increase necessary to maintain the tandem wage and salary relationship in accordance with the historical pattern, or

(2) Seven percent.

(d) *Procedure.* A wage and salary increase in excess of the standard shall not be put into effect under the provisions of this section without the prior approval of the Pay Board or its delegate.

§ 201.13 Exception for certain tandem qualified benefit relationships.

(a) *Conditions for exception.* A wage and salary increase in excess of the standard may be permitted as an exception to the standard pursuant to the normal and historical operation of a tandem qualified benefit relationship if a party at interest demonstrates that—

(1) *Tandem qualified benefit relationship.* The nature and levels of the qualified benefits in a follower unit have been generally equal or closely comparable to, and the timing of changes in qualified benefits has been directly related to the nature, levels, and changes in qualified benefits in a leader unit of employees of the same employer or of other employers within a commonly recognized industry or local labor market area, or within an established unit or reference group of employees for determination of qualified benefits;

(2) *Past practice.* The same tandem qualified benefit relationship between the follower unit and the leader unit has been established as a past practice—

(i) In the case of a pay practice in the follower unit, for the 5 prior consecutive years; or

(ii) In the case of a collective bargaining agreement in the follower unit, for the immediately preceding two collective bargaining agreements;

(3) *Increase in excess of standard.* Maintenance of the tandem qualified benefit relationship between such follower unit and such leader unit in accordance with the historical pattern would, because of an increase in qualified benefits in such leader unit, result in a wage and salary increase in excess of the qualified benefit standard in such follower unit; and

(4) *Maximum 12-month-lag period.* Such increase in qualified benefits in such leader unit became effective not more than 12 months prior to the proposed effective date of the increase in qualified benefits in such follower unit.

(b) *Definitions*—(1) *Leader unit.* For purposes of this section, the term "leader unit" means an appropriate employee unit to which a tandem qualified benefit relationship is claimed.

(2) *Follower unit.* For purposes of this section, the term "follower unit" means the appropriate employee unit claiming a tandem qualified benefit relationship.

(c) *Limitation on exception.* The maximum permissible annual aggregate wage and salary increase for a follower unit under the provisions of this section shall be as determined by the Pay Board or its delegate as equitable and appropriate under the circumstances and shall be subject to such terms and conditions as may be set by the Pay Board or its delegate.

(d) *Procedure.* A wage and salary increase in excess of the standard shall not be put into effect under the provisions of this section without the prior approval of the Pay Board or its delegate.

§ 201.14 Exception for essential employees.

(a) *Conditions for exception.* A wage and salary increase in excess of the standard may be permitted as an exception to the standard, if a party at interest demonstrates that—

(1) *Attraction and retention of employees.* Such increases which exceed the standard are necessary to attract or retain employees essential to the efficient operation of the employer;

(2) *Intensive recruiting activity.* A significant proportion of vacancies has been experienced in the appropriate employee unit, despite intensive recruiting activity over a period of at least 3 months;

(3) *Conditions of employment.* There has been no significant deterioration or reduction in other conditions of employment; and

(4) *Reasonable expectation.* There is a reasonable expectation that an increase will be effective in recruiting or maintaining a pool of qualified employees.

(b) *Limitation on exception.* The maximum permissible annual aggregate wage and salary increase for an appropriate employee unit under the provisions of this section shall be as determined by the Pay Board or its delegate as equitable and appropriate, not to exceed 7 percent, and shall be subject to such terms and conditions as may be set by the Pay Board or its delegate.

(c) *Procedure.* A wage and salary increase in excess of the standard shall not be put into effect under the provisions of this section without the prior approval of the Pay Board or its delegate.

§ 201.15 Exception for certain catchup increases.

(a) *In general.* Subject to the provisions of this section, an exception to the standard with respect to an appropriate employee unit may be claimed for catchup increases during a control year beginning prior to November 14, 1972, pursuant to a successor employment contract entered into or a pay practice established prior to such date.

(b) *Employment contracts.* If the sum of the annual percentage of increases, computed pursuant to paragraph (e) of this section with respect to a prior succeeded employment contract, is less than the sum of a percentage increase of 7 percent per year for each year of such prior succeeded contract, the difference between such two sums may be added to 5.5 percent to determine the maximum permissible annual aggregate wage and salary increase for the appropriate control year under the successor contract.

(c) *Pay practices.* If the sum of the annual percentage of increases, computed pursuant to paragraph (e) of this section with respect to a pay practice, is less, in the preceding 3 years, than the sum of a percentage increase of 7 percent per year for each of such preceding 3 years, the difference between such two sums may be added to 5.5 percent to determine the maximum permissible annual aggregate wage and salary increase for the appropriate control year under a pay practice.

(d) *Special rules*—(1) *Limitation.* Except as provided in subparagraph (2) of this paragraph, the exceptions provided in paragraphs (b) and (c) of this section may be claimed with respect to the appropriate control year under a successor employment contract that succeeds a contract expiring on or after July 1, 1972, or under a pay practice established on or after July 1, 1972, only if the average straight-time hourly rate for the appropriate employee unit involved, determined at the expiration of the prior succeeded contract or immediately prior to the establishment of the pay practice for which the exception is claimed is $3 or less. The average straight-time hourly rate shall be determined pursuant to § 201.55 of this part. If a successor contract succeeds a contract expiring on or before June 30, 1972, and is entered into on or after July 1, 1972, the exception provided under paragraph (b) of this section may be claimed without regard to the $3 limitation.

(2) *Certain pay practices.* The limitation set forth in subparagraph (1) of this paragraph shall not apply to a pay practice established by an employer which is a State or local governmental unit or an instrumentality thereof, if—

(i) Such pay practice next succeeds a pay practice which expired prior to July 1, 1972, and

(ii) Such employer was prevented by the law of the jurisdiction from establishing such successor pay practice prior to July 1, 1972.

(3) *Waiver of cutoff date.* A catchup exception may be claimed by an employer which is a State or local governmental unit or an instrumentality thereof with respect to a pay practice which next succeeds a pay practice expiring prior to July 1, 1972, even if such successor pay practice is not established prior to November 14, 1972. In all other cases, a catchup exception may be claimed only for increases pursuant to a successor employment contract entered into or pay practice established prior to November 14, 1972.

(e) *Calculation of annual increase*—(1) *Formula.* In any case in which a computation is required to determine the annual increase in the catchup base compensation rate with respect to an appropriate employee unit pursuant to paragraph (b) or (c) of this section, such annual increase shall be stated as a percentage which is determined by dividing the sum of—

(i) The total adjustment in the average straight-time hourly rate, plus

(ii) The total adjustment in the average hourly included benefit rate,

by the catchup base compensation rate in effect at the end of the preceding catchup year. For purposes of this section the catchup base compensation rate shall consist of the average straight-time hourly rate (determined for catchup years, as appropriate, in the manner described in § 201.55), and the average hourly included benefit rate (determined for catchup years, as appropriate, in the manner described in § 201.58). Moreover, for purposes of this section, the total adjustment in the average straight-time hourly rate for each catchup year under a prior succeeded contract or prior succeeded pay practice shall include any increase in such rate otherwise excludible in a control year pursuant to § 201.60.

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Compensating adjustments for changes in the composition of an appropriate employee unit with respect to average length of service or average skill levels shall not be permitted.

(2) *Calculation illustrated.* The application of this section may be illustrated by the following examples.

Example (1). A 2-year collective bargaining agreement between Employer A and Union X expired on May 31, 1972. The catchup base compensation rate on that date was $3.80 for the employees represented by Union X. Following extensive negotiations, Employer A and Union X reached a successor agreement on July 10, 1972, which was ratified by the employees on July 15, 1972. The successor agreement is retroactive in effect to June 1, 1972, and runs through May 31, 1974. If the sum of the percentage increases for the 2 catchup years is less than 14 percent, A catchup exception may be claimed in the control year beginning June 1, 1972, although the successor agreement was neither agreed to nor ratified prior to July 1, 1972.

Example (2). Assume the same facts as in Example (1). The average straight-time hourly rate for the last payroll period ending prior to May 31, 1970 was $3.20, for the last payroll period ending prior to May 31, 1971 was $3.35, and for the last payroll period ending prior to May 31, 1972 was $3.62. The average hourly included benefit rate, at the rate in effect on May 31, 1970, was $0.16, at the rate in effect on May 31, 1971, was $0.17, and at the rate in effect on May 31, 1972, was $0.18. The total adjustment in the first catchup year of the prior succeeded contract was $0.16 [adjustment in the average straight time hourly rate ($3.35−$3.20) plus adjustment in the average hourly included benefit rate ($0.17−$0.16)]. Such total adjustment of $0.16 divided by $3.36 ($3.20+$0.16), the catchup base compensation rate in effect on May 31, 1970, provides a 4.8 percent increase in the first catchup year of the prior succeeded contract. The total adjustment in the second catchup year of the prior succeeded contract was $0.28 [($3.62−$3.35) plus ($0.18−$0.17)]. Such total adjustment of $0.28 divided by $3.52 ($3.35+$0.17), the catchup base compensation rate in effect on May 31, 1971, provides an 8.0 percent increase in the second catchup year of the prior succeeded contract. Thus, the maximum permissible annual aggregate wage and salary increase available to Employer A for the first control year (the period beginning June 1, 1972) under the successor collective-bargaining agreement is 6.7 percent [(14 percent−12.8 percent) plus 5.5 percent].

(f) *Limitation on exception.* The maximum permissible annual aggregate wage and salary increase for an appropriate employee unit under the provisions of this section shall not exceed 7 percent.

(g) *Procedures.* An application for approval of a wage and salary increase under the provisions of this section, or a report of such an increase, if required, shall be made in accordance with the provisions of Part 202 of this chapter.

§ 201.16 Exception for qualified merit plans.

(a) *Successor contracts or successor pay practices.* Wage and salary increases granted pursuant to a qualified merit plan (as defined in paragraph (b) of this section), provided for in an employment contract or pay practice previously set forth which existed prior to November 14, 1971, and which is continued in a successor employment contract or successor pay practice effective after November 13, 1971, without any changes of terms or administrative practice shall be permitted as an exception to the standard: *Provided, however,* That such exception shall apply only with respect to a control year beginning prior to November 14, 1972. For purposes of the preceding sentence, a change in the maximum or minimum terminal points of a pay rate range in a qualified merit plan shall not be deemed a change of terms if the ratio of such maximum to such minimum terminal point is not increased. For purposes of this section, a qualified merit plan provided for in a pay practice which meets all of the criteria set forth in the first sentence of this paragraph, except that such pay practice is not "previously set forth" within the meaning of § 201.35(d) because the aggregate amount to be expended cannot be documented as being finally and formally decided prior to November 14, 1971, shall be treated as a successor pay practice otherwise eligible for the exception provided in this section.

(b) *Qualified merit plan defined.* For purposes of paragraph (a) of this section, the term "qualified merit plan" means a merit plan which, prior to November 14, 1971, was reduced to writing and communicated either to the management personnel responsible for implementing the plan or to the employees covered by the plan, and which written plan—

(1) Applies to particular jobs, job classifications, or positions with respect to which the duties and responsibilities of employees are specified;

(2) Specifies merit pay rate ranges with respect to such jobs, job classifications, or positions;

(3) Clearly defines policies and establishes practices (with respect to review of an employee's performance) for determining merit pay and the size and frequency of merit pay increases with respect to such jobs, job classifications, or positions; and

(4) Establishes a system of administrative control.

(c) *Special rules.* Wage and salary increases granted pursuant to a merit plan provided for in an employment contract existing prior to November 14, 1971, and continued in a successor employment contract entered into prior to April 19, 1972, shall be excluded from the computation of the annual aggregate increase in the base compensation rate in any control year beginning prior to November 14, 1972. Such merit plan may continue to operate according to the following rules: Any increases applied to a rate range under such merit pay plan shall be considered a general increase in wages and salaries under the regulations in this chapter. However, individual increases within the rate range under such plans shall not be considered a wage and salary increase under such regulations in any control year beginning prior to November 14, 1972.

(d) *Limitation on exception.* The maximum permissible annual aggregate wage and salary increase for an appropriate employee unit under the provisions of this section shall not exceed 7 percent.

(e) *Procedures.* An application for approval of a wage and salary increase under the provisions of this section, or a report of such an increase, if required, shall be made in accordance with the provisions of Part 202 of this chapter.

§ 201.17 Exception for governmental wage determinations.

(a) *Conditions for exception.* In any case to which the provisions of § 201.60 (f) (relating to exclusions from adjustment computations with respect to Federal agency wage determinations and State and local prevailing wage laws) apply, an exception to the standard may be granted in order to permit an increase for those employees in the same appropriate employee unit who work at the same site, plant, or location who have not received an increase pursuant to such section sufficient to maintain average historical wage and salary differentials among jobs, job classifications, or positions. The average historical wage and salary differential shall be determined over the preceding 3 years and must be consistent with prior practice during such period. Such differential must have been in effect within the unit for at least 3 years. In the event that such unit has been in existence for less than 3 years, or if the average historical wage and salary differential is not representative because of corrections made in such differentials to end inequities during the preceding 3 years, the average historical wage and salary differential may be determined by reference to the period of the unit's existence or by reference to the differential existing after any such corrections.

(b) *Governmental employees.* The exception provided in this section shall not be applicable to an appropriate employee unit which includes employees of a State, a local government, the District of Columbia, or a unit or instrumentality thereof.

(c) *Limitation on exception.* The maximum permissible annual aggregate wage and salary increase for an appropriate employee unit under the provisions of this section shall be as determined by the Pay Board or its delegate as equitable and appropriate and shall be subject to such terms and conditions as may be set by the Pay Board or its delegate.

(d) *Procedures.* A wage and salary increase shall not be put into effect under the provisions of this section without the prior approval of the Pay Board or its delegate.

§ 201.18 Exception for intraunit inequities.

(a) *Conditions for exception.* An exception to the standard will be permitted if the employer demonstrates to the Pay Board (or its delegate) that wage and salary increases in excess of the standard are necessary to correct intraunit inequities (as defined in paragraph (b) of this section). In order to qualify for this exception the employer must prepare and

submit a comprehensive program which describes the cause or nature of such inequity and the manner in which such inequity is proposed to be corrected. Such program must show each of the following criteria:

(1) Job classifications that are described with sufficient detail to identify differences in job content based on relative value of the factors by which the classifications are measured (including e.g. skill, physical strain, responsibility, etc.).

(2) A realignment of wage rates that follows a systematic and orderly method for classifying, ranking or rating all of the job classifications in the unit, giving effect to skill, effort, responsibility, working conditions and other factors reflected in the classification content.

(3) Rate relationships (expressed in dollars and cents) that are established in accordance with accepted methods for job classification, historical practice in an industry, or through some other demonstrable guide in general use for classification purposes, including an explanation of the derivation of factor weightings on which the system is based.

(4) Rate relationships (expressed in dollars and cents) that reflect the different levels of skills as measured by grading selected jobs from the lowest to the highest level, on each of which a significant number of employees are grouped.

(5) A computation of the percentage increase in the wage rates or rate ranges for each job classification in the unit requesting exception pursuant to the methods described in paragraph (d) of this section.

(b) *Intraunit inequity defined.* For purposes of this section, the term "intraunit inequity" means an inequitable pay situation within an appropriate employee unit resulting from the introduction of new or changed technology whereby—

(1) Technological changes are made or introduced in equipment, methods, materials, or processes, and

(2) A comprehensive change is required in production methods and techniques which affect not less than 10 percent of the job classifications and not less than 25 percent of the employees in such appropriate employee unit.

(c) *Limitations on exception.* The maximum permissible annual aggregate wage and salary increase with respect to an appropriate employee unit for the control year this exception is claimed shall not exceed 7 percent: *Provided, however,* Such maximum shall be reduced to the extent that the amount necessary for the correction of intraunit inequities is less than 1.5 percent of the unit's base compensation rate. Once this exception has been claimed and allowed with respect to an appropriate employee unit for a control year, it may not be claimed in any succeeding control year with respect to the same unit.

(d) *Computation of increase in job classification rate or rate ranges.* The computation referred to in paragraph (a) (5) of this section shall exclude "red circle" rates which become personal rates for incumbents and shall reflect, as appropriate, the following percentages—

(1) *Single job classification rates.* For single job classification wage rates, the percentage difference between the weighted average of current job rates and the weighted average of the proposed job rates.

(2) *Job reclassifications within existing rate ranges.* For the reclassification of jobs without change in the existing rate ranges, the percentage difference between the weighted average of the rates actually paid within the range for each job classification prior to reclassification and the weighted average of the rates to be paid after such reclassification.

(3) *Revised rate range structure.* For revised rate range structures, the percentage difference between the weighted average of the midpoint of each job classification in the existing structure, and the weighted average of the midpoint of each proposed job classification in the revised structure.

(e) *Procedure.* A wage and salary increase in excess of the standard shall not be put into effect under the provisions of this section without the prior approval of the Pay Board or its delegate.

§ 201.19 Exception for low wage employees.

(a) *General rule.* An exception to the standard may be claimed with respect to an appropriate employee unit which includes one or more low wage employees. The maximum permissible annual aggregate wage and salary increase with respect to such a unit shall be the sum of—

(1) The product of the base compensation rate of such unit and the otherwise permissible increase;

(2) Excepted wage and salary increases actually paid to low wage employees;

(3) Increases in the average hourly benefit rate of such unit required as the secondary effect of increases in the individual straight-time hourly rates of low wage employees in such unit, provided that such individual straight-time hourly rates do not exceed $2.75; and

(4) Increases in the individual hourly included benefit rates of low wage employees permitted pursuant to paragraph (c) of this section.

(b) *Definitions.* For purposes of this section—

(1) *Low wage employee.* A "low wage employee" means an employee whose straight-time hourly rate in the base payroll period is less than $2.75.

(2) *Low wage base rate.* The "low wage base rate," with respect to an appropriate employee unit, means the average hourly rate of pay (stated in dollars and cents) of a group composed of all low wage employees in such unit. The low wage base rate shall be calculated, at the election of the parties, either—

(i) By adding to the average of the individual straight-time hourly rates of such group of low wage employees the average hourly rate of employer contributions to fringe benefits (both included and qualified) attributable to such low wage employees, or

(ii) By dividing the average of the individual straight-time hourly rates of such group of low wage employees by the average straight-time hourly rate of such appropriate employee unit, and multiplying the resulting figure by the base compensation rate of such unit.

(3) *Otherwise permissible increase.* The "otherwise permissible increase," with respect to an appropriate employee unit, means the maximum permissible annual aggregate wage and salary increase for such unit (expressed as a percentage) determined pursuant to—

(i) The general wage and salary standard,

(ii) The self-executing criteria for exception set forth in §§ 201.15 and 201.16, if appropriate, or

(iii) A decision and order issued by the Pay Board (or a decision on an exception request issued by the Internal Revenue Service) applicable to pay adjustments in the unit during the control year.

(4) *Excepted wage and salary increase.* An "excepted wage and salary increase," with respect to an individual low wage employee in an appropriate employee unit, means that portion of a wage and salary increase (stated in dollars and cents per hour) paid to such employee which—

(i) Is in excess of an amount equal to the product of the low wage base rate of the unit and the otherwise permissible increase; and

(ii) Does not exceed the difference between $2.75 and the sum of—

(*a*) Such employee's straight-time hourly rate and

(*b*) An amount equal to the product of the low wage base rate of such unit and the otherwise permissible increase.

(c) *Special rule with respect to included benefits.* For purposes of this section—

(1) If the appropriate employee unit includes one or more employees who are not low wage employees, any increase in the individual hourly included benefit rate of any low wage employee may be claimed as an exception, without limitation.

(2) If the appropriate employee unit does not include any employee who is not a low wage employee, any increase in the average hourly included benefit rate of such unit which does not exceed the product of $2.75 and the otherwise permissible increase may be claimed as an exception.

(d) *Effective date.* The exception provided in this section shall be applicable only to wages and salaries paid for work performed after July 14, 1972, and does not permit the retroactive payment of wages and salaries for work performed prior to July 15, 1972.

(e) *Prior approval.* A Category I pay adjustment which is within the provisions of this section may not be put into effect without prior approval of the Pay Board. A Category II or Category III pay adjustment which is within the provisions of this section may be put into effect without prior approval.

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(f) *Reporting*—(1) *Category II pay adjustments.* A report of any Category II pay adjustment with respect to which an exception is claimed pursuant to this section shall be made to the Pay Board by the employer within 10 days after such pay adjustment is put into effect. Such report shall be made on forms prescribed by and pursuant to instructions issued by the Pay Board and shall include such information as is necessary to demonstrate the applicability of an exception claimed pursuant to this section.

(2) *Category III pay adjustments.* Notwithstanding the provisions of Part 202 of this chapter, a report of a Category III pay adjustment which is within the provisions of this section and which is not within the provisions of any other exception to the standard shall not be required.

(g) *Application illustrated.* The application of this section may be illustrated by the following examples.

Example (1). An appropriate employee unit contains 100 employees. Fifty of the employees receive $2 per hour in straight time pay, and 50 employees are paid $3. In addition, all employees receive included benefits which amount to 10 percent of straight-time pay, plus an additional 5 cents in qualified benefits. The low wage base rate in this unit is $2.25. ($2+$0.20+$0.05).

Example (2). Employee A is paid at a straight-time hourly rate of $2. The low wage base rate in the unit is $2.50. The appropriate percentage for the "otherwise permissible increase" is 5.5 percent. Employee A may receive an excepted increase of 61¼ cents ($2.50×5.5 percent=13¾ cents; $2.75—$2.00=$0.75; 75 cents—13¾ cents=61¼ cents). However, he receives an excepted increase only after the first 13¾ cents is paid. Thus, if Employee A receives a straight time increase of 40 cents, he would be receiving an excepted increase of 26¼ cents.

Example (3). Assume the same facts as in Example (2), except that Employee A is paid at a straight-time hourly rate of $2.70. Employee A may not receive an excepted increase, since the difference between $2.75 and his straight-time rate is less than 13¾ cents ($2.50×5.5 percent=13¾ cents).

Example (4). Employee A is paid at a straight-time hourly rate of $2. He receives an increase of 75 cents in straight-time wages. If employer contributions to fringe benefits amount to 10 percent of straight-time pay and increase proportionately to reflect increases in straight-time pay, then the 75-cent pay increase will generate an increase of 7½ cents in the average hourly benefit rate. This secondary increase is permitted under paragraph (a)(3) of this section.

Example (5). All 100 employees in a unit are paid at a straight-time hourly rate of $2. Employer contributions to fringe benefits amount to 10 percent of straight-time pay and vary proportionately. All 100 employees receive increases of 75 cents in straight-time pay. The low wage base rate in this unit is $2.20. The appropriate percentage is 5.5 percent. Therefore, of the 75-cent straight-time increase, 62.9 cents ($2.20×5.5 percent=12.1 cents; 75—12.1=62.9) is an excepted increase. The 75-cent increase generates an increase in the employees' average hourly benefit rate of 7½ cents, which is permitted. Under the "special rule" set forth in paragraph (c)(2) of this section, the employees may receive a further increase in the average hourly included benefit rate of 15.1 cents ($2.75×5.5 percent). (They may also receive additional qualified benefit increases consistent with the qualified benefit standard set forth in § 201.59(g).)

Example (6). All 100 employees in a unit are paid at a straight time hourly rate of $2. Their average hourly included benefit rate is 10 cents and their average hourly qualified benefit rate is 10 cents. The low wage base rate (which in this unit is the same as the unit's base compensation rate) is therefore $2.20. All employees receive increases of 50 cents in straight time pay. They may receive an additional chargeable increase in the average hourly benefit rate of 25 cents. These employees may also receive a further 15.1 cents increase in their included benefit rate under the "special rule," paragraph (c)(2) of this section, and any other benefit increases resulting as the secondary effect of the 50 cents increase in straight time pay (see paragraph (a)(3) of this section). (They may also receive additional qualified benefit increases consistent with the qualified benefit standard set forth in § 201.59(g).)

§ 201.30 Exceptions on a case-by-case determination.

(a) *Application for exception.* An application for approval of a wage and salary increase in excess of the standard which is not within the provisions of any other section in this subpart, or which is in excess of the maximum permissible annual aggregate increase provided under any other section in this subpart, may be submitted under the provisions of this section.

(b) *Criteria.* When the Board reviews new contracts and pay practices in individual cases with respect to payment for services rendered in any control year and in its development of additional criteria for exceptions, it shall consider such factors as changes in productivity and the cost of living, ongoing collective bargaining and pay practices, the equitable position of the employees involved, and such other factors as are necessary to foster economic growth, to promote improvement in the quality of governmental services, and to prevent gross inequities, hardships, serious market disruptions, domestic shortages of raw materials, localized shortages of labor, and windfall profits.

(c) *Limitation on exception.* The maximum permissible annual aggregate wage and salary increase for an appropriate employee unit during a control year, under the provisions of this section, shall be determined by the Pay Board or its delegate as equitable and appropriate, in accordance with the criteria set forth in paragraph (b) of this section, and shall be subject to such terms and conditions as may be set by the Pay Board or its delegate.

(d) *Procedure.* A wage and salary increase in excess of the standard shall not be put into effect under the provisions of this section without the prior approval of the Pay Board or its delegate.

Subpart C—Retroactive and Deferred Increases

§ 201.31 Retroactive increases pursuant to section 203(e)(2) of the Act.

(a) *In general.* Subject to the provisions of this section, increases in wages and salaries which were scheduled to take effect during the freeze and were not paid as a result of orders issued pursuant to the Act, may be made retroactively after November 13, 1971.

(b) *Agreements or pay practices prior to August 15, 1971.* (1) *Coverage.* Increases in wages and salaries referred to in paragraph (a) of this section may not be paid unless such increases were—

(i) *Employment contract.* Agreed to in an employment contract executed, entered into, or in effect prior to August 15, 1971; or

(ii) *Pay practice.* Contained in a pay practice (including, e.g., a schedule of wages and salaries adopted by an employer) announced, reduced to writing, placed in effect, or otherwise clearly established prior to August 15, 1971.

(2) *Certain reopening provisions.* For purposes of this paragraph, an increase shall be deemed to have been agreed to in an employment contract executed, entered into, or in effect prior to August 15, 1971, if such increase was agreed to pursuant to a wage or fringe benefit reopening provision contained in any such contract, and if the reopening was specifically scheduled by its terms, and occurred, prior to November 14, 1971.

(c) *Procedures for payment of retroactive increases up to 7 percent.* If the aggregate of increases in wages and salaries referred to in paragraph (a) of this section does not exceed 7 percent, such increases may be paid provided that—

(1) *Category II and III pay adjustments.* In the case of a Category II pay adjustment or a Category III pay adjustment (as defined in §§ 202.2(a)(2) and (3) of this chapter, respectively), the employer certifies by letter to the appropriate district director of Internal Revenue within 20 days subsequent to payment that the requirements of this section have been fulfilled; or

(2) *Category I pay adjustments.* In the case of a Category I pay adjustment (as defined in § 202.2(a)(1) of this chapter), the Board has received prenotification of such adjustment and a challenge to determine whether the requirements of this section have been fulfilled has not been made by a party at interest, the Chairman of the Board, or two or more other members of the Board within 28 days after receipt of such prenotification or within 28 days after receipt by the Board of additional proof requested to support the fact that such requirements have been fulfilled.

(d) *Procedures for payment of retroactive increases exceeding 7 percent.* If the aggregate of increases in wages and salaries referred to in paragraph (a) of this section exceeds 7 percent, such increases may be paid provided that the Board has received prenotification of the proposed payment and there has not been a challenge by a party at interest, the Chairman of the Board, or two or more members of the Board within 28 days after receipt of such prenotification or within 28 days after receipt by the Board of additional proof requested by the Board.

(e) *Special rules*—(1) *Time periods.* For purposes of computing any time periods prescribed in paragraphs (c) and (d) of this section, the rules contained in § 205.5 of this chapter shall apply.

(2) *Computation of percentage increase.* The percentage of aggregate increases referred to in paragraphs (c) and (d) of this section shall be determined with respect to an appropriate employee unit (without regard to time weighting over the number of days any such increase was effective during the freeze) by dividing the sum of—

(i) The total adjustment in the average straight time hourly rate resulting from such increases, plus

(ii) The total adjustment in the average hourly benefit rate resulting from such increases

by the base compensation rate in effect on the day before any such increase was scheduled to take effect.

(3) *Challenges.* In the case of any challenge made pursuant to paragraph (c)(2) or (d) of this section, a determination will be made whether the proposed retroactive payment of the wage and salary increase is unreasonably inconsistent with the standard or any of the exceptions thereto as set forth in Subpart B of this part.

§ 201.32 Retroactivity pursuant to certain consecutive agreements or practices and certain tandem relationships.

(a) *In general.* Subject to the provisions of this section, increases in wages and salaries which were scheduled to take effect during the freeze and were not paid as a result of orders issued pursuant to the Act, may be made retroactively after November 13, 1971.

(b) *Certain consecutive agreements or practices.* A payment referred to in paragraph (a) of this section may be made if—

(1) *Expired agreement, schedule, or practice prior to August 16, 1971.* A prior succeeded employment contract or a prior succeeded pay practice (including, e.g., a schedule of wages and salaries adopted by an employer) expired before August 16, 1971;

(2) *Successor agreement, schedule, or practice adopted before November 14, 1971.* Such employment contract or pay practice was followed by a successor contract, or by a successor pay practice adopted after August 15, 1971, and before November 14, 1971; and

(3) *Retroactivity prior to November 14, 1971.* Evidence is presented that retroactivity is an established past practice between the employer and his employees or retroactivity was provided for in the successor contract referred to in subparagraph (2) of this paragraph.

(c) *Certain tandem relationships.* A payment referred to in paragraph (a) of this section may be made if—

(1) *Contract or pay practice before August 16, 1971.* The employment contract covering the appropriate employee unit to which a tandem relationship is claimed was reached or the pay practice covering the unit to which such relationship is claimed was put into effect prior to August 16, 1971;

(2) *Maximum 3-month-lag period*—(i) *Contract to contract.* In the case of a tandem relationship claimed to an appropriate employee unit covered by the terms of an employment contract, the prior employment contract covering such unit expired no more than 3 months before the expiration of the prior employment contract covering the appropriate employee unit claiming tandem.

(ii) *Pay practice to pay practice.* In the case of a tandem relationship claimed to an appropriate employee unit not covered by the terms of an employment contract, the effective date of the increase with respect to which such relationship is claimed, consistent with an historical practice, occurred no more than 3 months prior to the scheduled effective date (from August 15, 1971, to November 13, 1971) of the increase in the appropriate employee unit claiming tandem, or

(iii) *Pay practice to contract.* In the case of a tandem relationship claimed by a pay practice unit to an appropriate employee unit covered by the terms of an employment contract, the effective date of the increase with respect to which such relationship is claimed, consistent with an historical practice, occurred in the contract unit no more than 3 months prior to the scheduled effective date (from August 15, 1971, to November 13, 1971) of the increase in such pay practice unit;

(3) *Historical tandem relationship.* It can be shown the tandem relationship between the appropriate employee units has been clearly established for 5 years or, in the case of a tandem relationship referred to in subparagraph (2)(i) of this paragraph, in the immediately preceding two consecutive agreements including the agreement referred to in such subparagraph; and

(4) *Historical retroactivity.* It can be shown that retroactivity is a clearly established practice in the appropriate employee unit claiming tandem or, if such unit is covered by the terms of an employment contract, retroactivity was agreed to by the parties prior to November 14, 1971.

(d) *Tandem relationship defined.* For purposes of paragraph (c) of this section, the term "tandem relationship" means a well established and consistently maintained practice whereby the precise timing, amount, and nature of general increases in wages and salaries of a given appropriate employee unit have so followed those of another such unit of employees of the same employer or of other employers within a commonly recognized industry (such as a Standard Industrial Classification two-digit category) that a general increase, in the normal operation of the practice, would have been put into effect and have been applicable to work performed on or before November 13, 1971, but for the operation of the freeze.

(e) *Procedure for payment of retroactive increases under this section.* No payment referred to in paragraph (a) of this section may be made unless a determination has been made by the appropriate district director of Internal Revenue at the request of a party at interest, with right of appeal to the Board in the event of an adverse determination, that the requirements for retroactive payment under paragraph (b) or (c) of this section, as appropriate, have been satisfied.

§ 201.33 Retroactivity for certain low wage employees and for certain one-time benefits.

(a) *In general.* Subject to the provisions of this section, increases in wages and salaries which were scheduled to take effect during the freeze and were not paid as a result of orders issued under the Act, may be made retroactively after November 13, 1971.

(b) *Certain low wage employees.* If the employer determines that an employee in an appropriate employee unit, whose straight-time hourly rate of pay prior to the freeze, was $2 per hour or less, would have become eligible to receive an increase if the freeze had not occurred, an increase in wages and salaries referred to in paragraph (a) of this section may be made to such employee.

(c) *Certain one-time benefits.* (1) If the employer determines that an employee in an appropriate employee unit would have become eligible to receive a new or increased benefit under a fringe benefit plan if the freeze had not occurred, and the employee cannot otherwise (because of death, retirement, etc., during the freeze) become eligible for the benefit after the freeze, an increase in wages and salaries referred to in paragraph (a) of this section may be made with respect to that benefit.

(2) The provisions of subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). A, an employee-member of an appropriate employee unit in a company, died on September 16, 1971. Pursuant to a collective bargaining agreement reached before the freeze, A's employer was to have increased his contribution to the group life insurance plan applicable to such unit on September 1, 1971. Under the plan death benefits were scheduled to be increased up to $2,000 per employee based on age and length of employee service to the company. The life insurer is willing to pay the increased benefit to A's estate if the employer will retroactively pay the unit's increased contribution to the group life insurance plan. A retroactive payment may be made by the employer of the scheduled increase in group life insurance premiums for the appropriate employee unit in such a case to remedy the severe inequity to an employee such as A who, because of his death during the freeze, could not become eligible for the increased benefit after the freeze ended.

Example (2). B, an employee-member of an appropriate employee unit in a company, retired on October 31, 1971. Pursuant to a collective-bargaining agreement reached before the freeze, B's employer was to have increased the lump-sum payment on or after October 1, 1971, available to employees of the unit for vacation accrued but not taken prior to retirement. A retroactive increase in the lump-sum payment of accrued vacation may be made to B who, because of his retirement during the freeze, could not become eligible for the increased benefit after the freeze.

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(d) *Compliance checks.* Any determination and payment made by an employer under the provisions of this section shall be subject to verification upon request with respect to whether such determination and payment comply with the regulations issued under this title.

§ 201.34 Increases in wages and salaries scheduled after November 13, 1971, for services rendered in certain periods on or before such date.

(a) *In general.* Subject to the provisions of this section, an increase in wages and salaries with respect to an appropriate employee unit for services rendered before November 14, 1971, may be made retroactively on or after such date if—

(1) *Expired agreement, schedule, or practice prior to August 15, 1971.* The prior succeeded employment contract or pay practice (including, e.g., a schedule of wages and salaries adopted by an employer) expired before August 15, 1971;

(2) *Successor agreement, schedule, or practice adopted after November 13, 1971.* Such employment contract or pay practice was followed by a successor contract or by a successor pay practice after November 13, 1971;

(3) *Retroactivity prior to August 15, 1971. Retroactivity—*

(i) Had been agreed to by the parties prior to August 15, 1971, or had been provided for in the immediately preceding two employment contracts (including the prior succeeded contract) terminating prior to August 15, 1971, or

(ii) Was provided for by the employer in the immediately preceding two pay practices (including the prior succeeded pay practice) terminating prior to August 15, 1971; and

(4) *No change in bargaining position.* In the case of a successor contract referred to in subparagraph (2) of this paragraph, it is demonstrated that the parties did not change their position during negotiations in order to compensate for or absorb the impact of the Economic Stabilization Program.

(b) *Retroactivity period.* Payment of retroactive wage and salary increases that are provided for in successor employment contracts or successor pay practices (described in paragraph (a) (2) of this section) may be made for services rendered for the period beginning the day after the expiration date of the prior succeeded contract or prior succeeded pay practice and ending on November 13, 1971.

(c) *First control year—*(1) *Base compensation rate.* Wage and salary increases paid retroactively pursuant to paragraphs (a) and (b) of this section shall not be included in the base compensation rate with respect to an appropriate employee unit for measuring increases in the first control year, unless specifically authorized by the Pay Board, subject to whatever terms and conditions it may impose, in a decision and order rendered pursuant to § 201.30.

(2) *Chargeable increases.* Unless included in the base compensation rate as provided in subparagraph (1) of this paragraph by decision and order of the Pay Board, continued payment after November 13, 1971, of increases paid retroactively pursuant to paragraphs (a) and (b) of this section shall be treated as chargeable increases with respect to an appropriate employee unit in the first control year. Thus, continued payment of a retroactive wage and salary increase is not authorized to the extent such increase and any subsequent increase occurring after such date exceed the maximum permissible annual aggregate wage and salary increase for such unit during such control year.

(d) *Procedures for payment—*(1) *In general.* No increases referred to in paragraph (a) of this section may be made unless the procedures set forth in this paragraph have been followed. Such procedures shall be in addition to the provisions of Part 202 of this chapter and shall include, as appropriate, a request for exception with respect to continued payment of any such increase after November 13, 1971, and with repect to payment of any subsequent increases scheduled after such date to the extent the total of such increases exceeds the standard for the control year. Notwithstanding the preceding two sentences, such adjustment may not be included in the base compensation rate unless specifically requested by a party at interest and authorized by the Board in a decision and order rendered pursuant to § 201.30. See paragraph (c) of this section.

(2) *Category I pay adjustment.* In the case of a Category I pay adjustment (as defined in § 202.2(a) (1) of this chapter), the Board shall receive prenotification of such adjustment (and any subsequent adjustments) and such adjustment shall be approved before payment can be made.

(3) *Category II pay adjustment.* In the case of a Category II pay adjustment (as defined in § 202.2(a) (2) of this chapter), the employer shall determine that the requirements of this section have been met and, within 10 days after making such adjustment, shall report the adjustment (and any subsequent adjustments for the control year) to the Board. Such report shall include a certification that the requirements of this section have been met.

(4) *Category III pay adjustment.* In the case of a Category III pay adjustment (as defined in § 202.2(a) (3) of this chapter), the employer shall determine that the requirements of this section have been met and, within 10 days after making such adjustment, shall report the adjustment (and any subsequent adjustments for the control year) to the appropriate district director of Internal Revenue if the total of such adjustments exceeds the standard. Such report shall include a certification that the requirements of this section have been met.

§ 201.35 Wage and salary increases effective after November 13, 1971.

(a) *In general.* Unless otherwise provided by this section, employment contracts and pay practices previously set forth which existed prior to November 14, 1971, will be allowed to operate according to their terms. However, any such specific contract or pay practice, when challenged by a party at interest, by the Chairman of the Pay Board, or by two or more other members of the Board, is subject to a review to determine whether any wage and salary increase granted pursuant to such contract or pay practice is unreasonably inconsistent with the standard or exceptions thereto as set forth in Subpart B of this part. In the event of a challenge, these terms shall be allowed to remain in effect unless and until the Board rules otherwise.

(b) *Limitation.* Notwithstanding any other provision of this section, any wage and salary increase scheduled to take effect pursuant to a pay practice (whether or not previously set forth and other than a pay practice described in § 201.72(g)) in a control year beginning on or after November 14, 1972, shall be subject to the general wage and salary standard or applicable exceptions thereto. A pay practice described in § 201.72 (g) shall be deemed to expire at the end of the plan, practice or program year (as defined in § 201.72(i)) in effect for the pay practice on November 13, 1971.

(c) *Special rule with respect to wage or fringe benefit reopening provisions—*(1) *Coverage.* A wage and salary increase pursuant to a wage or fringe benefit reopening provision in an employment contract shall be deemed pursuant to a contract which existed prior to November 14, 1971, within the meaning of paragraph (a) of this section (and therefore subject to challenge and review), if—

(i) Such reopening provision was specifically agreed to and incorporated in such contract prior to August 15, 1971;

(ii) Such reopening provision established a date certain for reopening; and

(iii) Such contract provided for a specified termination other than by operation of the reopening provision.

(2) *Procedure—*(i) *Category I pay adjustments.* A Category I pay adjustment within the provisions of this paragraph shall not be put into effect without prenotification to, and prior approval by the Pay Board.

(ii) *Category II pay adjustments—*(a) *Increase not in excess of 7 percent.* A proposed Category II pay adjustment which is within the provisions of this paragraph and which does not cause the total of all wage and salary increases for a control year to be in excess of 7 percent of the base compensation rate may be put into effect without prior approval. A report of such an increase shall be submitted to the appropriate district director of Internal Revenue not later than 10 days after such increase is put into effect.

(b) *Increase in excess of 7 percent.* If a proposed Category II pay adjustment which is within the provisions of this paragraph causes the total of all wage and salary increases for a control year to be in excess of 7 percent of the base compensation rate, the amount of such adjustment in excess of 7 percent shall not be put into effect without the prior approval of the Pay Board.

(iii) *Category III pay adjustments—*(a) *Increase not in excess of 7 percent.* A proposed Category III pay adjustment

which is within the provisions of this paragraph and which does not cause the total of all wage and salary increases for a control year to be in excess of 7 percent of the base compensation rate may be put into effect without prior approval. A report of such an increase shall be submitted to the appropriate district director of Internal Revenue not later than 20 days after such increase is put into effect.

(b) *Increase in excess of 7 percent.* If a proposed Category III pay adjustment which is within the provisions of this paragraph causes the total of all wage and salary increases for a control year to be in excess of 7 percent of the base compensation rate, the amount of such adjustment in excess of 7 percent shall not be put into effect without the prior approval of the Pay Board.

(iv) *Content of report.* An application or report submitted under the provisions of this paragraph shall include copies of the employment contract in which the wage or fringe benefit reopening provision is incorporated.

(v) *Criteria.* An application for approval of a pay adjustment under the provisions of this paragraph, or a challenge to a pay adjustment reported under such provisions, shall be considered under the criteria set forth in paragraph (f) of this section.

(d) *"Previously set forth" defined.* Except as provided in Subpart F of this part, for purposes of this part, a pay practice shall be "previously set forth" only if it can be documented that prior to November 14, 1971, an adjustment to wages and salaries, or, in the case of a merit plan, the aggregate amount to be expended, was—

(1) Decided finally and formally in accordance with established procedures, and

(2) Communicated to the management personnel responsible for implementing the pay adjustment or to the employees affected.

For purposes of the preceding sentence, a formula for determining general adjustments to wages and salaries is not a pay practice previously set forth.

(e) *Merit plans—*(1) *Pay practices previously set forth.* For purposes of this section, a merit plan contained in a pay practice previously set forth will be deemed to expire on the day before the effective date of any of the following changes or modifications to the merit plan—

(i) An increase or change in the rates or rate ranges from those in effect on November 13, 1971,

(ii) An increase in the aggregate amount to be expended for merit increases above the aggregate amount as determined prior to November 14, 1971,

(iii) A change in the job classifications to which the rates or rate ranges apply, or

(iv) A change in the terms or conditions of the plan with respect to any job classification to which it applies, or a change in any policy for determining the size and frequency of merit pay adjustments or a change in any administrative controls.

The expiration of a pay practice previously set forth under the provisions of this subparagraph shall not disqualify a pay practice from being a successor pay practice under § 201.16 if it otherwise qualifies under that section.

(2) *Employment contracts.* The expiration of an employment contract which operates according to its terms pursuant to this section and which contains a merit plan shall not disqualify such merit plan from operating in a successor employment contract under § 201.16, if it otherwise qualifies under that section.

(f) *Board review.* For purposes of the review referred to in paragraph (a) of this section, the Board will consider such factors as changes in productivity and the cost of living, on-going collective bargaining and pay practices, the equitable position of the employees involved, and such other factors as are necessary to foster economic growth, to promote improvement in the quality of governmental services, and to prevent gross inequities, hardships, serious market disruptions, domestic shortages of raw material, localized shortages of labor, and windfall profits.

(g) *Notice requirement—*(1) *In general.* In accordance with the provisions of Part 202 of this chapter, prenotification shall be submitted to the Pay Board not less than 90 days prior to the scheduled effective date of any increase to be paid pursuant to an employment contract or pay practice referred to in this section (other than an increase within the provisions of paragraph (c) of this section) when such increase would affect an appropriate employee unit of 1,000 or more employees and would cause the total of all increases for a control year to be in excess of 7 percent of the base compensation rate. In addition to the prenotification requirement set forth in the preceeding sentence, no part of any such scheduled increase shall be paid or received until the latest of 90 days after notice of such increase has been given to the Pay Board, 60 days after a party at interest provides any additional information required pursuant to subparagraph (2) of this paragraph, or the scheduled effective date of such increase. For purposes of this paragraph, a fair and reasonable estimate shall be used in determining whether contingent increases (such as cost of living adjustments) will cause the total of such increases to exceed 7 percent. Furthermore, such notice shall be in accordance with the instructions contained in paragraph (h) of this section. Notice requirements with respect to other pay adjustments are contained in §§ 202.10(b) (2) and 202.20(b) (2) of this chapter. Failure to comply with any of the provisions contained in this subparagraph (as well as the subparagraphs referred to in the immediately preceding sentence) shall be a violation of Pay Board regulations within the meaning of § 201.41.

(2) *Additional information.* In addition to the provisions of subparagraph (1) of this paragraph, after June 23, 1972, the Board may require a party at interest to furnish adequate and complete supplemental information within a specified period of time as to the factors the Board considers necessary to determine whether the total of increases referred to in such subparagraph is unreasonably inconsistent with the standard or exceptions thereto as set forth in Subpart B of this part. The failure to furnish additional information requested pursuant to this subparagraph, or to furnish it on a timely basis, shall be a violation of Pay Board regulations within the meaning of § 201.41(a) (4).

(h) *Notification instructions.* The notice required by paragraph (g) (1) of this section shall be submitted on forms provided by the Pay Board. Such notice shall be accompanied by a full statement of facts prepared by a party at interest showing good cause as to why such increase is not unreasonably inconsistent with the standard or exceptions thereto as set forth in Subpart B of this part.

§ 201.36 Funds raised or provided prior to August 15, 1971 for wage and salary increases on and after such date.

(a) *In general.* Subject to the provisions of paragraphs (b) and (c) of this section, any increases in wages and salaries which have been or would be withheld under the authority granted by the Act are lawfully due and payable, if a determination is made that such increases were provided for by law, contract, agreement, or practice established prior to August 15, 1971, and that prices have been advanced, productivity has been increased, taxes have been raised, appropriations have been made, or funds have otherwise been raised or provided for in order to cover such increases.

(b) *Determinations—*(1) *Category I pay adjustments.* A Category I pay adjustment (as defined in § 202.2(a) (1) of this chapter) of the type described in paragraph (a) of this section may be put into effect provided that—

(i) The employer has filed a prenotification in the manner prescribed by the Pay Board declaring the intention to put such a pay adjustment into effect and detailing the factual basis for qualification under paragraph (a) of this section;

(ii) Twenty-eight days have passed since such prenotification has been filed with the Board or, if appropriate, 28 days have passed since any additional proof requested by the Board has been received by the Board; and

(iii) The proposed pay adjustment has not been challenged by a party at interest, by the Chairman of the Pay Board, or by two or more other members of the Board within the appropriate time period described in subdivision (ii) of this subparagraph.

(2) *Category II and Category III pay adjustments.* A Category II or Category III pay adjustment (as defined in § 202.2(a) (2) and (3) of this Chapter, respectively) of the type described in paragraph (a) of this section may be put into effect provided that—

terms of the escrow agreement provide only

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(i) The wage and salary increases pursuant to such pay adjustment meet the requirements of paragraph (c) (1), (2), and (3) of this section; and

(ii) The employer certifies by letter to the appropriate district director of Internal Revenue not later than 20 days after such pay adjustment is put into effect that the requirements referred to in subdivision (i) of this subparagraph have been met.

(3) *By the Internal Revenue Service.* A party at interest claiming authority to make or receive payment of a wage and salary increase pursuant to paragraph (a) of this section, after giving notice to the other parties at interest, may apply to the Internal Revenue Service for a determination that the requirements of paragraph (a) of this section have been met. The application to the Internal Revenue Service shall detail the manner in which one or more of each of the requirements of paragraph (c) (1), (2), and (3) of this section have been met, or that the requirements of paragraph (a) of this section have otherwise been met. When the Service makes a determination that such requirements have or have not been met the Service will provide for notice upon request to parties at interest of the determination. Payment of an increase determined to be permissible under paragraph (a) of this section may begin within 20 days of such determination by the Service unless an appeal is taken by the Pay Board. The Service may transmit to the Board for determination any application based upon a claim that the requirements of paragraph (a) of this section have been met without meeting the requirements of paragraph (c) (1), (2), and (3) of this section.

(4) *By the Board.* If the Pay Board determines with respect to (i) a challenge of an increase under subparagraph (1) of this paragraph, or (ii) an appeal from a final determination by the Internal Revenue Service with respect to an increase under subparagraph (3) of this paragraph, or (iii) a transmittal by the Internal Revenue Service with respect to an increase under subparagraph (3) of this paragraph, that such payment qualifies under paragraph (a) of this section, the increase may be payable immediately after the Board's final decision.

(c) *Satisfaction of requirements.* For purposes of paragraphs (a) and (b) of this section, the factual requirements of paragraph (a) are deemed satisfied with respect to whether—

(1) The amount of a wage and salary increase provided for by law, contract, agreement, or practice was established prior to August 15, 1971, if such amount was determined and definite and if—

(i) A contract was executed, entered into, or became effective prior to August 15, 1971, or

(ii) A pay practice was announced, reduced to writing, placed in effect, or otherwise clearly established prior to August 15, 1971, or

(iii) A law, ordinance, or resolution, or a rule, regulation, or decision of a governmental agency having the effect of law, became effective or was finally enacted by signature of the chief executive of the governmental unit prior to August 15, 1971, or by failure of the chief executive to veto prior to August 15, 1971, or by completion of all action required for final enactment under the constitution and laws applicable to the governmental unit;

(2) Prices have been advanced, productivity has been increased, taxes have been raised, appropriations have been made, or funds have otherwise been raised or provided for, if—

(i) New taxes were enacted or levied or existing taxes were increased prior to August 15, 1971, which provide revenue for the fiscal year in which the wage and salary increase is to take effect, or

(ii) Appropriations have been passed or a budget of a governmental unit has been adopted prior to August 15, 1971, for the fiscal year in which the wage and salary increase is to take effect, and the appropriations or budget contain funds from which the increase would be payable, or

(iii) Prices have been advanced prior to August 15, 1971, or

(iv) An employer and the employee members of the unit, or their collective bargaining agent, have taken action prior to August 15, 1971, to modify work practices either relating to the introduction of new or changed equipment methods or processes, or otherwise, which is designed to and does result in an increase in the productivity of the appropriate employee unit, or

(v) An employer has taken action prior to August 15, 1971, which has otherwise raised or provided funds to provide for the wage and salary increase;

(3) The prices advanced, productivity increases made, taxes raised, appropriations made, or funds otherwise raised or provided for are in order to cover a wage and salary increase, if—

(i) The advancement of prices prior to August 15, 1971, was in direct anticipation of the wage and salary increase, and no additional advance in prices is or has been required on or after August 15, 1971, in order to raise funds to cover the wage and salary increases for the balance of the fiscal year in which it takes effect, or

(ii) Action modifying work practices to increase productivity taken by an employer and the employee members of the unit, or their collective bargaining agent, was taken to provide for a wage and salary increase and the resulting increase in productivity is adequate to cover the wage and salary increase, or

(ii) The taxes were raised or levied to fund a budget containing proposed expenditures for the wage and salary increase, and the taxes raised or levied, the existing taxes, and other resources of the taxing body are sufficient to cover the increases and all of the other projected expenditures of the taxing body for the fiscal year in which the increase takes effect, or

(iv) The amount of the appropriation or governmental budget item from which the wage and salary increase is payable is sufficient to cover the increase and all other projected expenditures to be made from the appropriation or budget item without any contemplated additional, supplemental, or deficiency appropriation or budget amendment during the fiscal year in which the increase takes effect, and without any contemplated transfer of funds appropriated for or intended for another purpose, or

(v) Action taken by an employer to otherwise raise or provide funds was taken in direct anticipation of a wage and salary increase and funds of sufficient amount to cover the cost of the wage and salary increase were raised or provided on or before August 15, 1971, or would be raised or provided thereafter without further action by the employer after August 15, 1971.

(d) *Special rule*—(1) *Price increases in anticipation of wage and salary increases.* If an employer raised the price for his products or services prior to August 15, 1971, in anticipation of wage and salary increases scheduled to be paid on or after August 15, 1971 and before November 14, 1971, and such increases were neither provided for in an employment contract nor provided for in a pay practice communicated to employees or otherwise established prior to August 15, 1971, then such increases that were not paid as a result of the freeze may be made retroactively after November 13, 1971.

(2) *Procedure for retroactive payment under this paragraph.* No payment referred to in subparagraph (1) of this paragraph may be made unless a determination has been made by the appropriate district director of Internal Revenue at the request of a party at interest, with right of appeal to the Board in the event of an adverse determination, that the requirements for retroactive payment under such subparagraph have been satisfied.

§ 201.40 Retroactivity on a case-by-case determination.

(a) *Application for approval of retroactive payment.* An application for approval of retroactive payment of wages and salaries with respect to services rendered in any period prior to November 14, 1971, which is not within the provisions of any other section of this subpart, may be submitted under the provisions of this section.

(b) *Criteria.* When the Board reviews requests for retroactive payment in individual cases, with respect to services rendered in any period prior to November 14, 1971, and in its development of further criteria for such payments, it shall consider such factors as changes in productivity and the cost of living, ongoing collective bargaining and pay practices, the equitable position of the employees involved, and such other factors as are necessary to foster economic growth, to promote improvement in the quality of governmental services, and to prevent gross inequities, hardships, serious market disruptions, domestic shortages of raw materials, localized shortages of labor, and windfall profits.

(c) *Limitation.* Approval of an application submitted under the provisions of this section shall be determined by the Pay Board or its delegate as equitable and appropriate, in accordance with the criteria set forth in paragraph (b) of this section, and shall be subject to such terms and conditions as may be set by the Pay Board or its delegate.

(d) *Procedure.* Retroactive payment under the provisions of this section shall not be made without the prior approval of the Pay Board or its delegate.

Subpart D—Violations, Sanctions, Fines and Penalties

§ 201.41 Violations.

(a) *In general.* Except as provided in paragraph (b) of this section, it shall be a violation of the provisions of this chapter, subject to the sanctions, fines, penalties, and other relief provided in the Act, for any person to—

(1) *Payment.* Pay, directly or indirectly, immediately or on a deferred basis, any portion of a wage and salary increase not authorized by the provisions of this chapter or by decision or order of the Pay Board or its delegate;

(2) *Receipt.* Receive or accept, directly or indirectly, any portion of a wage and salary increase not authorized by the provisions of this chapter or by decision or order of the Pay Board or its delegate;

(3) *Accessorial acts or attempts.* Induce, solicit, encourage, force, or require, or attempt to induce, solicit, encourage, force or require, any other person to pay or to receive, directly or indirectly, any portion of a wage and salary increase not authorized by the provisions of this chapter or by decision or order of the Pay Board or its delegate;

(4) *Compliance.* Fail or refuse to comply with a decision or order of the Pay Board or its delegate or with any regulation issued pursuant to the Act, or induce, solicit, encourage, force, or require any other person to fail or refuse to comply with a decision or order of the Pay Board or its delegate, or with any regulation issued pursuant to the Act.

(5) *Executive or variable compensation.* Pay, grant, award, receive, accept, establish, or make changes in any item of executive or variable compensation without timely filing of such notices or reports or receiving approval thereof as required by the provisions of this chapter;

(6) *Forbearance of rights.* Force or require any party at interest (as defined in § 201.2) to refrain or forbear from filing a pay challenge, request for exception, request for interpretation or ruling, prenotification, report, appeal, motion for reconsideration, or any other document or information permitted or required to be filed with the Pay Board or its delegate, or to force or require any party at interest to withdraw any such document already filed;

(7) *Filing.* Fail or refuse to file on a timely basis any prenotification, report, certification, or other document required by regulations; or

(8) *Submission of information.* Fail or refuse to submit on a timely basis to the Pay Board, or its delegate, information within the knowledge or control of a person, if the Board has required or ordered that person to submit such information after determining such information is relevant to the disposition of any matter affecting such person before the Board.

(b) *Excepted acts*—(1) *Agreements for wage and salary increases.* Notwithstanding the provisions of paragraph (a)(3) of this section, it shall not be a violation to bargain for, request, contract for, or agree to (as contrasted with paying or receiving) a wage and salary increase in excess of the maximum permissible annual aggregate wage and salary increase.

(2) *Limitation on excepted acts.* The exception provided in subparagraph (1) of this paragraph shall not apply in any situation where the Pay Board has denied an appeal from a determination by the Internal Revenue Service, or rendered a decision on a pay challenge or request for an exception.

(c) *Illustrations.* The provisions of paragraphs (a) and (b) of this section may be illustrated by the following examples:

Example (1). On April 1, 1972, Employer A and Union X agreed to a general increase in excess of the general wage and salary standard to be effective May 1, 1972. Union X represents A's employees who are members of an appropriate employee unit containing less than 5,000 employees. On May 1, 1972, Employer A implemented only a 5.5 percent increase in the average straight-time hourly rate and only a 0.7 percent increase in qualified fringe benefits. On May 10, 1972, Employer A filed a request for exception with respect to the unpaid portion of the wage and salary increase agreed to in the contract. Since Employer A did not pay, and the employees represented by Union X did not receive, any portion of a wage and salary increase in excess of that authorized under the regulations, the parties at interest did not violate the provisions of this chapter.

Example (2). Assume the same facts as in Example (1), except that the appropriate employee unit contains 5,000 or more employees. Employer A paid and the employees of Union X received, an increase in wages and salaries which, pursuant to regulations in this chapter, may not be paid unless a timely prenotification has been filed and the Pay Board has approved the pay increase. Thus the employer, the union, and the employees are in violation of the provisions of this chapter.

Example (3). Assume the same facts as in Example (1), except that the employer refuses to submit the request for exception and the employees of the union strike to force the employer to submit the exception request. Since the strike was not called to prevent a party at interest from exercising a right available to such party under the regulations, neither the union nor the employees have violated the provisions of this chapter.

Example (4). Assume the same facts as in Example (1), except the parties also agreed that the increase in excess of the standard would be paid into an escrow account pending approval or disapproval of the request for exception. The terms of the escrow agreement provide that to the extent the exception is granted escrowed monies will be paid to the employees and to the extent that exception is disallowed the portion disallowed will revert to Employer A. The escrow agreement would terminate at that time. Since the terms of the escrow agreement provide only for payment of amounts approved by the Pay Board and reversion of the disapproved amounts, the parties to the contract did not violate the provisions of this chapter.

Example (5). Assume the same facts as in Examples (1) and (4) except that the terms of the escrow agreement provide that disapproved amounts shall continue to be paid into the fund and shall be paid out to the employees upon the relaxation or cessation of economic controls or when otherwise legally allowable. Since the terms of the escrow agreement provide for beneficial ownership by the employees of the escrowed amounts, such amounts constitute deferred compensation for services rendered in the control year such amounts are paid into escrow. Continued payment of such amounts by Employer A after a disallowance by the Pay Board results in a violation of the provisions of this chapter by all parties at interest to the agreement.

Example (6). On June 1, 1972, Employer B put into effect a 5 percent general increase in the base compensation rate for his 3,500 member appropriate employee unit not covered by a collective bargaining agreement. Employer B neglected to file a report of such increase within the appropriate 10-day period following implementation of the pay increase. Employer B is in violation of the provisions of this chapter which require that reports be filed on forms and pursuant to instructions prescribed by the Pay Board. Similarly, a violation would occur if the employees of B were covered by the terms of a collective bargaining agreement.

Example (7). On May 15, 1972, Employer C put into effect a 5.5 percent increase in the base compensation rate for a 100 member appropriate employee unit not covered by a collective bargaining agreement. On that date Employer C also communicated a promise to pay each employee a bonus of $500 upon the relaxation or cessation of economic controls. Employer C has not filed a request for exception with respect to the promise to pay each employee a $500 bonus. Since the promise to pay such bonus is an increase in wages and salaries in the form of deferred compensation. Employer C is in violation of the provisions of this chapter. Similarly, a violation would occur if the employees of Employer C were covered by the terms of a collective bargaining agreement and such agreement provided for the bonus.

Example (8). Employer D and Union Y engage in collective bargaining, but cannot agree because Union Y is requesting increases in excess of the general wage and salary standard. The employees represented by Union Y strike against Employer D over the issue of wages and salaries. A strike resulting from the failure to agree on an increase in wages and salaries is not a violation of the provisions of this chapter.

Example (9). Employer E and Union Z agree to an increase in wages and salaries that exceeds the general wage and salary standard. In order to force immediate payment of the total increase, Union Z strikes Employer E. After 3 days of the strike, Employer E puts the total increase into effect and the employees return to work. Both Union Z and the employees represented thereby are in violation because of the strike to force immediate payment of an increase not authorized by the provisions of this chapter. Employer E is in violation for paying the increase not so authorized.

Example (10). Pursuant to a 2-year collective bargaining agreement executed on June 1, 1971, an 11 percent increase is scheduled to be put into effect on June 1, 1972. On April 17, 1972, the employer filed a party at interest challenge to the deferred increase under the provisions of this chapter. After being informed of the challenge, the union

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struck the employer upon his refusal to withdraw the challenge. Since the employees and the union have struck the employer to force withdrawal of a document filed under the authority of the provisions of this chapter, both the union and the striking employees are in violation of such provisions.

Example (11). Employer J and Union S, which represents over 1,000 employees of J, will enter the final year of a three year contract on January 1, 1973. Under the terms of the contract the increase in the base compensation rate on January 1, 1973 will be in excess of 7%. In accordance with the provisions of Section 201.35(g)(1) Employer J notified the Pay Board of the prospective increase more than 90 days prior to the scheduled effective date of the increase, and there has been no request from the Pay Board for additional information pursuant to Section 201.35(g)(2). Therefore Employer J may implement the entire amount of the increase on the scheduled effective date, January 1, 1973.

Example (12). Assume the same facts as in Example (11) and that Employer J has refused to implement the increase. There is no violation of paragraph (a)(3) of this section if Union S strikes in order to induce Employer J to implement the increase. Paragraph (a)(3) of this section prohibits such attempts or acts to force payment *only if* the increase is not authorized by the provisions of this chapter, or by decision or order of the Pay Board.

§ 201.42 Criminal fine.

Any person who willfully violates any provision of this chapter or any order issued thereunder shall be subject to a fine of not more than $5,000 for each violation.

§ 201.43 Civil penalty.

Any person who violates any provision of this chapter or any order issued thereunder shall be subject to a civil penalty of not more than $2,500 for each violation.

§ 201.44 Injunctions and other relief.

Whenever it appears to the Pay Board that any individual or organization has engaged, is engaged, or is about to engage in any act or practice constituting a violation of the regulations in this chapter or any other order issued thereunder, the Board may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin that act or practice. The relief sought may include a mandatory injunction commanding any person to comply with any such order or regulation and restitution of moneys received in violation of any such order or regulation.

Subpart E—Computation Rules

§ 201.51 General.

(a) *Purpose.* The purpose of the provisions of this subpart is to set forth the methods of computation of pay adjustments which shall be used under the applicable provisions of this chapter with respect to the periods of time called "control years" for which such computations are made. The methods of computation described in this subpart shall be used, among other things, to examine the relationship of pay adjustments to the maximum permissible annual aggregate increase in the base compensation rate for an appropriate employee unit during any control year (§ 201.52). Every person who makes any computation pursuant to the provisions of this subpart shall be required to make such computation in good faith and in a manner consistent with the policies of the Act.

(b) *Scope.* The provisions of this subpart include the method of computing a base compensation rate (§ 201.54) consisting of an average straight-time hourly rate (§ 201.55), an average hourly included benefit rate (§ 201.58) and an average hourly qualified benefit rate (§ 201.59). Additional rules are provided to compute increases in such components of the base compensation rate. The objective of these computations is to determine a percentage relationship between the total of the increases (excluding those increases specified in § 201.60) in such components during a control year and the base compensation rate applicable for that control year. Except as provided in § 201.64(a), all chargeable increases during any control year shall be deemed paid for the entirety of such control year.

(c) *Limitation on wage and salary increases.* Except as otherwise provided in this title, an appropriate employee unit's aggregate percentage increase in the base compensation rate (as determined pursuant to § 201.53) for any control year may not exceed its maximum permissible annual aggregate wage and salary increase (as defined in § 201.2). However, the wage and salary increases of an individual employee in an appropriate employee unit may exceed such maximum so long as the aggregate increase in the base compensation rate for such unit as a whole does not exceed such maximum.

§ 201.52 Determination of control year.

(a) *In general.* This section provides rules to determine the time period for computing the annual aggregate wage and salary increase for an appropriate employee unit. These rules preserve, as nearly as possible, both contractual and established pay relationships. In some instances, provision has been made for a first control year of less than 12 months. In this period of less than 12 months, the maximum permissible annual aggregate wage and salary increase for a full control year shall be allowed.

(b) *Pay practices—*(1) *First control year.* Except as provided in paragraph (c)(1)(ii) of this section, the first control year for an appropriate employee unit which was not covered by the terms of an employment contract in effect on November 13, 1971, shall be—

(i) The period from November 14, 1971 through November 13, 1972, or

(ii) If the unit was covered on November 13, 1971, by an established pay practice (not set by contract) whereby prospective wage and salary increases for the unit are determined for a period of 12 months or more beginning on a fixed date (other than November 14), at the election of the employer, the period of less than 12 months from November 14, 1971 through the day before the annual anniversary of such fixed date.

(2) *Succeeding control years.* Each succeeding control year shall be the 12-month period beginning on November 14, or, in the case of an established pay practice where the election described in subparagraph (1)(ii) of this paragraph is made, on an annual anniversary of the fixed date referred to in such subparagraph.

(c) *Employment contracts—*(1) *First control year—*(i) *General rule.* The first control year for an appropriate employee unit which was covered by the terms of an employment contract in effect on November 13, 1971 shall be the period of 12 months or less which begins on November 14, 1971 and ends—

(a) Where the expiration date of that contract is on or before November 13, 1972, on the expiration date of that contract;

(b) Where the expiration date of that contract is after November 13, 1972, on the annual anniversary of the expiration date of the prior succeeded contract, or, at the election of the parties, on the annual anniversary of the day prior to the first wage increase that was provided under the terms of the contract in effect on November 13, 1971; or

(c) Where the expiration date of that contract is after November 13, 1972, and there was no prior succeeded contract (e.g., the existing contract is the first contract between the parties), on the day prior to the annual anniversary of the effective date of the contract in effect on November 13, 1971, or, at the election of the parties, on the annual anniversary of the day prior to the first wage increase that was provided under the terms of the contract in effect on November 13, 1971.

(ii) *Special rule.* Where there was an established bargaining relationship between the parties on November 13, 1971, and there was no contract in effect on such date or the parties were operating under a contract which had been extended beyond its original expiration date, the first control year shall begin on November 14, 1971, and end on the annual anniversary of the expiration date of the prior succeeded contract or, at the election of the parties, the first control year shall begin on November 14, 1971, and end on the day before the effective date of the new contract provided that such effective date is after November 14, 1971, and no wage and salary increases are payable to the appropriate employee unit for any period prior to such effective date of the new contract.

(2) *Succeeding control years.* Each succeeding control year shall be the 12-month period ending on the annual anniversary of the date of the end of the first control year.

(3) *"Expiration date" defined.* The term "expiration date" as used in this section refers to such date specified in the contract originally negotiated by the parties and not to a later extension or modification of such date. In any case in which the contract does not specify a fixed expiration date, the first date upon which the contract could be terminated by the parties shall be deemed the expiration date.

(d) *Limitations.* (1) The first and succeeding control years established under the provisions of paragraph (b) or (c) of this section shall not thereafter be changed unless prior approval is obtained from the Pay Board. This limitation shall apply even though the appropriate employee unit goes from a pay practice status to an employment contract status or from an employment contract status to a pay practice status after November 13, 1971. Notwithstanding the preceding two sentences, in any case in which a newly organized unit is employed by an employer who, himself or through an association, is bound by a master employment contract which provides that newly organized units of the same employer shall be subject to all the terms and conditions of the master contract, the control year of such newly organized unit may, at the election of the parties, be changed to conform to the control year typical for units covered by the master agreement.

(2) There shall be no retroactive payments of an increase in wages or salaries prior to a base date established with reference to the provisions of the preceding subparagraph or paragraph (b) or (c) of this section unless allowable under Pay Board regulations or orders.

(e) *Control year election.* Any election described by this section may be exercised only with respect to the first control year of an appropriate employee unit. An election is deemed exercised in any case in which a control year has been specified on a form filed with the Pay Board (or its delegate), or in any case in which pay adjustments to an appropriate employee unit were allowable only as the result of a particular election.

(f) *Tandem relationship.* An appropriate employee unit claiming a tandem relationship to another unit shall not conform its control year to the control year of such other unit solely on account of such tandem claim.

(g) *Illustrations.* The provisions of this section may be illustrated by the following examples:

Example (1). Employer A has always implemented (noncontractual) pay increases for an entire year for an appropriate employee unit on the first day of January. According to the provisions of paragraph (b) of this section, the first control year for such unit will be from November 14, 1971, to November 13, 1972, and the second and succeeding control years will begin on each succeeding November 14 thereafter; or, at the election of the employer, the first control year may be a short control year from November 14, 1971, to December 31, 1971, and the second and succeeding control years will begin on each January 1 thereafter.

Example (2). Assume the same facts as in Example (1) and that Union U organized the employees of A on December 1, 1971. Union U shall be permitted to participate in the election available to Employer A under paragraph (b)(1)(ii) of this section.

Example (3). Employer B has an employment contract with the members of Union V in effect on November 13, 1971, and the contract expires on April 30, 1972. According to the provisions of paragraph (c)(1)(i)(a) of this section the first control year for such unit will be from November 14, 1971, to April 30, 1972. The second and succeeding control years shall begin on each May 1 thereafter.

Example (4). Employer C has an employment contract with the members of Union W on November 13, 1971, and the contract expires on May 31, 1973. The first wage increase under such contract was June 1, 1971. The prior succeeded contract between Employer C and Union W expired April 30, 1971. According to the provisions of paragraph (c)(1)(i)(b) of this section the first control year for such unit will be from November 14, 1971 to April 30, 1972, which is the annual anniversary of the expiration date of the prior succeeded contract; or, at the election of the parties, the first control year will be from November 14, 1971 to May 31, 1972, which is the annual anniversary of the day prior to the first wage increase under the terms of the contract in effect on November 13, 1971. The second and succeeding control years for the unit will begin on each May 1 or June 1 thereafter depending upon the determination of the first control year.

Example (5). Employer D has an employment contract with the members of Union X in effect on November 13, 1971, and the contract expires on June 30, 1973. The contract became effective on July 1, 1970, and the first wage increase under such contract was October 1, 1970. There was no prior succeeded contract. According to the provisions of paragraph (c)(1)(i)(c) of this section the first control year for such unit will be from November 14, 1971 to June 30, 1972, which is the day prior to the annual anniversary of the effective date of the contract; or, at the election of the parties, the first control year will be from November 14, 1971 to September 30, 1972, which is the day prior to the annual anniversary of the first wage increase under the terms of the contract. The second and succeeding control years for the unit will begin each July 1 or October 1 thereafter depending upon the determination of the first control year.

Example (6). Employer E had an employment contract with the members of Union Y which expired July 31, 1971. The parties agreed to operate under the terms of the old contract until a new one was negotiated and signed. The new contract was signed on January 1, 1972. According to the provisions of paragraph (c)(1)(ii) of this section the first control year is from November 14, 1971 to July 31, 1972, which is the annual anniversary of the expiration of the prior succeeded contract. The second and succeeding control years will begin on each August 1 thereafter. However, at the election of the parties, the first control year may be from November 14, 1971 to December 31, 1971, which is the day before the new contract became effective provided that no wage increase is implemented prior to such date. The second and succeeding control years will begin each January 1 thereafter.

§ 201.53 Formula for computation of annual aggregate increase in the base compensation rate.

(a) *Standard computational formula.* In any case in which a computation is required to determine the annual aggregate increase in the base compensation rate with respect to an appropriate employee unit for any control year (determined pursuant to § 201.52), such increase shall be stated as a percentage which is the sum of—

(1) The total adjustment during such control year in the average straight-time hourly rate (determined pursuant to § 201.56 or 201.57), divided by such unit's base compensation rate (determined pursuant to § 201.54), applicable to such control year,

(2) The total adjustment during such control year in the average hourly included benefit rate (determined pursuant to § 201.58(c)), divided by such unit's base compensation rate (determined pursuant to § 201.54), applicable to such control year, and

(3) The total adjustment during such control year in the average hourly qualified benefit rate (determined pursuant to § 201.59(d)), divided by such unit's base compensation rate (determined pursuant to § 201.54), applicable to such control year.

(See § 201.60 for exclusions from adjustment computations.)

(b) *Optional Category III simplified computational formula.* Category III appropriate employee units (within the meaning of § 202.3(a)(3) of this chapter) may, on an optional basis, elect to determine their annual aggregate increase in their base compensation rate for any control year in accordance with the formula described in this paragraph. In such case the increase shall be stated as a percentage which is the sum of—

(1) The total adjustment during such control year in the average straight-time hourly rate (determined pursuant to § 201.56 or 201.57), divided by an amount which is equal to the product of the unit's average straight-time hourly rate for the base payroll period and a benefit factor of 1.07;

(2) The total adjustment during such control year in the average hourly included benefit rate (determined pursuant to § 201.58(c)) but excluding that portion of the adjustment which is attributable to increased included benefit costs for the control year resulting from increases in the average straight-time hourly rate during such control year, divided by an amount which is equal to the product of the unit's average straight-time hourly rate for the base payroll period and a benefit factor of 1.07; and

(3) The total adjustment during such control year in the average hourly qualified benefit rate (determined pursuant to § 201.59(d)) but excluding that portion of the adjustment which is attributable to increased qualified benefit costs resulting from increases in the average straight-time hourly rate during such control year, divided by an amount which is equal to the product of the unit's average straight-time hourly rate for the base payroll period and a qualified benefit factor of 1.19.

(See § 201.60 for exclusions from adjustment computations.)

§ 201.54 Base compensation rate.

The base compensation rate applicable to any control year shall be an average rate of pay for the appropriate employee unit, stated in dollars and cents per hour, which is equal to the sum of the average straight-time hourly rate for the base payroll period (determined pursuant to § 201.55(a)) plus the average hourly included benefit rate for the base year

base payroll period experience including [illegible] in average hourly included benefit rate

Example (3). Assume the same facts as in

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(determined pursuant to § 201.58(a)) and the average hourly qualified benefit rate for the base year (determined pursuant to § 201.59(a)).

§ 201.55 Average straight-time hourly rate and adjustment thereto.

(a) *General rule.* For purposes of § 201.54 the average straight-time hourly rate for an appropriate employee unit shall be the amount, stated in dollars and cents per hour, which is determined by dividing the total straight-time payroll expenditures for the base payroll period by the total man-hours paid for (including all paid leave hours) during such period. All man-hours paid for shall be taken into account at the straight-time hourly rate, including the man-hours paid for of those employees in the unit who are not paid on an hourly rate basis. For purposes of this section "man-hours paid for" shall be the actual man-hours for which employees in the unit receive compensation during the payroll period in question. For those employees who are not on fixed hourly schedules, a reasonable estimate shall be made as to the hours for which they receive compensation during the payroll period.

(b) *Definition of "total straight-time payroll expenditures"*—(1) *Included.* The term "total straight-time payroll expenditures" shall include the following payments by an employer to an appropriate employee unit during a payroll period:

(i) Payments at straight-time rates for all man-hours actually worked (in the case of employees on piece rate, commission or incentive plans, the payments shall be at average straight-time piece, commission, or incentive earnings);

(ii) Payments for man-hours not worked at the straight-time rates applicable had the hours been worked (e.g., sick, vacation, and holiday leave and reporting pay);

(iii) Payments otherwise excludable, in whole or in part, under § 201.60; and

(iv) Payments listed in subdivisions (1) through (iii) of this subparagraph made retroactively pursuant to § 201.31, 201.32 (b) or (c), 201.33, or 201.36, or pursuant to Pay Board decision under § 201.30, 201.34, or 201.40 where such decision specifically allows the payment to be included in the base.

(2) *Excluded.* Such term shall exclude payments attributable to shift differentials, premiums for overtime, weekend, vacation, and holiday pay (but shall include the straight-time pay for such work), severance pay, bonuses, supplemental unemployment benefits, call-in and call-back premiums, and any other direct or indirect benefits.

(c) *Adjustment in average straight-time hourly rate.* The total adjustment in the average straight-time hourly rate (referred to in § 201.53) for an appropriate employee unit is the amount of increase, if any, in such rate in effect during the last payroll period of the control year compared to such rate in effect during the base payroll period. (See § 201.60 for items excluded from adjustment computations and § 201.64 (a) for the method of computation in the case of cost of living adjustments.)

§ 201.56 Computation method; average straight-time hourly rate; certain merit adjustments.

(a) *Scope.* The method of computation provided in this section shall be used in computing adjustments in the average straight-time hourly rate under a pay practice or employment contract which includes merit adjustments pursuant to a merit plan, practice or contract provision which—

(1) Was in existence on November 13, 1971;

(2) Succeeds a merit plan, practice or contract provision which was in existence on November 13, 1971; or

(3) Was established, with respect to a new appropriate employee unit, in a company, plant, or other business entity which came into existence on or after November 14, 1971; *provided, however,* such method of computation shall not be used in the first control year such new unit came into existence (see § 201.62).

(b) *Computation.* Adjustments in the average straight-time hourly rate which are within the scope of this section shall be computed with respect to a control year at or after the end of such control year and shall be expressed as an amount, stated in dollars and cents per man-hour, which is equal to the excess, if any, of—

(1) The amount determined by dividing the total straight-time payroll expenditures incurred for the last representative payroll period of the control year in question at the pay rates then in effect, by the actual man-hours paid for during such payroll period, over

(2) The amount of such average straight-time hourly rate determined with respect to the base payroll period.

(c) *Compensating adjustment.* A compensating adjustment may be made to offset any increase in the average straight-time houly rate caused by changes in the composition of an appropriate employee unit with respect to average length of service or average skill levels: *Provided however,* That a compensating adjustment may not be made with respect to a change in average length of service or skill levels if such change has been reflected by an exclusion pursuant to § 201.60 (a), (b), (c), or (j).

(d) *Computations prior to end of control year*—(1) *Submissions.* Where it is necessary to compute the adjustment in the average straight-time hourly rate prior to the end of a control year for purposes of prenotification, reporting, or requesting an exception, or otherwise pursuant to Pay Board regulations, an amount, stated in dollars and cents per hour, shall be computed, which is equal to the excess, if any, of—

(i) The amount determined by dividing the reasonable and supportable estimate of the total straight-time payroll expenditures expected to be incurred for the last payroll period of the control year by the reasonable and supportable estimate of the actual man-hours expected to be paid for during such last payroll period (such estimates shall be made in good faith and shall be subject to documentation), over

(ii) The amount of such average straight-time hourly rate determined with respect to the base payroll period.

(2) *Compliance and monitoring.* Where it is necessary to compute the adjustment in the average straight-time hourly rate prior to end of a control year for compliance or monitoring purposes, in addition to the amount computed pursuant to subparagraph (1) of this paragraph, an amount, stated in dollars and cents per hour, shall be computed, which is equal to the excess, if any, of—

(i) The amount determined by dividing the total straight-time payroll expenditures incurred for the payroll period immediately preceding the interim computation at the pay rates then in effect, by the actual man-hours paid for during such payroll period, over

(ii) The amount of such average straight-time hourly rate determined with respect to the base payroll period.

§ 201.57 Computation method; average straight-time hourly rate; other than certain merit adjustments.

(a) *Scope.* The method of computation provided in this section shall be applicable to all adjustments in the average straight-time hourly rate which are not within the provisions of § 201.56(a).

(b) *Computation.* Adjustments in the average straight-time hourly rate which are within the scope of this section shall be computed as an amount, expressed in dollars and cents per man-hour, which is equal to the excess, if any, of—

(1) The amount determined by dividing the projected total straight-time payroll expenditures which would be incurred for the last payroll period of the control year in question (computed by applying the pay rates which would be in effect during such last payroll period to the base payroll period experience, including hours paid for, work force composition, and years of service, and by assuming, in the case of piece-rate or incentive systems, no change in output per worker) by the actual man-hours paid for during the base payroll period, over

(2) The amount of such average straight-time hourly rate as determined with respect to the base payroll period.

(c) *Interim computations for compliance.* In order to insure compliance with the Pay Board's rules and regulations and to carry out the stabilization program's monitoring function, it may be necessary to compute the adjustment in an appropriate employee unit's average straight-time hourly rate with regard to a given payroll period during such unit's control year. In such a case, an amount, stated in dollars and cents per man-hour, shall be computed which is equal to the excess, if any, of—

(1) The amount determined by dividing the total straight-time payroll expenditures incurred for the payroll period immediately preceding the interim computation (such expenditures are computed by applying the pay rates in effect during such payroll period to the base payroll period experience, including hours paid for, work force composition, and years of service, and by assuming, in the case of piece-rate or incentive systems, no change in output per worker) by the actual man-hours paid for during the base payroll period, over

(2) The amount of such average straight-time hourly rate as determined with respect to the base payroll period.

§ 201.58 Average hourly included benefit rate and adjustment thereto.

(a) *Average hourly included benefit rate.* For purposes of § 201.54, the average hourly included benefit rate of an appropriate employee unit shall be an amount, stated in dollars and cents per hour, which is determined by dividing the total cost of included benefits by the total number of man-hours actually worked by employees in such unit (i.e., excluding paid leave hours) during such base year. A reasonable estimate shall be made as to the hours actually worked during the base year by those employees who are not on fixed hourly schedules.

(b) *Definition of "total cost of included benefits."* For purposes of this section, the term "total cost of included benefits" shall include payments, or costs which would have been incurred with respect to the base year (or where applicable, control year), (computed by costing each included benefit item in effect on the last day of the base year (or where applicable, control year), at the rate in effect on the last day of such base year (or where applicable, control year)), by the employer on behalf of the appropriate employee unit for benefits other than qualified benefits (as described in § 201.59). Examples of such included benefits are:

(1) Shift differential payments;

(2) Premiums for work performed on an overtime basis, on weekends, during vacation, on holidays, outside of normal working or scheduled hours, including call-in and call-back pay premiums;

(3) Payments for time not worked including holiday pay, vacation pay, sick pay, and other paid leave (e.g., jury duty, funeral, voting pay);

(4) Severance payments;

(5) Bonus payments other than those subject to the provisions of Subpart F of this part;

(6) Supplemental unemployment benefits;

(7) Other direct and indirect benefits (including other premium payments) which are reasonably subject to valuation, except the following: Incentive compensation subject to Subpart F of this part, qualified benefits as described in § 201.59, employer contributions to certain Federal or State plans as set forth in § 201.60(d), reduction of workday or workweek (see § 201.64(b)); and

(8) Payments for included benefits listed in subparagraphs 1 through 7 of this paragraph made retroactively pursuant to § 201.31, 201.32(b) or (c), 201.33, or 201.36, or pursuant to Pay Board decision under § 201.30, 201.34, or 201.40, where such decision specifically allows the payment to be included in the base.

(c) *Adjustment in average hourly included benefit rate.* The total adjustment in average hourly included benefit rate (referred to in § 201.53) for an appropriate employee unit is the amount of increase, if any, with respect to such rate in effect at the end of the control year in question as compared to the rate in effect at the end of the base year. (See § 201.60 for items excluded from adjustment computations and § 201.64(a) for the method of computation in the case of cost-of-living adjustments.) Such total adjustment shall be an amount stated in dollars and cents per man-hour, which is equal to the excess, if any, of—

(1) The amount determined by dividing the total cost of included benefits for the control year in question which would be incurred (assuming that the control year experience, including hours worked and hours paid for, work force composition, and years of service, will be the same as that which existed during the base year) computed by costing each included benefit item at the rate which would be in effect on the last day of such control year, including increased included benefit costs resulting from increases in the average straight-time hourly rate during such control year, by the total number of man-hours actually worked (excluding paid leave hours) by employees in the appropriate employee unit during the base year, over

(2) The amount of such average hourly included benefit rate as determined with respect to the base year (see paragraph (a) of this section).

(d) *Allowable offsets.* Amounts saved as a result of a decrease in included benefit costs attributable to elimination or reduction of included benefit levels may be used to offset other increased included benefit costs resulting from new or improved included benefits, or increased included benefit costs resulting from increases in the average straight-time hourly rate during such control year.

(e) *Illustrations.* The provisions of this section may be illustrated by the following examples:

Example (1). While determining the total cost of included benefits for the base year for an appropriate employee unit, Employer A finds the amount he had to contribute each month for supplemental unemployment benefits increased from $10,000 per month to $15,000 per month for the last 2 months of the base year. According to the provisions of paragraph (b) of this section, the total cost of this included benefit item to Employer A for the base year is deemed to be 12 (months) × $15,000 (per month), or $180,000.

Example (2). The average straight-time hourly rate for the base payroll period of an appropriate employee unit of Employer B is $4 per hour. B has 100 employees and they work an 8-hour day. The total cost of 10 holidays to B during the base year was $32,000. Employer B plants to implement a 5 percent wage increase and give his employees an additional holiday per year. According to the provisions of this section, the total cost of the included benefit item of holidays to Employer B, taking into account the effect of the 5 percent wage increase during the control year, will be 11 (total number of holidays) × $4.20 (straight-time hourly rate plus 5 percent wage increase of $0.20) × 100 (number of employees) × 8 (hours per day) or $36,960.

Example (3). Assume the same facts as in Example (2), except that Employer B, in accordance with the wishes of his employees, is going to reduce the number of paid holidays from 10 to 9. According to the provisions of paragraph (d) of this section, B can offset the amount saved with respect to this reduction against any increase in included benefit costs. In this case the amount saved will be 1 (number of holidays) × $4 (straight-time hourly rate) × 100 (number of employees) × 8 (hours per day) or $3,200.

Example (4). Employer C incurred a total cost of $20,000 for overtime premiums during the base year of an appropriate employee unit. Employer C estimates that there will be a reduction of overtime hours in the control year because of business or other reasons. According to the provisions of paragraph (d) of this section, Employer C cannot offset any amounts saved as a result of such reduction against new or improved included benefits since the number of base year overtime hours (the base year experience) is held constant and there is no reduction in benefit levels; i.e., there is no decrease in the premium paid for overtime hours.

§ 201.59 Average hourly qualified benefit rate and adjustment thereto.

(a) *Average hourly qualified benefit rate.* For purposes of § 201.54, the average hourly qualified benefit rate of an appropriate employee unit shall be an amount, stated in dollars and cents per hour, which is determined by dividing the total cost of qualified benefits by the total number of man-hours actually worked by employees in such unit (excluding paid leave hours) during such base year. A reasonable estimate shall be made as to the hours actually worked during the base year for those employees who are not on fixed hourly schedules.

(b) *Definition of "total cost of qualified benefits".* For purposes of this section, the term "total cost of qualified benefits" shall include payments, or costs which would have been incurred with respect to the base year (or where applicable, control year) computed by costing each qualified benefit item in effect on the last day of the base year (or where applicable, control year) at the rate in effect on the last day of such base year (or where applicable, control year), by the employer on behalf of the appropriate employee unit for qualified benefit plans; or such payments or costs made or incurred retroactively pursuant to § 201.31, 201.32 (b) or (c), 201.33, or 201.36, or pursuant to Pay Board decision under § 201.30, 201.34, or 201.40 where such decision specifically allows the payment to be included in the base.

(c) *Definition of "qualified benefit plan."* Except as provided for State and local governments in § 201.95, the term "qualified benefit plan" means—

(1) A pension, profit sharing, or annuity and savings plan which meets the requirements of section 401(a), 403(b), or 404(a)(2) of the Code,

(2) A group insurance plan, or

(3) A disability and health plan.

(d) *Adjustment in average hourly qualified benefit rate.* The total adjustment in the average hourly qualified benefit rate (referred to in § 201.53) for an appropriate employee unit is the amount of increase, if any, with respect to such rate in effect at the end of the

employment of servicemen; State fair rules of Part 202 of this chapter shall

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control year in question as compared to the rate in effect at the end of the base year. (See § 201.60 for items excluded from adjustment computations and § 201.64(a) for the method of computation in the case of cost of living adjustments, and see paragraph (f) of this section for certain increases in employer contributions to qualified benefit plans which are excludable from this adjustment calculation.) Such total adjustment shall be an amount stated in dollars and cents per man-hour, which is equal to the excess, if any, of—

(1) The amount determined by dividing the total cost of qualified benefits for the control year in question which would be incurred (assuming that the control year experience, including hours worked and hours paid for, the work force composition, age distribution, years of service, method and medium of funding and actuarial assumptions, and plan experience, will be the same as that which existed during the base year) computed by costing each qualified benefit item at the rate which would be in effect on the last day of such control year, including increased qualified benefit costs resulting from increases in the average straight-time hourly rate during such control year, by the total number of man-hours actually worked (excluding paid leave hours) by employees in the appropriate employee unit during the base year, over

(2) The amount of such average hourly qualified benefit rate as determined with respect to the base year (see paragraph (a) of this section).

(e) *Chargeable contribution adjustments.* For purposes of paragraph (d) of this section, increases in employer contributions pursuant to qualified benefit plans shall be chargeable as pay adjustments to the extent of the excess, if any, of—

(1) The sum of—

(i) Increased employer contributions attributable to new qualified benefit plans or benefit improvements in existing qualified benefit plans,

(ii) Increased employer contributions attributable to decreases in employee contributions to such plans, and

(iii) Increased employer contributions required to maintain existing benefit levels attributable to the secondary effect of an increase in the average straight-time hourly rate, over

(2) The maximum increase in employer contributions consistent with the qualified benefits standard for the appropriate employee unit as defined in paragraph (g) of this section.

(f) *Nonchargeable contribution adjustments.* For purposes of paragraph (d) of this section, increases in employer contributions pursuant to qualified benefit plans shall not be chargeable adjustments, if such increases are—

(1) Necessary to maintain existing benefit levels under qualified plans other than those contribution increases described in paragraph (e)(1) (ii) and (iii) of this section: *Provided, however,* That in all cases such plan must remain a qualified benefit plan, as defined in paragraph (c) of this section, after such increases are made; or

(2) In the case of contributions to qualified deferred profit sharing plans (whether discretionary or formula), the contribution increases which, when added to the contribution for the base year, are equal to or less than the highest contribution made by the employer on behalf of the appropriate employee unit during any one of the 3 full plan years immediately preceding the control year. For the purposes of this subparagraph the term "highest contribution made" means an amount equal to the total contribution made by the employer on behalf of the appropriate employee unit during such preceding plan year multiplied by a fraction, the numerator of which shall be the total man-hours actually worked during the base year by members of the appropriate employee unit covered by such plan, and the denominator of which shall be the total man-hours actually worked during such plan year by members of the appropriate employee unit covered by such plan.

(g) *Qualified benefits standard.* For purposes of paragraph (e)(2) of this section, the term "qualified benefits standard" means, with respect to an appropriate employee unit, an amount equal to the greater of—

(1) The sum of—

(i) 0.7 percent of such unit's base compensation rate (determined pursuant to § 201.54) with respect to the base payroll period or, in the case of a Category III unit which has elected to use the optional formula set forth in § 201.53(b), 0.7 percent of an amount which is equal to the product of the unit's average straight-time hourly rate applicable for the base payroll period and a qualified benefit factor of 1.19, plus

(ii) The catchup percentage multiplied by the base compensation rate for the first control year. For purposes of this subdivision the "catchup percentage" is a percentage equal to the excess (if any) of 1.5 percent over the sum of the percentage increases in base compensation resulting from new or improved qualified benefit plans, or from the secondary effect of increases in the average straight-time hourly rate on qualified benefits during the 3 years preceding such first control year (such sum of the percentage increases shall be calculated by using the base compensation rate in effect during the payroll period immediately prior to each of the qualified benefit adjustments during the prior 3-year period); or

(2) Five percent of such unit's base compensation rate (determined pursuant to § 201.54) for a base payroll period, but only to the extent that the employer's resulting total contributions to qualified benefit plans with respect to such unit do not exceed 10 percent of such base compensation rate.

For purposes of subparagraph (1) of this paragraph, the 0.7 percent referred to in subdivision (i) of such subparagraph may be used in future control years to the extent not utilized in a prior control year. For purposes of such subparagraph the 1.5 percent referred to in subdivision (ii) of such subparagraph may be credited only in the first control year of a new pay practice or new employment contract. To the extent the amount of the 1.5 percent catchup credited is not utilized in such first control year the excess may be utilized in the second control year, but not thereafter.

(h) *Allowable offsets.* Amounts saved as a result of a decrease of qualified benefit costs or as a result of elimination or reduction of qualified benefit levels may be used to offset other increased qualified benefit costs resulting from new or improved qualified benefits or increased qualified benefit costs resulting from increases in the average straight-time hourly rate during the control year. Qualified benefit cost savings attributable to changes in actuarial assumptions shall be allowed as offsets only to the extent that such changes reflect cost savings which were actually realized in the base year, or to the extent approved by the Pay Board or its delegate as equitable under the circumstances of a particular case.

(i) *Illustration.* The provisions of this section may be illustrated by the following example:

Example. Employer T employs 250 employees who constitute appropriate employee unit R. Unit R is covered by pension, life insurance, and health insurance programs. During the base year, Employer T contributed $200,000, $20,000, and $50,000, respectively, for these programs. For the second control year, the pension plan will cost the employer $205,000 as a result of the secondary effect of control year adjustments in the straight-time rates. Employer T wishes to reduce the life insurance coverage by one-half; consequently, the projected control year cost will be $10,000 ($20,000—$10,000). Employer T also wishes to improve the health insurance plan at a cost that exceeds the base year cost of $50,000 by $10,000. Pursuant to paragraph (h) of this section, the amount saved by reduction in costs for life insurance coverage ($10,000) may be used to offset the total of increases in costs for the pension plan ($5,000) and health insurance ($10,000). Accordingly, the net adjustment in qualified benefit costs for the control year is an increase of $5,000 [($5,000+$10,000)—$10,000].

§ 201.60 Exclusions from adjustment computations.

For purposes of determining adjustments in the average straight-time hourly rate (§ 201.55), the average hourly included benefit rate (§ 201.58), or the average hourly qualified benefit rate (§ 201.59), the following items or factors shall be excluded:

(a) *Promotion.* Increases due to promotion where the duties and responsibilities of an employee in the appropriate employee unit have materially changed from the duties and responsibilities of such employee in the job, job classification, or position previously held.

(b) *Longevity.* Longevity increases provided for in an employment contract in effect on November 13, 1971, or provided for in a pay practice previously set forth and in existence on such date, including the amount of increases provided for in such contract or pay practice to the extent that amount is provided for in a successor contract or pay practice. These longevity increases must be solely related to the employee's length of service and must operate without significant affirmative exercise of employer discretion or subjective evaluation of the employee's work performance. The only conditions which can attach to the increase are satisfactory work performance and length of service. If it is an established practice that once an individual's work performance for a certain length of time is determined to be satisfactory and the amount of the increase as determined in advance is not subject to any discretionary adjustment, the increase is due to longevity.

(c) *Automatic in-grade progression.* Progression increases in accordance with a step or series of steps for a given job classification (including increases pursuant to a progression schedule for newly hired employees which meets the requirements of this paragraph) provided for in an employment contract in effect on November 13, 1971, or provided for in a pay practice previously set forth and in existence on such date, including the amount of increases provided for in such contract or pay practice to the extent that amount is provided for in a successor contract or pay practice. These progression increases must be solely related to the employee's length of service in a particular job classification and must operate without significant affirmative exercise of employer discretion or subjective evaluation of the employee's work performance. The only conditions which may attach to the increase are satisfactory work performance and length of service in a particular job classification. If it is an established practice that once an individual's work performance for a certain length of time in a particular job classification is determined to be satisfactory and the amount of the resulting increase as determined in advance is not subject to any discretionary adjustment, the increase is due to automatic ingrade progression.

(d) *Employer contributions to certain Federal or State plans. Employer contributions for—*

(1) Any Federal public plans whether the participation of the employer is optional or obligatory (e.g., social security, Railroad Retirement Act, Federal Insurance Contribution Act, Federal Unemployment Tax Act); or

(2) Any workmen's compensation or unemployment insurance plan pursuant to State law whether the participation of the employer is optional or obligatory.

(e) *Federal minimum wage and employment discrimination laws.* Any increases required to be paid pursuant to the Fair Labor Standards Act of 1938, as amended, including the Equal Pay Act; the Age Discrimination in Employment Act; Civil Rights Acts, as amended, of 1866, 1870, 1871, 1964; Executive Orders 11141 and 11246 dealing with discrimination by Federal contractors; Universal Military Training and Service Act or any other Federal or State law regulating re-

employment of servicemen; State fair employment practices laws, insofar as they prohibit discrimination in employment; or as a result of an enforcement action thereunder.

(f) *Governmental wage determinations.*—(1) *Coverage.*—(i) *Federal agency wage determinations.* That portion of any increase in wages and salaries required to be paid as a result of wage determinations made by any agency in the executive branch of the Federal Government pursuant to law for work (i) performed under contract with, or to be performed with financial assistance from the United States or the District of Columbia, or any agency or instrumentality thereof, or (ii) performed by aliens who are immigrants or who have been temporarily admitted to the United States pursuant to the Immigration and Nationality Act, 66 Stat. 166, as amended, which, with respect to an appropriate employee unit, would (except for the application of this subparagraph) cause the total of wage and salary increases to exceed the maximum permissible annual aggregate wage and salary increase.

(ii) *State and local prevailing wage laws.* That portion of any increase in wages and salaries required to be paid pursuant to the terms of (or under an order issued pursuant to the terms of) a prevailing wage law of a State or local government for work performed under contract with, or to be performed with financial assistance from a State or any agency, instrumentality, or subdivision of a State, which, with respect to an appropriate employee unit, would (except for the application of this subparagraph) cause the total of wage and salary increases to exceed the maximum permissible annual aggregate wage and salary increase.

(2) *Governmental employees.* The exclusion provided in this paragraph shall not be applicable to an appropriate employee unit which includes employees of a State, a local government, the District of Columbia, or a unit or instrumentality thereof.

(g) *Certain employer contributions to qualified benefit plans.* Employer contributions to qualified benefit plans which are excluded contributions pursuant to § 201.59.

(h) *Certain professional sports contests.* Amounts paid, either directly or indirectly, to those employees of a professional sports organization who have not been exempted from the coverage of this title and who are customarily paid from the proceeds of post-season playoff contests or from the proceeds of all-star exhibitions.

(i) *Certain productivity incentive programs.* Increases attributable to the operation of certain productivity incentive programs described in § 201.61.

(j) *Certain qualified apprenticeship and probationary programs.* Increases paid pursuant to apprenticeship and probationary programs that qualify under § 201.63.

In the case of exclusions claimed pursuant to paragraphs (e) and (f) of this section the prenotification and reporting rules of Part 202 of this chapter shall apply. Thus, pay adjustments given involving these exclusions must be separately prenotified or reported, as appropriate, for the pay adjustment category of the unit involved.

§ 201.61 Productivity incentive programs.

(a) *Existing productivity incentive programs.* A productivity incentive program (as defined in paragraph (d) of this section) in existence, or proposed for installation and communicated to employees prior to November 14, 1971, will be allowed to operate according to its terms. Thus, any increases attributable to the operation of such a program may be excluded from adjustment computations pursuant to § 201.60(i). This paragraph shall apply to productivity incentive programs on either a plantwide or less than plantwide basis. In the case of the substantial revision of such a program, the provisions of paragraph (b) or (c) of this section (whichever is applicable) shall apply.

(b) *New or revised productivity incentive programs on a plantwide basis.* Increases attributable to the operation of a new or substantially revised existing plantwide productivity incentive program (as defined in paragraph (d) of this section) may be excluded from adjustment computations pursuant to § 201.60(i) if—

(1) Within 30 days of the installation of such a program, or revision thereof, the employer has filed with the Pay Board a certification of such installation or revision which shall include a full description of the program, including the number of employees in the unit covered by such program, and (if applicable) its revision, and

(2) Increases under such program, or revisions thereof, actually reflect and are directly related to increases in productivity.

(c) *New or revised productivity incentive programs on less than a plantwide basis.* If, on less than a plantwide basis, the installation of a new productivity incentive program (as defined in paragraph (d) of this section) or the installation of changes to an existing productivity incentive program which would substantially revise the terms of such program, would cause the annual aggregate wage and salary increase of an appropriate employee unit to exceed the maximum permissible annual aggregate, increases attributable to the operation of such program may be excluded from adjustment computations pursuant to § 201.60(i): *Provided,* That increases under such program, or revisions thereof, actually reflect and are directly related to increases in productivity. Prior to the installation of such a program or the implementation of revisions thereto, the employer shall provide the Pay Board with a description of such program and shall certify to the Board that the program, including the number of employees in the unit covered by such program, or revisions thereto, will substantially meet criteria appropriate for such plans or practices. Among the factors which may

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be considered are that the plan or practice—

(1) Provides employees the expectation of a level of earnings above base rates which will vary in relationship to changes in productivity, but which will not result in increased unit labor costs for the employer;

(2) Is designed to provide earnings opportunities sufficient to motivate the participants;

(3) Contains standards of performance and provisions for revising such standards to reflect changes in equipment, methods, quality requirements, and other factors related to the basis for standards development;

(4) Contains guarantees of wages and earnings for such contingencies as downtime for reasons beyond the control of participants and for nonstandard work; and

(5) Defines the employees included and their relationship to increased productivity.

(d) *Productivity incentive program defined.* For the purposes of this part, the term "productivity incentive program" means a plan or practice which establishes a formal system whereby, in accordance with predetermined formulas, wage and salary payments to an employee or group of employees increase as the measured productivity of such employee or group increases and which contains all, or substantially all, of the factors set forth in paragraph (c) of this section: *Provided,* That where a single plan of practice is plantwide and includes all or substantially all of the employees in a plant or firm, payments may be based on the measured increase in productivity for such plant or firm as a whole.

(e) *Discontinuance.* If a productivity incentive program is discontinued and such action results in an increase in wages and salaries to the employees affected, the employer shall certify to the Pay Board within 30 days of discontinuance that such action was taken in good faith and not for the purpose of circumventing the intent of the economic stabilization program.

(f) *Disqualifying factors*—(1) *Variable compensation.* Notwithstanding the provisions of this section, any plan or practice providing for the payment or award of "incentive compensation" as defined in § 201.72(e) of this part shall be governed by Subpart F of this part. Plans, practices, or programs described in § 201.77 which do not meet the definition of productivity incentive programs (as defined in paragraph (d) of this section) are governed by Subpart F of this part.

(2) *Factors not within control of group.* No plan or practice will be considered a productivity incentive program within the meaning of this section which is based in whole, or in part, on company profits or earnings per share or which reflects factors or productivity gains, which in major part are due to the efforts of employees not covered by the plan or practice.

§ 201.62 New jobs, job classifications or positions.

(a) *Scope*—(1) *Coverage.* This section provides rules for the determination or establishment of pay rates for newly created jobs, job classifications, or positions (hereinafter referred to as "jobs") within an existing appropriate employee unit during such unit's control year. This section also provides rules for the determination or establishment of pay rates in a newly created appropriate employee unit consisting entirely of new jobs. For purposes of this section, the term "firm" shall have the same meaning as the term "person," as defined in § 201.2.

(2) *Exclusions from coverage.* This section shall not be used to redetermine the scope of, reassign jobs between, or reclassify (redefine) present jobs within, existing appropriate employee units of the same firm. Neither shall this section apply to the hiring of new employees to fill existing jobs of terminated employees within an existing appropriate employee unit of the same firm. This section may be used in determining an executive's base salary, but this section shall not apply to any other form of executive and variable compensation, the rules with respect to which are included in Subpart F.

(b) *Existing units*—(1) *General rule.* Except as provided in subparagraph (2) of this paragraph, if an employer establishes a new job within an existing appropriate employee unit during such unit's control year, the pay rate (taking into consideration skill level and length of service) established for such job during such control year may not exceed the pay rate (taking into consideration skill level and length of service)—

(i) For jobs having comparable duties, responsibilities, and hours within the same appropriate employee unit;

(ii) If no comparable jobs exist within the same appropriate employee unit, for jobs having comparable duties, responsibilities, and hours within the same firm;

(iii) If no comparable jobs exist within the same appropriate employee unit or within the same firm, for jobs having comparable duties, responsibilities, and hours in other firms located within the same local labor market area; or

(iv) If no comparable jobs exist within the same appropriate employee unit, within the same firm, or within other firms located in the same local labor market area, for jobs having comparable duties, responsibilities, and hours in other firms in the same commonly recognized industry.

(2) *Special rules.* A pay rate established for a new job in an existing appropriate employee unit, or by subsequent increase thereto, during such unit's control year may exceed the pay rate referred to in subparagraph (1) of this paragraph, if the excess is treated as a chargeable increase for such unit as if paid to, or apportioned among, one or more employees who were members of the appropriate employee unit on the base date for the control year during which such job is created. In computing the chargeable increase with respect to a new job, the initial rate determined pursuant to subparagraph (1) of this paragraph shall not be included in determining the base compensation rate for the unit for the control year in which such job is created.

(c) *New appropriate employee units*—(1) *General rule.* If an employer forms a new appropriate employee unit consisting entirely of new jobs, the pay rate (taking into consideration skill level and length of service) initially established for each new job may not exceed the pay rate (taking into consideration skill level and length of service) for each such job having comparable duties, responsibilities, and hours under the appropriate sequence of rules prescribed in paragraph (b)(1) of this section.

(2) *Control year rules*—(i) *First control year.* The first control year for an appropriate empolyee unit formed pursuant to the rules prescribed in subparagraph (1) of this paragraph shall be a period of 12 months (or less) ending on November 13, succeeding its formation.

(ii) *Succeeding control years.* Except as provided in § 201.52(d)(1), relating to newly organized units under certain master employment contracts, each succeeding control year for a new appropriate employee unit formed pursuant to the rules prescribed in subparagraph (1) of this paragraph shall be a 12-month period ending on the annual anniversary of the end of the first control year.

(3) *Limitation.* Once an initial pay rate has been established for a newly created job in a new appropriate employee unit, no subsequent increase to a wage rate in excess of that determined pursuant to paragraph (b)(1) of this section (except an increase excludable from adjustment computations pursuant to § 201.60) may be paid with respect to such job during the remainder of the control year during which such job is created.

(d) *Burden of proof.* If an employer creates a new job and establishes a pay rate for such job under paragraph (b) or (c) of this section, the burden of proving that the pay rate for such job does not exceed the rate for a job having comparable duties, responsibilities, and hours under the sequences of rules prescribed in paragraph (b)(1) of this section shall be on the employer.

§ 201.63 Qualified apprenticeship and probationary programs.

(a) *General rule.* Under § 201.60(j), an exclusion from adjustment computations is available in the case of wage and salary increases paid pursuant to a qualified apprenticeship or probationary program within the meaning of this section.

(b) *Qualified apprenticeship program.* A qualified apprenticeship program is a recognized formal bona fide program of training for occupations commonly known as skilled trades or crafts, which program—

(1) *Manner of recognition*—(i) *Registration.* Is registered with the Bureau of Apprenticeship and Training of the U.S. Department of Labor, or with a State apprenticeship agency recognized by such Bureau, or

(ii) *Employment contract.* Is contained in a collective bargaining agreement, or

(iii) *Historical practice.* Is a documented, established practice of the employer;

(2) *Minimum training period.* Requires a minimum of 2 years of on-the-job training, work experience, and related instruction (e.g., in the classroom, by correspondence, etc.) in the course of which the apprentice progressively acquires new skills and masters the application of those skills already learned pursuant to the program; and

(3) *Specific wage progression.* Provides specific wage increases or progressions after specific intervals of time so that the apprentice reaches the journeyman pay rate at the conclusion of his apprenticeship.

(c) *Qualified probationary program.* A qualified probationary program is a formal bona fide program pursuant to which an employee is restricted from exercising certain employee rights (e.g., the right to participate in fringe benefits, the right to invoke a grievance procedure, etc.) for a specified period of time not exceeding 6 months during which the employer observes the performance of a newly hired employee to determine whether the employee should be retained in the job. Such probationary period of time may, but need not, be tied in with a program described in paragraph (b) of this section.

(d) *Cross-reference.* Wage and salary increases pursuant to an apprenticeship or probationary program that do not qualify for the exclusion under § 201.60(j) may qualify for an exclusion under § 201.60(c), provided such increases meet the requirements of automatic ingrade progression.

§ 201.64 Special computational rules.

(a) *Cost of living allowance calculation*—(1) *In general.* If a wage and salary increase in an employment contract or pay practice results from a cost-of-living adjustment pursuant to and justified by a generally accepted escalator formula, the chargeable increase attributable to such cost-of-living adjustment shall be calculated by multiplying each cost-of-living adjustment by a fraction, the numerator of which shall be the number of months within the appropriate control year such cost-of-living adjustment is in effect, and the denominator of which shall be the number of months in such control year.

(2) *Illustration.* The provisions of this paragraph may be illustrated by the following example:

Example. Employer A determines that pursuant to his contract with Union X a $0.08 cost-of-living adjustment will be paid for the last quarter of a 12-month control year. The chargeable increase for the control year is 3/12×$0.08 or $0.02.

(b) *Reduction in hours worked per week or per day*—(1) *In general.* A reduction in scheduled hours worked per week, day, or other unit of time (without a proportionate decrease in compensation), which results in an increase in the base compensation rate, shall be deemed a chargeable adjustment. The calculation of such adjustment shall take into account the direct effect of such reduction in hours on the base compensation rate and the indirect effect of such reduction on the base compensation rate attributable to other increases which occur during the control year. Such adjustment shall be expressed as a percentage which is determined by—

(i) Dividing the excess of—

(*a*) The number of hours worked per week, day, or other unit of time in the base payroll period, over

(*b*) The number of hours worked per such week, day, or other unit of time after the proposed reduction

by the number of hours worked after such proposed reduction;

(ii) Adding to such quotient the total of wage and salary increases during the control year which results as the secondary effect of a reduction in hours (such total shall be determined by multiplying the total percentage increase in the base compensation rate (other than the increase computed pursuant to subdivision (i) of this subparagraph) for the control year by the quotient determined in subdivision (i) of this subparagraph); and

(iii) Multiplying such sum by 100.

(2) *Illustration.* The application of subparagraph (1) of this paragraph may be illustrated by the following example:

Example: A collective bargaining agreement between Employer A and Union X calls for a wage and salary increase which equals 5% of the unit's base compensation rate during a control year. In addition, the agreement provides for a reduction in hours worked per week from 40 to 35 (with no corresponding reduction in pay), during the control year. This reduction in hours is a chargeable adjustment and is computed as a percentage which is obtained by adding .143 [5÷35] and .007 (5%×.143), and multiplying the sum (.150) by 100, which yields an adjustment, expressed as a percent, or 15.0%.

(3) *Alternative methods.* In the event that the method of computation prescribed in subparagraph (1) of this paragraph does not adequately reflect the wage and salary increase attributable to a reduction in hours in a particular case or class of cases (e.g., where the method for accrual of leave is independent of a reduction in weekly hours worked), the Pay Board may prescribe a more appropriate method.

(c) *Modification of longevity or automatic progression plans in existence on November 13, 1971*—(1) *General rule*—(i) *Chargeable increase.* The aggregate amount of wage and salary increases granted pursuant to a longevity or automatic progression plan in existence on November 13, 1971, and continued in a successor plan, is excluded from the computation of chargeable increases for any control year (pursuant to § 201.60(b) and (c)). If a modification of any such plan is made after November 13, 1971 (including, but not limited to changes in eligibility requirements and the size or frequency of increases), and such modification causes the amount of increases paid pursuant to such plan as modified to exceed the amount which would have been paid pursuant to the plan in existence on November 13, 1971, the excess amount shall be included in the computation of wage and salary increases.

(ii) *Secondary effect not chargeable.* For purposes of this paragraph, a modification of a longevity or automatic progression plan in existence on November 13, 1971, will not be deemed to have occurred if the increased amounts paid pursuant to such plan are solely the result of a general wage and salary increase.

(2) *Computation of chargeable increase*—(i) *Method of computation.* The amount of chargeable increase, if any, shall be the amount stated in dollars and cents per hour equal to the excess of:

(*a*) A projection of the sum of longevity or automatic progression increases to be granted during the control year pursuant to the modified plan (assuming the same work force composition as existed during the base payroll period but aged one additional year), over

(*b*) A projection of the sum of longevity or automatic progression increases which would have been granted during the control year if the plan in existence on November 13, 1971, had been in effect without modification (assuming the same work force composition as existed during the base payroll period but aged one year).

(ii) *Credits.* If the amount generated by such modified plan is less than the amount which would have been granted under the plan in existence on November 13, 1971, for the control year, the amount saved may not be applied to reduce the computation of wage and salary increases unless otherwise provided by the Pay Board.

(3) *Illustrations.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). On November 13, 1971, a longevity plan provided for a 2 percent increase in weekly salary after 10 years of service. The average salary for employees with 10 years of service was $100 per week. The November 13, 1971, plan cost $2 per week per employee with 10 years of service. On March 1, 1972, salaries were increased across the board 5 percent, resulting in an average weekly salary of $105 for employees with 10 years of service. The November 13, 1971, plan now pays out 2 percent of $105 or $2.10. The additional $0.10 per week increase is not considered a modification of the plan in existence on November 13, 1971; the entire $2.10 may be excluded under § 201.60(b).

Example (2). A November 13, 1971, longevity plan provided for a $2 per week increase after 10 years of service. On March 1, 1972, the longevity plan was modified to provide for a $3 per week increase after 10 years of service. The additional $1 per week increase for employees with 10 years of service is a chargeable increase applicable to the employee unit.

Example (3). Employee unit X contains 10 employees, two with 8 years of service, seven with 9 years of service and one with 10 years of service. On November 13, 1971, the employees were covered by a longevity plan which provided for a $500 per year increase

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granted to the employees in a plan unit

factor indicated in subparagraph (3) of

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after 10 years of service. On March 1, 1972, the longevity plan was changed to provide for a $750 per year increase after 10 years of service. The chargeable increase for the first control year would be $2000 (i.e., 8 employees × $250 per employee). This amount would be reduced to an hourly rate and charged as an increase in average straight-time hourly rate for employee unit X.

Example (4). Assume the same facts as in Example (3), but instead of increasing the longevity payment after 10 years of service, the employees would receive $500 per year after 9 years of service. The November 13, 1971, plan would cost $3,500 for the seven employees reaching their 10th anniversary. The modified plan would cost $3,500 plus $1,000 for the two employees reaching their ninth anniversary. The chargeable amount would be $4,500–$3,500=$1,000 reduced to an hourly rate for the employee unit during the control year.

(d) *Changes of appropriate employee units.* The determination of an appropriate employee unit may not be changed without the prior approval of the Pay Board or its delegate subject to such terms and conditions as may be set forth in such approval; *Provided, however,* that such a change may be made without prior Pay Board approval when such change is required to reflect a substantial revision in the contractual or historical wage and salary relationships subsequent to the initial appropriate employee unit determination, which revision renders the former unit no longer appropriate.

(e) *Retroactive payments included in base compensation rate and computation of annual aggregate increase therein.* In any case in which the total straight-time payroll expenditures (§ 201.55(b)(1)(iv)), total cost of included benefits (§ 201.58(b)(8)), or total cost of qualified benefits (§ 201.59(b)), includes payments or costs made or incurred retroactively pursuant to § 201.31, 201.32 (b) or (c), 201.33, or 201.36, or pursuant to Pay Board decision under § 201.30, 201.34, or 201.40, such payments or costs shall be included in both the divisor and dividend in the computations made pursuant to § 201.53(a) (1), (2), and (3) for the control year in which such payments are made or such costs are incurred.

Subpart F—Executive and Variable Compensation

§ 201.71 Scope.

(a) *Purpose.* The purpose of this subpart is to provide rules and standards to stabilize items of executive and variable compensation whether or not payable to an executive.

(b) *Conflict with other provisions.* To the extent that any provision of this chapter is inconsistent with the provisions of this subpart, the provisions of this subpart shall control. Thus, in the area of executive base salaries and job perquisites only those existing contracts meeting the requirements of § 201.72(f) and in the area of incentive compensation plans and practices only those existing contracts meeting the requirements of § 201.72(f) and pay practices previously set forth meeting the requirements of § 201.72(g) shall be allowed to operate under the terms and conditions imposed under § 201.35.

(c) *Exception.* The provisions of this subpart shall not affect the provisions of a collective bargaining agreement.

§ 201.72 Definitions.

For purposes of this subpart, the term—

(a) "Wages and salaries" means the same as under § 201.2 except that items constituting incentive compensation shall not be treated as wages and salaries unless otherwise provided in this subpart.

(b) "Executive compensation" includes base salary, job perquisites, and incentive compensation.

(c) "Base salary" means cash remuneration paid to an employee by an employer on account of the performance of services.

(d) "Job perquisite" means any item paid or furnished to or on behalf of an employee by an employer on account of the performance of services including, but not limited to, such items as reimbursement or payment by an employer of country club membership fees, dues, or other similar items; reimbursement or payment by an employer of uninsured medical expenses which are not covered by the employer's usual insurance program with respect to such expenses; reimbursement or payment by an employer for financial consulting or advisory services relating to an employee's personal financial affairs; the personal use of an automobile furnished by an employer; and payment by an employer for or in-kind furnishing of housing; and other such similar items.

(e) "Incentive compensation" includes the following items: Bonuses (whether payable in cash or other property); stock options; so-called phantom stock awards (including both dividend and share units); so-called performance share awards; employer contributions to stock purchase plans or stock bonus plans (whether or not qualified under section 401(a) of the Code or the regulations thereunder); and employer contributions to profit-sharing plans which fail to meet the requirements of section 401(a) of the Code. This term, however, does not include profit-sharing plans which meet the requirements of section 401(a) of the Code.

(f) "Existing contract" means a contract with respect to employment in effect on November 13, 1971, all the elements of which have been reduced to a writing which has been signed by the employee and the employer prior to November 14, 1971.

(g) "Pay practice previously set forth" means an incentive compensation plan or practice in effect on November 13, 1971, which meets all of the following requirements—

(1) The plan or practice had been communicated to the affected employees;

(2) The aggregate amount of the payment or award cannot be increased or withheld in its entirety by the exercise of any discretion;

(3) The aggregate amount of the payment or award is determined by a definite method or clear formula; and

(4) The definite method or clear formula is applied only to a wage or salary amount on a percentage or other similar basis without reference to profits, earnings, or any factor or item other than the actual wage or salary amount.

(h) "Plan, practice, or program unit" means the employees covered by an incentive compensation plan or practice, a sales or commission plan or practice, or a production incentive program.

(i) "Plan, practice, or program year" means the 12-month period with respect to which an incentive compensation plan or practice, a sales or commission plan or practice, or a production incentive program operates.

(j) "Pay Board" means the Pay Board established pursuant to Executive Order No. 11640, 37 F.R. 1213 (1972), as amended.

§ 201.73 Executive salaries and job perquisites.

(a) *In general.* Executive base salaries paid to or on behalf of and job perquisites paid or furnished to or on behalf of the employees in an appropriate employee unit during any control year shall be subject to the standard established in § 201.10(a) (or, where applicable, any exception thereto contained in Subpart B of this part).

(b) *Deferred payments—(1) Items deferred from an earlier year.* An item of base salary paid to the employees in an appropriate employee unit during any control year which was earned by any such employees during an earlier control year (or if not during a control year, during the applicable 12-month period beginning on November 14 and ending on November 13) shall not be considered as an item of base salary for such employees for the control year during which such item is paid.

(2) *Items deferred to a later control year.* An item of base salary paid to the employees in an appropriate employee unit during any control year shall include all such items which were earned by all such employees during such control year.

(3) *Definition.* For purposes of this paragraph, an item is considered as being "earned" during the control year in which services are performed giving rise to the obligation to pay for the performance of such services whether or not such obligation is contingent upon the performance of future services or any other condition or restriction (including, but not limited to, an agreement not to compete).

(c) *Valuation of items constituting job perquisites.* The amount of any job perquisite shall be determined as follows:

(1) The employer's current expenditure where such expenditure constitutes the only cost of the item, otherwise;

(2) The reasonable cost of providing the item to be determined from all the facts and circumstances involved.

§ 201.74 Incentive compensation plans (other than stock options).

(a) *In general—(1) Plans in effect on November 13, 1971.* Subject to the provisions of this section, an employer having an established written plan with respect to items of incentive compensation (but not including any plan or part thereof with respect to stock options) in effect on November 13, 1971, where the aggregate maximum amount of incentive compensation under the plan is determined according to a definite method or clear formula, may continue to administer such a plan providing the following conditions are met—

(i) There has been a payment prior to November 14, 1971, under the plan with respect to any one of the last 3 plan years ending prior to November 14, 1971;

(ii) Administration of the plan is clearly in accordance with all conditions and limitations expressed therein (other than those terms and conditions as may be restricted by this section); and

(iii) Administration of the plan is in the customary manner without any deviation from such manner for purposes of circumventing the intent of the wage and salary stabilization program.

(2) *Plans established on or after November 14, 1971.* An employer having an incentive compensation plan (but not including any plan or part thereof with respect to stock options) described in—

(i) Section 201.78(c) (with respect to adoption of new plans) and approved by the Pay Board pursuant to § 201.78, or

(ii) Section 201.79(a) (with respect to plans of new organizations) and reported to the Pay Board pursuant to § 201.79,

shall administer such a plan subject to the provisions of paragraphs (a) through (c) of this section (but not including the condition contained in subdivision (i) of paragraph (a)(1) of this section).

(3) *Certain other plans.* An employer having an incentive compensation plan (but not including any plan or part thereof with respect to stock options) described in § 201.78(d) (with respect to certain expiring plans) shall administer such a plan subject to the provisions of paragraphs (a) through (c) of this section (but not including the condition contained in subdivision (i) of paragraph (a)(1) of this section).

(b) *Computation of allowable amount—(1) First plan year—(i) Plans described in paragraph (a)(1) of this section.* The allowable amount of any item of incentive compensation granted to the employees in a plan unit under a plan described in paragraph (a)(1) of this section with respect to the first plan year for which payment is made on or after November 14, 1971, shall not exceed an amount determined as follows: the base year amount plus such base year amount multiplied by the standard established in § 201.10(a).

(ii) *Plans described in paragraph (a)(2) of this section.* The allowable amount of any item of incentive compensation granted to the employees in a plan unit under a plan described in subdivision (i) or (ii) of paragraph (a)(2) of this section with respect to the plan year consisting of the first consecutive 12-month period under which the plan operates shall not exceed the base year amount.

(2) *Certain plan years with respect to plans operating under § 201.35.* The allowable amount of any item of incentive compensation granted to the employees in a plan unit under a plan which operates under § 201.35 shall not exceed the amount granted with respect to such plan as allowed under § 201.35 with respect to any plan year the plan operated under that section.

(3) *Subsequent plan years.* The allowable amount of any item of incentive compensation granted to the employees in a plan unit with respect to a plan described in any one of subparagraphs (1) through (3) of paragraph (a) of this section with respect to any plan year other than a plan year described in subparagraph (1) or (2) of this paragraph shall not exceed an amount equal to the product of:

(i) the allowable amount described in paragraph (b) of this section with respect to such plan plus such amount multiplied by the standard established in § 201.10(a) and

(ii) the adjustment factor described in subparagraph (5) of this paragraph.

For purposes of subdivision (i) of this subparagraph the allowable amount with respect to any plan described in paragraph (a)(3) of this section shall be such amount which was granted with respect to the last plan year such plan operated under § 201.35.

(4) *Definition.* For purposes of this paragraph, the term "base year amount" means—

(i) In the case of a plan described in paragraph (a)(1) of this section, the amount (in dollars, or where appliable, in dividend or share units) of an item of incentive compensation granted to the employees in a plan unit with respect to one of the last 3 plan years ending prior to November 14, 1971, for which there has been a payment under the plan prior to November 14, 1971;

(ii) In the case of a plan described in paragraph (a)(2)(i) of this section, the amount (in dollars, or where applicable, in dividend or share units) of an item of incentive compensation established by the Pay Board as the amount allowed to be granted with respect to the first consecutive 12-month period under which the plan operates; and

(iii) In the case of a plan described in paragraph (a)(2)(ii) of this section, the amount (in dollars, or where applicable, in dividend or share units) of an item of incentive compensation granted under the plan with respect to the first consecutive 12-month period under which the plan operates, provided such amount is not unreasonably inconsistent with the intent and purpose of the wage and salary stabilization program or the policies of the Pay Board.

(5) *Adjustment for change in size of plan unit—(i) Method.* The adjustment factor indicated in subparagraph (3) of this paragraph with respect to the change in the size of any plan unit shall be a fraction, the numerator of which is the sum of the base unit salary plus base unit salary additions, less base unit salary deletions, and the denominator of which is the base unit salary.

(ii) *Definitions.* For purposes of subdivision (i) of this subparagraph the term—

(*a*) "Base unit salary" means the aggregate of the base salaries of all employees in the plan unit on the last day of the base year with respect to the plan at the annual salary rate in effect with respect to each employee on such day;

(*b*) "Base unit salary additions" means the aggregate of the base salaries of all employees in the plan unit (except those employees added to such unit solely on account of a merger or other type of acquisition occurring on or after November 14, 1971) on the last day of the plan year for which the adjustment is being made who were not in the plan unit on the last day of the base year with respect to the plan at the annual salary rate in effect with respect to each employee on the last day of the plan year for which the adjustment is being made;

(*c*) "Base unit salary deletions" means the aggregate of the base salaries of all individuals who were in the plan unit on the last day of the base year with respect to the plan but not in the plan unit on the last day of the plan year for which the adjustment is being made at the annual salary rate in effect with respect to each such individual on the last day of the base year; and

(*d*) "Base year" means—

(*1*) With respect to a plan described in paragraph (a)(1) or (2) of this section the plan year used to determine the base year amount with respect to such plan; and

(2) With respect to a plan described in paragraph (a)(3) of this section the last plan year the plan operated under § 201.35.

(c) *Rules with respect to computation of allowable amount—(1) Deferred payments—(i) Items deferred from an earlier plan year.* For purposes of computing the allowable amount of any item of incentive compensation granted with respect to any plan year, an item of incentive compensation paid to the employees in a plan unit during any plan year which was granted to any such employees with respect to an earlier plan year shall not be considered as an item of incentive compensation for such employees for the plan year during which such item is paid.

(ii) *Items deferred to a later plan year.* For purposes of computing the allowable amount of any item of incentive compensation granted with respect to any plan year, an item of incentive compensation granted to the employees in a plan unit with respect to any plan year which is deferred to a later plan year shall be considered as an item of incentive compensation with respect to such employees for the plan year during which such item is granted.

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(iii) *Granted with respect to a plan year.* For purposes of this section, an item is granted with respect to the plan year for which the amount generated under the plan is computed whether or not such amount is paid during that year.

(2) *Amounts in excess of allowable amount*—(i) *Treatment.* If the amount of any item of incentive compensation granted pursuant to a plan described in paragraph (a) of this section to which paragraph (b)(1)(ii) of this section does not apply is in excess of the allowable amount of such item with respect to any plan year determined pursuant to the rules contained in paragraph (b) of this section, such excess shall be deemed to be an increase in wages and salaries with respect to the appropriate employee units of the employees participating in the plan unit in the amount determined pursuant to the rules contained in subdivision (ii) of this subparagraph during the control year with respect to each such appropriate employee unit when paid to such employees in such appropriate employee units (or if not paid, such control year such amount would have been paid had such amount been paid). Such amount shall also be considered as a pay adjustment for purposes of the prenotification and reporting requirements of Part 202 of this chapter with respect to each such appropriate employee unit when such amount is considered as wages and salaries.

(ii) *Apportionment to appropriate employee units.* The amount of the increase in wages and salaries described in subdivision (i) of this subparagraph shall be apportioned to the appropriate employee units of the employees participating in the plan unit. The amount of such increase which shall be apportioned to an appropriate employee unit shall be determined when the amount in excess is paid (or if not paid, when such amount would have been paid had such amount been paid) as follows: the number of employees in an appropriate employee unit who are participating in such a plan unit multiplied by a fraction, the numerator of which is the amount of the excess and the denominator of which is the number of employees in the plan unit.

(iii) *Treatment of amounts apportioned.* The amount of any increase in wages and salaries apportioned to the appropriate employee units of the employees in any plan unit as described in subdivision (ii) of this subparagraph shall be considered as an increase in wages and salaries during the control year with respect to each such appropriate employee unit when paid to such employees in such appropriate employee units (or if not paid, such control year such amount would have been paid had such amount been paid). Such amount shall also be considered as a pay adjustment for purposes of the prenotification and reporting requirements of Part 202 of this chapter with respect to each such appropriate employee unit when such amount is considered as wages and salaries.

(iv) *Rule with respect to amount apportioned to appropriate employee units.* Any amount in excess of an allowable amount as described in this subparagraph and apportioned pursuant to the rules contained in subdivision (ii) of this subparagraph shall not be allowed to increase the maximum permissible annual aggregate wage and salary increase with respect to any such appropriate employee unit, but shall reduce the maximum permissible aggregate wages and salaries payable to an appropriate employee unit by such amount for the control year such amount is paid (or if not paid, the control year such amount would have been paid had such amount been paid).

(v) *Rule with respect to phantom stock awards.* For purposes of determining the amount of any excess with respect to phantom stock awards, each phantom dividend or share unit shall be deemed to be an actual share of stock not subject to any restriction.

(3) *Valuation of items of incentive compensation.* The amount of an award shall be determined as follows—

(i) For phantom stock awards: In dividend or share units;

(ii) For performance share awards: Subject to prior approval pursuant to § 201.78, in dollars in an amount equal the present fair market value of the stock to be awarded assuming attainment of at least 75 percent of the performance goal (or such other percentage or amount as established by the Pay Board) allocated over the performance period under the plan;

(iii) For bonuses awarded in stock: In dollars in an amount equal to the fair market value of such stock at the time of the award regardless of any conditions or restrictions, less the amount (if any) paid for such stock by the employee;

(iv) For bonuses awarded in property other than stock: In dollars in an amount equal to the fair market value of such property at the time of the award, regardless of any conditions or restrictions, less the amount (if any) paid for such property by the employee;

(v) For employer contributions in money such as contributions to stock bonus plans and stock purchase plans or to profit-sharing plans. In dollars in an amount equal to the employer's contribution, regardless of any deferral in time of the employee's rights under such a plan or any other condition or restriction;

(vi) For employer contributions in property other than money (including the right to purchase property, such as stock, at less than the fair market value), to plans described in subdivision (v) of this subparagraph: In dollars in an amount equal to the fair market value of such property (less the amount of any employee contributions, if any), regardless of any conditions or limitations, any deferral in time of the employee's rights under the plan, or any other condition or restriction.

(d) *Rules with respect to certain plans.* (1) Any plan described in paragraph (a)(1) of this section which fails to meet the condition of having made the payment or award required under such paragraph shall be considered as a new plan subject to the provisions of § 201.78(c) and paragraphs (a) through (c) of this section (but not including the condition contained in subdivision (i) of paragraph (a)(1) of this section).

(2) Any plan described in paragraph (a)(1) of this section which meets the definition of § 201.72 (f) or (g) and operates under § 201.35 shall not operate under such paragraph (a)(1).

(3) Any plan described in subparagraph (2) of this paragraph which no longer operates under § 201.35 shall be considered as an expired incentive compensation plan within the meaning of § 201.78(d) and shall operate under the applicable provisions of this subpart.

§ 201.75 Incentive compensation practices (other than stock options).

(a) *In general*—(1) *Practices in effect on November 13, 1971.* Subject to the provisions of this section, an employer having a practice (other than a plan described in § 201.74(a)) with respect to items of incentive compensation (but not including any plan, part thereof, or practice with respect to stock options) in effect on November 13, 1971, may continue to administer such a practice providing the following conditions are met—

(i) There has been a payment prior to November 14, 1971, under the practice as a matter of custom or habit with respect to two of the last 3 practice years ending prior to November 14, 1971 (or if the practice has been in existence less than 2 practice years ending prior to November 14, 1971, then with respect to 1 practice year ending prior to such date);

(ii) Administration of the practice is clearly in accordance with demonstrated past custom or habit (other than those customs or habits as may be restricted by this section); and

(iii) Administration of the practice is in the customary manner without any deviation from such manner for purposes of circumventing the intent of the wage and salary stabilization program.

For purposes of subdivisions (ii) and (iii) of this subparagraph where the aggregate maximum amount of incentive compensation under a practice is determined according to a definite method or clear formula, such method or formula shall continue to apply. Where the aggregate maximum amount of incentive compensation under a practice is not so determined the following formula shall be deemed to apply with respect to such a practice: The base year amount with respect to such practice divided by profits of the employer prior to Federal taxes with respect to such base year. The formula so deemed to apply shall continue to apply for purposes of computing the aggregate amount of incentive compensation.

(2) *Practices established on or after November 14, 1971.* An employer having an incentive compensation practice (but not including any plan, part thereof, or practice with respect to stock options) described in—

(i) Section 201.78(c) (with respect to adoption of new practices) and approved by the Pay Board pursuant to § 201.78, or

(ii) Section 201.79(a) (with respect to practices of new organizations) and reported to the Pay Board pursuant to § 201.79,

shall administer such a practice subject to the provisions of paragraphs (a) through (c) of this section (but not including the condition contained in subdivision (i) of paragraph (a)(1) of this section).

(3) *Certain other practices.* An employer having an incentive compensation practice (but not including any plan, part thereof, or practice with respect to stock options) described in § 201.78(d) (with respect to certain expiring practices) shall administer such a practice subject to the provisions of paragraphs (a) through (c) of this section (but not including the condition contained in subdivision (i) of paragraph (a)(1) of this section).

(b) *Computation of allowable amount*—(1) *First practice year*—(i) *Practices described in paragraph (a)(1) of this section.* The allowable amount of any item of incentive compensation granted to the employees in a practice unit under a practice described in paragraph (a)(1) of this section with respect to the first practice year for which payment is made on or after November 14, 1971, shall not exceed an amount determined as follows: the base year amount plus such base year amount multiplied by the standard established in § 201.10(a).

(ii) *Practices described in paragraph (a)(2) of this section.* The allowable amount of any item of incentive compensation granted to the employees in a practice unit under a new or revised practice described in subdivision (i) or (ii) of paragraph (a)(2) of this section with respect to the practice year consisting of the first consecutive 12-month period under which the practice operates shall not exceed the base year amount.

(2) *Certain practice years with respect to practices operating under § 201.35.* The allowable amount of any item of incentive compensation granted to the employees in a practice unit under a practice which operates under § 201.35 shall not exceed the amount granted with respect to such practice as allowed under § 201.35 with respect to any practice year the practice operated under that section.

(3) *Subsequent practice years.* The allowable amount of any item of incentive compensation granted to the employees in a practice unit with respect to a practice described in any one of subparagraphs (1) through (3) of paragraph (a) of this section with respect to any practice year other than a practice year described in subparagraph (1) or (2) of this paragraph shall not exceed an amount equal to the product of:

(i) The allowable amount described in paragraph (b) of this section with respect to such practice plus such amount multiplied by the standard established in § 201.10(a); and

(ii) The adjustment factor described in subparagraph (5) of this paragraph. For purposes of subdivision (i) of this subparagraph the allowable amount with respect to any practice described in paragraph (a)(3) of this section shall be such amount which was granted with respect to the last practice year such practice operated under § 201.35.

(4) *Definition.* For purposes of this paragraph the term "base year amount" means—

(i) In the case of a practice described in paragraph (a)(1) of this section, the amount (in dollars, or where applicable, in dividend or share units) of an item of incentive compensation granted to the employees in a practice unit with respect to one of the last 3 practice years ending prior to November 14, 1971, for which there has been a payment under the practice prior to November 14, 1971;

(ii) In the case of a practice described in paragraph (a)(2)(i) of this section, the amount (in dollars, or where applicable, in dividend or share units) of an item of incentive compensation established by the Pay Board as the amount allowed to be granted with respect to the first consecutive 12-month period under which the practice operates; and

(iii) In the case of a practice described in paragraph (a)(2)(ii) of this section, the amount (in dollars, or where applicable, in dividend or share units) of an item of incentive compensation granted under the practice with respect to the first consecutive 12-month period under which the practice operates, provided such amount is not unreasonably inconsistent with the intent and purpose of the wage and salary stabilization program or the policies of the Pay Board.

(5) *Adjustment for change in size of practice unit*—(i) *Method.* The adjustment factor indicated in subparagraph (3) of this paragraph with respect to the change in the size of any practice unit shall be a fraction, the numerator of which is the sum of the base unit salary plus base unit salary additions, less base unit salary deletions, and the denominator of which is the base unit salary.

(ii) *Definitions.* For purposes of subdivision (i) of this subparagraph the term—

(a) "Base unit salary" means the aggregate of the base salaries of all employees in the practice unit on the last day of the base year with respect to the practice at the annual salary rate in effect with respect to each employee on such day;

(b) "Base unit salary additions" means the aggregate of the base salaries of all employees in the practice unit (except those employees added to such unit solely on account of a merger or other type of acquisition occurring on or after November 14, 1971) on the last day of the practice year for which the adjustment is being made who were not in the practice unit on the last day of the base year with respect to the practice at the annual salary rate in effect with respect to each employee on the last day of the practice year for which the adjustment is being made;

(c) "Base unit salary deletions" means the aggregate of the base salaries of all individuals who were in the practice unit on the last day of base year with respect to the practice but not in the practice unit on the last day of the practice year for which the adjustment is being made at the annual salary rate in effect with respect to each such individual on the last day of the base year; and

(d) "Base year" means—

(1) With respect to a practice described in paragraph (a) (1) or (2) of this section the practice year used to determined the base year amount with respect to such practice; and

(2) With respect to a practice described in paragraph (a)(3) of this section the last practice year the practice operated under § 201.35.

(c) *Rules with respect to computation of allowable amount*—(1) *Deferred payments*—(i) *Items deferred from an earlier practice year.* For purposes of computing the allowable amount of any item of incentive compensation granted with respect to any practice year, an item of incentive compensation paid to the employees in a practice unit during any practice year which was granted to any such employees with respect to an earlier practice year shall not be considered as an item of incentive compensation for such employees with respect to the practice year during which such item is paid.

(ii) *Items deferred to a later practice year.* For purposes of computing the allowable amount of any item of incentive compensation granted with respect to any practice year, an item of incentive compensation granted to the employees in a practice unit with respect to any practice year which is deferred to a later practice year shall be considered as an item of incentive compensation for such employees for the practice year during which such item is granted.

(iii) *Granted with respect to a practice year.* For purposes of this section, an item is granted with respect to the practice year for which the amount generated under the practice is computed whether or not such amount is paid during such year.

(2) *Amounts in excess of allowable amount*—(i) *Treatment.* If the amount of any item of incentive compensation granted pursuant to a practice described in paragraph (a) of this section to which paragraph (b)(1)(ii) of this section does not apply is in excess of the allowable amount of such item with respect to any practice year determined pursuant to the rules contained in paragraph (b) of this section, such excess shall be deemed to be an increase in wages and salaries with respect to the appropriate employee units of the employees participating in the practice unit in the amount determined pursuant to the rules contained in subdivision (ii) of this subparagraph during the control year with respect to each such appropriate employee unit when paid to such employees in such appropriate employee units (or if not paid, such con-

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trol year such amount would have been paid had such amount been paid).

(ii) *Apportionment to appropriate employee units.* The amount of the increase in wages and salaries described in subdivision (i) of this subparagraph shall be apportioned to the appropriate employee units of the employees participating in the practice unit. The amount of such increase which shall be apportioned to an appropriate employee unit shall be determined when the amount in excess is paid (or if not paid, when such amount would have been paid had such amount been paid) as follows: the number of employees in an appropriate employee unit who are participating in such a practice unit multiplied by a fraction, the numerator of which is the amount of the excess and the denominator of which is the number of employees in the practice unit.

(iii) *Treatement of amounts apportioned.* The amount of any increase in wages and salaries apportioned to the appropriate employee units of the employees in any practice unit as described in subdivision (ii) of this subparagraph shall be considered as an increase in wages and salaries during the control year with respect to each such appropriate employee unit when paid to such employees in such appropriate employee units (or if not paid, such control year such amount would have been paid had such amount been paid). Such amount shall also be considered as a pay adjustment for purposes of the prenotification and reporting requirements of Part 202 of this chapter with respect to each such appropriate employee unit when such amount is considered as an increase in wages and salaries.

(iv) *Rule with respect to amounts apportioned to appropriate employee units.* Any amount in excess of an allowable amount as described in this subparagraph and apportioned pursuant to the rules contained in subdivision (ii) of this subparagraph shall not be allowed to increase the maximum permissible annual aggregate wage and salary increase with respect to any such appropriate employee unit, but shall reduce the maximum permissible aggregate wages and salaries payable to an appropriate employee unit by such amount for the control year such amount is paid (or if not paid, the control year such amount would have been paid had such amount been paid).

(v) *Rule with respect to phantom stock awards.* For purposes of determining the amount of any excess with respect to phantom stock awards, each phantom dividend or share unit shall be deemed to be an actual share of stock not subject to any restriction.

(3) *Valuation of items of incentive compensation.* Items of incentive compensation shall be valued according to the provisions of § 201.74(c)(3).

(d) *Rules with respect to certain practices.* (1) Any practice described in paragraph (a)(1) of this section which fails to meet the condition of having made the payment or award required under such paragraph shall be considered as a new practice subject to the provisions of § 201.78(c) and paragraphs (a) through (c) of this section (but not including the condition contained in subdivision (i) of paragraph (a)(1) of this section).

(2) Any practice described in paragraph (a)(1) of this section which meets the definition of § 201.72 (f) or (g) and operates under § 201.35 shall not operate under such paragraph (a)(1).

(3) Any practice described in subparagraph (2) of this paragraph which no longer operates under § 201.35 shall be considered as an expired incentive compensation practice within the meaning of § 201.78(d) and shall operate under the applicable provisions of this subpart.

§ 201.76 Stock options.

(a) *Certain existing stock options.* Stock options granted to the employees in a plan unit in writing prior to the close of business on December 16, 1971, under a stock option plan adopted by an employer prior to November 14, 1971, and in effect on November 13, 1971, may be exercised. The grant of such options shall not count against the allowable number of shares that may be issued under new stock options granted during an employer's fiscal year pursuant to paragraph (b)(1) or (c) of this section.

(b) *Stock options not deemed to be an increase in wages and salaries.*—(1) *Grant.*—(i) *Plan requirements.* New stock options under a stock option plan adopted by an employer prior to November 14, 1971, and in effect on November 13, 1971, may be granted to the employees in a plan unit under such a stock option plan but only in writing provided that such plan—

(*a*) Is approved by the employer's stockholders within 12 months of its adoption;

(*b*) Stipulates a maximum number of shares to be made available for stock option grants;

(*c*) Establishes and maintains the option price of shares that may be issued at not less than 100 percent of the fair market value of such shares on the date of grant of options for such shares; and

(*d*) Is administered in accordance with the customary manner.

(ii) *Aggregate share limitation with respect to the fiscal year beginning prior to November 14, 1972.* The allowable number of shares that may be issued under new stock options granted during an employer's fiscal year which began prior to November 14, 1972, under a stock option plan described in subdivision (i) of this subparagraph which meets the requirements of subdivisions (*a*) through (*d*) of such subdivision shall not exceed the number of shares determined as follows: The number of shares (adjusted to reflect stock splits and stock dividends) covered under stock options granted under such plan during the last 3 fiscal years of the employer ending prior to November 14, 1971, divided by 3; provided, however, if the plan was in effect on November 13, 1971, for at least 1 fiscal year of the employer ending prior to November 14, 1971, but less than 3 such fiscal years, the allowable number of shares that may be issued under new stock options granted during an employer's fiscal year which began prior to November 14, 1972, shall not exceed the number of shares (adjusted to reflect stock splits and stock dividends) covered under stock options granted during the end of the fiscal year ending before November 14, 1971, that such plan was in existence divided by the number of such fiscal years;

(iii) *Aggregate share limitation with respect to fiscal years beginning on or after November 14, 1972.* Except for fiscal years of an employer covered by paragraph (c) of this section, the allowable number of shares that may be issued under new stock options granted during an employer's fiscal year beginning on or after November 14, 1972, under a stock option plan which meets the requirements of (*a*) through (*d*) of subdivision (i) of this paragraph shall not exceed the number of shares (adjusted to reflect stock splits and stock dividends) determined:

(*a*) By dividing the total number of shares covered under stock options granted under such plan prior to the fiscal year of the employer beginning on or after November 14, 1972, with respect to which the allowable number of shares under new stock options is determined, by the number of fiscal years during which the plan operated prior to the fiscal year for which the allowable number of shares to be issued is determined; and

(*b*) By multiplying the number determined in (*a*) of this subdivision (iii) by a fraction, the numerator of which is the number of employees in the plan unit on the first day of the fiscal year with respect to which the allowable number of shares is determined and the denominator of which is the average number of employees in the plan unit during the fiscal years the plan operated prior to the fiscal year for which the allowable number of shares is determined.

For purposes of computing the average number of employees in the plan unit under (*b*) of this subdivision the plan unit shall be deemed to consist of all employees at the end of each fiscal year of the employer during which the plan operates who held options granted under such plan or who exercised options which had been granted under such plan.

(2) *Exercise.* New stock options covering shares within the applicable aggregate share limitations of this paragraph and paragraph (c) of this section under a stock option plan which meets the requirements of (*a*) through (*d*) of subdivision (i) of subparagraph (1) of this paragraph may be exercised by the employees in a plan unit under such a stock option plan.

(3) *Excess.* Options for shares in excess of the aggregate share limitation with respect to new stock options granted during an employer's fiscal year determined according to the rules contained in subparagraph (1) of this paragraph (or where applicable under paragraph (c) of this section) under a stock option plan which meets the requirements of (*a*) through (*d*) of subdivision (i) of subparagraph (1) of this paragraph shall not be granted without the prior approval of the Pay Board pursuant to § 201.78 and options granted without such approval shall not be exercised unless prior approval has been obtained.

(c) *Rules for determining aggregate share limitation with respect to certain existing and new plans.*—(1) *Certain plans in effect on November 13, 1971.* For purposes of determining the allowable number of shares that may be issued under new stock options granted during an employer's fiscal year under a stock option plan described in paragraph (b)(1)(i) of this section if any plan was—

(i) In effect on November 13, 1971, and no stock options were granted during the life of the plan prior to the employer's fiscal year beginning on or after November 14, 1972, the allowable number of shares that may be issued under new stock options granted during an employer's fiscal year beginning on or after November 14, 1972, shall not exceed 25 percent of the number of shares (adjusted to reflect stock splits and stock dividends) authorized for stock options at the time the plan was adopted, or, if amended to increase share authorization, at the time last amended. After such fiscal year, the aggregate share limitation provided in subdivision (iii) of paragraph (b)(1) of this section shall apply.

(ii) In effect on November 13, 1971, for less than a full fiscal year of the employer, (*a*) the allowable number of shares that may be issued under new stock options granted during an employer's fiscal year beginning prior to November 14, 1972, shall not exceed the greater of the number of shares (adjusted to reflect stock splits and stock dividends) subject to options actually granted prior to November 14, 1971, during such period of less than a full fiscal year, or 25 percent of the number of shares authorized for stock options during the life of the plan, and (*b*) the allowable number of shares (adjusted to reflect stock splits and stock dividends) that may be issued under new stock options pursuant to such plan during an employer's fiscal year beginning on or after November 14, 1972, shall be determined pursuant to the provisions of subdivision (i) of this subparagraph or subdivision (iii) of paragraph (b)(1) of this section, whichever is applicable.

(iii) In effect on November 13, 1971, for three or more fiscal years of the employer ending prior to November 14, 1971, and no stock options were granted during the 3 fiscal years ending before such date, (*a*) the allowable number of shares that may be issued under new stock options granted during an employer's fiscal year beginning prior to November 14, 1972, shall not exceed 25 percent of the number of shares (adjusted to reflect stock splits and stock dividends) authorized for stock options but not granted during the life of the plan; and (*b*) the allowable number of shares that may be issued under new stock options pursuant to such plan during an employer's fiscal year beginning on or after November 14, 1972, shall be determined pursuant to the provisions of subdivision (i) of this subparagraph or subdivision (iii) of paragraph (b)(1) of this section, whichever is applicable.

(2) *Plans approved pursuant to § 201.78.* The allowable number of shares that may be issued under new stock options granted under a stock option plan which is approved pursuant to § 201.78 and which meets the requirements of (*a*) through (*d*) of subdivision (i) of paragraph (b)(1) of this section shall be: (i) For the first fiscal year grants are made pursuant to such plan approval, the number of shares established by the Pay Board as the allowable number of shares applicable to the approved stock option plan; and (ii) for each fiscal year thereafter the number of shares determined pursuant to subdivision (iii) of paragraph (b)(1) of this section.

(3) *Plans reported pursuant to § 201.79.* The allowable number of shares that may be issued under new stock options granted under a stock option plan which was reported to the Pay Board pursuant to § 201.79 and which meets the requirements of (*a*) through (*d*) of paragraph (b)(1)(i) of this section shall be: (i) For the first fiscal year grants are made with respect to the reported plan, the number of shares reported as to be covered by grants during such fiscal year, provided such grants are not for the purpose of circumventing the intent of the wage and salary stabilization program and are not unreasonably inconsistent with the intent and purpose of the wage and salary stabilization program or the policies of the Pay Board; and (ii) for each fiscal year thereafter the number of shares determined pursuant to subdivision (iii) of paragraph (b)(1) of this section.

(4) *Plans described in § 201.78(d).* The allowable number of shares that may be issued under new stock options granted under a stock option plan which is described in § 201.78(d) and which meets the requirements of (*a*) through (*d*) of paragraph (b)(1)(i) of this section shall be: (i) For any fiscal year the plan operates under § 201.35, the number of shares allowed to be covered by grants under § 201.35; and (ii) for each fiscal year thereafter the number of shares determined pursuant to subdivision (iii) of paragraph (b)(1) of this section.

(d) *Special rules.* (1) For purposes of determining the allowable number of shares to be issued under new stock options during an employer's fiscal year pursuant to paragraphs (b) or (c) of this section the term "fiscal year" means the 12 month period constituting the employer's fiscal year. Parts of such a fiscal year shall be measured in months, such months constituting twelfths of a fiscal year. Parts of such a month shall be counted as a full month.

(2) For purposes of this paragraph the term "new stock option" shall include—(i) an option not previously granted with respect to shares covered under a stock option plan regardless of whether the shares covered under such new option were previously covered under another stock option, and (ii) an option previously granted where the exercise period with respect to such option is modified.

(e) *Stock options deemed to be an increase in wages and salaries.*—(1) *Grant.* Except for stock options granted pursuant to the provisions of paragraph (a) of this section, the grant of any stock option under a stock option plan (whether or not such plan operated under § 201.35) failing to meet the requirements of (*a*) through (*d*) of paragraph (b)(1)(i) of this section where such plan—

(i) Was adopted prior to November 14, 1971, and was in effect on November 13, 1971, or

(ii) Was adopted on or after November 14, 1971, and was approved by the Pay Board,

shall be deemed to be an increase in wages and salaries with respect to the appropriate employee units of the employees participating in the plan unit. Except as provided in § 201.78(a) (with respect to replacement of stock option plans under which options covering all of the authorized shares have been granted), options under stock option plans adopted on or after November 14, 1971, shall not be granted until such plan is approved by the Pay Board pursuant to § 201.78.

(2) *Exercise.* Except for stock options granted pursuant to the provisions of paragraph (a) of this section, the exercise of any stock option granted under a stock option plan (whether or not such plan operates under § 201.35) failing to meet the requirements of (*a*) through (*d*) or paragraph (b)(1)(i) of this section where such plan—

(i) Was adopted prior to November 14, 1971, and was in effect on November 13, 1971, or

(ii) Was adopted on or after November 14, 1971, and was approved by the Pay Board,

shall be deemed to be an increase in wages and salaries with respect to the appropriate employee units of the employees participating in the plan unit. Except as provided in § 201.78(a) (with respect to replacement of stock option plans under which options covering all of the authorized shares have been granted), options under stock option plans adopted on or after November 14, 1971, shall not be granted or exercised until such plan is approved by the Pay Board pursuant to § 201.78.

(3) *Apportionment to appropriate employee units.* An increase in wages and salaries described in subparagraph (1) or (2) of this paragraph shall be apportioned to the appropriate employee units of the employees participating in the plan unit. The amount of such increase which shall be apportioned to such an appropriate employee unit shall be determined in the case of a grant described in subparagraph (1) of this paragraph when the option is granted and in the case of an exercise described in subparagraph (2) of this paragraph when

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the option is exercised as follows: the number of employees in an appropriate employee unit who are participating in the plan unit multiplied by a fraction, the numerator of which is the amount of such increase in wages and salaries and the denominator of which is the number of employees in the plan unit.

(4) *Treatment of amounts apportioned.* The amount of any increase in wages and salaries apportioned to the appropriate employee units of the employees in any plan unit as described in subparagraph (3) of this paragraph shall be considered as an increase in wages and salaries during the control year with respect to each such appropriate employee unit the option is granted, in the case of the grant of an option, and during the control year with respect to each such appropriate employee unit the option is exercised, in the case of the exercise of an option. Such amount shall also be considered as a pay adjustment for purposes of the prenotification and reporting requirements of Part 202 of this chapter with respect to each such appropriate employee unit when such amount is considered as an increase in wages and salaries.

(5) *Rule with respect to amounts apportioned to appropriate employee units.* Any amount of increase in wages and salaries determined pursuant to this paragraph and apportioned pursuant to the rules contained in subparagraph (3) of this section shall not be allowed to increase the maximum permissible annual aggregate wage and salary increase with respect to an appropriate employee unit, but shall reduce the maximum permissible wages and salaries payable to an appropriate employee unit by the amount apportioned to such unit for the control year to which such increase in wages and salaries is apportioned.

(f) *Valuation of stock options.* For purposes of paragraph (e) of this section the value of a stock option—

(1) When granted shall be an amount equal to the value of such option at the time of grant (without taking into account any conditions or restrictions imposed under the stock option or on the shares under option) determined as follows: the sum of the option premium plus the excess of the fair market value of the shares under option at the time of the grant over the price of the shares under the option, and

(2) When exercised shall be an amount equal to the value of such option at the time of exercise (without taking into account any conditions or restrictions imposed under the stock option or on the shares under option) determined as follows: the excess of the fair market value of the shares under option at the time of exercise over the sum of the option premium plus the fair market value of the shares under the option at the time of the grant.

For purposes of this paragraph the term "option premium" means the value of the shares under option. Such value shall be an amount equal to 25 percent of the fair market value of the shares under option at the time of grant without taking into account any conditions or restrictions imposed under the stock option or on the shares under option.

(g) *Rules with respect to certain plans.* (1) Stock options granted under a stock option plan described in paragraph (b)(1)(i) of this section which meets the definition of § 201.72 (f) or (g) and operates under § 201.35 shall not operate under such paragraph (b)(1).

(2) Any plan described in subparagraph (1) of this paragraph which no longer operates under § 201.35 shall be considered as an expired stock option plan within the meaning of § 201.78(d) and shall operate under the applicable provisions of this subpart.

§ 201.77 Sales or commission plans or practices and certain production incentive programs.

(a) *In general*—(1) *Established plans, practices, or programs.* A sales or commission plan or practice established and in effect on November 13, 1971, or a production incentive program established, and in effect on such date may continue to operate in accordance with its provisions and subject to the provisions of this chapter. Generally, such plans, practices, or programs are those which directly reflect the performance of the employee participant in the form of sales or production output. Thus, for example, an incentive award related to profits is generally not a sales or commission plan or practice or a production incentive program within the meaning of this section.

(2) *New plans, practices, or programs.* An employer having a sales or commission plan or practice or a production incentive program described in § 201.78 (c) (with respect to new plans, practices, or programs) and approved by the Pay Board pursuant to § 201.78 or described in § 201.79(a) (with respect to new organizations) and reported to the Pay Board pursuant to § 201.79 shall administer such a plan, practice, or program subject to the provisions of this chapter.

(b) *Change in method of calculating earnings.* Amounts paid under a plan, practice, or program described in paragraph (a) of this section shall not be considered as an increase in wages and salaries with respect to the appropriate employee units of the employees participating in the plan, practice, or program units unless there has been a change in the method of calculating the earnings under such a plan, practice, or program resulting in an increase in the aggregate amount of compensation with respect to such plan, practice, or program unit for the plan, practice, or program year such change occurs. Thus, a downward revision of the rate or formula with respect to a plan, practice, or program where there is an increase in the aggregate amount of compensation attributable to factors unrelated to the change in rate or formula, such as an increase in volume, either in dollars or units, under such plan, practice, or program, does not result in an increase with respect to the appropriate employee units of the employees participating in the plan, practice, or program unit.

(c) *Increases in wages and salaries.* The amount of the increase in wages and salaries described in paragraph (b) of this section shall be deemed to be an increase in wages and salaries with respect to the appropriate employee units of the employees participating in the plan, practice, or program unit. Such increase shall be apportioned to the appropriate employee units of the employees participating in the plan, practice, or program unit. The amount of such increase which shall be apportioned to an appropriate employee unit shall be determined when the amount constituting the increase is paid as follows: The number of employees in an appropriate employee unit who are participating in such a plan, practice, or program unit multiplied by a fraction, the numerator of which is the amount of the increase and the denominator of which is the number of employees in the plan, practice, or program unit. The amount so apportioned to each appropriate employee unit with respect to any plan, practice, or program year shall be considered as an increase in wages and salaries during the control year such amount is paid (or if not paid, the control year such amount would have been paid had such amount been paid). Such amount shall also be considered as a pay adjustment for purposes of the prenotification and reporting requirements of Part 202 of this chapter with respect to each such appropriate employee unit when such amount is considered as an increase in wages and salaries. Such amount shall not be allowed to increase the maximum permissible annual aggregate wage and salary increase with respect to an appropriate employee unit, but shall reduce the maximum permissible aggregate wages and salaries payable to an appropriate employee unit by such amount for the control year such amount is paid. For purposes of this section, a plan, practice, or program without a specified plan, practice, or program year shall be considered as operating during the 12-month period beginning on November 14 and ending on November 13.

(d) *Certain productivity programs.* Notwithstanding the provisions of this section and §§ 201.78 and 201.79, any productivity incentive program described in § 201.61 shall be governed by the provisions of that section.

§ 201.78 New or revised plans, practices, or programs.

(a) *Replacement of existing plans, practices, or programs.* (1) An employer may, without the approval of the Pay Board, adopt a new incentive compensation plan or practice, sales or commission plan or practice, or production incentive program replacing such a plan, practice, or program operating under the provisions of this subpart which has lapsed or terminated on account of the operation of time only when such new plan, practice, or program does not increase the aggregate amount of compensation that would have been granted (whether or not currently) the plan, practice, or program unit had the replaced plan, practice, or program not lapsed or terminated on account of the operation of time. Such new plan, practice, or program shall continue to operate under the applicable provisions of this subpart. Thus, an incentive compensation plan in effect on November 13, 1971, described in § 201.74(a)(1) and operating under § 201.74 which is replaced under the provisions of this subparagraph shall continue to operate under § 201.74 (including any limitations with respect to the allowable amount with respect to such plan applicable prior to replacement).

(2) Replacement of an existing plan, practice, or program other than a replacement described in subparagraph (1) of this paragraph shall be submitted to the Pay Board for prior approval pursuant to paragraph (c) of this section.

(3) For purposes of subparagraph (1) of this paragraph a stock option plan under which all of the authorized shares have been the subject of option grants shall be considered as having lapsed or terminated on account of the operation of time.

(b) *Modification or revision of existing plans, practices, or programs.* (1) An employer may, without the approval of the Pay Board, modify or revise an incentive compensation plan or practice operating under the provisions of this subpart only when such modified or revised plan or practice does not increase the aggregate amount of compensation that would have otherwise been granted (whether or not currently) a plan or practice unit under the plan or practice without taking such modification or revision into account.

(2) Any modification or revision of an incentive compensation plan or practice not described in subparagraph (1) of this paragraph shall be submitted to the Pay Board for prior approval. Modifications or revisions requiring such approval include the reduction of performance goals or targets from those in the base year under an incentive compensation plan or practice, the decrease in the price under a stock option plan at which a stock option may be exercised, and the alteration of eligibility requirements for participation in an incentive compensation plan or practice which would increase the number of employees eligible to participate in the plan or practice unit.

(3) For the treatment of a modification or revision of a sales or commission plan or practice or a production incentive program resulting in an increase in the aggregate amount of compensation that would otherwise have been granted (whether or not currently), see § 201.77.

(c) *Adoption of new plans, practices, or programs*—(1) *Approval.* An employer may adopt a new incentive compensation plan or practice, sales or commission plan or practice, or production incentive program where such a plan, practice, or program did not exist prior to November 14, 1971, only upon the prior approval of the Pay Board and under such terms and conditions as may be imposed by the Pay Board. In the case of a stock option plan requiring the prior approval of the Pay Board no stock options shall be granted in anticipation of or subject to such approval.

(2) *Performance share plans.* An employer may utilize the valuation for so-called performance share awards set forth in § 201.74(c)(3)(ii) only upon the Pay Board's prior approval (pursuant to subparagraph (1) of this paragraph) of a performance share plan under which performance share awards are to be granted, and subject to such terms and conditions as may be imposed by the Pay Board.

(d) *Rules with respect to certain expired plans, practices, and programs.* Any plan, practice, or program which meets the definitions of § 201.72(f) or § 201.72 (g) and operated under the provisions of § 201.35, but which no longer operates under such section shall be allowed to operate only as provided under the provisions of this subpart; provided, however, that to the extent incentive compensation attributable to such plans, practices, or programs is not treated as wages and salaries, or as an increase thereto, under the provisions of this subpart such compensation shall not be included in computing the base compensation rate of any appropriate employee unit of which employees in the plan unit are a part. Thus, for example, items granted under an incentive compensation plan described in § 201.74(a)(1) which meets the definition of § 201.72(f) or § 201.72(g) and operated under § 201.35 are not treated as an increase in wages and salaries and are not included in computing the base compensation rate of any appropriate employee unit of which employees in the plan or practice unit are a part. However, options granted under a stock option plan in effect on November 13, 1971, failing to meet the requirements of subdivisions (a) through (d) of paragraph (b)(1)(i) of § 201.76 which meets the definition of § 201.72(f) or § 201.72(g) and operated under § 201.35 are treated as an increase in wages and salaries pursuant to the provisions of § 201.76(e) with respect to plan years such plan operated under § 201.35 and such increase is included in the base compensation rate of any appropriate employee unit of which the employees in the plan or practice unit are a part with respect to any control year beginning after November 13, 1971.

(e) *Rules with respect to plans, practices, or programs described in paragraph (a), (b), or (c) of this section.* A new plan, practice, or program adopted pursuant to paragraph (a) or (c) of this section or a plan, practice, or program modified or revised pursuant to paragraph (b) of this section or allowed to operate pursuant to paragraph (d) of this section shall comply with other relevant sections of this subpart applicable to plans, practices, or programs in effect on November 13, 1971.

(f) *Criteria.* In considering applications for approval pursuant to the provisions of this section, or for exceptions from the provisions of this section or other provisions of this subpart, the Pay Board will review the facts and circumstances of each case and utilize the criteria set forth in § 201.30 as such may be applicable.

§ 201.79 New organizations and changes in organizational form.

(a) *New organizations.* Any business, enterprise, partnership, corporation, association, or any other organization organized or established on or after November 14, 1971, which is not a successor to any such organization in existence before such date, may establish incentive compensation plans or practices, sales or commission plans or practices, or production incentive programs provided that within 90 days after establishment of such business, enterprise, partnership, corporation, association, or other organization, all such plans, practices, or programs shall be filed in report form with the Pay Board. The report filed shall in detail describe such plans, practices, of programs including the amount of each item of actual or anticipated compensation (including items described in § 201.73) with respect to each appropriate employee unit (or, where appropriate, the employees in such unit). Also, where available, this description shall include compensation levels of appropriate employee units (or, where appropriate, the employees in such unit) in comparable jobs in nearby firms. The report filed shall also demonstrate that the establishment of the entity and such plans, practices, or programs was not for the purpose of circumventing the intent of the wage and salary stabilization program and are not unreasonably inconsistent with the intent and purpose of the wage and salary stabilization program or the policies of the Pay Board.

(b) *Changes in organization form (other than mergers and similar reorganizations).* If an employer is doing business in a particular organizational form and thereafter reorganizes and conducts its business in a different organizational form and, before, after, or as part of and on account of such reorganization establishes new incentive compensation plans or practices, sales or commission plans or practices, or production incentive programs which are successors to plans, practices, or programs in effect before such reorganization and which operate under the provisions of this subpart, it shall, within 90 days after such reorganization file in report form all such plans, practices, or programs with the Pay Board. The report filed shall in detail describe such plans, practices, or programs including the amount of each item of actual or anticipated compensation (including items described in § 201.73) with respect to each appropriate employee unit (or, where appropriate, the employees in such unit). Also, when available, this description shall include compensation levels of appropriate employee units (or, where appropriate, the employees in such unit) in similar positions in

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the predecessor organization (or organizations) prior to the reorganization. The report filed shall also demonstrate that the reorganization and establishment of such plans, practices, or programs were not for the purpose of circumventing the intent of the wage and salary stabilization program and are not unreasonably inconsistent with the intent and purposes of the wage and stabilization program or policies of the Pay Board. For purposes of this paragraph a plan, practice, or program is considered as a "successor" to another plan, practice, or program where such plan, practice, or program does not increase the aggregate amount of compensation that would have otherwise been granted (whether or not currently) a plan, practice, or program unit without taking the reorganization into account. Plans, practices, or programs which are not successor plans, practices, or programs shall be considered as new plans, practices, or programs subject to the provisions of § 201.78(c)(1).

(c) *Mergers and similar reorganizations.* If an employer merges with, or otherwise acquires, another business, enterprise, partnership, corporation, association, or any other organization, such employer may continue its incentive compensation plans and practices, sales or commission plans and practices, and production incentive programs pursuant to the applicable provisions of this subpart and the employees of such other organization may be added to such plans, practices, or programs pursuant to the applicable provisions of this subpart. The employer may continue the incentive compensation plans and practices, sales or commissions plans and practices, and production programs of such other organizations pursuant to the applicable provisions of this subpart and the employees of the employer may be added to such plans, practices, or programs pursuant to the applicable provisions of this subpart. Plans, practices, or programs which are not successor plans, practices, or programs within the meaning of paragraph (b) of this section shall be considered as new plans, practices, or programs subject to the provisions of § 201.78(c)(1). Employers who wish to combine plans, practices, or programs on account of such a merger shall submit such combined plans, practices, or programs to the Pay Board for prior approval.

(d) *Carryover of attributes.* For purposes of this subpart, a change in organizational form described in paragraph (b) or (c) of this section shall not affect the applicable attributes of the employer, such as appropriate employee units, plan, practice, or program units, plan, practice, or program years, or control years. Such attributes shall be carried over by the employer undertaking such a change in form, unless otherwise clearly required by the organizational change.

Subpart G—Nonunion Construction

§ 201.81 Scope.

(a) *Purpose.* The purpose of this subpart is to provide rules and standards for the stabilization of wages and salaries payable to certain employees engaged in construction, who are not covered by the terms of a collective bargaining agreement. Such employees are hereinafter referred to as nonunion construction employees.

(b) *Conflict with other provisions.* To the extent that any provision of this chapter is inconsistent with the provisions of this subpart, the provisions of this subpart shall control.

§ 201.82 Definitions.

For purposes of this subpart, the term—

(a) "Appropriate employee unit" means the same as under § 201.2, except that such unit shall be restricted to nonunion construction employees who work at a jobsite or jobsites in a particular craft (or similar classification) and in a local labor market area.

(b) "Basic wage rate" means the highest straight-time hourly rate approved for payment to union construction employees in a local labor market area by the committee authorized under Executive Order 11588, Executive Order 11640, and Pay Board Amended Order No. 2 to review wage and salary increases and other economic adjustments in the construction industry. Such rate shall be expressed in dollars and cents.

(c) "Construction" means that work defined by section 11(a) of Executive Order No. 11588, 36 F.R. 6339 (1971).

(d) "Control year" means the same as in § 201.52.

(e) "Craft" means a classification of mechanic or laborer engaged in construction at a job site.

(f) "Local labor market area" means the geographical area in the United States within which labor is normally recruited for work at a construction jobsite.

(g) "Maximum permissible annual aggregate wage and salary increase" means, with respect to the control year of an appropriate employee unit of included nonunion construction employees, an amount (expressed in dollars and cents per hour) equal to the increase in the basic wage rate approved within such control year for members of the same craft or classification engaged in construction as union construction employees at jobsites in the same local labor market area. For purposes of this definition, such term includes any additional amounts required as the secondary effect of the increase referred to in the preceding sentence upon the level of included benefits. Notwithstanding the preceding two sentences, such term means any increase granted with respect to an appropriate employee unit pursuant to a decision of the Board.

(h) "Union construction employees" means members of a particular craft engaged in construction at a jobsite who are covered by the terms of a collective-bargaining agreement.

§ 201.83 Excluded nonunion construction employees.

(a) *Offsite employees.* If employees of an employer who employs nonunion construction employees are not engaged in construction at the jobsite (e.g., office personnel, officers of the employer corporation, etc.) such employees are excluded from the coverage of §§ 201.84 through 201.88 and are therefore subject to the standard, criteria for exceptions, and other provisions of this part. See Subparts A, B, C, D, E, and F of this part. Thus, such employees may not be included in an appropriate employee unit subject to the provisions of §§ 201.84 through 201.88.

(b) *Onsite employees.* If nonunion construction employees of a particular craft are engaged in construction at the jobsite, but union construction employees of the particular craft are not working in the same local labor market area, such nonunion construction employees are excluded from the coverage of §§ 201.84 and 201.85 and are therefore subject to the standard, criteria for exceptions, and other provisions of this part. See Subparts A, B, C, D, E, and F of this part. Thus, such employees may not be included in an appropriate employee unit subject to the provisions of §§ 201.84 and 201.85.

§ 201.84 Included nonunion construction employees.

(a) *Coverage.* This section provides rules for the treatment of wage and salary increases paid to nonunion construction employees in a particular craft (or similar classification) working at jobsites in a local labor market area where union construction employees perform the same or substantially similar work.

(b) *General Rule.* The general wage and salary standard for an appropriate employee unit of included nonunion construction employees is established at 5.5 percent. The standard shall apply to any wage and salary increase payable with respect to an appropriate employee unit of included nonunion construction employees pursuant to a pay practice established, modified or administered with discretion after November 13, 1971.

(c) *Limitation.* Notwithstanding the provisions of paragraph (b) of this section, an increase in wages and salaries for an appropriate employee unit of included nonunion construction employees may be otherwise limited during a control year to an amount determined by the Pay Board or its delegate to be necessary to preserve historical wage and salary relationships, to foster orderly economic growth, or to prevent gross inequities, hardships, serious market disruptions, or localized shortages of labor.

(d) *Exception.* Nonunion construction employees in a particular craft (or similar classification) working at a jobsite or jobsites in a local labor market area may be granted a wage and salary increase (expressed in dollars and cents) that exceeds the standard, if union construction employees perform the same or substantially similar work at jobsites in the same local labor market area: provided, however, that, except as provided in § 201.86, no wage and salary increase for the control year may be granted to such nonunion construction employees in excess of the maximum permissible annual aggregate wage and salary increase.

(e) *Fringe benefits*—(1) *Included benefits.* A wage and salary increase granted pursuant to this section, or pursuant to § 201.86, shall include increases or amounts, as appropriate, attributable to the secondary effect of increases in the straight-time hourly rate as part of such wage and salary increase. Increases in the total cost of included benefits, other than secondary effect increases described in the preceding sentence, shall be subject to the provisions of § 201.58.

(2) *Qualified benefits.* Any wage and salary increase in an employer's total cost of qualified benefits (as defined in § 201.59(b)), which is granted to nonunion construction employees subject to the provisions of this section, or § 201.86, shall be subject to the qualified benefits standard and other appropriate rules in § 201.59.

§ 201.85 Percentage relationship to standard.

For purposes of § 201.88(a) a percentage shall be determined by dividing the annual aggregate wage and salary increase with respect to the appropriate employee unit of nonunion construction employees (§ 201.84) for the control year, by the base compensation rate in effect for such unit on the base date. Any request for an exception pursuant to § 201.86 shall also include the computation prescribed in the preceding sentence.

§ 201.86 Essential employees.

An exception may be granted to an employer of nonunion construction employees who is unable to recruit or retain employees of a particular craft essential to the efficient operation of such employer's business. Thus, nonunion construction employees otherwise subject to the provisions of this subpart may be granted a wage and salary increase in excess of the general wage and salary standard or the exception provided in § 201.84(d) or, if appropriate, may be paid at a rate in excess of the basic wage rate for the local-labor market area, if the payment of such excess has received prior approval of the Pay Board. A request for such exception shall be submitted on forms prescribed by the Pay Board and shall provide, in sufficient detail, evidence to support the grant of such exception.

§ 201.87 New labor market area.

If an employer of nonunion construction employees enters a local labor market area for the first time, and union construction employees in the same craft or similar classification as the nonunion construction employees are subject to a basic wage rate for such area, the employer of such nonunion construction employees may not pay such employees a rate which exceeds the basic wage rate approved for such union construction employees.

§ 201.88 Reporting requirements.

(a) Wage and salary increases granted pursuant to § 201.84 shall be reported to the Pay Board by the employer on forms prescribed by the Board within 14 days after such increases have been put into effect, if such increases are in excess of the standard.

(b) An employer of nonunion construction employees, who first enters a local labor market area and pays his employees a rate pursuant to § 201.87, shall submit a report to the Pay Board, on forms prescribed by the Board, within 14 days after such payment.

(c) Wage and salary increases excluded from the coverage of this subpart by § 201.83 shall be subject to the applicable provisions of Part 202 of this chapter.

Subpart H—State and Local Governments

§ 201.91 Scope.

(a) *Purpose.* The purpose of this subpart is to provide rules and standards for the stabilization of wages and salaries payable to employees of States, local governments, the District of Columbia, and units and instrumentalities thereof. For purposes of this subpart, such employees are referred to as governmental employees.

(b) *Conflict with other provisions.* To the extent that any provision of this chapter is inconsistent with the provisions of this subpart, the provisions of this subpart shall control.

(c) *Exclusion.* Pay adjustments which affect appropriate employee units of governmental employees and which are not expressly within the terms of any provision of this subpart are subject to the general wage and salary standard, criteria for exceptions to the standard, and all other provisions of this part.

§ 201.92 Definitions.

For purposes of this subpart, the term—

"Fiscal year" means an employer's customary 12-month fiscal accounting period.

"Government" means a State, a local government, the District of Columbia, or a unit or instrumentality thereof.

§ 201.93 Certification of pay adjustments.

(a) *In general.* For purposes of the special rules applicable to State and local governments in §§ 202.10(b)(1), 202.20(b)(1), and 202.30(b)(6)(1) of this chapter, any certification elected by a government pursuant thereto shall be made in the manner and subject to the rules set forth in this section.

(b) *Manner of certification*—(1) *Election.* An employer which is a government may submit to the Pay Board a certification that all pay adjustments not requiring prior approval in each of the appropriate employee units with respect to which certification is made will not exceed the maximum permissible annual aggregate wage and salary increase for a control year. Such certification shall be made each 6 months on forms and pursuant to instructions prescribed by the Board or, in the absence of such forms and instructions, in the language substantially as set forth in subparagraph (2) of this paragraph. Such certification shall be submitted on or before the last day of the first and seventh months of the employer's fiscal year. Such certification shall indicate the approximate number of employees in the units covered by such certification. At the option of the employer, such certification may by its terms apply—

(i) To specifically identified appropriate employee units of the employer;

(ii) To all appropriate employee units of the employer; or

(iii) To all appropriate employee units of the employer, except specifically identified units.

(2) *Certification language.* Until such time as specific forms and instructions are issued by the Pay Board, the certification elected pursuant to subparagraph (1) of this paragraph shall be made in the form of a sworn statement, executed by a duly authorized official of the employer. Such sworn statement shall contain substantially the following language:

> This is to certify that all pay adjustments which apply to or affect employees of (name of governmental unit or instrumentality) in each of the appropriate employee units designated below will, during the (first) (second) half of the fiscal year ending (date), not exceed the maximum permissible annual aggregate wage and salary increase for the control year.
>
> It is understood that no pay adjustment in excess of such maximum permissible increase may be implemented without the prior approval of the Pay Board or the Internal Revenue Service.
>
> This certification applies to (the following appropriate employee units:) (all appropriate employee units.) (all appropriate employee units with the following exceptions:)
>
> Signed this _____ day of _____ 19____:

(c) *Noncertified pay adjustments.* Any pay adjustment affecting an appropriate employee unit of governmental employees not covered by a certification shall be subject to the applicable prenotification and reporting provisions of Part 202 of this chapter.

(d) *Applications for exception.* The submission of a certification pursuant to the provisions of paragraph (b) of this section with respect to a particular appropriate employee unit shall not preclude the submission of an application for an exception to the general wage and salary standard with respect to a pay adjustment which applies to or affects such unit during the portion of a fiscal year covered by such certification. However, once such application has been submitted, the employer may no longer certify with respect to such unit during any portion of the fiscal year in which the pay adjustment sought by exception would be effective.

(e) *Computation of adjustments.* Any certification made under this section shall be pursuant to the methods of computation with respect to increases in wages and salaries set forth in Subpart E of this part. Accordingly, increases in wages and salaries are computed with respect to the control year of the applicable appropriate employee unit whereas certification is made with respect to an employer's fiscal year.

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(f) *State mandated pay adjustments.* The submission of a certification pursuant to the provisions of paragraph (b) of this section with respect to a particular appropriate employee unit shall not preclude the implementation of a State mandated pay adjustment which has been approved by the Pay Board pursuant to § 201.96. However, if such State mandated pay adjustment, as implemented by an employer which is a unit or instrumentality of local government, increases the base compensation rate of such appropriate employee unit in excess of the maximum premissible wage and salary increase for a control year, such employer may no longer certify with respect to such appropriate employee unit during any portion of the fiscal year in which the State mandated pay adjustment is put into effect.

§ 201.94 Certain public officials.

(a) *General rule.* Subject to the provisions of this section, an employer which is a government may, during a control year, pay an increase in wages and salaries to an individual governmental employee in excess of the general wage and salary standard, if—

(1) Such employee is an elected or appointed official of a government;

(2) The employer elects not to include such employee in any other appropriate employee unit for purposes of determining the maximum permissible annual aggregate wage and salary increase applicable to such unit, but treats such employee as a separate appropriate employee unit;

(3) Such increase in wages and salaries is not a State mandated pay adjustment within the provisions of § 201.96;

(4) The law of the jurisdiction has prohibited any increase in the wages and salaries paid to such employee (other than an increase in fringe benefits) for a period of more than 12 months immediately preceding the effective date of an increase in wages and salaries paid pursuant to the provisions of this section; and

(5) The wages and salaries paid to such employee (other than fringe benefits) have not been increased during such period.

(b) *Limitation on pay adjustments.* The maximum permissible increase in wages and salaries which may be paid to an individual governmental employee under the provisions of this section shall be determined by computing an amount (expressed in dollars and cents) equal to the excess, if any, of—

(1) The product of the total of wages and salaries paid to such employee, determined with respect to the first payroll period following the beginning of the prohibition period (determined pursuant to paragraph (d)(2) of this section), and the multiple standard (determined pursuant to paragraph (d)(3) of this section), over

(2) The total of increases in fringe benefits which have been put into effect with respect to such employee during such prohibition period.

(c) *Manner of computation.* For purposes of this section, the amount of wages and salaries paid to an individual governmental employee may be computed and expressed in terms consistent with the employer's customary practice, e.g., on an annual or monthly basis, and not necessarily in terms of hourly compensation.

(d) *Definitions*—(1) *Fringe benefits.* For purposes of this section, the term "fringe benefits" means, with respect to an individual employee, compensation of the types which are included in determining the average hourly benefit rate. Thus, for example, nonaccountable expense allowances are fringe benefits.

(2) *Prohibition period.* For purposes of this section, the term "prohibition period" means a period of time (expressed in years and fractions thereof) immediately preceding the effective date of an increase in wages and salaries paid to an individual governmental employee, during which the law of the jurisdiction has prohibited any increase in wages and salaries (other than fringe benefits) applicable to such individual governmental employee. For purposes of the preceding sentence, a pay adjustment shall be considered to be prohibited by the law of the jurisdiction only if the employer is prevented by superior legal authority (e.g., constitution, charter, or legislation enacted by a higher level of government) from paying any wage and salary increase to an individual governmental employee (or any person occupying the position held by such employee) during a term of office or other ascertainable period of time. A pay adjustment shall not be considered to be prohibited by the law of the jurisdiction solely because a pay adjustment has not been approved, funds to make a pay adjustment have not been appropriated by the governing body of the jurisdiction, or the governing body of the jurisdiction has not met.

(3) *Multiple standard.* For purposes of this section, the term "multiple standard" means, with respect to an individual governmental employee, a percentage which is the product of:

(i) The general wage and salary standard established in § 201.10(a), and

(ii) The prohibition period as defined in subparagraph (2) of this paragraph.

(e) *Reporting.* A wage and salary increase may be paid under the provisions of this section without prior approval. However, a report of any such increase shall be made to the appropriate district director of Internal Revenue within 20 days after such pay adjustment is put into effect.

§ 201.95 Qualified public employee benefit plans.

(a) *In general.* Subject to the provisions of this section, contributions made by an employer which is a government to a qualified public employee benefit plan may be treated as excluded contributions to the extent provided in §§ 201.60(g) and 201.59.

(b) *Qualified public employee benefit plans defined.* For purposes of this section, the term "qualified public employee benefit plan" means a bona fide plan of deferred compensation established by a government for the exclusive benefit of its employees or their beneficiaries with respect to which contributions of the employer are, pursuant to the law of the jurisdiction—

(1) Made to a trust,

(2) Otherwise permanently set aside for such deferred compensation (but not necessarily in the custody of an independent third party), or

(3) Used as premiums to purchase annuity or retirement insurance contracts or used to purchase retirement bonds.

For purposes of this paragraph, the phrase "otherwise permanently set aside for such deferred compensation" includes funding in any manner other than funding on a pay-as-you-go basis. Such bona fide plan need not meet the technical requirements for qualification under section 401(a), section 403(b), or section 404(a)(2) of the Code.

(c) *Limitation.* For purposes of paragraph (a) of this section, employer contributions to qualified public employee benefit plans shall be added to other employer contributions to plans described in § 201.59(b) in determining contributions which may be excluded pursuant to the provisions of § 201.59 (d) and (e).

§ 201.96 State mandated pay adjustments.

(a) *In general.* A pay adjustment which applies to or affects any number of employees of units or instrumentalities of local government in a control year and which is mandated by the action of a legislative or administrative body or an executive officer of a State government is classified as a Category I pay adjustment pursuant to the provisions of § 202.2(a)(1)(iii) of this chapter, and is subject to the prenotification requirements of § 202.10(a) of this chapter, even if the State action occurred prior to November 14, 1972. An application for approval of such pay adjustment shall be submitted to the Pay Board by a duly authorized official of the State government.

(b) *Adjustments in mandated levels.* A pay adjustment which is within the provisions of paragraph (a) of this section shall be expressed as a percentage increase in the mandated level and shall be computed by subtracting the level of the particular State mandated wage, salary, or benefit (expressed in dollars and cents) in effect on the base date from the level of the corresponding State mandated wage, salary, or benefit which would be in effect after such proposed pay adjustment is implemented. For purposes of this paragraph only, the base date shall be the day before the effective date of such pay adjustment. Notwithstanding the provisions of Subpart E of this part, such pay adjustment may be considered by the Pay Board with respect to a 12-month control period which may be the State's fiscal year, a different annual period which reflects customary practice in the State, or such other period as the Pay Board considers appropriate, and which may not necessarily coincide with control years (determined pursuant to § 201.52) applicable

to the State government or to the affected units or instrumentalities of local government. For purposes of this paragraph only, the level of a State mandated wage, salary, or benefit may be computed and expressed in terms consistent with customary practice in the State, e.g., on an annual or monthly basis, and not necessarily in terms of hourly compensation. A State mandated reduction in hours worked is a pay adjustment subject to the provisions of this paragraph.

(c) *Pay adjustments above mandated levels.* If any portion of wages, salaries, or benefits, paid in an appropriate employee unit is affected by, established by, or subject to State mandate, a pay adjustment in such unit not made pursuant to State mandate shall be subject to the general wage and salary standard and the criteria for exception thereto, if applicable. The computation of the amount of such pay adjustment applicable to an appropriate employee unit (as determined pursuant to § 201.2) shall be made in accordance with the rules set forth in Subpart E of this part. Any increase in wages and salaries paid pursuant to State mandate shall be included in the computation of chargeable increases in the base compensation rate of such appropriate employee unit. If a proposed pay adjustment above the State mandated level would result in an increase in the base compensation rate for the appropriate employee unit in excess of the general wage and salary standard or applicable exceptions thereto for which prior approval is not required, an application for approval of such pay adjustments shall be submitted to the Pay Board or its delegate, as appropriate.

(d) *Pay Board action.* In every case subject to the provisions of paragraph (a) of this section, the Pay Board shall issue its decision based on the factual and equitable considerations present in such case. Consequently, action by the Board on any application for approval of a State mandated pay adjustment submitted under the provisions of paragraph (a) of this section shall be subject to such terms and conditions as are equitable and appropriate under the circumstances of the case. In addition, in acting on any such application, the Board may impose additional terms and conditions on pay adjustments described in paragraph (c) of this section within the affected State, and may impose procedural requirements in addition to those provided in this chapter. No provision in this section shall be deemed to preclude the submission of an application for an exception with respect to an individual appropriate employee unit, pursuant to the provisions of § 201.30.

(e) *Application illustrated.* The application of this section may be illustrated by the following examples:

Example (1). Public school teachers in State A are employees of local school districts. State A mandates a minimum salary which in some districts is supplemented by action of the local government. The government of State A proposes to increase the mandated minimum salary from $5,000 to $5,250 per year. This proposed pay adjustment is a Category I pay adjustment and may not be implemented without prior approval. A duly authorized official of State A should submit an application to the Pay Board.

Example (2). The base compensation rate of an appropriate employee unit of 500 public school teachers employed by Local School District X in State B is $4. State B, with Pay Board approval, mandates an increase in the minimum salary which, when applied to the salaries paid by District X, results in an adjustment of 10 cents or 2½ percent, in the unit's base compensation rate. District X proposes to implement additional wage and salary increases which would further raise the base compensation rate by 12 cents. The total pay adjustment for the control year is 22 cents (10 cents+12 cents). Since such total pay adjustment is a Category III pay adjustment and does not exceed 5.5 percent (22 cents÷$4=5.5 percent), it may be put into effect without prior approval.

Example (3). Assume the same facts as in Example (2), except that District X proposes to implement a wage and salary increase which would add 25 cents to the unit's base compensation rate. Since the total pay adjustment for the control year would be 35 cents (10 cents+25 cents), and such amount exceeds 5.5 percent of the unit's base compensation rate (35 cents÷$4=8¾ percent), the amount in excess of 5.5 percent may not be put into effect without prior approval. Since this is a Category III pay adjustment, an application for exception should be submitted to the appropriate district director of Internal Revenue.

Example (4). The base compensation rate of an appropriate employee unit of 1,250 public school teachers employed by Local School District Y in State C is $4. State C, with Pay Board approval, mandates an increase in the minimum salary which, when applied to the salaries paid by District Y, results in an increase of 25 cents, or 6¼ percent in the unit's base compensation rate. Since the State mandated increase has been approved by the Pay Board, District Y may pay the new, higher minimum salaries, without any further approval. Although the mandated increase, when put into effct by District Y, applies to a unit containing more than 1,000 employees, it is not necessary that a report be submitted by District Y. Since the pay adjustment already exceeds 5.5 percent of the unit's base compensation rate, no increase above the mandated increase may be put into effect by District Y during the control year without further approval.

Example (5). The base compensation rate of an appropriate employee unit of 600 public school teachers employed by Local School District Z in State D is $4. District Z implements a wage and salary increase in the amount of 22 cents, or 5.5 percent of the unit's base compensation rate. Subsequently, during the same control year, State D mandates an increase in the minimum salary and receives Pay Board approval. When applied to the salaries paid by District Z, the State mandate results in an increase of 10 cents, or 2.5 percent in the unit's base compensation rate. The total pay adjustment in District Z's control year is therefore 8 percent (5.5 percent+2.5 percent). District Z may implement the mandated increase without further approval, subject to any terms and conditions attached to the approval of the mandate by the Pay Board.

APPENDIX—CROSS-REFERENCE TABLE

This table has been prepared for the purpose of providing the public with a convenient means of identifying sections of the regulations in effect prior to November 14, 1972, and the regulations in effect on and after such date.

Old section number	*New section numbers*
201.1	201.1
201.2	------
201.3	201.2
201.10	201.10
201.11(a)(1)	201.12
201.11(a)(2)	201.14
201.11(a)(3)	201.15
201.11(a)(4)	201.64(a)
201.11(a)(5)	201.16
201.11(a)(6)	201.17
201.11(a)(7)	201.13
201.11(a)(8)	201.18
201.11(a)(9)	201.19
201.11(b)	201.11(b)
201.11(c)	------
201.11(d)	201.30
201.12	201.1
201.13(b)	201.31
201.13(c)	201.31(e)(3)
201.13(d)	201.36(d)
201.13(e)	201.32(b)
201.13(f)	201.32(c)
201.13(g)	201.33
201.13(h)	201.40
201.14	201.35
201.15	201.36
201.16	201.1
201.17	201.41
201.18	201.34
201.51	201.51
201.52	201.53
201.53	201.52
201.54	201.54
201.55	201.55 thru 201.57
201.56	201.58 and 201.59
201.57	201.60
201.58	201.59
201.59	201.61
201.71 thru 201.79	201.71 thru 201.79
201.81 thru 201.83	201.81 thru 201.83
201.84(a)	201.84(d)
201.84(b)	201.87
201.84(c)	201.84(e)
201.84(d)	201.86
201.85	201.85
201.86	201.88
201.91 thru 201.95	201.91 thru 201.95

PART 202—PRENOTIFICATION AND REPORTING

Subpart A—Introduction

Sec.
202.1 Purpose.
202.2 Classification and reclassification.
202.3 Definitions.

Subpart B—Category I Pay Adjustments

202.10 Prenotification and reporting requirements.

Subpart C—Category II Pay Adjustments

202.20 Prenotification and reporting requirements.

Subpart D—Category III Pay Adjustments

202.30 Prenotification and reporting requirements.

AUTHORITY: The provisions of this Part 202 issued under Economic Stabilization Act of 1970, as amended; Public Law 92-210, 85 Stat. 743; Executive Order No. 11640, 37 F.R. 1213 (1972), as amended by Executive Order No.

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11660, 37 F.R. 6175 (1972); and Cost of Living Council Order No. 3, 36 F.R. 20202 (1972), as amended.

Subpart A—Introduction

§ 202.1 Purpose.

The purpose of the regulations in this part is to establish rules for prenotification and reporting with respect to wage and salary payments made (or proposed to be made) to employees on or after November 14, 1971. These rules are designed to provide an orderly system for compliance with the objectives of the Pay Board and the Cost of Living Council in stabilizing wages and salaries.

§ 202.2 Classification and reclassification.

(a) *In general.* For purposes of the regulations in this chapter—

(1) *Category I.* A Category I pay adjustment means a pay adjustment which—

(i) Applies to or affects an appropriate employee unit containing 5,000 or more employees;

(ii) Applies to or affects any number of employees who are engaged in construction and is pursuant to a collective-bargaining agreement; or

(iii) Applies to or affects any number of employees of units or instrumentalities of local government and is mandated by the action of a legislative or administrative body or an executive officer of a State government.

(2) *Category II.* A Category II pay adjustment means a pay adjustment which applies to or affects an appropriate employee unit containing more than 999 and fewer than 5,000 employees and which is not defined as a Category I pay adjustment within the meaning of subparagraph (1) (ii) or (iii) of this paragraph.

(3) *Category III.* A Category III pay adjustment means a pay adjustment which applies to or affects an appropriate employee unit containing fewer than 1,000 employees and which is not defined as a Category I pay adjustment within the meaning of subparagraph (1) (ii) or (iii) of this paragraph.

(b) *Reclassification of pay adjustments.* For provisions with respect to reclassification of pay adjustments, see § 101.29 of this title.

§ 202.3 Definitions.

For purposes of this part, the term—

"Appropriate employee unit" or "unit" means a group of employees as defined in § 201.2, or, if appropriate, § 201.82(a) of this chapter.

"Construction" means that work defined by section 11(a) of Executive Order No. 11588, 36 F.R. 6339 (1971).

"Control year" means, with respect to an appropriate employee unit, the period of time determined pursuant to § 201.52, or, if appropriate, § 201.82(d) of this chapter.

"Fiscal year" means an employer's customary fiscal accounting period.

"General wage and salary standard" means the standard defined in § 201.10 (a) of this chapter.

"Pay adjustment" means an increase in wages and salaries as defined in § 201.2 of this chapter, including any increase in the average hourly qualified benefit rate, whether or not in excess of the qualified benefit standard defined in § 201.59(g).

"Pay Board" or "Board" means the Pay Board established pursuant to Executive Order No. 11640, 37 F.R. 1213 (1972), as amended.

"Prenotification" means notice submitted to the Pay Board, relating to a proposed pay adjustment, on forms prescribed by and pursuant to instructions issued by the Board.

"Report" means notice submitted to the Pay Board or its delegate, relating to a pay adjustment put into effect, on forms prescribed by and pursuant to instructions issued by the Board.

Subpart B—Category I Pay Adjustments

§ 202.10 Prenotification and reporting requirements.

(a) *General rules*—(1) *Prenotification required.* Except as provided in paragraph (b) of this section, a Category I pay adjustment shall not be put into effect unless prenotification of such proposed pay adjustment has been submitted to the Pay Board and the Pay Board has approved such proposed pay adjustment. Generally, prenotification shall be submitted not less than 60 days prior to the effective date of such proposed pay adjustment, or as soon thereafter as the amount and timing of such proposed pay adjustment have been determined.

(2) *Content of prenotification.* Prenotification shall be submitted on forms prescribed by and pursuant to instructions issued by the Pay Board. In addition—

(i) *Collective bargaining agreements.* Prenotification of pay adjustments pursuant to a collective bargaining agreement shall include copies of such agreement and the prior succeeded agreement, if any, and a written summary of such pay adjustments.

(ii) *Pay practices.* Prenotification of pay adjustments pursuant to a pay practice shall include a written summary of such pay adjustments.

(b) *Special rules*—(1) *State and local governments*—(i) *Waiver of prenotification.* Prenotification of a Category I pay adjustment need not be submitted to the Pay Board if such pay adjustment—

(a) Applies to or affects an appropriate employee unit consisting of employees of a State, a local government, the District of Columbia, or any unit or instrumentality thereof,

(b) Does not exceed the general wage and salary standard, and

(c) Is not a mandated pay adjustment within the meaning of § 202.2(a)(1)(iii).

(ii) *Reporting.* A report of a pay adjustment referred to in subdivision (i) of this subparagraph shall be made to the Pay Board within 10 days after the pay adjustment has been put into effect, unless such pay adjustment is covered by a certification submitted by the employer in the manner prescribed by § 201.93 of this chapter.

(2) *Existing contracts and pay practices previously set forth.* Category I pay adjustments made pursuant to the terms of employment contracts and pay practices previously set forth which existed prior to November 14, 1971, are subject to the provisions of § 201.35 of this chapter. Prenotification shall be submitted to the Pay Board not less than 90 days prior to the scheduled effective date of any such Category I pay adjustment which would cause the total of wage and salary increases for the appropriate control year to exceed 7 percent (except for pay adjustments which are within § 201.35(c)). Prenotification shall be submitted to the Pay Board not less than 60 days prior to the scheduled effective date of all other Category I pay adjustments which are subject to the provisions of § 201.35 (except for pay adjustments which are within § 201.35(c)). Except as provided in § 201.35, such Category I pay adjustments may be put into effect without prior approval of the Pay Board.

(3) *Retroactivity.* A Category I pay adjustment which is within the provisions of § 201.31, 201.32, 201.33, 201.34, or 201.36 of this chapter is subject to the prenotification and reporting requirements of the applicable section and may be implemented only in accordance with the procedures prescribed therein.

(4) *Construction contracts.* A Category I pay adjustment which applies to or affects employees who are engaged in construction and which is determined pursuant to a collective bargaining agreement shall not be put into effect unless prenotification of such proposed pay adjustment has been submitted to the Construction Industry Stabilization Committee and the Construction Industry Stabilization Committee has approved such proposed pay adjustment.

(5) *Executive and variable compensation.* A Category I pay adjustment which is within the provisions of Subpart F of Part 201 of this chapter is subject to the prenotification and reporting requirements of such subpart and may be implemented only in accordance with the procedures prescribed therein. An application for an exception to the provisions of such subpart shall be submitted to the Pay Board in accordance with the procedures set forth in Part 205 of this chapter.

(6) *Individual increases.* Prenotification of proposed Category I pay adjustments which apply to individual employees within an appropriate employee unit during a control year (e.g., through operation of a merit plan, whether or not "qualified" under § 201.16 of this chapter, which provides for individual increases on a random or variable timing basis) shall be submitted to the Pay Board in the following manner:

(i) *Budgeted pay adjustments.* If the pay adjustments for a control year are budgeted in advance of such control year, prenotification shall be submitted to the Pay Board not less than 60 days prior to the first day of such control year, or as soon thereafter as the amount and timing of such proposed pay adjustments have been determined.

(ii) *Nonbudgeted pay adjustments*—(a) *Initial prenotification.* If such pay adjustments are not budgeted in advance of a control year, prenotification shall be submitted to the Pay Board not less than 60 days prior to the first day of such control year, or as soon thereafter as reasonable and supportable estimates of the amount and timing of pay adjustments anticipated or planned for during such control year can be provided. Such prenotification shall include such estimates and the grounds therefor.

(b) *Second prenotification.* If initial prenotification has been submitted under the provisions of this subdivision, further prenotification shall be submitted to the Pay Board not later than 60 days prior to the midpoint of the control year, or as soon thereafter as reasonable and supportable estimates of the amount and timing of all pay adjustments anticipated or planned for in such control year can be provided. Such further prenotification shall include such estimates and the grounds therefor and shall also include information as to all pay adjustments previously put into effect during the control year.

(iii) *Limitation on pay adjustments.* The total of wage and salary increases put into effect during a control year in a unit for which prenotification has been submitted under the provisions of this subparagraph shall at no time exceed the maximum permissible annual aggregate wage and salary increase which has been approved by the Pay Board following such prenotification.

(7) *Cost of living allowance increases.* Prenotification of proposed Category I pay adjustments for a control year in which increases in wages and salaries calculated pursuant to the provisions of § 201.64(a) (relating to cost of living allowance calculations) are to be paid, shall be submitted to the Pay Board in the following manner:

(i) *Initial prenotification.* The initial prenotification of pay adjustments for such control year shall include reasonable and supportable estimates of such cost of living allowance increases, if the precise amounts of such increases are not known when such prenotification is submitted.

(ii) *Further prenotification.* If, when the precise amounts of such cost of living allowance increases become known, such amounts do not exceed the amounts prenotified under subdivision (i) of this subparagraph and approved by the Pay Board pursuant to such prenotification, such increases may be put into effect as scheduled. However, if the precise amounts exceed amounts previously prenotified and approved, the portions of such increases in excess of the amounts previously prenotified and approved may not be put into effect without specific prenotification and approval. Such further prenotification shall be submitted to the Pay Board as soon as practicable after the precise amounts of such increases are determined.

(c) *Monitoring and spot checks.* Category I pay adjustments shall be subject to monitoring and spot checks after being put into effect.

Subpart C—Category II Pay Adjustments

§ 202.20 Prenotification and reporting requirements.

(a) *General rules*—(1) *Report required.* Except as provided in paragraph (b) of this section, a Category II pay adjustment which does not exceed the general wage and salary standard, or which is subject to the provisions of § 201.35 of this chapter (i.e., pursuant to the terms of an employment contract or pay practice previously set forth which existed prior to November 14, 1971), or which is within the provisions of § 201.15, § 201.16, or § 201.19 of this chapter, may be put into effect without prior approval of the Pay Board. Except as provided in paragraph (b) of this section, a report of such a Category II pay adjustment shall be made to the Pay Board within 10 days after the pay adjustment is put into effect.

(2) *Content of report.* Reports shall be submitted on forms prescribed by and pursuant to instructions issued by the Pay Board. In addition—

(i) *Collective bargaining agreements.* A report of pay adjustments pursuant to a collective bargaining agreement shall include copies of such agreement and the prior succeeded agreement, if any, and a written summary of such pay adjustments.

(ii) *Pay practices.* A report of pay adjustments pursuant to a pay practice shall include a written summary of such pay adjustments.

(b) *Special rules*—(1) *State and local governments.* Notwithstanding any other provision of this paragraph, a Category II pay adjustment which applies to or affects an appropriate employee unit consisting of employees of a State, a local government, the District of Columbia, or any unit or instrumentality thereof, and does not exceed the general wage and salary standard or any exceptions thereto which do not require prior approval within the meaning of paragraph (c) of this section, need not be reported to the Pay Board, if such pay adjustment is covered by a certification submitted by the employer in the manner prescribed by § 201.93 of this chapter.

(2) *Existing contracts and pay practices previously set forth.* Category II pay adjustments made pursuant to the terms of employment contracts and pay practices previously set forth which existed prior to November 14, 1971, are subject to the provisions of § 201.35 of this chapter. Prenotification shall be submitted to the Pay Board not less than 90 days prior to the scheduled effective date of any such pay adjustment which would cause the total of wage and salary increases for the appropriate control year to exceed 7 percent (except for pay adjustments which are within § 201.35 (c)(2)(ii)(b)). A report shall be made to the Pay Board within 10 days after any other Category II pay adjustment subject to the provisions of § 201.35 is put into effect. Except as provided in § 201.35 all such pay adjustments may be put into effect without prior approval of the Pay Board.

(3) *Retroactivity.* A Category II pay adjustment which is within the provisions of § 201.31, § 201.32, § 201.33, § 201.34, or § 201.36 of this chapter is subject to the prenotification and reporting requirements of the applicable section and may be implemented only in accordance with the procedures prescribed therein.

(4) *Nonunion construction.* Certain Category II pay adjustments which apply to or affect employees engaged in construction and which are not determined pursuant to collective bargaining agreements are subject to the provisions of Subpart G of Part 201 of this chapter. Such pay adjustments are subject to the reporting requirements of such subpart and may be implemented only in accordance with the procedures prescribed therein.

(5) *Executive and variable compensation.* A Category II pay adjustment which is within the provisions of Subpart F of Part 201 of this chapter is subject to the prenotification and reporting requirements of such subpart and may be implemented only in accordance with the procedures prescribed therein. An application for an exception to the provisions of such subpart shall be submitted to the Pay Board in accordance with the procedures set forth in Part 205 of this chapter.

(6) *Individual increases.* Category II pay adjustments which do not require prior approval and which apply to individual employees within an appropriate employee unit during a control year (e.g., through operation of a merit plan, whether or not "qualified" under § 201.16 of this chapter, which provides for individual increases on a random or variable timing basis) shall be reported to the Pay Board in the following manner:

(i) *Budgeted pay adjustments*—(a) *Initial report.* If the pay adjustments for a control year are budgeted in advance of such control year, a report of all such budgeted pay adjustments shall be submitted to the Pay Board not later than 10 days after the start of such control year. If such pay adjustments are made pursuant to a qualified merit plan for which an exception is claimed pursuant to § 201.16 of this chapter, such report shall include a certification that such qualified merit plan satisfies the requirements of such section.

(b) *Further report.* If the total of pay adjustments actually put into effect during the control year does not exceed the total of budgeted pay adjustments reported under the provisions of (a) of this subdivision, no further report is required with respect to such control year. However, if the total of pay adjustments actually put into effect during the control year exceeds the total of budgeted pay adjustments reported under the provisions of such subdivision, a further re-

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port of all pay adjustments actually put into effect during the control year shall be submitted to the Pay Board as soon as practicable after the amount and timing of such pay adjustments are known, but in no case later than 10 days after the close of the control year: *Provided, however*, That the total of pay adjustments in the unit for the control year shall not exceed the maximum permissible annual aggregate wage and salary increase without prior approval of the Pay Board.

(ii) *Nonbudgeted pay adjustments*—(a) *Initial report.* If the pay adjustments for a control year are not budgeted in advance of such control year, a report of all pay adjustments anticipated or planned for during such control year shall be submitted to the Pay Board not later than 10 days after the start of such control year. Such report shall include reasonable and supportable estimates as to the amount and timing of pay adjustments. If such pay adjustments are made pursuant to a qualified merit plan for which an exception is claimed pursuant to § 201.16 of this chapter, such report shall include a certification that such qualified merit plan satisfies the requirements of such section.

(*b*) *Second report.* If an initial report of nonbudgeted pay adjustments has been submitted under the provisions of (*a*) of this subdivision, a second report shall be submitted to the Pay Board not later than 10 days after the midpoint of the control year. Such second report shall include information as to all pay adjustments previously put into effect during the control year and all pay adjustments anticipated or planned for during the remainder of such control year. Such report shall include reasonable and supportable estimates as to the amount and timing of all pay adjustments not previously put into effect.

(*c*) *Further report.* If the total of pay adjustments actually put into effect during the control year does not exceed the total of pay adjustments reported in the second report submitted under the provisions of (*b*) of this subdivision, no further report is required with respect to such control year. However, if the total of pay adjustments actually put into effect during the control year exceeds the total of pay adjustments reported in such second report, a further report of such pay adjustments actually put into effect shall be submitted to the Pay Board as soon as practicable after the amount and timing of such pay adjustments are known, but in no case later than 10 days after the close of the control year: *Provided, however*, That the total of pay adjustments in the unit for the control year shall not exceed the maximum permissible annual aggregate wage and salary increase without prior approval of the Pay Board.

(7) *Catchup.* A report of a Category II pay adjustment with respect to which a catchup exception is claimed under the provisions of § 201.15 of this chapter shall include a certification that the conditions of such section are satisfied.

(8) *Cost of living allowance increases.* Reports of Category II pay adjustments for a control year in which increases in wages and salaries calculated pursuant to the provisions of § 201.64(a) (relating to cost of living allowance calculations) are to be paid, shall be submitted to the Pay Board in the following manner:

(i) *Initial report.* If a report is submitted to the Pay Board with respect to pay adjustments during such control year, prior to the date on which such cost of living allowance increases are to be paid, and the precise amounts of such cost of living allowance increases are not known when such report is submitted, such report shall include reasonable and supportable estimates of such amounts.

(ii) *Further report.* If, when the precise amounts of such cost of living allowance increases become known, such amounts do not exceed the amounts reported under subdivision (i) of this subparagraph, no further report of such increases is required. However, if the precise amounts exceed the amounts previously reported, a report of such increases shall be submitted to the Pay Board not less than 10 days after such increases are put into effect: *Provided, however*, That the total of pay adjustments in the unit for the control year shall not exceed the maximum permissible annual aggregate wage and salary increase without prior approval of the Pay Board.

(9) *Exception for low wage employees.* A report of a Category II pay adjustment with respect to which an exception for low wage employees is claimed under the provisions of § 201.19 of this chapter shall include such information as is necessary to demonstrate the applicability of such exception.

(c) *Prior approval.* A Category II pay adjustment which exceeds the general wage and salary standard, is not within the provisions of § 201.15, § 201.16, § 201.19, or § 201.35 of this chapter, and is not otherwise permissible under the provisions of this chapter, shall not be put into effect without prior approval of the Pay Board. An application for approval of such a proposed Category II pay adjustment shall be submitted to the Pay Board in accordance with the procedures set forth in Part 205 of this chapter.

(d) *Monitoring and spot checks.* Category II pay adjustments shall be subject to monitoring and spot checks after being put into effect.

Subpart D—Category III Pay Adjustments

§ 202.30 Prenotification and reporting requirements.

(a) *General rule.* Except as provided in paragraph (b) of this section, a Category III pay adjustment which does not exceed the general wage and salary standard, which is subject to the provisions of § 201.35 of this chapter (i.e., pursuant to the terms of an employment contract or pay practice previously set forth which existed prior to November 14, 1971), or which is within the provisions of § 201.15, § 201.16, § 201.19 or § 201.94 of this chapter, may be put into effect without prior approval of the Pay Board. Except as provided in paragraph (b) of this section, such a Category III pay adjustment is not required to be prenotified or reported to the Pay Board.

(b) *Special rules*—(1) *Catchup.* A report of a Category III pay adjustment with respect to which a catchup exception is claimed under the provisions of § 201.15 of this chapter shall be made to the appropriate district director of Internal Revenue within 20 days after the pay adjustment is put into effect. Such report shall include a certification that the conditions of such section are satisfied.

(2) *Retroactivity.* A Category III pay adjustment which is within the provisions of § 201.31, 201.32, 201.33, 201.34 or 201.36 of this chapter is subject to the prenotification and reporting requirements of the applicable section and may be implemented only in accordance with the procedures prescribed therein.

(3) *Nonunion construction.* Certain Category III pay adjustments which apply to or affect employees engaged in construction and which are not determined pursuant to collective bargaining agreements are subject to the provisions of Subpart G of Part 201 of this chapter. Such pay adjustments are subject to the reporting requirements of such subpart and may be implemented only in accordance with the procedures prescribed therein.

(4) *Executive and variable compensation.* A Category III pay adjustment which is within the provisions of Subpart F of Part 201 of this chapter is subject to the prenotification and reporting requirements of such subpart and may be implemented only in accordance with the procedures prescribed therein. An application for an exception to the provisions of such subpart shall be submitted to the Pay Board in accordance with the procedures set forth in Part 205 of this chapter.

(5) *Qualified merit plans.* A report of a Category III pay adjustment under a qualified merit plan with respect to which an exception is claimed pursuant to § 201.16 of this chapter shall be made to the appropriate district director of Internal Revenue within 20 days after the first increase under such a plan is paid to an employee during a control year. Such report shall include a certification that such qualified merit plan satisfies the requirements of such section.

(6) *State and local governments*—(i) *Certification.* Notwithstanding any other provision of this paragraph, a Category III pay adjustment which applies to or affects an appropriate employee unit consisting of employees of a State, a local government, the District of Columbia, or any unit or instrumentality thereof, and which is put into effect pursuant to the terms of § 201.15, § 201.16, or § 201.19 of this chapter, need not be reported to the Internal Revenue Service, if such pay adjustment is covered by a certification

submitted by the employer in the manner prescribed by § 201.93 of this chapter.

(ii) *Certain public officials.* A report of a pay adjustment put into effect pursuant to the provisions of § 201.94 of this chapter shall be submitted to the appropriate district director of Internal Revenue within 20 days after such pay adjustment is put into effect.

(7) *Increases pursuant to certain wage reopening provisions.* A Category III pay adjustment which is within the provisions of § 201.35(c) of this chapter shall be put into effect only as provided in such section and shall be subject to the prenotification and reporting requirements set forth therein.

(c) *Prior approval.* A Category III pay adjustment which exceeds the general wage and salary standard, is not within the provisions of § 201.15, § 201.16, § 201.19, § 201.35, or § 201.94 of this chapter, and is not otherwise permissible under the provisions of this chapter, shall not be put into effect without prior approval of the Pay Board or its delegate. An application for approval of such a proposed Category III pay adjustment shall be submitted to the appropriate district director of Internal Revenue in accordance with the procedures set forth in Chapter IV of this title.

(d) *Monitoring and spot checks.* Category III pay adjustments shall be subject to monitoring and spot checks after being put into effect.

PART 205—PROCEDURES

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AUTHORITY: The provisions of this Part 205 are issued under the Economic Stabilization Act of 1970, as amended, Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38; Public Law 92-210, 85 Stat. 743; Executive Order No. 11640 (37 F.R. 1213, Jan. 27, 1972), as amended; Cost of Living Council Orders No. 3 (36 F.R. 20202, Oct. 16, 1971) and No. 6 (37 F.R. 2727, Feb. 4, 1972).

Subpart A—General

§ 205.1 Purpose and scope.

(a) This part establishes procedures for—

(1) Appeals from adverse actions by the Internal Revenue Service;

(2) Initial action on requests for exceptions or pay challenges and review of the action taken with respect to such requests or challenges;

(3) Petitions and comments on rule making;

(4) Formal hearings on certain wage and salary increases; and

(5) Initial action on retroactive pay adjustments and review of the action taken with respect to such adjustments.

(b) Pursuant to section 214(b)(3) of the Economic Stabilization Act of 1970, as amended, if any small business enterprise files a request, challenge, application, or appeal under the provisions of this part, such request, challenge, application, or appeal will be accorded expeditious handling by affording it priority treatment.

§ 205.2 Definitions.

For purposes of this part—

"Act" means the Economic Stabilization Act of 1970, as amended.

"Adverse action" means an action by the Board or IRS denying the position, in whole or in part, of a party at interest (as defined by § 201.2 of this chapter) with respect to a pay adjustment, or with respect to an interpretation issued by IRS or ruling issued by the Office of the Chief Counsel for the Internal Revenue Service.

"Board" means the Pay Board as established by Executive Order No. 11627, and as continued by Executive Order No. 11640 and 11660, or its delegate. The term delegate, as here used, does not encompass IRS or the Office of the Chief Counsel for the Internal Revenue Service.

"District Director" means a district director of the IRS.

"Exception" means an order issued by the Board or its delegate to a person as defined by § 201.2 of this chapter waiving requirements of a specific rule, regulation, or order issued pursuant to the Act.

"Hearing Officer" means a person appointed by the Board for purposes of conducting a hearing in accordance with Subparts B, C, E, and F of this part.

"IRS" means the Internal Revenue Service.

"Pay adjustment" means a change in wages or salaries.

"Pay challenge" means an objection to an existing contract or pay practice previously set forth in accordance with § 201.35 of this chapter, filed by—

(a) A party at interest as defined in §201.2 of this chapter; or

(b) The Chairman, or two or more other members of the Board.

"Person aggrieved" means:

(a) In cases where the IRS or Board has denied the position, in whole or in part, of a party at interest (as defined by § 201.2 of this chapter) with respect to a pay adjustment, a person who is a party at interest; or

(b) In cases in which the IRS or the Office of the Chief Counsel for the Internal Revenue Service has denied the position, in whole or in part, of a party at interest with respect to an interpretation or ruling, a person who is a party at interest.

"Petition" means a written objection to or proposal for a published ruling or regulation promulgated by the Board.

"Regulation" means a regulation issued by the Board which appears in Chapter II of Title 6, Code of Federal Regulations.

§ 205.3 Representation.

(a) A person may take any action or make any appearance which is required or permitted by this part on his own behalf, or he may be represented by any natural person, age 21 years or older, whom he has designated to represent him. Such designation shall be in writing and signed by the person legally authorized to so designate and shall be filed with the Board.

(b) Persons acting in a representative capacity before the Pay Board may be barred from appearances before the Board for disreputable conduct which includes, but is not limited to, the following:

(1) Filing false or altered documents, affidavits, and other papers;

(2) Making false or misleading representations either orally or in writing; or

(3) Using intemperate or abusive language or engaging in disruptive conduct before the Board or its representative.

§ 205.4 Filing of documents.

(a) A document required to be filed directly with the Board under this chapter is considered filed when it has been received at the Pay Board offices. Documents received after regular business hours are deemed filed on the next regular business day.

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(b) An employer or employer association filing any document with respect to—

(1) A reporting, prenotification, or certification requirement under this chapter,

(2) A request for exception,

(3) A challenge,

(4) A retroactive pay adjustment, or

(5) An appeal or request for review,

shall at the same time serve copies of each such document on the collective bargaining agent, if any, of the affected employee unit. If any of the above documents is filed by a collective bargaining agent, such collective bargaining agent must at the same time serve copies of each such document on the affected employer or employer association.

(c) A certificate of service shall accompany all such documents filed with the Board.

§ 205.5 Computation of time.

(a) In computing any period of time prescribed or allowed by this chapter for the performance of any act, the day of the act, event, or default on which the designated period of time begins to run will not be counted.

(b) If the last day of the period falls on a Saturday, Sunday, or a Federal legal holiday, the period will be extended to the next day which is not a Saturday, Sunday, or Federal legal holiday.

(c) If the period prescribed or allowed is 7 days or less, an intervening Saturday, Sunday, or Federal legal holiday will not be counted.

§ 205.6 Service.

(a) All documents required to be served under this part are to be served personally, by registered or certified mail, by regular U.S. mail (this option available only for service by the Board), or, where circumstances render such service impracticable, service will be effected as provided for by paragraph (e) of this section.

(b) If a person is represented by a duly authorized representative, service on the representative shall constitute service on the person.

(c) A certificate of service shall be filed with the Board for each document served.

(d) Service by mail is complete upon mailing.

(e) Whenever the Board serves a determination, or decision and order upon a person, a copy of such determination, or decision and order will also be served on any person aggrieved. If, however, such person aggrieved is an unrepresented employee, the Board will provide the employer of such employee with a copy of such determination, or decision and order. Such employer shall immediately notify any employee who is a person aggrieved of the nature of the determination, or decision and order and of the availability for inspection of such determination, or decision and order. Reasonable rules shall be established by the employer with respect to such inspections.

§ 205.7 Extension of time.

If an action is required to be taken within a prescribed time under this chapter, an extension of time will be granted only upon a showing of good cause.

§ 205.8 Subpenas; witness fees.

(a) The Chairman of the Board or his duly authorized agent may sign and issue subpenas.

(b) A subpena may require the attendance of witnesses and the production of relevant papers, books, and documents in the possession or under the control of the person served.

(c) A subpena may be served by any person who is not a party and not less than 18 years of age.

(d) The original subpena bearing a certificate of service shall be filed with the issuing official.

(e) A witness subpenaed by the Board shall be paid the same fees and mileage as are paid witnesses in district courts of the United States.

§ 205.9 Request for subpena.

(a) The Board may issue a subpena, at the request of a party at interest (or otherwise), in accordance with section 206 of the Act. The Board will not issue a subpena to a party at interest for use by the party. A request for a subpena may be filed with the Board by a party at interest in connection with any proceeding under this part. The party at interest filing such a request shall serve a copy of the request (including any supporting documentation) upon any other party at interest, and upon any person (whether or not a party at interest) to whom the subpena is to be directed.

(b) A request for subpena must include:

(1) The names of the parties to the proceeding, the number of employees in the unit, and the case number if available;

(2) A specific description of the papers, books, documents, or other data to be produced;

(3) The names and addresses of the officials who are believed to have custody of such documents;

(4) The name or title of any witness requested to appear and a description of the information sought or the testimony to be given by such witness;

(5) A certification that a written request for the same information has been served on the person or persons to whom the subpena is to be directed and that such request was denied or that 10 days have elapsed from service of such request without receipt of the requested information;

(6) A statement setting forth in detail the relevance of the information sought to the particular proceeding, with specific references to Pay Board regulations;

(7) Argument supporting the reasonable scope of the information sought as it relates to the particular proceeding; and

(8) A prima facie showing that the information to be obtained will support the position of the party at interest requesting the subpena.

(c) A request for subpena shall be accompanied by a certification that a copy of such request has been served upon the persons referred to in paragraph (a) of this section.

(d) A request for a subpena shall be filed as early in the applicable proceeding before the Pay Board as is feasible, but not later than 30 days after commencement of the proceeding before the Board. For purposes of the preceding sentence, a proceeding (e.g. an application for exception, a party at interest challenge, an appeal from an IRS adverse decision with respect to a pay adjustment, etc.) shall be deemed to have commenced before the Board upon receipt by the Board of the document requiring action, or, in the case of a Board-initiated challenge, upon service (see § 205.6(e)) by the Board on the parties at interest of a notification of such challenge. Failure to file a request for a subpena within 30 days of the commencement of a proceeding shall result in denial of the request for subpena. Notwithstanding the preceding sentence, the Board, in its discretion, may grant an extension of time to request a subpena upon a showing of good cause.

§ 205.10 Motion to quash issuance of subpena.

Any person who would be adversely affected if the request for subpena were granted may, within 14 days of the filing of the request, file a motion with the Board to limit the scope of such subpena or to quash its issuance.

§ 205.11 Disclosure of information; request for confidentiality.

(a) In the absence of the filing of a request for confidentiality, described in paragraph (b) of this section, or if the Board determines that no serious injury would result from disclosure, the Board may release any document or other information described in paragraph (c) of this section to a party at interest requesting it, provided that the Board determines that the information is relevant in a proceeding before the Board. If a request for confidentiality is submitted and the Board determines that the information is, in fact, confidential, disclosure may still be made in accordance with means specially designed, on a case-by-case basis, to protect administrative due process, and, at the same time, maintain confidentiality.

(b) Any person submitting a document to the Board may simultaneously file a request for confidentiality setting forth the adverse consequences of disclosure of such document to a party at interest. Such a request should include—

(1) A specific description of those items in the document which are believed to merit confidential treatment;

(2) Reasons for such belief;

(3) A description of those persons who already have knowledge of the information claimed to be confidential; and

(4) A description of the damage that would result from disclosure.

(c) Any document or other information submitted to the Board by a party at interest on or after November 23, 1972 is subject to the provisions of this section, including any document with respect to a reporting, prenotification, or certification requirement under this chapter, a request for exception, a challenge, a retroactive pay adjustment, an appeal or request for review, or any document submitted at the request of the Board or in response to a subpena by the Board.

§ 205.12 Consolidations.

Upon the initiative of the Board, the Chairman of the Board, a Hearing Officer, or in response to a party's motion, two or more appeals, requests for exception, pay challenges or other cases which involve substantially the same parties or issues which are closely related, may be consolidated if it is found that such consolidation will expedite the proceedings.

Subpart B—Appeals From IRS Adverse Actions

§ 205.20 Purpose and scope.

(a) The purpose of this subpart is to establish the rules of practice of the Board which govern the conduct of its administrative review proceedings with respect to appeals from IRS adverse actions.

(b) The Board has jurisdiction to consider and decide appeals from adverse actions by IRS and the Office of the Chief Counsel for the Internal Revenue Service.

(c) The Board may review all relevant questions of law and fact.

(d) Review will be limited to the evidence in the record before IRS or the Office of the Chief Counsel for the Internal Revenue Service at the time the adverse action was taken except as otherwise directed by the Board.

(e) Determinations, decisions and other actions of the Board pursuant to §§ 205.25 through 205.29 will be rendered by the Chairman or his delegate unless the Pay Board directs otherwise.

§ 205.21 Who may appeal.

Any person aggrieved by an action of IRS or the Office of the Chief Counsel for the Internal Revenue Service taken or issued pursuant to Part 401 of this title, or in accordance with delegated authority, may file an appeal with the Board, provided that a determination of violation may not be the subject of an appeal.

§ 205.22 Where to file appeal.

(a) An appeal to the Pay Board shall be filed with the IRS official who issued the adverse action being appealed. At the same time, appellant shall serve copies of such appeal and supporting documents on the parties at interest as provided for in § 205.4 (b) and (c).

(b) Appeals filed under paragraph (a) of this section will be attached to the case file and forwarded to the Board.

§ 205.23 When to file appeal.

Before filing an appeal under this subpart, a recipient of an adverse action by a District Director must have exhausted his administrative remedies within IRS by filing a timely appeal within IRS as permitted by § 401.601 of this title. An appeal to the Board must be filed with the appropriate IRS official within 30 days of service by IRS of the adverse action upon which the appeal is based.

§ 205.24 Contents.

An appeal may be accompanied by a brief and must include the name and address of the appellant (and of other parties at interest), a clear designation that the document is an appeal to the Board, a copy of the adverse action appealed from, a concise statement of the facts and contentions, grounds for appeal, and the relief requested, and a certification that he has complied with §§ 205.22 and 205.23.

§ 205.25 Screening of appeals.

(a) The Board will determine whether an appeal makes a prima facie showing that the adverse action—

(1) Was erroneous in fact or in law; or

(2) In the case of a decision denying a pay adjustment,

was erroneous in fact or in law or appears to be otherwise inequitable.

(b) Where the Board determines that the appeal has failed to make a prima facie showing, the Board may summarily reject the appeal, serve a copy of its determination upon appellant, and advise him that he may request review in accordance with § 205.29 if appropriate. If review is not available under § 205.29, appellant will be advised that he may seek judicial review under the Act. A copy of such determination will also be served on the other parties at interest in accordance with § 205.6(e).

(c) Where the Board determines that the appellant has made a prima facie showing, it will proceed in accordance with the provisions of §§ 205.26 through 205.28.

§ 205.26 Record.

(a) The case file, together with the appeal and briefs, if any, and any statement submitted by IRS or the Office of Chief Counsel for the Internal Revenue Service, as appropriate, will constitute the record on appeal.

(b) The Board on its own motion may request any additional evidence it deems necessary.

§ 205.27 Informal hearings.

(a) If the Board in its discretion deems that a hearing or presentation is advisable, it may direct that an informal hearing or presentation be held before the Board, its delegate, or a Hearing Officer.

(b) The Board will notify the appellant and other parties, as appropriate, in writing, of the time and place of the hearing.

(c) The appellant and other parties, as appropriate, may present oral argument and submit such additional documentary evidence as the Hearing Officer, the Board, or its delegate deems necessary to fully disclose the position of the party or parties.

(d) If a Hearing Officer is used, he will conduct the hearing as expeditiously as possible in accordance with instructions received from the Board.

(e) Within 30 days after the close of the hearing, the Hearing Officer, if one is appointed, will submit a report to the Board and, if the Board so directs, a recommendation with respect to the appellant's request for relief.

§ 205.28 Decision by Board.

After receipt of an appeal and the IRS record (see § 205.26) or at the conclusion of a hearing or presentation, if a hearing or presentation has been provided for—

(a) The Board will consider the record, issue a decision in writing, and direct it and an appropriate order to the appellant;

(b) A copy of the decision and order will be served upon the appropriate parties in accordance with § 205.6(e); and

(c) If the decision denies the relief requested, in whole or in part, the decision will contain a statement of the grounds for denial unless the denial is self-explanatory or is affirming a prior denial. Any person aggrieved will be advised that he may request review in accordance with § 205.29 if appropriate. If review is not available under § 205.29, appellant will be advised that he may seek judicial review under the Act.

§ 205.29 Review.

(a) Any person aggrieved by a determination under § 205.25(a)(2) or by the Board's decision under § 205.28, with respect to a pay adjustment, may request review within 14 days of service of such determination or decision.

(b) The procedural regulations contained in §§ 205.34 through 205.40 (relating to reviews) are generally adopted with respect to this subpart.

Subpart C—Initial Requests for Exceptions and Pay Challenges

§ 205.30 Purpose and scope.

(a) The purpose of this subpart is to establish procedures for initial action by the Board on requests for exceptions or pay challenges and for review by the Board of the action taken with respect to such requests or challenges.

(b) This subpart shall not apply to those requests in which the initial adverse action is taken by IRS pursuant to authority delegated by the Board. In those cases on which the initial adverse action is taken by IRS, appeals from adverse actions may be filed with the Board in accordance with the regulations under Subpart B of this part.

(c) Any case involving a request for exception or pay challenge filed with IRS and certified by IRS to the Board without decision is subject to this subpart.

(d) In all cases under paragraph (a) or (b) of this section, filing and processing of—

(1) Requests for exceptions shall be filed in accordance with the regulations issued under Subpart D of Part 401 of this title unless the Board directs otherwise.

(2) Pay challenges to existing contracts and pay practices previously set

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forth by parties at interest shall be filed and processed in accordance with the regulations issued under Subpart E of Part 401 of this title unless the Board directs otherwise.

§ 205.31 Initial action on requests for exception.

(a) The Board in its discretion may allow the applicant, other parties at interest and other parties, if appropriate, to make an oral presentation, or provide for an informal hearing (pursuant to § 205.39), or a formal hearing (pursuant to Subpart E of this part).

(b) In general, the Board will render its decision on the record which will consist of the request, any written submissions by the applicant and other appropriate parties to the IRS or the Board, if appropriate, at the time of the request, and any information developed by the IRS. However, if a presentation or hearing is conducted in accordance with paragraph (a) of this section, the record may also contain an account of such presentation or hearing in the form of a report, minutes, or transcript.

(c) After considering the record the Board will issue a decision in writing and direct it and an appropriate order to the person filing the request for exception.

(d) If the Board grants an exception, it will—

(1) Serve upon the applicant, other parties to the proceedings, and any other person required to be served under § 205.6(e) a copy of its decision and order, and

(2) Allow any person aggrieved to request review of the Board's action pursuant to §§ 205.34 through 205.40.

(e) If the Board denies an exception, in whole or in part, it will—

(1) Serve upon the applicant, other parties to the proceedings, and any other person required to be served under § 205.6(e) a copy of its decision which will contain a statement of the grounds for denial unless the denial is self-explanatory, and an appropriate order, and

(2) Allow any person aggrieved to request review of the Board's action pursuant to §§ 205.34 through 205.40

§ 205.32 Application for leave to participate in pay challenge proceedings.

(a) Upon receipt of a pay challenge, the Board will notify the parties at interest in the same manner as provided for in § 205.6(e) that a pay challenge has been filed and that they may participate in the proceedings by submitting a brief or other documentary evidence, or otherwise in accordance with § 205.33.

(b) In addition, a person who is—

(1) An employer whose competitive position in a labor market would be adversely affected if the challenge were upheld, or

(2) An employee representative, or, in the absence of such representative, an employee whose bargaining position would be adversely affected if the challenge were upheld,

may make timely application to the Board for leave to participate in its proceedings. Such person shall state his name and address, identify the docket number of the challenge, if known, state specifically the manner in which he is interested in the challenged adjustment, specify the relief sought, and sign the application for leave to participate.

(c) Upon receipt of an application filed in accordance with paragraph (b) of this section, the Board will determine whether the applicant's participation in the proceedings will contribute to the equitable disposition of the challenge.

(d) If the applicant meets the requirement of paragraph (c) of this section, he will be granted leave to participate upon such terms and conditions as the Board may designate. In such case, the Board will notify the applicant in writing and afford him a reasonable opportunity to submit documentary evidence or briefs in support of his position.

(e) If the Board denies leave to participate in the proceedings, it will so notify the applicant in writing.

§ 205.33 Initial action on pay challenges.

(a) The Board in its discretion may allow an oral presentation, or provide for an informal hearing (pursuant to § 205.39), or a formal hearing (pursuant to Subpart E of this part).

(b) In general, the Board will render its decision on the record which will consist of the challenge, any information developed by IRS and other written submissions by the parties at interest and other persons granted leave to participate under § 205.32(d). However, if a presentation or hearing is conducted in accordance with paragraph (a) of this section, the record may also contain an account of such presentation or hearing in the form of a report, minutes, or transcript.

(c) After considering the record, the Board will issue a decision in writing and direct it and an appropriate order to the person filing the pay challenge.

(d) Where the Board allows the challenged pay adjustment to stand, it will serve upon each party to the proceedings a copy of its decision and order.

(e) Where the Board denies a pay adjustment, in whole or in part, it will serve upon the parties at interest (see § 205.6(e)) and other parties to the proceedings a copy of its decision and order. The decision will contain a statement of the grounds for denial unless the denial is self-explanatory.

(f) Any person aggrieved by a decision of the Board under paragraph (c) of this section may request review by the Board pursuant to § 205.34.

§ 205.34 Scope of review.

(a) The Board will review the approval or the denial of a pay adjustment if the request for review makes a prima facie showing that—

(1) The initial action was erroneous in fact or in law or

(2) It appears to be otherwise inequitable.

(b) If the Board determines that the request for review failed to make a prima facie showing, the Board may summarily reject the request for review, notify the applicant and other parties at interest of its action, and advise the applicant that he has exhausted his administrative remedies and that he may seek judicial review under the Act.

(c) If the Board determines that the request for review has made a prima facie showing, it will proceed in accordance with the provisions of §§ 205.39 and 205.40.

§ 205.35 Who may request review.

Any person aggrieved may request review by the Board.

§ 205.36 Where to file.

A request for review shall be filed with the Pay Board, 2025 M Street NW., Washington, DC 20508.

§ 205.37 When to file.

A request for review must be filed within 14 days of service of the decision allowing or denying the relief requested.

§ 205.38 Contents.

A request for review shall—

(a) Be in writing and signed by the party requesting such review;

(b) Be designated clearly as a request for review;

(c) Include a copy of the adverse action from which review is requested;

(d) Contain a concise statement of the grounds for review and the requested relief;

and, such request may be accompanied by briefs.

§ 205.39 Informal hearings.

(a) If the Board in its discretion deems that a hearing or presentation is advisable, it may direct that an informal hearing or presentation be held before the Board, its delegate, or a Hearing Officer.

(b) The Board will notify the parties at interest and other parties, as appropriate, in writing, of the time and place of the hearing.

(c) The appellant and other parties, as appropriate, may present oral argument and submit such additional documentary evidence as the Hearing Officer, the Board, or its delegate deems necessary to fully disclose the position of the party or parties.

(d) If a Hearing Officer is used, he will conduct the hearing as expeditiously as possible in accordance with instructions received from the Board.

(e) Within 30 days after the close of the hearing, the Hearing Officer, if one is used, will submit a report to the Board, and, when the Board so directs, a recommendation with respect to the disposition of the case.

§ 205.40 Decision by Board on review.

(a) The Board will issue a decision in writing and direct it and an appropriate order to the person requesting review.

(b) A copy of the decision and order will be served upon the parties at interest (see § 205.6(e)) and other parties to the proceedings.

(c) If the decision denies the relief requested by any person aggrieved, in whole or in part, the decision will contain a statement of the grounds for denial unless the denial is self-explanatory or is affirming a prior denial.

(d) Any person aggrieved may seek judicial review under the Act if the decision denies the relief requested.

Subpart D—Petition and Comment on Rule Making

§ 205.50 Scope.

The Board shall afford any interested person the right to petition or comment on the issuance, amendment, or repeal of any ruling or regulation promulgated by the Board.

§ 205.51 Where to file.

Petitions or comments shall be filed with the Pay Board, 2025 M Street NW., Washington, DC 20508.

§ 205.52 When to file.

A petition or comment may be filed at any time.

Subpart E—Formal Hearings

§ 205.60 Purpose and scope.

(a) To the maximum extent possible, the Board will conduct formal hearing for the purpose of hearing arguments or acquiring information bearing on a wage or salary increase or proposed wage or salary increase if such increase or proposed increase has or may have a significantly large impact upon the national economy.

(b) A formal hearing held pursuant to this subpart will be open to the public, but such hearings may be closed to the public for the purpose of receiving information considered to be confidential under section 205 of the Act.

§ 205.61 Appointment of Presiding Officer.

If a formal hearing is directed by the Board in accordance with § 205.60, a Hearing Officer may be appointed by the Board to preside over such hearing. In the absence of the appointment of a Hearing Officer, the Chairman, or his delegate, will preside over the hearing.

§ 205.62 Notice of hearing.

At the Board's discretion, notice will be published in the FEDERAL REGISTER of the nature, date, and time of the hearing and of the appointment of the Hearing Officer if appropriate. Thereafter, all documents and other papers shall be filed with the Hearing Officer, or in the absence of the appointment of a Hearing Officer, with the Executive Secretariat of the Board.

§ 205.63 Powers and duties of the Presiding Officer.

(a) In addition to any other powers specified in this part, the presiding officer shall have the power:

(1) To administer oaths and affirmations;

(2) To examine or cross-examine witnesses;

(3) To issue subpenas authorized by the Act;

(4) To rule upon offers of proof and receive evidence;

(5) To regulate the course and conduct of the hearing, including—

(i) Continuing the hearing from day to day or adjourning it to a later date or different place by announcement thereof at the hearing or by other appropriate notice;

(ii) Taking official notice of any material fact not appearing in evidence in the record;

(iii) Excluding from the hearing persons who engaged in misconduct; and

(iv) Striking all related testimony of a witness who refuses to answer questions ruled to be proper;

(6) To rule on motions and to dispose of procedural requests or similar matters; and

(7) To issue recommendations and prepare orders.

(b) The presiding officer will conduct the hearing as expeditiously as possible, in accordance with instructions received from the Board in each individual case. If a Hearing Officer is appointed as the presiding officer, he will, within 30 days after the close of the hearing, transmit the record of the hearing together with his recommendations and proposed order, if any, to the Board. A copy of any such recommendation or proposed order will be served on the parties at interest and other parties to the proceedings.

(c) The Hearing Officer's authority in each case will terminate upon transmitting the record of the hearing and his recommendation and proposed order, if any, to the Board.

§ 205.64 Record.

(a) The record of a formal hearing will consist of an account of the proceedings of such hearing and all documents and exhibits submitted during the course of such hearing.

(b) The Board will determine whether the account of the hearing shall be in the form of a report, minutes or transcript. If the hearing is conducted by a Hearing Officer, such determinations will be part of the instructions given to such Officer pursuant to § 205.63(b).

(c) Copies of the account of the hearing may be obtained by any party upon payment of the fees fixed therefor, if any.

Subpart F—Retroactive Pay Adjustments

§ 205.80 Purpose and scope.

(a) The purpose of this subpart is to establish procedures for initial action by the Board on requests for retroactive pay adjustments and for review by the Board of the action taken with respect to such requests.

(b) This subpart shall not apply to those requests for retroactive pay adjustments in which the initial adverse action is taken by IRS pursuant to authority delegated by the Board. In those cases in which the initial adverse action is taken by IRS, appeals from adverse actions may be filed with the Board in accordance with the regulations under Subpart B of this part.

(c) Any case involving retroactivity filed with IRS and certified by IRS to the Board without decision is subject to this subpart.

(d) In all cases under paragraphs (a) and (b) of this section, requests for retroactive pay adjustments shall be filed with the Board or IRS as expressly provided for by the substantive provision under which application is being made.

§ 205.81 Retroactive pay adjustment challenges; proceedings.

(a) For purposes of this subpart, a challenge to a retroactive pay adjustment may be filed by a party at interest (as defined in § 201.2 of this chapter), the Chairman, or two or more other members of the Board. Such challenge must be filed within 28 days of prenotification or within 28 days of providing any additional information requested by the Board.

(b) Upon receipt of such a challenge, the Board will notify the parties at interest in the same manner as provided for in § 205.6(e) that a challenge to a retroactive pay adjustment has been filed and that they may participate in the proceedings by submitting a brief or other documentary evidence, or otherwise if the Board so directs.

(c) In addition, a person who is—

(1) An employer whose competitive position in a labor market would be adversely affected if the challenge were upheld or

(2) An employee-representative, or, in the absence of such representative, an employee whose bargaining position would be adversely affected if the challenge were upheld.

may make timely application to the Board for leave to participate in its proceedings. Such person shall state his name and address, identify the docket number of the challenge, if known, state specifically the manner in which he is interested in the challenged adjustment, specify the relief sought, and sign the application for leave to participate.

(d) Upon receipt of an application filed in accordance with paragraph (c) of this section, the Board will determine whether the applicant's participation in the proceedings will contribute to the equitable disposition of the challenge.

(e) If the applicant meets the requirement of paragraph (d) of this section, he will be granted leave to participate upon such terms and conditions as the Board may designate. In such case, the Board will notify the applicant in writing and afford him a reasonable opportunity to submit documentary evidence or briefs in support of his position.

§ 205.82 Board decisions.

The procedural regulations contained in §§ 205.33 through 205.40 (relating to pay challenges) are generally adopted with respect to retroactive pay adjustments.

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APPENDIX—SPECIAL REGULATIONS

[Special Regulation No. 1]

Firms Engaged In Sale of Certain Lumber and Wood Products

MODIFICATION OF SMALL BUSINESS EXEMPTION

Pursuant to the amendments to § 101.51 of Part 101 of the regulations of the Cost of Living Council, effective July 17, 1972, the small business exemption of the Council was made inapplicable to any firm, otherwise exempt under such section, which in its most recent fiscal year derived more than $100,000 of its sales or revenues from or by the sale or brokerage of lumber, plywood, veneer, millwork, and structual wood members and associated wood products such as hard-board and particle board.

The effect of the amendments is to make the wage stabilization regulations of the Pay Board in Chapter II of Title 6 of the Code of Federal Regulations applicable to the employees of manufacturers, brokers, wholesalers, and retailers who were covered by the exemption. In addition, the wage control provisions will apply to the employees of new firms which entered the business of selling those products during the period the exemption was in effect, and who meet the gross sales test of § 101.51(b)(2)(vii) of Part 101 of the regulations of the Cost of Living Council.

Each appropriate employee unit of such firms no longer exempted from the stabilization program shall assume its proper control year in accordance with § 201.52 of Pay Board Regulations and shall be subject to the general wage and salary standard of § 201.10(a) of Pay Board Regulations. Wage and salary adjustments made to any employee unit after May 1, 1972 and prior to July 17, 1972 may be continued under this Order; provided that, if such adjustment exceeds the maximum permissible wage and salary increase of such unit for an appropriate control year, no additional wage or salary adjustment may be made during such control year. Hardships or other inequities fostered by this modification of the small business exemption will be considered by the Pay Board pursuant to § 201.30 of the Pay Board Regulations.

(Economic Stabilization Act of 1970, as amended (Public Law 92-210, 85 Stat. 743), Executive Order No. 11640, 37 F.R. 1213 (1972) as amended by Executive Order No. 11660, 37 F.R. 6175 (1972), and Cost of Living Council Order No. 3, 36 F.R. 20202 (1971), as amended) [37 F.R. 16091, Aug. 10, 1972]

DELEGATIONS OF AUTHORITY

[Order 1, Revision 1]

SECRETARY OF THE TREASURY

Delegation of Authority

Pursuant to Executive Order 11640, as amended, and the authority delegated to the Pay Board (hereinafter referred to as the Board) by Cost of Living Council Order No. 3, as amended (hereinafter referred to as the order), it is hereby ordered as follows:

1. There is hereby delegated to the Secretary of the Treasury (hereinafter referred to as the Secretary), subject to the general policy guidance of and coordination with the Board and consistent with the general policy of Executive Order 11640 as developed by the Cost of Living Council, authority to interpret, implement, administer, monitor, and enforce the stabilization of wages and salaries pursuant to the criteria, standards, and implementation procedures established by the Board. Such functions will include, but not be limited to, the following:

(a) Operation and maintenance of local service and compliance centers established in support of the economic stabilization program in Standard Metropolitan Statistical Areas and such other places as the Secretary may determine;

(b) Dissemination of information and guidance to the public;

(c) Issuance of rulings and the receiving, analyzing, and responding to inquiries relating to the application of regulations and other guidance issued by the Board and the establishment and operation of an appeal procedure;

(d) Receiving, analyzing, investigating, and preparing and forwarding to the Board for decision recommendations upon applications for exceptions from the criteria, standards, and the implementation procedures;

(e) Conducting monitoring investigations as to the effectiveness of the stabilization program;

(f) Receiving, investigating, and resolving by obtaining compliance, where possible, complaints received with respect to program violations and recommending enforcement action to the Board, where necessary;

(g) Making factual determinations on behalf of the Board or in furtherance of any functions herein delegated; and

(h) Maintaining adequate records and the making of periodic reports to the Board.

2. All executive departments and agencies shall furnish such necessary assistance to the Secretary as may be authorized by law.

3. The Secretary may redelegate to any agency, instrumentality, or official of the United States any authority under this order, and may, in carrying out the functions delegated by this order, utilize the services of any other agencies, Federal or State, as may be available and appropriate.

4. Effective date: November 14, 1971.

[Order 2, Amended]

CONSTRUCTION INDUSTRY STABILIZATION COMMITTEE

Authorization Regarding Wages, Salaries and Other Economic Adjustments

In order to more clearly delineate the delegation of authority from the Pay Board to the Construction Industry Stabilization Committee (CISC), the Pay Board has determined that it would be appropriate to amend Pay Board Order No. 2.

Pursuant to the authority vested in the Pay Board by Executive Order No. 11640, and Cost of Living Council Order No. 3, as amended, it is hereby ordered as follows:

1. The Pay Board authorizes the Construction Industry Stabilization Committee (CISC) to administer Pay Board regulations to the extent applicable with respect to collective bargaining agreements in the construction industry. CISC shall also administer CISC "Substantive Policies" as approved by the authorized construction subcommittee of the Pay Board, which are attached as a supplement to this order.

2. All wage and salary increases and other economic adjustments contained in collective bargaining agreements in the construction industry scheduled to take effect on or after August 16, 1971, require approval of CISC regardless of the number of employees involved.

3. Pay adjustments shall be governed by Pay Board regulations as provided in the "Substantive Policies" of CISC. Pay Board regulations established subsequent to this date shall be made applicable to collective bargaining agreements in the construction industry to the extent specifically provided in such regulations, or as otherwise modified following consultation between the Pay Board and CISC.

4. In administering the foregoing regulations of the Pay Board, CISC shall comply with the following procedures:

a. CISC shall make regular reports to the Pay Board, particularly relating to (i) cases received for processing by CISC, (ii) the current administrative report and the agenda of cases to be considered by CISC, (iii) the results of cases approved and denied, and the cases returned to the parties for modification or further negotiation. It shall also report with respect to such other matters, such as significant activities of the craft boards, as are deemed by CISC to be responsive in carrying out the delegation of authority under this order, or are in response to specific requests of the Pay Board.

b. CISC shall consult with the Pay Board on a timely basis with respect to any matter of unusual import or of special significance to the effectiveness of the stabilization objectives, particularly in those situations or application of policy which may establish precedents outside of the construction industry.

c. Because of the relation of construction contract administration to the general administration of Pay Board regulations or policies, if special instances arise where CISC wishes to make exceptions to applicable Pay Board regulations or policies or to modify or add to the approved "Substantive Policies," CISC will first work out an agreement with respect thereto with the construction subcommittee of the Pay Board.

d. CISC and the Pay Board will each appoint a liaison committee and provide for alternates to serve in place of members of the liaison committees. The purpose of the liaison committees will be to consult regularly and to coordinate procedures, policies, and general activities of CISC and the Pay Board insofar as they relate to matters delegated to CISC. The Executive Directors of the Pay Board and CISC shall consult as to any case where a question of appropriate jurisdiction is raised.

e. CISC shall refer to the Pay Board any request for legal action by the Justice Department to enforce compliance with wage stabilization standards or CISC orders.

f. Significant CISC public information releases, and public reports, including annual reports, shall be reviewed by the construction subcommittee of the Pay Board before being issued. Provisions can be made for the issuance of routing repetitive reports or releases.

SUPPLEMENTARY "SUBSTANTIVE POLICIES"

(1) The CISC will carry out its responsibilities in the framework of the general regulations of the Pay Board, and where applicable, Pay Board regulations will be used by CISC. However, specific regulations of the Pay Board with respect to matters such as tandem relationships, deferred increases, merit increases, incentives, and the like may not be directly applicable in all instances to construction and will need supplementation. In addition, CISC will apply the policies set forth below. Together, they constitute a complete substitute for the standards set forth in sections 6(a) and 6(b) of Executive Order 11588 dated March 29, 1971. These CISC policies shall be applied so as to conform as closely as the special conditions of the construction industry permit to those of the Pay Board.

(2) No agreement is automatically entitled to the "general wage and salary standard" or the exceptions thereto of the Pay Board. Moreover, the application of equal percentage adjustments to all crafts in any locality is often not a practical basis for stabilization; on occasion cents-per-hour developments among some or all crafts may be more appropriate.

(3) Pending final resolution of treatment of fringe benefits exempt under section 203(g) of the Economic Stabilization Act Amendments of December 22, 1971, these benefits, together with all other benefits, will be considered in determining economic adjustments subject to the review of the CISC.

(4) In the application of exceptions in individual cases providing for adjustments in excess of the "general wage and salary standard," the following principles are to be applied:

(a) There are some few situations with long established formulas for setting wage rates on the basis of averaging other construction rates for the same craft in other localities. The adjustments provided by these formulas may be approved except where they are shown to have an unstabilizing effect, or where the formula includes deferred increases which are themselves found to be unreasonably inconsistent with stabilization. The CISC will not approve "me-too" clauses, but will examine all economic adjustments provided by contract clauses.

(b) There are a few intercraft relationships, often within a single international union, which are so well recognized that adjustments, at least to a degree, to restore appropriate relationships among these classifications may be approved. The case of plumbers and fitters or plaster tenders, lathers and plasterers may be illustrative in some localities.

(c) In general, any restoration to appropriate historic relationships among crafts or localities should be spread over a period of 2 or 3 years or more. The CISC in reviewing historical relationships will also give attention to clear evidence of changing historical relationships over the past decade.

(d) Attention should be directed to questions of appropriate differentiation of rates by crafts among branches of the industry, such as heavy and highway, housing and commercial work, and local parties and craft boards may be urged to review or consider such differentiations.

(e) The CISC may give special consideration to agreements which provide for significant changes in the geographical structure of bargaining, including the development of wage zones under one agreement, where such changes would promote the stabilization of collective bargaining and the effective utilization of manpower and management resources.

(5) Deferred increases which would cause unstabilizing effects on wage relationships in a locality or among localities (i.e., which would prove unreasonably inconsistent with the application of such standards to a locality or a branch of the industry), should be promptly reviewed and agreement sought on adjustments at a local level or the adjustment spread over a sufficiently long period to reduce unstabilizing effects and to achieve settlements at reasonable amounts. In general, such deferred increases are now held up and may not be placed into effect without approval of the CISC. The CISC is to proceed promptly to identify those cases on a locality by locality basis and to seek revisions in agreements. The CISC ordinarily intends to handle these cases directly with the International Unions and the national offices of contractor associations in the first instance, rather than with the craft dispute boards.

(6) In the consideration of all applications in 1972, the CISC recognizes the necessity to show continued retardation in the rate of increases permitted for 1972 as measured by Pay Board standards. The CISC shall also apply this principle to agreements extending into 1973 and 1974.

(7) The CISC is to continue to apply its policy on economic adjustments which are broader than wages and fringe benefits, that is, which would include the money value of all economic adjustments including work rules.

(8) The CISC is to seek to improve the role of the craft boards and to enhance their contribution to the improvement of collective bargaining and procedures for dispute settlements in the industry.

Effective date: April 25, 1972.

[Order 3, Revision 1]

CHAIRMAN

Delegation of Authority

Pursuant to the authority vested in the Pay Board by Executive Order No. 11640, as amended, and Cost of Living Council Order No. 3, as amended, it is hereby ordered as follows:

1. There is delegated to the Chairman of the Pay Board responsibility for all administrative functions, including, but not limited to, contracting, acquisition of supplies, financial certifications, expenditure and allocation of funds, travel approval, personnel actions, and staff organization.

2. There is delegated to the Chairman authority to recommend litigation and to represent the Pay Board in litigation: *Provided, however,* That such litigation shall be only for the purpose of enforcing, defending, or intervening in actions related to policies and regulations established by the Pay Board, Pay Board decisions and orders, and other actions taken by the Board.

3. There is delegated to the Chairman authority to approve for publication or dissemination "Questions and Answers" and rulings concerning the interpretation of (a) the Economic Stabilization Act of 1970, as amended, (b) Pay Board policy decisions, and (c) Pay Board regulations.

4. The Chairman shall have the authority to approve pay adjustments within the General Wage and Salary Standard, to approve or deny requests for exceptions thereto (including requests for approval of new or modified variable compensation plans or practices pursuant to Subpart F of Part 201, Pay Board Regulations), to review and rule on retroactive and deferred pay adjustments in accordance with Subpart C of Part 201, Pay Board Regulations, and to rule on appeals from Internal Revenue Service determinations.

5. The Chairman shall have the authority to rule on requests for review (or reconsideration) of initial decisions made pursuant to paragraph 4 of this order.

6. The Chairman shall have the authority to consider any request for review (or reconsideration) of a Pay Board decision and to affirm any such decision in accordance with Part 205, Pay Board Procedural Regulations.

7. There is delegated to the Chairman the authority to request information in connection with any proceeding before the Board, or in connection with compliance investigations. This authority includes, but is not limited to, the right to issue subpenas and request judicial enforcement thereof.

8. Decisions made pursuant to this delegation of authority shall be made on the basis of the standards and criteria set forth in applicable Pay Board regulations.

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9. The Chairman is hereby authorized to redelegate any authority delegated to him by this order: *Provided however,* That—

a. With respect to Category I pay adjustments, the Chairman may redelegate only the authority to approve increases within the General Wage and Salary Standard, within established exceptions to such standard, or which are tandem pursuant to § 201.12 of Pay Board regulations (regardless of the amount of the increase) to other increases approved by the Pay Board.

b. With respect to deferred increases challenged pursuant to § 201.35, the Chairman may redelegate only the authority to approve such increases which are found to be not unreasonably inconsistent with criteria established by the Pay Board.

c. With respect to review of initial decisions, the Chairman may not redelegate the authority to review decisions of the Chairman or decisions of the Pay Board.

10. Where references are made in this order to specific CFR sections, such delegated authority shall extend to any subsequent renumbering of such sections. Where substantive changes are made to said enumerated CFR sections, the authority delegated in this order shall extend to such changes unless expressly stated otherwise by the Pay Board in its regulations.

11. This order supersedes Pay Board Order No. 3 which is hereby revoked.

12. The effective date of this order shall be January 21, 1972.

Unanimously adopted by the Board November 2, 1972.

[Order 3A, Revision 1]

EXECUTIVE DIRECTOR

Delegation of Authority

Pursuant to the authority delegated to the Chairman of the Pay Board by section 9 of Pay Board Order No. 3, Revision 1, it is hereby ordered as follows:

1. There is delegated to the Executive Director of the Pay Board the authorities delegated to the Chairman of the Pay Board by Order No. 3, Revision 1, subject to the limitations provided by paragraph 9 of that order.

2. The Executive Director of the Pay Board is authorized to redelegate the authority delegated by paragraph 1 of this order to such officers and employees of the Pay Board staff as he deems necessary for the orderly and efficient performance of Pay Board functions.

3. This order supersedes Pay Board Order No. 3A, which is hereby revoked.

4. This order shall be effective as of January 21, 1972.

[Order 4, Revision 1]

SECRETARY OF THE TREASURY

Delegation of Authority

Pursuant to the authority vested in the Pay Board by Executive Order No. 11640, as amended, and by Cost of Living Council Order No. 3, as amended, it is hereby ordered as follows:

1. The delegation of authority to the Secretary of the Treasury contained in Pay Board Order No. 1 is hereby reaffirmed and continued. It has been determined that this order confers upon the Secretary of the Treasury the authority to perform functions which include, but are not limited to, the following:

(a) Determinations that certain proposed retroactive payments in all Pay Categories satisfy the criteria for such payments pursuant to 6 CFR 201.32(b), 201.32(c), and 201.36(d): *Provided,* That in the event of an adverse ruling an appeal may be made to the Pay Board; and

(b) Processing challenges by parties at interest made in accordance with 6 CFR 201.35 to existing contracts or pay practices previously set forth, investigating such challenges, and reporting the positions of all parties at interest, including the forwarding of supporting documents, to the Pay Board for determination.

2. In addition to the authority delegated by Order No. 1 and continued by this order, the Secretary of the Treasury, or his duly authorized agent, shall have the authority to sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant books, papers, and other documents, and to administer oaths, all in accordance with section 206 of the Act, for any purpose related to the Act.

3. In addition to the authority delegated by Order No. 1 and continued by this order, the Secretary of the Treasury shall have the authority to review reports of wage and salary increases allowed as self-executing exceptions.

4. In addition to the authority delegated by Order No. 1 and continued by this order, the Secretary of the Treasury shall have the authority to:

(a) Approve requests for exceptions concerning Category III pay adjustments which meet the conditions set forth in 6 CFR 201.12 (tandem wage and salary relationships); in 6 CFR 201.13 (tandem qualified benefit relationships); in 6 CFR 201.14 (essential employees); in 6 CFR 201.17 (governmental wage determinations); in 6 CFR 201.18 (intraunit inequities); or in such additional criteria for exceptions as may hereafter be established by the Pay Board, and

(b) Deny all requests for exceptions concerning Category III pay adjustments which do not meet the conditions of the criteria specified in section 4(a) of this order, or certify such requests to the Pay Board without decision.

5. In addition to the authority delegated by Order No. 1 and continued by this order, the Secretary of the Treasury shall have the authority to:

(a) Review certifications of retroactive pay adjustments made by Category II or Category III employers in accordance with 6 CFR 201.31(c)(1);

(b) Review certifications of retroactive pay adjustments or certain deferred increases made by Category II or Category III employers in accordance with 6 CFR 201.36(b)(2);

(c) Make determinations for parties at interest in accordance with 6 CFR 201.36(b)(3) as to whether the requirements for retroactive pay adjustments or certain deferred increases pursuant to 6 CFR 201.36 (a) and (c) have been met; and

(d) Make a determination or transmit to the Pay Board for determination any application by a party at interest in accordance with 6 CFR 201.36(b)(3) that claims that the requirements for a retroactive pay adjustment or a deferred increase pursuant to 6 CFR 201.36(a) have been met without meeting the requirements of 6 CFR 201.36(c).

6. Where references are made in this order to specific CFR sections, such delegated authority shall extend to any subsequent renumbering of such sections. Where substantive changes are made to said enumerated CFR sections, the authority delegated in this order shall extend to such changes unless expressly stated otherwise by the Pay Board in its regulations.

7. The Secretary of the Treasury may redelegate to any agency, instrumentality, or official of the United States any authority under this order, and may, in carrying out the functions delegated by this order, utilize the services of any other agencies, Federal or State, as may be available and appropriate.

8. Unless otherwise provided, this order is effective on November 14, 1972.

[Order 5, Revision 1]

SECRETARY OF THE TREASURY

Delegation of Authority

Pursuant to the authority vested in the Pay Board by Executive Order No. 11640, as amended by Executive Order No. 11660, and Cost of Living Council Order No. 3, as amended, it is hereby ordered as follows:

1. In addition to the authority delegated to the Secretary of the Treasury in sections 1(b) and 4 of Pay Board Order No. 4, for the purpose of uniformity in administration of pay controls within certain trade, industry, and other specified groups of employees, there is hereby delegated to the Secretary of the Treasury the authority to—

(a) Issue a decision on any request for exception, and

(b) Challenge, review, and issue a decision under 6 CFR 201.35 (a),

in the case of any Category III pay adjustment that applies to a specified group of employees the precedent for which has been set by a Pay Board decision and order providing that all Category III pay adjustments within the particular group are appropriate for such action by the Secretary of the Treasury.

2. Where references are made in this order to specific CFR sections, such delegated authority shall extend to any subsequent renumbering of such sections. Where substantive changes are made to said enumerated CFR sections, the authority delegated in this order shall extend to such changes unless expressly stated otherwise by the Pay Board in its regulations.

3. The Secretary of the Treasury may redelegate to any agency, instrumentality, or official of the United States any authority under this order, and may, in carrying out the functions delegated by this order, utilize the services of any other agencies, Federal or State, as may be available and appropriate.

4. Effective date: July 12, 1972.

[FR Doc.72-20372 Filed 11-22-72;1:56 pm]

RULINGS—INTERNAL REVENUE SERVICE/PAY BOARD

1972-74 Revocation of Pay Board rulings.
1972-75 Continued payment of challenged pay adjustments.
1972-76 Existing contracts.
1972-77 Appropriate employee unit.
1972-78 Bona fide promotions.
1972-79 Cost of living increases as part of existing contracts and pay practices.
1972-80 Pay adjustments and appropriate employee units.
1972-81 Competitive wage and salary increases to retain key employees.
1972-82 Incorporation of an existing business.
1972-83 Inclusion of vacation and holiday benefits in total compensation package.
1972-84 Averaging of wage and salary increase over 12-month period.
1972-85 Appropriate employee units.
1972-86 Phase one exception request as a pay practice.
1972-87 Right to seek injunctive relief.
1972-88 Longevity raises.
1972-89 Pay practice previously set forth.
1972-90 Fair Labor Standards Act.
1972-91 Party at interest for purposes of a pay challenge.
1972-92 Deferred wage and salary increases prohibited by Pay Board.
1972-93 Retroactive wage increases.
1972-94 Treatment of longevity increases.
1972-95 Overtime compensation.
1972-96 Party at interest.
1972-97 Increases in "token" salaries of corporate officers.
1972-98 Reduction in workweek without proportionate decrease in pay.
1972-99 Control year.
1972-100 Difference between merit increases and longevity increases.
1972-101 Effect of "previously set forth" test on merit plan.
1972-102 Coverage of new employees under previously existing employment contracts.
1972-103 Wage increases less than the allowable standard.
1972-104 Subsequent wage determinations pursuant to preexistent authority to increase wages.
1972-105 Qualified benefits standard.
1972-106 Davis-Bacon Act.
1972-107 Merit increases.
1972-108 Construction workers.
1972-109 Piece-rate compensation.
1972-110 Incentive compensation.
1972-111 Employee loan: Indirect remuneration.
1972-112 Essential employees.
1972-113 Stock option plans.
1972-114 Sales commission plan.
1972-115 Directors' fees.
1972-116 New organization.
1972-117 Required employee donations as "wages and salaries."
1972-118 Retroactive salary increases to reflect increased productivity.
1972-119 Retroactive wage increase, based upon price increase.
1972-120 Pay practice previously set forth.

Rulings—Internal Revenue Service, Department of the Treasury

[Pay Board Ruling 1972-74]

REVOCATION OF PAY BOARD RULINGS

Pay Board Ruling

As part of its recodification, the Pay Board will update and republish its prior rulings to reflect changes in its regulations and, in some cases, changes in form or terminology, prior to, and as a part of recodification. Accordingly, this ruling revokes all Pay Board rulings heretofore published. Those rulings which are updated and are in current conformance with the final recodification of the Pay Board regulations are being republished in this issue of the FEDERAL REGISTER (Pay Board Rulings 1972-74 through 1972-120).

This ruling has been approved by the General Counsel of the Pay Board.

Dated:

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved:

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[Pay Board Ruling 1972-75]

CONTINUED PAYMENT OF CHALLENGED PAY ADJUSTMENTS

Facts. Corporation A has a contract with its employees that was in existence prior to November 14, 1971, which provides for pay adjustments to take effect thereafter which exceed the 5.5 percent standard established by the Pay Board. The contract is challenged and the challenge is pending before the Pay Board.

Issue. May the employer continue to pay its employees the increased wages provided in the contract during the period the challenge to the pay adjustments is pending before the Pay Board.

Ruling. So long as the pay adjustments were provided for in a contract that was existing prior to November 14, 1971, the employer may continue to pay the employees at the increased rate during the period the pay adjustments are under challenge unless and until the Pay Board rules otherwise. (See Economic Stabilization Regulations, § 201.35 for applicable reporting requirements.)

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-76]

EXISTING CONTRACTS

Facts. As the result of negotiations with the union representative for the employees of Corporation A, Corporation A entered into a collective bargaining agreement on October 25, 1971, to increase the wages of its employees effective December 1, 1971, to an amount representing 10 percent of all wages and salaries paid its employees.

Issue. Is Corporation A prohibited from making payments under the agreement?

Ruling. No. The agreement will be allowed to operate according to its terms even though it exceeds the 5.5 percent standard, for it was entered into prior to November 14, 1971. It will be subject to review if challenged by a party at interest, the chairman of the Pay Board, or by two or more members of the Pay Board. (See Economic Stabilization Regulations. § 201.35, for applicable reporting requirements.)

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-77]

APPROPRIATE EMPLOYEE UNIT

Facts. Corporation A has 200 employees and four different labor unions representing different units of employees. One of the unions seeks a contract which would increase the wages of its particular unit of employees 10 percent over the present wages of the unit, but not more than 5.5 percent of total wages paid by the corporation.

Issue. Is the wage increase sought by the union prohibited in the absence of prior approval of the Pay Board?

Ruling. Yes. The 5.5 percent standard is applied to the aggregate annual wage and salary increase within any appropriate employee unit and not to the total payroll of the corporation. In the absence of unusual circumstances, the established collective bargaining units, where they exist, are presumed to be the "appropriate employees units" for the measurement of changes in wage and salary levels.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-78]

BONA FIDE PROMOTIONS

Facts. Due to a vacancy Corporation A promoted one of its office managers to be a vice president of the corporation. The starting salary for the position as vice president represented an increase in salary of 30 percent over what the employee had been receiving.

Issue. Is the increase of salary prohibited?

Ruling. No. Bona fide promotions to positions of greater skill, effort, and responsibility are excluded from the 5.5 percent limitation since remuneration goes with the job, not the man. (See also, Economic Stabilization Regulations, § 201.60.)

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-79]

COST OF LIVING INCREASES AS PART OF EXISTING CONTRACTS AND PAY PRACTICES

Facts. Employer A and his employees negotiated a new labor contract, effective July 1, 1971, providing for an automatic cost of living increase every 3 months. The first increment was due on Decem-

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ber 1, 1971. The employer wants to pay this increase, and continue to make future 3-month increases under the labor contract.

Issue. May the past due increase be made, as of December 1, 1971? May future increases be made at 3-month intervals, as provided by the labor contract, assuming that the cost of living continues to rise?

Ruling. Yes. Economic Stabilization Regulations, § 201.2, define "wages and salaries" as including:

> • • • all forms of direct and indirect remuneration or inducement to employees by their employers for personal services, which are reasonably subject to valuation, including • • • cost-of-living allowances • • •

Economic Stabilization Regulations, § 201.35 state that:

> (E)mployment contracts and pay practices previously set forth which existed prior to November 14, 1971, will be allowed to operate according to their terms. However, any such specific contract or pay practice, when challenged by a party at interest, by the Chairman of the Pay Board, or by two or more other members of the Board is subject to review, to determine whether any wage and salary increase • • • is unreasonably inconsistent with the criteria established by the Board.

Although a cost-of-living increase comes within the § 201.2 definition of "wages and salaries", the contract predated November 14, 1971, and therefore is permitted by § 201.35 of the regulations to take effect as of November 14, 1971, and may be continued in the future pursuant to the contract provisions, subject to the above-stated Pay Board review. Section 201.35 contains the applicable reporting requirements.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972–80]

PAY ADJUSTMENTS AND APPROPRIATE EMPLOYEE UNITS

Facts. Corporation X is engaged in the manufacture of automobile seat covers. X employs 600 employees who are covered by a union contract which expired on November 27, 1971. Under this contract, X's employees' average base compensation rate was $3 per hour. In negotiating with the appropriate representatives of Y union (which is the recognized bargaining representative for X's employees), X accepted the following new contractual wage terms: 300 employees would receive a $0.15 per hour increase in wages and included benefits (i.e., a 5 percent increase); and the remaining 300 employees would receive a $0.18 per hour increase in wages and included benefits (i.e., a 6 percent increase).

Issue. 1. Whether the wage increases contained in X's new contract are pay adjustments that are subject to the general 5.5 percent general wage and salary standard?

2. Whether the 6 percent increase granted to 300 of X's employees violates the 5.5 percent general wage and salary standard?

Ruling. With respect to the first issue, X's wage increases for its employees are pay adjustments within the definition of "Pay Adjustments" provided by Economic Stabilization Regulations, 6 CFR 101.2 (1972). Thus, X's wage increases for its employees are subject to the 5.5 percent general wage and salary standard established in Economic Stabilization Regulations, § 201.10(a).

With respect to the second issue, the 6 percent wage increase granted to 300 of X's employees is not the controlling percentile for determining whether the 5.5 percent general wage and salary standard has been exceeded. Instead, § 201.10(a) provides that the 5.5 percent general standard applies to the increase granted to an appropriate employee unit. Since all 600 of X's employees comprise the "appropriate employee unit" under the present facts (see Economic Stabilization Regulations, § 201.2), the wage increase granted to all of X's employees must be computed to determine whether the 5.5 percent general wage and salary standard has been exceeded. In the instant case, 300 employees received a 6 percent increase, and 300 employees received a 5 percent increase. Thus, since the increase to the appropriate employee unit was 5.5 percent, the standard has not been exceeded.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972–81]

COMPETITIVE WAGE AND SALARY INCREASES TO RETAIN KEY EMPLOYEES

Facts. Employer A has had difficulty retaining his key employees or attracting replacements because his salary scale is below that of his competitors. He refrained from increasing salaries and wages during the freeze period; now, however, he would like to increase his wage scale so as to become more competitive.

Issue. May Employer A increase his wage rate to a competitive level without regard to the 5.5 percent general wage and salary standard?

Ruling. In Economic Stabilization Regulations, § 201.14, the Pay Board has attempted to permit an employer to become more competitive in his wage rate so that he might attract or retain employees essential to an efficient operation of his firm. An employer will be permitted to increase his wage rate by as much as 7 percent, if he can demonstrate to the Board:

(1) A significant proportion of vacancies has been experienced in the appropriate employee unit, despite intensive recruiting activity over a period of at least 3 months.

(2) There has been no significant deterioration or reduction in other conditions of employment; and

(3) There is a reasonable expectation that an increase will be effective in recruiting or maintaining a pool of qualified employees.

Within these limitations, the employer may increase his wage rate by a maximum of 7 percent rather than the 5.5 percent standard. However, if he fails to satisfy the specific criteria as set forth by the Pay Board, the employer will be subject to the 5.5 percent limitation. Furthermore, the employer must apply to the Board or its delegate and receive its approval before the increase permitted under this exception may be implemented.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972–82]

INCORPORATION OF AN EXISTING BUSINESS

Facts. A grocer with four employees was operating his store as a sole-proprietorship on November 13, 1971. Sometime after that date, he incorporated his business.

Issued. Whether a business in existence before November 13, 1971, which is incorporated after November 13, 1971, will be treated as an existing business or as a new business under the stabilization regulations.

Ruling. In cases where an existing business is incorporated after November 13, 1971, the appropriate employee units, the wage and salary bases of these units, and the wage years of these units of the existing business organization shall be carried over into the newly incorporated business. The wages and salaries for the positions in the new corporation would thus be subject to the same standards and criteria as would have been the lawful rates for the same or comparable jobs in the business organization had it not incorporated.

A determination of the appropriate employee unit of the grocer himself would take into account the contractual or historical wage and salary relationships within the business organization. If treated as such in the old business, the employer-as-employee of the newly incorporated grocery store may be treated as a separate, appropriate employee unit, which would be distinguished from the unit (or units) formed by the other employees of the store.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972–83]

INCLUSION OF VACATION AND HOLIDAY BENEFITS IN TOTAL COMPENSATION PACKAGE

Facts. X corporation has 1,500 production workers, all represented by one bargaining representative. X's present contract with these employees was entered into on November 30, 1970, and expires November 30, 1974. The contract provides (i) that these employes will receive an average wage increase of 5 percent commencing on November 30, 1971, and (ii) that X's employees generally will receive additional vacation and holiday benefits beginning November 30, 1971. The average value of the increase in incidental benefits is 1 percent of the employee's total remuneration.

Issue. 1. Are pay adjustments that result from existing contracts and pay practices subject to the 5.5 percent general wage and salary standard?

2. Is the 1 percent general increase in the incidental benefits accorded to X's employees included in determining whether the 5.5 percent general wage and salary standard has been exceeded?

Ruling. With respect to the first issue, Economic Stabilization Regulations (§ 201.35) provide that pay adjustments under contracts and pay practices existing prior to November 14, 1971, will be permitted to operate according to their terms, except that, if such pay adjustments are challenged by two or more members of the Pay Board by the Chairman of the Pay Board or by a party at interest, the pay adjustments are subject to review by the Board to determine if they are unreasonably inconsistent with criteria established by the Pay Board. (Since X's pay adjustments apply to or affect more than 1,000 employees, the pay adjustments must be reported to the Pay Board.)

With respect to the second issue, Economic Stabilization Regulations (§ 201.56) provides that the increased vacation and holiday benefits which are subject to being reasonably valued, must be considered in calculating the total compensation package granted to X's employees. Accordingly, X's combined wage and benefits increase will be considered in calculating the total compensation package granted to X's employees. Accordingly, X's combined wage and benefits increase will be considered by the Pay Board (assuming that X's pay adjustments are challenged) in determining whether the increase is unreasonably inconsistent with the criteria established by the Pay Board.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972–84]

AVERAGING OF WAGE AND SALARY INCREASE OVER 12-MONTH PERIOD

Facts. Where no collective bargaining agreement exists, Employer A has not given his employees an increase since November 13, 1971. He wishes to grant a 10 percent general wage increase to his employees on June 1, 1972. Employer A contends that since the 10 percent increase will only be effective for half of the control year commencing November 14, 1971, it will only constitute a 5 percent increase over the entire control year, well within the general wage and salary standard.

Issue. May an increase in wages and salaries which only applies to a portion of a 12-month year be averaged over the entire year, so as to reduce the effective percentage increase?

Ruling. No. The general wage and salary standard of 5.5 percent applies to the "annual aggregate wage and salary increase." For Employer A that means the standard applies to the total percentage increase within the control year. No averaging of the percentage increases is anticipated or permitted by Economic Stabilization Regulations, § 201.10(a).

The only exception to this rule is provided for cost-of-living increases by Economic Stabilization Regulations, § 201.64(a) which specifically permit cost-of-living increases to be averaged by time weighting over the 12-month period the adjustment is in effect, pursuant to a specific formula. However, no other wage and salary increase may be so averaged or time weighted over the 12-month annual period.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972–85]

APPROPRIATE EMPLOYEE UNITS

Facts. Since 1948, company X has had a formal salary plan and policy regulating and controlling salary practices. The plan has always pertained to all company salaried employees as a total unit regardless of the division or department to which they may be assigned. All increases granted are based on merited performance within a particular position assignment, or granted to recognize a bona fide promotion to a higher level position. General across-the-board increases are not granted to salaried personnel. In addition, company X has traditionally managed and administered its hourly employee wage practices for both its union and nonunion plants on a plant by plant basis taking into account local area practices and a particular plant's ability to pay.

Issue. For purposes of the Economic Stabilization Regulations, may company X continue to treat its 17,743 salaried employees as an appropriate employee unit and may it also continue to treat the hourly employees in each of its individual plans as an appropriate employee unit?

Ruling. Economic Stabilization Regulations, § 201.2 provide that "an appropriate employee unit" includes a group composed of all employees in a bargaining unit or in a recognized employee category. It further states "such bargaining unit or employee category may exist in a plant or other establishment or in a department thereof, or in a company, or in an industry • • • and shall be determined so as to preserve, as nearly as possible, contractual or historical wage and salary relationships." In the instant case, since 1948 company X has had a formal salary plan and policy regulating and controlling its salary practices. Such plan has always pertained to all salaried employees as a unit regardless of the division or department to which they are assigned. Additionally, company X has historically and contractually bargained with its organized hourly employees on a plant-by-plant basis. It has also treated its unorganized hourly employees on a plant-by-plant unit basis. Therefore, for purposes of the Economic Stabilization Regulations all of the salaried employees of company X constitute an appropriate employee unit and all hourly employees within each particular plant constitute an appropriate employee unit within that plant.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972–86]

PHASE ONE EXCEPTION REQUEST AS A PAY PRACTICE

Facts. On August 20, 1971, employer A determined that certain of his employees were receiving inadequate compensation for their services. On August 25, he applied for an exception with the Office of Emergency Preparedness on the grounds that severe inequities would result if the raise could not be put into effect. His request was denied.

On November 20, 1971, employer A reapplied for an exception, basing his application on the fact that the proposed increase was above a 5.5 percent wage standard.

Issue. May the employer treat his original request for an exception during phase I as a "pay practice previously set forth"? (Economic Stabilization Regulations, § 201.35.)

Ruling. Yes. Section 201.35 states that "existing contracts" and "pay practices previously set forth" prior to November 13, 1971, will be allowed to operate after that date subject to challenge by a party at interest or two or more members of the Pay Board, or by the Chairman of the Pay Board. In order for employer A to treat his request under phase I as "a pay practice previously set forth," the adjustment must have been finally decided and communicated to employees affected or management personnel responsible for administering the adjustment. Both conditions have been fulfilled.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972–87]

RIGHT TO SEEK INJUNCTIVE RELIEF

Facts. Employer X has entered into collective bargaining agreements for a number of years with a union representing an employee bargaining unit of 100. The prior contract had an expiration date of September 4, 1971. Collective bargaining sessions for a new contract began in late August 1971, but were suspended because of the "freeze." Negotiations were renewed November 4–13, 1971. The unit went on strike on November 15, 1971.

On November 21, 1971, a memorandum of agreement was entered into by the employer and the union which called for aggregate wage increases of approximately 20 percent. Faced with the threat of a continued strike unless the increases were implemented, the employer paid the new wages but filed a complaint with the District Director contending that the pay adjustment exceeded 5.5 percent.

Issue. Can an employer, who is in violation of the Economic Stabilization Regulations by paying an increase in excess of 5.5 percent without the prior approval of the Pay Board, request the Internal Revenue Service to seek injunctive relief against the payment of these increases to the employees?

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Ruling. Yes. The District Director, upon receipt of such a request will, in appropriate cases, recommend through the Stabilization Agencies that the Attorney General of the United States apply for an injunction. Economic Stabilization Regulations, 6 CFR § 401.502(c) (1972), if it can be shown that an individual or organization has engaged, is engaged, or is about to engage in any acts or practices that constitute a violation of the regulations. It constitutes a violation for any person to pay or to receive or force any person to pay or to receive any portion of a wage and salary increase not authorized by such regulations or Pay Board decision. Economic Stabilization Regulations, § 201.41.

However, an employer who is in violation of the regulations and does request the Internal Revenue Service to seek injunctive relief will not be immune from prosecution or other legal action that might be available against him under the circumstances.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-88]

LONGEVITY RAISES

Facts. For the past several years prior to November 14, 1971, a printing firm regularly increased employees' wages by allowing an automatic wage increase of $5 a week every 6 months. Such increase is solely a function of continuous service; it is granted to an individual after he has completed 6 months' service since his last such increment.

Issue. May the printing firm continue paying its longevity raises without charging these increases to the 5.5-percent standard?

Ruling. Yes. Economic Stabilization Regulations, § 201.58(b), provides that longevity increases in existence on November 13, 1971, and continued in successor contracts or pay practices are excluded from adjustment computations.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-89]

PAY PRACTICE PREVIOUSLY SET FORTH

Facts. On November 13, 1971, a company announced that it would grant a prospective pay increase to employees, but did not specify how much or when the increase might be granted.

Issue. Whether the mere announcement on November 13, 1971, of a pay increase to be granted after that date constitutes a "pay practice previously set forth" within the meaning of Economic Stabilization Regulations, § 201.35?

Ruling. The mere announcement on November 13, 1971, of a prospective pay increase does not constitute a "pay practice previously set forth" within the meaning of § 201.35. The announcement specified neither the amount of the increase, nor whether the increase would be applicable to certain or all employees of the company, nor any date or dates such an increase would be put into effect after November 13, 1971. It was therefore not finally and formally decided prior to November 14, 1971.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-90; Cost of Living Council Ruling 1972-46]

FAIR LABOR STANDARDS ACT

Facts. A, a Texas corporation, is in the business of manufacturing wood specialties. Until February 24, 1972, A had sold its products exclusively within Texas. On that date, at a meeting between A's corporate management and X, a prospective customer from Oklahoma, it was decided that A would provide all of X's requirements for wood specialties. It was also agreed that A would begin a promotional program in surrounding States to market more of its specialty products. A has been paying its employees at a wage rate which is less than the minimum standard required by the Fair Labor Standards Act of 1938, 29 U.S.C. 206(a)(1). In order to raise its employees' wages to a rate which would comply with the aforementioned section, A would have to increase wages some 26 percent above the rate its employees were paid prior to February 24, 1972.

Issue. May A raise employees' wages to comply with the Fair Labor Standards Act, without regard to the general wage and salary standard?

Ruling. Yes. A is allowed to raise wages to the extent necessary to comply with the Fair Labor Standards Act, even though such raise is in excess of the 5.5 percent standard. The authority for this opinion is found in the Economic Stabilization Regulations, 6 CFR 101.103 (1972), which states that "this title (Title 6) shall not be exercised to preclude the payment of any pay adjustment: (1) Required under the Fair Labor Standards Act of 1938 * * *." Accordingly, even though a 26 percent wage increase is normally far in excess of Stabilization guidelines, the foregoing special provision allows employees to catch up to basic minimum wage standards when the employer for whom they work becomes engaged in the production of goods for interstate commerce. (See also Economic Stabilization Regulations, § 201.58(e), which exclude such an increase from adjustment computations.)

This ruling has been approved by the General Counsels of the Pay Board and the Cost of Living Council.

[Pay Board Ruling 1972-91]

PARTY AT INTEREST FOR PURPOSES OF A PAY CHALLENGE

Facts. The X County Board of Supervisors is a governing body with authority under State law to determine salaries of county judges. Pursuant to a resolution adopted by the Board of Supervisors prior to November 14, 1971, the salaries of county judges were increased on January 2, 1972, by amounts in excess of the 5.5 percent wage guideline. Three of the board members, constituting a minority of the board, voted against the salary increase and desire to initiate a pay challenge with the Internal Revenue Service in accordance with Economic Stabilization Regulations 6 CFR 401.401 (1972).

Issue. Whether a minority of the board is a "party at interest" for purposes of initiating a pay challenge.

Ruling. No. A minority of the board would not be an employer who could be required to pay the wages and salaries in question and would not be a "party at interest" as that term is defined in Regulations § 201.2. Accordingly, the minority would not be authorized to initiate a pay challenge. However, it could submit a complaint to the appropriate district office of the Internal Revenue Service pursuant to Regulation 6 CFR 401.501 (1972).

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-92]

DEFERRED WAGE AND SALARY INCREASES PROHIBITED BY PAY BOARD

Facts. Employer A and the union representing his employees agree to a 9 percent increase, effective immediately, on March 1, 1972. There is a further provision in the agreement which states that in the event the Pay Board disapproves any portion of the increase that portion will be payable retroactively to March 1, 1972, when controls are lifted. The Pay Board subsequently approves a 5.5 percent increase but expressly disapproves the provision of the agreement cited above, stating that it constitutes a 3.5 percent increase in wages and salaries payable as deferred compensation. The parties nevertheless decide to leave it in the agreement.

Issue. Does the action of the parties in leaving the deferred increase provision in effect constitute a violation within the meaning of Economic Stabilization Regulations, § 201.41?

Ruling. Yes. Section 201.41(a)(4) provides that it is a violation to "Fail or refuse to comply with a decision or order of the Pay Board or its delegate or with any regulation issued pursuant to the Act, or induce, solicit, encourage, force, or require any other person to fail or refuse to comply with a decision or order of the Pay Board or its delegate or with any regulation issued pursuant to the Act." This subsection makes clear that if the Board renders a decision, it is a violation for any person to refuse to comply with it.

Moreover, the language in § 201.41 providing that it shall not be a violation to "bargain for, request, contract for, or agree to (as contrasted with paying or receiving) a wage and salary increase in excess of the maximum permissible annual aggregate wage and salary increase" does not remove the basis for a violation. This clause was included in § 201.41 to permit the parties to bargain freely prior to submitting their eventual agreement to the Pay Board for approval of an exception to the standard. Once the Board has decided that an agreement to pay an amount in excess of the standard constitutes an actual increase in wages and salaries, such agreement no longer comes

within the proviso permitting agreements in excess of the standard. The Board has ruled that it is more than an agreement—it is a wage and salary increase payable as deferred compensation.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-93]

RETROACTIVE WAGE INCREASES

Facts. Based upon its high profits for the 1970-71 fiscal year, Employer A announced to his employees prior to the freeze that he would make a large contribution on September 15, 1971, into the existing employee profit-sharing plan. Had the contribution been made, it would have produced a 15 percent increase in the total compensation for the appropriate employee unit. The actual contribution was precluded by the freeze period of the Economic Stabilization Program. Three of Employer A's employees retired between September 15, 1971, and November 14, 1971. Each of the three employees would have been eligible to receive an increased benefit under the profit-sharing plan at the time of his retirement. Employer A is willing to make the increased contribution to the profit-sharing plan, retroactive to its original date, September 15, 1971.

Issue. May the retroactive contribution to the existing profit-sharing plan be made?

Ruling. Yes. Economic Stabilization Regulations, § 201.33(c)(1), permit the payment of wage and salary increases if the employer determines, subject to compliance checks by the Internal Revenue Service, that:

> An employee in an appropriate employee unit would have become eligible to receive a new or increased benefit under a fringe benefit plan if the freeze had not occurred, and the employee cannot otherwise (because of death, retirement, etc., during the freeze) become eligible for the benefit after the freeze * * *.

Moreover, Economic Stabilization Regulations, § 201.33, give examples of two situations in which the retroactive payment of increased benefits may be made.

In this situation, the appropriate employee unit would have become eligible for the increased benefit, but for the freeze. Three of the employees who retired from the unit during the freeze will not receive any increased benefits if the retroactive payments are not permitted. Therefore, the increased contribution to the profit-sharing plan may be made retroactively without violating the regulations.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-94]

TREATMENT OF LONGEVITY INCREASES

Facts. An employment contract which was in existence prior to November 14, 1971, provided for a 2-percent longevity increase. A new employment contract which was negotiated after November 14, 1971, increases the longevity payments from 2 percent to 4 percent.

Issue. For purposes of the 5.5 percent general wage and salary standard, will the 2 percent increase in longevity payments be taken into account?

Ruling. Yes. Economic Stabilization Regulations, § 201.60(b), provide that longevity increases provided for in an employment contract in effect on November 13, 1971, or provided for in a pay practice previously set forth and in existence on such date and contained in successor contracts or pay practices are excluded from adjustment computations. However, no such exclusion is provided for increases in longevity increments provided for in the successor contract or pay practice entered into after November 14, 1971. Therefore, in the instant case, the longevity increase of 2 percent paid pursuant to the contract entered into after November 13, 1971, is subject to the provisions of Economic Stabilization Regulations § 201.10(a). (See § 201.64(c) for applicable computation rules.)

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-95]

OVERTIME COMPENSATION

Facts. Engineers of an electronics firm, hired on the basis of a 40-hour workweek for a yearly salary, have recently had to work substantial amounts of overtime. There has been no preexisting practice of paying engineer-employees overtime, nor has there been any provision made for such pay in employee-employer labor contracts. Further, each of these employees is "an employee employed in a bona fide * * * professional capacity" within the meaning of the section 13(a)(1) exemption of the Fair Labor Standards Act and therefore no overtime payments are required to be made to them by that Act.

Issue. May the engineers now be paid time and a half for overtime work without charging their increased pay to the 5.5 percent standard?

Ruling. No. Economic Stabilization Regulations, § 201.10(a), which establish the 5.5 percent standard applies to "any wage and salary increase payable with respect to an appropriate employee unit pursuant to * * * a pay practice established * * * after November 13, 1971."

Economic Stabilization Regulations, § 201.2 which define wages and salaries specifically include "overtime pay." Since payment for overtime to engineers was not a practice in effect prior to November 14, 1971, in this firm and since such payments are considered part of an employee's wages and salaries, the firm may not pay subject engineers for overtime without charging such payments to the 5.5 percent standard.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-96]

PARTY AT INTEREST

Facts. An employer association has been the bargining representative for various employers for the past 5 years in wage negotiations with a trade union of less than 1,000 employees. On October 20, 1971, the bargaining representative and the trade union agreed on wage terms that would grant a 12 percent increase for the wage year beginning March 1, 1972. Employer X, who was represented in this agreement by the bargaining representative and bound by its terms, believes that this 12 percent increase is unreasonably inconsistent with the policies of the Economic Stabilization Program and now seeks to initiate a pay challenge pursuant to Economic Stabilization Regulations, § 201.35. The bargaining representative has refused to initiate a pay challenge for X because a majority of the employers bound by the contract would not consent to the challenge.

Issue. Can employer X-initiate a pay challenge as a party at interest?

Ruling. No. A pay challenge may be initiated only by a party at interest, which is defined in Regulations § 201.2, as:

> "Party at interest" means: (1) A bargaining representative of employers who could be required to pay the wages and salaries in question, or in the absence of such bargaining representative, an employer who could be required to pay the wages and salaries in question.

In this situation, employer X had a bargaining representative at the time the increase was negotiated; therefore, a challenge would have to be initiated through the bargaining representative. Since a majority of the employers in the Association accept the contract and refuse to initiate a challenge, employer X cannot reject the contract nor would withdrawal from the association for the purpose of negotiating future contracts entitle him to make a direct pay challenge under § 201.35 as a party at interest.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-97]

INCREASES IN "TOKEN" SALARIES OF CORPORATE OFFICERS

Facts. Corporation A's officers have foregone the receipt of anything more than token wages and salaries in order that all available corporate income could be spent on expansion and growth. However, the Corporation desires to commence paying substantially increased salaries to its officers, as of January 1972.

Issue. May the officers' salaries be increased in an amount greater than the general wage and salary standard without Pay Board approval, because their wages did not reflect the responsibility and the work performed?

Ruling. No. Unless excepted by the Economic Stabilization Regulations, all wages and salaries, as defined by Economic Stabilization Regulations, § 201.2, are subject to the 5.5 percent general wage and salary standard. That is, the total amount of wages and salaries being paid to the "appropriate employee unit", here comprised of the officers of Corporation A, for 1972, cannot exceed the total amount being paid as of November 13, 1971, by more than 5.5 percent.

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Since these officers were only receiving token wages and salaries on November 13, 1971, the permissible increase by 5.5 percent could not produce much greater compensation for 1972.

However, if Corporation A desires to increase the compensation for its officers by more than is permissible under the general wage and salary standard, it could request an exception under Regulations § 201.30 of which paragraph (b) reads as follows:

(b) *Criteria.* When the Board reviews new contracts and pay practices in individual cases with respect to payment for services rendered in any control year and in its development of additional criteria for exceptions, it shall consider such factors as changes in productivity and the cost of living, on-going collective bargaining and pay practices, the equitable position of the employees involved, and such other factors as are necessary to foster economic growth, to promote improvement in the quality of governmental services, and to prevent gross inequities, hardships, serious market disruptions, domestic shortages of raw materials, localized shortages of labor, and windfall profits.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-98; Cost of Living Council Ruling 1972-66]

REDUCTION IN THE WORKWEEK WITHOUT A PROPORTIONATE DECREASE IN PAY

Facts. In May of 1970. City X and the Firefighters Association contractually agreed to reduce the workweek of firefighters to 58.8 hours per week on January 1, 1971; to 57.4 hours on January 1, 1972; and to 56 hours on January 1, 1973. Additionally, a salary scale was agreed to effective July 1, 1970. Such salary scale is currently in effect, as is the workweek of 57.4 hours. The city and association are presently negotiating a new salary scale for firefighters to be effective July 1, 1972.

Issue. In setting a new salary scale, is the scheduled workweek reduction to 56 hours, which results in an increase in the average straight-time hourly rate, includable in computing the permissible annual aggregate increase?

Ruling. Yes. Economic Stabilization Regulations, 6 CFR 101.2 (1972) include in the definition of "pay adjustment" "* * * benefits which result in more pay per hour or other unit of work or production (e.g., by shortening the workday without a proportionate decrease in pay)". Such benefit is also included in the Pay Board definition of "wages and salaries". (See Regulations § 201.2.) Therefore, a projected decrease in hours worked without a proportionate decrease in pay must be taken into consideration in determining the permissible annual aggregate increase for an appropriate employee unit. In the instant case, such permissible increase will be the general wage and salary standard of § 201.10(a) (or, if applicable, an exception thereto under Subpart B of Part 201 of Pay Board Regulations), because the pay adjustment under negotiation—i.e., the new salary schedule—is a modification of an existing contract. (See § 201.64(b), for applicable computation rules.)

This ruling has been approved by the General Counsels of the Pay Board and the Cost of Living Council.

[Pay Board Ruling 1972-99]

CONTROL YEAR

Facts. The assembly line employees of Company A, who were not under contract at the time, received a 5.5 percent general wage and salary increase on December 10, 1971. On January 15, 1972, these employees voted to join a national union. At the same time, Company A joined an employer's association to bargain collectively with the union. In a collective bargaining agreement dated April 15, 1972, the association agreed to grant a 5.5 percent wage and salary increase effective May 1, 1972, to all employees of Association members represented by the national union.

Issue. Having already granted the assembly line employees a 5.5 percent increase, may Company A now grant another 5.5 percent increase to the employees pursuant to the collective bargaining agreement?

Ruling. No. Economic Stabilization Regulations, § 201.52(b)(1), provide that the first control year for an appropriate employee unit which was not covered by the terms of an employment contract in effect on November 13, 1971, will be "the period from November 14, 1971, through November 13, 1972." Moreover, § 201.52(d)(1) states that "The base date for the first and succeeding control years * * * shall not thereafter be changed even though the appropriate employee unit goes from a pay practice status to an employment contract status * * * after November 13, 1971."

Finally, Regulations, § 201.51(c), impose a limitation on compensation increases with respect to an appropriate employee unit for any control year. Such limitation is the maximum permissible annual aggregate wage and salary increase pursuant to Regulations § 201.10(a).

The control year for these employees cannot change, without Pay Board approval. Moreover, they have already received an increase equivalent to the general wage and salary standard. Accordingly, no further increase for these employees may be granted until the second control year beginning November 14, 1972, unless payments to such employees qualify for an exception under Subpart B of Part 201.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-100]

DIFFERENCE BETWEEN MERIT INCREASES AND LONGEVITY INCREASES

Facts. State employees are entitled to receive specific pay increases at periodic intervals according to a State statute enacted prior to August 15, 1971, which sets forth wage progression schedules. An employee obtains such an increase only after a rating is made by his supervisor certifying that the employee's work is satisfactory.

Issue. May wage increases which are dependent upon a supervisor's rating be regarded as longevity raises?

Ruling. The fact that an increase is dependent upon a certification that an individual's performance is satisfactory is not of itself sufficient to determine whether the increase will be considered as a longevity increase. This determination will depend on an examination of all the terms of the employment situation. If the increases are "solely related to the employee's length of service and operate without significant affirmative exercise of employer discretion or subjective evaluation of the employee's work performance," then such raises are considered longevity increases. (See Economic Stabilization Regulations, § 201.58(b)). On the other hand, if in providing for wage increases, there is consideration given for superior performance, then such raises would not be considered longevity increases.

The important question, then, is what the supervisor's rating is set up to do. In the instant case, the rating serves only as a review of whether the employee has performed his work satisfactorily. Section 201.58(b) states that "(i)f it is an established practice that once an individual's work performance for a certain length of time is determined to be satisfactory and the amount of the increase as determined in advance is not subject to any discretionary adjustment, the increase is due to longevity." As the periodic increases are fixed by State statute and an employee rating does not call for any review other than whether the employee's work is satisfactory, these wage increases are considered longevity increases.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-101]

EFFECT OF THE "PREVIOUSLY SET FORTH" TEST ON A MERIT PLAN

Facts. In June 1971, the Board of Directors at Hospital X, as part of their yearly practice of reviewing their previous year's merit plan, made certain changes in that plan for the forthcoming year. At that time, subject to these changes, the plan, as amended, was approved for the year commencing July 1, 1971. Prior to that date, on June 28, 1971, such plan was communicated to Hospital X's employees; however, at no time was any stated amount budgeted for the merit plan.

Issue. (1) Will changes made prior to November 14, 1971, in a merit plan, approved for 1971, cause such plan to fall the "previously set forth" test as defined in Economic Stabilization Regulations, § 201.35(d)?

(2) Will the determination that no stated amount was budgeted for the amended plan cause such plan to fall the above test?

Ruling. The answer with respect to the first issue is "No." Provided such rate changes were made prior to November 14, 1971, as was the case here, they shall be allowed to take effect subject to the usual requirements of § 201.35(a).

The answer with respect to the second issue is "Yes." Section 201.35(d) provides that "Except as provided in Subpart F of this part, for purposes of this section, a pay practice shall be 'previously set forth' only if it can be documented that prior to November 14, 1971, an adjustment * * * in the case of a merit plan, the aggregate amount to be expended was—

(1) Decided finally and formally in accordance with established procedures, and

(2) Communicated to the management personnel responsible for implementing the pay adjustment or to the employees affected."

In the instant case, even though the final decision was made to implement the merit plan by the Board of Trustees in June 1971, and the decision was communicated by memorandum dated June 28, 1971, to the appropriate employee unit, hospital X did not at any time prior to November 14, 1971, set an aggregate amount to be expended for their merit plan. Hence, the merit plan fails to qualify under the "previously set forth" test of § 201.35(d).

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-102]

COVERAGE OF NEW EMPLOYEES UNDER PREVIOUSLY EXISTING EMPLOYMENT CONTRACTS

Facts. Prior to August 15, 1971, a master collective bargaining agreement was reached between a national union and an association representing a wide majority of employers within a certain industry throughout the Nation.

The terms of the collective bargaining agreement provide that:

When a majority of the eligible employees performing work covered by * * * the * * * agreement (to which their employer is a prior signator), execute a card authorizing a signatory local union to represent them as their collective bargaining agent * * * then such employees shall automatically be covered by this agreement.

On January 30, 1972, employer A, a party to the agreement, expanded his manufacturing operations into a nearby city, resulting in the need to hire 300 new assembly line employees to operate the new plant. Certain other employees were transferred from other plants covered by the agreement. The average wage of the newly hired workers was $3.25 per hour.

On March 15, 1972, the new assembly line employees, voted, to become members of a signatory local union of the national union. Pursuant to the above provisions of the agreement they were immediately covered by the agreement and eligible to be paid the wage level provided in the agreement, $3.80 an hour.

Issue. Under Economic Stabilization Regulations, § 201.35, relating to existing contracts and pay practices previously set forth, may employer A put the increases in question into effect?

Ruling. Yes. Section 201.35 provides that "Employment contracts and pay practices previously set forth which existed prior to November 14, 1971, will be allowed to operate according to their terms." Such employment contracts and pay practices, however, can be "challenged by a party at interest, by the Chairman of the Pay Board or by two or more other members of the Board * * *." In the instant case, the master contract to which employer A is a party existed prior to November 14, 1971, and therefore is within the thrust of § 201.35.

The new employees have elected to be represented by the union. Pursuant to the terms of the master agreement, their wage scale automatically becomes that of the union members. Since employer A was an original party to the agreement, which provided for automatic coverage under the agreement upon showing of majority support, his obligations to his employees are controlled by the provision contained therein. Since the employment contract was in existence prior to November 14, 1971, employer A may put the scheduled increases into effect. For determination of applicable control year, see Regulations, § 201.52(d).

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-103]

WAGE INCREASES LESS THAN THE ALLOWABLE STANDARD

Facts. A operates a small manufacturing firm whose employees are seeking a 5.5 percent wage increase. Because of a decline in business during the past year, however, A can only afford to pay an increase of 2 percent. The employees agree to accept 2 percent but ask that the difference of 3.5 percent be carried forward and added to the permissible standard for wage and salary increases during the next control year. Assuming that the general wage and salary standard remains at 5.5 percent, would the maximum permissible increase for the next control year then be 9 percent?

Issue. If a wage increase during 1 control year is less than the maximum allowable increase, can the difference between the two be carried over and added to the allowable increase for a subsequent control year?

Ruling. No. The general wage and salary standard of 5.5 percent is the "maximum permissible annual aggregate wage and salary increase" for any given control year. Economic Stabilization Regulations, § 201.10(a). The only exceptions to this limitation are set forth in Subpart B of Part 201 of the Regulations.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-104]

SUBSEQUENT WAGE DETERMINATIONS PURSUANT TO PREEXISTENT AUTHORITY TO INCREASE WAGES

Facts. The salary schedule for probation officers in State X, established by State statute, provides salaries for six officers which exceed the present salary of their superior, the Commissioner of Probation. Moreover, 37 other officers receive salaries which exceed the salaries of the Deputy Commissioners. Pursuant to State statute, the Y Committee on Probation has the power to remedy this inequity by increasing within certain specified limits the salaries of the Commissioner and Deputy Commissioners. The legislation providing the Y Committee with such power was enacted on September 1, 1970. In February of 1972, the Y Committee formally voted to correct the inequity by increasing the salaries of the Commissioner and Deputy Commissioners.

Issue. Does the State statute from which the Y Committee derives its authority to increase the salaries of the Commissioner and Deputy Commissioner constitute a "pay practice previously set forth" which existed prior to November 14, 1971, within the meaning of Economic Stabilization Regulations, § 201.35?

Ruling. No. Section 201.35(a) of the regulations provides in part that "employment contracts and pay practices previously set forth which existed prior to November 14, 1971, will be allowed to operate according to their terms". Section 201.35(d) provides in part that "a pay practice shall be previously set forth only if it can be documented that prior to November 14, 1971, an adjustment to wages and salaries was decided finally and formally in accordance with established procedures". Since the specific pay increases were not determined by the State statute but by the vote of the Y Committee, which did not occur until February 1972, there was no "pay practice previously set forth" prior to November 14, 1971.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-105]

QUALIFIED BENEFIT STANDARD

Facts. Corporation X has a qualified benefit plan for its employees. The corporation does not wish to increase the employee benefits or the contributions under the plan for the first control year. However, the corporation desires to increase its contributions to fund increased employee benefits under the qualified benefit plan in the second control year. It is provided by Economic Stabilization Regulations § 201.59(g) that:

For purposes of subparagraph (1) of this paragraph, the 0.7 percent referred to in subdivision (1) of such subparagraph may be used in future control years to the extent not utilized in a prior control year.

Issue. (1) Does § 201.59(g) require that part of the 0.7 percent figure must be used by the corporation in a previous control year in order to use the remainder in a subsequent control year?

(2) Does § 201.59(g) allow the 0.7 percent figure to be cumulative if not used?

Ruling. The answer with respect to the first issue is no. It is provided by § 201.59(g) that the 0.7 percent increase "may be used in future control years to the

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extent not utilized in a prior control year." If no part of the 0.7 percent increase were utilized by the corporation in the prior control year, then the entire 0.7 percent increase may be carried over to the following control year, or carried over to a future control year.

The answer with respect to the second issue is yes. The 0.7 percent figure is cumulative if not used in a prior control year, and the corporation may accumulate credit for increasing its contribution to its qualified benefit plan in a future control year. Thus, Corporation X could have a 1.4 percent increase in the second control year under the qualified benefit standard without charging it against the general wage and salary standard.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-106; Cost of Living Council Ruling 1972-116]

DAVIS-BACON ACT

Facts. The Davis-Bacon Act, 40 U.S.C. section 276a (1970), requires that employees working on Government highway construction contracts must be paid prevailing area wages. Thus, the pay of wage-earning employees must conform to the prevailing wage scale as previously determined under the Davis-Bacon Act. Supervisory, clerical, and administrative salaried employees in the field crews, such as superintendents, field office managers, and administrators are not covered by the Davis-Bacon Act.

The needs of the highway construction industry require the transfer of employees from one geographical area to another to work on project locations. When the transfer is from a lower base economic area to a higher base economic area, by law the employer must meet the prevailing standard for wage earning employees. However, an economic differential is also experienced by salaried employees. Industry practice has been to also meet the prevailing wage for the salaried employees, because of the shortage of qualified personnel to fill these jobs and the employer's need to maintain a consistent work force to meet obligations under the contract being performed.

Issue. Can employers in highway construction work pay the equivalent of Davis-Bacon Act prevailing area wage to salaried supervisory, clerical, and administrative employees, who are not covered by the Davis-Bacon Act?

Ruling. The wages paid by an employer to his wage earning employees to comply with Federal statutes, such as the Davis-Bacon Act, have no effect on the salary paid to employees who are not covered by that Federal statute. The salaried supervisory, clerical, and administrative employees thus do not come within the exclusion from coverage in the Economic Stabilization Regulations, 6 CFR 101.103 (1972). However, Regulations § 201.17 provide that, under certain circumstances, an exception may be granted to maintain historical differentials within a unit affected by Davis-Bacon determinations. If some of the above employees are in the same appropriate employee unit as those who received Davis-Bacon increases, they may be eligible for an exception if the criteria of § 201.17 are met. Prior approval of the Pay Board is required for this exception.

This ruling has been approved by the General Counsels of the Cost of Living Council and the Pay Board.

[Pay Board Ruling 1972-107]

MERIT INCREASES

Facts. Employer X has a plan which it instituted in 1968 for its employees that provides for merit increases of from $500 to $3,000 each year. The $500 increase is for satisfactory performance and virtually all employees receive at least that amount. The increases in excess of $500 up to the $3,000 limitation are at the discretion of the employer for good, excellent, and distinguished work performances.

Issue. Can the $500 increase be considered a longevity increase and therefore be excluded from adjustment computations by reason of Economic Stabilization Regulations, § 201.58(b), relating to the longevity exclusion?

Ruling. No. To be considered a longevity increase under § 201.58(b), the increase must be solely related to the employee's length of service and must operate without significant affirmative exercise of employer discretion or subjective evaluation of the employee's work. The amount of the increase has to be determined in advance and cannot be subject to any discretionary adjustments.

This $500 increase is subject to discretionary adjustment as the employer can award a merit increase up to $3,000. The $500 award is in effect the lowest increase within a merit rate range. Hence, the $500 increase will be considered a merit increase instead of a longevity increase and be subject to the regulations dealing with merit plans.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-108]

CONSTRUCTION WORKERS

Facts. As employees, the members of local union A perform "in shop" maintenance on construction equipment. That is, all repair and servicing of equipment is done in a special repair shop off the job site. Most of the shops with whom the union has contracts are manufacturer distributors under dealerships for various types of construction products and are not in direct construction or building work.

The employment contracts for shop mechanics are negotiated separately from the construction mechanic's contracts. The rates of pay for shop mechanics are substantially lower than those for members of the union working in the construction field. In addition, because of their year-round employment, as opposed to the seasonal construction employee, their fringe benefits are entirely different.

Issue. Are these employees to be considered as being "construction" workers, so that a wage agreement affecting them would require the prior approval of the Construction Industry Stabilization Committee before taking effect?

Ruling. 29 CFR 9.2(e) (1972), issued pursuant to authority granted by Executive Order No. 11588, made by the President on March 29, 1971, to implement the power delegated to him by the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799), as amended, provides that:

> (e) "Construction" means (1) all work relating to the erecting, constructing, altering, remodeling, painting, or decorating of installations such as buildings, bridges, highways • • • but shall not include maintenance work performed by workers employed on a permanent basis in a particular plant or facility for the purpose of keeping such plant or facility in efficient operating condition.

Moreover, 29 CFR 9.2(p) (1972) defines "construction industry" as including:

> Every person, firm, company, or entity • • • and every employee employed by such person, firm, company, or entity for the performance of work relating to a project of construction • • • [E]xcluded from the construction industry are • • • suppliers of • • • services or supplies to members of the industry generally, except those operations • • • or services which are performed in connection with specific projects of construction in such a manner as to make them a part thereof.

Clearly, maintenance work, performed under the above limitations, would not be within these definitions of "construction" or "construction industry." In fact, it would be closely related to the type of work specifically excepted from the definition. These workers perform maintenance on a permanent basis, within a delineated shop area, in order to keep the equipment in efficient operating condition.

Moreover, the compensation system for these workers is totally divorced from that of the construction workers, although they may be a part of the same union. The salary range is lower and the fringe benefits differ: even the term of employment is different. The only connection with the construction industry which these workers retain is in the fact that they repair construction equipment. However, they do this work in the employ of equipment distributors, not the construction companies.

Therefore, there can be no doubt but that these workers, under the specific conditions set forth herein, are not considered to be "construction" workers, and their employment contracts would not require prior approval by the C.I.S.C. before taking effect.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-109]

PIECE-RATE COMPENSATION

Facts. X is a nonunion contractor engaged in the erection of drywall for residential, commercial, and industrial buildings. X pays his employees solely on a piece rate basis and pays no fringe benefits or other compensation. Prior to the freeze he paid his drywall installers (residential and commercial) $1.55 per piece and his drywall finishers (tapers, sanders, point-up men) $0.55 per piece for a one-story detached home with uniform 8 foot ceiling and a nail-on application. He also had different rates in effect prior to the freeze for more difficult hanging such as that required for multiple story residential construction, townhouses, high-rise apartments, cathedral ceilings, metal stud installations, etc. X wishes to grant an increase to his drywall installers and drywall finishers, but due to the diverse fluctuations in the labor force, the seasonal nature of the industry, and the effect of weather conditions on the piece rate, converting the piece rate to a straight-time hourly rate will not give an accurate reflection of the increase.

Issue. May X grant a 5.5 percent increase based on the piece rate in existence during the base period, where it is virtually impossible to convert the piece rate to a straight-time hourly rate?

Ruling. Yes, the piece rate system that X uses to pay his employees is a type of production incentive plan under Economic Stabilization Regulations, § 201.77. Pursuant to that section, any increase in the amount of compensation to the members of an appropriate unit which is due to a change in the method of calculating the earnings of any employee is considered to be an increase in the wages and salaries for the appropriate control year.

The facts of the case demonstrate that an accurate reflection of the increases cannot be computed on a straight-time hourly rate due to the particular nature of the industry. Where an accurate measurement cannot be computed or where it is impossible to compute the increases on a straight-time hourly rate, the proper method of computing the allowable piece rate in the first control year, is to take the piece rate in effect on the base date and add to it the product of the general wage and salary standard, or any applicable exceptions, and such piece rate.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-110]

INCENTIVE COMPENSATION

Facts. X Corporation adopted a written plan of incentive compensation for its executives on April 1, 1971. The plan does not qualify as an "existing contract" or as a "pay practice previously set forth" under the Economic Stabilization Regulations. The plan was established prior to November 14, 1971. No payments have been made under the plan. The aggregate amount of incentive compensation payable under the plan is determined according to a definite method or clear formula. Administration of the plan is in accordance with all conditions and limitations expressed therein and is in the customary manner without any deviation from such manner for purposes of circumventing the intent of the wage and salary stabilization program.

Issue. Under Economic Stabilization Regulations, § 201.74 may X Corporation administer the plan as an established incentive compensation plan?

Ruling. No. The plan has been in existence less than 1 year. Accordingly, it does not comply for administration under § 201.74 (a)(1), since it does not meet the condition that a payment was made in any of the last 3 plan years ending before November 14, 1971. It must be treated under the regulations as a new plan, § 201.74(d)(1), and must be approved by the Pay Board, § 201.78(c).

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-111]

EMPLOYEE LOAN—INDIRECT REMUNERATION

Facts. An executive of a corporation received a bona fide loan of $50,000 from the corporation pursuant to an employment agreement entered into after November 13, 1971. The loan had an annual simple interest rate of 3 percent and there was an unconditional written promise to pay on demand or on a specified date.

Issue. Would the difference in annual interest paid based upon the agreed interest rate and the annual interest that would have been charged in an arm's length transaction be included in wages and salary as indirect remuneration under Economic Stabilization Regulations, § 201.2?

Ruling. Yes. Where an employer makes a loan or advance directly or indirectly to an employee pursuant to an agreement entered into after November 13, 1971, and charges no interest, or charges interest at a rate which is not equal to an arm's length rate as defined in this ruling, the difference between the annual interest paid based upon the agreed interest rate and the annual interest that would have been paid if an arm's length interest rate had been charged will be included as an item of wages and salary.

Ruling. For purposes of this ruling, the arm's-length interest rate shall be the rate of interest that would have been charged at the time the indebtedness arose in independent transactions under similar circumstances not involving an employer-employee relationship. All relevant factors will be considered, including the amount and duration of the loan, the security involved, the credit standing of the borrower, and the interest rate prevailing at the situs of the lender or creditor for comparable loans.

This ruling applies to all loans or advances of money or other consideration (whether or not evidenced by a written instrument) which are forms of bona fide indebtedness.

For example, if the arm's-length rate of interest is determined to be 6 percent per annum in the instant factual situation, then $1,500 will be included as an item of wages and salaries in the first year of the loan, determined as follows:

This ruling has been approved by the General Counsel of the Pay Board.

$50,000×6 percent arm's-length interest rate	$3,000
$50,000×3 percent actual simple interest rate	−1,500
Included in wages and salaries	$1,500

[Pay Board Ruling 1972-112]

ESSENTIAL EMPLOYEES

Facts. An employer pays his employees a flat rate of compensation. In addition, the employer has a written incentive plan which qualifies under the Economic Stabilization Regulations, § 201.74(a) as an "established plan".

For the past several years, the employer has had difficulty in both retaining his old employees and recruiting new ones. Accordingly, he desires to raise his employees' salaries under the exception found in Regulations § 201.14.

Issue. Does incentive compensation paid pursuant to a § 201.74(a) "established plan" constitute wages and salaries, and as such may it be increased if the Pay Board grants the employer a § 201.14 exception?

Ruling. No. Although wages and salaries are defined by Regulations § 201.2 to include incentive pay, § 201.71(b) states that Subpart F (Executive and Variable Compensation) shall control when it is in conflict with the § 201.2 definition of wages and salaries. Therefore, the § 201.72(a) definition of wages and salaries found in Subpart F controls. This definition states that the term "wages and salaries" has the same meaning "as under § 201.2 except that items constituting incentive compensation shall not be treated as wages and salaries • • •". It follows that the employer may not treat incentive compensation which is paid pursuant to a § 201.74(a) "established plan" as wages and salaries if he is granted an exception pursuant to § 201.14.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-113]

STOCK OPTION PLANS

Facts. Corporation A has a 5-year stock option plan in existence, expiring June 30, 1973, which meets the conditions of Economic Stabilization Regulations, § 201.76(b). The original authorization under such plan was 100,000 shares. During the first 3 fiscal years of the employer during which the plan operated, all of the authorized shares were granted to the employees in the plan unit.

Issue. Must Pay Board approval be obtained in order to authorize additional shares under the existing plan?

Ruling. No. The plan may be renewed for a period of years or replenished under Regulations, § 201.78(a), which provide for the replacement of existing plans or practices which have lapsed or terminated. The grant of shares during an employer's fiscal year may not exceed the number allowable under § 201.76(b)(1) or (c), whichever is applicable, with regard to the plan prior to replenishment or renewal, and all other conditions of § 201.76(b)(1) must be met in order to qualify as a replacement of an existing plan or practice which does not require Pay Board approval.

PAY BOARD RULINGS UNDER PHASE II

Pursuant to § 201.78(c) of the Economic Stabilization Regulations, the Pay Board has issued the following rulings:

PAY INCREASES

Facts. Employer X has a plan which it instituted in 1968 for its employees that provides for merit increases of from $500 to $3,000 each year. The $500 increase is for satisfactory performance and virtually all employees receive at least that amount. The increases in excess of $500 up to the $3,000 limitation are at the discretion of the employer for good, excellent, and distinguished work performances.

Issue. Can the $500 increase be considered a longevity increase and therefore be excluded from adjustment computations by reason of Economic Stabilization Regulations, § 201.58(b), relating to the longevity exclusion?

Ruling. No. To be considered a longevity increase under § 201.58(b), the increase must be solely related to the employee's length of service and must operate without significant affirmative exercise of employer discretion or subjective evaluation of the employee's work. The amount of the increase has to be determined in advance and cannot be subject to any discretionary adjustments.

This $500 increase is subject to discretionary adjustment as the employer can award a merit increase up to $3,000. The $500 award is in effect the lowest increase within a merit rate range. Hence, the $500 increase will be considered a merit increase instead of a longevity increase and be subject to the regulations dealing with merit plans.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-108]

CONSTRUCTION WORKERS

Facts. As employees, the members of local union A perform "in shop" maintenance on construction equipment. That is, all repair and servicing of equipment is done in a special repair shop off the job site. Most of the shops with whom the union has contracts are manufacturer distributors under dealerships for various types of construction products and are not in direct construction or building work.

The employment contracts for shop mechanics are negotiated separately from the construction mechanic's contracts. The rates of pay for shop mechanics are substantially lower than those for members of the union working in the construction field. In addition, because of their year-round employment, as opposed to the seasonal construction employee, their fringe benefits are entirely different.

Issue. Are these employees to be considered as being "construction" workers, so that a wage agreement affecting them would require the prior approval of the Construction Industry Stabilization Committee before taking effect?

Ruling. 29 CFR 9.2(e) (1972), issued pursuant to authority granted by Executive Order No. 11588, made by the President on March 29, 1971, to implement the power delegated to him by the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799), as amended, provides that:

> (e) "Construction" means (1) all work relating to the erecting, constructing, altering, remodeling, painting, or decorating of installations such as buildings, bridges, highways • • • but shall not include maintenance work performed by workers employed on a permanent basis in a particular plant or facility for the purpose of keeping such plant or facility in efficient operating condition.

Moreover, 29 CFR 9.2(p) (1972) defines "construction industry" as including:

> Every person, firm, company, or entity • • • and every employee employed by such person, firm, company, or entity for the performance of work relating to a project of construction • • • [E]xcluded from the construction industry are • • • suppliers of • • • services or supplies to members of the industry generally, except those operations • • • or services which are performed in connection with specific projects of construction in such a manner as to make them a part thereof.

Clearly, maintenance work, performed under the above limitations, would not be within these definitions of "construction" or "construction industry." In fact, it would be closely related to the type of work specifically excepted from the definition. These workers perform maintenance on a permanent basis, within a delineated shop area, in order to keep the equipment in efficient operating condition.

Moreover, the compensation system for these workers is totally divorced from that of the construction workers, although they may be a part of the same union. The salary range is lower and the fringe benefits differ: even the term of employment is different. The only connection with the construction industry which these workers retain is in the fact that they repair construction equipment. However, they do this work in the employ of equipment distributors, not the construction companies.

Therefore, there can be no doubt but that these workers, under the specific conditions set forth herein, are not considered to be "construction" workers, and their employment contracts would not require prior approval by the C.I.S.C. before taking effect.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-109]

PIECE-RATE COMPENSATION

Facts. X is a nonunion contractor engaged in the erection of drywall for residential, commercial, and industrial buildings. X pays his employees solely on a piece rate basis and pays no fringe benefits or other compensation. Prior to the freeze he paid his drywall installers (residential and commercial) $1.55 per piece and his drywall finishers (tapers, sanders, point-up men) $0.55 per piece for a one-story detached home with uniform 8 foot ceiling and a nail-on application. He also had different rates in effect prior to the freeze for more difficult hanging such as that required for multiple story residential construction, townhouses, high-rise apartments, cathedral ceilings, metal stud installations, etc. X wishes to grant an increase to his drywall installers and drywall finishers, but due to the diverse fluctuations in the labor force, the seasonal nature of the industry, and the effect of weather conditions on the piece rate, converting the piece rate to a straight-time hourly rate will not give an accurate reflection of the increase.

Issue. May X grant a 5.5 percent increase based on the piece rate in existence during the base period, where it is virtually impossible to convert the piece rate to a straight-time hourly rate?

Ruling. Yes, the piece rate system that X uses to pay his employees is a type of production incentive plan under Economic Stabilization Regulations, § 201.77. Pursuant to that section, any increase in the amount of compensation to the members of an appropriate unit which is due to a change in the method of calculating the earnings of any employee is considered to be an increase in the wages and salaries for the appropriate control year.

The facts of the case demonstrate that an accurate reflection of the increases cannot be computed on a straight-time hourly rate due to the particular nature of the industry. Where an accurate measurement cannot be computed or where it is impossible to compute the increases on a straight-time hourly rate, the proper method of computing the allowable piece rate in the first control year, is to take the piece rate in effect on the base date and add to it the product of the general wage and salary standard, or any applicable exceptions, and such piece rate.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-110]

INCENTIVE COMPENSATION

Facts. X Corporation adopted a written plan of incentive compensation for its executives on April 1, 1971. The plan does not qualify as an "existing contract" or as a "pay practice previously set forth" under the Economic Stabilization Regulations. The plan was established prior to November 14, 1971. No payments have been made under the plan. The aggregate amount of incentive compensation payable under the plan is determined according to a definite method or clear formula. Administration of the plan is in accordance with all conditions and limitations expressed therein and is in the customary manner without any deviation from such manner for purposes of circumventing the intent of the wage and salary stabilization program.

Issue. Under Economic Stabilization Regulations, § 201.74 may X Corporation administer the plan as an established incentive compensation plan?

Ruling. No. The plan has been in existence less than 1 year. Accordingly, it does not comply for administration under § 201.74 (a)(1), since it does not meet the condition that a payment was made in any of the last 3 plan years ending before November 14, 1971. It must be treated under the regulations as a new plan, § 201.74(d)(1), and must be approved by the Pay Board, § 201.78(c).

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-111]

EMPLOYEE LOAN—INDIRECT REMUNERATION

Facts. An executive of a corporation received a bona fide loan of $50,000 from the corporation pursuant to an employment agreement entered into after November 13, 1971. The loan had an annual simple interest rate of 3 percent and there was an unconditional written promise to pay on demand or on a specified date.

Issue. Would the difference in annual interest paid based upon the agreed interest rate and the annual interest that would have been charged in an arm's length transaction be included in wages and salary as indirect remuneration under Economic Stabilization Regulations, § 201.2?

Ruling. Yes. Where an employer makes a loan or advance directly or indirectly to an employee pursuant to an agreement entered into after November 13, 1971, and charges no interest, or charges interest at a rate which is not equal to an arm's length rate as defined in this ruling, the difference between the annual interest paid based upon the agreed interest rate and the annual interest that would have been paid if an arm's length interest rate had been charged will be included as an item of wages and salary.

Ruling. For purposes of this ruling, the arm's-length interest rate shall be the rate of interest that would have been charged at the time the indebtedness arose in independent transactions under similar circumstances not involving an employer-employee relationship. All relevant factors will be considered, including the amount and duration of the loan, the security involved, the credit standing of the borrower, and the interest rate prevailing at the situs of the lender or creditor for comparable loans.

This ruling applies to all loans or advances of money or other consideration (whether or not evidenced by a written instrument) which are forms of bona fide indebtedness.

For example, if the arm's-length rate of interest is determined to be 6 percent per annum in the instant factual situation, then $1,500 will be included as an item of wages and salaries in the first year of the loan, determined as follows:

This ruling has been approved by the General Counsel of the Pay Board.

$50,000×6 percent arm's-length interest rate	$3,000
$50,000×3 percent actual simple interest rate	−1,500
Included in wages and salaries	$1,500

[Pay Board Ruling 1972-112]

ESSENTIAL EMPLOYEES

Facts. An employer pays his employees a flat rate of compensation. In addition, the employer has a written incentive plan which qualifies under the Economic Stabilization Regulations, § 201.74(a) as an "established plan".

For the past several years, the employer has had difficulty in both retaining his old employees and recruiting new ones. Accordingly, he desires to raise his employees' salaries under the exception found in Regulations § 201.14.

Issue. Does incentive compensation paid pursuant to a § 201.74(a) "established plan" constitute wages and salaries, and as such may it be increased if the Pay Board grants the employer a § 201.14 exception?

Ruling. No. Although wages and salaries are defined by Regulations § 201.2 to include incentive pay, § 201.71(b) states that Subpart F (Executive and Variable Compensation) shall control when it is in conflict with the § 201.2 definition of wages and salaries. Therefore, the § 201.72(a) definition of wages and salaries found in Subpart F controls. This definition states that the term "wages and salaries" has the same meaning "as under § 201.2 except that items constituting incentive compensation shall not be treated as wages and salaries • • •". It follows that the employer may not treat incentive compensation which is paid pursuant to a § 201.74(a) "established plan" as wages and salaries if he is granted an exception pursuant to § 201.14.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972-113]

STOCK OPTION PLANS

Facts. Corporation A has a 5-year stock option plan in existence, expiring June 30, 1973, which meets the conditions of Economic Stabilization Regulations, § 201.76(b). The original authorization under such plan was 100,000 shares. During the first 3 fiscal years of the employer during which the plan operated, all of the authorized shares were granted to the employees in the plan unit.

Issue. Must Pay Board approval be obtained in order to authorize additional shares under the existing plan?

Ruling. No. The plan may be renewed for a period of years or replenished under Regulations, § 201.78(a), which provide for the replacement of existing plans or practices which have lapsed or terminated. The grant of shares during an employer's fiscal year may not exceed the number allowable under § 201.76(b)(1) or (c), whichever is applicable, with regard to the plan prior to replenishment or renewal, and all other conditions of § 201.76(b)(1) must be met in order to qualify as a replacement of an existing plan or practice which does not require Pay Board approval.

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This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972–114]

SALES COMMISSION PLAN

Facts. On January 1, 1971, a retail firm established a sales commission plan, whereby an individual salesman's commission is computed weekly on the basis of the gross profit on the products he sells (i.e., the difference between the sales price and cost) and not on the gross sales price of the product.

Issue. Does this sales commission plan meet the requirements of the Economic Stabilization Regulations, § 201.77(a)(1), relating to established sales, commission, and production incentive plans or practices?

Ruling. Yes. According to § 201.77(a)(1), sales, commission, and production incentive plans or practices may continue to operate in accordance with their provisions if they were established and in effect before Novembr 14, 1971. Plans or practices which meet this requirement are those which directly reflect the performance of the employee participant in the form of sales or production output. Thus, since the sales commission plan here directly reflects employee performance, rather than being primarily tied to a percentage of profits without reference to the employee recipient's individual performance, it meets the requirements of § 201.77(a)(1).

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972–115; Price Commission Ruling 1972–133]

DIRECTORS' FEES

Facts. A is a director of XYZ Corporation. As a director, he is paid a specified amount for each board of directors meeting he attends. A is also president of XYZ Corporation, and receives a salary for his services as president, under the terms of an employment contract with the corporation.

Issue. Are the amounts paid to A "wages" or "prices" within the Economic Stabilization Regulations?

Ruling. Amounts paid to A as a director are fees for a "service" within the Economic Stabilization Regulations; amounts paid to A as an officer of the corporation are "wages" within the regulations.

A director, as such, is not an employee of his corporation. No person can order a director to act or vote in a particular way. Even though stockholders are entitled to remove a director from his position, they may not dictate his actions so long as he remains in that office. 19 C.J.S. Corporations, Sections 742–743.

Because a director's activities are not generally subject to the control of a superior within the corporation, he cannot therefore be classified as an "employee" for purposes of the economic stabilization program.

As defined in the Economic Stabilization Regulations, a "service" includes any service performed by a person for another person other than in an employment relationship. Economic Stabilization Regulations 6 CFR 300.5 (1972). Therefore the amounts paid to A by XYZ Corporation for his services as a director are fees for a service; and thus are subject to the Price Commission Regulations.

If a person who is a corporation director performs services for the corporation beyond those required of him as a director, and subject to the control of the board of directors or a superior officer of the corporation, he may be an employee. Whether or not services are performed as an employee of the corporation must be determined on the basis of all the facts and circumstances. Wharton v. Fidelity—Baltimore National Bank, 222 Md. 177, 158 A.2d 887 (1960).

This ruling has been approved by the General Counsels of the Price Commission and the Pay Board.

[Pay Board Ruling 1972–116]

NEW ORGANIZATION

Facts. An inactive, but legally existing, corporate "shell" is being revived by investors. It is anticipated that the employees will participate in the employee compensation benefits which existed before the corporation became inactive.

Issue. Would the revived Corporation constitute a "new organization" under the Economic Stabilization Regulations, so as to be required to file a report with the Pay Board with respect to the establishment of variable and executive compensation plans?

Ruling. Yes. Economic Stabilization Regulations, § 201.79(a), provide that "Any business • • • organized or established on or after November 14, 1971," must report all incentive compensation plans to the Pay Board within 90 days after their establishment.

Although the corporation had existed at an earlier time, the intervening period of inactivity would make the revival of the corporation analogous to the organization or establishment of a new corporation. All that would remain of the old entity would be the original paperwork through which it was created. The act of raising new capital, making business commitments, and staffing the corporation would be identical to the procedures followed in the organizing of an entirely new business. Therefore, the revived corporation would come within the thrust of § 201.79(a) and would be required to report all incentive compensation to the Pay Board for review.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972–117]

REQUIRED EMPLOYEE DONATIONS AS "WAGES AND SALARIES"

Facts. The employees of company X are covered by a collective bargaining agreement, one of the terms of which requires each employee to donate 12 cents of his hourly pay rate for each hour worked to an "Industrial Growth Fund," the proceeds of which are used for advertising industry products and for educating new employees.

Issue. Since the employees are required (pursuant to a collective bargaining agreement) to contribute a specified portion of their pay into the "Industrial Growth Fund," should an amount equivalent to such required contribution be excluded from wages and salaries?

Ruling. No. The term "wages and salaries" is defined to include "all forms of direct and indirect remuneration or inducement to employees by their employers for personal services, which are reasonably subject to valuation • • •". Economic Stabilization Regulations, § 201.2. Such definition does not provide any exclusion for payments by employees of a portion of their wages and salaries into funds, regardless of the purpose of such funds and irrespective of who controls such funds. The fact that an employee elects, either through his own initiative or as a result of a negotiated contract covering his employment, to contribute a portion of his direct remuneration to any fund does not change the original status of such remuneration. Accordingly, in the above situation, the 12 cents per hour earned and contributed to the "Industrial Growth Fund" constitutes "wages and salaries" within the meaning of the regulations.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972–118]

RETROACTIVE SALARY INCREASES TO REFLECT INCREASED PRODUCTIVITY

Facts. In July 1971, employer A and the union representing certain plant employees reached agreement on a new contract to be effective August 1, 1971. The contract provided for a specific wage increase to such plant employees, effective September 1, 1971, in return for certain work rules changes and the introduction of new machinery and equipment designed to increase productivity. The new machinery and new work rules were put into effect on August 1, 1971, and resulted in an immediate productivity increase which more than offset the expected cost to the employer of paying the wage increase. Because of the freeze, the wage increase was not put into effect until November 14, 1971.

Issue. Is the wage increase lawfully due and payable retroactively to September 1, 1971?

Ruling. Yes. Economic Stabilization Regulations, § 201.36(a), provide that wage and salary increases "which have been • • • withheld under the authority granted by the Act are lawfully due and payable, if a determination is made • • • that such increases were provided for by • • • agreement • • • prior to August 15, 1971, and that • • • productivity has been increased • • • in order to cover such increases."

Pursuant to § 201.36(c)(1)(i), the factual requirements of paragraph (a) are deemed satisfied with respect to whether—

(1) The amount of a wage and salary increase provided for by law, contract, agreement, or practice was established prior to August 15, 1971, if such amount was determined and definite and if—

(i) A contract was executed, entered into, or became effective prior to August 15, 1971, • • •

Moreover, pursuant to § 201.36(c)(2)(iv), the factual requirement in paragraph (a) that productivity increased is deemed satisfied if—

(iv) An employer and the employee members of the unit, or their collective bargaining agent, have taken action prior to August 15, 1971, to modify work practices either relating to the introduction of new or changed equipment methods or processes, or otherwise, which is designed to and does result in an increase in the productivity of the appropriate employee unit • • •

Furthermore, pursuant to § 201.36(c)(3)(ii), the factual requirement in paragraph (a) that productivity was increased to cover a wage or salary increase is deemed satisfied if—

(ii) Action modifying work practices to increased productivity taken by an employer and the employee members of the unit, or their collective bargaining agent, was taken to provide for a wage and salary increase and the resulting increase in productivity is adequate to cover the wage and salary increase, • • •

Under the facts described above, the amount of the wage increase was determined and definite in a contract effective prior to August 15, 1971, although the wage increase was not effective until September 1, 1971. Moreover, the work rules changes and introduction of new machinery and equipment were designed to increase productivity and did, in fact, increase productivity more than adequately to cover the wage increase provided for in the agreement.

Accordingly, the requirements of § 201.36(a) under the special rules provided in § 201.36(c) are deemed to be satisfied. Therefore, the wage increase under the facts described above is lawfully payable by employer A retroactively to September 1, 1971, subject only to the determination rules as set forth in § 201.36(b).

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972–119]

RETROACTIVE WAGE INCREASE, BASED UPON PRICE INCREASE

Facts. On August 1, 1971, company A, a mail-order company that solicits customers by the use of mail order catalogs, decided to raise its employees wages and salaries by a definite amount as of September 1, 1971. However, company A did not communicate this decision to its employees at that time, but printed new catalogs to reflect increased prices and arranged to mail the catalogs to its customers on August 16, 1971. The freeze period of the Economic Stabliization Program precluded both the mailing of the new catalogs reflecting the increased prices and the payment of scheduled wage increases. The new catalogs were finally sent out after November 13, 1971, at the conclusion of the freeze period, when the price increases had been approved by the Price Commission. Company A desires to pay the increase in wages and salaries of its employees, retroactive to September 1, 1971.

Issue. May the retroactive wage and salary increase be paid pursuant to the Economic Stabilization Regulations, § 201.36?

Ruling. No. Section 201.36(a) provides as follows:

Subject to the provisions of paragraphs (b) and (c) of this section, any increases in wages and salaries which have been or would be withheld under the authority granted by the Act are lawfully due and payable, if a determination is made that such increases were provided for by law, contract, agreement, or practice established prior to August 15, 1971, and that prices have been advanced, productivity has been increased, taxes have been raised, appropriations have been made, or funds have been otherwise raised or provided for in order to cover such increases.

The enactment of 203(c)(3) of the Economic Stabilization Act Amendments of 1971 (Public Law 92–210, 85 Stat. 743), did not alter the requirement that prices must have been increased prior to August 16, 1971, in anticipation of wage and salary increases scheduled to take effect after August 15, 1971. Company A did not actually raise the prices for its goods and services until after November 13, 1971, following approval of the proposed increase by the Price Commission. Before the determination that prices were raised prior to August 15, 1971, can be made, the necessary element of communication to the public of such price increases must have taken place. Company A's method of notifying the public of price increases is by use of mail order catalogs. Since the catalogs were not sent out until long after August 15, 1971, notice of such price increases prior to that date did not take place. As a result, the proposed retroactive wage increase cannot qualify under § 201.36.

This ruling has been approved by the General Counsel of the Pay Board.

[Pay Board Ruling 1972–120]

PAY PRACTICE PREVIOUSLY SET FORTH

Facts. A corporation has a written formula whereby it sets its maximum wage rate on the basis of an annual survey of local wage practices.

Issue. Does the implementation of the formula based upon the annual survey of local wages constitute a "pay practice previously set forth" within the meaning of Economic Stabilization Regulations, § 201.35?

Ruling. No. Section 201.35(d) provides that "• • • a formula for determining general adjustments to wages and salaries is not a pay practice previously set forth".

This ruling has been approved by the General Counsel of the Pay Board.

APPENDIX—CROSS-REFERENCE TABLE

The following table provides a reference for purposes of ascertaining the prior number of those Pay Board rulings which are republished herein as part of the Pay Board recodification.

New ruling number, 1972—	*Old ruling number, 1972—*
74	None
75	1
76	2
77	3
78	4
79	5
80	6
81	7
82	8
83	9
84	13
85	15
86	17
87	19
88	22
89	27
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101	64
102	66
103	68
104	69
105	70
106	72
107	73
108	30
109	67
110	49
111	50
112	53
113	62
114	71
115	25
116	26
117	56
118	44
119	60
120	12

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federal register

SATURDAY, NOVEMBER 25, 1972

WASHINGTON, D.C.

Volume 37 ■ Number 228

Pages 25015–25150

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FEDERAL REGISTER

Area Code 202 Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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[Docket No. 72-CE-15-AD; Amdt. 39-1562]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna T310, 320, 401, 402, 411, 414, and 421 Series Airplanes

Amendment 39-1442, AD 72-10-5, published in the FEDERAL REGISTER on May 10, 1972, is an Airworthiness Directive which requires repetitive inspection of the exhaust system of Cessna T310, 320, 401, 402, 411, 414, and 421 series airplanes for leaks and/or cracks and the replacement of defective exhaust system components.

Subsequent to the issuance of AD 72-10-5 it was found that the waste-gate tailpipe flexible coupling, when installed as a replacement component in the original bellows exhaust system of these Cessna series airplanes will not meet the leak check requirements of Paragraph C(3) of the AD. The manufacturer has conducted tests which demonstrate that hazardous leakage will not occur at this coupling. Therefore, it has supplemented Cessna Service Letter ME70-20, which service letter is referred to in the AD, to exempt the above mentioned part from the leakage test requirements of Paragraph C(3). In addition, administrative changes are necessary to provide for later revisions to those service letters referred to in the AD. Consequently, AD 72-10-5, Amendment 39-1442, is being amended accordingly.

Since this amendment is in part relieving in nature and provides for clarification, it imposes no additional burden on any person. Consequently, compliance with the notice and public procedure provisions of the Administrative Procedure Act is impracticable and good cause exists for making this amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1442, AD 72-10-5, is amended as follows:

1. Paragraph 2 of the applicability statement is amended by adding the phrase "or later revisions" at the end of said paragraph.

2. Paragraph C is amended so that it now reads:

C. Test the exhaust manifold and joints for leakage in accordance with the following procedures as outlined in Cessna Service Letter ME70-20, Supplement No. 1, dated April 9, 1972, and Supplement No. 2, dated October 13, 1972, or later supplements and revisions, or any other equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region:

3. Paragraph C(3) is amended so that it now reads:

C(3). With vacuum cleaner operating, check exhaust manifold and joints, except for the waste-gate tailpipe flexible coupling if installed, manually by feel or by using a soap solution and watching for bubbles. The exhaust system must be free of air leaks, with the exception of waste-gate bearings, the ball joints at the bellows assembly, the turbocharger and bearing housing joint, and "V" band joint clamps, which will show some bubbling.

This amendment becomes effective November 25, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on November 16, 1972.

CHESTER W. WELLS,
Acting Director, Central Region.

[FR Doc.72-20238 Filed 11-24-72;8:45 am]

[Docket No. 72-NE-16; Amdt. 39-1563]

PART 39—AIRWORTHINESS DIRECTIVE

Sikorsky Models S-55 Series and S-62A Helicopters

Amendment 39-194 (31 F.R. 2681), AD 66-4-3, requires removal from service of specified main rotor blades to prevent operation with fatigue cracks in the spar of the blades and establishes a maximum service life of 4,750 hours total time in service provided certain inspections and corrective actions are performed as required. Due to service experience, the agency has determined that an increase in the service life of these main rotor blades is justified. Therefore, the AD is being amended to increase the service life limit from the present maximum of 4,750 hours to 6,000 hours.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13397), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-194 (31 F.R. 2681), AD 66-4-3, is amended as follows:

1. By deleting the words "4,750 hours" in paragraph (e) and inserting the words "6,000 hours" in lieu thereof.

2. By deleting the words "Sikorsky Service Bulletin No. 55B10-7 dated January 19, 1966 or 62B10-6 dated January 19, 1966" and inserting the words "Sikorsky Service Bulletin No. 55B10-7D dated November 2, 1972, or 62B10-6D dated November 2, 1972" in lieu thereof.

This amendment becomes effective November 30, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 14236; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Burlington, Mass., on November 16, 1972.

W. E. CROSBY,
Deputy Director, New England Region.

[FR Doc.72-20239 Filed 11-24-72;8:45 am]

[Airspace Docket No. 72-NE-15]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The Federal Aviation Administration is amending § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the South Weymouth, Mass., control zone (37 F.R. 2131).

Due to a lack of air traffic between the hours of 2300 and 0700 local time, the Department of the Navy will reduce the airfield operation services at the Naval Air Station, South Weymouth, Mass. During these periods of reduced service, South Weymouth will not meet the weather and communication requirements necessary to support a control zone and the effective hours of the control zone are being reduced accordingly.

Since this amendment is less restrictive and does not create any additional burden on any persons, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than thirty (30) days.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901, e.s.t., December 7, 1972, as hereinafter set forth:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to add to the existing description the following language:

This control zone is effective from 0700-2300 hours, local time, Monday through Thursday; 0700-2400 hours, local time, Friday; 0001-2400 hours, local time, Saturday; 0001-2300 hours, local time, Sunday; or during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the "Airman's Information Manual."

seventh sentence in paragraph (a) of CFR 2.120), notice is given that no ob-

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(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c)).

Issued in Burlington, Mass., on November 13, 1972.

W. E. CROSBY,
Deputy Director,
New England Region.

[FR Doc.72-20240 Filed 11-24-72;8:45 am]

[Airspace Docket No. 72-PC-3]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone Extension; Correction

In F.R. Doc. 72-18798, appearing on page 23420 of the issue dated Friday, November 3, 1972, the language describing the control zone extension is corrected by changing "1.5 miles each side of the Guam RBN 046° T. bearing," to read "1 mile northwest and 2 miles southeast of the Guam RBN 026° bearing."

Issued in Honolulu, Hawaii, on November 15, 1972.

JOHN H. HILTON,
Acting Director,
Pacific-Asia Region.

[FR Doc.72-20244 Filed 11-24-72;8:40 am]

[Airspace Docket No. 72-SO-101]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area; Amendment

On October 27, 1972, F.R. Doc. 72-18291 was published in the FEDERAL REGISTER (37 F.R. 22973), amending Part 71 of the Federal Aviation Regulations by altering the Bowling Green and Covington, Ky., control zones and the Bowling Green, Ky., and Cincinnati, Ohio, transition areas.

In the amendment, the longitudinal ordinate in the Bowling Green transition area description was published as "88° 25'07" W." in lieu of "86°25'07" W." It is necessary to amend the FEDERAL REGISTER document to reflect this change. Since this amendment is editorial in nature, notice, and public procedure hereon are unnecessary.

In consideration of the foregoing, effective immediately, F.R. Doc. 72-18291 is amended as follows: In line one of the Bowling Green, Ky., transition area description "° ' " longitude 88°25'07" W.);" is deleted and "° ' " longitude 86°25'07" W.);" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on November 15, 1972.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.72-20241 Filed 11-24-72;8:46 am]

[Airspace Docket No. 72-WA-59]

PART 73—SPECIAL USE AIRSPACE

Revocation of Restricted Area

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to revoke Restricted Area, R-3301, Havana, Ill.

R-3301 was designated to protect aircraft from the hazards of microwave radiation emanating from a 4 MW transmitter located at Havana, Ill. The transmitter has now been removed and the hazard to flight has been eliminated. Accordingly, action is taken herein to revoke R-3301.

Since this amendment restores airspace to the public use and relieves a restriction, notice and public procedure thereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., February 1, 1973, as hereinafter set forth.

In § 73.33 (37 F.R. 2353) R-3301, Havana, Ill., is revoked.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 17, 1972.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-20242 Filed 11-24-72;8:46 am]

[Docket No. 12383; Amdt. 152-1]

PART 152—AIRPORT AID PROGRAM

Rules of the Secretary of Labor; Clarifying Amendments

The purpose of these amendments to Part 152 of the Federal Aviation Regulations is to: (1) Substitute, in two places in § 152.53, reference to Standard Form 308 instead of old Forms DB-11 and DB-11(a) of the Department of Labor; (2) clarify several items in paragraph D of appendix H by changing the language "Each Federal agency concerned" and "Federal agencies" (adopted from the regulations of the Secretary of Labor) to "the FAA;" (3) correct several cross-references in paragraph D and one in § 152.45 (a)(1); and (4) add a new sentence in § 152.53(c)(2) to state that general (area) wage determinations now are published in the FEDERAL REGISTER instead of being disseminated to each agency concerned, as formerly.

Since these amendments are clarifying in nature, impose no additional burden on any person, and relate to public grants, benefits, and contracts, notice and public procedure thereon are not required and they may be made effective in less than 30 days.

In consideration of the foregoing, Part 152 of the Federal Aviation Regulations is amended as follows, effective November 25, 1972.

§ 152.45 [Amended]

1. By striking out the phrase "in § 151.41(a)" in § 152.45(a)(1), and inserting the phrase "in § 152.41(a)" in place thereof.

§ 152.53 [Amended]

2. By striking out the phrase "Department of Labor Form DB-11 or DB-11(a), as appropriate," in the first sentence in § 152.53(c)(1) and the phrase "Form DB-11 or DB-11(a), as appropriate," in the third sentence in § 152.53(d)(1), and inserting the phrase "Standard Form 308" in place thereof.

3. By inserting the following sentence at the end of § 152.53(c)(2): "• • •. All general (area) wage determinations are published in the FEDERAL REGISTER."

4. By amending paragraph D of appendix H as follows:

a. By striking out the phrase "subdivision (4)(i)(b)" in the first sentence in subdivision (4)(iii), and inserting the phrase "subdivision (5)(ii)" in place thereof.

b. By striking out the phrase "with § 5a.5(iii)" in the first sentence in subdivision (4)(iv), and inserting the phrase "with § 5(iii)" in place thereof.

c. By striking out the phrase "in subdivisions (4)(i), (ii), and (iii)" in the first sentence of subdivision (4)(v), and inserting the phrase "in this subdivision (4)" in place thereof.

d. By inserting the phrase "Workers Defense League," after the phrase "Urban League," in the first sentence of subdivision (5)(iii)(g).

e. By amending subdivision (8) to read as follows:

D. *Apprentices and trainees.*

• • • • •

(8) *Enforcement.* (i) The FAA shall insure that the contract clauses required by subdivision (4)(i) of this paragraph are inserted in every Federal or federally assisted construction contract subject thereto. For assistance programs for construction work for which it does not contract directly, the FAA shall promulgate regulations and procedures necessary to insure that contracts for the construction work subject to subdivision (4) of this paragraph D will contain the clauses required thereby.

(ii) Enforcement activities, including the investigation of complaints of violations, to assure compliance with the requirements of this part, shall be the primary duty of the FAA. The Department of Labor will coordinate its efforts with the FAA, as may be necessary to assure consistent enforcement of the requirements of this part. Enforcement of these provisions shall be in accordance with 29 CFR 5.6.

• • • • •

(Secs. 11 through 27 of the Airport and Airway Development Act of 1970; 84 Stat. 220-233. Section 1.47(g)(1) of the Regulations of the Office of the Secretary of Transportation; 49 CFR 1.47(g)(1))

Issued in Washington, D.C., on November 15, 1972.

J. H. SHAFFER,
Administrator.

[FR Doc.72-20243 Filed 11-24-72;8:46 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

[DESI 8539]

PART 141—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

Clindamycin Phosphate

Correction

In F.R. Doc. 72-19216, appearing at page 23906, in the issue of Friday, November 10, 1972, in the table under § 141.5(b), the figure "5" should read ".5".

PART 141a—PENICILLIN AND PENICILLIN-CONTAINING DRUGS; TEST AND METHODS OF ASSAY

PART 141b—STREPTOMYCIN (OR DIHYDROSTREPTOMYCIN) AND STREPTOMYCIN- (OR DIHYDROSTREPTOMYCIN-) CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

PART 146b—CERTIFICATION OF STREPTOMYCIN (OR DIHYDROSTREPTOMYCIN) AND STREPTOMYCIN- (OR DIHYDROSTREPTOMYCIN-) CONTAINING DRUGS

PART 146c—CERTIFICATION OF CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS

PART 146d—CERTIFICATION OF CHLORAMPHENICOL AND CHLORAMPHENICOL - CONTAINING DRUGS

PART 146e—CERTIFICATION OF BACITRACIN AND BACITRACIN-CONTAINING DRUGS

PART 148i—NEOMYCIN SULFATE

Antidiarrheal Preparations; Revocations of Certification or Release; Confirmation

An order was published in the FEDERAL REGISTER of September 13, 1972 (37 F.R. 18531), amending the antibiotic drug regulations to repeal provisions for certification of certain antibiotic containing antidiarrheal preparations. The order amended Part 141a by revoking §141a.20; amended Part 141b by revoking §§ 141b.123, 141b.133, and 141b.136; amended Part 146a by revoking § 146a.38, by revising the second sentence in paragraph (a) of § 146a.62, and by revising the seventh sentence in paragraph (a) of § 146.111; amended Part 146b by revising the heading of § 146b.104 and paragraphs (a) and (c), revising the heading of § 146b.108 and paragraphs (a) and (c), amending § 146b.124 in the seventh sentence in paragraph (a), and revoking §§ 146b.118, 146b.128, and 146b.131; amended Part 146c by revising the second sentence in paragraph (a) § 146c.228, revising the second sentence in paragraph (a)(2) of § 146c.237, revising the sixth sentence in paragraph (a) of § 146c.244, and by revising the second sentence in paragraph (a)(1) of § 146c.246; amended Part 146d by revising the second sentence in paragraph (a) of § 146d.312; amended Part 146e by revising §§ 146e.403, 146e.411, 146e.122, 146e.430, and revoking § 146e.410; and amended Part 148i by revoking §§ 148i.6 and 148i.11.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-51, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR, notice is given that no requests for hearing were filed to the above-identified order. Accordingly the amendments promulgated thereby became effective October 23, 1972.

Dated: November 14, 1972.

SAM D. FINE,
Associate Commisssioner for Compliance.

[FR Doc.72-20248 Filed 11-24-72;8:46 am]

PART 146e—CERTIFICATION OF BACITRACIN AND BACITRACIN-CONTAINING DRUGS

Ophthalmic Ointments; Sterility Requirements

Correction

In F.R. Doc.72-18420 appearing at page 23105 of the issue for Saturday, October 28, 1972, the reference in the 27th and 28th lines of § 146e.402(a) reading "§ 146e.401(a)(2)" should read "§ 146e.418(a)(2)".

[DESI 7501]

PART 148p—POLYMYXIN

Confirmation of Order Revoking Provisions for Certification of Certain Polymyxin B Sulfate Preparations for Oral Use

An order was published in the FEDERAL REGISTER of September 29, 1972 (37 F.R. 20324), amending the antibiotic drug regulations to repeal provisions for certification or release of polymyxin B sulfate preparations for oral use. The order amended Part 148p by revoking §§ 1.48p.2 and 148p.6.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-51, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections were filed to the above-identified order. Accordingly the amendment promulgated thereby became effective November 8, 1972.

Dated: November 14, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-20249 Filed 11-24-72;8:46 am]

Title 49—TRANSPORTATION

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 70-12; Notice 15]

PART 574—TIRE IDENTIFICATION AND RECORD KEEPING

Tire Size Codes

Correction

In F.R. Doc. 72-19010 appearing at page 23727 of the issue for Wednesday, November 8, 1972, the word "time", appearing in the second line of the third column of that page, should read "tire".

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. MC-37 (Sub-No. 9D)]

PART 1048—COMMERCIAL ZONES

Baltimore, Md.

Order. At a session of the Interstate Commerce Commission, Review Board Number 2, Members Mills, Boyle, and Parker (Board Member Mills not participating), held at its office in Washington, D.C., on the 25th day of August 1972.

It appearing, that the commercial zone of Baltimore, Md., is presently governed by the definition promulgated in Commercial Zones and Terminal Areas, 113 M.C.C. 773 (49 CFR 1048.21);

It further appearing, that by joint petition filed May 19, 1972, Thulman Eastern Corp. and Miller Chevrolet Sales, Inc., seek redefinition and extension of the Baltimore commercial zone limits so as to include an area described as follows: beginning at the point where the line described in 49 CFR 1048.21(b) intersects U.S. Highway 40 west of Baltimore, Md., and extending in a westerly direction along U.S. Highway 40 to its intersection with St. John's Lane, thence southerly along St. John's Lane to its intersection with Maryland Highway 144, thence easterly along Maryland Highway 144 to its intersection with the line described in 49 CFR 1048.21(b), and thence along said line to the point of beginning;

It further appearing, that pursuant to section 553 of the Administrative Procedure Act, notice of the said petition was

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published in the FEDERAL REGISTER, which notice stated that no oral hearings were contemplated; that persons desiring to participate in the proceeding were invited to file representations supporting or opposing the proposal; that Interocean Service Corp. filed a representation in support of the petition; and that no representations were filed in opposition thereto;

And it further appearing, that the above-described area which is proposed for inclusion within the Baltimore, Md., commercial zone limits, and is, in fact, economically and commercially a part of Baltimore, Md.;

Wherefore, and good cause appearing therefor:

We find, that the zone adjacent to and commercially a part of Baltimore, Md., should be defined as set forth in the next succeeding paragraph.

It is ordered, That § 1048.21 as prescribed in this proceeding on August 25, 1971, be, and it is hereby, vacated and set aside, and the following revision is hereby substituted in lieu thereof:

§ 1048.21 Baltimore, Md.

The zone adjacent to and commercially a part of Baltimore, Md., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage to or from a point beyond the zone is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) includes and it is comprised of all as follows:

(a) The municipality of Baltimore itself;

(b) All points within a line drawn 5 miles beyond the boundaries of Baltimore;

(c) All points in that area east of the line described in paragraph (b) of this section bounded by a line as follows: Beginning at the point where the line described in paragraph (b) of this section crosses Dark Head Creek and extending in a southeasterly direction along the center of Dark Head Creek and beyond to a point off Wilson Point, thence in a northeasterly direction to and along the center of Frog Mortar Creek to Stevens Road, thence northerly along Stevens Road to Eastern Avenue, thence easterly along Eastern Avenue to Bengies Road, thence northwesterly along Bengies Road, to the right-of-way of the Penn Central Transportation Co., thence westerly along such right-of-way to the junction thereof with the line described in paragraph (b) of this section;

(d) All points in that area south of the line described in paragraph (b) of this section, bounded on the west by the right-of-way of the line of the Penn Central Transportation Co., extending between Stony Run and Severn, Md., and on the south by that part of Maryland Highway 176, extending easterly from the said railroad to its junction with the line described in paragraph (b) of this section;

(e) All points in that area southwest of the line described in paragraph (b) of this section, bounded by a line as follows: Beginning at the point where the line described in paragraph (b) of this section crosses the Baltimore-Washington Expressway and extending in a southwesterly direction along the Baltimore-Washington Expressway to its intersection with Maryland Highway 176, thence westerly along Maryland Highway 176 to its intersection with the Howard-Anne Arundel County line, thence southwesterly along said county line to its intersection with Maryland Highway 32, thence northwesterly along Maryland Highway 32 to its intersection with the Little Patuxent River, thence northerly along the Little Patuxent River to the intersection of its north fork and its east fork located approximately 1 mile north of the intersection of Maryland Highway 32 and Berger Road, thence easterly along the east fork of the Little Patuxent River to its intersection with Broken Land Parkway, thence southerly along Broken Land Parkway to its intersection with Snowden River Parkway, thence easterly along Snowden River Parkway, to its intersection with relocated Maryland Highway 175, thence southeasterly along relocated Maryland Highway 175, to its intersection with Lark Brown Road, thence northeasterly along Lark Brown Road to its intersection with Maryland Highway 175, thence southerly along Maryland Highway 175 to its intersection with Interstate Highway 95, thence northeasterly along Interstate Highway 95 to its intersection with the line described in paragraph (b) of this section;

(f) All points in that area north of the line described in paragraph (b) of this section bounded by a line as follows: Beginning at the junction of the line described in paragraph (b) of this section and the Baltimore-Harrisburg Expressway (Interstate Highway 83), thence northerly along Interstate Highway 83 to its junction with Shawan Road, thence easterly along Shawan Road to its junction with York Road (Maryland Highway 45) and continuing to a point 1,500 feet east of Maryland Highway 45, thence southerly along a line 1,500 feet east of the parallel to Maryland Highway 45 to its junction with the line described in paragraph (b) of this section;

(g) All points in that area west of the line described in paragraph (b) of this section bounded by a line as follows: Beginning at the point where the line described in paragraph (b) of this section intersects U.S. Highway 40 west of Baltimore, Md., and extending in a westerly direction along U.S. Highway 40 to its intersection with St. John's Lane, thence southerly along St. John's Lane to its intersection with Maryland Highway 144, thence easterly along Maryland Highway 144 to its intersection with the line in paragraph (b) of this section;

(h) All of any municipality any part of which is within the limits of the combined areas defined in paragraphs (b), (c), (d), (e), (f), and (g) of this section;

(i) All of any municipality wholly surrounded, or surrounded except for a water boundary, by the city of Baltimore or by any municipality included under the terms of (h) above. (49 Stat. 543, as amended, 544, as amended, 546, as amended; 49 U.S.C. 302, 303, 304.)

It is further ordered, That this order shall become effective on November 1, 1972, and shall continue in effect until further order of the Commission.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission, Review Board Number 2.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.72-20303 Filed 11-24-72;8:51 am]

Title 50—WILDLIFE AND FISHERIES

Chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce

SUBCHAPTER F—AID TO FISHERIES

PART 259—CAPITAL CONSTRUCTION FUND

Joint Tax Regulations

Section 259.1 is redesignated § 259.30 under the new subpart heading, "Capital Construction Fund Agreements," and a new § 259.1 is added under the new subpart heading "Joint Tax Regulations."

The following new § 259.1, regulations, were issued jointly by the Department of the Treasury and the Department of Commerce and appears as Title 26 CFR, Part 3 and Title 46 CFR, Part 390. The original regulations were published before authority to administer the Capital Construction Fund, as it relates to vessels engaged in the fisheries of the United States, was delegated by the Secretary of Commerce to the Administrator, National Oceanic and Atmospheric Administration. These regulations are being republished because they are of interest to the fishing industry.

These regulations relate to section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177), as amended by section 21 (a) of the Merchant Marine Act of 1970 (84 Stat. 1026) and to requirements for the execution of agreements relating to capital construction funds and deposits therein. The regulations set forth herein are temporary and are designed to provide transitional rules with respect to the execution of agreements relating to capital construction funds and deposits therein. These regulations are effective until the issuance of final regulations to

be prescribed jointly by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate, and the Secretary of Commerce or his delegate.

Part 259 is amended as set forth below in order to, among other things: (1) Extend the time within which deposits may be made in capital construction funds with respect to income reported on the taxpayer's 1970 or 1971 return, and (2) redesignate the existing Part 259.

Effective date. These regulations republish existing Treasury Regulations without substantial change. Accordingly, these regulations shall be effective upon publication in the FEDERAL REGISTER (11-25-72).

(Sec. 607, Merchant Marine Act, 1936, 46 U.S.C. 1177, as amended by sec. 21(a) Merchant Marine Act of 1970, 84 Stat. 1026)

Dated: October 12, 1972.

By order of the Administrator, National Oceanic and Atmospheric Administration.

ROBERT M. WHITE,
Administrator.

In Part 259 of Chapter II of Title 50 of the Code of Federal Regulations, § 259.1 is redesignated § 259.30 under the new heading "Capital Construction Fund Agreements," and a new § 259.1 is added under the new heading "Joint Tax Regulations" to read as follows:

JOINT TAX REGULATIONS

§ 259.1 Execution of agreements and deposits made in a Capital Construction Fund.

In the case of a taxable year of a taxpayer beginning after December 31, 1969, and before January 1, 1972, the rules governing the execution of agreements and deposits under such agreements shall be as follows:

(a) A capital construction fund agreement executed and entered into by the taxpayer on or prior to the due date, with extensions, for the filing of his Federal income tax return for such taxable year or years will be deemed to be effective on the date of the execution of such agreement or as of the close of business of the last regular business day of each such taxable year or years to which such deposit relates, whichever day is earlier.

(b) Notwithstanding the provisions of paragraph (a) of this section, where: (1) For taxable years beginning after December 31, 1969, and prior to January 1, 1971, an application for a capital construction fund agreement is filed by a taxpayer prior to January 1, 1972, and a capital construction fund agreement is executed and entered into by the taxpayer prior to March 1, 1972, and (2) for taxable years beginning after December 31, 1970, and prior to January 1, 1972, an application for a capital construction fund agreement is filed by a taxpayer prior to January 1, 1973, and a capital construction fund agreement is executed and entered into by the taxpayer prior to March 1, 1973 (or, if earlier, 60 days after the publication of final joint regulations under section 607 of the Merchant Marine Act, 1936, as amended); then such a capital construction fund agreement will be deemed to be effective as of the close of business of the last regular business day of each such taxable year or years to which such deposit relates.

(c) (1) Deposits made in a capital construction fund pursuant to such an agreement within 60 days after the date of execution of the agreement, or on or prior to the due date, with extensions, for the filing of his Federal income tax return for such taxable year or years, whichever date shall be later, shall be deemed to have been made on the date of the actual deposit or as of the close of business of the last regular business day of each such taxable year or years to which such deposit relates, whichever day is earlier.

(2) Notwithstanding subparagraph (1) of this paragraph, for taxable years beginning after December 31, 1970, and ending prior to January 1, 1972, deposits made later than the last date permitted under subparagraph (1) of this paragraph but on or before January 9, 1973, in a capital construction fund pursuant to an agreement with the Secretary of Commerce, acting by and through the Administrator of the National Oceanic and Atmospheric Administration, shall be deemed to have been made on the date of the actual deposit or as of the close of business of the last regular business day of such taxable year, whichever is earlier.

(d) Nothing in this section shall alter the rules and regulations governing the timing of deposits with respect to existing capital and special reserve funds or with respect to the treatment of deposits for any taxable year or years other than a taxable year or years beginning after December 31, 1969, and before January 1, 1972.[1]

CAPITAL CONSTRUCTION FUND AGREEMENTS

§ 259.30 Application for Interim Agreement.

* * * * *

APPENDIX—INTERIM CAPITAL CONSTRUCTION FUND AGREEMENT

* * * * *

[FR Doc.72-20254 Filed 11-24-72;8:47 am]

[1] The phrase "existing capital and special reserve funds" does not refer to the Capital Construction Fund program but rather to funds established with the Maritime Administration prior to the amendment of the Merchant Marine Act, 1936, which authorized the Capital Construction Fund program.

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

[CGD 72-113R]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Fort Caswell Bridge, N.C.

This amendment changes the regulations for the Fort Caswell pontoon bridge across the Atlantic Intracoastal Waterway, Mile 311.8 to permit closed periods during the summer peak vehicular traffic periods. This amendment was circulated as a public notice dated June 23, 1972, by the Commander, Fifth Coast Guard District and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGD 72-113 P) on June 21, 1972 (37 F.R. 12242). Two comments were received. One suggested that tugs without tows be passed at any time. The Coast Guard feels that this would unduly delay traffic and this suggestion is therefore rejected. The other suggested hourly openings of the draw rather than the 2-hour periods. It is felt that the 2-hour periods will provide for the reasonable needs of navigation. Completion of a new high level bridge by the North Carolina State Highway Commission is tentatively scheduled within the next 18 months to 2 years. When this bridge is completed, the pontoon bridge will be removed and this regulation will then be revoked.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding § 117.356 immediately after § 117.355 to read as follows:

§ 117.356 AIWW, Mile 311.8, Fort Caswell Bridge, Yaupon, N.C.

(a) The draw shall open on signal, except that from June 15 through Labor Day on Saturdays and Sundays and on Independence Day and Labor Day the draw need not open for the passage of vessels from 1 p.m. to 7 p.m., local time, except at 3 p.m. and 5 p.m. when the draw shall open to allow all accumulated vessels to pass.

(b) The drawspan shall open at all times promptly on signal for the passage of towboats with tows, freight boats, public vessels of the United States, and any vessel in an emergency involving danger to life or property. Such vessels shall sound four blasts of a whistle, horn, or similar device.

(c) The owner of or agency controlling the bridge shall erect and maintain, on both sides of the bridge, signs acceptable to the District Commander setting forth the regulations in this section.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655

Kind of mail matter — *Value to be declared*

(4) The Secretary shall cause publi-

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(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Effective date. This revision shall become effective on January 1, 1973.

Dated: November 15, 1972.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.72-20288 Filed 11-24-72;8:50 am]

Title 39—POSTAL SERVICE

Chapter I—U.S. Postal Service

PART 161—REGISTERED MAIL

Indemnity Formulas; Cost Declaration for Registered Items

Regulations codified under Part 161 are amended to update the table of fees for registered mail service (see 37 F.R. 13149); to establish insurance indemnity formulas where commercial insurance policies contain deductible or other clauses; and to require declaration of replacement costs of nonnegotiable instruments presented for mailing as registered mail. Other minor changes and clarifications are made.

1. In § 161.1 amend paragraph (a) to read as follows:

§ 161.1 Description.

(a) *Why mail is registered.* Registered mail provides added protection for valuable and important mail plus evidence of mailing and delivery, and indemnity in case of loss or damage.

• • • • •

2. In § 161.2 amend paragraphs (a), (b)(2), and (d)(1) to read as follows:

§ 161.2 Fees and liability.

(a) *Fees.*

Value	Fees (in addition to postage)	
	For articles not covered by commercial or other insurance	For articles also covered by commercial or other insurance
$0.00 to $100	$0.95	$0.95
$100.01 to $200	1.25	1.25
$200.01 to $400	1.55	1.55
$400.01 to $600	1.85	1.85
$600.01 to $800	2.15	2.15
$800.01 to $1,000	2.45	2.45
$1,000.01 to $2,000	2.75	$2.45 plus handling charge of 20 cents per $1,000 or fraction over first $1,000.
$2,000.01 to $3,000	3.05	
$3,000.01 to $4,000	3.35	
$4,000.01 to $5,000	3.65	
$5,000.01 to $6,000	3.95	
$6,000.01 to $7,000	4.25	
$7,000.01 to $8,000	4.55	
$8,000.01 to $9,000	4.85	
$9,000.01 to $10,000	5.15	
$10,000 to $1,000,000	$5.15 plus handling charge of 20 cents per $1,000 or fraction over first $10,000.	
$1,000,000.01 to $15,000,000	$203.15 plus handling charge of 15 cents per $1,000 or fraction over first $1,000,000.	$202.25 plus handling charge of 15 cents per $1,000 or fraction over first $1,000,000.
Over $15,000,000	Additional charges may be made based on considerations of weight, space, and value.	

Additional Services	*Extra fee (cents)*
COD collection charge (maximum amount collectible is $200)	70
Restricted delivery	50
Return receipts:	
Requested at time of mailing:	
Showing to whom and when delivered	15
Showing to whom, when, and address where delivered	35
Requested after mailing:	
Showing to whom and when delivered	25

(b) *Postal insurance liability* • • •

(2) *With other insurance.* When an "excess" or "other insurance" clause is contained in the commercial policy, the article shall be treated as if no commercial insurance is involved and the subparagraph (1) of this paragraph shall be applied. When a deductible clause is contained in the commercial policy, the article shall be treated as if no commercial insurance is involved and the preceding subparagraph shall be applied, but postal liability shall be limited to the amount of the deductible. In other cases, postal insurance not exceeding $1,000 may be provided, with liability determined on a coinsurance basis and prorated according to the formula in Fiscal Handbook F-33, Accounts Payable.

• • • • •

(d) *Declaration by sender*—(1) *Value.* The sender is required to tell the postal clerk, or to enter on the firm mailing bill if a firm mailer, the "Full" value of mail matter presented for registration. The fact that private insurance may be carried on registered mail does not modify the requirements for declaring the value as defined below:

Kind of mail matter	*Value to be declared*
Negotiable instruments—Instruments payable to bearer, and matured interest coupons.	Market value.

Kind of mail matter	*Value to be declared*
Nonnegotiable instruments—All registered bonds, warehouse receipts, checks, drafts, deeds, wills, abstracts, and similar documents. Certificates of stock are considered nonnegotiable so far as declaration of value is concerned.	No value, or replacement cost if postal insurance coverage is desired. (See note below.)
Money	Full value.
Jewelry, gems, precious metals	Market value or cost.
Merchandise	Market value or cost.
Nonvaluables—matter not having intrinsic value such as letters, files, records, etc.	No value, or replacement cost if postal insurance coverage is desired.

NOTE: Individuals or firms who cannot obtain replacement without cost are required to declare replacement costs. Replacement costs normally range from 3 percent to 6 percent of the market value of the instrument. Indemnity is limited to replacement cost.

3. In § 161.3 amend paragraph (e) to read as follows:

§ 161.3 Preparation for mailing.

• • • • •

(e) *Return receipts and restricted delivery.* Firm mailers are expected to complete and attach the return receipt card, Form 3811, to the mail and show the required official endorsement on the address side of the mail. See § 161.1(e)(2) and (3). If the mail is to be restricted in delivery, the words "Deliver to Addressee Only" should be shown in space 2 on the receipt side of the return receipt card in addition to the address side of the mail.

• • • • •

4. In § 161.4 amend paragraphs (a) and (e)(1) and add new paragraphs (e)(6) and (7) to read as set forth below.

§ 161.4 Delivery.

(a) *Procedure.* The responsibility of the Postal Service for registered mail ends with its proper delivery. Mail for delivery by carriers is taken on the first trip after it is received unless the addressee has requested the postmaster to hold his mail at the post office. The addressee or person representing him may obtain the name and address of the sender, and may look at registered mail while it is held by the postal employee, before accepting delivery and signing the delivery receipt. Identification will be required if the applicant for registered mail is unknown. The mail will not be given to the addressee until the delivery receipt is obtained by the postal employee. The name of the addressee must appear on line 1. If the signature on the delivery receipt is not legible, the delivering employee must print the name of the recipient on the receipt in an area which will not interfere with other signatures.

• • • • •

(e) *Restricted delivery.* (1) Mail marked "Deliver to Addressee Only" will be so delivered, except as otherwise provided below.

• • • • •

(6) Registered Mail addressed to minors may be delivered to their guardians or parents.

(7) Registered Mail addressed to an inmate of city, State, or Federal prisons where a personal signature cannot be obtained may be delivered to the warden or his authorized representative.

• • • • •

(39 U.S.C. 401(2), 404(6))

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.72-20183 Filed 11-24-72;8:45 am]

Chapter III—Postal Rate Commission

[Docket No. RM 73-3]

PART 3001—RULES OF PRACTICE AND PROCEDURE

PART 3002—ORGANIZATION

Change of Title of Hearing Examiner to Administrative Law Judge

NOVEMBER 22, 1972.

The Civil Service Commission has amended Subpart B, Part 930, Title 5, Code of Federal Regulations, to change the title of hearing examiner to Administrative Law Judge (37 F. R. 16787, August 19, 1972). It is appropriate to conform this Commission's nomenclature to that adopted by the Civil Service Commission.

Acting pursuant to the provisions of section 3603 of the Postal Reorganization Act, 39 U.S.C. 3603,

The Commission orders:

(1) The Commission's rules and regulations, Subchapter A, Part 3001 Rules of practice and procedure, and Part 3002 Organization, are amended as follows:

(a) Wherever the title hearing examiner appears, it is hereby changed to Administrative Law Judge;

(b) Wherever the phrase Office of Hearing Examiners appears, it is hereby changed to Office of Administrative Law Judges.

(2) Since this amendment is a matter of agency procedure and practice, notice and public procedure thereon are not required.

(3) The amendments prescribed herein shall be effective as of November 25, 1972.

(4) The Secretary shall cause publication of this order to be made promptly in the FEDERAL REGISTER.

By the Commission.

[SEAL] JOSEPH A. FISHER,
Secretary.

[FR Doc.72-20388 Filed 11-24-72; 8:53 am]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5299]

[Montana 20660 (SD)]

SOUTH DAKOTA

Withdrawal for National Forest Recreation Area

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws, 30 U.S.C. Ch. 2, but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

CUSTER NATIONAL FOREST

BLACK HILLS MERIDIAN

Picnic Springs Campground

T. 22 N., R. 5 E.,
Sec. 15, NE¼.

The area described contains 160 acres in Harding County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRISON LOESCH,
Assistant Secretary of the Interior.

NOVEMBER 20, 1972.

[FR Doc.72-20257 Filed 11-24-72;8:47 am]

[Public Land Order 5300]

[Nevada 6043]

NEVADA

Withdrawal for Department of the Air Force

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

Land Management, Room 3022 Federal

in the factor of Uniformity of Size is

Signed at Washington, D.C., on No-

V37-1128 NOV 25 72 XUM

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, 30 U.S.C. Ch. 2, and from filing of applications and offers under the mineral leasing laws, and reserved for use of the Department of the Air Force as a housing area adjacent to Indian Springs Air Force Base:

MOUNT DIABLO MERIDIAN

T. 16 S., R. 56 E.,
  Sec. 8, tract 42C.

The area described contains 40 acres in Clark County.

2. The withdrawal made by this order does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining and mineral leasing laws. However, leases, licenses, or permits will be issued only if the Department of the Air Force finds that the proposed use will not interfere with its use of the land.

HARRISON LOESCH,
Assistant Secretary of the Interior.

NOVEMBER 20, 1972.

[FR Doc.72-20258 Filed 11-24-72;8:47 am]

[Public Land Order 5301]

[Colorado 16060]

COLORADO

Partial Revocation of Reclamation Project Withdrawal

By virtue of the authority contained in section 3 of the Act of June 17, 1902, as amended and supplemented, 43 U.S.C. section 416 (1970), it is ordered as follows:

1. The Secretary's order of May 23, 1946, withdrawing lands for the Gunnison-Arkansas project is hereby revoked so far as it affects the following described lands:

NEW MEXICO PRINCIPAL MERIDIAN

T. 45 N., R. 4 W.,
  Sec. 14, SW¼NW¼, NW¼SW¼.

The area described aggregates 80 acres in Gunnison County.

2. This revocation is in furtherance of an exchange under section 8 of the Act of June 28, 1934, as amended, 43 U.S.C. section 315g (1970), by which the offered land will benefit a Federal multiple use land program. Accordingly, the land described in this order is hereby classified pursuant to section 7 of said Act, 43 U.S.C. section 315f (1970), as suitable for exchange. The land, therefore, will not be open to other use or disposition under the public land laws in the absence of a modification or revocation of such classification (43 CFR 2440.4).

HARRISON LOESCH,
Assistant Secretary of the Interior.

NOVEMBER 20, 1972.

[FR Doc.72-20259 Filed 11-24-72;8:47 am]

[Public Land Order 5302]

[Colorado 13056]

COLORADO

Partial Revocation of Reclamation Project Withdrawal

By virtue of the authority contained in section 3 of the Act of June 17, 1902, as amended and supplemented, 43 U.S.C. section 416 (1970), it is ordered as follows:

1. The orders of the Bureau of Reclamation dated May 24, 1949, and May 4, 1949, concurred in by the Bureau of Land Management on September 14, 1949, and August 31, 1950, respectively, withdrawing lands for the Paonia project, are hereby revoked so far as they affect the following described lands:

SIXTH PRINCIPAL MERIDIAN

T. 13 S., R. 90 W.,
  Sec. 18, W½NW¼NE¼, NE¼NW¼NE¼.
T. 13 S., R. 91 W.,
  Sec. 13, N½ of lot 2, SE¼ of lot 2, N½SW¼NE¼;
  Sec. 21, N½ of lot 1, SW¼ of lot 1, lot 5, N½NW¼ of lot 6.
T. 13 S., R. 92 W.,
  Sec. 36, NE¼NE¼.
T. 14 S., R. 92 W.,
  Sec. 3, S½SE¼NE¼SE¼;
  Sec. 17, S½SW¼NW¼;
  Sec. 18, NE¼NE¼NW¼, W½ of lot 2.
T. 13 S., R. 93 W.,
  Sec. 16, lot 12;
  Sec. 20, lots 8 and 9;
  Sec. 21, lots 2 to 5, inclusive;
  Sec. 28, lots 1 to 4, inclusive.
T. 14 S., R. 93 W.,
  Sec. 13, NE¼SE¼SW¼, NW¼NE¼SE¼;
  Sec. 22, N½SW¼NE¼, NE¼NW¼, N½NE¼SE¼NW¼.

The areas described aggregate 774.3 acres in Gunnison and Delta Counties.

The lands occupy rolling hills to very steep rocky slopes along the north side of the valley of the North Fork of the Gunnison River, near Hotchkiss, Paonia, and Somerset in west-central Colorado. Soils are of very poor quality. Native vegetation consists of small amounts of scrubby pinon and juniper trees, shrubs, weeds, and grass adapted to the semiarid climate.

2. At 10 a.m., on December 26, 1972, the lands shall be open to the operation of the public land laws generally, including location and entry under the U.S. mining laws, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 10 a.m., on December 26, 1972, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. The lands have been and continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, CO 81212.

HARRISON LOESCH,
Assistant Secretary of the Interior.

NOVEMBER 20, 1972.

[FR Doc.72-20260 Filed 11-24-72;8.47 am]

[Public Land Order 5303]

[Arizona 6634]

ARIZONA

Powersite Restoration No. 713; Partial Revocation of Powersite Reserves Nos. 96 and 188

By virtue of the authority contained in section 24 of the Act of June 10, 1920, as amended, 16 U.S.C. section 818 (1970), and pursuant to the determination of the Federal Power Commission in DA-147—Arizona, it is ordered as follows:

1. The Executive orders of July 2, 1910, and June 16, 1911, creating Powersite Reserves Nos. 96 and 188 are hereby revoked so far as they affect the following described lands:

GILA AND SALT RIVER MERIDIAN

T. 9 N., R. 3 W.,
  Sec. 12, NE¼NW¼, W½W½;
  Sec. 14, W½NE¼, S½NW¼, SW¼;
  Sec. 15, S½S½;
  Sec. 21, NW¼SE¼.
T. 10 N., R. 3 W.,
  Sec. 10, SW¼SE¼;
  Sec. 13, NW¼NE¼, SE¼NW¼, NE¼SW¼;
  Sec. 15, NW¼SE¼;
  Sec. 24, W½SW¼;
  Sec. 25, lots 3 and 4, S½NW¼, SW¼.
T. 7 N., R. 4 W.,
  Sec. 6, SW¼SE¼;
  Sec. 7, E½;
  Sec. 18, E½NE¼.
T. 8 N., R. 4 W.,
  Sec. 31, lots 4, 8, and 9, E½SW¼, SW¼SE¼.
T. 8 N., R. 5 W.,
  Sec. 25, NW¼SW¼.

The areas described aggregate 2,060.19 acres in Yavapai and Maricopa Counties.

2. All of the lands are patented except those described as follows:

T. 9 N., R. 3 W.,
  Sec. 15, S½S½.
T. 10 N., R. 3 W.,
  Sec. 15, NW¼SE¼;
  Sec. 24, W½SW¼.
T. 7 N., R. 4 W.,
  Sec. 7, E½NE¼, NE¼SE¼.
T. 8 N., R. 5 W.,
  Sec. 25, NW¼SW¼.

Of these lands, the S½S½ of section 15, T. 9 N., R. 3 W., is withdrawn for the Hassayampa Reclamation Project by the Secretary's order of September 14, 1945, and will remain so withdrawn.

3. All of the public lands described in paragraph 2 of this order except those withdrawn for the Hassayampa Reclamation Project, shall at 10 a.m., on December 26, 1972, be open to operation of the public land laws generally, subject to valid existing rights, the requirements of applicable law, and the provisions of existing withdrawals. All valid applications received at or prior to 10 a.m., on December 26, 1972, shall be considered as filed simultaneously at that time. Those received thereafter shall be considered in the order of filing. These public lands have been and will continue to be open to location and entry under the U.S. mining laws, and to the filing of applications and offers under the mineral leasing laws.

Inquiries concerning these lands should be addressed to the Chief, Division of Technical Services, Bureau of

Land Management, Room 3022 Federal Building, Phoenix, Ariz. 85025.

HARRISON LOESCH,
Assistant Secretary of the Interior.

NOVEMBER 20, 1972.

[FR Doc.72-20261 Filed 11-24-72;8:48 am]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of the Interior

Section 213.3312 is amended to show that one position of Confidential Assistant (Administrative Assistant) to the Deputy Under Secretary (Energy) is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (11-25-72), subparagraph (40) of paragraph (a) of § 213.3312 is added as set out below.

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.* * * *

(40) One Confidential Assistant (Administrative Assistant) to the Deputy Under Secretary (Energy).

* * * * *

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-20382 Filed 11-24-72;8:56 am]

Title 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—U.S. Standards for Grades of Canned Plums [1]

FILL WEIGHT AND SAMPLE UNIT SIZE; CORRECTION

In F.R. Doc. 72-19106, appearing at page 23807, in the issue of Thursday, November 9, 1972, the following changes are made:

1. On page 23808 in § 52.1788 in Table III, the column heading designated as $\bar{X}_{min}$ is changed to read $\bar{X}'_{min}$; and

2. On page 23811 the section designated as § 51.1798 is corrected to read § 52.1798 and in the Score Sheet of that section the score point range for (SStd) in the factor of Uniformity of Size is changed to read [1] 0-13.

Dated: November 20, 1972.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.72-20279 Filed 11-24-72;8:49 am]

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 722—COTTON

Subpart—Marketing Quota Regulations for the 1972 and Succeeding Crops of Extra-Long Staple Cotton and Recordkeeping Requirements for Extra-Long Staple and Upland Cotton

The provisions of §§ 722.61 to 722.95 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31), as amended (7 U.S.C. 1281 et seq.). This reissuance of the regulations governing marketing quotas for extra-long staple cotton and the recordkeeping requirements for upland cotton supersedes the current regulations which remain applicable for the 1966 through the 1971 cotton programs. Such reissued regulations apply to the 1972 and succeeding crops of extra-long staple cotton and to the recordkeeping requirements for the 1972 and succeeding crops for upland cotton. Such reissued regulations delete inapplicable provisions and consolidate all current provisions in a rewritten text and also establish the 1972 penalty rate for extra-long staple cotton. Citation of statutory authority has been inserted after the table of sections and two minor typographical corrections to the text have been added.

On October 3, 1972, notice of proposed rule making regarding such proposed reissuance of regulations was published in the FEDERAL REGISTER (37 F.R. 20721). Interested persons were invited to submit written data, views, and recommendations regarding the determinations within 15 days. No submissions in response to such notice have been received.

It is essential that the 1972 penalty rate for extra-long staple cotton be made effective as soon as possible. Accordingly, it is hereby determined and found that compliance with the 30-day effective date requirement of 5 U.S.C. 553 is impracticable and contrary to the public interest and this reissuance of regulations shall be effective upon publication of this document in the FEDERAL REGISTER (11-25-72).

Signed at Washington, D.C., on November 20, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

GENERAL

Sec.
722.61 Applicability.
722.62 Extent of calculations and rule of fractions.
722.63 Expirations of time limitations.
722.64 Definitions.

ELS FARM MARKETING QUOTA AND FARM MARKETING EXCESS

722.65 Cotton subject to marketing quotas.
722.66 Farm marketing quota and farm marketing excess.
722.67 Notice of farm marketing excess and farm marketing quota.
722.68 Farm marketing excess adjustment.
722.69 Publication of the farm allotment, normal yield, marketing quota and marketing excess.
722.70 Successors-in-interest.
722.71 Review of quotas.
722.72 Exemption of publicly owned agricultural experiment stations.

PENALTY

722.73 Rate of penalty.
722.74 Lien for the penalty.
722.75 Payment of penalty by producers.
722.76 Payment of penalty by buyers.
722.77 Remittance of penalty to the county executive director.
722.78 Refunds of money in excess of the penalty.
722.79 Refund of penalty erroneously, illegally, or wrongfully collected.
722.80 Report of violations and court proceedings to collect penalty.

IDENTIFICATION OF COTTON

722.81 Identification of cotton by producer.
722.82 Identification of cotton by buyer.
722.83 Marketing of penalty free cotton.
722.84 Marketing of penalty cotton.

RECORDS AND REPORTS

722.85 Records to be kept and reports to be made by ginners.
722.86 Records to be kept and reports to be made by buyers.
722.87 Records to be kept by warehousemen, processors, and others.
722.88 Availability of records kept by ginners, buyers, warehousemen, and others.
722.89 Penalty for failure or refusal to keep records or make reports.
722.90 Records to be kept and reports to be made by producers.
722.91 Enforcement.
722.92 Revision of county committee determinations and erroneous notices.
722.93 Supervisory authority of State committee.
722.94 Availability of records.
722.95 Designation of representatives of the Secretary to examine records.

AUTHORITY: The provisions of this subpart issued under secs. 301, 344, 345, 346, 347, 362, 363, 365-368, 372-374, 375, 388, 52 Stat. 38, as amended, 63 Stat. 670, as amended, 63 Stat. 674, as amended, 63 Stat. 675, as amended, 52 Stat. 62, as amended, 52 Stat. 63, as amended, 52 Stat. 64, 52 Stat. 65, as amended,

V37-228 NOV 25 72 XUM

52 Stat. 66, as amended, 52 Stat. 68; 7 U.S.C. excess of the farm allotment which is (17) Market—To dispose of cotton in

quota for any farm with a farm market- the past production on the farm, the of such period, the records shall be filed

52 Stat. 66, as amended, 52 Stat. 68; 7 U.S.C. 1301, 1344, 1345, 1346, 1347, 1362, 1363, 1365–1368, 1372–1374, 1375, 1388.

GENERAL

§ 722.61 Applicability.

(a) The provisions §§ 722.61 to 722.95 apply to extra long staple cotton (referred to as "ELS cotton") produced in 1972 and succeeding years when marketing quotas are in effect for ELS cotton and to any carryover ELS cotton which is marketed by producers in the 1972–73 and succeeding marketing years.

(b) The provisions §§ 722.63, 722.64, 722.81–722.95 apply to upland cotton produced in 1972 and succeeding years.

(c) The term "cotton" includes upland cotton and ELS cotton. However, upland and ELS cotton are separate commodities.

(d) The marketing quota provisions of this subpart shall not apply to upland cotton produced in 1971, 1972, and 1973, since marketing quotas are not in effect for those years under the statutory authority amendments contained in the Agricultural Act of 1970 (Public Law 91–524, 84 Stat. 1358, et seq., approved November 30, 1970.

(e) The regulations in this subpart supersede the marketing quota regulations for the 1966 and succeeding crops of upland cotton and extra long staple cotton (31 F.R. 6573, as amended), which applied to the 1966–71 crops of cotton.

§ 722.62 Extent of calculations and rule of fractions.

The rate of penalty under § 722.73 shall be computed to the nearest tenth of a cent. In making all other computations under §§ 722.61 to 722.95, the amount of lint cotton shall be rounded to the nearest whole pound and the amount of penalties or refunds for a farm shall be rounded to the nearest whole cent. The basic rule of fractions in Part 793 of this chapter shall be applicable.

§ 722.63 Expiration of time limitations.

The provisions of Part 720 of this chapter concerning the expiration of time limitations shall apply to this subpart.

§ 722.64 Definitions.

(a) *General terms.* In determining the meaning of §§ 722.61 to 722.95, unless the context indicates otherwise, words importing the singular include and apply to several persons or things, words importing the plural include the singular, words importing the masculine gender include the feminine as well, and words used in the present tense include the future as well as the present. Definitions in Part 719 of this chapter shall apply to this subpart.

(b) *Cotton program terms.* The following terms shall have the following meanings:

(1) Acreage planted to cotton on the farm in the current year (for use in determining compliance with the farm allotment) shall be:

(i) The acreage seeded to cotton plus stub cotton acreage on the farm in the current year, excluding any acreage in excess of the farm allotment which is destroyed or disposed of in accordance with the requirements of Part 718 of this chapter.

(ii) If the farm operator fails to file a certification of acreage in a certification county, any cotton produced on the farm shall be considered as excess cotton in accordance with Part 718 of this chapter in lieu of the rule prescribed in subdivision (i) of this subparagraph.

(2) Act—Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.).

(3) Actual production on the farm—Number of pounds of lint cotton determined to have been produced on the farm in the current year.

(4) Actual yield per acre—Number of pounds of lint cotton determined by dividing the actual production on the farm by the number of acres of cotton harvested on the farm.

(5) Barter or exchange—The transfer of title to cotton by a producer to another person in exchange for cotton or any other commodity, service, property, or for use of land.

(6) Buyer—Person who acquires cotton from a producer by purchase, barter, and exchange, gift inter vivos and an agricultural cooperative association which makes agreements with producers under which title to the cotton passes upon delivery of the cotton by the producer and the association is authorized to deal with such cotton as owner.

(7) Carryover cotton—Unmarketed cotton from any previous crop which the producer has on hand as of August 1 of the current year.

(8) Extra long staple cotton—American-Pima, Sea Island, Sealand, and all other varieties of the Barbadense species of cotton and any hybrid thereof, and any other cotton in which one or more of these varieties predominate, produced in an area designated under section 347(a) of the act.

(9) Farm allotment—Cotton acreage allotment established for a farm pursuant to section 344 of the Act.

(10) Farm marketing excess—Normal production of the acreage planted to ELS cotton in excess of the farm allotment subject to any downward adjustment where the actual ELS production is established to be less than such normal ELS production.

(11) Farm marketing quota—Actual ELS production of the acreage planted to ELS cotton on the farm less the farm marketing excess.

(12) Gift inter vivos—Transfer of title to cotton, accompanied by delivery, by a producer to another person which takes effect immediately and irrevocably and is made without any consideration or compensation therefor.

(13) Ginner—Person engaged in the business of ginning cotton.

(14) Ginning—Process by which lint cotton is removed from the cotton seed.

(15) Harvest—Act of extracting seed cotton from the cotton plant by manual or mechanical means.

(16) Lint cotton—Fiber taken from seed cotton by ginning.

(17) Market—To dispose of cotton in raw or processed form by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos.

(18) Marketing year—Period beginning August 1 of a crop year and ending July 31 of the following year, both dates inclusive.

(19) Normal production on the farm—The number of pounds of lint cotton determined by multiplying the normal yield of lint ELS cotton for the farm by the number of acres planted to ELS cotton on the farm.

(20) Normal yield—Average yield per harvested acre of ELS cotton on the farm during each of the 3 calendar years immediately preceding the year in which such normal yield is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yields, and for any significant changes in production practices. If, for one or more of the years, the farm had no production the county committee shall appraise a yield based on actual yield for similar farms.

(21) Penalty—Amount payable with respect to the farm marketing excess.

(22) Sale—Transfer of title to cotton by a producer to another person by any means other than barter or exchange or gift inter vivos.

(23) Seed cotton—Harvested fruit of the cotton plant before ginning.

(24) Upland cotton—Any cotton other than extra long staple cotton.

ELS FARM MARKETING QUOTA AND FARM MARKETING EXCESS

§ 722.65 Cotton subject to marketing quotas.

If marketing quotas are in effect for a crop of ELS cotton, all ELS cotton produced from such crop of ELS cotton shall be subject to marketing quotas, including ELS cotton of such crop available for marketing prior to the beginning or after the ending of the marketing year which begins in the year when such crop of ELS cotton is planted.

§ 722.66 Farm marketing quota and farm marketing excess.

The county committee shall establish the farm marketing quota and farm marketing excess for each farm on which the acreage planted to ELS cotton in the current year exceeds the farm allotment. Where it is established to the satisfaction of the county committee by any producer on the farm in accordance with § 722.68 that the actual production of ELS cotton on the farm in the current year is less than the normal production of the acreage planted to ELS cotton on the farm of such year, the farm marketing excess shall be adjusted downward to the amount by which such actual production exceeds the normal production of the farm allotment.

§ 722.67 Notice of farm marketing excess and farm marketing quota.

The county committee shall mail to the farm operator a written notice of farm marketing excess and farm marketing quota for any farm with a farm marketing excess. The notice shall contain substantially the following statement: "To all persons who as operator, landlord, tenant or sharecropper, for the crop year shown, are interested in the cotton described herein and produced on this farm." Notice so given shall constitute notice to all such persons. Such notice shall also contain a brief statement of the procedure whereby application for review of the marketing quota may be made under section 363 of the Act. A copy of each notice containing a notation thereon of the date of mailing the notice to the operator of the farm shall be kept among the permanent records of the county committee and, upon request, a copy thereof, duly certified as a true and correct copy shall be furnished without charge to any person who as operator, landlord, tenant, or sharecropper, is interested in the ELS cotton produced in the current year on the farm for which the notice is given.

§ 722.68 Farm marketing excess adjustment.

(a) *Application for adjustment in the farm marketing excess.* Any producer having an interest in the ELS cotton produced in the current year on a farm with a farm marketing excess may apply in writing to the county committee for a downward adjustment of the farm marketing excess on the basis of the amount of ELS cotton produced in such year on the farm. Any such application shall be filed with the county committee not later than the later of January 15 of the year following the year the crop was planted or 30 days after mailing notice of excess as provided in § 722.67. Upon a recommendation by the county committee the State committee may extend such date for producers failing to timely apply for such adjustment due to circumstances beyond his control. The county committee shall notify the applicant of the time and place of the hearing regarding his application. Unless application for an adjustment in the farm marketing excess is made within the period of time provided for in this paragraph, the farm marketing excess as determined pursuant to § 722.66 shall be final as to the producers on the farm.

(b) *County committee action on an application for adjustment in the farm marketing excess.* The county committee shall consider each application on the basis of facts known by or made available to it and on the basis of such evidence as may be presented to it by the applicant. The ELS cotton acreage on the farm for the crop year in question shall be determined by official measurement, or such other method of ascertaining acreage as may be authorized for the farm under section 374(a) of the act (79 Stat. 1210), before the county committee approves a determination of the actual production of ELS cotton on the farm. The actual production of ELS cotton in such crop year on any farm shall be determined in view of the relevant facts, including the acreage planted to ELS cotton in such crop year on the farm, the past production on the farm, the actual yields per acre in such crop year for other farms which are similar with regard to farming practices followed, type of soil and productivity; the harvesting, ginning and sales of the ELS cotton produced on the farm in such crop year; and weather conditions and other factors in such crop year affecting the production of ELS cotton on the farm and in the locality in which the farm is situated. In the consideration of any application for adjustment in the farm marketing excess the producer shall have the burden of proof. The evidence presented by the applicant may be in the form of written statements or other documentary evidence or of oral testimony in a hearing before the county committee during its consideration of the application. In order to expedite the consideration of applications, the county committee shall receive, in advance of the time fixed for consideration of the application, any written statement or documentary evidence offered by or on behalf of the applicant and the application may be disposed of upon the basis of such statement or evidence, together with any other information bearing on or establishing the facts, which is available to the county committee, unless the applicant appears before the county committee at the time fixed for consideration of the application and requests a hearing for the purpose of offering additional documentary evidence or oral testimony, in support of the application. Every such hearing shall be open to the public.

(c) *Notification of county committee's determination.* The county committee shall make its determination in connection with each application not later than 5 calendar days next succeeding the day on which the consideration of the application was concluded. The determination of the county committee shall be in writing and shall contain (1) a concise statement of the grounds upon which the applicant sought an adjustment in the amount of the farm marketing excess, (2) a concise statement of the findings of the county committee upon the question of fact and (3) the determination of the county committee as to the farm marketing quota, the actual production of ELS cotton on the farm, the farm marketing excess, and the penalty due on the farm marketing excess. The determination made by the county committee under this paragraph shall be subject to approval by a representative of the State committee. A notice showing the result of the determination made as aforesaid, shall be mailed to the operator of the farm and also to the applicant if he is not such operator.

§ 722.69 Publication of the farm allotment, normal yield, marketing quota, and marketing excess.

A record of the farm allotment, normal yield, farm marketing quota, and farm marketing excess established for farms in the county shall be kept readily available in the office of the county committee for public inspection for a period of not less than 30 calendar days. At the end of such period, the records shall be filed in the office of the county committee and remain readily available for further public inspection. Copies of notices, or other compilations upon which the pertinent data are shown may be used for this purpose.

§ 722.70 Successors-in-interest.

Any person who succeeds to the interest of a producer in a farm, or in an ELS cotton crop produced on a farm, for which a farm marketing quota and farm marketing excess were established, shall, to the same extent as his predecessor, be entitled to all the rights and privileges incident to such marketing quota and marketing excess and be subject to the penalty on the farm marketing excess and to the lien on the entire crop of ELS cotton and to the restrictions on the marketing of ELS cotton. However, a successor to a deceased producer shall not be personally liable for an unpaid marketing quota penalty incurred by the producer prior to his death, but a suit may be brought to enforce the lien for the penalty against the ELS cotton.

§ 722.71 Review of quotas.

Any producer who is dissatisfied with the farm marketing quota and farm marketing excess determined for his farm, may, by making application in writing within 15 days after the mailing to him of the notice provided in § 722.67 or § 722.68, have such farm marketing quota and farm marketing excess reviewed by a review committee pursuant to section 363 of the Act and the Marketing Quota Review Regulations set forth in Part 711 of this chapter, a copy of which may be obtained from the county committee.

§ 722.72 Exemption for publicly owned agricultural experiment stations.

The farm marketing quota and penalty shall not apply to the marketing of any ELS cotton grown for experimental purposes only on a farm (a) operated by a publicly-owned agricultural experiment station and produced at public expense by employees of the experiment station or (b) operated by a person under a written agreement with a publicly owned agricultural experiment station, approved by the State committee, whereby the experiment station bears the costs and risks of production of the ELS cotton and the proceeds of the crop inure to the benefit of the experiment station. Farm marketing quotas shall apply to any other ELS cotton produced by a publicly owned agricultural experiment station which is not produced for experimental purposes only.

PENALTY

§ 722.73 Rate of penalty.

(a) Upland cotton is not subject to marketing quotas, and no penalty rate is established.

(b) The rate of penalty for ELS lint cotton is the higher of 50 percent of parity price for ELS cotton as of June 15 of the year in which the ELS cotton is

refund shall be made only to persons who

RECORDS AND REPORTS

in addition to the records maintained

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planted, or 50 percent of the support price for such crop of ELS cotton as provided in sections 346(a) and 347(c) of the Act.

(c) This section will be amended annually by adding a new subparagraph to this paragraph to set forth the exact rate of the penalty.

(1) 1972 ELS cotton penalty rate is 40.2 cents per pound.

§ 722.74 Lien for the penalty.

Until the penalty on any farm marketing excess of ELS cotton for any crop year is paid, all ELS cotton produced on the farm in such crop year and marketed shall be subject to the penalty at the rate prescribed in § 722.73 for ELS cotton and a lien on such entire crop of ELS cotton produced on the farm shall be in effect in favor of the United States. Notwithstanding the definition of ELS cotton in § 722.64(b)(8), the lien in favor of the United States under this paragraph applies to the varieties of ELS cotton named in such definition wherever grown in the United States.

§ 722.75 Payment of penalty by producers.

(a) *Producer liable for payment of penalty.* Each producer having an interest in the crop of ELS cotton on any farm produced in a crop year for which a farm marketing excess has been determined shall be liable for the entire amount of the penalty on the farm marketing excess. The amount of the penalty which any producer shall pay shall nevertheless be reduced by the amount of the penalty which is paid by another producer or a buyer of ELS cotton produced on the farm.

(b) *Time when penalty becomes due and payable.* The penalty for the farm marketing excess shall be due the earlier of the date of marketing or January 15 of the year following the year the crop was planted. Notwithstanding the foregoing, if the notice was not mailed prior to December 15 of the year the crop was planted, the January 15 date may be extended to 30 days after the notice was mailed.

(c) *Interest on penalty not paid when due.* If the penalty is not paid when due the producer is liable for interest at a rate of 6 percent per annum until the penalty is collected by the county committee or the buyer.

§ 722.76 Payment of penalty by buyers.

(a) *Buyers liable for payment of penalty.* Each person within the United States who buys or acquires from the producer any ELS cotton subject to the lien for the penalty shall be liable for and shall pay the amount of the penalty and interest, if any, on each pound thereof in satisfaction of the lien thereon.

(b) *Time when penalty becomes due.* The penalty to be paid by any buyer pursuant to paragraph (a) of this section shall become due at the time the ELS cotton is marketed and shall be remitted to the county where the excess farm is located. If the penalty (plus interest collected from the producer, if applicable) is not received by the county committee by the 10th day following the date the penalty was collected by the buyer, the buyer shall be liable for the penalty plus interest at a rate of 6 percent per annum from the 11th day until the penalty is received by the county. ELS cotton shall be deemed to be sold when either title to or actual or constructive possession of the ELS cotton is delivered by or on behalf of the producer or any part of the purchase price is paid. ELS cotton shall be deemed to have been marketed by barter or exchange when it is delivered to another person by actual or constructive delivery or such person has received any part of the property, goods, or services for which the ELS cotton is being bartered or exchanged. ELS cotton shall be deemed to have been marketed by gift inter vivos when there is actual or constructive delivery of the ELS cotton to another person during the lifetime of the producer. ELS cotton shall be deemed to have been marketed in processed form when the producer, or some person on his behalf, converts ELS cotton into an article of trade and thereby causes the ELS cotton to lose its identity as lint ELS cotton. An article of trade is any article made in whole or in part from ELS cotton for the purpose of marketing such article.

(c) *Manner of deducting penalty and issuance of receipts.* The buyer may deduct from the price paid for any ELS cotton an amount equivalent to the amount of the penalty to be paid by the buyer pursuant to paragraph (a) of this section. Any buyer who deducts an amount equivalent to the penalty shall issue to the person from whom the ELS cotton was purchased a receipt for the amount so deducted.

§ 722.77 Remittance of penalty to the county executive director.

The county executive director of the county where the farm is located for and on behalf of the Secretary shall receive the penalty and any interest due thereon and issue a receipt therefor to the person remitting the penalty as required by established fiscal procedure. The penalty and interest shall be remitted only in legal tender or by check, draft, or money order drawn payable to the order of Agricultural Stabilization and Conservation Service, USDA. All checks, drafts, or money orders tendered in payment of the penalty and interest shall be received by the county executive director subject to collection and payment at par.

§ 722.78 Refunds of money in excess of the penalty.

(a) *Determination of refunds.* The county committee and the county executive director, upon their own motion or upon the request of any interested person, shall review the amount of money received in connection with the penalty for any farm to determine for each producer the amount thereof, if any, which is in excess of the penalty incurred. The excess amount shall be refunded. Any refund shall be made only to persons who bore the burden of the payment and who have not been reimbursed therefor. The excess sum shall be first applied, insofar as the sum will permit, so as to make refunds to eligible persons other than producers and the remainder, if any, shall be applied so as to make refunds to the eligible producers. No refund shall be made to any buyer of any amount which he collected from the producer, deducted from the price or other consideration for the ELS cotton or for which he was liable.

(b) *Certification of refunds.* A member of the county committee, or the county executive director, shall notify the State committee of the amount which the county committee determines may be refunded to each person with respect to the farm and the State committee shall cause to be certified to the appropriate Disbursing Officer of the Treasury Department for payment such amounts as are approved by it. No refund of money shall be certified under this section unless the money has been collected and transmitted to the Federal Reserve Bank and held in a budget clearing account.

§ 722.79 Refund of penalty erroneously, illegally, or wrongfully collected.

Whenever a claim for refund of any sum of money erroneously, illegally, or wrongfully collected as a penalty with respect to ELS cotton is duly filed in accordance with section 372 of the Act and Part 714 of this chapter, as amended, and a determination is duly made that a part or all of the penalty was erroneously, illegally, or wrongfully collected, a refund of such penalty or part thereof shall be made as provided in the regulations pertaining to refunds of penalties (Part 714 of this chapter, as amended).

§ 722.80 Report of violations and court proceedings to collect penalty.

The county executive director shall report in writing to the State executive director each case of failure or refusal to pay the penalty or to remit the same to the county executive director when collected. The State executive director shall report each such case in writing to the Office of the General Counsel of the U.S. Department of Agriculture, in accordance with instructions issued by the deputy administrator, with a view to the institution of proceedings by the U.S. Attorney for the appropriate district, under the direction of the Attorney General of the United States, to collect the penalties as provided in section 376 of the act.

IDENTIFICATION OF COTTON

§ 722.81 Identification of cotton by producer.

Each producer of cotton shall, at the time he markets any cotton, identify the cotton to the buyer as being (a) not subject to the penalty provided under this subpart and not subject to the lien for such penalty, or (b) subject to the penalty provided under this subpart and subject to the lien for such penalty. The producer shall furnish to the buyer in connection with such identification of the cotton the following:

(1) Name and address of producer.

(2) County and State where farm on which the cotton was produced is located.

(3) Farm number.

(4) Whether the cotton is current year's crop or carryover cotton.

§ 722.82 Identification of cotton by buyer.

Each buyer of cotton from a producer shall obtain from such producer the identification of cotton required under § 722.81. In addition, before acquiring any cotton, each buyer of cotton shall obtain from the county committee of each county where the cotton being offered to him was produced, or from the State executive director, a list showing the names and addresses of producers and the farm number for each farm in the county on which such producers are subject to the penalty for the current year's crop and any unpaid penalty for a previous crop. If there are no farms in such county subject to the penalty for the current year's crop or a previous crop, the list shall so state. The county committee or the State executive director shall furnish such list to any buyer of cotton upon request. The buyer shall determine whether the name of the prodcer and farm number furnished him by the producer who identifies cotton under § 722.81 appear on the list obtained for the applicable county. If the name of the producer and farm number so furnished appear on such list, or if the producer identifies the cotton as subject to penalty, the buyer shall take the cotton as subject to penalty at the applicable rate and to the lien for the penalty.

§ 722.83 Marketing of penalty free cotton.

Each buyer of cotton which is identified in accordance with §§ 722.81 and 722.82 as not subject to the penalty provided under this subpart and not subject to the lien for such penalty, may purchase the cotton so identified without collection, deduction, or payment of the penalty.

§ 722.84 Marketing of penalty cotton.

Each buyer of cotton which is identified in accordance with § 722.81 or § 722.82 as being subject to the penalty and the lien for such penalty shall take such cotton as subject to penalty at the applicable rate and to the lien for the penalty and such buyer shall collect the required penalty or deduct the required penalty from the purchase price of the cotton and remit the amount thereof to the county committee. In addition, each buyer of cotton shall collect penalty at the applicable rate or deduct such penalty from the purchase price of the cotton and remit the amount thereof to the county committee in each case where such buyer has not obtained the applicable list as required under § 722.82.

RECORDS AND REPORTS

§ 722.85 Records to be kept and reports to be made by ginners.

(a) *Necessity for records and reports.* Each ginner shall in conformity with section 373(a) of the act, keep the records and make the reports prescribed by this section which the Secretary hereby finds to be necessary to enable him to carry out, with respect to cotton, the provisions of the act.

(b) *Ginner's record of cotton ginned.* Each ginner shall keep, for each crop year, as a part of or in addition to the records maintained by him in the conduct of his business, a record showing with respect to each bale, and each lot of cotton less than a bale, ginned by him the following information: (1) The date of ginning; (2) the name of the operator of the farm on which the cotton was produced; (3) the name of the producer of the cotton; (4) the name and address of the person who delivered the cotton to the gin in those cases where the ginner has doubt as to the accuracy of the name of the farm operator or producer of the cotton as furnished; (5) the farm number of the farm where the cotton was grown or some other information which will identify the farm on which the cotton was produced; (6) the county and State in which the farm on which the cotton was produced is located; (7) the gin bale number or mark or other identification; and (8) the net weight of each bale of cotton and (the net weight of) each lot of lint cotton less than a bale ginned by the ginner.

(c) *Requests for reports.* Each ginner, upon written request of the State committee, State executive director, or county committee, shall make a report showing the information provided for in this section or any part thereof as specified in the request, with respect to cotton ginned for the person or persons specified in the request or for the period of time specified in the request. This report shall be filed not later than the date designated by the State committee, State executive director, or county committee in the written request for such report.

(d) *Manner of submitting reports.* The county executive director designated in the request for such report, or his successor in office, is hereby authorized and empowered to receive each such report on behalf of the Secretary. Each report shall be mailed or delivered directly to the said county executive director.

§ 722.86 Records to be kept and reports to be made by buyers.

(a) *Necessity for records and reports.* Each person who buys or acquires seed cotton or lint cotton from the producer thereof, in conformity with section 373(a) of the act, shall keep the records and make the reports prescribed by this section which the Secretary hereby finds to be necessary to enable him to carry out with respect to cotton, the provisions of the act.

(b) *Nature of records.* Each buyer shall keep for each crop year, as a part of or in addition to the records maintained by him in the conduct of his business, a record which shall show with respect to each bale of cotton, and each lot of cotton less than a bale, which is purchased by him from the producer thereof the following information: (1) The name and address of the producer from whom the cotton was purchased; (2) State and county in which farm is located; (3) the date on which the cotton was purchased; (4) the original gin bale number and warehouse receipt number; or if there is no gin bale number, the gin bale mark or other information showing the origin or source of the cotton and in the case of seed cotton purchased, the number of pounds of seed cotton and the known or estimated amount of lint in such seed cotton; (5) the number of pounds of lint cotton in each bale, and each lot of lint cotton less than a bale, purchased from the producer; and (6) the amount of penalty collected in connection with the cotton purchased from the producer.

(c) *Buyer's record and report.* In the event the county committee, the State committee, or State executive director has reason to believe that any buyer failed or refused to collect or to remit the penalty required to be collected by him for any cotton which he purchased, or otherwise in any manner failed or refused to comply with the provisions of these regulations, the buyer shall, within 15 days after a written request therefor by either the county committee, State committee, or State executive director is sent to him by certified mail at his last known address, make a report verified as true and correct, to the designated county executive director with respect to cotton purchased or acquired by him from the person or persons specified in the request or purchased or acquired by him during the period of time specified in the request. Such report shall include the information required to be kept under paragraph (b) of this section for each bale of cotton, and each lot of cotton less than a bale, purchased by such buyer.

(d) *Manner of submitting report.* The county executive director for the county in which the cotton covered by the report was produced is hereby authorized and empowered to receive for and on behalf of the Secretary, each report required pursuant to this section. Each report shall be mailed or delivered directly to the said county executive director.

§ 722.87 Records to be kept by warehousemen, processors, and others.

Each warehouseman, processor (including compressman), common carrier, or other person, as defined in section 373(a) of the act, who stores, processes (including compressing), transports as a common carrier or otherwise deals with cotton from, for, or on behalf of the producer thereof, shall for each crop year keep the records relating to such cotton which are normally kept by persons engaged in the same or similar business. The Secretary hereby finds such records to be necessary to enable him to carry

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out with respect to cotton, the provisions of the act.

§ 722.88 Availability of records kept by ginners, buyers, warehousemen, and others.

Each ginner, buyer, warehouseman, processor (including compressman), common carrier, or other person as defined in section 373(a) of the act, who gins, buys, stores, processes (including compressing), transports as a common carrier, or otherwise deals with cotton from, for, or on behalf of the producer thereof, shall make available for examination and inspection by the Secretary or by any authorized representative of the Secretary, the records kept in his business concerning such cotton, for the purpose of ascertaining the correctness of any report made or record kept pursuant to §§ 722.61 to 722.95, or of obtaining the information required to be furnished in any report pursuant to §§ 722.61 to 722.95, but not so furnished. The records to be kept pursuant to the provisions of §§ 722.85, 722.86, and 722.87 shall be kept available for examination and inspection by the Secretary, or by any authorized representative of the Secretary, until December 31 of the second year following the year in which the cotton is planted. Such records shall be kept for such longer period of time as may be requested in writing by the State executive director or by the director.

§ 722.89 Penalty for failure or refusal to keep records or make reports.

Any ginner, buyer, warehouseman, processor (including compressman), common carrier, or other person, as defined in section 373(a) of the act who gins, buys, acquires, stores, processes (including compressing), transports as a common carrier, or otherwise deals with cotton from, for, or on behalf of the producer thereof who fails to keep the records, make the reports as required by § 722.85, § 722.86, or § 722.87, or who makes any false report or false record shall, as provided for in section 373(a) of the act, be deemed guilty of a misdemeanor and upon conviction thereof, shall be subject to a fine or not more than $500 for each such offense.

§ 722.90 Records to be kept and reports to be made by producers.

(a) *Necessity for records and reports.* Each person who produces or who has produced in any crop year, cotton which is subject to the provisions of §§ 722.61 to 722.95 shall, in conformity with section 373(b) of the act, keep the records and make the reports prescribed by this section, which records and reports the Secretary hereby finds to be necessary to enable him to carry out, with respect to cotton, the provisions of the act. The records required to be kept pursuant to this section shall be kept until December 31 of the second year following the year in which cotton is planted, or for such longer period of time as may be requested in writing by the State executive director or by the director.

(b) *Cotton marketed to persons not within the United States.* In each case where cotton is marketed to any person not within the United States the producer shall furnish to the county committee within 15 days next succeeding the day on which the cotton was marketed, the name and address of the buyer or transferee, the amount of cotton, and indicate that such person is not within the United States.

(c) *Farm operator's report.* The operator of the farm shall file with the county executive director for the county in which the farm is located a farm operator's report on Form MQ–98–Cotton in the following cases: (1) Where the producer is making an application for a downward adjustment in the farm marketing excess pursuant to § 722.68 except that the county committee may waive this requirement in case it determines that the evidence otherwise submitted by the producer is satisfactory evidence of the actual production of cotton on the farm; (2) where a farm marketing excess is determined for the farm but an application for downward adjustment in the farm marketing excess has not been filed and the county executive director or the State executive director requests the report in writing; and (3) where a farm marketing excess is not established but the county executive director or the State executive director determines that a farm operator's report is necessary for proper administration of §§ 722.61 to 722.95 and requests such report in writing. Upon written request by the county executive director or the State executive director for a farm operator's report on Form MQ–98–Cotton, the operator of the farm shall make the report in the manner specified in this paragraph not later than the date designated in the request. Form MQ–98–Cotton shall show for the farm the following information or any part thereof as specified in such request for a specified crop year: (i) The date harvesting of the crop of cotton was completed on the farm, the date of the last ginning of cotton produced on the farm, and the acreage of cotton on the farm; (ii) the total number of pounds of lint cotton ginned from the crop of cotton; (iii) the name and address of each ginner who ginned such cotton and the number of and net weight of bales or lots less than a bale ginned by him; (iv) the total amount of seed cotton of the crop marketed; (v) the total amount of lint cotton of the crop marketed; (vi) the amount of unmarketed cotton of the crop on hand; (vii) the total number of pounds of lint cotton produced from such crop; (viii) the name and address of each buyer of such crop lint or seed cotton and the amount thereof marketed to him; and (ix) the amount of penalty paid by the producer or collected by the buyer.

(d) *Manner of submitting reports.* The county executive director for the county in which the cotton covered by the report was produced is hereby authorized and empowered to receive, for and on behalf of the Secretary, each report required pursuant to this section. Each report shall be mailed or delivered directly to such county executive director.

§ 722.91 Enforcement.

The county executive director shall report in writing to the State executive director each case of failure or refusal to make any report or keep any record as required by §§ 722.61 to 722.95 and so to report each case of making any false report or record. The State executive director shall report each such case in writing to the Office of the General Counsel of the U.S. Department of Agriculture, in accordance with instructions issued by the deputy administrator, with a view to the institution of proceedings by the U.S. Attorney for the appropriate district under the direction of the Attorney General of the United States, to enforce the provisions of the act.

§ 722.92 Revision of county committee determinations and erroneous notices.

(a) *Revision of determinations.* In any case where a determination of the county committee under §§ 722.61 to 722.95 is found to be in error, the county committee on its own motion or upon request of a representative of the State committee, shall revise such determinations.

(b) *Erroneous notices of cotton allotment and planted acreage.* In any case where an erroneous notice of cotton allotment or an erroneous notice of planted acreage is issued, the county committee shall follow the applicable upland or ELS cotton acreage allotment regulations and the provisions of Part 718 of this chapter.

§ 722.93 Supervisory authority of State committee.

The State committee may take any action required to be taken by the county committee which the county committee fails to take and the State committee may correct or require the county committee to correct any action taken by such county committee which is not in accordance with §§ 722.61 to 722.95. The State committee may also require the county committee to withhold taking any action which is not in accordance with §§ 722.61 to 722.95. A copy of each notice issued by the State committee hereunder shall be kept among the permanent records of the appropriate county committee and copies thereof shall be made available in accordance with the provisions of §§ 722.61 to 722.95 to any person who as operator, landlord, tenant, or sharecropper, is interested in the cotton produced on the farm for which the notice is given.

§ 722.94 Availability of records.

The State and county committees shall make available for inspection by owners or operators of farms receiving cotton allotments all records pertaining to cotton allotments and marketing quotas. The provisions of Part 798 of this chapter concerning the availability of information to the public shall be applicable to cotton program records.

§ 722.95 Designation of representatives of the Secretary to examine records.

(a) *Designation of representatives.* In order to carry out the provisions of §§ 722.85 to 722.88, relating to the examination of records, the deputy administrator is hereby authorized and directed to designate in writing with the counter signature of the State executive director, an appropriate number of persons from the officers or employees of the Department of Agriculture to act as the authorized representatives of the Secretary for the purposes of such provisions. In addition, Auditors and Special Agents, Office of the Inspector General, U.S. Department of Agriculture, are hereby designated as authorized representatives of the Secretary for the purposes of such provisions.

(b) *Authorization to administer oaths and affirmations.* Each person designated pursuant to this section to act as the authorized representative of the Secretary is hereby authorized and empowered under 5 U.S.C. 303 (80 Stat. 379) to administer oaths and affirmations to any person giving a statement or affidavit in connection with any authorized investigation.

NOTE: The recordkeeping and reporting requirements of these regulations have been approved by, and subsequent recordkeeping and reporting requirements will be subject to, the approval of the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Effective date: Date of publication 11–25–72.

[FR Doc.72-20317 Filed 11-21-72;8:52 am]

[Amdt. 13]

PART 730—RICE

Subpart—Rice Marketing Quota Regulations for 1967 and Subsequent Crop Years

On pages 21642 to 21643 of the FEDERAL REGISTER of October 13, 1972, notice of proposed rule making regarding certain changes in subject regulations was published in the FEDERAL REGISTER (37 F.R. 21642). Interested persons were given 15 days after publication of the notice in which to submit data, views, or recommendations. No response was received. However, it was noted that the second sentence of paragraph (i) of § 730.30 should have been included in the proposed changes because of language changes being made in § 730.10. Accordingly, the amendment proposed is hereby adopted as set forth below subject to the following changes:

1. The second sentence of paragraph (i) of § 730.30 referring to the time for filing an application for an adjustment in a farm marketing excess is changed to agree with the language in § 730.10.

2. The authority clause has been added.

3. An effective date provision is added immediately after the authority clause.

Signed at Washington, D.C., on November 20, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

1. Section 730.10 is amended by revising paragraph (a) thereof to read as follows:

§ 730.10 Farm marketing excess adjustment.

(a) *Adjustment in the amount of the farm marketing excess.* (1) Any producer having an interest in the rice produced on any farm for which there i an excess may (i) not later than January 15 or within 30 days after a late notice of farm marketing quota and farm marketing excess is mailed, as provided in § 730.9, apply in writing to the county office for a downward adjustment in the amount of the farm maketing excess on the basis of the amount of rice produced on the farm in the applicable crop year, or (ii) apply in writing to the county office at any time prior to the institution of court proceedings to collect the penalty for a determination that there was no farm marketing excess for the farm because the actual production of rice on the farm was not in excess of the normal production of the acreage allotment.

(2) Unless application for an adjustment in the farm marketing excess is made as provided under subparagraph (1) of this paragraph, the excess for any farm in the county as determined on the basis of the normal production of the excess rice acreage for the farm shall be final as to the producers on the farm.

(3) If an application is timely filed a record of filing shall be made and the date thereof shall be maintained in the county office. The county committee shall set a time and a place to consider the application and notify the applicant.

* * * * *

2. Section 730.25 is amended by revising paragraph (b) thereof to read as follows:

§ 730.25 Payment of penalties by producers.

* * * * *

(b) *Time when penalties become due.* To the extent collection has not been made prior thereto, the amount of the penalty with respect to the farm marketing excess for any farm shall be remitted by the producer not later than January 15, or not later than 30 calendar days after notice of farm marketing quota and farm marketing excess is mailed as provided for in § 730.9: *Provided,* That the penalty on that amount of the farm marketing excess delivered to the Secretary pursuant to § 730.31 or § 730.9 shall not be remitted: *Provided further,* That the penalty on that amount of the farm marketing excess which is stored pursuant to § 730.30 or § 730.9 shall not be remitted until the time, and to the extent, of any depletion in the amount of rice so stored not authorized as provided in § 730.30(g).

3. Section 730.26 is amended by revising paragraphs (b) and (d) thereof to read as follows:

§ 730.26 Payment of penalties by buyers.

* * * * *

(b) *Time when penalties become due.* The penalty to be paid by a person who buys or acquires rice pursuant to paragraph (a) of this section shall be due at the time the rice is purchased or acquired and shall be remitted not later than 10 calendar days thereafter.

* * * * *

(d) *Collection by buyer at a sale which depleted stored excess rice.* Any buyer within the United States who purchases rice at a sale which has the effect of depleting stored excess rice, including a sale for stored excess rice, including a sale for storage charges, shall be liable for the penalty due from the producer under § 730.30(g) and shall remit the amount of the penalty to the county office within 10 days after such purchase in the manner provided in § 730.27. Failure to collect from the producer shall not relieve the buyer of his duty to remit the amount of the penalty.

4. Section 730.28 is amended by revising the entire section to read as follows:

§ 730.28 Deposit of funds.

All funds received in the county office in connection with penalties for rice shall be scheduled and transmitted within 24 hours to the appropriate Federal Reserve Bank. In the event the funds so received are in the form of cash, such funds shall be deposited in the county committee bank account and a check shall be issued in the amount thereof, payable to the order of the Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, and transmitted to the Federal Reserve Bank. A record shall be maintained of each amount received in the county office, showing the name of the person who remitted the funds, the identification of the farm or farms in connection with which the funds were received, and the name of the person who marketed the rice in connection with which the funds were remitted.

§ 730.30 [Amended]

5. In paragraph (i) of § 730.30, the second sentence is revised to read as follows: "Such application shall be made in writing in accordance with the provisions of paragraph (a) of § 730.10."

§ 730.34 [Amended]

6. Section 730.34 is amended by withdrawing paragraph (c).

(Secs. 355, 356, 375, 52 Stat. 62, as amended, 66, as amended; 7 U.S.C. 1355, 1356, 1375)

Effective date: 30 days after publication in the FEDERAL REGISTER.

[FR Doc.72-20318 Filed 11-24-72;8:53 am]

[Tangerine Reg. 44, Amdt. 2]

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Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

[Sugar Reg. 811, Amdt. 13]

PART 811—CONTINENTAL SUGAR REQUIREMENTS AND AREA QUOTAS

Requirements, Quotas and Quota Deficits for 1972

Basis and purpose and bases and considerations. This amendment is issued pursuant to the authority vested in the Secretary of Agriculture by the Sugar Act of 1948, as amended (61 Stat. 922, as amended; 7 U.S.C. 1101), hereinafter referred to as the "Act". The purpose of this amendment to Sugar Regulation 811, as amended, is to determine and prorate or allocate the deficits in quotas established pursuant to the Act.

Section 204(a) of the Sugar Act of 1948, as amended, provides in part that "The Secretary shall, at the time he makes his determination of requirements of consumers for each calendar year and on December 15 preceding each calendar year, and as often thereafter as the facts are ascertainable by him but in any event not less frequently than each 60 days after the beginning of each calendar year, determine whether, • • • any area or country will not market the quota for such area or country."

On the basis of information available to the Department, the West Indies will be able to supply only 175,788 short tons, raw value, of sugar to the United States under its quota for the calendar year 1972. Accordingly, a deficit of 31,000 short tons, raw value, of sugar is hereby declared in the 1972 quota for the West Indies. Since the Republic of the Philippines and several Western Hemisphere countries have notified the Department that they will be unable to supply sugar in addition to their currently established quota, the entire deficit is herein prorated to Western Hemisphere countries able to supply additional sugar.

It is hereby determined that deficits previously declared and that declared herein constitute all known deficits on which data are currently ascertainable by the Department.

By virtue of the authority vested in the Secretary of Agriculture by the Act, Part 811 of this chapter is hereby amended by amending §§ 811.12 and 811.13 as follows:

1. Section 811.12 is amended by amending paragraph (a) to read as follows:

§ 811.12 Proration and allocation of deficits in quotas.

(a) The total deficits determined in quotas established under section 202 of the Act in short tons, raw value, are as follows: Domestic Beet Sugar Area 292,000; Puerto Rico 680,000; Bahamas 23,667; Bolivia 5,659; Haiti 4,721; Uganda 15,252; and the West Indies 5,251. The deficits for the domestic areas and Western Hemisphere countries totaling 1,011,298 tons are reallocated by allocating 275,741 tons to the Republic of the Philippines (the maximum quantity which it can supply in 1972), providing a special allocation of 21,507, 17,950, and 4,415 tons to Costa Rica, Guatemala and Honduras, respectively, and prorating the remainder to Western Hemisphere quota countries on the basis of quotas determined under section 202 of the Act, except such prorations to the West Indies, Panama, Haiti, Honduras, Bahamas, and Bolivia are limited so that total quotas for each country will not exceed 175,788, 43,500, 22,522, 17,495, 61, and 54 tons, respectively. The deficit in the quota for Uganda of 15,252 tons is reallocated by allocating 30.08 percent to the Republic of the Philippines and prorating the remainder on the basis of quotas determined under section 202 of the Act to Eastern Hemisphere quota countries, except Ireland.

Countries	Basic quotas	Temporary quotas and prorations pursuant to sec. 202(d) [1]	Previous deficits and deficit prorations	New deficit prorations	Total quotas and prorations
	(1)	(2)	(3)	(4)	(5)
	Short tons, raw value				
Dominican Republic	420,738	141,713	154,534	7,271	724,256
Mexico	372,090	125,328	136,666	6,431	640,515
Brazil	362,887	122,228	133,286	6,272	624,673
Peru	259,674	87,463	95,376	4,488	447,001
West Indies	135,425	45,614	25,749	−31,000	175,788
Ecuador	53,578	18,046	19,679	926	92,229
Argentina	50,291	16,940	18,472	889	86,572
Costa Rica	45,361	15,278	38,574	824	100,037
Colombia	44,703	15,057	16,420	773	76,953
Panama	27,940	9,411	6,149	0	43,500
Nicaragua	42,403	14,281	15,674	699	69,897
Venezuela	40,430	13,617	14,851	764	84,842
Guatemala	38,787	13,064	32,287	513	48,732
El Salvador	28,268	9,522	10,449	388	38,477
British Honduras	22,362	7,529	8,210	0	22,522
Haiti	20,379	6,884	−4,721	0	61
Bahamas	17,750	5,978	−23,667	0	17,495
Honduras	7,889	2,657	6,949	0	54
Bolivia	4,273	1,440	−5,659	74	7,356
Paraguay	4,273	1,440	1,569	0	210,797
Australia	165,008	41,932	3,857	0	87,763
Republic of China	68,699	17,458	1,606	0	84,403
India	66,669	16,799	1,544	0	59,628
South Africa	46,676	11,861	1,091	0	46,190
Fiji Islands	36,157	9,188	845	0	31,074
Mauritius	24,324	6,181	569	0	31,074
Swaziland	24,324	6,181	569	0	19,316
Thailand	18,120	3,843	353	0	0
Uganda	12,162	3,090	−15,252	0	12,597
Malagasy Republic	9,861	2,506	230	0	5,351
Ireland	5,351	0	0	0	
Total	2,473,242	792,500	696,289	0	3,962,001

[1] Proration of the quotas withheld from Cuba and Southern Rhodesia.

• • • • •

(Secs. 204 and 403; 61 Stat. 925, as amended, and 932; and 7 U.S.C. 1114 and 1153)

Effective date. In order to promote orderly marketing, it is essential that this amendment be effective immediately so that all persons selling and purchasing sugar for consumption in the continental United States can promptly plan and market under the changed marketing opportunities. Therefore, it is hereby determined and found that compliance with the notice, procedure, and effective date requirements of 5 U.S.C. 553 is unnecessary, impracticable and contrary to the public interest and this amendment shall be effective when filed for public inspection in the Office of the Federal Register.

Signed at Washington, D.C., on November 20, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-20185 Filed 11-24-72;8:45 am]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Orange Reg. 71, Amdt. 2]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, including Navel, Temple, and Murcott Honey oranges (but not including Valencia, Lue Gim Gong, and similar late maturing oranges of the Valencia type), as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The recommendations by the committees reflect their appraisal of the Florida orange crop and the current and prospective market conditions during the period December 4, 1972, through December 31, 1972. The minimum grade and size requirements specified for Temple and Murcott Honey oranges are prescribed during the present stage of maturity to prevent the shipment of oranges of a lower quality or smaller size which could adversely affect the overall price structure for better quality fruit. The minimum grade and size requirements are consistent with (1) the available supply and demand for such fruits and (2) improving returns to producers pursuant to the declared policy of the act.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective during the period herein specified. Domestic shipments of Florida oranges, except Temple oranges, Murcott Honey oranges, and Valencia, Lue Gim Gong, and similar late maturing oranges of the Valencia type, are currently regulated pursuant to Orange Regulation 71 (37 F.R. 21799, 24432), and determinations as to the need for, and extent of, regulation of domestic shipments of Temple oranges and Murcott Honey oranges must await the development of the crop and the availability of information on the demand for such fruit; the recommendations and supporting information for regulation of such orange shipments during the period December 4, 1972, through December 31, 1972, and in the manner herein provided, were promptly submitted to the Department after an assembled meeting of the Growers Administrative Committee on November 15, 1972, held to consider recommendations for regulation; the provisions of this regulation are identical with the aforesaid recommendations of the committee, and information concerning such provisions has been disseminated among handlers of such oranges; it is necessary to make this amendment effective, as hereinafter set forth, to preclude the shipment of Temple oranges and Murcott Honey oranges which are immature or of an inferior quality and to otherwise effectuate the declared policy of the act; and compliance with this amendment will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

Order. In § 905.545 (Orange Regulation 71; 37 F.R. 21799, 24432), the provisions of paragraph (a) preceding subparagraph (1) thereof are revised and new subparagraphs (5) through (8) are added to read as follows:

§ 905.545 Orange Regulation 71.

(a) During the period December 4, 1972, through December 31, 1972, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

• • • • •

(5) Any Temple oranges, grown in the production area, which do not grade at least U.S. No. 1;

(6) Any Temple oranges, grown in the production area, which are of a size smaller than $2^{8}/_{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of Temple oranges smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in said U.S. Standards for Florida Oranges and Tangelos;

(7) Any Murcott Honey oranges, grown in the production area, which do not grade at least U.S. No. 1; and

(8) Any Murcott Honey oranges, grown in the production area, which are of a size smaller than $2^{11}/_{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of Murcott Honey oranges smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in said U.S. Standards for Florida Oranges and Tangelos.

• • • • •

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 21, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-20316 Filed 11-24-72;8:52 am]

[Tangerine Reg. 44, Amdt. 2]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Notice was published in the FEDERAL REGISTER on November 15, 1972 (37 F.R. 24189), that consideration was being given to a proposal relative to limitation of shipments of tangerines handled between the production area and any point outside thereof in the continental United States, Canada, or Mexico, recommended by the committees, established under the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice provided that all written data, views, or arguments in connection with the proposed amendment be submitted by November 20, 1972. None were received. However, at their meetings on November 15, 1972, the committees recommended that the proposed amendment be modified to provide for less restrictive regulation requirements than initially proposed during the period December 4 through December 10, 1972.

The initial recommendation by the committees for more restrictive size requirements on shipments of tangerines was based on the increasing available supply of smaller size tangerines. The minimum size requirement specified for tangerines during the period November 27 through December 3, 1972, is necessary to prevent an excessive buildup of small size tangerines in the markets and thereby avert a general weakening of the price structure for all sizes of tangerines during the peak volume. The latter recommendation by the committees for less restrictive size limitations on shipments of tangerines during the period December 4 through December 10, 1972, reflects the committee's appraisal of the supply situation which indicates that fresh market outlets will accept a small percentage of tangerines of the smaller size during the aforesaid period, at prices which will provide favorable returns to producers.

After consideration of all relevant matters presented, including the recommendations made by the committees at their meetings on November 8, 1972, as set forth in the aforesaid notice, and on November 15, 1972, and other available information, it is hereby found that the regulation, as hereinafter set forth, is in accordance with said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice of proposed rule making concerning this amendment, with an effective date of November 27, 1972, was published in the FEDERAL REGISTER on November 15, 1972

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(37 F.R. 24189), and no objection to this amendment or such effective date was received; (2) except for the less stringent size requirement during the period December 4 through December 10, 1972, the provisions of this amendment are identical with the aforesaid recommendation of the committees on November 8, 1972, which was published in the aforesaid notice; (3) the recommendation and supporting information for regulation of shipments of tangerines were submitted to the Department after open meetings of the committees on November 8 and 15, 1972, which were held to consider recommendations for regulation, after giving due notice of such meetings, and interested persons were afforded an opportunity to submit their views at these meetings; (4) information concerning such provisions and effective time has been disseminated among handlers of tangerines; and (5) compliance with the regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

Order. In § 905.547 (Tangerine Regulation 44; 37 F.R. 21799, 24432) the provisions of paragraph (a)(2) are revised to read as follows:

§ 905.547 Tangerine Regulation 44.

(a) • • •

(2) Any tangerines, grown in the production area, which are of a size smaller than 2^{56}/$_{64}$ inches in diameter, except that a tolerance of 10 percent, by count, of tangerines smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the U.S. Standards for Florida Tangerines: *Provided*, That during the period November 27 through December 3, 1972, any handler may ship a quantity of tangerines which are smaller than 2^{56}/$_{64}$ inches in diameter, including the aforesaid tolerance, if (i) the number of standard packed boxes of such smaller tangerines does not exceed 40 percent of the total shipments of tangerines by such handler during the last previous week, within the current fiscal period, in which he shipped tangerines; and (ii) such smaller tangerines are of a size not smaller than 2^{52}/$_{64}$ inches in diameter, except that a tolerance of 10 percent, by count, of tangerines smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in said U.S. Standards for Florida Tangerines: *Provided further*, That during the period December 4 through December 10, 1972, any handler may ship a quantity of tangerines which are smaller than 2^{56}/$_{64}$ inches in diameter, including the aforesaid tolerance, if (i) the number of standard packed boxes of such smaller tangerines does not exceed 20 percent of the total shipments of tangerines by such handler during the last previous week, within the current fiscal period, in which he shipped tangerines; and (ii) such smaller tangerines are of a size not smaller than 2^{52}/$_{64}$ inches in diameter, except that a tolerance of 10 percent, by count, of tangerines smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in said U.S. Standards for Florida Tangerines.

• • • • • •

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated, November 22, 1972, to become effective November 27, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-20394 Filed 11-24-72;8:53 am]

[Lemon Regulation 561]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.861 Lemon Regulation 561.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 36 F.R. 9061), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 21, 1972.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period November 26, through December 2, 1972, is hereby fixed at 185,000 cartons.

(2) As used in this section, "handled," and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 22, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-20465 Filed 11-24-72;11:21 am]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., 1972-Crop Corn Supplement, Amdt. 1]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1972-Crop Corn Loan and Purchase Program

WAREHOUSE CHARGES; CORRECTION

The regulations issued by the Commodity Credit Corporation published in the FEDERAL REGISTER at 37 F.R. 20223 containing the provisions applicable to the 1972-Crop Corn Loan and Purchase Program are amendd as follows:

In § 1421.113, the storage start dates of "April 10 to May 5" and "May 6 to May 29" are changed to read "April 10 to May 4" and "May 5 to May 29," respectively.

(Sec. 4, 62 Stat. 1070 as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072 secs. 105, 401, 63 Stat. 1051 as amended; 15 U.S.C. 714c 7 U.S.C. 1421, 1441)

Effective date: Upon publication in the FEDERAL REGISTER (11–25–72).

Signed at Washington, D.C., on November 20, 1972.

KENNETH E. FRICK,
Executive Vice President, Commodity Credit Corporation.

[FR Doc.72-20319 Filed 11-24-72;8:52 am]

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter X—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies (1) the effective date of the authorization of the sale of flood insurance in the area under the emergency or under the regular flood insurance program; (2) the effective date on which the community became ineligible for the sale of flood insurance because of its failure to submit land use and control measures as required pursuant to § 1909.24(a); or (3) the effective date of a community's formal reinstatement in the program pursuant to § 1909.24(b). The entry reads as follows:

§ 1914.4 Status of participating communities.

• • • • • • •

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
• • •	• • •	• • •	• • •	• • •	• • •	• • •
Florida	Palm Beach	Gulf Stream	I 12 099 1260 01	Department of Community Affairs, 309 Office Plaza, Tallahassee, Fla. 32301.	Office of Town Manager, Gulf Stream Town Hall, Post Office Box 255, Delray Beach, FL 33444.	July16,1971. Emergency Nov. 24, 1972. Regular.
				State of Florida Insurance Department, Treasurer's Office, The Capitol, Tallahassee, Fla. 32304.		
Do	Broward	Hallandale	I 12 011 1280 01 Through I 12 011 1280 02	do	City Hall, City of Hallandale, Hallandale, Fla. 33009.	Sept. 18, 1971. Emergency. Nov. 24, 1972. Regular.
Do	Brevard	Melbourne Beach	I 12 009 2000 02	do	Town Hall, Ocean Ave., Melbourne Beach, Fla. 32951.	Jan. 15, 1971. Emergency. Nov. 24, 1972. Regular.
Illinois	Cook	Homewood Village.				Nov. 24, 1972. Emergency
Do	do	Rosemont Village				Do.
Do	do	Westchester Village.				Do.
Massachusetts	Barnstable	Mashpee				Do.
Michigan	Macomb	Chesterfield Township.				Do.
Minnesota	Blue Earth	Unincorporated areas.	I 27 013 0000 01 through I 27 013 0000 14	Division of Waters, Soils, and Minerals, Department of Natural Resources, Centennial Office Bldg., St. Paul, Minn. 55101. Minnesota Division of Insurance, R-210 State Office Bldg., St. Paul, Minn. 5510[illegible].	City-County Planner, City Hall, 202 East Jackson St., Mankato, Minn. 56001.	Mar. 24, 1971. Emergency Nov. 24, 1972 Regular.
New Jersey	Monmouth	Ocean Township				Nov. 24, 1972. Emergency.
Do	Bergen	Oradell Borough				Do.
Do	Union	Summit				Do.
Pennsylvania	Berks	Cumru Township				Do.
Do	Schuylkill	Saint Clair Borough.				Do.
Do	Luzerne	West Pittston Borough.				Do.
Do	Lycoming	Williamsport				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: Nov. 20, 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.72-20283 Filed 11-24-72;8:50 am]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

Status of Participating Communities

Section 1915.4 of Part 1915 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies (1) the effective date of the authorization of the sale of flood insurance in the area under the emergency or under the regular flood insurance program; (2) the effective date on which the community became ineligible for the sale of flood insurance because of its failure to submit land use and control measures as required pursuant to § 1909.24(a); or (3) the effective date of a community's formal reinstatement in the program pursuant to § 1909.24(b). The entry reads as follows:

§ 1915.4 Status of participating communities.

• • • • • • •

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
• • •	• • •	• • •	• • •	• • •	• • •	• • •
Florida	Palm Beach	Gulf Stream	I 12 099 1260 01	Department of Community Affairs, 309 Office Plaza, Tallahassee, Fla. 32301.	Office of Town Manager, Gulf Stream Town Hall, Post Office Box 255, Delray Beach, FL 33444.	July16,1971. Emergency Nov. 24, 1972. Regular.
				State of Florida Insurance Department, Treasurer's Office, The Capitol, Tallahassee, Fla. 32304.		
Do	Broward	Hallandale	I 12 011 1280 01 Through I 12 011 1280 02	do	City Hall, City of Hallandale, Hallandale, Fla. 33009.	Sept. 18, 1971. Emergency. Nov. 24, 1972. Regular.
Do	Brevard	Melbourne Beach	I 12 009 2000 02	do	Town Hall, Ocean Ave., Melbourne Beach, Fla. 32951.	Jan. 15, 1971. Emergency. Nov. 24, 1972. Regular.
Illinois	Cook	Homewood Village.				Nov. 24, 1972. Emergency
Do	do	Rosemont Village				Do.
Do	do	Westchester Village.				Do.
Massachusetts	Barnstable	Mashpee				Do.
Michigan	Macomb	Chesterfield Township.				Do.
Minnesota	Blue Earth	Unincorporated areas.	I 27 013 0000 01 through I 27 013 0000 14	Division of Waters, Soils, and Minerals, Department of Natural Resources, Centennial Office Bldg., St. Paul, Minn. 55101. Minnesota Division of Insurance, R-210 State Office Bldg., St. Paul, Minn. 5510[illegible].	City-County Planner, City Hall, 202 East Jackson St., Mankato, Minn. 56001.	Mar. 24, 1971. Emergency Nov. 24, 1972 Regular.
New Jersey	Monmouth	Ocean Township				Nov. 24, 1972. Emergency.
Do	Bergen	Oradell Borough				Do.
Do	Union	Summit				Do.
Pennsylvania	Berks	Cumru Township				Do.
Do	Schuylkill	Saint Clair Borough.				Do.
Do	Luzerne	West Pittston Borough.				Do.
Do	Lycoming	Williamsport				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: Nov. 20, 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.72-20284 Filed 11-24-72;8:50 am]

area of Viet Nam. No person shall dis-

notwithstanding that this order or such

It is found impracticable and contrary

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PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Florida	Palm Beach	Gulf Stream	H 12 099 1260 01	Department of Community Affairs, 309 Office Plaza, Tallahassee, Fla. 32301. State of Florida Insurance Department, Treasurer's Office, The Capitol, Tallahassee, Fla. 32304.	Office of Town Manager, Gulf Stream Town Hall, Post Office Box 255, Delray Beach, FL 33444.	July 16, 1971.
De	Broward	Hallandale	H 12 011 1280 01 through H 12 011 1280 02	do	City Hall, City of Hallandale, Hallandale, Fla. 33009.	Sept. 18, 1971.
Do	Brevard	Melbourne Beach	H 12 009 2000 02	do	Town Hall, Ocean Ave., Melbourne Beach, Fla. 32951.	Jan. 15, 1971.
Illinois	Cook	Homewood Village.				Nov. 24, 1972.
Do	do	Rosemont Village.				Do.
Do	do	Westchester Village.				Do.
Massachusetts	Barnstable	Mashpee				Do.
Michigan	Macomb	Chesterfield Township.				Do.
Minnesota	Blue Earth	Unincorporated areas.	H 27 013 0000 01 through H 27 013 0000 14	Division of Waters, Soils, and Minerals, Department of Natural Resources, Centennial Office Bldg., St. Paul, Minn. 55101. Minnesota Division of Insurance, R-210 State Office Bldg., St. Paul, Minn. 55101.	City-County Planner, City Hall, 202 East Jackson St., Mankato, MN 56001.	Mar. 24, 1971.
New Jersey	Monmouth	Ocean Township				Nov. 24, 1972.
Do	Bergen	Oradell Borough				Do.
Do	Union	Summit				Do.
Pennsylvania	Berks	Cumru Township				Do.
Do	Schuylkill	Saint Clair Borough.				Do.
Do	Luzerne	West Pittston Borough.				Do.
Do	Lycoming	Williamsport				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: November 20, 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc 72-20284 Filed 11-24-72;8:50 am]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter VII—Department of Commerce and Department of Transportation

[Transportation Order T-2, Amended]

T-2 (AMENDED)—SHIPPING RESTRICTIONS; NORTH KOREA AND THE COMMUNIST-CONTROLLED AREA OF VIET NAM

Transportation Order T-2 (Amended) (36 F.R. 8672), May 11, 1971, is hereby amended to read as follows:

This order as amended is found necessary and appropriate to promote the national defense and is issued pursuant to the authority granted by section 101 of the Defense Production Act of 1950, as amended. Consultation with industry in advance of the issuance of this order has been rendered impracticable by the need for immediate issuance.

Sec.
1. Prohibition of movement of American carriers to North Korea or to the Communist-controlled area of Vietnam.
2. Prohibition on transportation of goods destined for North Korea or the Communist-controlled area of Viet Nam.
3. Persons affected.
4. Reports.
5. Records.
6. Defense against claims for damages.
7. Violations.

AUTHORITY: Secs. 1 to 7 issued under sec. 704, 64 Stat. 816, as amended; 50 U.S.C. App. 2154.[1] Interpret or apply sec. 101, 64 Stat. 799, as amended; 50 U.S.C. App. 2071; E.O. 10480, 18 F.R. 4939, 3 CFR, 1953. Supp.; and sec. 4 (a) Public Law 89-670, 80 Stat. 933.

Section 1 Prohibition of movement of American carriers to North Korea or to the Communist-controlled area of Viet Nam.

No person shall sail, fly, navigate, or otherwise take any ship documented under the laws of the United States or any aircraft registered under the laws of the United States to North Korea or to the Communist-controlled area of Viet Nam.

Sec. 2 Prohibition on transportation of goods destined for North Korea or the Communist-controlled area of Viet Nam.

No person shall transport, in any ship documented under the laws of the United States, or in any aircraft registered under the laws of the United States, to North Korea or to the Communist-controlled area of Viet Nam, any material, commodity, or cargo of any kind. No person shall take on board any ship documented under the laws of the United States or any aircraft registered under the laws of the United States any material, commodity, or cargo of any kind if he knows or has reason to believe that the material, commodity, or cargo is destined, directly or indirectly for North Korea or for the Communist-controlled area of Viet Nam. No person shall discharge from any ship documented under the laws of the United States or from any aircraft registered under the laws of the United States, at any place other than the port where the cargo was loaded, or within territory under the jurisdiction of the United States any material, commodity, or cargo of any kind which he knows or has reason to believe is destined for North Korea or for the Communist-controlled area of Viet Nam.

[1] P.L. 92-325, approved June 30, 1972, extended the Defense Production Act of 1950, as amended, to June 30, 1974.

Sec. 3 Persons affected.

The prohibitions of this order apply to the owner of the ship or aircraft, to the master of the ship or aircraft, and to any other officer, employee, or agent of the owner of the ship or to any other person who participates in the prohibited activities.

Sec. 4 Reports.

Persons subject to this order shall submit such reports to either the Assistant Secretary of Commerce for Domestic and International Business, Assistant Secretary of Commerce for Maritime Affairs, or the Assistant Secretary of Transportation for Policy and International Affairs, for, respectively, cargoes, vessels or aircraft as shall be required, subject to the terms of the Federal Reports Act.

Sec. 5 Records.

Each person participating in any transaction covered by this order shall retain in his possession, for at least 2 years, records of voyages and shipments in sufficient detail to permit an audit that will determine for each transaction that the provisions of this order have been met. This provision does not require any particular accounting method and does not require alteration of the system customarily maintained, provided such records supply an adequate basis for audit. Records may be retained in the form of microfilm or other photographic copies instead of the originals.

Sec. 6 Defense against claims for damages.

No person shall be held liable for damages or penalties for any default under any contract or order which shall result directly or indirectly from compliance with this order or any provision, thereof, notwithstanding that this order or such provision shall thereafter be declared by judicial or other competent authority to be invalid.

Sec. 7 Violations.

Any person who willfully violates any provisions of this order, or willfully conceals a material fact, or furnishes false information in the course of operation under this order, shall, upon conviction, be punished by fine or imprisonment, or both. In addition, administrative action may be taken against any such person, denying him the privileges generally accorded under this order.

This order shall take effect on November 22, 1972.

ANDREW E. GIBSON,
Assistant Secretary of Commerce for Domestic and International Business.

ROBERT J. BLACKWELL,
Assistant Secretary of Commerce for Maritime Affairs.

JOHN L. HAZARD,
Assistant Secretary for Policy and International Affairs, Department of Transportation.

[FR Doc.72-20451 Filed 11-24-72;10:48 am]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans' Administration

PART 9—SERVICEMEN'S GROUP LIFE INSURANCE

Establishment of Date of Death for Individuals Carried in a Missing Status

Section 9.5, Title 38, Code of Federal Regulations, deals with Servicemen's Group Life Insurance coverage for members of the Uniformed Services. A new paragraph (d) is added to this section, establishing a uniform method to determine the date of death for those members who were in a missing status on September 29, 1965, and June 25, 1970, which in turn will provide the amount of Servicemen's Group Life Insurance payable in each case.

It is found impracticable and contrary to the public interest to give preliminary notice and postpone the effective date of the regulation until 30 days after publication thereof in the FEDERAL REGISTER (38 CFR 1.12) because this is a change in a substantive rule which relieves a restriction and provides a more equitable basis on which to pay insurance benefits to survivors of now deceased, missing military personnel and to delay the effective date would work a hardship on those eligible for such payments. Therefore the regulation is effective immediately.

Notice is also give that the regulation while having a current effective date by its terms is retroactive.

§ 9.5 Coverage.

* * * * * *

(d) *Members in missing status.* With respect to an individual carried in a missing status by a uniformed Service and found to have died while in such missing status, the date of the member's death for purposes of coverage and the amount thereof shall be established as follows:

(1) If the member was in a missing status on September 29, 1965, and is determined to have died by the Uniformed Service prior to June 25, 1970, the date of death shall be that date determined by the Secretary concerned for ending the crediting of pay and allowances as provided in 37 U.S.C. 555.

(2) If a member was in a missing status on June 25, 1970, and is determined to have died, the date of death shall be that date determined by the Secretary concerned for ending the crediting of pay and allowances as provided in 37 U.S.C. 555.

(3) Insurance in force on the date of death as determined under subparagraphs (1) and (2) of this paragraph shall not be payable to a beneficiary who as a result of the member's death received a gratuity payment under Public Law 89-214 (79 Stat. 880) unless such beneficiary agrees to refund the amount of the gratuity received.

Approved: November 22, 1972.

By direction of the Administrator.

[SEAL] RUFUS H. WILSON,
Associate Deputy Administrator.

[FR Doc.72-20464 Filed 11-24-72;11:04 am]

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Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[7 CFR Part 21]

UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES

Notice of Proposed Rule Making

Correction

In F.R. Doc. 72-19700 appearing at page 24357 of the issue for Thursday, November 16, 1972, the word "unlawful", appearing in the first line of § 21.202(a), should read "lawful".

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 259]

CAPITAL CONSTRUCTION FUND

Proposed Joint Tax Regulations

Notice is hereby given that the Secretary of Commerce and the Secretary of the Treasury, pursuant to section 607 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1177), are proposing promulgation of joint regulations concerning the Federal income tax aspects of the Capital Construction Fund program.

The proposed joint regulations which appear in this part also appear under Title 26 CFR Part 3 (FEDERAL REGISTER, vol. 37, No. 116, p. 11877, June 15, 1972) and under Title 46 CFR Part 391 (FEDERAL REGISTER, vol. 37, No. 116, p. 11887, June 15, 1972).

Prior to final adoption of these regulations, consideration will be given to any comments or suggestions pertaining thereto which were submitted in writing (preferably eight copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by October 16, 1972. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request to the Commissioner. Any person submitting written comments or suggestions who desired an opportunity to comment orally at a public hearing on these proposed regulations should have submitted his request, in writing to the Commissioner by October 16, 1972. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. Interested parties need not submit duplicate comments to the National Marine Fisheries Service. However, if desired, duplicate comments may be submitted to the Administrator, National Oceanic and Atmospheric Administration, Washington, D.C. 20235, Attention: Joint Regulations Comments.

Section 259.3(b)(4) of the proposed regulations will supersede the provisions of § 259.1 (temporary regulations concerning execution of agreements and deposits made in a capital construction fund).

Therefore, the Administrator, National Oceanic and Atmospheric Administration proposes to add the following to Part 259 of Title 50, Chapter II, Code of Federal Regulations:

PART 259—CAPITAL CONSTRUCTION FUND

Sec.

259.0 Statutory provisions; section 607, Merchant Marine Act, 1936, as amended.
259.1 Scope of section 607 of the Act and the regulations in this part.
259.2 Ceiling on deposits.
259.3 Nontaxability of deposits.
259.4 Establishment of accounts.
259.5 Qualified withdrawals.
259.6 Tax treatment of qualified withdrawals.
259.7 Tax treatment of nonqualified withdrawals.
259.8 Certain corporate reorganizations and changes in partnerships, and certain transfers on death.
259.9 Consolidated returns. [Reserved]
259.10 Transitional rules for existing funds.
259.11 Definitions.

AUTHORITY: The provisions of this Part 259, issued under section 607 of the Merchant Marine Act, 1936, as amended, 46 U.S.C. 1177.

§ 259.0 Statutory provisions, section 607, Merchant Marine Act, 1936, as amended.

SEC. 607. (a) Agreement rules.

Any citizen of the United States owning or leasing one or more eligible vessels (as defined in subsection (k)(1)) may enter into an agreement with the Secretary of Commerce under, and as provided in, this section to establish a capital construction fund (hereinafter in this section referred to as the 'fund') with respect to any or all of such vessels. Any agreement entered into under this section shall be for the purpose of providing replacement vessels, additional vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States for operation in the United States, foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States and shall provide for the deposit in the fund of the amounts agreed upon as necessary or appropriate to provide for qualified withdrawals under subsection (f). The deposits in the fund, and all withdrawals from the fund, whether qualified or nonqualified, shall be subject to such conditions and requirements as the Secretary of Commerce may by regulations prescribe or are set forth in such agreement; except that the Secretary of Commerce may not require any person to deposit in the fund for any taxable year more than 50 percent of that portion of such person's taxable income for such year (computed in the manner provided in subsection (1)(1)(A)) which is attributable to the operation of the agreement vessels.

(b) Ceiling on deposits.

(1) The amount deposited under subsection (a) in the fund for any taxable year shall not exceed the sum of:

(A) That portion of the taxable income of the owner or lessee for such year (computed as provided in chapter 1 of the Internal Revenue Code of 1954 but without regard to the carryback of any net operating loss or net capital loss and without regard to this section) which is attributable to the operation of the agreement vessels in the foreign or domestic commerce of the United States or in the fisheries of the United States,

(B) The amount allowable as a deduction under section 167 of the Internal Revenue Code of 1954 for such year with respect to the agreement vessels,

(C) If the transaction is not taken into account for purposes of subparagraph (A), the net proceeds (as defined in joint regulations) from (i) the sale or other disposition of any agreement vessel, or (ii) insurance or indemnity attributable to any agreement vessel, and

(D) The receipts from the investment or reinvestment of amounts held in such fund.

(2) In the case of a lessee, the maximum amount which may be deposited with respect to an agreement vessel by reason of paragraph (1)(B) for any period shall be reduced by any amount which, under an agreement entered into under this section, the owner is required or permitted to deposit for such period with respect to such vessel by reason of paragraph (1)(B).

(3) For purposes of paragraph (1), the term "agreement vessel" includes barges and containers which are part of the complement of such vessel and which are provided for in the agreement.

(c) Requirements as to investments.

Amounts in any fund established under this section shall be kept in the depository or depositories specified in the agreement and shall be subject to such trustee and other fiduciary requirements as may be specified by the Secretary of Commerce. They may be invested only in interest-bearing securities approved by the Secretary of Commerce; except that, if the Secretary of Commerce consents thereto, an agreed percentage (not in excess of 60 percent) of the assets of the fund may be invested in the stock of domestic corporations. Such stock must be currently fully listed and registered on an exchange registered with the Securities and Exchange Commission as a national securities exchange, and must be stock which would be acquired by prudent men of discretion and intelligence in such matters who are seeking a reasonable income and the preservation of their capital. If at any time the fair market value of the stock in the fund is more than the agreed percentage of the assets in the fund, any subsequent investment of amounts deposited in the fund, and any subsequent withdrawal from the fund, shall be made in such a way as to tend to restore the fund to a situation in which the fair market value of the stock does not exceed such agreed percentage. For purposes of this subsection, if the common stock of a corporation meets the requirements of this subsection and if the preferred stock of such corporation would meet such requirements

but for the fact that it cannot be listed and registered as required because it is nonvoting stock, such preferred stock shall be treated as meeting the requirements of this subsection.

(d) Nontaxability for deposits.

(1) For purposes of the Internal Revenue Code of 1954—

(A) Taxable income (determined without regard to this section) for the taxable year shall be reduced by an amount equal to the amount deposited for the taxable year out of amounts referred to in subsection (b)(1)(A),

(B) Gain from a transaction referred to in subsection (b)(1)(C) shall not be taken into account if an amount equal to the net proceeds (as defined in joint regulations) from such transaction is deposited in the fund,

(C) The earnings (including gains and losses) from the investment and reinvestment of amounts held in the fund shall not be taken into account,

(D) The earnings and profits of any corporation (within the meaning of section 316 of such Code) shall be determined without regard to this section, and

(E) In applying the tax imposed by section 531 of such Code (relating to the accumulated earnings tax), amounts while held in the fund shall not be taken into account.

(2) Paragraph (1) shall apply with respect to any amount only if such amount is deposited in the fund pursuant to the agreement and not later than the time provided in joint regulations.

(e) Establishment of accounts.

For purposes of this section—

(1) Within the fund established pursuant to this section three accounts shall be maintained:

(A) The capital account,

(B) The capital gain account, and

(C) The ordinary income account.

(2) The capital account shall consist of—

(A) Amounts referred to in subsection (b)(1)(B),

(B) Amounts referred to in subsection (b)(1)(C) other than that portion thereof which represents gain not taken into account by reason of subsection (d)(1)(B),

(C) 85 percent of any dividend received by the fund with respect to which the person maintaining the fund would (but for subsection (d)(1)(C)) be allowed a deduction under section 243 of the Internal Revenue Code of 1954, and

(D) Interest income exempt from taxation under section 103 of such Code.

(3) The capital gain account shall consist of—

(A) Amounts representing capital gains on assets held for more than 6 months and referred to in subsection (b)(1)(C) or (b)(1)(D) reduced by

(B) Amounts representing capital loses on assets held in the fund for more than 6 months.

(4) The ordinary income account shall consist of—

(A) Amounts referred to in subsection (b)(1)(A),

(B) (i) Amounts representing capital gains on assets held for 6 months or less and referred to in subsection (b)(1)(C) or (b)(1)(D), reduced by—

(ii) Amounts representing capital losses on assets held in the fund for 6 months or less,

(C) Interest (not including any tax-exempt interest referred to in paragraph (2)(D)) and other ordinary income (not including any dividend referred to in subparagraph (E)) received on assets held in the fund,

(D) Ordinary income from a transaction described in subsection (b)(1)(C), and

(E) 15 percent of any dividend referred to in paragraph (2)(C).

(5) Except on termination of a fund, capital losses referred to in paragraph (3)(B) or in paragraph (4)(B)(ii) shall be allowed only as an offset to gains referred to in paragraph (3)(A) or (4)(B)(i), respectively.

(f) Purposes of qualified withdrawals.

(1) A qualified withdrawal from the fund is one made in accordance with the terms of the agreement but only if it is for:

(A) The acquisition, construction, or reconstruction of a qualified vessel,

(B) the acquisition, construction, or reconstruction of barges and containers which are part of the complement of a qualified vessel, or

(C) The payment of the principal on indebtedness incurred in connection with the acquisition, construction or reconstruction of a qualified vessel or a barge or container which is part of the complement of a qualified vessel.

Except to the extent provided in regulations prescribed by the Secretary of Commerce, subparagraph (B), and so much of subparagraph (C) as relates only to barges and containers, shall apply only with respect to barges and containers constructed in the United States.

(2) Under joint regulations, if the Secretary of Commerce determines that any substantial obligation under any agreement is not being fulfilled, he may, after notice and opportunity for hearing to the person maintaining the fund, treat the entire fund or any portion thereof as an amount withdrawn from the fund in a nonqualified withdrawal.

(g) Tax treatment of qualified withdrawals.

(1) Any qualified withdrawal from a fund shall be treated—

(A) First as made out of the capital account,

(B) Second as made out of the capital gain account, and

(C) Third as made out of the ordinary income account.

(2) If any portion of a qualified withdrawal for a vessel, barge, or container is made out of the ordinary income account, the basis of such vessel, barge, or container shall be reduced by an amount equal to such portion.

(3) If any portion of a qualified withdrawal for a vessel, barge, or container is made out of the capital gain account, the basis of such vessel, barge, or container shall be reduced by an amount equal to—

(A) Five-eighths of such portion, in the case of a corporation (other than an electing small business corporation, as defined in section 1371 of the Internal Revenue Code of 1954), or

(B) One-half of such portion, in the case of any other person.

(4) If any portion of a qualified withdrawal to pay the principal on any indebtedness is made out of the ordinary income account or the capital gain account, then an amount equal to the aggregate reduction which would be required by paragraphs (2) and (3) if this were a qualified withdrawal for a purpose described in such paragraphs shall be applied, in the order provided in joint regulations, to reduce the basis of vessels, barges, and containers owned by the person maintaining the fund. Any amount of a withdrawal remaining after the application of the preceding sentence shall be treated as a nonqualified withdrawal.

(5) If any property the basis of which was reduced under paragraph (2), (3), or (4) is disposed of, any gain realized on such disposition, to the extent it does not exceed the aggregate reduction in the basis of such property under such paragraphs, shall be treated as an amount referred to in subsection (h)(3)(A) which was withdrawn on the date of such disposition. Subject to such conditions and requirements as may be provided in joint regulations, the preceding sentence shall not apply to a disposition where there is a redeposit in an amount determined under joint regulations which will, insofar as practicable, restore the fund to the position it was in before the withdrawal.

(h) Tax treatment of nonqualified withdrawals.

(1) Except as provided in subsection (i), any withdrawal from a fund which is not a qualified withdrawal shall be treated as a nonqualified withdrawal.

(2) Any nonqualified withdrawal from a fund shall be treated—

(A) First as made out of the ordinary income account,

(B) Second as made out of the capital gain account, and

(C) Third as made out of the capital account.

For purposes of this section, items withdrawn from any account shall be treated as withdrawn on a first-in-first-out basis; except that (i) any nonqualified withdrawal for research, development, and design expenses incident to new and advanced ship design, machinery and equipment, and (ii) any amount treated as a nonqualified withdrawal under the second sentence of subsection (g)(4), shall be treated as withdrawn on a last-in-first-out basis.

(3) For purposes of the Internal Revenue Code of 1954—

(A) Any amount referred to in paragraph (2)(A) shall be included in income as an item of ordinary income for the taxable year in which the withdrawal is made,

(B) Any amount referred to in paragraph (2)(B) shall be included in income for the taxable year in which the withdrawal is made as an item of gain realized during such year from the disposition of an asset held for more than 6 months, and

(C) For the period on or before the last date prescribed for payment of tax for the taxable year in which this withdrawal is made—

(i) No interest shall be payable under section 6601 of such Code and no addition to the tax shall be payable under section 6651 of such Code,

(ii) Interest on the amount of the additional tax attributable to any item referred to in subparagraph (A) or (B) shall be paid at the applicable rate (as defined in paragraph (4)) from the last date prescribed for payment of the tax for the taxable year for which such item was deposited in the fund, and

(iii) No interest shall be payable on amounts referred to in clauses (i) and (ii) of paragraph (2) or in the case of any nonqualified withdrawal arising from the application of the recapture provision of section 606(5) of the Merchant Marine Act of 1936 as in effect on December 31, 1969.

(4) For purposes of paragraph (3)(C)(ii), the applicable rate of interest for any nonqualified withdrawal—

(A) Made in a taxable year beginning in 1970 or 1971 is 8 percent, or

(B) Made in a taxable year beginning after 1971, shall be determined and published jointly by the Secretary of the Treasury and the Secretary of Commerce and shall bear a relationship to 8 percent which the Secretaries determine under joint regulations to be comparable to the relationship which the money rates and investment yields for the calendar year immediately preceding the beginning of the taxable year bear to the money rates and investment yields for the calendar year 1970.

(i) Certain corporate reorganizations and changes in partnerships.

Under joint regulations—

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(1) A transfer of a fund from one person to another person in a transaction to which section 381 of the Internal Revenue Code of 1954 applies may be treated as if such transaction did not constitute a nonqualified withdrawal, and

(2) A similar rule shall be applied in the case of a continuation of a partnership (within the meaning of subchapter K of such Code).

(j) Treatment of existing funds.

(1) Any person who was maintaining a fund or funds (hereinafter in this subsection referred to as 'old fund') under this section (as in effect before the enactment of this subsection) may elect to continue such old fund but—

(A) May not hold moneys in the old fund beyond the expiration date provided in the agreement under which such old fund is maintained (determined without regard to any extension or renewal entered into after April 14, 1970).

(B) May not simultaneously maintain such old fund and a new fund established under this section, and

(C) If he enters into an agreement under this section to establish a new fund, may agree to the extension of such agreement to some or all of the amounts in the old fund.

(2) In the case of any extension of an agreement pursuant to paragraph (1)(C), each item in the old fund to be transferred shall be transferred in a nontaxable transaction to the appropriate account in the new fund established under this section. For purposes of subsection (h)(3)(C), the date of the deposit of any item so transferred shall be July 1, 1971, or the date of the deposit in the old fund, whichever is the later.

(k) Definitions.

For purposes of this section—

(1) The term "eligible vessel" means any vessel—

(A) Constructed in the United States and, if reconstructed, reconstructed in the United States,

(B) Documented under the laws of the United States, and

(C) Operated in the foreign or domestic commerce of the United States or in the fisheries of the United States.

Any vessel which (i) was constructed outside of the United States but documented under the laws of the United States on April 15, 1970, or (ii) constructed outside the United States for use in the United States foreign trade pursuant to a contract entered into before April 15, 1970, shall be treated as satisfying the requirements of subparagraph (A) of this paragraph and the requirements of subparagraph (A) of paragraph (2).

(2) The term 'qualified vessel' means any vessel—

(A) Constructed in the United States and, if reconstructed, reconstructed in the United States,

(B) Documented under the laws of the United States, and

(C) Which the person maintaining the fund agrees with the Secretary of Commerce will be operated in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States.

(3) The term 'agreement vessel' means any eligible vessel or qualified vessel which is subject to an agreement entered into under this section.

(4) The term 'United States', when used in a geographical sense, means the continental United States including Alaska, Hawaii, and Puerto Rico.

(5) The term 'United States foreign trade' includes (but is not limited to) those areas in domestic trade in which a vessel built with construction-differential subsidy is permitted to operate under the first sentence of section 506 of this Act.

(6) The term 'joint regulations' means regulations prescribed under subsection (l).

(7) The term 'vessel' includes cargo handling equipment which the Secretary of Commerce determines is intended for use primarily on the vessel. The term 'vessel' also includes an ocean-going towing vessel or an ocean-going barge or comparable towing vessel or barge operated on the Great Lakes.

(8) The term 'noncontiguous trade' means (i) trade between the contiguous forty-eight States on the one hand and Alaska, Hawaii, Puerto Rico and the insular territories and possessions of the United States on the other hand, and (ii) trade between Alaska, Hawaii, and Puerto Rico and such territories and possessions and (iii) trade between the islands of Hawaii.

(l) Records; reports; changes in regulations.

Each person maintaining a fund under this section shall keep such records and shall make such reports as the Secretary of Commerce or the Secretary of the Treasury shall require. The Secretary of the Treasury and the Secretary of Commerce shall jointly prescribe all rules and regulations, not inconsistent with the foregoing provisions of this section, as may be necessary or appropriate to the determination of tax liability under this section. If, after an agreement has been entered into under this section, a change is made either in the joint regulations or in the regulations prescribed by the Secretary of Commerce under this section which could have a substantial effect on the rights or obligations of any person maintaining a fund under this section, such person may terminate such agreement.

[Sec. 607, Merchant Marine Act, 1936, 46 U.S.C. 1177, as amended by section 21(a), Merchant Marine Act of 1970 (84 Stat. 1026)]

§ 259.1 Scope of section 607 of the Act and the regulations in this subpart.

(a) *In general.* The regulations prescribed in this part provide rules for determining the income tax liability of any person a party to an agreement with the Secretary of Commerce establishing a capital construction fund (for purposes of this part referred to as the "fund") authorized by section 607 of the Merchant Marine Act, 1936, as amended (for purposes of this part referred to as the "Act"). With respect to such parties, section 607 of the Act in general provides for the nontaxability of certain deposits of money or other property into the fund out of earnings or gains realized from the operation of vessels covered in an agreement, gains realized from the sale or other disposition of agreement vessels or proceeds from insurance for indemnification for loss of agreement vessels, earnings from the investment or reinvestment of amounts held in a fund and gains with respect to amounts or deposits in the fund. Transitional rules are also provided for the treatment of "old funds" existing on or before the effective date of the Merchant Marine Act of 1970 (see § 259.10).

(b) *Cross-references.* For rules relating to eligibility for a fund, deposits and withdrawals and other aspects, see the regulations prescribed by the Secretary of Commerce in Titles 46 (Merchant Marine) and 50 (Fisheries) of the Code of Federal Regulations.

(c) *Code.* For purposes of this part, the term "Code" means the Internal Revenue Code of 1954, as amended.

§ 259.2 Ceiling on deposits.

(a) *In general*—(1) *Total ceiling.* Section 607(b) of the Act provides a ceiling on the amount which may be deposited by a party in a taxable year pursuant to an agreement. The amount which a party may deposit into a fund may not exceed the sum of the following subceilings:

(i) The lower of (*a*) the taxable income (if any) of the party for such year (computed as provided in Chapter 1 of the Code but without regard to the carryback of any net operating loss or net capital loss and without regard to section 607 of the Act) or (*b*) taxable income (if any) attributable under paragraph (b) of this section to the operation of agreement vessels (as defined in paragraph (f) of this section) in the foreign or domestic commerce of the United States or in the fisheries of the United States (see section 607(b)(1)(A) of the Act),

(ii) Amounts allowable as a deduction under section 167 of the Code for such year with respect to the agreement vessels (see section 607(b)(1)(B) of the Act),

(iii) The net proceeds (if not included in subdivision (i) of this paragraph) from (*a*) the sale or other disposition of any agreement vessels or (*b*) insurance or indemnity attributable to any agreement vessels (see section 607(b)(1)(C) of the Act and paragraph (c) of this section), and

(iv) Receipts from the investment or reinvestment of amounts held in such fund (see section 607(b)(1)(D) of the Act and paragraph (d) of this section).

(2) *Overdeposits.* If for any taxable year an amount is deposited into the fund under a subceiling computed under subparagraph (1) of this paragraph which is in excess of the amount of such subceiling for such year, then at the taxpayer's option such excess may—

(i) Be withdrawn from the fund,

(ii) Be treated as a deposit into the fund for that taxable year under another available subceiling, but only if the total amount deposited for that year does not exceed the total ceiling available for that taxable year (as determined under section 607(b)(1) of the Act and paragraph (1) of this section),

(iii) Be treated as deposited under the subceiling under which such amount was originally deposited for the first subsequent taxable year for which that particular subceiling is available, or

(iv) Be treated as a deposit into the fund under any other subceiling available in the first subsequent taxable year: *Provided, however,* That such excess is first applied as a deposit for such taxable year under the subceiling under which such amount was originally deposited.

Amounts which the party chooses to have treated as deposits for a subsequent

taxable year under the preceding sentence shall be deemed to have been deposited on the first day of such subsequent taxable year. If the party chooses to withdraw such excess from the fund instead of having it treated as a deposit for a subsequent year, tax liability will be determined as though no deposit and withdrawal had been made.

(3) *Underdeposit caused by audit adjustment.* If, upon an audit of a party's Federal income tax return, the district director makes an adjustment which produces an allowable subceiling in a taxable year in excess of deposits which relate to such taxable year (determined under this section), then the party may make a deposit equal to the difference between the allowable subceiling as determined on audit and his previous subceiling. Such deposits will reduce the party's taxable income or be excluded from gross income (as the case may be), and will be related to the fund's subceilings in the manner provided in subparagraphs (1) and (2) of this paragraph, in the taxable year to which they related. For example, if deposits are made in 1972 and 1974 of an amount equal to an amount of earnings from shipping operations in 1971, and the 1974 deposit represents the portion of the taxable income that resulted from adjustments made upon an audit by the Internal Revenue Service, then the amounts deposited in 1972 and 1974 would both reduce taxable income for 1971. However, for purposes of determining the order of withdrawals under §§ 259.6(b) and 259.7(c) interest on nonqualified withdrawals under § 259.7(e), these deposits will be treated as having been made on the date they were actually made.

(b) *Taxable income attributable to the operation of an agreement vessel*—(1) *In general.* For purposes of this section, taxable income attributable to the operation of an agreement vessel means the amount, if any, by which the gross income of a party for the taxable year from the operation of an agreement vessel (as defined in paragraph (f) of this section) exceeds the allowable deductions allocable to such operation (as determined under subparagraph (3) of this paragraph). The term "taxable income attributable to the operation of the agreement vessels" means the sum of the amounts described in the preceding sentence.

(2) *Gross income.* (i) Gross income from the operation of agreement vessels means the sum of the revenues, separately computed with respect to each agreement vessel, which are derived during the taxable year from the following:

(*a*) The transportation of passengers, freight, or mail in such vessels, from contracts for the charter of such vessels to others, from operating differential subsidies, from collections in accordance with pooling agreements, and from insurance or indemnity net proceeds relating to the loss of income attributable to such agreement vessels,

(*b*) Revenues derived from the operation of agreement vessels relating to commercial fishing activities, including the transportation of fish, support activities for fishing vessels, charters for commercial fishing, and insurance or indemnity net proceeds relating to the loss of income attributable to such agreement vessels.

(c) Revenue from the rental, lease, or use by others of terminal facilities, revenues from cargo handling operations and tug and lighter operations, and revenues from other services or operations which are incidental and related to the operation of an agreement vessel. Thus, for example, agency fees, commissions, and brokerage fees derived by the party at his place of business for effecting transactions for services directly related to shipping for the accounts of other persons are includible in gross income from the operation of agreement vessels where the transaction is of a kind customarily consummated by the party for his own account at such place of business.

(*d*) Dividends, interest, and gains derived from assets identified and reasonably retained to meet regularly occurring obligations relating to the shipping (or fishing) business directly connected with the agreement vessel which obligations cannot at all times be met from the current revenues of the business because of layups or repairs, special surveys, fluctuations in the business, and reasonably foreseeable strikes (whether or not a strike actually occurs), and security amounts retained by reason of participation in pooling agreements.

(ii) The items of gross income described in subdivision (i) (c) and (*d*) of this subparagraph shall be considered to be derived from the operations of a particular agreement vessel in the same proportion that the sum of the items of gross income described in subdivision (i) (*a*) and (*b*) of this subparagraph which are derived from the operations of such agreement vessel bears to the party's total gross income for the taxable year from operations described in subdivision (i) (*a*) and (*b*) of this subparagraph.

(iii) In the case of a party who uses his own or leased agreement vessels to transport his own products, the gross income attributable to such vessel operations is an amount determined to be an arm's length charge for such transportation. The arm's length charge shall be determined by application of the principles of section 482 of the Code and the regulations thereunder. Gross income attributable to the operation of agreement vessels does not include amounts for which the party is allowed a deduction for depletion under sections 611 and 613 of the Code.

(3) *Deductions.* From the items of gross income attributable to the operation of agreement vessels as determined under subparagraph (2) of this paragraph, there shall be deducted the expenses, losses, and other deductions allocable thereto and a ratable part of any expenses, losses, or other deductions which cannot be allocated to some item or class of gross income. The determination as to whether a deduction is allocable to a particular item or class of items of gross income specified in subparagraph (2) of this paragraph shall be made in accordance with the principles of § 1.861–8 of the Income Tax regulations. If a deduction is determined to be related to more than one item of gross income specified in subparagraph (2) of this paragraph, the deduction must be apportioned between or among such items of gross income in accordance with the principles of § 1.861–8 of the Income Tax regulations. When a deduction is not allocable to any item or class of gross income specified in subparagraph (2) of this paragraph, the deduction shall be apportioned ratably among all items or classes of gross income of the party in the same proportion that the amount of each item or class of gross income bears to the amount of all items and classes of gross income.

(4) *Net operating and capital loss deductions.* The taxable income of a party shall be computed without regard to the carryback of any net operating loss deduction allowed by section 172 of the Code, the carryback of any net capital loss deduction allowed by section 165 (f) of the Code, or any reduction in taxable income allowed by section 607 of the Act.

(5) *Method of accounting.* Taxable income must be computed under the method of accounting which the party uses for Federal income tax purposes. Such method may include a method of reporting whereby items of revenue and expense properly allocable to voyages in progress at the end of any accounting period are eliminated from the computation of taxable income for such accounting period and taken into account in the accounting period in which the voyage is completed.

(c) *Net proceeds from transactions with respect to agreement vessels*—(1) *Net proceeds from disposition of agreement vessels.* (i) The gross proceeds from the sale or other disposition (including mortgages) of an agreement vessel is the total amount realized or to be realized by the party from the disposition of such vessel, including evidences of indebtedness and contract rights received, whether or not they constitute an amount realized under section 1001(b) of the Code and the regulations thereunder, but only to the extent not included in taxable income under paragraph (b) of this section. Net proceeds is the gross proceeds reduced by amounts necessarily paid or incurred in connection with the sale or other disposition. Net proceeds does not include amounts realized from a sale or other disposition of an agreement vessel by reason of an assumption of an indebtedness by the purchaser of such vessel or by reason of the purchaser acquiring such vessel subject to an indebtedness. Gross proceeds include amounts received as the result of the forfeiture of collateral for the payment of purchase-money obligations, but does not include interest on obligations received by the party from the sale or other disposition of an agreement ves-

[illegible] For purposes of this part, any net 607(b)(1)(B) of the Act and paragraph property, the taxpayer shall recognize as

Example (4). The facts are the same as in (1)(D) of the Act and § 259.2(a)(1)(iv)

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sel. For purposes of this part, any net proceeds deposited for the year of sale or other disposition shall be treated as an amount realized that year. In case of the sale of several vessels, or shares therein, for a lump sum, the net proceeds shall be allocated among each vessel or share in proportion to the fair market value of each on the date of the sale. The party must deposit an amount equal to the entire net proceeds realized or to be realized with respect to an agreement vessel as a single deposit. Except as otherwise provided in this paragraph, the term "sale or other disposition" has the same meaning as in section 1001(a) of the Code and the regulations thereunder.

(ii) In the event the party and the purchaser are owned or controlled directly or indirectly by the same interests within the meaning of section 482 of the Code and the regulations thereunder, the amount realized or to be realized shall be the fair market value of the vessels sold or otherwise disposed of. In such case, the party shall furnish evidence sufficient, in the opinion of the Secretary of Commerce, to establish that the amount realized or to be realized is the fair market value.

(2) *Net proceeds from insurance or indemnity.* The net proceeds from insurance or indemnity attributable to an agreement vessel is the gross amount the party received under a contract of insurance or indemnity as compensation for damages done to the vessel (other than amounts intended to compensate for loss of profits) reduced by amounts necessarily paid or incurred purely for the collection of such compensation. Where the net proceeds of insurance or indemnity are received in more than one payment, the deposit of such net proceeds shall relate to the taxable year of receipt.

(d) *Receipts from the investment or reinvestment of amounts held in a fund*—(1) *In general.* Receipts from the investment or reinvestment of assets in a fund is the total amount of any interest or dividends received with respect to assets deposited in, or purchased with amounts deposited in, such fund. Receipts from the investment or reinvestment of assets held in a fund also include the total amount of any gain realized by the fund from the sale or other disposition of assets of such fund. For rules relating to receipts from the sale or other disposition of nonmony deposits into the fund see paragraph (g) of this section.

(2) *Gain realized.* The gain realized by the fund is the excess of the amount realized (as defined in section 1001(b) of the Code and the regulations thereunder) by the fund on the sale or other disposition of a fund asset over its adjusted basis (as defined in section 1011 of the Code) to the fund. For the adjusted basis of nonmoney deposits see paragraph (g) of this section.

(e) *Leased vessels.* In the case of a party who is a lessee of an agreement vessel, the maximum amount which such lessee may deposit with respect to any agreement vessel by reason of section 607(b)(1)(B) of the Act and paragraph (a)(1)(ii) of this section (relating to depreciation allowable) for any period shall be reduced by the amount (if any) which, under an agreement entered into under section 607 of the Act, the owner is required or permitted to deposit for such period with respect to such vessel by reason of section 607(b)(1)(B) of the Act and paragraph (a)(1)(ii) of this section. The amount of depreciation actually allowable to the lessee under this paragraph is the amount set forth in the agreement.

(f) *Definition of agreement vessel.* For purposes of this section, the term "agreement vessel" (as defined in § 259.11 (a)(3)) includes barges and containers which are the complement of an agreement vessel and which are provided for in the agreement, agreement vessels which have been contracted for or are in the process of construction, and any shares in an agreement vessel. Solely for purposes of this section, a party is considered to have a "share" in an agreement vessel if he has a right to use the vessel to generate income or a right to the proceeds or a portion of the proceeds from its use whether or not the party would be considered as having a proprietary interest in the vessel for purposes of State or Federal law. Notwithstanding the provisions of subchapter K of the Code (relating to the taxation of partners and partnerships), the Internal Revenue Service will recognize, solely for the purposes of applying this part, an agreement by an owner of a share even though the "share" arrangement is a partnership for purposes of the Code.

(g) *Special rules for nonmoney deposits and withdrawals*—(1) *In general.* Deposits may be made in the form of money or property of the type permitted to be deposited under the agreement. For purposes of this paragraph, the term "property" does not include money. The amount of any property deposit, and the fund's basis for property deposited in the fund, is the fair market value of the property at the time deposited, whether or not the election provided for in subparagraph (2) of this paragraph is made. Unless such an election is made, deposits of property into a fund are considered to be a sale at fair market value of the property, a deposit of cash equal to such fair market value and a purchase by the fund of such property for cash. Thus, in the absence of the election, the difference between the fair market value of such property deposited and its adjusted basis shall be taken into account as gain or loss for purposes of computing the party's income tax liability for the year of deposit and the fund's holding period for the property begins on the day after the deposit is made.

(2) *Election not to treat deposits of property other than money as a sale or exchange of the time of deposit.* (i) A party may elect to treat a deposit of property as if no sale or other taxable event had occurred on the date of deposit. If such election is made, in the taxable year the fund disposes of the property, the taxpayer shall recognize as gain or loss the amount he would have recognized on the day the property was deposited into the fund had the election not been made. The election shall be made by a statement to that effect, attached to the party's Federal income tax return for the taxable year to which the deposit relates, or, if such return is filed before such deposit is made, attached to the party's return for the taxable year during which the deposit is actually made.

(ii) If property deposited into a fund, with respect to which an election under this subparagraph is made, is withdrawn from the fund in a qualified withdrawal (as defined in § 259.5) (or if property purchased by the fund, is not disposed of by the fund, but is withdrawn from the fund in a qualified withdrawal), such withdrawal is treated as a disposition of such property resulting in recognition by the taxpayer of gain or loss as provided in subdivision (i) of this subparagraph. In addition, such withdrawal is treated as a disposition of such property by the fund resulting in recognition of gain or loss by the fund to the extent the fair market value of the property on the date of withdrawal is greater or less than (as the case may be) the basis of the property to the fund on such date. In the case of property deposited in the fund, the fund's basis for computing its gain or loss is the basis of the property to the fund on the date of withdrawal as determined under subparagraph (1) of this paragraph. In the case of property purchased by the fund, the fund's basis for computing its gain or loss is the basis of the property to the fund on the date of withdrawal determined as provided in paragraph (d)(2) of this section. For purposes of determining the amount by which the balance within a particular account will be reduced in the manner provided in § 259.6(b) (relating to order of application of qualified withdrawals against accounts) and for purposes of determining the reduction in basis of a vessel, barge, or container (or share therein) pursuant to § 259.6(c), the value of the property is its fair market value on the day of the qualified withdrawal.

(iii) If property deposited into a fund with respect to which an election under this subparagraph is made, is withdrawn from the fund in a nonqualified withdrawal (as defined in § 259.7(b)) no gain or loss is to be recognized by the taxpayer or by the fund but an amount equal to the basis of the property to the fund (as determined under subparagraph (1) of this paragraph) is to be treated as a nonqualified withdrawal. Thus, such amount is to be applied against the various accounts in the manner provided in § 259.7(c), such amount is to be taken into account in computing the party's taxable income as provided in § 259.7(d), and such amount is to be subject to interest to the extent provided for in § 259.7(e). In the case of withdrawals to which this subdivision applies the adjusted basis of the property in the hands of the party is the adjusted basis on the

date of deposit and in determining the period for which the party has held the property there shall be included the period for which he held the property before the date of deposit of the property into the fund. For rules relating to the basis and holding period of property purchased by the fund and withdrawn in a nonqualified withdrawal sec § 259.7(f).

(3) *Examples.* The provisions of this paragraph are illustrated by the following examples:

Example (1). X corporation, which uses the calendar year as its taxable year, maintains a fund described in § 259.1. X's taxable income (determined without regard to section 607 of the Act) is $100 000, of which $80,000 is taxable income attributable to the operation of agreement vessels (as determined under § 259.2(b)(1)). Under the agreement, X is required to deposit into the fund all receipts from the investment or reinvestment of amounts held in the fund, an amount equal to the net proceeds from transactions referred to in § 259.2(c), and an amount equal to 50 percent of its earnings attributable to the operation of agreement vessels. The agreement permits X to make voluntary deposits of amounts equal to 100 percent of its earnings attributable to the operation of agreement vessels, provided that such amount does not exceed X's taxable income from all sources for the year of deposit. The agreement also provides that deposits attributable to such earnings may be in the form of cash or other property. On March 15, 1973, X deposits, with respect to its 1972 earnings attributable to the operation of agreement vessels, stock with a fair market value at the time of deposit of $80,000 and an adjusted basis to X of $10,000. Such deposit is considered to have been made on December 31, 1972 (see § 259.3(b)(4)) representing agreement vessel income of $80,000. At the actual time of deposit, such stock had been held by X for a period exceeding 6 months. X does not elect under subparagraph (2) of this paragraph to defer recognition of the gain. Accordingly, under subparagraph (1) of this paragraph, the deposit is treated as a deposit of $80,000 and X realizes a long-term capital gain of $70,000 on March 15, 1973 (the actual date of deposit).

Example (2). The facts are the same as in example (1), except that X elects in accordance with subparagraph (2) of this section not to treat the deposit as a sale or exchange. On July 1, 1974, the fund sells the stock for $85,000. The basis to the fund of the stock is $80,000 (see subparagraph (1) of this paragraph). X recognizes $70,000 of long-term capital gain on the sale includible in its gross income for 1974. The fund realizes $5,000 of long-term capital gain (the difference between the amount received by the fund on the sale of the stock and the basis to the fund of the stock) an amount equal to which is required to be deposited into the fund with respect to 1974, as a receipt from the investment or reinvestment of amounts held in the fund. Since the fund held the stock for a period exceeding 6 months, the $5,000 is allocated to the fund's capital gain account under § 259.4(c).

Example (3). The facts are the same as in example (2), except that the fund sells the stock on July 1, 1974, for $75,000. As the basis to the fund of the stock is $80,000, the fund realizes a long-term capital loss on the sale (the difference between the amount received by the fund on the sale of the stock and the basis to the fund of the stock) of $5,000 an amount equal to which is required to be charged against the fund's capital gain account under § 259.4(c). X recognizes $70,000 of long-term capital gain on the sale includible in its gross income for 1974.

Example (4). The facts are the same as in example (2), except that on July 1, 1974, X makes a qualified withdrawal (as defined in § 259.5(a)) of the stock and uses it to pay indebtedness pursuant to § 259.5(b). X recognizes $70,000, of long-term capital gain on the disposition includible in its gross income for 1974. The fund is treated as having realized a long-term capital gain of $5,000, an amount equal to which is allocated to the fund's capital gain account under § 259.4(c), and is treated as having a qualified withdrawal of $85,000 (see paragraph (2)(ii) of this paragraph). In addition, an amount equal to the fair market value of the stock on the day of withdrawal is applied against the various accounts in the order provided in § 259.6(b). The basis of the vessel with respect to which the indebtedness was incurred is to be reduced as provided in § 259.6(c).

Example (5). The facts are the same as in example (2), except that X withdraws the stock from the fund in a nonqualified withdrawal (as defined in § 259.7(b)). Neither X nor the fund realizes or recognizes any gain or loss on such withdrawal. An amount equal to the basis of the stock to the fund ($80,000) is applied against the various accounts in the order provided in § 259.7(c), and is taken into account in computing X's taxable income for 1974 as provided in § 259.7(d). In addition, X must pay interest on the withdrawal as provided in § 259.7(e). The basis to X of the stock is $10,000 notwithstanding the fact that the fair market value of such stock was $85,000 on the day of withdrawal (see subparagraph (2)(iii) of this paragraph).

§ 259.3 Nontaxability of deposits.

(a) *In general.* Section 607(d) of the Act sets forth the rules concerning the income tax effects of deposits made with respect to ceilings described in section 607(b) and § 259.2. The specific treatment of deposits with respect to each of the subceilings is set forth in paragraph (b) of this section.

(b) *Treatment of deposits*—(1) *Earning of agreement vessels.* Section 607(d)(1)(A) of the Act provides that taxable income of the party (determined without regard to section 607 of the Act) shall be reduced by an amount equal to the amount deposited for the taxable year out of amounts referred to in section 607(b)(1)(A) of the Act and § 259.2(a)(1)(i). For computation of the foreign tax credit see paragraph (i) of this section.

(2) *Net proceeds from agreement vessels and fund earnings.* (i) Section 607(d)(1)(B) provides that gain from a transaction referred to in section 607(b)(1)(C) of the Act and § 259.2(a)(1)(iii) (relating to ceilings on deposits of net proceeds from the sale or other disposition of agreement vessels) is not to be taken into account for purposes of the Code if an amount equal to the net proceeds from transactions referred to in such sections is deposited in the fund. Such gain is to be excluded from gross income of the party for the taxable year to which such deposit relates. Thus, the gain will not be taken into account in applying section 1231 of the Code for the year to which the deposit relates.

(ii) Section 607(d)(1)(C) of the Act provides that the earnings (including gains and losses) from the investment and reinvestment of amounts held in the fund and referred to in section 607(b)(1)(D) of the Act and § 259.2(a)(1)(iv) shall not be taken into account for purposes of the Code if an amount equal to such earnings is deposited into the fund. Such earnings are to be excluded from the gross income of the party for the taxable year to which such deposit relates.

(iii) In determining the tax liability of a party to whom subparagraph (1) of this paragraph applies, taxable income, determined after application of subparagraph (1) of this paragraph, is in effect reduced by the portion of deposits which represent net proceeds or earnings respectively referred to in subdivision (i) or (ii) of this subparagraph. The excess, if any, of such portion over taxable income determined after application of subparagraph (1) of this paragraph is taken into account in computing the net operating loss (under section 172 of the Code) for the taxable year to which such deposits relate.

(3) *Time for making deposits.* (i) This section applies with respect to an amount only if such amount is deposited in the fund pursuant to the agreement and not later than the time provided in subdivision (ii), (iii), or (iv) of this subparagraph for the making of such deposit or the date the Secretary of Commerce provides, whichever is earlier.

(ii) Except as provided in subdivision (iii) or (iv) of this subparagraph, a deposit may be made not later than the last day prescribed by law (including extensions thereof) for filing the party's Federal income tax return for the taxable year to which such deposit relates.

(iii) If the party is a subsidized operator under an operating-differential subsidy contract, and does not receive on or before the 59th day preceding such last day, payment of all or part of the accrued operating-differential subsidy payable for the taxable year, the party may deposit an amount equivalent to the unpaid accrued operating-differential subsidy on or before the 60th day after receipt of payment of the accrued operating-differential subsidy.

(iv) A deposit pursuant to § 259.2(a)(3) (relating to underdeposits caused by audit adjustments) must be made on or before the 60th day after receipt of the final determination of tax.

(4) *Date of deposits.* (i) Deposits made in a fund within the time specified in subparagraph (3) (i), (ii), or (iii) of this paragraph are deemed to have been made on the date of actual deposit or as of the close of the last regular business day of the taxable year to which the deposits relate, whichever day is earlier. Deposits made in a fund with respect to a subceiling increased by an audit adjustment are deemed to have been made on the date provided for in § 259.2(a)(3).

(ii) For taxable years beginning after December 31, 1969, and prior to January 1, 1971, where an application for a fund is filed by a taxpayer prior to January 1, 1972, and an agreement is executed and entered into by the taxpayer prior to March 1, 1972, and for taxable years beginning after December 31, 1970, and prior to January 1, 1972, where an application for a fund is filed

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by a taxpayer prior to January 1, 1973, and an agreement is executed and entered into by the taxpayer prior to March 1, 1973 (or, if earlier, 60 days from the date these regulations are finally adopted) deposits in a fund which are made within 60 days after the date of execution of the agreement, or on or before the due date, with extensions thereof, for the filing of his Federal income tax return for such taxable year or years, whichever date shall be later, shall be deemed to have been made on the date of the actual deposit or as of the close of business of the last regular business day of each such taxable year or years to which such deposits relate, whichever day is earlier.

(c) *Determination of earnings and profits.* Section 607(d)(1)(D) of the Act provides that the earnings and profits of any corporation (within the meaning of section 316 of the Code) shall be determined without regard to this section. Accordingly, although certain amounts deposited into the fund reduce taxable income and certain other amounts deposited into the fund result in an exclusion from gross income, earnings, and profits of the corporation are not reduced by such deposits.

(d) *Accumulated earnings tax.* As provided in section 607(d)(1)(E) of the Act amounts, while held in the fund, are not to be taken into account in computing the "accumulated taxable income" of the party within the meaning of section 531 of the Code.

(e) *Nonapplicability of section 1231.* If an amount equivalent to gain from a transaction referred to in section 607(b)(1)(C) of the Act and § 259.2(c)(1) and (2) is deposited into the fund and, therefore, such gain is not taken into account in computing gross income under the provisions of paragraph (b)(2) of this section then such gain will not be taken into account for purposes of the computations under section 1231 of the Code.

(f) *Deposits of capital gains.* The alternative tax imposed by section 1201 of the Code on the excess of the taxpayer's net long term capital gain over his short term capital loss and, in the case of a taxpayer other than a corporation, the deduction provided by section 1201 of the Code of 50 percent of the amount of such excess shall not apply in respect of capital gains which are not included in the gross income of the party by virtue of a deposit to which section 607(d) of the Act and this section apply.

(g) *Deposits of dividends.* The deduction provided by section 243 of the Code (relating to the deductions for dividends from a domestic corporation received by a corporation) shall not apply in respect of dividends (earned on assets held in the fund) which are deposited into a fund, and which, by virtue of such deposits and the provisions of section 607(d) of the Act and this section, are not included in the gross income of the party.

(h) *Presumption of validity of deposit.* All amounts deposited in the fund shall be presumed to have been deposited pursuant to an agreement unless, after an examination of the facts upon the request of the Commissioner of Internal Revenue or his delegate, the Secretary of Commerce determines otherwise. The Commissioner or his delegate will request such a determination where there is a substantial question as to whether a deposit is made in accordance with an agreement.

(i) *Special rules for application of the foreign tax credit*—(1) *In general.* For purposes of computing the limitation under section 904 of the Code on the amount of the credit provided by section 901 of the Code (relating to the foreign tax credit) the party's taxable income from sources without the United States and the party's entire taxable income are to be determined after application of section 607(d) of the Act. Thus, amounts deposited for the taxable year with respect to amounts referred to in section 607(b)(1)(A) of the Act and § 259.2(a)(1)(i) (relating to taxable income attributable to the operation of agreement vessels) shall be treated as a deduction in arriving at the party's taxable income from sources without the United States (subject to the apportionment rules in subparagraph (2) of this paragraph) and the party's entire taxable income for the taxable year. Amounts deposited with respect to gain described in section 607(d)(1)(B) of the Act and § 259.2(c) (relating to net proceeds from the sale or other disposition of an agreement vessel and net proceeds from insurance or indemnity) and amounts deposited with respect to earnings described in section 607(d)(1)(C) of the Act and paragraph (b)(2)(ii) (relating to earnings from the investment and reinvestment of amounts held in a fund) of this section are not taken into account for purposes of the Code and hence are not included in the party's taxable income from sources without the United States or in the party's entire taxable income for purposes of this paragraph.

(2) *Apportionment of taxable income attributable to agreement vessels.* For purposes of computing the limitation under section 904 of the Code the amount of the deposit made with respect to taxable income attributable to agreement vessels pursuant to § 259.2(a)(1)(i) which is allocable to sources without the United States is the total amount of such deposit multiplied by a fraction the numerator of which is the gross income from sources without the United States from the operation of agreement vessels and the denominator of which is the total gross income from the operation of agreement vessels computed as provided in § 259.2(b)(2). For purposes of this paragraph gross income from sources without the United States attributable to the operation of agreement vessels is to be determined under sections 861 through 863 of the Code and under the taxpayer's usual method of accounting provided such method is reasonable and in keeping with sound accounting practice.

(j) *Special rules for application of the investment credit.* [Reserved]

§ 259.4 Establishment of accounts.

(a) *In general.* Section 607(e)(1) of the Act requires that three bookkeeping or memorandum accounts are to be established and maintained within the fund: The capital account, the capital gain account, and the ordinary income account. Deposits of the amounts under the subcellings in section 607(b) of the Act and § 259.2 are allocated among the accounts under section 607(e) of the Act and this section.

(b) *Capital account.* The capital account shall consist of:

(1) Amounts referred to in section 607(b)(1)(B) of the Act and § 259.2(a)(1)(ii) (relating to deposits for depreciation),

(2) Amounts referred to in section 607(b)(1)(C) of the Act and § 259.2(a)(1)(iii) (relating to deposits of net proceeds from the sale or other disposition of agreement vessels) other than that portion thereof which represents gain not taken into account for purposes of computing gross income by reason of section 607(d)(1)(B) of the Act and § 259.3(b)(2) (relating to nontaxability of gain from the sale or other disposition of an agreement vessel),

(3) Amounts representing 85 percent of any dividend received by the fund with respect to which the party would, but for section 607(d)(1)(C) of the Act and § 259.3(b)(2)(i) (relating to nontaxability of deposits of earnings from investment and reinvestment of amounts held in a fund), be allowed a deduction under section 243 of the Code, and

(4) Amounts received by the fund representing interest income which is exempt from taxation under section 103 of the Code.

(c) *Capital gain account.* The capital gain account shall consist of amounts which represent the excess of (1) long-term capital gains on property referred to in section 607(b)(1)(C) and (D) of the Act and § 259.2(a)(1)(iii) and (iv) (relating respectively to certain agreement vessels and fund assets), including amounts representing deposits of gain from the sale or other disposition of an agreement vessel held for more than 6 months over (2) amounts representing losses from the sale or exchange of assets held in the fund for more than 6 months (for purposes of this section referred to as "long-term capital losses"). For purposes of this paragraph and paragraph (d)(2) of this section, the period during which the property is held (for purposes of this section referred to as the "holding period") is measured from the date the property was actually deposited into the fund rather than the date a deposit is considered to have been made under § 259.3(b)(4). For provisions relating to the treatment of short-term capital gains realized by the fund, see paragraph (d) of this section. For rules relating to the treatment of capital losses on assets held in the fund, see paragraph (e) of this section.

(d) *Ordinary income account.* The ordinary income account shall consist of:

(1) Amounts referred to in section 607(b)(1)(A) of the Act and § 259.2

(a)(1)(i) (relating to taxable income attributable to the operation of an agreement vessel);

(2) Amounts representing (i) gains from the sale or exchange of capital assets held for 6 months or less (for purposes of this section referred to as "short-term capital gain") referred to in section 607(b)(1)(C) or (D) of the Act and § 259.2(a)(1)(iii) and (iv), and amounts representing deposits of gain from the sale or other disposition of an agreement vessel held for 6 months or less reduced by (ii) amounts representing losses from the sale or exchange of capital assets held in the fund for 6 months or less (for purposes of this section referred to as "short-term capital losses"). For rules relating to the holding period of certain property acquired by a fund, see paragraph (c) of this section;

(3) Amounts representing interest (not including any tax-exempt interest referred to in section 607(e)(2)(D) of the Act and paragraph (b)(4) of this section) and other ordinary income received on assets held in the fund;

(4) Amounts representing ordinary income from a transaction (involving certain net proceeds with respect to an agreement vessel) described in section 607(b)(1)(C) of the Act and § 259.2(a)(1)(iii), including gain which is ordinary income under section 607(g)(5) (relating to treatment of gain on the disposition of a vessel with a reduced basis) of the Act and § 259.6(e) or under section 1245 (relating to gain from disposition of certain depreciable property); and

(5) Fifteen percent of any dividend referred to in section 607(e)(2)(C) of the Act and paragraph (b)(3) of this section received on any assets held in the fund.

(e) *Limitation on deduction for capital losses on assets held in a fund.* Except on termination of a fund, long-term (and short-term) capital losses on assets held in the fund shall be allowed only as an offset to long-term (and short-term) capital gains on assets held in the fund and shall not be allowed as an offset to any capital gains on assets not held in the fund. The net long-term capital loss of the fund for the taxable year shall reduce the earliest long-term capital gains in the capital gain account at the beginning of the taxable year and the net short-term capital loss for the taxable year shall reduce the earliest short-term capital gains remaining in the ordinary income account at the beginning of the taxable year. Any such losses that are in excess of the capital gains in the respective accounts shall reduce capital gains deposited into the respective accounts in subsequent years (without regard to section 1212). On termination of a fund, any net long-term capital loss in the capital gain account and any net short-term capital loss remaining in the ordinary income account is to be taken into account for purposes of computing the party's taxable income for the year of termination as a long-term or short-term (as the case may be) capital loss in the year the fund is terminated. With respect to the determination of the basis of assets held in a fund to such fund, see § 259.2(g)(1). With respect to the holding period of assets held in a fund, see paragraph (c) of this section.

§ 259.5 Qualified withdrawals.

(a) *In general.* (1) A qualified withdrawal is one made from the fund during the taxable year which is in accordance with section 607(f)(1) of the Act, the agreement, and with regulations prescribed by the Secretary of Commerce and which is for the acquisition, construction, or reconstruction of a qualified vessel (as defined in § 259.11(a)(2)) or barges and containers which are part of the complement of a qualified vessel (or shares in such vessels, barges, and containers), or for the payment of the principal of indebtedness incurred in connection with the acquisition, construction, or reconstruction of such qualified vessel (or a barge or container which is part of the complement of a qualified vessel). For purposes of this section, the term "acquisition" includes all transactions in which the basis of the property in the hands of the transferee is its cost.

(2) For purposes of this section the term "share" is used to reflect an interest in a vessel and means a proprietary interest in a vessel such as, for example, that which may result from a joint venture or partnership. Accordingly, a share within the meaning of § 259.2(f) (relating to the definition of "agreement vessel" for the purpose of making deposits) will not necessarily be sufficient to be treated as a share within the meaning of this section.

(b) *Payments on indebtedness.* Payments on indebtedness may constitute qualified withdrawals only if the party shows to the satisfaction of the Secretary of Commerce a direct connection between incurring the indebtedness and the acquisition, construction, or reconstruction of a qualified vessel or its complement of barges and containers whether or not the indebtedness is secured by the vessel or its complement of barges and containers. The fact that an indebtedness is secured by an interest in a qualified vessel, barge, or container is insufficient by itself to demonstrate the necessary connection.

(c) *Payments to related persons.* Notwithstanding paragraph (a) of this section, payments from a fund to a person owned or controlled directly or indirectly by the same interests as the party within the meaning of section 482 of the Code and the regulations thereunder are not to be treated as qualified withdrawals unless the party demonstrates to the satisfaction of the Secretary of Commerce that no part of such payment constitutes a dividend, a return of capital, or a contribution to capital under the Code.

(d) *Treatment of fund upon failure to fulfill obligations.* Section 607(f)(2) of the Act provides that if the Secretary of Commerce determines that any substantial obligation under the agreement is not being fulfilled, he may, after notice and opportunity for hearing to the party, treat the entire fund, or any portion thereof, as having been withdrawn as a nonqualified withdrawal. In determining whether a party has breached a substantial obligation under the agreement, the Secretary will consider among other things (1) the effect of the party's action or omission upon his ability to carry out the purposes of the fund and for which qualified withdrawals are permitted under section 607(f)(1) of the Act, and (2) whether the party has made material misrepresentations in connection with the agreement or has failed to disclose material information. For the income tax treatment of nonqualified withdrawals, see § 259.7.

§ 259.6 Tax treatment of qualified withdrawals.

(a) *In general.* Section 607(g) of the Act and this section provide rules for the income tax treatment of qualified withdrawals including the income tax treatment on the disposition of assets acquired with fund amounts.

(b) *Order of application of qualified withdrawals against accounts.* A qualified withdrawal from a fund shall be treated as being made: First, out of the capital account; second, out of the capital gain account; and third, out of the ordinary income account. Such withdrawals will reduce the balance within a particular account on a first-in-first-out basis, the earliest qualified withdrawals reducing the items within an account in the order in which they were actually or constructively deposited. The date funds are actually or constructively withdrawn from the fund determines the time at which withdrawals are considered to be made.

(c) *Reduction of basis.* (1) If any portion of a qualified withdrawal for the acquisition, construction, or reconstruction of a vessel, barge, or container (or share therein) is made out of the ordinary income account, the basis of such vessel, barge, or container (or share therein) shall be reduced by an amount equal to such portion.

(2) If any portion of a qualified withdrawal for the acquisition, construction, or reconstruction of a vessel, barge, or container (or share therein) is made out of the capital gain account, the basis of such vessel, barge, or container (or share therein) shall be reduced by an amount equal to—

(i) Five-eighths of such portion, in the case of a corporation (other than an electing small business corporation, as defined in section 1371 of the Code), or

(ii) One-half of such portion, in the case of any other person.

(3) If any portion of a qualified withdrawal to pay the principal of an indebtedness is made out of the ordinary income account or the capital gain account, then the basis of the vessel, barge, or container (or share therein) with respect to which such indebtedness was incurred is reduced in the manner provided by subparagraphs (1) and (2) of

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this paragraph. If the amount of the withdrawal exceeds the party's basis in such vessel, barge, or container (or share therein), the excess is applied against the basis of other vessels, barges, or containers (or shares therein) owned by the party at the time of withdrawal in the following order: (i) Vessels, barges, or containers (or shares therein) which were the subject of qualified withdrawals in the order in which they were acquired, constructed, or reconstructed; (ii) agreement vessels (as defined in section 607(k)(3) of the Act and § 259.11(a)(3)) and barges and containers which are part of the complement of an agreement vessel (or shares therein) which were not the subject of qualified withdrawals, in the order in which such vessels, barges, or containers (or shares therein) were acquired by the party; and (iii) other vessels, barges, and containers (or shares therein), in the order in which they were acquired by the party. Any amount of a withdrawal remaining after the application of this subparagraph is to be treated as a nonqualified withdrawal. If the indebtedness was incurred to acquire two or more vessels, barges, or containers (or shares therein), then the basis reduction in such vessels, barges, or containers (or shares therein) is to be made pro rata in proportion to the adjusted basis of such vessels, barges, or containers (or shares therein) computed, however, without regard to this section and adjustments under section 1016(a)(2) of the Code for depreciation or amortization.

(d) *Basis for depreciation.* For purposes of determining the allowance for depreciation under section 167 of the Code in respect of any property which has been acquired, constructed, or reconstructed from qualified withdrawals, the adjusted basis for determining gain on such property is determined after applying paragraph (c) of this section. In the case of reductions in the basis of any property resulting from the application of paragraph (c)(3) of this section, payments made at any time during the first half of the party's taxable year shall reduce the basis of the property on the first day of the taxable year, and payments made at any time during the second half of the party's taxable year reduce the basis of the property on the first day of the second half of the taxable year.

(e) *Ordinary income treatment of gain from disposition of property acquired with qualified withdrawals.* If any property the basis of which was reduced under paragraph (c) of this section is disposed of any gain realized on such disposition (after application of section 1245 of the Code) to the extent it does not exceed the aggregate reduction in the basis of such property under paragraph (c) of this section shall be treated as an amount referred to in section 607(h)(3)(A) of the Act and § 259.7 (relating to nonqualified withdrawals) which was withdrawn on the date of such dispostion. Accordingly, the amount of such gain shall be included in the gross income of the party as an item of ordinary income for the taxable year in which the disposition occurred. If the disposition occurred within 1 year of final delivery from the shipyard or within 1 year of first loading of the vessel, and if the Secretary of Commerce determines that such disposition was not for a purpose for which the fund is established, then interest on such amount is to be payable as provided in section 607(h)(3)(C) of the Act and § 259.7(e). The rules in the preceding sentence shall not apply in the case of an involuntary conversion. However, if an amount representing the net proceeds (as defined in § 259.2(c)(1)) from the disposition is deposited in the fund pursuant to the agreement and the regulations prescribed by the Secretary of Commerce, such gain is to be excluded from gross income (and interest shall not be payable on such amount) and is to be treated as gain to which section 607(d)(1)(B) of the Act and § 259.3(b)(2) apply. The portion of such deposit which represents gain attributable to the reduction in basis under paragraph (c) of this section is considered a deposit in section 607(b)(1)(C) of the Act (relating to net proceeds from the sale of an agreement vessel) and must be allocated to the ordinary income account of the fund in accordance with § 259.4(d)(4).

§ 259.7 Tax treatment of nonqualified withdrawals.

(a) *In general.* Section 607(h) of the Act provides rules for the tax treatment of nonqualified withdrawals, including rules for adjustments to the various accounts of the fund, the inclusion of amounts in income, and the payment of interest with respect to such amounts.

(b) *Nonqualified withdrawals defined.* Except as provided in section 607 of the Act and § 259.8 (relating to certain corporate reorganizations, changes in partnerships, and transfers by reason of death) any withdrawal from a fund which is not a qualified withdrawal shall be treated as a nonqualified withdrawal which is subject to tax in accordance with section 607(h) of the Act and the provisions of this section. Examples of nonqualified withdrawals are amounts remaining in a fund upon termination of the fund, and withdrawals which are treated as nonqualified withdrawals under section 607(f)(2) of the Act and § 259.5(d) (relating to failure by a party to fulfill substantial obligation under agreement) or under the second sentence of section 607(g)(4) of the Act and § 259.6(c)(3) (relating to payments against indebtedness in excess of basis).

(c) *Order of application of nonqualified withdrawals against deposits.* A nonqualified withdrawal from a fund shall be treated as being made: first, out of the ordinary income account; second, out of the capital gain account; and third, out of the capital account. Such withdrawals will reduce the balance within a particular account on a first-in-first-out basis, the earliest nonqualified withdrawals reducing the items within an account in the order in which they were actually or constructively deposited. Nonqualified withdrawals for research, development, and design expenses incident to new and advanced ship design, machinery, and equipment, and any amount treated as a nonqualified withdrawal under the second sentence of section 607(g)(4) of the Act and § 259.6(c)(3), shall be applied against the deposits within a particular account on a last-in-first-out basis. The date funds are actually or constructively withdrawn from the fund determines the time at which withdrawals are considered to be made.

(d) *Inclusion in income.* (1) Any portion of a nonqualified withdrawal which, under paragraph (c) of this section, is treated as being made out of the ordinary income account is to be included in gross income as an item of ordinary income for the taxable year in which the withdrawal is made.

(2) Any portion of a nonqualified withdrawal which, under paragraph (c) of this section, is treated as being made out of the capital gain account is to be included in income as an item of long-term capital gain realized during the taxable year in which the withdrawal is made.

(3) For effect upon a party's taxable income of capital losses remaining in a fund upon the termination of a fund (which, under paragraph (b) of this section, is treated as a nonqualified withdrawal of amounts remaining in the fund) see § 259.4(e).

(e) *Interest.* (1) For the period on or before the last date prescribed by law, including extensions thereof, for filing the party's Federal income tax return for the taxable year during which a nonqualified withdrawal is made, no interest shall be payable under section 6601 of the Code in respect of the tax on any item which is included in gross income under the provisions of this section, and no addition to such tax for such period shall be payable under section 6651 of the Code. In lieu of the interest and tax under such section, simple interest on the amount of the tax attributable to any item included in gross income under the provisions of this section is to be paid at the rate of interest determined for the year of withdrawal under subparagraph (2) of this paragraph. Such interest is to be charged for the period from the last date prescribed for payment of tax for the taxable year for which such item was deposited in the fund to the last date for payment of tax for the taxable year in which the withdrawal is made. Both dates are to be determined without regard to any extensions of time for payment. Interest determined under this section which is paid within the taxable year shall be allowed as a deduction for such year under section 163 of the Code. However, such interest is to be treated as part of the party's tax for the year of withdrawal for purposes of collection and in determining any interest or additions to tax for the year of withdrawal under section 6601 or 6651, respectively, of the Code.

(2) For purposes of section 607(h)(3)(C)(ii) of the Act, and for purposes of certain dispositions of vessels construct-

ed, reconstructed, or acquired with qualified withdrawals described in § 3.6(e), the applicable rate of interest for any nonqualified withdrawal—

(i) Made in a taxable year beginning in 1970 and 1971 is 8 percent.

(ii) Made in a taxable year beginning after 1971, the rate for such year as determined and published jointly by the Secretary of the Treasury or his delegate and the Secretary of Commerce, such rate shall bear a relationship to 8 percent which the Secretaries determine to be comparable to the relationship which the money rates and investment yields for the calendar year immediately preceding the beginning of the taxable year bear to the money rates and investment yields for the calendar year 1970. The determination of the applicable rate for any such taxable year will be computed by multiplying 8 percent by the ratio which (*a*) the average yield on 5-year Treasury securities for the calendar year immediately preceding the beginning of such taxable year, bears to (*b*) the average yield on 5-year Treasury securities for the calendar year 1970. The applicable rate so determined shall be computed to the nearest one-hundredth of 1 percent. If such a determination and publication is made, the latest published percentage shall apply for any taxable year beginning in the calendar year with respect to which publication is made.

(3) No interest shall be payable in respect of taxes on amounts referred to in section 607(h)(2)(i) and (ii) of the Act (relating to withdrawals for research and development and payments against indebtedness in excess of basis) or in the case of any nonqualified withdrawal arising from the application of the recapture provision of section 606(5) of the Merchant Marine Act, 1936, as in effect on December 31, 1969.

(f) *Basis and holding period in the case of property purchased by the fund.* In the case of a nonqualified withdrawal of property other than money which was purchased by the fund the adjusted basis of the property in the hands of the party is its adjusted basis to the fund on the day of the withdrawal. In determining the period for which the taxpayer has the period for which the taxpayer has held the property withdrawn in a nonqualified withdrawal there shall be included only the period beginning with the date on which the withdrawal occurred. For basis and holding period in the case of nonqualified withdrawals of property other than money deposited into the fund see § 259.2(g)(2)(iii).

§ 259.8 Certain corporate reorganizations and changes in partnerships, and certain transfers on death.

(a) *In general.* Section 607(i) of the Act and this section provide rules for certain corporate reorganizations, changes in partnerships, and certain transfers on death. Except as provided in paragraphs (b) and (c) of this section, any transfer of a fund from one taxpayer to another is a nonqualified withdrawal of the entire fund whether or not the transfer is voluntary, involuntary, or by operation of law.

(b) *Certain transfers to corporations and partnerships.* If (1) a party which is a corporation transfers property (including property held in a fund) in a transaction to which section 381 of the Code applies, or a party which is a partnership transfers property (including property held in a fund) to a partnership which is treated as a continuation of the transfer or partnership under the provisions of Subchapter K of the Code, and (2) the transfer of the fund has been approved by the Secretary of Commerce, then such transfer will be treated as if it did not constitute a nonqualified withdrawal. If a party who is an individual transfers property (including property held in a fund) to a corporation in a transaction in which no gain or loss is recognized by reason of section 351(a) of the Code, and if the transfer of the fund has been approved by the Secretary of Commerce, then such transfer will be treated as if such transaction did not constitute a nonqualified withdrawal.

(c) *Transfers on death.* If a party who is an individual dies, the transfer of property held in a fund to an executor, administrator, or to any other person by reason of his death will be treated as if it did not constitute a nonqualified withdrawal, provided, such executor, administrator, or other person receives approval for his maintenance of the fund from the Secretary of Commerce. If, upon termination of an estate which maintained a fund provided for in the preceding sentence, the property held in a fund passes to another person, such transfer will be treated as if it did not constitute a nonqualified withdrawal provided such person receives approval for his maintenance of the fund from the Secretary of Commerce.

(d) *Special rules.* In the case of a transfer referred to in paragraph (b) or (c) of this section, all attributes of the fund and of the assets in the fund shall carry over from the transferor to the transferee. If the transferee is a party to an existing fund the assets of the funds and the respective accounts within the funds, shall be combined. Thus, for example, each item in the combined fund shall retain its character as an item which was deposited into the capital account, the capital gain account, or the ordinary income account, as the case may be, on the date on which they were deposited into each original fund.

§ 259.9 Consolidated returns. [Reserved]

§ 259.10 Transitional rules for existing funds.

(a) *In general.* Section 607(j) of the Act provides that any person who was maintaining a fund or funds under section 607 of the Merchant Marine Act, 1936, prior to its amendment by the Merchant Marine Act of 1970 (for purposes of this part referred to as "old fund") may continue to maintain such old fund in the same manner as under prior law subject to the limitations contained in section 607(j) of the Act. Thus, a party may not simultaneously maintain such old fund and a new fund established under the Act.

(b) *Extension of agreement to new fund.* If a person enters into an agreement under the Act to establish a new fund, he may agree to the extension of such agreement to some or all of the amounts in the old fund and transfer the amounts in the old fund to which the agreement is to apply from the old fund to the new fund. If an agreement to establish a new fund is extended to amounts from an old fund, each item in the old fund to which such agreement applies shall be considered to be transferred to the appropriate account in the manner provided for in § 259.8(d) in the new fund in a nontaxable transaction which is in accordance with the provisions of the agreement under which such old fund was maintained. For purposes of section 607(h)(3)(C) of the Act and § 259.7(f), the deposit date of any item so transferred shall be July 1, 1971, or the date of the deposit in the old fund, whichever is the later.

§ 259.11 Definitions.

(a) As used in the regulations in this part and as defined in section 607(k) of the Act—

(1) The term "eligible vessel" means any vessel—

(i) Constructed in the United States, and if reconstructed, reconstructed in the United States,

(ii) Documented under the laws of the United States, and

(iii) Operated in the foreign or domestic commerce of the United States or in the fisheries of the United States.

Any vessel which was constructed outside of the United States but documented under the laws of the United States on April 15, 1970, or constructed outside the United States for use in the United States foreign trade pursuant to a contract entered into before April 15, 1970, shall be treated as satisfying the requirements of subdivision (i) of this subparagraph and the requirements of subparagraph (2)(i) of this section.

(2) The term "qualified vessel" means any vessel—

(i) Constructed in the United States and, if reconstructed, reconstructed in the United States,

(ii) Documented under the laws of the United States, and

(iii) Which the person maintaining the fund agrees with the Secretary of Commerce will be operated in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States.

(3) The term "agreement vessel" means any eligible vessel or qualified vessel which is subject to an agreement entered into under section 607 of the Act.

(4) The term "vessel" includes cargo handling equipment which the Secretary of Commerce determines is intended for use primarily on the vessel. The term

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"vessel" also includes an ocean-going towing vessel or an ocean-going barge or comparable towing vessel or barge operated in the Great Lakes.

(b) Insofar as the computation and collection of taxes are concerned, other terms used in the regulations in this part, except as otherwise provided in the Act or this part, have the same meaning as in the Code and the regulations thereunder.

Dated: October 12, 1972.

By order of the Administrator, National Oceanic and Atmospheric Administration.

ROBERT M. WHITE,
Administrator.

[FR Doc.72-20255 Filed 11-24-72;8:47 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-SO-56]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation regulations that would alter the Shelbyville, Tenn., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Shelbyville transition area described in § 71.181 (37 F.R. 2143) would be amended as follows: "• • • 18.5 miles south • • •" would be deleted and "• • • 18.5 miles south; within a 9.5-mile radius of Ellington Airport, Lewisburg, Tenn. (latitude 35°30'35" N., longitude 86°48'15" W.); excluding the portion within the Mount Pleasant, Tenn., transition area • • •" would be substituted therefor.

The proposed alteration is required to provide controlled airspace protection for IFR operations at Ellington Airport. A prescribed instrument approach procedure to this airport, utilizing the Verona nondirectional radio beacon (private), Lewisburg, Tenn., is proposed in conjunction with the alteration of this transition area.

This amendment is proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on November 16, 1972.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.72-20245 Filed 11-24-72;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 72-SW-76]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter controlled airspace in the Little Rock, Ark., terminal area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Forth Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the Little Rock, Ark., transition area is amended to read:

LITTLE ROCK, ARK.

That airspace extending upward from 700 feet above the surface bounded by a 23-mile radius of Little Rock AFB, Ark. (latitude 34°55'00" N., longitude 92°09'00" W.), and clockwise along a 23 NM arc of Adams Field Airport, Little Rock, Ark. (latitude 34°43'48" N., longitude 92°13'59" W.), to latitude 34°26'50" N., longitude 92°26'00" W., to latitude 34°26'00" N., longitude 92°30'00" W., to latitude 34°28'00" N., longitude 92°36'00" W., thence clockwise along the arc of a 6.5-mile-radius circle centered at latitude 34°33'30" N., longitude 92°36'30" W., to latitude 34°39'30" N., longitude 92°37'50" W., thence clockwise along a 23-mile radius of Adams Field Airport.

The 700-foot transition area is being altered to provide additional airspace to provide Stage 3 radar service, facilitating the handling of all IFR and VFR arrivals and departures in the Little Rock terminal area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Tex., on November 16, 1972.

KIRBY L. BRANNON,
Acting Director, Southwest Region.

[FR Doc.72-20246 Filed 11-24-72;8:46 am]

[14 CFR Part 121]

[Docket No. 12384; Notice No. 72-30]

CERTIFICATION AND OPERATIONS

Content and Number of First-Aid Kits

The Federal Aviation Administration is considering amending Appendix A to Part 121 of the Federal Aviation Regulations to set out the required contents of a standard first-aid kit for all aircraft subject to that part and to require that a specified number of first-aid kits be carried in relation to the number of passenger seats available aboard any aircraft.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, AGC24, 800 Independence Avenue SW., Washington, DC 20591. All communications received on or before January 24, 1973, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments in the rules docket, for examination by interested persons.

Current Appendix A to Part 121 sets forth the requirements for certain types of first-aid kits, one type is required for a certain number of passengers, another type for a greater number. The types differ not in what is carried but in the quantities carried. The FAA is proposing herein to standardize the first-aid kit so that there will be one type of kit and to vary the number of kits that will be required in proportion to the number of passenger seats available aboard the airplane.

Factors relating to the carriage of suitable first-aid equipment on passenger-carrying aircraft have been under consideration by the FAA for some time. A turbulence accident involving a Boeing 747 in January 1972 brought clearly into focus a number of problems since, in the wake of that accident, makeshift arrangements to immobilize fractures, stop bleeding, and dress wounds were required. As a result, the National Transportation Safety Board requested that the FAA make recommendations in this regard. After discussion between the medical committee of the Air Transport Association of America, representatives of many of the major air carriers, and FAA medical personnel, the FAA concluded that the rule making proposal contained herein would be an appropriate course of action.

The proposal differs from the current regulation in four respects: (1) Certain first-aid materials in addition to those required by the current regulation are proposed; (2) certain obsolete items are removed from the first-aid kit by the proposal; (3) the quantities of the articles that will be required are changed in the light of recent experience, and are more suitably proportioned to the number of passenger seats available; and (4) one standard first-aid kit to be carried by all airline aircraft is proposed to replace the different types of kits now required.

The proposal would require, in addition, that the first-aid kits be located so that they are easily accessible to the cabin flight attendants.

In consideration of the foregoing, it is proposed to amend Part 121 of the Federal Aviation Regulations by amending Appendix A to read as follows:

APPENDIX A—FIRST-AID KITS

Approved first-aid kits required by § 121.-309 must meet the following specifications and requirements:

(1) Each first-aid kit must be dust and moisture proof, and contain only materials that meet Federal Specifications GC-K-391a, as revised.

(2) Each first-aid kit must be located in such a place as to be easily accessible to the cabin flight attendants.

(3) The required number of first-aid kits, each to contain all of the contents described in (4), is as follows:

Number of passenger seats	*Number of first-aid kits*
0 to 50	1
51 to 150	2
151 to 250	3
More than 250	4

(4) The contents of the first-aid kits are as follows:

Contents	*No.*
1. Adhesive bandage compresses, 1-inch (16 per unit)	1
2. Antiseptic swabs, 10 mm. (10 per unit)	2
3. Ammonia inhalants, 6 mm. (10 per unit)	1
4. 4-inch bandage compresses (1 per unit)	8
5. Triangular bandage compresses, 40-inch (1 per unit)	5
6. Burn compound, one-eighth ounce (6 per unit) or an equivalent of other burn remedy	1
7. Splint (1 arm and 1 leg splint per unit)	1
8. 4-inch roller bandage (1 per unit)	4
9. 1-inch adhesive tape (standard roll)	2
10. Bandage scissors (1 per unit)	1

These amendments are proposed under the authority of sections 313(a), 601, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1424), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on November 15, 1972.

JAMES F. RUDOLPH,
Director, Flight Standards Service.

[FR Doc.72-20237 Filed 11-24-72;8:45 am]

Federal Highway Administration

[49 CFR Part 393]

[Docket No. MC-12; Notice 72-21]

MINIMUM STRENGTH OF TIEDOWN ASSEMBLIES

Notice of Proposed Rule Making

The Director of the Bureau of Motor Carrier Safety is considering an amendment to §393.85(c)(1) of the Motor Carrier Safety Regulations to the extent that subparagraph makes the aggregate rated working load of a tiedown assembly the criterion for determining whether it is adequate.

On September 13, 1971, the Director issued a complete revision of the rules in the Motor Carrier Safety Regulations relating to safe loading of commercial motor vehicles operated in interstate or foreign commerce (36 F.R. 18862). As part of that revision, he provided that "the aggregate static breaking strength of the tiedown assemblies used to secure an article against movement in any direction must be at least 1½ times the weight of that article." Thereafter, in response to a number of petitions for reconsideration, certain of the provisions of the revised rules were amended, including the minimum strength criterion in § 393.85(c)(1) (37 F.R. 12640). The critical language was changed to read: "the aggregate rated working load of the tiedown assemblies used to secure an article against movement in any direction, as specified by the manufacturer or manufacturers of the assemblies, must equal or exceed the weight of that article." The scheduled effective date of this last quoted provision is July 1, 1973.

The American Trucking Association has filed a petition for further reconsideration, arguing, inter alia, that the change was made without appropriate notice to interested parties, so that all concerned did not have adequate opportunity to make their views known on the subject. Having concluded that the argument may be meritorious, the Director is issuing this notice to invite interested persons to submit further comments on the appropriate criterion for determining the minimum acceptable strength of tiedown assemblies.

In its petition, ATA argues that the reference to aggregate rated working load calls for much stronger tiedown devices, at least in the case of chain. It is said that a length of chain complying with the aggregate rated working load criterion must be at least four times as strong as one that complies with the breaking strength criterion. The petitioner also argues that such an increase in minimum strength is unnecessary because chain is used to clamp loads to vehicles, not to suspend loads, and the friction between the floor of the vehicle and the load must be taken into account in determining the minimum tiedown assembly strength which will assure that the cargo is adequately restrained. The petition also says that use of working load as the basis for setting minimum standards for assemblies constructed of materials other than chain is inapposite, because "[s]uch things as nylon strap assemblies and steel strappings are described, classified, and sold on the basis of minimum breaking strength, not working load." There are, it is contended, no universally accepted industrial standards for rating working loads of equipment used to tie down cargo. Accordingly, the petitioner says, carriers would be compelled to rely wholly on manufacturers' ratings without being able to ascertain whether materials rated in that fashion insure adequate safety.

The Director particularly invites comments on the question whether the regulations should incorporate the breaking-strength criterion, the working-load criterion, some other formulation, or a combination of different formulas for different types of tiedown assemblies. If, as a result of study of the comments received and other data, it appears that neither of the two formulations heretofore discussed is appropriate, action may be taken to extend the effective date of the provision in question until the correct decision is made.

Interested persons are invited to submit written data, views, or arguments to the Director, Bureau of Motor Carrier Safety, Washington, D.C. 20590. All comments filed should be in three copies and should refer to the docket number and notice number appearing at the top of this document. All comments received before the close of business on December 29, 1972, will be considered before further action is taken. Comments will be available for examination in the Docket Room of the Bureau of Motor Carrier Safety, Room 4136, 400 Seventh Street SW., Washington, DC, both before and after the closing date for comments.

This notice of proposed rule making is issued under the authority of section 204 of the Interstate Commerce Act, as amended, 49 U.S.C. 304, section 6 of the

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Department of Transportation Act, 49 U.S.C. 1655, and the delegations of authority from the Secretary of Transportation and the Federal Highway Administrator at 49 CFR 1.48 and 389.4, respectively.

Issued on November 20, 1972.

ROBERT A. KAYE,
Director,
Bureau of Motor Carrier Safety.

[FR Doc.72-20290 Filed 11-24-72;8:50 am]

PRICE COMMISSION

[6 CFR Part 300]

[Notice 40; NPRM 72-3]

PURCHASING COOPERATIVES

Allowable Costs or Initial Percentage Markups

The Price Commission is considering amending § 300.23 of the Price Stabilization regulations to require all purchasing cooperatives to charge prices determined in accordance with their allowable costs or customary initial percentage markups.

Under the provisions of § 300.23(c) a purchasing cooperative may with certain limitations charge any price for a product or service it sells to its members or other persons. However, under paragraph (d) of that section, those purchasing cooperatives that sell products intended primarily for resale are required to charge prices in accordance with their allowable costs or customary initial percentage markups.

The Price Commission believes that prices charged by all cooperatives should be established in accordance with their allowable costs and customary initial percentage markups. The amendments proposed herein would provide that uniformity.

Interested persons are invited to participate in making the proposed amendment by submitting such written data, views, or arguments as they desire. Communications should identify this document as NPRM 72-3, and be submitted in duplicate to the Office of General Counsel, Price Commission, 2000 M Street NW., Washington, DC 20508. All communications received before December 16, 1972, will be considered by the Commission before taking action on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments will be available for examination by interested persons.

(Economic Stabilization Act of 1970, as amended, Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92-210; Executive Order No. 11640, 37 F.R. 1213, January 27, 1972; Cost of Living Council Order No. 4, 36 F.R. 20202, October 16, 1971)

In consideration of the foregoing, it is proposed to amend paragraph (c) of § 300.23 of Title 6 of the Code of Federal Regulations to read as set forth herein and revoke paragraph (d) of that section.

Issued in Washington, D.C. on November 22, 1972.

By direction of the Commission.

JAMES B. MINOR,
General Counsel,
Price Commission.

§ 300.23 Purchasing cooperatives.

* * * * *

(c) *General.* A purchasing cooperative may charge a price in excess of the base price for a product or service, in accordance with the conditions and limitations prescribed in this part for a manufacturer, retailer, wholesaler, or service organization, as the case may be. However, the effect of that price may not be to increase the ratio of its operating income to its net sales over that which prevailed during the base period. In computing this ratio, a purchasing cooperative may elect to reduce its operating income by patronage dividends in both the base and current periods if it:

(1) Sells a product or service to its members or other persons primarily for their use or consumption and not for resale; or

(2) Operates under the Agricultural Marketing Act of 1929, as amended (12 U.S.C. 1141j) and sells to a member or other person of that cooperative who is also a cooperative and only resells to members or other persons for their use or consumption.

(d) [Revoked]

[FR Doc.72-20381 Filed 11-24-72;8:53 am]

SELECTIVE SERVICE SYSTEM

[32 CFR Parts 1604, 1622, 1625, 1628]

OFFICERS, CLASSIFICATION, AND EXAMINATION

Proposed Amendments

Pursuant to the Military Selective Service Act, as amended (50 U.S. Code App., sections 451 et seq.), and Executive Order No. 11623, dated October 12, 1971, the Director of Selective Service hereby gives public notice that consideration is being given to the following proposed amendments to the Selective Service regulations constituting a portion of Chapter XVI of the Code of Federal Regulations. These regulations implement the Military Selective Service Act, as amended (50 U.S. Code App., sections 451 et seq.).

All persons who desire to submit views to the Director on the proposals should prepare them in writing and forward them to the General Counsel, National Headquarters, Selective Service System, 1724 F Street NW., Washington, DC 20435. Comments received within 30 days following the publication of this notice in the FEDERAL REGISTER will be considered.

The proposed amendments follow:

PART 1604—SELECTIVE SERVICE OFFICERS

§ 1604.61 [Revoked]

Section 1604.61 *Medical advisors to local boards,* is revoked.

§ 1604.62 [Revoked]

Section 1604.62 *Disqualification,* is revoked.

PART 1622—CLASSIFICATION RULES AND PRINCIPLES

Paragraph (a) of § 1622.44 *Class 4-F: Registrant not qualified for military service,* is amended to read as follows:

§ 1622.44 Class 4-F: Registrant not qualified for military service.

(a) In Class 4-F shall be placed any registrant who is found by an Armed Forces examining and entrance station, under applicable physical, mental, or administrative standards, to be not qualified for service in the Armed Forces; except that no such registrant whose further examination or reexamination is determined by AFEES to be justified shall be placed in Class 4-F until such further examination has been accomplished and such registrant continues to be found not qualified for military service.

* * * * *

PART 1625—REOPENING AND CONSIDERING ANEW REGISTRANT'S CLASSIFICATION

Section 1625.2 *Reopening of classification,* is amended to read as follows:

§ 1625.2 Reopening of classification.

(a) The local board will reopen and consider anew the classification of a registrant: (1) Upon the written request of the Director of Selective Service or the State Director of Selective Service and upon receipt of such request shall immediately cancel any order to report for induction or alternate service which may have been issued to the registrant; (2) who is in Class 1-H and becomes subject to processing for induction according to these regulations and the rules prescribed by the Director; (3) in any classification for the purpose of classifying him in Class 1-H according to these regulations and the rules prescribed by the Director; (4) upon the written request of the registrant that is accompanied by written information presenting facts other than pertaining to his acceptability for induction not considered when the registrant was classified which, if true in the opinion of the board, would justify a change in the registrant's classification; or (5) upon its own motion if such action is based upon facts other than pertaining to his acceptability for induction not considered when the registrant was classified which, in the opinion of the board, would justify a change in the registrant's classification: *Provided,* That in the event of subparagraph (4) or (5) of this section, the classification of a registrant shall not be reopened after the local board has mailed to such registrant an order for induction or alternate service or, in the event the order to report for induction or alternate service was postponed and a subsequent letter from the local board establishes the date for induction or for reporting for alternate service, unless the local board first specifically finds there has been a change in the registrant's status resulting from circumstances over which the registrant had no control.

PART 1628—EXAMINATION OF REGISTRANTS

§ 1628.1 [Amended]

Paragraph (c) of § 1628.1 *Who will be examined,* is revoked.

§ 1628.2 [Revoked]

Section 1628.2 *Preliminary determination of acceptability,* is revoked.

§ 1628.3 [Revoked]

Section 1628.3 *Registrants to be given medical interview,* is revoked.

§ 1628.4 [Revoked]

Section 1628.4 *Duties of medical advisors to local board,* is revoked.

§ 1628.5 [Revoked]

Section 1628.5 *Transfer for medical interview,* is revoked.

BYRON V. PEPITONE,
Acting Director.

NOVEMBER 20, 1972.

[FR Doc.72-20281 Filed 11-24-72;8:49 am]

[32 CFR Parts 1622, 1623, 1630, 1631, 1680]

CLASSIFICATION

Proposed Procedures

Pursuant to the Military Selective Service Act, as amended (50 U.S.C. App., sections 451 et seq.), and Executive Order 11623 dated October 12, 1971, the Director of Selective Service hereby gives public notice that consideration is being given to the following proposed amendments to the Selective Service regulations constituting a portion of Chapter XVI of the Code of Federal Regulations. These regulations implement the Military Selective Service Act, as amended (50 U.S.C. App., sections 451 et seq.).

All persons who desire to submit views to the Director on the proposals should prepare them in writing and forward them to the General Counsel, National Headquarters, Selective Service System, 1724 F Street NW., Washington, DC 20435. Comments received within 30 days following the publication of this notice in the FEDERAL REGISTER will be considered.

The proposed amendments follow:

PART 1622—CLASSIFICATION RULES AND PRINCIPLES

Section 1622.2 *Classes,* is amended to read as follows:

§ 1622.2 Classes.

Each registrant shall be classified in one of the following classes:

CLASS 1

Class 1-A: Available for military service.
Class 1-AM: Registrant in any of the specified medical, dental, and allied specialist categories.
Class 1-A-O: Conscientious objector available for noncombatant military service only.
Class 1-C: Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration, or the Public Health Service.
Class 1-D: Member of reserve component or student taking military training.
Class 1-H: Registrant not currently subject to processing for induction.
Class 1-O: Conscientious objector available for alternate service.
Class 1-W: Conscientious objector performing alternate service in lieu of induction.

CLASS 2

Class 2-A: Registrant deferred because of civilian occupation (except agriculture) or nondegree study.
Class 2-C: Registrant deferred because of agricultural occupation.
Class 2-D: Registrant deferred because of study preparing for the ministry.
Class 2-M: Registrant deferred because of study preparing for a specified medical specialty.
Class 2-S: Registrant deferred because of activity in study.

CLASS 3

Class 3-A: Registrant with a child or children; and registrant deferred by reason of extreme hardship to dependents.

CLASS 4

Class 4-A: Registrant who has completed military service.
Class 4-B: Officials deferred by law.
Class 4-C: Aliens.
Class 4-D: Minister of religion.
Class 4-F: Registrant not qualified for military service.
Class 4-G: Registrant exempted from service during peace.
Class 4-W: Conscientious objector who has completed alternate service in lieu of induction.

Section 1622.15 is added to read as follows:

§ 1622.15 Class 1-AM: Medical, dental, or allied specialist.

(a) In Class 1-AM shall be placed every registrant (1) who is or becomes a doctor of medicine, a dentist, a doctor of optometry, a doctor of osteopathy, a doctor of podiatry, a veterinarian, a registered nurse, or other of the medical, dental, or allied specialist categories for which in accord with section 5(a) of the Military Selective Service Act the Secretary of Defense has stated that requisitions for induction may be submitted, and (2) who is not eligible for classification in another class other than Class 1-A.

(b) Each registrant who is classified in Class 1-AM shall be identified as follows: Class 1-AMM for doctor of medicine; Class 1-AMD for dentist; Class 1-AME for doctor of optometry; Class 1-AMO for doctor of osteopathy; Class 1-AMP for doctor of podiatry; Class 1-AMV for veterinarian; and Class 1-AMN for registered nurse.

(c) For the purpose of this section a doctor of medicine is a registrant who has received the degree of doctor of medicine; a dentist is a registrant who has received the degree of doctor of dental surgery or doctor of dental medicine; a doctor of optometry is a registrant who has received the degree of doctor of optometry; a doctor of osteopathy is a registrant who has received the degree of doctor of osteopathy; a doctor of podiatry is a registrant who has received the degree of doctor of podiatry; a veterinarian is a registrant who has received the degree of doctor of veterinary medicine; and a nurse is a registrant who has been licensed as a registered nurse. A registrant who has received training equivalent to that evidenced by the issuance of any of the degrees listed in the preceding sentence will be deemed to have received the respective degree.

Section 1622.18 *Class 1-H (holding classification): Registrant not subject to processing for induction,* is amended to read as follows:

§ 1622.18 Class 1-H (holding classification): Registrant not subject to processing for induction.

(a) In Class 1-H shall be placed any registrant who is not eligible for Class 1-AM and is not currently subject to processing for induction according to these regulations and the rules prescribed by the Director of Selective Service.

Paragraph (a) of § 1622.25 *Class 2-S: Registrant deferred because of activity in study,* is amended to read as follows:

§ 1622.25 Class 2-S: Registrant deferred because of activity in study.

(a) In Class 2-S shall be placed any registrant who requests such classification, who was satisfactorily pursuing a full-time course of instruction at a college, university or similar institution of learning during the 1970-71 regular academic school year and who is satisfactorily pursuing such course, such classification to continue until such registrant completes the requirement for his baccalaureate degree, fails to pursue satisfactorily full-time course of instruction, or attains the 24th anniversary of the date of his birth, whichever occurs first.

* * * * *

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Section 1622.26 is amended to read as follows:

§ 1622.26 Class 2–M; Registrant deferred because of study preparing for a specified medical specialty.

In Class 2–M shall be placed any registrant who is satisfactorily pursuing a full-time course of study leading to a professional degree in medicine, dentistry, optometry, osteopathy, podiatry, veterinary medicine, licensure as a registered nurse, or other of the medical, dental, or allied specialist categories for which in accord with section 5(a) of the Military Selective Service Act the Secretary of Defense has stated that requisitions for induction may be submitted.

PART 1623—CLASSIFICATION PROCEDURE

Section 1623.2 *Consideration of classes,* is amended to read as follows:

§ 1623.2 Consideration of classes.

(a) Every registrant other than a registrant eligible for classification in Class 1–AM shall be placed in Class 1–A under the provisions of § 1622.10 of this chapter except that when grounds are established to place a registrant in any one of the classes listed in the following table, the registrant shall be classified in the lowest class for which he is determined to be eligible, with Class 1–A–O considered the highest class and Class 4–A considered the lowest class, according to the following table:

Class 1–A–O: Conscientious objector available for noncombatant military service only.
Class 1–O: Conscientious objector available for alternate service.
Class 2–A: Registrant deferred because of civilian occupation (except agriculture) or nondegree study.
Class 2–C: Registrant deferred because of agricultural occupation.
Class 2–S: Registrant deferred because of activity in study.
Class 2–D: Registrant deferred because of study preparing for the ministry.
Class 2–M: Registrant deferred because of study preparing for a specified medical specialty.
Class 3–A: Registrant with a child or children; and registrant deferred by reason of extreme hardship to dependents.
Class 4–B: Officials deferred by law.
Class 4–C: Aliens.
Class 4–D: Minister of religion.
Class 1–H: Registrant not currently subject to processing for induction.
Class 4–G: Registrant exempted from service during peace.
Class 4–F: Registrant not qualified for military service.
Class 4–W: Conscientious objector who has completed alternate service in lieu of induction.
Class 1–D: Member of reserve component or student taking military training.
Class 1–W: Conscientious objector performing alternate service in lieu of induction.
Class 1–C: Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration, or the Public Health Service.
Class 4–A: Registrant who has completed military service.

PART 1630—VOLUNTEERS

Paragraph (a) of § 1630.1 *Who may volunteer,* is amended to read as follows:

§ 1630.1 Who may volunteer.

(a) Any registrant who has attained the age of 18 years and who has not attained the age of 26 years and who has not discharged his current military obligation under the Military Selective Service Act may volunteer for induction into the Armed Forces other than as a medical, dental, or allied specialist by completing and filing with his local board an Application for Voluntary Induction (SSS Form 254) which shall be completed and filed in duplicate if he has not attained the age of 18 years and 6 months. A registrant in Class 1–AM may volunteer for induction as a medical, dental, or allied specialist in accord with § 1680.10 of this chapter.

• • • • •

(b) A registrant eligible for classification in Class 1–AM under the provisions of § 1622.15 of this chapter shall be placed in that class except that when grounds are established to place a registrant in any one of the classes listed in the following table, the registrant shall be classified in the lowest class for which he is determined to be eligible, with Class 1–A–O considered the highest and Class 4–A considered the lowest class, according to the following table:

Class 1–A–O: Conscientious objector available for noncombatant military service only.
Class 1–O: Conscientious objector available for alternate service.
Class 2–A: Registrant deferred because of civilian occupation (except agriculture) or nondegree study.
Class 2–C: Registrant deferred because of agricultural occupation.
Class 2–S: Registrant deferred because of activity in study.
Class 2–D: Registrant deferred because of study preparing for the ministry.
Class 2–M: Registrant deferred because of study preparing for a specified medical specialty.
Class 3–A: Registrant with a child or children; and registrant deferred by reason of extreme hardship to dependents.
Class 4–B: Officials deferred by law.
Class 4–C: Aliens.
Class 4–D: Minister of religion.
Class 1–H: Registrant not currently subject to processing for induction.
Class 4–G: Registrant exempted from service during peace.
Class 4–F: Registrant not qualified for military service.
Class 4–W: Conscientious objector who has completed alternate service in lieu of induction.
Class 1–D: Member of reserve component or student taking military training.
Class 1–W: Conscientious objector performing alternate service in lieu of induction.
Class 1–C: Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration, or the Public Health Service.
Class 4–A: Registrant who has completed military service.

PART 1631—ALLOCATIONS OF INDUCTIONS

§ 1631.3 [Amended]

The second sentence of § 1631.3 *Calls by the Secretary of Defense,* is revoked.

§ 1631.4 [Amended]

Paragraph (b) of § 1631.4 *Allocation by the Director of Selective Service,* is revoked.

PART 1680—MEDICAL, DENTAL, OR ALLIED SPECIALIST CATEGORIES (CLASS 1–AM)

Part 1680 is added to read as follows:

Sec.
1680.1 Examinations.
1680.2 Calls by the Secretary of Defense.
1680.3 Allocations by the Director of Selective Service.
1680.4 Allocations by the State Director of Selective Service.
1680.5 Action by Local Board upon receipt of allocation.
1680.6 Random selection sequence.
1680.7 Postponement of induction.
1680.8 Deferments.
1680.9 Alternate Service.
1680.10 Volunteers.

AUTHORITY: The provisions of this Part 1680 issued pursuant to the Military Selective Service Act, as amended (50 U.S.C. App., sections 451 et seq.) and Executive Order 11623, dated October 12, 1971.

§ 1680.1 Examinations.

Local boards shall forward registrants in Class 1–AM for Armed Forces examination in accord with instructions of the Director of Selective Service.

§ 1680.2 Calls by the Secretary of Defense.

The Secretary of Defense may from time to time place with the Director of Selective Service a call or requisition for men in any medical, dental, or allied specialist category required for induction into the Armed Forces.

§ 1680.3 Allocations by the Director of Selective Service.

Upon receipt of a call or requisition from the Secretary of Defense for men in a medical, dental, or allied specialist category to be inducted into the Armed Forces, the Director of Selective Service shall issue a call or requisition to the several States. The allocation of a call for the delivery of registrants shall specify the random selection sequence numbers of registrants in the appropriate specialty who shall be selected for induction.

§ 1680.4 Allocations by the State Director of Selective Service.

The State Director of Selective Service shall allocate a call for the delivery of registrants as prescribed by the Director of Selective Service pursuant to section 1680.3 of this part.

§ 1680.5 Action by Local Board Upon Receipt of Allocation.

(a) When an allocation is received from the State Director of Selective Service, any member or compensated employee of the local board, or any compensated employee of the Selective Service System whose official duties include the performance of administrative duties at a local board shall select as provided herein, and issue orders to report for induction to those men required to fill the call from among its registrants who have been classified in Class 1–AM and have been found acceptable for service in the Armed Forces and to whom a Statement of Acceptability (DD Form 62) has been mailed: *Provided,* That a registrant in Class 1–AM who has volunteered for induction may be selected and ordered to report for induction to fill an induction call notwithstanding the fact that he has not been found acceptable for service in the Armed Forces and regardless of whether or not a Statement of Acceptability (DD Form 62) has been mailed to him, but in such case the Armed Forces examination shall be performed after he has reported for induction as ordered and he shall not be inducted until his acceptability has been satisfactorily determined.

(b) Registrants shall be selected and ordered to report for induction in the following categories and in the order indicated:

(1) Volunteers in the sequence in which they have volunteered for induction;

(2) Nonvolunteers within their year of prime vulnerability in the order of their random sequence number established by random selection procedures prescribed in accordance with § 1680.6;

(3) Nonvolunteers within the first year after their year of prime vulnerability in the order of their random sequence number established by random selection procedures prescribed in accordance with § 1680.6;

(4) Nonvolunteers within the second year after their year of prime vulnerability in the order of their random sequence number established by random selection procedures prescribed in accordance with § 1680.6;

(5) Nonvolunteers within the third year after their year of prime vulnerability in the order of their random sequence number established by random selection procedures prescribed in accordance with § 1680.6;

(6) Nonvolunteers within each succeeding year, in turn, after their year of prime vulnerability in the order of their random sequence number established by random selection procedures prescribed in accordance with § 1680.6, until attainment of age 35.

As used in this paragraph, the year of prime vulnerability for an alien who enters the United States after he has completed the professional training described in § 1622.15(c) of this chapter is the 12 months following his first year of residence in the United States. The year of prime vulnerability for all other persons is 365 days immediately following the attainment of the first appropriate professional degree or diploma, or completion of internship or 1 year of equivalent training, whichever is later. The internship or 1 year of equivalent training must follow immediately upon the attainment of the appropriate professional degree.

§ 1680.6 Random selection sequence.

A registrant in Class 1–AM who was born before 1944 shall be assigned a birth date sequence based upon the results of the drawing held on December 1, 1969. A registrant in Class 1–AM who was born in 1944 or later shall be assigned a birth date sequence based upon the results of drawings held in accord with § 1631.1 of this chapter.

§ 1680.7 Postponement of induction.

Section 1632.2 of this chapter applies to registrants subject to this part. The Director of Selective Service or any State Director of Selective Service (as to the registrants registered within his State), in accord with § 1632.2(b) of this chapter, may postpone the induction of a registrant who applies or has applied for an appointment as a Reserve Officer in one of the Armed Forces in any of the medical, dental, and allied specialist categories until final action has been taken on such application.

§ 1680.8 Deferments.

Any registrant subject to this part may be considered for classification in Class 2–A in accord with the standards in §21622.23(a) of this chapter if his occupation following his year of prime vulnerability as defined in § 1680.5(c) has been found by the appropriate State medical advisory board to represent an especially critical community service, and a replacement cannot be found by the community involved in the time allotted by a postponement of induction.

§ 1680.9 Alternate Service.

A registrant in Class 1–O who would be eligible for Class 1–AM were he not in Class 1–O will be ordered to alternate service in lieu of induction in accord with Part 1660 of this chapter at the time that he would be called for induction if he were in Class 1–AM.

§ 1680.10 Volunteers.

Any registrant in Class 1–AM who has not attained the age of 35 years may volunteer for induction under this part by filing with his local board his written request for such induction.

BYRON V. PEPITONE,
Acting Director.

NOVEMBER 22, 1972.

[FR Doc.72–20364 Filed 11–24–72;8:49 am]

[32 CFR Part 1661]

CONSCIENTIOUS OBJECTORS

Proposed Classification

Pursuant to the Military Selective Service Act, as amended (50 U.S.C. App., sections 451 et seq.), and Executive Order 11623 dated October 12, 1971, the Director of Selective Service hereby gives public notice that consideration is being given to the following proposed amendments to the Selective Service regulations constituting a portion of Chapter XVI of the Code of Federal Regulations. These regulations implement the Military Selective Service Act, as amended (50 U.S.C. App., sections 451 et seq.).

All persons who desire to submit views to the Director on the proposals should prepare them in writing and forward them to the General Counsel, National Headquarters, Selective Service System, 1724 F Street NW., Washington, DC 20435. Comments received within 30 days following the publication of this notice in the FEDERAL REGISTER will be considered.

The proposed 32 CFR Part 1661 which was published in the FEDERAL REGISTER on September 30, 1972, is withdrawn.

The proposed amendments follow:

PART 1661—CLASSIFICATION OF CONSCIENTIOUS OBJECTORS

Part 1661 is added to read as follows:

Sec.
1661.1 Purpose; definitions.
1661.2 The claim of conscientious objection.
1661.3 Basis for classification in Class 1–A–O.
1661.4 Basis for classification in Class 1–O.
1661.5 Exclusion from Class 1–A–O and Class 1–O.
1661.6 Analysis of religious training and belief.
1681.7 Impartiality.
1661.8 Determination as to whether claim is prima facie.
1661.9 Considerations relevant to granting or denying a prima facie claim for classification as a conscientious objector.
1661.10 Types of decisions.
1661.11 Statement of reasons for denial.

AUTHORITY: The provisions of this Part 1661 issued pursuant to the Military Selective Service Act, as amended (50 U.S.C. App., sections 451 et seq.), and Executive Order 11623 dated October 12, 1971.

§ 1661.1 Purpose; definitions.

(a) The provisions of this part govern the consideration of a claim by a registrant for classification in Class 1–A–O (§ 1622.11 of this chapter) or Class 1–O (§ 1622.14 of this chapter).

(b) The definitions in this paragraph shall apply in the interpretation of the provisions of this part:

(1) *Crystallization of a registrant's beliefs.* The registrant's becoming conscious of the fact that he is opposed to participation in war in any form.

(2) *Noncombatant service.* Service in any unit of the Armed Forces which is unarmed at all times; any other military assignment not requiring the bearing of arms or the use of arms in combat or training in the use of arms.

(3) *Noncombatant training.* Any training which is not concerned with the study, use, or handling of arms or other implements of warfare designed to destroy human life.

(4) *Prima facie claim.* A nonfrivolous claim, which, if true, would be sufficient on its face to warrant granting classification in Class 1–A–O or Class 1–O.

§ 1661.2 The claim of conscientious objection.

A claim to classification in Class 1–A–O or Class 1–O may be made by the registrant in writing, such document shall be placed in his File Folder (SSS

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Form 101). See § 1621.11 of this chapter. The registrant must supplement his claim with oral information at a personal appearance before the local board.

§ 1661.3 Basis for classification in Class 1–A–O.

(a) A registrant must be conscientiously opposed to participation in war in any form and conscientiously opposed to combatant training and service in the Armed Forces.

(b) A registrant's objection must be founded on religious training and belief; it may be based on strictly religious beliefs, or on personal beliefs that are purely ethical or moral in source or content and occupy in the life of a registrant a place parallel to that filled by belief in a Supreme Being for those holding more traditionally religious views.

(c) A registrant's objection must be sincere.

§ 1661.4 Basis for classification in Class 1–O.

(a) A registrant must be conscientiously opposed to participation in war in any form and conscientiously opposed to participation in both combatant and noncombatant training and service in the Armed Forces.

(b) A registrant's objection must be founded on religious training and belief; it may be based on strictly religious beliefs, or on personal beliefs that are purely ethical or moral in source or content and occupy in the life of a registrant a place parallel to that filled by belief in a Supreme Being for those holding more traditionally religious views.

(c) A registrant's objection must be sincere.

§ 1661.5 Exclusion from Class 1–A–O and Class 1–O.

(a) Registrants who assert beliefs which are of a religious, moral, or ethical nature, but who are not found to be sincere in their assertions.

(b) Registrants whose stated objection to participation in war does not rest at all upon moral, ethical, or religious principle, but instead rests solely upon considerations of policy, pragmatism, expediency, or their own self-interest or well-being.

(c) Registrants whose objection to participation in war is directed against a particular war rather than against war in any form (a selective objection). If a registrant objects to war in any form, but also believes in a theocratic, spirtual war between the forces of good and evil, he may not by reason of that belief alone be considered a selective conscientious objector.

§ 1661.6 Analysis of religious training and belief.

(a) A registrant claiming conscientious objection is not required to be a member of a "peace church" or any other church, religious organization or religious sect to qualify for a 1–A–O or 1–O classification; nor is it necessary that he be affiliated with any particular group opposed to participation in war in any form.

(b) The registrant who identifies his beliefs with those of a traditional church or religious organization must show that he basically adheres to beliefs of that church or religious organization whether or not he is actually affiliated with the institution whose teachings he claims as the basis of his conscientious objection.

(c) A registrant whose beliefs are not religious in the traditional sense, but are based primarily on moral or ethical principle should hold such beliefs with the same strength or conviction as the belief in a Supreme Being is held by a person who is religious in the traditional sense. Beliefs may be mixed; they may be a combination of traditional religious beliefs and of nontraditional religious, moral, or ethical beliefs. The registrant's beliefs must play a significant role in his life but should be evaluated only insofar as they pertain to his stated objection to his participation in war.

(d) Where the registrant is or has been a member of a church, religious organization, or religious sect, and where his claim of a conscientious objection is related to such membership, the board may properly inquire as to the registrant's membership, the religious teachings of the church, religious organization, or religious sect, and the registrant's religious activity, insofar as each relates to his objection to participation in war. The fact that the registrant may disagree with or not subscribe to some of the tenents of his church or religious organization or religious sect does not necessarily discredit his claim.

(e)(1) The history of the process by which the registrant acquired his beliefs, whether founded on religious, moral or ethical principle is relevant to the determination whether his stated opposition to participation in war in any form is sincere.

(2) The registrant must demonstrate that his religious, ethical or moral convictions were acquired through training, study, contemplation, or other activity comparable to the processes by which traditional religious convictions are formulated. He must show that these religious, moral, or ethical convictions, once acquired, have directed his life in the way traditional religious convictions of equal strength, depth, and duration have directed the lives of those whose beliefs are clearly founded in traditional religious conviction.

(f) The registrant need not use formal or traditional language in describing the religious, moral or ethical nature of his beliefs. Board members are not free to reject beliefs because they find them incomprehensible or inconsistent with their own beliefs.

(g) Conscientious objection to participation in war in any form, if based on moral, ethical, or religious beliefs, may not be deemed nonreligious simply because those beliefs may influence the registrant concerning the Nation's domestic or foreign policies.

§ 1661.7 Impartiality.

Local and appeal boards may not give precedence to one religion over another, and all beliefs whether of a religious, ethical, or moral nature, are to be given equal consideration.

§ 1661.8 Determination as to whether claim is prima facie.

(a) A prima facie claim as denied in § 1661.1(b)(4) of this part must include the following:

(1) An affirmative statement (which does not on its face appear to be frivolous) that the registrant is conscientiously opposed to participation in war in any form.

(2) An affirmative statement (which does not on its face appear to be frivolous) explaining the registrant's moral, ethical, or religious basis for his claim.

(b) If the local board determines on the basis of information submitted by the registrant that a prima facie claim has been presented, it shall reopen his classification in accord with § 1625.2(a) of this chapter. If the local board determines on the basis of information submitted by the registrant that a prima facie claim has not been presented, it need not reopen the classification. See § 1625.4 of this chapter. In such case, the board should accompany its refusal to reopen with a written statement setting forth its reason(s) for deciding that the registrant failed to submit a prima facie claim. This statement will be placed in the registrant's file folder (SSS Form 101), and the registrant will be notified of the board's reason(s).

§ 1661.9 Considerations relevant to granting or denying a prima facie claim for classification as a conscientious objector.

(a) If it is determined that the registrant has submitted a prima facie claim, the information in the registrant's file folder should then be evaluated to determine whether the registrant is sincere in his claim of conscientious objection. Oral statements by the registrant at a personal appearance before the local or appeal board, and the registrant's general demeanor during such an interview, are to be taken into account in assessing his sincerity.

(b) The registrant's stated convictions should be a matter of conscience which would give him no rest or peace should he participate in war.

(c) The board should be convinced that the registrant's personal history since the crystallization of his conscientious objection is not inconsistent with his claim and demonstrates that the registrant's objection is not solely a matter of expediency. A late crystallization of beliefs does not necessarily indicate expediency.

(d) The information presented by the registrant should reflect a pattern of behavior in response to war and weapsons which is consistent with his stated beliefs. Instances of violent acts or conviction for crimes of violence, or employment in the development or manufacturing of weapons of war may, if the claim is based upon or supported by a life of nonviolence, be indicative of inconsistent conduct.

(e) The development of a registrant's opposition to war in any form may bear on his sincerity. If the registrant claims a recent crystallization of beliefs, his claim should be supported by evidence of a religious or educational experience,

a traumatic event, an historical occasion, or some other special situation which explains when and how his objection to participation in war crystallized.

(f) In the event that a registrant has previously claimed or been granted a deferment to work in the development of or manufacturing of weapons of war or to serve as a member of a military reserve unit, it should be determined whether such a deferment was claimed or granted prior to the stated crystallization of the registrant's conscientious objector beliefs. Inconsistent classifications claimed or held prior to the actual crystallization of conscientious objector beliefs are not necessarily indicative of insincerity. But, inconsistent claims or classifications claimed or held subsequent to actual crystallization may indicate that registrant's stated objection is not sincere.

(g) If a registrant attends a personal appearance before the local or appeal board, his behavior before the local board may be relevant to the matter of the sincerity of his claim.

(1) Evasive answers to questions by board members or the use of hostile, belligerent, or threatening words or actions, for example, may in proper circumstances be deemed inconsistent with a claim in which the registrant bases his objection on a belief in nonviolence. But such behavior may have less relevance to the sincerity question if the registrant bases his beliefs solely on a conscientious objection to bearing arms.

(2) Care should be exercised that nervous, frightened, or apprehensive behavior at the personal appearance is not misconstrued as a reflection of insincerity.

(h) Oral response to questions by board members should be consistent with the written statements of the registrant and should generally substantiate the submitted information in the registrant's file folder (SSS Form 101); any material inconsistencies should be satisfactorily explained by the registrant. It is important to recognize that the registrant need not be eloquent in his answers. But, a clear inconsistency between the registrant's oral remarks at his personal appearance and his written submission to the board may be adequate grounds, if not satisfactorily explained, for concluding that his claim is insincere.

(i) The registrant may submit letters of references and other supporting statements of friends, relatives, and acquaintances to corroborate the sincerity of his claim, although such supplemental documentation is not essential to approval of his claim. A finding of insincerity based on these letters or supporting statements must be carefully explained in the board's decision, specific mention being made of the particular material relied upon for denial of 1–A–O or 1–O classification.

§ 1661.10 Types of decisions.

(a) The following are the types of decisions which may be made by the local and appeal board when a prima facie claim of conscientious objection has been stated.

(1) Decision to grant a claim for 1–A–O or 1–O classification as requested, based on a determination that the truth or sincerity of the registrant's prima facie claim is not refuted by any information contained in the registrant's file or obtained during his personal appearance.

(2) Decision to deny a claim for 1–A–O or 1–O classification, finding on the basis of all information before the board, that the claim fails to meet the tests specified in §§ 1661.2 and 1661.3. If supported by evidence in the file the board may find that the facts presented by the registrant in support of his claim are untrue.

(3) Decision to grant a 1–A–O classification to a registrant even though he requested a 1–O classification. It should be noted that the registrant who requests classification in Class 1–O should be classified in Class 1–A–O only when the information presented demonstrates clearly that the registrant is opposed only to bearing arms and that he does not object to noncombatant service.

§ 1661.11 Statement of reasons for denial.

(a) Denial of a conscientious objector claim either by the local or appeal board must be accompanied by a statement specifying the reason(s) for such denial as prescribed in §§ 1623.4 and 1626.4 of this chapter. The reason(s) must, in turn, be supported by evidence in the registrant's file (which should include a summary of the interview with the registrant, if any, at his personal appearance).

(b) If the board's denial is based on statements by the registrant or on a determination that the claim is inconsistent or insincere, this should be fully explained in the statement of reasons accompanying the denial.

BYRON V. PEPITONE,
Acting Director.

NOVEMBER 21, 1972.

[FR Doc.72-20282 Filed 11-24-72;8:49 am]

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Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 72-321; Customs Delegation Order 1 (Rev. 1) amended]

ASSISTANT COMMISSIONER OF CUSTOMS OFFICE OF REGULATIONS AND RULINGS, ET AL.

Performance of Functions

NOVEMBER 15, 1972.

1. By virtue of the authority vested in me by Treasury Department Order No. 165, Revised (T.D. 53654, 19 F.R. 7214), as amended, Customs Delegation Order No. 1 (Revision 1) (T.D. 69-126, 34 F.R. 8208), is hereby amended as follows:

A. Paragraph 1.A is amended by substituting "Classification and Value Division" for "Division of Classification and Value," by substituting "Entry Procedures and Penalties Division" for "Division of Entry Procedures and Penalties," and by substituting "Carriers, Drawback, and Bonds Division" for "Division of Carriers, Drawback, and Bonds," wherever they appear.

B. Paragraph 1.B is amended by substituting "Inspection and Control Division" and "Division of Inspection and Control" and by substituting "Appraisement and Collections Division" for "Division of Appraisement and Collections" wherever they appear.

2. This order shall take effect upon October 1, 1972.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

[FR Doc.72-20286 Filed 11-24-72;8:50 am]

Office of the Secretary

[T.D. 72-320; Treasury Department Order 165-19, Amdt. 2]

BUREAU OF CUSTOMS

Changes in Designation of Certain Divisions

NOVEMBER 15, 1972.

By virtue of the authority vested in the Secretary of the Treasury, and pursuant to authorization given to me by Treasury Deparment Order No. 190 (Revision 8) (September 1, 1972) 37 F.R. 18572 (1972), the following changes are hereby made in the designations of divisions in the Bureau of Customs:

The designation of the Division of Technical Services is changed to Technical Services Division.

The designation of the Division of Appraisement and Collections is changed to Appraisement and Collections Division.

The designation of the Division of Inspection and Control is changed to Inspection and Control Division.

The designation of the Division of Classification and Value is changed to Classification and Value Division.

The designation of the Division of Entry Procedures and Penalties is changed to Entry Procedures and Penalties Division.

The designation of the Division of Carriers, Drawback, and Bonds is changed to Carriers, Drawback, and Bonds Division.

The designation of the Division of Regulations is changed to Regulations Division.

Treasury Department Order No. 165-19 dated December 29, 1965, (T.D. 66-3, 31 F.R. 228), as amended by T.D. 72-41 (37 F.R. 1496), is hereby amended to the extent that it is inconsistent with the foregoing.

This order shall take effect upon October 1, 1972.

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-20287 Filed 11-24-72;8:50 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[New Mexico 17369]

NEW MEXICO

Order Closing Lands to Collection of Petrified Wood

NOVEMBER 16, 1972.

Pursuant to the provisions of 43 CFR 3622.3, the following described public lands are hereby closed to the collection of petrified wood as provided for in section 2 of the Act of September 28, 1962 (76 Stat. 652):

NEW MEXICO PRINCIPAL MERIDIAN

T. 23 N., R. 13 W.,
Sec. 4, N½SE¼.
T. 24 N., R. 13 W.,
Sec. 33, E½SW¼ and SE¼;
Sec. 35, SW¼.

The areas described aggregate 480 acres in San Juan County.

ROBERT O. BUFFINGTON,
Acting State Director.

[FR Doc.72-20293 Filed 11-24-72;8:50 am]

[OR 5812, OR 6137]

OREGON

Opening of Public Lands; Correction

NOVEMBER 17, 1972.

In F.R. Doc. 72-18171; appearing on page 22887 of the issue for Thursday, October 26, 1972, the following change should be made in the land description:

OR 6137

WILLAMETTE MERIDIAN

T. 21 S., R. 20 E., Deschutes County, Add: Sec. 21, E½, NW¼, N½SW¼, E½SW¼ SW¼, SE¼SW¼.

VIRGIL O. SEISER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.72-20262 Filed 11-24-72;8:48 am]

National Park Service

HISTORIC AMERICAN BUILDINGS SURVEY ADVISORY BOARD

Notice of Meeting

Notice is hereby given in accordance with Executive Order 11671 that meetings of the Historic American Buildings Survey Advisory Board will be held on December 1 and 2 in Indianapolis, Ind. The meetings will be held in separate sections at the following locations: The Athletic Club, the Allison Mansion, and the Crown Hill Cemetery Restored Waiting Room, which is the headquarters of the Historic Landmarks Foundation of Indiana.

The Historic American Buildings Survey Advisory Board was established by the Secretary of the Interior on November 17, 1933, to render advice on matters related to the task of preserving records of the historic architectural monuments of the United States.

The members of the Advisory Board are the following:

Orin M. Bullock, Jr., Baltimore, Md.
D. O. Davies, New Castle, Pa.
Dr. Richard W. J. Hale, Boston, Mass.
John D. Henderson, San Diego, Calif.
Nicholas H. Holmes, Jr., Mobile, Ala.
Dr. Barclay G. Jones, Ithaca, N.Y.
H. Roll McLaughlin, Carmel, Ind.
Dr. L. Quincy Mumford, Librarian of Congress.
F. Blair Reeves, Gainesville, Fla.
Dr. George B. Tatum (Chairman), Newark, Del.
Miss Barbara Wriston, Chicago, Ill.

Times and places of meetings, and significant agenda items, are as follows:

DECEMBER 1—9:15 A.M., ALLISON MANSION

Historic American Buildings Survey report on 1972 activities.
Statistical report on geographical distribution of Historic American Buildings Survey recordings.
Discussion of 1973 summer projects.

1:15 P.M., ATHLETIC CLUB

Need for, and funding of, computerization of HABS records.
Discussion of reproduction of HABS measured drawings.

DECEMBER 2—9:15 A.M., CROWN HILL CEMETERY

Discussion of editorial projects in the United States.
Report on the publications program.
Discussion of new photo exhibition.

Further information concerning these meetings may be obtained from the Division of Historic Architecture, National Park Service, 1100 L Street NW., Washington, DC (Area Code 202—386-4089).

STANLEY W. HULETT,
Associate Director, National Park Service.

NOVEMBER 15, 1972.

[FR Doc.72-20158 Filed 11-24-72;8:45 am]

HAROLD M. McCLURE, JR.

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of October 20, 1972.

Dated: October 20, 1972.

HAROLD M. McCLURE, Jr.

[FR Doc.72-20263 Filed 11-24-72;8:48 am]

WILLIAM R. REMALIA

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of October 26, 1972.

Dated: October 27, 1972.

WILLIAM R. REMALIA.

[FR Doc.72-20264 Filed 11-24-72;8:48 am]

Office of the Secretary

WATCHES AND WATCH MOVEMENT

Proposed Rules for Allocation of Quotas for Calendar Year 1973 Among Producers Located in Virgin Islands, Guam, and American Samoa

CROSS REFERENCE: For a document issued jointly by the Departments of Commerce and the Interior regarding rules which will govern the allocation of duty-free quotas of watches and watch movements among producers in the Virgin Islands, Guam and American Samoa for calendar year 1973, see F.R. Doc. 72-20321, Department of Commerce, Office of the Secretary *infra*.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

GRAIN STANDARDS

Montana Inspection Point

Statement of considerations. The Montana State University, Bozeman, Mont., has proposed that, effective January 1, 1973, its designation under section 3(m) of the U.S. Grain Standards Act (7 U.S.C. 75(m)) to operate an official grain inspection agency at Bozeman, Mont., be canceled. Therefore, the Agricultural Marketing Service proposes to cancel the designation of said University as the official grain inspection agency at Bozeman, effective on said date.

Interested organizations and persons are hereby given opportunity to make application for designation to operate an official inspection agency at Bozeman, Mont., according to the requirements in § 26.97 of the regulations (7 CFR 26.97) under the U.S. Grain Standards Act.

NOTE: Section 7(f) of the Act (7 U.S.C. 79 (f)) provides generally that not more than one inspection agency shall be operative at any one time for any one city, town, or other area.

Members of the grain industry who wish to submit views and comments are requested to include the name of the person or agency which they recommend to be designated to operate an official inspection agency at Bozeman, Mont.

Opportunity is hereby afforded all interested persons to submit written data, views, or arguments with respect to this matter to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions shall be in duplicate and shall be mailed to the Hearing Clerk not later than 20 days after this notice is published in the FEDERAL REGISTER. All submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). Consideration will be given to the written data, views, or arguments so filed with the Hearing Clerk and to other information available to the U.S. Department of Agriculture before final determination is made with respect to this matter.

Done in Washington, D.C., on November 20, 1972.

E. L. PETERSON,
Administrator, Agricultural Marketing Service.

[FR Doc.72-20280 Filed 11-24-72;8:49 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-312]

PENN TANKER CO. ET AL.

Operating-Differential Subsidy Applications

Notice is hereby given that applications have been filed under the Merchant Marine Act of 1936, as amended, for operating-differential subsidy with respect to bulk cargo carrying service in the U.S. foreign trade, principally between the United States and the Union of Soviet Socialist Republics, to expire on June 30, 1973 (unless extended only for subsidized voyages in progress on that date). Inasmuch as the below listed Applicants, and/or related persons or firms, employ ships in the domestic intercoastal or coastwise service, written permission of the Maritime Administration under section 805(a) of the Merchant Marine Act, 1936, as amended, will be required for each such Applicant if its application for operating-differential subsidy is granted.

The following Applicants have requested permission involving the domestic, intercoastal or coastwise services described below:

Name of Applicant. Penn Tanker Co. (Penntanker).

Description of domestic service and vessels. The applicant, Penntanker, has engaged in the domestic intercoastal and coastwise service with the tankers *Penn Challenge* and *Penn Champion* and may operate in the future in various domestice trades commercially, under charter to the Military Sealift Command or others, and has requested written permission for Penntanker and its affiliates to engage in the domestic trades as well as the right to move a vessel from one domestic trade to another, and/or from a foreign trade(s) to a domestic trade(s).

Written permission is now required by the applicant, Penntanker, notwithstanding that a voyage in the proposed service for which subsidy is sought would not be eligible for subsidy if the vessel carried domestic commerce of the United States on that voyage.

Name of applicants. Mount Vernon Tanker Co. (Mount Vernon), Mount Washington Tanker Co. (Mount Washington).

Description of domestic service and vessels. The applicants, Mount Vernon and Mount Washington, subsidiaries of Victory Carriers, Inc., and affiliates of one another, own the *Mount Vernon Victory* and *Mount Washington*, respectively, and each has requested written permission to, directly or indirectly, own, operate or charter one or more vessels in the domestic, intercoastal or coastwise service, and to own a pecuniary interest, directly or indirectly, in any person or concern that owns, charters or operates any vessels in the domestic, intercoastal or coastwise service. The applicants are

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also affiliated with Monticello Tanker Co. and Montpelier Tanker Co. who each own and operate a tanker operating in worldwide trading.

Written permission is now required by the applicants (Mount Vernon and Mount Washington) notwithstanding that a voyage in the proposed service for which subsidy is sought would not be eligible for subsidy if the vessel carried domestic commerce of the United States on that voyage.

Interested parties may inspect these applications in the Office of The Secretary, Maritime Administration, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20235.

Any person, firm or corporation having any interest (within the meaning of section 805(a)) in any application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit comments or views concerning the application must, by close of business on December 4, 1972, file same with the Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevent section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled for 10 a.m., December 6, 1972, in Room 4896, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20235. The purpose of the hearing will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm or corporation operating exclusively in the coastwise or intercoastal services, or (b) would be prejudicial to the objects and policy of the Act.

By order of the Maritime Administration.

Dated: November 22, 1972.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.72-20408 Filed 11-24-72;9:34 am]

National Bureau of Standards

LATEX FOAM MATTRESSES FOR HOSPITALS

Notice of Circulation for Acceptance of a Recommended Standard

The National Bureau of Standards is giving public notice and circulating for public comment the following recommended standard (TS) for a determination of its acceptance to manufacturers, distributors and users: TS 203b, "Latex Foam Mattresses for Hospitals".

This circulation is being made in accordance with the provisions of § 10.5 of the Department of Commerce Procedures for the Development of Voluntary Product Standards (15 CFR Part 10, as amended; 35 F.R. 8349 dated May 28, 1970).

Copies of this recommended standard may be obtained from the Office of Engineering Standards Services, National Bureau of Standards, Washington, D.C. 20234. Written comments or objections concerning the standard should be addressed to the Office of Engineering Standards Services within 45 days following publication of this notice.

Dated: November 20, 1972.

LAWRENCE M. KUSHNER,
Acting Director.

[FR Doc.72-20300 Filed 11-24-72;8:51 am]

Office of the Secretary

WATCHES AND WATCH MOVEMENTS

Proposed Rules for Allocation of Quotas for Calendar Year 1973 Among Producers Located in Virgin Islands, Guam, and American Samoa

Pursuant to the authority granted the Secretaries by Public Law 89-805 the Departments of Commerce and the Interior are considering rules which will govern the allocation of duty-free quotas of watches and watch movements among producers in the Virgin Islands, Guam, and American Samoa for calendar year 1973.

The Departments will issue final rules not less than 30 days subsequent to the filing of this notice with the FEDERAL REGISTER. Interested parties may participate in the proposed rule making by submitting such written data, views or arguments as they may desire regarding the proposed rules set out below. All communications should be submitted within 15 days from the filing date of this notice in the FEDERAL REGISTER, and addressed to the:

Office of Import Programs, U.S. Department of Commerce, Washington, D.C. 20230, Attention: Special Import Programs Division.

Such communications shall be submitted in an original and three copies and must include the following information:

(a) The name, address, and telephone number of the party submitting the brief.

(b) The name, address, telephone number, and official position of the person submitting the brief on behalf of the party referred to in subparagraph (a).

SECTION 1. Upon effective date of these rules, or as soon thereafter as practicable, each producer located in the Virgin Islands, Guam, and American Samoa which received a duty-free watch quota allocation for calendar year 1972, will receive an initial quota allocation for calendar year 1973 equal to 50 percent of the number of watch units assembled by such producer in the particular territory and entered duty-free into the customs territory of the United States during the first 10 months of calendar year 1972, or 5,000 units, whichever is greater.

SEC. 2. Each producer to which an initial quota has been allocated pursuant to section 1 hereof must, on or before April 1, 1973, have assembled and entered duty free into the customs territory of the United States at least 30 percent of its initial quota allocation. Any producer failing to enter duty free into the customs territory of the United States on or before April 1, 1973, a number of watch units assembled by it in a particular territory equal to, or greater than, 30 percent of the number of units initially allocated to such producer for duty-free entry from that territory will, upon receipt of a show cause order from the Departments, be given an opportunity, within 30 days from such receipt, to show cause why the duty-free quota which it would otherwise be entitled to receive should not be canceled or reduced by the Departments. Such a show cause order may also be issued whenever there is reason to believe that shipments through December 31, 1973, by any producer under the quota allocated to it for calendar year 1973 will be less than 90 percent of the number of units allocated to it. Upon failure of any such producer to show good cause, deemed satisfactory by the Departments, why the remaining, unused portion of the quota to which it would otherwise be entitled should not be canceled or reduced, said remaining, unused portion of its quota shall be either canceled or reduced, whichever is appropriate under the show cause order. In the event of a quota cancellation or reduction under this section, the Departments will promptly reallocate the quota involved, in a manner best suited to contribute to the economy of the territories, among the remaining producers: *Provided however*, That if in the judgment of the Departments it is appropriate, applications from new firms may, in lieu of such reallocation, be invited for any part or all of any unused portions of quotas remaining unallocated as a result of cancellation or reduction hereunder. Every producer to which a quota is granted is required to file a report on April 15, July 15, and October 15, of each year covering the periods January 1 to March 31, April 1 to June 30, and July 1 to September 30 respectively via registered mail on Form OIPF-844, copies of which will be forwarded to each producer at its territorial address of record at least 15 days prior to the required reporting date. Copies of this form may also be obtained from the Special Import Programs Division, Office of Import Programs, U.S. Department of Commerce, Washington, D.C. 20230. Form OIPF-844 will provide the Departments with information regarding the producer's watch movement assembly operation in the insular possessions. Such information may include the status of beginning and ending inventories of finished watch movements and component parts, scheduled delivery dates and number of watch movement parts and components ordered, number of watch movements assembled, number of watch movements entered into the customs territory of the United States, and a list of confirmed orders for shipment of finished watch movements into the customs territory of the United States prior to December 31, 1973. Each producer to which a quota is granted will also report on Form OIPF-844 any change in ownership and control which has occurred subsequent to the filing of an application for a watch quota on Form OIPF-764 (see section 8, below).

SEC. 3. Application forms will be mailed to recipients of initial quota allocations as soon as practicable and must be filed with the Departments on or before January 31, 1973. All data required must be supplied as a condition for annual allocations and are subject to verification by the Departments. In order to accomplish this verification it will be necessary for representatives of the Departments to meet with appropriate officials of quota recipients in the insular possessions in order to have access to company records. Representatives of the Departments plan to perform this verification beginning on or about February 15, 1973 in Guam and American Samoa and beginning on or about March 1, 1973 in the Virgin Islands, and will contact each producer locally regarding the verification of its data.

SEC. 4. (Virgin Islands only) The annual quotas for calendar year 1973 for the Virgin Islands will be allocated as soon as practicable after April 1, 1973, on the basis of (1) the number of units assembled by each producer in the territory and entered by it duty-free into the customs territory of the United States during calendar year 1972, (2) the total dollar amount of wages subject to FICA taxes paid by such producer in the territory during calendar year 1972 to persons whose pay was attributable to its Headnote 3(a) watch assembly operation, and (3) the total net dollar amount of income taxes applicable to its calendar year 1972 Headnote 3(a) watch assembly operation, irrespective of whether such taxes are partially or fully exempt by the territorial government. In making allocations under this formula, an equal weight of 40 percent will be assigned to production and shipment history and to wages subject to FICA taxes, and a weight of 20 percent will be assigned to the total net dollar amount of income taxes applicable to calendar year 1972 Headnote 3(a) watch assembly operations.

SEC. 5. (Guam only) The annual quotas for calendar year 1973 for Guam will be allocated as soon as practicable after April 1, 1973 on the basis of the number of units assembled by each producer in the territory and entered by it duty-free into the customs territory of the United States during calendar year 1972, and the total dollar amount of wages subject to FICA taxes paid by such producer in the territory during calendar year 1972 to persons whose pay was attributable to its Headnote 3(a) watch assembly operation. In making allocations under this formula, equal weight will be assigned to production and shipment history and to wages subject to FICA taxes.

SEC. 6. (Virgin Islands and Guam) For purposes of allocating watch quotas for calendar year 1973 under sections 4 and 5 above, any watches or watch movements shipped from the Virgin Islands or Guam during calendar year 1972 for duty-free entry into the customs territory of the United States against a producer's 1972 watch quota, and which were lost prior to entry into the customs territory of the United States, shall nevertheless be considered as having been entered into the customs territory for purposes of quota fulfillment: *Provided*, That the Departments have been satisfied that shipment was in fact made but lost prior to entry into the customs territory.

SEC. 7. (Virgin Islands only) With respect to the Virgin Islands quota, in the event that the quantity of any unused calendar year 1972 quota plus any increase (or minus any decrease) in the amount of quota available for calendar year 1973 in comparison with that for 1972, equals or exceeds 200,000 units, the Departments may set aside 200,000 units of the calendar year 1973 Virgin Islands quota for new firms and invite quota applications from new firms on Form OIPF-764. The Departments may also require new firms to provide information regarding the applicant's experience in watch movement assembly and distribution; anticipated employment of local workers and proposed wage rates; watch movement assembly operations to be performed in the Virgin Islands and estimated direct labor costs; anticipated capital investment in the Virgin Islands and proposed source of financing. (By "new firm" is meant an entity which has not heretofore been allocated a quota under Public Law 89-805 and which is completely separate and unassociated with any present or previous producer in terms of ownership and control.) Based on the Departments' evaluation of the information submitted by applicants, the Departments may allocate the set-aside portion of the calendar year 1973 Virgin Islands quota among those applicants whose proposals, in the judgment of the Departments, offer the likelihood of the greatest contribution to the economy of the Virgin Islands, and in such a manner as, in the judgment of the Departments, will best serve the interests of the territory.

SEC. 8. The rules restricting transfers of duty-free quotas issued on January 29, 1968, and published in the FEDERAL REGISTER on January 31, 1968 (33 F.R. 2399), are hereby incorporated by reference as applicable to transfers of quotas issued during calendar year 1973 except that detailed reporting of ownership and control will be reported on an annual basis on Form OIPF-764 at the time the producer applies for an annual duty-free watch quota for calendar year 1973. Subsequent change in ownership and control will be reported on April 15, July 15, and October 15, 1973, on Form OIPF-844 required in section 2 above.

Any interested party has the right to petition for the amendment or repeal of the foregoing rules and may seek relief from the application of any of their provisions upon a showing of good cause under the procedures relating to reviews by the Secretaries of Commerce and the Interior which were published in the FEDERAL REGISTER on November 17, 1967 (32 F.R. 15818).

Dated: November 20, 1972.

STANLEY NEHMER,
Deputy Assistant Secretary, and Director, Bureau of Resources and Trade Assistance, Department of Commerce.

HARRISON LOESCH,
Assistant Secretary for Public Land Management, Department of the Interior.

[FR Doc.72-20321 Filed 11-24-72;8:53 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 3523; Docket No. FDC-D-531; NDA 6-257 etc.]

CERTAIN COMBINATION DRUGS CONTAINING XANTHINE DERIVATIVES

Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Applications

In an announcement (DESI 3523) published in the FEDERAL REGISTER of July 26, 1972 (37 F.R. 14899), the Commissioner of Food and Drugs announced his conclusions pursuant to the evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group on the following drugs:

1. Deltasmyl tablets containing theophylline, ephedrine hydrochloride, prednisone, and phenobarbital; Roussel Corp., 155 East 44th Street, New York, NY 10017 (NDA 11-314).

2. That part of NDA 6-257 pertaining to Hydryllin tablets and elixir containing diphenhydramine and aminophylline; G. D. Searle & Co., Post Office Box 5110, Chicago, IL 60680.

3. Nethaprin Capsules and Syrup (2 reports) containing etafedrine hydrochloride, ambuphylline, and doxylamine succinate; Merrell-National Laboratories, Division of Richardson-Merrell, Inc., 110 East Amity Road, Cincinnati, OH 45215 (NDA 6-821).

4. Asminyl H-F Tablets containing sodium phenobarbital, ephedrine sulfate,

V 37-228 NOV 25 72 XUM

chlorpheniramine maleate, and theophylline; Cole Pharmacal Co., Inc., 3721 Laclede Avenue, St. Louis, MO 63108. Asminyl H-F Tablets, although listed in the announcement of July 26, 1972, as being a part of NDA 3-523, was never specifically included in, or supplemented to, this NDA. It is thus not an appropriate subject of this notice but will be affected by this notice as it is a related drug.

The announcement stated that there is a lack of substantial evidence that these combination drugs, as presently formulated, will have the effects that they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling, or that each component of the combination drug contributes to the total effects claimed and that the Commissioner of Food and Drugs intended to initiate proceedings to withdraw approval of the new drug applications for the drugs.

Interested persons were invited to submit pertinent data bearing on the proposal within 30 days following publication of the announcement. No data providing substantial evidence of effectiveness have been received.

Therefore, notice is given to the holder(s) of the new drug application(s) and to any other interested person that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the listed new drug application(s) or pertinent parts thereof and all amendments and supplements thereto on the grounds that new information before him with respect to the drug(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug(s) will have all the effects purported or represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application(s) reviewed. See 21 CFR 130.40 (37 F.R. 23185, October 31, 1972). Any manufacturer or distributor of such an identical, related, or similar product is an interested person who may in response to this notice submit data and information, request that the new drug application(s) not be withdrawn, request a hearing, and participate as a party in any hearing. Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD-300), 5600 Fishers Lane, Rockville, Md. 20852.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner hereby gives the applicant(s) and any other interested person an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER the applicant(s) and any other interested person is required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether or not to avail himself of the opportunity for a hearing. Failure of an applicant or any other interested person to file a written appearance of election within said 30 days will constitute an election by him not to avail himself of the opportunity for a hearing.

If no person elects to avail himself of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the application(s) or pertinent parts thereof.

If an applicant or any other interested person elects to avail himself of the opportunity for a hearing, he must file, within 30 days after publication of this notice in the FEDERAL REGISTER, a written appearance requesting the hearing, giving the reasons why approval of the new drug application(s) should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data he is prepared to prove in support of his opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing (21 CFR 130.14(b)).

If review of the data submitted by an applicant or any other interested person warrants the conclusion that there exists substantial evidence demonstrating the effectiveness of the product(s) for the labeling claims involved, the Commissioner will rescind this notice of opportunity for hearing.

If review of the data in the application(s) and data submitted by the applicant(s) or any other interested person in a request for a hearing, together with the reasoning and factual analysis in a request for a hearing, warrants the conclusion that no genuine and substantial issue of fact precludes the withdrawal of approval of the application(s), the Commissioner will enter an order of withdrawal making findings and conclusions on such data.

If, upon the request of the new drug applicant(s) or any other interested person, a hearing is justified, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence. All persons interested in identical, related, or similar products covered by the new drug application(s) will be afforded an opportunity to appear at the hearing, file briefs, present evidence, cross-examine witnesses, submit suggested findings of fact, and otherwise participate as a party. The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

Requests for a hearing and/or elections not to request a hearing may be seen in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-53, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: November 14, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-20250 Filed 11-24-72;8:46 am]

[DESI 2411; Docket No. FDC-D 510; NDA 2-411]

ELI LILLY

Potassium Thiocyanate; Notice of Withdrawal of Approval of New Drug Application

A notice was published in the FEDERAL REGISTER of August 30, 1972 (37 F.R. 17574) extending to the holder of the new drug application listed below, and to any interested person an opportunity for hearing on the proposal of the Commissioner of Food and Drugs to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act, withdrawing approval of the listed application and all amendments and supplements thereto. The basis of the proposed action was the lack of substantial evidence that the effectiveness of this product is sufficient to justify its use in view of known serious hazards associated with its use.

NDA 2-411; Potassium Thiocyanate Enseals (enteric coated tablets); Eli Lilly & Co., Post Office Box 618, Indianapolis, IN 46206.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application reviewed and are subject to this notice. See 21 CFR 130.40 (37 F.R. 23185, October 31, 1972). Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD-300), 5600 Fishers Lane, Rockville, Md. 20852.

Neither Eli Lilly & Co., nor any other interested person has filed a written appearance of election as provided by said notice. The failure to file such an appearance constitutes an election by such persons not to avail themselves of an opportunity for hearing.

The Commissioner of Food and Drugs, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1053, as amended; 21 U.S.C. 355), and the Administrative Procedure

Act (5 U.S.C. 554), and under authority delegated to him (21 CFR 2.120), finds that on the basis of new information before him with respect to the drug, evaluated together with the evidence available to him when the application was approved, that there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof.

Therefore, pursuant to the foregoing findings, approval of the above-listed new drug application and all amendments and supplements thereto is withdrawn effective on the date of publication hereof in the FEDERAL REGISTER. Shipment in interstate commerce of the above drug product or of any identical, related, or similar product, not the subject of an approved new drug application, is henceforth unlawful.

Dated: November 16, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-20251 Filed 11-24-72;8:47 am]

National Institutes of Health

CHEMICAL/BIOLOGICAL INFORMATION-HANDLING REVIEW COMMITTEE

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the Chemical/Biological Information-Handling Review Committee, Tuesday, December 19, 1972, at 9 a.m., University of Pittsburgh, Pittsburgh, Pa. This meeting will take place in two different locations at the University, as follows:

Part 1: 401 Bruce Hall, 9 a.m.-9:30 a.m. Closed executive session for briefing evaluators. 9:30 a.m.-12 Noon. Open seminar on the contract activities of the University of Pittsburgh in the Development of Techniques for Computer Based Inferential Information Retrieval in Pharmacology.

Part 2: 618 Scaife Hall, 1 p.m.-3 p.m. Open presentation of application of the PROPHET System by the University of Pittsburgh.

Attendance by the public will be limited to space available.

The Information Officer who will furnish summaries of the meeting and rosters of committee members is Mr. James Augustine, Division of Research Resources, Building 31, Room 4B03, Bethesda, Md. 20014, telephone 301—496-5545.

The Executive Secretary from whom substantive program information may be obtained is Dr. William Raub, Chief, Biotechnology Resources Branch, Division of Research Resources, Building 31, Room 5B19, Bethesda, Md. 20014, telephone 301—496-5411.

JOHN F. SHERMAN,
Deputy Director, National Institutes of Health.

NOVEMBER 17, 1972.

[FR Doc.72-20298 Filed 11-24-72;8:51 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-346]

CLEVELAND ELECTRIC ILLUMINATING CO. AND TOLEDO EDISON CO.

Notice of Availability of Draft Environmental Statement and Applicant's Environmental Report and Supplemental Environmental Reports

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that a document entitled "Draft Environmental Statement," related to the construction and operation of the Davis-Besse Nuclear Power Station, located on the southwest shore of Lake Erie in Ottawa County, Ohio, by the Toledo Edison Co., and the Cleveland Electric Illuminating Co., has been prepared by the Commission's Directorate of Licensing. The statement is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, and in the Ida Rupp Public Library, Port Clinton, Ohio 43452. The statement is also being made available at the Office of the Governor, State Clearinghouse, 62 East Broad Street, Second Floor, Columbus, OH 43215. Copies of the Commission's draft environmental statement may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Documents entitled "Applicants' Environmental Report Construction Permit Stage" and supplements thereto, submitted by The Toledo Edison Co. and The Cleveland Electric Illuminating Co. are also available for public inspection at the above-designated locations. Notice of the availability of "Applicants' Supplemental Environmental Report Construction Permit Stage" was published in the FEDERAL REGISTER on December 24, 1971 (36 F.R. 24946).

Pursuant to Appendix D to 10 CFR Part 50, interested persons may, within forty-five (45) days from date of publication of this notice in the FEDERAL REGISTER, submit comments on the proposed continuation, modification, or termination of Construction Permit No. CPPR-80, "Applicants' Environmental Report" and supplements thereto, and the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of these reports and the Draft Environmental Statement (local agencies may obtain these documents upon request) and, when any comments thereon by Federal, State, and local official are received, they will be made available for public inspection at the above-designated locations. Comments from interested members of the public should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 17th day of November 1972.

For the Atomic Energy Commission.

DANIEL R. MULLER,
Assistant Director for Environmental Projects, Directorate of Licensing.

[FR Doc.72-20168 Filed 11-24-72;8:45 am]

[Docket No. 50-263]

NORTHERN STATES POWER CO.

Notice of Availability of Final Environmental Statement for the Monticello Nuclear Generating Plant, Unit 1

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in appendix D to 10 CFR Part 50, notice is hereby given that the "Final Environmental Statement Related to the Monticello Nuclear Generating Plant, Unit 1, Docket No. 50-263," prepared by the Directorate of Licensing, U.S. Atomic Energy Commission, is being placed in the following locations where it will be available for inspection by members of the public: The Commission's Public Document Room at 1717 H Street NW., Washington, DC 20545, and at the Environmental Resources Center, Minneapolis Public Library, 1222 Southeast Fourth Street, Minneapolis, MN 55414. The report is also being made available at the Minnesota State Planning Agency, Suite 802, 550 Cedar Street, St. Paul, MN 55101.

The notice of availability of applicant's Environmental Report and AEC's Draft Environmental Statement for the Monticello Nuclear Generating Plant and requests for comments from interested persons was published in the FEDERAL REGISTER on June 2, 1972 (37 F.R. 11080). The comments received from Federal, State, and local officials and interested members of the public have been included as appendices to the Final Environmental Statement.

Single copies of the Final Environmental Statement may be obtained by writing the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention:

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Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 20th day of November 1972.

For the Atomic Energy Commission.

DANIEL R. MILLER,
Assistant Director for Environmental Projects, Directorate of Licensing.

[FR Doc 72-20277 Filed 11-24-72;8:49 am]

[Rev. 1]

SAFETY ANALYSIS REPORTS FOR NUCLEAR POWER PLANTS

Proposed Standard Format and Content

The Atomic Energy Commission's regulations (50.34 10 CFR Part 50) require that each application for a construction permit for, among other things, a nuclear reactor facility include a preliminary safety analysis report and that each application for a license to operate such a facility include a final safety analysis report.

To aid applicants in the preparation of Safety Analysis Reports, the Commission's regulatory staff prepared and issued in February 1972 a proposed "Standard Format and Content of Safety Analysis Reports for Nuclear Power Plants." Numerous comments were received, resulting in a revised standard format document which reflects those comments and supersedes the February 1972 issue. The new document identifies the principal information that is needed by the regulatory staff in evaluating applications for nuclear power plant construction permits and operating licenses and describes a format for presenting this information. Use of the standard format will help to assure that information provided is complete, will assist the staff and others in locating information, and will aid in shortening the time needed for the review process.

The specific information identified and the detailed subdivisions of the standard format have been prepared for water-cooled nuclear power plants, but the general content and format are also applicable to safety analysis reports for power reactors of other types.

All interested persons who desire to submit comments or suggestions should send them to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff. Requests for copies of the standard format should be sent to the Director of Regulatory Standards, U.S. Atomic Energy Commission, Washington, D.C. 20545.

(5 U.S.C. 552(a))

Dated at Bethesda, Md., this 21st day of November 1972.

For the Atomic Energy Commission.

LESTER ROGERS,
Director of Regulatory Standards.

[FR Doc.72-20299 Filed 11-24-72;8:51 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24679]

EAST AFRICAN AIRWAYS CORP.

Notice of Hearing Regarding Renewal of Foreign Air Carrier Permit

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled matter is assigned to be held on December 20, 1972, at 10 a.m., local time, in Room 503, 1825 Connecticut Avenue NW., Universal Building, Washington, DC, before the undersigned.

Dated at Washington, D.C., November 20, 1972.

[SEAL] HENRY WHITEHOUSE,
Administrative Law Judge.

[FR Doc.72-20315 Filed 11-24-72;8:52 am]

[Docket No. 24555]

MINIMUM CHARGES PER AIR FREIGHT SHIPMENT

Notice of Postponement of Hearing

Notice is hereby given that the hearing in the above-entitled proceeding has been postponed from November 28, 1972 (37 F.R. 23589, Nov. 4, 1972), to December 19, 1972, at 10 a.m., e.s.t. in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, DC.

Dated at Washington, D.C., November 20, 1972.

[SEAL] THOMAS P. SHEEHAN,
Administrative Law Judge.

[FR Doc.72-20314 Filed 11-24-72;8:52 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19639, 19640; FCC 72-1031]

NORTHEAST OKLAHOMA BROADCASTING, INC., AND PBL BROADCASTING CO.

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In regard applications of Northeast Oklahoma Broadcasting, Inc., Vinita, Okla., Requests: 1470 kHz, 500 W., Day, Docket No. 19639, File No. BP-19163, PBL Broadcasting Co., Vinita, Okla., Requests: 1470 kHz, 500 W., Day, Docket No. 19640, File No. BP-19233; for construction permits.

1. The Commission has before it the above-captioned and described applications, each requesting authority to operate on a regular basis, the facilities of station KVIN, Vinita, Okla. The applications are mutually exclusive, and, therefore, a choice between the two must be determined after a comparative hearing.

2. On November 2, 1972, PBL Broadcasting Co. filed with the Commission an amendment specifying a site other than the present KVIN site and new equipment instead of the present physical facilities of KVIN as originally proposed. The amendment raises two questions which must be resolved in the hearing. Although the PBL Broadcasting Co. proposes a material change in the technical aspects of its application, it has not indicated what effect the acquisition of new equipment and a different site will have on its financial proposal. Therefore, a financial issue will be specified. The other question raised by the new site proposal is whether the tower height at the new location will constitute a menace to air navigation.

3. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

4. *Accordingly, it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine whether the P B L Broadcasting Co. is financially qualified to construct and operate its proposed station.

2. To determine whether there is a reasonable possibility that the tower height and location proposed by the P B L Broadcasting Co. would constitute a menace to air navigation.

3. To determine which of the proposals would better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

5. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

6. *It is further ordered,* That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: November 15, 1972.

Released: November 21, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-20308 Filed 11-24-72;8:52 am]

[Docket No. 19627; FCC 72-994]

WLCY-TV, INC.

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In regard application of WLCY-TV, Inc. (WLCY-TV), Largo, Fla. Docket No. 19627, File No. BPCT-4484, for construction permit.

1. The Commission has before it (a) the application (BPCT-4484) of WCLY-TV, Inc. (WLCY), licensee of television broadcast station WLCY-TV, channel 10, Largo, Fla., filed on December 15, 1971; (b) a petition to deny filed on January 24, 1972, by Hubbard Broadcasting, Inc. (Hubbard), licensee of television broadcast station WTOG, channel 44, St. Petersburg, Fla.; (c) a petition to deny filed by the Sarasota-Bradenton Florida Television Co., Inc. (Sarasota), licensee of television broadcast station WXLT-TV, channel 40, Sarasota, Fla.; (d) WLCY's opposition filed April 7, 1972; (e) a reply filed on May 17, 1972, by Hubbard Broadcasting, Inc.; (f) a reply filed May 17, 1972, by Sarasota-Bradenton Florida Television Co., Inc.; and related pleadings.[1]

2. Station WLCY-TV is currently authorized to operate with a nondirectionalized antenna with a horizontal visual effective radiated power of 316 kw. from an antenna height of 500 feet above average terrain at a transmitter site located approximately 2.6 miles north of Tarpon Springs, Fla. WLCY originally proposed to merely increase its antenna height from 500 feet to 1,493 feet above average terrain; but, on April 7, 1972, WLCY reacted to the petitions by amending its application to move its tower 50 feet and specifying a directionalized antenna system, which reduced its signal strength toward both Sarasota and St. Petersburg.

3. Both Hubbard and Sarasota compete for audience and revenues with Station WLCY-TV, and, under these circumstances, have standing as parties in interest within the meaning of section 309(e) of the Communications Act of 1934, "Federal Communications Commission v. Sanders Brothers Radio Station," 309 U.S. 470 (1940). Hubbard alleges that a grant of the WLCY application will result in adverse UHF impact; that the proposed tower would constitute a hazard to both air navigation and to persons in the area; that the property owned by WLCY would not be sufficient for the proposed tower; that the applicant has not been candid with the Commission with respect to its activities before the FAA; that the applicant's performance with respect to past programing promises raises an issue; and that the applicant's previous wage and hour violation raises an issue. In addition to the UHF impact issue, Sarasota raises questions of possible anticompetitive practices by Station WLCY-TV. WLCY argues that in view of the amendment to directionalize the proposed antenna system to suppress radiation toward Sarasota and St. Petersburg, the UHF impact issue is now moot. Moreover, WLCY argues that the current FAA determination of no hazard has already answered the question of whether the proposed tower would constitute an air hazard. With regard to the remaining requested issues, WLCY offers a general denial.

4. In order to view this decision in the proper perspective, a brief summary of the history of the allocation and authorization of Channel 10 to Largo is of value. Following a rule-making proceeding, the Commission, in 1957, allocated Channel 10 to Tampa-St. Petersburg, Fla. "Tampa Drop-In Case," FCC 57-568, 14 RR 1663. At that time, the Commission contemplated Channel 10's transmitter would be located northwest of Tampa-St. Petersburg, at a site which would meet all of the Commission's mileage separation requirements. Following the allocation, WLCY (then named WTSP-TV, Inc.) and five other applicants, filed competing applications for Channel 10. All six applications specified transmitter sites located approximately 25 miles northwest of Tampa, which would meet all mileage separation and city coverage requirements. In 1958, due to aeronautical considerations, it became apparent that a tower with sufficient height to place a principal city signal (77 db) over either Tampa or St. Petersburg, could not be constructed at the proposed sites. WLCY and four of the five applicants therefore petitioned the Commission to waive the mileage separation requirements to permit Channel 10's transmitter to be located south of Tampa, and approximately 35 miles short of the required 220-mile separation to Channel 10, Miami. The Commission refused to waive the mileage requirements. "Florida Goldcoast Broadcasters, Inc," FCC 58-1012, 17 RR 871. The applicants thereafter were permitted to amend their applications to specify Largo, Fla., as their station location in order to meet the principal city coverage requirements of the rules. After a comparative hearing, the Commission, in November 1964, issued a construction permit to WTSP-TV, Inc. "Florida Goldcoast Broadcasters, Inc.," FCC 64-1009, 4 RR 2d 1. In February 1965, the Commission denied reconsideration of the grant of the construction permit. "Florida Goldcoast Broadcasters, Inc.," FCC 65-28, 4 RR 2d 81; affirmed "Florida Goldcoast Broadcasters, Inc. v. Federal Communications Commission," 112 U.S. App. D.C. 250, 352 F. 2d 726, 6 RR 2d 2001. In January 1966, WLCY filed an application (BPCT-3700) for a construction permit to relocate its transmitter 37.5 miles southeast of its present location and increase its antenna height to 1,463 feet above average terrain. Since the proposed transmitter site would have been 38 miles short-spaced to the Miami cochannel station, a waiver of § 73.610(b) of the rules was requested. The Commission designated the application for hearing to determine whether a waiver of the minimum mileage spacing requirements would be warranted and to determine whether the proposal would create any UHF impact. In addition, an issue was specified to include a determination as to whether WLCY could obtain FAA clearance for additional height at the existing site. With respect to this issue, both the Hearing Examiner and the Review Board found that the FAA would not approve increased height at the existing site. The Commission ultimately denied WLCY's application and found that a grant would have a substantial adverse impact upon UHF development, and that the applicant had not justified waiver of the spacing requirements. "WLCY-TV, Inc.," 16 FCC 2d 506 (1969). On September 29, 1970, the Commission denied WLCY's petition for review of the Review Board's decision, and denied a motion to reopen the record on the UHF impact issue. "WLCY-TV, Inc.," 25 FCC 2d 832. WLCY then petitioned for reconsideration of the Commission's denial of its motion to reopen the record on the UHF impact issue, and the Commission denied that petition. 28 FCC 2d 353, 21 RR 2d 572 (1971). Thereupon, this application was filed.

5. In support of its request for inclusion of a UHF impact issue, Hubbard has submitted an engineering report showing that 170,286 persons residing in Polk County, Fla., presently receive Grade A service from Station WTOG, and do not presently receive any service from Station WLCY-TV. The report further states that WLCY's proposed directionalized operation, would for the first time, provide Grade A service to 59,205 persons and Grade B service to 138,048 persons residing in Polk County. With respect to increased impact upon Station WXLT, Sarasota claims that WLCY's proposed Grade B contour would, for the first time, encompass 10 percent of the area and 21.1 percent of the population of Sarasota County, Fla., and that WLCY's proposal would intensify its signal to 72,334 persons residing in Manatee County, Fla. Sarasota further argues that the extension, for the first time, of WLCY-TV's Grade B service to 49,000 persons residing in Sarasota and Manatee Counties, will have a substantial adverse impact upon its operation.

6. WLCY argues that any increase in its viewers in Polk County would probably come from persons watching ABC's Orlando affiliate, WFTV, Channel 9, and further, that WTOG's Grade A signal in Polk County would continue to give it a competitive advantage over WLCY-TV's proposed Grade B signal. WLCY contends that there would be no significant change in the present overlap situation between Stations WLCY-TV and WXLT-TV, and assuming WTOG's projections are accurate, the maximum adverse im-

[1] On June 9, 1972, WLCY filed a motion for leave to file rejoinder and a rejoinder to replies to opposition to petition to deny. On June 22, 1972, Hubbard filed an opposition to WLCY's motion, and alternatively filed a motion for leave to file reply to rejoinder and a reply to the rejoinder. On July 5, 1972, WLCY filed an addendum to its rejoinder.

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pact on station WTOG would not exceed 2 percent of the station's audience, and would not exceed 4 percent of WXLT's present viewing audience. WLCY further argues that this minimal impact should be permissible under the Commission's "small wind of competition" doctrine,[2] and that under the circumstances, no useful purpose would be served by further evidentiary inquiry into the matter.

7. The Commission's longstanding UHF impact policy arose out of a realization that the development of a viable system of UHF broadcasting would not occur without providing protection against VHF stations. "Triangle Publications, Inc. v. FCC," 291 F. 2d 342 (1961). "WLVA, Inc. v. Federal Communications Commission," 23 RR 2d 2081. The Commission's desire to foster the development of UHF broadcasting is well known and there has been no basic change in this policy. After a careful review of all the allegations, the Commission finds that the petitioners have raised a substantial question of fact regarding UHF impact. WLCY's reliance upon "Soillcom, Inc.," 31 FCC 2d 656, 22 RR 2d 1012 (1971), and "Selma Television, Inc.," 29 FCC 2d 522, 21 RR 2d 1151 (1971), for rejection of a UHF impact issue is misplaced. In "Soillcom" the Commission was concerned with an unaffiliated VHF's moving closer to its community of license. In doing so, it reduced overlap with five UHF stations while slightly increasing the overlap with two established network affiliated UHF stations. Moreover, the overlap would only occur at the periphery of their predicted coverage areas. The Commission also rejected a UHF impact argument with respect to an unaffiliated UHF in Paducah, Ky., on the grounds that since there would be no overlap between the Grade B contours, the argument as to injury was speculative. In the "Selma" case, supra, the determination not to specify a UHF impact issue was based upon the fact that the proposal involved a slight increase in effective radiated power from 2.51 kw. to 25.1 kw., and a small increase of 3 percent to 4 percent in population in the overlap area. The Commission stated that petitioners had failed to show how the minor increases in population in the gain area would have a significant economic impact on UHF stations in Montgomery, Ala.

8. In the case at hand, it is clear that the proposed modification contemplates a substantial increase in coverage area with a concomitant increase in population. Moreover, this increase occurs within those areas of dominant influence of the two petitioning UHF stations.[3] With respect to station WXLT, an ABC affiliate, it is noted that the station is not presently receiving any network compensation because it has not yet reached a sufficient circulation rate. The extension of WLCY's signal into Sarasota and Manatee Counties will undoubtedly have an impact upon this aspect of WXLT's operation. Using the applicant's figures, we find that under the existing facilities, WLCY's Grade B contour encompasses 72,334 persons (74.5 percent) in Manatee County, and under the proposed facilities, 94,974 persons (98.8 percent) would be included within the Grade B contour. WLCY's present Grade B contour does not penetrate Sarasota County. Under the proposed operation, 25,461 persons (21.1 percent) would be within the WLCY Grade B contour. Since WLCY's proposed Grade B contour would, for the first time, encompass 49,000 persons residing in WXLT's area of dominant influence, we cannot conclude that the resulting impact would be minimal. Using WLCY's figures, WTOG presently serves 100 percent of Polk County and WLCY serves only 56,218 persons, or 23 percent of the population. The proposed operation would increase WLCY's coverage to 197,253 persons, or 86.8 percent of the population. WLCY urges that most of the gains in this area will be at the expense of the Orlando VHF. Nevertheless, to the extent that WTOG and WLCY compete in Polk County, the increased competition is substantial. As indicated above, this case is clearly distinguishable upon the facts from the "Selma" and "Soillcom" cases, supra. As recently as March 1971, in "WLCY–TV, Inc., Docket No. 17051," 28 FCC 2d 353, the Commission stated its policy with respect to UHF development had not changed, and that until "UHF becomes substantially equal and fully competitive, the question of 'UHF impact' must continue to be of substantial concern." We find that the petitioners have raised a substantial question of fact with respect to UHF impact, and an appropriate issue will be specified.

9. Hubbard argues that there are substantial and material questions of fact as to whether WLCY's proposed tower would constitute a hazard to air navigation. Hubbard has submitted an affidavit of an aviation consultant, describing the proposed tower as a hazard to visual flight air navigation and states that the proposed lighting of the tower would not alleviate the air hazard. Hubbard asserts that the FAA grossly underestimated the number of flights within the area of the tower. An affidavit of three pilots who fly VFR in the vicinity, further states that in the event of a tower increase, U.S. Highway 19 would no longer be available to pilots to use as a navigational guide. Hubbard contends that the Federal Aviation Administration's determination of no hazard[4] should not preclude the Commission from making its own determination with regard to whether or not the proposed tower would constitute an air hazard. WLCY argues that it is not necessary for the Commission to decide whether it has the statutory authority or administrative expertise to review a no hazard determination by the FAA because Hubbard has not made factual allegations not previously considered by the FAA. Citing "Antenna Farms," 8 FCC 2d 559, 10 RR 2d 1514 (1967), WLCY argues that the Commission has never asserted either the authority or the intention to review and reverse a final determination of no hazard by the FAA.

10. Section 309(a) of the Communications Act of 1934, as amended, requires the Commission, before granting an application, to make a finding that the public interest, convenience, and necessity will be served. In exercising this responsibility, the Commission must consider all relevant matters, including the height and location of proposed antenna structures, and will designate applications for hearing, if it is deemed necessary, to determine the possible existence of hazards to air navigation. This jurisdiction over antenna structures has been consistently recognized by Congress, the courts and the FAA. Because of this statutory obligation, the Commission cannot delegate to the FAA the authority to make the final determination as to whether or not an application should be denied because it will result in the creation of a hazard to air navigation, nor can the Commission grant the application simply because the FAA has made a no-hazard determination. However, the Commission relies heavily on the FAA's expertise, and will not designate an air hazard issue in the face of a no-hazard determination by the FAA, unless of course, the facts presented to the Commission raise a substantial and material question of fact under section 309(e) of the Communications Act of 1934, as amended. After considering all of the pertinent facts in this case de novo, the Commission finds that the petitioners have not alleged sufficient facts to require the Commission to reject the FAA's findings, and will, therefore, not specify an air hazard issue.

11. In support of its request for the inclusion of a "candor" issue, Hubbard states that WLCY, on November 27, 1970, requested the FAA to study the feasibility of an increase in height to its present tower, and in support of a petition for reconsideration,[5] submitted a letter dated September 30, 1970, from James G. Rodgers, Director, Southern Region Federal Aviation Administration, stating that his office felt that aviation would best be served if WLCY's present tower were relocated. Hubbard argues that between November 27, 1970, and March 26, 1971, when the Commission denied WLCY's last petition for reconsideration, WLCY failed to inform the FAA that the Rodgers letter was being presented before the Commission with its application (BPCT–3700), and failed to inform the Commission of its pending request before the

[2] VHF channel assignment at Mount Vernon, Illinois, 17 RR 2d 1620, aff'd. sub nom Plains Television Corporation v. FCC, 440 F. 2d 276 (D.C. Cir. 1971).

[3] ARB County Report for Florida—1971 Share of hours study shows Polk County to be in WTOG's area of dominant influence and Sarasota County to be in WXLT's area of dominant influence.

[4] The determination was issued by the FAA's Southern Region Office on Sept. 2, 1971, and was affirmed by the FAA's Air Traffic Service on Dec. 3, 1971.

[5] Denied, 28 FCC 2d 353, 21 RR 2d 572 (1971).

FAA. Hubbard alleges that the pursuance of these inconsistent courses of action and the failure to disclose, warrants the inclusion of a "candor" issue. WLCY argues that it was caught between two Federal agencies, and that it should not be penalized for pursuing an alternative plan of action prior to the complete exhaustion of a prior course. The Commission finds that, although under the circumstances, it would have been advisable for WLCY to inform the Commission and the FAA of its dual actions, this failure to disclose does not constitute sufficient reason to warrant the inclusion of a "candor" issue.

12. Hubbard has requested the inclusion of a "promise v. performance" issue, specifying programing, studies, personnel plans, remote broadcasts, program advisory committee, and implementation of contacts as areas of discrepancies. WLCY's opposition states that the issue is not germane to its application, and, citing "Moline Television Corp.," 31 FCC 2d 263, 22 RR 2d 745 (1971), argues that the issue is of little significance in view of the period of time and the changes in events which have occurred. In view of the passage of 15 years since WLCY filed its initial program proposals, the Commission finds that no useful purpose would be served by comparing those proposals to the station's present programing. While basic qualifications issues, including "promise v. performance," are always germane to any application filed with the Commission, it appears that an examination of these 1957 program proposals would not yield a significant measure of relevant information. In the event Hubbard desires to pursue its allegations regarding WLCY's programing proposals contained in their 1969 renewal application, it will have ample opportunity to do so when WLCY's license comes up for renewal in February 1973.

13. Hubbard further argues that the property owned by WLCY is not large enough to accommodate the necessary guy wires for the proposed tower. It appears that this issue is now moot since WLCY has entered into an agreement to purchase three parcels of land adjacent to its present site for the purpose of assuring adequate space. With respect to Hubbard's concern that the proposed tower might constitute a danger to the lives and property of persons living near the structure, WLCY has submitted information demonstrating that the new tower will be safe and that all precautions will be taken to assure against any accidents. Since Hubbard has not offered any factual basis for inquiring into the safety of the structure, an issue will not be specified.

14. Hubbard further argues that WLCY's failure to disclose a January 22, 1969, consent decree regarding a wage and hour violation in its 1966 application to change antenna site (BPCT–3700) and in its 1969 renewal application (BRCT–616) constituted violations of section 1.65 of the Commission's rules, and requests the Commission to specify an appropriate issue. WLCY admits that it failed to report the consent decree in either of the above applications, and although we do not condone these failures, since the consent decree has long since been fully complied with, and is not the type of judgment which seriously reflects upon the corporation's qualification to be a licensee, we believe that no useful purpose would be served by specifying an issue on the matter.

15. In order to obtain the full schedule of ABC network programing, Sarasota, in September 1971, agreed to pay WLCY $2,000 per month for the right to establish bridging equipment in WLCY's control room, and for the right to rebroadcast WLCY's off-the-air signal should the bridging equipment fail to operate. This agreement was limited to the carriage of ABC network programing, and did not grant WXLT permission to rebroadcast any of WLCY's nonnetwork programing. Sarasota alleges that WLCY rejected all of its requests for permission to rebroadcast off-the-air syndicated programs. Sarasota further alleges that on several occasions WLCY invoked exclusivity clauses to prevent WXLT from carrying the same program, and on at least one occasion stated that it would refuse to purchase a particular program if it were sold to WXLT. Sarasota requests the inclusion of an issue to determine whether WLCY has used its economic position improperly to deny WXLT access to programing.

16. WLCY argues that the difficulties experienced by WXLT in obtaining rights to syndicated programing resulted from a mistaken belief of various syndicators that the common service area between WXLT and WLCY would preclude delivery of programing to both stations. WLCY claims that it has never exerted any pressure upon film syndicators to withhold programing from WXLT, and argues that its refusal to permit WXLT to rebroadcast certain programing is permissible since its agreement with WXLT did not confer a blanket privilege to pick up all nonnetwork programing. WLCY submits that it has now reduced its fee to WXLT from $2,000 per month to $500 per month, that it has agreed to waive all market exclusivity clauses, and that it stands ready to renegotiate its network pickup agreement with WXLT. WLCY states that it is fully aware of the Commission's longstanding policy that rebroadcast rights should not be unreasonably withheld and contends that it has no intention of violating this policy in the future. The Commission must, however, concern itself with WLCY's past relationship with Station WXLT. The fact that WLCY has now agreed to make some programing available to WXLT does not remove questions regarding its past actions. Sarasota's allegations that WLCY has engaged in anticompetitive practices by improperly using its economic position to deny WXLT access to syndicated programing, raise substantial and material questions of fact which can only be resolved in a hearing. For this reason, an appropriate issue will be specified.

17. We have carefully considered all of the matters raised in the various pleadings and, except as indicated by the issues specified below, we find that the applicant is qualified to operate as proposed. The Commission finds, however, that substantial and material questions of fact have been raised, and is, therefore, unable to make the statutory finding that a grant of the application would serve the public interest, convenience, and necessity, and is of the opinion that the application must be designated for an evidentiary hearing on the issues set forth below.

18. *Accordingly, it is ordered*, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned application is designated for hearing at a time and place to be specified in a subsequent order upon the following issues:

1. To determine whether a grant of the application would impair the ability of existing and prospective UHF television stations to effectively compete in the Sarasota, St. Petersburg, and Tampa areas.

2. To determine whether WLCY–TV, Inc., has engaged in anticompetitive practices in its relationship with WXLT, and, if so, whether WLCY–TV, Inc., is qualified to remain a licensee of the Commission.

3. To determine, in light of evidence adduced pursuant to foregoing issues, whether a grant of the application would serve the public interest, convenience, and necessity.

19. *It is further ordered*, That, to the extent indicated above, the petitions to deny filed by Hubbard Broadcasting, Inc., and Sarasota-Bradenton Florida Television Co., Inc., are granted, and in all other respects are denied.

20. *It is further ordered*, That Hubbard Broadcasting, Inc., and Sarasota-Bradenton Florida Television Co., Inc., are made parties to this proceeding.

21. *It is further ordered*, That the burden of proceeding with the introduction of evidence with respect to issues 1 and 2 is hereby placed on the petitioners, and the burden of proof with respect to all issues is hereby placed upon the applicant.

22. *It is further ordered*, That to avail themselves of the opportunity to be heard, the applicant and the petitioners herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within twenty (20) days of the mailing of this order file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

23. *It is further ordered*, That the applicant herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the

any impropriety. Accordingly, we decline

than adequate consideration. As a result,

ducted in a confidential manner.[6] Ac-

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hearing, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594 of the rules.

Adopted: November 8, 1972.

Released: November 17, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[6]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-20309 Filed 11-24-72;8:52 am]

[Docket No. 19636, 19637; FCC 72-1022]

RADIO CARROLLTON AND FAULKNER RADIO, INC. (WLBB)

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In regard applications of William P. Johnson and Hollis B. Johnson, doing business as Radio Carrollton, Carrollton, Ga., Requests: 1330 kHz. 500 w., Day, Docket No. 19636, File No. BP-17,970, for construction permit; Faulkner Radio, Inc. (WLBB), Carrollton, Ga., Has: 1100 kHz., 1 kw., Day, Docket No. 19637, File No. BR-1431, for renewal of license.

1. The Commission has before it for consideration (i) the application of Radio Carrollton for a construction permit; (ii) the application of Faulkner Radio, Inc. for renewal of license; (iii) a petition to deny the application of Radio Carrollton filed by Faulkner Radio, Inc.; and (iv) pleadings in opposition, reply, and supplement thereto.

2. This case arose as a result of a petition to deny the application of Radio Carrollton filed on June 18, 1968, by Faulkner Radio, Inc., licensee of station WLBB, Carrollton, Ga., requesting that the application be denied or alternatively designated for hearing on the issues requested. Faulkner questioned the character and financial qualifications, and the community survey submitted by the applicant. Radio Carrollton answered with its explanation of the character allegations, as well as additional financial data and community survey information. It also submitted an affidavit of Hollis B. Johnson, a partner of Radio Carrollton, which avered that Robert M. Thornburn, vice president of Faulkner Radio, Inc., admitted to him in a telephone conversation that Faulkner filed the petition only to delay the grant of the construction permit. Mr. Thornburn deposed in his response that the statements attributed to him were untrue which indicated that Faulkner's petition was interposed for the purpose of delay. Subsequently, numerous supplemental petitions, answers, and replies were filed raising additional questions as to the applicant's character qualifications. The petitioner also questioned the applicant's compliance with § 1.65 of the Commission's rules[1] and site availability.[2]

3. The factual disputes mentioned above inextricably connect the applications of Radio Carrollton for a construction permit and Faulkner Radio, Inc., for a license renewal. The Commission will, therefore, consolidate these two applications for hearing, pursuant to § 1.227(a)(1) of the Commission's rules, to permit an orderly resolution of the questions presented. There is no engineering conflict between the two applications.

CHARACTER QUALIFICATIONS AND RULE 1.65

4. The initial petition to deny filed by Faulkner on June 18, 1968, requested an evidentiary hearing inquiring into the character qualifications of Hollis B. Johnson, a partner in Radio Carrollton and the law firm of Johnson & Johnson. Faulkner based its request upon an affidavit sworn to by Loyd Madden alleging that Johnson fraudulently acquired a parcel of the applicant's property in the course of their attorney-client relationship. Near the end of this relationship, Madden swears, Johnson coerced him into signing a bank deed[3] with no one else present. Subsequently, the deed was completed, witnessed by William Johnson and Linda Jeters, and recorded. Several months after the alleged transaction, Madden filed a petition in bankruptcy. The trustee in bankruptcy instituted a suit against Hollis B. Johnson to recover the property for the benefit of creditors. The case resulted in a court settlement which gave Hollis B. Johnson $800 in exchange for the deed.

5. Radio Carrollton responded to this charge with an affidavit of Hollis B. Johnson and William P. Johnson. The Johnsons deposed that they represented Madden for several years, but never demanded payment for the fees because of Madden's weak financial status. After a falling out with Madden, however, they decided to collect the fees due and owing. To this end, they contend, the deed was accepted as security. The applicant also controverted Madden's claim he was coerced into signing the deed out of a fear that the Johnsons would employ some less desirable method for collection. Madden claimed the Johnsons had previously frozen his accounts in order to collect their fees. An affidavit of E. H. Hearn, president of the West Georgia National Bank, recites that the Johnsons had never frozen Madden's account for a personal indebtedness due Johnson & Johnson law firm. Finally, the applicant submitted numerous affidavits of Carrollton citizens attesting to the high public character of Hollis B. Johnson.

6. Faulkner's response affirmed its original charge and challenged several statements made in the applicant's reply. This challenge, briefly stated, claims that the final billing by the Johnsons showed Madden received $924.40 worth of services, paid $100 on the account, and carried a balance of $824.40. The deeded property, however, was sold for $2,648. In light of these facts, Faulkner asks, how could the applicant's opposition to the petition to deny claim the property was "only partial recompense," and the firm never received any fees from Madden? Those contradictions, concludes the petitioner, cast doubt upon the Johnsons' credibility.

7. A supplement to the petition to deny filed on January 3, 1969, informed the Commission that, among other things, Madden had filed a complaint with the grievance committee of the Carroll County, Georgia Bar Association based on the allegations made above. We subsequently were informed that the committee investigated the allegations made, and concluded that no disciplinary action was warranted.[4]

8. Upon consideration of all the facts before us, we are not persuaded that additional Commission inquiry into this matter is necessary. Faulkner has attempted to show that the applicant, and specifically Hollis B. Johnson, violated Georgia State law and the code of ethics of the Georgia bar. It has traditionally been our policy to decline to interfere in matters of alleged violation of such laws and ethics where local tribunals have apparently deemed the allegations nonmeritorious. cf. "Home Service Broadcasting Corp.," 23 FCC 2d 914, 19 RR 2d 315 (1970); "Home Service Broad casting Corp.," 21 FCC 2d 168, 18 RR 2d 63 (1970); "North American Broadcasting Co., Inc.," 15 FCC 2d 979, 15 RR 2d 311 (1969). The actions raised by Faulkner were alleged in the complaint filed by the trustee in bankruptcy for Loyd Madden in the U.S. district court for the northern district of Georgia, and in the complaint presented to the grievance committee of the Carroll County, Georgia Bar Association. Neither tribunal made a finding that Hollis B. Johnson nor William P. Johnson acted illegally or with any impropriety. Accordingly, we decline further inquiry into the matter.

MISREPRESENTATION; 1.65

9. In the course of the pleadings, Faulkner raised several questions as to Radio Carrollton's lack of candor and misrepresentation, and failure to comply with § 1.65. It avers there are several specific instances in the pleading where the affidavits filed by the applicant conflict with theirs in material respects. These recurring inconsistencies, claim Faulkner, create a pattern that shows the applicant has not been truthful with the Commission. The alleged points of conflict are as follows:

(a) During the controversy involving the alleged improper activities of the applicant partners in the course of their law practice described above in paragraphs 3 through 8, Loyd Madden filed a complaint with the grievance committee of the Carroll County Bar Association concerning the alleged misconduct. After waiting 30 days, the elapsed time wherein it assumed Radio Carrollton must inform the Commission of this filing, Faulkner informed the Commission that the complaint had been filed, claimed the applicant knew of the complaint, and requested the Commission include a 1.65 issue against the applicant. It supported its allegations with affidavits sworn to by William J. Wiggins, chairman of the grievance committee, and Dewey Smith, a newly appointed member of the committee, stating that the Johnsons knew of the complaint's pendency for more than 30 days. In response, Hollis B. Johnson swore he could not recall when the committee informed him that a grievance had been filed against him. Subsequently, Faulkner argued that this evasiveness is but a single example of the overall pattern of the applicant's untruthfulness.

(b) Faulkner filed an affidavit of O. S. Whitman, owner of property proposed for the transmitter site, which disclosed for the first time that the option had expired, that he had no present intention of selling the land to the applicant, and that he had communicated this to the applicant. More than 30 days had elapsed from the time Whitman swore he told the Johnsons of the filing of this affidavit. The partners individually replied they were never definitely told the land was no longer available. Although Radio Carrollton subsequently amended its application to specify a new site, the petitioner argues that this does not obviate the § 1.65 issue, or the misrepresentation issue since the direct conflict between the affidavits persists.

(c) Finally, Faulkner claims that the applicant has attempted to mislead the Commission as to the facts surrounding the second antenna site. It argues that the site was unavailable because a proposed highway's right-of-way passed over part of the site, and Georgia law prohibits a public official (William P. Johnson was counsel for Carroll County) from contracting with the State for less than adequate consideration. As a result, they argue the lease for the site was invalid ab initio. These allegations were supported by an affidavit of the Secretary of the State Highway System Committee, House of Representatives, State of Georgia, and an opinion of Georgia counsel. In response, the applicant moved the site to avoid the proposed right-of-way, and informed the Commission that a grand jury had investigated the lease and found no impropriety. Ultimately, however, the applicant specified an entirely new site. Again, Faulkner complained that the representations made by Radio Carrollton as to the lease are another example of the applicant's misrepresentations and asks that this matter also be placed in issue.

10. All told, Faulkner argues a question as to Radio Carrollton's fitness to be a Commission licensee must be placed in issue as a result of the several enumerated instances of alleged misrepresentations and lack of candor. A misrepresentation issue is not mooted merely because an intervening event, namely the finding by the Grievance Committee that no action is warranted against the Johnsons or the specifying of a new antenna site, removes the substantive issue from Commission consideration. There remains the question whether the applicant misrepresented itself to the Commission. cf. "Midwestern Broadcasting Co., Inc.," 19 FCC 2d 691, 17 RR 2d 342 (1969), "FCC v. WOWO, Inc.," 329 U.S. 223, 67 S. Ct. 213 (1946). Accordingly, we will consider the petitioner's allegations of misrepresentation to determine whether the appropriate issues should be included.

11. The petitioner avers the applicant's failure to inform the Commission that a complaint had been filed with the County Bar Grievance Committee raises a § 1.65 issue; and the applicant's subsequent evasive response to its pleading informing the Commission that a complaint had been filed requires the inclusion of a misrepresentation issue. It reasons that the applicant was obligated to inform the Commission of this filing because Radio Carrollton had included in its pleading a statement by William J. Wiggins that there had never been any grievances filed against the partners of the application, and because the outcome could be of decisional significance. We do not agree. An applicant is required, as a general matter, to keep the Commission informed of changes in the information requested in the application. This requirement has been modified to the extent that the filing of any lawsuit alleging misconduct must be considered a substantial and significant matter, and must be reported.[5] The filing of a complaint with a grievance committee is not sufficiently analogous, however, to require the reporting of the event. A bar grievance proceeding is, by its very nature, quasi-judicial and normally conducted in a confidential manner.[6] Accordingly, we are not convinced that Radio Carrollton was obligated to report the grievance complaint filed against the Johnsons within 30 days after the filing. If, on the other hand, a grievance committee were to find the applicant violated the Canons of Professional Responsibility, then it should be obvious that the information would be "any other matter which may be of decisional significance" within the purview of § 1.65. Moreover, we do not regard the alleged discrepancy between the affidavits submitted by the parties of such a nature as to raise a misrepresentation issue.

12. We are not, furthermore, convinced that a misrepresentation issued is warranted based on alleged misleading statements given by Radio Carrollton concerning the second antenna site. The applicant's representations concerning the site location and lease validity have been satisfactorily explained. By Faulkner's own admission, the State did not firmly establish the proposed highway's right-of-way until after the applicant specified a new site.[7] We also note that during the intervening period, the applicant amended the site location to avoid interference with the then referenced right-of-way. Moreover, Radio Carrollton reports in its "Opposition to Further Supplement to Petition to Deny" filed December 13, 1971, the Grand Jury of Carroll County investigated the lease and found no impropriety. The enforceability of this lease is a question of local law. Accordingly, we will not inquire further into the representations made as to the lease since a local grand jury apparently deemed the allegations nonmeritorious. "Home Service Broadcasting Corp., supra."

13. Finally, Faulkner alleges that Radio Carrollton's first proposed transmitter site, by virtue of an affidavit of the landowner, was not available, and that the applicant knew this for more than 30 days without notifying the Commission, thus raising a § 1.65 issue. It also requests a misrepresentation issue because it avers the affidavits relied upon by the applicant and petitioner conflict in material respects. The applicant denied knowing the site was no longer available and apparently infers, therefore, it could not be expected to report this substantial change. Based on the pleadings, we cannot make a final determination. Accordingly, issues will be included to determine the facts and circumstances concerning the availability of O. S. Whitman's site, to determine

[1] Section 1.65 requires an applicant to provide complete and accurate information for all the matters disclosed in a pending application, and it further requires the applicant to inform the Commission within 30 days whenever there has been a substantial change as to any other matter which may be of decisional significance.

[2] Faulkner has also raised numerous other questions during the pendency of the application; however, they will not be discussed below since they are inconsequential and lacking in merit.

[3] Madden referred to the deed as a "security deed." Likewise, the applicants stated generally that the property was deeded to them as security for the fees due and owing, and, in the event Madden could not pay, the land would be payment. Under Georgia law, a "security deed" is an absolute deed intended as security. In such a conveyance, legal title passes to the vendee until the debt secured by the conveyance is fully paid. At the same time, the vendor retains an equitable estate in the premises conveyed. Merchants' and Mechanics' Bank v. Board, 134 S.E. 187 (Ga., 1926).

[4] Letter from William J. Wiggins, chairman of grievance committee, received Aug. 9, 1972.

[5] In his sworn statement sent to the Commission to confirm the filing of a grievance complaint against the Johnsons, William J. Wiggins also stated that the statements transmitted "are confidential and shall not be published."

[6] In its "Further Supplement to Petition to Deny" filed November 19, 1971, Faulkner included an article from the Carroll County Georgian of November 11, 1971, announcing that the bids for the proposed bypass will be let in 30 days. Radio Carrollton specified a new site in its amendment filed Oct. 13, 1971.

[6] Commissioner Johnson concurring in the result.

[7] Lorain Community Broadcasting Co., 18 FCC 2d 686, 16 RR 2d 946 (1969).

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whether Radio Carrollton failed to keep its application current and correct, to determine whether the applicant represented itself with candor to the Commission, and to determine, in the event the issues are resolved against the applicant, the effect upon Radio Carrollton's basic qualifications to receive a grant of their proposal.

ABUSE OF COMMISSION PROCESSES

14. In its opposition to Faulkner's petition to deny, filed July 25, 1968, Hollis B. Johnson deposed that Robert M. Thornburn, Vice President of Faulkner Radio, Inc., contacted him by telephone and discussed the Radio Carrollton application. He swears Thornburn told him that he "[found] it necessary to object to the application" for purposes of delaying the grant of the construction permit because they were experiencing "money problems." The character issue was made only because he (Thornburn) was "grasping at straws." In light of the conversation, concludes Radio Carrollton, this matter should be considered at the time of Faulkner's renewal, and in evaluating the petition to deny. Thornburn deposed in rebuttal that a conversation did take place in the manner and at the time claimed by the applicant. He swears, however, that Johnson misrepresents the substance of the conversation. "Mr. Johnson's affidavit attributes statements to me which I did not make and misconstrues those statements which I did make to him." Since the sworn statements are clearly in conflict and no other information is available, a substantial question of fact exists which must be explored in hearing. Therefore, we will include appropriate issues as to the applicants.

SUBURBAN AND FINANCIAL ISSUES

15. Throughout the pendency of the Radio Carrollton application, the petitioner has raised numerous questions concerning the applicant's community survey. Radio Carrollton each time has amended its survey in response to these questions. Therefore, it would be fruitless for the Commission to examine all the specific questions raised. Moreover, the specific Commission requirements have been modified over the past 5 years. Our examination of the applicant's community survey, when measured against the "Primer"[8] reveals that several deficiencies persist, and we will include a Suburban[9] issue. Specifically, we note that the demographic data does not sufficiently detail the economic, educational, and governmental activities, and any other factors which tend to make Carrollton distinctive. Without this information, we cannot make a determination that the applicant has consulted with leaders from all segments and factions of the community. Finally, the applicant has not indicated the anticipated time segments for the proposed programs.

16. We have also found several deficiences in Radio Carrollton's financial proposal. The applicant estimates its first-year construction and operating expenses to be $76,519, as follows: Down payment and first two (2) months' payments on the equipment lease, $5,009; principal and interest payments on loans, $21,750; land, $9,000; miscellaneous expenses and equipment not covered by lease, $4,722; and working capital, $36,038. To meet these expenses, the applicant relies upon three (3) bank letters for a total of $75,000, and any additional cash which may be needed.[10] The bank letters are now more than a year old, however, and hence unacceptable. The balance sheets for the partners are also more than a year old, and must be updated. Accordingly, we will specify a financial issue in order to examine this further in hearing.

17. Except as indicated by the issues specified below, the construction permit applicant is qualified to construct and operate as proposed, and the renewal applicant is qualified to continue operation. In view of the foregoing, however, the Commission is unable to make the statutory finding that a grant of the subject applications would serve the public interest, convenience and necessity, and is of the opinion that the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

18. *Accordingly, it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the efforts made by Radio Carrollton to ascertain the community needs and interests of the area to be served and the means by which the applicant proposes to meet those needs and interests.

2. To determine with respect to the application of Radio Carrollton:

(a) Whether the commitments by the Commercial Bank, West Georgia National Bank, and Peoples Bank are still available to the applicant;

(b) Whether the partners possess adequate current assets to finance the proposed station; and

(c) Whether, in light of the evidence adduced pursuant to (a) and (b), above, the applicant is financially qualified.

3. To determine whether Radio Carrollton has complied with the provisions of § 1.65 of the Commission's rules by keeping the Commission advised of substantial and significant changes as required by § 1.65, and, if not, the effect of such noncompliance on its basic qualifications to be a Commission licensee.

4. To determine whether Radio Carrollton misrepresented itself to the Commission pertaining to the availability of the land owned by O. S. Whitman as an antenna site, and, if so, what effect such conduct has on the basic qualifications of Radio Carrollton to be a Commission licensee.

5. To determine whether Faulkner Radio, Inc., filed its petition to deny for the purpose of delaying the processing of Radio Carrollton's application, and, if so, what effect such conduct has on the basic qualifications of Faulkner Radio, Inc., to be a Commission licensee.

6. To determine whether Faulkner Radio, Inc., or Radio Carrollton misrepresented itself to the Commission in its affidavit submitted concerning the conversation between Robert M. Thornburn and Hollis B. Johnson, and, if so, what effect such conduct has on the basic qualifications of either applicant to be a Commission licensee.

7. To determine, in light of the evidence adduced pursuant to the foregoing issues, whether a grant of the Radio Carrollton application and/or renewal of the Faulkner license would serve the public interest, convenience, and necessity.

19. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

20. *It is further ordered,* That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended and § 1.594 of the Commission rules give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: November 15, 1972.

Released: November 21, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[11]

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-20310 Filed 11-24-72;8:52 am]

[8] Primer on Ascertainment of Community Problems by Broadcast Applicants, 36 FR 4092, 27 FCC 2d 650 (1970).

[9] Suburban Broadcasters, 20 RR 951 (1961).

[10] The partnership agreement, in article 10, provides that in the event additional capital is needed, the partners will contribute equally.

[11] Commissioner Reid absent.

FEDERAL POWER COMMISSION

NATIONAL GAS SURVEY SUPPLY-TECHNICAL ADVISORY TASK FORCE-REFORMER GAS

Agenda of Meeting

Conference Room 4008 of the Federal Power Commission, 441 G Street NW., Washington, DC, December 1, 1972—9 a.m., presiding: Dr. Paul J. Root, FPC Survey Coordinating Representative and Secretary.

1. Call to Order and Introductory Remarks—Dr. Root.
2. Review of Developments Since the Last Meeting—Mr. Leonard A. Goldstein, Director, Supply-Technical Advisory Task Force-Reformer Gas.
3. Review of Individual Assignments for Drafting Sections of the Final Report—Mr. Goldstein.
4. Discussion of Coverage of Environmental Aspects of Task Force Work Programs—Mr. Goldstein.
5. Status of Assigned Work Programs and Estimated Date for Completion—Mr. Goldstein.
6. Other Business.
7. Adjournment—Dr. Root.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-20302 Filed 11-24-72;8:51 am]

[Dockets Nos. RI73-85, etc.]

HUMBLE OIL & REFINING CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

NOVEMBER 17, 1972.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A below.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in docket No.
RI73-85	Humble Oil & Refining Co.	218	[1] 6	Mountain Fuel Supply Co. (Dry Piney Field, Sublette County, Wyo.).	----------	10-19-72	11-19-72	[10] Accepted			
			[2] 7	---do----------	$21,145	10-19-72	----------	4-19-73	17.0850	[3] 23.86875	RI70-469.
RI73-86	Texaco, Inc.	149	6	Colorado Interstate Gas Co. (Table Rock Field, Sweetwater County, Wyo.).	43,306	10-26-72	----------	1-2-73	17.522	18.5331	RI70-1113.
RI70-804 RI70-1091	---do----------	211	2 to 15 and 16	El Paso Natural Gas Co. (La Barge Field, Lincoln and Sublette Counties, Wyo.).	(2,767)	10-26-72	----------	10-1-72	20.8075	[4] 20.65375	RI70-804, RI70-1091.
			17	---do----------	18,135	10-26-72	----------	6-1-73	20.65375	21.66125	
RI73-87	---do----------	288	9	Colorado Interstate Gas Co. (Patrick Draw Field, Sweetwater County, Wyo.).	3,122	10-26-72	----------	1-2-73	[4] 17.697	[4] 18.7377	RI70-1113.
	---do----------	310	8	Colorado Interstate Gas Co. (Table Rock Field, Sweetwater County, Wyo.).	3,093	10-26-72	----------	1-2-73	17.522	18.5331	RI70-1113.
RI70-1113	---do----------	325	2 to 2	Colorado Interstate Gas Co. (Patrick Draw Field, Sweetwater County, Wyo.).	(131)	10-26-72	----------	10-1-72	[10] 15.733	[4] [10] 15.61625	RI70-1113.
RI73-88	---do----------		3	---do----------	1,158	10-26-72	----------	1-2-73	[10] 15.61625	[10] 16.62375	
RI73-89	Amerada Hess Corp.	50	14	El Paso Natural Gas Co. (San Juan Field, Rio Arriba County, N. Mex.) (San Juan Basin).	29,887	10-18-72	----------	4-18-73	13.2486	[5] [9] 21.3	RI69-384.
RI73-90	Texaco, Inc.	396	3	Colorado Interstate Gas Co. (Table Rock Unit (Below Almond), Sweetwater County, Wyo.).	9,194	10-26-72	----------	1-2-73	[10] 17.1275	[10] 18.135	RI70-1113.
	---do----------	407	4	El Paso Natural Gas Co. (Moxa Field, Lincoln and Sweetwater Counties, Wyo.).	1,310	10-26-72	----------	1-6-73	[10] 15.1125	[10] 16.12	RI70-1183.
RI73-91	Phillips Petroleum Co.	279	20	El Paso Natural Gas Co. (Hogsback Area, Sublette and Lincoln Counties, Wyo.).	399,103	10-24-72	----------	6-1-73	19.64626	[6] 25.9482	RI71-141.
RI73-92	Mobil Oil Corp.	215	24	El Paso Natural Gas Co. (Tip Top Field, Sublette County, Wyo.).	154,500	10-27-72	----------	6-1-73	23.91805	[6] 25.13713	RI72-130.
	---do----------	217	23	El Paso Natural Gas Co. (Hogsback Field, Lincoln and Sublette Counties, Wyo.).	119,448	10-27-72	----------	6-1-73	23.91805	[6] 25.13713	RI72-212.

* Unless otherwise stated, the pressure base is 15.025 p.s.i.a.
[1] Contract amendment dated June 7, 1972.
[2] Inclusive of tax reimbursement.
[3] Applies only to gas from wells completed after June 7, 1972.
[4] Tax reduction.
[5] Includes a double amount of contractually due tax reimbursement.
[6] Applicant did not file an agreement to a 1-year moratorium on future rate increases.
[7] Price is applicable to Pictured Cliffs Formation Gas only.
[8] Includes an adjustment based on Bureau of Labor Statistics Wholesale Price Index for all commodities.
[9] Does not apply to sales under Supplement Nos. 7 and 11.
[10] Accepted for filing to be effective on the date shown in the "Effective Date" column.

The proposed decrease of Texaco Inc. [illegible] section 4(d) of the Natural Gas Act (15 [illegible] hearing thereon must file a petition to

(b) Ames Research Center, NASA, solar, chemical, nuclear, or mechanical

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The proposed decreases of Texaco Inc. under its FPC Gas Rate Schedule Nos. 211 and 325 reflect a decrease in reimbursement of the Wyoming severance tax. Texaco has been collecting a double amount of the contractually due tax reimbursement so as to recover taxes on past sales of gas. Since the back taxes have been recovered, Texaco now proposes to collect only the contractual tax reimbursement on current sales of gas. The proposed decreases are suspended in the existing rate proceedings and are to be effective, subject to refund, on the proposed effective dates.

The proposed increase of Texaco Inc. under its FPC Gas Rate Schedule No. 288 includes a double amount of the contractually due reimbursement for taxes applicable to future production as well as reimbursement for taxes applicable to past production. After tax reimbursement applicable to past production has been recovered, Texaco Inc. shall file a rate decrease reducing the proposed rate so as to provide for tax reimbursement for future production only. Texaco's proposed increase is suspended for 1 day from the proposed effective date consistent with prior Commission action in similar cases.

The proposed favored nation increase of Amerada Hess Corp., though not exceeding the limit for a 1 day suspension, is suspended for 5 months since Amerada did not agree to a 1 year moratorium on future rate increases for this sale.[1]

The proposed increases of Texaco Inc. under its FPC Gas Rate Schedule No. 211, Phillips Petroleum Co. under its FPC Gas Rate Schedule No. 279 and Mobil Oil Corp. under its FPC Gas Rate Schedule No. 217, exceed the corresponding rate filing limitation imposed in Southern Louisiana and therefore are suspended for 5 months from the expiration of the statutory notice period or the contractual effective date, whichever is later.

The other increases involved here do not exceed the corresponding rate filing limitation imposed in Southern Louisiana and therefore are suspended for 1 day from the expiration of the 60-day notice period or the contractual effective date, whichever is later.

The producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61–1, as amended (18 CFR 2.56).

CERTIFICATION OF ABBREVIATED SUSPENSION

Pursuant to § 300.16(i)(3) of the Price Commission rules and regulations, 6 CFR Part 300 (1972), the Federal Power Commission certifies as to the abbreviated suspension period in this order as follows:

(1) This proceeding involves producer rates which are established on an area rather than company basis. This practice was established by Area Rate Proceeding, Docket No. AR61–1, et al., Opinion No. 468, 34 FPC 159 (1965), and affirmed by the Supreme Court in "Permian Basin Area Rate Case," 390 U.S. 747 (1968). In such cases as this, producer rates are approved by this Commission if such rates are contractually authorized and are at or below the area ceiling.

(2) In the instant case, the requested increases do not exceed the ceiling rate for a 1-day suspension.

(3) By Order No. 423 (36 F.R. 3464) issued February 18, 1971, this Commission determined as a matter of general policy that it would suspend for only 1 day a change in rate filed by an independent producer under section 4(d) of the Natural Gas Act (15 U.S.C. 717c(d)) in a situation where the proposed rate exceeds the increased rate ceiling, but does not exceed the ceiling for a 1-day suspension.

(4) In the discharge of our responsibilities under the Natural Gas Act, this Commission has been confronted with conclusive evidence demonstrating a natural gas shortage. (See Opinion Nos. 595, 598, and 607, and Order No. 435.) In these circumstances and for the reasons set forth in Order No. 423 the Commission is of the opinion in this case that the abbreviated suspension authorized herein will be consistent with the letter and intent of the Economic Stabilization Act of 1970, as amended, as well as the rules and regulations of the Price Commission, 6 CFR Part 300 (1972). Specifically, this Commission is of the opinion that the authorized suspension is required to assure continued, adequate and safe service and will assist in providing for necessary expansion to meet present and future requirements of natural gas.

[FR Doc.72-20228 Filed 11-24-72;8:45 am]

[1] See Amoco Production Co., Docket No. RI72-70, order issued Dec. 17, 1971.

[Docket No. CI73-361]

SAM NOBLE

Notice of Application

NOVEMBER 20, 1972.

Take notice that on November 13, 1972, Sam Noble (Applicant), Post Office Box 909, Ardmore, OK 73401, filed in Docket No. CI73-361 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Transcontinental Gas Pipe Line Corp. from the West Mermentau Field, Jefferson Davis Parish, La., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant purposes to sell approximately 60,000 Mcf of gas per month at 35 cents per Mcf at 15.025 p.s.i.a. for 3 years within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant, as small producer certificate holder Docket No. CS71-755, requests that any certificate granted in the instant docket provide that the instant application not be deemed a waiver of any rights heretofore granted to him as a small producer.

It appears reasonable and consistent with public interest in this case to provide a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before December 4, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-20355: Filed 11-24-72;8:56 am]

FEDERAL RESERVE SYSTEM

GREAT AMERICAN CORP.

Proposed Acquisition of Bell Finance Service

Great American Corp., Baton Rouge, La., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(88)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to indirectly acquire through its subsidiary known as Ambank Acceptance Corp., certain assets of Bell Finance Service, New Orleans, La. Notice of the application was published on October 21, 1972, in The States-Item, a newspaper circulated in New Orleans, La.

Applicant states that the proposed subsidiary would engage in the activities of selling consumer loans, purchasing notes in excess of $300, and making loans secured by mortgages on real estates; and acting as agent or broker in selling credit life, health, accident, and property damage insurance that protects the collateral in which the company has a security interest. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a

hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 14, 1972.

Board of Governors of the Federal Reserve System, November 17, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-20256 Filed 11-24-72;8:47 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (72-25)]

KENNEDY SPACE CENTER

Draft Environmental Impact Statement; Public Notice Regarding Availability

Notice is hereby given of the public availability of the draft environmental impact statement for the National Aeronautics and Space Administration, Kennedy Space Center, Amendment No. 1.

Notice of the public availability of the Kennedy Space Center final environmental impact statement was published in the FEDERAL REGISTER on October 8, 1971.

This amendment discusses the establishment at the John F. Kennedy Space Center, Fla., of facilities for receiving, inspection, checkout, launch, recovery, and refurbishment of the NASA Space Shuttle flight hardware. The availability of the environmental impact statement for the Space Shuttle Program was published in the FEDERAL REGISTER on July 27, 1972.

Comments on the draft environmental statement and on matters set forth therein are solicited from and may be submitted by State and local agencies and members of the public. Such comments should be submitted to the Associate Administrator, National Aeronautics and Space Administration, Washington, D.C. 20546. All comments must be received within 60 calendar days of the publication of this notice in the FEDERAL REGISTER in order to be considered in the preparation of the final environmental statement.

Copies of the draft statement may be obtained or examined at any of the following locations:

(a) National Aeronautics and Space Administration, Public Documents Room (Room 126), 600 Independence Avenue SW., Washington, DC 20546.

(b) Ames Research Center, NASA (Building 201, Room 17), Moffett Field, Calif. 94035.

(c) Flight Research Center, NASA (Building 4800, Room 1017), Post Office Box 273, Edwards, CA 93523.

(d) Goddard Space Flight Center, NASA (Building 8, Room 150), Greenbelt, Md. 20771.

(e) John F. Kennedy Space Center, NASA (Headquarters Building, Room 1207), Kennedy Space Center, Fla. 32899.

(f) Langley Research Center, NASA (Building 1219, Room 304), Hampton, Va. 23365.

(g) Lewis Research Center, NASA (Administration Building, Room 120), 21000 Brookpark Road, Cleveland, OH 44135.

(h) Manned Spacecraft Center, NASA (Building 1, Room 136), Houston, Tex. 77058.

(i) George C. Marshall Space Flight Center, NASA (Building 4200, Room G–11), Huntsville, Ala. 35812.

(j) Mississippi Test Facility, NASA (Building 1100, Room A–213), Bay St. Louis, Miss. 39520.

(k) NASA Pasadena Office (Jet Propulsion Laboratory, Building 180, Room 600), 4800 Oak Grove Drive, Pasadena, CA 91103.

(l) Wallops Station, NASA (Library Building, Room E–105), Wallops Island, Va. 23337.

Done at Washington, D.C., this 17th day of November 1972.

By direction of the Administrator.

HOMER E. NEWELL,
Associate Administrator, National Aeronautics and Space Administration.

[FR Doc.72-20253 Filed 11-24-72;8:47 am]

[Notice (72-24)]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL

Committee on Space Propulsion and Power Meeting

The NASA Research and Technology Advisory Council, Committee on Space Propulsion and Power will meet on December 13–14, 1972, at the Headquarters of the National Aeronautics and Space Administration, Washington, D.C. 20546. The meeting will be held in Room 625, Federal Office Building 10–B, 600 Independence Avenue SW., beginning at 9 a.m. on December 13. Members of the public will be admitted to the open portion of the meeting as specified on the attached agenda on a first-come, first-served basis up to the seating capacity of the room, which is about 40 persons. All visitors must report to the recording secretary in Room 625.

The NASA Research and Technology Advisory Council, Committee on Space Propulsion and Power serves in an advisory capacity only. In this capacity, the Committee is concerned with space propulsion, i.e., chemical, nuclear, or electric. The Committee is also concerned with the generation of electric power by solar, chemical, nuclear, or mechanical means. The current Chairman is Dr. Beno Sternlicht. There are currently 12 members. For further information please call Mr. William Woodward, area code 202—755–2377, or Mr. David Gabriel, area code 301—973–3927.

DECEMBER 13, 1972

Time	Topic
9 a.m.	Chairman and Executive Secretaries Reports. (Purpose: To review results of last Research and Technology Advisory Council meeting, development of internal Committee activities, NASA policies, and programs.)
9:45 a.m.	Space Research and Technology (SPART) Study Report. (Purpose: For the Committee to receive and discuss the recommendations of the NASA Space Research and Technology (SPART) Study pertaining to the areas under the cognizance of the Committee. The Space Research and Technology (SPART) Study was undertaken to assist in the establishment of the overall needs, emphases, and priorities for NASA's space research and technology activities for the future.)
11:15 a.m.	Review of Report of the Ad Hoc Panel on Advanced Reactors. (Purpose: To discuss the Panel's first draft report.)
2–4:30 p.m.	Review of Report of Ad Hoc Panel on Advanced and Conventional Propulsion. (Purpose: To discuss the Panel's first draft report.)

DECEMBER 14, 1972

9 a.m.–12:30 p.m.	Potential future Committee agenda items. (Purpose: To select items for future Committee consideration including: Future NASA mission power and propulsion requirements through 1990; concepts for very advanced power and propulsion systems; and, terrestrial application of space technology in power generation.)
1:30–3:30 p.m.	Closed session. (Purpose: The Committee will hear and discuss preliminary internal NASA information on priorities, program planning and funding.)

HOMER E. NEWELL,
Associate Administrator, National Aeronautics and Space Administration.

NOVEMBER 20, 1972.

[FR Doc.72-20252 Filed 11-24-72;8:47 am]

NATIONAL ENDOWMENT FOR THE ARTS

ADVISORY COMMITTEES

Notice of Determination

The National Endowment for the Arts utilizes advice and recommendations of

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advisory committees, including the National Council on the Arts, in carrying out many of its functions and activities.

On June 5, 1972, the President issued Executive Order 11671 governing the formation, use, conduct, management, and accessibility to the public of committees formed to advise and assist the Federal Government. Section 13 of the order specified that department and agency heads shall make adequate provision for participation by the public in the activities of advisory committees, except to the extent a determination is made in writing by the department or agency head that committee activities are matters which fall within policies analogous to those recognized in the Freedom of Information Act, section 552 (b) of title 5 of the United States Code, and the public interest requires such activities to be withheld from disclosure.

In administering the Freedom of Information Act, the Endowments' policy is to make fullest possible disclosure of records to the public, limited only by obligations of confidentiality and administrative necessity. Consistent with this policy, the Endowment will open to the public as many advisory committee meetings as possible.

Committees while engaged in the review, discussion, evaluation, and/or ranking of grant applications and contract proposals, or in evaluation of grantee and contractor performance, should not, however, be required to hold open meetings. The endowment, grant applicants, and persons submitting contract proposals have long and customarily treated as confidential information submitted in support of grant applications and contract proposals. Information and data are furnished to the Endowment with assurance they will be treated on a confidential basis and not disclosed to the public. This information may include such matters as details relating to the type or design of work to be performed, adequacy of the applicant's facilities, competence of the applicant's or contractor's staff, proposed budget, and other material which would not otherwise be disclosed.

In addition, to operate most effectively, the grant and contract review and evaluation process requires that members of committees considering such matters be free to engage in full and frank discussion. If the process were not to continue on a confidential basis, grant applicants and potential contractors would not supply sufficiently detailed information so essential for complete and effective review.

Grant applications, contract proposals, and detailed records of deliberations of the committees reviewing them are presently exempt from mandatory disclosure under the Freedom of Information Act.

When an advisory committee considers, discusses and formulates its advice, conclusions or report, effective functioning of a committee requires that its members have an opportunity to express their individual views and judgments to each other without the presence of the public in arriving at the views and judgments of the committee.

In the interest of meeting our obligations of confidentiality of matters submitted as part of grant applications and contract proposals and encouraging candid expression of opinion concerning the merits of grant applications and contract proposals and the evaluation of grantee and contractor performance, so vital to the review process, and in the interest of assuring committee members necessary opportunity to express their views and judgments to each other in the process of formulating advice to the chairman of the endowment on matters of Endowment policy: It is hereby determined in accordance with the provisions of section 13(d) of the order:

(1) The confidentiality required for grant applications and contract proposals, and evaluations and for the free discussion thereof as outlined herein is analogous to the policies recognized in the Freedom of Information Act, section 552(b) of title 5 of the United States Code, and in particular, subsections 552 (b) (4) and (5);

(2) The public interest requires such matters not be disclosed so the endowment may continue to receive information and advice necessary to appropriate decisions with respect to grant and contract matters; and

(3) The public interest also requires that there be closed to the public meetings or portions thereof held for the sole purpose of considering and formulating advice which the committee will give or any report it will render and involving exclusively the internal expression of views and judgments of the members, which if reduced to writing would be exempt as internal memoranda from mandatory disclosure under section 3 (e)(5) of the Freedom of Information Act (5 U.S.C. 552(b)(5)).

Therefore, until January 7, 1973, meetings or portions thereof, of all endowment advisory committees, including the National Council on the Arts, devoted to review, discussion, evaluation and/or ranking of grant applications, contract proposals, or performance by grantees and contractors or the formulation of advice shall not be open to the public.

The Executive Secretary of each such committee shall prepare a summary of any meeting or portion thereof not open to the public. Such summaries shall be consistent with the considerations which justified the closing of the meeting and shall be made available upon request to any member of the public.

All other advisory committee meetings shall be open to the public unless the Chairman of the National Endowment for the Arts or his designee determines otherwise in accordance with section 13(d) of the order.

The Public Information Officer of the endowment shall be responsible for publication in the FEDERAL REGISTER or as appropriate in local media, notice of all advisory committee meetings. Such notice shall be published in advance of the meeting and contain:

(1) Name of the committee and its purpose;

(2) Date, time, place, and agenda of the meeting;

(3) A statement that the meeting is open to the public, or, if the meeting or any portion thereof is not to be open to the public, a statement to that effect; and

(4) The name of the person from whom summaries of closed meetings and rosters of committee members may be obtained.

Subject to the availability of space any interested persons may attend, as observers, meetings, or portions thereof, of advisory committees which are open to the public.

Members of the public attending a meeting will be permitted to participate in the committee's discussion at the discretion of the Chairman of the committee, if the Chairman is a full-time Federal employee; if the Chairman is not a full-time Federal employee, then public participation will be permitted at the Chairman's discretion with the approval of the full-time Federal employee in attendance at the meeting in compliance with the order.

NANCY HANKS,
Chairman,
National Endowment for the Arts.

NOVEMBER 21, 1972.

[FR Doc.72-20311 Filed 11-24-72;8:52 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL COUNCIL FOR THE ARTS

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given that a closed meeting of the National Council on the Arts will be held at 9:30 a.m. on December 3, 1972, at the Sheraton-Carlton Hotel, 16th and K Streets, Washington, D.C. 20006.

This meeting is for the purpose of Council review, discussion, and evaluation of grant applications and, in accordance with the determination of the Chairman, NEA, under section 13(d) of Executive Order 11671, involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b)(4)).

Further information with reference to this meeting can be obtained from Mrs. L. Diamond, Secretary, National Council on the Arts 806 15th Street NW., Washington, DC 20506.

PAUL BERMAN,
Director of Administration National Foundation on the Arts and the Humanities.

[FR Doc.72-20312 Filed 11-24-72;8:52 am]

OFFICE OF EMERGENCY PREPAREDNESS

NEW MEXICO

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in me by the President under Executive Order 11575 of December 31, 1970; and by virtue of the Act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744), as amended by Public Law 92–209 (85 Stat. 742); notice is hereby given that on November 20, 1972, the President declared a major disaster as follows:

I have determined that the damages in certain areas of the State of New Mexico from heavy rains and flooding, beginning about October 19, 1972, are of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 91–606. I therefore declare that such a major disaster exists in the State of New Mexico. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575 to administer the Disaster Relief Act of 1970 (Public Law 91–606, as amended), I hereby appoint Mr. George E. Hastings, Regional Director, OEP Region 6, to act as the Federal Coordinating Officer to perform the duties specified by section 201 of that Act for this disaster.

I do hereby determine the following areas in the State of New Mexico to have been adversely affected by this declared major disaster:

The Counties of:
Catron. Hidalgo.
Grant.

Dated: November 20, 1972.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[FR Doc.72-20301 Filed 11-24-72;8:51 am]

POSTAL RATE COMMISSION

[Administrative Order 1; Amdt. 1]

CAREER AND EXCEPTED SERVICE

Change of Title of Hearing Examiner to Administrative Law Judge

NOVEMBER 22, 1972.

By Administrative Order 1 (36 F.R. 19279, October 1, 1971), the Postal Rate Commission, acting pursuant to section 3604 of title 39 of the United States Code, established the Postal Rate Commission Career Service and the Postal Rate Commission Excepted Service and set forth the rules governing the operation and regulation thereof. The Commission's rules as so set forth contain references to hearing examiner and hearing examiners.

The Civil Service Commission having amended Subpart B, Part 930, Title 5, Code of Federal Regulations, to change the title of hearing examiner to Administrative Law Judge (37 F.R. 16787, August 19, 1972), this Commission hereby amends its Administrative Order 1 as follows to conform the nomenclature therein to that of the Civil Service Commission:

1. In Rule 2, the title hearing examiners is hereby changed to Administrative Law Judges.

2. In Rules 8(d), 9(b), 10(a), and 12(b), the title hearing examiner is hereby changed to Administrative Law Judge.

This amendment shall be effective on November 25, 1972. The Secretary shall cause publication of this amendment to be made in the FEDERAL REGISTER on that date.

By the Commission.

[SEAL] JOSEPH A. FISHER,
Secretary.

[FR Doc.72-20387 Filed 11-24-72;8:53 am]

RAILROAD RETIREMENT BOARD

RAILROAD RETIREMENT SUPPLEMENTAL ANNUITY PROGRAM

Determination of Quarterly Rate of Excise Tax

In accordance with directions in section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. 3221(c)) as amended by section 5(a) of Public Law 91–215, the Railroad Retirement Board has determined that the excise tax imposed by such section 3221(c) on every employer, with respect to having individuals in his employ, for each man-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning January 1, 1973, shall be at the rate of 7½ cents.

Dated: November 17, 1972.

By authority of the Board.

[SEAL] RICHARD F. BUTLER,
Secretary of the Board.

[FR Doc.72-20265 Filed 11-24-72;8:49 am]

SECURITIES AND EXCHANGE COMMISSION

[70-5270]

ALABAMA POWER CO.

Notice of Proposed Amendment of Charter and Solicitation of Proxies

NOVEMBER 20, 1972.

Notice is hereby given that Alabama Power Co. (Alabama), Post Office Box 2641, Birmingham, AL 35291, an electric utility subsidiary of The Southern Co. (Southern), a registered holding company has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a) and 7 and Rule 62 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Alabama proposes to amend its charter so as to increase the authorized number of shares of its cumulative preferred stock, par value $100 per share, from 2 million shares, of which 1,504,000 shares are currently outstanding, to 2,500,000 shares. An affirmative vote of holders of a majority of the shares of preferred stock at the time outstanding is required for the adoption of the proposed amendment. Alabama proposes to solicit proxies from the holders of its preferred stock for a special meeting to be held on February 14, 1973.

The terms of Alabama's preferred stock as set forth in its charter provide, in effect, that, except for limited specified purposes or except with the affirmative vote in favor thereof by the holders of at least a majority of the shares of the preferred stock at the time outstanding, the amount of securities representing unsecured indebtedness which the company may issue shall not exceed 10 percent of its other capitalization, namely the sum of (a) the total principal amount of all bonds and other securities representing secured indebtedness then issued or assumed by the company and outstanding, and (b) the capital and surplus of the company (paid-in, earned and other, if any) as stated on its books. In the proxies to be sent for the February 14, 1973 meeting, Alabama also proposes to request the requisite affirmative vote of its preferred shareholders so as to authorize Alabama, until July 1, 1976, to incur unsecured debt in excess of the 10 percent limitation; provided, that (a) none of such unsecured debt outstanding on January 1, 1977, shall exceed such 10 percent limitation and (b) Alabama's total indebtedness shall at no time exceed 20 percent of its other capitalization, as defined above.

It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. The fees and expenses to be incurred in connection with the proposed transactions are estimated to be $70,000, including State of Alabama charter fee of $50,000, counsel fee of $7,500, and a fee of $4,000 for soliciting proxies:

Notice is further given that any interested person may, not later than December 12, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary,

Securities and Exchange Commission, that with certain exceptions, a trustee Debentures under the 1956, 1971, and

Louisiana proposes to issue and sell to

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Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20294 Filed 11-24-72;8:50 am]

[Files Nos. 2-39432 (22-6508); 2-42619 (22-7006)]

GENERAL ELECRIC OVERSEAS CAPITAL CORP.

Notice of Application and Opportunity for Hearing

NOVEMBER 17, 1972.

Notice is hereby given that General Electric Overseas Capital Corp. (Capital Corporation) and General Electric Co. (the Company) have filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the Act) for a finding by the Commission that the trusteeship of the First National City Bank (First National) under indentures dated May 1, 1956 (the 1956 Indenture), December 1, 1965 (the 1965 Indenture) which were qualified under the Act and June 15, 1972 (the June 1972 Indenture) which was not qualified under the Act and the trusteeship of First National as successor trustee of indentures dated as of March 15, 1971 (the 1971 Indenture) and January 15, 1972 (the January 1972 Indenture) which were qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for protection of investors to disqualify First National from acting as trustee under any of said Indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest, it shall within 90 days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of such section provides, that with certain exceptions, a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of such issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that the trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protecton of investors to disqualify such trustee from acting as trustee under both such indentures.

The Company alleges that:

(1) The Company issued 20-year 3¼ percent Debentures Due 1976, principal amount of $300 million under the 1956 Indenture between the Company and Morgan Guaranty Trust Company of New York (Morgan Guaranty). Effective February 10, 1965, Morgan Guaranty resigned as Trustee and First National was appointed successor Trustee.

(2) The Company guaranteed 4¼ percent Guaranteed Bonds Due 1985, issued by Capital Corporation, a wholly owned subsidiary of the Company, in the principal amount of $50 million convertible from May 1, 1967 to November 30, 1975 into common stock of the company under the 1965 Indenture among the Company, Capital Corporation, and First National.

(3) The Company issued 7½ percent Debentures Due 1996, in the principal amount of $200 million under the 1971 Indenture between the Company and Morgan Guaranty.

(4) The Company issued 6¼ percent Debentures Due 1979, in the principal amount of $125 million under the January 1972 Indenture between the Company and Morgan Guaranty.

(5) The Company guaranteed 4¼ percent Convertible Guaranteed Debentures Due 1987, in the principal amount of $50 million issued by the Capital Corporation under the June 1972 Indenture between the Company, Capital Corporation and First National.

(6) The 1956, 1971, and the January 1972 Indenture are wholly unsecured and the Company and Capital Corporation are not in default under any of these Indentures. The rights of the holders of the 1956, 1971, and the January 1972 Debentures rank on a parity with each other as to the Company and Capital Corporation.

(7) The 1965 and June 1972 Indentures also are wholly unsecured, and the Company has unconditionally guaranteed the performance of all covenants under said Indentures and should the Company be called upon to honor its Guarantee, the holders of Debentures under the 1965 and June 1972 Indentures would rank on a parity with holders of Debentures under the 1956, 1971, and January 1972 Indentures. The Company and Capital Corporation are not in default under any of the subject Indentures.

(8) On October 12, 1972 Morgan Guaranty (by reason of the existence of a disqualifying conflict of interest resulting from the election of a third director of Morgan Guaranty to the Board of Directors of the Company) resigned as Trustee under the 1971 Indenture and the January 1972 Indenture, said resignation to take effect upon the acceptance of appointment of a successor trustee. First National has agreed to accept appointment as successor Trustee provided that it qualified to so serve under the provisions of said Indenture.

The Company has waived notice of hearing and hearing, in connection with the matter referred to in this application.

For a more detailed statement of the matters of fact and law asserted here, all persons are referred to said application, which is a public document on file in the office of the Commission, at 500 North Capitol Street, Washington, DC 20549.

Notice is further given that any interested person may, not later than December 11, 1972, request in writing that hearing be held on such matter, stating the nature of this interest, the reason for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20295 Filed 11-24-72;8:50 am]

[70-5268]

MIDDLE SOUTH UTILITIES, INC., AND LOUISIANA POWER & LIGHT CO.

Notice of Proposed Issue and Sales of Notes, Additional Common Capital Stock, and Increase in Amount of Authorized Preferred Stock

NOVEMBER 20, 1972.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), 280 Park Avenue, New York, NY 10017, a registered holding company, and its public utility subsidiary, Louisiana Power & Light Co. ("Louisiana"), 143 Delarone Street, New Orleans, LA 70114, have filed an application-declaration and amendments thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7, 10, and 12(f) of the Act and Rules 23, 43, and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Louisiana proposes, from time to time through June 30, 1974, to issue and sell short-term notes to banks and to a dealer in commercial paper, in an aggregate principal amount not exceeding $50,000,000 outstanding at any one time. Louisiana intends to utilize the proceeds of the sale of its notes for construction expenditures and other corporate purposes. Louisiana's construction program contemplates construction expenditures of approximately $112,900,000 in 1972, $178,800,000 in 1973 and $184,200,000 in 1974.

Louisiana has arranged to borrow, through December 31, 1973, from the banks and in the maximum amounts indicated below:

Bank	Maximum amount
The Chase Manhattan Bank (National Association), New York, N.Y.	$16,000,000
Whitney National Bank of New Orleans, New Orleans, La.	8,000,000
First National Bank of Commerce, New Orleans, La.	6,000,000
Hibernia National Bank in New Orleans, New Orleans, La.	2,500,000
Irving Trust Co., New York, N.Y.	2,000,000
National American Bank of New Orleans, New Orleans, La.	2,000,000
The Bank of New Orleans and Trust Co., New Orleans, La.	500,000
Central Bank, Monroe, La.	500,000
The National Bank of Commerce in Jefferson Parish, New Orleans, La.	500,000
First State Bank & Trust Co., Bogalusa, La.	300,000
First National Bank of West Monroe, West Monroe, La.	150,000
International City Bank & Trust Co., New Orleans, La.	100,000
Terrebonne Bank & Trust Co., Houma, La.	100,000
The First National Bank of Jefferson Parish, Gretna, La.	100,000
Guaranty Bank & Trust Co., Gretna, La.	100,000
Metairie Savings Bank & Trust Co., Metairie, La.	100,000
The Ouachita National Bank in Monroe, Monroe, La.	100,000
American Bank & Trust Co. in Monroe, Monroe, La.	100,000
Citizens Bank & Trust Co., Thibodaux, La.	80,000
First Guaranty Bank, Hammond, La.	75,000
Assumption Bank and Trust Co., Napoleonville, La.	70,000
Bank of Louisiana in New Orleans, New Orleans, La.	60,000
Bank of the South, Gretna, La.	60,000
Franklin State Bank & Trust Co., Winnsboro, La.	50,000
Winnsboro State Bank & Trust Co., Winnsboro, La.	50,000
Bastrop National Bank, Bastrop, La.	50,000
Bank of Morehouse, Bastrop, La.	25,000
Total	39,670,000

Any changes in the named banks or in the amounts indicated will be set forth in subsequent amendments hereto. The proposed notes to banks will bear interest at the prime commercial bank rate in effect from time to time as of the dates the notes are executed; will mature not later than December 31, 1974; and will be subject to prepayment at any time without penalty. The filing indicates that Louisiana and other companies in the Middle South system normally maintain balances with the lending banks. If such balances were deemed to be "compensating balances", the effective interest rates on said notes would be 6.4 percent and 7.2 percent on balances of 10 percent and 20 percent, respectively, of outstanding notes, assuming a prime rate of 5¾ percent.

The commercial paper will have maturities of not over 9 months, and will be sold by Louisiana directly to Lehman Commercial Paper, Inc. ("Lehman") in denominations of not less than $50,000 or more than $1 million, at a discount which will not be in excess of the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and maturity. No commercial paper notes will be issued having a maturity of more than 90 days if the effective interest cost thereof would exceed that at which Louisiana could borrow from banks.

No commission or fee will be payable in connection with the issue and sale of the commercial paper notes. Lehman, as principal, will reoffer such notes at a discount of one-eighth of 1 percent per annum less than the prevailing discount rate to Louisiana. The notes will be reoffered in a manner which will not constitute a public offering to no more than 100 identified and designated customers in a list (nonpublic) prepared in advance by Lehman.

Louisiana expects to retire the bank notes and commercial paper from the net proceeds of the sale of first mortgage bonds and/or preferred stock and/or other securities.

Louisiana requests exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of its commercial paper pursuant to paragraph (a)(5) thereof. It is stated that it is not practical to invite competitive bids for commercial paper and that current rates for commercial paper for such prime borrowers as Louisiana are published daily in financial publications. Louisiana also requests authority to file certificates under Rule 24 with respect to the issue and sale of commercial paper on a quarterly basis.

Louisiana proposes to issue and sell to Middle South, and Middle proposes to acquire, 3,150,000 shares of Louisiana's authorized but unissued common stock, no par or nominal value, for an aggregate purchase price of $20,000,000. Proceeds of this common stock sale are to be used for payment of short-term notes outstanding, for financing Louisiana's construction program, and for other corporate purposes.

Louisiana also proposes to pay a cash dividend of $4,130,000 from its restricted retained earnings account, and Middle South, the sole stockholder, will concurrently purchase 650,000 additional shares of Louisiana's authorized but unissued common stock for $4,130,000.

Louisiana further proposes to amend its certificate of incorporation to increase by 350,000 shares, the number of authorized shares of its preferred stock, $100 par value, from the present 705,000 shares (all of which are outstanding) to 1,055,000 shares. Louisiana estimates that it will issue and sell such shares within 3 years. The proposed amendment to the certificate of incorporation does not require a vote of preferred shareholders.

It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. Fees and expenses to be incurred in connection with the proposed transactions are estimated at approximately $13,750, including fees of Louisiana's counsel not exceeding $3,000.

Notice is further given that any interested person may, not later than December 14, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the

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date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20298 Filed 11-24-72;8:51 am]

[812-3279]

SHEARSON APPRECIATION FUND, INC., ET AL.

Notice of Filing of Application for Exemption

NOVEMBER 20, 1972.

Notice is hereby given that The Shearson Appreciation Fund, Inc. ("Appreciation Fund"), Shearson Income Fund, Inc. ("Income Fund") and Shearson Investors Fund, Inc. ("Investors Fund"), (hereinafter collectively "the Applicants"), 14 Wall Street, New York, NY 10005, all of which are diversified, open end management companies registered under the Investment Company Act of 1940 ("Act") have filed an application pursuant to section 6(c) of the Act for an exemption from the provisions of section 22(d) of the Act to the extent necessary to permit shareholders of Investors Fund who purchased shares during such Fund's initial offering period between March 8, 1971 and April 2, 1971 at net asset value plus a maximum sales charge of 7 percent to exchange such shares for shares of Appreciation Fund or Income Fund at net asset value. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Section 22(d) provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except at a current offering price described in its prospectus, and would preclude those shareholders who purchased Investors Fund shares at a maximum sales charge of 7 percent from exchanging such shares for those of the other Applicants unless such shareholders paid an additional charge.

Shares of Appreciation Fund and Income Fund are currently being offered at net asset value plus a maximum sales charge of 8.5 percent. Shares of Investors Fund have been continuously offered to the public at net asset value plus a maximum sales charge of 8.5 percent subsequent to April 2, 1971. Applicants assert that since the exchange privilege is offered as a convenience to investors and since there are no selling expenses incurred by them in effecting such an exchange, no additional sales charge would be imposed on such shareholders absent the requirements of section 22(d). Applicants further assert that granting the proposed exemption is consistent with the purpose of section 22(d) of the Act in that the shares of all applicants are currently offered for sale with an 8.5 percent sales charge, thus making speculative purchases of 7 percent shares impossible and precluding an adverse impact on the continuous offering of shares of all other Applicants. Applicants state that all shareholders other than holders of Investors Fund 7 percent shares presently have exchange privileges and that granting exchange privileges to holders of 7 percent shares would result in no unfair discrimination among shareholders.

Section 6(c) of the Act provides, among other things, that the Commission, by order upon application, may conditionally or unconditionally exempt any person from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 20, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in such application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20297 Filed 11-24-72;8:51 am]

SMALL BUSINESS ADMINISTRATION

[License 02/02-0295]

BT CAPITAL CORP.

Notice of Issuance of Small Business Investment Company License

On October 19, 1972, a notice of application for a license as a small business investment company was published in the FEDERAL REGISTER (37 F.R. 22426) stating that an application has been filed with the Small Business Administration (SBA) pursuant to §107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1972)) for a license as a small business investment company by BT Capital Corp., 600 Third Avenue, New York, NY 10016.

Interested parties were given until the close of business November 6, 1972, to submit their comments to SBA. No comments were received.

Notice is hereby given that pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information and facts with regard thereto, SBA will issue License No. 02/02-0295 to BT Capital Corp., to operate as a small business investment company, subject to a closing on November 10, 1972.

Dated: November 16, 1972.

ANTHONY G. CHASE, *Deputy Administrator.*

[FR Doc.72-20268 Filed 11-24-72;8:48 am]

[License 04/04-0105]

C & C CAPITAL CORP.

Notice of Application for a License as a Small Business Investment Company

An application for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by C & C Capital Corp., 1000 Val Street, Knoxville, TN 37921, with the Small Business Administration (SBA) pursuant to § 107.102 of the SBA rules and regulations governing small business investment companies (13 CFR 107.102 (1972)).

The officers and directors of the applicant are as follows:

Clifford E. Quimby, President, Director, General Manager, 733 Whirlaway Circle, Knoxville, TN 37919.

George W. Ridenour, Jr., Treasurer, Secretary, Director, Route 2, Westwood, Clinton, TN 37716.

Charles M. Armstrong, Director, Route 2, Powell, Tenn. 37849.

Cecil H. Butcher, Jr., Director, 3513 Black Oak Ridge Lane, Knoxville, TN 37918.

Jacob F. Butcher, Director, Route 4, Wilde Acres, Clinton, Tenn. 37716.

Creed A. Daniel, Director, Route 4, Rutledge, Tenn. 37861.

Rudolph F. Garren, Director, Route 2, Maynardville, Tenn. 37807.

Joseph S. Goodstein, Director, 520 Cherokee Boulevard, Knoxville, TN 37919.

Fred R. Langley, Director, 12309 North Fox Den, Concord, TN 37720.

Douglas J. Monroe, Director, 7545 Berkshire Boulevard, Powell, TN 37849.

Harry D. Vestal, Director, Highway 33, Maynardville, Tenn. 37807.

Jack D. Walls, Director, Highway 61, Oliver Springs, Tenn. 37840.

William K. Warren, Director, 5404 Nellwoods Drive, Knoxville, TN 37819.

Clyde B. Webb, Director, Athens, Tenn. 37303.

Lionel B. Wilde, Director, 1442 Darvee Drive, Morristown, TN 37814.

Robert L. Woodson, Jr., Director, 802 South Tennessee Avenue, La Follette, TN 37766.

The applicant, a Tennessee corporation with its principal place of business located at 1000 Val Street, Knoxville, TN 37921, will begin operations with $350,000 of paid-in capital, consisting of 350 shares of common stock. The applicant's stock is beneficially owned by 20 holders; however, because of family affiliation and common stock ownership, the following listed individuals control the largest percentage of the applicant's stock.

Stockholder	Percentage of applicants stock owned
Cecil H. Butcher, Jr. (brother to Jacob F.)	3.9
Jacob F. Butcher (brother to Cecil H.)	3.9
Lionel B. Wilde (brother-in-law to Jacob F. Butcher)	2.9
First National Bank, Jellico (owned 68.2 percent by the Butcher family and Wilde)	2.3
Union County Bank, Maynardville (owned 39.8 percent by the Butcher family)	6.4
First Farmers Bank, Athens (owned 67.9 percent by Financial Securities Corp.[1])	14.3
First National Bank of Anderson County (owned 52 percent by Financial Securities Corp.[1])	10.7
Southern Industrial Banking (owned 34.8 percent by the Butcher family)	4.9
Total	49.3

[1] Financial Securities Corp. is owned 66⅔ percent by the Butcher family.

The applicant will maintain a diversified investment policy. According to the applicant's investment policy, it recognizes the need for both equity and loan investments; however, as much as it is practicable, the applicant will emphasize equity investments with particular attention to growth potential. The applicant intends to offer management consulting services to borrowers and other small business concerns.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under its management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA rules and regulations.

Any interested person may, not later than 20 days from the date of publication of this notice, submit to SBA, in writing, relevant comments on the proposed SBIC. Any such communication should be addressed to the Associate Administrator for Operations and Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416. A copy of this notice shall be published in a newspaper of general circulation in Knoxville, Tenn.

Dated: November 16, 1972.

ANTHONY G. CHASE, *Deputy Administrator.*

[FR Doc.72-20266 Filed 11-24-72;8:48 am]

[License 01/02-0145]

DEWEY INVESTMENT CORP.

Notice of Filing of Application for Transfer of Control of Licensed Small Business Investment Company

Notice is hereby given that application has been filed with the Small Business Administration (SBA) pursuant to § 107.701 of the regulations governing small business investment companies (13 CFR 107.701 (1972)) for transfer of control of Dewey Investment Corp., 18 Asylum Street, Hartford, CT 06813, a Federal licensee under the Small Business Investment Act of 1958, as amended (Act).

Dewey Investment Corp. was licensed on April 9, 1962, with paid-in capital and surplus of $160,240 which has remained unchanged since that date. However, the proposed new management has agreed to increase this amount pursuant to section 302(a) of the Act. It has 1,600 shares of issued and outstanding stock held by 18 stockholders.

The only investors who will own 10 percent or more of the outstanding stock, and their respective positions, are as follows:

Name	Title
George E. Mrosek, 27 Pitkin St., Manchester, CT 06040.	President.
Salvatore Filloramo, 375 South Main St., Manchester, CT 06040.	Vice President.
Loren J. Andreo, 382 Bush 111 Rd., Manchester, CT 06040.	Treasurer.

The proposed new owners do not intend to make any significant changes in the area of operations and investment policy. The principal office will be located at 101 Middle Turnpike, West, Manchester, CT 06040.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new owners, and the probability of successful operation of the company under their control and management in accordance with the Act and regulations.

Notice is further given that any interested person may submit their comments on the proposed transfer of control to the Associate Administrator for Operations and Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416, within 10 days after the date of publication of this notice.

A similar notice shall be published by the proposed purchasers in a newspaper of general circulation in Manchester, Conn.

Dated: November 16, 1972.

ANTHONY G. CHASE, *Deputy Administrator.*

[FR Doc.72-20269 Filed 11-24-72;8:48 am]

[Declaration of Disaster Loan Area 944]

ILLINOIS

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of September 1972, because of excessive rainfall and flooding, damage resulted to property located in the State of Illinois;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b) of the Small Business Act (15 U.S.C. 636(b)) as amended, may be received and considered by the office below indicated from persons or firms whose property situated in or adjacent to McHenry County, Ill., suffered damage or destruction resulting from excessive rainfall and flooding on September 28, 1972.

OFFICE

Small Business Administration Regional Office, 219 South Dearborn Street, Chicago, IL 60604.

2. Temporary offices will be established at such areas as are necessary, addresses to be announced locally.

3. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to December 31, 1972.

Dated: September 28, 1972.

THOMAS S. KLEPPE, *Administrator.*

[FR Doc.72-20270 Filed 11-24-72;8:48 am]

[Declaration of Disaster Loan Area 952]

INDIANA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of September 1972,

2. Temporary offices will be established

titioners. Any other party showing a

The legislation further proposes to

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because of excessive rainfall and flooding, damage resulted to property located in the State of Indiana;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b) of the Small Business Act (15 U.S.C. 636(b)) as amended, may be received and considered by the office below indicated from persons or firms whose property situated in or adjacent to Lake County, Ind., suffered damage or destruction resulting from excessive rainfall and flooding on September 13 and 14, 1972.

OFFICE

Small Business Administration District Office, 36 South Pennsylvania Street, Indianapolis, IN 46204

2. Temporary offices will be established at such areas as are necessary, addresses to be announced locally.

3. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to January 31, 1973.

Dated: October 26, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-20271 Filed 11-24-72;8:48 am]

[Declaration of Disaster Loan Area 946]

MASSACHUSETTS

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of September 1972, because of the effects of flooding and erosion, damage resulted to property located in the State of Massachusetts;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b) of the Small Business Act (15 U.S.C. 636(b)) as amended, may be received and considered by the office below indicated from persons or firms whose property situated in or adjacent to Plymouth County, Mass., suffered damage or destruction resulting from flooding and erosion due to Northeast storm on September 3, 1972.

OFFICE

Small Business Administration Regional Office, John Fitzgerald Kennedy Federal Building, Government Center, Boston, Mass. 02203.

2. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to December 31, 1972.

Dated: September 29, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-20272 Filed 11-24-72;8:49 am]

[Declaration of Disaster Loan Area 948]

NORTH CAROLINA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of June 1972, because of the effects of heavy rainfall and flooding, damage resulted to property located in the State of North Carolina;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b) of the Small Business Act (15 U.S.C. 636(b)) as amended, may be received and considered by the office below indicated from persons or firms whose property situated in or adjacent to Yancey County, N.C., suffered damage or destruction resulting from heavy rainfall and flooding on June 20 and 21, 1972.

OFFICE

Small Business Administration District Office, 222 South Church Street, Charlotte, NC 28202.

2. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to January 31, 1973.

Dated: October 5, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-20273 Filed 11-24-72;8:49 am]

[Declaration of Disaster Loan Area 947]

OHIO

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of September 1972, because of the effects of excessive rainfall and flooding, damage resulted to property located in the State of Ohio;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b) of the Small Business Act (15 U.S.C. 636(b)) as amended, may be received and considered by the office below indicated from persons or firms whose property situated in or adjacent to Summit and Lorain Counties, Ohio, suffered damage or destruction resulting from excessive rainfall and flooding on September 17, 1972.

OFFICE

Small Business Administration District Office, 1240 East Ninth Street, Cleveland, OH 44199.

2. Temporary offices will be established at such areas as are necessary, addresses to be announced locally.

3. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to January 31, 1973.

Dated: October 2, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-20274 Filed 11-24-72;8:49 am]

[Declaration of Disaster Loan Area 941]

OHIO

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of September 1972, because of excessive rainfall and flash flooding, damage resulted to property located in the State of Ohio;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b) of the Small Business Act (15 U.S.C. 636(b)) as amended, may be received and considered by the office below indicated from persons or firms whose property situated in or adjacent to Defiance County, Ohio, suffered damage or destruction resulting from excessive rainfall and flash flooding on September 13, 1972.

OFFICE

Small Business Administration District Office, 50 West Gay Street, Columbus, OH 43215.

2. Temporary offices will be established at such areas as are necessary, addresses to be announced locally.

3. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to December 31, 1972.

Dated: September 21, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-20275 Filed 11-24-72;8:49 am]

[License 02/02-0160]

STERLING CAPITAL CORP.

Notice of Surrender of License

Notice is hereby given that Sterling Capital Corp., New York, N.Y., incorporated under the laws of New York on October 23, 1962, has surrendered its License No. 02/02-0160 issued by the Small Business Administration (SBA) on December 16, 1962.

Sterling Capital Corp. has complied with all conditions set forth by SBA for surrender of its license including repayment of all indebtedness owing to SBA.

Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the regulations promulgated thereunder, the surrender of the license of Sterling Capital Corp. is hereby accepted and it is no longer licensed to operate as a small business investment company.

Dated: November 16, 1972.

ANTHONY G. CHASE,
Deputy Administrator.

[FR Doc.72-20267 Filed 11-24-72;8:48 am]

TARIFF COMMISSION

[TEA-W-162]

BERNIE SHOE CO.

Workers' Petition for a Determination; Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the workers and former workers of the Bernie Shoe Co., Haverhill, Mass., the U.S. Tariff Commission on November 21, 1972, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear for women (of the types provided for in items 700.43, 700.45, and 700.55 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, DC, and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

Issued: November 22, 1972.

By order of the Commission:

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-20320 Filed 11-24-72;8:52 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

MINNESOTA DEVELOPMENTAL PLAN

State Occupational Safety and Health Standards and Enforcement; Submission of Plan and Availability for Comment

1. *Submission and description of plan.* Pursuant to section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) and § 1902.11 of Title 29, Code of Federal Regulations, notice is hereby given that an occupational safety and health plan for the State of Minnesota has been submitted to the Assistant Secretary of Labor for Occupational Safety and Health. The Assistant Secretary has preliminarily reviewed the plan, and hereby gives notice that the question of approval of the plan is in issue before him.

The plan identifies the Department of Labor and Industry as the State agency designated by the Governor of the State to administer the plan throughout the State. It defines the covered occupational safety and health issues as defined by the Secretary of Labor in 29 CFR 1902.2(c)(1).

The plan includes proposed draft legislation to be considered by the Minnesota Legislature during its 1973 session. Under the legislation the Department of Labor and Industry will have full authority to enforce and administer laws respecting safety and health of employees in all workplaces of the State with the exception of domestic servants, employees of the United States, or where there is occupational safety and health protection of employees under the following Federal laws: the Atomic Energy Act of 1954, 42 U.S.C. 2021; the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 801; the Federal Metal and Nonmetallic Mine Safety Act, 30 U.S.C. 721; the Federal Safety Appliances Act, 45 U.S.C. 1; the Federal Railroad Safety Act of 1970, 45 U.S.C. 431; and the Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C. 901.

The legislation further proposes to bring the plan into conformity with the requirements of 29 CFR, Part 1902, in areas such as procedures for variances and the protection of employees from hazards, procedures for the development and promulgation of standards, including standards for protection of employees against new and unforeseen hazards; and procedures for prompt restraint, or elimination of imminent danger situations.

The legislation is also intended to insure inspections in response to complaints; give employer and employee representatives an opportunity to accompany inspectors in order to aid inspections; notification of employees or their representatives when no compliance action is taken as a result of alleged violations, including informal review; notification of employees of their protections and obligations; protection of employees against discharge or discrimination in terms and conditions of employment; adequate safeguards to protect trade secrets; provision for prompt notice to employers and employees of alleged violations of standards and abatement requirements; a system of sanctions against employers for violations of standards; employer right of review and employee participation in review proceedings; and coverage of employees of political subdivisions.

Included in the plan is a statement of the Governor's support for the proposed legislation and a statement of legal opinion that it will meet the requirements of the Occupational Safety and Health Act of 1970, and is consistent with the constitution and laws of Minnesota. The plan sets out goals and provides a timetable for bringing it into full conformity with Part 1902 including provision for coverage of personnel under the existing merit system.

2. *Location of plan for inspection and copying.* A copy of the plan may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, Room 503, Railway Labor Building, 400 First Street NW, Washington, DC 20210; Regional Administrator, Occupational Safety and Health Administration, Department of Labor, 12th floor, 300 South Wacker Drive, Chicago, IL 60606; State Capitol Building, Legislative Reference Library, St. Paul, Minn. Copies of the plan may be obtained at the expense of the person(s) requesting the copies.

3. *Public participation.* Interested persons are hereby given 30 days from the day of this publication in which to submit to the Assistant Secretary written data, views, and arguments concerning the plan. The submissions are to be addressed to the Director, Office of State Programs, OSHA, Railway Labor Building, Room 503, U.S. Department of Labor, Washington, D.C. 20210. The written comments will be available for public inspection and copying, at the expense of the person(s) requesting such copies, at the above address.

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Any interested person(s) may request an informal hearing concerning the proposed plan, or any part thereof, whenever particularized written objections thereto are filed within the 30 days specified above. If the Assistant Secretary finds that substantial objections are filed, he shall hold a formal or informal hearing on the subjects and issues involved. The Assistant Secretary of Labor for Occupational Safety and Health shall thereafter consider all relevant comments and arguments presented and issue his decision as to approval or disapproval of the plan.

Signed at Washington, D.C., this 21st day of November 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-20313 Filed 11-24-72;8:52 am]

INTERSTATE COMMERCE COMMISSION

[Notice 122]

ASSIGNMENT OF HEARINGS

NOVEMBER 20, 1972.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC-F-11600, Refrigerated Transport Co., Inc.—Control and Merger—Florida Refrigerated Service, Inc., now being assigned hearing January 8, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 134082 Sub 6, K. H. Transport, Inc., now being assigned hearing January 16, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 30530 Sub 9, North Eastern Motor Freight, Inc., now being assigned hearing January 17, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 107295 Sub 304, Pre-Fab Transit Co., now being assigned hearing January 17, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 107295 Sub 403, Pre-Fab Transit Co., now being assigned hearing January 18, 1973, will be held at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 133409 Sub 3, Louis H. Foltz, doing business as Air Freight Delivery Service, now being assigned hearing January 22, 1973, will be held at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 115841 Sub 413, Colonial Refrigerated Transportation Inc., now being assigned hearing February 5, 1973, will be held at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-136806, Aycock, Inc., now assigned November 27, 1972, at Washington, D.C., is postponed indefinitely.

W-12 Sub 6, Moran Towing & Transportation Co., Inc., W-16 Subs 8 and 9, S. C. Loveland Co., Inc., W-78 Subs 10 and 11, The Valley Line Co., W-104 Subs 24 and 25, Union Barge Line Corp., W-381 Subs 15 and 16, Federal Barge Lines, Inc., W-463 Sub 10, James Hughes, Inc., W-586 Subs 4 and 5, Puget Sound Tug & Barge Co., W-630 Subs 37 and 38, A. L. Mechling Barge Lines, Inc., and W-700 Sub 23, Coyle Lines, Inc., continued to January 16, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-29910 Sub 117, Arkansas Best Freight System, Inc., now being assigned hearing January 31, 1973 (1 day), at Columbus, Ohio, in a hearing room to be later designated.

AB-5-44, George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, Trustees of the Property of Penn Central Transportation Co., Debtor, Abandonment Between Hebron and Thurston, in Licking and Fairfield Counties, Ohio, now being assigned hearing January 29, 1973 (2 days), at Columbus, Ohio, in a hearing room to be later designated.

AB-5-41, George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, Trustees of the Property of Penn Central Transportation Co., Debtor, Abandonment Between Berwick and Spore, in Seneca, Wyandot, and Crawford Counties, Ohio, now being assigned hearing February 1, 1973 (2 days), at Bucyrus, Ohio, in a hearing room to be later designated.

MC-83539 Sub 345, C & H Transportation Co., Inc., now assigned December 4, 1972, at Dallas, Tex., is postponed indefinitely.

MC-135021 Sub 1, Texas Overland Trucking Express, Inc., now assigned December 11, 1972, at Dallas, Tex., is cancelled and the application is dismissed.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-20304 Filed 11-24-72;8:51 am]

[Notice 123]

ASSIGNMENT OF HEARINGS

NOVEMBER 21, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC-77972 Sub-19, Merchants Truck Line, Inc., now assigned November 27, 1972, at Memphis, Tenn., and December 11, 1972, at Jackson, Miss., is postponed indefinitely.

MC-1367 Sub-5, Owl Transfer & Storage Co., Inc., now assigned December 18, 1972, will be in Room B063, Federal Office Building, 909 First Avenue, and December 19 and 20, 1972, in Room 4043, Federal Office Building, 909 First Avenue, Seattle, Wash.

MC 123407 Sub-106, Sawyer Transport, Inc., now being assigned hearing January 29, 1973 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC-C-7808, Stephen J. McMahon, doing business as McMahon Tour Agency V. Travel Center of Waterbury, Inc., et al., now being assigned hearing January 16, 1973 (2 days), at Hartford, Conn., in a hearing room to be later designated.

MC-63792, Tom Hicks Transfer Co., Inc., now being assigned hearing January 23, 1973 (3 days), at Jackson, Miss., in a hearing room to be later designated.

MC-106644 Sub-129, Superior Trucking Co., Inc., now assigned November 27, 1972, at Birmingham, Ala., is cancelled and transferred to modified procedure.

MC 98701 Sub-3, Cleveland Express, Inc., now being assigned hearing January 15, 1973 (1 week), at Knoxville, Tenn., in a hearing room to be later designated.

MC 97904 Sub-13, Knoxville-Maryville Motor Express, Inc., now being assigned continued hearing January 30, 1973 (3 days), at Nashville, Tenn., in a hearing room to be later designated.

MC 107403 Sub-832, Matlack, Inc., now being assigned hearing February 21, 1973 (3 days), at New Orleans, La., in a hearing room to be later designated.

No. 35539, Louisiana Intrastate Freight Rates and Charges—1972, now being assigned hearing February 26, 1973 (1 week), at New Orleans, La., in a hearing room to be later designated.

MC-C-7734, Resort Bus Lines, Inc., et al. vs. Mayflower Coach Corp., now being assigned hearing January 30, 1973 (2 days), at Newark, N.J., in a hearing room to be later designated.

MC-113959 Sub-4, Lemmon Transport, Inc., Contract Carrier Extension Waste Products, now being assigned hearing January 23, 1973 (1 day), at Richmond, Va., in a hearing room to be later designated.

MC 10223 Sub-4, Robert E. Mack, Sophie R. Mack, Estelle M. Funk, Carol Brown and Theresa R. Molloy, doing business as Mack Transportation Co., and MC 105809 Sub-13, Mack Transportation Co. Extension-Hardware, now assigned November 30, 1972, at Washington, D.C., postponed indefinitely.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-20305 Filed 11-24-72;8:51 am]

FOURTH SECTION APPLICATION FOR RELIEF

NOVEMBER 21, 1972.

Protests to the granting of an application must be prepared in accordance with § 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42573—*Vinyl chloride to specified points in New England.* Filed by Southwestern Freight Bureau, agent (No. B-366), for interested rail carriers. Rates on vinyl chloride, in tank carloads, as described in the application, from specified points in Texas and Louisiana, to specified points in Massachusetts and Rhode Island.

Grounds for relief—Market competition.

Tariff—Supplement 9 to Southwestern Freight Bureau, agent, tariff ICC 5043. Rates are published to become effective on December 21, 1972.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.72-20307 Filed 11-24-72;8:52 am]

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SATURDAY, NOVEMBER 25, 1972

WASHINGTON, D.C.

Volume 37 ■ Number 228

PART II

DEPARTMENT OF LABOR

Employment Standards Administration

■

Minimum Wages for Federal and Federally Assisted Construction

Area Wage Determination Decisions, Modifications, and Supersedeas Decisions

No. 228—Pt. II——1

DEPARTMENT OF LABOR

in accordance with the provisons of 29 CFR Parts 1 and 5. Accordingly, the ap-

20210. The cause for not utilizing the rulemaking procedures prescribed in 5

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DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Area Wage Determination Decisions, Modifications, and Supersedeas Decisions

Area wage determination decisions. Area Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 F.R. 21138), and of Secretary of Labor's Orders 12–71 and 15–71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

Area Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisons of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and supersedeas decisions to area wage determination decisions. Modifications and Supersedeas Decisions to Area Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 F.R. 21138), and of Secretary of Labor's Orders 13–71 and 15–71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in foregoing Area Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original Area Wage Determination Decision.

The following is a list of the Area Wage Determination Decisions, Modifications, and Supersedeas Decisions which are set forth below in this document.

New Area Wage Determination Decisions Nos. AP–49 and AP–50 for the State of Minnesota and Decision No. AP–451 for the State of New York.

Modifications to Area Wage Determination Decisions for specified localities in the States of Alabama, Alaska, Connecticut, Florida, Illinois, Kentucky, Louisiana, Massachusetts, Missouri, New Mexico, Oklahoma, Oregon, Pennsylvania Tennessee, Texas, Vermont, and Washington which were published in the FEDERAL REGISTER on the following dates:

Decision No.	*Date*
AM–1,863; AM–1,864	Aug. 20, 1971.
AM–2,506; AM–2,507	Aug. 27, 1971.
AM–6,707	March 10, 1972.
AM–6,726; AM–6,727	May 5, 1972.
AM–8,620; AM–8,621; AM–8,622.	June 9, 1972.
AP–300	July 7, 1972.
AP–108; AP–109; AP–110; AP–311.	Aug. 18, 1972.
AP–316; AP–318	Aug. 25, 1972.
AP–413; AP–414; AP–416; AP–417; AP–418; AP–505.	Sept. 1, 1972.
AP–322	Sept. 15, 1972.
AP–344, AP–349; AP–350; AP–351; AP–421; AP–425.	Sept. 29, 1972.
AP–24; AP–121; AP–434	Oct. 6, 1972.
AP–132; AP–436; AP–437; AP–438; AP–507.	Oct. 13, 1972.
AP–28; AP–353; AP–354	Nov. 3, 1972.
AP–249; AP–358	Nov. 10, 1972.

Supersedeas Decisions to Area Wage Determination Decisions for specified localities in the States of Alaska, Connecticut, Maryland, South Dakota, Tennessee, Virginia, and the District of Columbia which were published in the FEDERAL REGISTER on the following dates:

Decision No.	*Date*
AM–1,844(AP–450)	Aug. 20, 1971.
AM–2,462(AP–253); AM–2,505(AP–251).	Aug. 27, 1971.
AM–6,725(AP–252)	May 5, 1972.
AM–8,612(AP–138)	May 19, 1972.
AP–419(AP–445)	Sept. 29, 1972.
AP–431(AP–448); AP–432 (AP–446); AP–433(AP–449).	Oct. 6, 1972.
AP–435(AP–447)	Oct. 13, 1972.

Supersedeas Decision numbers are in parentheses following the number of the decision being superseded.

Signed at Washington, D.C., this 17th day of November 1972.

BEN P. ROBERTSON,
Acting Administrator,
Wage and Hour Division.

NEW DECISION

STATE: MINNESOTA

DECISION NUMBER: AP-49

DESCRIPTION OF WORK: Highway Construction

COUNTIES: SEE BELOW

DATE: DATE OF PUBLICATION

MINN-Bec-Cas-Cla-Hub-Ota-Tod-Wad-Wil-3 A

	Basic Hourly Rates	Fringe Benefits Payments			
		H&W	Pensions	Vacation	App. Tr.	Others
COUNTIES: Becker, Cass, Clay, Hubbard, Otter Tail, Todd, Wadena & Wilkin						
LABORERS	$4.30	.30				
TRUCK DRIVERS:						
Truck Drivers (Tandem)	5.55	.55	.15			
Truck Drivers (Semi)	5.75	.75	.15			
POWER EQUIPMENT OPERATORS:						
Asphalt Distributor	5.55	.55	.15			
Asph. Paver	5.55	.55	.15			
Bulldozer	6.10	.10	.15			
Crusher-Screening Plant	6.10	.10	.15			
Loader	6.10	.10	.15			
Mechanic	6.10	.10	.15			
Motor Patrol	6.35	.35	.15			
Oiler-Greaser	5.55	.55	.15			
Rollers:						
Base	4.97	.97				
Finish	5.27	.27				
Scraper	5.52	.52	.15			
Tractor	5.20	.20				

XUM
V37-228 NOV 25 72 XUM

NEW DECISION

STATE: MINNESOTA

COUNTIES: SEE BELOW

DECISION NUMBER: AP-50

DATE: DATE OF PUBLICATION

DESCRIPTION OF WORK: Highway Construction

MINN-BST-CHI-DOU-GRA-KAND-LQP-POP-STEV-SWI-TRA-3 A

COUNTIES: Big Stone, Chippewa, Grant, Douglas, Kandiyohi, Lac Qui Parle, Pope, Stevens, Swift & Traverse	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LABORERS	$4.30					
TRUCK DRIVERS:						
Truck Drivers (Tandem)	5.55	.15	.15			
Truck Drivers (Semi)	5.75	.15	.15			
POWER EQUIPMENT OPERATORS:						
Asphalt Distributor-Spreader	6.10	.15	.15			
Asphalt Plant	6.10	.15	.15			
Bulldozer	6.10	.15	.15			
Crusher-Screening Plant	6.10	.15	.15			
Loader, Front End	6.10	.15	.15			
Mechanic	6.10	.15	.15			
Motor Patrol	6.35	.15	.15			
Roller	5.55	.15	.15			
Scraper	6.10	.15	.15			
Tractor	5.20	.15	.15			

NEW DECISION

STATE: New York

COUNTY: Saratoga

DECISION NO.: AP-451

DATE: Date of Publication

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

46-New York-1-2-3-X (1 of 3)

BUILDING, HVY. & HWY. CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Asbestos Workers	$7.96	.40	.10		
Boilermakers	7.25	.40	10%		.01
Bricklayers, cement masons, plasterers, and stone masons	8.20	.40	.30		.01
Carpenters, Building:					
Day, Hadley, Edinburg, Corinth & Moreau Twps.:					
Carpenters and soft floor layers	7.00	.30	.30	g	.005
Millwrights	7.25	.30	.30	g	.005
Piledrivermen	7.15	.30	.30	g	.005
Remainder of County:					
Carpenters and soft floor layers	7.55	.50	.45		.025
Millwrights	8.05	.50	.45		.025
Piledrivermen	8.40	.75	.70 + .70	.56	.02
Carpenters, Heavy and Highway:					
Day, Hadley, Edinburg, Corinth & Moreau Twps:					
Carpenters and Piledrivermen	7.07	.30	.30		.025
Remainder of County:					
Carpenters	6.72	.50	.45		.025
Piledrivermen, Heavy	8.40	.75	.70 + .70	.56	.02
Cement Masons, Hvy. & Hwy.	6.08	.25	.20		
Electricians:					
Ganseveen, Mt. Gregor, Schuylerville, Victory Mills, Wayville, Stillwater, Mechanicville, and Waterford	9.20	.15	1% + .20	a	h
Remainder of County	8.55	.35	1% + .20 + i	j	.05
Elevator Constructors	8.16	.195	.20	a% + b + c	.005
Elevator Constructors' Helpers	5.71	.195	.20	a% + b + c	.005
Elevator Constructors' Helpers (Prob.)	4.08				
Ironworkers, structural	7.74	.50	.85		.02
Ironworkers, ornamental	7.74	.50	.85		.02
Ironworkers, reinforcing	7.74	.50	.85		.02
Laborers, Building:					
Twps. of Day, Hadley, Edinburg, Corinth, Moreau, Providence, Greenfield, Wilton, Northampton, Galway, Milton, Saratoga Springs, Charleston, Ballston Malta and Clifton Park:					
Laborers	6.20	.50	.50		
Air Tool Operators (jackhammer, vibrator)	6.35	.50	.50		
Asphalt rakers	6.30	.50	.50		
Mortar mixers (hand or machine)	6.35	.50	.50		
Wagon drill	6.425	.50	.50		
Blasters	6.675	.50	.50		
Acetylene burners	6.475	.50	.50		

AP-451 P. 2

46-New York-1-2-3-X (2 of 3)

BUILDING, HVY. & HWY. CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Laborers, Building (Cont'd)						
Remainder of County:						
Laborers	$6.60	.50	.65			
Pipelayers (2 man team), hod carriers, mortar mixers (hand or machine), jackhammer op., well pointing, all air or gas driven tools, vibrators, power driven buggies	6.75	.50	.65			
Asphalt rakers	6.60	.60	.65			
Demolition	6.85	.50	.65			
Form setters (curb)	6.775	.50	.65			
Wagon drill operator	6.825	.50	.65			
Acetylene burners	6.875	.50	.65			
Blasters	7.075	.50	.65			
Lathers	7.035	.275	.10		.01	
Lead burners	7.80	.30		d	.01	
Line Construction:						
Linemen	9.00	.45	1% + .35	.32 + e	½ of 1%	
Cable Splicer	9.75	.45	1% + .35	.32 + e	½ of 1%	
Groundman digging machine operator	8.80	.45	1% + .35	.32 + e	½ of 1%	
Groundman mobile equipment operator	8.30	.45	1% + .35	.32 + e	½ of 1%	
Groundman truck driver and mechanic	7.90	.45	1% + .35	.32 + e	½ of 1%	
Groundman dynamite man	8.30	.45	1% + .35	.32 + e	½ of 1%	
Marble setter, terrazzo workers and tile setters	5.32	.25	.20			
Marble setters', terrazzo workers' and tile setters' helpers	4.90		.15			
Painters:						
Clifton Park, Half Moon, Malta, Charlton, Galway, Milton & W. Milton:						
Brush	7.40	.48	.12			
Structural steel, bridge	8.15	.48	.12			
Spray	8.50	.48	.12			
Day, Hadley, Corinth, Wilton, N. Umberland & Mt. McGregor in Wilton Twp., Moreau						
Brush	6.55	.25	.20			
Structural steel, swing scaffold and bridge	7.05	.25	.20			
Spray and sandblasting	7.65	.25	.20			
Remainder of County:						
Commercial work	5.95					
Swing scaffold bosun chair, water towers, flag poles, window jacks	6.45					
Bridge, structural steel and sandblasting	6.70					
Spray	7.05					

BUILDING, HVY. & HWY. CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Plumbers and Steamfitters:						
Moreau Township	$7.05	.35	.40		.02	
South of a line drawn through the Outlet Rd., on R. 50, East & West to the Saratoga Co. line; including the AEC and Malta Projects	8.53	.40	.54		.10	
Remainder of County	6.60	.30	.25			
Roofers	8.05	.40	.30		.02	
Sheet Metal Workers	8.55	.35	.20		.02	
Sprinkler Fitters	8.75	.30	.50		.05	
Truck Drivers:						
Straight, winch, transit-mix on job site, road oilers, dump, pick-up, panel, water and fuel trucks on site	7.09	.37	.37	f	.02	
Euclids	7.34	.37	.37	f	.02	
Lowboy or lowboy trailers	7.24	.37	.37	f	.02	
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holiday: E, provided the employee works the day after the holiday.

b. Holidays: A thru F.

c. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

d. Holidays: A thru F, Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 days prior to the holiday, and the regularly scheduled work days immediately preceeding and following the holiday.

e. Holidays: A thru F; Washington's Birthday, Election Day for the President of the United States and Eleccion of Governor of New York (provided the employee works the day before and the day after the holiday).

f. One week vacation after one year's work; 2 weeks after 5 years work.

g. Holiday: D, providing employee was on the payroll the week before the holiday or on the payroll the week after the holiday.

h. Employer contributes $15.00 per year to an apprentice training program.

i. Employer contributes $.50 to an annuity fund.

j. Holidays: D & E, plus two hours on Election Day.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Power Equipment Operators:						
Oilers	6.74	.65	.35	a	.10	
Firemen and heavy duty greasers, all boilers and steam generators	6.87	.65	.35	a	.10	
Pumps, vibrators, concrete mixers, spreaders, concrete finishing machines, mortar mixers, air compressors, dust collectors, welding machines well points, two or more Herman Nelson and like heaters, batch and plant op., seed and mulching machines, generators, temporary light plants, concrete pump, beltcrete power pac (beltcrete system), electric submersible pump 4" and over	6.93	.65	.35	a	.10	
Dinkey locomotives, Barber Greene loaders, Loaders and conveyors, tractors, scoopmobiles, bulldozers, road rollers, form fine graders, power brooms and sweepers	7.12	.65	.35	a	.10	
Black top spreaders, black top rollers, high lifts, fork lifts, one drum hoist or hod hoists, post hole diggers, trenchavators, core and well drillers (one drum), economobile and similar type machines, elevators, A-L frame winches, power hoisting(single drum)	7.26	.65	.35	a	.10	
LeTourneau graders or scrapers, trenching machines, push cart	7.425	.65	.35	a	.10	
Tractor road pavers, cranes, power road graders, shovels, backhoes, draglines, pile drivers, hoists two or more drums, three drum engines, hysters, two drum and swinging engines, three drum swinging engine, locomotive cranes, gradalls, hydrocrane, model CHB Vibrotamp or similar machines, Murphy type diesel generator-beltcrete system, side booms, hydro hamser, tractor mounted drill (quarry master), euclid loaders, concrete pumps, all CMI equipment, concrete central mix plant, automated asphalt concrete plant, derrick, whirlies, tower cranes, cableways, hydraulic cranes, power hoisting (2 drum and over), mucking machine	7.48	.65	.35	a	.10	
Maintenance engineer	7.51	.65	.35	a	.10	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F- Christmas Day.

FOOTNOTES:
a. holidays: A through F.

HEAVY AND HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.
POWER EQUIPMENT OPERATORS:					
Automatic fine grader, backhoe (except tractor mounted, rubber-tired), blacktop, plant (automated), cableway, caisson auger, central mix concrete plant (automated), Cherry picker-over 5 tons capacity, crane, cranes & derricks (steel erection), dragline, dual drum paver, excavator-all purpose-hydraulically operated, front end loader (4 C.Y. & over), hoist, two or three drums pile-driver, power grader with elevating loader attachment, Quarry master (or equivalent), shovel, slip form paver (if a second man is needed, he shall be an oiler), tractor drawn belt-type loader, truck crane, tunnel shovel	$7.75	.65	.25	a	.10
Backhoe (tractor mounted, rubber-tired bituminous spreader & mixer, blacktop plant (non-automated), boring machine cage hoist, central mix plant (non-automated) & all concrete batching plants, cherry picker-5 tons & under, compressors (4 or less) exceeding 2,000 C.F.M. combined capacity, concrete paver (over 16-S), concrete pump, crusher, drill rigs, tractor mounted, front end loader (under 4 c.y.), hi-pressure boiler (15 lbs., & over), hoist, one drum, Koiman plant loader & similar type loaders (if employer requires another man to clean screen or to maintain the equipment he shall be an oiler), maintenance engineer, mixer for stabilized base, self, propelled, monorail machine plant engineer, power grader, pump crete, ready-mix concrete plant, maintenance grease man, road widener, roller (all above subgrade), side boom, tractor scraper, tractor with dozer &/or pusher, winch	7.45	.65	.25	a	.10
Compressors (4 not to exceed 2,000 C.F.M. combined capacity; or 3 or less with more than 1,200 C.F.M., but not to exceed 2,000 C.F.M., compressors (any size but subject to other provision for compressors), dust collectors, generators, pumps, welding machines						

HEAVY AND HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHER
POWER EQUIPMENT OPERATORS: (cont'd) (4 of any type or combination), concrete pavement spreaders & finishers conveyor, drill core & well, electric pump used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift gunnite machine, hammers, hydraulic self-propelled, locomotive, post hole digger & post driver, roller (grader & fill), tractor with towed accessories, vibratory compactor, vibro, tamp, well point	$7.00	.65	.25	a	.10	
Aggregate plant, boiler (used in conjunction with production), cement bin operator, compressors; 3 or less not to exceed 1,200 c.f.m. combined capacity, compressors (any size, but subject to other provisions, for compressors), dust collectors, generators, pumps, welding machines (3 or less of any type or combination), concrete mixer (16-S and under), concrete saw-self-propelled, fireman, form tamper, mulching machine, oiler, power broom power heaterman, revinius widener, steam cleaner, tractor	6.35	.65	.25	a	.10	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F; providing employee works the working day before and the working day after the holiday.

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NY-27-IAM-2-71- E

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
LABORERS:						
Laborers and driller helpers Concrete aggregate bin, mortar mixer, hand or machine vibrator pin buggy, mason tenders, concrete bootmen, chain saw, jackhammer, pavement breaker and all other gas, electric oil and air-tool operators, bull float tamper, pipelayers	$ 5.78	.50	.65	a		
Drillers, asphalt rakers, stone or granite curb setters and acetylene torch operator	5.98	.50	.65	a		
Blasters, form setters, stone or granite curb setters	6.18	.50	.65	a		
	6.38	.50	.65	a		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. holidays A through F, providing the employee works the day before and after the holiday.

AP-451 P. 8

N.Y. 1-TD-2-71-F

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
TRUCK DRIVERS:						
Warehouse, yardmen, truck helpers, pick-ups, panel trucks, flatbody material trucks (straight jobs), single axle dump, dumpsters, material checkers and receivers, greasers, tireman, mechanic helpers and parts chaser	$6.08	.40	.35	a		
Tandems and batch trucks, mechanics dispatcher	6.13	.40	.35	a		
Semi-trailers, lowboy trucks asphalt distributor, agitator, mixer trucks and dumpcrete type vehicles	6.18	.40	.35	a		
Specialized earth moving equipment, Euclid type or similar off-highway equipment, where not self-loaded	6.33	.40	.35	a		
Off-highway tandem back dump, twin engine equipment and double hitched equipment where not self-loaded	6.48	.40	.35	a		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F, provided employee has worked the working day before and the working day after the holiday.

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
DECISION #AM-8620 - Mod. 63 (37 FR 11625 - June 9, 1972) Mobile County, Alabama						
Change: Truck drivers Up to but not inold. 1½ tons	$4.90					
1½ to but not inold. 3 tons	5.10					
3 tons to but not inold. 5 tons	5.35					
5 tons & over incld. special equipment	5.50					
DECISION #AM-2,506 - Mod. #3 (36 FR 17168 - August 27, 1971) Area II, Alaska (South of the 63rd Parallel & West of the 141st Meridian)						
Change: Plumbers; Steamfitters	$10.50	.58	.90		.08	
Sheet Metal Workers	11.95	.26	.50		.07	
Soft Floor Layers	10.00	.45		.35	.10	
DECISION #AM-2,507 - Mod. #3 (36 FR 17173 - August 27, 1971) Area III, Alaska (East of the 141st Meridian)						
Change: Plumbers; Steamfitters	10.90					
Soft Floor Layers	10.00	.45		.35	.10	
DECISION #AM-6,726 - Mod. #3 (37 FR 9157 - May 5, 1972) Area II, Alaska (South of the 63rd Parallel & West of the 141st Meridian)						
Change: Plumbers; Steamfitters	10.50	.58	.90		.08	
Sheet Metal Workers	11.95	.26	.50		.07	
Soft Floor Layers	10.00	.45		.35	.10	
DECISION #AM-6,727 - Mod. #3 [illegible] of the 141st Meridian)						
Change: Plumbers; Steamfitters	10.90					
Soft Floor Layers	10.00	.45		.35	.10	

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
DECISION #AP-434 - Mod. #1 (37 FR 21234 - October 6, 1972) Tolland County, Connecticut						
Change: Building, Heavy and Highway Construction: Marble Setters' helpers, terrazzo workers' helpers, tile setters' helpers	$7.65	.35	.15+.25			
Sheet metal workers	8.70	.50	.51		.05	
Building Const.-Power Equip. Oper. (See Modifications P. 3)						
DECISION #AP-436 - Mod. #1 (37 FR 21753 - October 13, 1972) Middlesex County, Connecticut						
Change: Building, Heavy and Highway Construction: Marble setters' helpers, terrazzo workers' helpers, tile setters' helpers	7.65	.35	.15+.25			
Sheet metal workers	8.70	.50	.51		.05	
Building Const.-Power Equip. Oper. (See Modifications P. 3)						
DECISION #AP-437 - Mod. #1 (37 FR 21756 - October 13, 1972) Windham County, Connecticut						
Change: Building, Heavy and Highway Construction: Marble setters' helpers, terrazzo workers' helpers, tile setters' helpers	7.65	.35	.15+.25			
Sheet metal workers	8.70	.50	.51		.05	
Building Const.-Power Equip. Oper. (See Modifications P. 3)						

MODIFICATIONS P. 3

DECISIONS #AP-434, #AP-436, #AP-437 (Cont'd)

SW-CONN-1-0

POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
Derrick, hoist (2 drums or over), structural steel (hoisting and handling), stone setting, pile driver, lighter derrick, stiff leg and guy derrick	$ 8.32	.30	.25+a	b		
Tower crane, dragline, gradall, hoist, Koehering scooper loader and/or hoe, shovel, front end loader (7yds. or over) fork lift (over 4 ft. lift)	8.15	.30	.25+a	b		
Maintenance engineer	8.05	.30	.25+a	b		
Boiler (portable-high pressure), hammer (vibratory), front end load (3-7 yds.), Coleman loader and screening plant or similar equip., drill (joy-heavy weight champion or equivalent), mucking machine, pumpcrete, rock and earth boring machine, compressor (battery op.) post hole and well digger, conveyor, central mix operator, combination hoe and loader (over 1 yd.)	7.90	.30	.25+a	b		
Asphalt spreader	7.90	.30	.25+a	b		
Bulldozer	7.80	.30	.25+a	b		
Crader, scraperpan, carryall operator	7.70	.30	.25+a	b		
Combination hoe and loader	7.70	.30	.25+a	b		
Concrete mixer (5 bags or over), front end loader (under 3 yds), powerstone spreader	7.65	.30	.25+a	b		
Compressor, generator, pump & well point opr., welding machine, air steam valve oprs., mechanical heater oprs.	7.53	.30	.25+a	b		
Steam Jenny, fork lift (not over 4 ft.),	7.55	.30	.25+a	b		
Roller operators	7.50	.30	.25+a	b		
Dinky machine opr., firemen (high pressure), power pavement brerker	7.35	.30	.25+a	b		
Oiler	6.90	.30	.25+a	b		
Crane with boom, over 150 ft. Additional $.25 per hour						
Crane with boom, over 200 ft. Additional $.50 per hour						
Paid Holidays (Where applicable): A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day						

FOOTNOTE:

a. Employer contributes $.15 per hour to Supplemental Unemployment Benefit Funds.

b. Seven (7) paid holidays: A through F and Good Friday.

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-121 - Mod. #1 (37 FR 21237 - October 6, 1972) Alachua County, Florida						
Change: Building Construction Asbestos Workers	$6.68	.25	.15			
Add: Building Construction Lathers	5.50				.01	
DECISION #AP-24 - Mod. #1 (37 FR 21243 - October 6, 1972) Champaign County, Illinois						
Change: Ironworkers Structural	$7.60	.25	.45		.01	
Ornamental	7.60	.25	.45		.01	
Reinforcing	7.60	.25	.45		.01	
Laborers (Building)	7.60	.25	.45		.01	
	6.10	.25	.20		.035	
DECISION #AP-28 - Mod. #2 (37 FR 23513 - November 3, 1972) Cook County, Illinois						
Change: Electricians	9.00	.540	.405	.39	.045	

MODIFICATIONS P. 5

DECISION #AP-108 - Mod. #1
(37 FR 16763 - August 18, 1972)
Allen, Ballard, Butler, Caldwell, Calloway, Carlisle, Christian, Crittenden, Daviess, Edmonson, Fulton, Graves, Hancock, Henderson, Hickman, Hopkins, Livingston, Logan, Lyon, McCracken, McLean, Marshall, Muhlenberg, Ohio, Simpson, Todd, Trigg, Union, Warren and Webster Countiea, Kentucky

Change:
Heavy Construction:
Power Equipment Operators (See Modifications Ps. 6 & 7)

DECISION #AP-109 - Mod. #1
(37 FR 16766 - August 18, 1972)
Adair, Barren, Bell, Casey, Clay, Clinton, Cumberland, Estill, Garrard, Green, Harlan, Hart, Jackson, Knox, Laurel, Lee, Leslie, Lincoln, McCreary, Menifee, Metcalfe, Monroe, Owsley, Powell, Pulaski, Rockcastle, Russell, Taylor, Wayne, Whitley and Wolfe Counties, Kentucky

Change:
Heavy Construction:
Power Equipment Operators (See Modifications Ps. 6 & 7)

DECISION #AP-110 - Mod. #1
(37 FR 16770 - August 18, 1972)
Anderson, Bath, Bourbon, Boyd, Boyle, Bracken, Breckinridge, Bullitt, Carroll, Carter, Clark, Elliott, Fayette, Fleming, Franklin, Gallatin, Grayson, Grant, Greenup, Hardin, Harrison, Henry, Jefferson, Jessamine, Larue, Lewis, Madison, Marion, Mason, Meade, Mercer, Montgomery, Morgan, Nelson, Nicholas, Oldham, Owen, Robertson, Rowan, Scott, Shelby, Spencer, Trimble, Washington and Woodford Counties, Kentucky

Change:
Heavy Construction:
Power Equipment Operators (See Modifications Ps. 6 & 7)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
DECISION #AP-132 - Mod. #1 (37 FR 21763 - October 13, 1972) Jefferson County, Kentucky						
[illegible]	$8.33	.30	.30			

MODIFICATIONS P. 6

DECISIONS #AP-108; #AP-109; #AP-110 (Cont'd)

KENTUCKY 1-PEO-2 A (1-2)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Heavy Construction: Power Equipment Operators: Class A Operators: Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant operator, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge engineer, elevator, (regardless of ownership when used for hoisting any building material), elevating grader and all types of loaders, hoe-type machine, hoisting engine, locomotive, LeTourneau or carry-all scoop, bulldozer, mechanic, mechanic welder, orangepeel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (regardless of lift height), all types of boom cats, core drill, tow or push boat, A-frame winch truck, concrete paver, gradeall, hoist (two or more drums), hyster, pumpcrete, ross carrier, side boom, tail boom, rotary drill, mucking machine, rock spreader attached to equipment, scoopmobile, KeGal Loader, tower cranes (French, German & other types), hydrocrane, backfiller, qurries, subgrader	$7.05	.25	.25			
Class B Operators: All air compressors (600 cu. ft. per min. or greater capacity), bituminous mixer, concrete mixer (under 21 cu. ft.), welding machine, form grader, roller (rock), tugger, tractor (50 H.P. and over), bull float, finish machine, outboard motor boat, well points, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, joint sealing machine, mechanic helper, whirley oiler, tractair and road widening trencher, [illegible] operator, throttle valve, elevator (one drum or buck hoist)	5.86	.25	.25			

MODIFICATIONS P. 7

DECISIONS #AP-108; #AP-109; #AP-110 (Cont'd) KENTUCKY 1-1811-2 A (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Heavy Construction:						
Power Equipment Operators:						
Class C Operators:						
Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 H.P.), vibrator, oiler, concrete saw, burlap and curing machine, hydro seeder, power form handling equipment, deckhand oiler, hydraulic post driver	$5.42	.25	.25			

MODIFICATIONS P. 8

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-300 - Mod. #7 (37 FR 13455 - July 7, 1972) Rapides Parish, Louisiana						
Change Mod. #5 (37 FR 23973 - November 10, 1972) to Read Mod. #6						
Change:						
Ironworkers:						
Structural; Ornamental; Reinforcing; Riggers	$6.80	.30	.35		.04	
DECISION #AP-311 - Mod. #5 (37 FR 16776 - August 18, 1972) Caddo & Bossier Parishes, Louisiana						
Change:						
Asbestos workers	7.14	.30	.51		.025	
Ironworkers:						
Structural; Ornamental	6.70	.30	.35		.04	
Reinforcing	6.70	.30	.35		.04	
Sheeters	6.70	.30	.35		.04	
DECISION #AP-318 - Mod. #4 (37 FR 17306 - August 25, 1972) Caddo & Bossier Parishes, Louisiana						
Change:						
Asbestos workers	7.14	.30	.51		.025	
Ironworkers:						
Structural; Ornamental	6.70	.30	.35		.04	
Reinforcing	6.70	.30	.35		.04	
Sheeters	6.70	.30	.35		.04	
DECISION #AP-351 - Mod. #2 (37 FR 20441 - September 29, 1972) Orleans, Jefferson, Plaquemines, & St. Bernard Parishes, Louisiana						
Change:						
[illegible]; Cement gun; Concrete block layers; Cleaners; Pointers; Caulkers	7.25	.25	.15		.035	

MODIFICATIONS P. 9

DECISION #AP-351 (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Carpenters:						
Carpenters	$6.87	.20	.20		.04	
Piledrivers	6.97	.20	.20		.04	
Millwrights	7.155	.20	.20		.04	
Cement masons:						
Cement masons	6.555	.25	.30		.04	
Machine operator; boatswain chair	6.805	.25	.30		.04	
Ironworkers:						
Structural; Ornamental; Reinforcing	7.20	.20	.25		.02	
Laborers:						
Orleans, Jefferson (except Grande Isle), Plaquemines & St. Bernard Parishes:						
Laborers	4.91	.10	.10			
Stonemasons helpers; mechanical tool operator (air, electric); sewerman	5.01	.10	.10			
Gunite tool operator	5.16	.10	.10			
Pipelayers non-metallic	5.01	.10	.10			
Bricklayers & mason tenders	5.03	.10	.10			
Mortar mixer, hand or machine	5.13	.10	.10			
Lathers	6.53	.20	.15		.05	
Plasterers:						
Plasterers	6.45	.30	.20		.03	
Swinging scaffold	6.70	.30	.20		.03	
Plumbers:						
Plumbers; Steamfitters; Pipefitters; Pipe welders; Refrigeration mechanic	7.90	.30	.40		.06	
Soft floor layers	6.87	.20	.20		.04	
Marble masons	7.25	.25	.15		.035	
Marble masons' helpers	5.05	.15				
Tile setters	6.85	.15				
Tile setters' helpers	5.05	.15				
Terrazzo workers	6.85	.15				
Terrazzo workers' helpers	5.05	.15				
Power Equipment Operators:						
Assistant master mechanic	7.37	.25	.15			
Master mechanic	7.62	.25	.15			
Oilers	5.39	.25	.15			
Oilers (Driver)	5.69	.25	.15			
Mechanic helpers	5.69	.25	.15			
Batch plant operator	5.69	.25	.15			

MODIFICATIONS P. 10

DECISION #AP-351 (cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators(cont'd):						
Light Equipment Operators:						
A-frame truck, except when working with Ironworker or Pipefitters; Air compressor; Asphalt plant engineers; Asphalt finisher, screed men; Blade graders; Boat operator; Bull floats; Concrete jointing machines; Concrete mixers, 16-s & under; Concrete spreader; Crusher operator; Deck winch operator (1); Distributor, asphalt "Ditch Witch" & similar equipment; Electric elevators (inside); Finishing machine; Firemen; Form graders, Fork lifts; Hoist, 1 drum, under 4 stories; Power subgraders; Pugmill operator; Pull tractor; Pump; Pump crete; Rollers except on brick & asphalt; Rubber tired front end loader (with or without blade attachments) less than 1 cu. yd. capacity; Scale operator; Scoopmobile; Snatch cats; Spray machines; Stabilizers, less than 3 drums; Straddlebuggy; Track machines & equivalent machines; Tractors or bulldozers smaller than D-6	$6.12	.25	.15			
Heavy Equipment Operators:						
A-frame truck, when working with Ironworkers & Pipefitters; Bulldozers, D-6 & larger; cableways; Concrete mixers (over 16-s); Paving machines; Cranes, derricks, draglines & clam shells; Deck winches (2); Gradealls; Hi-Ho & similar type equipment; Hoist, 1 drum, 4 stories & over; Hoist, 2 drums or more; Hydro cranes; Mechanic; Motor patrols; Pile drivers; Rollers on brick & asphalt; Rubber tired front end loader, with or without blade attachments, 1 cu. yd. capacity or more; Scrapers; [illegible] types): [illegible]ilfords, 3 drums or more; Traxcavators; Trenching machines; Unit operator; Welding journeyman; Well point system(gas, diesel, electric, etc)	7.12	.25	.15			

MODIFICATIONS P. 11

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-413 - Mod. #4 (37 FR 17912 - September 1, 1972) Barnstable County, Massachusetts						
Change: Building, heavy & highway construction: Bricklayers; Cement masons; Cement finishers; Plasterers; Stonemasons	$8.25	.60	.60		.02	
Elevator constructors	9.125	.345	.23	2%+b+c	.015	
Elevator constructors' helpers	6.39	.345	.23	2%+b+c	.015	
Elevator constructors' helpers (Prob.)	4.56					
Ironworkers: Ornamental; Reinforcing & Structural	7.70	45	.80+f		.02	
Roofers: Roofers, Kettlemen & Waterproofers	7.35	.25	.05			
Roofers helpers, Class A	6.70	25	.05			
Footnote: f. Employer contribution of $.50 to Annuity Fund.						
DECISION #AP-414 - Mod. #4 (37 FR 17915 - September 1, 1972) Essex County, Massachusetts						
Change: Building, heavy & highway construction: Electricians: Remainder of County	8.45	.30	1%+.10		.02	
Elevator constructors	9.125	.345	.23	2%+a+b	.015	
Elevator constructors' helpers	6.39	.345	.23	2%+a+b	.015	
Elevator constructors' helpers (Prob.)	4.56					
Ironworkers	8.29	.45	.80+f		.03	
Plumbers; Steamfitters: Remainder of County	8.50	.40	.40		.05	
Add: Plumbers; Steamfitters: South Hamilton	8.50	.35	.35		.02	
f. Employer contribution of $.25 to Annuity Fund.						

MODIFICATIONS P. 12

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-416 - Mod. #4 (37 FR 17922 - September 1, 1972) Middlesex County, Massachusetts						
Change: Building, heavy & highway construction: Elevator constructors	$9.125	.345	.23	2%+a+b	.015	
Elevator constructors' helpers	6.39	.345	.23	2%+a+b	.015	
Elevator constructors' helpers (Prob.)	4.56					
DECISION #AP-417 - Mod. #3 (37 FR 17926 - September 1, 1972) Suffolk County, Massachusetts						
Change: Building, heavy & highway construction: Elevator constructors	9.125	.345	.23	2%+a+b	.015	
Elevator constructors' helpers	6.39	.345	.23	2%+a+b	.015	
Elevator constructors' helpers (Prob.)	4.56					
DECISION #AP-418 - Mod. #4 (37 FR 17930 - September 1, 1972) Worcester County, Massachusetts						
Change: Building, heavy & highway construction: Electricians: Grafton, Holden, Leicester, Millbury, North Grafton, Shrewsbury, Southbridge, Westboro, Whitinsville, & Worcester	8.95	5%	1%+.17		.01	
Ironworkers: Ornamental; Reinforcing; & Structural	8.04	.45	.80+e		.03	
Plumbers; Steamfitters: Grafton, Holden, Leicester, Millbury, North Grafton, [illegible] Worcester	8.725	.55	.30			
Fitchburg, Harvard, Lancaster, & Leominster	8.50	.30	.20	4%	.02	
Footnote: e. Employer contribution of $.25 to Annuity Fund.						

MODIFICATIONS P. 13

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
DECISION #AP-505 - Mod. #2 (37 FR 17933 - September 1, 1972) St. Louis and St. Charles Counties, Missouri						
Change: Building, Heavy & Highway-St. Louis City & County. Building-St. Charles County: Carpet, Linoleum	$7.36	.38	.30	.45	.10	
Electricians: Electricians	7.76	5%	1%+5½%	11%+4½%	1%	
Heavy & Highway Construction(St. Charles County): Power Equipment Operators schedule (See Modifications Ps. 14 & 15)						
DECISION #AP-507 - Mod. #1 (37 FR 21776 - October 13, 1972) Scott County, Missouri						
Change: Power Equipment Operators schedule (See Modifications Ps. 16 & 17)						

MODIFICATIONS P. 14

DECISION #AP-505 (contd.)

NO. 5-PEO-2,3 (1-2)

HEAVY & HIGHWAY CONSTRUCTION(ST. CHARLES COUNTY) POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Asphalt finishing machine & Trench Widening Spreader; Autograder; Backhoe; Blade Operator-all types; Boat Operator; Boilers-2; Central Mix Concrete Plant Operator; Clamshell Operator; Concrete Mixer Paver; Crane Operator; Derrick or Derrick Trucks; Ditching Machine; Dozer Operator; Dragline Operator; Dredge Engineman; Dredge Operator; Drill Cat with Compressor mounted on Cat; Drilling or Boring Machine, Rotary, Self-propelled; Highloader; Hoisting Engine-2 or more active drums; Launchhammer Wheel; Locomotive Operator - standard guage; Mechanics and Welders; Mucking Machine; Piledriver Operator; Pitman Crane Operator; Sidebeam Cats; Skimmer Scoop Operator; Trenching Machine Operator; Truck Crane	$ 8.00	.35	.40		.02	
A-Frame; Asphalt Roller Operator; Asphalt Plant Operator; Asphalt Plant Mixer Operator; Backfiller Operator; Barber-Greene Loader; Boat Operator (bridge & dams); Chip Spreader; Compressor Maintenance Operator - 2; Concrete Mix Operator, Skip Loader; Concrete Plant Operator; Concrete Pump Operator; Crusher Operator; Dredge Oiler; Elevating Grader Operator; Fork lift; Greaser-Fleet; Hoisting Engine-1; Locomotive Operator-narrow gauge; Multiple Compactor; Pavement Breaker; Powerbroom-self-propelled; Rooter; Slip Form Finishing Machine; Stonecutter Machine; Throttle Man; Tractor Operator (over 50 H.P.); Welding Machine Maintenance Operator-2; Winch Truck	7.80	.35	.40		.02	

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DECISION #AP-505 (contd.)

MO. 5-PLO-2,3 (2-2)

POWER EQUIPMENT OPERATORS (cont'd)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Rollers-1; Chip Spreader (front man); Chain Drill Operator; Clef Plane Operator; Compressor Maintenance Operator -1; Conveyor Operator; Curb Finishing Machine; Distributor Operator; Finishing Machine Operator; Fireman-Rig; Flex plane Operator; Float Operator; Form Grader Operator; Generator Maintenance Operator; Light Plant Maintenance Operator; Maintenance Operator; Pump Maintenance operator; Roller Operator, other than high type Asphalt; Screening & Washing Plant Operator; Siphons & Jets; Subgrading Machine Operator; Spreader Box Operator, Self-propelled (not asphalt); Tank Car Heater Operator (combination boiler & booster); Fireman on Asphalt Plants, drum or boiler; Ulmac, Ulric or similar Spreader; Vibrating Machine Operator, not hand; Welding Machine & Maintenance Operator-1; Concrete Saw Operator (self-propelled); Tractor Operator (50 H.P. or less)	7.60	.35	.40		.02	
Oiler	7.10	.35	.40		.02	
Dragline Operator-3 yds. & over; Shovel -3 yds. & over; Clamshell-3 yds. & over Crane, rigs or pilcdrivers, 100' to 200' of boom (incl. jib); Hoists - each additional active drum over 2 drums	8.25	.35	.40		.02	
Scoop Operator, tandem; Crane, rigs or pilcdrivers, 200' of boom or over (incl. jib)	8.50	.35	.40		.02	

DECISION #AP-507 (contd.)

MO. 12 - PLO - 2,3 (1-2)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Asphalt finishing machine & trench widening spreader; Autograder; Backhoe; Blade operator - all types; Boat operator; Boilers - 2; Central mix concrete plant operator; Clamshell operator; Concrete mixer paver; Crane operator; Derrick or Derrick cracks; Ditching machine; Dozer operator; Dragline operator; Dredge engineman; Dredge operator; Drill Cat with compressor mounted on Cat; Drilling or Boring machine, Rotary, self-propelled; Highloader; Hoisting engine - 2 or more active drums; Lauchhammer wheel; Locomotive operator - standard gauge; Mechanics and Welders; Mucking machine; Piledrive operator; Pitman crane operator; Quad trac; Scoop operator; Shovel operator; Sideboom cats; Skimmer scoop operator; Trenching machine operator; Truck crane	$ 7.55	.35	.40		.02	
A-Frame; Asphalt roller operator; Asphalt plant operator; Asphalt plant mixer operator; Backfiller operator; Barber-Greene loader; bcat operator (bridges & dams); Chip spreader; Compressor maintenance operator - 2; Concrete mix operator, skip loader; Concrete plant operator; Concrete pump operator; Crusher operator; Dredge oiler; Elevating grader operator; Fork lift; Greaser-Fleet; Hoisting engine - 1; Locomotive operator - narrow gauge; Multiple compactor; Pavement breaker; Powerbroom - self-propelled; Rooter; Slip form finishing machine; Stumpcutter machine; Throttle man; Tractor operator (over 50 H.P.); Welding machine maintenance operator - 2; Winch truck	7.20	.35	.40		.02	

DECISION #AP-507 (contd.)

MO. 12 - PLO - 2,3 (2-2)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Boilers - 1; Chip spreader (front man); Chain drill operator; Clef plane operator; Compressor maintenance operator-1; Conveyor operator; Curb finishing machine; Distributor operator; Finishing machine operator; Fireman - Rig; Flex plane operator; Float operator; Form grader operator; Generator maintenance operator; Light plant maintenance operator; Maintenance operator; Pump maintenance operator; Roller operator, other than high type asphalt; Screening & washing plant operator; Siphons & jets; Sub-grading machine operator; Spreader box operator, self-propelled (not asphalt); Tank car heater operator (combination boiler & booster); Fireman on asphalt plants, drum or boiler; Ulmac, Ulric or similar spreader; Vibrating machine operator, not hand; Welding machine maintenance operator - 1	7.00	.35	.40		.02	
Concrete saw operator (self-propelled); Oiler; Tractor operator (50 H.P. or less)	6.25	.35	.40		.02	
Dragline operator - 3 yds. & over; shovel - 3yds. & over	7.80	.35	.40		.02	
Scoop operator, tandem	8.05	.35	.40		.02	

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-322 - Mod. #3 (37 FR 18876 - September 15, 1972) Los Alamos County, New Mexico						
ADD: General Building and Heavy Engineering Construction: Lathers	$5.70				.01	
DECISION #AP-316 - Mod. #5 (37 FR 17358 - August 25, 1972) Tulsa County, Oklahoma						
Change: Roofers Lathers	$6.25 6.50		.25 .10		.01 .01	
DECISION #AM-8621 - Mod. #3 (37 FR 11629 - June 9, 1972) Knox County, Tennessee						
Change: Plasterers	6.85					
Omit: Schedule issued for Highway Construction						
Add: Schedule issued for Statewide Highway Construction in 37 FR 246 - January 7, 1972.						
DECISION #AM-8622 - Mod. #4 (37 FR 11632 - June 9, 1972) Davidson County, Tennessee						
Change: Stonemasons Steamfitters	$6.75 6.82	.25	.25		.03	
Omit: Schedule issued for Highway Construction						
Add: Schedule issued for Statewide Highway Construction in 37 FR 246 - January 7, 1972.						

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-249 - Mod. #1 (37 FR 23998 - November 10, 1972) Statewide, Oregon						
Change:						
Cement Masons: Cement Masons	$6.81	.35	.35		.01	
Mastic Workers, Composition Worker; Gunnite Man; Power Machinery Operator	6.935	.35	.35		.01	
Electricians: Baker; Gilliam; Grant; Morrow; Umatilla; Union; Wallowa & Wheeler Counties, Oregon: Electricians	7.93	.35	1%		.02	
Cable Splicers	8.33	.35	1%		.02	
Coos, Curry, Lincoln; those portions of Douglas & Lane Counties lying west of a line north & south from the N. E. corner of Coos County to the S. E. corner of Lincoln County: Electricians	7.74	.25	1%			
Cable Splicers	8.51	.25	1%			
Ironworkers: Reinforcing; Structural; Fence Erectors; Ornamental; Riggers; Signal Men	7.31	.48	.65	.25	.05	
Truck Drivers: Group I						
Battery rebuilder; Bus or man-haul driver; Concrete buggies (power operated); Dump trucks, side, end & bottom dumps, incl. semi-trucks & trains or combin. thereof: 6 cu. yds. & under; Lift jitneys, fork lifts (all sizes used in loading, unloading & transporting material on job site); Loader and/or leverman on concrete dry batch plant (manually operated); Pilot car; Solo flat bed & misc. body trucks, 0-10 tons; Truck helper; Truck mechanic helper; Warehouseman (warehouse parts, tool men & parts chaser, checker & receivers); Water wagons (rated capacity): up to 1600 gals.	6.18	.40	.45	.25		

DECISION #AP-249 - (Cont-d)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
TRUCK DRIVERS (CONT'D)						
Group II						
"A" frame or hydra-lift truck w/load bearing surface; Lubrication man, fuel truck driver, tireman, wash rack, steam cleaner or combin.; Team drivers	6.23	.40	.45	.25		
Group III						
Dump trucks, side, end & bottom dumps, incl. semi-trucks & trains or combin. thereof: over 6 cu. yds. incl. 10 cu. yds.; Slurry truck driver or leverman; Transit mix & dry or wet trucks; 5 cu. yds. & under; Tireman (full-time basis); Water wagons (rated capacity): 1600 to 3000 gals.	6.28	.40	.45	.25		
Group IV						
Flaherty spreader driver or leverman; Low bed equipment, flat bed semi-trailer, truck & trailer or doubles transporting equipment or wet or dry materials; Lumber carrier driver-Straddle carrier (used in loading, unloading and transporting of materials on job site); Oil distributor driver or leverman; Water wagons (rated capacity: 3000 to 5000 gals.	6.33	.40	.45	.25		
Group V						
Dumpster or similar equipment, all sizes; Transit mix & wet or dry mix trucks; Over 5 cu. yds. & incl. 7 cu. yds.	6.35	.40	.45	.25		
Group VI						
Dump trucks, side, end & bottom dumps, incl. semi trucks & trains or combin. thereof: over 7 cu. yds. & incl. 20 cu. yds.;						

DECISION #AP-249 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
TRUCK DRIVERS (CONT'D)						
Group VI (Cont'd)						
Transit mix & dry or wet mix trucks: over 7 cu. yds. & incl. 9 cu. yds.; Truck mechanic-welder-body repairman; Water wagons (rated capacity): 5000 to 7000 gals.	6.48	.40	.45	.25		
Group VII						
Dump trucks, side end & bottom dumps, incl. semi-trucks & trains or combin. thereof: over 20 cu. yds. & incl. 30 cu. yds.; Transit mix & wet or dry mix trucks: over 9 cu. yds. & incl. 11 cu. yds.; Water wagons (rated capacity): over 7000 gals. to 10,000 gals.	6.58	.40	.45	.25		
Group VIII						
Dump trucks, side, end & bottom dumps, incl. semi-trucks & trains or combin. thereof: over 30 cu. yds. & incl. 40 cu. yds.; Transit mix & wet or dry mix trucks: over 11 cu. yds. and incl. 13 cu. yds.; Water wagons (rated capacity): over 10,000 gals. to 15,000 gals.	6.68	.40	.45	.25		
Group IX						
Dump trucks, side, end & bottom dumps, incl. semi-trucks & trains or combin. thereof: over 40 cu. yds. & incl. 50 cu. yds.; Transit mix and wet or dry mix trucks: over 13 cu. yds. and incl. 15 cu. yds.	6.78	.40	.45	.25		
Group X						
Dump trucks, side, end & bottom dumps, incl. semi-trucks & trains or combin. thereof: over 50 cu. yds. & incl. 60 cu. yds.	6.93	.40	.45	.25		

DECISION #AP-249 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
TRUCK DRIVERS (CONT'D)						
Group XI						
Dump trucks, side, end & bottom dumps, incl. semi-trucks & trains or combin. thereof: over 60 cu. yds. & incl. 70 cu. yds.	7.05	.40	.45	.25		
Group XII						
Dump trucks, side, end & bottom dumps, incl. semi-truck & trains or combin. thereof: over 70 cu. yds. and incl. 80 cu. yds.	7.15	.40	.45	.25		
Group XIII						
Dump trucks, side, end & bottom dump, including semi-trucks & trains or combin. thereof: over 80 cu. yds. & incl. 90 cu. yds.	7.25	.40	.45	.25		
Group XIV						
Dump trucks, side, end & bottom dump, incl. semi-trucks and trains or combin. thereof: over 90 cu. yds. & incl. 100 cu. yds.	7.35	.40	.45	.25		

Drivers and Helpers (handling sacked cement add $.15 per hour).
Winch truck - takes classification of truck on which winch is mounted.

MODIFICATIONS P. 23

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-1,863 - Mod. #7 (36 FR 16319 - August 20, 1971) Washington County, Pennsylvania						
Change: Building Construction: Carpenters	$8.30	5%	6%	5%	.40of1%	
Tile setters	7.95					
DECISION #AM-1,864 - Mod. #8 (36 FR 16326 - August 20, 1971) Westmoreland County, Pennsylvania						
Change: Building Construction: Carpenters	8.30	5%	6%	5%	.40of1%	
DECISION #AP-421 - Mod. #4 (37 FR 20447 - September 29, 1972) Allegheny County, Pennsylvania						
Change: Building Construction: Carpenters	8.30	5%	6%	5%	.40of1%	
Tile setter.	7.95					
DECISION #AP-425 - Mod. #1 (37 FR 20464 - September 29, 1972) Lawrence County, Pennsylvania						
Change: Building Construction: Carpenters	8.30	5%	6%	5%	.40of1%	
Heavy and Highway: Carpenters	7.11	6%	3%			
Cement Masons	7.04	.423	.705			
Piledrivermen	7.96	5%	6%			

MODIFICATIONS P. 24

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-344 - Mod. #3 (37 FR 20491 - September 29, 1972) Travis County, Texas						
Change: Building Construction: Soft floor layers	$6.25	.25	.10		.03	
DECISION #AP-349 - Mod. #5 (37 FR 20503 - September 29, 1972) Galveston County, Texas						
Change: Building Construction: Soft floor layers	6.25	.25	.10		.03	
Omit: Building Construction: Pipefitters:						
East of the Trinity River	7.075	.225	.20		.02	
West of the Trinity River	7.325	.275	.50		.04	
Plumbers	7.075	.225	.20		.02	
Add: Building Construction: Pipefitters:						
East of the Trinity River:						
Commercial work up to $50,000	7.075	.225	.20		.02	
Commercial work $50,000 & over	7.485	.225	.20		.02	
West of the Trinity River	7.325	.275	.50		.04	
Plumbers:						
Commercial work up to $50,000	7.075	.225	.20		.02	
Commercial work $50,000 & over	7.485	.225	.20		.02	
DECISION #AP-350 - Mod. #5 (37 FR 20506 - September 29, 1972) Harris County, Texas						
Change: Building Construction: Painters:						
East Harris County:						
[illegible], sandblasting, waterblasting	7.455					
Steeple jack work, hot materials	7.705					
Soft floor layers	6.25	.25	.10		.03	

MODIFICATIONS P. 25

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-353 - Mod. #1 (37 FR 23519 - November 3, 1972) Jefferson & Orange Counties, Texas						
Change: Lathers	$7.025	.20			.01	
DECISION #AP-354 - Mod. #1 (37 FR 23521 - November 3, 1972) Jefferson & Orange Counties, Texas						
Change: Lathers	7.025	.20			.01	
DECISION #AP-356 - Mod. #1 (37 FR 24037 - November 10, 1972) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties, Texas						
Change: Building Construction: Power Equipment Operators: Heavy Equipment: Utility operator Blade grader, self-propelled; Clam shells; Cable ways; Cranes, power operated, all types; Derricks, power operated, all types; Draglines; Elevating graders, self-propelled; Hoist, 2 drums or more; Locomotives; Mixmobiles; Paving mixers, all types; Pile drivers; Scrapers; Bulldozers, Side boom; Cherry pickers; Shovels; Heavy duty [illegible] tractors with power attachments (crawler type); Ditching machine; Farm type tractor (loader, 1 yd. & over) with backhoe	6.15	.30	.35		.05	
	6.01	.30	.35		.05	

MODIFICATIONS P. 26

DECISION #AP-358 (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators (Cont'd): Heavy Equipment (Cont'd): All other equipment or similar nature coming within the heavy class, when power operated						
Light Equipment: Farm type tractor (loader, under 1 yd.) with backhoe; Go-devil; Mixers, 14 cu. ft. or over; Rollers, over 10 tons; 2 pumps operated by one man; Air compressor and one tugger	$5.83	.30	.35		.05	
Winch trucks	5.73	.30	.35		.05	
2 air compressors; 1 air compressor and 1 pump; Front end scoopmobile loader & payloader	5.70	.30	.35		.05	
Blade grader, towed; Elevators, building; Fork lifts; Hoists, single drum or 1 line hoisting (1 tugger); Mixers less than 14 cu. ft.; Rollers; Screening plants; Welding machines (gas or diesel) min. 2 max. 7; Crushing plants; Tractors wheel type except when hauling material; Truck crane driver and/or oiler front end crane	5.59	.30	.35		.05	
Pulsometer; 1 pump; 1 air compressor; mechanic helper;	5.41	.30	.35		.05	
Welders helpers; fireman	5.22	.30	.35		.05	
Greasers	5.12	.30	.35		.05	
Oilers						
All other equipment of similar nature coming within the light class, when power operated						

DECISION #AP-438 - Mod. #1
(37 FR 21993 - October 11, 1972)
Statewide, Vermont

Change:
Power equipment operators' schedule

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS: Shovels, crawler and truck cranes, derricks, backhoes, trenching machines, elevating grader, gradall, pile drivers, concrete pavers on site processing plant (engineer in charge), dragline, clam shell, cableways	$7.90	.25	.35	c	.05	
Rotary drill (with mounted compressor), compressor house (3 to 6 compressor), rock & earth boring machines (excluding McCarthy & similar drills), grader, 4-yd. or over front end loader (used as a loader)	7.65	.25	.35	c	.05	
Bulldozer, push cats, scraper (self-propelled or tractor-drawn), self-powered asphalt paver, 3/4 yd. to 4 yd. front end loader, mechanics, well driller, pumpcrete machine, engineer or fireman on high pressure boiler (on job) self-loading batch plant (on job), well point operators	7.45	.25	.35	c	.05	
Hoists, conveyors, self-powered rollers & compactors, power pavement breaker, self-propelled material spreader, self-powered concrete finishing machine, two bag mixer with skip, front end loader under 3/4 yd), McCarthy & similar drills, batch plant (not self-loading), bulk cement plant, 3 or more welding machines	6.90	.25	.35	c	.05	
Compressor (315 cu. ft. or over, one or two), pump 4" or over, tractor w/o blade drawing sheepsfoot, rubber tired roller or other type of compactors including machines for pulverizing & aerating soil	6.575	.25	.35	c	.05	
Compressor (up to 315 cu. ft.), small mixers with skip, oiler, pumps up to [illegible], A [illegible]	6.05	.25	.35	c	.05	

DECISION #AM-6,707 - Mod. #3
(37 FR 5195 - March 10, 1972)
Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pierce, San Juan, Skagit, Snohomish, Thurston and Whatcom Counties, Washington

Change:

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Electricians:						
Island, San Juan, Skagit, Snohomish & Whatcom Counties:						
Electricians	8.445	.25	1%		.01	
Cable Splicers	9.29	.25	1%		.01	
Grays Harbor, Lewis, Mason, Pierce & Thurston Counties						
Electricians	7.66	.35	1% + .40	4%	.04	
Cable Splicers	8.38	.35	1% + .40	4%	.04	
Ironworkers: Reinforcing; Structural; Fence Erectors; Ornamental; Riggers; Signal Men	7.56	.48	.65		.05	
Plasterers: Grays Harbor, King (City of Kent) Lewis, Mason, Pierce & Thurston Counties	6.75	.40	.25		.02	
Plumbers: Clallam, King & Jefferson Counties	7.59	.47	.85	.60	.06	
Roofers: Roofers, Kettlemen: Waterproofers	6.95	.20	.20			
Sprinkler Fitters: Island, King, Kitsap, Pierce, Skagit, Snohomish, & Thurston Counties)	8.75	.30	.50		.06	

SUPERSEDEAS DECISION

STATE: Washington, D. C., Maryland and Virginia

COUNTIES: Washington, D. C.; Montgomery and Prince Georges Counties, Maryland; Cities of Alexandria, Fairfax and Falls Church, Virginia; Arlington and Fairfax Counties, Virginia.

DATE: Date of Publication

DECISION NO.: AP-450

Supersedes Decision No. AM-1,844, dated August 20, 1971, in 36 FR 16245.

DESCRIPTION OF WORK: Residential construction consisting of single family houses and garden type apartments up to and including 4-stories.

10-R-D.C.-1-E 1 of 2

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$4.50					
Asbestos workers' helpers	3.33					
Bricklayers	6.74					
Carpenters	4.96					
Cement Finishers	5.00					
Cinder block layers	6.53					
Electricians	4.96					
Glaziers	6.78					
Insulation:						
Blowers	3.62					
Tackers	4.27					
Ironworkers:						
Structural	4.75					
Ornamental	3.88					
Reinforcing	4.75					
Laborers:						
Unskilled	3.04					
Mason tenders	3.66					
Mortar mixers	3.83					
Plasters' tenders	3.57					
Scaffold assemblers	3.65					
Sodlayers	2.83					
Lathers	5.25					
Marble Setters	5.75					
Marble Setters' Helpers	4.00					
Painters:						
Brush	4.15					
Spray	4.57					
Plasterers	5.12					
Plumbers	5.04					
Roofers	4.78					
Roofers, built up	4.37					
Roofers' Helpers	3.30					
Sheet metal workers	5.50					

AP-450 P. 2

10-R-D.C.-1-E 2 of 2

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Sheet rock nailers	$5.00					
Sheet rock tapers	4.88					
Sheet rock sanders	3.80					
Soft floor layers	4.75					
Stone Masons	6.75					
Tile Setters	5.92					
Tile Setters' Helpers	3.00					
Truck drivers	3.47					
Power Equipment Operators:						
Backhoe	4.32					
Blade graders	4.50					
Bulldozers	4.62					
Cranes	5.90					
Loader	4.80					
Motor graders	4.50					
Rollers	4.50					
Scrapers	5.00					
Shovels	4.75					

SUPERSEDEAS DECISION

STATE: Alaska
DECISION NUMBER: AP-251

COUNTY: Area I (North of the 63rd Parallel)
DATE: Date of Publication

Supersedes Decision #AM-2,505, dated August 27, 1971 in 36 FR 17163.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction and dredging.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.	Other
ASBESTOS WORKERS	$8.10	.20	.25			
BOILERMAKERS	8.45	.60	1.00	.50	.02	
BRICKLAYERS; Blocklayers; Stonemasons	10.48	.35	.70		.05	
CARPENTERS:						
Carpenters	9.59	.45	1.00		.05	
Millwrights	9.96	.45	1.00		.05	
Piledrivermen	8.83	.45	1.00		.05	
CEMENT MASONS:						
Cement masons	8.50	.35	1.00		.06	
Power machine	8.80	.35	1.00		.06	
Composition, mastic & colored cement; Hand power grinders	8.96	.35	1.00		.06	
CULINARY WORKERS:						
Baker or combination cook-baker; Head cook; Working camp manager	6.62	.35	.50			
Cook	6.32	.35	.50			
Butcher	6.27	.35	.50			
Head waiter or head waitress	5.86	.35	.50			
Head bullcook	5.78	.35	.50			
Camp worker (waiter, waitress, bullcook, general helper, miscellaneous worker); Bartender	5.64	.35	.50			
ELECTRICIANS (Inside):						
Electricians; Equipment operators	10.25	.35	1%+.50		.075	
Cable splicers	11.50	.35	1%+.50		.075	
ELEVATOR CONSTRUCTORS	5.75	.185	.20	2%+a		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.185	.20	2%+a		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
GLAZIERS (Zones 1 & 3)	8.76	.45		b		
IRONWORKERS:						
Fender op.; Bridge; Fence erectors; Machinery mover; Ornamental; Reinforcing; Riggers; Sheeters; Structural	9.34	.50	1.00		.09	
LATHERS	9.45	.30		1.08		
LINE CONSTRUCTION (Outside):						
Groundmen	8.25	.35	1%+.50		.075	
Equipment op.; Linemen; Technicians	10.25	.35	1%+.50		.075	
MARBLE SETTERS	10.48	.35	.70		.05	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
PAINTERS:						
ZONE 1 (Within a 10 mile radius of the Fairbanks Post Office including Ft. Wainwright)						
ZONE 2 (Beyond 10 miles and up to 40 miles radius of the Fairbanks Post Office including Eielson Air Force Base and all the Sites within this territory)						
ZONE 3 (Beyond 40 miles radius of the Fairbanks Post Office)						
ZONES 1 & 3						
Brush; Paperhangers; Soft floor layers	9.68	.70	.55		.05	
Brush, swing stage; Bosun chair; Sign; Tapers, hand; Utildors	9.93	.70	.55		.05	
Brush swing stage bosun chair; Structural steel; Sandblasters; Pot tenders; Spray; Buffers	10.18	.70	.55		.05	
Sanders; Tapers, machine	10.43	.70	.55		.05	
Finish coat, all metal; Spray structural steel; Epoxy & tar applicators	10.68	.70	.55		.05	
Spray structural steel bosun chair or swing stage	10.93	.70	.55		.05	
ZONE 2						
Brush; Glaziers, Paperhangers	10.53	.70	.55		.05	
Brush swing stage; Bosun chair; Sign; Tapers, hand; Utildors	10.78	.70	.55		.05	
Brush swing stage bosun chair; Structural steel; Sandblasters; Pot tenders; Spray; Buffers	11.03	.70	.55		.05	
Sanders; Tapers, machine	11.28	.70	.55		.05	
Finish coat, all metal; Spray structural steel; Epoxy & tar applicators	11.53	.70	.55		.05	
Spray structural steel bosun chair or swing stage	11.78	.70	.55		.05	
PLASTERERS	9.46	.35	1.00		.06	
PLUMBERS; Steamfitters	9.55	.60	.50		.05	
ROOFERS	9.35	.30	.50			
SHEET METAL WORKERS	8.93	.17				
SOFT FLOOR LAYERS: ZONE 2	10.53	.70	.55		.05	

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
SPRINKLER FITTERS	10.00	.25	.40		.05	
TERRAZZO WORKERS	10.46	.35	.70		.05	
TERRAZZO WORKERS' HELPERS	7.93	.35	.70		.05	
TILE SETTERS	9.87	.35	.70		.05	
TILE SETTERS' HELPERS	7.93	.35	.70		.05	

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

b. After 1 yr. of continuous employment, 2 weeks vacation with pay.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
LABORERS						
BUILDING LABORERS:						
Laborers; Carpenter tenders; Material handlers; Hook tenders; Form stripper; Signal men; Riggers; Sandblast pot tender	$7.54	.35	1.00		.10	
Base & floor machine men	7.69	.35	1.00		.10	
Pneumatic or power tools	7.78	.35	1.00		.10	
Jackhammer	7.90	.35	1.00		.10	
Gunnite op. & sandblaster	8.15	.35	1.00		.10	
Bricklayers, cement finishers and plasterers' tenders	8.23	.35	1.00		.10	
TANK CLEANERS:						
Tank cleaners	7.83	.35	1.00		.10	
CLEARING AND GRADING:						
General laborer; Dump man; Riggers; Signal men; Pitman; Brush cutters	7.54	.35	1.00		.10	
Choke setters	7.72	.35	1.00		.10	
Stake hopper, grademan	7.79	.35	1.00		.10	
Chuck tender (wagon & air tract drills); Jackhammer & pavement breakers	7.90	.35	1.00		.10	
Pipelayer, culvert; High scaler; Sloper over 20 ft.; Timber faller, buckers, chain & other power saws	8.15	.35	1.00		.10	
Wagon driller	8.24	.35	1.00		.10	
Air track wagon driller	8.34	.35	1.00		.10	
Chain saw filer	8.44	.35	1.00		.10	
High rigger & tree topper; Powdermen	8.55	.35	1.00		.10	
CONCRETE CREWS:						
Concrete laborer (incl. vibratorman, power buggy & concrete power saw); Curb & gutter man	7.74	.35	1.00		.10	
ASPHALT CREWS:						
General crew	7.74	.35	1.00		.10	
Rakers	8.21	.35	1.00		.10	
Tar rubber add 25¢ to above rates						
CEMENT, LIME DUMPER OR HANDLER:						
Sack or bulk	8.15	.35	1.00		.10	
SEWERS:						
Ditch diggers; Monolithic workers	7.54	.35	1.00		.10	
Mason tender; Mud mixer	8.12	.35	1.00		.10	
Sewer pipelayers; Sewer walkers; Timberman	8.15	.35	1.00		.10	
STEAM POINT OR WATER JET:						
Operator	7.79	.35	1.00		.10	
WATER MAINS:						
Ditch digger	7.54	.35	1.00		.10	
BURNING & CUTTING TORCH:						
Burning & cutting torch (except intermittent torch work)	8.23	.35	1.00		.10	

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LABORERS CONT'D	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H&W	PENSION	VACATION	APP. TR.	OTHER
STAVE PIPE CREWS:						
General laborer	$7.54	.35	1.00			.10
Pipe bedders	8.15	.35	1.00			.10
BRIDGES, DAMS, Etc:						
General laborer; Powderman; Sandblast pot tender	7.54	.35	1.00			.10
Gunnite op.; Sandblaster	8.15	.35	1.00			.10
TUNNELS:						
Topman; Bull gang; Brakeman	7.54	.35	1.00			.10
Laborers; Muckers; Nippers	7.71	.35	1.00			.10
Chuck tender	7.97	.35	1.00			.10
Maintenance man	8.15	.35	1.00			.10
Miners; Retimberman	8.46	.35	1.00			.10
Miners shotfirers & raises	8.59	.35	1.00			.10
Powderman	8.80	.35	1.00			.10
MONOLITHIC CREWS (TUNNEL):						
All monolithic workers	8.15	.35	1.00			.10

POWER EQUIPMENT OPERATORS	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H&W	PENSION	VACATION	APP. TR.	OTHER
BATCH PLANT OPERATORS:						
Batch & mixer, 200 yds. per hr. & under	$9.35	.35	.50			
Batch & mixer, over 200 yds.	10.12	.35	.50			
BROOMS, Sno-go (Wayne, Sterling & Similar types)	9.30	.35	.50			
BULLDOZERS:						
Under 80 hp similar	9.30	.35	.50			
80 through 124 hp similar	9.41	.35	.50			
T. C. 12, Quad 9; Pay dozers; Tanbed pusher & similar; Bulldozer engaged in yo yo operation	10.18	.35	.50			
BUMP CUTTER (Cowans, Christenson or similar types)	9.41	.35	.50			
CABLEWAYS & HIGHLINES:						
3 yds. & under	10.18	.35	.50			
over 3 yds.	10.85	.35	.50			
CEMENT GUNS	9.63	.35	.50			
COMPRESSORS:						
Excavation, Steel erection, including sandblasting, painting et same; Piledriving	8.91	.35	.50			
	9.68	.35	.50			
CONVEYORS:						
Conveyor	9.41	.35	.50			
Conveyers, belcrete - paver pack & similar types	9.02	.35	.50			
CRANES:						
"A" Frame Trucks, 40 & 5 cubes, single power drum	9.47	.35	.50			
"A" Frame Trucks, deck winches, double power drum; Crawler, truck type, floating (locomotive, whirley, either 3 yds. & under, or 150' boom incl. jibs & under or 75 tons & under); Hydralifts; Hyster cat cranes & attachs., sidebooms 45 tons & under	10.18	.35	.50			
Crawler, truck type, floating (locomotive, whirley, either over 3 yds. & under 6 yds. or over 150' boom, incl. jibs or over 45 tons); Tower cranes, Pecco, Lorraine, Ruzprus & similar types; Hyster cat cranes & attachs., sidebooms over 45 tons thru 100 tons	10.85	.35	.50			
Crawler, truck type, floating (locomotive, whirley, either 6 yds. or over, or over 200' of boom, incl. jibs or over 150 tons); Hyster cat cranes & attachs. sidebooms over 100 tons	11.50	.35	.50			
CRUSHERS, rock, washing & screening plants	9.47	.35	.50			
DERRICKS (all)	10.12	.35	.50			

POWER EQUIPMENT OPERATORS CONT'D	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H&W	PENSION	VACATION	APP. TR.	OTHER
DRILLING MACHINES, Core, Cable, Rotary and Exploration	$10.12	.35	.50			
FINISHING MACHINE, concrete paving	9.36	.35	.50			
HOIST, Air tuggers, Elevators	9.47	.35	.50			
HOIST, on steel erection, Towermobiles and Air tuggers	9.68	.35	.50			
LOADERS:						
Elevating - Athey, Barber Greene & similar types; Overhead & frontend, under 2½ yds.	9.35	.35	.50			
Elevating belt type, Euclid & similar type	9.92	.35	.50			
Elevating grader type, Dumor & similar type	9.71	.35	.50			
Fork lifts or lumber carrier (on construction job site)	9.28	.35	.50			
Fork lifts with tower	9.68	.35	.50			
Fork lifts with power boom & swing attach.; Overhead & frontend, 2½ yds. & under 4 yds.	10.18	.35	.50			
Overhead & frontend, 4 yds. & under 10 yds.	10.85	.35	.50			
Overhead & frontend, 10 yds. & over	11.50	.35	.50			
LOCOMOTIVES:						
Dinkey (air, steam, gas & electric) speeders	8.91	.35	.50			
Rod and geared engines	9.63	.35	.50			
MECHANICS:						
Mechanics, Welders, heavy duty	9.74	.35	.50			
Mechanic leadman	9.99	.35	.50			
Mechanics, light duty	8.82	.35	.50			
Mechanics, helpers, heavy duty shop	8.39	.35	.50			
MIXERS:						
Concrete mixers & batch, 200 yds. per hr. & under	9.35	.35	.50			
Asphalt	9.64	.35	.50			
Mobile type with hoist combination	10.12	.35	.50			
MOTOR PATROL GRADERS:						
Model 14 or similar types & under	9.47	.35	.50			
Over model 14 or similar types	10.18	.35	.50			
MUCKING MACHINES, MOLE, TUNNEL DRILL, AND/OR SHIELD	10.12	.35	.50			
OIL, BLOWER DISTRIBUTORS:						
Oil, blower distributor	9.05	.35	.50			
Oilers, brakemen, gradecheckers	8.47	.35	.50			
Equipment service oilers & firemen	8.86	.35	.50			
Oiler, either over 3 yds., or over 150' boom or over 45 tons	8.86	.35	.50			
PILEDRIVER ENGINEERS:						
Piledriver engineers, L. B. Foster Puller or similar, paving breaker	10.18	.35	.50			
POST HOLE DIGGERS, mechanical	9.28	.35	.50			
POWER PLANT, TURBINE OPS:						
Under 300 K.w.	9.47	.35	.50			
300 k. w. & over	10.18	.35	.50			

POWER EQUIPMENT OPERATORS CONT'D	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H&W	PENSION	VACATION	APP. TR.	OTHER
PUMPS:						
Fuller Kenyon; Pumpcrete & concrete	$9.35	.35	.50			
Water	9.00	.35	.50			
ROLLERS, TAMPERS & VIBRATORS:						
On plant or road mix materials	9.35	.35	.50			
Other than plant or road mix	8.82	.35	.50			
SAWS, concrete	9.30	.35	.50			
SAUERMAN, bagley	10.18	.35	.50			
SCRAPERS:						
Carry all type, single	9.30	.35	.50			
Carry all type, tandem	9.68	.35	.50			
SCREEDMAN	9.36	.35	.50			
SHOVELS:						
Crawler & truck type, all attachs., 3 yds. & under	10.18	.35	.50			
Crawler & truck type, all attachs., over 3 yds. & under 6 yds.	10.85	.35	.50			
Crawler & truck type, all attachs., 6 yds. & over	11.50	.35	.50			
SPREADERS:						
Blaw Knox, Cedarapids, Barber Greene, Railroad Wing Spreader or similar type	9.36	.35	.50			
SLIP FORM PAVER, C.M.I. & similar types	10.85	.35	.50			
SUBGRADER (Curries, C.M.I. & similar types)	10.18	.35	.50			
TRACTORS:						
Farm all type, less than 50 H. P.	8.82	.35	.50			
Farm all type, 50 H. P. & over	9.35	.35	.50			
Farm all type, used as backhoes, rubber tired (Ford, Ferguson, Case & similar types)	10.18	.35	.50			
TOURNAPULLS:						
Tournapulls, caterpillar, euclid scraper & similar type equipment 25 yds. & under	9.47	.35	.50			
Tournapulls, caterpillar, euclid scraper & similar type equip. over 25 yds. thru 40 yds.	10.18	.35	.50			
Tournapulls, caterpillar, euclid scraper & similar type equip. over 40 yds. thru 55 yds.	10.85	.35	.50			
Tournapulls, caterpillar, euclid scraper & similar type equip. over 55 yds. thru 70 yds.	11.50	.35	.50			
Tournapulls, caterpillar, euclid scraper & similar type equip. over 70 yds. thru 85 yds.	12.17	.35	.50			
Tournapulls, caterpillar, euclid scraper & similar type equip. over 85 yds. thru 100 yds.	12.75	.35	.50			
TRENCHING MACHINES:						
Under 16 inches	9.35	.35	.50			
16 inches & over	9.86	.35	.50			

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TRUCK DRIVERS	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	Pensions	Vacation	App. Tr.	Other
GRAVEL SPREADER BOX OPERATOR ON TRUCK; Pickup; Stampers & riggers	$7.26	.58	1.60			
WAREHOUSEMAN	7.41	.58	1.60			
BATCH TRUCKS UP TO & INCL. 5 YDS.; Bull lifts & fork lifts up to and incl. 5 tons; Bus ops., up to 10 passengers; Dump trucks, Euclids & similar equip. up to & incl. 5 yds.; Flatbeds single rear axle; Water wagon, single axle; Winch truck, flarbed incl. "A" frame manufactured rating 5 tons & under	7.51	.58	1.60			
READY MIX, UP TO & INCL. 3 YDS.	7.64	.58	1.60			
BUGGYMOBILE; Hyster ops. (handling bulk aggregate); Lumber carriers	7.92	.58	1.60			
PARTSMAN & OUTSIDE EXPEDITOR; Dumpster; Semi or truck & trailer; Batch trucks over 5 yds.; Dump trucks, Euclids & similar type equip. over 5 yds. & up to & incl. 10 yds.; Greasers; Tire servicemen; Flatbeds, dual rear axle; Ready mix, over 3 - yds. & up to & incl. 5 yds.; Water wagon, semi; Water wagon, dual axle; Winch truck, flatbed incl. "A" frame manufactured rating over 5 tons; Bull Lifts & fork lifts over 5 tons; Bus ops., over 30 passengers	7.98	.58	1.60			
WATER WAGON, when pulled by a Euclid or similar type equipment	8.18	.58	1.60			
ROCKBUGGY	8.20	.58	1.60			
READY MIX, over 5 yds. & up to & incl. 7 yds.	8.24	.58	1.60			
COMPACTOR (when pulled by rubber tired equip.) Dump trucks, Euclids & similar type equip. over 10 yds. & up to & incl. 20 yds.; Lowbed heavy duty trailer; Oiler distributor	8.26	.58	1.60			

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TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	FRINGE BENEFITS PAYMENTS H & W	Pensions	Vacation	App. Tr.	Other
TURN-O-WAGON OR DW-10 WHEN NOT SELF LOADING	8.38	.58	1.60			
READY MIX, over 7 yds. & up to & incl. 9 yds.	8.47	.58	1.60			
DUMP TRUCKS, Euclids & similar type equip., over 20-yds. & up to & incl. 30 yds.	8.61	.58	1.60			
READY MIX, over 9 yds. & up to & incl. 12 yds.	8.71	.58	1.60			
DUMP TRUCKS, Euclids & similar type equip,, over 30-yds. & up to & incl. 40 yds.	8.89	.58	1.60			
READY MIX, 13 yds. & over	8.95	.58	1.60			
READY MIX, semi with double bowl mixer	9.10	.58	1.60			
DUMP TRUCKS, Euclids & similar type equip. over 40 yds. & up to & incl. 50 yds.	9.14	.58	1.60			
DUMP TRUCKS, Euclids & similar type equip. over 50 yds.	9.42	.58	1.60			
DISPATCHER (ready mix) 35¢ per hour above highest classidication under his supervision						

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DREDGING	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
LEVERMAN, Hydraulic	$10.16	.35	.50			
ASSISTANT ENGINEER (Electric generator for primary pump); Power barge; Dredge	9.72	.35	.50			
CRANEMAN; Engineer Welder	9.66	.35	.50			
ASSISTANT ENGINEER (Electric, Diesel, Steam-booster pump); Mates & boatmen	9.60	.35	.50			
FIREMAN; Oiler	8.81	.35	.50			
ASSISTANT MATE (Deckhand)	8.68	.35	.50			
LEVERMAN, DIPPER: 5 yds. & under	10.83	.35	.50			
Over 5 yds.	11.48	.35	.50			

SUPERSEDEAS DECISION

STATE: Alaska
DECISION NUMBER: AP-252

COUNTY: Area 1(North of the 63rd Parallel)
DATE: Date of Publication

Supersedes Decision #AM-6,725,dated May 5, 1972 in 37 FR 9155.
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
ASBESTOS WORKERS	$8.10	.20	.25		.02	
BOILERMAKERS	8.45	.60	1.00	.50	.05	
BRICKLAYERS; Blocklayers; Stonemasons	10.48	.35	.70		.05	
CARPENTERS:						
Carpenters	9.59	.45	1.00		.05	
Millwrights	9.96	.45	1.00		.05	
Piledriverman	8.83	.45	1.00			
CEMENT MASONS:						
Cement masons	8.50	.35	1.00		.06	
Power machine	8.80	.35	1.00		.06	
Composition, mastic & colored cement; Hand power grinders	8.96	.35	1.00		.06	
CULINARY WORKERS:						
Baker or combination cook-baker; Head cook; Working camp manager	6.62	.35	.50			
Cook	6.42	.35	.50			
Butcher	6.27	.35	.50			
Head waiter or head waitress	5.86	.35	.50			
Head bullcook	5.78	.35	.50			
Camp worker (waiter, waitress, bullcook, general helper, miscellaneous worker); Bartender	5.64	.35	.50			
ELECTRICIANS (Inside):						
Electrician; Equipment operators	10.25	.35	1%+.50		.075	
Cable splicers	11.50	.35	1%+.50		.075	
ELEVATOR CONSTRUCTORS	5.75	.185	.20	2%+a		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.185	.20	2%+a		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR			b		
GLAZIERS (Zones 1 & 3)	8.76	.45				
IRONWORKERS:						
Bender op.; Bridge; Fence erectors; Machinery mover; Ornamental; Reinforcing; Riggers; Sheeters; Structural	9.54	.50	1.00		.09	
LATHERS	9.45	.30		1.08		
LINE CONSTRUCTION (Outside):						
Groundman	8.25	.35	1%+.50		.075	
Equipment op.; Linemen; Technicians	10.25	.35	1%+.50		.075	
MARBLE SETTERS	10.48	.35	.70		.05	

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
PAINTERS:						
ZONE 1 (Within a 10 mile radius of the Fairbanks Post Office including Ft. Wainwright)						
ZONE 2 (Beyond 10 miles and up to 40 miles radius of the Fairbanks Post Office including Eielson Air Force Base and all the Sites within this territory)						
ZONE 3 (Beyond 40 miles radius of the Fairbanks Post Office)						
ZONES 1 & 3						
Brush; Paperhangers; Soft floor layers	9.68	.70	.55		.05	
Brush, swing stage; Bosun chair; Sign; Tapers, hand; Utilidors	9.93	.70	.55		.05	
Brush swing stage bosun chair; Structural steel; Sandblasters; Pot tenders; Spray; Buffers	10.18	.70	.55		.05	
Sanders; Tapers, machine	10.43	.70	.55		.05	
Finish coat, all metal; Spray structural steel; Epoxy & tar applicators	10.68	.70	.55		.05	
Spray structural steel bosun chair or swing stage	10.93	.70	.55		.05	
ZONE 2						
Brush; Glaziers; Paperhangers	10.53	.70	.55		.05	
Brush swing stage; Bosun chair; Sign; Tapers, hand; Utilidors	10.78	.70	.55		.05	
Brush swing stage bosun chair; Structural steel; Sandblasters; Pot tenders; Spray; Buffers	11.03	.70	.55		.05	
Sanders; Tapers, machine	11.28	.70	.55		.05	
Finish coat, all metal; Spray structural steel; Epoxy & tar applicators	11.53	.70	.55		.05	
Spray structural steel bosun chair or swing stage	11.78	.70	.55		.05	
PLASTERERS	9.46	.35	1.00		.06	
PLUMBERS; Steamfitters	9.55	.60	.90		.05	
ROOFERS	9.35	.30	.50			
SHEET METAL WORKERS	8.93	.17				
SOFT FLOOR LAYERS:						
ZONE 2	10.53	.70	.55		.05	

AP-252 P. 3

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
SPRINKLER FITTERS	10.00	.25	.40		.05	
TERRAZZO WORKERS	10.48	.35	.70		.05	
TERRAZZO WORKERS' HELPERS	7.93	.35	.70		.05	
TILE SETTERS	9.87	.35	.70		.05	
TILE SETTERS' HELPERS	7.93	.35	.70		.05	

FOOTNOTES:
a. Employer contributes 4% basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

b. After 1 yr. of continuous employment, 2 weeks vacation with pay.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

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LABORERS	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	AFP. TR.	OTHER
BUILDING LABORERS:						
Laborers; Carpenter tenders; Material handlers; Hook tenders; Form stripper; Signal men; Riggers; Sandblast pot tender	$7.54	.35	1.00		.10	
Base & floor machine men	7.69	.35	1.00		.10	
Pneumatic or power tools	7.78	.35	1.00		.10	
Jackhammer	7.90	.35	1.00		.10	
Gunnite op. & sandblaster	8.15	.35	1.00		.10	
Bricklayers, cement finishers and plasterers' tenders	8.23	.35	1.00		.10	
TANK CLEANERS:						
Tank cleaners	7.83	.35	1.00		.10	
CLEARING AND GRADING:						
General laborer; Dump man; Riggers; Signal men; Pitman; Brush cutters	7.54	.35	1.00		.10	
Choke setters	7.72	.35	1.00		.10	
Stake hopper, grademan	7.79	.35	1.00		.10	
Chuck tender (wagon & air tract drills); Jackhammer & pavement breakers	7.90	.35	1.00		.10	
Pipelayer, culvert; High scaler; Sloper over 20 ft.; Timber faller, buckers,chain & other power saws	8.15	.35	1.00		.10	
Wagon driller	8.24	.35	1.00		.10	
Air track wagon driller	8.34	.35	1.00		.10	
Chain saw filer	8.44	.35	1.00		.10	
High rigger & tree topper; Powdermen	8.55	.35	1.00		.10	
CONCRETE CREWS:						
Concrete laborer (incl. vibratorman, power buggy & concrete power saw); Curb & gutter man	7.74	.35	1.00		.10	
ASPHALT CREWS:						
General crew	7.74	.35	1.00		.10	
Rakers	8.21	.35	1.00		.10	
Tar rubber add 25¢ to above rates						
CEMENT, LINE DUMPER OR HANDLER:						
Sack or bulk	8.15	.35	1.00		.10	
SEWERS:						
Ditch diggers; Monolithic workers	7.54	.35	1.00		.10	
Mason tender; Mud mixer	8.12	.35	1.00		.10	
Sewer pipelayers; Sewer caulkers; Timberman	8.15	.35	1.00		.10	
STEAM POINT OR WATER JET:						
Operator	7.79	.35	1.00		.10	
WATER MAINS:						
Ditch digger	7.54	.35	1.00		.10	
BURNING & CUTTING TORCH:						
Burning & cutting torch (except intermittent torch work)	8.23	.35	1.00		.10	

LABORERS CONT'D	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHER
STAVE PIPE CREWS:						
General laborer	$7.54	.35	1.00		.10	
Pipe builders	8.15	.35	1.00		.10	
BRIDGES, DAMS, ETC:						
General laborer; Dryer man; Sandblast pot tender	7.54	.35	1.00		.10	
Gunnite op.; Sandblaster	8.15	.35	1.00		.10	
TUNNELS:						
Topman; Bull gang; Brakeman	7.54	.35	1.00		.10	
Laborers; Muckers; Nippers	7.71	.35	1.00		.10	
Chuck tender	7.97	.35	1.00		.10	
Maintenance man	8.15	.35	1.00		.10	
Miners; Retimberman	8.46	.35	1.00		.10	
Miners shafts & raises	8.59	.35	1.00		.10	
Powderman	8.80	.35	1.00		.10	
MONOLITHIC CREWS (TUNNEL):						
All monolithic workers	8.15	.35	1.00		.10	

POWER EQUIPMENT OPERATORS	Basic Hourly Rate	FRINGE BENEFITS PAYMENTS H & W	Pensions	Vacation	App Tr	Other
BATCH PLANT OPERATORS:						
Batch & mixer, 200 yds. per hr. & under	$9.35	.35	.50			
Batch & mixer, over 200 yds.	10.12	.35	.50			
BROOMS, power (Wayne, Saginaw & Similar types)	9.30	.35	.50			
BULLDOZERS:						
Under D6 or similar	9.30	.35	.50			
D6 through D8 or similar	9.41	.35	.50			
T. C. 12; Quad 9; Pay dozers; Linked pusher & similar; Bulldozers engaged in yo yo operation	10.18	.35	.50			
BUMP CUTTER (Goncut, Christenson or similar types)	9.41	.35	.50			
CABLEWAYS & HIGHLINES:						
3 yds. & under	10.18	.35	.50			
over 3 yds.	10.85	.35	.50			
CEMENT HOGS	9.63	.35	.50			
COMPRESSORS:						
Excavating	8.91	.35	.50			
Steel erection, including sandblasting, painting of same; Piledriving	9.68	.35	.50			
CONVEYORS:						
Conveyors	9.41	.35	.50			
Conveyors, beltcrete with power pack & similar types	9.92	.35	.50			
CRANES:						
"A" Frame Trucks, deck winches, single power drum	9.47	.35	.50			
"A" Frame Trucks, deck winches, double power drum; Crawler, truck type, floating (locomotive, whirley, either 3 yds. & under, or 150' boom incl. jibs & under or 45 tons & under); Hydralifts; Hyster cat cranes & attachs., sidebooms 45 tons & under	10.18	.35	.50			
Crawler, truck type, floating (locomotive, whirley, either over 3 yds. & under 6 yds. or over 150' boom, incl. jibs or over 45 tons); Tower cranes, Pecco, Lorraine, Bucyrus & similar types; Hyster cat cranes & attachs., sidebooms over 45 tons thru 100 tons	10.85	.35	.50			
Crawler, truck type, floating (locomotive, whirley, either 6 yds. or over, or over 200' of boom, incl. jibs or over 150 ton); Hyster cat cranes & attachs. sidebooms over 100 tons	11.50	.35	.50			
CRUSHERS, rock, washing & screening plants	9.47	.35	.50			
DERRICKS (all)	10.12	.35	.50			

POWER EQUIPMENT OPERATORS CONT'D	Basic Hourly Rate	FRINGE BENEFITS PAYMENTS H & W	Pensions	Vacation	App Tr	Other
DRILLING MACHINES, Core, Cable, Rotary and Exploration	10.12	.35	.50			
FINISHING MACHINE, concrete paving	9.36	.35	.50			
HOIST, Air tuggers, Elevators	9.47	.35	.50			
HOIST, on steel erection, Towermobiles and Air tuggers	9.68	.35	.50			
LOADERS:						
Elevating - Athey, Barber Greene & similar types; Overhead & frontend, under 2½ yds.	9.35	.35	.50			
Elevating belt type, Euclid & similar type	9.92	.35	.50			
Elevating grader type, Dumor & similar type	9.71	.35	.50			
Fork lifts or lumber carrier (on construction job site)	9.28	.35	.50			
Fork lifts with tower	9.68	.35	.50			
Fork lifts with power boom & swing attach.; Overhead & frontend, 2½ yds. & under 4 yds.	10.18	.35	.50			
Overhead & frontend, 4 yds. & under 10 yds.	10.85	.35	.50			
Overhead & frontend, 10 yds. & over	11.50	.35	.50			
LOCOMOTIVES:						
Dinkey (air, steam, gas & electric) speeders	8.91	.35	.50			
Rod and geared engines	9.63	.35	.50			
MECHANICS:						
Mechanics, Welders, heavy duty	9.74	.35	.50			
Mechanic leadman	9.99	.35	.50			
Mechanics, light duty	8.82	.35	.50			
Mechanics, helpers, heavy duty shop.	8.39	.35	.50			
MIXERS:						
Concrete mixers & batch, 200 yds. per hr. & under	9.35	.35	.50			
Asphalt	9.64	.35	.50			
Mobile type with hoist combination	10.12	.35	.50			
MOTOR PATROL GRADERS:						
Model 14 or similar types & under	9.47	.35	.50			
Over model 14 or similar types	10.18	.35	.50			
MUCKING MACHINES, MOLE, TUNNEL DRILL, AND/OR SHIELD	10.12	.35	.50			
OIL, BLOWER DISTRIBUTORS:						
Oil, blower distributor	9.05	.35	.50			
Oilers, brakemen, gradecheckers	8.47	.35	.50			
Equipment service oilers & firemen	8.86	.35	.50			
Oiler, either over 3 yds., or over 150' boom or over 45 tons	8.86	.35	.50			
PILEDRIVER ENGINEERS:						
Piledriver engineers, L. B. Foster Puller or similar, paving breaker	10.18	.35	.50			
POST HOLE DIGGERS, mechanical	9.28	.35	.50			
POWER PLANT, TURBINE OPS:						
Under 300 K.w.	9.47	.35	.50			
300 K. w. & over	10.18	.35	.50			

POWER EQUIPMENT OPERATORS CONT'D	Basic Hourly Rate	FRINGE BENEFITS PAYMENTS H & W	Pensions	Vacation	App Tr	Other
PUMPS:						
Fuller Kenyon; Pumpcrete & concrete	$9.35	.35	.50			
Water	9.00	.35	.50			
ROLLERS, TAMPERS & VIBRATORS:						
On plant or road mix materials	9.35	.35	.50			
Other than plant or road mix	8.82	.35	.50			
SAWS, concrete	9.30	.35	.50			
SAUERMAN, bagley	10.18	.35	.50			
SCRAPERS:						
Carry all type, single	9.30	.35	.50			
Carry all type, tandem	9.68	.35	.50			
SCREEDMAN	9.36	.35	.50			
SHOVELS:						
Crawler & truck type, all attachs., 3 yds. & under	10.18	.35	.50			
Crawler & truck type, all attachs., over 3 yds. & under 6 yds.	10.85	.35	.50			
Crawler & truck type, all attachs., 6 yds. & over	11.50	.35	.50			
SPREADERS:						
Blaw Knox, Cedarapids, Barber Greene, Railroad Wing Spreader or similar type	9.36	.35	.50			
SLIP FORM PAVER, C.N.I. & similar types	10.85	.35	.50			
SUBGRADER (Gurries, C.N.I. & similar types)	10.18	.35	.50			
TRACTORS:						
Farm all type, less than 50 H. P.	8.82	.35	.50			
Farm all type, 50 H. P. & over	9.35	.35	.50			
Farm all type, used as backhoes, rubber tired (Ford, Ferguson, Case & similar types)	10.18	.35	.50			
TOURNAPULLS:						
Tournapulls, caterpillar, euclid scraper & similar type equipment 25 yds. & under	9.47	.35	.50			
Tournapulls, caterpillar, euclid scraper & similar type equip. over 25 yds. thru 40 yds.	10.18	.35	.50			
Tournapulls, caterpillar, euclid scraper & similar type equip. over 40 yds. thru 55 yds.	10.85	.35	.50			
Tournapulls, caterpillar, euclid scraper & similar type equip. over 55 yds. thru 70 yds.	11.50	.35	.50			
Tournapulls, caterpillar, euclid scraper & similar type equip. over 70 yds. thru 85 yds.	12.17	.35	.50			
Tournapulls, caterpillar, euclid scraper & similar type equip. over 85 yds. thru 100 yds.	12.75	.35	.50			
TRENCHING MACHINES:						
Under 16 inches	9.35	.35	.50			
16 inches & over	9.86	.35	.50			

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TRUCK DRIVERS	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHERS
GRAVEL SPREADER BOX OPERATOR ON TRUCK; Pickup; Swampers & riggers	$7.26	.58	1.60			
WAREHOUSEMAN	7.41	.58	1.60			
BATCH TRUCKS UP TO & INCL. 5 YDS.; Bull lifts & fork lifts up to and incl 5 tons; Bus ops., up to 30 passengers Dump trucks, Euclids & similar equip. up to & incl. 5 yds.; Flatbeds single rear axle; Water wagon, single axle; Winch truck, flatbed incl. "A" frame manufactured rating 5 tons & under	7.51	.58	1.60			
READY MIX, UP TO & INCL. 3 YDS.	7.64	.58	1.60			
BUGGYMOBILE; Hyster ops. (handling bulk aggregate); Lumber carriers	7.92	.58	1.60			
PARTSMAN & OUTSIDE EXPEDITOR; Dumpster; Semi or truck & trailer; Batch trucks over 5 yds.; Dump trucks, Euclids & similar type equip. over 5 yds. & up to & incl. 10 yds.; Greasers; Tire servicemen; Flatbeds, dual rear axle; Ready mix, over 3 - yds. & up to & incl. 5 yds.; Water wagon, semi; Water wagon, dual axle; Winch truck, flatbed incl. "A" frame maufactured rating over 5 tons; Bull Lifts & fork lifts over 5 tons; Bus ops., over 30 passengers	7.98	.58	1.60			
WATER WAGON, when pulled by a Euclid or similar type equipment	8.18	.58	1.60			
ROCKBUGGY	8.20	.58	1.60			
READY MIX, over 5 yds. & up to & incl. 7 yds.	8.24	.58	1.60			
COMPACTOR (when pulled by rubber tired equip.) Dump trucks, Euclids & similar type equip. over 10 yds. & up to & incl. 20 yds.; Lowbed heavy duty trailer; Oiler distributor	8.26	.58	1.60			

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TRUCK DRIVERS (Cont'd)	Basic Hourly Rate	FRINGE BENEFITS PAYMENTS H & W	Pensions	Vacation	App. Tr.	Other
TURN-O-WAGON OR DW-10 WHEN NOT SELF LOADING	8.38	.58	1.60			
READY MIX, over 7 yds. & up to & incl. 9 yds.	8.47	.58	1.60			
DUMP TRUCKS, Euclids & similar type equip., over 20-yds. & up to & incl. 30 yds.	8.61	.58	1.60			
READY MIX, over 9 yds. & up to & incl. 12 yds.	8.71	.58	1.60			
DUMP TRUCKS, Euclids & similar type equip., over 30-yds. & up to & incl. 40 yds.	8.89	.58	1.60			
READY MIX, 13 yds. & over	8.95	.58	1.60			
READY MIX, semi with double bowl mixer	9.10	.58	1.60			
DUMP TRUCKS, Euclids & similar type equip. over 40 yds. & up to & incl. 50 yds.	9.14	.58	1.60			
DUMP TRUCKS, Euclids & similar type equip. over 50 yds.	9.42	.58	1.60			
DISPATCHER (ready mix) 35¢ per hour above highest classification under his supervision						

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DREDGING	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
LEVERMAN, Hydraulic	$10.16	.35	.50			
ASSISTANT ENGINEER (Electric generator for primary pump); Power barge; Dredge	9.72	.35	.50			
CRANEMAN; Engineer Welder	9.66	.35	.50			
ASSISTANT ENGINEER (Electric, Diesel, Steam-booster pump); Mates & boatmen	9.60	.35	.50			
FIREMAN; Oiler	8.81	.35	.50			
ASSISTANT MATE (Deckhand)	8.68	.35	.50			
LEVERMAN, DIPPER: 5 yds. & under	10.83	.35	.50			
Over 5 yds.	11.48	.35	.50			

SUPERSEDEAS DECISION

STATE: Connecticut
COUNTY: Fairfield
DECISION NO.: AP-445
DATE: Date of Publication
Supersedes Decision No. AP-419, dated September 23, 1972, in 37 FR 20411.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4-stories), heavy and highway construction.

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BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$8.715	.42	.28			
Boilermakers	7.25	.40	10%		.01	
Bricklayers, cement masons-finishers, marble setters, plasterers, terrazzo workers, tile setters: (Building only)						
Darien-Stamford	8.70	4%	.25			
Norwalk-New Canaan	8.25	.50	.50	k		
Bridgeport-Easton-Fairfield-Monroe-Stratford-Trumbull-Southport	8.72	.35+.15	.25			
Greenwich	8.05	.40	.45			
Remainder of County	8.35	.35+.15	.25			
Marble setters' helpers:						
Greenwich-Stamford-Darien-Norwalk-Westport	6.83	6.5%	7%			
Remainder of County	7.65	.35	.15+.25			
Terrazzo workers' helpers:						
Greenwich-Stamford-Darien-Norwalk-Westport	6.98	.88	.63			
Remainder of County	7.65	.35	.15+.25			
Tile setters' helpers:						
Greenwich-Stamford-Darien-Norwalk-Westport	4.85	6%	4%+.45			
Remainder of County	7.65	.15	.15+.25			
Bricklayers, cement masons-finishers stonemasons: (Heavy & Highway only)						
Stamford-Darien	7.85	4%	.15	h		
Greenwich	7.35	.30	.15	h		
Remainder of County	7.75	.35	.15	h		
Carpenters, soft floor layers: (Building only)						
Darien-Stamford-New Canaan-Wilton-Ridgefield	8.55	.40	.30		.05	
Norwalk	8.40	.50	.30	f	g	
Sherman	5.25	.15	.15			
Westport-Weston	8.15	.20	.20	f		
Bridgeport-Easton-Fairfield-Monroe-Stratford-Trumbull	8.15	.25	.35	f		
Greenwich	7.95	.35	.30	.50		
Shelton	7.75	.45	.20	j		
Remainder of County	8.15	.20	.20	f		
[illegible]	8.[illegible]	.33	.20	h	.03	
Electricians:						
Darien-Greenwich-New Canaan-Stamford	7.30	3-3/4%	7.5%	10%	½ of 1%	
Norwalk-Westport-Wilton-Weston	8.20	.33	1%+.20		½%	
Remainder of County	8.35	.33	1%+.20		½ of 1%	

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Elevator constructors	$8.02	.195	.20	½%+a+b	.005	
Elevator constructors' helpers	5.61	.195	.20	½%+a+b	.005	
Elevator constructors' helpers (prob.)	4.01					
Glaziers	5.30	.125	.125			
Ironworkers:						
Structural, ornamental, reinforcing	9.30	.33	.44		.04	
Laborers: (Building only)						
Bridgeport-Easton-Fairfield-Monroe-Newton-Shelton-Stratford-Trumbull	6.85	.15	.15			
Bethel-Brookfield-Danbury-New Fairfield-Redding-Sherman	5.30	.15	.15			
Jackhammer & pavement breaker op.	5.55	.15	.15			
Ridgefield, Georgetown & West Redding Laborers	4.80	.15	.15			
Pneumatic-gas-electric tools, asphalt raker-stone spreaders	5.05	.15	.15			
Blasters-powdermen	5.30	.15	.15			
Greenwich:						
Laborers, carpenter tenders and wrecking laborers	6.70	.30	.25	.35	.05	
Stamford-Darien; New Canaan:						
Laborers, mason tenders, mortar mixers, pipelayers, wreckers	5.65	4%	.15			
Plasterers tenders	5.90	4%	.15			
Drill runners, jackhammers, wacker operators	5.775	4%	.15			
Blasters and dynamite men	6.60	4%	.15			
Norwalk-Wilton-Westport-Weston:						
Wagon drill	5.80	.15	.15			
Pneumatic-gas-electric-tool op., mason tenders, mortar mixers, pipelayers (conc., clay), plasterers' tenders, conc. saw, power buggy	5.70	.15	.15			
Laborers	5.55	.15	.15			
Laborers: (Heavy & Highway only)						
Laborers	5.00	.30	.25		.05	
Asphalt rakers, adzemen, bracers, burners, concrete and power buggy operators, concrete saw op., chain saw op., fence and guard rail erectors, form setters, mortar mixers, pipelayers, riprap and drywall builders, stone spreaders, masons tenders, pneumatic drill operators, tool operators, wagon drill op., tree trimmers, tree toppers, mulchers, chippers, stumpers & all operations connected	6.25	.30	.25		.05	

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Laborers: (Heavy & Highway only) cont'd						
Air track operators	$6.50	.30	.25		.05	
Pavers, rammers, curb setters	6.50	.30	.25		.05	
Powdermen and blasters	6.75	.30	.25		.05	
Lathers:						
Bethel-Brookfield-Danbury-New Fairfield-Newton-Sherman	8.75	.25	.15		.01	
Norwalk	4.50					
Greenwich-Stamford-New Canaan	7.91	.25	.20	.75	.01	
Remainder of County	8.10	.25	.25		.01	
Lead burners	7.80	.30		c	.01	
Line Construction:						
Darien-Greenwich-New Canaan-Stamford-that portion of Norwalk West of Five Mile River:						
Linemen	5.50	3-3/4%	7.5%	10%	½ of 1%	
Cable splicer	5.75	3-3/4%	7.5%	10%	½ of 1%	
Cable splicer helper	4.75	3-3/4%	7.5%	10%	½ of 1%	
Groundmen:						
1st year	3.40	3-3/4%	7.5%	10%	½ of 1%	
2nd year	3.90	3-3/4%	7.5%	10%	½ of 1%	
Driver groundmen	4.50	3-3/4%	7.5%	10%	½ of 1%	
Remainder of County:						
Linemen, cable splicer, welder, pipelayers, dynamite man	6.11	.15	1%	d		
Digger op., equipment operator	5.21	.15	1%	d		
Groundman, truck driver	4.99	.15	1%	d		
Cable splicer helper	4.85	.15	1%	d		
Groundman	4.39	.15	1%	d		
Painters:						
Greenwich:						
Brush	6.80	3%	9%	4%		
Structural steel	6.80	3%	9%	4%		
Spray	6.80	3%	9%	4%		
Bethel-Brookfield-Danbury-Ridgefield-Redding-Sandy Hook-New Fairfield-Newton-Sherman:						
Brush	6.20	.25				
Structural steel	7.20	.25				
Norwalk-Westport-Weston-Wilton:						
Brush	4.50	.10				
Roller	4.80	.10				
Steel	4.75	.10				
New Canaan:						
Brush	4.35	.15				
Roller	4.85	.15				
Shelton-Monroe:						
Brush	4.75	.12		e		
Structural steel	5.75	.12		e		
Spray	[illegible]	[illegible]		e		
Byram:						
Brush	6.25	.29	.76-6/7			
Structural steel	7.14-2/7	.29	.76-6/7			

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Laborers: (Heavy & Highway only) cont'd						
Darien-Stamford:						
Brush	$6.00	.25	.20			
Structural steel	6.00	.25	.20			
Spray	6.00	.25	.20			
Remainder of County:						
Brush	7.00	.25	.25	e		
Structural steel	8.00	.25	.25	e		
Millwrights	8.65	.50	.30	i		
Norwalk	8.00	.40	.20		8	
Piledrivermen: (Building only)						
Greenwich	7.55	.35	.20	.50		
Darien-Stamford-New Canaan	8.25	.40	.20		.05	
Bridgeport-Easton-Fairfield-Monroe-Stratford-Trumbull	8.15	.20	.35	f		
Norwalk	8.40	.50	.30	i	8	
Shelton	7.75	.35	.20			
Sherman	5.25	.15	.15			
Westport-Weston	8.15	.20	.20	f		
Wilton-Ridgefield	8.25	.40	.20		.05	
Remainder of County	8.15	.20	.20	i		
Plumbers, Steamfitters:						
Greenwich	9.00	.30	.30		.01	
Bethel-Brookfield-Danbury-New Fairfield-Newton-Redding-Ridgefield-Sherman	8.10	.30	.30			
New Canaan	8.20	.40	.30			
Stamford-Darien	9.00	.40	.30	4%		
Bridgeport-Easton-Fairfield-Monroe-Shelton-Stratford-Trumbull	8.60	.20	.20		.01	
Remainder of County	7.85	.40	.30	.30		
Roofers:						
Composition, kettlemen	8.50	.60	.30			
Slate	8.75	.60	.30			
Helper (slater)	7.75	.60	.30			
Precast slab	9.00	.60	.30			
Precast slab helper	8.25	.60	.30			
Sheet metal workers	5.42	.10	.20			
Sprinkler fitters	8.00	.25	.40		.05	
Waterproofers	8.50	.60	.30			
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other

PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Holidays: A through F.

c. Holidays: A through F, plus Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holiday.

d. Holidays: A and D through F and Good Friday, providing the employee is available for work the days preceding and following the holiday.

e. Two (2) paid holidays: C and D providing the employee works the day before and the day after the holiday.

f. Holidays: B,C,D, plus Good Friday provided the employee has been employed 14 consecutive days immediately prior to the holiday.

g. Employer contributes fifty dollars per year.

h. Paid Holidays: A through F plus Good Friday.

i. Paid Holidays: Labor Day, ½ day on Christmas Eve and on New Year's Eve.

j. Paid Holidays: C through E.

k. Paid Holidays: C and D.

POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Derrick, hoist (2 drums or over), structural steel (hoisting and handling), stone setting, pile driver, lighter derrick, stiff leg and guy derrick	$ 8.37	.30	.25+a	b		
Tower crane, dragline, gradall, hoist. Kohering scooper loader and/or hoe, shovel, front end loader (7yds. or over) fork lift (over 4 ft. lift)	8.15	.30	.25+a	b		
Maintenance engineer	8.05	.30	.25+a	b		
Boiler (portable-high pressure), hammer (vibratory), front end load (3-7 yds.), Coleman loader and screening plant or similar equip., drill (joy-heavy weight champion or equivalent), mucking machine, pumpcrete, rock and earth boring machine, compressor (battery op.) post hole and well digger, conveyor, central mix operator, combination hoe and loader (over ½ yd.)	7.90	.30	.25+a	b		
Asphalt spreader	7.90	.30	.25+a	b		
Bulldozer	7.60	.30	.25+a	b		
Grader, scraperpan, carryall operator	7.70	.30	.25+a	b		
Combination hoe and loader	7.70	.30	.25+a	b		
Concrete mixer (5 bags or over), front end loader (under 3 yds), powerstone spreader	7.65	.30	.25+a	b		
Compressor, generator, pump & well point opr., welding machine, air steam valve oprs., mechanical heater oprs.	7.53	.30	.25+a	b		
Steam Jenny, fork lift (not over 4 ft.)	7.55	.30	.25+a	b		
Roller operators	7.50	.30	.25+a	b		
Dinky machine opr., firemen (high pressure), power pavement breaker	7.35	.30	.25+a	b		
Oiler	6.90	.30	.25+a	b		
Crane with boom, over 150 ft. Additional $.25 per hour						
Crane with boom, over 200 ft. Additional $.50 per hour						
Paid Holidays (Where applicable): A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day						

FOOTNOTE:

a. [illegible] per hour [illegible] 21 hours.

b. Seven (7) paid holidays: A through F and Good Friday.

POWER EQUIPMENT OPERATORS HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Erecting and handling structural steel	$7.50	.20	.15+a	b		
Front end loader (7 yds. or over), pile driver, crane shovel, dragline, gradall, trenching machine, lighter derrick, paver (concrete), derrick (stiff leg and guy), steel pile sheeting, Kohering loader (skooper)	7.44	.20	.15+a	b		
Drill (Joy Heavy weight champion or equivalent) side boom, loader (Euclid) mucking machine, pumpcrete, rock and earth boring machine post and well digger compressor (battery operated), hammer (vibratory), central mix operator, combination hoe & loader (over ½ yd.)	7.15	.20	.15+a	b		
Asphalt spreader	7.00	.20	.15+a	b		
Front end loader (3 yds. or over), grader power stone spreader	6.90	.20	.15+a	b		
Well point system, combination hoe & loader	6.88	.20	.15+a	b		
Asphalt roller, bulldozer, carryall, maintenance engineer	6.75	.20	.15+a	b		
Front end loader (under 3 yds.), roller, power chipper fork lift, finishing machine, asphalt plant, firemen (high pressure), power pavement breaker, dinky machine	6.60	.20	.15+a	b		
Compressor, pump	6.52	.20	.15+a	b		
Batch plant, bulk cement plant, oiler	6.25	.20	.15+a	b		
Crane with 150 ft. boom - additional $.25 per hour						
Crane with 200 ft. boom - additional $.50 per hour						
Paid Holidays (Where Applicable): A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.						

FOOTNOTE:

a. Employer contributes $.15 to Supplemental Unemployment Fund.

b. Seven (7) paid holidays: A through F and Good Friday.

BUILDING, HEAVY, & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS			
		H & W	PENSIONS	VACATION	APP. TR.
Truck Drivers:					
Two axle trucks	$4.70	a	b	c	
Three axle trucks	4.80	a	b	c	
Four axle trucks	4.90	a	b	c	
Two axle ready-mix	4.80	a	b	c	
Three axle ready-mix	4.85	a	b	c	
Four axle ready-mix	4.95	a	b	c	
Heavy duty trailer - to 40 tons	4.85	a	b	c	
Heavy duty trailer - over 40 tons	5.00	a	b	c	
Helpers	4.70	a	b	c	
Specialized earth moving equipment	4.95	a	b	c	

Paid Holidays (Where applicable):

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas.

Footnotes:

a. $11.00 per week for employees employed over 16 hours and $.2675 per hour for employed less than 16 hours during the week.

b. $14.00 per week for employees employed over 24 hours and $.30 per hour for employees employed less than 24 hours during the week.

c. Seven (7) holidays: A through F, and Good Friday provided the employee has 21 calendar days service and is available for work the day preceding and following the holiday.

SUPERSEDEAS DECISION

STATE: Connecticut
DECISION NO.: AP-446
COUNTY: Hartford
DATE: Date of Publication

Supersedes Decision No. AP-432, dated October 6, 1972, in 37 FR 21228.

DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4-stories), heavy and highway construction.

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BUILDING, HEAVY & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHER
Asbestos workers:						
East Granby-Enfield-Granby-Hartland-Suffield-Windsor Locks	$7.60	.34	.15		.01	
Remainder of County	8.715	.42	.28			
Boilermakers	7.25	.40	10%		.01	
Bricklayers, Cement masons, Finishers, Marble setters, Plasterers, Stonemasons, Terrazzo workers, tile setters (Building only)						
Bristol-Plainville	8.60	.20	2%+.40			
Marion-Canton	8.91	.35+.15	.25	j		
Berlin-Kensington-New Britain-Newington Plantsville- Southington	8.50	.15	.40			
Remainder of County	8.70	.40	.25			
Bricklayers, Cement Masons, Finishers & Stonemasons (Heavy and Highway):	7.70	.35	.15	h		
Carpenters & Piledrivermen (Heavy and Highway):	8.30	.35	.20	h	.03	
Carpenters, Soft Floor Layers, Piledrivermen: (Building Only):						
Burlington	8.25	.40	.20	a		
Bristol-Plainville-Canton-Berlin-E. Berlin-Kingston-Newington-New Britain-Milldale-Marion-Plantsville-	8.12	.35	.20			
Southington	8.05	.40	.20	g	.02	
Remainder of County	8.12	.35	.20		.01	
Electricians:						
Berlin-Bristol-New Britain-Plainville-Southington-Newington	8.75	.35	1%+.30		½ of 1%	
Hartland	8.80	.25	1%+.20		1/8 of 1%	
Suffield Township-Thompsonville Village	6.90	.20	1%+.15		b	
Remainder of County	8.35	.40	1%+.20		½%	
Elevator constructors	8.02	.195	.20	½%+c+d	.005	
Elevator constructors' helpers	5.61	.195	.20	½%+c+d	.005	
Elevator constructors',helpers (prob.)	4.01					
Glaziers: Outside	8.01	.47	.32			
Ironworkers:						
[illegible]						
Laborers (Building)						
Laborers, carpenters tenders, wrecking laborers	6.00	.30	.25		.05	
Jackhammer op., masons tenders, mortar mixer, pipe layers, plasterers tenders & power buggy	6.25	.30	.25		.05	

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Laborers (Building): (Cont'd)						
Air track operators, wagon drill ops. and sandblasters	$ 6.50	.30	.25		.05	
Open Air Caisson, Cylindrical Work and Boring Crew:						
Bottom man	6.50	.30	.25		.05	
Top man	6.00	.30	.25		.05	
Laborers (Heavy and Highway):						
Laborers	6.00	.30	.25		.05	
Asphalt Rakers, adzemen, bracers, burners, concrete and power buggy operators, concrete saw op., chain saw op., fence and guard rail erectors, form setters, mortar mixers, pipelayers, riprap and drywall builders, stone spreaders, masons tenders, pneumatic drill operators, tool operators, wagon drill op., tree trimmers, tree toppers, mulchers, chippers, stumpers & all operations connected	6.25	.30	.25		.05	
Air track operators, block pavers, rammers, curb setters	6.50	.30	.25		.05	
Powdermen and blasters	6.75	.30	.25		.05	
Lathers:						
Bristol-Southington	8.75	.25	.15		.01	
Enfield-Suffield-Thompsonville-Windsor-Warehouse Pt. Broadbrook-Melrose-Hazardville	7.60	.45	.25			
Remainder of County	9.15	.25	.30		.01	
Lead burners	7.80	.30		e	.01	
Line Construction:						
Hartland Township:						
Linemen & dynamitemen	5.18	.15	1%	f	½ of 1%	
Groundman-truck driver	3.85	.15	1%	f	½ of 1%	
Groundman-experienced	3.41	.15	1%	f	½ of 1%	
Groundman-inexperienced	2.98	.15	1%	f	½ of 1%	
Equipment operator	4.37	.15	1%	f	½ of 1%	
Remainder of County:						
Linemen & dynamitemen	5.18	.10	1%	f		
Groundman-truck driver	3.85	.10	1%	f		
Groundman-experienced	3.41	.10	1%	f		
Groundman-inexperienced	2.98	.10	1%	f		
Equipment operator	4.37	.10	1%	f		
Marble & tile setters' & terrazzo workers' helpers	7.65	.35	.15+.25			
Millwrights:						
Bristol-Plainville-Canton	8.12	.35	.20			

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Painters:						
Berlin-Bristol-Burlington-Hartland-New Britain-Newington-Plainville-Southington-Kensington-Forestville-E. Berlin-Milldale-Plantsville-Unionville:						
Brush	7.25	.50	.20			
Bridge	8.50	.50	.20			
Spray	10.875	.50	.20			
Remainder of County:						
Brush	7.50	.20	.20			
Spray	11.25	.20	.20			
Piledrivermen: (Building only):						
Marlboro	8.12	.35	.20			
Plumbers:						
Southington	9.00	.40	.75	i		
Berlin-Bristol-New Britain-Plainville-E. Berlin-Kensington-Newington-Farmington	9.05	.30	.30			
Remainder of County	8.65	5%	5%		.15	
Roofers:						
Composition	7.90	.425	.35	.30		
Composition Helper - Class A	7.325	.425	.35	.30		
Composition Helper - Class B	3.60	.425	.35	.30		
Slate, Tile, Precast Concrete	8.40	.425	.35	.30		
Sheet Metal Workers	8.70	.50	.51		.05	
Sprinkler fitters	8.00	.25	.40		.05	
Steamfitters:						
Southington	6.00	.15	.20			
Berlin-Bristol-New Britain-Plainville	9.05	.30	.30			
Remainder of County	8.54	.50	.30		.05	
Waterproofers	7.55	.325	.35	.30		
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS: (Where applicable) A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid holidays: C, D, and E.
b. $.15 per man per week.
c. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.
d. Holidays: A through F. and Christmas Eve
e. Holidays: A through F, Washington's Birthday and Good Friday, provided the employee has worked at least 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days preceding & following the holiday.
f. Holidays: A through F, & Good Friday, provided the employee has been employed for at [illegible]
g. Paid Holidays: B through E.
h. Paid Holidays: A through F and Good Friday.
i. Paid Holidays: D.
j. Paid Holidays C and D.

SW-CONN-1-Q

POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Derrick, hoist (2 drums or over), structural steel (hoisting and handling), stone setting, pile driver, lighter derrick, stiff leg and guy derrick	$ 8.32	.30	.25+a	b		
Tower crane, dragline, gradall, hoist, Koherring scooper loader and/or hoe, shovel, front end loader (7yds. or over) fork lift (over 4 ft. lift)	8.15	.30	.25+a	b		
Maintenance engineer	8.05	.30	.25+a	b		
Boiler (portable-high pressure), hammer (vibratory), front end load (3-7 yds.), Coleman loader and screening plant or similar equip., drill (joy-heavy weight champion or equivalent), mucking machine, pumpcrete, rock and earth boring machine, compressor (battery op.) post hole and well digger, conveyor, central mix operator, combination hoe and loader (over ½ yd.)	7.90	.30	.25+a	b		
Asphalt spreader	7.90	.30	.25+a	b		
Bulldozer	7.80	.30	.25+a	b		
Grader, scraperpan, carryall operator	7.70	.30	.25+a	b		
Combination hoe and loader	7.70	.30	.25+a	b		
Concrete mixer (5 bags or over), front end loader (under 3 yds), powerstone spreader	7.65	.30	.25+a	b		
Compressor, generator, pump & well point opr., welding machine, air steam valve oprs., mechanical heater oprs.	7.53	.30	.25+a	b		
Steam Jenny, fork lift (not over 4 ft.),	7.55	.30	.25+a	b		
Roller operators	7.50	.30	.25+a	b		
Dinky machine opr., firemen (high pressure), power pavement breaker	7.35	.30	.25+a	b		
Oiler	6.90	.30	.25+a	b		
Crane with boom, over 150 ft. Additional $.25 per hour						
Crane with boom, over 200 ft. Additional $.50 per hour						
Paid Holidays (Where applicable): A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day						

FOOTNOTE:

[illegible] Employment Fund.

b. Seven (7) paid holidays: A through F and Good Friday.

POWER EQUIPMENT OPERATORS HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Erecting and handling structural steel	$7.50	.20	.15+a	b	f	
Front end loader (7 yds. or over), pile driver, crane shovel, dragline, gradall, trenching machine, lighter derrick, paver (concrete), derrick (stiff leg and guy), steel pile sheeting, Kohering loader (skooper)	7.44	.20	.15+a	b		
Drill (Joy Heavy weight champion or equivalent) side boom, loader (Euclid) mucking machine, pumpcrete, rock and earth boring machine post and well digger compressor (battery operated), hammer (vibratory), central mix operator, combination hoe & loader (over ½ yd.)	7.15	.20	.15+a	b		
Asphalt spreader	7.00	.20	.15+a	b		
Front end loader (3 yds. or over), grader power stone spreader	6.90	.20	.15+a	b		
Well point system, conbination hoe & loader	6.88	.20	.15+a	b		
Asphalt roller, bulldozer, carryall, maintenance engineer	6.75	.20	.15+a	b		
Front end loader (under 3 yds.), roller power chipper fork lift, finishing machine, asphalt plant, firemen (high pressure), power pavement breaker, dinky machine	6.60	.20	.15+a	b		
Compressor, pump	6.52	.20	.15+a	b		
Batch plant, bulk cement plant, oiler	6.25	.20	.15+a	b		
Crane with 150 ft. boom - additional $.25 per hour						
Crane with 200 ft. boom - additional $.50 per hour						

Paid Holidays (Where Applicable):
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Employer contributes $.15 to Supplemental Unemployment Fund.

b. Seven (7) paid holidays: A through F and Good Friday.

BUILDING, HEAVY, & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS: H & W	PENSIONS	VACATION	APP. TR.
Truck Drivers:					
Two axle trucks	4.70	a	b	c	
Three axle trucks	4.80	a	b	c	
Four axle trucks	4.90	a	b	c	
Two axle ready-mix	4.80	a	b	c	
Three axle ready-mix	4.85	a	b	c	
Four axle ready-mix	4.95	a	b	c	
Heavy duty trailer - to 40 tons	4.85	a	b	c	
Heavy duty trailer - over 40 tons	5.00	a	b	c	
Helpers	4.70	a	b	c	
Specialized earth moving equipment	4.95	a	b	c	

Paid Holidays (Where applicable):

A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas.

Footnotes:
a. $11.00 per week for employee employed over 16 hours and $.2675 per hour for employed less than 16 hours during the week.

b. $14.00 per week for employees employed over 24 hours and $.30 per hour for employees employed less than 24 hours during the week.

c. Seven (7) holidays: A through F, and Good Friday provided the employee has 31 calendar days service and is available for work the day preceding and following the holiday.

SUPERSEDEAS DECISION

STATE: Connecticut COUNTY: Litchfield
DECISION NO.: AP-447 DATE: Date of Publication
Supersedes Decision No. AP-435, dated October 13, 1972, in 37 FR 21749
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4-stories), heavy and highway construction.

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers:						
Canaan, Colebrook, Norfolk, North Canaan and Salisbury	$7.60	.34	.15		.01	
Remainder of County	8.715	.42	.28			
Boilermakers	7.25	.40	10%		.01	
Bricklayers, cement masons-finishers, marble setters, plasterers, stone masons, terrazo workers, tile setters (Building Only):						
Thomaston, Watertown, Woodbury Bridgewater, Kent, New Milford, Roxbury	8.91	.35+.15	.25	f		
Plymouth, Terryville	8.35	.35+.15	.25			
Remainder of County	8.60	.20	2%+.40			
Marble setters' helpers, terrazzo workers' helpers, tile setters' helpers	4.65	.10	.15			
Bricklayers, Cement Mason-Finishers, Stonemasons: (Heavy and Highway):	7.65	.35	.15+.25			
West of Housatonic River	7.65	.40	.25	h		
East of Housatonic River	7.60	.40	.25	h		
Carpenters & Piledrivermen: (Hvy & Hwy):						
West of Housatonic River	8.30	.35	.20	h	.03	
East of Housatonic River	8.30	.35	.20	h	.03	
Carpenters, soft floor layers, pile-drivermen: (Building Only):						
Bethlehem, Bridgewater, Kent, Woodbury, New Milford, Roxbury, Gaylordville	5.25	.15	.15			
Northfield, Thomaston, Watertown, Morris	8.058	.40	.20	g	.02	
Plymouth, Terryville, Harwinton	8.12	.35	.20			
Remainder of County	8.25	.40	.20	f		
Electricians:						
Plymouth	8.75	.35	1%+.30		½ of 1%	
Bridgewater, New Milford	8.35	.33	1%+.20		½ of 1%	
Remainder of County	8.80	.25	1%+.20		1/8 of 1%	
Elevator constructors	8.02	.195	.20	3%+ath	.005	
Elevator constructors' helpers	5.61	.195	.20	3%+ath	.005	
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	
Ironworkers:						
Structural, ornamental & reinforcing	9.30	.35	.44		.04	

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Laborers: (Building Only):						
Bridgewater, New Milford:						
Laborers	$5.30	.15	.15			
Jackhammer operators, pavement breaker & wagon drill operators	5.55	.15	.15			
Remainder of County:						
Laborers, carpenters tenders, wrecking laborers	6.00	.30	.25		.05	
Jackhammer op., mason tenders, mortar mixer, pipelayers, plasterer tenders & power buggy	6.25	.30	.25		.05	
Air track operators, wagon drill ops., and sandblasters	6.50	.30	.25		.05	
Open Air Caisson, Cylindrical Work and Boring Crew:						
Bottom man	6.50	.30	.25		.05	
Top man	6.00	.30	.25		.05	
Laborers: (Heavy & Highway):	6.00	.30	.25		.05	
Laborers						
Asphalt rakers, adzemen, bracers, burners, concrete and power buggy operators, concrete saw op., chain saw op., fence and guard rail erectors form setters, mortar mixers, pipelayers, riprap and drywall builders, stone spreaders, mason tenders, pneumatic drill operators, tool operators, wagon drill op., tree trimmers, tree toppers, mulchers, chippers, stumpers & all operations connected	6.25	.30	.25		.05	
Air track operators	6.50	.30	.25		.05	
Block pavers, rammers, curb setters	6.50	.30	.25		.05	
Powdermen and blasters	6.75	.30	.25		.05	
Lathers:						
Barkhamsted, Colebrook, New Hartford, Norfolk, Winchester	9.15	.25	.30		.01	
Kent, Salisbury, Sharon	7.70	9%	.55		.01	
Remainder of County	8.75	.25	.15		.01	
Lead Burners	7.80	.30		c	.01	
Line Construction:						
Bridgewater, New Milford:						
Lineman, cable splicer, welder, pipelayer, dynamite man	6.11	.15	1%	d		
Digger operatur, equipment operator	5.21	.15	1%	d		
Groundman, truck driver	4.99	.15	1%	d		
Cable splicer helper	4.85	.15	1%	d		
Groundman, experienced	4.39	.15	1%	d		

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Plymouth Townships:						
Linemen, dynamite man	$5.18	.10	1%	e		
Equipment operator	4.37	.10	1%	e		
Groundman, truck driver	3.85	.10	1%	e		
Groundman, experienced	3.41	.10	1%	e		
Groundman, inexperienced	2.98	.10	1%	e		
Remainder of County:						
Linemen, dynamite man	5.18	.15	1%	e	½ of 1%	
Equipment operator	4.37	.15	1%	e	½ of 1%	
Groundman, truck driver	3.85	.15	1%	e	½ of 1%	
Groundman, Inexperienced	2.98	.15	1%	e	½ of 1%	
Groundman, experienced	3.41	.15	1%	e	½ of 1%	
Painters:						
Brush:						
New Milford	6.20	.25				
Remainder of County	7.25	.50	.20			
Structural steel:						
New Milford	7.20	.25				
Remainder of County (Bridge)	8.50	.50	.20			
Spray:						
Remainder of County	10.875	.50	.20			
Plumbers:						
Bridgewater, New Milford	8.10	.30	.30			
Barkhamsted, New Hartford	8.65	5%	5%		.15	
Bethlehem, Roxbury, Washington, Woodbury, New Preston, Plymouth, Terryville, Thomaston and Watertown	8.32	.50+.08	.50		.08	
Remainder of County	7.35	.40	.30			
Roofers:						
Bethlehem, Bridgewater, Kent, New Milford, Roxbury, Washington, Woodbury, Warren:						
Composition, kettlemen	8.50	.60	.30			
Slate & tile	8.75	.60	.30			
Slate & tile helpers	7.75	.60	.30			
Precast slab	9.00	.60	.30			
Precast helper	8.25	.60	.30			
Remainder of County:						
Composition	7.90	.425	.35	.30		
Slate & tile	8.40	.425	.35	.30		
Helpers Class A	7.325	.425	.35	.30		
Helpers Class B	3.60	.425	.35	.30		
Sheet metal workers	5.42	.10	.20			
Sprinkler fitters	8.00	.25	.40		.05	
Steamfitters:						
Barkhamsted, New Hartford	8.54	.50	.45		.05	
Waterproofers:						
Bethlehem, Bridgewater, Kent, New Milford, Roxbury, Washington, Woodbury,	6.30	.05	.20			
Remainder of County	7.55	.325	.25	.30		

Welders - rate for craft.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Six (6) paid holidays: A through F.

c. Nine (9) paid holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked at least 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

d. Five (5) paid holidays: A and D through F and Good Friday, provided the employee is available for work the days preceding and following the holiday.

e. Seven (7) paid holidays: A through F, and Good Friday, provided the employee has been employed at least 10 working days prior to the holiday and is available for work the day before and after the holiday.

f. Paid holidays: C and E.

g. Paid Holidays: B through E.

h. Paid Holidays: A through F plus Good Friday.

i. Paid Holidays: C and D.

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others

POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Derrick, hoist (2 drums or over), structural steel (hoisting and handling), stone setting, pile driver, lighter derrick, stiff leg and guy derrick	$ 8.32	.30	.25+a	b	
Tower crane, dragline, gradall, hoist, Kohering scooper loader and/or hoe, shovel, front end loader (7yds. or over) fork lift (over 4 ft. lift)	8.15	.30	.25+a	b	
Maintenance engineer	8.05	.30	.25+a	b	
Boiler (portable-high pressure), hammer (vibratory), front end load (3-7 yds.), Coleman loader and screening plant or simlar equip., drill (joy-heavy weight champion or equivalent), mucking machine, pumpcrete, rock and earth boring machine, compressor (battery op.) post hole and well digger, conveyor, central mix operator, combination hoe and loader (over ½ yd.)	7.90	.30	.25+a	b	
Asphalt spreader	7.90	.30	.25+a	b	
Bulldozer	7.80	.30	.25+a	b	
Grader, scraperpan, carryall operator	7.70	.30	.25+a	b	
Combination hoe and loader	7.70	.30	.25+a	b	
Concrete mixer (5 bags or over), front end loader (under 3 yds), powerstone spreader	7.65	.30	.25+a	b	
Compressor, generator, pump & well point oprr., welding machine, air steam valve oprs., mechanical heater oprs.	7.53	.30	.25+a	b	
Steam Jenny, fork lift (not over 4 ft.),	7.55	.30	.25+a	b	
Roller operators	7.50	.30	.25+a	b	
Dinky machine oprr., firemen (high pressure), power pavement breaker	7.35	.30	.25+a	b	
Oiler	6.90	.30	.25+a	b	
Crane with boom, over 150 ft. Additional $.25 per hour					
Crane with boom, over 200 ft. Additional $.50 per hour					
Paid Holidays (Where applicable): A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day					
FOOTNOTE: a. [illegible] $.15 per hour [illegible] Supplemental Unemployment Fund.					
b. Seven (7) paid holidays: A through F and Good Friday.					

TIGER EQUIPMENT OPERATORS HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth.
Erecting and handling structural steel	$7.50	.20	.15+a	b		
Front end loader (7 yds. or over), pile driver, crane shovel, dragline, gradall, trenching machine, lighter derrick, paver (concrete), derrick (stiff leg and guy), steel pile sheeting, Kohering loader (skooper)	7.44	.20	.15+a	b		
Drill (Joy Heavy weight champion or equivalent) side boom, loader (Euclid) mucking machine, pumpcrete, rock and earth boring machine post and well digger compressor (battery operated), hammer (vibratory), central mix operator, combination hoe & loader (over ½ yd.)	7.15	.20	.15+a	b		
Asphalt spreader	7.00	.20	.15+a	b		
Front end loader (3 yds. or over), grader power stone spreader	6.90	.20	.15+a	b		
Well point system, conbination hoe & loader	6.88	.20	.15+a	b		
Asphalt roller, bulldozer, carryall, maintenance engineer	6.75	.20	.15+a	b		
Front end loader (under 3 yds.), roller, power chipper fork lift, finishing machine, asphalt plant, firemen (high pressure), power payement breaker, dinky machine	6.60	.20	.15+a	b		
Compressor, pump	6.52	.20	.15+a	b		
Batch plant, bulk cement plant, oiler	6.25	.20	.15+a	b		
Crane with 150 ft. boom - additional $.25 per hour						
Crane with 200 ft. boom - additional $.50 per hour						
Paid Holidays (Where Applicable): A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.						
FOOTNOTE: a. Employer contributes $.15 to Supplemental Unemployment Fund.						
b. Seven (7) paid holidays: A through F and [illegible]						

SUPERSEDEAS DECISION

STATE: Connecticut
DECISION NO.: AP-448
COUNTY: New Haven
DATE: Date of Publication

Supersedes Decision No. AP-431, dated October 6, 1972, in 37 FR 21224.

DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4-stories), heavy and highway construction.

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BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$8.715	.42	.28			
Boilermakers	7.25	.40	10%		.01	
Bricklayers, cement masons-finishers, marble setters, plasterers, stonemasons terrazzo workers, tile setters (Building only):						
Milford-Devon	8.72	.35+.15	.25			
Ansonia-Derby	7.40	.35	.25			
Meriden	8.50	.15	.40			
Beacon Falls-Middlebury-Mixville-Naugatuck-Prospect-Waterbury-Marion Wolcott-Thomaston, Woodbury	8.91	.35+.15	.25			
Remainder of County	8.52	.35+.15	.30			
Bricklayers, cement masons, finishers, Stonemasons (Heavy & Highway only)						
Milford	7.65	.40	.25	j		
Remainder of County	7.60	.40	.25	j		
Carpenters, soft floor layers, piledrivermen: (Building only)						
Ansonia-Seymour-Derby-Orange	7.75	.45	.20	k		
Milford	8.15	.25	.35	g		
Wallingford, Meriden	8.12	.35	.20			
Cheshire-Middlesbury-Prospect-Southbury-Waterbury-Wolcott-Beacon Falls-Naugatuck	8.05	.40	.20	h	.01	
Remainder of County	8.00	.50	.30			
Carpenters, Piledrivermen (Heavy & Highway only)	8.30	.35	.20	j	.03	
Electricians:						
Beacon Falls-Middlebury-Naugatuck-Oxford-Prospect-Seymour-Southbury-Waterbury-Wolcott	8.80	.25	1%+.20		1/8 of 1%	
Milford	7.75	.23	1%+.20		½ of 1%	
Remainder of County	8.40	.40	1%+.20		.5%	
Elevator Constructors	8.02	.195	.20	½%+a&b	.005	
Elevator Constructors' helpers	5.61	.195	.20	½%+a&b	.005	
Elevator Constructors' helpers (Prob.)	4.01					
Glaziers	5.30	.125	.125			
Glaziers (Wallingford):	8.01	.47	.32			
Ironworkers:						
Structural, Ornamental & Reinforcing	9.30	.43	.44		.04	

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BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Laborers: (Building only)						
Laborers, Pneumatic-gas-electric tool op., concrete saw, mason tenders, mortar mixers, pipelayers, (Concrete & clay, plasterers tenders, power buggy, wrecker: Milford-Devon	$6.85	.15	.15			
Remainder of County:						
Laborers, carpenters' tenders, wrecking laborers	6.00	.30	.25		.05	
Jackhammer op., mason tenders, mortar mixer, pipe layers, plasterers' tenders & power buggy	6.25	.30	.25		.05	
Air track operators, wagon drill ops., and sand blasters	6.50	.30	.25		.05	
Open Air Caisson, Cylindrical Work and Boring crew:						
Bottom man	6.50	.30	.25		.05	
Top man	6.00	.30	.25		.05	
Laborers (hvy. & hwy. only):	6.00	.30	.25		.05	
Laborers						
Asphalt rakers, adzemen, bracers, burners, concrete and power buggy operators, concrete saw op., chain saw op., fence and guard rail erectors, form setters, mortar mixers, pipelayers, riprap and drywall builders, stone spreaders, masons tenders, pneumatic drill operators, tool operators, wagon drill op., tree trimmers, tree toppers, mulchers, chippers, stumpers & all operations connected	6.25	.30	.25		.05	
Air track operators & Block pavers rammers, curb setters	6.50	.30	.25		.05	
Powdermen and blasters	6.75	.30	.25		.05	
Lathers:						
Beacon Falls-Bethany-Cheshire-Meriden-Middlebury-Naugatuck-Oxford-Prospect-Southbury-Waterbury-Wolcott	8.75	.25	.15		.01	
Remainder of County	8.52	.14	.20		.01	
Lead Burners	7.80	.30		c	.01	
Line Construction:						
Milford						
Linemen, cable splicers, dynamitemen	6.11	.15	1%	d		
Digger, equipment operators	5.21	.15	1%	d		
Truck Drivers	4.99	.15	1%	d		
Cable splicers' helpers	4.85	.15	1%	d		
Groundmen	4.39	.15	1%	d		
Remainder of County: [illegible] Meriden, Seymour, Southbury, Waterbury, Wolcott:						
Lineman, Dynamiteman	5.18	.15	1%	e	½ of 1%	
Equipment operator	4.37	.15	1%	e	½ of 1%	

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BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Groundman, experienced	3.41	.15	1%	e	½ of 1%	
Groundman, inexperienced	2.98	.15	1%	e	½ of 1%	
Remainder of County:						
Linemen, dynamiteman	5.18	.10	1%	e		
Equipment operator	4.37	.10	1%	e		
Groundman, truckdriver	3.85	.10	1%	e		
Groundman, experienced	3.41	.10	1%	e		
Groundman, inexperienced	2.98	.10	1%	e		
Marble setters' helpers, terrazzo workers' helpers, tile setters' helpers	7.65	.35	.15+.25			
Painters:						
Brush:						
Ansonia-Beacon Falls-Derby-Oxford-Seymour	4.75	.12		f		
Milford (Remainder of Township)	7.00	.25	.25	f		
Cheshire-Guilford-Madison-Meriden-Wallingford	7.25	.50	.20			
Milford (up to Gulf Street)	6.40	.25	.25			
Remainder of County	6.40	.25	.25			
Structural Steel:						
Ansonia-Beacon Falls-Derby-Oxford-Seymour	5.75	.12		f		
Milford	8.00	.25	.25	f		
Spray:						
Ansonia-Beacon Falls-Derby-Oxford-Seymour	5.75	.12		f		
Cheshire-Guilford-Madison-Meriden-Wallingford	10.875	.50	.20			
Milford (up to Gulf Street)	9.15	.25	.25			
Remainder of County	9.15	.25	.25			
Commercial & Industrial:						
Middlebury-Naugatuck-Prospect-Roxbury-Southbury-Waterbury-Wolcott	6.00	.25	.25			
Bridge:						
Cheshire-Guilford-Madison-Meriden-Wallingford	8.50	.50	.20			
Plumbers & Steamfitters:						
Milford	8.60	.25	.20		.01	
Ansonia-Beacon Falls-Bethany-Naugatuck-Oxford-Prospect-Seymour	9.15	.35	.30	2%	.02	
Middlebury-Southbury-Waterbury-Wolcott-South Britain	8.32	.55+.08	.50		.08	
Cheshire-Meridan-Wallingford	9.00	.40	.75	1		
Remainder of County	7.55	.40	.30	m		
Roofers:						
Cheshire-Meriden-Prospect-Wallingford-Wolcott:						
Composition	7.90	.425	.35	.30		
Composition, Helpers, Class A	[illegible]	.425	.35	.30		
Composition, Helpers, Class B Slate & Tile	3.60	.425	.35	.30		
	8.40					

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BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Remainder of County:						
Composition, Kettlemen	$8.50	.60	.30			
Slate-Tile	8.75	.60	.30			
Precast slab	9.00	.60	.30			
Precast slab helper	8.25	.60	.30			
Precast slate helpers	7.75	.60	.30			
Sheet metal workers	8.70	.50	.51		.05	
Sprinkler Fitters	8.00	.25	.40		.05	
Waterproofers:						
Cheshire-Meriden-Prospect-Wallingford-Wolcott	7.55	.325	.35	.30		
Remainder of County	8.50	.60	.30			

Welders - Receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Paid holidays: A through F.

c. Paid holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 full days during the 120 calendar days prior to the Holiday, and the regular scheduled days immediately preceding and following the holiday.

d. Paid holidays: A and D through F and Good Friday, provided the employee is available for work the days preceding and following the holiday.

e. Paid holidays: A through F, and Good Friday, provided the employee has been employed for at least 10 working days prior to the holiday and is available for work the day before and after the holiday.

f. Paid holidays: C & D; providing the employee works the day before and the day after the holiday.

g. Paid holidays: B through D, plus Good Friday, provided the employee has been employed 14 consecutive days immediately prior to the holiday.

h. Paid holidays: B through E.

j. Paid holidays: A through F plus Good Friday.

k. Paid holidays: C, D and E.

L. Paid holiday: Labor Day

M. Paid holiday: "D"

N. Paid Holidays C and D.

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POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Derrick, hoist (2 drums or over), structural steel (hoisting and handling), stone setting, pile driver, lighter derrick, stiff leg and guy derrick	$ 8.32	.30	.25+a	b		
Tower crane, dragline, gradall, hoist, Kohering scooper loader and/or hoe, shovel, front end loader (7yds. or over) fork lift (over 4 ft. lift)	8.15	.30	.25+a	b		
Maintenance engineer	8.05	.30	.25+a	b		
Boiler (portable-high pressure), hammer (vibratory), front end load (3-7 yds.), Coleman loader and screening plant or similar equip., drill (joy-heavy weight champion or equivalent), mucking machine, pumpcrete, rock and earth boring machine, compressor (battery op.) post hole and well digger, conveyor, central mix operator, combination hoe and loader (over ½ yd.)	7.90	.30	.25+a	b		
Asphalt spreader	7.90	.30	.25+a	b		
Bulldozer	7.80	.30	.25+a	b		
Grader, scraperpan, carryall operator	7.70	.30	.25+a	b		
Combination hoe and loader	7.70	.30	.25+a	b		
Concrete mixer (5 bags or over), front end loader (under 3 yds), powerstone spreader	7.65	.30	.25+a	b		
Compressor, generator, pump & well point opr., welding machine, air steam valve oprs., mechanical heater oprs.	7.53	.30	.25+a	b		
Steam Jenny, fork lift (not over 4 ft.),	7.55	.30	.25+a	b		
Roller operators	7.50	.30	.25+a	b		
Dinky machine opr., firemen (high pressure), power pavement breaker	7.35	.30	.25+a	b		
Oiler	6.90	.30	.25+a	b		
Crane with boom, over 150 ft. Additional $.25 per hour						
Crane with boom, over 200 ft. Additional $.50 per hour						
Paid Holidays (Where applicable): A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day						
FOOTNOTE: a. Employer contributes $.15 per hour to Supplemental Unemployment Fund. b. Seven (7) paid holidays: A through F and Good Friday.						

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POWER EQUIPMENT OPERATORS HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Erecting and handling structural steel	$7.50	.20	.15+a	b		
Front end loader (7 yds. or over), pile driver, crane shovel, dragline, gradall, trenching machine, lighter derrick, paver (concrete), derrick (stiff leg and guy), steel pile sheeting, Kohering loader (skooper)	7.44	.20	.15+a	b		
Drill (Joy Heavy weight champion or equivalent) side boom, loader (Euclid) mucking machine, pumpcrete rock and earth boring machine post nd well digger compressor (battery operated), hammer (vibratory), central mix operator, combination hoe & loader (over ½ yd.)	7.15	.20	.15+a	b		
Asphalt spreader	7.00	.20	.15+a	b		
Front end loader (3 yds. or over), grader power stone spreader	6.90	.20	.15+a	b		
Well point system, combination hoe & loader	6.88	.20	.15+a	b		
Asphalt roller, bulldozer, carryall, maintenance engineer	6.75	.20	.15+a	b		
Front end loader (under 3 yds.), roller, power chipper fork lift, finishing machine, asphalt plant, firemen (high pressure), power pavement breaker, dinky machine	6.60	.20	.15+a	b		
Compressor, pump	6.52	.20	.15+a	b		
Batch plant, bulk cement plant, oiler	6.25	.20	.15+a	b		
Crane with 150 ft. boom - additional $.25 per hour						
Crane with 200 ft. boom - additional $.50 per hour						
Paid Holidays (Where Applicable): A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.						
FOOTNOTE: a. Employer contributes $.15 to Supplemental Unemployment Fund. b. Seven (7) paid holidays: A through F and Good Friday.						

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BUILDING, HEAVY, & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	c
Truck Drivers:						
Two axle trucks	$4.70	a	b	c		
Three axle trucks	4.80	a	b	c		
Four axle trucks	4.90	a	b	c		
Two axle ready-mix	4.80	a	b	c		
Three axle ready-mix	4.85	a	b	c		
Four axle ready-mix	4.95	a	b	c		
Heavy duty trailer - to 40 tons	4.85	a	b	c		
Heavy duty trailer - over 40 tons	5.00	a	b	c		
Helpers	4.70	a	b	c		
Specialized earth moving equipment	4.95	a	b	c		
Paid Holidays (Where applicable): A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas.						
Footnotes: a. $11.00 per week for employee employed over 16 hours and $.2675 per hour for employed less than 16 hours during the week. b. $14.00 per week for employees employed over 24 hours and $.30 per hour for employees employed less than 24 hours during the week. c. Seven (7) holidays: A through F, and Good Friday provided the employee has 31 calendar days service and is available for work the day preceding and following the holiday.						

SUPERSEDEAS DECISION

STATE: Connecticut COUNTY: New London

DECISION NO.: AP-449 DATE: Date of Publication

Supersedes Decision No. AP-433, dated October 6, 1972, in 37 FR 21231.

DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4-stories), heavy and highway construction.

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BUILDING, HEAVY & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
Asbestos Workers:						
Griswold, Ledyard, Lisbon, North Stonington, Preston, Stonington, Voluntown	$8.70	.39	.35		.005	
Remainder of County	8.715	.42	.28			
Boilermakers	7.25	.40	10%		.01	
Bricklayers, cement masons-finishers, marble setters, plasterers, stone masons, terrazzo workers, tile setters (Building Only):						
Norwich	8.00	.17	.15			
Remainder of County	8.40	.40	.25			
Marble setters' helpers, terrazzo workers' helpers, tile setters' helpers: (Building Only)	7.65	.35	.15+.25			
Bricklayers, cement masons-finishers, stonemasons (Heavy and Highway Only)	7.60	.40	.25	f		
Carpenters & piledrivermen (Heavy and Highway Only)	8.30	.35	.20	f	.03	
Carpenters, soft floor layers, Piledrivermen: (Building Only)						
Township of Stonington	7.975	.25	.25			
Remainder of County	8.05	.50	.30	.25	.005	
Electricians:						
East Lyme, Groton, Lyme, New London, Old Lyme, Waterford	8.40	.40	1%+.20		.5%	
Remainder of County	8.35	.40	1%+.20		½%	
Cable splicers:						
East Lyme, Groton, Lyme, New London, Old Lyme, Waterford	5.55	.15	1%+.20		.5%	
Elevator constructors	8.02	.195	.20	½%+b+c	.005	
Elevator constructors' helpers	5.61	.195	.20	½%+b+c	.005	
Elevator constructors' helpers (prob.)	4.01					
Glaziers (Outside)	8.01	.47	.32			
Ironworkers; Str., Orn. and Reinf.	9.30	.30	.44		.04	
Laborers (Building)						
Laborers, carpenters tenders, wrecking laborers	6.00	.30	.25		.05	
Jackhammer op., mason tenders, mortar mixer, pipe layers, plasterer tenders	6.25	.30	.25		.05	
Air track operators, auger drill ops., and sand blasters	6.50	.30	.25		.05	
Open Air Caisson, Cylindrical Work and Boring Crew:						
Bottom man	6.50	.30	.25		.05	
Top man	6.00	.30	.25		.05	

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BUILDING, HEAVY & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
Laborers: (Heavy & Highway Only)						
Laborers	6.00	.30	.25		.05	
Asphalt Rakers, adzemen, bracers, burners, concrete and power buggy operators, concrete saw op., chain saw op., fence and guard rail erectors, form setters, mortar mixers, pipelayers, riprap and drywall builders, stone spreaders, mason tenders, pneumatic drill operators, tool operators, wagon drill op., tree trimmers, tree toppers, mulchers, chippers, stumpers & all operations connected	6.25	.30	.25		.05	
Air track operators	6.50	.30	.25		.05	
Block pavers, rammers, curb setters	6.50	.30	.25		.05	
Powdermen and blasters	6.75	.30	.25		.05	
Lathers:						
Groton	7.40	.45	.50		.01	
Remainder of County	8.70	.20	.30		.01	
Lead burners	7.80	.30		d	.01	
Line Construction:						
Lineman, dynamite man	5.18	.10	1%	e		
Equipment operators	4.37	.10	1%	e		
Groundman, truck driver	3.85	.10	1%	e		
Groundman, experienced	3.41	.10	1%	e		
Groundman, inexperienced	2.98	.10	1%	e		
Painters:						
Brush	6.70	.25	.40	.20		
Bridge	8.80	.25	.40	.20		
Sandblasters, steamcleaners	7.43	.25	.40	.20		
Plumbers, Steamfitters:						
Groton, Lyme, Merville, New London, Old Lyme, Salem, Stonington, Waterford	7.75	.20	.20			
Remainder of County	6.55	.15	.20			
Roofers:						
Composition	7.90	.425	.35	.30		
Composition, helpers, class "A"	7.325	.425	.35	.30		
Composition, helpers, class "B"	3.60	.425	.35	.30		
Slate, tile, precast concrete	8.40	.425	.35	.30		
Sheet metal workers	8.70	.50	.51		.05	
Sprinkler fitters	8.00	.25	.40		.05	
Waterproofers	7.55	.325	.35	.30		
Welders - receive rate prescribed for craft performing operation to which welding is						

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BUILDING, HEAVY & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER

PAID HOLIDAYS (WHERE APPLICABLE):
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. $.05 per man per week.

b. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years as Vacation Pay Credit.

c. Six paid holidays: A through F.

d. Nine (9) paid holidays: A through F, Washington's Brithday, Good Friday, and Christmas Eve, provided the employee has worked at least 45 full days during the 120 callendar days prior to the holiday, and the regulsr scheduled work days immediatley preceding and following the holiday.

e. Seven (7) paid Holidays: A through F, and Good Friday, provided the employee has been employed for at least 10 working days prior to the holiday and is available for work the day before and after the holiday.

f. Paid holidays: A through F plus Good Friday.

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SW-CONN-1-Q

POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Derrick, hoist (2 drums or over), structural steel (hoisting and handling), stone setting, pile driver, lighter derrick, stiff leg and guy derrick	$ 8.32	.30	.25+a	b	
Tower crane, dragline, gradall, hoist, Kohering scooper loader and/or hoe, shovel, front end loader (7yds. or over) fork lift (over 4 ft. lift)	8.15	.30	.25+a	b	
Maintenance engineer	8.05	.30	.25+a	b	
Boiler (portable-high pressure), hammer (vibratory), front end load (3-7 yds.) Coleman loader and screening plant or similar equip., drill (joy-heavy weight champion or equivalent), mucking machine, pumpcrete, rock and earth boring machine, compressor (battery op.) post hole and well digger, conveyor, central mix operator, combination hoe and loader (over ½ yd.)	7.90	.30	.25+a	b	
Asphalt spreader	7.90	.30	.25+a	b	
Bulldozer	7.80	.30	.25+a	b	
Grader, scraperpan, carryall operator	7.70	.30	.25+a	b	
Combination hoe and loader	7.70	.30	.25+a	b	
Concrete mixer (5 bags or over), front end loader (under 3 yds), powerstone spreader	7.65	.30	.25+a	b	
Compressor, generator, pump & well point opr., welding machine, air steam valve oprs., mechanical heater oprs.	7.53	.30	.25+a	b	
Steam Jenny, fork lift (not over 4 ft.),	7.55	.30	.25+a	b	
Roller operators	7.50	.30	.25+a	b	
Dinky machine opr., firemen (high pressure), power pavement breaker	7.35	.30	.25+a	b	
Oiler	6.90	.30	.25+a	b	
Crane with boom, over 150 ft. Additional $.25 per hour					
Crane with boom, over 200 ft. Additional $.50 per hour					
Paid Holidays (Where applicable): A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day					
FOOTNOTE: a. Employer contributes $.15 per hour to Supplemental Unemployment Fund. b. Seven (7) paid holidays: A through F and Good Friday.					

POWER EQUIPMENT OPERATORS HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth
Erecting and handling structural steel	$7.50	.20	.15+a	b		
Front end loader (7 yds. or over), pile driver, crane shovel, dragline, gradall, trenching machine, lighter derrick, paver (concrete), derrick (stiff leg and guy), steel pile sheeting, Kohering loader (skooper)	7.44	.20	.15+a	b		
Drill (Joy Heavy weight champion or equivalent) side boom, loader (Euclid) mucking machine, pumpcrete rock and earth boring machine post and well digger compressor (battery operated), hammer (vibratory), central mix operator, combination hoe & loader (over ½ yd.)	7.15	.20	.15+a	b		
Asphalt spreader	7.00	.20	15+a	b		
Front end loader (3 yds. or over), grader power stone spreader	6.90	.20	.15+a	b		
Well point system, combination hoe & loader	6.88	.20	.15+a	b		
Asphalt roller, bulldozer, carryall, maintenance engineer	6.75	.20	.15+a	b		
Front end loader (under 3 yds.), roller power chipper fork lift, finishing machine, asphalt plant, firemen (high pressure), power pavement breaker, dinky machine	6.60	.20	.15+a	b		
Compressor, pump	6.52	.20	.15+a	b		
Batch plant, bulk cement plant, oiler	6.25	.20	.15+a	b		
Crane with 150 ft. boom - additional $.25 per hour						
Crane with 200 ft. boom - additional $.50 per hour						

Paid Holidays (Where Applicable):
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Employer contributes $.15 to Supplemental Unemployment Fund.

b. Seven (7) paid holidays: A through F and Good Friday.

BUILDING, HEAVY, & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS: H & W	PENSIONS	VACATION	APP. TR.
Truck Drivers:					
Two axle trucks	$4.70	a	b	c	
Three axle trucks	4.80	a	b	c	
Four axle trucks	4.90	a	b	c	
Two axle ready-mix	4.80	a	b	c	
Three axle ready-mix	4.85	a	b	c	
Four axle ready-mix	4.95	a	b	c	
Heavy duty trailer - to 40 tons	4.85	a	b	c	
Heavy duty trailer - over 40 tons	5.00	a	b	c	
Helpers	4.70	a	b	c	
Specialized earth moving equipment	4.95	a	b	c	

Paid Holidays (Where Applicable):

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas.

Footnotes:
a. $80.00 per week for employee employed over 16 hours and $.2675 per hour for employed less than 16 hours during the week.

b. $14.00 per week for employees employed over 24 hours and $.30 per hour for employees employed less than 24 hours during the week.

c. Seven (7) holidays: A through F, and Good Friday provided the employee has 31 calendar days service and is available for work the day preceding and following the holiday.

SUPERSEDEAS DECISIONS

STATE: South Dakota COUNTY: Minnehaha
DECISION NUMBER: AP-253 DATE: Date of Publication
Supersedes Decision No. AM-2,462, dated August 27, 1971, in 36 FR 17135
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS: H & W	PENSIONS	VACATION	APP. TR.	O
ASBESTOS WORKERS	$6.16					
BOILERMAKERS	7.80	.30	.85		.02	
BOILERMAKERS' HELPERS	7.55	.30	.85		.02	
BRICKLAYERS: Stonemasons	6.75					
CARPENTERS	5.86					
ELECTRICIANS:						
0 miles through 30 miles from Sioux Falls Post Office						
Electricians	7.20	.20	1%	6%	1-½%	
Cable Splicers	7.92	.20	1%	6%	1-½%	
Over 30 miles from Sioux Falls Post Office						
Electricians	7.80	.20	1%	6%	1-½%	
Cable Splicers	8.52	.20	1%	6%	1-½%	
ELEVATOR CONSTRUCTORS	6.93	.185	.20	2%+a		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.185	.20	2%+a		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
LABORERS:						
Laborers	3.80					
Mortar mixers; Paving breaker; Jack Hammer Operator	3.90					
Nozzleman (gunite, sandblast & shotcrete)	4.05					
LATHERS	5.20				.01	
PAINTERS:						
Brush	4.90					
Spray	5.40					
PLASTERERS	5.85				.01	
PLUMBERS: Steamfitters	5.04	.15	.10	.07	.01	
SHEET METAL WORKERS	4.23					
SPRINKLER FITTERS	6.45	.25	.40		.05	
TRUCK DRIVERS	3.80					
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

months to 5 years' service as Vacation Pay Credit.
Six Paid Holidays; A through F.

POWER EQUIPMENT OPERATORS	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS: H & W	PENSIONS	VACATION	APP. TR.	OTHERS
BOOM TRUCK OPERATOR; Hoist & Tugger Operator; Elevator operator, (building construction or repair) Motor Grader operator (rough); Trenching Machine Op.; Hydraulic Backhoe (farm tractor type); Power Plant Operator (100 KW and over); Pumpcrete Operator; Straddle Carrier; Front End Loader or Fork Lift Operator; Tractor over D-2; Turnapulls and/or DW-21 Scraper or similar Equipment; Laydown Machine	$3.93					
MOTOR GRADER, (finish): Mechanic and/or Welder	4.00					
DERRICK OPERATOR (Guy and Stiffleg) Power Shovels and/or other equipment with Shovel-Type controls (crane)	4.15					
MASTER MECHANIC	4.40					

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SUPERSEDEAS DECISION

STATE: Tennessee
DECISION NUMBER: AP-138
COUNTY: Shelby
DATE: Date of Publication
Supersedes Decision No. AM-3612 dated May 19, 1972 in 37 FR 10327
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Utility Construction.

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BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Asbestos workers	$7.875	.25	.25		
Boilermakers	6.25	.30	.50		.01
Bricklayers	7.55	.25	.20		.07
Carpenters, piledrivermen and soft floor layers	6.85	.30			.03
Cement masons	6.55	.25	.15		.06
Cement masons machine operator	6.80	.25	.15		.06
Electricians and Linemen	6.83	.30	1%		.5%
Cable splicers	6.93	.30	1%		.5%
Elevator constructors	6.08	.17	.185	2%+a&b	.005
Elevator constructors' helpers	70%JR	.17	.185	2%+a&b	.005
Elevator constructors' helpers (prob.)	50%JR				
Glaziers	6.80	.35	.20		
Ironworkers:					
Structural and Ornamental	7.45	.25	.25		.125
Reinforcing	7.45	.25	.25		.125
Lathers	6.80	.20			.01
Leadburners	6.90	.30		c	.01
Marble setters	5.75	.20			
Millwrights	6.84	.25			.06
Painters:					
Brush	6.25		.20		.05
Steel, spray and sandblasting	6.50		.20		.05
Plasterers	7.00				.01
Plumbers	7.90	.05	.15		.04
Roofers:					
Composition	6.30		.20		
Slate, tile, asbestos and precast tile	6.55		.20		
Sheet metal workers	7.20	.40	.15	.30	.02
Sprinkler fitters	8.05	.30	.40		.05
Steamfitters, air conditioning mechanics and pipefitters	6.40	.30	.30		
Stonemasons	7.55	.25	.20		.07
Terrazzo workers	5.75	.20			
Tile setters	5.75	.20			
Truck drivers:					
Up to 5 tons	3.695		d		
5 tons & over including special equipment	4.095		d		
Welders - Riggers and riveters receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay
Credit for employee who has worked in business more than 5 years.
Employer contributes 2% of regular hourly rate to Vacation Pay
Credit for employee who has worked in business less than 5 years.

c. Holidays, A through F plus Washington's Birthday, Good Friday & Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

d. Employer contribution $2.00 per week.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LABORERS:						
GROUP A						
General and common laborers, concrete laborers, track laborer-walkers, cement finisher helpers, plumber helpers, carpenter tenders, asphalt rakers-tampers, form strippers, roofing helpers	$3.475					
GROUP B						
Well driller helpers, storm and sanitary pipe layers, mat weavers	3.575					
GROUP C						
Motor buggie operators, chain saw operators	3.625					
GROUP D						
Jackhammer, vibrator and electric hammers and all air tool and pneumatic tools	3.63					
GROUP E						
Deep hole man	3.825					
GROUP F						
Powdermen, toolroom attendant, torchman on demolition and salvage, sand hog (free air)	4.025					
GROUP G						
Hod carriers, mason tenders and plasterer tenders	4.90					
GROUP H						
Mortar mixers	5.00					

BUILDING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
POWER EQUIPMENT OPERATORS:						
Shovels, Backhoe, Dragline Cranes, Derricks, Gantreys, Grad lls, winches with booms, motor patrol (finish), trenching machines (18 inches or over) pile driver, tug boat operator, mechanics, core drills, 3 drum hoist, foundation equipment	$6.275	.20	.20			
Pushdozer, locomotive, trenching mach. (18 inches or smaller), tandem roller, paver, mixer mobiles, 2-drum hoists, bulldozer, traxcavator, scraper, front end loader, fork lift back filler, blade grader, central mixing plants	6.275	.20	.20			
Elevator graders, winches (operated from tractors and trucks w/o booms), sheepsfoot, dinkey operators (over 10 tons), earth compactors, distributors (bituminous surfaces), light equip. mechanics, mixers (larger than 11'e), tractors (over 40 H.P.), 1 drum hoists	5.28	.20	.20			
Locomotive firemen (boilers 100 H.P. & over), air compressor (stationary), concrete placing machines, earth drills, finishing machines, scale operator, tractors (without attachments, 40 H.P. or less), dinkey operators (10-Tons or less), motor crane driver and oiler, mixers (11's or smaller), pump on excavator 4" and larger	5.15	.20	.20			
Portable air compressor, mechanic helper, firemen (low pressure pumps under 4 inches), oilers, welder helper	4.75	.20	.20			

AP-138, P. 5

HEAVY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Bricklayers	$4.91					
Carpenters	4.07					
Cement masons	3.97					
Ironworkers, reinforcing	3.98					
Ironworkers, structural	4.38					
Painter or sand blaster	3.84					
Laborers:						
Laborers, unskilled	2.50					
Air tool operator	2.72					
Mortar mixer, chain saw, pipelayer, conc. rubber	2.70					
Concrete saw op., guard rail erector, sign erector	2.79					
Firemen	2.76					
Asphalt raker	2.87					
Concrete edger	2.89					
Powderman	3.25					
Form setter, steel road	2.94					
Nozzleman or gunman (gunite)	3.97					
Flagman	2.50					
OPERATING ENGINEERS:						
Dragline op., shovel op., crane op., end loader 5 yds. & over, pile driver op., motor patrol finish, mechanic (class I),	4.07					
Backhoe operator, concrete paver op.	4.03					
End loader under 5 yds., mechanic, class II, motor patrol (rough), central mixing (asphalt or concrete), concrete finishing machine, soil cement machine, asphalt paver	3.65					
Bulldozer or push dozer op., scraper op., trenching machine, tractor (boom and hoist),	3.69					
Roller (high type),	3.54					
Spreader (self-propelled)	3.48					
Distributor (bituminous)	3.37					
Roller, other than finish, dozer or loader - stock pile only	3.24					
Tractor, crawler, utility	3.31					
Concrete mixer, less than 1 yd., earth drill	3.02					
Mulcher or seeder, scale op., motor crane driver & oiler	3.00					
Tractor, farm	2.78					
Curb machine	2.77					
Ditch paver, mechanic helpers	2.74					
Pump operator, welder helper	2.71					
Track drill operator	2.84					
Oiler	2.77					
TRUCK DRIVERS:						
2 axles	2.77					
3 axles	2.82					
4 axles	2.97					
[illegible] or haulers	3.18					
Welders - Rate for Craft.						

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WATER, SEWER AND UTILITIES

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Bricklayers	$3.50					
Carpenters	3.50					
Cement masons	3.00					
Laborers	2.07					
Truck drivers:						
Up to 3 tons	2.32					
Over 3 tons	2.50					
Power Equipment Operators:						
Air compressors	2.37					
Backhoe	3.50					
Blade grader	3.50					
Bulldozer	3.45					
Cranes, derricks & draglines	3.85					
Front end loader	3.50					
Mechanics	3.42					
Motor grader	3.50					
Scrapers	3.34					
Shovels	3.50					
Tractors	2.37					
Trenching machines	3.30					

[FR Doc.72-20115 Filed 11-24-72;8:45 am]

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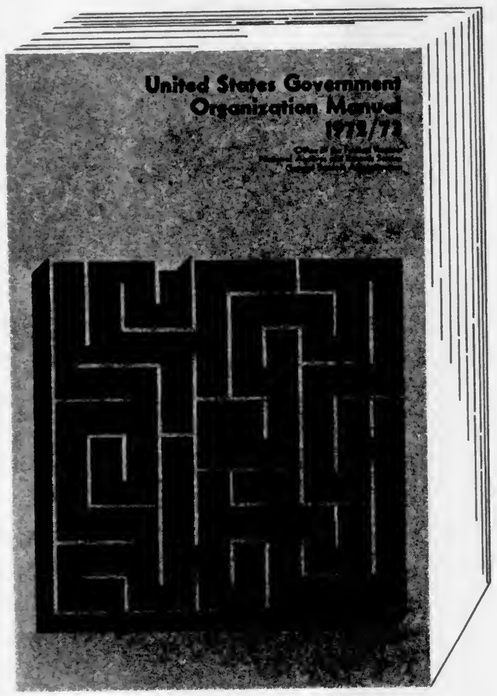

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federal register

TUESDAY, NOVEMBER 28, 1972

WASHINGTON, D.C.

Volume 37 ■ Number 229

Pages 25151–25214

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Volume 84

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1970–1971

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Order from Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402

FEDERAL REGISTER

Area Code 202 Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Title 7—AGRICULTURE

Chapter II—Food and Nutrition Service, Department of Agriculture

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

Food Stamp Program

Notice of proposed rule making was published in the FEDERAL REGISTER on July 18, 1972 (37 F.R. 14236) setting forth a proposal to amend the regulations governing the Food Stamp Program (7 CFR Part 271) to provide that the shelter hardship allowance be computed on the basis of income remaining after the deduction of all other allowable expenses. Interested persons were given 30 days in which to submit comments, suggestions, or objections to the proposed amendment. Responses to the proposed amendment were received from 35 interested persons and organizations. Eight respondents either opposed or suggested minor revisions of the proposed amendment.

After carefully considering the comments received, the Department has decided to adopt the proposed amendment published in the FEDERAL REGISTER on July 18, 1972. This change is adopted without alteration and is set forth below.

1. In order to provide for the implementation of the following amendments to § 271.3 and any subsequent amendments to the regulations in this subchapter which relate directly to the certification of households, § 271.1(s) is hereby amended by adding thereto a new subdivision (1)(viii) to read as follows:

§ 271.1 General terms and conditions for State agencies.

* * * * *

(s) *Implementation.* (1) Each State agency shall:

* * * * *

(viii) With respect to any amendment to this subchapter which relates directly to the certification of households by the State agency, put such amendment into effect for all new applications and household recertifications on the effective date of such amendment, and for all other households not later than 120 days after such date, unless otherwise provided in such amendment.

* * * * *

Because of the need for prompt implementation of the amendment to § 271.3(c) for the benefit of eligible households, it is determined that it is contrary to the public interest to follow proposed rule making procedures with respect to this amendment of § 271.1(s).

2. In § 271.3(c), subparagraph (1)(iii) is amended to read as set forth below. Because of the relettering of subdivisions in this amendment, in § 271.3(c)(1)(i)(*b*)(*1*) the reference to "subdivision (iii)(*b*)" is amended to read "subdivision (iii)(*f*)".

§ 271.3 Household eligibility.

* * * * *

(c) *Income and resource eligibility standards of other households.* * * *

(1) *Definition of income.* * * *

(iii) Deductions for the following household expenses shall be made:

(*a*) Mandatory deductions from earned income which are not elective at the option of the employee such as local, State, and Federal income taxes, social security taxes under FICA, and union dues;

(*b*) Payments for medical expenses, exclusive of special diets, when the costs exceed $10 per month per household;

(*c*) The payments for the care of a child or other persons when necessary for a household member to accept or continue employment;

(*d*) Unusual expenses incurred due to an individual household's disaster or casualty losses which could not be reasonably anticipated by the household;

(*e*) Educational expenses which are for tuition and mandatory school fees, including such expenses which are covered by scholarships, educational grants, loans, fellowships, and veterans' educational benefits; and

(*f*) Shelter costs in excess of 30 per centum of the household's income after the above deductions.

* * * * *

(78 Stat. 703, as amended; 7 U.S.C. 2011–2025)

Effective date. This amendment shall be effective on the date of its publication in the FEDERAL REGISTER (11–28–72).

RICHARD LYNG,
Assistant Secretary.

NOVEMBER 21, 1972.

[FR Doc.72–20357 Filed 11–27–72;8:47 am]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 929—CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

Increase in Expenses for 1971–72 Fiscal Period

Notice was published in the FEDERAL REGISTER on November 11, 1972 (37 F.R. 24038) that consideration was being given to a proposal regarding an increase in the expenses previously approved for the fiscal period September 1, 1971, through August 31, 1972, recommended by the Cranberry Marketing Committee established pursuant to the marketing agreement, as amended, and Order No. 929, as amended (7 CFR Part 929), regulating the handling of cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons an opportunity to submit written data, views, or arguments with respect to the proposal. None were submitted.

After consideration of all relevant matters presented, including the recommendation made by the committee, as set forth in the aforesaid notice, and other available information, it is hereby found that the amendment, as hereinafter set forth, is in accordance with said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice of proposed rule making concerning this amendment was published in the FEDERAL REGISTER on November 11, 1972, and no objection to this amendment was received; (2) in order for the committee to meet obligations incurred in accordance with the provisions of the amended marketing agreement and order during the 1971–72 fiscal period an immediate increase in the previously approved expenses is necessary, and (3) no increase in the rate of assessment fixed for the 1971–72 fiscal period is necessary since income already available to the committee is sufficient to cover the increase in expenses.

Therefore, the provisions of paragraph (a) of § 929.212 (36 F.R. 24213) are hereby amended to read as follows:

§ 929.212 Expenses and rate of assessment.

(a) *Expenses.* The expenses that are reasonable and likely to be incurred by the Cranberry Marketing Committee during the fiscal period September 1, 1971, through August 31, 1972, will amount to $54,575.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Dated: November 22, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72–20410 Filed 11–27–72;8:50 a.m.]

Chapter X—Agricultural Marketing Service (Marketing Agreements and

least 1 day in the month, such handlers do not need the milk on a regular basis. The suspension of diversion limits will

develop in other engines of the same type design, an airworthiness directive is being issued to require repetitive in-

gear as specified in Rolls Royce Service Bulletin No. T–200, dated November 26, 1971, or an FAA-approved equivalent.

transportation of radioactive materials on a flight departing the United States for a place outside thereof should be granted only in accordance with the more

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER–780, Amdt. 4]

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Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order 50]

PART 1050—MILK IN THE CENTRAL ILLINOIS MARKETING AREA

Order Suspending Certain Provisions

This suspension order is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Central Illinois marketing area.

Notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 23553) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that for the month of November 1972 the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In § 1050.14, paragraphs (c) (2) and (3).

Statement of consideration. This suspension will permit unlimited diversion of producer milk under the Central Illinois order for the month of November 1972.

The suspension was requested by Associated Milk Producers, Inc., and is necessary in order to enable many of its member producers to maintain producer status under the order for November and thereby continue receiving the uniform price for their milk.

On October 4, 1972, a large distributing plant to which many of the association's member producers shipped their milk ceased all receiving and processing operations. Since that time the cooperative association has been attempting to find alternative outlets for the milk supplied by these producers. About half of such milk supply has been accommodated on another market via shipment through a reload station at McConnell, Ill. An additional farm bulk tank pick-up route of such milk is being marketed under yet another order by direct shipment. The remaining volume of milk (five farm bulk tank pick-up routes), however, is being marketed on a limited basis to other pool plants in the Central Illinois market. The association has not yet been able to arrange a regular alternative fluid market for such remaining member producer supply of milk.

While the cooperative has made arrangements with three other handlers in the Central Illinois market to receive this remaining volume of milk for at least 1 day in the month, such handlers do not need the milk on a regular basis.

The suspension of diversion limits will afford the cooperative an opportunity to divert such milk to nonpool plants as producer milk, thereby maintaining its regulated status under the order. As such, the producers of such milk will continue to receive the uniform price while the cooperative continues to seek more permanent marketing arrangements with respect to the milk of these producers who have supplied the market for many years.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that it will provide a method for producers who have lost their pool plant outlet for milk to retain producer status under the order for an additional month while seeking other marketing arrangements.

(b) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rule making was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. There were no views filed in opposition to the proposed suspension.

Therefore, good cause exists for making this order effective with respect to producer milk deliveries during November 1972.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for November 1972.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: Upon publication in the FEDERAL REGISTER (11–28–72).

Signed at Washington, D.C., on November 22, 1972.

RICHARD E. LYNG,
Acting Secretary.

[FR Doc.72-20409 Filed 11-27-72;8:50 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 12385, Amdt. 39-1567]

PART 39—AIRWORTHINESS DIRECTIVES

Rolls Royce Continental Engines

There have been reports of oil pump drive shaft failures in service caused by gear wear on certain Rolls Royce Continental engines that could result in the loss of oil pressure and in engine failure. Since this condition is likely to exist or develop in other engines of the same type design, an airworthiness directive is being issued to require repetitive inspection of oil pump drive gear and replacement, if necessary, on specified Rolls Royce Continental engines.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

ROLLS ROYCE (1971) LIMITED. Applies to Rolls Royce Continental engines that have oil pump drive gear P/N's 22354/RR or 23403/RR installed. Those engines may include Model RR C90, except S/N's 11R021 and subsequent; Model RR O–200 engines, except S/N's 23R590 through 23R600 and 23R638 and subsequent; and Model RR O–300 engines, except S/N's 31R162 and subsequent.

Compliance required as indicated.

To prevent the loss of oil pressure due to excessive wear of oil pump drive gear P/N's 22354/RR or 23403/RR accomplish the following:

(a) Within the next 25 hours' time in service after the effective date of this AD, unless already accomplished within the last 25 hours' time in service before the effective date of this AD, and thereafter at the intervals specified in paragraph (b), determine the amount of backlash (angular movement) in the oil pump drive gear in accordance with Rolls Royce Service Bulletin No. T–200, dated November 26, 1971, or an FAA-approved equivalent.

(b) If the amount of backlash (angular movement) determined in accordance with paragraph (a) during an inspection required by paragraph (a) or this paragraph is—

(1) 6° or less, continue to inspect in accordance with paragraph (a) at intervals not to exceed 300 hours' time in service since the last inspection;

(2) More than 6° but not more than 10°, continue to inspect in accordance with paragraph (a) at intervals not to exceed 100 hours' time in service since the last inspection;

(3) More than 10° but not more than 14°, continue to inspect in accordance with paragraph (a) at intervals not to exceed 25 hours' time in service since the last inspection;

(4) More than 14°, before further flight, replace oil pump drive gear P/N's 22354/RR or 23403/RR, as applicable, with—

(i) An improved oil pump drive gear as specified in Rolls Royce Service Bulletin No. T–200, dated November 26, 1971, or an FAA-approved equivalent; or

(ii) An oil pump drive gear of the same part number with 14° or less of backlash (angular movement), determined in accordance with paragraph (a), and continue to comply with paragraph (b), as applicable.

(c) The repetitive inspections required by subparagraphs (b)(1), (b)(2), (b)(3), and (b)(4)(ii) may be discontinued when oil pump drive gear P/N's 22354/RR or 23403/RR are replaced with improved oil pump drive gear as specified in Rolls Royce Service Bulletin No. T–200, dated November 26, 1971, or an FAA-approved equivalent.

This amendment becomes effective December 4, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 20, 1972.

C. R. MELUGIN, JR.,
Acting Director,
Flight Standards Service.

[FR Doc.72-20341 Filed 11-27-72;8:47 am]

[Docket No. 11682, Amdt. 103-13]

PART 103—TRANSPORTATION OF DANGEROUS ARTICLES AND MAGNETIZED MATERIALS

Authority To Deviate

The purpose of this amendment to Part 103 of the Federal Aviation Regulations is to extend the authority in § 103.5 to grant deviations from the provisions of Part 103, under certain conditions, to cover the carriage of dangerous articles on flights of civil aircraft that depart from the United States for a place outside of the United States.

This amendment is based on a notice of proposed rule making, Notice No. 72–3, published in the FEDERAL REGISTER on February 3, 1972 (37 F.R. 2588). Except as specifically discussed hereinafter, this amendment and the reasons therefor are the same as those contained in Notice No. 72–3.

Three of the four public comments received in response to the notice favored the proposal; however, two of the comments recommended revisions to it. The first of these requested that the scope of the amendment be expanded to include flights of civil aircraft of United States registry anywhere in air commerce. Since Notice No. 72–3 was confined to extending the authority of § 103.5 to flights of civil aircraft that depart from the United States for a place outside thereof, the recommendation is considered beyond the scope of Notice No. 72–3; however, it may be considered in connection with a future rule-making action. The second revision was recommended by the U.S. Atomic Energy Commission (AEC) and advocated that radioactive materials be excluded from those articles for which deviation authority may be granted in view of the complexity of the many regulations that apply to these materials when shipped into foreign countries, including regulations of the FAA, the AEC, the Office of Hazardous Materials of the Department of Transportation, and the International Atomic Energy Authority. Based on further consideration of the proposal in the light of this comment, the FAA has concluded that deviations from the requirements of Part 103 for the transportation of radioactive materials on a flight departing the United States for a place outside thereof should be granted only in accordance with the more formal exemption procedures set forth in § 11.25 of the Federal Aviation Regulations. Accordingly, as adopted herein, subparagraph (11) does not permit deviation authority to be granted for radioactive substances on civil aircraft that depart from the United States for a place outside thereof. For such flights authority to deviate may be granted only for articles other than radioactive materials.

The FAA wishes to emphasize the fact that an authorization for deviation does not grant authority for flight over or into a foreign country with dangerous articles aboard, nor does it relieve the holder of an authorization from obtaining proper clearance from custom officials or other government agencies for the transportation of dangerous articles outside the United States. Accordingly, an authorization for deviation from the provisions of this part for one or more flights of an operation that have as their destination a place outside the United States does not grant authority for overflying a foreign country nor for landing in a foreign country; therefore, the holder of the authorization should secure permission from the foreign country or countries involved prior to flight over or into those countries with dangerous articles aboard. Furthermore, an authorization does not grant relief from compliance with applicable customs regulations or the applicable regulations of any other government agencies governing the transportation of dangerous articles outside the United States.

In consideration of the foregoing and for the reasons given in Notice 72–3, § 103.5(a) of Part 103 of the Federal Aviation Regulations is amended, effective January 29, 1973, by amending subparagraph (11) to read as follows:

§ 103.5 Authority to deviate.

(a) • • •

(11) The authorization is limited:

(i) To flights of civil aircraft between places in the United States and flights of civil aircraft that depart from the United States for a place outside thereof; and

(ii) For flights of civil aircraft that depart from the United States for a place outside thereof, to substances other than radioactive materials on board the aircraft.

• • • • •

(Sec. 313(a), 601(c), Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c)).

Issued in Washington, D.C., on November 20, 1972.

J. H. SHAFFER,
Administrator.

[FR Doc.72-20342 Filed 11-27-72;8:47 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER–780, Amdt. 4]

PART 245—REPORTS OF OWNERSHIP OF STOCK AND OTHER INTERESTS

Enlargement and Realignment of Shareholder Reporting Requirement

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 25th day of October 1972.

In notice of proposed rule making EDR–216,[1] the Board proposed to amend Part 245 of the Economic Regulations (14 CFR Part 245) so as to define more precisely which persons are required to submit reports of their interests in stock of air carriers and to expand the contents of such reports. More specifically, it was proposed to enlarge and realign the shareholder reporting requirements in Subpart B so that, inter alia, (1) "trustee" would be broadly defined to include any person, other than a beneficial owner, who holds record ownership of securities, or who possesses or exercises one or more of various rights with respect to such securities; (2) reports would be required to include identification of persons who possess or exercise the right to vote, sell, prevent sale, or otherwise dispose of the reported stock, or who receive dividends therefrom, along with a description of the business activities of each person named in the report; (3) a reporting corporation would be required to identify each of the shareholders holding more than 10 percent of its outstanding securities; (4) banks and brokers, insofar as they are "trustees," would be excepted from the requirement to file an annual report and report of acquisition, but they would be required to file a quarterly report with respect to any of their individual accounts which include one-half of 1 percent (0.5%) or more of a reported security as of the end of each quarter; and (5) transactions granting security interests in stocks would also be reported.

Pursuant to the subject notice, eight comments were filed, consisting of two by scheduled air carriers,[2] four by financial institutions[3] and one each by the Aviation Consumer Action Project (ACAP), and the Flight Engineers International Association (FEIA).

ACAP and FEIA support the proposed rules. Allegheny and Delta take no position on the merits of the proposed rules, but suggest several modifications to the provisions therein. Merrill Lynch opposes, in toto, the special reporting requirements for banks and brokers. ABA,

[1] Nov. 6, 1971, 36 F.R. 21361, Docket 23962.

[2] Allegheny Airlines, Inc. (Allegheny), Delta Air Lines, Inc. (Delta).

[3] The American Bankers Association (ABA), the First National Bank of Chicago (First National), the New York Clearing House (NYCH), and Merrill Lynch, Pierce, Fenner and Smith, Inc. (Merrill Lynch).

First National and NYCH support, in part, the substance of the rules proposed

407(b) of the Act which would justify such broad coverage.

rated, the record owner may sometimes act only as a conduit through which the beneficial owner invests the shares and

percent of any class of the capital stock of an air carrier, and neither the legislative history nor any other section of

among several different brokers or banks and each account consisted of less than 5 percent of a particular class of a car-

relationships with financial intermediaries other than banks and brokers. However, such intermediaries, to the

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First National and NYCH support, in part, the substance of the rules proposed and suggest modifications of the provisions to which they object.

Upon full consideration of the relevant matters contained in the comments we have decided, for the reasons set forth hereinafter and in EDR–216, to adopt the amendments to Part 245 substantially as proposed. Except as modified herein, the tentative findings set forth in the explanatory statement to EDR–216 are incorporated by reference and made final. The most significant modifications to the proposed rules are: (1) The narrowing of the definition of "trustee" in § 245.11; (2) the reduction of the reporting requirement for banks and brokers in their capacities as "trustees," so that their reports need cover only individual accounts which include at least 1 percent of a reported security, instead of as little as one-half of 1 percent (0.5%), as proposed; and (3) the modification of the proposed reports, insofar as they require identification of persons who have various "rights of ownership" with respect to reported securities, so as to encompass only those rights which the Board has associated with control of, or the power to control, airline securities.

In addition to the foregoing modifications of the proposed rules, the within rules will also apply the Part 245 reporting requirements to 5-percent shareholders (and to officers and directors) of companies owning at least 95 percent of the voting stock of air carriers, as if they were shareholders (or officers and directors) of the subsidiary air carrier itself.

We first discuss the proposals dealing with the definition of "trustee" and with the reporting of individual accounts held as "trustees" by banks and brokers.[1]

Definition of "trustee." Certain of the parties variously take the position that the statute confines "trustee" to its traditional meaning, namely, a person who holds legal title in a res for the benefit of another. Other parties urge an even narrower interpretation which would encompass only record owners who also had the power to exercise "investment discretion" with respect to the res. The proposed definition of "trustee" covered persons having various "rights of ownership" with respect to securities even though they were neither record owners nor full beneficial owner in the economic sense. For example, the definition would have included custodians of shares, pledgees, holder of proxies and options to purchase, and even a lender who had imposed a negative covenant on the disposition of the assets of the borrower. It is argued that there is nothing in the language or legislative history of section 407(b) of the Act which would justify such broad coverage.

These comments further contend that, given the present capabilities of the centralized recordkeeping procedures of most banks, it is not feasible—particularly where the bank has branches—for banks to report the aggregate number of shares of an air carrier which they hold in various capacities, such as trustee, custodian, pledgee, or escrow agent, and that to require banks to set up the machinery necessary to obtain figures in each such capacity, would place an oppressive reporting burden on banks without fully indicating who controls the reported securities.

It is therefore urged that the proposed definition of "trustee" either (1) be withdrawn and replaced by a definition along traditional lines, so that the term can retain its "usual and accepted meaning," or (2) be narrowed to exclude at least such persons as pledgees, holders of proxies, options to purchase or first refusal rights, and those who merely receive dividends as a mailing address for a customer.

Upon reconsideration of the tentative views expressed in EDR–216 in light of the comments received, we have determined to confine the proposed definition to persons not beneficial owners who hold record ownership of securities, and we are further providing that if the record owner is a mere nominee for a bank or broker, then the bank or broker, rather than the nominee, shall be deemed the "trustee" of such security. In so doing we will exclude those nonrecord holders who merely have various limited rights with respect to air carrier securities. We think that our revised definition should enable us to achieve the objectives of section 407(b) of the act, by imposing a direct reporting requirement on those who have potential control of an air carrier through legal or equitable ownership of more than 5 percent of its stock.

In our judgment, the foregoing definition of "trustee" is within our statutory authority. By confining the definition to record owners, we have substantially mooted the legal argument of those parties who urged a redefinition of "trustee" along traditional lines. However, we are unable to accede to the argument, advanced by other parties, that Congress intended to constrict the scope of the term "trustee" to include only record owners who also have the power to exercise "investment discretion" with respect to air carrier securities. Such a standard is so vague as to be virtually unenforceable, involving—as it inevitably would—ad hoc subjective determinations with respect to whether a person, in fact, is vested with a measure of discretion over shares which he holds as the record owner. For example, as between the carrier and its shareholders the person whose name appears on the carrier's stock transfer books is generally regarded as having the right to vote the securities there registered. In instances where a trust relationship is established, and record and equitable ownership are separated, the record owner may sometimes act only as a conduit through which the beneficial owner invests the shares and exercises his voting rights thereto. On the other hand, the record owner may possess one or more of several different powers with respect to the shares held in trust each of which involves some degree of discretion, including, for example, the power to vote the shares in the absence of contrary instructions from the beneficial owner or the power to sell the shares and reinvest the proceeds. Whether in any given case, the record holder has the requisite "discretion" with respect to shares would thus entail not only an analysis of the enumerated powers in the trust document itself, but also an examination of the conduct of the parties to the trust agreement to determine if it may indicate the existence of implied discretionary powers in the record holder. Our reading of the legislative history of section 407(b) leads us to conclude that Congress could not have intended such a result, and the banking parties have not cited any legislative history or advanced convincing arguments, to the contrary. Rather, we believe Congress intended that the Board be empowered to treat as "trustees" 5-percent record owners of air carrier securities who are not themselves beneficial owners.

Quarterly report by banks and brokers. ABA, First National, NYCH, and Merrill Lynch urge elimination of the requirement that banks and brokers, filing reports as trustees of more than 5 percent of an air carrier's stock, must report with respect to any individual account which includes one-half of one percent (0.5%), or more, of such stock as of the end of each calendar quarter. Instead, ABA suggests that such bank or broker be required to file a quarterly report setting forth: (1) The aggregate number and class of shares so held and the number of such shares over which it has investment discretion or voting power; (2) the name and address of the settler of any trust account, or group of trust accounts, which includes 5 percent or more of the reported security at the end of each calendar quarter; and (3) the name and address of the person, if other than the reporting bank or broker, who has the power to vote or make investment decisions with respect to the shares covered by the report.[2]

In support of this request, the banking parties contend that the Board is without statutory authority to require banks and brokers covered by the regulation to list separately each account for which they hold shares amounting to only one-half of one percent (0.5%) or more of the outstanding shares of the reported security. Specifically, they argue that section 407(b) of the act refers to persons or trustees holding more than 5

[1] The financial institutions submitting comments generally oppose the substance of these proposals on both legal and policy grounds. Since their legal and policy arguments are closely interrelated, we have for analytical purposes grouped them together under each issue to which they are directed.

[2] Similarly, NYCH requests modification of the proposed rule so as to require the bank or broker to report only those accounts holding more than 5 percent of the stock of an air carrier and whether the bank has sole discretion with respect to investments or voting of the stock.

percent of any class of the capital stock of an air carrier, and neither the legislative history nor any other section of the act indicates that Congress intended the Board to require disclosures of holdings below the stated percentage.

They further argue that the proposed requirement would: (1) Arbitrarily invade the confidential relationship that exists between a bank or broker and its customers, and could thus lead customers to whom confidentiality is important to establish trust relationships with persons other than banks or brokers; and (2) serve no useful purpose, since a person could easily evade the requirement by setting up a series of bank and brokerage accounts, each holding less than one-half of one percent (0.5%), or by selecting only a bank or broker which he could know would hold as trustee less than 5 percent of a particular carrier's stock. Merrill Lynch adds that the proposed requirement will place upon brokerage firms the needlessly onerous burden of examining their securities records for every class of securities of every publicly owned air carrier four times per year and make the required computations, whether or not a reportable event is determined to exist.

As we have already stated above, we have decided to modify our proposal so as to require banks and brokers to report only with respect to any individual account which includes one percent (1%) or more of an air carrier's stock. This in itself will substantially lighten the reporting burden which our proposal would have imposed on banks and brokers. However, for the reasons hereinafter stated, we reject the arguments and counterproposals in the comments, insofar as they would be equally applicable to our modified rule.

In the rulemaking notice, we tentatively concluded that section 407(b), in conjunction with the Board's general powers under section 204(a) of the Act,[3] gives the Board broad authority to require trustee shareholders to disclose all beneficial interests in a reported security, however small in number. Our tentative conclusion was grounded on the fact that while, by its literal terms, section 407(b) appears only to require disclosures of 5-percent shareholding interests, the disclosure of beneficial owners of smaller amounts of a reported security is necessary to prevent circumvention of the statute where such beneficial holdings are, in fact, split up among several trustees, or held in different accounts by one trustee. For example, an individual could hold a large amount of a carrier's stock without being reported, so long as he spread his stockholdings among several different brokers or banks and each account consisted of less than 5 percent of a particular class of a carrier's stock. Clearly then, the reading of the statute urged by the banking parties would frustrate the intent of Congress to achieve full disclosure of substantial interests in airline securities. Statutory construction having such an effect should be avoided, and, in the absence of legislative history to the contrary, we believe that we are justified in exercising our rulemaking power to as to require banks and brokers covered by Part 245 to file reports with respect to accounts which include less than 5 percent of a reported stock.

Nor do we regard as compelling the banking parties' argument that implementation of the proposed rule will invade the privacy of those persons who are not in fact 5-percent holders of an airline's stock and thereby induce such persons to refrain from using the trust services of banks.[7] We concede that some of the reports received from bank and brokers will disclose information with respect to persons who are not subject to the shareholder reporting provisions of the statute. When viewed from a regulatory perspective, however, it is a bank's relationship with its customers, coupled with the sophisticated trust services which a bank can provide, which renders the institution a logical conduit for intentional or unintentional circumvention of the Part 245 disclosure requirements. In short, it is the very confidentiality which we are asked to perpetuate which may presently enable beneficial owners to use accounts maintained with banks and brokers to obscure their holdings from the Board's view.

In light of the foregoing, and on careful balance of the competing interests involved, we find that the public interest in assuring full disclosure of substantial interests in air carrier securities requires that banks, brokers and other trustees identify in their filed reports persons owning less than 5 percent of a carrier's stock.

We also take note of the banking parties' argument that our rule might encourage investors to establish trust relationships with financial intermediaries other than banks and brokers. However, such intermediaries, to the extent that they hold more than 5 percent of a carrier's stock, are also subject to our rules and would be required to file a trustee's annual or acquisition report, as the case may be, identifying all—not just 1 percent—beneficial owners of a reported security. Moreover, we are not persuaded that bank and brokers are so marginally competitive with other providers of investment services that imposition of the rule will result in a sizeable migration of accounts from banks and brokers to other financial institutions. In any event, to the extent that reports submitted by banks and brokers contain information concerning persons who are not 5-percent holders of a reported security, we will entertain applications to withhold said information from public disclosure, pursuant to section 1104 of the Act,[4] on the grounds that disclosure of such information would be prejudicial to the interests of such persons and is not required in the interest of the public.

We are not impressed by Merrill Lynch's stated apprehension that the proposed rule will impose upon banks and brokers a needlessly onerous reporting obligation. As to whether the obligation is onerous, it should be noted, as we explained in the rule making notice, that banks and brokers covered by the regulation will be excepted from the requirement, imposed upon other trustees, to file annual reports and reports of acquisition. They will be thus relieved of the substantial burdens involved in disclosing beneficial holdings of all customers, regardless of the size of individual holdings, and in determining the maximum number and class of shares held, as well as the percentage of such shares to total outstanding capital of the carrier, during the year covered by the annual report. It should also be noted that, as we further stated in the rule making notice, practically speaking the requirement to file quarterly reports with respect to accounts including a one-half (0.5%) percent interest in the stock of most airlines would not actually be very burdensome, in light of the considerable number of shares which comprise a 0.5 percent stock interest in most trunkline carriers. By modifying our proposal, so as to limit the reporting responsibility of a trustee bank or broker only to persons owning a minimum of 1 percent, instead of one-half percent, of a reported security, the burden is greatly reduced. In our view, this modification will thus facilitate preparation of the quarterly report without detracting from the essential value of the stock disclosure rules.

In the latter connection, the Board intends to publish from time to time a list of air carriers subject to Part 245 showing, as of the date of publication, the total number of shares of capital stock outstanding of each carrier on the list. As ABA points out, this information

[3] 49 U.S.C. 1324(a), which provides that: "The Board is empowered to perform such acts, to conduct such investigations, to issue and amend such orders, and to make and amend such general or special rules, regulations, and procedure, pursuant to and consistent with the provisions of this Act, as it shall deem necessary to carry out the provisions of, and to exercise and perform its powers and duties under this Act."

[4] 49 U.S.C. 1504.

[7] Nor are we persuaded that the proposed requirement should be abandoned because of the ease by which the banking parties conclusorily allege it may be circumvented. The proposed rule is obviously not intended to be a panacea for all of the possible subterfuges that could be used to conceal beneficial ownership of airline stocks, but to make evasion of the statute more difficult where beneficial holdings are maintained in accounts with banks and brokers. We think our rule accomplishes the latter purpose, since, to avoid detection, a beneficial owner and his financial intermediary will have to undertake the considerable cost and administrative burdens entailed in structuring their stock transactions to remain outside the scope of the reporting obligations for banks and brokers, involving a constant monitoring of account balances and aggregate holdings, to insure that they do not reach the percentage levels at which a bank or broker is required to file a report covering such beneficial interests.

will be very useful to banks and brokers in determining whether they must pre-

an oppressive reporting obligation where a large number of beneficiaries is typi-

ers since they are expected to know if anyone else has the power to vote their

Miscellaneous proposals. Several other matters require comment.[12]

1. ABA urges elimination of the phrase

parent company are required to report under Part 245, there exists a significant hiatus in the protection afforded by the

Our determination to apply the foregoing reporting requirements to 95-per-

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will be very useful to banks and brokers in determining whether they must prepare and file a quarterly report with respect to air carrier shares which they hold as trustees, and, as such, should serve to further reduce the reporting burden on these institutions.[9]

Content of reports. Merrill Lynch, ABA, First National and NYCH, object to the proposal to require that every person reporting must identify every other person who (1) is a beneficial owner of the reported security, or (2) possesses or exercises the right to vote, sell, prevent sale or otherwise dispose of a reported security, or receives dividends therefrom. Merrill Lynch contends that since customers of brokers are free to sell, assign or otherwise deal with voting rights, dividends, or other incidents of their stock ownership without advising their brokers, compliance with this requirement on the part of brokers is not possible. ABA avers that where the report covers pension, retirement or large family trusts, identification of all the beneficiaries would impose an almost impossible burden on the trustee reporting; it suggests that where such large trust accounts are involved, those identified in the trustee's report should be only the person or persons who established the account.

We have decided to modify the content of the proposed reports in the following respects:

1. Where a report by a "trustee" under Subpart B covers shares held in pension or retirement trusts,[10] the person filing the report as to such shares shall be required to list only the name and address of the person or persons who created each trust, the number and class of shares held in each trust, the names of the trustees, and a description of the class of persons who are beneficiaries. We think this modification of our proposed reporting requirement is necessary in order to avoid saddling trustees with an oppressive reporting obligation where a large number of beneficiaries is typically involved and the identity of the individual members of the class of beneficiaries is not likely to be relevant in ascertaining questions concerning "control" of the shares held in trust.

2. We have narrowed the content of the proposed reports insofar as it requires identification of persons who have various "rights of ownership" with respect to reported securities, the report as revised to encompass only those rights which the Board associates with control, or the power to control, of airline securities—the right to vote or to control the voting of reported shares and powers to exercise control over the alienation of such shares. Specifically, we are withdrawing that portion of the proposed reports which would have required disclosure, by the reporting person, of persons who receive dividends from the reported securities. Upon reconsideration, identification of dividend recipients does not appear germane to the objectives of the Part 245 reporting system in that the bare possession of dividend rights to shares does not carry with it also the power to exercise control of carrier management. On the other hand, we have determined to adopt the requirement that reports identify persons who possess or exercise the right to sell, or to prevent sale or other disposition of a reported security, since such power can be utilized to influence carrier operations. In addition, we have modified that portion of the proposed report which covers disclosure of voting rights, so as to require identification of (1) persons who had either the power to issue instructions as to how any such voting shares should be voted or the power to vote such shares in the event that no instructions were issued; and (2) persons whom the reporting person was instructed to designate as his proxy in voting such shares. Voting instructions are materials which banks, brokers and other financial intermediaries handle in the normal course of their business operations, so that the burden entailed in furnishing such information to the Board would appear to be de minimis.

Merrill Lynch's concern that the proposed rule will require information from brokers to which they are not privy, is unfounded. The proposed rule was intended to require identification of those persons holding various rights of ownership to air carrier securities only insofar as such information is known to the person submitting the report.[11] However, since the proposed rule was not entirely explicit on this point, we have modified §§ 245.12 and 245.14 to indicate that if the person reporting is a trustee, he shall be required to identify in his report only those persons who are known by him to possess any of the various powers and rights enumerated therein with respect to a reported security. No parallel modification is being made with respect to to reports required of beneficial owners since they are expected to know if anyone else has the power to vote their shares or to exercise other rights with respect to their shares.

Reports by Officers and Directors. Allegheny requests the Board to except officers and directors of air carriers from the requirement to file a report of acquisition under proposed § 245.13. It contends that since, under Subpart A, all officers and directors owning any amount of air carrier stock must report their ownership annually, and since all new holdings acquired by an officer or director during any 1-year period will show up in their succeeding annual report, inclusion of such persons within the scope of § 245.13 is unnecessary. We will not grant this request. Although Allegheny is correct in its assertion that an officer's or director's annual reports will disclose his acquisition of shares during the period covered by the report, our experience is that, with several notable exceptions, it is so rare for an officer or director to own a significant block of air carrier stock, that we think it desirable that the Board be apprised of any such acquisition without awaiting filing of annual reports.

Acquisition reports. Delta questions whether proposed § 245.13(c)(2) adequately fulfills Part 245 objectives, insofar as the owner of more than 5 percent of the capital stock of a carrier, who has filed an annual report or acquisition report, is excepted from filing a report with respect to any additional acquisition of that carrier's shares. It is pointed out for example, that, during the interval between the date a person acquires 5 percent of a carrier's stock and the date on which he files an annual report, it would be possible for him to acquire a considerable number of shares in addition to those already disclosed to the Board, and thereby be in a position to exercise a greater degree of control over the carrier. We are therefore requested by Delta to modify the proposed rule so as to require the owner of more than 5 percent of the stock of a carrier to file a report within 10 days after the close of any calendar month in which there has been a change in such ownership; this would be similar to SEC practice, which is to require 10 percent security owners to file such special reports.

While this proposal has some merit, we are reluctant to encumber 5-percent shareholders of air carriers with the stringent reporting obligations urged by Delta, and, therefore, we adhere to our proposed requirement. The Board's staff has heretofore encountered no difficulty in monitoring the further stock acquisition activities of known 5-percent carrier shareholders, and we need not at this time deal with the problem.

[9] ABA, First National and NYCH also request that banks and brokers be permitted to file the quarterly report within 30 days after the end of each calendar quarter, instead of within 10 days as proposed. In their view, while 10 days may be adequate for the beneficial owner to file the annual report or report of acquisition, it is not practicable to require banks and brokers to prepare a quarterly report, covering a potentially large number of accounts, within 10 days after the end of each quarter. We agree and, accordingly, are making an appropriate modification to § 245.14.

[10] No such exception will be made for large family trusts, as urged by ABA. In addition to the obvious problem involved in defining what is meant by a "large family" trust we do not believe that the identification of the beneficial owners of the airline securities held in such trusts will impose an unreasonable administrative burden on the reporting entity. However, in cases where the requirement would cause hardship to the reporting entity, the Board would consider granting a waiver upon application and a proper showing.

[11] For example, where reported securities are held in an account maintained with a bank if the customer directs the bank to issue its proxy to another person, the bank would be required to disclose, in its quarterly report, the name and address of such other person.

Miscellaneous proposals. Several other matters require comment.[12]

1. ABA urges elimination of the phrase "or capital of an air carrier" where it is used in Part 245, and suggests substitution of the phrase "or equity interests of an air carrier." It is argued that an examination of the legislative history of the Act indicates that neither Congress nor the Board has intended to cause banks holding debt obligations of an air carrier to report such holdings, and that indeed it is clear from the rule making notice that the Board here intends to cover only "equity interests." However, the term "capital" was not intended to include debt obligations as such. That term is used in section 407(b), and was intended to cover ownership interests in air carriers which are not organized as corporations and which do not have stock, voting or otherwise—e.g., air carriers, such as air freight forwarders, which may actually operate as single proprietorships or partnerships. Accordingly, ABA's request is rejected.

2. We have adopted ACAP's suggestion to require a reporting corporation to identify each of its shareholders who holds more than 5 percent of its outstanding securities, instead of 10 percent as originally proposed. Accordingly, we are modifying § 245.12 to incorporate ACAP's proposal. As modified, the rule is in alinement with a parallel requirement for corporate affiliates of air carriers in Part 246, and should better enable the Board to determine whether a reporting corporation is controlled by or in a common control relationship with persons obliged to protect competing interests.[13]

3. Part 245 and section 407(b) of the Act embody the definition of "air carrier" in section 101(3) of the Act.[14] ACAP suggests that, for the purpose of Part 245, we should interpret this definition to include any person owning or controlling 100 percent of the voting securities of an air carrier, on the grounds that unless 5-percent shareholders of an air carrier's parent company are required to report under Part 245, there exists a significant hiatus in the protection afforded by the present shareholder reporting system. Under ACAP's proposal, those persons owning beneficially or as trustees 5 percent or more of the outstanding capital stock or capital of a company holding 100-percent control of an air carrier should be required to file reports as if they were stockholders of the wholly owned subsidiary air carrier.

ACAP's suggestion will strengthen our stock disclosure rules considerably, and we will adopt it. Although the parent of a wholly-owned subsidiary air carrier might not itself be an "air carrier" as defined in section 101(3) of the Act, section 407(e) of the Act provides, in relevant part: "The provisions of this section shall apply to the extent found by the Board to be reasonably necessary for the administration of the Act, to persons having control over any air carrier, or affiliated with any air carrier within the meaning of section 5(8) of the Interstate Commerce Act, as amended." The regulatory problem which prompted Congress to enact the shareholder reporting amendments to section 407(b)—i.e., that persons representing other interests could covertly acquire 10 percent of an air carrier's stock, which constitutes presumptive control under section 408(f) of the Act—is obviously present where control is acquired of a holding company owning substantially all of the voting stock of an air carrier.

Accordingly, we find that it is necessary, to enable the Board to administer the stock disclosure system prescribed by Congress in section 407 of the Act, to treat a company owning an air carrier as if it were itself the air carrier for the purpose of applying the reporting requirements which section 407(b) imposes on air carriers and their 5-percent shareholders. We do not at this time find it necessary to apply these reporting requirements to every parent company which has control of an air carrier through ownership of a simple majority interest, and we shall therefore limit our finding under section 407(e) only to companies which own at least 95 percent of an air carrier's voting stock. Such companies may reasonably be considered as virtual alter egos of the air carrier. Subpart B of Part 245 of the Board's regulations will thus apply also to persons owning, beneficially or as trustee, 5 percent or more of the capital stock or capital of a company owning 95 percent of the voting stock of an air carrier.

By the same token, we also find it necessary under section 407(e) to apply the reporting requirements of section 407(c) of the Act (reports of officers and directors) to officers and directors of a holding company owning 95 percent or more of the voting stock of an air carrier. Accordingly, we are now amending the definition of "air carrier" in Subpart A of Part 245, implementing section 407(c) of the Act, in the same manner as we are amending the definition of "air carrier" in Subpart B, in order to reflect the aforementioned modifications.

Our determination to apply the foregoing reporting requirements to 95-percent holding companies of air carriers does not rest solely on our findings pursuant to section 407(e) of the Act. Thus, the Board has held, in connection with applying other sections of the Act to holding companies, that in appropriate situation it will disregard the separate corporate entities where failure to do so might defeat the legislative purpose behind the statute.[15] We think this long-standing precedent also provides ample authority for the Board to require reports of stock ownership from shareholders and officers and directors of entities which have gained control of all or substantially all of the voting stock of an air carrier.

However, since application of the Part 245 reporting requirements to shareholders, officers, and directors of air carrier parent companies obviously imposes a burden on such persons, and since this change was not proposed in EDR–216, we shall allow petitions for reconsideration of the aforedescribed amendments to §§ 245.1 and 245.11. Twelve copies of such petitions shall be filed with the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, on or before December 29, 1972. Copies of any petition filed will be available for examination by interested persons in the Docket Section.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 245 of the Economic Regulations (14 CFR Part 245) effective December 29, 1972, as follows:

1. Amend the table of contents to Subpart B to read as follows:

Subpart B—Reports of Owners of More Than 5 Per Centum of Any Class of Capital Stock or Capital of an Air Carrier

Sec.
245.11 Definitions.
245.12 Annual report.
245.13 Report of acquisition.
245.14 Quarterly report by banks and brokers.
245.15 Report of security transactions.
245.16 Responsibility of carriers.

AUTHORITY: The provisions of this Subpart B issued under sections 204(a), and 407, 72 Stat. 743, 766; 49 U.S.C. 1324, 1377. Interpret or apply section 101(3) of the Federal Aviation Act of 1958, as amended, 72 Stat.; 49 U.S.C. 1301.

2. Amend § 245.1 to read as follows:

§ 245.1 Reports required.

At the times and in the manner provided in this subpart, each officer and each director of each air carrier shall transmit to the Board (Attention Director, Bureau of Operating Rights) a report describing the shares of stock or other interests held by him in any air carrier, any person engaged in any phase of aeronautics, or any common carrier, and in any person whose principal business, in purpose or in fact, is the holding of stock in, or control of, air carriers,

[12] See, *e.g.*, Studebaker Corp., et al., Order E–19014, Nov. 15, 1962, and Vernon Stouffer and United Air Lines, Inc., Order 70–10–33, Oct. 6, 1970.

other persons engaged in any phase of aeronautics, or common carriers. For

(2) Name and address of bank or broker reporting.
(3) Number and class of shares held

(a) To notify each shareholder of record owning more than 1 percent of any class of its capital stock, or capital, of

CFR 203.6 relating to the right of a witness to obtain a copy of the transcript of his testimony taken in a nonpublic

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other persons engaged in any phase of aeronautics, or common carriers. For the purpose of this subpart, "air carrier" means air carrier as defined in section 101(3) of the Act, and includes any person who owns 95 percent or more of the outstanding voting securities of any such air carrier, but does not include air carriers relieved or exempted from section 407(b) of the Act. "Persons" means any individual, firm, partnership, corporation, company, association, or any two or more persons acting in concert or under common control or direction.

3. Amend the footnote to § 245.1 to read as follows:

[6] See, *e.g.*, § 29811(*f*) of Part 298, § 373.3 of Part 373 and § 378.3 of Part 378 of this chapter exempting air taxi operators, study group charterers, and inclusive tour operators, respectively.

4. Amend Subpart B to read as follows:

Subpart B—Reports of Owners of More Than 5 Per Centum of Any Class of Capital Stock or Capital of an Air Carrier

§ 245.11 Definitions.

As used in this subpart, unless the context otherwise requires;

"Air carrier" means air carrier as defined in section 101(3) of the Act, and includes any person who own 95 percent or more of the outstanding voting securities of any such air carrier, but does not include air carriers relieved or exempted from section 407(b) of the Act.[16]

"Bank" means any person primarily engaged in business as a commercial bank or trust company, or both, and subject to regulation or examination under the laws of the United States or of any State.

"Broker" means any person engaged in the business of effecting transactions in securities for the account of others, but not a bank.

"Person" means an individual, firm, partnership, corporation, company, association, or any two or more persons acting in concert or under common control or direction.

"Shares" and "Shareholdings," or "stock" and "stockholdings" shall include any interest in the capital or capital stock of an air carrier.

"Trustee" means any person, other than a beneficial owner, who holds record ownership of shares: *Provided, however,* That, where a nominee of a bank or broker holds record ownership of shares, then the bank or broker, rather than its nominee, shall be deemed to be the trustee hereunder.

§ 245.12 Annual report.

(a) *Time for reporting.* On or before April 1 of each year, every person owning, either beneficially or as trustee, more than 5 per centum of any class of the capital stock or capital, as the case may be, of an air carrier shall file with the Board (Attention, Director, Bureau of Operating Rights) a report covering such shares or other interest owned as of December 31 of the preceding year: *Provided, however,* That this section shall not apply to a bank or broker insofar as it is a trustee, nor to an officer or director of an air carrier who has complied with the reporting requirement of Subpart A of this part.

(b) *Contents of annual report.* The reports required by this section shall include the following:

(1) Name of air carrier in which stockholdings are being reported.

(2) Name and address of person reporting.

(3) Number and class of shares covered and percentage of such shares to total outstanding capital, or a description of any other interest held, as of December 31 of the preceding year.

(4) Maximum number of each class of shares covered and percentage of such shares of each class to total outstanding capital during the preceding year.

(5) (i) If the person reporting is the beneficial owner, state the name and address of each person who was a trustee of any such shares and the number and class of shares of which he was trustee, during the preceding year. The reporting beneficial owner shall also state the name and address of each person (e.g., the reporting beneficial owner himself, the trustee and/or any third person or persons), who had or exercised (*a*) the power to issue instructions as to how any such voting shares should be voted; (*b*) the power to vote any such shares in the event that no instructions were issued; or (*c*) the right to sell, prevent sale or otherwise dispose of any such shares, during the preceding year. The number and class of shares so reported shall be stated.

(ii) If the person reporting is a trustee, state the name and address of each individual beneficial owner of any such shares, and the number and class of shares of which he was beneficial owner, during the preceding year: *Provided, however,* That if the trustee is reporting with respect to shares held in a retirement, pension or profit sharing trust or fund, then he need state only the name and address of the person(s) who established the trust or fund, and the name of the trustees thereof, and describe the class of persons who were the beneficiaries (e.g., "Employees of XYZ Corporation" or "Members of XYZ Union"). The reporting trustee shall also state the name and address of each person (e.g., the reporting trustee himself, the beneficial owner, and or third person or persons) who was known by him to have had or exercised (*a*) the power to issue instructions as to how any of such voting shares should be voted; (*b*) the power to vote any such shares in the event that no instructions were issued; (*c*) the power to vote any such shares pursuant to issued instructions; (*d*) the power to sell, prevent sale or otherwise dispose of any such shares, during the preceding year. The number and class of any shares so reported shall be stated.

(6) (i) If the person reporting is itself a corporation, set forth the name and address of each person holding more than 5 percent of the beneficial or record ownership of any class of the capital stock of the reporting corporation, and a description of the percentage of its shares of any class held by each such shareholder, indicating whether such class is voting, nonvoting, common or preferred.

(ii) If the person reporting is a partnership, association or a joint venture, set forth the names and addresses of all partners, associates or joint venturers and a description of their respective interests in the person reporting.

(7) A description of the principal occupation or business activity of each person named in the report, including the person reporting. Such description shall include, with respect to any named person performing common carrier service, the geographical area authorized to be served, and the nature of any license held by such person to perform such service.

§ 245.13 Report of acquisition.

(a) *Time for reporting.* Every person acquiring ownership, either beneficially or as trustee, of more than 5 percent, in the aggregate, of any class of the capital stock or capital of an air carrier, shall within 10 days after acquiring such ownership, file with the Board (Attention, Director, Bureau of Operating Rights) a report covering the share or the interest so acquired.

(b) *Contents of report of acquisition.* A report filed under this section shall contain the information specified in § 245.12(b), except that the information required by paragraph (b)(3) thereof shall be computed as of the date of acquisition.

(c) *Exceptions.* (1) A bank or broker, to the extent that it acquires stock as a trustee, need not file a report of acquisition.

(2) A person who owns, either beneficially or as trustee, more than 5 percent of any class of the capital stock or capital of an air carrier and has filed a report of acquisition under this section, or an annual report under § 245.12, need not file an additional report under this section with respect to an acquisition of additional shares of such carrier.

§ 245.14 Quarterly report by banks and brokers.

(a) *Time for reporting.* A bank or broker which holds as trustee more than 5 percent of any class of the capital stock or capital of an air carrier shall file with the Board (Attention, Director, Bureau of Operating Rights), within 30 days after the last day of each calendar quarter (i.e., March 31, June 30, September 30, and December 31), a report covering the shares so held on the last day of such quarter.

(b) *Contents of quarterly report.* The report required by this section shall include the following:

(1) Name of air carrier in which stockholdings are being reported.

[16] See footnote 6.

(2) Name and address of bank or broker reporting.

(3) Number and class of shares held as trustee.

(4) Number of accounts for which it holds such shares.

(5) Name and address of each person, if any, holding such shares as nominee for the bank or broker reporting and the number and class of shares so held by such nominee.

(6) As to any account for which it holds shares amounting to 1 percent or more of any class of the capital stock of the air carrier covered by the report, there shall also be stated:

(i) The name and address of each person for which such account is held: *Provided, however,* That if the shares covered by the report required in this subparagraph (6) are held in a retirement, pension or profit-sharing trust or fund, then the reporting trustee need state only the name and address of the person(s) who established the trust or fund and the names of the trustees thereof, and describe the class of persons who were beneficiaries (e.g., "Employees of XYZ Corporation" or "Members of XYZ Union").

(ii) The number and class of shares held for each such account and the percentage of such shares to the total outstanding capital stock of the air carrier as of the last day of the quarter covered by the report.

(iii) Each person (e.g., the reporting trustee, the beneficial owner and/or any third person or persons) who was known by said trustee to have had or exercised (*a*) the power to issue instructions as to how any of such voting shares should be voted; (*b*) the power to vote any such shares in the event that no instructions were issued; (*c*) the power to vote any such shares pursuant to issued instructions; (*d*) the power to sell, prevent sale or otherwise dispose of any such shares during the preceding quarter. The number and class of any shares so reported shall also be stated.

§ 245.15 Report of security transactions.

Any person subject to this subpart who has granted, pledged, assigned, hypothecated or otherwise transferred a security interest in more than 5 percent of any class of the capital stock or capital of an air carrier to another person shall, within 30 days after such transaction, file with the Board (Attention, Director, Bureau of Operating Rights) a report containing the following information:

(a) The name and address of the person to whom the security interest was granted.

(b) The term of the security agreement.

(c) A brief description of the rights accruing to the holder of the security interest, including the remedies available to him in the event of a default by the person reporting.

§ 245.16 Responsibility of carriers.

It shall be the responsibility of every air carrier, as defined in § 245.11:

(a) To notify each shareholder of record owning more than 1 percent of any class of its capital stock, or capital, of the requirements of this part by mailing to such persons a copy of this subpart on or before March 1 of each year; and

(b) To include in its annual report to shareholders a notice that: (1) Any person who either owns, as of December 31, of the year preceding issuance of such annual report, or subsequently acquires, beneficially or as trustee, more than 5 percent, in the aggregate, of any class of the capital stock or capital of the air carrier, shall file with the Board a report containing the information required by § 245.12, on or before April 1, as to the capital stock or capital owned as of December 31, of the preceding year, and, in the case of stock subsequently acquired, a report under § 245.13, within 10 days after such acquisition, unless such person has otherwise filed with the Board a report covering such acquisition or ownership; (2) any bank or broker covered by (i), to the extent that it holds shares as trustee on the last day of any quarter of a calendar year, shall file with the Board, within 30 days after the end of the quarter, a report in accordance with the provisions of § 245.14; and (3) any person required to report under this subpart who grants a security interest in more than 5 percent of any class of the capital stock or capital of the air carrier shall within 30 days after granting such security interest file with the Board a report containing the information required in § 245.15. The notice shall also state that any shareholder who believes that he may be required to file such a report may obtain further information by writing to the Director, Bureau of Operating Rights, Civil Aeronautics Board, Washington, D.C. 20428.

NOTE: The reporting requirements herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR, *Acting Secretary.*

[FR Doc.72-20395 Filed 11-27-72;8:50 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release Nos. 33-5331, 34-9862, 35-17765, 39-327, IC-7501, IA-350.]

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

PART 203—RULES RELATING TO INVESTIGATIONS

Right of Witness To Obtain Copy of Transcript of His Testimony Taken in a Nonpublic Investigation

The Commission has amended Rule 6 of its rules relating to investigations 17 CFR 203.6 relating to the right of a witness to obtain a copy of the transcript of his testimony taken in a nonpublic investigation. Under the amended rule the witness shall continue to have an absolute right to inspect his testimony, but the Commission may for good cause deny his request for a copy of his testimony.

The change has been effected by amending the second sentence in Rule 6 of the Commission's rules relating to investigations.

In making this change the Commission is returning to the practice followed in its private investigations prior to November 27, 1970. That practice was specifically authorized by the Administrative Procedure Act (5 U.S.C. section 555(c)) and upheld in Commercial Capital Corp., et al. v. Securities and Exchange Commission, 360 F. 2d 856 (C.A. 7, 1966). The exception to a witness's right to procure a copy of his transcript had been added to an earlier draft of the Administrative Procedure Act after this Commission has advised the congressional committees that "the furnishing of transcripts of testimony taken * * * [in private hearings] is a matter which should depend upon the likelihood of the transcript being used to defeat the discovery of facts essential to administration of the congressional policy laid down in the statutes authorizing the investigation." [1] The Commission pointed out, "Where transcripts are made available to witnesses, there is no way of guarding against their being made available to the persons whose activities are the principal subject of investigation." (*Ibid.*) In this connection it noted:

> In cases where the investigation involves examination of employees of the suspected law violator, the employees may be under considerable pressure from the employer, who may demand that they request, ostensibly on their own account, and turn over to it transcripts of their testimony. If a witness subject to such intimidation is entitled to a transcript of his testimony as a matter of law, he may be unwilling to testify fully and truthfully.

Id. at p. 17.

On October 16, 1962, the Administrative Conference of the United States recommended that agencies should afford all persons the opportunity to procure a copy of any transcript made of their evidence. At that time the Commission declined to implement that recommendation, but did so on November 27, 1970. In its subsequent experience the Commission has found that its previous fears were justified.

Technical amendments necessitated by the foregoing action have also been made to the rules delegating certain authority to the Director of the Division of Corporation Finance, the Director of the Division of Enforcement, the Director of the Division of Market Regulation, the Director of the Division of

[1] Comments of the Securities and Exchange Commission on S. 7 (Appendix p. 16), submitted on July 25, 1945, to the Senate and House Committees on the Judiciary, 79th Cong., first session.

Investment Company Regulation, and the Regional Administrators as indicated

other person or means designated by the officer conducting the investigation. A

section 3(a)(12) of the Securities Exchange Act.

mortgages and other exempt securities will not be subject to the registration and net capital requirements and other

In those cases where a medal, or a bar, emblem, or insignia in lieu thereof, awarded pursuant to this chapter (13) has been lost, destroyed, or rendered unfit for use without

Item	Cost
(7) Coast Guard Commendation Medal	18.00
(i) Miniature	18.00

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Investment Company Regulation, and the Regional Administrators, as indicated below. The effect of these amendments is to delegate to such officials the authority to grant requests for copies of transcripts of testimony.

Commission Action: Pursuant to authority set forth in section 19 of the Securities Act of 1933, section 23(a) of the Securities Exchange Act of 1934, section 20 of the Public Utility Holding Company Act of 1935, section 319 of the Trust Indenture Act of 1939, section 38 of the Investment Company Act of 1940, section 211 of the Investment Advisers Act of 1940, and section 1 of Public Law 87–592, the Commission hereby amends §§ 200.30–1(i), 200.30–2(b)(2), 200.30–3(c), 200.30–4(a)(2), 200.30–5(d), 200.30–6(d), and 203.6 of Chapter II of Title 17 of the Code of Federal Regulations, as follows:

§§ 200.30–1—200.30–5 [Amended]

I. Paragraph (i) of § 200.30–1, subparagraph (2) of paragraph (b) of § 200.30–2, paragraph (c) of § 200.30–3, subparagraph (2) of paragraph (a) of § 200.30–4, and paragraph (d) of § 200.30–5 are amended by deleting certain language, and by adding new language reading "or Deputy Director" immediately after the word "Director" and by adding new language reading "subsequent to November 16, 1972 [17 CFR 203.6]" immediately after the word "effect" so that as amended each shall read as follows:

In nonpublic investigatory proceedings, within the responsibility of the Director or Deputy Director to grant requests of persons to procure copies of the transcript of their testimony given pursuant to Rule 6 of the Commission's rules relating to investigations as in effect subsequent to November 16, 1972 [17 CFR 203.6].

II. In § 200.30–6, present paragraph (d) is redesignated as paragraph (e); and a new paragraph (d) is inserted reading as follows:

§ 200.30–6 Delegation of authority to Regional Administrators.

* * * * *

(d) In nonpublic investigatory proceedings within the responsibility of the Regional Administrator, to grant requests of persons to procure copies of the transcript of their testimony given pursuant to Rule 6 of the Commission's rules relating to investigations as in effect subsequent to November 16, 1972 [17 CFR 203.6].

(e) Notwithstanding anything in the foregoing, in any case in which the Regional Administrator believes it appropriate, he may submit the matter to the Commission.

III. The second sentence in § 203.6 is amended, and as so amended § 203.6 reads as follows:

§ 203.6 Transcripts.

Transcripts, if any, of formal investigative proceedings shall be recorded solely by the official reporter, or by any other person or means designated by the officer conducting the investigation. A person who has submitted documentary evidence or testimony in a formal investigative proceeding shall be entitled, upon written request, to procure a copy of his documentary evidence or a transcript of his testimony on payment of the appropriate fees: *Provided, however,* That in a nonpublic formal investigative proceeding the Commission may for good cause deny such request. In any event, any witness, upon proper identification, shall have the right to inspect the official transcript of the witness' own testimony.

(Sec. 4(b), 48 Stat. 885, sec. 1106(a), 63 Stat. 972, 15 U.S.C. 78d(b); sec. 1, 76 Stat. 394, 15 U.S.C. 78d–1; secs. 19, 209, 48 Stat. 85, 908, 15 U.S.C. 77s; sec. 23(a), 48 Stat. 901, sec. 8, 49 Stat. 1379, 15 U.S.C. 78w(a); sec. 20, 49 Stat. 833, 15 U.S.C. 79t; sec. 319, 53 Stat. 1173, 15 U.S.C. 77sss; sec. 38, 54 Stat. 841, 15 U.S.C. 80a–37; sec. 211, 54 Stat. 855, sec. 14, 74 Stat. 888, 15 U.S.C. 80b–11)

The Commission finds that the foregoing amendments relate only to rules of agency organization, procedure and practice and, therefore, the provisions of 5 U.S.C. 553 relating to notice and procedures are not applicable. The foregoing amendments are declared to be effective with respect to all testimony given in private investigations commencing on or after the date this rule is published in the FEDERAL REGISTER, but shall not be applicable with respect to any testimony given before that date in any private investigation.

By the Commission.

[SEAL] GLADYS E. GREER,
Assistant Secretary.

NOVEMBER 16, 1972.

[FR Doc.72–20329 Filed 11–27–72;8:46 am]

[Release No. 34–9865]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Exemption of Certain Mortgages and Interests in Mortgages

The Securities and Exchange Commission today announced the adoption of Rule 3a–12–1 (17 CFR 240.3a–12–1) under the Securities Exchange Act of 1934. Under the new rule mortgages and interests in mortgages (as defined in section 302(d) of the Emergency Home Finance Act of 1970) sold by the Federal Home Loan Mortgage Corporation[1] (hereinafter referred to as "FHLMC") will become "exempt securities" under section 3(a)(12) of the Securities Exchange Act.

The Emergency Home Finance Act of 1970 was enacted by Congress after determining that the nation needed more capital in mortgages and that this could be best accomplished by the establishment of a liquid market in residential mortgages. FHLMC was established by this Act with the power "to make and enforce such bylaws, rules and regulations as may be necessary or appropriate to carry out the purposes or provisions of this title."[2]

FHLMC has designed and is ready to implement at this time two programs ("group programs" and "whole loan programs") to expand the secondary market in conventional (not guaranteed or insured by a Federal or State agency) mortgages on residential property. In both programs FHLMC will purchase mortgages that have been originated by a financial institution whose deposits or accounts are insured by an agency of the United States, and which meet generally the purchase standards imposed by private institutional mortgage investors.[3] These mortgages will then be sold by FHLMC according to one of the two programs. FHLMC contemplates that under both these programs a minimum purchase of $100,000 will be required so that the buyers will tend to be institutional investors, such as pension funds and insurance companies.

The "group programs" would involve the formation by FHLMC of groups of the mortgages, and then the sale by FHLMC of undivided interests in these groups. The minimum size group would contain mortgages with an initial aggregate unpaid principal balance of $5 million. The mortgages in each group would be serviced by the originators, although FHLMC would supervise the servicing and would collect from the servicers and remit to the purchaser all principal and interest payments on the mortgages (less servicing costs) in the group, and would also act as transfer agent.

Under the "whole loan programs" the mortgages would not be grouped but, rather, sold on a whole loan basis. These programs would be designed for institutional investors with particular requirements.

The Commission has decided to adopt Rule 3a–12–1, in view of the congressionally determined public need for more capital in mortgages, FHLMC's abilities and desire to regulate this field to the extent necessary and the probable lack of small investor participation. The principal impact of the new rule is that broker-dealers dealing solely in these mortgages and other exempt securities will not be subject to the registration and net capital requirements and other provisions of the Securities Exchange Act of 1934, which are not by their terms applicable to "exempt securities."

It should be borne in mind that transactions in the securities exempted by section 3(a)(12) or Commission rules adopted under that section are still subject to the antifraud provisions of the Act and implementing Commission rules under those provisions.

The new rule was adopted pursuant to authority conferred on the Securities and Exchange Commission by the Securities Exchange Act of 1934, particularly sections 3(a)(12) and 23(a) thereof.

Because the effect of the above described amendment would be to relax certain of the requirements of the Securities Exchange Act of 1934, the Commission finds that, for good cause the notice and procedure specified in the Administrative Procedure Act, 5 U.S.C. 553, is unnecessary, and accordingly it adopts Rule 3a–12–1 effective November 17, 1972.

Commission action. The Securities and Exchange Commission acting pursuant to the provisions of the Securities Exchange Act of 1934, and more particularly section 3(a)(12) thereof, hereby amends Part 240 of Chapter II of Title 16 of the Code of Federal Regulations by adopting § 240.3a–12–1 as set forth below.

§ 240.3a–12–1 Exemption of certain mortgages and interests in mortgages.

Mortgages, as defined in section 302(d) of the Emergency Home Finance Act of 1970, which are or have been sold by the Federal Home Loan Mortgage Corporation are hereby exempted from the operation of such provisions of the Act as by their terms do not apply to an "exempted security" or to "exempted securities".

(Sec. 3(a)(12), 48 Stat. 882, 15 U.S.C. 78(c))

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72–20328 Filed 11–27–72;8:46 am]

[1] FHLMC was established by title III of the Emergency Home Finance Act of 1970, cited as the "Federal Home Loan Mortgage Corporation Act," Public Law 91–351, 84 Stat. 451–458, 12 U.S.C. § 1451–1459. Its capital stock consists solely of nonvoting common stock held by the 12 Federal Home Loan Banks and its Board of Directors is composed of the three members of the Federal Home Loan Bank Board. It is an integral part of the Federal Home Loan Bank System.

[2] 12 U.S.C. section 1452(b)(3).

[3] Section 305(a)(1) of the Federal Home Loan Mortgage Corporation Act states that FHLMC can purchase only those mortgages that meet both requirements. FHLMC has determined that the private institutional mortgage investors standards at this time include the requirement that the originator warrant to FHLMC and to subsequent purchasers that the mortgages are valid first mortgages not in default.

In those cases where a medal, or a bar, emblem, or insignia in lieu thereof, awarded pursuant to this chapter (13) has been lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was awarded, such medal, or bar, emblem, or insignia in lieu thereof, shall be replaced without charge, or in the discretion of the Secretary, upon condition that the Government is reimbursed for the cost thereof.

To implement this statute, the Coast Guard promulgated in the August 2, 1967, issue of the FEDERAL REGISTER (32 F.R. 11211), regulations which provide for a medal, or a bar, emblem, or insignia in lieu thereof, that is lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was awarded by the Coast Guard, to be replaced without charge. For situations not meeting this criterion, costs for replacement of a medal, bar, emblem, and insignia were published.

Since first issued, these costs have not been updated and do not reflect current charges. The amendment in this document changes the costs to reflect current charges. In addition, textual material has been changed for clarification without any change in substance.

Since the amendment in this document relates to general statements of policy, it is exempted from notice of proposed rule making and may be made effective in less than 30 days.

In consideration of the foregoing, Subpart 1.26 of title 33, Code of Federal Regulations is amended as follows:

1. By revising § 1.26–5 to read as follows:

§ 1.26–5 Replacement of medals.

(a) A medal, or a bar, emblem, or insignia in lieu thereof, that is lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was awarded by the Coast Guard is replaced without charge by the Coast Guard as authorized in 14 U.S.C. 501.

(b) A medal, or a bar, emblem, or insignia in lieu thereof, that is lost, destroyed, or rendered unfit for use due to the fault or neglect of the person to whom it was awarded, is replaced after the Coast Guard is reimbursed for its cost, as contained in Table 1.26–5(b).

TABLE 1.26–5(b)

COST OF A REPLACEMENT MEDAL

Item	Cost
(1) Cost Guard Distinguished Service Medal	$33.00
(i) Miniature	23.50
(ii) Hinged-lid case	1.78
(2) Legion of Merit (Degree of Legionnaire) with case	12.50
(3) Distinguished Flying Cross and case	6.25
(4) Coast Guard Medal (for heroism)	17.00
(i) Miniature	12.50
(ii) Hinged-lid case	1.78
(5) Meritorious Service Medal and case	6.00
(6) Air Medal and case	5.75
(7) Coast Guard Commendation Medal	18.00
(i) Miniature	18.00
(ii) Hinged-lid case	1.78
(8) Coast Guard Achievement Medal	10.50
(i) Miniature	6.50
(ii) Hinged-lid case	1.78
(9) Gold Lifesaving Medal	178.00
(i) Miniature	73.00
(ii) Hinged-lid case with red lining	11.00
(10) Silver Lifesaving Medal	73.00
(i) Miniature	58.00
(ii) Hinged-lid case with blue lining	11.00
(11) Coast Guard Unit Commendation Ribbon	2.50
(12) Coast Guard Good Conduct Medal	3.75
(13) World War I Victory Medal	2.50
(14) American Area Campaign Medal	2.50
(15) European-African Middle Eastern Area Campaign Medal	2.50
(16) Asiatic-Pacific Area Campaign Medal	2.50
(17) American Defense Service Medal—Fleet, Sea, and Base Clasps	2.50
(18) World War II Victory Medal	2.50
(19) Navy Occupation Service Medal—Europe or Asia Clasps	3.25
(20) China Service Medal (1945–1957)	2.50
(21) National Defense Service Medal	2.50
(22) Korean Service Medal	2.50
(23) Antarctic Service Medal	3.00
(24) Armed Forces Expeditionary Medal	2.50
(25) Coast Guard Armed Forces Reserve Medal	3.00
(26) Coast Guard Expert Rifleman Medal	5.00
(27) Expert Pistol Shot Medal	5.00
(28) Coast Guard Distinguished Marksman Badge, Gold	63.00
(i) Ribbon attachment	1.00
(29) Coast Guard Excellence-In-Competition Badge:	
(i) Rifle or Pistol, Silver	21.00
(ii) Rifle or Pistol, Bronze	17.00
(iii) Ribbon Attachment, Silver or Bronze Medallion	1.00
(30) R. R. Waesche Rifle Team Trophy, Bronze Medallion	10.00
(31) F. C. Billard Pistol Team Trophy, Bronze Medallion	10.00
(32) United Nations Service Medal	2.50
(33) Vietnam Service Medal	2.50

(Sec. 1, 63 Stat. 537, 545, sec. 6(b(1), 80 Stat. 937; 14 U.S.C. 501, 633, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Effective date. This amendment shall become effective on November 30, 1972.

Dated: November 21, 1972.

C. R. BENDER,
Admiral, U.S. Coast Guard Commandant.

[FR Doc.72–20366 Filed 11–27–72;8:48 am]

[CGD 72–207 R]

PART 1—GENERAL PROVISIONS

Fees and Charges for Certain Records and for Duplicate Documents, Certificates, or Licenses

The purpose of this amendment to the user fee regulations is to reflect the current costs for the replacement of medals awarded by the Coast Guard.

Section 501 of title 14, United States Code, provides the following:

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER A—GENERAL

[CGD 72–227R]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Humble Canal, La.

This amendment adds regulations for the State Highway 55 drawbridge across

the Humble Canal, mile 0.0 near Point Barre to allow the draw to remain closed for the passage of vessels from Janu-

Camellia City Telecasters, Inc., licensee of Station KTXL(TV), Sacramento filed comments in the nature of a counter-

ments, requested that Channel 15 be assigned to Merced for television use. To permit such an assignment, KTXL (TV)

majority of Merced County. Pappas claims that such a satellite would compete with KMPH and two other independent UHF stations (one in Fresno

law also points out that the "freeze" on Channel 15 is consistent with other cases involving the "land mobile" decision.

13. All the parties filing opposing com-

signal to approximately three-fourths of Merced County including Merced. The "Factbook" indicates that the cable system operating in Merced which serves

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the Humble Canal, mile 0.0 near Point Barre to allow the draw to remain closed for the passage of vessels from January 29, 1973, through March 11, 1973, while essential maintenance is performed.

This rule is issued without notice of proposed rule making. The Coast Guard has found that good cause exists for taking this action on the basis that it would be contrary to the public interest to delay this work.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding § 117.545 immediately after § 117.535 to read as follows:

§ 117.545 Humble Canal, Point Barre, La.

The draw of this bridge shall operate in accordance with § 117.240 except that from January 29, 1973, through March 11, 1973, the draw need not be opened for the passage of vessels while necessary repairs to the bridge are being performed.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Effective date. This revision shall be effective from January 29, 1973, through March 11, 1973.

Dated: November 15, 1972.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.72-20289 Filed 11-24-72;8:50 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 19511; FCC 72-1025]

PART 73—RADIO BROADCAST SERVICES

Television Broadcast Stations in Vallejo-Fairfield and Sacramento, Calif.

Second report and order. In the matter of amendment of § 73.606(b), *Table of assignments,* Television Broadcast Stations (Vallejo-Fairfield and Sacramento, Calif.), Docket No. 19511, RM-1839.

1. On September 19, 1972, the Commission released the first report and order (FCC 72-821) in this proceeding that provided for the shifting of Channel 31 from Stockton, Calif., to Sacramento, Calif., and the assignment of Channel 64 to Stockton. This was our disposition of the Grayson Television Company, Inc., proposal (RM-1948). In the notice of proposed rule making (FCC 72-428, released May 22, 1972), it was proposed that Channel 15 which is assigned to Sacramento (but could not be utilized for television broadcasting because of the land mobile rules and policies) be "frozen" at Sacramento for television use until further action of the Commission. Camellia City Telecasters, Inc., licensee of Station KTXL(TV), Sacramento filed comments in the nature of a counterproposal requesting that Channel 15 not be "frozen" at Sacramento, but assigned to Merced, Calif., by shifting certain other UHF television assignments. No action was taken on this counterproposal in the first report and order. Because of incomplete data, we also did not act on the proposed assignment of Channel 66 to Vallejo-Fairfield, Calif., that was requested by Daniel C. McGrath doing business as NorCal Telecasters (RM-1839). It is these two matters that will be disposed of in this proceeding.

THE VALLEJO-FAIRFIELD ASSIGNMENT

2. The petitioner, Daniel C. McGrath did not file any additional material in support of the proposal to assign Channel 66 to Vallejo-Fairfield, Calif., but did file a letter stating that he does intend to apply for a construction permit and that the application is 80 percent complete and he is awaiting final action on the assignment. No other comments, pro or con, were filed as to the Vallejo-Fairfield proposed assignment.

3. As set out in the notice, a television station operating on Channel 66 would provide a first local service to Vallejo-Fairfield and would also serve Vacaville, Napa, Dixon, Davis and other small communities in the counties of Solano, Yolo, Napa and southeastern Sonoma County. Mare Island Naval Shipyard and Travis Air Force Base are located in or near the communities of Vallejo and Fairfield, and Mr. McGrath claims that those installations have a combined population in excess of 100,000 persons. The San Francisco and Sacramento television stations provide a Grade A signal to the communities of Vallejo and Fairfield, but it is claimed that those stations provide little or no local area information.

4. Vallejo is located approximately 30 miles from San Francisco and 50 miles from Sacramento; Fairfield is approximately 40 miles from San Francisco and Sacramento. The "1970 U.S. Census Advance Report" shows the population of Vallejo and Fairfield to be 66,733 and 44,146 respectively. The proposed assignment meets the mileage separations of § 73.610 of the Commission's rules. We have considered the assignment proposed in the notice and find it to be in the public interest. It is hereby adopted. It will bring a first local service to the communities of Vallejo-Fairfield, California which is consistent with the priorities and policies of the Commission.

THE KTXL PROPOSAL

5. In the first report and order, the Commission shifted Channel 31 to Sacramento, Calif. from Stockton, Calif., and substituted Channel 64 at Stockton, as proposed in the notice of proposed rule making. In the notice, because of the decision in the "land mobile" proceeding, it was proposed to "freeze" Channel 15 at Sacramento so that it would not be available for television use until further action by the Commission. Camellia City Telecasters, Inc., licensee of Station KTXL (TV), Sacramento, in its comments, requested that Channel 15 be assigned to Merced for television use. To permit such an assignment, KTXL (TV) proposes a realignment of channels including substitution of Channel *60 for Channel *15 at San Luis Obispo, Calif., and requests that the Commission grant a rule making petition (RM-1964) of Capital Cities Broadcasting Corp. to substitute Channel 34 for Channel 30 at Fresno and consolidate that proposal in this proceeding.

6. Reply pleadings filed in connection with the KTXL request are opposition comments, variously titled, of Grayson Television Company, Inc., the holder of a UHF construction permit (KMUV (TV)) on Channel 31 (Channel 15 prior to the first report and order), at Sacramento; Pappas Television Inc., permittee of UHF Station KMPH, Tulare, Calif.; McClatchy Newspapers, licensee of VHF Station KOVR(TV), Stockton, and UHF Station KMJ-TV, Fresno; Capital Cities Broadcasting Corp., licensee of UHF Station KFSN-TV, Fresno; and Retlaw Enterprises, Inc., licensee of UHF Station KJEO(TV), Fresno. KTXL also filed a comment in reply. Grayson filed a motion to strike the KTXL reply comment.

7. The KTXL proposal outlined above, claims that Channel 15 can be used at Merced, located over 90 miles from San Francisco-Oakland, without restricting land mobile operations in the San Francisco-Oakland area, and that such use will be in compliance with § 91.114(b) of the Commission's rules. It is contended that the "freezing" of Channel 15 at Sacramento is an inefficient use of the frequency and that use at Merced would be more efficient. KTXL asserts that there is a potential demand for use of Channel 15 at Merced. Jack F. Matranga, the president of KTXL states in an affidavit:

> In the event that the Federal Communications Commission assigns Channel 15 to Merced, Calif., Camellia City Telecasters, Inc., will give serious consideration to applying for a satellite of Station KTXL in Merced, Calif.

KTXL also contends the use of Channel 15 at Merced, and the proposed realignment at San Luis Obispo and Fresno comply with the technical rules of the Commission. In support of this technical claim, an engineering affidavit was submitted.

8. The primary concern of Grayson in these pleadings was that its proposal to assign Channel 31 to Sacramento not be consolidated with the Camellia proposal to assign Channel 15 to Merced. Since we assigned Channel 31 to Sacramento by our first report and order in this proceeding (FCC 72-821, released September 19, 1972), we have already disposed of the Grayson request. Insofar as the pleadings support the Camellia proposal, they are dealt with herein on the merits.

9. The Pappas comments set forth that a television satellite station in Merced would serve an area overlapping the service area of KMPH. KMPH, Tulare, claims it places a predicted Grade B signal up to a point just outside Merced and that its actual Grade B contour, based on a filed affidavit of its consulting engineer appears to encompass all of Merced and the

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majority of Merced County. Pappas claims that such a satellite would compete with KMPH and two other independent UHF stations (one in Fresno and one in Modesto) as well as the three network affiliated UHF stations in Fresno, so that there is no lack of service in the area. Pappas claims that KTXL has not shown "one fact" which would indicate a need for another service, and that this is especially significant because only a satellite is proposed. KMPH states that would aggravate an already economically tenuous television market. Its sets forth that UHF stations in Tulare, Visalia, and Hanford have failed for economic reasons. Pappas also asserts that the KTXL proposal is properly the subject matter of a separate petition for rule making rather than a proper counterproposal, so that appropriate notice could be given to interested parties such as KMPH. Pappas further points out that there is a question that the KTXL proposal can be made because of the "land mobile" decision.

10. McClatchy in its opposition, does not comment on substantive merits of the KTXL proposal, but is of the opinion that any action on the KTXL proposal would not comply with the notice requirements of the Administrative Procedure Act and the Commission's rules. McClatchy claims that it is defective as a counterproposal because no public interest reasons have been presented why the channel should be assigned to Merced, but only presents a private reason in support of the move, and no showing has been made as to the preclusionary effect of the assignment or its effect on existing independent UHF stations.

11. Capital Cities states that the Commission's freeze of Channel 15 at Sacramento is consistent with the "land mobile" decision. Capital Cities has a pending petition (RM-1964) to substitute Channel 34 for Channel 30 for the operation of its UHF Station KFSN at Fresno. KFSN reaffirms its request as to that shift. It then points out that Merced is a part of the Fresno market and that there is a real question of the need for another service to the Fresno market. KFSN contends there has been no showing as to the need for a local service to Merced and that there has been no commitment to apply for the channel if it is assigned to Merced and that no preclusion study was submitted.

12. Retlaw, in its opposition, contends that the KTXL proposal must be rejected because of the Commission's policy of not assigning UHF channels to communities of less than 25,000 population in the absence of a specific showing of need and a commitment to build the station. It is claimed that KTXL has not met this burden. Retlaw claims that there is a plethora of service to Merced, both by off-the-air and cable television service. Retlaw also claims that no showing of impact on UHF stations has been made, and that this is especially important because of new or recently revived stations in the Fresno area which should be given an opportunity to develop without further damaging competition. Retlaw also points out that the "freeze" on Channel 15 is consistent with other cases involving the "land mobile" decision.

13. All the parties filing opposing comments, except Capital Cities, have raised the threshold question that the KTXL proposal is not a true counterproposal that can be handled in this proceeding, but must be handled in a separate rule making proceeding in order to comply with the notice provisions set forth in section 553(b) of the Administrative Procedure Act (5 U.S.C. section 553(b)). KTXL, in its reply comments, contends that it has the right to file its counterproposal in this proceeding, because it involves an alternative proposal for the disposition of a television channel for which a proposed disposition was made in the Notice, citing "FM Table of Assignments, Docket No. 16212 (Southbridge, Massachusetts)", 4 F.C.C. 2d 521, 525 (1966) at paragraph 11. The Commission agrees that the KTXL proposal which was first presented in timely filed comments in response to the Notice of Proposed Rule Making in this proceeding is a proper counterproposal. It was proposed to "freeze" Channel 15 for television use at Sacramento. KTXL proposes to utilize Channel 15 at Merced. The purpose of a notice of proposed rule making is to give general notice of the subject matter of the proceeding—here, the "freezing" of Channel 15 for television use at Sacramento—so that parties may furnish relevant views and data which will be of assistance to the Commission in reaching an appropriate resolution of the matter. Counterproposals, such as other uses of the channel involved, advanced in timely comments, will be considered because other parties have an opportunity to comment thereon in reply comments. See, for example, "FM Table of Assignments, Docket No. 15935 (Oxford, Mississippi)", 1 F.C.C. 2d 639 (1965). This follows the procedural requirements for notice set forth in "Owensboro on the Air, Inc. et al. v. U.S.", 262 F. 2d 702 (1958). Therefore, the KTXL alternative proposal for the disposition of Channel 15 will be considered on the merits herein.

14. According to "1970 U.S. Census Advance Report," the population of Merced is 22,670; it is located in Merced County with a population of 104,629. Merced is approximately 50 miles from Fresno, 80 miles from Monterey-Salinas, and 70 miles from San Jose. According to the 1971-72 edition of "Television Factbook," the city of Merced receives a Grade A signal and over half of Merced County receives a Grade B signal from UHF Station KFSN-TV, Fresno; the city of Merced and approximately half of Merced County receives a Grade B signal from UHF Station KJEO(TV), Fresno; VHF Station KSBW-TV, Salinas and UHF Station KMST(TV), Monterey furnish a Grade B signal to Merced and to substantially all of Merced County; and VHF Station KNTV(TV) furnishes a Grade B signal to Merced and to over three quarters of Merced County. UHF Station KMPH(TV), Tulare, in its comments, states in an engineering affidavit, that it provides a Grade B or better signal to approximately three-fourths of Merced County including Merced. The "Factbook" indicates that the cable system operating in Merced which serves Merced and also Atwater also holds the franchise to serve the unincorporated areas of Merced County. It carries the signals of KMJ-TV, KFSN-TV, and KJEO, Fresno; KNTV, San Jose, KLOC-TV, Modesto, KTVU, Oakland, KICU-TV, Visalia and KGO-TV, KRON-TV, KPIX and KQED, San Francisco.

15. In Docket No. 14229, the Commission in the Fourth Report and Order in "Fostering the Expanded Use of UHF Television Channels," 41 F.C.C. 1082, at 1088, in order to retain flexibility, adopted an "unsaturated" plan for UHF channels by not making assignments to cities with less than 25,000 population until a specific need arises. This was affirmed in the "Fifth Report," 2 F.C.C. 2d 527 (1966) and in a "Memorandum Opinion and Order," FCC 66-609, 7 R.R. 2d 1704 (1966). In the latter document, the Commission said that the decision on an assignment to small communities would not be made "until an actual demand is indicated." KTXL has submitted no information as to an "actual demand" for a station in Merced as required by the "Memorandum Opinion and Order, supra." Thus we will deny the KTXL counterproposal to assign Channel 15 to Merced, and will retain it at Sacramento marked to show that it is not available for television use without further action by the Commission.

16. We also note that the use of Channel 15 at Merced would still be detrimental to the use of Channel 16 at San Francisco-Oakland for land mobile operations because operation of a television station on Channel 15 in Merced would result in substantially comparable operating limits as the limits which would have been created by the Sacramento Channel 15 operation for which the construction permit was initially issued in 1968.

17. Grayson filed a motion to strike the reply comments by KTXL, relying on § 1.415(c) of the rules, because they are not directed solely to the Grayson comments, the only initial comments filed in this proceeding other than KTXL's comments, but rather to Grayson's reply comments and other matters. Portions of the KTXL reply comments do deal with Grayson's comments as to material incorporated therein from its petition for rule making. The KTXL reply comments contained no additional facts concerning its counterproposal, but rather deals primarily with the legal question of its right to file a counterproposal. The motion to strike will be denied.

18. KTXL, in its reply comments, stated that certain statements in Grayson's reply comments and other Grayson pleadings impute an intent by KTXL to complicate or delay the Grayson proposal. The counterproposal of KTXL (which it had the legal right to file in this proceeding) probably did cause a slight time delay in handling the Grayson request because of time extensions to file reply pleadings, granted to other parties interested in KTXL's proposal. The

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Grayson statements were no more than hard-hitting verbiage directed at a potential competitor in the Sacramento market and did indicate its continuing interest in effectuating its proposal to construct and operate its station. However, since KTXL only suggested that the Commission should strike the Grayson statements, no action is required and none will be taken with respect to the Grayson statements.

19. In view of the foregoing: *It is ordered*, That, effective December 28, 1972, pursuant to authority contained in sections 4(i), 303 (g) and (r) and 307(b) of the Commission's rules, the Television Table of Assignments, is amended to read as follows:

City	Channel No.
Vallejo-Fairfield, Calif	66

20. *It is further ordered*, That the action taken in the first report and order (FCC 72-821) whereby a footnote was added to the Channel 31 assignment at Sacramento, is reaffirmed, and that the Television Table of Assignments shall continue to read as follows:

City	Channel No.
Sacramento, Calif	3, *6, 10, 15[1], 31, 40

[1] Channel 15 will not be available for television use until further action by the Commission.

21. *It is further ordered*, That the proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: November 15, 1972.

Released: November 17, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-20374 Filed 11-27-72;8:49 am]

[Docket No. 19543; FCC 72-1013]

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Requirement for Two Receivers on Board Vessels

Report and order. In the matter of amendment of Part 83 concerning requirements for two receivers on board vessels licensed in the 156–162MHz band, Docket No. 19543.

[1] Commissioners Johnson and Wiley concurring in the result. Commissioner Reid absent.

1. A notice of proposed rule making in the above captioned matter was adopted on July 12, 1972, and was published in the FEDERAL REGISTER on July 20, 1972 (37 F.R. 14409). The dates for filing comments and reply comments have passed.

2. In that notice, we proposed to amend Part 83 by deleting the requirement for ship stations to maintain a "watch" on the distress, safety and calling frequency 156.800 MHz when the station is being used for transmission on that frequency, or for communications on another channel in the 156–162 MHz band.

3. Comments were filed by: North Pacific Marine Radio Council; Southern California Marine Radio Council; the Dillinham Corp.; and the Central Committee on Communication Facilities of the American Petroleum Institute (Central Committee).

4. All of the above parties fully supported the proposal as set forth below to our notice and urged its adoption.

5. The Central Committee, in addition to supporting our proposal, has suggested that the Commission should at a later date consider a similar amendment of § 81.191(d) which requires that the operator of a coast station stand an effective "watch" on the frequency 156.800 MHz even while simultaneously exchanging communications on another frequency in the VHF band. We believe the operational circumstances of coast stations are substantially different from ship stations which operate on the high seas, in a more noisy environment, often in severely adverse weather and usually with restricted numbers of operators. Coast stations ordinarily are permanently located in weatherized shore installations chosen by the licensee and in times of emergency or peak traffic can more easily have station operating personnel augmented. We also believe that it is especially desirable for a coast station to maintain a watch on the distress frequency at least while receiving on a working frequency because the coast station is more likely to engage in extensive and protracted exchanges of communications on a working frequency during which time without our present requirements there would be no watch at all on the distress frequency. For these reasons we are not considering comparable rule changes for limited coast stations.

6. As an ancillary matter, the term continuous and efficient watch as used in § 83.207 needs clarification. Accordingly, an explanatory note has been added to this section to the effect that the requirement for a continuous and efficient watch is not violated when the receiver being used for the watch is temporarily rendered inoperative due to transmissions by the ship station.

7. In view of the foregoing: *It is ordered*, That pursuant to the authority contained in sections 4(i), and 303 (f) and (r) of the Communications Act of 1934, as amended, Part 83 of the Commission's rules is amended, effective December 28, 1972, as set forth below.

8. *It is further ordered*, That the preceding in Docket 19543 is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: November 15, 1972.

Released: November 17, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

Part 83 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

§ 83.207 [Amended]

1. Section 83.207 is amended by adding a note to read as follows:

NOTE: Automatic muting of the watch receiver during the brief periods when the VHF equipment is transmitting authorized traffic is not considered as interrupting the continuity or lowering the efficiency of the required watch.

2. Section 83.224 is amended, and the footnote deleted to read as follows:

§ 83.224 Watch on 156.800 MHz.

Each ship station, or, if more than one maritime mobile station is being operated from a vessel, then at least one station licensed to transmit by telephony on one or more frequencies within the band 156–162 MHz shall, during its hours of service for telephony in this band, maintain an efficient watch for the reception of F3 emissions on the frequency 156.800 MHz whenever such station is not being used for transmission on that frequency, or for communication on other frequencies in this band: *Provided, however*, That ship stations operating under the provisions of § 83.106(b)(5) or the note to § 83.106 of the rules are exempt from the watch requirements on 156.800 MHz.

[FR Doc.72-20375 Filed 11-27-72;8:49 am]

[1] Commissioner H. Rex Lee concurring in the result; Commissioner Reid absent.

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 818]

SWEETENED CHOCOLATE, CANDY, AND CONFECTIONERY

Proposed Import Quotas for Calendar Year 1973

Notice is hereby given that the Secretary of Agriculture, pursuant to authority vested in him by the Sugar Act of 1948, as amended by Public Law 92-138 approved October 14, 1971, is considering the issuance of Sugar Regulation 818 which will establish import quotas on sweetened chocolate (other than in bars or blocks of 10 pounds or more each), candy and confectionery for the calendar year 1973.

In accordance with the rule making requirements of 5 U.S.C. 553 (80 Stat. 378), all persons who desire to submit data, views, or arguments for consideration in connection with the proposed regulation shall file the same in duplicate with the Director, Sugar Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, not later than December 20, 1972.

The proposed regulation to establish import quotas on sweetened chocolate, candy, and confectionery for the calendar year 1973 is set forth essentially in form and language appropriate for issuance, if adopted by the Secretary, as follows:

Purpose and basis. The purpose of this regulation is to implement the limitation on the importation of sweetened chocolate, candy, and confectionery pursuant to paragraph (d) of section 206 of the Sugar Act which was added by Public Law 92-138 and which reads in pertinent part as follows:

> • • • the Secretary shall each year, beginning with the calendar year 1972, limit the quantity of sweetened chocolate, candy, and confectionery provided for in Items 156.30 and 157.10 of Part 10, Schedule 1, of the Tariff Schedules of the United States which may be entered or withdrawn from warehouse, for consumption in the United States as hereinafter provided. The quantity which may be so entered or withdrawn during any calendar year shall be determined in the fourth quarter of the preceding calendar year and the total amount thereof shall be equivalent to the larger of (1) the average annual quantity of products entered, or withdrawn from warehouse, for consumption under the foregoing items of the Tariff Schedules of the United States for the 3 calendar years immediately preceding the year in which each such quantity is determined or (2) a quantity equal to 5 percent of the amount of sweetened chocolate and confectionery of the same description of United States manufacture sold in the United States during the most recent calendar year for which data are available. The total quantity to be imported under this subsection may be allocated to countries on such basis as the Secretary determines to be fair and reasonable, taking into consideration the past importations or entries from such countries. For purposes of this subsection the Secretary shall accept statistical data of the U.S. Department of Commerce as to the quantity of sweetened chocolate and confectionery of United States manufacture sold in the United States.

Bases and considerations. The average annual quantity of products entered, or withdrawn from warehouse, for consumption under the Tariff Schedules of the United States (TSUS) Items 156.30 and 157.10 for the calendar years 1969, 1970, and 1971 amounted to 143,772,997 pounds. That quantity was determined from data published by the Bureau of Census, U.S. Department of Commerce, in the annual reports FT 246 under the TSUSA reporting Nos. 156.3000, 156.3020, 156.3040, 157.1020, and 157.1040.

The quantity of sweetened chocolate and confectionery of U.S. manufacture sold in the United States in 1971 amounted to 3,974,618,000 pounds as shown in "Confectionery Manufacturers' Sales and Distribution 1971" published by the Bureau of Domestic Commerce, U.S. Department of Commerce. Five percent of that quantity amounts to 198,730,900 pounds.

Accordingly, the quantity of sweetened chocolate, candy, and confectionery which may be imported for consumption under TSUS items 156.30 and 157.10 during the calendar year 1973 shall be limited to 198,730,900 pounds which is the larger of the two alternatives as provided in sec. 206(d) of the Sugar Act, i.e., the 1969–71 average imports or 5 percent of 1971 confectionery sales.

Pursuant to section 206(d) of the Act the total quantity permitted to be imported may be allocated to countries on such basis as the Secretary determines to be fair and reasonable taking into consideration the past importations or entries from such countries. This regulation does not establish import quotas for any individual countries but makes the total quota available for all countries as a group on a first come, first served basis. The import limitations for 1973 are about 30 percent greater than imports in 1971 and 28 percent greater than the average annual imports from 1968 through 1971. A global quota has been in effect for 1972, the initial year of confectionery quotas, and through October 28, just under 106 million pounds has been imported. This is only 60 percent of the 1972 quota with 82 percent of the year gone. This compares with 104 and 106 million pounds imported through October in 1970 and 1971, respectively. In 1970 and 1971 the annual imports were 127 and 120 million pounds, respectively. The quantities referred to in this paragraph include only confectionery imports for consumption at retail to which this proposal applies and excludes items imported under Tariff Schedules of the United States (TSUSA), items 156.3000 and 156.3040, which are not for consumption at retail and imports of which are limited under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624).

In view of 1972 imports thus far and imports in past years, it is likely that total 1973 import limits will not be approached by actual imports. On the assumption that imports will not reach the liberal import limits, a global quota will provide the least impediment to commerce and to the play of economic factors and the least burden on Customs Service. A global quota will also eliminate the possibility of limiting imports from some countries when there is little likelihood that the total quota will be filled.

In the remote event that the global quota is filled and countries which ship late in the year are prevented from shipping their normal amounts, a portion of the global quota, representing 30 percent is reserved for entry during the last quarter of the year. Recent import history indicates about 30 percent of such imports normally occur during the last quarter of each year.

The provision to exempt each shipment of articles with an aggregate value of not more than $25 from import quotas is necessary so that tourists will be able to bring in small quantities of candy and confectionery for personal use.

The regulation provides that a quantity of the quota equivalent to the quota for "chocolate crumb" established pursuant to Section 22 of the Agricultural Adjustment Act, as amended, shall be reserved solely for the importation subject to the section 22 quota under licenses issued pursuant to regulations of the Administrator, Foreign Agricultural Service, U.S. Department of Agriculture.

Sec.
818.10 Confectionery quotas for foreign countries.
818.11 Import requirements.
818.12 Restrictions on importations.
818.13 Revision of quotas.
818.14 Delegation of authority.

AUTHORITY: The provisions of these §§ 818.10 to 818.14 issued under Sec. 206, 403; 61 Stat. 927, as amended, 932, as amended; 7 U.S.C. 1116, 1153.

§ 818.10 Confectionery quotas for foreign countries, 1973.

(a) For the calendar year 1973, the quantity of sweetened chocolate, candy and confectionary provided for in Items 156.30 and 157.10 of Part 10, Schedule 1,

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of Tariff Schedules of the United States which may be entered or withdrawn from warehouse, for consumption in the United States and Puerto Rico is 198,730,900 pounds. Of the total quota 21,680,000 pounds are reserved solely for the importation of sweetened chocolate for other than consumption at retail as candy or confectionery (TSUSA Item 156.3040). This quantity is subject to quotas established pursuant to section 22 of the Agricultural Adjustment Act, as amended, and as set forth in Items 950.15 and 950.16 of Part 3 of the Appendix to TSUS, which may be imported only under licenses issued pursuant to regulations of the Administrator, Foreign Agricultural Service, U.S. Department of Agriculture as follows: Ireland—13,200,000 (9,450,000 under TSUS 950.15 and 3,750,000 under TSUS 95.16); United Kingdom—8,380,000 (7,450,000 under TSUS 950.15 and 930,000 under TSUS 950.16) and Netherlands—100,000 (all under TSUS 950.15). Of the remaining quantity of 177,050,900 pounds (198,730,900–21,680,000) a quantity not to exceed 123,935,630 pounds may be entered or withdrawn from warehouse for consumption in the United States and Puerto Rico on or before September 30, 1972.

(b) The quota established by paragraph (a) of this section shall not apply to articles with an aggregate value of $25 or less in any shipment.

§ 818.11 Import requirements.

Articles subject to quota limitations pursuant to § 818.10 shall be entered on a first-come, first-served basis under the control of the Bureau of Customs, except articles subject to quotas established pursuant to section 22 of the Agricultural Adjustment Act, as amended.

§ 818.12 Restrictions on importations.

Subject to the exception in paragraph (b) of § 818.10 all persons are prohibited from entering or withdrawing from warehouse, for consumption into the United States and Puerto Rico any article provided for in TSUS Items 156.30 and 157.10 after the applicable quotas set forth in paragraph (a) of § 818.10 have been filled.

§ 818.13 Revision of quotas.

The quota established under this order may be revised to reflect the substitution of revised or corrected data used in the quota determination.

§ 818.14 Delegation of authority.

The Director of the Sugar Division (or any person in such division designated by the Director), Agricultural Stabilization and Conservation Service of the Department is hereby authorized to act on behalf of the Secretary in administering §§ 818.10 through 818.12 except as otherwise provided for in §§ 818.10 and 818.11.

Signed at Washington, D.C., on November 24, 1972.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-20484 Filed 11-27-72;8:52 am]

DEPARTMENT OF COMMERCE

Patent Office

[37 CFR Part 1]

IMPLEMENTATION OF INVENTOR'S CERTIFICATE LEGISLATION

Serial Number and Filing Date

Notice is hereby given that, pursuant to the authority contained in section 6 of the Act of July 19, 1952 (66 Stat. 793; 35 U.S.C. 6), as amended October 5, 1971, Public Law 92-132, 85 Stat. 364, the Patent Office proposes to add a new paragraph (c) to § 1.55 (37 CFR 1.55(c)) to read as set forth below.

All persons are invited to present their views, objections, recommendations, or suggestions in connection with the proposed changes to the Commissioner of Patents, Washington, D.C. 20231, on or before February 12, 1973. No oral hearings will be held. Any written comments or suggestions may be inspected by any person, upon written request, a reasonable time after the closing date for submitting comments.

The proposed rule change is intended to implement Public Law 92-358, dated July 28, 1972, reprinted below,[1] which accords rights of priority to applications where the claims for priority are based on earlier filed applications for inventor's certificates under certain conditions. This legislation now enables the United States to complete its ratification of the Stockholm Revision of the Paris Convention.

By the terms of the new legislation, inventor's certificates filed in a foreign country in which applicants have a right to apply, at their discretion, either for a patent or for an inventor's certificate may form the basis for rights of priority.

The new paragraph proposed below would insure that the right of priority would be granted for inventor's certificates involving subject matter for which an applicant in the country of earlier filing has an option to file for either a patent or inventor's certificate, as required by the new legislation. It should be noted that in certain countries which grant both patents and inventor's certificates to reward inventors, applicants may only be able to apply for inventor's certificates as to certain subject matter, generally pharmaceuticals, foodstuffs, and cosmetics.

The text of the proposed new paragraph is as follows:

§ 1.55 Serial number and filing date of application.

. . . . . .

(c) An applicant may under certain circumstances claim priority on the basis of an application for an inventor's certificate in a country granting both inventor's certificates and patents. When an applicant wishes to claim the right of priority as to a claim or claims of the application on the basis of an application for an inventor's certificate in such a country under 35 U.S.C. 119, last paragraph (as amended July 28, 1972), the applicant or his attorney or agent, when submitting a claim for such right as specified in paragraph (b) of this section, shall include an affidavit or declaration including a specific statement that, upon an investigation, he has satisfied himself that to the best of his knowledge the applicant, when filing his application for the inventor's certificate, had the option to file an application either for a patent or an inventor's certificate as to the subject matter of the identified claim or claims forming the basis for the claim of priority.

ROBERT GOTTSCHALK,
Commissioner of Patents.

Approved: November 21, 1972.

RICHARD O. SIMPSON,
Acting Assistant Secretary for Science and Technology.

[FR Doc.72-20359 Filed 11-27-72;8:47 am]

[1] Filed as part of the original document.

[37 CFR Part 1]

RESTRICTION PRACTICE

Notice of Change in Date of Hearing

On October 20, 1972, the Patent Office published a notice of proposed rule making on restriction practice in patent cases (37 F.R. 22625). The notice proposed to amend Title 37 of the Code of Federal Regulations by revising §§ 1.141, 1.142, 1.144, 1.145, and 1.146. In the notice, it was stated that a hearing would be held at 9:30 a.m. on December 12, 1972, in Room 11 C 24, Building 3, 2021 Jefferson Davis Highway, Arlington, VA.

The Patent Office has received requests from interested persons that the hearing be postponed to a later date to allow ample opportunity to consider the proposed amendments. The hearing, accordingly, will not be held at the time originally set but has been rescheduled for 2:30 p.m. on January 16, 1973, in Room 11 C 24, Building 3, 2021 Jefferson Davis Highway, Arlington, VA. Written views, objections, recommendations or suggestions will be considered if submitted on or before the date of the hearing.

ROBERT GOTTSCHALK,
Commissioner of Patents.

Approved: November 22, 1972.

RICHARD O. SIMPSON,
Acting Assistant Secretary for Sicence and Technology.

[FR Doc.72-20380 Filed 11-27-72;8:49 am]

DEPARTMENT OF LABOR

Manpower Administration

[20 CFR Part 615]

EXTENDED UNEMPLOYMENT COMPENSATION

Notice of Proposed Rule Making

I hereby propose to amend Part 615 of Chapter V of Title 20 of the Code of Federal Regulations by (1) adding to

§ 615.2(g)(2) the word "applicable" before the term "benefit year" the first time it appears in the paragraph; (2) adding to § 615.2 a new paragraph (h) defining the term "applicable benefit year"; (3) deleting from § 615.4(b) (1) and (2) the word "current"; (4) deleting from 615.4(b)(4) reference to the Automotive Trade Products Act which is no longer in effect; (5) deleting from § 615.4(c) the word "current" and by inserting in lieu thereof the word "applicable"; (6) deleting from § 615.5(a)(1) the words "current benefit year, or if he has no current benefit year, his most recent benefit year" and by inserting in lieu thereof the words "applicable benefit year"; (7) adding to § 615.5(b)(3) the parenthetical phrase "(or less)" after the word "more" in two places in the paragraph; (8) revising the title of § 615.6, lettering the present § 615.6 as (a) and adding a new paragraph (b) relating to cases where a decision on appeal reduces regular compensation and, as a consequence, reduces extended compensation; and (9) changing § 615.14(b)(3) to provide a formula based on principles of the perpetual calendar for establishing in the two preceding calendar years a corresponding week to each week constituting a 13-week period; the amendments to read as set forth below.

Interested persons may submit written data, views, or arguments regarding the proposal by mailing them to the Secretary of Labor, U.S. Department of Labor, Washington, D.C. 20210, Attention of Robert C. Goodwin, Associate Manpower Administrator for Unemployment Insurance, within 15 days after this notice is published in the FEDERAL REGISTER. Persons interested in inspecting or copying submissions received pursuant to this notice should call 202-961-2701 and necessary arrangements will be made.

1. As proposed § 615.2 would be amended by amending paragraph (g)(2) and by adding paragraph (h) to read as follows:

§ 615.2 Definitions.

. . . . . .

(g) The term "sharable compensation" is described in the Act to include—

. . . . . .

(2) Regular compensation paid to an individual for weeks of unemployment in his eligibility period to the extent that the sum of such compensation, plus the regular compensation paid (or deemed paid) to him with respect to prior weeks of unemployment in the applicable benefit year exceeds 26 times (and does not exceed 39 times) the average weekly benefit amount (including allowances for dependents) for weeks of total unemployment payable to such individual during such benefit year.

(h) The term "applicable benefit year" means, with respect to an individual, his current benefit year if at the time he files a claim for extended compensation he has an unexpired benefit year only in the State in which he files such claim or, in any other case, his most recent benefit year. For this purpose his most recent benefit year, if he has unexpired benefit years in more than one State when he files a claim for extended compensation, is the benefit year with the latest ending date or, if such benefit years have the same ending date, the benefit year in which his latest continued claim for regular compensation was filed.

2. As proposed § 615.4 would be amended by amending paragraph (b) (1), (2) and (4) and the introductory sentence of paragraph (c) to read as follows:

§ 615.4 Entitlement; exhaustee.

. . . . . .

(b) Exhaustee: An individual is an exhaustee with respect to a week of unemployment in his eligibility period if—

(1) He has received, prior to such week, all the regular compensation payable to him according to the monetary determination for his benefit year that includes such week under the unemployment compensation law of the State in which he files a claim for extended compensation or the unemployment compensation law of any other State; or

(2) He has received, prior to such week, all the regular compensation available to him in his benefit year that includes such week under the unemployment compensation law of the State in which he files a claim for extended compensation or the unemployment compensation law of any other State after a cancellation of some or all of his wage credits or the partial or total reduction of his right to regular compensation; or

. . . . . .

(4) He has no right to unemployment compensation or allowances, as the case may be, under the following Federal laws: The Railroad Unemployment Insurance Act, and the Trade Expansion Act; and

. . . . . .

(c) For the purposes of paragraphs (b) (1) and (2) of this section, an individual shall be deemed to have received in his applicable benefit year all of the regular compensation payable to him according to the monetary determination or available to him, as the case may be, even though—

. . . . . .

3. As proposed to be amended § 615.5 (a)(1) and (b)(3) would read:

§ 615.5 Amount of extended compensation.

(a) *Weekly amount*—(1) *Total unemployment.* The State law shall specify that the weekly amount of extended compensation payable to an individual for a week of total unemployment in his eligibility period shall be the amount of regular compensation payable to him for a week of total unemployment during his applicable benefit year. If the individual had more than one weekly amount of regular compensation for total unemployment during such benefit year, the weekly amount of extended compensation for total unemployment shall be any one of the following specified in the State law:

. . . . . .

(b) *Individual's extended compensation account.* . . .

(3) If an individual is entitled to more (or less) extended compensation as a result of an appeal which afforded him more (or less) regular compensation, an appropriate change shall be made in the individual's extended compensation account.

4. As proposed to be amended, the title of § 615.6 would be as amended, the present § 615.6 would be lettered (a) and a new paragraph (b) would be added to read:

§ 615.6 Changes in amount of extended compensation resulting from changes in amount of regular compensation awarded on appeal.

. . . . . .

(b) If an individual who has received extended compensation for week(s) of unemployment is determined to be entitled to less regular compensation as the result of an appeal, and as a consequence is entitled to less extended compensation, any extended compensation he has been paid in excess of the amount he is determined to be entitled to after the decision on appeal shall be considered an overpayment which the individual shall have to repay on the same basis and in the same manner that he has to repay the regular compensation he has been paid which is in excess of the amount payable to him pursuant to the decision on appeal. If such decision reduces the duration of his regular compensation, his claim for extended compensation shall be backdated to the earliest date, subsequent to the date when the redetermined regular compensation was exhausted and within the extended benefit period, that the individual was eligible to file a claim for extended compensation. An amended determination shall be made of his entitlement to extended compensation and a notice of such determination shall be given to the individual and, if appropriate under the State law, to his employer(s), as provided in § 615.9(a)(3).

5. As proposed to be amended § 615.14 (b)(3) would read:

§ 615.14 Computation of total rate of insured unemployment.

. . . . . .

(b) *State "on" and "off" indicators.* . . .

(3) For the purpose of determining the corresponding 13-week period ending in each of the preceding two calendar years:

(i) Each calendar week shall be identified by the date (calendar month and day of the month) on which it ends;

(ii) For any specific calendar week, the date of the comparable week in the immediately preceding calendar year shall be determined by adding (1) to the date of the end of such specific week or by adding two (2) if:

(*a*) The date of the end of the specific week is February 29; or

(*b*) A February 29 intervenes between,

(*1*) The beginning date of the week in which occurs the date established by

this proposal. The proposed regulations

Coos Bay, Lower Columbia River high-

John F. Kennedy International Airport,

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the addition of one (1) to the ending date of the specific week, and

(2) The ending date of the specific week.

(iii) For any specific calendar week, the ending date of the comparable week in the second preceding calendar year shall be determined by adding two (2) to the end date of the specific week or by adding three (3) if:

(a) The ending date of the specific week is February 29; or

(b) A February 29 intervenes between.

(1) The beginning date of the week in which occurs the date established by the addition of two (2) to the ending date of the specific week, and

(2) The ending date of the specific week.

* * * * *

Signed at Washington, D.C., this 22d day of November 1972.

M. R. LOVELL, Jr.,
Assistant Secretary for Manpower.

[FR Doc.72-20411 Filed 11-27-72;8:50 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 72-230P]

BISCAYNE BAY, FLA.

Proposed Drawbridge Operation Regulations

The Coast Guard is considering amending the regulations for the Venetian Causeway drawbridges, both east and west spans, to provide that these regulations exclude Saturdays, Sundays and holidays from November 1 through April 30. The regulations presently apply 7 days a week during this period. This change is being considered because of reduced vehicular traffic during these days. The requirement for Officers of the Police Departments of Miami and Miami Beach to be stationed at the draws and causeways is no longer considered necessary and is therefore deleted.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), Seventh Coast Guard District, Room 1018, Federal Building, 51 SW 1st Avenue, Miami, Fla. 33130. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Seventh Coast Guard District.

The Commander, Seventh Coast Guard District, will forward any comments received before January 2, 1973, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by revising § 117.447 to read as follows:

§ 117.447 Biscayne Bay, Fla., MacArthur Causeway, and East and West spans of the Venetian Causeway; bridges.

(a) MacArthur Causeway: The draws shall open promptly on signal however from November 1 through April 30 from 7 a.m. to 9 a.m. and 4:30 p.m. to 6:30 p.m. the draw need open only on the hour and half hour if any vessels are waiting to pass.

(b) West span Venetian Causeway: The draws shall open promptly on signal however from November 1 through April 30, from 7 a.m. to 9 a.m. and 4:30 p.m. to 6:30 p.m., Monday through Friday, the draws need open only on the hour and half hour if any vessels are waiting to pass. The draws shall open promptly on signal on Thanksgiving, Christmas, New Years, and Washington's Birthday.

(c) East span Venetian Causeway: The draw shall open promptly on signal however the draw need not open from November 1 through April 30, from 7:15 a.m. to 8:45 a.m. and 4:45 p.m. to 6:15 p.m., Monday through Friday, except that the draw shall open at 7:45 a.m., 8:15 a.m., 5:15 p.m. and 5:45 p.m., if any vessels are waiting to pass during this period. The draw shall open promptly on signal on Thanksgiving, Christmas, New Years, and Washington's Birthday.

(d) The draws of these bridges shall open at any time for passage of public vessels of the United States, tugs with tows, regularly scheduled cruise boats and vessels in distress. The opening signal from these vessels shall be 4 blasts of a whistle, horn, other sound producing device or by shouting.

(e) The owner of or agency controlling the bridges shall post notices containing the substance of these regulations, both upstream and downstream, on the bridges or elsewhere, in such a manner that they can easily be read at all times from an approaching vessel.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Dated: November 21, 1972.

J. D. MCCANN,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine, Environment and Systems.

[FR Doc.72-20367 Filed 11-27-72;8:48 am]

[33 CFR Part 117]

[CGD 72-231P]

DRAWBRIDGES IN THE STATE OF OREGON WHERE CONSTANT ATTENDANCE IS NOT REQUIRED

Proposed Drawbridge Operation Regulations

The Coast Guard is considering amending the regulations for the drawbridges in the State of Oregon where constant attendance is not required to include the Burlington Northern (Spokane, Portland, and Seattle) Railway bridges across the John Day River near Astoria and the Blind Slough and Clatskanie River near Clatskanie. These drawbridges are presently required to open on signal. The proposed change would require that these drawbridges open on signal if at least 1 hour notice has been given. The reason for this proposed change is limited use of the waterways by vessels that require openings of these drawbridges.

Also under consideration are amendments for Oregon State Highway Division bridges that also require infrequent openings. The U.S. 101 drawbridges across the Coquille River at Bandon and the U.S. 101 drawbridge across the Siuslaw River at Florence are presently required to open on signal. The proposed change would require at least 2 hours notice at all times for both bridges. The Coos River secondary highway drawbridge across Isthmus Slough at Coos Bay is presently required to open on signal. The proposed change would require at least 4 hours notice at all times. The Coos River secondary highway drawbridge across the Coos River at Coos Bay is presently required to open on signal. The proposed change would require at least 12 hours notice at all times. The Coos River secondary highway drawbridge across Catching Slough at Coos Bay and the Nehalem secondary highway drawbridge across the Walluski River at Astoria are presently required to open on signal, and the Lower Columbia River highway drawbridge across the John Day River at Astoria is required if at least 12 hours notice has been given. The proposed change affecting these three drawbridges would require at least 48 hours notice at all times. The Oregon Coast highway drawbridges across Coalbank Slough at Coos Bay is presently required to open if at least 24 hours notice has been given. The proposed change would allow the draw to remain closed to vessels but would provide for reactivation of the draws upon notification by the Commandant, U.S. Coast Guard to the bridge owner to take such action. Reference to several of these bridges would be deleted from § 117.740 and added to § 117.759b to assure greater clarity.

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments to the Commander (oan) Thirteenth Coast Guard District, 618 Second Avenue, Seattle, WA 98104. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Thirteenth Coast Guard District.

The Commander, Thirteenth Coast Guard District, will forward any comments received before January 2, 1973, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on

this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by:

1. Revoking § 117.740(a), (3), (6), (7), (8), and (9); (b) and the note at end of the section.

2. Revising § 117.740 to read as follows:

§ 117.740 Youngs Bay, Lewis and Clark River and Skipanon River, Oreg.; bridges.

(a) The drawbridges across Youngs Bay, Lewis and Clark River and Skipanon River, all in Clatsop County, and the bridge across the Skipanon River in Columbia County shall open on signal for the passage of vessels. The signals which may be made by a whistle, horn, siren, trumpet or by shouting for each bridge are:

(1) Highway bridge across Youngs Bay at Smith Point—Two long blasts followed by two short blasts.

(2) Burlington Northern (Spokane, Portland, and Seattle) railroad bridge across Youngs Bay at Smith Point—one long blast followed by one short blast.

(3) Youngs Bay highway bridge at the foot of Fifth Street, Astoria—two long blasts followed by one short blast.

(4) Lewis and Clark River highway bridge, near the mouth—one long blast followed by one short blast.

(5) Skipanon River railroad and highway bridges at Warrenton—one long blast followed by one short blast.

3. Amending subparagraph (4) of paragraph (f) of § 117.759b and adding subparagraphs (10) through (15) to § 117.759b(f) to read as follows:

§ 117.759b Drawbridges in the State of Oregon where constant attendance is not required.

* * * * *

(f) * * *

(4) Highway bridge across John Day River. The draw shall open on signal if at least 48 hours notice is given.

* * * * *

(10) Burlington Northern (Spokane, Portland, and Seattle) railroad bridges across the John Day River near Astoria, Blind Slough and the Clatskanie River near Clatskanie. The draws shall open on signal if at least 1 hour notice is given.

(11) Oregon Coast U.S. 101 drawbridges across the Siuslaw River at Florence and the Coquille River at Bandon. The draws shall open on signal if at least 2 hours notice is given. This notice may be given by marine radio, telephone, radio telephone via the marine operator, or any other suitable means to the Coos Bay South Slough Bridge attendant.

(12) Coos River secondary highway drawbridge across the Isthmus Slough at Coos Bay. The draw shall open on signal if at least 3 hours notice is given.

(13) Coos River secondary highway drawbridge across the Coos River at Coos Bay. The draw shall open on signal if at least 12 hours notice is given.

(14) Coos River secondary highway drawbridge across Catching Slough at Coos Bay, Lower Columbia River highway drawbridge across the John Day River at Astoria and the Nehalem secondary highway drawbridge across the Walluski River at Astoria. The draws shall open on signal if at least 48 hours notice is given.

(15) Oregon Coast highway drawbridge across Coalbank Slough at Coos Bay. The draw need not open for the passage of vessels and the machinery for the draw need not be maintained in operable condition. However, the draw shall be returned to operable condition by the owner of the bridge within 6 months after notification by the Commandant, U.S. Coast Guard to take such action.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Dated November 21, 1972.

J. D. MCCANN,
Captain, U.S. Coast Guard, Acting Chief Office of Marine Environment and Systems.

[P.R. Doc.72-20368 Filed 11-27-72;8:48 am]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-EA-112]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Philipsburg, Pa., control zone (37 F.R. 2118) and transition area (37 F.R. 2262).

A review of the Philipsburg, Pa., terminal area establishes a need to alter the subject area in conformance with the criteria of the Terminal Instrument Procedures (TERP's).

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, NY 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Philipsburg, Pa., proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Philipsburg, Pa., control zone and insert the following in lieu thereof:

Within a 6-mile radius of the center, 40°53'00" N., 78°05'15" W. of Mid-State Airport, Philipsburg, Pa.; within 4 miles each side of a 327° bearing from a point 40°53'09" N., 78°05'06" W., extending from said point to a point 8.5 miles northwest.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Philipsburg, Pa., 700-foot floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, 40°53'00" N., 78°05'15" W., of Mid-State Airport, Philipsburg, Pa., extending clockwise from a 270° bearing to a 300° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 300° bearing to a 180° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 180° bearing to a 210° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 210° bearing to a 270° bearing from the airport; within 3.5 miles each side of a 340° bearing from the Ginter RBN, extending from the RBN to 10 miles north of the RBN; within 3.5 miles each side of the Philipsburg VORTAC 067° radial, extending from the VORTAC to 11.5 miles northeast of the VORTAC; within 4 miles each side of a 327° bearing from a point 40°53'09" N., 78°05'06" W., extending from said point to a point 8.5 miles northwest.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on November 14, 1972

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.72-20343 Filed 11-27-72;8:47 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 2]

[Docket No. 19547; FCC 72-629]

SPACE TELECOMMUNICATION

Proposed Frequency Allocations and Radio Treaty Matters

Correction

In F.R. Doc. 72-11900 appearing at page 15714 of the issue for Friday, August 4, 1972, the following material was inadvertently omitted from the table in §2.106. It should be added immediately following the table which appears on page 15724.

V 37-229 NOV 28 72 XUM

Worldwide		Region 2		United States		Federal Communications Commission				
Band(MHz)	Service	Band(MHz)	Service	Band (MHz)	Allocation	Band(MHz)	Service	Class of station	Frequency (MHz)	Nature of services of stations
1	2	3	4	5	6	7	8	9	10	11
149.9-150.05 (285B) (285C)	RADIONAVIGATION-SATELLITE.			. . .	. . .	. . .	. . .	. . .		. . .
150.05-174		150.05-174	FIXED. MOBILE.	. . .	. . .	. . .	. . .	. . .	. . .	. . .
						152.855-153.7325	. . .	. . .		. . .
						. . .	. . .	. . .	. . .	. . .
					(US77)	156.250-157.0375	. . .	. . .	. . .	. . .
									156.550	MARITIME MOBILE. (N(24)).
									156.575	MARITIME MOBILE.
									156.600	Do.
									156.625	Do.
									156.650	Do.
									156.675	Do.
									156.700	Do.
									156.725	Do.
									156.750	Do.
									156.800	MARITIME MOBILE (distress, safety, and calling).
(201A) (287)					(US106) (US107)				156.850 . . .	MARITIME MOBILE. . . .
				157.0375-157.1875	G.					
(287A)		(287A)		157.1875-162.0125	NG. (US77) (US200)	. . .	. . .	. . .	. . .	. . .
		(233A)		162.0125-173.2	. . .	. . .	. . .	. . .	. . .	. . .
				. . .	. . .	. . .	. . .	. . .	. . .	. . .
. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .
225-235		225-235	FIXED. MOBILE.	225-328.6 (308A) (310) (US98)	G.					
235-267	FIXED. MOBILE. (201A) (306) (305A) (308A) (309)								243	Survival craft and equipment.
267-272	FIXED. MOBILE. Space operation (Telemetering). (308A) (309A) (309B)									
272-273	FIXED. MOBILE. SPACE OPERATION (Telemetering). (308A) (309A)									
273-328.6	FIXED. MOBILE. (308A) (310) (310A)									

[47 CFR Part 73]

[Docket No. 19638; FCC 72-1024]

TV BROADCAST STATIONS IN HOUSTON, MISSISSIPPI

Proposed Television Table of Assignments

In the matter of amendment of § 73.606(b) Television table of assignments, TV Broadcast Stations (Houston, Mississippi) Docket No. 19638, RM-1986.

1. On June 12, 1972, John D. Dyer filed a petition (RM-1986) requesting the assignment of Channel 45 to Houston, Miss.

2. Houston, population 2,720[1], is located in Chickasaw County in northeastern Mississippi. There are no television broadcast channels assigned to Houston, and no assignments in the area are available for use under the provisions of the 15-mile rule.

3. If his request is granted, petitioner states that he will apply for authority to construct and operate a station on Channel 45 at Houston with a view to providing (1) a first local service to Houston and to a number of communities around it, (2) an additional local service to the northeastern section of Mississippi, and (3) the ABC network service to a substantial area and population which presently does not receive these services.

4. Petitioner further states the facility he contemplates would (1) provide a new television service to 555,705 persons in an area of 14,519 square miles; (2) provide a first ABC television service to 388,401 persons in 9,225 square miles; (3) provide a second commercial television service to 88,203 persons in 2,150 square miles and (4) provide a third commercial television service to 363,605 persons in 8,880 square miles.

5. We have investigated the assignment area with the aid of our Univac III computer and find that Channel 45 can be assigned at the Houston reference point and at the transmitter site proposed in the petition in accordance with the technical requirements of the Commission's rules.

6. In view of the above, we believe that a rule making proceeding looking toward the assignment of Channel 45 to Houston, Miss., is warranted. Authority for the action proposed herein is contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

7. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before December 28, 1972, and reply comments on or before January 8, 1973. All submissions by parties to this proceeding or persons action on behalf of such parties must be made in written comments, reply comments or other appropriate pleadings.

8. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

9. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its Headquarters in Washington, D.C. (1919 M Street, NW.).

Adopted: November 15, 1972.

Released: November 17, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE, *Secretary.*

[FR Doc.72-20376 Filed 11-27-72;8:49 am]

[1] Population according to the 1970 U.S. Census.

[1] Commissioner Reid absent.

FEDERAL RESERVE SYSTEM

[12 CFR Part 201]

[Reg. A]

ADVANCES AND DISCOUNTS BY FEDERAL RESERVE BANKS

Extension of Credit

The Board of Governors proposes to amend Part 201 by changing the heading to read "Extensions of Credit by Federal Reserve Banks"; deleting § 201.0; amending §§ 201.1, 201.2, 201.3, 201.4, 201.5, and 201.6; and by adding §§ 201.7 and 201.8 as set forth below.

The principal purposes of the proposed revision of the Board's Regulation A are (1) to make specific provision for extensions of seasonal credit; (2) to eliminate certain restrictions with respect to the eligibility of paper as collateral for Federal Reserve credit; and (3) to condense and simplify technical provisions of the regulation. Short-term Federal Reserve credit would continue to be provided in accordance with present rules. No change in the posture of monetary policy in the short or long run would result from the adoption of the proposals.

The major impact of the new rules would be to improve the ability of banks to meet strong seasonal credit needs of their communities. Such seasonal credit would be provided to banks to accommodate intermediate-term recurring needs for funds over and above a threshold amount, for such amounts and duration as the applying member bank is able to demonstrate a need.

The new rules would include certain changes as to the eligibility of paper for discount or as security for Federal Reserve advances. The present regulation makes ineligible any paper the proceeds of which are used for "permanent or fixed investments of any kind, such as land, buildings, or machinery, or for any other fixed capital purpose." This provision, which is not statutory, would be omitted, so that paper given for such purposes would be eligible for discount or as collateral for advances if it meets the 90-day maturity requirement of the law and if the funds are not used merely for investment purposes. The revision would also make it clear that paper given for the purchase of services, as well as tangible goods, would be eligible for discount and as collateral for advances.

Finally, the revision would condense, simplify, or clarify a number of technical provisions of the regulation. For example, detailed limitations and conditions with respect to the discounting of bankers' acceptances would be replaced by a general paraphrasing of statutory requirements regarding the types of bankers' acceptances eligible for discount; it would be made clear that the limitation on the amount of paper of one borrower that may be discounted applies in the same manner to both national and State member banks and to Reserve Bank advances at the discount rate as well as to discounts; detailed provisions regarding financial statements and other information would be eliminated; and there would be included a new section regarding the circumstances under which advances would be made to individuals, partnerships, and corporations other than member banks.

The revised rules would reaffirm the System's readiness to supply credit assistance to its member banks in general or isolated emergency situations. In addition, it would recognize that in its role as lender of last resort the Federal Reserve should be prepared, under emergency liquidity conditions, to provide certain types of credit assistance to financial institutions other than member banks.

This notice is published pursuant to section 553(b) of Title 5, United States Code, and § 262.2(a) of the rules of procedure of the Board of Governors.

To aid in the consideration of this matter by the Board, interested persons are invited to submit relevant data, views, or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 28, 1973.

Following receipt of these comments, the Board will weigh them in arriving at a final decision regarding the adoption of the proposed amendments.

By order of the Board of Governors, November 20, 1972.

[SEAL] MICHAEL A. GREENSPAN, *Assistant Secretary to the Board.*

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS

Sec.
201.1 Authority and scope.
201.2 General principles.
201.3 Policy guidelines.
201.4 Advances to member banks.
201.5 Discounts for member banks.
201.6 General requirements.
201.7 Federal Intermediate Credit banks.
201.8 Emergency credit for others.

AUTHORITY: The provisions of this Part 201 issued under 12 U.S.C. 84, 248, 301, 330, 343–347, 347b, 347c, 348, 349, 351, 352, 361, 371, 372, 373, 374.

§ 201.1 Authority and scope.

This part is issued under section 13 and other provisions of the Federal Reserve Act and relates to extensions of credit by Federal Reserve Banks.

§ 201.2 General principles.

(a) Extending credit to member banks to accommodate commerce, industry, and agriculture is a principal function of Reserve Banks. While open market operations and changes in member bank reserve requirements are important means of affecting the overall supply of bank reserves, the lending function of the Reserve Banks is an effective method of supplying reserves to meet the particular needs of individual member banks.

(b) The lending functions of the Federal Reserve System are conducted with due regard to the basic objectives of the Employment Act of 1946 and the maintenance of a sound and orderly financial system. These basic objectives are promoted by influencing the overall volume and cost of credit through actions affecting the volume and cost of reserves to member banks. Borrowing by individual member banks, at a rate of interest adjusted from time to time in accordance with general economic and money market conditions, has a direct impact on the reserve position of the borrowing banks and thus on their ability to meet the needs of their customers. However, the effects of such borrowing do not remain localized but have an important bearing on overall monetary and credit conditions.

(c) Federal Reserve credit is available on a short-term basis to assist member banks in meeting temporary requirements for funds and in meeting more persistent outflows pending an orderly adjustment of a member bank's asset and liability structure. Federal Reserve credit is also available for longer periods in order to assist member banks in meeting significant seasonal needs. Federal Reserve credit is available to assist member banks in meeting emergency or unusual situations, such as may result from national, regional, or local difficulties or from exceptional circumstances involving only particular member banks. Emergency credit assistance may also be made available in exigent circumstances to other than member banks under such terms and conditions as may be specified. Federal Reserve credit is not a substitute for capital and ordinarily is not available for extended periods.

(d) Each Reserve Bank is required by law (1) to keep itself informed of the general character and amount of the loans and investments of its member banks with a view to ascertaining whether undue use is being made of bank credit for the speculative carrying of or trading in securities, real estate, or commodities or for any other purpose inconsistent with the maintenance of sound credit conditions, and (2) to give consideration to such information in determining whether to extend credit.

§ 201.3 Policy guidelines.

In conformity with the foregoing principles and the requirements and limitations of the Federal Reserve Act and this part, Reserve Banks will ordinarily extend credit as follows:

(a) *Adjustment credit.* A Reserve Bank may, under such rules as may be prescribed, extend credit to a member bank to such extent as may be appropriate to assist in meeting temporary requirements for funds or to cushion more persistent outflows of funds pending an orderly adjustment of the member bank's assets and liabilities.

(b) *Seasonal borrowing privilege.* (1) Credit will also be extended to a member bank that lacks reasonably reliable access to national money markets to assist in meeting seasonal needs for funds arising from a combination of expected patterns of movement in its deposits and loans. Such seasonal credit will ordinarily be limited to the amount by which the member bank's seasonal needs exceed 5 percent of its average total deposits in the preceding calendar year. It will be available if (i) the member bank has arranged in advance for such seasonal credit for the full period, as far as possible, for which the credit is expected to be required, and (ii) the Reserve Bank is satisfied that the member bank's qualifying need for funds is seasonal and will persist for at least 8 consecutive weeks.

(2) In making such arrangements for seasonal credit, a Reserve Bank may agree to extend such credit for a period of up to 90 days,[1] subject to compliance with applicable requirements of law at the time such credit is extended. However, in the event that a member bank's seasonal needs should persist beyond such period, the Reserve Bank will normally be prepared to entertain a request by the member bank for further credit extensions under the seasonal credit arrangement.

(c) *Emergency credit.* A Reserve Bank may also extend credit (1) to any of its member banks in unusual or emergency circumstances, and (2) to individuals, partnerships, and corporations that are not member banks in emergency circumstances in accordance with § 201.8 of this Part if in its judgment credit is not practicably available from other sources and failure to obtain such credit would adversely affect the economy.

§ 201.4 Advances to member banks.

(a) *Advances on obligations or eligible paper.* Reserve Banks may make advances to member banks for not more than 90 days if secured by obligations or other paper eligible under the Federal Reserve Act for discount or purchase by Reserve Banks.

(b) *Advances on other security.* A Reserve Bank may make advances to a member bank for not more than 4 months if secured to the satisfaction of the Reserve Bank, whether or not secured in conformity with § 201.4(a), but the rate on such advances shall be at least one-half of 1 percent per annum higher than the rate applicable to advances made under § 201.4(a).

§ 201.5 Discounts for member banks.

If a Reserve Bank should conclude that a member bank would be better accommodated by the discount of paper than by an advance on the security thereof, it may discount for such member bank any paper endorsed by the member bank and meeting the following requirements:

(a) *Commercial or agricultural paper.* A note, draft, or bill of exchange issued or drawn or the proceeds of which have been or are to be used (1) in producing, purchasing, carrying, or marketing goods in the process of production, manufacture, or distribution, (2) for the purchase of services, (3) in meeting current operating expenses of a commercial, agricultural, or industrial business, or (4) for the purpose of carrying or trading in direct obligations of the United States; provided that (i) such paper has a period remaining to maturity of not more than 90 days, except that agricultural paper (including paper of cooperative marketing associations) may have a period remaining to maturity of not more than 9 months, and (ii) the proceeds of such paper have not been and are not to be used merely for the purpose of investment, speculation, or dealing in stocks, bonds, or other such securities, except direct obligations of the United States.

(b) *Bankers' acceptances.* A banker's acceptance (1) arising out of an importation or exportation or domestic shipment of goods or the storage of readily marketable staples or (2) drawn by a bank in a foreign country or dependency or insular possession of the United States for the purpose of furnishing dollar exchange; provided that such acceptance complies with applicable requirements of section 13 of the Federal Reserve Act.

(c) *Construction paper.* A note representing a loan made to finance construction of a residential or farm building, whether or not secured by a lien upon real estate, which matures not more than 9 months from the date the loan was made and has a period remaining to maturity of not more than 90 days, if accompanied by an agreement requiring some person acceptable to the Reserve Bank to advance the full amount of the loan upon completion of such construction.

§ 201.6 General requirements.

(a) *Information.* A Reserve Bank shall require such information as it deems necessary to insure that paper tendered as collateral or for discount is acceptable and meets any pertinent eligibility requirements and that the credit granted is used consistently with this part.

(b) *Amount of collateral.* A Reserve Bank shall require only such amount

[1] As provided in the law and in this part, the maturity of advances to member banks is limited to 90 days, except as provided in § 201.4(b) of this part.

of collateral as it deems necessary or advisable.

(c) *Indirect credit for nonmember banks.* Except with the permission of the Board of Governors, no member bank shall act as the medium or agent of a nonmember bank (other than a Federal Intermediate Credit bank) in receiving credit from a Reserve Bank and, in the absence of such permission, a member bank applying for credit shall be deemed to represent and guarantee that it is not so acting.

(d) *Limitation as to one obligor.* Except as to credit granted under §201.4 (b), a member bank applying for credit shall be deemed to certify or guarantee that as long as the credit is outstanding no obligor on paper tendered as collateral or for discount will be indebted to it in an amount exceeding the limitations in section 5200 of the Revised Statutes (12 U.S.C. 84), which for this purpose shall be deemed to apply to State member as well as national banks.

§ 201.7 Federal intermediate credit banks.

A Reserve Bany may discount for any Federal Intermediate Credit bank (a) agricultural paper, or (b) notes payable to and bearing the endorsement of such Federal Intermediate Credit bank covering loans or advances made under section 202(a) of Title II of the Federal Farm Loan Act which are secured by paper eligible for discount by Reserve Banks. Any paper so discounted shall not have a period remaining to maturity of more than 9 months or bear the endorsement of a nonmember State bank.

§ 201.8 Emergency credit for others.

In emergency circumstances a Reserve Bank may extend credit for periods of not more than 90 days to individuals, partnerships, and corporations (other than member banks) on the security of direct obligations of the United States or any obligations which are direct obligations of, or fully guaranteed as to principal and interest by, any agency of the United States, at such rate in excess of the rate in effect at the Reserve Bank for advances under § 201.4(a) as its board of directors may establish subject to review and determination of the Board of Governors.

[FR Doc.72-20360 Filed 11-27-72;8:47 am]

SELECTIVE SERVICE SYSTEM

[32 CFR Parts 1621, 1622, 1623, 1631]

SELECTIVE SERVICE REGULATIONS

Notice of Proposed Rule Making

Pursuant to the Military Selective Service Act, as amended (50 U.S. Code App., sections 451 et seq.), and Executive Order No. 11623 dated October 12, 1971, the Director of Selective Service hereby gives public notice that consideration is being given to the following proposed amendments to the Selective Service Regulations constituting a portion of Chapter XVI of the Code of Federal Regulations. These regulations implement the Military Selective Service Act, as amended (50 U.S. Code App., sections 451 et seq.).

All persons who desire to submit views to the Director on the proposals should prepare them in writing and forward them to the General Counsel, National Headquarters, Selective Service System, 1724 F Street NW., Washington, DC 20435. Comments received within 30 days following the publication of this notice in the FEDERAL REGISTER will be considered.

The proposed amendments follow:

Section 1621.14 is amended to read as follows:

§ 1621.14 Securing information from welfare and governmental agencies.

The local board is authorized to request and receive information from welfare and governmental agencies whenever such information will assist it in determining the proper classification of a registrant.

Section 1622.30 is amended to read as follows:

§ 1622.30 Class 3–A: Registrant deferred by reason of hardship to dependents.

(a) In Class 3–A shall be placed any registrant:

(1) Whose induction would result in extreme hardship to his wife when she is his only dependent;

(2) Whose induction would result in undue and genuine hardship to his child, parent, grandparent, brother or sister who is dependent upon him for support;

(3) Who has been separated from active military service by reason of dependency or hardship; or

(4) Who prior to April 23, 1970, submitted to his local board information establishing his eligibility for deferment on the grounds of fatherhood under regulations in effect prior to such date.

(b) Any registrant classified prior to April 23, 1970, in Class 3–A on the grounds of fatherhood and who continues to maintain a bona fide relationship in their home with his child or children may be retained in Class 3–A.

(c) The local board will reopen and consider anew the classification of each registrant in Class 3–A not later than 365 days after he was last classified in Class 3–A.

(d) As used in this section:

(1) The term "child" shall include any person under 18 years of age who is a legitimate or an illegitimate child from the date of its conception, a stepchild, a foster child, or a child legally adopted;

(2) Dependency. Dependency exists when by reason of death or disability of a member of the registrant's family, other members of his family become principally dependent upon him for care or support;

(3) Hardship. Hardship exists when in circumstances not involving death or disability of a member of the registrant's family, his induction will materially affect the care or support of his family by aggravating or causing undue and genuine hardship.

(4) The term "parent" shall include any person who has stood in the place of a parent to the registrant for at least 5 years preceding the 18th anniversary of the registrant's date of birth.

Section 1623.1(b) is amended to read as follows:

§ 1623.1 Commencement of classification.

* * * * *

(b) The registrant's classification shall be determined on the basis of the official forms of the Selective Service System and other written information in his file, oral statements by the registrant at his personal appearance before the local board, appeal board, or National Selective Service Appeal Board, and oral statements by the registrant's witnesses at his personal appearance before the local board. No information in any written summary of the oral information presented at a registrant's personal appearance that was prepared by an official or employee of the Selective Service System will be considered or placed in the registrant's file unless a copy of it has been furnished to the registrant by the Selective Service System. No information in any other document in the registrant's file shall be considered in classifying the registrant unless that document was supplied by the registrant or a copy of it or a fair resume of its contents has been furnished to him by the Selective Service System.

Section 1631.6(b)(2) is amended to read as follows:

§ 1631.6 Action by local board upon receipt of allocation.

* * * * *

(b) * * *

(2) Nonvolunteers in the Extended Priority Selection Group in the order of their random sequence number established by random selection procedures prescribed in accordance with § 1631.1: *Provided*, That, in the calendar year 1973, no registrant who first entered this group before December 31, 1972, shall be inducted.

* * * * *

BYRON V. PEPITONE,
Acting Director.

NOVEMBER 22, 1972.

[FR Doc.72-20363 Filed 11-27-72;8:48 am]

[32 CFR Part 1660]

ALTERNATE SERVICE

Selection of Nonvolunteer

Pursuant to sections 6(j) and 13(b) of the Military Selective Service Act, as amended (50 App. U.S. Code, sections 451 et seq.), the Director of Selective Service hereby gives public notice that consideration is being given to the following proposed amendments to the Selective Service Regulations constituting a portion of Chapter XVI of the Code of Federal Regulations. These

regulations implement section 6(j) of the Military Selective Service Act, as

ordered for induction if he were in Class 1–AM.

Notices

XUM V37-229 NOV 28 72 XUM

regulations implement section 6(j) of the Military Selective Service Act, as amended (50 App. U.S. Code, 456(j)).

All persons who desire to submit views to the Director on the proposals should prepare them in writing and forward them to the General Counsel, National Headquarters, Selective Service System, 1724 F Street NW., Washington, DC, 20435. Comments received within 30 days following the publication of this notice in the FEDERAL REGISTER will be considered.

The proposed amendments follow:

Section 1660.4(c) is amended to read as follows:

§ 1660.4 Selection of nonvolunteer for alternate service.

* * * * *

(c) A registrant in Class 1–A–0 or 1–0 who would be eligible for Class 1–AM were he not in Class 1–A0 or 10 will be ordered to alternate service in lieu of induction at the time that he would be ordered for induction if he were in Class 1–AM.

* * * * *

BYRON V. PEPITONE,
Acting Director.

NOVEMBER 22, 1972.

[FR Doc.72-20365 Filed 11-27-72;8:48 am]

VETERANS ADMINISTRATION

[38 CFR Part 3]

SURVIVOR BENEFIT PLAN ANNUITIES

Character of Income; Exclusion and Estates

Correction

In F.R. Doc. 72-19438 appearing on page 24049 in the issue for Saturday, November 11, 1972, the table under § 3.261 should read as set forth below:

	Dependency (parents)	Dependency and indemnity compensation (parents)	Pension; protected (veterans, widows, and children)	Pension; Public Law 86-211 (veterans, widows, and children)	See—
(a) *Income:*					
* * *	* * *	* * *	* * *	* * *	
(14) Retired Serviceman's Family Protection Plan; Survivor Benefit Plan (10 U.S.C. ch. 73):					
Retired Serviceman's Family Protection Plan (Subch. I):					
Annuities	Excluded	Excluded	Excluded	Excluded	§ 3.262(e).
Refund (10 U.S.C. 1446)	Included	Included	Included	Included	
Survivor Benefit Plan (Subch. II)	do	do	do	do	
(Public Law 92-425; 86 Stat. 706)	* * *	* * *	* * *	* * *	

Notices

DEPARTMENT OF THE TREASURY

Bureau of Engraving and Printing

STATEMENT OF ORGANIZATION, FUNCTIONS, AND PUBLIC INFORMATION PROCEDURES

In compliance with the provisions of 5 U.S.C. 552, this notice provides a description for the guidance of the public of the Bureau of Engraving and Printing's organization, including a statement of the established places at which, the officers from whom, and the methods whereby the public may secure information, make submittals or requests, or obtain decisions. The prior statements of organization, functions, and procedures of the Bureau of Engraving and Printing are revoked.

Sec.
1. Statement of functions and responsibilities.
2. Statement of organization.
3. Location of principal activity.
4. Procedures governing availability of records and information.

SECTION 1. *Statement of functions and responsibilities.* (a) The Bureau of Engraving and Printing designs, engraves, and prints all major items of a financial character issued by the United States. It produces paper currency; Treasury bonds (except the series E savings bonds), bills, notes, and certificates; postage, revenue, customs, and documentary stamps; food coupons; and military payment certificates. In addition, the Bureau prints commissions, certificates of award, permits, and a wide variety of other miscellaneous items for the various territories administered by the United States.

(b) The Bureau conducts its operations under a revolving fund method of financing. All agencies served reimburse the Bureau, out of funds available to them, for all costs incidental to the performance of work or services requisitioned.

SEC. 2. *Statement of organization.* (a) The affairs of the Bureau are administered by a Director, appointed by the Secretary of the Treasury, and a Deputy Director.

(b) The major organizational components of the Bureau are the Internal Audit Staff, the Product Control Division, and the Offices of—

Administrative Services:
  Management Services Division.
  Materials Management Division.
  Plant Services Division.
Currency and Stamp Printing:
  Plate Printing Division.
  Surface Printing Division.
Engineering:
  Construction and Maintenance Division.
  Engineering Division.
Engraving.
Financial Management.
Industrial Relations.
Research and Technical Services:
  Research Division.
  Technical Services Division.
Securities Processing:
  Examining Division.
  Postage Stamp Division.
Security:
  Security Division.

SEC. 3. *Location of principal activity.* All Bureau activities are conducted in its plant in Washington, D.C.

SEC. 4. *Procedures governing availability of records and information.* (a) The records of the Bureau of Engraving and Printing required by 5 U.S.C. 552 to be made available to the public shall be made available in accordance with the definitions, procedures, and other provisions of the regulations on the disclosure of records of the Office of the Secretary and other bureaus and offices of the Department issued under 5 U.S.C. 552 and published as Part 1 of Title 31 of the Code of Federal Regulations, 32 F.R. 9562, July 1, 1967.

(b) Any person desiring to review or copy any record maintained by the Bureau concerning the agency operations or any of its products, or obtain information or decisions or make submittals or requests, should communicate either orally or in writing with the Superintendent, Management Services Division, Office of Administrative Services, Room 602-13, Bureau of Engraving and Printing Annex Building, 14th and C Streets SW., Washington, D.C. 20226.

(c) Facilities are available in the Management Services Division where the public may review, copy from, or have copies made of Bureau records which are not exempt from disclosure. These accommodations are open to the public from 9 a.m. to 5 p.m. each Monday through Friday, except legal holidays.

(d) Use of the facilities is subject to all security regulations governing admission of the public to the Bureau buildings.

(e) If a record is not available from the files maintained by the Management Services Division, the superintendent of that division will arrange to secure the record from the appropriate Bureau component.

(f) A requested record will be made available as promptly as is reasonable under the particular circumstances.

(g) If the record is not readily available and it is necessary to perform research to locate a particular document, a basic charge of $5.80 will be made; thereafter, at one-fourth that rate for increments of 15 minutes, or any part thereof.

Before such a search is instituted, the inquirer may be required to make an advance payment of a specified estimated cost of the work involved.

(h) A charge of 25 cents per copy will be made for each photocopy furnished, up to and including 8½ inches by 14 inches in size. The price for making photoprint copies of any size which require preparation of a negative will be based on the actual processing cost at the time the work is performed, including, labor, materials, and overhead expenses.

(i) Denial to a requester of any record classified as exempt from disclosure under 5 U.S.C. 552 will be determined by the Director of the Bureau. Appeals of denials are to be made to the Assistant Secretary of the Treasury for Enforcement, Tariff and Trade Affairs, and Operations as specified in 31 CFR, Subtitle A, Part 1, section 1.7(a).

Effective date. This notice shall be effective on the date of its publication in the FEDERAL REGISTER (11–28–72).

Dated: November 20, 1972.

[SEAL] JAMES A. CONLON,
Director, Bureau of Engraving and Printing.

[FR Doc.72-20370 Filed 11-27-72;8:48 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

COLVILLE RESERVATION, WASHINGTON

Notice of Tobacco Ordinance

NOVEMBER 22, 1972.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32 F.R. 13938).

Notice is hereby given that the Colville Business Council of the Confederated Tribes of the Colville Reservation, Wash., duly enacted the Colville Tobacco Ordinance on June 23, 1972, under authority contained in Article V, section 1(a) of the Constitution of the Confederated Tribes of the Colville Reservation which was ratified by the Colville Indians on February 26, 1938, and approved by the Commissioner of Indian Affairs on April 19, 1938. The Colville Tobacco Ordinance reads as follows:

AN ORDINANCE

GOVERNING SALE, DISTRIBUTION AND TAXATION OF TOBACCO PRODUCTS WITHIN THE COLVILLE

Sec. 8. *Excise tax imposed.* There is levied and there shall be collected as hereinafter provided, a tax upon the distribution of all

operator's tobacco outlet license as well as enforcement of the penalties provided in section 21 below.

Sec. 21. *Violation—penalties.* Any person

National Rice Advisory Committee at 1 pm on November 28, 1972, and at 9 am on November 29, 1972, in Room 218–A of the Administration Building, U.S. Department of Agriculture, Washington, D.C. during regular working hours.

These vessels are to engage in the carriage of export bulk raw and processed

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to inter-

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AN ORDINANCE

GOVERNING SALE, DISTRIBUTION AND TAXATION OF TOBACCO PRODUCTS WITHIN THE COLVILLE INDIAN RESERVATION

Section 1. *Title.* This ordinance shall be known as the Colville Tobacco Ordinance.

Sec. 2. *Definitions.* As used in this ordinance, the following words and phrases shall each have the designated meaning unless a different meaning is expressly provided or the context is clearly indicated:

(1) "Tribes" shall mean the Confederated Tribes of the Colville Indian Reservation.

(2) "Council" shall mean the Colville Business Council.

(3) "Cigarettes" shall mean any roll for smoking made wholly or in part of tobacco, irrespective of size or shape irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any material, except where such wrapper is wholly or in the greater part made of natural leaf tobacco in its natural state.

(4) "Tobacco products" shall mean cigarettes, cigars, smoking tobacco, snuff, chewing tobacco, and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking.

(5) "Retail selling price" shall mean the ordinary, customary, or usual price paid by the consumer for each tobacco product less the tax levied by this ordinance.

(6) "Wholesale distribution price" shall mean the price paid for each tobacco product by the Tribes together with all freight charges and other expenses incurred by the Tribes in their receipt and distribution.

(7) "Tobacco outlet" shall mean a licensed tribal retail sales business selling tobacco products on trust land in the Colville Indian Reservation.

(8) "Operator" shall mean an enrolled member of the Colville Confederated Tribes licensed by the Tribes to manage a tobacco outlet.

Sec. 3. *Establishment of tobacco outlets.* The Council shall establish one or more tobacco outlets within the Colville Indian Reservation as the Council in its sole discretion deems necessary to provide adequate service to consumers of cigarettes and tobacco products.

Sec. 4. *Nature of outlet.* Each tobacco outlet established hereunder shall be a tribal tobacco outlet and shall be managed for the Tribes by an operator pursuant to a license granted by the Council hereunder, and shall also be managed pursuant to a Federal Indian Trader's License as provided in section 7 hereof.

Sec. 5. *Application for tobacco outlet license.* Any enrolled member of the Colville Confederated Tribes may apply upon an application form provided by the Council for a tobacco outlet license. The application shall state the name and address of the applicant and shall be signed by the applicant, under oath.

Sec. 6. *Tobacco outlet license.* Upon approval of an application, the Council shall issue the applicant a tobacco outlet license for a 1-year period which shall entitle the operator to establish and maintain tobacco outlet on the Colville Indian Reservation. The license shall be renewable in such manner as the Council shall prescribe and shall be nontransferable.

Sec. 7. *Traders license.* No tobacco outlet license shall be issued to an operator until he has obtained a Federal Indian Trader's License from the Superintendent of the Colville Indian Agency. Revocation of the Federal Indian Trader's License shall be grounds for revocation of the operator's tobacco outlet license.

Sec. 8. *Excise tax imposed.* There is levied and there shall be collected as hereinafter provided, a tax upon the distribution of all cigarettes sold or distributed hereunder in the amount of 3 cents per package. The Council may levy an additional tax upon the distribution of cigarettes and other tobacco products as it deems desirable. The excise tax levied hereunder shall be a tax upon distribution of cigarettes and other tobacco products by the Tribes only and shall not constitute an assessment or license fee upon enrolled members of the Tribes doing business within the reservation or obtaining special rights or privileges. The excise tax levied hereunder shall be added to the retail selling price of tobacco products sold to the ultimate consumer.

Sec. 9. *Purchase by Tribes.* All tobacco products purchased by the Tribes pursuant hereto shall be purchased with federally restricted tribal funds.

Sec. 10. *Wholesale distribution.* Wholesale distribution of tobacco products by the Tribes to a tobacco outlet shall be upon a cash basis for the wholesale distribution price which shall have added to it the excise tax levied in section 8 hereof.

Sec. 11. *Tobacco products federally restricted tribal property.* The entire stock of tobacco products distributed hereunder shall remain federally restricted tribal property owned and possessed by the Tribes until sale to the ultimate consumer. Payment by the operator of the wholesale distribution price as provided in section 10 hereof shall entitle the operator to custody of distributed tobacco products for sale to the ultimate consumer, at the operator's sole risk in the event of any loss whatsoever.

Sec. 12. *Remuneration to operator.* As remuneration for managing a tobacco outlet, an operator shall be entitled to the gross revenue derived from sale of tobacco products distributed hereunder in excess of the wholesale distribution price and the excise tax levied hereunder.

Sec. 13. *Restricted sales to non-Indians.* An operator may not sell more than two cartons of cigarettes per sale to a non-Indian. The Council may restrict sales of other tobacco products to non-Indians as it deems necessary.

Sec. 14. *Restricted sales to minors.* An operator may not sell any tobacco products to any person under the age of 18 years.

Sec. 15. *Other business by operator.* An operator may conduct another business simultaneously with managing a tobacco outlet for the Tribes. The other business may be conducted on the same premises and the operator shall not be required to maintain separate books of account for the other business.

Sec. 16. *Tribal immunity—liability—credit.* An operator shall not attempt or be authorized to waive the sovereign immunity of the Tribes from suit, nor shall such operator attempt or be authorized to create any liability on behalf of the Tribes or to utilize tribal credit.

Sec. 17. *Operating without license.* No person shall operate a tobacco outlet on the Colville Indian Reservation without having in effect a valid tobacco outlet license issued pursuant hereto.

Sec. 18. *Purchases.* An operator shall purchase all tobacco products sold in his tobacco outlet from the Tribes.

Sec. 19. *Liability insurance.* An operator shall maintain liability insurance upon his premises in the sum of not less than $25,000.

Sec. 20. *Revocation of tobacco outlet license.* Failure of an operator to abide by the requirements of this ordinance and any additional requirement imposed by the Council will constitute grounds for revocation of the operator's tobacco outlet license as well as enforcement of the penalties provided in section 21 below.

Sec. 21. *Violation—penalties.* Any person violating the provisions of this ordinance shall be guilty of an offense and subject to a fine in Tribal Court of not less than $50 nor more than $250 and forfeiture of all of the Tribes' remaining stock of tobacco products distributed hereunder and situated in his tobacco outlet. The tribal law enforcement officers shall be empowered to seize forfeited tobacco products.

Sec. 22. *Separability.* If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this ordinance, or the application of the provision to other persons or circumstances is not affected.

On October 25, 1972, the Colville Tobacco Ordinance was conditionally approved by the Area Director, Portland Area Office, Bureau of Indian Affairs, under authority delegated to the Commissioner of Indian Affairs in section 18 of Secretarial Order 2508 and redelegated to the Area Director in 10 BIAM 3. The Area Director's approval was subject to the following comments:

We have received Colville Tribal Resolution 1972–125, enacted March 10, 1972, Resolution 1972–279, enacted May 25, 1972. Resolution 1972–375, enacted June 23, 1972, and Resolution 1972–376, Amendment No. 1, enacted June 23, 1972, concerning the sale, distribution and taxation of tobacco products on trust land within the Colville Indian Reservation.

We have reviewed the ordinance enacted on March 10, 1972, and the amendments thereto, and note that section 7 of the ordinance requires that an operator obtain a Federal Indian Trader's License from the Superintendent. The provision of the ordinance does not recognize the provision of the law as well as the Secretarial regulations which permit trading by an Indian of the full blood within an Indian reservation without obtaining a Federal Trader's License (25 U.S.C. § 264, 25 CFR 251.3). Should an Indian of the full blood of the Colville Tribes otherwise comply with the provisions of the ordinance governing the sale, distribution and taxation of tobacco products, he cannot be required to obtain a Trader's License as none would be issued to him by the superintendent and he cannot be denied an operator's license under the ordinance for such reason. Subject to the above paragraph, we approve the ordinance and the amendments thereto pursuant to authority delegated by Secretarial Order 2508 and 10 BIAM 3.1.

JOHN O. CROW,
Deputy Commissioner.

[FR Doc.72-20486 Filed 11-27-72;8:53 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

NATIONAL RICE ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of a meeting of the National Rice Advisory Committee at 1 pm on November 28, 1972, and at 9 am on November 29, 1972, in Room 218–A of the Administration Building, U.S. Department of Agriculture, Washington, D.C. The purpose of this meeting is to discuss the supply and demand situation for the 1972 rice crop and the requirements for the 1973 rice crop. The meeting will be open to the public.

The names of Committee members, agenda, summary of the meeting, and other information pertaining to the meeting may be obtained from Harlan H. Holleman, Director, Oilseeds and Special Crops Division, ASCS, South Building, Room 5768, Washington, D.C. Telephone: 202—44–77973.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

NOVEMBER 22, 1972.

[FR Doc.72-20491 Filed 11-27-72;8:54 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S–313]

ACADEMY TANKERS, INC., ET AL.

Notice of Multiple Applications

Notice is hereby given that the following corporations have filed application for an operating-differential subsidy contract to carry bulk cargoes to expire on June 30, 1973 (unless extended only for subsidized voyages in progress on that date). The bulk cargo carrying vessels proposed to be subsidized and the trades in which each proposes to engage are presented also.

Applicant's name and address	Type of ship	Name of ship
Academy Tankers, Inc., Americana Bldg., 811 Dallas Ave., Houston, TX 77002.	Tanker	SS Thomas A.
	do	SS Thomas Q.
Marine Carriers Corp., 17 Battery Pl., New York, N Y 10004.	Bulk carrier.	SS Commander.
American Trading Transportation Company, Inc., 555 5th Ave., New York, N Y 10017.	Tanker	SS Maryland Trader.
	do	SS Virginia Trader.
	do	SS Washington Trader.
Penn Tanker Co., 405 Park Ave., New York, N Y 10022.	do	SS Penn Champion.
	do	SS Penn Challenger.
Mount Vernon Tanker Co., 888 7th Ave., New York, N Y 10019.	do	SS Mount Vernon Victory.
Do	do	SS Mount Washington.
World Wide Tankers, Inc., 1 New York Plaza, New York, N Y 10004.	do	SS Barbara Jane.
Vancor Steamship Corp., 11 Broadway, New York, N Y 10004.	do	SS Vantage Horizon.

The foregoing applications may be inspected in the Office of the Secretary, Maritime Subsidy Board, Maritime Administration, U.S. Department of Commerce, Washington, D.C. during regular working hours.

These vessels are to engage in the carriage of export bulk raw and processed agricultural commodities in the foreign commerce of the United States (U.S.) from ports in the U.S. to ports in the Union of Soviet Socialist Republics (U.S.S.R.), or other permissible ports of discharge. Liquid and dry bulk cargoes may be carried from U.S.S.R. and other foreign ports inbound to U.S. ports during voyages subsidized for carriage of export bulk raw and processed agricultural commodities to the U.S.S.R.

Full details concerning the U.S.-U.S.S.R. export bulk raw and processed agricultural commodities subsidy program, including terms, conditions, and restrictions upon both the subsidized operators and vessels, appear in the regulations published in the FEDERAL REGISTER on November 16, 1972 (37 F.R. 24349).

For purposes of section 605(c), Merchant Marine Act, 1936, as amended (Act), it should be assumed that each vessel named will engage in the trades described on a full-time basis through June 30, 1973 (with extension to termination of approved subsidized voyages in progress on that date). Each voyage must be approved for subsidy before commencement of the voyage. The Maritime Subsidy Board (Board) will act on each request for a subsidized voyage as an administrative matter under the terms of the individual operating-differential subsidy contract for which there is no requirement for further notices under section 605(c) of the Act.

Any person having an interest in the granting of one or any of such applications and who would contest a finding of the Board that the service now provided by vessels of U.S. registry for the carriage of cargoes as previously specified is inadequate, must, on or before December 4, 1972, notify the Board's Secretary, in writing, of his interest and of his position, and file a petition for leave to intervene in accordance with the Board's rules of practice and procedure (46 CFR Part 201). Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Act and with as much specificity as possible the facts that the intervenor would undertake to prove at such hearing. Further, each such statement shall identify the applicant or applicants against which the intervention is lodged.

In the event a hearing under section 605(c) of the Act is ordered to be held with respect to any application(s), the purpose of such hearing will be to receive evidence relevant to (1) whether the application(s) hereinabove described is one with respect to vessels to be operated in an essential service, served by citizens of the United States which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of U.S. registry is inadequate, and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such action as may be deemed appropriate.

Dated: November 22, 1972.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.72-20447 Filed 11-27-72;8:51 am]

CONSTRUCTION OF LIQUEFIED NATURAL GAS (LNG) VESSELS WITH CONCH SELF-SUPPORTING TANK DESIGN

Notice of Intent To Compute Estimated Foreign Cost

Notice is hereby given of the intent of the Maritime Subsidy Board, pursuant to the provisions of section 502(b) of the Merchant Marine Act, 1936, as amended, to compute the estimated foreign cost of the construction of 125,000 cubic meter liquefied natural gas (LNG) vessels with Conch self-supporting tank design.

Any person, firm, or corporation having any interest (within the meaning of section 502(b)) in such computations may file written statements by the close of business on December 8, 1972, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th and E Streets NW., Washington, DC 20235.

Dated: November 24, 1972.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.72-20512 Filed 11-27-72;8:55 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 10971; Docket No. FDC–D–561; NDA 10–971 etc.]

AYERST LABORATORIES AND WALLACE LABORATORIES

Conjugated Estrogens With Meprobamate; Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Applications

In an announcement (DESI 10971) published in the FEDERAL REGISTER of August 26, 1970 (35 F.R. 13607), the Commissioner of Food and Drugs an-

nounced his conclusions pursuant to the evaluation of two reports received from the National Academy of Sciences-

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder

hearing, file briefs, present evidence, cross-examine witnesses, submit suggested findings of fact, and otherwise

and caffeine; Chas. Pfizer and Co., Inc. (NDA 10–774).

C. METHYLPREDNISOLONE IN COMBINATION

the listed new drug application(s) and all amendments and supplements thereto on the grounds that new information

If review of the data submitted by an applicant or any other interested person warrants the conclusion that there

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nounced his conclusions pursuant to the evaluation of two reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs containing conjugated estrogens with meprobamate:

NDA 10-971: PMB-200 and PMB-400 tablets, marketed by Ayerst Laboratories, Division of American Home Products Corporation, 685 Third Avenue, New York, N.Y. 10017.

NDA 11-045; Milprem-200 and Milprem-400 tablets, marketed by Wallace Laboratories, Division of Carter-Wallace Inc., Half Acre Road, Cranbury, N.J. 08512.

The announcement stated that the Food and Drug Administration has considered the Academy reports, as well as other available evidence, and concludes there is a lack of substantial evidence that such fixed combination drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling and that each component of the combination drug contributes to the total effects claimed, and that the Commissioner of Food and Drugs intended to initiate proceedings to withdraw approval of the new drug applications. Interested persons were invited to submit pertinent data bearing on the proposal within 30 days following publication of the announcements. No data providing substantial evidence of effectiveness were received pursuant to the announcement.

Therefore, notice is given to the holder(s) of the new drug application(s) and to any other interested person that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the listed new drug application(s) and all amendments and supplements thereto on the grounds that new information before him with respect to the drug(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug(s) will have all the effects purported or represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application(s) reviewed. See 21 CFR 130.40 (37 F.R. 23185, October 31, 1972). Any manufacturer or distributor of such an identical, related, or similar product is an interested person who may in response to this notice submit data and information, request that the new drug application(s) not be withdrawn, request a hearing, and participate as a party in any hearing. Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD-300), 5600 Fishers Lane, Rockville, Md. 20852.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner hereby gives the applicant(s) and any other interested person an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER the applicant(s) and any other interested person is required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether or not to avail himself of the opportunity for a hearing. Failure of an applicant or any other interested person to file a written appearance of election within said 30 days will constitute an election by him not to avail himself of the opportunity for a hearing.

If no person elects to avail himself of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the application(s).

If an applicant or any other interested person elects to avail himself of the opportunity for a hearing, he must file, within 30 days after publication of this notice in the FEDERAL REGISTER, a written appearance requesting the hearing, giving the reasons why approval of the new drug application(s) should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data he is prepared to prove in support of his opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing (21 CFR 130.14(b)).

If review of the data submitted by an applicant or any other interested person warrants the conclusion that there exists substantial evidence demonstrating the effectiveness of the product(s) for the labeling claims involved, the Commissioner will rescind this notice of opportunity for hearing.

If review of the data in the application(s) and data submitted by the applicant(s) or any other interested person in a request for a hearing, together with the reasoning and factual analysis in a request for a hearing, warrants the conclusion that no genuine and substantial issue of fact precludes the withdrawal of approval of the application(s), the Commissioner will enter an order of withdrawal making findings and conclusions on such data.

If, upon the request of the new drug applicant(s) or any other interested person, a hearing is justified, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence. All persons interested in identical, related, or similar products covered by the new drug application(s) will be afforded an opportunity to appear at the hearing, file briefs, present evidence, cross-examine witnesses, submit suggested findings of fact, and otherwise participate as a party. The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

Requests for a hearing and/elections not to request a hearing may be seen in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-53, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: November 14, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-20345 Filed 11-27-72;8:47 am]

[DESI 9414; Docket No. FDC-D-528; NDA 9-414 etc.]

CERTAIN STEROID COMBINATION PREPARATIONS FOR ORAL USE

Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Applications

In an announcement (DESI 9414) published in the FEDERAL REGISTER of July 11, 1972 (37 F.R. 13566), the Commissioner of Food and Drugs announced his conclusions pursuant to the evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs:

A. PREDNISONE IN COMBINATION WITH OTHER ACTIVE COMPONENTS

1. Co-Deltra Tablets containing 2.5 mg. or 5.0 mg. prednisone, magnesium trisilicate, and dried aluminum hydroxide gel; Merck Sharp & Dohme, Division Merck and Co., Inc., West Point, Pa. 19486 (NDA 10-371).

B. PREDNISOLONE IN COMBINATION WITH OTHER ACTIVE COMPONENTS

1. Ataraxoid Tablets containing 2.5 mg. or 5.0 mg. prednisolone and hydroxyzine hydrochloride; Chas. Pfizer and Co., Inc., 235 East 42d Street, New York, NY 10017 (NDA 10-636).

2. Cordex Tablets and Cordex-Forte Tablets containing prednisolone and aspirin (NDA 10-185); and

3. Cordex (Buffered) Tablets and Cordex-Forte (Buffered) Tablets containing prednisolone, aspirin, and calcium carbonate (NDA 10-185); The Upjohn Co., 7171 Portage Road, Kalamazoo, MI 49002.

4. Deltacortril-APC Tablets containing prednisolone, aspirin, phenacetin, and caffeine; Chas. Pfizer and Co., Inc. (NDA 10-774).

C. METHYLPREDNISOLONE IN COMBINATION WITH OTHER ACTIVE COMPONENTS

1. Medaprin Tablets and Medadent Tablets containing methylprednisolone, aspirin, and calcium carbonate (NDA 11-632); and

2. Cordex Improved Tablets and Cordex-Forte Improved Tablets containing methylprednisolone and aspirin (NDA 11-455); The Upjohn Co.

D. DEXAMETHASONE IN COMBINATION WITH OTHER ACTIVE COMPONENTS

1. Decagesic Tablets containing dexamethasone, aspirin, and dried aluminum hydroxide gel; Merck Sharp & Dohme (NDA 12-187).

2. Delenar Tablets containing dexamethasone, orphenadrine hydrochloride, and aluminum aspirin; Schering Corp., 1011 Morris Avenue, Union, NJ 07083 (NDA 12-092).

3. Dronactin Tablets containing dexamethasone and cyproheptadine hydrochloride, Merck Sharp & Dohme (NDA 13-084).

E. CORTISONE ACETATE IN COMBINATION WITH OTHER ACTIVE COMPONENTS

1. Salcort Tablets containing cortisone acetate, sodium salicylate, dried aluminum hydroxide gel, calcium ascorbate, and calcium carbonate; The S. E. Massengill Co. (NDA 9-414).

In addition to the drugs listed above, the following preparation, although not reviewed by the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, is regarded to be affected by the announcement of July 11, 1972:

Stero-Darvon with A.S.A. Tablets containing paramethasone acetate, propoxyphene hydrochloride, and aspirin; Eli Lilly and Co., Post Office Box 618, Indianapolis, IN 46206 (NDA 14-768).

The announcement stated that there is a lack of substantial evidence that these fixed combination drugs will have the effects that they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling and that each component of such drugs contributes to the total effects claimed and that the Commissioner of Food and Drugs intended to initiate proceedings to withdraw approval of the new drug applications for the drugs. Interested persons were invited to submit pertinent data bearing on the proposal within 30 days following publication of the announcement. Data submitted by Merck Sharp & Dohme concerning Decagesic Tablets (NDA 12-187) were evaluated and found not to provide substantial evidence of effectiveness. No other data were received.

Therefore, notice is given to the holder(s) of the new drug application(s) and to any other interested person that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the listed new drug application(s) and all amendments and supplements thereto on the grounds that new information before him with respect to the drug(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug(s) will have all the effects purported or represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application(s) reviewed. See 21 CFR 130.40 (37 F.R. 23185, October 31, 1972). Any manufacturer or distributor of such an identical, related, or similar product is an interested person who may in response to this notice submit data and information, request that the new drug application(s) not be withdrawn, request a hearing, and participate as a party in any hearing. Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD-300), 5600 Fishers Lane, Rockville, MD 20852.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner hereby gives the applicant(s) and any other interested person an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER the applicant(s) and any other interested person is required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, a written appearance electing whether or not to avail himself of the opportunity for a hearing. Failure of an applicant or any other interested person to file a written appearance of election within said 30 days will constitute an election by him not to avail himself of the opportunity for a hearing.

If no person elects to avail himself of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the application(s).

If an applicant or any other interested person elects to avail himself of the opportunity for a hearing, he must file, within 30 days after publication of this notice in the FEDERAL REGISTER, a written appearance requesting the hearing, giving the reasons why approval of the new drug application(s) should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data he is prepared to prove in support of his opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing (21 CFR 130.14(b)).

If review of the data submitted by an applicant or any other interested person warrants the conclusion that there exists substantial evidence demonstrating the effectiveness of the product(s) for the labeling claims involved, the Commissioner will rescind this notice of opportunity for hearing.

If review of the data in the application(s) and data submitted by the applicant(s) or any other interested person in a request for a hearing, together with the reasoning and factual analysis in a request for a hearing, warrants the conclusion that no genuine and substantial issue of fact precludes the withdrawal of approval of the application(s), the Commissioner will enter an order of withdrawal making findings and conclusions on such data.

If, upon the request of the new drug applicant(s) or any other interested person, a hearing is justified, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence. All persons interested in identical, related, or similar products covered by the new drug application(s) will be afforded an opportunity to appear at the hearing, file briefs, present evidence, cross-examine witnesses, submit suggested findings of fact, and otherwise participate as a party. The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

Requests for a hearing and/or elections not to request a hearing may be seen in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-53, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: November 14, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-20346 Filed 11-27-72;8:47 am]

[DESI 5597; Docket No. FDC-D-562; NDA No. 8-240]

PREPARATION CONTAINING ACETAMINOPHEN, SALICYLAMIDE, AMPHETAMINE PHOSPHATE, AND METHYLATROPINE NITRATE

Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Application

In a notice (DESI 5597) published in the FEDERAL REGISTER of January 10, 1970 (35 F.R. 396), the Commissioner of Food and Drugs announced his conclu-

DEPARTMENT OF TRANSPORTATION

This notice is published in accordance with the Department of Transportation policy of regular consultation with the entire aviation community and the gen-

TUESDAY, DECEMBER 5

Formulation of recommendations in the task force groups.

Report on the findings of each task force

XUM V37-229-NOV28-72 XUM

1970 (35 F.R. 396), the Commissioner of Food and Drugs announced his conclusions pursuant to the evaluation of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the combination drug described below stating that the drug is regarded as possibly effective and lacking substantial evidence of effectiveness for the various labeled indications. The possibility effective indications have been reclassified as lacking substantial evidence of effectiveness in that no new evidence of effectiveness of the drug has been submitted pursuant to the notice:

NDA 8-240; Strascogesic Tablets, containing 300 milligrams acetaminophen, 200 milligrams salicylamide, 2 milligrams amphetamine phosphate, and 0.5 milligram methylatropine nitrate per tablet; Strasenburgh Pharmaceutical Division, Pennwalt Corp., Post Office Box 1766, Rochester, N.Y. 14623.

Therefore, notice is given to the holder(s) of the new drug application(s) and to any other interested person that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the listed new drug application(s) and all amendments and supplements thereto on the grounds that new information before him with respect to the drug(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug(s) will have all the effects purported or represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application(s) reviewed. See 21 CFR 130.40 (37 F.R. 23185, October 31, 1972). Any manufacturer or distributor of such an identical, related, or similar product is an interested person who may in response to this notice submit data and information, request that the new drug application(s) not be withdrawn, request a hearing, and participate as a party in any hearing. Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD-300), 5600 Fishers Lane, Rockville, MD 20852.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner hereby gives the applicant(s) and any other interested person an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER the applicant(s) and any other interested person is required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, a written appearance electing whether or not to avail himself of the opportunity for a hearing. Failure of an applicant or any other interested person to file a written appearance of election within said 30 days will constitute an election by him not to avail himself of the opportunity for a hearing.

If no person elects to avail himself of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the application(s).

If an applicant or any other interested person elects to avail himself of the opportunity for a hearing, he must file, within 30 days after publication of this notice in the FEDERAL REGISTER, a written appearance requesting the hearing, giving the reasons why approval of the new drug application(s) should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data he is prepared to prove in support of his opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing (21 CFR 130.14(b)).

If review of the data submitted by an applicant or any other interested person warrants the conclusion that there exists substantial evidence demonstrating the effectiveness of the product(s) for the labeling claims involved, the Commissioner will rescind this notice of opportunity for hearing.

If review of the data in the application(s) and data submitted by the applicant(s) or any other interested person in a request for a hearing, together with the reasoning and factual analysis in a request for a hearing, warrants the conclusion that no genuine and substantial issue of fact precludes the withdrawal of approval of the application(s), the Commissioner will enter an order of withdrawal making findings and conclusions on such data.

If, upon the request of the new drug applicant(s) or any other interested person, a hearing is justified, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence. All persons interested in identical, related, or similar products covered by the new drug application(s) will be afforded an opportunity to appear at the hearing, file briefs, present evidence, cross-examine witnesses, submit suggested findings of fact, and otherwise participate as a party. The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

Requests for a hearing and/or elections not to request a hearing may be seen in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-53, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: November 19, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-20347 Filed 11-27-72;8:47 am]

Office of the Secretary

SECRETARY'S ADVISORY COMMITTEE ON AUTOMATED PERSONAL DATA SYSTEMS

Notice of Meeting

A meeting of the Secretary's Advisory Committee on Automated Personal Data Systems will be held from 9 a.m. to 6 p.m. on Friday, December 15, 1972, and from 9 a.m. to 3 p.m. on Saturday, December 16, 1972 in Room 3169, HEW North Building, 330 Independence Avenue SW., Washington, DC.

(1) *Purposes.* The Committee was appointed to advise and assist the Department of Health, Education, and Welfare in the preparation of analyses and recommendations which the Secretary determines will help the Department to take initiative in seeking to assure that the use of automated personal data systems will be managed to maximize their benefits and minimize their potential for harmful consequences.

(2) *Membership.* The Committee is chaired by Frances Grommers, M.D., and is composed of the following other members: Layman Allen, Juan Anglero, Stanley Aronoff, William Bagley, Philip Burgess, Gertrude Cox, Patricia Cross, Gerald Davey, Taylor DeWeese, Guy Dobbs, Robert Gallati, Florence Gaynor, John Gentile, Jane Hardaway, James Impara, Patricia Lanphere, Arthur Miller, Don Muchmore, Jane Noreen, Roy Siemiller, Ruth Silver, Sheila Smythe, Willis Ware, and Joseph Weizenbaum.

(3) *Agenda for meeting.* The meeting will be devoted exclusively to the purpose of considering and formulating advice to be included in the Committee's report to the Secretary. Accordingly, the Committee will meet in executive session, closed to the public.

Any persons desiring information about the Committee's work may telephone (202—963-3003) or write to the Office of the Executive Director, Room 5517, HEW North Building, 330 Independence Avenue SW., Washington, DC 20201.

DAVID B. H. MARTIN,
Executive Director.

NOVEMBER 16, 1972.

[FR Doc.72-20362 Filed 11-27-72;8:48 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

VOR/VORTAC SYSTEMS

Notice of Policy Change Regarding Discontinuance of Criteria in Utilization of VFR

On September 2, 1971, a notice of proposed policy change was published in the FEDERAL REGISTER concerning the consideration of VFR utilization of VOR/VORTAC's during any specific decommissioning process. This proposal was the result of an analysis indicating that regardless of a change in the IFR requirement for a specific VOR/VORTAC, no such NAVAID should be decommissioned without a thorough investigation into the effect the discontinuance of the facility would have on the flow of VFR air traffic.

At the time this notice was published, written FAA policy concerning discontinuance of a specific VOR/VORTAC for which there was no further IFR requirement made no reference to consideration of VFR use of the navigational aid. The notice advised of the intention to change FAA planning standards and requested comments from the public as to the proposal.

As a result of analysis of the comments received and further internal coordination, the FAA has amended its airway planning standards to incorporate consideration of VFR air traffic into the decommissioning process for VOR/VORTAC's. As now stated, Airway Planning Standard No. 2 reads in part:

3. *Criteria.* • • •
b. VOR/VORTAC's. • • •
(3) Discontinuance. • • •

An en route navigational facility is a candidate for decommissioning when there is no longer an IFR or a VFR requirement for the navigational capability provided by the facility.

(a) The VFR requirement is considered as satisfied and the facility may be discontinued if there is navigational guidance available from other facilities at and above 3,500 feet above ground level along the routes or flyways normally used by VFR aircraft.

(b) If there is no navigational guidance above 3,500 feet, possible retention of the aid for VFR purposes shall be based upon an estimate of the effect the deletion would have on the flow and safety of VFR air traffic. Consideration shall be given to the numbers of based aircraft in the vicinity, the number of VFR flight plans and VFR radio contacts generated in the area and the nature of the surrounding terrain.

(c) If retained for VFR purposes, a VORTAC could normally be downgraded to a VOR or a TVOR. If DME is required, the TACAN portion could be modified to or replaced with a single channel DME.

This notice is published in accordance with the Department of Transportation policy of regular consultation with the entire aviation community and the general public. Having requested comment on a specific proposal from those interested in aviation, it is deemed appropriate to advise of the action taken.

Issued in Washington, D.C., on November 14, 1972.

ROBERT F. BACON,
Director, Office of Aviation Policy and Plans.

[FR Doc.72-20344 Filed 11-27-72;8:47 am]

Office of the Secretary

OFFICE OF CONSUMER AFFAIRS

Notice of Open Meeting

On December 4 and 5, 1972, the Office of Consumer Affairs has invited the Citizens' Advisory Committee on Transportation Quality to participate in a Workshop on Consumer Involvement in the Development of Rules, Regulations, and Procedures in the Department of Transportation. The workshop will be held on both days in Rooms 2230-32 of the Nassif Building at 400 Seventh Street SW., Washington, D.C. The hours are from 9:30 a.m. on December 4 to 4:30 p.m. and from 9 a.m. on December 5 to 12:30 p.m.

There will be six task force groups, organized by modal administrations. These will meet at 2 p.m. on December 4 and at 9 a.m. on December 5 as indicated below:

	Room
U.S. Coast Guard	3200
Federal Aviation Administration	3202
Federal Highway Administration	3304
Federal Railroad Administration	4436
National Highway Traffic Safety Administration	4038
Urban Mass Transportation Administration	4040

Background and purpose. Encouraged by the White House Office of Consumer Affairs, Secretary Volpe has asked for a complete review of how consumers are involved in the rule making processes of DOT. The Administration is concerned that consumer involvement be furthered.

The workshop will seek to discover new and better ways of bringing consumers into the rule making process, particularly at the initial stages.

It will attempt to set forth recommendations within DOT that will encourage the further development of consumer involvement in rule making throughout the Department.

AGENDA MONDAY, DECEMBER 4

Opening remarks.
Presentation by the Director of the Office of Consumer Affairs on "Making our Rule Making Process Consumer-Responsive."
Explanation of the current practices in six modal administrations in the Department of Transportation.
Task force discussion groups organized by modal administrations.

TUESDAY, DECEMBER 5

Formulation of recommendations in the task force groups.
Report on the findings of each task force group.
Closing remarks.

Since this will be an open meeting, members of the public who plan to attend are invited to write or telephone the Office of Consumer Affairs in advance so that they can be registered for the workshop and assigned to an appropriate task force discussion group. Write to the Office of Consumer Affairs, Department of Transportation, Washington, D.C. 20590, or telephone 202—426-4518.

THE CITIZENS' ADVISORY COMMITTEE ON TRANSPORTATION QUALITY

The Committee is made up of 21 members who are principally private citizens. They are appointed for terms of 3 years from various sections of the United States. The Committee recommends transportation initiatives and assesses transportation policies from the consumers' viewpoint. It acts as a citizens' sounding board and provides advice to the Secretary in order to assist the Department in its formulations of transportation policy affecting citizens.

This notice is given pursuant to section 13 of Executive Order 11671 dated June 5, 1972.

Issued on November 16, 1972.

BENJAMIN O. DAVIS, JR.,
Assistant Secretary for Safety and Consumer Affairs.

[FR Doc.72-20340 Filed 11-27-72;8:47 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-245]

CONNECTICUT LIGHT & POWER CO., ET AL.

Notice of Consideration of Conversion of Provisional Operating License to Full-Term Operating License; and Opportunity for Hearing

The Atomic Energy Commission (the Commission) will consider the issuance of a full-term facility operating license to the Millstone Point Co. (acting for itself and as agent for the Connecticut Light & Power Co., the Hartford Electric Light Co., and the Western Massachusetts Electric Co.) (the licensee) which would authorize the licensee to possess, use, and operate the Millstone Nuclear Power Station Unit No. 1 (the facility), located in the town of Waterford, Conn., at its presently licensed, steady-state power level of up to 2,011 megawatts (thermal) for a period of 40 years from May 19, 1966, the issuance date of the construction permit (CPPR-20) in accordance with the provisions of the license and the technical specifications appended thereto, upon the completion of a favorable safety evaluation of the

application by the Commission's Directorate of Licensing, the completion of the environmental review required by the

A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of 10 CFR

ity operating license; (5) the proposed full-term operating license, and (6) the proposed technical specifications, which

but not limited to, the principal architectural and engineering criteria for the design, and have identified the major features or components incorporated

schedule for the evidentiary hearing. Notice of the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

vironmental considerations, the report of the Advisory Committee on Reactor Safeguards (ACRS), the proposed construction permit, other relevant documents,

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application by the Commission's Directorate of Licensing, the completion of the environmental review required by the Commission's regulations in 10 CFR Part 50, Appendix D, the receipt of a report on the application from the Advisory Committee on Reactor Safeguards (ACRS), and a finding by the Commission that the application for the full-term facility license (as amended) complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Chapter I. The facility is presently being operated in accordance with Provisional Operating License No. DPR–21 issued by the Commission on October 7, 1970.

The full-term license will not be issued until the Commission has made the findings, reflecting its review of the application under the Atomic Energy Act of 1954, as amended, which will be set forth in the proposed license, and has concluded that the issuance of the license will not be inimical to the common defense and security or to the health and safety of the public. The licensee has satisfied its obligation concerning indemnification as required by section 170 of the act and 10 CFR Part 140 of the Commission's regulations.

The facility is subject to the provisions of section B of Appendix D to 10 CFR Part 50, which sets forth procedures applicable to review of environmental considerations for production and utilization facilities for which construction permits or operating licenses were issued in the period of January 1, 1970, through September 9, 1971. Notice is hereby given, pursuant to 10 CFR Part 2, "Rules of Practice," and Appendix D of 10 CFR Part 50, "Implementation of the National Environmental Policy Act of 1969," that the Commission is providing an opportunity for hearing with respect to whether, considering those matters covered by Appendix D to 10 CFR Part 50, the existing provisional operating license in the captioned proceeding should be continued, modified, terminated or appropriately conditioned to protect environmental values.

Within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, the licensee may file a request for a hearing with respect to the issuance of a full-term facility operating license and any person whose interest may be affected by this proceeding may file a petition for leave to intervene (1) with respect to the issuance of a full-term facility operating license and (2) with respect to whether, considering those matters covered by Appendix D to 10 CFR Part 50, the existing provisional operating license should be continued, modified, terminated, or appropriately conditioned to protect environmental values. Requests for a hearing and petitions to intervene shall be filed in accordance with the Commission's rules of practice in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of 10 CFR 2.714. As required by 10 CFR 2.714, a petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A request for a hearing or a petition for leave to intervene must be filed with the Office of the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention Chief, Public Proceedings Staff not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. Such requests or petitions within the same 30-day period may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC. A petition for leave to intervene which is not timely will not be granted unless the Commission determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Commission has considered those factors specified in 10 CFR 2.714(a).

For further details with respect to the matters under consideration, see the licensee's application for conversion of Provisional Operating License No. DPR–21 to a full-term operating license dated September 1, 1972, and the licensee's environmental report dated November 15, 1971, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, CT 06385. As they become available, the following documents will also be availabe at the above locations: (1) The Safety Evaluation prepared by the Directorate of Licensing; (2) the Commission's draft detailed statement on environmental considerations pursuant to 10 CFR Part 50, Appendix D; (3) the Commission's final detailed statement on environmental considerations; (4) the report of the Advisory Committee on Reactor Safeguards on the application for a full-term facility operating license; (5) the proposed full-term operating license, and (6) the proposed technical specifications, which will be attached to the proposed full-term facility operating license.

Copies of Items (1), (3), (4), and (5) may be obtained when they become available by request to the Deputy Director for Reactor Projects, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Dated at Bethesda, Md. this 22d day of November, 1972.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Acting Deputy Director for Reactor Projects, Directorate of Licensing.

[FR Doc.72–20454 Filed 11–27–72;8:52 am]

[Docket No. 50–412]

DUQUESNE LIGHT CO. ET AL.

Notice of Hearing on Application for Construction Permit

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, Licensing of Production and Utilization Facilities, and Part 2, Rules of Practice, notice is hereby given that a hearing will be held, at a time and place to be set in the future by an Atomic Safety and Licensing Board (Board), to consider the application filed under the Act by the Duquesne Light Co., Ohio Edison Co., Pennsylvania Power Co., the Cleveland Electric Illuminating Co., and the Toledo Edison Co. (the applicants), for a construction permit for a pressurized water nuclear reactor designated as the Beaver Valley Power Station, Unit No. 2 (the facility), which is designed for initial operation at approximately 2,660 thermal megawatts with a net electrical output of approximately 852 megawatts. The proposed facility is to be located on the south bank of the Ohio River in Shippingport Borough, Beaver County, Pa. The hearing will be scheduled to begin in the vicinity of the site of the proposed facility.

The Board will be designated by the Atomic Energy Commission (Commission). Notice as to its membership will be published in the FEDERAL REGISTER.

Upon completion by the Commission's regulatory staff of a favorable safety evaluation of the application and an environmental review, and upon receipt of a report by the Advisory Committee on Reactor Safeguards, the Director of Regulation will consider making affirmative findings on Items 1–3, a negative finding on Item 4, and an affirmative finding on Item 5 specified below as a basis for the issuance of a construction permit to the applicants:

ISSUES PURSUANT TO THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

1. Whether in accordance with the provisions of 10 CFR 50.35(a):

(a) The applicants have described the proposed design of the facility including,

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but not limited to, the principal architectural and engineering criteria for the design, and have identified the major features or components incorporated therein for the protection of the health and safety of the public;

(b) Such further technical or design information as may be required to complete the safety analysis and which can reasonably be left for later consideration, will be supplied in the final safety analysis report;

(c) Safety features or components, if any, which require research and development have been described by the applicants and the applicants have identified, and there will be conducted a research and development program reasonably designed to resolve any safety questions associated with such features or components; and

(d) On the basis of the foregoing, there is reasonable assurance that (i) such safety questions will be satisfactorily resolved at or before the latest date stated in the application for completion of construction of the proposed facility, and (ii) taking into consideration the site criteria contained in 10 CFR Part 100, the proposed facility can be constructed and operated at the proposed location without undue risk to the health and safety of the public.

2. Whether the applicants are technically qualified to design and construct the proposed facility;

3. Whether the applicants are financially qualified to design and construct the proposed facility; and

4. Whether the issuance of a permit for construction of the facility will be inimical to the common defense and security or to the health and safety of the public.

ISSUE PURSUANT TO NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (NEPA)

5. Whether, in accordance with the requirements of Appendix D of 10 CFR Part 50, the construction permit should be issued as proposed.

In the event that this proceeding is not a contested proceeding, as defined by 10 CFR 2.4(n), the Board will determine (1) without conducting a de novo evaluation of the application, whether the application and the record of the proceeding contain sufficient information, and the review of the application by the Commission's regulatory staff has been adequate, to support the findings proposed to be made by the Director of Regulation on Items 1–4 above, and to support, insofar as the Commission's licensing requirements under the Act are concerned, the issuance of the construction permit proposed by the Director of Regulation; and (2) determine whether the review conducted by the Commission pursuant to NEPA has been adequate. In the event that this proceeding is not contested the Board will convene a prehearing conference of the parties within sixty (60) days after this Notice of Hearing or such other time as may be appropriate, at a time and place to be set by the Board. It will also set the schedule for the evidentiary hearing. Notice of the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

In the event that this proceeding becomes a contested proceeding, the Board will consider and initially decide, as issues in this proceeding, Items 1–5 above as a basis for determining whether the construction permit should be issued to the applicants.

The Board will convene a special prehearing conference of the parties to the proceeding and persons who have filed petitions for leave to intervene, or their counsel, to be held within sixty (60) days from the date of publication of this notice in the FEDERAL REGISTER, or within such other time as may be appropriate, at a place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR 2.751a.

The Board will convene a prehearing conference of the parties, or their counsel, to be held subsequent to any special prehearing conference and within sixty (60) days after discovery has been completed, or within such other time as may be appropriate, at a place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR 2.752.

Notices of the dates and places of the special prehearing conference, the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

With respect to the Commission's responsibilities under NEPA, and regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with section A.11 of Appendix D of 10 CFR Part 50, (1) determine whether the requirements of section 102(2) (C) and (D) of NEPA and Appendix D of 10 CFR Part 50 have been complied with in this proceeding; (2) independently consider the final balance among conflicting factors contained in the record of the proceeding with a view to determining the appropriate action to be taken; and (3) determine whether the construction permit should be issued, denied, or appropriately conditioned to protect environmental values.

For further details, see the application for a construction permit which was docketed October 20, 1972, and amendments thereto, and the applicants' environmental report dated November 6, 1972, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, between the hours of 8:30 a.m. and 5 p.m., on weekdays. Copies of those documents will also be made available at the Beaver Area Memorial Library, 100 College Avenue, Beaver, PA 15009, for inspection by members of the public between the hours of 1 p.m. and 9 p.m., Monday through Thursday, between 9 a.m. and 9 p.m., on Friday, and between 9 a.m. and 5 p.m., on Saturday. As they become available, a copy of the safety evaluation by the Commission's Directorate of Licensing, the Commission's draft and final detailed statements on environmental considerations, the report of the Advisory Committee on Reactor Safeguards (ACRS), the proposed construction permit, other relevant documents, and the transcripts of the prehearing conferences and of the hearing will also be available at the above locations. Copies of the Directorate of Licensing's safety evaluation, the Commission's final detailed statement on environmental considerations, the proposed construction permit, and the ACRS report, may be obtained, when available, by request to the Deputy Director for Reactor Projects, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Any person who does not wish to, or is not qualified to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715. A person making a limited appearance may only make an oral or written statement on the record, and may not participate in the proceeding in any other way. Limited appearances will be permitted at the time of the hearing at the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER.

A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above.

Any person whose interest may be affected by the proceeding, who does not wish to make a limited appearance but who wishes to participate as a party in the proceeding must file a written petition under oath or affirmation for leave to intervene in accordance with the provisions of 10 CFR 2.714.

A petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to

each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the

[Docket No. 50–219]

JERSEY CENTRAL POWER & LIGHT CO.

vene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

final detailed statement on environmental considerations; (4) the report of the Advisory Committee on Reactor Safeguards on the application for a full-

the United States, the Board has decided to grant the request.

Accordingly, it is ordered, That:

1. Aerolineas shall be authorized to op-

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic

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each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A petition for leave to intervene must be filed with the Office of the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. A petition for leave to intervene which is not timely will not be granted unless the Board determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Board has considered those factors specified in 10 CFR 2.714(a).

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have all the rights of the applicants to participate fully in the conduct of the hearing, such as the examination and cross-examination of witnesses, with respect to their contentions related to the matters at issue in the proceeding.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705, must be filed by the applicants not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708, an original and twenty (20) conformed copies of each such paper with the Commission.

With respect to this proceeding, pursuant to 10 CFR 2.785, an Atomic Safety and Licensing Appeal Board will exercise the authority and the review function which would otherwise be exercised and performed by the Commission. Notice as to the membership of the Appeal Board will be published in the FEDERAL REGISTER.

Dated at Washington, D.C., this 22d day of November 1972.

UNITED STATES ATOMIC ENERGY COMMISSION,
PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.72-20455 Filed 11-27-72;8:52 am]

[Docket No. 50-219]

JERSEY CENTRAL POWER & LIGHT CO.

Notice of Consideration of Conversion of Provisional Operating License to Full-Term Operating License and Opportunity for Hearing

The Atomic Energy Commission (the Commission) will consider the issuance of a full-term facility operating license to the Jersey Central Power & Light Co. (the licensee) which would authorize the licensee to possess, use and operate the Oyster Creek Nuclear Power Plant Unit No. 1 (the facility), located in Lacey Township, Ocean County, N.J., at its presently licensed steady state power level of up to 1930 megawatts (thermal) for a period of 40 years from December 15, 1964, the issuance date of the construction permit (CPPR-15) in accordance with the provisions of the license and the Technical Specifications appended thereto, upon the completion of a favorable safety evaluation of the application by the Commission's Directorate of Licensing, the completion of the environmental review required by the Commission's regulations in 10 CFR Part 50, Appendix D, the receipt of a report on the application from the Advisory Committee on Reactor Safeguards (ACRS), and a finding by the Commission that the application for the full-term facility license (as amended) complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Ch. I. The facility is presently being operated in accordance with Provisional Operating License No. DPR-16 issued by the Commission on April 9, 1969.

The full-term license will not be issued until the Commission has made the findings, reflecting its review of the application under the Atomic Energy Act of 1954, as amended, which will be set forth in the proposed license, and has concluded that the issuance of the license will not be inimical to the common defense and security or to the health and safety of the public. The licensee has satisfied its obligation concerning indemnification as required by section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

The facility is subject to the provisions of Section A of Appendix D to 10 CFR Part 50, which sets forth procedures applicable to review of environmental considerations for production and utilization facilities.

Within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a petition for leave to intervene with respect to the issuance of a full-term facility operating license. Requests for a hearing and petitions to intervene shall be filed in accordance with the Commission's rules of practice in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of 10 CFR 2.714. As required by 10 CFR 2.714, a petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, hoy that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A request for a hearing or a petition for leave to intervene must be filed with the Office of the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention Chief, Public Proceedings Staff not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. Such requests or petitions within the same 30-day period may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC. A petition for leave to intervene which is not timely will not be granted unless the Commission determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Commission has considered those factors specified in 10 CFR 2.714(a).

For further details with respect to the matters under consideration, see the licensee's application for conversion of Provisional Operating License No. DPR-16 to a full-term operating license dated March 6, 1972, and the licensee's environmental report dated March 6, 1972, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Ocean County Library, 15 Hooper Avenue, Toms River, NJ 08750. As they become available, the following documents will also be available at the above locations: (1) The safety evaluation prepared by the Directorate of Licensing; (2) the Commission's draft detailed statement on environmental considerations pursuant to 10 CFR Part 50, Appendix D; (3) the Commission's

final detailed statement on environmental considerations; (4) the report of the Advisory Committee on Reactor Safeguards on the application for a full-term facility operating license; (5) the proposed full-term operating license, and (6) the proposed technical specifications, which will be attached to the proposed full-term facility operating license.

Copies of Items (1), (3), (4), and (5) may be obtained when they become available by request to the Deputy Director for Reactor Projects, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Dated at Bethesda, Md., this 22d day of November 1972.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Acting Deputy Director for Reactor Projects, Directorate of Licensing.

[FR Doc.72-20453 Filed 11-27-72;8:52 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24248; Order 72-11-97]

AEROLINEAS ARGENTINAS

Order Regarding Schedules

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22d day of November 1972.

On September 25, 1972, the Board, pursuant to Part 213 of the Board's Economic Regulations, adopted Order 72-10-19 disapproving certain of the schedules as filed by Aerolineas Argentinas (Aerolineas) on March 2, 1972, and amended on April 10, 1972. The order stated that the Board would consider an application for approval of a proposed schedule pursuant to § 213.3(e) of the Economic Regulations to enable Aerolineas to provide turnaround service at Miami by changing the day of operation of the then existing Flights 390 and 361. On October 27, 1972, Aerolineas filed an application with the Board requesting reinstatement of its entire existing schedule, or alternatively, approval of a proposed schedule. This proposed schedule provided for changes in the days of operation of Flights 390, 361, 370, and 371 and for the inclusion of Lima as an intermediate point on Flights 370, 371, and 361 without traffic rights between Lima and the United States.

On November 10, 1972, the Board adopted Order 72-11-39 approving that part of Aerolineas' application which related to changing the days of operation of Flights 390 and 361. All other issues raised in the application were denied. On November 17, 1972, Aerolineas filed an application requesting the Board to reconsider its denial of that portion of its proposed schedule which provided for changes in the days of operation of Flights 370 and 371 and the inclusion of Lima as an intermediate point on Flights 361, 370, and 371 without traffic rights between Lima and the United States.

Since the proposed changes do not involve any increases in the frequency or the capacity of Aerolineas' services to the United States, the Board has decided to grant the request.

Accordingly, it is ordered, That:

1. Aerolineas shall be authorized to operate Flight 370 departing Buenos Aires on Monday, Wednesday, and Saturday and Flight 371 departing Los Angeles on Monday, Wednesday, and Saturday.

2. Aerolineas shall be authorized to add Lima as an intermediate point on Flights 361, 370, and 371 without traffic rights between Lima and the United States.

3. This order shall be effective on the day of adoption and shall remain in effect until December 31, 1972, unless otherwise ordered by the Board.

4. This order shall be served on Aerolineas Argentinas and the Ambassador of Argentina in Washington, D.C.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-20397 Filed 11-27-72;8:50 am]

[Docket No. 24488; Order 72-11-92]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Currency Matters

Issued under delegated authority November 21, 1972.

CAB Agreement	IATA No.	Title	Application
23372			
R-1	070u	North and Central Pacific 21 Day Excursion Fares (Amending)	3/1.
R-2	083c	North and Central Pacific 35 Day Individual Inclusive Tour Fares (Amending).	3/1.
R-3	076j	North and Central Pacific Own Use and Affinity Group Fares (Amending).	3/1.
R-4	084b	North and Central Pacific Group Inclusive Tour Fares (Amending).	3/1.

Accordingly, it is ordered, That:

Agreement CAB 23372, R-1 through R-4 be and hereby is approved.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc 72-20396 Filed 11-27-72;8:50 am]

DEPARTMENT OF LABOR

Office of the Secretary

BENEFITS REVIEW BOARD

Designation of Acting Clerk

On October 27, 1972, the President approved the Longshoremen's and Harbor Workers' Compensation Act Amendments of 1972 (Public Law 92-576, 86 Stat. 1251). Section 15(a) of Public Law 92-576 provided for the establishment of a Benefits Review Board consisting of three members appointed by the Secretary of Labor "to hear and determine appeals raising a substantial question of law or fact taken by any party in interest from decisions with respect to claims of employees under this Act and the extensions thereof."

The effective date of the above-quoted section is 30 days after the enactment, or November 26, 1972. Appropriate orders creating the Benefits Review Board are currently being prepared for promulgation.

All applications for review by the Benefits Review Board shall, in the meantime, be filed with Frances O. Coghill, who is hereby designated as the Acting Clerk of the Benefits Review Board, Suite 720, Vanguard Building, 1111 20th Street NW., U.S. Department of Labor, Washington, DC 20210.

Signed at Washington, D.C., this 24th day of November 1972.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.72-20517 Filed 11-27-72;9:10 am]

FEDERAL COMMUNICATIONS

FCC Form 301. Moreover, the balance sheets of G and G and of Mr. Grabau

(a) Whether the Toy National Bank, Sioux City, Iowa, is willing to loan

2. KLIR has filed a petition for reconsideration of the Commission action (Order FCC 70-566 adopted May 27,

Denver would confer additional commercial competitive advantages on KQXI; and that, therefore, KLAK has standing

that used for the daytime operation. Once again it was designated for hearing to determine whether, for purposes of

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FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 19632-19634; FCC 72-1018]

G AND G BROADCASTING, INC., ET AL.

Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of G and G Broadcasting, Inc., Sioux City, Iowa, Docket No. 19632, File No. BPH-7732, Requests: 95.5 MHz, No. 238; 28.5 kw. (H & V); 138 feet; John L. Breece, Sioux City, Iowa, Docket No. 19633, File No. BPH-7840, Requests: 95.5 MHz, No. 238; 100 kw. (H & V); 742 feet; Jim and Tom Hassenger Broadcasting Co., Sioux City, Iowa, Docket No. 19634, File No. BPH-7861, Requests: 95.5 MHz, No. 238; 100 kw. (H & V); 898 feet; for construction permits.

1. The Commission has before it the captioned applications which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference. Therefore, a comparative hearing must be held.

2. According to cost estimates contained in its application, G and G Broadcasting, Inc. (G and G), will require $64,350 to construct and operate its proposed station for 1 year.[1] To meet this requirement, G and G relies on $9,000 in cash; $20,000 in profits from existing operations; a $30,000 loan from The Toy National Bank, Sioux City, Iowa; a $15,000 loan from Raymond W. Grandle; and a $5,000 loan from Wilmer W. Grabau. However, G and G has shown the availability of only $9,000 in cash and $20,000 in profits from existing operations to meet its first-year costs of $64,350. Specifically, the commitment from The Toy National Bank does not adequately describe the security required for the $30,000 loan, as required by paragraph 4(e), section III, FCC Form 301, which raises the question of whether G and G can meet all of the bank's security requirements. Moreover, the letter which expresses the bank's willingness to lend $30,000 to G and G expired under its own terms on May 12, 1972, and G and G has not submitted an updated bank commitment. Thus, G and G has not established the availability of the bank loan. In addition, Mr. Grandle has not submitted a balance sheet which shows sufficient current and liquid assets in excess of current liabilities to loan any money to G and G, under the standards delineated in paragraph 4(b), section III, FCC Form 301. Moreover, the balance sheets of G and G and of Mr. Grabau must be updated since they are about 1 year old. Further, the loan commitments of Messrs. Grandle and Grabau are no longer current, and they do not state the security required for their loans. Paragraph 4(a), section III, FCC Form 301, requires a lender to make a definite statement with respect to the security required; if no security is required, it must be so stated. In view of the foregoing, appropriate financial issues will be specified against G and G.

3. Data submitted by the applicants indicate that there would be a significant disparity between the G and G proposal and that of the other applicants in the size of the areas and populations which would receive service. Therefore, the areas and populations which would receive FM service of 1 mv./m or greater intensity, together with the availability of other primary (1 mv./m. or better for FM) aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

4. John L. Breece and the Jim and Tom Hassenger Broadcasting Co. propose independent programing, while G and G Broadcasting, Inc., proposes to duplicate the programing of its AM station, KSCJ, during at least 50 percent of its broadcast time. Therefore, evidence regarding program duplication will be admissible under the standard comparative issue. When duplicated programing is proposed, the showing permitted under the standard comparative issue will be limited to evidence concerning the benefits to be derived from the proposed duplication, and a full comparison of the applicants' program proposals will not be permitted in the absence of a specified programing inquiry. "Jones T. Sudbury," 8 FCC 2d 360 (1967).

5. John L. Breece and the Jim and Tom Hassenger Broadcasting Co. are qualified to construct, own, and operate the proposed new FM facility and, except as indicated by the issues set forth below, G and G Broadcasting, Inc., is qualified to construct, own and operate the proposed new facility. The applications are, however, mutually exclusive and the Commission is thus unable to make the statutory finding that a grant of the applications would serve the public interest, convenience and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues set forth below.

6. *Accordingly, it is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the captioned applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine, with respect to the application of G and G Broadcasting, Inc.:

(a) Whether the Toy National Bank, Sioux City, Iowa, is willing to loan $30,000 to the applicant, and if so, on what terms;

(b) Whether Raymond W. Grandle has sufficient current and liquid assets in excess of current liabilities to loan $15,000 to the applicant, and if so, on what terms;

(c) Whether the applicant currently has sufficient current and liquid assets in excess of current liabilities to provide $9,000 to its proposed FM facility;

(d) Whether Wilmer W. Grabau has sufficient current and liquid assets in excess of current liabilities to loan $5,000 to the applicant, and if so, on what terms;

(e) Whether, in light of the evidence adduced under the preceding issues, the applicant is financially qualified.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications for construction permits should be granted.

7. *It is further ordered*, That each of the applicants shall file a written appearance stating an intention to appear and present evidence on the specified issues, within the time and in the manner required by § 1.221(c) of our rules.

8. *It is further ordered*, That the applicants shall give notice of the hearing, within the time and in the manner specified in § 1.594 of our rules, and shall seasonably file the statement required by § 1.594(g).

Adopted: November 15, 1972.

Released: November 21, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[2]
BEN F. WAPLE,
Secretary.

[FR Doc.72-20378 Filed 11-27-72;8:49 am]

[Docket No. 19635; FCC, 72-1021]

MEDIA ENTERPRISES, INC. (KQXI)

Memorandum Opinion and Order Designating Application for Consolidated Hearing on Stated Issues

In regard application of Media Enterprizes, Inc. (KQXI), Arvada, Colo., Docket No. 19635, File No. BML-2320, requests: Change in station location to Denver, Colo., for modification of license.

1. The Commission has before it for consideration (i) the above-captioned application; (ii) a petition for acceptance, waiver, and grant filed by the applicant; (iii) a petition for reconsideration filed by KLIR, Inc., licensee of Station KLIR, Denver, Colo.; (iv) a petition to deny filed by Lakewood Broadcasting Service, Inc., licensee of Station KLAK, Lakewood, Colo.; (v) a petition to deny filed by KLIR, Inc.; and (vi) opposition and reply pleadings to the petitions to deny.

[1] G and G's first-year costs consist of the following: Down payment on equipment, $10,800; first-year payments on equipment, including interest, $11,820; building expenses, $2 000; miscellaneous expenses, $6,000; payments on bank loan, including interest, $12,250; and working capital, $21,480.

[2] Commissioner Reid absent.

2. KLIR has filed a petition for reconsideration of the Commission action (Order FCC 70-566 adopted May 27, 1970), waiving § 1.571, Note 2, of the rules (AM "freeze") and accepting the KQXI application for filing. Procedurally, KLIR argues that its petition should be accepted although it is allegedly untimely according to § 1.106(f) of the rules, which provides for the filing of a petition for reconsideration within 30 days of the release of the full text of the action taken. It contends that it filed the petition within 30 days of the release of the public notice of the adoption of the order and that the rule should be interpreted to allow the filing of a petition for reconsideration within 30 days from either the release or the full text of the order or the release of the public notice of the action taken.

3. Substantively, the petitioner claims that the application seeks to change an AM assignment on a demand basis, and that the change would have a significant effect on the radio allocations in the Denver area. It states that Arvada would be precluded from having a local broadcast facility due to the AM freeze, and that the absence of any technical changes in the proposal is incidental to the purposes of the freeze which should not have been waived to accept the KQXI application for filing. In addition, the petitioner alleges that the applicant showed no extraordinary circumstances to justify its waiver request, and that the application should be returned since it is substantially incomplete for failing to conduct a survey of community needs.

4. The petition for reconsideration was not timely filed and, therefore, cannot be considered. In any event the petitioner's contentions, in support of a reconsideration of our earlier action are unpersuasive. As stated in the order being challenged, a grant of the proposal would have no effect on allocations since there are no engineering changes proposed and, therefore, it is not the type of proposal for which the "freeze" was designed. Furthermore, the application will not be returned as being substantially incomplete since the necessity of conducting a community needs survey, as noted below, is an essential point of contention. The applicant, in good faith, contends that a survey is not necessary, and the application is as complete as the applicant believes it should be. Accordingly, the petition for reconsideration will be dismissed, and the merits of the KQXI proposal will be considered.

5. Lakewood Broadcasting Service, Inc., licensee of Station KLAK, Lakewood, Colo., claims standing by arguing that a grant of the application will enhance KQXI's opportunities to compete effectively with KLAK for program sources, listeners, and advertising revenues. KLAK states that both Lakewood and Arvada are separate suburban communities of the Denver metropolitan area; that KLAK and KQXI occupy adjacent channels and have sufficiently high power to be heard throughout the Denver urban area; that KQXI's move to Denver would confer additional commercial competitive advantages on KQXI; and that, therefore, KLAK has standing to object to a grant of the application. KLIR, Inc., licensee of Station KLIR, Denver, Colo., also claims standing. It argues that it is assigned to Denver, programs to the needs of Denver, draws advertising revenue from Denver, and that the reassignment of KQXI to Denver would have a direct adverse economic impact on KLIR.

6. The applicant claims that neither petitioner has standing as a party in interest. It states that KLAK cannot claim economic injury since the only licensed standard broadcast stations in suburban Jefferson County are KLAK and KQXI, and that KLAK would gain rather than lose listeners and advertisers by the removal to Denver of its only local competition. It argues that KLAK previously characterized KQXI as another Denver station and it cannot claim that a modification of KQXI's license to conform to that fact operates to KLAK's injury. In addition, the applicant contends that KLIR's case for standing is unsupported by any facts or affidavits and that it cannot be presumed that a modification of KQXI's license would cause economic injury to KLIR.

7. The Commission finds that the petitioners have standing as parties in interest within the meaning of section 309(d) (1) of the Communications Act of 1934, as amended, and § 1.580(i) of the Commission rules. A change in city of designation from a suburb to the larger city could affect the competitive position of the stations licensed either to the surrounding suburbs or the large city, and, accordingly, the petitioners have standing as parties in interest within the meaning of "Federal Communications Commission v. Sanders Brothers Radio Station," 309 US 470, 9 RR 2008 (1940).

8. The KQXI application has been filed on the basis of the applicant's interpretation of prior Commission actions involving applications previously submitted by KQXI. To gain perspective on the proposal some background information, therefore, is necessary. In September 1961, KQXI requested authority to change transmitter site, increase daytime power, add nighttime, and make additional engineering changes. The application was designated for hearing to determine, inter alia, whether, for purposes of § 73.28(d)(3) of the rules (the "10 percent rule"), Arvada is a separate community from Denver, Colo., and whether the nighttime proposal would be consistent with the Commission's coverage and separation requirements. The application was denied in a decision ("Denver Area Broadcasters," 38 FCC 583, 4 RR 895 (1965)), that concluded it was unnecessary to determine whether Arvada was a separate community entitling KQXI to the exception to the "10 percent rule." KQXI, however, was permitted to amend its application and return it to the processing line. As amended, the application sought authority to operate nighttime from a different site than that used for the daytime operation. Once again it was designated for hearing to determine whether, for purposes of § 73.28(d)(3), Arvada was a separate community from Denver and whether, as a consequence, the applicant met appropriate Commission requirements. In an initial decision, "Radio Station KQXI," 13 FCC 2d 184 (1967), the Hearing Examiner favored a grant of the application and stated that Arvada was a separate community entitling KQXI to the first local nighttime service exception to the "10 percent rule" and that a grant of the application would be consistent with Commission requirements. The Review Board, however, modified this finding and denied the application ("Radio Station KQXI," 13 FCC 2d 171, 13 RR 2d 363 (1968)). It held that, for the purposes of the "10 percent rule," Arvada was not a separate community from Denver and that the proposal would violate the rules. On January 19, 1969, FCC 69-36, the Commission denied, without opinion, KQXI's application for review of the Review Board's decision. In response, the applicant submitted an application to modify its license to specify Denver as its principal community, or, alternatively, reconsideration of the action denying its application for review of the Review Board's decision. By Order (FCC 69-304), the Commission dismissed the applicant's request. Since the tendered application, however, was still before the Commission, KQXI submitted a petition for acceptance, waiver, and grant in which it sought waiver of the "freeze" and change in its city of designation. The Commission waived the "freeze" and accepted the application for filing. Now before the Commission is the KQXI application to change its city of designation from the suburban community of Arvada to the larger city of Denver and opposition and supplemental pleadings.

9. The petitioners, KLAK and KLIR, argue that the application be denied or designated for hearing on the basis of section 307(b) of the Communications Act of 1934, as amended. They argue that Arvada, a suburb of Denver, has grown in 10 years from a population of 19,242 to 46,814 according to the recent census; that KQXI is the only standard broadcast station located in Arvada; that Commission rules do not provide for an FM or TV allocation for Arvada; that Denver has 12 standard broadcast facilities, 10 FM, six television, one VHF educational television and one educational standard broadcast station; and that, therefore, section 307(b) of the Act requires an assessment, in hearing, of the relative needs of the two cities for locally originated radio service. The petitioners also claim that the Commission's Review Board ruling denying KQXI's earlier requests for authority to extend its operating hours from daytime to fulltime is not determinative of the questions posed by the current proposal. They state that the Review Board concluded that KQXI failed to establish that Arvada is a separate community from Denver within the meaning of the

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"10% rule" and that the Board was not confronted with a 307(b) determination. KLAK asserts that the Commission did

posed in the light of the Board's conclusion in 1967 that "programing directed specifically toward Arvada resi-

an issue with respect to this matter will be specified.

12. KLIR argues also that KQXI

vey is not necessary since Arvada and Denver are indistinguishable broadcast entities and a survey of the people of Denver is irrelevant to the applicant's

ignated for hearing on the issues set forth below.

20. *Accordingly, it is ordered*, That, pursuant to section 309(e) of the Com-

ner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

V3

"10% rule" and that the Board was not confronted with a 307(b) determination. KLAK asserts that the Commission did not find that Arvada lacks the characteristics of a separate community for licensing purposes under § 73.30 of the rules or that Arvada does not have separate characteristics to warrant provisions in the Commission's allocation scheme for a separate local daytime broadcast station in the community. It contends, therefore, that KQXI cannot maintain that its proposal is required or justified by prior Commission action. KLIR argues that the Commission, for allocation purposes, continues to recognize former town and city limits and small suburban communities where there has been a merger or annexation by a large community of a smaller political entity, and, accordingly, since Arvada has not been merged or annexed by Denver, it remains a recognized entity for Commission purposes.

10. In submitting its application, KQXI states that it proposes to change its city of designation without altering its technical operation.[1] It contends that it seeks to conform the KQXI license to the Commission's recent action in which it affirmed the Review Board's decision that Arvada lacks separate programing needs. In response to the petitioners, the applicant asserts that its proposal is not contrary to section 307(b) of the Communications Act. It states that in 1960, the Commission authorized the facilities of KQXI and denied an application for Denver on the basis of the contingent comparative issue and not 307(b) since both applicants proposed wide area coverage to virtually the same area. At that time, according to KQXI, the Commission wrote that "the existing Denver stations or a station operating on the facilities here in contest * * * could effectively meet such distinctly local needs as exist in Arvada." "Denver Broadcasting Co.," 28 FCC 662 at 676 (1960).[2] In addition, the applicant states that in 1969, the Commission refused to review the Review Board's decision that "KQXI failed to establish that Arvada is a separate community from Denver within the meaning of the 10 percent rule." On the basis of these two actions, KQXI asserts that it is in the anomalous position of being licensed to serve a "community which had been held—not once, but twice—to have no need for local service." The applicant states that it, therefore, submitted the instant application in order to conform its license to the Denver metropolitan area, the community which the Commission has twice found that it realistically serves. It adds that no change in the geographic emphasis of KQXI's programing is proposed in the light of the Board's conclusion in 1967 that "programing directed specifically toward Arvada residents on a regular basis is unimpressive, and * * * (that) the vast bulk of the programs described * * * are designed for * * * wide area appeal * * *" "Radio Station KQXI," 13 FCC 2d at 178, 13 RR 2d 363 at 372 (1968). In response to KLAK's objections, KQXI argues that KLAK is bound by its contentions in Docket No. 14817 where it successfully contended that Arvada is a bedroom community dependent upon Denver for essential services, and that its destiny "is inextricably tied to that of Denver and the whole metropolitan area." In response to KLIR's contentions regarding the merger of separate political entities, KQXI alleges that the petitioner's reliance on these cases is misplaced since the Commission has found on two occasions that the needs of Arvada and Denver are common rather than separate and distinct.

11. A grant of KQXI's request would bring a 12th local standard broadcast outlet to Denver while removing the only station licensed to serve Arvada, a city with a population of 46,814. There is, therefore, a substantial question as to whether a grant of this request would result in a fair, efficient, and equitable distribution of facilities within the meaning of section 307(b) of the Communications Act of 1934, as amended. "WKYR, Inc.," 24 RR 1097 (1963), "Radio San Juan, Inc.," 20 FCC 2d 92 (1969). The applicant argues that because the Commission has twice before held that Arvada was not a community, first in the original comparative proceeding, and later in a hearing on an application for nighttime service, we are now bound by those findings in this proceeding. That argument must be rejected. In the first proceeding the Commission held only that for the purpose of choosing between two applicants, one for Arvada and the other for Denver, the proposals were so similar in most respects that section 307(b) of the Act should not be controlling. In the second proceeding, although the issue was framed in terms of whether Arvada was a community for purposes of the 10-percent rule, the Review Board's conclusion was based on findings that KQXI was really trying to serve Denver nighttime, and, therefore, applied the criteria set forth in the Commission's "Policy Statement on Section 307(b) Considerations for Standard Broadcast Facilities Involving Suburban Communities," 2 FCC 2d 190 (1965). Thus, neither of these earlier findings are controlling here, because different considerations are involved when, as here, the question is simply whether the only station licensed to Arvada should be allowed to be licensed to Denver, which already has 11 standard broadcast stations. See, for example, the special emphasis placed upon the city of license in the "Primer on Ascertainment of Community Problems by Broadcast Applicants," 27 FCC 2d 650, 21 RR 2d 1507 (1971). Therefore, an issue with respect to this matter will be specified.

12. KLIR argues also that KQXI violated section 1.65 of the rules by misrepresenting its program format to the Commission. It claims that KQXI's information on file at the Commission and that being distributed to potential advertisers are irreconcilable and that these misrepresentations are the basis for an issue.[3] Specifically, the petitioner states that in June 1969 KQXI informed the Commission that it was changing its music format to country and western and in May 1970 that it was changing from country and western to gospel music. In July 1970, however, the petitioner states that KQXI distributed advertising promotions that claimed it was celebrating its first full year of broadcasting 100 percent religious music.

13. In reply, KQXI argues that, its assignment application filed July 14, 1969, and subsequent amendments state that there would be a "higher percentage of talk programs, including programs of a religious nature," that the station was "devoting as much as 40 percent of its weekly schedule to programing of a religious nature," and that the station had recently changed its music format to country and western. In a supplementary pleading, KQXI implies that there is no inconsistency between having a religious program format and a country and western music format, and states that the Commission was satisfied with its changes and explanation for them since the Commission subsequently granted its assignment application on September 24, 1969. It argues also that it notified the Commission by letter on May 28, 1970, that it changed its music format from country and western to gospel, and that, currently, it features both gospel and country and western music.

14. Upon consideration of the allegations of misrepresentation and the applicant's response thereto, we conclude that the petitioner has not alleged sufficient facts to warrant specifying an issue with respect to violation of § 1.65 of the rules. However, the contradictions between what KQXI reported to the Commission and what the station told potential advertisers are such as to raise a substantial question of misrepresentation. Therefore, we will specify an issue concerning the matter.

15. KLIR also contends that the applicant has failed to comply with the "Primer"[4] by not submitting a current community needs survey that includes the leaders and general public of Denver and by not justifying its 100 percent religious format. KXXI argues that a survey is not necessary since Arvada and Denver are indistinguishable broadcast entities and a survey of the people of Denver is irrelevant to the applicant's awareness of the needs of Denver and the surrounding area.

16. A survey of community needs was conducted by KQXI on December 8, 1970, and filed with its recent renewal application (BR-4102). KQXI satisfactorily explained the changes in its broadcast format, and the station's renewal was granted. The petitioner's objections, therefore, relating to KQXI's past programing practices will not be considered further. The contention, however, that KQXI failed to comply with the "Primer" is well taken. The "Primer" states specifically that a community needs survey must be submitted with an application for modification of license to change station location. Since KQXI intends to be responsive primarily to Denver, with service to communities outside the city of license, it must be aware of the current problems, needs, and interests of the residents of its community of license and the other areas it undertakes to serve. Accordingly, KQXI's response that it is aware of the needs of Arvada and that a survey of the people of Denver is irrelevant is inadequate, and an appropriate issue will be specified.

17. Finally, KLAK claims that a substantial question exists as to whether the applicant complied with the Commission's publication requirements. It asserts that KQXI published a notice in a newspaper in Denver but not in Arvada, and stated in the notice that the purpose of its application was to change the city of license to Denver, but failed to state that the main studio also would be moved to Denver. In response, the applicant argues that it was not necessary for it to publish in a newspaper and that the relocation of the main studio, which is a necessary consequence of the modification of license, was implicit in the notice that it published.

18. The Commission finds that the applicant complied with section 1.580 of the rules by broadcasting the notice as provided by the rules. The applicant, by also publishing the notice in a Denver newspaper, demonstrated its intention to fully apprise the public of the filing of its application, and the mere fact that KQXI failed to state that the main studio would be moved is not sufficient to raise a question as to whether the applicant has complied with § 1.580 of the rules.

19. Except as indicated by the issues specified below, the applicant is qualified to construct and operate as proposed. In view of the foregoing, however, the Commission is unable to make the statutory finding that a grant of the subject application would serve the public interest, convenience, and necessity, and is of the opinion that the application must be designated for hearing on the issues set forth below.

20. *Accordingly, it is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, whether a grant of the application would provide a fair, efficient, and equitable distribution of radio service.

2. To determine whether Station KQXI misrepresented its program format to the Commission or in promotional material to potential advertisers, and, if so, whether such misrepresentation reflects adversely on its qualifications to be a broadcast licensee.

3. To determine the efforts made by Station KQXI to ascertain the community needs and interests of the area to be served and the means by which the applicant proposes to meet those needs and interests.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether a grant of the application would serve the public interest, convenience, and necessity.

21. *It is further ordered*, That the petition for reconsideration filed by KLIR, Inc., licensee of station KLIR, Denver, Colo., is dismissed.

22. *It is further ordered*, That the petitions to deny filed by KLIR, Inc., licensee of station KLIR, Denver, Colo., and Lakewood Broadcasting Service, Inc., licensee of station KLAK, Lakewood, Colo., are granted to the extent indicated above and are denied in all other respects.

23. *It is further ordered*, That KLIR, Inc., and Lakewood Broadcasting Service, Inc., are made parties to the proceeding.

24. *It is further ordered*, That, in the event of a grant of the application, the construction permit shall contain the following condition:

> The authority granted herein is subject to the condition that the licensee shall take whatever measures are necessary to prevent objectionable reradiation effects or cross-modulation with station KLZ, Denver, Colo.

25. *It is further ordered*, That, to avail itself of the opportunity to be heard, the applicant and parties respondent herein, pursuant to § 1.221(c) of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

26. *It is further ordered*, That the applicant herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission rules, give notice of the hearing, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: November 15, 1972.

Released: November 21, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[5]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-20377 Filed 11-27-72;8:49 am]

[1] The present KQXI operation provides coverage to the city of Denver in accordance with Commission rules.

[2] The Commission did not find, however, that section 307(b) was not applicable, only that the decision should not be made on the basis of 307(b) considerations.

[3] On the basis of statements made in these promotional fliers distributed by KQXI, KLIR claims that KQXI has completed the transfer of its identity to Denver and that there has been a de facto abandonment of Arvada. The statements made by KQXI for advertising purposes are insufficient to justify charging KQXI with unauthorized abandonment of Arvada, and an issue on that matter has not been specified.

[4] Primer on Ascertainment of Community Problems by Broadcast Applicants, 27 FCC 2d 650, 21 RR 2d 1507 (1971).

[5] Commissioner Reid absent.

FEDERAL MARITIME COMMISSION

COMPANIA SUD AMERICANA DE VAPORES AND PRUDENTIAL-GRACE LINES, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Stuart S. Dye, Esq., Kirlin, Campbell & Keating, The Farragut Building, 900 17th Street NW., Washington, DC 20006.

Agreement No. 9941-1, between Compania Sud Americana De Vapores and Prudential-Grace Lines, Inc., covers a petition by the parties to extend the termination date of their agreement from December 31, 1972 to December 31, 1975.

[Dockets Nos. E-7754, E-7772]

charges under Rate Schedules 24 and 25 were based upon utilization of an annual

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The basic agreement between the parties covers a pooling, sailing and equal access to government-controlled cargo arrangement in the southbound trade on all cargo, with certain exceptions moving from U.S. Atlantic Coast ports to ports on the Chilean Coast, as far south as and including the ports of Talcahuano and San Vicente.

By order of the Federal Maritime Commission.

Dated: November 21, 1972.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-20325 Filed 11-27-72;8:45 am]

HAPAG-LLOYD AG

Order of Revocation

Certificate of financial responsibility for indemnification of passengers for nonperformance of transportation No. P-91 and certificate of financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages No. C-1,087.

Hapag-Lloyd AG c/o North German Lloyd Passenger Agency, Inc., 277 Park Avenue, New York, NY 10017.

Whereas, Hapag-Lloyd AG has ceased to operate the passenger vessel TS BREMEN; and

Whereas, Hapag-Lloyd AG has returned certificate (Performance) No. P-91 and certificate (Casualty) No. C-1,087 for revocation.

It is ordered, That certificate (Performance) No. P-91 and certificate (Casualty) No. C-1,087 covering the TS BREMEN be and are hereby revoked effective November 17, 1972.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served on the Certificant.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-20324 Filed 11-27-72;8:45 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below-indicated vessels, pursuant to Part 542 of Title 46 CFR and section 11(p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	Owner/Operator and Vessels
01011---	Aktieselskabet Det Ostasiatiske Kompagni: Sumbawa. Panama
01034---	Graff-Wang & Ev Jen: Seahawk
01106---	N.V. Stoomvaart-Maatschappij "Oostzee": Woltersum.
01248---	Dampskibs A/S Avenir et al: Beau. Beau Geste.
01255---	Skjelbreds Rederi A/S: Egero.
01256---	Skibsaktieselskapet Orenor: Free State.
01271---	Holland America Lijn: Rydam.
01305---	Royal Mail Lines, Ltd.: Pizarro.
01320---	Friedrich A. Detjen: Amazonas.
01334---	American President Lines: President Madison. President Hoover.
01343---	Eggert & Amsinck: Santa Rita.
01427---	The Pacific Steam Navigation Co.: Oroya.
01452---	Rowland & Marwood's Steamship Co., Ltd.: Runswick.
01478---	Atlantic Sunrise Shipping Co., Ltd.: Southern Sunrise.
01513---	Rederiaktiebolaget Dalen: Robert Kabelac.
01559---	Rederiaktiebolaget Fraternitas: Avanti.
01561---	Lubeck Linie Aktiengesellschaft: Lubeck.
01854---	Southern Towing Co.: Laguna.
01857---	Ohg. I. Fa. Bernhard Schulte: Esther Charlotte Schulte. Lissy Schulte.
01861---	BP Tankers Co., Ltd.: British Soldier. British Sergeant.
01909---	Gulf Division Lone Star Industries, Inc.: Dredge No. 9.
01917---	Casa Blanca Shipping Corp.: Desert Queen.
02197---	Matson Navigation Co.: Pacific Banker. Pacific Trader.
02202---	Humble Oil & Refining Co.: Esso Lima.
02209---	Flota Mercante Grancolombiana: Ciudad De Ibague.
02244---	Transmaritima Del Plata: Pampamar.
02258---	Bruusgaard Kolsteruds: Hamlet.
02292---	Pacific Marine Transport Co., Inc.: Hong Kong Dignity.
02293---	China Marine Invest Co., Ltd.: Liberty Trader. Singapore Trader.
02341---	Koninklijke Nederlandsche Stoomboot-Maatschappij: Themis. Adonis. Artemis.
02364---	Breaux Oil Co., Inc.: Barge N.B.C. 409.
02452---	Dover Navigation Co., Ltd.: Freja.
02498---	Chevron Oil Co.: S-45.
02562---	Marcima Compania Naviera S.A.: Doros.
03054---	H. Schuldt: Augustenburg.
03214---	Salenrederierna Aktiebolag: Ballade. Barcarolle. Antigua.
03255---	Port Line, Ltd.: Port Albany. Port Adelaide. Port Montreal.
03397---	Hilmar Reksten: Majorian.
03452---	Kyoei Tanker K.K.: Atami Maru. Koei Maru.
03459---	Meiji Kaiun K.K.: Marquis.
03479---	Okada Shosen K.K.: Seiun Maru.
03506---	Taiheiyo Kaiun K.K.: Heiwa Maru.
03516---	Toko Kaiun K.K.: Tosei Maru.
03578---	Dabinovic S.A.: Marie. Armelie. Natalia.
03600---	Bahamas Line, S.A.: Johnny Express. Layla Express.
03623---	Smith-Rice Derrick Barges, Inc.: Barge 23.
03665---	Cyrus Tanker Corp., Liberia: Aquarius.
03971---	Korea Shipping Corp., Ltd.: Po Hang.
04002---	Compagnie Des Messageries Maritimes: Pasteur.
04004---	Koninklijke Java-China-Paketvaart Lijnen N.V.: Houtman.
04007---	Egon Oldendorff: Caroline Oldendorff. Elisabeth Oldendorff. Gerdt Oldendorff. Maria Oldendorff.
04100---	N.V. Reederij Nautiek: Daje Bohmer.
04128---	J. Brunvall: Brunvard. Brunhild. Rumba. Jenka. Samba. Bruni.
04276---	Rivtow Straits, Ltd.: Straits Logger. Rivtow Viking. Rivtow Lion. Crown Zellerbach No. 4. Rayonier No. 4. Alberni Carrier. Powell Carrier. Gibraltar Straits.
04357---	Koninklijke Nedlloyd N.V.: Karachi.
04388---	Franco Shipping & Managing Co., Ltd.: Azalea.
04398---	Hapag-Lloyd: Wiesbaden.
04399---	Armement Deppe S.A.: Mineral Ougree.
04435---	Gatewav Barge Lines, Inc.: Ace 101.
04502---	Kotoshiro Gyogyo K.K.: Kotoshiromaru No. 58.
04682---	Emil Hemmersam: Guldensand.
04823---	Oriole Shipping Corp.: Golar Obo.
05492---	Nuffield Shipping, Inc.: Independent Trader.
06442---	Dampskibsaktieselskabet Den Norske Afrika-Og Australie-linie: Tysla.

Certificate No.	Owner/Operator and Vessels
06465---	Minibulk Shipping K.M. Kaalstad: Baltus.
06673---	Konrad Shipping Co., Ltd. Panama: Lahnstein.
06723---	Garth Shipping Co., Ltd.: Cluden.
07033---	Heiner Braasch Kauffahrtei Reedereigesellschaft MS "Hamburger Senator" KG: Hamburger Senator.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-20323 Filed 11-27-72;8:45 am]

FEDERAL POWER COMMISSION

NATIONAL GAS SURVEY SUPPLY-TECHNICAL ADVISORY TASK FORCE-SYNTHETIC GAS-COAL

Notice of Meeting and Agenda

Agenda, meeting, Supply-Technical Advisory Task Force-Synthetic Gas-Coal—Conference Room 4454-B of the Federal Power Commission, 441 G Street NW., Washington, DC, December 19 and 20, 1972—10 a.m. Presiding: Dr. Paul J. Root, FPC Survey Coordinating Representative and Secretary.

1—Call to order and introductory remarks, Dr. Root.

2—Review of developments since the meeting of June 13, 1972, Mr. James R. Garvey, Director, Supply-Technical Advisory Task Force-Synthetic Gas-Coal.

3—Review of individual assignments for drafting sections of the final report, Mr. Garvey.

4—Discussion of Coverage of Environmental Aspects of Task Force Work Programs, Mr. Garvey.

5—Status of assigned work programs and estimated date for completion, Mr. Garvey.

6—Other business.

7—Adjournment, Dr. Root.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-20407 Filed 11-27-72;8:51 am]

[Docket No. CI73-337]

CHAMPLIN PETROLEUM CO.

Notice of Application; Correction

NOVEMBER 20, 1972.

In the Notice of Application, issued November 14, 1972, and published in the FEDERAL REGISTER November 17, 1972, 37 F.R. 24459: 2d paragraph, lines 3 and 4: Delete ", subject to upward and downward Btu adjustment,"

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-20405 Filed 11-27-72;8:51 am]

[Dockets Nos. E-7754, E-7772]

GREEN MOUNTAIN POWER CORP.

Order Providing for Hearing, Suspending Superseding Rate Schedule, and Consolidating Proceedings

NOVEMBER 17, 1972.

Green Mountain Power Corp. (Green Mountain) on August 31, 1972, tendered for filing a new Tranmission Contract, dated August 28, 1972 (designated as Green Mountain's FPC Rate Schedule No. 46) superseding its FPC Rate Schedules No. 24 and No. 25, which are applicable to transmission service to Vermont Electric Cooperative, Inc. (Co-op). The new agreement is proposed to become effective on November 1, 1972. In response to the Commission Secretary's notification of filing deficiencies, Green Mountain on October 18, 1972, submitted additional data and payment of the filing fee.

Under its FPC Rate Schedule No. 24, Green Mountain provides transmission service of up to 1,000 kw. of power and energy from Vermont Electric Power Co.'s (VELCO) substation in Essex, Vt., via Green Mountain's 34.5 kv. No. 3314 transmission line to pole No. 11 in Williston, Vt., a distance of 3 miles, at which point delivery is made to Co-op. Under its FPC Rate Schedule No. 25, Green Mountain provides transmission service of up to 1,000 kw. of power and energy from VELCO's Essex substation via Green Mountain's 34.5 kv. No. 3302 transmission line to tower No. 87 in Richmond, Vt., a distance of 8.5 miles, at which point delivery is made to Co-op. Under Rate Schedules 24 and 25, the charges to Co-op are $38.50 per month ($462 per annum) and $135.03 per month ($1,620.36 per annum), respectively. The total combined charges to Co-op are $173.53 per month or $2,082.36 per annum.

The proposed superseding agreement provides for the continuation of the transmission services presently provided under Rate Schedules 24 and 25. The transmission distances will remain the same as existing distances except that the terminus in Richmond has been changed to Green Mountain's substation, thus increasing the distance for service under Rate Schedule No. 25 from 8.5 miles to about 9.5 miles for that section of line. The amount of power and energy to be delivered to Co-op at appropriate points will be increased from 2,000 kw. to a total of 2,500 kw. For such services and wheeling services provided, Co-op shall pay Green Mountain a monthly charge of $266.39 ($3,196.68 per annum). Deliveries of power and energy to Co-op shall be adjusted for any losses which may be incurred therefor. Thus, the proposed increase in charges over those under Rate Schedules 24 and 25 is $1,114.32 per annum (53.5 percent).

In support of the proposed increased charges, Green Mountain states that the charges under Rate Schedules 24 and 25 were based upon utilization of an annual charge rate of 15 percent applied to an allocated portion of the original cost of facilities dedicated to Co-op's use. The 15 percent rate was intended to cover operating and maintenance expense, depreciation, taxes, and cost of capital. Under the proposed new agreement, the charges have been based upon the annual charge rate of 20.86 percent, derived from costs for the year 1971.

Green Mountain's proposed increased rates and charges in Docket No. E-7754, were suspended until February 12, 1973, and made subject to hearing by order issued September 7, 1972. A review of the Rate Schedule No. 46 and the data and material tendered for filing therewith, indicates that the proposed new agreement and the proposed increased rates and charges, raise issues which require development in an evidentiary hearing. The proposed increased rates and charges have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful.

In view of the fact that similar issues have been raised and are pending in Green Mountain's rate proceedings in Docket No. E-7754, the proceedings in Docket No. E-7772 will be consolidated as provided below. All persons or parties permitted to intervene in Docket No. E-7754, will be deemed by virtue of the consolidation to have been permitted to intervene in Docket No. E-7772.[1]

The Commission finds:

It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Green Mountain's proposed new FPC Rate Schedule No. 46 tendered for filing on August 31 and supplemented on October 18, 1972, and that such rate schedule be suspended and its use deferred as hereinafter provided.

The Commission orders:

(A) Pursuant to the authority of the Federal Power Act, the Commission's rules of practice and procedure, and the regulations under the Federal Power Act (18 CFR Ch. I), a public hearing shall be held commencing with a prehearing conference, on February 1, 1973, as fixed in Commission order issued herein on September 7, 1972, concerning the lawfulness of the rates, charges classifications, and services contained in Green Mountain's FPC Electric Rate Schedules, as proposed to be amended by the new Rate Schedule No. 46.

(B) Pending hearing and decision thereon, Green Mountain's proposed new

[1] Vermont Electric Cooperative, Inc., was permitted to intervene in Docket No. E-7754, by Commission order issued Sept. 7, 1972.

Rate Schedule No. 46 and the rates and charges therein contained, as filed on August 31 and supplemented on October

in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file

7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without

a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to

service to the community of Chisholm. Applicant further states that the sale of the subject facilities to Inter City will

Power & Light Co., and the Washington Water Power Co.) and the three California companies (Pacific Gas & Electric

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Rate Schedule No. 46 and the rates and charges therein contained, as filed on August 31 and supplemented on October 18, 1972, are hereby suspended and the use thereof deferred until April 18, 1973.[2]

(C) The proceedings in Docket No. E–7772 are consolidated for purpose of hearing and decision with those in Docket No. E–7754, and the procedure prescribed in our order issued September 7, 1972, in Docket No. E–7754 shall apply to the proceedings in Docket No. E–7772.

(D) Petitions to intervene in this proceeding may be filed on or before November 27, 1972.

(E) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72–20404 Filed 11–27–72;8:51 am]

[Docket No. E–7806]

ILLINOIS POWER CO.

Notice of Proposed Change in Rates and Charges

NOVEMBER 21, 1972.

Take notice that on November 6, 1972, Illinois Power Co. (Illinois Power) tendered for filing proposed changes in its rates and charges applicable to nine electric cooperatives to be effective as of January 1, 1973. The tendered contracts are proposed to supersede Illinois Power's FPC Rate Schedules Nos. 36, 37, 38, 39, 40, 41, 42, 43, and 44. The changes include (1) an increase in the demand charge from $1.32 to 1.40 per kv.-a. of maximum demand, (2) an increase in the energy charge from 0.50 to .57¢ per kw.-hr. delivered, (3) a modification in the fuel adjustment provision, and (4) a revision of the low voltage metering charge. The company estimates the increase in revenue resulting therefrom to approximate $26,000 per annum based upon 1971 calendar year sales.

Illinois Power asserts that the increased rates are necessary because of "sharply increased construction and capital costs and operating expenses."

Any person desiring to be heard or to make any protest with any reference to said application should on or before December 6, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission rules and practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commisison and available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72–20356 Filed 11–27–72;8:47 am]

[Docket No. CP73–124]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Notice of Application

NOVEMBER 20, 1972.

Take notice that on November 10, 1972, Kansas-Nebraska Natural Gas Co., Inc. (Applicant), 300 North St. Joseph Avenue, Hastings, NE 68901, filed in Docket No. CP73–124 a budget-type application pursuant to sections 7(c) and 7(b) of the Natural Gas Act, implemented by § 157.7 (b) and (e) of the Commission's regulations thereunder, for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1973, and operation of certain natural gas purchase facilities, and for permission and approval to abandon, during the calendar year 1973, certain service and direct sales measuring, regulating and minor facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system supplies of natural gas in producing areas generally coextensive with its system and in abandoning and removing direct sales measuring, regulating, and minor facilities.

The total cost of the proposed facilities will not exceed $3,600,000, with no single project to exceed $900.000. Applicant plans to finance this cost out of working capital or by interim bank loans which at a later date will be funded by a security issue.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 11, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72–20403 Filed 11–27–72;8:51 am]

[Docket No. CP73–126]

NORTHERN NATURAL GAS CO.

Notice of Application

NOVEMBER 21, 1972.

Take notice that on November 10, 1972, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, NE 68102, filed in Docket No. CP73–126 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a satellite sales station and the transportation and sale of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to establish a satellite sales station near Sloan, Iowa, for the delivery of natural gas, on an interruptible basis, to Iowa Public Service Co. (IPS) for resale service to the George MacClure alfalfa and hay dehydration plant. The estimated requirements of this consumer are 480 Mcf per day and 85,800 Mcf annually (April through October).

Applicant estimates the cost of the proposed delivery station at $6,600, which it plans to finance from cash on hand. IPS will reimburse Applicant for the actual cost of construction.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 18, 1972, file with the Federal Power Commission, Washington, D.C. 20416, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file

[2] Five months suspension from Nov. 18, 1972 (30 days after filing was completed, Oct. 18, 1972, in accordance with regulations, § 35.13).

a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72–20400 Filed 11–27–72;8:50 am]

[Docket No. CP73–128]

NORTHERN NATURAL GAS CO.

Notice of Application

NOVEMBER 21, 1972.

Take notice that on November 13, 1972, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, NE 68102, filed in Docket No. CP73–128 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain natural gas facilities in St. Louis County, Minn., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to abandon by removal approximately 1.33 miles of its 6-inch Chisholm branch line and by sale to Inter City Gas Ltd., Inc. (Inter City), its Chisholm No. 1 and No. 2 sales metering stations and a 0.31-mile segment of its Chisholm branch line. Applicant states that United States Steel Corp. (U.S. Steel), in order to permit the expansion of its mining operations, has canceled the right-of-way easements for the 1.33-mile segment and by special request consented to extend until July 1, 1973, the easement privileges for the 0.31-mile segment.

The facilities to be abandoned have been used to sell and deliver natural gas to Inter City for initial service to the community of Chisholm, Minn., and for interruptible service to Mesabi Tool & Drill Co. (Mesabi). Applicant states that it has constructed pursuant to § 2.55 of the Commission's general policy and interpretations (18 CFR 2.55), a new 2.45-mile segment of 4-inch branch line and a sales measuring station outside the ultimate pit limits of U.S. Steel's mining operation to connect its facilities with the distribution system of Inter City in order to assure maintenance of adequate service to the community of Chisholm. Applicant further states that the sale of the subject facilities to Inter City will allow Inter City to continue service to Mesabi.

Applicant estimates the cost of the proposed removal at $15,000, which it plans to finance from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 18, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72–20399 Filed 11–27–72;8:50 am]

[Docket No. E–7796]

PACIFIC POWER & LIGHT CO. ET AL.

Order Instituting Investigation and Hearing, Denying Certain Administrative Remedies, Denying Motion To Reject, Providing for Notice, and Permitting Intervention

NOVEMBER 20, 1972.

On July 3, 1972, Pacific Power & Light Co., on behalf of itself and six other public utilities, submitted an agreement entitled "The Seven Party Agreement," together with certificates of concurrence, providing for the sale over the Pacific Interties transmission system of surplus energy between the four Northwest companies (Pacific Power & Light Co., Portland General Electric Co., Puget Sound Power & Light Co., and the Washington Water Power Co.) and the three California companies (Pacific Gas & Electric Co., San Diego Gas & Electric Co., and Southern California Edison Co.). The subject seven party agreement is for a period of 20 years, and provides for the sale by the Northwest companies of excess energy to the California companies and the sale of excess energy by the California companies to the Northwest companies. The rates proposed for this service are the same or similar to those being offered by the companies to other wholesale customers in the area.

The Commission, by letter of the Secretary dated September 19, 1972, accepted the agreement for filing, to become effective on August 3, 1972, 30 days after the filing date.

On October 19, 1972, the city of Santa Clara, Calif., filed a petition to intervene herein and an application for rehearing of the Commission's action accepting for filing and making effective the seven party agreement. Santa Clara raises a number of technical as well as substantive objections to the seven party agreement and the Commission's action with respect thereto. These objections are (1) that the Commission erred in failing to determine whether the seven party agreement is an initial rate or a changed rate, (2) that in either case the sponsoring parties did not meet the necessary filing requirements, (3) that the Commission erred in failing to issue notice of the filing, (4) that the Commission erred in permitting the agreement to go into effect without opportunity for hearings, and (5) that the agreement is unlawful because it does not provide an opportunity for Santa Clara, other California utilities, or the U.S. Bureau of Reclamation to participate on an equal basis. Based on its stated objections, Santa Clara requests the Commission to enter an order granting rehearing and rejecting the seven party agreement. In the alternative, Santa Clara requests the Commission (1) to require the submission of additional information, (2) to condition any acceptance of the agreement upon modification thereof to include all electric utilities and to eliminate so-called "anticompetitive restrictions." (3) to issue a public notice of the filing, and (4) to suspend operation of the agreement for 5 months, enter into an investigation and hearings concerning the lawfulness of the agreement, and to permit the agreement to become effective subject to modification and refund.

For reasons hereinafter stated we do not believe the seven party agreement should be rejected. Santa Clara's filing of October 19, 1972, will be treated as a complaint pursuant to § 1.6 of the rules of practice and procedure. On the basis of the complaint, we find that good cause exists for the institution of an investigation and hearing pursuant to section 206 of the Federal Power Act for the purpose of determining the justness and reasonableness of the proposed seven party agreement.

The seven party agreement here involved is an initial rate filing governed

energy, spinning reserve or economy energy or in cases of coordination and

templated by the agreement. None of the participating companies has requested the imposition of refund requirements,

[Docket No. RP73–57]

SOUTH TEXAS NATURAL GAS GATHERING CO.

744 West Michigan Avenue, Jackson, MI 49201, filed in Docket No. CI73–368 an application pursuant to section

Review of the rate filing raises issues which require development in an evidentiary hearing. The proposed increases

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The seven party agreement here involved is an initial rate filing governed by § 35.12 of the Commission's regulations under the Federal Power Act. With respect to the question of whether the agreement was filed in compliance with the regulations, the application for rehearing at page 21 states:

4. If an initial rate, the submittal does not comply with § 35.12(a). The submittal letter fails to give the date on which service is expected to commence, if operations under the Agreement have not already commenced. The Agreement is an interchange arrangement in the nature of a power pooling transaction, but no supporting data has been filed by either applicant or concurring systems. There are no estimates of quantities and revenues of services; and the purported explanation for the absence of such estimates will not hold water, i.e., that it depends on the "availability of power surplus to the needs of one party coincident requirement for such power by another party." It is believed that the large investments in the inter-tie transmission lines were justified in large part by the economies of surplus power transactions, and therefore the companies must in fact have made estimates with sufficient "relative accuracy" to provide some information necessary to evaluate this filing (§ 35.12(b)(1)). This is an important regional transaction, with severe restrictions on its face; and the order of magnitude of transactions must be known if there is to be any serious evaluation made thereof (§ 35.12(b)(2)). There is no showing of the basis of the rate or how it was derived (id.). Is is a "standard" or "special rate arrived through negotiations"? Were "unusual customer requirements or competitive factors involved"? Is it designed to produce a return, or is it incremental? Were special cost of service studies prepared, and, if so, why aren't they submitted? (id.). There is no summary statement of all cost computations involved in arriving at the derivation of the levels of the rate (§ 35.12(a)(11)). There is no comparison between the proposed rates and other rates of the companies for other surplus power or energy sales (id.).

It is true that the transmittal letter fails to give the date when service is to commence; however, it states that "[s]ince the transactions under this agreement will depend both upon the availability of power surplus to the needs of one party, and the coincident requirement for such power by another party, no estimate can be made of the approximate transactions to be made on a yearly basis under this agreement." This explanation is equally true for determining the time when the transactions will commence as it is for determining the amounts of such transactions for the year. Since no date was specified in the letter of transmittal and since it is assumed that the parties by filing wished to have a filed rate schedule available in the event that the operable conditions arose to permit the transaction, an effective date of 30 days after filing was assigned, in accordance with § 35.2(e) of the regulations.

Section 35.12(b)(1) of the regulations specifically states that estimates of the transactions or revenue are not required where they "cannot be made with relative accuracy as, for example, in cases of interconnection arrangements containing schedules of rates for emergency energy, spinning reserve or economy energy or in cases of coordination and integration of hydroelectric generating resources whose outputs cannot be predicted quantitatively due to water conditions." It is clear that the transactions contemplated by this filing are of the same nature as those cited in the regulations.

The transmittal letter indicates that the pricing provisions for the sale of surplus hydroenergy by the Northwest companies are similar to the intercompany pool agreement on file as Pacific Power & Light Co.'s FPC Rate Schedule No. 36, Supplement No. 6, and that such price is the same as the price established by rate schedules of Bonneville Power Administration for the sale of the same class of service. The transmittal letter also indicates that the pricing provisions for the sale of excess energy by the California companies are substantially identical to similar provisions in contracts filed with the Commission for sales by the California companies to Bonneville Power Administration.[1] These are therefore standard rates within the meaning of § 35.12(b)(2)(i) of the regulations.

Section 35.12(b)(2)(ii) of the regulations does not require a summary statement of cost computations in arriving at the derivation of the levels of the rate where the filing includes nothing more than service to one or more added customers at an established rate of the utility for a particular class of service. This is substantially the situation here since service is at the standard rate although more than one selling utility is involved.

Based on the foregoing considerations, we find that the filing of the seven party agreement complies with the applicable provisions of our regulations, and that no basis exists for rejecting the filing or requiring, at this time, the submission of additional information.

With respect to Santa Clara's request for modification of the seven party agreement, we find that no proper basis exists for any such attempted modification. Further action with respect to the filed agreement should not be taken prior to the investigation and hearing initiated by this order.

Since the subject agreement is an initial rate filing, it is not subject to suspension or refund. Section 2.4 of the Commission's general policy and interpretations specifically provides that initial rate schedules cannot be suspended. It follows that Santa Clara's requests for suspension of the seven party agreement should be denied. With respect to Santa Clara's request for refund requirements, it is clear that Santa Clara will be neither a purchaser nor seller under the provisions of the seven party agreement as filed and permitted to become effective. As such, it would not be in a position to either pay or receive refunds resulting from the excess energy exchange transactions contemplated by the agreement. None of the participating companies has requested the imposition of refund requirements, and there does not appear to be any basis for such requirements under the present circumstances. Santa Clara's request for refund requirements will therefore be denied.

On November 2, 1972, Pacific Gas & Electric Co. moved to reject Santa Clara's petition to intervene and application for rehearing. PG&E claims that Santa Clara has not demonstrated that its interests are presently affected by the seven party agreement. We do not agree. Santa Clara's petition and application shows that it is a customer of PG&E, and that it may be affected by the seven party agreement to a degree sufficient to warrant intervention. Accordingly, Santa Clara will be permitted to intervene, and PG&E's motion will be denied.

The Commission orders:

(A) Pursuant to the provisions of section 206 of the Federal Power Act, an investigation and hearing is hereby instituted for the purpose of determining the justness and reasonableness of the proposed seven party agreement filed in this docket on July 3, 1972.

(B) A prehearing conference shall be held on January 9, 1973, for the purpose of establishing necessary hearing procedures, including a schedule for the submission of evidence, if any, by the parties to the proceeding, and for the expeditious resolution of other related matters as may be required.

(C) Santa Clara's request for rejection of the seven party agreement is denied.

(D) Santa Clara's request for the submission of further information, for modification of the seven party agreement, for suspension of the seven party agreement, and for refund requirements are all severally denied.

(E) The motion to reject filed by Pacific Gas & Electric Company on November 2, 1972, is denied.

(F) Any person desiring to intervene in this proceeding should file a petition to intervene with the Federal Power Commission, Washington, D.C. 20426, in accordance with § 1.8 of the rules of practice and procedure. (18 CFR 1.8). All such petitions to intervene should be filed on or before December 18, 1972.

(G) Santa Clara is permitted to intervene in this proceeding, subject to the Commission's rules and regulations.

(H) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-20406 Filed 11-27-72;8:51 am]

[1] Pacific Gas & Electric Co., FPC Rate Schedule No. 32; Southern California Edison Co., FPC Rate Schedule No. 35; San Diego Gas & Electric Co., FPC Rate Schedule No. 15.

[Docket No. CI73-368]

PATRICK PETROLEUM CORP.

Notice of Application

NOVEMBER 24, 1972.

Take notice that on November 20, 1972, Patrick Petroleum Corp. (Applicant), 744 West Michigan Avenue, Jackson, MI 49201, filed in Docket No. CI73-368 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Texas Eastern Transmission Corp. from the East Taft Field Area, San Patricio County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of natural gas on November 6, 1972, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and that it proposes to continue said sale for 1 year from the end of the 60-day emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to sell up to 2,000 Mcf of gas per day, plus any additional gas which may be available and which the purchaser has capacity to handle, at 35 cents per Mcf at 14.65 p.s.i.a., subject to downward B.t.u. adjustment.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before December 4, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-20441 Filed 11-27-72;8:51 am]

[Docket No. RP73-57]

SOUTH TEXAS NATURAL GAS GATHERING CO.

Order Rejecting PGA Clause, Suspending Proposed Increased Rates, Providing for Hearing Procedures, and Permitting Interventions

NOVEMBER 16, 1972.

On October 17, 1972, South Texas Natural Gas Gathering Co. (South Texas) tendered for filing a $2.8 million annual rate increase for its sales to Transcontinental Gas Pipe Line Corp. (Transco), under its FPC Gas Rate Schedule No. 2, based on an overall rate of return of 10 percent increased purchased gas costs, and decreased annual sales, among other things. South Texas contends that the reasons for such an increase are contained in an amendatory agreement filed at the same time as the proposed rate increase. South Texas says that under this agreement it will be allowed to collect its gathering costs and to pass on its purchased gas costs. The effect of this agreement is that it may result in more frequent rate increases than now provided under South Texas' present rate schedule.

South Texas requests that the Commission waive notice requirements to permit the filed increase to become effective on a date to coincide with the Commission approval of the conditional settlement in the Docket No. RI72-240, or November 15, 1972, whichever is earlier.

Notice of the proposed increase and PGA clause was issued on October 26, 1972, with petitions to intervene or protests due on or before November 8, 1972. Petitions to intervene were timely filed by Natural Gas Pipeline Co. of America (Natural), Consolidated Edison Co. of New York, Inc. (Consolidated), and Transco. A notice of intervention was timely filed by the Public Service Commission for the State of New York.

South Texas filed an answer to Natural's petition to intervene arguing that it should be rejected since the instant proceeding in no way affects Natural, and that Natural's rights are being protected in pending Docket No. RP73-7. In view of our action herein granting petitions to intervene of other similarly situated parties, we shall grant Natural's petition to intervene.

Review of the proposed PGA clause reveals that it is unacceptable. The base price should be adjusted to eliminate the increase in rates provided in the aforementioned Docket No. RI72-240. South Texas must also furnish appropriate data which would reconcile this adjustment to the filing. In addition, paragraph B.1. of the proposed PGA clause should be modified explicitly to provide for the adjustment to recover the balance in South Texas' Unrecovered Purchased Gas Cost Account at no less than 6-month intervals. We shall therefore reject the PGA clause without prejudice to its resubmittal in a form consistent with § 154.38(d)(4) of our regulations.

Review of the rate filing raises issues which require development in an evidentiary hearing. The proposed increases in rates and changes have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful.

The Commission finds:

(1) The Commission should accept South Texas' increased rates for filing as herein conditioned except for the PGA clause.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed rates and charges contained in FPC Gas Rate Schedule No. 2, as proposed to be amended in this docket, and that the tariff sheets be suspended as hereinafter provided.

(3) The disposition of this proceeding should be expedited in accordance with the procedure set forth below.

(4) The proposed PGA clause should be rejected.

(5) The proposed increased rates should be suspended for the full statutory 5 months, until April 17, 1973.

(6) In the event this proceeding is not concluded prior to the termination of the 5 months suspension period herein ordered, the placing of the increased rates applied for this proceeding into effect, subject to refund with interest while pending Commission determination as to their justness and reasonableness, is consistent with the purpose of the Economic Stabilization Act of 1970, as amended.

(7) Participation of the above-named persons in this proceeding may be in the public interest.

The Commission orders:

(A) South Texas' proposed increased rates are accepted for filing as hereinafter conditioned.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, and 14 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held, commencing with a prehearing conference on March 16, 1973, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street, NW., Washington, DC 20426, concerning the lawfulness of the rates, charges, classifications, and services contained in South Texas' FPC Gas Rate Schedule No. 2, as proposed to be amended herein.

(C) At the prehearing conference on March 16, 1973, prepared testimony (Statement P) together with its entire rate filing shall be admitted to the record as its complete case-in-chief subject to appropriate motions, if any, by parties to the proceeding. All parties will be expected to come to the conference.

(D) On or before March 2, 1973, the Commission staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of all intervenors shall be served on or before March 23, 1973. Any rebuttal evidence by South Texas shall be served on or

before April 6, 1973. The public hearing herein ordered shall convene on April 17,

Box 2511, Houston, TX 77001, filed in Docket No. CP73-129 an application

Take further notice that, pursuant to the authority contained in and subject to

ing schedules of rates for emergency & Electric Co., FPC Rate Schedule No. 15. Patrick Petroleum Corp. (Applicant),

before April 6, 1973. The public hearing herein ordered shall convene on April 17, 1973, at 10 a.m. e.s.t.

(E) A Presiding Administrative Law Judge to be designated by the Chief Presiding Administrative Law Judge for that purpose (see Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in § 2.59 of the Commission's rules of practice and procedure.

(F) South Texas' proposed PGA clause is rejected without prejudice to its resubmittal in a form consistent with § 154.38(d)(4) of our regulations.

(G) Pending hearing and a decision thereon, South Texas' FPC Gas Rate Schedule No. 2 is suspended and the use thereof deferred as herein provided, and until such further time as it is made effective in the manner provided in the Natural Gas Act.

(H) Each of the petitioners for intervention listed above is hereby entitled to intervene in this proceeding subject to the Commission's rules of practice and procedure: *Provided however*, The participation of such intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in their respective petitions to intervene: *And provided further*, That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order or orders entered in this proceeding.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-20402 Filed 11-27-72;8:50 am]

[Docket No. CP73-129]

TENNESSEE GAS PIPELINE CO.

Notice of Application

NOVEMBER 21, 1972.

Take notice that on November 14, 1972, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Applicant), Post Office Box 2511, Houston, TX 77001, filed in Docket No. CP73-129 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the Commission's regulations thereunder, for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1973, and operation of certain natural gas purchase facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system supplies of natural gas in various producing areas generally coextensive with said system.

Applicant requests a waiver of § 157.7(b) of said regulations so that the total cost of the proposed facilities will not exceed $10 million, with no single onshore project to exceed $1,750,000 and no single offshore project to exceed $2,500,000. In justification for the waiver, Applicant states that because of great increases in costs of construction, it would have to burden the Commission with additional applications if it is restricted to the cost limits imposed by § 157.7(b). Applicant proposes to finance these costs from general funds or revolving credit.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 18, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-20398 Filed 11-27-72;8:50 am]

[Project No. 175, etc.]

PACIFIC GAS & ELECTRIC CO. ET AL.

Notice of Expiration

NOVEMBER 28, 1972.

So that the Congress may have an adequate opportunity to decide whether upon the expiration of the licenses, to take over the projects under section 14 of the Federal Power Act, as amended (16 U.S.C. 807), and that the licensees for the projects and others may have adequate notice and opportunity to file timely applications for new licenses under section 15 of the act, as amended (16 U.S.C. 808), public notice is hereby given that the licenses issued for the designated and described projects on the appended list will expire on the dates specified.

KENNETH F. PLUMB,
Secretary.

PROJECTS FOR WHICH LICENSES WILL EXPIRE BETWEEN JULY 1, 1972 AND JUNE 30, 1978 WHICH ARE SUBJECT TO TAKEOVER OR RELICENSING

License expiration date	Licensee	Project No.	State	County or town	Stream	Installation (kw.)	Facilities under license	Period of license (years)
July 27, 1972	Pacific Gas & Electric Co	175	California	Fresno	North Fork, Kings River.	128,200	Diversion dam, afterbay dam, conduit, powerhouse, transmission line.	50
Sept. 26, 1972	Portland General Electric Co	135	Oregon	Clackamas	Clackamas River and Oak Grove River.	51,000	Storage reservoir, diversion dam, forebay reservoir, conduit, powerhouse, and transmission line.	50
Oct. 12, 1972	Pennsylvania Electric Co	309	Pennsylvania	Clarion	Clarion River	28,800	Dam and powerhouse	50
Oct. 31, 1972	Jesse I. Smith	719	Washington	Chelan	James and Phelps Creeks.	318	2 diversion dams, 2 conduits and power house.	20
Dec. 1, 1972	Pacific Gas & Electric Co	96	California	Madera and Fresno	San Joaquin River	34,100	Dam, conduit, powerhouse, transmission lines.	50
Feb. 6, 1973	Arkansas Power & Light Co	271	Arkansas	Montgomery, Garland, and Hot Springs.	Ouachita River	65,300	2 dams, 2 reservoirs, 2 powerhouses	50
Apr. 26, 1973	Southern California Edison Co	344	California	Riverside and San Bernardino.	San Gorgonio River	2,300	2 diversion dams, 2 canals, 2 forebay tanks, 2 penstocks, 2 powerhouses, and transmission line.	50
June 6, 1973	Ford Motor Co	362	Minnesota	Hennepin and Ramsey	Mississippi River	14,400	Powerhouse	50
June 8, 1973	Alabama Power Co	349	Alabama	Elmore, Tallapoosa, and Coosa.	Tallapoosa River	154,200	Dam, reservoir, powerhouse	50
June 30, 1973	Owens-Illinois Inc	2180	Wisconsin	Lincoln	Wisconsin River	3,000	Dam, integral powerhouse; transmission line.	35½
July 4, 1973	Utah Power & Light Co	20	Idaho	Bannock and Caribou	Bear River	14,000	Dam and integral powerhouse, reservoir	50
Aug. 24, 1973	Minnesota Power & Light Co	346	Minnesota	Morrison	Mississippi River	12,000	Dam and integral powerhouse	50
Sept. 18, 1973	Michigan Gas & Electric Co	401	Michigan	St. Joseph	St. Joseph River	1,700	do	50
Oct. 23, 1973	Pacific Gas & Electric Co	233	California	Shasta	Pit River	292,250	3 dams, 3 powerhouses, 3 reservoirs, penstocks, pressure tunnels, surge tanks, transmission lines.	50
Oct. 26, 1973	Minnesota Power & Light Co	469	Minnesota	St. Louis and Lake	Kawishiwi River	4,000	Dam, reservoir, penstocks, powerhouse, and transmission line.	49½
Apr. 10, 1974	North Counties Hydro-Electric Co.[1]	287	Illinois	La Salle	Fox	3,680	Dam, reservoir, headrace and powerhouse	50
June 24, 1974	Escondido Mutual Water Co	176	California	San Diego	San Luis Rey	700	Diversion dam, conduit dam, reservoir, 2 powerplants and transmission lines.	50
June 26, 1974	Pacific Power & Light Co	308	Oregon	Wallowa	East Fork Wallowa River and Royal Purple Creek.	800	2 diversion dams, 2 pipe conduits and powerhouse.	50
June 30, 1974	Wisconsin Public Service Corp	1979	Wisconsin	Lincoln	Wisconsin	4,200	Dam, reservoir and powerhouse	36½
June 30, 1974	Wisconsin Michigan Power Co	2131	Wisconsin and Michigan	Florence, Wis. and Dickinson, Mich.	Menominee	7,200	Dam, reservoir, powerhouse and transmission line.	36½
Sept. 28, 1974	Pennsylvania Power & Light Co	487	Pennsylvania	Wayne and Pike	Wallenpaupack	40,000	Dam, dike, reservoir, conduits and powerhouse.	50
Dec. 14, 1974	Georgia Power Co	485	Alabama and Georgia	Chambers and Lee, Ala., Harris, Ga.	Chattahoochee	65,000	Dam, reservoir, powerhouse and transmission line.	50
Dec. 31, 1974	Mosinee Paper Mills Co	2207	Wisconsin	Mosinee	Wisconsin	3,050	Dam, reservoir, two powerhouses and two transmission lines.	37
Feb. 27, 1975	Southern California Edison Co	382	California	Kern	Kern	0,200	Diversion dam, conduit, powerhouse, and transmission line.	50
Apr. 29, 1975	Pacific Gas & Electric Co	178	do	do	do	8,500	Diversion dam, conduit, powerhouse, and transmission line.	50
Nov. 6, 1975	Alabama Power Co	618	Alabama	Elmore, Chilton, and Coosa.	Coosa	100,000	Dam, powerhouse, storage reservoir, and transmission line.	50
Nov. 10, 1975	Louisville Gas & Electric Co	289	Kentucky	Jefferson	Ohio	80,320	Powerhouse and appurtenant facilities	50
Nov. 23, 1975	Pacific Gas & Electric Co	137	California	Amador and Calaveras	North Fork Mokelumne.	192,800	6 dams and storage reservoirs, forebays, diversion facilities, water conduits, 5 powerhouses, transmission lines.	50
Dec. 31, 1975	The Montana Power Co	1869	Montana	Sanders	Clark Fork	30,000	Dam, powerhouse, reservoir, and transmission line.	38
Dec. 31, 1975	Public Service Co. of New Hampshire.	2140	New Hampshire	Merrimack	Merrimack	7,200	Dam, reservoir, and powerhouse	38
Feb. 19, 1976	The Susquehanna Power Co. and Philadelphia Electric Power Co.	405	Maryland and Pennsylvania.	Cecil, Harford, Md., York, Lancaster, Pa.	Susquehanna	474,500	Dam, reservoir, powerhouse, and transmission line.	50
Feb. 24, 1976	Union Electric Co	459	Missouri	Miller, Morgan, and Camden.	Osage	172,000	Dams, reservoir, powerhouse and transmission line.	50
June 3, 1976	Crown Zellerbach Corp	588	Washington	Clallam	Elwha	12,000	Dam, reservoir, powerhouse, and transmission line.	50
June 7, 1976	The Washington Water Power Co	621	Idaho	Nez Perce	Clearwater	10,000	Dam, reservoir, powerhouse, and 3 transmission lines.	50
Aug. 18, 1976	Kentucky Utilities Co	539	Kentucky	Mercer	Kentucky	2,040	Powerhouse and transmission line	50
Nov. 22, 1976	Carolina Power & Light Co	432	North Carolina	Haywood	Big Pigeon	108,600	Dam, reservoir, and powerhouse	50
Aug. 4, 1977	South Carolina Electric & Gas Co	516	South Carolina	Lexington, Richland, Newberry & Saluda Counties.	Saluda River	200,000	Dam, reservoir, powerhouse	50
July 19, 1977	Wisconsin Power & Light Co	710	Wisconsin	Shawano County	Wolf River	700	Dam, reservoir, powerhouse & transmission line.	50
Oct. 7, 1977	New England Fish Company	2251	Alaska	Evans Island	San Juan Lake & stream.	100	3 dams, reservoir	20

[1] Sec. 14 of the Federal Power Act (16 U.S.C. 807), reserving the right to the United States to take over the project works upon expiration of the license at a price to be determined under that Section, but may be waived pursuant to Sec. 10(i) to the Act (16 U.S.C. 803(i)). Sec. 14 is not applicable to any project owned by a State or municipality, pursuant to Act of Aug. 15, 1953 (67 Stat. 587)

[FR Doc.72-20354 Filed 11-27-72;8:45 am]

FEDERAL RESERVE SYSTEM

listed companies that, by virtue of the 1970 Amendments to the Bank Holding

for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to retain all of

neither the original acquisition, nor retention thereof, of the nonbanking company would result in an undue concentration of resources, decreased or unfair

essentially the same as Bank's, and is considered experienced and capable. Considerations relating to the financial and managerial resources of applicant,

damages suffered by the Government as a result of a failure of the supplies or services furnished to the Government to conform to the specification requirements of the contract. Nothing in this limitation shall

FEDERAL RESERVE SYSTEM

BANK HOLDING COMPANIES

Grandfather Privileges

Notice was published in the FEDERAL REGISTER on October 19, 1972 (37 F.R. 22414; F.R. Doc. 72-17851), that the Board of Governors of the Federal Reserve System was reviewing, pursuant to section 4(a)(2) of the Bank Holding Company Act (12 U.S.C. 1843(a)(2)), the grandfather privileges of each of 44 listed companies that, by virtue of the 1970 Amendments to the Bank Holding Company Act, became subject to the Bank Holding Company Act. It appears that some of the companies listed in that notice were engaged in on, and have continuously engaged in since, June 30, 1968, additional activities that were not included in the aforementioned notice. Listed below are the names of companies in question and the additional activities that were not included in the Board's earlier notice.

Bank Holding Company	*Activities engaged in on, and continuously since, June 30, 1968*
Cameron Financial Corp. (formerly First Union National Bancorporation), Charlotte, N.C.	Insurance agency activities, real estate activities, reinsurance.
D. H. Baldwin, Cincinnati, Ohio	Data processing and related financial services, manufactures musical instruments, operates music schools.
Republic National Bank of Dallas, Dallas, Tex.	Leasing real estate.
Memphis Trust Co., Memphis, Tenn.	Writes all forms of life insurance, general insurance agency business, bookkeeping and accounting services, sale of office furniture and equipment, holding real estate for bank premises, construction and maintenance services for holding company and subsidiaries.
Zions Utah Bancorporation, Salt Lake City, Utah.	Finance company and industrial bank activities.
First Oklahoma Bancorporation, Inc., Oklahoma City, Okla.	Issuing commercial paper, auditing and business advisory services, writes life insurance, small business loans and investments.
C.I.T. Financial Corp., New York, N.Y.	Owning securities and exercising control over wide variety of activities.
First Railroad & Banking Co. of Georgia, Augusta, Ga.	Providing service personnel for banking subsidiary.

To aid the Board in making its determinations, interested persons are hereby afforded an opportunity to submit relevant data, views, and arguments relating to the continuation of grandfather privileges of the subject companies with respect to the listed activities. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than December 7, 1972. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's rules regarding availability of information.

Board of Governors of the Federal Reserve System, November 21, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-20361 Filed 11-27-72;8:48 am]

CORPUS CHRISTI BANK AND TRUST CO.

Termination of Proceeding

By order appearing in the FEDERAL REGISTER of July 13, 1971, the Board of Governors of the Federal Reserve System gave notice that it had been requested, pursuant to the provisions of section 2(g)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(g)(3)), by the Corpus Christi Bank and Trust Co., Corpus Christi, Tex. (Corpus Christi Bank), to determine that, with respect to certain sales of shares of First National Bank of Taft, Taft, Tex. (Taft Bank) to certain individuals, Corpus Christi Bank is not in fact capable of controlling the transferees, all of whose purchases of Taft Bank stock were financed by Corpus Christi Bank. Pursuant to section 2(g)(3), the Board's order provided an opportunity for filing a request for a hearing or written comments on the application filed by Corpus Christi Bank.

In view of steps taken by Corpus Christi Bank to remove itself from applicability of the rebuttable presumption of section 2(g)(3), by transferring to the Frost National Bank of San Antonio, San Antonio, Tex., loans made by Corpus Christi Bank in connection with the sale of shares of Taft Bank, further consideration of the requested determination is no longer warranted.

By order of the Board of Governors, November 20, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-20384 Filed 11-27-72;8:49 am]

UNITED CAROLINA BANCSHARES CORP.

Order Approving Acquisition of First Credit Corporation

United Carolina Bancshares Corp., Whiteville, North Carolina, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to retain all of the voting shares of First Credit Corporation, with offices in Wilmington and Shallotte, N.C. (First Credit), a company that engages in the activities of making loans with a cash advance of $900 or less and acting as agent with respect to credit life, accident, and health insurance directly related to an extension of credit. Such activities have been determined by the Board to be closely related to the business of banking (12 CFR 225.4(a)(1) and (9)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (37 F.R. 16998). The time for filing comments and views has expired, and none have been timely received.

Applicant controls three banks with aggregate deposits of approximately $222 million, representing 2.7 percent of the total commercial bank deposits in the State, and is the ninth largest banking organization in North Carolina. (All banking and consumer loan data are as of December 31, 1971, and unless otherwise noted, adjusted to reflect bank holding company formations and acquisitions approved by the Board through September 30, 1972.)

First Credit is a consumer finance company licensed under State law to make consumer loans with cash advances not exceeding $900. First Credit also acts as agent with respect to the sale of credit life, accident, and health insurance in connection with its own extensions of credit.

First Credit of Shallotte was organized in January of 1970 as the Confidential Loan Corp. (Confidential). Applicant, through its lead bank, The Waccamaw Bank and Trust Co., Whiteville, N.C. (Bank), was instrumental in the formation of Confidential and loaned funds for its original working capital. Subsequently, Confidential defaulted on its loans from Bank. On March 20, 1971, Bank exercised its rights under the loan agreement and took possession of all of the capital stock of Confidential in satisfaction of the debt previously contracted. This resulted in applicant's indirect acquisition of Confidential. Thereafter, Confidential was reorganized and its name changed to First Credit Corporation. On April 4, 1972, applicant indirectly acquired through First Credit certain assets of the Atlantic Loan Co., Wilmington, N.C. (Atlantic). Using the accounts acquired from Atlantic as a base, applicant now operates an office of First Credit in Wilmington.

The Board has previously stated that when a bank holding company indirectly acquires a nonbanking company through a subsidiary bank and subsequently applies to retain the nonbanking company under authority of section 4(c)(8), the Board must consider the transaction as if the nonbanking company was being acquired initially from an independent third party (1972 Federal Reserve Bulletin 936). Accordingly, in such circumstances, the Board is required to find that neither the original acquisition, nor retention thereof, of the nonbanking company would result in an undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. Applicant's retention of First Credit of Shallotte, together with First Credit of Wilmington, is therefore considered on this basis.

The relevant geographic market for the consumer loan activities engaged in by both offices of First Credit appears to be the Wilmington SMSA, which includes the counties of Brunswick and New Hanover. On the basis of aggregate consumer loans outstanding of about $502 thousand, First Credit is the eighth largest of 19 consumer loan companies in that market conducting a similar business, controlling about 5 percent of consumer loans outstanding.

Applicant, through Bank, operates eight banking offices in Brunswick County. First Credit is the sole consumer loan company in Shallotte. Due to differing rates of interest and lengths of time that credit is extended by Bank and First Credit of Shallotte, it does not appear that the respective institutions presently compete with one another to any significant degree. Further, it does not appear that significant potential competition for consumer loans would develop between Bank and First Credit. Accordingly, no significant existing or potential competition would be eliminated through the retention by applicant of First Credit's Shallotte office.

First Credit of Wilmington, with consumer loans outstanding of approximately $94,000, is the 18th largest of 19 offices located in Wilmington, N.C. Bank operates two offices in Wilmington, where it engages, to a limited degree, in making consumer loans. For the same reasons as discussed in connection with First Credit's Shallotte office, it does not appear that Bank and First Credit of Wilmington are engaged in significant competition for consumer loans, nor does it seem that the respective institutions would likely compete for consumer loans in the future. Accordingly, it is the Board's judgment that no significant existing or potential competition would be eliminated upon approval of applicant's retention of First Credit's Wilmington office.

First Credit's two offices also sell credit life insurance and accident and health insurance in connection with loans it originates. Due to the limited nature of its insurance activities it does not appear that applicant's retention of First Credit's insurance activities would have any significant effect on either existing or potential competition.

The financial and managerial resources of applicant and its subsidiary banks are considered satisfactory in view of applicant's commitment to provide additional capital for its two largest subsidiary banks, and projected growth and earnings for the group appear favorable. The financial condition of First Credit is, at present, inadequate. If the application to acquire First Credit is approved, applicant proposes to supply additional funds to First Credit as its operations require. First Credit's management is essentially the same as Bank's, and is considered experienced and capable. Considerations relating to the financial and managerial resources of applicant, its subsidiary banks, and First Credit are, therefore, consistent with approval of the application.

First Credit's Shallotte office is the only consumer finance company in Brunswick County and, therefore, adds materially to the convenience and needs of that area. Although the Wilmington office of First Credit is one of 19 consumer loan companies serving that city, it serves as an additional competitive alternative for such services. Accordingly, convenience and needs factors are consistent with, and lend some weight toward approval of the application.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company of any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[2] effective November 20, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-20385 Filed 11-27-72;8:49 am]

[2] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, Sheehan, and Bucher.

GENERAL SERVICES ADMINISTRATION

AUTOMATIC DATA PROCESSING EQUIPMENT (ADPE) PROCUREMENTS

Liability for Consequential Damages

On October 17, 1972, the General Services Administration distributed the following clause to all Federal agencies for use in solicitations and contracts for ADPE, unless the agency determines that it is in the best interest of the Government to require a greater degree of liability protection than that afforded by the clause.

CONSEQUENTIAL DAMAGES

This clause may be used until April 15, 1973, unless sooner rescinded or superseded.

GEORGE W. DOBSON, Jr.,
Assistant Commissioner for Automated Data Management Services.

NOVEMBER 20, 1972.

The contractor shall not be liable by reason of this clause, nor by reason of implied or statutory warranties for consequential damages suffered by the Government as a result of a failure of the supplies or services furnished to the Government to conform to the specification requirements of the contract. Nothing in this limitation shall serve to release the contractor or any subcontractor from liability for the negligence of the contractor or that of any subcontractor which results in liability of the Government to third persons.

[FR Doc.72-20383 Filed 11-27-72;8:49 am]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

PEERLESS EAGLE COAL CO.

Application for Renewal Permit; Notice of Opportunity for Public Hearing

Application for Renewal Permit for Noncompliance with the Electric Face Equipment Standard specified in the Federal Coal Mine Health and Safety Act of 1969 has been received as follows:

ICP Docket No. 3062 000, Peerless Eagle Coal Co., Mine No. 2A, USBM ID NO. 46 01616 0, Summersville, Nicholas County, W.Va., ICP Permit No. 3062 003-R-3 (Joy Coal Cutter, Ser. No. 15360).

In accordance with the provisions of section 305(a)(7) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be completed in accordance with 30 CFR Part 505 (35 F.R. 11296, July 15, 1970), copies of which may be obtained from the Panel on request.

Copies of renewal applications are available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Eighth Floor, 1730 K Street NW., Washington, DC 20006.

GEORGE A. HORNBECK,
Chairman, Interim Compliance Panel.

NOVEMBER 21, 1972.

[FR Doc.72-20369 Filed 11-27-72;8:48 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 72-27]

HISTORICAL ADVISORY COMMITTEE

Notice of Meeting

The NASA Historical Advisory Committee will meet on December 1 and 2, 1972, at the headquarters of the National Aeronautics and Space Administration, Washington, D.C. 20546. The meeting will be held in Room 5026 of Federal Office

Time	Topic
9:30 a.m.	Opening remarks by Chairman.
9:45 a.m.	Discussion of Apollo 17 mission.
10:30 a.m.	Discussion of Skylab mission.
11:30 a.m.	Discussion of Apollo-Soyuz mission.
1:30 p.m.	Discussion of Space Shuttle.
3:30 p.m.	Discussion of Space Tug.
4:30 p.m.	Discussion of Space Station.
5:30 p.m.	Discussion of Space Telescope.
6:30 p.m.	Discussion of Space Processing.
7:30 p.m.	Discussion of Space Applications.
8:30 p.m.	Discussion of Space Science.
9:30 p.m.	Discussion of Space Technology.
10:30 p.m.	Discussion of Space Transportation.
11:30 p.m.	Discussion of Space Systems.
12:30 a.m.	Discussion of Space Operations.
1:30 a.m.	Discussion of Space Management.
2:30 a.m.	Discussion of Space Policy.
3:30 a.m.	Discussion of Space Planning.
4:30 a.m.	Discussion of Space Budget.
5:30 a.m.	Discussion of Space Personnel.
6:30 a.m.	Discussion of Space Training.
7:30 a.m.	Discussion of Space Facilities.
8:30 a.m.	Discussion of Space Equipment.
9:30 a.m.	Discussion of Space Materials.
10:30 a.m.	Discussion of Space Energy.
11:30 a.m.	Discussion of Space Environment.
12:30 p.m.	Discussion of Space Safety.
1:30 p.m.	Discussion of Space Security.
2:30 p.m.	Discussion of Space Cooperation.
3:30 p.m.	Discussion of Space Future.
4:30 p.m.	Discussion of Space Conclusion.
5:30 p.m.	Discussion of Space Summary.
6:30 p.m.	Discussion of Space Appendix.
7:30 p.m.	Discussion of Space Bibliography.
8:30 p.m.	Discussion of Space Index.
9:30 p.m.	Discussion of Space Table of Contents.
10:30 p.m.	Discussion of Space Preface.
11:30 p.m.	Discussion of Space Introduction.
12:30 a.m.	Discussion of Space Chapter 1.
1:30 a.m.	Discussion of Space Chapter 2.
2:30 a.m.	Discussion of Space Chapter 3.
3:30 a.m.	Discussion of Space Chapter 4.
4:30 a.m.	Discussion of Space Chapter 5.
5:30 a.m.	Discussion of Space Chapter 6.
6:30 a.m.	Discussion of Space Chapter 7.
7:30 a.m.	Discussion of Space Chapter 8.
8:30 a.m.	Discussion of Space Chapter 9.
9:30 a.m.	Discussion of Space Chapter 10.
10:30 a.m.	Discussion of Space Chapter 11.
11:30 a.m.	Discussion of Space Chapter 12.
12:30 p.m.	Discussion of Space Chapter 13.
1:30 p.m.	Discussion of Space Chapter 14.
2:30 p.m.	Discussion of Space Chapter 15.
3:30 p.m.	Discussion of Space Chapter 16.
4:30 p.m.	Discussion of Space Chapter 17.
5:30 p.m.	Discussion of Space Chapter 18.
6:30 p.m.	Discussion of Space Chapter 19.
7:30 p.m.	Discussion of Space Chapter 20.
8:30 p.m.	Discussion of Space Chapter 21.
9:30 p.m.	Discussion of Space Chapter 22.
10:30 p.m.	Discussion of Space Chapter 23.
11:30 p.m.	Discussion of Space Chapter 24.
12:30 a.m.	Discussion of Space Chapter 25.
1:30 a.m.	Discussion of Space Chapter 26.
2:30 a.m.	Discussion of Space Chapter 27.
3:30 a.m.	Discussion of Space Chapter 28.
4:30 a.m.	Discussion of Space Chapter 29.
5:30 a.m.	Discussion of Space Chapter 30.
6:30 a.m.	Discussion of Space Chapter 31.
7:30 a.m.	Discussion of Space Chapter 32.
8:30 a.m.	Discussion of Space Chapter 33.
9:30 a.m.	Discussion of Space Chapter 34.
10:30 a.m.	Discussion of Space Chapter 35.
11:30 a.m.	Discussion of Space Chapter 36.
12:30 p.m.	Discussion of Space Chapter 37.
1:30 p.m.	Discussion of Space Chapter 38.
2:30 p.m.	Discussion of Space Chapter 39.
3:30 p.m.	Discussion of Space Chapter 40.
4:30 p.m.	Discussion of Space Chapter 41.
5:30 p.m.	Discussion of Space Chapter 42.
6:30 p.m.	Discussion of Space Chapter 43.
7:30 p.m.	Discussion of Space Chapter 44.
8:30 p.m.	Discussion of Space Chapter 45.
9:30 p.m.	Discussion of Space Chapter 46.
10:30 p.m.	Discussion of Space Chapter 47.
11:30 p.m.	Discussion of Space Chapter 48.
12:30 a.m.	Discussion of Space Chapter 49.
1:30 a.m.	Discussion of Space Chapter 50.
2:30 a.m.	Discussion of Space Chapter 51.
3:30 a.m.	Discussion of Space Chapter 52.
4:30 a.m.	Discussion of Space Chapter 53.
5:30 a.m.	Discussion of Space Chapter 54.
6:30 a.m.	Discussion of Space Chapter 55.
7:30 a.m.	Discussion of Space Chapter 56.
8:30 a.m.	Discussion of Space Chapter 57.
9:30 a.m.	Discussion of Space Chapter 58.
10:30 a.m.	Discussion of Space Chapter 59.
11:30 a.m.	Discussion of Space Chapter 60.
12:30 p.m.	Discussion of Space Chapter 61.
1:30 p.m.	Discussion of Space Chapter 62.
2:30 p.m.	Discussion of Space Chapter 63.
3:30 p.m.	Discussion of Space Chapter 64.
4:30 p.m.	Discussion of Space Chapter 65.
5:30 p.m.	Discussion of Space Chapter 66.
6:30 p.m.	Discussion of Space Chapter 67.
7:30 p.m.	Discussion of Space Chapter 68.
8:30 p.m.	Discussion of Space Chapter 69.
9:30 p.m.	Discussion of Space Chapter 70.
10:30 p.m.	Discussion of Space Chapter 71.
11:30 p.m.	Discussion of Space Chapter 72.
12:30 a.m.	Discussion of Space Chapter 73.
1:30 a.m.	Discussion of Space Chapter 74.
2:30 a.m.	Discussion of Space Chapter 75.
3:30 a.m.	Discussion of Space Chapter 76.
4:30 a.m.	Discussion of Space Chapter 77.
5:30 a.m.	Discussion of Space Chapter 78.
6:30 a.m.	Discussion of Space Chapter 79.
7:30 a.m.	Discussion of Space Chapter 80.
8:30 a.m.	Discussion of Space Chapter 81.
9:30 a.m.	Discussion of Space Chapter 82.
10:30 a.m.	Discussion of Space Chapter 83.
11:30 a.m.	Discussion of Space Chapter 84.
12:30 p.m.	Discussion of Space Chapter 85.
1:30 p.m.	Discussion of Space Chapter 86.
2:30 p.m.	Discussion of Space Chapter 87.
3:30 p.m.	Discussion of Space Chapter 88.
4:30 p.m.	Discussion of Space Chapter 89.
5:30 p.m.	Discussion of Space Chapter 90.
6:30 p.m.	Discussion of Space Chapter 91.
7:30 p.m.	Discussion of Space Chapter 92.
8:30 p.m.	Discussion of Space Chapter 93.
9:30 p.m.	Discussion of Space Chapter 94.
10:30 p.m.	Discussion of Space Chapter 95.
11:30 p.m.	Discussion of Space Chapter 96.
12:30 a.m.	Discussion of Space Chapter 97.
1:30 a.m.	Discussion of Space Chapter 98.
2:30 a.m.	Discussion of Space Chapter 99.
3:30 a.m.	Discussion of Space Chapter 100.

Rule 12f-1 thereunder, for unlisted trading privileges in certain securities, Se-

[Filed No. 500-1]

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Building 6, 400 Maryland Avenue SW., Washington, DC 20546. Members of the public will be admitted to the open portion of the meeting beginning at 10:30 a.m. on the agenda below on a first-come-first-served basis up to the seating capacity of the room, which is about 40 persons.

The NASA Historical Advisory Committee serves in an advisory capacity only. In this capacity it is concerned with all activities which the agency undertakes in the preservation, compilation, writing, and publication of the historical record of aeronautics and space activities. The current Chairman is Prof. Louis Morton. There are five members. The following list sets forth the approved agenda and schedule for the December 1 and 2, 1972, meeting of the Historical Advisory Committee. For further information, please contact Mr. James Nolan: Area code 202—755–8383.

FRIDAY, DECEMBER 1, 1972

Time	Topic
9 a.m.	*Executive session:* To exchange views on matters relating to the selection of candidates for authorship of NASA Historical Projects and internal management relationships of the agency. (Closed to the public.)
10:30 a.m.	*Introductory session:* To review with the Associate Administrator trends in NASA and to discuss the conduct of the meeting.
11 a.m.	*Review of NASA historical activities:* The NASA historian and his staff will highlight and answer questions on NASA historical activities including: Status of Committee Recomendations of 1971, Headquarters-Center Relationships, Current Historical Projects, Historical Publications & NASA's Role as Publisher, Projected Priority Projects, Archives and Records Activities, Summer Seminary, 1972. Relationships with Federal and Other Historical Activities, and NASA Chronology, Library of Congress. *Purpose:* To bring the Committee up to date on Results and Plans for Historical Activities with the objective of obtaining committee recommendations.
12:30 p.m.	Recess for lunch
1:30 p.m.	*Artifacts* Mr. Durant of the National Air and Space Museum will review with the Committee the role of the Smithsonian Institution in the inventory, preservation, and management of artifacts of space activity. Purpose: To inform the Committee of the status of this activity, should they choose to make recommendations.
2:30 p.m.	*Discussion period* The members will review among themselves the status and plans of the NASA historical program and their recommendations to the agency.

SATURDAY, DECEMBER 2, 1972

Time	Topic
9:00 a.m.	*Executive session:* to develop recommendations on candidates for selection as authors for NASA Historical Projects. (Closed to the public.)

HOMER E. NEWELL,
Associate Administrator, National Aeronautics and Space Administration.

[FR Doc.72-20386 Filed 11-27-72;8:49 am]

[Notice 72-26]

RESEARCH AND TECHNOLOGY ADVISORY COUNCIL, COMMITTEE ON AERONAUTICS

Notice of Meeting

The NASA Research and Technology Advisory Council, Committee on Aeronautics will meet on December 7 and 8, 1972, at the NASA Langley Research Center, Hampton, Va. 23365. The meeting will be held in Room 225 of Building 1219. Members of the public will be admitted to the open portion of the meeting beginning at 9:45 a.m. on the agenda below on a first come first served basis up to the seating capacity of the room, which is about 40 persons. All visitors must report to the Langley Research Center receptionist in Building 1219.

The NASA Research and Technology Advisory Council, Committee on Aeronautics serves in an advisory capacity only. In this capacity, the Committee is concerned with aerodynamics and aircraft vehicle systems. The current chairman is Mr. E. S. Carter. There are 12 members. The following list sets forth the approved agenda for the December 7 and 8, 1972, meeting of the Aeronautics Committee. For further information, please contact Mr. J. Lloyd Jones, area code 202—755–2397.

DECEMBER 7, 1972

Time	Topic
9 a.m.	*Executive session* (*Purpose.* To discuss organization of the committee and to be briefed on status of relevant budget considerations.) Closed to public.
9:45 a.m.	Welcome—Deputy Director, Langley Research Center.
9:45 a.m.	*Chairman and Executive Secretary's Reports* (*Purpose.* To review results of RTAC meeting, recent developments of interest and NASA policies, programs and organizational changes.)
10 a.m.	Review of NASA's VTOL Research Program a. Systems Studies. b. Lift Fan Research. c. Tilt Rotor Research. d. Helicopter Research. e. Overview of VTOL Noise.
12:30 p.m.	Lunch.
1:30 p.m.	Tour V/STOL Tunnel.
2 p.m.	Discussion of NASA's VTOL Research Program. (*Purpose.* To review NASA's ongoing research on VTOL systems with a view to offering recommendations as to gaps in the progress and the relative emphasis applied to the various systems. NOTE: A detailed presentation will be made of the helicopter research with brief summaries of the lift fan and tilt rotor research as they were presented in detail to the Committee at its last meeting.)
4 p.m.	Review of the Langley Research Center's Airfoil Research. (*Purpose.* To review and comment on Langley's current airfoil research program.)

DECEMBER 8, 1972

Time	Topic
8:30 a.m.	Review of NASA's Hypersonic Research Program (*Purpose.* To review and comment on NASA's current hypersonic research program.)
10 a.m.	*Executive session.* (*Purpose* To consider final Committee action and recommendations on agenda items previously listed. Both classified and unclassified technology with relevant budget considerations.) Closed to public.
12:30 p.m.	Lunch.
2:30 p.m.	Adjournment.

HOMER E. NEWELL,
Associate Administrator, National Aeronautics and Space Administration.

NOVEMBER 21, 1972.

[FR Doc.72-20371 Filed 11-27-72;8:48 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 7-4313]

CONTINENTAL ILLINOIS REALTY

Notice for Application for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 17, 1972.

In the matter of application of the PBW stock exchange, for unlisted trading privileges in a certain security, Securities Exchange Act of 1934.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the shares of beneficial interest of the following company, which security is listed and registered on one or more other national securities exchanges:

	File No.
Continental Illinois Realty	7-4313

Upon receipt of a request, on or before December 3, 1972, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GLADYS E. GREER,
Assistant Secretary.

[FR Doc.72-20333 Filed 11-27-72;8:46 am]

[File No. 500-1]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

NOVEMBER 17, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10¢ par value, of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 21, 1972, through November 30, 1972.

By the Commission.

[SEAL] GLADYS E. GREER,
Assistant Secretary.

[FR Doc.72-20335 Filed 11-26-72;8:46 am]

[File Nos. 7-4312 etc.]

CNA FINANCIAL CORP., ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 17, 1972.

In the matter of applications of the PBW stock exchange, for unlisted trading privileges in certain securities, Securities Exchange Act of 1934.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
CNA Financial Corp	7-4312
MPS International Corp	7-4314
Merrill Lynch, Pierce, Fenner & Smith Inc	7-4315
Southland Corp	7-4316

Upon receipt of a request, on or before December 3, 1972, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GLADYS E. GREER,
Assistant Secretary.

[FR Doc.72-20332 Filed 11-27-72;8:46 am]

[File No. 500-1]

CRYSTALOGRAPHY CORP.

Order Suspending Trading

NOVEMBER 17, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Crystalography Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 20, 1972, through November 29, 1972.

By the Commission.

[SEAL] GLADYS E. GREER,
Assistant Secretary.

[FR Doc. 72-20336 Filed 11-27-72;8:46 am]

[Filed No. 500-1]

MINUTE APPROVED CREDIT PLAN, INC.

Order Suspending Trading

NOVEMBER 17, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.05 par value, and all other securities of Minute Approved Credit Plan, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange, be summarily suspended, this order to be effective for the period from November 20, 1972, through November 29, 1972.

By the Commission.

[SEAL] GLADYS E. GREER,
Assistant Secretary.

[FR Doc.72-20337 Filed 11-27-72;8:46 am]

[File No. 500-1]

NORTH AMERICAN PLANNING CORP.

Order Amending Order Suspending Trading

NOVEMBER 16, 1972.

The Commission having determined to amend its order of November 10, 1972, summarily suspending trading in the securities of North American Planning Corp. for the period from November 11, 1972, through November 20, 1972:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, the trading in the Class B nonvoting common stock, $0.01 par value, and all other securities of North American Planning Corp. being traded otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 11, 1972, through 10 a.m., e.s.t., on November 20, 1972.

By the Commission.

[SEAL] GLADYS E. GREER,
Assistant Secretary.

[FR Doc.72-20338 Filed 11-27-72;8:47 am]

[File No. 7-4311]

HARTZ MOUNTAIN PET FOODS, INC.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 17, 1972.

In the matter of application of the PBW Stock Exchange, Inc., for unlisted trading privileges in a certain security, Securities Exchange Act of 1934.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trad-

ing privileges in the common stock of

of a letter addressed to the Secretary, Securities and Exchange Commission,

quest for redemption is received. Applicants also state that the proposed re-

[File No. 7-4327]

WHEELABRATOR-FRYE, INC.

MC 136460, Murphy Rigging & Erecting, Inc., now being assigned hearing February 21, 1973 (3 days), at St. Paul, Minn., in a hearing room to be later designated.

MC-134599 Sub 52 and 53, Interstate Contract Carrier Corp., now being assigned hearing

1973 (1 day), at Columbus, Ohio, in a hearing room to be later designated.

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ing privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

	File No.
Hartz Mountain Pet Foods, Inc	7-4311

Upon receipt of a request, on or before December 3, 1972, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GLADYS E. GREER, *Assistant Secretary.*

[FR Doc.72-20331 Filed 11-27-72;8:46 am]

[Files Nos. 7-4328, 7-4329]

MICROWAVE ASSOCIATES, INC., AND WARNACO, INC.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 17, 1972.

In the matter of applications of the Boston Stock Exchange, for unlisted trading privileges in certain securities, Securities Exchange Act of 1934.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Microwave Associates, Inc	7-4328
Warnaco, Inc	7-4329

Upon receipt of a request, on or before December 3, 1972, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GLADYS E. GREER, *Assistant Secretary.*

[FR Doc.72-20330 Filed 11-27-72;8:46 am]

[812-3266]

SYNCRO INCOME FUND, INC., ET AL.

Notice of Application for an Order Exempting Applicants

NOVEMBER 17, 1972.

Notice is hereby given that Syncro Income Fund, Inc., and Syncro Growth Fund, Inc. (funds), both diversified, open-end management investment companies registered under the Investment Company Act of 1940 (the "Act"), and Safeco Securities, Inc. (Safeco), 4347 Brooklyn Avenue NE., Seattle, WA 98105, principal underwriter for each of the Funds (hereinafter collectively referred to as "Applicants") have filed an application pursuant to section 6(c) of the Act for an order of the Commission exempting Applicants from Section 22(d) of the Act and Rule 22d-1 thereunder. All interested persons are referred to the application, as amended, on file with the Commission for a statement of the representations made therein, which are summarized below.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus. The prospectuses of the Funds state that a sales commission is included in the offering price of the shares of such Funds.

Applicants request an exemption from section 22(d) of the Act and Rule 22d-1 thereunder to enable each of the Funds to sell its shares at the net asset value per share, i.e., without any sales charge, to persons who have caused their shares in such Fund to be redeemed within the previous 15 days. Investors will be permitted to reinvest up to the exact amount of the redemption proceeds (or to the nearest full share if fractional shares are not purchased) without any sales charges.

Applicants state that Safeco may, at its expense, probably by a statement included with the redemption check, advise eligible shareholders of the right to reinvest the proceeds at net asset value. To be effective, notice from such persons of the exercise of the privilege must be received by Applicants, or be postmarked, within 15 days after the date the request for redemption is received. Applicants also state that the proposed repurchases will be made at the net asset value per share next determined after receipt of the order and that no sales commission will be received by management or any sales representative on such repurchases.

Applicants further state that the privilege of reinvesting the proceeds of a redemption at net asset value will be limited to persons who have not previously exercised such privilege as to either of the Funds, and that because of this limitation, the proposed privilege will not afford an opportunity for speculative short-term trading in shares of the Funds.

Applicants contend that the proposed privilege will enable investors to be reminded of features of their investment which they may have overlooked or of which they may have been unsure at the time they redeemed.

Section 6(c) of the Act provides that the Commission may, upon application, conditionally or unconditionally exempt any person or transaction from any provisions of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 14, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20339 Filed 11-27-72;8:47 am]

[File No. 7-4327]

WHEELABRATOR-FRYE, INC.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 17, 1972.

In the matter of application of the PBW Stock Exchange, Inc., for unlisted trading privileges in a certain security, Securities Exchange Act of 1934.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

	File No.
Wheelabrator-Frye, Inc	7-4327

Upon receipt of a request, on or before December 3, 1972, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GLADYS E. GREER, *Assistant Secretary.*

[FR Doc.72-20334 Filed 11-27-72;8:46 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 124]

ASSIGNMENT OF HEARINGS

NOVEMBER 22, 1972.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 136460, Murphy Rigging & Erecting, Inc., now being assigned hearing February 21, 1973 (3 days), at St. Paul, Minn., in a hearing room to be later designated.

MC 117119 Sub 459, Willis Shaw Frozen Express, Inc., now being assigned hearing February 26, 1973 (2 days), at St. Paul, Minn., in a hearing room to be later designated.

AB 1 Sub 2, Chicago & North Western Transportation Co., abandonment between Conover and Philips, Vilas County, Wis., now being assigned hearing March 1, 1973 (2 days), at Rhinelander, Wis., in a hearing room to be later designated.

MC 136163, Jerome Kelly Jr., doing business as Jerome Kelly & Son, now assigned November 27, 1972, at Washington, D.C., is canceled and the application is dismissed.

MC 136884, James J. Hamilton, doing business as Hamilton's Towing Service, now being assigned hearing January 15, 1973 (3 days), at Chicago, Ill., in a hearing room to be later designated.

MC 136596 Sub 1, Norman H. Davis, doing business as Davis Service Co., now being assigned hearing January 22, 1973 (1 week), at Philadelphia, Pa., in a hearing room to be later designated.

MC 109633 Sub 17, Arbet Truck Lines, Inc., now assigned February 9, 1973, at Chicago, Ill., canceled and the application is dismissed.

MC 126305 Sub 44, Boyd Bros. Transportation Co., Inc., now assigned November 27, 1972, at Birmingham, Ala., hearing is canceled and application dismissed.

MC 107743 Sub 17, System Transport, Inc., now assigned January 15, 1973, at Chicago, Ill., is postponed indefinitely.

MC 123407 Sub 107, Sawyer Transport, Inc., now being assigned hearing February 9, 1973 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC 111504 Sub 9, Starr Transit Co., Inc., now being assigned hearing January 15, 1973 (1 week), at Philadelphia, Pa., in a hearing room to be later designated.

No. 35719, TOFC freight all kinds in trainloads, between Chicago, and Kearny, now assigned December 11, 1972, at Washington, D.C., hearing is postponed indefinitely.

No. 35596, Wyoming Intrastate Freight Rates and Charges—1972, now being assigned hearing March 5, 1973 (3 days), at Cheyenne, Wyo., in hearing room to be later designated.

AB-19 Sub 1, Baltimore & Ohio Railroad Co. and the Pittsburgh & Western Railroad Co. abandonment between Bruin and Mount Jewett in Butler, Armstrong, Clarion, Forest, Elk, and McKean Counties, Pa., now being assigned hearing January 22, 1973 (1 week), at Kane, Pa., in a hearing room to be later designated.

AB-18 Sub 3, Chesapeake & Ohio Railway Co., abandonment between Kinde and Port Austin, in Huron County, Mich., now being assigned hearing February 12, 1973 (2 days), at Bad Axe, Mich., in a hearing room to be later designated.

AB 5 Sub 40, George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees of the property of Penn Central Transportation Co., debtor, abandonment Bellefonte secondary track, between Lemont and Coburn, in Centre County, Pa., now being assigned hearing January 16, 1973 (3 days), at Bellefonte, Pa., in a hearing room to be later designated.

MC-126278 Sub 7, Frigid Way Cartage Co., now being assigned hearing February 5, 1973 (1 day), at Columbus, Ohio, in a hearing room to be later designated.

MC-111545 Sub 172, Home Transportation Co., Inc., now being assigned hearing February 6, 1973 (1 day) at Columbus, Ohio, in a hearing room to be later designated.

MC-123476 Sub 15, Curtis Transport, Inc., now being assigned hearing February 7, 1973 (1 day), at Columbus, Ohio, in a hearing room to be later designated.

MC-134599 Sub 52 and 53, Interstate Contract Carrier Corp., now being assigned hearing February 8, 1973 (2 days), at Columbus, Ohio, in a hearing room to be later designated.

I&S No. 8720, Icing Service, U.S. Railroads, I&S No. 8707, Refrigeration Provisions, Florida East Coast Railway, hearing continued to December 11, 1972, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC-123613 Sub 9, Claremont Motor Lines, Inc., now being assigned hearing January 22, 1973 (2 weeks), at Charlotte, N.C., in a hearing room to be later designated.

MC-133565 Sub 6, True Transport, Inc., now being assigned hearing February 5, 1973 (1 week), at New York, N.Y., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-20389 Filed 11-27-72;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 22, 1972.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42574—*Joint water-rail container rates—Kawasaki Kisen Kaisha, Ltd.* Filed by Kawasaki Kisen Kaisha, Ltd. (No. 4), for itself and interested rail carriers. Rates on general commodities, between ports in Hong Kong, Japan, and Korea, on the one hand, and rail stations and water carrier terminals on the U.S. Atlantic and gulf seaboard, on the other.

Grounds for relief—water competition.

Tariffs—Kawasaki Kisen Kaisha, Ltd., tariffs ICC Nos. 1, 2, and 3. Rates are published to become effective on December 27, 1972.

FSA No. 42575—*Joint water-rail container rates—Phoenix Container Liners Ltd.* Filed by Phoenix Container Liners Ltd. (No. 4), for itself and interested rail carriers. Rates on general commodities, between ports in Japan and Korea, on the one hand, and rail stations and water carrier terminals on the U.S. Atlantic and Gulf seaboard, on the other.

Grounds for relief—water competition.

Tariffs—Phoenix Container Liners Ltd., tariffs ICC Nos. 1 and 2. Rates are published to become effective on December 27, 1972.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-20390 Filed 11-27-72;8:45 am]

[Notice 157]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 21, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49

CFR Part 1131), published in the FEDERAL REGISTER issue of April 27, 1965, which is hereby republished as follows:

sought to operate as a *common carrier*, by motor vehicle, over irregular routes,

No. MC 134278 (Sub-No. 5 TA), filed November 1, 1972. Applicant: CHARLES R. GOODMAN, doing business as C. R.

pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations

Building, Amarillo, Tex. 79101, attorney for applicants.

No. MC-FC-73975. By order of November 13, 1972, the Motor Carrier Board

lumber, from points in Lawrence County, S. Dak., and Crook County, Wyo., to points in Iowa, Minnesota, Colorado, Montana, Nebraska, North Dakota,

CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 128217 (Sub-No. 7 TA), filed November 3, 1972. Applicant: REINHART MAYER, doing business as MAYER TRUCK LINE, 1203 South Riverside Drive, Jamestown, ND 58401. Applicant's representative: James B. Hovland, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* for the account of Clark Equipment Co., Melroe Division, from Burns Harbor, Ind., and Joliet, Ill., to Cooperstown and Gwinner, N. Dak., for 180 days. Supporting shipper: Clark Equipment Co., Melroe Division, Gwinner, N. Dak. 58040. Send protests to: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 2340, Fargo, ND 58102.

No. MC 128270 (Sub-No. 7 TA), filed October 31, 1972. Applicant: REDIEHS INTERSTATE, INC., Office, 7869 Milton Road, Mailing, 8607 West Cermak Road, North Riverside, IL 60546, Gary, Ind. 46403. Applicant's representative: James C. Hardman, Suite 1133, 127 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal plate*, from the plantsite of Midwest Steel Division of National Steel Corp., at Portage, Ind., to the plant and warehouse sites of Continental Can Co., Inc., at St. Joseph, Mo., for 180 days. Supporting shipper: Midwest Steel, Division of National Steel Corp., Portage, Ind. 46368. Send protests to: District Supervisor J. H. Gray, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne Street, Room 204, Fort Wayne, IN 46802.

No. MC 128383 (Sub-No. 21 TA), filed November 2, 1972. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, PA 19079. Applicant's representative: James W. Paterson, 123 South Broad Street, Philadelphia, PA 19109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and commodities the transportation of which, because of size or weight requires the use of special equipment), between Weir Cook Airport near Indianapolis, Ind., and Chicago-O'Hara International Airport, Chicago, Ill., for 180 days. Supporting shipper: Pan American World Airways, 144 North Pennsylvania Avenue, Indianapolis, IN 46204. Send protests to: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 128527 (Sub-No. 30 TA) (Correction), filed October 13, 1972, published in the FEDERAL REGISTER issue of November 4, 1972, corrected and republished as corrected this issue. Applicant: MAY TRUCKING COMPANY, Post Office Box 389, Payette, ID 83661. Applicant's representative: Gatchel & Batt, Professional Building, Payette, Idaho. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum sheet in coils and/or plates, pipe, or tubing; aluminum siding, roofing, and other component parts and accessories; rejected or damaged shipments of the same material; and scrap aluminum and pallets on a return movement;* authority is also sought to provide mixed loads of the aforementioned commodities between the points set forth. Material will be supplied for mobile homes, modular and assembled buildings, recreational vehicles and campers, from plantsite of AMAX Building Products, a division of AMAX Aluminum Mill Products, Inc. (Post Office Box 418, East Highway 30, Boise, ID 83701), to plantsites located in or near the cities of Calgary and Red Deer, in the Province of Alberta, Canada, for 180 days. NOTE: Applicant does not intend to tack authority or to interline with any other carrier. Supporting shipper: AMAX Building Products, Post Office Box 418, East Highway 30, Boise, ID 83701. Send protests to: C. W. Campbell, Bureau of Operations, Interstate Commerce Commission, 550 West Fort, Box 07, Boise, ID 83702. NOTE: The purpose of this republication is to broaden the authority sought.

No. MC 128772 (Sub-No. 7 TA), filed November 1, 1972. Applicant: STAR BULK TRANSPORT, INC., 821 North Front Street, New Ulm, MN 56073. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese*, from Rochester, Minn., to Charleston, W. Va., Salem, Va., Kansas City, Mo., Memphis, Tenn., North Little Rock, Ark., Houston and Irving, Tex., for 90 days. Supporting shipper: Pace Dairy Foods Co., Rochester, Minn. 55901. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building, and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 134278 (Sub-No. 5 TA), filed November 1, 1972. Applicant: CHARLES R. GOODMAN, doing business as C. R. GOODMAN TRUCKING CO., 4255 South Second West Street, Murray, UT 84107. Applicant's representative: Irene Warr, Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 MCC 209 and 766, from the plantsite of Wilson Beef & Lamb Co. at Ogden, Utah, to points in California, for 180 days. Supporting shipper: Wilson Beef & Lamb Co., Post Office Box 1189, Ogden, UT 84402 (J. A. Lane, Manager, Lamb Department). Send protests to: District Supervisor Lyle D. Helfer, Bureau of Operations, Interstate Commerce Commission, 5239 Federal Building, 125 South State Street, Salt Lake City, UT 84111.

No. MC 138151 TA, filed October 30, 1972. Applicant: OREGON RUBBER CO. (A Corporation), 390 West 11th Avenue, Eugene, OR 97401. Applicant's representative: J. W. McCracken, Jr., 858 Pearl Street, Eugene, OR 97401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points in Lane County, Oreg., to points in New Mexico (except Rio Arriba and San Juan Counties), for 180 days. Supporting shipper: Cone Lumber Co., Goshen, Oreg. 97401. Send protests to: A. E. Odoms, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 138159 TA, filed November 1, 1972. Applicant: DANIEL J. LEONARD, doing business as LEONARD TRUCKING, 1878 Delameter Road, Castle Rock, WA 98611. Applicant's representative: Daniel J. Leonard (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wine, beer, and malt beverages*, from Madera, Modesto, San Francisco, Van Nuys, and Azuza, Calif., to Chehalis and Longview, Wash., for 180 days. Supporting shipper: Cowlitz Distributing Co., 1156 12th Avenue, Longview, WA 98632; Peterson Distributing Co., 1024 Prindle Street, Chehalis, WA 98532. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-20393 Filed 11-27-72;8:45 am]

[Notice 169]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-74026. By order of November 9, 1972, the Motor Carrier Board approved the transfer to Dressing Transport, Inc., Wilson, N.Y., of the operating rights in Permit No. MC-135124 (Sub-No. 1), issued March 23, 1972, to Charles Murray, Freemont, Ohio, authorizing the transportation of various commodities from and to points in New York, New Hampshire, Massachusetts, Connecticut, Pennsylvania, New Jersey, Maryland, Ohio, Michigan, Illinois, Florida, Georgia, South Carolina, Maine, Vermont, Rhode Island, West Virginia, Kentucky, Wisconsin, North Carolina, and the District of Columbia. Ronald W. Malin, Bankers Trust of Jamestown Building, Jamestown, N.Y. 14701, attorney for applicants.

No. MC-FC-74030. By order entered November 9, 1972, the Motor Carrier Board approved the transfer to Leo Montgomery and Norma Montgomery, doing business as A-1 Montgomery Van Lines, Vallejo, Calif., of the operating rights set forth in Certificate No. MC-127360 (Sub-No. 2), issued February 12, 1970, to John W. Roy, Jr., doing business as American Moving & Storage Co., Oakland, Calif., authorizing the transportation of used household goods, between points in Alameda, Contra Costa, Marin, San Francisco, San Mateo, Santa Clara, and Solano Counties, Calif., with certain specified restrictions. Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006, attorney for applicants.

No. MC-FC-73974. By order entered November 10, 1972, the Motor Carrier Board approved the transfer to Transport Express, Inc., Holly, Colo., of the operating rights set forth in certificates Nos. MC-107799 (Sub-No. 4), and MC-107799 (Sub-No. 6), issued by the Commission October 22, 1968, and December 2, 1969, respectively, to J. O. Ringgenberg, Inc., Dodge City, Kans., authorizing the transportation of: Anhydrous ammonia, from specified points in Kansas, Texas, Nebraska, and Iowa, to points in Colorado, Wyoming, Texas, Oklahoma, Missouri, Nebraska, Iowa, Kansas, South Dakota, Illinois, Minnesota, and North Dakota. Grady L. Fox, 222 Amarillo Building, Amarillo, Tex. 79101, attorney for applicants.

No. MC-FC-73975. By order of November 13, 1972, the Motor Carrier Board approved the transfer to Pat's Transfer, Inc., Hershey, Nebr., of certificate No. MC-18352 issued to Howard McConnell, Hershey, Nebr., authoring the transportation of: Commodities of a general commodity nature, between specified points and areas in Nebraska, Colorado, Iowa, and Wyoming. Robert E. Roeder, attorney, Post Office Box 908, North Platte, NE 69101.

No. MC-FC-74021. By order of November 22, 1972, the Motor Carrier Board approved the transfer to Bob's Delivery Service, Inc., Santa Fe Springs, Calif., of certificate of registration No. MC-120590 (Sub-No. 1) issued July 23, 1968, to Mildred C. O'Donell, doing business as Bob's Delivery Service, Los Angeles, Calif., evidencing a right to engage in transportation in interstate commerce as described in certificate granted in decision No. 60069, dated May 9, 1960, transferred and reissued pursuant to decision No. 73016 dated September 6, 1967, by public Utilities Commission of California. Donald Murchison, 9454 Wilshire Boulevard, Suite 400, Glendale Federal Building, Beverly Hills, CA 90212, attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-20391 Filed 11-27-72;8:45 am]

[Notice 168]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-74037 (Corrected).[1] By order entered November 6, 1972, Division 3, acting as an Appellate Division, approved the transfer to C & R Transfer Co., Sioux Falls, S. Dak., of the operating rights set forth in Permit No. MC-124576 (Sub-No. 6), issued May 21, 1968, to Williams Transportation, Inc., Belle Fourche, S. Dak., authorizing the transportation of: Posts, poles, pilings, and lumber, from points in Lawrence County, S. Dak., and Crook County, Wyo., to points in Iowa, Minnesota, Colorado, Montana, Nebraska, North Dakota, South Dakota, and Wyoming, limited to a transportation service to be performed under a continuing contract, or contracts, with Whitewood Post and Pole Co., Whitewood, S. Dak. Dual operations authorized. James R. Becker, 412 West Ninth Street, Sioux Falls, SD 57104, attorney for applicants.

No. MC-FC-73957. By order of November 9, 1972, the Motor Carrier Board approved the transfer to Fairall Detroit Rubbish, Inc., Wyandotte, Mich., of permits Nos. MC-29883 issued June 13, 1966, and MC-29883 (Sub-No. 6) issued December 16, 1968, to Fairall Trucking Co., Wyandotte, Mich., authorizing the transportation of automobile parts, paper and paper products, mattresses, beds, bed springs, bed rails, and studio couches, such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, specified products and supplies used in the conduct of a creamery or butter warehouse or packaging plant, brickote products, brick and stone surfaced aluminum entryways, aluminum, stone, and brick siding, rain carrying equipment, shutters, and drugs, medicines, and packaging materials, from, to and between points as specified in Michigan, Indiana, Illinois, and Ohio. Wilhelmina Boersma, 1600 First Federal Building, Detroit, Mich. 48226, applicants' attorney.

No. MC-FC-74006. By order of November 20, 1972, the Motor Carrier Board approved the transfer to Hanson M. Savage, doing business as H. M. Savage, Chester Depot, Vt., of the operating rights in permit No. MC-124545 issued April 12, 1971, to Savage Trucking Co., Inc., Chester Depot, Vt., authorizing the transportation of mined and ground talc, in bags, in shipper-owned trailers, from Chester, Vt., to points in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, and New Jersey. The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with Vermont Talc Company. Martin Werner, 2 West 45th Street, New York, NY 10036, attorney for applicants.

No. MC-FC-74011. By order of November 8, 1972, the Motor Carrier Board approved the transfer to Rayford Sadberry, Holliday, Tex., of certificate No. MC-55981 (Sub No. 3) and MC-55981 (Sub No. 4) issued to Gilbert L. Finnell, doing business as Gilbert L. Finnell Trucking Co., Holliday, Tex., authorizing the transportation of: Machinery, materials, supplies, and equipment, used in the natural gas and petroleum industry, and earth drilling machinery and equipment, pipe, etc., used in the well drilling industry, between points in Oklahoma and Texas. Hugh T. Matthews, attorney, 630 Fidelity Union Tower, Dallas, Tex. 75201.

[SEAL] ROBERT L OSWALD, *Secretary.*

[FR Doc.72-20306 Filed 11-24-72;8:52 am]

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

[1] Issued to correct date of order entered.

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environment resulting from approval of its application.

U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

Synopses of orders entered by the Motor Carrier Board of the Commission

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[A Cumulative checklist of CFR issuances for 1972 appears in the first issue of the Federal Register each month under Title 1]

Order from Superintendent of Documents,
United States Government Printing Office,
Washington, D.C. 20402

FEDERAL REGISTER

Area Code 202 Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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[Docket No. 72-SO-118, Amdt. 39-1564]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Model PA-34-200 Series Airplanes

There have been failures of the exhaust system on Piper Model PA-34 airplanes. This condition could result in hot exhaust gases in the engine compartment. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require inspection of the exhaust system for loose, broken and cracked ducts or flanges.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, 31 F.R. 13697, § 39.13 of Part 39 of the Federal Aviation regulations is amended by adding the following new airworthiness directive:

PIPER: Applies to PA-34-200 airplanes, Serial Numbers 34-E4 and 34-7250001 and up. Compliance required as indicated.

To insure that cracks are not present in the exhaust system, accomplish the following:

(a) For those airplanes with 25 or more hours' time in service on the effective date of this airworthiness directive, unless already accomplished within the last 25 hours' time in service, comply with paragraphs (c) and (d) within the next 10 hours' time in service and thereafter at intervals not to exceed 25 hours' time in service from the last inspection.

(b) For those airplanes with less than 25 hours' time in service on the effective date of this airworthiness directive, unless already accomplished, comply with paragraphs (c) and (d) upon the accumulation of 25 hours' time in service or within the next 10 hours, whichever is later, and thereafter at intervals not to exceed 25 hours' time in service from the last inspection.

(c) Open both left and right cowl doors on both right and left engines and make a thorough visual inspection of the exhaust system for any evidence of cracks or failed ducts or flanges.

(d) If the exhaust systems are found to contain cracked or broken ducts, flanges, or parts, replace with new replacement parts or repair the affected parts in accordance with Advisory Circular 43.13-1 before further flight.

Piper Service Bulletin No. 373 dated November 13, 1972, pertains to this subject.

This amendment is effective December 1, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on November 17, 1972.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.72-20444 Filed 11-28-72;8:48 am]

[Docket No. 12062, Amdt. 39-1568]

PART 39—AIRWORTHINESS DIRECTIVES

Rolls Royce Dart Series Engines

Amendment 39-1491 (37 F.R. 14757), AD 72-16-5 requires replacement of certain specified first and second stage impellers, installed on Rolls Royce Dart Series Models 506, 510, 511, 514, 525 through 529, 531, and 532 engines and all variants within the next 50 flights after the effective date of that AD or before reaching the specified life limits on those impellers. After issuing Amendment 39-1491, based on stress analyses, investigations of a service failure, and evaluations of high time Rolls Royce Dart Series engine impellers, the FAA has determined that service life limits are necessary for a number of impellers not covered by Amendment 39-1491. Therefore, the AD is being amended to provide for service life limits for an expanded group of impellers installed on Rolls Royce Dart Series engines.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation regulations, Amendment 39-1491 (37 F.R. 14757), AD 72-16-5 is amended as follows:

1. The applicability statement is amended to read as follows:

ROLLS ROYCE (1971) LTD. Applies to Dart Series Models 506, 510, 511, 514, 525 through 529, 531, 532, and 542 engines and all variants.

2. The lead in sentence to paragraph (a) of the AD is amended by deleting the word "table" and inserting the word "tables" in place thereof.

3. Paragraph (b) is redesignated as paragraph (c) and a new paragraph (b) is added to read as follows:

(b) Within the next 50 flights after the effective date of this amendment, Amendment 39-1568, effective December 4, 1972, or before the accumulation of the number of flights specified in column 3, for the applicable impeller, whichever occurs later, and thereafter at intervals not to exceed the number of flights specified in column 3 replace the applicable impellers specified in column 2 when they are installed on the engines specified in column 1 with impellers having the same part number or a part number approved for that engine, which have not exceeded their life limits.

Column 1—Dart Engine Series	Column 2—Impellers	Column 3—Life Limits (flights)
Models 506, 510, 511, 514 and all variants.	First stage impellers incorporating Modification 1455.	14,000 since the incorporation of Modification 1455.
Models 525 through 529, 531, and 532 and all variants.	do	11,500 since the incorporation of Modification 1455.
Models 542-4 and 542-10 and all variants.	Second stage impellers incorporating all Pre-Modification 1455 modifications.	12,000.
	Second stage impellers incorporating Modification 1455.	16,000 since the incorporation of Modification 1455.
	Second stage impellers incorporating Modification 1475.	14,500.

This amendment becomes effective December 4, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 21, 1972.

C. R. MELUGIN, JR.,
Acting Director, Flight Standards Service.

[FR Doc.72-20443 Filed 11-28-72;8:48 am]

[Docket No. 12387; Amdt. 840]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes

* * * Effective November 17, 1972:

Issued in Washington, D.C., on November 22, 1972.

such aircraft or component part to perform its function satisfactorily through a range of operations determined by the

costs entailed in substituting components may be charged against the related

3. Amend section 7 to read in part as follows:

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The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260–3, 8260–4, or 8260–5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97–696 (35 F.R. 5609).

SIAPs are available for examination at the rules docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Document Inspection Facility, HQ–405, 800 Independence Avenue SW., Washington, DC 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by establishing, revising, or canceling the following VOR–VOR/DME SIAP's, effective January 11, 1973:

Big Lake, Alaska—Big Lake No. 2 Airport; VOR Runway 6, Amdt. 3; Revised.
Dothan, Ala.—Dothan Airport, VOR–A, Amdt. 5; Revised.
Dothan, Ala.—Dothan Airport, VOR/DME Runway 13, Amdt. 5; Revised.
Dothan, Ala.—Dothan Airport, VOR/DME Runway 18, Amdt. 6; Revised.
Henderson, Ky.—Henderson City-County Airport, VOR–A, Amdt. 5; Revised.
Jacksonville, Fla.—Jacksonville International Airport, VOR Runway 31, Amdt. 2; Revised.
Joliet, Ill.—Joliet Municipal Airport, VOR Runway 13, Amdt. 1; Revised.
Spokane, Wash.—Spokane International Airport, VOR Runway 3, Amdt. 10; Revised.

• • • Effective December 7, 1972:

Atlanta, Ga.—DeKalb-Peachtree Airport, VOR Runway 27, Amdt. 11; Revised.
Philadelphia, Pa.—Philadelphia Airport, VOR Runway 9R, Original; Established.
Philadelphia, Pa.—Philadelphia Airport, VOR/DME Runway 27R, Original; Established.

• • • Effective November 22, 1972:

Alma, Ga.—Bacon County Airport, VOR Runway 15, Amdt. 2, Canceled.

• • • Effective November 17, 1972:

Muskegon, Mich.—Muskegon County Airport, VOR/DME Runway 5, Amdt. 1; Revised.

• • • Effective November 16, 1972:

Benton Harbor, Mich.—Ross Field, VOR Runway 27, Amdt. 11; Revised.

2. Section 97.25 is amended by establishing, revising, or canceling the following SDF–LOC–LDA SIAP's, effective January 11, 1973:

Jacksonville, Fla.—Jacksonville International Airport, LOC(BC) Runway 25, Amdt. 2; Revised.
Spokane, Wash.—Spokane International Airport, LOC(BC) Runway 3, Amdt. 7; Revised.

• • • Effective December 14, 1972:

Fayetteville, Ark.—Drake Field, LOC Runway 16, Original; Established.

• • • Effective December 7, 1972:

Atlanta, Ga.—DeKalb-Peachtree Airport, LOC Runway 20L, Original; Established.

3. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's, effective January 11, 1973:

Jacksonville, Fla.—Jacksonville International Airport, NDB Runway 7, Amdt. 3; Revised.
Spokane, Wash.—Spokane International Airport, NDB Runway 21, Amdt. 11; Revised.

• • • Effective November 17, 1972:

Americus, Ga.—Souther Field, NDB Runway 22, Amdt. 2; Revised.

4. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAPs, effective January 11, 1973:

Jacksonville, Fla.—Jacksonville International Airport, ILS Runway 7, Amdt. 3; Revised.
Spokane, Wash.—Spokane International Airport, ILS Runway 21, Amdt. 15; Revised.

• • • Effective December 7, 1972:

Philadelphia, Pa.—Philadelphia International Airport, ILS Runway 27R, Amdt. 1; Revised.

5. Section 97.31 is amended by establishing, revising, or canceling the following Radar SIAPs, effective January 11, 1973:

Spokane, Wash.—Spokane International Airport, Radar–1, Amdt. 8; Revised.

• • • Effective December 7, 1972:

Philadelphia, Pa.—Philadelphia International Airport, Radar–1, Amdt. 13; Revised.

6. Section 97.33 is amended by establishing, revising, or canceling the following RNAV SIAPs, effective January 11, 1973:

Miami, Fla.—Opa Locka Airport, RNAV Runway 9L, Amdt. 1; Revised.

• • • Effective December 7, 1972:

Atlanta, Ga.—DeKalb-Peachtree Airport, RNAV Runway 20L, Amdt. 3; Revised.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510; sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c), 5 U.S.C. 552(a)(1))

Issued in Washington, D.C., on November 22, 1972.

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 F.R. 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.72-20445 Filed 11-28-72;8:48 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER–781; Amdt. 3]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Miscellaneous Amendments

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of November 1972.

The purpose of this editorial amendment is to correct certain errors and omissions which have come to our attention, as follows: (1) A reference to the "Federal Aviation Agency" should be corrected to refer to the "Federal Aviation Administration"; (2) references to "Civil Air Regulations" should be corrected to refer to "Federal Aviation Regulations"; (3) the word "international" in the title of Z501 under section 19–5(e) should be corrected to read "interairport"; and (4) revisions should be made in the chart in section 7 (Chart of Profit and Loss Accounts) to correct the omission of item 83, repetition of item 84.2 and the jumbling of item 86.

In addition, we are re-inserting paragraph (g), section 25, Schedule T–3 which was inadvertently dropped when Regulation ER–586 was adopted on August 6, 1969 (34 F.R. 14584). However, we shall reinsert this paragraph (g) in section 19.2, instead of section 25, and this change, in turn, necessitates parallel revisions in paragraph (d)(12) of section 22 and paragraph (d)(11) of section 32, which refer to said paragraph (g).

This regulation is issued by the undersigned pursuant to a delegation of authority from the Board to the General Counsel in 14 CFR 385.19, and shall become effective on December 19, 1972. Procedures for review of this amendment by the Board are set forth in Subpart C of Part 385 (14 CFR 385.50 and 385.54).

Accordingly, the Board hereby amends Part 241 of the Economic Regulations (14 CFR Part 241) effective December 19, 1972, as follows:

1. Amend Section 03 to read in part as follows:

Section 03—Definitions for Purposes of This System of Accounts and Reports

• • • • • •

Airworthiness (or *Airworthy*)—when applied to a particular aircraft or component part, it denotes the ability of such aircraft or component part to perform its function satisfactorily through a range of operations determined by the Federal Aviation Administration.

• • • • • •

2. Amend paragraph (f) of section 5–4 to read as follows:

Sec. 5–4 Property and equipment depreciation and overhaul.

• • • • • •

(f) Each air carrier shall adopt procedures of accounting for airframe and aircraft engine overhauls as will effectively result in the allocation of total maintenance expense between accounting periods in accordance with the use of airframes and aircraft engines. When overhauls are scheduled in such a manner as will produce a relatively equitable allocation of maintenance costs between accounting periods, the cost of each overhaul may be expensed directly as performed. Under circumstances in which overhaul procedures are such that the direct expensing of overhaul costs will not result in an equitable allocation of total maintenance costs as between different accounting periods the air carrier shall apply, consistently with respect to all airframe and engine types for which direct expensing of overhaul costs will not effectively produce an equitable allocation of cost, the accounting procedures set forth in paragraph (g) of this section 5–4. For the purposes of this system of accounts and reports, an airframe or aircraft engine "overhaul" shall be deemed to encompass the total of those inspections or replacements of major components performed in piecemeal phases, or in one operation, as are required to be performed at specified maximum periodic intervals by the Federal Aviation Regulations to recertify that airframes or aircraft engines are in a completely airworthy condition. Costs which attach to the routine replacement of minor parts and servicing or inspection of airframes and aircraft engines, performed on a recurrent but not scheduled basis, or on a scheduled basis without withdrawal from line service, to maintain airframes and aircraft engines in an operating condition, shall not be considered to be "overhaul" but shall be expensed directly as ordinary recurrent maintenance. Extraordinary costs of material amounts associated with the renewal of major structural parts of airframes and aircraft engines beyond the scope of normal periodic overhauls, or which are incurred at periodic intervals approximating the depreciable service life of the airframe and aircraft engine types to which related, shall not be considered to be overhauls. Such costs shall be accounted for as restoration of assets chargeable to the related property account. The cost of components removed, together with related depreciation reserves shall be treated as retired property and accounted for accordingly. In the event identification of the cost of the components removed is not feasible, the costs entailed in substituting components may be charged against the related depreciation reserves.

• • • • • •

3. Amend section 7 to read in part as follows:

Section 7—Chart of Profit and Loss Accounts

Objective classification of profit and loss elements	Functional or financial activity to which applicable (00)		
	Group I carriers	Group II carriers	Group III carriers
• • •	• • •	• • •	• • •
82 Unapplied cash discounts	81	81	81.
83 Interest income	81	81	81.
84 Income from subsidiary companies and dividend income			
84.1 Income from subsidiary companies	81	81	81.
84.2 Dividend income—other than subsidiary companies	81	81	81.
85 Foreign exchange adjustments	81	81	81.
86 Income from nontransport ventures	81	81	81.
• • •	• • •	• • •	• • •

4. Add paragraph (g) to section 19–2 so that the section will read in part as follows:

Sec. 19–2 Maintenance of data.

• • • • • •

(g) Each air carrier shall submit to the Civil Aeronautics Board a detailed statement of its method of computing available ton-miles and available seat-miles for each type of aircraft operated. Also, any future changes in methods of computation shall be submitted, subject to review and approval by the Civil Aeronautics Board. (See section 22(d).) The measurement of available aircraft capacity may reflect company minimum fuel requirements in lieu of the requirements under Federal Aviation Regulations, provided that the use of such company fuel requirements is indicated in the above statement and that the statement contain certification by a responsible company official that said fuel loads are not in excess of company safety requirements. The reason for exclusion of any installed seats in the computation of available seat-miles with respect to any aircraft type and the provisions made for protecting against the sale of such seats, shall be described in this statement and shall be certified to by a responsible company official. (See section 03 "seats available.")

5. Amend paragraph (e) of sec. 19–5 to read in part as follows:

Sec. 19–5 Air transport traffic and capacity elements.

• • • • • •

(e) The elements, by category and alpha-numeric code, for which data are to be maintained in accordance with the above are as follows:

AIRPORT-TO-AIRPORT TRAFFIC AND CAPACITY DATA

Z501 *Interairport distance.* The great circle distance, in statute miles, between airports served by each flight stage, as published in the Civil Aeronautics Board's "Official Route and Mileage Manual." (See Part 247 of the Economic Regulations.)

• • • • • •

6. Amend paragraph (d)(12) of section 22 to read as follows:

Section 22—General Reporting Instructions

• • • • • •

(d) Statements of accounting • • •

• • • • • •

(12) Procedures for computing available seat-miles and available ton-miles for each aircraft type, as required by paragraph (g) in section 19–2.

• • • • • •

7. Amend paragraph (d)(11) of section 32 to read as follows:

Section 32—General Reporting Instructions

• • • • • •

(d) Statement of accounting • • •

• • • • • •

(11) Procedures for computing available seat-miles and available ton-miles for each aircraft type, as required by paragraph (g) in section 19–2 and paragraph (i), in section 35, Schedule T–3.1.

• • • • • •

8. Amend paragraph (i) of the instructions for Schedule T–3.1 in section 35 to read as follows:

Section 35—Traffic and Capacity Elements

• • • • • •

Schedule T–3.1—Statement of Traffic and Capacity Statistics

• • • • • •

(i) Each supplemental air carrier shall submit to the Civil Aeronautics Board a detailed statement of its method of computing available ton-miles and available seat-miles for each type of aircraft operated. Also, any future changes in methods of computation shall be submitted, subject to review and approval by the Civil Aeronautics Board. (See sec. 32(d).) The measurement of available aircraft capacity may reflect company minimum fuel requirements in lieu of the requirements under Federal Aviation Regulations, provided that the use of such company fuel requirements is indicated in the above statement and that the statement contain certification by a responsible company official that

said fuel loads are not in excess of company safety requirements. The reason for

hereby announces its policy not to permit a defendant or respondent to con-

provisions it has recently adopted,[1] Rule 15c3–3 as adopted herein is well fash-

which the Commission has been developing as a result of the financial crisis experienced by the securities industry dur-

the NASD with respect to the designation of foreign locations deemed to be good control under the rule. Additional points

closed basis, and who transmits all customer funds and securities to the clearing broker-dealer who, in turn, carries all

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said fuel loads are not in excess of company safety requirements. The reason for exclusion of any installed seats in the computation of available seat-miles with respect to any aircraft type and the provisions made for protecting against the sale of such seats shall be described in this statement and shall be certified to by a responsible company official. (See sec. 03 "seats available.")

* * * * *

(Section 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324)

By the Civil Aeronautics Board.

[SEAL] R. TENNEY JOHNSON,
General Counsel.

[FR Doc.72-20492 Filed 11-28-72;8:52 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release Nos. 33-5337, 34-9882, 35-17781, IC-7526, IA-352.]

PART 202—INFORMAL AND OTHER PROCEDURES

Consent Decrees in Judicial or Administrative Proceedings

The Securities and Exchange Commission today announced adoption of a policy with respect to consent decrees in judicial or administrative proceedings under the laws which it administers. In this connection it has amended § 202.5 of Part 202 of the Code of Federal Regulations relating to informal and other proceedings, as indicated below.

COMMISSION ACTION

Pursuant to the authority granted in section 19 of the Securities Act of 1933, section 23(a) of the Securities Exchange Act of 1934, section 20 of the Public Utility Holding Company Act of 1935, section 38 of the Investment Company Act of 1940 and section 211 of the Investment Advisers Act of 1940, the Securities and Exchange Commission hereby amends § 202.5 of Chapter II of Title 17 of the Code of Federal Regulations by adding thereunder a new paragraph (e) reading as follows:

§ 202.5 Enforcement activities.

* * * * *

(e) The Commission has adopted the policy that in any civil lawsuit brought by it or in any administrative proceeding of an accusatory nature pending before it, it is important to avoid creating, or permitting to be created, an impression that a decree is being entered or a sanction imposed, when the conduct alleged did not, in fact, occur. Accordingly, it hereby announces its policy not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings. In this regard, the Commission believes that a refusal to admit the allegations is equivalent to a denial, unless the defendant or respondent states that he neither admits nor denies the allegations.

(Secs. 19, 209, 48 Stat. 85, 908, 15 U.S.C. 77s; sec. 23(a), 48 Stat. 901, sec. 8, 49 Stat. 1379, 15 U.S.C. 78w(a); sec. 20, 49 Stat. 833, 15 U.S.C. 79t; sec. 38, 54 Stat. 841, 15 U.S.C. 80a-37; sec. 211, 54 Stat. 855, sec. 14, 74 Stat. 888, 15 U.S.C. 80b-11)

The Commission finds that the foregoing amendment relates only to rules of agency organization, procedure and practice and, therefore, notice and procedures specified in 5 U.S.C. 553 are unnecessary. The foregoing amendment is declared to be effective immediately.

By the Commission.

RONALD F. HUNT,
Secretary.

NOVEMBER 28, 1972.

[FR Doc.72-20559 Filed 11-28-72;8:54 am]

[Release No. 34-9856]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Broker-Dealers; Maintenance of Certain Basic Reserves

The Securities and Exchange Commission today announced the adoption of Rule 15c3-3 (17 CFR 240.15c3-3) under the Securities Exchange Act of 1934 (the "Act"). The rule provides a formula for the maintenance by broker-dealers of basic reserves with respect to customers' cash and cash realized through the utilization of customers' securities and enunciates standards for broker-dealers concerning the physical possession or control of fully-paid and excess margin of customers' securities.

On September 14, 1972, in Securities Exchange Act Release No. 9775, (37 F.R. 20260), and on two other occasions, May 31, 1972, in Securities Exchange Act Release No. 9622, (37 F.R. 11690) and November 8, 1971, in Securities Exchange Release No. 9388 (36 F.R. 22312) the Commission proposed Rule 15c3-3 and sought public comment. It has considered the comments and suggestions received in response to the proposals and now adopts the rule as set forth below. The basic principles and format of the September 14, 1972, proposal have been retained, the modifications to the September 14th proposal being primarily technical and in one instance to meet a hardship wich was represented to exist by certain members of the financial community.

OBJECTIVES OF RULE 15c3-3

It is the Commission's view that, in the context of the other customer protective provisions it has recently adopted,[1] Rule 15c3-3 as adopted herein is well fashioned to furnish the protection for the integrity of customer funds and securities as envisioned by Congress when it amended section 15(c)(3) of the Act by adopting section 7(d) of the Securities Investor Protection Act of 1970 (the "SIPC Act"). In meeting the Congressional directive for rules regarding the acceptance, custody and use of customers' securities and the maintenance of reserves with respect to customer deposits and credit balances the Commission seeks to accomplish the following in Rule 15c3-3:

(i) To insure that customers' funds held by a broker-dealer (both free credit balances and deposits which may be restricted as to withdrawal) and the cash which is realized through the lending, hypothecation and other permissible uses of customers' securities are deployed in safe areas of the broker-dealer's business related to servicing his customers, or to the extent that the funds are not deployed in these limited areas, that they be deposited in a reserve bank account. In this regard, the Commission has taken a broad view of the Congressional mandate by requiring that the reserve account include all funds which have as their source customer assets.

(ii) To require a broker-dealer promptly to obtain possession or control of all fully-paid securities and excess margin securities carried by that broker-dealer for the account of customers and to require him to act within designated time frames where possession or control has not been established.

(iii) To accomplish a separation of the brokerage operation of the firm's business from that of its firm activities such as underwriting and trading.

(iv) To require a broker-dealer to maintain more current records. Thus, Rule 15c3-3 requires a daily determination of security locations and periodic computations of the reserve.

(v) To motivate the securities industry to process its securities transactions in a more expeditious manner. This is particularly important in the area of the rule which penalizes a broker-dealer if a security is in a location which the Commission has determined to be unacceptable or has been out of the broker-dealer's possession for too long a period, as for example in transfer.

(vi) To inhibit the unwarranted expansion of a broker-dealer's business through the use of customers' funds by prohibiting the use of those funds except for designated purposes.

(vii) To augment the broad program of broker-dealer financial responsibility

[1] Among these are Rules: 17a-13 (the box count rule); 17a-5(j) and 17a-11 (establishing an effective early warning system); 17a-5 as amended (requiring the furnishings of financial information to customers); 15c3-1 as amended (increasing minimum net capital requirements); 15b1-2 and 15c3-1 as amended (imposing high minimum threshold net capital requirements and requiring detailed threshold information designed to effect conservative operation).

which the Commission has been developing as a result of the financial crisis experienced by the securities industry during the 1968–70 period.

(viii) To facilitate the liquidations of insolvent broker-dealers and to protect customer assets in the event of a SIPC liquidation through a clear delineation in Rule 15c3-3 of specificially identifiable property of customers.

In seeking these objectives the Commission has made every effort to make Rule 15c3-3 flexible enough to be compatible with the accounting, clearance, settlement, and depository systems presently operating or being developed in the securities industry. It is hoped that the rule will encourage the further development of these systems which will increase the protection of customers' funds and securities with the concomitant reduction in the need for this rule particularly in regard to those sections dealing with obtaining possession of securities which have not been brought under the broker-dealer's control within the normal settlement period. Where the provisions of the rule are at odds with present operational methods or where they require the development of new recordkeeping information it is because in the judgment of the Commission such systems or information are necessary to a comprehensive program of investor protection consistent not only with express congressional intent but with the high standards of financial responsibility which must prevail in the brokerage community. At the same time, however, the rule permits the smaller broker-dealer who does not hold customer funds or securities to effectuate his customer transactions through a special bank account and thereby avoid the computations and determinations of this rule which because of his size and capacity may be onerous to him.

PHYSICAL POSSESSION OR CONTROL OF FULLY PAID AND EXCESS MARGIN SECURITIES

An important element of Rule 15c3-3 is the requirement for daily determinations by the broker-dealer of the fully paid and excess margin securities in his physical possession or control. The various subparagraphs of paragraph (d) of the rule prescribe the time periods within which a broker-dealer must act to bring securities under his possession or control if his daily determinations show a deficit with respect to his customers' fully paid and excess margin securities. If the determination as at the close of a given business day reveals physical possession or control of all securities of a particular issue required to be in such broker-dealer's possession or control, subparagraph (b)(2) states that, during the following business day, a broker-dealer may effect delivery of shares of such issue received that day to fulfill any of that day's delivery obligations.

With respect to the provisions of the rule relating to control locations, paragraph (c)(4) has been changed to permit application by registered exchanges or the NASD with respect to the designation of foreign locations deemed to be good control under the rule. Additional points of control of securities under the rule are: securities held by a bank custodian, not subject to a lien or claim, which must be delivered to the broker-dealer upon demand without payment of money or other value (paragraph (c)(5)); securities held by a branch office or in transit between offices of the broker-dealer, or held by a guaranteed corporate subsidiary under the control of and operated as a branch office of the broker-dealer (paragraph (c)(6)); securities in the custody or control of a clearing corporation or carried in a special omnibus account (as defined) (paragraphs (c)(1) and (c)(2)); securities in transfer not in excess of 40 days (paragraph (c)(3)); and finally, to provide flexibility to deal with future developments in the securities industry, securities in such other locations as the Commission, upon application or on its own motion, finds adequate for the protection of customers.

Paragraph (d)(1) of the rule provides for 2 business days and 5 business days, respectively, for the release of securities from a lien and for the return of the loaned securities in order to reduce them to possession or control for compliance with the rule. In addition, under paragraph (d)(2), the time after which a fail to receive must be reduced to possession through a buy-in or other procedure is 30 days.

RESERVES WITH RESPECT TO CUSTOMERS' FUNDS

The revisions to the formula for determination of the reserve are principally technical in nature. In response to a number of public comments that Note B (1) to the formula may have a significant impact on the smaller broker-dealer in its ability to engage in the business of margin lending, the point at which debit balances in margin accounts are required to be reduced as permissible debits in the formula as a result of concentration in an underlying security collateralizing such margin indebtedness has been raised from 10 percent to 15 percent. Otherwise the formula has been retained in a form and concept identical to the September 14th proposal, placing on the credit side (items 1 through 9) funds for which the broker-dealer must be accountable and on the debit side (items 10 through 12) permissible areas where such funds may be deployed, otherwise to be deposited in a special reserve bank account (paragraphs (e)(1) and (e)(2) of the rule). The computation frequency has also been retained, monthly for the smaller firm and weekly for the firm which has aggregate indebtedness exceeding 800 percent of net capital or holds customer funds in excess of $1 million, as defined in the rule.

EXEMPTIONS

Subparagraph (k)(2)(B) exempts a broker-dealer whose transactions with customers consist exclusively of acting as an introducing broker-dealer to a clearing broker-dealer on a fully disclosed basis, and who transmits all customer funds and securities to the clearing broker-dealer who, in turn, carries all of the accounts of such customers. An additional exemption has been provided (subparagraph (k)(2)(A)) with respect to broker-dealers who carry no margin accounts, promptly transmit all customer funds and deliver all customer securities, do not otherwise hold funds or securities of customers and who effectuate all financial transactions with customers through one or more bank accounts designated as "Special Account for the Exclusive Benefit of his Customers." As with the Reserve Bank Accounts, a broker-dealer maintaining such a Special Account must receive and preserve a notification from the bank that the deposits are for the exclusive benefit of the broker-dealer's customers and are not subject to any lien or charge in favor of the bank or any person claiming through the bank. These exemptions are designed to provide an approach which alleviates difficulties many small and medium size broker-dealers may have in complying with the rule. At the same time the exemptions result in the complete separation of customer funds and property and afford protection over customer assets comparable with that to be attained under the provisions of the rule. The procedures outlined in these exemptions are consistent with one of the principal objectives of the SIPC Act that customer funds and securities not be exposed to risk of loss through broker-dealer insolvency.

OTHER PROVISIONS

The provisions of paragraph (l) delineate the right of a customer to delivery of his fully-paid and excess margin securities. Paragraph (l) articulates the existing rights of broker-dealers to impose maintenance and other margin requirements as permited by § 220.7(b) of Regulation T, provided that such requirements are imposed equitably and reasonably.

Paragraph (m) requires a broker-dealer who sells a security for a customer to obtain possession no later than 10 business days after the settlement date. Additionally, this paragraph clarifies that a broker-dealer who maintains a separate omnibus account conforming to section 4(b) of Regulation T with another broker-dealer is not to be deemed a customer of such other broker-dealer for the purposes of the 10 business day limitation.

Regarding the Commission's exercise of authority under section 6(c)(2)(C)(iii) of the SIPC Act, the rule provides that all fully-paid and excess margin securities in the broker-dealer's physical possession or control or in transfer or stock dividend receivable shall constitute the specifically identifiable property of those customers entitled thereto as evidenced from the broker-dealer's records or as is established otherwise by the preponderance of the evidence or other demonstration, as the respective customers' interests may appear. The cash and qualified securities in the Reserve Bank Account are determined to be the

specifically identifiable property of cus-

change Act as well as section 6(c)(2)(C)(iii) of the SIPC Act, and deeming it in

(5) The term "excess margin securities" shall mean those securities referred

and to establish that he has taken timely steps in good faith to place them in his

kind in favor of a bank or any person claiming through the bank; or

able, stock split or similar distribution for more than 45 calendar days, then the

specifically identifiable property of customers with free credit balances. To the extent that the specifically identifiable property of any group of customers is not sufficient to satisfy all their claims, the property is to be prorated among them. In the event, however, that such property should exceed the aggregate claims of such customers, the excess is to be placed in the Single and Separate Fund which is provided for in section 6(c)(2)(B) of the SIPC Act for customers generally.

Paragraph (n) provides for extensions of the time in which a broker-dealer is required to buy-in securities as specified in the rule upon good faith application to a self-regulatory body which would grant such extensions in only exceptional circumstances. Any extensions granted must be recorded together with the justification therefor and preserved for a period of not less than 3 years.

IMPACT AND MONITORING

Rule 15c3-3 represents the first comprehensive program undertaken by the Commission to provide regulatory safeguards over customers' funds and securities held by broker-dealers. The handling and processing of customers' funds and securities is a complex process and to a degree the necessary safeguards embodied in Rule 15c3-3 reflect that process. Inasmuch as the rule is comprehensive, touching upon many phases of the broker-dealer's business, its uniformity of application may lead in certain instances to significant impact upon some broker-dealers. Such impact may be attributable to a unique manner in which securities may be processed or held by a particular broker or to the type of business engaged in by the broker-dealer. These broker-dealers are encouraged to consult with the staff of the Commission in the case where the rule works an operational hardship or severely impacts to determine if substitute procedures can be devised which offer equal protection to customer assets or to ascertain whether a phasing in of a particular provision of the rule might be appropriate.

The operations of Rule 15c3-3 will be carefully monitored by the Commission to determine whether there will be need in the public interest and for the protection of investors to tighten or relax any of the restraints and time frames embodied in the rule. The Commission recognizes that this is by no means a final solution and that work must continue to develop a total systems approach which will reduce the time required to clear and settle securities transactions, reduce the paperwork, and increase the safety of customers' funds and securities.

STATUTORY BASIS AND EFFECTIVE DATE

The Securities and Exchange Commission, acting pursuant to the provision of the Securities Exchange Act of 1934 and the Securities Investor Protection Act of 1970, particularly sections 15(c)(3), 15(c)(2), 17(a) and 23(a) of the Exchange Act as well as section 6(c)(2)(C)(iii) of the SIPC Act, and deeming it in the public interest and for the protection of investors, hereby adopts new § 240.15c3-3 in Part 240 of Chapter II of Title 17 of the Code of Federal Regulations as set forth below, effective January 15, 1973:

§ 240.15c3-3 Customer protection—reserves and custody of securities.

(a) *Definitions.* For the purpose of this section:

(1) The term "customer" shall mean any person from whom or on whose behalf a broker or dealer has received or acquired or holds funds or securities for the account of such person, but shall not include a broker or dealer, or a general, special or limited partner or director or officer of a broker or dealer, or any person to the extent that such person has a claim for property or funds which by contract, agreement or understanding, or by operation of law, is part of the capital of the broker or dealer or is subordinated to the claims of creditors of the broker or dealer: *Provided, however,* That the term "customer" shall also include a broker or dealer but only insofar as such broker or dealer maintains a special omnibus account carried with another broker or dealer in compliance with section 4(b) of Regulation T under the Securities Exchange Act of 1934 (12 CFR Part 220).

(2) The term "securities carried for the account of a customer" (hereinafter also "customer securities") shall mean:

(i) securities received by or on behalf of a broker or dealer for the account of any customer and securities carried long by a broker or dealer for the account of any customer; and

(ii) securities sold to, or bought for, a customer by a broker or dealer.

(3) The term "fully paid securities" shall include all securities carried for the account of a customer in a special cash account as defined in Regulation T promulgated by the Board of Governors of the Federal Reserve System, as well as margin equity securities within the meaning of Regulation T which are carried for the account of a customer in a general account or any special account under Regulation T during any period when section 8 of Regulation T (12 CFR 220.8) specifies that margin equity securities shall have no loan value in a general account or special convertible debt security account, and all such margin equity securities in such account if they are fully paid: *Provided, however,* That the term "fully paid securities" shall not apply to any securities which are purchased in transactions for which the customer has not made full payment.

(4) The term "margin securities" shall mean those securities carried for the account of a customer in a general account as defined in Regulation T, as well as securities carried in any special account (such general or special accounts hereinafter referred to as "margin accounts") other than the securities referred to in paragraph (a)(3) of this section.

(5) The term "excess margin securities" shall mean those securities referred to in paragraph (a)(4) of this section carried for the account of a customer having a market value in excess of 140 percent of the total of the debit balances in the customer's account or accounts encompassed by paragraph (a)(4) of this section which the broker or dealer identifies as not constituting margin securities.

(6) The term "qualified security" shall mean a security issued by the United States or a security in respect of which the principal and interest are guaranteed by the United States.

(7) The term "bank" shall mean a bank as defined in section 3(a)(6) of the Act and shall also mean any building and loan, savings and loan or similar banking institution subject to supervision by a Federal banking authority. With respect to a broker or dealer who maintains his principal place of business in the Dominion of Canada, the term "bank" shall also mean a Canadian bank subject to supervision by an authority of the Dominion of Canada.

(8) The term "free credit balances" shall mean liabilities of a broker or dealer to customers which are subject to immediate cash payment to customers on demand, whether resulting from sales of securities, dividends, interest, deposits or otherwise, excluding, however, funds in commodity accounts which are segregated in accordance with the Commodity Exchange Act or in a similar manner.

(9) The term "other credit balances" shall mean cash liabilities of a broker or dealer to customers other than free credit balances and funds in commodities accounts segregated as aforesaid.

(10) The term "funds carried for the account of any customer" (hereinafter also "customer funds") shall mean all free credit and other credit balances carried for the account of the customer.

(b) *Physical possession or control of securities.* (1) A broker or dealer shall promptly obtain and shall thereafter maintain the physical possession or control of all fully-paid securities and excess margin securities carried by a broker or dealer for the account of customers.

(2) A broker or dealer shall not be deemed to be in violation of the provisions of paragraph (b)(1) of this section regarding physical possession or control of customers' securities if, solely as the result of normal business operations, temporary lags occur between the time when a security is required to be in the possession or control of the broker or dealer and the time that it is placed in his physical possession or under his control, provided that the broker or dealer takes timely steps in good faith to establish prompt physical possession or control. The burden of proof shall be on the broker or dealer to establish that the failure to obtain physical possession or control of securities carried for the account of customers as required by paragraph (b)(1) of this section is merely temporary and solely the result of normal business operations including same day receipt and redelivery (turnaround),

and to establish that he has taken timely steps in good faith to place them in his physical possession or control.

(c) *Control of securities.* Securities under the control of a broker or dealer shall be deemed to be securities which:

(1) Are represented by one or more certificates in the custody or control of a clearing corporation or other subsidiary organization of either national securities exchanges or of a registered national securities association, or of a custodian bank in accordance with a system for the central handling of securities complying with the provisions of §§ 240.8c-1(g) and 240.15c2-1(g) the delivery of which certificates to the broker or dealer does not require the payment of money or value, and if the books or records of the broker or dealer identify the customers entitled to receive specified quantities or units of the securities so held for such customers collectively; or

(2) Are carried for the account of any customer by a broker or dealer and are carried in a special omnibus account in the name of such broker or dealer with another broker or dealer in compliance with the requirements of section 4(b) of Regulation T under the Act (12 CFR 220.4(b)), such securities being deemed to be under the control of such broker or dealer to the extent that he has instructed such carrying broker or dealer to maintain physical possession or control of them free of any charge, lien, or claim of any kind in favor of such carrying broker or dealer or any persons claiming through such carrying broker or dealer; or

(3) Are the subject of bona fide items of transfer; provided that securities shall be deemed not to be the subject of bona fide items of transfer if, within 40 calendar days after they have been transmitted for transfer by the broker or dealer to the issuer or its transfer agent, new certificates conforming to the instructions of the broker or dealer have not been received by him, he has not receivd a written statement by the issuer or its transfer agent acknowledging the transfer instructions and the possession of the securities or he has not obtained a revalidation of a window ticket from a transfer agent with respect to the certificate delivered for transfer; or

(4) Are in the custody of a foreign depository, foreign clearing agency or foreign custodian bank which the Commission upon application from a broker or dealer, a registered national securities exchange or a registered national securities association, or upon its own motion shall designate as a satisfactory control location for securities; or

(5) Are in the custody or control of a bank as defined in section 3(a)(6) of the Act, the delivery of which securities to the broker or dealer does not require the payment of money or value and the bank having acknowledged in writing that the securities in its custody or control are not subject to any right, charge, security interest, lien or claim of any kind in favor of a bank or any person claiming through the bank; or

(6)(i) Are held in or are in transit between offices of the broker or dealer; or (ii) are held by a corporate subsidiary if the broker or dealer owns and exercises a majority of the voting rights of all of the voting securities of such subsidiary, assumes or guarantees all of the subsidiary's obligations and liabilities, operates the subsidiary as a branch office of the broker or dealer, and assumes full responsibility for compliance by the subsidiary and all of its associated persons with the provisions of the Federal securities laws as well as for all of the other acts of the subsidiary and such associated persons; or

(7) Are held in such other locations as the Commission shall upon application from a broker or dealer find and designate to be adequate for the protection of customer securities.

(d) *Requirement to reduce securities to possession or control.* Not later than the next business day, a broker or dealer, as of the close of the preceding business day, shall determine from his books or records the quantity of fully paid securities and excess margin securities in his possession or control and the quantity of fully paid securities and excess margin securities not in his possession or control. In making this daily determination inactive margin accounts (accounts having no activity by reason of purchase or sale of securities, receipt or delivery of cash or securities or similar type events) may be computed not less than once weekly. If such books or records indicate, as of such close of the business day, that such broker or dealer has not obtained physical possession or control of all fully paid and excess margin securities as required by this section and there are securities of the same issue and class in any of the following noncontrol locations:

(1) Securities subject to a lien securing moneys borrowed by the broker or dealer or securities loaned to another broker or dealer or a clearing corporation, then the broker or dealer shall, not later than the business day following the day on which such determination is made, issue instructions for the release of such securities from the lien or return of such loaned securities and shall obtain physical possession or control of such securities within two business days following the date of issuance of the instructions in the case of securities loaned; or

(2) Securities included on his books or records as failed to receive more than 30 calendar days, then the broker or dealer shall, not later than the business day following the day on which such determination is made, take prompt steps to obtain physical possession or control of securities so failed to receive through a buy-in procedure or otherwise; or

(3) Securities receivable by the broker or dealer as a security dividend receivable, stock split or similar distribution for more than 45 calendar days, then the broker or dealer shall, not later than the business day following the day on which such determination is made, take prompt steps to obtain physical possession or control of securities so receivable through a buy-in procedure or otherwise.

(e) *Special reserve bank account for the exclusive benefit of customers.* (1) Every broker or dealer shall maintain with a bank or banks at all times when deposits are required or hereinafter specified a "Special Reserve Bank Account for the Exclusive Benefit of Customers" (hereinafter referred to as the "Reserve Bank Account"), and it shall be separate from any other bank account of the broker or dealer. Such broker or dealer shall at all times maintain in such Reserve Bank Account, through deposits made therein, cash and/or qualified securities in an amount not less than the amount computed in accordance with the formula set forth in § 240.15c3-3a.

(2) It shall be unlawful for any broker or dealer to accept or use any of the amounts under items comprising Total Credits under the formula referred to in paragraph (e)(1) of this section except for the specified purposes indicated under items comprising Total Debits under the formula, and, to the extent Total Credits exceed Total Debits, at least the net amount thereof shall be maintained in the Reserve Bank Account pursuant to paragraph (e)(1) of this section.

(3) Computations necessary to determine the amount required to be deposited as specified in paragraph (e)(1) of this section shall be made weekly, as of the close of the last business day of the week, and the deposit so computed shall be made no later than 1 hour after the opening of banking business on the second following business day: provided, however, a broker or dealer which has aggregate indebtedness not exceeding 800 percent of net capital (as defined in § 240.15c3-1 or in the capital rules of a national securities exchange of which it is a member and exempt from § 240.15c3-1 by subparagraph (b)(2) thereof) and which carries aggregate customer funds (as defined in paragraph (a)(10) of this section), as computed at the last required computation pursuant to this section, not exceeding $1 million, may in the alternative make the computation monthly, as of the close of the last business day of the month, and, in such event, shall deposit not less than 105 percent of the amount so computed no later than 1 hour after the opening of banking business on the second following business day. If a broker or dealer, computing on a monthly basis, has, at the time of any required computation, aggregate indebtedness in excess of 800 percent of net capital, such broker or dealer shall thereafter compute weekly as aforesaid until four successive weekly computations are made, none of which were made at a time when his aggregate indebtedness exceeded 800 percent of his

net capital. Computations in addition to

posit, as required by this section, the broker or dealer shall by telegram im-

participations in an insurance company separate account, whether or not regis-

(3) Upon written application by a broker or dealer, the Commission may exempt such broker or dealer from the

§ 240.15c3-3a Exhibit A—formula for determination reserve requirement of brokers and dealers under

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net capital. Computations in addition to the computations required in this subparagraph (3), may be made as of the close of any other business day, and the deposits so computed shall be made no later than 1 hour after the opening of banking business on the second following business day. The broker or dealer shall make and maintain a record of each such computation made pursuant to this subparagraph (3) or otherwise and preserve each such record in accordance with § 240.17a–4.

(f) *Notification of banks.* A broker or dealer required to maintain the reserve bank account prescribed by this section or who maintains a special account referred to in paragraph (k) of this section shall obtain and preserve in accordance with § 240.17a–4 written notification from each bank in which he has his reserve bank account or special account that the bank was informed that all cash and/or qualified securities deposited therein are being held by the bank for the exclusive benefit of customers of the broker or dealer in accordance with the regulations of the Commission, and are being kept separate from any other accounts maintained by the broker or dealer with the bank, and the broker or dealer shall have a written contract with the bank which provides that the cash and/or qualified securities shall at no time be used directly or indirectly as security for a loan to the broker or dealer by the bank and, shall be subject to no right, charge, security interest, lien, or claim of any kind in favor of the bank or any person claiming through the bank.

(g) *Withdrawals from the reserve bank account.* A broker or dealer may make withdrawals from his reserve bank account if and to the extent that at the time of the withdrawal the amount remaining in the reserve bank account is not less than the amount then required by paragraph (e) of this section. A bank may presume that any request for withdrawal from a reserve bank account is in conformity and compliance with this paragraph (g). On any business day on which a withdrawal is made, the broker or dealer shall make a record of the computation on the basis of which he makes such withdrawal, and he shall preserve such computation in accordance with § 240.17a–4.

(h) *Buy-in of short security differences.* A broker or dealer shall within 45 calendar days after the date of the examination, count, vertification and comparison of securities pursuant to § 240.17a–13 or otherwise or to the annual report of financial condition in accordance with § 240.17a–5, buy-in all short security differences which are not resolved during the 45-day period.

(i) *Notification in the event of failure to make a required deposit.* If a broker or dealer shall fail to make in his reserve bank account or special account a deposit, as required by this section, the broker or dealer shall by telegram immediately notify the Commission, the Securities Investor Protection Corp., and the regulatory authority for the broker or dealer, which examines such broker or dealer as to financial responsibility and shall promptly thereafter confirm such notification in writing.

(j) *Specifically identifiable property.* For the purpose of section 6(c)(2)(C)(iii) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78fff(c)(2)(C)(iii)) the following are hereby determined to be allocated to and shall constitute the specifically identifiable property of customers:

(1) All fully paid and excess margin securities in the physical possession or control (including any such securities under the control of the broker or dealer in which a customer can demonstrate ownership rights where the condition of the books or records of the broker or dealer may otherwise fail to accurately reflect such rights) of the broker or dealer or in transfer or stock dividend receivable shall constitute the specifically identifiable property of customers having claims for fully paid and excess margin securities as their interests may appear from the books or records of the broker or dealer or as is otherwise established by a preponderance of the evidence or to the satisfaction of a trustee appointed pursuant to section 5(b) of the Securities Investor Protection Act (15 U.S.C. 78eee(b)).

(2) The cash and qualified securities on deposit in the reserve bank account of a broker or dealer shall be deemed to be the specifically identifiable property of those customers of the broker or dealer who have free credit balances.

(3) If specifically identifiable property allocable to customers pursuant to subparagraph (1) or (2) of this paragraph is insufficient to satisfy the respective claims of such customers, such specifically identifiable property shall be prorated among such customers in accordance with their respective interests.

(4) If the specifically identifiable property allocable to either of the specified classes of customers referred to in subparagraph (1) or (2) of this paragraph exceeds their aggregate claims against such property, such excess shall thereafter constitute part of the "Single and Separate Fund" provided for in section 6(c)(2)(B) the Securities Investor Protection Act (15 U.S.C. 78fff(c)(2)(B)).

(k) *Exemptions.* (1) The provisions of this section shall not be applicable to a broker or dealer meeting all of the following conditions:

(i) His dealer transactions (as principal for his own account) are limited to the purchase, sale, and redemption of redeemable securities of registered investment companies or of interests or participations in an insurance company separate account, whether or not registered as an investment company; except that a broker or dealer transacting business as a sole proprietor may also effect occasional transactions in other securities for his own account with or through another registered broker or dealer;

(ii) His transactions as broker (agent) are limited to: (*a*) The sale and redemption of redeemable securities of registered investment companies or of interests or participations in an insurance company separate account, whether or not registered as an investment company; (*b*) the solicitation of share accounts for savings and loan associations insured by an instrumentality of the United States; and (*c*) the sale of securities for the account of a customer to obtain funds for immediate reinvestment in redeemable securities of registered investment companies; and

(iii) He promptly transmits all funds and delivers all securities received in connection with his activities as a broker or dealer, and does not otherwise hold funds or securities for, or owe money or securities to, customers.

(iv) Notwithstanding the foregoing, this section shall not apply to any insurance company which is a registered broker-dealer, and which otherwise meets all of the conditions in subdivisions (i), (ii), and (iii) of this subparagraph, solely by reason of its participation in transactions that are a part of the business of insurance, including the purchasing, selling, or holding of securities for or on behalf of such company's general and separate accounts.

(2) The provisions of this section shall not be applicable to a broker or dealer:

(i) Who carries no margin accounts, promptly transmits all customer funds and delivers all securities received in connection with his activities as a broker or dealer, does not otherwise hold funds or securities for, or owe money or securities to, customers and effectuates all financial transactions between the broker or dealer and his customers through one or more bank accounts, each to be designated as "Special Account for the Exclusive Benefit of Customers of (name of the broker or dealer)"; or

(ii) Who, as an introducing broker or dealer, clears all transactions with and for customers on a fully disclosed basis with a clearing broker or dealer, and who promptly transmits all customer funds and securities to the clearing broker or dealer which carries all of the accounts of such customers and maintains and preserves such books and records pertaining thereto pursuant to the requirements of §§ 240.17a–3 and 240.17a–4 of this chapter, as are customarily made and kept by a clearing broker or dealer.

(3) Upon written application by a broker or dealer, the Commission may exempt such broker or dealer from the provisions of this section, either unconditionally or on specified terms and conditions, if the Commission finds that the broker or dealer has established safeguards for the protection of funds and securities of customers comparable with those provided for by this section and that it is not necessary in the public interest or for the protection of investors to subject the particular broker or dealer to the provisions of this section.

(l) *Delivery of securities.* Nothing stated in this section shall be construed as affecting the absolute right of a customer of a broker or dealer to receive in the course of normal business operations following demand made on the broker or dealer, the physical delivery of certificates for:

(1) Fully-paid securities to which he is entitled and,

(2) Margin securities upon full payment by such customer to the broker or dealer of his indebtedness to the broker or dealer; and, subject to the right of the broker or dealer under § 220.7(b) of Regulation T [12 CFR 220.7(b)] to retain collateral for his own protection beyond the requirements of Regulation T, excess margin securities not reasonably required to collateralize such customer's indebtedness to the broker or dealer.

(m) *Completion of sell orders on behalf of customers.* If a broker or dealer executes a sell order of a customer (other than an order to execute a sale of securities which the seller does not own) and if for any reason whatever the broker or dealer has not obtained possession of the securities from the customer within 10 business days after the settlement date, the broker or dealer shall immediately thereafter close the transaction with the customer by purchasing securities of like kind and quantity: *Provided, however,* The term "customer" for the purpose of this paragraph (m) shall not include a broker or dealer who maintains a special omnibus account with another broker or dealer in compliance with section 4(b) of Regulation T [12 CFR 220.4(b)].

(n) *Extensions of time.* If a registered national securities exchange or a registered national securities association is satisfied that a broker or dealer is acting in good faith in making the application and that exceptional circumstances warrant such action, such exchange or association, on application of the broker or dealer, may extend any period specified in subparagraphs (2) and (3) of paragraph (d), paragraph (h) and paragraph (m) of this section, relating to the requirement that such broker or dealer take action within a designated period of time to buy-in a security, for one or more limited periods commensurate with the circumstances. Each such exchange or association shall make and preserve for a period of not less than 3 years a record of each extension granted pursuant to paragraph (n) of this section which shall contain a summary of the justification for the granting of the extension.

§ 240.15c3–3a Exhibit A—formula for determination reserve requirement of brokers and dealers under § 240.15c3–3.

	Credits	Debits
1. Free credit balances and other credit balances in customers' security accounts. (See Note A)	$XXX	
2. Monies borrowed collateralized by securities carried for the accounts of customers	XXX	
3. Monies payable against customers' securities loaned	XXX	
4. Customers' securities failed to receive	XXX	
5. Credit balances in firm accounts which are attributable to principal sales to customers	XXX	
6. Market value of stock dividends, stock splits and similar distributions receivable outstanding over 30 calendar days	XXX	
7. Market value of short security count differences over 30 calendar days old	XXX	
8. Market value of short securities and credits (not to be offset by longs or by debits) in all suspense accounts over 30 calendar days	XXX	
9. Market value of securities which are in transfer in excess of 40 calendar days and have not been confirmed to be in transfer by the transfer agent or the issuer during the last 40 days	XXX	
10. Debit balances in customers' cash and margin accounts excluding unsecured accounts and accounts doubtful of collection. (See Note B)		$XXX
11. Securities borrowed to effectuate short sales by customers and securities borrowed to make delivery on customers' securities failed to deliver	XXX	
12. Failed to deliver of customers' securities not older than 30 calendar days	XXX	
Total	XXX	XXX
13. Excess of total credits (sum of items 1–9) over total debits (sum of items 10–12) required to be on deposit in the "Reserve Bank Account" (§ 240.15c3–3(e)). If the computation is made monthly as permitted by this section, the deposit shall be not less than 105 percent of the excess of total credits over total debits	XXX	

NOTE A. Item 1 shall include all outstanding drafts payable to customers which have been applied against free credit balances or other credit balances and shall also include checks drawn in excess of bank balances per the records of the broker or dealer.

NOTE B. (1) Debit balances in margin accounts shall be reduced by the amount by which a specific security (other than an exempted security) which is collateral for margin accounts exceeds in aggregate value 15 percent of the aggregate value of all securities which collateralize all margin accounts receivable; provided, however, the required reduction shall not be in excess of the amount of the debit balance required to be excluded because of this concentration rule. A specified security is deemed to be collateral for a margin account only to the extent it represents in value not more than 140 percent of the customer debit balance in a margin account.

(2) Debit balances in customers' cash and margin accounts included in the formula under item 10 shall be reduced by an amount equal to 1 percent of their aggregate value.

(Secs. 15(c)(2), 15(c)(3), 17(a), 23(a), 48 Stat. 895, 897, 901, secs. 3, 4, 8, 49 Stat. 1377, 1379, secs. 2, 5, 52 Stat. 1975, 1078, sec. 7(d), 84 Stat. 1653, 15 U.S.C. 78o(c), 78q(a), 78w(a); sec. 6(c) 84 Stat. 1652, 15 U.S.C. 78fff(c))

By the Commission.

[SEAL] GLADYS E. GREER, *Assistant Secretary.*

NOVEMBER 17, 1972.

[FR Doc.72-20327, Filed 11-28-72;8:45 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

RUBBER ARTICLES INTENDED FOR REPEATED USE

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 1B2635) filed by the B. F. Goodrich Co., 500 South Main St., Akron, OH 44318, and other relevant material, concludes that the food additive regulations should be amended, as set forth below, to provide for the safe use of polyurethane resins as elastomers in the formulation of rubber articles intended for repeated food-contact use.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2562(c)(4)(i) is amended by alphabetically adding to the list of substances a new item, as follows:

§ 121.2562 Rubber articles intended for repeated use.

* * * * *

(c) * * *

(4) * * *

(i) *Elastomers.*

* * * * * *

Polyurethane resins derived from reactions of diphenylmethane diisocyanate with adipic acid and 1,4-butanediol.

* * * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (11–29–72).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

(iii) The drug is not to be used to induce multiple ovulations. Doses higher

in relation to the 100-year flood level. This could only be accomplished by a

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME

make provisions for adjustments in case the estimated amount of such taxes, assessments, and insurance premiums

the estimated amount of such taxes, assessments, and insurance premiums shall prove to be more or less than the

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FEDERAL REGISTER, VOL. 37, NO. 230—WEDNESDAY, NOVEMBER 29, 1972

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(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: November 21, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-20459 Filed 11-28-72;8:49 am]

SUBCHAPTER C—DRUGS

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Chorionic Gonadotropin Suspension, Veterinary

The Commissioner of Food and Drugs has evaluated a new animal drug application (47-353V) filed by Elanco Products Co., Post Office Box 1750, Indianapolis, IN 46206, proposing the safe and effective use of chorionic gonadotropin suspension for use as an aid in increasing the pregnancy rate of estrus synchronized and normal cycling heifers. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under the authority delegated to the Commissioner (21 CFR 2.120), § 135b.50 is revised to read as follows:

§ 135b.50 Chorionic gonadotropin for injection, veterinary; Chorionic gonadtropin suspension, veterinary.

(a)(1) *Specifications.* Chorionic gonadtropin for injection, veterinary, when reconstituted with appropriate diluent, provides 1,000 U.S.P. units of chorionic gonadotropin per milliliter.

(2) *Sponsor.* See code No. 035 in § 135.501(c) of this chapter.

(3) *Conditions of use.* (i) The drug is intended for parenteral use in the treatment of cows for nymphomania (frequent or constant heat) due to cystic ovaries.

(ii) It is administered at a recommended dose of 10,000 U.S.P. units by deep intramuscular injection or 2,500 to 5,000 U.S.P. units intravenously or by intrafollicular injection of 500 to 2,500 U.S.P. units. Dosage may be repeated in 14 days if necessary.

(iii) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(b)(1) *Specifications.* Chorionic gonadotropin suspension, veterinary contains in each milliliter, 750 I.U. of chorionic gonadotropin suspended in white wax and sesame oil.

(2) *Sponsor.* See code No. 014 in § 135.501(c) of this chapter.

(3) *Conditions of use.* (i) The drug is used as an aid in increasing pregnancy rate of estrus synchronized and normal cycling heifers.

(ii) It is administered at the rate of 2 milliliters (1,500 I.U.) subcutaneously at the time of insemination in the neck or shoulder region.

(iii) The drug is not to be used to induce multiple ovulations. Doses higher than recommended may reduce pregnancy rate.

(iv) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (11-29-72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: November 20, 1972.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.72-20460 Filed 11-28-72;8:49 am]

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter II—Office of Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner (Federal Housing Administration)

[Docket No. R-72-208]

FHA REQUIREMENT OF FLOOD INSURANCE IN SPECIAL FLOOD HAZARD AREAS

A proposal was published on August 15, 1972 (37 F.R. 16505) to amend Title 24 of the Code of Federal Regulations to require flood insurance coverage on one- to four-family dwellings financed with a mortgage insured by the Department, if the property is located in a special flood hazard area, as designated by the Secretary of HUD, and if the first-floor elevation of the dwelling is less than 1 foot above the specified maximum elevation of the special flood hazard area. To carry out this policy the proposed regulations would require the collection by the mortgagee and the payment of flood insurance premiums by the mortgagor, when such insurance is required.

Interested persons were given an opportunity to participate in the rule making through submission of comments. The comments received reflected a general concern that elevation information within a flood hazard area will not be readily available to the housing industry; that homes built in an area, after it has been designated as a special flood hazard area, will be subject to a very high flood insurance premium; and that the proposed rule would encourage, rather than restrict, the development of housing within flood hazard areas.

Special flood hazard areas will be mapped and information as to the areas and elevations included within these areas will be obtainable from the Federal Insurance Administration. However, we recognize that this information would not be adequate for determining the exact elevation of a particular property in relation to the 100-year flood level. This could only be accomplished by a special survey and engineering study of the particular parcel.

Flood insurance will be available on an actuarial basis for homes built in an area after it has been designated as a special flood hazard area. The actuarial premium is related to the elevation of the first floor of the dwelling and the premium will not be excessive for property meeting HUD/FHA eligibility standards. These standards require that the first-floor elevation of the dwelling be at or above the 100-year frequency flood elevation. It should be clearly understood that the requirement for flood insurance will not be substituted for compliance with the HUD/FHA flood hazard exposure standards for mortgage insurance eligibility.

The flood insurance requirement is intended to and will discourage the development of new housing within a special flood hazard area at elevations involving a high risk of flooding. High flood insurance premiums, at the actuarial rate, will be charged on housing subject to such high risk. Housing that complies with HUD/FHA's flood hazard exposure standards will involve a lower risk; and insurance on such housing will be available at lower actuarial rates.

On the basis of the comments received and after a further review of the matter, the Department is adopting a provision that will require flood insurance coverage, where available under the National Flood Insurance Program, on all one- to four-family dwellings financed with a HUD/FHA-insured mortgage, if the property is located in a designated special flood hazard area or is otherwise determined by HUD/FHA to be subject to a significant flood hazard. It is recognized that this all inclusive type of requirement could result in arbitrarily requiring flood insurance coverage in a few isolated instances, where property is located at such a high elevation as to make it inappropriate to require the flood insurance. To take care of these few cases, a provision is included under which the Secretary may exclude a property located in a special flood hazard area from the requirements for flood insurance, if he determines the property is located at such a high elevation that there is no risk of flooding.

The new provision eliminates the condition included in the original proposal that would have limited the requirement for flood insurance to dwellings where the first floor level is less than 1 foot above the specified maximum elevation of the special flood hazard area. This condition would have imposed an unnecessary burden and expense on property owners, in some cases, where it would have been necessary to make a special survey and engineering study to determine the level of a particular parcel in relation to the 100-year flood level.

Accordingly, Parts 203, 213, and 222 of Subchapter B of Chapter II of Title 24 of the Code of Federal Regulations is amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Subpart A—Eligibility Requirements

1. In the table of sections, the following new section is added in proper alphabetical sequence:

Sec.

. . . . . .

§ 203.16a Mortgagor and mortgagee requirement for maintaining flood insurance coverage

. . . . . .

2. A new § 203.16a is added, to read as follows:

§ 203.16a Mortgagor and mortgagee requirement for maintaining flood insurance coverage.

(a) If the mortgage is to cover property that (1) is located in an area designated by the Secretary as a flood plain area having special flood hazards or (2) is otherwise determined by the Commissioner to be subject to a flood hazard; and if flood insurance under the National Flood Insurance Program (NFIP) is available with respect to such property, the mortgagor and mortgagee shall be obligated, by a special condition to be included in the mortgage insurance commitment, to obtain and to maintain NFIP flood insurance coverage on the property during such time as the mortgage is insured. The flood insurance to be maintained shall be in an amount at least equal to either the outstanding balance of the mortgage or the maximum amount of NFIP insurance available with respect to the property, whichever is less.

(b) The Secretary may exclude a property located in a special flood hazard area from the requirements for flood insurance, specified in paragraph (a) of this section, if he determines the property is located at such a high elevation that there is no risk of flooding.

3. Section 203.23(a) is revised to read as follows:

§ 203.23 Mortgagor's payments to include other charges.

(a) The mortgage shall provide for such equal monthly payments by the mortgagor to the mortgagee as will amortize (1) The ground rents, if any; (2) the estimated amount of all taxes; (3) special assessments, if any; (4) flood insurance premiums, if flood insurance is required by the Commissioner; and (5) fire and other hazard insurance premiums, if any, within a period ending 1 month prior to the dates on which the same before delinquent. The mortgage shall further provide that such payments shall be held by the mortgagee in a manner satisfactory to the Commissioner for the purpose of paying such ground rents, taxes, assessments, and insurance premiums before the same become delinquent, for the benefit and account of the mortgagor. The mortgage must also make provisions for adjustments in case the estimated amount of such taxes, assessments, and insurance premiums shall prove to be more, or less, than the actual amount thereof so paid by the mortgagor.

. . . . . .

4. Section 203.24(a)(2) is revised to read as follows:

§ 203.24 Application of payments.

(a) • • •

(2) Ground rents, taxes, special assessments, flood insurance premiums, if required, and fire and other hazard insurance premiums.

. . . . . .

5. Section 203.26 is amended to read as follows:

§ 203.26 Mortgagor's payments when mortgage is executed.

The mortgagor must pay to the mortgagee, upon the execution of the mortgage, a sum that will be sufficient to pay the ground rents, if any, the estimated taxes, special assessments, flood insurance premiums, if required, and fire and other hazard insurance premiums for the period beginning on the date to which such ground rents, taxes, assessments, and insurance premiums were last paid and ending on the date of the first monthly payment under the mortgage plus an amount sufficient to pay the mortgage insurance premium from the date of closing the loan to the date of the first monthly payment.

(Sec. 203 National Housing Act; 12 U.S.C. 1709)

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

Subpart C—Eligibility Requirements—Individual Properties Released From Project Mortgage

1. Section 213.514(a) is amended to read as follows:

§ 213.514 Payments to include other charges.

(a) The mortgage shall provide for such equal monthly payments by the mortgagor to the mortgagee as will amortize: (1) The ground rents, if any; (2) the estimated amount of all taxes; (3) special assessments, if any; (4) flood insurance premiums, if flood insurance is required by the Commissioner; and (5) fire and other hazard inurance premiums, within a period ending 1 month prior to the dates on which the same become delinquent. The mortgage shall further provide that such payments shall be held by the mortgagee in a manner satisfactory to the Commissioner, for the purpose of paying such ground rents, taxes, assessments, and insurance premiums, before the same become delinquent, for the benefit and account of the mortgagor. The mortgage must also make provision for adjustments in case the estimated amount of such taxes, assessments, and insurance premiums shall prove to be more, or less, than the actual amount thereof so paid by the mortgagor.

. . . . . .

2. Section 213.515(b) is revised to read as follows:

§ 213.515 Payments, how applied.

. . . . . .

(b) Ground rents, taxes, special assessments, flood insurance premiums, if required, and fire and other hazard insurance premiums.

. . . . . .

3. Section 213.517 is amended to read as follows:

§ 213.517 Payments upon execution of mortgage.

The mortgagor must pay to the mortgagee upon the execution of the mortgage a sum that will be sufficient to pay the ground rents, if any, and the estimated taxes, special assessments, flood insurance premiums, if required, and fire and other hazard insurance premiums for the period beginning on the date to which such ground rents, taxes, assessments, and insurance premiums were last paid and ending on the date of the first monthly payment under the mortgage, and may be required to pay a further sum equal to the first annual mortgage insurance premium, plus an amount sufficient to pay the mortgage insurance premium from the date of closing the loan to the date of the first monthly payment.

(Sec. 213, National Housing Act; 12 U.S.C. 1715e)

PART 222—SERVICEMEN'S MORTGAGE INSURANCE

Subpart A—Eligibility Requirements

4. Section 222.6(a)(1) is revised to read as follows:

§ 222.6 Application of payments.

(a) • • •

(1) Ground rents, taxes, special assessments, flood insurance premiums, if required, and fire and other hazard insurance premiums:

. . . . . .

(Sec. 222, National Housing Act; 12 U.S.C. 1715m)

Effective date: These amendments shall become effective with respect to commitments for mortgage insurance issued pursuant to applicantions filed on and after January 1, 1973.

Issued at Washington, D.C. November 20, 1972.

JOHN L. GANLEY,
Deputy Assistant Secretary for Housing Production and Mortgage Credit.

[FR Doc.72-20482 Filed 11-28-72;8:51 am]

(g) "Registrant" means an AFDC re-

such statement may be brief, it must be

appellate body must be in writing and should contain a statement of reasons in

State appellate body, by the State hearing officer or State welfare hearing

the NRP a complete record of the proceedings below including the transcript

XUM

V37-230-NOV29-72

Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 58—RULES OF PRACTICE OF THE NATIONAL REVIEW PANEL, WORK INCENTIVE PROGRAM

There is added to Title 29, Code of Federal Regulations, a new Part 58, Rules of Practice of the National Review Panel, Work Incentive Program, which sets up procedures for appeals at the National level arising out of the Work Incentive Program.

As this part is procedural in character, notice of proposed rulemaking is not required by 5 U.S.C. 553. Delay in the effective date is contrary to the public interest as appeals should not be delayed 30 days for lack of a procedure. Accordingly, this Part 58 shall be effective upon publication.

The new Part 58 reads as follows:

Sec.
58.1 Definitions.
58.2 Appeals where a State does not provide for an appellate procedure.
58.3 Appeals from State appellate bodies.
58.4 Request for NRP to accept certification.
58.5 Review by NRP of cases certified at its request.
58.6 Consideration by and decisions of the NRP.
58.7 Service and filing of papers.
58.8 Motions.
58.9 Intervention.
58.10 Amicus curiae.
58.11 Representation.
58.12 Right to examine transcripts.
58.13 Finality of decisions.

AUTHORITY: The provisions of this Part 58 issued under 5 U.S.C. 301; 42 U.S.C. 633(g); Secretary's Order No. 24-72.

§ 58.1 Definitions.

As used in these rules and regulations:

(a) "Act" means title IV of the Social Security Act as amended by Public Law 92-223, December 28, 1971.

(b) "AFDC" (Aid to Families with Dependent Children) means a program authorized by title IV of the Social Security Act to provide financial assistance and social services to needy families with children.

(c) "DOL" means the U.S. Department of Labor.

(d) "Exempt" means an AFDC recipient who is not legally required to register for employment or training under the WIN program.

(e) "NRP" means National Review Panel which is comprised of the DOL Chief Administrative Law Judge and eight (8) Administrative Law Judges appointed pursuant to Administrative Procedure Act requirements and designated by the Chief Judge to serve as members of the panel.

(f) "Participant" means a registrant who has been appraised and for whom an employability plan has been initiated by local WIN project and Separate Administrative Unit staff.

(g) "Registrant" means an AFDC recipient who has registered for manpower services, training, and employment as provided by the Act.

(h) "Registration" means the process whereby an AFDC applicant or recipient signs a completed registration card.

(i) "Secretary" means the Secretary of Labor.

(j) "State agency administering hearings in that State" means that State agency which is responsible for the hearings conducted by State hearing officers, State welfare hearing officers, and the State appellate body.

(k) "State appellate body" means the body provided by the State WIN sponsor or State welfare agency to review decisions of the hearing officer.

(l) "State hearing officer" means the hearing officer provided by the State WIN sponsor to hear and decide disputes arising out of (1) registrants'/participants' refusal or failure to accept employment or to participate in a work incentive program without good cause and (2) of exemption redeterminations of previously registered individuals.

(m) "State welfare hearing officer" means the hearing officer provided by the State welfare agency, as agent of DOL, to hear and decide disputes arising out of initial registration and nonexemption determinations under section 402(a)(19)(A) of the Act.

(n) "WIN" means the Work Incentive Program.

(o) "WIN sponsor" means the State Employment Service or other public or nonprofit private agency with which the Regional Manpower Administrator for the DOL contracts to administer the WIN program at the State or local level.

§ 58.2 Appeals where State does not provide for an appellate procedure.

Pursuant to §§ 57.8 and 57.9(c)(1) of this subtitle the NRP shall consider and decide appeals from State hearing officer or State welfare hearing officer decisions filed directly with it by aggrieved individuals, WIN project sponsors, or State welfare agencies where the State does not provide for an appellate procedure.

(a) *Who may appeal.* Any individual who is a party to the proceeding and is adversely affected by the decision, WIN project sponsors, or, State welfare agencies may appeal from State hearing officer decisions where the dispute arises out of a refusal or failure to accept employment or to participate in a work incentive program without good cause or out of an exemption redetermination. The same parties may appeal from State welfare hearing officer decisions concerning disputes arising out of initial registration and exemption determinations under section 402(a)(19)(A) of the Act.

(b) *Contents of the appeal.* The appeal must be in writing and may be in the form of a letter addressed to the National Review Panel or may be submitted on forms supplied with the State hearing officer or State welfare officer decision. It should contain a statement of reasons in support of the appeal. While such statement may be brief, it must be more than a mere statement that appellant disagrees with the hearing officer's decision. The hearing officer's decision should be attached to the appeal.

(c) *Time of filing.* The appeal must be filed within fifteen (15) days following the date of service of the hearing officer's written decision. An appeal filed by persons residing in the Commonwealth of Puerto Rico, the Virgin Islands, or Guam shall be filed within thirty (30) days following the date of service of the hearing officer's written decision.

(d) *Place of filing and number of copies.* The appeal from the hearing officer's decision shall be sent to the National Review Panel, U.S. Department of Labor, Washington, D.C. 20210. Whenever possible, a copy of the appeal should be sent or delivered to all other parties to the proceeding, including the State agency administering hearings in that State, and the appeal should list the names and addresses of the persons to whom copies were sent or delivered.

(e) *Response to appeal.* Any other party to the proceeding who wishes to respond to the appeal or comment thereon may send a response to the National Review Panel, U.S. Department of Labor, Washington, DC 20210, in support of or in opposition to the appeal. The response must be sent within seven (7) days after having received notification that an appeal has been filed. The response should contain a full statement of reasons in support of the position taken by the party filing the response. Whenever possible a copy of the response should be sent to all other parties to the proceeding, including the State agency administering hearings in that State.

(f) *Certification of the record.* Within fifteen (15) days of the filing of an appeal, the State agency administering hearings shall certify and file with the NRP the transcript of the hearing in writing together with all documents and exhibits and a copy of the hearing officer's decision. The State agency shall prepare and include an index of the documents transmitted and shall immediately serve a copy of the index on all parties to the proceeding.

§ 58.3 Appeals from State appellate bodies.

Pursuant to § 57.9(c)(4) of this subtitle the NRP at its discretion may consider and decide appeals from decisions of State appellate bodies. The NRP will grant an application that it review such decisions only where compelling reasons exist, including, but not limited to, situations where the case raises novel or substantial issues of law or policy.

(a) *Who may request review.* Any individual who is a party to the proceeding and is adversely affected by the decision; the WIN project sponsor; or, the State welfare agency may file a request for review of decisions of State appellate bodies.

(b) *Contents of the request for review.* The request that the National Review Panel review the decision of a State appellate body must be in writing and should contain a statement of reasons in support of the request for review. While such statement may be brief, it must be more than a mere statement that appellant disagrees with the State appeals decision. A copy of the hearing officer's decision and the State appeals decision should be attached to the request for review.

(c) *Time of filing.* The request for review must be filed within fifteen (15) days following the date of service of the State appellate body's written decision. A request for review filed by persons residing in the Commonwealth of Puerto Rico, the Virgin Islands, or Guam shall be filed within thirty (30) days following the date of service of the appellate body's written decision.

(d) *Place of filing and number of copies.* The request for review should be sent to the National Review Panel, U.S. Department of Labor, Washington, DC 20210. Whenever possible a copy of the request for review should be sent or delivered to all other parties to the proceeding, including the State agency administering hearings in that State, and the appeal should list the names and addresses of the persons to whom copies were sent and delivered.

(e) *Response to request for review.* Any other party to the proceeding who wishes to respond to the request for review or to comment thereon may file a response with the National Review Panel, U.S. Department of Labor, Washington, DC 20210, in support of or in opposition to the request for review. The response must be sent within seven (7) days after having received notification that a request for review has been filed. The response should contain a full statement of reasons in support of the position taken by the party filing the response. Whenever possible, a copy of the response should be sent to all other parties to the proceeding, including the State agency administering hearings in that State.

(f) *Certification of record.* Upon written request to it from the NRP the State appellate body, within fifteen (15) days of the receipt of the request, shall certify and file with the NRP a complete record of the proceedings below including the transcript in writing of the hearing before the hearing officer together with all documents and exhibits; a copy of the hearing officer's decision; a copy of the decision of the State appellate body; and, any other papers and documents relevant to the proceedings. The State appellate body shall prepare and include an index of the documents transmitted and shall serve immediately a copy of said index on every other party to the proceeding before the State appellate body.

§ 58.4 Request for NRP to accept certification.

Pursuant to § 57.9(c)(2) of this subtitle the NRP, at its discretion, may consider and decide cases certified to it by State appellate bodies, or in the absence of a State appellate body, by the State hearing officer or State welfare hearing officer, because the case involves novel questions of law or policy.

(a) *Who may request the NRP to accept certification.* The State appellate body, or, in the absence of a State appellate body, the State hearing officer or State welfare hearing officer may file a request that the NRP accept certification of a case.

(b) *Contents of request for certification.* The request must contain the following:

(1) A concise statement of the novel question of law or policy which is the basis for the request to accept certification;

(2) A brief summary of the relevant facts and evidence;

(3) Pertinent rulings, conclusions, and decisions by the hearing officer and/or the appellate body, as the case may be; and

(4) All reasons and arguments in support of the request, including citation of applicable laws and case decisions.

A copy of any written decisions by the hearing officer or appellate body must be attached to the request.

(c) *Time of filing.* A request for the NRP to accept certification shall be filed as follows:

(1) By the State appellate body within five (5) days following issuance of its written decision.

(2) In the absence of a State appellate body, by the State hearing officer or Statewelfare hearing officer within five (5) days after issuance of his written decision.

(d) *Place of filing and number of copies.* The party filing a request to the NRP to accept certification of a case shall file the original and three (3) copies with the NRP, the National Review Panel, U.S. Department of Labor, Washington, DC 20210, and simultaneously shall serve copies on every other party to the proceeding, including the State agency administering hearings in that State.

(e) *Response to request that NRP accept certification.* Any party to the proceeding who wishes to respond to the request or to comment thereon may file a response with the NRP in support of or in opposition to the request. The response should contain a statement of all reasons in support of the position taken by the party filing the response and should be sent to the National Review Panel, U.S. Department of Labor, Washington, DC 20210, within seven (7) days following service of a request that the NRP accept certification. Whenever possible, a copy of the response shall be served on all parties to the proceeding, including the State agency administering hearings in that State.

(f) *Certification of the record.* Upon receipt of written notice from the NRP that it has accepted certification of the case the State appellate body or the hearing officer, whichever is applicable, within fifteen (15) days of receipt of the notification, shall certify and file with the NRP a complete record of the proceedings below including the transcript in writing of the hearing before the hearing officer together with all documents and exhibits; a copy of the hearing officer's decision; where appropriate, a copy of the decision of the State appellate body; and, any other papers and documents relevant to the proceedings. The State appellate body or hearing officer, whichever is applicable, shall prepare and include an index of the documents transmitted and shall serve immediately a copy of said index on every party to the proceeding.

§ 58.5 Review by NRP of cases certified at its request.

Pursuant to § 57.9(c)(3) of this subtitle the NRP may consider and decide cases which it, on its own motion, has requested a State appellate body, or in the absence of a State appellate body, the State hearing officer or State welfare hearing officer after he had issued his decision, to certify to it.

(a) *Basis of request to certify.* When the NRP considers a case to raise novel or substantial issues of law or policy or that it be in the interest of justice to do so, it may request that a case be certified to it.

(b) *Contents of request and time for filing.* Requests by the NRP for certification of a case to it shall be made no later than thirty (30) days after issuance of a written decision by the State appellate body or hearing officer, whichever is applicable. The request to certify shall be in writing and shall be served on the State appellate body or hearing officer, whichever is applicable, on the State agency administering hearings in that State, and on all parties to the proceeding.

(c) *Briefs.* In all cases, any party to a proceeding may file briefs with the NRP in support of its position. The NRP, if it deems it necessary to its consideration of a particular case, may request briefs from all the parties.

(d) *Time for briefs.* Briefs should be filed within ten (10) days from the date of service by the NRP of its request that a case be certified to it. However, in cases where the NRP itself requests briefs, a different time limit may be established by the NRP. Wherever possible, an original and three (3) copies of the brief should be filed with the National Review Panel, U.S. Department of Labor, Washington, DC 20210. At the same time, one (1) copy of the brief should be served on all parties to the proceeding, including the State agency administering hearings in that State.

(e) *Certification of record.* Within fifteen (15) days of receipt of the request to certify a case to the NRP, the State appellate body or hearing officer, whichever is applicable, shall certify and file with the NRP a complete record of the proceedings below and including the transcript in writing of the hearing before the hearing officer together with all documents and exhibits; a copy of the

decision of the State appellate body, and shall at the same time serve copies

in conformance herewith shall submit with the document a written statement

itself has requested certification. The request for intervention must state the grounds upon which such person claims

Motor carrier safety investigators of the Federal Highway Administration are vested with the authority to place de-

ments for the shipment of etiologic agents (37 F.R. 20554).

Numerous petitions for reconsidera-

decision of the State appellate body, where applicable; and, any other papers and documents relevant to the proceedings. The State appellate body or hearing officer, whichever is applicable, shall prepare and include an index of the documents transmitted and immediately shall serve a copy of said index on all parties to the proceedings.

§ 58.6 Consideration by and decisions of the NRP.

In considering appeals before it, the NRP may sit in panels of three members. The Chief Administrative Law Judge, DOL, may designate any Administrative Law Judge employed by DOL to review or hear a particular case and to submit his findings and recommendations to the NRP or any duly designated panel thereof.

(a) In considering appeals before it the NRP, a duly designated panel thereof, or the designated Administrative Law Judge may request the parties to submit additional written statements of position, hear oral argument or hold additional hearings where deemed necessary in the interests of justice.

(b) *Hearing or oral presentation.*

(1) Any party to an appeal may make application in writing for a hearing or oral presentation before the NRP. Such application shall set forth the reasons in support thereof and be made within five (5) days of:

(i) Service of notification of the filing of an appeal from the decision of a State hearing officer where the State does not provide for an appellate body; or

(ii) Service of notification that the NRP at its discretion has accepted an appeal from the decision of a State appellate body; or

(iii) Service of notification that the NRP has accepted certification of a case whether at its request or upon the application of a State appellate body or hearing officer.

(2) If a hearing or oral argument is directed, the notice thereof shall state the date, time, place, nature, and purpose of the hearing or oral argument. Such notice shall be served on the appellant and all other parties to the proceeding.

(3) At any hearing or oral argument so ordered, the NRP, the designated NRP panel, or the designated Administrative Law Judge may require or direct any party or person to appear to testify or produce evidence.

(4) Any party to the proceeding may appear personally or be represented by an attorney or agent.

(5) If a hearing is directed before an Administrative Law Judge, the findings and recommendations of the Administrative Law Judge designated to conduct the hearing shall be served on the appellant and all other parties to the proceeding. All parties may file with the NRP written exceptions and brief in support thereof within ten (10) days of service of the Administrative Law Judge's findings and recommendations and shall at the same time serve copies of such exceptions and brief on all other parties to the proceeding. Any exceptions filed shall refer to specific findings and recommendations of the Administrative Law Judge.

(c) *Decisions by the National Review Panel.* The NRP shall prepare as expeditiously as possible a written decision setting forth its findings, the reasons for its conclusions, and an appropriate order. The decision shall be based on the record below and any additional evidence submitted to or obtained by the NRP. The decision may consist of affirmance, reversal, remand for further development of the evidence, or other appropriate action. Copies of NRP decisions, including notification that the NRP has denied a request that it review a decision of a State appellate body and notification that NRP has accepted certification of a case, shall be served on all parties to the proceeding and such other persons as may be appropriate.

§ 58.7 Service and filing of papers.

In promulgating these rules of practice, the National Review Panel has attempted to protect the rights of those appellants who may be unable, for financial reasons or otherwise, to comply with the normal requirements of serving multiple copies of documents on the NRP and parties to the proceeding. It is with this in mind that the phrase "wherever possible" is used throughout these rules of practice when referring to service of copies. The speedy administration of justice will be assisted immeasurably, however, if all parties to these proceedings adhere to the service requirements set forth herein.

(a) *Manner of service.* All papers and documents, including appeals, requests for review, requests for NRP to accept certification, motions, briefs, exceptions, responses, NRP decisions, rulings and notices, may be served in the following manner: Personally; by registered mail; by certified mail; by telegraph; by leaving a copy thereof at the principal office, place of business, or residence, of the person to be served; or in any manner provided for the service of papers in the State in which the proceeding arose. Of the foregoing, service by registered mail is generally preferable. However, service by regular mail also shall be deemed acceptable, absent a showing of prejudice by any other party, and where the timeliness of mailing is not a material issue.

(b) *Date of service.* The date of service shall be the day when the material served is deposited in the United States mail or is delivered in person, as the case may be. In computing the time from such date, the provisions of paragraph (e) of this section apply.

(c) *Proof of service.* When service is made by certified or registered mail, the return post office receipt shall be proof of service. When service is made in another manner provided by State law, proof of service shall be made in accordance with such State law. The person or party serving documents on other parties in conformance herewith shall submit with the document a written statement of service thereof to the NRP stating the names of the parties served and the date and manner of service. Such proof of service shall be required by the NRP only if subsequent to the receipt of the statement of service a question is raised with respect to proper service. Failure to make proof of service does not affect the validity of the service.

(d) *Service on attorneys and representatives.* Whenever these rules require or permit the service of any papers upon a party, a copy shall also be served on any attorney or other representative of the party who has entered a written appearance in the proceedig on behalf of the party. If a party is represented by more than one attorney or representative, service upon any one of such persons in addition to the party shall satisfy this requirement.

(e) *Computation of time; additional time after service by mail or by telegraph.* The computation of periods of time is based on "calendar" days and not "workdays," unless otherwise stated.

(1) In computing any period of time prescribed or allowed by these rules, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so provided is to be included unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day, which is neither a Saturday, Sunday nor a legal holiday.

(2) When the period of time provided is less than seven (7) days, intermediate Saturdays, Sundays, and holidays shall be excluded from the computation.

(3) Whenever a period of time is provided herein to take some action following service of a notice or some other paper and the notice or paper is served by mail or by telegraph, three (3) days shall be added to the prescribed period.

(4) All documents to be served on the NRP, including appeals, requests for review, requests for NRP to accept certification of a case, motions, briefs, exceptions, or other papers in any proceeding, must be received by the NRP or its agent designated to receive such matter before the close of business of the last day of the time limit provided.

§ 58.8 Motions.

All motions shall be in writing and filed with the National Review Panel, U.S. Department of Labor, Washington, DC 20210. Whenever possible, a copy of the motion should be filed with all other parties to the proceeding.

§ 58.9 Intervention.

Any person desiring to intervene in any proceeding shall file a motion in writing with the National Review Panel, U.S. Department of Labor, Washington, DC 20210, within seven (7) days of the date on which the NRP has notified the parties of receipt of an appeal, request for review, or request for certification, or has notified the parties that the NRP itself has requested certification. The request for intervention must state the grounds upon which such person claims an interest. The NRP may permit intervention in person or by counsel or other representative to such extent and upon such terms as it may deem proper.

§ 58.10 Amicus curiae.

The NRP, upon petition of an interested person and as it deems appropriate, may grant permission for the filing of a brief and/or oral argument by an amicus curiae and the parties shall be notified of such action by the NRP.

§ 58.11 Representation.

An individual may represent himself or be represented upon satisfactory proof of authorization, by legal counsel or by other spokesmen of his choice in any proceeding arising out of section 402(a)(19)(A) or part C of the Act.

§ 58.12 Right to examine transcripts.

Testimony at hearings conducted by State agencies shall be mechanically recorded. It shall be transcribed only as needed or when the hearing officer's decision is to be reviewed by an appellate body in the State or by the NRP. Parties shall have the right to examine, upon request, a copy of the transcript during normal working hours at the local office of the WIN agency, if it has a copy, or at a place designated by the agency conducting these hearings in the State.

§ 58.13 Finality of decisions.

The National Review Panel is the highest level of administrative appeal and its decision shall be the final decision of the Secretary in all cases considered and received by it. Final decisions of the Secretary shall be binding on all affected parties as to the subject matter reviewed and shall not be subject to review by any other Federal or State agency, or hearing officer.

Signed at Washington, D.C., this 17th day of November 1972.

H. STEPHAN GORDON,
Chairman, National Review Panel Work Incentive Program.

[FR Doc.72-20478 Filed 11-28-72;8:51 am]

Title 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation

[OST Docket No. 16, Amdt. 99-5]

PART 99—EMPLOYEE RESPONSIBILITIES

List of Persons Required To File Financial Statements

The purpose of this amendment to Part 99 is to revise Appendix C—List of Employees Required to Submit Statements of Employment and Financial Interest, Under § 99.735-31, to add to the list the position of Motor Carrier Safety Investigator, GS-9/12.

Motor carrier safety investigators of the Federal Highway Administration are vested with the authority to place defective vehicles out of service. Such action by the investigators, often working without individual supervision, can result in a substantial economic impact on the motor carrier and driver. Ordinarily no employee below the grade of GS-13 is required to submit a statement of employment and financial interest. Because of the special nature of the investigators' functions, the requirement is being applied to them. Since this is a deviation from past practice, however, the Department will review the situation within one year to determine whether the statements required from the investigators are serving to prevent or correct any problems.

Part 99 was issued to implement Executive Order 11222 and Part 735 of the Civil Service Commission regulations and each amendment must be approved by the Commission before issuance. This amendment was approved by the Civil Service Commission on September 13, 1972.

Since this amendment relates to Departmental management, procedures, and practices, notice and public procedure thereon are not required, and it may be effective in less than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 99 of Title 49 of the Code of Federal Regulations is amended, effective November 22, 1972, by revising Appendix C to add to the list under "IV. Federal Highway Administration, Field Installations", the following:

Motor Carrier Safety Investigator, GS-9/12.

(Executive Order 11222 (30 F.R. 6469), sec. 9, Department of Transportation Act, 49 U.S.C. 1657)

Issued in Washington, D.C., on November 22, 1972.

JAMES M. BEGGS,
Acting Secretary of Transportation.

NOVEMBER 22, 1972.

[FR Doc.72-20442 Filed 11-28-72;8:47 am]

Chapter I—Department of Transportation

SUBCHAPTER A—HAZARDOUS MATERIALS REGULATIONS BOARD

[Docket No. HM-96; Amdts. 172-17, 173-67]

PART 172—COMMODITY LIST OF HAZARDOUS MATERIALS CONTAINING THE SHIPPING NAME OR DESCRIPTION OF ALL ARTICLES SUBJECT TO PARTS 170–189 OF OF THIS CHAPTER

PART 173—SHIPPERS

Etiologic Agents; Postponement of Effective Date

On September 30, 1972, the Hazardous Materials Regulations Board published Amendments 172-17 and 173-67 in Docket No. HM-96 establishing requirements for the shipment of etiologic agents (37 F.R. 20554).

Numerous petitions for reconsideration have been received by the Board because the regulation does not permit the shipment of cultures of etiologic agents on passenger-carrying aircraft. The Board has reviewed these petitions, and on the basis of the arguments for change presented to it, has proposed a modification of the regulations. See page 25243 of this FEDERAL REGISTER for the text of the Board's proposed change.

Since the Board's action cannot be completed by December 30, 1972, the previously specified effective date of the subject regulation, the Board has changed the mandatory effective date for Amendments 172-17 and 173-67 from December 30, 1972 to March 31, 1973. However, voluntary compliance continues to be authorized.

Issued in Washington, D.C., on November 24, 1972.

ALAN I. ROBERTS,
Secretary.

[FR Doc.72-20476 Filed 11-28-72;8:50 am]

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 71-21; Notice 4]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Lamps, Reflective Devices and Associated Equipment

This notice amends 49 CFR 571.108, *Standard No. 108; Lamps, Reflective Devices, and Associated Equipment*, to specify minimum photometric-candlepower requirements for motorcycle turn signal lamps.

Standard No. 108 was amended on October 7, 1972 (37 F.R. 21328), effective January 1, 1973, to specify, in part, that turn signal lamps are not required to meet the minimum photometric values at each test point specified in table 2 of SAE Standard J575d, "Tests for Motor Vehicle Lighting Devices and Components," if the sum of the candlepower measured at the test points within the groups listed in figure 1 is not less than the sum of the candlepower values for such test points specified in J575d. Effective January 1, 1973, Class B turn signal lamps are required on motorcycles, and the minimum photometric candlepower values for such lamps are one-half those required for Class A turn signals. The amendment failed to make this distinction, and this notice corrects the omission.

In consideration of the foregoing, paragraph S4.1.1.12 of 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, is amended to read as follows:

S4.1.1.12 A tail lamp, stop lamp, or turn signal lamp is not required to meet the minimum photometric values at each test point specified in Table 2 of SAE Standard J575d, "Tests for Motor Vehicle Lighting Devices and Components," if

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the sum of the candlepower measured at the test points within the groups listed in Figure 1 is not less than the sum of the candlepower values for such test points specified in J575d, or, for motorcycle turn signal lamps, one-half of such sum. A lamp with two or three lighted compartments, or a lamp that is part of an array of two or three lamps used in a single design location to perform a single function, manufactured from January 1, 1973 to September 1, 1974, need only meet the group value total specified in Figure 1 for single compartment or single lamps.

Effective date: January 1, 1973. Because the amendment creates no additional burden it is found for good cause shown that an effective date earlier than 180 days after issuance is in the public interest.

(Secs. 103, 119, National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1392, 1407; Delegation of authority from the Secretary of Transportation to the National Highway Traffic Safety Administrator, 49 CFR 1.51)

Issued on November 21, 1972.

DOUGLAS W. TOMS,
Administrator.

[FR Doc.72-20446 Filed 11-28-72;8:48 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Second Rev. S.O. 1105, Amdt. 1]

PART 1033—CAR SERVICE

Distribution of Boxcars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 22d day of November 1972.

Upon further consideration of Service Order No. 1105 (37 F.R. 22377), and good cause appearing therefor:

It is ordered, That: § 1033.1105 *Service Order No. 1105* (Distribution of Boxcars) be, and it is hereby, amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 31, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., November 30, 1972.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-20500 Filed 11-28-72;8:52 am]

[S.O. 1107, Amdt. 1]

PART 1033—CAR SERVICE

Lehigh Valley Railroad Co. Authorized To Operate Over Tracks of Penn Central Transportation Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 20th day of November 1972.

Upon further consideration of Service Order No. 1107 (37 F.R. 16549), and good cause appearing therefor:

It is ordered, That: § 1033.1107 *Service Order No. 1107* (Lehigh Valley Railroad Co., John F. Nash and Richard C. Haldeman, trustees, authorized to operate over tracks of Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., February 28, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., November 30, 1972.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-20501 Filed 11-28-72;8:52 am]

[Rev. S.O. 1110, Amdt. 2]

PART 1033—CAR SERVICE

Penn Central Transportation Co. Required To Restore Service at the Buttonwood (Wilkes-Barre), Pennsylvania, Gateway

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 22d day of November 1972.

Upon further considerationof Revised Service Order No. 1110 (37 F.R. 19616 and 22871), and good cause appearing therefor:

It is ordered, That: § 1033.1110 *Revised Service Order No. 1110* (Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees, required to restore service at the Buttonwood (Wilkes-Barre), Pa., gateway and to reroute traffic originally routed via that gateway) be, and it is hereby, amended by substituting the following paragraphs (a) and (e) for paragraphs (a) and (e) thereof:

(a) The Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, Trustees (Penn Central) be, and it is hereby, ordered to restore service via its p.m., September 15, 1972, and, as to paraway on or before December 29, 1972.

* * * * *

(e) *It is further ordered,* That this order shall become effective at 11:59 p.m., Septemer 15, 1972, and, as to paragraph 1033.1110(b), shall expire at 11:59 p.m., December 29, 1972, unless sooner vacated by order of this Commission upon restoration of service through the Buttonwood (Wilkes-Barre) gateway.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-20499 Filed 11-28-72;8:52 am]

[S.O. 1111, Amdt. 2]

PART 1033—CAR SERVICE

Delaware and Hudson Railway Co. Authorized To Operate Over Tracks of Erie Lackawanna Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 22d day of November 1972.

Upon further consideration of Service Order No. 1111 (37 F.R. 19617 and 22872), and good cause appearing therefor:

It is ordered, That: § 1033.1111 *Service Order No. 1111* (Delaware and Hudson Railway Co. authorized to operate over tracks of Erie Lackawanna Railway Co., Thomas F. Patton and Ralph S. Tyler, Jr., Trustees) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., December 29, 1972, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., November 25, 1972.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-20498 Filed 11-28-72;8:52 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Department of the Interior

PART 33—SPORT FISHING

Audubon National Wildlife Refuge, N. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11–29–72).

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

NORTH DAKOTA

AUDUBON NATIONAL WILDLIFE REFUGE

Lake Audubon, within Audubon National Wildlife Refuge is open to all fishing December 16, 1972, through March 25, 1973, and is closed from March 26 through December 15, 1973.

Sport fishing on the Audubon National Wildlife Refuge, Coleharbor, N. Dak., is permitted on all water areas throughout the refuge. The water area, comprising 5,900 acres is delineated on maps available at refuge headquarters or at the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.

Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

(1) The open season for sport fishing on the refuge extends from December 16, 1972, through March 25, 1973, inclusive.

The provision of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through March 25, 1973.

DAVID C. MCGLAUCHLIN,
Refuge Manager, Audubon National Wildlife Refuge, Coleharbor, N. Dak.

NOVEMBER 21, 1972.

[FR Doc.72-20490 Filed 11-28-72;8:52 am]

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Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 58]

NONFAT DRY MILK, SPRAY AND ROLLER PROCESS

Proposed Standards for Grades; Grade Not Assignable

Notice is hereby given that the U.S. Department of Agriculture is considering the issuance as hereinafter provided, of amendments to the U.S. Standards for Grades of Nonfat Dry Milk (Spray and Roller Process). This grade standard is issued under authority of the Agriculture Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621) which provides for the issuance of official U.S. Grades to designate different levels of quality for the voluntary use of producers, buyers and consumers. Official grading service is provided under this Act upon request of the applicant and upon payment of a fee to cover the cost of the service.

The proposed amendments provide under Subparts L and M, §§ 58.2529 and 58.2554, respectively, "U.S. Grade Not Assignable" for a reduction in the direct microscopic bacterial count level of nonfat dry milk from 150 to 100 million per gram on which a U.S. grade will be assigned.

Statement of consideration. In 1969, an amendment was issued to the U.S. Standards for Grade of Nonfat Dry Milk (Spray and Roller Process) lowering the maximum level for which a U.S. grade would be assigned from 200 million to 150 million.

Since that time, records on nonfat dry milk graded by USDA, which represent about 53 percent of U.S. production, have shown improvements in the quality of milk used for manufacturing purposes and in processing methods. Nonfat dry milk graded by USDA shows a decrease in the numbers of carlots which exceed 100 million. The amount exceeding this figure was 2.6 percent of the total nonfat dry milk graded from October 1969 to September 1972. This percentage compares very favorably with the 3.5 percent that exceeded 150 million in the period studied from 1966 to 1968 when the last reduction was made in 1969.

It is the opinion of USDA that another reduction in the direct microscopic bacterial count level will further improve the quality of nonfat dry milk and recognize the efforts of those in industry who have been moving forward in quality improvement of the milk supply and processing methods.

Announcing the proposal at this time with a proposed effective date of April 1, 1973, will give industry sufficient time for compliance.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same in duplicate with the Hearing Clerk, Room 112, Administration Building, Washington, D.C. 20250, not later than 60 days from the date of publication in the FEDERAL REGISTER. All written submissions pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments are as follows:

1. Change Subpart L, § 58.2529 U.S. Grade not assignable, to read as follows:

§ 58.2529 U.S. Grade not assignable.

Nonfat dry milk which fails to meet the requirements for U.S. Standard Grade and or shows a direct microscopic clump count exceeding 100 million per gram shall not be assigned a U.S. grade.

2. Change Subpart M, § 58.2554, U.S. Grade not assignable, to read as follows:

§ 58.2554 U.S. Grade not assignable.

Nonfat dry milk which fails to meet the requirements for U.S. Standard Grade and or shows a direct microscopic clump count exceeding 100 million per gram shall not be assigned a U.S. grade.

Effective date. It is proposed that these amendments shall become effective April 1, 1972.

Done at Washington, D.C., this 24th day of November 1972.

JOHN C. BLUM,
Acting Administrator.

[FR Doc.72-20511 Filed 11-28-72;8:53 am]

Agricultural Stabilization and Conservation Service

[7 CFR Part 812]

SUGAR IN HAWAII AND PUERTO RICO

Proposed Requirements and Quotas for Local Consumption for Calendar Year 1973

Notice is hereby given that the Administrator, Agricultural Stabilization and Conservation Service, pursuant to authority vested in the Secretary of Agriculture by the Sugar Act of 1948, as amended (61 Stat. 922, as amended; 7 U.S.C. 1101), is considering the determination of sugar requirements and the establishment of quotas for local consumption in Hawaii and Puerto Rico for the calendar year 1973.

In accordance with the rule making requirements in 5 U.S.C. 553, all persons who desire to submit written data, views, or arguments for consideration in connection with the proposed regulation may file the same in duplicate with the Director, Sugar Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, DC 20250, on or before December 18, 1972. All written submissions made pursuant to this notice will be made available for public inspection at such time and places and in a manner convenient to the public business (7 CFR 1.27(b)).

The proposed determination of sugar requirements and quotas for Hawaii and Puerto Rico for the calendar year 1973, set forth in form and language appropriate for issuance if adopted by the Secretary, is as follows:

Basis and purpose. The purpose of Sugar Regulation 812 is to determine pursuant to sections 201 and 203 of the Sugar Act of 1948, as amended (hereinafter referred to as the "Act"), the amount of sugar needed to meet the requirements of consumers in Hawaii and in Puerto Rico and to establish quotas for local consumption in such areas for the calendar year 1973. To the extent required by section 201 of the Act, this regulation establishes sugar requirements based on official estimates of the Department of Agriculture and on statistics published by other agencies of the Government.

Since the Act provides that the Secretary of Agriculture determine sugar requirements for local consumption in Hawaii and in Puerto Rico and establish local consumption quotas to be effective on January 1, 1973, it is found to be impracticable and not in the public interest to comply with the 30-day effective date requirements in 5 U.S.C. 553(d) (80 Stat. 378), and these regulations shall be effective January 1, 1973.

Sec.
812.1 Sugar requirements and quota—Hawaii.
812.2 Sugar requirements and quota—Puerto Rico.
812.3 Restrictions on marketing.

AUTHORITY: The provisions of these §§ 812.1 through 812.3 issued under sec. 403, 61 Stat. 932; 7 U.S.C. 1153, secs. 201, 203, 209, 211, 61 Stat. 923, as amended, 925, 928; 7 U.S.C. 1111, 1113, 1119, 1121.

§ 812.1 Sugar requirements and quota—Hawaii.

It is hereby determined, pursuant to section 203 of the Act, that the amount of sugar needed to meet the requirements of consumers in Hawaii for the calendar year 1973 is 50,000 short tons, raw value, and a quota of 50,000 short tons, raw value, is hereby established for Hawaii for local consumption for the calendar year 1973.

§ 812.2 Sugar requirements and quota—Puerto Rico.

It is hereby determined, pursuant to section 203 of the Act, that the amount of sugar needed to meet the requirements of consumers in Puerto Rico for the calendar year 1973 is 140,000 short tons, raw value, and a quota of 140,000 short tons, raw value, is hereby established for Puerto Rico for local consumption for the calendar year 1973.

§ 812.3 Restrictions on marketing.

Pursuant to section 209 of the Act, for the calendar year 1973 all persons are hereby prohibited from marketing, pursuant to Part 816 of this chapter (33 F.R. 8495), in Hawaii or in Puerto Rico, for consumption therein, any sugar or liquid sugar after the quota for the area for the calendar year 1973 has been filled. Pursuant to section 211(c) of the Act, the quota for each area may be filled only with sugar produced from sugarcane grown in the respective area, except as provided in section 204(c). Furthermore, pursuant to section 211(c) of the Act, sugar may be unladed from a carrier and brought into a foreign trade zone for manipulating therein or manufacturing therein another product for the subsequent entry into Hawaii or Puerto Rico for consumption only if such sugar is charged, pursuant to S.R. 816, to the applicable respective local quota.

Statement of bases and consideration. Pursuant to section 203 of the Act, the determination of the amounts of sugar needed to meet the requirements of consumers in Hawaii and in Puerto Rico relate to (1) the quantities of sugar distributed for local consumption in Hawaii and in Puerto Rico during the 12-month period ended September 30, 1972, (2) deficiencies or surpluses in inventories of sugar, and (3) changes in consumption because of changes in population and demand conditions.

The quantities of sugar distributed for consumption in Hawaii and in Puerto Rico, including that which was lost in refining after charge to the local quotas, during such 12-month period are estimated to have been approximately 38,000 short tons of sugar, raw value, and 125,000 short tons of sugar, raw value, respectively.

Based on the latest U.S. Census data available, the population of Hawaii as of July 1, 1972, was 809,000 and the population of Puerto Rico as of April 1, 1970, was 2,712,000.

In Hawaii industrial use accounts for a substantial portion of the total consumption of sugar and this demand is a significant factor in the total sugar requirements. During the period 1962 through 1972 the annual sugar consumption in this area has varied from approximately 92.3 to 130.0 pounds, raw value, per person. These wide year-to-year variations suggest the possibility that requirements could be higher in 1973 than in the 12 months ended September 30, 1972, when sugar marketings approximated 38,000 short tons, raw value.

In Puerto Rico during the 12 months ended September 30, 1972, marketings of sugar for local consumption totaled approximately 125,000 short tons, raw value. After making allowance for possible consumption increases in 1973 resulting from probable population increases, the total sugar needed to meet requirements for local consumption in Puerto Rico in 1973 may be approximately 140,000 short tons, raw value.

Circumstances prevailing in the utilization of quota for local consumption in Hawaii and Puerto Rico are such that no special problems arise nor are the objectives of the Act jeopardized if the 1973 local quotas are not completely filled. It is, therefore, desirable to establish the 1973 requirements and quotas sufficiently high initially so that later adjustments may be avoided.

In accordance with the above, the requirements for local consumption in Hawaii and Puerto Rico for 1973 have been determined to be 50,000 and 140,000 short tons, raw value, respectively.

Signed at Washington, D.C., on November 22, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-20467 Filed 11-28-72;8:51 am]

DEPARTMENT OF COMMERCE

Office of the Secretary

[15 CFR Part 7]

UPHOLSTERED FURNITURE

Notice of Finding That Flammability Standard or Other Regulation May Be Needed and Institution of Proceedings

Finding. Pursuant to section 4(a) of the Flammable Fabrics Act, as amended (Sec. 3, 81 Stat. 569; 15 U.S.C. 1193) and § 7.5 of the Flammable Fabrics Act Procedures (33 F.R. 14642, October 1, 1968), and upon the basis of investigations or research conducted pursuant to section 14 of the Flammable Fabrics Act, as amended (sec. 10, 81 Stat. 573; 15 U.S.C. 1201), it is hereby found that a flammability standard or standards, or other regulation, including labeling, may be needed for upholstered furniture, and fabrics or related materials intended to be used, or which may reasonably be expected to be used, in these products, to protect the public against unreasonable risk of the occurrence of fire leading to death or personal injury, or significant property damage.

There now exists no national flammability standard for upholstered furniture affording the general public protection from an unreasonable risk of fire. Upholstered furniture, therefore, may be produced and made available for consumer purchase which through ordinary use would present such foreseeable hazards as continuous slow burning or smoldering and the resultant production of smoke or toxic atmospheres leading to death, injury, or significant property damage.

Bases for Need. A detailed analysis of the 130 upholstered furniture ignition incidents in the National Bureau of Standards' Flammable Fabrics Accident Case and Testing System (FFACTS) in April 1972 indicates the following:

a. The ignition sequence was known in 114 of the 130 incidents. Upholstered furniture was the first product ignited in 93 (81 percent) of these 114 incidents.

b. Of the 118 individuals directly involved in the 130 incidents, 74 were injured.

c. Thirty-three of these 74 individuals died as a result of their injuries.

d. Of the 118 persons directly involved, 91 persons became involved because of their own or someone else's smoking.

e. Cigarettes (77.9 percent) and unknown smoking materials (8.1 percent) were the ignition sources in 74 of the 86 incidents in which upholstered furniture was the first product ignited and the ignition source was known. In seven of the 93 incidents in which upholstery was the first to ignite the ignition source was unknown.

In addition to the foregoing, data obtained from public safety organizations and State and local fire departments indicate that upholstered furniture fires constitute an important category of fabric fires and cause major injury and economic losses. A study conducted between 1966 and 1968 by the National Fire Protection Association has indicated that smoking on upholstered furniture was responsible for over 16 percent of the single fatality nonclothing fires studied, for which the causes of ignition were known and stated. ("Single Fatality Fire," an NFPA Fire Record Department Study, "Fire Journal," January 1969.)

In a 1970 report on fires in Oregon involving furniture, furnishings, and clothing where loss occurred, bedding and upholstery material were the initial material ignited in 60.9 percent of the cases; upholstered furniture was the first material ignited in over 23 percent of these cases, with the remaining 37.5 percent attributed to mattresses or bedding ignitions. (Annual Statistical Report for the Calendar Year 1970—published in 1971, C. Walter Stickney, State Fire Marshal, Salem, Oreg.) In a New York State report, bedding and furniture fabric ignitions constituted 59 percent of the cases involving casualties and 52.6 percent of the reported fabric ignition death cases. Of these New York statistics, furniture fabric and furnishings accounted for 21.9 and 17.5 percent of the cases resulting in injuries and deaths, respectively, with the remainder of the cases attributed to bedding ignitions. (New York State Department of Health Burns Care Institute—Prevention Program "Reported Flammable Fabrics Episodes, 1967–1971".)

Institution of proceedings.—Pursuant to section 4(a) of the Flammable Fabrics

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Act, as amended (sec. 3, 81 Stat. 569; 15 U.S.C. 1193) and 7.6(a) of the Flammable Fabrics Act Procedures (33 F.R. 14642, October 1, 1968), notice is hereby given of the institution of proceedings for the development of an appropriate flammability standard or standards, or other regulation, including labeling, for upholstered furniture, and fabrics or related materials intended to be used, or which may reasonably be expected to be used, in these products.

Participation in Proceedings.—All interested persons are invited to submit written comments or suggestions within 30 days after the date of publication of this notice in the FEDERAL REGISTER relative to (1) the above finding that a new flammability standard or standards, or other regulation, including labeling, may be needed; and (2) the terms or substance of a flammability standard or standards, or other regulation, including labeling, that might be adopted in the event that a final finding is made by the Secretary of Commerce that such a standard or standards, or other regulation, are needed to adequately protect the public against the unreasonable risk of the occurrence of fire leading to death, injury, or significant property damage. Written comments or suggestions should be submitted in at least four (4) copies to the Assistant Secretary for Science and Technology, Room 3862, U.S. Department of Commerce, Washington, DC 20230, and should include any data or other information pertinent to the subject.

Inspection of Relevant Documents.—The written comments received pursuant to this notice will be available for public inspection at the Central Reference and Records Inspection Facility of the Department of Commerce, Room 7043, Main Commerce Building, 14th Street between E Street and Constitution Avenue NW., Washington, DC 20230.

A supporting document is available for inspection in the above facility. The document contains in more detail the data which are summarized in the preceding portions of this notice.

Issued: November 24, 1972.

RICHARD O. SIMPSON,
Acting Assistant Secretary for Science and Technology.

[FR Doc.72-20488 Filed 11-24-72;2:56 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 146a]

PROCAINE PENICILLIN G IN OIL

Proposed Revised Labeling; Certification of Penicillin and Penicillin-Containing Drugs

The Commissioner of Food and Drugs has received a petition from G. C. Hanford Manufacturing Co., Post Office Box 1055, Syracuse, NY 13201, requesting that the regulations for procaine penicillin G in oil be amended to delete the requirement that inactive ingredients be listed on the labeling of such products intended for udder instillation in cattle.

The Commission of Food and Drugs has evaluated the petition and has concluded that there are adequate grounds to grant the requested exemption in that the inactive ingredients in such formulations are not of concern to the user and that such exemption would not be contrary to the public interest.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(n)(5), 82 Stat. 351; 21 U.S.C. 360b(n)(5)) and under authority delegated to the Commissioner (21 CFR 2.120), it is proposed that Part 146a, be amended in § 146a.45(c)(2)(i) as follows:

§ 146a.45 Procaine penicillin G in oil.

. . . . . .

(c) . . .

(2) *It is packaged for dispensing and intended solely for veterinary use.* (i) If it does not contain adrenocorticotropic hormone, it shall comply with subparagraph (1) of this paragraph, except in lieu of the statement "Caution: Federal law prohibits dispensing without prescription" each package shall include adequate directions and warnings for the veterinary use of the drug by the laity. If it is intended for udder instillation in cattle, it shall be exempt from the requirements of § 1.106(b)(2)(v) of this chapter.

. . . . . .

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferable in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: November 21, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-20461 Filed 11-28-72;8:49 am]

Social Security Administration

[20 CFR Part 405]

[Regs. 5]

FEDERAL HEALTH INSURANCE PROGRAM FOR THE AGED

Workmen's Compensation Exclusion

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553) that amendments to the regulations as set forth below in tentative form are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments would provide (1) that where workmen's compensation does not cover all of the medical and hospital services furnished a medicare beneficiary, payment will be made under title XVIII for medicare services furnished which were not covered by the workmen's compensation payment, (2) that where a lump sum compromise settlement of a workmen's compensation claim does not specify the portion of the lump sum attributable to hospital and medical expenses, a formula is furnished for establishing the amount of the lump sum intended as payment of hospital and medical expenses for purposes of the workmen's compensation exclusion, and (3) that where a workmen's compensation claim is contested, payment will be made under title XVIII pending a final decision on the workmen's compensation claim, provided the intermediary or carrier obtains a subrogation agreement as assurance that medicare will be reimbursed in the event the workmen's compensation claim is allowed.

Prior to the final adoption of the proposed regulations, consideration will be given to any data, comments, objections, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, DC 20201, within a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 3193, 330 Independence Avenue SW., Washington, DC 20201.

The proposed amendments are to be issued under the authority contained in sections 1102, 1861, 1863, 1864, and 1871, 49 Stat. 647, as amended, 79 Stat. 314; 42 U.S.C. 1302, 1395 et seq.

Dated: March 3, 1972.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: November 21, 1972.

ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare.

Regulations No. 5 of the Social Security Administration, as amended (20 CFR 405), are further amended as follows:

1. Paragraphs (a) and (b) of § 405.316 are revised to read as follows:

§ 405.316 Nonreimbursable expenses; payment for services made under workmen's compensation law.

(a) Payment may not be made under title XVIII of the Act with respect to any item or service to the extent that payment has been made, or can reasonably be expected to be made, under a workmen's compensation law or plan of the United States or a State. However, where payment for any item or service may not be made by workmen's compensation because furnished by a source not authorized to provide such item or service under the workmen's compensation program, payment for such item or service may be made under title XVIII of the Act if otherwise covered. See § 405.317 (d), (e), and (f) for situations in which payment may be made under title XVIII for services for which payment is not made under the workmen's compensation award.

(b) Any payment under title XVIII of the Act with respect to any item or service shall be made on the condition that repayment will be made to the supplementary medical insurance trust fund or the hospital insurance trust fund, as appropriate, if information is received that payment for the item or srevice has been made under a workmen's compensation law or plan of the United States or a State.

. . . . . .

2. Section 405.317 is revised to read as follows:

§ 405.317 Effect of workmen's compensation payment.

(a) *Spell of illness.* A period of inpatient hospital or extended care services for which title XVIII payment may not be made because of § 405.316(a) will be considered in determining whether a spell of illness has begun or has ended (see section 1861(a) of the Act).

(b) *Expenses paid by workmen's compensation.* Services for which payment may not be made because of § 405.316(a) shall not be considered in determining:

(1) The 90-day limitation on inpatient hospital services in each spell of illness (see § 405.110(a)(1)).

(2) The additional 60 lifetime reserve days of inpatient hospital services (see § 405.110(a)(2)).

(3) The 100-day limitation on post-hospital extended care services in each spell of illness (see § 405.120(b)).

(4) The 190-day lifetime limitation for inpatient psychiatric hospital services (see § 405.110(d)).

(5) The 100 home health visits limitation under Part A or Part B of title XVIII (see § 405.130).

(6) The days for which payment for inpatient hospital services or post-hospital extended care services is reduced by the applicable deductible or coinsurance amount (see §§ 405.113, 405.115, and 405.124).

(c) *Deductibles and coinsurance.* Payments made under workmen's compensation cannot be counted toward the deductibles or coinsurance provisions of title XVIII. Thus, if an individual is hospitalized twice in the same spell of illness and the first hospitalization is completely paid for under workmen's compensation, the inpatient hospital deductible would apply to the second hospitallization. In the same way, medical expenses otherwise reimbursable under Part B must first be reduced by any workmen's compensation payment before applying the deductible and coinsurance provisions.

(d) *Limitation in workmen's compensation law on number of days of care or total amount payable.* Certain workmen's compensation programs specify limits on the number of days of care for which payment can be made or the total amount that can be paid for medical care under workmen's compensation with respect to a compensable injury. Services provided after these limits have been reached may be paid for under title XVIII of the Act subject to the deductible and coinsurance requirements. Where services have been furnished after such workmen's compensation limits have been reached, the following rules apply in determining the services for which payment may be made under title XVIII of the Act:

(1) The workmen's compensation payment for such services shall be allocated at the normal workmen's compensation rate of payment to those services furnished first in time until the workmen's compensation benefits are exhausted. Any services otherwise covered under title XVIII of the Act and not paid for under workmen's compensation after such allocation has been made may be paid for under title XVIII, subject to the program provisions as to reasonable cost and to any applicable deductible or coinsurance amounts.

Example. A beneficiary received 60 days of inpatient hospital services for an injury that is compensable under workmen's compensation. This is the beneficiary's first hospital stay in the spell of illness. The hospital's customary all-inclusive charge for inpatient services in semiprivate accommodations is $50 per day and the workmen's compensation payment is made on the basis of customary charges. Under the workmen's compensation law of the State, however, $1,500 is the maximum that can be paid for these services.

The $1,500 workmen's compensation payment would be allocated to the first 30 days of services and the remaining 30 days of that hospital stay would be reimbursable under title XVIII of the Act. The hospital would receive under title XVIII its full reasonable costs for the remaining 30 days less the inpatient hospital deductible. The beneficiary would be charged with 30 days utilization of inpatient hospital services in that spell of illness.

(2) Where the workmen's compensation payment for the last day to which it can be applied is less than the cost of the services provided on that day, payment may be made under Title XVIII of the Act for the difference between the workmen's compensation payment and the reasonable cost of the services furnished subject to any applicable deductible or coinsurance amounts. Such a day would be charged to the beneficiary's utilization record (except where lifetime reserve days are involved).

Example. A beneficiary received 45 days of inpatient hospital services for an injury that is compensable under workmen's compensation. This is the beneficiary's first hospital stay in the spell of illness. The hospital's customary all-inclusive charge for inpatient services in semiprivate accommodations is $60 per day and the workmen's compensation payment is made on the basis of customary charges. Under the workmen's compensation law of the State, however, $1,525 is the maximum that can be paid for these services.

The $1,525 workmen's compensation payment would be allocated as follows: $1,500 to the first 25 days of service and $25 towards the 26th day. The hospital would receive under Title XVIII of the Act its full reasonable costs for the last 20 days less the inpatient hospital deductible and the $25 paid by workmen's compensation for the 26th day. The beneficiary would be charged with 20 days utilization of inpatient hospital services in that spell of illness.

(e) *Patient received semiprivate accommodations but workmen's compensation paid only for ward accommodations.* (1) *Workmen's compensation pays customary charges for ward accommodations.* Where a beneficiary is furnished semiprivate accommodations but the workmen's compensation plan pays the hospital's customary charges for ward accommodations, payment under Title XVIII of the Act is limited to the amount by which the hospital's reasonable cost of furnishing semiprivate accommodations exceeds the hospital's customary charges for ward accommodations at the time of the stay.

(2) *Workmen's compensation pays special rate for ward accommodations.* Where a beneficiary is furnished semiprivate accommodations but the workmen's compensation plan pays only for ward accommodations at a special rate which is less than the hospital's customary charge for ward accommodations, it is assumed, in the absence of evidence to the contrary, that the special rate paid by the workmen's compensation program is deemed payment in full for ward accommodations under the State workmen's compensation law. In such case, payment under Title XVIII of the Act is limited to the amount by which the hospital's reasonable cost of furnishing semiprivate accommodations exceeds the hospital's customary charges for ward accommodations at the time of the stay. In cases, however, where the special rate paid by the workmen's compensation program is not deemed payment in full for ward accommodations, payment under Title XVIII is limited to the amount by which the reasonable cost of semiprivate accommodations exceeds the workmen's compensation payment.

Example. A beneficiary was furnished semiprivate accommodations at X Hospital for an illness that is covered under the workmen's compensation program. The workmen's compensation program pays only for ward accommodations ($50 per day). X Hospital's reasonable cost of furnishing semiprivate accommodations is $52. X Hospital is entitled to receive $2 per day reimbursement under Title XVIII (the $52 per day reasonable cost of semiprivate accommodations less the $50 per day paid by workmen's compensation).

If the workmen's compensation program paid a special rate of $40 per day for ward accommodations, which amount is deemed payment in full for ward accommodations under State law, X Hospital would still be

entitled to receive an additional $2 per day reimbursement under Title XVIII (the $52 per day reasonable cost of semiprivate accommodations less the $50 per day customary charge for ward accommodations).

(3) *Utilization days charged.* Where a beneficiary is furnished semiprivate accommodations and the workmen's compensation plan pays only for ward accommodations (at either the hospital's customary rate for ward accommodations or at a special rate which is less than the hospital's customary charge for such accommodations), the beneficiary is charged with utilization on a pro rata basis (based on the proportion which the payment made under Title XVIII of the Act bears to the total payment for the period during which these accommodations were furnished).

(f) *Workmen's compensation does not pay for certain ancillary services.* Sometimes an individual who is receiving inpatient hospital services for a work injury which is covered under workmen's compensation may also receive ancillary services for a condition which is not work-related, e.g., laboratory services or medication for a preexisting condition. In such cases, if the workmen's compensation plan pays for all of the hospital expenses related to the work injury (including the room and board charges) but not for the ancillary services which are not work-related, Title XVIII benefits may be paid for such ancillary services, subject to the Part A deductible or the Part B deductible and coinsurance provisions. The beneficiary would not be charged with utilization for the days on which these services were received.

Example. An individual was hospitalized for 20 days due to a work-related injury. His bill included $1,100 in charges for room and board and other items and services related to the work injury and $65 in laboratory and medication charges for services in connection with a preexisting condition. Workmen's compensation paid the $1,100 in charges for services related to the work injury, but did not pay the $65 in laboratory and medication charges for the preexisting condition. Since the $65 in charges for laboratory services and medication are not covered under workmen's compensation, Title XVIII benefits may be paid for such expenses subject to any applicable deductible and coinsurance provisions. The individual would not be charged with utilization for the day or days on which the services were received.

3. Sections 405.318–405.320 are revised to read as follows:

§ 405.318 Responsibility of the individual concerning workmen's compensation payment.

The individual is responsible for taking whatever action is necessary to obtain payment under workmen's compensation where payment under that system can reasonably be expected. Failure to take proper and timely action under such circumstances will preclude payment under Title XVIII of the Act to the extent that payment could have been expected under workmen's compensation if such action had been taken. Thus, so long as the facts indicate a reasonable expectation that payment may be made under a workmen's compensation statute, the individual must exhaust his remedies under that system before any payment may be made under Title XVIII of the Act, except as specified in § 405.319(b). Where the time limit for taking action under workmen's compensation has expired and the intermediary determines that payment under workmen's compensation could reasonably have been expected if timely action had been taken, payment under Title XVIII of the Act will be precluded to the extent that the disease or injury for which Title XVIII payment is claimed would be compensable under workmen's compensation had timely action been taken. However, in the event a workmen's compensation claim is subsequently filed and denied solely for reasons other than the delay in filing, the decision denying Title XVIII benefits will be reopened, and, if otherwise appropriate, the Title XVIII claim will be allowed.

§ 405.319 Responsibility of intermediary where there is a possibility of workmen's compensation coverage.

(a) *Investigation of possible workmen's compensation coverage.* Where it appears that a claim submitted to an intermediary is for services furnished with respect to a disease or injury which may be compensable under a State or Federal workmen's compensation law or plan, the intermediary will undertake an investigation to ascertain the extent to which payment under Title XVIII of the Act may be precluded.

(b) *Conditional payment in appealed workmen's compensation cases.* If a title XVIII beneficiary, his employer, or a workmen's compensation carrier is appealing a decision as to the compensability under workmen's compensation of services for which benefits could be paid under Title XVIII in the absence of such compensability, conditional Title XVIII payments may be made (if otherwise appropriate) pending a final decision on the workmen's compensation claim provided:

(1) The intermediary obtains a subrogation agreement signed by the following:

(i) The workmen's compensation carrier or State Workmen's Compensation Commission or agency; and

(ii) The individual or his qualified representative; and

(iii) The provider, physician, or other person who furnished the services for which payment is to be made.

(2) The subrogation agreement provides that the workmen's compensation carrier or State Workmen's Compensation Commission or agency:

(i) Will notify the intermediary promptly when a final decision is reached on the workmen's compensation claim; and

(ii) Will reimburse the intermediary the amount of the conditional payment made under Title XVIII up to the full amount of the workmen's compensation award, in the event that the services are found to be compensable.

§ 405.320 Effect of lump-sum settlement and final release.

Where a lump-sum settlement and final release of a workmen's compensation claim has been entered into and approved by the workmen's compensation board or agency, payment may be made under title XVIII of the Act for expenses incurred for covered services to the extent that such expenses cannot reasonably be deemed to have been reimbursed under the settlement. Therefore, where under the State law the signing of a final release of all rights under the workmen's compensation claim forecloses the possibility of further workmen's compensation benefits, medical expenses incurred thereafter are reimbursable under title XVIII, if otherwise covered, insofar as such medical expenses were not contemplated by and incorporated into the settlement.

4. Section 405.321 is added to read as follows:

§ 405.321 Apportionment of a lump-sum compromise settlement of a workmen's compensation claim.

(a) *General.* Where an individual receives a lump-sum payment as a compromise settlement of a workmen's compensation claim, which has been approved by the workmen's compensation agency, in accordance with the requirements of the State law, such payment shall be deemed a workmen's compensation payment for purposes of title XVIII, even if the settlement agreement stipulates that there is no liability under the workmen's compensation law.

(b) *Determining amount of compromise settlement attributable to medical and hospital expenses.* Where the compromise settlement specifies the items of medical expense covered by the lump-sum payment and has given reasonable recognition to the income replacement element, the apportionment so made shall be deemed conclusive and title XVIII payments may not be made for the same items of medical expense. However, where the settlement does not give recognition to both elements of a workmen's compensation award or does not apportion the sum granted, the portion of the workmen's compensation compromise settlement to be considered as payment for medical and hospital expenses will be calculated as follows:

(1) Determine the ratio which the amount awarded as a compromise settlement (less the reasonable and necessary costs incurred in procuring the settlement) bears to the commuted value of the total amount which would have been payable under workmen's compensation if the claim had not been compromised.

(2) Multiply the total medical and hospital expenses incurred as a result of the injury or disease up to the date of the settlement by such ratio. The product will be deemed to be the amount of the workmen's compensation settlement intended as payment for medical and hospital expenses.

Example: As the result of an injury which was compensable under the State workmen's compensation law an individual suffered a loss of income and incurred hospital and medical expenses for which the commuted value of the total workmen's compensation payment would have been $7,200 had the case not been compromised. The medical and hospital expenses amounted to $6,000. The workmen's compensation carrier made a settlement with the beneficiary under which it paid $2,400 in toto. A separate award was made for legal fees. Since the workmen's compensation compromise settlement was for one-third of the amount which would have been payable under workmen's compensation had the case not been compromised ($\frac{2400}{7200}=\frac{1}{3}$), the workmen's compensation compromise settlement is deemed to have paid for one-third of the total medical and hospital expenses ($\frac{1}{3}\times\$6{,}000=\$2{,}000$).

(c) *Determination of amount of medical expenses reimbursable under title XVIII.* The amount of the workmen's compensation award deemed as payment for medical and hospital expenses (obtained in paragraph (b) of this section) is applied at the prevailing workmen's compensation rate of payment in that jurisdiction, first to those medical and hospital services covered under workmen's compensation but not covered under title XVIII of the Act, then to expenses covered under workmen's compensation and under Part B, and last to expenses covered under workmen's compensation and under Part A. Any remaining medical and/or hospital expenses incurred up to the date of settlement and all medical and/or hospital expenses incurred after the date of settlement shall be deemed not reimbursed under workmen's compensation and therefore reimbursable under title XVIII of the Act.

Example: In the example in paragraph (b) of this section, the $6,000 in hospital and medical expenses included $3,400 in hospital services reimbursable under Part A, $2,100 in expenses for which payment would have been available under Part B, and $500 in expenses for services not reimbursable under title XVIII. The amount of title XVIII benefits payable would be figured as follows: The $2,000 of the compromise workmen's compensation settlement considered as payment for medical and hospital expenses would be applied first to the $500 in noncovered services; the remaining $1,500 would be applied to the $2,100 in expenses for which payment would have been available under Part B. The remaining $600 of such expenses would be reimbursable under Part B of title XVIII and all of the $3,400 in hospital expenses would be reimbursable under Part A, subject to the regular deductible and coinsurance requirements. It is assumed in this example that the expenses specified above as incurred by the individual are the amounts which would be paid by the workmen's compensation carrier for such services. If this is not the case, the services should be charged against the lump-sum payment at the usual workmen's compensation rate. No title XVIII payment will be made for any items so charged.

[FR Doc.72-20452 Filed 11-28-72;8:48 am]

DEPARTMENT OF TRANSPORTATION

Hazardous Materials Regulations Board

[49 CFR Part 173]

[Docket No. HM-96; Notice 72-13]

ETIOLOGIC AGENTS

Shipment on Passenger-Carrying Aircraft

On September 30, 1972, the Hazardous Materials Regulations Board published Amendments 172-17 and 173-67 in Docket No. HM-96 establishing requirements for the shipment of etiologic agents.

The regulation permits the shipment of diagnostic specimens and biological products on passenger-carrying aircraft. However, it does not permit the shipment of cultures of etiologic agents on such aircraft. These cultures are presently being transported on passenger-carrying aircraft and prior to the above amendment they were not prohibited.

The Board has received many petitions for reconsideration indicating that the proposed change in transportation conditions would seriously and detrimentally affect the timely response and diagnostic capability of many laboratories involved in the protection of the public health. This position was expressed to the Board by numerous State health agencies, by the American Society of Clinical Pathologists, the American Type Culture Collection, the College of American Pathologists, the Association of State and Territorial Laboratory Directors, The Mycological Society of America, the Institute for Medical Research, The American Association of Immunologists, the American Society for Medical Technology, the American Society for Microbiology, the Infectious Diseases Society of America, the Association of Schools of Public Health, Inc., the American Association of Bioanalysts, a large number of hospitals, clinics, Federal health agencies, and several individual members of the medical profession.

One commenter, the Center for Disease Control, Health Services and Mental Health Administration, U.S. Department of Health, Education, and Welfare, summarized part of the problem by stating that "• • • [a]s an example, the physicians who live in areas not served by cargo-only carriers will be forced to rely on surface transportation to carry cultures to laboratories for determination of antibiotic resistance of cultured bacterial isolates—knowledge which is essential for correct treatment. Loss of time due to slower surface transportation delays the treatment of the patient. In addition, some agents are so sensitive that they may perish if their arrival is delayed in any way. Other problems such as changes in the required degree of acidity, etc., which already cause difficulties in the shipment of microbiologic cultures, will be increased as time between shipment and receipt is lengthened. • • •" This type of concern and statements that the level of protection for public health would be seriously affected permeated the dozens of comments received by the Board.

The Center for Disease Control petitioned that the regulations be amended to permit cultures of etiologic agents in volumes of less than 50 milliliters (1.666 fluid ounces) to be transported on passenger-carrying aircraft. They stated that "• • • [b]ased on our past experience with over 100,000 shipments of etiologic agents annually, our scientific knowledge of these agents, and the public health need for their rapid movement, you are assured that undelayed shipments of cultures of etiologic agents in quantities less than 50 ml. are in the interest of public health, and that the hazard to passengers or crews of aircraft is infinitesimal. • • •"

Throughout this proceeding, the Board has relied on information supplied by the Center for Disease Control because of its expertise in the knowledge and handling of these agents. Based on the information it now has, the Board proposes to modify its regulations and to adopt the proposal of the U.S. Health Services and Mental Health Department. This action would have no effect on the present Department of Health, Education, and Welfare regulations on etiologic agents which continue to apply to the packaging of these substances.

In consideration of the foregoing, 49 CFR Part 173 would be amended as follows:

Paragraph (d) in § 173.386 would be amended by adding paragraph (3) to read as follows:

§ 173.386 Etiologic agents; definition and scope.

• • • • • •

(d) • • •

(3) Cultures of etiologic agents of less than 50 milliliters (1.666 fluid ounces) total quantity in one outside package.

• • • • • •

Interested persons are invited to give their views on this proposal. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, DC 20590. Communications received on or before January 23, 1973 will be considered before final action is taken on the proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

This proposal is made under the authority of sections 831–835 of Title 18, United States Code, section 9 of the Department of Transportation (49 U.S.C. 1657), and Title VI and section 902(h) of the Federal Aviation Act of 1958 (49 U.S.C. 1421–1430 and 1472(h), 1655(c)).

V 37-230 NOV 29 72 XUM

Issued in Washington, D.C. on November 24, 1972.

W. J. BURNS,
Director,
Office of Hazardous Materials.

[FR Doc.72-20475 Filed 11-28-72;8:50 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

DIURON

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

Dr. C. C. Compton, Coordinator, Interregional Research Project No. 4, State Agricultural Experiment Station, Rutgers University, New Brunswick, N.J. 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of California, Delaware, Florida, Georgia, New Jersey, New York, North Carolina, South Carolina, and Virginia submitted a petition (PP 2E1263), proposing establishment of a tolerance for residues of the herbicide diuron (3-(3,4-dichlorophenyl)-1,1-dimethylurea) in or on the raw agricultural commodity peaches at 0.1 part per million.

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The herbicide is useful for the purpose for which the tolerance is proposed.

2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

3. The proposed tolerance of 0.1 part per million is at a negligible level and will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), it is proposed that § 180.106 be amended by revising the paragraph "0.1 part per million * * *" as follows:

§ 180.106 Diuron; tolerances for residues.

* * * * *

0.1 part per million (negligible residue) in or on bananas, nuts, and peaches.

Any person who has registered or submitted an application for the registration of an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act containing any of the ingredients listed herein may request, within 30 days after publication hereof in the FEDERAL REGISTER, that this proposal be referred to an advisory committee in accordance with section 408(e) of the act.

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Environmental Protection Agency, Room 3902A, Fourth and M Streets SW., Waterside Mall, Washington, DC 20460, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. All written submissions made pursuant to this proposal will be made available for public inspection at the office of the Hearing Clerk.

Dated: November 20, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-20417 Filed 11-28-72;8:45 am]

[41 CFR Part 15-15]

CONTRACT COST PRINCIPLES AND PROCEDURES

Advance Understandings on Particular Cost Items

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to the Federal Property and Administrative Services Act of 1949, as amended, the Environmental Protection Agency is considering an amendment to 41 CFR Chapter 15, Subpart 15-15.107, adding new Agency policy requiring advance agreements with the contractor as to the extent of allowability of payment for each individual expert or consultant, proposed as an element of cost under the contract, prior to contract award.

Interested parties may submit, in triplicate, written comments concerning the proposed amendment, to the Contracts Management Division, AMAC, Environmental Protection Agency, Washington, DC 20460. Communications received within 30 days from publication of this proposal in the FEDERAL REGISTER will be considered prior to adoption of the final regulation. A copy of each communication received will be placed on file for public inspection in the Contracts Management Division, Room 413, Waterside Mall West, Washington, DC 20460.

Dated: November 21, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator.

Subpart 15-15.107—Advance Understandings on Particular Cost Items

§ 15-15.107.1 Professional services.

(a)(1) *Scope of subpart.* This subpart states EPA policy requiring advance agreements with the contractor, covering the extent of allowability of payments for each individual expert or consultant proposed as an element of cost under negotiated contracts. This subpart does not apply to the cost of experts or consultants hired under contracts for personal services as defined in EPPR 15-55.102(b).

(2) *Definition of experts and consultants.* For the purpose of this subpart, the term "experts" and "consultants" shall include those persons acting as individual agents, who are exceptionally qualified, by education or by practical experience in a particular field and who give professional advice or services regarding matters in the field of their special knowledge.

(3) *Policy.* (i) It is the policy of the Agency that prior to award of all negotiated contracts, an advance agreement shall be reached with the contractor covering the extent of allowability of payment for each individual expert or consultant, proposed as an element of cost under the contract. The agreement reached shall be made part of the contract schedule in all cost-reimbursement type contracts and shall set forth the maximum payment allowable for the specific individual expert or consultant. Where fixed price contracts are negotiated on the basis of cost or pricing data, the expert or consultant rates agreed to in establishing the price shall be documented in the contract file.

(ii) The maximum amount or rate of payment of the individual expert or consultant shall be determined on a case-by-case basis, taking into account the relative importance of the duties to be performed, the stature of the individual in his specialized field, comparable pay for positions under the Classification Act or other Federal pay systems, rates paid by private employers, and rates previously paid other experts or consultants for similar work. Compensation shall not exceed the highest rate fixed by the Classification Act pay schedule for GS-18.

(4) *Exceptions.* The foregoing policy may be waived by the chief officer responsible for procurement at the contracting activity, whenever he determines and justifies in writing that the waiver is in the best interest of the Agency. However, this exception does not apply to situations where the experts or consultants are hired under contracts for personal services as defined in EPPR 15-55.102(b). Also see EPPR 15-55.206(e).

(5 U.S.C. 553, 63 Stat. 377, as amended)

[FR Doc.72-20418 Filed 11-28-72;8:45 am]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 72-325]

REIMBURSABLE SERVICES

Excess Cost of Preclearance Operations

Notice is hereby given that pursuant to § 24.18(d), Customs regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning November 26, 1972.

Installation	*Biweekly excess cost*
Montreal, Canada	$4,368.00
Toronto, Canada	6,931.00
Kindley Field, Bermuda	2,044.00
Nassau, Bahama Islands	3,365.00
Vancouver, Canada	990.00
Winnipeg, Canada	169.00

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

[FR Doc.72-20485 Filed 11-28-72;8:51 am]

Office of the Secretary

PRINTERS' RUBBERIZED BLANKETS FROM THE UNITED KINGDOM

Determination of Sales at Not Less Than Fair Value

NOVEMBER 24, 1972.

On September 21, 1972, there was published in the FEDERAL REGISTER a "Notice of tentative negative determination" (37 F.R. 19654) that printers' rubberized blankets from the United Kingdom are not being, nor likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)) (referred to in this notice as "the Act").

The statement of reasons for the tentative determination was published in the above-mentioned notice and interested parties were afforded an opportunity to make written submissions and to present oral views in connection with the tentative determination.

No written submissions or requests to present oral views having been received, I hereby determine that, for the reasons stated in the tentative determination, printers' rubberized blankets from the United Kingdom are not being, nor likely to be, sold at less than fair value (section 201(a) of the Act; 19 U.S.C. 160(a)).

This determination is published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)) and § 153.33(c), Customs Regulations (19 CFR 153.33(c)).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-20551 Filed 11-28-72;8:54 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[S 5337]

CALIFORNIA

Notice of Proposed Withdrawal and Reservation of Lands

NOVEMBER 20, 1972.

The Bureau of Land Management, U.S. Department of the Interior, has filed an application, Serial No. S 5337, for the withdrawal of public lands described below, from appropriation under the public land laws including the mining laws but not from leasing under the mineral leasing laws. The lands will be used for picnic, campground, and trailhead areas.

On or before December 30, 1972, all persons who wish to submit comments, suggestions, or objections in connection with the proposed protective withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, U.S. Department of the Interior, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, CA 95825.

The Department's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. Adjustments will be made as necessary to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 17 N., R. 9 E., M.D. Meridian,
Sec. 19, Lots 1 and 2, NE¼, E½NW¼.

The area aggregates 321-40 acres.

WALTER F. HOLMES,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.72-20473 Filed 11-28-72;8:50 am]

National Park Service

[Order 1]

ADMINISTRATIVE OFFICER, CHICKAMAUGA AND CHATTANOOGA NATIONAL MILITARY PARK

Delegation of Authority

Chickamauga and Chattanooga National Military Park, Fort Oglethorpe, Ga. 30741.

SECTION 1. *Administrative Officer.* The Administrative Officer may execute and approve contracts not in excess of $2,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds. This authority may be exercised by the Administrative Officer in behalf of any area administered by the Superintendent, Chickamauga and Chattanooga National Military Park.

SEC. 2. *Re-Delegation.* The authority delegated in this Order No. 1 may not be re-delegated.

(National Park Service Order No. 66, 36 F.R. 21218, as amended, 37 F.R. 4001, 37 F.R. 12854; Southeast Region Order No. 5, 37 F.R. 7721)

Dated: October 16, 1972.

DONALD K. GUITON,
Superintendent.

[FR Doc.72-20423 Filed 11-28-72;8:46 am]

OLYMPIC NATIONAL PARK

Notice of Intention To Extend Concession Contract

Pursuant to the provisions of section 5, of the Act of October 9, 1965; (79 Stat. 969; 16 U.S.C. 20) public notice is hereby given that 30 days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to extend the concession contract with Carl G. and Isabel Hansen authorizing them to provide concession facilities and services for the public within the Log Cabin Lodge area of Olympic National Park, for a

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period of 2 years from January 1, 1973, through December 31, 1974.

The foregoing concessioners have performed their obligations under the expiring contract to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, are entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within 30 days after the publication date of this notice.

Interested parties should contact the Chief of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: November 20, 1972.

LAWRENCE C. HADLEY,
Assistant Director,
National Park Service.

[FR Doc.72-20424 Filed 11-28-72;8:46 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

GRAIN STANDARDS

Cancellation of Maine Inspection Point

Statement of considerations. On August 22, 1972, there was published in the FEDERAL REGISTER (37 F.R. 16884) a notice announcing that as of July 1, 1972, the Maine Department of Agriculture ceased providing official grain inspection services under the U.S. Grain Standards Act (7 U.S.C. 71 et seq.), at Augusta, Maine. Interested organizations and persons were given until September 21, 1972, to make application for designation to operate an official inspection agency at Augusta, Maine. Members of the grain industry were given until September 21, 1972, to submit views and comments and to include the name of the person or agency which they recommend to operate an official inspection agency at Augusta, Maine.

No comments were received with respect to the August 22, 1972, notice in the FEDERAL REGISTER. Therefore, the designation of the Maine Department of Agriculture as the official grain inspection agency at Augusta, Maine, is canceled and no official inspection agency is designated under section 3(m) of the U.S. Grain Standards Act (7 U.S.C. 75(m)) to operate at Augusta, Maine. This notice does not preclude interested organizations and persons making application later for designation to operate an official inspection agency at Augusta, Maine, in accordance with the requirements in section 26.97 of the regulations (7 CFR 26.97) under the U.S. Grain Standards Act.

Done in Washington, D.C., on November 24, 1972.

JOHN C. BLUM,
Acting Administrator.

[FR Doc.72-20510 Filed 11-28-72;8:53 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. B-550]

CLINTON L. BRACKETT

Notice of Loan Application

NOVEMBER 22, 1972.

Clinton L. Brackett, Townsend Avenue, Boothbay Harbor, Maine 04538, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new fiber glass vessel, about 42 feet in length, to engage in the fishery for lobsters, shrimp, and groundfish.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

PHILIP M. ROEDEL,
Director.

[FR Doc.72-20414 Filed 11-28-72;8:45 am]

[Docket No. S-595]

GEORGE P. AND M. MARIE O'DAY

Notice of Loan Application

NOVEMBER 22, 1972.

George P. O'Day and M. Marie O'Day, 5100 Clover Blossom Lane, Bremerton, WA 98310, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new fiber glass vessel, about 36-foot in length, to engage in the fishery for salmon, bottomfish, Dungeness crab, and herring off the coasts of Washington and Alaska.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, DC 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

PHILIP M. ROEDEL,
Director.

[FR Doc.72-20415 Filed 11-28-72;8:45 am]

[Docket No. S-594]

PAUL T. AND TRUDY THOMAS

Notice of Loan Application

NOVEMBER 22, 1972.

Paul T. Thomas and Trudy Thomas, 4230 Gilman Place W, Seattle, Wash. 98119, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel, about 35-foot in length, to engage in the fishery for salmon, albacore, halibut, and bottomfish off the coasts of California, Oregon, Washington, and Alaska.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, DC 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

PHILIP M. ROEDEL,
Director.

[FR Doc.72-20416 Filed 11-28-72;8:45 am]

Social and Economic Statistics Administration

CENSUS ADVISORY COMMITTEE ON STATE AND LOCAL GOVERNMENT STATISTICS

Notice of Public Meeting

The Census Advisory Committee on State and Local Government Statistics will convene on December 8, 1972 at 9:30 a.m. The Committee will meet in room 2113, Federal Building 3, at the Bureau of the Census in Suitland, Md.

The Census Advisory Committee on State and Local Government Statistics was established in October 1948 to advise the Director, Bureau of the Census on planning current work and various censuses of governments, and to advise on where the needs of users of the statistics could be served better.

The Committee is composed of 10 members appointed by the Secretary of Commerce, and five members appointed by the organization they represent.

The agenda for the meeting is: (1) A panel discussion on Revenue Sharing; (2) Status report on the 1972 Census of Governments; and (3) Panel review of Current and Special Statistics of Governments.

A limited number of seats—approximately 15—will be available to the public. A brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing at least 3 days prior to the meeting.

Persons wishing to submit questions or statements, planning to attend the meeting, or wishing additional information should contact Mrs. Aileen Ashbaugh, Bureau of the Census, Room 2416, Federal Building 3, Suitland, MD. (Mail Address: Washington, D.C. 20233). Telephone: (301) 763-5262.

Dated: November 22, 1972.

HAROLD C. PASSER,
Assistant Secretary for
Economic Affairs.

[FR Doc.72-20513 Filed 11-28-72;8:53 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 9861; Docket No. FDC-D-495; NDA 9-861, etc.]

CERTAIN CARDIOVASCULAR PREPARATIONS

Notice of Withdrawal of Approval of New Drug Applications

On August 25, 1972, there was published in the FEDERAL REGISTER (37 F.R. 17226) notice of opportunity for hearing (DESI 9861) in which the Commissioner of Food and Drugs proposed to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the new drug applications for the subject drugs in the absence of substantial evidence that these fixed combination drugs will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or that each component of the combinations contributes to the total effects claimed for the drugs.

On September 22, 1972, McNeil Laboratories, holder of NDA 9-921 Butiserpine tablets and NDA 10-646 Butiserpine R-A tablets, elected to avail itself of the opportunity for a hearing on the two drugs. This request for a hearing is under review and will be the subject of a future publication in the FEDERAL REGISTER.

Concerning Mephoserp tablets (reserpine and mephobarbital), reviewed by the National Academy of Sciences-National Research Council, Drug Efficacy Group, and listed in the notice of August 25, 1972, Nysco Laboratories has stated that the drug has not been manufactured since 1965. It was not the subject of an approved new drug application.

None of the holders of the following new drug applications or any other interested person have filed a written appearance of election as provided by said notice. The failure to file such an appearance constitutes an election by such persons not to avail themselves of the opportunity for a hearing:

1. NDA 9-861; Nembu-Serpin tablets and Nembu-Serpin ½ strength tablets containing reserpine and calcium pentobarbital; Abbott Laboratories, 14th and Sheridan Road, North Chicago, IL 60064.

2. NDA 11-191; Harmonyl-N tablets and Harmonyl-N half-strength tablets containing deserpidine and calcium pentobarbital; Abbott Laboratories.

3. NDA 10-456; Butiserpine Elixir containing reserpine and sodium butabarbital; McNeil Laboratories, Inc., Camp Hill Road, Fort Washington, PA 19034.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug applications reviewed and are subject to this notice. See 21 CFR 130.40 (37 F.R. 23185 October 31, 1972). Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD-300), 5600 Fishers Lane, Rockville, Md. 20852.

The Commissioner of Food and Drugs, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1053, as amended, 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to him (21 CFR 2.120), finds on the basis of new information before him with respect to said drugs, evaluated together with the evidence available to him when the applications were approved, that there is a lack of substantial evidence that the drugs will have the effects they purport or are represented to have under the conditions of use prescribed, recommended or suggested in the labeling thereof.

Therefore, pursuant to the foregoing finding, approval of the above new drug applications, and all amendments and supplements applying thereto is withdrawn effective on the date of publication hereof in the FEDERAL REGISTER (11-28-72). Shipment in interstate commerce of any of the above-listed drug products or of any identical, related, or similar product, not the subject of an approved new drug application, is henceforth unlawful.

Dated: November 21, 1972.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.72-20463 Filed 11-28-72;8:49 am]

[DESI 11255; Docket No. FDC-D-566; NDA 6-547, etc.]

CERTAIN COMBINATION DRUGS CONTAINING ANTACIDS WITH ANTICHOLINERGICS

Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Applications

In an announcement (DESI 11255) published in the FEDERAL REGISTER of September 8, 1972 (37 F.R. 18225), the Commissioner of Food and Drugs announced his conclusions pursuant to the evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group on the following drugs:

1. Modutrol tablets containing pipethanate hydrochloride, scopolamine methylnitrate, aluminum hydroxide, and magnesium hydroxide; Reed & Carnrick, 30 Boright Avenue, Kenilworth, NJ 07033 (NDA 11-255).

2. Estomul tablets containing orphenadrine hydrochloride, bismuth aluminate, magnesium oxide, aluminum hydroxide, and magnesium carbonate; Riker Laboratories, Inc., Division Dart Inc., 19901 Nordhoff Street, Northridge, CA 91324 (NDA 12-830).

3. Estomul liquid containing orphenadrine hydrochloride, bismuth aluminate, aluminum hydroxide, and magnesium carbonate; Riker Laboratories, Inc. (NDA 12-830).

4. Alzinox compound tablets and Magma containing dihydroxy-aluminum aminoacetate, phenobarbital, and homatropine methylbromide; Smith, Miller & Patch, Inc., 401 Joyce Kilmer Avenue, New Brunswick, NJ 08902 (NDA 6-547).

The announcement stated that these fixed combination drugs lack substantial evidence of effectiveness for their recommended uses and that drugs containing an anticholinergic with an antacid are not appropriate for administration as fixed-dose combinations within the guidelines set forth in the Statement of General Policy or Interpretation § 3.86 Fixed-combination prescription drugs for humans, published in the FEDERAL REGISTER of October 15, 1971 (36 F.R. 20037), and that the Commissioner of Food and Drugs intended to initiate proceedings to withdraw approval of the new drug applications for the drugs.

Interested persons were invited to submit pertinent data bearing on the proposal within 30 days following publication of the announcement. No data providing substantial evidence of effectiveness have been received.

Therefore, notice is given to the holder(s) of the new drug application(s) and to any other interested person that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the listed new drug application(s) and all amendments and supplements thereto on the grounds that new information before him with respect to the

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drug(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug(s) will have all the effects purported or represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application(s) reviewed. See 21 CFR 130.40 (37 F.R. 23185 October 31, 1972). Any manufacturer or distributor of such an identical, related, or similar product is an interested person who may in response to this notice submit data and information, request that the new drug application(s) not be withdrawn, request a hearing, and participate as a party in any hearing. Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD–300), 5600 Fishers Lane, Rockville, Md. 20852.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner hereby gives the applicant(s) and any other interested person an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER the applicant(s) and any other interested person is required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether or not to avail himself of the opportunity for a hearing. Failure of an applicant or any other interested person to file a written appearance of election within said 30 days will constitute an election by him not to avail himself of the opportunity for a hearing.

If no person elects to avail himself of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the application(s).

If an applicant or any other interested person elects to avail himself of the opportunity for a hearing, he must file, within 30 days after publication of this notice in the FEDERAL REGISTER, a written appearance requesting the hearing, giving the reasons why approval of the new drug application(s) should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data he is prepared to prove in support of his opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing (21 CFR 130.14(b)).

If review of the data submitted by an applicant or any other interested person warrants the conclusion that there exists substantial evidence demonstrating the effectiveness of the product(s) for the labeling claims involved, the Commissioner will rescind this notice of opportunity for hearing.

If review of the data in the application(s) and data submitted by the applicant(s) or any other interested person in a request for a hearing, together with the reasoning and factual analysis in a request for a hearing, warrants the conclusion that no genuine and substantial issue of fact precludes the withdrawal of approval of the application(s), the Commissioner will enter an order of withdrawal making findings and conclusions on such data.

If, upon the request of the new drug applicant(s) or any other interested person, a hearing is justified, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence. All persons interested in identical, related, or similar products covered by the new drug application(s) will be afforded an opportunity to appear at the hearing, file briefs, present evidence, cross-examine witnesses, submit suggested findings of fact, and otherwise participate as a party. The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

Requests for a hearing and/or elections not to request a hearing may be seen in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–53, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: November 21, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–20468 Filed 11–28–72;8:49 am]

[Dockets Nos. FDC–D–438; NADA 3–161V and NADA 3–162V]

HAVER-LOCKHART LABORATORIES

Certain Phenothiazine-Containing Products; Notice of Withdrawal of Approval of New Animal Drug Applications

In the FEDERAL REGISTER of September 27, 1972 (37 F.R. 20189), the Commissioner of Food and Drugs published a notice proposing to withdraw approval of new animal drug application (NADA) No. 3–161V for Phenothiazine tablets and NADA No. 3–162V for Phenothiazine Suspension (Red); marketed by Haver-Lockhart Laboratories, Box 390, Shawnee Mission, KS 66201.

Haver-Lockhart Laboratories waived an opportunity for a hearing. Therefore, based on the grounds set forth in the cited notice of opportunity for a hearing, the Commissioner concludes that approval of said new animal drug applications should be withdrawn. Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343–351; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120), approval of NADA No. 3–161V and NADA No. 3–162V, including all amendments and supplements thereto, is hereby withdrawn effective on the date of publication of this document (11–29–72).

Dated: November 21, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–20470 Filed 11–28–72;8:49 am]

[Docket No. FDC–D–507; NADA 7–461V, 9–009V]

NELSON LABORATORIES, INC., AND MERCK SHARP & DOHME RESEARCH LABORATORIES

Certain Drug Products Containing Sulfaquinoxaline; Notice of Withdrawal of Approval of New Animal Drug Applications

In the FEDERAL REGISTER of September 22, 1972 (37 F.R. 19839), the Commissioner of Food and Drugs published a notice proposing to withdraw approval of new animal drug application (NADA) No. 7–461V for Sulfaquinoxaline Solution; marketed by Nelson Laboratories, Inc., 404 East 12th Street, Sioux Falls, SD 57101 and NADA No. 9–009V for S. Q. Tablet and Bolus; marketed by Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., Rahway, NJ 07065.

Neither the above named firms nor any other interested persons have filed a written appearance in response to the above cited notice within said 30 days. This is construed as an election by said persons not to avail themselves of the opportunity for a hearing.

Therefore, based on the grounds set forth in said notice of opportunity for a hearing, the Commissioner concludes that approval of said new animal drug applications should be withdrawn. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343–351; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120), approval of NADA No. 7–461V and NADA No. 9–009V, including all amendments and supplements thereto, is hereby withdrawn effective on the date of publication of this document (11–29–72).

Dated: November 21, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc. 72–20471 Filed 11–28–72;8:49 am]

[DESI 11562; Docket No. FDC–D–511; NDA 11–562]

PFIZER LABORATORIES

Carbetapentane Citrate Jel; Notice of Withdrawal of Approval of New Drug Application

On August 25, 1972 there was published in the FEDERAL REGISTER (37 F.R. 17227) a notice of opportunity for hearing (DESI 11562) in which the Commissioner of Food and Drugs proposed to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the new drug application for the following drug:

NDA 11–562; Candette Cough Jel containing carbetapentane citrate; Pfizer Laboratories Division, Pfizer Inc., 235 East 42d Street, New York, NY 10017.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application reviewed and are subject to this notice. See 21 CFR 130.40 (37 F.R. 23185, October 31, 1972). Any person who wished to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD–300), 5600 Fishers Lane, Rockville, Md. 20852.

Neither Pfizer Laboratories nor any other interested person has filed a written appearance of election as provided by said notice. The failure to file such an appearance constitutes an election by such persons not to avail themselves of the opportunity for a hearing.

The Commissioner of Food and Drugs, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1053, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to him (21 CFR 2.120), finds that new evidence not contained in the new drug application or not available to the Commissioner until after the application was approved, evaluated together with the evidence available to him when the application was approved, reveals that the drug is not shown to be safe for use under the conditions of use upon the basis of which the application was approved. Specifically, the risks involved in its use outweigh any expected benefits in that inexact methods of determining dosage (of a gel) are potentially dangerous, particularly in the care of small children.

Therefore, pursuant to the foregoing findings, approval of new drug application 11–562 and all amendments and supplements applying thereto is withdrawn effective on the date of publication hereof in the FEDERAL REGISTER. Shipment in interstate commerce of the above-listed drug product or of any identical, related, or similar product, not the subject of an approved new drug application, is henceforth unlawful.

Dated: November 21, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–20469 Filed 11–28–72;8:49 am]

[DESI 97; Docket No. FDC–D–509; NDA 97 etc.]

ROCHE LABORATORIES AND AMERICAN PHARMACEUTICAL CO.

Certain OTC Multiple-Vitamin Preparations for Oral Use; Notice of Withdrawal of Approval of New Drug Applications

On September 13, 1972 there was published in the FEDERAL REGISTER (37 F.R. 18576) an announcement and notice of opportunity for hearing (DESI 97) in which the Commissioner of Food and Drugs proposed to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the new drug applications for the following products:

1. NDA 97; Cal-C-Tose Powder containing in each serving 2,000 units vitamin A, 2 mg. vitamin B_1, 1 mg. vitamin B_2, 75 mg. vitamin C, 500 units vitamin D, and 5 mg. niacinamide; formerly marketed by Roche Laboratories, Division of Hoffmann La Roche Inc., Nutley, NJ 07110.

2. NDA 336; Codanol Vitamin Liquid, each 5 ml., containing 4,000 USP units vitamin A palmitate, 1,000 USP units ergocalciferol, 2 mg. thiamine mononitrate, 2 mg. sodium riboflavin phosphate, 1 mg. pyridoxine hydrochloride, 3 mcgm. cyanocobalamin, 50 mg. ascorbic acid and 5 mg. niacinamide; formerly marketed by American Pharmaceutical Co., 120 Bruckner Boulevard, Bronx, NY 10454.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug applications reviewed and are subject to this notice. See 21 CFR 130.40 (37 F.R. 23185, October 31, 1972). Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD–300), 5600 Fishers Lane, Rockville, Md. 20852.

The notice stated that, formulated as described, the benefit-to-risk ratio associated with the products is unfavorable.

Neither the holders of the applications nor any other person have filed a written appearance of election as provided by said notice. The failure to file such an appearance constitutes an election by such persons not to avail themselves of the opportunity for a hearing.

The Commissioner of Food and Drugs, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1053, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to him (21 CFR 2.120), finds that new evidence not contained in the new drug applications or not available to the Commissioner until after the applications were approved, evaluated together with the evidence available to him when the applications were approved, reveals that the products are not shown to be safe for use under the conditions of use upon the basis of which the applications were approved.

Therefore, pursuant to the foregoing findings, approval of the above new drug applications and all amendments and supplements applying thereto, is withdrawn effective on the date of publication hereof in the FEDERAL REGISTER (11–29–72). Shipment in interstate commerce of any of the above-listed drug products or of any identical, related, or similar product, not the subject of an approved new drug application, is henceforth unlawful.

Dated: November 21, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc. 72–20462 Filed 11–28–72;8:49 am]

[FAP 1H2621]

OLIN CHEMICALS

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b)(5)), notice is given that a petition (FAP 1H2621) has been filed by Olin Chemicals, 120 Long Ridge Road, Stamford, CT 06904, proposing that § 121.2520 *Adhesives* (21 CFR 121.2520) be amended to provide for the safe use of sodium salt of 1-hydroxy-2(1H)-pyridinethione as a preservative in food packaging adhesives.

Dated: November 20, 1972.

ALBERT C. KOLBYE, JR.,
Acting Director, Bureau of Foods.

[FR Doc.72–20472 Filed 11–28–72;8:49 am]

Health Services and Mental Health Administration

NATIONAL ADVISORY COUNCIL ON HEALTH MANPOWER SHORTAGE AREAS AND NATIONAL ADVISORY MENTAL HEALTH COUNCIL

Notice of Meetings

Pursuant to Executive Order 11671, the Administrator, Health Services and Mental Health Administration, announces the meeting dates and other required information for the following

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National Advisory bodies scheduled to assemble the month of December 1972, in accordance with provisions set forth in section 13(a) (1) and (2) of that Executive order:

Committee name	Date, time, place	Type of meeting and/or contact person
National Advisory Council on Health Manpower Shortage Areas.	Dec. 1-2, 9 a.m., Woodmont Room, Holiday Inn of Bethesda, 8120 Wisconsin Ave., Bethesda, MD.	Open. Contact Jane Hoffman, Room 6-05, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD., Code 301—443-4437.

Purpose. The Council is charged with establishing guidelines and regulations to improve the delivery of health care services; assigning Public Health Service personnel to areas where medical manpower and facilities are inadequate to meet the health needs of persons living in such areas; and on a nationwide basis recommending the criteria and personnel on which selection of areas are based.

Agenda. Agenda items will cover reports on Scope of Services and Scarcity Areas; discussion of extension of legislation authorizing the National Health Service Corps.

Committee name	Date, time, place	Type of meeting and/or contact person
National Advisory Mental Health Council.	Dec. 4-6, 9:30 a.m., Conference Room 14-105, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Dec. 4—Open. Dec. 5-6—Closed. Contact K. Patrick Okura, Room 17C-26, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD., Code 301—443-4597 or Barbara O'Konek, Room 9C-05, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD. Code 301—443-1335.

Purpose. Advises on matters of program planning and evaluation relevant to mental health programs. Reviews applications for grants-in-aid relating to research, training, and instructions in the field of psychiatric disorder.

Agenda. December 4 will be devoted to a discussion of policy issues. Agenda items will include: a report by the Director, National Institute of Mental Health, on administrative and legislative developments; discussion with the Administrator, Health Services and Mental Health Administration; the implications of recently enacted Social Security Amendments for the field of mental health; and a report on the coordination of DHEW drug abuse programs.

On December 5 and 6 the Council will conduct a final review of grant applications for Federal assistance. This session will not be open to the public, in accordance with the determination by the Secretary of Health, Education, and Welfare, pursuant to the provisions of Executive Order 11671, section 13(d). Items for discussion are subject to change due to priorities as directed by the President of the United States, or the Secretary of Health, Education, and Welfare.

A roster of members may be obtained from the contact person listed above.

Dated: November 22, 1972.

ANDREW J. CARDINAL,
Associate Administrator for Management, Health Services and Mental Health Administration.

[FR Doc.72-20450 Filed 11-28-72;8:48 am]

National Institutes of Health

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

Notice of Public Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the NIAID Influenza Subcommittee of the Infectious Disease Committee on December 2, 1972, at 8:30 a.m., National Institutes of Health, Building 31, Conference Room 7A-24. This meeting will be open to the public to discuss plans for future influenza workshops, in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination of September 27, 1972. Attendance by the public will be limited to space available.

Mr. Robert Schreiber, NIAID Information Officer, National Institutes of Health, Building 31, Room 7A-34, phone 496-5717, will furnish a summary of the meeting and a roster of the committee members.

Mrs. Martha Mattheis, Executive Secretary, National Institutes of Health, Building 31, Room 7A-10, phone 496-5105, will furnish substantive program information.

Dated: November 21, 1972.

JOHN F. SHERMAN,
Deputy Director.

[FR Doc.72-20550 Filed 11-28-72;8:54 am]

Office of the Secretary

TUSKEGEE SYPHILIS STUDY AD HOC ADVISORY PANEL

Notice of Meeting

A meeting of the Tuskegee Syphilis Study Ad Hoc Advisory Panel is to be held on November 30, 1972. This panel was established by the Assistant Secretary for Health and Scientific Affairs to provide advice on the circumstances surrounding the Tuskegee, Ala., study of untreated syphilis in the male Negro initiated by the U.S. Public Health Service in 1932. The Assistant Secretary for Health and Scientific Affairs requested the panel to advise him on the following specific aspects of the Tuskegee syphilis study:

1. Determine whether the study was justified in 1932 and whether it should have been continued when penicillin became generally available.

2. Recommend whether the study should be continued at this point in time, and if not, how it should be terminated in a way consistent with the rights and health needs of its remaining participants.

3. Determine whether existing policies to protect the rights of patients participating in health research conducted or supported by the Department of Health, Education, and Welfare are adequate and effective and to recommend improvements in these policies, if needed.

This meeting is for the sole purpose of considering and formulating the advice which the panel will give to the Assistant Secretary for Health and Scientific Affairs on the three charges outlined above, and will involve exclusively the internal expression of views and judgments of its members. Accordingly, under the authority of the Secretary's notice of Determination of September 27, 1972, this meeting is closed to the public. The meeting will begin at 10 a.m. in Conference Room 8, Building 31 at the National Institutes of Health, Bethesda, Md. A summary of the meeting and a roster of panel members may be obtained from Mr. John Blamphin (202—962-7906), Room 5614, HEW North Building, 330 Independence Avenue SW., Washington, DC 20201.

Dated: November 6, 1972.

R. C. BACKUS, Ph. D.,
Executive Secretary, Tuskegee Syphilis Study Ad Hoc Advisory Panel.

[FR Doc.72-20552 Filed 11-28-72;8:54 am]

Social and Rehabilitation Service

NATIONAL ADVISORY COUNCIL ON VOCATIONAL REHABILITATION

Notice of Public Meeting

This Council advises on research and demonstration strategy and programs administered under the Vocational Rehabilitation Act.

The Council will meet December 7-8, 1972, at 9 a.m. in Room 5026, South Building, Department of Health, Education, and Welfare, 330 C Street SW., Washington, DC. Agenda items include a discussion on legislation, long-range planning, and research and demonstration activities. Meeting open to public observation.

WILLMAN A. MASSIE,
Executive Secretary.

NOVEMBER 22, 1972.

[FR Doc.72-20412 Filed 11-28-72;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-72-209]

REGIONAL COUNSELS

Redelegation of Authority

Pursuant to section B of the delegation of authority to the General Counsel at 36 F.R. 11052, and 24 CFR 17.7, there is hereby redelegated to each Regional Counsel the power and authority to consider, ascertain, adjust, determine, compromise, allow, deny, and otherwise dispose of each claim against the Department which meets the following criteria:

1. The claim is for property damage and/or personal injury and the amount claimed does not exceed $2,500.

2. The incident giving rise to the claim occurred within the HUD region for which the Regional Counsel considering the claim has jurisdiction.

3. The claim is not filed by, or on behalf of, a HUD employee.

This redelegation is concurrent with, and does not supersede, the authority delegated to the Associate General Counsel for Equal Opportunity, Litigation, and Administration on August 18, 1971.

Effective date. This redelegation of authority is effective as of the 15th day of November 1972.

DAVID O. MAXWELL,
General Counsel.

[FR Doc.72-20481 Filed 11-28-72;8:51 am]

[Docket No. N-72-128]

Office of the Interstate Land Sales Registration

PUBLIC FILES AND RECORDS

Notice of Access

The Interstate Land Sales Administrator gives notice hereby that the public records of the Office of Interstate Land Sales Registration are available for inspection Monday through Friday (except holidays) between the hours of 9 a.m. and 4:15 p.m. in Room 9253 of the HUD Building, 451 Seventh Street SW., Washington, DC.

Dated: November 17, 1972.

GEORGE K. BERNSTEIN,
Interstate Land Sales Administrator.

[FR Doc.72-20515 Filed 11-28-72;8:53 am]

Office of Assistant Secretary for Housing Production and Mortgage Credit

[Docket No. N-72-127]

MINIMUM PROPERTY STANDARDS

Publication and Availability

The Department of Housing and Urban Development has prepared new minimum property standards. The minimum property standards described physical standards for housing. They are intended to provide a sound technical basis for determining the acceptability of housing under the various housing programs of the Department.

The minimum property standards are to be published in three volumes: (1) Minimum Property Standards for One and Two-Family Dwellings, (2) Minimum Property Standards for Multifamily Housing, and (3) Minimum Property Standards for Care-Type Housing. Drafts of the minimum property standards are available until December 31, 1972, for public examination in each HUD Regional, Area, and Insuring Office.

It is expected that the new minimum property standards ultimately will be formally adopted by the Department. At that time they will be incorporated into the Department's regulations and will be available for purchase by all interested persons.

Issued at Washington, D.C. on November 22, 1972.

EUGENE A. GULLEDGE,
Assistant Secretary-Commissioner.

[FR Doc.72-20483 Filed 11-28-72;8:51 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-295, 50-304]

COMMONWEALTH EDISON CO.

Notice of Reconstitution of Board

In the matter of Commonwealth Edison Co. (Zion Station, Units 1 and 2).

Jerome Garfinkel, Esq., was Chairman of the Atomic Safety and Licensing Board established to consider the above applications. Because of other Board commitments, Mr. Garfinkel is unable to continue in his duties as Chairman of this Board.

Accordingly, Thomas W. Reilly, Esq., who has been the alternate chairman, is appointed Chairman of the Board. Reconstitution of the Board in this manner is in accordance with § 2.721 (b) of the rules of practice.

Dated at Washington, D.C. this 22d day of November 1972.

JAMES R. YORE,
Executive Secretary, Atomic Safety and Licensing Board Panel.

[FR Doc.72-20413 Filed 11-28-72; 8:45 am]

[Docket No. 50-412]

DUQUESNE LIGHT CO. ET AL.

Notice of Receipt of Application for Construction Permit and Facility License and Availability of Applicants' Environmental Report; Time for Submission of Views on Antitrust Matter

Duquesne Light Co., Ohio Edison Co., Pennsylvania Power Co., the Cleveland Electric Illuminating Co., and the Toledo Edison Co. (the applicants), pursuant to section 103 of the Atomic Energy Act of 1954, as amended, have filed an application, which was docketed October 20, 1972, for authorization to construct and operate a pressurized water nuclear reactor at its site, located in Shippingport Borough, Beaver County, Pa. The site consists of 449 acres of land, and is located on the south bank of the Ohio River approximately 1 mile from Midland, Pa., 5 miles east of East Liverpool, Ohio, and 22 miles northwest of Pittsburgh, Pa.

The proposed nuclear facility, designated by the applicant as Beaver Valley Power Station, Unit 2, is designed for initial operation at approximately 2660 megawatts (thermal) with a net electrical output of approximately 852 megawatts.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within 60 days after November 28, 1972.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20545, and at the Beave Area Memorial Library, 100 College Avenue, Beaver, PA 15009.

The applicants have also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in appendix D to 10 CFR Part 50, a report entitled, "Applicants' Environmental Report—Construction Permit Stage," dated November 6, 1972. The report has been made available for public inspection at the aforementioned locations. The report, which discusses environmental considerations related to the proposed construction of the Beaver Valley Power Station, Unit 2, is also being made available at the Commonwealth of Pennsylvania, State Clearing House, 5100 Finance Building, Harrisburg, PA 17120, and at the Southwestern Pennsylvania Regional Planning Commission, 564 Forbes Avenue, Pittsburgh, PA 15219.

After the report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement related to the proposed action will be prepared by the Commission. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement. The summary notice will request comments from interested persons on the proposed action and on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials thereon will be made available when received.

Dated at Bethesda, Md., this 21st day of November 1972.

For the Atomic Energy Commission.

R. C. DEYOUNG,
Assistant Director for Pressurized Water Reactors, Directorate of Licensing.

[FR Doc.72-20358 Filed 11-28-72;8:45 am]

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[Docket No. 50-285]

OMAHA PUBLIC POWER DISTRICT

Notice and Order for Evidentiary Hearing

In the matter of Omaha Public Power District (Fort Calhoun Station, Unit No. 1).

Take notice, and *it is hereby ordered*, In accordance with the Atomic Energy Act as amended, the rules of practice of the Commission, and the Prehearing Conference Order of this Board dated November 15, 1972, that the initial session of the evidentiary hearing in this proceeding shall convene at 1:30 p.m., local time, on Monday, December 11, 1972, in the Caucus Room (New Annex) of the Holiday Inn, 3321 South 72d Street, Omaha, Nebr. 68124.

All persons having filed a request for a limited appearance will be afforded an opportunity to place their comments and views into the record on the first day.

The following general agenda will be followed:

1. Preliminary matters by the Board;
2. Opening statements of the parties;
3. Limited appearances;
4. Preliminary matters brought by parties including the consideration of stipulations, if any;
5. Introduction of testimony;
6. Questioning of witnesses by parties and Board; and
7. Closing matters.

Issued at Washington, D.C., this 22d day of November 1972.

THE ATOMIC SAFETY AND LICENSING BOARD,
JOHN B. FARMAKIDES,
Chairman.

[FR Doc 72-20457 Filed 11-28-72;8:48 am]

[Docket No. 50-395]

SOUTH CAROLINA ELECTRIC AND GAS CO.

Notice and Order for Prehearing Conference

In the matter of South Carolina Electric and Gas Co. (Virgil C. Summer Nuclear Station Unit 1).

Notice is hereby given that, pursuant to the Atomic Energy Commission's "Notice of Hearing on Application for Construction Permit" dated September 21, 1972 (37 F.R. 2190), the Atomic Safety and Licensing Board will hold a prehearing conference in such proceeding on December 18, 1972, at 10 a.m., local time, in the Fairfield County Courthouse, Congress Street, Winnsboro, S.C. This prehearing conference shall constitute both the special prehearing conference required pursuant to § 2.751a and the prehearing conference required pursuant to § 2.752 of the Commission's rules of practice, 10 CFR Part 2. This prehearing conference will deal with the following matters:

1. Outstanding petitions for intervention;
2. Identification, simplification and clarification of the issues;
3. The necessity or desirability of amending the pleadings;
4. The need for discovery, if any, and the time required therefor;
5. Stipulations, and admissions of fact and of the contents and authenticity of documents to avoid unnecessary proof;
6. Identification of witnesses and the limitation of the number of expert witnesses, and other steps to expedite the presentation of evidence;
7. Procedures, including rules of evidence, to be followed in the presentation of evidence at the evidentiary hearing;
8. The effect of the certification provision of the Federal Water Pollution Control Act Amendments of 1972 (section 401(a)), on the proof required at the evidentiary hearing in this proceeding. It is expected that the parties will be prepared to advise the Board regarding applicable State and Federal water quality standards and effluent limitations, and will also be prepared to advise the Board with regard to the effect on this proceeding of section 511(c) of the Federal Water Pollution Control Act Amendments of 1972;
9. Establishment of a schedule for further action, including the setting of a hearing schedule; and
10. Such other matters as may aid in the orderly disposition of the instant proceeding.

Members of the public are entitled to attend this prehearing conference as well as the evidentiary hearing to be held at a later date to be fixed by the Board. Members of the public wishing to make limited appearances may identify themselves at this prehearing conference but oral or written statements to be presented by limited appearance will not be received at this conference. The Board will receive such statements at the aforementioned evidentiary hearing.

It is ordered, That counsel for the applicant, the regulatory staff of the Commission, and any petitioners for intervention shall conduct such informal conferences, including telephone conferences, to the extent that they may be practicable, to expedite the proceeding and in particular to advance the purposes of the special prehearing conference.

Dated this 22d day of November 1972 at Washington, D.C.

By Order of the Atomic Safety and Licensing Board.

DANIEL M. HEAD,
Chairman.

[FR Doc.72-20458 Filed 11-28-72;8:48 am]

[Docket No. 50-397]

WASHINGTON PUBLIC POWER SUPPLY SYSTEM

Order Scheduling Prehearing Conference; Correction

In the matter of the Washington Public Power Supply System (Hanford No. 2 Nuclear Powerplant); Docket No. 50-397.

The Licensing Board's order of November 20, 1972, published November 22, 1972 (37 F.R. 24843), giving notice of a prehearing conference in this proceeding is hereby amended to correct an error in the address of the hearing room. The address of the Richland Post Office and Court House is 825 Jadwin Avenue and not 25 Jadwin Avenue as set forth in the aforementioned order.

Wherefore, it is ordered, In accordance with the Atomic Energy Act of 1954, as amended, and the rules of practice of the Commission, that a prehearing conference in this proceeding shall convene at 2 p.m., local time, on Thursday, November 30, 1972, in the Post Office and Court House Auditorium, 825 Jadwin Avenue, Richland, WA 99352.

Issued at Washington, D.C., this 27th day of November 1972.

ATOMIC SAFETY AND LICENSING BOARD,
ROBERT M. LAZO, *Chairman.*

[FR Doc.72-20620 Filed 11-28-72;10:50 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24950]

AMERICAN AIRLINES, INC.

Order of Investigation and Suspension Regarding Certain GIT Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22d day of November 1972.

By tariff[1] marked to become effective December 4, 1972, American Airlines, Inc. (American) proposes to establish round-trip group inclusive tour basing fares for groups of 240 or more from Boston to Los Angeles and return, applicable only on Saturdays during February 1973. The proposed round-trip fares are $225.00 for adults, $160.00 for youths 12 through 20 years of age, and $120.00 for children under 12, providing discounts from the normal coach fare of 30, 50, and 64 percent, respectively. Not more than seven children (2-12 years of age) would be accepted for every four adult passengers, with no limitation on the number of passengers age 12 through 20. A minimum-stay requirement of 7 days applies, and return travel must be completed by February 24, 1973, when the tariff expires.

In support of its proposal, American alleges that the new group fares are intended to stimulate travel during the month of February, a period in which transcontinental traffic has historically been depressed. The carrier contends that the instant proposal is similar to fares which were in effect in previous years in the Boston-Los Angeles market; that the risk of diversion is limited to family groups of three or more; and that the fares are reasonably related to cost.

No complaints have been filed.

[1] American Airlines, Inc., Tariff C.A.B. No. 274.

Upon consideration of the tariff proposal, and all other relevant matters, the Board finds that the proposal may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the proposal should be suspended pending investigation.

Based on American's traffic and flight frequency data for February 1972, its present winter schedules, and its traffic forecast for 1973, the carrier apparently either intends to schedule additional flights in the Boston-Los Angeles market during February 1972 (compared to last February) or is prepared to operate extra sections. It is in view of this, and the carrier's failure to demonstrate the reasonableness of the fares on a fully allocated basis, that we have determined to suspend the fares.

American attempts to show the reasonableness of the fares by a comparison with the cost formula developed by the Board's Bureau of Economics in Phase 9 of the Domestic Passenger-Fare Investigation. American asserts that the proposed fares cover 53 percent of the costs determined under that formula, which was based on a 47.6-percent load factor, and concludes that, since the minimum-group size exceeds the capacity of its B-707 and DC-10 aircraft and represents close to 80 percent of the capacity of its B-747 aircraft, the load factors associated with the fares will be high and the fare/cost relationship is therefore reasonable.

However, in our opinion, the large minimum-group size may or may not result in the extremely high load factors on which American relies to justify the reasonableness of the fares. The minimum-group size is so large that the groups will have to be split. Even American's B-747 does not have 248 seats in the coach compartment.[2] To the extent extra sections will need to be operated, overall average high load factors would be difficult to attain notwithstanding a 100-percent load factor on the scheduled flight.

Last February, American's Saturday operations between Boston and Los Angeles consisted of two flights a day, one B-707 and one B-747.[3] Including first-class seats, American operated an average total of 246 empty seats a day during February 1972, which would not be sufficient to accommodate even one minimum group of 248 passengers, let alone the 400-a-day American has estimated. Thus, unless American has planned to schedule substantially more seats this February, extra sections would be the result. In either event, a serious question is raised as to the reasonableness of such greatly reduced fares.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That:

1. An investigation is instituted to determine whether the fares and provisions in American Airlines, Inc.'s C.A.B. No. 274, and rules, regulations, or practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, and practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions in American Airlines, Inc.'s C.A.B. No. 274, are suspended and their use deferred to and including March 3, 1973, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding ordered herein be assigned for hearing before an Administrative Law Judge of the Board at a time and place hereafter designated; and

4. Copies of this order be filed in the aforesaid tariff and be served upon American Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[4]

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-20493 Filed 11-28-72;8:52 am]

[Docket No. 23131]

SHULMAN AIR FREIGHT ENFORCEMENT PROCEEDING

Notice of Postponement of Hearing

Notice is hereby given that the hearing in the above-entitled proceeding now scheduled for November 30, 1972 (37 F.R. 23123, Oct. 28, 1972), is indefinitely postponed.

Dated at Washington, D.C., November 22, 1972.

[SEAL] JAMES S. KEITH,
Administrative Law Judge.

[FR Doc.72-20494 Filed 11-28-72;8:52 am]

[2] In addition to the group of 240 passengers eight tour conductors are permitted to travel with the group.

[3] American's present nonstop winter schedules, two round-trip DC-10 frequencies, provide approximately the same number of coach seats as it operated in the market last February.

[4] Members Minetti and Murphy filed a dissenting statement, filed as part of the original document.

ENVIRONMENTAL PROTECTION AGENCY

AMCHEM PRODUCTS, INC.

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 3F1325) has been filed by Amchem Products, Inc., Ambler, Pa. 19002, proposing establishment of tolerances (40 CFR Part 180) for residues of the plant regulator ethephon ((2 - chloroethyl)phosphonic acid) in or on the raw agricultural commodities apples and pineapple foliage at 6 parts per million and pineapples at 2 parts per million.

The analytical method proposed in the petition for determining residues of the plant regulator is a gas chromatographic procedure with a flame photometric detector for phosphorus.

Dated: November 20, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.72-20419 Filed 11-28-72;8:45 am]

INTERNATIONAL MINERALS & CHEMICAL CORP.

Notice of Filing of Petition Regarding Microbial Pesticide

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 3F1304) has been filed by International Minerals & Chemical Corp., Libertyville, Ill. 60048, proposing establishment of an exemption from the requirement of a tolerance (40 CFR Part 180) for residues of the microbial insecticide nuclear polyhedrosis virus of *Heliothis zea* in or on the raw agricultural commodity cottonseed.

The analytical methods proposed in the petition for determining residues of the insecticide are: (1) A quantitative microscopic determination by counting the number of polyhedral inclusion bodies and (2) a bioassay method based on the mortality of Heliothis larvae.

Dated: November 20, 1972.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-20420 Filed 11-28-72;8:45 am]

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COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Availability

Environmental Impact Statements Received by the Council From November 13 Through November 17, 1972

NOTE: At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

DEPARTMENT OF AGRICULTURE

Contact: Dr. T. C. Byerly, Office of the Secretary, Washington, DC 20250, (202) 388–7803.

FOREST SERVICE

Draft, November 16

Land Exchange, U.S. Government and J. Hamilton, New Mexico. The statement refers to a proposed exchange of lands between the Forest Service and John S. Hamilton, Jr. of Silver City, New Mexico. Under the agreement Mr. Hamilton offers 976.41 acres of private land owned by him and wishes to select 9,771.72 acres of land owned by the United States Included in Mr. Hamilton's offer are 71.62 acre-ft. of water rights on the Gila River System which would be used for the Gila River Bird Management Area. Mr. Hamilton will utilize his new land for ranching purposes; this he already does under permit. If no exchange is made Mr. Hamilton would develop his lands for subdivision purposes, with adverse effects upon the Gila Wilderness. (36 pages) (ELR Order No. 05638) (NTIS Order No. EIS–72 5638–D)

Draft, November 14

Skyline Basin Winter Sports Development, Columbia County, Wash. The statement refers to the proposed development of a major winter sports (skiing) facility, with an initial capacity of 2,000 persons. Construction will adversely affect soil, water, and visual resources; the (unspecified) loss of habitat will adversely affect wildlife. (35 pages) (ELR Order No. 05623) (NTIS Order No. EIS–72 5623–D)

Draft, November 16

Herbicide Use, Washington National Forests, Wash. The statement refers to a proposed program for the use of the herbicides Amitrole, Atrazine, Dicamba, 2, 4-D, 2 4, 5-T, Silvex, and Picloram on the Okanogan, Umatilla, and Wenatchee National Forests. The purposes of the action include the control of vegetation which interferes with crop trees, is poisonous to livestock, or is classified as noxious on agricultural land. Additional purposes are the improvement of wildlife habitat and the reduction of rodent populations. The use of the chemicals will put herbicides into the environment in varying amounts; non-target species will be hit. Very little is known about the effects of these herbicides upon plant and wildlife communities. (Approx 350 pages) (ELR Order No. 05640) (NTIS Order No. EIS–72 5640–D)

Final, November 16

Upper Craig Creek, Jefferson National Forest, Montgomery, Craig, and Roanoke Counties, Va. The statement refers to the management of the Upper Craig Creek Unit. Blacksburg, and New Castle Ranger Districts of the Forest. The program will provide for increased recreational use, timber management, wildlife enhancement, and water quality control. New roads and trails will be built (including a horse trail), and a new trail shelter will be constructed on the Appalachian Trail. (26 pages) Comments made by EPA. (ELR Order No. 05637) (NTIS Order No. EIS–72 5637–F)

RURAL ELECTRIFICATION ADMINISTRATION

Draft, November 17

Creston Plant, Union County, Iowa. The statement considers a request by the Central Iowa Power Cooperative that it be granted a loan in order to install one 30MW gas turbine and waste-heat boiler at the plant. The operation of the turbine, combined with the closing of two existing coal-fired boilers, will result in an overall reduction of pollution levels. (88 pages) Comments made by USDA, EPA, FPC, DOI. (ELR Order No. 05646) (NTIS Order No. EIS–72 5646–F)

SOIL CONSERVATION SERVICE

Draft, November 17

Mendota Watershed, LaSalle and Bureau Counties, Ill. The statement refers to a proposed watershed protection project measuremen suesrmea which would include land treatment measures, five flood water retarding structures, and 0.9 mile of channel works. The program is intended to reduce erosion and flood damage. Approximately 52 acres would be in undated by the project; an additional 50 acres would be used for spoil deposit and structure sites. (22 pages) (ELR Order No. 05645) (NTIS Order No. EIS–72 5645–D)

ATOMIC ENERGY COMMISSION

Contact: For nonregulatory matters: Mr. Robert J. Catlin, Director, Division of Environmental Affairs, Washington, DC 20545, 202—973–5391.

For regulatory matters: Mr. A. Giambusso, Deputy Director for Reactor Projects, Directorate of Licensing, Washington, DC 20545, 202—973–7373.

Draft, November 15

James A. FitzPatrick Nuclear Powerplant, Oswego County, N.Y. The statement refers to the proposed continuation of a construction permit and the issuance of an operating license to the Power Authority of the State of New York. The plant will utilize a 2436 MWt boiling water reactor with anticipated "stretch" levels of 2557 MWt and 821 MWe. Cooling will be by a once-through system, with water being drawn from and discharged to Lake Ontario at 370,000 gpm. Small amounts of radioactive gaseous and liquid effluents will be released to the environs. (174 pages) (ELR Order No. 05631) (NTIS Order No. EIS–72 5631–D)

DEPARTMENT OF DEFENSE, ARMY COAPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs. Attn: DAEN–PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, DC 20314, 202—693–7168.

Final, November 16

Aquatic Plant Control and Eradication, Texas. The statement refers to the proposed control and eradication of water hyacinth and alligatorweed in the navigable waters of Texas in the combined interests of navigation, flood control, drainage, agriculture, fish and wildlife conservation recreation, public health, and related purposes. Control measures will be biological for alligatorweed (using the Agasicles flea beetle), and chemical for water hyacinth (using the amine salt and butoxyethanol ester of 2, 4-D). Some risk is inherent in the use of the herbicide; dying vegetation may deplete dissolved oxygen and present a noxious condition toxic to fish. (100 pages) Comments made by USDA, DOC, EPA, DOI, State and local agencies and concerned citizens. (ELR Order No. 05641) (NTIS Order No. EIS–72 5641–F)

FEDERAL POWER COMMISSION

Contact: Dr. Richard F. Hill, Acting Advisor on Environmental Quality, 441 G Street NW., Washington, DC 20426, 202—386–6084.

Draft, November 13

Wisconsin River Division Project No. 2590, Portage County, Wis. The statement refers to an application for a major license filed by the Consolidated Water Power Co. for the constructed Wisconsin River Project. The project is a run of the river development consisting of a dam having a crest elevation of 1070.02; a 76-acre reservoir about 3 miles long; a powerhouse containing 1800 kw. of hydroelectric capacity and 6,090 hp. of hydromechanical capacity. As the project has been in existence for 80 years, no further environmental impact is expected. (11 pages) (ELR Order No. 05617) (NTIS Order No. IES–72 5617–D)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Environmental and Land Use, Planning Division, Washington, DC 20410, 202—755–6186.

Final, November 15

River Bend Apartments, Missouri. The statement refers to the proposed construction of a 98-unit, eight story, low- and moderate-income apartment building in the city of St. Louis. The project will increase residential density and demands on urban systems, and cause some social impact. (88 pages) Comments made by EPA, HEW, DOT, OEO. (ELR Order No. 05633) (NTIS Order No. EIS–72 5633–F)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, DC 20240, 202—343–3891.

BUREAU OF MINES

Final, November 15

Termination of Helium Purchase Contracts. The statement refers to the proposed termination of helium purchase contracts with National Helium Corp., Cities Service Helex, Inc., and Phillips Petroleum Co. Under the contracts helium is recovered from natural gas which passes to fuel markets. If the contracts terminate, the Government will forego the purchase and storage of 20.7 billion cubic feet of the gas. Approximately 35 billion cubic feet will be in Government storage by December 31, 1972. The contractors could then: Sell helium in the private market and store the surplus; continue to extract the helium as an adjunct to other operations and later discharge it; or cease helium extraction. (381 pages) Comments made by DOC, DOD, NSF, OST, OEP, AEC, NASA, EPA, FPC, HUD, TVA, State agencies of several States and concerned citizens. (ELR Order No. 05630) (NTIS Order No. EIS–72 5630–F)

BUREAU OF RECLAMATION

Final, November 13

Auburn-Folsom South Unit, several counties, California. The statement refers to a multi-purpose (water supply, irrigation, flood control, hydroelectric power, and recreation) dam and reservoir project. Also included is the Folsom South Canal, a 69-mile irrigation canal (from Lake Natoma to Lone Tree Creek). Approximately 32,815 acres will be required for the project. Of this 1,000 acres, along with 43 miles of free-flowing river, will be inundated, with adverse effects to wildlife populations. Seventeen archeological sites and 22 historic sites will be inundated. (255 pages) Comments made by USDA, COE, EPA, FPC, HEW, DOI, State and local agencies and concerned citizens. (ELR Order No. 05616) (NTIS Order No. EIS–72 5616–F)

TENNESSEE VALLEY AUTHORITY

Contact: Dr. Francis Gartrell, Director of Environmental Research and Development, 720 Edney Building, Chattanooga, Tenn. 37401, 615—755–2002.

Final, November 13

Watts Bar Nuclear Plant, Units 1 and 2, Rhea County, Tenn. The statement refers to the proposed construction of a two-unit nuclear generating station. The station will employ pressurized reactors with a total capacity of 2,540 MWt. Cooling water will be drawn from Chickamauga Reservoir and circulated through natural draft towers. The station will add minute sums of radioactivity to the air and water. Approximately 967 acres of land will be required for the station, along with easements on 3,165 acres for transmission lines. (Approximately 500 pages). Comments made by AEC, USDA, DOC, COE, EPA, FPC, HEW, HUD, DOI, State agencies. (ELR Order No. 05615) (NTIS Order No. EIS–72 5615–F)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 Seventh Street SW., Washington, DC 20590, 202—426–4355.

FEDERAL AVIATION ADMINISTRATION

Final, November 13

Oxford County Regional Airport, Oxford County, Maine. The proposed project is the construction of a new general aviation airport. A 3,000-foot by 60-foot runway, a taxiway, an apron, and lighting will be included. The statement mentions no significant adverse impact. (44 pages) Comments made by AEC, COE, EPA, FPC, USDA. (ELR Order No. 05621) (NTIS Order No. EIS–72 5621–F)

FEDERAL HIGHWAY ADMINISTRATION

Draft, November 15

Santiago Canyon Road, Orange County, Calif. The profect proposes construction of concreted-rock slope protection for roadway embarkments at four locations along FAS Route 1279. In addition, a concreted-rock lined channel and apron and some filling will be performed at a fifth location. The five sites are located between Silverado Canyon Road and Live Oak Canyon Road. The purpose of the project is protection against water erosion. (11 pages) (ELR Order No. 05629) (NTIS Order No. EIS–72 5629–D)

Draft, November 16

Black Blvd.—Slate Creek Exoressway, Shasta County, Calif. The project consists of reconstructing a four-lane exoressway with 4-foot median to a 65-m.p.h. four-lane expressway with 60-foot median from north of Black Boulevard to north of Slate Creek. Total length of the project is 5.7 miles. Approximately 200 acres of trees, brush, and grass will be cleared. Four families and one business will be displaced. (60 pages) (ELR Order No. 05639) (NTIS Order No. EIS–72 5639–D)

Draft, November 14

Relocation of U.S. 5, Hartford County, Conn. The proposed project involves the corridor determination for the relocation of U.S. 5 as a limited access expressway from the vicinity of Governor Street in East Hartford to I–291 in South Windsor. Nine residences and four businesses will be affected. Approximately 150 acres, much of it located in the Connecticut River Flood Plain, is required for right-of-way. A 4(f) review for encroachment on 26 acres of "open space" land owned by the Town of East Hartford is included. (109 pages) (ELR Order No. 05627) (NTIS Order No. EIS–72 5627–D)

S.R. 385, Hall and Habersham Counties, Ga. The statement refers to the proposed extension of S.R. 365 from the present terminus at Gainesville to a point west and north of Cornelia. The 22-mile extension will be on new location. Erosion and siltation may cause damage to fish spawning waters in the Chattahoochee River and Lake Sidney Lanier. Eighteen families and one business will be displaced. An unspecified amount of land will be acquired to provide a 300-foot right-of-way. (116 pages) (ELR Order No. 05626) (NTIS Order No. EIS–72 5626–D)

Draft, November 17

I–70N, Baltimore County, Md. This is a revised draft statement (draft filed May 4, 1971) for the design and construction of an eight-lane controlled access freeway known as I–70N from Ingleside Avenue and existing I–70N to Ellicott Driveway. Total length of the project is 3.5 miles. Adverse impacts, depending upon the alternate selected, include housing displacement varying from 0 to 1,200; major business displacements, acoustic impacts, and possible encroachment on park lands. (81 pages) (ELR Order No. 05643) (NTIS Order No. EIS–72 5643–D)

Draft, November 14

U.S. 212, Yellow, Medicin, and Renville Counties, Minn. The statement refers to a corridor study for the relocation and reconstruction of an 8.5-mile segment of U.S. 212 to bypass the city of Granite Falls. The project includes a 0.5 mile connection for proposed T.H. 23 east of Granite Falls. The Minnesota River backwater flood plain will be encroached upon. Approximately 375 acres of land will be committed to the project. One farmstead will be displaced and some property severed. (87 pages) (ELR Order No. 05624) (NTIS Order No. EIS–72 5624–D)

S–1110(2)–Bayard to Vanadium, Grant County, N. Mex. The proposed project is the improvement of 1.8 miles of S–1110 (2). Two residences, two mobile homes and one business will be displaced. Adverse effects will include increases in air and noise pollution. (14 pages). (ELR Order No. 05625) (NTIS Order No. EIS–72 5625–D)

Final, November 16

U.S. 41, Lee and Collier Counties, Fla. The proposed project involves four-laning a segment of U.S. 41 (SR 45) from south of Bonita Springs to north of Estern. Project length is 11.4 miles. The number of displacements will depend upon the route taken. Temporary increases in the turbidity of the water will occur where bridges are constructed spanning Halfway Creek and the Eastern River. (54 pages) Comments made by USDA, COE, EPA, HEW, DOI. (ELR Order No. 05634) (NTIS Order No. EIS–72 5634–F)

Final, November 13

State Route 64 (F.A. Route 28) Illinois, county: Ogle. The proposed project is the construction of a four-lane highway, 0.705 mile in length, located on S.R. 64. Land acquisition will include 1.8 acres. A storm sewer outlet will be constructed on the east bank of the Rock River causing an increase in water pollution. (85 pages) EIS 72 5619–F Comments made by: USDA, DOC, DOT, EPA, HUD, and State agencies. (ELR Order No. 05619) (NTIS Order No. EIS 72 5619–F)

F.A.S. Route 1746, Kansas, county: Shawnee. The proposed project is the highway improvement, including a bridge and channel, of F.A.S. Route 1746. Length is 0.208 mile. Four acres will be acquired for the project. A section 4(f) will be filed to obtain land from a public park. The Stinson Creek will be rechanneled. Loss of wildlife and increases of erosion and water pollution will occur. (27 pages) Comments made by: USDA, COE, DOI, HEW, HUD, and State agencies. (ELR Order No. 05622) (NTIS Order No. EIS 72 5622–F)

Final, November 9

Fifth Street North (U.S. 2), N. Dak., county: Grand Forks. The proposed project is the widening and resurfacing of Fifth Street North. The length is approximately nine blocks. Adverse effects will include increased noise pollution and loss of trees (35 pages) Comments made by: DOI, EPA, HEW, HUD, and State agencies. (ELR Order No. 05606) (NTIS Order No. EIS 72 5606–F)

Traffic Routes 22 and 220, Pennsylvania, county: Blair. The proposed project is the construction of TR 22 and TR 220 on new location. The length of TR 22 will be 4.88 miles and TR 220, 4.36 miles. The projects will displace 63 single-family dwellings, two multifamily dwellings, 13 mobile homes, 13 businesses, and 60 other structures. The projects will encompass one spring and part of the Kittanning Indian Trail, requiring the relocation of a monument. Increases in water pollution and in noise pollution, affecting three high schools will occur. (226 pages) Comments made by: USDA, DOI, DOT, EPA, FPC, HUD, and State and local agencies. (ELR Order No. 05605) (NTIS Order No. EIS 72 5605–F)

Final, November 13

State Route 71, Texas, county: Fayette. The proposed project is the construction of S.R. 71 from a two-lane to a four-lane divided highway. Two hundred and ten acres of land will be acquired. One family and one business will be displaced. Natural drainage of stream will be closed by concrete drainage structure. Increased water pollution will occur. (48 pages) Comments made by: USDA, COE, DOI, DOT, EPA, HEW, and local agencies. (ELR Order No. 05618) (NTIS Order No. EIS 72 5618–F)

Final, November 9

U.S. 12, Wisconsni, county: Dane. The proposed project is the construction and partial relocation of a portion of U.S. 12; length is 6 miles. Approximately 72 acres will be acquired. The project will displace 17 families, three mobile homes, and 12 businesses. Wetlands will be acquired for the project. Increases in noise pollution are expected. (59 pages) Comments made by: USDA, DOI, HEW, HUD, EPA, and State, regional, and local agencies. (ELR Order No. 05607) (NTIS Order No. EIS 72 5607–F)

V 37 I 230 NOV 29 72 XUM

Contact: Mr. Robert Hall, Director, Office of Environmental Affairs, Room 3200, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, 202—426–4357.

Draft, November 15

Interstate Route 5, Skagit County, Wash. The statement refers to the proposed construction of a 4.5-mile segment of I–5 from Bow Hill Road to Chuckanut Creek. Approximately 100 acres of land will be required for the project. Two businesses will be displaced. (Approx 100 pages) (ELR Order No. 05636) (NTIS Order No. EIS–72 5636–D)

Draft, November 16

Interstate Route 5, Skagit County, Wash. The statement refers to the proposed construction of a 4.5-mile segment of I–5 from Bow Hill Road to Chuckanut Creek. Approximately 100 acres of land will be required for the project. Two businesses will be displaced. (Approx 100 pages) (ELR Order No. 05636) (NTIS Order No. EIS–72 5636–D)

Draft, November 16

Interstate Route 5, Skagit County, Wash. The statement refers to the proposed construction of a 4.5-mile segment of I–5 from Bow Hill Road to Chuckanut Creek. Approximately 100 acres of land will be required for the project. Two businesses will be displaced. (Approx 100 pages) (ELR Order No. 05636) (NTIS Order No. EIS–72 5636–D)

Draft, November 16

Interstate Route 5, Skagit County, Wash. The statement refers to the proposed construction of a 4.5-mile segment of I–5 from Bow Hill Road to Chuckanut Creek. Approximately 100 acres of land will be required for the project. Two businesses will be displaced. (Approx 100 pages) (ELR Order No. 05636) (NTIS Order No. EIS–72 5636–D)

Draft, November 16

Interstate Route 5, Skagit County, Wash. The statement refers to the proposed construction of a 4.5-mile segment of I–5 from Bow Hill Road to Chuckanut Creek. Approximately 100 acres of land will be required for the project. Two businesses will be displaced. (Approx 100 pages) (ELR Order No. 05636) (NTIS Order No. EIS–72 5636–D)

Draft, November 16

Interstate Route 5, Skagit County, Wash. The statement refers to the proposed construction of a 4.5-mile segment of I–5 from Bow Hill Road to Chuckanut Creek. Approximately 100 acres of land will be required for the project. Two businesses will be displaced. (Approx 100 pages) (ELR Order No. 05636) (NTIS Order No. EIS–72 5636–D)

Draft, November 16

Interstate Route 5, Skagit County, Wash. The statement refers to the proposed construction of a 4.5-mile segment of I–5 from Bow Hill Road to Chuckanut Creek. Approximately 100 acres of land will be required for the project. Two businesses will be displaced. (Approx 100 pages) (ELR Order No. 05636) (NTIS Order No. EIS–72 5636–D)

Final, November 13

Highway 27, Wisconsin, county: Monroe. The proposed project is the reconstruction of Highway 27 to a four-lane divided highway. The project will include bridge structures over the C.M. St.P and P., C. and N.W. Railroads and the La Crosse River. Acquisition of 415 acres of industrial zoned land will be required. Two families and one business will be displaced. Adverse effects will include increases in noise, water, and air pollution. (29 pages) Comments made by: USDA, DOI, EPA, and one State agency. (ELR Order No. 05620) (NTIS Order No. EIS 72 5620–F)

U.S. COAST GUARD

Draft, November 17

Kodiak Sewage Disposal System, Alaska. A sewage disposal system is proposed for USCG Base Kodiak. The system will consist of collection and treatment facilities in accordance with the Federal Water Pollution Control Act, as amended. Sewage is presently collected and discharged, without treatment, directly into tidal waters of St. Paul Harbor. (9 pages) (ELR Order No. 05644) (NTIS Order No. EIS 72 5644–D)

Final, November 9

Little Lake Butte des Morts, Wis., county: Winnebago. The statement considers the approval of plans and location for a medium level, multispan fixed highway bridge across Little Lake Butte des Morts. The project will connect two sections of the town of Menasha. Six residences will be displaced by the action. (30 pages) Comments made by: COE, DOI, DOT, HEW, and HUD. (ELR Order No. 05600) (NTIS Order No. EIS 72 5600–F)

BRIAN P. JENNINGS,
Acting General Counsel.

[FR Doc.72-20448 Filed 11-28-72;8:48 am]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 11(p)(1) of the Federal Water Pollution Control Act, as amended, and, accordingly, have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	*Owner/operator and vessels*
01103---	Poseidon Schiffahrt Gesellschaft mit beschrankter Haftung: Parzival.
01105---	Tschudi & Eitzen: Sinader.
01172---	H. Clarkson & Co., Ltd.: Sealnes.
01805---	Suisse Atlantique Societe d'Armement Maritime S.A.: Los Andes.
01861---	BP Tanker Co., Ltd.: British Humber.
01905---	The Ben Line Steamers, Ltd: Benalder.
02271---	Amer-Tupakka OY: Finn-Amer.
02303---	Interessentskapet Seahorse: Concordia Seahorse.
02417---	Norfolk, Baltimore & Carolina Line, Inc.: Container Transport No. 1.
02715---	Allied Towing Corp.: Hot Oil 17.
02844---	Gloria Bahama, Ltd.: Argo II.
02861---	Naviera Bilbaina, S.A.: Deusto.
02877---	Nippon Yusen Kabushiki Kaisha: Kurobe Maru.
02956---	Ashland Oil, Inc.: JN–102.
02961---	Kobe Kisen Kabushiki Kaisha: Asahi Maru.
03458---	Matsuoka Kisen Kabushiki Kaisha: Arizona Maru.
03459---	Meiji Kaiun K.K.: Meiryu Maru.
03462---	Mitsubishi Koseki Yuso K.K.: Santa Catalina Maru.
03479---	Okada Shosen Kabushiki Kaisha: Settsu Maru.
03484---	Sanko Kisen K.K.: Cypress King. Kyokkomaru. Ryuko Maru.
03501---	Osaka Shosen Mitsui Senpaku K.K.: Ibaraki Maru.
03519---	Toko Shosen K.K.: Riko Maru.
03623---	Smith-Rice Derrick Barges, Inc.: Scow 3.
03640---	Pan Ocean Bulk Carriers, Ltd.: Pan Korea.
03730---	Brown & Root, Inc.: HCC 101. HCC 103.
04007---	Egon Oldendorff: Baarn. Barneveld. Breda. Bennekom.
04074---	Tankore Corp.: Santos.
04128---	Skips A/S Westray: Brunvard. Brunhild. Rumba. Jenka. Mambo. Bruni. Brunette.
04356---	Pacific Far East Line, Inc.: Philippine Bear.
04543---	Mr. Iwao Miki: Keifukumaru No. 17.
04544---	Mr. Yosuke Kawaguchi: Seishumaru No. 35.
04596---	Pan-Alaska Fisheries, Inc.: Willow.
05562---	Weeks Dredging & Contracting, Inc.: Weeks No. 254. Weeks No. 255.
05935---	Anaqua Corp. of Panama: Anaqua.
06114---	Masahei Yamamoto: Seishumaru No. 7. Seishumaru No. 12. Seishumaru No. 31. Seishumaru No. 32. Seishumaru No. 33.
06581---	Komandittselskapet Cruise Venture A/S & Co.: Island Princess.
06570---	Tenax Steamship Co., Ltd.: Saltnes. Spraynes.
06648---	Dietrich Sander Bereederungs G.m.b.H.: Kalkgrund.
06662---	Reederei Claus-Peter Offen KG: Holstenfleet.
06687---	Globus Shipping Co. (Pte.) Ltd.: Vavajo.
06775---	Whitco (Marine Services), Ltd.: Iris Queen. Maranga.
06816---	Marine Contracting & Towing Co.: Martoco Barge No. 13. Martoco Barge No. 12.
06877---	Societe Francaise de Transports Maritimes: Bretagne.
06934---	Chevron Navigation Corp.: Chevron Brussels.
07019---	Allied Shipping International Corp.: Golden Swan. Golden Robin.
07132---	Rising Sun Shipping S.A.: Tayabas Bay.
07146---	Kingdom Navigation S.A. Panama: British Mariner.
07187---	Ermionis Shipping Co. S.A.: Apostolos K.
07206---	Australian Coastal Shipping Commission: Australian Endeavour.
07231---	Mid-Stream Fuel Service, Inc.: Z–65.
07232---	Bridge Transport Corp.: Josephine.
07247---	Luzon Shipping S.A.: Manila Bay.
07254---	Temple Shipping, Inc.: Lord Niagara.
07263---	Santa Martha Bay Shipping & Trading Co., Ltd.: Rijn.
07276---	Anglo-Pacific Line Ltd.: Papeete. Bauxite Fiji.
07290---	Hollywood Terminals, Inc.: KE–36. KE–37. KE–38.
07308---	Del Bene Ultramar S.A.C.I. yF: Portloe. Caminito.
07325---	The Maersk Co. Ltd.: Maersk Commander.
07328---	Universal Marines Lines, Inc., S.A.: Universal King.
07327---	Marcomando Armadora S.A.: Kapetanissa.
07329---	Stala Comp. Naviera S.A.: Ithaki Kathara.
07330---	Companhia Internationale Juntura Tankers S.A.: Japan Itochu.
07340---	Man Cheung Yuen Shipping Co., Ltd., S.A.: Dawn Grandeur.
07343---	Bigge Drayage Co.: Bigge No. 2.
07348---	K/S A/S Sea-Team & Co.: Anglia Team.
07350---	Eratini Compania Naviera S.A. Panama: Tolofon.
07360---	Hokuyo Suisan Kabushiki Kaisha: Koyo-Maru.
07361---	Mr. Yasohachi Nakamura: Kaiomaru No. 18. Kaiomaru No. 32. Kaiomaru No. 35.
07365---	Rederiet for M/S Virginia: Virginia.
07367---	Alliance Marine Corp.: Conwell.

Certificate No.	*Owner/Operator and Vessels*
07368---	Lake Charles Towing Co., Inc.: L.C.T. No. 19. L.C.T. No. 18. L.C.T. No. 32. L.C.T. No. 31. L.C.T. No. 26. L.C.T. No. 27. L.C.T. No. 44. L.C.T. No. 42. L.C.T. No. 40. L.C.T. No. 43. L.C.T. No. 33. L.C.T. No. 41. L.C.T. No. 20. L.C.T. No. 21. L.C.T. No. 54. L.C.T. No. 55. L.C.T. No. 22. L.C.T. No. 23. L.C.T. No. 15. L.C.T. No. 16.
07369---	Herlofson Shipping Co. A/S; Skibsaktieselskapet Oilexpress; Skibsaktieselskapet Herva; Skibsaktieselskapet Cecil; Skibsaktieselskapet Jolund: Bulk Promoter.
07370---	Elanka Compania Naviera S.A. Panama: Scapbay.
07371---	Interessentskapet Bajka: Bajka.
07372---	Helen M Transportation Co.: Frio. Nueces.
07379---	Lefkonia Compania Naviera S.A.: Argiro.
07381---	Kaliana Shipping Co., Ltd.: Lydia P.
07382---	Marushin Senpaku Kabushiki Kaisha: Ocean Trader.
07383---	Grand Olympia (Panama) S.A.: Olympia Faith.
07385---	Theodor Mengdehl & Co.: Amisia.
07386---	Majestic Carriers, Inc.: Eastern Saga.
07387---	Wiards Seereederei MS. Verena Wiards KG.: Klaus Schoke.
07388---	Reading & Gates Exploration Co.: S–22.
07391---	Clean Seas Inc.: Tide Mar VII.
07394---	Georgian Shipping Enterprises S.A. Panama: Panaghia Lourion.
07397---	Aurora Australis Compania Armadora S.A.: Sorokos.
07398---	Tasman Navigation Corp., Ltd.: Wenonna.
07400---	Abyreuth Ltd.: Dora.
07401---	Naviera de Exportacion Agricola, S.A.: Benimar. Benisa. Beniali. Benimusa. Benisalem. Beniajan. Benifaraig. Benimamet.
70402---	Naviera Del Nalon, S.A.: Mina Entrego. Mina Coto.
07404---	Hanseatic Shipmanagement, Ltd.: Lissy Schulte.
07405---	Hesnes Shipping, Ltd.: Hesnes Erik.
07407---	United International Cargo Carriers, Ltd.: Chalmette.
07408---	Intermaritime Carriers, S.A.: Eliaki.
07409---	Gerd Ernst de Buhr Reederei: Blankenburg.
07410---	North Sea Shipping Corp.: Furka.
07411---	Arco Compania Naviera S.A.: Provimi Star.
07413---	Achilles Navigation Corp.: Ioannis Chandris.
07419---	Naviera Mercurio S.A.: Crystal Orchid.
07422---	Trans-American Lines, S.A.: Transamerica.
07431---	Sociedad Armadora Insular S.A.: Ostria.
07434---	Mr. Yoshihiro Nakamura: Kotoshiromaru No. 3.
07435---	Kabushiki Kaisha Yoshida Kiyoshi Shoten: Taiyo Maru No. 32.
07436---	Kabushiki Kaisha Fukuyoshi Maru: Fukuyoshi Maru No. 35.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-20474 Filed 11-28-72;8:50 am]

FEDERAL RESERVE SYSTEM

INDIAN HEAD BANKS, INC.

Acquisition of Bank

Indian Head Banks, Inc., Nashua, N.H., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 53.68 percent or more of the voting shares of the Lakeport National Bank of Laconia, Lakeport, N.H. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 18, 1972.

Board of Governors of the Federal Reserve System, November 21, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-20421 Filed 11-28-72;8:45 am]

REDWOOD BANCORP

Proposed Acquisition of National Mortgage Co.

Redwood Bancorp, San Rafael, Calif., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of National Mortgage Co., Salt Lake City, Utah. Notice of the application was published on November 17, 1972, in the Salt Lake Times, a newspaper circulated in Salt Lake City, Utah; on November 15, 1972, in the Post & Register, a newspaper circulated in Idaho Falls, Idaho; and on November 14, 1972, in the Daily Reporter, a newspaper circulated in Tucson, Ariz.

Applicant states that the proposed subsidiary would engage in the activities of originating and servicing mortgage loans and acting as agent or broker in the sale of insurance directly related to extensions of credit. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 19, 1972.

Board of Governors of the Federal Reserve System, November 22, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-20422 Filed 11-28-72;8:46 am]

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

Implementation Regulations

1. Persons eligible for benefits.
2. Assurance of adequate replacement housing prior to displacement.
3. Definition of decent, safe, and sanitary dwellings.
4. Moving and related expenses allowable under section 202(a) of the Act.
5. Exclusions on moving expenses and losses.

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6. Payments under section 202 (b) and (c) of the Act in lieu of moving and related expenses.
7. Submittal of claims.
8. Replacement housing payments to homeowners under section 203(a) of the Act.
8.1 Payments.
8.2 Computation of replacement housing payment—differential payment for replacement housing.
8.3 Limitations.
9. Replacement housing payments to tenants and certain others under section 204 of the Act.
9.1 Payments.
9.2 Computation of replacement housing payment for displaced tenants—rental replacement housing payment.
9.3 Disbursement of rental replacement housing payment.
9.4 Purchases—replacement housing payment.
9.5 Computation of replacement housing payments for certain others.
10. Initiation of negotiations.
11. Relocation assistance advisory services under section 205 of the Act.
12. State agency required to furnish real property incident to Federal project.
13. Uniform real property acquisition policy.
14. Surrender of possession.
15. Rent after acquisition.
16. Tenants' rights in improvements.
17. Expense of transfer of title.
18. Proration of taxes.
19. Administrative review.
20. Annual report.
21. Definitions.

These regulations prescribe procedures for the U.S. Section of the International Boundary and Water Commission, United States and Mexico, hereinafter called the U.S. Section, in implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646 (84 Stat. 1894), hereinafter called the Act. The Act and these regulations provide for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal programs and establish uniform and equitable land acquisition policies for Federal programs. The regulations shall be effective retroactively on and after January 2, 1971.

1. *Persons eligible for benefits.* Those eligible for benefits under these regulations are those persons, including individuals, partnerships, corporations or associations, who on or after January 2, 1971, move from real property, or move their personal property from real property, as a result of the acquisition of such real property by the U.S. Section, or move as the result of a written notice from the U.S. Section to vacate real property.

A person who lives on his business or farm property may be eligible for both moving and related expenses as a dwelling occupant in addition to being eligible for payments with respect to a business or farm operation. Also eligible, but only for payment of moving and related expenses and for relocation assistance advisory service as hereinafter provided are those persons who move as a result of the U.S. Section's acquisition of or as the result of a written notice from the U.S. Section to vacate other real property, on which any such person conducts a business or farm operation. The U.S. Section must serve personally or by certified (or registered) first class mail a written notice of displacement to each individual, family, business, or farm to be displaced.

(a) In order to qualify for benefits under these regulations, either of two conditions must be met:

(1) The person must have received a written notice to vacate, which may be given before or after initiation of negotiations for acquisition of the property; or

(2) The property must, in fact, have been acquired and the person must have moved as a result of its acquisition.

(b) A displaced person may not be paid for more than one move in relation to a single project unless the Chief, Real Estate Division, finds it to be equitable to pay for a subsequent move and gives approval for such payment prior to the subsequent move.

(c) For real property acquisitions under Federal law, contracts or options to purchase real property shall not incorporate provisions for making payments for relocation costs and related items in title II of the Act. Appraisers shall not give consideration to or include in their real property appraisals any allowances for the benefits provided by title II. In the event of condemnation with a declaration of taking, the estimated compensation shall be determined solely on the basis of the appraised value of the real property with no consideration being given to or reference contained therein to the payments to be made under title II of the Act.

2. *Assurance of adequate replacement housing prior to displacement.* Prior to the institution of any new project, and as soon as practicable with respect to any current project involving the displacement of any person, the Chief, Real Estate Division, shall determine that, within a reasonable period of time prior to displacement, there will be available on a basis consistent with title VIII of the Civil Rights Act of 1968 (Public Law 90-284), decent, safe, and sanitary dwellings, as described below, equal in number to the number of, and available to, such displaced persons who require such dwellings and reasonably accessible to their places of employment. Such dwellings shall be in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents and prices within the financial means of the families and individuals displaced. Such determination shall be based on a current survey and analysis of available replacement housing, which shall take into account the competing demands on available housing.

3. *Definition of decent, safe, and sanitary dwellings.* A decent, safe, and sanitary dwelling is one which is found to be in sound, clean, and weathertight condition, and which meets local housing codes for the type of dwelling. If there are no applicable local housing codes, a housekeeping unit must include a kitchen with fully usable sink; a stove or connections for same; a separate complete bathroom; hot and cold running water in both the bathroom and kitchen; and adequate and safe wiring system for lighting and other electrical services; and heating as required by climatic conditions and regional housing codes. A nonhousekeeping unit shall meet local standards customary for boarding houses, hotels, or other congregate living in the area. Any dwelling unit considered suitable as replacement housing must be reasonably convenient to such community facilities as schools, stores, and public transportation.

4. *Moving and related expenses allowable under section 202(a) of the Act.* Upon receipt by the U.S. Section of a proper application for any displaced person who is eligible and elects to receive the benefits of section 202(a) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, the U.S. Section will reimburse the displaced person for actual reasonable expenses incurred by him in moving as follows:

(a) Transportation of individuals, families, and property from the acquired site to the replacement site, not to exceed a distance of 50 miles, except where the Chief, Real Estate Division, determines that relocation beyond the 50-mile area is justified.

(b) Packing, and unpacking, crating, and uncrating of personal property.

(c) Advertising for packing, crating, and transportation when the Chief, Real Estate Division, determines that it is necessary.

(d) Storage of personal property for a period generally not to exceed 12 months when the Chief, Real Estate Division, determines that storage is necessary in connection with relocation.

(e) Insurance premiums covering loss and damage of personal property while in storage or transit.

(f) Removal, reinstallation, and reestablishment of machinery, equipment, appliances, and other items, not acquired as real property, including reconnection of utilities, which do not constitute an improvement to the replacement site, except when required by law. Prior to payment of any expenses for removal and reinstallation of such property, the displaced person shall be required to agree in writing that the property is personalty and that the U.S. Section is released from any payment for the property.

(g) Property lost, stolen, or damaged (not caused by the fault or negligence of the displaced person, his agent or employees), in the process of moving, where insurance to cover such loss or damage is not available.

(h) Such other reasonable expenses determined to be eligible under regulations issued by the U.S. Section.

(i) If the displaced person accomplishes the move himself, he shall be paid an amount not to exceed the estimated cost of moving commercially.

(j) When an item of personal property which is used in connection with any business or farm operation is not moved but is sold and promptly replaced with

a comparable item, reimbursement shall not exceed the replacement cost minus the proceeds received from the sale or the cost of moving, whichever is less.

(k) When personal property which is used in connection with any business or farm operation to be moved is of low value and high bulk, and the cost of moving would be disproportionate in relation to the value, in the sole judgment of the Chief, Real Estate Division, the allowable reimbursement for the expense of moving the personal property shall not exceed the difference between the amount which would have been received for such item on liquidation and the cost of replacing the same with a comparable item available on the market. This provision is applicable in such cases as the moving of junkyards, stockpiled sand, gravel, minerals, metals, and similar type items of personal property.

(l) If the cost of moving or relocating an outdoor advertising display or displays is determined to be equal to or in excess of the in-place value of the display, consideration will be given to acquiring such display or displays as a part of the real property.

(m) In the case of a business or farm operation, if the displaced person does not move the personal property he shall be required to make a bona fide effort to sell it. If the personal property is sold and the business or farm operation reestablished, he is entitled to payment provided in (j) above. If the business or farm operation is discontinued, the displaced person is entitled to the difference between the in-place value of the personal property and the sale proceeds, or the cost of moving, whichever is less. If the personal property is abandoned, he is entitled to payment for the difference between the in-place value and the amount which would have been received from the sale of the item, or the cost of moving, whichever is less. The cost of removal of the personal property shall not be considered as an offsetting charge against other payments to the displaced person.

(n) Expenses, not to exceed $500, unless the Chief, Real Estate Division, determines that a greater amount is justified, in searching for a replacement business or farm as follows:

(1) Travel costs at 10 cents a mile, not to exceed 300 miles, or the equivalent in public transportation fares.

(2) Costs for meals and lodging for no more than the equivalent of 3 full days of searching, at a rate of $2.50 for each meal and $12 for each night spent in a motel or other accommodation.

(3) Time spent in searching at the rate of the displaced person's salary or earnings, but not to exceed $10 per hour and not to exceed the equivalent of 3 full days of searching.

(4) Broker, realtor, or other professional fees in locating a replacement business or farm operation, provided the Chief, Real Estate Division, has approved such employment in advance.

5. *Exclusions on moving expenses and losses.* Reimbursement for moving expenses shall not include:

(a) Additional expenses incurred because of living in a new location.

(b) Cost of moving structures, improvements, or other real property in which the displaced person reserved ownership.

(c) Improvements to the replacement site, except when required by law.

(d) Interest on loans to cover moving expenses.

(e) Loss of goodwill.

(f) Loss of profits.

(g) Loss of trained employees.

(h) Personal injury.

(i) Cost of preparing the application for moving and related expenses.

(j) Modification of personal property to adapt it to the replacement site, except when required by law.

(k) Payment for search cost in connection with locating a replacement dwelling.

(l) Such other items as the Chief, Real Estate Division, determines should be excluded.

6. *Payments under section 202 (b) and (c) of the Act in lieu of moving and related expenses.*—(a) *Dwellings.* Any displaced person eligible for payments under 4 above who is displaced from a dwelling may elect to accept the following payments in lieu of the payments authorized under 4 above.

(1) A moving expense allowance, not to exceed $300, based on schedules maintained by the State Highway Department of the State where the displacement occurs.

(2) A dislocation allowance of $200.

(b) *Businesses.* Any displaced person eligible for payments under 4 above who is displaced from his place of business as defined in subsection 101(7) (A), (B), and (C) of the Act, or from his farm operation, may elect to accept the following payments, in lieu of the payments authorized by 4 above: A fixed payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall be not less than $2,500 nor more than $10,000. The term "average annual net earnings" means one-half of any net earnings of the business or farm operation, before Federal, State, and local income taxes, during the 2 taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period. If a business or farm operation has no net earnings, or has suffered losses during the period used to compute "average annual net earnings" it may nevertheless receive the $2,500 minimum payment.

Those businesses described in subsection 101(7)(D) of the Act are not eligible for a payment in lieu of moving and related expenses.

To be eligible for such payment, the business must contribute materially to the income of the displaced owner. Part-time family occupations which do not contribute materially to a displaced person's income are not eligible. Also, no payment shall be made hereunder unless the Chief, Real Estate Division, is satisfied that the business cannot be relocated without a substantial loss of its existing patronage and is not a part of a commercial enterprise having at least one other establishment not being acquired by the U.S. Section which is engaged in the same or similar business. In determining whether the business cannot be relocated without a substantial loss of its existing patronage, the following factors will be considered:

(1) The type of business conducted by the displaced person.

(2) The nature of the clientele of the displaced concern.

(3) The relative importance of the present and proposed location of the displaced business.

Where an entire farm is not acquired, payment hereunder will be made only if the Chief, Real Estate Division, determines that prior to its acquisition the farm met the definition of a farm operation set out in section 101(8) of the Act and that the property remaining after acquisition is no longer an economic farm unit.

(c) *Nonprofit organizations.* Where a nonprofit organization is displaced, no payment shall be made under subsection 202(c) until after the Chief, Real Estate Division, determines:

(1) That the nonprofit organization cannot be relocated without a substantial loss of its existing patronage. The term "existing patronage" as used in connection with nonprofit organizations includes the persons, community, or clientele served or affected by the activities of the nonprofit organization.

(2) That the nonprofit organization is not part of an organization having at least one other establishment not being acquired which is engaged in the same or similar activity.

7. *Submittal of claims.* All claims of reimbursement of moving expenses or for payments in connection with such expenses, as provided above, and all claims for the payment of housing supplements or payments in connection with such supplements, as provided below, must be submitted to the Chief, Real Estate Division, on prescribed forms no later than 18 months from the date of displacement.

8. *Replacement housing payments to homeowners under section 203(a) of the Act*—8.1 *Payments.* In addition to payments for moving and related expenses, a displaced person may receive payment not in excess of $15,000 if such person was displaced from a dwelling actually owned ("owned" refers to an interest in the title which allows absolute physical control) and occupied by him for not less than 180 days immediately prior to the initiation of negotiations for the acquisition of the property on which the dwelling is located and purchases and occupies a replacement dwelling which is decent, safe, and sanitary not later than the end of 1 year from the date he receives payment for the acquired dwelling or the date he moves from said dwelling, whichever is the later date. Such

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payment shall consist of the following:

(a) The amount, if any, which when added to the acquisition cost of the dwelling acquired by the U.S. Section equals the reasonable cost of a comparable replacement dwelling as established by the U.S. Section. A comparable replacement dwelling for such purpose shall be deemed to be one which is decent, safe, and sanitary and as functionally equivalent to and substantially the same as the acquired dwelling with respect to: the number of rooms, area of living space; age; state of repair; open to all persons regardless of race, color, religion, sex, or national origin and consistent with the requirements of the Civil Rights Acts of 1964 and 1968; located in an area not generally less desirable than the dwelling being acquired with respect to neighborhood conditions, including but not limited to municipal services and other environmental factors; public utilities and public commercial facilities; reasonably accessible to the relocatee's place of employment; available on the market to the displaced person; and, within the financial means of the displaced family or individual.

(b) The amount, if any, necessary to compensate a displaced person for any increased interest costs, including points paid by the purchaser. Such amount shall be paid only if the acquired dwelling was encumbered by a bona fide mortgage. The following shall be considered:

(1) The payment shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the bona fide mortgage on the acquired dwelling, at the time of acquisition, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value;

(2) The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located;

(3) A "bona fide mortgage" is one which was a valid lien on the acquired dwelling for not less than 180 days prior to the initiation of negotiations;

(4) However, the interest payment shall be based on the present value of the reasonable cost of the interest differential, including points paid by the purchaser, on the amount financed not to exceed the amount of the unpaid debt on the acquired dwelling for its remaining term.

(c) The amount, if any, necessary to reimburse a displaced person for actual costs incurred by him incident to the purchase of the replacement dwelling (but not including prepaid expenses) such as:

(1) Legal, closing, and related costs including title search, preparing conveyance instruments, notary fees, surveys, preparing plats, and charges incident to recordation;

(2) Lenders', FHA or VA, appraisal fees;

(3) FHA application fee;

(4) Certification of structural soundness when required by lender, FHA or VA;

(5) Credit report;

(6) Title policies or abstracts of title;

(7) Escrow agent's fee; and

(8) State revenue stamps or sale or transfer of taxes.

No fee, cost, charge, or expense is reimbursable which is determined to be a part of the finance charge under the Truth in Lending Act, Title I, Public Law 90–321, and Regulation "Z" (12 CFR Part 226), issued pursuant thereto by the Board of Governors of the Federal Reserve System.

8.2 *Computation of replacement housing payment—Differential payment for replacement housing.* The Chief, Real Estate Division, may determine the amount which, if any, when added to the acquisition cost of the dwelling acquired by the displacing agency, is necessary to purchase a comparable replacement dwelling by either establishing a schedule or by using a comparative method.

(a) *Schedule method.* The U.S. Section may establish schedule of reasonable acquisition costs for comparable replacement dwellings of the various types of dwellings to be acquired and available on the private market. The schedule shall be based on a current market analysis sufficient to support determinations of the amount for each type of dwelling to be acquired. When more than one Federal agency is causing displacement in a community or an area, the heads of the agencies concerned shall coordinate the establishment of the schedule for replacement housing payments.

(b) *Comparative method.* The U.S. Section may determine the price of a comparable replacement dwelling by selecting a dwelling or dwellings most representative of the dwelling unit acquired, available to the displaced person, and which meets the definition of comparable replacement dwelling. A single dwelling shall be used only when additional comparable dwellings are not available.

(c) *Alternate method.* The Chief of the Real Estate Division may develop criteria for computing replacement housing payments when neither the schedule method nor the comparative method is feasible.

8.3 *Limitations.* The amount established by 8.1(a) as the differential payment for the replacement housing sets the upper limit of such payment. To qualify for the full amount the displaced person must purchase and occupy a decent, safe, and sanitary dwelling as established by the U.S. Section.

(a) If the displaced person on his own voluntarily purchases and occupies a decent, safe, and sanitary dwelling at a price less than the reasonable cost of a comparable replacement dwelling as established by the U.S. Section, the differential payment will be reduced to that amount required to pay the difference between the acquisition price of the acquired dwelling and the actual purchase price of the replacement dwelling.

(b) If the displaced person on his own voluntarily purchases and occupies a decent, safe, and sanitary dwelling at a price less than the acquisition price of the acquired dwelling, no differential payment under 8.1(a) shall be made.

9. *Replacement housing payments to tenants and certain others under section 204 of the Act.*— 9.1 *Payments.* (a) The U.S. Section will make a payment to or for any person displaced from any dwelling not eligible to receive a payment under paragraph 8 of these regulations, which dwelling was actually and lawfully occupied by such displaced person for not less than 90 days prior to the initiation of negotiations for acquisition of such dwelling. Such payment shall be either:

(1) The amount computed under 9.2 below to enable such displaced person to lease or rent for a period not to exceed 4 years, a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, and reasonably accessible to his place of employment, but not to exceed $4,000; or

(2) The amount necessary to enable such person to make a downpayment, including incidental expenses described in 8.1(c) above, on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and commercial and public facilities, but not to exceed $4,000, except that if such amount exceeds $2,000, such person must equally match any such amount in excess of $2,000 in making the downpayment.

(b) An owner-occupant otherwise eligible for a payment under paragraph 8.1 of these regulations but who rents instead of purchases a replacement dwelling is eligible for replacement housing as a tenant (see 9.2 and 9.5 below).

9.2 *Computation of replacement housing payment for displaced tenants—rental replacement housing payment.* The Chief, Real Estate Division, may establish the amount necessary to rent a suitable replacement dwelling by either establishing a schedule or by using a comparative method.

(a) *Schedule method.* The payment should be computed by determining the amount necessary to rent a suitable replacement dwelling for 4 years (the average monthly cost from the schedule) and subtracting from such amount 48 times the average month's rent paid by the displaced tenant in the last 3 months prior to initiation of negotiations if such rent is reasonable, or if not reasonable, 48 times the monthly economic rent for the the dwelling unit. For purposes of these regulations, economic rent is defined as the amount of rent the displaced tenant would have had to pay for a similar dwelling unit in areas not generally less desirable than the dwelling unit to be acquired. The schedule should be based on a current analysis of the market to

determine an amount for each type of dwelling acquired.

(b) *Comparative method.* The average month's rent may be determined by selecting one or more dwellings representative of the dwelling unit acquired, available on the private market which meets the definition of a suitable replacement dwelling. The payment should be computed by determining the amount necessary to rent for 4 years a suitable replacement dwelling and subtracting from the amount so determined 48 times the average month's rent paid by the displaced tenant in the last 3 months prior to initiation of negotiations or if not reasonable, 48 times the monthly economic rent for the dwelling unit established by the U.S. Section.

(c) *Exceptions.* The Chief of the Real Estate Division may establish the average month's rent paid by the displaced person by using more than 3 months, if he deems it advisable. If rent is being paid to the displacing agency, economic rent shall be used in determining the amount of the payment to which the displaced tenant is entitled.

(d) *Alternate to (a) and (b), above.* When neither method is feasible, the Chief, Real Estate Division, shall develop criteria for computing the payment.

9.3 *Disbursement of rental replacement housing payment.* All rental replacement housing payments in excess of $1,000 will be made in four equal installments on an annual basis. Before making each installment payment, the Chief, Real Estate Division, must verify that the tenant is still in decent, safe, and sanitary housing.

9.4 *Purchases—replacement housing payment.* If the tenant elects to purchase a replacement dwelling instead of renting, the payment shall be computed by determining the amount necessary to enable him to make a downpayment and to cover incidental expenses on the purchase of replacement housing.

(a) The downpayment shall be the amount necessary to make a downpayment on a suitable replacement dwelling. Determination of the amount "necessary" for such downpayment shall be based on the amount of downpayment that would be required for a conventional loan.

(b) Incidental expenses of closing the transaction as described in paragraph 8.1(c) above.

(c) The full amount of the downpayment must be applied to the purchase price and such downpayment and incidental costs must be shown on the closing statement.

9.5 *Computation of replacement housing payments for certain others.* (a) A displaced owner-occupant eligible under paragraph 8 of these regulations who elects to rent rather than purchase a replacement dwelling may receive a rental replacement housing payment not to exceed $4,000. The payment shall be computed in the same manner as shown in 9.2 above, with the following additional criteria:

(1) The present rental rate for the acquired dwelling shall be economic rent as determined by market data; and

(2) The payment may not exceed the amount which the displaced owner-occupant would have received had he elected to receive a replacement housing payment under paragraph 8 of these regulations.

(b) A displaced owner-occupant who does not qualify for a replacement housing payment under paragraph 8 of these regulations because of the 180-day occupancy requirement but qualifies under paragraph 9 and elects to rent is eligible for a rental replacement housing payment not to exceed $4,000. The payment shall be computed in the same manner as shown in 9.2 above, except that the present rental rate for the acquired dwelling shall be economic rent as determined by market data.

(c) A displaced owner-occupant who does not qualify for a replacement housing payment under paragraph 8 of these regulations because of the 180-day occupancy requirement but qualifies under paragraph 9 and elects to purchase a replacement dwelling is eligible for a replacement housing payment pursuant to 9.1(b), which payment shall be computed in the same manner as shown in 9.4 above.

10. *Initiation of negotiations.* The term "initiation of negotiations" for real property means the date the U.S. Section makes the first contact with the owner or his representative when the U.S. Section's offer for the real property to be acquired is discussed or is presented in writing. When an offer to purchase is presented by mail, the initiation of negotiations will be considered to be the third day after the date of mailing. The U.S. Section will advise tenants and other occupants of the date negotiations begin with the owner.

11. *Relocation assistance advisory services under section 205 of the Act.* The Chief, Real Estate Division, will establish and maintain a program to provide advice and assistance, where needed, to persons displaced as a result of the acquisition of real property. Such program shall provide pertinent and current information regarding the availability, prices, and rentals of proper replacement properties; offer assistance in obtaining and relocating to such properties; and take such steps required to secure the cooperation of other agencies which may be of assistance in order to minimize hardships and assure that displaced persons receive the maximum assistance available to them. To the extent that the services of a central relocation agency are available to render assistance, such services will be used.

12. *State agency required to furnish real property incident to Federal project.* In those programs where real property is acquired by a State agency and furnished as a required local contribution to the U.S. Section project, the U.S. Section may not accept such property unless such State agency has made all payments and provided all assistance and assurances, as are required of a State agency by section 210 and 305 of the Act and according to these regulations. In its application of these regulations, the State agency acquiring the real property shall perform the functions, make the payments, and grant the assistance that would be required of the U.S. Section were it acquiring real property under the Act and these regulations. The head of such State agency shall perform the functions that would otherwise be performed by the Commissioner, U.S. Section, under the Act and these regulations, and the head of the Right-of-Way Department or Right-of-Way Section of such State agency shall perform the functions that would otherwise be performed by the Chief, Real Estate Division, under the Act and these regulations.

(a) *Reimbursement to State agency.* In those programs where real property is acquired by a State agency and furnished as a required local contribution to the U.S. Section project, the U.S. Section shall reimburse such State agency 100 percent of the first $25,000 of the cost of providing the payments and assistance required by the Act and these regulations in the case of any real property acquisition or displacement occurring prior to July 1, 1972. Where eligible persons are displaced, or the real property acquired, prior to July 1, 1972, the full amount of the first $25,000 of relocation payments are made prior to or subsequent to July 1, 1972.

(b) *Other federally assisted programs.* The U.S. Section has no programs, other than as above provided, affording Federal financial assistance within the meaning of the Act. If any such programs should be instituted, appropriate regulations and relocation assistance procedures relating thereto will be adopted.

13. *Uniform real property acquisition policy.* Before negotiations are initiated for acquisition of real property, the Chief, Real Estate Division, will cause the property to be appraised and establish an amount believed to be just compensation therefor. The appraiser shall afford the owner or his representative an opportunity to accompany him during his inspection of the property.

When negotiations are initiated to acquire real property, the owner will be given a written statement of, and summary of the basis for, the amount estimated as just compensation. The statement will identify the property and the interest therein to be acquired, including buildings and other improvements to be acquired as a part of the real property, the amount of the estimated just compensation, and the basis therefor. If only a portion of the property is to be acquired, the statement will include a statement of damages and benefits, if any, to the remainder.

14. *Surrender of possession.* Possession of real property will not be taken until the owner has been paid the agreed

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purchase price or the U.S. Section's estimate of just compensation has been deposited in court in a condemnation proceeding.

To the greatest extent practicable, no person will be required to move from property acquired by the U.S. Section without at least 90 days' written notice thereof.

15. *Rent after acquisition.* If the U.S. Section rents real property acquired by it to the former owner or former tenant, the amount of rent shall not exceed the fair rental value on a short-term basis.

16. *Tenants' rights in improvements.* Tenants of real property being acquired by the U.S. Section will be paid just compensation for any improvements owned by them, whether or not they might have a right to remove such improvements under the terms of their tenancy. Such payment will be made only upon the condition that all right, title, and interest of the tenant in such improvements shall be transferred to the U.S. Section and upon the further condition that the owner of the real property being acquired shall execute a disclaimer of any interest in said improvements.

17. *Expense of transfer of title.* In connection with the acquisition of real property by the U.S. Section, the U.S. Section will, to the extent it deems fair and reasonable, bear all expenses incidental to the transfer of title to the United States, including penalty costs for the prepayment of any valid pre-existing recorded mortage.

18. *Proration of taxes.* Real property taxes shall be prorated to relieve the seller from paying taxes which are allocable to a period subsequent to vesting of title in the United States or the date of possession, whichever is earlier.

19. *Administrative review.* Determinations by the Chief, Real Estate Division, as to payments under these regulations shall be final. However, in the event of dissatisfaction by any displaced person the following rights of review will be followed:

Any dispute concerning a question of fact arising under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which is not disposed of by agreement, shall be decided by the Chief, Real Estate Division, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the displaced person. This decision shall be final and conclusive unless within 30 days from the date of receipt of such copy the displaced person mails or otherwise furnishes a written appeal addressed to the Commissioner, United States Section, International Boundary and Water Commission, United States and Mexico, Post Office Box 1859, El Paso, TX 79950. The decision of the Commissioner or his duly authorized representative for the determination of such appeals shall be in writing and furnished to the displaced person and shall be final and conclusive. In connection with any appeal proceeding hereunder, the displaced person shall be afforded an opportunity to be heard and to offer evidence in support of his appeal.

20. *Annual report.* The head of the State agency acquiring real property or interests therein to be furnished to the U.S. Section for the purpose of one of its projects shall, on or before August 15 of each year, furnish to the U.S. Section the information required and complete the forms prescribed by the Chief of the Real Estate Division for the completion of the Annual Report required by section 214 of the Act.

21. *Definitions*—(a) *The Act.* "The Act" means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646), approved January 2, 1971.

(b) *Dwelling.* "Dwelling" means the place of permanent or customary and usual abode of a person. It includes a single family building; a one-family unit in a multifamily building; a unit of a condominium, or cooperative housing project; any other residential unit, including a mobile home which is either considered to be real property under State law, or cannot be moved without substantial damage or unreasonable cost.

(c) *Family.* A "family" means two or more individuals who are related by blood, adoption, marriage, or legal guardianship who live together as a family unit. However, upon appropriate determination by the Chief of the Real Estate Division, others who live together as a family unit may be treated as if they were a family for the purpose of determining benefits under title II of the Act.

(d) *Financial means.* For the purpose of determining financial means of families and individuals, a financial means test (ability to pay) must be made to satisfy the requirements set forth in paragraph 2 of these regulations. In order to meet a financial means test, a determination should be made as to the displaced person's ability to afford the replacement dwelling. In making this determination, the average monthly rental or housing cost (e.g., monthly mortgage payments, insurance for the dwelling unit, property taxes, and other reasonable recurring related expenses) which the displaced person will be required to pay, in general, should not exceed 25 percent of the monthly gross income or the present ratio of housing payment to the income of the displaced family or individual, including supplemental payments made by public agencies.

(e) *Owner.* "Owner" means a person who holds fee title, a life estate, a 99-year lease, or an interest in a cooperative housing project which includes the right of occupancy of a dwelling unit, or is the contract purchaser of any such estates or interest, or who is possessed of such other proprietary interest in the property acquired as, in the judgment of the Chief of the Real Estate Division, warrants consideration as ownership. In the case of one who has succeeded to any of the foregoing interests by devise, bequest, inheritance or operation of law, the tenure of ownership, not occupancy, of the succeeding owner shall include the tenure of the preceding owner.

Dated: November 17, 1972.

UNITED STATES SECTION
INTERNATIONAL BOUNDARY
AND WATER COMMISSION,
UNITED STATES AND
MEXICO.
J. E. FRIEDKIN,
Commissioner.

[FR Doc.72-20489 Filed 11-28-72;8:51 am]

OFFICE OF EMERGENCY PREPAREDNESS

EHV POWER CIRCUIT BREAKERS AND EHV POWER TRANSFORMERS AND REACTORS

Investigation of Imports—Extension of Time

On August 17, 1972, notice was published in the FEDERAL REGISTER (37 F.R. 16635) that, in accordance with the provisions of section 232 of the Trade Expansion Act of 1962 and OEP Regulation No. 4, the Director of the Office of Emergency Preparedness has ordered an investigation to determine whether or not extra high voltage (EHV) power circuit breakers and EHV power transformers and reactors are being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security.

The time to submit any comment, opinion, or data relative to the investigation was extended to October 23, 1972. Rebuttal to material so submitted is extended to December 7, 1972. Any additional data or comments must be filed by December 22, 1972.

Dated: November 22, 1972.

G. A. LINCOLN,
Director, Office of Emergency Preparedness.

[FR Doc.72-20449 Filed 11-28-72;8:48 am]

IOWA

Amendment to Notice of Major Disaster

Notice of major disaster for the State of Iowa, dated October 2, 1972, and published October 6, 1972 (37 F.R. 21207), is hereby amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 26, 1972:

The county of:
Delaware.

Dated: November 22, 1972.

G. A. LINCOLN,
Director, Office of Emergency Preparedness.

[FR Doc.72-20487 Filed 11-28-72;8:51 am]

OHIO

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in me by the President under Executive Order 11575 of December 31, 1970; and by virtue of the Act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744), as amended by Public Law 92-209 (85 Stat. 742); notice is hereby given that on November 24, 1972, the President declared a major disaster as follows:

I have determined that the damages in certain areas of the State of Ohio from severe storms and flooding, beginning about November 14, 1972, are of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 91-606. I therefore declare that such a major disaster exists in the State of Ohio. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575 to administer the Disaster Relief Act of 1970 (Public Law 91-606, as amended), I hereby appoint Mr. Robert E. Connor, Regional Director, OEP Region 5, to act as the Federal Coordinating Officer to perform the duties specified by section 201 of that Act for this disaster.

I do hereby determine the following areas in the State of Ohio to have been adversely affected by this declared major disaster:

The counties of:

Erie.	Lucas.
Lake.	Ottawa.
Lorain.	

Dated: November 24, 1972.

G. A. LINCOLN,
Director, Office of Emergency Preparedness.

[FR Doc.72-20508 Filed 11-28-72;8:53 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

ALLSTATE INVESTMENT CORP.

Order Suspending Trading

NOVEMBER 22, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Allstate Investment Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 11:40 a.m. on November 22, 1972, through December 1, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-20435 Filed 11-28-72;8:47 am]

[File No. 7-4317 etc.]

ASHLAND OIL, INC., ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 22, 1972.

In the matter of applications of the Detroit Stock Exchange, for unlisted trading privileges in certain securities, Securities Exchange Act of 1934.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Ashland Oil, Inc	7-4317
Braniff Airways, Inc	7-4318
Consolidated Foods Corp	7-4319
First Charter Financial Corp	7-4320
Great Western Financial Corp	7-4321
The Louisiana Land and Exploration Co	7-4323
United States Fidelity & Guaranty Co.	7-4326

Upon receipt of a request, on or before December 8, 1972 from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, DC 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-20430 Filed 11-28-72;8:46 am]

[812-3155]

CONNECTICUT GENERAL LIFE INSURANCE CO. ET AL.

Notice of Application for Order Granting Exemption

NOVEMBER 21, 1972.

Notice is hereby given that Connecticut General Life Insurance Co., ("CG Life"), CG Fund, Inc., CG Income Fund, Inc. and CG Equity Sales Co. ("Equity Sales"), Hartford, Conn. 06115 (hereinafter collectively called "Applicants") have filed an application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), for an order of the Commission exempting Applicants from Section 22(d) of the Act to the extent specified herein. The application was initially noticed on May 19, 1972 (Investment Company Act Release No. 7184). The notice was subsequently withdrawn on June 9, 1972 (Investment Company Act Release No. 7224). The application is hereby re-noticed in accordance with Applicant's request. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

CG Fund, Inc., and CG Income Fund, Inc. are diversified, open-end management investment companies. The principal objective of CG Fund, Inc. is long-term growth of capital, and the principal objective of CG Income Fund, Inc. is to provide as generous a level of current income as possible consistent with reasonable concern for safety of principal. Equity Sales, a registered broker-dealer under the Securities Exchange Act of 1934, is the principal underwriter of the shares of CG Fund, Inc. and CG Income Fund, Inc. All of the issued and outstanding shares of Equity Sales are owned by CG Investment Management Co., the investment adviser to CG Fund, Inc. and CG Income Fund, Inc. CG Investment Management Company is a wholly-owned subsidiary of Connecticut General Insurance Corp., the parent corporation of CG Life.

Shares of both CG Fund, Inc. and CG Income Fund, Inc. are offered to the public at net asset value plus a sales charge grading downward from 7.5 percent of the public offering price, in accordance with the following table:

Total investment	Sales charge as percent of offering price
Less than $10,000	7.5
$10,000 but less than $25,000	6.0
$25,000 but less than $50,000	5.0
$50,000 but less than $100,000	3.0
$100,000 but less than $250,000	2.0
$250,000 but less than $500,000	1.5
$500,000 but less than $1,000,000	1.0
$1,000,000 or more	1.0

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter shall sell any redeemable security to the public except at a current public offering price described in the prospectus. The

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section has been construed as prohibiting variations in the sales load except on a uniform basis. Exemption is requested from section 22(d) to permit the application of amounts payable under insurance contracts issued by CG Life ("insurance proceeds") to the purchase at a reduced sales charge of shares of CG Fund, Inc. and CG Income Fund, Inc. These insurance proceeds include the death benefit under life policies, the maturity value of endowment contracts, the cash value of fixed-dollar life insurance and annuity contracts, and lump sum cash options available to beneficiaries. The insurance proceeds would be applied to purchase shares of CG Fund, Inc. and CG Income Fund, Inc. at a reduced sales load, grading downward from 5.25 percent of the public offering price, depending on the amount of the purchase, in accordance with the following table:

Total investment	Sales charge as percent of offering price
Less than $10,000	5.25
$10,000 but less than $25,000	4.20
$25,000 but less than $50,000	3.50
$50,000 but less than $100,000	2.80
$100,000 but less than $250,000	2.10
$250,000 but less than $500,000	1.40
$500,000 but less than $1,000,000	1.05
$1,000,000 or more	.70

This application states that the variation in the rate of deduction does not arbitrarily discriminate among different categories of investors. With respect to shares of CG Fund, Inc. and CG Income Fund, Inc. purchased with insurance proceeds, Applicants state that the premiums on life insurance contracts issued by CG Life, which will be the source of the insurance proceeds, will already have been subject to certain sales charges. The reduction of the sales charge on application of such proceeds to purchase shares of CG Fund, Inc. and CG Income Fund, Inc. will avoid an unnecessary accumulation of charges which would act to the detriment of persons entitled to such proceeds. Therefore the imposition of a full sales charge on such purchases of shares of CG Fund, Inc. and CG Income Fund, Inc. would be unwarranted and not in the public interest or consistent with the protection of investors.

Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any person from any provision of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 18, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after such date as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72–20426 Filed 11–28–72;8:46 am]

[70–5177]

CONSOLIDATED NATURAL GAS CO. ET AL.

Amendment Regarding Acquisition by Holding Company of Additional Common Stock of Non-Utility Subsidiary Company

NOVEMBER 21, 1972.

Notice is hereby given that Consolidated Natural Gas Co. (Consolidated), 30 Rockefeller Plaza, New York, NY 10020, a registered holding company, and CNG Development Co., Ltd. (CNG Ltd) and CNG Producing Co. (CNG Company), Four Gateway Center, Pittsburgh, PA 15222, two wholly-owned nonutility subsidiary companies of Consolidated, have filed with this Commission a post-effective amendment to their application-declaration in this proceeding pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(b), 9, 10, and 12 of the Act and Rules 43, 44, and 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By order dated May 1, 1972 (Holding Company Act Release No. 17559) Consolidated was authorized, among other things, to acquire 56,000 shares with a par value of $100 (Canadian) per share of CNG Ltd., a new company organized to facilitate the Consolidated System's participation in the development of natural gas reserves in Canada. As of September 30, 1972, Consolidated had acquired, at par, 26,800 shares of CNG Ltd capital stock.

Authority is now requested for CNG Ltd to increase the maximum of such shares for issuance and sale to Consolidated from 56,000 to 86,000 shares or an aggregate par value amount of $8,600,000 (Canadian), which Consolidated proposes to purchase at par from time to time as funds are needed through May, 1973. It is stated that such additional financing is needed by CNG Ltd (i) because it could be called upon for an additional $1 million, through May, 1973 under the CanDel Agreement described in Holding Company Act Release No. 17559; and, (ii) to enable CNG Ltd to enter into an agreement with Murphy Oil Company Ltd. (Murphy), a nonaffiliate, whereby CNG Ltd will purchase from Murphy, for $1,250,000 (Canadian), an undivided 12.5 percent interest in Canadian exploratory permits and licenses to explore over 2.1 million acres offshore of Cape Breton Island, N.S. In addition, CNG Ltd will advance $750,000 (Canadian) to Murphy in 1973, which advance plus interest thereon is to be repaid by Murphy from proceeds of production from the subject acreage.

CNG Ltd. is to obtain the first competitive call to purchase gas accruing to Murphy from the latter's remaining undivided 25 percent interest in the acreage (the balance of 62½ percent being held by other non-affiliated interests) and Murphy is to obtain the first right to purchase oil accruing to CNG Ltd. from its 12.5 percent interest.

It is stated that no State Commission and no Federal Commission, other than this Commission, has jurisdiction over the proposed transaction; and that the fees and expenses to be incurred in connection with the transaction proposed in the post-effective amendment are estimated at $600, including $500 payable to Consolidated Natural Gas Service Co., Inc., a service company subsidiary of Consolidated, for its services at cost.

Notice is further given that any interested person may, not later than December 15, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air-mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended or as it may be further amended may be granted and permitted to become effective in the manner provided by Rule

23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72–20427 Filed 11–28–72;8:46 am]

[812–3297]

DU PONT GLORE FORGAN INC.

Notice of Filing of Application for an Order of Exemption

NOVEMBER 22, 1972.

Notice is hereby given that Du Pont Glore Forgan Inc. (Applicant), 833 Wilshire Boulevard, Los Angeles, CA 90017, in connection with a proposed public offering of up to 1,650,000 shares of common stock (Common Shares) and 1,100,000 shares of cumulative preference stock (Preference Shares) (collectively the "shares") of CNA-Larwin Investment Co. (Company), a registered, closed-end, diversified management investment company, has filed an Application pursuant to section 6(c) of the Investment Company Act of 1940 (Act) for an order exempting certain transactions from section 30(f) of the Act to the extent that such section adopts section 16 of the Securities Exchange Act of 1934 (Exchange Act). All interested persons are referred to the Application on file with the Commission for a statement of the representations therein, which are summarized below.

Applicant is the prospective representative (Representative) of a group of underwriters (Underwriters) to be formed in connection with the aforementioned public offering. Applicant contemplates that each underwriter, including the Representative, will execute an Agreement Among Underwriters and that the Representative, acting both for itself and as Representative of the several Underwriters, will execute an Underwriting Agreement with the Company and CNA-Larwin Advisors, Inc., the Company's investment adviser (Adviser) and the Larwin Group, Inc., the Adviser's parent.

Applicant also states that it is possible that the Underwriter Commitment of any one or more of the Underwriters, including the Representative, will exceed 10 percent of the aggregate number of shares of the Company's Common Shares and/or Preference Shares. Since Section 30(f) of the Act subjects every person who is directly or indirectly the beneficial owner of more than 10 percent of any class of outstanding securities of the Comany to the same duties and liabilities as those imposed by section 16 of the Exchange Act, such Underwriter or Underwriters would become subject to the filing requirements of section 16(a) of the Exchange Act and, upon resale of the shares purchased by them to their customers, subject to the obligations imposed by section 16(b) of the Exchange Act.

Rule 16b–2 under the Exchange Act exempts certain Underwriters from the operation of section 16(b). Applicant states that the purpose of the purchase of the shares by the Underwriters will be for resale in connection with the initial distribution of the shares. Applicant also states that such purchases, therefore, will be transactions effected in connection with a distribution of a substantial block of securities within the purpose and spirit of Rule 16b–2.

Applicant further states that although it is anticipated that the requirements of Rule 16b–2(a) (1) and (2) will be met, one or more of the Underwriters, through their participation in the distribution of the Shares of the Company, may not be entitled to rely upon Rule 16b–2 to exempt them from section 16(b) of the Exchange Act. The requirements in Rule 16b–2(a)(3) that the aggregate participation of Underwriters not within section 16(b) of the Exchange Act be at least equal to the participation of Underwriters exempted therefrom under Rule 16b–2 may not be met because it is possible that one or more of the Underwriters may purchase more than 10 percent of the aggregate number of the shares of the Company's Common Shares and/or Preference Shares to be outstanding after the closing, as a result of obligations to purchase additional shares due to defaults by other Underwriters. Moreover, one or more of the Underwriters who are obligated through the Underwriting Agreement to purchase more than 10 percent of the aggregate number of shares of the Company's Common Shares and/or Preference Shares to be outstanding after the closing, may, as Underwriters and as selected dealers, distribute more than 50 percent of the aggregate number of shares being offered. Such a distribution would not meet the requirement of Rule 16b–2(a)(3).

In addition to purchases of shares from the Company and sales of shares to customers, there may be the usual transactions of purchase or sale incident to a distribution such as stabilizing purchases, purchases to cover over-allotments or other short positions created in connection with such distribution, and sales of shares purchased in stabilization.

Applicant states that there is no inside information in existence since the Company, prior to the initial distribution of the shares, will have no assets other than cash and certain contract rights discribed in the preliminary prospectus, or business of any sort, and all material facts with respect to the Company will be set forth in the prospectus pursuant to which the shares will be offered and sold. No partner, director or officer of Applicant is a director or officer of either the Company or the Adviser, and Applicant states that it is not anticipated that any partner, director or officer of any other Underwriter will be a director or officer of the Company or the Adviser.

Applicant maintains that the requested exemption from the provisions of section 30(f) of the Act is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. It further asserts that the transactions sought to be exempted cannot lend themselves to the practices to which section 16(b) of the Exchange Act and section 30(f) of the Act were enacted to apply.

Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act and Rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 11, 1972, at 12:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air-mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the Application herein may be issued by the Commission upon the basis of the information stated in said Application, unless an order for hearing upon said Application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72–20432 Filed 11–28–72;8:47 am]

It is ordered, Pursuant to section 15 writers, pursuant to an underwriting more than 50 percent of such shares be-

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[811-725]

FIRST NATIONAL FUND, INC.

Notice of Proposal To Terminate Registration

NOVEMBER 22, 1972.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 (Act), to declare by order upon its own motion that First National Fund, Inc. (Fund), 155 Sansome Street, San Francisco, CA 94104, a diversified, open-end management investment company registered under the Act, has ceased to be an investment company.

Fund registered under the Act by filing a Notification of Registration on form N-8A with the Commission on May 24, 1956.

At a special meeting of shareholders held on October 26, 1972, shareholders approved an Agreement and Plan of Reorganization (Agreement) contemplating the transfer of substantially all of the assets of Fund to Standard & Poor's/InterCapital Dynamics Fund, Inc. (S & P) in exchange for shares of S & P at adjusted net asset value, and the distribution of shares of S & P to the holders of shares of Fund in liquidation and dissolution of Fund. Fund has informed the Commission that the Agreement was consummated in accordance with its terms on October 30, 1972; that Fund has disposed of all of its assets, except $18,968 in cash retained for the purpose of paying its liabilities and expenses of liquidation; and that Fund is no longer engaged in business as an investment company and does not intend to conduct business as an investment company at any time in the future.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on its own motion, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that upon the effectiveness of such order, which may be issued upon the Commission's own motion where appropriate, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than December 20, 1972 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the Fund at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the matter herein may be issued by the Commission upon the basis of the information stated herein, unless an order for hearing thereon shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20428 Filed 11-28-72;8:46 am]

[File No. 7-4322]

INTERNATIONAL TELEPHONE & TELEGRAPH CORP.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 22, 1972.

In the matter of application of Detroit Stock Exchange, for unlisted trading privileges in a certain security, Securities Exchange Act of 1934.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the preferred stock of the following company, which, security is listed and registered on one or more other national securities exchange:

	File No.
International Telephone & Telegraph Corp	7-4322

Upon receipt of a request, on or before December 8, 1972 from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20429 Filed 11-28-72;8:46 am]

[File Nos. 7-4324, 7-4325]

MATSUSHITA ELECTRIC INDUSTRIAL CO., LTD. AND SONY CORP.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 22, 1972.

In the matter of applications of the Detroit Stock Exchange, for unlisted trading privileges in a certain security, Securities Exchange Act of 1934.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the American Depositary Shares, 50 Yen Par Common of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Matsushita Electric Industrial Co., Ltd	7-4324
Sony Corp	7-4325

Upon receipt of a request, on or before December 8, 1972, from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20431 Filed 11-28-72;8:46 am]

[File No. 500-1]

MONARCH GENERAL, INC.

Order Suspending Trading

NOVEMBER 21, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Monarch General, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 22, 1972 through December 1, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20440 Filed 11-28-72;8:47 am]

[File No. 500-1]

POWER CONVERSION, INC.

Order Suspending Trading

NOVEMBER 22, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Power Conversion, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 25, 1972, through December 4, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20437 Filed 11-28-72;8:47 am]

[812-3294]

SALOMON BROTHERS

Notice of Filing of Application for Exemption

NOVEMBER 22, 1972.

Notice is hereby given that Salomon Brothers (Applicant), One New York Plaza, New York, NY 10004, a registered broker-dealer and one of the prospective representatives of a group of underwriters to be formed in connection with a proposed public offering of shares of the Capital Stock ($0.01 par value) of Fort Dearborn Income Securities, Inc. (the Company), a new, registered closed-end, diversified management investment company, has filed an application, pursuant to section 6(c) of the Investment Company Act of 1940 (Act) for an order exempting Applicant and its co-underwriters from section 30(f) of the Act in respect of their transactions incident to the distribution of Company shares. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Shares of Company (the Registered Shares) are to be purchased by underwriters pursuant to an underwriting agreement to be entered into between Company and the underwriters represented by Applicant. It is intended that the several underwriters will make a public offering of the Registered Shares of Company which such underwriters are to purchase under the underwriting agreement as soon as practicable after the effective date of Company's Registration Statement on form S-4.

The representatives also intend to purchase 6,000 shares of the Company (the Investment Shares) for an approximate price of $104,000 to provide the Company with the initial net worth required by section 14 of the Act.

In addition to purchases from the Company and sales to customers, there may be the usual transactions of purchases or sales incident to a distribution such as stabilizing purchases, purchases to cover over-allotments or other short positions created in connection with such distribution, and sales of shares purchased in stabilization.

It is quite possible that Applicant and one or more other members of the underwriting group may each acquire, in accordance with the provisions of the underwriting agreement, more than 10 percent of the Company's common stock which will be outstanding at the time of the closing of the initial public offering of the shares.

Section 30(f) of the Act subjects every person who is directly or indirectly the beneficial owner of more than 10 percent of any class of outstanding securities of the Company to the same duties and liabilities as those imposed by section 16 of the Securities Exchange Act of 1934 (Exchange Act).

Section 16(a) of the Exchange Act requires insiders to file reports of their holdings and changes in their holdings and section 16(b) makes such insiders liable for short-term trading profits.

Rule 16b-2 under the Exchange Act exempts certain transactions in connection with a distribution of securities from the operation of section 16(b) of the Exchange Act. Applicant states that the purpose of the purchase by Applicant and the other underwriters is for resale in connection with the initial distribution of shares of the Company. The purchases and sales will thus be transactions effected in connection with a distribution of a substantial block of securities within the purpose and spirit of Rule 16b-2.

It is possible, however, that Applicant and certain of the co-underwriters will not be exempted from section 16(b) by the operation of Rule 16b-2, as they may fail to meet the requirement stated in paragraph (a)(3) of Rule 16b-2 that the aggregate participation of persons not within the purview of section 16(b) of the Exchange Act be at least equal to the participation of persons receiving the exemption under Rule 16b-2. It is possible that one or more of the underwriters who, pursuant to the underwriting agreement, will purchase more than 10 percent of the shares of the Company, may be obligated to purchase more than 50 percent of such shares being offered pursuant to the underwriting agreement. Moreover, Rule 16b-2 will not exempt the underwriters subject to section 30(f) from the provisions of section 16(a).

Applicant states that there is no "inside information" in existence since the Company, prior to the purchase of the Investment Shares and distribution of the Registered Shares, will have no assets or business of any sort, and detailed information with respect to the Company will be set forth in the prospectus incorporated in the Registration Statement.

Applicant submits that the requested exemption from the provisions of section 30(f) of the Act is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. It is further submitted that the transactions sought to be exempted cannot lend themselves to the practices section 16 of the Exchange Act and section 30(f) of the act were enacted to prevent.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities, or transactions from any provision of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice if further given that any interested person may, not later than December 7, 1972 at 5:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air-mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the Application herein may be issued by the Commission upon the basis of the information stated in said Application, unless an order for hearing upon said Application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of

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further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20433 Filed 11-28-72;8:47 am]

[File No. 500-1]

STIRLING HOMEX CORP.

Order Suspending Trading

NOVEMBER 21, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, the $2.40 cumulative convertible preferred stock, $1 par value, and all other securities of Stirling Homex Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 12 p.m., e.s.t., on November 21, 1972 through November 30, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20438 Filed 11-28-72;8:47 am]

[811-1854]

TAURSA FUND, INC.

Notice of Proposal To Terminate Registration

NOVEMBER 22, 1972.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 (Act), to declare by order upon its own motion that Taursa Fund, Inc. (Fund), c/o Warren Allen Smith, 94 Millport Avenue, New Canaan, CT 06840, a diversified, open-end management investment company registered under the Act, has ceased to be an investment company.

Fund registered under the Act by filing a Notification of Registration on form N-8A with the Commission on May 5, 1969. At that time, it had every intention of making a public offering of its securities. However, subsequent developments have precluded the Fund from completing its plans for such an offering, and its president has informed the Commission that the Fund has never made, nor does it propose to make, a public offering; that it has only 14 shareholders; that as of October 27, 1972 it had net assets aggregating $36,221.62; and that its portfolio will be liquidated and a final liquidating dividend will be paid by December 31, 1972.

Section 3(c)(1) of the Act excepts from the definition of an investment company any issuer whose outstanding securities are beneficially owned by not more than one hundred persons and which is not making and does not presently propose to make a public offering of its securities.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on its own motion, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that upon the effectiveness of such order, which may be issued upon the Commission's own motion where appropriate, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than December 20, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air-mail if the person being served is located more than 500 miles from the point of mailing) upon the Fund at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the matter herein may be issued upon the basis of the information stated herein, unless an order for hearing thereon shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20434 Filed 11-28-72;8:47 am]

[File No. 500-1]

TIDAL MARINE INTERNATIONAL CORP.

Order Suspending Trading

NOVEMBER 22, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.05 par value, and all other securities of Tidal Marine International Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 23, 1972 through December 2, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20436 Filed 11-28-72;8:47 am]

[File No. 500-1]

TOPPER CORP.

Order Suspending Trading

NOVEMBER 22, 1972.

The common stock, $1.00 par value of Topper Corp. being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Topper Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 25, 1972, through December 4, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20439 Filed 11-28-72;8:47 am]

SELECTIVE SERVICE SYSTEM

REGISTRANTS PROCESSING MANUAL

The Registrants Processing Manual is an internal manual of the Selective Service System. The following portions of that manual are considered to be of sufficient interest to warrant publication in the FEDERAL REGISTER. Therefore these materials are set forth in full as follows:

TEMPORARY INSTRUCTION 600-3

DISTRIBUTION OF REGISTRANT PROCESSING MANUAL

Due to the many instances of local board consolidation, relocation, and collocation now taking place, RPM chapters and revisions will continue to be distributed as they have been in the past, until further notice. You will be notified when the distribution schedule contained in Table No. 600-1 (October 1, 1972) of Chapter 600 of the RPM is to be implemented.

This temporary instruction will terminate on June 30, 1973.

Issued: November 20, 1972.

TEMPORARY INSTRUCTION No. 660-6

PROCESSING OF REGISTRANTS IN CLASS 1-O IN CONJUNCTION WITH THE OCTOBER, NOVEMBER, AND DECEMBER 1972 INDUCTION CALLS

1. The highest reached number for the year 1972 is established at RSN 095. (Reference § 1631.6 SSR, Chapter 631.6 RPM.)

2. *October 1972.* In conjunction with the October 1972 induction call, all fully available registrants in Class 1-O in the First Priority Selection Group, with RSN 095 or below, will be selected for alternate service in lieu of induction. Selection notices will be issued beginning September 1, 1972, and not later than September 29, 1972. (Reference Part 1660, SSR.)

3. *November 1972.* In conjunction with the November 1972 induction call, all fully available registrants in Class 1-O in the First Priority Selection Group, with RSN 095 or below, will be selected for alternate service in lieu of induction. Selection notices will be issued beginning October 2, 1972, and not later than October 30, 1972. (Reference Part 1660, SSR.)

4. *December 1972.* In conjunction with the December 1972 induction call, all fully available registrants in Class 1-O in the First Priority Selection Group, with RSN 095 or below, will be selected for alternate service in lieu of induction. Selection notices will be issued beginning November 1 and not later than November 30, 1972. (Reference Part 1660, SSR.)

The last day a 1-O registrant can be issued an SSS Form 153, with the exceptions listed below, is November 30, 1972, because the date of reporting for alternate service during December 1972, shall not be later than December 11, 1972. The exceptions are:

1. Postponed registrants whose postponements terminate in December.

2. Volunteers for alternate service.

3. Violators who are willing to commence alternate service in December.

These registrants may be ordered to commence alternate service during the period December 12 through 19 and December 26 through 28, 1972.

In the interests of equity, every available 1-O registrant, RSN 1-95, should be ordered to report for an assignment in accordance with the above schedule. (Reference Part 1660, SSR.)

5. Any registrant ordered for alternate service who attains the 26th anniversary of his date of birth prior to the date scheduled to report for alternate service shall have his order canceled. Accordingly, a notice of selection will not be issued to a registrant where his age exceeds 25 years and 9 months. (Reference § 1631.6(d)(7), SSR.)

This temporary instruction will terminate on December 29, 1972.

Issued: August 30, 1972.

Amended: November 2, 1972.

BYRON V. PEPITONE, *Acting Director.*

NOVEMBER 20, 1972.

[FR Doc.72-20480 Filed 11-28-72;8:51 am]

TARIFF COMMISSION

[AA1921-101]

WOOL AND POLYESTER/WOOL WORSTED FABRICS FROM JAPAN

Determination of No Injury or Likelihood Thereof

NOVEMBER 24, 1972.

The Treasury Department advised the Tariff Commission on August 25, 1972, that wool and polyester/wool worsted fabrics from Japan are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. In accordance with the requirements of section 201(a) of the Antidumping Act (19 U.S.C. 160(a)), the Tariff Commission instituted investigation No. AA1921-101 to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing was held October 24-27, 1972. Notice of the investigation and hearing was published in the FEDERAL REGISTER of September 1, 1972 (37 F.R. 17876).

In arriving at a determination in this case, the Commission gave due consideration to all written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, the Commission[1] has determined that an industry in the United States is not being or is not likely to be injured, or is not prevented from being established, by reason of the importation of wool and polyester/wool worsted fabrics from Japan sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

STATEMENT OF REASONS[2]

In this antidumping proceeding involving imports of wool and polyester/wool worsted fabrics from Japan we have made a negative determination.

In making such determination, we have considered the U.S. industry to consist of those facilities in the United States engaged in the production of wool and polyester/wool worsted fabrics.[3] In recent years such worsted fabrics have been produced by about a dozen firms, four of which accounted for more than 75 percent of total U.S. production in 1971.

Demand for both domestically manufactured and imported wool and polyester/wool worsted fabrics declined substantially from 1969 through the first 6 months of 1972. This decline was attributable at first to a decline in the production of men's suits and later to a shift in consumer preference to double-knit and textured polyester woven fabrics in suits and other men's and boys' outerwear, which constitute 90 percent of the market for worsted fabrics. These conditions in the U.S. marketplace caused a decline in the production of worsted fabrics, which was accompanied by an enormous increase in the production of double-knit and textured polyester woven fabrics, to a great extent by producers of the worsteds themselves.

Imports of wool and polyester/wool worsted fabrics from Japan—which the Treasury Department found were sold at less than fair value (LTFV) between November 1970 and May 1971—declined at a more rapid rate than did U.S. production. As a proportion of domestic consumption, such imports are at present barely half as large as they were in 1969.

The decline in domestic production of worsted fabrics occurred not only in the production of the higher priced fabrics of plied yarns used primarily in men's suits—like nearly all the LTFV imports—but also in that of fabrics of single and coarser yarns used principally in slacks and sport jackets. Moreover, the loss in sales by the U.S. manufacturers in 1970 and 1971 occurred earliest and with greatest impact among domestic producers of the less expensive worsted fabrics, which were least affected by competition from Japanese imports and were most exposed to replacement by double-knit fabrics.

The Japanese worsted fabrics found to have been sold at LTFV were generally priced well above domestic worsted fabrics, and the differential actually widened between 1969 and July 1972 as the price of the Japanese worsted fabrics increased and the price of the domestic worsted fabrics declined. The decline in the price of the domestic worsteds, moreover, was not confined to those of plied yarns, like the imported fabrics, but occurred in those of single yarns, most of which were sold to different customers and used in different articles of apparel. All of the evidence available to the Commission indicates that the price reduction (or the absence of a price increase)

[1] Vice Chairman Parker and Commissioner Young did not participate in the decision.

[2] Commissioner Abiondi concurs in the result.

[3] In the opinion of Commissioner Leonard, there is a question whether the industry, as defined above, should not include facilities used by the same firms in the production of double-knit and textured polyester fabrics, which have largely replaced wool and polyester/wool worsteds in men's and boys' outerwear during the last 2 years.

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by the U.S. industry in this period was attributable to the competition of double-knit fabrics and not to the imports from Japan sold at less than fair value.

The decline in the demand for worsted fabrics resulted in the closing of worsted plants and in reduced corporate profits and actual losses. Beginning in the latter half of 1971 there was a strong improvement in the operating experience of leading producers, as a result of their growing shift to double-knits, textured polyester, and other fabrics for which there was an active demand. By the fall of 1972, after more than half of the worsted manufacturing capacity had been dismantled or converted to other use, there was renewed demand for worsteds. The remaining capacity of the largest producer was operating 6 days a week, and prices of domestic worsted fabric for delivery in the 1972–73 season ranged 15 to 35 percent above those in the year before.

Four separate industries are alleged by representatives of domestic producers to be injured by importation from Japan of fabric covered by the Treasury determination. These are the industry producing the fabric itself, that producing the yarn of which the fabric is made, that producing the wool top used in the yarn, and that dyeing the top, yarn, or woven fabric.

On the basis of the facts which have been stated, we conclude that the U.S. industry producing the fabrics is not being, or is not likely to be, injured by reason of imports of wool and polyester/wool worsted fabrics from Japan. We also conclude that the industries serving that industry are not being, or are not likely to be, injured by such imports.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.72-20516 Filed 11-28-72;8:54 am]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH STATISTICS

Notice of Meeting

The BRAC Committee on Occupational Safety and Health Statistics will meet at 10 a.m., December 4, 1972, at the General Accounting Office Building, 441 G Street NW., Room 4454, Washington, DC. Agenda for the meeting follow:

1. Annual Survey Status.
2. Statistical Grant Agency Progress.
3. Response Analysis Survey.
4. Expenditures on Training and Equipment.
5. Revision of the Recordkeeping System.

Signed at Washington, D.C., this 22d day of November 1972.

GEOFFREY H. MOORE, *Commissioner of Labor Statistics.*

[FR Doc.72-20514 Filed 11-28-72;8:53 am]

LABOR RESEARCH ADVISORY COUNCIL

Committee on Industrial Safety

The Labor Research Advisory Council Committee on Industrial Safety will meet at 10 a.m., December 13, 1972 in Room 4535, General Accounting Office Building, 441 G Street NW., Washington, D.C. Agenda for the meeting follows:

1. Annual Survey Status.
2. Statistical Grant Agency Progress.
3. Response Analysis Survey.
4. Expenditures on Training and Equipment.
5. Revision of the Recordkeeping System.

It is suggested that persons planning to attend this meeting as observers contact Joseph P. Goldberg, Executive Secretary, Labor Research Advisory Council on (Area Code 202) 961-2247.

Signed at Washington, D.C., this 17th day of November 1972.

GEOFFREY H. MOORE, *Commissioner of Labor Statistics.*

[FR Doc.72-20425 Filed 11-28-72;8:46 am]

Occupational Safety and Health Administration

ADVISORY COMMITTEE ON AGRICULTURE—ROLLOVER PROTECTIVE STRUCTURES

Notice of Meeting; Request for Information

Notice is hereby given that the Rollover Protective Structure Subcommittee of the Standards Advisory Committee on Agriculture, established under section 7 (b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 656), will meet on Tuesday, December 19, and Wednesday, December 20, 1972, at the Institute of Agricultural Medicine, Oakdale Campus, University of Iowa, Oakdale, Iowa 52241.

The Subcommittee will consider what advice is to be given to the Assistant Secretary for Occupational Safety and Health on a new standard concerning rollover protective structures on vehicles used in agricultural operations. The Subcommittee invites interested persons to submit information on the following aspects of rollover protective structures and related issues which will serve as the agenda for the meeting:

1. The nature and extent of farm tractor overturns;

2. The effectiveness of protective frames and protective cabs in eliminating or reducing injury from overturns;

3. Any problems involved in the use of tractors equipped with protective frames or cabs, and means of solving such problems while, at the same time, protecting the operators of the tractors;

4. Whether any requirements for rollover protective structures are feasible for tractors presently in use.

Such information should be submitted in writing prior to December 8, 1972, and should be addressed to Mr. Charles E. Wilson, Attention: ROPS Subcommittee, Room 308, Railway Labor Building, 400 First Street NW., Washington, DC 20210. Documents submitted to the Subcommittee in response to this notice shall comprise part of the record of the Subcommittee proceedings under 29 CFR 1912.33.

This meeting shall be open to the public.

Signed at Washington, D.C., this 22d day of November 1972.

G. C. GUENTHER, *Assistant Secretary of Labor.*

[FR Doc.72-20479 Filed 11-28-72;8:55 am]

INTERSTATE COMMERCE COMMISSION

[Notice 125]

ASSIGNMENT OF HEARINGS

NOVEMBER 24, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 115311 Sub 134, J&M Transportation Co., Inc., now being assigned hearing February 5, 1973 (2 weeks), at Atlanta, Ga., in a hearing room to be later designated.

MC-F-11589, Jim Tiona, Jr.—purchase (portion)—Monkem Co., Inc., now being assigned hearing January 29, 1973 (2 days), at Kansas City, Mo., in a hearing room to be later designated.

MC-F-11502, Holmes Freight Lines, Inc.—control—Byers Transportation Co., Inc., and Commercial Freight Lines, Inc., now being assigned hearing January 31, 1973 (3 days), at Kansas City, Mo., in a hearing room to be later designated.

MC 42011 Sub 10, D. Q. Wise & Co., Inc., now being assigned hearing February 5, 1973 (2 days), at Kansas City, Mo., in a hearing room to be later designated.

MC 35629 Sub 334, Interstate Motor Freight System, now being assigned hearing February 7, 1973 (3 days), at Kansas City, Mo., in a hearing room to be later designated.

MC-117565 Sub 30, Motor Service Co., Inc., now assigned December 6, 1972, at Louisville, Ky., is canceled and application dismissed.

MC 119777 Sub 208, Ligon Specialized Hauler, Inc., now being assigned hearing January 15, 1973 (2 weeks), at Tampa, Fla., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-20502 Filed 11-28-72;8:52 am]

[Notice 32]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

NOVEMBER 24, 1972.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation routes herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC-1515 (Deviation No. 636) (Cancels Deviation No. 623), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, OH 44113, filed November 14, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From Savannah, Ga., over Interstate Highway 16 to junction Interstate Highway 95, thence over Interstate Highway 95 to junction U.S. Highway 16, approximately 1 mile south of Richmond Hill, Ga., and (2) from junction Interstate Highway 95 and U.S. Highway 17, approximately 1 mile south of Newport, Ga., over Interstate Highway 95 to Junction U.S. Highway 25, thence over U.S. Highway 25 to Brunswick, Ga., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: between Savannah, Ga., and Brunswick, Ga., over U.S. Highway 17.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-20506 Filed 11-28-72;8:53 am]

[Notice 34]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

NOVEMBER 24, 1972.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-525 (Deviation No. 1), BAY TRANSPORTATION CO., INC., Post Office Box 2268, Dothan, AL 36301, filed November 9, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between Columbus, Ga., and Dothan, Ala., over U.S. Highway 431, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Dothan, Ala., over Alabama Highway 52 to the Alabama-Georgia State line, thence over Georgia Highway 62 to junction U.S. Highway 27, thence over U.S. Highway 27 to Columbus, Ga., and return over the same route.

No. MC-48958 (Deviation No. 42), ILLINOIS-CALIFORNIA EXPRESS, INC., Post Office Box 9050, Amarillo, TX 79105, filed November 15, 1972. Carrier's representative: Morris G. Cobb, same address as applicant. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Fort Worth, Tex., over U.S. Highway 180 to junction U.S. Highway 183, thence over U.S. Highway 183 to junction Interstate Highway 20 (U.S. Highway 80), thence over Interstate Highway 20 (U.S. Highway 80), to Abilene, Tex., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Wichita Falls, Tex., over U.S. Highway 281 to Jacksboro, Tex., thence over Texas Highway 199 to Fort Worth, Tex., thence over U.S. Highway 80 to Dallas, Tex., (2) from Jacksboro, Tex., over Texas Highway 199 to Seymour, Tex., thence over U.S. Highway 283 to the Texas-Oklahoma State line, (3) from Olney, Tex., over Texas Highway 199 to Jean, Tex., thence over Texas Farm or Ranch Road 1769 to junction Texas Highway 24, thence over Texas Highway 24 to Graham, Tex., (4) from New Castle, Tex., over Texas Highway 24 to Throckmorton, Tex., (5) from Abilene, Tex., over Texas Highway 351 to junction U.S. Highway 180, thence over U.S. Highway 180 to Albany, Tex., thence over U.S. Highway 283 to Throckmorton, Tex., and (6) from Graham, Tex., over Texas Highway 24 to New Castle, Tex., thence over Texas Highway 251 to Olney, Tex., thence over Texas Highway 79 to Wichita Falls, Tex., and return over the same routes.

No. MC-61788 (Deviation No. 2), GEORGIA FLORIDA ALABAMA TRANSPORTATION COMPANY, Post Office Box 2268, Dothan, AL 36301, filed November 10, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Dothan, Ala., over U.S. Highway 231 to junction Interstate Highway 10, thence over Interstate Highway 10 (using U.S. Highway 90 pending completion of any unfinished portions of Interstate Highway 10) to Pensacola, Fla., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Dothan, Ala., over Alabama Highway 52 to Opp, Ala., thence over U.S. Highway 331 to the Alabama-Florida State line, thence over Florida Highway 85 to Crestview, Fla., thence over U.S. Highway 90 to Pensacola, Fla., and return over the same route.

No. MC-71459 (Deviation No. 2), O. N. C. FREIGHT SYSTEM, 2800 West Bayshore Road, Palo Alto, CA 94303, filed November 9, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction U.S. Highway 70 and 666, near Safford, Ariz., over U.S. Highway 666 to junction Interstate Highway 10, thence over Interstate Highway 10 to junction U.S. Highway 180, at Deming, N. Mex., and return

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over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Phoenix, Ariz., over U.S. Highway 70 to junction New Mexico Highway 90, at or near Lordsburg, N. Mex., thence over New Mexico Highway 90 to Silver City, N. Mex., and (2) from Silver City, N. Mex., over U.S. Highway 180 to Deming, N. Mex., thence over U.S. Highway 80 (Interstate Highway 10) to junction U.S. Highway 180 (Interstate Highway 10), thence over U.S. Highway 180 to El Paso, Tex., and return over the same routes.

No. MC–71459 (Deviation No. 3), O. N. C. FREIGHT SYSTEM, 2800 West Bayshore Road, Palo Alto, CA 94303, filed November 15, 1972. Carrier proposes to operate as *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Portland, Oreg., over U.S. Highway 26 to junction U.S. Highway 97, thence over U.S. Highway 97 to junction Oregon Highway 58, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Portland, Oreg., over U.S. Highway 99–E to junction U.S. Highway 99, (Interstate Highway 5), thence over U.S. Highway 99 to junction Oregon Highway 164 at a point north of Jefferson, Oreg., thence over Oregon Highway 164 to junction U.S. Highway 99 at a point south of Jefferson, Oreg., thence over U.S. Highway 99 to Medford, Oreg., and (2) from Klamath Falls, Oreg., over U.S. Highway 97 to junction Oregon Highway 232 (south of Fort Klamath), thence over Oregon Highway 232 to junction U.S. Highway 97 (north of Lenz, Oreg.), thence over U.S. Highway 97 to junction Oregon Highway 58, thence over Oregon Highway 58 to Goshen, Oreg., and return over the same routes.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-20507 Filed 11-28-72;8:53 am]

[Notice 96]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

NOVEMBER 24, 1972.

The following publications[1] are governed by the new § 1100.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

[1] Except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality or the human environment resulting from approval of its application.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 135652 (Sub-No. 1) (Republication) filed June 1, 1971, published in the FEDERAL REGISTER issue of July 15, 1971, and republished this issue. Applicant: SERVICE TRANSFER, INC., 4557 Princess Anne Road, Virginia Beach, VA 23462. Applicant's representative: L. C. Major, Jr., Suite 301, Tavern Square, 421 King Street, Alexandria, VA 22314. An Order of the Commission, Division 1, Acting as an Appellate Division, dated November 2, 1972, and served November 16, 1972, finds: (a) the proposed operation to be that of a *common carrier* by motor vehicle, and that the said application, therefore, to the extent it seeks *contract carrier* authority should be denied; and (b) that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes (1) Of *general commodities* (except commodities in bulk), in containers or in trailers having a prior or subsequent movement by water, and (2) of *empty containers, trailers,* and *chassis,* between points in a territory consisting of the commercial zones of Norfolk, Portsmouth, Hampton, Virginia Beach, Newport News, and Chesapeake, Va., restricted in (1) and (2) to the transportation of traffic moving through the facilities utilized by United States Lines; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. NOTE: The authority granted herein for the transportation of dangerous explosives, shall be limited, in point of time, to a period expiring 5 years from the effective date of the certificate. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

NOTICES FOR FILING OF PETITIONS

No. MC 3256 (Sub-No. 2) (Notice of Filing of Petition To Add a Shipper), filed November 14, 1972. Petitioner: BURKHAM BROTHERS, INC., 385 Route No. 22, Hillside, NJ 07205. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Petitioner presently holds a permit in No. MC 3256 (Sub-No. 2) authorizing operation as a contract carrier, by motor vehicle, over irregular routes, transporting: *Paper, paper products, and products* used in the manufacture of paper (except liquid commodities, in bulk, and commodities which, because of size or weight, require the use of special equipment), between Hillside, N.J., on the one hand, and, on the other, points in that part of the New York, N.Y., commercial zone as defined in *Commercial Zones and Terminal Areas*, 54 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Act (the "exempt" zone), points in Nassau, Suffolk, Orange, Rockland, and Westchester Counties, N.Y., points in New Jersey, Philadelphia, Pa., and points in Fairfield County, Conn. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with Federal Paper Board Co., Inc., of New York, N.Y. By the instant petition, petitioner seeks to add Rothesay Shipping, Ltd., at New Brunswick, Canada, as an additional shipper to the permit described above. Any interested person desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC–87720 (Sub-No. 83) (Notice of Filing of Petition for Modification of Commodity Description), filed August 28, 1972. Petitioner: BASS TRANSPORTATION COMPANY, INC., Post Office Box 391, Flemington, NJ 08822. Petitioner's representative: Bert Collins, 140 Cedar Street, New York NY 10006. Petitioner holds a permit in No. MC–87720 (Sub-No. 83), which reads as follows: Irregular routes: *Plastic pellets or granules and powder, and plastic scrap,* (a) between points in Bergen, Essex, Middlesex, and Union Counties, N.J., on the one hand, and, on the other, points in that part of Pennsylvania, on and east of a line beginning at the Pennsylvania-Maryland State line and extending along unnumbered highway (formerly portion U.S. Highway 111) through Shrewsbury and Jacobus, Pa., to junction Interstate Highway 83, thence along Interstate Highway 83 through York, Pa., to junction unnumbered highway (formerly portion U.S. Highway 111), thence along unnumbered highway to junction Pennsylvania Highway 295, thence along Pennsylvania Highway 295 through Zions View and Strinestown, Pa., to junction Interstate Highway 83, thence along Interstate Highway 83 through Lemoyne, Pa., to junction unnumbered highway (formerly portion U.S. Highway 111), thence along unnumbered highway to junction U.S. Highway 15, near Harrisburg, Pa., and thence along U.S. Highway 15, near Harrisburg, Pa., and thence along U.S. Highway 15 to the Pennsylvania-New York State line; (b)

between points in Bergen, Essex, Hunterdon, Middlesex, and Union Counties, N.J., on the one hand, and, on the other, points in Connecticut, Massachusetts, New York, and Rhode Island, under a continuing contract or contracts with Tenneco, Inc., of Piscataway, N.J. By the instant petition, petitioner requests that its permit be modified to authorize the transportation of *chemicals* in lieu of *plastic pellets or graules and powder, and plastic scrap.* Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 126600 and (Sub-Nos. 1 and 5) (Notice of Filing of Petition To Add a Shipper), filed October 18, 1972. Petitioner: EHRSAM TRANSPORT, INC., 108 North Factory, Enterprise, KS 67441. Petitioner's representative: Mr. Robert Storey, Garland House Building, 820 Quincy Street, Topeka, KS 66612. Petitioner presently holds permits in No. MC 126600 and (Sub-Nos. 1 and 5) issued August 3, 1965, August 21, 1967, and October 8, 1970, respectively, authorizing operation as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) In No. MC 126600, *Materials handling and processing equipment, elevator equipment, power transmission equipment, foundry castings, and materials and supplies* used in the manufacture of such commodities (except commodities the transportation of which because of their size or weight require the use of special equipment), and except commodities in bulk), between Enterprise, Wichita, and Clay Center, Kans., on the one hand, and, on the other, points in the United States, including Alaska, but excluding Hawaii, under a continuing contract, or contracts, with Combustion Engineering, Inc., Ehrsam Wichita Foundry, Inc., and Ehrsam, Inc.; (2) in No. MC 126600 (Sub-No. 1), *Forest products and lumber products* (except in bulk), and *agricultural commodities* (not including manufactured products thereof) as defined in section 203(b)(6) of the Interstate Commerce Act when transported in the same vehicle and at the same time with forest products and lumber products (except in bulk), from points in Washington, Oregon, Idaho, California, and Arizona, to points in Kansas, Missouri, Oklahoma, and Texas, with no transportation for compensation on return, except as otherwise authorized, under a continuing contract, or contracts, with Combustion Engineering, Inc.; and (3) in No. MC 126600 (Sub-No. 5), *Materials handling and processing equipment, elevator equipment, power transmission equipment, foundry castings, and materials and supplies* used in the manufacture of such commodities, except in bulk, between Concordia, Kans., on the one hand, and, on the other, points in the United States, and the District of Columbia, except Alaska, Hawaii, and Cushing, Okla., under a continuing contract, or contracts, with Combustion Engineering, Inc. By the instant petition, petitioner seeks to add North Central Foundry, Inc., as an additional shipper to its above-listed permits, resulting from the sale of the foundry portion of Combustion Engineering's Enterprise, Kans., facility to North Central Foundry, Inc. Any interested person desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240.)

MOTOR CARRIERS OF PROPERTY

No. MC–F–11721. Authority sought for purchase by A. RICHNER, INC., doing business as RICHNER, INC., Post Office Box 1488, Durango, CO 81301, of a portion of the operating rights and property of (1) DON WARD, INC., 241 West 56th Avenue, Denver, CO 80216, and of the operating rights and property of (2) RICHNER, INC., also of Durango, Colo. 81301, and for acquisition by BOYD E. RICHNER, 305 Fourth Avenue, Durango, CO 81301, of control of such rights and property through the purchase. Applicants' attorney: Peter J. Crouse, 1700 Western Federal Building, Denver, CO 80202. Operating right sought to be transferred: (1) *Sulphuric acid,* in bulk, in tank vehicles, as a *common carrier* over irregular routes, from Garfield, Utah, to Maybell, Colo., from Garfield and Thompson, Utah, to Slick Rock, Colo., from Rico, Colo., to Monticello, Utah, from points within 25 miles of Grants, N. Mex. (not including Grants), to points in Colorado of the Continental Divide, from Riverton, Wyo., and points within 5 miles thereof, and Rifle, Colo., to Maybell, Colo., and points within 10 miles thereof, from Grand Junction, Colo., to Uravan, Colo.; *vanadium liquor,* in bulk, in tank vehicles, between points in McKinley and Valencia Counties, N. Mex., on the one hand, and, on the other, Salt Lake City, Utah, and points in La Plata, Mesa, and Montrose Counties, Colo., from the facilities of United Nuclear-Homestake Partners near Grants, N. Mex., to points in Garfield County, Colo.; (2) *soda ash,* as a *common carrier* over regular routes, from the site of the Westvaco plant near Green River, Wyo., to the plantsite of the Vanadium Corp of America at Durango, Colo., from the site of the Westvaco plant near Green River, Wyo., to the plantsite of the Vanadium Corp. of America at Naturita, Colo., serving no intermediate points; *soda ash,* over irregular routes, from the site of the Westvaco plant near Green River, Wyo., to Shiprock, N. Mex., and Moab and Monticello, Utah, and points within 5 miles of each; *soda ash,* in bags, from the site of the Westvaco Chemical Co. plant near Green River, Wyo., to Uravan, Colo.; *soda ash,* in bulk, from the site of the Westvaco Chemical Co. plant near Green River, Wyo., to Grand Junction, Uravan, and Gunnison, Colo., the site of Phillips Petroleum and Chemical Co. plant about 24 miles northwest of Grants, N. Mex., and the site of the Homestake of New Mexico Partners plant near Grants, N. Mex.; *soda ash,* in bulk, in tank-type vehicles, from Thompson and Crescent Junction, Utah, and Grand Junction, Colo., to Uravan, Colo. and to the plantsite of the Vanadium Corp. of America, at or near Durango, Colo., with restriction; ore concentrates, in containers, from points in McKinley and Valencia Counties, N. Mex., within 30 miles of Grants, N. Mex., to the site of the plant of the Atomic Energy Commission located approximately 4 miles from Grant Junction, Colo.; *uranium and vanadium ores,* in bulk, from points within 175 miles of Monticello, Utah, to Naturita and Durango, Colo.; *mining supplies and equipment,* between points within 175 miles of Monticello, Utah, on the one hand, and, on the other, Durango, and Naturita, Colo. Vendee is a noncarrier and holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

NOTICE

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY (hereinafter "CNW"), SOO LINE RAILROAD COMPANY (hereinafter "Soo Line"), and the CITY OF WISCONSIN RAPIDS (hereinafter "City") hereby give notice that on the 30th day of October 1972, they filed with the Interstate Commerce Commission at Washington, D.C., an application for approval of an agreement between the CNW and the Soo Line for: (1) Joint ownership and operation over track to be constructed by the city of Wisconsin Rapids approximately 0.61 mile (3,240 feet) in length; (2) for approval of joint operations over other tracks within the city of Wisconsin Rapids owned by the Soo Line or by the CNW 1.90 miles (10,075 feet) in length. Total distance of the proposed joint operation over a line of railroad is 2.52 miles (13,315 feet). The only station involved is the city of Wisconsin Rapids in Wood County, Wis. The proposed joint operation and relocation of operation has been filed to facilitate urban renewal projects funded by the Federal Government in connection with Department of Housing and Urban Development Loan and Contract No. Wisconsin A–2 (LG). This application has been assigned Finance Docket No. 27224. The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission no later than 30 days from the

date of first publication in the FEDERAL REGISTER.

Correspondence in regard to this matter should be addressed to Stuart F. Gassner, Chicago and North Western Transportation Co., 400 West Madison Street, Chicago, IL 60606; Robert G. Gehrz, Soo Line Railroad Co., 804 Soo Line Building, Minneapolis, Minn. 55440; John D. Varda, City Attorney, City of Wisconsin Rapids, Wisconsin Rapids, Wis. 54494, and Herro, McAndrews & Porter, S.C., 121 South Pinckney Street, Madison, WI 53703.

In the opinion of the applicants, the Commission's action requested in the application will not have any significant impact upon and will not significantly affect the quality of the human environment.

NOTICE

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, 516 West Jackson Boulevard, Chicago, IL 60606, and its attorney, Warren H. Ploeger, 609 White Building, Seattle, Wash. 98101, hereby give notice that on the 13th day of October 1972, an application was filed with the Interstate Commerce Commission at Washington, D.C., for approval and authorization to acquire trackage rights over and joint use of a line of railroad owned and operated by Burlington Northern, Inc., between Dryad Junction and Raymond, in Lewis and Pacific Counties, State of Washington, a distance of 36.7 miles. The applicant states that no change in service to the public is involved. This application has been assigned Finance Docket No. 27209. In the opinion of the applicant, the proposed transaction will have no effect upon the quality of the human environment. The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission no later than 30 days from the date of first publication in the FEDERAL REGISTER.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-20505 Filed 11-28-72;8:53 am]

[No. W-C-22]

PORT ROYAL MARINE CORP.

Declaratory Order Regarding "LASH" Towage Operations

NOVEMBER 20, 1972.

At the request of Mr. Ralph Rugan, Jr., representative of Biehl & Co., Inc., the time for filing representations in this proceeding has been extended from November 27, 1972, to January 10, 1973, only.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-20504 Filed 11-28-72;8:53 am]

[No. MC-10622]

YOSEMITE PARK AND CURRY CO.

Proposed Discontinuance of Service

It appearing, that applicant doing business as Yosemite Transportation System, holds Certificate No. MC-10622 authorizing the transportation of passengers from and to the points and in the manner set forth below:

It further appearing, that by request filed February 28, 1972, applicant asks that a portion of the said certificate as set forth in the appendix below be revoked for the reason that the proposed operation will be more economical;

It further appearing, that the said request for revocation properly may not be given consideration until such time as the affected members of the public have been given notice thereof and an opportunity to express their positions thereon; and good cause appearing therefor:

It is ordered, That within 30 days of the service date of this order, applicant shall submit to this Commission written proof that notice of the proposed discontinuance of service together with a facsimile of this order (a) has been posted for 7 consecutive days in all buses presently operated over the route sought to be abandoned, and (b) has been published for 6 consecutive days in newspapers of general circulation in Douglas County, Nev., and Mono County, Calif.

It is further ordered, That within 45 days of the service date of this order any person-in-interest may submit to this Commission its written statement, verified under oath as to why it believes that portions of Certificate No. MC-10622 set forth in the appendix below should not be revoked.

It is further ordered, That further consideration of this matter be, and it is hereby, deferred until expiration of the time period for filing of written statements.

It is further ordered, That notice of the request for revocation and of this order be published in the FEDERAL REGISTER.

It is further ordered, That a copy of this order be served upon the Nevada Public Service Commission and California Public Service Commission.

Dated at Washington, D.C., this 21st day of August 1972.

By the Commission, Commissioner Murphy.

[SEAL] ROBERT L. OSWALD, *Secretary.*

APPENDIX

AUTHORITY HELD AND PORTION SOUGHT TO BE REVOKED [1]

[No. MC-10622]

Regular routes: Passengers and their baggage, in the same vehicles with passengers, in seasonal operations extending from July 1 to September 15, both dates inclusive, of each year,

Between Stateline, Nev., and Tioga Pass entrance to Yosemite National Park, Calif., serving all intermediate points:

"From Stateline over U.S. Highway 50 via Spooners Junction, Nev., to junction U.S. Highway 395, at or near Stewart, Nev., thence over U.S. Highway 395 to Lee Vining, Calif.," and thence over California Highway 120 to the Tioga Pass entrance to Yosemite National Park, and return over the same route.

RESTRICTION: The authority granted herein is restricted to the transportation of passengers moving to or returning from Yosemite National Park, Calif.

[FR Doc.72-20503 Filed 11-28-72;8:52 am]

[Notice 156]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 20, 1972.

The following are notices of filing of applications [1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 52673 (Sub-No. 30 TA), filed October 31, 1972. Applicant: FRED OLSON MOTOR SERVICE COMPANY, 6022 West State Street, Post Office Box 7265, Milwaukee, WI 53213. Applicant's representative: Allan B. Torhorst, Post Office Box 307, Burlington, WI 53105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pellets*, in bulk, in tank vehicles, from Chicago, Ill. (except points within the Indiana portion of the Chicago commercial zone), to Baraboo, Wis., for 180 days. Supporting shippers: Flambeau Plastics Corp., Baraboo, Wis. 53913 (Charles Frank, Plant Manager); Klein Industries, Inc., 715 Lynn Avenue, Baraboo, WI 53913 (Paul Swain, Vice President); Teel Plastics Co., Inc., 426 Hitchcock Street, Baraboo, WI 53913 (Oscar Fillhouer, Purchasing Agent). Send protests to: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 61825 (Sub-No. 55 TA), filed November 2, 1972. Applicant: REDSTONE TRANSFER CORPORATION (Va. Public Service Corp), V. C. Drive, Box 385, Collinsville, VA 24078. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating materials, mineral wool and mineral wool products*, from Mountaintop, Luzerne County, Pa., and Williamstown Junction, N.J., to points in Kentucky, for 180 days. Supporting shipper: Certain-Teed Saint Gobain Insulation Corp., Valley Forge, Pa. 19481. Send protests to: Clatin M. Harmon, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 215 Campbell Avenue SW., Roanoke, VA 24011.

No MC 119241 (Sub-No. 7 TA), filed October 31, 1972. Applicant: PCP TRANSPORTATION COMPANY (Calif. Corp), 9500 South Norwalk Boulevard, Santa Fe Springs, CA 90670. Applicant's representative: Warren N. Grossman, 606 South Olive Street, 825 City National Bank Building, Los Angeles, CA 90014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Prestressed concrete modules*, 60 feet in length, from Azusa, Calif., to Las Vegas, Nev., under contract with Conrad Constructors, for 180 days. Supporting shipper: Conrad Constructors, 14656 Oxnard Street, Van Nuys, CA 91401. Send protests to: John E. Nance, Officer-in-Charge, Interstate Commerce Commission, Bureau of Operations, Room 7708, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 119934 (Sub-No. 186 TA), filed October 31, 1972. Applicant: ECOFF TRUCKING, INC., 625 East Broadway, Portville, IN 46040. Applicant's representative: J. F. Crouch (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn syrup*, from Penick & Ford loading station in Ponchatoula, La., to Magee, Miss., for 180 days. Supporting shipper: Penick & Ford Ltd., Post Office Box 448, Harvey, LA 70058. Send protests to: District Supervisor James W. Habermehl, Interstate Commerce Commission, Bureau of Operations, 802 Century Building, 36 South Pennsylvania Street, Indianapolis, IN 46204.

No. MC 123993 (Sub-No. 23 TA), filed November 2, 1972. Applicant: FOGLEMAN TRUCK LINE, INC., 1724 West Mill Street, Post Office Drawer 1504, Crowley, LA 70526. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn syrup, and blends of corn syrup, and liquid sugar*, from Southdown Sugars, Inc., Houma, La., to points in Alabama, Arkansas, Florida, Mississippi, Tennessee, and Texas, for 180 days. Supporting shipper: Southdown Sugars, Inc., Eighth Floor, Odeco Building, Post Office Box 52378, New Orleans, LA 70150. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Interstate Commerce Commission, T-9038, Federal Building, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 128114 (Sub-No. 1 TA), filed October 30, 1972. Applicant: PAUL E. SAVAGE, doing business as SAVAGE TRANSPORTATION CO., Building 141, Pasco Airport, Pasco, WA 99302. Applicant's representative: Richter, Wimberley & Ericson, Old National Bank Building, Spokane, Wash. 99201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed and feed ingredients*, from points in Benton, Kittitas, Walla Walla, and King Counties, Wash., to points in the counties of Morrow, Umatilla, Marion, Wallowa, Union, Baker, and Malheur, Oreg.; and the counties of Nez Perce, Lewis, Idaho, Latah, Benewah, and Kootenai, Idaho, for 180 days. Supporting shipper: Western Feed Supplements, Northwest, Inc., 303 North Fruitland, Kennewick, Wash. 99336. Send protests to: L. D. Boone, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6049 Federal Office Building, Seattle, Wash. 98104.

No. MC 128383 (Sub-No. 20 TA), filed November 2, 1972. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, PA 19079. Applicant's representative: James W. Paterson, 123 South Broad Street, Philadelphia, PA 19109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, and commodities the transportation of which, because of size or weight require the use of special equipment), having a prior or subsequent movement by air, between John F. Kennedy International Airport, New York, N.Y., and Newark Airport, Newark, N.J., on the one hand, and, on the other, the facilities of Outlander Group, Ltd., in Coplay, Pa., for 180 days. Supporting shippers: Taub Hummel & Schnall, Inc., One World Trade Center, Suite 2427, New York, N.Y. 10048; Outlander Group, Ltd., 5256 North Second Street, Coplay, PA 18037. Send protests to: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 133788 (Sub-No. 5 TA), filed November 2, 1972. Applicant: E Z MESSENGER SERVICE, INC., 61 Voorhis Lane, Hackensack, NJ 07601. Applicant's representative: Bowes & Millner, 744 Broad Street, Newark, NJ 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Materials, equipment, and supplies* used in the manufacture of or used by personnel while engaged in the manufacture of cosmetics and toiletries limited to shipments not exceeding 350 pounds per shipment, from Lakewood, N.J.; Bergen, Passaic, Hudson, Morris, Middlesex, Monmouth, Somerset, Union, Warren, and Essex Counties, N.J.; Nassau and Suffolk Counties, N.Y.; New York, N.Y. Oaks, Lafayette Hill, Chadds Ford, and Philadelphia, Pa.; Bridgeport, Wallingford, Naugatuck, and Waterbury, Conn.; to Suffern, N.Y.; (2) *Materials and supplies* used in the manufacture of cosmetics and toiletries limited to shipments in drums not exceeding 450 pounds per shipments, from Hazel, N.J., to Hillburn and Suffern, N.Y.; and (3) *toilet preparations*, not exceed 350 pounds per shipment, from Suffern, N.Y., to Newark, Del., for 180 days. Supporting shipper: Avon Products, Inc., 9 West 57th Street, New York, NY 10019. Send protests to: District Supervisor Robert E. Johnston, Interstate Commerce Commission, Bureau of Operations, 970 Broad Street, Newark, NJ 07102.

No. MC 138158 TA, filed November 1, 1972. Applicant: BELL-MERCURY MESSENGER SERVICE, INC., 131 Pearl Street, Boston, MA 02210. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, MA 02203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Blood, urine, cultures, smears, human tissue, and animal tissue*, from points in Rhode Island to Boston, Mass., (2) *Printed laboratory reports*, from Boston, Mass., to points in Rhode Island, for 180 days. Supporting shipper: Roche Clinical Laboratories, Inc., 1 Fairfield Crescent, West Caldwell, NJ 07006. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, Bureau of Operations, John Fitzgerald Kennedy Federal Building, Room 2211-B, Government Center, Boston, Mass. 02203.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-20392 Filed 11-27-72;8:45 am]

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

[2] That portion of the authority sought to be revoked has been placed in quotation marks.

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WEDNESDAY, NOVEMBER 29, 1972

federal register

WEDNESDAY, NOVEMBER 29, 1972
WASHINGTON, D.C.
Volume 37 ■ Number 230
PART II

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

■

GEOTHERMAL RESOURCES

Leasing on Public, Acquired and Withdrawn Lands; Revision of Proposed Rule

No. 230—Pt. II——1

V 37 • 230 NOV 29 72 XUM

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Parts 3000, 3045, 3104, 3200]

GEOTHERMAL RESOURCES

Leasing on Public, Acquired and Withdrawn Lands; Revision of Proposed Rule

The purpose of the revision in the proposed rule making for implementing the Geothermal Steam Act of December 24, 1970 (30 U.S.C. 1001–1025), is to provide the public with the revisions to the leasing regulations planned as a result of the public hearings and comments received on the Draft Environmental Statement and previously published proposed rules (36 F.R. 13722). The Act provides for the leasing of public lands for the purpose of geothermal resource exploration, development and production.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested parties may submit written comments, suggestions, or objections with respect to the proposed regulations to the Geothermal Coordinator, Department of the Interior, Washington, DC 20240, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

A Final Environmental Statement will be issued in accordance with the provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) prior to promulgation of any leasing regulations.

1. Section 3000.0–5 of Subpart 3000, Chapter II, Title 43 of the Code of Federal Regulations is revised to read as follows:

§ 3000.0–5 Definitions.

As used in this subchapter:

(a) "Leasable minerals" means oil and gas. (1) Gas means any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at ordinary temperature and pressure conditions. (2) Oil or crude oil means any liquid hydrocarbon substance which occurs naturally in the earth, including drip gasoline or other natural condensates recovered from gas, without resort to manufacturing process.

(b) "Geothermal resources" means geothermal steam and associated geothermal resources which include: (1) All products of geothermal processes, embracing indigenous steam, hot water and hot brines; (2) steam and other gases, hot water and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations; (3) heat or other associated energy found in geothermal formations; and (4) any byproducts derived from them.

(c) "Byproduct" means (1) any mineral or minerals (exclusive of oil, hydrocarbon gas, and helium) which are found in solution or in association with geothermal steam and which have a value of less than 75 per centum of the value of the geothermal steam or are not, because of quantity, quality, or technical difficulties in extraction and production, of sufficient value to warrant extraction and production by themselves, and (2) commercially demineralized water.

(d) "Other leasable minerals" means (1) Coal, chlorides, sulphates, carbonates, borates, silicates, or nitrates of potassium and sodium; sulphur in the States of Louisiana and New Mexico; phosphate; and native asphalt, solid and semisolid bitumen and bituminous rock (including oil impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried), (2) Solid (hardrock) minerals; minerals in acquired lands which would be subject to location under the U.S. mining laws if located in the public domain lands.

(e) "Secretary" means the Secretary of the Interior or any person duly authorized to exercise the powers vested in that officer.

(f) "Director" means the Director of the Bureau of Land Management or any person duly authorized to exercise the powers vested in that officer.

(g) "State Director" means the Director of a Bureau of Land Management State office.

(h) "Authorized officer" means any person authorized by law or by lawful delegation of authority in the Bureau of Land Management to perform the duties described.

(i) "Proper BLM office" means the Bureau of Land Management office having jurisdiction over the leased lands or lands subject to lease.

(j) "Commercial quantities" means quantities sufficient to pay a profit after all costs of production have been met.

(k) "Public domain lands" means original public domain lands which have never left Federal ownership; also, lands in Federal ownership which were obtained by the Government in exchange for public lands or for timber on such lands; also original public domain lands which have reverted to Federal ownership through operation of the public land laws.

(l) "Acquired lands" means lands which the United States obtains by deed through purchase or gift, or through condemnation proceedings. They are distinguished from public domain lands in that acquired lands may or may not have been originally owned by the Government. If originally owned by the Government such lands have been disposed of (patented) under the public land laws and thereafter reacquired by the United States.

(m) "Other lands" (1) "Withdrawn lands." Lands which have been withdrawn and dedicated to public purposes. (2) "Reserved lands." Lands which have been withdrawn from disposal and dedicated to a specific public purpose. (3) "Segregated lands." Lands included in a withdrawal or in an application or entry which segregates them from operation of the public land laws.

2. Subpart 3045 of Chapter II, Title 43 of the Code of Federal Regulations is amended by substituting the words "oil and gas, or geothermal resources" for "oil and gas" wherever they appear throughout the subpart. As revised Subpart 3045 reads as follows:

Subpart 3045—Geophysical Exploration Operations (Oil and Gas or Geothermal Resources)

Sec.
- 3045.0–1 Purposes.
- 3045.0–5 Definitions.
- 3045.0–7 Cross references.
- 3045.1 Notice of intent to conduct oil and gas or geothermal resources operations.
- 3045.1–1 Application.
- 3045.2 Completion of operations.
- 3045.3 Bond requirements.

§ 3045.0–1 Purposes.

The purpose of the regulations in this Subpart 3045 is to establish procedures to be followed in conducting exploration of the public land for oil and gas or geothermal resources. For exploratory operations for other leasable minerals, the lease or permit required by the appropriate regulations must be secured. The regulations in this subpart are not applicable to exploration operations conducted pursuant to oil and gas or geothermal resources lease, and also are not applicable to the exploration of public domain lands for minerals subject to location under the U.S. mining laws.

§ 3045.0–5 Definitions.

For the purpose of the regulations in this subpart:

(a) "Oil and gas or geothermal resources exploration" means any activity relating to the search for evidence of oil and gas or geothermal resources which requires physical presence upon the land and which may result in damage to public lands or resources thereon. It includes, but is not limited to, geophysical operations, construction of roads and trails, and cross-country transit by vehicle over public domain. It does not include the casual use of public lands for oil and gas or geothermal resources exploration. It does not include core drilling for subsurface geologic information or drilling for oil and gas or geothermal resources; these activities will only be authorized by the issuance of an oil and gas or geothermal resources lease. The regulations in this subpart, however, are not intended to prevent drilling operations necessary for placing explosive charges for seismic exploration, nor do they affect the exclusive right to "drill" for oil and gas or geothermal resources by a lessee upon his leased premises.

(b) "Public lands" means lands owned by the United States and administered by the Bureau of Land Management. It does not include retained mineral interest in lands, title to which has passed from the United States.

(c) "Casual use" means activities that involve practices which do not ordinarily lead to any appreciable disturbance

or damage to lands, resources, and improvements. For example, activities which do not involve use of heavy equipment or explosives and which do not involve vehicle movement except over established roads and trails are "casual use."

§ 3045.1 Notice of intent to conduct oil and gas or geothermal resources operations.

§ 3045.1–1 Application.

(a) *Forms and where filed.* Any person desiring to conduct oil and gas or geothermal resources exploration operations under the regulations of this subpart shall, prior to entry upon the lands, file for approval with the authorized officer of the Bureau of Land Management for the district in which the public lands are located a "Notice of Intent to Conduct Oil and Gas or Geothermal Resources Exploration Operations," on a form approved by the Director.

(b) *Requirements.* The "Notice of Intent to Conduct Oil and Gas or Geothermal Resources Exploration Operations" will contain the following:

(1) The name and address, including zip code, both of the person, association, or corporation for whom the operations will be conducted and of the person who will be in charge of the actual exploration activities.

(2) A statement that the signers agree that exploration operations will be conducted pursuant to the terms and conditions listed on the approved form.

(3) A brief description of the type of operations which will be undertaken.

(4) A description of the lands to be explored, by township and range.

(5) Approximate date of commencement of operations.

§ 3045.2 Completion of operations.

Upon completion of the exploratory operations, there shall be filed with the District Manager a "Notice of Completion of Oil and Gas or Geothermal Resources Exploration Operations." Within 90 days after the filing of such "Notice of Completion," the District Manager shall notify the party who had conducted the operations whether all of the terms and conditions set out by the regulations in this subpart and in the "Notice of Intent to Conduct Oil and Gas or Geothermal Resources Exploration Operations" have been complied with, or whether any additional measures must be taken to rectify any damage to the land, specifying the nature and extent thereof.

§ 3045.3 Bond requirements.

§ 3045.3–1 General.

(a) Individual. Simultaneously with the filing of the Notice of Intent to Conduct Oil and Gas or Geothermal Resources Exploration Operations, and before the entry is made on the land, the party or parties filing the "Notice of Intent to Conduct Oil and Gas or Geothermal Resources Exploration Operations" must file with the District Manager a surety company bond in the amount of not less than $5,000, conditioned upon the full and faithful compliance, for each oil and gas or geothermal resources exploration operation, with all of the terms and conditions of the regulations in this subpart and of that notice.

(b) A party will be excused from compliance with the requirements of paragraph (a) of this section if he possesses either a nationwide bond in the amount of not less than $50,000 covering all oil and gas or geothermal resources exploration operations or a statewide bond in the amount of not less than $25,000 covering all oil and gas or geothermal resources exploration operations in the State in which the lands on which he has filed the Notice of Intent are situated.

§ 3045.3–2 Riders to existing bond forms.

(a) Nationwide and statewide bonds. Holders of nationwide and statewide oil and gas or Geothermal Resources lease bonds shall be permitted to amend their bonds to include exploration activities in lieu of furnishing additional bonds.

§ 3045.3–3 Termination of period of liability.

The District Manager will not give his consent to the cancellation of the bond if an individual bond was submitted, or to the termination of the period of liability if a State or nationwide bond was submitted, unless and until all of the terms and conditions of the "Notice of Intent to Conduct Oil and Gas or Geothermal Resources Exploration Operations" have been complied with. Should the District Manager or any other authorized officer of the Bureau of Land Management fail to notify the party within 90 days from the filing of "Notice of Completion" that all terms and conditions have been complied with or that additional corrective measures must be taken to rehabilitate the land, the period of liability under an individual bond or the period of liability for a particular oil and gas or geothermal resources exploration operation under a State or nationwide bond shall automatically terminate on the 91st day.

3. Sections 3104.9, 3104.9–1, and 3104.9–5 of Subpart 3104, Chapter II, Title 43 of the Code of Federal Regulations are deleted and the following is substituted therefor: Section 3104.9 *Exploration Bond* (see 43 CFR 3045.3).

4. A new Group 3200 is added to Chapter II, Title 43 of the Code of Federal Regulations to read as follows:

Group 3200—Geothermal Resources Leasing

PART 3200—GEOTHERMAL RESOURCES LEASING; GENERAL

Subpart 3200—Geothermal Resources Leasing; General

Sec.
- 3200.0–3 Authority.
- 3200.0–5 Definitions.
- 3200.0–6 Preleasing procedures.
- 3200.0–7 Cross reference.
- 3200.0–8 Use of surface.

Subpart 3201—Available Lands; Limitations; Unit Agreements

Sec.
- 3201.1 Lands subject to geothermal leasing.
- 3201.1–1 General.
- 3201.1–2 Department of the Interior.
- 3201.1–3 Department of Agriculture.
- 3201.1–4 Federal Power Commission.
- 3201.1–5 Patented lands.
- 3201.1–6 Excepted areas.
- 3201.2 Acreage limitations.
- 3201.3 Leases within unit areas.

Subpart 3202—Qualifications of Lessees

- 3202.1 Who may hold leases.
- 3202.2 Statements required to be submitted.
- 3202.2–1 General.
- 3202.2–2 Guardian or trustee.
- 3202.2–3 Attorney-in-fact.
- 3202.2–4 Evidence previously filed.
- 3202.2–5 Showing as to sole party in interest.
- 3202.2–6 Heirs and devisees (estates).

Subpart 3203—Leasing Terms

- 3203.1 Primary and additional term.
- 3203.1–1 Dating of leases.
- 3203.1–2 Primary term.
- 3203.1–3 Additional term.
- 3203.1–4 Extensions.
- 3203.1–5 Conversion to mineral leases or mining claims.
- 3203.2 Lease acreage limitation.
- 3203.3 Consolidation of leases.
- 3203.4 Description of lands.
- 3203.5 Diligent exploration.

Subpart 3204—Surface Management Requirements; Special Requirements

- 3204.1 General.
- 3204.2 Waste prevention.
- 3204.3 Readjustment of terms and conditions.
- 3204.4 Reservation to the United States of oil, hydrocarbon gas, and helium.
- 3204.5 Compensation for drainage; compensatory royalty.
- 3204.6 Patented lands.

Subpart 3205—Service Charges, Rentals and Royalties

- 3205.1 Payments.
- 3205.1–1 Form of remittance.
- 3205.1–2 Where submitted.
- 3205.2 Service charges.
- 3205.3 Rentals and royalties.
- 3205.3–1 Payment with application.
- 3205.3–2 Payment of annual rental.
- 3205.3–3 Escalating rental rates.
- 3205.3–4 Fractional interest.
- 3205.3–5 Royalty on production.
- 3205.3–6 Royalty on commercially demineralized water.
- 3205.3–7 Waiver, suspension or reduction of rental or royalty.
- 3205.3–8 Application for and effect of suspension of operations and production.
- 3205.3–9 Readjustments.
- 3205.4 Rental and minimum royalty liability of lands committed to cooperative or unit plans.
- 3205.4–1 Prior to production.
- 3205.4–2 After production.

Subpart 3206—Lease Bonds

- 3206.1 Types of bonds and filing.
- 3206.1–1 Types of bonds.
- 3206.1–2 Filing of bonds.
- 3206.2 Termination of period of liability.
- 3206.3 Operators bond.
- 3206.4 Qualified corporate sureties.
- 3206.5 Nationwide bond.
- 3206.6 Statewide bond.

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Sec.
3206.7 Default.
3206.7–1 Payment by surety.
3206.7–2 Penalty.
3206.8 Applicability of provisions to existing bonds.

Subpart 3200—Geothermal Resources Leasing; General

§ 3200.0–3 Authority.

These regulations are issued pursuant to the Geothermal Steam Act of 1970 (84 Stat. 1566; 30 U.S.C. 1001–1025) and rights to develop and utilize geothermal resources in land subject to these regulations may be acquired only in accordance with these regulations.

§ 3200.0–5 Definitions.

As used in Group 3200, the term:

(a) "The Act" means the Geothermal Steam Act of 1970;

(b) "Geothermal lease" means a lease issued under authority of the Act; and unless the context indicates otherwise, "lease" means a "geothermal lease";

(c) "Sole party in interest" means a party who is and will be vested with all legal and equitable rights under the lease. No one is, or shall be deemed to be, a sole party in interest with respect to a lease in which any other party has any interest in the lease;

(d) "Interest in the lease" means any interest whatever in a geothermal lease, including, but not limited to: A record title interest; a working interest; an operating right; a claim to any prospective or future advantage or benefit from a lease; a participation in any increment, issue, or profit which may be derived, or accrue in any manner, from the lease based upon, or pursuant to, any agreement or understanding in existence at the time when the offer is filed; and an agreement pertaining to any of the foregoing;

(e) "Supervisor" means a representative of the Secretary, subject to the direction and supervisory authority of the Director, the Chief, Conservation Division, Geological Survey and the appropriate Regional Conservation Manager, Conservation Division, Geological Survey, authorized and empowered to regulate operations and to perform other duties prescribed in the regulations in this part or any subordinate of such representative acting under his direction.

(f) "Primary term" means the first 10 years in the life of the lease, exclusive of any period of suspension of operations or production, or both.

(g) "Area of operation" means that area of the leased lands which is required for exploration, development and producing operations, and which is delineated on a map or plat which is made a part of the approved plan of operations. It encompasses the area generally needed for wells, flow lines, separators, surge tanks, drill pads, mud pits, workshops, and other such facilities used for on-project geothermal resources field exploration, development and production operations.

(h) "Geothermal resource province" means an area in which higher than normal temperatures are likely to occur with depth and there is a reasonable possibility of finding reservoir rocks that will yield steam or heated fluids to wells. The classification of such a province is based on geologic inference and a determination that the area possesses one or more of the following characteristics:

(1) Volcanism of late Tertiary or Quaternary age—especially caldera structures, cones, and volcanic vents; (2) geysers, fumaroles, mud volcanoes, or thermal springs at least 40° F. higher than average ambient temperature; and (3) subsurface geothermal gradients generally in excess of two times normal, as reflected in deep water wells, oil well tests, and other test holes.

(i) "Potential geothermal resource area" means an area containing an inferred geothermal reservoir within a geothermal resource province which has not been determined to be a known geothermal resource area.

(j) "Known geothermal resource area" or "KGRA" means an area in which the geology, nearby discoveries, competitive interests, or other indicia would, in the opinion of the Secretary, engender a belief in men who are experienced in the subject matter that the prospects for extraction of geothermal steam or associated geothermal resources are good enough to warrant expenditures of money for that purpose. Any relevant data and information pertaining to the criteria, including without limitation any pertinent engineering and economic data, may be considered in classifying land for inclusion in a KGRA. Existence of a few, usually two or three, geothermal leases on Federal lands, or geothermal development on other than Federal lands, in a potential geothermal resource area within a geothermal resource province shall be deemed to be such a situation as to engender a belief in men who are experienced in the subject matter that the prospects for extraction of geothermal resources in that area are good enough to warrant expenditures of money for that purpose, and will cause that potential geothermal resource area to become a KGRA. Absence of such leases or development shall not, however, exclude an area from determination as a KGRA.

§ 3200.0–6 Preleasing procedures.

(a) When an area is initially considered for geothermal leasing or when the need arises, the Director shall request other interested Bureaus and Federal agencies to prepare reports describing, to the extent known, resources contained within the general area and the potential effect of geothermal resources operations upon the resources of the area and its total environment.

(b) The Director, or the head of the agency charged with the administration of the surface, if he so elects, prior to the final selection of tracts for leasing, shall, when appropriate, evaluate fully the potential effect of the leasing program on the total environment, fish and other aquatic resources, wildlife habitat and populations, esthetics, recreation, and other resources in the entire area during exploratory, developmental, and operational phases. This evaluation will consider the potential impact of the possible development and utilization of the geothermal resources including the construction of power generating plants and transmission facilities on lands which may or may not be included in a geothermal lease. To aid him in his evaluation and selection of tracts he may request and consider the views and recommendations of appropriate Federal agencies, may hold public hearings after appropriate notice, and may consult with State agencies, organizations, industries, and individuals, and shall consider all other potential uses of the land and its natural resources. The Director shall develop special terms and conditions to be included in leases when they are needed to protect the environment, to permit use of the land for other purposes, and to protect other natural resources. If tracts are offered for competitive leasing, any terms and conditions to be included in leases for such tracts shall be published in the notice announcing the availability of the land for leasing.

§ 3200.0–7 Cross reference.

(a) The regulations governing operations under geothermal leases are found in 30 CFR Part 270.

(b) The regulations setting forth the basic policies for management of the public lands are found in Part 1725 of this chapter.

§ 3200.0–8 Use of surface.

(a) A lessee shall be entitled to use for the production, utilization, and conservation of geothermal resources only so much of the surface of the leased lands as is deemed necessary for such purposes. The lessee shall have the right to use so much of the leased lands as may be deemed necessary for a power generation plant or a commercial or industrial facility, and may apply for the right to use so much of other Federal lands as may be deemed necessary for such purposes; however, any use of the leased lands or other Federal lands for a power generation plant or a commercial or industrial facility will be authorized only under a separate permit issued by the appropriate agency for that specific use and subject to all terms and conditions which it may include in that permit. The uses of the lands within the area of operation are subject to the supervision of the supervisor, and the uses of the remaining leased lands or other Federal lands are subject to the supervision of the appropriate surface management agency. The lessee shall not be entitled to use any mineral materials subject to the Materials Act except as provided by Part 3600 of this chapter.

(b) Operations under other leases or uses on the same lands shall not unreasonably interfere with or endanger operations under leases issued under these regulations nor shall operations under these regulations unreasonably interfere with or endanger operations under any lease, license, claim, permit, or other authorized use pursuant to the provisions of any other Act.

Subpart 3201—Available Lands; Limitations, Unit Agreements

§ 3201.1 Lands subject to geothermal leasing.
§ 3201.1–1 General.
§ 3201.1–2 Department of the Interior.
§ 3201.1–3 Department of Agriculture.
§ 3201.1–4 Federal Power Commission.
§ 3201.1–5 Patented lands.
§ 3201.1–6 Excepted areas.
§ 3201.2 Acreage limitations.
§ 3201.3 Leases within unit areas.

§ 3201.1 Lands subject to geothermal leasing.

§ 3201.1–1 General.

Subject to the exceptions listed below, geothermal leases may be issued in combination or separately for (a) lands administered by the Secretary of the Interior; (b) national forest lands or other lands administered by the Department of Agriculture through the Forest Service; and (c) geothermal resources in lands which have been conveyed by the United States subject to a reservation to the United States of geothermal resources.

§ 3201.1–2 Department of the Interior.

(a) Except as provided in this section, leases may be issued in accordance with the regulations in this part for withdrawn lands, for acquired lands, and for geothermal resources in lands which have passed from Federal ownership subject to a reservation to the United States of the geothermal resources therein where such lands or resources are administered by the Secretary of the Interior.

(b) Notwithstanding any other provision in these regulations, geothermal leases shall not be issued for: (1) Lands which the Secretary has identified or may identify as being necessary to the performance of his or any other Federal agency's authorized functions, and on which geothermal resource development would in his judgment interfere with such functions; or (2) lands respecting which the Secretary has made or may make a finding that the issuance of geothermal leases would be contrary to the public interest. Upon receipt of an application for a geothermal lease affecting lands withdrawn under section 3 of the Reclamation Act of 1902 (43 U.S.C. 416) or any other appropriate authority, notice thereof and an opportunity to comment thereon shall be given to the head of the agency for whose benefit the withdrawal was made. Should the head of the agency object to the leasing of such withdrawn lands, the lands shall not be leased unless the Assistant Secretary for Public Land Management approves the offering after consultation with the appropriate Assistant Secretary or his representative.

Where leases are issued under Part 3210 or 3220 for lands neighboring such reserved lands, the lessees shall be required to perform such lease operations and take such measures as are prescribed by the Secretary for the protection of the Federal interests therein. Stipulations for this purpose will be incorporated in any applicable leases.

§ 3201.1–3 Department of Agriculture.

Leases for lands withdrawn or acquired in aid of functions of the Department of Agriculture, for example, lands administered by the Forest Service, may be issued by the Secretary of the Interior only with the consent of, and subject to such terms and conditions as may be prescribed by, the head of that Department to insure adequate utilization of the lands for the purpose for which they were withdrawn or acquired.

§ 3201.1–4 Federal Power Commission.

Leases for lands to which section 24 of the Federal Power Act, as amended (16 U.S.C. 818), is applicable, may be issued by the Secretary of the Interior only with the consent of, and subject to, such terms and conditions as the Federal Power Commission may prescribe to insure adequate utilization of such lands for power and related purposes.

§ 3201.1–5 Patented lands.

(a) Geothermal resources in lands which have passed from Federal ownership subject to a reservation to the United States of geothermal resources therein may be leased under the regulations in this group subject to the provisions in this part and to such terms and conditions as may be prescribed by the authorized officer to insure adequate protection of the patented lands and any improvements thereon.

(b) Geothermal resources in lands the surface of which has passed from Federal ownership but in which the minerals have been reserved to the United States shall not be developed or produced except under terms and conditions prescribed by the Secretary and pursuant to any agreements made therefor while the question of the title to such resources is being resolved pursuant to the provisions of section 21(b) of the Act.

§ 3201.1–6 Excepted areas.

Leases shall not be issued for lands which are: (a) Administered under the National Park System; (b) within a national recreation area; (c) in a fish hatchery administered by the Secretary, wildlife refuge, wildlife range, game range, wildlife management area, or waterfowl production area, or for lands acquired or reserved for the protection and conservation of fish and wildlife which are threatened with extinction; or (d) tribally or individually owned Indian trust or restricted lands, within or without the boundaries of Indian reservations.

§ 3201.2 Acreage limitations.

(a) No person, association, corporation, or municipality shall take, hold, own, or control at one time, whether acquired directly from the Secretary or otherwise, any direct or indirect interest in Federal leases in any one State exceeding 20,480 acres. Nor may any person, association, or corporation be permitted to convert mineral leases, permits, applications therefor, or mining claims, pursuant to the provisions of section 4 (a)–(f) of the Act into geothermal leases for more than 10,240 acres.

(b) In computing acreage holdings or control, the accountable acreage of a party owning an undivided interest in a lease shall be that party's proportionate part of the total lease acreage. Likewise, the accountable acreage of a party owning an interest in a corporation or association shall be his proportionate part of the corporation's or association's accountable acreage except that no person shall be charged with his pro rata share of any acreage holdings of any association or corporation unless he is the beneficial owner of more than 20 per centum of the stock or other instruments of ownership or control of that association or corporation. Parties owning a royalty or other interest determined by or payable out of a percentage of production from a lease will be charged with a similar percentage of the total lease acreage.

(c) An association shall not be deemed to exist between the parties to a contract for development of leased lands, whether or not coupled with an interest in the lease, nor between colessees, but each party to any such contract or each colessee will be charged with his proportionate interest in the lease. No holding of acreage in common by the same persons in excess of the maximum acreage specified in the law for any one lessee will be permitted.

§ 3201.3 Leases within unit areas.

Before issuance of a geothermal lease for lands within an approved unit agreement, the lease applicant or successful bidder will be required to file evidence that he has entered into an agreement with the unit operator for the development and operation of the lands in a lease if issued to him under and pursuant to the terms and provisions of the approved unit agreement, or a statement giving satisfactory reasons for the failure to enter into such agreement. If such statement is acceptable, he will be permitted to operate independently but will be required to perform his operations in a manner which the Supervisor deems to be consistent with the unit operations.

Subpart 3202—Qualifications of Lessees

§ 3202.1 Who may hold leases.

Leases may be issued only to: (a) Citizens of the United States; (b) associations of such citizens; (c) corporations organized under the laws of the United States, any State or the District of Columbia; or (d) governmental units, including, without limitation, municipalities. The term "association" includes a partnership.

§ 3202.2 Statements required to be submitted.

§ 3202.2–1 General.

(a) Each applicant for a lease is required to submit with his application a statement that his interests, direct and indirect, in Federal geothermal leases and applications, do not exceed the acreage limitations prescribed in § 3201.2, together with a statement of his citizenship.

(b) If the applicant is an association or corporation the application must be accompanied by: (1) A statement showing that it is authorized to hold geothermal leases; (2) a statement that the officer executing the application is au-

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thorized to act on behalf of the association or corporation; (3) a statement setting forth the State in which it was incorporated or formed and the names and addresses of all members or stockholders holding more than 20 percent of the association or corporation; and (4) a statement from each person owning or controlling more than 20 percent of the association or corporation setting forth his citizenship and his holdings.

(c) If the applicant is a municipality, the application must be accompanied by: (1) A statement showing that it is authorized to hold geothermal leases; (2) a statement that the officer executing the application is authorized to act on behalf of the municipality; and (3) a copy of its governing body's resolution authorizing such action.

§ 3202.2–2 Guardian or trustee.

(a) *Guardian.* If the application is made by a guardian, he must submit: (1) A certified copy of the court order authorizing him to act as guardian and, in behalf of his ward, to enter into contractual agreements and to fulfill all obligations arising under the lease; and (2) statements as to the citizenship and holdings under the Act of himself and of each person under his guardianship for whom the offer or nomination is made.

(b) *Trustee.* If the application is made by a trustee, he must submit a copy of the instrument establishing the trust or a certified copy of the court order authorizing him to act as trustee, in behalf of the beneficiary, as to all obligations arising under the lease; and statements as to the citizenship and holdings under the Act of himself and of each beneficiary.

§ 3202.2–3 Attorney-in-fact.

If an application is filed by an attorney-in-fact, it must be accompanied by evidence as to his authority to act.

§ 3202.2–4 Evidence previously filed.

Where the statements required by § 3202.2 have been previously filed a reference by serial number to the record in which they have been filed, together with a statement as to any amendments will be accepted.

§ 3202.2–5 Showing as to sole party in interest.

Each application must be accompanied either by a signed statement by the applicant that he is the sole party in interest, or by a signed statement by the applicant setting forth the names of all other persons who have an interest in the lease and their qualifications to hold a lease.

§ 3202.2–6 Heirs and devisees (estates).

If an applicant or a successful bidder dies before the lease is issued, the lease will be issued to the executor or administrator of the estate if probate of the estate has not been completed, and if probate has been completed, or is not required, to the heirs or devisees, provided there is filed in all cases an application to lease in compliance with the requirements of this section which will be effective as of the effective date of the original application filed by the deceased. If there are any minor heirs or devisees, the application can only be made by their legal guardian or trustee in his name. Each such application must be accompanied by the following information:

(a) Where probate of the estate has not been completed:

(1) Evidence that the person who as executor or administrator submits the application, and bond form if a bond is required, has authority to act in that capacity and to sign the application and bond forms.

(2) A statement over the signature of each heir or devisee or, if the heir or devisee is a minor, over the signature of his legal guardian or trustee, concerning citizenship and holdings.

(3) Evidence that the heirs or devisees are the heirs or devisees of the deceased applicant or successful bidder and are the only heirs or devisees of the deceased.

(b) Where the executor or administrator has been discharged or no probate proceedings are required:

(1) A certified copy of the will or decree of distribution, if any, and if not, a statement signed by the heirs that they are the only heirs of the applicant or successful bidder and the provisions of the law of the deceased's last domicile showing that no probate is required.

(2) A statement over the signature of each of the heirs or devisees with reference to holdings and citizenship. If the heir or devisee is a minor, the statement must be over the signature of the guardian or trustee.

Subpart 3203—Leasing Terms

§ 3203.1 Primary and additional term.

§ 3203.1–1 Dating of leases.

All geothermal leases will be dated as of the first day of the month following the date on which the leases are signed on behalf of the lessor except that, where prior written request has been made, a lease may be dated as of the first day of the month within which it is so signed. A renewal lease will be dated from the termination of the original lease.

§ 3203.1–2 Primary term.

All leases shall be for a primary term of 10 years.

§ 3203.1–3 Additional term.

(a) If geothermal steam is produced or utilized in commercial quantities within the primary term of a lease, that lease shall continue for so long thereafter as geothermal steam is produced or utilized in commercial quantities, but the lease shall in no event continue for more than 40 years after the end of the primary term except that the lessee shall have a preferential right to a renewal of his lease for a second 40-year term upon such terms and conditions as the authorized officer deems appropriate, if at the end of the first 40-year term the lands are not needed for another purpose and geothermal steam is produced or utilized in commercial quantities.

(b) For the purposes of paragraph (a) of this section, production or utilization of geothermal steam in commercial quantities shall be deemed to include the completion of one or more wells producing or capable of producing geothermal steam in commercial quantities and a bona fide sale of such geothermal steam for delivery to or utilization by a facility or facilities not yet installed but scheduled for installation not later than 15 years from the date of commencement of the primary term of the lease.

§ 3203.1–4 Extensions.

(a) A lease which has been extended by reason of production, or on which geothermal steam has been produced, and which has been determined by the Secretary to be incapable of further commercial production and utilization of geothermal steam may be further extended so long as one or more valuable byproducts are produced in commercial quantities but for not more than 5 years.

(b) Where the lessee commenced actual drilling operations prior to the end of the primary term and those operations are being diligently prosecuted at that time, a lease may also be extended for a period of five years and so long thereafter as geothermal steam is produced or utilized in commercial quantities (but for not more than 35 years).

(c) A lease committed to a cooperative plan, communitization agreement or a unit plan under or for which actual drilling operations were commenced prior to the end of the primary term of the lease, shall, if such operations are being diligently prosecuted at that time be extended for a period of five years and so long thereafter as geothermal steam is produced or utilized in commercial quantities (but for not more than thirty five years).

(d) Any lease on which there has been a suspension of operations or production, or both, under 30 CFR 270.17 shall continue in effect for the life of the suspension and, at the end of the suspension, shall be extended for a period equal to that portion of the primary term during which the suspension was in effect.

If, at the end of 40 years after the conclusion of the primary term, steam is being produced or utilized in commercial quantities and the lands are not needed for other purposes, the lessee shall have a right to a renewal of the lease for a second 40-year term on such terms and conditions as the Secretary deems appropriate.

§ 3203.1–5 Conversion to mineral leases or mining claims.

(a) If the byproducts being produced in commercial quantities are leasable under the Mineral Leasing Act of February 25, 1920, as amended and supplemented (30 U.S.C. sections 181–287), or under the Mineral Leasing Act for Acquired Lands (30 U.S.C. sections 351–359), and the leasehold is primarily valuable for the production thereof, the lessee shall be entitled to convert his geothermal lease to a mineral lease under, and subject to all the terms and conditions of, the appropriate Act upon application

at any time before expiration of the lease extension by reason of byproduct production.

(b) The lessee shall be entitled to locate under the mining laws all minerals which are not leasable and which would constitute a byproduct if commercial production or utilization of geothermal steam continued. The lessee in order to acquire the rights herein granted him shall complete the location of mineral claims within 90 days after the termination of the geothermal lease.

(c) Any lease converted under paragraph (a) of this section or under paragraph (b) of this section affecting lands withdrawn or acquired in aid of a function of a Federal department or agency, including the Department of the Interior, shall be subject to such additional terms and conditions as may be prescribed by that department or agency with respect to the additional operations or effects resulting from such conversion upon the utilization of the lands for the purpose for which they are administered.

§ 3203.2 Lease acreage limitation.

A geothermal lease may not embrace more than 2,560 acres in a reasonably compact area, except where a departure is occasioned by an irregular subdivision or subdivisions. In such event, the leased acreage may exceed 2,560 acres by an amount which is smaller than the amount by which the area would be less than 2,560 acres if the irregular subdivision were excluded. No lease will be issued for less than 1,280 acres, except at the discretion of the Secretary, or where a departure is occasioned by an irregular subdivision, or as provided for in Subpart 3230 of this chapter. In event of a departure, the leased acreage may be less than 1,280 acres by an amount which is smaller than the amount by which the area would be more than 1,280 acres if the irregular subdivision were added.

§ 3203.3 Consolidation of leases.

Two or more contiguous leases issued to the same lessee may be consolidated if the total combined acreage does not exceed 2,560 acres. Except where a departure is occasioned by an irregular subdivision or subdivisions as stated in § 3203.2.

§ 3203.4 Description of lands.

Applications and nominations shall include a description of the lands sought to be included in a geothermal lease. If the lands have been surveyed under the public land rectangular system, each application or nomination shall describe the lands by legal subdivision, section, township, and range. If the lands have not been so surveyed, each application shall describe the lands by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, and connected by courses and distances to a monument or to a prominent topographic feature. When protracted surveys have been approved and the effective date thereof published in the FEDERAL REGISTER, each application or nomination for lands shown on such protracted surveys, filed on or after such effective date, shall describe the lands according to the legal subdivision, section, township, and range shown on the approved protracted surveys.

§ 3203.5 Diligent exploration.

All geothermal leases will include provisions for the diligent exploration of the leased resources. Diligent exploration means exploration operations (subsequent to the issuance of the lease) on, or related to, the leased lands, including, but not limited to, operations such as geochemical surveys, heat flow measurements, core drilling, or drilling of a test well. Exploration operations, in order to qualify as diligent exploration, must be approved by the Supervisor, and evidence of all expenditures therefor and the results thereof must be submitted to the Supervisor in compliance with applicable regulations and Geothermal Resources Operational Orders or upon his request. Moreover, after the fifth year of the primary lease term, exploration operations, in order to qualify as diligent exploration for a year, must entail expenditures during that year equal to at least two times the sum of (a) the minimum annual rental required by statute, and (b) the amount of rental for that year in excess of the fifth year's rental, but in no event shall the required expenditures exceed twice the rental for the 10th year. However, any expenditures for diligent operations during the first 5 years of the lease and any expenditures for diligent operations during any subsequent year in excess of the minimum required expenditures for that year may be credited, in such proportions as the lessee may designate, against (1) expenditures needed to qualify exploration operations as diligent operations for future years, or (2) any rental requirement for that or any future years in excess of the fifth year's rental pursuant to § 3205.3–3.

Subpart 3204—Surface Management Requirements, Special Requirements

§ 3204.1 General.

A lessee shall comply with and be bound by the following general terms and conditions, the specific requirements contained in the lease stipulations and any GRO orders that may be issued pursuant to 30 CFR 270.11. Assuring compliance with the requirements of this section is the responsibility of the Supervisor as to the lands within the area of operations and is the responsibility of the approprate land management agency as to the remaining lands in the lease.

(a) *Equal employment opportunity.* The lessee shall comply with Executive Order 11246, as amended, 30 F.R. 12319 (1965), and regulations issued pursuant thereto, 41 CFR Chapter 60 and Part 17 of this chapter.

(b) *Public access.* (1) The lessee shall permit free and unrestricted public access to and upon the leased lands for all lawful and proper purposes except in areas where such access would unduly interfere with operations under the lease or would constitute a hazard to health and safety. Restrictions on access will not be allowed without prior approval.

(2) During construction, the lessee shall regulate public access and vehicular traffic to protect the public, wildlife, and livestock from hazards associated with the project. For this purpose, the lessee shall provide warnings, fencing, flag men, barricades, and other safety measures as appropriate.

(c) *Pollution abatement.* The lessee shall comply with all Federal and State standards with respect to the control of all forms of air, land, water, and noise pollution, including, but not limited to, the control of erosion and the disposal of liquid, solid, and gaseous wastes. The Supervisor may, in his discretion, establish additional and more stringent standards, and, if he does so, the lessee shall comply with those standards. The lessee, in addition to any other action required by those standards, shall take the following specific actions:

(1) *Pesticides and herbicides.* The lessee shall comply with all rules issued by the Department of the Interior and the Environmental Protection Agency pertaining to the use of poisonous substances on public lands.

(2) *Water pollution.* The lessee shall conduct lease operations and maintenance in a manner consistent with Federal and State water quality standards and public health and safety standards. Toxic materials shall not be released into any surface waters or underground waters. Reinjection of waste geothermal fluids into geothermal or other suitable aquifers may be permitted when approved by the Supervisor.

(3) *Air pollution.* The lessee shall control emissions from operations in accordance with Federal and State air quality standards.

(4) *Erosion control.* The lessee shall minimize disturbance to vegetation, drainage channels, and streambanks. The lessee shall employ such soil and resource conservation and protection measures on the leased lands as the Supervisor deems necessary.

(5) *Noise control.* The lessee shall control noise emissions from operations.

(d) *Sanitation and waste disposal.* The lessee shall remove or dispose of all waste generated in connection with the operation in a manner acceptable to the Supervisor. The term "waste" as used in this stipulation means all discarded matter, including but not limited to human waste, trash, garbage, refuse, petroleum products, and waste material resulting from the extraction and processing operation.

(e) *Land subsidence, seismic activity.* The lessee shall take precautions necessary to minimize land subsidence or seismic activity which could result from production of geothermal resources and the disposal of waste fluid where such activity could damage or curtail the use of the geothermal resources or other resources, or other uses of the land and take such measures as stipulated to: (1) monitor operations for land subsidence and for seismic activity; and (2) maintain, and when requested, make

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available to the lessor, records of all monitoring activities.

(f) *Aesthetics.* The lessee shall take aesthetics into account in the planning, design, and construction of facilities on the leased premises.

(g) *Fish and wildlife.* The lessee shall employ such measures as are deemed necessary to protect fish and wildlife and their habitat.

(h) *Antiquities and historical sites.* The lessee shall conduct activities on discovered, known or suspected archeological, paleontological, or historical sites in accordance with lease terms or specific instructions.

(i) *Restoration.* The lessee shall provide for the restoration of all disturbed lands in an approved manner.

§ 3204.2 Waste prevention.

All leases shall be subject to the condition that the lessee will, in conducting his exploration, development, and operations, use all reasonable precautions to prevent waste of geothermal resources and other resources found or developed in the leased lands.

§ 3204.3 Readjustment of terms and conditions.

(a) (1) Except as otherwise provided by law, the terms and conditions of any geothermal lease may be readjusted as determined by the authorized officer at not less than 10-year intervals beginning 10 years after the date geothermal steam is produced. Each lease shall provide for such readjustments.

(2) The authorized officer shall give notice to the lessee of any proposed readjustment of the terms and conditions of the lease and the nature thereof, and unless the lessee files with the authorized officer an objection to the proposed terms or relinquishes the lease within 30 days after receipt of such notice, the lessee shall be deemed conclusively to have agreed to such terms and conditions. If the lessee files objections, and agreement cannot be reached between the authorized officer and the lessee within a period of 60 days, the lease may be terminated by either party. If the lessee files objections to the proposed readjusted terms and conditions, the existing terms and conditions will remain in effect until there has been an agreement between the authorized officer and the lessee on the new terms and conditions to be applied to the lease or until the lease is terminated.

(b) Any readjustment of the terms and conditions of any lease of lands withdrawn or acquired in aid of a function of a Federal department or agency may be made only with the approval of that other agency.

§ 3204.4 Reservation to the United States of oil, hydrocarbon gas, and helium.

The United States reserves the ownership of and the right to extract oil, hydrocarbon gas, and helium from all geothermal resources produced from lands leased under the Act. Whenever the right to extract oil, hydrocarbon gas, and helium, from geothermal resources produced from such lands is exercised, it shall be exercised so as to cause no substantial interference with the production of geothermal resources from such lands.

§ 3204.5 Compensation for drainage; compensatory royalty.

(a) Upon a determination by the Supervisor that lands owned by the United States are being drained of geothermal resources by wells drilled on adjacent or cornering lands, the authorized officer may execute agreements with the owners of adjacent or cornering lands whereby the United States, or the United States and its lessees, shall be compensated for such drainage, such agreements to be made with the consent of any lessee affected thereby. The precise nature of any agreement will depend on the conditions and circumstances involved in the particular case.

(b) Where land in any lease is being drained of its geothermal resources by a well either on a Federal lease issued at a lower rate of royalty or on land not the property of the United States, the lessee must drill and produce all wells necessary to protect the leased lands from drainage. In lieu of drilling such wells, the lessee may, with the consent of the Supervisor, pay compensatory royalty in the amount determined in accordance with 30 CFR Part 270.

§ 3204.6 Patented lands.

The terms and conditions of any geothermal resource lease for lands conveyed by the United States subject to a reservation to the United States of geothermal resources may be readjusted upon notification to the surface owner.

Subpart 3205—Service Charges, Rentals and Royalties.

§ 3205.1 Payments.

§ 3205.1–1 Form of remittance.

Remittances required under these regulations may be made by cash payment, check, certified check, bank draft, bank cashier's check, or money order. All remittances will be deposited as received.

§ 3205.1–2 Where submitted.

(a) *Rentals on nonproducing leases.* Rentals under all nonproducing leases issued shall be paid at the proper BLM office. All remittances to the Bureau of Land Management shall be made payable to the Bureau of Land Management.

(b) *Other payments.* All royalties on producing leases, communitized leases in producing well units, unitized leases in producing unit areas, leases on which compensatory royalty is payable and all payments under easements for directional drilling are to be paid to the Supervisor. All remittances to the Supervisor shall be made payable to the U.S. Geological Survey.

§ 3205.2 Service charges.

(a) *Competitive lease applications.* No service charge is required.

(b) *Noncompetitive lease applications.* Applications for noncompetitive leases must be accompanied by a nonrefundable service charge of $50 for each application.

(c) *Assignments.* Applications for approval of an assignment of a lease or interest therein must be accompanied by a nonrefundable service charge of $50 for each application.

(d) *Nominations.* No service charge is required.

§ 3205.3 Rentals and royalties.

§ 3205.3–1 Payment with application.

Each application must be accompanied by payment of the first year's rental of not less than $1 per acre or fraction thereof based on the total acreage included in the application. An application accompanied by a payment of the first year's rental which is deficient by not more than 10 percent will be approved by the authorized officer provided all other requirements are met, but, if the additional rental is not paid within 30 days from notice, the application or the lease, if issued, will be canceled.

§ 3205.3–2 Payment of annual rental.

(a) Annual rental in the amount specified in the lease which shall be not less than $1 per acre or fraction thereof must be paid in advance and must be received by the proper BLM office on or before the anniversary date of the lease. If there is no well on the leased lands capable of producing geothermal resources in commercial quantities, the failure to pay rental on or before the anniversary date shall terminate the lease by operation of law, except as provided by § 3245.2.

(b) If, on the anniversary date of the lease, less than a full year remains in the lease term, the rentals shall be payable in the same proportion as the period remaining in the lease term is to a full year. The rentals shall be prorated on a monthly basis for the full months, and on a daily basis for the fractional month remaining in the lease term. For the purpose of prorating rentals for a fractional month, each month will be deemed to consist of 30 days.

(c) If the term of a lease for which prorated rentals have been paid is further extended to or beyond the next anniversary date of the lease, rentals for the balance of the lease year shall be due and payable on the 1st day of the first month following the date through which the prorated rentals were paid. If the rentals are not paid for the balance of the lease year, the lease will be subject to cancellation. However, if the anniversary date occurs before the end of the notice period, the rental for the following lease year shall nevertheless be due on the anniversary date and failure to pay the full rental for that year on or before that date shall cause the lease to terminate automatically by operation of law except as provided by § 3245.2. The lessee shall not be relieved of liability for rental due for the balance of the previous lease year.

(d) If the payment is due on a day in which the proper BLM office to receive payment is not open, payment received on the next official working day will be deemed to be timely.

§ 3205.3 Escalating rental rates.

To encourage the orderly and timely development of geothermal leases, all leases issued pursuant to the regulations in this Group will provide that, beginning with the sixth year and for each year thereafter until the lease year beginning on or after the commencement of production of geothermal resources in commercial quantities, the rental will be set by the authorized officer as the amount of rental for the preceding year plus an additional rental of $1 per acre, but the authorized officer may, upon a showing of sufficient justification by the lessee, waive the payment of all or any portion of the additional rental.

§ 3205.3–4 Fractional interests.

Rentals, minimum royalties, and royalties payable for lands in which the United States owns an undivided fractional interest shall be in the same proportion to the rentals, minimum royalties, and royalties provided for in § 3205.3, as the undivided fractional interest of the United States in the geothermal resources is to the full geothermal resources interest.

§ 3205.3–5 Royalty on production.

Royalty shall be paid at the following rates on geothermal resources:

(a) A royalty, as set forth in the lease, of not less than 10 per centum and not more than 15 per centum of the amount or value of steam, or any other form of heat or energy derived from production under the lease and sold or utilized by the lessee or reasonably susceptible to sale or utilization by the lessee; (b) a royalty, as set forth in the lease, of not more than 5 per centum of any byproduct derived from production under the lease and sold or utilized or reasonably susceptible of sale or utilization by the lessee, except that as to any byproduct which is a mineral named in section 1 of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181), the rate of royalty for such mineral shall be the same as that provided in that Act and the maximum rate of royalty for such mineral shall not exceed the maximum royalty applicable under that Act; (c) In no event shall the royalty on any producing lease for any lease year, commencing with the lease year beginning on or after the commencement of production in commercial quantities, be less than $2 per acre or fraction thereof, and this minimum royalty, in lieu of rental, shall be payable at the expiration of each lease year.

§ 3205.3–6 Royalty on commercially demineralized water.

All geothermal leases issued pursuant to the provisions of this group shall provide for the payment to the lessor of a royalty on commercially demineralized water at a rate to be specified in the lease of not more than 5 per centum of the value of such commercially demineralized water that has beeen sold or utilized by the lessee or is reasonably susceptible of sale or utilization by the lessee, except that no payment of a royalty will be required on such water if it is used in plant operation for cooling or in the generation of electric energy or otherwise.

§ 3205.3–7 Waiver, suspension or reduction of rental or royalty.

(a) The authorized officer may waive, suspend, or reduce the rental or royalty for any lease or portion thereof in the interests of conservation and to encourage the greatest ultimate recovery of geothermal resources if he determines that this is necessary to promote development or that the lease cannot be successfully operated under the lease terms.

(b) An application hereunder shall be filed in triplicate with the Supervisor, and must: (1) Contain the serial number of the leases and the names of the lessee and operator; (2) show the number, location, and status of each well that has been drilled, a tabulated statement for each month covering a period of not less than 6 months prior to the date of filing the application of the aggregate amount of production subject to royalty computed in accordance with the operating regulations, the number of wells counted as producing each month, and the average production per well per day; (3) contain a detailed statement of expenses and costs of operating the lease, the income from the sale of any leased products and all facts tending to show whether the wells can be successfully operated using the royalty or rental fixed in the lease; and (4) where the application is for a reduction in royalty, furnish full information as to whether royalties or payments out of production are paid to others than to the United States, the amounts so paid, and the efforts made to reduce them. The applicant must also file agreements of the holders to a comparable reduction of all other royalties from the leasehold to an aggregate not in excess of one-half the Government royalties.

§ 3205.3–8 Application for and effect of suspension of operations and production.

(a) Applications by lessees for suspensions of operations or production, or both, under a producing geothermal lease (or for relief from any drilling or producing requirements of such a lease) shall be filed in triplicate with the Supervisor, who is authorized to act on applications filed pursuant to this section and to terminate suspensions which have been or may be granted. Complete information must be furnished showing the necessity of the relief sought.

(b) A suspension shall take effect as of the time specified in the order of the Supervisor. Rental or minimum royalty payments will be suspended during any period of suspension of all operations and production directed, or assented to, by the Supervisor, beginning with the first day of the lease month in which the suspension of operations and production becomes effective or, if the suspension of operations and production becomes effective on any date other than the first day of a lease month, beginning with the first day of the lease month following such effective date. The suspension of rental or royalty payments shall end on the first day of the lease month in which operations or production is resumed. Where rentals are creditable against royalties and have been paid in advance, proper credit will be allowed on the next rental or royalty due under the lease.

(c) No lease shall be deemed to expire by reason of a suspension of either operations or production, pursuant to any order or assent of the Supervisor.

(d) If there is a well on the leased premises capable of producing geothermal resources and all operations and production are suspended pursuant to any order of the Supervisor, approval of recommencement of drilling operations will terminate the suspension as to operations but not as to production, and will terminate both the period of suspension of rental and royalty payments provided in paragraph (b) of this section and the period of suspension for which an equivalent extension will be granted. However, as provided in paragraph (c) of this section, the lease will not be deemed to expire so long as the suspension of operations or production remains in effect.

(e) The relief authorized under this section may also be obtained for any leases included within an approved unit or cooperative plan of development and operation.

(f) See 30 CFR 270.17 for regulations concerning action of the Supervisor on applications filed pursuant to this section.

§ 3205.3–9 Readjustments.

The rentals and royalties of any geothermal lease may be readjusted at not less than 20-year intervals beginning 35 years after the date geothermal steam is produced as determined by the Supervisor. In the event of any such readjustment neither the rental nor royalty paid during the preceding period shall be increased by more than 50 per centum, and in no event shall the royalty payable exceed 22½ per centum. Each geothermal lease shall provide for such readjustment. The Supervisor will give notice of any proposed readjustment of rental or royalties. Unless the lessee relinquishes the lease within 30 days after receipt of such notice, he shall conclusively be deemed to have agreed to such terms and conditions. If the lessee files objections, and no agreement can be reached between the authorized officer and the lessee within a period of 60 days, the lease may be terminated by either party. If the lessee files objections to the proposed readjusted terms and conditions, the existing terms and conditions will remain in effect until there has been an agreement between the authorized officer and the lessee on the new terms and conditions to be applied to the lease or until the lease is terminated.

§ 3205.4 Rental and minimum royalty liability of lands committed to cooperative or unit plans.

§ 3205.4–1 Prior to production.

All lands within any lease committed to an approved cooperative or unit plan

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shall at all times prior to production on any of the lands so committed remain liable for rental in accordance with § 3205.3–3.

§ 3205.4–2 After production.

As soon as production is obtained on or for any lands included in an approved cooperative or unit plan those lands which are included within the participating area of the producing well shall become liable for royalties in accordance with Subpart 3205. All other unitized lands, except those lands included in the lease on which production was obtained, shall remain liable for rental in accordance with § 3205.3–3.

Subpart 3206—Lease Bonds

§ 3206.1 Types of bonds and filing.

§ 3206.1–1 Types of bonds.

(a) Bonds shall be either corporate surety bonds or personal bonds except that bonds with individual sureties may be furnished for the protection of the entryman or owner of the surface rights.

(b) Lease compliance bond. The applicant for a noncompetitive lease or the successful bidder for a competitive lease must furnish, prior to the issuance of the lease, and thereafter maintain a corporate surety bond of not less than $10,000 conditioned on compliance with all the terms of the lease.

(c) Protection bond. A lessee will be required prior to entry on the leased lands to furnish and maintain a bond of not less than $5,000 for indemnification for all damages occasioned to persons or property as the result of lease operations.

§ 3206.1–2 Filing of bonds.

A single original copy of the bond on forms approved by the Director must be filed in the proper BLM office. Bonds may be filed with a noncompetitive lease application to expedite action thereon, or within 30 days after receipt of notice by the applicant of the bond requirement, or as required and directed by the authorized officer. For unit bond forms see 30 CFR Part 271.

§ 3206.2 Termination of period of liability.

The period of liability of any bond will not be terminated until all lease terms and conditions have been fulfilled.

§ 3206.3 Operators bond.

An operator, or, if there are more than one for different portions of the lease, each operator, shall furnish a corporate surety bond or bonds in an amount prescribed by the Supervisor.

§ 3206.4 Qualified corporate sureties.

Treasury lists. A list of companies holding certificates of authority from the Secretary of the Treasury under the Act of July 30, 1947 (6 U.S.C. 6–13), as acceptable sureties on Federal bonds is published in the FEDERAL REGISTER annually.

§ 3206.5 Nationwide bond.

In lieu of bonds required under any of the preceding paragraphs, the holder of leases or of operating agreements approved by the Department or holder of operating rights by virtue of being designated operator or agent by the lessee pending departmental approval of operating agreements may furnish a bond the amount of which must be not less than for $150,000 for full nationwide coverage for all geothermal leases.

§ 3206.6 Statewide bond.

In lieu of any of the bonds required by the preceding paragraphs, the holder of leases or of operating agreements approved by the Department or holder of operating rights by virtue of being designated operator or agent by the lessee pending departmental approval of operating agreements, may furnish a statewide bond, applicable to the State in which the leases are situated, the amount of which must be at the rate of not less than $50,000 for each unit of coverage.

§ 3206.7 Default.

§ 3206.7–1 Payment by surety.

Where upon a default the surety makes payment to the Government of any indebtedness due under a lease, the face amount of the surety bond and the surety's liability thereunder shall be reduced by the amount of such payment.

§ 3206.7–2 Penalty.

Thereafter, upon penalty of cancellation of all of the leases covered by that bond, the principal shall post a new nationwide bond in the amount of $150,000 or a unit bond, as the case may be, within 6 months after notice, or within such shorter period as the authorized officer may fix. However, in lieu thereof, the principal may within that time file separate bonds for each lease.

§ 3206.8 Applicability of provisions to existing bonds.

The provisions hereof may be made applicable to any nationwide or statewide bond in force at the time of the approval of the amendment of this paragraph by filing in the proper BLM office a written consent to that effect and an agreement to be bound by the provisions hereof executed by the principal and the surety. Upon receipt thereof the bond will be deemed to be subject to the provisions of this paragraph.

PART 3210—NONCOMPETITIVE LEASES

Subpart 3210—Noncompetitive Leases; General

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3210.1 Availability of land.
3210.2–1 Application.
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Subpart 3211—Bureau Motion, Lands Previously Leased for Geothermal Resources

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Subpart 3210—Noncompetitive Leases; General

§ 3210.1 Availability of land.

Lands and deposits subject to disposition under this part which are not within any KGRA will be available for leasing after the effective date of these regulations. All applications to lease the same lands which are filed between the effective date of these regulations and 30 days following that time will be considered to have been filed simultaneously, and the respective priority of the various applications will be determined in accordance with § 3210.3. An application will be deemed to be for the lease of the same lands as a previous application when it includes not less than half the acreage embraced in the previous application. The date and the time when the first application on a tract is filed will be recorded. (a) No action on any application will be taken until the conclusion of the initial 30-day period. At that time, the tracts in a potential geothermal resource area will be listed in the order in which the first application was filed on each. Final action will not be taken on any application filed on a tract until final action has been taken on all the applications on each tract within the same potential geothermal resource area preceding that tract on the list: *Provided, however,* That if, because of an appeal or for some other reason, final action is delayed on a tract having priority, final action may be taken on tracts having lower priority as long as that final action does not result in the issuance of so many leases within that prospective area as to cause it to become a KGRA. (b) Final action will not be taken on any application filed after the initial 30-day period until final action has been taken on all applications filed during that period on that potential geothermal resource area. If, after the conclusion of the 30-day period, applications are filed on more than one tract within a potential geothermal resource area on the same day, the tracts will be listed in the order in which the first application was filed on each. Final action will not be taken on any application filed on a tract until final action has been taken on all the applications on each tract within the same potential geothermal resource area preceding that tract on the list and on all applications on tracts in that potential geothermal resource area filed on any previous day: *Provided, however,* That if, because of an appeal or for some other reason, final action is delayed on a tract having priority, final action may be taken on tracts having lower priority as long as that final action does not result in the issuance of so many leases within that potential geothermal resource area as to cause it to become a KGRA. (c) An application which, because it does not cover at least half the acreage included in a previous application, is not deemed to have been filed simultaneously with that previous application will be amended by the deletion of any acreage included in a lease by the time it becomes subject to final action, but the authorized officer, if he determines it desirable, may add to the application contiguous acreage not in excess of the acreage deleted.

§ 3210.2–1 Application.

No specific form is required. An application for a lease must be filed in the proper BLM office in duplicate for public lands and in triplicate for acquired lands. An application will be considered filed when it is received in the proper office during business hours. The application must include the following:

(a) The applicant's name and address;

(b) A statement of applicant's citizenship and qualifications;

(c) A complete and accurate description of the lands applied for;

(d) A proposed plan which shall include: (1) A map, or maps, available from State or Federal sources, showing the topography of the land applied for, on which the applicant shall show drainage patterns, present road and trail locations, present utility systems, proposed road and trail location, proposed well locations and potential surface disturbance, and (2) a narrative statement setting forth his proposed exploration plan and methods. Such plan shall provide for a program of diligent exploration as defined in § 3203.5 of this subchapter.

The narrative statement should also describe the measures proposed to be taken to prevent or control fire, soil erosion, pollution of surface and ground water, damage to fish and wildlife or other natural resources, air and noise pollution and hazards to public health and safety during lease activities; and

(e) A statement of interest, direct or indirect, in other Federal geothermal leases or applications in the same State. Such total interest may not exceed 20,480 acres.

§ 3210.2–2 Withdrawal of application.

An application may not be withdrawn, either in whole or in part, unless the request is received by the proper BLM office before the lease has been signed on behalf of the United States even though the effective date of the lease is subsequent to the date of filing of the withdrawal, except where a separate conflicting lease has been signed on behalf of the United States covering the land described in the withdrawal.

§ 3210.2–3 Amendment to lease.

If any of the land applied for is open to filing when the application was filed but is omitted from the lease for any reason and thereafter becomes available for noncompetitive leasing, the original lease will be amended to include the omitted land unless, before the issuance of the amendment, the proper BLM office receives a withdrawal of the lessee's application with respect to such land or such omitted lands have been determined to be within a KGRA.

§ 3210.3 Determination of priorities.

No lease shall be issued before final action has been taken on (a) any prior application to lease the land, (b) any subsequent application to lease the land that is based upon a claimed preferential right, and (c) any petition for the renewal or reinstatement of an existing or former lease on the land. If a lease is issued before final action has been taken on such applications and petitions, it shall be canceled, and the advance rental returned, after due notice to the lessee, where the applicant or petitioner is found to be qualified and entitled to receive a lease of the land. Multiple applications for lease of the same lands received in the mail or delivered on the same day will be deemed to have been simultaneously filed. After the receipt of applications and prior to the issuance of any lease, a determination shall be made as to whether or not the lands are within a KGRA. If the lands are then determined not to be within any KGRA, the right of priority to a noncompetitive geothermal lease, among those persons simultaneously filing therefor, will be determined by a public drawing.

§ 3210.4 Rejections.

If, after the filing of an application for a noncompetitive lease and before the issuance of a lease, or amendment thereto, pursuant to that application, the land embraced in the application becomes included within a KGRA, the application will be rejected as to such KGRA lands. The authorized officer retains discretion to reject an application for a noncompetitive lease even though the tract for which application is made is not determined to be within a KGRA.

Subpart 3211—Bureau Motion—Land Previously Leased for Geothermal Resources

§ 3211.1 Releasing of formerly leased lands.

From time to time the authorized officer will publish in the FEDERAL REGISTER, post in each proper BLM office, and provide appropriate news coverage of: (a) A list of leasing units composed of lands in canceled, expired, relinquished, or terminated leases which are not withdrawn from leasing or not included in a KGRA and which he has determined to be available for leasing; (b) a request for nomination for leasing; (c) terms and conditions on which a lease, if issued, will be conditioned; (d) address of proper BLM office; and (e) requirements for a complete nomination. Nominations of tracts should be addressed to the proper BLM office.

§ 3211.2 Nominating procedures.

No specific form is required. Only one complete leasing unit, identified by unit number, may be included in a nomination. Lands not on the published list may not be included in the nomination. The nomination must be accompanied by (a) the first year's advance rental, and (b) a signed statement that the nominator will furnished the information required by these regulations within 15 days after notification that his nomination is the only one for the tract.

§ 3211.3 Leasing units receiving multiple nominations.

If the lands are determined not to be within any KGRA, multiple nominations for such lands within the prescribed period will be considered as simultaneous filings and each nominator will be given the opportunity to qualify for a lease in accordance with Subpart 3210. Where more than one nominator qualifies for a lease, the priority shall be determined by public drawing.

§ 3211.4 Leasing units receiving single nominations.

(a) Tracts receiving only one nomination, which have not been included within any KGRA, will be leased to the nominator, upon payment of a $50 filing fee and upon his compliance with all applicable regulations, including those in Subpart 3210.

(b) If no nominations are received a lease may be issued pursuant to an application filed in accordance with these regulations.

§ 3211.5 Rental returned.

If an applicant or nominator withdraws his application or nomination or if his application or nomination to lease is rejected, the advance rental will be returned to him.

PART 3220—COMPETITIVE LEASES

Subpart 3220—Competitive Leases; General

Sec.
3220.1 General.
3220.2 Nominations.
3220.3 Publication of notice of lease sale.
3220.4 Contents of notice of lease sale.
3220.5 Bidding requirements.
3220.6 Award of lease.

Subpart 3220—Competitive Leases; General

§ 3220.1 General.

(a) Lands within a KGRA, except as provided under § 3201.1, will be available for leasing on the effective date of these regulations.

(b) The authorized officer will accept nominations to lease, or may on his own motion from time to time call for nominations to lease. Nominations may be withdrawn at any time.

§ 3220.2 Nominations.

(a) No specific form is required.

(b) A nomination must be filed in the proper BLM office in duplicate for public lands and triplicate for acquired lands and must include the following:

(1) The nominator's name and address;

(2) A statement of citizenship and qualifications for lease;

(3) A description of the lands; and

(4) A statement of the interests, direct or indirect, held in other Federal geothermal leases or nominations in the same State.

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§ 3220.3 Publication of notice of lease sale.

Where the Secretary determines to offer all or any of the nominated land for competitive leasing he will publish a notice of lease sale in a newspaper of general circulation in the area in which the lands to be leased are located once a week for 4 consecutive weeks, or for such other period as he may direct.

§ 3220.4 Contents of notice of lease sale.

The notice will state that the successful bidder will be required, prior to the issuance of a lease, to pay his proportionate share of the total cost of publication of the notice which shall be that portion of the total advertising cost that the number of parcels of land awarded to him bears to the number of parcels for which high bidders are declared. The notice will also state the time and place of sale, the manner in which bids may be submitted, the description of the lands and the terms and conditions of the sale, including royalty and rental rates.

§ 3220.5 Bidding requirements.

(a) A separate sealed bid must be submitted for each lease unit. Each bidder must submit with his bid a certified or cashier's check, bank draft, money order or cash in the amount of one-half of the amount bid together with proof of qualifications as required by these regulations.

(b) All bidders are warned against violation of the provisions of Title 18 U.S.C. section 1860 prohibiting unlawful combination or intimidation of bidders.

§ 3220.6 Award of lease.

All sealed bids shall be opened at the place, date, and hour specified in the notice. No bids will be accepted or rejected at that time, except as otherwise provided in these regulations as provided in Part 3230 of this chapter or elsewhere in these regulations, and the notice for invitation for bids covering the lands involving possible lease conversion rights. Leases will be awarded to the highest responsible qualified bidder. The right to reject any and all bids is reserved. If the authorized officer fails to accept the highest bid for a lease within 30 days after the date on which the bids are opened, all bids will be considered rejected. If the lease is awarded, three copies of the lease will be sent to the successful bidder who shall be required to execute them within 30 days from receipt thereof, to pay the first year's rental, the balance of the bonus bid, and file the required bond or bonds. Deposits on rejected bids will be returned. If the successful bidder fails to execute the lease or otherwise comply with the applicable regulations, his deposit will be forfeited and disposed of as other receipts under the Act. When the three copies of the lease are executed by the successful bidder and returned to the authorized officer, the lease will be executed by the authorized officer and a copy will be mailed to the successful bidder.

PART 3230—RIGHTS TO CONVERSION TO GEOTHERMAL LEASES OR APPLICATION FOR GEOTHERMAL LEASES

Subpart 3230—Rights to Conversion to Geothermal Leases or Application for Geothermal Leases; General

Sec.

3230.1 General.
3230.1–1 Rights to conversion to geothermal leases.
3230.1–2 Rights to conversion to applications for geothermal leases.
3230.1–3 Land in which minerals are reserved to the United States.
3230.1–4 Conflicting claims of rights to conversion to geothermal leases.
3230.1–5 Evidence required to qualify for grant of rights to conversion to geothermal leases.
3230.1–6 Method of leasing to owners of conversion rights to geothermal leases.
3230.1–7 Acreage limitation.
3230.2 Qualifications
3230.3 Applications.
3230.3–1 Filing of application.
3230.3–2 Statements required.
3230.4 Conversion to geothermal leases or to applications for geothermal leases.
3230.4–1 Processing and adjudicating applications.
3230.4–2 Approval.

Subpart 3230—Rights to Conversion to Geothermal Leases or Application for Geothermal Leases

§ 3230.1 General.

§ 3230.1–1 Rights to conversion to geothermal leases.

Where lands were on September 7, 1965, subject to valid leases or permits issued under the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181–287), or the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–358), or subject to existing mining claims located on or prior to September 7, 1965, the lessees, permittees, or claimants, or their successors in interest, if qualified to hold geothermal leases, shall have the right, subject to certain limitations as hereinafter provided, to convert such leases, permits or claims to geothermal leases covering the same lands.

§ 3230.1–2 Rights to conversion to applications for geothermal leases.

Where lands were subject to application for leases or permits under the mineral leasing laws referred to in § 3230.1–1 on September 7, 1965, the applicants may, subject to certain limitations as hereinafter provided, convert their applications to applications for geothermal leases having priorities dating from the time of filing such applications under said mineral leasing laws.

§ 3230.1–3 Land in which minerals are reserved to the United States.

Where a right to one of the forms of conversion referred to in § 3230.1–1 or § 3230.1–2 is claimed as to lands the surface of which has passed from Federal ownership but in which the minerals have been reserved to the United States, final action on any claim to conversion rights under section 4 of the Act shall be held in abeyance until such time as the question of title to the geothermal resources in such lands has been resolved pursuant to the provisions of section 21(b) of the Act, unless the Secretary determines that it is in the public interest to make a determination of such claims at an earlier time, subject to the rights, if any, of non-Federal owners.

§ 3230.1–4 Conflicting claims of rights to conversion to geothermal leases.

Where there are conflicting claims of rights to conversion to geothermal leases based upon mineral leases, mineral permits, or mining claims embracing the same land, the date of issuance of the permit or lease or of recordation of the claim shall determine priority.

§ 3230.1–5 Evidence required to qualify for grant of rights to conversion to geothermal leases.

Any person claiming rights to conversion to a geothermal lease must show to the reasonable satisfaction of the authorized officer that substantial expenditures for the exploration, development or production of geothermal steam were made on the lands for which a lease is sought or on adjoining, adjacent or nearby lands, including both Federal and non-Federal lands.

§ 3230.1–6 Method of leasing to owners of conversion rights to geothermal leases.

(a) *Lands included within any KGRA—(1) Competitive lease.* Where lands have been included with any KGRA, the owner of a conversion right to a geothermal lease for such lands shall be entitled to the issuance of a competitive lease only in accordance with the provisions of subparagraph (2) of this paragraph.

(2) *Preference right.* Lands which have been included within any KGRA shall be leased only by competitive bidding in the manner prescribed in Subpart 3220 of this chapter. The person owning the right to conversion to a geothermal lease shall be informed by written notice of the highest bona fide bid submitted for the lease at the sale. If within thirty (30) days after he has received that written notice, the person owning the right to conversion to a geothermal lease shall inform the authorized officer that he wishes such a lease, pay an amount equal to the highest bona fide bid submitted, and pay the rental for the first year, a lease will be issued to him.

(b) *Lands not included within any KGRA—Noncompetive lease.* Where lands have not been included within any KGRA, the owner of a conversion right to a geothermal lease for such lands, if otherwise qualified, shall be entitled to the issuance of a noncompetitive lease for such lands.

§ 3230.1–7 Acreage limitation.

No person shall be permitted to obtain, through conversion of mineral leases or prospecting permits, or applications therefor, or mining claims, leases for more than 10,240 acres, or a lease to any land not included in the lease, permit, application or claim converted.

§ 3230.2 Qualifications.

Persons who believe they are qualified under the Act to convert mineral leases or permits or existing mining claims to geothermal leases and persons who believe they are entitled to convert applications for mineral leases and permits to applications for geothermal leases shall comply with the procedures set forth below.

§ 3230.3 Applications.

§ 3230.3–1 Filing of application.

A written application shall have been filed with the proper BLM office on or before June 22, 1971, pursuant to the notice published in the FEDERAL REGISTER of January 15, 1971, 36 F.R. 623. If such an application has been filed and does not contain the information specified in § 3230.3–2 hereof, such information must be supplied by the applicant within 60 days of the effective date of these regulations.

§ 3230.3–2 Statements required.

(a) An application based on a valid lease or permit referred to in section 3230.1–1 hereof shall include the date of issuance, the State in which the lands are located, and the serial number of the lease or permit. An application based on a mining claim referred to in § 3230.1–1 shall include the name, location, legal description or reference sufficient to identify the lands on the ground, date of location and date and place of recordation of the mining claim (including volume and page) which the applicant seeks to convert to a geothermal lease. An application based on an application for a mineral lease or permit referred to in § 3230.1–1 shall include the date the application for the lease or permit was filed with the Bureau of Land Management and the location of the proper BLM office where the application was filed, and should indicate the serial number assigned to the application.

(b) An application shall include a description of the lands sought to be included in a geothermal lease. If the lands have been surveyed under the public land rectangular system, each application shall describe the lands by legal subdivision, section, township, and range. If the lands have not been so surveyed, or it is otherwise appropriate, each application shall describe the lands by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, and connected by courses and distances to a monument or to a prominent topographic feature. When protracted surveys have been approved and the effective date thereof published in the FEDERAL REGISTER, each application for lands shown on such protracted surveys, filed on or after such effective date, shall describe the lands according to the legal subdivision, section, township, and range shown on the approved protracted surveys.

(c) An application shall be accompanied by a detailed statement showing: (1) The expenditures made for the exploration, development, or production of geothermal steam by the applicant on lands for which a geothermal lease is sought or on adjoining, adjacent or nearby Federal or non-Federal lands and the date or dates such expenditures were made, (2) the names and current addresses of the persons who actually performed the aforesaid exploration, development, or production work, (3) the geological, geophysical, and engineering data acquired in such exploration, development, and production which demonstrates, or tends to demonstrate the expenditures claimed, and (4) a map showing the location where the expenditures and improvements were made.

(d) The applicant shall file such additional information with respect to the application as requested by the authorized officer.

§ 3230.4 Conversion to geothermal leases or to applications for geothermal leases.

§ 3230.4–1 Processing and adjudicating applications.

Application for conversion to geothermal leases or to applications for geothermal leases together with all information and data submitted pursuant to § 3230.3–2 hereof and any other pertinent available information or data shall be reviewed by the authorized officer for the purpose of determining whether the required showing has been made, and thereafter the authorized officer shall prepare a proposed determination which shall be submitted to the Secretary.

§ 3230.4–2 Approval.

The authorized officer will make a determination that the applicant has or has not satisfactorily shown that he is entitled to receive the grant of a geothermal lease, or application for a geothermal lease.

PART 3240—RULES GOVERNING LEASES

Subpart 3240—Rules Governing Leases

Subpart 3241—Lease Extensions, Continuations, or Renewal

Sec.

3241.1 Applications.
3241.2 Forms.
3241.3 Segregative effect of application.
3241.4 Rejection.
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Subpart 3242—Assignments and Transfers

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3242.1–1 Record title assignments or transfers of leases or undivided lease interests.
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3242.8 Lease account status; requirement.
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Subpart 3244—Cooperative Conservation Provisions

3244.1 Cooperative or unit plans.
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Subpart 3245—Terminations and Expirations

3245.1 Relinquishments.
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3245.2–1 General.
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3245.3 Termination of lease for noncompliance with regulations or lease terms; notice; hearing.
3245.4 Removal of material and supplies upon termination of lease.

Subpart 3241—Lease Extensions, Continuation, or Renewal

§ 3241.1 Applications.

An application for lease extension, continuation, or renewal shall be filed by the record title holder of the lease or by an assignee of the record title whose assignment has been filed for approval, or by an operator whose operating agreement has been filed for approval.

§ 3241.2 Forms.

An application for extension or renewal must be filed, in triplicate for public lands and in quadruplicate for acquired lands during the 90-day period prior to the expiration date of the lease, on a form approved by the Director or unofficial copies of that form in current use. The application must be accompanied by a service charge of $50 which will be retained as a service charge even though the application is later withdrawn or rejected, and a statement setting forth the reasons the extension is

§ 3243.3–2 Prohibition on production of

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requested. The unofficial copies must be exact reproductions, on one sheet of both sides, of the official form.

§ 3241.3 Segregating effect of application.

The timely filing of an application by the lessee or other qualified party as provided under § 3241.1 for extension shall have the effect of segregating the leased lands from all other applications until the final action taken on the application is noted, for public lands, on the tract book, or, for acquired lands, on the official records relating thereto, of the proper BLM office.

§ 3241.4 Rejection.

If, during the 90-day period prior to the expiration date of the lease, the record title holder, assignee of record title, or operator files an application or request for extension, which is not on the prescribed form or unofficial copies thereof, or fails to file the prescribed number of copies, he shall be notified of the defect and allowed 30 days after receipt of notice in which to correct it. If the applicant fails to correct the defect within the time prescribed, the application will be rejected. The lands previously covered by the rejected application for extension will be subject to the filing of new lease offers only as provided in these regulations.

§ 3241.5 Expiration by operation of law.

Upon failure of the lessee or other person enumerated in § 3241.1 to file an application for extension within the specified period, the lease will expire at the end of its primary term without notice to the lessee. Notation of such expiration need not be made on the official records, but the lands previously covered by that expired lease will be subject to the filing of new lease offers only as provided in these regulations.

Subpart 3242—Assignments and Transfers

§ 3242.1 Assignments, transfers, interests, qualifications.

§ 3242.1–1 Record title assignments or transfers of leases or undivided lease interests.

(a) The record title of leases may be assigned as to all or part of the leased acreage, except that no assignment will be approved where (1) either the assigned or retained portions created by the assignment would be less than 640 acres, unless the total acreage in the lease being partially assigned is less than 1,280 acres occasioned by an irregular subdivision, as provided in § 3203.2 of this part, in which case the assigned and retained portions may be less than 640 acres by an amount which is smaller than the amount by which the area would be more than 640 acres if the irregular subdivision were added, or (2) an undivided interest of less than 10 percent would be created in the leased acreage. An exception to the minimum acreage provision of this section may be made by the Secretary where he finds such exception is necessary in the interest of conservation of the resources.

(b) To obtain approval of a transfer affecting the record title of a geothermal lease, a request for such approval must be made not more than 90 days after the date of the final execution of the assignment by the parties.

(c) A working interest or operating right may be assigned, provided that the assigned interest or right, divided or undivided, vests in the holder only the right to explore, develop and produce geothermal resources from the leased lands to the extent of the interest assigned.

§ 3242.1–2 Qualifications.

(a) No assignment will be approved (1) if the assignee or any other party in interest is not qualified to take and hold a lease; (2) if a required bond is not filed; or (3) if the statement of interest required under § 3202.2–1(a) is not filed.

(b) an assignment to a minor other than an heir or devisee of a lessee will not be approved.

(c) The assignment must be accompanied by a signed statement by the assignee either (1) that he is the sole party in interest in the assignment, or (2) setting forth the names and qualifications of the other parties holding interests in the lease. Where the assignee is not the sole party in interest, separate statements must be signed by each of the other parties and by the assignee setting forth the nature and extent of the interest of each party and the nature of the agreement between them. These separate statements must be filed in the proper BLM office not later than 15 days after the filing of assignment.

(d) Where an attorney-in-fact or agent signs, on behalf of the assignor or assignee, the instrument of transfer or the application for approval, evidence of the authority of the attorney-in-fact or agent to sign such assignment or application must be furnished to the authorized officer.

(e) In order for the heir or devisee of the deceased holder of a lease, an operating agreement, or an overriding royalty interest in a producing lease, to be recognized by the authorized officer as the holder of that lease, agreement or interest, the appropriate showing required under the regulations in § 3202.2–6 must be furnished to the authorized officer.

§ 3242.2 Requirements for filing of assignments or transfers.

§ 3242.2–1 Place of filing and service charge.

A request for approval of any assignment or other instrument of transfer of a lease or interest therein must be filed in the proper BLM office and accompanied by a nonrefundable service charge of $50. An application not accompanied by payment of such a service charge will not be accepted for filing.

§ 3242.2–2 Number of copies required.

Three copies of all instruments of assignment or transfer, and a single copy of any additional information relating to citizenship or qualifications of corporations must be filed in the proper BLM office.

§ 3242.2–3 Time of filing assignments, transfers of leases, or undivided lease interests.

(a) Any instrument of transfer of a lease or of an interest therein, including an assignment of working interests, operating agreements, and operating rights, must be filed in the proper BLM office for approval within 90 days from the date of execution of that instrument and must contain all of the terms and conditions agreed upon by the parties thereto, together with evidence and statements similar to that required of an applicant under these regulations in this group.

(b) A separate instrument of assignment must be filed in the proper BLM office for each geothermal lease involving transfers of record title. When transfers to the same person, association, or corporation involve more than one geothermal lease, one request for approval and one showing as to the qualifications of the assignee will be sufficient.

§ 3242.2–4 Forms and statements.

A form approved by the Director, or unofficial copies of that form in current use, must be used for transfers and requests for approval referred to in this section and must be filed in triplicate for public lands and in quadruplicate for acquired lands. Unofficials copies used must be exact reproductions on one sheet of both sides of the officially approved one-page form, except that the copies must include: (a) The following statement above the signature of the assignee: "This form is submitted in lieu of the official form and contains all of the provisions thereof as of the date of filing of this assignment;" and (b) the name and address of the printer or other party issuing unofficial reproductions of the official form. The approved form may be used for an assignment which affects a transfer of the record title to all or part of a geothermal lease, but it is not to be used for any other type of transfer. The application for assignment shall be deemed to be approved upon execution by the authorized officer.

§ 3242.2–5 Description of lands.

Each instrument of transfer must describe the lands involved in the same manner as described in the lease.

§ 3242.3 Bonds.

Where an assignment does not create separate leases, the assignee, if the assignment so provides, may become a joint principal on the bond with the assignor. Any assignment which does not convey the assignor's record title in all of the lands in the lease must also be accompanied by consent of his surety to remain bound under the bond of record as to the lease retained by said assignor, if the bond, by its terms, does not contain such consent. If a party to the assignment has previously furnished a nationwide or statewide bond, no additional showing by such party is necessary as to the bond requirement.

§ 3242.4 Approval.

Upon approval, an assignment shall be effective as of the first day of the lease month following the date of filing of the assignment required by this Subpart in the proper BLM office.

§ 3242.5 Continuing responsibility.

(a) The assignor and his surety will continue to be responsible for the performance of any obligation under the lease until the assignment is approved.

(b) Upon approval, the assignee and his surety shall be responsible for the performance of all lease obligations notwithstanding any terms in the assignment to the contrary.

§ 3242.6 Production payments.

If payments out of production are reserved, a statement must be submitted stating the details as to the amount, method of payment, and other pertinent items.

§ 3242.7 Overriding royalty interests.

§ 3242.7–1 General.

(a) Overriding royalty interests in geothermal leases constitute accountable acreage holdings under these regulations.

(b) If an overriding royalty interest is created which is not shown in the instrument of assignment or transfer, a statement must be filed in the proper BLM office describing the interest.

(c) Any such assignment will be deemed valid if accompanied by a statement over the assignee's signature that the assignee is a citizen of the United States, an association of such citizens, or a corporation organized under the laws of the United States or of one of the States or the District of Columbia, and that his interests in geothermal leases do not exceed the acreage limitations provided in these regulations.

(d) All assignments of overriding royalty interests must be filed for record in the proper BLM office within 90 days from the date of execution. Such interests will not receive formal approval.

§ 3242.7–2 Limitation of overriding royalties.

(a) Except as herein provided, an overriding royalty on the value of the output of all geothermal resources, or any of them, at the point of shipment to market may be created by assignment or otherwise: *Provided*, That, (1) the overriding royalty is not for less than one-fourth (¼) of 1 percent of the value of such output, and does not exceed 50 percent of the rate of royalty due to the United States as specified in the geothermal lease, or as reduced pursuant to such lease, and (2) the overriding royalty, when added to overriding royalties previously created, does not exceed the maximum rate established hereof.

(b) The creation of an overriding royalty interest that does not conform to the requirements of paragraph (a) of this section shall be deemed a violation of the lease terms, unless the agreement creating overriding royalties provides (1) for a prorated reduction of all overriding royalties so that the aggregate rate of royalties does not exceed the maximum rate established in paragraph (a) of this section and (2) for the suspension of an overriding royalty during any period when the royalties due to the United States have been suspended pursuant to the terms of the geothermal lease.

§ 3242.8 Lease account status; requirements.

Unless the lease account is in good financial standing as to the area covered by an assignment at the time the assignment and bond are filed, or is placed in good standing before the assignment is reached for action, the lease shall be subject to termination in accordance with these regulations.

§ 3242.9 Effect of assignment.

An assignment of the record title of the complete interest in a portion of the lands in a lease shall segregate the assigned and retained portions into separate and distinct leases. An assignment of an undivided interest in the entire leasehold shall not segregate the lease into separate or distinct leases.

Subpart 3243—Production and Use of Byproducts

§ 3243.1 General.

Where the Supervisor determines that production, use, or conversion of geothermal steam under a geothermal lease is susceptible of producing a valuable byproduct or byproducts, including commercially demineralized water contained in or derived from such geothermal steam for beneficial use in accordance with applicable State water laws, the authorized officer shall require substantial beneficial production or use thereof, except where he determines that:

(a) Beneficial production or use is not in the interest of conservation of natural resources;

(b) Beneficial production or use would not be economically feasible; or

(c) Beneficial production and use should not be required for other reasons satisfactory to him.

§ 3243.2 Prior rights.

The production or use of such byproducts shall be subject to the rights of the holders of preexisting leases, permits or claims covering the same lands or the same minerals.

§ 3243.3 Production and use of commercially demineralized water as a byproduct, production, and use of other sources of water.

§ 3243.3–1 General.

Except as provided in these regulations, or the lease, the lessee shall have the right to process fluids, including brine, condensate, and other fluids, which are associated with geothermal steam within lands subject to the geothermal lease for the purpose of developing, producing, and utilizing the commercially demineralized water recovered as a result of such processing.

§ 3243.3–2 Prohibition on production of commercially demineralized water.

The lessee shall not be authorized to engage in the primary production of commercially demineralized water from the produced fluids contained in or derived from geothermal steam referred to in § 3243.3–1, where such use would result in the undue waste of geothermal energy.

§ 3243.3–3 Water wells on geothermal areas.

All leases issued under these regulations shall be subject to the condition that, where the lessee finds only potable water in any well drilled for production of geothermal resources, the Secretary may, when the water is of such quality and quantity as to be valuable and useable for agricultural, domestic, or other purpose, acquire the casing in the well at the fair market value of the casing.

§ 3243.3–4 State water laws.

Nothing in these regulations shall constitute an express or implied claim or denial on the part of the Federal Government as to its exemption from State water laws.

Subpart 3244—Cooperative Conservation Provisions

§ 3244.1 Cooperative or unit plans.

For the purpose of more properly conserving the natural resources of any geothermal pool, field or like area, lessees and their representatives may unite with each other or jointly or separately with others, in collectively adopting and operating under a cooperative or unit plan of development or operation of any geothermal resource area, or any part thereof (whether or not any part of that geothermal resource area is then subject to any cooperative or unit plan of development or operation). Applications to unitize shall be filed with the Supervisor who shall certify whether such plan is necessary or advisable in the public interest. The procedure in obtaining approval of a cooperative or unit plan of development, the provisions for the supervision of the cooperative or unit plan, and a suggested text of an agreement, are contained in 30 CFR Part 271.

§ 3244.2 Acreage chargeability.

All leases committed to any unit or cooperative plan approved or prescribed by the Supervisor shall be excepted in determining holdings or control for purposes of acreage chargeability. For the extension of leases committed to a unit plan, see Subpart 3203 of these regulations.

§ 3244.3 Communitization or drilling agreements.

§ 3244.3–1 Approval.

(a) The Supervisor is authorized, when separate tracts under lease cannot be independently developed and operated in conformity with an established well-spacing or well-development program, to approve, or to require lessees to

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enter into, communitization or drilling agreements providing for the apportionment of production or royalties among the separate tracts of land comprising the drilling or spacing unit for the lease, or any portion thereof, with other lands, whether or not owned by the United States, when in the public interest. Operations or production pursuant to such an agreement shall be deemed to be operations or production as to each lease committed thereto.

(b) Preliminary requests to communitize separate tracts shall be filed in triplicate with the Supervisor.

(c) Executed agreements shall be submitted to the Supervisor in sufficient number to permit retention of five copies after approval.

§ 3244.3–2 Requirements.

The agreement shall describe the separate tracts comprising the drilling or spacing unit, disclose the apportionment of the production or royalties to the several parties and the name of the operator, and shall contain adequate provisions for the protection of the interests of all parties, including the United States. The agreement must be signed by or in behalf of all interested parties and will be effective only after approval by the Supervisor.

§ 3244.4 Operating, drilling, development contracts or a combination for joint operations.

§ 3244.4–1 Approval.

(a) The Secretary may on such conditions as he may prescribe, approve operating, drilling, or development contracts made by one or more geothermal lessees, with one or more persons, associations, or corporation whenever he shall determine that such contracts are required for the conservation of natural resources or in the best interest of the United States.

(b) The Secretary may approve a combination for joint operations, pursuant to which lessees may combine their interests in leases for the purpose of constructing and carrying on the business of producing geothermal resources, or of establishing and constructing common lines to be used by them jointly in the transmission or transportation of geothermal resources from their several wells or from the wells of other lessees, or to increase the acreage which may be acquired or held under the provisions of the Act relating to competitive leases.

(c) Contracts submitted for approval under this section should be filed with the Supervisor together with enough copies to permit retention of five copies after approval.

(d) The authority of the Secretary to approve operating, drilling, or development contracts or a combination for joint operations, without regard to acreage limitations ordinarily will be exercised only to permit operators to enter into contracts with a number of lessees sufficient to justify operations on a large scale for the discovery, development, production, or transmission, transportation, or utilization of geothermal resources, and to finance the same.

§ 3244.4–2 Requirements.

(a) The contract must be accompanied by a statement showing all the interests held by the contractor in the area or field and the proposed or agreed plan of operation or development of the field. All the contracts held by the same contractor in the area or field should be submitted for approval at the same time, and full disclosure of the project made. Complete details must be furnished in order that the Secretary may have facts upon which to make a definite determination in accordance herewith and to prescribe the conditions on which approval of the contracts shall be made.

(b) The application must show a reasonable need for the combination and that it will not result in any concentration of control over the production or sale of geothermal resources which would be inconsistent with the antimonopoly provisions of law.

§ 3244.4–3 Acreage chargeability.

All leases operated under approved operating, drilling or development contracts or a combination for joint operations and interests thereunder, shall be excepted in determining holdings or control for purposes of acreage chargeability.

Subpart 3245—Terminations and Expirations

§ 3245.1 Relinquishments.

(a) A lease, or any legal subdivision of the area covered by such lease, may be surrendered by the record title holder by filing a written relinquishment in triplicate in the proper BLM office. The relinquishment must: (1) describe the lands to be relinquished as described in the lease; (2) include a statement as to whether the relinquished lands had been disturbed and if so whether they were restored as prescribed by the terms of the lease; (3) state whether wells had been drilled on the lands and if so whether they had been placed in condition for abandonment; and (4) furnish a statement that all moneys due and payable to workmen employed on the leased premises have been paid.

(b) A relinquishment shall take effect on the date it is filed, subject to the continued obligation of the lessee and his surety: (1) To make payments of all accruing rentals and royalties; (2) to place all wells on the land to be relinquished in condition for suspension of operations or abandonment as prescribed by the Supervisor; (3) to restore the surface resources in accordance with all regulations and the terms of the lease; and (4) to comply with all other environmental stipulations provided for by such regulations or lease. A statement must be furnished that all moneys due and payable to workmen employed on the leased premises have been paid.

§ 3245.2 Automatic terminations and reinstatements.

§ 3245.2–1 General.

Except as provided in § 3245.2–2 any lease will automatically terminate by operation of law if the lessee fails to pay the rental on or before the anniversary date of such lease. However, if the time for payment falls upon any day in which the proper office to receive payment is not open, payment received on the next official working day shall be deemed to be timely. The termination of the lease for failure to pay the rental must be noted on the official records of the proper BLM office. Upon such notation the lands included in such lease will become subject to leasing as provided for in Subpart 3211 of these regulations.

§ 3245.2–2 Exceptions.

(a) *Nominal deficiency.* If the rental payment due under a lease is paid on or before its anniversary date but the amount of the payment is deficient and the deficiency is nominal, the lease shall not have automatically terminated unless the lessee fails to pay the deficiency within the period prescribed in a Notice of Deficiency, or by the due date, whichever is later. A deficiency is nominal if it is not more than $10 or one percentum (1%) of the total payment due, whichever is more. The authorized officer shall send a Notice of Deficiency to the lessee on an approved form. The Notice shall be sent by certified mail, return receipt requested, and shall allow the lessee 15 days from the date of receipt to submit the full balance due to the proper BLM office. If the payment called for in the notice is not made within the time allowed, the lease will have terminated by operation of law as of its anniversary date.

(b) *Reinstatements.* (1) Except as hereinafter provided, the authorized officer may reinstate a lease which has terminated automatically for failure to pay the full amount of rental due on or before the anniversary date, if it is shown to his satisfaction that such failure was either justifiable or not due to a lack of reasonable diligence on the part of the lessee; and a petition for reinstatement, together with the required rental, including any back rental which has accrued from the date of termination of the lease, is filed with the proper BLM office.

(2) The burden of showing that the failure to pay on or before the anniversary date was justifiable or not due to lack of reasonable diligence will be on the lessee. Reasonable diligence normally requires sending or delivering payments sufficiently in advance of the anniversary date to account for normal delays in the collection, transmittal, and delivery of the payment. The authorized officer may require evidence, such as post office receipts, of the time of sending or delivery of payments.

(3) Under no conditions will a lease be reinstated if (i) a valid lease has been issued prior to the filing of a petition for reinstatement affecting any of the lands covered by the terminated lease, or (ii) the interest in the lands has been withdrawn, disposed of, or has otherwise become unavailable for leasing. However, the authorized officer will not issue a new lease for lands covered by a lease which terminated automatically until 90 days after the date of termination.

(4) Reinstatement of terminated leases is discretionary with the Secretary. The basic criterion in accordance with which this discretion will be exercised is whether the Secretary would be willing to issue a lease if a new lease offer for the same land were under consideration.

§ 3245.3 Termination of lease for noncompliance with regulations or lease terms; notice; hearing.

A lease may be terminated by the authorized officer for any violation of these regulations, the regulations in 30 CFR Part 270, or the lease terms, 30 days after receipt by the lessee of notice from the authorized officer of the violation, unless (a) the violation has been corrected, or (b) the violation is one that cannot be corrected within the notice period and the lessee has in good faith commenced within the notice period to correct the violation and thereafter proceeds diligently to complete the correction. A lessee shall be entitled to a hearing on the matter of any such claimed violation or proposed termination of lease if a request for a hearing is made to the authorized officer within the 30-day period after notice. The procedures with respect to notice of such hearing and the conduct thereof, and with respect to appeals from decisions of hearing examiners upon such hearings, shall follow insofar as practicable the procedural rules applicable to hearings and appeals in public lands cases within the jurisdiction of the Board of Land Appeals, Office of Hearings and Appeals, contained in Department Hearings and Appeals Procedures, Part 4 of this title. The period for correction of violation or commencement to correct a violation of regulations or of lease terms, as aforesaid, shall be extended to 30 days after the lessee's receipt of the hearing examiner's decision upon such a hearing if the hearing examiner shall find that a violation exists.

§ 3245.4 Removal of materials and supplies upon termination of lease.

Upon the expiration of the lease, or the earlier termination thereof pursuant to this subpart, the lessee shall have the privilege at any time within a period of ninety (90) days thereafter of removing from the premises any materials, tools, appliances, machinery, structures, and equipment other than improvements needed for producing wells. Any materials, tools, appliances, machinery, structures, and equipment subject to removal, but not removed within the 90-day period, or any extension thereof that may be granted because of adverse climatic conditions during that period, shall, at the option of the Supervisor, become property of the lessor, but the lessee shall remove any or all such property where so directed by the lessor.

Dated: November 22, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72–20348 Filed 11–28–72;8:45 am]

WEDNESDAY, NOVEMBER 29, 1972
WASHINGTON, D.C.

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federal register

WEDNESDAY, NOVEMBER 29, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 230

PART III

DEPARTMENT OF THE INTERIOR

Geological Survey

GEOTHERMAL RESOURCES OPERATIONS ON PUBLIC, ACQUIRED AND WITHDRAWN LANDS

No. 230—Pt. III——1

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(f) "Operator" means the individual,

None in an area, region, or any significant to the issuance of GRO orders and other reasonable interference with multiple

DEPARTMENT OF THE INTERIOR

Geological Survey

[30 CFR Parts 270, 271]

GEOTHERMAL RESOURCES OPERATIONS ON PUBLIC, ACQUIRED AND WITHDRAWN LANDS

Notice of Proposed Rulemaking

The purpose of this revision in the proposed rulemaking for implementing the Geothermal Steam Act of December 24, 1970 (30 U.S.C. 1001–1025), is to provide the public with revisions planned as a result of the public hearings and comments received on the Draft Environmental Statement and previously published proposed rulemaking on operations and units (36 F.R. 13722 and 37 F.R. 8094). The Act provides for the leasing of public lands for the purpose of geothermal resource exploration, development and production.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested parties may submit written comments, suggestions, or objections with respect to the proposed regulations to the Geothermal Coordinator, Department of the Interior, Washington, D.C. 20240, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

A Final Environmental Statement will be issued in accordance with the provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) prior to promulgation of any operating and unit regulations.

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GENERAL PROVISIONS

§ 270.1 Purpose and authority.

The Geothermal Steam Act enacted on December 24, 1970 (84 Stat. 1566) referred to in this part as "the Act", authorizes the Secretary of the Interior to prescribe rules and regulations applicable to operations conducted under a lease granted pursuant to that Act, and for the development and conservation of geothermal steam and associated geothermal resources, the prevention of waste, the protection of the public interest, and the protection of water quality, and other environmental qualities. The regulations in this part shall be administered by the Director through the Chief, Conservation Division, or his duly appointed representative.

§ 270.2 Definitions.

As used in the regulations in this part, the term:

(a) "Secretary" means the Secretary of the Interior or any person duly authorized to exercise the powers vested in that officer.

(b) "Director" means the Director of the Geological Survey.

(c) "Supervisor" means a representative of the Secretary, subject to the direction and supervisory authority of the Director, the Chief, Conservation Division, Geological Survey, and the appropriate Regional Conservation Manager, Conservation Division, Geological Survey, authorized and empowered to regulate operations and to perform other duties prescribed in the regulations in this part or any subordinate of such a representative acting under his direction.

(d) "Geothermal lease" means a lease issued under 43 CFR Group 3200.

(e) "Lessee" means the individual, corporation, association, or municipality to which a geothermal lease has been issued and its successor in interest or assignee. It also means any agent of the lessee or an operator holding authority by or through the lessee.

(f) "Operator" means the individual, corporation, or association having control or management of operations on the leased lands or a portion thereof. The operator may be the lessee, designated operator, or agent of the lessee, or holder of rights under an approved operating agreement.

(g) "Geothermal resources" means (1) all products of geothermal processes, embracing indigenous steam, hot water, and hot brines; (2) steam and other gases, hot water, and hot brines, resulting from water, gas, or other fluids artificially introduced into geothermal formations; (3) heat or other associated energy found in geothermal formations; and (4) any byproduct derived therefrom.

(h) "Byproduct" means (1) any mineral or minerals (exclusive of oil, hydrocarbon gas, and helium), which are found in solution or developed in association with geothermal steam and which have a value of less than 75 per centum of the value of the geothermal steam or are not, because of quantity, quality, or technical difficulties in extraction and production, of sufficient value to warrant extraction and production by themselves, and (2) commercially demineralized water.

(i) "Participating area" means that part of the unit area which is deemed to be productive from a horizon or deposit and to which production would be allocated in the manner described in the unit agreement assuming that all lands are committed to the unit agreement.

(j) "Waste" means (1) physical waste, as that term is generally understood; (2) waste of reservoir energy through inefficiency, improper use of or unnecessary dissipation of reservoir energy; (3) the location, spacing, drilling, equipping, operating, or producing of any geothermal well or wells in a manner which causes or tends to cause reduction in the quantity of geothermal energy ultimately recoverable from a reservoir under prudent and workmanlike operations or which tends to cause unnecessary or excessive surface or subsurface loss or destruction of geothermal energy; and (4) the inefficient transmission of geothermal energy from the source (wellhead) to point of utilization.

(k) "Directionally drilled well" means the deviation of a well bore from the vertical or from its normal course in an intended predetermined direction or course with respect to the points of the compass. Directionally drilled well shall not include a well deviated for the purpose of straightening a hole that has become crooked in the normal course of drilling or holes deviated at random without regard to compass direction in an attempt to sidetrack a portion of the hole on account of mechanical difficulty in drilling.

(l) "Geothermal resources operational order" or "GRO order" means a formal numbered order, issued by the Supervisor, with the prior approval of the Chief, Conservation Division, Geological Survey, which implements the regulations in this part and applies to operations in an area, region, or any significant portion thereof.

(m) "Producible well" means a well which is capable of producing geothermal resources in commercial quantities.

(n) "Commercial quantities" means quantities sufficient to pay a profit after all costs of production have been met.

(o) "Area of operations" means that area of the leased lands which is required for exploration, development, and producing operations, and which is delineated on a map or plat which is made a part of the approved plan of operations. It encompasses the area generally needed for wells, flow lines, separators, surge tanks, drill pads, mud pits, workshops, and other such facilities used for on-project geothermal resources field exploration, development, and production operations.

JURISDICTION AND FUNCTIONS OF SUPERVISOR

§ 270.10 Jurisdiction.

Drilling and production operations, handling and measurement of production, determination and collection of royalty and, in general, all operations conducted on a geothermal lease are subject to the regulations in this part and the applicable regulations contained in 43 CFR Group 3200, and are under the jurisdiction of the Supervisor for the region in which the leased land is situated, subject to the supervisory authority of the Secretary and the Director.

§ 270.11 General functions.

The Supervisor is authorized and directed to carry out the provisions of this part. He will require compliance with the terms of geothermal leases, with the regulations in this part and the applicable regulations in 43 CFR Group 3200, and with the applicable statutes. He shall act on all applications, requests, and notices required in this part. In executing his functions under this part the Supervisor shall ensure that all operations, within the area of operations, will conform to the best practice and are conducted in such manner as to protect the deposits of the leased lands and to result in the maximum ultimate recovery of geothermal resources, with minimum waste, and are consistent with the principles of the use of the land for other purposes and of the protection of the environment. Inasmuch as conditions in one area may vary widely from conditions in another area, the regulations in this part are intended to be general in nature. Detailed procedures hereunder in any particular area will be covered by GRO orders. The requirements to be set forth in GRO orders relating to surface resources or uses will be coordinated with the appropriate land management agency. The Supervisor may issue oral orders to govern lease operations, but such orders shall be confirmed in writing by the Supervisor as promptly as possible. The Supervisor may issue other orders and rules to govern the development and method for production of a deposit, field, or area. Prior to the issuance of GRO orders and other orders and rules, the Supervisor may consult with, and receive comments from Federal and State agencies, lessees, operators, or interested parties. Before permitting other operations on the leased land, the Supervisor shall determine if the lease is in good standing, whether the lessee is authorized to conduct operations, has filed an acceptable bond, and has an approved plan of operations.

§ 270.12 Regulation of operations.

The Supervisor shall inspect and supervise operations performed under the regulations in this part to: (a) Prevent waste and damage to formations or deposits containing geothermal resources; (b) prevent unnecessary damage to other natural resources; (c) prevent degradation of the water quality; (d) protect other environmental qualities; and (e) prevent injury to life or property. The Supervisor shall issue such GRO orders as are necessary to accomplish these purposes.

§ 270.13 Required samples, tests, and surveys.

When necessary or advisable, the Supervisor shall require that adequate samples be taken and tests or surveys be made using acceptable techniques, without cost to the lessor, to determine the identity and character of formations; the presence of geothermal resources, water, or reservoir energy; the quantity and quality of geothermal resources, water or reservoir energy; the amount and direction of deviation of any well from the vertical; formation, casing, and tubing pressures, temperatures, rate of heat and fluid flow, and whether operations are conducted in a manner looking to the protection of the interests of the lessor.

§ 270.14 Drilling and abandonment of wells.

The Supervisor shall require that drilling be conducted in accordance with the terms of the lease, GRO orders, and the regulations in this part and 43 CFR Group 3200; and shall require plugging and abandonment of any well or wells no longer necessary for operations in accordance with plans approved or prescribed by him. Upon the failure of a lessee to comply with any requirement under this section, the Supervisor is authorized to perform the work at the expense of the lessee and the surety.

§ 270.15 Well spacing and well casing.

The Supervisor shall approve proposed well-spacing and well-casing programs or prescribe such modifications to the programs as he determines necessary for proper development, giving consideration to such factors as: (a) Topographic characteristics of the area; (b) hydrologic, geologic and reservoir characteristics of the field; (c) the number of wells that can be economically drilled to provide the necessary volume of geothermal resources for the intended use; (d) protection of correlative rights; (e) minimizing well interference; (f) unreasonable interference with multiple use of lands; and (g) protection of the environment.

§ 270.16 Values and payment for losses.

The Supervisor shall determine the value of production accruing to the lessor where there is loss through waste or failure to drill and produce protection wells on the lease, and the compensation due to the lessor as reimbursement for such loss. Payment for such losses will be paid when billed.

§ 270.17 Suspension of operations and production.

(a) On receipt of an application filed in accordance with 43 CFR 3205.3–8 for suspension of operations or production, or both, under a producing geothermal lease (or for relief from any drilling or producing requirements of such a lease), the Supervisor may, if he deems the suspension or relief warranted, approve the application.

(b) In the interest of conservation, the Supervisor may, on his own motion, suspend operations or production, or both, on any geothermal lease.

(c) Where operations or production, or both, under a lease, have been suspended, the Supervisor may approve resumption of operations or production either on his own motion or upon written request by the lessee or his agent.

(d) Whenever it appears from facts adduced by or furnished to the Supervisor that the interest of the lessor requires additional drilling or producing operations, he may, by written notice, order the beginning or resumption of such operations.

(e) Any action of the Supervisor under this Section shall be subject to the right of appeal under § 270.90.

(f) See 43 CFR 3205.3–7 and 3205.3–8 for regulations concerning requests to waive, suspend, or reduce payments of rental or royalty, and extensions of leases on which operations or production have been suspended.

REQUIREMENTS FOR LESSEES

(INCLUDING OPERATORS)

§ 270.30 Lease terms, regulations, waste, damage, and safety.

(a) The lessee shall comply with the lease terms, lease stipulations, applicable laws and regulations and any amendments thereof, GRO orders, and other written or oral orders of the Supervisor. All oral orders (to be confirmed in writing as provided in § 270.11) are effective when issued unless otherwise specified.

(b) The lessee shall take all reasonable precautions to prevent: (1) Waste; (2) damage to any natural resource including trees and other vegetation, fish and wildlife and their habitat; (3) injury or damage to persons, real or personal property; and (4) any environmental pollution or damage.

§ 270.31 Designation of operator or agent.

In all cases where operations are not conducted by the lessee but are to be conducted under authority of an unapproved operating agreement, assignment

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or other arrangement, a "designation of operator" shall be submitted to the Supervisor, in a manner and form approved by him, prior to commencement of operations. Such a designation will be accepted as authority of the operator or his local representative to act for the lessee and to sign any papers or reports required under the regulations in this part. All changes of address and any termination of the authority of the operator shall be immediately reported, in writing, to the Supervisor.

§ 270.32 Local agent.

When required by the Supervisor, the lessee shall designate a local representative empowered to receive notices and comply with orders of the Supervisor issued pursuant to the regulations in this part.

§ 270.33 Drilling and producing obligations.

(a) The lessee shall diligently drill and produce such wells as are necessary to protect the lessor from loss by reason of production on other properties, or in lieu thereof, with the consent of the Supervisor, shall pay a sum determined by the Supervisor as adequate to compensate the lessor for failure to drill and produce any such well.

(b) The lessee shall promptly drill and produce such other wells as the Supervisor may require in order that the lease be developed and produced in accordance with good operating practices. (See 43 CFR Part 3234.)

§ 270.34 Plan of operation.

Prior to commencing any operations on the lease, the lessee shall submit and obtain the approval of the Supervisor and the appropriate land management agency of a plan of operation for the area. Such plan shall include:

(a) the proposed location of each well including a layout showing the position of the mud tanks, reserve pits, cooling towers, pipe racks, etc.;

(b) existing and planned access and lateral roads;

(c) location and source of water supply and road building material;

(d) location of camp sites, air-strips, and other supporting facilities;

(e) methods for disposing of waste material; and

(f) all pertinent information or data which the Supervisor may require to support the plan of operations for the utilization of geothermal resources and the protection of the environment.

§ 270.35 Subsequent well operations.

After completion of all operations authorized under any previously approved notice or plan, the lessee shall not begin to redrill, repair, deepen, plug back, shoot, or plug and abandon any well, make casing tests, alter the casing or liner, stimulate production, change the method of recovering production, or use any formation or well for brine or fluid injection until he has submitted to the Supervisor in writing a new plan of operations and has received written approval from him. However, in an emergency a lessee may take action to prevent damage without receiving prior approval from the Supervisor, but in such cases the lessee shall report his action to the Supervisor as soon as possible.

§ 270.36 Well designations.

The lessee shall mark each derrick upon commencement of drilling operations and each producing or suspended well in a conspicuous place with his name or the name of the operator, the serial number of the lease, the number and location of the well. Whenever possible, the well location shall be described by section or tract, township, range, and by quarter-quarter section or lot. The lessee shall take all necessary means and precautions to preserve these markings.

§ 270.37 Well records.

(a) The lessee shall keep for each well at his field headquarters or at other locations conveniently available to the Supervisor, accurate and complete records of all well operations including production, drilling, logging, directional well surveys, casing, perforation, safety devices, redrilling, deepening, repairing, cementing, alterations to casing, plugging, and abandoning. The records shall contain a description of any unusual malfunction, condition or problem; all the formations penetrated; the content and character of mineral deposits and water in each formation; thermal gradients, temperatures, pressures, analyses of geothermal waters, the kind, weight, size, grade, and setting depth of casing; and any other pertinent information.

(b) The lessee shall, within 30 days after completion of any well, transmit to the Supervisor copies of the records of all operations in a form prescribed by the Supervisor.

(c) Upon request of the Supervisor, the lessee will furnish (1) legible, exact copies of service company reports on cementing, perforating, acidizing, analyses of cores, electrical, and temperature logs, chemical analyses of steam and waters, or other similar services; (2) other reports and records of operations in the manner and form prescribed by the Supervisor.

§ 270.38 Samples, tests, and surveys.

(a) The lessee, when required by the Supervisor, will make adequate sampling, tests and/or surveys using acceptable techniques, to determine the presence, quantity, quality, and potential of geothermal resources, mineral deposits, or water; the amount and direction of deviation of any well from the vertical; and/or formation temperatures and pressures, casing, tubing, or other pressures and such other facts as the Supervisor may require. Such tests or surveys shall be made without cost to the lessor.

(b) The lessee shall, without cost to the lessor, take such formation samples or cores to determine the identity and character of any formation as are required and prescribed by the Supervisor.

§ 270.39 Directional survey.

The Supervisor may require an angular deviation and directional survey to be made of the finished hole of each directionally drilled well. The survey shall be made at the risk and expense of the lessee unless requested by an offset lessee, and then, at the risk and expense of the offset lessee. A copy of the survey shall be furnished the Supervisor.

§ 270.40 Well control.

The lessee or operator shall: (a) Take all necessary precautions to keep all wells under control at all times; (b) utilize trained and competent personnel; (c) utilize properly maintained equipment and materials; and (d) use operating practices which insure the safety of life and property. The selection of the types and weights of drilling fluids and provisions for controlling fluid temperatures, blowout preventers, and other surface control equipment and materials, casing and cementing programs, etc., to be used shall be based on sound engineering principles and shall take into account apparent geothermal gradients, depths and pressures of the various formations to be penetrated and other pertinent geologic and engineering data and information about the area.

§ 270.41 Pollution.

The lessee shall comply with all Federal and State standards with respect to the control of all forms of air, land, water, and noise pollution, including, but not limited to, the control of erosion and the disposal of liquid, solid, and gaseous wastes. The Supervisor may, in his discretion, establish additional and more stringent standards, and, if he does so, the lessee shall comply with those standards. Plans for disposal of well effluents must take into account effects on surface and subsurface waters, plants, fish and wildlife and their habitats, atmosphere, or any other effects which may cause or contribute to pollution, and such plans must be approved by the Supervisor before action is taken under them.

§ 270.42 Noise abatement.

The lessee shall minimize noise during exploration, development and production activities. Welfare of the operating personnel and the public must not be affected as a consequence of the noise created by the expanding gases. The method and degree of noise abatement shall be as approved by the Supervisor.

§ 270.43 Land subsidence and seismic activity.

In the event subsidence or seismic activity results from the production of geothermal resources, as determined by monitoring activities by the lessee or a government body, the lessee shall take such action as required by the lease or by the Supervisor.

§ 270.44 Pits and sumps.

The lessee shall provide and use pits and sumps of adequate capacity and design to retain all materials and fluids necessary to drilling, production, or other operations unless otherwise specified by the Supervisor. In no event shall the contents of a pit or sump be allowed to: (a) Contaminate streams, artificial canals or waterways, ground waters, lakes or rivers; (b) adversely affect environment, persons, plants, fish and wildlife and their habitats; or (c) damage the aesthetic values of the property or adjacent properties. When no longer needed, pits and sumps are to be filled and covered and the premises restored to a near natural state, as prescribed by the Supervisor.

§ 270.45 Well abandonment.

The lessee shall promptly plug and abandon any well on the leased land that is not used or useful. No well shall be abandoned until its lack of capacity for further profitable production of geothermal resources has been demonstrated to the satisfaction of the Supervisor. Before abandoning a producible well, the lessee shall submit to the Supervisor a statement of reasons for abandonment and his detailed plans for carrying on the necessary work. A producible well may be abandoned only after receipt of written approval by the Supervisor. No well shall be plugged and abandoned until the manner and method of plugging have been approved or prescribed by the Supervisor. Equipment shall be removed, and premises at the well site shall be restored as near as reasonably possible to its original condition immediately after plugging operations are completed on any well except as otherwise authorized by the Supervisor. Drilling equipment shall not be removed from any suspended drilling well without taking adequate measures to close the well and protect the subsurface resources.

§ 270.46 Accidents.

The lessee shall take all reasonable precautions to prevent accidents and shall notify the Supervisor within 24 hours of all accidents on the leased land, and shall submit a full report thereon within 15 days.

§ 270.47 Workmanlike operations.

The lessee shall carry on all operations and maintain the property at all times in a workmanlike manner, having due regard for the conservation of the property and the environment and for the health and safety of employees. The lessee shall remove from the property or store, in an orderly manner, all scrap or other materials not in use.

§ 270.48 Departure from orders.

The Supervisor may prescribe or approve either in writing or orally with prompt written confirmation, waivers or prompt written confirmation, variances from the requirements of GRO orders and other orders issued pursuant to these regulations, when such departures are necessary for the proper control of a well, conservation of natural resources, protection of human health and safety, property, or the environment.

§ 270.49 Sales contracts.

The lessee shall file with the Supervisor within 30 days after the effective date of the sales contract a copy of any contract for the disposal of geothermal resources from the lease.

§ 270.50 Royalty payments.

The lessee shall pay all royalties as due under the terms of the lease. Payments of royalties are due not later than the last day of the month following the month in which the resource is sold or utilized, and shall be by check, bank draft, or money order, drawn to the order of the United States Geological Survey.

MEASUREMENT OF PRODUCTION AND COMPUTATION OF ROYALTIES

§ 270.60 Measurement of geothermal resources.

The lessee shall measure or gauge all production in accordance with methods approved by the Supervisor. The quantity and quality of all production shall be determined in accordance with the standard practices, procedures, and specifications generally used in industry. All measuring equipment shall be tested periodically and, if found defective, the Supervisor will determine the quantity and quality of production from the best evidence available.

§ 270.61 Determination of content of byproducts.

The lessee shall periodically furnish the Supervisor the results of periodic tests showing the content of byproducts in the produced geothermal fluid and gases. Such tests shall be taken as specified by the Supervisor and by the method of testing approved by him.

§ 270.62 Value of geothermal production for computing royalties.

(a) The value of geothermal production from the leased premises for the purpose of computing royalties shall be the reasonable value of the energy and the byproducts attributable to the lease as determined by the Supervisor. In determining the reasonable value of the energy and the byproducts the Supervisor shall consider:

(1) The highest price paid for a majority of the production of like quality in the same field or area;

(2) The total consideration accruing to the lessee from any disposition of the geothermal production;

(3) The value of the geothermal production used by the lessee;

(4) The value and cost of alternate available energy sources and byproducts;

(5) The cost of exploration and production, exclusive of taxes;

(6) The economic value of the resource in terms of its ultimate utilization;

(7) Production agreements between producer and purchaser; and

(8) Any other matters which he may consider relevant.

(b) Under no circumstances shall the value of any geothermal production for the purposes of computing royalties be less than:

(1) The total consideration accruing to the lessee from the sale thereof in cases where geothermal resources are sold by the lessee to another party;

(2) That amount which is the value of the end product attributable to the geothermal resource produced from a particular lease where geothermal resources are not sold by the lessee before being utilized, but are instead directly used in manufacturing, power production, or other industrial activity; or

(3) When a part of the resource only is utilized by the lessee and the remainder sold, the sum of the value of the end product attributable to the geothermal resource and the sales price received for the geothermal resources

§ 270.63 Computation of royalties.

(a) The value of geothermal production from a particular lease as determined pursuant to § 270.62 hereof, shall be apportioned between geothermal steam, heat, and other forms of energy and the byproducts.

(b) The royalties payable shall be the sum of (1) the amount resulting from the multiplication of the value attributable to the geothermal steam, heat, and other forms of energy by the royalty rate set for such forms of geothermal energy in the lease and (2) the amount resulting from the multiplication of the value attributable to byproducts by the royalty rate for byproducts set in the lease.

§ 270.64 Commingling production.

The supervisor may authorize a lessee to commingle production from wells on his lease with production from other leases held by him or by other lessees subjects to such conditions as he may prescribe.

REPORTS TO BE MADE BY ALL LESSEES (INCLUDING OPERATORS)

§ 270.70 General requirements.

Information required to be submitted in accordance with the regulations in this part shall be furnished as directed by the Supervisor. Copies of forms can be obtained from the Supervisor and must be filed with that official within the time limit prescribed.

§ 270.71 Application for permit to drill, redrill, deepen, or plug-back.

(a) A permit to drill, redrill, deepen, or plug-back a well on Federal lands must be obtained from the Supervisor before the work is begun. The application for the permit, which shall be filed in triplicate with the Supervisor, shall state the location of the well in feet, and direction from the nearest section or tract lines as shown on the official plat of survey or protracted surveys; the altitude of the ground and derrick floor above sea level and how it was determined, and should be accompanied by a proposed plan of operations as required by § 270.34 of this part.

(b) The proposed drilling and casing plan shall be outlined in detail under the heading "Details of Work" in the applications referred to herein, and shall describe the type of tools and equipment to be used, the proposed depth to which the well will be drilled, the estimated

PROCEDURE IN CASE OF VIOLATION OF

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or a cooperative agreement as defined in

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depths to the top of important markers, the estimated depths at which water, geothermal resources, or other mineral resources are expected, the proposed casing program (including the size and weight of casing), the depth at which each string is to be set, and the amount of cement and mud to be used, the drilling method and type of circulating media (water, mud, foam, air or combinations thereof), the type of blowout prevention equipment to be used, the proposed coring, logging, or other program (such as drilling time log and sample description) to be used to determine the formations penetrated and the proposed program for determining geothermal gradients and the sampling and analysis of geothermal resources.

(c) Each application shall be accompanied by a plat showing the surface and expected bottomhole locations and the distances from the nearest section or tract lines as shown on the official plat of survey or protracted surveys. The scale shall not be less than 2,000 feet to 1 inch.

(d) Each application should be accompanied by supporting structural and hydrologic information based on available geologic and geophysical data.

§ 270.72 Sundry notices and reports on wells.

(a) Any written notice of intention to do work or to change plans previously approved must be filed with the Supervisor in triplicate, unless otherwise directed, and must be approved by him before the work is begun. If, in case of emergency, any notice is given orally or by wire, and approval is obtained, the transaction shall be confirmed in writing. A subsequent report of the work performed must also be filed with the Supervisor.

(b) Casing test: Notice shall be given in advance to the Supervisor or his representative of the date and time when the operator expects to make a casing test. Later, by agreement, the exact time shall be fixed. In the event of casing failure during the test, the casing must be repaired or replaced or recemented as required by the Supervisor or his representative. The results of the test must be reported within 30 days after making a casing test. The report must describe the test completely and state the amount of mud and cement used, the lapse of time between running and cementing the casing and making the test, and the method of testing.

(c) Repairs or conditioning of well: Before the repairing or conditioning of a well, a notice setting forth in detail the plan of work must be filed with, and approved by, the Supervisor. A detailed report of the work accomplished and the methods employed, including all dates, and the results of such work must be filed within 30 days after completion of the repair work.

(d) Well stimulation: Before the lessee commences stimulation of a well by any means, a notice, setting forth in detail the plan of work, must be filed with and approved by the Supervisor. The notice shall name the type of stimulant and the amount to be used. A report showing the amount of stimulant used and the production rate before and after stimulation must be filed within 30 days from completion of the work.

(e) Altering casing in a well: Notice of intention to run a liner or to alter the casing by pulling or perforating by any means must be filed with and approved by the Supervisor before the work is started. This notice shall set forth in detail the plan of work. A report must be filed within 30 days after completion of the work stating exactly what was done and the results obtained.

(f) Notice of intention to abandon well: Before abandonment work is begun on any well, whether a drilling well, geothermal resources well, water well, or so-called dry hole, notice of intention to abandon shall be filed with, and approved by, the Supervisor. The notice must be accompanied by a complete log, in duplicate, of the well to date, provided the complete log has not been filed previously, and must give a detailed statement of the proposed work, including such information as kind, location, and length of plugs (by depths), plans for mudding, cementing, shooting, testing, and removing casing, and any other pertinent information.

(g) Subsequent report of abandonment: After a well is abandoned or plugged, a subsequent record of work done must be filed with the Supervisor. This report shall be filed separately within 30 days after the work is done. The report shall give a detailed account of the manner in which the abandonment or plugging work was carried out, including the nature and quantities of materials used in plugging and the location and extent (by depths) of the plugs of different materials; records of any tests or measurements made, and of the amount, size, and location (by depths) of casing left in the well; and a detailed statement of the volume of mud fluid used, and the pressure attained in mudding. If an attempt was made to part any casing, a complete report of the methods used and results obtained must be included.

§ 270.73 Log and history of well.

The lessee shall furnish in duplicate to the Supervisor, not later than 30 days after the completion of each well, a complete and accurate log and history, in chronological order, of all operations conducted on the well. A log shall be compiled for geologic information from cores or formations samples and duplicate copies of such log shall be filed. Duplicate copies of all electric logs, temperature surveys, water and steam analyses, hydrologic or heat flow tests, or direction surveys, if run, shall be furnished.

§ 270.74 Monthly report of operations.

A report of operations for each lease must be made for each calendar month, beginning with the month in which drilling operations are initiated. The report must be filed in duplicate with the Supervisor on or before the last day of the month following the month for which the report is filed unless an extension of time for the filing of the report is granted by the Supervisor. The report shall disclose accurately all operations conducted on each well during the month, the status of operations on the last day of the month, and a general summary of the status of operations on the leased lands. The report must be submitted each month until the lease is terminated or until omission of the report is authorized by the Supervisor. The report shall show for each calendar month:

(a) The lease serial number or the unit or communitization agreement number which shall be inserted in the upper right corner;

(b) Each well listed separately by number, and its location by 40-acre subdivision (quarter-quarter section or lot), section number, township, range, and meridian;

(c) The number of days each well was produced, whether steam or hot water or both were produced, and the number of days each input well was in operation, if any;

(d) The quantity of production and any byproducts obtained from each well, if any are recovered;

(e) The depth of each active or suspended well, and the name, character, and depth of each formation drilled during the month, the date and reason for every shutdown, the names and depths of important formation changes, the amount and size of any casing run since the last report, the dates and results of any tests conducted, and any other noteworthy information on operations not specifically provided for in the form.

(f) The footnote must be completely filled out as required by the Supervisor. If no sales were made during the calendar month, the report must so state.

§ 270.75 Monthly report of sales and royalty.

A report of sales and royalty for each productive lease must be filed each month once sales of production are made even though sales may be intermittent, unless otherwise authorized by the Supervisor. Total volumes of geothermal resources produced and sold, the value of production, and the royalty due the lessor must be shown. If byproducts are being recovered, the same requirement shall be applicable. This report is due on or before the last day of the month following the month in which production was obtained and sold or utilized, together with the royalties due the United States. Payment or royalty is to be made pursuant to § 270.49 unless otherwise authorized by the Supervisor.

§ 270.76 Forms or reports.

When forms or reports other than those referred to in the regulations in this part may be necessary, instructions for the filing of such forms or reports will be given by the Supervisor.

§ 270.77 Public inspection of records.

Geologic and geophysical interpretations, maps, and data required to be submitted under this part shall not be available for public inspection without the consent of the lessee so long as the lease remains in effect.

PROCEDURE IN CASE OF VIOLATION OF THE REGULATIONS OR LEASE TERMS

§ 270.80 Noncompliance with regulations or lease terms.

Whenever a lessee or anyone acting under his authority fails to comply with the provisions of the regulations or lease terms, the Supervisor shall give the lessee notice to remedy any defaults or violations. The Supervisor is authorized to shut down any operations which he determines are unsafe or are causing or can cause pollution. Failure by the lessee to perform or commence the necessary remedial action pursuant to the notice will result in a shut down of operations and may result in referral of the matter to the authorized officer of the Bureau of Land Management for action pursuant to 43 CFR 3245.3.

APPEALS

§ 270.90 Appeals.

(a) Any party to a case adversely affected by a final order or decision of an officer of the Conservation Division of the Geological Survey shall have a right to appeal to the Director, unless the order or decision was approved by the Secretary or the Director prior to promulgation.

(b) An appeal to the Director may be taken by filing a notice of appeal in the office of the official who issued the order or decision within 30 days from service of the order or decision. The notice of appeal shall incorporate, or be accompanied by, such written showing and argument on the facts and the law as the appellant may deem adequate to justify reversal or modification of the order or decision. Within the same 30-day period, the appellant will be permitted to file in the office of the officer who issued the order or decision additional statements of reasons and written arguments or briefs. The officer with whom the appeal is filed shall transmit the appeal and accompanying papers to the Director with a full report and his recommendation on the appeal. The Director will review the record and render a decision in the case.

(c) Oral argument in any case pending before the Director will be allowed on motion in the discretion of such officer and at a time to be fixed by him.

(d) With the exception of the time fixed for filing a notice of appeal, the time for filing any document in connection with an appeal may be extended by the Director. A request for an extension of time must be filed within the time allowed for filing of the document and must be filed in the same office in which the document in connection with which the extension is requested must be filed.

(e) Any party to a case adversely affected by a decision of the Director under this part shall have a right of appeal to the Board of Land Appeals in the Office of Hearings and Appeals, Office of the Secretary, in accordance with the procedures provided in 43 CFR Part 4, Department Hearings and Appeals Procedures.

PART 271—GEOTHERMAL RESOURCES UNIT PLAN REGULATIONS (INCLUDING SUGGESTED FORMS)

GENERAL PROVISIONS

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AUTHORITY: The provisions of this Part 271 issued under section 18 of the Geothermal Steam Act of 1970 (84 Stat. 1566) (see 43 CFR Subpart 3244).

§ 271.1 Introduction.

The regulations in this part prescribe the procedure to be followed and the requirements to be met by holders of Federal geothermal leases (see § 271.2d) and their representatives who wish to unite with each other, or jointly or separately with others, in collectively adopting and operating under a cooperative or unit plan for the development of any geothermal resources pool, field, or like area, or any part thereof. Such agreements may be initiated by lessees, or where in the interest of conserving natural resources they are deemed necessary they may be required by the Director.

§ 271.2 Definitions.

The following terms, as used in this part or in any agreement approved under the regulations in this part, shall have the meanings here indicated unless otherwise defined in such agreement:

(a) *Unit agreement.* An agreement or plan of development and operation for the production and utilization of separately owned interests in the geothermal resources made subject thereto as a single consolidated unit without regard to separate ownerships and which provides for the allocation of costs and benefits on a basis defined in the agreement or plan.

(b) *Cooperative agreement.* An agreement or plan of development and operations for the production and utilization of geothermal resources made subject thereto in which separate ownership units are independently operated without allocation of production.

(c) *Agreement.* For convenience, the term "agreement" as used in the regulations in this part refers to either a unit or a cooperative agreement as defined in paragraphs (a) and (b) of this section unless otherwise indicated.

(d *Geothermal lease.* A lease issued under the act of December 24, 1970 (84 Stat. 1566), pursuant to the leasing regulations contained in 43 CFR Part 3200, and, unless the context indicates otherwise, "lease" means a geothermal lease.

(e) *Unit area.* The area described in a unit agreement as constituting the land logically subject to development under such agreement.

(f) *Unitized land.* The part of a unit area committed to a unit agreement.

(g) *Unitized substances.* Deposits of geothermal resources recovered from unitized land by operation under and pursuant to a unit agreement.

(h) *Unit operator.* The person, association, partnership, corporation, or other business entity designated under a unit agreement to conduct operations on unitized land as specified in such agreement.

(i) *Participating area.* That part of the Unit Area which is deemed to be productive from a horizon or deposit and to which production would be allocated in the manner described in the unit agreement assuming that lands are committed to the unit agreement.

(j) *Working interest.* The interest held in geothermal resources or in lands containing the same by virtue of a lease, operating agreement, fee title, or otherwise, under which, except as otherwise provided in a unit or cooperative agreement, the owner of such interest is vested with the right to explore for, develop, produce, and utilize such resources. The right delegated to the unit operator as such by the unit agreement is not to be regarded as a working interest.

(k) *Secretary.* The Secretary of the Interior or any person duly authorized to exercise powers vested in that officer.

(l) *Director.* The Director of the U.S. Geological Survey.

(m) *Supervisor.* A representative of the Secretary, subject to the direction and supervisory authority of the Director, the Chief, Conservation Division, Geological Survey, and the appropriate Regional Conservation Manager, Conservation Division, Geological Survey, authorized and empowered to regulate operations and to perform other duties prescribed in the regulations in this part or any subordinate of such representative acting under his direction.

§ 271.3 Designation of area.

An application for designation of an area as logically subject to development and/or operation under a unit or cooperative agreement may be filed, in triplicate, by any proponent of such an agreement through the Supervisor. Each copy of the application shall be accompanied by a map or diagram on a scale of not less than 1 inch to 1 mile, outlining the area sought to be designated under this section. The Federal, State, and privately owned land should be indicated on said map by distinctive symbols or colors and Federal geothermal leases and lease ap-

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hereby accepted and made a part of this

Area contemplated in Article 3.1 hereof shall

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plications should be dentified by serial number. Geological information, including the results of geophysical surveys, and such other information as may tend to show that unitization is necessary and advisable in the public interest should be furnished in triplicate. Geological and geophysical information and data so furnished will not be available for public inspection, as provided by 5 U.S.C. section 552(b), without the consent of the proponent. The application and supporting data will be considered by the Director and the applicant will be informed of the decision reached. The designation of an area, pursuant to an application filed under this section, shall not create an exclusive right to submit an executed agreement for such area, nor preclude the inclusion of such area or any part thereof in another unit area.

§ 271.4 Preliminary consideration of agreements.

The form of unit agreement set forth in § 271.12 is acceptable for use in unproved areas. The use of this form is not mandatory, but any proposed departure therefrom should be submitted with the application submitted under § 271.3 for preliminary consideration and for such revision as may be deemed necessary. In areas proposed for unitization in which a discovery of geothermal resources has been made, or where a cooperative agreement is contemplated, the proposed agreement should be submitted with the application submitted under § 271.3 for preliminary consideration and for such revision as may be deemed necessary. The proposed form of agreement should be submitted in triplicate and should be plainly marked to identify the proposed variances from the form of agreement set forth in § 271.12.

§ 271.5 State land.

Where State-owned land is to be included in the unit, approval of the agreement by appropriate State officials should be obtained prior to its submission to the Department for approval of the executed agreement. When authorized by the laws of the State in which the unitized land is situated, provisions may be made in the agreement accepting State law to the extent that they are applicable to non-Federal unitized land.

§ 271.6 Qualifications of unit operator.

A unit operator must qualify as to citizenship in the same manner as those holding interests in geothermal leases issued under the Geothermal Steam Act of 1970. The unit operator may be an owner of a working interest in the unit area or such other party as may be selected by the owners of working interests and approved by the Supervisor. The unit operator shall execute an acceptance of the duties and obligations imposed by the agreement. No designation of, or change in, a unit operator will become effective unless and until approved by the Supervisor, and no such approval will be granted unless the unit operator is deemed qualified to fulfill the duties and obligations prescribed in the agreement.

§ 271.7 Parties to unit or cooperative agreement.

The owners of any rights, title, or interest in the geothermal resources deposits to be developed and operated under an agreement can be regarded as proper parties to a proposed agreement. All such owners must be invited to join as parties to the agreement. If any owner fails or refuses to join the agreement, the proponent of the agreement should declare this to the Supervisor and should submit evidence of efforts made to obtain joinder of such owner and the reasons for nonjoinder.

§ 271.8 Approval of an executed unit or cooperative agreement.

(a) A duly executed unit or cooperative agreement will be approved by the Secretary, or his duly authorized representative, upon a determination that such agreement is necessary or advisable in the public interest and is for the purpose of properly conserving the natural resources. Such approval will be incorporated in a certificate appended to the agreement. No such agreement will be approved unless at least one of the parties is a holder of a Federal lease embracing lands being committed to the agreement and unless the parties signatory to the agreement hold sufficient interests in the area to give effective control of operations therein.

(b) Where a duly executed agreement is submitted for Departmental approval, a minimum of six signed counterparts should be filed. The same number of counterparts should be filed for documents supplementing, modifying, or amending an agreement, including change of operator, designation of new operator, and notice of surrender, relinquishment, or termination.

(c) The address of each signatory party to the agreement should be inserted below the party's signature. Each signature should be attested by at least one witness, if not notarized. Corporate or other signatures made in a representative capacity must be accompanied by evidence of the authority of the signatories to act unless such evidence is already a matter of record in the United States Geological Survey. (The parties may execute any number of counterparts of the agreement with the same force and effect as if all parties signed the same document, or may execute a ratification or consent in a separate instrument with like force and effect.).

(d) Any modification of an approved agreement will require approval of the Secretary or his duly authorized representative under procedures similar to those cited in paragraph (a) of this section.

§ 271.9 Filing of papers and number of counterparts.

(a) All proposals and supporting papers, instruments, and documents submitted under this part should be filed with the Supervisor, unless otherwise provided in this part or otherwise instructed by the Director.

(b) Plans of development and operation, plans of further development and operation, and proposed participating areas and revisions thereof should be submitted in quadruplicate.

(c) Each application for approval of a participating area, or revision thereof, should be accompanied by three copies of a substantiating geologic and engineering report, structure contour map or maps, cross-section or other pertinent data.

(d) Other instruments or documents submitted for approval should be submitted for approval in sufficient number to permit the approving official to return at least one approved counterpart.

§ 271.10 Bonds.

In lieu of separate bonds required for each Federal lease committed to a unit agreement, the unit operator may furnish and maintain a collective corporate surety bond or a personal bond conditioned upon faithful performance of the duties and obligations of the agreement and the terms of the leases subject thereto. Personal bonds shall be accompanied by a deposit of negotiable Federal securities in a sum equal at their par value to the amount of the bond and by a proper conveyance to the Secretary of full authority to sell such securities in case of default in the performance of the obligations assumed. The liability under the bond shall be for such amount as the Supervisor shall determine to be adequate to protect the interests of the United States. Additional bond coverage may be required whenever deemed necessary by the Supervisor. The bond must be filed with and accepted by the Bureau of Land Management before operations will be approved. A form of corporate surety bond is set forth in § 271.15. In case of changes of unit operator, a new bond must be filed or a consent of surety to the change in principal under the existing bond must be furnished.

§ 271.11 Appeals.

Appeals may be taken in the manner provided in § 270.90 of this chapter from any decision or order issued under the regulations in this part, unless such decision or order was approved by the Secretary prior to promulgation.

§ 271.12 Form of unit agreement for unproved areas.

UNIT AGREEMENT FOR THE DEVELOPMENT AND OPERATIONS OF THE _____
UNIT AREA, COUNTY OF _____
STATE OF _____ No. _____
UNIT AGREEMENT FOR THE DEVELOPMENT AND OPERATION OF THE _____ UNIT AREA
COUNTY OF _____
STATE OF _____

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---------- UNIT AGREEMENT
---------- COUNTY ----------

This Agreement entered into as of the ------ day of ----------, 19--, by and between the parties subscribing, ratifying, or consenting hereto, and herein referred to as the "parties hereto".

WITNESSETH: Whereas the parties hereto are the owners of working, royalty, or other geothermal resources interests in land subject to this Agreement; and

Whereas the Geothermal Steam Act of 1970 (84 Stat. 1566), hereinafter referred to as the "Act", authorizes Federal lessees and their representatives to unite with each other, or jointly or separately with others, in collectively adopting and operating under a cooperative or unit plan of development or operation of any geothermal resources pool, field, or like area, or any part thereof, for the purpose of more properly conserving the natural resources thereof, whenever determined and certified by the Secretary of the Interior to be necessary or advisable in the public interest; and

Whereas the parties hereto hold sufficient interest in the ---------- Unit Area covering the land herein described to effectively control operations therein; and

Whereas, it is the purpose of the parties hereto to conserve natural resources, prevent waste, and secure other benefits obtainable through development and operations of the area subject to this Agreement under the terms, conditions, and limitations herein set forth;

Now, therefore, in consideration of the premises and the promises herein contained, the parties hereto commit to this agreement their respective interests in the below-defined Unit Area, and agree severally among themselves as follows:

ARTICLE I—ENABLING ACT AND REGULATIONS

1.1 The Act and all valid pertinent regulations, including operating and unit plan regulations, heretofore or hereafter issued thereunder are accepted and made a part of this agreement as to Federal lands.

1.2 As to non-Federal lands, the geothermal resources operating regulations in effect as of the effective date hereof governing drilling and producing operations, not inconsistent with the laws of the State in which the non-Federal land is located, are hereby accepted and made a part of this agreement.

ARTICLE II—DEFINITIONS

2.1 The following terms shall have the meanings here indicated:

(a) *Geothermal lease.* A lease issued under the act of December 24, 1970 (84 Stat. 1566), pursuant to the leasing regulations contained in 43 CFR Group 3200 and, unless the context indicates otherwise, "lease" shall mean a geothermal lease.

(b) *Unit area.* The area described in Article III of this Agreement.

(c) *Unit Operator.* The person, association, partnership, corporation, or other business entity designated under this Agreement to conduct operations on Unitized Land as specified herein.

(d) *Participating area.* That part of the Unit Area which is deemed to be productive from a horizon or deposit and to which production would be allocated in the manner described in the unit agreement assuming that all lands are committed to the unit agreement.

(e) *Working interest.* The interest held in geothermal resources or in lands containing the same by virtue of a lease, operating agreement, fee title, or otherwise, under which, except as otherwise provided in this Agreement, the owner of such interest is vested with the right to explore for, develop, produce and utilize such resources. The right delegated to the Unit Operator as such by this Agreement is not to be regarded as a Working Interest.

(f) *Secretary.* The Secretary of the Interior or any person duly authorized to exercise powers vested in that officer.

(g) *Director.* The Director of the U.S. Geological Survey.

(h) *Supervisor.* A representative of the Secretary, subject to the direction and supervisory authority of the Director, the Chief, Conservation Division, Geological Survey, and the appropriate Regional Conservation Manager, Conservation Division, Geological Survey, authorized and empowered to regulate operations and to perform other duties prescribed in the regulations in this part or any subordinate of such representative acting under his direction.

ARTICLE III—UNIT AREA AND EXHIBITS

3.1 The area specified on the map attached hereto marked "Exhibit A" is hereby designated and recognized as constituting the Unit Area, containing ---------- acres, more or less.

The above-described Unit Area shall when practicable be expanded to include therein any additional lands or shall be contracted to exclude lands whenever such expansion or contraction is deemed to be necessary or advisable to conform with the purposes of this Agreement.

3.2 Exhibit A attached hereto and made a part hereof is a map showing the boundary of the Unit Area, the boundaries and identity of tracts and leases in said area to the extent known to the Unit Operator.

3.3 Exhibit B attached hereto and made a part hereof is a schedule showing to the extent known to the Unit Operator the acreage, percentage, and kind of ownership of geothermal resources interests in all lands in the Unit Area.

3.4 Exhibits A and B shall be revised by the Unit Operator whenever changes in the Unit Area render such revision necessary, or when requested by the Supervisor, and not less than five copies of the revised Exhibits shall be filed with the Supervisor.

ARTICLE IV—CONTRACTION AND EXPANSION OF UNIT AREA

4.1 Unless otherwise specified herein, the expansion and/or contraction of the Unit Area contemplated in Article 3.1 hereof shall be effected in the following manner:

(a) Unit Operator either on demand of the Director or on its own motion and after prior concurrence by the Director, shall prepare a notice of proposed expansion or contraction describing the contemplated changes in the boundaries of the Unit Area, the reasons therefore, and the proposed effective date thereof, preferably the first day of a month subsequent to the date of notice.

(b) Said notice shall be delivered to the Supervisor, and copies thereof mailed to the last known address of each Working Interest Owner, Lessee, and Lessor whose interests are affected, advising that 30 days will be allowed for submission to the Unit Operator of any objections.

(c) Upon expiration of the 30-day period provided in the preceding item (b) hereof, Unit Operator shall file with the Supervisor evidence of mailing of the notice of expansion or contraction and a copy of any objections thereto which have been filed with the Unit Operator, together with an application in sufficient number, for approval of such expansion or contraction and with appropriate joinders.

(d) After due consideration of all pertinent information, the expansion or contraction shall, upon approval by the Supervisor, become effective as of the date prescribed in the notice thereof.

4.2 Unitized Leases, insofar as they cover any lands which are excluded from the Unit Area under any of the provisions of this Article IV may be maintained and continued in force and effect in accordance with the terms, provisions, and conditions contained in the Act, and the lease or leases and amendments thereto, except that operations and/or production under this Unit Agreement shall not serve to maintain or continue the excluded portion of any lease.

4.3 All legal subdivisions of unitized lands (i.e., 40 acres by Governmental survey or its nearest lot or tract equivalent in instances of irregular surveys), no part of which is entitled to be within a Participating Area on the fifth anniversary of the effective date of the initial Participating Area established under this Agreement, shall be eliminated automatically from this Agreement effective as of said fifth anniversary and such lands shall no longer be a part of the Unit Area and shall no longer be subject to this Agreement unless diligent drilling operations are in progress on an exploratory well on said fifth anniversary, in which event such lands shall not be eliminated from the Unit Area for as long as exploratory drilling operations are continued diligently with not more than four (4) months time elapsing between the completion of one exploratory well and the commencement of the next exploratory well.

4.4 An exploratory well, for the purposes of this Article IV is defined as any well, regardless of surface location, projected for completion in a zone or deposit below any zone or deposit for which a Participating Area has been established and is in effect, or any well, regardless of surface location, projected for completion at a subsurface location under Unitized Lands not entitled to be within a Participating Area.

4.5 In the event an exploratory well is completed during the four (4) months immediately preceding the fifth anniversary of the initial Participating Area established under this Agreement, lands not entitled to be within a Participating Area shall not be eliminated from this Agreement on said fifth anniversary, provided the drilling of another exploratory well is commenced under an approved Plan of Operation within four (4) months after the completion of said well. In such event, the land not entitled to be in participation shall not be eliminated from the Unit Area so long as exploratory drilling

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(b) To the extent practicable specify the Participating Area (or Areas) so established

ARTICLE XIV—RELINQUISHMENT OF LEASES

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operations are continued diligently with not more than four (4) months time elapsing between the completion of one exploratory well and the commencement of the next exploratory well.

4.6 With prior approval of the Supervisor, a period of time in excess of four (4) months may be allowed to elapse between the completion of one well and the commencement of the next well without the automatic elimination of nonparticipating acreage.

4.7 Unitized lands proved productive by drilling operations which serve to delay automatic elimination of lands under this Article IV shall be incorporated into a Participating Area (or Areas) in the same manner as such lands would have been incorporated in such areas had such lands been proven productive during the year preceding said fifth anniversary.

4.8 In the event nonparticipating lands are retained under this Agreement after the fifth anniversary of the initial Participating Area as a result of exploratory drilling operations, all legal subdivisions of unitized land (i.e., 40 acres by Government survey or its nearest lot or tract equivalent in instances of irregular Surveys), no part of which is entitled to be within a Participating Area shall be eliminated automatically as of the 121 day, or such later date as may be established by the Supervisor, following the completion of the last well recognized as delaying such automatic elimination beyond the fifth anniversary of the initial Participating Area established under this Agreement.

ARTICLE V—UNITIZED LAND AND UNITIZED SUBSTANCES

5.1 All land committed to this Agreement shall constitute land referred to herein as "Unitized Land". All geothermal resources in and produced from any and all formations of the Unitized Land are unitized under the terms of this agreement and herein are called "Unitized Substances."

ARTICLE VI—UNIT OPERATOR

6.1 ---------- is hereby designated as Unit Operator and by signature hereto as Unit Operator agrees and consents to accept the duties and obligations of Unit Operator for the discovery, development, production, distribution and utilization of Unitized Substances as herein provided. Whenever reference is made herein to the Unit Operator, such reference means the Unit Operator acting in that capacity and not as an owner of interest in Unitized Substances, and the term "Working Interest Owner" when used herein shall include or refer to Unit Operator as the owner of a Working Interest when such an interest is owned by it.

ARTICLE VII—RESIGNATION OR REMOVAL OF UNIT OPERATOR

7.1 Prior to the establishment of a Participating Area, hereunder, Unit Operator shall have the right to resign. Such resignation shall not become effective so as to release Unit Operator from the duties and obligations of Unit Operator or terminate Unit Operators rights, as such, for a period of six (6) months after notice of its intention to resign has been served by Unit Operator on all Working Interest Owners and the Supervisor, nor until all wells then drilled hereunder are placed in a satisfactory condition for suspension or abandonment whichever is required by the Supervisor, unless a new Unit Operator shall have been selected and approved and shall have taken over and assumed the duties and obligations of Unit Operator prior to the expiration of said period.

7.2 After the establishment of a Participating Area hereunder Unit Operator shall have the right to resign in the manner and subject to the limitations provided in 7.1 above.

7.3 The Unit Operator may, upon default or failure in the performance of its duties or obligations hereunder, be subject to removal by the same percentage vote of the owners of Working Interests as herein provided for the selection of a new Unit Operator. Such removal shall be effective upon notice thereof to the Supervisor.

7.4 The resignation or removal of Unit Operator under this Agreement shall not terminate its right, title, or interest as the owner of a Working Interest or other interest in Unitized Substances, but upon the resignation or removal of Unit Operator becoming effective, such Unit Operator shall deliver possession of all wells, equipment, material, and appurtenances used in conducting the unit operations to the new duly qualified successor Unit Operator or, if no such new unit operator is elected, to the common agent appointed to represent the Working Interest Owners in any action taken hereunder to be used for the purpose of conducting operations hereunder.

7.5 In all instances of resignation or removal, until a successor Unit Operator is selected and approved as hereinafter provided, the Working Interest Owners shall be jointly responsible for performance of the duties and obligations of Unit Operator, and shall not later than 30 days before such resignation or removal becomes effective appoint a common agent to represent them in any action to be taken hereunder.

7.6 The resignation of Unit Operator shall not release Unit Operator from any liability for any default by it hereunder occurring prior to the effective date of its resignation.

ARTICLE VIII—SUCCESSOR UNIT OPERATOR

8.1 If, prior to the establishment of a Participating Area hereunder, the Unit Operator shall resign as Operator, or shall be removed as provided in Article VII, a successor Unit Operator may be selected by vote of the owners of a majority of the Working Interests in Unitized Substances, based on their respective shares, on an acreage basis, in the Unitized Land.

8.2 If, after the establishment of a Participating Area hereunder, the Unit Operator shall resign as Unit Operator, or shall be removed as provided in Article VII, a successor Unit Operator may be selected by vote of the owners of a majority of the Working Interests in Unitized Substances, based on their respective shares, on a participating acreage basis. Provided, that, if a majority but less than 60 percent of the Working Interest in the Participating Lands is owned by the party to this agreement, a concurring vote of one or more additional Working Interest Owners owning 10 percent or more of the Working Interest in the participating land shall be required to select a new Unit Operator.

8.3 The selection of a successor Unit Operator shall not become effective until

(a) The Unit Operator so selected shall accept in writing the duties, obligations and responsibilities of the Unit Operator, and

(b) The selection shall have been approved by the Supervisor.

8.4 If no successor Unit Operator is selected and qualified as herein provided, the Director at his election may declare this Agreement terminated.

ARTICLE IX—ACCOUNTING PROVISIONS AND UNIT OPERATING AGREEMENT

9.1 Costs and expenses incurred by Unit Operator in conducting unit operations hereunder shall be paid and apportioned among and borne by the owners of Working Interests; all in accordance with the agreement or agreements entered into by and between the Unit Operator and the owners of Working Interests, whether one or more, separately or collectively.

9.2 Any agreement or agreements entered into between the Working Interest Owners and the Unit Operator as provided in this Article, whether one or more, are herein referred to as the "Unit Operating Agreement".

9.3 The Unit Operating Agreement shall provide the manner in which the Working Interest Owners shall be entitled to receive their respective share of the benefits accruing hereto in conformity with their underlying operating agreements, leases, or other contracts, and such other rights and obligations, as between Unit Operator and the Working Interest Owners.

9.4 Neither the Unit Operating Agreement nor any amendment thereto shall be deemed either to modify any of the terms and conditions of this Agreement or to relieve the Unit Operator of any right or obligation established under this Agreement.

9.5 In case of any inconsistency or conflict between this Agreement and the Unit Operating Agreement, this Agreement shall govern.

9.6 Three true copies of any Unit Operating Agreement executed pursuant to this Article IX shall be filed with the Supervisor prior to approval of this Agreement.

ARTICLE X—RIGHTS AND OBLIGATIONS OF UNIT OPERATOR

10.1 The right, privilege, and duty of exercising any and all rights of the parties hereto which are necessary or convenient for prospecting, producing, distributing or utilizing Unitized Substances are hereby delegated to and shall be exercised by the Unit Operator as provided in this Agreement in accordance with a Plan of Operations approved by the Supervisor.

10.2 Upon request by Unit Operator, acceptable evidence of title to geothermal resources interests in the Unitized Land shall be deposited with the Unit Operator, and together with this Agreement shall constitute and define the rights, privileges, and obligations of Unit Operator.

10.3 Nothing in this Agreement shall be construed to transfer title to any land or to any lease or operating agreement, it being understood that the Unit Operator, in its capacity as Unit Operator shall exercise the rights of possession and use vested in the parties hereto only for the purposes specified in this Agreement.

10.4 The Unit Operator shall take such measures as the Supervisor deems appropriate and adequate to prevent drainage of Unitized Substances from Unitized Land by wells on land not subject to this Agreement.

10.5 The Director is hereby vested with authority to alter or modify from time to time, in his discretion, the rate of prospecting and development and the quantity and rate of production under this Agreement.

ARTICLE XI—PLAN OF OPERATION

11.1 Concurrently with the submission of this Agreement for approval, Unit Operator shall submit an acceptable initial Plan of Operation. Said plan shall be as complete and adequate as the Supervisor may determine to be necessary for timely exploration and/or development and to insure proper protection of the environment and conservation of the natural resources of the Unit Area.

11.2 Prior to the expiration of the initial Plan of Operation, or any subsequent Plan of Operation, Unit Operator shall submit for approval of the Supervisor an acceptable subsequent Plan of Operation for the Unit Area which, when approved by the Supervisor, shall constitute the exploratory and/or development drilling and operating obligations of Unit Operators under this Agreement for the period specified therein.

11.3 Any plan of Operation submitted hereunder shall

(a) Specify the number and locations of any wells to be drilled and the proposed order and time for such drilling, and

(b) To the extent practicable, specify the operating practices regarded as necessary and advisable for proper conservation of natural resources and protection of the environment.

11.4 The Plan of Operation submitted concurrently with this Agreement for approval shall prescribe that within six (6) months after the effective date hereof, the Unit Operator shall begin to drill an adequate test well at a location approved by the Supervisor, unless on such effective date a well is being drilled conformably with the terms, hereof, and thereafter continue such drilling diligently until the ---------- formation has been tested or until at a lesser depth unitized substances shall be discovered which can be produced in paying quantities (i.e., quantities sufficient to repay the costs of drilling, completing, and producing operations, with a reasonable profit) or the Unit Operator shall at any time establish to the satisfaction of the Supervisor that further drilling of said well would be unwarranted or impracticable, provided, however, that Unit Operator shall not in any event be required to drill said well to a depth in excess of feet.

11.5 The initial Plan of Operation and or subsequent Plans of Operation submitted under this article shall provide that the Unit Operator shall initiate a continuous drilling program providing for drilling of no less than one well at a time, and allowing no more than six (6) months time to elapse between completion of one well and the beginning of the next well, until a well capable of producing Unitized Substances in paying quantities is completed to the satisfaction of the Supervisor or until it is reasonably proved that the Unitized Land is incapable of producing Unitized Substances in paying quantities in the formations drilled under this Agreement.

11.6 When warranted by unforeseen circumstances, the Supervisor may grant a single extension of any or all of the critical dates for exploratory drilling operations cited in the initial or subsequent Plans of Operation. No such extension shall exceed a period of four (4) months for each well, required by the initial Plan of Operation.

11.7 Until there is actual production of Unitized Substances, the failure of Unit Operator to timely drill any of the wells provided for in Plans of Operation required under this Article XI or to timely submit an acceptable subsequent Plan of Operations, shall, after notice of default or notice of prospective default to Unit Operator by the Supervisor and after failure of Unit Operator to remedy any actual default within a reasonable time (as determined by the Supervisor), result in automatic termination of this Agreement effective as of the date of the default, as determined by the Supervisor.

11.8 Separate Plans of Operations may be submitted for separate productive zones, subject to the approval of the Supervisor. Also subject to the approval of the Supervisor, Plans of Operation shall be modified or supplemented when necessary to meet changes in conditions or to protect the interest of all parties to this Agreement.

ARTICLE XII—PARTICIPATING AREAS

12.1 Prior to the commencement of production of Unitized Substances, the Unit Operator shall submit for approval by the Supervisor a schedule (or schedules) of all land then regarded as reasonably proved to be productive from a pool or deposit discovered or developed; all lands in said schedule (or schedules), on approval of the Supervisor, will constitute a Participating Area (or Areas) effective as of the date production commences or the effective date of this Unit Agreement, whichever is later. Said schedule (or schedules) shall also set forth the percentage of Unitized Substances to be allocated, as herein provided, to each tract in the Participating Area (or Areas) so established and shall govern the allocation of production commencing with the effective date of the Participating Area.

12.2 A separate Participating Area shall be established for each separate pool or deposit of Unitized Substances or for any group thereof which is produced as a single pool or deposit and any two or more Participating Areas so established may be combined into one, on approval of the Supervisor. The effective date of any Participating Area established after the commencement of actual production of Unitized Substances shall be the first of the month in which is obtained the knowledge or information on which the establishment of said Participating Area is based, unless a more appropriate effective date is proposed by the Unit Operator and approved by the Supervisor

12.3 Any Participating Area (or Areas) established under 12.1 or 12.2 above shall, subject to the approval of the Supervisor, be revised from time to time to include additional land then regarded as reasonably proved to be productive from the pool or deposit for which the Participating Area was established or to include lands necessary to unit operations, or to exclude land then regarded as reasonably proved not to be productive from the pool or deposit for which the Participating Area was established or to exclude land not necessary to unit operations and the schedule (or schedules) of allocation percentages shall be revised accordingly.

12.4 Subject to the limitation cited in 12.1 hereof, the effective date of any revision of a Participating Area established under Articles 12.1 or 12.2 shall be the first of the month in which is obtained the knowledge or information on which such revision is predicated, provided, however, that a more appropriate effective date may be used if justified by the Unit Operator and approved by the Supervisor.

12.5 No land shall be excluded from a Participating Area on account of depletion of the Unitized Substances, except that any Participating Area established under the provisions of this Article XII shall terminate automatically whenever all operations are abandoned in the pool or deposit for which the Participating Area was established.

12.6 Nothing herein contained shall be construed as requiring any retroactive adjustment for production obtained prior to the effective date of the revision of a Participating Area.

ARTICLE XIII—ALLOCATION OF UNITIZED SUBSTANCES

13.1 All Unitized Substances produced from a Participating Area, established under this Agreement, shall be deemed to be produced equally on an acreage basis from the several tracts of Unitized Land within the Participating Area established for such production.

13.2 For the purpose of determining any benefits accruing under this Agreement, each Tract of Unitized Land shall have allocated to it such percentage of said production as the number of acres in the Tract included in the Participating Area bears to the total number of acres of Unitized Land in said Participating Area.

13.3 Allocation of production hereunder for purposes other than for settlement of the royalty obligations of the respective Working Interest Owners, shall be on the basis prescribed in the Unit Operating Agreement whether in conformity with the basis of allocation set forth above or otherwise.

13.4 The Unitized Substances produced from a Participating Area shall be allocated as provided herein regardless of whether any wells are drilled on any particular part or tract of said Participating Area.

ARTICLE XIV—RELINQUISHMENT OF LEASES

14.1 Pursuant to the provisions of the Federal leases and 43 CFR 3245.1, a lessee of record shall, subject to the provisions of the Unit Operating Agreement, have the right to relinquish any of its interests in leases committed hereto, in whole or in part; provided, that no relinquishment shall be made of interests in land within a Participating Area without the prior approval of the Director.

14.2 A Working Interest Owner may exercise the right to surrender, when such right is vested in it by any non-Federal lease, sublease, or operating agreement, provided that each party who will or might acquire the Working Interest in such lease by such surrender or by forfeiture is bound by the terms of this Agreement, and further provided that no relinquishment shall be made of such land within a Participating Area without the prior written consent of the non-Federal Lessor.

14.3 If as the result of relinquishment, surrender, or forfeiture the Working Interests become vested in the fee owner or lessor of the Unitized Substances, such owner may:

(1) Accept those Working Interest rights and obligations subject to this Agreement and the Unit Operating Agreement; or

(2) Lease the portion of such land as is included in a Participating Area established hereunder, subject to this Agreement and the Unit Operating Agreement; and provide for the independent operation of any part of such land that is not then included within a Participating Area established hereunder.

14.4 If the fee owner or lessor of the Unitized Substances does not, (1) accept the Working Interest rights and obligations subject to this Agreement and the Unit Operating Agreement, or (2) lease such lands as provided in 14.3 above within six (6) months after the relinquished, surrendered, or forfeited Working Interest becomes vested in said fee owner or lessor, the Working Interest benefits and obligations accruing to such land under this Agreement and the Unit Operating Agreement shall be shared by the owners of the remaining unitized Working Interests in accordance with their respective Working Interest ownerships, and such owners of Working Interests shall compensate the fee owner or lessor of Unitized Substances in such lands by paying sums equal to the rentals, minimum royalties, and royalties applicable to such lands under the lease or leases in effect when the Working Interests were relinquished, surrendered, or forfeited.

14.5 Subject to the provisions of 14.4 above, an appropriate accounting and settlement shall be made for all benefits accruing to or payments and expenditures made or incurred on behalf of any surrendered or forfeited Working Interest subsequent to the date of surrender or forfeiture, and payment of any moneys found to be owing by such an accounting shall be made as between the parties within thirty (30) days.

14.6 In the event no Unit Operating Agreement is in existence and a mutually acceptable agreement cannot be consummated between the proper parties, the Supervisor may prescribe such reasonable and equitable conditions of agreement as he deems warranted under the circumstances.

14.7 The exercise of any right vested in a Working Interest Owner to reassign such Working Interest to the party from whom obtained shall be subject to the same conditions as set forth in this Article XIV in regard to the exercise of a right to surrender.

ARTICLE XV—RENTALS AND MINIMUM ROYALTIES

15.1 Any unitized lease on non-Federal land containing provisions which would terminate such lease unless drilling oper-

21.3 Determination of creditable "Unavoid-

for the interest to be regarded as committed

on account thereof may be withheld without

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ations are commenced upon the land covered thereby within the time therein specified or rentals are paid for the privilege of deferring such drilling operations, the rentals required thereby shall, notwithstanding any other provisions of this Agreement, be deemed to accrue as to the portion of the lease not included within a Participating Area and become payable during the term thereof as extended by this Agreement, and until the required drillings are commenced upon the land covered thereby.

15.2 Rentals are payable on Federal leases on or before the anniversary date of each lease year; minimum royalties accrue from the anniversary date of each lease year and are payable at the end of the lease year.

15.3 Beginning with the lease year commencing on or after ---------- and for each lease year thereafter, rental or minimum royalty for lands of the United States subject to this Agreement shall be made on the following basis:

(a) An advance annual rental in the amount prescribed in unitized Federal leases, in no event creditable against production royalties, shall be paid for each acre or fraction thereof which is not within a Participating Area.

(b) A minimum royalty shall be charged at the beginning of each lease year (such minimum royalty to be due as of the last day of the lease year and payable within thirty (30) days thereafter) of $2 an acre or fraction thereof, for all Unitized Acreage within a Participating Area as of the beginning of the lease year. If there is production during the lease year the deficit, if any, between the actual royalty paid and the minimum royalty prescribed herein shall be paid.

15.4 Rental or minimum royalties due on leases committed hereto shall be paid by Working Interest Owners responsible therefor under existing contracts, laws, and regulations, or by the Unit Operator.

15.5 Settlement for royalty interest shall be made by Working Interest Owners responsible therefor under existing contracts, laws, and regulations, or by the Unit Operator, on or before the last day of each month for Unitized Substances produced during the preceding calendar month.

15.6 Royalty due the United States shall be computed as provided in the operating regulations and paid in value as to all Unitized Substances on the basis of the amounts thereof allocated to unitized Federal land as provided herein at the royalty rate or rates specified in the respective Federal leases.

15.7 Nothing herein contained shall operate to relieve the lessees of any land from their respective lease obligations for the payment of any rental, minimum royalty, or royalty due under their leases.

ARTICLE XVI—OPERATIONS ON NONPARTICIPATING LAND

16.1 Any party hereto owning or controlling the Working Interest in any Unitized Land having thereon a regular well location may, with the approval of the Supervisor and at such party's sole risk, costs, and expense, drill a well to test any formation of deposit for which a Participating Area has not been established or to test any formation or deposit for which a Participating Area has been established if such location is not within said Participating Area, unless within 30 days of receipt of notice from said party of his intention to drill the well, the Unit Operator elects and commences to drill such a well in like manner as other wells are drilled by the Unit Operator under this Agreement.

16.2 If any well drilled by a Working Interest Owner other than the Unit Operator proves that the land upon which said well is situated may properly be included in a Participating Area, such Participating Area shall be established or enlarged as provided in this Agreement and the well shall thereafter be operated by the Unit Operator in accordance with the terms of this Agreement and the Unit Operating Agreement.

ARTICLE XVII—LEASES AND CONTRACTS CONFORMED AND EXTENDED

17.1 The terms, conditions, and provisions of all leases, subleases, and other contracts relating to exploration, drilling, development, or utilization of geothermal resources on lands committed to this Agreement, are hereby expressly modified and amended only to the extent necessary to make the same conform to the provisions hereof, otherwise said leases, subleases, and contracts shall remain in full force and effect.

17.2 The parties hereto consent that the Secretary shall, by his approval hereof, modify and amend the Federal leases committed hereto and the regulations in respect thereto to the extent necessary to conform said leases and regulations to the provisions of this Agreement.

17.3 The development and/or operation of lands subject to this Agreement under the terms hereof shall be deemed full performance of any obligations for development and operation with respect to each and every separately owned tract subject to this Agreement, regardless of whether there is any development of any particular tract of the Unit Area.

17.4 Drilling and/or producing operations performed hereunder upon any tract of Unitized Lands will be accepted and deemed to be performed upon and for the benefit of each and every tract of Unitized Land.

17.5 Suspension of operations and/or production on all Unitized Lands pursuant to direction or consent of the Secretary or his duly authorized representative shall be deemed to constitute such suspension pursuant to such direction or consent as to each and every tract of Unitized Land. A suspension of operations and/or production limited to specified lands shall be applicable only to such lands.

17.6 Subject to the provisions of Article XV hereof and 17.10 of this Article, each lease, sublease, or contract relating to the exploration, drilling, development, or utilization of geothermal resources of lands other than those of the United States committed to this Agreement, is hereby extended beyond any such term so provided therein so that it shall be continued for and during the term of this Agreement.

17.7 Subject to the lease renewal and the readjustment provision of the Act, any Federal lease committed hereto may, as to the Unitized Lands, be continued for the term so provided therein, or as extended by law. This subsection shall not operate to extend any lease or portion thereof as to lands excluded from the Unit Area by the contraction thereof.

17.8 Each sublease or contract relating to the operations and development of Unitized Substances from lands of the United States committed to this Agreement shall be continued in force and effect for and during the term of the underlying lease.

17.9 Any Federal lease heretofore or hereafter committed to any such unit plan embracing lands that are in part within and in part outside of the area covered by any such plan shall be segregated into separate leases as to the lands committed and the lands not committed as of the effective date of unitization.

17.10 In the absence of any specific lease provision to the contrary, any lease, other than a Federal lease, having only a portion of its land committed hereto shall be segregated as to the portion committed and the portion not committed, and the provisions of such lease shall apply separately to such segregated portions commencing as of the effective date hereof. In the event any such lease provides for a lump-sum rental payment, such payment shall be prorated between the portions so segregated in proportion to the acreage of the respective tracts.

17.11 Upon termination of this Agreement, the leases covered hereby may be maintained and continued in force and effect in accordance with the terms, provisions, and conditions of the Act, the lease or leases, and amendments thereto.

ARTICLE XVIII—EFFECTIVE DATE AND TERM

18.1 This Agreement shall become effective upon approval by the Secretary or his duly authorized representative and shall terminate five (5) years from said effective date unless,

(a) Such date of expiration is extended by the Director, or

(b) Unitized Substances are produced or utilized in commercial quantities in which event this Agreement shall continue for so long as Unitized Substances are produced or utilized in commercial quantities, or

(c) This Agreement is terminated prior to the end of said five (5) year period as heretofore provided.

18.2 This Agreement may be terminated at any time by the owners of a majority of the Working Interests, on an acreage basis, with the approval of the Supervisor. Notice of any such approval shall be given by the Unit Operator to all parties hereto.

ARTICLE XIX—APPEARANCES

19.1 Unit Operator shall, after notice to other parties affected, have the right to appear for and on behalf of any and all interests affected hereby before the Department of the Interior, and to appeal from decisions, orders or rulings issued under the regulations of said Department, or to apply for relief from any of said regulations or in any proceedings relative to operations before the Department of the Interior or any other legally constituted authority: *Provided, however,* That any interested parties shall also have the right, at its own expenses, to be heard in any such proceeding.

ARTICLE XX—NO WAIVER OF CERTAIN RIGHTS

20.1 Nothing contained in this Agreement shall be construed as a waiver by any party hereto of the right to assert any legal or constitutional right or defense pertaining to the validity or invalidity of any law of the State wherein lands subject to this Agreement are located, or of the United States, or regulations issued thereunder, in any way affecting such party or as a waiver by any such party of any right beyond his or its authority to waive.

ARTICLE XXI—UNAVOIDABLE DELAY

21.1 The obligations imposed by this Agreement requiring Unit Operator to commence or continue drilling or to produce or utilize Unitized Substances from any of the land covered by this Agreement, shall be suspended while, but only so long as, Unit Operator, despite the exercise of due care and diligence, is prevented from complying with such obligations, in whole or in part, by strikes, Acts of God, Federal or other applicable law, Federal or other authorized governmental agencies, unavoidable accidents, uncontrollable delays in transportation, inability to obtain necessary materials in open market, or other matters beyond the reasonable control of Unit Operator, whether similar to matters herein enumerated or not.

21.2 No unit obligation which is suspended under this section shall become due less than thirty (30) days after it has been determined that the suspension is no longer applicable.

21.3 Determination of creditable "Unavoidable Delay" time shall be made by the Unit Operator subject to approval of the Supervisor.

ARTICLE XXII—POSTPONEMENT OF OBLIGATIONS

22.1 Notwithstanding any other provisions of this Agreement, the Director, on his own initiative or upon appropriate justification by Unit Operator, may postpone any obligation established by and under this Agreement to commence or continue drilling or to operate on or produce Unitized Substances from lands covered by this Agreement when in his judgement, circumstances warrant such action.

ARTICLE XXIII—NONDISCRIMINATION

23.1 In connection with the performance of work under this Agreement, the Operator agrees to comply with all of the provisions of section 202 (1) to (7) inclusive, of Executive Order 11246 (30 F.R. 12319), as amended by Executive Order 11375 (32 F.R. 14303), which are hereby incorporated by reference in this Agreement.

ARTICLE XXIV—COUNTERPARTS

24.1 This Agreement may be executed in any number of counterparts no one of which needs to be executed by all parties, or may be ratified or consented to by separate instruments in writing specifically referring hereto, and shall be binding upon all parties who have executed such a counterpart, ratification or consent hereto, with the same force and effect as if all such parties had signed the same document.

ARTICLE XXV—SUBSEQUENT JOINDER

25.1 If the owner of any substantial interest in geothermal resources under a tract within the Unit Area fails or refuses to subscribe or consent to this Agreement, the owner of the Working Interest in that tract may withdraw said tract from this Agreement by written notice delivered to the Supervisor and the Unit Operator prior to the approval of this Agreement by the Supervisor.

25.2 Any geothermal resources interests in lands within the Unit Area not committed hereto prior to approval of this Agreement may thereafter be committed by the owner or owners thereof subscribing or consenting to this Agreement, and, if the interest is a Working Interest, by the owner of such interest also subscribing to the Unit Operating Agreement.

25.3 After operations are commenced hereunder, the right of subsequent joinder, as provided in this Article XXV, by a working Interest Owner is subject to such requirements or approvals, if any, pertaining to such joinder, as may be provided for in the Unit Operating Agreement. Joinder to the Unit Agreement by a Working Interest Owner, at any time, must be accompanied by appropriate joinder to the Unit Operating Agreement, if more than one committed Working Interest Owner is involved, in order for the interest to be regarded as committed to this Unit Agreement.

25.4 After final approval hereof, joinder by a nonworking interest owner must be consented to in writing by the Working Interest Owner committed hereto and responsible for the payment of any benefits that may accrue hereunder in behalf of such nonworking interest. A nonworking interest may not be committed to this Agreement unless the corresponding Working Interest is committed hereto.

25.5 Except as may otherwise herein be provided, subsequent joinders to this Agreement shall be effective as of the first day of the month following the filing with the Supervisor of duly executed counterparts of all or any papers necessary to establish effective commitment of any tract to this Agreement unless objection to such joinder is duly made within sixty (60) days by the Supervisor.

ARTICLE XXVI—COVENANTS RUN WITH THE LAND

26.1 The covenants herein shall be construed to be covenants running with the land with respect to the interest of the parties hereto and their successors in interest until this Agreement terminates, and any grant, transfer, or conveyance, of interest in land or leases subject hereto shall be and hereby is conditioned upon the assumption of all privileges and obligations hereunder by the grantee, transferee, or other successor in interest.

26.2 No assignment or transfer of any Working Interest or other interest subject hereto shall be binding upon Unit Operator until the first day of the calendar month after Unit Operator is furnished with the original, photostatic, or certified copy of the instrument of transfer.

ARTICLE XXVII—NOTICES

27.1 All notices, demands or statements required hereunder to be given or rendered to the parties hereto shall be deemed fully given if given in writing and personally delivered to the party or sent by postpaid registered or certified mail, addressed to such party or parties at their respective addresses set forth in connection with the signatures hereto or to the ratification or consent hereof or to such other address as any such party may have furnished in writing to party sending the notice, demand or statement.

ARTICLE XXVIII—LOSS OF TITLE

28.1 In the event title to any tract of Unitized Land shall fail and the true owner cannot be induced to join in this Agreement, such tract shall be automatically regarded as not committed hereto and there shall be such readjustment of future costs and benefits as may be required on account of the loss of such title.

28.2 In the event of a dispute as to title as to any royalty, Working Interest, or other interests subject hereto, payment or delivery on account thereof may be withheld without liability for interest until the dispute is finally settled: *Provided,* That, as to Federal land or leases, no payments of funds due the United States shall be withheld, but such funds shall be deposited as directed by the Supervisor to be held as unearned money pending final settlement of the title dispute, and then applied as earned or returned in accordance with such final settlement.

ARTICLE XXIX—TAXES

29.1 The Working Interest Owners shall render and pay for their accounts and the accounts of the owners of nonworking interests all valid taxes on or measured by the Unitized Substances in and under or that may be produced, gathered, and sold or utilized from the land subject to this Agreement after the effective date hereof.

29.2 The Working Interest Owners on each tract may charge a proper proportion of the taxes paid under 29.1 hereof to the owners of nonworking interests in said tract, and may reduce the allocated share of each royalty owner for taxes so paid. No taxes shall be charged to the United States or the State of ---------- or to any lessor who has a contract with his lessee which requires the lessee to pay such taxes.

ARTICLE XXX—RELATION OF PARTIES

30.1 It is expressly agreed that the relation of the parties hereto is that of independent contractors and nothing in this Agreement contained, expressed, or implied, nor any operations conducted hereunder, shall create or be deemed to have created a partnership or association between the parties hereto or any of them.

ARTICLE XXXI—SPECIAL FEDERAL LEASE STIPULATIONS AND/OR CONDITIONS

31.1 Nothing in this Agreement shall modify special lease stipulations and/or conditions applicable to lands of the United States. No modification of the conditions necessary to protect the lands or functions of lands under the jurisdiction of any Federal agency is authorized except with prior consent in writing whereby the authorizing official specifies the modification permitted.

In witness whereof, the parties hereto have caused this Agreement to be executed and have set opposite their respective names the date of execution.

Witnesses:

Witnesses:

Witnesses:

Unit operator (as unit operator and as working interest owner)

By ---
Working Interest Owners:

By ---
Other Interest Owners:

By ---

operation of the ----------;

unitized working interest, hereinafter desig- This indenture, dated as of the ------ day

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§ 271.14 Sample Form of Exhibit B of unit agreement.

EXHIBIT B—BIG VAPOR UNIT AREA, NAPA COUNTY, CALIF., T. 13 N., R. 10 W.

Tract No.	Description of land	No. of acres	Serial No. and expiration date of lease	Basic royalty and ownership percentage	Lessee of record	Working interest unit percentage
	Federal land		*California*			
			Public lands			
1	Sec. 14, All. Sec. 15, All. Sec. 23, Lots 1, 2, S½ NE¼, E½ NW¼	1,880.00	38472 July 31, 1962.	United States: All	Volcanics, Inc	Volcanics, Inc: All.
2	Sec. 35, All	640.00	30123 July 31, 1962.	do	D. H. Roller	Hot Rock Co.: All.
3	Sec. 21, All	1,280.00	41345.	do	C. S. Waters—50% D. F. Muir—50%	Volcanics, Co.: 50% Hot Rock Co.: 50%
4	Sec. 28, All Sec. 27, All	1,280.00	July 31, 1962 41679.	do	D. F. Muir—50% H. C. Pipes	Hot Rock Co.: All. Fumarole Ltd.: All.
5	Sec. 26, All Sec. 25, S½	961.50	72780 Sept. 31, 1962	do	Hot Rock Co	Hot Rock Co.: All.
6	Sec. 34, All Sec. 35, N½	960.00	41679 Application.	do	H. C. Pipes	Do.
	6 Federal tracts 7,017.30 acres or 66.47% of unit area.					
	California		*State land*			
7	Sec. 16, All Sec. 36, All	1,280.00	65-67430	State of California	Hot Rock Co	Hot Rock Co.: All.
	1 State tract 1,280.00 acres or 12.49% of unit area.					
	Patented land					
8	Sec. 13, All	641.20	June 30, 1979	J. B. Hadde All	Fumarole, Ltd	Fumarole, Ltd.: All.
9	Sec. 22, Lots 1, 2, 3, 4	540.00	Feb. 28, 1961	J. P. Smith: All	do	Do.
10	Sec. 34, All	640.00	Mar. 31, 1981	A. G. Quick—75% Unleased—25%	Hot Rock Co	Hot Rock Co.: All.
11	Tract 39	80.00	Apr. 30, 1981	M. V. Jones: All	Unleased	M. V. Jones: All.
	3 Patented tracts 1,951.20 acres or 19.04% of unit area.					
	Total 11 tracts 10,249.10 acres in entire unit area.					

§ 271.15 Form of collective bond.

COLLECTIVE CORPORATE SURETY

Known all men by these presents, That we, _____ signing as Principal (Name of Unit Operator) pal, for and on behalf of the record owners of unitized substances now or hereafter covered by the unit agreement for this _____ approved _____ (Name of Unit) _____ as Surety are (Name and address of Surety) jointly and severally held and firmly bound unto the United States of America in the sum of _____ Dollars, (Amount of bond)

lawful money of the United States, for the use and benefit of and to be paid to the United States and any entryman or patentee of any portion of the unitized land, heretofore entered or patented with the reservation of the geothermal resources deposits to the United States, for which payment well and truly to be made, we find ourselves, and each of us, and each of our heirs, executors, administrators, successors, and assigns by these presents.

The condition of the foregoing obligation is such that, whereas the Secretary on _____ (Date) _____ approved under the provisions of the Geothermal Steam Act of 1970, a unit agreement for the development and

§ 271.13 Sample form of Exhibit A of unit agreement.

EXHIBIT A—BIG VAPOR UNIT AREA, T. 13 N., R. 10 W., M.D.M., California

operation of the _____;
(Name of Unit and State)
and

Whereas said Principal and record owners of unitized substances, pursuant to said unit agreement, have entered into certain covenants and agreements as set forth therein, under which operations are to be conducted; and

Whereas said Principal as Unit Operator has assumed the duties and obligations of the respective owners of unitized substances as defined in said unit agreement; and

Whereas said Principal and surety agree to remain bound in the full amount of the bond for failure to comply with the terms of the unit agreement, and the payment of rentals, minimum royalties, and royalties due under the Federal leases committed to said unit agreement; and

Whereas the Surety hereby waives any right of notice of and agrees that this bond may remain in force and effect notwithstanding:

(a) Any additions to or change in the ownership of the unitized substances herein described.

(b) Any suspension of the drilling or producing requirements or waiver, suspension or reduction of rental or minimum royalty payments or reduction of royalties pursuant to applicable laws or regulations thereunder; and

Whereas said Principal and Surety agree to the payment of compensatory royalty under the regulations of the Interior Department in lieu of drilling necessary offset wells in the event of drianage; and

Whereas nothing herein contained shall preclude the United States from requiring an additional bond at any time when deemed necessary:

Now, therefore, if the said Principal shall faithfully comply with all of the provisions of the above-identified unit agreement and with the terms of the leases committed thereto, then the above obligation is to be of no effect; otherwise to remain in full force and virtue.

Signed, sealed, and delivered this _____ day of _____, 19____, in the presence of:

Witnesses:

_____ _____
(Principal)

_____ _____
(Surety)

§ 271.16 Form of designation of successor unit operator by working interest owners.

Designation of successor Unit Operator _____, Unit Area, County of _____ State of _____, No. _____

This indenture, dated as of the _____ day of _____, 19____, by and between _____ hereinafter designated as "First Party," and the owners of unitized working interest, hereinafter designated as "Second Parties."

Witnesseth: Whereas under the provisions of the Geothermal Steam Act of December 24, 1970, 84 Stat. 1566, the Secretary on the _____ day of _____, 19____, approved a unit agreement for the _____ Unit Area, wherein _____ is designated as Unit Operator; and

Whereas said _____ has resigned as such Operator,[1] and the designation of a successor Unit Operator is now required pursuant to the terms thereof; and

Whereas First Party has been and hereby is designated by Second Parties as a Unit Operator, and said First Party desires to assume all the rights, duties, and obligations of Unit Operator under the said unit agreement.

Now, therefore, in consideration of the premises hereinbefore set forth and the promises hereinafter stated, the First Party hereby covenants and agrees to fulfill the duties and assume the obligations of Unit Operator under and pursuant to all the terms of the _____ unit agreement, and the Second Parties covenant and agree that, effective upon approval of this indenture by the Supervisor, of the Geological Survey, First Party shall be granted the exclusive right and privilege of exercising any and all rights and privileges and Unit Operator, pursuant to the terms and conditions of said unit agreement; said unit agreement being hereby incorporated herein by references and made a part hereof as fully and effectively as though said unit agreement were expressly set forth in this instrument.

In witness whereof, the parties hereto have executed this instrument as of the date hereinabove set forth.

_____ _____
(First Party)

_____
(Witnesses)

_____ _____
(Second Party)

_____
(Witnesses)

I hereby approve the foregoing indenture designating _____ as Unit Operator under the unit agreement for the _____ Unit Area, this _____ day of _____, 19____.

_____
Supervisor,
U.S. Geological Survey.

§ 271.17 Form of change in unit operator by assignment.

Change in Unit Operator _____ unit Area, County of _____, State of _____, No. _____

This indenture, dated as of the _____ day of _____, 19____, by and between _____ hereinafter designated as "First Party," and _____, hereinafter designated as "Second Party."

Witnesseth: Whereas under the provisions of the Geothermal Steam Act of December 24, 1972, 84 Stat. 1566, the Secretary on the _____ day of _____, 19____, approved a unit agreement for the _____ Unit Area, wherein the First Party is designated as Unit Operator; and

Whereas the First Party desires to transfer, assign, release, and quitclaim, and the Second Party desires to assume all the rights, duties, and obligations of Unit Operator under the unit agreement; and

Whereas for sufficient and valuable consideration, the receipt whereof is hereby acknowledged, the First Party has transferred, conveyed and assigned all his/its rights under certain operating agreements involving lands within the area set forth in said unit agreement unto the Second Party;

Now, therefore, in consideration of the premises hereinbefore set forth, the First Party does hereby transfer, assign, release, and quitclaim unto Second Party all of First Party's rights, duties and obligations as Unit Operator under said unit agreement; and

Second Party hereby accept this assignment and hereby convenants and agrees to fulfill the duties and assume the obligations of Unit Operator under and pursuant to all the terms of said unit agreement to the full extent set forth in this assignment, effective upon approval of this indenture by the Supervisor of the Geological Survey; said unit agreement being hereby incorporated herein by reference and made a part hereof as fully and effectively as though said unit agreement were expressly set forth in this instrument.

In witness whereof, the parties hereto have executed this instrument as of the date hereinabove set forth.

_____ _____
(First Party)

_____
(Witnesses)

_____ _____
(Second Party)

_____
(Witnesses)

I hereby approve the foregoing indenture designated _____ as Unit Operator under the unit agreement for the _____ Unit Area, this _____ day of _____, 19____.

_____
Supervisor, U.S.
Geological Survey

Dated: November 22, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-20349 Filed 11-28-72;8:45 am]

[1] Where the designation of a successor Unit Operator is required for any reason other than resignation, such reason shall be substituted for the one stated.

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THURSDAY, NOVEMBER 30, 1972
WASHINGTON, D.C.

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federal register

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WASHINGTON, D.C.

Volume 37 ■ Number 231

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Order from Superintendent of Documents,
United States Government Printing Office,
Washington, D.C. 20402

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Area Code 202 Phone 962–8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

U.S. Civil Service Commission

Section 213.3170 is amended to show that the position of Chairman, Federal Prevailing Rate Advisory Committee is excepted under Schedule A.

Effective November 27, 1972, paragraph (b) is added to § 213.3170 as set out below.

§ 213.3170 U.S. Civil Service Commission.

• • • • • •

(b) Chairman, Federal Prevailing Rate Advisory Committee.

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-20660 Filed 11-29-72;8:52 am]

PART 213—EXCEPTED SERVICE

Treasury Department

Section 213.3305 of Schedule C is amended to reflect the following title change: From Confidential Assistant to the Under Secretary to Confidential Assistant to the Deputy Secretary.

Effective on publication in the FEDERAL REGISTER (11–30–72), § 213.3305(a)(15) is amended as set out below.

§ 213.3305 Treasury Department.

(a) *Office of the Secretary.* • • •

(15) One Confidential Assistant to the Deputy Secretary.

• • • • • •

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-20572 Filed 11-29-72;8:50 am]

PART 213—EXCEPTED SERVICE

Department of the Interior

Section 213.3312 of Schedule C is amended to reflect the following title change: From Special Assistant to the Assistant Secretary for Fish and Wildlife and Parks to Deputy Assistant Secretary for Fish and Wildlife and Parks.

Effective on publication in the FEDERAL REGISTER (11–30–72), subparagraph (5) is amended and subparagraph (41) is added to paragraph (a) of § 213.3312 as set out below.

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.* • • •

(5) Three Special Assistants to the Assistant Secretary for Fish and Wildlife and Parks and one Confidential Assistant (Administrative Assistant) to each of the four Assistant Secretaries for Mineral Resources, Public Land Management, Water and Power Development, and Fish and Wildlife and Parks.

• • • • • •

(41) One Deputy Assistant Secretary for Fish and Wildlife and Parks.

• • • • • •

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-20570 Filed 11-29-72;8:49 am]

PART 213—EXCEPTED SERVICE

Small Business Administration

Section 213.3332 of Schedule C is amended to reflect the following title changes: From Principal Special Assistant to the Administrator to Executive Assistant to the Administrator and from Confidential Assistant to the Principal Special Assistant to the Administrator to Confidential Assistant to the Executive Assistant to the Administrator.

Effective on publication in the FEDERAL REGISTER (11–30–72), paragraphs (m) and (n) of § 213.3332 are amended as set out below.

§ 213.3332 Small Business Administration.

• • • • • •

(m) One Executive Assistant to the Administrator.

(n) One Confidential Assistant to the Executive Assistant to the Administrator.

• • • • • •

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-20571 Filed 11-29-72;8:50 am]

PART 213—EXCEPTED SERVICE

Office of Economic Opportunity

Section 213.3373 of Schedule C is amended to reflect the following title changes: From one Special Assistant and two Confidential Assistants to the Assistant Director for Research, Plans, Programs, and Evaluation to one Special Assistant and two Confidential Assistants to the Assistant Director for Planning, Research, and Evaluation.

Effective on publication in the FEDERAL REGISTER (11–30–72), subparagraphs (8) and (16) of paragraph (a) of § 213.3373 are amended as set out below.

§ 213.3373 Office of Economic Opportunity.

(a) *Office of the Director.* • • •

(8) One Special Assistant to the Assistant Director for Planning, Research, and Evaluation.

• • • • • •

(16) Two Confidential Assistants to the Assistant Director for Planning, Research, and Evaluation.

• • • • • •

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-20573 Filed 11-29-72;8:50 am]

Title 7—AGRICULTURE

Chapter II—Food and Nutrition Service, Department of Agriculture

FOOD STAMP PROGRAM

Miscellaneous Amendments

Notice of proposed rule making was published in the FEDERAL REGISTER on August 25, 1972. The notice set forth a proposal to amend the regulations governing the food stamp program to (1) provide that the salary and travel costs of the person who prepares the official record of hearings held at the request of households may, in part, be paid to the State agency by the Food and Nutrition Service, (2) allow State agencies to make direct refunds to any recipients overcharged for their coupon allotment, (3) allow State agencies to cooperate with Federal, State, and local investigative agencies which are investigating suspected violations of the Food Stamp Act or program regulations; and (4) provide that court-ordered support and allmony payments will be deducted from income

of Title 7 of the Code of Federal Regu-

Secretary to be fair and reasonable. In

sugar for producers who annually harvest

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in determining eligibility and basis of issuance.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed amendments. The great weight of the responses favored adoption of the proposed amendments.

After consideration of all responses, the Department has decided to adopt the proposed amendment published in the FEDERAL REGISTER of August 25, 1972.

In addition, the address of the office of the FNS Southeast Region has changed and requires correction so that mail may be properly addressed by persons or agencies desiring information concerning the program.

Also a nonsubstantive single-word change is required in § 272.2, paragraph (e)(3) in the interest of clarity and to most accurately reflect the intent of the sentence.

The amendments are set forth below:

PART 270—GENERAL INFORMATION AND DEFINITIONS

1. In § 270.2, paragraph (ii) is revised to read as follows:

§ 270.2 Definitions.

* * * * * *

(ii) "Hearing Official" means a person or persons designated by the Agency to act in its behalf in the conducting of hearings under § 271.1(o) of this subchapter. Such persons shall not have been involved in the action in question. Medically qualified persons who make medical determinations or provide testimony on medical issues in hearing proceedings and the person who prepares the official hearing record may also be considered hearing officials.

* * * * * *

2. In § 270.5, paragraph (b)(2) is revised to read as follows:

§ 270.5 Miscellaneous provisions.

* * * * * *

(b) * * *

(2) For project areas in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, Virgin Islands, Virginia: U.S. Department of Agriculture, Food and Nutrition Service, Southeast Region, 1100 Spring Street NW., Room 200, Atlanta, GA 30309.

* * * * * *

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

3. In § 271.1, paragraph (q) is revised to read as follows:

§ 271.1 General terms and conditions for State agencies.

* * * * * *

(q) *Refunds to households.* A household shall be entitled to a cash refund for any amount that it has been overcharged for its coupon allotment as a result of an error by the State agency in the administration of the food stamp program: *Provided,* That, if the household owes a balance on a claim under § 271.7(d), the State agency shall offset the amount due under this paragraph against such balance. The State agency shall make such refunds from funds collected in payment of the purchase requirement or from its own funds or those of the project area, or, if no such funds are available for this purpose, the State agency shall request FNS to make such refunds directly to the households. If State agency or project area funds are used to make refunds, FNS will credit or reimburse the State agency or project area therefor.

* * * * * *

4. Section 271.3(c)(1)(iii) is amended by deleting the word "and" from (c), by relettering (f) to become (g), and by adding a new (f) so that (e), (f), and (g) will read as follows:

§ 271.3 Household eligibility.

* * * * * *

(c) Income and resource eligibility standards of other households. * * *

(1) Definition of income. * * *

(iii) Deductions for the following household expenses shall be made:

* * * * * *

(e) Educational expenses which are for tuition and mandatory school fees, including such expenses which are covered by scholarships, educational grants, loans, fellowships, and veterans' educational benefits;

(f) Court-ordered support and alimony payments; and

(g) Shelter costs in excess of 30 percentum of the household's income after the above deductions.

* * * * * *

5. The relettering of the items in § 271.3(c)(1)(iii) requires amendment of any reference to such subdivisions elsewhere in that section. Accordingly, the following amendment is hereby made in § 271.3(c): In § 271.3(c)(1)(f)(*b*)(*1*), the reference to "subdivision (iii)(*f*)" is amended to read "subdivision (iii)(*g*)".

6. In § 272.2, paragraph (e)(3) is amended to read as follows:

§ 272.2 Participation of retail food stores, and non-profit meal delivery services.

* * * * * *

(e) * * *

(3) Credit slips or tokens shall bear language similar to the following: "Redeemable only in eligible food and only at (insert the name of the issuing store or chain) store(s)".

* * * * * *

PART 272—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS, NONPROFIT MEAL DELIVERY SERVICES, AND BANKS

7. In § 272.5, the second sentence of paragraph (d) is revised and a new paragraph (f) is added to read as follows:

§ 272.5 Participation of banks.

* * * * * *

(d) * * * Such coupons which have been so issued and used, as well as any coupons which have been issued under paragraph (f) of this section, or which FNS believes may have been issued, transferred, negotiated, used, or received in violation of any provisions of this subchapter or of any applicable statute, shall at the request of any person acting on behalf of FNS and on issuance of a receipt therefor by such person, be released and turned over to FNS by the bank receiving such coupons, or by any other person to whom such request is addressed, together with the certificate(s) of redemption accompanying such coupons, if any. * * *

* * * * * *

(f) Upon the written request of Federal, State, or local governmental agencies which have authority to investigate, and are investigating, suspected violations of Federal or State statutes relating to the enforcement of the Food Stamp Act or the regulations issued thereunder, the State agency may allow households which it believes are or may be ineligible for the program to continue program participation and to receive and use ATP cards and food coupons. The State agency may allow such households to continue participation in the program until the earlier of (1) expiration of the period of 90 days after such request is received or of such longer period as FNS, upon request of the State agency, may for good cause approve in a particular case, or (2) receipt of notification from the investigative agency that such participation may be terminated or that the investigation has been completed. Notwithstanding any other provisions of this subchapter, the State agency shall not be liable to FNS for the bonus value of any coupons issued to households which the State agency allows to continue participation in the program in conformity with the provisions of this paragraph.

(78 Stat. 703, as amended, 7 U.S.C. 2011–2025)

Implementation will be effected by the States in accordance with § 271.1(s).

Effective date. This amendment shall be effective on the date of its publication in the FEDERAL REGISTER (11–30–72).

RICHARD LYNG,
Assistant Secretary.

NOVEMBER 24, 1972.

[FR Doc.72–20587 Filed 11–29–72;8:51 am]

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER H—DETERMINATION OF WAGE RATES

[Docket No. SH–295, Amdt. 1]

PART 864—SUGARCANE: LOUISIANA

Fair and Reasonable Wage Rates

Pursuant to the provisions of the Sugar Act of 1948, as amended, Part 864 of Title 7 of the Code of Federal Regulations, published December 28, 1971 (36 F.R. 24983) (effective January 10, 1972), is amended by revising paragraph (a) of § 864.23 to read as follows:

§ 864.23 Requirements.

A producer of sugarcane in Louisiana shall be deemed to have complied with the wage provisions of the act if all persons employed on the farm in production, cultivation, or harvesting work, as provided in § 864.24, shall have been paid in accordance with the following:

(a) *Wage rates.* All such persons shall have been paid in full for all such work and shall have been paid wages in cash therefore at rates required by existing legal obligations, regardless of whether those obligations resulted from an agreement (such as a labor union agreement) or were created by State or Federal legislative action, or at rates as agreed upon between the producer and worker, whichever is higher, but not less than the following:

(1) *Work performed on a time basis.*

(i) Effective October 1, 1971 and remaining in effect through December 31, 1971:

Class of worker	*Rate per hour*
Harvest work:	
Harvester and loader operators	$1.65
Tractor drivers, truck drivers, harvester bottom blade operators, and hoist operators	1.60
All other harvesting workers	1.50

(ii) Effective January 1, 1972 and remaining in effect, through October 22, 1972:[1]

Class of worker	*Rate per hour*
Production and cultivation work:	
Tractor drivers	$1.65
All other production and cultivation workers	1.60
Harvest Work:	
Harvester and loader operators	1.75
Tractor drivers, truck drivers, harvester bottom blade operators and hoist operators	1.70
All other harvesting workers	1.60

* * * * * *

(Secs. 301, 403, 61 Stat. 929, as amended, 932; 7 U.S.C. 1131, 1153)

STATEMENT OF BASES AND CONSIDERATIONS

The redetermined wage rates contained herein are issued in compliance with the October 26, 1972, Order of the United States District Court for the District of Columbia in the case of Huey Freeman, et al. v. the United States Department of Agriculture, et al., Civil Action No. 1490–72 and shall apply retroactively to all labor performed on or after October 1, 1971, in the harvest of the 1971 Louisiana sugarcane crop and the planting and cultivation of the 1972 sugarcane crop unless the aforesaid order of the district court is overturned on appeal thereof.

Section 301(c)(1) of the Sugar Act requires producers to pay wages at rates not less than those determined by the Secretary to be fair and reasonable. In making such determinations, the Secretary is directed to take into consideration the standards therefor formerly established by him under the Agricultural Adjustment Act, as amended (i.e., cost of living, prices of sugar and byproducts, income from sugarcane, and cost of production), and the differences in conditions among the various sugar producing areas.

In accordance with the court's order, the Department has redetermined the wage requirements applicable to the harvest of the 1971 Louisiana sugarcane crop and the planting and cultivation of the 1972 crop. Consideration has been given to the returns, costs, and profits of producing sugarcane for the 1969, 1970, and 1971 crops, which were obtained through a field survey conducted in Louisiana during the spring of 1972; and to other generally related standards normally considered in wage determinations, including the cost of living and producers' ability to pay. Analysis of all such data and appropriate factors demonstrates that the minimum wage rates established in this determination are fair and reasonable.

The risk of crop damage or failure is greater in connection with Louisiana sugarcane than is the case in other domestic sugar-producing areas. The Louisiana sugarcane crop has had substantial late-season damage from freeze and/or hurricanes in 4 of the last 7 years (1965 through 1971). Such late-season production hazards have severely limited returns for producers in recent years, and, during those years in which their crops were damaged, most producers suffered financial losses. For Louisiana sugarcane producers, then, the statistical probability of financial loss is greater than the probability of profit in any given year.

On September 16, 1971, prior to the beginning of the 1971 harvest, a hurricane struck the sugarcane belt in Louisiana. It was estimated shortly afterwards that 25 percent of expected sugar production had been lost. When production was completed about the turn of the year, slightly more than 571,000 tons of sugar had been produced. Although growers had cultivated almost 15 percent more sugarcane acreage than for the 1970 crop, sugar production was 5.2 percent smaller. Thus, it is clear that the hurricane did reduce average production per acre from the 1971 crop by almost 20 percent.

Not only were cultivation costs higher in 1971 because of the greater acreage under cultivation, but harvesting costs were greatly increased because of the tangled condition of the cane and the very wet fields due to several weeks of excessive rainfall following the hurricane. Many producers had to resort to the unusual and expensive practice of using large numbers of hand scrapers in the harvesting operation to salvage as much cane as possible. The cost study conducted earlier this year in Louisiana indicates that cultivation costs per ton of sugar for producers who annually harvest in excess of 100 acres of cane for sugar were 10 percent more in 1971 than in 1970, while harvesting costs per ton of sugar were 22 percent greater. The field survey also revealed that the total man-hours of labor, excluding services to personnel and administration, required to produce a ton of sugar was over 7 percent greater in 1971 than in 1970. The single greatest increase in man-hour requirements per ton of sugar occurred in the cutting, loading, and handling of sugarcane, which increased 20 percent.

All of these factors contributed significantly toward reducing the ability of Louisiana sugarcane producers to pay higher wages for 1971 harvest work than those which became effective October 12, 1970. The cost survey revealed that 1971-crop direct labor costs actually consumed 88.5 percent of the producers' margin available for labor, income taxes, and profit. The fact that producers realized a net profit after income taxes, but before any consideration for return on capital investment, averaging only $3.66 per ton of sugar indicates that the producers' ability to pay was severely limited. If a modest return of 5 percent on capital investment is included in total production costs, the producers suffered an average net loss of $1.06 per ton of sugar produced from the 1971 crop.

During the 3-year period included in the most recent study of returns, costs and profits of sugarcane production in Louisiana, the season's average prices of raw sugar and blackstrap molasses, the principal byproduct of sugar production, generally increased. The price of raw sugar increased by 2.9 percent in 1969, 4.0 percent in 1970, and 8.4 percent in 1971 above the average price for the immediately preceding crop year. The price of blackstrap molasses showed a markedly different trend. Although the average price of molasses increased a significant 32 percent from 1968 to 1969, such price decreased in 1970 by 6.2 percent but in 1971 nearly recovered to the 1969 level with a 4.8 percent increase. The average income per ton of sugar received by Louisiana producers from the sale of sugarcane to processors and from conditional payments under the Sugar Act increased only 2.1 percent in 1969 above 1968 but increased an additional 4.5 percent in 1970 and 8.5 percent in 1971. The field survey revealed that the average costs of production per ton of sugar, including rent and interest paid and taxes on income, increased in 1969 by 6.7 percent above the estimated 1968 costs, by 1.6 percent in 1970 above 1969, and by 11 percent in 1971 over 1970. Therefore, despite the increases realized in income during the 3-year period, producers earned very small profits because of the continuous increases in costs of production and hazardous weather conditions. Producers' profits (after taxes but before provision for return on equity capital) averaged 2.0, 7.0, and 3.9 percent of net worth, respectively, for the 1969, 1970, and 1971 crops. This clearly

[1] New rates for the harvest of the 1972 crop became effective Oct. 23, 1972 (37 F.R. 21795).

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indicates: (a) That profits during that period averaged less than the 5 percent return considered as a reasonable return on investment, and (b) that producers received no return at all for their managerial labor (entrepreneurship). In fact, they suffered financial loss during that period.

The cost of living, like production costs, has increased significantly in recent years. Living costs increased 5.4 percent in calendar year 1969, 6.0 percent in 1970, and 4.2 percent in 1971. The increases in wage rates effective January 1, 1972, under this determination which range from 6.1 percent for the highest skilled worker to 6.7 percent for the lowest skilled worker more than offset the increase that occurred in living costs from calendar year 1970 to calendar year 1971.

On the basis of application of the statutory factors (cost of living, income from sugarcane, cost of production, etc.), the wage rates that were in effect for the harvest of the 1970 crop continued to be fair and reasonable for the harvest of the 1971 crop, and this determination so provides.

With respect to work performed in connection with the planting and cultivation of the 1972 crop, the Department believes that under a strict application of the statutory factors, a continuation of the 1971 planting and cultivation wage rates could be justified. However, giving greater weight to increases in the cost of living and considering the favorable outlook for the 1972 harvest, the Department believes that an increase in the wages as provided herein is fair and reasonable.

On the basis of an examination of all relevant factors, the provisions of this amendment are deemed to be fair and reasonable. Accordingly, I hereby find and conclude that the foregoing amendment will effectuate the wage provisions of the Sugar Act of 1948, as amended.

Effective date. This amendment shall become effective on the date of filing with the Director, Office of the Federal Register.

Signed at Washington, D.C., on November 27, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-20563 Filed 11-27-72;2:41 pm]

SUBCHAPTER I—DETERMINATION OF PRICES

[Docket No. SH-301]

PART 871—SUGAR BEETS

Fair and Reasonable Prices for 1972 Crop

Pursuant to the provisions of section 301(c)(2) of the Sugar Act of 1948, as amended (herein referred to as "act"), after investigation, due notice of public hearings, and consideration of evidence presented at hearings held during December 1971, the following determination is hereby issued. The regulations previously appearing in these sections under "Determination of Prices; Sugar Beets" remain in full force and effect as to the crops to which they were applicable.

Sec.
871.24 General requirements.
871.25 Purchase agreements.
871.26 Reporting requirements.
871.27 Applicability.
871.28 Subterfuge.

AUTHORITY: Sections 871.24 to 871.28 issued under secs. 301, 403, 61 Stat. 929, as amended, 932; 7 U.S.C. 1131, 1153.

§ 871.24 General requirements.

A producer of sugar beets who is also a processor of sugar beets (herein referred to as "processor") shall have paid, or contracted to pay for all sugar beets of the 1972 crop grown by other producers and processed by him, in accordance with the following requirements:

§ 871.25 Purchase agreements.

(a) The price for all 1972-crop sugar beets delivered by a producer and processed by a processor, shall be not less than that required to be paid pursuant to the 1972 crop sugar beet purchase contract between the processor and the producer, subject to the provisions of paragraphs (b), (c), and (d) of this section.

(b) If the processor, in determining the net proceeds pursuant to the contract, makes a deduction from the gross sales price of sugar for factorysite bulk sugar storage facilities owned by the processor, or for factorysite bulk pulp storage facilities owned by the processor in those districts where producers share directly in the total net returns from the sales of sugar, pulp, and molasses, such deduction shall be limited to amortization of such facilities, including improvements, over a reasonable period, interest at prevailing rates on the unrecovered cost, taxes, insurance, maintenance, and operating costs properly applicable thereto. After the costs of the facilities, including improvements, have been fully recovered such deductions shall be limited to taxes, insurance, maintenance, and operating costs properly applicable thereto: *Provided*, That if there is an agreement between the processor and producers such deductions for factorysite storage facilities owned by the processor shall be as agreed upon if less than that provided above.

(c)(1) In factory districts using a scale-type sugar beet purchase contract where the processor has constructed tanks for the storage of concentrated juice, has stored such juice for a period of not less than 30 days after the end of the slicing campaign and has processed such juice into granulated sugar, and there is agreement between the processor and producers for the processor to make a charge for the storage of concentrated juice, a charge representing the additional costs incurred as a result of factory cleanup and startup in connection with the juice processing campaign may be deducted from the gross sales price of sugar: *Provided*, That such charge shall not exceed 2 cents per month (based on the length of time such juice is stored between the end of the slicing campaign and the startup of the juice processing campaign, such period not to exceed 6 months) per 100 pounds granulated sugar equivalent of the juice so stored.

(2) In those factory districts in Michigan and Ohio using a percentage-type sugar beet purchase contract, wherein growers share with the processor in factory extraction efficiency, and where the processor has constructed and is operating tanks for the storage of concentrated juice, a deduction from the gross sales price of sugar and byproducts may be made for the amortization of such tanks as provided in the processor's 1972-crop sugar beet purchase contract.

(d) In determining the net proceeds pursuant to the contract, the gross sales price per 100 pounds to be applicable to sugar sold to an affiliate company or other affiliate business entity, or to sugar used by the processor during the settlement period, shall be not less than the weighted average quoted basis price, less customary allowance, and plus appropriate prepays and package differentials which would have been applicable to such sugar had it been marketed to nonaffiliated purchasers.

§ 871.26 Reporting requirements.

The processor shall submit to the Director, Sugar Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, within 60 days after the close of the sales period specified in the sugar beet purchase contract, an itemized statement for each settlement district, certified by an independent accountant, showing the computation of "net proceeds" or "net returns" as provided in such contract, such statement to be in substantially the form as that contained in Schedule A attached hereto and made a part hereof: *Provided*, That, if the processor markets sugar to an affiliate company or other affiliate business entity or if the processor uses any beet sugar, the weighted average gross sales price for each category, the marketing expenses applicable to each, and the net proceeds derived thereform shall be reported in substantially the form shown on Schedule A–1 attached hereto and made a part hereof, to supplement the information submitted in accordance with Schedule A: *Provided further*, That if the processor in determining net proceeds makes a deduction for factorysite bulk sugar, bulk pulp, or concentrated juice storage facilities owned by the processor, the total cost of such facilities, including improvements, the amount of the deduction and the expenses used in determining such deduction shall be reported in substantially the form shown on Schedule A–2 attached hereto and made a part hereof, to supplement the information submitted in accordance with Schedule A.

§ 871.27 Applicability.

The requirements of this part are applicable to all sugar beets purchased from other producers and processed by a processor who produces sugar beets (a processor-producer is defined in § 821.1 of this chapter).

§ 871.28 Subterfuge.

The processor shall not reduce returns to producers below those determined in accordance with the requirements of this part through any subterfuge or device whatsoever.

STATEMENT OF BASES AND CONSIDERATIONS

General. The foregoing determination establishes the fair and reasonable price requirements which must be met, as one of the conditions for payment under the Act, by a producer who processes sugar beets of the 1972 crop grown by other producers.

Requirements of the act. Section 301(c)(2) of the Act provides that the producer on the farm who is also, directly or indirectly, a processor of sugar beets or sugar cane, as may be determined by the Secretary, shall have paid, or contracted to pay under either purchase or toll agreements, for any sugar beets, or sugar cane grown by other producers and processed by him at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing.

1972-crop fair price determination. This determination provides that a processor shall be deemed to have complied with the fair price provisions of the Act if he has paid, or contracted to pay, prices for all sugar beets processed that are not less than those determined pursuant to the applicable 1972 crop purchase contract with producers. The provision of the 1971 crop determination that the processor in determining net proceeds is permitted to make a deduction for the cost of constructing or operating tanks for the storage of concentrated juice if the processor has stored such juice and provision for such deduction has been agreed upon is continued in this determination. No testimony concerning the 1972 price determination was presented at the sugar beet price hearings held in December 1971.

Examination of the 1972 crop purchase contracts, which have been negotiated by producers and processors and submitted to the Department subsequent to the hearings, indicates few major changes from 1971 relating to payments for sugar beets. One company changed its schedule of payments to provide a higher range of net selling prices in all its contracts, and to provide for an increase in payment for beets in one area. Two companies increased the initial payment for beets in California at higher net selling prices. One company instituted a freight charge on tare above 4 percent in one contract, required growers to share a higher percentage of the freight costs in two other contracts, and provided authorization in another contract for the company to deduct the grower's share of costs incurred by the growers association in the capital improvement of piling ground facilities. Another company changed one district's method of payment from a district average sugar content basis to a modified individual content basis. One processor increased its premium for early delivery of beets and changed its basis of payment to the net basic price per ton of beets modified by the ratio that the average recoverable white sugar per ton of the grower's beets is of the average for all beets accepted by the company. Previously, the net basic price per ton was modified by the sugar test. Finally, one processor initiated a deduction of 2 cents per hundredweight, per month from the gross sales price in computing the net return for sugar stored in company facilities constructed prior to 1968, while the charge for storage in facilities constructed after January 1, 1968, shall include an amortization charge, interest on the unrecovered cost, and other costs including taxes, insurance, and maintenance. That processor also included a provision in their contracts that if price controls are removed after having been in effect, then the New York raw guarantee shall apply to subsequent sales, the guarantee to become effective on a date dependent on when the price controls are removed within the sales quarter.

Consideration has been given to the provisions of the purchase contracts, to the comparative average costs of producers and processors obtained by field survey for a prior crop and recast in terms of prospective price and production conditions for the 1972 crop, and to other pertinent factors. Analysis of the comparative average operating results of producers and processors indicates that the producers' share of returns, on average, continue to be favorable as compared to their sharing of total costs, and that the payments provided in the 1972 crop purchase contracts are fair and reasonable at the levels of sugar prices and net returns which may be expected during the pricing period.

On the basis of an examination of all relevant factors, the provisions of this determination are deemed to be fair and reasonable. Accordingly, I hereby find and conclude that the foregoing price determination will effectuate the price provisions of the Sugar Act of 1948, as amended.

NOTE: The recordkeeping and reporting requirements of these regulations have been approved by, and subsequent recordkeeping and reporting requirements will be subject to the approval of the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Effective date. This determination shall become effective upon publication in the FEDERAL REGISTER (11–30–72) and is applicable to 1972-crop sugar beets.

Signed at Washington, D.C., on November 22, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

SCHEDULE A—STATEMENT OF AVERAGE NET RETURN OR NET PROCEEDS FROM SALES OF SUGAR [1]

Company _____
Settlement area _____
Settlement period _____

	Per hundredweight sugar (dollars)
Gross sales price	
Less sales and marketing expenses (applicable to sugar only):	
Federal excise tax	
Freight on sugar to destination	
Cash discount	
Allowances	
Public storage (actually paid)	
Offsite storage owned by the processor (amount charged)	
Onsite storage (computed charge) [2]	
Loading and handling	
Cost of packing in excess of basis pack	
Taxes	
Insurance	
Brokerage and commissions	
Advertising	
Sales department expenses:	
Salaries	
Travel	
Miscellaneous	
Other (specify)	
Total expense	
Net return or net proceeds	

[1] Where the purchase contract provides that the proceeds from the sales of molasses and beet pulp are to be included in calculating the net return or net proceeds, show separately the gross price and the marketing expenses applicable to each.

[2] Obtain from Schedule A–2.

(Data will be held confidential and will not be published in any manner as would disclose the operations of any company.)

SCHEDULE A–1—STATEMENT OF GROSS SALES PRICES APPLICABLE TO SUGAR SOLD TO AFFILIATED COMPANIES OR ENTITIES AND USED BY THE PROCESSOR, AS COMPARED TO SALES TO NONAFFILIATED PURCHASERS

Item	Affiliated purchasers	Used by processor	Nonaffiliated purchasers
Sugar Sold or Used—cwt.			
		Dollars per cwt.	
Quoted basis price			
Customary allowances: (Itemize)			
Open competitive			
Other		xxxx	
		xxxx	
		xxxx	
Basis price-less allowances			
Prepay		xxxx	
Package differential		xxxx	
Gross sales price	$	$	$
Marketing expenses		(1)	
Net proceeds			

[1] If any marketing expenses are deducted from the gross sales price by the processor in computing net return for this particular sugar, such expenses shall be itemized separately.

(Data will be held confidential and will not be published in any manner as would disclose the operations of any company.)

(ii) In Lorain County: the townships

V37-231 NOV 30 72 XUM

SCHEDULE A-2—STATEMENT RELATING TO CHARGES FOR COMPANY-OWNED FACTORYSITE BULK SUGAR, BULK PULP, AND CONCENTRATED JUICE STORAGE IN COMPUTING NET PROCEEDS, 1972-CROP (SUBMIT SEPARATE SCHEDULE FOR EACH FACILITY)

	Total dollars
Company	
Location of bulk sugar, pulp, or juice storage facility	
Settlement areas included	
Settlement period	
Sugar sold during settlement period—cwt.	
Original cost of facility (year first used)	
Improvements (item and date):	
Total cost of facility including improvements	
Total amount recovered prior to 1972-crop	
Total unrecovered cost of facility	
Operating costs or charges for 1972-crop:	
Interest on unrecovered cost	
Taxes	
Insurance	
Maintenance and operating itemize):	
Total operating costs for 1972-crop	
Amount applied against 1972-crop to amortize cost of facility	
Total amount charged for facility in computing net proceeds—1972-crop—(to be carried to Schedule A as amount of deduction)	
Unamortized cost of facility at end of 1972-crop	

(Data will be held confidential and will not be published in any manner as would disclose the operations of any company.)

[FR Doc.72-20466 Filed 11-29-72;8:45 am]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Navel Orange Reg. 277]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.577 Navel Orange Regulation 277.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 28, 1972.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period December 1, 1972, through December 7, 1972, are hereby fixed as follows:

(i) District 1: 1,319,000 cartons.

(ii) District 2: 93,000 cartons.

(iii) District 3: 131,000 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 29, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-20725 Filed 11-29-72;11:11 am]

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order 36; Docket No. AO 179–A36]

PART 1036—MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

Order Amending Order

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the eastern Ohio-western Pennsylvania marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means

pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, and the entire order is reprinted as follows:

GENERAL PROVISIONS

Sec.
1036.1 General provisions.

DEFINITIONS

1036.2 Eastern Ohio-Western Pennsylvania marketing area.
1036.3 Route disposition.
1036.4 [Reserved]
1036.5 Distributing plant.
1036.6 Supply plant.
1036.7 Pool plant.
1036.8 Nonpool plant.
1036.9 Handler.
1036.10 Producer-handler.
1036.11 [Reserved]
1036.12 Producer.
1036.13 Producer milk.
1036.14 Other source milk.
1036.15 Fluid milk product.
1036.16 Fluid cream product.
1036.17 Filled milk.
1036.18 Cooperative association.
1036.19 Reload point.

HANDLER REPORTS

1036.30 Reports of receipts and utilization.
1036.31 Payroll reports.
1036.32 Other reports.

CLASSIFICATION OF MILK

1036.40 Classes of utilization.
1036.41 Shrinkage.
1036.42 Classification of transfers and diversions.
1036.43 General classification rules.
1036.44 Classification of producer milk.
1036.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1036.50 Class prices.
1036.51 Basic formula price.
1036.52 Plant location adjustments for handlers.
1036.53 Announcement of class prices.
1036.54 Equivalent price.

UNIFORM PRICE

1036.60 Handler's value of milk for computing uniform price.
1036.61 Computation of uniform price.
1036.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1036.70 Producer-settlement fund.
1036.71 Payments to the producer-settlement fund.
1036.72 Payments from the producer-settlement fund.
1036.73 Payments to producers and to cooperative associations.
1036.74 Butterfat differential.
1036.75 Plant location adjustments for producers and on nonpool milk.
1036.76 Payments by handler operating a partially regulated distributing plant.
1036.77 Adjustment of accounts.
1036.78 Charges on overdue accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1036.85 Assessment for order administration.
1036.86 Deduction for marketing services.

AUTHORITY: The provisions of this Part 1036 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

GENERAL PROVISIONS

§ 1036.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1036.2 Eastern Ohio-Western Pennsylvania marketing area.

The "Eastern Ohio-Western Pennsylvania marketing area," hereinafter called the "marketing area," means all the territory within the boundaries of the following geographical units, including all waterfront facilities connected therewith and all territory occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within the listed geographical units:

(a) "Zone 1" includes:

(1) In Ohio:

(i) The following counties in their entirety:

Ashtabula.	Monroe.
Carroll.	Portage.
Geauga.	Tuscarawas.
Harrison.	Wayne.
Holmes.	

(ii) Ashland County (except the townships of Ruggles, Sullivan, and Troy).

(iii) In Guernsey County: the townships of Londonderry, Millwood, and Oxford.

(iv) In Stark County: Sugar Creek Township.

(v) In Trumbull County: the townships of Bazetta, Bloomfield, Bristol, Champion, Farmington, Fowler, Greene, Gustavus, Hartford, Johnston, Kinsman, Mecca, Mesopotamia, Southington, and Vernon.

(2) In Pennsylvania:

(i) The following counties in their entirety:

Crawford.	Venango.
Erie.	

(ii) In Clarion County: the townships of Ashland, Beaver, Licking, Madison, Perry, Piney, Richland, Salem, and Toby.

(b) "Zone 2" includes:

(1) In Ohio:

(i) The following counties in their entirety:

Belmont.	Mahoning.
Columbiana.	Summit.
Jefferson.	

(ii) In Lorain County: the townships of Amherst, Avon, Avon Lake, Black River, Carlisle, Columbia, Eaton, Elyria, Grafton, Ridgeville, and Sheffield.

(iii) Medina County (except the townships of Chatham, Homer, Litchfield, and Spencer).

(iv) Stark County (except Sugar Creek Township).

(v) In Trumbull County: the townships of Braceville, Brookfield, Howland, Hubbard, Liberty, Lordstown, Newton, Warren, Weathersfield, and Vienna.

(2) In Pennsylvania:

(i) The following counties in their entirety:

Armstrong.	Greene.
Beaver.	Lawrence.
Butler.	Mercer.
Fayette.	Washington.

(ii) Westmoreland County (except the boroughs of Bolivar, Donegal, Ligonier, New Florence, and Seward and the townships of Cook, Donegal, Fairfield, Ligonier, and St. Clair).

(3) In West Virginia, the following counties in their entirety:

Barbour.	Ohio.
Brooke.	Preston.
Doddridge.	Randolph.
Hancock.	Taylor.
Harrison.	Tucker.
Lewis.	Tyler.
Marion.	Upshur.
Marshall.	Wetzel.
Monongalia.	

(c) "Zone 3" includes Cuyahoga and Lake counties, Ohio, in their entirety.

(d) "Zone 4" includes Allegheny County, Pa., in its entirety.

§ 1036.3 Route disposition.

"Route disposition" means a delivery (except to a plant), either directly or through any distribution facility (including disposition from a plant store, vendor, or vending machine), of a fluid milk product classified as Class I pursuant to § 1036.40(a)(1).

§ 1036.4 [Reserved]

§ 1036.5 Distributing plant.

"Distributing plant" means a plant in which fluid milk products approved by a duly constituted health authority for fluid consumption, or filled milk, are processed or packaged and from which there is route disposition in the marketing area during the month.

§ 1036.6 Supply plant.

"Supply plant" means a plant from which a fluid milk product acceptable to a duly constituted health authority, or filled milk, is transferred or diverted during the month to a pool plant.

§ 1036.7 Pool plant.

Except as provided in paragraph (e) of this section, "pool plant" means:

(a) A distributing pool plant that has:

(1) Route disposition, except filled milk, during the month of not less than 50 percent (40 percent for each month of April through August) of the total receipts of fluid milk products, except filled milk, that are approved by a duly

account from a pool plant of another

(b) Receipts of packaged fluid cream

HANDLER REPORTS

constituted health authority for fluid consumption and that are physically received at such plant or diverted as producer milk pursuant to § 1036.13 to plants other than those qualified as pool plants pursuant to this paragraph; and

(2) Route disposition, except filled milk, in the marketing area during the month of not less than 15 percent of the receipts described in subparagraph (1) of this paragraph.

(b) A supply plant from which during the months of September, October, and November, not less than 50 percent, and in all other months not less than 40 percent, of the total quantity of milk approved by a duly constituted health authority for fluid consumption that is physically received (excluding that diverted from other plants) at such plant from dairy farmers and handlers defined in § 1036.9(c) or diverted as producer milk pursuant to § 1036.13 to pool plants and nonpool plants is transferred or diverted to and physically received in the form of fluid milk products, except filled milk, at pool plants qualified under paragraph (a) of this section or disposed of as route disposition in the marketing area.

(c) A plant that qualified as a pool plant under paragraph (b) of this section on the basis of its transfers and diversions to pool plants (exclusive of its route disposition in the marketing area) in each of the immediately preceding months of September through February shall be a pool plant for the months of March through August unless the milk received at the plant does not continue to meet the requirements of a duly constituted health authority or a written application is filed by the plant operator with the market administrator on or before the first day of any such month requesting that the plant be designated as a nonpool plant for such month and each subsequent month through August during which it would not otherwise qualify as a pool plant.

(d) A plant(s) that is approved by a duly constituted health authority to handle milk for fluid consumption, that is operated by a cooperative association, and from which during the month the quantity of fluid milk products (except filled milk) shipped to pool plants qualified pursuant to paragraph (a) of this section plus the milk physically received at such plants by direct delivery from the farms of producer members of the cooperative association is not less than 65 percent in any month of September through April and not less than 50 percent in any other month of the cooperative association members' producer milk. If the cooperative association operating a plant qualified as a pool plant pursuant to this paragraph files with the market administrator prior to the first day of any month a written request for nonpool status for such plant, the plant shall be a nonpool plant for such month and for each of the next 11 months in which it does not qualify as a pool plant pursuant to paragraph (a), (b), or (c) of this section.

(e) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant; and

(2) A plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to this section and a greater volume of fluid milk products, except filled milk, is disposed of from such plant in this marketing area as route disposition and to pool plants qualified on the basis of route disposition in this marketing area than is disposed of from such plant in the marketing area regulated pursuant to the other order as route disposition and to plants qualified as fully regulated plants under such other order on the basis of route disposition in its marketing area.

§ 1036.8 Nonpool plant.

"Nonpool plant" means a plant (except a pool plant) which receives milk from dairy farmers or is a milk or filled milk manufacturing, processing, or bottling plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means:

(1) A nonpool plant that is a distributing plant and is not an other order plant or a producer-handler plant; and

(2) An other order plant with respect to its route disposition in the marketing area that is not priced and pooled pursuant to any order issued pursuant to the Act.

(d) "Unregulated supply plant" means:

(1) A nonpool plant that is a supply plant and is not an other order plant or a producer-handler plant; and

(2) An other order plant with respect to fluid milk products which were received at a pool plant from such a plant and which are not priced and pooled pursuant to any order issued pursuant to the Act.

§ 1036.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) Any cooperative association with respect to producer milk which it causes to be diverted for its account from a pool plant of another handler to a nonpool plant;

(c) Any cooperative association with respect to milk of its producer-members which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association. The milk for which a cooperative association is the handler pursuant to this paragraph shall be deemed to have been received at the location of the pool plant to which it was delivered;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) Any producer-handler; and

(f) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant.

§ 1036.10 Producer-handler.

"Producer-handler" means any person who:

(a) Operates a dairy farm and a distributing plant;

(b) Receives no fluid milk products from sources other than his own farm production and pool plants;

(c) Uses no milk products other than fluid milk products for reconstitution into fluid milk products; and

(d) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary for his own farm production and the operation of the processing and packaging business are the personal enterprise and risk of such person.

§ 1036.11 [Reserved]

§ 1036.12 Producer.

(a) "Producer" means any person, except a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk for fluid consumption in compliance with the inspection requirements of a duly constituted health authority, which milk is received at a pool plant or diverted pursuant to § 1036.13 from a pool plant to a nonpool plant or another pool plant.

(b) "Producer" shall not include a person with respect to milk that is physically received at a pool plant as diverted milk from an other order plant if a Class II or Class III classification under this order is designated for such milk and it is subject to the pricing and pooling provisions of another order issued pursuant to the Act.

§ 1036.13 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk of a producer which is:

(a) With respect to a handler defined in § 1036.9(a):

(1) Received at the handler's pool plant directly from the producer, excluding receipts of milk diverted from another pool plant;

(2) Received at the handler's pool plant from a handler defined in § 1036.9(c) that does not operate a pool plant;

(3) Diverted for the handler's account from his pool plant to a nonpool plant that is not a producer-handler plant, subject to the conditions set forth in paragraph (e) of this section; or

(4) Diverted for the handler's account from his pool plant to another pool plant, subject to the conditions set forth in paragraph (f) of this section;

(b) With respect to a handler defined in § 1036.9(b), diverted for the handler's account from a pool plant of another handler to a nonpool plant that is not a producer-handler plant, subject to the conditions set forth in paragraph (e) of this section;

(c) With respect to a handler defined in § 1036.9(c) that does not operate a pool plant, received by the handler from the producer's farm in excess of the producer's milk that is received by a pool plant operator pursuant to paragraph (a)(2) of this section; and

(d) With respect to a handler defined in § 1036.9(c) that also operates a pool plant, received by the handler from the producer's farm.

(e) The following conditions shall apply to milk diverted from a pool plant to a nonpool plant that is not a producer-handler plant:

(1) Such milk shall be deemed to have been received by the diverting handler at the location of the nonpool plant to which diverted;

(2) To the extent that it would result in nonpool plant status for the pool plant from which diverted, milk diverted for the account of a cooperative association from the pool plant of another handler shall not be deemed to have been received at such pool plant and shall not be producer milk;

(3) In any month of August through March, the quantity of milk of any producer diverted to nonpool plants that exceeds that physically received at pool plants shall be deemed to have not been received by the diverting handler and shall not be producer milk;

(4) The diverting handler shall designate the dairy farmers' deliveries that are not producer milk pursuant to this paragraph. If the handler fails to make such designation, no milk diverted by him to a nonpool plant shall be producer milk;

(5) In determining if the diversion limitations specified in this paragraph have been exceeded, the quantity of milk diverted to nonpool plants or physically received at pool plants shall be considered in terms of days of production of the producer; and

(6) Milk diverted to an other order plant shall be producer milk only if a Class II or Class III classification is designated for such milk pursuant to the provisions of another order issued pursuant to the Act and such milk is not subject to the pricing and pooling provisions of such order.

(f) Milk diverted from a pool plant to another pool plant shall be deemed to have been received by the diverting handler at the location of the pool plant to which diverted.

§ 1036.14 Other source milk.

"Other source milk" means the skim milk and butterfat contained in or represented by:

(a) Fluid milk products and bulk fluid cream products from any source except producer milk, fluid milk products and bulk fluid cream products from pool plants, and fluid milk products and bulk fluid cream products in inventory at the beginning of the month;

(b) Receipts of packaged fluid cream products from other plants;

(c) Products, other than fluid milk products, bulk fluid cream products and Class II products listed in § 1036.40(b)(3), from any source (including those produced at the plant) which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Any disappearance of nonfluid products in a form in which they may be converted into a Class I product and which are not otherwise accounted for.

§ 1036.15 Fluid milk product.

"Fluid milk product" means the following products or mixtures in either fluid or frozen form, including such products or mixtures that are flavored, cultured, modified (with added nonfat milk solids), concentrated, or reconstituted: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, milk shake mixes containing less than 12 percent total milk solids, and mixtures of cream and milk or skim milk containing less than 10.5 percent butterfat. The term "fluid milk product" shall not include those products and mixtures listed in § 1036.40(b)(1) and (3), and (c)(1).

§ 1036.16 Fluid cream product.

"Fluid cream product" means cream (including aerated cream and sterilized cream) or a mixture of cream and milk or skim milk containing 10.5 percent or more butterfat.

§ 1036.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1036.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members; and

(c) To have all of its activities under the control of its members.

§ 1036.19 Reload point.

"Reload point" means a location at which milk moved from a farm in a tank truck is transferred to another tank truck and commingled with other milk before entering a plant. A reload operation on the premises of a plant shall be considered a part of the plant operation.

HANDLER REPORTS

§ 1036.30 Reports of receipts and utilization.

On or before the 8th day after the end of each month, reports of receipts and utilization for such month shall be made to the market administrator, in the detail and on forms prescribed by the market administrator, as follows:

(a) Each handler operating a pool plant shall report for each of his pool plants:

(1) Receipts of skim milk and butterfat contained in or represented by:

(i) Producer milk, showing in the case of milk received directly from each producer the pounds and butterfat test and the number of days of production involved for each producer;

(ii) Fluid milk products and fluid cream products from other pool plants and from a handler defined in § 1036.9(c) that also operates a pool plant; and

(iii) Other source milk;

(2) Inventories at the beginning and end of the month of the following products:

(i) Fluid milk products; and

(ii) Fluid cream products, showing separately such inventories in bulk form and in packaged form;

(3) The utilization or disposition of all skim milk and butterfat required to be reported pursuant to this paragraph, showing separately:

(i) Total route disposition and route disposition in the marketing area, showing separately such disposition of filled milk inside and outside the marketing area; and

(ii) Transfers and diversions to other plants; and

(4) Such other information with respect to the receipts and utilization of skim milk and butterfat as the market administrator may prescribe;

(b) Each cooperative association shall report:

(1) The quantities of skim milk and butterfat contained in milk from producers for which it is the handler pursuant to § 1036.9 (b) and (c), showing:

(i) The quantity of milk delivered to each plant; and

(ii) For each producer the pounds and butterfat test of the milk and the number of days of production involved;

(2) The utilization of all skim milk and butterfat required to be reported pursuant to subparagraph (1) of this paragraph, except that contained in producer milk described in § 1036.13(a)(2); and

(3) Such other information with respect to its receipts and utilization of skim milk and butterfat as the market administrator may prescribe; and

(c) Each handler operating a partially regulated distributing plant shall report as required in paragraph (a) of this section except that receipts of bottling grade milk from dairy farmers shall be reported in lieu of receipts of producer milk. Such report shall include a separate statement showing the

total of such receipts shall not be classi- that resulting from transfers of fluid

§ 1036.44 Classification of producer

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amount of reconstituted skim milk in route disposition in the marketing area.

§ 1036.31 Payroll reports.

(a) Each handler defined in § 1036.9 (a), (b), and (c) shall report to the market administrator on or before the 25th day after the end of the month, in the detail and on forms prescribed by the market administrator, his producer payroll for such month which shall show for each producer:

(1) His identity;

(2) The quantity of milk received from such producer and the number of days, if less than the entire month, on which milk was received from such producer;

(3) The average butterfat content of such milk; and

(4) The net amount of such handler's payment, together with the price paid and the amount and nature of any deductions.

(b) Each handler operating a partially regulated distributing plant who does not elect to make payments pursuant to § 1036.76(b) shall report to the market administrator on or before the 25th day after the end of the month the same information required of handlers pursuant to paragraph (a) of this section. In such report, payments to dairy farmers delivering milk that is approved by a duly constituted health authority for fluid consumption shall be reported in lieu of payments to producers.

§ 1036.32 Other reports.

(a) Each producer-handler shall report to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler who operates an other order plant shall report total receipts and utilization or disposition of skim milk and butterfat at the plant at such time and in such manner as the market administrator may require and shall allow verification of such reports by the market administrator.

CLASSIFICATION OF MILK

§ 1036.40 Classes of utilization.

Except as provided in § 1036.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1036.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as provided in paragraphs (b) and (c) of this section; and

(2) Not accounted for as Class II or Class III milk.

(b) *Class II milk.* Except as provided in paragraph (c) of this section, Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product;

(2) In inventory at the end of the month of packaged fluid cream products;

(3) Used to produce yogurt, sour cream, sour cream products (e.g., dips), cottage cheese, and cottage cheese curd; and

(4) Disposed of in bulk as fluid milk products or fluid cream products to any commercial food processing establishment (other than a milk or filled milk plant) for the manufacture of packaged food products (other than milk products and filled milk) for consumption off the premises.

(c) *Class III milk.* Class III milk shall be:

(1) Skim milk and butterfat used to produce frozen desserts and frozen dessert mixes, eggnog, frozen cream, butter, cheese (excluding cottage cheese and cottage cheese curd), evaporated and condensed milk (plain or sweetened), nonfat dry milk, dry whole milk, dry whey, condensed or dry buttermilk, any product containing 6 percent or more nonmilk fat (or oil), milk shake mixes containing 12 percent or more total milk solids, and sterilized products (except fluid cream products and those products listed in paragraph (b)(3) of this section) in hermetically sealed glass or metal containers;

(2) Skim milk and butterfat in fluid milk products, fluid cream products and products listed in paragraph (b)(3) of this section that are disposed of by a handler for livestock feed;

(3) Skim milk and butterfat in fluid milk products, fluid cream products and products listed in paragraph (b)(3) of this section that are dumped by a handler after notification to, and opportunity for verification by, the market administrator;

(4) Skim milk and butterfat in inventory of fluid milk products and bulk fluid cream products at the end of the month;

(5) Skim milk represented by the nonfat milk solids added to a fluid milk product which is in excess of an equivalent volume of such product prior to the addition;

(6) Skim milk and butterfat, respectively, in each pool plant's shrinkage, but not in excess of:

(i) Two percent of producer milk physically received at the plant (except that received from a handler defined in § 1036.9(c));

(ii) Plus 1.5 percent of milk received from a handler defined in § 1036.9(c) and of milk diverted to such plant from another pool plant, except that if the plant operator receiving such milk files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage shall be 2 percent;

(iii) Plus 0.5 percent of producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the other plant purchases such milk on the basis of farm weights, no percentage shall apply;

(iv) Plus 1.5 percent of bulk fluid milk products received by transfer from other pool plants;

(v) Plus 1.5 percent of bulk fluid milk products received from other order plants exclusive of the quantity for which Class II or Class III classification was requested by the operators of both plants;

(vi) Plus 1.5 percent of bulk fluid milk products received from unregulated supply plants exclusive of the quantity for which Class II or Class III classification is requested by the handler; and

(vii) Less 1.5 percent of the quantity of bulk fluid milk products transferred to other plants that does not exceed such quantity to which percentages were applied pursuant to subdivisions (i), (ii), (iv), (v), and (vi) of this subparagraph;

(7) Skim milk and butterfat, respectively, in shrinkage of other source milk assigned pursuant to § 1036.41(b)(2); and

(8) Skim milk and butterfat, respectively, in shrinkage of milk from producers that is diverted from a pool plant to a nonpool plant by a cooperative association acting as a handler pursuant to § 1036.9(b) or in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1036.9(c), but not in excess of 0.5 percent of the receipts of milk from producers, exclusive of such receipts for which farm weights are used as the basis of receipt at the plant to which delivered.

§ 1036.41 Shrinkage.

The market administrator shall allocate shrinkage over each pool plant's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each pool plant; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat, respectively, in:

(1) The net quantity of producer milk and other fluid milk products specified in § 1036.40(c)(6); and

(2) Other source milk in the form of bulk fluid milk products exclusive of that specified in § 1036.40(c)(6).

§ 1036.42 Classification of transfers and diversions.

Skim milk or butterfat in the form of a fluid milk product or a bulk fluid cream product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred or diverted from a pool plant to the pool plant of another handler, subject to the following conditions:

(1) The skim milk or butterfat so assigned to each class shall be limited to the amount thereof remaining in such class in the transferee plant after the computations pursuant to § 1036.44(a)(13) and the corresponding step of § 1036.44(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1036.44(a)(7) and the corresponding step of § 1036.44(b), the skim milk and butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor plant received during the month other source milk to be allocated pursuant to § 1036.44(a)(12) or (13) and the corresponding steps of § 1036.44(b), the skim milk and butterfat so transferred or diverted up to the

total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler plant;

(c) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of subparagraph (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification as Class II or Class III in his report submitted pursuant to § 1036.30;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred or diverted shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any route disposition in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of milk (approved by a duly constituted health authority for fluid consumption) for such nonpool plant;

(ii) Any route disposition in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of milk (approved by a duly constituted health authority for fluid consumption) for such nonpool plant;

(iii) Class I utilization (exclusive of that resulting from transfers of fluid milk products to pool plants and other order plants) in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute regular sources of supply of milk (approved by a duly constituted health authority for fluid consumption) for such nonpool plant and any remaining Class I utilization (including that resulting from transfers of fluid milk products to pool plants and other order plants) shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool plants and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred or diverted shall be classified as Class III milk to the extent Class III utilization is available and the remainder as Class II milk; and

(d) As follows, if transferred to another order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, movements in bulk form shall be classified as Class III milk to the extent of the Class III utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for only two classes of utilization, skim milk and butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk and butterfat allocated to the other class shall be classified as Class III milk; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1036.40.

§ 1036.43 General classification rules.

For each month, the market administrator shall correct for mathematical and other obvious errors all reports submitted pursuant to § 1036.30 and shall compute for each handler the total pounds of skim milk and butterfat in each class: *Provided*, That the skim milk contained in any product utilized, produced or disposed of by the handler during the month shall be considered to be an amount equivalent to the nonfat milk solids contained in such product plus all the water originally associated with such solids.

§ 1036.44 Classification of producer milk.

After making the computations pursuant to § 1036.43, the market administrator shall determine the classification of producer milk for each handler as follows: *Provided*, That the classification of producer milk for which a cooperative association is the handler pursuant to § 1036.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III milk pursuant to § 1036.40(c)(6);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order;

(3) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants, except that to be subtracted pursuant to subparagraph (7)(v) of this paragraph, as follows:

(i) From Class III milk, the lesser of the pounds remaining or the quantity associated with such receipts and classified as Class III milk pursuant to § 1034.40(c)(5) plus 2 percent of the remainder of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in packaged fluid cream products received from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in packaged fluid cream products that are in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is added to, or used to produce, any product specified in § 1036.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product or a fluid cream product) that was

such quantities, the pounds of skim milk

(b) Report to the market administra-

by the Department for the month, ad-

in this part, the market administrator

to § 1036.30 for the month, except those

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not subtracted pursuant to subparagraphs (4) and (6) of this paragraph;

(ii) Receipts of fluid milk products (except filled milk) and bulk fluid cream products for which appropriate health approval is not established and receipts of fluid milk products and bulk fluid cream products, from unidentified sources;

(iii) Receipts of fluid milk products and bulk fluid cream products from a producer-handler, as defined under this or any other Federal order;

(iv) Receipts of reconstituted skim milk in filled milk from unregulated supply plants that were not subtracted pursuant to subparagraph (2) of this paragraph; and

(v) Receipts of reconstituted skim milk in filled milk from other order plants which are regulated under an order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor plant;

(8) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in bulk fluid cream products received from nonpool plants that were not subtracted pursuant to subparagraph (7)(iii) of this paragraph and in packaged fluid cream products in inventory at the beginning of the month that were not subtracted pursuant to subparagraph (5) of this paragraph;

(9) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II and Class III (beginning with Class III), but not in excess of such quantities:

(i) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraph (2) and (7)(iv) of this paragraph:

(a) For which the handler requests Class III classification; or

(b) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool handlers, and receipts in bulk from other order plants that were not subtracted pursuant to subparagraph (7)(v) of this paragraph; and

(ii) Receipts of fluid milk products in bulk from an other order plant that were not subtracted pursuant to subparagraph (7)(v) of this paragraph, in excess of similar transfers to such plant, if Class III classification was requested by the operator of such plant and the handler;

(10) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in inventory of fluid milk products and bulk fluid cream products;

(11) Add to the remaining pounds of skim milk in Class III the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(12) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraphs (2), (7)(iv), and (9)(i) of this paragraph;

(13) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant that are in excess of similar transfers to the same plant and that were not subtracted pursuant to subparagraphs (7)(v) and (9)(ii) of this paragraph:

(i) In series beginning with Class III, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II and Class III utilization of skim milk announced for the month by the market administrator pursuant to § 1036.45(a) or the percentage that Class II and Class III utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(14) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products and bulk fluid cream products received from pool plants of other handlers according to the classification of such products pursuant to § 1036.42(a);

(15) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of milk from a handler defined in § 1036.9(c) that also operates a pool plant;

(16) If the pounds of skim milk remaining exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1036.44(a)(16) and the corresponding step of § 1036.44(b).

§ 1036.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1036.44(a)(13) and the corresponding step of § 1036.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the classification to which such receipts are allocated pursuant to § 1036.44 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products and bulk fluid cream products to an other order plant the classification to which the skim milk and butterfat in such fluid milk products and bulk fluid cream products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

(d) On or before the 20th day of each month, report to each cooperative association that so requests the class utilization of milk received during the preceding month by each handler from producers who are members of such association, prorating to such receipts the class utilization of all producer receipts of such handler.

Class Prices

§ 1036.50 Class prices.

Subject to the provisions of § 1036.52, the class prices per hundredweight for milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.85.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month, but not to exceed an amount computed as follows:

(1) Multiply by 4.2 the simple average of the wholesale prices (using the midpoint of any price range as one price) of Grade A (92 score) bulk butter per pound at Chicago, as reported by the Department for the month;

(2) Multiply by 8.2 the weighted average of carlot prices per pound of nonfat dry milk solids, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph subtract 48 cents, and round to the nearest cent.

§ 1036.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported

by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92 score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1036.52 Plant location adjustments for handlers.

(a) At a plant in the marketing area and outside Zone 1, the Class I price for producer milk shall be adjusted as follows:

(1) At a plant in Zone 2, the Class I price shall be increased 5 cents;

(2) At a plant in Zone 3, the Class I price shall be increased 8 cents; and

(3) At a plant in Zone 4, the Class I price shall be increased 10 cents.

(b) At a plant outside the marketing area, the Class I price shall be that applicable pursuant to paragraph (a) of this section at the location of the nearest of the cities here listed (Canton and Cleveland, Ohio; Erie, Pittsburgh, and Uniontown, Pa.; and Clarksburg, W. Va.) to such plant. Such Class I price shall be further adjusted by a reduction of 1.5 cents for each 10 miles or fraction thereof that such plant is from the city hall of the nearest of the above named cities. Distances applied pursuant to this paragraph shall be the shortest hard-surfaced highway distances as determined by the market administrator.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraphs (a) and (b) of this section, except that the adjusted Class I price shall not be less than the Class III price.

(d) For the purpose of computing location adjustments pursuant to paragraph (b) of this section, fluid milk products physically received at a pool plant from other pool plants shall be assigned any remainder of Class I milk at such plant that is in excess of 92.5 percent of the sum of producer milk receipts at the plant and that assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment shall be made in sequence beginning with receipts from the plant(s) at which the highest Class I price is applicable.

§ 1036.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1036.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1036.60 Handler's value of milk for computing uniform price.

The net pool obligation of each handler defined in § 1036.9 (a), (b), and (c) for each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class as computed pursuant to § 1036.44(c) by the applicable class price, adjusted pursuant to § 1036.52;

(b) Add the amounts obtained from multiplying the overage deducted from each class pursuant to § 1036.44(a)(16) and the corresponding step of § 1036.44 (b) by the applicable class price adjusted pursuant to §§ 1036.52 and 1036.74;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I or Class II price for the current month, as the case may be, by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1036.44(a)(10) and the corresponding step of § 1036.44 (b);

(d) Add the amount obtained from multiplying the difference between the Class I price at the pool plant and the Class III price, both for the current month, by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1036.44(a) (7) and (8) and the corresponding steps of § 1036.44(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1036.44(a)(7) (iv) and (v) and the corresponding steps of § 1036.44(b) the Class I price shall be adjusted to the location of the transferor plant; and

(e) Add the amount obtained from multiplying the Class I price adjusted for the location of the nearest nonpool plants from which an equivalent volume was received by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1036.44(a)(12) and the corresponding step of § 1036.44(b), excluding such skim milk or butterfat in bulk receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order.

§ 1036.61 Computation of uniform price.

For each month, the market administrator shall compute a uniform price per hundredweight of milk of 3.5 percent butterfat content as follows:

(a) Combine into one total the values computed pursuant to § 1036.60 for all handlers who filed the reports pursuant to § 1036.30 for the month, except those in default of payments required pursuant to § 1036.71 for the preceding month;

(b) Add an amount equal to the total value of the minus location adjustments applicable pursuant to § 1036.75;

(c) Subtract an amount equal to the total value of the plus location adjustments applicable pursuant to § 1036.75;

(d) Add an amount equal to one-half the unobligated balance in the producer settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1036.60(e);

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price," and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (e)(2) of this section by the weighted average price;

(h) Subtract for each of the months of April, May, June, and July the amount obtained by multiplying the hundredweight of producer milk specified in paragraph (e)(1) of this section by a rate that is equal to 6 percent of the average basic formula price (computed to the nearest cent) for the preceding calendar year but not to exceed 25 cents;

(i) Add for each of the months of September, October, and November one-fourth of the total amount subtracted pursuant to paragraph (h) of this section for the preceding period of April through July, and add for the month of December the remainder of such total amount plus any interest earned on such total amount;

(j) Divide the amount resulting from the computations pursuant to paragraphs (g), (h), and (i) of this section by the hundredweight of producer milk specified in paragraph (e)(1) of this section; and

(k) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1036.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce on or before:

(a) The fifth day of each month, the butterfat differential for the preceding month; and

(b) The 14th day of each month, the uniform price for the preceding month.

Payments for Milk

§ 1036.70 Producer-settlement fund.

(a) The market administrator shall maintain a separate fund known as the "producer-settlement fund" into which

§ 1036.71, 1036.72, 1036.77, 1036.85, and

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he shall deposit all payments pursuant to §§ 1036.71 and 1036.76 and out of which he shall make all payments pursuant to § 1036.72: *Provided*, That the market administrator shall offset the payments due to a handler against payments due from such handler.

(b) All amounts subtracted pursuant to § 1036.61(b) shall be deposited in the producer-settlement fund and set aside as an obligated balance until withdrawn for the purpose of effectuating § 1036.61(i).

§ 1036.71 Payments to the producer-settlement fund.

(a) On or before the 16th day after the end of the month, each handler shall pay to the market administrator the amount if any, by which the amount specified in subparagraph (1) of this paragraph exceeds the amount specified in suoparagraph (2) of this paragraph:

(1) The net pool obligation pursuant to § 1036.60 for such handler; and

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1036.75, of such handler's receipts of producer milk; and

(ii) The value at the weighted average price applicable at the location of the plants from which received of other source milk for which a value is computed pursuant to § 1036.60(e).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in subparagraph (1) of this paragraph to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1036.72 Payments from the producer-settlement fund.

On or before the 17th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1036.71(a)(2) exceeds the amount computed pursuant to § 1036.71(a)(1). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1036.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraph (b) of this section, each handler shall make payment for producer milk as follows:

(1) On or before the last day of the month, to each producer who has not discontinued delivery of milk to such handler, not less than the amount determined by multiplying the pounds of producer milk received from such producer during the first 15 days of the month by the Class III price for the preceding month, without adjustment for butterfat content, less proper deductions authorized by the producer; and

(2) On or before the 18th day after the end of the month, to each producer not less than the amount determined by multiplying the pounds of producer milk received from such producer during the month by the uniform price as adjusted pursuant to §§ 1036.74 and 1036.75, less the following amounts:

(i) The payment made pursuant to subparagraph (1) of this paragraph for such month;

(ii) Proper deductions authorized by the producer;

(iii) Any marketing service deduction pursuant to § 1036.86; and

(iv) If before such date the handler has not received full payment from the market administrator pursuant to § 1036.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this subparagraph next following after receipt of the balance due from the market administrator.

(b) Upon receipt of a written request from a cooperative association which the Secretary determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association, each handler shall pay to the cooperative association for producer milk received from such members an amount equal to the sum of the individual payments otherwise payable to such producers pursuant to subparagraph (1) or (2), as the case may be, of paragraph (a) of this section. Such payment shall be made on or before the second day prior to the date specified in such applicable subparagraph. Payments under this paragraph shall be subject to the following conditions:

(1) Each handler shall submit to the cooperative association with such payments written information which shows for each such producer:

(i) The total pounds of milk received from him during the period for which the payment applies;

(ii) With respect to the payment described in paragraph (a)(2) only of this section, the total pounds of butterfat contained in such milk;

(iii) The number of days on which milk was received; and

(iv) The amount of any deductions authorized by the producer;

(2) Payments to a cooperative association and the submission of information by handlers pursuant to this paragraph shall be made with respect to that milk of each producer whom the cooperative association certifies is a member which is received on and after the first day of the calendar month next following the receipt of such certification through the last day of the month next preceding the receipt of a notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association; and

(3) A copy of each such request, promise to reimburse, and certified list, of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination.

(c) On or before the 15th day after the end of each month, each handler shall pay a cooperative association at not less than the class prices adjusted pursuant to §§ 1036.52 and 1036.74 for milk which he receives:

(1) By transfer or diversion from a pool plant operated by such cooperative association; or

(2) From such cooperative association in its capacity as a handler pursuant to § 1036.9(c), if such cooperative association also operates a pool plant.

§ 1036.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent at a rate (rounded to the nearest one-tenth cent) determined by multiplying the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month by 0.115.

§ 1036.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk received at a plant shall be adjusted according to the location of such plant at the rates set forth in § 1036.52.

(b) The weighted average price applicable to other source milk shall be subject to the same adjustments applicable to the uniform price, except that the weighted average price shall not be less than the Class III price.

§ 1036.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the pro-

ducer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1036.30 and 1036.31(b) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) The obligation that would have been computed pursuant to § 1036.60 at such plant shall be determined as though such plant were a pool plant, subject to the following modifications:

(i) Receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant;

(ii) Transfers from such nonpool plants to a pool plant or other order plant shall be classified as Class II or Class III milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk, except that reconstituted skim milk in filled milk shall be valued at the Class III price. No obligation shall apply to Class I milk transferred to a pool plant or an other order plant if such Class I utilization is assigned to receipts at the partially regulated distributing plant from pool plants and other order plants at which such milk was classified and priced as Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1036.60(e) and a credit in the amount specified in § 1036.71(a)(2)(ii) with respect to receipts from an unregulated supply plant, except that the credit for receipts of reconstituted skim milk in filled milk shall be at the Class III price, unless an obligation with respect to such plant is computed as specified below in subdivision (iii) of this subparagraph;

(iii) If the operator of the partially regulated distributing plant so requests, and provides with his report pursuant to § 1036.30 a similar report for each nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1036.7 (b) and (c), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation, deduct the sum of;

(i) The gross payments made by such handler for milk (adjusted to a 3.5-percent butterfat basis pursuant to § 1036.74) received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph; and

(ii) Payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat in the plant's route disposition in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received at the plant;

(i) As Class I milk from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act; and

(ii) From a nonpool plant that is not an other order plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such nonpool plant by handlers fully regulated under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order;

(3) Deduct the quantity of reconstituted skim milk in fluid milk products disposed of as route disposition in the marketing area;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in subparagraph (3) of this paragraph by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

§ 1036.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses adjustments to be made, for any reason, which result in moneys due the market administrator from such handler, due such handler from the market administrator, or due any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any such amount due, and payment thereof shall be made on or before the next date for making payment set forth in the provision under which such error occurred, following the 5th day after such notice.

§ 1036.78 Charges on overdue accounts.

Any unpaid obligation of a handler or of the market administrator pursuant to §§ 1036.71, 1036.72, 1036.77, 1036.85, and 1036.86 shall be increased one-half of 1 percent on the first day of the calendar month next following the due date of such obligation, and on the first day of each calendar month thereafter until such obligation is paid.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1036.85 Assessment for order administration.

As his pro rata share of the expense of administration of this part, each handler shall pay to the market administrator on or before the 16th day after the end of the month 3 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1036.44(a) (7) and (12) and the corresponding steps of § 1036.44(b), except such other source milk on which no handler obligation applies pursuant to § 1036.60(e); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1036.76(b)(2).

§ 1036.86 Deduction for marketing services.

(a) Except as provided in paragraph (b) of this section, each handler in making payments for producer milk received during the month shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe (except on such handler's own farm production) and shall pay such deductions to the market administrator not later than the 16th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 16th day after the end of each month, pay over such deductions to the association rendering such services.

Effective date: January 1, 1973.

Signed at Washington, D.C., on November 24, 1972.

RICHARD E. LYNG,
Acting Secretary.

[FR Doc.72-20553 Filed 11-29-72;8:48 am]

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Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1464—TOBACCO

Subpart A—Tobacco Loan Program

There was published in the FEDERAL REGISTER (37 F.R. 21956, October 17, 1972; 37 F.R. 22883, October 26, 1972; 37 F.R. 23456, November 3, 1972) a notice of proposed rule making setting forth the proposed price support advance rates for 1972 crop fire-cured, dark air-cured, and Virginia sun-cured tobacco. The proposed schedule of advance rates for dark air-cured tobacco, due to an inadvertent omission in the footnote, failed to provide advance rates for tobacco of 47 length. In past years, the footnote has included a provision that the advance rates for grades of 47 length shall be the same as those for such grades of 46 length. A level of support at the same rate was intended for the 1972 crop.

Interested parties were given the opportunity to submit within 30 days data, views, and recommendations regarding the proposed advance rates. No unfavorable comments have been received, and the proposed schedules of advance rates, with correction of the footnote for the dark air-cured schedule, are hereby adopted and are set forth below. The material previously appearing under the section numbers shown below remains applicable to the crop to which each refers.

Effective date: Date of filing with the Office of the Federal Register.

Signed at Washington, D.C. on November 22, 1972.

KENNETH E. FRICK,
Executive Vice President, Commodity Credit Corporation.

Sec.
1464.17 1972 Crop—Virginia Fire-cured tobacco, Type 21, advance schedule.
1464.18 1972 Crop—Kentucky-Tennessee Fire-cured tobacco, Types 22 and 23, advance schedule.
1464.19 1972 Crop—Dark air-cured tobacco, Types 35 and 36, advance schedule.
1464.20 1972 Crop—Virginia Sun-cured, Type 37, advance schedule.

AUTHORITY: The provisions of §§ 1464.17–1464.20 issued under sec. 4, 62 Stat. 1070, as amended, sec. 5, 62 Stat. 1072, secs. 101, 106, 401, 403, 63 Stat. 1051, as amended, 1054, 74 Stat. 6; 7 U.S.C. 1441, 1445, 1421, 1423, 15 U.S.C. 714b, 714c.

§ 1464.17 1972 crop—Virginia Fire-cured tobacco, Type 21—advance schedule.[1]

[Dollars per hundred pounds, farm sales weight]

Grade	Length 47	Length 46	Length 45	Length 44	Length 43
A1F	69.25	69.25	69.25	.....	.....
A2F	65.25	65.25	65.25	.....	.....
A1D	69.25	69.25	69.25	.....	.....
A2D	65.25	65.25	65.25	.....	.....
B1F	68.25	68.25	68.25	.....	.....
B2F	62.25	62.25	63.25	58.25	.....
B1E	55.25	55.25	56.25	55.25	46.25
B4F	51.25	51.25	52.25	50.25	44.25
B5F	46.25	46.25	47.25	46.25	41.25
B1D	68.25	68.25	68.25	.....	.....
B2D	61.25	61.25	62.25	57.25	.....
B3D	53.25	53.25	54.25	52.25	46.25
B4D	49.25	49.25	50.25	49.25	44.25
B2D	44.25	44.25	45.25	44.25	41.25
B5M	50.25	50.25	51.25	50.25	46.25
B3M	47.25	47.25	48.25	47.25	44.25
B4M	44.25	44.25	45.25	44.25	39.25
B5G	47.25	47.25	48.25	47.25	43.25
B3G	45.25	45.25	46.25	45.25	42.25
B4G	42.25	42.25	43.25	42.25	38.25
C4L	73.25	73.25	74.25	.....	.....
C4L	69.25	69.25	70.25	62.25	.....
C5L	60.25	60.25	61.25	59.25	.....
C1L	53.25	53.25	54.25	53.25	.....
C3L	48.25	48.25	49.25	47.25	.....
C1F	72.25	72.25	73.25	.....	.....
C2F	68.25	68.25	69.25	62.25	.....
C3F	59.25	59.25	60.25	58.25	.....
C4F	53.25	53.25	54.25	53.25	.....
C5F	48.25	48.25	50.25	48.25	.....

Grade	Length 47	Length 46	Length 45	Length 44
C2D	48.25	48.25	49.25	47.25
C3D	46.25	46.25	47.25	46.25
C4D	43.25	43.25	44.25	43.25
C5D	39.25	39.25	40.25	39.25
C3M	50.25	50.25	51.25	50.25
C4M	48.25	48.25	49.25	48.25
C5M	44.25	44.25	45.25	44.25
C3G	45.25	45.25	46.25	44.25
C4G	43.25	43.25	44.25	43.25
C5G	40.25	40.25	41.25	40.25

Grade	Proposed price	Grade	Proposed price
X1L	54.25	X3M 45	47.25
X2L	53.25	X4M	47.25
X3L	52.25	X4M 45	44.25
X4L	50.25	X5M	44.25
X5L	47.25	X5M 45	42.25
X1F	54.25	X3G	48.25
X2F	53.25	X3G 45	45.25
X3F	52.25	X4G	45.25
X4F	49.25	X4G 45	43.25
X5F	46.25	X5G	41.25
X1D	50.25	X5G 45	39.25
X2D	48.25	N1L	38.25
X3D	47.25	N1D	37.25
X4D	45.25	N1G	36.25
X5D	41.25	N2	27.25
X3M	49.25		

[1] Only the original producer is eligible to receive advances. Tobacco graded "W" (doubtful keeping order), "No-G" (no grade), "U" (unsound), "D" (damaged), or scrap will not be accepted. The association is authorized to deduct 25 cents per hundred pounds to apply against overhead cost.

§ 1464.18 1972 crop—Kentucky-Tennessee Fire-cured tobacco, Types 22 and 23—advance schedule.[2]

[Dollars per hundred pounds, farm sales weight]

Grade	Length 47	Length 46	Length 45
A1F	72	72	72
A2F	67	67	67
A3F	59	59	59

Grade	Length 47	Length 46	Length 45	Length 44	Length 43
A1D	72	72	72	.....	.....
A2D	67	67	67	.....	.....
A3D	59	59	59	.....	.....
B1F	63	63	63	58	.....
B2F	60	60	60	56	.....
B3F	57	57	57	54	48
B1F	53	53	53	50	43
B5F	49	49	49	46	40
B1D	62	62	62	57	.....
B2D	59	59	59	55	.....
B3D	58	58	58	54	48
B4D	52	52	52	49	42
B5D	48	48	48	44	38
B3M	53	53	53	49	44
B4M	49	49	49	45	38
B5M	44	44	44	39	34
B3VF	53	53	53	49	42
B4VF	51	51	51	48	41
B5VF	47	47	47	44	37
B3G	53	53	53	49	41
B4G	48	48	48	44	36
B5G	44	44	44	39	34
C1L	62	62	62	58	.....
C2L	59	59	59	56	.....
C3L	58	58	58	54	48
C4L	55	55	55	52	46
C5L	52	52	52	50	43
C1F	62	62	62	58	.....

Grade	Length 47	Length 46	Length 45	Length 44	Length 43
C2F	59	59	59	56	.....
C3F	58	58	58	55	48
C4F	55	55	55	52	45
C5F	53	53	53	49	42
C1D	63	63	63	58	.....
C2D	55	55	56	52	.....
C3D	52	52	52	49	43
C4D	47	47	47	45	39
C5D	46	46	46	44	37
C3M	53	53	53	50	44
C4M	49	49	49	48	42
C5M	47	47	47	45	37
C3VF	54	54	54	51	45
C4VF	51	51	51	49	43
C5VF	49	49	49	47	38
C3G	49	49	49	46	41
C4G	46	46	46	42	37
C5G	42	42	42	39	36

Grade	Proposed price	Grade	Proposed price
X1L	54	X5D	42
X2L	52	X3M	47
X3L	51	X4M	45
X4L	48	X5M	42
X5L	46	X3VF	49
X1F	53	X4VF	47
X2F	51	X5VF	44
X3F	50	X3G	47
X4F	48	X4G	43
X5F	46	X5G	40
X1D	52	N1L	42
X2D	50	N1D	38
X3D	47	N1G	37
X4D	45	N2	33

§ 1464.19 1972 crop—Dark air-cured tobacco, Types 35 and 36—advance schedule.[3]

[Dollars per hundred pounds, farm sales weight]

Grade	Length 46	Length 45	Length 44
A1F	63	63	.....
A1R	63	63	.....
A2F	59	59	.....
A2R	59	59	.....
A3F	54	54	.....
A3R	54	54	.....
B1F	59	59	56
B1R	58	58	56
B1D	58	58	56
B2F	55	55	54
B2R	54	54	53
B2D	54	54	53
B3F	53	53	51

Grade	Length 46	Length 45	Length 44
B3R	51	51	50
B3D	51	51	50
B3M	50	50	49
B3G	49	49	48
B4F	50	50	49
B4R	49	49	48
B4D	50	50	49
B4M	46	46	45
B4G	46	46	45
B5F	46	46	45
B5R	46	46	45
B5D	45	45	44
B5M	42	42	41
B5G	42	42	41
C1L	59	59	58
C1F	59	59	58
C1R	57	57	56
C2L	58	58	57
C2F	57	57	56
C2R	55	55	54
C3L	56	56	55
C3F	55	55	53
C3R	52	52	50
C3M	50	50	49
C3G	51	51	49
C4L	52	52	51
C4F	52	52	51
C4R	47	47	46
C4M	44	44	43
C4G	45	45	44
C5L	45	45	43
C5F	46	46	45
C5R	42	42	41
C5M	41	41	40
C5G	41	41	40

Grade	Proposed Loan Rate Prices	Grade	Proposed Loan Rate Prices
T3F	46	X3R	48
T3R	46	X3D	49
T3D	46	X3M	46
T3M	45	X3G	45
T3G	44	X4L	50
T4F	41	X4F	49
T4R	42	X4R	44
T4D	42	X4D	44
T4M	40	X4M	43
T4G	39	X4G	41
T5F	34	X5L	47
T5R	34	X5F	47
T5D	34	X5R	42
T5M	33	X5D	42
T5G	33	X5M	40
X1L	55	X5G	36
X1F	55	N1L	41
X1R	55	N2L	35
X2L	53	N1R	35
X2P	53	N2R	32
X2R	52	N1G	33
X3L	52	N2G	31
X3F	50		

[3] Only the original producer is eligible to receive advances. Tobacco graded "No-G" (no grade), "U" (unsound), "D" (damaged), or scrap will not be accepted. Tobacco graded "W" (doubtful keeping order) will be accepted at advance rates 20 percent below the advance rates otherwise applicable. Grades marked with the special factor "BH" shall have an advance rate 20 percent below the advance rate otherwise applicable without such special factor. Type 35 grades marked with the special factor "BL" shall have an advance rate 20 percent below the advance rate otherwise applicable without such special factor. The advance rate for grades of 47 length shall be the same as those for such grades of 46 length.

§ 1464.20 1972 crop—Virginia Sun-cured tobacco, Type 37—advance schedule.[4]

[Dollars per hundred pounds, farm sales weight]

Grade	Length 46	Length 45	Length 44
A1F	67.25	67.25	65.25
A2F	63.25	63.25	60.25
A3F	60.25	60.25	57.25
A1R	67.25	67.25	61.25
A2R	63.25	63.25	60.25
A3R	60.25	60.25	57.25
B1F	66.25	67.25	59.25
B2F	63.25	65.25	60.25
B3F	56.25	59.25	56.25
B4F	50.25	54.25	52.25
B5F	45.25	46.25	45.25
B1R	66.25	67.25	60.25
B2R	63.25	65.25	60.25
B3R	57.25	59.25	56.25
B4R	50.25	53.25	51.25
B5R	47.25	48.25	45.25
B1D	66.25	66.25	61.25
B2D	65.25	65.25	60.25
B3D	55.25	56.25	54.25
B4D	49.25	50.25	49.25
B5D	44.25	46.25	44.25
B3M	49.25	51.25	48.25
B4M	47.25	50.25	47.25
B5M	42.25	45.25	44.25
B3G	48.25	52.25	49.25
B4G	45.25	48.25	47.25
B5G	43.25	44.25	42.25
C1L	65.25	66.25	58.25
C2L	59.25	60.25	55.25
C3L	57.25	58.25	55.25
C4L	49.25	52.25	50.25
C5L	43.25	44.25	43.25
C1F	65.25	66.25	58.25
C2F	59.25	60.25	57.25
C3F	55.25	57.25	55.25
C4F	49.25	53.25	50.25
C5F	42.25	45.25	44.25
C1R	62.25	62.25	56.25
C2R	56.25	56.25	52.25
C3R	49.25	50.25	48.25
C4R	44.25	46.25	44.25
C5R	39.25	40.25	39.25
C3M	45.25	48.25	47.25
C4M	42.25	46.25	43.25
C5M	40.25	43.25	41.25
C3G	40.25	43.25	40.25
C4G	38.25	42.25	40.25
C5G	33.25	35.25	34.25

Grade	Loan rate	Grade	Loan rate
T3F	46.25	X4F	46.25
T4F	44.25	X5F	42.25
T5F	38.25	X1R	51.25
T3R	46.25	X2R	48.25
T4R	44.25	X3R	44.25
T5R	39.25	X4R	42.25
T3D	44.25	X5R	35.25
T4D	42.25	X3D	40.25
T5D	36.25	X4D	38.25
T3M	43.25	X5D	32.25
T4M	41.25	X3M	46.25
T5M	35.25	X4M	43.25
T3G	46.25	X5M	41.25
T4G	44.25	X3G	44.25
T5G	38.25	X4G	41.25
X1L	53.25	X5G	37.25
X2L	51.25	N1L	28.25
X3L	48.25	N2L	20.25
X4L	46.25	N1R	30.25
X5L	41.25	N2R	22.25
X1F	53.25	N1G	30.25
X2F	52.25	N2G	22.25
X3F	49.25		

[4] Only the original producer is eligible to receive advances. Tobacco graded "W" (doubtful keeping order), "No-G" (no grade), "U" (unsound), "D" (damaged), or scrap will not be accepted. The association is authorized to deduct 25 cents per hundred pounds to apply against overhead cost.

[FR Doc.72-20586 Filed 11-29-72;8:51 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS EXTRAORDINARY EMERGENCY REGULATION OF INTRASTATE ACTIVITIES

PART 71—GENERAL PROVISIONS

Cleaning and Disinfecting Requirements

Pursuant to the provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended and the Act of July 2, 1962 (21 U.S.C. 111–113, 114, 114a–1, 115–117, 120–126, 134b), § 71.6(a) of Part 71, Title 9, Code of Federal Regulations, is hereby amended in the following respect:

That portion of the text of § 71.6(a) preceding the colon is amended to read as follows:

§ 71.6 Carrier responsible for cleaning and disinfecting of railroad cars, trucks, boats, aircraft or other means of conveyance.

(a) Railroad cars, trucks, boats, aircraft, and other means of conveyance which have been used in the interstate transportation of cattle, sheep, swine, poultry, or other animals affected with, or carrying the infection of, any contagious, infectious, or communicable disease of livestock or poultry, other than slight unopened cases of actinomycosis or actinobacillosis (or both), atrophic rhinitis, bovine foot rot, ram epididymitis, ringworm, infectious keratitis, and arthritis (simple lesions only), shall be cleaned and disinfected under Veterinary Services supervision in accordance with §§ 71.7 and 71.10–71.12 at the point where the animals are unloaded and the final carrier shall be responsible for such cleaning and disinfecting:

* * * * * *

(Secs. 4–7, 23 Stat. 32, as amended; secs 1 and 2, 32 Stat. 791, as amended; secs 1–4, 33 Stat. 1264, 41 Stat. 699, as amended; sec. 11, 58 Stat. 734, as amended, sec. 13, 65 Stat. 693, as amended; sec. 3, 76 Stat. 130; 21 U.S.C. 111–114, 114a, 114a–1, 114g, 115–117, 120, 121–126, 134b; 29 F.R. 16210, as amended, 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505)

Effective date. The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER (11–30–72).

The amendment deletes the condition in § 71.6 of the regulations that means of conveyance be "again used for animals" before the cleaning and disinfecting requirements of § 71.6 are applicable. This

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condition imposes a restriction upon the enforceability of these requirements that is detrimental to efforts to prevent the interstate spread of livestock diseases, and should be deleted as soon as possible for protection of the livestock industry. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and public participation in connection with this amendment are impracticable and contrary to the public interest and good cause is found for making the amendment effective less than 30 days after its publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 24th day of November 1972.

G. H. WISE,
Acting Administrator,
Animal and Plant Health Service.

[FR Doc.72-20589 Filed 11-29-72;8:51 am]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Regs. G, T, U]

MAXIMUM LOAN VALUE OF STOCKS

PART 207—SECURITIES CREDIT BY PERSONS OTHER THAN BANKS, BROKERS, OR DEALERS

Parts 207, 220, and 221 of Title 12 are amended as follows:

1. Effective November 24, 1972, § 207.5 (a) (the Supplement to Regulation G) is amended to read as follows:

§ 207.5 Supplement.

(a) *Maximum loan value of margin securities.* For the purpose of § 207.1, the maximum loan value of any margin security, except convertible securities subject to § 207.1(d), shall be 35 percent of its current market value, as determined by any reasonable method.

* * * * *

PART 220—CREDIT BY BROKERS AND DEALERS

2. Effective November 24, 1972, § 220.8 (a) (1) and (d) (the Supplement to Regulation T) is amended to read as follows:

§ 220.8 Supplement.

(a) *Maximum loan value for general accounts.* The maximum loan value of securities in a general account subject to § 220.3 shall be:

(1) Of a registered nonequity security held in the account on March 11, 1968, and continuously thereafter, and of a margin equity security (except as provided in § 220.3(c) and paragraphs (b) and (c) of this section), 35 percent of the current market value of such securities.

* * * * *

(d) *Margin required for short sales.* The amount to be included in the adjusted debit balance of a general account, pursuant to § 220.3(d)(3), as margin required for short sales of securities (other than exempted securities) shall be 65 percent of the current market value of each security.

* * * * *

PART 221—CREDIT BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING MARGIN STOCKS

3. Effective November 24, 1972, § 221.4 (a) (the Supplement to Regulation U) is amended to read as follows:

§ 221.4 Supplement.

(a) *Maximum loan value of stocks.* For the purpose of § 221.1, the maximum loan value of any stock, whether or not registered on a national securities exchange, shall be 35 percent of its current market value, as determined by any reasonable method.

* * * * *

4a. These amendments are issued pursuant to section 7 of the Securities Exchange Act of 1934 (15 U.S.C. 78g). The changes are to raise the margin requirements for purchasing or carrying stocks, and for short sales, from 55 to 65 percent.

b. The requirements of section 553 of Title 5, United States Code, with respect to notice, public participation, and deferred effective date were not followed in connection with these amendments because following such requirements would have prevented the Board's action from becoming effective as promptly as necessary in the public interest.

By order of the Board of Governors, November 22, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-20602 Filed 11-29-72;8:52 am]

Chapter VII—National Credit Union Administration

PART 749—RECORDS PRESERVATION PROGRAM

On pages 19387–19388 of the September 20, 1972, edition of the FEDERAL REGISTER, there was published a notice of proposed rule making to establish a new Part 749 (12 CFR Part 749).

After reviewing and considering comments received from interested parties, the proposed regulations, subject to the following changes, are hereby adopted as set forth below.

1. In § 749.0(a), line 10, after the word "any" insert "federally insured".

2. In § 749.0(b), line 4, after the word "which" insert "federally".

3. In § 749.1(g), line 2, after the word "location" insert "selected by the board of directors".

4. In § 749.2(a), line 7, add the following sentence: "However, the responsibility for an off-site records preservation program may be delegated by the treasurer, subject to the approval of the board of directors, to the person who manages the day-to-day operations of the credit union."

5. In § 749.2(c), line 17, change "monthly" to "quarterly".

6. In § 749.2(c), lines 18 and 25, change "15th" to "30th".

7. In § 749.2(d), lines 10–11, change "board of directors" to "supervisory committee".

8. In § 749.3(a)(1), line 7, after the word "number" insert "is".

9. In § 749.3(a)(3)(i), line 2, change "included" to "include".

10. In § 749.3(b), lines 11–12, delete the words "a detailed listing of all investments".

11. In § 749.3(b), line 17, add the following sentences: "There shall be attached to the financial and statistical report a detailed listing of all investments. Should a majority of the listed investments remain constant, it will not be necessary for a new list to be included with each financial and statistical report. An update of the initial list will suffice: *Provided*, Such update accurately reflects the status of the credit union's investments."

12. In § 749.4(f)(4), line 4, and in § 749.4(h)(3), line 2, change "Huchinson" to "Hutchinson".

Effective date. This regulation is effective January 1, 1973.

HERMAN NICKERSON, JR.,
Administrator.

NOVEMBER 22, 1972.

Sec.
749.0 Scope.
749.1 Definitions.
749.2 Implementation.
749.3 Vital records to be stored.
749.4 Storage service provided by Administration.

AUTHORITY: The provisions of this Part 749 issued under sec. 120, 73 Stat. 635, 12 U.S.C. 1766; sec. 209, 84 Stat. 1015, 12 U.S.C. 1789.

§ 749.0 Scope.

(a) This part establishes the minimum requirements with which all federally insured credit unions shall comply in a records preservation program of off-site storage for duplicate vital records which will be used for reconstruction purposes in the event of a catastrophe. Storage of duplicate vital records above the minimums set forth below may be undertaken by any federally insured credit union shall comply.

(b) This regulation prescribes the duplicate vital records which shall be stored, the frequency of storage, and sets time limits within which federally insured credit unions shall comply.

§ 749.1 Definitions.

(a) "Catastrophe" means any act which incapacitates a credit union's ability to operate because vital records have been destroyed or made useless, making it impossible to carry on operations.

(b) "Credit Union" means a Federal or State credit union whose members' shares and deposits are insured by the Administrator of the National Credit Union Administration.

(c) "EDP" means an electronic data processing system which is used to maintain the members' share and loan ledgers.

(d) "Hard copy" means any duplicate records other than those which are on microfilm or magnetic tape.

(e) "Magnetic tape" means a thin plastic tape mounted on reels which receives and stores magnetic impressions of information.

(f) "Microfilm" means a film containing photographs of data from vital records.

(g) "Sufficiently removed" means an off-site location selected by the board of directors far enough from the credit union to avoid a simultaneous loss of both the credit union records and the records it stores at the Vital Records Center from a single catastrophe such as a flood, hurricane, earthquake, etc.

(h) "Quarterly" means any 3-month period.

(i) "Reconstruction" means rebuilding the credit union's books and records utilizing information from duplicate vital records stored in an off-site location.

(j) "Records preservation program" means a program for identifying vital records, storing duplicate copies thereof in an off-site facility, and making them available for reconstruction in the event of a catastrophe.

(k) "Vital Records Center" is the off-site location where the credit union's duplicate vital records are stored.

(l) "Record date" means the effective date of the vital records that will be stored.

§ 749.2 Implementation.

(a) The treasurer of the credit union, subject to the general direction and control of the board of directors, is responsible for developing, maintaining, and operating an off-site records preservation program which equals or exceeds the requirements of this regulation. However, the responsibility for an off-site records preservation program may be delegated by the treasurer, subject to the approval of the board of directors, to the person who manages the day-to-day operations of the credit union.

(b) Any storage center may be selected as a Vital Records Center provided the center is sufficiently removed from the location of the credit union.

(c) The records preservation program must be developed within 4 months of the effective date of this regulation or 4 months after the effective date of the credit union's share insurance certificate, whichever is later. The treasurer shall have the initial set of duplicate vital records at the Vital Records Center not later than 6 months from the effective date of this regulation, or not later than 6 months after the effective date of the credit union's share insurance certificate, whichever is later. Thereafter, the treasurer of a credit union using EDP facilities shall prepare and send duplicate vital records to the Vital Records Center on a quarterly basis to be mailed no later than the 30th day of the following month. The treasurer of each credit union which is not using EDP facilities to maintain its members' share and/or deposit and loan balances shall prepare and send duplicate vital records to the Vital Records Center on a quarterly basis to be mailed by the 30th day of the following month.

(d) The treasurer shall maintain a record, to be known as the records preservation log, of the duplicate vital records sent to the Vital Records Center. The log shall contain a description of the records sent to the center, the date they were sent, and the address of the center. The treasurer should sign and date the log each time the records have been sent to the center. The supervisory committee shall review this log at least quarterly.

§ 749.3 Vital records to be stored.

Duplicates of at least the records described in this section will be prepared and sent to the Vital Records Center in accordance with the schedule described in this regulation. Duplicates of the most recent monthend records will be used to commence the program. A magnetic tape or microfilm which contains at least the same information as the vital records may be substituted for any of the following records:

(a) A listing of the members' share and/or deposit and loan balances as of the record date. This list shall be handwritten or typewritten and in columnar form.

(1) Member's Account Number: That is, the number assigned by the credit union to the account. If the credit union uses another number (payroll number, badge number, etc.) for day-to-day operations, the credit union may choose which number is to be used.

(2) Share and/or Deposit Balance: This will include balances of regular and special share and deposit accounts, and balances of installment payments on U.S. bonds.

(3) Loan Balance: If more than one loan for a borrower is outstanding, each balance shall be listed separately.

(i) Credit unions are encouraged to also include in columnar form the account name and address of all owners, trustees, and/or beneficiaries, etc. Because of the possible workload involved, listing of account names and addresses is optional.

(ii) Instead of a handwritten or typewritten listing of members' share and/or deposit and loan balances, an adding machine or accounting machine tape, showing the balances, identified by account numbers, may be stored.

(b) A financial and statistical report as of the record date. The report shall include at least a list of all asset and liability accounts as of the record date. The reverse side of the form will be used to record significant data about the credit union. This data will include the names and addresses of the credit union's banks, location of safe-deposit boxes and other places where records are stored, a detailed listing of all investments, breakdown of pertinent other asset accounts, and a list of insurance policies such as fire, casualty, life savings and borrowers protection, surety bond, etc., with the names and addresses of the insurers. There shall be attached to the financial and statistical report a detailed listing of all investments. Should a majority of the listed investments remain constant, it will not be necessary for a new list to be included with each financial and statistical report. An update of the initial list will suffice, *Provided* Such update accurately reflects the status of the credit union's investments.

(c) Credit Union's Utilizing EDP—An insured credit union which maintains its members' share and/or deposit and loan ledgers on a data processing system, if the computer center is sufficiently removed from the credit union, shall be deemed to have met the requirements of this regulation regarding the storage of members' share and/or deposit and loan balances.

§ 749.4 Storage service provided by Administration.

In order to comply with this regulation, insured credit unions may choose to participate in the Administration's records preservation program at no cost for storage. To participate in this program, insured credit unions shall follow the instructions outlined below:

(a) Credit unions may store hard copy, magnetic tape, and microfilm records.

(b) Credit unions shall use preprinted envelopes or labels which are provided by the storage facility each time records are received for storage.

(c) Credit unions shall fill out all required information on the appropriate mailing envelope or label. Federal credit unions shall furnish charter number; insured State credit unions shall furnish insurance certificate number.

(d) Credit unions which desire to store records permanently shall so note (in large red letters) on the envelope or mailing label provided. If records are not marked "Permanent," except for magnetic tape, they will be destroyed when replacement records are received. Unmarked magnetic tape will be returned to said credit union annually for reuse.

(e) All duplicate records shall be packaged securely for mailing.

(f) Specific information for:

(1) *Hard copy records.* Material shall be no larger than 8½" x 11" so that envelop will fit into the designated storage drawer. If material is too bulky to fit into the envelope, the material should be wrapped securely with the envelope, address side up, placed on top of the package and tied for mailing. Envelopes will not be opened by the storage center.

(2) *Microfilm.* Place the microfilm inside the container in which the film is returned after developing. Microfilm will be filed in a storage tray with only the top visible; therefore, affix to the top of the container the "Microfilm or Magnetic Tape Records" label furnished.

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Fold the label where indicated and affix to the container so that it is positioned on two sides.

(3) *Magnetic tape.* Prepare in same manner as microfilm, affixing label without folding.

(4) *Mailing.* Mail directly to the Administration's storage location at:

Underground Vaults & Storage, Inc., Post Office Box 1723, Hutchinson, KS 67501.

(g) Release of records to credit unions—in the event of a local emergency, records will be released directly from the storage center to the credit union by written request signed by any one of the authorized officials whose signature appears on the envelope or mailing label.

(h) In the event of a national emergency (only) the authorized official's written request for release of records should be addressed to one of the following sources in the order of priority listed:

(1) Regional Office of the National Credit Union Administration.

(2) Washington Office of the National Credit Union Administration.

(3) Underground Vaults & Storage, Inc., Post Office Box 1723, Hutchinson, KS 67501.

[FR Doc.72-20466 Filed 11-29-72;8:45 am]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Rev. 12]

PART 121—SMALL BUSINESS SIZE STANDARDS

Revision 12 of Part 121 rescinds Revision 11, including Amendments 1 through 10, of the Code of Federal Regulations. In addition to incorporating the amendments to Revision 11, this revision revises the Census Classification and/or Industry or subindustry codes contained in Schedule B of §121.3-8 and Schedules A, C, D, and F of § 121.3-10 so that they are in conformity with the current Standard Industrial Classification Manual (1972) which supersedes Standard Industrial Classification Manual (1967). Finally, § 121.3-8(f)(3) and § 121.3-10 (f)(4) have been reworded to clarify the meaning thereof.

Part 121 of Chapter I of Title 13 of the Code of Federal Regulations is hereby revised as follows:

Sec.
121.3 Statutory provision.
121.3-1 Purpose and method of establishing size standards.
121.3-2 Definition of terms used in this part.
121.3-3 Organization—size functions.
121.3-4 Size determinations.
121.3-5 Protest of small business status.
121.3-6 Appeals.
121.3-7 Differentials.
121.3-8 Definition of small business for Government procurement.
121.3-9 Definition of small business for sales of Government property.
121.3-10 Definition of small business for SBA loans.
121.3-11 Definition of small business for assistance by small business investment companies or by development companies.
121.3-12 Definition of small business Government subcontractors.
121.3-13 Definition of small business for the purpose of lease guarantee.
121.3-14 Definition of small business for the purpose of Government leases of uranium prospecting or mining rights.
121.3-15 Definition of small business for the purpose of surety bond guarantee assistance.
121.3-16 Interpretations.

AUTHORITY: The provisions of this Part 121 issued under Public Law 85-536, sec. 5(b)6, 72 Stat. 385, as amended.

§ 121.3 Statutory provisions.

(a) *Small Business Act, as amended.*

SEC. 3. For the purpose of this Act, a small business concern shall be deemed to be one which is independently owned and operated and which is not dominant in its field of operation. In addition to the foregoing criteria the Administrator, in making a detailed definition, may use these criteria, among others. Number of employees and dollar volume of business. Where the number of employees is used as one of the criteria in making such definition for any of the purposes of this Act, the maximum number of employees which a small business concern may have under the definition shall vary from industry to industry to the extent necessary to reflect differing characteristics of such industries and to take proper account of other relevant factors.

. . . . . .

SEC. 8(b). It shall also be the duty of the Administration and it is hereby empowered, whenever it determines such action is necessary—

. . . . . .

(6) To determine within any industry the concerns, firms, persons, corporations, partnerships, cooperatives, or other business enterprises which are to be designated "small business concerns" for the purpose of effectuating the provisions of this Act. To carry out this purpose the Administrator, when requested to do so, shall issue in response to each such request an appropriate certificate certifying an individual concern as a "small business concern" in accordance with the criteria expressed in this Act. Any such certificate shall be subject to revocation when the concern covered thereby ceases to be a "small business concern." Offices of the Government having procurement or lending powers, or engaged in the disposal of Federal property or allocating materials or supplies, or promulgating regulations affecting the distribution of materials or supplies, shall accept as conclusive the Administration's determination as to which enterprises are to be designated "small business concerns," as authorized and directed under this paragraph.

(b) *Small Business Investment Act of 1958, as amended.*

SEC. 103. As used in this Act—

. . . . . .

(5) The term "small business concern" shall have the same meaning as in the "Small Business Act."

. . . . . .

§ 121.3-1 Purpose and method of establishing size standards.

(a) *Purpose.* This part defines "small business concerns" and establishes standards, criteria, and procedures to determine which concerns are "small business concerns" within the meaning of the Small Business Act, as amended (hereinafter referred to as the "Act") and the Small Business Investment Act of 1958, as amended (hereinafter referred to as the "Investment Act").

(b) *Method of establishing size standards—(1) Use of Standard Industrial Classification Manual.* The Standard Industrial Classification (SIC) Manual, as amended, prepared and published by the Bureau of the Budget (now Office of Management and Budget), Executive Office of the President, will be used by SBA as a guide in defining industries. Its use therefore is advisory and not mandatory.

(2) *Size standards policy.* (i) The fundamental purpose of Small Business Administration assistance is to preserve free competitive enterprise by strengthening the competitive position of small business concerns.

(ii) It is the Small Business Administration's view that, in the absence of proof to the contrary, there is a segment of each industry wherein concerns by reason of their small size are at a competitive disadvantage. Therefore, the definition of small business for each industry should be limited to that segment of the industry struggling to become or remain competitive.

(iii) Smaller concerns often are forced to compete with middle-sized as compared with very large concerns. In consideration of this fact, the standard for each industry should be established as low as reasonably possible. It should be lowered in any case where the SBA determines that a few concerns under the size standard umbrella have, because of their size, gained undue competitive strength as compared with other concerns under the umbrella.

(iv) It is the Small Business Administration's view that concerns which, with or without assistance under the Small Business Act, have grown to a size which exceeds the applicable small business size standard, should compete for Government contracts not reserved for small business concerns or should seek commercial markets in the same or related fields. Under such circumstances small business concerns should not rely on continuing assistance under the Small Business Act from the cradle to the grave, but should plan for the day on which they become other than small business and should be able to compete without assistance.

(3) *Factors in formulating size standards.* The following factors shall be considered in formulating industry size standards:

(i) Concentration of output; that is, the portion of the total output of an industry which is accounted for by a limited number of companies.

(ii) Coverage ratio; that is, the ratio of the industry's shipments of its primary products, to the total shipments by all industries of the primary products of the industry in question.

(iii) Specialization ratio; that is, the ratio of the industry's shipments of its primary products to its total shipments of primary and secondary products.

(iv) The total number of concerns in the industry.

(v) The size of industry leaders.

(vi) The SBA program for which the size standard is established.

In formulating industry size standards for the purpose of Government procurement, the additional factor of Government procurement history shall be used. The use of this additional factor may cause the size standards for the purpose of Government procurement and the size standards for the purpose of financial assistance to differ for the same industry.

(4) *Product classification.* For size standards purposes, a product or service shall be classified into only one industry, even though, for other purposes, it could be classified into more than one industry. In determining the SIC industry into which particular products shall be classified for size standard purposes, consideration shall be given to all appropriate factors including:

(i) Alphabetic indices published by the Office of Management and Budget, Executive Office of the President, Bureau of the Census, and the Business and Defense Services Administration.

(ii) Description of the product under consideration.

(iii) Previous Government procurements for the same or similar products, and

(iv) Published information concerning the nature of companies which manufacture such products.

A product or service shall be classified in the industry whose definition best describes the principal nature of the product or service being procured. The end use of a product does not govern the industry into which it is to be classified. In a borderline situation the product or service shall be classified in the industry whose size standard would best serve to accomplish the purposes of the Small Business Act. When a procurement is for two or more items with different size standards a bidder must qualify as a small business under the definition of a small business applicable to any item on which it bids. If a multi-item procurement requires the successful bidder to deliver all items and/or perform all services being procured the applicable size standard is that for the industry whose products or services account for the greatest proportion of the contract price.

(5) *Products classification decision.* The SBA Regional Director or his delegatee of the SBA region in which the principal office of the applicant, not including its affiliates, is located, shall determine the appropriate SIC classification, except that for procurement purposes the determination shall be made by the official specified in § 121.3-8, and for lease guarantee reinsurance purposes the determination shall be made by the Associate Administrator for Financial Assistance. Such determination shall be subject to appeal in the manner provided in § 121.3-6.

§ 121.3-2 Definition of terms used in this part.

(a) Affiliates: Concerns are affiliates of each other when either directly or indirectly (1) one concern (other than an investment company licensed under the Small Business Investment Act of 1958 or registered under the Investment Company Act of 1940, as amended), controls or has the power to control the other, or (2) a third party or parties (other than an investment company licensed under the Small Business Investment Act of 1958 or registered under the Investment Company Act of 1940, as amended), controls or has the power to control both. In determining whether concerns are independently owned and operated and whether or not affiliation exists, consideration shall be given to all appropriate factors, including common ownership, common management, and contractual relationships: *Provided, however,* That restraints imposed on a franchisee by its franchise agreement shall not be considered in determining whether the franchisor controls or has the power to control and, therefore, is affiliated with the franchisee, if the franchisee has the right to profit from his effort, commensurate with ownership, and bears the risk of loss or failure. Where a concern is a subcontractor pursuant to section 8(a)(2) of the Small Business Act and, in connection therewith, is the subject of a Divestiture Agreement approved by SBA for the benefit of socially or economically disadvantaged individuals, the receipts, employment, and other factors of the concern attributable to the section 8(a)(2) subcontract shall not be included in determining the size of either concern during the term of such divestiture agreement. Other contracts and business of such subcontractor may also be excluded in determining the size if, in the judgment of SBA, substantial beneficiaries of such other contracts and business will be the socially or economically disadvantaged individuals in question.

(b) "Annual receipts" means the gross income (less returns and allowances, sales of fixed assets, and interaffiliate transactions) of a concern (and its domestic and foreign affiliates) from sales of products and services, interest, rents, fees, commissions, and/or from whatever other source derived, as entered on its regular books of account for its most recently completed fiscal year (whether on a cash, accrual, completed contracts, percentage of completion, or other acceptable accounting basis) and, in the case of a concern subject to U.S. Federal income taxation, reported or to be reported to the U.S. Treasury Department, Internal Revenue Service, for Federal income tax purposes. If a concern has been in business less than a year its annual receipts shall be computed by determining its average weekly receipts for the period in which it has been in business and multiplying such figure by 52. Except as set forth in § 121.3-10, if a concern has acquired an affiliate during the applicable accounting period it is necessary in computing the applicant's annual receipts, to include the affiliates receipts during the entire applicable accounting period, rather than only its receipts during the period in which it has been an affiliate. The receipts of a former affiliate are not included even if such concern had been an affiliate during a portion of the applicable accounting period.

(c) "Appeal" means a written communication addressed to the Size Appeals Board requesting it to review a determination relating to a size matter made by a district director or his delegatee, or by a Contracting Officer.

(d) "Area of substantial unemployment," for the purpose of small business size determination, means a geographical area within the United States which:

(1) Is classified by the Department of Labor either as an "Area of Substantial Unemployment," or an "Area of Substantial and Persistent Unemployment," and such classification has been listed in that Department's publication "Area Labor Market Trends" continuously from September 15, 1961, until a size determination is made; or

(2) Is individually certified by the Department of Labor as an "Area of Substantial Unemployment" and has been eligible for such certification continuously since September 15, 1961. If an area has been removed from the publication, "Area Labor Market Trends," or if an area becomes ineligible for certification at any time, such area is excluded from the above definition and cannot be reinstated for the purpose of size determinations unless it is designated as a Redevelopment Area by the Department of Commerce. (See paragraph (u) of this section.)

(e) "Base maintenance" means furnishing at an installation within the several States, Commonwealth of Puerto Rico, Virgin Islands, the Trust Territory of the Pacific Islands, or the District of Columbia, three or more services which may include but are not limited to such maintenance activities as janitorial and custodial services, protective guard services, commissary services, base housing maintenance, fire prevention services, safety engineering services, messenger services, grounds maintenance and landscaping services, and air-conditioning and refrigeration maintenance: *Provided, however,* That whenever the contracting officer determines prior to the issuance of bids that the estimated value

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of one of the foregoing services constitutes more than 50 percent of the estimated value of the entire contract, the contract shall not be classified as base maintenance but in the industry in which such service is classified.

(f) "Bona fide feed stocks" means crude and any other hydrocarbon material actually charged to refinery processing units, as distinguished from materials used as components in products to be delivered after merely filtering, settling, or blending.

(g) "Crude-oil capacity" means the maximum daily average crude throughput of a refinery in complete operation, with allowance for necessary shutdown time for routine maintenance, repairs, etc. It approximates the maximum daily average crude runs to stills that can be maintained for an extended period.

(h) "Certificate of competency" means a certificate issued by SBA pursuant to the authority contained in section 8(b)(7) of the Act stating that the holder of the certificate is competent as to capacity and credit to perform a specific Government procurement or sales contract.

(i) "Concern" means any business entity organized for profit with a place of business located in the United States and which makes a significant contribution to the U.S. economy through payment of taxes and/or use of American products, material and/or labor, etc. "Concern" includes but is not limited to an individual, partnership, corporation, joint venture, association, or cooperative. For the purpose of making affiliation findings (see paragraph (a) of this section) any business entity, i.e., any entity located outside the United States, shall be included.

(j) "Contracting officer" means the person executing a particular contract on behalf of the Government and any other employee who is properly designated contracting officer; the term includes the authorized representative of a contracting officer acting within the limits of his authority.

(k) "Convalescent or nursing home" means those facilities for the accommodation of convalescents or other persons who are not acutely ill or not in need of hospital care but who may require nursing care and related medical services, which facility is privately owned and operated for the purpose of obtaining profits which shall inure to the benefit of its owners, stockholders, or members.

(l) "Department store" means a concern employing twenty-five (25) or more persons engaged in the retail sale of some items in each of the following merchandise lines: (1) Furniture, home furnishings, appliances, radio and television sets; (2) a general line of apparel for the family; and (3) household linens and dry goods: *Provided, however,* That sales within any one of the preceding merchandise lines do not exceed eighty percent (80%) of the concern's total sales and the aggregate of such merchandise lines account for at least fifty percent (50%) of the concern's total sales.

(m) "Forest products industry" as used in § 121.3-9(b) means logging, wood preserving, and the manufacture of lumber and wood related products such as veneer, plywood, hardboard, particle board, or wood pulp, and of products of which lumber or wood related products are the principal raw material.

(n) "Gross leasable area" means the total floor area designed for tenant occupancy and exclusive use, including basements, mezzanines, and upper floors, if any, expressed in square feet measured from the centerline of a joint partition and from outside wall faces.

(o) "Hospital" means a health facility duly licensed as a hospital providing inpatient medical or surgical care of the sick or injured, including obstetrics, which facility is privately owned and operated for the purpose of obtaining profits which shall inure to the benefits of its owner, stockholders, or members.

(p) "Industry" means a grouping of establishments primarily engaged in similar lines of activity as listed and described in the Standard Industrial Classification Manual, as amended (SIC Manual), prepared and published by the Bureau of the Budget (now Office of Management and Budget), Executive Office of the President.

(q) "Medical and dental laboratory" means those facilities which provide services to doctors, dentists, hospitals, and similar health facilities, which facilities are privately owned and operated for the purpose of obtaining profits which shall inure to the benefit of its owners, stockholders, or members

(r) "Nonmanufacturer" means any concern which, in connection with a specific Government procurement contract, other than a construction or service contract, does not manufacture or produce the products required to be furnished by such procurement. Nonmanufacturer includes a concern which can manufacture or produce the products referred to in the specific procurement but does not do so in connection with that procurement.

(s) A concern is "not dominant in its field of operation" when it does not exercise a controlling or major influence on a national basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

(t) "Number of employees" means the average employment of any conecrn, including the employees of its domestic and foreign affiliates, based on the number of persons employed on a full-time, part-time, temporary, or other basis during the pay period ending nearest the last day of the third month in each calendar quarter for the preceding four quarters. If a concern has not been in existence for four full calendar quarters, "number of employees" means the average employment of such concern and its affiliates during the period such concern has been in existence based on the number of persons employed during the pay period ending nearest the last day of each month. If a concern has acquired an affiliate during the applicable accounting period it is necessary in computing the applicant's number of employees, to include the affiliates number of employees during the entire applicable accounting period rather than only its employees during the period in which it has been an affiliate. The employees of a former affiliate are not included even if such concern had been an affiliate during a portion of the applicable accounting period.

(u) "Protest" means a statement in writing from any bidder or offeror on a particular procurement or disposal (or from any other party interested therein) alleging that another bidder or offeror on such procurement is not a small business concern. Such statement shall contain the basis for the protest, together with specific detailed evidence in support of the protestant's claim. A protest received after the time limits set forth in § 121.3-5(a) shall be acted on but such determination shall not apply to the procurement in question.

(v) "Redevelopment area" for the purpose of small business size determinations means a geographical area within the United States which has been designated as a "redevelopment area" in accordance with the Public Works and Economic Development Act of 1965 (Public Law 89-136, sec. 401, 75 Stat. 48).

(w) "Shopping center" means a group of commercial establishments planned, developed, owned, and managed as a unit with offstreet parking provided on the property.

(x) "Size determination" means an SBA ruling, in writing, that a concern is or is not, or was or was not, a small business within the meaning of this part. An opinion rendered by SBA to a contracting officer on the basis of published or commonly known information and without the benefit of a formal SBA inquiry, is not a "size determination" as that term is used in this part.

(y) "United States" as used in this regulation includes the several States, the territories and possessions of the United States, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the District of Columbia.

§ 121.3-3 Organization—size functions.

The Assistant Administrator for Planning, Research, and Analysis shall:

(a) Develop and recommend small business size standards to the Administrator of SBA for promulgation;

(b) Conduct industry hearings pertaining to size matters;

(c) In concert with the Office of General Counsel, issue interpretations of the Size Standards Regulation;

(d) Consider and take appropriate action on written petitions objecting to or requesting amendments or recision of a published size standard;

(e) Establish procedures for the implementation of all size programs; and

(f) Perform such other related functions as may be appropriate to administer the SBA size program.

§ 121.3-4 Size determinations.

Original size determinations shall be made by the Regional Director, or his delegatee, serving the region in which the principal office of the concern (not including its affiliates) whose size is in question is located, except that for lease guarantee reinsurance purposes such determinations shall be made by the Associate Administrator for Financial Assistance. The Regional Director, or his delegatee, or the Associate Administrator for Financial Assistance, promptly shall notify, in writing by certified mail, return receipt requested, the concern in question and other interested persons of his decision. Such determination shall be final unless appealed in the manner provided in § 121.3-6. For the purpose of Government procurements or sales a size determination shall be made only in the event of a protest pursuant to § 121.3-5, a request for a redetermination pursuant to § 121.3-15(e), a request for a Certificate of Competency, on request by the U.S. General Accounting Office, or if a Regional Director or his delegatee has information which causes him to question the size status of a concern for the purpose of the Small Business Subcontracting Program or Facilities Inventory Program or for any other purpose relating to Government procurement and he concludes that a size determination is necessary: *Provided however,* That a Regional Director or his delegatee may, whenever he deems such action necessary, determine the size status of a concern for the purpose of the Government Timber Sales Program.

§ 121.3-5 Protest of small business status.

(a) How to protest: Any bidder or offeror or other interested party may challenge the small business status of any other bidder or offeror on a particular procurement or disposal. Such challenge shall be made by delivering a protest to the contracting officer responsible for the particular procurement involved. Such protest must be filed prior to the close of business on the fifth day, exclusive of Saturdays, Sundays, and legal holidays, after bid or proposal opening, except that in the case of negotiated procurements, a protest may be filed by any other offeror or other interested party within five (5) days exclusive of Saturdays, Sundays, and legal holidays after receipt from the contracting officer of notification of the identity of the offeror being protested: *Provided, however,* That a protest received after such time shall be deemed to be timely for the purpose of the procurement in question, if, in the case of mailed protest, such protest is sent by registered or certified mail and the postmark thereon indicates that the protest would have been delivered within this time limit but for delays beyond the control of the protestant or, in the case of telegraphed protests, the telegram date and time line indicate that the protest would have been delivered within this time limit but for delays beyond the control of the protestant. Any contracting officer who receives a protest shall promptly forward such protest to the SBA district office serving the geographical area in which the principal office of the protested concern, not including its affiliates, is located. A contracting officer may at any time after bid opening question the small business status of any bidder or offeror for the purpose of a particular procurement by filing a protest with the SBA district office serving the area in which the principal office of the protested concern, not including its affiliates, is located. A protest by a contracting officer shall be timely for the purpose of the procurement in question whether filed before or after award.

(b) Notification of protest: Upon receipt of such protest, the SBA district director or his delegatee shall immediately notify the contracting officer and the protestant of the date such protest has been received and that the size of the concern being protested is being considered by SBA. The district director or his delegatee shall also advise the protested bidder or offeror of the receipt of the protest and shall forward to the protested bidder or offeror a copy of the protest and a blank SBA Form 355, Application for Small Business Size Determination, by certified mail, return receipt requested. Such bidder must, within three (3) working days after receipt of the copy of the protest and SBA Form 355, file the completed form as directed by SBA, and must attach thereto a statement in answer to the allegations of the letter of protest, together with evidence to support such position. If such bidder or offeror does not submit the completed SBA Form 355 within the filing period provided above, or within any additional period of time granted by SBA for cause, SBA will rule the protested concern is other than a small business.

(c) Notification of determination: After receipt of a protest and responses thereto, SBA shall determine the small business status of the protested bidder or offeror and, by certified mail, return receipt requested, notify the contracting officer, the protestant, and the protested bidder or offeror of its decision within 10 working days if possible.

(d) If SBA has determined that a concern is ineligible as a small business for the purpose of a particular procurement, it cannot thereafter become eligible for the purpose of such procurement by taking affirmative acts to constitute itself a small business.

§ 121.3-6 Appeals.

(a) *Organization.* The Size Appeals Board shall review appeals from size determinations made pursuant to §§ 121.3-4 and 121.3-5 and from product classifications made pursuant to §§ 121.3-8 and 121.3-10 and shall make final decisions as to whether such determinations or classifications should be affirmed, reversed, or modified. Size Appeals Board proceedings are essentially factfinding and nonadversary in nature. The Size Appeals Board shall conduct such proceedings as it determines appropriate to enable it to discharge its duties.

(1) The Size Appeals Board shall consist of five members, to wit: The Deputy Administrator (Chairman), the Associate Administrator for Procurement and Management Assistance (Vice Chairman), the Associate Administrator for Planning, Research and Analysis, and the Associate Administrator for Investment.

(2) Each member of the Size Appeals Board shall, in writing, designate one or more alternates to serve in his stead in the event of absence or disability. Each member or his alternate shall have one vote, except that the Chairman, or the Vice Chairman acting in his stead, shall vote only in the event of a tie.

(b) *Method of appeal*—(1) *Who may appeal.* An appeal may be filed by:

(i) Any concern or other interested party which has protested the small business status of another concern pursuant to § 121.3-5 and whose protest has been denied by a Regional Director or his delegatee;

(ii) Any concern or other interested party which has been adversely affected by a decision of a Regional Director or his delegatee or by the Associate Administrator for Financial Assistance pursuant to §§ 121.3-4 and 121.3-5;

(iii) Any concern or other interested party which has been adversely affected by a decision of a contracting officer regarding product classification pursuant to § 121.3-8; and

(iv) The Small Business Administration Associate Administrator for the Small Business Administration program involved.

(2) *Where to appeal.* Written notices of appeal shall be addressed to the Chairman, Size Appeals Board, Small Business Administration, Washington, D.C. 20416.

(3) *Time for appeal.* (i) An appeal from a size determination or product classification by a Regional Director, or his delegatee, may be taken at any time, except that because of the urgency of pending procurements, appeals concerning the small business status of a bidder or offeror in a pending procurement may be taken within five (5) days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a decision by a Regional Director or his delegatee. Unless written notice of such appeal is received by the Size Appeals Board before the close of business on the fifth day, the appellant will be deemed to have waived its rights of appeal insofar as the pending procurement is concerned.

(ii) An appeal from a product classification determination by a contracting officer may be taken: (a) Not less than 10 days, exclusive of Saturdays, Sundays, and legal holidays, before bid opening day or deadline for submitting proposals or quotations, in cases wherein the bid opening date or last date to submit proposals or quotations is more than 30 days after the issuance of the invitation for bids or request for proposals or quotations, or (b) not less than five (5) days,

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exclusive of Saturdays, Sundays, and legal holidays, before the bid opening day or deadline for submitting proposals or quotations, in cases wherein the bid opening date or last date to submit proposals or quotations is 30 or less days after the issuance of the invitation for bids or request for proposals or quotations, and

(iii) The timeliness of an appeal under subdivisions (i) and (ii) of this subparagraph shall be determined by the time of receipt of the appeal by the Size Appeals Board: *Provided, however,* That an appeal received after such time limits have expired shall be deemed to be timely and shall be considered if, in the case of mailed appeals, such appeal is sent by registered or certified mail and the postmark thereon indicates that the appeal would have been received within the requisite time limit but for delays beyond the control of the appellant, or in the case of telegraphed appeals, the telegram date and time line indicates that the appeal would have been received within the requisite time limit but for delays beyond the control of the appellant.

(4) *Notice of appeal.* No particular form is prescribed for the notice of appeal. However, the appellant shall submit to the Board an original and four legible copies of such notice and, to avoid time-consuming correspondence, the notice should include the following information:

(i) Name and address of concern on which the size determination was made;

(ii) The character of the determination from which appeal is taken and its date;

(iii) If applicable, the IFB or contract number and date, and the name and address of the contracting officer;

(iv) A concise and direct statement of the reasons why the decision of a Regional Director, or his delegatee, the Contracting Officer or the Associate Administrator for Financial Assistance is alleged to be erroneous;

(v) Documentary evidence in support of such allegations; and

(vi) Action sought by the appellant.

(c) *Notice to interested parties.* The Size Appeals Board shall promptly acknowledge receipt of the Notice of Appeal and shall send a copy of such Notice of Appeal to the appropriate Regional Director or his delegatee and to the Contracting Officer (if a pending procurement is involved). If the appellant is not the concern whose size status is in question, the Board shall also send a copy of the notice to such concern. The Board shall notify all known interested parties that the appeal has been filed. The Board in its discretion may also provide any of such interested parties with copies of applicant's Notice of Appeal, or parts thereof, when the Board determines that this would be in the interest of fairness or would assist it in the performance of its functions.

(d) *Statement of interested parties.* After an appeal has been filed, any other interested parties may file with the Board a signed statement, together with four legible copies thereof, as to why the appeal should or should not be denied. Such statement shall be accompanied by appropriate evidence. Such statements and supporting evidence shall be mailed or delivered to the Chairman, Size Appeals Board, Small Business Administration, Washington, D.C. 20416, within five (5) days of the receipt of appropriate notification of appeal or other action in the proceeding unless an extension is for cause granted by the Chairman of the Size Appeals Board. If the appellant is the concern whose size status is in question, the Board will provide copies of such statements and appropriate evidence submitted in connection with the appeal or a reconsideration thereof to such appellant.

(e) *Consideration by the Size Appeals Board.* (1) The Size Appeals Board shall consider the appeal on the written submission of the parties. The Board may also, in its discretion, conduct an oral inquiry. After consideration of all relevant information, the Board shall promptly render a decision which shall state the reason for such decision.

(2) *Procedures in oral inquiries.* In considering size appeals, and in reconsidering size appeals decisions, the Size Appeals Board may hold an oral inquiry to assist it in arriving at facts necessary in deciding the appeal. The following rules shall govern such oral inquiries:

(i) Oral inquiries may be held by the Size Appeals Board upon the request of any party to a size appeal or by the Board on its own motion. The Board will, in its discretion, determine whether an oral inquiry will be of assistance in its determination of a size appeal. The Board shall inform the party making a request for oral inquiry whether its request is granted. If the Board grants the request for an oral inquiry, it will so notify all other interested parties.

(ii) Oral inquiries held by the Board are investigative in nature and not adversary. Such inquiries shall be conducted informally in a manner which will facilitate the Board's factfinding function and insure fairness to all participants.

(iii) Whenever the Board permits the appearance of two or more parties before it in an oral inquiry, cross-examination shall not be permitted between or among such parties; however, any party appearing in such oral inquiry may suggest questions for the Board to direct to other parties which may assist the Board in its determination of relevant facts.

(f) *Decision of the Size Appeals Board.* The decision of the Size Appeals Board shall be predicated upon the entire record, and it shall state in writing the basis for its findings and conclusions. The Chairman shall promptly notify, in writing, the appellant and the other interested parties of the Board's decision together with the reasons therefor.

(g) *Reconsiderations.* (1) Following any decision in a size appeals case, an interested party, within no more than five (5) business days following the decision, may petition the Board for reconsideration upon presentation of appropriate justification therefor. The Petition for reconsideration to the Board may be in any form, with an original and four copies. The Board will notify interested parties that a Petition for reconsideration has been received.

(2) The Board shall consider the Petition for reconsideration upon the statement and other evidence presented by the petitioners and any other evidence the Board, in its discretion, deems necessary.

(3) Grounds for reconsideration: Grounds for reconsideration shall be:

(i) A material error of fact in the original decision; or

(ii) Relevant information not previously considered by the Board or relevant information not previously available to any of the parties involved;

(iii) When a request for reconsideration is made by any of the interested parties, such requesting party must demonstrate to the Board that the grounds for reconsideration involve facts or information which were not previously presented to the Board through no fault or omission of such party.

(4) If the Board denies the request for reconsideration, it shall notify all parties. If the request for reconsideration is granted, the Board shall so notify all interested parties, setting forth a reasonable time within which the interested parties may, if appropriate, submit additional information. The Board may, in its discretion, provide interested parties with copies of appropriate information submitted by other parties where it determines that this is necessary in the interest of fairness or to better assist the Board in performing its fact finding functions.

(5) Following its reconsideration of the matter, the Board will promptly render a decision pursuant to paragraph (f) of this section. The decision of the Board shall constitute the final administrative remedy afforded by this Agency.

§ 121.3–7 Differentials.

(a) *Alaska.* If an applicant for a size determination is a concern which has fifty percent (50%) or more of its annual sales or receipts attributable to business activity within Alaska then, whenever "annual sales or annual receipts" are used in any size definition contained in this part, said dollar limitation is increased by twenty-five percent (25%) of the amount set forth therein.

(b) *Substantial or persistent unemployment areas; areas of concentrated unemployment or underemployment; certified eligible concerns; and redevelopment areas—(1) Assistance under sections 7(a) and 8(a) of the Small Business Act.* Notwithstanding any other provision of this part, the applicable size standards for the purposes of assistance under sections 7(a) and 8(a) of the Act are increased by twenty-five percent (25%) whenever the concern maintains or operates a plant, facility, or other business establishment within an Area of

Substantial Unemployment or Underemployment or Redevelopment Area as defined in § 121.3–2(d) and (u) or is designated as a Certified Eligible concern by the Department of Labor and agrees to use the assistance within such area or, if it does not maintain a plant, facility, or other business establishment within such area, agrees to utilize the assistance for the establishment and/or operation of a plant, facility, or other business establishment within such area.

(2) *Small business investment companies and development companies.* Notwithstanding any other provision of this part, the size standard for a small business concern receiving assistance from a small business investment company or receiving assistance from a development company in connection with section 501 or section 502 loan is increased by twenty-five percent (25%) whenever such concern qualifies for a similar differential under subparagraph (1) of this paragraph.

(3) *Government procurement assistance, sales of Government property and Government subcontracting.* Except as is provided in subparagraphs (1) and (2) of this paragraph, this paragraph is not applicable to size determinations for the purpose of Government procurement assistance, sales of Government property or Government subcontracting.

§ 121.3–8 Definition of small business for Government procurement.

A small business concern for the purpose of Government procurement is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts and can further qualify under the criteria set forth in this section. When computing the size status of a bidder or offerer, the number of employees, annual receipts, or other applicable standards of the bidder or offerer and all of its affiliates shall be included. In the submission of a bid or proposal on a Government procurement, a concern which meets the criteria provided in this section and which either has not been determined by SBA to be ineligible, or has been determined to be ineligible but subsequently has on the basis of a significant change in ownership, management or contractual relations, applied for recertification and had its application granted, may represent that it is a small business. In the absence of a written protest or other information which would cause him to question the veracity of the self-certification, the Contracting Officer shall accept the self-certification at face value for the particular procurement involved. If the contracting officer has cause to question the veracity of a self-certification and elects to do so, he shall refer the eligibility issue to SBA by filing a formal protest pursuant to § 121.3–5. If a procurement calls for more than one item and the bidder can bid on any or all items, the bidder must meet the size standard for each item for which it submits a bid. If the procurement calls for more than one item and a bidder is required to bid on all or none of such items, the bidder can qualify as small business for such procurement if it meets the size standard for the item accounting for the greatest percentage of the total contract value. The determination of the appropriate classification of a product or service shall be made by the contracting officer. Both classification and the applicable size standard (number of employees, average annual receipts, etc.) shall be set forth in the solicitation and such determination of the contracting officer shall be final unless appealed in the manner provided in § 121.3–6. If no standard for an industry, field of operation or activity (e.g., animal specialty; fin fish; management-logistics support to be performed outside of the several States, Commonwealth of Puerto Rico, Virgin Islands, the Trust Territory of the Pacific Islands, or the District of Columbia) has been set forth in this section, a concern bidding on a Government contract is a small business, if including its affiliates, it is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts, and has 500 employees or less.

(a) *Construction.* Any concern bidding on a contract for work which is classified in Division C, Contract Construction of the Standard Industrial Classification Manual, as amended, prepared, and published by the Bureau of the Budget (now Office of Management and Budget), Executive Office of the President, is:

(1) Small if its average annual receipts for its preceding three (3) fiscal years do not exceed $7½ million.

(2) Small if it is bidding on a contract for dredging and its average annual receipts for its preceding three (3) fiscal years do not exceed $5 million.

(b) *Manufacturing.* Any concern bidding on a contract for a product it manufactured is classified:

(1) As small if it is bidding on a contract for food canning and preserving and its number of employees does not exceed 500 persons, exclusive of agricultural labor as defined in section (k) of the Federal Unemployment Tax Act, 68A Stat. 454, 26 U.S.C. (I.R.C. 1954) 3306.

(2) As small if it is bidding on a contract for a product classified within an industry set forth in Schedule B of this part and its number of employees does not exceed the size standard established for that industry.

(3) As small if it is bidding on a contract for a product classified within an industry not set forth in Schedule B of this part and its number of employees does not exceed 500 persons.

(4) As small if it is bidding on a contract for pneumatic tires within Census Classification Codes 30111 and 30112: *Provided,* That (i) the value of the pneumatic tires within Census Classification Codes 30111 and 30112 which it manufactured in the United States during the preceding calendar year is more than 50 percent of the value of its total worldwide manufacture, (ii) the value of the pneumatic tires within Census Classification Codes 30111 and 30112 which it manufactured worldwide during the preceding calendar year was less than five percent (5%) of the value of all such tires manufactured in the United States during said period, and (iii) the value of the principal products which it manufactured or otherwise produced or sold worldwide during the preceding calendar year is less than ten percent (10%) of the total value of such products manufactured or otherwise produced or sold in the United States during said period.

(5) As small if it is bidding on a contract for passenger cars within Census Classification Code 37171: *Provided,* That (i) the value of the passenger cars within Census Classification Code 37171 which it manufactured or otherwise produced in the United States during the preceding calendar year is more than fifty percent (50%) of the value of its total worldwide manufacture or production of such passenger cars, (ii) the value of the passenger cars within Census Classification Code 37171, which it manufactured or otherwise produced during the preceding calendar year was less than five percent (5%) of the total value of all such manufactured or produced in the United States during the said period, and (iii) the value of the principal products which it manufactured or otherwise produced or sold during the preceding calendar year is less than ten percent (10%) of the total value of such produce manufactured or otherwise produced or sold in the United States during said period.

(6) Rebuilding on a factory basis or equivalent: As small if it is bidding on a contract for rebuilding machinery or equipment on a factory basis, the purpose of which is to restore such machinery or equipment to as serviceable and as like new condition as possible and its number of employees does not exceed the number of employees specified for the classification code applicable to the manufacturer of the original item.

NOTE: The size standard contained herein is not limited to concerns who are manufacturers of the original item but it is applicable to all bidders or offerers. The term "rebuilding on a factory basis" as used in this subsection does not include ordinary repair services such as those involving minor repair and/or preservation operations.

(c) *Nonmanufacturing.* Any concern which submits a bid or offer in its own name, other than on a construction or service contract, but which proposes to furnish a product not manufactured by said bidder or offerer, is deemed to be a small business concern when:

(1) Its number of employees does not exceed 500 persons, and

(2) (i) In the case of Government procurement reserved for or involving the preferential treatment of small businesses, such nonmanufacturer furnishes in the performance of the contract the products of a small business manufacturer or producer which products are manufactured or produced in the United States: *Provided, however,* If the goods

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to be furnished are woolen, worsted, knitwear, duck, and webbing, dealers and converters shall furnish such products which have been manufactured or produced by a small weaver (small knitter for knitwear), and if finishing is required, by a small finisher. If the procurement is for thread, dealers and converters shall furnish such products which have been finished by a small finisher. (Finishing of thread is defined as all "dyeing, bleaching, glazing, mildew proofing, coating, waxing, and other applications required by the pertinent specifications but excluding, mercerizing, spinning, throwing, or twisting operations.")

(ii) If the procurement is for a refined petroleum product, other than a product classified in Standard Industrial Classification Industries Nos. 2951, Paving Mixtures and Blocks; No. 2952, Asphalt Felts and Coatings; No. 2992, Lubricating Oils and Greases; or No. 2999, Products of Petroleum and Coal, Not Elsewhere Classified; paragraph (g) of this section is for application.

(d) *Research, development, and testing.* Any concern bidding on a contract for research, development, and/or testing is classified:

(1) As small if it is bidding on a contract for research and/or development which requires delivery of a manufactured product and (i) it qualifies as a small business manufacturer within the meaning of paragraph (b) of this section for the industry into which the product is classified, or (ii) it qualifies as a small business nonmanufacturer within the meaning of paragraph (c) of this section.

(2) As small if it is bidding on a contract for research and/or development which does not require delivery of a manufactured product or on a contract for testing and its number of employees does not exceed 500 persons.

(e) *Services.* Any concern bidding on a contract for services, not elsewhere defined in this section, is classified as small if its average annual receipts for its preceding three (3) fiscal years do not exceed $1 million.

(1) Any concern bidding on a contract for engineering services other than marine engineering services is classified as small if its average annual receipts for its preceding three (3) fiscal years do not exceed $5 million.

(2) Any concern bidding on a contract for motion picture production or motion picture services is classified as small if its average annual receipts for its preceding three (3) fiscal years do not exceed $5 million.

(3) Any concern bidding on a contract for janitorial and custodial services is classified as small if its average annual receipts for its preceding three (3) fiscal years do not exceed $3 million.

(4) Any concern bidding on a contract for base maintenance is classified as small if its average annual receipts for its preceding three (3) fiscal years do not exceed $5 million.

(5) Any concern bidding on a contract for marine cargo handling services is classified as small if its annual receipts do not exceed $5 million for the preceding three (3) fiscal years.

(6) Any concern bidding on a contract for naval architectural and marine engineering services is classified as small if its average annual receipts for its preceding three (3) fiscal years do not exceed $6 million.

(7) Any concern bidding on a contract for food services is classified as small if its average annual receipts for its preceding three (3) fiscal years do not exceed $4 million.

(8) (i) Any concern bidding on a contract for laundry services including linen supply, diaper services, and industrial laundering is classified as small if its average annual receipts for its preceding three (3) fiscal years do not exceed $3 million.

(ii) Any concern bidding on a contract for cleaning and dyeing including rug cleaning services is classified as small if its average annual receipts for the preceding three (3) fiscal years do not exceed $1 million.

(9) Any concern bidding on a contract for computer programing services is classified as small if its average annual receipts for its preceding three (3) fiscal years do not exceed $3 million.

(10) Any concern bidding on a contract for flight training services is classified as small if its average annual receipts for its preceding three (3) fiscal years do not exceed $5 million.

(11) Any concern bidding on a contract for motorcar rental and leasing services or truck rental and leasing services is classified as small if its average annual receipts for its preceding three (3) fiscal years do not exceed $5 million.

(12) Any concern bidding on a contract for tire recapping service is classified as small if its average annual receipts for its preceding three (3) fiscal years do not exceed $3 million.

(13) Any concern bidding on a contract for data processing services is classified as small if its average annual receipts for its preceding three (3) fiscal years do not exceed $3 million.

(14) Any concern bidding on a contract for computer maintenance services is classified as small if its average annual receipts for its preceding three (3) fiscal years do not exceed $5 million.

(f) *Transportation.* Any concern bidding on a contract for passenger or freight transportation, not elsewhere defined in this section, is classified:

(1) As small if its number of employees does not exceed 500 persons.

(2) As small if it is bidding on a contract for air transportation and its number of employees does not exceed 1,500 persons.

(3) As small if it is bidding on a contract for either trucking (local and/or long distance), and/or warehousing and/or packing and crating and/or freight forwarding, and its annual receipts do not exceed $5 million.

(g) *Refined petroleum products.* Any concern bidding on a contract for a refined petroleum product other than a product classified in Standard Industrial Classification Industries No. 2951, Paving Mixtures and Blocks; No. 2952, Asphalt Felts and Coating; No. 2992, Lubricating Oils and Greases; or No. 2999, Products of Petroleum and Coal, Not Elsewhere Classified; is classified as small if (1) (i) its number of employees does not exceed 1,000 persons; (ii) it does not have more than 30,000 barrels-per-day crude oil or bona fide feed stock capacity from owned or leased facilities or from facilities made available to such concern under an arrangement such as, but not limited to, an exchange agreement (except one on a refined product for refined product basis), or a throughput or other form of processing agreement, with the same effect as though such facilities had been leased; and (iii) the product to be delivered in the performance of the contract will contain at least 90 percent components refined by the bidder from either crude oil or bona fide feed stocks; *Provided, however,* That a petroleum refining concern which meets the requirements in subdivisions (i) and (ii) of this subparagraph may furnish the product of a refinery not qualified as small business if such product is obtained pursuant to a bona fide exchange agreement, in effect on the date of the bid or offer, between the bidder or offeror and the refiner of the product to be delivered to the Government which requires exchanges in a stated ratio on a refined petroleum product for a refined petroleum product basis, and precludes a monetary settlement, and that the products exchange for the products offered and to be delivered to the Government meet the requirement in subdivision (iii) of this subparagraph; *And, provided further,* That the exchange of products for products to be delivered to the Government, will be completed within 90 days after the expiration of the delivery period under the Government contract; and that any product furnished pursuant to a bona fide exchange agreement must be for delivery in the same Petroleum Administration for Defense (PAD) District pursuant to Schedule G of this Part 121, as that in which the small refinery is located; or (2) its number of employees does not exceed 500 persons and the product to be delivered to the Government has been refined by a concern which qualifies under subparagraph (1) of this paragraph.

§ 121.3–9 Definition of small business for sales of Government property.

In the submission of a bid or proposal for the purchase of Government-owned property, a concern which meets the criteria provided in this section may represent that it is a small business. In the absence of a written protest or other information which would cause him to question the veracity of the self-certification, the contracting officer shall accept the self-certification at face value for the particular sale involved.

(a) *Sales of Government-owned property other than timber.* A small business concern for the purpose of the sale of Government-owned property other than timber is a concern, including its affiliates, which is independently owned and operated, is not dominant in its field operation, and can further qualify under the following criteria.

(1) *Manufacturers.* Any concern which is primarily engaged in manufacturing is small if its number of employees does not exceed 500 persons: *Provided however,* That a concern primarily engaged in SIC Industry 2911, Petroleum Refining, is small if its number of employees does not exceed 1,000 persons and it does not have more than 30,000 barrels-per-day crude oil or bona fide stock capacity from owned and/or leased facilities, or from facilities made available to such concern under an arrangement such as, but not limited to, an exchange agreement (except one on a refined product for refined product basis) or a throughput or other form of processing agreement, with the same effect as though such facilities had been leased.

(2) *Other than manufacturers.* Any concern which is primarily not a manufacturer (except as specified in subparagraph (3) of this paragraph) is small if its average annual receipts for its preceding three (3) fiscal years do not exceed $1 million.

(3) *Stockpile purchasers.* Any concern primarily engaged in the purchase of materials which are not domestic products is small if its annual sales or annual receipts for its preceding three (3) fiscal years do not exceed $25 million.

(b) *Sales of Government-owned timber.* (1) In connection with sale of Government-owned timber a small business is a concern that:

(i) Is primarily engaged in the logging or forest products industry;

(ii) Is independently owned and operated;

(iii) Is not dominant in its field of operation; and

(iv) Together with its affiliates, its number of employees does not exceed 500 persons.

(2) In the case of Government sales of timber reserved for or involving preferential treatment of small businesses, when the Government timber being purchased is to be resold, a concern is a small business when:

(i) It is a small business within the meaning of subparagraph (1) of this paragraph, and

(ii) It agrees that it will not sell to a concern which is not a small business within the meaning of this paragraph more than thirty percent (30%) of such timber or, in the case of timber from certain geographical areas set forth in Schedule E of this part, more than the percentage established therein for such area.

(3) In the case of Government sales reserved for or involving preferential treatment of small businesses, when the Government timber purchased is not to be resold in the form of sawlogs to be manufactured into lumber and timbers, a concern is a small business when:

(i) It meets the criteria contained in subparagraph (1) of this paragraph, and

(ii) It agrees that in manufacturing lumber or timbers from such sawlogs cut from the Government timber, it will do so only with its own facilities or those of concerns that qualify under subparagraph (1) of this paragraph as a small business.

§ 121.3–10 Definition of small business for SBA loans.

A small business concern for the purpose of receiving an SBA loan is a concern, including its affiliates, which is independently owned and operated, is not dominant in its field of operation, and can further qualify under the criteria set forth below. A concern which is a small business under § 121.3–8 which has applied for or received a Certificate of Competency is a small business eligible for an SBA loan to finance the contract covered by the Certificate of Competency. If no standard for an industry, field of operation, or activity has been set forth in this section, a concern seeking a size determination shall submit SBA Form 355 to the Assistant Administrator for Planning, Research and Analysis, Washington, D.C. 20416. If an applicant for an SBA loan has external-operating affiliates (i.e. affiliates which are primarily engaged in selling to the general public or to concerns other than the applicant concern or an affiliate thereof) and such external-operating affiliates are engaged in industries subject to size standards different than that of the applicant concern, the applicant concern's size status shall be determined by computing the percentage that the size of the applicant concern including any internal-operating affiliates (i.e. affiliates primarily engaged in selling to the applicant or an affiliate thereof) is of the size standard for the industry in which the applicant together with its internal-operating affiliates is primarily engaged; and adding to it the percentage that the size of each of its external-operating affiliates is primarily engaged. In order for the applicant to be eligible under this revision, the total of such percentages must not exceed one hundred percent (100%). If a concern, including its internal-operating affiliates if any, is engaged in more than one industry, the applicable size standard shall be that for its primary industry. In determining which of the industries is the primary industry, consideration shall be given to these criteria among others: Distribution among such industries of receipts, employment, and costs of doing business.

(a) *Construction.* Any construction concern is small if its average annual receipts do not exceed $5 million for the preceding three (3) fiscal years.

(b) *Manufacturing.* Any manufacturing concern is classified:

(1) As small if its number of employees does not exceed 250 persons;

(2) As large if its number of employees exceeds 1,500 persons;

(3) Either as small or large depending on its industry and in accordance with the employment size standards set forth in Schedule "A" of this part, if its number of employees exceeds 250 persons but not more than 1,500 persons;

(4) As small if it is primarily engaged in the food canning and preserving industry and its number of employees does not exceed 500 persons exclusive of agricultural labor as defined in subsection (k) of the Federal Employment Tax Act, 68A Stat. 454, 26 U.S.C. (I.R.C. 1954) 3306.

(c) *Retail.* (1) Any retailing concern is classified:

(i) As small if it is primarily engaged in an industry or subindustry set forth in Schedule D of this part and its annual receipts do not exceed the size standard established therein for that industry or subindustry.

(ii) As small if it is primarily engaged in an industry or subindustry not set forth in Schedule D of this part and its annual receipts do not exceed $1 million.

(d) *Services.* Any service concern is classified:

(1) As small if its annual receipts do not exceed $1 million;

(2) As small if it is primarily engaged in the hotel and motel industry and its annual receipts do not exceed $2 million;

(3) As small if it is primarily engaged in the power laundry industry and its annual receipts do not exceed $2 million;

(4) As small if it is primarily engaged in the trailer court and parks industry and its annual receipts do not exceed $1 million: *Provided,* That a minimum of fifty percent (50%) of the annual receipts is derived from the rental of space to tourist trailers for periods not in excess of thirty (30) days;

(5) As small if it is primarily engaged in owning and operating a hospital and its capacity does not exceed 150 beds (excluding cribs and bassinets);

(6) As small if it is primarily engaged in owning and operating a convalescent or nursing home and its annual receipts do not exceed $1 million;

(7) As small if it is primarily engaged in owning and operating a medical or dental laboratory and (i) it is operated in connection with an eligible proprietary hospital or (ii) it is not operated in connection with an eligible proprietary hospital and its annual receipts do not exceed $1 million;

(8) As small if it is primarily engaged in the motion picture production industry and its annual receipts do not exceed $5 million;

(9) As small if it is primarily engaged in the motion picture services industry and its annual receipts do not exceed $5 million;

(10) As small if it is primarily engaged in rendering engineering services and its annual receipts do not exceed $2.5 million.

(e) *Shopping centers.* (1) Any concern primarily engaged in operating shopping

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of stock. If two or more parties each trolling or having the power to control applying size standards to include such

centers is small if (i) it does not have assets exceeding $5 million, (ii) it does not have net worth in excess of $2½ million, (iii) it does not have an average net income, after Federal Income Taxes, for the preceding two (2) fiscal years in excess of $250,000 (average net income to be computed without benefit of any carryover loss), and (iv) it does not lease more than twenty-five percent (25%) of the gross leasable area to concerns which do not meet the small business definitions contained in this section.

(2) For the purpose of size determinations, shopping center operators will not be considered affiliated with their tenants merely because of lease agreements.

(f) *Transportation and warehousing.* Any concern primarily engaged in passenger and freight transportation or warehousing is classified:

(1) As small if its annual receipts do not exceed $1 million;

(2) As small if it is primarily engaged in the air transportation industry and its number of employees does not exceed 1,000 persons;

(3) As small if it is primarily engaged in the storage of grain and it does not have more than 1 million bushels capacity in owned and leased facilities, and its annual receipts do not exceed $1 million;

(4) As small if it is primarily engaged in trucking (local and/or long distance) and/or warehousing and/or packing and crating and/or freight forwarding and its annual receipts do not exceed $5 million.

(g) *Wholesale.* (1) Any wholesaling concern is classified:

(i) As small if it is primarily engaged in an industry or subindustry set forth in Schedule C of this part and its annual receipts do not exceed the size standard established therein for that industry or subindustry.

(ii) As small if it is primarily engaged in an industry or subindustry not set forth in Schedule C of this part and its annual receipts do not exceed $5 million.

(2) Any concern primarily engaged in wholesaling, but also engaged in manufacturing, is not a "small business concern" unless it qualifies under both the manufacturing and wholesaling standards.

(h) *Mining and mining services.* Any mining or mining services concern primarily engaged in an industry set forth in Schedule F of this part is classified as small if its number of employees does not exceed the size standard established therein for that industry.

(i) *Custom livestock feeding.* Any concern primarily engaged in custom livestock feeding is classified as small if its annual receipts do not exceed $2 million.

(j) *Agriculture production (crops), fish farms, and fish hatcheries.* Any concern primarily engaged (1) in an industry set forth in Major Group 01—Agriculture Production—Crops, of the Standard Industrial Classification Manual, (2) in the operation of a fish farm (part of Standard Industrial Classification Industry No. 0279, Animal Specialties, Not Elsewhere Classified), or (3) in the operation of a fish hatchery (part of Standard Industrial Classification Industry No. 0921, Fish Hatcheries and Preserves) is classified as small if its annual receipts do not exceed $250,000.

§ 121.3–11 Definition of small business for assistance by small business investment companies or by development companies.

A small business concern for the purpose of receiving financial or other assistance from small business investment companies or development companies is one which:

(a) Together with its affiliates, is independently owned and operated, is not dominant in its field of operation, does not have assets exceeding $7½ million, does not have net worth in excess of $2½ million, and does not have an average net income, after Federal income taxes, for the preceding 2 years in excess of $250,000 (average net income to be computed without benefit of any carryover loss); or

(b) Qualifies as a small business concern under § 121.3–10.

§ 121.3–12 Definition of small business Government subcontractors.

(a) Any concern in connection with subcontracts of $2,500 or less which relate to Government procurements will be considered a small business concern if, including its affiliates, its number of employees does not exceed 500 persons.

(b) An yconcern in connection with subcontracts exceeding $2,500 which relate to Government procurements will be considered a small business concern if it qualifies as such under § 121.3–8: *Provided, however,* That a nonmanufacturer is considered as small business for the purpose of Government subcontracting if, including its affiliates, its number of employees does not exceed 500 persons.

§ 121.3–13 Definition of small business for the purpose of lease guarantee.

A small business concern for the purpose of lease guarantee is a concern that qualifies as a small business under § 121.3–11.

§ 121.3–14 Definition of small business for the purpose of Government leases of uranium prospecting or mining rights.

In the submission of a bid or proposal for a Government lease of uranium prospecting or mining rights, a concern whose number of employees does not exceed 100 persons may represent that it is a small business. In the absence of a written protest or other information which would cause him to question the veracity of the self-certification, the contracting officer shall accept the self-certification at face value for the particular lease involved.

§ 121.3–15 Definition of small business for the purpose of surety bond guarantee assistance.

A small business concern for the purpose of surety bond guarantee assistance is a concern that qualifies as a small business under § 121.3–10, with the following exception:

(a) *Construction.* Any construction concern is small if its annual receipts for its preceding fiscal year or its average annual receipts for its preceding 3 fiscal years, do not exceed $750,000.

§ 121.3–16 Interpretations.

(a) [Reserved]

(b) *Section 121.3–9 of Part 121, "Sales of Government-owned timber."* Any concern which self-certifies as a small business concern for the purpose of the sale of Government-owned timber is expected to maintain sufficient documentary evidence to show that it did so in good faith. This means that a concern which sells more than 30 percent (30%) of the purchased timber will have to maintain the names and addresses of the concerns to whom the timber is sold and the size status of such concerns, unless an exemption has been granted on sales of mixed stumpage of hardwood and softwood species. Further, if the timber purchased is not to be resold in the form of sawlogs, but is to be manufactured into lumber and timber by a concern other than the bidder, the bidder must maintain records to show the name, address and size status of the concern manufacturing the timber into lumber or timbers.

(c) *Section 121.3–2(a) of Part 121, "Affiliates"*—(1) *Nature of Control.* Every business concern is considered as having one or more parties who directly or indirectly control or have the power to control it. Control may be affirmative or negative and it is immaterial whether it is exercised so long as the power to control exists.

Example. A party owning 50 percent of the voting stock of a concern would have negative power to control such concern since he can block any action of the other stockholders. Also, the bylaws of a corporation may be drawn up in such a manner which would permit a stockholder with less than 50 percent of the voting stock to block any actions taken by the other stockholders. Affiliation exists when one or more parties have the power to control a concern while at the same time another party, or other parties, may be in control of the concern at the will of the party or parties with the power to control.

(2) *Meaning of "party or parties."* The term "party or parties" includes, but is not limited to, two or more persons with an identity of interest such as members of the same family or persons with common investments in more than one concern. In determining who controls or has the power to control a concern, persons with an identity of interest may be treated as though they were one person.

(3) *Control through stock ownership.* (i) A party is considered to control or have the power to control a concern if he controls or has the power to control 50 percent or more of its voting stock.

(ii) A party is considered to control or have the power to control a concern even though he owns, controls, or has the power to control less than 50 percent of the concern's voting stock if the block of stock he owns, controls, or has the power to control is large as compared with any other outstanding block of stock. If two or more parties each own, control or have the power to control less than 50 percent of the voting stock of a concern and such minority blocks are (a) equal or substantially equal in size, and (b) large as compared with any other block outstanding, there is a presumption that each of such parties controls or has the power to control such concern; however, such presumption may be rebutted by a showing that such control or power to control, in fact, does not exist.

(iii) If a concern's voting stock is distributed other than as described above, its management (officers and directors) is deemed to be in control of such concern.

Example. In a corporation where the officers and directors own various size blocks of stock totalling 40 percent of a concern's voting stock but no officer or director has a block sufficient to give him control or the power to control and remaining 60 percent is widely distributed with no individual stockholder having a stock interest greater than 10 percent, management has the power to control.

(4) *Stock options, convertible debentures, and agreements to merge.* Stock options and convertible debentures exercisable at the time of, or within a relatively short time after a size determination, and agreements to merge in the future, are considered as having a present effect on the power to control the concern. Therefore, in making a size determination, such options, debentures, and agreements are treated as though the rights held thereunder had been exercised prior to the date of the determination.

Example. If, on the date of the determination, company "A" holds an option to purchase a controlling interest in company "B" and such option can be exercised at any time by company "A", the situation is treated as though company "A" had exercised its rights and had become owner of a controlling interest in company "B" prior to the determination. Further, if, as of the date of a determination, company "A" has entered into an agreement to merge with company "B" in the future, the situation is treated as though the merger had taken place prior to the date of the determination.

(5) *Voting trusts.* If the purpose of a voting trust or similar agreement is to separate voting power from beneficial ownership of voting stock, for the purpose of shifting control of, or the power to control a concern, in order that such concern or another concern may qualify as a small business within the size regulation, and voting trust shall not be considered valid for this purpose, regardless of whether the trust is or is not valid within the appropriate jurisdiction. However, if a voting trust is entered into for a legitimate purpose other than that described above, and it is a valid trust within the appropriate jurisdiction, it may be considered valid for the purpose of a size determination, provided such consideration is determined to be in the best interest of the small business program.

(6) *Control through common management.* A concern is considered as controlling or having the power to control another concern when one or more of the following circumstances are found to exist, and it is reasonable to conclude that under the circumstances, such concern is directing or influencing, or has the power to direct or influence the operation of such other concern.

(i) *Interlocking management.* Officers, directors, employees, or principal stockholders of one concern serve as a working majority of the board of directors or officers of another concern.

(ii) *Common facilities.* One concern shares common office space and/or employees and/or other facilities with another concern, particularly where such concerns are in the same or related industry or field of operation, or where such concerns were formerly affiliated.

(iii) *Newly organized concern.* Former officers, directors, principal stockholders, and/or key employees of one concern organize a new concern in the same or a related industry or field of operation, and serve as its officers, directors, principal stockholders, and/or key employees, and one concern is furnishing or will furnish the other concern with subcontracts, financial or technical assistance, and/or other facilities, whether for a fee or otherwise.

(7) *Control through contractual relationships*—(i) *Definition of a joint venture for size determination purposes.* A joint venture, for size determination purposes, is an association of persons or concerns with interest in any degree or proportion by way of contract, express or implied, consorting to engage in and carry out a single business venture, such as a Government contract, for joint profit, for which purpose they combine their efforts, property, money, skill, or knowledge, but without creating a corporation or partnership in the legal or technical sense of the term.

(ii) *Joint ventures—financial assistance.* For the purpose of financial assistance to a joint venture, the parties thereto are considered as controlling or having the power to control each other and are considered as being affiliated. For the purpose of financial assistance to a concern which has requested assistance for its own use, but which is incidentally a party to a joint venture, such concern is not considered as being affiliated with its joint venturer.

(iii) *Joint ventures—procurement assistance.* Concerns bidding on a particular procurement as joint venturers are considered as controlling or having the power to control each other with regard to performance of the contract, and therefore are considered as being affiliated. However, a concern which is a party to one or more joint ventures, but which is bidding on a procurement as an individual concern, is not considered as being affiliated with its joint ventures since they have no power to control its performance of the contract being bid on. Where a concern is not considered as being an affiliate of a concern with which it is participating in a joint venture, it is necessary, nevertheless, in computing annual receipts, etc., for the purpose of applying size standards to include such concern's share of the joint venture receipts (as distinguished from its share of the profits of such venture).

(iv) *Franchise and license agreements.* If a concern operates or is to operate under a franchise (or a license) agreement, the following policy is applicable: In determining whether the franchisor controls or has the power to control and, therefore, is affiliated with the franchisee, the restraints imposed on a franchisee by its franchise agreement shall not be considered provided that the franchisee has the right to profit from its effort and the risk of loss or failure, commensurate with ownership. Even though a franchisee may not be controlled by the franchisor by virtue of the contractual relationship between them, the franchisee may be controlled by the franchisor or others through common ownership or common management, in which case they would be considered as affiliated.

(d) *Section 121.3–8 of Part 121, Definition of small business for Government procurement*—(1) *Sawmills.* For the purpose of a size determination, a sawmill is considered as the manufacturer of treated lumber, even if it contracts out the treatment of the lumber. Therefore, a small business sawmill can deliver in the performance of a set-aside procurement lumber which has been treated by a concern which does not qualify as a small business concern.

(2) *Oxygen converters.* For the purpose of a size determination, a concern which converts liquid oxygen to gaseous oxygen with or without additives, is a nonmanufacturer of the gaseous oxygen and therefore must furnish gaseous oxygen converted from liquid oxygen manufactured by a small business concern.

(e) *Section 121.3–8 of Part 121.* Section 121.3–8 provides that, in the submission of a bid or proposal on a Government procurement, a concern which meets the size standards criteria provided in § 121.3–8, may represent that it is a small business, provided further, however, that a concern which has been determined by SBA to be ineligible as a small business under a particular size standard: (1) Shall, if it has self-certified as a small business on a pending procurement subject to the same or lower number of employees or annual receipts size standard (whichever is applicable), immediately notify the contracting officer of such adverse size determination and, (2) shall not thereafter self-certify on a procurement subject to the same or a lower employee or annual receipts size standard (whichever is applicable) until it has applied for recertification based on a significant change in its ownership, management, or contractual relations, and has been determined eligible as a small business under such size standard by either the regional office which issued the adverse determination or the Small Business Size Appeals Board.

(f) *Section 121.3–4 of Part 121 "Application for small business size status determination."* Contracting officers, in

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order to determine whether to set particular contracts aside for exclusive award to small business concerns or whether to send invitations for bids to particular concerns, may require information from SBA concerning the small business status of such concerns and be unable to wait for a formal small business size determination. In such cases, informal advice or information may be given based on the best evidence available concerning the small business size of such a concern. However, such informal advice is not a small business size determination within the meaning of that term in the Small Business Size Standards Regulation and is not binding with respect to eligibility as a small business for the purpose of a particular Government procurement. Further, an opinion as to a concern's future small business size status, based on proposed but unexecuted changes in its organization, management or contractual relations, is not a small business size determination.

(g) *Section 121.3–6 of Part 121 "Appeals."* The Size Appeals Board only has jurisdiction to consider appeals from formal determinations as to a concern's small business size status and appeals from product or service classification determination made by contracting officers for the purpose of Government procurements. It has no jurisdiction to consider an appeal from an informal opinion or advice concerning a company's small business size status, an opinion as to a company's future small business size status based on proposed but unexecuted changes in its organization, management or contractual relations, or an appeal based on an allegation that the small business size standard established by SBA for a particular industry or field of operation is improper for the purpose intended.

(h) *Sections 121.3–2(r) and 121.3–8(c) "Definition of nonmanufacturer."* For size determination purposes there can only be one manufacturer of the end item being procured. The manufacturer of the end item being procured is the concern which with its own forces transforms inorganic or organic substances including raw materials and/or miscellaneous parts or components into such end item. Whether a bidder on a particular procurement is the manufacturer or a nonmanufacturer for the purpose of a size determination is not for determination by the contracting officer. The decision shall be made by the appropriate SBA regional director or his delegatee, and need not be consistent with the contracting officer's decision as to whether such concern is or is not a manufacturer for the purpose of the Walsh-Healey Act, etc.

(i) *Section 121.3–8(g) "Refined petroleum products."* The proviso in § 121.3–8 (g) (1) (iii) that the product to be delivered in the performance of the contract will contain at least 90 percent components refined by the bidder from either crude oil or bona fide feed stocks, contemplates that, in accomplishing such refining, the bidder will utilize its own employees and facilities which it owns or obtains under a bona fide lease as distinguished from any other arrangement having the same effect as a lease. The proviso in §121.3–8(g) permitting a concern which meets the requirements in subdivisions (i) and (ii) of § 121.3–8 (g) to furnish the product of a refinery not qualified as small business if such product is obtained pursuant to a bona fide exchange agreement which meets prescribed requirements, contemplates that the product exchanged by the bidder for the product to be furnished, shall have been refined by the bidder utilizing only its own employees and its own facilities or facilities obtained through a bona fide lease.

(j) *Section 121.3–10 Definition of Small Business for SBA Loans.* Following is an example of the method to be utilized in computing a diversified concern's size status for the purpose of an SBA loan:

Concern A applies for an SBA loan It is affiliated with concern B. Concern A has 15 employees and $2.5 million in receipts and is primarily engaged in the retail sale of groceries (Industry No. 5411) for which the size standard is $5 million in annual receipts. Concern B has 100 employees and $3 million in receipts and is primarily engaged in the manufacture of macaroni (Industry No. 2098) for which the size standard is 250 employees. The receipts of concern A are only 50 percent of the size standard for its industry and the employment of concern B is only 40 percent of the size standard for its industry. Since the combined percentages are less than 100 percent, concern A can qualify for an SBA loan.

(k) *Section 121.3–8(e)(12).* The Small Business Size Appeals Board has interpreted this section to apply only to procurements requiring the services of tire retreading and repair shops (Standard Industrial Classification Industry No. 7534, Tire Retreading and Repair Shops) and not to procurements for the repairing and/or retreading of pneumatic aircraft tires which, by reason of the extent and nature of the equipment and operations required, is considered for size standards purposes to be manufactured within the meaning of Standard Industrial Classification Industry No. 3011, Tires and Inner Tubes.

(l) *Section 121.3–8(c) "Definition of Nonmanufacturer."* The Government often purchases items in the form of kits such as, but not limited to, tool kits and survival kits, which are not manufactured items but merely assemblages of separate manufactured items. Accordingly, a concern which purchases some or all of such items and packages them into kit form is considered to be a nonmanufacturer for size determination purposes. Such a concern can qualify as a small business only if it meets all other qualifications of a small nonmanufacturer set forth in this part and if more than 50 percent of the total value of the kit and its contents is accounted for by items manufactured by small business.

Effective date. This revision shall become effective on publication in the FEDERAL REGISTER (11–30–72).

Dated: November 16, 1972.

THOMAS S. KLEPPE,
Administrator.

SCHEDULE A—EMPLOYMENT SIZE STANDARDS FOR CONCERNS PRIMARILY ENGAGED IN MANUFACTURING

(The following size standards are to be used when determining the size status of applicants for SBA business loans, displaced business loans, economic opportunity loans, surety bond guarantee assistance, and as alternate standards for secs. 501 and 502 loans and SBIC assistance.)

Census classification code	Industry or class of products	Employment size standard (number of employees) [1]
	Major Group 23—Apparel and Other Finished Products Made From Fabrics and Similar Materials	250
2321	Men's youth's and boy's shirts (except work shirts) and nightwear	500
	Major Group 28—Chemicals and Allied Products:	
2891	Adhesives and sealants	250
2812	Alkalies and chlorine	1,000
2831	Biological products	250
2895	Carbon black	500
2823	Cellulosic manmade fibers	1,000
2869	Chemicals and chemical preparations, n.e.c	250
2865	Cyclic (coal tar) crudes, and cyclic intermediates, dyes, and organic pigments (lakes and toners)	750
28651	Cyclic (coal tar) crudes	500
2892	Explosives	750
28992	Fatty acids	500
2875	Fertilizers, mixing only	500
2861	Gum and wood chemicals	500
2813	Industrial gases	1,000
2819	Industrial inorganic chemicals, n.e.c	1,000
2869	Industrial organic chemicals, n.e.c	1,000
2816	Inorganic pigments	1,000
2833	Medicinal chemicals and botanical products	750
2873	Nitrogenous fertilizers	1,000
2851	Paints, varnishes, lacquers, enamels, and allied products	250
2844	Perfumes, cosmetics, and other toilet preparations	500
2879	Pesticides and agricultural chemicals, n.e.c	500
2834	Pharmaceutical preparations	750
2874	Phosphatic fertilizers	500
2821	Plastic materials, synthetic resins, and nonvulcanizable elastomers	750
2893	Printing ink	250
2841	Soap and other detergents, except specialty cleaners	750
2842	Specialty cleaning, polishing, and sanitation preparations	500
2843	Surface active agents, finishing agents, sulfonated oils, and assistants	250
2824	Synthetic organic fibers, except cellulosic	1,000
2822	Synthetic rubber (vulcanizable elastomers)	1,000
	Major group 36—Electrical and electronic machinery, equipment, and supplies:	
3624	Carbon and graphite products	750
3672	Cathode ray television picture tubes	750
3646	Commercial, industrial, and institutional electric lighting fixtures	250
3678	Connectors, for electronic applications	500
3643	Current-carrying wiring devices	500
3634	Electric housewares and fans	750
3641	Electric lamps	1,000
3694	Electrical equipment for internal combustion engines	750
3629	Electrical industrial apparatus, n.e.c	500
3699	Electrical machinery, equipment, and supplies, n.e.c	500
3675	Electronic capacitors	500
3677	Electronic coils, transformers, and other inductors	500
3679	Electronic components, n.e.c	500
3639	Household appliances, n.e.c	500
3631	Household cooking equipment	750
3633	Household laundry equipment	1,000
3632	Household refrigerators and home and farm freezers	1,000
3635	Household vacuum cleaners	750
3622	Industrial controls	750
3648	Lighting equipment, n.e.c	250
3621	Motors and generators	1,000
3644	Noncurrent-carrying wiring devices	500
3652	Phonograph records and prerecorded magnetic tape	750

SCHEDULE A—EMPLOYMENT SIZE STANDARDS FOR CONCERNS PRIMARILY ENGAGED IN MANUFACTURING

Census classification code	Industry or class of products	Employment size standard (number of employees) [1]
3612	Power, distribution, and specialty transformers	750
3692	Primary batteries, dry and wet	1,000
3651	Radio and television receiving sets, except communication types	750
3671	Radio and television receiving type electron tubes, except cathode ray	1,000
3662	Radio and television transmitting, signaling, and detection equipment and apparatus	750
3693	Radiographic X-ray, fluoroscopic X-ray, therapeutic X-ray, and other X-ray apparatus and tubes; electromedical and electrotherapeutic apparatus	500
3645	Residential electric lighting fixtures	250
3676	Resistors, for electronic applications	500
3674	Semiconductors and related devices	500
3636	Sewing machines	750
3691	Storage batteries	500
3613	Switchgear and switchboard apparatus	750
3661	Telephone and telegraph apparatus	1,000
3673	Transmitting, industrial, and special purpose electron tubes	750
3647	Vehicular lighting equipment	250
3623	Welding apparatus, electric	250
	Major Group 34—Fabricated Metal Products, Except Machinery and Transportation Equipment:	
3483	Ammunition, except for small arms, n.e.c	1,000
3446	Architectural and ornamental metalwork	250
3465	Automotive stampings	250
3452	Bolts, nuts, screws, rivets, and washers	500
3479	Coating, engraving, and allied services, n.e.c	250
3466	Crowns and closures	250
3421	Cutlery	500
3471	Electroplating, plating, polishing, anodizing and coloring	250
3431	Enameled iron and metal sanitary ware	750
3499	Fabricated metal products, n.e.c	500
3498	Fabricated pipe and fabricated pipe fittings	250
3443	Fabricated plate work (boiler shops)	250
3441	Fabricated structural metal	250
3423	Hand and edge tools, except machine tools and handsaws	250
3425	Handsaws and saw blades	250
3429	Hardware, n.e.c	250
3433	Heating equipment, except electric and warm air furnaces	500
3462	Metal forgings and stampings	500
3411	Metal cans	1,000
3442	Metal doors, sash, frames, moldings, and trim	250
3497	Metal foil and leaf	500
3412	Metal shipping barrels, drums, kegs, and pails	500
3469	Metal stampings, n.e.c	250
3496	Miscellaneous fabricated wire products	250
3449	Miscellaneous metalwork	250
3463	Nonferrous forgings	250
3489	Ordnance and accessories, n.e.c	250
3432	Plumbing fixture fittings and trim (brass goods)	500
3448	Prefabricated metal buildings and components	250
3451	Screw machine products	250
3441	Sheet metal work	250
3484	Small arms	1,000
3482	Small arms ammunition	1,000
3493	Steel springs, except wire	500
3494	Valves and pipe fittings, except plumbers' brass goods	500
3495	Wire springs	250
	Major Group 20—Food and Kindred Products:	
2077	Animal and marine fats and oils	250
2063	Beet sugar	750
2045	Blended and prepared flour	500
2086	Bottled and canned soft drinks and carbonated waters	250
2051	Bread and other bakery products, except cookies and crackers	250
2065	Candy and other confectionery products	250
2061	Cane sugar, except refining only	250
2062	Cane sugar refining	750
2091	Canned and cured fish and seafoods	250
2033	Canned fruits, vegetables, preserves, jams, and jellies	500
2032	Canned specialties	1,000
2043	Cereal breakfast foods	1,000
2022	Cheese, natural and processed	250
2067	Chewing gum	500
2066	Chocolate and cocoa products	500
2023	Condensed and evaporated milk	500
2052	Cookies and crackers	750
2074	Cottonseed oil mills	250
2021	Creamery butter	250
2085	Distilled, rectified, and blended liquors	750
2047	Dog, cat, and other pet foods	500
2034	Dried and dehydrated fruits, vegetables, and soup mixes	500
2087	Flavoring extracts and flavoring syrups, n.e.c	500
2041	Flour and other grain mill products	500
2026	Fluid milk	500
2099	Food preparations, n.e.c	250
20991	Desserts (ready to mix)	500
20994	Baking powder and yeast	500
2092	Fresh or frozen packaged fish and seafoods	250
2037	Frozen fruits, fruit juices, and vegetables	500
2038	Frozen specialties	500
2024	Ice cream and frozen desserts	500
2098	Macaroni, spaghetti, vermicelli, and noodles	250
2083	Malt	250
2082	Malt beverages	500
2097	Manufactured ice	250
2011	Meatpacking plants	500
2035	Pickled fruits and vegetables, vegetable sauces and seasonings, and salad dressings	250
2016	Poultry dressing plants	250
2017	Poultry and egg processing	250
2048	Prepared feeds and feed ingredients for animals and fowls, n.e.c	250
2044	Rice milling	250
2095	Roasted coffee	250
2013	Sausages and other prepared meat products	500
2079	Shortening, table oils, margarine, and other edible fats and oils, n.e.c	750
2075	Soybean oil mills	500
2076	Vegetable oil mills, except corn, cottonseed, and soybean	1,000
2046	Wet corn milling	750
2084	Wines, brandy, and brandy spirits	250
	Major Group 25—Furniture and Fixtures:	
2591	Drapery hardware and window blinds and shades	250
2593	Furniture and fixtures, n.e.c	250
2519	Household furniture, n.e.c	500
2515	Mattresses and bedsprings	250
2514	Metal household furniture	250
2522	Metal office furniture	500
2542	Metal partitions, shelving, lockers, and office and store fixtures	250
2531	Public building and related furniture	250
2511	Wood household furniture, except upholstered	250
2512	Wood household furniture, upholstered	250
2521	Wood office furniture	250
2541	Wood partitions, shelving, lockers, and office and store fixtures	250
2517	Wood television, radio, phonograph, and sewing machine cabinets	250
	Major Group 31—Leather and Leather Products:	
3131	Boot and shoe cut stock and findings	250
3149	Footwear, except rubber, n.e.c	500
3142	House slippers	250
3151	Leather gloves and mittens	250
3199	Leather goods, n.e.c	250
3111	Leather tanning and finishing	250
3161	Luggage	250
3143	Men's footwear, except athletic	500
3172	Personal leather goods, except women's handbags and purses	250
3144	Women's footwear, except athletic	500
3171	Women's handbags and purses	250
	Major Group 24—Lumber and Wood Products, Except Furniture	250
	Major Group 35—Machinery, Except Electrical	
3563	Air and gas compressors	500
3585	Air conditioning and warm air heating equipment and commercial and industrial refrigeration equipment	750
3581	Automatic merchandising machines	250
3562	Ball and roller bearings	750
3564	Blowers and exhaust and ventilation fans	250
3574	Calculating and accounting machines, except electronic computing equipment	1,000
3592	Carburetors, pistons, piston rings, and valves	250
3582	Commercial laundry, dry cleaning, and pressing machines	250
3531	Construction machinery and equipment	750
3535	Conveyors and conveying equipment	250
3573	Electronic computing equipment	1,000
3534	Elevators and moving stairways	500
3523	Farm machinery and equipment	500
3551	Food products machinery	250
3524	Garden tractors and lawn and garden equipment	500
3569	General industrial machinery and equipment, n.e.c	250
3536	Hoists, industrial cranes, and monorail systems	500
3565	Industrial patterns	250
3567	Industrial process furnaces and ovens	250
3537	Industrial trucks, tractors, trailers, and stackers	750
3519	Internal combustion engines, n.e.c	1,000
3545	Machine tool accessories and measuring devices	250
35452	Precision measuring tools	500
3541	Machine tools, metal cutting types	500
3542	Machine tools, metal forming types	500
3599	Machinery, except electrical, n.e.c	250
3586	Measuring and dispensing pumps	500
3568	Mechanical power transmission equipment, n.e.c	500
3549	Metalworking machinery, n.e.c	500
3532	Mining machinery and equipment, except oil field machinery and equipment	500
3579	Office machines, n.e.c	500
3533	Oil field machinery and equipment	500
3554	Paper industries machinery	250
3546	Power driven handtools	500
3555	Printing trades machinery and equipment	500
3561	Pumps and pumping equipment	500
3547	Rolling mill machinery and equipment	500
3576	Scales and balances, except laboratory	250
3589	Service industry machines, n.e.c	250
3544	Special dies and tools, die sets, jigs and fixtures, and industrial molds	250
3559	Special industry machinery, n.e.c	250
3566	Speed changers, industrial high speed drives, and gears	500
3511	Steam, gas, and hydraulic turbines and turbine generator set units	1,000
3552	Textile machinery	250
3572	Typewriters	1,000
3553	Woodworking machinery	250
	Major Groups 38—Measuring, Analyzing and Controlling Instruments; Photographic, Medical and Optical Goods; Watches and Clocks	
3822	Automatic controls for regulating residential and commercial environments and appliances	500

Footnotes at end of table.

SCHEDULE A—EMPLOYMENT SIZE STANDARDS

SCHEDULE B—INDUSTRY EMPLOYMENT SIZE STANDARDS FOR THE PURPOSE OF GOVERNMENT PROCUREMENT

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SCHEDULE A—EMPLOYMENT SIZE STANDARDS FOR CONCERNS PRIMARILY ENGAGED IN MANUFACTURING

Census classification code	Industry or class of products	Employment size standard (number of employees) [1]
3843	Dental equipment and supplies	250
3811	Engineering, laboratory, scientific and research instruments and associated equipment	500
3823	Industrial instruments for measurement, display, and control of process variables, and related products	500
3825	Instruments for measuring and testing of electricity and electrical signals	500
3826	Measuring and controlling devices, n.e.c.	500
3851	Ophthalmic goods	250
3832	Optical instruments and lenses	250
3842	Orthopedic, prosthetic, and surgical appliances and supplies	250
3844	Photographic equipment and supplies	500
3841	Surgical and medical instruments and apparatus	250
3814	Watches, clocks, watchwork operated devices, and parts	500
3873	Major Group 39—Miscellaneous Manufacturing Industries	
3991	Brooms and brushes	250
3942	Dolls	250
3965	Fasteners	250
3955	Carbon paper and inked ribbons	250
3961	Costume jewelry and costume novelties, except precious metal	250
3962	Feathers	250
3963	Buttons	250
3966	Needles, pins, and fasteners	250
3944	Games, toys, and children's vehicles, except dolls and bicycles	250
3951	Pens, pencils, and other artists' materials	250
3993	Signs and advertising displays	250
3941	Sporting and athletic goods, n.e.c.	500
3914	Silverware, plated ware, and stainless steel ware	500
3995	Burial caskets	250
3991	Major Group 40—Railroad Equipment	
3743	Locomotives and parts	1,500
3742	Railroad and street cars	1,000
3744	Railroad equipment, n.e.c.	1,000
3799	Major Group 41—Miscellaneous Transportation Equipment	
3751	Motorcycles, bicycles, and parts	500
3792	Travel trailers and campers	250
3799	Transportation equipment, n.e.c.	1,000
3811	Major Group 42—Guided Missiles and Space Vehicles	
3812	Guided missiles and space vehicles	1,000
3821	Major Group 43—Search, Detection, Navigation, Guidance, Aeronautical, and Nautical Systems, and Instruments	
3822	Automatic controls for regulating residential and commercial environments and appliances	500
3823	Industrial instruments for measurement, display, and control of process variables, and related products	500
3824	Totalizing fluid meters and counting devices	500
3825	Instruments for measuring and testing of electricity and electrical signals	500
3826	Laboratory analytical instruments	500
3829	Measuring and controlling devices, n.e.c.	500
3831	Optical instruments and lenses	250
3841	Surgical and medical instruments and apparatus	250
3842	Orthopedic, prosthetic, and surgical appliances and supplies	250
3861	Photographic equipment and supplies	500
3871	Watches, clocks, watchcases and parts	500
3911	Jewelry, precious metal	250
3915	Jewelers' findings and materials, and lapidary work	250
3931	Musical instruments	250
3955	Pens and mechanical pencils	250
3951	Pens, pencils, and other artists' materials	250
3952	Lead pencils, crayons, and artists' materials	250
3953	Marking devices	500
3955	Carbon paper and inked ribbons	250
3961	Costume jewelry, costume novelties, except precious metal	250
3962	Feathers	250
3963	Buttons	250
3965	Fasteners	250
3991	Brooms and brushes	250
3993	Signs and advertising displays	250
3995	Burial caskets	250
3999	Manufacturing industries, n.e.c.	750
4463	Marine cargo handling	500
4493	Marinas	500
4833	Musical instruments	250
4841	Optical goods stores	500
4844	Sporting goods stores and bicycle shops	500
5094	Watches, clocks, and jewelry	500
7352	Medical equipment rental	250
7359	Equipment rental and leasing, n.e.c.	250
7819	Services allied to motion pictures	500
8071	Medical laboratories	250
8734	Testing laboratories	250

SCHEDULE A—EMPLOYMENT SIZE STANDARDS FOR CONCERNS PRIMARILY ENGAGED IN MANUFACTURING

Census classification code	Industry or class of products	Employment size standard (number of employees) [1]
3312	Blast furnaces (including coke ovens), steel works, and rolling mills	1,000
3362	Brass, bronze, copper, copper base alloy foundries (castings)	250
3316	Cold rolled steel sheet, strip, and bars	1,000
3357	Drawing and insulating of nonferrous wire	1,000
3313	Electrometallurgical products	750
3321	Gray iron foundries	500
3322	Malleable iron foundries	500
3398	Metal heat treating	750
3369	Nonferrous foundries (castings), n.e.c.	250
3399	Primary metal products, n.e.c.	750
3331	Primary production of aluminum	1,000
3331	Primary smelting and refining of copper	1,000
3332	Primary smelting and refining of lead	1,000
3339	Primary smelting and refining of nonferrous metals, n.e.c.	750
3333	Primary smelting and refining of zinc	750
3351	Rolling, drawing, and extruding of copper	750
3356	Rolling, drawing, and extruding of nonferrous metals, except copper and aluminum	750
3341	Secondary smelting and refining of nonferrous metals	250
3325	Steel foundries, n.e.c.	500
3323	Steel investment foundries	500
3317	Steel pipe and tubes	1,000
3315	Steel wire drawing and steel nails and spikes	1,000
	Major Group 27—Printing and Publishing Industries	250
	Major Group 30—Rubber and Miscellaneous Plastic Products:	
3031	Reclaimed rubber	750
3021	Rubber and plastics footwear	1,000
3052	Rubber and plastics hose and belting	500
3011	Tires and inner tubes	1,000
	Major Group 32—Stone, Clay, Glass, and Concrete Products:	
3291	Abrasive products	750
3292	Asbestos products	750
3251	Brick and structural clay tile	750
3241	Cement, hydraulic	500
3253	Ceramic wall and floor tile	500
3255	Clay refractories	250
3271	Concrete block and brick	250
3272	Concrete products, except block and brick	250
3281	Cut stone and stone products	250
3263	Fine earthenware (whiteware) table and kitchen articles	500
3211	Flat glass	1,000
3263	Graphite, packing, and sealing (soft)	500
3221	Glass containers	750
3231	Glass products, made of purchased glass	250
3275	Gypsum products	1,000
3271	Lime	500
3296	Mineral wool	750
3295	Minerals and earths, ground or otherwise treated	250
3297	Nonclay refractories	750
3299	Nonmetallic mineral products, n.e.c.	250
3274	Pottery products, n.e.c.	500
3229	Pressed and blown glass and glassware, n.e.c.	750
3273	Ready-mixed concrete	250
3275	Structural clay products, n.e.c.	250
3261	Vitreous china plumbing fixtures and china and earthenware fittings and bathroom accessories	750
3262	Vitreous china table and kitchen articles	500
	Major Group 22—Textile Mill Products:	
2211	Broad woven fabric mills, cotton	1,000
2221	Broad woven fabric mills, manmade fiber and silk	500
2231	Broad woven fabric mills, wool including dyeing and finishing	250
2279	Carpets and rugs, n.e.c.	500

SCHEDULE A—EMPLOYMENT SIZE STANDARDS FOR CONCERNS PRIMARILY ENGAGED IN MANUFACTURING

Census classification code	Industry or class of products	Employment size standard (number of employees) [1]
2257	Circular knit fabric mills	250
2295	Coated fabrics, not rubberized	250
2298	Cordage and twine	250
2299	Felt goods, except woven felts and hats	250
2261	Finishers of broad woven fabrics of cotton	500
2262	Finishers of broad woven fabrics of manmade fiber and silk	500
2269	Finishers of textiles, n.e.c.	250
2252	Hosiery, except women's full length and knee length hosiery	250
2253	Knit outerwear mills	250
2254	Knit underwear mills	250
2259	Knitting mills, n.e.c.	250
2292	Lace goods	250
2211	Narrow fabrics and other small-wares mills: cotton, wool, silk, and manmade fiber	250
2297	Nonwoven fabrics	250
2363	Paddings and upholstery filling	250
2296	Processed waste and recovered fibers and flock	250
2399	Textile goods, n.e.c.	250
2281	Thread mills	500
2296	Tire cord and fabric	1,000
2272	Tufted carpets and rugs	500
2258	Warp knit fabric mills	250
2251	Women's full length and knee length hosiery	250
2271	Woven carpets and rugs	750
2283	Yarn mills, wool, including carpet and rug yarn	250
2281	Yarn spinning mills, cotton, manmade fibers and silk	500
2282	Yarn texturizing, throwing, twisting, and winding mills: cotton, manmade fibers and silk	250
	Major Group 21—Tobacco Manufacturers:	
2111	Cigarettes	1,000
2121	Cigars	500
2131	Tobacco (chewing and smoking) and snuff	500
2141	Tobacco stemming and redrying	500
	Major Group 37—Transportation Equipment:	
3721	Aircraft [2]	1,500
3724	Aircraft engines and engine parts	1,000
3728	Aircraft parts and auxiliary equipment, n.e.c.	1,000
3732	Boat building and repairing	250
3761	Guided missiles and space vehicles	250
3769	Guided missile and space vehicle parts and auxiliary equipment n.e.c.	1,000
3764	Guided missile and space vehicle propulsion units and propulsion unit parts	1,000
3711	Motor vehicle and passenger car bodies	1,000
3714	Motor vehicle parts and accessories	500
3751	Motorcycles, bicycles, and parts	500
3743	Railroad equipment	1,000
3731	Ship building and repairing	1,000
3795	Tanks and tank components	1,000
3799	Transportation equipment, n.e.c.	250
3792	Travel trailers and campers	250
3713	Truck and bus bodies	500
3715	Truck trailers	500

[1] The "number of employees" means the average employment of any concern and its affiliates based on the number of persons employed during the pay period ending nearest the last day of the 3d month in each calendar quarter for the preceding 4 quarters.

[2] Together with its affiliates does not employ more than 1,000 persons and does not have more than 30,000 barrels per day crude oil or bona fide feed stock capacity from owned and or leased facilities or from facilities made available to such concerns under an arrangement such as, but not limited to, an exchange agreement (except one on a refined product or a refined product basis) or a throughput or other form of processing agreement with the same effect as though such facilities had been leased.

[3] Includes maintenance as defined in the Federal Aviation Regulations (14 CFR 1.1) but excludes contracts solely for preventive maintenance as defined in 14 CFR 1.1. As defined in the Federal Aviations Regulations, "Maintenance" means inspection, overhaul, repair, preservation, and the replacement of parts, but excludes preventive maintenance. "Preventive maintenance" means simple or minor preservation operations and the repalcement of small standard parts not involving complex assembly operations.

SCHEDULE B—INDUSTRY EMPLOYMENT SIZE STANDARDS FOR THE PURPOSE OF GOVERNMENT PROCUREMENT (MANUFACTURING)

Census classification	Industry or class of products	Employment size standard (number of employees) [1]
	Major Group 20—Food and Kindred Products	
2026	Fluid milk [2]	750
2032	Canned specialties	1,000
2043	Cereal breakfast foods	1,000
2046	Wet corn milling	750
2052	Cookies and crackers	750
2062	Cane sugar refining	750
2063	Beet sugar	750
2076	Vegetable oil mills, except corn, cottonseed and soybean	1,000
2079	Shortening, table oils, margarine and other edible fats and oils, n.e.c.	750
2085	Distilled, rectified, and blended liquors	750
	Major Group 21—Tobacco Manufactures	
2111	Cigarettes	1,000
	Major Group 22—Textile Mill Products	
2211	Broad-woven fabric mills, cotton	1,000
2201	Finishers of broad-woven fabrics of cotton	1,000
2271	Woven carpets and rugs	750
2295	Fabrics, not rubberized	1,000
2296	Tire cord and fabric	1,000
	Major Group 26—Paper and Allied Products	
2611	Pulp mills	750
2621	Papermills, except building	750
	Papermills	750
2631	Paperboard mills	750
2646	Pressed and molded pulp goods	750
2654	Sanitary food containers	750
2661	Building paper and building board mills	750
	Major Group 28—Chemicals and Allied Products:	
2812	Alkalies and chlorine	1,000
2813	Industrial gases	1,000
2816	Inorganic pigments	1,000
2819	Industrial inorganic chemicals, n.e.c.	1,000
2821	Plastics materials, synthetic resins, and nonvulcanizable elastomers	750
2822	Synthetic rubber (vulcanizable elastomers)	1,000
2823	Cellulosic manmade fibers	1,000
2824	Synthetic organic fibers, except cellulosic	1,000
2833	Medicinal chemicals and botanical products	750
2834	Pharmaceutical preparations	750
2841	Soap and other detergents, except specialty cleaners	750
2865	Cyclic (coal tar) crudes and cyclic intermediates, dyes, and organic pigments (lakes and toners)	750
2869	Industrial organic chemicals, n.e.c.	1,000
2873	Nitrogenous fertilizers	1,000
2892	Explosives	750
	Major Group 29—Petroleum Refining and Related Industries: [3]	
2952	Asphalt felts and coatings	750
	Major Group 30—Rubber and Miscellaneous Plastics Products:	
3011	Tires and innertubes	1,000
30111	Passenger car and motorcycle pneumatic tires (casings) [4]	
30112	Truck and bus (and off-the-road) pneumatic tires [4]	
3021	Rubber and plastics footwear	1,00
3031	Reclaimed rubber	750
	Major Group 32—Stone, Clay, Glass, and Concrete Products	
3211	Flat glass	1,000
3221	Glass containers	750
3229	Pressed and blown glass and glassware, n.e.c.	750
3241	Cement, hydraulic	750
3261	Vitreous china plumbing fixtures and china and earthenware fittings and bathroom accessories	750
3275	Gypsum products	1,000
3292	Asbestos products	750
3296	Mineral wool	750
3297	Nonclay refractories	750

SCHEDULE B—INDUSTRY EMPLOYMENT SIZE STANDARDS FOR THE PURPOSE OF GOVERNMENT PROCUREMENT (MANUFACTURING)

Census classification	Industry or class of products	Employment size standard (number of employees) [1]
	Major Group 33—Primary Metal Industries:	
3312	Blast furnaces (including coke ovens), steel works, and rolling mills	1,000
3313	Electrometallurgical products	750
3315	Steel wire drawing and steel nails and spikes	1,000
3316	Cold rolled sheet, strip and bars	1,000
3317	Steel pipe and tubes	1,000
3331	Primary smelting and refining of copper	1,000
3332	Primary smelting and refining of lead	1,000
3333	Primary smelting and refining of zinc	750
3334	Primary production of aluminum	1,000
3339	Primary smelting and refining of nonferrous metals, n.e.c.	750
3351	Rolling drawing and extruding of copper	750
3353	Aluminum sheet, plate and foil	750
3354	Aluminum extruded products	750
3355	Aluminum rolling and drawing, n.e.c.	750
3356	Rolling, drawing, and extruding of nonferrous metals, except copper and aluminum	750
3357	Drawing and insulating of nonferrous wire	1,000
3398	Metal heat treating	750
3399	Metal metal products, n.e.c.	750
	Major Group 34—Fabricated Metal Products, Except Machinery and Transportation Equipment:	
3411	Metal cans	1,000
3131	Enameled iron and metal sanitary ware	750
3182	Small arms ammunition	1,000
3483	Ammunition except for small arms, n.e.c.	1,500
3484	Small arms	1,000
	Major Group 35—Machinery, Except Electrical:	
3511	Steam, gas, and hydraulic turbines and turbine-generator set units	1,000
3519	Internal combustion engines, n.e.c.	1,000
3531	Construction machinery and equipment	750
3537	Industrial trucks, tractors, trailers, and stackers	750
3562	Ball and roller bearings	750
3572	Typewriters	1,000
3573	Electronic computing equipment	1,000
3574	Calculating and accounting machines, except electronic computing equipment	1,000
3585	Air conditioning and warm air heating equipment and commercial and industrial refrigeration equipment	750
	Major Group 36—Electrical and Electronic Machinery, Equipment, and Supplies:	
3612	Power, distribution, and specialty transformers	750
3613	Switchgear and switchboard apparatus	750
3621	Motors and generators	1,000
3622	Industrial controls	750
3624	Carbon and graphite products	750
3631	Household cooking equipment	750
3632	Household refrigerators and home and farm freezers	1,000
3633	Household laundry equipment	1,000
3634	Electric housewares and fans	750
3635	Household vacuum cleaners	750
3636	Sewing machines	750
3641	Electric lamps	1,000
3651	Radio and television receiving sets, except communication types	750
3652	Phonograph records and prerecorded magnetic tapes	750
3661	Telephone and telegraph apparatus	1,000
3662	Radio and television transmitting, signaling, and detection equipment and apparatus [3]	750
3671	Radio and television receiving type electron tubes, except cathode ray	1,000
3672	Cathode ray television picture tubes	750
3673	Transmitting, industrial and special purpose electron tubes	750
3692	Primary batteries, dry and wet	1,000
3694	Electrical equipment for internal combustion engines	750
	Major Group 37—Transportation Equipment:	
3711	Motor vehicles and passenger car bodies	1,000
37111	Passenger cars (knocked down or assembled)	(5)
3721	Aircraft [6]	1,500
3724	Aircraft engines and engine parts [6]	1,000
3728	Aircraft parts and auxiliary equipment, n.e.c.	1,000
3731	Shipbuilding and repairing	1,000
3743	Railroad equipment	1,000
3761	Guided missiles and space vehicles	1,000
3764	Guided missiles and space vehicle propulsion units and propulsion unit parts	1,000
3769	Guided missile and space vehicle parts and auxiliary equipment, n.e.c.	1,000
3795	Tanks and tank components	1,000
	Major Group 39—Miscellaneous Manufacturing Industries:	
3996	Linoleum, asphalted-felt-base, and other hard surface floor coverings, n.e.c.	750

[1] The "number of employees" means the average employment of any concern and its affiliates based on the number of persons employed during the pay period ending nearest the last day of the 3rd month in each calendar quarter for the preceding 4 quarters.

[2] The size standard for Census Classification Code 2026, Fluid Milk, will be reduced to 625 employees effective May 1, 1973, and further reduced to 500 employees, effective May 1, 1974.

[3] The size standard for SIC 2911 is set forth in § 121.3-8(c).

[4] The size standard for SIC 30111, 30112, and 37111 are set forth in § 121.3-8(b)(1) and § 121.3-8(b)(5), respectively, of this part.

[5] Guided missile engines and engine parts are classified in SIC 3764 and 3724. Missile control systems are classified in SIC 3662.

[6] Includes maintenance as defined in the Federal Aviation Regulations (14 CFR 1.1) but excludes contracts solely for preventive maintenance as defined in 14 CFR 1.1. As defined in the Federal Aviation Regulations: "Maintenance" means inspection, overhaul, repair, preservation, and the replacement of parts, but excludes preventive maintenance. "Pre entive maintenance" means simple or minor preservation operations and the replacement of small standard parts not involving complex assembly operations.

SCHEDULE C—ANNUAL RECEIPTS SIZE STANDARDS FOR CONCERNS PRIMARILY ENGAGED IN WHOLESALING

(The following size standards are to be used when determining the size status of wholesaling concerns for the purpose of SBA business loans, displaced business loans, economic opportunity loans, and as alternate standards for secs. 501 and 502 and SBIC assistance. Where a code is followed by a letter, the size standard applies only to the class of product designated.)

Industry or subindustry code	Industry, subindustry, or class of products	Annual sales size standard (maximum, in millions)
5052(a)	Coal	$10
5082	Construction and mining machinery and equipment	10
5039	Construction materials, n.e.c.	10
5143	Diary products	10
5122	Drugs, drug proprietaries, and druggists' sundries	10
5064	Electrical appliances, television and radio sets	10
5139	Footwear	10
5153	Grain	10
5149	Groceries and related products, n.e.c.	10

agree that a rule change in this respect

§ 121.310 Additional emergency equip-

Ozark Air Lines 1968 Sioux City accident

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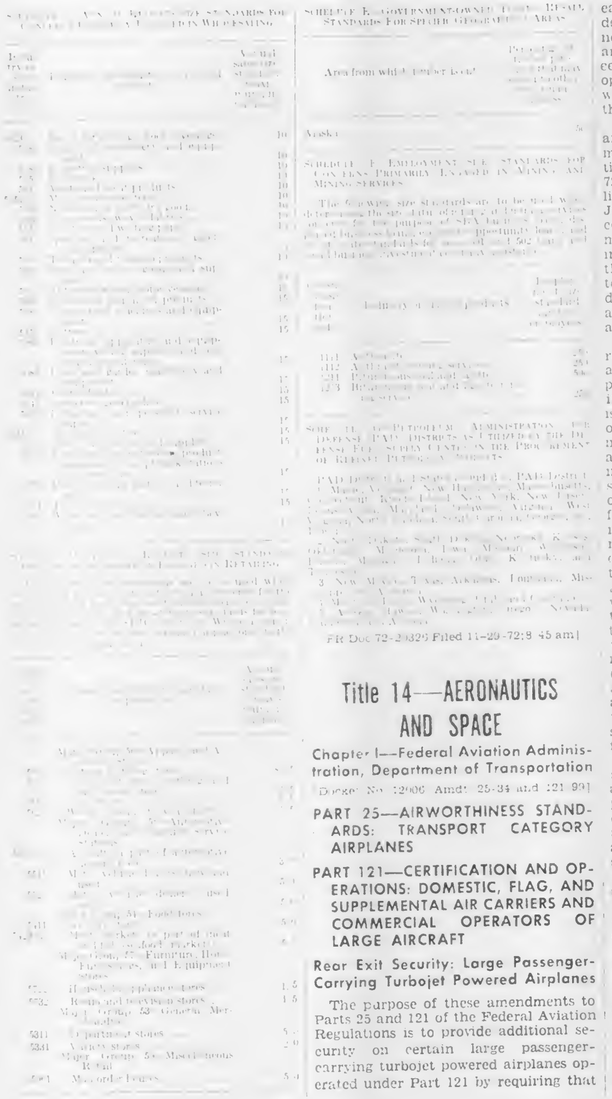

[FR Doc.72-21329 Filed 11-29-72;8:45 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 12006; Amdt. 25-34 and 121-90]

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Rear Exit Security: Large Passenger-Carrying Turbojet Powered Airplanes

The purpose of these amendments to Parts 25 and 121 of the Federal Aviation Regulations is to provide additional security on certain large passenger-carrying turbojet powered airplanes operated under Part 121 by requiring that each ventral exit and tailcone exit be designed and constructed so that it cannot be opened during flight. These amendments also apply to air travel clubs certificated under Part 123 and to air taxi operators certificated under Part 135, when conducting operations governed by those parts with the large airplanes.

Interested persons have been afforded an opportunity to participate in the making of these amendments by a notice of proposed rule making (Notice 72-15) issued June 20, 1972, and published in the FEDERAL REGISTER on June 24, 1972 (37 F.R. 12507) and due consideration has been given to all comments received in response to the notice, insofar as they relate to matters within the scope of the notice. Except for editorial changes, and except as specifically discussed hereinafter, these amendments and the reasons therefor are the same as those contained in the notice.

Several commentators objected to the requirement in proposed § 25.809(j)(1) and § 121.310(k)(1) that means must be provided so that takeoff cannot be started if either the ventral exit or tailcone exit is not locked. They based their objection on the possible catastrophic results of a malfunction, or failure in the currently available means that could be used to implement this requirement, for example, systems providing for the locking of brakes or throttles by electrical signals from the stair lock. In this regard, a number of means were suggested by commentators to assure that the ventral exit could not be opened during flight, but that it still would be available for use as an emergency exit. The FAA agrees with those comments, and, accordingly, the proposal that means be provided so that takeoff cannot be started if the ventral exit or tailcone exit is not locked is not adopted in this amendment. However under the rule as adopted when the airplane becomes airborne the design and construction characteristics of each ventral exit and tailcone exit must be such that it cannot be opened during flight.

Certain comments contended that altering the design of an aircraft is not an effective means of overcoming the problems of hijacking because simple devices can be overcome by the hijacker and more complicated devices create additional risk in the operation of the aircraft. One comment pointed out that it is patently impossible to add a lock to an emergency exit without statistically reducing the reliability of that exit. However, the FAA does not believe that, because a device installed in compliance with the rule may be simple in design, it will necessarily also be simple for a hijacker to overcome it. Nor does the FAA believe that compliance with the rule, as adopted, will reduce the reliability of the exits in an emergency.

One commentator recommended that the rule specify that the ventral exit be available for normal and emergency ground operations. The FAA does not

agree that a rule change in this respect is necessary, since the amendment as adopted herein in no way conflicts with other rules dealing with the availability of exits for emergency egress in an actual emergency.

Several commentators recommended that an appropriately worded placard be installed in a conspicuous location near the means of opening each ventral exit and tailcone exit, stating that the exit cannot be opened during flight. The FAA agrees, and this requirement is added to the proposed amendments.

One commentator suggests that the proposed rule should not be applied to air travel clubs, because the makeup of their membership and their financial structure makes it highly unlikely that they would be subjected to the kind of hijacking and extortion the proposed rule is intended to prevent. The FAA does not agree. The proposal was intended to prevent all hijacking of certain large aircraft engaged in operations required to be conducted in accordance with Part 121 and the amendment is applicable to all such operations.

One commentator objected to the rule, stating that it is unnecessary since the proper response to any hijacker is to refuse all of his demands for ransom, whatever the cost. The FAA does not agree. As stated in the notice, every possible step must be taken to deter persons from boarding aircraft for the purpose of hijacking them and escaping by parachute. The purpose of these amendments is to make it clear that any attempt to hijack a large passenger-carrying turbojet-powered airplane and escape therefrom by parachute will be a futile effort.

While the notice proposed to make the amendment to § 121.310 effective 6 months after the effective date of the rule, the rule as adopted provides for an 8-month compliance period to allow additional time for design, manufacture, and installation, where modifications are needed to conform to the rule.

In consideration of the foregoing, and for the reasons given in notice 72-15, Parts 25 and 121 of the Federal Aviation Regulations are amended, effective December 31, 1972, as follows:

1. By adding a new paragraph (j) to § 25.809 to read as follows:

§ 25.809 Emergency exit arrangement.

* * * * *

(j) When required by the operating rules for any large passenger-carrying turbojet-powered airplane, each ventral exit and tailcone exit must be—

(1) Designed and constructed so that it cannot be opened during flight; and

(2) Marked with a placard readable from a distance of 30 inches and installed at a conspicuous location near the means of opening the exit, stating that the exit has been designed and constructed so that it cannot be opened during flight.

2. By adding a new paragraph (k) to § 121.310 to read as follows:

§ 121.310 Additional emergency equipment.

* * * * *

(k) After August 28, 1973, on each large passenger-carrying turbojet-powered airplane, each ventral exit and tailcone exit must be—

(1) Designed and constructed so that it cannot be opened during flight; and

(2) Marked with a placard readable from a distance of 30 inches and installed at a conspicuous location near the means of opening the exit, stating that the exit has been designed and constructed so that it cannot be opened during flight.

(Section 313(a), 601, 603, 604, and 605 of the Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423, 1424, and 1425. Section 6(c) of the Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 24, 1972.

J. H. SHAFFER,
Administrator.

[FR Doc.72-18118 Filed 11-29-72;8:51 am]

[Airworthiness Docket No. 72-WE-15-AD, Amdt. 39-1566]

PART 39—AIRWORTHINESS DIRECTIVES

Douglas Model DC-9-10 Series Airplanes

A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring that the entry door closing assist handle be removed and an improved design modification installed on Douglas Model DC-9-10 series airplanes was published at 37 F.R. 16621 (August 17, 1972).

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all comments received in response to the above notice, insofar as they relate to matters within the scope of the notice.

One commentator suggested that equivalent modifications need not be approved by the Chief, Aircraft Engineering Division, Federal Aviation Administration, Western Region, and that, due to procurement time, 4,000 hours would be required to schedule the modification. The agency does not agree. Due to the scope of this modification, the equivalent modifications should be approved by the Chief, Aircraft Engineering Division, Federal Aviation Administration, Western Region. The procurement time was considered when the NPRM was published. The commentator did not substantiate need for an increase in compliance time and, therefore, the compliance time of 3,000 hours was retained.

One commentator suggested that the compliance time be reduced to 500 hours and that, until the accomplishment of the AD, flight attendants should be seated in a passenger seat as near as practical to floor-level exits. This comment was based on the results of the Ozark Air Lines 1968 Sioux City accident and other related problems (see below). The FAA does not agree with the comment as it pertains to a substantial reduction of the compliance time. The service experience does not convince the agency that more immediate regulatory action is warranted. This commentator also suggested that further consideration be given to the protruding cockpit door molding and the main cabin handle. While related to the problem, the agency has considered both of these installations and has determined that these installations need not be modified by way of an AD. This conclusion is, of course, subject to continuing review of the service experience.

One commentator proposed a relocation of the main cabin door handle. The NPRM concerns the entry door closing assist handle and not the main cabin door handle, and, therefore, the comment is not within the scope of the notice.

One commentator supported and endorsed the proposed rule.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

McDONNELL DOUGLAS. Applies to Model DC-9-10 series airplanes certificated in all categories.

Compliance required within the next 3,000 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent possible injury to the forward flight attendant, remove the entry door closing assist handle, P/N 3918664-1, and install a handle, P/N 3924268-1, per McDonnell Douglas Service Bulletin No. 25-31, dated May 4, 1966, or McDonnell Douglas Service Bulletin No. 25-185, dated March 31, 1972 or later FAA-approved revisions, or an equivalent modification approved by the Chief, Aircraft Engineering Division, FAA, Western Region.

This amendment becomes effective January 3, 1973.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on November 17, 1972.

ROBERT O. BLANCHARD,
Acting Director,
FAA Western Region.

[FR Doc.72-20548 Filed 11-29-72;8:48 am]

[Airspace Docket No. 72-WA-62]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Change to Waypoint Reference Facility

The purpose of this amendment to Part 75 of the Federal Aviation Regulations is to make a change of the reference facility for the Tucson, Ariz., waypoint from Phoenix, Ariz., to Tucson in area high route J903R.

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Since this change is minor in nature because neither the route nor the waypoint is moved and since no substantive change in the regulations is effected, notice and public procedure thereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, this amendment will become effective January 4, 1973.

The Phoenix reference facility cannot be used on J905R for the Tucson waypoint because of the lack of signal coverage. However, the Tucson reference facility can be used on both J903R and J905R for this waypoint.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 4, 1973, as hereinafter set forth.

Section 75.400 (37 F.R. 2400 and 5489) is amended as follows:

In J903R "Tucson, Ariz. 32°07'21'' N. 110°49'12'' W. Phoenix, Ariz." is deleted and "Tucson, Ariz. 32°07'21'' N. 110°49'12'' W. Tucson, Ariz." is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 27, 1972.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-20601 Filed 11-29-72;8:52 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release No. 34-9878]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Quarterly Statements Furnished to Customers of Broker-Dealers

The Securities and Exchange Commission announced today the adoption of an amendment to paragraph (n) of rule 17a-5 (17 CFR 240.17a-5) under the Securities Exchange Act of 1934. This amendment will modify the requirements of the recently adopted paragraphs (m) and (n), which were announced on June 30, 1972 in Securities Exchange Act Release No. 9658 (37 F.R. 14607).

Paragraph (n), as originally adopted, requires all broker-dealers subject to paragraph (k) of rule 17a-5 to furnish his customers, the Commission and all the self-regulatory organizations of which he is a member, each quarter a statement of financial condition and certain information respecting the firm's net capital and subordinated capital. As originally adopted, paragraphs (m) and (n) could, in some cases, operate to require the broker-dealer to furnish five financial statements to customers annually. Four such quarterly statements would be furnished pursuant to paragraph (n) and would be unaudited. A fifth audited statement would be furnished pursuant to paragraph (m), if the firm's annual audit did not fall at the end of a firm's calendar or fiscal quarter. This situation arises primarily as a result of the surprise audit requirement of several of the self-regulatory bodies. For firms not subject to a surprise audit requirement, the broker-dealer may have other compelling reasons to have its audit on a date which does not fall as of the end of a particular quarter. In addition it is conceivable for the rule to operate so as to have the broker-dealer mail such statements to its customers twice within the same quarter.

The Commission believes that it is important that customers of broker-dealers receive regularly certain information as set forth in paragraphs (m) and (n) of the rule concerning the financial and operating condition of the broker-dealer to whom they entrust their moneys or securities. The Commission also believes that more frequent statements would not materially assist customers of broker-dealers and may be unduly burdensome and expensive for the broker-dealer. Therefore, the Commission is adopting effective immediately an amendment to rule 17a-5(n) which will permit the substitution of the broker-dealer's annual audited statement prepared pursuant to paragraph (m) of the rule in lieu of one of the unaudited quarterly statements furnished customers pursuant to paragraph (n), provided the audited statement is as of the date not more than two months preceding the regular quarterly statements. The audited statement should be sent to those customers who would have received the quarterly unaudited statements required by paragraph (n). The effect of the amendment in most instances would require the particular broker-dealer to furnish customers and to file with the appropriate regional office of the Commission and the particular self-regulatory body of which it is a member four rather than five reports annually.

Commission action. Acting pursuant to the provisions of the Securities Exchange Act of 1934 and particularly sections 15(c)(3), 17(a), and 23(a) thereof, and deeming it necessary and appropriate in the public interest and for the protection of investors and also deeming such action necessary for the execution of its functions, the Securities and Exchange Commission hereby amends paragraph (n) of § 240.17a-5 of Chapter II of Title 17 of the Code of Federal Regulations, effective immediately, to read as follows:

§ 240.17a-5 **Reports to be made by certain exchange members, brokers and dealers.**

. . . . . .

(n) Every member, broker or dealer who is subject to paragraphs (k), (l) and (m) of this section shall furnish to his customers (as defined in paragraph (o) of this section) and shall file with the Commission and with the national securities exchange and the national securities association of which he is a member not later than 40 days after the end of each calendar quarter, fiscal quarter or quarter for which the member, broker or dealer is required to file substantially equivalent information with the national securities exchange or national securities association of which he or it is a member, the information specified in paragraphs (m) (1) and (2) of this section, except that such quarterly information shall not be required to be certified. If the annual report sent to customers pursuant to paragraph (m) of this section is as of a date not more than two months preceding the quarterly report required by this paragraph, no quarterly report need be sent for such quarter.

. . . . . .

Because the effect of the above described amendments would be to relax certain of the requirements of rule 17a-5 under the Act, the Commission finds that, for good cause, the notice and procedures specified in the Administrative Procedure Act (5 U.S.C. 553) are unnecessary, and accordingly it adopts the foregoing amendment effective immediately on November 24, 1972.

(Secs. 15(c)(3), 17(a), 23(a), 48 Stat. 895, 897, 901 secs. 3, 4, 8, 49 Stat 1377, 1379, secs. 2, 5, 52 Stat. 1075, 1078, sec. 7(d), 84 Stat. 1653, 15 U.S.C. 78o(c)(3), 78q(a), 78w)

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

NOVEMBER 24, 1972.

[FR Doc.72-20523 Filed 11-29-72;8:48 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

TERTIARY BUTYLHYDROQUINONE

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 1A2588) filed by Eastman Chemical Products, Inc., Kingsport, Tenn. 37662, and other relevant material, concludes that the food additive regulations should be amended, as set forth below, to provide for the safe use of tertiary butylhydroquinone (TBHQ) in food as an antioxidant alone or in combination with BHA and/or BHT, whereby the total antioxidant content of the food does not exceed 0.02 percent of its oil or fat content, including its essential (volatile) oil content.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended by adding to Subpart D the following new section:

§ 121.1244 **Tertiary butylhydroquinone (TBHQ).**

The food additive tertiary butylhydroquinone (TBHQ) may be safely used in food in accordance with the following prescribed conditions:

(a) The food additive has a melting point of 126.5° C.–128.5° C.

(b) It is used as an antioxidant alone or in combination with BHA and/or BHT.

(c) The total antioxidant content of a food containing the additive will not exceed 0.02 percent of the oil or fat content of the food, including the essential (volatile) oil content of the food.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (11-30-72).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: November 24, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-20545 Filed 11-29-72;8:48 am]

Chapter III—Special Action Office for Drug Abuse Prevention

PART 401—CONFIDENTIALITY OF DRUG ABUSE PATIENT RECORDS

Correction

In F.R. Doc. 72-19925 appearing at page 24636 of the issue for Friday, November 17, 1972, in the fourth line of § 401.44(a) the comma after the word "management" should be deleted.

Title 31—MONEY AND FINANCE

Chapter II—Fiscal Service, Department of the Treasury

SUBCHAPTER B—BUREAU OF THE PUBLIC DEBT

PART 344—REGULATIONS GOVERNING UNITED STATES TREASURY CERTIFICATES OF INDEBTEDNESS—STATE AND LOCAL GOVERNMENT SERIES, UNITED STATES TREASURY NOTES—STATE AND LOCAL GOVERNMENT SERIES, AND UNITED STATES TREASURY BONDS—STATE AND LOCAL GOVERNMENT SERIES

The regulations in Department of the Treasury Circular, Public Debt Series No. 3-72, as amended (31 CFR Part 344), have been retitled and further amended, as set forth below. The changes were effected under the authority of 26 U.S.C. 103(d), 83 Stat. 656; 31 U.S.C. 753, 754, 754b, and 5 U.S.C. 301. Notice and public procedures thereon are unnecessary as they relate to the fiscal policy of the United States.

Dated: November 21, 1972.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

Department of the Treasury Circular, Public Debt Series No. 3-72, dated May 22, 1972, as amended (31 CFR Part 344), is hereby further amended and issued as Department of the Treasury Circular, Public Debt Series No. 3-72, Revised.

Sec.
344.0 Offering of securities.
344.1 Description of securities.
344.2 Subscription for purchase.
344.3 Issue date and payment.
344.4 Redemption.
344.5 General provisions.

AUTHORITY: The provisions of this Part 344 issued under 26 U.S.C. 103(d), 83 Stat. 656; 31 U.S.C. 753, 754, 754b, and 5 U.S.C. 301.

§ 344.0 Offering of securities.

In order to provide States, municipalities, and other government bodies described in section 103(a)(1) of the Internal Revenue Code of 1954 and the regulations thereunder with investments tailored to their needs under those provisions, the Secretary of the Treasury offers, under the authority of the Second Liberty Bond Act, as amended—

(a) U.S. Treasury Certificates of Indebtedness—State and Local Government Series,

(b) U.S. Treasury Notes—State and Local Government Series, and

(c) U.S. Treasury Bonds—State and Local Government Series,

for sale to those entities. The term "government body" as used herein refers to any one of these entities. The term "securities" herein refers jointly to the certificates, notes, and bonds. This offering will continue until terminated by the Secretary of the Treasury.

§ 344.1 Description of securities.

(a) *General.* The securities will be issued in book-entry form on the books of the Department of the Treasury, Bureau of the Public Debt, Washington, D.C. 20226. They may not be transferred by sale, exchange, assignment or pledge, or otherwise.

(b) *Terms and rates of interest*—(1) *Certificates of indebtedness.* The certificates will be issued in multiples of $5,000 with periods of maturity fixed, at the option of the government body, for (i) 3 months, (ii) 6 months, (iii) 9 months, or (iv) 1 year. Each certificate will bear such rate of interest as the government body may designate, provided that it shall not be more than the current Treasury rate on a comparable maturity, reduced by one-eighth of 1 percent, on the date the subscription is submitted. The applicable Treasury rates will be determined by the Treasury not less often than monthly, and will be available at Federal Reserve Banks and Branches. Interest on the certificates will be computed on an annual basis and will be payable at maturity with the principal amount.

(2) *Notes.* The notes will be issued in multiples of $5,000 with periods of maturity fixed, at the option of the government body, from 1 year 6 months up to and including 7 years, or for any intervening half-yearly period. Each note will bear such rate of interest as the government body may designate, provided that it shall not be more than the current Treasury rate on a comparable maturity, reduced by one-eighth of 1 percent, on the date the subscription is submitted. The applicable Treasury rates will be determined by the Treasury not less often than monthly, and will be available at Federal Reserve Banks and Branches. Interest on the notes will be payable on a semiannual basis by Treasury check on June 1 and December 1, and at maturity if other than June 1 or December 1. Final interest will be paid with the principal.

(3) *Bonds.* The bonds will be issued in multiples of $5,000 with periods of maturity fixed, at the option of the government body, from 7 years 6 months up to and including 10 years, or for any intervening half-yearly period. Each bond will bear such rate of interest as the government body may designate, provided that it shall not be more than the current Treasury rate on a comparable maturity, reduced by one-eighth of 1

patient's progress appears to have sta- the care of patients. In foreign countries (b) Persons retired for physical dis-

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percent, on the date the subscription is submitted. The applicable Treasury rates will be determined by the Treasury not less often than monthly, and will be available at Federal Reserve Banks and Branches. Interest on the bonds will be payable on a semiannual basis by Treasury check on June 1 and December 1, and at maturity if other than June 1 or December 1. Final interest will be paid with the principal.

§ 344.2 Subscription for purchase.

A government body may purchase a security under this offering by submitting a subscription and making payment to a Federal Reserve Bank or Branch. The subscription, dated and signed by an official authorized to make the purchase, must state the amount, issue date, maturity, and interest rate of the security desired, and must give the title of the designated official authorized to redeem it. Separate subscriptions must be submitted for certificates, notes, and bonds, and for securities of each maturity and each interest rate. A commercial bank may act on behalf of a government body in submitting subscriptions.

§ 344.3 Issue date and payment.

The issue date of a security will be the date requested by the subscriber, provided that date is not more than 3 weeks after the date of the subscription, and provided funds in full payment are available on that date at the Federal Reserve Bank or Branch to which the subscription was submitted.

§ 344.4 Redemption.

(a) *At maturity.* A security may not be called for redemption by the Secretary of the Treasury prior to maturity. Upon the maturity of a security, the Treasury will make payment of the principal amount and interest to the owner thereof by Treasury check, or in accordance with other prior arrangements made by the government body with the Bureau of the Public Debt.

(b) *Prior to maturity.* (1) Securities may be redeemed at the owner's option on 2 days' notice after 1 month from the issue date in the case of certificates, and after 1 year from the issue date in the case of notes and bonds. Where redemption prior to maturity occurs, the interest for the entire period the security was outstanding shall be calculated on the basis of the lesser of (i) the original interest rate at which the security was issued, or (ii) an adjusted interest rate reflecting both the shorter period during which the security was actually outstanding and a penalty. The adjusted interest rate is the Treasury rate which would have been in effect on the date of issuance for a marketable Treasury certificate, note, or bond maturing on the quarterly maturity date prior to redemption (in the case of certificates), or on the semiannual maturity period prior to redemption (in the case of notes and bonds), reduced in either case by a penalty which shall be the lesser of (iii) one-eighth of 1 percent times the number of months from the date of issuance to original maturity, divided by the number of full months elapsed from the date of issue to redemption, or (iv) one-fourth of 1 percent. There shall be deducted from the redemption proceeds, if necessary, any overpayment of interest resulting from previous payments made at a higher rate based on the original longer period to maturity. A schedule showing the adjusted interest rates that apply to securities redeemed prior to their maturity dates will be available at the time of issuance of the securities. A notice to redeem a security prior to the maturity date must be given by the official authorized to redeem it, as shown in the subscription for purchase, to the Bureau of the Public Debt, Division of Securities Operations, Washington, D.C. 20226, by letter, wire, or telex, or by telephone confirmed by wire or telex. The telephone number is 202-964-7007, and the telex number is 892428.

§ 344.5 General provisions.

(a) *Regulations.* U.S. Treasury Certificates of Indebtedness—State and Local Government Series, U.S. Treasury Notes—State and Local Government Series, and U.S. Treasury Bonds—State and Local Government Series, shall be subject to the general regulations with respect to U.S. securities, which are set forth in the Department of the Treasury Circular No. 300, current revision (Part 306 of this chapter), to the extent applicable. Copies of the circular may be obtained from the Bureau of the Public Debt, Division of Securities Operations, Washington, D.C. 20226, or a Federal Reserve Bank or Branch.

(b) *Fiscal agents.* Federal Reserve Banks and Branches, as fiscal agents of the United States, are authorized to perform such services as may be requested of them by the Secretary of the Treasury in connection with the purchase of, and transactions in, the securities.

(c) *Reservations.* The Secretary of the Treasury reserves the right to reject any application for the purchase of securities hereunder, in whole or in part, and to refuse to issue or permit to be issued any such securities in any case or any class or classes of cases if he deems such action to be in the public interest, and his action in any such respect shall be final. The Secretary of the Treasury may also at any time, or from time to time, supplement or amend the terms of these regulations, or of any amendments or supplements thereto.

[FR Doc.72-20556 Filed 11-29-72;8:45 am]

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER B—SALES AND SERVICES

PART 815—PERSONS AUTHORIZED MEDICAL CARE

Miscellaneous Amendments

Subchapter B of Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

Part 815 is amended as follows:

NOTE: Part 806 states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the manuals and regulations that are referenced herein.

1. Section 815.2 is revised to read as follows:

§ 815.2 Definitions.

Terms used in this part are explained as follows:

(a) *Armed Forces.* The Air Force, Army, Navy, Marine Corps, and Coast Guard including their Reserve components.

(b) *Bureau of Employees Compensation (BEC) Beneficiary.* A civilian employee, including a civilian officer, of the U.S. Government who is injured or incurs a disease in the performance of duty and is designated as a beneficiary by the Bureau.

(c) *Continental United States (CONUS).* United States territory including the adjacent territorial waters located within the North American continent between Canada and Mexico.

(d) *Dependents.* (1) Dependents of active duty or retired members of a uniformed service and dependents of a person who at the time of his death was an active duty or a retired member of a uniformed service are defined in AFR 168-9.

(2) The following definition is applicable to dependents authorized care under other sections of this part unless otherwise specified:

(i) Spouses.

(ii) Children as defined in AFR 168-9.

(iii) Dependent parents and parents-in-law as defined in AFR 168-9.

EXCEPTION: Parents (including stepparents and parents-in-law) and foster parents of the officer or employee listed in § 815.60a of this part when the parents are dependent on the officer or employee for over one-half of their support and are residing in his household overseas (authorized medical care but not at State Department expense).

(e) *Disability.* A disease, injury, or other physical or mental defect.

(f) *Elective medical care.* Medical, surgical, or dental care desired or requested by the individual or recommended by the physician or dentist which, in the opinion of the professional authority, can be performed at another time or place without jeopardizing life, limb, health, or well-being of the patient. An example is surgery for cosmetic purposes. Certain nonessential dental prosthetic appliances, as determined by a dental officer, also fall into this category.

(g) *Emergency medical care.* The immediate inpatient or outpatient medical care required to prevent loss of life, limb, or undue suffering.

(h) *Hospital Commander.* The director of base medical service/commander of base medical unit, of hospitals or dispensaries, as appropriate.

(i) *Maximum hospital benefit.* That point during hospitalization when the patient's progress appears to have stabilized and it can be anticipated that additional hospitalization will not directly contribute to any further substantial recovery. A patient who will continue to improve slowly over a long period of time without specific therapy or medical supervision, or with only a moderate amount of treatment on an outpatient basis, may be considered as having attained maximum hospital benefit.

(j) *Medical care.* Inpatient, outpatient, dental care, and related professional services, unless otherwise qualified.

(k) *Member of a uniformed service.* A person appointed, enlisted, inducted, called, ordered, or conscripted into a uniformed service who is serving on active duty or active duty for training.

(l) *Optimum hospital improvement for disposition purposes.* That point during hospitalization when, after essential initial medical treatment, the patient's medical fitness for further active service can be determined, and it is considered probable that further treatment for a reasonable period will not result in any material change in the patient's condition which would alter his ultimate type of disposition or amount of separation benefits.

(m) *Retired member of a uniformed service.* A member or former member of a uniformed service entitled to retired or retainer pay, or equivalent pay, as a result of service in a uniformed service.

(n) *Routine dental care.* All the medical, surgical, and restorative treatment of oral diseases, injuries, and deficiencies that come within the field of dental and oral surgery as commonly practiced by the dental profession.

(o) *Uniformed services.* The Air Force, Army, Navy, Marine Corps, Coast Guard, the Commissioned Corps of the Public Health Service, their respective components, and the Commissioned Corps of the National Oceanic and Atmospheric Administration (formerly Environmental Science Services Administration).

(p) *United States.* The 50 States and the District of Columbia.

(q) *Veteran.* A person who served on active duty in the Armed Forces and was discharged or released therefrom under conditions other than dishonorable.

(r) *Veterans' Administration beneficiary.* A veteran who is entitled to certain medical care in a Veterans' Administration hospital.

2. Section 815.3 is revised to read as follows:

§ 815.3 Policies.

(a) The hospital commander is the authority to approve medical care. He may provide medical care at his facility for authorized patients who are not uniformed services personnel if space and facilities are available and the capabilities of the professional staff permit. However, such persons must furnish the commander with satisfactory identification to prove their eligibility. Medical commanders are authorized to correspond direct with other medical authorities on the care of patients. In foreign countries the laws (customs and practices) of the host country must be complied with and local customs and practices considered when applying this part so that the operating rights and status of personnel under international agreements are not jeopardized.

(b) Patients authorized only emergency care and those admitted as civilian emergencies will be treated only during the period of the emergency. As soon as the emergency period ends, the patients will be discharged, if medically indicated, or transferred if civilian medical facilities are available and adequate as determined by the local hospital commander. These disposition instructions are applicable in all emergency cases unless otherwise specified in this part. The registrar and medical resource management officer will insure complete identification of these patients before disposition. Identification should not be limited to data supplied by the patient, such as home address or location of emergency addressee. Accurate, complete identification should be ascertained from identification cards, drivers' licenses, medical insurance cards, copies of discharge papers, social security cards, etc. If feasible, this information should be verified through visitors to the patient or by contacting the emergency addressee.

(c) Persons not authorized care in Air Force medical treatment facilities by law or regulation will be charged the full reimbursement rate for the type of care provided except when charges are waived by the Secretary of the Air Force or the appropriate oversea commander or when provided medical treatment in conjunction with natural disaster relief operations. See AFR 168-7 for rates applicable to specific categories of patients, including patients in transit in the aeromedical evacuation system.

(d) Air Force medical treatment facilities operating food service activities will collect and deposit subsistence charges according to AFM 168-4, chapter 10. If the medical facility does not operate a food service activity, it will charge inpatients according to Part 814 of this subchapter. In either case, the rate charge for subsistence furnished to persons in patient status who are not entitled to subsistence at Government expense will be according to rates in AFR 168-7.

3. Section 815.10 is revised to read as follows:

§ 815.10 Retired members of a uniformed service (§ 815.2(m)).

Medical care is authorized for retired members, subject to the applicable conditions indicated below:

(a) Persons retired for other than physical disability are entitled to the same health benefits in uniformed services facilities as active duty members, subject to the availability of space and facilities and the capabilities of the professional staff, and to the priorities cited in AFR 168-9, paragraph 4-2, September 15, 1970.

(b) Persons retired for physical disability:

(1) *Temporary retirement (periodic medical examinations).* Temporarily retired members who require hospitalization in connection with the conduct of periodic medical examinations.

(2) *Temporary or permanent retirement (less than 20 years of active duty).* Members temporarily or permanently retired for physical disability or receiving disability retirement pay, with less than 20 years of active duty, except hospitalization for the following chronic conditions: chronic arthritis, malignancy, phychiatric or neuropsychiatric disorder, neurological disabilities, poliomyelitis with disability residuals and degenerative disease of the nervous system, severe injuries to the nervous system including quadriplegia, hemiplegia, and paraplegia, tuberculosis, blindness and deafness requiring definitive rehabilitation, and major amputees (hospitalization for the above conditions is the responsibility of the Veterans' Administration).

(3) *Temporary or permanent retirement (20 years or more of active duty).* Members temporarily or permanently retired for physical disability or receiving disability retirement pay, with 20 years or more of active duty, except those with blindness, neuropsychiatric or psychiatric disorders, and tuberculosis (hospitalization for the above conditions is the responsibility of the Veterans' Administration).

(c) Persons mentioned above who are eligible for medical care in uniformed services facilities may be moved between such facilities and from uniformed services facilities overseas to continental U.S. facilities, when directed in writing by competent medical authority.

NOTE: A member temporarily or permanently retired for physical disability electing to receive disability compensation from the Veterans' Administration in place of retired pay is eligible for care in uniformed services medical facilities, except for those chronic conditions listed in subparagraph (2) of paragraph (b) of this section. A member removed from the temporary disability retired list and discharged with severance pay is not eligible for medical care in uniformed services facilities at the expense of the Air Force even though he is entitled to and receives disability compensation from the Veterans' Administration.

4. Section 815.11 is amended by revising paragraphs (a)(2) and (b)(1) to read as follows:

§ 815.11 VA beneficiaries.

(a) • • •

(2) Veterans admitted to Air Force hospitals on an emergency basis may or may not be eligible Veterans' Administration beneficiaries. However, if the patient is a veteran, the hospital commander will notify the responsible VA field station of the admission within the required 72-hour period and request written authorization and disposition instructions. Notification should include a copy of the individual's discharge certificate, order for release from active

first sentence of paragraph (c) to "§ 815.

care upon presentation of written au-

uation, will be released to the custody

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duty under other than dishonorable conditions, or evidence of receipt of VA compensation or discharge for disability incurred or aggravated in line of duty, if available.

(b) * * *

(1) Veterans of the Armed Forces who are U.S. citizens residing or sojourning abroad may be provided medical care for service connected disabilities on presentation of a signed authorization. The responsibility for authorizing medical care in foreign countries is vested in:

(i) Republic of the Philippines: Director, Outpatient Clinic, United States VA Regional Office, APO San Francisco 96528.

(ii) All other foreign countries: Veterans' Administration Hospital, 50 Irving Street NW., Washington, DC 20422.

* * * * *

5. The title of Subpart C is amended to read as follows: Subpart C—Reserve Officers Training Corps, Junior Reserve Officers Training Corps, Civil Air Patrol, and Scouts of America.

6. Section 815.20 is amended by revising paragraphs (c) and (e) to read as follows:

§ 815.20 Senior Reserve Officers Training Corps members (ROTC), Air Force, Army, and Navy (includes advanced course applicants, 10 U.S.C. 2104b(6)(B)).

* * * * *

(c) Air Force ROTC members may require civilian medical attendance during their training period if medical facilities of the uniformed services or other Government agencies are not readily available. However, prior approval must be obtained for such civilian medical attendance (Part 880 of Subchapter I of this chapter).

* * * * *

(e) When directed by competent orders, ROTC students at colleges, universities, or other institutions may be given physical examinations at Air Force medical facilities, if available. When the Air Force facility does not have the capability to complete the examination, supplemental care is authorized if it is more economical than to transport the member to another Armed Forces medical facility. Hospitalization is authorized when qualification for service cannot otherwise be determined. This period is to be used for diagnostic purposes only, not to correct disqualifying defects. Hospitalization furnished such individuals for emergency conditions occurring during the physical examination period will be administered as stated in § 815.86.

* * * * *

7. Sections 815.21 and 815.22 are revised and redesignated to §§ 815.22 and 815.23 and a new § 815.21 is added to read as follows:

§ 815.21 Junior Reserve Officers Training Corps (JROTC) members, Air Force, Army, and Navy.

Members of JROTC units, Air Force, Army, and Navy, are authorized hospitalization and medical care in emergencies occurring while participating in base visits at Air Force installations. Hospitalization beyond the period of emergency or medical care at other than Air Force medical facilities is not authorized at Air Force expense.

§ 815.22 Civil Air Patrol (CAP) members.

(a) CAP membership is divided into two groups:

(1) *Seniors.* Adults over 18 years of age.

(2) *Cadets.* Boys and girls who are U.S. citizens and have passed their 13th birthday or (if younger) are enrolled in high school or its equivalent (grade 9 or above) and are not more than 20 years of age. A cadet may become a senior member when he is 18 years old, but this status change is not mandatory.

(b) During a period of specified assignment, a senior CAP member may be provided medical care in an Air Force medical treatment facility for injury or disease incurred while he was engaged in authorized activities without regard to line of duty status (Part 832 of Subchapter C of this chapter). Authorized activities are those performed under Air Force direction and authorized in writing by competent authority. Such authorization must cover a specific assignment and prescribe a time limit for the assignment.

(c) A senior member who is injured or contracts a disease in line of duty and who receives medical care beyond the period of specified assignment will be reported to the Bureau of Employees' Compensation as a potential beneficiary of that Bureau (Subpart E of this part). The benefits of the Federal Employees' Compensation Act have been extended by law (5 U.S.C. 8141) to include senior CAP members who are injured or who contract disease in line of duty while engaged in authorized activities. Such duty includes the period of travel to and from the place where service or duty is performed. Medical care beyond the authorized encampment period will not be provided at Air Force expense.

(d) Charges for medical care provided beyond the period of specified assignment for injury or disease incurred not in line of duty will be the responsibility of the patient.

(e) When attending encampments at Air Force installations, cadets will be provided medical care in an emergency. Senior member benefits do not apply to CAP cadets. Treatment required beyond the encampment period will be provided only until medical care can be arranged elsewhere and will not be provided at Air Force expense.

(f) Medical care is not authorized at Air Force expense in other than Air Force medical facilities for either senior or cadet members.

(g) Prior written authorization from the Air Force liaison officer of the CAP wing to which the member is assigned is required for admission to an Air Force medical facility, except in an emergency. In an emergency, written authorization is obtained with the least practicable delay.

§ 815.23 Scouts.

Boy Scouts of America, including Explorer Scouts, and Girl Scouts of the United States of America may be provided medical care in emergencies occurring while the scouts are participating in visits, training exercises, and encampments at Air Force installation. Hospitalization beyond the period of emergency or medical care at other than Air Force medical facilities is not authorized at Air Force expense.

8. Section 815.30 is revised to read as follows:

§ 815.30 Applicants for enlistment or commission.

(a) Physical examinations for determining qualification for duty in the uniformed services will be provided for:

(1) Personnel ordered into active service under the Military Selective Service Act.

NOTE: Selective Service registrants who suffer illness or injury while acting under orders issued under the Military Selective Service Act are entitled to emergency medical care, including hospitalization (50 U.S.C. App 461).

(2) Applicants for enlistment or commission.

(3) Applicants for Air Force, Military, Naval, and Coast Guard Academies.

(4) Reservists not on active duty as required by AFR 160–19.

(5) Aerospace medicine consultation service for Reservists as required by AFR 161–23.

When supplemental services are considered essential for the proper evaluation of an applicant for the service academies or for commission or enlistment, but are not available at the military facility, the facility may procure these necessary services from local civilian sources utilizing local funds. Hospitalization is authorized when qualification for service cannot otherwise be determined. This period is to be used for diagnostic purposes only, not to correct disqualifying defects. Medical care including hospitalization, may be furnished such individuals for emergency conditions occurring during the physical examination period.

(b) In addition to the above, applicants for the Air Force Academy may be afforded emergency hospitalization and treatment for injury incurred in the actual performance of physical aptitude examinations while at an Air Force facility. Hospitalization should not exceed 3 days. If final disposition cannot be effected within this period, instructions should be obtained from HQ USAF/SGHM, Washington, D.C. 20314.

§ 815.31 [Amended]

9. Section 815.31 is amended by changing the last sentence of paragraph (c) to: "If the mother is discharged from the hospital and the infant must remain, charges will be at the infant rate."

§ 815.40 [Amended]

10. Section 815.40 is amended by changing the section reference in the first sentence of paragraph (c) to "§ 815.22(b)."

11. Section 815.41 is revised to read as follows:

§ 815.41 Administrative procedures.

(a) Except in an emergency, persons in § 815.40 applying for medical care in an Air Force facility must present three copies of form CA 16, "Request for Examination and/or Treatment" (AFR 40–810). The supervisor or commander of the person applying for care will prepare this form. In an emergency, medical care (including hospitalization) may be furnished upon verbal authorization of the applicant's official supervisor. However, form CA 16 will be required for the responsible individual within 48 hours after verbal authorization. The date entered on the form will be the date of hospitalization or treatment.

NOTE: A CA form 16 is not required when only first aid treatment is provided civilian employees, since the Air Force does not charge the Federal Employees' Compensation Fund for such treatment. A CA form 16 is required if there is to be prolonged treatment, disability for work beyond the day of injury, recurrence of disability, or a charge to the Compensation Fund for medical treatment or supplies.

(b) Form CA 20, "Attending Physicians' Report," will be submitted to the BEC on all cases which result in charges for treatment or supplies against the BEC or which involve any loss of time beyond the day, shift, turn, or working period during which the injury occurs. Also, a copy of SF 502, "Clinical Record-Narrative Summary," will be submitted to the bureau on all hospitalized cases at the time of discharge. An interim SF 502 should be forwarded to the bureau after 30 days in hospitalized cases of extended duration.

(c) Form CA 20 pertaining to ROTC and CAP members should be submitted to the appropriate district BEC office through the local commander of the unit concerned. Air Force civilian personnel officers will, upon request, assist the claimant and the unit commander in carrying out their responsibilities.

(d) Payment for hospitalization not approved by BEC is the responsibility of the person receiving the care and will be collected locally. Sections 815.74 and 815.86, as appropriate, applies.

12. Section 815.50 is amended by revising paragraph (i) to read as follows:

§ 815.50 Persons eligible for care.

* * * * *

(i) Civilian seamen in service of ships operated by the Army or Military Sealift Command within the United States and its possessions.

* * * * *

13. Section 815.52 is amended by revising paragraph (a) to read as follows:

§ 815.52 Certain seamen.

(a) Civilian seamen in service of ships operated by the Army or Military Sealift Command outside the United States and its possessions may be provided medical care upon presentation of written authorization from the ship's master or appropriate Army authority (where the ship is in the service of the Army) or other administrative authority in case of Military Sealift Command ships. Seamen with injury or disease incurred in the course of employment should be administered as BEC beneficiaries (subpart E). Dental care is limited to relief of emergencies.

* * * * *

14. Section 815.60 is revised to read as follows:

§ 815.60 Department of State beneficiaries.

(a) *Outside the Continental United States.* (1) Officers and employees (U.S. citizens) of the agencies listed in this subparagraph serving abroad and dependents residing abroad with their sponsor may be provided medical care (including physical examinations and immunizations) in Air Force medical facilities at the expense of the State Department. Dental treatment at State Department expense is authorized only for conditions resulting in hospitalization or when required for posthospitalization follow-up.

(i) Department of State.

(ii) U.S. Information Agency (USIA).

(iii) U.S. Agency for International Development (AID). (AID contractor employees and their dependents are not entitled to medical care at State Department expense.)

(iv) Foreign Agriculture Service, Department of Agriculture (USDA).

(v) Federal Aviation Administration (FAA).

(vi) Bureau of Public Roads, Department of Commerce.

(vii) U.S. Geological Survey employees detailed to an oversea assignment under AID auspices.

(viii) Staff members of the Peace Corps. (Peace Corps volunteers, volunteer leaders, and their dependents are not included here.)

(ix) Such other agencies as may from time to time be included in the Foreign Service's Medical Program.

(2) Except in an emergency, medical treatment must be authorized in writing by a principal or administrative officer of an established State Department foreign service post before treatment is initiated. In an emergency, such approval will be obtained as soon as possible.

(3) Elective medical or surgical treatment will not be authorized unless the hospital commander concerned believes that the patient requires such elective treatment to adequately perform his assigned duties and return to the United States for medical reasons would otherwise result. Dental care is limited to relief of emergencies.

(4) Persons specified in subparagraph (1) of this paragraph requiring hospitalization for a prolonged period may be returned to the continental United States upon the written request of the sponsoring agency.

(5) Dependent patients requiring prolonged hospitalization, who decline evacuation, will be released to the custody of their sponsor. Readmission for the same condition is authorized only to prevent loss of life or undue suffering.

(6) Authorization for medical care of dependents at State Department expense normally is limited to 120 days for each illness or injury. The 120 days cover the days for which expenses for treatment are incurred and need not be consecutive. Medical care beyond the 120 days may not be provided at State Department expense, except upon written authorization of the principal or administrative officer of the foreign service post concerned.

(7) If persons listed in subparagraph (1) of this paragraph are furnished medical care which is not authorized at State Department expense, § 815.74 applies.

(8) Problems encountered in collecting locally from officers, employees, or dependents hospitalized for care not authorized at State Department expense will be referred to the immediate supervisor of the officer, employee, or sponsor.

(b) *Within the continental United States.* Upon prior written request of the State Department medical director (or appropriate official of the agency concerned), the following medical services may be provided in Air Force medical facilities within the continental United States:

(1) Pre-employment physical examinations and necessary immunizations of applicants for appointment as officers and employees in the foreign service of the agencies listed in paragraph (a)(1) of this section.

(2) Pre-embarkation and periodic physical examinations and immunizations for officers, employees, and eligible dependents. The written request will include instructions for disposition of the SF 88, "Report of Medical Examination," and SF 93, "Report of Medical History."

(c) Upon written authorization provided by the State Department medical director, or a principal or administrative officer of the foreign service post concerned, persons listed in paragraph (a)(1) of this section may be provided medical care in the continental United States at State Department expense for illness or injury incurred overseas.

15. Section 815.61 is amended by revising the introductory text to read as follows:

§ 815.61 VA employees and their dependents in oversea office.

U.S. citizen employees of VA assigned to the oversea U.S. regional office, Republic of the Philippines, and their dependents, may be provided medical care, except as indicated in paragraph (a) of this section. The U.S. VA Regional Office, APO San Francisco 96528, will provide written authorization for care for beneficiaries mentioned above prior to their admission and will furnish evacuation and disposition instructions for patients being returned to the continental United States by aeromedical evacuation. In an emergency, approval will be obtained in writing as soon as practicable.

* * * * *

23. Section 815.76 is revised to read as

provided hospitalization in Air Force

§ 815.82 Alien scientific and technologi-

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16. Section 815.62 is revised to read as follows:

§ 815.62 Peace Corps volunteer personnel and their dependents.

(a) *Within the continental United States.* (1) Peace Corps volunteer applicants (volunteers and volunteer leaders) may be provided preselection physical examinations at Air Force hospitals and clinics/dispensaries.

(2) The above-mentioned persons will apply to the medical installation for appointment, with a letter of authorization, SFs 88 and 93, detailed instructions regarding examinations required, necessary qualifications, and disposition of the two forms.

(3) Air Force physicians are not required to assess the qualifications of individuals.

(4) Hospitalization is not authorized in conjunction with these examinations.

(5) Immunizations are authorized upon special request of the Peace Corps.

(6) Upon request of the Peace Corps, separation or other special physical examinations may be provided for volunteer and volunteer leaders, and dependents of volunteer leaders. Instructions are contained above at (a).

(7) Medical care for illness or injury occurring during the training period may be provided volunteers and volunteer leaders but not dependents. A volunteer leader, upon approval at Department level, requests should be referred by the most expeditious means to HQ USAF/SGHM.

(b) *Outside the Continental United States.* (1) Volunteers, volunteer leaders, dependents of volunteer leaders and Peace Corps trainees may be provided medical care at Peace Corps expense when requested in writing by a representative of the physician of a Peace Corps medical service post. In an emergency, approval will be obtained in writing as soon as possible.

(2) Volunteers and volunteer leaders, and dependents of volunteer leaders, may be provided termination physical examinations. In most cases these examinations will be conducted by Peace Corps staff physicians; however, assistance may be requested for ancillary services. Reimbursement for the examination, if available in part, will be at the outpatient rate for each individual. Request for payment will be sent to the Peace Corps Medical Program Division, Washington, D.C. 20525.

§ 815.70 [Amended]

17. Section 815.70 is amended by correcting the reference to "SF–89" in paragraphs (a)(1) and (b)(1) to read "SF–93."

§ 815.71 [Amended]

18. Section 815.71 is amended by changing the office symbol reference in paragraph (b) to read "HQ USAF/SGHC."

19. Section 815.72 is revised to read as follows:

§ 815.72 Secret Service special agents.

Upon presentation of a letter of authority from the Chief, U.S. Secret Service, special agents of that agency may be provided routine annual physical examinations in Air Force medical facilities. The examinations will be conducted and recorded in the same manner as the periodic medical examinations provided nonflying officers. Examinations will be conducted on an outpatient basis only. If hospitalization for diagnostic purposes is considered desirable, a statement to that effect is placed in item 73 or 75, as appropriate, of the SF 88. The SF's 88 and 93 (one copy of each) are forwarded to the Chief, U.S. Secret Service, Treasury Department, Washington, D.C. 20220.

§ 815.73 [Amended]

20. Section 815.73 is amended by changing the reference to "SF–89" to read "SF–93" in paragraphs (a), (b) and subparagraphs (1) and (2) of paragraph (c).

21. Section 815.74 is revised to read as follows:

§ 815.74 Department of Defense and other U.S. Government agency employees paid from appropriated and nonappropriated funds and their dependents outside the United States.

(a) Unless otherwise specified in this part, U.S. citizens who are employees of the Department of Defense or other Federal agencies (paid from appropriated or nonappropriated funds), and their dependents, stationed outside the United States, may receive medical care in Air Force facilities. Routine dental care is on a space available basis within capabilities as determined by the base dental surgeon. When capabilities do not exist, dental care will be limited to relief of emergencies. In Puerto Rico, only those serving under a current transportation agreement are eligible for such medical and dental care.

(b) Non-U.S. citizen civilian employees of the Department of Defense paid from appropriated or nonappropriated funds and their dependents may receive medical care in Air Force medical facilities when civilian facilities are not available or are not adequate. Charges will be imposed at the special reimbursement rate per inpatient day and at the special outpatient rate per outpatient visit as prescribed in AFR 168–7 except when:

(1) It is determined by the overseas major commander that salary rates paid non-U.S. citizen personnel are inadequate for a charge at the special reimbursement rate. In such instances, the only charge will be for subsistence.

(2) Other official agreements are made to provide medical care without charge.

(c) U.S. citizen employees of the Department of Defense or their dependents may be returned to the continental United States in a patient status. Before transfer, the patient or next of kin will make arrangements for continuing the required medical care in the continental United States.

(d) Subpart E of this part applies when an employee, paid from appropriated funds, is a potential BEC beneficiary.

22. Section 815.75 is revised to read as follows:

§ 815.75 Federal civilian employees health program.

Civilian employees of the Government paid from appropriated funds, and employees of Government-owned and controlled corporations are entitled to outpatient type care for on-the-job illnesses and injuries and for other outpatient care as set forth below. Employees on temporary duty at locations other than their permanent duty station are entitled to the same outpatient type care.

(a) Preemployment physical examinations, including related medical services required to complete the examinations.

(b) Immunization of employees and their dependents when authorized by AFR 161–13.

(c) Examinations following sickness absenteeism, when indicated.

(d) Examinations, when indicated, upon request of the employee's superior or competent medical authority.

(e) Periodic examinations to determine effect of environment.

(f) Emergency care for nonservice connected illness or injury. When admission is for 24 hours or more, personnel will be administered according to § 815.86 unless they are otherwise entitled to such care. Employees who are injured or become ill while on temporary duty may be transported in the aeromedical system when a medical reason exists and commercial transportation is not available. Transportation is chargeable to the accounting classification appearing on the employee's TDY orders.

(g) Treatment of minor illnesses during work hours when necessary to alleviate pain or when illnesses would require a disproportionate amount of time lost from the job.

(h) Upon the specific request of a local physician special treatments on an outpatient basis are permitted to prevent loss of time from duty. Medicines needed for such treatments will be furnished by the employee, but will be administered without charge.

(i) Supplemental care is authorized, utilizing funds locally available to the medical facility, in performing special fitness-for-duty type examinations for civilian employees now on duty as well as for applicants for employment. In each instance, the examination should be justifiable on the ground of being necessary to determine if the physical condition of the employee or applicant for employment, such as, for example, physically handicapped persons, is commensurate with or will be aggravated by employment or will jeopardize the safety of the individual or his fellow employees. In each instance, there should be no otherwise available local Government personnel and facilities adequate to perform the particular examination.

23. Section 815.76 is revised to read as follows:

§ 815.76 Physical examinations for special categories of personnel.

Examinations are confined to those required by Air Force or major command directives and examinations considered necessary by the medical facility commander. When physical examinations are beyond the capability of the Air Force medical facility, every effort should be made to have the examination performed by another uniformed services facility. Supplemental care is authorized, when necessary, using funds locally available to the medical facility.

(a) Preemployment and periodic physical examinations may be provided for:

(1) Contract food service employees.

(2) Base exchange employees and base exchange concessionaire employees.

(3) Officer, noncommissioned officer, and service club employees.

(4) Schoolteachers when employed on base or in oversea areas when employed in Armed Forces schools operated by a U.S. military department.

(5) Employees of civilian contractors when employed in a position that requires exposure to occupational hazards, that is, laser energy, toxic substances, etc., to such a degree that special physical examinations are required.

(b) Domestic servants employed by Armed Forces personnel may be given health inspections and immunizations in Air Force medical facilities at Government expense when required by command directives as a condition of employment. In instances outside the United States where health inspections and immunizations are not required as conditions of employment, these services may be provided without charge, upon the request of the sponsor, when the local director of base medical services deems that their provision is in the best interest of the health of the command. Health inspections are performed to insure that communicable disease will not go undetected at an Armed Forces installation. Medical care is not authorized in connection with these health inspections and only those procedures necessary to establish the presence or absence of communicable disease are carried out.

(c) Medical examinations in connection with disability retirement may be furnished civilian employees of all Federal agencies without charge when such examinations are requested by authorized representatives of the U.S. Civil Service Commission.

EXCEPTION: When hospitalization is necessary to the proper conduct of these examinations, subsistence charges will be collected locally from the person concerned. Hospitalization is authorized for diagnostic purposes only, not to correct disqualifying defects.

24. A new § 815.77 is added under Subpart H to read as follows:

§ 815.77 Social Security beneficiaries.

In an emergency, beneficiaries of the Social Security Health Insurance Program for the Aged (Medicare) may be provided hospitalization in Air Force medical treatment facilities within the United States and Puerto Rico. Social Security Medicare benefits are not authorized outside the United States other than in Puerto Rico. Emergency services under Medicare are defined as those services that are necessary to prevent death or serious impairment of the health of the individual, and which, because of the threat to life or health, necessitate the use of the most accessible hospital available that is equipped to furnish such services. Benefit payments under Medicare for emergency services can be made for only that period of time during which the emergency continues. Therefore, when the emergency is terminated and it is permissible from a medical standpoint, the patient should be discharged or transferred to a hospital participating in Medicare. The Social Security Administration local office will be notified as soon as possible after emergency admission of a social security beneficiary. DD Form 7 or 7A will be forwarded to HQ USAF SGHC for central collection at the full reimbursement rate (include Medicare number and home address on the forms).

25. Section 815.80 is revised to read as follows:

§ 815.80 American National Red Cross personnel, their dependents, and other officially recognized welfare workers.

Such persons are authorized medical care subject to applicable conditions indicated below:

(a) *Red Cross personnel.* (1) Uniformed and nonuniformed, full-time, paid professional field and headquarters staff when on duty with a uniformed service.

(2) Uniformed, full-time, paid secretarial and clerical workers on duty outside the continental United States.

(3) Nonuniformed, full-time, paid secretarial and clerical workers on duty in Red Cross offices at installations within the United States, and volunteer workers, uniformed and nonuniformed both within and outside the continental United States. Medical care for these categories of personnel will be limited to care for injuries sustained in the course of performance of their duties at uniformed services facilities.

(b) *Dependents of Red Cross personnel.* Dependents of Red Cross personnel listed in paragraph (a)(1) and (2) of this section are authorized medical care on a space available basis when accompanying their sponsors outside the United States.

(c) *Other officially recognized welfare workers and non-Red Cross volunteer workers.* For injury sustained in the course of performance of their duties at uniformed services facilities.

26. Section 815.82 is amended by revising the introductory text of paragraph (e), adding a sentence to the end of subparagraph (4) of paragraph (e), and adding new paragraphs (f) and (g) to read as follows:

§ 815.82 Alien scientific and technological specialists; employees of commercial airlines; civilian employees of "Cost-Plus-A-Fixed-Fee" contractors; and certain civilians (U.S. citizens) outside CONUS.

* * * * *

(e) The following personnel who assist the oversea commander in accomplishing his mission may be furnished emergency hospitalization and medical treatment. Reimbursement for hospitalization will be obtained whenever the recipient has health or medical insurance which covers the type of medical care provided. Where the recipient has no health or medical insurance coverage, the charge will be for subsistence only. Medical care is not authorized during delays en route except when such delays are for the convenience of the Department of Defense or the Department of State:

* * * * *

(4) Representatives of the United Service Organization, other social agencies, and educational institutions (Exception: Paragraph (f) of this section.)

* * * * *

(f) Hospitalization and medical care on a space available basis may be provided USO professional personnel (oversea area executives, club directors, and associate club directors) and their accompanying dependents without charge (except subsistence which will be collected locally).

(g) Persons listed in paragraphs (e) and (f) of this section may be furnished immunizations prior to departure from CONUS at no charge.

27. Section 815.85 is revised and redesignated to § 815.86 and a new § 815.85 is added to read as follows:

§ 815.85 Claimants whose claims are administered by Federal departments and claimants who are proposed beneficiaries of private relief bills.

(a) *Air Force.* So the nature and extent of the injuries or disabilities claimed may be determined, civilian claimants may be furnished medical examinations and hospitalization incident thereto, without charge except for subsistence, upon written request from the Air Force activity responsible for administering the claim. Subsistence charges will be collected locally.

(b) *Other Federal departments.* So the nature and extent of the injuries or disabilities claimed may be determined, civilian claimants may be furnished medical examinations without charge upon written request from the Federal department responsible for administering the claim. When hospitalization is necessary to the proper conduct of these examinations, DD Form 7 will be forwarded to HQ USAF/SGHCA for reimbursement action.

(c) *Private relief bills.* So the nature and extent of the injuries or disabilities claimed may be determined, claimants who are proposed beneficiaries of private relief bills based on injuries or disabilities allegedly arising from the operation

Privilege Card." Each card will indicate

33. Section 815.100 is revised to read as

outside the Department of Defense, the

level of command by personnel assigned

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of the defense establishment may be furnished medical examinations and hospitalization incident thereto, without charge except for subsistence. Subsistence charges will be collected locally.

§ 815.86 Persons not included elsewhere.

(a) Any person may be admitted to an Air Force medical facility in an emergency upon the approval of the hospital commander or his designated representative (§ 815.3(b)). The full reimbursement rate specified in AFR 168–7 applies and will be collected locally from the individual. If collection cannot be accomplished, accounts should be processed according to AFM 168–4, chapter 10.

(b) Civilian patients hospitalized as a result of natural disaster, as defined in AFM 355–1, will be billed for subsistence only. There will be no charge for outpatient care.

28. Section 815.90 is amended by adding new paragraphs (c), (d), and (e) to read as follows:

§ 815.90 The Secretary of the Air Force and designees.

* * * * *

(c) The Secretary of the Air Force authorizes former Presidents of the United States, and their wives, widows, and minor children to receive medical care in Air Force medical facilities without advance written approval. Medical facilities will immediately notify HQ USAF/SGH of persons treated under this authorization. At the time of treatment, SGH will determine the charges (if any).

(d) The Secretary of the Air Force authorizes active members of the U.S. Senate and of the U.S. House of Representatives (dependents excluded) to receive medical care in Air Force medical facilities without advance written approval. Medical facilities will immediately notify HQ USAF/SGH of persons treated under this authorization. Unless specifically authorized otherwise by the Secretary, the full reimbursement rate or the full outpatient rate, whichever is applicable, will be collected locally from each person.

(e) The Secretary of the Air Force authorizes preadoptive children of active duty and retired members to receive medical care in Air Force medical facilities upon prior application to the medical facility commander and approval of the local staff judge advocate. Care is authorized at the rate charged military dependents.

(1) To apply for medical care as a Secretary of the Air Force designee the sponsor must submit a request to the medical facility commander with the following information:

(i) The name of the prospective adoptee.

(ii) The sponsor's name, rank, social security account number and organization, or address for retirees.

(iii) A notarized, acknowledged, or photostat copy of the legal decree or other instrument issued by a court of law or adoption agency which awarded custody for the purpose of adoption.

(iv) The date of placement and expected date of final adoption.

(v) A statement that no other organization is obligated to furnish medical care for the child.

(2) After the medical facility commander makes his determination as to whether or not the child fits within this class of Secretarial designee, he will indorse the application to the local staff judge advocate for decision. If approved, the application will be so annotated by the staff judge advocate and returned to the medical facility. A copy will be provided to the sponsor and the original retained on file in the medical facility until the adoption is final. It may then be destroyed.

(3) Responsibility for approval will not be delegated below the medical facility commander.

(4) Applications for medical care of foster children, wards, or those under the care of a legal guardian are not considered under this paragraph.

29. Section 815.95 is revised to read as follows:

§ 815.95 North Atlantic Treaty Organization (NATO) personnel in the United States.

(a) Military personnel of the following NATO nations, who in connection with their official duties are stationed in, or passing through the United States, and their dependents residing in the United States with their sponsors may be provided medical and dental care to the same extent and under the same conditions as comparable U.S. military personnel and their dependents: Belgium, Canada, Denmark, France, Federal Republic of Germany, Greece, Iceland, Italy, Luxembourg, Netherlands, Norway, Portugal, Turkey, and United Kingdom. "Official" duties in this instance are not limited to NATO duties. NATO military personnel, and their dependents, in the United States as trainees with military assistance and foreign military sales programs are included in this category, unless otherwise specified by agreement between the United States and the NATO country.

(b) Here, "military personnel" and "civilian personnel" mean:

(1) *Military personnel.* Persons belonging to the land, sea, or air armed services of any State which is a party to the North Atlantic Treaty when in the United States in connection with their official duties.

(2) *Civilian personnel.* Civilian person accompanying military personnel as employees of an armed service of the NATO nation concerned, provided that such civilians are not stateless persons nor nationals of any State which is not a party to the North Atlantic Treaty, nor nationals of, nor ordinarily resident in, the United States. (Medical care for this category is the same as for comparable U.S. civilian personnel.)

(c) Eligible persons stationed in the United States who apply for care will present an appropriate DD Form 1173, "Uniformed Services Identification and Privilege Card." Each card will indicate the services authorized and bear an expiration date. Eligible persons passing through the United States on official duties who require care will present orders or other identification verifying their status.

§ 815.96 [Amended]

30. Section 815.96 is amended by deleting the last sentences of paragraphs (e) and (f).

§ 815.97 [Amended]

31. Section 815.97 is amended by changing the office symbol reference to read "USAF/SGHM."

32. Section 815.98 is revised to read as follows:

§ 815.98 Trainees under the Military Assistance Program (MAP).

Foreign personnel (military or civilian) in the United States or stationed at U.S. Armed Forces installations overseas for training under the MAP may be provided medical care. Medical care from civilian sources may be authorized this category of personnel. Elective medical care, as defined in § 815.2(f), is not authorized. In the rare instance when elective medical care is considered necessary, the complete facts of the case will be transmitted for approval by message to CSAF/SGHM. The notification will include name, grade, country of origin, diagnosis, type of elective medical care, and prognosis.

(a) Transfer between medical facilities of the Armed Forces in the continental United States is authorized when the medical facility to which the person was originally admitted cannot provide required care.

(b) When the hospital commander has determined that a MAP trainee requires medical treatment that will force discontinuance of his training for more than 90 days, the commander of the training facility will be so notified. When it is determined that the trainee is physically or mentally disqualified for further training, the hospital commander will:

(1) Forward information by message to ATC/ACFA with an information copy to CSAF/SMSB. Information will include name, grade, service number, home country, diagnosis, prognosis, expected time and type of disposition, and recommendation on whether return to home country is indicated.

(2) When a trainee is being returned to his home country, ATC/ACFA will request HQ USAF/STPLA to move the patient, with an information copy of request to HQ USAF/SMSB and SAF/USI. Send a copy of the patient's clinical records and all personal effects with the patient.

(c) When dependents of MAP trainees live in the continental United States or on U.S. Armed Forces installations overseas with their principal, they may be provided medical care subject to the availability of space and facilities and the capabilities of the medical staff. Dental care may be provided to the same extent and under the same conditions as for dependents of U.S. military personnel.

33. Section 815.100 is revised to read as follows:

§ 815.100 Movement into the United States to obtain medical care.

(a) Foreign nationals (military or civilian) will not be moved or scheduled for movement into the United States for care in Air Force medical facilities without prior approval of the State Department, the Secretary of the Air Force, and the Chief of Staff, USAF. The responsibility for obtaining diplomatic approval rests with the foreign country concerned.

(b) The request to move a foreign national into the United States to obtain medical care will be processed in the following manner:

(1) The request will be forwarded to HQ USAF/CVAFL, Washington, D.C. 20330 and will include:

(i) Full name and grade of service member.

(ii) The country of which a citizen.

(iii) Results of coordination with chief of the diplomatic mission to the country involved.

(iv) Medical report giving the history, diagnosis, clinical findings, results of diagnostic tests and procedures, and all other pertinent medical information.

(v) Availability of professional skills and adequacy of facilities for treatment in the member's country and oversea Air Force medical facilities.

(vi) Who will assume financial responsibility for costs of transportation and hospitalization.

(2) Upon approval of entry to the United States from the Department of State, the Chief of Staff, USAF, will determine the acceptance of the patient for treatment in an Air Force medical facility. The Surgeon General, USAF, will furnish recommendations on medical aspects of the case based on subdivisions (iv) and (v) of subparagraph (1) of this paragraph and identify the Air Force hospital having capability to provide required care. The Chief of Staff, USAF (STPLA), will task the oversea commander to move the patient to a hospital in the continental United States designated by the Surgeon General, USAF. Complete recoupment for hospitalization and transportation will be indicated. Should the inability to pay for transportation and/or hospitalization become a factor, the Secretary of the Air Force will resolve the matter.

(3) If medical care for a foreign national is approved by the Secretary of the Air Force, it is considered sufficiently important that the need for hospitalization is paramount to all other considerations. Dependents, family members or wives, should not normally accompany the patient unless required as non-medical attendants for care en route or if the attending physician requests their presence. The provisions of hospitalization for a foreign person do not automatically entitle other family members to privileges of the military base, such as base exchange, housing or commissary.

(4) When a case of this nature originates with, or is processed by, an agency outside the Department of Defense, the Defense official transmitting the recommendation or request should include a statement of agreement of the agency involved that any fiscal responsibility in the matter will be borne by the originating agency if necessary.

Subpart L—[Deleted]

34. Subpart L of this part is deleted in its entirety.

(10 U.S.C. 8012, except as otherwise noted)

By Order of the Secretary of the Air Force.

JOHN W. FAHRNEY,
Colonel, U.S. Air Force, Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.72-20535 Filed 11-29-72;8:47 am]

SUBCHAPTER C—PUBLIC RELATIONS

PART 825—AIR FORCE NEWSPAPERS, BASE GUIDES, AND DIRECTORIES

Part 825, Subchapter C of Chapter VII of Title 32 of the Code of Federal Regulations is revised to read as follows:

Sec.
825.1 Purpose.
825.2 Air Force newspaper.
825.3 Authorization to establish newspapers.
825.4 Who is responsible for Air Force newspapers.
825.5 General policies for Air Force newspapers.
825.6 Editorial policies.
825.7 Political campaign news and advertising.
825.8 Official Air Force newspapers.
825.9 Unofficial newspapers, base guides, and yearbooks.
825.10 Appropriated fund newspapers.
825.11 Commercial advertising.
825.12 Printing and production standards for official papers.
825.13 Standards for use of appropriated funds.
825.14 Mailing newspapers.
825.15 Distribution of Air Force newspapers.
825.16 Annual Air Force newspaper contest and awards.
825.17 Air Force News Service (AFNS).
825.18 Office of Information for the Armed Forces (IAF), Department of Defense.

AUTHORITY: The provisions of this Part 825 issued under 10 U.S.C. 8012.

NOTE: Part 806 states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the manuals and regulations that are referenced herein.

§ 825.1 Purpose.

This part prescribes policy and procedures for establishing and publishing Air Force newspapers. It defines and provides guidelines on the relationship of the Air Force to commercial enterprise publications, and describes services provided by the Air Force News Service (AFNS) and the Office of Information for the Armed Forces (IAF).

§ 825.2 Air Force newspaper.

(a) *Definition.* An Air Force newspaper is a publication produced at any level of command by personnel assigned to Offices of Information, or through the cooperation of such an office. Its purpose is to provide Air Force news and information not immediately available from other sources to military and civilian members of the Air Force and their families at specific locations.

(b) *Types of newspapers.* There are two types of Air Force newspapers—official and unofficial. (See §§ 825.8 and 825.9.) Air Force civilian employee newspapers and those published by or for Air National Guard and Air Force Reserve units are considered Air Force newspapers, but publication produced by or for members of the Civil Air Patrol, the AFROTC, and sundry fund activities or private associations such as wives' clubs are not. Opinions expressed in Air Force newspapers do not necessarily reflect the official views of the U.S. Air Force. This will be stated in their mastheads.

(c) *Official newspapers.* These are financed by appropriated or nonappropriated funds. Official newspapers will not carry commercial advertising.

(1) Appropriated fund newspapers are subject to printing and duplicating regulations (AFR 6–1) and certain other limitations outlined in this part. They may be published with appropriated funds when approved by HQ USAF, and when funds are available and programmed by the major command headquarters concerned. (See § 825.10.)

(2) Nonappropriated fund newspapers are subject only to the limitations prescribed in this part and are not subject to printing and duplicating regulations.

(d) *Unofficial newspapers.* These are commercial enterprise newspapers published under written agreement by civilian concerns exclusively in the interest of Air Force personnel of a particular base or organization, at no cost to the U.S. Government. A commercial enterprise newspaper is similar to an official newspaper except as noted in this paragraph.

(e) *News magazine.* The provisions of this part apply to news magazines when they serve as Air Force newspapers and so state in their masthead.

(f) *Comic and feature supplements, base guides, and yearbooks.*

(1) A commercial enterprise comic or feature supplement consists of comic strips, cartoons, and features intended for a military audience. It may be distributed as an insert in official or unofficial newspaper provided requirements of this part are met.

(2) A commercial enterprise base guide or directory, usually published annually, is a guide or directory to an Air Force installation and adjacent community and geographical area. It is published without cost to the U.S. Government.

(3) Yearbooks are memento-type publications which, through the use of photographs and narrative, describe the makeup of a particular organization. They are commercial enterprise publications which are supported from advertising revenue and/or purchase of the book by individual members of organizations concerned. Distribution through official

of individual Air Force newspapers, the

of the photographer may be used in a

(c) Only one official base newspaper

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channels is not authorized, except as required for review and/or approval.

§ 825.3 Authorization to establish newspapers.

(a) *Funding the newspaper.* Air Force organizations and installations are authorized and encouraged to establish and maintain newspapers as stated in this part. Appropriated or nonappropriated funds may be used to publish a newspaper when this need cannot be met by an unofficial commercial enterprise newspaper published at no cost to the U.S. Government. Appropriated fund expenditures are authorized to support the Air Force Internal Information program.

(b) *Allocation of funds.* Appropriated and nonappropriated funds will not be mixed to pay the costs of publishing any one issue of a newspaper. However, appropriated and nonappropriated funds may be combined to cover the overall annual costs of publishing a newspaper, as long as they are used to separately fund specific issues of the newspaper. For example, the first 40 issues of a newspaper could be supported by appropriated funds and the remaining 12 from nonappropriated funds, or in any other similar combination.

(c) *Commercial enterprise newspaper costs.* Appropriated funds may not be used to pay any part of the costs of publishing a commercial enterprise newspaper. Costs involved in the preparation and delivery of copy to a commercial enterprise newspaper are those incurred in the normal functions of an Information office, and are not costs connected with the publishing of a newspaper.

(d) *Use of Air Force personnel.* Military and civilian personnel paid from appropriated funds may serve in any editorial capacity for official Air Force newspapers supported by appropriated or nonappropriated funds.

(e) *Use of inserts.* An official paper will not be distributed as an insert in a commercial enterprise newspaper; nor will a commercial enterprise newspaper be distributed as an insert in an official paper. However, a commercial enterprise comic or feature supplement with commercial advertising may be distributed as an insert in an official newspaper provided:

(1) Fair and equal opportunity is provided for responsible persons or organizations to compete for the privilege as provided in § 825.9(c).

(2) The front page of the supplement carries a statement as required in § 825.9(k)(4), and each succeeding page carries a statement in similar type, to the effect that the appearance of commercial advertisements in the supplement does not constitute Department of the Air Force endorsement of the products or services advertised.

(f) *Purchasing Air Force newspapers.* Nonappropriated funds may be used to buy copies of commercial enterprise base newspapers for distribution to Air Force personnel when the commander feels there is insufficient revenue from other sources to make this type of publication feasible. (See § 825.5(c)(3).)

§ 825.4 Who is responsible for Air Force newspapers.

(a) The Director of Information, Office of the Secretary of the Air Force (OSAF), will exercise general supervision over Air Force newspapers and other publications covered in this part in keeping with policies established by the Secretary of the Air Force.

(b) Commanders of major commands are responsible for administrative support and financing of official newspapers, and for approving and monitoring Air Force newspapers, base guides, directories, and yearbooks published in their commands. They will establish procedures for reviewing issues of base newspapers to insure compliance with Air Force standards and directives, and review and maintain a current file of agreements between comanders and publishers of commercial enterprise base newspapers and base guides to insure compliance with Air Force directives.

(c) Base commanders will supervise Air Force newspapers published in their commands and monitor commercial enterprise publications with which they have agreements to insure compliance with Air Force and major command policies and directives.

§ 825.5 General policies for Air Force newspapers.

(a) The intent of this part is to insure that the military and civilian personnel on each Air Force base or installation be served by an Air Force newspaper. The content of the newspaper will provide for equitable consideration of both host and tenant units, and will serve the mutual interest of all military and civilian personnel and their dependents at the installation. Normally, it is not practicable for an installation of fewer than 500 assigned military and civilian personnel to publish a newspaper. Meeting the newspaper needs of such small organizations should be the responsibility of their parent organizations. However, this part does not prohibit the commander of a small organization from publishing a newspaper or unit news sheet from within the unit resources.

(b) The functions of an Air Force newspaper are to increase knowledge and understanding of the Air Force by providing detailed coverage of information of interest and value to Air Force personnel, and to afford the commander an Internal Information channel through which he may provide information on subjects of particular benefit to the Air Force, the commander, intermediate echelons, and his unit.

(c) The following priority sequence for meeting the costs of publishing a newspaper will be followed:

(1) Commanders should first try to satisfy newspaper requirements through the use of commercial enterprise publications.

(2) Where the commercial enterprise method is not feasible, commanders are authorized appropriated fund expenditures to publish Air Force newspapers.

(3) When the above methods of publishing a newspaper are not adequate, nonappropriated funds may be requested locally.

(d) Normally, Air Force newspapers will be issued once a week. However, publication once every two weeks or monthly is authorized if considered by the commander to be in the best interest of the organization.

(e) Air Force newspapers will be classified as follows:

(1) Class 1—Newspapers printed for bases having a total population of fewer than 1,000 military and civilian personnel.

(2) Class 2—Newspapers printed for bases having a total population of between 1,000 and 5,000 military and civilian personnel.

(3) Class 3—Newspapers printed for bases having a total population of between 5,000 and 10,000 military and civilian personnel.

(4) Class 4—Newspapers printed for bases having a total population in excess of 10,000 military and civilian personnel.

(5) Class 5—Command newspapers serving more than one base. This is a special classification established for U.S. Air Force newspaper contest purposes only. Bases which share common support facilities and are separated by a distance of 25 miles or less will not be considered separate bases for the purpose of determining this classification. (The term "civilian personnel" includes classified civilian employees, Department of the Air Force employees, indigenous employees, and employees paid from nonappropriated funds.)

(f) Newspaper publication activities are assigned to the organization's Office of Information, except for those published by dependents' organizations, open messes, and similar groups. The latter should be provided with advice, assistance, and news releases.

(g) The principles of operation of official newspapers are comparable to those governing civilian commercial newspapers published in the United States. Commanders occupy a status comparable to that of civilian publishers and are responsible for the publication of newspapers within their commands.

§ 825.6 Editorial policies.

Every effort will be made to provide information which is compatible with the concept of the Air Force newspaper as the house organ of the commander and to further Air Force objectives. However, overemphasis on management subjects to the exclusion of entertainment will inevitably result in loss of reading audience and negate the newspaper's purpose. A judicious balance is essential in all Air Force newspapers. The selection and writing of news and other articles will be governed by the following general policies:

(a) News coverage will be as complete as practicable. The writing should be factual, objective, and as timely as possible. Articles should be based on reports provided by members of the staffs

of individual Air Force newspapers, the Air Force News Service (AFNS), command news services, the American Forces Press Service (AFPS), official releases, and commercial press associations (where authority to use them exists).

(b) Editorial and news policies of Air Force newspapers will serve to increase knowledge and understanding of the Air Force. There must be no appeal to emotions detrimental to either the interests of the Nation or any Government agency.

(c) Newspapers will distinguish between facts and opinions which may be part of a news story. When opinion is expressed, the person or source will be identified.

(d) Editorial opinion will be identified as such. Editorials originated locally will reflect the policies of the commander and be directed to the interest and welfare of the Air Force.

(e) Newspapers are subject to the security regulations governing Air Force activities.

(f) Editors will conform to the principles of good taste, the laws governing libel and copyright, printing and postal regulations (see § 825.14), and policies of the Air Force. Care should be taken when using material on ideological subjects, world affairs, U.S. foreign policy, and nuclear weapons and missiles to insure the material is consistent with national policy.

(g) Orders and directives will be treated according to their straight news value or departmentalized as official documents published for the information of all concerned.

(h) News on base exchanges and commissaries will be governed by guidelines set forth in AFR 147–7. In no case will comparisons be made of prices, goods, and services available to service personnel through base exchanges and commissaries in contrast to those available on the civilian economy.

(i) Labor union news which might provoke controversy, that is, editorial endorsement or criticism of union actions, recruiting, or discouraging union membership should be avoided.

(j) Book reviews may be used if written objectively so there is no implication of endorsement by the Department of the Air Force or any element of the Department of Defense.

(k) Air Force newspapers may provide space for free and noncommercial listing of personal property or services offered by, and for the convenience of, local base or unit personnel without regard to race, creed, color or national origin.

(l) All Air Force newspapers will carry a front page dateline which includes the volume and issue number, geographical location of the installation (if not prohibited by security limitations) and issue date.

(m) Air Force photographs will carry the credit line "U.S. Air Force Photo." Credit may be given a photographer by name, grade, and editorial position in an official newspaper. The name and grade of the photographer may be used in a commercial enterprise newspaper if there is no inference he is a member of the staff.

(n) AFP 190–42, Armed Forces Newspaper Guide and AFP 190–38, Armed Forces News Style Guide, will be used as the official guides for publishing base newspapers.

§ 825.7 Political campaign news and advertising.

(a) Air Force newspapers published in the 50 States will not contain political campaign news, since this news generally is available in local civilian newspapers. However, it is appropriate for the Air Force to make sufficient current campaign information available to personnel stationed outside the United States to enable them to understand the political scene and vote intelligently. Political campaign news coverage will be governed by the following policies.

(1) Air Force newspapers, news sheets, or news bulletins published in oversea commands where civilian-published, English-language newspapers generally are not available may include factual political campaign news obtained from commercial news services.

(2) Presentation of political campaign news in Air Force newspapers should be impartial and nonpartisan. Great care will be exercised in maintaining a well-balanced handling of materials by, about, or originating from opposing parties or candidates.

(3) Air Force newspapers will not contain editorials dealing with candidates or issues and will not include editorial comments, criticism, analyses, or interpretations of political campaign news.

(4) Air Force newspapers will carry information during election years about voting laws of the various States and territories and editorials supporting the Federal Voting Assistance program. They may also carry nonpartisan appeals from national leaders for military personnel and their dependents to study candidates and issues and then exercise their right to vote.

(5) No Air Force newspaper will conduct a political opinion poll, survey, or straw vote. Commanders entering into an agreement with a civilian enterprise publisher will insure that such a restriction is part of the written agreement.

(6) Political advertisements will not be carried in Air Force newspapers.

§ 825.8 Official Air Force newspapers.

(a) Official newspapers will contain no commercial advertisements inserted by, or on behalf of any private individual, firm, or corporation; neither will they contain any material which implies that any military department or the Department of Defense endorses or favors a specific commercial product, commodity or service.

(b) Official newspapers will not subscribe, even without cost, to commercial or feature wire services whose primary purpose is the advertisement or promotion of commercial products, commodities, or services.

(c) Only one official base newspaper will be published to serve the total personnel of an installation.

(d) The statement of publication masthead of official Air Force newspapers will be easily identifiable and will include the names of the officer in charge, editor, members of the editorial staff, and the following statement:

> The (name of the newspaper) is an official Class (1, 2, 3, 4, as defined in this part) Air Force newspaper, published (frequency of publication), on (day of week or, in the case of a monthly or semimonthly, the actual date) for the personnel of (name of Air Force installation), (name of major air command) at (name of geographical location, if not prohibited by security limitations, and post office address). Opinions expressed herein do not necessarily represent those of the U.S. Air Force.

§ 825.9 Unofficial newspapers, base guides, and yearbooks.

(a) Commanders are authorized to enter into agreements for commercial enterprise publications for dissemination of Air Force news to units under their command.

(b) Commercial enterprise publications printed under such agreements may be distributed through official channels without cost to the publisher, provided this will not require additional expenditures of appropriated funds. With the concurrence of the commander concerned, the publisher of such a commercial enterprise publication may arrange for direct distribution to intended Air Force readers.

(c) In selecting a commercial enterprise publication for distribution within his control, each commander will afford a fair and equal opportunity to any responsible bidder who may wish to submit a proposal to publish such a publication. The best obtainable offer and price per copy, if any, will be considered if a charge from nonappropriated funds is expected. The contract period will be for a period not in excess of 2 years.

(d) A commander may afford the opportunity to reputable publishers to sell or give away publications at the activity he commands, except as provided by AFR 35–15, but such publications may not be distributed through official channels nor direct distribution to intended readership be made without his concurrence.

(e) A military installation will be limited to one commercial enterprise publication in each category, except that a commercial enterprise newspaper may carry as an insert or separate inserts, comic and/or feature supplements.

(f) Installations having selected commercial enterprise publications for distribution to Air Force personnel will maintain current written agreements with the civilian publisher. (Part 835 of this subchapter.) Such agreements are drawn up by the base commander and the civilian publisher. Copies of these agreements will be forwarded for file to major commands concerned.

(g) A separate agreement is not required for a commercial enterprise comic or feature supplement intended for distribution with a commercial enterprise

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newspaper if the contract with the newspaper publisher stipulates that any such supplements will have the prior approval of the commander.

(h) Complaints of the commander or information officer concerning the publication or distribution of an unofficial commercial enterprise publication will be sent in writing to the publisher with an information copy forwarded through channels to Secretary of the Air Force (SAFOIIB), Washington, DC 20330. Also major commands and SAFOIIB will be informed in advance whenever a commercial enterprise publication agreement is terminated before the full term of the agreement. Reasons for action will be stated in full.

(i) Before signing an agreement for a commercial enterprise publication, a commander will assure the competence, reliability, and responsibility of the prospective publisher.

(j) The content of a commercial enterprise publication is not subject to military control. However, the commander responsible for the agreement with the civilian publisher may suggest the positioning of editorial matter and military photographs within the newspaper. In addition, he has the authority and responsibility to prohibit circulation within his command of any issue of the newspaper he considers unlawful or prejudicial to good order and discipline. He also has the responsibility and authority to prohibit the distribution of a commercial enterprise publication carrying an advertisement which he determines would not be in the best interest of his command. Commanders should acquaint publishers with whom they have a distribution agreement with these criteria to avoid the acceptance of advertising which would be detrimental to the accomplishment of the military mission or in any way imply condonement of or indorsement of such activity. When such a ban is invoked the commander will give written notice to the publisher informing him of such action, and stating what he must do to have the prohibition lifted. SAFOIIB will be informed as directed in paragraph (h) of this section.

(k) A commander who authorizes distribution of a commercial enterprise publication within his command will insure that the following practices are observed:

(1) A commercial enterprise publication will not state that it is an official publication of the Air Force, nor use the name, seal, insignia, or emblem of the Air Force, command, base, or unit in any manner that might imply it is an official Air Force publication. The name of the base will not be included in the dateline of a commercial enterprise newspaper but may appear in the flag if the words "Air Force Base" or "AFB" are not included.

(2) Air Force military personnel on extended active duty and Air Force civilian personnel may not serve on the editorial staff of a commercial enterprise publication or authorize their names to be carried in its masthead. This policy does not prohibit news releases through normal channels, nor does it prohibit contributions by military and civilian personnel or articles or military photographs, with bylines, to commercial enterprise publications without reimbursement. No editorial title may be attached to the byline, and the material cannot imply that the author has an official position on the publication.

(3) All news and information made available by the Air Force to a commercial enterprise publication will be made available equally to any other publisher who requests it.

(4) The title masthead of commercial enterprise newspapers should be easily identifiable and should include the name of the newspaper, the volume and issue number, the geographical location of the installation (if not prohibited by security limitations), and the day of the week published. The following statement in 8-point bold, if available, but in any case no smaller than the main body type, will be printed on the front page or cover of each commercial enterprise newspaper, supplement or insert.

> The (name) is an unofficial newspaper published (frequency of publication) in the interest of personnel at (name of Air Force installation) of (major command). It is published by (name of publisher), a private firm (or individual), in no way connected with the Department of the Air Force. Opinions expressed by publishers and writers are their own and are not to be considered an official expression by the Department of the Air Force. The appearance of advertisements, including supplements and inserts, in this publication does not constitute an endorsement by the Department of the Air Force of products or services advertised.

(l) The front cover of a commercial enterprise base guide or directory will carry the name of the civilian publisher prominently just above the disclaimer. The word "guide" or "directory," which appears on the front page or cover, will be preceded by "unofficial" in type at least as large as that in which the word "guide" or "directory" is printed. The format for the guide or directory will be designed so that the publication cannot be mistaken for an official guide or directory. The following statements are required on the front cover of each unofficial directory or base guide:

> Published by (name of publisher), a private firm (or individual), in no way connected with the Department of (insert appropriate military department). Opinions expressed by the publishers and writers herein are their own and are not to be considered an official expression by the Department of (insert appropriate military department). The appearance of advertisements in this publication does not constitute an endorsement by the Department of (insert appropriate military department) of the products or services advertised.
>
> NOTE: If the standard (or similar) format for an unofficial directory, or base guide is used for a civilian enterprise area guide, any neighboring city, town, or area may salute a military activity. In the title on the front cover, the name of the military activity shall be subordinate to that of the city, town, or area. On the inside front cover or just after the title page, the guide may carry pictures of the city, town, or area officials, along with messages from them to base or post personnel and visitors. On subsequent pages the guide may carry pictures of military officials. These may be accompanied by biographical information but not by messages from these officials.

(m) In addition to the conditions previously set forth in this part, the agreement between the commander and the publisher of the guide or directory will include the following:

(1) No organizational charts or listings of the command will be included in the publication.

(2) The publication will not contain the base telephone numbers of personnel, or organizational elements, or the home addresses and telephone numbers of personnel. At the discretion of the base commander, emergency and service numbers, that is, hospital, security police, fire, etc., and an alphabetical listing of personnel may be included.

(3) On one of the inside pages, the publication date (month and year) and the publisher's name, permanent address, and telephone number will be shown plainly.

(4) Neither the name of the installation, organization, nor a military post office address, may be included in the publisher's letterhead or mailing address.

(5) Reference to base exchanges and commissaries in guides or directories will contain only the location and hours of operation.

(n) Base or equivalent commanders concerned may authorize publication of base or organization unofficial yearbooks provided they do not contain information determined to be of possible value to a potential enemy. Types of such information include, but are not limited to:

(1) Detailed biographical data of other than key personnel.

(2) Information on special combat equipment.

(3) Detailed manning and specialties of key combat and support units.

(4) Other detailed air order of battle data.

§ 825.10 Appropriated fund newspapers.

(a) To establish an appropriated fund newspaper or to convert a civilian enterprise or nonappropriated fund newspaper to one using appropriated funds, the major command concerned must first obtain approval of the Secretary of the Air Force.

(b) An activity must have more than 500 total military and civilian employees to be eligible for an appropriated fund newspaper. The publication will also be governed by the following:

(1) A ratio of one copy to each three members of the total complement is the maximum number of newspapers which will normally be approved. If a greater number of copies is necessary to carry out the newspaper's function, specific and conclusive justification must be submitted with the annual requests for appropriated funds.

(2) Appropriated funds may be used for special expanded issues for such occasions as Armed Forces Day, Easter, Thanksgiving, and Christmas. (See § 825.13.) Annual printing budget requests will cover the costs of these special issues and be made concurrently with other budget requests.

(3) Air Force appropriated fund newspapers are items of printing, and appropriated printing funds will be cited for the cost of contracts for printing services.

(4) Commanders are authorized to contract for newspapers on an annual fiscal year basis.

(5) The commercial enterprise method of publishing a base newspaper should be reexplored prior to renewing printing contracts for appropriated fund papers already established.

§ 825.11 Commercial advertising.

(a) To be acceptable for on-base distribution through official channels, no advertising in commercial enterprise publications shall be worded or phrased to give the reader the impression that the Air Force in any way endorses, guarantees, or sponsors any product or service. Advertisements will not be carried that imply discrimination against any person because of race, religion, national origin, or sex.

(b) The publisher of a civilian enterprise publication will be requested to place his readers and advertisers on notice of the requirements listed above by prominently displaying in an appropriate location of the publication the following statement:

> Everything advertised in this publication must be made available for purchase, use or patronage without regard to the race, creed, color, national origin, or sex of the purchaser, user, or patron. A confirmed violation or rejection of this policy of equal opportunities by an advertiser will result in the refusal to print advertising from that source.

(c) Advertisements which appear to be editorials or news stories may be confused as such by readers and should be clearly labeled, top and bottom, as advertisements in a type size equal to text type or larger.

(d) Advertisers will be requested by the publisher to observe the highest business ethics and applicable laws in describing goods, services and commodities, and the terms of sale, including guarantees, warranties, etc. If credit terms are offered in such advertisements, a clear statement of the total cash price as well as the total cost of credit, including all charges, should be shown clearly in the company's advertisements. If time payments are shown, the number of payments, the amount of each, and the time period should also be shown in order that the reader can easily compute the dollar cost of the loan.

(e) Active-duty Air Force military and civilian personnel are prohibited from soliciting or endorsing advertisements carried in commercial enterprise publications.

(f) Copy or art provided by the Department of Defense or the Air Force may not be used in commercial advertisements to promote the sale of goods or services offered by the advertiser, except as provided by Part 837 of this subchapter.

(g) The unofficial nature of the commercial enterprise publication will be made plain to every person or firm solicited for advertising. Any brochure or letter from the publisher to a prospective advertiser must make this clear.

(h) Advertisements must conform to the principles of good taste, and the amount of space in each issue used for advertisements must not detract from the primary purpose of the publication which is to provide news and information of particular interest to Air Force military and civilian personnel.

(i) The monthly ratio of advertising copy to news copy in commercial enterprise base newspapers should average:

(1) 4–8-page newspaper, 50 percent advertisements.

(2) 12–16-page newspaper, 55 percent advertisements.

(3) 20–24-page newspaper, 60 percent advertisements.

(4) More than 24-page newspaper, 65 percent advertisements.

§ 825.12 Printing and production standards for official papers.

Official Air Force newspapers will be printed commercially, except in locations where commercial sources are not available. At these locations, Air Force printing plants or duplicating activities may be used if existing production facilities are adequate to provide for newspaper production in addition to all official business.

(a) The following weekly maximum allowances for paper are established for official Air Force newspapers:

Class newspaper:	Total paper allowance per copy (square inches per week)
1	374
2	748
3	1,496
4	2,992

Newspapers issued twice monthly may increase their paper allowance in proportion to the weekly allowance. For example, a Class 1 newspaper issued twice a month may have a paper allowance of 748 square inches. To meet local printing and paper problems, newspapers may use various page sizes so long as they remain within the maximum limit of paper allowance authorized for their classification.

(b) Specifications prepared for printing official Air Force newspapers will be written to obtain maximum economy consistent with the needs of the Air Force. The following Congressional Joint Committee on Printing (JCP) standards will be used when specifying paper stocks for official Air Force newspapers.

(1) Paper produced by letterpress will be printed on standard newsprint, natural shade, not to exceed 64-pound stock (weight basis 24×36"—1,000) as specified in JCP Specification A10.

(2) Paper produced by the offset process will be printed on offset book, not to exceed 100-pound stock (weight basis 25×38"—1,000), as specified in JCP Specification A60.

(c) The use of illustrations is encouraged, but their use will not exceed 50 percent of the total weekly space allowance. Illustrations or material supplied without cost to the newspaper in matrix or photographic form are not chargeable against the illustration space limitation.

§ 825.13 Standards for use of appropriated funds.

(a) In addition to those standards prescribed in § 825.12, all Air Force newspapers printed from appropriated funds are subject to the following: Air Force newspapers printed from appropriated funds will be limited to one color (black), except that a maximum of four issues per year may be published in one additional color for Easter, Thanksgiving, Christmas, Armed Forces Day, or similar occasions. Such special issues may be printed with one additional color as an overprint, a separately printed cover, or on a double-page center section. Black is considered a color when determining the use of two colors in Air Force newspapers.

(b) Armed Forces Day issues may be printed in twice the normal number of pages and three times the normal number of copies. Any combination of these limits is permissible. For example, an issue may have the normal number of pages and be published in six times the number of copies.

§ 825.14 Mailing newspapers.

(a) Air Force newspapers containing no commercial advertising may be mailed under the "Postage and Fees Paid" indicia (AFR 182–15). Newspapers not meeting these criteria are authorized for mailing to addresses in § 825.15, and to U.S. Government addressees who need to receive copies for operational purposes. Newspapers sent through the mails must be folded (not rolled, stapled, or taped) and enclosed in an envelope or wrapper.

(b) Air Force newspapers transmitted through the mails will conform to the provisions of section 1302 of Title 18, The United States Code. Specifically, newspapers will avoid mention of lotteries or games of chance of any kind. The penalties for mailing newspapers containing such information call for fines up to $1,000 or 2 years' imprisonment.

(c) When mailing newspapers, consider both needed speed of delivery and economy in determining the type of service used. For example, airmail should not be used when military official mail or first-class service would provide delivery to addressee within acceptable time limits. Personnel making the determination should:

(1) Be aware of transit times and costs of moving various classes of mail (AFM 10–5).

(2) Carefully weigh the timely news value against cost of mailing.

(3) Monitor the mailing to insure the appropriate type of mail service is being

By order of the Secretary of the Air

Subpart E—Appointment of Chaplains

§ 831.2 Duration of appointment.

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used and that newspapers are properly packed and addressed.

§ 825.15 Distribution of Air Force newspapers.

(a) Issues of each Air Force newspaper will be distributed on its publication date as follows:

(1) One copy only to: Secretary of the Air Force (SAFOIIB), Washington, D.C. 20330.

(2) If subscribing to American Forces Press Service, two copies to: American Forces Press Service, 1117 North 19th Street, Arlington, VA 22209.

(b) Newspaper distribution lists will exclude persons or organizations not affiliated with the base of origin and those without official interest in the publication. Exception may be made when a written request is received, and when it is determined to be in the best interest of the Air Force to include the requester on the distribution list. Copies of such requests will be kept on file.

(c) Newspaper distribution lists will be revised at least once a year to insure they are up to date and accurate.

(d) All requests for Air Force newspapers by individuals or organizations unrecognized by the base information officer or the commander as having legitimate requirement will be forwarded for action to Secretary of the Air Force (SAFOIIB), Washington, D.C. 20330.

(e) A central office (HQ USAF (AFCVFB)) has been established by the U.S. Air Force to handle requests made by foreign diplomatic missions or attachés for Air Force newspapers.

§ 825.16 Annual Air Force newspaper contest and awards.

(a) *Period covered.* The contest is an annual worldwide competition among Air Force newspapers published under the provisions of this part. Contest periods are from January 1 through December 31. Awards recognize newspaper effectiveness.

(b) *Awards for best newspapers.* (1) Awards for official and commercial enterprise papers consist of plaques for first-, second-, and third-place winners in each of five classes in each category. The plaques, for permanent retention by the winning newspaper, will bear signatures of the Secretary of the Air Force, Chief of Staff, and Director of Information. Funding for the plaques will be from appropriated funds.

(2) The Chief of Staff presents the plaques to editors or representatives of official and commercial enterprise newspapers winning first place. This ceremony takes place in the Pentagon shortly after announcement of the judges' decisions (usually in mid-February).

(3) Second- and third-place plaques are mailed to major commands.

(c) *Who is eligible.* (1) Air Force newspapers in all classes are eligible to compete provided they meet the requirements stated in this part.

(2) Newspapers must have been in continuous publication for at least 6 months of the contest year.

§ 825.17 Air Force News Service (AFNS).

AFNS is an activity of the Office of Information, Office of the Secretary of the Air Force. Though use of AFNS is not mandatory, information officers and editors are urged to give it maximum use. AFNS material is prepared and produced with careful attention to the support of Air Force objectives.

(a) *Services provided.* (1) Air Force news emanating from HQ USAF is mailed weekly, direct to all Air Force newspapers. In addition, AFNS provides news stories on major command activities, feature stories and editorials, a photo service, and articles of interest to wives. Coverage includes information on national events having important Air Force aspects, Air Staff actions of general interest (including personnel matters, housing, regulations, and policies), and material explaining basic Air Force missions and doctrines. Coverage does not include general world or national news, but may include articles or editorials on world affairs of special significance to Air Force members. Periodically, AFNS contains Editor's Notebook, a special feature carrying advice, suggestions, and Air Force newspaper policy for editors. Attention is directed to subjects of top priority in the Air Force and means of developing stories at the local level. Special critiques are available upon request.

(2) News of greatest importance is electrically transmitted to major commands for retransmittal to base editors.

(b) *Who may receive AFNS material.* All newspapers published by or for Air Force personnel are eligible to receive material prepared by AFNS. AFNS will be furnished to commercial enterprise newspapers only through the base information officer concerned. Forward requests for AFNS distribution to: Secretary of the Air Force (SAFOIIB), Washington, D.C. 20330.

(c) *Use of AFNS material.* (1) Normally, AFNS provides material of primary interest to Air Force newspapers. However, the information in AFNS material can and should have a wider use than distribution solely through newspapers. Information officers should examine each AFNS mailing for wider application and use through such media as Air Force radio and television stations, daily bulletins, Commander's Call programs, bulletin boards, etc.

(2) Material of interest to Air Force wives should be passed on by the information officer to the editor of the base wives' club publication, whether the material is used in the base newspaper or not.

(3) Editors are encouraged to rewrite AFNS material to adapt it more closely to the interest of the installation audience, through the use of localized leads and additional local information. Use of AFNS credit lines is encouraged.

(4) Commands may establish news services to provide information of specific interest to command personnel, but such services will not duplicate material provided by AFNS.

§ 825.18 Office of Information for the Armed Forces (IAF), Department of Defense.

(a) *Services provided.* Upon request, this office provides the following press materials and services to Air Force newspapers.

(1) *American Forces Press Service.* A clipsheet, published weekly, carrying text and art which may be included in Air Force newspapers. Illustrations appearing in the press service are provided upon request in matrix form for letterpress newspapers; in electronically cut stencils for mimeograph newspapers; and in preprinted paper masters for multilith-duplicated newspapers. Photo-offset newspapers may use the illustrations as they appear in the press service.

(2) *Commanders Digest.* A publication containing Department of Defense policies, and seat-of-government news and information. Reproduction of contents is authorized.

(3) *Galley Guide.* Published monthly and distributed with the press service as a service to editors of Air Force newspapers. Contains news and professional notes of interest to staff members of Air Force newspapers.

(4) *Armed Forces Newspaper Guide.* A manual for personnel performing editorial duties on Air Force newspapers.

(5) *Armed Forces News Style Guide.* A guide designed to help Air Force newspaper staffs standardize their style by providing guidance on such matters as abbreviations, punctuation, and spelling.

(6) *Advice to Editors.* Advice concerning the organization and operation of service newspapers and detailed critiques of individual Air Force newspapers are available upon request.

(b) *Who may receive IAF material.* (1) All Air Force newspapers are eligible to receive material prepared by IAF. However, a commercial enterprise newspaper should be serviced with IAF material through the information officer of the installation it serves. Commercial enterprise newspapers may not use copyrighted material without approval.

(2) Nonpublishing activities may be provided with IAF press material upon written justification of their need for the service.

(c) *Use of IAF materials.* (1) Materials may be edited or revised by editors of Air Force newspapers as required by newspaper space limitations or as advisable for local appeal.

(2) Material will not be used in commercial advertising in any newspaper.

(d) *Department of Defense awards.* The Assistant Secretary of Defense (Manpower and Reserve Affairs) will make annual Department of Defense Thomas Jefferson awards to newspapers of active military units or installations for professional excellence and outstanding achievements in the accomplishment of their mission. Such awards for Air Force newspapers will be based on nominations submitted by the Department of the Air Force.

By order of the Secretary of the Air Force.

JOHN W. FAHRNEY,
Colonel, U.S. Air Force, Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.72-20534 Filed 11-29-72;8:47 am]

SUBCHAPTER I—MILITARY PERSONNEL

PART 881—APPOINTMENT IN COMMISSIONED GRADES—RESERVE OF THE AIR FORCE AND UNITED STATES AIR FORCE (TEMPORARY)

Subchapter I of Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

Part 881 is revised to read as follows:

Subpart A—General

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881.1 Purpose.
881.1a Statutory authority.
881.2 Duration of appointment.
881.3 Temporary appointments.
881.4 Responsibility.
881.5 Procurement objectives.

Subpart B—Eligibility Requirements

881.10 Who may apply for appointment.
881.11 Who is ineligible for appointment.
881.12 Former and reserve officers.
881.12a Former officers of the regular Air Force.
881.12b Former officers of any of the services.
881.12c Reserve officers of other Armed Forces of the United States.
881.12d Former rated officers
881.13 Officer training school and AFROTC graduates
881.14 Appointment as a ResAF
881.14a Appointment as a ResAF officer for assignment to the retired reserve and placement of name on the U.S. Air Force reserve retired list.
881.14b Appointment as a ResAF upon removal from the temporary disability retired list (TDRL)
881.14c Posthumous appointments
881.14d Appointment of USAFR airmen not on EAD as ResAF officers.
881.15 Appointment for immediate entry on active duty.
881.16 Eligibility requirements.
881.16a How to determine grade.
881.16b Award of constructive service.
881.16c Computing and recording total years service date (TYSD), promotion service date (PSD), and total Federal commissioned service date (TFCSD).
881.16d U.S. Air Force (temporary) appointments

Subpart C—Application and Processing Procedures

881.20 How to apply.
881.21 Processing applications to Air Force Academy and aircrew examining centers.
881.22 Duties of the examining centers.
881.23 Selection of applicants.
881.24 Personnel security investigations.
881.25 Appointing and notifying appointees.

Subpart D—Appointment of Judge Advocate Officers

881.30 Submitting applications.
881.31 Professional qualifications.
881.32 Appointment and reappointment.

Subpart E—Appointment of Chaplains

Sec.
881.40 Application for the Air Force chaplaincy.
881.41 Compensatory professional considerations.
881.42 Ecclesiastical indorsement.
881.43 The chaplain candidate program.

Subpart F—Appointment of Physicians, Dentists, Veterinarians, and Nurses

881.50 How to apply.
881.51 General qualifications for appointment.
881.52 Doctors of medicine.
881.53 Doctors of osteopathy.
881.54 Doctors of dentistry.
881.55 Criteria for appointment of doctors of medicine, osteopathy, and dentistry to grades above first lieutenant.
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881.75 Pharmacy officer (AFSC 9241).
881.76 Optometry officer (AFSC 9251).
881.77 Bioenvironmental engineer (AFSC 9122).
881.78 Medical entomologist (AFSC 9131).
881.79 Biomedical laboratory officer (AFSC 9151).
881.80 Aerospace physiologist (AFSC 9161).
881.81 Health physicist (AFSC 9171).
881.82 Clinical psychologist (AFSC 9181).
881.83 Social worker (AFSC 9191).
881.84 Biomedical therapist (AFSC 9261).

AUTHORITY: The provisions of this Part 881 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012; 10 U.S.C. 591, 593, 8067, 8353, 8358, 8359 and 8444, except as otherwise noted.

NOTE: Part 806 states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the manuals and regulations that are referenced herein.

Subpart A—General

§ 881.1 Purpose.

This part states the policies and procedures governing the direct appointment of commissioned officers as Reserves of the U.S. Air Force or as commissioned officers in the U.S. Air Force. It explains the method of application, eligibility requirements, and where to apply for appointment.

§ 881.1a Statutory authority.

The statutory authority for appointments tendered according to this part is contained in sections 591, 593, 1211, 8067, 8353, 8358, 8359, 8444, and 9411 and chapter 103, 10 U.S.C.

§ 881.2 Duration of appointment.

All Reserve of the Air Force (ResAF) appointments are for an indefinite term. All U.S. Air Force (temporary) appointments effected during a war or national emergency will continue for the duration of such war and for 6 months thereafter, unless sooner terminated.

§ 881.3 Temporary appointments.

(a) Appointments in the U.S. Air Force without component (temporary) will be made only according to special instructions issued by HQ USAF, except as stated in paragraph (b) of this section.

(b) Physicians and dentists who are resident aliens or conscientious objectors normally do not qualify for Reserve appointments; however, such persons who have a liability for training and service under the Military Selective Service Act of 1967 may be appointed, if otherwise qualified, as follows:

(1) Applicants who are 26 years of age or over at time of appointment will be tendered temporary appointments in grades specified in § 881.16a(c)(1). Temporary appointments made under this authority terminate upon appointee's release from active duty.

(2) Applicants, including participants in the Armed Forces Physicians' Appointment and Residency Consideration program, Berry plan, who must be appointed on a date that will require acceptance of commission before age 26 will be initially tendered Reserve appointments. The provisions of §§ 881.16(f) and 881.16(b) are waived in this instance.

(3) Noncitizen applicants must possess a valid Form I-151, Immigration and Naturalization Service, INS Alien Registration Receipt Card, which may be obtained from the local Immigration and Naturalization office, as evidence of lawful entry into the United States for permanent residence. Simultaneously this form is prohibited, the applicant must submit the following statement signed by an officer, notary public, or other persons authorized to administer oaths:

I certify that I have this date seen INS Form I-151 issued to ---------- (Name of applicant) indicating lawful entry into the United States for permanent residence on ---------- (Date)

(c) Nondeclarant aliens who are appointed to commissioned status may place their present citizenship in jeopardy by executing AF Form 133, "Oath of Office (Military Personnel)." If a nondeclarant alien indicates, while being processed for a commission, that he does not desire to take the oath of allegiance prescribed by AFR 36-39, he may be administered the following oath of service and obedience in the same manner as the AF Form 133:

I, ---------- a citizen of ---------- and without intention of surrendering such citizenship, having been appointed a ---------- do solemnly swear (or affirm) that I will serve the United

main eligible for consideration until the within 6 months from his date of dis-

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States against all their enemies whomsoever, and that I will honestly and faithfully discharge the duties of the office upon which I am about to enter; So Help Me God.

(d) Noncitizen physicians and dentists who receive temporary appointments may be tendered Reserve appointments upon request and submission of proof of citizenship as outlined in § 881.16(b).

§ 881.4 Responsibility.

(a) HQ USAF selects or appoints persons except as may be otherwise delegated:

(1) In grades above captain.

(2) To perform medical, dental, and allied medical duties.

(3) Who are former officers of the Regular Air Force (RegAF).

(4) As chaplains.

(5) As Reserves of the Air Force (ANGUS) based on extension of Federal recognition.

(6) Those removed from the temporary disability retired list (TDRL) by reason of being found physically fit.

(7) As judge advocates.

(b) Air Training Command (ATC) appoints successful graduates of the Officer Training School in the grade of second lieutenant.

(c) Air Force Reserve Officers' Training Corps (AFROTC) appoints as second lieutenants, ResAF, persons who successfully complete the AFROTC program.

(d) Air Force Reserve (AFRES) selects:

(1) Members of the medical services for concurrent Ready Reserve assignments upon approval of HQ USAF.

(2) Former rated officers of any of the services to fill Ready Reserve aircrew positions.

(3) Reserve officers of other services to fill Ready Reserve vacancies. All appointments of judge advocate officers, chaplains, personnel of the medical services, and all appointments above captain require HQ USAF approval.

(4) Air reserve technicians (ART) to fill designated ART positions in all specialties involved. Appointments above captain require HQ USAF approval.

(e) Air Reserve Personnel Center (ARPC):

(1) Appoints officers selected under subparagraphs (1) through (4) of paragraph (d) of this section, and those selected under paragraph (a) of this section when directed to do so by HQ USAF.

(2) Selects and appoints outstanding USAFR airmen under quotas and guidelines established by HQ USAF (§ 881.14d).

(f) Commands indicated in paragraphs (b), (c), (d), and (e) of this section may determine administrative procedures necessary to accomplish the required procurement objective and insure that only properly qualified persons are tendered appointments.

§ 881.5 Procurement objectives.

(a) Appointments will be made by grade and category in numbers required and authorized from time to time by HQ USAF. These authorizations will constitute procurement objectives. AFM 36–1 will be used as a guide in determining the required educational, professional, and technical qualifications for appointments for duty in specialties not specified herein. Appointments will be made only to meet procurement objectives in the categories for which appointments are currently authorized and within the grade ceilings established by law.

(b) Persons selected for appointment must be fully qualified according to criteria in this part, AFM 36–1, and/or other directives. Appointment is not assured merely by reason of meeting the established requirements. Only persons who are best qualified will be appointed.

(c) Appointments will normally be made to fill authorized Ready Reserve position vacancies or active duty requirements.

(d) Outstanding persons in business, scientific, professional, or technical fields who do not meet eligibility criteria, but who have demonstrated through their civilian occupation that they are outstanding in their field, may be appointed upon approval of the Secretary of the Air Force. Generally, they must have attained such prominence in their field or specialty as to be nationally known.

Subpart B—Eligibility Requirements

§ 881.10 Who may apply for appointment.

A person with or without prior military service may apply unless he is ineligible under § 881.11. This authorization includes airmen and warrant officers who are Reserves of the Air Force or members of the Regular Air Force or the United States Air Force (temporary).

§ 881.11 Who is ineligible for appointment.

(a) A commissioned officer of the Armed Forces serving on active duty, except as provided by this part. AFR 36–26 provides for interservice transfer of officers on active duty.

(b) An enlisted member or warrant officer of the Army, Navy, Marine Corps, or Coast Guard serving in the active service of the United States.

(c) An officer, warrant officer, or enlisted member in the Reserve Forces of the U.S. Army, Navy, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration, and Public Health Service, unless he has obtained a conditional release from his appointment or enlistment and is not on active duty or under orders to report for active duty.

(d) A person who has previously applied for appointment under this part, but was not selected, or who was selected and declined appointment is ineligible to apply for 6 months from the date of notification of previous rejection or declination.

(e) A person disenrolled or eliminated from a training program leading to a commission as an officer for the following reasons unless prior approval is obtained from HQ USAF:

(1) Resignation or dismissal from officer training programs of the Army, Navy, Air Force, Coast Guard, or Merchant Marine, because of military inaptitude, indifference, undesirable traits of character, disciplinary reasons, evasion of a contractual agreement, or declination of a proffered commission. Superintendents of military academies and commanders of officer training programs may recommend waivers only in exceptional cases worthy of consideration.

(2) Elimination from officer training programs of the Army, Navy, Air Force, Coast Guard, or Merchant Marine for lack of academic progress or breaches of the honor code.

(3) Elimination from a civilian-operated military institution by the educational authorities because of violations of the institution's honor code.

NOTE: Requests for determination of the eligibility of applicants disenrolled or eliminated for any of the reasons stated above should be made only in rare cases of sufficient merit to justify consideration. Their applications together with DD Form 785, "Record of Disenrollment from Officer Candidate Type Training," will be referred to USAFMPC (DPMRDS) for review and approval before appointment. If approved, normally an individual will not be appointed until after the date of graduation of the class from which eliminated.

(f) A conscientious objector.

(g) A person who admits or whose records show that he has at any time engaged in any of the activities in AFR 35–62, or who is reasonably believed to have done so.

(h) A person who intentionally fails or refuses to accomplish DD Form 98, "Armed Forces Security Questionnaire," in its entirety. If a medical or dental applicant for appointment is subject to induction and intentionally fails or refuses to accomplish DD Form 98 in its entirety, he will not be appointed; his induction will be handled by the Selective Service System.

(i) A person with a record of conviction (for other than a minor traffic violation) by any type of military or civil court. However, he may request the appointing authority to grant a waiver for other minor violations that are nonrecurrent and are not considered prejudicial to performance of duty as an officer. The applicant must include a request for waiver with his application, stating fully the circumstances of the case. Each request for waiver will be considered on its own merit and evaluated in connection with the National Agency check or other appropriate security investigation.

(j) A former officer, warrant officer, or enlisted member of any of the Armed Forces who has been or is being released from active duty or discharged from the service for one of the following reasons:

(1) Conditions other than honorable.

(2) Unsatisfactory service or failure to meet standards of performance prescribed by the Secretary concerned.

(3) Resignation in lieu of court-martial, reclassification, elimination, or any form of corrective or disciplinary action.

(4) Court-martial or board action initiated because of his inefficiency or misconduct, or for security reasons.

(5) Failure of selection for promotion.

(6) Dropped from the rolls of the service concerned because of confinement to a State or Federal penitentiary or correctional institution, or absence without authority for a period of 3 months.

(7) Failure to meet minimum Reserve participation requirements.

(8) Failure to respond to official correspondence.

NOTE: ARPC and HQ USAF (DPMRDS) may grant waivers of conditions, subparagraphs (7) and (8) of paragraph (j) this section on an individual basis for former rated officers applying under § 881.12d and for former line officers applying under subpart F.

(9) Elimination from the Inactive Status List Reserve Section (ISLRS).

(10) Physical disability.

(11) Any condition for which severance pay is received.

(12) Hardship or national health, safety, or interest reasons.

(13) Any other reason, when appointment would not be in the best interest of the service.

(k) A person on the retired roll of any of the Armed Forces, Public Health Service, Coast Guard, or National Oceanic and Atmospheric Administration.

(l) A cadet of any of the service academies, including the Coast Guard and Merchant Marine, and persons enrolled in a course of training or instruction leading to a commission in any of the Armed Forces.

(m) Any officer who is a deferred officer as defined in 10 U.S.C. 8368, or who has had his name removed from the recommended list under 10 U.S.C. 8377.

(n) A person who will not be available for active duty within 30 days:

(1) From date of acceptance of appointment, when appointment depends upon immediate entry on active duty.

(2) From date of issuance of orders calling him to active duty in time of war or national emergency hereafter declared by the President or by Congress, or when otherwise authorized by law, if appointment is based upon Air Force Reserve requirements and not upon immediate entry on active duty.

(3) Because he is principally engaged or employed in a key position in an essential civilian or government activity related to the defense effort.

(4) Because he is undergoing apprenticeship training in a critical civilian occupation.

(o) A person who has been ordered to report for preinduction medical examination or other appropriate processing usually conducted immediately preceding induction under the Military Selective Service Act of 1967 or who is classified 1–A unless he obtains a statement from his Selective Service Board that he is not scheduled for induction within the following 120 days. A person who has applied and is later classified 1–A may remain eligible for consideration until the date he is notified to report for induction, at which time he becomes ineligible for further consideration or appointment.

(p) A person who would not qualify for retired pay when he reaches age 60.

(q) Normally, a person who, by reason of award of constructive service or prior Reserve commissioned service creditable toward total years of service date, is ineligible for entry on extended active duty because of his inability to complete 20 years' active Federal service before attaining 28 total years of service (not applicable to chaplains).

§ 881.12 Former and reserve officers.

§ 881.12a Former officers of the regular Air Force.

(a) An officer of the RegAF who is honorably separated by reason of unqualified resignation and has a remaining military service obligation (MSO) or unfulfilled contractual agreement may be separated contingent upon his acceptance of a Reserve appointment in the grade to which entitled. An officer with an MSO will then be initially assigned to the Obligated Reserve Section (ORS), ARPC, in a Ready Reserve status. An officer with no MSO but with an unfulfilled contractual agreement will be assigned to the nonaffiliated Reserve Section (NARS–A) ARPC in a standby status. To control contingent resignations, separation from the RegAF and acceptance of the Reserve commission occur on the same date. The special orders effecting discharge also constitute the instrument of appointment as a Reserve of the Air Force (ResAF). In these cases, the effective date specified in the special orders is considered to be the last day of duty as a member of the RegAF and the individual is considered to enter status as a ResAF officer on the following day.

(b) A former officer of the RegAF who has no MSO or unfulfilled contractual agreement and is honorably separated by reason of unqualified resignation may, at the time he tenders his resignation, request an appointment as a ResAF officer. Upon approval of HQ USAF, a person appointed under this authority will be initially assigned to NARS–A, ARPC, in a standby status, unless he applies for a Ready Reserve assignment according to Part 888b of this subchapter. Appointment as a ResAF will be made by a letter of appointment, and acceptance must be accomplished after discharge from the RegAF. Execution of the oath of office as a Reserve officer on the day following discharge will insure continuous commissioned status and permit a person who holds a currently effective aeronautical rating to assume flying activities in the Reserve program without revalidating his flying status orders.

(c) A RegAF officer who does not request a Reserve appointment at the time of his resignation may apply direct to USAFMPC (DPMRDS) and be considered up to 1 year from the date of his discharge. If his application is received within 6 months from his date of discharge, he may be appointed upon letter request. If it is received after 6 months but within the 1-year limitation, he must submit the documents required by § 881.20(a)(1), (3) thru (6), (12), (13), and (17).

(d) Appointment may be made in the permanent or temporary grade in which serving at time of discharge. Constructive service appropriate for the grade will be awarded based on length of active Federal commissioned service and education where applicable. Constructive service will also be awarded for prior service in an active status as a Reserve officer not on extended active duty (EAD) for those years in which minimum participation requirements for retention and retirement were satisfied (minimum of 50 points per year). If an applicant does not have the length of service which would permit the crediting of sufficient constructive service for Reserve appointment in the active duty grade, satisfactory performance in the active duty grade constitutes the basis for award of the minimum amount of constructive service appropriate to the Reserve grade as indicated in paragraph (f) of this section. Constructive service possessed by an applicant that is in excess of that required for the grade in which appointed will be awarded as service in grade and identified as a promotion service date (PSD). No individual will be appointed as a Reserve officer in a grade higher than that in which he served on active duty. Accordingly, constructive service credit in excess of the maximum authorized for the active duty grade will not be awarded regardless of length of actual service. For example, an applicant whose highest activity duty grade was captain must be awarded at least seven but less than 14 years' constructive service.

(e) Air Force policy is to appoint as ResAF officers only individuals who normally may be expected to participate in reserve activities and who will be available for immediate active service. Under current laws, an individual who is preparing for the ministry in a recognized theological or divinity school may not be required to serve on active duty, or to participate in active duty training and service, active duty for training (ACDUTRA), or inactive duty training (INACDUTRA). Accordingly, a former officer of the RegAF who resigns to enter seminary training is not eligible for appointment as a ResAF officer. He may, however, apply for appointment as a chaplain upon meeting the requirements specified in subpart E.

(f) Constructive service:

Line	A. If active duty grade is—	B. Then minimum years of constructive service are—
1	1st lieutenant	3
2	Captain	7
3	Major	14
4	Lieutenant colonel	21
5	Colonel	23

(1) They will not be made in specialties for which the applicant is not qualified.

(2) A selectee who is an ART must be

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(g) In addition to other requirements, a former chaplain of the RegAF must submit a current ecclesiastical endorsement for appointment as a ResAF. A former chaplain may not be appointed in any other category.

§ 881.12b Former officers of any of the services.

Except for those who are ineligible under § 881.11, former officers of any of the services may be appointed for duty in any specialty for which they are qualified and for which there is a procurement quota. Former officers may be tendered appointments based solely on prior service, except as provided in this part.

§ 881.12c Reserve officers of other Armed Forces of the United States.

A Reserve officer of another Armed Force of the United States not on active duty may be appointed as a ResAF in any grade (or equivalent permanent grade) held as a Reserve of the Armed Force concerned, without appearing before an examining board.

EXCEPTION: Appointment may be made in a higher grade only when the Reserve commission held in the other Armed Force is in other than a professional category (medical, dental, legal, etc.) and the applicant desires and qualifies for appointment in a professional category in the Air Force for which a procurement authorization exists. Grades will be determined according to § 881.16a(c)(1).

He will be awarded a permanent Reserve grade and date of rank (DOR) as determined by applying the amount of his promotion service in his present service to the appointment laws in effect for the service to which he is being transferred: *Provided*, That in addition to the application and allied papers the following requirements are met:

(a) His age does not exceed the maximum age for his grade (see § 881.16(d)(2)(i)).

(b) A Ready Reserve position vacancy exists for which he is qualified.

(c) The commander of the unit of assignment in which the vacancy exists submits a statement requesting his appointment to it.

(d) No Air Force Reserve officer with the required qualifications and residing within a reasonable distance of the assignment is available, volunteers, and will accept the assignment.

(e) He submits a completed AF Form 1288, "Application for Reserve Assignment," and DD Form 1644, "Ready Reserve Service Agreement" (triplicate).

(f) He signs an agreement to be available for active service in the assignment for 3 years.

(g) He has no active duty obligation under the Military Selective Service Act of 1967.

(h) He obtains a conditional release from the other Armed Force or component in which he holds an appointment.

(i) If a rated officer with another Armed Force, he has final approval of the aeronautical rating by HQ USAF before processing the application to completion.

§ 881.12d Former rated officers.

(a) Former rated officers of any of the services (including RegAF officers who did not apply for a Reserve commission within 1 year after resignation may be appointed in a grade held at time of discharge, not above O–4, to fill rated positions in the Ready Reserve. To be eligible for appointment, the applicant must:

(1) Have been on flying status at the time his previous appointment was terminated. He must furnish a copy of his individual flight record.

(2) Be available for, and agree to participate in, a Ready Reserve aircrew position for at least 4 years after being appointed.

(3) Qualify for an Air Force aeronautical rating or return to flying status under AFM 35–13.

(4) Not have had a previous appointment terminated for cause. Normally, the termination of appointment due to nonparticipation or failure to answer official correspondence will not automatically disqualify an individual for appointment.

(5) Meet all criteria for initial appointment as a ResAF officer, except that age may exceed the normal maximum by the number of years of previous commissioned service.

(6) Not have held a permanent Reserve grade higher than O–4 at the time of discharge.

(b) The computation of constructive service for appointment and promotion service date (PSD) purposes is as follows:

(1) A former officer who satisfactorily held the Reserve grade of O–4 will be awarded a minimum of 14 years' constructive service credit or an aggregate of the following, whichever is greater, but not to exceed a total of 16 years:

(i) Active Federal commissioned service.

(ii) All service in an active status as a Reserve officer not on active duty for the years in which minimum participation requirements for retention and retirement were satisfied (50 points minimum per year).

(2) A former officer who satisfactorily held the Reserve grade of O–3 will be awarded a minimum of 7 years' constructive service credit or an aggregate as described in § 881.12d(b)(1) (i) and (ii) of this section, whichever is greater, but not to exceed a total of 9 years.

(3) A former officer who satisfactorily held the Reserve grade of O–2 will be awarded a minimum of 3 years' constructive service credit or an aggregate as described in § 881.12d(b)(1) (i) and (ii) of this section, whichever is greater, but not to exceed a total of 5 years.

(4) Constructive service possessed by an applicant in excess of the amount required for the appointive grade, will be awarded as service in grade and identified as a PSD.

§ 881.13 Officer Training School and AFROTC graduates.

(a) *Officer Training School graduates.* Applicants must have successfully completed the prescribed course and be recommended for appointment by a faculty board (AFR 53–27 and AFM 50–5).

(b) *AFROTC graduates.* Applicants must have successfully completed the prescribed academic and military training requirements (Subchapter H of this chapter).

§ 881.14 Appointment as a ResAF.

§ 881.14a Appointment as a ResAF officer for assignment to the Retired Reserve and placement of name on the U.S. Air Force reserved retired list.

An individual who qualifies for membership in the Retired Reserve under the provisions of AFM 35–7 and does not hold a Reserve commission may be appointed under this section for the sole purpose of assignment to the Retired Reserve. Appointment will be made in the highest grade he has satisfactorily held or is eligible for by law. Former members separated for reasons involving moral or professional dereliction normally will not be tendered an appointment. Eligibility for appointment under this section is not governed by the other conditions outlined in this part.

§ 881.14b Appointment as a ResAF upon removal from the temporary disability retired list (TDRL) (10 U.S.C. 1211).

(a) If a member is removed from the TDRL following a finding that he is physically fit, he must be reappointed to the Reserve grade he held at the time he was placed on the TDRL.

(b) He will be reappointed the day following his discharge from the TDRL and will be awarded the PSD he had when he was placed on the TDRL.

§ 881.14c Posthumous appointments.

A posthumous appointment as a ResAF may be issued in the name of a member of the Air Force who was selected for appointment, or had successfully completed an Officer Training School course and been recommended for appointment by the school's commanding officer, but was unable to accept appointment because of death in the line of duty.

(a) The MAJCOM will, if he considers appointment appropriate, request USAFMPC (DPMRDS) to publish the appointment orders.

(b) No financial benefits will accrue as a result of a posthumous appointment.

(c) Authority: Title 10, U.S.C. chapter 77.

§ 881.14d Appointment of USAFR airmen not on EAD as ResAF officers.

Direct appointment of qualified and deserving airmen not on EAD to officer status and a concurrent Ready Reserve assignment may be made under the following criteria:

(a) *Quotas.* HQ USAF announces fiscal year quotas and any modifications to criteria.

(b) *Restrictions on appointments.* Appointments are subject to the following limitations:

(1) They will not be made in specialties specified in Subparts D through H of this part.

(2) They are restricted to grades of captain and below. They are limited to second lieutenants, except for applicants who have sufficient constructive credit to qualify for higher grades.

(3) An applicant who is age 30 or over and has insufficient constructive credit for appointment in a grade higher than second lieutenant is not eligible for appointment.

(c) *Waivers.* Waiver of requirements is not permitted except as provided in § 881.16(c).

(d) *Eligibility criteria.* In addition to meeting the prescribed moral, citizenship, medical, age, and testing requirements (§§ 881.16 and 881.22) an applicant must:

(1) Have completed:

(i) His MSO or have served on AD (other than ACDUTRA) for 12 months or more. The 12 months' AD need not have been consecutive.

(ii) At least 12 consecutive months in a training category A, B, or D Ready Reserve assignment and be actively participating in training in such a unit or mobilization augmentation position at the time of application and appointment.

(2) Agree in writing that, if appointed, he will meet the training requirements of the training category in which assigned and will remain assigned for 3 years in training category A, B, or D. (Subsequent failure to participate for reasons within his control may result in discharge action under AFR 45–41.)

(3) Not have reached age 40 as of July 1 of the year of selection.

(4) Be a high school graduate or possess a certificate of equivalency. College graduates will be given priority of selection. It is desirable that a noncommissioned officer (NCO) be a graduate of a recognized NCO academy. When a noncollege graduate applies, the commander of the unit possessing the vacancy must certify that a qualified college graduate is not available or, if available, refuses to apply, and that the geographical location of the unit precludes consideration of a college graduate. Noncollege graduates will not be appointed in specialties in which AFM 36–1 specifies a degree is mandatory.

(5) Be tentatively selected for assignment to a vacant lieutenant or captain position in a training category A unit or to an authorized mobilization augmentation position in a Regular Air Force unit. The vacancy is not restricted to the airman's current unit of assignment. However, if an airman is tentatively selected for a position in another unit, he must obtain from the commander of that unit and attach to his application a statement that he is acceptable and the position will be blocked pending final results of the selection board.

(e) *Miscellaneous provisions.* (1) Upon an airman's discharge to accept appointment under this program, his servicing CBPO will forward his FPR to ARPC (DPIDA).

(2) A selectee who is an ART must be informed that if he accepts the appointment he will be separated from his ART position.

§ 881.15 Appointment for immediate entry on active duty.

(a) Persons who are eligible under §§ 881.12c and 881.12d and who meet recall criteria may be appointed for immediate recall to active duty. Appointments in grades above captain will be made only when vacancies exist. Appointments may be made under this authority only in skills listed on current recall requirements listings.

(b) Applications are forwarded to ARPC for processing according to instructions provided annually by HQ USAF.

§ 881.16 Eligibility requirements.

(a) *Moral requirements.* Applicant must possess high moral character and personal qualifications.

(b) *Citizenship requirements.* A person appointed as a Reserve of the Air Force under this part must at the time of appointment be a citizen of the United States. An individual who is not a citizen by birth must submit the statement in subparagraphs (1) and (2) of this paragraph, signed by an officer, notary public, or other person authorized by law to administer oaths. In no circumstances will facsimiles or copies (photographic or otherwise) of naturalization certificates, declarations of intention, certificates of citizenship, or alien registration receipt cards be made. 18 U.S.C. 1426(h) provides that "whoever, without lawful authority, prints, photographs, makes or executes a print or impression in the likeness of a certificate of arrival, declaration of intention to become a citizen, or certificate of naturalization or citizenship, or any part thereof, shall be fined not more than $5,000 or imprisoned not more than 5 years, or both."

(1) *For persons who are citizens by naturalization.*

I certify that I have this date seen the original certificate of citizenship No. ------ (or certified copy of the court order establishing citizenship) stating that ---------- was admitted to United States citizenship by the court of ---------- at
(District or County)
----------, on ----------
(City and State) (Date)

(2) *For persons who claim derivative citizenship through naturalization of parent(s).*

I certify that I have this date seen the original certificate of citizenship No. ------ issued to ---------- by the
(Name of applicant)
Immigration and Naturalization Service, Department of Justice, stating that ----------
(Name
---------- acquired citizenship on
of applicant)

(Date)

(c) *Medical requirements.* All applicants must be medically qualified, or medically acceptable with waiver for Air Force commission, in accordance with AFM 160–1. A report of medical examination will be accomplished not more than 90 days before the date of application. Except for women applicants, medical examinations will be without expense to the Government. Women applicants for commission may be examined by qualified civilian physicians where no military examining capability exists. Funds provided for the operation of the USAF Recruiting Service will be used for this purpose. Travel performed in connection with medical examinations will be without expense to the Government.

(d) *Age, education, experience, and grade requirements*—(1) *General.* Applicants whose appointments are based on guidelines in AFM 36–1 must meet the mandatory requirements it specifies. When AFM 36–1 does not specify a degree as mandatory, applicants must possess at least 2 years of college (60 transferable semester hours or the equivalent) and 1 year of qualifying experience as a substitute for each year of college study required for the appropriate degree. Experience thus applied must be gained and evaluated as defined in subparagraph (4) of this paragraph. Exception: Persons applying for appointment under §§ 881.12a, 881.12c, 881.12d, 881.13, 881.14a, 881.14b, or 881.14d must possess the minimum educational and experience requirements specified for those categories.

(2) *Age.* By law, no person under the age of 18 years will be appointed as a Reserve of the Air Force. Applicants without prior military service will not be appointed after they reach 40 years of age. Section 881.16(d)(2)(i) shows the maximum age for grade that will apply for appointments made under this part.

(i) *Maximum age for grade* (see note).

Rule	A. If applicant is for appointment in the grade of—	B. Then the applicant's age must be less than—
1	2d lieutenant	30
2	1st lieutenant	34
3	Captain	40
4	Major	46
5	Lieutenant colonel	51
6	Colonel	56

NOTE: Age alone does not determine grade; therefore, this table must be used in conjunction with the table for grade determination (see § 881.16a(c)(1)).

(3) *Education.* Only education above high school level that is gained at accredited institutions will be acceptable for purposes of this part. Institutions recognized for credit under this part must have national or regional accreditations as listed in the Education Directory, Part 3, published by the Office of Education, Department of Health, Education, and Welfare. Persons whose credits are from other than a nationally accredited institution will be considered as meeting the educational requirements of this part upon presentation of evidence that their credits are acceptable for unconditional admission into the graduate school of, or for full transfer to,

(5) *Grade.* Grade is determined by the

(3) The degree must relate to the credit which will result in an earlier discharge, and statement of service, when applicable. Applicants with prior active

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a nationally or regionally accredited college or university, except as otherwise provided in this part.

(4) *Experience.* (i) Only experience gained through full-time employment in a responsible position will be acceptable for the purpose of this part. Any additional education or training in a field allied to nursing (includes anesthesia training) attained after graduation from a school of nursing will be credited as experience. Unless appointed under subpart F or §§ 881.71, 881.72, or 881.73, an applicant must have completed at least 12 months of employment before his experience is acceptable. If an applicant's record of experience is questionable, a statement must be obtained from his employer.

(ii) Unless otherwise provided, only experience gained after applicant attained the appropriate degree is creditable as service in an active status for appointment to duty in one of the applicable specialties. Experience is computed as follows:

(*a*) For physicians, dentists, and veterinarians—from date of graduation from medical, dental, or veterinary school, except that each year of professional experience or fraction thereof in excess of 21 years will be given only one-half credit. Periods of unemployment exceeding 30 days are not creditable.

(*b*) For nurses, dietitians, occupational and physical therapists—from date of completion of the educational requirements specified in Subparts F and H of this part and within the limitations stated therein, excluding periods in excess of 30 days per calendar year for vacations.

(*c*) For all other medical service personnel—within the limitations specified in § 881.16b, from date of attainment of the appropriate degree or date of licensure in the case of pharmacy and optometry officers. Except for a person who possesses a Master's degree, no constructive service credit is authorized unless he has at least 3 years of such professional experience and is otherwise qualified for appointment in grade of first lieutenant or higher.

(*d*) For judge advocates—within the limitations specified in § 881.16b, from date of graduation from law school or date of admission to the bar of a Federal court or of the highest court of a State, whichever is later.

(*e*) For chaplains—within the limitations specified in § 881.16b, from date of ordination, provided applicant has completed the required undergraduate study prescribed in § 881.40(c)(2)(i). No experience is creditable while attending seminary. For applicants from religious denominations which do not operate accredited or recognized seminaries, creditable experience will be determined by the Chief of Air Force Chaplains.

(*f*) For all others—as specified in pertinent sections of this part relating to appointment of former officers of the Regular Air Force, appointment of officers of other Armed Forces, and reappointment of former rated officers. For appointments for duty in specialties not listed in this part, but contained in other appointment authorizations, creditable experience will be computed from date of attainment of the appropriate degree, where applicable, and within the limitations secified in § 881.16b. Except for person who has a Master's degree, no constructive service credit is authorized unless he possesses at least 3 years of experience and is otherwise qualified for appointment in grade of first lieutenant or higher.

(5) *Grade.* Grade is determined by the combined education and experience constructive credits the applicant possesses (see § 881.16a).

§ 881.16a How to determine grades.

(a) Use subparagraph (1) of this paragraph to convert to years of constructive service credit educotion that is pertinent to applicant's specialty (see § 881.16b).

(1) *Education constructive service.*

Rule	A. If the applicant holds a—	B. Then, the amount of constructive service awarded will be—
1	Baccalaureate degree (except in nursing)	None.
2	Baccalaureate degree in nursing or a field allied to nursing	1 year.
3	Dietetic internship or a certificate, in occupational or physical therapy	Do.
4	Master's degree	Do.
5	Master's degree in nursing or a field allied to nursing, dietetics, occupational or physical therapy.	1 year.[1]
6	Doctor of philosophy, bachelor of divinity, bachelor of laws, doctor of veterinary medicin', or equivalent degree.	3 years.
7	Degree in medicine, dentistry, or osteopathy	4 years.

[1] The 1 year awarded under this rule is in addition to that awarded under rules 2 and 3. No additional constructive service is authorized if the master's degree was obtained while applicant was gainfully employed.

(b) If on date of his application an applicant possesses experience pertinent to his specialty that is in excess of that required for appointment as second lieutenant, convert it to constructive service credits by year, month, and day on a day-to-day basis (see § 881.16b).

(c) Using applicant's combined education and experience credits, determine his appointment grade from subparagraph (1) of this paragraph.

(1) Grade determination:

Rule	A. If applicant's combined education and experience constructive service credit is [1]—	B. Then appointment will be made in grade of—
1	Less than 3 years	2d lieutenant.
2	At least 3 but less than 7 years	1st lieutenant.
3	At least 7 but less than 14 years	Captain.
4	At least 14 but less than 21 years	Major.
5	At least 21 but less than 23 years	Lieutenant colonel.
6	23 or more years	Colonel or lieutenant colonel.[2]

[1] Constructive service credit does not apply to persons commissioned through AFROTC or OTS.

(2) A person who has achieved national prominence as an authority in his particular specialty may be appointed in the grade of colonel.

§ 881.16b Award of constructive service.

The award of constructive service to reflect an applicant's combined years of education and experience was originally authorized by section 201 of the Reserve Officer Personnel Act of 1954 (ROPA), now codified as 10 U.S.C. 8353. ROPA became effective on July 1, 1955, and contains no retroactive provisions. Accordingly, persons appointed before the effective date of the law, July 1, 1955, are not eligible for any constructive service credit.

(a) The constructive service credit possessed by an applicant is the amount of education (§ 881.16a(a)(1)) and experience (§ 881.16(d)(4)) credited for grade determination. Constructive credit in excess of that required for the grade in which appointed, but less than that required for the next higher grade, will be awarded as promotion service in grade.

(b) The award of constructive service credit will be limited to the minimum amount required for appointment in the determined grade. For example, 3 years for appointment in grade of first lieutenant and 7 years for captain. This rule applies to all categories except:

(1) Medical (includes osteopaths), dental, and veterinary officers.

(2) Nurses, dietitians, occupational therapists, and physical therapists appointed in grades below captain.

(3) Persons who hold master's degrees and are appointed in grade of second lieutenant.

(4) Former Regular Air Force officers appointed as Reserve officers under § 881.12a.

(5) Reserve officers of other Armed Forces of the United States as Reserves of the Air Force if eligible under the criteria stated in § 881.12c of this part or AFR 36–26.

(6) Reappointment of former rated officers in accordance with § 881.12d.

(c) The amount of constructive service awarded for education will be as specified in § 881.16a(a)(1) regardless of the actual time spent in acquiring the degree. At time of appointment, the following conditions must be met:

(1) The degree must have been conferred, or

(2) An authorized official of the educational institution awarding the degree must certify that the applicant has completed all of the requirements for the degree which will be conferred at a later specified date, and

(3) The degree must relate to the specialty in which appointment is being made.

(d) Persons who earn a degree for which constructive service is allowable, but who do so while in a commissioned status may, upon an authorized reappointment, be credited with either constructive service or their commissioned time for total years service date, but not both.

(e) Persons commissioned during a portion of the time spent in earning a degree may, upon an authorized reappointment, be awarded constructive service credit for education for the time not duplicated by commissioned service.

§ 881.16c Computing and recording total years service date (TYSD), promotion service date (PSD), and total Federal commissioned service date (TFCSD).

(a) *TYSD.* This date is computed by backdating the date of acceptance of appointment by the total amount of constructive credit awarded under § 881.16b.

NOTE: If an officer has prior commissioned service time for which he has not received constructive credit, such service is creditable as TYSD after determination of a grade in accordance with § 881.16a(c). However, in no case will any service be counted more than once in determining TYSD.

(1) Upon reappointment, generally TYSD will be recomputed from the effective date of reappointment to reflect the additional constructive credit allowable for education and/or experience under § 881.16b. Upon reappointment as a judge advocate under subpart D of this part, for example, credit for full-time experience as a lawyer accrues from date of graduation from law school or date of admission to the bar, whichever is later, to date of acceptance.

(2) To determine the actual period of time for which constructive service for education is given, backdate the applicable date of graduation or admission to the bar, whichever is later, by 3 years. Any commissioned service held during the period for which constructive service for education and experience is awarded may not be counted again for TYSD purposes. Unusual cases should be referred to USAFMPC (DPMRDS) for resolution.

(b) *PSD.* If the constructive service credit possessed by an applicant exceeds that required for the grade in which he is appointed, excess credit is subtracted from the date of his acceptance and is identified as his PSD. In no case will an officer be awarded a PSD which will make him immediately eligible for promotion. For example, an officer appointed as captain will not be awarded a PSD reflecting 7 or more years of promotion service.

(1) Upon reappointment as a judge advocate under subpart D of this part an officer's PSD will remain the same unless, on the basis of the additional constructive service awarded, he possesses constructive promotion service credit which will result in an earlier date.

(2) Upon reappointment as chaplain or an officer of the medical, dental, or veterinary corps, an individual is given a new grade (which may be the same, or a higher or lower grade) for which he qualifies by reason of education and experience. PSD will be recomputed to reflect constructive credit in excess of that required for the reappointed grade. Prior commissioned service as a line officer in the grade in which reappointed or any higher grade is not creditable unless authorized by law.

(c) *TFCSD.* This date is computed by backdating the date of an officer's acceptance by his prior commissioned service.

(d) *Entry in records.* These three dates will be entered on the file copy of the appointment documents and on records as TYSD, PSD, and TFCSD, respectively.

§ 881.16d U.S. Air Force (temporary) appointments.

TYSD and PSD will not be computed for officers holding only U.S. Air Force (temporary) appointments.

Subpart C—Application and Processing Procedures

§ 881.20 How to apply.

(a) Except for procedures that apply only to OTS and AFROTC, the documents in subparagraphs (1) through (21) of this paragraph, properly completed, constitute the application. Use of requirements below as a checklist to insure that all required information and papers have been included before forwarding application and thus preclude delays that would result from the return of incomplete applications. For officers on EAD applying for reappointment as judge advocate under subpart D of this part, items (3), (4), (5), (6), (9), (11), (12), (14), and (16) are not required. Officers already designated as judge advocates or assigned to the Judge Advocate General's Department who apply for reappointment under subpart D of this part need not submit items previously submitted if they are still current (that is, certificate of graduation from an accredited law school). Line of the Air Force officers desiring reappointment to the Medical Service Corps or the Biomedical Sciences Corps should submit application in letter form. Airmen on duty (active) need not submit subparagraphs (4) through (6) of this paragraph if a personnel security investigation has been completed. The document in subparagraph (19) of this paragraph is required instead of the investigation.

(1) AF Form 24, "Application for Appointment as Reserves of the Air Force or USAF Without Component," (in triplicate). In the upper right corner specify the specialty for which application for appointment is being made.

(2) Original or photostat of honorable discharge certificate or certificate of service, a copy of the orders effecting discharge, and statement of service, when applicable. Applicants with prior active military service will submit a photostatic copy of DD Form 214, "Armed Forces of the United States Report of Transfer or Discharge." For judge advocate appointees, a copy of the individual's certificate of graduation from an accredited law school and a copy of his certificate of admission to the bar of a Federal court or the highest court of a State, as applicable, will be forwarded to HQ USAF (JA), Washington, D.C. 20330.

(3) Completed SF 88, "Report of Medical Examination," and SF 89, "Report of Medical History," in duplicate.

(4) DD Form 398, "Statement of Personal History." Six copies for applicants requiring a background investigation under § 881.24(b). One copy of all others, including persons being considered for appointment on the basis of a prior or existing investigation.

(5) DD Form 98, "Armed Forces Security Questionnaire," in duplicate.

(6) Completed FD Form 258, "FBI Fingerprint Card", in duplicate, according to AFR 125–36.

(7) Transcripts of college work as evidence of educational level. Graduates of recognized colleges of dentistry, medicine, optometry, pharmacy, and veterinary medicine, and applicants for appointment in the Medical Service Corps may submit a photostatic or certified copy of college diploma in lieu of a transcript.

(8) Conditional release from another Armed Force or component in which appointment is currently held, if applicable.

(9) A certificate similar to the following, except for women and chaplain applicants:

I certify that I have not been ordered to report for induction under the Military Selective Service Act of 1967. After submitting application for appointment as a Reserve of the Air Force, I understand that any appointment, enlistment, or order to active military service in a branch of the service other than the Air Force automatically renders me ineligible to accept an appointment as a Reserve of the Air Force.

(10) Any other documents or information the applicant may desire to submit as evidence of his qualifications for appointment.

(11) For a civilian employee of the Federal Government, a "Certificate of Availability of Federal Employee," as required by part 888a of this subchapter.

(13) Persons applying under subparts D through H must submit the additional documents listed in those subparts.

(14) Men applicants, other than chaplains, physicians, dentists, and veterinarians, who have not attained their 26th birthday and who have had no prior military status, must submit the following statement:

In the event I am tendered an appointment as a Reserve of the Air Force, I understand that upon acceptance of appointment I am required by law to serve on active duty and in a Reserve component for a total of 6 years unless sooner discharged in accordance with regulations and standards prescribed by

the Secretary of Defense. I understand that

major commander having jurisdiction

aircrew examining centers for incorpo-

officers, officers covered by subparts E and F of this part, applicants for appoint-

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the Secretary of Defense. I understand that although the appointment is tendered and accepted for an indefinite term, my obligated service will be for a period of 6 years. I understand that I may qualify for transfer to a standby reserve on completion of a combination of active duty and satisfactory ready reserve participation totaling at least 5 years or upon completion of my military service obligation, whichever is earlier. I further understand that if my appointment is contingent upon concurrent ready reserve assignment, I will be required to meet the participation requirements of the unit to which assigned. I understand that while I am serving in a draft-deferred status, I am subject to mandatory assignment. I have been counseled and understand that I will become subject to involuntary order to active duty for up to 24 months if I fail to satisfactorily perform training requirements.

(15) Physicians, dentists, and veterinarians, including those who have reached age 26 or over, whose appointments are contingent upon concurrent assignment to a ready reserve position, must sign the following statement and have it witnessed:

In the event I am tendered an appointment as a Reserve of the Air Force, I understand and agree to accept ready reserve status for a period of 5 years, or until age 35, whichever occurs first, effective on the date of my appointment. Provided that I satisfactorily participate as a member of a ready reserve unit, I will not be liable, as provided under 50 U.S.C.A. App. 454(1)(1) for active military service as the result of special draft calls.

I understand that I must participate in 48 inactive duty training periods or assemblies and up to 15 days' active duty training annually or as required by my reserve assignment, unless excused therefrom by proper authority.

I understand that if I fail or refuse to participate satisfactorily as determined by the Secretary of the Air Force, I may be discharged or referred to the appropriate Selective Service System Board for induction, as appropriate.

WITNESSED BY:

(Unit commander or authorized representative)

(Signature of applicant)

(16) For persons whose appointments are for inactive duty, AF Form 1288, "Application for Reserve Assignment" (in triplicate) and a statement from the commander of the ready reserve unit that a vacancy exists within the unit and the appointment of the applicant is requested to fill the vacancy.

(17) For an applicant who has been eliminated from a course of training leading to a commission, the commander or activity responsible for the preliminary processing of the application will obtain and attach DD Form 785, "Record of Disenrollment From Officer Candidate Type Training." AFR 53–5 tells where and how to obtain the DD Form 785. If the DD Form 785 does not provide sufficient information, send requests for additional facts to appropriate addresses indicated or to major commands responsible for precommission programs. The applicant's previous precommission training performance, aptitude for commissioned service, a summary of any derogatory information, and the academic record should be evaluated.

(18) Appropriate certificate required by § 881.16(b) when applicable.

(19) For airmen applicants on EAD, the servicing CBPO will furnish an AF Form 47 as evidence of completed security investigation.

(20) For those seeking appointment as a judge advocate, a report of interview by an active duty career judge advocate, prepared according to separate instructions issued by the Judge Advocate General, USAF.

(21) A recent 3''×5'' photograph (head and shoulders only).

(b) Applications and allied papers will be submitted according to § 881.21(g).

(c) Physicians and allied medical specialists allocated to the Air Force under special draft calls will be processed as follows:

(1) *Application components.* (i) DD Form 1548, "Preinduction Processing and Commissioning Data—Medical, Dental, and Allied Specialists Categories" (original), constitutes the application for appointment and active duty.

(ii) Standard Forms 88 and 89 will be submitted with the DD Form 1548. Armed Forces examining stations determine acceptability for physicians who are U.S. citizens, graduates of U.S. medical schools or approved schools of osteopathy, and who are considered by the examining physicians to be physically qualified. Reports of medical examinations are acceptable for 2 years from date of examination.

(iii) Graduates of foreign medical schools must furnish evidence of permanent certification by the Educational Council for Foreign Medical Graduates.

(2) *Processing.* (i) Within 10 days of receipt of the required forms, Reserve appointments will be tendered to qualified applicants whose forms indicate they are U.S. citizens and graduates of U.S. medical schools or approved schools of osteopathy. The Department of the Army will obtain a name check of FBI files for physicians determined to be qualified for commissioning as Reserve officers by the numbered CONUS Army Headquarters and forward, when possible, the results of such checks to the HQ USAF appointing authority within the time limit specified to tender Reserve commissions. Tenders of appointment will not be delayed solely for an uncompleted name check. A tender may be delayed, however, when a completed check indicates it may not be clearly consistent with the interests of national security. If a record of adverse information is found to exist, the Department of the Army will immediately communicate this fact to the appropriate HQ USAF appointing authority who will insure that the evaluation of adverse information is completed without delay.

(ii) DD Form 98 and other forms required to conduct the personnel security investigation as prescribed by § 881.24 are completed at the individual's first duty station. For officers ordered to active duty with TDY enroute to first permanent station, the TDY unit will request the investigation. ARPC will furnish each individual a blank DD Form 398 with instructions to have it completed before reporting to first duty station. Each physician will also be directed to have in his possession reproduced copies of medical school diploma and certificates of completion of residency training when reporting to the first duty station. First duty station will use these documents to verify professional background and immediately forward them to USAFMPC (DPMDRR) for inclusion in the individual's MPer RGp. When the outcome of the processing warrants the person will be discharged from his Reserve commission.

(iii) A physician who is not a U.S. citizen must be the subject of a favorable Background Investigation before he is appointed USAF (temporary). He must, therefore, include with his DD Form 1548 the documents listed in subparagraphs (4), (5), and (6) of paragraph (a) of this section.

§ 881.21 Processing applications to Air Force Academy and aircrew examining centers.

AFR 23–11 has a current listing of these centers.

(a) *CONUS, Alaska, and Hawaii.* The commander receiving applications under this part (except those specified in Rules 3 through 9, paragraph (g) of this section), will forward the applications to the Air Force Academy and aircrew examining center most convenient to the applicant. Before forwarding the application to the examining center for processing, screen it to insure that it is complete and that the applicant is basically qualified. Forward applications to the examining centers within 15 working days of receipt, except when additional information is required to complete an application.

(b) *Overseas.* The MAJCOM having jurisdiction over the oversea area where the applicant is located will (except as specified in Rules 3 through 9, paragraph (g) of this section) forward his application to the most appropriate Air Force Academy and aircrew examining center. MAJCOM's may prescribe administrative channels, for receiving applications. However, it is the responsibility of the major command to screen all applications to insure that they are complete and that applicants are basically qualified before their applications are forwarded to the examining center for processing. MAJCOM's will screen and forward applications within 15 working days of receipt except when additional information is required to complete an application.

(c) *Examining boards.* Examining boards will be appointed to make recommendations for individuals who have not held an appointment and are being considered above the grade of major under 10 U.S.C. 594. These boards will be appointed by the commander of the major command having appointment responsibility for specialties for which the individuals are applying, or, overseas, the major commander having jurisdiction over the geographical area concerned. If required, examining boards may be convened at USAFMPC (DPMRDS).

(d) *Composition.* Examining boards will be composed of an uneven number of officers totaling not less than three, the majority of whom are Reserve officers and all of whom are in a grade equal to or higher than the grades for which applicants are being considered. When a woman applicant is being considered, one of the board members will be a woman officer. Reserve officers appointed to these boards may or may not be on active duty. However, an officer not on active duty will not be appointed without his or her consent. Reserve officers not on active duty will not be placed on active duty for this purpose. This paragraph does not constitute authority for additional personnel or funds. The recommendations of these boards will be forwarded to the Air Force Academy and aircrew examining centers for incorporation with the applicant's application and other allied papers.

(e) *Appointment without referral to a board of officers.* Any person who receives a notice of induction under the Military Selective Service Act of 1967 is allocated to the Air Force, and is otherwise qualified for appointment as a physician or dentist in a grade higher than major will be appointed in such grade without reference to a board of officers. If the overall Reserve grade ceiling established by law will be exceedcd by his appointment, he will be tendered a temporary appointment.

(f) *Applications for appointment and concurrent Ready Reserve assignments under current procurement objectives.* These applications will not be sent to the Air Force Academy and aircrew examining centers for processing. The unit having the vacancies being applied for will process them.

(g) *Submitting applications.*

Rule	A. If applicant is—	B. Then he submits his application [1]—
1	A USAF airman or WO on active duty, except as in rule 7.	Through servicing CBPO to ARPC (DPRPR); except applicants standard OS send to appropriate MAJCOM.
2	USAF Reserve not on EAD	Through commander of unit to which assigned to ARPC (DPRPR); except applicants standard OS send to appropriate MAJCOM.
3	A person seeking initial appointment as a judge advocate.	Through the USAF Recruiting Service to ATC, Randolph AFB TX 78148.
4	An officer on EAD applying for reappointment as a judge advocate.	Through servicing CBPO and major command to HQ USAF (JAF) and USAFMPC (DPMRDS), in turn.
5	An officer not on EAD applying for reappointment as a judge advocate.	Through Reserve channels to ARPC (DPRPR).
6	A person applying for appointment as a chaplain or chaplain candidate.	To USAFMPC (HCFE).
7	A person applying for appointment in the medical services under subparts F, G, and H, with concurrent active duty.[2]	To USAFMPC (SGPSS).
8	A person applying for appointment in the medical services under subparts F, G, and H, with concurrent assignment to the Ready Reserve.	Direct from unit to AFRES (SGR), Robins AFB GA 31093 and USAFMPC (SGPSS).
9	A line of the AF officers applying for reappointment of the Medical Service Corps or the Biomedical Sciences Corps and vice versa.	Through servicing CBPO and MAJCOM to USAFMPC (DPMREB) to forward to USAFMPC (SGPSS)—Officers on EAD; or through Reserve channels to USAFMPC (SGPSS) and USAFMPC (DPMRDS), in turn—officers not on EAD.
10	A former officer of the Regular Air Force	To USAFMPC (DPMRDS).
11	A Reserve officer of another Armed Force other than 3, 6, 7, and 8 above.[3]	Through Reserve channels to ARPC (DPRPR).
12	A former rated officer of any of the services applying for appointment to fill an aircrew position in the Ready Reserve.	Through Reserve channels to ARPC (DPRPR).
13	A person applying for appointment for the purpose of assignment to the Retired Reserve.	As outlined in chapter 8, AFM 35-7, utilizing AF Form 131, "Application for Transfer to the Retired Reserve."
14	A person, including a Reserve of another Armed Force, applying for appointment or reappointment as a Reserve of the Air Force (ANGUS) in any category.	To the ANG servicing CBPO, the adjutant general of the State concerned, and the Chief, National Guard Bureau (NGFP), Washington, D.C. 20310, in turn.[4]
15	Former USAF officers discharged for pregnancy	To AFMPC/DPMMPR, Randolph AFB TX 78148.[5]

[1] Approval of HQ USAF is required on all appointments above the grade of captain.
[2] Applications of airmen on active duty will be routed through the servicing CBPO for inclusion of AF Form 47 (subpar. (19), par. (a) of this section).
[3] Rule 11 pertains only to Reserve officers of other services not serving on EAD. Applications for the interservice transfer to Reserve officers of other services serving on EAD will be submitted in accordance with AFR 36-26.
[4] The Chief, National Guard Bureau (NGFP), will forward applications to appropriate HQ USAF agencies for final selection and appointment under procedures established by mutual agreement.
[5] Nurses and other medical service personnel will forward applications as specified in rule 7 or 8, as appropriate.

§ 881.22 Duties of the examining centers.

(a) *Notifying applicant of time and place of examination.* Within 15 workdays after the application is received from the major command, the Air Force Academy and aircrew examining center will notify the applicant of the time and place he must appear for processing and testing. Applicants not in the active military service must provide for travel, quarters, and meals at their own expense. Applicants will be scheduled so that, as far as practical, they will not have to spend more than 2 days at the place of processing. If an applicant fails to report for processing on the scheduled date, every reasonable attempt will be made to determine reasons for failure to report. A new reporting date will be established, if the applicant desires it.

(b) *Testing.* (1) The Air Force Officer Qualifying Test (AFOQT) will be administered to each applicant except former officers, officers covered by subparts E and F of this part, applicants for appointment under § 881.62, and applicants for appointment as dietitians, occupational therapists, and physical therapists under subpart H of this part. The test will be conducted according to current and appropriate instructions for administering and scoring the AFOQT battery, to derive the following:

(i) Pilot aptitude.
(ii) Navigator technical aptitude.
(iii) Officer quality.
(iv) Verbal aptitude.
(v) Quantitative aptitude.

(2) Testing requirements and the qualifying officer quality percentile score for AFROTC students is established in part 870 of subchapter H of this chapter.

(3) The AFOQT will be administered by a test control officer or by authorized personnel of the recruiting service. A certified record of aptitude scores will be attached to the application. If any applicant, except one in the OTS or AFROTC programs, and a BSC applicant under Subpart H, does not attain the minimum qualifying percentile score of 40 (60 for judge advocate applicants) on the officer quality portion of the test he will not be processed further.

(c) *Medical examination.* Each applicant will be given a medical examination according to AFM 160–1, if the examination has not already been accomplished.

(d) *Fingerprinting.* Examining centers will fingerprint each applicant. The FBI Fingerprint Card will be used and completed per AFR 125–36 except two copies of the fingerprint card will be submitted.

(e) *Forwarding applications and allied papers.* Applications with allied papers will be assembled and forwarded to the command (§ 881.21(g)) responsible for the appointment in the category for which the applicant is applying. The application will be forwarded within 15 workdays following the completion of the applicant's processing. The appropriate headquarters or major command will be sent a copy of the letter of transmittal of processed application, and the person's aptitude scores. If the applicant fails to comply with processing instructions, the appropriate headquarters or MAJCOM will be so advised and the application will be returned.

§ 881.23 Selection of applicants.

(a) Applicants will be selected as indicated in § 881.4.

(b) UOR of selected applicants will be initiated as prescribed in AFM 30–3, volume III, chapter 4.

§ 881.24 Personnel security investigations.

(a) U.S. citizen physicians allocated to the Air Force under Special Physicians' Draft Calls will be processed under § 881.20(c).

(b) Subparagraph (1) of this paragraph shows the personnel security investigative requirements for persons before they may be tendered an appointment.

(1) *Personnel security investigations.*

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Rule	A. If an applicant—	B. Then he may not be tendered an appointment until—
1	Is an immigrant alien physician or dentist	A report of a Background Investigation (BI) under AFR 205-6 has been completed and a favorable report rendered.
2	Has a father, mother, sisters, brothers, spouse or children residing in one of the countries listed in AFR 205-6, attachment 3.	
3	Is a U.S. citizen and has resided or traveled in a country listed in AFR 205-6, attachment 3, after dates indicated for 30 or more continuous days.[1]	
4	Made entries on DD Form 98 that provide reasons for belief that the appointment may not be clearly consistent with the interest of national security.	
5	Is not listed in rules 1 through 4	A National Agency Check (NAC) has been completed and a favorable decision rendered.
6	Is an Air Force member under consideration for appointment with an LNAC.	
7	Has a break in service or employment after a prior investigation under AFR 205-6.	An NAC has been completed and a favorable decision rendered, if the break in service or employment exceeded 6 months.

[1] Travel or residence in these countries under the auspices of the U.S. Government will not be considered.

(c) Investigations conducted by DOD agencies as part of the preliminary processing of an applicant for initial appointment will be acceptable for 1 year. If the appointment cannot be tendered within the 1-year period, a current investigation will be requested before appointment is made.

(d) When an appointment action is to be taken on the basis of a prior or existing investigation, the appointing authority may request (from the appropriate repository indicated in AFR 205-6) verification of the existence of an entirely favorable report or specifically request that the identical report be furnished.

§ 881.25 Appointing and notifying appointees.

(a) Appointment of persons to grades above captain may be made only after final selection by HQ USAF.

(b) Appointments are made by letter or administrative orders.

(c) Each applicant must be notified of his appointment or nonselection.

(d) After appointment, a copy of the appointment letter or orders, oath of office, and application with attachments thereto, become a part of the appointee's MPerRGp.

(e) Appointments will be issued as of current date and will be effective from the date of acceptance.

(f) Persons who are found not qualified for appointment will be notified of their nonselection.

Subpart D—Appointment of Judge Advocate Officers

§ 881.30 Submitting applications.

Applicants for appointment as Reserves of the Air Force, Judge Advocate General's Department, must submit, in addition to the documents required by § 881.20(a):

(a) A certificate from proper court clerk indicating original date of admission and present standing at the bar of a Federal court or of the highest court of a State.

(b) An affidavit from the applicant containing a chronological statement of his full legal experience. Legal experience may include governmental, judicial, teaching (in accredited law schools), and military experience and private practice.

(c) [Reserved]

(d) For officers applying for reappointment as judge advocates, a statement that the applicant understands that:

(1) Upon reappointment his current Reserve commission will be vacated;

(2) His service credit will be subject to recomputation as provided in §§ 881.16(d) and 881.16b.

(3) His total years service date and promotion service date will be adjusted accordingly; and counts toward mandatory transfer to the Retired Reserve under 10 U.S.C. chapter 863, as well as for appointment and promotion purposes under 10 U.S.C. chapter 837.

§ 881.31 Professional qualifications.

Applicants possessing the following professional qualifications for the grade concerned and who are otherwise qualified, may apply for appointment as a ResAF, Judge Advocate General's Department.

(a) *First Lieutenant.* For appointment as first lieutenant, the applicant must meet the age for grade requirements established by § 881.16(d) and be a graduate of an accredited law school and a member of the bar of a Federal court or of the highest court of a State. A graduate of an accredited law school may apply for appointment before admission to the bar, provided appointment will not be tendered until he submits documentary evidence of admission to the bar. A senior attending the accredited law school may apply for appointment on the basis of his current transcript but not more than 90 days before his scheduled date of graduation. Final transcript must be submitted as soon as possible. In no event will he be tendered an appointment until he graduates from law school and submits both his final transcript and evidence of admission to the bar.

(b) *Grade above first lieutenant.* For appointment in grades above first lieutenant, applicant must possess all the qualifications specified in paragraph (a) of this section and meet the age and legal experience requirements specified in § 881.16(d). Normally, appointments will not be made in field grades.

EXCEPTION. When the applicant has had the type of legal experience that, in the opinion of the Judge Advocate General, qualifies him to satisfactorily perform judge advocate duties in the grade sought and in a legal specialty critically required by the Air Force.

§ 881.32 Appointment and reappointment.

(a) *Appointment.* HQ USAF/JA is the reviewing and approval authority for all applicants. Original appointments in this specialty are contingent upon the applicant's consent to immediately enter EAD for 4 years, except for ANG applicants.

(b) *Reappointment.* Subject to the applicable provision of subpart B and this subpart, Reserve officers of the Air Force who are not in a deferred status under 10 U.S.C. 8368 may apply for reappointment as judge advocates under the following conditions:

(1) Reappointment of applicants on EAD or in the ANGUS component will be made by AFMPC/DPMMPR.

(2) Reappointment of USAFR applicants not on EAD will be made by ARPC.

(3) Reappointment is limited to officers below the permanent or temporary grade of major who qualify for appointment as judge advocates but are not designated as judge advocates or assigned to the Judge Advocate General's Department.

(4) Officers reappointed under provisions of this paragraph will be credited with constructive service under 10 U.S.C. 8353. This service counts for appointment and promotion and toward mandatory transfer to the Retired Reserve under 10 U.S.C., chapter 863.

(5) Applicants on EAD must be in career reserve status.

(6) Reappointment of non-EAD USAFR applicants who have not served on EAD as commissioned officers is authorized to fill EAD requirements. Applicants complete AF Form 125, "Application for Extended Active Duty With the USAF." Selection to enter AD is made on a competitive basis within authorized recall quotas for judge advocates. (See AFR 45-26 for reappointment of AFROTC graduates forecast to EAD to perform judge advocate duties.)

(7) Officers, except second lieutenants, holding Reserve grades lower than those to which they would be entitled by virtue of the additional constructive service credit are not eligible for reappointment.

Subpart E—Appointment of Chaplains

§ 881.40 Application for the Air Force Chaplaincy.

(a) *General.* (1) Those appointed will be awarded Air Force Specialty Code 8921.

(2) Applicants will be considered for appointment only when military and denominational authorizations exist within the Reserve quotas allocated by the Chief of Staff, HQ USAF.

(b) *Application procedures.* (1) Section 881.21(g) shows how to apply.

(2) Applications must include all applicable documents listed in Subpart C, plus the following:

(i) Ecclesiastical endorsement.

(ii) Certified scholastic transcripts.

(c) *Qualification and requirements—*

(1) *Age and grade.* (i) Maximum age and grade for appointment are:

(a) Less than 34 years for first lieutenant.

(b) Less than 40 years for captain.

(ii) In times of national emergency or war, or when a continuing serious shortage of Air Force chaplains exists, the Chief of Air Force Chaplains may grant age waivers not to exceed the maximum age of appointment by more than 3 years.

(2) *Minimal educational requirements.* (i) Applicant must possess 120 undergraduate semester hours credit from a college or university accredited by one of the six regional accreditation agencies shown in the current issue of Part 3, Higher Education, Education Directory, published by the Department of Health, Education, and Welfare. An applicant who has completed work at a nonaccredited school is acceptable if he presents a statement or transcript from an accredited institution indicating that he has 120 semester hours credit acceptable to that institution.

(ii) Applicant must possess 90 semester hours of credit or an appropriate graduate degree from a theological seminary or from a graduate school of theology that is a component part of a university. The seminary or school of theology must be accepted as an accredited or associate member of the American Association of Theological Schools or accredited by one of the six regional accreditation agencies indicated in subdivision (i) of this subparagraph. An applicant who has completed work at a nonaccredited graduate theological school is acceptable if he presents a statement or transcript from an accredited graduate institution indicating that he has 90 graduate semester hours credit or a graduate degree acceptable to that institution.

(3) *Appointment in the grade of first lieutenant.* Applicants may be initially appointed in the grade of first lieutenant if they are less than 34 years of age; have completed 3 years of graduate study or have a graduate theological degree from an accredited or recognized theological seminary; have attained full ecclesiastical ordination status; and have the professional experience required by their denomination.

(4) *Appointment in the grade of captain.* Applicants may be initially appointed in the grade of captain if they are less than 40 years of age and can qualify under one of the following constructive service credit categories:

(i) Have completed 3 years of graduate study in an accredited or recognized theological seminary; have attained full ecclesiastical ordination status; and have had a minimum of 4 years of full-time active professional experience as a minister, priest, or rabbi, following completion of undergraduate study.

(ii) Have completed an additional year of graduate study in an accredited or recognized theological seminary beyond the regular seminary course or first seminary degree; have attained full ecclesiastical ordination status; and have had a minimum of 3 years of full-time active professional experience as a minister, priest, or rabbi, following completion of undergraduate study.

§ 881.41 Compensatory professional considerations.

Applicants from religious denominations that do not operate accredited or recognized theological seminaries may be considered by the Chief of Chaplains if they:

(a) Meet the requirement of § 881.40(c)(2)(i).

(b) Have earned a minimum of 90 graduate semester hours credit in the social sciences, the humanities, or Christian theology (or a combination of all three) at an accredited or recognized institution of learning.

(c) Have attained full ordination status as required by their particular denomination.

(d) Are actively engaged full-time in their religious vocation at the time of appointment, and have had the professional experience required by their denomination.

§ 881.42 Ecclesiastical endorsement.

Applicants must request an endorsement from their ecclesiastical endorsing agency. The endorsing agency will submit the endorsement to USAFMPC (HCFE). Upon receipt of the endorsement, application forms with instructions will be forwarded to an applicant provided there is a quota vacancy for his denomination.

(a) The ecclesiastical endorsement will be considered valid only if it has been issued by a religious endorsing agency that has been formally recognized by the Armed Forces Chaplains Board of the Department of Defense. The appropriate endorsing agency must certify in the endorsement that the applicant:

(1) Is a fully ordained minister, priest, or rabbi of the denomination the agency is legitimately authorized to represent, giving day, month, year, and place of applicant's ordination.

(2) Is professionally qualified and authorized to be appointed as a Reserve of the Air Force with the specialty of chaplain.

(3) Is authorized to enter on extended active duty in the active establishment of the Air Force.

(4) Is engaged in the full-time pursuit of his religious vocation.

(5) Is best qualified intellectually, emotionally, and psychologically for the Air Force chaplaincy.

§ 881.43 The Chaplain Candidate Program.

(a) *Eligibility criteria.* In addition to being otherwise qualified, applicants seeking appointment as chaplain candidates must:

(1) Possess 120 undergraduate semester hours credit from an accredited or recognized college or university as outlined in § 881.40(c)(2)(i).

(2) Apply after completing the first semester of the first year but before the beginning of the last semester of the final year of study while enrolled as a full-time student in an accredited or recognized theological seminary or school of religion as outlined in § 881.40(c)(2)(ii).

(3) Possess the potential professional qualifications required for chaplains as stated in § 881.40.

(4) Secure ecclesiastical approval to enter the Chaplain Candidate Program from the endorsing agency of the denomination under whose auspices he will qualify himself as a fully ordained minister, priest, or rabbi.

(5) Be less than 30 years of age at the time of appointment.

(b) *Procedures.* The application procedure established in Subparts C and E apply. Additionally, the application must include a statement of ecclesiastical approval signed by the applicant's ecclesiastical endorsing agent.

(c) *Appointment.* Appointment is contingent upon a military authorization and a denominational quota vacancy as determined by the Chief of Chaplains.

(1) Approved applicants will be commissioned in the grade of second lieutenant, awarded AFSC 8921, designated a Ready Reservist and assigned to the Obligated Reserve Section (ORS) by ARPC. At the time of appointment each student will sign the following certificate, which becomes a part of this permanent record:

I understand that to retain my commission as a Reserve of the Air Force I must earn a minimum of 90 graduate semester hours credit or an appropriate graduate theological degree from a theological school accepted as a member of the American Association of Theological Schools, or from a graduate school which is a component part of a university accredited by an appropriate regional accrediting agency. I further understand that failure to complete this theological training satisfactorily will result in the termination of my commission as a Reserve of the Air Force (Authority: AFR 45-41). Upon meeting the qualifications outlined in AFM 36-5, paragraph 5-1c(3), I must submit an application for appointment as an Air Force Chaplain. I agree to serve a minimum of 3 full years on extended active duty as a chaplain if a quota for my denomination exists and if my services are required by the Department of the Air Force. If I am not ordered to extended active duty, I agree to accept a Ready Reserve assignment when one is available, or a CHAPAR assignment, and to actively participate in the Ready Reserve program for a minimum of 3 years unless ordered to active duty. Also, I agree to attend the Chaplain Orientation Course at the USAF Chaplain School as soon as possible after reappointment as chaplain, but not later than 1 year after I receive my commission as a chaplain.

(Signature of applicant)

(2) *Submission of application.* Applications are submitted direct to USAF MPC (HCFE) for final review, approval, and appointment.

(3) *Monitoring the Chaplain Candidate Program.* AFRES (HC) monitors this program. On or before 1 September each year the chaplain candidate must

not be accepted until 4 months after their as shown in § 881.55 for the applicable

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submit to AFRES (HC) a certification by the registrar of the theological institution he is attending that he is a current student in good standing and has been accepted for enrollment for the ensuing academic year. The certification must include the estimated date of graduation.

(d) *Reappointment as chaplain.* A chaplain candidate applies for appointment as chaplain, first lieutenant, after he graduates from theological seminary and is ordained. An applicant will be approved if he is endorsed for appointment by his ecclesiastical endorsing agency and meets all requirements. If a denominational quota vacancy exists, the applicant must submit with his application an application for EAD (AF Form 125) for approval by USAFMPC (HCFE). If no active duty quota vacancy exists, or if his denomination requires professional experience, the applicant must obtain an ecclesiastical endorsement for reappointment as chaplain and assignment to the ready reserve. He will be required to actively participate in the ready reserve for a minimum of 3 years unless selected by his endorsing agency to fill an active duty quota vacancy. If reappointed as chaplain, he must agree to apply for the chaplain orientation course as soon as possible, but no later than 1 year after date of reappointment. If no vacancy exists in a Category A reserve unit or mobilization augmentation position, he may be assigned to the Chaplain Area Representative program (CHAPAR).

(e) *Title of chaplain candidate.* A chaplain candidate, when in military status, will be addressed as "lieutenant." He will show his written title as:

2d Lt, USAFR
Chaplain Candidate.

A chaplain candidate will not wear the chaplain insignia.

(f) *Termination of chaplain candidate status.* (1) The status of a chaplain candidate will be in force until his theological training has been completed, ordination rites have been conferred, and the candidate fully meets the requirements for appointment as an Air Force chaplain according to this part.

(2) A chaplain candidate's commission will be terminated under AFR 45–41, if:

(i) He fails to complete the required theological studies,

(ii) He does not qualify as a chaplain according to § 881.40(c)(3),

(iii) He is not appointed as chaplain in the ResAF,

(iv) His ecclesiastical approval is withdrawn, or

(v) He fails to apply for reappointment as chaplain, first lieutenant, upon completion of the last semester of the final year of study and full ordination.

Subpart F—Appointment of Physicians,[1] Dentists, Veterinarians, and Nurses

§ 881.50 How to apply.

Section 881.21(g) shows how to submit applications. In addition to the documents required by § 881.20(a), applicant must submit:

(a) Two photostats of license to practice, except when waivers are permitted. Nurses must have current registration in at least one State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States. Applications may be submitted before actual receipt of license, provided evidence of satisfactory completion of examination for licensure is included with the remainder of the required documents. Nurse anesthetists must submit documentary evidence of current certification by the American Association of Nurse Anesthetists.

(b) Nurses must submit one official copy of transcript of grades from all schools of nursing, colleges, or universities and of any postgraduate training, such as anesthesia.

§ 881.51 General qualifications for appointment.

(a) Appointments will be based on criteria established for each specialty. Waiver of the maximum age requirement may be granted by HQ USAF for persons concurrently requesting EAD.

(b) A Reserve first lieutenant or captain of the Medical or Dental Corps entering on active duty will be appointed to the grade of captain (temporary) effective the date of entry on active duty with the date of rank as of date of graduation from medical or dental school, as appropriate. Temporary appointment to the grade of captain is contingent upon the person's entry on active duty. Criteria for entry on EAD of Medical Corps officers in a temporary grade higher than captain are outlined in AFR 45–26.

(c) Appointments may be tendered to draft-liable physicians for assignment to a Reserve unit, including the Air National Guard of the United States, except during the period a special physicians' draft call is being filled by the Selective Service System. Processing of appointees must be completed, except for security clearance, before the date Selective Service requisitioning begins. HQ USAF (DPMRDS) will announce beginning and closing dates of special draft calls.

§ 881.52 Doctors of medicine.

(a) *Appointment as first lieutenant.* (1) For appointment as first lieutenant, the applicant must:

(i) Be a graduate of a medical school approved by the Surgeon General or of a foreign medical school, and furnish evidence of permanent certification by the Educational Council for Foreign Medical Graduates, or permanent and unrestricted licensure in a State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States.

(ii) Have completed a 1-year internship and be engaged in the ethical practice of medicine.

(iii) Possess a license to practice medicine in a State or in the District of Columbia, or possess a diploma from the National Board of Medical Examiners.

(2) License and actual engagement in practice may be waived for graduates of approved medical schools and for those who have attained permanent certification by the Educational Council for Foreign Medical Graduates. Application for appointment must be made within 1 year after the completion of internship or residency training, provided formal postgraduate medical training has been continuous and uninterrupted since receipt of medical degree.

(b) *Reappointment as first lieutenant.* Regardless of the provisions of subdivisions (ii) and (iii) of paragraph (a)(1) of this section, reappointment as first lieutenant will be tendered to persons who successfully complete:

(1) The Senior Medical Student program.

(2) Medical school under the Air Force Early Commissioning program or the Medical Education of Reserve Air Force Officers program.

(c) *Appointment in higher grade.* Applicants must possess all the qualifications specified in paragraph (a) of this section and have had the minimum additional professional experience, including internship, residency, fellowship, or other graduate study at a hospital, public health agency, school of public health, research institute, laboratory, medical college, recognized teaching center, or similar institution shown in § 881.55 for the applicable grade.

§ 881.53 Doctors of osteopathy.

(a) *Appointment as first lieutenant.* (1) For appointment as first lieutenant, applicants must have completed:

(i) Three years of college work before entering a college of osteopathy.

(ii) A 4-year course and been awarded a degree of doctor of osteopathy, from a school of osteopathy (approved by the Surgeon General) whose graduates are eligible for licensure to practice medicine or surgery in a majority of the States and be licensed to practice medicine, surgery, or osteopathy in a State or territory of the United States or in the District of Columbia.

(iii) A 1-year internship and be engaged in the ethical practice of osteopathy.

(2) License and actual engagement in practice may be waived for graduates of approved schools of osteopathy providing application for appointment is made within 1 year after completion of internship or residency training. Formal postgraduate training must be continuous and uninterrupted since receipt of degree is osteopathy.

(b) *Appointment in higher grades.* Applicants must possess all the qualifications specified in paragraph (a) of this section and have the minimum additional professional experience, including internship, residency, fellowship, or other gradaute study at a hospital, public health agency, school of public health, research institute, laboratory, medical college, recognized teaching center, or a similar institution shown in § 881.55 for the applicable grade.

[1] For the purpose of this part, physicians include osteopaths.

§ 881.54 Doctors of dentistry.

(a) *Appointment as first lieutenant.* (1) For appointment as first lieutenant, applicants must:

(i) Possess a degree of doctor of dental surgery or doctor of dental medicine from a school of dentistry acceptable to the Surgeon General, USAF.

(ii) Possess a license to practice dentistry in a State or in the District of Columbia.

(iii) Actually be engaged in the ethical practice of dentistry.

(2) Waiver of license and actual engagement in practice may be made for graduates of approved dental schools, if application for appointment is made within 1 year after graduation or while undergoing appropriate postgraduate instruction or engaged in a dental internship.

(3) Applications from dental students may be accepted and processed before receipt of the qualifying degree. The applicant must furnish a statement from the institution indicating he had completed all the degree requirements or is expected to do so within 7 months. If otherwise qualified, the applicant will be tendered an appointment generally between 150 to 180 days before graduation. After appointment and following graduation, the officer must furnish evidence that the degree has been conferred and all other applicable requirements have been met. Officers so appointed who do not successfully complete their educational requirements or who fail to receive the qualifying degree will be discharged under AFR 45–41. At the time of application, each student must sign the following certificate, which will become a part of his permanent file:

I understand that if appointed, continuation in the appointment is contingent upon my completing the requirements of the appropriate degree and that failure to receive my graduate degree on _____ will result in the termination of my appointment as a Reserve of the Air Force (authority: AFR 45–41). Upon meeting the qualifications for appointment, I agree to serve a minimum of 2 full years on extended active duty unless sooner relieved by proper authority.

_____ _____
(Date) (Signature)

(4) Applications will not be accepted from senior dental students who will have an obligation for military service upon graduation unless they are:

(i) Applying for a sponsored internship.

(ii) Enrolled in the Early Commissioning program under part 906, of subchapter K of this chapter; the Senior Dental Student program, when offered; or any "extended leave" or "inservice arrangement" programs, when offered.

(iii) Allocated to the Air Force under the Armed Forces Reserve Dental Officer Allocation and Commissioning program.

(5) Unless authorized in subparagraph (4) of this paragraph, applications for reserve commissions from senior dental students who do not participate in the Armed Forces Reserve Dental Officer Allocation and Commissioning program will not be accepted until 4 months after their graduation or when they are allocated to the Air Force as the result of a special call for dentists.

(b) *Appointment in higher grades.* Applicants must possess all the qualifications specified in paragraph (a) of this section for the first lieutenant and have the additional minimum experience or training in environments normally associated with high professional standards as shown in § 881.55 for the applicable grade.

(c) *Substituting graduate study for professional experience.* Graduate study, not to exceed 3 years, may be substituted for professional experience on a year-for-year basis.

§ 881.55 Criteria for appointment of doctors of medicine, osteopathy, and dentistry to grades above first lieutenant.

Rule	A. If applicant possesses all the qualifications for a 1st lieutenant and—	B. Has had—	C. Then he is qualified for appointment as a—
1	Is engaged in the practice of his specialty (medicine, osteopathy, or dentistry) in an environment normally associated with high professional standards.	3 years' actual experience.	Captain.
2	Has had a period of intensive post graduate training in a medical or dental specialty sufficiently prolonged and of a caliber to insure the optimums in professional knowledge and technique, judged by the standards normally associated with recognized teaching centers.	10 years' actual experience and must ordinarily have been certified by one of the American specialty boards for his specialty.	Major.
3	Has achieved an unequivocal prominence that makes him an authority in his field (example: a person who is an outstanding contributor to scientific research and to the development of his specialty).	17 years' actual experience.	Lieutenant colonel.
4		19 years' actual experience.	Colonel or lieutenant colonel.[1]

[1] A person who has achieved national prominence as an authority in his particular specialty may be appointed in the grade of colonel.

§ 881.56 Doctors of veterinary medicine.

(a) *Appointment as first lieutenant.* (1) For appointment as first lieutenant applicant must:

(i) Be a graduate of a school of veterinary medicine or veterinary surgery, approved by the Surgeon General, USAF.

(ii) Be licensed to practice veterinary medicine in a State or in the District of Columbia.

(iii) Be engaged in the ethical practice of veterinary medicine.

(2) License and actual engagement in practice may be waivered for graduates of approved schools of veterinary medicine or surgery who are commissioned immediately upon graduation.

(3) Appointment of veterinary students before graduation may be made as prescribed for dental students in § 881.54(a)(3).

(b) *Appointment in other grades.* Applicants must qualify under subparagraph (1) of paragraph (a) of this section and be qualified by minimum periods of acceptable professional experience as follows:

(1) *Captain.* (i) Be engaged in practice of veterinary medicine, with a major portion of the practice being in environments normally associated with high professional standards.

(ii) Have 4 years of actual experience.

(2) *Major.* (i) Give evidence of sufficient independent experience to indicate mature judgment and ability to function in the specialty without professional supervision.

(ii) Ordinarily must have been certified by an American Veterinary Specialty Board.

(iii) Have 11 years of actual experience.

(3) *Lieutenant Colonel.* (i) Give evidence of having achieved an unequivocal prominence that makes him an authority in his particular field. (Example: A person who is an outstanding contributor to scientific research; an administrator and contributor to development of the specialty under consideration.)

(ii) Have 18 years of actual experience.

(4) *Colonel.* (i) Have achieved the type of background described in subdivision (i) of subparagraph (3) of this paragraph.

(ii) Have 20 years of actual experience.

§ 881.57 Appointments of nurses.

(a) *Appointment as second lieutenant.* (1) Applicant must:

(i) Be a graduate of a school of nursing that is accredited by the national professional agency recognized by the National Commission on Accrediting and acceptable to the Surgeon General, USAF.

(ii) Possess current registration in at least one State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States;

(iii) Be engaged in the ethical practice of nursing.

(2) An applicant who has a baccalaureate degree in nursing or an allied field may be granted 1 year of constructive service. However, if a year of constructive service is awarded for the degree, the same period of time may not be counted again as constructive experience.

(b) *Appointment in other grades.* Applicants must qualify under paragraph (a) of this section and be qualified by the indicated minimum number of years of professional experience and educational requirements outlined below. Constructive service in the amount of 1 year may be awarded to an applicant who has a baccalaureate degree; an additional year may be awarded for a master's degree. The period for which constructive service is granted for education may not again be counted toward meeting experience requirements. The period during which an applicant concurrently

shall be appointed in the temporary

§ 881.73 Physical therapist (AFSC

year of an approved course leading to a bachelor's degree in occupational ther-

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earns a degree and acquires experience may be counted as constructive service either for education or experience but not for both.

(1) *First lieutenant.* Must have constructive education and experience totaling 3 years in one of the following combinations:

(i) Three years' appropriate professional experience, of which at least 6 months was spent either in active nursing or pursuing additional education in a field allied to nursing within the 12-month period prior to appointment.

(ii) Two years' appropriate professional experience and a baccalaureate degree in nursing or a field allied to nursing.

(iii) One year's appropriate professional experience and a master's degree in nursing, a nursing specialty, or a field allied to nursing.

(iv) Two years' appropriate professional experience and at least 1 year of anesthesia training and subsequent qualification by examination as a nurse anesthetist by the American Association of Nurse Anesthetists (AANA).

(v) One year's appropriate professional experience, a baccalaureate degree in nursing or a nursing specialty, and at least 1 year of anesthesia training and subsequent qualification by examination as a nurse anesthetist by the AANA.

NOTE: Applicants with more than 3 years of applicable experience who do not meet the qualifications for appointment in grade of captain will be given constructive service credit to which entitled under this part, except that in no case will the applicant be credited with more than 6 years.

(2) *Captain.* Must have constructive education and experience totaling 7 years in one of the following combinations:

(i) Six years' appropriate professional experience in addition to a baccalaureate degree in nursing or a field allied to nursing. (A minimum of 2 years of the required 6 years' professional experience must have been spent in public health, teaching, or an appropriate administrative position.)

(ii) Five years' appropriate professional experience plus a master's degree in nursing, a nursing specialty, or a field allied to nursing. Two years of the required 5 years' professional experience must have been spent teaching or in an appropriate administrative position.

(iii) Six years' appropriate professional experience and at least 1 year's anesthesia training and subsequent qualification by examination as a nurse anesthetist by the AANA. Applicant must have had at least 12 months' experience administering anesthetics within the 2-year period immediately prior to appointment.

(iv) Five years' appropriate professional experience, a baccalaureate degree in nursing or a nursing specialty, and at least 1 year's anesthesia training and subsequent qualification by examination as a nurse anesthetist by the AANA. Applicant must have had at least 12 months' experience in administering anesthetics within the 2-year period immediately prior to appointment.

NOTE: The maximum amount of constructive service that may be awarded upon appointment in grade of captain is 7 years.

(3) *Major or lieutenant colonel.* Appointees must possess outstanding qualifications for special positions determined by the Surgeon General, USAF, as requirements necessitate.

(c) *Appointment for training.* Applicants who meet appointment criteria may be appointed in the grade for which qualified and ordered to active duty for completion of final 12 months of degree requirements (see Part 905 of Subchapter K of this chapter). After appointment and following graduation, the officer must furnish evidence that the degree has been conferred and all other applicable requirements have been met. Officers so appointed who do not successfully complete their educational requirements or who fail to receive the qualifying degree will be discharged under AFR 36-12. At the time of application, each student must sign the following certificate, which will be filed in his unit personnel records as a permanent document:

I understand that if appointed, continuation in the appointment is contingent upon my completing the requirements of the appropriate degree and that failure to receive my degree will result in the termination of my appointment as a Reserve of the Air Force. (Authority: AFR 36-12.) Upon being ordered to active duty, I agree to serve a minimum of 4 full years unless sooner relieved by proper authority.

(Signature)

(Date)

Subpart G—Appointment of Officers in the Medical Service Corps

§ 881.60 Application, processing, and selection.

(a) Section 881.21(g) shows how to submit applications. In addition to documents required by § 881.20(a), each applicant must submit results of the AFOQT under § 881.22(b).

(b) Qualifying experience may include both active military and full-time civilian experience that is directly related to the specialty for which application is made. For appointment in grades higher than second lieutenant, the experience must have been gained after the qualifying degree was attained.

§ 881.61 Health services administrator (AFSC 9021).

(a) *Grade.* Appointments for duty in this specialty may be made in grades of second lieutenant through lieutenant colonel as determined under § 881.16(d) and § 881.16a.

(b) *Education.* The minimum educational requirement for qualification in this specialty is a baccalaureate degree in business administration, management, or a related or included field of administration or management. A master's degree in hospital administration or a related field is desirable.

(c) *Area of experience.* Qualifying experience must have been gained in administrative or management positions, including planning, organizing, and directing such activities as hospital administration, medical registration, personnel, finance, evacuation and debarkation of patients, recreation, welfare, and installation maintenance.

§ 881.62 Other applicants.

Reserve appointment, reappointment, or promotion list transfer to the Medical Service Corps with AFSC 9021:

(a) Will be made for the following:

(1) Students pursuing courses of study as physicians, osteopaths, dentists, veterinarians, or optometrists who apply and are selected for commissioning under Part 906 of Subchapter K of this chapter.

(2) Students selected for participation in the following programs (listed in Part 905 of Subchapter K of this chapter).

(i) The Senior Medical Student Program.

(ii) The Senior Optometry School Program.

(iii) Other health or health related fields.

(3) Persons selected for advanced training in medicine, dentistry, or veterinary medicine under Part 908 of Subchapter K of this chapter.

(b) May be made under subparagraph (1) of paragraph (a) of this section only in the grade of second lieutenant and under subparagraphs (2) and (3) of paragraph (a) of this section in grades not to exceed captain. Qualification for a grade higher than second lieutenant is based on prior commissioned service.

Subpart H—Appointment of Officers in the Biomedical Sciences Corps

§ 881.70 Application, processing, and selection.

(a) Section 881.21(g) shows how to submit applications. In addition to documents required by § 881.20(a), each applicant must submit:

(1) Results of the AFOQT specified in § 881.22(b) when applicable.

(2) One official copy of transcript of grades from college or university, plus one copy of certification in specialty, if applying for appointment as a dietitian, occupational therapist, or physical therapist.

(3) One photostat of license to practice if applying for appointments for duty in specialties requiring licensure, such as optometrists and pharmacists.

(b) Grades in which selected applicants are to be appointed will be determined according to the specific paragraph that deals with the specialty and §§ 881.16(d) and 881.16a.

(c) Qualifying experience may include both active military and full-time civilian experience that is directly related to the specialty for which application is made. For appointment in grades higher than second lieutenant, the experience must have been gained after the qualifying degree was attained.

(d) Biomedical therapist (podiatrist) and optometry officers who are not otherwise eligible for a higher grade

shall be appointed in the temporary grade of first lieutenant effective on the date of entry on active duty.

§ 881.71 Dietitian (AFSC 9216A).

(a) *Appointment as second lieutenant.* Applicant must:

(1) Possess a bachelor's degree from an approved college or university.

(2) Have completed an internship acceptable to the Surgeon General, USAF.

(b) *Appointment in higher grades.* Applicants must qualify under paragraph (a) of this section and be qualified in acceptable professional experience and training as follows:

(1) *First lieutenant.* At least 2 years' experience, exclusive of internship, one of which has been as dietitian in a hospital of 100 or more beds. Applicant with more than 3 years of applicable experience who do not meet the qualifications for appointment in grade of captain will be given constructive service credit to which entitled under this part, except that in no case will applicant be credited with more than 6 years of service.

(2) *Captain.* At least 6 years' experience exclusive of internship, including 3 years in administration of a dietetic department of a hospital of 100 or more beds. The maximum amount of constructive service that may be awarded upon appointment as captain is 7 years.

(3) *Major and lieutenant colonel.* Appointees must possess outstanding qualifications for special positions determined by the Surgeon General, USAF, as requirements necessitate.

§ 881.72 Occupational therapist (AFSC 9226).

(a) *Appointment as second lieutenant.* Applicant must:

(1) Possess a bachelor's degree from an approved college, university, or school.

(2) Have completed an occupational therapy course acceptable to the Surgeon General, USAF.

(b) *Appointment in higher grades.* Applicant must possess all the qualifications in paragraph (a) of this section and be further qualified by acceptable professional experience and training as follows:

(1) *First lieutenant.* At least 2 years' professional experience in medical institutions following certification. Applicants with more than 3 years' applicable experience who do not meet the qualifications for appointment in grade of captain will be given constructive service credit to which entitled under this part, except that in no case will the applicant be credited with more than 6 years' service.

(2) *Captain.* At least 6 years' professional experience in medical institutions following certification, 3 of which must have been in a supervisory or administrative capacity. The maximum amount of constructive service that may be awarded upon appointment as captain is 7 years.

(3) *Major and lieutenant colonel.* Appointees must possess outstanding qualifications for special positions determined by the Surgeon General, USAF, as requirements necessitate.

§ 881.73 Physical therapist (AFSC 9236).

(a) *Appointment as second lieutenant.* Applicant must:

(1) Possess a bachelor's degree from an approved college, university, or school.

(2) Have completed a physical therapy training course acceptable to the Surgeon General, USAF.

(b) *Appointment in higher grades.* Applicant must possess all the qualifications in paragraph (a) of this section and be further qualified by acceptable professional experience and training as follows:

(1) *First lieutenant.* At least 2 years' professional experience in medical institutions following certification. Applicants with more than 3 years' applicable experience who do not meet the qualifications for appointment in the grade of captain will be given constructive service credit to which entitled under this part, except that in no case will the applicant be credited with more than 6 years' service.

(2) *Captain.* At least 6 years' professional experience in medical institutions following certification, 3 of which must have been in a supervisory or administrative capacity. The maximum amount of constructive service that may be awarded upon appointment as captain is 7 years.

(3) *Major and lieutenant colonel.* Appointees must possess outstanding qualifications for special positions determined by the Surgeon General, USAF, as requirements necessitate.

§ 881.74 Appointment for training.

Applicants who are 21 but not 28 years of age may be appointed as second lieutenants and ordered to active duty to complete training in one of the following courses:

(a) *Dietetic training.* Applicant must possess a bachelor's degree and have been accepted for an approved dietetic internship.

(1) Dietetic students may be appointed before graduation in substantially the same way that dental students are under § 881.54(a)(3). At the time of application, each student must sign the following certificate, which will be filed in his unit personnel records as a permanent document:

I understand that if appointed, continuation in the appointment is contingent upon my completing the requirements for a baccalaureate degree and an approved dietetic internship. Failure to complete requirements will result in termination of my appointment as a Reserve of the Air Force. (Authority: AFR 36-12.) Upon being ordered to active duty, I agree to serve a minimum of 4 full years unless sooner relieved by proper authority.

Active duty will consist of the following:
12 months—Dietetic internship.
6 months—Additional dietetic training at a USAF hospital.
30 months—Duty assignment as a dietitian at a USAF hospital.

(Date) (Signature)

(b) *Occupational therapy training.* Applicant must be enrolled in the final year of an approved course leading to a bachelor's degree in occupational therapy or possess a bachelor's degree and have completed all but the final year of an approved certificate course in occupational therapy.

(c) *Physical therapy training.* Applicant must possess a bachelor's degree and have been accepted for an approved certificate course in physical therapy or be enrolled in the final year of an approved course leading to a bachelor's degree in physical therapy.

(d) *Qualifying evidence.* After appointment and following graduation, each officer who has been appointed under paragraphs (b) and (c) of this section must furnish evidence that the applicable degree has been conferred and all other applicable requirements have been met. Officers so appointed who do not successfully complete their educational requirements, or who fail to receive the qualifying degree, will be discharged under AFR 36-12. At the time of application, each student must sign the following certificate which will be filed in his unit personnel records as a permanent document:

I understand that if appointed, continuation in the appointment is contingent upon my completing the requirements for certification in (physical/occupational) therapy. Failure to meet certification requirements will result in the termination of my appointment as a Reserve of the Air Force. (Authority: AFR 36-12.) Upon being ordered to active duty, I agree to serve a minimum of 4 full years unless sooner relieved by proper authority.

(Date) (Signature)

§ 881.75 Pharmacy officer (AFSC 9241).

(a) *Grade.* Appointments may be made in grades of second lieutenant through colonel as determined under §§ 881.16(d) and 881.16a.

(b) *Education.* The minimum educational requirement is a baccalaureate degree in pharmacy.

(c) *Area of experience.* Qualifying experience must have been gained in pharmacy positions, including conducting laboratory tests, manufacturing medications, and directing pharmacy personnel. A current license to practice pharmacy is mandatory. Licensure may be waived for individuals appointed within 1 year after date of graduation to fill an active duty requirement.

§ 881.76 Optometry officer (AFSC 9251).

(a) *Grade.* Appointments may be made in grades of second lieutenant through colonel as determined under §§ 881.16(d) and 881.16a. Students may be appointed before they attain the qualifying degree in the same that dental students are under § 881.54(a)(3)

(b) *Education.* The minimum educational requirement is a degree in optometry from an accredited school of optometry.

(c) *Area of experience.* Qualifying experience must have been gained in optometry positions, including conducting

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examinations of the eye to determine the presence of visual defects; prescribing lenses and orthoptic therapy to correct, conserve, or improve vision; and examining and testing lenses for workmanship and conformance to prescriptions. Must posses a current license to practice optometry in a State or the District of Columbia or certification of the successful passing of all parts of the examination of the National Board of Examiners in optometry. Licensure may be waivered for individuals appointed within 1 year after date of graduation to fill an active duty requirement.

§ 881.77 Bioenvironmental engineer (AFSC 9121).

(a) *Grade.* Appointments may be made in grades of second lieutenant through major as determined under §§ 881.16(d) and 881.16a.

(b) *Education.* The minimum educational requirement is a baccalaureate degree in civil, chemical, sanitary, electrical, mechanical, or industrial hygiene engineering.

(c) *Area of experience.* Qualifying experience must have been gained in a professional capacity, including design, management, investigation, or construction of works or programs for water supply, treatment, and disposal of community wastes (that is, sanitary sewage, industrial wastes, and refuse including salvage and reclamation of useful components of such wastes); the control of pollution of surface waterways and ground waters, and of surface and subsurface soils, milk, and food facilities, housing, hospital, and institutional facilities; insect and vermin control or eradication; rural, camp, and recreation place facilities; the control of atmospheric pollution and air quality, and of light, noise, vibration, and toxic materials, including application to work spaces in industrial establishments; the prevention of radiation exposure; professional research and development work; and responsible teaching positions in engineering subjects in educational institutions of recognized standing.

§ 881.78 Medical entomologist (AFSC 9131).

(a) *Grade.* Appointments may be made in grades of second lieutenant through colonel as determined under §§ 881.16(d) and 881.16a.

(b) *Education.* The minimum educational requirement is a baccalaureate degree in entomology. A master's degree is desirable.

(c) *Area of experience.* Qualifying experience must have been gained in medical entomology positions, including formulating policies and procedures, directing personnel engaged in medical entomological activities, and conducting field and laboratory studies on development, testing, and application of insect control measures.

§ 881.79 Biomedical laboratory officer (AFSC 9151).

(a) *Grade.* Appointments may be made in grades of second lieutenant through colonel as determined under §§ 881.16(d) and 881.16a.

(b) *Education.* The minimum educational requirement is a baccalaureate degree in medical technology, bacteriology, parasitology, chemistry, biochemistry, pharmaceutical chemistry, pharmacology, hematology, serology, or virology. A master's or Ph. D. degree with a major study in one of the referenced fields is desirable.

(c) *Area of experience.* Experience must have been gained in clinical laboratory positions, including conducting clinical laboratory tests and developing and applying procedures in serology, bacteriology, parasitology, hematology, biochemistry, and tissue pathology.

§ 881.80 Aerospace physiologist (AFSC 9161).

(a) *Grade.* Appointments may be made in grades of second lieutenant through colonel as determined under §§ 881.16(d) and 881.16a.

(b) *Education.* The minimum educational requirement is a baccalaureate degree in physiology, biophysics, biochemistry, or zoology. A master's degree or Ph. D. with a major study in one of the referenced fields is desirable.

(c) *Area of experience.* Qualifying experience must have been gained in aviation physiological or related positions. Experience in physiological research and the development of physiological aids for aircrew personnel is desirable.

§ 881.81 Health physicist (AFSC 9171).

(a) *Grade.* Appointments may be made in grades of second lieutenant through colonel as determined under §§ 881.16(d) and 881.16a.

(b) *Education.* The minimum educational requirement is a master's degree in health physics, nuclear physics, radiobiology, radiological physics, or biophysics.

(c) *Area of experience.* Qualifying experience must have been gained in controlling, shipping, and disposing of radiological materials; conducting radiological protection surveys; monitoring the treatment and disposal of radioactive wastes; calibrating instruments; instructing in health physics, and supervising and directing health physics programs.

§ 881.82 Clinical phychologist (AFSC 9181).

(a) *Grade.* Appointments may be made in grades of second lieutenant through colonel as determined under §§ 881.16(d) and 881.16a.

(b) *Education.* An applicant may qualify in either of two ways:

(1) A doctoral degree with a major and dissertation in clinical psychology from an approved university and completion of internship in a medical setting, is mandatory for a fully qualified appointment.

(2) Persons with master's degree in clinical psychology who are doctoral candidates within 2 years of completing academic requirements toward the doctoral degree may be offered an appointment and sponsorship under an AFIT program to complete requirements for the doctoral degree.

(c) *Area of experience.* Qualifying experience must have been gained in clinical psychological positions, including formulating plans and policies for and directing personnel engaged in clinical psychology activities; administering psychotherapy in typical cases; selecting and interpreting results of psychological tests; and counseling maladjusted personnel on education and vocational problems.

§ 881.83 Social worker (AFSC 9191).

(a) *Grade.* Appointments may be made in grades of second lieutenant through colonel as determined under §§ 881.16(d) and 881.16a.

(b) *Education.* The minimum educational requirement is a master's degree in social work.

(c) *Area of experience.* Qualifying experience must have been gained in psychiatric case work positions, including administration of psychiatric social work programs as a member of the psychiatric team.

§ 881.84 Biomedical therapist (AFSC 9261).

(a) *Grade.* Appointments may be made in grades of second lieutenant through lieutenant colonel as determined under §§ 881.16(d) and 881.16a.

(b) *Education.* For podiatrists (AFSC 9261A), the minimum educational requirement is a Doctor of Podiatry degree from a school or college of podiatry. For all other subspecialties (AFSC 9261B, audiologist; AFSC 9261C, speech therapist; and AFSC 9261D, special), the minimum educational requirement is a master's degree in the appropriate specialty. All degrees must be from accredited institutions of higher learning acceptable to the Surgeon General, USAF.

(c) *Area of experience.* Qualifying experience must have been gained in full-time positions as a podiatrist, audiologist, speech pathologist, rehabilitation therapist (including providing care and treatment for human ailments), or planning, directing, and conducting research in the pertinent professional area of practice. License to practice in the pertinent specialty, when appropriate, or registration or certification by the special national accreditation body is mandatory. Licensure, registration, or certification may be waived for individuals appointed within 1 year after date of graduation.

By order of the Secretary of the Air Force.

JOHN W. FAHRNEY,
Colonel, U.S. Air Force, Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.72-20536 Filed 11-29-72;8:47 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

[CGD 72-13R]

PART 110—ANCHORAGE GROUNDS

Puget Sound Area, Wash.

This amendment to the anchorage regulations disestablishes the Port Madison Explosives Anchorage as published in 33 CFR 110.230(a)(5). The reason for the termination is that the anchorage no longer meets the minimum quantity/distance standards.

This amendment is based on a notice of proposed rule making published in the Thursday, February 3, 1972, issue of the FEDERAL REGISTER (37 F.R. 2587) and Public Notice 71-L-03 issued by the Commander, Thirteenth Coast Guard District.

No comments concerning the disestablishment of the explosives anchorage were received.

In consideration of the foregoing, § 110.230(a) is amended by deleting subparagraph (5).

§ 110.230 Puget Sound Area, Wash.

(a) • • •

(5) [Deleted]

• • • • • •

(Sec. 7, 38 Stat. 1053, as amended, sec. 6(g)(1)(A), 80 Stat. 937; 33 U.S.C. 471, 49 U.S.C. 1655(g)(1)(A); 49 CFR 1.46(c)(1), 33 CFR 1.05-1(c)(1) (36 F.R. 19160))

Effective date. This amendment shall become effective on December 1, 1972.

Dated: November 24, 1972.

J. D. MCCANN,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.72-20592 Filed 11-29-72;8:51 am]

Title 35—PANAMA CANAL

Chapter I—Canal Zone Regulations

SUBCHAPTER B—GENERAL REGULATIONS

PART 67—CANAL ZONE POSTAL SERVICE

Armed Forces Mail

Effective on publication in the FEDERAL REGISTER (11-30-72), Part 67 of Title 35, Code of Federal Regulations is amended to read as follows:

1. The index of Part 67 is amended as follows:

Subpart D—Mail Classification and Rates

Sec.
67.171 Mail addressed to military post offices overseas and mail privileges for members of the U.S. Armed Forces and friendly foreign nations in the Canal Zone.

2. Section 67.171(a) is revised to read as follows:

§ 67.171 Mail addressed to military post offices overseas and mail privileges for members of the U.S. Armed Forces and friendly foreign nations in the Canal Zone.

(a) Airlift mail: The following items of Armed Forces personnel mail, when addressed to locations where U.S. domestic postage rates apply, are given airlift on a space available basis between the Canal Zone and the point of embarkation within the United States and to final destination, except as otherwise provided herein:

(1) First-class letter mail, including postal and post cards.

(2) Sound recorded communications having the character of personal correspondence. The provisions of 39 CFR, relating to the markings required on this category of mail in the United States, are applicable to and within the Canal Zone.

(3) Second-class publications published once each week or more frequently and featuring principally current news of interest to members of the Armed Forces and the general public, except that such mail shall be transported by surface means within the 48 contiguous States of the United States.

(4) Parcels of any class paid at surface postage rate, not exceeding 15 pounds in weight and 60 inches in length and girth combined when addressed to an Armed Forces post office located outside of the 48 contiguous States of the United States and mailed by persons not members of the Armed Forces of the United States and of friendly foreign nations, except that such parcels shall be transported by surface means within the 48 contiguous States of the United States. These parcels shall be marked with large letters SAM (space available mail) on the address side, preferably below the postage and above the name of the addressee. Postal employees shall place these letters on all such parcels at the time of acceptance.

(5) Parcels of any class paid at surface postage rates not exceeding 70 pounds in weight and not exceeding 100 inches in length and girth combined when mailed by members of the Armed Forces of the United States and of friendly foreign nations, except that such parcels shall be transported by surface means within the 48 contiguous States of the United States. These parcels must be marked with large letters SAM (space available mail) on the address side, preferably below the postage and above the name of the addressee. Postal employees shall place these letters on all such parcels at the time of acceptance.

(6) Parcels, other than parcels mailed at a rate of postage requiring priority of handling and delivery, not exceeding 30 pounds in weight and not exceeding 60 inches in length and girth combined, shall be transported by air on a space available basis to final destination upon payment of a fee in addition to regular surface rate of postage. These parcels must be marked with large letters PAL (Parcel Air Lift) on the address side, preferably below the postage and above the name of the addressee. Postal employees shall place these letters on all such parcels at the time of acceptance. The provisions of 39 CFR, relating to the fee charged for PAL parcels marked in the United States are applicable to and within the Canal Zone.

• • • • • •

(2 C.Z.C. 1131-1132, 76A Stat. 38-9)

Date signed: November 14, 1972.

DAVID S. PARKER,
Governor of the Canal Zone.

[FR Doc.72-20520 Filed 11-29-72;8:46 am]

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

SUBCHAPTER E—PESTICIDES PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Coordination Product of Zinc Ion and Maneb

Correction

In F.R. Doc. 72-19541, appearing on page 24112, in the issue of Tuesday, November 14, 1972, in the 11th line of the first paragraph, insert the preposition "on" preceding the words "corn grain".

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 3—Department of Health, Education, and Welfare

PART 3-16—PROCUREMENT FORMS

Negotiated Cost-Reimbursement Contracts

On April 25, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 8079-8085) stating that the Department of Health, Education, and Welfare was considering an amendment to 41 CFR Chapter 3 by adding a new § 3-16.950-315 under Subpart 3-16.9, Illustration of Forms. The purpose of the amendment is to illustrate the revised form HEW 315, General Provisions (Negotiated Cost-Reimbursement Contract). The form HEW 315 has been revised by making it two separate forms. Form 315 is to be used with cost-reimbursement contracts with educational institutions and form HEW 315A is to be used with cost-reimbursement contracts with nonprofit institutions other than educational institutions. These General Provisions include certain clauses prescribed by the Federal Procurement Regulations (41 CFR Ch. 1).

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These clauses are not being repeated herein, but are identified by an appropriate cross reference to the applicable FPR.

Interested persons were invited to submit written data, views, or comments, within 30 days after publication. Written comments were received, and after due consideration of the views presented, the regulation is revised and adopted as set forth below.

(5 U.S.C. 301; 40 U.S.C. 486(c))

Effective date. This amendment shall become effective 90 days after publication in the FEDERAL REGISTER.

Dated: November 22, 1972.

N. B. HOUSTON,
Deputy Assistant Secretary for Administration.

1. The table of contents for Part 3–16 is amended by adding the following entries:

Subpart 3–16.9—Illustration of Forms

Sec.
3–16.950–315 Form HEW 315 (Rev. 12/72), general provisions (negotiated cost-reimbursement contract with educational institutions).
3–16.950–315A Form HEW 315A (12/72), general provisions (negotiated cost-reimbursement contract with nonprofit institutions other than educational institutions).

2. Part 3–16 is amended by adding §§ 3–16.950–315 and 3–16.950–315A to read as follows:

§ 3–16.950–315 Form HEW–315 (Rev. 12/72), general provisions (negotiated cost-reimbursement contract with educational institutions).

GENERAL PROVISIONS (NEGOTIATED COST-REIMBURSEMENT CONTRACT WITH EDUCATIONAL INSTITUTIONS)

1. DEFINITIONS

As used throughout this contract, the following terms shall have the meaning set forth below:

(a) The term "Secretary" means the Secretary, the Under Secretary, or any Assistant Secretary of the Department of Health, Education, and Welfare; and the term "his duly authorized representative" means any person, persons, or board (other than the Contracting Officer) authorized to act for the Secretary.

(b) The term "Contracting Officer" means the person executing this contract on behalf of the Government, and any other officer or employee who is properly designated Contracting Officer; and the term includes, except as otherwise provided in this contract, the authorized representative of the Contracting Officer acting within the limits of his authority.

(c) The term "Project Officer" means the person representing the Government for the purpose of technical direction of contract performance. The Project Officer is not authorized to issue any instructions or directions which effect any increase or decrease in the cost of this contract or which change the period of this contract.

(d) The term "Department" means the Department of Health, Education, and Welfare.

(e) Except as otherwise provided in this contract, the term "subcontract" includes purchase orders under this contract.

2. DISPUTES

(Text of this clause is set forth in FPR 1–7.101–12).

3. LIMITATION OF COST

(a) It is estimated that the total cost to the Government for the performance of this contract will not exceed the estimated cost set forth in this contract and the Contractor agrees to use its best efforts to perform all work and all obligations under this contract within such estimated costs. If at any time the Contractor has reason to believe that the costs which it expects to incur in the performance of this contract in the next succeeding sixty (60) days, when added to all costs previously incurred, will exceed seventy-five percent (75%) of the estimated cost set forth in the contract, or, if at any time, the Contractor has reason to believe that the total cost to the Government, for the performance of this contract, will be substantially greater or less than the estimated cost thereof, the Contractor shall notify the Contracting Officer in writing to that effect, giving its revised estimate of such total cost for the performance of this contract.

(b) The Government shall not be obligated to reimburse the Contractor for costs incurred in excess of the estimated cost set forth in the contract and the Contractor shall not be obligated to continue performance under the contract or to incur costs in excess of such estimated cost unless and until the Contracting Officer shall have notified the Contractor in writing that such estimated cost has been increased and shall have specified in such notice a revised estimated cost which shall thereupon constitute the estimated cost of performance of this contract. When and to the extent that the estimated cost set forth in this contract has been increased by the Contracting Officer in writing, any costs incurred by the Contractor in excess of such estimated cost prior to the increase in estimated cost shall be allowable to the same extent as if such costs had been incurred after such increase in estimated cost.

4. ALLOWABLE COST

(a) *Compensation for Contractor's performance.* Payment for the allowable cost, as herein defined and as actually incurred by the Contractor shall constitute full and complete compensation for the performance of the work under this contract.

(b) *Allowable cost.* The allowable cost of performing the work under this contract shall be the cost actually incurred by the Contractor, either directly incident or properly allocable to the contract, in the performance of this contract in accordance with its terms. The allowable cost, direct and indirect, including acceptability of cost allocation methods, shall be determined by the Contracting Officer in accordance with:

(1) Subpart 1–15.3 of the Federal Procurement Regulations (41 CFR 1–15.3) as in effect on the date of this contract.

(2) The terms of this contract.

5. NEGOTIATED OVERHEAD RATES

(i) The following provisions shall be applicable when post determined rates are used:

(a) Notwithstanding the provisions of the clause of this contract entitled "Allowable Cost" the allowable indirect costs under this contract shall be obtained by applying negotiated overhead rates to bases agreed upon by the parties, as specified below.

(b) The Contractor, as soon as possible, but not later than six (6) months after the close of his fiscal year, or such other period as may be specified in the contract, shall submit to the Contracting Officer, with a copy to the cognizant audit activity, a proposed final overhead rate or rates for that period based on the Contractor's actual cost experience during that period, together with supporting data. Negotiation of final overhead rates by the Contractor and the Contracting Officer shall be undertaken as promptly as practicable after receipt of the Contractor's proposal.

(c) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with Subpart 1–15.3 of the Federal Procurement Regulations (41 CFR 1–15.3) as in effect on the date of contract.

(d) The results of each negotiation shall be set forth in a modification to this contract, which shall specify (1) the agreed final rates, (2) the bases to which the rates apply, and (3) the periods for which the rates apply.

(e) Pending establishment of final overhead rates for any period, the Contractor shall be reimbursed either at negotiated provisional rates as provided in the contract, or at billing rates acceptable to the Contracting Officer, subject to appropriate adjustments when the final rates for that period are established. To prevent substantial over or under payment, and to apply either retroactively or prospectively: (1) Provisional rates may, at the request of either party, be revised by mutual agreement, and (2) billing rates may be adjusted at any time by the Contracting Officer. Any such revision of negotiated provisional rates specified in the contract shall be set forth in a modification to this contract.

(f) Any failure by the parties to agree on any final rate or rates under this clause shall be considered a dispute concerning a question of fact for decision by the Contracting Officer within the meaning of the "Disputes" clause of this contract.

(g) Submission of proposed provisional and/or final overhead rates, together with appropriate data in support thereof to the Secretary or his duly authorized representative, and agreements on provisional and/or final overhead rates entered into between the Contractor and the Secretary or his duly authorized representative, as evidenced by Negotiated Overhead Rate Agreements signed by both parties, shall be deemed to satisfy the requirements of (b), (d), and (e), above.

(ii) The following provisions shall be applicable with educational institutions when predetermined rates are used:

(a) Notwithstanding the provisions of the clause of this contract entitled "Allowable Cost," the allowable indirect costs under this contract shall be obtained by applying predetermined overhead rates to bases agreed upon by the parties, as specified below:

(b) The Contractor, as soon as possible but not later than three (3) months after the close of his fiscal year, or such other period as may be specified in the contract, shall submit to the Contracting Officer, with a copy to the cognizant audit activity, a proposed predetermined overhead rate or rates based on the Contractor's actual cost experience during that period, together with supporting cost data. Negotiation or predetermined overhead rates by the Contractor and the Contracting Officer shall be undertaken as promptly as practicable after receipt of the Contractor's proposal.

(c) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with Subpart 1–15.3 of the Federal Procurement Regulations (41

CFR 1–15.3) as in effect on the date of this contract.

(d) The results of each negotiation shall be set forth in a modification to this contract, which shall specify (1) the agreed predetermined overhead rates, (2) the bases to which rates apply, (3) the fiscal year unless the parties agree to a different period for which the rates apply, and (4) the specific items treated as direct cost or any changes in the items previously agreed to be direct costs.

(e) Pending establishment of predetermined overhead rates for the initial period of contract performance, or for any fiscal year or different period agreed to by the parties, the Contractor shall be reimbursed either at (1) the rates fixed for the previous fiscal year or other period, or (2) billing rates acceptable to the Contracting Officer, subject to appropriate adjustment when the final rates for that fiscal year or other period are established.

(f) Any failure by the parties to agree on any predetermined overhead rate or rates under this clause shall not be considered a dispute concerning a question of fact for decision by the Contracting Officer within the meaning of the "Disputes" clause of this contract. If for any fiscal year or other period of contract performance the parties fail to agree to a predetermined overhead rate or rates, it is agreed that the allowable indirect costs under this contract shall be obtained by applying negotiated final overhead rates in accordance with the terms of the "Negotiated Overhead Rates-Postdetermined" clause set forth in § 1–3.704–2(a) of the Federal Procurement Regulations (41 CFR 1–3.704–2(a)), as in effect on the date of this contract.

(g) Submission of proposed provisional and/or final overhead rates together with appropriate data in support thereof to the Secretary or his duly authorized representative and agreements on provisional and/or final overhead rates entered into between the Contractor and the Secretary or his duly authorized representative as evidenced by Negotiated Overhead Rate Agreements, signed by both parties, shall be deemed to satisfy the requirements of (b), (d), and (e), above.

(iii) The following provisions shall be applicable when fixed rates subject to carryforward adjustments are used.

(a) Notwithstanding the provisions of the clause of this contract entitled, "Allowable Cost," the allowable indirect costs under this contract shall be obained by applying negotiated fixed overhead rates for the applicable period(s) to bases agreed upon by the parties; as specified below. A negotiated fixed rate(s) is based on an estimate of the costs which will be incurred during the period for which the rate(s) applies. When the application of the negotiated fixed rates against the actual base(s) during a given fiscal period produces an amount greater or less than the indirect costs determined for such period, such greater or lesser amount(s) will be carried forward to a subsequent period.

(b) The Contractor, as soon as possible but no later than six (6) months after the close of his fiscal year, or such other period as may be specified in the contract, shall submit to the Secretary or his duly authorized representatives, with a copy to the cognizant audit activity, a proposed fixed overhead rate or rates based on the Contractor's actual cost experience during the fiscal year, including adjustment, if any, for amounts carried forward, together with supporting cost data. Negotiation of fixed overhead rates, including carryforward adjustments, if any, by the Contractor and the Secretary, or his duly authorized representative, shall be undertaken as promptly as practicable after receipt of the Contractor's proposal.

(c) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with Subpart 1–15.3 of the Federal Procurement Regulations (41 CFR 1–15.3), as in effect on the date of this contract.

(d) The results of each negotiation shall be set forth in an amendment to this contract, which shall specify (1) the agreed fixed overhead rates, (2) the bases to which the rates apply, (3) the fiscal year, unless the parties agreed to a different period, for which the rates apply, and (4) the specific items treated as direct costs or any changes in the items previously agreed to be direct costs.

(e) Pending establishment of fixed overhead rates for any fiscal year or different period agreed to by the parties, the Contractor shall be reimbursed either at the rates fixed for the previous fiscal year or other period or at billing rates acceptable to the Contracting Officer, subject to appropriate adjustment when the final rates for that fiscal year or other period are established.

(f) Any failure of the parties to agree on any fixed overhead rate or rates or to the amount of any carryforward adjustment under this clause shall not be considered a dispute concerning a question of fact for decision by the Contracting Officer within the meaning of the "Disputes" clause of this contract. If for any fiscal year or other period specified in the contract, the parties fail to agree to a fixed overhead rate or rates, it is agreed that the allowable indirect costs under this contract shall be obtained by applying negotiated final overhead rates in accordance with the terms of the "Negotiated Overhead Rates-Postdetermined" clause set forth in section 1–3.704–2(a) of the Federal Procurement Regulations, as in effect on the date of this contract.

(g) Submission of proposed fixed, provisional, and/or final overhead rates, together with appropriate data in support thereof, to the Secretary or his duly authorized representative and agreements on fixed, provisional, and/or final overhead rates entered into between the Contractor and the Secretary or his duly authorized representative, as evidenced by Negotiated Overhead Rate Agreements signed by both parties, shall be deemed to satisfy the requirements of (b), (d), and (e), above.

6. PAYMENT

(a) *Payment on account of allowable costs.* Once each month (or at more frequent intervals if approved by the Contracting Officer) the Contractor may submit to the Contracting Officer, in such form and reasonable detail as may be required, an invoice or voucher supported by a statement of costs incurred by the Contractor in the performance of this contract and claimed to constitute allowable costs. Promptly after receipt of each invoice or voucher the Government shall, subject to the provisions of (b) below, make payment thereon as approved by the Contracting Officer.

(b) *Audit adjustments.* At any time or times prior to settlement under this contract the Contracting Officer may have invoices or vouchers and statements of cost audited. Each payment theretofore made shall be subject to reduction for amounts included in the related invoice or voucher which are found by the Contracting Officer, on the basis of such audit, not to constitute allowable cost. Any payment may be reduced for overpayment, or increased for underpayments, on preceding invoices or vouchers.

(c) *Completion voucher.* On receipt and approval of the invoice or voucher designated by the Contractor as the "completion invoice" or "completion voucher" and upon compliance by the Contractor with all the provisions of this contract (including without limitation, the provisions relating to patents and provisions of (d) below) the Government shall promptly pay to the Contractor any balance of allowable cost. The completion invoice or voucher shall be submitted by the Contractor promptly following completion of the work under this contract but in no event later than 6 months (or such longer period as the Contracting Officer may in his discretion approve in writing) from the date of such completion.

(d) *Applicable credits.* The Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor or any assignee under this contract shall be paid by the Contractor to the Government, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract. Reasonable expenses incurred by the Contractor for the purpose of securing such refunds, rebates, credits, or other amounts shall be allowable costs hereunder when approved by the Contracting Officer.

(e) *Financial settlement.* Prior to final payment under this contract, the Contractor and each assignee under this contract whose assignment is in affect at the time of final payment under this contract shall execute and deliver:

(1) An assignment to the Government in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits, or other amounts (including any interest thereon) properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract; and

(2) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions:

(i) Specified claims in stated amounts or in estimated amounts where the amounts are susceptible to exact statement by the Contractor;

(ii) Claims, together with reasonable expenses incidental thereto, based upon liabilities of the Contractor to third parties arising out of the performance of this contract: *Provided*, That such claims are not known to the contractor on the date of the execution of the release: *And provided further*, That the Contractor gives notice of such claims in writing to the Contracting Officer not more than 6 years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier; and

(iii) Claims for reimbursement of costs (other than expenses of the Contractor by reason of its indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of this contract relating to patents.

7. EXAMINATION OF RECORDS

(a) This clause is applicable if the amount of this contract exceeds $2,500 and was entered into by means of negotiation including small business restricted advertising, but is not applicable if this contract was entered into by means of formal advertising.

(b) The Contractor agrees that the Comptroller General of the United States and the Secretary, or any of their duly authorized representatives, shall until expiration of 3 years after final payment under this contract or of the time period for the particular records in Part 1–20 of the Federal Procurement Regulations (41 CFR Part 1–20), whichever

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expires earlier, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to this contract.

(c) The Contractor further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that the Comptroller General of the United States, or his duly authorized representatives shall, until expiration of 3 years after final payment under the subcontract, or of the time periods for the particular records specified in Part 1-20 of the Federal Procurement Regulations (41 CFR Part 1-20), whichever expires earlier, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract. The term "subcontract" as used in this clause excludes (1) purchase orders not exceeding $2,500 and (2) subcontracts or purchase orders for public utility services of rates established for uniform applicability to the general public.

(d) The periods of access and examination described in (b) and (c) above, for records which relate to (1) appeals under the "Disputes" clause of this contract, (2) litigation of the settlement of claims arising out of the performance of this contract, or (3) costs and expenses of this contract as to which exception has been taken by the Comptroller General or any of his duly authorized representatives, shall continue until such appeals, litigations, claims, or exceptions have been disposed of.

8. INSPECTION AND REPORTS

(a) *Inspection of work.* The Government shall have the right to inspect the work and activities under this contract, including, without limitation, premises where any Government property may be located, at such reasonable times and in such manner as it may deem appropriate and the Contractor shall afford the Government proper facilities and assistance for such inspection.

(b) *Reports.* The Contractor shall furnish such progress reports, schedules, financial and cost reports, and other reports concerning the work under this contract as specified elsewhere in this contract. Cost and other financial data and projections furnished pursuant to this paragraph (b) shall not relieve the Contractor of the requirements for furnishing notice specified in the clause of this contract entitled, "Limitation of Cost."

9. SUBCONTRACTING

(a) *Prior approval required.* Except as provided in (c) below, the Contractor shall not enter into any subcontract or purchase order not otherwise expressly authorized elsewhere in this contract without the prior written approval of the Contracting Officer and subject to such conditions as the Contracting Officer may require.

(b) *Request for approval.* The Contractor's request for approval to enter into a subcontract pursuant to this clause shall include:

(1) A description of the supplies or services to be called for by the subcontractor;

(2) Identification of the proposed subcontractor and an explanation of why and how the proposed subcontractor was selected, including the degree of competition obtained;

(3) The proposed subcontract price, together with the Contractor's cost or price analysis thereof;

(4) Identification of the type of subcontract to be used;

(5) A copy or draft of the proposed subcontract, if available; and

(6) Any other information which the Contracting Officer may require.

(c) *Certain purchases of property and services.* Prior written approval shall not be required for firm fixed-price subcontracts for the purchase or rental of any item of permanent research equipment having an acquisition cost of less than $1,000 or for the purchase or rental of any other item of personal property having a unit acquisition cost of less than $200 or an expected service life of less than 1 year, or for other firm fixed-price subcontracts in a total amount less than $1,000, unless otherwise specified elsewhere in this contract.

(d) *Contractor's procurement system.* The Contractor shall use methods, practices or procedures in subcontracting or purchasing (hereinafter referred to as the Contractor's "procurement system") acceptable to the Contracting Officer. The Contracting Officer may, at any time during the performance of this contract, require the Contractor to provide information concerning its procurement system.

(e) *Effect of subcontracting.* Subcontracts shall be made in the name of the Contractor and shall not bind nor purport to bind the Government. The making of subcontracts hereunder shall not relieve the Contractor of any requirement under this contract (including, but not limited to, the duty to properly supervise and coordinate the work of subcontractors, and the duty to maintain and account for property pursuant to the clause of this contract entitled "Government Property"). Approval of the provisions of any subcontract by the Contracting Officer shall not be construed to constitute a determination of the allowability of any cost under this contract, unless such approval specifically provides that it constitutes a determination of the allowability of such cost. In no event shall approval of any subcontract by the Contracting Officer be construed as effecting any increase in the estimated cost set forth in this contract. No subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis.

10. ACCOUNTS, AUDIT, AND RECORDS

(a) The Contractor shall maintain books, records, documents, and other evidence, accounting procedures, and practices, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this contract. The foregoing constitutes "records" for the purposes of this clause.

(b) The Contractor's facility(ies) or such part thereof as may be engaged in the performance of this contract, and his records shall be subject at all reasonable time to inspection and audit by the Contracting Officer of his authorized representatives.

(c) The Contractor shall preserve and make available his records (1) until the expiration of 3 years from the date of final payment under this contract, or the time periods for the particular records specified in 41 CFR Part 1-20, whichever expires earlier, and (2) for such longer period, if any, as is required by applicable statute, or by other clauses of this contract, or by (i) or (ii) below:

(i) If this contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of 3 years from the date of any resulting final settlement.

(ii) Records which relate to (A) appeals under the "Disputes" clause of this contract, (B) litigation or the settlement of claims arising out of the performance of this contract, or (C) costs and expenses of this contract to which exception has been taken by the Contracting Officer or any of his duly authorized representatives, shall be retained until such appeals, litigation, claims, or exceptions have been disposed of.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in each subcontract hereunder that is not firm fixed-price or fixed-price with escalation. When so inserted, changes shall be made to designate the higher-tier subcontractor at this level involved in place of the Contractor; to add "of the Government prime contract," in place of "this contract" in (B) of subparagraph (c)(ii) above.

11. GOVERNMENT PROPERTY

(a) *Government furnished property.* (1) The Government reserves the right to furnish any property or services required for the performance of the work under this contract.

(2) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the property described elsewhere in this contract, together with such related data and information as the Contractor may request and as may reasonably be required for the intended use of such property (such property to be referred to as "Government furnished property").

In the event that Government furnished property is not delivered to the contractor by such time or times as stated, or if not stated, in sufficient time to enable the contractor to meet such delivery or performance dates under this contract, the Contracting Officer shall, upon timely written request made by the Contractor, make a determination of the delay occasioned the Contractor and make appropriate equitable adjustments to any contractual provisions affected by any such delay in accordance with the provisions of the clause of this contract entitled "Changes."

In the event that Government furnished property is received by the Contractor in a condition not suitable for the intended use, the Contractor shall, immediately upon receipt thereof, notify the Contracting Officer of such fact and, as directed by the Contracting Officer either (i) return or otherwise dispose of such property, or (ii) effect repairs or modifications thereto. Upon completion of (i) or (ii) above, the Contracting Officer, upon timely written request of the Contractor, shall make appropriate equitable adjustments to any contractual provisions affected thereby in accordance with the provisions of the clause of this contract entitled "Changes." The foregoing provisions for adjustment are exclusive and the Government shall not be liable to suit for breach of contract by reason of any delay in delivery of Government furnished property or delivery of such property in a condition not suitable for its intended use.

(b) *Title.* (For title provision applicable to contracts for scientific research see paragraph (h) below.)

(1) Title to all property furnished by the Government shall remain in the Government. Title to all property purchased by the Contractor, the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the Government upon delivery of such property by the vendor. Title to other property, the cost of which is reimbursable to the Contractor under this contract, shall pass and vest in the Government upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of processing or use of such property in the performance of this contract; or (iii) reimbursement of the cost thereof by the Government in whole or in part, whichever first occurs. All Government furnished property, together with all property acquired by the Contractor, title to which vests in the Government under this paragraph are subject to the provisions of this clause and are

hereinafter collectively referred to as "Government property."

(2) Title to the Government property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government property, or any part thereof, be or become a fixture or lose its identity or personality by reason of affixation to any realty.

(c) *Use of Government property.* Government property shall, unless otherwise provided herein or approved by the Contracting Officer, be used only for the performance of this contract.

(d) *Property management and control.* The Contractor shall maintain and administer in accordance with sound business practice a program for the maintenance, repair, protection, and preservation, control of and accountability for Government property, so as to assure its full availability and usefulness for the performance of this contract. The Contractor agrees to promptly receipt for all Government property in a form and manner as prescribed by the Contracting Officer. The Contractor further agrees to take all reasonable steps to comply with all directions or instructions which the Contracting Officer may prescribe regarding the management and control of Government property.

(e) *Risk or loss.* The Contractor shall not be liable for any loss of or damage to Government property, or for expenses incidental to such loss or damage, except that the Contractor shall be responsible for any such loss or damage (including expenses incidental thereto):

(i) Which results from willful misconduct or lack of good faith on the part of any of the Contractor's direction or officers, or on the part of any of its managers, superintendents, or other equivalent representatives, who have supervision or direction of (A) all or substantially all of the Contractor's operations at any one plant, laboratory or separate location in which this contract is being performed or (B) a separate and complete major organization, industrial or otherwise, in connection with the performance of this contract:

(ii) Which results from a failure on the part of the Contractor, due to willful misconduct or lack of good faith on the part of any of its directors, officers or other representatives mentioned in subparagraph (i) above, (A) to maintain and administer, in accordance with sound business practice, the program for maintenance, repair, protection, and preservation of Government property as required by paragraph (d) hereof, or (B) to take all reasonable steps to comply with any appropriate written directions of the Contracting Officer under paragraph (4) hereof;

(iii) For which the Contractor is otherwise responsible under the express terms of this contract;

(iv) Which results from a risk expressly required to be insured under this contract, but only to the extent of the insurance so required to be procured and maintained, or to the extent of insurance actually procured and maintained, whichever is greater; or

(v) Which results from a risk which is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement: *Provided*, That, if more than one of the above exceptions shall be applicable in any case, the Contractor's liability under any one exception shall not be limited by any other exception.

(2) If the Contractor transfers Government property to the possession and control of a subcontractor the transfer shall not affect the liability of the Contractor for loss or destruction of or damage to Government property as set forth in (1) above. The Contractor shall require the subcontractor to assume the risk of and be responsible for any loss or destruction of or damage to Government property while in the latter's possession, or control, and the subcontract shall contain appropriate provisions requiring the return of all Government property in as good condition as when received (except for reasonable wear and tear or for the utilization of the property in accordance with the provisions of this contract). *Provided, however*, That the subcontractor may be relieved from such liability only to the extent that the subcontract, with the prior approval of the Contracting Officer, so provides.

(3) The Contractor shall not be reimbursed for, and shall not include as an item of overhead, the cost of insurance, or any provisions for a reserve, covering the risk of loss of or damage to the Government property, except to the extent that the Government may have required the Contractor to carry such insurance under any other provision of this contract.

(4) Upon the happening of loss or destruction of or damage to the Government property, the Contractor shall notify the Contracting Officer thereof, and shall take all reasonable steps to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the Government property in the best order, and furnish to the Contracting Officer a statement of:

(i) The lost, destroyed, and damaged Government property;

(ii) The time and origin of the loss, destruction or damage;

(iii) All known interests in commingled property of which the Government property is a part; and

(iv) The insurance, if any, covering any part of or interest in such commingled property.

The Contractor shall make repairs and renovations of the damaged Government property or take such other actions as the Contracting Officer directs.

(5) In the event the Contractor is indemnified, reimbursed, or otherwise compensated for any loss or destruction of or damage to the Government property, it shall use the proceeds to repair, renovate, or replace the Government property involved, or shall credit such proceeds against the cost of the work covered by the contract, or shall otherwise reimburse the Government, as directed by the Contracting Officer. The Contractor shall do nothing to prejudice the Government's right to recover against third parties for any such loss, destruction or damage and, upon the request of the Contracting Officer shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including assistance in the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery. In addition, where a subcontractor has not been relieved from liability for any loss or destruction of or damage to Government property, the contractor shall enforce the liability of the subcontractor for such loss or destruction of or damage to the Government property for the benefit of the Government.

(f) *Disposition of Government property.* (1) During the period of performance of this contract, the Contractor shall promptly and regularly report to the Contracting Officer, in such form and manner as the Contracting Officer may direct, concerning the status of Government property under the contract, including all Government property in the Contractor's possession which is not in use or which is excess to the needs of the contract. The Contractor shall make such disposition of Government property as the Contracting Officer may direct. The Contractor shall in no way be relieved of responsibility for Government property without the prior written approval of the Contracting Officer.

(2) Upon completion or expiration of this contract, or at such earlier date as may be fixed by the Contracting Officer, the Contractor shall render an accounting as prescribed by the Contracting Officer, of all Government property which had come into the possession or custody of the Contractor under this contract. Such accounting shall include inventory schedules covering all items of Government property not consumed in the performance of this contract, or not theretofore delivered to the Government, or for which the Contractor has not otherwise been relieved of responsibility. The Contractor shall deliver or make such other disposition of Government property covered in such inventory schedules as the Contracting Officer may direct.

(3) The net proceeds of any disposition of Government property, in accordance with (1) and (2) above, shall be credited to the cost of the work covered by the contract or shall be paid in such manner as the Contracting Officer may direct.

(g) *Restoration of premises.* Unless otherwise provided herein, the Government shall not be under any duty or obligation to restore or rehabilitate, or to pay the costs of the restoration or rehabilitation of the Contractor's facility or any portion thereof which is affected by removal of any Government property.

(h) *Title to property under contracts with educational institutions for scientific research.* If this is a contract with a nonprofit educational institution for scientific research, as determined by the Contracting Officer elsewhere in this contract, the following title provision shall replace paragraph (b) above and the following is added to paragraph (d),

Title. (i) Title to all Government-furnished property shall remain in the Government.

(ii) Except as otherwise expressly provided elsewhere in this contract, title to all material, supplies, and equipment purchased or otherwise acquired by the Contractor, for the cost of which the Contractor is to be reimbursed as a direct item of cost, shall be and remain in the Contractor subject to the provisions of subparagraph (iii) below: *Provided, however*, That the Contractor shall not, under any Government contract or subcontract thereunder or, under any Government grant, charge for any depreciation, amortization, or use of any property title to which remain in the Contractor pursuant to this subparagraph. The Contractor agrees to use such materials, supplies, and equipment for the benefit of research under this contract and any extension or successor contracts thereto and to continue to use such property for the benefit of research of interest to the Government.

(iii) With respect to items of equipment having an acquisition cost of $1,000 or more, title to which vests in the Contractor pursuant to subparagraph (ii) above, the Contractor agrees:

(A) To report such items to the Contracting Officer from time to time as they are acquired and to maintain a control system which will permit their ready identification and location; and

(B) To transfer title to any such items to the Government or to a third party designated by the Government, when third party is eligible under existing statutes, in accordance with any written request therefor issued by the Contracting Officer at any time prior to final payment under this contract.

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invention made under this contract, includ-

21. KEY PERSONNEL

the Government for any liability loss, cost or expense, which the Contractor may incur

(iv) All Government-furnished property, together with all property acquired by the Contractor, title to which vests in the Government pursuant to any other express provision of this contract, is subject to the provisions of this clause and is hereinafter collectively referred to as "Government property." Title to the Government property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government property, or any part thereof, be or become a fixture or lose its identity as personality by reason of affixation to any realty.

(d) Whether or not title to property is vested in the Contractor, the Contractor is responsible for maintaining property acquired from contract funds available for the performance of the contract except for property which through normal use becomes unserviceable and uneconomically repairable.

12. CHANGES

The Contracting Officer may at any time, by a written order, and without notice to the sureties, if any, make changes, within the general scope of this contract, in any one or more of the following:

(a) Drawings, designs, or specifications; (b) method of shipment or packing; (c) place of inspection, delivery, or acceptance; and (d) the amount of Government-furnished property. If any such change causes an increase or decrease in the estimated cost of, or the time required for performance of this contract, or otherwise affects any other provisions of this contract, whether changed or not by any such order, an equitable adjustment shall be made (a) in the estimated cost or delivery schedule, or both, and (b) in such other provisions of the contract as may be so affected, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by the Contractor of the notification of change: *Provided, however*, That the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Where the cost of property made obsolete or excess as a result of a change is included in the Contractor's claim for adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of such property. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled, "Disputes." However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

13. NOTICE TO THE GOVERNMENT OF DELAYS

Whenever the Contractor has knowledge that any actual or potential situation, including, but not limited to, labor disputes, is delaying or threatens to delay the timely performance of the work under this contract, the Contractor shall immediately give written notice thereof, including all relevant information with respect thereto, to the Contracting Officer.

14. TERMINATION FOR THE CONVENIENCE OF THE GOVERNMENT

(Text of this clause is set forth in FPR 1-8.704-1.)

15. RIGHTS IN DATA

(a) *Subject Data.* As used in this clause, the term "Subject Data" means writings, sound recordings, pictorial reproductions, drawings, designs or other graphic representations, procedural manuals, forms, diagrams, workflow charts, equipment descriptions, data files and data processing or computer programs, and works of any similar nature (whether or not copyrighted or copyrightable) which are specified to be delivered under this contract. The term does not include financial reports, cost analyses, and similar information incidental to contract administration.

(b) *Government rights.* Subject only to the proviso of (c) below, the Government may use, duplicate, or disclose in any manner and for any purpose whatsoever, and have or permit others to do so, all subject data delivered under this contract.

(c) *License to copyrighted data.* In addition to the Government rights as provided in (b) above, with respect to any subject data which may be copyrighted the Contractor agrees to and does hereby grant to the Government a royalty-free, nonexclusive and irrevocable license throughout the world to use, duplicate, or dispose of such data in any manner and for any purpose whatsoever, and to have or permit to do so: *Provided, however*, That such license shall be only to the extent that the Contractor now has or prior to completion or final settlement of this contract may acquire, the right to grant such license without becoming liable to pay compensation to others solely because of such grant.

(d) *Relation to patents.* Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(e) *Marking and identification.* The Contractor shall mark all subject data with the number of this contract and the name and address of the contractor or subcontractor who generated the data. The Contractor shall not affix any restrictive markings upon any subject data, and if such markings are affixed, the Government shall have the right at any time to modify, remove, obliterate, or ignore any such markings.

(f) *Subcontractor data.* Whenever any subject data is to be obtained from a subcontractor under this contract, the Contractor shall use this same clause in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the Government's rights in that subcontractor subject data.

(g) *Deferred ordering and delivery of data.* The Government shall have the right to order, at any time during the performance of this contract, or within 2 years from either acceptance of all items (other than data) to be delivered under this contract or termination of this contract, whichever is later, any subject data and any data not called for in the schedule of this contract but generated in performance of the contract, and the Contractor shall promptly prepare and deliver such data as is ordered. If the principal investigator is no longer associated with the contractor, the contractor shall exercise its best efforts to prepare and deliver such data as is ordered. The Government's right to use data delivered pursuant to this paragraph (g) shall be the same as the rights in subject data as provided in (b) above.

The Contractor shall be relieved of the obligation to furnish data pertaining to an item obtained from a subcontractor upon the expiration of 2 years from the date he accepted such items. When data, other than subject data, is delivered pursuant to this paragraph (g), payment shall be made, by equitable adjustment or otherwise, for converting the data into the prescribed form, reproducing it or preparing it for delivery.

16. REPORTING OF ROYALTIES

If this contract involves any royalty payments in excess of $250 or if the amount of any royalty payment in excess of $250 is reflected in the estimated cost, the Contractor shall report in writing to the Contracting Officer, as soon as practicable during the performance of this contract, the amount of any royalties paid or to be paid by it directly to others in connection with the performance of this contract, together with (a) the names and addresses of licensors to whom such payments are made; (b) the patent numbers or patents application serial numbers (with filing dates) involved or other identification of the basis of such royalties; and (c) information concerning the manner of computation of such royalties.

17. AUTHORIZATION AND CONSENT

The Government hereby gives its authorization and consent for all use and manufacture of any invention described in and covered by a patent of the United States in the performance of this contract or any part hereof or any amendment hereto, or any subcontract hereunder (including any lower tier subcontract).

18. NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT

(Text of this clause is set forth in FPR 1-7.101-13)

19. PUBLICATION AND PUBLICITY

(a) Unless otherwise specified in this contract, the Contractor is encouraged to publish and make available through accepted channels the results of its work under this contract. A copy of each article submitted by the Contractor for publication shall be promptly sent to the Project Officer. The Contractor shall also inform the Project Officer when the article or other work is published and furnish a copy of it as finally published.

(b) The Contractor shall acknowledge the support of the Department of Health, Education, and Welfare whenever publicizing the work under this contract in any media. To effectuate the foregoing, the Contractor shall include in any publication resulting from work performed under this contract an acknowledgement substantially as follows: "The work upon which this publication is based was performed pursuant to contract (insert number) with the (insert name of constituent agency), Department of Health, Education, and Welfare."

20. PATENT RIGHTS

(a) *Definitions.* As used in this clause, the term (1) "Invention" or "Invention or discovery" includes any art, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States; and (2) "Made," when used in relation to any invention or discovery, means the conception or first actual or constructive reduction to practice of such invention.

(b) *Disclosure.* Whenever an invention or discovery is made by the Contractor or its employees in the course of or under this contract, the Contractor shall immediately give the Contracting Officer written notice thereof and shall promptly thereafter furnish the Contracting Officer with complete information thereon, including as a minimum (1) a complete written disclosure of each such invention, and (2) information in writing as soon as practicable, concerning the date and identity of any public use, sale, or publication of such invention made by or known to the Contractor.

(c) *Determination of rights.* The Secretary, or his duly authorized representative, shall have the sole and exclusive power to determine whether or not and where a patent application shall be filed and to determine the disposition of all rights in any

invention made under this contract, including title to and rights under any patent application or patent which may issue thereon. The Secretary, or his duly authorized representative, may, upon the request of the Contractor, determine to exercise his option to waive rights to any such invention in foreign counties. The determination of the Secretary, or his duly authorized representative, on all these matters shall be accepted as final and the provisions of the clause of this contract entitled "Disputes" shall not apply. The Contractor shall use his best efforts to assure that all of its employees who may be the inventors of any such invention will execute all documents and do all things necessary or proper to effectuate the determination of the Secretary, or his duly authorized representative, or to vest in the Government the rights granted to it under this clause and to enable the Government to apply for and prosecute any patent application, in any country, covering such invention where the Government has the right under this clause to file such application.

(d) *Contractor employee and subcontractors.* The Contractor shall:

(1) Obtain patent agreements to effectuate the provisions of this clause from all persons who perform any part of the work under this contract and may be reasonably expected to make inventions.

(2) Insert in each subcontract having experimental, developmental or research work as one of its purposes, a provision making this clause applicable to the subcontractor and its employees.

(e) *Reports.* The Contractor shall furnish the Contracting Officer, in addition to the information called for in paragraph (b) of this clause:

(1) Interim reports on the first anniversary of the contract, where extended or renewed, and every year thereafter listing all inventions made during the period, whether or not previously reported, or certifying that no inventions were made during the applicable period; and

(2) A final report, prior to final settlement of this contract, listing all such inventions made in the course of or under this contract, including all those previously listed in interim reports, or certifying that there are no such unreported inventions.

(f) *Withholding payment for failure to comply.* At any time during the performance of this contract, the Contracting Officer may direct that payment be withheld in the amount of 10 percent of the total amount obligated by the Government with respect to this contract or $10,000, whichever is less, if the Contracting Officer determines that the Contractor has failed to furnish any of the written notices, disclosures, or reports required by paragraphs (b) and (e) above, until such time as the Contractor shall have corrected such failure. The withholding of any amount or subsequent payment thereof to the Contractor or the failure to withhold any amount shall not be construed as a waiver of any rights accruing to the Government under the contract. This paragraph shall not be construed as requiring the Contractor to withhold any amounts from a subcontractor to enforce compliance with the patent provisions of a subcontract.

(g) *Acknowledgment.* With respect to any patent application on any invention made in the course of or under this contract, the Contractor shall incorporate in the first paragraph of the patent specification, and prominently in any patent issued thereon, the following statement:

"The invention described herein was made in the course of or under a contract with the U.S. Department of Health, Education, and Welfare."

21. KEY PERSONNEL

Where "key personnel" have been identified in this contract, it has been determined that such named personnel are necessary for the successful performance of the work under this contract; and the Contractor agrees to assign such personnel to the performance of the work under this contract and shall not remove or replace any of them without the consent of the Contracting Officer. Whenever, for any reason, one or more of the aforementioned personnel is unavailable for work under this contract during a continuous period in excess of three months, or is expected to devote substantially less effort to the work than initially anticipated, the Contractor shall immediately notify the Contracting Officer to that effect and shall, subject to the approval of the Contracting Officer without formal modification to the contract, replace such personnel with personnel of substantially equal ability and qualifications. *Provided, however*, in the event the Contracting Officer determines that suitable replacement of key personnel is not feasible or that the reduction of effort would be so substantial as to impair the successful prosecution of the work, the Contracting Officer may direct that the contract be changed or terminated, pursuant to the clauses of this contract entitled "Changes" or "Termination for the Convenience of the Government," or may take such other action with respect thereto that he deems appropriate.

22. LITIGATION AND CLAIMS

The Contractor shall give the Contracting Officer immediate notice in writing of (a) any action, including any proceeding before an administrative agency, filed against the Contractor arising out of the performance of this contract, including, but not limited to the performance of any subcontract hereunder; and (b) any claim against the Contractor the cost and expense of which is allowable under the clause entitled "Allowable Cost." Except as otherwise directed by the Contracting Officer, the Contractor shall furnish immediately to the Contracting Officer copies of all pertinent papers received by the Contractor with respect to such action or claim. To the extent not in conflict with any applicable policy or insurance, the Contractor may, with the Contracting Officer's approval, settle any such action or claim. If required by the Contracting Officer, the Contractor shall (a) effect an assignment and subrogation in favor of the Government of all the Contractor's rights and claims (except those against the Government) arising out of any such action or claim against the Contractors; and (b) authorize representatives of the Government to settle or defend any such action or claim and to represent the Contractor in, or to take charge of, any action. If the settlement or defense of an action or claim is undertaken by the Government, the Contractor shall furnish all reasonable assistance in effecting a settlement or asserting a defense. Where an action against the Contractor is not covered by a policy of insurance, the Contractor shall, with the approval of the Contracting Officer, proceed with the defense of the action in good faith. The Government shall not be liable for the expense of defending any action or for any costs resulting from the loss thereof, to the extent that the Contractor would have been compensated by insurance which was required by law or regulation or by written direction of the Contracting Officer, but which the Contractor failed to secure through its own fault or negligence.

In any event, unless otherwise expressly provided in this contract, the Contractor shall not be reimbursed or indemnified by the Government for any liability loss, cost or expense, which the Contractor may incur or be subject to by reason of any loss, injury, or damage, to the person or to real or personal property of any third parties as may accrue during, or arise from, the performance of this contract.

23. REQUIRED INSURANCE

(a) The Contractor shall procure and maintain such insurance as is required by law or regulation, including but not limited to, the requirements of subpart 1-10.5 of the Federal Procurement Regulations (41 CFR 1-10.5), or by the written direction of the Contracting Officer. Prior written approval of the Contracting Officer shall be required with respect to any insurance policy the premiums for which the Contractor proposes to treat as a direct cost under this contract and with respect to any proposed qualified program of self-insurance. The terms of any other insurance policy shall be submitted to the Contracting Officer for approval upon request.

(b) Unless otherwise authorized in writing by the Contracting Officer, the Contractor shall not procure or maintain for its own protection any insurance covering loss or destruction of or damage to Government property.

24. OVERTIME

Except as authorized by section 1-12.102-5 of the Federal Procurement Regulations as in effect on the effective date of this contract or otherwise provided in this contract, the contractor shall not perform overtime work under or in connection with this contact for which premium compensation is required to be paid, without specific written approval from the contracting officer.

25. FOREIGN TRAVEL

Foreign travel shall not be performed without the prior written approval of the contracting officer. As used in this clause "Foreign Travel" means travel outside the United States, its Territories and Possessions, and Canada.

26. QUESTIONNAIRES AND SURVEYS

In the event the performance of this contract involves the collection of information upon identical items from 10 or more persons, other than Federal employees, the contractor shall obtain written approval from the contracting officer, prior to the use thereof, of any forms, schedules, questionnaires, survey plans or other documents, and any revisions thereto, intended to be used in such collection.

27. PRINTING

Unless otherwise specified in this contract, the contractor shall not engage in, nor subcontract for, any printing (as that term is defined in title I of the Government Printing and Binding Regulations in effect on the effective date of this contract) in connection with the performance of work under this contract: *Provided, however*, That performance of a requirement under this contract involving the reproduction of less than 5,000 production units of any one page or less than 25,000 production units in the aggregate of multiple pages, will not be deemed to be printing. A production unit is defined as one sheet, size 8 by 10½ inches, one side only, one color.

28. SERVICES OF CONSULTANTS

Except as otherwise expressly provided elsewhere in this contract, and notwithstanding the provisions of the clause of this contract entitled "Subcontracting," the prior written approval of the Contracting Officer shall be required:

(a) The term "Secretary" means the Secre-

shall be the cost actually incurred by the

6. PAYMENT

the contractor on the date of the execution

here the Contractor of the requirements for

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(a) Whenever any employee of the contractor is to be reimbursed as a "consultant" under this contract; and

(b) For the utilization of the services of any consultant under this contract exceeding the daily rate set forth elsewhere in this contract or; if no amount is set forth, $100, exclusive of travel costs, or where the services of any consultant under this contract will exceed 10 days in any calendar year.

Whenever contracting officer approval is required, the contractor will obtain and furnish to the contracting officer information concerning the need for such consultant services and the reasonableness of the fees to be paid, including, but not limited to, whether fees to be paid to any consultant exceed the lowest fee charged by such consultant to others for performing consultant services of a similar nature.

29. ASSIGNMENT OF CLAIMS

(Text of this clause is set forth in FPR 1–30.703.)

30. CONTRACT WORK HOURS STANDARDS ACT—OVERTIME COMPENSATION

(Text of this clause is set forth in FPR 1–12.303.)

31. WALSH-HEALY PUBLIC CONTRACTS ACT

(Text of this clause is set forth in FPR 1–12.605.)

32. EQUAL OPPORTUNITY

(Text of this clause is set forth in FPR 1–12.802–2.)

33. CONVICT LABOR

(Text of this clause is set forth in FPR 1–12.203.)

34. OFFICIALS NOT TO BENEFIT

(Text of this clause is set forth in FPR 1–7.101–19.)

35. COVENANT AGAINST CONTINGENT FEES

(Text of this clause is set forth in FPR 1–1.503.)

36. BUY AMERICAN ACT SUPPLY AND SERVICE CONTRACTS

(Text of this clause is set forth in FPR 1–6.104–5.)

37. UTILIZATION OF SMALL BUSINESS CONCERNS

(Text of this clause is set forth in FPR 1–1.710–3(a).)

38. UTILIZATION OF LABOR SURPLUS AREA CONCERNS

(Text of this clause is set forth in FPR 1–1.805–3(a).)

39. UTILIZATION OF MINORITY BUSINESS ENTERPRISES

(Text of this clause is set forth in FPR 1–1.1310–2.)

40. PAYMENT OF INTEREST ON CONTRACTORS' CLAIMS

(Text of this clause is set forth in FPR 1–1.322.)

41. LISTING OF EMPLOYMENT OPENINGS

(Text of this clause is set forth in FPR 1–12.1102–2.)

§ 3–16.950–315A Form HEW–315A (12/72), general provisions (negotiated cost-reimbursement contract with nonprofit institutions other than educational institutions).

GENERAL PROVISIONS

(NEGOTIATED COST-REIMBURSEMENT CONTRACT)

1. DEFINITIONS

As used throughout this contract, the following terms shall have the meaning set forth below:

(a) The term "Secretary" means the Secretary, the Under Secretary, or any Assistant Secretary of the Department of Health, Education, and Welfare; and the term "his duly authorized representative" means any person, persons, or board (other than the Contracting Officer) authorized to act for the Secretary.

(b) The term "Contracting Officer" means the person executing this contract on behalf of the Government, and any other officer or employee who is properly designated Contracting Officer; and the term includes, except as otherwise provided in this contract, the authorized representative of the Contracting Officer acting within the limits of his authority.

(c) The term "Project Officer" means the person representing the Government for the purpose of technical direction of contract performance. The Project Officer is not authorized to issue any instructions or directions which effect any increase or decrease in the cost of this contract or which change the period of this contract.

(d) The term "Department" means the Department of Health, Education, and Welfare.

(e) Except as otherwise provided in this contract, the term "subcontract" includes purchase orders under this contract.

2. DISPUTES

(Text of this clause is set forth in FPR 1–7.101–12.)

3. LIMITATION OF COST

(a) It is estimated that the total cost to the Government for the performance of this contract will not exceed the estimated cost set forth in this contract and the contractor agrees to use its best efforts to perform all work and all obligations under this contract within such estimated costs. If at any time the contractor has reason to believe that the costs which it expects to incur in the performance of this contract in the next succeeding 60 days, when added to all costs previously incurred, will exceed 75 percent of the estimated cost set forth in the contract, or, if at any time the Contractor has reason to believe that the total cost to the Government, for the performance of this contract, will be substantially greater or less than the estimated cost thereof, the contractor shall notify the contracting officer in writing to that effect, giving its revised estimate of such total cost for the performance of this contract.

(b) The Government shall not be obligated to reimburse the contractor for costs incurred in excess of the estimated cost set forth in the contract and the contractor shall not be obligated to continue performance under the contract or to incur costs in excess of such estimated cost unless and until the contracting officer shall have notified the contractor in writing that such estimated cost has been increased and shall have specified in such notice a revised estimated cost which shall thereupon constitute the estimated cost of performance of this contract. When and to the extent that the estimated cost set forth in this contract has been increased by the contracting officer in writing, any costs incurred by the contractor in excess of such estimated cost prior to the increase in estimated cost shall be allowable to the same extent as if such costs had been incurred after such increase in estimated cost.

4. ALLOWABLE COST

(a) *Compensation for Contractor's performance.* Payment for the allowable cost, as herein defined and as actually incurred by the contractor shall constitute full and complete compensation for the performance of the work under this contract.

(b) *Allowable cost.* The allowable cost of performing the work under this contract shall be the cost actually incurred by the Contractor, either directly incident or properly allocable to the contract, in the performance of this contract in accordance with its terms. The allowable cost, direct and indirect, including acceptability of cost allocation methods, shall be determined by the Contracting Officer in accordance with:

(1) (i) "A Guide for Nonprofit Institutions Establishing Indirect Cost Rates for Research Grants and Contracts with the Department of Health, Education, and Welfare, DHEW Publication OASC–5," or (i) "A Guide for Hospitals, Establishing Indirect Cost Rates for Research Grants and Contracts with the Department of Health, Education, and Welfare, DHEW Publication OASC–3," or (i) Subpart 1–15.7 of the Federal Procurement Regulations (41 CFR 1–15.7) if the contract is with a State or local Government Agency.

(2) The terms of the contract.

5. NEGOTIATED OVERHEAD RATES

(a) Notwithstanding the provisions of the clause of this contract entitled, "Allowable Cost," the allowable indirect costs shall be obtained by applying negotiated overhead rates to bases agreed upon by the parties, as specified below.

(b) The Contractor, as soon as possible, but not later than six (6) months after the expiration of each of the Contractor's financial years or such period as may mutually be agreed upon by the Government and the Contractor, shall submit to the Contracting Officer, with a copy to the cognizant audit agency, a proposed final overhead rate or rates for that period based on the Contractor's cost experience during that period, together with supporting cost data. Negotiation of final overhead rates by the Contractor and the Contracting Officer shall be undertaken as promptly as practicable after receipt of the Contractor's proposal.

(c) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with the cost principles set forth in paragraph (b) (1) of Clause 4, as in effect on the date of this contract, and the same hereby incorporated herein by reference.

(d) The results of each negotiation shall be set forth in an amendment to this contract, which shall specify (1) the agreed final rate, (2) the bases to which the rates apply, and (3) the periods for which the rates apply.

(e) Pending establishment of final overhead rates for any period, the Contractor shall be reimbursed either at negotiated provisional rates as provided in this contract or at billing rates acceptable to the Contracting Officer, subject to appropriate adjustment when the final rates for that period are established. To prevent substantial over or under payment, the provisional or billing rates may, at the request of either party, be revised by mutual agreement, either retroactively or prospectively. Any such revision of negotiated provisional rates provided in this contract shall be set forth in an amendment to this contract.

(f) Any failure by the parties to agree on any final rate or rates under this clause shall be considered a dispute concerning a question of fact for decision by the Contracting Officer within the meaning of the clause of this contract entitled "Disputes."

(g) Submission of proposed provisional and/or final overhead rates, together with appropriate data in support thereof, to the Secretary or his duly authorized representative, and agreements on provisional and/or final overhead rates entered into between the Contractor and the Secretary or his duly authorized representative, as evidenced by Negotiated Overhead Rate Agreements signed by both parties, shall be deemed to satisfy the requirements of (b), (d), and (e) above.

6. PAYMENT

(a) *Payment on account of allowable costs.* Once each month (or at more frequent intervals if approved by the Contracting Officer) the Contractor may submit to the Contracting Officer, in such form and reasonable detail as may be required, an invoice or voucher supported by a statement of costs incurred by the Contractor in the performance of this contract and claimed to constitute allowable costs. Promptly after receipt of each invoice or voucher the Government shall, subject to the provisions of (b) below, make payment thereon as approved by the Contracting Officer.

(b) *Audit adjustments.* At any time or times prior to settlement under this contract the Contracting Officer may have invoices or vouchers and statements of cost audited. Each payment theretofore made shall be subject to reduction for amounts included in the related invoice or voucher which are found by the Contracting Officer, on the basis of such audit, not to constitute allowable cost. Any payment may be reduced for overpayment, or increased for underpayments on preceding invoices or vouchers.

(c) *Completion voucher.* On receipt and approval of the invoice or voucher designated by the Contractor as the "completion invoice" or "completion voucher" and upon compliance by the Contractor with all the provisions of this contract (including without limitation, the provisions relating to patents and provisions of (d) below) the Government shall promptly pay to the Contractor any balance of allowable cost. The completion invoice or voucher shall be submitted by the Contractor promptly following completion of the work under this contract but in no event later than 6 months (or such longer period as the Contracting Officer may in his discretion approve in writing) from the date of such completion.

(d) *Applicable credits.* The Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor or any assignee under this contract shall be paid by the Contractor to the Government, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract. Reasonable expenses incurred by the Contractor for the purpose of securing such refunds, rebates, credits, or other amounts shall be allowable costs hereunder when approved by the Contracting Officer.

(e) *Financial settlement.* Prior to final payment under this contract, the Contractor and each assignee under this contract whose assignment is in effect at the time of final payment under this contract shall execute and deliver:

(1) An assignment to the Government in form and substance satisfactory to the contracting officer, of refunds, rebates, credits, or other amounts (including any interest thereon) properly allocable to costs for which the contractor has been reimbursed by the Government under this contract, and

(2) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions:

(i) Specified claims in stated amounts or in estimated amounts where the amounts are susceptible to exact statement by the contractor;

(ii) Claims, together with reasonable expenses incidental thereto, based upon liabilities of the contractor to third parties arising out of the performance of this contract: *Provided*, That such claims are not known to the contractor on the date of the execution of the release: *And provided further*, That the contractor gives notice of such claims in writing to the contracting officer not more than 6 years after the date of the release or the date of any notice to the contractor that the Government is prepared to make final payment, whichever is earlier; and

(iii) Claims for reimbursement of costs (other than expenses of the contractor by reason of its indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the contractor under the provisions of this contract relating to patents.

7. EXAMINATION OF RECORDS

(a) This clause is applicable if the amount of this contract exceeds $2,500 and was entered into by means of negotiation including small business restricted advertising, but is not applicable if this contract was entered into by means of formal advertising.

(b) The contractor agrees that the Comptroller General of the United States and the Secretary, or any of their duly authorized representatives, shall until expiration of 3 years after final payment under this contract or of the time period for the particular records in part 1–20 of the Federal Procurement Regulations (41 CFR Part 1–20), whichever expires earlier, have access to and the right to examine any directly pertinent books, documents, papers, and records of the contractor involving transactions related to this contract.

(c) The contractor further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that the Comptroller General of the United States, or his duly authorized representatives shall, until expiration of 3 years after final payment under the subcontract, or of the time periods for the particular records specified in part 1–20 of the Federal Procurement Regulations (41 CFR Part 1–20) whichever expires earlier, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract. The term "subcontract" as used in this clause excludes (1) purchase orders not exceeding $2,500 and (2) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

(d) The periods of access and examination described in (b) and (c) above, for records which relate to (1) appeals under the "Disputes" clause of this contract, (2) litigation or the settlement of claims arising out of the performance of this contract, or (3) costs and expenses of this contract as to which exception has been taken by the Comptroller General or any of his duly authorized representatives, shall continue until such appeals, litigation, claims, or exceptions have been disposed of.

8. INSPECTION AND REPORTS

(a) *Inspection of work.* The Government shall have the right to inspect the work and activities under this contract, including, without limitation, premises where any Government property may be located, at such reasonable times and in such manner as it may deem appropriate and the contractor shall afford the Government proper facilities and assistance for such inspection.

(b) *Reports.* The contractor shall furnish such progress reports, schedules, financial and cost reports, and other reports concerning the work under this contract as specified elsewhere in this contract. Cost and other financial data and projections furnished pursuant to this paragraph (b) shall not relieve the Contractor of the requirements for furnishing notice specified in the clause of this contract entitled "Limitation of Cost."

9. SUBCONTRACTING

(a) *Prior approval required.* Except as provided in (c) below, the contractor shall not enter into any subcontract or purchase order not otherwise expressly authorized elsewhere in this contract without the prior written approval of the contracting officer and subject to such conditions as the contracting officer may require.

(b) *Request for approval.* The contractor's request for approval to enter into a subcontract pursuant to this clause shall include: (1) a description of the supplies or services to be called for by the subcontract; (2) identification of the proposed subcontractor and an explanation of why and how the proposed subcontractor was selected, including the degree of competition obtained; (3) the proposed subcontract price, together with the Contractor's cost or price analysis thereof; (4) identification of the type of subcontract to be used; (5) a copy or draft of the proposed subcontract, if available, and (6) any other information which the contracting officer may require.

(c) *Certain purchases of property and services.* Prior written approval shall not be required for firm fixed-price subcontracts for the purchase or rental of items of personal property having a unit acquisition cost of less than $200 or for subcontracts in a total amount less than $1,000 unless otherwise specified elsewhere in this contract: *Provided, however*, That advance notification shall be given by the contractor of any subcontract which exceeds in dollar amount 5 percentum of the total estimated cost of this contract.

(d) *Contractor's procurement system.* The contractor shall use methods, practices or procedures in subcontracting or purchasing (hereinafter referred to as the contractor's "procurement system") acceptable to the contracting officer. The contracting officer may, at any time during the performance of this contract, require the contractor to provide information concerning its procurement system.

(e) *Effect of subcontracting.* Subcontracts shall be made in the name of the contractor and shall not bind nor purport to bind the Government. The making of subcontracts hereunder shall not relieve the contractor of any requirement under this contract (including, but not limited to, the duty to properly supervise and coordinate the work of subcontractors, and the duty to maintain and account for property pursuant to the clause of this contract entitled "Government Property"). Approval of the provisions of any subcontract by the contracting officer shall not be construed to constitute a determination of the allowability of any cost under this contract, unless such approval specifically provides that it constitutes a determination of the allowability of such cost. In no event shall approval of any subcontract by the contracting officer be construed as effecting any increase in the estimated cost set forth in this contract. No subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis.

(f) *Procurements from contractor-controlled sources.* Procurement or transfer of equipment, materials, supplies, or services from a contractor-controlled source (any division or other organizational component of the prime contractor, exclusive of the contracting component, and any subsidiary or affiliate of the contractor under a common control) shall be considered a subcontract for the purposes of this clause.

10. ACCOUNTS, AUDIT, AND RECORDS

(a) The contractor shall maintain books, tracting officer either (i) return or otherwise dispose of such property, or (ii) effect repairs

(ii) Which results from a failure on the part of the Contractor, due to willful mis-conduct or lack of good faith on the part

(5) In the event the Contractor is indemnified, reimbursed, or otherwise compen-

in the estimated cost of, or the time required for performance of this contract, or

strued as affecting the scope of any license or other right otherwise granted to the Gov-

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10. ACCOUNTS, AUDIT, AND RECORDS

(a) The contractor shall maintain books, records, documents, and other evidence, accounting procedures, and practices, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this contract. The foregoing constitutes "records" for the purposes of this clause.

(b) The contractor's facility(ies), or such part thereof as may be engaged in the performance of this contract, and his records shall be subject at all reasonable times to inspection and audit by the contracting officer or his authorized representatives.

(c) The contractor shall preserve and make available his records (1) until the expiration of 3 years from the date of final payment under this contract, or the time periods for the particular records specified in 41 CFR Part 1–20, whichever expires earlier and (2) for such longer period, if any, as is required by applicable statute, or by other clauses of this contract, or by (i) or (ii) below.

(i) If this contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of 3 years from the date of any resulting final settlement.

(ii) Records which relate to (A) appeals under the "Disputes" clause of this contract, (B) litigation or the settlement of claims arising out of the performance of this contract, or (C) costs and expenses of this contract to which exception has been taken by the contracting officer or any of his duly authorized representatives, shall be retained until such appeals, litigation, claims, or exceptions have been disposed of.

(d) The contractor shall insert the substance of this clause, including this paragraph (d), in each subcontract hereunder that is not firm fixed-price or fixed-price with escalation. When so inserted, changes shall be made to designate the higher-tier subcontractor at this level involved in place of the contractor; to add "of the Government prime contract" in place of "this contract" in (B) of subparagraph (c)(ii) above.

11. GOVERNMENT PROPERTY

(a) *Government furnished property.* (1) The Government reserves the right to furnish any property or services required for the performance of the work under this contract.

(2) The Government shall deliver to the contractor, for use in connection with and under the terms of this contract, the property described elsewhere in this contract, together with such related data and information as the contractor may request and as may reasonably be required for the intended use of such property (such property to be referred to as "Government furnished property").

In the event that Government furnished property is not delivered to the contractor by such time or times as stated, or if not stated, in sufficient time to enable the contractor to meet such delivery or performance dates under this contract, the contracting officer shall, upon timely written request made by the contractor, make a determination of the delay occasioned the contractor and make appropriate equitable adjustments to any contractual provisions affected by any such delay in accordance with the provisions of the clause of this contract entitled "Changes."

In the event that Government furnished property is received by the contractor in a condition not suitable for the intended use, the Contractor shall, immediately upon receipt thereof, notify the contracting officer of such fact and, as directed by the contracting officer either (i) return or otherwise dispose of such property, or (ii) effect repairs or modifications thereto. Upon completion of (i) or (ii) above, the contracting officer, upon timely written request of the contractor, shall make appropriate equitable adjustments to any contractual provisions affected thereby in accordance with the provisions of the clause of this contract entitled "Changes." The foregoing provisions for adjustment are exclusive and the Government shall not be liable to suit for breach of contract by reason of any delay in delivery of Government furnished property or delivery of such property in a condition not suitable for its intended use.

(b) *Title.* (1) Title to all property furnished by the Government shall remain in the Government. Title to all property purchased by the contractor, the cost of which the contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the Government upon delivery of such property by the vendor. Title to other property, the cost of which is reimbursable to the contractor under this contract, shall pass and vest in the Government upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of processing or use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the Government in whole or in part, whichever first occurs. All Government furnished property, together with all property acquired by the contractor, title to which vests in the Government under this paragraph, are subject to the provisions of this clause and are hereinafter collectively referred to as "Government property."

(2) Title to the Government property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government property, or any part thereof, be or become a fixture or lose its identity or personality by reason of affixation to any realty.

(c) *Use of Government property.* Government property shall, unless otherwise provided herein or approved by the contracting officer, be used only for the performance of this contract.

(d) *Property management and control.* The contractor shall maintain and administer in accordance with sound business practice a program for the maintenance, repair, protection, and preservation, control of and accountability for Government property, so as to assure its full availability and usefulness for the performance of this contract. The contractor agrees to promptly receipt for all Government property in a form and manner as prescribed by the contracting officer. The contractor further agrees to take all reasonable steps to comply with all directions or instructions which the contracting officer may prescribe regarding the management and control of Government property.

(e) *Risk or loss.* (1) The contractor shall not be liable for any loss of or damage to Government property, or for expenses incidental to such loss or damage, except that the contractor shall be responsible for any such loss or damage (including expenses incidental thereto):

(i) Which results from willful misconduct or lack of good faith on the part of any of the contractor's directors or officers, or on the part of any of its managers, superintendents, or other equivalent representatives, who have supervision or direction of (A) all or substantially all of the contractor's operations at any one plant, laboratory or separate location in which this contract is being performed or (B) a separate and complete major organization, industrial or otherwise in connection with the performance of this contract;

(ii) Which results from a failure on the part of the Contractor, due to willful misconduct or lack of good faith on the part of any of its directors, officers, or other representatives mentioned in subparagraph (i) above, (A) to maintain and administer, in accordance with sound business practice, the program for maintenance, repair, protection, and preservation of Government property as required by paragraph (d) hereof, or (B) to take all reasonable steps to comply with any appropriate written directions of the Contracting Officer under paragraph (4) hereof;

(iii) For which the Contractor is otherwise responsible under the express terms of this contract;

(iv) Which results from a risk expressly required to be insured under this contract, but only to the extent of the insurance so required to be procured and maintained, or to the extent of insurance actually procured and maintained, whichever is greater; or

(v) Which results from a risk which is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement: *Provided,* That, if more than one of the above exceptions shall be applicable in any case, the Contractor's liability under any one exception shall not be limited by any other exception.

(2) If the Contractor transfers Government property to the possession and control of a subcontractor the transfer shall not affect the liability of the Contractor for loss or destruction of or damage to Government property as set forth in (1) above. The Contractor shall require the subcontractor to assume the risk of and be responsible for any loss or destruction of or damage to Government property while in the latter's possession or control, and the subcontract shall contain appropriate provisions requiring the return of all Government property in as good condition as when received (except for reasonable wear and tear or for the utilization of the property in accordance with the provisions of this contract). *Provided, however,* That the subcontractor may be relieved from such liability only to the extent that the subcontract, with the prior approval of the Contracting Officer, so provides.

(3) The Contractor shall not be reimbursed for, and shall not include as an item of overhead, the cost of insurance, or any provisions for a reserve, covering the risk of loss of or damage to the Government property, except to the extent that the Government may have required the Contractor to carry such insurance under any other provision of this contract.

(4) Upon the happening of loss or destruction of or damage to the Government property, the Contractor shall notify the Contracting Officer thereof, and shall take all reasonable steps to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the Government property in the best order, and furnish to the Contracting Officer a statement of:

(i) The lost, destroyed, and damaged Government property;

(ii) The time and origin of the loss, destruction, or damage;

(iii) All known interests in commingled property of which the Government property is a part; and

(iv) The insurance, if any, covering any part of or interest in such commingled property.

The Contractor shall make repairs and renovations of the damaged Government property, or take such other action as the Contracting Officer directs.

(5) In the event the Contractor is indemnified, reimbursed, or otherwise compensated for any loss or destruction of or damage to the Government property, it shall use the proceeds to repair, renovate, or replace the Government property involved, or shall credit such proceeds against the cost of the work covered by the contract, or shall otherwise reimburse the Government, as directed by the Contracting Officer. The Contractor shall do nothing to prejudice the Government's right to recover against third parties for any such loss, destruction or damage and, upon the request of the Contracting Officer, shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including assistance in the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery. In addition, where a subcontractor has not been relieved from liability for any loss or destruction of or damage to Government property, the Contractor shall enforce the liability of the subcontractor for such loss or destruction of or damage to the Government property for the benefit of the Government.

(f) *Disposition of Government property.* (1) During the period of performance of this contract, the Contractor shall promptly and regularly report to the Contracting Officer, in such form and manner as the Contracting Officer may direct, concerning the status of Government property under the contract, including all Government property in the Contractor's possession which is not in use or which is excess to the needs of the contract. The Contractor shall make such disposition of Government property as the Contracting Officer may direct. The Contractor shall in no way be relieved of responsibility for Government property without the prior written approval of the Contracting Officer.

(2) Upon completion or expiration of this contract, or at such earlier date as may be fixed by the Contracting Officer, the Contractor shall render an accounting, as prescribed by the Contracting Officer, of all Government property which had come into the possession or custody of the Contractor under this contract. Such accounting shall include inventory schedules covering all items of Government property not consumed in the performance of this contract, or not theretofore delivered to the Government, or for which the Contractor has not otherwise been relieved of responsibility. The Contractor shall deliver or make such other disposition of Government property covered in such inventory schedules as the Contracting Officer may direct.

(3) The net proceeds of any disposition of Government property, in accordance with (1) and (2) above, shall be credited to the cost of the work covered by the contract or shall be paid in such manner as the Contracting Officer may direct.

(g) *Restoration of premises.* Unless otherwise provided herein, the Government shall not be under any duty or obligation to restore or rehabilitate, or to pay the costs of the restoration or rehabilitation of the Contractor's facility or any portion thereof which is affected by removal of any Government property.

12. CHANGES

The Contracting Officer may at any time, by a written order, and without notice to the sureties, if any, make changes, within the general scope of this contract, in any one or more of the following: (a) Drawings, designs, or specifications; (b) method of shipment or packing; (c) place of inspection, delivery, or acceptance; and (d) the amount of Government-furnished property. If any such change causes an increase or decrease in the estimated cost of, or the time required for performance of this contract, or otherwise affects any other provisions of this contract, whether changed or not by any such order, an equitable adjustment shall be made (a) in the estimated cost of delivery schedule, or both, and (b) in such other provisions of the contract as may be so affected, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by the Contractor of the notification of change: *Provided, however,* That the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Where the cost of property made obsolete or excess as a result of a change is included in the Contractor's claim for adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of such property. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled, "Disputes." However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

13. NOTICE TO THE GOVERNMENT OF DELAYS

Whenever the Contractor has knowledge that any actual or potential situation, including, but not limited to, labor disputes, is delaying or threatens to delay the timely performance of the work under this contract, the Contractor shall immediately give written notice thereof, including all relevant information with respect thereto, to the Contracting Officer.

14. TERMINATION FOR THE CONVENIENCE OF THE GOVERNMENT

(Text of this clause is set forth in FPR 1–8.704–1.)

15. RIGHTS IN DATA

(a) *Subject data.* As used in this clause, the term "Subject Data" means writings, sound recordings, pictorial reproductions, drawings, designs, or other graphic representations, procedural manuals, forms, diagrams, workflow charts, equipment descriptions, data files and data processing or computer programs, and works of any similar nature (whether or not copyrighted or copyrightable) which are specified to be delivered under this contract. The term does not include financial reports, cost analyses, and similar information incidental to contract administration.

(b) *Government rights.* Subject only to the proviso of (c) below, the Government may use, duplicate or disclose in any manner and for any purpose whatsoever, and have or permit others to do so, all subject data delivered under this contract.

(c) *License to copyrighted data.* In addition to the Government rights as provided in (b) above, with respect to any subject data which may be copyrighted the Contractor agrees to and does hereby grant to the Government a royalty-free, nonexclusive, and irrevocable license throughout the world to use, duplicate or dispose of such data in any manner and for any purpose whatsoever, and to have or permit others to do so: *Provided, however,* That such license shall be only to the extent that the Contractor now has, or prior to completion or final settlement of this contract may acquire, the right to grant such license without becoming liable to pay compensation to others solely because of such grant.

(d) *Relation to patents.* Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(e) *Marking and identification.* The Contractor shall mark all Subject Data with the number of this contract and the name and address of the contractor or subcontractor who generated the data. The Contractor shall not affix any restrictive markings upon any Subject Data, and if such markings are affixed, the Government shall have the right at any time to modify, remove, obliterate, or ignore any such markings.

(f) *Subcontractor data.* Whenever any Subject Data is to be obtained from a subcontractor under this contract, the Contractor shall use this same clause in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the Government's rights in that subcontractor Subject Data.

(g) *Deferred ordering and delivery of data.* The Government shall have the right to order, at any time during the performance of this contract, or within 2 years from either acceptance of all items (other than data) to be delivered under this contract or termination of this contract, whichever is later, any Subject Data and any data not called for in the schedule of this contract but generated in performance of the contract, and the Contractor shall promptly prepare and deliver such data as is ordered. If the principal investigator is no longer associated with the Contractor, the Contractor shall exercise its best efforts to prepare and deliver such data as is ordered. The Government's right to use data delivered pursuant to this paragraph (g) shall be the same as the rights in Subject Data as provided in (b) above. The Contractor shall be relieved of the obligation to furnish data pertaining to an item obtained from a subcontractor upon the expiration of 2 years from the date he accepts such items. When data, other than Subject Data, is delivered pursuant to this paragraph (g), payment shall be made, by equitable adjustment or otherwise, for converting the data into the prescribed form, reproducing it or preparing it for delivery.

16. REPORTING OF ROYALTIES

If this contract involves any royalty payments in excess of $250 or if the amount of any royalty payment in excess of $250 is reflected in the estimated cost, the Contractor shall report in writing to the Contracting Officer, as soon as practicable during the performance of this contract, the amount of any royalties paid or to be paid by it directly to others in connection with the performance of this contract, together with (a) the names and addresses of licensors to whom such payments are made; (b) the patent numbers or patents application serial numbers (with filing dates) involved or other identification of the basis of such royalties; and (c) information concerning the manner of computation of such royalties.

17. AUTHORIZATION AND CONSENT

The Government hereby gives its authorization and consent for all use and manufacture of any invention described in and covered by a patent of the United States in the performance of this contract or any part hereof or any amendment hereto, or any subcontract hereunder (including any lower tier subcontract).

18. NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT

(Text of this clause is set forth in FPR 1–7.101–13.)

19. PUBLICATION AND PUBLICITY

(a) Unless otherwise specified in this contract, the Contractor is encouraged to publish

and make available through accepted channels the results of its work under this contract. A copy of each article submitted by [illegible] for publication shall be

(2) Insert in each subcontract having experimental, developmental, or research work as one of its purposes, a provision making this clause applicable to the subcontractor

the Contractor the cost and expense of which is allowable under the clause entitled "Allowable Cost." Except as otherwise directed by the Contracting Officer, the Con-

25. FOREIGN TRAVEL

Foreign travel shall not be performed without the prior written approval of the contracting officer. As used in this clause "Foreign Travel" means travel outside the United

34. OFFICIALS NOT TO BENEFIT

(Text of this clause is set forth in FPR 1–7.101–19.)

35. COVENANT AGAINST CONTINGENT FEES

sion 2, instituted regulations for the transmission of tariff and schedule publications to subscribers and other interested parties, such regulations to be incorporated into all of the Commission's

and make avialable through accepted channels the results of its work under this contract. A copy of each article submitted by the Contractor for publication shall be promptly sent to the Project Officer. The Contractor shall also inform the Project Officer when the article or other work is published and furnish a copy of it as finally published.

(b) The Contractor shall acknowledge the support of the Department of Health, Education, and Welfare whenever publicizing the work under this contract in any media. To effectuate the foregoing, the Contractor shall include in any publication resulting from work performed under this contract an acknowledgement substantially as follows:

"The work upon which this publication is based was performed pursuant to Contract (insert number) with the (insert name of constituent agency), Department of Health, Education, and Welfare."

20. PATENT RIGHTS

(a) *Definitions.* As used in this clause, the term (1) "Invention" or "Invention or discovery" includes any art, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States; and (2) "Made," when used in relation to any invention or discovery, means the conception or first actual or constructive reduction to practice on such invention.

(b) *Disclosure.* Whenever an invention or discovery is made by the Contractor or its employees in the course of or under this contract, the Contractor shall immediately give the Contracting Officer written notice thereof and shall promptly thereafter furnish the Contracting Officer with complete information thereon, including a minimum (1) a complete written disclosure of each such invention, and (2) information in writing, as soon as practicable, concerning the data and identity of any public use, sale, or publication of such invention made by or known to the Contractor.

(c) *Determination of rights.* The Secretary, or his duly authorized representative, shall have the sole and exclusive power to determine whether or not, and where a patent application shall be filed and to determine the disposition of all rights in any invention made under this contract, including title to, and rights under, any patent application or patent which may issue thereon. The Secretary, or his duly authorized representative, may, upon the request of the Contractor, determine to exercise his option to waive rights to any such invention in foreign countries. The determination of the Secretary, or his duly authorized representative, on all these matters shall be accepted as final and the provisions of the clause of this contract entitled, "Disputes" shall not apply. The Contractor shall use his best efforts to assure that all of its employees who may be the inventors of any such invention will execute all documents and do all things necessary or proper to effectuate the determination of the Secretary, or his duly authorized representative, to vest in the Government the rights granted to it under this clause and to enable the Government to apply for and prosecute any patent application, in any country, covering such invention where the Government has the right under this clause to file such application.

(d) *Contractor employees and subcontractors.* The Contractor shall:

(1) Obtain patent agreements to effectuate the provisions of this clause from all persons who perform any part of the work under this contract and may be reasonably expected to make inventions.

(2) Insert in each subcontract having experimental, developmental, or research work as one of its purposes, a provision making this clause applicable to the subcontractor and its employees.

(e) *Reports.* The Contractor shall furnish the Contracting Officer, in addition to the information called for in paragraph (b) of this clause:

(1) Interim reports on the first anniversary of the contract, where extended or renewed, and every year thereafter listing all inventions made during the period, whether or not previously reported, or certifying that no inventions were made during the applicable period; and

(2) A final report, prior to final settlement of this contract, listing all such inventions made in the course of or under this contract, including all those previously listed in interim reports, or certifying that there are no such unreported inventions.

(f) *Withholding payment for failure to comply.* At any time during the performance of this contract, the Contracting Officer may direct that payment be withheld in the amount of 10 percent of the total amount obligated by the Government with respect to this contract or $10,000 whichever is less. If the Contracting Officer determines that the Contractor has failed to furnish any of the written notices, disclosures, or reports required by paragraphs (b) and (e) above, until such time as the Contractor shall have corrected such failure. The withholding of any amount or subsequent payment thereof to the Contractor or the failure to withhold any amount shall not be construed as a waiver of any rights accruing to the Government under the contract. This paragraph shall not be construed as requiring the Contractor to withhold any amounts from a subcontractor to enforce compliance with the patent provisions of a subcontract.

(g) *Acknowledgement.* With respect to any patent application on any invention made in the course of or under this contract, the Contractor shall incorporate in the first paragraph of the patent specification, and prominently in any patent issued thereon, the following statement:

"The invention described herein was made in the course of or under a contract with the U.S. Department of Health, Education, and Welfare."

21. KEY PERSONNEL

Where "key personnel" have been identified in this contract, it has been determined that such named personnel are necessary for the successful performance of the work under this contract; and the Contractor agrees to assign such personnel to the performance of the work under this contract, and shall not reassign or remove any of them without the consent of the Contracting Officer. Whenever, for any reason, one or more of the aforementioned personnel is unavailable for assignment for work under the contract, the Contractor shall immediately notify the Contracting Officer to that effect and shall, subject to the approval of the Contracting Officer without formal modification to the contract, replace such personnel with personnel of substantially equal ability and qualifications.

22. LITIGATION AND CLAIMS

The Contractor shall give the Contracting Officer immediate notice in writing of (a) any action, including any proceeding before an administrative agency, filed against the Contractor arising out of the performance of this contract, including, but not limited to, the performance of any subcontract hereunder; and (b) any claim against the Contractor the cost and expense of which is allowable under the clause entitled "Allowable Cost." Except as otherwise directed by the Contracting Officer, the Contractor shall furnish immediately to the Contracting Officer copies of all pertinent papers received by the Contractor with respect to such action or claim. To the extent not in conflict with any applicable policy of insurance, the Contractor may, with the Contracting Officer's approval, settle any such action or claim. If required by the Contracting Officer, the Contractor shall (a) effect an assignment and subrogation in favor of the Government of all the Contractor's rights and claims (except those against the Government) arising out of any such action or claim against the Contractors; and (b) authorize representatives of the Government to settle or defend any such action or claim and to represent the Contractor in, or to take charge of any action. If the settlement or defense of an action or claim is undertaken by the Government, the Contractor shall furnish all reasonable assistance in effecting a settlement or asserting a defense. Where an action against the Contractor is not covered by a policy of insurance, the Contractor shall, with the approval of the Contracting Officer, proceed with the defense of the action in good faith. The Government shall not be liable for the expense of defending any action or for any costs resulting from the loss thereof, to the extent that the Contractor would have been compensated by insurance which was required by law or regulation or by written direction of the Contracting Officer, but which the Contractor failed to secure through its own fault or negligence.

In any event, unless otherwise expressly provided in this contract, the contractor shall be reimbursed or indemnified by the Government for any liability loss, cost or expense, which the Contractor may incur or be subject to by reason of any loss, injury, or damage, to the person or to real or personal property of any third parties as may accrue during, or arise from, the performance of this contract.

23. REQUIRED INSURANCE

(a) The contractor shall procure and maintain such insurance as is required by law or regulation including, but not limited to, the requirements of subpart 1–10.5 of the Federal Procurement Regulations (41 CFR 1–10.5), or by the written direction of the contracting officer. Prior written approval of the contracting officer shall be required with respect to any insurance policy the premiums for which the contractor proposes to treat as a direct cost under this contract and with respect to any proposed qualified program of self-insurance. The terms of any other insurance policy shall be submitted to the contracting officer for approval upon request.

(b) Unless otherwise authorized in writing by the contracting officer, the contractor shall not procure or maintain for its own protection, any insurance covering loss or destruction of or damage to Government property.

24. OVERTIME

Except as authorized by Section 1–12.102–5 of the Federal Procurement Regulations as in effect on the effective date of this contract or otherwise provided in this contract, the Contractor shall not perform overtime work under or in connection with this contract for which premium compensation is required to be paid, without specific written approval from the Contracting Officer.

25. FOREIGN TRAVEL

Foreign travel shall not be performed without the prior written approval of the contracting officer. As used in this clause "Foreign Travel" means travel outside the United States, its Territories and Possessions, and Canada.

26. QUESTIONNAIRES AND SURVEYS

In the event the performance of this contract involves the collection of information upon identical items from 10 or more persons, other than Federal employees, the contractor shall obtain written approval from the contracting officer, prior to the use thereof, of any forms, schedules, questionnaires, survey plans or other documents, and any revisions thereto, intended to be used in such collection.

27. PRINTING

Unless otherwise specified in this contract, the contractor shall not engage in, nor subcontract for, any printing (as that term is defined in title I of the Government Printing and Binding Regulations in effect on the effective date of this contract) in connection with the performance of work under this contract: *Provided, however,* That performance of a requirement under this contract involving the reproduction of less than 5,000 production units of any one page or less than 25,000 production units in the aggregate of multiple pages, will not be deemed to be printing. A production unit is defined as one sheet, size 8 by 10½ inches, one side only, one color.

28. SERVICES OF CONSULTANTS

Except as otherwise expressly provided elsewhere in this contract, and notwithstanding the provisions of the clause of this contract entitled "Subcontracting," the prior written approval of the Contracting Officer shall be required:

(a) Whenever any employee of the Contractor is to be reimbursed as a "consultant" under this contract; and

(b) For the utilization of the services of any consultant under this contract exceeding the daily rate set forth elsewhere in this contract or, if no amount is set forth, $100, exclusive of travel costs, or where the services of any consultant under this contract will exceed 10 days in any calendar year.

Whenever Contracting Officer approval is required, the contractor will obtain and furnish to the contracting officer information concerning the need for such consultant services and the reasonableness of the fees to be paid, including, but not limited to, whether fees to be paid to any consultant exceed the lowest fee charged by such consultant to others for performing consultant services of a similar nature.

29. ASSIGNMENT OF CLAIMS

(Text of this clause is set forth in FPR 1–30.703.)

30. CONTRACT WORK HOURS STANDARDS ACT—OVERTIME COMPENSATION

(Text of this clause is set forth in FPR 1–12.303.)

31. WALSH-HEALEY PUBLIC CONTRACTS ACT

(Text of this clause is set forth in FPR 1–12.605.)

32. EQUAL OPPORTUNITY

(Text of this clause is set forth in FPR 1–12.803–2.)

33. CONVICT LABOR

(Text of this clause is set forth in FPR 1–12.203.)

34. OFFICIALS NOT TO BENEFIT

(Text of this clause is set forth in FPR 1–7.101–19.)

35. COVENANT AGAINST CONTINGENT FEES

(Text of this clause is set forth in FPR 1–1.503.)

36. BUY AMERICAN ACT-SUPPLY AND SERVICE CONTRACTS

(Text of this clause is set forth in FPR 1–6.104–5.)

37. UTILIZATION OF SMALL BUSINESS CONCERNS

(Text of this clause is set forth in FPR 1–1.710–3(a).

38. UTILIZATION OF LABOR SURPLUS AREA CONCERNS

(Text of this clause is set forth in FPR 1–1.805–3(a).

39. UTILIZATION OF MINORITY BUSINESS ENTERPRISES

(Text of this clause is set forth in FPR 1–1.1310–2.)

40. PAYMENT OF INTEREST ON CONTRACTOR'S CLAIMS

(Text of this clause is set forth in FPR 1–1.322.)

41. LISTING OF EMPLOYMENT OPENINGS

(Text of this clause is set forth in FPR 1–12.1102–2.)

[FR Doc.72-20564 Filed 11-29-72;8:51 am]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER D—TARIFFS AND SCHEDULES

[Docket No. 35613]

PART 1300—FREIGHT SCHEDULES; RAILROADS

PART 1303—PASSENGER SERVICE SCHEDULES; RAIL AND WATER CARRIERS

PART 1304—EXPRESS COMPANIES SCHEDULES AND CLASSIFICATIONS

PART 1306—PASSENGER AND EXPRESS TARIFFS AND SCHEDULES OF MOTOR CARRIERS

PART 1307—FREIGHT RATE TARIFFS, SCHEDULES, AND CLASSIFICATIONS OF MOTOR CARRIERS

PART 1308—FREIGHT TARIFFS AND SCHEDULES OF WATER CARRIERS

PART 1309—TARIFFS AND CLASSIFICATIONS OF FREIGHT FORWARDERS

Transmission of Tariffs and Schedules to Subscribers and Other Interested Parties

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 20th day of November 1972.

It appearing, that by order entered August 28, 1972, the Commission, Division 2, instituted regulations for the transmission of tariff and schedule publications to subscribers and other interested parties, such regulations to be incorporated into all of the Commission's tariff circulars;

It further appearing, that a petition filed jointly by Traffic Executive Association—Eastern Railroads, Southern Freight Association, and Executive Committee—Western Railroad Traffic Association and petitions filed by Freight Forwarders Tariff Bureau, Inc., and its members and by Sea-Land Service, Inc., request: (1) The reconsideration of the order entered August 28, 1972, (2) that the matter be considered under a notice of proposed rulemaking, (3) that the Commission find that it does not have jurisdiction in this matter, and (4) that the order be stayed or postponed pending final disposition;

It further appearing, that by notice entered October 17, 1972, the Commission announced that the order had been stayed pending disposition of the petitions;

It further appearing, that a reply to all petitions has been filed by the National Industrial Traffic League and a reply to the petition filed jointly by Traffic Executive Association—Eastern Railroads and others has been filed by the Board of Trade of Kansas City, Mo.;

And it further appearing, that upon reconsideration of all the matters and things involved in the order entered August 28, 1972, and upon consideration of the petitions and replies, which petitions and replies are hereby referred to and made a part hereof, sufficient justification for the actions requested has not been shown.

It is ordered, That the petitions, be, and they are hereby, denied.

It is further ordered, That the order entered August 28, 1972, shall become effective 30 days after publication of this order (entered November 20, 1972) in the FEDERAL REGISTER (11–30–72).

It is further ordered, That, in all other respects, the terms of the order entered August 28, 1972, shall remain the same.

(Sec. 12, 24 Stat. 383, as amended; secs. 5, 6, 12, 24 Stat. 380, as amended; sec. 20, 24, Stat. 386, as amended; 49 Stat. 546, as amended; 49 Stat. 560, as amended, 561, as amended, 563, as amended; sec. 210a, 52 Stat. 1238, as amended; secs. 304, 306, 54 Stat. 933, 935; secs. 403, 405, 413, 56 Stat. 285, 287, 295; 49 U.S.C. 5, 6, 12, 20, 304, 310a, 317, 318, 319, 904, 906, 1003, 1005, 1013)

And it is further ordered, That a copy of this order be served on each party of record, a copy be posted in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and a copy be delivered to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to all other interested persons.

By the Commission, Division 2, Acting as an Appellate Division.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-20497 Filed 11-29-72;8:45 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Department of the Interior

PART 33—SPORT FISHING

Special Regulations; Sport Fishing; for Individual Wildlife Refuge Areas

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing shall be in accordance with all applicable State regulations.

Proposed Rule Making

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Kirwin National Wildlife Refuge, Kans.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11-30-72).

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

KANSAS

KIRWIN NATIONAL WILDLIFE REFUGE

Sport fishing on the Kirwin National Wildlife Refuge, Kans., is permitted from January 1 through December 31, 1973, inclusive, on all areas not designated by signs as closed to fishing. These open areas, comprising 5,000 acres, are delineated on maps available at refuge headquarters, 5 miles west of Kirwin, Kans., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103.

Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1973.

KEITH S. HANSEN,
Refuge Manager, Kirwin National Wildlife Refuge, Kirwin, Kans.

NOVEMBER 24, 1972.

[FR Doc.72-20518 Filed 11-29-72;8:46 am]

Proposed Rule Making

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 73]

[Airspace Docket No. 72-RM-27]

RESTRICTED AREA

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 73 of the Federal Aviation Regulations that would expand the annual time of use and change the controlling agency of Restricted Area R-7001, Guernsey, Wyo.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Rocky Mountain Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Park Hill Station, Post Office Box 7213, Denver, CO 80207. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The Department of the Army has requested a change in the time of designation of R-7001 to accommodate additional training activities for Army National Guard units beginning March 1, 1973.

Increased IFR operations in the vicinity of R-7001 also necessitate the designation of Denver ARTCC as the controlling agency to facilitate the handling of these operations.

If these actions are taken, the time of designation and the controlling agency of R-7001 would be revised to show:

WYOMING

R-7001 Guernsey, Wyo.
Time of designation: 0430 to 2400 local time, March 1 through November 30.
Controlling agency: Federal Aviation Administration, Denver ARTC Center.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on November 22, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-20549 Filed 11-29-72;8:48 am]

Office of the Secretary

[49 CFR Part 85]

[Docket No. 32; Notice 72-3]

CARGO SECURITY ADVISORY STANDARDS

Notice of Proposed Rule Making

One of the most serious problems confronting the transportation industry today is the increasing incidence of theft and pilferage of cargo. It affects all modes of transportation. It disrupts the orderly and efficient flow of goods in the interstate and foreign commerce of the United States and levies an intolerable financial toll on the Nation. A Department of Transportation study of calendar year 1970 cargo theft and pilferage affecting transportation in the United States shows that, conservatively estimated, theft-related losses (known stolen, plus 80 percent of unaccounted for loss) amounted to more than $1 billion. Although the greatest losses were borne by the carriers themselves, shippers and consignees also experienced significant losses. On the average, carriers in all modes of transportation incurred losses valued at more than 1 percent of their revenues, and shippers and consignees incurred losses valued at approximately one-half of 1 percent of the freight charges that they paid. The following tables depict the supporting statistical data.

CALENDAR YEAR 1970

TOTAL LOSS BY MODE

	CARRIER REVENUE[1]		INDUSTRY LOSS		CARRIER LOSS Amt.	CARRIER LOSS Cost Ratio (Loss ÷ Revenue[1])	SHIPPER/CONSIGNEE LOSS Amt.	SHIPPER/CONSIGNEE LOSS Cost Ratio (Loss ÷ Freight Charges[1])
Air	.7B[2]	1.1%	28.8M[3]	1.1%	15.5M	2.2%	13.2M	1.9%
Truck	43.9B	70.8%	2012.4M	76.0%	1401.2M	3.2%	611.2M	1.39%
Rail	12.3B	19.8%	465.6M	17.6%	381.6M	3.1%	84.0M	0.7%
Maritime	5.1B	8.3%	141.2M	5.3%	101.2M	2.0%	40.0M	0.8%
Total	62.0B	100%	2648.0M	100%	1899.5M	3.06%[4]	748.4M	1.2%[4]

THEFT-RELATED LOSS BY MODE

	CARRIER REVENUE[1]		INDUSTRY LOSS		CARRIER LOSS Amt.	CARRIER LOSS Cost Ratio (Loss ÷ Revenue[1])	SHIPPER/CONSIGNEE LOSS Amt.	SHIPPER/CONSIGNEE LOSS Cost Ratio (Loss ÷ Freight Charges[1])
Air	.7B[2]	1.1%	15.4M[3]	1.5%	8.3M	1.2%	7.1M	1.0%
Truck	43.9B	70.8%	851.3M	84.5%	592.7M	1.4%	258.6M	0.6%
Rail	12.3B	19.8%	54.5M	5.5%	44.6M*	0.4%*	9.9M	0.08%*
Maritime	5.1B	8.3%	85.5M	8.5%	61.3M*	1.2%*	24.2M	0.47%*
Total	62.0B	100%	1006.7M	100%	706.9M	1.1%[4]	299.8M	0.47%[4]

* Based upon incomplete data.
1/ Revenue = freight charges.
2/ B = billions of dollars.
3/ M = millions of dollars.
4/ Industry average.

As might be expected, some losses are attributable to hijacking of trucks, but the value of such losses is surprisingly small in comparison to the total loss. Investigations by the Department of Transportation have shown that the vast majority of the goods lost (approximately 85 percent) were taken by persons having free access to them on docks, in terminals, and in warehouses. Hijacking and larceny of goods in transit and burglary account for approximately 15 percent of total losses. Some carriers, shippers, and consignees have acted to protect the goods in their care; many others, however, are still careless or unconcerned. In many instances, management simply does not know what measures can be taken to safeguard cargo. Some do not know the causes of their losses, while others, knowing the causes, do not know how to combat them.

Ultimately, it is the consumer who pays the price of these losses. He pays more, not because the goods are of higher quality or because they reach him any more quickly (in fact, they often reach him more slowly, as a second shipment is sent to replace the first which has been stolen), but because a charge to compensate for theft has been imposed.

In establishing the Department of Transportation, the Congress asserted that "the general welfare, the economic

procedural regulations. Two written copies of the comments should be sent to the Docket Clerk, Office of the Gen-

"Advisory standard" means a Cargo Security Advisory Standard issued under this part;

(c) *Denials.* If the Director determines that the petition does not justify initiating advisory standard setting, he denies the petition.

(d) *Notification.* Whenever the Direc-

mit comments in response to a notice of proposed advisory standard setting. The petition must be submitted in duplicate not later than 10 days before expiration of the time stated in the notice.

(b) The Director designates a representative to conduct any hearing held under this part. The General Counsel designates a member of his staff to serve as legal officer at the hearing.

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In establishing the Department of Transportation, the Congress asserted that "the general welfare, the economic growth and stability of the Nation and its security require the development of national transportation policies and programs conducive to the provision of fast, safe, efficient, and convenient transportation at the lowest cost consistent therewith * * * ." In serving these objectives, it is incumbent upon the Department of Transportation "to facilitate the development and improvement of coordinated transportation service, * * * to encourage cooperation of Federal, State, and local governments, carriers, labor, and other interested parties toward the achievement of national transportation objectives, * * * to provide general leadership in the identification and solution of transportation problems * * * ." October 15, 1966, Public Law 89-670, secs. 2, 4, as amended; 80 Stat. 931, 933, as amended; 49 U.S.C. 1651, 1653.)

Cargo theft is a problem affecting "the provision of fast, safe, efficient, and convenient transportation * * *," and clearly warrants the development of nationwide policies and programs designed to promote cooperative solutions among interested parties. In carrying out its responsibilities, the Department of Transportation proposes to establish a program for the issuance of Cargo Security Advisory Standards. The Department would serve as a clearinghouse and coordinator of the knowledge that exists within the public, industry, and Government of the best methods available to combat cargo theft. In specific areas related to the security of cargo from theft, after consultation with the public, industry, and Government, the Department would issue advisory standards. The standards would not be mandatory but would be an authoritative aid to all parts of the transportation system, including shippers and consignees, in the prevention of theft and pilferage of cargo. Nothing in the standards would replace or modify any statutory requirement or any regulatory authority vested in any Federal, State, or local governmental body. Procedures relating to packaging, storage, accountability, communications, and vehicle control are deemed at this time appropriate subjects for the issuance of advisory standards.

The Department cannot require compliance with the advisory standards that would be issued; however, the need to follow them, and the resulting benefits, should be self-evident. Although there has been increasing concern throughout the transportation industry with the problem of theft and pilferage, and some action in reporting and preventing losses, widespread disparities continue to exist. We believe that agreement on such basic matters as the use of seals and locks, and facing up to theft as something more than an insurance problem, can go a long way toward reducing transportation crime.

All interested persons are invited to submit their comments on these proposed procedural regulations. Two written copies of the comments should be sent to the Docket Clerk, Office of the General Counsel, Department of Transportation, Washington, D.C. 20590. All comments received by the close of business on January 3, 1973, will be considered in formulating the final procedural regulations, and will be available for public inspection and copying until that date between 9 a.m. and 5:30 p.m., Monday to Friday, except Federal holidays, in the Office of the Assistant General Counsel for Regulation, Room 10100, Department of Transportation Headquarters (Nassif) Building, 400 Seventh Street SW., Washington, DC.

In consideration of the foregoing, pursuant to section 9(e)(1) of the Department of Transportation Act (Oct. 15, 1966, Public Law 89-670, § 9(e)(1); 80 Stat. 944; 49 U.S.C. 1657(e)(1)), it is proposed to amend Title 49 of the Code of Federal Regulations by adding a Part 85, as appears below. Advisory standards to be developed would be issued as appendices to these procedural regulations.

Issued in Washington, D.C., on November 22, 1972.

JAMES M. BEGGS,
Acting Secretary of Transportation.

PART 85—CARGO SECURITY ADVISORY STANDARDS

Subpart A—General

Sec.
85.1 Applicability.
85.3 Initiation of advisory standard setting.
85.5 Participation by interested persons.
85.7 Docket.

Subpart B—Petitions for Advisory Standard Setting

85.11 Filing of petitions.
85.13 Processing of petitions.

Subpart C—Procedures

85.21 General.
85.23 Contents of notices.
85.25 Petitions for extension of time to comment.
85.27 Consideration of comments received.
85.29 Additional advisory standard-setting proceedings.
85.31 Hearings.
85.33 Adoption of final advisory standards.

AUTHORITY: The provisions of this Part 85 issued under section 9(e)(1), 80 Stat. 944; 49 U.S.C. 1657(e)(1).

Subpart A—General

§ 85.1 Applicability.

(a) This part prescribes the procedures for the development and promulgation of Cargo Security Advisory Standards. These advisory standards are suggested procedures and policies intended to assist all parts of the transportation industry in reducing the incidence of loss and theft of cargo entrusted to their care. The advisory standards are not mandatory, and nothing in the standards replaces or modifies any statutory requirement or any regulatory authority vested in any Federal, State, or local governmental body.

(b) As used herein—

"Advisory standard" means a Cargo Security Advisory Standard issued under this part;

"Director" means the Director of Transportation Security;

"Secretary" means the Secretary of Transportation.

§ 85.3 Initiation of advisory standard setting.

The Director, for the Secretary, initiates advisory standard setting on his own motion. He may also, in his discretion, consider the recommendations of other agencies of the United States, of any part of the transportation industry, and of any other interested person.

§ 85.5 Participation by interested persons.

Any person may participate in advisory standard-setting proceedings by submitting written information or views. The Director may also allow any person to participate in additional advisory standard-setting proceedings, such as informal appearance or hearings, held with respect to any advisory standard.

§ 85.7 Docket.

(a) Records of the Office of the Secretary concerning advisory standard-setting actions, including notices of proposed advisory standard setting, comments received in response to those notices, petitions for advisory standard setting, petitions for rehearing or reconsideration, denials of petitions for advisory standard setting, and final advisory standards are maintained in current docket form in the Office of the General Counsel.

(b) Any person may examine any docketed material at that office and may obtain a copy of any docketed material upon payment of the prescribed fee.

Subpart B—Petitions for Advisory Standard Setting

§ 85.11 Filing of petitions.

(a) Any person may petition the Director to issue, amend, or repeal an advisory standard.

(b) Each petition filed under this section must—

(1) Be submitted in duplicate to the Docket Clerk, Office of the General Counsel, Department of Transportation, Washington, DC 20590;

(2) Set forth the text of substance of the advisory standard or amendment proposed, or specify the advisory standard that the petitioner seeks to have repealed, as the case may be;

(3) Explain the interest of the petitioner in the action requested; and

(4) Contain any information and arguments available to the petitioner to support the action sought.

§ 85.13 Processing of petitions.

(a) *General.* No proceeding is held directly on a petition before its disposition under this section.

(b) *Grants.* If the Director determines that the petition contains adequate justification, he initiates advisory standard-setting action under Subpart C of this part.

(c) *Denials.* If the Director determines that the petition does not justify initiating advisory standard setting, he denies the petition.

(d) *Notification.* Whenever the Director determines that a petition should be granted or denied, he and the Office of the General Counsel prepare a notice of that grant or denial for issuance to the petitioner, and the Director issues it to the petitioner.

Subpart C—Procedures

§ 85.21 General.

(a) A notice of proposed advisory standard setting is issued and interested persons are invited to participate in the advisory standard-setting proceedings with respect to each advisory standard.

(b) In his discretion, the Director may invite interested persons to participate in the advisory standard-setting proceedings described in § 85.29.

§ 85.23 Contents of notices.

(a) Each notice of proposed advisory standard setting is published in the FEDERAL REGISTER.

(b) Each notice includes—

(1) A statement of the time, place, and nature of the proposed advisory standard-setting proceeding;

(2) A reference to the authority under which it is issued;

(3) A description of the subjects or issues involved or the substance or terms of the proposed advisory standard;

(4) A statement of the time within which written comments must be submitted and the required number of copies; and

(5) A statement of how and to what extent interested persons may participate in the proceedings.

§ 85.25 Petitions for extension of time to comment.

(a) Any person may petition the Director for an extension of time to submit comments in response to a notice of proposed advisory standard setting. The petition must be submitted in duplicate not later than 10 days before expiration of the time stated in the notice. The filing of the petition does not automatically extend the time for petitioner's comments.

(b) The Director grants the petition only if the petitioner shows a substantive interest in the proposed advisory standard and good cause for the extension, and if the extension is in the public interest. If an extension is granted, it is granted as to all persons and is published in the FEDERAL REGISTER.

§ 85.27 Consideration of comments received.

All timely comments are considered before final action is taken on an advisory standard-setting proposal. Late filed comments may be considered so far as possible without incurring additional expense or delay.

§ 85.29 Additional advisory standard-setting proceedings.

The Director may initiate any further advisory standard-setting proceedings that he finds necessary or desirable. The Director may also invite interested persons to present oral arguments, participate in conferences, appear at informal hearings, or participate in any other proceedings.

§ 85.31 Hearings.

(a) Sections 556 and 557 of title 5, United States Code, do not apply to hearings held under this part. As a fact-finding proceeding, each hearing is nonadversary and there are no formal pleadings or adverse parties. The record in a proceeding may include matters other than those presented at the hearing. An advisory standard issued will be based exclusively on the record in the proceeding.

(b) The Director designates a representative to conduct any hearing held under this part. The General Counsel designates a member of his staff to serve as legal officer at the hearing.

§ 85.33 Adoption of final advisory standards.

Final advisory standards are prepared by the Director and the Office of the General Counsel. If the Director adopts an advisory standard, it is published in the FEDERAL REGISTER.

[FR Doc.72-20702 Filed 11-29-72;8:52 am]

GENERAL SERVICES ADMINISTRATION

[41 CFR Part 101—19]

VENDING STANDS OPERATED BY BLIND PERSONS

Competition with Cafeterias; Withdrawal of Proposal

Proposed rules and regulations concerning vending stands operated by blind persons were published in the FEDERAL REGISTER of October 5, 1972 (37 F.R. 20958), to clarify the practices of General Services Administration with respect to the establishment and operation of vending stands and machines by blind persons under the provisions of the Randolph-Sheppard Act (20 U.S.C. 107), along with the operation of cafeterias in buildings operated by GSA.

The proposed regulations are hereby withdrawn.

Dated: November 28, 1972.

JOHN F. GALUARDI,
Acting Commissioner,
Public Buildings Service.

[FR Doc.72-20704 Filed 11-28-72;4:46 pm]

conditions as are presently in effect. We

cient magnitude nor do they hold such prospects of economic success as to war-

sons to direct their objections, if any, to the specific facts in issue, and to support

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Notices

CIVIL AERONAUTICS BOARD

[Docket No. 24958; Order 72-11-112]

AIR-LAND FREIGHT CONSOLIDATORS, INC.

Order of Suspension and Investigation Regarding Non-Acceptance of Certain Watches

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of November 1972.

By tariff revision bearing the issue date of October 31 and marked to become effective November 30, 1972, Air-Land Freight Consolidators, Inc. (Air-Land), an air freight forwarder, proposes to modify its tariff to include under shipments not acceptable for carriage shipments of watches when the declared value for carriage exceeds 50 cents per pound.

In support of its filing, the forwarder alleges that its purpose is to provide provisions similar to those currently in effect for other indirect carriers.

Upon consideration of all relevant factors, the Board finds that the proposed rule may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the proposal should be suspended pending investigation.

By proposing to limit the acceptance of watches to shipments with a declared value not exceeding 50 cents per pound, Air-Land would limit its liability accordingly, without offering the shipper a choice of higher liability at additional rates. The Board, in Order 72-8-55, dated August 11, 1972, suspended a virtually identical proposal by CF Air Freight, Inc., another air freight forwarder, stating, inter alia, "This is contrary to the common law concept that the validity of a limitation on liability (or a released rate) is dependent upon the shipper having an option for greater liability at greater rates."

Further, the Board, in Order 71-2-36, in connection with a direct carrier's charter liability, and in Order 70-1-34, covering the suspension of the nonacceptance of parcel post shipments valued in excess of $200 proposed by WTC Air Freight, stated, "A choice of rates and liability is considered essential to the validity of a carrier's limitations on its common carrier responsibilities."

While some forwarders currently have in effect similar provisions to those here proposed by Air-Land, we cannot find such circumstance warrants that the Board permit this proposal to become effective.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof,

It is ordered, That:

1. An investigation is instituted to determine whether the provisions in Rule No. 25(B)(10) on fifth revised page 7 of Air-Land Freight Consolidators, Inc.'s, CAB No. 12, and rules, regulations, or practices affecting such provisions are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful provisions and rules, regulations, and practices affecting such provisions;

2. Pending hearing and decision by the Board, Rule No. 25(B)(10) on fifth revised page 7 of Air-Land Freight Consolidators, Inc.'s, CAB No. 12 is suspended and its use deferred to and including, February 27, 1973, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding herein designated Docket 24958 be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated; and

4. Copies of this order shall be filed with the tariff and served upon Air-Land Freight Consolidators, Inc., which is hereby made party to Docket 24958.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-20585 Filed 11-29-72;8:51 am]

[Docket No. 24770]

BEA AIRTOURS, LTD.

Notice of Prehearing Conference and Hearing

Foreign air carrier permit application United Kingdom-United States-all other countries charter fights.

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on December 21, 1972, at 10 a.m. (local time) in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Administrative Law Judge James S. Keith.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before December 14, 1972.

Dated at Washington, D.C., November 24, 1972.

[SEAL] RALPH L. WISER, *Chief Administrative Law Judge.*

[FR Doc.72-20583 Filed 11-29-72;8:51 am]

[Docket No. 20710; Order 72-11-105]

NORTH CENTRAL AIRLINES, INC.

Order to Show Cause Regarding Renewal of Temporary Suspension of Service at Winona, Minn.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of November 1972.

By Order 69-10-121, dated October 24, 1969, the Board authorized North Central Airlines to suspend its services at Winona, Minn., for a period of 3 years. The Board provided that the suspension authority would terminate if an air taxi operator failed to provide at least two round trips per day between Winona and Chicago, and two round trips per day between Winona and Minneapolis/St. Paul (except that no service was required on Saturday and only one round trip in each market was required on Sunday).

On May 16, 1972, North Central filed for renewal of its suspension authorization at Winona for an additional 3-year period.[1] In support of its application, North Central alleges, inter alia, that an air taxi operator, Mississippi Valley Airways, Inc. (MVA), has been providing Winona with more air service than is required by the Board;[2] that the city of Winona supports this renewal, subject to the same conditions as are presently in effect; and that the financial benefits to North Central which the Board found in Order 69-10-121 continue to exist.

No answers to North Central's application have been filed.

Upon consideration of the pleadings and all the relevant facts, we have tentatively decided to authorize North Central to suspend service at Winona for an additional 3-year period conditioned upon the provision of replacement service by an air taxi operator, subject to the same conditions as are presently in effect. We have tentatively concluded that the suspension/substitution arrangement at Winona is in the public interest from an overall transportation standpoint.[3]

We have also examined the facts presented herein in light of findings in a recent court case[4] involving air taxi replacement services where the Court indicated that the Board should consider whether the statutory conditions for exemption from certification continue to exist. As discussed below, we tentatively find that, with respect to MVA, the statutory conditions and guidelines for exemption from certification continue to exist.[5] MVA, which provides the commuter replacement services at Winona, was incorporated on October 1, 1969, and has conducted scheduled air taxi operations since October 28, 1969. As of the quarter ended June 30, 1972, MVA provided short haul commuter air services at six cities in addition to Winona.[6] MVA transported 26,043 passengers and performed 3,048 flights through the fiscal year ending June 30, 1972. All of these flights were with DeHavilland Twin Otters with a seating capacity of 16. The carrier did not transport any cargo. Revenue passenger miles performed by MVA for the calendar year 1971 were 4,394,023 as compared to the local service industry average for the same period of 872,387,888. Thus, MVA's total RPM's for calendar year 1971 are approximately one-half of 1 percent of the average RPM's for each of the certificated local service carriers.[7] For the calendar year 1971, MVA carried 2,969 passengers (8.1 per day) between Chicago and Winona, and 2,912 passengers (8.0 per day) between Minneapolis and Winona.

On the basis of the foregoing, and on the basis of our findings, set forth in Order 72-9-39, September 12, 1972, and our conclusion therein that the certification process is generally inappropriate for replacement commuter carriers, we tentatively conclude that it would not be in the public interest to require MVA to undergo a certification proceeding in order to provide replacement services for North Central at Winona. MVA's replacement services are neither of sufficient magnitude nor do they hold such prospects of economic success as to warrant their separate certification.

We further tentatively find that certification would be an undue burden on MVA by reason of the limited extent of, and unusual circumstances affecting, its operations. As described above, the carrier's operations are of limited extent in terms of both the replacement services involved and the overall scope of its operations. Furthermore, the very nature of the small aircraft to which MVA is restricted makes the operations limited in extent. The accommodations on these aircraft not only limit the competitive capabilities of MVA but also limit the amount of traffic it can carry and the length of the markets it can serve, compared with a certificated carrier operating large aircraft. Thus, the cost of certification procedures would impose a severe financial burden on MVA wholly disproportionate to its existing and proposed operations. Moreover, enforcement of section 401 requirements would be an undue burden not only because of the substantial cost of certification procedures, but also because certification would deprive MVA of the necessary operating flexibility it must have to conduct nonsubsidized services with small aircraft in short-haul, low-density markets.

We are also satisfied that there are no safety considerations which would warrant a determination that the substitution arrangement is contrary to the public interest. Not only must MVA conduct its operations in strict conformity with the Federal Aviation Regulations promulgated by the Secretary of Transportation, who is charged by law with insuring the highest degree of safety in air transportation, but MVA has had a successful operating history.[8]

Consequently, for the reasons set forth above, we tentatively find and conclude that:

1. North Central should be authorized to suspend service temporarily at Winona, subject to the condition that such suspension shall terminate if, at any time, an air taxi operator fails to operate at least:

(a) Two round trips per day between Winona and Chicago;

(b) Two round trips per day between Winona and Minneapolis/St. Paul: *Provided, however*, That no service need be provided in either market on Saturday and only one round trip in each market need be operated on Sunday; and

2. The authority proposed in paragraph 1 should expire on October 26, 1975.

Interested persons will be given 21 days following the service date of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to direct their objections, if any, to the specific facts in issue, and to support such objections with detailed economic or legal analysis.

Accordingly, it is ordered, That:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein, and granting the requested suspension;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and suspension authorization set forth herein shall within 21 days after service of a copy of this order, file with the Board and serve upon all persons listed in Appendix A attached hereto, a statement of objections together with such statistical data, and other materials and evidence relied upon to support the stated objections; answers to such objections shall be filed within 14 days, thereafter;

3. Any interested persons requesting an evidentarily hearing shall state in detail why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing. General, vague, or unsupported objections will not be entertained;

4. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board;

5. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

6. A copy of this order shall be served upon all persons listed in Appendix A attached hereto.[9]

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-20584 Filed 11-29-72;8:51 am]

DELAWARE RIVER BASIN COMMISSION

COMPREHENSIVE PLAN

Notice of Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Tuesday, December 12, 1972, in the South Auditorium of the ASTM Building, 1916 Race Street in Philadelphia, beginning at 2 p.m. The subjects of the hearing will be as follows:

I. Construction of preliminary or preparatory phases of water resources projects prior to or pending Commission approval impairs sound administration of the project review responsibility author-

[1] Pursuant to § 377.10(a) of the Board's special regulations, the applicant has stated its intention to rely upon 5 U.S.C. 558(c) for a continuation of its present authorization which expired, by its terms, on Oct. 26, 1972.

[2] MVA currently provides two round trips Monday through Friday in the Winona-Chicago market and 2½ nonstop round trips in the Winona-Minneapolis/St. Paul market. On weekends, MVA provides one one-way trip each Saturday and one round trip each Sunday in the Winona-Chicago market and one and one-half round trips each Saturday and Sunday in the Winona-Minneapolis/St. Paul market (OAG, Nov. 15, 1972).

[3] Specifically, we adhere to our prior findings that suspension would reduce North Central's expenses considerably, improve its financial posture, and in light of the air taxi substitution service, not adversely affect the traveling public.

[4] Air Line Pilots Association, International v. C.A.B., 458 F. 2d 846 (C.A.D.C. 1972).

[5] These statutory conditions and guidelines were discussed in Order 72-9-39, dated Sept. 12, 1972. This order was adopted in response to the remand to the Board from the U.S. Court of Appeals of the three applications which were in issue in the ALPA case.

[6] The cities are La Crosse, Prairie du Chien, and Janesville, Wis.; Chicago, Ill.; Minneapolis/St. Paul, Minn.; and Dubuque, Iowa. The total number of markets served by MVA is 21.

[7] The traffic statistics submitted by commuter carriers are confidential for a period of 1 year. However, pursuant to § 298.66 of the Board's economic regulations, the Board, on its own motion, finds that it is in the public interest to disclose this information.

[8] MVA, registered with the Board as a commuter air carrier, presently has insurance in effect and according to the FAA, has excellent operations with good management, maintenance, and training, and has had no safety or maintenance violations of FAA regulations during the last 12 months.

[9] Appendix A filed as part of the original document.

ized by the Delaware River Basin Compact. Such preparatory work may im-

7. *Camden County Municipal Utilities Authority.* A regional waste collection

agencies to fill by noncareer executive assignment, certain positions removed

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ENVIRONMENTAL PROTECTION AGENCY

comments, and the source for copies of the comments.

Appendix II contains definitions of the

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ized by the Delaware River Basin Compact. Such preparatory work may impose substantial financial risk upon water users and may adversely affect water quality.

II. The conservation of water use is an important part of sound water resources management. Conservation of water use may be encouraged by the use of water meters incident to the distribution and sale of water supplies. The Commission proposes to amend its Comprehensive Plan by the addition thereto of policy relating to water metering. The proposed policy reads as follows:

All new public and private water supply systems using waters of the basin, and designed to serve more than 250 customers (connections), or distribute water supplies in excess of 100,000 gallons per day, shall be required to install water meters incident to the provision of such service at the retail level. Meters shall be installed so as to record water use by each individual household, commercial, industrial, or other user. Apartment houses and other multiple dwelling units shall be required to meter each dwelling unit separately.

III. A proposal to amend the Comprehensive Plan so as to include therein the following water resources projects:

1. *U.S. Soil Conservation Service.* Revision of the Assunpink Watershed work plan in Mercer and Monmouth Counties, N.J. The proposed revisions affect the reservoir pool size at structures numbers 4 and 5 and modifications of the land treatment phases of the project.

2. *Bucks County Commissioners.* A project to treat leachate from a completed landfill in Rockamixon Township, Bucks County, Pa. As a modification of a previously approved project, the treatment facilities will provide 97 percent removal of BOD_5 from an average waste flow of approximately 105,000 gallons per day. Treated effluent will discharge into a tributary of Gallows Run.

3. *Bucks County Department of Parks and Recreation.* A proposed revision to a previously approved boat launching ramp project in Bensalem Township, Bucks County, Pa. The boat launching facilities will be relocated downstream from the existing launching area on the Delaware.

4. *Borough of Deer Lake Municipal Authority.* A sewage treatment project to serve the Borough of Deer Lake, West Brunswick Township, Schuylkill County, Pa. The treatment plant will remove 90 percent of BOD_5 from a projected waste flow of 90,000 gallons per day. Treated effluent will discharge into Pine Creek, a tributary of the Schuylkill River.

5. *City of Wilmington Department of Commerce.* New docking facilities to serve the Port at Wilmington, New Castle County, Del. The project will be designed primarily to handle imports of oil for use by utilities.

6. *City of Philadelphia Water Dept.* Proposed modification to the Southwest sewage treatment plant of the City of Philadelphia, Philadelphia County, Pa. The improved facility is designed to provide 93 percent removal of BOD_5 from a waste flow of 210 million gallons per day. Treated effluent would discharge to the Delaware River.

7. *Camden County Municipal Utilities Authority.* A regional waste collection and treatment plant for that portion of Camden County, N.J., lying within the Delaware River drainage area. A system of collecting and interceptor sewers would serve all or part of the watersheds of Pennsauken, Newton, and Big Timber Creeks, the Cooper River and smaller streams draining directly into the Delaware River. Waste would be conveyed to a new central treatment plant located in the city of Camden.

IV. A proposal to approve the following water pollution abatement schedule as submitted in accordance with section 3-4.2(2) of the Basin Regulations-Water Quality (18 CFR Part 410):

1. *U.S. Pipe and Foundry Co. (A-71-8 revision).* A violation of the effluent requirements of the Commission's Basic Regulations was determined for this facility located in Burlington, N.J., and discharging into Zone 2 of the Delaware Estuary. An abatement schedule for this facility was approved on March 17, 1971. The proposed revision extends the compliance date from September 25, 1972, to October 15, 1974. The proposed revision is necessary to permit the company time to modify its present air pollution control devices which do not presently meet State standards and which are the major contaminated waste water sources.

Documents relating to the items on the hearing notice may be examined at the Commission's offices. All persons wishing to testify are requested to register in advance with the Secretary to the Commission.

W. BRINTON WHITALL,
Secretary.

NOVEMBER 22, 1972.

[FR Doc.72-20554 Filed 11-29-72;8:52 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Notice of Title Change in Noncareer Executive Assignment

By notice of April 20, 1972, F.R. Doc. 72-6033 the Civil Service Commission authorized the Department of Health, Education, and Welfare to make a change in title for the position of Deputy Commissioner for Renewal, Office of Education, authorized to be filled by noncareer executive assignment. This is notice that the title of this position is now being changed to Deputy Commissioner for Development, Office of Education.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-20574 Filed 11-29-72;8:50 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Notice of Title Change in Noncareer Executive Assignment

By notice of November 17, 1967, F.R. Doc. 67-13608, the Civil Service Commission authorized the departments and agencies to fill by noncareer executive assignment, certain positions removed from Schedule C of Civil Service Rule VI by 5 CFR 213.3301a on November 17, 1967. This is notice that the title of one such position so authorized to be filled by noncareer executive assignment has been changed from Executive Assistant Commissioner, Assistant Secretary for Housing Production and Mortgage Credit to Executive Assistant, Office of the Assistant Secretary-Commissioner, Housing Production and Mortgage Credit.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-20576 Filed 11-29-72;8:50 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Notice of Title Change in Noncareer Executive Assignment

By notice of May 1, 1970, F.R. Doc. 70-5343 the Civil Service Commission authorized the Department of Housing and Urban Development to make a change in title for the position of Assistant Commissioner for Technical and Credit Standards, Assistant Secretary for Housing Production and Mortgage Credit-Federal Housing Commissioner, authorized to be filled by noncareer executive assignment. This is notice that the title of this position is now being changed to Director, Office of Technical and Credit Standards, Assistant Secretary for Housing Production and Mortgage Credit.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-20577 Filed 11-29-72;8:50 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Notice of Title Change in Noncareer Executive Assignment

By notice of November 17, 1967, F.R. Doc. 67-13608, the Civil Service Commission authorized the departments and agencies to fill by noncareer executive assignment, certain positions removed from Schedule C of Civil Service Rule VI by 5 CFR 213.3301a on November 17, 1967. This is notice that the title of one such position so authorized to be filled by noncareer executive assignment has been changed from Assistant Commissioner for Field Operations, Federal Housing Administration to Director, Office of Field Support, Housing Production and Mortgage Credit.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-20578 Filed 11-29-72;8:50 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Notice of Title Change in Noncareer Executive Assignment

By notice of November 17, 1967, F.R. Doc. 67-13608, the Civil Service Commission authorized the departments and agencies to fill by noncareer executive assignment, certain positions removed from Schedule C of Civil Service Rule VI by 5 CFR 213.3301a on November 17, 1967. This is notice that the title of one such position so authorized to be filled by noncareer executive assignment has been changed from Assistant Commissioner for Programs, Federal Housing Administration to Director, Policy and Program Analysis and Development, Federal Housing Administration.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-20579 Filed 11-29-72;8:50 am]

OFFICE OF ECONOMIC OPPORTUNITY

Notice of Title Change in Noncareer Executive Assignment

By notice of July 31, 1971, F.R. Doc. 71-11019 the Civil Service Commission authorized the Office of Economic Opportunity to make a change in title for the position of Director, Evaluation Division, Office of Planning, Research and Evaluation, authorized to be filled by noncareer executive assignment. This is notice that the title of this position is now being changed to Chief, Evaluation Division, Office of Planning, Research and Evaluation.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-20575 Filed 11-29-72;8:50 am]

U.S. TARIFF COMMISSION

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the U.S. Tariff Commission to fill by noncareer executive assignment in the excepted service the position of Executive Director.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-20580 Filed 11-29-72;8:50 am]

ENVIRONMENTAL PROTECTION AGENCY

ENVIRONMENTAL IMPACT STATEMENTS

Availability of Agency Comments

Appendix I contains a listing of draft environmental impact statements which the Environmental Protection Agency (EPA) has reviewed and commented upon in writing during the period from November 1, 1972, to November 15, 1972, as required by section 102(2)(C) of the National Environmental Policy Act of 1969 and section 309 of the Clean Air Act, as amended. The listing includes the Federal agency responsible for the statement, the number assigned by EPA to the statement, the title of the statement, the classification of the nature of EPA's comments, and the source for copies of the comments.

Appendix II contains definitions of the four classifications of EPA's comments. Copies of EPA's comments on these draft environmental impact statements are available to the public from the EPA offices noted.

Appendix III contains a listing of the addresses of the sources for copies of EPA comments listed in Appendix I.

Copies of the draft environmental impact statements are available from the Federal department or agency which prepared the draft statement or from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

Dated: November 24, 1972.

SHELDON MEYERS,
Director,
Office of Federal Activities.

APPENDIX I

ENVIRONMENTAL IMPACT STATEMENTS FOR WHICH COMMENTS WERE ISSUED BETWEEN NOVEMBER 1, 1972, AND NOVEMBER 15, 1972

Responsible Federal Agency	Title and Identifying number	General nature of comments	Source for copies of comments
Atomic Energy Commission	D-AEC-00069-21: Crystal River Unit 3, Fla.	2	A
Do	F-AEC-06040-00: Indian Point Nuclear Plant, Unit 2, N.Y.	2	C
Corps of Engineers	D-COE-41526-39: Shoal Creek Channel, Shoal Creek, Mo.	1	H
Do	D-COE-32304-46: Lakeport Lake Project Scotts Creek, Calif.	2	J
Do	D-COE-89106-54: Tucannon Port Site, Wash.	1	K
Department of Agriculture	D-DOA-36161-03: Stevens-Rugg Watershed, Franklin County, Vt.	2	B
Do	D-DOA-36033-19: Hollow Creek Watershed, S.C.	1	E
Do	D-DOA-36042-23: Hurricane Creek Watershed, Tenn.	2	E
Do	D-DOA-62025-31: Timber Management Plan for Cochiti National Park, Albuquerque, N. Mex.	1	J
Do	D-DOA-36165-54: Newman Lake Watershed, Spokane County, Wash.	1	K
Department of the Interior	D-DOI-84014-00: Five Year Extension, Office of Saline Water.	2	A
Do	D-DOI-61077-01: Acadia National Park, Bar Harbor, Maine.	1	B
Department of Justice	D-DOJ-81103-15: Prisoner Medical Center, Green Springs, Louisa County, Va.	3	D
Department of State	D-DOS-90071-00: Internation Convention on Civil Liability for Oil Pollution Damage.	1	A
Do	D-DOS-03030-00: Permit for Dome Company to Transmit Hydrocarbons Through Pipeline.	1	F
Department of Transportation	D-DOT-41518-02: Route 111, Windham-Atkinson, N.H.	2	B
Do	D-DOT-41495-04: Route 2, Acton, Concord, Lincoln, Lexington, Mass.	3	B
Do	D-DOT-51193-14: Tri-County Airport Improvements, W. Va.	1	D
Do	D-DOT-51192-11: Somerset County Airport Improvements, Pa.	2	D
Do	D-DOT-41511-11: L.R. 1053 and L.R. 313, Centre and Clearfield Counties, Pa.	2	D
Do	D-DOT-41512-11: L.R. 1022, Ebensburg to Hastings, Cambria County, Pa.	2	D
Do	D-DOT-51191-15: Expansion of Patrick Henry Airport, Va.	2	D
Do	D-DOT-41516-17: Lexington-Paris Road, Fayette and Bourbon Counties, Ky.	2	E
Do	D-DOT-51192-21: Destin-Fort Walton Beach Airport, Destin, Fla.	2	E
Do	D-DOT-41523-22: I-65, Morgan, Madison, and Limestone Counties, Ala.	2	E
Do	D-DOT-41521-17: Relocation of KY 237, Boone County, Ky.	2	E
Do	D-DOT-41529-22: Bridge Across Coosa River, Ala. Route 77, Etowah, Ala.	2	E
Do	D-DOT-41511-18: Improvement to US-19, Swain County, N.C.	2	E
Do	D-DOT-41408-21: Lake County, Fla., State Road 50	1	E
Do	D-DOT-40417-22: S-702(2) Levy County, Fla.	1	E
Do	D-DOT-41474-25: M-66 Relocation Missaukee and Kalkaska Counties, Mich.	1	F
Do	D-DOT-41500-30: CSAH 37, Ramsey County, Minn.	1	F
Do	D-DOT-41510-21: State Road 207, Putnam County, Fla.	1	F

write General Services Administration, Federal Supply Service (FMSX), Wash-

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Responsible Federal Agency	Title and identifying number	General nature of comments	Source for copies of comments
Department of Transportation	D-DOT-41478 30: TH 14 Dodge and Olmsted Counties, Minn.	1	F
Do	D-DOT-41476-27: FAP Route 207, Edwardsville S. Bypass, Madison County, Ill.	2	F
Do	D-DOT-41475-30: TH 60, Jackson, Cottonswood, Watonwan Counties, Minn.	2	F
Do	D-DOT-41615-27: FAP Route 406, Logan and Tazewell Counties, Ill.	1	F
Do	D-DOT-51192-30: Hallock Municipal Airport, Kittson County, Minn.	2	F
Do	D-DOT-41506-48: Draft Supplement to Final EIS to Buckeye-Cemetery Road and Cemetery Perryville Road, I-10, Ariz.	4	J

APPENDIX II

DEFINITION OF CODES FOR THE GENERAL NATURE OF EPA COMMENTS

(1) *General agreement/lack of objections.* The Agency generally:

(a) Has no objections to the proposed action as described in the draft impact statement;

(b) Suggests only minor changes in the proposed action or the draft impact statement; or

(c) Has no comments on the draft impact statement or the proposed action.

(2) *Inadequate information.* The Agency feels that the draft impact statement does not contain adequate information to assess fully the environmental impact of the proposed action. The Agency's comments call for more information about the potential environmental hazards addressed in the statement, or ask that a potential environmental hazard be addressed since it was not addressed in the draft statement.

(3) *Major changes necessary.* The Agency believes that the proposed action, as described in the draft impact statement, needs major revisions or major additional safeguards to adequately protect the environment.

(4) *Unsatisfactory.* The Agency believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the safeguards which might be utilized may not adequately protect the environment from the hazards arising from this action. The Agency therefore recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

APPENDIX III

SOURCES FOR COPIES OF EPA COMMENTS

A. Director, Office of Public Affairs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

B. Director of Public Affairs, Region I, Environmental Protection Agency, Room 2303, John F. Kennedy Federal Building, Boston, Mass. 02203.

C. Director of Public Affairs, Region II, Environmental Protection Agency, Room 847, 26 Federal Plaza, New York, N.Y. 10007.

D. Director of Public Affairs, Region III, Environmental Protection Agency, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106.

E. Director of Public Affairs, Region IV, Environmental Protection Agency, Suite 300, 1421 Peachtree Street NE., Atlanta, GA 30309.

F. Director of Public Affairs, Region V, Environmental Protection Agency, 1 North Wacker Drive, Chicago, IL 60606.

G. Director of Public Affairs, Region VI, Environmental Protection Agency, 1600 Patterson Street, Dallas, TX 75201.

H. Director of Public Affairs, Region VII, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, MO 64108.

I. Director of Public Affairs, Region VIII, Environmental Protection Agency, Lincoln Tower, Room 916, 1860 Lincoln Street, Denver, CO 80203.

J. Director of Public Affairs, Region IX, Environmental Protection Agency, 100 California Street, San Francisco, CA 94102.

K. Director of Public Affairs, Region X, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101.

[FR Doc.72-20509 Filed 11-29-72;8:45 am]

GENERAL SERVICES ADMINISTRATION

FIBERBOARD AND FIBERBOARD BOXES

Industry Specification Development Conference

Notice is hereby given that the Federal Supply Service, General Services Administration, will hold an Industry Specification Development Conference in connection with the use of reclaimed fibers in the manufacture of items conforming to the following Federal specifications: PPP-F-320D, fiberboard, corrugated and solid; PPP-B-636G, boxes, shipping, fiberboard; PPP-B-640D, boxes, fiberboard, corrugated, triple-wall; and PPP-B-1364B, box, corrugated fiberboard, high strength, weather-resistant, double-wall.

The purpose of the conference is to provide a forum for the consideration of suggestions by which (1) the use of reclaimed fibers can be expanded, (2) the quality of the products involved can be maintained, and (3) sufficient industry interest can be generated to insure competition for the supply of items conforming to these specifications. It will be open to all those in the private sector who have an interest or concern for these matters, and all other Government departments or agencies having an interest therein are also being invited to send their representatives.

The conference will be held on December 14, 1972, at 9 a.m., Room 508, Building 3, Crystal Mall, 1931 Jefferson Davis Highway, Arlington, VA. Anyone who wants to attend or desires further information should contact Mr. Thomas M. Bacon, General Services Administration, Federal Supply Service, at telephone number (Area Code 703) 557-7844, or write General Services Administration, Federal Supply Service (FMSX), Washington, D.C. 20406.

Issued in Washington, D.C. on November 16, 1972.

M. S. MEEKER,
Commissioner.

[FR Doc.72-20560 Filed 11-29-72;8:49 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 623]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

NOVEMBER 20, 1972.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
BEN F. WAPLE,
Secretary.

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

[2] The above alternative cutoff rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

POINT-TO-POINT MICROWAVE RADIO SERVICE

3228-C1-ML-73—Pacific Northwest Bell Telephone Co. (KYS969), Sentinel Hill, near southwest Fairmount Boulevard, Portland, Oreg. Latitude 45°29'24" N., longitude 122°41'47" W. Modification of license to change polarization from H to V on frequencies 3730V and 3810V MHz toward Portland, Oreg.

INFORMATIVE: Applicant proposes to provide specialized communications services between Jacksonville and Miami, Fla., with branches to Orlando, Tampa, and West Palm Beach, Fla.

3363-C1-P-73—United Video, Inc. (New), Gulf Lake Drive, Jacksonville, Fla. Latitude 30°19'09" N., longitude 81°39'29" W. C.P. for a new station on frequencies 11,525H and 11,685H MHz toward Orange Park, Fla.

3364-C1-P-73—Same (New), in North Meadowbrook Terrace, 4 miles west-northwest of Orange Park, Fla. Latitude 30°10'52" N., longitude 81°44'51" W. C.P. for a new station on frequency 6063.8V MHz toward Mill Creek, Fla.; frequencies 10,955H and 11,115H MHz toward Jacksonville, Fla.

3365-C1-P-73—Same (New), Florida, Route 16, Mill Creek, Fla. Latitude 29°57'44" N., longitude 81°29'38" W. C.P. for a new station on frequency 6375.2V MHz toward Orange Park, Fla.; frequency 6345.5H MHz toward Hastings, Fla.

3366-C1-P-73—Same (New), 1.7 miles south of Hastings, Fla. Latitude 29°41'31" N., longitude 81°30'17" W. C.P. for a new station on frequency 5945.2V MHz toward Bunnell, Fla.; frequency 5974.8V MHz toward Mill Creek, Fla.

3367-C1-P-73—Same (New), U.S. 1, southeast city limit, Bunnell, Fla. Latitude 29°27'11" N., longitude 81°14'47" W. C.P. for a new station on frequency 3870V MHz toward Barberville, Fla.; frequency 6375.2V MHz toward Hastings, Fla.

3368-C1-P-73—Same (New), 1.2 miles north on Old U.S. 17, Barberville, Fla. Latitude 29°11'41" N., longitude 81°26'17" W. C.P. for a new station on frequency 3910V MHz toward Cassia, Fla.; frequency 4090H MHz toward Bunnell, Fla.

3369-C1-P-73—Same (New), 1 mile north of Cassia on Florida 44, Cassia, Fla. Latitude 28°54'03" N., longitude 81°27'17" W. C.P. for a new station on frequency 3870H MHz toward Ocoee, Fla.; frequency 4050H MHz toward Barberville, Fla.

3370-C1-P-73—Same (New), on west side of Florida 439, 1.4 miles north of Ocoee, Fla. Latitude 28°35'21" N., longitude 81°32'39" W. C.P. for a new station on frequency 3910H MHz toward Davenport Lake, Fla.; frequency 4090V MHz toward Cassia, Fla.; frequencies 10,975V and 11,135V MHz toward Orlando, Fla.

3371-C1-P-73—Same (New), corner of Jackson and Orange Streets, Orlando, Fla. Latitude 28°32'28" N., longitude 81°22'44" W. C.P. for a new station on frequencies 11,505V and 11,665V MHz toward Ocoee, Fla.

3372-C1-P-72—United Video, Inc. (New), 13.5 miles north of Haines City on U.S. 27, Davenport Lake, Fla. Latitude 28°18'30" N., longitude 81°40'54" W. C.P. for a new station on frequency 3870V MHz toward Auburndale, Fla.; frequency 4050H MHz toward Ocoee, Fla.

3373-C1-P-73—Same (New), 0.7 mile west of Florida Route 655 on south side of Old Auburndale Road, Auburndale, Fla. Latitude 28°04'18" N., longitude 81°49'45" W. C.P. for a new station on frequency 3910V MHz toward Keysville, Fla.; frequency 4090H MHz toward Davenport Lake, Fla.

3374-C1-P-73—Same (New), 101 North Tampa Street, Tampa, Fla. Latitude 27°56'42" N., longitude 82°27'29" W. C.P. for a new station on frequency 4070H MHz toward Keysville, Fla.

3375-C1-P-73—Same (New), northeast corner of Intersection of State Routes 640 and 676, 3.6 miles east of Lithia and Keysville, Fla. Latitude 27°51'04" N., longitude 82°05'13" W. C.P. for a new station on frequency 3890H MHz toward Fort Green, Fla.; frequency 4030H MHz toward Tampa, Fla.; frequency 4050H MHz toward Auburndale, Fla.

3376-C1-P-73—Same (New), on north side of State Route 664, 1.1 miles east of State Route 663, Fort Green, Fla. Latitude 27°37'01" N., longitude 81°55'33" W. C.P. for a new station on frequency 3910V MHz toward Buchanan, Fla.; frequency 4050H MHz towards Keysville, Fla.

3377-C1-P-73—Same (New), 2.6 miles east of Buchanan, Fla. Latitude 27°25'00" N., longitude 81°45'09" W. C.P. for a new station on frequency 3890V MHz toward Arcadia, Fla.; frequency 4050H MHz toward Fort Green, Fla.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

1257-C2-P-72—Byrnes Message Bureau, Inc. (KEJ864), resubmitted application for an additional channel to operate on 152.03 MHz at a new site described as location No. 2: 15 Virginia Avenue, Poughkeepsie, N.Y.

3469-C2-P-(6)-73—The Mountain States Telephone & Telegraph Co. (New), for a new one-way station to operate on 152.84 MHz at the following locations: Location No. 1: 228 West Adams Street, Phoenix, AZ; location No. 2: 215 East Indian School Road, Phoenix, AZ; location No. 3: 2834 North 44th Street, Phoenix, AZ; location No. 4: 12403 North 15th Avenue, Phoenix, AZ; location No. 5: 25 West First Street, Scottsdale, AZ; and location No. 6: 0.7 mile north of Tempe, Ariz.

3470-C2-P-73—Stockton Mobilphone, Inc. (KMD347), replace transmitter operating on 35.68 MHz, change the antenna system, and relocate facilities to Puck Lane, approximately 1,500 feet north of Carpenter Road, Stockton, Calif.

3471-C2-P-73—Houston Mobilfone, Inc. (New), for a new two-way station to operate on 162.12 MHz at 1½ miles east of Huntsville, Tex.

3473-C2-AL-73—MRN Services, Inc., consent to assignment of license from MRN Services, Inc., assignor, to Radio Call Company of Long Island, Inc., assignee station: KED 367 Huntington, N.Y.

3481-C2-AL-73—Electronic Answering Service. Consent to assignment of license from Jack B. McCorcle, doing business as Electronic Answering Service, assignor, to Autophone of Del Rio, Inc., assignee.

3485-C2-P-73—Radio Telephone Company of Gainesville (New), for a new two-way station to operate on 454.200 MHz, 2 miles south of Deland, Fla.

3486-C2-P-(5)—Sumo (KIY464), for additional facilities to operate on 454.150, 454.200, 454.300, and 454.350 MHz at 540 Corporation Avenue, Daytona Beach, FL and 454.150 MHz 3.1 miles southwest of New Smyrna, Fla.

3487-C2-P-(4)-73—Chesapeake & Potomac Telephone Co. (KGA586), for additional facilities to operate on 454.550, 454.575, 454.625, and 454.650 MHz at location No. 3: 6217 North 19th Road, Arlington, VA.

3502-C2-P-73—Central Telephone Co. Inc. (KLB325), replace transmitter operating on 152.09 MHz and change the antenna system in the 100 block of State Street, Decatur, Tex.

3503-C2-AL-73—Missouri Central Telephone Co., consent to assignment of license from Missouri Central Telephone Co., assignor, to: Continental Telephone Company of Missouri, assignee. Station: KDT216 Cuba, Mo.

3504-C2-AL-73—Missouri Telephone Co., consent to assignment of license from Missouri Telephone Co. (2)—Missouri Telephone Co., assignor, to: Continental Telephone Company of Missouri, assignee. Station: KAD514 Brashear, and KBN506 Wentzville, Mo.

3507-C2-P-(2)-73—Arrowhead Business Radio, Inc. (KFJ901), change the antenna system and relocate facilities operating on 152.09 MHz base and 459.200 MHz repeater at location No. 1 to: 1306 Windsor Avenue, Duluth, Minn.

3508-C2-P-73—Same (KRH654), change the antenna system and relocate base facilities operating on 152.24 MHz to 1306 Windsor Avenue, Duluth, Minn.

3511-C2-P-73—Contact of Washington, Inc. (KGA866), change the antenna system and relocate facilities operating on 43.58 MHz to the Sheraton Park Hotel, 2260 Connecticut Avenue, Washington, DC.

3512-C2-P-(2)-73—Answerite Professional Telephone Service (New), for a new two-way station to operate on 454.025 and 454.150 MHz on Fourth Street, Apopka, Fla.

3521-C2-P-73—Answerphone of Durham (KIY758), change the antenna system operating on 152.18 MHz at 111 Corcoran Street, Durham, NC.

3522-C2-TC-(2)-73—Tri-Cities Answering Service, Inc., consent to transfer of control from Ray S. Hoyt, Sr., and Evelyn Hoyt, transferors, to: Ray S. Hoyt, Jr., and Roberta Hoyt Haupt, transferees. Stations: KPC930 and KEK296 (one-way), Binghamton, N.Y.

Correction

8256-C2-P-72—The Diamond State Telephone Co. (KGA471), correct frequency 157.73 MHz to read 157.83 MHz. See Reports Nos. 615 and 620, dated September 25 and October 30, 1972, respectively.

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3378–C1–P–73—Same (New), 3.6 miles southeast of Arcadia off Florida Route 31, Arcadia, Fla. Latitude 27°09'27" N., longitude 81°50'22" W. C.P. for a new station on frequency 3910V MHz toward Bermont, Fla.; frequency 4090V MHz toward Buchanan, Fla.

3379–C1–P–73—Same (New), 5.1 miles east of Bermont, Fla. Latitude 26°56'40" N., longitude 81°40'45" W. C.P. for a new station on frequency 3890H MHz toward Fort Denaud, Fla.; frequency 4050H MHz toward Arcadia, Fla.

3380–C1–P–73—Same (New), 0.8 mile north of Fort Denaud, Fla. Latitude 26°45'17" N., longitude 81°30'25" W. C.P. for a new station on frequency 3930H MHz toward Keri Station, Fla.; frequency 4090V MHz toward Bermont, Fla.

3381–C1–P–73—Same (New), 7.7 miles east of Keri on Florida Route 832, Keri Station, Fla. Latitude 26°36'19" N., longitude 81°15'27" W. C.P. for a new station on frequency 3890V MHz toward Seminole, Fla.; frequency 4050H MHz toward Fort Denaud, Fla.

3382–C1–P–72—United Video, Inc. (New), 24.7 miles east of Immokalee, Seminole (Hendry), Fla. Latitude 26°27'45" N., longitude 81°01'55" W. C.P. for a new station on frequency 3910H MHz toward Big Cypress, Fla.; frequency 4090H MHz toward Keri Station, Fla.; frequency 3930V MHz toward Lake Harbor, Fla.

3383–C1–P–73—Same (New), intersection of State Road 80 and Miama Canal, southwest corner, Lake Harbor, Fla. Latitude 26°41'25" N., longitude 80°48'30" W. C.P. for a new station on frequency 4130V MHz toward Seminole, Fla.; frequency 3790H MHz toward Belle Glade, Fla.

3384–C1–P–73—Same (New), north side of Florida Route 441 midway between 6 miles Bend, 20 miles Bend, Belle Glade, Fla. Latitude 26°40'47" N., longitude 80°30'04" W. C.P. for a new station on frequency 4150V MHz toward West Palm Beach, Fla.; frequency 4150H MHz toward Lake Harbor, Fla.

3385–C1–P–73—Same (New), 500 feet north from end of Belvedere Extension Road, West Palm Beach, Fla. Latitude 26°41'34" N., longitude 80°10'48" W. C.P. for a new station on frequency 3730H MHz toward Belle Glade, Fla.; frequencies 10,815H and 10,975H MHz toward West Palm Beach Terminal, Fla.

3386–C1–P–73—Same (New), corner of Datura Street and Olive Avenue, West Palm Beach Terminal, Fla. Latitude 26°42'42" N., longitude 80°03'07" W. C.P. for a new station on frequencies 11,345H and 11,505H MHz toward West Palm Beach, Fla.

3387–C1–P–73—Same (New), 27.0 miles east-southeast of Sunniland, Big Cypress, Fla. Latitude 26°13'15" N., longitude 80°55'37" W. C.P. for a new station on feequency 3890H MHz toward Alligator Alley, Fla.; frequency 4030V MHz toward Seminole, Fla.

3388–C1–P–73—Same (New), 10.5 miles east of Andytown, Alligator Alley, Fla. Latitude 26°08'30" N., longitude 80°37'20" W. C.P. for a new station on frequency 3910H MHz toward Perry, Fla.; frequency 4090H MHz toward Big Cypress, Fla.

3389–C1–P–73—Same (New), 1 mile south of Florida Route 820, 3.5 miles east of U.S. 27, Perry, Fla. Latitude 25°59'34" N., longitude 80°22'33" W. C.P. for a new station on frequency 4050H MHz toward Alligator Alley, Fla.; frequency 6301V MHz toward Miami, Fla.

3390–C1–P–73—Same (New), Freedom Towers, Biscayne Boulevard, Miami, Fla. Latitude 25°46'46" N., longitude 80°11'22" W. C.P. for a new station on frequency 6049H MHz toward Perry, Fla.

3394–C1–P–73—Microwave Transmission Corp. (WBO58), Squak Mountain, 1.8 miles southwest of Issaquah, Wash. (latitude 47°30'17" N., longitude 122°02'43" W.): Modification of C.P. (1884–C1–P–71) to add frequency 11,385.0V MHz toward Ravens Roost (KPR32), Wash., on azimuth 134°00'. (INFORMATIVE: MTC proposes to change the pickup point for the signal of station KTNT–TV, Seattle–Tacoma, to Squak Mountain. This proposal does not involve new service.).

3395–C1–P–73—Eastern Microwave, Inc. (KPP81), 0.2 mile northwest of Gouverneur, N.Y. (latitude 44°20'38" N., longitude 75°29'19" W.): C.P. to replace existing transmitter on frequency 6106.3V MHz and increase output power to 1.5 watts on azimuth 47°41' toward Potsdam (KPP82), N.Y.

3396–C1–P–73—Same (KPP82), 0.2 mile southwest of Potsdam, N.Y. (latitude 44°38'54" N., longitude 75°01'07" W.): C.P. to replace existing transmitter on frequency 6390.0H MHz and increase output power to 1.5 watts on azimuth 15°01'.

3397–C1–P–73—American Television Relay, Inc. (KPV76), White Tank Mountain, 10.5 miles north-northwest of Perryville, Ariz. (latitude 33°34'10" N., longitude 112°33'33" W.): C.P. to add frequencies 11,605H MHz, 11,365H MHz, 11,525H MHz, and 11,285H MHz toward new point of communication at Pete Smith Peak, Ariz. (latitude 34°03'53" N., longitude 113°21'18" W.), on azimuth 306°56'. (INFORMATIVE: ATR proposes to provide the television signals of KTLA, KHJ, KTTV, and KCOP of Los Angeles, Calif., to American Cable Television, Inc., at Pete Smith Peak, Ariz.).

3398–C1–P–73—Mountain Microwave Corp. (WDE42), 3.0 miles northwest of Toronto, S. Dak. (latitude 44°36'22" N., longitude 96°40'52" W.): C.P. to add frequency 11,625V MHz toward Watertown, S. Dak., on azimuth 310°41'. (INFORMATIVE: Mountain proposes to provide the signal of WTCN–TV, Minneapolis, Minn., to Midland Cable TV Co. in Watertown, S. Dak.).

3399–C1–P–73—American Television Relay, Inc. (KPV76), White Tank Mountain, 10.5 miles north-northwest of Perryville, Ariz. (latitude 33°34'10" N., longitude 112°33'33" W.): C.P. to add frequencies 6330.7H MHz and 6390.0H MHz toward new point of communication at Sun City, Ariz. (latitude 33°35'59" N., longitude 112°16'32" W.), on azimuth 82°39'. (INFORMATIVE: ATR proposes to provide the television signals of KTLA and KTTV of Los Angeles, Calif., to Sun Valley Cable Communications, Inc., at Sun City, Ariz.).

3400–C1–P–73—American Television and Communications Corp. (New), 2.70 miles east of Mankato, Minn. (latitude 44°10'40" N., longitude 93°56'20" W.): C.P. for a new station—frequency 5945.2H MHz toward Wells, Minn., on azimuth 158°38'.

3401–C1–P–73—Same (New), 1.0 mile east of Wells, Minn. (latitude 43°44'42" N., longitude 93°42'20" W.): C.P. for a new station—frequency 6330.7H MHz toward Albert Lea, Minn., on azimuth 116°57'.

3402–C1–P–73—Same (New), 1.0 mile south of Albert Lea, Minn. (latitude 42°37'26" N., longitude 93°21'52" W.): C.P. for a new station—frequency 5945.2V MHz toward Mason City, Iowa, on azimuth 166°49'.

3403–C1–P–73—Same (New), 1.0 mile northwest of Mason City, Iowa (latitude 43°09'56" N., longitude 93°13'04" W.): C.P. for a new station—frequency 6226.9V MHz toward Allison, Iowa, on azimuth 139°10'.

3404–C1–P–73—Same (New), 3.7 miles north of Allison, Iowa (latitude 42°48'22" N., longitude 92°47'48" W.): C.P. for a new station—frequency 5945.2V MHz toward Waterloo, Iowa, on azimuth 127°35'.

3405–C1–P–73—Same (New), 2.20 miles northeast of Waterloo, Iowa (latitude 42°31'28" N., longitude 92°18'14" W.): C.P. for a new station—frequency 6286.2H MHz toward Reinbeck, Iowa, on azimuth 230°37'.

3406–C1–P–73—Same (New), 5.80 miles west-southwest of Reinbeck, Iowa (latitude 42°16'33" N., longitude 92°42'05" W.): C.P. for a new station—frequency 6123.1V MHz toward Marshalltown, Iowa, on azimuth 220°03'.

3407–C1–P–73—Same (New), 2.20 miles west of Marshalltown, Iowa (latitude 42°01'28" N., longitude 92°59'13" W.): C.P. for a new station—frequency 6375.2V MHz toward Ames, Iowa, on azimuth 272°25'.

3408–C1–P–73—Same (New), 1.3 miles east of Ames, Iowa (latitude 42°02'12" N., longitude 93°34'52" W.): C.P. for a new station—frequency 6063.8H MHz toward Des Moines, Iowa (latitude 41°39'58" N., longitude 93°35'27" W.), on azimuth 181°08'. (INFORMATIVE: ATC proposes to provide the signal of WTCN–TV, Minneapolis, Minn., to Hawkeye Cablevision, Inc., at Des Moines for service to Urbandale, Iowa. A waiver of Section 21.701(i) of the FCC Rules is requested by ATC.)

3409–C1–P–73—Microwave Transmission Corp. (WAN96), 8.6 miles south of Pomeroy, Wash. (latitude 46°20'52" N., longitude 117°36'06" W.): C.P. (a) to relocate receiver station at Clarkston, Wash., to latitude 46°27'24" N., longitude 117°02'45" W. and (b) to change azimuth toward new site at Clarkston to 74°11'.

3410–C1–P–73—American Television Relay, Inc. (KKT81), Mount Powell, 4.5 miles north of Thoreau, N. Mex. (latitude 35°27'59" N., longitude 108°14'25" W.): C.P. to add frequencies 6212.0H MHz, 6271.4H MHz, 6330.7H MHz, and 6301.0V MHz toward Grants, N. Mex. (latitude 35°09'47" N., longitude 107°52'47" W.), on azimuth 136°36'. (INFORMATIVE: ATR proposes to provide the television signals of KTLA, KCOP, KHJ, and KTTV of Los Angeles, Calif., to Tele Vu, Inc., in Grants, N. Mex.)

3411–C1–ML–73—Western Tele-Communications, Inc. (KPT21), Nelson Peak, 18.0 miles southwest of Salt Lake City, Utah (latitude 40°36'30.5" N., longitude 112°09'34" W.): Modification of license (7695–C1–ML–72) to change azimuth toward Ogden (KOC40), Utah, to 15°46'.

3412–C1–MP–73—Same (KOC40), Ogden (Weber State College Science Building), Utah (latitude 41°11'40" N., longitude 111°56'25" W.): Modification of C.P. (7696–C1–P–72) to relocate station to foregoing coordinates—existing frequency 6137.9H MHz toward Nelson Peak (KPT21), Utah, on new azimuth 195°55' and existing frequency 6108.3V MHz toward New Promontory (KOC42), Utah, on azimuth 320°48'.

3413–C1–ML–73—Same (KOC42), New Promontory, 20.0 miles west of Tremonton, Utah (latitude 41°45'10" N., longitude 112°33'00" W.): Modification of C.P. (7697–C1–P–72), to change azimuth toward Ogden (KOC40), Utah, to 140°24'. (INFORMATIVE: Western requests Special Temporary Authority to effect these technical modifications.)

3414–C1–P–73—American Television Relay, Inc. (KOS63), Heliograph Peak, 13.9 miles southwest of Stafford, Ariz. (latitude 32°38'59" N., longitude 109°50'53" W.): C.P. to add frequencies 6219.5H MHz, 6338.1H MHz, 6249.1V MHz, and 6189.8V MHz toward Mule Mountain, Ariz. (latitude 31°28'20" N., longitude 109°57'18" W.), on azimuth 184°27'. (INFORMATIVE: ATR proposes to provide the television signals of KTLA, KTTV, KCOP, and KHJ of Los Angeles, Calif., to Bisbee CATV, Inc., at Mule Mountain, Ariz. A waiver of Section 21.701(i) of the FCC Rules is requested by ATR.)

3415–C1–P–73—Frank K. Spain, doing business as Microwave Service Co. (KSN80), 4.3 miles northeast of Harvard, Ill. (latitude 42°28'10" N., longitude 88°33'37" W.): C.P. to add frequency 6315.9H MHz toward Rockford (KSN81), Ill., on azimuth 256°22'.

3416–C1–P–73—Same (KSN81), 7 miles north of Rockford, Ill. (latitude 42°21'51" N., longitude 89°08'15" W.): C.P. to add frequencies 6034.2H MHz, 6152.8H MHz, and 6412.2H MHz toward Freeport, Ill., on azimuth 262°20'. (INFORMATIVE: MSC proposes to provide the television signals of WGN–TV, WFLD, and WTTW and the radio signal of WFMT(FM), all of Chicago, Ill., to Freeport Cablevision in Freeport, Ill. A waiver of Section 21.701(i) of the FCC Rules is requested by MSC.)

3417–C1–P–73—The Mountain States Telephone & Telegraph Co. (KVU54), 800 Main Street, Grand Junction, CO. Latitude 39°04'03" N., longitude 108°33'30" W. C.P. to replace frequencies 5937.8V and 10,755V MHz with frequencies 10,815V, 10,895V, and 11,135V MHz; to change point of communication from Palisade, Colo., to Land's End, Colo.

3418–C1–P–73—Same (New), 7 miles east of Palisade, Colo. Latitude 39°05'27" N., longitude 108°13'20" W. C.P. for a new station on frequencies 11,305H, 11,385H, and 11,625H MHz toward Grand Junction, Colo.; frequencies 11,265V, 11,345V, and 11,665V MHz toward Grand Valley, Colo.

3419–C1–P–73—Same (KBC29), 3 miles southwest of Grand Valley (Garfield), Colo. Latitude 39°25'37" N., longitude 108°06'09" W. C.P. to add frequencies 10,775H, 10,855H, and 11,175H MHz toward Land's End, Colo.; to replace frequencies 5937.8V and 10,755H MHz with frequencies 10,815V, 10,895V, and 11,135V MHz toward Rifle Junction, Colo.

3420–C1–P–73—Same (KBC41), 1 mile northeast of Rifle, Colo. Latitude 39°32'28" N., longitude 107°45'49" W. C.P. to add frequences 11,305H, 11,385H, and 11,625H MHz in place of frequencies 6189.8V and 11,685H MHz toward Grand Valley, Colo.; correct frequency to read 10,995H MHz toward Rio Blanco, Colo.

3421–C1–P–73—American Telephone & Telegraph Co. (KVU39), 110 North Hall Street, Allentown, PA. Latitude 40°36'13" N., longitude 75°28'26" W. C.P. to add frequency 3930V MHz toward Lanark, Pa.

3422–C1–P–73—Same (KGN36), 3 miles southeast of Allentown, Pa. Latitude 40°33'59" N., longitude 75°26'11" W. C.P. to add frequency 3890V MHz toward Allentown, Pa.; frequencies 3710H and 3790H MHz toward Cherryville, N.J.

3423–C1–P–73—Same (KEA77), 0.8 mile north of Cherryville, N.J. Latitude 40°34'18" N., longitude 74°54'22" W. C.P. to add frequencies 3750H and 3830H MHz toward Lanark, Pa.

3426–C1–P–73—The Mountain States Telephone & Telegraph Co. (KPX29), 14 miles southeast of Cedar City, Utah. Latitude 37°35'20" N., longitude 112°52'01" W. C.P. to add frequencies 11,325H and 11,565V MHz toward Mount Wilson, Utah via passive reflector.

3427–C1–P–73—Same (New), 11.6 miles southeast of Panguitch, Utah. Latitude 37°41'28" N., longitude 112°18'16" W. C.P. for a new station on frequencies 10,875H and 11,115V MHz toward Blowhard Mountain, Utah via passive reflector; frequencies 10,915H and 11,155V MHz toward Panguitch, Utah via passive reflector.

3428–C1–P–73—Same (New), 50 South Main Street, Panguitch, UT. Latitude 37°49'20" N., longitude 112°26'13" W. C.P. to add frequencies 11,365H and 11,605V MHz toward Mount Wilson, Utah.

3429–C1–P–73—Southwestern Bell Telephone Co. (New), 623 Eldorado Street, near League City, Tex. Latitude 29°33'46" N., longitude 95°08'20" W. C.P. for a new station on frequency 3770V MHz toward Liverpool, Tex.; frequency 4090V MHz toward Houston, Tex.

3430–C1–P–73—Same (New), 1021 West Broad Street, Freeport, TX. Latitude 28°57'09" N., longitude 95°21'34" W. C.P. for a new station on frequency 4090V MHz toward Liverpool, Tex.

3431–C1–P–73—Same (KYJ66), 1407 Jefferson Street, Houston, TX. Latitude 29°44'55" N., longitude 95°21'56" W. C.P. to add frequency 3730V MHz toward Apollo RS, Tex.

3432–C1–MP–73—Same (WCZ52), 6.2 miles east-southeast of Liverpool, Tex. Latitude 29°15'36" N., longitude 95°11'02" W. Modification. C.P. to add frequency 4050V MHz toward Apollo RS, Tex.; frequency 3730V MHz toward Freeport RS, Tex.; to change polarization from H to V on frequency 3730V and 3810V MHz toward Galveston, Tex.; to change polarization from V to H on frequencies 4050H and 4130H MHz toward Texas City, Tex.

3433–C1–P–73—United Telephone Company of Florida (KIQ75), 113 East Ventura Avenue, Clewiston, FL. Latitude 26°45'00" N., longitude 80°56'03" W. C.P. to change frequency 2178.4H MHz to 2164.6H MHz toward Sipreston, Fla.

3434–C1–P–73—Same (KIB95), 13 miles south-southeast of Devils Garden, Fla. Latitude 26°26'22" N., longitude 81°01'35" W. C.P. to change frequency from 2128.4H MHz to 2114.6H MHz toward Clewiston, Fla.

3436–C1–P–73—RCA Alaska Communications, Inc. (WBP70), Lena Point Loop Road, 1.2 miles from the Glacier Highway, Lena Point, Alaska. Latitude 58°23'32" N., longitude 134°46'02" W. C.P. to change frequencies from 4050V and 4130V MHz to frequencies 6585V and 6685V MHz toward Hoonah, Alaska.

3437–C1–MP–73—The Chesapeake & Potomac Telephone Co. of West Virginia (KXR63), 200 Woodlawn Avenue, Beckley, WV. Latitude 37°46'33" N., longitude 81°11'25" W. Modification. C.P. to change antenna system and add passive site on frequency 6123.1H MHz toward Beckley Passive toward Barker's Ridge Passive via Barker's Ridge Passive toward Barker's Ridge.

3438–C1–MP–73—Same (WHT69), Barker's Ridge, junction of Mercer, Wyoming, and Raleigh Counties, W. Va. Latitude 37°30'39" N., longitude 81°13'19" W. Modification. C.P. to change antenna system and add passive site on frequency 6375.2V MHz toward Barker's Ridge Passive toward Beckley Passive via Beckley Passive toward Beckley.

3439–C1–P–73—Southern Bell Telephone & Telegraph Co. (KJA97), 213 South Colt Street, Florence, SC. Latitude 34°11'39" N., longitude 79°46'17" W. C.P. to add frequencies 6152.8V, 5974.8V, and 6093.5V MHz toward Elliott, S.C.

3440–C1–P–73—Southern Bell Telephone & Telegraph Co. (KVH63), 1.4 miles northeast of Elliott, S.C. Latitude 34°07'11" N., longitude 80°08'48" W. C.P. to add frequency 6404.8H MHz toward Sumter, S.C.

3441–C1–P–73—Same (KJB49), 15 South Harvin Street, Sumter, SC. Latitude 33°55'08" N., longitude 80°20'24" W. C.P. to change frequencies from 6011.9H and 6130.5H MHz to 6004.5H and 6123.8H MHz toward Elliott, S.C.

3442–C1–P–73—American Telephone & Telegraph Co. (KKH66), 3.5 miles northeast of Frisco, Tex. Latitude 33°10'31" N., longitude 96°46'18" W. C.P. to add frequency 3730V MHz toward Roanoke, Tex.

3443–C1–P–73—Same (KYZ91), 4.9 miles northwest of Roanoke, Tex. Latitude 33°10'41" N., longitude 97°18'05" W. C.P. to add frequency 3770V MHz toward Adams, Tex.; frequency 4150V MHz toward Fort Worth, Tex.

3444–C1–P–73—United Inter-Mountain Telephone Co. (KJX31), 179 East Main Street, Abingdon, VA. Latitude 36°42'44" N., longitude 81°58'15" W. C.P. to add frequency 2128.0H MHz toward White Top Mountain, Va.

3445–C1–P–73—Same (New), White Top, Va. Latitude 36°38'19" N., longitude 81°36'19" W. C.P. for a new station on frequency 2178.0H MHz toward Abingdon, Va.

3446–C1–P–73—American Telephone & Telegraph Co. (KEA77), 0.8 mile north of Cherryville, N.J. Latitude 40°34'18" N., longitude 74°54'22" W. C.P. to add frequency 4010H MHz toward Iselin, N.J.

3447–C1–P–73—Same (KEA76), 0.85 mile west of Iselin, N.J. Latitude 40°34'16" N., longitude 74°20'49" W. C.P. to add frequency 3970H MHz toward Cherryville, N.J.; frequency 3970H MHz toward New York 7, N.Y.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

3448–C1–P–73—Same (KEL79), 811 10th Avenue, New York, NY. Latitude 40°45'59" N., longitude 73°59'27" W. C.P. to add frequency 4010H MHz toward Iselin, N.J.

3449–C1–P–ML–73—General Telephone Company of Florida (KVI27), temporary fixed location. C.P. modification of license to add transmitters 5925–6425 MHz toward temporary fixed locations.

3450–C1–P–73—American Telephone & Telegraph Co. (KIK64), 521 West Chestnut Street, Louisville, KY. Latitude 38°14'58" N., longitude 85°45'39" W. C.P. to add frequency 4198H MHz toward Lanesville, Ind.

3451–C1–P–73—Same (KSJ47), 3.8 miles southeast of Lanesville, Ind. Latitude 38°12'01" N., longitude 85°56'01" W. C.P. to add frequency 4190H MHz toward Louisville, Ky.

3452–C1–P–73—American Telephone & Telegraph Co. (KIM60), 0.7 mile northwest of Paynesville, Ky. Latitude 38°00'06" N., longitude 86°19'19" W. C.P. to add frequency 4198H MHz toward Lanesville, Ind.

3453–C1–P–73—New England Telephone & Telegraph Co. (KCO97), on Telco Hill, 3 miles northeast of the village of East Vassalboro, Maine. Latitude 44°28'52" N., longitude 69°34'07" W. C.P. to add frequencies 10,975H and 11,175.0V MHz toward Waterville, Maine.

3454–C1–P–73—Same (New), 10 Appleton Street, Waterville, Maine. Latitude 44°33'04" N., longitude 69°37'49" W. C.P. for a new station on frequencies 11,385.0H and 11,585.0V MHz toward Vassalboro, Maine.

3455–C1–P–73—Southern Bell Telephone & Telegraph Co. (KIY63), 218 College Street, Greenville, S.C. Latitude 34°51'19" N., longitude 82°24'00" W. C.P. to change frequencies from 5967.4H and 6026.8H MHz to frequencies 6004.5V and 6123.1V MHz toward Glassy Mountain, S.C.

3456–C1–P–73—Same (KJG26), Glassy Mountain, approximately 3 miles east-northeast of Pickens, S.C. Latitude 34°54'00" N., longitude 82°39'36" W. C.P. to add frequency 6375.2H MHz toward Anderson, S.C.; frequencies 6375.2V and 6256.5V MHz toward Clemson, S.C.; correct azimuth and path length to Clemson.

3457–C1–P–73—Same (KJH51), 461 East Main Street, Spartanburg, S.C. Latitude 34°57'07" N., longitude 81°55'12" W. C.P. to add frequencies 6034.2H and 6152.8H MHz toward West Springs, S.C.

3458–C1–P–73—Same (KJH52), 0.7 mile southeast of West Springs, S.C. Latitude 34°45'40" N., longitude 81°46'35" W. C.P. to add frequencies 10,795H and 11,035H MHz toward Union, S.C.

3466–C1–P–73—Bell Telephone Company of Nevada (KPF81), 195 East First Street, Reno, NV. Latitude 39°31'35" N., longitude 119°48'38" W. C.P. to modify transmitters on frequencies 10,755V and 10,995H MHz toward McClellan, Nev.

3467–C1–P–73—Same (KPR96), McClellan Peak, 3 miles west of Silver City, Nev. Latitude 39°15'35" N., longitude 119°41'53" W. C.P. to replace antenna and modify transmitter on frequencies 11,685V and 11,445H MHz toward Reno, Nev.; frequencies 11,405V and 11,845H MHz toward Carson City, Nev.

3468–C1–P–73—Same (KPX50), 709 North Stewart Street, Carson City, NV. Latitude 39°10'06" N., longitude 119°45'47" W. C.P. to replace antenna and modify transmitter on frequencies 10,715H and 10,955V MHz toward McClellan, Nev.

3472–C1–P/ML–73—Indiana Bell Telephone Co. (KYS50), temporary fixed location. C.P. modification of license to authorize the proposed use of a Western Electric ITE 5349 Waveguide TDR Test Set to be utilized for waveguide, antenna testing, and antenna orientation.

3523–C1–P–73—Eastern Microwave, Inc. (KEM35), Ingraham Hill, N.Y. (latitude 42°03'43" N., longitude 75°57'03" W.): C.P. to change polarity from (H) to (V) on frequency 6049.0 MHz, and to change frequency from 6138.0H to 6137.9H MHz on the paths to Rogers Knob (KEL89), on azimuth 54°23'; Endicott, N.Y., on azimuth 320°38'; Vestal, N.Y., on azimuth 259°28'; and Binghamton, N.Y., on azimuth 36°00'.

3524–C1–P–73—Same (KEL89), Rogers Knob, 8 miles northeast of Sidney, N.Y. (latitude 42°23'27" N., longitude 75°19'42" W.): C.P. (a) to change frequency 6181.5H MHz to 6182.4H MHz and (b) to delete frequency 6092.5H MHz and add 6301.0H MHz toward Cherry Valley (KEA64), on azimuth 50°57'; Hatch Hill (KEM36), on azimuth 323°00'; Oneonta, N.Y., on azimuth 72°13'; Sidney, N.Y., on azimuth 200°50'; Walton, N.Y. (KOA73/drop), on azimuth 145°51'; and Norwich, N.Y., on azimuth 313°38'.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

3525–C1–P–73—Same (KEA64), Cherry Valley, 4 miles southeast of Cherry Valley, N.Y. (latitude 42°46'31" N., longitude 74°40'56" W.): C.P. (a) to delete frequencies 6212.1V MHz, 6271.4V MHz, and 6330.7V MHz and add 5989.7V MHz, 6049.0V MHz, and 6108.3V MHz toward Helderberg Mountain (KEM58), N.Y., on azimuth 105°05'; (b) to delete frequencies 6212.1H MHz and 6271.4H MHz, and to add 5989.7H MHz and 6049.0H MHz toward Canajoharie, N.Y., on azimuth 27°45'; (c) to delete frequencies 6212.1H MHz and 6271.4H MHz and to add 5989.7H MHz and 6049.0H MHz toward Amsterdam, N.Y., on azimuth 62°39'; (d) to delete frequencies 6212.1H MHz, 6271.4H MHz, and 6330.7H MHz and to add 5989.7H MHz and 6049.0H MHz toward Gloversville, N.Y., on azimuth 46°53'.

3526–C1–P–73—Same (KEM58), Helderberg Mountain, 1.75 miles northwest of Salem, N.Y. (latitude 42°33'12" N., longitude 73°59'45" W.): C.P. (a) to delete frequencies 5960.0V MHz, 6019.3V MHz, and 6078.6V MHz and to add 6182.4H MHz, 6241.7H MHz, and 6301.0H MHz toward Black Spruce Mountain, N.Y., on azimuth 12°08'; (b) to delete frequencies 5960.0V MHz, 6019.3V MHz, and 6078.6V MHz, and to add 6182.4V MHz, 6241.7V MHz, and 6301.0V MHz toward Queensbury, N.Y., on azimuth 21°53'; (c) to delete frequency 5960.0H MHz and to add 6182.4V MHz toward Mount Greylock (KCL72), Mass., on azimuth 89°45'; (d) to delete frequencies 5960.0V MHz, 6019.3V MHz, and 6078.6V MHz and to add 6182.4H MHz, 6241.7H MHz, and 6301.0H MHz toward Troy, N.Y., on azimuth 67°26', and toward Saratoga Springs, N.Y., on azimuth 18°23', and frequencies 6182.4V MHz, 6241.7V MHz, and 6301.0V MHz toward Latham, N.Y., on azimuth 58°00'; (e) to delete frequencies 5960.0V MHz, 6019.3V MHz, and 6078.6V MHz, and to add 6182.4H MHz, 6241.7H MHz, and 6301.0H MHz toward Colonie, N.Y., on azimuth 23°24'; and (f) to delete frequencies 5960.0V MHz, 6019.3V MHz, and 6078.6V MHz, and to add 6182.4H MHz, 6241.7V MHz, and 6301.0H MHz toward Albany, N.Y., on azimuth 75°55'.

3527–C1–P–73—Same (KEM36), Hatch Hill, 2 miles southeast of Georgetown, N.Y. (latitude 42°45'10" N., longitude 75°41'56" W.): C.P. (a) to delete paths to Sentinel Heights (KEM59), Turin Mountain (KEA29), and Smith Hill (KEM49), N.Y.; (b) to delete frequencies 6212.1H MHz, 6271.4H MHz, 6330.7H MHz, and 6301.0V MHz and add 5960.0H MHz, 5989.7V MHz, 6019.3H MHz, and 6049.0V MHz toward Cortland, N.Y., on azimuth 238°50'; and (c) to add frequencies 5960.0H MHz, 5989.7V MHz, and 6019.3H MHz toward new point of communication at Quaker Hill (Stokes), N.Y., on azimuth 18°31'.

3528–C1–P–73—Same (New), Quaker Hill (Stokes), 3 miles northeast of Stokes, N.Y. (latitude 43°20'36" N., longitude 75°25'36" W.): C.P. for a new station at foregoing coordinates—frequencies 6182.4H, 6212.0V, and 6301.0H MHz toward Turin Mountain (KEA29), on azimuth 352°17'; frequencies 6271.4H and 6390.0H MHz toward Hatch Hill (KEM36), on azimuth 198°42'; frequencies 6182.4H, 6212.0V, 6301.0H, and 6390.0V MHz toward Sentinel Heights (KEM59), on azimuth 231°52' and toward Smith Hill (KEM49), on azimuth 137°51'.

3529–C1–P–73—Same (KEA29), Turin Mountain, 4 miles northwest of Turin, N.Y. (latitude 43°38'58" N., longitude 75°29'00" W.): C.P. (a) to delete path to Hatch Hill (KEM36); (b) to add frequency 5960.0V MHz toward Quaker Hill (Stokes), on azimuth 172°15'; (c) to delete frequency 6092.5H MHz and to add frequency 8108.3H MHz toward Boonville, N.Y., on azimuth 156°09'; (d) to delete frequencies 6092.5H MHz, 6241.7H, and 6360.0H MHz, and to add 5989.7V MHz, 6108.3V MHz, and 6167.0V MHz toward Carthage, N.Y., on azimuth 347°19'; and (e) to delete frequencies 6092.5H MHz, 6181.5H MHz, 6241.7H MHz, 6301.0H MHz, and 6360.0H MHz, and to add 5989.7V MHz, 6019.3H MHz, 6049.0V MHz, 6108.3V MHz, and 6167.6V MHz toward Blue Hill (KEA66), N.Y., on azimuth 24°07'.

3530–C1–P–73—Same (KEA66), Blue Hill, 2 miles southeast of Fine, N.Y. (latitude 44°13'20" N., longitude 75°07'35" W.): C.P. (a) to delete frequencies 5960.0H MHz and 5989.7V MHz and to add 6241.7 MHz and 6301.0V MHz toward Watertown, N.Y., on azimuth 242°46'; (b) to delete frequency 5960.0H MHz and to add 6241.7V MHz toward Gouverneur (KPP81/drop), N.Y., on azimuth 296°11'; (c) to delete frequency 5960.0H MHz and to add 6241.7V MHz toward Ogdensburg, N.Y., on azimuth 331°11'; and (d) to delete frequency 6049.0V MHz and to add 6360.0V MHz toward Turin Mountain, KEA29), on azimuth 204°23'. (INFORMATIVE: Eastern proposes to revise its system frequency plan to use TH-frequencies and the alternate "high-low" pattern of transmitter sites. These applications do not involve new service.)

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

3480–C1–P–73—Racom, Inc. (KYZ85), Summit of Mount Washington, Sargent's Purchase, N.H. Latitude 44°16'13" N., longitude 71°18'13" W. C.P. to add frequency 6360.3 MHz toward Lewiston, Maine. (INFORMATIVE: Racom, Inc., proposes to provide the signals of WSMW–TV, Worcester, Mass., to CATV system serving Lewiston, Maine. A waiver of section 21.701(i) FCC rules by Racom, Inc.)

3504–C1/C2–AL–73—Missouri Telephone Co. Consent to assignment of control from stockholders of Missouri Telephone Co., assignors to Continental Telephone Co. of Missouri, assignees. Stations: KAD514, Branson, Mo.; KEM506, Wentzville, Mo.; KPP76, Forsyth, Mo.; KPP77, Blue Eye, Mo.; KPP78, Ozark, Mo.; KPP79, Rockaway Beach, Mo.; KPP80, Branson, Mo.; WAY56, Branson, Mo.

3509–C1–P–73—Southwestern Bell Telephone Co. (New), South Washington and East 30th Street, Bryan, Tex. Latitude 30°40'10" N., longitude 96°22'18" W. C.P. for a new station on frequency 4150H MHz toward Independence, Tex.

3510–C1–P–73—Same (WJL29), 1.9 miles east of Independence, Tex. Latitude 30°19'05" N., longitude 96°18'55" W. C.P. to add frequency 4050V MHz toward Bryan, Tex.

3533–C1–P–73—Data Transmission Co. (New), 0.4 mile south of New Rochester, Ohio. Latitude 41°21'28" N., longitude 83°30'27" W. C.P. for a new station on frequency 6123.1H MHz toward McComb, Ohio, azimuth 222°36' and toward Williston, Ohio, azimuth 25°30'.

3534–C1–P–73—Same as above (New), 1 mile northwest of McComb, Ohio. Latitude 41°07'14" N., longitude 83°47'44" W. C.P. for a new station. Frequency 6404.8H MHz toward Dola, Ohio, on azimuth 169°36' and frequency 6375.2H MHz toward New Rochester, Ohio, on azimuth 42°25'.

3535–C1–P–73—Same (New), 2.5 miles northwest of Dola, Ohio. Latitude 40°48'45" N., longitude 83°43'16" W. C.P. for a new station. Frequency 6152.8H MHz toward Mount Victory, Ohio, on azimuth 154°37' and toward McComb, Ohio, on azimuth 349°39'.

3536–C1–P–73—Same (New), 2 miles northwest of Mount Victory, Ohio. Latitude 40°32'38" N., longitude 83°33'15" W. C.P. for a new station. Frequency 6375.2V MHz toward Pottersburg on azimuth 174°07' and frequency 6404.8H MHz toward Dola, Ohio, on azimuth 334°44'.

3537–C1–P–73—Same (New), 1 mile northwest of Pottersburg, Ohio. Latitude 40°16'18" N., longitude 83°31'03" W. C.P. for a new station. Frequency 6152.8V MHz toward Brighton on azimuth 187°33' and frequency 6123.1V MHz toward Mount Victory, Ohio, on azimuth 354°08'.

3538–C1–P–73—Same (New), 2.4 miles north of Brighton, Ohio. Latitude 39°57'49" N., longitude 83°34'14" W. C.P. for a new station. Frequency 6404.8V MHz toward Pottersburg on azimuth 7°31' and frequency 6375.2H MHz toward Hilliard, Ohio, on azimuth 77°36'.

3539–C1–P–73—Data Transmission Co. (New), Johnstown, 2 miles southeast of Rachelwood, Pa. Latitude 40°15'59" N., longitude 79°04'56" W. C.P. for a new station. Frequency 6152.8H MHz toward Downey on azimuth 151°46' and frequency 11,055V MHz toward Youngstown, Pa., on azimuth 271°15'.

3540–C1–P–73—Same as above (New), McMurray, 2 miles south of Bethel, Pa. Latitude 40°17'33" N., longitude 80°02'57" W. C.P. for a new station. Frequency 6152.8H MHz toward Arona on azimuth 93°51'; frequency 6152.8V MHz toward Georgetown on azimuth 317°07' and frequency 11,135V MHz toward Pittsburgh, Pa., on azimuth 14°50'.

3541–C1–P–73—Same (New), 3.7 miles east of Hamburg, Pa. Latitude 40°38'49" N., longitude 75°54'43" W. C.P. for a new station. Frequency 11,465H MHz toward Eagle Peak on azimuth 222°58' and frequency 11,365V MHz toward Palmerton, Pa., on azimuth 42°12'.

3542–C1–P–73—Same (New), 1 mile northwest of Woodstock, N.J. Latitude 41°00'30" N., longitude 74°32'27" W. C.P. for a new station. Frequency 6345.5H MHz toward New York on azimuth 126°43' and frequency 10,975V MHz toward Hope, N.J., on azimuth 244°10'.

3543–C1–P–73—Same (New), 1 World Trade Center, New York, N.Y. Latitude 40°42'31" N., longitude 74°00'54" W. C.P. for a new station. Frequency 6093.5V MHz toward Woodstock, N.J., on azimuth 307°04'.

3544–C1–P–73—Same (New), 2.5 miles west of Hilliard, Ohio. Latitude 40°01'27" N., longitude 83°12'33" W. C.P. for a new station. Frequency 6123.1H MHz toward Brighton on azimuth 257°50' and frequency 11,225V MHz toward Columbus, Ohio, on azimuth 110°45'.

Correction

3068–C1–P–70—Data Transmission Co. (New), correct station location to read: 875 North Michigan Boulevard, Chicago, IL. Latitude 41°53'55" N., longitude 87°37'26" W. All other particulars same as reported on Public Notices 12–15–69; 8–3–70; 10–10–72.

Major Amendment

3084–C1–P–70—Data Transmission Co. (New), 88 East Broad Street, Columbus, OH. Delete point of communication at Yatesville and add frequency 11,095.0V MHz on azimuth 290°53' toward new point of communication at Hilliard, Ohio.

3148–C1–P–70—Same (New), 1.3 miles southwest of Williston, Ohio. Add frequency 6375.2H MHz on azimuth 205°38' toward new point of communication at New Rochester, Ohio.

3152–C1–P–70—Same (New), Eagle Peak, 1 mile south of Womelsdorf, Pa. Add frequency 10,855.0H MHz on azimuth 42°48' to new point of communication at Hamburg, Pa.

3136–C1–P–70—Same (New), Front Mountain, 2.5 miles northwest of Edenville, Pa. Add frequency 10,995.0V MHz on azimuth 273°42' to new point of communication at Crystal Spring, Pa.

3137–C1–P–70—Same (New), change station location to 5.5 miles northeast of Crystal Spring, Pa. Latitude 40°00'38" N., longitude 78°08'45" W. Change frequency toward Front Mountain to 11,645.0V MHz on azimuth 93°29'. Change frequency toward Downey to 6063.8H MHz on azimuth 262°22'.

3138–C1–P–70—Same (New), change station location to 2.7 miles southeast of Downey, Pa. Latitude 39°56'08" N., longitude 78°51'06" W. Change frequency toward Crystal Spring to 6315.9V MHz on azimuth 81°55'. Delete point of communication at Jones Mill and add frequency 6404.8V MHz on azimuth 331°55' toward new point of communication at Johnstown.

3139–C1–P–70—Same (New), change station name and location to Youngstown, 1.7 mile southeast of Youngstown, Pa. Latitude 40°16'13" N., longitude 79°19'46" W. Delete point of communication at Downey and add frequency 11,265.0V MHz on azimuth 91°06 toward new point of communication at Johnstown, Pa. Change frequency toward Arona to 11,265.0H MHz on azimuth 270°10'.

3140–C1–P–70—Same (New), change station location to 1.3 miles east of Arona, Pa. Latitude 40°16'14" N., longitude 79°38'17" W. Delete point of communication at Jones Mill and add frequency 11,055.0H MHz on azimuth 89°58' toward new point of communication at Youngstown, Pa. Delete point of communication at Pittsburgh, Pa., and add frequency 6404.8H MHz on azimuth 274°07' toward new point of communication at McMurray, Pa.

3141–C1–P–70—Same (New), 525 William Penn Place, Pittsburgh, PA. Delete point of communication at Arona, Pa., and add frequency 11,345.0V MHz on azimuth 194°52' toward new point of communication at McMurray, Pa. Delete point of communication at Georgetown, Pa.

3142–C1–P–70—Same (New), change station location to 1.3 miles southwest of McLeary, Pa. Latitude 40°35'36" N., longitude 80°24'59" W. Delete point of communication at Pittsburgh and add frequency 6404.8V MHz on azimuth 136°52' toward new point of communication at McMurray, Pa. Change frequency toward Salem to 6404.8V MHz on azimuth 308°55'.

3143–C1–P–70—Data Transmission Co. (New), 1.5 miles southwest of Salem, Ohio. Change frequency towards McLeary to 6152.8V MHz on azimuth 128°37'. Delete point of communication at Shalersville and add frequency 6152.8H MHz on azimuth 308°29' towards new point of communication at Rootstown, Ohio.

3144–C1–P–70—Same (New), change station name and location to Rootstown, 3 miles southeast of Rootstown, Ohio, latitude 41°03'49" N., longitude 81°11'29" W. Change frequency towards Salem, to 6404.8H MHz. Delete point of communication at Cleveland and add frequency 6404.8V MHz on azimuth 297°23' towards new point of communication at Broadview Heights, Ohio.

2271–C1–P–73—Same (New), 3.4 miles southwest of Broadview Heights, Ohio. Add frequency 6152.8H MHz on azimuth 117°02' towards new point of communication at Rootstown, Ohio.

3164–C1–P–70—Same (New), station location: 1 mile northwest of West Farms, Mass. Delete point of communication at Noyes Hill, Mass., and change frequency to 10,775.0V MHz on azimuth 196°12' toward new point of communication at Granby, Conn. Change azimuth toward East Hill to 64°54'. Delete point of communication at Talcott Mountain, Conn.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

3166–C1–P–70—Data Transmission Co. (New), delete point of communication at Talcott Mountain, Conn., and change frequency to 10,775.0V MHz on azimuth 326°51′ toward new point of communication at Granby, Conn.

494–C1–P–71—Data Transmission Co. (New), change location to 3.7 miles north-northeast of Belchertown, Mass., latitude 42°19′42″ N., longitude 72°23′29″ W. Change azimuth toward West Farms to 245°10′. Delete point of communication at Worcester, Mass., and change frequency to 6375.2H MHz on azimuth 76°37′ toward new point of communication at Princeton, Mass.

3167–C1–P–70—Data Transmission Co. (New), change station name and location to Princeton, 2 miles north of Rutland, Mass., latitude 42°24′13″ N., longitude 71°57′36″ W. Change frequency toward East Hill to 6123.1H MHz on azimuth 256°54′. Delete point of communication at Nobscot Hill, Mass., and change azimuth to 101°34′ toward new point of communication at Marlboro, Mass.

3168–C1–P–70—Data Transmission Co. (New), change station name and location to Marlboro, Onamog Street and American Way, Marlboro, Mass., latitude 42°20′27″ N., longitude 71°33′04″ W. Delete point of communication at Worcester, Mass., and change frequency to 11,665.0V MHz on azimuth 281°50′ toward new point of communication at Princeton, Mass. Change frequency toward Boston to 11,645.0H MHz on azimuth 87°05′.

3169–C1–P–70—Data Transmission Co. (New), station location: 1 Beacon Street, Boston, Mass. Delete point of communication at Nobscot Hill, Mass., and change frequency to 10,995.0H MHz on azimuth 267°24′ toward new point of communication at Marlboro, Mass.

3157–C1–P–70—Data Transmission Co. (New), change location to 1 mile southwest of Palmerton, latitude 40°46′50″ N., longitude 75°39′10″ W. Change frequency to 11,115.0H MHz on azimuth 222°22′ toward new point of communication at Hamburg, Pa. Delete point of communication at Eagle Peak, Pa. Change frequency to 6404.8V on azimuth 78°57′ toward Hope, N.J.

3158–C1–P–70—Data Transmission Co. (New), station location: 7 miles east of Hope, N.J. Correct coordinates to latitude 40°53′54″ N., longitude 74°50′21″ W. Change azimuth toward Palmerton to 259°28′. Change frequency toward Beemerville to 6093.5H MHz on azimuth 22°37′. Add frequency 11,665.0V MHz on azimuth 63°58′ toward new point of communication at Woodstock, N.J.

490–C1–P–71—Data Transmission Co. (New), change location to 3.5 miles northwest of Beemerville, N.J., latitude 41°14′49″ N., longitude 74°38′48″ W. Change frequency toward Hope to 6345.5H MHz on azimuth 202°45′. Change frequency toward Middletown to 10,715.0H MHz on azimuth 36°27′.

491–C1–P–71—Data Transmission Co. (New), change location to 3 miles southwest of Middletown, N.Y., latitude 41°25′03″ N., longitude 74°28′45″ W. Change frequency toward Beemerville to 11,445.0H MHz on azimuth 216°34′. Change frequency toward Cragsmoor to 11,465.0H MHz on azimuth 19°09′.

3159–C1–P–70—Data Transmission Co. (New), correct coordinates to latitude 41°41′21″ N., longitude 74°21′12″ W. Change frequency toward Middletown to 10,855.0H MHz on azimuth 199°14′. Delete point of communication at Clove Mountain, N.Y., and change azimuth to 73°09′ toward new point of communication at Amenia, N.Y. Delete point of communication at Cold Spring, N.Y.

3163–C1–P–70—Data Transmission Co. (New), change station name and location to Amenia, 1.5 miles northwest of Amenia, N.Y., latitude 41°51′42″ N., longitude 73°34′48″ W. Change azimuth toward Canaan to 59°51′. Change azimuth toward Cragsmoor to 253°40′.

492–C1–P–71—Data Transmission Co. (New), station location: 3.5 miles southeast of Canaan, Conn. Delete point of communication at Noyes Hill, Mass., and change azimuth to 89°05′ toward new point of communication at Granby, Conn. Delete point of communication at Clove Mountain, N.Y., and change azimuth to 240°03′ toward new point of communication at Amenia, N.Y.

493–C1–P–71—Data Transmission Co. (New), change station name and location to Granby, 2 miles east of Granby, Conn., latitude 41°59′32″ N., longitude 72°52′21″ W. Change frequency toward West Farms to 11,385.0V MHz on azimuth 16°09′. Change azimuth toward Canaan to 269°22′. Add new frequency 11,385.0V MHz on azimuth 146°43′ toward new point of communication at Hartford, Conn.

[FR Doc.72–20379 Filed 11–29–72;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CP73–135]

DISTRIGAS CORP.

Notice of Application

NOVEMBER 27, 1972.

Take notice that on November 20, 1972, Distrigas Corp. (Applicant), 25 High Street, Boston, MA 02110, filed in Docket No. CP73–135 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of imported liquefied natural gas (LNG) to certain distribution customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

By Commission Opinion No. 613, Distrigas Corp., Dockets Nos. CP70–196, et al., issued on March 9, 1972 (47 FPC ____)[1] Applicant was authorized, inter alia, to import into the United States at its Everett, Mass. terminal LNG from Algeria.

Applicant proposes to sell the LNG imported at its Everett terminal to the following customers in the following volumes:

Customer	1972–73 (million B.t.u.)	1973–74 (million B.t.u.)	1974–75 and following (million B.t.u.)
The Brooklyn Union Gas Co.	2,500,000	2,500,000	2,500,000
The Connecticut Gas Co.	500,000	500,000	500,000
Providence Gas Co.	800,000	900,000	900,000
New Jersey Natural Gas Co.		400,000	1500,000
South Jersey Gas Co.	200,000	400,000	600,000
Valley Gas Co.	120,000	120,000	120,000
Total	4,120,000	4,820,000	15,120,000

1 400,000 million B.t.u. of this quantity will be sold under agreement with New Jersey Natural Gas Co. which will be effective between Apr. 1, 1973, and Mar. 31, 1975.

Applicant proposes to charge its customers a demand charge of 70.6 cents per million B.t.u. for the contract year ending March 31, 1973, and increasing by 0.6 cent per million B.t.u. in each year thereafter, and a commodity charge of 34 cents per million B.t.u. for the LNG sold, f.o.b. the Everett terminal. Applicant proposes to charge the Brooklyn Union Gas Co. for deliveries in December through March a demand charge of $1.046 per million B.t.u. and a commodity charge of 34 cents per million B.t.u. Applicant indicates that an additional charge will be made for storage service in its tanks if a customer elects to use that service.

Applicant alleges that its existing facilities at the Everett terminal are adequate to render the proposed service and that no additional facilities are required. Applicant states that all deliveries of LNG to the aforementioned customers will be made in liquid form. Applicant further states that delivery to the Brooklyn Union Gas Co. will be made by cryogenic barge at Brooklyn, N.Y., and that deliveries to the other customers will be made at Everett. The latter customers will utilize truck transportation to deliver the LNG to their own facilities. Applicant desires to commence the sale of LNG to its interstate customers as soon as possible in order to meet the immediate needs of its customers for supplemental peak shaving supplies during the current heating season.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before December 7, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–20581 Filed 11–29–72;8:49 am]

[1] Rehearing denied in Commission Opinion No. 613–A, Distrigas Corp., Dockets Nos CP70–196, et al., issued June 7, 1972 (47 FPC ----).

[Dockets Nos. RP66–4, RP68–1]

FLORIDA GAS TRANSMISSION CO.

Extension of Time

NOVEMBER 22, 1972.

On November 17, 1972, Florida Gas Transmission Co. requested a 1 week extension of time to comply with the requirements of paragraph (B) of the Commission's order issued November 14, 1972, accepting filing as compliance filing but rejecting proposed tariff sheets.

Upon consideration, notice is hereby given that the time is extended to and including December 1, 1972, within which to file new tariff sheets. The time is also extended to and including December 21, 1972, for all customers to file protests or comments to the compliance filing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–20542 Filed 11–29–72;8:48 am]

[Docket No. E–7805]

GULF STATES UTILITIES CO.

Notice of Application

NOVEMBER 22, 1972.

Take notice that on October 25, 1972, Gulf States Utilities Co. (Applicant) filed an application seeking an order pursuant to section 204 of the Federal Power Act authorizing the issuance of $125 million principal amount of unsecured short-term promissory notes.

Applicant is incorporated under the laws of Texas with its principal business office at Beaumont, Tex., and is engaged in the electric utility business in portions of Louisiana and Texas. Natural gas is purchased at wholesale and distributed at retail in the city of Baton Rouge, La., and vicinity.

Applicant proposes to issue the notes to commercial banks and to commercial paper dealers. Notes issued to commercial banks and to commercial paper dealers will be issued on various dates beginning December 31, 1972, for varying periods of time, but no note issued to a commercial bank will have a maturity of more than 1 year from the date of its issuance and no note issued to commercial paper dealers will have a maturity of more than 9 months from the date of its issuance. In no event shall any such notes have a maturity after December 31, 1974.

The proceeds from the notes will be added to the general funds of the Applicant and will be used, among other things, to provide part of the funds for construction expenditures made and to be made. The preliminary estimated total for 1972–3 construction is $219 million.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 11, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–20543 Filed 11–29–72;8:48 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEES

Order Designating Additional Members

NOVEMBER 22, 1972.

The Federal Power Commission, by order issued September 28, 1972, established the National Power Survey Technical Advisory Committees.

2. *Membership.* Additional members to the Technical Advisory Committees, as selected by the Chairman of the Commission, with the approval of the Commission, are as follows:

TECHNICAL ADVISORY COMMITTEE ON FINANCE

Paul Fox, member; finance officer; National Rural Utilities Cooperative Finance Corp.

TECHNICAL ADVISORY COMMITTEE ON POWER SUPPLY

Ross A. Segrest, member; manager; Brazos Electric Power Cooperative.

TECHNICAL ADVISORY COMMITTEE ON RESEARCH AND DEVELOPMENT

Roy G. Zook, member; general manager; Cooperative Power Association.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72–20541 Filed 11–29–72;8:48 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON CONSERVATION OF ENERGY

Order Rescinding Order

NOVEMBER 22, 1972.

The Federal Power Commission, by order issued September 28, 1972, established the National Power Survey Technical Advisory Committee on Conservation of Energy.

Our November 2, 1972, order, insofar as it appointed Dr. Charles A. Berg as a member to the Technical Advisory Committee on Conservation of Energy, is hereby rescinded.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72–20540 Filed 11–29–72;8:47 am]

V37-231 NOV 30 72 XUM

[Docket No. RI73-93]

MARATHON OIL CO.

Order Providing for Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject to Refund

NOVEMBER 21, 1972.

Respondent has filed a proposed change in rate and charge for the jurisdictional sale of natural gas, as set forth in Appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date suspended until" column. This supplement shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX A

Docket No.	Respondent	Rate sched-ule No.	Sup-ple-ment No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect sub-ject to refund in dockets Nos.
RI73-93...	Marathon Oil Co.....	65	[2] 15	Tennessee Gas Pipeline Co. (Heyser Field, Victoria and Calhoun Counties, Tex., RR. District No. 2).	$161,625	10-24-72	.....	11-25-72	18.31876	[1] 21.0	RI69-300.

*The pressure base is 14.65 p.s.i.a.
[1] Unilateral increase to new gas ceiling established in Opinion No. 595.
[2] Basic contract (Aug. 1, 1952) expired Aug. 1, 1972.

The question presented here with respect to Marathon's unilateral increase filed after the expiration of it's contract is whether the subject gas is entitled to the flowing gas rate of 19 cents or the new gas rate of 24 cents established in Opinion No. 595, Dockets Nos. AR64-2 et al., issued May 6, 1971. The proposed increase should be suspended for 1 day from the expiration of the statutory notice period, pending determination as to whether the gas involved herein is entitled to the new or old gas price.

Marathon's proposed increased rate may exceed the applicable area price levels for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR 2.56).

CERTIFICATION OF ABBREVIATED SUSPENSION

Pursuant to § 300.16(i)(3) of the Price Commission rules and regulations, 6 CFR Part 300 (1972), the Federal Power Commission certifies as to the abbreviated suspension period in this order as follows:

(1) This proceeding involves producer rates which are established on an area rather than company basis. This practice was established by Area Rate Proceeding, Docket No. AR61-1 et al., Opinion No. 468, 34 FPC 159 (1965), and affirmed by the Supreme Court in Permian Basin Area Rate Case, 390 U.S. 747 (1968). In such cases as this, producer rates are approved by this Commission if such rates are contractually authorized and are at or below the area ceiling.

(2) In the instant case, the requested increases do not exceed the ceiling rate for a 1-day suspension.

(3) By Order No. 423 (36 F.R. 3464), issued February 18, 1971, this Commission determined as a matter of general policy that it would suspend for only 1 day a change in rate filed by an independent producer under section 4(d) of the Natural Gas Act (15 U.S.C. 717c(d)) in a situation where the proposed rate exceeds the increased rate ceiling, but does not exceed the ceiling for a 1-day suspension.

(4) In the discharge of our responsibilities under the Natural Gas Act, this Commission has been confronted with conclusive evidence demonstrating a natural gas shortage. (See Opinions Nos. 595, 598, and 607, and Order No. 435.) In these circumstances and for the reasons set forth in Order No. 423 the Commission is of the opinion in this case that the abbreviated suspension authorized herein will be consistent with the letter and intent of the Economic Stabilization Act of 1970, as amended, as well as the rules and regulations of the Price Commission, 6 CFR Part 300 (1972). Specifically, this Commission is of the opinion that the authorized suspension is required to assure continued, adequate and safe service and will assist in providing for necessary expansion to meet present and future requirements of natural gas.

[FR Doc.72-20401 Filed 11-29-72;8:45 am]

FEDERAL RESERVE SYSTEM

FIRST FLORIDA BANCORPORATION

Acquisition of Bank

First Florida Bancorporation, Tampa, Fla., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of the State Bank of South Jacksonville, Jacksonville, Fla., a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than December 15, 1972.

Board of Governors of the Federal Reserve System, November 22, 1972.

[SEAL] MICHAEL A. GREENSPAN, *Assistant Secretary of the Board.*

[FR Doc.72-20537 Filed 11-29-72;8:47 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY COMMITTEE FOR PLANNING AND INSTITUTIONAL AFFAIRS

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given that a meeting of the Advisory Committee for Planning and Institutional Affairs will be held at 9:30 a.m. on December 7 and 9 a.m. on December 8, 1972, in Room 540, 1800 G Street NW., Washington, DC 20550. The purpose of the committee is to provide advice and recommendations concerning planning activities within NSF and the impact of Foundation programs, actual and proposed, on the integrity and effectiveness of the academic institution as a whole.

The Director of the National Science Foundation has, pursuant to section 13(d) of Executive Order 11671 (dated June 5, 1972), determined that this meeting of the committee shall be exempt from the provisions of sections 13(a), (b), and (c) of the order, relating to public participation and recordkeeping, inasmuch as the activities of the committee for the December 7 and 8, 1972, meeting are matters which fall within policies analogous to those recognized in section 552(b) of title 5 of the United States Code, an the public interest requires such activities to be withheld from disclosure. At this meeting, the committee will discuss matters related to the fiscal year 1974 budget plans in relationship to specific problem areas to be considered by the committee in furnishing advice and recommendations. The matters embodied in the discussion relate to the budget formulation process and are regarded privileged in nature.

In accordance with the determination by the Director of the National Science Foundation, dated November 24, 1972, this meeting will not be open to the public. Further information relative to this committee may be obtained from Mrs. Mary L. Parramore, Executive Assistant, Office of Budget, Programing, and Planning Analysis, Room 426, 1800 G Street NW., Washington, DC 20550.

T. E. JENKINS, *Assistant Director for Administration.*

NOVEMBER 27, 1972.

[FR Doc.72-20678 Filed 11-29-72;8:52 am]

SECURITIES AND EXCHANGE COMMISSION

[File 500-1]

ACCURATE CALCULATOR CORP.

Order Suspending Trading

NOVEMBER 24, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Accurate Calculator Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 26, 1972, through December 5, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20525 Filed 11-29-72;8:46 am]

[File 500-1]

CLINTON OIL CO.

Order Suspending Trading

NOVEMBER 24, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.03½ par value, and all other securities of Clinton Oil Co., being traded otherwise than on a national securities exchange is required in the public interest and for the protecton of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 28, 1972 through December 7, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20529 Filed 11-29-72;8:46 am]

[File 500-1]

FIRST LEISURE CORP.

Order Suspending Trading

NOVEMBER 24, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.10 par value and all other securities of First Leisure Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 27, 1972 through December 6, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20526 Filed 11-29-72;8:46 am]

[File 500-1]

FIRST WORLD CORP.

Order Suspending Trading

NOVEMBER 24, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the Class A and Class B common stocks, $0.15 par value, and all other securities of First World Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 26, 1972, through December 5, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20527 Filed 11-29-72;8:46 am]

[70-5274]

SYSTEM FUELS, INC., ET AL.

Notice of Proposed Issue and Sale of Promissory Note to Bank by Non-utility Subsidiary Company

NOVEMBER 24, 1972.

Notice is hereby given that Arkansas Power & Light Co., Ninth and Louisiana Streets, Little Rock, Ark. 72203 (AP&L), Louisiana Power & Light Co., 142 Delaronde Street, New Orleans, LA 70174 (LP&L), Mississippi Power & Light Co., Post Office Box 1640, Jackson, MS 39205 (MP&L), and New Orleans Public Service Inc., Post Office Box 60340, New Orleans, LA 70160 (NOPSI) (collectively referred to as "Operating Companies"), all public utility subsidiary companies of Middle South Utilities, Inc. (MSU), a registered holding company, and System Fuels, Inc., 225 Baronne Street, New Orleans, LA 70112 (SFI), a joint nonutility subsidiary company of Operating Companies, have filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a), (7), 12(b), and 12(f) and Rules 43, 45, and 50(a)(2) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Historically, the major steam electric generating stations of Operating Companies have used natural gas as their principal fuel, with oil as emergency standby fuel. Now, due to the decreasing supply of natural gas because of curtailments, expiration of gas supply contracts, unavailability of substitute supplies and other factors, it will be necessary for Operating Companies to burn increasing amounts of oil on a continuous basis in order to meet the demands of their electric customers. By order dated December 17, 1971 (Holding Company Act Release No. 17400), the Commission authorized Operating Companies to organize a new jointly owned subsidiary company, SFI, to plan and implement programs for the procurement of fuel oil supplies for the generating units of Operating Companies; and SFI in a separate proceeding (File No. 70-5259) has applied to the Commission for authority to issue and sell unsecured promissory notes in order to acquire, and maintain for use by Operating Companies, an adequate inventory of fuel oil (See Holding Company Act Release No. 17758).

In the present filing, declarants state that it is advisable to maintain adequate bulk storage facilities at locations central to points of anticipated usage, to maintain bulk storage facilities at point of origin locations where oil is to be delivered under long-term oil purchase contracts, and to have available facilities for transferring oil from bulk storage facilities to points of usage as and when required. It is estimated that under present conditions, the total amount of stor-

age capacity required to assure reliable availability of oil to Operating Companies is approximately 35 percent of

based upon the presently estimated program for the acquisition and the completion of construction of the Fuel Storage

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

or more from the rate $0.1560 during the balance of the calendar quarter ending December 31, 1972, will be published

337(e), Tariff Act of 1930, and § 12.39(c), Customs Regulations (19 CFR 12.39(c)). Importations refused entry may be per-

leasing laws. The lands will be used for the construction, operation, and maintenance of the Auburn Dam and Reservoir.

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age capacity required to assure reliable availability of oil to Operating Companies is approximately 35 percent of annual requirements; that Operating Companies will be burning about 43 million barrels of oil in 1975 and about 66 million barrels in 1980, which would require storage capacity of about 15 million barrels and 23 million barrels in those years, respectively. As a first step, SFI now proposes to acquire bulk storage facilities with a capacity of 725,000 barrels.

In anticipation of SFI eventually becoming the medium for conducting Operating Companies' oil procurement and storage program, Arkansas and NOPSI undertook the construction of certain bulk storage and handling facilities. SFI proposes to acquire and complete the construction of these bulk storage and handling facilities (Fuel Storage Facilities) and to operate the same in conjunction with such additional bulk storage and handling facilities as SFI may need to acquire in order to conduct properly Operating Companies' oil procurement and storage program.

The purchase price to be paid by SFI to Arkansas and NOPSI will be equal to the latters' respective book costs (also original costs) of the Fuel Storage Facilities as of the closing date. It is contemplated that the closing date will be on or about December 22, 1972, and that the aggregate purchase price of the Fuel Storage Facilities as constructed to the closing date will be approximately $3,600,000. It is estimated that the additional cost after the closing date to be incurred by SFI for completion of the construction and installation of the Fuel Storage Facilities will be approximately $205,000. Arkansas and NOPSI will covenant that the property to be transferred to SFI will be rendered free and clear of all liens and encumbrances no later than March 31, 1973.

To finance the cost of the Fuel Storage Facilities, SFI proposes to issue and sell a promissory note (Note) in the principal amount of $3,600,000 to The First National Bank of Chicago, Chicago, Ill. (Bank). The Note will be issued pursuant to a loan agreement (Loan Agreement) among SFI, Bank, and the Operating Companies; will mature on July 1, 1982; and will bear interest at a rate per annum of one-half of 1 percent in excess of the prime commercial rate charged by Bank for short-term commercial loans of 90-day maturities, with adjustments to be made effective on the first day of the month following the month in which any such change occurs. There is no requirement that SFI maintain compensatory balances. SFI will pay a commitment fee at the rate of one-half of 1 percent per annum from the date of the signing of the Loan Agreement pursuant to the order of the Commission herein, to the earlier of the date of borrowing or January 1, 1973.

The Note may be prepaid by SFI in any amount at any time without penalty; *Provided, however*, That commencing July 1, 1973, SFI will be required to make quarterly prepayments in amounts calculated to equal depreciation on the Fuel Storage Facilities. Declarants state that based upon the presently estimated program for the acquisition and the completion of construction of the Fuel Storage Facilities, depreciation accruals will begin on January 1, 1973, at a rate which will permit the prepayment of 75 percent of the principal amount of the Note by maturity. The remaining 25 percent will be repaid at maturity on July 1, 1982, from funds then on hand or from the issuance and sale by SFI of such other securities as may be authorized by the Commission.

The Operating Companies will covenant (a) to take all action necessary from time to time to enable SFI to discharge its obligations under the Loan Agreement, and (b) so long as any principal amount of the Note remains unpaid, to maintain their respective shares of ownership of the Common Stock of SFI in approximately the same proportions as currently held by them, unless otherwise consented to by Bank.

SFI has represented it will at all times, unless the Commission shall otherwise expressly authorize, maintain the aggregate of its capital stock, surplus, and principal amount of its indebtedness to Operating Companies, at an amount equal to at least 35 percent of its total capitalization.

Fees and expenses to be paid in connection with the proposed transactions are estimated at $8,500, including counsel fees of $5,000 and $500 for administrative services, at cost, performed by the system service company, Middle South Services, Inc. It is stated that no State Commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 18, 1972, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarants at the above-stated addresses, and proof of service (by affidavit or in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective in the manner provided by Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof, or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20524 Filed 11-29-72;8:46 am]

[File 500-1]

TRANS-EAST AIR, INC.

Order Suspending Trading

NOVEMBER 24, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.50 par value, and all other securities of Trans-East Air, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 26, 1972, through December 5, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20528 Filed 11-29-72;8:46 am]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 72-326]

FOREIGN CURRENCIES

Rates of Exchange for the Ceylon Rupee

NOVEMBER 14, 1972.

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for the Ceylon rupee.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372 (c)), has certified the following rates of exchange which vary by 5 percent or more from the quarterly rate published in Treasury Decision 72-285 for the Ceylon rupee. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following daily rates:

Ceylon rupee:	
November 8, 1972	$0.1480
November 9, 1972 [1]	.1560
November 10, 1972 [1]	.1560

[1] Rate did not vary 5 percent or more from the rate of exchange published in T.D. 72-285 for use during calendar quarter beginning October 1 through December 31, 1972.

Rates of exchange certified for the Ceylon rupee which vary by 5 percent

or more from the rate $0.1560 during the balance of the calendar quarter ending December 31, 1972, will be published in a Treasury Decision for dates subsequent to November 10, 1972, and before January 1, 1973.

[SEAL] R. N. MARRA, *Acting Assistant Commissioner, Office of Operations.*

[FR Doc.72-20557 Filed 11-29-72;8:45 am]

[T.D. 72-327]

LIGHTWEIGHT LUGGAGE

Exclusion From Entry

Treasury Decision 72-5, published on December 28, 1971 (36 F.R. 25053), gave notice of a restriction under section 337(f), Tariff Act of 1930 (19 U.S.C. 1337(f)), on the importation of certain lightweight luggage described fully therein, imposed pursuant to the temporary exclusion order of the President dated December 13, 1971, due to the existence of unfair methods of competition and unfair acts in the importation and sale of such luggage.

There is hereby published for direction and guidance of Customs officers and others concerned the following superseding order of the President, issued to the Secretary of the Treasury on October 31, 1972, directing that the Secretary forbid the unlicensed entry into the United States of lightweight luggage made in accordance with registered patent claims:

Atlantic Products Corp., Trenton, N.J., made a complaint requesting relief under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), from alleged unfair methods of competition and unfair acts in the importation and domestic sale of lightweight luggage which is made in accordance with the claims of U.S. Patent Nos. 3,298,480 and Re. 26,443 (Tariff Commission Investigation No. 337-28).

Upon the facts submitted to me by the U.S. Tariff Commission (T.C. Publication 463), I have found that the said articles are offered or sought to be offered for entry into the United States in violation of said section 337.

Therefore, I request that, except where the importation is made under license of the registered owner of said patent, you forbid the entry into the United States of lightweight luggage which is made in accordance with the claims of U.S. Patent Nos. 3,298,480 and Re. 26,443, until such time as I may find that the conditions which led to such refusal of entry no longer exist or until the date of expiration of said patents, whichever occurs first.

U.S. Patent No. 3,298,480 expires on January 16, 1984. U.S. Patent No. Re. 26,443 expires on August 15, 1983. Articles of lightweight luggage of the kind protected by the patents are generally classified under item 706.60, Tariff Schedules of the United States. Other background information is provided in U.S. Tariff Commission Publication 463, February 1972.

Entry into the United States of lightweight luggage prohibited importation by the President's order of October 31, 1972, shall be refused pursuant to section 337(e), Tariff Act of 1930, and § 12.39(c), Customs Regulations (19 CFR 12.39(c)). Importations refused entry may be permitted to be exported in accordance with provisions of § 8.49, 18.25, and 18.26 of the Customs Regulations (19 CFR 8.49, 18.25, 18.26). Excepted importations entitled to entry into the United States under license of the registered patent owner shall require the presentation with Customs entry of appropriate evidence thereof.

Articles of lightweight luggage prohibited importation by the President's order of October 31, 1972, which have been released under special bond pursuant to section 337(f), supra, and T.D. 72-5 are to be exported or destroyed under Customs supervision, upon Customs notification to each importer concerned in accordance with § 12.39(c) of the Customs Regulations (19 CFR 12.39(c)). However, entry of the merchandise is permitted if the import transaction is licensed by the registered patent owner and evidence of such license is presented to the principal Customs officer at the port of release under special bond. Special bonds taken shall be canceled and, in cases of verified exportation or destruction of the lightweight luggage, any duties that have been paid under a consumption entry that is not finally liquidated may be refunded, in accordance with § 8.49(b) of the Customs Regulations (19 CFR 8.49(b)).

Unless prohibited lightweight luggage entered and released under special bond is exported or destroyed under Customs supervision, or its entry duly licensed, within 30 days after notice is given the importer concerned, demand shall be made upon the principal and surety for payment of the amount of the penalty specified in the special bond.

Effective date. This notice shall be effective upon publication in the FEDERAL REGISTER (11-30-72).

[SEAL] VERNON D. ACREE, *Commissioner of Customs.*

Approved: November 17, 1972.

EUGENE T. ROSSIDES, *Assistant Secretary of the Treasury.*

[FR Doc.72-20555 Filed 11-29-72;8:49 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[S 5302]

CALIFORNIA

Notice of Proposed Withdrawal and Reservation of Lands

NOVEMBER 21, 1972.

The Bureau of Reclamation, U.S. Department of the Interior, has filed an application, Serial No. S 5302, for the withdrawal of public lands described below, from appropriation under the public land laws, including the mining laws but not from leasing under the mineral leasing laws. The lands will be used for the construction, operation, and maintenance of the Auburn Dam and Reservoir, Auburn-Folsom South Unit, American River Division and Central Valley project.

On or before December 31, 1972, all persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, U.S. Department of Interior, Room E 2841, Federal Office Building, 2800 Cottage Way, Sacramento, CA 95825.

The Department's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are in the Tahoe National Forest and are described below:

MOUNT DIABLO MERIDIAN

T. 14 N., R. 11 E.,
Sec. 31, SW¼SE¼SW¼ (includes mineral lot 74 and portions of mineral lots 72 and 73).

The area aggregates 10 acres.

WALTER F. HOLMES, *Chief, Branch of Lands and Minerals Operations.*

[FR Doc.72-20530 Filed 11-29-72;8:47 am]

[Colorado 17190]

COLORADO

Notice of Proposed Withdrawal and Reservation of Lands

NOVEMBER 14, 1972.

The Forest Service, U.S. Department of Agriculture, has filed an application, Serial No. C-17190, for the withdrawal of the public domain lands described below, from all forms of appropriation under the public land laws, including the mining laws, 30 U.S.C., Chapter 2, but not from leasing under the mineral leasing laws, subject to valid existing rights.

The applicant desires the lands for a National Forest administrative site.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Colorado State Office, 700 Colorado State Bank Building, 1600 Broadway, Denver, CO 80202.

The Department's regulations (43 CFR 2351.4(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations

as are necessary to determine the existing and potential demand for the lands and their resources. He will also under-

Lakes, Alaska, indicate that the classification will affect the following subdivisions of the protracted public land sur-

that will be activated by heat sensors over the pumps, (3) using automatic steel doors which will be activated by heat sen-

Petitioner requests the Secretary to modify the application of the above-quoted standard so as to permit it to use

for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new wood vessel, about 28-foot in length, to

device developed by the Veterans' Administration to be used in research and educational programs conducted by the Veterans' Administration to enrich the

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as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced:

The lands involved in the application are:

SIXTH PRINCIPAL MERIDIAN

MEEKER ADMINISTRATIVE SITE

T. 1 S., R. 94 W.,
Sec. 14, N½NW¼NW¼;
Sec. 15, N½NE¼NE¼.

The area described aggregates 40 acres.

CHARLES W. LUSCHER,
Acting State Director.

[FR Doc.72-20531 Filed 11-29-72;8:47 am]

Geological Survey

[Power Site Classification 413]

ALSEA RIVER, OREG.

Power Site Classification; Correction

In F.R. Doc. 50-10461, filed November 20, 1950, appearing on pages 7955 and 7956 in the issue of Tuesday, November 21, 1950, the following described lands in T. 13 S., R. 9 W., are deleted: sec. 31, lots 9, 10, 11, 12, 13, 14, and 15, those parts outside national forest. The last sentence is changed to read: The area described aggregates 670.25 acres.

Dated: November 21, 1972.

W. A. RADLINSKI,
Acting Director.

[FR Doc.72-20532 Filed 11-29-72;8:47 am]

[Power Site Classification 463]

TAZIMINA RIVER AND LAKES, ALA.

Power Site Classification; Correction

In F.R. Doc. 71-15915, filed November 1, 1971, appearing on page 20994 in the issue of Tuesday, November 2, 1971, the last sentence in the second paragraph is changed to read: "Geological Survey topographic quadrangle maps, Lake Clark, Alaska (A-3), (A-4), (A-5); Illamna, Alaska (D-4), (D-5); and Geological Survey special map, Tazimina Lakes, Alaska, indicate that the classification will affect the following subdivisions of the protracted public land survey referenced to the Seward Base and Meridian:"

Dated: November 21, 1972.

W. A. RADLINSKI,
Acting Director.

[FR Doc.72-20533 Filed 11-29-72;8:47 am]

Office of Hearings and Appeals

[Docket No. M 73-4]

CHRISTOPHER COAL CO.

Petition Regarding Modification of Mandatory Safety Standard

In regard, petition of Christopher Coal Co. for modification of application of Mandatory Safety Standard (Sec. 311(c) of Act; and 30 CFR 75.1105).

In accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), notice is given that the Christopher Coal Co., Post Office Box 100, Osage, WV 26543, has filed a petition to modify the application of section 311(c) of the Act and section 75.1105 of the Secretary's implementing regulations (30 CFR § 75.1105) to its Arkwright No. 1 Mine in Monongalia, W. Va.

Section 311(c) of the Act and § 75.1105 of the regulations provide in identical language:

(c) Underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps shall be housed in fireproof structures or areas. Air currents used to ventilate structures or areas enclosing electrical installations shall be coursed directly into the return. Other underground structures installed in a coal mine as the Secretary may prescribe shall be of fireproof construction.

Petitioner requests the Secretary to modify the application of the above-quoted standard so as to permit it to avoid having to course the air used to ventilate its Loar and Hess Pumping Stations directly to the return. Petitioner avers that it cannot comply with the applicable standard because: (1) The pumps are located on old haulages from the pit mouth to the Lynch Shaft which were mined 20 to 50 years ago (2) the haulages are ventilated with intake air and the nearest return to the Hess Station is over 2 miles and the nearest return to the Loar Station is 3,000 feet, (3) the intake air that passes the pump stations is not used to ventilate an active working section, (4) the Swickley Seam located 80 feet above the pumps has been mined, thereby eliminating the practicability of drilling additional holes for venting air to the surface, and (5) the location of the pumps in natural swags requires continuous operation to prevent flooding of the haulages.

Petitioner states that it will provide no less than the same measure of protection required by section 301(c) of the Act by: (1) Housing the pumps in a fireproof building, (2) installing in each pump station an automatic fire suppression device that will be activated by heat sensors over the pumps, (3) using automatic steel doors which will be activated by heat sensory devices. (4) prohibiting storage of oil or combustible materials in the pump stations, (5) employing electrical circuits in compliance with the Mandatory Safety Standards, and (6) making inspections of the stations in compliance with the Federal Coal Mine Health and Safety Act of 1969.

Parties interested in this petition should, within 30 days from the date of publication of this notice in the FEDERAL REGISTER, file their answers or comments with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, VA 22203. Copies of the petition are available for inspection at that address.

JAMES M. DAY,
Director, Office of Hearings and Appeals.

NOVEMBER 21, 1972.

[FR Doc.72-20547 Filed 11-29-72;8:48 am]

[Docket No. M 73-10]

LADY JANE COLLIERIES, INC.

Petition Regarding Modification of Mandatory Safety Standard

In regard, petition of Lady Jane Collieries, Inc. for modification of application of Mandatory Safety Standard (Sec. 303(r) of Act; and 30 CFR 75.319 and 75.319-1).

In accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), notice is given that Lady Jane Collieries, Inc., 402 Indiana Theatre Building, Indiana, Pa. 15701, filed on October 4, 1972, a petition to modify the application of section 303(r) of the Act and §§ 75.319 and 75.319-1 of the Secretary's implementing regulations (30 CFR 75.319 and 75.319-1) to its Stott No. 1 Mine in Huston Township, Clearfield County, Pa.

Section 303(r) of the Act and § 75.319 of the regulations provide in identical language:

(r) Each mechanized section shall be ventilated with a separate split of intake air directed by overcasts, undercasts, or the equivalent, except an extension of time, not in excess of 9 months, may be permitted by the Secretary, under such conditions as he may prescribe, whenever he determines that this subsection cannot be complied with on the operative date of this title.

Section 75.319-1 defines a "mechanized mining section" as follows:

The term "mechanized mining section" means an area of a mine in which coal is mined with one set of production equipment, characterized in a conventional mining section by a single loading machine, or in a continuous mining section by a continuous mining machine, and which is comprised of a number of contiguous working places. Specialized mining sections, such as longwall mining sections, which utilize equipment other than specified in this section, may, if approved by the Coal Mine Safety District Manager, be ventilated by a single split of air.

Petitioner requests the Secretary to modify the application of the above-quoted standard so as to permit it to use two loading machines and three shuttle cars in conjunction with one cutting machine instead of utilizing only one loading machine and two shuttle cars with each cutting machine. Petitioner avers that the modification it seeks will provide no less than the same measure of protection required by section 301(c) of the Act because, inter alia, the number of trailing cable crossings will be reduced in that the operating area of each loading machine will be restricted to three or four working places instead of seven. Each shuttle car will have a completely separate travelway. Petitioner's proposed method of operation would, it is said, reduce damage to cables, failure of cables, and the potentiality of fires.

Petitioner also claims that its proposed method of operating would increase ventilation efficiency by decreasing disturbance of the number of checks and line brattices from those involving seven entries to disturbance of only the three or four associated with each loading machine. Utilization of two loading machines is also said to reduce the number of split checks through which each shuttle car must pass during trips from the loader to the belt feeder. Reduction of passages through split checks is claimed to be helpful in that air control is enhanced and the likelihood of injuries to shuttle car operators is reduced.

Petitioner alleges that it had operated its mine in the specialized manner described above prior to the passage of the Federal Coal Mine Health and Safety Act of 1969 and believes that its proposed method has been proven to be safe for use in the low coal (down to 30 inches) encountered in several areas of the mine and it believes that if application of the standard to its Stott No. 1 Mine is modified as requested in its petition that the safety of its overall operations will be improved.

Parties interested in this petition should, within 30 days from the date of publication of this notice in the FEDERAL REGISTER, file their answers or comments with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, VA 22203. Copies of the petition are available for inspection at that address.

JAMES M. DAY,
Director,
Office of Hearings and Appeals.

NOVEMBER 21, 1972.

[FR Doc.72-20546 Filed 11-29-72;8:48 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. C-376]

MICHAEL DAN ZUCKER

Notice of Loan Application

NOVEMBER 24, 1972.

Michael Dan Zucker, 601 Ocean Avenue, Seal Beach, CA 90740, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new wood vessel, about 28-foot in length, to engage in the fishery for salmon, albacore, bonito, and rockfishes.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above-entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

PHILIP M. ROEDEL,
Director.

[FR Doc.72-20519 Filed 11-29-72;8:46 am]

Office of Import Programs

VETERANS ADMINISTRATION REGIONAL OFFICE, ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the February 24, 1972 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 73-00165-33-43780. Applicant: Veterans' Administration Regional Office, Supply Officer (4814-R), 252 Seventh Avenue, New York, NY 10001. Article: Myoelectric Hand. Manufacturer: Viennatone Co., Austria. Intended use of article: The article is a prosthetic device developed by the Veterans' Administration to be used in research and educational programs conducted by the Veterans' Administration to enrich the professional and technical people in this field as well as provide the amputee population with better prosthetic devices. Application received by Commissioner of Customs: September 26, 1972.

Docket No. 73-00175-33-43780. Applicant: Miami Valley Hospital, Radiation Therapy Department, One Wyoming Street, Dayton, OH 45409. Article: 45 MeV Medical-type Betatron with accompanying Magnetic Lens. Manufacturer: Brown-Boveri, Switzerland. Intended use of article: The article is intended to be used in the following research projects:

(1) Determination of the physical characteristics of the electron beam;

(2) Investigation of the effects of inhomogeneities in the body such as, bone and air cavities, on the beam, and

(3) Development of computer programs for use in radiation dosimetry of the electron beam.

The article will also be used for teaching the principles and clinical applications of high energy electron and X-ray beam therapy to radiology residents. In addition the article will be used for both high energy X-ray and electron beam therapy in the treatment of certain cancers. Application received by Commissioner of Customs: October 2, 1972.

Docket No. 73-00209-33-46040. Applicant: Chico State College, Department of Biological Sciences, Chico, Calif. 95926. Article: Electron Microscope, Model HS-8F-2. Manufacturer: Hitachi-Perkin Elmer, Japan. Intended use of article: The article is intended to be used for electron microscopy studies which will include the following investigations:

(1) The role that microtubules play in the morphogenesis of parasitic protozoa, particularly trypanosomes,

(2) The ultrastructure and development of generative organelles (amyloplasts and mitochondria) in male transmission of cytoplasmic inherited characters in several plants and

(3) The ultrastructure of the walls of pollen grains.

The article will also be used for instruction and research of graduate students and faculty in the following courses:

Bio Sci 202, Cytology.
Biological Preparations for Electron Microscopy.
Electron Microscope Theory and Operations.
Bio Sci 398, Independent Study.
Bio Sci 399, Master's Study.

Application received by Commissioner of Customs: October 24, 1972.

Docket No. 73-00210-33-46500. Applicant: Chico State College, Department of Biological Sciences, Chico, Calif. 95926. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used in the following studies:

(1) The role that microtubules play in the morphogenesis of parasitic protozoa, particularly flagellates;

(2) The ultrastructure and development of generative cells in geranium pollen grain and pollen tube; and

Purpose. Reviews and evaluates available information concerning safety and effectiveness of active ingredients in current and long-acting sulfas. Meeting will include discussion of confidential information and formulation of recommenda-

committee both for meetings open to the public and those meetings closed to the public in accordance with section

arguments to show why approval of NADA No. 6-737V and NADA No. 7-495V should not be withdrawn. Promulgation

21 U.S.C. 360b) and under the authority delegated to the Commissioner (21 CFR 2.120).

(2) The ultrastructure and development of generative cells in geranium pollen grain and pollen tube; and

(3) The role of generative organelles (amyloplasts and mitochondria) in male transmission of cytoplasmic inherited characters in several plants, and ultrastructure of the walls of pollen grains.

The article will also be used in the course, Biology Science 202, Cytology, to present an introduction to the structure and related functions of plant and animal cells and protoplasmic systems. In addition the article will be used in the course Biological Preparations for Electron Microscopy to present theory and provide actual experience in preparing biological specimens for electron microscopy. Application received by Commissioner of Customs: October 24, 1972.

Docket No.: 73-00212-33-19000. Applicant: Boston University School of Medicine, 80 East Concord Street, Boston, MA 02118. Article: Precision Density Meter for Liquids and Gases, Model No. DMA 02C-DMA 190. Manufacturer: Anton Paar, KG, Austria. Intended use of article: The article is intended to be used for rapid and accurate determination of liquids and gases. The materials to be investigated are biological lipids to be studied individually and in various combinations as suspensions or true solutions in water and in aqueous buffers.

They comprise the phospholipids; phosphatidyl choline, phosphatidyl ethanolamine, phosphatidyl serine, phosphatidyl inositol, sphingomyelin and cardiolipin, etc., cholesterol, other sterols and cholesterol esters and waxes, bile salts, lysophosphatides and certain gangliosides. Application received by Commissioner of Customs: October 19, 1972.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-20558 Filed 11-29-72;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

ADVISORY COMMITTEES

Notice of Meetings

Pursuant to Executive Order 11671, the Food and Drug Administration announces the following public advisory committee meetings and other required information in accordance with provisions set forth in section 13(a) (1) and (2) of that order:

Committee name	Date, time, place	Type of meeting and contact person
1. Panel on Review of Antacids.	Dec. 8 and 9, 9 a.m., Conference Room K, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open Dec. 8, 9 a.m. to 10 a.m. Closed Dec. 8 after 10 a.m. Closed Dec. 9. Armond Welch, Room 10B-06, 5600 Fishers Lane, Rockville, Md. 20852. 301—443-3501.

Purpose. Reviews and evaluates available information concerning safety and effectiveness of active ingredients in currently marketed nonprescription antacid products.

Agenda. Continuing review of over-the-counter antacid products under investigation. Meeting will include discussion of confidential information and formulation of recommendations.

Committee name	Date, time, place	Type of meeting and contact person
2. Radiopharmaceuticals Advisory Committee.	Dec. 11 and 12, 9 a.m., Conference Room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open Dec. 11, 9 a.m. to 10 a.m. Closed Dec. 11 after 10 a.m. Closed Dec. 12. Earl Meyers, Ph.D. Room 11B-20, 5600 Fishers Lane, Rockville, Md. 20852. 301—443-4250.

Purpose. Advises the Commissioner of Food and Drugs regarding safety and efficacy of drugs employed in nuclear medicine.

Agenda. Orientation of new members and discussion of package inserts for radiopharmaceuticals with respect to evaluation of safety problems and adequacy of effectiveness data. Closed portion of meeting will include discussion of confidential information and formulation of recommendations.

Committee name	Date, time, place	Type of meeting and contact person
3. Panel on Review of Cough, Cold, Allergy, Bronchodilator, and Antiasthmatic Agents.	Dec. 11 and 12, 9 a.m., Conference Room 13B-45, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open Dec. 11, 9 a.m. to 10 a.m. Closed Dec. 11 after 10 a.m. Closed Dec. 12. Thomas DeCillis, Room 10B-06, 5600 Fishers Lane, Rockville, Md. 20852. 301—443-3501.

Purpose. Reviews and evaluates available information concerning safety and effectiveness of active ingredients in currently marketed nonprescription drugs containing cough, cold, allergy, bronchodilator, and antiasthmatic agents.

Agenda. Continuing review of over-the-counter drug products under investigation. Meeting will include discussion of confidential information and formulation of recommendations.

Committee name	Date, time, place	Type of meeting and contact person
4. Anti-infective Agents Advisory Committee.	Dec. 11 and 15, 9 a.m., Conference Room F, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open Dec. 14, 9 a.m. to 10 a.m. Closed Dec. 11 after 10 a.m. Closed Dec. 15. Jean D. Lockhart, M.D., Room 12B-45, 5600 Fishers Lane, Rockville, Md. 20852. 301—443-4310.

Purpose. Advises the Commissioner of Food and Drugs regarding safety and effectiveness of drugs employed in the treatment of infectious diseases.

Agenda. Topical gentamicin, safety, and efficacy of trimethoprimsulfamethoxazole, comments on new antibiotic disc regulations, penicillin G combinations, and long-acting sulfas. Meeting will include discussion of confidential information and formulation of recommendations.

Committee name	Date, time, place	Type of meeting and contact person
5. Panel on Review of Cardiovascular Devices.	Dec. 15, 9:30 a.m., Room 6821, 200 C Street SW., Washington, DC.	Open 9:30 a.m. to 10:30 a.m. Closed after 10:30 a.m. David M. Link, Room 212B, 1901 Chapman Ave., Rockville, Md. 20852. 301—443-1713.

Purpose. Reviews and evaluates available information concerning safety, effectiveness, and reliability of cardiovascular medical devices currently in use.

Agenda. Continuing review of cardiovascular medical devices under investigation. Meeting will include discussion of confidential information and formulation of recommendations.

Committee name	Date, time, place	Type of meeting and contact person
6. Panel on Review of Antimicrobial Agents.	Dec. 14 to 16, 9 a.m., Conference Room B, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open Dec. 14, 9 a.m. to 10 a.m. Closed Dec. 14 after 10 a.m. Closed Dec. 15 and 16. Michnel Kennedy, Room 10B-06, 5600 Fishers Lane, Rockville, Md. 20852. 301—433-3501.

Purpose. Reviews and evaluates available information concerning safety and effectiveness of active ingredients in currently marketed nonprescription antimicrobial drug products.

Agenda. Continuing review of over-the-counter antimicrobial agents under investigation. Meeting will include discussion of confidential information and formulation of recommendations.

Committee name	Date, time, place	Type of meeting and contact person
7. Panel on Review of Anesthesiology Devices.	Dec. 19, 9:30 a.m., Room 6821, 200 C Street SW., Washington, DC.	Open 9:30 a.m. to 10:30 a.m. Closed after 10:30 a.m. David M. Link, Room 212B, 1901 Chapman Ave., Rockville, MD. 20852. 301—443-1713.

Purpose. Reviews and evaluates available information concerning safety, effectiveness, and reliability of anesthesiology devices currently in use.

Agenda. Continuing review of anesthesiology devices under investigation. Meeting will include discussion of confidential information and formulation of recommendations.

Agenda items are subject to change as priorities dictate.

During the open sessions shown above, interested persons may present relevant information or views orally to any committee for its consideration. Information or views submitted to any committee in writing before or during a meeting shall also be considered by the committee.

A list of committee members and summary minutes of meetings may be obtained from the contact person for the committee both for meetings open to the public and those meetings closed to the public in accordance with section 13(d) of Executive Order 11671 and the Secretary's notice of determination of September 27, 1972, published in the FEDERAL REGISTER of October 5, 1972 (37 F.R. 20995).

Dated: November 27, 1972.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.72-20642 Filed 11-29-72;8:52 am]

[Docket No. FDC-D-484; NADA No. 6-737V and NADA No. 7-495V]

HILLTOP LABORATORIES, INC., AND BEEBE LABORATORIES, INC.

Certain Drug Products Containing Sulfaquinoxaline; Notice of Opportunity for a Hearing

In an announcement in the FEDERAL REGISTER of July 9, 1970 (35 F.R. 11069, DESI 6391V), the Commissioner of Food and Drugs announced the conclusions of the Food and Drug Administration following evaluation of reports received from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group, on Sulfaquin-O-Mor, NADA (new animal drug application) No. 6-737V; marketed by Hilltop Laboratories, Inc., 2035 East Larpenteur Avenue, St. Paul, Minn. 55109 and B-B-Q Liquid, NADA No. 7-495V; marketed by Beebe Laboratories, Inc., 2035 East Larpenteur Avenue, St. Paul, Minn. 55109. The announcement invited the holder of said NADA's and any other interested persons to submit pertinent data on the drugs' effectiveness.

No data were received in response to the announcement and available information fails to provide substantial evidence that these drugs will have the effect they purport to have when administered in accordance with the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, notice is given to Hilltop Laboratories, Inc., Beebe Laboratories, Inc., and to any other interested person who may be adversely affected that the Commissioner proposes to issue an order under the provisions of section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b) withdrawing approval of NADA No. 6-737V and NADA No. 7-495V including all amendments and supplements thereto. This action is proposed on the grounds that there is a lack of substantial evidence that the drugs have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In accordance with the provisions of section 512 of the Act (21 U.S.C. 360b), the Commissioner will give the applicants and any other interested person who would be adversely affected by an order withdrawing such approvals an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of NADA No. 6-737V and NADA No. 7-495V should not be withdrawn. Promulgation of the order will cause any drugs similar in composition to the above cited drug products and recommended for similar conditions of use to be a new animal drug for which an approved new animal drug application is not in effect. Any such drug then on the market will be subject to appropriate regulatory action.

Within 30 days after publication hereof in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Food and Drug Administration, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing. If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner, without further notice, will enter a final order withdrawing approval of the new animal drug application.

Failure of such persons to file a written appearance of election within said 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process which the Commissioner finds is entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file a written appearance requesting the hearing and giving the reasons why approval of the new animal drug applications should not be withdrawn together with a well-organized and full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition to the grounds for this notice. A request for a hearing may not rest mere allegations or denials but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, the Commissioner will enter an order stating his findings and conclusions on such data. If a hearing is requested and is justified by the response to this notice, the issues will be defined, an administrative law judge will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

Responses to this notice will be available for public inspection in the Office of the Hearing Clerk (address given above), during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under the authority delegated to the Commissioner (21 CFR 2.120).

Dated: November 20, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-20544 Filed 11-29-72;8:48 am]

INTERSTATE COMMERCE COMMISSION

[Notice 126]

ASSIGNMENT OF HEARINGS

NOVEMBER 27, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

RRA MC 1251, Passenger Automobiles and Trucks Auto Driveaway Co., now assigned November 28, 1972, at Washington, D.C., is canceled and application dismissed.

MC-C-7776, Cooper Transfer Co., Inc.—Investigation and Revocation of Certificates, now assigned November 28, 1972, at Birmingham, Ala., is canceled.

MC 123407 Sub 101, Sawyer Transport, Inc., now assigned February 7, 1973, at Chicago, Ill., is postponed indefinitely.

MC-F-11593, Gordons Transports, Inc.—Purchase—J. B. Reed Motor Express, Inc., and MC 11220 Sub 126, Gordons Transport, Inc., now being assigned hearing February 7, 1973 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC 668 Sub 95, Inter City Transportation Co., Inc., Donald A. Robinson, trustee, now being assigned hearing January 15, 1973 (1 week), at Newark, N.J., in a hearing room to be later designated.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.72-20565 Filed 11-29-72;8:49 am]

[Notice 158]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 22, 1972.

The following are notices of filing of applications[1] for temporary authority

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

under section 210a(a) of the Interstate Commerce Act provided for under the

only, from Meridian over U.S. Highway 45 to the junction of U.S. Highway 45

No. MC 16872 (Sub-No. 14 TA), filed November 8, 1972. Applicant: WILLIAM

York within 100 miles of New York, N.Y., for 180 days. NOTE: Applicant presently holds authority for the same transportation from New York, N.Y.,

Supervisor Claud W. Reeves, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, CA 94102.

mercial bills of lading, from Chattanooga, Tenn., to Milwaukee, Wis., for 180 days. Supporting shipper: Swift Edible Oil Co., Chicago, Ill. Send pro-

XUM
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York within 100 miles of New York, N.Y., for 180 days. NOTE: Applicant presently holds authority for the same transportation from New York, N.Y., as origin, to the same destination territory, and does not seek duplicating authority by this application. Supporting shippers: Merchants Glass Distributors, Inc., Henderickson Avenue, Lynbrook, Long Island, NY 11563; Bienenfeld Industries, Inc., 1539 Covert Street, Brooklyn, NY 11227; Sentinel Enterprises, Inc., 2138 Biscayne Boulevard, Miami, FL 33137; Amworth Industries Corp., 42 Chasner Street, Hempstead, NY 11550; Daniel De Gorter, Inc., 1044 Northern Boulevard, Roslyn, NY 11576; Remington Aluminum, Window Corp., 999 Stewart Avenue, Garden City, NY 11530; John De Gorter, Inc., 1044 Northern Boulevard, Roslyn, NY 11576; Seaply Glass Corp., 271 North Avenue, New Rochelle, NY 10802. Send protests to: Thomas W. Hopp, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

No. MC 42828 (Sub-No. 4 TA), filed November 3, 1972. Applicant: THEODORE ROSSI TRUCKING CO., INC., 9 South Vine Street, Barre, VT 05641. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Granite*, from the piers in New York, N.Y., and Port Newark, N.J., to Barre and Montpelier, Vt., for 90 days. Supporting shipper: Granite Importers, Inc., Barre, Vt. Send protests to: District Supervisor Martin P. Monaghan, Jr., Interstate Commerce Commission, Bureau of Operations, 52 State Street, Room 5, Montpelier, VT 05602.

No. MC 71459 (Sub-No. 32 TA), filed October 26, 1972. Applicant: O. N. C. FREIGHT SYSTEMS, 2800 West Bayshore Road, Palo Alto, CA 94303. Applicant's representative: C. J. Boddington (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment and those injurious or contaminating to other lading, in interstate or foreign commerce, from junction U.S. Highway 89 and U.S. Highway 160 near Tuba City, Ariz., to Alamosa, Colo., over regular routes as follows: from junction U.S. Highway 89 and U.S. Highway 160 (near Tuba City, Ariz.), over U.S. Highway 160 to Alamosa, Colo., and return over the same route, serving all intermediate points, for 180 days. NOTE: Applicant does intend to tack authority here applied for to other authority held by it with MC 71459 and Subs and to interline with carriers at Alamosa, Colo. Supported by: There are approximately 39 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Claud W. Reeves, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, CA 94102.

No. MC 74321 (Sub-No. 62 TA), filed November 6, 1972. Applicant: B. F. WALKER, INC., 650—17th Street, Denver, CO 80202. Applicant's representative: J. Marshall Forsyth (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel beams*, from the Port of Catoosa, Okla., to points in Arkansas, Colorado, Kansas, Missouri, Nebraska, Oklahoma, and Texas, for 180 days. Supporting shipper: Jones and Laughlin Steel Corp., Three Gateway Center, Pittsburgh, PA. Send protests to: District Supervisor Roger L. Buchanan, Bureau of Operations, Interstate Commerce Commission, 2022 Federal Building, 1961 Stout Street, Denver, CO 80202.

No. MC 77340 (Sub-No. 6 TA), filed November 3, 1972. Applicant: E. J. DICKIE TRUCKING CO. (Arizona Corporation), 521 Bogart Street, Post Office Box 265, Bagdad, AZ 86321. Applicant's representative: Richard Minne, 609 Luhrs Building, Phoenix, AZ 85003. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, in bulk, from the plant of Flintkote Co., U.S. Lime Division at Arrolime, Nev., to Bagdad, Ariz., for 180 days. Supporting shipper: Bagdad Copper Corp., Bagdad, Ariz. 86321. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 3427, Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

No. MC 102982 (Sub-No. 29 TA), filed November 8, 1972. Applicant: GEORGE W. KUGLER, INC., 2800 East Waterloo Road, Post Office Box 6064, Ellet Station, Akron, OH 44312. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Propane gas*, in bulk, from Marcus Hook, Pa., to the plantsite and storage facilities of Griffin Pipe Products Co., at Florence, Burlington County, N.J., restricted to service performed under continuing contract with Griffin Pipe Products Co., Oak Brook, Ill., for 180 days. Supporting shipper: Griffin Pipe Products Co., 2000 Spring Road, Oak Brook, IL 60521. Send protests to: Franklin D. Ball, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 103051 (Sub-No. 260 TA), filed November 8, 1972. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue, North, Post Office Box 90408, Nashville, TN 37209. Applicant's representative: W. G. North (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils and/or animal fats*, in bulk, in tank vehicles, moving on commercial bills of lading, from Chattanooga, Tenn., to Milwaukee, Wis., for 180 days. Supporting shipper: Swift Edible Oil Co., Chicago, Ill. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite 803, 1808 West End Building, Nashville, TN 37203.

No. MC 103191 (Sub-No. 36 TA), filed November 7, 1972. Applicant: THE GEO. A. RHEMAN CO., INC., Post Office Box 2095, Station A, Charleston, SC 29403. Applicant's representative: Harris G. Andrews, Post Office Box 4255, Greenville, SC 29608. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid animal feed*, in bulk, from Fountain Inn, S.C., to points in Georgia and North Carolina, for 180 days. Supporting shipper: Allied Chemical Corp., Post Office Box 2120, Houston, TX 77001. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 300 Columbia Building, 1200 Main Street, Columbia, SC 29201

No. MC 107515 (Sub-No. 814 TA), filed November 2, 1972. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, 3901 Jonesboro Road, Forest Park, GA 30050. Applicant's representative: Alan E. Serby, Suite 1600, First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Crozet, Va., to points in Illinois, Indiana, Ohio, Michigan, Pennsylvania, Kentucky, West Virginia, and New York, for 150 days. Supporting shipper: ITT Continental Baking Co., Inc., Morton Frozen Foods Division, Post Office Box 731, Rye, NY 10580. Send protests to: William L. Scroggs, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 107515 (Sub-No. 815 TA), filed November 2, 1972. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, 3900 Jonesboro Road SE., Forest Park, GA 30050. Applicant's representative: Alan E. Serby, Suite 1600, First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products, yogurt, and dessert preparations*, in vehicles equipped with mechanical refrigeration, from the plantsite and storage facilities of Breakstone Sugar Creek Foods, a division of Kraftco Corp. at Walton, N.Y., to points in North Carolina, South Carolina, Georgia, and Florida, for 150 days. Supporting shipper: Breakstone Sugar Creek Foods, Division of Kraftco Corp., 450 East Illinois Street, Chicago, IL 60611. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1252 West Peachtree Street NW., Room 309, Atlanta, GA 30309.

No. MC 109689 (Sub-No. 240 TA), filed November 10, 1972. Applicant: W. S. HATCH CO., Office: 643 South 800 West Street, Wood Cross, UT 84087, Mail: Post

Office Box 1825, Woods Cross, UT 84110. Applicant's representative: Mark K.

under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 200 (Sub-No. 257 TA), filed November 8, 1972. Applicant: RISS INTERNATIONAL CORP., 903 Grand Avenue, Post Office Box 2809—ZIP 64142, Kansas City, MO 64106. Applicant's representative: Ivan E. Noody (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the distribution terminal of Spiegel, Inc., at Monocacy, Union Township, Berks County, Pa., as an off-route point in connnection with applicant's regular route authority, for 150 days. NOTE: Riss has regular route authority on U.S. Highways 22 and 30 and the Pennsylvania Turnpike and all of applicant's present routes will be utilized. Supporting shipper: Spiegel, Inc., 2511 West 23d Street, Chicago, IL 60608. Send protests to: Vernon V. Coble, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1100, Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 2202 (Sub-No. 424 TA), filed November 2, 1972. Applicant: ROADWAY EXPRESS, INC., Post Office Box 471, 1077 Gorge Boulevard, Akron, OH 44309. Applicant's representative: James W. Conner (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Meridian, Miss., and Florence, Ala., serving the facilities of Mueller Brass at or near Fulton, Miss., as an off-route point, and serving Meridian, Miss., and Florence, Ala., for purpose of joinder only, from Meridian over U.S. Highway 45 to the junction of U.S. Highway 45 and Mississippi Highway 25, thence over Mississippi Highway 25 to the junction of Mississippi Highway 25 and U.S. Highway 78, thence over U.S. Highway 78 to the junction of U.S. Highways 28 and 43, thence over U.S. Highway 43 to Florence, Ala., and return over the same route; and (2) between Memphis, Tenn., and the junction of U.S. Highways 278 and 431, serving the facilities of Mueller Brass at or near Fulton, Miss., as an off-route point, and serving Memphis, Tenn., and the junction of U.S. Highways 278 and 431 for purpose of joinder only, from Memphis, over U.S. Highway 78 to the junction of U.S. Highway 78 to the junction of U.S. Highways 78 and 278, thence over U.S. Highway 278 to the junction of U.S. Highways 278 and 431, and return over the same route. Restriction: Restricted against the transportation of traffic originating at or destined to Memphis, Tenn., or points in its commercial zone, for 180 days. NOTE: Applicant states that it will tack with authority in MC-2202 and Subs thereto, and will affect interchange at all points served. Supporting shipper: Federal Pacific Electric Co., 1820 Statesville Avenue, Charlotte, NC 28206. Send protests to: Franklin D. Bail, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 3252 (Sub-No. 83 TA), filed November 6, 1972. Applicant: MERRILL TRANSPORT CO., 1037 Forest Avenue, Portland, ME 04103. Applicant's representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Ticonderoga, N.Y., to Montpelier, Barre, Boltonville, Northfield, Plainfield, Waitsfield, Waterbury, Wells River, Randolph, and Royalton, Vt., for 180 days. Supporting shipper: Amerada Hess Corp., 1 Hess Plaza, Woodbridge, NJ 07095. Send protests to: Donald G. Weller, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 307, 76 Pearl Street, Portland, ME 04112.

No. MC 9251 (Sub-No. 2 TA), filed November 10, 1972. Applicant: S & M TRUCK LINE, INC., 510 North Water Street, Silverton, OR 97381. Applicant's representative: Raymond Zollner (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wallboard, plywood, mouldings, and building materials*, from Vancouver, Wash., to Silverton, Oreg., for 180 days. Supporting shippers: Redman Mobile Homes, Inc., 1204 Mill Street, Silverton, OR 97381; Vanply, Inc., Post Office Box 720, Vancouver, WA 98660. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 16872 (Sub-No. 14 TA), filed November 8, 1972. Applicant: WILLIAM MIRRER, doing business as MIRRER'S TRUCKING CO., 54 East 11th Street, Paterson, NJ 07524. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Washing, cleaning and scouring compounds*, except commodities in bulk, from Paterson, N.J., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas (except New York, N.Y., and points in the New York, N.Y., commercial zone as defined by the Commission, Nassau, Rockland, and Westchester Counties, N.Y.), under contract with Witco Chemical Co., Ultra Division, Paterson, N.J., for 180 days. Supporting shipper: Witco Chemical Co., Ultra-Division, 2 Wood, Paterson, NJ 07524. Send protests to: District Supervisor Robert E. Johnston, Interstate Commerce Commission, Bureau of Operations, 970 Broad Street, Newark, NJ 07102.

No. MC 29120 (Sub-No. 146 TA), filed November 9, 1972. Applicant: ALL-AMERICAN TRANSPORT, INC., 1500 Industrial Avenue, Post Office Box 769, 57101, Sioux Falls, SD 57104. Applicant's representative: Allan C. Zuckerman, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Refrigerators, refrigeration, and electrical equipment, appliances, and parts, materials and supplies* used in the manufacture, repair and distribution of such commodities, from Amana, Iowa, to Kansas City, Kans., Pittsburgh, Pa., and points in Indiana, Kentucky, Michigan, Missouri, North Dakota, Ohio, South Dakota, and Wisconsin, and (2) *cleaning solvents*, in containers, from Cleveland, Ohio, to Amana, Iowa, for 180 days. Supporting shipper: Amana Refrigeration, Inc., Amana, Iowa 52203, Edward A. Morris, Jr., Traffic Manager. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, SD 57501.

No. MC 36629 (Sub-No. 2 TA), filed November 1, 1972. Applicant: STEINWAY TRUCKING, INC., 41-06 19th Avenue, Astoria, NY 11102. Applicant's representative: Arthur J. Piken, Suite 1515, One Lefrak City Plaza, Flushing, NY 11368. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Building glass*, from the piers and wharves in the New York, N.Y., commercial zone, as defined by the Commission in Fifth Supplemental Report in commercial zones and terminal areas, 53-MCC-451, within which local operations may be conducted under the exempt provisions provided by section 203 (Sub-B (8) of the Act, exempt zone), to points in Connecticut, New Jersey, Massachusetts, Rhode Island, and that part of Pennsylvania on and east of U.S. Highway 15, and that part of New

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MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER APPLICATIONS

any persons in support thereof shall file with the Commission three copies of the verified statements of their witnesses, in writing, together with any studies to be

[Order 35539]

LOUISIANA INTRASTATE FREIGHT RATES AND CHARGES, 1972

as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1)

mission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, Washington, D.C., for publication in the FEDERAL REGISTER.

XUM V37-231 NOV 30 72 XUM

Office Box 1825, Woods Cross, UT 84110. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulfuric acid*, in bulk, from Nichols, Calif., to White City, Oreg., for 180 days. Supporting shipper: Industrial Chemical Division, Allied Chemical Corp., Post Office Box 1139R, Morristown, NJ 07960 (R. G. Thorn, Manager, Distribution, Planning and Analysis). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5239 Federal Building, 125 South State Street, Salt Lake City, UT 84111.

No. MC 110988 (Sub-No. 289 TA), filed November 6, 1972. Applicant: SCHNEIDER TANK LINES, INC., 200 West Cecil Street, Neenah, WI 54956. Applicant's representative: David A. Petersen (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid feed, liquid feed supplements*, in bulk, in tank vehicles, from plantsite of Cargill, Inc., located in Scott County, Iowa, to points in Missouri on and north of Interstate Highway 44; and points in Illinois on and north of Interstate Highway 70; and points in Wisconsin on and south of Highway 8; and points in Minnesota on and south of Highway 12; and (2) *molasses*, in bulk, in tank vehicles, from plantsite of Cargill, Inc., located in Scott County, Iowa, to points in Illinois on and north of Interstate Highway 70; and points in Wisconsin on and south of Highway 8, for 150 days. Supporting shipper: Cargill, Inc., Cargill Building, Minneapolis, Minn. 55402 (David J. Hurlbur, Manager of Rail/Truck Distribution). Send protests to: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 114897 (Sub-No. 100 TA), filed November 7, 1972. Applicant: WHITFIELD TANK LINES, INC., 300–316 North Clark Road (Post Office Drawer 9897), El Paso, TX 79989. Applicant's representative: J. P. Rose (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Titanium tetrachloride*, in bulk, in tank vehicles, from Henderson, Nev., to Orange, Tex., for 150 days. Supporting shipper: P. H. Norton, Purchasing Agent, Titanium Metals Corporation of America, Post Office Box 2128, Henderson, NV 89015. Send protests to: Haskell E. Ballard, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box H–4395, Herring Plaza, Amarillo, Tex. 79101.

No. MC 135535 (Sub-No. 3 TA), filed November 8, 1972. Applicant: EL DORADO TRANSPORTATION, INC., 206 North Corcord, Minneapolis, KS 67467. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fifth wheel travel trailers* (in towaway service), also *pickup trucks*, when moving in combination with fifth wheel travel trailers, between the plantsite and/or storage facilities of El Dorado Industries, Inc., at or near Minneapolis, Kans., on the one hand, and, on the other, points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wisconsin, Wyoming, and the District of Columbia, under continuing contract with El Dorado Industries, Inc., of Minneapolis, Kans.; and (2) *self-propelled motor homes* (in driveaway service), between the plantsite and/or storage facilities of El Dorado Industries, Inc., at or near Salina, Kans., on the one hand, and, on the other, points in the 48 contiguous States, under continuing contract with El Dorado Industries, Inc., of Minneapolis, Kans., for 150 days. NOTE: Applicant does not intend to tack the authority here applied for to other authority held by it, or to interline with other carriers. Supporting shipper: El Dorado Industries, Inc., Route 2, Post Office Box 266, Minneapolis, KS 67467. Send protests to: Thomas P. O'Hara, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 234 Federal Building, Topeka, Kans. 66603.

MOTOR CARRIERS OF PASSENGERS

No. MC 95466 (Sub-No. 3 TA), filed November 6, 1972. Applicant: DATTCO, INC., 99 Newington Avenue, New Britain, CT 06051. Applicant's representative: Samuel B. Zinder, 98 Cutter Mill Road, Great Neck, NY 11021. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle as passengers, in charter operations, beginning and ending at Meriden, New Haven, Middletown, Bridgeport, and Stamford, Conn., and New Rochelle, N.Y., and extending to points in the United States, restricted to charter operations originating at Springfield, Mass., Hartford, Conn., and/or New York, N.Y., for the account of Parker Tours, Inc., New York, N.Y., for 150 days. NOTE: Applicant will interline at New York, N.Y., with such carriers as Hudson Bus Transportation Co., Inc. Supporting shipper: Parker Tours, Inc., 125 West 43d Street, New York, NY 10036. Send protests to: District Supervisor David J. Kiernan, Bureau of Operations, Interstate Commerce Commission, 324 U.S. Post Office Building, 135 High Street, Hartford, CT 06101.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-20566 Filed 11-29-72;8:49 am]

[Order 35539]

LOUISIANA INTRASTATE FREIGHT RATES AND CHARGES, 1972

Assignment for Hearing and Directing Special Procedure

It appearing, that by order dated March 13, 1972, the Commission, Division 2, instituted an investigation under section 13 of the Interstate Commerce Act to determine whether the intrastate rates and charges of the petitioning carriers by railroads, or any of them, operating in the State of Louisiana, for the intrastate transportation of property, made or imposed by the State of Louisiana, as previously indicated, cause or will cause, by reason of the failure of such rates and charges to include increases corresponding to those authorized on interstate traffic by this Commission in Ex Parte Nos. 265 and 267, Increased Freight Rates, 1970 and 1971, 339 I.C.C. 125, Ex Parte No. 262, Increased Freight Rates, 1969, 337 I.C.C. 436, Ex Parte No. 259, Increased Freight Rates, 1968, 322 I.C.C. 590 and 332 I.C.C. 714, Ex Parte No. 256, Increased Freight Rates, 1967, 329 I.C.C. 854 and 332 I.C.C. 280, Ex Parte No. 223, Increased Freight Rates, 1960, 311 I.C.C. 373, Ex Parte No. 223 (Sub-No. 1) Minimum Charges Per Car, 313 I.C.C. 563, Ex Parte No. 223 (Sub-No. 2), Increased Switching Charges, 315 I.C.C. 199, 318 I.C.C. 485, and 322 I.C.C. 560, Ex Parte No. 223 (Sub-No. 3), Increased Rates on Iron Ore, 313 I.C.C. 549, Ex Parte No. 223 (Sub-No. 5), Increased Rates on Coal and Petroleum Coke, 316 I.C.C. 159, Ex Parte No. 223 (Sub-No. 9), Increased Rates on Fresh Fruits and Vegetables, 313 I.C.C. 519, and Ex Parte No. 223 (Sub-No. 10), Increased Freight Rates, 1960 (Rule 7), 313 I.C.C. 471, and Ex Parte No. 212, Increased Freight Rates, 1958, 302 I.C.C. 665 and 304 I.C.C. 289, any undue or unreasonable advantage, preference, or prejudice, as between persons or localities in intrastate commerce on the one hand, and those in interstate or foreign commerce, on the other, or any undue unreasonable, our unjust discrimination against, or undue burden on, interstate or foreign commerce, and to determine what rates and charges, if any, or what maximum, or minimum or maximum and minimum, rates and charges should be prescribed to remove the unlawful advantage, preference, discrimination or undue burden, if any, that may be found to exist.

And it further appearing, that upon consideration of the record in the above-entitled proceeding, this matter is one which should be referred to an administrative law judge for hearing and requires the adoption of special procedure for the purpose of expediting the hearing; and for good cause shown:

It is ordered, That the above-entitled proceeding be, and it is hereby, referred to an administrative law judge for hearing and for recommendation of an appropriate order thereon, accompanied by the reasons therefor.

It is further ordered, That on or before December 28, 1972, the respondents and any persons in support thereof shall file with the Commission three copies of the verified statements of their witnesses, in writing, together with any studies to be offered at the hearing, with a statement where the underlying workpapers to such studies will be available for inspection by parties to the proceeding and at the same time, serve a copy of such prepared material upon all parties listed in Appendix A attached hereto and any additional persons who make known their desire to actively participate in the proceeding on or before December 21, 1972.

It is further ordered, That on or before January 29, 1973, protestants shall file with the Commission, three copies of reply verified statements of their witnesses, in writing, and at the same time, serve a copy of such prepared material upon all persons listed in Appendix A hereto and any additional persons who make known their desire to actively participate on or before December 21, 1972. Attached hereto as Appendix A is a list of all known persons who have indicated their desire to actively participate in the proceeding. Any additional persons who desire to actively participate and receive copies of the prepared material to be served shall notify the Commission, in writing, on or before December 21, 1972, as well as all persons listed in Appendix A attached hereto. Otherwise, any interested person desiring to participate in this proceeding may make his appearance at the hearing.

It is further ordered, That parties desiring to cross-examine witnesses who have submitted verified statements shall give notice to that effect, in writing, to the affiant and his counsel, if any, on or before February 12, 1973, a copy of such notice to be filed simultaneously with the Commission, together with a request for any underlying data that the witnesses will be expected to have available for immediate reference at the hearing. All verified statements and attachments as to which no cross-examination is requested will be considered as part of the record. Any witness who has been requested to appear for cross-examination but fails to do so, subjects his verified statement to a motion to strike.

It is further ordered, That a hearing will be held commencing on February 26, 1973, at 9:30 a.m. U.S. standard time in New Orleans, La., at a hearing room to be later designated, for the purpose of hearing cross-examination of witnesses so requested; to afford opportunity to present evidence in opposition to the cross-examination; and such other pertinent evidence which the judge deems necessary to complete the record.

And it is further ordered, That a copy of this order be served upon the respondents and protestants; that the State of Louisiana be notified of the proceeding by sending a copy of this order by certified mail to the Governor of Louisiana, Baton Rouge, La., and a copy to the Louisiana Public Service Commission, Baton Rouge, La.; and that further notice of this proceeding be given to the public by depositing a copy of this order in the Office of the Secretary of this Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, Washington, D.C., for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 20th day of November 1972.

By the Commission, Commissioner Brown.

[SEAL] ROBERT L. OSWALD, *Secretary.*

APPENDIX A

Mr. John W. Adams, Gulf, Mobile & Ohio Railroad Co., 104 St. Francis Street, Mobile, AL 36602.
Mr. Marshall B. Brinkley, Secretary, Louisiana Public Service Commission, State Capitol, Post Office Box 44035, Baton Rouge, LA 70804.
Mr. Phillip S. Brown, Kansas City Southern Lines, 114 West Eleventh Street, Kansas City, MO 64105.
Mr. L. F. Daspit, Assistant General Manager, New Orleans Traffic and, Transportation Bureau, International Trade Mart, No. 2 Canal Street, New Orleans, LA 70130.
Mr. John H. Doeringer, Illinois Central Railroad Co., 135 East Eleventh Place, Chicago, IL 60605.
Mr. B. C. Fuller, General Traffic Manager, Industrial Molasses Corp., 321 Fort Lee Road, Leonia, NJ 07605.
Mr. C. R. Gaudry, The Celotex Corp., Tampa, Fla.
Mr. Jarrell E. Godrey, Jr., Chaffe, McCall, Phillips, Toler & Sarpy, 1500 National Bank of Commerce Building, New Orleans, La. 70112.
Mr. W. F. Krause, Manager, Transportation Pricing, Crown Zellerbach, 1 Bush Street, San Francisco, CA 94119.
Mr. Harry McCall, Jr., Chaffee, McCall, Phillips, Toler & Sarpy, 1500 National Bank of Commerce Building, New Orleans, La. 70112.
Mr. William R. McDowell, The Texas & Pacific Railway Co., 900 Fidelity Union Tower, 1507 Pacific Avenue, Dallas, TX 75201.
Mr. E. B. McKinney, Assistant General Manager, New Orleans Traffic and Transportation Bureau, International Trade Mart, No. 2 Cancal Street, New Orleans, LA 70130.
Mr. L. A. Parish, Traffic Manager, Radcliff Materials, Inc., McDuffie Island, Mobile, Ala. 36601. Representing: Radcliffe Materials, Inc., Pelican State Lime Co., Oyster Shell Products Co.
Mr. Harold J. Reitz, Manager, Regulatory Services, International Paper Co., New York, N.Y.
Mr. R. W. Skirvin, Crown Zellerbach Corp., 1 Bush Street, Room 1515, San Francisco, CA 94119.
Mr. Robert H. Stahlheber, Missouri Pacific Railroad Co., 210 North 13th Street, St. Louis, MO 63103.
Mr. J. W. Stanard, Post Office Box 66377, Baton Rouge, LA 70806. Representing: Big River Industries, Inc., Feliciana Eastern Railroad Co., St. Tammany & Eastern Railroad, Louisiana Eastern Railroad, South Central Railroad, Aggregates Railway Corp., A. A. Railroad, Inc.
Mr. James L. Tapley, Southern Railway System, Post Office Box 1808, Washington, DC 20013.
Mr. Wm. B. Thomas, Jr., Post Office Box 47127, Dallas, TX 75247. Representing: Gifford-Hill & Co., Inc.
Mr. D. L. Williams, Traffic Manager, Louisiana Cement, 14900 Intercoastal Drive, New Orleans, LA 70129.
C. G. Wise, Post Office Box 200, Boise, ID 83701.

[FR Doc.72-20567 Filed 11-29-72;8:49 am]

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MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER APPLICATIONS

NOVEMBER 24, 1972.

The following applications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure reasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

issue of May 3, 1966. This assignment will be by Commission order which will

Northwest 20th Street, Miami, FL 33152. Applicant's representative: J. Fred Dewhurst (same address as applicant). Au-

containers from Cleveland, Ohio, to Amana, Iowa. NOTE: Common control may be involved. Applicant states that

in bulk, and commodities requiring special equipment), (a) between Bellaire, Ohio, on the one hand, and, on the

preparations, textile softeners, activated carbon and water softener equipment; materials, equipment and supplies, used

that the requested authority will be tacked with its existing authority where feasible but does not identify the points

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issuc of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

No. MC 2860 (Sub-No. 118), filed October 27, 1972. Applicant: NATIONAL FREIGHT, INC., 57 West Park Avenue, Vineland, NJ 08360. Applicant's representative: Jacob P. Billig, 1108 16th Street NW., Suite 400, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric and gas appliances and parts thereof*, from Appliance Park/East, Columbia, Md., to points in Maine, New Hampshire, and Vermont. NOTE: Common control may be involved. Applicant states that the requested authority could be tacked with its existing authority at Columbia, Md., to serve points in the Middle Atlantic Territory. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 3854 (Sub-No. 19), filed October 30, 1972. Applicant: BURTON LINES, INC., East Durham Station, Post Office Box 11306, Durham NC 27703. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Reconstituted, reconstructed, or homogenized tobacco*, from Danville, Va., and Spotswood, N.J., to Louisville, Ky. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 19227 (Sub-No. 173), filed October 24, 1972. Applicant: LEONARD BROS. TRUCKING CO., INC., 2595 Northwest 20th Street, Miami, FL 33152. Applicant's representative: J. F. Dewhurst (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Signs, sign parts, attachments; accessories, and equipment* used in connection with or installation thereof, between the plantsites of Federal Sign and Signal Corp. at Los Angeles and Oakland, Calif.; Knoxville, Tenn.; Portland, Oreg.; Louisville, Ky.; Burr Ridge, Ill.; and Arlington, Tex., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Common control may be involved. Applicant states that the requested authority, cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif., or Miami, Fla.

No. MC 19227 (Sub-No. 174), filed October 25, 1972. Applicant: LEONARD BROS. TRUCKING CO., INC., 2595 Northwest 20th Street, Miami, FL 33152. Applicant's representative: J. Fred Dewhurst (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Equipment shelters* from Port Jervis, N.Y., to Austin, Tex. NOTE: Common control may be involved. Applicant states it holds authority under MC 19227 to transport commodities, the transportation of which because of size or weight requires the use of special equipment, between points in New York and points in Florida, which can be tacked with its authority under Sub-No. 43 which authorizes transportation of the same commodities between points in Florida and points in Texas, and that the purpose of this application is to eliminate the Florida Gateway. Applicant further states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 26396 (Sub-No. 63), filed October 27, 1972. Applicant: POPELKA TRUCKING CO., a corporation doing business as: THE WAGGONERS, Post Office Box 990, Livingston, MT 59047. Applicant's representative: Jacob P. Billig, 1108 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber products and articles of particle board*, from points in Montana to points in Arizona, Arkansas, Louisiana, Kentucky, Tennessee, Mississippi, Pennsylvania, Alabama, Georgia, Iowa, Minnesota, Nebraska, Nevada, North Dakota, South Dakota, Illinois, Wisconsin, California, Oregon, Washington, Wyoming, Utah, Idaho, and Colorado. NOTE: Applicant states that the requested authority can be tacked with its existing authority under MC 26396 and Subs thereunder. However, applicant does not specify where such physical operation would connect and the territory that would be served through such tacking. Applicant further states that its Sub 50 also duplicates in part the authority sought herein. Applicant holds contract carrier authority under MC 136777, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Billings, Mont.

No. MC 29120 (Sub-No. 147), filed November 6, 1972. Applicant: ALL-AMERICAN TRANSPORT, INC., Post Office Box 769, Sioux Falls, SD 57101. Applicant's representative: Axelrod, Goodman, Steiner & Bazelon, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Refrigerators, refrigeration and electrical equipment, appliances, and parts, materials, and supplies* used in the manufacture, repair and distribution of such commodities, from Amana, Iowa to Kansas City, Kans., Pittsburgh, Pa., and points in Indiana, Kentucky, Michigan, Missouri, North Dakota, Ohio, South Dakota, and Wisconsin; and (2) *cleaning solvents*, in containers from Cleveland, Ohio, to Amana, Iowa. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 32505 (Sub-No. 9), filed October 24, 1972. Applicant: VINCI's EXPRESS, INC., 404 Madison Avenue, Woodbine, NJ 08270. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment), between points in Cape May County, N.J., on the one hand, and, on the other, points in the New York, N.Y. commercial zone. NOTE: Applicant is presently authorized to transport clothing from Woodbine, N.J. to New York, N.Y., cloth from New York, N.Y., and fish from Sea Isle City, N.J. to New York, N.Y., therefore duplicating authority may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Cape May, N.J.

No. MC 35628 (Sub-No. 340), filed October 20, 1972. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, a corporation, 134 Grandville, SW., Grand Rapids, MI 49502. Applicant's representative: Leonard D. Verdier, Jr., 900 Old Kent Building, Grand Rapids, Mich. 49502. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of Northern Indiana Public Service Co., near Wheatfield, Ind., as an off-route point in connection with applicant's presently authorized operations between Michigan City and Lafayette, Ind., and between Evansville, Ind., and Chicago, Ill. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Lansing, Mich.

No. MC 44447 (Sub-No. 29), filed October 23, 1972. Applicant: SUBURBAN MOTOR FREIGHT, INC., 1100 King Avenue, Columbus, OH 43212. Applicant's representative: Taylor C. Burneson, 88 East Broad Street, Suite 1680, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities

in bulk, and commodities requiring special equipment), (a) between Bellaire, Ohio, on the one hand, and, on the other, points in Washington County, Pa., and points in West Virginia on and north of U.S. Highway 50 and west of the West Virginia-Maryland State line near Brookside, W. Va., and (b) between Belpre, Ohio, on the one hand, and, on the other, points in Washington County, Pa., and points in West Virginia on and north of U.S. Highway 50 and west of the West Virginia-Maryland State line near Brookside, W. Va. NOTE: Applicant states it is authorized to transport the above described commodities under MC 44447 (Sub-No. 27) between Powhatan Point, Ohio, and points in Ohio, within 8 miles of Powhatan Point, on the one hand, and, on the other, points in Washington County, Pa., and those in that part of West Virginia on and north of U.S. Highway 50 and west of the West Virginia-Maryland State line near Brookside, W. Va. The Sub 27 authority is tacked with applicant's regular-route authority which is contained in MC 44447 to MC 44447, Sub 26, inclusive. The tacking takes place at Shadyside, Ohio (a point within 8 miles of Powhatan Point). Through the Shadyside gateway, service is rendered by applicant between the points in Ohio, Michigan, Indiana, Illinois, and Kentucky which are specified in MC 44447 to MC 44447, Sub 26, inclusive, on the one hand, and, on the other, the points in Pennsylvania and West Virginia which are specified in MC 44447, Sub 27, that its proposal is to use Bellaire and Belpre, Ohio (in lieu of Shadyside, Ohio, as gateways in connection with its operations, as aforesaid, between points in Ohio, Michigan, Indiana, Illinois, and Kentucky on the one hand, and, on the other, points in Pennsylvania and West Virginia, and at the same time, applicant would continue rendering local and joint-line service between Powhatan Point, Ohio, and points in Ohio within 8 miles of Powhatan Point, on the one hand, and, on the other, points in Washington County, Pa., and points in West Virginia on and north of U.S. Highway 50 and west of the West Virginia-Maryland State line near Brookside, W. Va. NOTE: Common control and dual operations may be involved. No duplicating authority sought. Applicant further states it is not applying for duplicative authority, and such conditions may be attached to the applied-for "gateway" authority, if granted, as may be deemed by the Commission to be necessary to prevent such authority from being separated from the existing Sub 27 authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio or Washington, D.C.

No. MC 48213 (Sub-No. 34), filed October 30, 1972. Applicant: C. E. LIZZA, INC., Post Office Box 447, Latrobe, PA 15601. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Water treatment chemicals and compounds, cleaning compounds, drugs, medicines and toilet preparations, textile softeners, activated carbon and water softener equipment; materials, equipment and supplies*, used or useful in the production, use, distribution or sale of the foregoing commodities, between points in Alabama, Arkansas, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin, under continuing contracts with Calgon Corp. and Calgon Consumer Products Co., Inc. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington or Pittsburgh, Pa.

No. MC 50069 (Sub-No. 456), filed October 23, 1972. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlywood Avenue, Oregon (Toledo), OH 43616. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, Ohio 44114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Spent hydrochloric acid* from Toledo, Ohio to Detroit, Mich.; and (2) *virgin hydrochloric acid* from Detroit, Mich., to Toledo, Ohio. NOTE: Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 50069 (Sub-No. 457), filed October 23, 1972. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon (Toledo), OH 43516. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, Ohio 44114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from points in Kentucky, Illinois, Indiana, Ohio, Pennsylvania, and Missouri to Bay City and Midland, Mich. NOTE: Common control and dual operations may be involved. No duplicating authority sought. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 51146 (Sub-No. 296), filed August 25, 1972. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, WI 54304. Applicant's representative: Charles Singer, Suite 1000, 327 South La Salle, Chicago, IL 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers*, from Watertown, Mass., to points in Maine, Vermont, Connecticut, New Hampshire, Rhode Island, New York, New Jersey, Illinois, Pennsylvania, Ohio, West Virginia, Maryland, Delaware, and Virginia. NOTE: Common control may be involved. Applicant states that the requested authority will be tacked with its existing authority where feasible but does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Applicant further states no duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 51146 (Sub-No. 297), filed August 31, 1972. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, WI 54304. Applicant's representative: Neil DuJardin, Post Office Box 2298, Green Bay, WI 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers*, from Forest Park, Ga., to points in Delaware, Maryland, Virginia, West Virginia, Ohio, Indiana, Illinois, Missouri, Kentucky, Oklahoma, Arkansas, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas. NOTE: Common control may be involved. Applicant states that the requested authority could possibly be tacked with various subs of MC 51146 and applicant will tack with its MC 51146 where feasible. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Applicant further states that it has various duplicative items under various subs but does not seek duplicative authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 52709 (Sub-No. 318), filed October 20, 1972. Applicant: RINGSBY TRUCK LINE, INC., 5773 So. Prince Street, Littleton, CO 80120. Applicant's representative: Robert P. Tyler (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the warehouse site of Western Electric located at or near Underwood, Iowa as an off-route point in connection with applicant's operations via Omaha, Nebr. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 57315 (Sub-No. 22), filed October 24, 1972. Applicant: TRI-STATE TRANSPORT, INC., 91 Heard Street, Chelsea, MA 02150. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meats*, from Portsmouth, N.H. and New Bedford, Mass. to points in Connecticut, Massachusetts, and Rhode Island. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority.

If a hearing is deemed necessary, appli-

points in Arizona and Colorado to points in Oklahoma and New Mexico. NOTE:

No. MC 76661 (Sub-No. 2), filed October 30, 1972. Applicant: SMITH

Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities,*

quested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it

Wisconsin, and the plantsite of the Sperry Rand Corp., New Holland Division located at Grant Island, Nebr.; and (c) from the plantsite of the Sperry

If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 59150 (Sub-No. 74), filed October 27, 1972. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Jacksonville, FL 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal buildings*, knocked down and *parts thereof*, from Cedartown, Ga., to points in Alabama, Louisiana, Mississippi, South Carolina, North Carolina, Virginia, Florida, and Georgia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Jacksonville, Fla., or Atlanta, Ga.

No. MC 61592 (Sub-No. 287), filed October 27, 1972. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, IA 52722. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass and glass glazing units*, from Clinton and Laurinburg, N.C., to points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 61592 (Sub-No. 288), filed October 27, 1972. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, IA 52722. Applicant's representative: Donald Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from Golden, Colo., and the plantsite of Jos. Schlitz Brewing Co., Memphis, Tenn., to points in Oklahoma; and (2) *pallets and/or empty containers*, from points in Oklahoma to the plantsite of Jos. Schlitz Brewing Co., Memphis, Tenn., and Golden, Colo. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla.

No. MC 61592 (Sub-No. 289), filed October 27, 1972. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, IA 52722. Applicant's representative: Donald Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber mill products*, including particle board, (1) from points in Arizona, Colorado, and New Mexico to points in Arkansas, Illinois, Indiana, Kansas, Kentucky, Michigan, Mississippi, Missouri, Ohio, Tennessee, Texas, and Wisconsin and (2) from points in Arizona and Colorado to points in Oklahoma and New Mexico. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Santa Fe, N. Mex.

No. MC 61592 (Sub-No. 290), filed October 27, 1972. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, IA 52722. Applicant's representative: Donald Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Snowmobiles, materials, equipment, and supplies* used in the manufacture, distribution, operation and transportation of snowmobiles, between points in the United States (including Alaska but excluding Hawaii). NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 69833 (Sub-No. 104), filed October 18, 1972. Applicant: ASSOCIATED TRUCK LINES, INC., Vandenberg Center, Grand Rapids, Mich. 49502. Applicant's representative: Harry Pohlad and Earl Meisenbach (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment), serving Midland, Mich. as an off-route point in connection with its presently authorized regular route operations, between Bay City and Saginaw, Mich., over U.S. Highway 23. NOTE: Applicant has pending in No. MC 69833 (Sub-No. 102) a motor common carrier application to transport calcium chloride from Dow Chemical USA, at Midland, Mich. to irregular route territory including the regular route area herein, therefore duplicating authority may be involved. If a hearing is deemed necessary, applicant requests it be held at Saginaw, Lansing, or Detroit, Mich.

No. MC 72140 (Sub-No. 60), filed October 16, 1972. Applicant: SHIPPERS DISPATCH, INC., 1216 West Sample Street, South Bend, IN 46624. Applicant's representative: Richard L. Andrysiak (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods, as defined by the Commission, Classes A and B explosives, commodities in bulk, and those requiring special equipment), serving the plantsite and warehouse facilities of the Dana Corp. at Edgerton, Wis., as an off-route point in connection with applicant's existing regular-route authority. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 76661 (Sub-No. 2), filed October 30, 1972. Applicant: SMITH TRUCK SERVICE, INC., Southeast of City, Post Office Box 373, Perry, OK 73077. Applicant's representative: Rufus H. Lawson, 106 Bixler Building, Post Office Box 75124, Oklahoma City, OK 73107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precast or prestress concrete articles and accessories* used in the installation of the above-named commodities, from Tulsa, Okla., to points in Kansas, Missouri, Arkansas, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Tulsa or Oklahoma City, Okla.

No. MC 85850 (Sub-No. 8), filed October 22, 1972. Applicant: NEYLON FREIGHT LINES, INC., c/o JONES TRUCK LINES, INC., Springdale, Ark. 72764. Applicant's representative: James B. Blair, 111 Holcomb Street, Springdale, AR 72764. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, packinghouse products, and commodities used by packinghouses*, between Sioux City, Iowa and Omaha, Nebr. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority so that its service would connect with Jones Truck Lines, Inc. to points in Missouri, Oklahoma, Arkansas, Texas, Kansas, and Tennessee. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City or St. Louis, Mo.

No. MC 94350 (Sub-No. 321), filed October 19, 1972. Applicant: TRANSIT HOMES, INC., Post Office Box 1628, Haywood Road, Greenville, SC 29602. Applicant's representative: Mitchell King, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers* designed to be drawn by passenger automobiles in initial shipments, from points in Marshall County, Tenn., to points in the United States (excluding Alaska and Hawaii); and (2) *commodities named in (1) above* and *buildings*, or *sections of buildings* mounted on wheeled undercarriages, from points of manufacture in Monroe County, Ark., to points in the United States (excluding Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 100623 (Sub-No. 37), filed October 10, 1972. Applicant: HOURLY MESSENGERS, INC., a corporation, H. M. PACKAGE DELIVERY SERVICE, 20th and Indiana Avenue, Philadelphia, PA 19132. Applicant's representative: Harold G. Hernly, Jr., 2030 North Adams Street, Suite 510, Arlington, VA 22201.

Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities*, as are sold and dealt in by department stores, specialty shops and retail stores, between Philadelphia, Pa., and its commercial zone, on the one hand, and, on the other, points in Burlington, Camden, Cumberland, Gloucester, Hunterdon, Mercer, Salem, Warren, Atlantic, Ocean, and Cape May Counties, N.J.; Berks, Bucks, Carbon, Chester, Dauphin, Delaware, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Monroe, Montgomery, Northampton, Schuykill, and York Counties, Pa.; New Castle County, Del., points in Virginia, Maryland, and the District of Columbia. RESTRICTION: The service authorized herein is subject to the following conditions: (1) No service shall be rendered in the transportation of any package or article weighing more than 50 pounds or exceeding 108 inches in length and girth combined, and each package or article shall be considered as a separate and distinct shipment; and (2) no service shall be provided in the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location on any one day. NOTE: Applicant states that the requested authority can be tacked with its existing authority but has no present intentions to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 103993 (Sub-No. 739), filed October 24, 1972. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul D. Borghesani (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from Crawford County, Ark., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark.

No. MC 106497 (Sub-No. 73), filed October 30, 1972. Applicant: PARKHILL TRUCK COMPANY, a corporation, Business Route I–44 East, Joplin, Mo. 64801. Applicant's representative: A. N. Jacobs, Post Office Box 113, Joplin, MO 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roadbuilding, earthmoving, construction, mining, and contractors' machinery and equipment, and parts thereof*, when moving at the same time or separately, from Chattanooga, Tenn., to points in the United States including Alaska (but excluding Hawaii). NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New Orleans, La.

No. MC 107002 (Sub-No. 426), filed October 5, 1972. Applicant: MILLER TRANSPORTERS, INC., Post Office Box 1123 (U.S. Highway 80 West), Jackson, MS 39205. Applicant's representative: John J. Borth, Post Office Box 1123, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Arlington, Tenn., to points in Illinois, Indiana, Iowa, and Texas. NOTE: Applicant states that although the authority sought could be combined with other authorities to perform through service from points, tacking is not contemplated at this time. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 107460 (Sub-No. 39), filed October 27, 1972. Applicant: WILLIAM Z. GETZ, INC., 3055 Yellow Goose Road, Lancaster, PA 17601. Applicant's representative: Donald D. Shipley (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (I)(A)(1) *Tractors* (except those with vehicle beds, bed frames and fifth wheels); (2) *equipment* designed for use in conjunction with tractors; (3) *agricultural, industrial, and construction machinery and equipment;* (4) *such merchandise* as dealt in by lawn and garden dealers (except chemicals and commodities in bulk); (5) *trailers* designed for the transportation of the above-described commodities (except those trailers designed to be drawn by passenger automobiles); (6) *attachments* for the above-described commodities; (7) *internal combustion engines;* (8) *accessories, parts, and supplies* used in the manufacture, repair, and assembly of (1) through (7) above: (a) from the plantsites of the Sperry Rand Corp., New Holland Division located at Mountville and New Holland, Pa., to points in Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania (except Belleville and Lewistown, Pa.), Rhode Island, South Carolina, Tennessee, Virginia, Vermont, West Virginia, Wisconsin, and the plantsite of the Sperry Rand Corp., New Holland Division located at Grand Island, Nebr.; (b) from the plantsite of the Sperry Rand Corp., New Holland Division at Belleville, Pa., to points in Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania (restricted to export traffic or traffic having immediately prior or subsequent movement in rail service), Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the plantsite of the Sperry Rand Corp., New Holland Division located at Grand Island, Nebr.; and (c) from the plantsite of the Sperry Rand Corp., New Holland Division at Grand Island, Nebr., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Vermont, Virginia, and West Virginia;

(II)(B) *Materials, equipment and supplies* (except commodities in bulk) used in the manufacture, repair, assembly, and distribution of the commodities described in (1) through (7) above: (a) From points in Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland (except Baltimore and points in that part of Maryland, east of the Chesapeake Bay and the Susquehanna River), Massachusetts, Michigan, New Hampshire, New York (except Buffalo, Rochester and Syracuse), North Carolina, Ohio, Pennsylvania (except Belleville and Lewistown, Pa.), Rhode Island, South Carolina, Tennessee, Virginia (except iron and steel casting and agricultural implements parts from Lynchburg, Va.), West Virginia, Wisconsin, and the plantsite of the Sperry Rand Corp., New Holland Division at Grand Island, Nebr., to the plantsites of the Sperry Rand Corp., New Holland Division at Mountville and New Holland, Pa.; (b) from points in Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania (restricted to export traffic or traffic having immediately prior or subsequent movement in rail service), Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin and the plantsite of the Sperry Rand Corp., New Holland Division at Grand Island, Nebr., to the plantsite of Sperry Rand Corp., New Holland Division at Belleville, Pa.; and (c) from the plantsite of Sperry Rand Corp., New Holland Division at Grand Island, Nebr., under contract with Sperry Rand Corp., New Holland Division at Grand Island, Nebr. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C. or Harrisonburg, Va.

No. MC 108676 (Sub-No. 51), filed October 20, 1972. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue, NE., Knoxville, TN 37917. Applicant's representative: Carl U. Hurst, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass and glass glazing units*, from Clinton and Laurinburg, N.C. to points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico. NOTE: Ap-

plicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Alkyd resins, paint oils, and vegetable oils* in bulk, in tank vehicles,

Glass Co., at or near Shakopee, Minn., to Milwaukee, Wis. (Restricted to traffic originating at the named origin point

tion is to redescribe the authority being sought. If a hearing is deemed necessary, applicant requests it be held

dicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons inter-

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plicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 109397 (Sub-No. 282), filed October 23, 1972. Applicant: TRI-STATE MOTOR TRANSIT CO., a Corporation, Post Office Box 113 (Business Loop I-44 East), Joplin, MO 64801. Applicant's representative: A. N. Jacobs (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Industrial and construction machinery and equipment*, from the plantsite of Mastercraft Engineering, Inc., Belleville, Mich., to points in the United States (including Alaska, but excluding Hawaii). NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 109538 (Sub-No. 20), filed October 16, 1972. Applicant: CHIPPEWA MOTOR FREIGHT, INC., Post Office Box 269, Eau Claire, WI 54701. Applicant's representative: Nancy J. Johnson, 4506 Regent, Suite 100, Madison, WI 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Eau Claire, Wis., and Moline and Mendota, Ill., serving all intermediate points, (1) from Eau Claire, Wis., over U.S. Highway 53 to junction of U.S. Highway 61 at La Crosse, Wis., thence over U.S. Highway 61 to Davenport, Iowa, thence over city routes to Moline, Ill., and return over the same routes, serving the off-route point of Hager City, Wis., in connection with presently authorized operations and proposed route, and (2) from Eau Claire, Wis. over U.S. Highway 53 to junction Interstate Highway 94, thence over Interstate Highway 94 and 90 to junction Wisconsin Highway 15 near Beloit, Wis., thence over Wisconsin Highway 15 to junction U.S. Highway 51 at Beloit, Wis., and thence over U.S. Highway 51 to Mendota, Ill., and return over the same routes, and (3) from Eau Claire, Wis. over U.S. Highway 53 to junction Interstate Highway 94, thence over Interstate Highway 94 and 90 to junction U.S. Highway 20 by-pass near Rockford, Ill., thence over U.S. Highway 20 by-pass to junction Illinois Highway 2, thence over Illinois Highway 2 to Moline, Ill., and return over the same routes. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Madison, Wis., or St. Paul or Minneapolis, Minn.

No. MC 111375 (Sub-No. 65), filed October 27, 1972. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., Post Office Box 3358, Madison, WI 53704. Applicant's representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery* from Robinson, Ill., to points in Arizona, California, Colorado (except Denver), Idaho, Montana, Nevada (except Reno), New Mexico, Oregon (except Portland), Utah, Washington, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 111401 (Sub-No. 375), filed October 13, 1972. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, Post Office Box 632, Enid, OK 73701. Applicant's representative: Alvin J. Meiklejohn, Jr., 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products* (except liquefied petroleum gases), in bulk, in tank vehicles, (1) from points in East Baton Rouge, Iberville, Jefferson, Orleans, Plaquemines, Saint Bernard, Saint Charles, and West Baton Rouge Parishes, La., to points in Alabama, Louisiana, and Mississippi, and (2) from Meridian and Pascagoula, Miss., to points in East Baton Rouge, Iberville, Jefferson, Orleans, Plaquemines, Saint Bernard, Saint Charles, and West Baton Rouge Parishes, La. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Boyle or Hattiesburg, Miss.

No. MC 111812 (Sub-No. 481), filed October 25, 1972. Applicant: MIDWEST COAST TRANSPORT, INC., 900 West Delaware, Post Office Box 1233, Sioux Falls, SD 57101. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Hallwood, Va., to points in California, Montana, Oregon, Washington, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 112184 (Sub-No. 38), filed October 9, 1972. Applicant: THE MANFREDI MOTOR TRANSIT COMPANY, a Corporation, Route 87, Newbury, Ohio 44065. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Alkyd resins, paint oils, and vegetable oils*, in bulk, in tank vehicles, from Philadelphia, Pa., to points in Ohio north of U.S. Highways 30 and 30N, and *returned shipments* on return and (2) *Soybean oil*, from Bellevue, Ohio, to Philadelphia, Pa., and *returned shipments* on return, under contract with Cargill, Inc. NOTE: Applicant holds common carrier authority under MC 128302 and subs thereunder, therefore dual operations and common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 112617 (Sub-No. 302), filed September 5, 1972. Applicant: LIQUID TRANSPORTERS, INC., Post Office Box 21395, Louisville, KY 40221. Applicant's representative: L. A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, DC 20032. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adhesives*, in bulk, in tank vehicles, from Nicholasville, Ky., to points in Alabama, Arkansas, Georgia, Illinois, Indiana, Mississippi, Missouri, North Carolina, Ohio, South Carolina, Tennessee, Virginia, and West Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Washington, D.C.

No. MC 113678 (Sub-No. 472), filed October 24, 1972. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Applicant's representative: Richard A. Peterson, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, (1) from Grand Island and York, Nebr., to points in Minnesota, Wisconsin, Iowa, Illinois, Indiana, Ohio, New York, Pennsylvania, Massachusetts, Rhode Island, Connecticut, New Jersey, Delaware, Maryland, District of Columbia, North Carolina, South Carolina, Tennessee, Alabama, Georgia, Florida, Colorado, New Mexico, Arizona, Utah, Nevada, and California; (2) from York, Nebr., to points in Montana, Idaho, Washington, and Oregon. NOTE: Applicant states that although tacking possibilities exist it has no present intention to tack. However, applicant cautions that an unopposed application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr., Washington, D.C., or Denver, Colo.

No. MC 114457 (Sub-No. 134), filed October 23, 1972. Applicant: DART TRANSIT COMPANY, a corporation 780 North Prior Avenue, St. Paul, MN 55104. Applicant's representative: James C. Hardman, 127 North Dearborn Street, Chicago, IL 60607. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the plantsite and storage facilities of Midland

Glass Co., at or near Shakopee, Minn., to Milwaukee, Wis. (Restricted to traffic originating at the named origin point and destined to the named destination.) NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 115331 (Sub-No. 335), filed October 27, 1972. Applicant: TRUCK TRANSPORT, INCORPORATED, 1931 North Geyer Road, St. Louis, MO 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale and retail grocery houses, from the facilities of United Facilities, Inc., at Galesburg, Ill., to points in Minnesota, Iowa, Wisconsin, North Dakota, South Dakota, Nebraska, Kansas, Missouri, Oklahoma, Arkansas, Michigan, Indiana, Kentucky, and Tennessee. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 115669 (Sub-No. 134), filed October 24, 1972. Applicant: HOWARD N. DAHLSTEN, doing business as DAHLSTEN TRUCK LINE, Post Office Box 95, Clay Center, NE 68933. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry feed ingredients*, from Van Buren, Ark., to points in Arkansas, Colorado, Kansas, Iowa, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 116073 (Sub-No. 245) (Amendment), filed July 24, 1972, published in the FEDERAL REGISTER issue of August 17, 1972, and republished as amended this issue. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., Post Office Box 919, Moorhead, MI 56560. Applicant's representative: Robert G. Tessar, 1819 Fourth Avenue South, Moorhead, MI 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Buildings and sections of buildings*, from points in Roosevelt County, Mont., to points in the United States (except Alaska and Hawaii); and (2) *trailers* designed to be drawn by passenger automobiles in initial movements; *buildings*, complete or in sections; and *pickup caps*, from points in Ravalli County, Mont., to points in Wyoming, South Dakota, Idaho, North Dakota, Utah, Washington, and Oregon. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to redescribe the authority being sought. If a hearing is deemed necessary, applicant requests it be held at Helena, Mont.

No. MC 116725 (Sub-No. 19), filed October 27, 1972. Applicant: INDIAN VALLEY ENTERPRISES, INC., 855 Maple Avenue, Harleysville, PA 19438. Applicant's representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Butter and foodstuffs* (except frozen foodstuffs and foodstuffs in bulk), between Harleysville, Pa., and points in Franconia Township (Montgomery County), Pa., south of Cowpath Road, on the one hand, and, on the other, points in Michigan, restricted to the transportation of shipments originating and destined to points in the above-named territory. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa.

No. MC 117101 (Sub-No. 8), filed October 24, 1972. Applicant: LEFFLER TRANSPORTATION CO., a Corporation, 225 East Main Street, Richland, PA 17087. Applicant's representative: S. Berne Smith, 100 Pine Street, Post Office Box 116, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials, agricultural related chemicals*, in containers, and *seed*, from East Hempfield Township, Lancaster County, Pa., to points in New York, New Jersey, Delaware, Maryland, Virginia, West Virginia, Ohio, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 117119 (Sub-No. 468), filed October 23, 1972. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., Post Office Box 188, Elm Springs, AR 72728. Applicant's representative: Bobby G. Shaw (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the plantsites and warehouse facilities of Jeno's, Inc., at Duluth, Minn., to points in Kansas, Nebraska, Missouri, Oklahoma, Arkansas, Tennessee, Mississippi, Louisiana, Texas, Nevada, New Mexico, Arizona, California, Colorado, Utah, Idaho, Washington, and Oregon. NOTE: Common control may be involved. Applicant states that by combining No. MC 117119 (Sub-No. 53) with No. MC 117119 it can serve all destinations sought herein on the transportation of frozen foods and in No. MC 117119 (Sub-No. 459) it can transport foodstuffs from points in Minnesota to 11 of the destination States named above, therefore duplicating authority may be involved. Applicant further states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Duluth, Minn., or Washington, D.C.

No. MC 117565 (Sub-No. 69), filed October 27, 1972. Applicant: MOTOR SERVICE COMPANY, INC., Route 3, Post Office Box 448, Coshocton, OH 43812. Applicant's representative: John R. Hafner (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel shot, abrasives and abrasive products, and cleaning machines and replacement parts thereof*, from Adrian, Mich., to points in the United States (except Alaska and Hawaii). NOTE: Applicant has pending a motor contract carrier application in No. MC 135701 (Sub-No. 1), therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Columbus, Ohio.

No. MC 117565 (Sub-No. 70), filed October 30, 1972. Applicant: MOTOR SERVICE COMPANY, INC., Route 3, Post Office Box 448, Coshocton, OH 43812. Applicant's representative: John R. Hafner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic polystyrene foam shapes, rolls, sheets, and forms* (except commodities in bulk) from Troy, Ohio, to points in the United States (except Alaska and Hawaii); and (2) *returned, rejected, or damaged shipments* of the commodities described above, from points in the United States to Troy, Ohio. NOTE: Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus or Cincinnati, Ohio.

No. MC 117589 (Sub-No. 22), filed October 26, 1972. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 2535 Airport Way South, Seattle, WA 98139. Applicant's representative: George R. La Bissoniere, 1424 Washington Building, Seattle, WA 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canned seafood, vegetables, fruit, and meat products* when moving in vehicles equipped with mechanical refrigeration, from Jersey City and East Brunswick, N.J., and Hanover, Pa., to points in Washington and Oregon; and (2) *frozen human blood plasma*, from Tacoma, Wash., to Los Angeles and San Francisco, Calif. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a

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hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

Maryland, Virginia, West Virginia, Kentucky, Tennessee, North Carolina, South

in bulk, in tank vehicles, high explosives and other dangerous commodities, and

on the other, points in Illinois, Ohio, and Kentucky; (3) *brick, cinderblocks, tile, clay and clay products, shale and shale*

thority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and bottled*

erate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Phonographs and phonographs*

hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 119577 (Sub-No. 20), filed October 27, 1972. Applicant: OTTAWA CARTAGE, INC., Post Office Box 458, Rural Route 3, Ottawa, IL 61530. Applicant's representative: Albert A. Andrin, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, from La Salle County, Ill., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that duplicating authority may be involved with the authority it presently holds in: (1) No. MC 119577 (Sub-No. 2), authorizing transportation of sand from La Salle County, Ill., to points in Indiana, Kentucky, Michigan, Iowa, Missouri, Minnesota, Ohio, and Wisconsin; (2) No. MC 119577 (Sub-No. 17), authorizing transportation of silica sand from Ottawa and Utica, Ill., to points in Pennsylvania, West Virginia, Nebraska, and Kansas; and (3) No. MC 119577 (Sub-No. 19), authorizing transportation of silica sand from Ottawa and Utica, Ill., to points in Arkansas and Oklahoma. Applicant further states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119656 (Sub-No. 9), filed October 19, 1972. Applicant: NORTH EXPRESS, INC., 219 East Main Street, Winamac, IN 46996. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Portage, Ind., to points in Illinois, Iowa, Missouri, Kansas, Nebraska, and Arkansas. NOTE: Applicant states that the requested authority can be tacked with its existing authority at Portage, Ind., but indicates that it has no present intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119789 (Sub-No. 127), filed November 1, 1972. Applicant: CARAVAN REFRIGERATED CARGO, INC., Post Office Box 6188 (1616½ Irving Boulevard), Dallas, TX 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the reports in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, and hides), from Morton, Tex., to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Ohio, Indiana, Michigan, Illinois, Delaware, Maryland, Virginia, West Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Alabama, Georgia, Florida, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Washington, D.C.

No. MC 119789 (Sub-No. 128), filed November 8, 1972. Applicant: CARAVAN REFRIGERATED CARGO, INC., Post Office Box 6188 (1612 East Irving Boulevard), Dallas, TX 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, canned or preserved (except frozen foods), from Austin, Ind., to points in Texas, Oklahoma, Arkansas, Louisiana, Kansas, and Missouri. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Washington, D.C.

No. MC 120257 (Sub-No. 14) (Amendment), filed May 17, 1972, published in the FEDERAL REGISTER issue if June 22, 1972, and republished as amended this issue. Applicant: K. L. BREEDER & SONS, INC., 401 Alamo Street, Terrell, TX 75160. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, tubing, pipe fittings, and pipe accessories*, in straight or mixed truckloads, from Lone Star, Tex., and points within 5 miles thereof, to points in Alabama, Arkansas, Florida, Georgia, Kansas, Louisiana, Mississippi, Oklahoma, Texas and Tennessee. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to redescribe the territory sought. If a hearing is deemed necessary, applicant requests it be held at Dallas or Fort Worth, Tex.

No. MC 120927 (Sub-No. 3), filed October 19, 1972. Applicant: BESTWAY EXPRESS, a corporation, 1112 Key Road, Columbia, SC 29202. Applicant's representative: John H. Caldwell, 914 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Motion picture films and materials, supplies and equipment* used or useful in a motion picture theater, *newspapers, magazines, periodicals, and other publications;* and *general commodities* (except petroleum products in bulk, in tank vehicles, high explosives and other dangerous commodities, and household goods); (a) between points in Lexington and Richland Counties, S.C., and (b) between points in Lexington and Richland Counties, S.C., on the one hand, and, on the other, points in South Carolina; (2) *general commodities* (except petroleum products in bulk, in tank vehicles, high explosives and other dangerous commodities, and household goods): (a) between points in Charleston County, S.C.; (b) between points in Charleston County, on the one hand, and, on the other, points in South Carolina; (c) between points in Beaufort County, S.C., and (d) between points in Beaufort County, S.C.; on the one hand, and, on the other points in South Carolina. NOTE: Applicant states it seeks hercin to convert its present operating authority, as evidenced by its certificates of registration (Nos. MC 120927, Sub-Nos. 1 and 2), to certificates of public convenience and necessity. This conversion is necessitated by a concurrently filed section 212(b) transfer application in MC-FC 74039, pursuant to which applicant seeks to acquire the operating rights of HC&D Lines, Inc., a multistate operator in No. MC 120668 (Sub-Nos. 3 and 4). This conversion application and the concurrently filed transfer application would theoretically permit to a limited extent performance of a through service to and between points not included in this application, however, it does not intend to tack its existing authorities as converted with HC&D's operating authorities. Operations under the combined authorities could, however, result in minimal duplication with respect to transportation between Darlington and Florence Counties and Beaufort and Charleston Counties, S.C. If a hearing is deemed necessary, applicant requests it be held at either Columbia, Charleston, or Beaufort, S.C.

No. MC 123819 (Sub-No. 34), filed October 12, 1972. Applicant: ACE FREIGHT LINE, INC., Post Office Box 2103, Memphis, TN 38102. Applicant's representative: Bill R. Davis, 1208 Gas Light Tower, Atlanta, GA 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in containers, from Baton Rouge, La., to points in Arkansas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Baton Rouge, La., or Memphis, Tenn.

No. MC 124341 (Sub-No. 4), filed October 13, 1972. Applicant: LAWRENCE LAWYER, 757 North Indiana Street, Mooresville, IN 46158. Applicant's representative: Robert C. Smith, 711 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Brick, cinderblocks, tile, clay and clay products, shale and shale products, concrete and concrete products, and materials and supplies* used in the manufacture of brick, between the plantsite of General Shale Products Corp. near Mooresville, Ind., on the one hand, and, on the other, points in Tennessee, Wisconsin, Missouri, and Minnesota; (2) *materials and supplies* used in the manufacture of brick, between the plantsite of General Shale Products Corp. near Mooresville, Ind., on the one hand, and,

on the other, points in Illinois, Ohio, and Kentucky; (3) *brick, cinderblocks, tile, clay and clay products, shale and shale products, concrete and concrete products*, between the plantsite of General Shale Products Corp. near Evansville, Ind., on the one hand, and, on the other, points in Illinois, Missouri, Kentucky, Tennessee, and Ohio; and (4) *brick, cinderblocks, tile, clay and clay products, shale and shale products, concrete and concrete products, and materials and supplies* used in the manufacture of brick, between the plantsite of General Shale Products Corp. near Coral Ridge, Ky., on the one hand, and, on the other, points in Illinois, Missouri, Tennessee, and Ohio. Restriction: Restricted to a continuing contract or contracts, with General Shale Products Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

No. MC 125010 (Sub-No. 12), filed October 24, 1972. Applicant: GIBCO MOTOR EXPRESS, INC., 3405 North 33d Street, Terre Haute, IN 47808. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metal* between Kokomo, Ind., on the one hand, and, on the other, points in Vermilion County, Ill., under contract with Mervis & Sons, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Washington, D.C.

No. MC 126102 (Sub-No. 16), filed October 24, 1972. Applicant: ANDERSON MOTOR LINES, INC., 86 Washington Street, Plainsville, MA 02762. Applicant's representative: Robert G. Parks, 306 Dartmouth Street, Boston, MA 02116. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are sold or used in drugstores, chain, discount, and department stores, and *return shipments of such commodities*, from Walpole, Mass., to points in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, North Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and the District of Columbia, under contract with D. W. Jewelry Co., Inc. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Boston, Mass.

No. MC 126844 (Sub-No. 18), filed October 19, 1972. Applicant: R. D. S. TRUCKING CO., INC., 1713 North Main Road, Vineland, NJ 08360. Applicant's representative: Jacob P. Billig, 1108 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and bottled foodstuffs*, from Cade and Lozes, La., to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, and West Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 133627 (Sub-No. 4) (Correction), filed September 5, 1972, published in the FEDERAL REGISTER issue of September 28, 1972, and republished this issue. Applicant: COMMON MARKET DISTRIBUTING CORPORATION, 335 West Elwood, Phoenix, AZ 85030. Applicant's representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 312, Phoenix, AZ 85008. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Iron and steel articles* as described in Appendix 5 to the Commission's report in Descriptions in Motor Carrier Certificates, ex parte, MC 45, 61 MCC 209 and 766, from points in California, to points in California, Arizona, New Mexico, Texas Colorado, Nevada, Utah, and Idaho, under a continuing contract, or contracts, with Common Market Trading Corp. at Los Angeles, Calif. NOTE: Application pending in No. MC 136503 for motor common carrier authority suggests that dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of the republication is to indicate that applicant's requested operations will be carried out under a contract, or contracts, with Common Market Trading Corp. of Los Angeles, Calif., which was inadvertently omitted in the previous publication. If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz., or Los Angeles, Calif.

No. MC 133913 (Sub-No. 1), filed October 30, 1972. Applicant: FROST TRUCKING CO., INC., 677 Washington Street, New York, NY 10014. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Books and equipment, materials, and supplies* used in the composition, printing, and binding of books (except commodities in bulk), between points in New York, New Jersey, Massachusetts, Connecticut, and Brattleboro, Vt., and Philadelphia, Pa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Newark, N.J.

No. MC 134145 (Sub-No. 32), filed October 16, 1972. Applicant: NORTH STAR TRANSPORT, INC., Post Office Box 51, Thief River Falls, MN 56701. Applicant's representative: Robert P. Sack, Post Office Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Phonographs and phonographs and radios combined, tape players, and recorders*, from Rochester, Minn., to points in Alabama, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Kansas, Massachusetts, Michigan, Mississippi, Missouri, New Jersey, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, Utah, Washington, Wisconsin, and the District of Columbia and (2) *parts, materials, and accessories* used in the manufacture of the above-described commodities, from points in Arkansas, California, Connecticut, Iowa, Illinois, Indiana, Massachusetts, Michigan, New Jersey, Washington, and Wisconsin to Rochester, Minn., under contract with Waters Conley Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 134323 (Sub-No. 34), filed October 24, 1972. Applicant: JAY LINES, INC., 720 North Grant Street, Amarillo, TX 79105. Applicant's representative: Gailyn Larson, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Compressors, electric motors, and other materials, parts, and supplies* used in the manufacture and production of household appliances, furnaces, air cleaners and conditioners, humidifiers, dehumidifiers, and related items, under contract with Fedders Corp., (1) from Elkton, Md., to Effingham, Ill., Edison, N.J., Buffalo, N.Y., and Herrin, Ill., and (2) from Trenton, N.J., to Effingham, Ill., Buffalo, NY., and Herrin, Ill. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Washington, D.C.

No. MC 134449 (Sub-No. 6), filed October 19, 1972. Applicant: LESTER V. MOZNIK, an individual, 3753 Grandview Highway, Burnaby, BC, Canada. Applicant's representative: Joseph O. Earp, 411 Lyon Building, 607 Third Avenue, Seattle, WA 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Kitchen cabinets, countertops, and parts thereof*, from ports of entry on the international boundary line between the United States and Canada at or near Blaine and Sumas, Wash., Eastport, Idaho, and Sweetgrass, Mont., to points in Oregon, Idaho, Wyoming, Utah, Colorado, Montana, and Washington (except King and Pierce Counties), under a continuing contract, or contracts, with Crestwood Kitchens, Ltd. of Richmond, British Columbia, Canada. NOTE: If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 134599 (Sub-No. 60), filed October 24, 1972. Applicant: INTERSTATE CONTRACT CARRIER CORP., Post Office Box 748, Salt Lake City, UT 84110. Applicant's representative: Richard A. Peterson, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate

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as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rubber, rubber products and equipment, chemicals, materials and supplies* used in the manufacture and production of rubber products except commodities in bulk and except commodities, which because of size or weight, require special handling or special equipment, between North Reading, Medford, and Chicopee Falls, Mass.; Providence and Coventry, R.I., Naugatuck and Sandy Hook, Conn., and Beaver Falls, N.Y., on the one hand, and, on the other, points in Washington, Oregon, California, Nevada, Idaho, Utah, Arizona, Montana, Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Minnesota, Iowa, Missouri, Arkansas, and Louisiana, under contract with Uniroyal, Inc. NOTE: No duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, or Lincoln, Nebr.

No. MC 134599 (Sub-No. 61), filed October 26, 1972. Applicant: INTERSTATE CONTRACT CORP., Post Office Box 748, Salt Lake City, UT 84110. Applicant's representative: Richard A. Peterson, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rubber, rubber products and equipment, chemicals, materials and supplies* used in the manufacture and production of rubber products except commodities in bulk and except commodities which, because of size or weight, require special handling or special equipment, between Philadelphia and Mountain Top, Pa., and Farmville and Scottsville, Va., on the one hand, and, on the other, points in Washington, Oregon, California, Nevada, Idaho, Utah, Arizona, Montana, Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, and Louisiana, under contract with Uniroyal, Inc. NOTE: No duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, or Lincoln, Nebr.

No. MC 134599 (Sub-No. 62), filed October 30, 1972. Applicant: INTERSTATE CONTRACT CARRIER CORP., Post Office Box 748, Salt Lake City, UT 84110. Applicant's representative: Richard A. Peterson, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rubber, rubber products and equipment, chemicals, materials and supplies* used in the manufacture and production of rubber products except commodities in bulk and except commodities which, because of size or weight, require special handling or special equipment, between North Reading, Medford, and Chicopee Falls, Mass., Providence and Coventry, R.I.; Naugatuck and Sandy Hook, Conn., and Beaver Falls, N.Y., on the one hand, and, on the other, points in Tennessee, South Carolina, North Carolina, Mississippi, Alabama, Georgia, and Florida, under contract with Uniroyal, Inc. NOTE: No duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, or Lincoln, Nebr.

No. MC 134906 (Sub-No. 8), filed October 25, 1972. Applicant: CAPE AIR FREIGHT, INC., Post Office Box 834, Elizabethtown, KY 42701. Applicant's representative: John M. Nader, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, restricted to traffic having an immediately prior or subsequent movement by air, between Outlaw Field, near Clarksville, Tenn., and points in Missouri north of Missouri Highway 136, points in Illinois north of Interstate Highway 80, Iowa, Minnesota, and Wisconsin. NOTE: Applicant seeks no duplicating authority. Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Louisville, Ky.

No. MC 135007 (Sub-No. 21), filed October 26, 1972. Applicant: AMERICAN TRANSPORT, INC., 108 East Renfro Circle, Millard, NE 68137. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New unfinished or semifinished furniture*, from (a) Loveland, Colo., to points in New Mexico and Texas, and (b) from Spangle, Wash., to points in Montana, Utah, and Idaho, under a continuing contract, or contracts, with William Volker & Co. in both (a) and (b) above. NOTE: If a hearing is deemed necessary, applicant requests it be held at San Francisco or Los Angeles, Calif.

No. MC 135007 (Sub-No. 22), filed October 27, 1972. Applicant: AMERICAN TRANSPORT, INC., 108 East Renfro Circle, Millard, NE 68137. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New finished furniture*, from (a) Portland, Oreg., to points in Missouri, Kansas, Nebraska, Idaho, Montana, Colorado, Utah, California, Arizona, New Mexico, Texas, Oklahoma, Washington, and Nevada, and (b) from Tacoma, Wash., to points in California and Oregon, under a continuing contract, or contracts, with William Volker & Co. in parts (a) and (b) above. NOTE: If a hearing is deemed necessary, applicant requests it be held at San Francisco or Los Angeles, Calif.

No. MC 135634 (Sub-No. 3), filed October 20, 1972. Applicant: JOSEPH M. HANEY, SR., doing business as, J. M. HANEY TRUCKING CO., 4754 Mahoning Avenue, Youngstown, OH 44151. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tail and exhaust pipes; tail and exhaust pipe hangers and clamps; brake parts; mufflers; and shock absorbers*, from the plantsite of Midas-International Corp. at Detroit, Mich., to points in Ohio and Erie, Pittsburgh, New Castle, and Beaver Falls, Pa., under a continuing contract with Midas-International Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 136037 (Sub-No. 1), filed August 25, 1972. Applicant: LEUNING TRUCKING INC., Route 1, Box 323, Zillah, WA 98953. Applicant's representative: Elwood Leuning (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Shakes and shingles* from points in Washington to points in California. NOTE: If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 136545 (Sub-No. 5), filed October 24, 1972. Applicant: NUSSBERGER BROS. TRUCKING CO., INC., Post Office Box 97, Prentice, WI 54556. Applicant's representative: A. R. Fowler, 2288 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed*, from Abbotsford, Wis., and New Holstein, Wis., to points in Illinois, Indiana, Iowa, Michigan, Minnesota, and Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 136646 (Sub-No. 1), filed October 30, 1972. Applicant: DYKSTRA TRANSPORT, INC., 317 Fourth Avenue SE., Sioux Center, Iowa 51250. Applicant's representative: Earl H. Scudder, Jr., Post Office 82028, 605 South 14th Street, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, (1) from Algona, Early, Fort Dodge, Garner, and Spencer, Iowa, to points in Minnesota, and (2) from East Dubuque, Ill., to points in Iowa, Minnesota, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Chicago, Ill.

No. MC 136744 (Amendment), filed May 25, 1972, published in the FEDERAL REGISTER issue of July 7, 1972, and republished as amended, this issue. Applicant: KASHMARK TRUCKING, INC., Box 437, Clinton, MN 56225. Applicant's representative: Robert E. Swanson, 1211 South Sixth Street, Stillwater, MN 55082. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food, food preparations, and foodstuffs*, except fresh or cured meat, between points in Minnesota, and points in North Dakota, South Dakota, Iowa, Nebraska, and Wisconsin, for the Big Stone Canning Co. at Ortonville, Minn. NOTE: Applicant states that the granting of this application will result in an improvement of the environmental qualities that now exist because of the elimination of additional vehicles that are now being operated to perform the same service herein requested. The vehicles which will be used are mechanically more efficient and adaptable to the transportation needs. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 136775 (Sub-No. 1), filed October 16, 1972. Applicant: ERKEL TRANSFER INC., 255 South Cordova, Le Center, MN 56057. Applicant's representatice: John La Framboise, Jr., 480 North Park, Le Center, MN 56057. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Precut homes*, from Montgomery, Minn., to points in North Dakota, South Dakota, Iowa, Wisconsin, Michigan, and Illinois, under contract with Martin Homes, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Le Center or Minneapolis, Minn.

No. MC 136777 (Sub-No. 3), filed October 10, 1972. Applicant: POPELKA TRUCKING CO., a corporation, doing business as, THE WAGGONERS, Post Office Box 990, Livingston, MT 59047. Applicant's representative: Jacob P. Billig, 1108 16th Street NW., Washington, DC 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by discount or department stores, from points in Washington, Oregon, and Ohio to points in Montana and Idaho, for the account of Golden Rule Department Stores, Inc. NOTE: Applicant holds common carrier authority under MC 26396 and subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Billings, Mont.

No. MC 136997 (Sub-No. 1), filed October 24, 1972. Applicant: CARDINAL MOVING & STORAGE, INC., 1215 North 23d Street, Wilmington, NC 28401. Applicant's representative: John W. Cockman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Brunswick, New Hanover, Columbus, Pender, Bladen, and Robeson Counties, N.C. Restrictions: The service applied for is to be restricted to the transportation of traffic having a prior or subsequent movement in containers beyond the points above referred to and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating and decontainerization of such traffic. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Wilmington or Raleigh, N.C.

No. MC 138003, filed August 22, 1972. Applicant: ROBERT F. KAZIMOUR, 1200 Norwood Drive SE., Post Office Box 2011, Cedar Rapids, IA 52409. Applicant's representative: Michael J. Myers, 2101 Court Street, Sioux City, IA 51102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Appliances and parts*, from Newton, Webster City, and Fort Dodge, Iowa, to points in Washington, Oregon, California, Utah, Arizona, New Mexico, Texas, Louisiana, Mississippi, Alabama, Georgia, Nevada, and Florida, under contract with the Maytag Co. and the Franklin Manufacturing Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Des Moines, Iowa.

No. MC 138017 (Sub-No. 1), filed September 5, 1972. Applicant: LEONARD CAPONE, doing business as, KELINE TRUCKING COMPANY, Lafayette Avenue, West Berlin, N.J. 08091. Applicant's representative: Robert D. Stair, Sr., 2122 Meeting House Road, Cinnaminson, NJ 08077. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building materials*, viz, *precast concrete*, in forms and slabs, from the plantsite of Camden Lime Co. at Kresson, N.J., to plant- or jobsites in points in Delaware, New Jersey, New York, and Pennsylvania and (2) *materials*, viz, *steel articles* used in the manufacture of precast concrete, from Philadelphia, Pa., to Kresson, N.J., under contract with Camden Lime Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Philadelphia or Washington, D.C.

No. MC 138027 (Sub-No. 2) (Correction), filed October 20, 1972, and published in the FEDERAL REGISTER issue of November 23, 1972, republished in part, as corrected, this issue. Applicant: BANNER, INC., 1205 South Denver, Tulsa, OK 74119. Applicant's representative: Dean Williamson, 280 National Foundation Life Building, 3535 Northwest 58th Street, Oklahoma City, OK 73112. NOTE: The purpose of this partial republication is to indicate the correct docket number as MC 138027 (Sub-No. 2), in lieu of No. MC 139027 (Sub-No. 2) which was erroneously published. The rest of the application remains as previously published.

No. MC 138042 (Amendment), filed September 12, 1972, published in the FEDERAL REGISTER issues of October 5, 1972, and November 23, 1972, and republished as amended this issue. Applicant: MARK INTERSTATE CARRIERS CO., INC., 58–19 Maspeth Avenue, Maspeth, NY 11378. Applicant's representative: Morris Honig, 150 Broadway, New York, NY 10038. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Shoes*, boxed in cartons, (1) from Jersey City and Secaucus, N.J., and New York, N.Y., to East Farmingdale and Brentwood, N.Y.; (2) from John F. Kennedy International Airport, New York, N.Y., to East Farmingdale and Brentwood, N.Y., restricted to shipments having a prior movement by air; (3) from points in the New York, N.Y., commercial zone, as defined by the Commission in which exempt operations may be conducted, and from Port Newark and Port Elizabeth, N.J., to East Farmingdale and Brentwood, N.Y., restricted to shipments having a prior movement by water; and (4) from East Farmingdale and Brentwood, N.Y., to Alexandria, Va., Greenbelt, Md., Newark, Woodbridge, Wayne, Cherry Hill, and East Brunswick, N.J., and Philadelphia, Springfield, Levittown, and Glen Olden, Pa., under contract with F & M Shoe Corp., New York, N.Y. NOTE: The purpose of this republication is to include Brentwood, N.Y., to the territorial scope of the application. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 138128 (Sub-No. 2), filed October 24, 1972. Applicant: LEMMONS & CO., INC., 535 South Second Street, Boonville, IN 47601. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Coal*, from points in Jefferson and Saline Counties, Ill., to points in Posey, Warrick, and Vanderburgh Counties, Ind.; and (2) *sand and gravel*, from points in White County, Ill., to points in Warrick County, Ind. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Washington, D.C.

No. MC 138166, filed October 10, 1972. Applicant: DOLPHIN TRANSPORTATION INCORPORATED, 2332 South Peck Road, Whittier, CA 90601. Applicant's representative: Floyd C. Ellis, Suite 757, Roosevelt Building, 727 West Seventh Street, Los Angeles, CA 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metals, faucets, plumbing fittings, valves, aircraft landing mats, metal pipe and tubing, aluminum foil, chemicals, scrap metals, waste materials, supplies, machinery, and plant equipment and materials* between points in California NOTE: If a hearing is deemed necessary applicant requests it be held at Los Angeles, Calif.

No. MC 138167 filed October 16, 1972. Applicant: ED'S MOVING & STORAGE

MOTOR CARRIER OF PASSENGERS

No. MC 15264 (Sub-No. 15), filed Oc-

lished in the FEDERAL REGISTER, issue of November 16, 1972, and republished as

THURSDAY, NOVEMBER 30, 1972
WASHINGTON, D.C.

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FEDERAL REGISTER, VOL. 37, NO. 231—THURSDAY, NOVEMBER 30, 1972

XUM

No. MC 138167 filed October 16, 1972. Applicant: ED'S MOVING & STORAGE CO., INC., 1632 East 26th, Tacoma, WA 98421. Applicant's representative: Ed Scheidt (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission, between Pierce, King, Snohomish, Thurston, Kitsap, Mason, Lewis, and Grays Harbor Counties, Wash., restricted to shipments having a prior or subsequent movement beyond said points by land, air, or sea in containers and further restricted to pickup and delivery services incidental to and in connection with packing, carting, and containerization, or unpacking, uncrating, and decontainerization of such shipments. NOTE: If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 138170 filed October 2, 1972. Applicant: HARLAN OPPERMAN, an individual, 302 East Eighth Street, Gregory, SD 57533. Applicant's representative: Harlan Opperman (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Crushed rock and rock dust*, from points in Gregory, Tripp, Todd, Millette, Bennett, Washabaugh, Shannon, Fall River, and Custer Counties, S. Dak. and that part of Pennington, Jackson, Jones, and Lyman Counties, S. Dak., which lies south of U.S. Highway 16, to points in Holt, Rock, Boyd, Brown, Keyapaha, Cherry, Sioux, Dawes, Sheridan, and Box Butte Counties, Nebr.; and (2) *sand and gravel* (washed, screened or pit-run), between points in the destinations and origins named in (1) above. NOTE: If a hearing is deemed necessary, applicant requests it be held at Sioux Falls or Pierre, S. Dak.

MOTOR CARRIER OF PASSENGERS

No. MC 15364 (Sub-No. 15), filed October 27, 1972. Applicant: WISCONSIN-MICHIGAN COACHES, INC., 725 Smith Street, Green Bay, WI 54302. Applicant's representative: Rolfe E. Hanson, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter operations, beginning and ending at Mount Prospect, Ill., and extending to points in Chippewa County, Wis., restricted to the transportation of passengers who are either Girl Scouts, Girl Scout leaders or advisors, camp counselors or other personnel working at or employed by Girl Scout camps. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Madison, Wis., or Chicago, Ill.

APPLICATION FOR FREIGHT FORWARDER

No. FF-367 (Sub-No. 1) (Four Winds Forwarding, Inc., Extension—Domestic Service), filed November 15, 1972. Applicant: FOUR WINDS FORWARDING, INC., 7035 Convoy Court, San Diego, CA 92138. Applicant's representative: Alan F. Wholstetter, 1700 K Street NW., Washington, DC 20006. Authority sought under section 410, Part IV of the Interstate Commerce Act for an amended permit authorizing operations as a freight forwarder, in the forwarding of *used household goods* and *unaccompanied baggage*, between points in the United States (including Hawaii, but excluding Alaska), without restriction to import-export traffic.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 113908 (Sub-No. 241) (Republication), filed October 6, 1972, and published in the FEDERAL REGISTER, issue of November 16, 1972, and republished as clarified this issue. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, Springfield, MO 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, in bulk, in tank and/or hopper type containers and empty tank and hopper type containers, between points in the United States (including Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant respectfully submits that the grant of the instant application will have a beneficial impact on the human environment. The purpose of this republication is to exclude the restriction contained in previous notice of filing.

No. MC 136587 (Sub-No. 5), filed October 30, 1972. Applicant: ALFRED J. WELLER, doing business as, A. J. WELLER, 396 Clarmont, Willowick, OH 44095. Applicant's representative: George S. Maxwell, 526 East Superior Avenue, Cleveland, OH 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Green salted cattle hides and green salted sheep pelts*, from Cleveland, Ohio, to Chicago, Ill.; Fond du Lac and Milwaukee, Wis.; Grand Haven, Mich.; Pownal, Vt.; points in the New York, N.Y., commercial zone and points in the Boston, Mass., commercial zone, under contract with D. E. Rose & Co.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-20496 Filed 11-29-72;8:45 am]

federal register

THURSDAY, NOVEMBER 30, 1972
WASHINGTON, D.C.
Volume 37 ■ Number 231
PART II

DEPARTMENT OF LABOR

Employment Standards Administration

COAL MINE HEALTH AND SAFETY

Claims for Black Lung Benefits

No. 231—Pt. II——1

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Title 20—EMPLOYEES' BENEFITS

arguments concerning the rules in this new Part 725 to the Employment Stand-

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paid disability benefits therefor under the Act.
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Title 20—EMPLOYEES' BENEFITS

Chapter VI—Employment Standards Administration, Department of Labor

SUBCHAPTER B—FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969, AS AMENDED

PART 725—CLAIMS FOR BLACK LUNG BENEFITS PAYABLE UNDER PART C OF TITLE IV OF THE FEDERAL COAL MINE HEALTH AND SAFETY ACT AS AMENDED

Pursuant to authority contained in title IV of the Federal Coal Mine Health and Safety Act of 1969, 83 Stat. 742, 30 U.S.C. 901, et seq., as amended by Public Law 92-303, 86 Stat. 156, entitled the Black Lung Benefits Act of 1972, Chapter VI of Title 20 of the Code of Federal Regulations is hereby amended by adding thereto a new Part 725 as set forth below. The new Part 725 will implement and effectuate provisions of the Act concerning claims subject to the provisions of Part C of Title IV thereof after December 31, 1973 which are filed with the Secretary of Labor for benefits payable under the Act to coal miners and their surviving dependents in cases of a miner's total disability due to pneumoconiosis and in cases of a miner's death due to pneumoconiosis or while totally disabled due to pneumoconiosis.

On September 7, 1972, at 37 F.R. 18152, 18167, public comment was invited, and was later received and considered, concerning the substance of certain proposals under consideration for inclusion in this Part 725. However, with respect to other matter contained in this Part 725 as today adopted, it has not been possible to provide a period for public comment on specific proposals in advance of final adoption of these rules. This is so because the Act requires these rules to be issued in final form not later than November 30, 1972, and requires further that they give effect to provisions of the Longshoremen's and Harbor Workers' Compensation Act, as amended, a large number of which have been recently amended effective November 26, 1972. Accordingly, I find on the basis of good cause as above set forth that it is impracticable to provide for notice, public procedure, and delayed effective date in accordance with 5 U.S.C. 553. However, notwithstanding this promulgation of the rules in final form the Employment Standards Administration will receive and consider comments submitted before February 1, 1973 on any provisions of these rules and will make such changes as may appear to be warranted through subsequent amendment of the rules. Inasmuch as these rules will not be operative after adoption until the claims to which they apply are filed many months hence, the foregoing provision should provide ample opportunity for persons affected to participate in the formulation of the rules which will actually be effective when claims are filed. Interested persons are accordingly invited to submit written data, views, or arguments concerning the rules in this new Part 725 to the Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210, before February 1, 1973.

The new Part 725 reads as follows:

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AUTHORITY: The provisions of this Part 725 issued under Title IV, Federal Coal Mine Health and Safety Act of 1969, 83 Stat. 742, 30 U.S.C. 901, et seq., as amended by Public Law 92-3-3, 86 Stat. 156, and pursuant to such Act, under 44 Stat. 1424, 33 U.S.C. 902 et seq., as amended by Public Law 92-576, 86 Stat. 1251.

Subpart A—General

INTRODUCTORY

§ 725.1 Statutory provisions for black lung benefits.

(a) *General.* Title IV of the Federal Coal Mine Health and Safety Act of 1969 as amended by the Black Lung Benefits Act of 1972 provides for the payment of prescribed benefits to coal miners who are totally disabled due to pneumoconiosis and to surviving widows, children, parents, brothers, and sisters as provided in the Act in cases of coal miners who die due to pneumoconiosis or are totally disabled by pneumoconiosis at the time of death, whether or not being paid disability benefits therefor under the Act.

(b) *Benefits under Part B of Title IV of the Act in general.* Part B of Title IV of the Act provides for the determination and the payment by the Federal Government of such benefits to coal miners and their surviving widows and dependents on disability claims filed before January 1, 1974, and on death claims filed before such date or within 6 months of the death of a miner who dies before such date, whichever is the later date. In the case of claims filed before such terminal date, Federal payment of benefits to which entitlement is established under Part B of Title IV of the Act continues beyond such terminal filing date so long as the claimant remains eligible therefor, except in those cases which are subject to special provisions terminating liability for Federal payment of benefits under Part B at the end of the Part B filing period with respect to claims therefor which were not filed before July 1, 1974.

(c) *Transition period benefits under Parts B and C of Title IV.* (1) In the case of claims for benefits under Part B of Title IV of the Act filed after June 30, 1973, and subject to the special provisions mentioned in paragraph (b) of this section, section 415 of Part B provides for the filing of such claims at the places and in the manner provided by joint regulations of the Secretary of Labor and the Secretary of Health, Education, and Welfare (Part 717 of this chapter) and for the transfer of such claims to the Secretary of Labor who is to determine such claims in accordance with the procedures provided in section 415 and regulations promulgated thereunder by the Secretary of Labor after consultation with the Secretary of Health, Education, and Welfare (Parts 715, 718, 720 of this chapter).

(2) Under section 115 of the Act, benefits to which the claimant is determined to be entitled under Part B of Title IV are to be paid by the Secretary of Labor for the period from the filing date to the date of termination of Federal Part B payments as provided in the special provisions mentioned in paragraph (b) of this section. For periods thereafter, liability for continued payment of benefits is placed in the responsible coal mine operators as determined in accordance with Part C of Title IV of the Act and section 422 thereof or, if a workmen's compensation law of a State is found by the Secretary to provide adequate coverage for pneumoconiosis, under such workmen's compensation law as provided in section 421 of Part C. (The Department has determined, pending an opinion by the Attorney General as to the meaning of section 422(e) of the Act, that the Federal Government shall be required to pay all benefits to which an individual is entitled for any period subsequent to December 31, 1971, provided that a claim for benefits has been filed with the Department prior to January 1, 1982). For any periods after December 31, 1973, when the payment

by a responsible operator of benefits to which the claimant is found entitled

fect the amount of benefits to which any miner and/or widow is entitled.

(c) Subpart D of this part prescribes

this chapter are, therefore, applicable to all claims filed for black lung benefits which must be determined pursuant to

WHO MAY FILE CLAIMS

§ 725.111 Who may execute a claim.

The Office of Workmen's Compensation Programs (OWCP) determines who

§ 725.113 Claimant must be alive when claim is filed.

For a claim to be effective, the claimant must be alive at the time the claim

ment during the 15-year period must be obtained. No period of employment after June 30, 1971 may be considered as part of such 15-year period. The Office will assist any claimant in obtaining the nec-

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by a responsible operator of benefits to which the claimant is found entitled pursuant to section 415 of the Act is not assured, or the payment of equivalent or greater benefits under an applicable State workmen's compensation law is not assured, the Secretary of Labor is to make benefit payments from Federal funds pursuant to the provisions of section 415 of Part B and section 424 of Part C as appropriate.

(3) These provisions are intended to assure the uninterrupted receipt of benefits by claimants filing therefor on or after July 1, 1973 during the period of transition from full Federal liability for benefits under Part B of Title IV to mine operators' liability under Part C or under adequate State workmen's compensation laws identified as provided in Part C.

(d) Part C of Title IV of the Act, the provisions of which are implemented by this Part 725, makes provision for payment of pneumoconiosis disability and death claims filed on or after January 1, 1974. Under the provisions of Part C, in States having a workmen's compensation law meeting the criteria set forth in Part 722 of this subchapter, such claims are to be filed pursuant to such State law. In periods when no such law is applicable, the Secretary of Labor is charged with administering a program following the provisions of the Longshoremen's and Harbor Workers' Compensation Act under which responsibility for payment of pneumoconiosis benefits is placed upon operators of coal mines in which the miners who contracted pneumoconiosis were employed. Benefit payments by the Secretary of Labor are made in cases where payments to which a claimant is entitled are not available from the sources specified.

§ 725.2 Purpose and scope of this part.

(a) This Part 725 sets forth the rules applicable to the filing of claims for black lung benefits with the Secretary of Labor after December 30, 1973, and the rules for processing, determining and adjudicating, and paying benefits pursuant to Part C of Title IV of the Act as amended, with respect to black lung claims filed by any eligible miner, widow, child, parent, brother or sister.

(b) This subpart A describes generally the statutory framework governing the manner in which claims filed between January 1, 1974 and December 30, 1981 are to be processed and paid, as well as the applicability of other related parts contained in this subchapter to such claims.

(c) Subpart B of this part prescribes the procedure by which an individual claimant shall file his claim for black lung benefits with the Secretary of Labor after December 31, 1973, and sets forth the rules for the preliminary processing of claims for such benefits.

(d) Subpart C of this part sets forth the relationship and dependency requirements for widows, children, parents, brothers, and sisters and relationship and dependency requirements which affect the amount of benefits to which any miner and/or widow is entitled.

(e) Subpart D of this part prescribes the criteria and procedures which shall be followed by the Secretary of Labor in determining the identity and establishing the liability of any coal operators responsible under Title IV of the Act for the payment of black lung benefits after December 31, 1973.

(f) Subpart E of this part sets forth the rules which shall be applied by the Secretary of Labor in the determination and adjudication of claims for black lung benefits pursuant to Part C of Title IV of the Act.

(g) Subpart F of this part sets forth the rules under which the Secretary of Labor shall provide for payment of benefits to eligible claimants determined to be entitled thereto pursuant to the procedures enumerated in subpart E of this part.

APPLICABILITY OF OTHER PARTS IN THIS SUBCHAPTER B

§ 725.5 Applicability of Part 715 of this chapter.

All of the matter contained in Part 715 of this chapter pertaining to general definitions and use of terms as well as the public disclosure of program information and records is fully applicable to this Part 725 (see §§ 715.101, 715.301 of this chapter). As noted in Part 715 of this chapter, the matter therein subsumed under the center heading "Benefits Provided by the Act and Eligibility Therefor" is applicable to Part C claims.

§ 725.6 Inapplicability of 20 CFR Part 717.

Part 717 of this chapter is a joint regulation promulgated by the Secretary of Health, Education, and Welfare and the Secretary of Labor which sets out the procedure for filing claims for black lung benefits in the transition period during which the primary Federal responsibility for the administration of new claims under the Act is transferred from the Secretary of Health, Education, and Welfare to the Secretary of Labor. The procedures for filing claims contained in Part 717 of this chapter are applicable only to that transition period and are not applicable to claims filed with the Secretary of Labor after December 31, 1973 under Part C of Title IV of the Act.

§ 725.7 Applicability of Part 718 of this chapter.

(a) Part 718 of this chapter incorporates in this subchapter B the applicable medical standards and presumptions promulgated by the Secretary of Health, Education, and Welfare for determining whether a coal miner's total disability or death was due to pneumoconiosis or whether a coal miner was totally disabled by pneumoconiosis at the time of his death. Section 422(h) of Part C of Title IV of the Act makes these standards applicable to claims filed with the Secretary of Labor for benefits under Part C.

(b) The medical standards and presumptions incorporated by Part 718 of this chapter are, therefore, applicable to all claims filed for black lung benefits which must be determined pursuant to this Part 725, except that for the purpose of determining the applicability of the presumption established by section 411 (c)(4) of the Act to claims filed under Part C of Title IV of the Act, section 430 of the Act provides no period of employment after June 30, 1971, shall be considered in determining whether a miner was employed for at least 15 years in one or more underground mines.

§ 725.8 Inapplicability of Part 720 of this chapter.

Part 720 of this chapter sets out the procedures for processing, determining and adjudicating claims and paying benefits in respect to the Secretary of Labor's responsibility for administering the provisions of section 415 of Part B of Title IV of the Act. No section of that Part 720 is incorporated by reference in this Part 725. Part 720 of this chapter relates exclusively to the transition period claims to be determined by the Secretary as provided in section 415 of the Act and is inapplicable to any new claims filed after December 31, 1973, which are to be processed, adjudicated, and paid pursuant to subparts A–F of this Part 725.

§ 725.9 Applicability of Part 726 of this chapter.

Part 726 of this chapter relates to the criteria to be used by the Secretary of Labor in determining whether a coal mine operator in appropriate circumstances has taken the necessary steps to comply with insurance requirements which section 423 of Title IV of the Act prescribes for securing the payment of black lung benefits by qualifying as a self-insurer or contracting with an authorized insurance carrier. Part 726 of this chapter is applicable to this Part 725 insofar as it affects the responsibility of coal operators to fulfill their obligations under Title IV of the Act.

Subpart B—Filing and Preliminary Processing of Claims

GENERAL

§ 725.101 Scope and applicability of this subpart.

All claims for black lung benefits filed on or after January 1, 1974, under Part C of Title IV of the Act (except claims within the purview of a workmen's compensation law of a State listed in § 722.401 of this subchapter) shall be filed and preliminarily processed pursuant to the provisions of this subpart. This subpart does not apply to the filing of claims for black lung benefits under Part B of Title IV, or to any claims filed before January 1, 1974. Claims filed prior to July 1, 1973, under Part B of Title IV shall be filed within the Social Security Administration pursuant to the provisions of Part 410 of this title. Claims filed on or after July 1, 1973, under section 415 of Part B of Title IV shall be filed pursuant to Part 717 of this Subchapter B.

WHO MAY FILE CLAIMS

§ 725.111 Who may execute a claim.

The Office of Workmen's Compensation Programs (OWCP) determines who is the proper party to execute a claim in accordance with the following rules:

(a) If the claimant has attained the age of 18, is mentally competent, and is physically able to execute the claim, the claim shall be executed by him. Where, however, paragraph (d) of this section applies, the claim may also be executed by the claimant's legal guardian, committee, or other representative.

(b) If the claimant is between the ages of 16 and 18, is mentally competent, has no legally appointed guardian, committee, or other representative, and is not in the care of any person, such claimant may execute the claim upon filing a statement on the prescribed form indicating capacity to act on his own behalf.

(c) If the claimant is mentally competent but has not attained age 18 and is in the care of a person, the claim may be executed by such person.

(d) If the claimant (regardless of his age) has a legally appointed guardian, committee, or other representative, the claim may be executed by such guardian, committee, or representative.

(e) If the claimant (regardless of his age) is mentally incompetent or is physically unable to execute the claim, it may be executed by the person who has the claimant in his care or by a legally appointed guardian, committee, or other representative.

(f) Where the claimant is in the care of an institution and is not mentally competent or physically able to execute a claim, the manager or principal officer of such institution may execute the claim.

(g) For good cause shown, the Office may accept a claim executed by a person other than one described in paragraph (a), (b), (c), (d), (e), or (f) of this section.

§ 725.112 Evidence of authority to execute a claim on behalf of another.

Where the claim is executed by a person other than the claimant, such person shall, at the time of filing the claim or within a reasonable time thereafter, submit evidence of his authority to execute the claim on behalf of such claimant in accordance with the following rules:

(a) If the person executing the claim is the legally appointed guardian, committee, or other legal representative of such claimant, the evidence shall be a certificate executed by the proper official of the court of appointment.

(b) If the person executing the claim is not such a legal representative, the evidence shall be a statement describing his relationship to the claimant, the extent to which he has the care of such claimant, or his position as an officer of the institution of which the claimant is an inmate. The Office may, at any time, require additional evidence to establish the authority of any such person.

§ 725.113 Claimant must be alive when claim is filed.

For a claim to be effective, the claimant must be alive at the time the claim is filed with the Office.

FILING OF CLAIMS

§ 725.121 Claims forms.

(a) Claims shall be filed on approved forms and in accordance with instructions (provided thereon or attached thereto) as are prescribed by the Office of Workmen's Compensation Programs (OWCP).

(b) The forms for filing claims after December 31, 1973, for benefits under Part C of Title IV of the Act and the regulations in this part are CM–903 (Coal Miner's Claim for Benefits), CM–903A (Widow's Claim for Benefits), CM–903B (Dependent Survivor's Claim for Benefits), and CM–904 (Medical Report—Pneumoconiosis). These forms will be made generally available to the public at all OWCP offices throughout the coal mining regions and in Washington, D.C.

§ 725.122 Inquiry and assistance.

(a) *Information requests.* Inquiries or requests concerning claims and claims forms may be made by any individual by mail or in person to any of the field offices of the Office of Workmen's Compensation Programs (OWCP) which are located in various cities throughout the coal mining regions of the United States and in Washington, D.C. When appropriate, in response to inquiries or requests the Office shall tender to prospective claimants explanations of eligibility under the Act, of statutory requirements concerning disability and death claims, and of procedures for filing and processing of claims.

(b) *Assistance in the preparation of claims forms.* The OWCP will assist claimants, if necessary, in completing their claims forms, including the listing of information required to establish previous periods of a miner's coal mine employment and to determine which of these periods of employment were spent in the service of any particular coal mine operator. The OWCP will also assist claimants in securing other evidence necessary to support their claims.

(c) *Development of employment history.* Designated officials of the OWCP will assist any claimant in establishing a chronological employment history from the date of the last employment in a coal mine. Such development entails the acquisition of such facts as are necessary to identify the dates of employment with each coal mine operator with whom a disabled or deceased miner was employed. It shall not be necessary to secure documentary evidence to support a claimant's allegations in respect to these periods of employment. If, however, a claimant desires to utilize the medical presumption prescribed in section 411(c)(4) of Part B of Title IV of the Act and section 422(f)(2) of Part C of Title IV of the Act, documentary evidence of coal mine employment during the 15-year period must be obtained. No period of employment after June 30, 1971 may be considered as part of such 15-year period. The Office will assist any claimant in obtaining the necessary evidence required to establish a right to utilize this presumption (see also Part 718 of this Subchapter B).

§ 725.123 Place of filing claim.

Claims for benefits under Part C of Title IV of the Act and this Part 725 may be delivered, mailed, or otherwise presented for filing at any of the various offices of the Office of Workmen's Compensation Programs, throughout the coal mining regions of the United States or in Washington, D.C.

§ 725.124 Time limits for filing claim.

(a) Every claim for benefits filed under this part must be filed within 3 years of the discovery of total disability due to pneumoconiosis or, in the case of death due to pneumoconiosis, within 3 years of the date of such death.

(b) Any claim for benefits in the case of a disabled miner filed under Part C of Title IV of the Act and this Part 725 on the basis of eligibility under section 411(c)(4) of Part B of Title IV of the Act, must be filed within 3 years from the date of last exposed employment in a coal mine or, in the case of death from a respiratory or pulmonary impairment for which benefits would be payable under section 411(c)(4), incurred as a result of employment in a coal mine, such claim must be filed within 15 years from the date of last exposed employment in a coal mine.

(c) The time limitations described in paragraphs (a) and (b) of this section are mandatory and may not be waived or otherwise avoided for any reason.

§ 725.125 When a claim is considered to have been filed; time of filing claim.

(a) *Date of receipt.* (1) Except as otherwise provided in this section, for the purposes of determining when a claim has been filed within the meaning of Part C of Title IV of the Act, a claim is considered to have been filed only as of the date it is received at an office of the Office of Workmen's Compensation Programs or by an employee of the Office who is authorized to receive such claims.

(2) Claims submitted to any other agency or subdivision of the United States Government shall be forwarded promptly to an office of the OWCP. Such a claim shall be deemed filed with the OWCP as of the date it was received by the other governmental unit.

(3) Claims by or on behalf of a claimant residing outside the United States, submitted to an office maintained by the Foreign Service of the United States, shall be considered to have been filed with the OWCP as of the date it is received at such office of the Foreign Service.

(b) *Date of mailing.* If the claim is deposited in and transmitted by the United States mail and the fixing of the date

of delivery as the date of filing would result in a loss or impairment of benefit rights, it will be considered to have been filed as of the date of mailing. The date

OWCP has received from an individual a written statement as described in paragraph (a) or (b) of this section:

(1) Notice in writing shall be sent to the claimant or to the individual who

filed. After the withdrawal (where made before or after the date the Office makes a determination) further action will be taken by the Office only upon the filing of a new claim, except as provided in

age, marriage, or termination of marriage, death, relationship of parent and child, other relationship or dependence,

part D of Part 410 of this title (see Part 718 of this subchapter, which incorpo-

prepared for such further action by the deputy commissioner, as provided in § 725.135, as may be appropriate, includ-

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of delivery as the date of filing would result in a loss or impairment of benefit rights, it will be considered to have been filed as of the date of mailing. The date appearing on the postmark (when available and legible) shall be prima facie evidence of the date of mailing. If there is no postmark or it is not legible, other evidence may be used to establish the mailing date.

(c) *Prospective filing of a claim.* A claim which is filed before the first month in which the claimant meets the requirements for entitlement to benefits is a valid claim only if the claimant meets such requirements before a final decision on his claim is made. Such a claim is deemed to have been filed on the first day such requirements are met.

(d) *Abandoned claims.* A claim considered an abandoned claim pursuant to § 725.415 shall, if once again pursued by the same claimant at a later date, be considered filed for purposes of § 725.124 as of the date the claim which was abandoned was filed.

§ 725.126 When a written statement is considered a claim.

(a) *Written statement filed by claimant on his own behalf.* Where an individual files a written statement which indicates an intention to claim benefits and such statement bears his signature or his mark properly witnessed, the filing of such written statement shall be considered to be the filing of a claim for benefits, provided that:

(1) The claimant or a proper person on his behalf (see § 725.111) executes a prescribed claims form (see § 725.121) that is filed with the Office during the claimant's lifetime and within the period prescribed in paragraph (c)(1) of this section; or

(2) In the case of a claimant who dies prior to the filing of such prescribed claims forms within the period prescribed in paragraph (c)(1) of this section, a prescribed claims form is filed with the Office within the period prescribed in paragraph (c)(2) of this section by a person acting on behalf of the deceased claimant's estate.

(b) *Written statement filed by an individual on behalf of another.* A written statement filed by an individual which indicates an intention to claim benefits on behalf of another person shall, unless otherwise indicated thereon, be considered to be the filing of a claim for such purposes, provided that:

(1) The written statement bears the signature (or mark properly witnessed) of the individual filing the statement; and

(2) The individual filing the statement is the claimant on whose behalf the statement is being filed, or a proper person to execute a claim on behalf of the claimant; and

(3) A prescribed claims form (see § 725.121) is executed and filed in accordance with the provisions of paragraph (c)(1) of this section.

(c) *Period within which prescribed claims forms must be filed.* After the OWCP has received from an individual a written statement as described in paragraph (a) or (b) of this section:

(1) Notice in writing shall be sent to the claimant or to the individual who filed the written statement on his behalf, stating that an initial determination will be made with respect to such written statement if a prescribed claims form executed by the claimant or by a proper party on his behalf is filed with the OWCP within 6 months from the date of such notice; or

(2) If notice is received that the death of such claimant occurred before the mailing of the notice described in subparagraph (1) of this paragraph, or within the 6-month period following the mailing of such notice but before the filing of a prescribed claims form by or on behalf of such individual, notification in writing shall be sent a person acting on behalf of his estate, or to the deceased's last known address. Such notification will include information that an initial determination with respect to such written statement will be made only if a prescribed claims form is filed within 6 months from the date of such notification.

(3) If, after the notice as described in this paragraph (c) has been sent, a prescribed claims form is not filed (in accordance with the provisions of paragraph (a) or (b) of this section) within the applicable period prescribed in subparagraph (1) or (2) of this paragraph, it will be deemed that the filing of the written statement to which such notice refers is not to be considered the filing of a claim for the purposes set forth in paragraphs (a) and (b) of this section.

§ 725.127 Withdrawal of a claim.

(a) *Before adjudication of claim.* A claimant (or an individual who is authorized to execute a claim on his behalf under § 725.111), may withdraw his previously filed claim provided that:

(1) He files a written request for withdrawal;

(2) The claimant is alive at the time his request for withdrawal is filed;

(3) The OWCP approves the request for withdrawal; and

(4) The request for withdrawal is filed on or before the date the Office makes a determination on the claim.

(b) *After adjudication of claim.* A claim for benefits may be withdrawn by a written request filed after the date the OWCP makes a determination on the claim, provided that:

(1) The conditions enumerated in paragraphs (a) (1) through (3) of this section are met; and

(2) There is repayment of the amount of benefits previously paid because of the claim that is being withdrawn or it can be established to the satisfaction of the Office that repayment of any such amount is assured.

(c) *Effect of withdrawal of claim.* Where a request for withdrawal of a claim is filed and such request for withdrawal is approved by the Office, such claim will be deemed not to have been filed. After the withdrawal (where made before or after the date the Office makes a determination) further action will be taken by the Office only upon the filing of a new claim, except as provided in § 725.128.

§ 725.128 Cancellation of a request for withdrawal.

Before or after a written request for withdrawal has been approved by the Office, the claimant (or a person who is authorized under § 725.111 to execute a claim on his behalf) may request that the request for withdrawal be canceled and that the withdrawn claim be reinstated. Such request for cancellation must be in writing and must be filed, in a case where the requested withdrawal was approved by the Office, no later than 60 days after such approval. The claimant must be alive at the time the request for cancellation of the request for withdrawal is filed with the Office.

§ 725.129 Requests and notices to be in writing.

Any request for a determination or a decision relating to an individual's right to benefits, the withdrawal of a claim, the cancellation of a request for such withdrawal, or any notice provided for, by, or pursuant to this part, shall be in writing and shall be signed by the person authorized to execute a claim under § 725.111.

PREPARATION AND FILING OF CLAIM FOR ADJUDICATION

§ 725.131 Action to be taken by the OWCP—General.

(a) When a claim filed pursuant to the provisions of this Subpart B has been received by the OWCP it shall be examined together with the supporting evidence transmitted with respect thereto. The Office shall promptly take such further action as may be necessary to assure that sufficient information, medical evidence, employment history, and properly executed claims forms have been submitted and that the claim is complete and ready for adjudication.

(b) At such time as all information required has been completed, a case file including the claims forms and supporting documents shall be established and filed with a deputy commissioner, who shall take such further action as may be necessary for determination and disposition of the claim. (See § 725.135.) In the following sections the action to be taken in circumstances described therein is set forth in more detail.

§ 725.132 Development of evidence—General.

(a) *Employment history.* The claimant shall furnish a complete and detailed history of the miner's coal mine employment which is pertinent to the claimant's eligibility for benefits and to the liability of any coal mine operator for payment of the benefits.

(b) *Matters of record.* In appropriate cases it shall be necessary to develop evidence pertaining to or obtain proof of

age, marriage, or termination of marriage, death, relationship of parent and child, other relationship or dependence, or any other fact which may be proven as a matter of public record. (For substantive requirements as to relationship and dependency see Subpart C of this part.) Evidence pertaining to these matters shall be obtained by the claimant and submitted to an office of the OWCP. For purposes of claims under this part, the Office and the deputy commissioner may require this evidence to be submitted in such manner as would be acceptable for Social Security Act benefit applications under the regulations of the Social Security Administration (see § 410.240(g) of this title).

(c) *Documentary evidence.* In developing documentary evidence as to any matter, the "best evidence rule" shall be applicable. This rule requires that the original document or a certified copy thereof must be produced if available. Secondary evidence in this regard may only be used in those cases where the original document is unaccounted for and an adequate explanation is given as to why it cannot be produced.

(d) *Certification of evidentiary documents.* In cases where a copy of a record, document, or other evidence, or an excerpt of information therefrom, is acceptable as evidence in lieu of the original, such copy or excerpt shall, except as may otherwise clearly be indicated thereon, be certified as a true and exact copy or excerpt by the official custodian of any such record or by an employee of the Office authorized to make certifications of any such evidence.

(e) *Evidence of miner's death due to or while disabled by pneumoconiosis.* Any reliable and probative evidence shall be admissible as part of the case record if such evidence supports a claimant's allegation that the death of the miner on whose death a claim is predicated was due to pneumoconiosis or that such miner was totally disabled by pneumoconiosis at the time of his death.

(f) *Insufficient evidence of eligibility.* Whenever a claimant for benefits has submitted no evidence or insufficient evidence of eligibility, the Office will inform the claimant what evidence is necessary for a determination of eligibility and will request him to submit such evidence within a specified reasonable time which may be extended for a further reasonable time upon the claimant's request. The claimant's failure to submit such evidence as requested shall be a basis for determining that the conditions of eligibility concerning which such evidence was requested have not been met.

§ 725.133 Action to be taken by the OWCP—Miner's claim.

(a) Upon receipt of a completed medical report form CM–904, the Office shall tentatively determine whether the medical evidence of record indicates an impairment for which benefits may be paid as determined with reference to standards promulgated by the Secretary of Health, Education, and Welfare as Subpart D of Part 410 of this title (see Part 718 of this subchapter, which incorporates these standards).

(b) If it appears that the claimant may be considered disabled in accordance with the standards published in Subpart D of Part 410 of this title, then the claim shall be prepared for such further action by the deputy commissioner, as provided in § 725.135, as may be appropriate, including consideration of the receipt of any additional medical evidence developed and obtained pursuant to §725.137 or § 725.139 and the notification and reply of any possibly responsible operator as provided in §§ 725.151 and 725.152.

(c) In cases where the medical evidence received by the Office in respect to any claim does not indicate an impairment sufficient under such Department of Health, Education, and Welfare medical criteria (see Part 718 of this subchapter) to support a claim for benefits, the claimant will be advised of the deficiency in his claim and invited to submit any additional medical evidence. Any additional reasonably necessary medical evidence shall be secured at the Department's expense or at the expense of the operator or carrier as the case may be (see §§ 725.137, 725.139).

(d) In the event that the medical evidence received by the Office pursuant to this subpart does not provide credible support for the miner's claim for benefits, any further evidentiary investigations shall be discontinued until further notice.

(e) If a miner whose claim is not considered to be supported by the medical evidence of record desires a determination thereon of the issue of his disability under the standards set forth in Subpart D of Part 410 of this title, the claim will be made ready for action by the deputy commissioner and a hearing or informal conference may be arranged pursuant to Subpart E of this part.

§ 725.134 Action to be taken by the OWCP—widows' or dependent survivor's claim.

(a) Upon receipt of a completed claims form CM–903A or CM–903B, the Office shall tentatively determine whether the evidence of record indicates that the deceased miner's death was due to pneumoconiosis or that the miner was totally disabled by pneumoconiosis at the time of his death. Such determination shall be made with reference to the standards promulgated by the Secretary of Health, Education, and Welfare contained in Subpart D of Part 410 of this title (see Part 718 of this subchapter which incorporates these standards).

(b) The Office shall also determine whether the evidence of record supports the claimant's allegation that he meets the relationship and dependency requirements for eligibility contained in Subpart C of this Part 725.

(c) If it appears that the conditions existing when the miner's death occurred satisfy the medical standards and the relationship and dependency conditions referred to in paragraph (a) and (b) of this section, then the claim shall be prepared for such further action by the deputy commissioner, as provided in § 725.135, as may be appropriate, including consideration of the receipt of any additional evidence developed and obtained pursuant to § 725.132(c) and the notification and reply of any possibly responsible operator as provided in §§ 725.151 and 725.152.

(d) In cases where the medical evidence received by the Office in respect to any claim does not indicate that the circumstances of a miner's death are sufficient under such Department of Health, Education, and Welfare medical criteria (see Part 718 of this subchapter) to support a claim for benefits, the claimant will be advised of the deficiency in his claim and invited to submit any additional medical evidence. Any additional reasonably necessary medical evidence or other documentary evidence shall be secured at the Department's, or the operator's or carrier's expense as the case may be (see § 725.141).

(e) In the event that the evidence received by the Office pursuant to this subpart does not provide credible support for the survivor's claim for benefits, any further evidentiary investigations shall be discontinued until further notice.

(f) If a survivor whose claim is not considered to be supported by the evidence desires a determination thereon of the issues of the miner's death or the sufficiency of his relationship or dependency, the claim will be made ready for filing with the deputy commissioner and filed with him as provided in § 725.131. Thereafter a hearing or informal conference may be arranged pursuant to Subpart E of this part.

§ 725.135 Procedure on filing of claim with deputy commissioner.

The deputy commissioner shall, after the filing of a claim with him as provided in §§ 725.131, 725.133, or 725.134, review the case file and, if he is satisfied that the claim is one within the jurisdiction of the Secretary of Labor under section 422 of the Act, shall proceed to make a tentative determination of the identity of any responsible coal mine operator pursuant to the criteria set forth in Subpart D of this Part 725, insure that any such operator is notified as provided in § 725.151, and take any other action he deems necessary to prepare the claim for adjudication or other final disposition. The deputy commissioner may require such further development of evidence and may cause to be made such investigations as he considers necessary in respect to the claim, and take other action as authorized under Subpart E of this part, following, to the extent appropriate, the procedures provided in section 19 of the Longshoremen's and Harbor Workers' Compensation Act as amended (44 Stat. 1424, 33 U.S.C. 919, as amended by section 14 of Public Law 92–576).

§ 725.136 Referral to State agency.

If the deputy commissioner determines that the claim is one subject to adjudication by a State agency of a State having

a workmen's compensation law which provides black lung benefits and has been

determine the nature and extent of that miner's impairment, enter his findings on form CM–904 pursuant to the instruc-

(e) *Payment for examination.* The deputy commissioner shall have the power in his discretion to charge the cost

he should not generally incur any medical expense for which he intends to claim reimbursement without first contacting the office to determine what types of

by certified mail, with proof of delivery requested.

§ 725.152 Operator's response to notification.

(c) References in §§ 725.210(c), 725.220(c), 725.230(d), and 725.235, to the "same right to share in the intestate personal property" of a deceased miner (or

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a workmen's compensation law which provides black lung benefits and has been listed in Part 722 of this chapter as a law meeting the criteria of the Secretary of Labor prescribed pursuant to section 421 of Part C of Title IV of the Act, the deputy commissioner shall advise the claimant of such determination and of the Act's requirement that under such circumstances his claim for benefits must be filed under the applicable State workmen's compensation law. In such a case, evidence submitted to the OWCP in support of the claim including claims forms, will be forwarded to the appropriate State compensation agency. The claimant's case will then be closed.

§ 725.137 Medical evidence—notified operator.

(a) An operator who has been notified of his potential liability on a miner's claim pursuant to § 725.151 shall within 20 days of the receipt of such notice tender to the miner-claimant a list of physicians practicing in the vicinity of the miner's residence designated and approved by the Secretary to conduct examinations in connection with the black lung benefits program.

(b) The miner shall select a physician from such list and notify the office promptly of his selection.

(c) The deputy commissioner will promptly arrange for a medical examination to be conducted, after appropriate notification to the parties in interest, at a time and place convenient to both the miner and the approved physician and as soon as is practicable.

(d) The designated physician will complete an examination of the miner to determine the nature and extent of that miner's impairment, enter his findings on form CM–904 pursuant to the instructions on the form, and transmit the form within 20 days from the date of the examination to the office of the OWCP which is processing the claim.

(e) The bill for the physician's services shall be remitted to the operator or carrier allegedly liable for the payment of benefits in respect to the claim.

(f) Paragraphs (b), (c), (d), and (e) of § 725.139 shall apply with respect to examinations conducted pursuant to the provisions of this section.

§ 725.138 Medical evidence—no responsible operator.

(a) In cases of miners' claims where no responsible operator has been identified or notified the Office shall provide the miner-claimant with a list of previously designated and approved physicians from among whom the miner shall select a physician to examine him with respect to his black lung claim. The miner shall promptly notify the Office of his selection.

(b) The deputy commissioner will arrange for the examination to be conducted at a time and place convenient to both the miner and the approved physician and as soon as is practicable, after notice to the parties in interest.

(c) The designated physician will complete an examination of the miner to determine the nature and extent of that miner's impairment, enter his findings on form CM–904 pursuant to the instructions on the form and transmit the form together with the physician's bill for services directly to the office of the OWCP which is processing the claim.

(d) Proceedings shall be suspended and no benefits shall be payable for any period during which the miner may refuse to submit to examination.

§ 725.139 Additional medical evidence.

(a) *Report of examination by physician.* In the event that medical questions are raised at any time in any case of a miner's claim for benefits, the deputy commissioner may cause the claimant to be examined by a physician employed or selected by the office and may obtain from such physician a report containing his estimate of the miner's disability and such information as may be appropriate. Any party in interest (see § 725.403) who is dissatisfied with such report may request a review or reexamination of the miner by one or more different physicians employed or selected by the Secretary. The deputy commissioner shall order such review or reexamination unless he finds that it is clearly unwarranted. Such review or reexamination shall be completed within 2 weeks from the date ordered unless the deputy commissioner finds that because of extraordinary circumstances a longer period is required.

(b) *Conduct of examination.* No other physician selected by the operator, his insurance carrier, or the miner shall be present at or participate in any manner in such examination, nor shall conclusions of such physicians as to the nature or extent of impairment or the cause of impairment be available to the examining physician unless otherwise ordered, for good cause, by the deputy commissioner. Such operator or carrier shall, upon request, be entitled to have the miner examined immediately thereafter and upon the same premises by a qualified physician or physicians in the presence of such physician as the miner may select, if any.

(c) *Submittal to examination at place designated.* The miner shall submit to a physical examination under paragraph (a) of this chapter at such place as the deputy commissioner may require. The place, or places, shall be designated by the deputy commissioner and shall be reasonably convenient for the miner. Proceedings shall be suspended and no benefits shall be payable for any period during which the miner may refuse to submit to examination.

(d) *Examination by disinterested physician.* Unless the parties in interest agree the Office shall not employ or select any physician for the purpose of making examinations or reviews under paragraph (a) of this section who, during such employment, or during the period of 2 years prior to such employment, has been employed by, or accepted or participated in any fee relating to a workmen's compensation claim from any insurance carrier or any self-insurer.

(e) *Payment for examination.* The deputy commissioner shall have the power in his discretion to charge the cost of examination or review under this section to the notified operator, if he is a self-insurer, or to the operator's insurance carrier, or if there is no responsible operator, to the Office.

§ 725.140 Fees for medical services.

(a) All fees and other charges for medical examinations, treatment or service shall be limited to such charges as prevail in the same community for such treatment.

(b) Any complaint concerning a physician's fee shall be directed to the Office of Workmen's Compensation Programs in Washington, D.C.

(c) The office shall investigate the complaint or may on its own initiative investigate a fee and where appropriate inform a physician that his fee is in excess of the permissible amount for the services performed. The physician may then adjust his fee to within the permissible limits or contest the determination of the office. In the event that the fee is contested, a physician may request a hearing pursuant to subpart E of this part.

(d) Any physician who refuses to obey a final decision and order concerning his fee or refuses to adjust his fee pursuant to paragraph (c) of this section within 30 days from the date he is notified that his fee is in excess of a permissible amount, shall forthwith be removed from the Secretary's list of approved physicians and shall not otherwise be authorized to conduct black lung examinations or treatments. No subsequent treatments or examinations conducted by a physician barred under this section shall be reimbursable medical expenses pursuant to § 725.141 and no debarred physician shall be reinstated on the Secretary's list until such time as the physician affirmatively demonstrates that he shall adjust his fees to within permissible levels.

§ 725.141 Reimbursement for reasonable expenses in obtaining medical evidence.

(a) Claimants for benefits under this part shall be reimbursed promptly by the Office of Workmen's Compensation programs or the responsible operator or his insurance carrier for reasonable medical expenses incurred by them for services from medical sources of their choice in establishing their claims, including the reasonable and necessary cost of travel incident thereto. A medical expense generally is not "reasonable" when the medical evidence for which the expense was incurred is of no value in the adjudication of a claim. Medical evidence will be considered to be of "no value" when, for instance, it is wholly duplicative or when it is wholly extraneous to the medical issue of whether the claimant is disabled or, in the case of death claims, whether the miner's death occurred due to pneumoconiosis or while totally disabled therefrom. In order to minimize inconvenience and expense to the claimant,

he should not generally incur any medical expense for which he intends to claim reimbursement without first contacting the office to determine what types of evidence not already available may be useful in adjudicating his claim, what types of medical evidence may be reimbursable, and what would constitute a "reasonable medical expense" in a given case. However, a claimant's failure to contact the office before the expense is incurred will not preclude the office from later approving reimbursement for any reasonable medical expense. Where a reasonable expense for medical evidence is ascertained, the office in appropriate cases may authorize direct payment to the provider of such evidence.

(b) Medical services required for the processing of claims and those to which a miner-beneficiary is entitled under the Act shall be considered "benefits" provided by the Act and the failure to reimburse a claimant for his medical expenses within the specified time period shall subject an operator or carrier to the additional benefits provisions of §§ 725.333—725.334.

NOTIFICATION OF OPERATORS

§ 725.151 Notice of claim and issue of liability.

(a) Before a claim for benefits under Title IV of the Act is filed with a deputy commissioner for determination, the Office will have ascertained, to the extent possible, the identity of any coal mine operators whose liability as responsible operators for payment of benefits to the claimant for any month or months after December 31, 1973 may be established by the evidence submitted or obtained in connection with the claim. From the information in the case file the deputy commissioner will then make his tentative determination as to whether there are any such operators and, if there are, which operator or operators should be alleged to have such liability. (See §§ 725.131, 725.135.) Each such operator will promptly thereafter be notified of the pending claim filed with the deputy commissioner and of the fact that his liability for payment of such benefits will be one of the issues to be resolved in the determination of the claim. Such notification will include copies of the claimant's completed claim form and of the pertinent medical evaluation reports, with a cover letter informing the operator of the nature of the evidence relied on by the Office to support, prima facie, a determination that the operator is liable for payment of benefits to the claimant. Also included if the claimant is a miner will be a list of approved physicians for transmittal by the operator to the miner-claimant as provided in § 725.137. The notification shall advise the operator that a response to the notice as provided in § 725.152 shall be made as soon as possible and that in the event of a failure to respond within 20 days from the date of mailing of the notice the Office will proceed to the final determination of the claim.

(b) The notification described in paragraph (a) of this section shall be made by certified mail, with proof of delivery requested.

§ 725.152 Operator's response to notification.

(a) Within the 20-day period described in § 725.151 a notified coal mine operator shall respond to the notice as provided in the following paragraphs.

(b) If the operator does not contest the claim or his liability under the Act for payment of benefits to which the claimant may be found entitled for any month or months after December 31, 1973, he shall so state either:

(1) By letter mailed to the Office of Workmen's Compensation Programs, U.S. Department of Labor, Washington, D.C. 20211; or

(2) By completing and mailing form CM–902 (Employer's First Report and Answer to Claim for Benefits) to such address.

(c) If the notified operator contests the claim or his liability for payment of benefits to the claimant for any period after December 31, 1973, he shall so state by transmitting to the Office a completed form CM–902 setting forth generally his reasons for controverting the claim or his liability to pay benefits that may be awarded, together with a detailed description of any evidence relied upon as a basis for such contest.

FURTHER ACTION ON CLAIM

§ 725.161 Proceedings for determination of claim.

(a) *No responsible operator.* If after the deputy commissioner has received all the evidence developed with respect to a claim as provided in this subpart and there is no identifiable responsible operator, he shall proceed to a final determination of the claim pursuant to Subpart E of this Part 725.

(b) *Claim for which operator may have liability.* If after the deputy commissioner has received all the evidence developed with respect to a claim as provided in this subpart and has identified and notified an operator or operators who may be liable for payment of benefits to the claimant, a response has been received pursuant to § 725.152 or the time for such response has expired, he shall proceed to a final determination of the claim as provided in Subparts D and E of this Part 725.

Subpart C—Relationship and Dependency

§ 725.200 Relationship and dependency; general.

(a) In order to establish entitlement to benefits, a widow, child, parent, brother, or sister, must meet relationship and dependency requirements with respect to the miner or widow, as applicable, prescribed by or pursuant to the Act.

(b) In order for an entitled miner or widow to qualify for augmented benefits because of one or more dependents, such dependents must meet relationship and dependency requirements with respect to such beneficiary prescribed by or pursuant to the Act.

(c) References in §§ 725.210(c), 725.220(c), 725.230(d), and 725.235, to the "same right to share in the intestate personal property" of a deceased miner (or widow), refer to the right of an individual to share in such distribution in his own right and not by right or representation.

§ 725.210 Determination of relationship; wife.

An individual will be considered to be the wife of a miner if:

(a) The courts of the State in which such miner is domiciled would find that such individual and the miner were validly married; or

(b) The courts of the State in which such miner is domiciled would find, under the law they would apply in determining the devolution of the miner's intestate personal property, that the individual is the miner's wife; or

(c) Under State law, such individual has the same right she would have if she were the wife to share in the miner's intestate personal property; or

(d)(1) Such individual went through a marriage ceremony with the miner resulting in a purported marriage between them and which, but for a legal impediment would have been a valid marriage. However, such purported marriage shall not be considered a valid marriage if such individual entered into the purported marriage with knowledge that it was not a valid marriage, or if such individual and the miner were not living in the same household in the month in which there is filed a request that the miner's benefits be augmented because such individual qualifies as his wife. The provisions of this paragraph shall not apply, however, if the miner's benefits are or have been augmented under § 725.507 because another person qualifies or has qualified as his wife and such other person is, or is considered to be, the wife of such miner under paragraph (a), (b), or (c) of this section at the time such request is filed.

(2) The qualification for augmentation purposes of an individual who would not be considered to be the wife of such miner but for this paragraph (d), shall end with the month before the month in which (i) the Office determines that the benefits of the miner should be augmented on account of another person, if such other person is (or is considered to be) the wife of such miner under paragraph (a), (b), or (c) of this section, or (ii) if the individual who previously qualified as a wife for purposes of § 725.625(c), entered into a marriage valid without regard to this paragraph, with a person other than such miner.

§ 725.215 Determination of relationship; divorced wife.

An individual will be considered to be the divorced wife of a miner if her marriage to such miner has been terminated by a final divorce on or after the 20th anniversary of the marriage: *Provided*, That if she was married to and divorced from him more than once, she was married to him in each calendar year of the period beginning 20 years immediately

before the date on which any divorce became final and ending with the year in which that divorce became final.

(b) Such individual is the legally adopted child of such beneficiary; or

(c) Such individual is the stepchild of

(a) She is a member of the same household as the miner (see § 725.285); or

(ii) Occurs in line of duty while he is a member of a uniformed service serving on active duty (as defined in § 404.-

230) will, as applicable, be determined to be, or to have been dependent on the beneficiary, if the child:

(1) Is unmarried; and

(ii) During the periods of reasonable duration during which, in the judgment of the office, he is prevented by factors beyond his control from pursuing his

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before the date on which any divorce became final and ending with the year in which that divorce became final.

§ 725.220 Determination of relationship: widow.

An individual will be considered to be the widow of a miner if:

(a) The courts of the State in which such miner was domiciled (see § 725.280) at the time of his death would find that the individual and the miner were validly married; or

(b) The courts of the State in which such a miner was domiciled (see § 725.280) at the time of his death would find, under the law they would apply in determining the devolution of the miner's intestate personal property, that the individual was the miner's widow; or

(c) Under State law, such individual has the same right she would have as if she were the miner's widow to share in the miner's intestate personal property; or

(d) Such individual went through a marriage ceremony with the miner resulting in a purported marriage between them and which, but for a legal impediment (see § 725.275) would have been valid marriage. However, such purported marriage shall not be considered a valid marriage if such individual entered into the purported marriage with knowledge that it was not a valid marriage, or if such individual and the miner were not living in the same household at the time of the miner's death. The provisions of this paragraph shall not apply if another person is or has been entitled to benefits as the widow of the miner and such other person is, or is considered to be, the widow of such miner under paragraph (a), (b), or (c) of this section at the time such individual files her claim for benefits.

§ 725.225 Determination of relationship: surviving divorced wife.

An individual will be considered to be the surviving divorced wife of a deceased miner if her marriage to such miner had been terminated by a final divorce on or after the 20th anniversary of the marriage: *Provided*, That, if she was married to and divorced from him more than once, she was married to him in each calendar year of the period beginning 20 years immediately before the date on which any divorce became final and ending with the year in which the divorce became final.

§ 725.230 Determination of relationship: child.

As used in this section, the term "beneficiary" means only a widow entitled to benefits at the time of her death (see § 715.207 of this chapter), or a miner, except where there is a specific reference to the "father" only, in which case it means only a miner. An individual will be considered to be the child of a beneficiary if:

(a) The courts of the State in which such beneficiary is domiciled (see § 725.280) would find, under the law they would apply in determining the devolution of the beneficiary's intestate personal property, that the individual is the beneficiary's child; or

(b) Such individual is the legally adopted child of such beneficiary; or

(c) Such individual is the stepchild of such beneficiary by reason of a valid marriage of his parent or adopting parent to such beneficiary; or

(d) Such individual does not bear the relationship of child to such beneficiary under paragraph (a), (b), or (c) of this section, but would, under State law, have the same right as a child to share in the beneficiary's intestate personal property; or

(e) Such individual is the natural son or daughter of a beneficiary but does not bear the relationship of child to such beneficiary under paragraph (a), (b), or (c) of this section, and is not considered to be the child of the beneficiary under paragraph (d) of this section, such individual shall nevertheless be considered to be the child of such beneficiary if the beneficiary and the mother or the father, as the case may be if such individual went through a marriage ceremony resulting in a purported marriage between them which but for a legal impediment (see § 725.275) would have been a valid marriage.

(f) Such individual is the natural son or daughter of a beneficiary but does not have the relationship of child to such beneficiary under paragraph (a), (b), or (c) of this section, and is not considered to be the child of the beneficiary under paragraph (d) or (e) of this section, such individual shall nevertheless be considered to be the child of such beneficiary if:

(1) Such beneficiary, prior to his entitlement to benefits has acknowledged in writing that the individual is his son or daughter, or has been decreed by a court to be the father of the individual, or he has been ordered by a court to contribute to the support of the individual (see § 725.290(c)) because the individual is his son or daughter; or

(2) Such beneficiary is shown by satisfactory evidence to be the father of the individual and was living with or contributing to the support of the individual at the time such beneficiary became entitled to benefits.

§ 725.235 Determination of relationship: parent, brother, or sister.

An individual will be considered to be the parent, brother, or sister of a miner if the courts of the State in which such miner was domiciled (see § 725.280) at the time of his death would find, under the law they would apply in determining the devolution of the miner's intestate personal property, that the individual is the miner's parent, brother, or sister. Where, under such law, the individual does not bear the relationship to the miner of parent, brother, or sister, but would, under State law, have the same status (i.e., right to share in the miner's intestate personal property) as a parent, brother, or sister, the individual will be deemed to be such.

§ 725.240 Determination of dependency; wife.

An individual who is the miner's wife (see § 725.210) will be determined to be dependent upon the miner if:

(a) She is a member of the same household as the miner (see § 725.285); or

(b) She is receiving regular contributions from the miner for her support (see § 725.290(c)); or

(c) The miner has been ordered by a court to contribute to her support (see § 725.290(e)); or

(d) She is the natural mother of the son or daughter of the miner; or

(e) She was married to the miner (see § 725.210) for a period of not less than 1 year.

§ 725.245 Determination of dependency; divorced wife.

An individual who is the miner's divorced wife (see § 725.215) will be determined to be dependent upon the miner if:

(a) She is receiving at least one-half of her support from the miner (see § 725.290(g)); or

(b) She is receiving substantial contributions from the miner pursuant to a written agreement (see § 725.290(c), (f)); or

(c) There is in effect a court order for substantial contributions to her support to be furnished by such miner (see § 725.290(c)).

§ 725.250 Determination of dependency; widow.

An individual who is the miner's widow (see § 725.220) will be determined to have been dependent on the miner if, at the time of the miner's death:

(a) She was living with the miner (see § 725.285); or

(b) She was dependent upon the miner for support or the miner has been ordered by a court to contribute to her support (see § 725.290); or

(c) She was living apart from the miner because of his desertion or other reasonable cause; or

(d) She is the natural mother of his son or daughter; or

(e) She had legally adopted his son or daughter while she was married to him and while such son or daughter was under the age of 18; or

(f) He had legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of 18; or

(g) She was married to him at the time both of them legally adopted a child under the age of 18; or

(h) She was married to him for a period of not less than 9 months immediately prior to the day on which he died (but see paragraph (i) of this section).

(i) Waiver of 9-month requirement.

(1) *General.* Except as provided in paragraph (g) of this section, the requirement in paragraph (h) of this section that the surviving spouse of a miner must have been married to him for a period of not less than 9 months immediately prior to the day on which he died in order to qualify as such miner's widow, shall be deemed to be satisfied where such miner dies within the applicable 9-month period, is his death:

(i) Is accidental (as defined in subparagraph (2)) of this paragraph, or

(ii) Occurs in line of duty while he is a member of a uniformed service serving on active duty (as defined in § 404.1013(f) (2) and (3) of this title), and such surviving spouse was married to such miner for a period of not less than 3 months immediately prior to the day on which he died.

(2) *Accidental death.* For purposes of subparagraph (1)(i) of this paragraph, the death of a miner is accidental if such individual receives bodily injuries solely through violent, external, and accidental means, and as a direct result of the bodily injuries and independently of all other causes, loses his life not later than 3 months after the day on which he receives such bodily injuries. The term "accident" means an event that was unpremediated and unforeseen from the standpoint of the deceased individual. To determine whether the death of an individual did, in fact, result from an accident the Office will consider all the circumstances surrounding the casualty. An intentional and voluntary suicide will not be considered to be death by accident; however, suicide by an individual who is so insane as to be incapable of acting intentionally and voluntarily will be considered to be death by accident. In no event will the death of an individual resulting from violent and external causes be considered a suicide unless there is direct proof that the fatal injury was self-inflicted.

(3) *Applicability.* The provisions of this section shall not apply if the Office determines that at the time of the marriage involved, the miner would not reasonably have been expected to live for 9 months.

§ 725.255 Determination of dependency; surviving divorced wife.

An individual who is the miner's surviving divorced wife (see § 725.225) will be determined to have been dependent on the miner if, for the month preceding the month in which the miner died:

(a) She was receiving at least one-half of her support from the miner (see § 725.290(g)); or

(b) She was receiving substantial contributions from the miner pursuant to a written agreement (see § 725.290(c), (f)); or

(c) There was in effect a court order for substantial contributions to her support to be furnished by such waiver (see § 725.290(c), (f)).

§ 725.260 Determination of dependency; child.

(a) For purposes of augmenting the benefits of a miner or widow (see § 725.625(c)), the term "beneficiary" as used in this section means only a miner or widow entitled to benefits (see §§ 725.205, 715.207); or, for purposes of an individual's entitlement to benefits as a surviving child (see § 715.211 of this chapter), the term "beneficiary" as used in this section means only a deceased miner or a deceased widow who was entitled to benefits for the month prior to the month of her death. An individual who is the beneficiary's child (see § 725.230) will, as applicable, be determined to be, or to have been dependent on the beneficiary, if the child:

(1) Is unmarried; and

(2) (i) Is under 18 years of age; or

(ii) Is 18 years of age or older and is under a disability as defined in section 223(d) of the Social Security Act, 42 U.S.C. 423(d). For purposes of entitlement to benefits as a surviving child (see § 715.211), such disability must have begun before the child attained age 18, or, in the case of a student, before he ceased to be a student (see paragraph (b) of this section).

(iii) Is 18 years of age or older and is a student.

(b)(1) The term "student" means a "full-time student" as defined in section 202(d)(7) of the Social Security Act, 42 U.S.C. 402(d)(7), (see § 404.320(c) of this title) or an individual under 23 years of age who has not completed 4 years of education beyond the high school level and who is regularly pursuing a full-time course of study or training at an institution which is:

(i) A school, college, or university operated or directly supported by the United States, or by a State or local government or political subdivision thereof; or

(ii) A school, college, or university which has been accredited by a State or by a State-recognized or nationally-recognized accrediting agency or body; or

(iii) A school, college, or university not so accredited but whose credits are accepted, on transfer, by at least three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited; or

(iv) A technical, trade, vocational, business, or professional school accredited or licensed by the Federal or a State government or any political subdivision thereof, providing courses of not less than 3 months duration that prepare the student for a livelihood in a trade, industry, vocation, or profession.

(2) A student will be considered to be "pursuing a full-time course of study or training at an institution" if he is enrolled in a noncorrespondence course and carrying a subject load which is considered full-time for day students under the institution's standards and practices. However, a student will not be considered to be "pursuing a full-time course of study or training" if he is enrolled in a course of study or training of less than 13 school weeks' duration. A student beginning or ending a full-time course of study or training in part of any month will be considered to be pursuing such course for the entire month.

(3) A child is deemed not to have ceased to be a student:

(i) During any interim between school years, if the interim does not exceed 4 months and he shows to the satisfaction of the office that he has a bona fide intention of continuing to pursue a full-time course of study or training during the semester or other enrollment period immediately after the interim; or

(ii) During the periods of reasonable duration during which, in the judgment of the office, he is prevented by factors beyond his control from pursuing his education.

(4) A student whose 23d birthday occurs during a semester or other enrollment period in which he is pursuing a full-time course of study or training shall continue to be considered a student for as long as he otherwise qualifies under this section until the end of such period.

§ 725.265 Determination of dependency; parent, brother, or sister.

An individual who is the miner's parent, brother, or sister will be determined to have been dependent on the miner if, during the 1-year period immediately prior to such miner's death:

(a) Such individual and the miner were living in the same household (see § 725.285); and

(b) Such individual was totally dependent on the miner for support (see § 725.290(h)).

§ 725.270 Time of determinations.

(a) *Relationship and dependency of wife or child.* With respect to the wife or child of a miner entitled to benefits, and with respect to the child of a widow entitlement to benefits, the determination as to whether an individual purporting to be a wife or child is related to or dependent upon such miner or widow shall be based on the facts and circumstances with respect to the period of time as to which such issue of relationship or dependency is material.

(b) *Relationship and dependency of widow.* The determination as to whether an individual purporting to be the widow of a miner was related to or dependent upon such miner is made after such individual effectively files a claim for benefits as a widow. Such determination is based on the facts and circumstances with respect to the time of the miner's death. A prior determination to be, or not to be, the wife of such miner, pursuant to §§ 725.210 and 725.240, for purposes of augmenting the miner's benefits for a certain period, is not determinative of the issue of whether the individual is the widow of such miner or of whether she was dependent on such miner.

(c) *Relationship and dependency of surviving divorced wife.* The determination as to whether an individual purporting to be a surviving divorced wife of a miner was related to or dependent upon such miner is made when such individual effectively files a claim for benefits as a surviving divorced wife. Such determination is made with respect to the time of the miner's death. A prior determination that such individual was, or was not, the divorced wife of such miner, pursuant to §§ 725.215 and 725.245, for purposes of augmenting the miner's benefits for a certain period, is not determinative of the issue of whether the individual is the surviving divorced wife of such miner or of whether she was dependent on such miner.

§ 725.275 Legal impediment.

For purposes of this subpart C, "legal

(3) In any other case, if the evidence establishes that despite such absence they nevertheless reasonably expected to

may have therein. However, when a wife receives and uses for her support, income from the services and the property

for pneumoconiosis. Reference should also be made to Part 726 of this chapter, which sets forth insurance requirements for securing the payment of black lung

(a) *Periods of employment.* From the evidence presented of the miner's employment history, the identity of the coal mine operator or operators with whom

shall so notify the operator. This procedure shall be known as "benefits payable without a final decision and order."

(c) If a notified operator does not re-

§ 725.273 **Legal impediment.**

For purposes of this subpart C, "legal impediment" means an impediment resulting from the lack of dissolution of a previous marriage or otherwise arising out of such previous marriage or its dissolution, or resulting from a defect in the procedure followed in connection with the purported marriage ceremony—for example, the solemnization of a marriage only through a religious ceremony in a country which requires a civil ceremony for a valid marriage.

§ 725.280 Domicile.

(a) For purposes of this subpart C, the term "domicile" means the place of an individual's true, fixed, and permanent home to which, whenever he is absent, he has the intention of returning.

(b) The domicile of a deceased miner or widow is determined as of the time of his or her death.

(c) The domicile or a change in domicile of a beneficiary or other individual is determined with respect to the period or periods of time as to which the issue of domicile is material.

(d) If an individual was not domiciled in any State at the pertinent time, the law of the District of Columbia is applied as if such individual were then domiciled there.

§ 725.285 Member of the same household; "living with"; "living in the same household"; and "living in the miner's household."

(a) *Defined.* (1) The term "member of the same household" as used in section 402(a)(2) of the Act (with respect to a wife); the term "living with" as used in section 402(e) of the Act (with respect to a widow); and the term "living in the same household" as used in §§ 725.210(d) and 725.250(d) of this subpart, means that a husband and wife were customarily living together as husband and wife in the same place of abode.

(2) The term "living in the miner's household" as used in section 412(a)(5) of the Act (with respect to a parent, brother, or sister), means that the miner and such parent, brother, or sister were sharing the same residence.

(b) *Temporary absence.* The temporary absence from the same residence of either the miner, or his wife, parent, brother, or sister (as the case may be), does not preclude a finding that one was "living with" the other, or that they were "members of the same household", etc. The absence of one such individual from the residence in which both had customarily lived shall, in the absence of evidence to the contrary, be considered temporary:

(1) If such absence was due to service in the Armed Forces of the United States; or

(2) If the period of absence from his or her residence did not exceed 6 months, and neither individual was outside the United States, and the absence was due to business or employment reasons, or because of confinement in a penal institution or in a hospital, nursing home, or other curative institution; or

(3) In any other case, if the evidence establishes that despite such absence they nevertheless reasonably expected to resume physically living together at some time in the reasonably near future.

(c) *Death during absence.* Where the death of one of the parties occurred while away from the residence for treatment or care of an illness or an injury (e.g., in a hospital), the fact that the death was foreseen as possible or probable does not, in and of itself, preclude a finding that the parties were "living with" one another or were "member(s) of the same household", etc., at the time of death.

(d) *Absences other than temporary.* In situations other than those described in paragraphs (b) and (c) of this section, the absence shall not be considered temporary, and the parties may not be found to be "living with" one another or to be "member(s) of the same household, etc." A finding of temporary absence would not be justified where one of the parties was committed to a penal institution for life or for a period exceeding the reasonable life expectancy of either, or was under a sentence of death; or where the parties had ceased to live in the same place of abode because of marital or family difficulties and had not resumed living together before death.

(e) *Relevant period of time.* (1) The determination as to whether a widow had been "living with" her husband shall be based upon the facts and circumstances as of the time of death of the miner.

(2) The determination as to whether a wife is a "member of the same household" as her husband shall be based upon the facts and circumstances with respect to the period or periods of time as to which the issue of membership in the same household is material.

(3) The determination as to whether a parent, brother, or sister was "living in the miner's household" shall take account only of the 1 year period immediately prior to the miner's death.

§ 725.290 **Contribution and support.**

(a) *"Support" defined.* The term "support" includes food, shelter, clothing, ordinary medical expenses, and other ordinary and customary items for the maintenance of the person supported.

(b) *"Contributions" defined.* The term "contributions" refers to contributions actually provided by the contributor from his own property, or the use thereof, or by the use of his own credit.

(c) *"Regular contributions" and "substantial contributions" defined.* The terms "regular contributions" and "substantial contributions" mean contributions that are customary and sufficient to constitute a material factor in the cost of the individual's support.

(d) *Contributions and community property.* When a wife receives and uses for her support, income from her services or property and such income, under applicable State law, is the community property of herself and the miner, no part of such income is a "contribution" by the miner to his wife's support regardless of any legal interest the miner may have therein. However, when a wife receives and uses for her support, income from the services and the property of the miner and, under applicable State law, such income is community property, all of such income is considered to be a contribution by the miner to his wife's support.

(e) *"Court order for support" defined.* References to support orders in §§ 725.230(f)(1), 725.240(c), and 725.250(b) mean any court order, judgment, or decree of a court of competent jurisdiction which requires regular contributions that are a material factor in the cost of the individual's support and which is in effect at the applicable time. If such contributions are required by a court order, this condition is met whether or not the contributions were actually made.

(f) *"Written agreement" defined.* The term "written agreement" in the phrase "substantial contributions * * * pursuant to a written agreement" (see §§ 725.245(b), 725.255(b)) means an agreement signed by the miner providing for substantial contributions by him for the individual's support. It must be in effect at the applicable time but it need not be legally enforceable.

(g) *"One-half support" defined.* The term "one-half support" means that the miner made regular contributions in cash or in kind, to the support of a divorced wife (see § 725.245(a)), or of a surviving divorced wife (see § 725.255(a)), at the specified time or for the specified period, and that the amount of such contributions equalled or exceeded one-half the total cost of such individual's support at such time or during such period.

(h) *"Totally dependent for support" defined.* The term "totally dependent on the miner for support" as used in § 725.265(b), means that such miner made regular contributions to the support of his parent, brother, or sister, as the case may be, and that the amount of such contributions at least equalled the total cost of such individual's support.

Subpart D—Responsible Coal Mine Operators

General Provisions

§ 725.301 **Scope and policy.**

(a) In enacting the Coal Mine Health and Safety Act of 1969, as amended by the Black Lung Benefits Act of 1972 ("the Act" as used in this part means such Act as amended), Congress sought to transfer the responsibility for the payment of black lung benefits, to the greatest extent possible, from the Federal Government to the coal mine operators as of January 1, 1974. It is the policy of the Department of Labor to implement and execute in this part this congressional intent as fully and fairly as is practicable.

(b) The provisions of this subpart D apply to coal mine operators in States whose workmen's compensation laws have not been listed by the Secretary in Part 722 of this chapter, pursuant to section 421 of Title IV of the Act and such Part 722, as providing adequate coverage

for pneumoconiosis. Reference should also be made to Part 726 of this chapter, which sets forth insurance requirements for securing the payment of black lung benefits under the Act which are applicable to every coal mine operator in any State not listed in Part 722 of this chapter.

(c) The rules in this Subpart D prescribe the manner in which the identity of a responsible operator will be determined, the extent of any responsible operator's liability for the payment of pneumoconiosis benefits in any particular case, and the nature and extent of such coal operators' duties and responsibilities as prescribed in Part C of Title IV of the Act. Included in the latter are those duties and responsibilities incorporated by reference in section 422 of Part C of the Act to certain specific provisions of the Longshoremen's and Harbor Workers' Compensation Act as amended (44 Stat. 1424, 33 U.S.C. 901 as amended by Public Law 92–576, effective November 26, 1972).

§ 725.302 **Responsible operator defined.**

A "responsible operator", within the meaning of this subchapter, is a coal mine operator who, (a) under the provisions of section 422 or section 415 of Title IV of the Federal Coal Mine Health and Safety Act, as amended, and of this subchapter is liable for the payment of benefits for any month or months after December, 1973 to any individual entitled thereto under the Act on account of death or disability of a coal miner, due to pneumoconiosis arising at least in part out of his employment in a mine during a period when it was operated by such operator, or (b) is liable for payment of such benefits as provided in § 725.303.

§ 725.303 **Prior operator, successor operator.**

(a) In accordance with section 422(i) of the Act, any coal mine operator who, after December 30, 1969, acquired his mine or substantially all the assets of his mine from a prior operator who was an operator of that mine on or after December 30, 1969, shall be liable for and shall, in accordance with section 423 of the Act and Part 726 of this subchapter, secure the payment of all benefits which would have been payable by the prior operator with respect to miners previously employed in that mine if the acquisition had not occurred and the prior operator had continued to operate the mine.

(b) Paragraph (a) of this section notwithstanding, any prior operator may, under appropriate circumstances and in accordance with the requirements of due process of law and considerations of fairness and equity, be held liable for the payment of all benefits awarded pursuant to the Act.

Determining Responsible Operator

§ 725.311 **Criteria for identifying a responsible operator.**

The following criteria shall apply in determining the identity of the responsible operator:

(a) *Periods of employment.* From the evidence presented of the miner's employment history, the identity of the coal mine operator or operators with whom the miner had the most recent periods of cumulative employment of not less than 1 year and the beginning and ending dates of such periods shall be ascertained.

(b) *Financial responsibility of operators.* The financial responsibility of the operators identified pursuant to paragraph (a) shall be determined, if in question, as provided in § 725.303.

(c) *Determination of responsible operator.* From the foregoing information the responsible operator shall be determined as follows:

(1) The operator with whom the miner had the latest period of cumulative employment of not less than 1 year shall, if financially responsible, be deemed to be the responsible operator.

(2) If such operator is not financially responsible, then the responsible operator shall be deemed to be the financially responsible operator with whom the miner had the latest period of cumulative employment of not less than 1 year.

(3) In the event that a coal mine operator is determined to be a "responsible operator" pursuant to the provisions of subparagraph (1) or (2) of this paragraph (c), there shall be a presumption that the miner's work-related pneumoconiosis arose in whole or in part sufficiently to occasion liability, out of his employment with such operator during the period or periods when he was employed in a mine or mines operated by such operator. The responsible operator as so determined shall accordingly be liable for payment and securing of benefits awarded to the claimant on account of the disability or death of the miner who was so employed.

§ 725.312 **Procedure for determination of operator's liability.**

(a) At any time after a mine operator notified pursuant to § 725.151 has responded to the allegations of his liability pursuant to § 725.152 the deputy commissioner with whom the case has been filed may proceed with the determination of the claimant's entitlement to benefits and the operator's liability for payment The deputy commissioner may order a prehearing conference to be held, at a time and place convenient to all parties, or he may refer the case to the Chief Administrative Law Judge for a formal hearing before an administrative law judge when it appears that resolution of all issues necessary to a determination of entitlement to benefits or liability of an operator cannot be accomplished without such a hearing. The particulars describing the organization and conduct of both the prehearing conference and the formal hearing are described fully in Subpart E of this part.

(b) In the event that the operator does not contest his liability he shall be deemed the responsible operator and the deputy commissioner if he determines the claimant is entitled to benefits, shall without further proceedings order the payment by the operator of such benefits to commence as of a specified date, and shall so notify the operator. This procedure shall be known as "benefits payable without a final decision and order."

(c) If a notified operator does not respond within the 20-day period described in § 725.151 the deputy commissioner shall proceed to the determination of the claim. In such a case a prehearing conference may be scheduled pursuant to Subpart E of this part. The alleged responsible operator will be given at least 10-days notice by certified mail of the prehearing conference, and advised by such notice that if he or his representative does not appear at the conference and at that time contest his liability, he will be deemed to have waived his right to a hearing and an order may be issued requiring such operator to pay any benefits to which the claimant may be found to be entitled upon determination of the claim. If no appearance is made at the conference by such operator, the deputy commissioner may order payment as provided in paragraph (b) of this section.

(d) If at any time after the running of the 20-day period described in § 725.151 but prior to the issuance of a final decision and order, an allegedly responsible operator seeks to be heard, that operator may be required to complete and transmit a Form CM–902 to the Office.

(e) No operator may be bound by any determination as to his liability to pay benefits to any claimant unless he has been properly notified of the proceedings therefor and offered an opportunity to participate. An operator may be permitted to intervene without prejudice in the proceedings at any time prior to final adjudication of his alleged liability to pay benefits, but a final determination of a claimant's entitlement to benefits will not be reopened at the instance of any operator who did not avail himself of an opportunity to controvert such entitlement provided by a timely notice of the determination proceeding.

§ 725.313 **Operator's medical evidence.**

(a) Any operator who is dissatisfied with the medical record compiled by the Office in respect to a particular case may make a timely request for a review or reexamination of a miner by one or more different physicians employed or selected by the Office. Such review or reexamination shall be ordered and conducted subject to the provisions of § 725.139 of this part, unless it is found to be clearly unwarranted.

(b) In the event that any claimant refuses to submit to a medical examination ordered under this section, the deputy commissioner shall be promptly notified. The deputy commissioner shall forthwith notify the claimant that no further action on his claim may be had until such claimant is in compliance with the order for the examination.

§ 725.314 **Determination of operator's liability in formal hearing.**

(a) If, as provided in § 725.312, or where an allegedly responsible operator does not appear at the prehearing conference, a formal hearing is ordered to be conducted pursuant to Subpart E of this part, the operator will be given 10-

days notice by certified mail of the time and place of the hearing and he or his authorized representative may appear at the particular claim after December 31, 1973. There shall be no reopening or readjudication of the claimant's entitlement to benefits at the instance of any operator who did not avail himself of an opportunity to controvert such entitlement provided by a timely notice of the determination proceeding.

§ 725.313 **Operator's medical evidence.**

(a) Any operator who is dissatisfied with the medical record compiled by the Office in respect to a particular case may make a timely request for a review or reexamination of a miner by one or more different physicians employed or selected by the Office. Such review or reexamination shall be ordered and conducted subject to the provisions of § 725.139 of this part, unless it is found to be clearly unwarranted.

(b) In the event that any claimant refuses to submit to a medical examination ordered under this section, the deputy commissioner shall be promptly notified. The deputy commissioner shall forthwith notify the claimant that no further action on his claim may be had until such claimant is in compliance with the order for the examination.

§ 725.314 **Determination of operator's liability in formal hearing.**

(a) If, as provided in § 725.312, or where an allegedly responsible operator does not appear at the prehearing conference, a formal hearing is ordered to be conducted pursuant to Subpart E of this part, the operator will be given 10-

§ 725.332 **Prompt payment.**

Where entitlement of an individual to benefits under the Act has been de-

considered late and defaulted payments pursuant to §§ 725.333 and 725.345.

(b) If at any time during which bene-

tion, notice, and hearing, as provided in Subpart E of this part, the deputy commissioner shall make a supplementary order declaring the amount of the de-

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days notice by certified mail of the time and place of the hearing and he or his authorized representative may appear at and fully participate in the formal hearing, and the liability of the operator to pay benefits shall be adjudicated therein. If an allegedly responsible operator does not appear at the formal hearing and has not filed an answer to the allegations of his liability, then it shall be presumed that such operator does not contest his liability and the administrative law judge shall proceed to the conduct of the formal hearing and shall issue findings of fact, conclusions of law, and an order for benefits pursuant to Subpart E of this part. The notified operator shall be bound by this determination and may not thereafter contest his liability for the payment of benefits to the claimant. Nothing in this part shall be construed to require any operator to pay any benefits for any month prior to January 1, 1974.

(b) In the event that a notified coal mine operator or his representative does not appear at the formal hearing and has not responded to the claim filed against him, the hearing shall nevertheless be conducted and stenographically reported pursuant to Subpart E of this Part 725. In respect to the issue of such notified coal mine operator's liability, the administrative law judge shall admit into the record the medical evidence contained in the approved physician's report (see §§ 725.137–725.139), evidence of the employment history of the miner, and any other information deemed pertinent to the question of the notified mine operator's liability. Upon this record, the administrative law judge shall determine his findings of fact, conclusions of law, and final decision and order, and shall determine and in his written opinion state whether or not and the extent if any to which such notified coal mine operator is an operator responsible for the payment of benefits to the claimant for any months after December 31, 1973.

§ 725.315 Deferred identification of responsible operator; liability determination.

If at the time a claim under the Act is ready for determination there appears to be no known or identifiable responsible operator, the claimant's entitlement to benefits shall be determined and payment of benefits authorized from Federal funds as provided in this part. However, if at any time during or after the adjudicatory proceedings the claimant or the Secretary of Labor becomes aware of the existence of a possibly responsible operator, that operator shall be given notice of the claim, informed that he may be held liable for payment of benefits, supplied with copies of the record of all proceedings already conducted, and given 60 days within which to submit the answer specified in § 725.152. If it becomes necessary to hold a new formal hearing to determine the responsibility of such a coal mine operator, the subject matter of that hearing shall be limited to the responsibility of that coal mine operator for the payment of benefits on the particular claim after December 31, 1973. There shall be no reopening or readjudication of the claimant's entitlement to benefits.

OPERATOR'S FINANCIAL RESPONSIBILITY

§ 725.321 Financial responsibility defined.

Within the meaning of this part a coal mine operator shall be deemed "financially responsible" and capable of assuming his liability for the payment of benefits under the provisions of Part C of Title IV of the Act and this subchapter if he has:

(a) Obtained a policy or contract of insurance pursuant to section 423 of Title IV of the Act and Part 726 of this chapter, or;

(b) Qualified as a self-insurer pursuant to section 423 of the Act and Part 726 of this chapter, or;

(c) If such operator is an individual, partnership, joint venture, corporation, or other business entity, determined under this Subpart D to be the "responsible operator (see § 725.311)," and possessed of any assets that may be made available for the payment of benefits as provided in this Part 725 or through an action brought as provided in section 424 of the Act.

§ 725.322 Insurance coverage.

(a) Pursuant to the provisions of section 423 of the Act (see § 726.1 of this chapter), coal mine operators shall be subject to the following requirements: During any period after December 31, 1973, in which a State workmen's compensation law is not included on the list published by the Secretary under section 421(b) of Title IV of the Act and Part 722 of this chapter, each operator of a coal mine in such State shall secure the payment of benefits for which he may be found liable under section 422 or section 415 of the Act and this Part 725 by—

(1) Qualifying as a self-insurer as provided in Part 726 of this Chapter VI, or

(2) Insuring and keeping insured the payment of such benefits with an authorized insurance carrier in accordance with the provisions of Part 726 of this chapter.

(b) Every operator who has secured the payment of benefits as provided in paragraph (a) of this section shall keep posted, in a conspicuous place or places in and about each mine which he operates, typewritten or printed notices, in accordance with a form prescribed by the Office, stating that such operator has secured the payment of benefits in accordance with the provisions of the Federal Coal Mine Health and Safety Act as amended. Such notices shall contain the name and address of the insurance carrier, if any, with whom the operator has secured payment of benefits, and the date of the expiration of the policy.

(c) Under section 422 of the Act and section 15 of the Longshoremen's Act:

(1) No agreement by a miner to pay any portion of a premium paid to a carrier by the operator of a coal mine in which such miner is employed, or to contribute to a benefit fund or department maintained by such operator for the purpose of providing benefits or medical services and supplies as required by this part, shall be valid; and any operator who makes a deduction for such purpose from the pay of any miner entitled to the benefits of the Act under this part shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $1,000;

(2) No agreement by a miner to waive his right to benefits under the Act and the provisions of this part shall be valid.

§ 725.323 Benefits a lien against assets.

Pursuant to the provisions of section 422 of the Act and section 17 of the Longshoremen's Act as incorporated therein, any person entitled to benefits under the provisions of the Act shall have a lien against the assets of the carrier or operator for such benefits without limit of amount, and shall, upon insolvency, bankruptcy, or reorganization in bankruptcy proceedings of the carrier or operator, or both, be entitled to preference and priority in the distribution of the assets of such carrier or operator, or both.

§ 725.324 Security for payments of benefits.

Whenever the deputy commissioner deems it advisable he is authorized, pursuant to section 422 of the Act and section 14(i) of the Longshoremen's Act, to require any operator to make a deposit with the Treasurer of the United States to secure the prompt and convenient payment of benefits, and payments therefrom upon any awards shall be made upon order of the deputy commissioner.

§ 725.325 Liability of operator for Federal payments made.

In any case where the Secretary has paid benefits to a miner or his widow, child, parent, brother, or sister because the responsible coal mine operator has not obtained a policy or contract of insurance or qualified as a self-insurer as provided in Part 726 of this subchapter or has not paid such benefits within a reasonable time, such operator shall be liable to the United States in a civil action in an amount equal to the amount paid to such beneficiary under Title IV of the Act (Act, sec. 424).

OPERATOR'S PAYMENTS

§ 725.331 Scope of payment obligations.

Benefits shall be paid to claimants entitled thereto under the Act by a responsible coal mine operator as provided in this Subpart D and Subpart F of this Part 725, and in accordance with the obligations imposed on coal mine operators by section 422 of the Act, including those obligations of employers under the Longshoremen's Act with respect to payment of disability or death benefits thereunder to employees which are incorporated by reference in such section 422 and implemented by the rules in this Part 725.

§ 725.332 Prompt payment.

Where entitlement of an individual to benefits under the Act has been determined or is not controverted, and liability as a responsible operator for payment of such benefits is not controverted by a coal mine operator, such operator shall pay benefits periodically as provided in this part, promptly, and directly to the person entitled thereto, without an adjudication of such liability. The first installment shall be due as provided in § 725.502 or, where action described therein has not been taken, on the 14th day after such operator has knowledge of the disability or death for which entitlement to such benefits is not controverted, and benefits shall be paid then and thereafter as provided in such section.

§ 725.333 Late payments.

(a) If any installment of benefits payable without a final decision and order (see §§ 725.312(b) and 725.332) is not paid within 14 days after it becomes due, as provided in § 725.332, there shall be added to such unpaid installment an amount equal to 10 percent thereof, which shall be paid at the same time as, but in addition to, such installment, unless such nonpayment is excused by the deputy commissioner after a showing by the operator or carrier that owing to conditions over which he had no control the installment could not be paid within the period prescribed for the payment. (See section 14(e) of the Longshoremen's Act.)

(b) If any benefits, payable by an operator determined to be responsible therefor under the terms of an award, are not paid within 10 days after they become due, there shall be added to such unpaid benefits an amount equal to 20 percent thereof, which shall be paid at the same time as, but in addition to, such benefits, unless review of the order making such award is had as provided in Subpart E of this part and an order staying payment has been issued by the court.

§ 725.334 Payment of interest.

In the event that an operator or carrier controverts a claimant's right to benefits and therefore pays no benefits and it is later determined that the claimant was entitled to benefits for any time prior to such time as the operator or carrier finally is adjudged liable for the payment of benefits, such operator or carrier shall be liable for the past benefits owed and, in addition, an amount equal to 6 percent simple annual interest, computed on the basis of all past due benefits.

§ 725.335 Suspension of payments.

(a) There may be no suspension in the payment of benefits except upon notice to the deputy commissioner pursuant to § 725.341 and to the party or parties to whom benefits are being paid. Any suspension of benefit payments which is not preceded by such notice shall be considered late and defaulted payments pursuant to §§ 725.333 and 725.345.

(b) If at any time during which benefits are being paid to an eligible individual an operator determines to suspend his payments on any grounds, the deputy commissioner shall make such investigations, cause such medical examinations to be made, or refer for such hearings, and take such further action as he considers will properly protect the rights of all parties.

(c) In the event that the deputy commissioner, or the administrative law judge to whom the matter was assigned for hearing, determines that the suspension of payments was invalid, such deputy commissioner or judge shall order the reinstatement of benefits and shall order the operator or carrier to pay to the entitled individual all unpaid amounts due for the periods during which the payment of benefits was suspended, with interest as provided in § 725.334.

§ 725.336 Advance payments.

If an operator has made advance payments of benefits he shall be entitled to be reimbursed out of any unpaid installment or installments of benefits due.

§ 725.337 Receipt for payment.

A disabled miner or in case of death his dependents or personal representative, shall give receipts for payment of benefits to the operator paying the same and such operator shall produce the same for inspection by the deputy commissioner, whenever required.

§ 725.341 Reporting requirements.

(a) *First payment, suspension of payments.* Upon making the first payment, and upon suspension of payment for any cause, the operator shall immediately notify the deputy commissioner, in accordance with a form prescribed by the Office, that payment of benefits has begun or has been suspended, as the case may be.

(b) *Final payment of benefits.* Within 16 days after final payment of benefits has been made, the operator shall send to the deputy commissioner a notice, in accordance with a form prescribed by the Office, stating that such final payment has been made, the total amount of benefits paid, the name of the miner and of any other person to whom benefits have been paid, the date of the disability or death, and the date to which benefits have been paid. If the operator fails to so notify the deputy commissioner within such time the Secretary shall assess against such operator a civil penalty in the amount of $100.

§ 725.345 Defaulted payments.

(a) In case of default by an operator in the payment of benefits due from him under any award for a period of thirty days after the benefits are due and payable, the person to whom such benefits are payable may, within 1 year after such default, make application to the deputy commissioner making the order for a supplementary order declaring the amount of the default. After investigation, notice, and hearing, as provided in Subpart E of this part, the deputy commissioner shall make a supplementary order, declaring the amount of the default, which shall be filed in the same manner as the final decision and order (see § 725.482). In case the payment in default is an installment of the award, the deputy commissioner may, in his discretion, declare the whole of the award as the amount in default. The applicant may file a certified copy of such supplementary order with the clerk of the Federal district court for the judicial district in which the operator has his principal place of business or maintains an office. In case such principal place of business or office is in the District of Columbia, a copy of such supplementary order may be filed with the clerk of the United States District Court for the District of Columbia. Such supplementary order of the deputy commissioner shall be final, and the court shall upon the filing of the copy enter judgment for the amount declared in default by the supplementary order if such supplementary order is in accordance with law. Review of the judgment so entered may be had as in civil suits for damages at common law. Final proceedings to execute the judgment may be had by writ of execution in the form used by the court in suits at common law in actions of assumpsit. No fee shall be required for filing the supplmentary order nor for entry of judgment thereon, and the applicant shall not be liable for costs in a proceeding for review of the judgment unless the court shall otherwise direct. The court shall modify such judgment to conform to any later benefits order upon presentation of a certified copy thereof to the court.

(b) In cases where judgment cannot be satisfied by reason of an insolvency or other circumstances precluding payment, the Secretary shall make payment pursuant to section 424 of Part C of Title IV of the Act upon any award made under this Act, and in addition, provide any necessary medical, surgical, and other treatment required by section 7 of the Longshoremen's Act in any case of disability where there has been a default in furnishing medical treatment by reason by the insolvency of the operator. Such an operator shall be liable to the United States for payment of the amounts paid by the Secretary of Labor under this subsection; and for the purpose of enforcing this liability, the Secretary of Labor shall be subrogated to all the rights of the person receiving such payments or benefits, including the right of lien and priority provided for by section 17 of the Longshoremen's Act, as against the operator and may by a proceeding in the name of the Secretary of Labor under section 18 or under subsection (c) of section 21 of the Longshoremen's and Harbor Worker's Compensation Act, or both seek to recover the amount of the default or so much thereof as in the judgment of the Secretary is possible, or the Secretary may settle and compromise any such claim.

Subpart E—Adjudicatory Process

power to preserve and enforce order during any proceedings for determination or adjudication of entitlement to benefits

account of services rendered as a representative of a claimant, unless such consideration or gratuity is approved by the

ficer withdraws, another such officer shall be designated by the Director of the Office of Workmen's Compensation pro-

disability ceases, shall be made by the State agency or agencies designated in such agreement on behalf of the Secre-

stage the case will be forwarded with the deputy commissioner's recommendation to the Chief Administrative Law Judge for assignment to an administrative law

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Subpart E—Adjudicatory Process

GENERAL

§ 725.401 Scope and applicability of this subpart.

Every dispute arising in respect to any claim for benefits or any action taken by an adjudication officer pursuant to this Part 725, and any other issue of fact or law arising out of the Department of Labor's administration of any of the provisions of Part C of Title IV of the Act as amended shall be determined or adjudicated pursuant to the procedures enumerated in this subpart, except as otherwise specifically provided in this Part 725 or as elsewhere provided by statute or treaty. Disputes arising out of or in respect to claims for benefits under Part B of Title IV of the Act filed under section 415 of the Act shall be determined or adjudicated pursuant to procedures contained in Part 720 of this subchapter.

§ 725.402 Adjudication officers.

(a) *Who are adjudication officers.* The deputy commissioner, the administrative law judge, or the Benefits Review Board before whom a benefit claim proceeding under the Act is pending are the Department's adjudication officers with respect to such claim.

(b) *Deputy Commissioner.* The deputy commissioner is that official of the Office of Workmen's Compensation Programs or his designee authorized to make initial recommendations for determinations with respect to any case and to insure that any case is developed and processed according to these regulations. He may also under appropriate circumstances conduct prehearing conferences, prepare or issue motions and orders as provided in this part, prepare stipulations for the signatures of the parties in interest in any case, and sign benefits orders in cases for which no formal hearing procedure is required. The deputy commissioner shall not hold formal hearings.

(c) *Administrative Law Judge.* The administrative law judge is that official of the Department of Labor empowered by the Secretary to conduct formal hearings whenever necessary, in respect of any claim for black lung benefits. Each such administrative law judge shall be qualified under 5 U.S.C. 3105 to conduct hearings in accordance with the provisions of 5 U.S.C. 554 et seq.

(d) *Benefits Review Board.* The Benefits Review Board is that body appointed by the Secretary pursuant to section 21 (b) of the Longshoremen's and Harbor Workers' Compensation Act Amendments of 1972, which is empowered to hear and determine finally for the Department of Labor appeals raising a substantial question of law or fact taken by any party in interest from decisions and orders of any duly authorized Department of Labor official with respect to any claim for black lung benefits.

§ 725.403 Powers of adjudication officers.

(a) *Conduct of proceedings.* The adjudication officer in any case shall have power to preserve and enforce order during any proceedings for determination or adjudication of entitlement to benefits or liability for benefit payments; to issue subpoenas for, to administer oaths to and to compel the attendance and testimony of witnesses, or the production of books, papers, documents and other evidence, or the taking of depositions before any designated individual competent to administer oaths; to examine witnesses; and to do all things conformable to law which may be necessary to enable him effectively to discharge the duties of his office (Act, section 422 and Longshoremen's Act, sections 19(d) and 27(a)).

(b) *Contumacy.* Pursuant to section 19(d) of the Longshoremen's Act as incorporated by sections 415 and 422 of the Act, if any person in proceedings before an adjudication officer disobeys or resists any lawful order or process, or misbehaves during a hearing or so near the place thereof as to obstruct the same, or neglects to produce, after having been ordered to do so, any pertinent book, paper or document, or refuses to appear after having been subpoenaed, or upon appearing refuses to take the oath as a witness, or after having taken the oath refuses to be examined according to law, the adjudication officer shall certify the facts to the Federal district court having jurisdiction in the place in which he is sitting (or to the U.S. District Court for the District of Columbia if he is sitting in the District) which shall thereupon in a summary manner hear the evidence as to the acts complained of, and, if the evidence so warrants, punish such person in the same manner and to the same extent as for a contempt committed before the court, or commit such person upon the same conditions as if the doing of the forbidden act had occurred with reference to the process or in the presence of the court.

§ 725.404 Legal services.

(a) *Approval of fees and assessment against operators.* If a claimant is represented by an attorney at law, the Act requires approval of such fees as provided in section 28 of the Longshoremen's Act; and if there is a responsible operator liable for payment of benefits such fees may, under the circumstances set forth in subsections (a) and (b) of such section 28, be awarded to the claimant to be paid by the operator or his insurance carrier in addition to amounts otherwise payable as benefits under the Act. In cases where the obligation to pay the attorney's fee is upon the claimant, it may be made a lien upon the benefits due under an award as provided in section 28(d) of the Longshoremen's Act and, as therein provided, the adjudication officer or court shall fix in the award approving the fee, such lien and manner of payment.

(b) *Unapproved fees; solicitation of claimants.* Under the provisions of section 28(e) of the Longshoremen's Act as incorporated in Part C of Title IV of the Act, any person who receives any fees, other consideration, or any gratuity on account of services rendered as a representative of a claimant, unless such consideration or gratuity is approved by the adjudication officer or court, or who makes it a business to solicit employment for a lawyer, or for himself in respect of any claim or award for black lung benefits under the Act, shall upon conviction thereof, for each offense be punished by a fine of not more than $1,000 or by imprisonment for not more than 1 year, or by both fine and imprisonment.

(c) *Procedure for approval of fees by adjudication officer.* No contract for a stipulated fee or for a fee on a contingent basis will be recognized, and no fee shall be approved, except upon an application to the appropriate adjudication officer supported by a complete statement of the extent and character of the necessary work done on behalf of the claimant. The fee approved by the appropriate adjudication officer shall be reasonably commensurate with the actual necessary work performed by the representative, taking into account the capacity in which the representative has appeared, the amount of benefits involved and the financial circumstances of the claimant.

(d) *Witness fees and mileage.* In cases where an attorney's fee is awarded against an operator or carrier, there may be further assessed against such operator or carrier as costs, fees, and mileage for necessary witnesses attending the hearing at the request of claimant. Both the necessity for the witnesses and the reasonableness of the fee of expert witnesses must be approved by the appropriate adjudication officer. The amounts awarded against an operator or carrier as attorney's fees, costs, fees, and mileage for witnesses shall not in any respect affect or diminish the disability, death, or medical benefits payable (Act, section 422 and Longshoremen's Act, section 28(d)).

(e) *Legal assistance for claimants.* The Secretary may, upon request, provide a claimant with legal assistance in processing a claim for benefits payable under section 422 or 424 of Part C of Title IV of the Act. Such assistance may be made available to a claimant at any time prior to or during which the claim is being processed and shall be furnished without charge to the claimant. Legal assistance may be provided only in the processing of the claim; legal representation of the claimant in adjudicatory proceedings is not authorized under this section.

§ 725.405 Disqualification of adjudication officer.

(a) No adjudication officer shall conduct any proceeding in a case in which he is prejudiced or partial with respect to any party, or where he has any interest in the matter pending for decision before him. Notice of any objection which a party may have to any adjudication officer who will conduct the proceeding, shall be made by such party at his earliest opportunity. The adjudication officer shall consider such objection and shall, in his discretion, either proceed with the case or withdraw. If the adjudication officer withdraws, another such officer shall be designated by the Director of the Office of Workmen's Compensation programs or the Chief Administrative Law Judge as the case may be. If the interested officer is a member of the Benefits Review Board, the procedure in case of disqualification of any board member who has an irreconcilable interest shall be in accordance with the applicable regulations and rules to be promulgated by the Secretary and the board.

(b) Neither a deputy commissioner, administrative law judge, or board member, nor any business associate of a deputy commissioner, administrative law judge, or board member, shall appear as attorney in any proceeding under the Act, and no deputy commissioner, administrative law judge, or board member, shall act in any such case in which he is interested, or when he is employed by any party in interest or related to any party in interest by consanguinity or affinity within the third degree as determined by the common law (Act, section 422 and Longshoremen's Act, sections 19(d), 40(f)).

PROCEDURES, GENERALLY

§ 725.411 Procedures by and before deputy commissioner.

(a) Each claim for benefits under this part received by the Office of Workmen's Compensation programs will be filed with a deputy commissioner after preliminary processing as provided in § 725.131. The deputy commissioner will be responsible thereafter for compiling the case record, notifying any operator who may be liable to pay benefits to the claimant after December 31, 1973, of the pendency of the claim, notifying a claimant of any deficiency in the medical record, scheduling and conducting prehearing conferences pursuant to this subpart E effecting the settlement or compromise of disputes, whenever possible at the prehearing stage, drafting stipulations of fact for the signature of the parties in interest, conclusions of law and orders for cases in which no further proceedings are necessary beyond the prehearing stage, and making recommendations in respect to any case for which a formal hearing is to be conducted.

(b) At any time after a claim has been filed with the Office of Workmen's Compensation programs, the deputy commissioner, having jurisdiction over the claim may, with the approval of the office, transfer such case to any other office of the Department for the purpose of making investigation, taking testimony, making physical examinations, or the taking of such other necessary action therein as may be directed. Such transfer is to be made in accordance with procedures established by the office.

§ 725.412 Determinations of disability.

(a) By State agencies: In any State which has entered into an agreement with the Secretary of Labor providing therefor, determinations as to whether a miner is under a total disability due to pneumoconiosis, as to the date total disability began, and as to the date total disability ceases, shall be made by the State agency or agencies designated in such agreement on behalf of the Secretary of Labor with respect to all individuals in such State, or with respect to such class or classes of individuals in the State as may be designated in the agreement.

(b) By the Social Security Administration: Determinations as to whether a miner is under a total disability due to pneumoconiosis as to the date the total disability began, and to the date total disability ceases, made by the Social Security Administration under part B of title IV of the Act on behalf of the Secretary of Health, Education, and Welfare with respect to individuals in any State which has not entered into an agreement to make such determinations, or with respect to any class or classes of individuals to which such an agreement is not applicable, or with respect to any individuals outside the United States may be accepted by the Secretary of Labor for purposes of part C of title IV of the Act.

(c) Review by Office of Workmen's Compensation Programs of State agency determinations: The Secretary of Labor may review a determination made by a State agency but not a determination made by the Social Security Administration, that a miner is under a total disability and, as a result of such review, may determine that such individual is not under a total disability, or that the total disability began on a date later than that determined by the State agency, or that the total disability ceased on a date earlier than that determined by the State agency.

(d) All other determinations of disability shall be made by the Secretary of Labor pursuant to the regulations contained in this subpart.

§ 725.413 General procedures for determination of benefit claims.

(a) In the event that there are contested issues of fact in any case, those issues generally will be resolved by the following procedure:

(1) If in the opinion of the deputy commissioner the medical evidence does not support the claim for benefits, the claimant will be given an opportunity to submit additional medical evidence at the expense of the Department of Labor or the responsible operator or carrier (see §§ 725.133, 725.134, 725.139). If the additional evidence is still insufficient in the deputy commissioner's opinion to support the claim and no resolution may or might be reached at the prehearing stage, the case will be forwarded to the Chief Administrative Law Judge for assignment to an administrative law judge who will conduct a hearing pursuant to this Subpart E and issue a final order granting or denying the claim, or where appropriate, remand the case to the Office for further evidentiary development or for the completion of the case record.

(2) The deputy commissioner will make every effort to resolve any dispute at a prehearing conference conducted pursuant to this Subpart E. If no resolution can be achieved at the prehearing stage the case will be forwarded with the deputy commissioner's recommendation to the Chief Administrative Law Judge for assignment to an administrative law judge who will schedule and conduct a formal hearing pursuant to this Subpart E and issue a formal order granting or denying the claim and, where appropriate (see Subpart D of this part), establishing the identity of any operator or operators who will either be liable or not liable for payment of benefits to the claimant for any periods after December 31, 1973.

(b) In the event that there are no contested issues of fact or law the deputy commissioner will prepare stipulations of fact, identifying any operator or operators who will be liable for payments of such benefits for any periods after December 31, 1973. These stipulations will be signed by the parties in interest and the deputy commissioner who will either approve and sign a benefits order or take any other action he deems appropriate. If the proposed order is signed by a deputy commissioner it will become a final order pursuant to this Subpart E.

(c) If there has been no final resolution of a case after 60 days from the date upon which any claim has been filed with the deputy commissioner pursuant to § 725.131 and there has been no prior request for a formal hearing, the deputy commissioner assigned the case shall either:

(1) Make an award in respect of the case pursuant to § 725.442; or

(2) Declare the case abandoned pursuant to § 725.415; or

(3) Transfer the case to the Chief Administrative Law Judge pursuant to paragraph (a) of this section for the purpose of making the formal hearing procedures described in this subpart available to any or all of the parties in interest.

§ 725.414 Presumptions.

In any proceeding for the enforcement of liability on a claim for benefits under the Act it shall be presumed, in the absence of substantial evidence to the contrary, that the claim comes within the provisions of the Act, and that sufficient notice of such claim has been given.

§ 725.415 Abandonment of a claim.

(a) If a claimant at any time during the proceedings to adjudicate his claim, chooses to terminate those proceedings he may do so in his discretion by:

(1) Notifying the appropriate adjudication officer or the Office of his intention in this regard; or

(2) Failing to comply with a lawful order of any adjudication officer in respect to his claim, provided that such failure to comply is not later excused for good cause; or

(3) Failing in a significant way to pursue his claim with reasonable diligence. A finding that a claimant has failed to pursue his claim with reasonable diligence may be made by the adjudication officer who is processing the claim, at any time during formal or informal proceedings, where, for instance, the claimant fails to undergo a required

medical examination or submit medical evidence, fails or refuses to submit

(d) Any coal mine operator or prior operator or insurance carrier who has not

he represents, any request or notice relative to any proceeding before an adjudi-

to be certain that it contains all the necessary material to insure that the conference will be productive. His file shall contain information submitted by

operator, carrier's representatives, etc.), of all persons attending the conference;
(3) Reason why conference was held;
(4) Issues discussed at conference;

conclusions or law, and a final decision and order.

§ 725.443 Accelerated hearing.

Notwithstanding any other provision

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medical examination or submit medical evidence, fails or refuses to submit evidence of relationship or dependency, or fails or refuses to participate in the adjudicatory process. Any claim in which proceedings are suspended or terminated pursuant to subparagraph (1), (2) of this paragraph, or this subparagraph (3) shall be deemed an "abandoned claim."

(b) Notwithstanding any other provision of this part, before any claim may be considered an "abandoned claim" the appropriate adjudication officer shall notify the claimant of the pending termination of proceedings and afford such claimant 10 days within which to take affirmative action to cure the deficiency in his claim. If no response is received within the 10-day period, all proceedings and evidentiary developments in respect to the claim shall cease. If the claimant expresses his intent to continue his pursuit of the claim, the adjudication officer shall suspend or continue whatever proceedings are in progress in such a manner as he deems appropriate.

(c) In the event that a claim is abandoned the claimant's original filing date (see § 725.125) shall remain for purposes of § 725.124 the date on which the claim was filed should such claimant later decide to once again pursue his claim.

PARTIES TO PROCEEDINGS

§ 725.421 Parties in interest.

(a) Except as provided in § 725.422, persons other than the Secretary of Labor and authorized personnel of the Department of Labor may not participate at any stage of the adjudicatory process unless they are determined by the adjudication officer to qualify under the provisions of this section as parties in interest. The following persons may qualify as parties in interest:

(1) The claimant;

(2) A person other than a claimant authorized to execute a claim on such claimant's behalf pursuant to § 725.111;

(3) A dependent who may be entitled to receive augmented benefits or for whom augmented benefits are payable pursuant to Subpart F of this Part 725;

(4) Any coal mine operator who has been notified pursuant to § 725.151 of his possible liability to the claimant for benefits payable for any month after December 31, 1973; and

(5) Any insurance carrier of such operator.

(b) The Secretary of Labor is a party in interest in any proceeding in which his obligation to pay benefits under section 424 of the Act or to take other action under provisions of the Act may depend on the resolution of an issue or issues to be determined or adjudicated in that proceeding.

(c) A widow, surviving child, parent, brother, or sister or representative of a decedent's estate, who makes a showing in writing that an individual's rights with respect to benefits may be prejudiced by a decision that may be made, may be made a party in interest.

(d) Any coal mine operator or prior operator or insurance carrier who has not been notified pursuant to § 725.151 and who makes a showing in writing that its rights may be prejudiced by any final decision of an adjudication officer may in the discretion of the deputy commissioner or administrative law judge be made a party in interest.

(e) Any other individual may be made a party in interest if that individual's rights with respect to benefits may be prejudiced by the decision, upon notice given to him by the deputy commissioner or administrative law judge to appear at the hearing or otherwise present evidence as to fact or law as he may desire in support of his interest.

§ 725.422 Party amicus curiae.

At the discretion of the Chief Administrative Law Judge or the administrative law judge assigned to the case, a party not named in § 725.421 may be allowed to participate, fully or partially, in a formal hearing only, as to an issue of law. If a party wishes to participate amicus curiae in a formal hearing he shall request such status in writing with supporting arguments at least 10 days prior to the hearing. If the request is granted, the Chief Administrative Law Judge or the administrative law judge hearing the case will inform the party of the extent to which he may participate. The request may, however, be denied summarily and without explanation.

§ 725.423 Representation of parties.

Except for the Secretary of Labor, whose interests shall be represented by the Solicitor of Labor or an authorized attorney on his staff, each of the parties in interest may appoint an individual to represent his interest in any proceeding for determination of a claim under this part. Such appointment shall be made in writing or on the record at the hearing. A written notice appointing a representative shall be signed by the party in interest or his legal guardian and shall be sent to the Office or, for representation at a formal hearing, to the Chief Administrative Law Judge. In any case such representative must be qualified under § 725.424.

§ 725.424 Qualifications of representative.

(a) *Attorney.* Any attorney in good standing who is admitted to practice before a court of a State, territory, district, or insular possession or before the Supreme Court of the United States or other Federal court and is not, pursuant to any provision of law, prohibited from acting as a representative may be appointed as a representative.

(b) *Other person.* Any other person with the approval of the adjudication officer may be appointed as a representative so long as that person is not, pursuant to any provision of law, prohibited from acting as a representative.

§ 725.425 Authority of representative.

A representative, appointed and qualified as provided in §§ 725.423 and 725.424 may make or give, on behalf of the party he represents, any request or notice relative to any proceeding before an adjudication officer under part C of title IV of the Act, including reconsideration, hearing and review, except that such representative may not execute a claim for benefits, unless he is a person designated in § 725.111 as authorized to execute a claim. A representative shall be entitled to present or elicit evidence and allegations as to facts and law in any proceeding affecting the party he represents and to obtain information with respect to the claim of such party to the same extent as such party. Notice to any party of any administrative action, determination, or decision, or request to any party for the production of evidence may be sent to the representative of such party, and such notice or request shall have the same force and effect as if it had been sent to the party represented.

PREHEARING CONFERENCES

§ 725.431 Nature of conferences.

(a) In cases which cannot be disposed of summarily and on the record, prehearing conferences are to be scheduled to expedite the handling of contested issues and to avoid, whenever possible, the need for formal hearings.

(b) The proceedings are to be informal and are presided over by a deputy commissioner. Testimony is not stenographically reported. The parties in interest are not required to be represented by counsel, but may be so represented if they desire. The conference is not a formal hearing and witnesses may not be produced.

§ 725.432 Purpose of conferences.

Among the purposes of a prehearing conference are:

(a) To amicably dispose of controversies whenever possible;

(b) To narrow issues; and

(c) To simplify the subsequent methods of proof.

§ 725.433 Notification of parties.

When, after reviewing the record, the deputy commissioner assigned the case determines that a prehearing conference might fulfill one or more of the purposes listed in § 725.432 he shall notify all parties in interest that a conference has been called. Conferences may be called upon at least 10 days notice to the parties in interest or a shorter period if agreed upon by the parties. In any event, every effort shall be made to give all parties sufficient notice to insure that the conference will be productive.

§ 725.434 Time and place of conference.

The deputy commissioner shall assign a definite time and place for the prehearing conference and shall include this information in his notice to the parties. Whenever practicable the conference shall be held in the area of the claimant's residence and be convenient to public transportation.

§ 725.435 Preparation for conferences.

Prior to scheduling a conference the deputy commissioner shall review his file

to be certain that it contains all the necessary material to insure that the conference will be productive. His file shall contain information submitted by the parties in interest indicating that they have made every possible effort to resolve all the issues and delineating the issues which are still unresolved and which require a conference. The file should also contain copies of all medical reports from all parties in interest and there should be evidence in the file that the parties have exchanged all medical reports and any other material pertinent to the case. If this information does not appear in the file the deputy commissioner may advise the parties of these requirements and postpone the setting of the conference.

§ 725.436 Cancellation of conferences.

Any party may request cancellation and rescheduling of a conference upon 5 days written notice prior to the conference date sent to the Office or the deputy commissioner assigned the case. Such request shall state the reasons warranting cancellation. The deputy commissioner may, if reasonable cause is shown, grant the request, and should do so when all parties agree to the cancellation.

§ 725.437 Attendance at conferences.

(a) The claimant and/or his representative and any operator whose liability for payment of benefits after December 31, 1973, may be determined by a final order in the case and/or the operator's insurance carrier and/or their representatives must attend all prehearing conferences. The deputy commissioner may, in his discretion, grant or deny such waiver.

(b) Any representative of an operator or of an operator's insurance carrier must have sufficient authority to expedite settlement.

§ 725.438 Participation by the deputy commissioner.

A characteristic of an informal conference under the Act is the active participation in the proceedings by the deputy commissioner. It is his responsibility to see that the conference is productive. He shall assist the parties whenever possible by answering questions pertaining to the law and offer compromises for the parties to consider. He shall direct the discussion of the parties. He has the authority to conduct direct examinations of the claimants, operators whose liabilities may be determined, and their insurance carriers' representatives and he may conduct such examinations whenever necessary.

§ 725.439 File record.

(a) During the course of the conference the deputy commissioner shall take notes upon which to base his written memorandum of conference. The information which must appear in the memorandum of conference is:

(1) Date, time, and place of conference;

(2) Names, addresses, telephone numbers, and status (i.e., claimant, attorney, operator, carrier's representatives, etc.), of all persons attending the conference;

(3) Reason why conference was held;

(4) Issues discussed at conference;

(5) Additional material presented (i.e., medical reports, employment reports, marriage certificates, birth certificates, etc.);

(6) Issues resolved at conference; and

(7) Deputy Commissioner's recommendation.

§ 725.440 Memorandum of conference.

At the conclusion of the conference the deputy commissioner shall issue a comprehensive but brief memorandum summarizing the conference for the record. Copies of the memorandum shall be sent to each party in interest no more than 20 days after the date on which the conference is terminated.

§ 725.441 Reply to memorandum of conference.

Each party shall, in writing either accept or reject in part or in whole the deputy commissioner's recommendations, stating in appropriate cases the reasons for rejecting any recommendation. If no reply is received within 10 days from the date on which the recommendations were sent to the parties, the recommendations shall be deemed rejected. If the recommendations are not wholly agreed upon, the deputy commissioner or any party in interest may request a formal hearing. If it appears that final settlement might be reached without formal hearing, the deputy commissioner may schedule one or more additional prehearing conferences, notwithstanding a party's request for formal hearing.

§ 725.442 Adjudication without a hearing.

(a) If the parties in interest indicate that they are willing to dispose of the issues in the case based on the recommendations made, the deputy commissioner shall obtain stipulations to this effect signed by the parties. The stipulations shall contain all the information required for inclusion in a formal order and shall show that the parties agree that a final order may be issued by the deputy commissioner without a formal hearing. The deputy commissioner shall then proceed to prepare and sign a final decision and order based on the stipulations.

(b) If no formal hearing is requested by any party or ordered by the deputy commissioner within 10 days from the close of any prehearing conference the deputy commissioner shall notify the parties by certified mail that a final adjudication of the case shall be made on the basis of the record and the stipulations made by the parties at the prehearing stage, if any. Each party shall have 10 days from the date of such notice to request a formal hearing describing the issues on which that party desires to be heard. If no request is received by the deputy commissioner within the 10-day period the deputy commissioner in appropriate cases shall proceed to a final adjudication of the case and issue formal findings of fact, conclusions or law, and a final decision and order.

§ 725.443 Accelerated hearing.

Notwithstanding any other provision of this Part 725, after 30 days from the date upon which a claim is filed with the deputy commissioner pursuant to § 725.131, a claimant, a notified operator, or the Secretary may request and shall have a right to a formal hearing to be conducted by an administrative law judge pursuant to this subpart E. In the event that a formal hearing is requested pursuant to this paragraph, all responsibility and authority pertaining to the evidentiary development and settlement of the case vested in the deputy commissioner shall be vested in the Chief Administrative Law Judge or the administrative law judge assigned the case.

HEARINGS

§ 725.451 Right to a hearing.

(a) A person affected by proceedings under this part has a right to a formal hearing concerning any issue of fact or law unresolved in a prehearing conference if:

(1) He is a party in interest as defined in § 725.421; and

(2) No final disposition of the case has been achieved in prior proceedings within the period specified in § 725.443.

§ 725.452 Request for hearing.

Any party in interest may in writing or on the record at a prehearing conference request a formal hearing as to any contested issue of fact or law. In addition, a deputy commissioner may on his own initiative refer a case for hearing, when he determines a hearing necessary to protect the rights of any party in interest. If a hearing is requested by any party in interest, that request shall state the reasons for which a hearing is needed and the issues the requesting party intends to discuss and resolve at the hearing. If the deputy commissioner determines that a hearing is required under this part or is necessary to resolution of any issues, he shall refer the case to the Chief Administrative Law Judge who will assign it for a hearing.

§ 725.453 Type of hearing; parties.

In contested cases for which a formal hearing is deemed necessary, the hearing shall be conducted by an administrative law judge designated by the Chief Administrative Law Judge. The necessary parties to this hearing are the administrative law judge and all parties in interest or their designated representatives, except that any party may in writing or on the record at the hearing waive his right to be heard as to any or all issues. All hearings shall be conducted in accordance with the provisions of 5 U.S.C. 554 et seq. If any party in interest chooses to plead his own case at a formal hearing he may do so only upon the written approval of the administrative law judge. No party shall be permitted to represent himself in a formal hearing if it appears to the administrative law judge that such party may

not be sufficiently able to protect the rights granted him by the Act.

trative Law Judge may for good cause transfer such case from one administrative law judge to another.

§ 725.464 Depositions; interrogatories.

The testimony of any witness may be taken by deposition or interrogatory ac-

and material evidence the party or parties may present in writing for consideration by the administrative law judge.

may also be dismissed upon its abandonment by the party or parties who filed it. A party shall be deemed to have abandoned a request for hearing if

§ 725.482 Form of final decision and order.

(a) Orders adjudicating claims for

not be sufficiently able to protect the rights granted him by the Act.

§ 725.454 Notice of hearing.

In each case in which a hearing is ordered the deputy commissioner shall prepare a notice of hearing for the signature of the Chief Administrative Law Judge and by service thereof shall give all parties in interest at least 10 days notice of the time and place at which the hearing is to be conducted and the issues to be resolved. The notice of hearing shall be sent to each party in interest by certified mail. No issue may be raised or discussed at a hearing if the party who must contest the issue has not had at least 10 days notice that the issue was to be raised at the hearing, unless he waives such notice in writing or on the record in the proceeding.

§ 725.455 Hearing on new issues.

(a) At any time after a hearing has been ordered but before a final decision has been mailed, the administrative law judge may in his discretion, either on the application of a party or on his own motion, give notice that he will consider any specified new issue. In such a case the administrative law judge shall give the parties at least 10 days notice of the hearing on the new issue, unless they stipulate that the issue may be heard at an earlier time, and shall proceed to hearing on the new issue in the same manner as he would on an issue initially considered.

(b) A hearing on any new issue shall be limited to a discussion of that new issue.

(c) In the event that a new issue is raised at the time any formal hearing is conducted, the party confronted with that new issue may, upon request to the administrative law judge, be granted a continuance of not less than 5 days with respect to that new issue.

§ 725.456 Time and place of hearing.

The Chief Administrative Law Judge shall assign a definite time and place for the formal hearing and shall include this information in his notice to the parties. Whenever practicable, the hearing shall be held in the area of the claimant's residence and be convenient to public transportation.

§ 725.457 Change of time and place for hearing; transfer of cases.

(a) The Chief Administrative Law Judge or the administrative law judge may change the time and place for the hearing, either on his own motion or for good cause shown by a party. The Chief Administrative Law Judge or administrative law judge may adjourn or postpone the hearing, or he may reopen the hearing for the receipt of additional evidence at any time prior to the mailing of notice to the party of the decision in the case. Unless otherwise agreed, at least 10 days notice shall be given to the parties of any change in the time or place of hearing or of an adjournment or a reopening of the hearing.

(b) At any time after a notice of hearing has been issued the Chief Administrative Law Judge may for good cause transfer such case from one administrative law judge to another.

CONDUCT OF HEARINGS

§ 725.461 Hearings procedure, generally.

All hearings shall be attended by the parties or their representatives and such other persons as the administrative law judge deems necessary and proper. The administrative law judge shall inquire fully into the matters at issue and shall receive in evidence the testimony of witnesses and any documents which are relevant and material to such matters. If the administrative law judge believes that there is relevant and material evidence available which has not been presented at the hearing, he may adjourn the hearing or, at any time, prior to the mailing of notice of the decision, reopen the hearing for the receipt of such evidence. The order in which evidence and allegations shall be presented and the procedures at the hearing generally, except as these regulations otherwise expressly provide, shall be in the discretion of the administrative law judge and of such nature as to afford the parties a reasonable opportunity for a fair hearing.

§ 725.462 Evidence.

In making an investigation or inquiry or conducting a hearing the administrative law judge shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure, except as provided by 5 U.S.C. 554 and this subpart; but may make such investigation or inquiry or conduct such hearing in such a manner as to best ascertain the rights of the parties. Declarations of a deceased miner concerning the disability or death in respect of which the investigation or inquiry is being made or the hearing conducted shall be received in evidence and shall, if corroborated by other evidence, be sufficient to establish the disability or death.

§ 725.463 Witnesses.

(a) Witnesses at the hearing shall testify under oath or affirmation or as directed by the administrative law judge unless they are excused by the administrative law judge for cause. The administrative law judge may examine the witnesses and shall allow the parties or their representatives to do so. If the administrative law judge conducts the examination of a witness, he may allow the parties to suggest matters as to which they desire the witness to be questioned, and the administrative law judge shall question the witness with respect to such matters if they are relevant and material to any issue pending for decision before him.

(b) No person shall be required to attend as a witness in any proceeding before an administrative law judge at a place outside the State of his residence and more than 100 miles from his place of residence, unless his lawful mileage and fee for 1 day's attendance shall be paid to him in advance of the hearing date.

§ 725.464 Depositions; interrogatories.

The testimony of any witness may be taken by deposition or interrogatory according to the rules of practice of the Federal district court for the judicial district in which the case is pending (or of the U.S. District Court for the District of Columbia if the case is pending in the District).

§ 725.465 Witness fees.

Witnesses summoned in a formal hearing before an administrative law judge or whose depositions are taken shall receive the same fees and mileage as witnesses in courts of the United States (Act, section 422 and Longshoremen's Act, section 25). Before any witness fees are incurred the Chief Administrative Law Judge or administrative law judge shall determine, in his discretion, that the presence of any witness was necessary. If it is determined that the presence of a witness is not necessary then that witness shall not be entitled to witness fees pursuant to this section.

§ 725.466 Oral argument and written allegations.

The parties, upon their request, shall be allowed a reasonable time for the presentation of oral argument or for the filing of briefs or other written statements of allegations as to facts or law. Where there is more than one party to the hearing, copies of any brief or other written statement shall be filed with the administrative law judge and served on all parties in interest by the party submitting the statement.

§ 725.467 Waiver of right to appear and present evidence.

If all parties waive their right to appear before the administrative law judge or to present evidence or argument personally or by representative, it shall not be necessary for the administrative law judge to give notice of and conduct an oral hearing. A waiver of the right to appear and present evidence and allegations as to facts and law shall be made in writing and filed with the Chief Administrative Law Judge or the administrative law judge. Such waiver may be withdrawn by a party at any time prior to the mailing of notice of the decision in the case. Even though all of the parties have filed a waiver of the right to appear and present evidence and contentions at a formal hearing, such officer may, nevertheless, give notice of a time and place and conduct a hearing, if he believes that the personal appearance and testimony of the party or parties would assist him to ascertain the facts in issue in the case. Where such a waiver has been filed by all parties, and they do not appear before the administrative law judge personally or by representative, the administrative law judge shall make a record of the relevant written evidence, including applications, written statements, certificates, affidavits, reports, and other documents which were considered in connection with the recommendations of the deputy commissioner, and whatever additional relevant

and material evidence the party or parties may present in writing for consideration by the administrative law judge. Such documents shall be considered as all of the evidence in the case and the decision shall be based on them.

§ 725.468 Consolidated issues.

When one or more additional issues are raised by the administrative law judge pursuant to § 725.455, such issues may, in the discretion of the Chief Administrative Law Judge, be consolidated for hearing and decision with other issues pending before the administrative law judge upon the same request for a hearing, whether or not the same or substantially similar evidence is relevant and material to the matters in issue. A single decision may be made upon all such issues.

§ 725.469 Joint hearings.

When two or more hearings are to be held, and the same or substantially similar evidence is relevant and material to the matters in issue at each such hearing the Chief Administrative Law Judge may upon motion by any party in interest, or on his own motion or on the motion of an adjudication officer, order the administrative law judge assigned the case to fix the same time and place for each such hearing and conduct all such hearings jointly. Where joint hearings are held, a single record of the proceedings shall be made and the evidence introduced in one case may be considered as introduced in the others and a separate or joint decision shall be made, as appropriate.

§ 725.470 Record of hearing.

All formal hearings shall be open to the public and shall be stenographically reported. All evidence upon which the administrative law judge relies for his final decision shall be contained in the transcript of testimony either directly or by appropriate reference. All medical reports, exhibits, and any other pertinent document or record either in whole or in material part shall be incorporated into the record either by reference or as an appendix.

DISMISSALS

§ 725.471 Dismissal of request for hearing; by application of party.

With the approval of the Chief Administrative Law Judge or administrative law judge at any time prior to the mailing of notice of the decision, a request for a hearing may be withdrawn or dismissed upon the application of the party or parties filing the request for such hearing. A party may request a dismissal by filing a written notice of such request with the Chief Administrative Law Judge or administrative law judge or orally stating such request at the hearing.

§ 725.472 Dismissal by abandonment of party.

Notwithstanding the provisions of § 725.415, with the approval of the Chief Administrative Law Judge or administrative law judge, a request for hearing may also be dismissed upon its abandonment by the party or parties who filed it. A party shall be deemed to have abandoned a request for hearing if neither the party nor his representative appears at the time and place fixed for the hearing and either (a) prior to the time for hearing such party does not show good cause as to why neither he nor his representative can appear or (b) within 10 days after the mailing of a notice of hearing to him to show cause, such party does not show good cause for such failure to appear and failure to notify the Chief Administrative Law Judge or administrative law judge prior to the time fixed for hearing that he cannot appear.

§ 725.473 Dismissal for cause.

The Chief Administrative Law Judge or administrative law judge may, on his own motion dismiss a hearing request, either entirely or as to any stated issue, under any of the following circumstances:

(a) *Res judicata.* Where there has been a previous determination or decision by the Secretary with respect to the rights of the same party on the same facts pertinent to the same issue or issues which has become final either by judicial affirmance or, without judicial consideration, upon the claimant's failure timely to request reconsideration, or hearing, or to commence a civil action with respect to such determination or decision.

(b) *No right to hearing.* Where the party requesting a hearing is not a proper party under § 725.452 or does not otherwise have a right to a hearing under the provisions of this part.

§ 725.474 Notice of dismissal and right to request review thereon.

Notice of the Chief Administrative Law Judge's or administrative law judge's dismissal action shall be given to the parties or mailed to them at their last known addresses, within 20 days from the date on which the hearing was scheduled. Such notice shall advise the parties of their right to request review by the Benefits Review Board pursuant to § 725.491.

§ 725.475 Effect of dismissal.

The dismissal of a request for hearing shall be final and binding unless vacated.

§ 725.476 Vacation of dismissal of request for hearing.

The Chief Administrative Law Judge or administrative law judge may, upon request of the party and for good cause shown, vacate any dismissal of a request for hearing at any time within 3 months from the date of mailing notice of the dismissal to the party requesting the hearing at his last known address.

COMPLETION OF FINAL ADJUDICATION

§ 725.481 Final decision and order.

Within 20 days after the close of a hearing the administrative law judge shall by order reject the claim or make an award in respect of the claim.

§ 725.482 Form of final decision and order.

(a) Orders adjudicating claims for benefits or suspending payments of benefits shall be designated by the term "final decision and order" followed by a descriptive phrase designating the particular type of such order, such as "award of benefits," "rejection of claims," "suspension of benefits," "modification of award." All final decisions and orders shall contain the name of the Office and agency, the names of the parties in interest, a statement of the basis for, findings of fact, an award, rejection, or other appropriate paragraph containing the action of the administrative law judge, and appended thereto shall be a paragraph headed "proof of service," containing the certification of the administrative law judge that a copy of the final decision and order was, on a date stated, sent by certified mail, with the names and addresses of the parties to whom sent. Final decisions and orders shall be signed by the administrative law judge at two places, (1) following the action paragraph, and (2) following the certification under the "proof of service."

(b) Copies of final decisions and orders shall be served personally or by certified mail upon the claimant, and upon any operator and his insurance carrier when applicable at the last known address of each.

§ 725.483 Contents of final decision and order.

(a) *Findings of Fact.* (1) All original final decisions and orders shall contain, in the paragraph headed "Findings of Fact," findings with respect to the names and addresses of the parties in interest, the dates and places of employment pertinent to the claim, the circumstances surrounding the coal miner's exposure to respirable coal dust, the nature and extent of the disability, notice of total disability or death, and such other facts as may be necessary to determine all of the issues raised before the administrative law judge upon the hearing of the case or otherwise, but in case of rejection of the claim the administrative law judge may in his discretion omit any findings unnecessary to support such action. In cases in which the claim is rejected, the ground for such rejection shall be stated in a paragraph following the findings of fact.

(2) In orders other than the original order, the statement of the basis for the order shall contain reference to all prior orders with the dates thereof. In such orders the findings of fact shall relate only to the immediate issues before the administrative law judge without restatement of facts found in any prior order relating to the same disability or death, unless necessary for the completeness of the order.

(3) Findings of fact shall be stated positively; that is, without equivocation or qualification.

(b) *Conclusions of law.* All final decisions and orders shall contain after the findings of fact a paragraph entitled

"Conclusions of Law." This paragraph shall, when appropriate, contain statements of all ultimate facts necessary to

Court for the District of Columbia, if the injury occurred in the District). If the court determines that the order was

the proceedings in respect of such claim or order have been instituted or continued without reasonable ground, the

OWCP may, in its discretion, certify to any two or more of such individuals joint payment of the total benefits payable to them for such period.

(b) *Basic benefit.* When a miner or widow is entitled to benefits for a month for which he or she has no dependents who qualify under Part 715 of

(3) Since a fraction of a cent is not a multiple of 10 cents, such an amount which contains a fraction in the third decimal place is raised to the next higher

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"Conclusions of Law." This paragraph shall, when appropriate, contain statements of all ultimate facts necessary to support the action of the administrative law judge. This paragraph shall contain among other things a statement as to the claimant's eligibility for benefits and, when appropriate, a statement asserting or denying the liability of an operator or his insurance carrier for the payment of benefits to the claimant for any periods after December 31, 1973.

(c) *Order.* All final decisions and orders shall contain after the conclusions of law the orders of the administrative law judge directing the parties to take any action consistent with the findings of fact and conclusions of law as required by the Act.

§ 725.484 Interlocutory matters to be disposed of without formal orders.

Final decisions and orders or other formal orders shall not be made or filed with respect to interlocutory matters of a procedural nature arising during the pendency of a case where benefits have been claimed.

§ 725.485 Finality of orders.

A final decision and order shall become effective when signed by the appropriate adjudication officer, and shall become final at the expiration of the 30th day thereafter.

§ 725.486 Modification of awards.

Upon his own initiative, or upon the application of any party in interest, on the ground of a change in conditions or because of a mistake in a determination of fact by the administrative law judge the administrative law judge may, at any time prior to 1 year after the date of the last payment of benefits, whether or not an order has been issued, or at any time prior to 1 year after the rejection of a claim, review a case in accordance with the procedure prescribed in respect of claims in this subpart and in accordance therewith issue a new final decision and order which may terminate, continue, or reinstate, increase, or decrease such benefits, or award benefits. Such new order shall not affect any benefits previously paid, except that an award increasing the benefits rate may be made effective from the date of the entitlement and if any part of the benefit due or to become due is unpaid, an award decreasing the benefit rate may be made effective from the date of the entitlement, and any payment made prior thereto in excess of such decreased rate shall be deducted from any unpaid benefit pursuant to Subpart F of this part.

§ 725.487 Judicial enforcement.

Pursuant to section 21(d) of the Longshoreman's Act as incorporated by section 422 of the Act, if any operator or his officers or agents fails to comply with an order making an award, that has become final, any beneficiary of such award or the adjudication office making the order, may apply for the enforcement of the order to the Federal district court for the judicial district in which the claimant resides (or to the U.S. District Court for the District of Columbia, if the injury occurred in the District). If the court determines that the order was made and served in accordance with law, and that such operator or his officers or agents have failed to comply therewith, the court shall enforce obedience to the order by writ of injunction or by other proper process, mandatory or otherwise, to enjoin upon such person and his officers and agents compliance with the order.

APPEALS FROM FINAL DECISION AND ORDERS

§ 725.491 Right to appeal; Benefits Review Board.

Any party in interest, adversely affected or aggrieved by a final decision and order of an adjudication officer issued pursuant to § 725.481 may appeal such final decision and order to the Benefits Review Board.

§ 725.492 Procedure before the Board.

All appeals filed with the Board shall be processed and determined pursuant to rules and regulations duly promulgated by the Board as authorized by the Secretary.

§ 725.493 Judicial review.

Pursuant to section 21(c) of the Longshoremen's and Harbor Workers' Compensation Act as incorporated by section 422 of the Act, any person adversely affected or aggrieved by a final order of the Board may obtain a review of that order in the U.S. Court of Appeals for the circuit in which the claimant resides or in the most convenient U.S. Circuit Court of Appeals if the claimant resides outside of the United States by filing in such court within 60 days following the issuance of such Board order a written petition praying that the order be modified or set aside. The statute provides that payment of the amounts required by an award shall not be stayed pending final decision in any such proceeding unless ordered by the court. No stay shall be issued unless irreparable injury would otherwise ensue to an operator or carrier. The order of the court allowing any stay shall contain a specific finding, based upon evidence submitted to the court and identified by reference thereto, that irreparable damage would result to the operator, and specifying the nature of the damage.

§ 725.496 Certification of record for judicial review.

Whenever the record of a hearing shall be required for review or otherwise by any court of competent jurisdiction, the Secretary or his designated representative shall transmit the record with a certification thereof over an appropriate signature as the official record of the case in his custody. The certification shall list each transcript of testimony and other paper included in the certification.

§ 725.497 Costs in proceedings brought without reasonable grounds.

If the court having jurisdiction of proceedings in respect of any claim or final decision and order determines that the proceedings in respect of such claim or order have been instituted or continued without reasonable ground, the costs of such proceedings shall be assessed against the party who has so instituted or continued such proceedings (Act, section 422 and Longshoremen's Act, section 26).

Subpart F—Payment of Benefits

GENERAL

§ 725.501 Applicability of this subpart.

For purposes of the Department of Labor's administration of part C of title IV of the Act, benefits shall be determined and paid pursuant to the provisions of this subpart. This subpart applies to all new claims of eligible individuals filed after December 31, 1973, as well as new claims filed with the Department of Labor pursuant to section 415 of part B of title IV of the Act by claimants entitled thereby to benefit payments under part C of title IV after December 31, 1973. However, in respect to new claims filed under section 415 of the Act, no payment of benefits under this Subpart F of this Part 725 shall commence before January 1, 1974. Benefits due any eligible individual from the Department of Labor which are payable under part B of title IV of the Act shall be determined and paid pursuant to Subpart C of Part 720 of this subchapter.

§ 725.502 Manner of payment; payment periods.

(a) Benefits under this Act shall be paid periodically, promptly, and directly to the person entitled thereto. Coal mine operators shall be liable for such payments as provided in Subpart D of this Part 725.

(b) Benefits are payable for monthly periods. If the claimant meets all the requirements for entitlement to benefits in the same month in which his claim is filed, the filing will be effective for the whole month. If a claimant dies in the first month for which he meets all the requirements for entitlement to benefits, he will be considered to be entitled to benefits for that month.

(c) On the 14th day after the date when there has been a determination by a deputy commissioner or decision by an administrative law judge to the effect that the claimant is entitled to receive benefits, or the date when payment of benefits has been ordered pursuant to § 725.312(b), the first installment of benefits shall become due and all benefits then due shall be paid. Thereafter compensation shall be paid in monthly installments, except where the adjudicating officer determines that payment in installments should be made semimonthly or at some other period.

§ 725.503 Payees.

Benefits may be paid, as appropriate, to a beneficiary, to a qualified dependent, or to a representative authorized under this subpart to receive payments on behalf of such beneficiary or dependent. Also, where an amount is payable under part C of title IV of the Act for any month to two or more individuals who are members of the same family, the

OWCP may, in its discretion, certify to any two or more of such individuals joint payment of the total benefits payable to them for such period.

§ 725.504 Payment on behalf of another; "legal guardian" defined.

Benefits are paid only to the beneficiary or his legal guardian. As used in this section, "legal guardian" means an individual who has been appointed by a court of competent jurisdiction or otherwise appointed pursuant to law, to assume control of, and responsibility for, the care of the beneficiary, the management of his estate, or both.

§ 725.505 Guardian for minor or incompetent.

The deputy commissioner may require the appointment by a court of competent jurisdiction, for any person who is mentally incompetent or a minor, of a guardian or other representative to receive benefits payable to such person under part C of title IV of the Act and to exercise the powers granted to or to perform the duties required of such person under the Act.

§ 725.506 Assignment and exemption from claims of creditors.

No assignment, release, or commutation of benefits due or payable under this part, except as provided by the Act as implemented by this Part 725, shall be valid, and such benefits shall be exempt from all claims of creditors and from levy, execution, and attachment or other remedy for recovery or collection of a debt, which exemption may not be waived. (Act, section 422, and Longshoremen's Act, section 16.)

§ 725.507 Computation of benefits.

(a) *Basic rate.* The benefit amount of each beneficiary entitled to a benefit for any month is determined, in the first instance, by computing the "basic rate." The basic rate is equal to 50 percent of the minimum monthly payment to which a totally disabled Federal employee in grade GS–2 would be entitled for such period under the Federal Employees' Compensation Act, chapter 81, title 5, United States Code. Such basic rate is determined by:

(1) Ascertaining the lowest annual rate of pay ("step 1") for grade GS–2 of the General Schedule applicable to such period (see 5 U.S.C. 5332);

(2) Ascertaining the monthly rate thereof by dividing the amount determined in subparagraph (1) of this paragraph by 12.

(3) Ascertaining the minimum monthly payment under the Federal Employees' Compensation Act by multiplying the amount determined in subparagraph (2) of this paragraph by 0.75 (that is, by 75 percent) (see 5 U.S.C. 8112); and

(4) Ascertaining the basic rate under the Act by multiplying the amount determined in subparagraph (3) of this paragraph by 0.50 (that is, by 50 percent).

(b) *Basic benefit.* When a miner or widow is entitled to benefits for a month for which he or she has no dependents who qualify under Part 715 of this chapter and when a surviving child of a miner or widow, or a parent, brother, or sister of a miner, is entitled to benefits for a month for which he or she is the only beneficiary entitled to benefits, the amount of benefits to which such beneficiary is entitled is equal to the basic rate as computed in accordance with this section (raised, if not a multiple of 10 cents, to the next higher multiple of 10 cents). This amount is referred to as the "basic benefit."

(c) *Augmented benefit.* (1) When a miner or widow is entitled to benefits for a month for which he or she has one or more dependents who qualify under Part 715 of this chapter, the amount of benefits to which such miner or widow is entitled is increased. This increase is referred to as an "augmentation."

(2) Any request to the Office that the benefits of a miner or widow be augmented in accordance with this paragraph shall be in writing on such form and in accordance with such instructions as are prescribed by the Office. Such request shall be filed with the Office in accordance with those provisions of Subpart B of this Part 725 dealing with the filing of claims as if such request were a claim for benefits, and as if such dependent were the "beneficiary" referred to therein. Ordinarily, such request is made as part of the claim of the miner or widow for benefits.

(3) The benefits of a miner or widow are augmented to take account of a particular dependent beginning with the first month in which such dependent satisfies the conditions set forth in Part 715 of this chapter and continue to be augmented through the month before the month in which such dependent ceases to satisfy the conditions set forth in Part 715 of this chapter, except in the case of a child who qualifies as a dependent because he is a student. In the latter case such benefits continue to be augmented through the month before the first month during no part of which he qualifies as a student.

(4) The basic rate is augmented by 50 percent for one such dependent, 75 percent for two such dependents, and 100 percent for three or more such dependents.

(d) *Survivor benefit.* (1) As used in this section, "survivor" means a surviving child of a miner or widow, or a surviving parent, brother, or sister of a miner, who establishes entitlement to benefits under the provisions of Part 715 of this chapter.

(e) *Computation and rounding.* (1) Any computation prescribed by this section is made to the third decimal place.

(2) Benefits are payable in multiples of 10 cents. Therefore, a payment of amounts derived under paragraph (c) (4) of this section which is not a multiple of 10 cents is increased to the next higher multiple of 10 cents.

(3) Since a fraction of a cent is not a multiple of 10 cents, such an amount which contains a fraction in the third decimal place is raised to the next higher multiple of 10 cents.

§ 725.508 Certification to dependent of augmentation portion of benefit.

(a) If the benefit of a miner or of a widow is augmented because of one or more dependents (§ 725.507), and it appears to the Director of the OWCP that the best interest of such dependent would be served thereby, the Director may certify payment of the amount of such augmentation (to the extent attributable to such dependent) to such dependent directly or to a representative payee for the use and benefit of such dependent.

(b) Any request to the Office to certify separate payment of the amount of an augmentation in accordance with paragraph (a) of this section, shall be in writing on such instructions as are prescribed by the Office, and shall be filed with the Office in accordance with those provisions of Subpart B of this part dealing with the filing of claims as if such request were a claim for benefits (see Subpart A of this part).

(c) In determining whether it is in the best interest of such dependent to certify separate payment of the amount of the augmentation in benefits attributable to him, the Director of the Office shall apply the standards pertaining to representative payment in this subpart and the instructions issued pursuant thereto.

(d) When the Director of the Office determines that the amount of a miner's benefit attributable to the miner's wife or child should be certified for separate payment to a person other than such miner, or that the amount of a widow's benefit attributable to such widow's child should be certified for separate payment to a person other than the widow, and the miner or widow disagrees with such determination and alleges that separate certification is not in the best interest of such dependent, the Director shall reconsider that determination.

(e) Any payment made under this section, if otherwise valid under the Act, is a complete settlement and satisfaction of all claims, rights, and interests in and to such payment.

§ 725.509 Commutation of payments, lump sum awards.

(a) Whenever the deputy commissioner determines that it is in the interest of justice, the liability for benefits or any part thereof as determined by a final adjudication, may, with the approval of the Director of the OWCP, be discharged by the payment of a lump sum equal to the present value of future benefits payments commuted, computed at 4 percent true discount compounded annually.

(b) Applications for commutation of future payments of benefits shall be made to the Office on the form provided for that purpose. If the deputy commissioner determines that an award of

a lump sum payment of such benefits would be in the interest of justice, he shall refer such application, together

of this chapter for an augmentation portion of a benefit of a miner or widow for a period in which another dependent

cluding compensation for occupational disease), unemployment compensation, or disability insurance.

not below zero) by the amount of excess earnings chargeable to such period.

§ 725.515 Nonpayment of benefits to

§ 725.522 Notice of right to waiver consideration.

Whenever an initial determination is

representation on the part of such deceased individual, and (ii) a claim for overpayment regardless of the amount will not be compromised, nor will there

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claimant resides (or to the U.S. District final decision and order determines that are members of the same family, the

a lump sum payment of such benefits would be in the interest of justice, he shall refer such application, together with the reasons in support of such determination, to the Director of the Office for consideration.

(c) The Director of the OWCP shall, in his discretion, grant or deny the application for commutation of payments. In the case of a denial an appeal may be taken pursuant to the adjudicatory procedures prescribed in Subpart E of this Part 725 as though such appeal were an appeal from a denial of benefits.

(d) The computation of all commutations of such benefits will be made by the Office of Workmen's Compensation Programs and for such purpose the deputy commissioner shall refer the file to the appropriate officer. For this purpose the file shall contain the date of birth of the person on whose behalf commutation is sought, as well as the date upon which such commutation shall be effective.

(e) For purposes of determining the amount of any lump sum award, the probability of the death of the disabled miner or other person entitled to benefits before the expiration of the period during which he is entitled to benefits, shall be determined in accordance with the American Experience Table of Mortality, and the probability of the remarriage of the surviving wife shall be determined in accordance with the remarriage tables of the Dutch Royal Insurance Institution. The probability of the happening of any other contingency affecting the amount or duration of the compensation shall be disregarded.

MODIFICATION OF BENEFITS

§ 725.511 Modification of benefit amounts, general.

Under certain conditions, the amount of monthly benefits as computed in § 725.507 must be modified to determine the amount actually to be paid to a beneficiary. A modification of the amount of a monthly benefit may be required in the following instances:

(a) *Reduction.* A reduction from a beneficiary's monthly benefit may be required because of:

(1) In the case of benefits to a miner, parent, brother, or sister, the excess earnings from wages and from net earnings from self-employment of such miner, parent, brother, or sister, respectively; or

(2) Failure to report earnings from work in employment and self-employment within the prescribed period of time; or

(3) The receipt by a beneficiary of payments made on account of any disability of the miner under State or Federal laws relating to workmen's compensation (including compensation for occupational disease), unemployment compensation, or disability insurance.

(4) The fact that a claim for benefits from an additional beneficiary is filed, or that such a claim is effective for a payment prior to the month of filing, or a dependent qualifies under Part 715 of this chapter for an augmentation portion of a benefit of a miner or widow for a period in which another dependent has previously qualified for an augmentation.

(b) *Adjustment.* An adjustment in a beneficiary's monthly benefit may be required because an overpayment or underpayment has been made to such beneficiary.

(c) *Nonpayment.* No benefits under this part are payable to the residents of a State which reduces its payments made to beneficiaries pursuant to certain State laws (see § 725.662).

(d) *Suspension.* A suspension of a beneficiary's benefits may be required when the Office has information indicating that reductions on account of the miner's excess earnings (based on criteria in section 203(b) of the Social Security Act, 42 U.S.C. 403(b)) may reasonably be expected.

(e) *"Rounding" of benefit amounts.* See § 725.507(e).

(f) *Failure to disclose pertinent evidence.* Any individual entitled to a benefit who is aware of any circumstance which, under the provisions of this part could affect his entitlement to benefits, his eligibility for payment, or the amount of his benefits, or result in the termination, suspension, or reduction of his benefit, shall promptly report such circumstance to the Office of Workmen's Compensation Programs. The Office may at any time require an individual receiving, or claiming that he is entitled to receive a benefit, either on behalf of himself or on behalf of another, to submit a written statement giving pertinent information bearing upon the issue of whether or not an event has occurred which would cause such benefit to be terminated, or which would subject such benefit to reductions or suspension under the provisions of the act. If such individual fails to submit any such report or statement, properly executed, to the Office as herein required, the Office may subject such benefit to reductions, suspension, or termination as the case may be.

(g) *Reimbursement of trust fund.* Pursuant to the provisions of section 422 of the Act and section 17(b) of the Longshoremen's Act as incorporated therein, where a trust fund which complies with section 302(c) of the Labor-Management Relations Act of 1947 (29 U.S.C. 186(c)) established pursuant to a collective bargaining agreement in effect between an employer and an employee entitled to benefits under this Act has paid disability benefits to an employee which the employee is legally obligated to repay by reason of his entitlement to benefits under this Act, the Secretary may authorize a lien on such benefits in honor of the trust fund if for the amount of such payments.

§ 725.512 Reductions: receipt of State benefit.

(a) As used in this section, the term "State benefit" means a payment to a beneficiary made on account of any disability of the miner under State laws relating to workmen's compensation (including compensation for occupational disease), unemployment compensation, or disability insurance.

(b) Benefit payments to a beneficiary for any month are reduced (but not below zero) by an amount equal to any payments of State benefits received by such beneficiary for such month.

(c) Where a State benefit is paid periodically but not monthly, or in a lump sum as a commutation of or a substitute for periodic benefits, the reduction under this section is made at such time or times and in such amounts as the Office determines will approximate as nearly as practicable the reduction required under paragraph (b) of this section. In making such a determination, a weekly State benefit is multiplied by $4\frac{1}{3}$ and a biweekly benefit is multiplied by $2\frac{1}{6}$ to ascertain the monthly equivalent for reduction purposes.

(d) Amounts paid or incurred or to be incurred by the individual for medical, legal, or related expenses in connection with his claim for State benefits (defined in paragraph (a) of this section) or the injury or occupational disease, if any, on which such award of State benefits (or settlement agreement) is based, are excluded in computing the reduction under paragraph (b) of this section, to the extent that they are consonant with State law. Such medical, legal, or related expenses may be evidenced by the State benefit award, compromise agreement, or court order in the State benefit proceedings, or by such other evidence as the Office may require. Such other evidence may consist of:

(1) A detailed statement by the individual's attorney, physician, or the employer's insurance carrier; or

(2) Bills, receipts, or canceled checks; or

(3) Other clear and convincing evidence indicating the amount of such expenses; or

(4) Any combination of the foregoing evidence from which the amount of such expenses may be determinable.

Such expenses will not be excluded unless established by evidence as required by the Office.

§ 725.513 Reductions: retroactive effect of an additional claim for benefits.

Beginning with the month in which a person other than a miner files a claim and becomes entitled to benefits, the benefits of other persons entitled to benefits with respect to the same miner, are adjusted downward, if necessary, so that no more than the permissible amount of benefits (the maximum amount for the number of beneficiaries involved) will be paid.

§ 725.514 More than one reduction event.

If a reduction for receipt of State benefits and a reduction on account of excess earnings are chargeable to the same monthly period, the benefit for such period is first reduced (but not below zero) by the amount of the State benefits, and the remainder of the benefit for such period, if any, is then reduced (but not below zero) by the amount of excess earnings chargeable to such period.

§ 725.515 Nonpayment of benefits to residents of certain States.

No benefits shall be paid under this part to the residents of any State which, after December 30, 1969, reduces the benefits payable to persons eligible to receive benefits under this part, under its State laws which are applicable to its general work force with regard to workmen's compensation (including compensation for occupational disease), unemployment compensation, or disability insurance benefits which are funded in whole or in part out of employer contributions.

OVERPAYMENTS, UNDERPAYMENTS

§ 725.521 Overpayment.

(a) *General.* As used in this subpart, the term "overpayment" includes:

(1) Payment where no amount is payable under Part C of Title IV of the Act;

(2) Payment in excess ofthe amount due under Part C of Title IV of the Act;

(3) Payment resulting from the failure to reduce benefits under sections 412(b) and 430 of the Act;

(4) Payment to a resident of a State whose residents are not eligible for payment; and

(5) Payment resulting from the failure to terminate benefits of an individual no longer entitled thereto.

(b) *Adjustments for overpayment.* If the beneficiary to whom an overpayment was made is entitled to benefits at the time of a determination of such overpayment, or becomes so entitled, at any time thereafter, no such benefit for any month is payable to such individual, except as provided in paragraph (c) of this section, until an amount equal to the amount of the overpayment has been withheld or refunded.

(c) *Adjustment by withholding part of a monthly benefit.* Adjustment under paragraph (b) of this section may be effected by withholding a part of the benefit payable to a beneficiary where it is determined that:

(1) Withholding the full amount of each payment period would deprive the beneficiary of income required for ordinary and necessary living expenses;

(2) The overpayment was not caused by the beneficiary's intentionally false statement or representation, or willful concealment of, or deliberate failure to furnish material information; and

(3) Recoupment can be effected in an amount of not less than $10 a month and at a rate which would not extend the period of adjustment beyond 3 years after the initiation of the adjustment action.

(d) *Adjustment of overpayment to deceased beneficiary.* If an overpaid beneficiary dies before adjustment is completed under the provisions of paragraph (b) or (c) of this section, recovery of the overpayment shall be effected through repayment by the estate of the deceased overpaid beneficiary, or by withholding of amounts due the estate of such deceased beneficiary, or both.

§ 725.522 Notice of right to waiver consideration.

Whenever an initial determination is made that more than the correct amount of payment has been made, notice of the provisions of section 204(b) of the Social Security Act regarding waiver of adjustment or recovery shall be sent to the overpaid individual and to any other individual against whom adjustment or recovery of the overpayment is to be effected.

§ 725.523 When waiver of adjustment or recovery may be applied.

There shall be no adjustment or recovery in any case where an incorrect payment under Part C of Title IV of the Act has been made with respect to an individual—

(a) Who is without fault, and

(b) Adjustment or recovery would either:

(1) Defeat the purpose of Title IV of the Act, or

(2) Be against equity and good conscience.

§ 725.524 Standards for waiver of adjustment or recovery.

The standards for determining the applicability of the criteria listed in § 725.523 shall be the same as those applied by the Social Security Administration pursuant to §§ 410.561–410.561(h) of this title.

§ 725.525 Collection and compromise of claims for overpayment.

(a) *General effect of the Federal Claims Collection Act of 1966.* Claims by the Office of Workmen's Compensation Programs against an individual for recovery of overpayments under Part C of Title IV of the Act, not exceeding the sum of $20,000, exclusive of interest, may be compromised, or collection suspended or terminated where such individual or his estate does not have the present or prospective ability to pay the full amount of the claim within a reasonable time (see paragraph (c) of this section) or the cost of collection is likely to exceed the amount of recovery (see paragraph (d) of this section) except as provided under paragraph (b) of this section.

(b) *When there will be no compromise, suspension or termination of collection of a claim for overpayment—(1) Overpaid individual living.* In any case where the overpaid individual is alive, a claim for overpayment will not be compromised, nor will there be suspension or termination of collection of the claim by the Office if there is an indication of fraud, the filing of false claim, or misrepresentation on the part of such individual or on the part of any other party having an interest in the claim.

(2) *Overpaid individual deceased.* In any case where the overpaid individual is deceased (i) a claim for overpayment in excess of $5,000 will not be compromised, nor will there be suspension or termination of collection of the claim by the Office if there is an indication of fraud, the filing of a false claim, or misrepresentation on the part of such deceased individual, and (ii) a claim for overpayment regardless of the amount will not be compromised, nor will there be suspension or termination of collection of the claim by the Office if there is an indication that any person other than the deceased overpaid individual had a part in the fraudulent action which resulted in the overpayment.

(c) *Inability to pay claim for recovery of overpayment.* In determining whether the overpaid individual is unable to pay a claim for recovery of an overpayment under Part C of Title IV of the Act, the Office will consider such individual's age, health, present and potential income (including inheritance prospects), assets (e.g., real property, savings account), possible concealment or improper transfer of assets, and assets or income of such individual which may be available in enforced collection proceedings. The Office will also consider exemptions available to such individual under the pertinent State or Federal law in such proceedings. In the event the overpaid individual is deceased, the Office will consider the available assets of the estate, taking into account any liens or superior claims against the estate.

(d) *Cost of collection or litigative probalities.* Where the probable costs of recovering an overpayment under Part C of Title IV of the Act would not justify enforced collection proceedings for the full amount of the claim or there is doubt concerning the Office's ability to establish its claim as well as the time which it will take to effect such collection, a compromise or settlement for less than the full amount will be considered.

(e) *Amount of compromise.* The amount to be accepted in compromise of a claim for overpayment under Part C of Title IV of the Act shall bear a reasonable relationship to the amount which can be recovered by enforced collection proceedings giving due consideration to the exemptions available to the overpaid individual under State or Federal law and the time which collection will take.

(f) *Payment.* Payment of the amount which the Office has agreed to accept as a compromise in full settlement of a claim for recovery of an overpayment under Part C of Title IV of the Act must be made within the time and in the manner set by the Office. A claim for such recovery of the overpayment shall not be considered compromised or settled until the full payment of the compromised amount has been made within the time and manner set by the Office. Failure of the overpaid individual or his estate to make such payment as provided shall result in reinstatement of the full amount of the overpayment less any amounts paid prior to such default.

§ 725.526 Underpayments.

(a) General: As used in this subpart, the term "underpayment" includes a payment in an amount less than the amount of the benefit due for any month, and nonpayment where some amount of such benefits are payable.

(b) Underpaid individual is living: If an individual to whom an underpayment

person can give the Administration good acquittance (as defined in paragraph (f)

a miner or widow who could qualify for certification of separate payment of an

account in a bank or trust company or in a savings and loan association if the

will facilitate the beneficiary's earliest possible rehabilitation or release from the institution or which otherwise will

be, shall furnish such medical, surgical, and other attendance or treatment, nurse and hospital service, medicine, crutches,

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(b) Underpaid individual is living: If an individual to whom an underpayment is due is living, the amount of such underpayment will be paid to such individual either in a single payment (if he is not entitled to a monthly benefit) or by increasing one or more benefit payments to which such individual is or becomes entitled.

(c) Underpaid individual dies before adjustment of underpayment: If an individual to whom an underpayment is due dies before receiving payment or negotiating a check or checks representing such payment, such underpayment will be distributed to the living person (or persons) in the highest order of priority as follows:

(1) The deceased individual's surviving spouse who was either:

(i) Living in the same household with the deceased individual at the time of such individual's death, or

(ii) In the case of a deceased miner, entitled for the month of death to widow's black lung benefits.

(2) In the case of a deceased miner or widow, his or her child entitled to benefits as the surviving child of such miner or widow for the month in which such miner or widow died (if more than one such child, in equal shares to each such child).

(3) In the case of a deceased miner, his parent entitled to benefits as the surviving parent of such miner for the month in which such miner died (if more than one such parent, in equal shares to each such parent).

(4) The surviving spouse of the deceased individual who does not qualify under subparagraph (1) of this paragraph.

(5) The child or children of the deceased individual who do not qualify under subparagraph (2) of this paragraph (if more than one such child, in equal shares to each such child).

(6) The parent or parents of the deceased individual who do not qualify under subparagraph (3) of this paragraph (if more than one such parent, in equal shares to each such parent).

(7) The legal representative of the estate of the deceased individual as defined in paragraph (e) of this section.

(d) In the event that a person who is otherwise qualified to receive an underpayment under the provisions of paragraph (c) of this section, dies before receiving payment or before negotiating the check or checks representing such payment, his share of the underpayment will be divided among the remaining living person(s) in the same order of priority. In the event that there is (are) no other such person(s), the underpayment will be paid to the living person(s) in the next lower order of priority under paragraph (c) of this section.

(e) *Definition of legal representative:* The term "legal representative," for the purpose of qualifying to receive an underpayment, generally means the executor or the administrator of the estate of the deceased beneficiary. However, it may also include an individual, institution, or organization acting on behalf of an unadministered estate, provided the person can give the Administration good acquittance (as defined in paragraph (f) of this section). The following persons may qualify as legal representative for purposes of this section, provided they can give the Administration good acquittance:

(1) A person who qualifies under a State's "small estate" statute; or

(2) A person resident in a foreign country who under the laws and customs of that country, has the right to receive assets of the estate; or

(3) A public administrator; or

(4) A person who has the authority, under applicable law, to collect the assets of the estate of the deceased beneficiary.

(f) Definition of "good acquittance": A person is considered to give the Administration "good acquittance" when payment to that person will release the Administration from further liability for such payment.

§ 725.527 Relation to provisions for reductions or increases.

The amount of an overpayment or underpayment is the difference between the amount actually paid to the beneficiary and the amount of the payment to which the beneficiary was actually entitled. Such overpayment or underpayment, for example, would be equal to the difference between the amount of a benefit in fact paid to the beneficiary and the amount of such benefit as reduced under section 412(b) of the Act, as increased pursuant to section 412(a)(1), or as augmented under section 412(a)(3), of the Act. In effecting an adjustment with respect to an overpayment, no amount can be considered as having been withheld from a particular benefit which is in excess of the amount of such benefit as so reduced. Overpayment and underpayment simultaneously outstanding on account of the same beneficiary are first adjusted against one another before adjustment pursuant to the other provisions of this subpart.

REPRESENTATIVE PAYEES

§ 725.531 Payments on behalf of an individual.

(a) When it appears to the Office that the interest of a beneficiary entitled to a payment under Part C of Title IV of the Act would be served thereby, certification of payment may be made by the Office, regardless of the legal competency or incompetency of the beneficiary entitled thereto, either for direct payment to such beneficiary, or for his use and benefit to a relative or some other person as the "representative payee" of the beneficiary. When it appears that an individual who is receiving benefit payments may be incapable of managing such payments in his own interest, the Office shall, if such individual is age 18 or over and has not been adjudged legally incompetent, continue payments to such individual pending a determination as to his capacity to manage benefit payments and the selection of a representative payee.

(b) As used in this section and the related sections following, the term "beneficiary" includes the dependent of a miner or widow who could qualify for certification of separate payment of an augmentation portion of such miner's or widow's benefits.

§ 725.532 Submission of evidence by representative payee.

Before any amount shall be certified for payment to any relative or other person as representative payee for and on behalf of a beneficiary, such relative or other person shall submit to the Office such evidence as it may require of his relationship to, or his responsibility for the care of, the beneficiary on whose behalf payment is to be made, or of his authority to receive such payment. The Office may, at any time thereafter, require evidence of the continued existence of such relationship, responsibility, or authority. If any such relative or other person fails to submit the required evidence within a reasonable period of time after it is requested, no further payments shall be certified to him on behalf of the beneficiary unless for good cause shown, the default of such relative or other person is excused by the Office and the required evidence is thereafter submitted.

§ 725.533 Responsibility of representative payee.

A relative or other person to whom certification of payment is made on behalf of a beneficiary as representative payee shall, subject to review by the Office and to such requirements as it may from time to time prescribe, apply the payments certified to him on behalf of a beneficiary only for the use and benefit of such beneficiary in the manner and for the purposes determined by him to be in the beneficiary's best interest.

§ 725.534 Use of benefits for current maintenance.

Payments certified to a relative or other person on behalf of a beneficiary shall be considered as having been applied for the use and benefit of the beneficiary when they are used for the beneficiary's current maintenance—i.e., to replace current income lost because of the disability, retirement, or death of the insured individual. Where a beneficiary is receiving care in an institution, current maintenance shall include the customary charges made by the institution to individuals it provides with care and services like those it provides the beneficiary and charges made for current and foreseeable needs of the beneficiary which are not met by the institution.

§ 725.535 Conservation and investment of payments.

(a) Payments certified to a relative or other person on behalf of a beneficiary which are not needed for the current maintenance of the beneficiary except as they may be used pursuant to § 725.720, shall be conserved or invested on the beneficiary's behalf. Preferred investments are U.S. savings bonds, but such funds may also be invested in accordance with the rules applicable to investment of trust estates by trustees. For example, surplus funds may be deposited in an interest or dividend bearing account in a bank or trust company or in a savings and loan association if the account is either federally insured or is otherwise insured in accordance with State law requirements. Surplus funds deposited in an interest or dividend bearing account in a bank or trust company or in a savings and loan association must be in a form of account which clearly shows that the representative payee has only a fiduciary, and not a personal, interest in the funds.

(b) The preferred forms of such accounts are as follows:

_____
(Name of beneficiary)
by
_____
(Name of representative payee)
or
_____
(Name of beneficiary)
by
_____
(Name of representative payee), Trustee

(c) U.S. savings bonds purchased with surplus funds by a representative payee for a minor should be registered as follows:

_____
(Name of beneficiary)
_____, a minor, for whom
(Social Security No.)
_____ is representative
(Name of payee)
payee for black lung benefits.

(d) U.S. savings bonds purchased with surplus funds by a representative payee for an incapacitated adult beneficiary should be registered as follows:

_____
(Name of beneficiary)
_____, for whom
(Social Security No.)
_____ is representative
(Name of payee)
payee for black lung benefits.

A representative payee who is the legally appointed guardian or fiduciary of the beneficiary may also register U.S. savings bonds purchased with funds from the payment of benefits under Part B of Title IV in accordance with applicable regulations of the U.S. Treasury Department (31 CFR 315.5 through 315.8). Any other approved investment of the beneficiary's funds made by the representative payee must clearly show that the payee holds the property in trust for the beneficiary.

§ 725.536 Use of benefits for beneficiary in institution.

Where a beneficiary is confined in a Federal, State, or private institution because of mental or physical incapacity, the relative or other person to whom payments are certified on behalf of the beneficiary shall give highest priority to expenditure of the payments for the current maintenance needs of the beneficiary, including the customary charges made by the institution in providing care and maintenance. It is considered in the best interests of the beneficiary for the relative or other person to whom payments are certified on the beneficiary's behalf to allocate expenditure of the payments so certified in a manner which will facilitate the beneficiary's earliest possible rehabilitation or release from the institution or which otherwise will help him live as normal a life as practicable in the institutional environment.

§ 725.537 Support of legally dependent spouse, child, or parent.

If current maintenance needs of a beneficiary are being reasonably met, a relative or other person to whom payments are certified as representative payee on behalf of the beneficiary may use part of the payments so certified for the support of the legally dependent spouse, a legally dependent child, or a legally dependent parent of the beneficiary.

§ 725.538 Claims of creditors.

A relative or other person to whom payments under Part C of Title IV of the Act are certified as representative payee on behalf of a beneficiary may not be required to use such payments to discharge an indebtedness of the beneficiary which was incurred before the first monthly period for which payments are certified to a relative or other person on the beneficiary's behalf. In no case, however, may such payee use such payments to discharge such indebtedness of the beneficiary unless the current and reasonably foreseeable future needs of the beneficiary are otherwise provided for.

§ 725.539 Accountability.

A relative or other person to whom payments are certified as representative payee on behalf of a beneficiary as the Office may require, accounting for the payments certified to him on behalf of the beneficiary unless such payee is a court-appointed fiduciary and, as such, is required to make an annual accounting to the court, in which case a true copy of each such account filed with the court may be submitted in lieu of the accounting form prescribed by the Office. If any such relative or other person fails to submit the required accounting within a reasonable period of time after it is requested, no further payments shall be certified to him on behalf of the beneficiary unless for good cause shown, the default of such relative or other person is excused by the Office, and the required accounting is thereafter submitted.

§ 725.540 Transfer of accumulated benefit payments.

A representative payee who has conserved or invested funds from payments under Part B of Title IV of the Act certified to him on behalf of a beneficiary shall, upon direction of the Office, transfer any such funds (including interest earned from investment of such funds) to a successor payee appointed by the Office, or, at the option of the Office, shall transfer such funds, including interest, to the Office for recertification to a successor payee or to the beneficiary.

MEDICAL BENEFITS

§ 725.551 Availability of medical benefits.

A responsible operator, its insurance carrier, or the Secretary, as the case may be, shall furnish such medical, surgical, and other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus, for such period as the nature of a miner's pneumoconiosis and related disability, or the process of recovery may require.

§ 725.552 Approved physicians.

The Office shall designate authorized physicians who are to render medical care under the Act. The names of physicians so designated in the community shall be made available to employees through postings or in such other form as the Secretary may prescribe.

§ 725.553 Miner's physician.

(a) A miner shall have the right to choose an attending physician authorized by the Office to provide medical care under the Act. If, due to the nature of the disability, the miner is unable to select his physician and the nature of the disability requires immediate medical treatment and care, the responsible operator or the Office, as the case may be shall select a physician for him.

(b) The Office shall actively supervise the medical care rendered to disabled miners, shall require periodic reports as to the medical care being rendered to disabled miners, and shall have authority to determine the necessity, character, and sufficiency of any medical aid furnished or to be furnished. The Director of the Office may, on his own initiative or at the request of the responsible operator, order a change of physicians or hospitals when in his judgment such change is desirable or necessary in the interest of the miner. Change of physicians at the request of miners shall be permitted only upon a showing made to the Office that the attending physician is unable or unwilling to provide adequate medical care and treatment for the miner or that the physician is in some way not in compliance with the rules governing physicians contained in this Part 725.

§ 725.554 Fees for medical services.

(a) Fees for medical services contemplated in this subpart shall be paid by a responsible operator if he is a self-insurer or by his insurance carrier. In the event there is no financially responsible operator, fees shall be paid by the Office.

(b) A miner shall not be entitled to recover any amount expended by him for medical treatment or services unless (1) he shall have requested the responsible operator or insurance carrier or the Office to furnish or authorize such services or to authorize provision of such services by the physician selected by the miner, and the operator, the carrier, or the Office shall have refused or neglected to do so; or unless (2) the nature of the disability required such treatment and services and the operator, carrier, or the Office, with knowledge thereof, refused or neglected to provide or authorize the same. No claim for medical or surgical treatment shall be valid and enforceable, as against operator, carrier, or the Secretary, unless within 10 days following the first treatment the physician giving

such treatment furnishes to the operator, carrier, or the Office a report of such treatment on a form prescribed by the

medical or surgical treatment, or to an examination by a physician selected by the operator, carrier, or the Office, a

regulating physicians' charges in respect of a black lung benefits claim.

This part shall become effective No-

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such treatment furnishes to the operator, carrier, or the Office a report of such treatment on a form prescribed by the Office. The Director of the Office may, however, excuse the failure to furnish such report within 10 days when he finds it to be in the interest of justice to do so, and he or a deputy commissioner may, upon application by a party in interest, make an award for the reasonable value of such medical or surgical treatment so obtained by the miner. If at any time the miner unreasonably refuses to submit to medical or surgical treatment, or to an examination by a physician selected by the operator, carrier, or the Office, a deputy commissioner may, by order, suspend the payment of further benefits during such time as such refusal continues, and no benefits shall be paid at any time during the period of such suspension, unless the circumstances justified the refusal.

(c) Fees for medical services shall be subject to the provisions of this part regulating physicians' charges in respect of a black lung benefits claim.

This part shall become effective November 30, 1972.

Signed at Washington, D.C., this 27th day of November 1972.

R. J. GRUNEWALD,
Assistant Secretary for Employment Standards.

[FR Doc.72-20594 Filed 11-29-72;8:52 am]

federal register

THURSDAY, NOVEMBER 30, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 231

PART III

DEPARTMENT OF LABOR

Office of the Secretary

LABOR STANDARDS FOR FEDERAL SERVICE CONTRACTS

Provisions and Procedures

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Title 29—LABOR

with respect to payment of wage rates and fringe benefits based on those agreed upon for substantially the same services

of Labor for Employment Standards, and their authorized representatives.

(2) "Administrator" means the Dep-

cation. Section 4(c) provides that no such contractor or subcontractor shall pay any employee employed on the contract work less than the wages and fringe

ployed, would be determined as provided in 5 U.S.C. 5341. Unless otherwise specified in the wage determination, the wage rates and fringe benefits so determined

proposed contract will succeed, and if such incumbent contractor is furnishing such services through the use of service employees whose wage rates and fringe

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Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 4—LABOR STANDARDS FOR FEDERAL SERVICE CONTRACTS

Subpart A—Service Contract Labor Standards Provisions and Procedures

MISCELLANEOUS AMENDMENTS

Pusuant to section 4 of the Service Contract Act of 1965 as amended (79 Stat. 1034, 86 Stat. 789; 41 U.S.C. 351 et seq.) and Secretary of Labor's Order No. 13-71 (36 F.R. 8755), amendments are hereby made to 29 CFR Part 4 as set forth below in order to conform the provisions of Part 4 to the provisions of such Act as amended by Public Law 92-473, 86 Stat. 789, enacted and effective October 9, 1972. These amendments to Part 4 also make editorial changes in references to officers and organizational components of the Department of Labor performing functions under the part so that they may be identified by their correct titles under the current organizational structure of the Department.

Since these amendments implement amendments to such Act having application to Government procurement procedures for public contracts, which statutory amendments are already in effect, and reflect currently effective revisions in the organization of the Department of Labor, I find that notice and public procedure on these amendments and delay in effective date as provided in 5 U.S.C. 553 would be contrary to the public interest. These amendments shall, therefore, be effective immediately, and shall be applicable, to the extent consistent with law and established procurement procedures, from the effective date of Public Law 92-473. Interested persons shall, notwithstanding, be afforded opportunity until December 31, 1972 to present any written data, views, or arguments concerning these amendments to the Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 for consideration in the same manner as if such amendments were being proposed for adoption. If, upon review of the comments so received, it is concluded that any of them warrant changes in these amendments as adopted, the provisions of these amendments will be further amended accordingly.

Part 4 of Subtitle A of Title 29 of the Code of Federal Regulations is amended as follows:

1. Subpart A is amended by adding, after § 4.1, new §§ 4.1a, 4.1b, and 4.1c to read as follows:

§ 4.1a The Act as amended.

(a) The provisions of the Act (see §§ 4.102-4.103) were amended, effective October 9, 1972, by Public Law 92-473, signed into law by the President on that date. By virtue of amendments made to paragraphs (1) and (2) of section 2(a) and the addition to section 4 of a new subsection (c), the compensation standards of the Act (see §§ 4.159-4.164) were revised to impose on successor contractors certain requirements (see § 4.1c) with respect to payment of wage rates and fringe benefits based on those agreed upon for substantially the same services for the same location in collective bargaining agreements entered into by their predecessor contractors (unless such agreed compensation is substantially at variance with that locally prevailing or the agreement was not negotiated at arm's length), and to require the Secretary of Labor to give effect to the provisions of such collective bargaining agreements in his wage determinations under section 2 of the Act. A new paragraph (5) added to section 2(a) of the Act requires a statement in the government service contract of the rates that would be paid by the contracting agency in the event of its direct employment of those classes of service employees to be employed on the contract work who, if directly employed by the agency, would receive wages determined as provided in 5 U.S.C. 5341. The Secretary of Labor is directed to give due consideration to such rates in determining minimum monetary wages and fringe benefits under the Act's provisions. Other provisions of the 1972 amendments include the addition of a new section 10 to the Act to insure extension of coverage by wage determinations of the Secretary to substantially all service contracts subject to section 2(a) of the Act at the earliest administratively feasible time; an amendment to section 4(b) of the Act to provide, in addition to the conditions previously specified for issuance of administrative limitations, variations, tolerances, and exemptions (see § 4.123), that administrative action in this regard shall be taken only in special circumstances where the Secretary determines that it is in accord with the remedial purpose of the Act to protect prevailing labor standards; and a new subsection (d) added to section 4 of the Act providing for the award of service contracts for terms not more than 5 years with provision for periodic adjustment of minimum wage rates and fringe benefits payable thereunder by the issuance of wage determinations by the Secretary of Labor during the term of the contract. A further amendment to section 5(a) of the Act requires the names of contractors found to have violated the Act to be submitted for the debarment list (see § 4.188) not later than 90 days after the hearing examiner's finding of violation unless the Secretary recommends relief, and provides that such recommendations shall be made only because of unusual circumstances.

(b) Included in this Subpart A and in Part 6 of this subtitle are provisions to give effect to the amendments mentioned in paragraph (a) of this section. Until editorial revisions of other provisions of this part can be made to conform to the Act as amended, such provisions should be read in conjunction with the statutory amendments referred to in paragraph (a) of this section.

§ 4.1b Definitions and use of terms.

(a) As used in this part, unless otherwise indicated by the context—

(1) "Secretary" includes the Secretary of Labor, the Assistant Secretary of Labor for Employment Standards, and their authorized representatives.

(2) "Administrator" means the Deputy Assistant Secretary for Employment Standards in the Employment Standards Administration of the Department of Labor who is also Administrator of the Wage and Hour Division, or his authorized representative as set forth in this part. In the absence of the Deputy Assistant Secretary/Wage-Hour Administrator, the Deputy Administrator of the Wage and Hour Division/Director of Office of Wage and Compensation Programs is designated to act for him under this part. Except as otherwise provided in this part, the Assistant Administrator is the authorized representative of the Administrator for the performance of functions relating to the making and effectuation of wage determinations under the Service Contract Act of 1965, as amended, and this part.

(3) "Office of Special Wage Standards" or "OSWS" means the organizational unit in the Employment Standards Administration to which is assigned the performance of functions of the Secretary under the Service Contract Act of 1965 as amended.

(4) "Contract" includes any contract subject wholly or in part to provisions of the Service Contract Act of 1965 as amended, and any subcontract of any tier thereunder. (See §§ 4.107-4.134.)

(5) "Contractor" includes a subcontractor whose subcontract is subject to provisions of the Act.

(6) "Wage determination" includes any determination of minimum wage rates or fringe benefits made pursuant to the provisions of section 2(a) of the Act for application to the employment in a locality of any class or classes of service employees in the performance of any contract in excess of $2,500 which is subject to the provisions of the Service Contract Act of 1965.

(7) "Act," "Service Contract Act," or "Service Contract Act of 1965" shall mean the Service Contract Act of 1965 as amended by Public Law 92-473, 86 Stat. 789, enacted and effective October 9, 1972.

(b) Because of organizational changes in the Department of Labor (see Secretary of Labor's Order No. 13-71, 36 F.R. 8755), any references in provisions of this part to the Workplace Standards Administration should be read as referring to the Employment Standards Administration, and references to the Office of Government Contracts Wage Standards should be read as referring to the Office of Special Wage Standards, until such provisions are revised to reflect such organizational changes.

§ 4.1c Payment of minimum compensation based on collectively bargained wage rates and fringe benefits applicable to employment under predecessor contract.

Section 4(c) of the Service Contract Act of 1965 as amended provides special minimum wage and fringe benefit requirements applicable to every contractor and subcontractor under a contract which succeeds a contract subject to the Act and under which substantially the same services as under the predecessor contract are furnished for the same location. Section 4(c) provides that no such contractor or subcontractor shall pay any employee employed on the contract work less than the wages and fringe benefits provided for in a collective bargaining agreement as a result of arms-length negotiations, to which such service employees would have been entitled if they were employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for in such collective bargaining agreement. If, however, the Secretary finds after a hearing in accordance with the regulations set forth in § 4.10 of this subpart that in any of the foregoing circumstances such wages and fringe benefits are substantially at variance with those which prevail for services of a character similar in the locality, the payment obligations of such contractor or subcontractor with respect thereto shall not apply in such circumstances.

2. Section 4.3 is revised to read as follows:

§ 4.3 Register of wage determinations.

(a) The minimum monetary wages and fringe benefits for service employees which the Act requires to be specified in contracts and bid specifications subject to section 2(a) thereof will be set forth in wage determinations issued by the Administrator as an orderly series constituting a register of such minimum wages and fringe benefits. The register shall include, as soon as administratively feasible, wage determinations applicable to all contracts subject to section 2(a) of the Act, and will include in any event, for the localities in which services under such contracts are to be furnished, wage determinations applicable to all contracts entered into during the following years under which more than the stated number of service employees are to be employed: (1) Fiscal year ending June 30, 1973—25; (2) ending June 30, 1974—20; (3) ending June 30, 1975—15; (4) ending June 30, 1976—10; (5) ending June 30, 1977, and for each fiscal year thereafter—5.

(b) Such wage determinations will set forth for the various classes of service employees to be employed in furnishing services under such contracts in the several localities, minimum monetary wage rates to be paid and minimum fringe benefits to be furnished them during the periods when they are engaged in the performance of such contracts, including, where appropriate under the Act, provisions for adjustments in such minimum rates and benefits to be placed in effect under such contracts at specified future times. The wage rates and fringe benefits set forth in such wage determinations shall be determined in accordance with the provisions of sections 2(a) (1), (2), and (5), 4(c) and 4(d) of the Act from those prevailing in the locality for such employees and from pertinent collective bargaining agreements, with due consideration of the rates that would be paid for direct Federal employment of any classes of such employees whose wages, if federally employed, would be determined as provided in 5 U.S.C. 5341. Unless otherwise specified in the wage determination, the wage rates and fringe benefits so determined for any class of service employees to be engaged in furnishing covered contract services in a locality shall be made applicable by contract to all service employees of such class employed to perform such services in the locality under any contract subject to section 2(a) of the Act which is entered into thereafter and before such determination has been rendered obsolete by a withdrawal, modification, or supersedure.

(c) Wage determinations included in the register will be available for public inspection during business hours at the Office of Special Wage Standards in the Employment Standards Administration, U.S. Department of Labor, and copies will be made available on request at regional offices of the Administration.

3. Section 4.4 is revised to read as follows:

§ 4.4 Notice of intention to make a service contract.

(a) Not less than 30 days prior to any invitation for bids, request for proposals, or commencement of negotiations for any contract exceeding $2,500 which may be subject to the Act, the contracting agency shall file with the Office of Special Wage Standards, Employment Standards Administration, Department of Labor, its notice of intention to make a service contract. Such notice shall be submitted on Standard Form 98, Notice of Intention to Make a Service Contract, which shall be completed in accordance with the instructions provided and shall be supplemented by the information required under paragraphs (b) and (c) of this section. Supplies of Standard Form 98 are available in all GSA supply depots under stock number 7540-926-8972.

(b) The contracting agency shall file with its Notice of Intention to Make a Service Contract (SF-98) a statement in writing containing the following information concerning the service employees expected by the agency to be employed by the contractor and any subcontractors in performing the contract:

(1) The number of such employees of all classes, or a statement indicating whether such number will or will not exceed the number for which a wage determination is mandatory under the provisions of § 4.3(a); and

(2) A listing of those classes of service employees expected to be employed under the contract which, if employed by the agency, would be subject to the wage provisions of 5 U.S.C. 5341, together with a specification of the rates of wages and fringe benefits that would be paid by the Government to employees of each such class if such statute were applicable to them. (Under section 2(a)(5) of the Act and § 4.6 of this part the inclusion of such a statement in the service contract is also required.)

(c) If the services to be furnished under the proposed contract will be substantially the same as services being furnished for the same location by an incumbent contractor whose contract the proposed contract will succeed, and if such incumbent contractor is furnishing such services through the use of service employees whose wage rates and fringe benefits are the subject of one or more collective bargaining agreements, the contracting agency shall file with its Notice of Intention to Make a Service Contract (SF-98) a copy of each such collective bargaining agreement together with any related documents specifying the wage rates and fringe benefits currently or prospectively payable under such agreement. If such services are being furnished for more than one location and the collectively bargained wage rates and fringe benefits are different for different locations or do not apply for one or more locations, the agency shall identify the locations to which such agreements have application. In the event that the agency has reason to believe that any such collective bargaining agreement was not entered into as a result of arms-length negotiations, a full statement of the facts so indicating shall be transmitted with the copy of such agreement. If the agency has information indicating that any such collectively bargained wage rates and fringe benefits are substantially at variance with those prevailing for services of a similar character in the locality, the agency shall so advise the Office of Special Wage Standards and, if it believes a hearing thereon pursuant to section 4(c) of the Act is warranted, shall file its request for such hearing pursuant to § 4.10 of this part at the time of filing the Notice of Intention to Make a Service Contract (Form SF-98).

(d) Any Standard Form 98 submitted by a contracting agency without the information required under paragraphs (b) and (c) of this section will be returned to the agency for further action.

(e) If exceptional circumstances prevent the filing of the notice of intention and supplemental information required by this section on a date at least 30 days prior to any invitation for bids, request for proposals, or commencement of negotiations for a proposed contract subject to section 2(a) of the Act, the notice shall be submitted to the Office of Special Wage Standards as soon as practicable with a detailed explanation of the special circumstances which prevented timely submission.

4. Section 4.5 is revised to read as follows:

§ 4.5 Contract specification of determined minimum wages and fringe benefits.

(a) Any contract agreed upon in excess of $2,500 shall contain an attachment specifying the minimum wages and fringe benefits for service employees to be employed thereunder, as determined in any applicable currently effective wage determination made and included in the register as provided in § 4.3, including any expressed in any document referred to in subparagraph (1) or (2) of this paragraph:

(1) Any communication from the Office of Special Wage Standards, Employment Standards Administration, Depart-

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ment of Labor, responsive to the notice required by § 4.4; or

where necessary, its power to negotiate, its power to pay any necessary additional costs, and its power under any provision

fication or reclassification which is, in fact, conformable, the contracting officer shall submit the question, together with

thorized representative determines that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not

an appropriate officer of the Labor Department, decides may be necessary to pay underpaid employees. Additionally, any failure to comply with the require-

copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargain-

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ment of Labor, responsive to the notice required by § 4.4; or

(2) Any revision of the register by a wage determination issued prior to the award of the contract or contracts which specifies minimum wage rates or fringe benefits for classes of service employees whose wages or fringe benefits were not previously covered by wage determinations in the register, or which changes previously determined minimum wage rates and fringe benefits for service employees employed on covered contracts in the locality. However, revisions received by the Federal agency later than 10 days before the opening of bids, in the case of contracts entered into pursuant to competitive bidding procedures, shall not be effective if the Federal agency finds that there is not a reasonable time still available to notify bidders of the revision.

(b)(1) The following exemptions from the compensation requirements of section 2(a) of the Act apply, subject to the limitations set forth in subparagraphs (2), (3), and (4) of this paragraph: To avoid serious impairment of the conduct of Government business it has been found necessary and proper to provide exemption (i) from the determined wage and fringe benefits section of the Act (section 2(a) (1), (2)) but not the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended (section 2 (b) of this Act), of all contracts for which no such wage or fringe benefit has been determined for any class of service employees to be employed thereunder; and (ii) from the fringe benefits section (section 2(a)(2)) of all contracts and of all classes of service employees employed thereunder if no such benefits have been determined for any such class of service employees.

(2) The exemptions provided in subparagraph (1) of this paragraph, which were adopted pursuant to section 4(b) of the Act prior to its amendment by Public Law 92–473, do not extend to undetermined wages or fringe benefits in contracts for which one or more, but not all, classes of service employees are the subject of an applicable wage determination. The procedure for determination of wage rates and fringe benefits for any classes of service employees engaged in performing such contracts whose wages and fringe benefits are not specified in a wage determination included in the register is set forth in § 4.6(b).

(3) The exemptions provided in subparagraph (1) of this paragraph do not apply to any contract for which section 10 of the Act as amended and § 4.3 of this part require an applicable wage determination.

(4) The exemptions provided in subparagraph (1) of this paragraph do not exempt any contract from the application of the provisions of section 4(c) of the Act as amended.

(c) If the notice of intention required by § 4.4 is not filed with the required supporting documents within the time provided in such section, the contracting agency shall exercise any and all of its power that may be needed (including, where necessary, its power to negotiate, its power to pay any necessary additional costs, and its power under any provision of the contract authorizing changes) to include in the contract any wage determinations communicated to it within 30 days of the filing of such notice or of the discovery by the Employment Standards Administration, U.S. Department of Labor, of such omission.

5. Section 4.6 is amended as follows: Paragraph (b) is revised and divided into two subparagraphs and a new subparagraph (3) is added; paragraph (c) is revised; paragraph (d) is revised and the revised text designated as subparagraph (1) and a new subparagraph (2) is added; paragraph (f) is amended by changing the number of the part of this title referred to therein; the first sentence of paragraph (g) is revised; the text of paragraph (j) is designated as subparagraph (1) and a new subparagraph (2) is added; the text of paragraph (k) is designated as subparagraph (1) and a new subparagraph (2) is added; in paragraph (m), subparagraph (9), the text preceding subdivision (i) is revised; and in paragraph (n) the text preceding subparagraph (1) is revised. As amended, § 4.6 reads as follows:

§ 4.6 Labor standards clauses for Federal service contracts exceeding $2,500.

The clauses set forth in the following paragraphs shall be included in every contract (and any bid specification therefor) entered into by the United States or the District of Columbia, in excess of $2,500, the principal purpose of which is to furnish services through the use of service employees:

(a) Service Contract Act of 1965: This contract, to the extent that it is of the character to which the Service Contract Act of 1965 (79 Stat. 1034, 41 U.S.C. 351) applies, is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor thereunder (this Part 4).

(b)(1) Each service employee employed in the performance of this contract by the contractor or any subcontractor shall be paid not less than the minimum monetary wage and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor or his authorized representative, as specified in any attachment to this contract.

(2) If there is such an attachment, any class of service employees which is not listed therein, but which is to be employed under this contract, shall be classified by the contractor so as to provide a reasonable relationship between such classifications and those listed in the attachment, and shall be paid such monetary wages and furnished such fringe benefits as are determined by agreement of the interested parties, who shall be deemed to be the contracting agency, the contractor, and the employees who will perform on the contract or their representatives. If the interested parties do not agree on a classification or reclassification which is, in fact, conformable, the contracting officer shall submit the question, together with his recommendation, to the Office of Special Wage Standards, ESA, of the Department of Labor for final determination. Failure to pay such employees the compensation agreed upon by the interested parties or finally determined by the Administrator or his authorized representative shall be a violation of this contract. No employee engaged in performing work on this contract shall in any event be paid less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(3) If, as authorized pursuant to section 4(d) of the Service Contract Act of 1965 as amended, the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees shall be subject to adjustment after 1 year and not less often than once every 2 years, pursuant to wage determinations to be issued by the Employment Standards Administration of the Department of Labor as provided in such Act.

(c) The contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined conformably thereto by furnishing any equivalent combinations of fringe benefits, or by making equivalent or differential payments in cash in accordance with the applicable rules set forth in Subparts B and C of this part, and not otherwise.

(d)(1) In the absence of a minimum wage attachment for this contract, neither the contractor nor any subcontractor under this contract shall pay any of his employees performing work under the contract (regardless of whether they are service employees) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this provision shall relieve the contractor or any subcontractor of any other obligation under law or contract for the payment of a higher wage to any employee.

(2) If this contract succeeds a contract, subject to the Service Contract Act of 1965 as amended, under which substantially the same services were furnished and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, then in the absence of a minimum wage attachment for this contract neither the contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work less than the wages and fringe benefits, provided for in such collective bargaining agreements, to which such employee would be entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the Secretary of Labor or his authorized representative determines that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arms-length negotiations, or finds, after a hearing as provided in Labor Department regulations, 29 CFR 4.10 that the wages and fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality.

(e) The contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post a notice of such wages and benefits in a prominent and accessible place at the worksite, using such poster as may be provided by the Department of Labor.

(f) The contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the contractor or subcontractor which are unsanitary or hazardous or dangerous to the health or safety of service employees engaged to furnish these services, and the contractor or subcontractor shall comply with the safety and health standards applied under Part 1925 of this title.

(g) The contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work records containing the information specified in subparagraphs (1) through (5) of this paragraph for each employee subject to the Act and shall make them available for inspection and transcription by authorized representatives of the Employment Standards Administration of the U.S. Department of Labor.

(1) His name and address.

(2) His work classification or classifications, rate or rates of monetary wages and fringe benefits provided, rate or rates of fringe benefit payments in lieu thereof, and total daily and weekly compensation.

(3) His daily and weekly hours so worked.

(4) Any deductions, rebates, or refunds from his total daily or weekly compensation.

(5) A list of monetary wages and fringe benefits for those classes of service employees not included in the minimum wage attachment to this contract, but for which such wage rates or fringe benefits have been determined by the interested parties or by the Administrator or his authorized representative pursuant to the labor standards clause in paragraph (b) of this section. A copy of the report required by the clause in paragraph (k)(1) of this section shall be deemed to be such a list.

(h) The contracting officer shall withhold or cause to be withheld from the Government prime contractor under this or any other Government contract with the prime contractor such sums as he, or an appropriate officer of the Labor Department, decides may be necessary to pay underpaid employees. Additionally, any failure to comply with the requirements of these clauses relating to the Service Contract Act of 1965 may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the contractor in default with any additional cost.

(i) The contractor agrees to insert these clauses relating to the Service Contract Act of 1965 in all subcontracts. The term "contractor" as used in these clauses in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government Prime Contractor."

(j)(1) As used in these clauses relating to the Service Contract Act of 1965, the term "service employee" means guards, watchmen, and any person engaged in a recognized trade or craft, or other skilled mechanical craft, or in unskilled, semiskilled, or skilled manual labor occupations; and any other employee including a foreman or supervisor in a position having trade, craft, or laboring experience as the paramount requirement; and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

(2) The following classes of service employees expected to be employed under the contract with the Government would be subject, if employed by the contracting agency, to the provisions of 5 U.S.C. 5341 and would, if so employed, be paid not less than the following rates of wages and fringe benefits:

Employee class	*Monetary wage-fringe benefits*
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(k)(1) If there is a wage determination attachment to this contract and one or more classes of service employees which are not listed thereon are to be employed under the contract, the contractor shall report to the contracting officer the monetary wages to be paid and the fringe benefits to be provided each such class of service employee. Such report shall be made promptly as soon as such compensation has been determined as provided in the clause in paragraph (b) of this section.

(2) If wages to be paid or fringe benefits to be furnished any service employees employed by the Government prime contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the Government prime contractor shall report such fact to the contracting officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance, such agreements shall be reported promptly after negotiation thereof.

(l) All interpretations of the Service Contract Act of 1965 expressed in Subpart C of this part, are hereby incorporated by reference in this contract.

(m) These clauses relating to the Service Contract Act of 1965 shall not apply to the following:

(1) Any contract of the United States or District of Columbia for construction, alteration and/or repair, including painting and decorating of public buildings or public works;

(2) Any work required to be done in accordance with the provisions of the Walsh-Healey Public Contracts Act (49 Stat. 2036);

(3) Any contract for the carriage of freight or personnel by vessel, airplane, bus, truck, express, railway line, or oil or gas pipeline where published tariff rates are in effect, or where such carriage is subject to rates covered by section 22 of the Interstate Commerce Act;

(4) Any contract for the furnishing of services by radio, telephone, telegraph, or cable companies, subject to the Communications Act of 1934;

(5) Any contract for public utility services, including electric light and power, water, steam, and gas;

(6) Any employment contract providing for direct services to a Federal agency by an individual or individuals;

(7) Any contract with the Post Office Department, the principal purpose of which is the operation of postal contract stations.

(8) Any services to be furnished outside the United States. For geographic purposes, the "United States" is defined in section 8(d) of the Service Contract Act to include any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Outer Continental Shelf Lands as defined in the Outer Continental Shelf Lands Act, American Samoa, Guam, Wake Island, Eniwetok Atoll, Kwajalein Atoll, Johnston Island. It does not include any other territory under the jurisdiction of the United States or any U.S. base or possession within a foreign country.

(9) Any of the following contracts exempted from all provisions of the Service Contract Act of 1965, pursuant to section 4(b) of the Act, which exemptions the Secretary of Labor, prior to amendment of such section by Public Law 92–473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(i) Contracts entered into by the United States with common carriers for the carriage of mail by rail, air (except air star routes), bus, and ocean vessel,

HEARINGS PURSUANT TO SECTION 4(c) OF THE ACT

(1) or section 2(b)(1) of the Act, in accordance with the regulations in Part

for the attention of the Administrator, and must describe the evidence on which the applicant relies to show a substantial variance between the collectively bar-

tentative determination shall be given to all parties who have submitted matter for consideration or have otherwise made known their interest. Such notice shall

set forth in the decision, which shall have the finality accorded to a decision of the Secretary under the provisions of 41 U.S.C. 39. Such decision shall be filed

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where such carriage is performed on regularly scheduled runs of the trains, airplanes, buses, and vessels over regularly established routes and accounts for an insubstantial portion of the revenue therefrom;

(ii) Any contract entered into by the U.S. Postal Service with an individual owner-operator for mail service where it is not contemplated at the time the contract is made that such owner-operator will hire any service employee to perform the services under the contract except for short periods of vacation time or for unexpected contingencies or emergency situations such as illness or accident.

(n) Notwithstanding any of the clauses in paragraphs (b) through (l) of this section, relating to the Service Contract Act of 1965, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act prior to its amendment by Public Law 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(1)(i) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical, or mental deficiency or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Service Contract Act of 1965, without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of that Act, in accordance with the procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (Parts 520, 521, 524, and 525 of this title).

(ii) The Administrator will issue certificates under the Service Contract Act of 1965 for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (Parts 520, 521, 524, and 525 of this title).

(iii) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in Parts 525 and 528 of Title 29 of the Code of Federal Regulations.

(2) An employee engaged in an occupation in which he customarily and regularly receives more than $20 a month in tips may have the amount of his tips credited by his employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act, in accordance with the regulations in Part 531 of this title: *Provided, however,* That the amount of such credit may not exceed 80 cents per hour.

6. Section 4.7 is amended by deleting the parenthetical reference and the sentence following it in the contract clause. As amended, § 4.7 reads as follows:

§ 4.7 Labor standards clause for Federal service contracts not exceeding $2,500.

Every contract with the Federal Government which is not in excess of $2,500 but has as its principal purpose the furnishing of services through the use of service employees shall contain the following clause:

Service Contract Act of 1965. Except to the extent that an exemption, variation or tolerance would apply pursuant to 29 CFR 4.6 if this were a contract in excess of $2,500, the contractor and any subcontractor hereunder shall pay all of his employees engaged in performing work on the contract not less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended. All regulations and interpretations of the Service Contract Act of 1965 expressed in 29 CFR Part 4 are hereby incorporated by reference in this contract.

7. Section 4.8 is revised to read as follows:

§ 4.8 Notice of awards.

Whenever an agency of the United States or the District of Columbia shall award a contract which may be in excess of $2,500 subject to the Act, it shall furnish the Office of Special Wage Standards, ESA, an original and one copy of Standard Form 99, Notice of Award of Contract. The form shall be completed as follows:

(a) Items 1 through 7 and 12 and 13: Self-explanatory;

(b) Item 8: Enter the notation "Service Contract Act of 1965;"

(c) Item 9: Leave blank;

(d) Item 10: (1) Enter the notation "Major Category," and indicate beside this entry the general service area into which the contract falls (e.g., food services, grounds maintenance, computer services, installation or facility support services, custodial-janitorial service, garbage collection, insect and rodent control, laundry and drycleaning services), and (2) enter the heading "Detailed Description," and following this entry set forth a detailed description of the services to be performed; and

(e) Item 11: Enter the dollar amount of the contract, or the estimated dollar value with the notation "estimated" (if the exact amount is not known). If neither the exact nor the estimated dollar value is known, enter "indefinite," or "not to exceed $----------." Supplies of Standard Form 99 are available in all GSA supply depots under stock number 7540-634-4049.

8. Subpart A is further amended by adding at the end thereof a new center heading and a new § 4.10 to read as follows:

HEARINGS PURSUANT TO SECTION 4(c) OF THE ACT

§ 4.10 Provisions for hearing.

(a) *Statutory provision.* Under section 4(c) of the Act, and under wage determinations made as provided in section 2(a)(1) and (2) of the Act, contractors and subcontractors performing certain contracts subject to the Act may be obliged to pay to service employees employed on the contract work wages and fringe benefits not less than those to which they would be entitled if they were employed on like work under a predecessor contract for which the wages and fringe benefits of service employees were governed by a collective bargaining agreement. (See §§ 4.1a, 4.1c, 4.3(b), 4.6(b), 4.6(d)(2).) Section 4(c) provides, however, that "such obligations shall not apply if the Secretary finds after a hearing in accordance with regulations adopted by the Secretary that such wages and fringe benefits are substantially at variance with those which prevail for service of a character similar in the locality."

(b) *Prerequisites for hearing.* (1) No hearing on the issue whether monetary wage rates and fringe benefits otherwise payable to service employees by virtue of the provisions of section 4(c) of the Act are substantially at variance with those which prevail for services of a character similar in the locality will be provided unless it appears from information available to the Administrator or submitted with a request for such a hearing that evidence showing, prima facie, that such a substantial variance exists will be presented.

(2) When it appears from the information available to him or submitted with such a request that such evidence sufficient to warrant an administrative determination of the issue will be presented, the Administrator on his own motion or on application of any person affected may by order refer the issue to a hearing officer for final determination in a proceeding held as provided in this section. As provided in section 4(a) of the Act, the provisions of sections 4 and 5 of the Walsh-Healey Public Contracts Act (41 U.S.C. 38, 39) shall be applicable to such proceeding.

(3) The Administrator shall designate as hearing officer for a proceeding under this section an administrative law judge assigned for the purpose by the Chief Administrative Law Judge of the Department.

(4) A request for a hearing under this section may be made by the contracting agency or other person affected or interested including contractors or prospective contractors and associations of contractors, representatives of employees or their unions, and other interested governmental agencies. Such a request must be submitted in writing to the Office of Special Wage Standards, Employment Standards Administration, Department of Labor, Washington, D.C. 20210

for the attention of the Administrator, and must describe the evidence on which the applicant relies to show a substantial variance between the collectively bargained rates or fringe benefits in question and the wages and fringe benefits prevailing for services of a similar character in the locality. If the information prerequisite for hearing as described in subparagraph (1) of this paragraph is not submitted with the request, the Administrator may deny the request or request supplementary information, in his discretion. No particular form for submission of a request under this section is prescribed.

(c) *Opportunity to be heard.* (1) In any proceeding under this section opportunity to be heard will be afforded to persons who may be affected by determination of the issue, including the agency whose contract is involved, any contractor or subcontractor performing on such contract or known to be desirous of bidding thereon or performing services thereunder, any unions or other authorized representatives of service employees employed or who may be expected to be employed by such a contractor or subcontractor on the contract work, and any other known interested persons. Such opportunity will be afforded at the earliest possible time after referral to the hearing officer and the proceeding will be expedited to completion and a final determination made on the issue as soon as possible thereafter.

(2) Upon referral of the issue to the hearing officer by the Administrator, written notice shall be given to the persons who may be affected by the determination (see subparagraph (1) of this paragraph) specifying a place where and a period (not less than 5 and not more than 10 days) within which they may submit in writing any factual evidence, data, views, or arguments on the issue which they desire to have considered by the hearing officer. Such notice shall also make provision for furnishing copies of such documents to all parties and specify reasonable but expeditious time limits, not more than 10 days in the absence of exceptional circumstances, within which each of the interested persons may thereafter review and respond, if desired, in writing to any matter submitted by the others. Such notice shall, whenever practicable, be included in the Administrator's order referring the matter to the hearing officer, and if not so included shall be given by the hearing officer promptly upon his assignment to the case. The order and notice shall be served upon the persons interested by certified mail or in such other manner as will provide record proof or acknowledgment of receipt by such persons.

(3) Upon completion of the period for review and comment by interested persons on matter submitted by other interested persons the hearing officer shall forthwith review, with such assistance as may be made available by the Administrator, all material submitted and, after evaluating the same, shall make a tentative determination on the issue. Prompt notice in writing of his tentative determination shall be given to all parties who have submitted matter for consideration or have otherwise made known their interest. Such notice shall set an early date and a place at which such parties may appear before the hearing officer for resolution on an informal basis or through agreement, if possible, of any areas of conflict between them which may appear from the materials presented to the hearing officer, and for agreement, if possible, or for decision by the hearing officer as to the scope and nature of any further hearing that may be required for the presentation by any party of evidence and argument on issues that cannot be resolved by the hearing officer with agreement of the parties. Service of the notice on the parties shall be made as provided in subparagraph (2) of this paragraph. All procedure set forth in this subparagraph (3), including hearing of the parties informally pursuant to such notice, shall be completed not less than 10 days after the final date for submission of materials in writing by the parties as provided under subparagraph (2) of this paragraph.

(4) If as a result of the informal hearing provided as set forth in subparagraph (3) of this paragraph there is agreement among the parties that no further hearing is necessary to supplement the written evidence and the views and arguments that have been presented to the hearing officer the hearing officer shall forthwith render his final decision.

(5) If as a result of the informal hearing provided as set forth in subparagraph (3) of this paragraph a further hearing, limited to matters remaining in controversy among the parties or to the presentation of other evidence deemed necessary by parties to a fair hearing of their contentions, is ordered by the hearing officer, he shall set a place and an early time therefor, not later than 5 days after the date of such informal hearing, and, after consultation with the parties, set reasonable guidelines and limitations for the presentations to be made at the hearing which will serve to expedite the proceeding to the extent possible consistent with adequate opportunity for the parties to be heard. At any such hearing there shall be a minimum of formality in the proceeding consistent with orderly procedure. The hearing officer may, to the extent appropriate, conduct the hearing in accordance with procedures prescribed in Part 6 of this Subtitle A, and may exercise the powers of a hearing officer as set forth therein. If oral testimony is presented, it shall be stenographically reported and a transcript thereof filed, together with all written materials submitted and orders and notices issued in the proceeding (with evidence of service thereof), in a case file which shall constitute the hearing record. The hearing officer shall promptly and not more than 5 days after completion of the hearing under this paragraph, render his decision.

(d) *Decision of hearing officer.* The hearing officer shall render a decision as provided in paragraph (c) (4) or (5) of this section based on findings of fact set forth in the decision, which shall have the finality accorded to a decision of the Secretary under the provisions of 41 U.S.C. 39. Such decision shall be filed with the case record and copies shall be transmitted promptly to the parties and to the Administrator, who shall cause to be issued any necessary wage determinations in conformance thereto.

(Sec. 4, 79 Stat. 1035, as amended by 86 Stat. 789; 41 U.S.C. 353; Secretary of Labor's Order No. 13-71, 36 F.R. 8755)

Signed at Washington, D.C., this 27th day of November 1972.

R. J. GRUNEWALD,
Assistant Secretary for Employment Standards.

[FR Doc.72-20569 Filed 11-29-72;8:49 am]

PART 6—RULES OF PRACTICE FOR ADMINISTRATIVE PROCEEDINGS ENFORCING LABOR STANDARDS IN FEDERAL SERVICE CONTRACTS

Miscellaneous Amendments

Pursuant to section 4 of the Service Contract Act of 1965 as amended (79 Stat. 1034, 86 Stat. 789; 41 U.S.C. 351 et seq.) and Secretary of Labor's Order No. 13-71 (36 F.R. 8755), the rules of practice for administrative enforcement proceedings under such Act are hereby revised by amending 29 CFR Part 6 as set forth below, in order to bring such rules into conformity with amendments made to section 5(a) of such Act by section 4 of Public Law 92-473, 86 Stat. 790 as enacted and effective October 9, 1972, and in order to conform the titles of officers and organizational units of the Department of Labor referred to in such rules with the titles presently applicable under the current organization of the Department.

The provisions of 5 U.S.C. 553 with respect to notice of proposed rule making and public procedure thereon are not applicable to the amendments of these rules because they relate solely to agency organization, procedure, and practice concerning which no statute requires notice and hearing. I find that delay in effective date of these amendments would be contrary to the public interest because they are urgently needed to prescribe changes in procedures required by a statute already in effect and are necessary to correct existing references in the rules to titles of officers and organizational units of the Department which have ceased to be accurate. These amendments shall accordingly be effective upon publication in the FEDERAL REGISTER.

Part 6 of Subtitle A of Title 29 of the Code of Federal Regulations is amended as follows:

1. Section 6.2 is revised to read as follows:

§ 6.2 Definitions.

As used in this part:

(a) "Hearing examiner" means an administrative law judge appointed as provided in 5 U.S.C. 3105 and Subpart B of

Part 930 of Title 5 of the Code of Federal Regulations (see 37 F.R. 16787) and qualified to preside at hearings under section 5 of the Act.

(b) "Administrative Law Judge" means a hearing examiner appointed pursuant to 5 U.S.C. 3105.

(c) "Board" means the Wage Appeals Board established by the Secretary of Labor pursuant to section 5(a) of the Act.

(d) "Chief Administrative Law Judge" means the Chief Administrative Law Judge, Office of Administrative Law Judges, Department of Labor, Washington, D.C. 20210.

(e) "Administrator" means the Administrator, Wage and Hour Division, Employment Standards Administration, Department of Labor, Washington, D.C. 20210.

(f) "Solicitor" means the Solicitor, U.S. Department of Labor, Washington, D.C. 20210.

2. In § 6.10, paragraph (b) is amended to read as follows:

§ 6.10 Hearings.

(b) Hearings shall be conducted by an Administrative Law Judge or by the Board. Hearings shall be conducted in accordance with the provisions of 5 U.S.C. 554, 556, and 557. Hearings shall be open to the public unless otherwise ordered by the Administrative Law Judge or the Board. Hearings shall be conducted expeditiously and without unnecessary delay. The Administrative Law Judge or the Board shall have all powers necessary to that end, including the following powers:

3. In § 6.11, paragraph (a) is amended to read as follows:

§ 6.11 Decision of Administrative Law Judge upon hearing.

(a) Within a reasonable time after the close of the hearing, the Administrative Law Judge shall make his decision upon the record. The decision shall include findings of fact and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record and the appropriate order, sanction, relief, or denial thereof. The decision shall be served upon all parties to the proceeding and upon the Administrator.

4. In § 6.12, paragraph (a) is amended to read as follows:

§ 6.12 Decision of Board upon hearing.

(a) Within a reasonable time after the close of the hearing, the Board shall make its decision upon the record. The decision shall include findings of fact and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record and the appropriate order, sanction, relief, or denial thereof. The decision shall be served upon all parties to the proceeding and upon the Administrator.

5. In § 6.13, paragraph (a) is amended to read as follows:

§ 6.13 Petition for review of decision of Administrative Law Judge.

(a) Any party desiring review by the Board of the decision of the Administrative Law Judge shall file a petition for review of the decision with the Board within 30 days after the decision of the Administrative Law Judge has been served upon the parties. A copy of the petition shall be served upon all parties and upon the Administrator. Every petition shall refer to the decision involved, and shall set forth the findings, conclusions, and orders of the Administrative Law Judge to which exception is taken. Every petition shall state briefly the grounds relied upon by the petitioner. Failure to file a petition within the period specified shall not affect the finality of the decision of the Administrative Law Judge.

6. In § 6.14, paragraph (a) is amended to read as follows:

§ 6.14 Review by Board.

(a) The Board may grant or deny any petition for review, in whole or in part, in its discretion. Every petition shall be acted upon by the Board within 30 days after the time for filing petitions for review has expired. The Board's decision shall be served upon all parties to the proceeding and upon the Administrator.

7. In § 6.15, paragraph (a) is amended to read as follows:

§ 6.15 Decision of Board upon review.

(a) Within a reasonable time after the close of the hearing, the Board shall make its decision upon the record. The decision shall include findings of fact and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record and the appropriate order, sanction, relief, or denial thereof. The decision shall be served upon all parties to the proceeding and upon the Administrator.

8. In § 6.16, paragraph (a) is amended to read as follows:

§ 6.16 Decision of Administrative Law Judge effective without review.

(a) The decision of the Administrative Law Judge shall become effective without further proceedings if no petition for review of the decision is filed with the Board within the time specified in § 6.13(a), or if the Board denies all petitions for review of the decision.

9. In § 6.17, paragraph (a) is amended to read as follows:

§ 6.17 Decision of Board effective without review.

(a) The decision of the Board shall become effective without further proceedings if no petition for reconsideration of the decision is filed with the Board within the time specified in § 6.18(a), or if the Board denies all petitions for reconsideration of the decision.

10. In § 6.18, paragraph (a) is amended to read as follows:

§ 6.18 Reconsideration.

(a) Any party desiring reconsideration by the Board of its decision shall file a petition for reconsideration with the Board within 30 days after the decision of the Board has been served upon the parties. A copy of the petition shall be served upon all parties and upon the Administrator. Every petition shall refer to the decision involved, and shall set forth the findings, conclusions, and orders of the Board to which exception is taken. Every petition shall state briefly the grounds relied upon by the petitioner. Failure to file a petition within the period specified shall not affect the finality of the decision of the Board.

11. In § 6.19, paragraph (a) is amended to read as follows:

§ 6.19 Action upon reconsideration.

(a) The Board may grant or deny any petition for reconsideration, in whole or in part, in its discretion. Every petition shall be acted upon by the Board within 30 days after the time for filing petitions for reconsideration has expired. The Board's decision shall be served upon all parties to the proceeding and upon the Administrator.

12. In § 6.20, paragraph (a) is amended to read as follows:

§ 6.20 Decision of Board effective without reconsideration.

(a) The decision of the Board shall become effective without further proceedings if no petition for reconsideration of the decision is filed with the Board within the time specified in § 6.18(a), or if the Board denies all petitions for reconsideration of the decision.

13. In § 6.21, paragraph (a) is amended to read as follows:

§ 6.21 Record of hearing.

(a) The hearing shall be recorded and transcribed under the supervision of the Administrative Law Judge or the Board. The original transcript shall be a part of the record and shall be the official transcript. Copies of the official transcript may be obtained by the parties upon payment of the cost thereof.

14. In § 6.22, paragraph (a) is amended to read as follows:

§ 6.22 Exhibits.

(a) All exhibits offered in evidence shall be identified and received in evidence and shall be a part of the record. Documents and other exhibits, when offered in evidence, shall be in such form as the Administrative Law Judge or the Board may direct. Documents or other exhibits submitted but not received in evidence shall be returned to the person submitting them, unless they are withdrawn by consent of the parties.

15. In § 6.23, paragraph (a) is amended to read as follows:

§ 6.23 Depositions.

(a) Upon application of any party to the proceeding, the Administrative Law Judge or the Board may order the deposition of witnesses to be taken in the manner prescribed by Rule 26(a) of the Federal Rules of Civil Procedure.

16. In § 6.24, paragraph (a) is amended to read as follows:

§ 6.24 Briefs.

(a) Any party to the proceeding before the Administrative Law Judge or the Board may file a brief with the Administrative Law Judge or the Board, as the case may be, within such reasonable period of time as the Administrative Law Judge or the Board may direct.

17. In § 6.25, paragraph (a) is amended to read as follows:

§ 6.25 Oral argument.

(a) Any party to the proceeding before the Administrative Law Judge or the Board may request oral argument before the Administrative Law Judge or the Board, as the case may be. The Administrative Law Judge or the Board may grant such request in its discretion.

18. In § 6.26, paragraph (a) is amended to read as follows:

§ 6.26 Extraordinary procedure.

(a) Any party to the proceeding before the Administrative Law Judge or the Board may request the Administrative Law Judge or the Board, as the case may be, to recommend to the Secretary that he take jurisdiction of the proceeding. The Administrative Law Judge or the Board may grant such request in its discretion.

19. In § 6.27, paragraph (a) is amended to read as follows:

§ 6.27 Sanctions.

(a) The Administrative Law Judge or the Board may make such orders with regard to the conduct of the proceeding before him or it as are necessary and appropriate to avoid delay, to prevent prejudice to the public interest or the rights of the parties, to maintain the decorum of the hearing, and to avoid boycotts and strikes. He or it may exclude from the hearing any person who refuses to comply with his or its orders.

20. In § 6.28, paragraph (a) is amended to read as follows:

§ 6.28 Ex parte communications.

(a) Ex parte communications relevant to the merits of the proceeding shall not be received by the Administrative Law Judge or the Board from any person, unless opportunity for all parties to participate is granted.

21. In § 6.29, paragraph (a) is amended to read as follows:

§ 6.29 Separation of functions.

(a) The Administrative Law Judge or the Board shall not consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate.

22. In § 6.30, paragraph (a) is amended to read as follows:

§ 6.30 Computation of time.

(a) In computing any period of time prescribed or allowed by these rules, by the order of the Administrative Law Judge or the Board, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, or legal holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

23. In § 6.31, paragraph (a) is amended to read as follows:

§ 6.31 Motions.

(a) Any application to the Administrative Law Judge or the Board for an order or ruling shall be by motion. Motions shall state the relief sought, the authority relied upon, and the facts alleged, and shall be filed with the Administrative Law Judge or the Board, as the case may be, and served on all parties.

24. In § 6.32, paragraph (a) is amended to read as follows:

§ 6.32 Service.

(a) Except as otherwise provided in these rules, or as otherwise directed by the Administrative Law Judge or the Board, papers required to be served upon a party shall be served upon the party or upon the party's attorney of record by delivering a copy to him or by mailing it to him at his last known address. Service upon the Administrator shall be by delivering a copy to the Solicitor or by mailing it to the Solicitor at his address.

25. In § 6.33, paragraph (a) is amended to read as follows:

§ 6.33 Rights of parties.

(a) All parties to the proceeding may appear in person, by counsel, or by other representative. All parties shall be afforded an opportunity to present evidence and to cross-examine witnesses in the manner prescribed by section 7 of the Administrative Procedure Act (5 U.S.C. 556).

26. In § 6.34, paragraph (a) is amended to read as follows:

§ 6.34 Witnesses.

(a) Witnesses shall testify under oath or affirmation. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

27. In § 6.35, paragraph (a) is amended to read as follows:

§ 6.35 Subpenas.

(a) Upon application of any party to the proceeding, the Administrative Law Judge or the Board may issue subpenas requiring the attendance of witnesses and the production of documents at the hearing or before a designated person or officer. Application for the issuance of a subpena shall be made in writing at least 5 days before the hearing, unless otherwise permitted by the Administrative Law Judge or the Board.

28. In § 6.36, paragraph (a) is amended to read as follows:

§ 6.36 Fees.

(a) Witnesses subpenaed for attendance at a proceeding shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

29. In § 6.37, paragraph (a) is amended to read as follows:

§ 6.37 Rules of evidence.

(a) The Administrative Law Judge or the Board shall receive relevant, material, and reliable evidence. Irrelevant, immaterial, unreliable, and unduly repetitious evidence shall be excluded. The Administrative Law Judge or the Board shall give effect to the rules of privilege recognized by law. Objections to evidence shall be timely and briefly stated on the record, with the grounds relied upon. Rulings on all objections shall appear in the record.

30. In § 6.38, paragraph (a) is amended to read as follows:

§ 6.38 Official notice.

(a) Official notice may be taken of any material fact which might be judicially noticed by a district court of the United States or any matter in the public records of the Department of Labor or other Government agencies. Parties shall be given adequate notice, at the hearing or thereafter, of the matters so noticed, and they shall be given adequate opportunity to show that such facts are erroneously noticed.

31. In § 6.39, paragraph (a) is amended to read as follows:

§ 6.39 Stipulations.

(a) The parties may stipulate any relevant fact or the authenticity of any relevant document or the admissibility of any relevant evidence. Stipulations may be received in evidence at a hearing, and when so received shall be binding on the parties with respect to the matters stipulated.

32. In § 6.40, paragraph (a) is amended to read as follows:

§ 6.40 Liberal construction.

(a) These rules shall be liberally construed to secure just, speedy, and inexpensive determination of any proceeding subject to these rules.

Signed at Washington, D.C., this 27th day of November 1972.

R. J. GRUNEWALD,
Assistant Secretary for Employment Standards.

[FR Doc.72-20570 Filed 11-29-72;8:49 am]

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

The following numerical guide is a list of parts of each title of the Code of

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Part 930 of Title 5 of the Code of Federal Regulations (see 37 F.R. 16787) and qualified to preside at hearings under 5 U.S.C. 557.

(b) "Chief Hearing Examiner" means the Chief Administrative Law Judge, U.S. Department of Labor, Washington, D.C. 20210.

(c) "Respondent" means the contractor, subcontractor, or affiliate (in which a contractor or subcontractor is alleged to have a substantial interest) against whom the proceedings are brought.

(d) "The Act" means the Service Contract Act of 1965 as amended (79 Stat. 1034, 86 Stat. 789; 31 U.S.C. 351 et seq.).

(e) "Administrator" means the Deputy Assistant Secretary for Employment Standards in the Employment Standards Administration of the Department of Labor who is also Administrator of the Wage and Hour Division, or his authorized representative as set forth in this part.

(f) "Associate Solicitor in charge of litigation" means the Associate Solicitor for General Legal Services, Office of the Solicitor, U.S. Department of Labor, Washington, D.C. 20210.

2. In § 6.10, paragraph (b) is amended by adding a new sentence at the end thereof reading as follows:

§ 6.10 Decision of the hearing examiner.

* * * * *

(b) * * * Any recommendation that the respondent be relieved by the Secretary of Labor from the ineligible list provision under section 5(a) of the Act as amended shall be supported by a finding of the unusual circumstances, within the meaning of such section, which are relied upon as a reason for the recommendation.

3. Section 6.12 is amended by designating the existing text as paragraph (a) and by adding a new paragraph (b) at the end thereof. As amended, § 6.12 reads as follows:

§ 6.12 Relief from ineligible list.

* * * * *

(b) Any application filed by respondent for relief from the ineligible list provision shall state the unusual circumstances to be considered by the Secretary of Labor in determining whether to recommend such relief. The Secretary shall forward to the Comptroller General the name of any respondent found in violation of the Act within 90 days after the decision of the hearing examiner, finding such violation, becomes final unless the Secretary within such period decides that relief from the ineligible list provision will be recommended because of unusual circumstances.

(Sec. 4, 86 Stat. 790, 41 U.S.C. 354(a); sec. 4, 79 Stat. 1035, 41 U.S.C. 353(a); Secretary of Labor's Order No. 13-71, 36 F.R. 8755)

Signed at Washington, D.C. this 27th day of November 1972.

R. J. GRUNEWALD,
Assistant Secretary for Employment Standards.

[FR Doc.72-20568 Filed 11-29-72;8:49 am]

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